



Transforming the Relationship ~ Sustainable Fiscal Transfers for First Nations

Pre-Budget Submission, 2010



A SUBMISSION TO THE HOUSE OF COMMONS STANDING
COMMITTEE ON FINANCE

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ABOUT THE ASSEMBLY OF FIRST NATIONS

The Assembly of First Nations (AFN) is the national, political representative of First Nations governments and their citizens in Canada, including those living on reserve and in urban and rural areas. Every Chief in Canada is entitled to be a member of the Assembly. The National Chief is elected by the Chiefs in Canada, who in turn are elected by their citizens.

The role and function of the AFN is to serve as a national delegated forum for determining and harmonizing effective collective and co-operative measures on any subject matter that the First Nations delegate for review, study, response or action and for advancing the aspirations of First Nations.

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EXECUTIVE SUMMARY

The Assembly of First Nations (AFN) appreciates the opportunity to outline First Nations' priorities for the 2011 Federal Budget. Building on previous pre-budget submissions, which have variously focused on demonstrable need in child and family services, health, housing, water and capital infrastructure, environmental stewardship, economic development, social development and housing, we emphasize that a fundamental transformation of the relationship between First Nations and Canada is required in order to achieve better results for First Nations.

With an understanding that substantial improvement will only occur through a transformation of fiscal transfer arrangements, this submission highlights the following areas as requiring significant and sustained investments – and a marked departure from current federal spending patterns and priorities:

1. Transforming the Fiscal Relationship
2. First Nations Education
3. Community Infrastructure
4. Support for First Nations Health and Healing

TRANSFORMING THE FISCAL RELATIONSHIP

The Government indicated in the Speech from the Throne that it wants to work hand-in-hand with First Nations. Indeed, a real partnership between the federal Government and First Nations is the cornerstone of reconciliation, hope, and prosperity. Acting now and making strategic investments constitutes a prudent and effective policy choice and is ultimately the most fiscally responsible course of action. Because maintaining the status quo along with the legislative framework of the Indian Act which perpetuates the widening gap between First Nations and non First Nations people in Canada is not an option, a fundamental transformation of the relationship between First Nations and Canada is required.

First Nation Governments need new fiscal transfer arrangements based on a stable allocation reflecting demographics, need and inflation, as well as the spirit and intent of treaties and the principles contained in the United Nations Declaration on the Rights of Indigenous Peoples. The current federal Government has expressed a keen interest in getting “real results”. First Nations and the Government share this concern with outcomes and the AFN proposes that, in the spirit of reconciliation expressed by the Prime Minister in his historic apology in Parliament on June 11, 2008, the federal Government address the gap in the quality of life between First Nation and non-First Nation citizens by investing in institutional and human capacity.

The AFN has consistently argued that support for First Nation governments will bring about better outcomes. The system of federal transfers to First Nation communities has not kept pace with demographic changes and continues to reproduce structural inequalities. In particular, treating budgets for core services to First Nations as “discretionary” spending – without legal protections – has been a barrier to achieving important change in First Nation communities.¹

¹ The Blue Ribbon Panel on Grants and Contributions clearly supports the view that grants and contributions are not adequate fiscal mechanisms for essential services. Instead, fiscal relationships between First Nation governments and the federal government ought to be akin to intergovernmental transfers rather than typical grants and contributions. See Blue Ribbon Panel on Grants and Contributions (2006) *From Red Tape to Clear Results. The Report of the Independent Blue Ribbon Panel on Grant and Contribution Programs*. Ottawa: Treasury Board of Canada Secretariat, 8.



As a result, First Nations citizens have not enjoyed services comparable to those provided to Canadians. While Canadians receive services from all levels of government, through direct federal transfers to provinces and territories, and at an average annual growth rate of 6.6% per year, Finance Canada has maintained an arbitrary 2% cap on spending increases on core services since 1996². Yet, First Nation Governments provide a huge range of programs and services to their citizens.

A study of cost drivers conducted by Indian and Northern Affairs in 2006 estimated that there was a minimum of \$61 million shortfall in key governance support (most notably costs of audits and elections) at that time. Remarkably, there have been no increases for governance since the study was done and none are foreseen. It is time to change this by ensuring that funding levels are equitable, fiscal relationships are stable, and governance arrangements reflect First Nations rights and jurisdictions.³ This includes funding matched to population growth, and other cost drivers, multi-year funding arrangements for long-term planning, flexible and consolidated funding, adequate funding for core community programming, and administrative support, coupled with a legislative funding base to provide First Nation Governments with a predictable and secure foundation upon which to make strategic decisions. Such funding mechanisms are needed to ensure adequate, accountable and sustainable funding to First Nation governments in their provision of quality services to their citizens wherever they reside.

INVESTING IN EDUCATION FOR HEALTHY, PROSPEROUS, AND SAFE FIRST NATION COMMUNITIES

Strategic investment in education is critical to building healthy, prosperous, and safe communities. Education is widely recognized as the most powerful method for bringing about improvements in all social and economic domains. A considerable gap in educational achievement and inputs exists with respect to First Nations education.⁴ Funding for First Nations education has been capped at 2% since 1996, whereas transfer payments to provinces have been increasing by 6% annually. This discriminatory double standard in the provision of comparable inputs has been allowed to exist despite i) numerous pledges by the Federal Government to address the education attainment gap, ii) the fact that the First Nations population is growing at twice the rate of the mainstream Canadian population, and iii) that by 2020 over 50% of the First Nations population will be under the age of 25.

In Budget 2010, the federal Government made a commitment to achieving comparable education outcomes for First Nations students. Comparable outcomes require comparable inputs. The total shortfall in the area of First Nations education is an estimated \$2B. For instance, to equitably fund First Nations post-secondary education, a 149% (or \$481 million)

² It should be noted that while INAC's budget has grown at an overall rate in excess of 2%, this is due largely to meeting lawful obligations stemming from specific and comprehensive claims, treaties, and litigation.

³ There is ample evidence to support the premise that in order to be effective all reform must be based on Indigenous peoples' control over their own institutions. See Cornell, Stephen and Joseph Kalt (1992) "Reloading the Dice: Improving the Chances for Economic Development on American Indian Reservations". Cornell, Stephen and Joseph Kalt (eds.). *What Can Tribes Do? Strategies and Institutions in American Economic Development*. Los Angeles: American Indian Study Centre. 1-59.

⁴ Mendelson, M. (2006) *Aboriginal Peoples and Postsecondary Education in Canada*. Ottawa: The Caledon Institute of Social Policy.



increase in federal support is required.⁵ Also, \$126 million is needed for First Nations language instruction in schools in order to be comparable with provincial funding.⁶

The historic and ongoing overrepresentation of First Nation citizens in prison was condemned in 1999 by the Supreme Court of Canada as a “national crisis” and “a staggering injustice”.⁷ Yet, Canada’s policies continue to focus funding on prison spending while denying First Nations the legislative and funding support necessary to reduce First Nations incarceration rates. For instance, in the fiscal year 2008-09 the annual cost of incarceration for a female inmate was \$343,810.⁸ Whereas, the average cost for a First Nations learner to attend university full-time was \$20,190.⁹ In other words, for the cost of incarcerating 1 female First Nations offender for one year, the federal Government could fund 5.67 students to complete a three-year university program.

Beyond making more funding available, a framework for permanent resource allocation needs to be adopted that will enable First Nations to exercise full jurisdiction over their education, including funding arrangements based on real costs, indexation and appropriate treatment for northern and remote communities.¹⁰

Significant long-term economic returns for the Canadian Government can be derived from improved educational outcomes for First Nation citizens. Improved educational outcomes will reduce spending on social assistance and other remedial programs related to sub-par levels of social wellbeing. The ongoing cost to Canadians in lost productivity and increased support requirements for First Nations may now be reaching over \$12 billion per annum.¹¹ The combined fiscal savings and increased tax revenues to the Canadian Government, through comparable educational attainment for First Nations, could be as much as 11.9 billion by 2026, with the cumulative financial benefit of Aboriginal education and social well-being reaching to \$115 billion from 2006-2026.¹²

At the current rate, it will take 63 years for the income gap between Aboriginal peoples and the rest of Canada to disappear.¹³ First Nations peoples and Canada cannot afford to wait this long. Investing in education to improve educational attainment is a forward-looking strategy to ensure safe and healthy First Nation communities.

INVESTING IN INFRASTRUCTURE

First Nations infrastructure, especially related to water, housing and education, require significant investment. It is estimated that to fill the gap for First Nations’ education facilities

⁵ First Nations Education Council (2009) *Paper on First Nations Education Funding*. Wendake, QC, 43.

⁶ FNEC (2009). Note that this figure does not account for additional investments needed for language nests, curriculum development and immersion programs.

⁷ *R v Gladue* [1999] 1 S.C.R. 688 at 114.

⁸ See Office of the Parliamentary Budget Officer (2010) *The Funding Requirement and Impact of the “Truth in Sentencing Act” on the Correctional System in Canada*. Ottawa: Library of Parliament, 9; see also <http://www.csc-scc.gc.ca/text/rsrch/reports/r208/r208-eng.shtml>.

⁹ Waslander, B (2009) *Focusing INAC’s PSE Program: Targets and Impacts*. Ottawa: AFN.

¹⁰ FNEC (2009), 46.

¹¹ Canada (1996) *Report of the Royal Commission on Aboriginal Peoples* (Vol 5, Chap 2). Ottawa: The Commission.

¹² Centre for the Study of Living Standards (2009) *The Effect of Increasing Aboriginal Educational Attainment on the Labour Force, Output and the Fiscal Balance*. Ottawa, vii.

¹³ Wilson, Daniel and David Macdonald (2010) *The Income Gap Between Aboriginal Peoples and the Rest of Canada*. Ottawa: Canadian Centre for Policy Alternatives, 3.



(schools), 40 new schools are needed at an average cost of 12.5M each. This figure does not account for the gap in O&M funding or needed renovations to existing schools. According to a 2010 analysis, INAC's planned capital expenditures over the next three years are insufficient by \$169M to \$189M annually, while O&M expenditures will be underfunded by \$11M annually.

Housing requires attention, as there is a demand of an estimated 85,000 new units to alleviate overcrowding and backlogs. Approximately 44% of the existing housing stock needs major repair and another 15% requires outright replacement. Coupled with this is the requirement to provide lot servicing for every one of these new housing units. A conservative estimate to build a house is around \$150,000 and for lot servicing about \$25,000 per service connection. Furthermore, the Governments needs to commit to providing additional resources to accompany any legislation that will have an impact on the demands on housing and infrastructure.

The First Nations Water Management Strategy (FNWMS) and its successor First Nations Water and Wastewater Action Plan (FNWWAP) funding have gone a long way towards addressing the water quality problems for First Nations. The current National Assessment of water and wastewater facilities is expected to show a need of billions of dollars for water and wastewater alone. Current numbers show that 49 communities have high risk water facilities and 114 communities are under drinking water advisories including 4 do not consume advisory.

Another emerging and significant consideration is the impacts of climate change especially on our northern and remote communities. This reality was experienced this past winter by the early closing of the winter roads in Manitoba that directly affected the health and safety of the communities. The early closure shut down the ground transportation system thereby stranding the delivery of goods and supplies to these communities. All Northern communities need all weather access roads.

First Nations are critically in need of continued post stimulus funding over and above the current \$1 Billion in annual Capital Facilities and Maintenance program dollars. In addition, capital and municipal infrastructure programs hosted by the provinces and the federal government need to open up to First Nations' applications. We also need to provide serious consideration for our citizens residing away from their home communities, and work on affordable housing solutions.

SUPPORT FOR FIRST NATIONS HEALTH AND HEALING

Unless new and sufficient investments are injected into the Non-Insured Health Benefits (NIHB) Program for the inclusion in the 2011 Federal Budget, First Nations & Inuit Health Branch (FNIHB) will be facing shortfalls in the hundreds of millions of dollars. The AFN Health and Social Secretariat estimates a funding shortfall of approximately \$376 million next year, and \$805 million overall in five years in Health Canada's national NIHB Program budget.

A large driver in this increase will be the addition of new beneficiaries to the NIHB Program. The Federal Budget will need to consider estimates of approximately 50,000 new registered individuals as a result of *Indian Act* amendments to respond to the Mclvor Case and another 27,000 Qalipu Mi'kmaq First Nations from Newfoundland who were recently recognized under the *Indian Act*. This amounts to a 9.7% increase in the NIHB Program eligible population growth – with approximately 200,000 children under the age of nine. In addition, the AFN has estimated that increases of 6.3% to 9.3% are required in various benefit areas when growth of



the existing client population, inflation, changes in health service utilization and health status, and effects of technological change are examined. With these stressors on dental, pharmacy, transportation, medical supplies and equipment, and mental health services, without a resolution to this funding crisis, First Nations children, adults, and elders will face an uphill battle for accessing basic health care needs.

During the past fifteen years, NIHB has been actively implementing cost containment measures, or barriers to accessing NIHB health care, which presents a significant risk to maintaining patient safety. With over 30% of our communities located more than 90 kilometres from a physician, it is common for First Nations to travel long distances to receive basic health care, including dental services, dialysis, mammography, chemotherapy and mental health. Not only do First Nations have to receive pre-approval to receive support for transportation, dental, vision and other benefits, but more and more policy restrictions mean more frequent denials in needed care, such as for endodontic and orthodontic treatments for teeth.

A First Nations-led healing strategy is another priority that needs to be addressed. The Aboriginal Healing Foundation (AHF) has played a vitally important role for Indian Residential School (IRS) survivors and First Nation communities. Many former IRS students, families, and communities have benefited from the work of the AHF. However, despite its successes, funding was terminated at the end of the FY 2009/2010. Given that we are at a critical time in the implementation of the Indian Residential School Settlement Agreement with the Truth and Reconciliation Commission having held its first national event in Winnipeg in June, we urge the federal government to build on its apology on June 11, 2008 and renew its commitment to healing with the reinstatement of funding to the AHF. A financial commitment of \$125 Million over 3 years is required.

RECOMMENDATIONS:

The reforms and investments outlined above will not only help the Government to meet its financial and fiduciary obligations, but will also lead to a stronger and more prosperous Canada through the strengthening of healthy, safe and prosperous First Nations. Through strategic investment combined with structural changes, the Government of Canada can maximize outcomes and create the foundation for our collective well-being by:

1. Transforming the fiscal relationship by creating stable and fair funding transfer mechanisms for First Nation services confirming guaranteed funding escalators to reflect the actual costs of population and inflation growth.
2. Resolving the growing deficit in spending on First Nations education through a legislated guaranteed fiscal framework that supports First Nation systems in delivering excellence in education within a culturally and linguistically appropriate approach to dramatically improve graduation rates and opportunity.
3. Investing in infrastructure in First Nation communities, including 40 new schools, 85,000 housing units, facilities that address the drinking water advisories in 114 communities, and all-weather access roads.
4. Ensuring the sustainability of the NIHB Program by addressing the expected shortfall of approximately \$200 million next year and \$629 million overall in five years.
5. Providing funding of \$125 million over 3 years to the Aboriginal Healing Foundation (AHF) as an integral part of a First Nations healing strategy.