

### Using the Sample FMA Expenditure Law

The Commission provides sample laws to assist First Nations in their law development work. The sample First Nation Expenditure Law (“sample law”) complies with the *First Nations Fiscal Management Act* (FMA) requirements, the Regulations and the Commission’s *Standards for First Nation Expenditure Laws, 2017*. It provides a best practices sample for use and adaptation by First Nations in drafting their own FMA expenditure laws. Sample laws are intended to assist a First Nation in developing their own laws. Each First Nation should ensure that its law reflects its circumstances and that it obtains legal and other advice as necessary. **Note that First Nations who levy development cost charges, service taxes, or fees should use the “long-form sample expenditure law” that is provided by the Commission.**

Under subsection 10(2) of the FMA, a First Nation must make a law establishing a budget for the expenditure of revenues at least once each year at a time prescribed by regulation, if any, or fixed by Commission Standards. The Commission Standards fix the latest date for making the expenditure law as November 30 in each year.

Section 13.1 of the FMA enables First Nations to make expenditures that are not first authorized by an expenditure law in two circumstances. First, First Nations may make expenditures in the early part of the year before the annual expenditure law is made, provided those expenditures are authorized in the expenditure law when it is made. Second, First Nations may make emergency expenditures after the annual expenditure law is made, provided the First Nation amends the expenditure law as soon as feasible to authorize the making of that expenditure. In all cases, expenditures must be within the categories of permitted expenditures for local revenues as set out in Commission Standards and as listed in the Schedule attached to this sample law.

The following are some comments about the format of the sample law:

1. Instructions are shown in square brackets and bold. All instructions should be deleted from the final version of the law.
2. Underlines indicate that information is to be entered. Insert the information needed, and delete the underlines from the final version of the law.
3. The budget attached as a Schedule sets out all possible budget revenue and expenditure categories, as well as an Appendix for reserve funds. Those budget categories that do not apply to your First Nation can be deleted. The Appendix should be deleted if your First Nation does not have any reserve funds.
4. Where new sections are added, or sample sections are deleted, the remaining sections need to be renumbered consecutively.

If you have any questions as you are preparing this law, please do not hesitate to contact the FNTC staff.

----- FIRST NATION  
ANNUAL EXPENDITURE LAW, 20\_\_

WHEREAS:

A. Pursuant to section 5 of the *First Nations Fiscal Management Act*, the council of a first nation may make laws respecting taxation for local purposes of reserve lands and interests or rights in reserve lands, including laws authorizing the expenditure of local revenues;

B. The Council of the First Nation has made a property assessment law and a property taxation law;

C. Subsection 10(2) of the *First Nations Fiscal Management Act* requires a first nation that has made a property taxation law or a law under paragraph 5(1)(a.1) to make, at least once each year, a law establishing a budget for the expenditure of revenues raised under those laws; and

D. The Council of the First Nation wishes to establish an annual budget for the expenditure of revenues raised in the current taxation year, and wishes to authorize expenditures made in accordance with section 13.1 of the Act;

NOW THEREFORE the Council of the \_\_\_\_\_ First Nation duly enacts as follows:

1. This Law may be cited as the \_\_\_\_\_ *First Nation Annual Expenditure Law, 20\_\_*.

2. In this Law:

“Act” means the *First Nations Fiscal Management Act*, S.C. 2005, c. 9, and the regulations made under that Act;

“annual budget” means a budget setting out the projected local revenues and projected expenditures of those local revenues during a budget year, and setting out expenditures made in accordance with section 13.1 of the Act;

“Assessment Law” means the \_\_\_\_\_ *First Nation Property Assessment Law, 20\_\_*;

“Council” has the meaning given to that term in the Act;

“First Nation” means the \_\_\_\_\_ First Nation, being a band named in the schedule to the Act;

“Law” means this annual expenditure law enacted under paragraph 5(1)(b) of the Act as required by subsection 10(2) of the Act;

“local revenues” means money raised by the First Nation under a local revenue law and payments made to a First Nation in lieu of a tax imposed by a law made under paragraph 5(1)(a) of the Act;

“property taxation law” means a law enacted by the First Nation under paragraph 5(1)(a) of the Act; and

“Taxation Law” means the \_\_\_\_\_ *First Nation Property Taxation Law, 20\_\_*.

3. The First Nation’s annual budget for the budget year beginning \_\_\_\_\_, and ending \_\_\_\_\_, is attached as a Schedule and the expenditures provided for in the Schedule are authorized.

4. Expenditures of local revenues must be made only in accordance with the annual budget or in accordance with section 13.1 of the Act.

5. The expenditures made in the current year before this Law is enacted are included in the annual budget and are authorized by this Law.

6. Where the First Nation wishes to authorize an expenditure not authorized in this Law, or change the amount of an expenditure authorized, Council must amend this Law in accordance with Council procedure and the requirements of the Act.

**[Note to First Nation: Delete section 7 if the First Nation does not provide for grants in its budget.]**

7. The grant amounts set out in the annual budget are hereby approved as expenditures in accordance with the Taxation Law.

**[Note to First Nation: Add this section only if you are establishing a new reserve fund this year. Where a First Nation had one or more reserve funds under section 83 and wishes to carry them forward under the FMA, those funds must meet the FMA reserve fund criteria and be established in an expenditure law in the first year the First Nation is taxing under the FMA. If you add this section in, please renumber remaining sections.]**

8. A [insert name of reserve fund] reserve fund is hereby established for the purposes of [insert statement reflecting purposes of reserve fund].

8. This Law authorizes the expenditure of contingency amounts as necessary within any of the categories of expenditures set out in the Schedule.

9. Except where otherwise defined, words and expressions used in this Law have the meanings given to them in the Assessment Law and the Taxation Law.

10. Where a provision in this Law is expressed in the present tense, the provision applies to the circumstances as they arise.

11. This Law must be construed as being remedial and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

12.(1) The Schedule attached to this Law, including any Appendices, forms part of and is an integral part of this Law.

(2) A reference to the Schedule is a reference to the Schedule to this Law.

13. This Law comes into force and effect on the day after it is approved by the First Nations Tax Commission.

THIS LAW IS HEREBY DULY ENACTED by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, in the Province of \_\_\_\_\_.

A quorum of Council consists of \_\_\_\_\_ (\_\_\_\_\_) members of Council.

[Name] \_\_\_\_\_

Chief [please spell out the name]

[Name] \_\_\_\_\_

Councillor [please spell out the name]

Current ver. 2019 03 13

[Name] \_\_\_\_\_  
Councillor [please spell out the name]

SAMPLE

**SCHEDULE  
ANNUAL BUDGET**

**[Note to First Nation: Delete categories of revenues and expenditures that are not applicable.]**

**PART 1: REVENUES**

1. Property tax revenues to be collected in budget year:
    - a. Property Tax Revenues \$
    - [b. Payments received in lieu of taxes \$]
    - [c. Property Transfer Tax Revenues \$]
    - [d. Business Activity Tax Revenues \$]
  2. Proceeds from borrowing in current year **[Note to First Nation: List each borrowing source separately. If none, delete this section.]**
    - a. \$
    - b. \$
  3. Moneys from Reserve Funds **[Note to First Nation: List each reserve fund and amount taken out of a reserve fund to be expended in budget year. If none, delete this section.]**
    - a. \$
    - b. \$
  4. Moneys borrowed from Reserve Funds **[Note to First Nation: List each reserve fund and amount borrowed from a reserve fund to be expended in budget year. If none, delete this section.]**
    - a. \$
    - b. \$
- TOTAL REVENUES \$**

**[Note to First Nation: Include all expenditures made in the current year before this Law is enacted, in order to authorize those expenditures in accordance with section 13.1 of the Act.]**

**PART 2: EXPENDITURES**

1. General Government Expenditures
  - a. Executive and Legislative
  - b. General Administrative
  - c. Other General Government
2. Protection Services
  - a. Policing
  - b. Firefighting
  - c. Regulatory Measures

- d. Other Protective Services
- 3. Transportation
  - a. Roads and Streets
  - b. Snow and Ice Removal
  - c. Parking
  - d. Public Transit
  - e. Other Transportation
- 4. Recreation and Cultural Services
  - a. Recreation
  - b. Culture
  - c. Heritage Protection
  - d. Other Recreation and Culture
- 5. Community Development
  - a. Housing
  - b. Planning and Zoning
  - c. Community Planning
  - d. Economic Development Program
  - e. Tourism
  - f. Trade and Industry
  - g. Land Rehabilitation and Beautification
  - h. Other Regional Planning and Development
- 6. Environment Health Services
  - a. Water Purification and Supply
  - b. Sewage Collection and Disposal
  - c. Garbage Waste Collection and Disposal
  - d. Recycling
  - e. Other Environmental Services
- 7. Fiscal Services
  - a. Long-term Borrowing Payments to the First Nations Finance Authority
  - b. Interim Financing Payments to the First Nations Finance Authority
  - c. Other Payments
  - d. Accelerated Debt Payments
  - e. Other Fiscal Services
- 8. Other Services
  - a. Health
  - b. Social Programs and Assistance
  - c. Agriculture

- d. Education
- e. Other Service

9. Grants:

a. Home owner grant equivalents: \$

b. Other grants: [Note to First Nation: List each grant category and total amount granted]

i. \$

ii. \$

iii. \$

10. Contingency Amount [Note to First Nation: Must be between 1% and 10% of the total local revenues, excluding amounts transferred to reserve funds in current year, proceeds of borrowing from the First Nations Finance Authority, and amounts transferred from a capital reserve fund into the current year revenues.] \$

11. Transfers into Reserve Funds [Note to First Nation: List each reserve fund and amount to be transferred into each reserve fund in budget year. If none, delete this section.]

a. \$

b. \$

12. Repayment of moneys borrowed from Reserve Funds [Note to First Nation: List each reserve fund and amount to be paid back into the reserve fund in budget year. If none, delete this section.]

a. \$

b. \$

**TOTAL EXPENDITURES \$**

**PART 3: ACCUMULATED SURPLUS/DEFICIT**

1. Accumulated Surplus – revenues carried forward from the previous budget year \$

2. Accumulated Deficit – revenue expenditures carried forward from the previous budget year \$

**BALANCE \$**

[Note to First Nation: Total revenues less total expenditures, plus accumulated surplus and minus accumulated deficit should be zero.]

Note: The following are the service agreements with third-party service providers, and the amounts indicated are the amounts payable by the First Nation under each agreement during the budget year: [Note to First Nation: List each service agreement and the amount payable. These expenditure amounts should be included in the appropriate budget expenditure category above.]

a. [insert name of service provider and services provided] \$

b.

\$

**Note: This Budget includes the attached Appendix. [Note to First Nation: Delete the Appendix if it is not needed, and delete the Note that refers to the Appendix.]**

SAMPLE



**Appendix  
Reserve Fund Balances**

**[Note to First Nation: This Appendix is required if the First Nation has any reserve funds funded by property tax revenues. List each reserve fund separately. The beginning balance is the first day of the budget year and ending balance is the last day of the budget year.]**

1. [Name of reserve fund]

Beginning balance as of \_\_\_\_\_ 1, 20\_\_ : \$

Transfers out

a. to current year's revenues: \$

b. to \_\_\_\_\_ reserve fund as a transfer: \$

c. moneys borrowed for another purpose: \$

Transfers in

a. from current year's revenues: \$

b. from \_\_\_\_\_ reserve fund as a transfer to fund: \$

c. borrowed moneys repaid to fund: \$

Interest earned in current year: \$

Ending balance as of \_\_\_\_\_ 31, 20\_\_ : \$

2. [Name of reserve fund]

Beginning balance as of \_\_\_\_\_ 1, 20\_\_ : \$

Transfers out

a. to current year's revenues: \$

b. to \_\_\_\_\_ reserve fund as a transfer: \$

c. moneys borrowed for another purpose: \$

Transfers in

a. from current year's revenues: \$

b. from \_\_\_\_\_ reserve fund as a transfer to fund: \$

c. borrowed moneys repaid to fund: \$

Interest earned in current year: \$

Ending balance as of \_\_\_\_\_, 20\_\_ : \$