

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Mitzi Dean
Parliamentary Secretary
Gender Equity

Date Requested: March 15, 2019
Date Required: March 23, 2019

Initiated by: Molly Henry

Date Prepared: March 15, 2019

**Ministry
Contact:** Melanie Stewart

**Phone Number:
Email:**

Cliff #: 379985

TITLE: Proposed Bill – Equal Pay Reporting

PURPOSE:

(X) FOR INFORMATION

COMMENTS: An overview of the Equal Pay Reporting Act, a Private Members Bill proposed by MLA Cadieux on March 6, 2019, a preliminary discussion of its strengths and weaknesses, an overview of pay transparency legislation in other jurisdictions, and a summary of West Coast LEAF's recommendations (August 2018).

Executive Director approval: _____

ADM approval: _____

DM approval: _____

DATE PREPARED: March 15, 2019

TITLE: Proposed Bill – Equal Pay Reporting

ISSUE:

On March 6, 2019 MLA Stephanie Cadieux proposed a new Private Members Bill, the *Equal Pay Reporting Act*, that passed First Reading. The purpose of this document is to I) give an overview of the proposed bill; II) provide a preliminary analysis of the strengths and weaknesses of this approach to pay equity; III) give an overview of the pay transparency legislation in other jurisdictions; IV) provide a summary of West Coast LEAF's recommendations for addressing pay equity in B.C.

BACKGROUND:

Overall, the Conference Board of Canada reports that women in B.C. earn 22.6% less than men.¹ British Columbia has the third highest pay gap disparity of all the provinces. Indigenous and racialized women experience even more profound gendered pay discrepancies on average, with Indigenous women earning 23% less per year than white women,² and university- educated, Canadian-born racialized women in B.C. earning 14.2% less per year than similarly educated white women.³ The pay gap is a significant barrier to economic security for women of all ages across the province, with both short-term and long-term negative consequences.⁴

On March 6, 2019 MLA Stephanie Cadieux proposed a new Private Members Bill, the *Equal Pay Reporting Act*, that passed First Reading. The Private Members Bill M203 is an example of pay transparency legislation. Pay transparency legislation establishes requirements for employers to increase the transparency of information regarding compensation and workforce composition in an effort to promote equality of compensation between men and women. Pay transparency legislation is one means of advancing pay equity, defined as “equal pay for work of equal value”. Pay equity addresses the systemic (both direct and indirect) discrimination in earnings based on gender.⁵

Ontario is the only jurisdiction in Canada to introduce pay transparency legislation, however, its implementation has been delayed to allow for consultation on cost to

¹ 2016. Statistics Canada. The Conference Board of Canada.

<https://www.conferenceboard.ca/hcp/provincial/society/gender-gap.aspx>, accessed on November 6, 2018.

² Aboriginal Affairs and Northern Development Canada, “Aboriginal Women in Canada,”: www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/ai_rs_pubs_ex_abwch_pdf_1333374752380_eng.pdf, accessed on November 6, 2018.

³ Statistics Canada; The Conference Board of Canada, “Racial Pay Gap”: www.conferenceboard.ca/hcp/provincial/society/racial-gap.aspx, accessed on November 6, 2018.

⁴ West Coast LEAF. Submission to the Standing Committee on Finance and Government Services Budget 2019 Consultations: http://www.westcoastleaf.org/wp-content/uploads/2018/10/West-Coast-LEAF_2019-Budget-Submission-FINAL.pdf, accessed on November 6, 2018.

⁵ West Coast LEAF. Briefing Note: Creating Pay Equity in B.C. August 2018.

business. Pay equity and pay discrimination issues are addressed through various forms of legislation across Canada, including stand-alone proactive pay equity legislation (considered best practice), human rights legislation, and employment standards legislation (see Appendix I).

Currently in B.C., pay discrimination issues are addressed through Section 12 of the *Human Rights Code*, R.S.B.C. 1996, c. 210 (the “Code”), which provides that the same employer cannot discriminate between employees doing similar or substantially similar work on the basis of sex. Section 12(2) sets out the concept of “similar or substantially similar work” must be based on the concept of skill, effort and responsibility. This approach is complaints-based (reactive), putting the onus on the employee and union, rather than the employer and does not address the systemic issue of “equal pay for work of equal value”.

DISCUSSION:

I. Overview of the Proposed Private Members Bill, the *Equal Pay Reporting Act*

Private Members Bill M203 – 2019 Equal Pay Reporting Act

The proposed Private Members Bill is an example of pay transparency legislation. The bill proposes that employers of firms with more than 50 employees would be required to report on wages and bonuses, and asks government to establish a Registrar of Equal Pay Reporting. The bill would require relevant employers to publicly publish the following information:

- the difference between the *mean* regular wage and *median* regular wage of male full-pay relevant employees and female full-pay relevant employees;
- the difference between the *mean* and *median* bonus pay paid to male relevant employees and that paid to female relevant employees;
- the proportions of male and female relevant employees who were paid bonus pay, and;
- the proportions of male and female full-pay relevant employees in the lower, lower middle, upper middle and upper quartiles of regular wage.

The bill purports that the information required must be published either on the employer’s existing website or an official website designated by the Registrar in a manner that is accessible to all its employees and to the public for a period of at least five years.

The Registrar for Equal Pay Reporting would be appointed under the *Public Service Act* and would “have the power and duties conferred or imposed on the registrar under this Act and the regulations.”

II. Preliminary Analysis: Strengths and Weaknesses of the Private Members Bill M203: *Equal Pay Reporting Act*

Strengths:

- Encourages organizations to address wage discrimination with relatively little administrative burden to government and less onerous to business than other forms of legislation;
- There is some evidence that reporting on pay transparency is effective in changing compensation within organizations. For example, a 2006 legislation change in Denmark that requires firms with more than 35 employees to report salary data broken down by gender resulted a reduction of the gender pay gap by 1.4 percentage points or a 7% reduction relative to the pre-regulation wage gap.⁶

Weaknesses

- The proposed bill would be a *proactive* approach to pay discrimination, in the sense that it would be on the onus of the employer to *report* on salary gaps. However, there would be no onus on the employer to *address* pay discrimination issues. Rather, if inequities persisted the onus would still be on the employee to file a complaint through the Human Rights Tribunal.
- The proposed bill does not address pay equity or “equal pay for work of equal value” on a systemic level. It only applies to the wage and pay gaps *within an organization*.
- The proposed bill only applies to employers with 50 or more employees; many small businesses in B.C. would be excluded from this requirement.
- The proposed bill does not consider other measures that are often included in pay transparency legislation (i.e. Ontario), such as a requirement for all publicly advertised job postings to include a salary rate or range and a prohibition of employers asking about past compensation.
- The cost to business and to government is unknown.
- The role of the Registrar and how they would enforce compliance is not clear.
- The proposed bill would address three different measures of the pay gap (mean, median and quartile pay bands) which may be too complex for employers. Basic workforce data including demographic information and total annual compensation would provide a simpler and intersectional analysis.⁷
- Further analysis is required to adequately understand:
 - 1) if and how compliance will be ensured and enforced by the Registrar;
 - 2) how much the new legislation will cost to implement for employers and the cost of establishing the new Registrar for Equal Pay Reporting. A preliminary analysis done by the Ministry of Jobs, Trade, and Technology suggests that the costs to business would be low at approximately \$6.6 million dollars annually in direct costs (administrative). Assuming a 0.5% increase in wages for women working in medium and large sized companies would equate to a cost of about \$100 million annually. However, it would take years for these

⁶ https://wpcarey.asu.edu/sites/default/files/daniel_wolfenzon_seminar_november_9_2018.pdf, Accessed March 18, 2019.

⁷ See the United Kingdom’s formula: The Equality Act 2010 (Gender Pay Gap Information) Regulations 2017, United Kingdom: <www.legislation.gov.uk/uksi/2017/172/contents/made>.

- effects to materialize and there would be a broader economic gain in GDP growth (0.15-0.5%) by reducing the pay gap;
- 3) how this legislation could adequately capture intersectionality and address the disproportionate gaps for Indigenous people, racialized people, people with disabilities and others;
 - 4) if the proposed bill extends to the part-time, casual, seasonal and temporary workforce, in which women are over-represented; and
 - 5) how many small businesses and employees would be excluded from this requirement.

III. Pay Transparency in Other Jurisdictions

Ontario is the only province in Canada to introduce pay transparency legislation. However, on November 15, 2018, the Ontario government introduced legislation to delay the January 1, 2019 in force date of the *Pay Transparency Act, 2018* ("Act"). Bill 57, *Restoring Trust, Transparency and Accountability Act, 2018*⁸, is omnibus legislation to enact, amend and repeal various statutes and is currently at the Second Reading stage. This delay is to allow for consultation with business.

Ontario's *Pay Transparency Act* was developed as a complement to their existing stand-alone, proactive pay equity legislation that has been in effect since 1990.

Pay Transparency: International Jurisdictions

Many countries have enforced legislation that encourages pay transparency through pay data reporting. Norway, Finland, and Sweden have legislation in place that allows employee tax returns to become available upon request. Spain, Austria, Denmark, the United Kingdom, Iceland and Belgium conduct "gender audits" that require companies to evaluate the effectiveness of their pay equity programs.

IV. Summary of West Coast LEAF Briefing Note: Creating Pay Equity in B.C.

The Briefing Note prepared by West Coast LEAF in August 2018 outlines the context of the gender pay gap in B.C., a critique of B.C.'s current legal mechanism that addresses pay discrimination (*Human Rights Code*) and provides recommendations going forward.

West Coast LEAF recommends implementing stand-alone pay equity legislation for B.C, that is mandatory across sectors, is subject to strong enforcement mechanisms, and is responsive to independent oversight. West Coast LEAF recommends a phased approach to legislation implementation, beginning with transparency provisions and extending to enforcement provisions.

⁸ <https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-57>

Phase One: Transparency

West Coast LEAF acknowledges that transparency in pay structures is a prerequisite to pay equity and recommends the following pay transparency provisions that would apply to both private and public sectors:

- Employer reporting and publication of anonymous data about the composition of their workforce;
- Enforcement, including penalties against the employer for failure to report or false reporting;
- Protection of information of applicant's compensation history

Phase Two: Equity – “Equal Pay for Work of Equal Value”

West Coast LEAF recommends applying a “comparable worth” model to the province's workforce, based on the assessment of job classes across industries and sectors. This approach will address pay equity concerns across the labour market, ensuring that compensation packages offered for a job performed predominantly by female employees must be equal to that for a job performed by male employees when the work is of equal or comparable value.

Appendix I: Overview of Legislative Approaches to Pay Discrimination in Canada

Mechanism	Jurisdiction	Pay Gap/Wage Gap	Proactive/Reactive	Public/Private
Human Rights Code Pay discrimination on the grounds of gender is prohibited	B.C.	Wage Gap	Reactive	Public & Private
	Alberta			
	Ontario			
	Saskatchewan			
Employment Standards Act “Equal pay for same or similar work”	Ontario	Wage Gap	Reactive	Public & Private
	Manitoba			
	Saskatchewan			
	Yukon			
	Newfoundland			
	Northwest Territories			
Policy Framework	<i>British Columbia’s Pay Equity Policy Framework (1995)</i>	Pay Gap	Proactive	Public *now addressed through collective bargaining

Mechanism	Jurisdiction	Pay Gap /Wage Gap	Proactive/Reactive	Public/Private
Pay Equity Act “Equal pay for work of equal value”	Nova Scotia (1988)	Pay Gap	Proactive	Public
	Manitoba (1985)			Public - (Crown entities, Civil service and external agencies)
	New Brunswick (2009)			Public (10 or more employees)
	Prince Edward Island (1988)			Public
	Quebec (1996 – Amended in 2009)			Private & Public (10 or more employees)
	Ontario (1990)			Private & Public (10 or more employees)
Pay Transparency Act	Ontario (2018) * delayed			Private & Public

Percentage of earnings gap by province

Province	Earnings Gap (%)	Pay Equity Legislation	...for Public Sector	... for Private Sector	Policy for Public Sector
PEI	10.7	Yes	Yes	No	Yes
MN	13.2	Yes	Yes	No	Yes
NB	14.4	Yes	Yes	No	Yes
ON	16.2	Yes	Yes	Yes	Yes
QC	16.4	Yes	Yes	Yes	Yes
NS	16.4	Yes	Yes	No	Yes
SK	21.6	No	No	No	Yes
BC	22.6	No	No	No	Yes
AB	24.6	No	No	No	No
NL	28.5	No	No	No	Yes



BRIEFING NOTE

CREATING PAY EQUITY IN BC

August 2018

Prepared by Kathleen Renaud for Zahra Jimale, Director of Law Reform
West Coast Legal Education and Action Fund
555 – 409 Granville Street, Vancouver, BC V6C 1T2
604.684.8772 | lawreform@westcoastleaf.org

BRIEFING NOTE: Creating Pay Equity in BC

ISSUE

British Columbia is the **third worst** province in Canada when it comes to the gendered earnings gap. Of the provinces, only women in Alberta and Newfoundland fare worse than women in BC. BC women earn **22.6% less** than BC men.¹ This is a significant barrier to economic security for women of all ages across the province, with both short-term and long-term negative consequences.

OBJECTIVE

Our goal is to eliminate the gendered earnings gap in BC that has women earning significantly less than men. In order to address economic security in a meaningful way, there must be proactive pay equity legislation to **enforce transparency, raise public awareness about the issues, and make employers responsible and accountable** for the composition of their pay structures.

BACKGROUND & CURRENT SITUATION

Direct gender-based discrimination in pay has been **illegal for decades**.² The problem is that it has never been effectively monitored or enforced.³ Pay discrimination is prohibited across Canada whether by human rights legislation, employment standards legislation, or both.⁴ However the current system, which is not proactive, but rather a complaint-based model, is not working.⁵

The current complaint-based system places the onus of ensuring equal pay for work of equal value on individuals and unions, rather than employers, to bring forward a complaint

¹ Calculated using median weekly earnings; women earn **17.2%** less than men when using median hourly earnings, but hourly figures obscure the precarity of so-called women's work which is disproportionately part-time, casual, or temporary (Statistics Canada; The Conference Board of Canada: <goo.gl/Hb7cii>).

² BC's first pay *equality* legislation was *An Act to ensure Fair Remuneration to Female Employees*, which came into force in 1953. Section 3(1) read: "No employer and no person acting on his behalf shall discriminate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee employed by him for the same work done in the same establishment." Over time this provision was absorbed by human rights legislation, specifically section 12(1) of the *Human Rights Code*, RSBC 1996, c 210: "An employer must not discriminate between employees by employing an employee of one sex for work at a rate of pay that is less than the rate of pay at which an employee of the other sex is employed by that employer for similar or substantially similar work."

³ For a brief history of anti-pay discrimination laws and government recommendations, see Government of Canada, "Fact Sheet: Evolution of pay equity": <www.canada.ca/en/treasury-board-secretariat/services/innovation/equitable-compensation/fact-sheet-evolution-pay-equity.html>.

⁴ *Human Rights Code*, RSBC 1996, c 210, s 12 (**BC**); *Alberta Human Rights Act*, RSA 2000, c A-25.5, s 6 (**AB**); *Labour Standards Act*, RSS 1978, c L-1, s 17 (**SK**); *Employment Standards Code*, CCSM c E110, s 82 (**MN**); *Employment Standards Act*, SO 2000, c 41, s 42 (**ON**); *Charter of human rights and freedoms*, RSQ, c C-12, s 19 (**QC**); *Employment Standards Act*, SNB 1982, c E-7.2, s 37.1 (**NB**); *Labour Standards Code*, RSNS 1989, c 246, s 57 (**NS**); *Human Rights Act*, RSPEI 1988, c H-12, s 7 (**PE**); *Human Rights Code*, RSNL 1990, c H-14, s 16 (**NL**); *Canadian Human Rights Act*, RSC 1985, c H-6, s 11 (**federal**).

⁵ Ontario Equal Pay Coalition <http://equalpaycoalition.org/the-gender-pay-gap-across-canada/> not effective plagued by protracted litigation

and spend their limited resources to pursue lengthy litigation.⁶ Under the *Human Rights Code*, BC uses an **ineffectual complaint-based model** that only handles reported incidents of unequal pay for equal work—the *minimum* standard. The burden is on employees to:

- a) **Know** that they are victims of direct, gender-based pay discrimination, and
- b) **Pursue** a remedy through the Human Rights Tribunal.

Most victims of pay discrimination reasonably fear retaliation for making a complaint, or for even raising the issue with a superior. They cannot risk a disruption in earnings, and instead must prioritize day-to-day concerns.

While women in BC overall earn **22.6%** less than men,⁷ Indigenous and racialized women experience even more profound gendered pay discrepancies on average. Indigenous women overall earn **23% less** per year than non-Indigenous women.⁸ University-educated, Canadian-born racialized women earn on average **12% less** per year than similarly educated white women.⁹ Women are more likely than men to work in low waged, part-time, and precarious jobs.¹⁰ In addition, unpaid caregiving responsibilities, such as child care, disproportionately fall on women, which has significant impact on their short term and long term economic security. As a result, the **likeliest victims** of pay discrimination face the **greatest barriers** to enforcing their rights, including women who are low-income, Indigenous women, women with disabilities, and immigrant and refugee women.¹¹

Women earn **at least 10% less** overall than men in every province, but **over 20% less** overall in BC.¹² BC, Alberta, Saskatchewan, and Newfoundland are the only provinces without pay equity legislation and they have the largest discrepancies in earnings

⁶ Ontario Equal Pay Coalition <http://equalpaycoalition.org/the-gender-pay-gap-across-canada/>

⁷ Calculated using median weekly earnings; women earn **17.2%** less than men when using median hourly earnings, but hourly figures obscure the precarity of so-called women's work which is disproportionately part-time, casual, or temporary (Statistics Canada; The Conference Board of Canada: <goo.gl/Hb7cii>).

⁸ Aboriginal Affairs and Northern Development Canada, "Aboriginal Women in Canada," <www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/ai_rs_pubs_ex_abwch_pdf_1333374752380_eng.pdf> at iii (2006 national figures; provincial figures not available).

⁹ Statistics Canada; The Conference Board of Canada, "Racial Pay Gap": <www.conferenceboard.ca/hcp/provincial/society/racial-gap.aspx> (2010 national figures; racialized women in BC earn **14.2%** less).

¹⁰ Seth Klein, Iglia Ivanova and Andrew Leyland. *Long Overdue: Why BC Needs a Poverty Reduction Plan* (Canadian Centre for Policy Alternatives, Vancouver: 2017) at 32

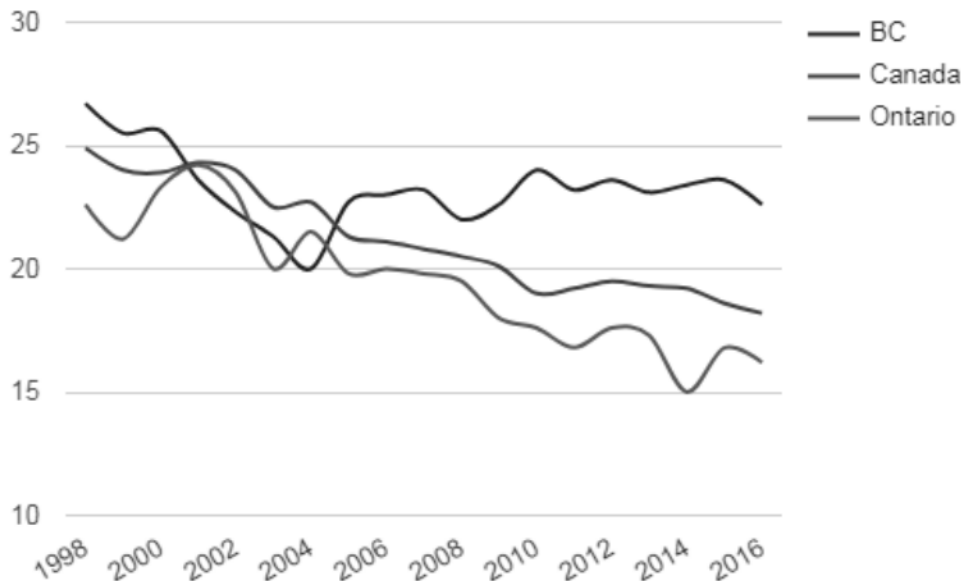
¹¹ United Nations, International Covenant on Civil and Political Rights, Concluding Observations on the Sixth Periodic Report of Canada (August 2015): <www.refworld.org/docid/5645a16f4.html> at 2; Government of Canada, "Towards a Poverty Reduction Strategy: A Backgrounder on Poverty in Canada" (October 2016): <www.canada.ca/en/employment-social-development/programs/poverty-reduction/backgrounder.html?wbdisable=true#h2.4> at 9; Statistics Canada, *Women in Canada: A Gender-based Statistical Report*, "Visible Minority Women" (March 2017), <www150.statcan.gc.ca/n1/en/pub/89-503-x/2015001/article/14315-eng.pdf?st=NZ2dLRCc> at 30-31.

¹² Statistics Canada; The Conference Board of Canada: <www.conferenceboard.ca/hcp/provincial/society/gender-gap.aspx> (calculated using median weekly earnings in 2016).

between men and women.¹³ The public sectors of 6 provinces (Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, and PEI) are governed by pay equity legislation, in addition to human rights and employee standards legislation that prohibits gender-based pay discrimination. The legislation in Ontario and Quebec also applies to private sector enterprises with over 10 employees.¹⁴ The following chart indicates the gendered earnings gap in each province and whether provincial legislation or a framework exists.

Province	Earnings Gap (%)	Pay Equity Legislation	...for Public Sector	... for Private Sector	Policy for Public Sector
PEI	10.7	Yes	Yes	No	Yes
MN	13.2	Yes	Yes	No	Yes
NB	14.4	Yes	Yes	No	Yes
ON	16.2	Yes	Yes	Yes	Yes
QC	16.4	Yes	Yes	Yes	Yes
NS	16.4	Yes	Yes	No	Yes
SK	21.6	No	No	No	Yes
BC	22.6	No	No	No	Yes
AB	24.6	No	No	No	No
NL	28.5	No	No	No	Yes

The following graph illustrates how much less (%) BC women earn than BC men, with Ontario and national figures for comparison.¹⁵



¹³ They are the four worst provinces regardless of whether median weekly or median hourly earnings are used.

¹⁴ *Pay Equity Act*, CCSM c P13 (**MN**); *Pay Equity Act*, RSO 1990, c P.7 (**ON**); *Pay Equity Act*, RSQ c E12.001 (**QC**); *Pay Equity Act*, SNB 2009, c P-5.05 (**NB**); *Pay Equity Act*, RSNS 1989, c 337 (**NS**); *Pay Equity Act*, RSPEI 1988 (**PE**).

¹⁵ *Ibid.*

Although there was some improvements between 1998 and 2004,¹⁶ there are no signs that the gendered earnings gap in BC will improve significantly in the near or distant future. Women still earn 20% less than men.

Pay equity – **equal pay for work of equal value** – addresses the systemic, both direct and indirect, discrimination in earnings based on gender. The basic principle is that the compensation package offered for a job performed predominantly by female employees must be equal to that for a job performed predominantly by male employees when the work is of equal or comparable value.

Pay equity schemes are most successful when they take into account and effectively address three main issues:

- Men are disproportionately making higher incomes **for doing the same or substantial similar work**;
- **Men are clustered at the top** of pay structures and women are clustered at the bottom; and
- **Men dominate higher-paid professions** and women dominate lower-paid professions.

RECOMMENDATIONS

West Coast LEAF recommends stand-alone proactive pay equity legislation for BC. Legislation in other provinces and abroad has achieved the greatest results when pay equity schemes are **mandatory across all sectors and industries**, are subject to strong **enforcement** mechanisms, and are responsive to **independent oversight**.¹⁷

We support the recommendations of the Federal Pay Equity Task Force in their 2004 report and urge that they be applied to BC.¹⁸ These recommendations were echoed again in 2016 by the Special Committee on Pay Equity – in June 2016 the committee tabled its report titled *It's Time to Act*. In addition to creating stand-alone proactive pay equity legislation, the task force also recommended:¹⁹

¹⁶Statistics Canada; The Conference Board of Canada, "Gender Wage Gap": www.conferenceboard.ca/hcp/provincial/society/gender-gap.aspx (calculated using median weekly earnings in 2016).

¹⁷ For example, Ontario's new pay transparency legislation was drafted with the failures of Ontario's *Pay Equity Act* (1990) in mind; a lack of enforcement mechanisms in the *Pay Equity Act* has produced very low compliance in what is ultimately a complaint-based system that kept the onus on employees. Also see Citation Information Faraday, Fay. "Dealing with Sexual Harrassment in the Workplace: The Promise and Limitations of Human Rights Discourse." *Osgoode Hall Law Journal* 32.1 (1994) : 33-63. <http://digitalcommons.osgoode.yorku.ca/ohlj/vol32/iss1/>

¹⁸ "Pay Equity: A New Approach to a Fundamental Right," Pay Equity Task Force Final Report (2004): <http://goo.gl/qB11kq>; "It's Time To Act," Report of the Special committee on Pay Equity (2016): <http://goo.gl/obsT2q>.

¹⁹ Pay Equity: A New Approach to a Fundamental Right, at 503 to 520.

- **To Require** employers, unions and workers' representatives to examine pay systems to make sure they are based on the principle of equal pay for work of equal value.
- **To Provide** adequate financial and human resources to oversight agencies to support the achievement of pay equity within a reasonable period of time, and that the government continue to allocate sufficient resources for the administration of pay equity legislation.

In order to create the most successful outcomes, we recommend that the pay equity legislation include provisions for both transparency and enforcement, with the enforcement mechanisms to come into effect a year after the transparency provisions come into effect. This would allow employers time to be transparent about their compensation structures and address discriminatory pay discrepancies. While we want to ensure there are mechanisms in place to enforce pay equity standards, we also know that the most effective system-wide shift will come if the public awareness is raised and employers buy in. Allowing the transparency provisions to come into force before the enforcement provisions are intended to have this impact.

Phase One: Transparency

Transparency in pay structures is a prerequisite to pay equity. Improvements cannot be made without first knowing if, and to what degree, men are clustered at the top of a company's pay structure and whether women's contributions are being seriously undervalued. The current secrecy surrounding pay structures perpetuates inequitable compensation by keeping employees in the dark.²⁰

- The BC legislation needs to include provisions similar to those of Ontario's *Pay Transparency Act* that also applies to the private *and* public sectors (including the broader public sector).²¹
- Pay transparency provisions must accomplish four main goals:
 - i. **Reporting:** Every employer with enough employees to gather meaningful statistics must report anonymous data about the composition of their workforce to the government through a standard form by a set annual deadline.²²

²⁰ Employees of the Royal Bank of Canada working in the United Kingdom now have a better sense of their employer's pay structure than RBC employees working in Canada. New mandatory gender pay gap reporting in the UK revealed that the average hourly rate of women working for RBC in London (UK) is **35% lower than men's**, women occupy **only 14%** percent of salaries in the top quartile, and the bonus pay of women is **64% lower than men's**: <gender-pay-gap.service.gov.uk/viewing/employer-%2cDGiU-jnP5sWVcNo3DhveLg!!!/report-2017>. This is not unique to so-called 'male sectors' like finances. For example, Benefit Cosmetics Limited reported that despite having a disproportionately female workforce, women's earnings were on average **20.4% less** than their male colleagues and their bonus pay was **26.7% less** than the men's: <gender-pay-gap.service.gov.uk/viewing/employer-%2c_mUxFAQ4vwhM3ZX-HONdniA!!!/report-2017>.

²¹ *Pay Transparency Act*, 2018 SO 2018, c 5 [Ontario *PTA*]; the change in government halted the drafting of regulations, which was to include its enforcement mechanisms.

²² Ontario *PTA*, s 7(1)-(3); the first pay transparency reports will be required of employers with **250** or more employees, then reports will be required of all employers with **100** or more employees the following

- Only basic bookkeeper data is needed: gender, age, ethnicity, employee status (full-time/part-time, permanent/temporary), immigration status, and total annual compensation.
 - Total annual compensation must factor in the entirety of an employee's benefits, including bonuses, gifts, allowances, and paid leave.²³
- ii. **Publication:** Government must be empowered to publish the results of the data online, organized by employer, while maintaining employee anonymity.
- Data must be presented in way as to reveal the pay structure of a company according to employee demographics.
 - The ability to sort data by all reported employee demographics allows for an intersectional analysis of a company's pay structure, such as whether women of colour are paid less by their employer than other women within the same age bracket.
- iii. **Enforcement:** Regulations must set out penalties for failing to report or reporting falsely.
- Penalties against an employer should be proportionate to the size of the enterprise.
- iv. **Protection:** Employers must be prohibited from seeking information about an applicant's compensation history.
- Soliciting information about a prospective employee's past earnings has been used to gauge how large of a compensation to offer in relation to the applicant's earnings history.
 - This practice reinforces the status quo of a gendered earnings gap, for example, when the future earnings of a female employee are based on her history of under-compensation.

year; the UK's 2017 regulations requires annual reporting of employers with **250+** workers, all 10,000 of which published their data by August 2018 (deadline was April 2018; 1,500 were late):
www.gov.uk/government/news/100-of-uk-employers-publish-gender-pay-gap-data.

²³ See the United Kingdom's formula: *The Equality Act 2010 (Gender Pay Gap Information) Regulations 2017*, United Kingdom: www.legislation.gov.uk/uksi/2017/172/contents/made.

Phase Two: Equity

Equal pay for work of equal value.

A 'comparable worth' model takes measures to prevent occupational wage rates from being influenced by grounds of discrimination, such as gender.

- BC needs to apply a 'comparable worth' model to the province's workforce. This involves:
 - i. **Grouping** jobs into job classes.
 - Job classes consist of jobs that have similar duties and responsibilities and have the same compensation schedule. Depending on the current gender composition of the job classes, they are identified as female, male or gender neutral.
 - ii. **Collecting** job information about female and male job classes.
 - Each job class is valued using four factors required by law – skill, effort, responsibility, and working conditions.²⁴
 - iii. **Comparing** female job classes to male job classes.
 - Where the values are comparable, the compensation of the female job class must be of equal value to the compensation of the comparable male job class.
 - E.g. Administrative Assistants at Company-X were earning less than Shipper/Receivers despite being in a higher job class.
 - iv. **Equalizing** pay for work of equal value.
 - If a female job class is compensated lower than an equally-valued male job class, the employer is required to match the compensation of female job class to the male job class.
 - E.g. the compensation of Administrative Assistants at Company-X must be adjusted upward to reflect the higher job class.²⁵

²⁴ Ontario Equal Pay Commission, "Example of a Pay Equity Plan Job-To-Job Comparison Method" (with subfactors such as problem-solving/judgment, mental effort, and human resources):
<www.payequity.gov.on.ca/en/tools/Pages/jj_plan.aspx>

²⁵ Ontario Equal Pay Commission, "The List of Female and Male Job Classes" (with examples of pay bands):
<www.payequity.gov.on.ca/en/tools/Pages/regression_classes.aspx>.

In addition to the foregoing, we propose that there be meaningful and comprehensive consultation, including:

- Determining whether oversight and enforcement mechanisms should fall on the Human Rights Commission and Tribunal, or a standalone new body;
- Compare and consult with existing pay equity schemes across the country, to determine best practices; and
- Determine the size of company required to fall within the reporting guidelines, outlined above.

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance
and Deputy Premier

Date Requested: March 5, 2019

Initiated by: Lori Wanamaker
Deputy Minister

Date Prepared: March 5, 2019

Ministry Contact: Steve Hawkshaw
Director, LNG & Housing
Tax Policy Branch

Phone Number: 778-698-5824
Email: Steve.Hawkshaw@gov.bc.ca

Cliff#: 379482

TITLE: Repeal of *Liquified Natural Gas Income Tax Act* regulations

PURPOSE:

(X) DECISION REQUIRED

DATE PREPARED: March 5, 2019

TITLE: Repeal of *Liquefied Natural Gas Income Tax Act* regulations

ISSUE: Repeal of regulations related to the LNG income tax

BACKGROUND:

In announcing the Government's new LNG framework, the Government stated it would repeal the *Liquefied Natural Gas Income Tax Act* (see Appendix A). This will be accomplished through the *Income Tax Amendment Act, 2019*. Introduction of this act is expected in spring of 2019.

The *Liquefied Natural Gas Income Tax Act* was never brought into force. However, there were a number of regulations created in anticipation of the tax coming into effect and a number of references to the Act added to existing regulations. These regulations need to be repealed or amended as a consequence of repealing the Act.

DISCUSSION:

The attached Order in Council (OIC) repeals a number of regulations that are no longer required and amends a number of regulations to remove references to the *Liquefied Natural Gas Income Tax Act*:

- The Liquefied Natural Gas Income Tax Regulation is repealed. This regulation contained technical rules related to the administration of the LNG Income tax.
- The Natural Gas Tax Credit Regulation is repealed. This regulation prescribed a rate for the natural gas tax credit established under the *Liquefied Natural Gas Income Tax Act*.
- The Interest Rate Under Various Statutes Regulation is amended to remove a reference to the *Liquefied Natural Gas Income Tax Act*. This regulation sets the interest rate for amounts due to government.
- The Bonding Regulations is amended to remove references to the *Liquefied Natural Gas Income Tax Act*. This regulation contains rules for how bonds are posted under various acts. The LNG income tax contemplated a bonding regime to ensure tax could be collected from extra-provincial entities.

REGULATORY CRITERIA EXEMPTION:

The OIC decreases the regulatory count by 5.

OPTIONS:

RECOMMENDATION:



Carole James
Minister and Deputy Premier



Date

Appendix A**Office of the Premier****New framework for natural gas development puts focus on economic and climate targets**

Thursday, March 22, 2018 11:06 AM

British Columbia establishes new framework for natural gas development

Natural gas has a key role to play to provide clean, reliable, affordable and less-carbon-intensive options to global energy markets.

British Columbia has a vast supply of low carbon-intensive natural gas resources in places like the Montney Basin, and has been developing them to support economic growth and job creation at home for decades. B.C. natural gas is an important transition fuel that can help B.C. move to a lower-carbon economy.

While B.C. has been exporting natural gas to U.S. markets for decades, it has an opportunity to export the same fuel to other jurisdictions. To that end, government will introduce a fiscal framework that will provide fair returns to both British Columbians and investors, as well as a climate strategy that will allow B.C. to meet its legislated climate targets.

To ensure British Columbia does it better than anybody else in the world, the provincial government has four key conditions to ensure British Columbians benefit from any proposed LNG development. They are:

- Guarantee a fair return for B.C.'s natural resources.
- Guarantee jobs and training opportunities for British Columbians.
- Respect and make partners of First Nations.
- Protect B.C.'s air, land and water, including living up to the Province's climate commitments.

Emerging LNG Proposals

Despite the cancellation of Pacific Northwest LNG, Aurora and Woodside project proposals, several other LNG proponents have expressed renewed interest in developing projects in BC.

LNG Canada

LNG Canada's proposed Kitimat project, should it proceed, represents a very significant economic opportunity for British Columbia – a project that involves one of the largest private sector developments in B.C. history.

Shell and its joint-venture partners have worked constructively to satisfy the provincial government's conditions for LNG, and British Columbia expects LNG Canada will continue to do so moving forward.

LNG Canada is also working to achieve global leadership in low-emissions technology and operations.

Kitimat LNG

Chevron and its partners have expressed continued interest in developing its project in northern B.C. and is focusing on the use of new low-emissions liquefaction technology.

These come as the Province is completing a climate-action strategy in place that meets the Province's greenhouse gas-reduction targets – to reduce B.C.'s greenhouse gas emissions by 40% below 2007 levels by 2030, and by 80% by 2050.

New Framework

The B.C. government has developed a new framework aimed at ensuring British Columbians receive a good return for their natural gas resource and proponents receive a reasonable return on investment.

As part of this work, British Columbia and LNG Canada jointly conducted a financial analysis of the LNG Canada project. This analysis corroborated evidence and information from internationally recognized LNG analysts that B.C. has a competitiveness issue and formed the basis of a mutual understanding upon which the Province is prepared to commit measures that will increase the competitiveness of British Columbia's LNG industry.

These measures provide a framework for other industries in British Columbia in similar circumstances – they are not exclusive to the LNG industry or LNG Canada.

As it pertains to LNG Canada, the measures detailed below will only be implemented if the proponents are able to conclusively decide on or before Nov. 30, 2018, to proceed with the construction of the LNG facility and associated investments. These measures below would apply to the entire LNG sector.

1. New Operating Performance Payments

Under current legislation, proponents constructing significant manufacturing facilities would receive a PST exemption on input costs, whereas those proposing to construct LNG facilities would not.

Under the new framework, The B.C. government will exempt LNG Canada from the provincial sales tax (PST), on the construction of their initial proposed facility. This will be conditional on LNG Canada entering into a separate agreement with the province whereby LNG Canada will pay annual operating performance payments over 20 years, a total amount equivalent to what LNG Canada would have otherwise paid in PST during the initial facility construction period.

This framework will be available to all proponents constructing significant manufacturing facilities in the province.

2. Clean Growth Incentive Program

The provincial government recognizes that energy-intensive trade-exposed industries, including the natural gas sector, face unfair competition when competing globally with jurisdictions that do not impose carbon taxes. Proponents who make a final investment decision to proceed will be subject to the new Clean Growth Incentive Program, announced by the provincial government in Budget 2018. A benchmark for world-leading clean LNG production will be established as part of this program, replacing existing requirements under the current Greenhouse Gas Industrial Reporting and Control Act.

3. Industrial Electricity Rates

Proponents who make a positive final investment decision will receive the general industrial electricity rate charged by BC Hydro. This is the same rate paid by other industrial users in British Columbia.

4. Removal of LNG Income Tax

The existing LNG income tax is not the most efficient and effective tool for generating returns to British Columbia. It is cumbersome to administer and has led to uncertainties. Government intends to introduce legislation to repeal this tax and instead government will utilize a number other tax and royalty measures under its new fiscal framework, to ensure that British Columbia gets a fair return for its natural gas resource.

New Approach to LNG

As part of establishing a new fiscal framework, the provincial government will take steps to improve the transparency and consistency with which it assesses industrial development opportunities. To that end, government intends to introduce legislation to repeal the Project Development Agreement Act, passed by the previous government, to tie the hands of future governments with respect to the rules governing LNG projects.

These measures effectively indemnified proponents against changes. Government will also review and potentially cancel or repeal other LNG measures established by the previous government.

Media Contacts

Suntanu Dalal

Media Relations

Ministry of Energy, Mines and Petroleum Resources
250 952-0628

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance
and Deputy Premier

Date Requested: March 7, 2019
Date Required: March 7, 2019

Initiated by: Steve Hawkshaw
Director

Date Prepared: March 7, 2019

**Ministry
Contact:** Richard Purnell
Executive Director
Tax Policy

Phone Number: 778-698-5864
Email: Richard.Purnell@gov.bc.ca

Cliff #: 379604

TITLE: Speculation and Vacancy Tax Exemption for Members of the Canadian Forces

PURPOSE:

(X) DECISION REQUIRED

DATE PREPARED: February 22, 2019

TITLE: Speculation and Vacancy Tax Exemption for Members of the Canadian Forces

ISSUE: Canadian Forces members who have extended tours may not qualify for a principal residence exemption under the *Speculation and Vacancy Tax Act*.

BACKGROUND:

The two active CF bases in BC are located in Comox and Esquimalt. Esquimalt is inside the SVT area, and Comox is outside. The various reserve units are based in cities across BC, including Metro Vancouver and the CRD.

The temporary absence exemption is available for one year out of every ten.

DISCUSSION:

Tax Policy Branch is aware of two types of situations that have generated complaints about the SVT:

1. The home of a CF member is subject to the tax

A home is owned directly by a CF member or a CF member's spouse and is subject to the tax due to an absence caused by the CF member's military service. But for the military service, the CF member would qualify for the principal residence exemption.

Structure of a direct ownership exemption.

Administration and Implementation

OPTIONS:

RECOMMENDATION:

-

APPROVED / NOT APPROVED

Carole James
Minister

Date

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance
and Deputy Premier

Date Requested: February 28, 2019
Date Required: March 20, 2019

Initiated by: Richard Purnell
Executive Director
Tax Policy Branch

Date Prepared: March 8, 2019

**Ministry
Contact:** Keith Preston
Strategic Advisor
Tax Policy Branch

Phone Number: 778 698-9581
Email: Keith.D.Preston@gov.bc.ca

Cliff #: 379729

TITLE: Direction on cannabis revenue sharing

PURPOSE:
(X) DECISION REQUIRED

COMMENTS:

Executive Director approval: _____

ADM approval: _____

DM approval: _____

DATE PREPARED: March 8, 2019

TITLE: Direction on cannabis revenue sharing

ISSUE: Confirmation of strategic direction: revenue sharing requests

BACKGROUND:

BC receives cannabis-related revenue from its 75 per cent share of the federal excise duty, the 7 per cent provincial sales tax (PST) on retail sales, the 15 per cent Liquor Distribution Branch (LDB) markup, and on product sales made by BC Cannabis Stores.

Provincial costs associated with legalization include:

- preparation of the provincial regulatory framework;
- hiring staff to administer the new *Cannabis Control and Licensing Act* and *Cannabis Distribution Act* (e.g. licensing staff, investigations and enforcement staff);
- establishing LDB's capacity to serve as the sole wholesale distributor of cannabis;
- opening online and physical BC Cannabis Stores for retail sales; and,
- developing and delivering initiatives to maintain safe and secure communities.

Local costs associated with legalization include:

- preparation of local bylaw and policy frameworks;
- monitoring and enforcing compliance with bylaws;
- scrutinizing applications for retail licences (after review and referral by provincial administrators);
- training and equipping police for legalization; and,
- communicating with, and educating, citizens.

Concerted requests to share provincial cannabis revenues began in 2017. Resolutions calling for revenue sharing were passed at both the 2017 and 2018 annual conventions of the Union of British Columbia Municipalities (UBCM). Responses to more than 50 letters from local governments were made by the Minister in early 2018. In July 2018, the First Nations Leadership Council identified an interest in revenue sharing.¹

¹ Indigenous nations and groups have requested initiatives beyond revenue sharing. Examples include exemptions from the provincial regulatory framework for cannabis distribution, and the provision of industry-related education for Indigenous persons.

Revenue sharing requests have been highlighted in the media, particularly around the time of UBCM's 2018 annual convention and again in the weeks preceding and following *Budget 2019*. Recent media reports have included content suggesting that a revenue sharing agreement between the Province and local governments is inevitable.

Tax Policy Branch is leading on this file for Government.

Tax Policy Branch is also participating in the Joint Provincial-Local Government Committee on Cannabis Regulation and will be attending a meeting of that committee on March 21, 2019. UBCM is seeking an update on revenue sharing at that meeting.

DISCUSSION:

Early indications are that cannabis tax revenues are relatively modest.² Since *Budget 2018*, which forecast federal excise duty transfers of \$50M (2018/19), \$75M (2019/20), and \$75M (2020/21), the forecast has been revised to \$10M (2018/19), \$38M (2019/20), and \$68M (2020/21).

To date, only Alberta, Ontario, and Quebec have committed to revenue sharing.³ In these provinces, commitments have been made to share federal excise duty revenues over two years with local governments.

UBCM asked BC to share a portion of its federal excise duty revenue with local governments for the first two years of legalization. At the conclusion of that period, they request a continued share of federal excise duty revenues or a portion of PST revenues from cannabis. (The appendix to this note includes a copy of UBCM's July 2018 proposal.)

² The first federal transfer of excise duty revenue—approximately \$1.3M—was made on March 1, 2019. PST remittances began in November 2018 and have continued monthly; to date, approximately \$1.5M has been received. A separate note (379732) has been provided regarding a proposed disclosure schedule for duty revenues.

³ Alberta: \$11.15M over two years (\$2.60 per capita); Ontario: \$40M over two years (\$2.82 per capita); Quebec: \$20M over two years (\$2.38 per capita).

OPTIONS:

EVALUATION:

Page 18 of 51

Withheld pursuant to/removed as

RECOMMENDATION:

DECISION: Option 1 / Option 2

Carole James
Minister and Deputy Premier

Date

APPENDIX: UBCM PROPOSAL (JULY 2018)



Cannabis Excise Sales Tax In British Columbia

A Proposal for Provincial - Local Government
Revenue Sharing

Union of BC Municipalities
July 2018

APPENDIX: UBCM PROPOSAL (JULY 2018)



The Union of British Columbia Municipalities (UBCM) appreciates the collaborative efforts made through the Joint Provincial-Local Government Committee on Cannabis Regulation (JCCR) in developing the regulatory framework in advance of the October 17, 2018 effective date of Bills C-45 and C-46. UBCM recognizes the significant start-up and ongoing costs for both the Province and local governments in achieving the Government of Canada's policy objectives.

Upon entering JCCR discussions, UBCM established 4 guiding principles:

1. Cannabis legalization should not result in additional local government funding by property taxpayers;
2. Local governments should be reimbursed for costs associated with the implementation of legalized cannabis;
3. Local governments should be reimbursed for any additional policing costs resulting from cannabis legislation;
4. Remaining excise tax revenue (after taking out expenses incurred as part of principles 1-3, and the federal share) should be shared between the Province of British Columbia and local governments in the province.

In considering these guiding principles, UBCM has researched the recent experience of legalized cannabis legislation in several United States of America states, as well as developing agreements in Canadian provinces. We reviewed FCM cost estimates for local governments and used the low-end projections in determining a fair and supportable excise tax revenue sharing proposal.

- FCM 'low' cost projections for local governments under administration and policing are \$6 million per one million people. Extrapolating, BC's local governments can anticipate minimum costs of \$58 million over the first 2 years.
- The Province of BC has estimated its portion of cannabis excise tax revenue over the first 2 years to be \$125 million.
- Local government projected costs therefore, represent 46.4% of the provincial cannabis excise tax revenue estimate.
- The Government of Canada reduced its share of excise tax revenue from 50% to 25% recognizing that provinces need a greater revenue commitment in order to address costs for both the provinces and their local governments as they define required services and roles and responsibilities.
- Agreements have been reached between the provincial governments and their local government representative associations in both Ontario and Quebec.
- The Ontario agreement is a reasonable framework for development of a two-year agreement between the Province of BC and UBCM.

UBCM proposes the following for the initial 24-month period:

- The Province commits 40% of its projected cannabis excise tax revenue to local governments. As in Ontario, the parties may wish to translate the percentage into the fixed dollar amount of \$50 million.
- 50% of the cannabis excise tax amount agreed on will be provided to local governments upon formalization of an agreement with the second 50% provided one year later.

APPENDIX: UBCM PROPOSAL (JULY 2018)



- Any revenue in excess of the projected \$125 million provincial portion is to be shared 50-50 between the Province and local governments.
- Although there is an expectation for some cost tracking over the 2 years, there will be no 'clawback.'
- Revenue will be distributed to local governments on a per capita basis (more commonly used in BC than 'per household' used in Ontario).
- Municipalities and regional districts will receive a minimum of \$10,000 regardless of population.
- A process will be developed, with oversight by the JCCR, for tracking of costs on an ongoing basis.

UBCM proposes the following beyond year 2:

- UBCM and the Province to work cooperatively to develop a cannabis excise tax revenue sharing agreement that will explore the following options:
 - a. Continue with the framework used for the first 2 years, particularly if projected costs and revenues are within a reasonable variance from the original projection, OR
 - b. Determine the potential to increase the provincial sales tax on cannabis from 7% to not more than 10% with a commitment of this portion to local governments in place of cannabis excise sales tax revenue sharing. The resulting revenue should be consistent with the 40% of the Province's share of cannabis excise tax revenue over time. Market sensitivity to retail price point will be of primary importance under this option.
- Consideration be given to development of a reporting template for cannabis related incremental costs as part of the Local Government Division's annual financial reporting process.
- The final cannabis revenue sharing agreement to provide ongoing certainty for local governments and therefore, not be deemed a provincial grant, whether conditional or unconditional.
- Revenues received by local governments in excess of reported incremental costs be approved for projects/expenditures that are dedicated to improving community health, which may include programs as well as infrastructure (potential for further definition to be enshrined in an agreement, the objective being to provide tangible benefit for the community as a positive outcome of legalized cannabis).

UBCM recognizes that there are many variables that will impact cannabis related revenues and expenditures over the first 2 years following October 17, 2018 and we are committed to working with the Province of British Columbia in determining a fair and equitable method of revenue sharing to ensure the long-term health and safety of our citizens.

Ministry of Finance

BRIEFING DOCUMENT

To: Honourable John Horgan
Premier

Date Requested: March 12, 2019

Date Required: March 15, 2019

Initiated by: Honourable Carole James
Minister of Finance and
Deputy Premier

Date Prepared: March 13, 2019

Ministry
Contact: Chris Dawkins
A/Assistant Deputy Minister
Policy and Legislation Division

Phone Number: 778 698-9401

Email: Christina.Dawkin@gov.bc.ca

Cliff #: 379743

TITLE: Summary of Land Owner Transparency Act (LOTA) legislation and
registry

PURPOSE:

(X) FOR INFORMATION

Executive Director approval: _____

ADM approval: _____

DM approval: _____

DATE PREPARED: March 13, 2019

TITLE: Summary of LOTA legislation and registry

ISSUE: The Premier's Office has requested an overview of the LOTA legislation and registry.

BACKGROUND:

The proposed Land Ownership Transparency Act creates a framework for disclosure requirements to identify the actual owners of properties in BC. Currently, entities such as trusts, partnerships and corporations that own land can be used to disguise the underlying beneficial owners of property. The information collected under LOTA will be used to inform taxation and regulatory agencies to prevent tax evasion and non-compliance with regulations. In addition, the public will have access to information about the beneficial ownership of property, subject to certain limitations.

Registry Operations

The disclosure requirements under the LOTA will apply to trusts, corporations and partnerships (reporting bodies) and will be required in the following three circumstances:

- on any application to register an interest in land in the name of a reporting body;
- any time there is a change of interest holders or beneficial owners, even if this does not result in a legal transfer of title (e.g. sale of shares in a corporation that owns land); and
- for reporting bodies that are pre-existing owners at the time the legislation comes into force, a disclosure will be required within a prescribed period to ensure that there are no gaps in the information.

To ensure that reporting bodies file the appropriate transparency reports, when the legislation comes into force, **all** applications to register an interest in land will need to be accompanied by a form referred to as a transparency declaration. This applies to all property, residential and commercial, unless specifically excluded (e.g. treaty lands). This form will act as a signal to alert the applicant that he or she could be a reporting body and satisfy the registry that the applicant had turned his or her attention to the possibility. If the declaration indicates that the transferee is **not** a reporting body, the transfer will proceed as normal. No information about the transferee will appear on the transparency register; although, information about individual owners will still be collected and will be searchable through the land title office, as it is today.

If the transparency declaration indicates that the transferee *is* a reporting body, the registrar of land titles will be restricted from processing the application to register an interest in land unless it is accompanied by a second form called a transparency report that sets out information about the interest holders and beneficial owners.

The legislation also requires reporting bodies to submit a new disclosure report if they become aware of a change to the interest holders/beneficial owners.

For example, if ABC Company is the registered owner of the property, and Joe Smith was identified in the transparency report as a corporate interest holder, ABC Company would need to file a new transparency report if Joe Smith sells all his shares to Greg Brown, or if he decides to hold his shares in trust for Jane Smith. This will be required even though “ABC Company” will remain the registered owner on title throughout all these transactions.

Public education will be important to ensure that reporting bodies are aware of their self-reporting obligations. The Land Title Survey Authority (LTSA), as the administrator of the registry, will be responsible for communicating with registered owners about the disclosure requirements under LOTA.

Enforcement Operations

In addition to anticipated use of public education to encourage compliance, the proposed legislation includes significant administrative and offence penalties to enforce compliance.

The penalty structure in the proposed legislation is as follows:

- Maximum administrative penalties:
 - For corporations: the greater of \$50,000 or 5% of the assessed value of the relevant property;
 - For individuals: the greater of \$25,000 or 5% of the assessed value of the relevant property.

- Maximum penalties for offences involving a person directly linked to a property (e.g. providing misleading information regarding a relevant property):
 - For corporations: the greater of \$50,000 or 15% of the assessed value of the relevant property;
 - For individuals: the greater of \$25,000 or 15% of the assessed value of the relevant property.
- Maximum penalties for offences involving a person not directly linked to a property (e.g. improper use of searched information):
 - For corporations: \$100,000;
 - For individuals: \$50,000.

Reporting Bodies in Detail

As described above, the LOTA will require transparency reports from corporations, trusts and partnerships. These reporting bodies are carefully defined in the proposed legislation to ensure only reporting bodies that have relevance to the policy objectives of improving transparency in land ownership is achieved.

For example, exclusions under schedules in the legislation are provided in cases where there is little risk that the legal entity would be used as a mechanism to hide or ownership (e.g. where there are already public reporting requirements for ownership), or, in the case of corporations, where there is a low likelihood that any person would need to report beneficial ownership (i.e. unlikely that anyone would own more than 10% of the shares).

The reporting bodies are specifically described in LOTA as follows:

Corporations

- A company “however and wherever incorporated” (i.e. not only BC companies) and includes societies, cooperative associations, and limited liability companies.

- Examples of corporations that are excluded are:
 - a corporation that is listed on a designated stock exchange;
 - a government body;
 - a savings institution;
 - a pension fund society.

Trusts

- “An express trust, including a bare trust.”
- Examples of trusts that are excluded are:
 - a charitable trust;
 - a trust of which the trustee is the Public Guardian and Trustee;
 - a real estate investment trust in respect of which each beneficiary is an Indigenous nation or citizen.

Partnerships

- A general partnership, limited partnership, limited liability partnership or foreign partnership, within the meaning of the *Partnership Act*, but does not include a prescribed partnership or legal relationship.
- There are no exclusions from the definition; if any specific concerns arise after the legislation is passed regarding specific types of partnership, some exemptions may be provided in the regulations.
- Under the proposed legislation, the only exception for partnerships arises in cases where every partner is listed on title. In this situation, a transparency report is not required, because information about the partners be available through the land title office in the same way that it is listed for any other individual owner.

Public Searches of the Registry

The LTSA, as the administrator of the registry, will develop the registry system. Although, development of the system is still in very early stages, it is expected that the search process will closely follow the existing process for searches of the land title system. Members of the public will be able search the information in the register by name, parcel identifier, or any other search criteria prescribed by regulation, through a web-based application.

Accessibility to Information

Members of the public will be able to access primary identification information. This includes:

- For corporations:
 - name of the corporation;
 - registered office and head office addresses;
 - jurisdiction of incorporation;
 - any information respecting a continuation or transfer into another jurisdiction; and
 - any prescribed information.
- For individuals:
 - full name;
 - whether or not the individual is a Canadian citizen or permanent resident;
 - any country of which the individual is a citizen (if not a Canadian or permanent resident);
 - city and province of principal residence (or city and country, if the primary residence is not in Canada); and
 - any prescribed information.
- For partnerships:
 - business name, if applicable;
 - type of partnership;
 - address of the partnership's principal business premises;
 - jurisdiction the laws of which govern the partnership or the interpretation of the partnership agreement; and
 - any prescribed information.

Vulnerable individuals, such as victims of domestic abuse, will be able to apply to the registry administrator to omit their personal information from the publicly accessible register. Transparency reports filed with the registry will be automatically held from the public register for 90 days to allow vulnerable individuals an opportunity to apply to the administrator to omit or obscure information.

In addition, information about minors and individuals who have been found to be incapable of managing their affairs will not be made publicly accessible.

Law enforcement, tax authorities, and regulators, as defined in LOTA will have full access to all information in the transparency reports (including information about vulnerable individuals, minors, and individuals incapable of managing their affairs). In addition to the primary identification information, this includes:

- date of birth;
- last known address;
- social insurance number;
- individual tax number, if any;
- whether or not the person is a resident in Canada for income tax purposes;
- the date on which the individual became or ceased to be an interest holder;
- a description of how the individual is an interest holder;
- where applicable, the fact that a determination of incapacity has been made; and
- any prescribed information.

If a reporting body is unable to obtain or confirm information about beneficial owners, this must be indicated in the transparency report and this information will be available to law enforcement, taxing authorities and regulators. Finally, these agencies will have access to additional information about the reporting bodies (corporations, trusts and partnerships) themselves, including business numbers and information about the settlors of a trust.

Relationship with Business Corporation Act (BCA) Amendments

Amendments to the BCA are planned to be introduced at or around the same time as the LOTA. These amendments will require BC companies to hold accurate and up to date information on beneficial owners in their records offices. The amendments are part of a Federal-Provincial-Territorial (FPT) initiative to improve beneficial ownership transparency and will be a first step towards meeting international standards regarding beneficial ownership transparency.

Unlike LOTA, the BCA amendments will not require reporting of beneficial ownership to a central registry. Also, unlike the LOTA, trusts or partnerships will not be affected, but all private companies will be, despite whether they own land. As well, whereas the LOTA registry will include publicly accessible information, under the BCA amendments,

the information to be kept in the corporate records offices will not be available to the public and will only accessible by tax authorities, police and certain regulators.

Despite the differences, the two proposals have been aligned as much as possible, as many companies will be required to collect beneficial ownership information under both statutes.

The major difference between the two is in respect of the ownership thresholds that require the person to be listed in the respective registry. The LOTA has a smaller threshold of beneficial ownership (10 per cent) versus the BCA (25 per cent). The LOTA threshold was based on advice received from the Expert Panel on Anti-Money Laundering and the BCA threshold was reached through a consensus amongst all the FPT partners.

Anticipated Launch

The creation of the LOTA registry will result in significant new business and operational requirements for the LTSA. Based on Ministry of Finance staff current discussions with the LTSA, it is expected that LOTA will be brought into force in Spring 2020.

Key Messages

- Today in our province, the true ownership of real estate can be hidden behind numbered companies and offshore or domestic trusts. Establishing a registry of beneficial ownership is a long overdue policy change in B.C. that will help bring fairness back to our housing market. It will provide valuable information about the true ownership of real estate in B.C., helping tax authorities and law enforcement crack down on tax evasion, and identify tax fraud and money laundering.
- For the first time in Canada, the Land Owner Transparency Act will end hidden ownership of real estate by creating a publicly accessible registry on beneficial ownership.
- It will reveal the true owners behind numbered companies, offshore or domestic trusts, and partnerships.
- This information will help tax authorities and law enforcement crack down on tax evasion and identify tax fraud and money laundering.
- This registry will help return fairness and transparency to B.C.'s real estate market as part of our 30-point Housing Plan to bring homes back within reach for people in B.C.

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance
and Deputy Premier

Date Requested: March 14, 2019
Date Required: March 21, 2019

Initiated by: Richard Purnell
Executive Director
Tax Policy Branch

Date Prepared: March 19, 2019

Ministry Contact: Duncan Jillings
Director, Property Taxation
Tax Policy Branch

Phone Number: (778) 698-5796
Email: Duncan.Jillings@gov.bc.ca

Cliff #: 380009

TITLE: Ports Competitiveness Initiative review

PURPOSE:
(X) FOR INFORMATION

COMMENTS: An update on the preliminary results of the ports competitiveness consultation, options and next steps.

DATE PREPARED: March 19, 2019

TITLE: Ports Competitiveness Initiative review

ISSUE: Whether to modernize the Ports Competitiveness Initiative.

BACKGROUND:

The *Ports Property Tax Act* was established as a five-year, temporary program in 2004 as an outcome of the Ports Competitiveness Initiative, which involved several years of work with industry and local governments. The Act responded to concerns that BC ports were becoming uncompetitive and that municipal taxation was a major factor. The Act applies to eligible port properties that are assessed, in whole or in part, as Class 4 property.

The Act allowed Cabinet to designate certain major ports to which the Act would apply. The main points of the program are:

- A maximum tax rate of \$22.50 per \$1,000 of assessed value for new port construction for 10 years after the construction is finished.
- A maximum tax rate of \$27.50 per \$1,000 of assessed value for all other port property.
- Compensation to municipalities that have a reduction in revenues as a result of the property tax caps on ports.

In 2007, in response to a court decision, the Province began:

- to value federal port land at lower values based on its restricted use, and
- to use land values set in 2007 and only increase them by inflation each year, even as other major industry valuations have risen remarkably.

DISCUSSION:

The Tax Policy Branch has hired a contractor to review the Ports Property Initiative. The parameters and status of the review is outlined in Appendix 2.

OPTIONS:

In response to the concerns raised by municipalities, the Province could consider the following policy options:

Page 33 of 51 to/à Page 38 of 51

Withheld pursuant to/removed as

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance
and Deputy Premier

Date Required: April 10, 2019

Initiated by: Richard Purnell
Executive Director
Tax Policy Branch

Date Prepared: March 20, 2019

Ministry Contact: Duncan Jillings
Director, Property Tax
Tax Policy Branch

Phone Number: 778 698-5796
Email: Duncan.Jillings@gov.bc.ca

Cliff #: 380052

TITLE: Police Tax OIC package

PURPOSE:
(X) FOR INFORMATION

DATE PREPARED: March 20, 2019

TITLE: Police Tax OIC package

ISSUE: The police tax rates need to be set for the 2019 tax year.

BACKGROUND:

The Province delivers police services in rural areas and municipalities with less than a 5,000 population by contract with the RCMP, and levies a police tax to recover some of the provincial share of service costs. The provincial share of the contract is 70 per cent; the federal share is 30 per cent.

Pursuant to the *Police Act*, tax rates are set each year to recover up to half of provincial rural and small municipal policing costs as estimated by the Ministry of the Attorney General. By policy, this revenue target is further reduced by adjustments for:

- Traffic fine revenue sharing
- Grants in lieu of police tax received by the province
- A tax rate reduction in rural areas in recognition of contributions to police costs through the *Taxation (Rural Area) Act*.

The traffic fine revenue sharing program delivers benefits in rural areas and small municipalities directly to property owners by reducing the police property tax rates. In medium and larger municipalities, the province pays grants to municipal governments.

DISCUSSION:

The police tax rates cannot be calculated until Tax Policy receives the revised roll from BC Assessment, expected March 29.

Ministry of Finance

BRIEFING DOCUMENT

To: Honourable John Horgan
Premier

Date Requested: March 21, 2019

Date Required: March 26, 2019

Initiated by: Office of the Premier

Date Prepared: March 22, 2019

Ministry Contact: Andrew Lee
Strategic Advisor
Tax Policy Branch

Phone Number: 778-698-8398
Email: Andrew.T.Lee@gov.bc.ca

Ministry Contact: Richard Purnell
Executive Director
Tax Policy Branch

Phone Number: 778-698-5864
Email: Richard.Purnell@gov.bc.ca

Cliff #: 380207

TITLE: Medical Services Plan premium elimination compared to 2001 tax cuts

PURPOSE:

(X) FOR INFORMATION

DATE PREPARED: March 22, 2019

TITLE: Medical Services Plan premium elimination compared to 2001 tax cuts

ISSUE: The Office of the Premier has requested information about how the elimination of Medical Services Plan (MSP) premiums compares with other provincial tax cuts.

BACKGROUND:

The 2001 personal income tax cut and the MSP premium elimination represent tax cuts for individuals and families of approximately \$2 billion each in 2020/21 dollars.

	2001 Tax Cuts	MSP Premium Elimination
Total nominal tax savings (nominal dollars)	\$1.5 billion - Individuals \$0.7 billion - Businesses \$2.2 billion Total	\$2.0 billion - Individuals \$0.8 billion - Businesses \$2.8 billion Total
Real tax savings for individuals only, adjusted using CPI inflation (2020/21 dollars)	\$2.0 billion (2020/21)	\$2.0 billion (2020/21, estimated)
Real tax savings for businesses adjusted using CPI inflation (2020/21 dollars)	\$0.9 billion (2020/21)	\$0.8 billion (2020/21, estimated) (Business portion of MSP premium elimination)
Total tax savings (real 2020/21 dollars)	\$2.9 billion (2020/21)	\$2.8 billion (2020/21)

DISCUSSION:

MSP premium elimination and introduction of employer health tax

In *Budget 2017 Update*, the government reduced MSP premiums by 50 per cent in 2018. *Budget 2018* subsequently eliminated MSP premiums in 2020, while introducing the EHT in 2019.

In 2020, MSP premiums will be fully eliminated, resulting in total savings to individuals and businesses of \$2.8 billion. This figure represents the revenue the Province would be collecting had it not halved, and subsequently eliminated, MSP premiums.

Page 43 of 51 to/à Page 44 of 51

Withheld pursuant to/removed as

Ministry of Finance

BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance
and Deputy Premier

Date Requested: March 22, 2019
Date Required: March 26, 2019

Initiated by: Lori Wanamaker
Deputy Minister

Date Prepared: March 25, 2019

**Ministry
Contact:** Ariel Lade
Director
Tax Policy Branch

Phone Number: 778-698-5829
Email: Ariel.Lade@gov.bc.ca
Cliff #: 380202

TITLE: Announcements in the Canadian Budget Regarding Real Estate and
Money Laundering

PURPOSE:

(X) FOR INFORMATION

DATE PREPARED: March 25, 2019

TITLE: Announcements in the Canadian Budget Regarding Real Estate and Money Laundering

ISSUE: Summary of announcements in the Canadian budget regarding real estate and money laundering with select implications for BC.

BACKGROUND:

The Budget 2019 for the Government of Canada ('Budget 2019'), released on March 19, 2019, contains a number of announcements related to Real Estate and money laundering. This note will summarize these announcements and will provide select implications for BC.

DISCUSSION:

Real Estate Working Group

- Canada announced in the Budget the Real Estate Working Group (WG) with BC to "examine issues related to tax fraud and money laundering in British Columbia and the Metro Vancouver region," which is being led by Finance Canada and BC Finance.

Implications for BC:

CRA Audit Teams

- Budget 2019 stated that BC "enhanced its monitoring capabilities for real estate, including through the administration of its new speculation and vacancy tax. The data collected is shared with the Canada Revenue Agency, helping both British Columbia and Canada better administer their respective tax systems and Canada meets its information sharing obligations under international exchange of information relationships."
- Budget 2019 proposed creating four new dedicated real estate audit teams at the Canada Revenue Agency to monitor transactions in the real estate sector. These teams will focus on high-risk areas, notably in British Columbia and Ontario.

Implications for BC:**Access to good, high-quality data**

- Budget 2019 proposed “to provide Statistics Canada with up to \$1 million over two years starting in 2019/20 to conduct a comprehensive federal data needs assessment. The assessment would seek to facilitate further streamlining of data sharing between federal and provincial governments to inform enforcement efforts on tax compliance and anti-money laundering. Results of the assessment would initially be used to inform the work of the British Columbia-Canada Working Group on Real Estate.”

Implications for BC:**Anti-Money Laundering Action, Coordination and Enforcement (ACE) Team**

- Will bring together dedicated experts from across intelligence and law enforcement agencies to strengthen inter-agency coordination and cooperation and identify and address significant money laundering and financial crime threats.
- Budget 2019 proposes to invest \$24 million over five years, beginning in 2019–20, for Public Safety Canada to implement the ACE Team as a pilot initiative.

Multi-disciplinary Trade Fraud and Trade-Based Money Laundering Centre of Expertise

- To complement the efforts of the ACE Team. This initiative will strengthen capacity at the Canada Border Services Agency and the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) to target these growing threats. Budget 2019 proposes to invest \$28.6 million over four years, beginning in 2020–21, with \$10.5 million per year ongoing to create a multi-disciplinary Trade Fraud and Trade-Based Money Laundering Centre of Expertise.

Implications for BC:

FINTRAC, Canada's AML/ATF regulator and financial intelligence unit

- Budget 2019 proposed to invest \$16.9 million over five years in FINTRAC, beginning in 2019–20, and \$1.9 million per year ongoing to advance these objectives:
 - Improve oversight of modern financial practices related to virtual currencies, foreign money service businesses, pre-paid products and customer identification.
 - Expand public-private partnership projects to improve the overall efficiency and effectiveness of the AML/ATF Regime.
 - Increase outreach and examinations in the real estate and casino sectors with a focus on the province of British Columbia.

Proposed Legislative Amendments to strengthen Canada's legal framework and adopt international best practices:

-

-

-

-

-

-

Ministry of Finance

BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance
and Deputy Premier

Date Requested: March 26, 2019

Date Required: March 28, 2019

Initiated by: Lori Wanamaker
Deputy Minister

Date Prepared: March 26, 2019

Ministry Andrew Avis

Phone Number: 778-698-5669

Contact: A/Director, Business Organizations
Financial and Corporate
Sector Policy Branch

Email: Andrew.Avis@gov.bc.ca

Cliff #: 380335

TITLE: *Business Corporations Amendment Act (BCA)* to add new type of
company "Benefit Company"

PURPOSE:

(X) FOR INFORMATION

Executive Director approval: _____

ADM approval: _____

DM approval: _____

DATE PREPARED: March 26, 2019

TITLE/ ISSUE: Private Member's Bill to amend *Business Corporations Act* (BCA) to allow for new type of benefit companies

BACKGROUND:

Mr. Andrew Weaver is proposing amendments to the BCA to enable the incorporation of a "benefit company." This amendment was first introduced on May 14, 2018 as Bill M216 and received its second reading on May 17, 2018. The Bill was not passed at that time and is now being proposed with new amendments.

A benefit company is an entity that includes, in its notice of articles (similar to a constitution), a statement that it is a benefit company, and as such, is committed to conducting its business in a responsible and sustainable manner and to promoting one or more public benefits. Conducting business in a responsible and sustainable manner requires the company to consider its effects on the well-being of others, and to try to use a fair share of environmental and other resources. Public benefit includes a positive effect on such things as charitable, economic, environmental and educational purposes, to name a few. These two commitments are set out in a "benefit provision" in the company's articles. A benefit company's directors would be required to balance the commitments in the benefit provision with their ordinary corporate fiduciary duty to act in the best interests of the company.

A benefit company would be required to complete a "benefit report" annually, that sets out a description of how the company has fulfilled its commitment to its benefit provision. This report will measure the company's achievement of its benefits using a standard developed by a third party (an organization that develops tools to measure sustainability or benefit of businesses operations). This report is a public document, accessible at the company's records office, and the company must publish the report on its public website if one exists.

As well, regulations may be required

to bring the provisions into force.

it is anticipated that the benefit company provisions could be brought into force no sooner than a year after royal assent.

Ministry of Finance

DECISION NOTE

To: Honourable Carole James
Minister of Finance and Deputy Premier

Initiated by: Jim Hopkins, ADM
Provincial Treasury
Ministry of Finance

Date Prepared: March 4, 2019

**Ministry
Contacts:** Kara Flanagan
Senior Portfolio Manager
Provincial Treasury
Ministry of Finance

Phone Number: 250 216-1764
Email: kara.flanagan@gov.bc.ca

Cliff # 379781

TITLE: Opportunity to Launch the BC Green Bond Program

PURPOSE:

☒ **FOR DECISION**

Executive Director approval: _____

ADM approval: _____

DM approval: _____

DATE PREPARED: March 4, 2019

TITLE: Opportunity to Launch the BC Green Bond Program

ISSUE: A decision is needed as to whether to launch the BC Green Bond Program (BCGBP) in fiscal 2019/20 in order to provide sufficient lead time to engage stakeholders and prepare for the first bond issuance. A transit project has been identified for the inaugural green bond issue.

BACKGROUND:

Staff at the Ministry of Finance and Climate Action Secretariat (CAS) have developed a Framework and Manual for the BC Green Bond Program (the “Program”). The Program would provide financing for qualified green government projects. Areas eligible for green financing include renewable energy, energy efficient buildings, clean transportation, and climate change adaptation. Only capital expenditure approved by Treasury Board in the Fiscal Plan is eligible for financing from the Program.

Green bonds are reserved for issuers who have strong green credentials and are sought after by domestic and international investors who want their investments to support green values. The market for green bonds is growing and innovating. Global green bond issuance for 2018 was \$201 billion (USD), up from \$195 billion (USD) in 2017. In September 2018, the Global Green Bond Partnership (GGBP) launched at the Global Climate Action Summit with a mandate to support sub-nationals in order to accelerate the issuance of green bonds. Two of the founding members of the GGBP are the European Investment Bank and the World Bank. Furthermore, California is the first state to pledge to use green financing to combat climate change.

With increased attention given to climate action globally, Canada is demonstrating a commitment to take action. Issuance in Canada in 2018 was \$9.8 billion, up from \$1.9 billion in 2017. The province of Ontario was the first province to issue green bonds in 2014 and has issued annually thereafter to a favorable investor reception; Quebec has also issued green bonds, as has Export Development Canada. In BC, the City of Vancouver launched its first green bond in September 2018 with a \$85 million bond offering to fund environmentally sustainable initiatives and projects. Following Vancouver, TransLink launched its green bond program in November with a \$400 million issue financing rapid transit projects. It is worth noting that rapid transit projects have been well received by investors in the green bond market.

Although it is not necessary for Government to issue green bonds to complete its borrowing requirements, the bond market is showing a lot of support for green financing. The economics of issuing a green bond are generally neutral for all parties save for relatively minor and additional administrative costs for issuers. The main benefit of issuing green bonds is that a reputational benefit may be accrued whereby a green bond issuer may show its commitment to supporting global climate action by offering a

green investment option. Two issuers recently each experienced a 1 basis point savings with respect to their issues: Ontario and Quebec. The majority of bonds in this market price in the context of their respective issuer bond curve, meaning that issuers are generally seeing neutral economics by issuing green bonds.

Provincial Treasury monitors the market carefully to understand how comparable deals are being priced and any changes in investor sentiment. The current savings on the recent Ontario and Quebec deals do not provide enough evidence of a cost savings for BC green bonds. However, there is little downside for Government to enter into this market and there may be attractive upside by building the province's name in the market.

In building the BC Program, staff have adhered to the well-recognized International Capital Market Association (ICMA) Green Bond Principles 2014 and the Program has received the highest Rating (Dark Green) from The Centre for International Climate and Environmental Research in Oslo (CICERO). CICERO is the second opinion provider on most green bond programs.

Staff refocused on transportation projects and projects constructed in accordance with LEED Gold. Staff identified \$209M in projects for fiscal 2018/19 for green bond financing including LEED buildings and transportation project. The projects were considerably less than a traditional BC bond of \$500 million. At least \$600 million in forecasted funding would need to be identified the Program as there is a high risk that ministry estimates will be materially lower than actual spending.

An experienced third-party contractor (KPMG) was hired to work with staff on the creation of a Procedures Manual for the Program. The Procedures Manual also outlines the terms of reference, processes, and governance functions for the Program, including the review of potential projects against the Framework and criteria for qualifying green projects for the Program.

DISCUSSION:

Following the precedent of the Ontario green bond program, which is similar in scope to BC's Program, eligible green projects are those which have incurred expenditure in six months prior to issuance and those expected to require funding twelve months following issuance. Ideally, one to three projects would be identified for funding in each issue. Due to the need for annual reporting on the issue, one to three projects allows for more streamlined reporting and less administration.

ISSUES:

The annual reporting requirements of the Program add an administrative burden to capital staff. Even though Provincial Treasury's program budget recommends hiring consultants to support the reporting, there is a lack of buy-in from some government stakeholders to support green bond financing. Capital staff currently do not have to engage in extra project reporting to receive financing from Provincial Treasury. The Program requires annual reporting during the entire term of the bond (e.g. for a 10-year bond, this would require 10 years of annual reporting). TransLink, who did a Green Bond to finance transit assets, has offered to advise and support project reporting on

OPTIONS:

Pros:

Cons:

Pros:

Cons:

-
-

RECOMMENDATION:

APPROVED / NOT APPROVED

Honourable Carole James
Minister of Finance and Deputy Premier

Date

Ministry of Finance

BRIEFING NOTE

To: Honourable Carole James
Minister of Finance and
Deputy Premier

Honourable Bruce Ralston
Minister of Jobs, Trade
and Technology

Date Requested: February 21, 2019

Date Prepared: February 25, 2019

Initiated by: Jim Hopkins
Assistant Deputy Minister
Provincial Treasury

Phone Number: (250) 387-9295

Email: Jim.Hopkins@gov.bc.ca

Ministry Contact: Sam Myers
Executive Director
Debt Management Branch

Phone Number: (778) 698-5908

Email: Sam.Myers@gov.bc.ca

Cliff #: 379361

TITLE: Ministers' Meetings with Rating Agencies

PURPOSE:

(X) FOR INFORMATION

Executive Director approval: _____

ADM approval: _____

DM approval: _____

DATE PREPARED: February 25, 2019

TITLE: Ministers' Meetings with Rating Agencies

ISSUE:

Ministers' Meetings with Rating Agencies:

Rating Agency Representatives:

March 5, 2019 – Dominion Bond Rating Service (DBRS)
(lunch in Legislative Dining Room – Nootka Room; 12:00 pm – 1:15 pm)

- Travis Shaw, Vice President – Public Finance
- Paul Le Bane, Vice President – Public Finance

March 21, 2019 – Moody's
(lunch in Legislative Dining Room – Nootka Room; 12:00 pm – 1:15 pm)

- Michael Yake, Vice President – Senior Analyst
- Adam Hardi, Assistant Vice President – Analyst

Joining you for each meeting will be Lori Wanamaker, Heather Wood – Associate Deputy Minister and Jim Hopkins – Assistant Deputy Minister, Provincial Treasury. Minister Ralston is able to join the DBRS lunch on March 5 but is unable to attend the Moody's lunch on March 21.

Please note that the lunch with Moody's will only be convened if Minister James is able to join. Advice from the Minister's office on this question is pending.

Province's Credit Ratings:

Moody's:	Aaa stable outlook
S&P:	AAA stable outlook
DBRS:	AA (high) stable outlook
Fitch:	AAA stable outlook

BACKGROUND:

The province has attained the highest credit rating given by Moody's, S&P and Fitch and the second highest rating given by DBRS.

A credit rating is an evaluation of a borrower's ability to pay interest and to repay principal. A credit rating affects the borrower's debt servicing costs and the investor's rate of return since an investor will demand a higher interest rate on a riskier, lower-rated security.

Taxpayer-supported debt is an indicator often used by investors and credit rating agencies when analyzing a province's investment quality. The ratio of a province's taxpayer-supported

debt relative to its gross domestic product (GDP) highlights the ability of a province to manage its debt load. Another important ratio used for this same purpose is the province's debt relative to total revenue and debt service cost to revenue. British Columbia's taxpayer-supported debt burden is one of the lowest in Canada, and this translates into a strong credit rating and lower debt service costs.

The province's strong and stable ratings reflect on a number of other key factors including: a diverse and mature economy with diverse trading relationships, and stable economic performance; competitive taxes; sustained surpluses; financial management that meets or exceeds targets and incorporates flexibility to deal with unexpected events, (e.g. forecast allowance, contingencies, budgets built on below-consensus economic forecasts); transparency and reliability of financial disclosure and forecasts; and liquidity.

The province has received seven rating upgrades since 2004 leading to triple-A's from Moody's and Standard & Poor's (S&P) in 2006/2007.

Rating agency commentary and additional background on the province's credit ratings from ratings reports from Fall 2017 to present are included in Appendix A.

DISCUSSION:

The Ministerial briefings are an opportunity for the rating agencies to ask a broad range of questions on Budget 2019 and especially those which staff are not able to answer and any other areas of focus specific to each agency (e.g. BC Hydro/Site C, ICBC, housing affordability plans, collective bargaining). For your information, the meeting agendas for DBRS and Moody's are attached.

DBRS is also interested in electoral reform and the implications of the 2018 referendum. Additionally, DBRS may ask how the NDP-Green Party relationship is evolving. The agency lunch meetings are scheduled around technical briefings with staff on the fiscal plan, the economy, health care, BC Hydro, transportation infrastructure and other matters.

MESSAGES TO AGENCIES

Page 11 of 17

Withheld pursuant to/removed as

APPENDIX A**ABSTRACTS FROM RATING AGENCY REPORTS and NEWS RELEASES
September 2017 to February 2019**

- Only Moody's and DBRS released statements after the Budget 2017 September Update. Both were generally constructive but noted concern with new programs that may be announced in the February 2018 Budget and how same would be funded in the balanced budget framework in order to preserve affordable debt metrics in keeping with the province's credit rating.
- On October 26, 2017, DBRS issued a press release and rating report in which they confirmed BC's AA (high) with a stable trend rating. Comments included: "Despite the policy shift, the Province's budget continues to be based on the practices and principles underlying previous budgets. The new government has committed to maintain balanced budgets, use conservative budget practices, and maintain an ongoing focus on debt affordability. DBRS will look to the government's 2018 budget for greater clarity on how the government will balance its extensive policy commitments with prudent management of the Province's finances", and, "No rating action is anticipated in the near term. A positive rating action would require the Province to maintain a sustainable budgetary position and a meaningful reduction in the DBRS-adjusted debt-to-GDP ratio to below 15.0%."
- On November 16, 2017, S&P released a research update affirming BC's AAA rating and stable outlook. Comments included: "The ratings reflect the province's strong and increasing economy, robust liquidity, and sound financial management practices" and "Maintaining strong financial management practices and sound fiscal outcomes have been key features distinguishing B.C. from its domestic and international peers. Erosion in these traits, for instance due to a perceived weakening in the government's willingness and ability to enact reforms in response to an external shock, or after-capital deficits rising past 10% of total revenues, or some combination of both, could lead to a downgrade."
- On January 18, 2018, Moody's released a credit opinion on BC. Comments included mention of BC's credit strengths – "continued economic growth", "diversified economy", and "budget surpluses", to name a few. While credit challenges included: "high debt burden with continued financing pressure from capital expenditures", and "growing contingent liability of BC Hydro given its constrained financial strength." The agency noted that "...some of the utility's financial metrics are among the weakest of Canadian provincial utilities and the use of largely debt financed regulatory asset accounts puts pressure on the balance sheet. In addition, a proposed rate freeze, if implemented, would negatively impact BC Hydro's financial health." Also, "BC Hydro's total reported debt has increased considerably since 2008," and, "is expected to continue to rise over the next several years as the utility moves forward with the construction of the Site C hydroelectric dam with a recently revised cost estimate in excess of CAD 10 billion..."
- On February 21, 2018, Moody's released an announcement on the 2018 Budget. Comments included: "In its 2018 budget, the new government actively uses both sides of the fiscal ledger by introducing significant new tax measures to support its increased social spending initiatives, which will shift the province's fiscal landscape. The budget

forecasts continued surpluses over the next three years along with strong economic growth which support the province's strong credit profile. Nevertheless, the anticipated surpluses are thin and are contingent on successful reform at ICBC."

- On February 21, 2018, DBRS released a commentary on the 2018 Budget. Comments included: "This budget, like the September budget update, seeks to implement core campaign commitments while maintaining the support of the Green Party and demonstrating its ability to responsibly manage the Province's finances", and "The favourable fiscal and economic outlook suggests the Province's credit profile will remain stable and among the strongest of Canadian provinces."
- DBRS, S&P, and Moody's, on April 2, 2018, April 25, 2018, and May 9, 2018, respectively, affirmed the province's credit rating, with a stable outlook citing the province's prudent and strong fiscal planning, management, and performance, considerable fiscal policy flexibility, strong economic growth, ability to record surpluses, a well-diversified economy, and low debt burden. DBRS notes, "some policy uncertainty", "high level of household indebtedness", and "affordability" as general challenges. While no rating action was anticipated in the near term, a positive rating action would require maintaining "a sustainable budgetary position and have its DBRS-adjusted debt-to-GDP ratio fall to, and remain below, 15%. A negative rating action could arise from sustained deterioration in operating results and marked increased in the debt-to-GDP ratio." Moody's identified as credit challenges: "high debt burden with continued financing pressures from capital expenditures", and "growing contingent liability of BC Hydro given its constrained financial strength." The agency further noted that "the province's credit rating could be downgraded if net direct or indirect debt were to be sustained above 95% of revenue across multiple years, impairing the fiscal flexibility of the province."
- On June 28, 2018, Fitch stated, "British Columbia benefits from a broad and steadily growing economy, and conservative and prudent fiscal management with moderate debt levels." However, they also classify potential slowdowns in the U.S. and Canadian economies, and the Vancouver housing market as risks.
- On February 20, 2019, both Moody's and DBRS published commentary on the 2019 Budget. Some comments from these statements were:
 - Moody's: "...despite some improvement in 2018/19, the province's net debt – which is already high relative to peers – will rise to approximately 85% of revenue over the next three years. Nevertheless, the province will maintain strong debt affordability, with interest expenses at around 5% of revenue over the next three years."
 - DBRS: "The government continues to maintain prudent budgetary practices and remains focused on delivering modest surpluses and maintaining a low debt burden." and, "British Columbia's debt-to-GDP ratio has fallen steadily, and economic fundamentals have strengthened. If these trends continue, and further improvement in the credit profile occurs, upward rating movement is possible over the medium term."

Dominion Bond Rating Service
March 5, 2019 (8:30am start)
Finlayson Boardroom, 2nd Floor, 620 Superior Street
***Conference dial-in details:**
Participant number:

Dominion Bond Rating Service:

Travis Shaw, VP – Public Finance
 Paul Le Bane, VP - Public Finance

Province of British Columbia:

Lori Wanamaker, Deputy Minister, Ministry of Finance
 Sadaf Mirza, Chief Economist/Executive Director, Economic Forecasting and Analysis, Treasury Board Staff
 David Madani, Director, Economic Forecasting and Analysis Branch, Treasury Board Staff
 Jackson de Kock, Economic Analyst, Economic and Fiscal Analysis, Treasury Board Staff
 Dave Riley, Executive Director, Fiscal Planning, Treasury Board Staff
 Paul Wieringa, Executive Director, Electricity Policy Branch, Ministry of Energy, Mines and Petroleum Resources
 Garth Thoroughgood, Acting Deputy Minister, Ministry of Energy, Mines and Petroleum Resources
 Geoff Turner, Executive Director, Ministry of Energy, Mines and Petroleum Resources
 David Wong, CFO, BC Hydro
 Kevin Gibson, Controller, BC Hydro
 Jacqueline Rawluk, Acting Treasurer, BC Hydro
 Chris Rathbone, Assistant Deputy Minister, Public Sector Employer's Council
 Robert Pauliszyn, Executive Director, Public Sector Employers' Council
 Kindree Draper, Director, Corporate Relations, Public Sector Employer's Council
 Doug Foster, Assistant Deputy Minister, Strategic Initiatives, Ministry of Finance
 Jim Hopkins, Assistant Deputy Minister, Provincial Treasury
 Sam Myers, Executive Director, Debt Management Branch, Provincial Treasury
 Nicolas Jimenez, President & CEO, ICBC
 Philip Leong, Interim CFO, ICBC
 Heather Wood, Associate Deputy Minister & Secretary to Treasury Board, Ministry of Finance

March 5, 2019

8:30 – 8:40	Welcome	Lori Wanamaker	Tab
8:40 – 9:25	Economic Review	Sadaf Mirza	
9:25 – 10:10	Fiscal Review	Dave Riley	
10:10 – 10:20	BREAK		
10:20 – 10:35	ICBC Update	Nicolas Jimenez* / Philip Leong* / Doug Foster	
10:35 – 10:50	Energy Policy	Paul Wieringa	
10:50 – 11:20	BC Hydro Update	David Wong* / Kevin Gibson* / Jacqueline Rawluk* / Paul Wieringa	
11:20 – 11:50	LNG / Pipelines Update	Garth Thoroughgood / Geoff Turner / Doug Foster	
11:50 – 12:00	Walk to Legislative Dining Room		

12:00 – 1:15	Lunch – Legislative Dining Room, (Nootka Private Dining Room)	Honourable Carole James, Minister of Finance; Honourable Bruce Ralston, Minister Jobs, Trade & Technology; Lori Wanamaker, Deputy Minister, Ministry of Finance; Heather Wood, Associate Deputy Minister, Ministry of Finance; and Jim Hopkins, ADM, Provincial Treasury	
1:15 – 1:25	Walk back to Boardroom		
1:25 – 1:55	Collective Bargaining	Robert Pauliszyn / Kindree Draper / Doug Foster	
1:55 – 2:25	Debt Management Update	Jim Hopkins	
2:25 – 2:35	Wrap Up	Heather Wood	N/A

* Dialing into meeting

Moody's Investors Service
March 21, 2019 (8:30am start)
Finlayson Boardroom, 2nd Floor, 620 Superior Street
***Conference dial-in details**
Participant number:

Moody's:

Michael Yake, Vice President / Senior Analyst
Adam Hardi, Assistant Vice President / Analyst

Province of British Columbia:

Lori Wanamaker, Deputy Minister, Ministry of Finance
David Madani, Director, Economic Forecasting and Analysis Branch, Treasury Board Staff
Jackson de Kock, Economic Analyst, Economic and Fiscal Analysis, Treasury Board Staff
Dave Riley, Executive Director, Fiscal Planning, Treasury Board Staff
Les MacLaren, Assistant Deputy Minister, Ministry of Energy, Mines and Petroleum Resources
Garth Thoroughgood, Acting Deputy Minister, Ministry of Energy, Mines and Petroleum Resources
Geoff Turner, Executive Director, Ministry of Energy, Mines and Petroleum Resources
Jim Hopkins, Assistant Deputy Minister, Provincial Treasury
Sam Myers, Executive Director, Debt Management Branch, Provincial Treasury
David Wong, CFO, BC Hydro
Kevin Gibson, Controller, BC Hydro
Jacqueline Rawluk, Acting Treasurer, BC Hydro
Ryan Layton, Chief Accounting Officer, BC Hydro
Robert Pauliszyn, Executive Director, Public Sector Employers' Council
Doug Foster, Assistant Deputy Minister, Strategic Initiatives, Ministry of Finance
Nicolas Jimenez, President & CEO, ICBC
Philip Leong, Interim CFO, ICBC
Heather Wood, Associate Deputy Minister & Secretary to Treasury Board, Ministry of Finance

March 21, 2019

8:30 – 8:40	Welcome	Lori Wanamaker	Tab
8:40 – 9:25	Economic Review	David Madani	
9:25 – 10:10	Fiscal Review	Dave Riley	
10:10 – 10:20	<i>BREAK</i>		
10:20 – 10:35	ICBC Update	Nicolas Jimenez* / Philip Leong* / Doug Foster	
10:35 – 10:50	Energy Policy	Les MacLaren	
10:50 – 11:20	BC Hydro Update	David Wong* / Kevin Gibson* / Jacqueline Rawluk* / Les MacLaren	
11:20 – 11:50	LNG / Pipelines Update	Garth Thoroughgood / Geoff Turner / Doug Foster	
11:50 – 12:00	<i>Walk to Legislative Dining Room</i>		
12:00 – 1:15	Lunch – Legislative Dining Room, (Nootka Private Dining Room)	Lori Wanamaker, Deputy Minister, Ministry of Finance; and Heather Wood, Associate Deputy Minister, Ministry of Finance	

1:15 – 1:25	<i>Walk back to Boardroom</i>		
1:25 – 1:55	Collective Bargaining	Robert Pauliszyn / Kindree Draper / Doug Foster	
1:55 – 2:25	Debt Management Update	Sam Myers	
2:25 – 2:35	Wrap Up	Heather Wood	N/A

* Dialing into meeting.

Ministry of Finance
BRIEFING DOCUMENT

To: Honorable Carole James
Minister of Finance and
Deputy Premier

Date Requested: May 15, 2017

Initiated by: Jordan Goss ADM
Revenue Programs Division

Date Prepared: December 7, 2018

**Ministry
Contact:** Kevin Gudgeon
Policy and Legislative Analyst
Property Taxation Branch

Phone Number: 778-698-1126

Email: Kevin.Gudgeon @gov.bc.ca

Cliff #: 370247

TITLE: Request for remission of property transfer tax paid by

PURPOSE:

☒ **DECISION REQUIRED**

DATE PREPARED: December 7, 2018

TITLE: Request for remission of property transfer tax (PTT) paid by

ISSUE: Remission of the PTT in the amount of \$12,460.

BACKGROUND:

have requested remission of \$12,460 in PTT paid on a property acquired through a “house swap” agreement.

In August 2015, entered into an agreement to exchange their house located at BC, with the house of located at BC. Based on the agreement, on August 18, 2015, transferred the property to who paid \$12,460 in PTT on the transfer. However, due to issues with the property, ownership of the property was never transferred to .

According to the , the transfer of ownership of the property to did not occur because of financial difficulties. After acquiring and moving on to the property, the became aware that mortgage was in arrears and she was unable to release the mortgage on the property. In early 2016, the moved back to their property.

In 2015 the mortgage company applied to the courts, demanded full payment of the \$722,000 mortgage by and the (as the property owners). The property sold in 2016 for \$803,000, which was over \$80,000 more than the balance of the mortgage. Because the (as property owners) would have to agree to the sale, it presented an opportunity for them to be recover any costs they incurred due to the breakdown of the house swap agreement.

In 2017 the contacted the Ministry of Finance requesting remission of the \$12,460 in property transfer tax paid on the transfer of the property. The requested remission because they feel they should not have to pay PTT on a property they never really owned. The further claim that they have incurred thousands of dollars in costs because the house swap did not complete.

DISCUSSION:

Section 19 of the *Financial Administration Act* allows Cabinet to provide remission of tax when it considers it is in the public interest to do so in a case or class of cases where great public inconvenience, great injustice or great hardship to a person has occurred or is likely to occur.

In the past, Cabinet has approved remission of property transfer tax on the basis of great injustice where property that was fraudulently or illegally obtained was ordered returned to the rightful owner by the courts. In this case however, the _____ incurred property transfer tax, not on their original home, but on the _____ property that they acquired from _____ through the house swap agreement. When the _____ moved back to their original home, no PTT was payable because title to the property remained in their names.

Remissions are not intended to address issues such as lack of due diligence or reliance on inaccurate professional advice. The _____ and their legal advisor, had the opportunity to determine the status of the mortgage on the property before filing the transfer documents. Any costs suffered by the _____ because of _____ inability to complete her side of the agreement should be dealt with by the courts not through the remission process. In fact, _____ the _____ filed an action in _____ stating _____ breached the house swap agreement and that they were entitled to relief from damages and costs.

OPTIONS:

Option 1: Do not recommend that Cabinet provide remission

Option 2: Recommend that Cabinet provide remission

RECOMMENDATION:**APPROVED / NOT APPROVED**

Carole James
Minister and Deputy Premier

Date

Ministry of Finance

BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance and
Deputy Premier

Date Requested: April 26, 2017
Date Required:

Initiated by: Jordan Goss ADM
Revenue Programs Division

Date Prepared: November 30, 2018

**Ministry
Contact:** Kevin Gudgeon
Policy and Legislative Analyst
Property Tax Branch

Phone Number: 778-698-1126
Email: Kevin.Gudgeon@gov.bc.ca

Cliff #: 377260

TITLE: Request for remission of Property Transfer Tax (PTT) payable by

PURPOSE:

(X) DECISION REQUIRED

DATE PREPARED: November 30, 2018

TITLE: Request for remission of Property Transfer Tax (PTT) payable by

ISSUE: Denial of remission of the PTT in the amount of \$6,778.45

BACKGROUND:

On 2015, purchased a property on in BC (the property) and paid the PTT. He opted to proceed with closing the contract of purchase and sale without getting an inspection of the property. After the purchase was complete, and his spouse, commenced renovations of the property. As part of the renovations, a Hazardous Material Inspection found asbestos and other hazardous materials throughout the residence. As the costs of asbestos remediation were substantial, they decided to demolish the house and build a new residence on the land. During the construction time, the family moved into a rental property.

On 2015, in order to secure the loan for the construction of the new residence, was added to title. claimed the principal residence exemption on the transfer based on legal advice she states she received. Under the PTTA, a transfer of an interest in a principal residence is exempt if the transferee and transferor are related individuals, and either one has lived on the property as their principal residence for at least 6 months immediately prior to the transfer. This transfer did not meet these requirements as neither nor had ever lived on the property.

Because the transfer did not qualify for the exemption, was assessed PTT. failed to pay the amount owed, and, the Ministry of Finance commenced collection action, including registering a lien on the property in 2016.

On 2017, applied for remission of the PTT payable. stated that the lien on the property was preventing them from securing the additional funds needed to continue with the construction. She also states that experienced health issues and lost his job. A review of the property on BC Assessment found that the construction of the home was completed in 2018, and its current assessed value is just over \$1.6 million.

DISCUSSION:

Section 19 of the *Financial Administration Act* allows Cabinet to provide remission of tax when it considers it is in the public interest to do so in a case or class of cases where great public inconvenience, great injustice or great hardship to a person has occurred or is likely to occur.

and state that they received improper legal advice that resulted in them not understanding tax liability of adding to the title of the property. However, remissions are not intended to address issues such as lack of due diligence or reliance on inaccurate professional advice. Although the circumstances of this case are unfortunate, it does not appear to meet the test of being a great hardship or great injustice. Although it is clear that the unanticipated application of PTT to the transfer to caused additional stress during the rebuilding of their house, they were able to complete the building and now have a property with a value of over \$1.6 million.

Age, health, and income can be taken into account for remissions, and each case is decided on an individual basis. However, there is a risk of setting a precedent if this remission is approved; there were similar cases where a remission for PTT was denied and the impacted parties paid the government the amount owed. Fairness and consistency in applying both PTT and remissions under the *Financial Administration Act* would be undermined with a remission order.

OPTIONS:

Option 1: Do not recommend that Cabinet provide remission

Option 2: Recommend that Cabinet provide remission

RECOMMENDATION:**APPROVED / NOT APPROVED**

Carole James
Minister and Deputy Premier

Date