



ASSEMBLY OF FIRST NATIONS

Structural Transformation & Critical Investments in First Nations on the Path to Shared Prosperity

Pre-Budget Submission, 2011

**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 2012 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.

It is clear that change needs to happen in Canada's approach to First Nations. In the June 2011 Status Report which examines previous recommendations made with regards to programming for First Nations on-reserve, the Auditor General concluded that regardless of efforts made, there were limited improvements, and in many cases, the situation has worsened: **"The education gap between First Nations living on reserves and the general Canadian population has widened, the shortage of adequate housing on reserves has increased, comparability of child and family services is not ensured, and the reporting requirements on First Nations remain burdensome."**ⁱ

The report goes on to identify structural impediments to this progress: "In our view, many of the problems facing First Nations go deeper than the existing programs' lack of efficiency and effectiveness. We believe that structural impediments severely limit the delivery of public services to First Nations communities and hinder improvements in living conditions on reserves."ⁱⁱ

In its approach to these Pre-Budget consultations the Finance Committee has asked *how to attain high levels of job growth and business investment in order to ensure shared prosperity and a high standard of living for all*. First Nations people across Canada are poised to make ever-increasing contributions to the overall economic prosperity of this country as well as grow their own economies through the development of both human capital and natural resources. The June 2011 Speech from the Throne validated Canada's shared interest committing that **"The contribution of Canada's Aboriginal peoples will be important to our future prosperity. Concerted action is needed to address the barriers to social and economic participation that many Aboriginal Canadians face."**

However, substantial improvement will only occur through structural change and a fundamental transformation of fiscal transfer arrangements between the federal government and First Nations. 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. Investing in Infrastructure & Health Services to Support Safe & Healthy Communities



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TRANSFORMING THE FISCAL RELATIONSHIP

Canada took a significant step in endorsing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in November 2010, and now needs to fulfill the promise of this endorsement and move forward to implement the UNDRIP, as it states in its Preamble as a “standard of achievement to be pursued in a spirit of partnership and mutual respect”.

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. 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.

True self-government requires a new fiscal relationship. The current relationship between First Nations and the federal Government does not allow for significant autonomy. Current financial transfers to First Nations governments are:

- **Too conditional.** Current transfers are not flexible enough to provide decision making power for First Nation governments.
- **Insufficient.** Funding provided to First Nation governments are too low to meet the growing needs of their citizens. In 2010, First Nations received less than half that of the average Canadian citizen (\$8,750 per capita compared to \$18,724 per capita) to support local programs and services.ⁱⁱⁱ
- **Too unpredictable.** Funding is too short-term and treated as ‘discretionary’ without legal protections, resulting in unpredictable funding, instability, and the inability to engage in any long-term planning.^{iv}
- **Not based on the true service population.** For many First Nations, the true service population includes all Members of the First Nation, not just status Indians living on-reserve, and in some cases, the current approach excludes 50% or more than the actual membership.

As a result, First Nation 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 1996.^v Yet, First Nation Governments provide a huge range of programs and services to their citizens. As such, a new funding relationship is required. It must reflect the spirit and intent of Treaties and inherent jurisdiction^{vi}, be a mechanism to ensure parity with provincial funding rates, reflect the real costs of delivering services, and provide incentive for leveraging additional resources and maximizing performance standards.

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



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education.^{vii} 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 and has made comparability one area of focus of the National Panel on First Nation Elementary and Secondary Education. Comparable outcomes require comparable inputs. According to First Nation studies, 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 M) increase in federal support is required.^{viii} Also, \$126 million is needed for First Nations language instruction in schools in order to be comparable with provincial funding.^{ix} In December 2010, a National Panel on First Nations Education was created by the Government of Canada, in collaboration with the Assembly of First Nations, to lead an engagement process on how to improve the education of First Nation children who live on reserve. The National Panel will provide advice and develop options. It will be critical that this work is advanced in a timely fashion and that sufficient resources are dedicated to achieve these outcomes.

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”.^x 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.^{xi} Whereas, the average cost for a First Nations learner to attend university full-time was \$20,190.^{xii} In other words, for the cost of incarcerating one female First Nation offender for one year, the federal Government could fund almost six 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.^{xiii}

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 \$12B per annum.^{xiv} The combined fiscal savings and increased tax revenues to the Canadian Government, through comparable educational attainment for First Nations, could be as much as \$11.9B by 2026, with the cumulative financial benefit of Aboriginal education and social well-being reaching to \$115B from 2006-2026.^{xv}

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



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INVESTING IN INFRASTRUCTURE & HEALTH SERVICES TO SUPPORT SAFE & HEALTHY COMMUNITIES

Economic potential and physical security are intimately linked and prosperity must be supported through safe and secure community infrastructure.

First Nations infrastructure, especially related to water, housing, education and emergency services, require significant investment. It is estimated that to fill the gap for First Nations education facilities (schools), 40 new schools are needed at an average cost of \$12.5M each. This figure does not account for the gap in operations and maintenance (O&M) funding or needed renovations to existing schools. According to a 2010 analysis, Aboriginal Affairs and Northern Development Canada'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.

First Nations water quality continues to be a national concern. The National Engineering Assessment released by the Federal Government on July 14, 2011 identifies needs of \$6.578 billion. This very thorough study concludes that 73% of First Nation water systems are at risk which is particularly disconcerting given that in the 2003 National Engineering Assessment identified 29% of First Nations systems to be at risk. 118 First Nations communities remain on boil water advisories. The Government of Canada must engage with all First Nations on a plan to implement recommendations, directly address the concerns raised in this study and a clear plan of investment. Access to clean drinking water is a universal human right, recently affirmed by the United Nations. Canada has a responsibility to ensure clean drinking water in First Nations communities.

First Nation housing requires attention. A February 2011 evaluation of on-reserve housing highlights the ongoing need, concluding: "despite ongoing construction of new housing on-reserve, the shortfall still exists and appears to be growing rather than diminishing" and that "population growth and the demand for housing is outstripping the speed with which new housing units can be produced and existing ones repaired."^{xvii} Substandard housing conditions have also been exacerbated by current environmental challenges, such as floods and forest fires. Currently 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 must to commit to providing additional resources to accompany any legislation that will have an impact on the demands on housing and infrastructure.

Another emerging consideration is the impacts of climate change especially on our northern and remote communities. This has been experienced through rampant forest fires, flooding and the early closing of the winter roads which all have profound impacts on the health and safety of communities, and highlight the critical need for inter-governmental protocols and robust emergency services.

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 protecting our citizens, particularly the most vulnerable, and supporting citizens residing away from their home communities, and work on affordable housing solutions.



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The AFN submitted in its previous submission the urgent need for immediate new and sufficient investments for the Non-Insured Health Benefits (NIHB) Program. The absence of these investments will mean a shortfall of approximately \$376M next year and \$805M overall in five years.

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 45,000 new registered individuals as a result of *Indian Act* amendments to respond to the McIvor Case and another 27,000 individuals of the Qalipu Mi'kmaq First Nation 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.

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 statutorily 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 for Community Safety and Health - including 40 new schools, 85,000 housing units, immediately addressing 118 First Nations currently on boil-water advisories and advancing a full investment plan responding to National Engineering Assessment report, strengthened networks of emergency services and response, and all-weather access roads; and investments to ensure the sustainability of the NIHB Program by addressing the expected shortfall by providing \$376M next year and \$805M overall in five years.



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ENDNOTES:

ⁱOffice of the Auditor General of Canada (June 2011) Status Report of the Auditor General of Canada, Chapter 4: Programs for First Nations on Reserves.

ⁱⁱOffice of the Auditor General of Canada (June 2011) Status Report of the Auditor General of Canada, Chapter 4: Programs for First Nations on Reserves.

ⁱⁱⁱAFN (2011). *New Fiscal Relationship between First Nation Governments and the Government of Canada*.

Discussion paper presented at Spring 2011 Planning and Dialogue Forum.

http://www.afn.ca/uploads/files/policy_forum/spring_2011_planning_%26_dialogue_forum_fiscal_relations_fe.pdf

^{iv}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.

^vIt 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.

^{vi}Cornell, Stephen and Joseph Kalt (eds.). (1992). *What Can Tribes Do? Strategies and Institutions in American Economic Development*. Los Angeles: American Indian Study Centre.

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

^{viii}First Nations Education Council (2009) *Paper on First Nations Education Funding*. Wendake, QC, 43.

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

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

^{xi}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>.

^{xii}Waslander, B (2009) *Focusing INAC's PSE Program: Targets and Impacts*. Ottawa: AFN.

^{xiii}FNEC (2009), 46.

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

^{xv}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.

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

^{xvii}Evaluation, Performance Measurement, and Review Branch Audit and Evaluation Sector, Aboriginal Affairs and Northern Development Canada (February 2011), *Evaluation of INAC's On-Reserve Housing Support*.