



SUFFICIENCY: COMPARABILITY AND VARIOUS INSTITUTIONAL OR OTHER ARRANGEMENTS TO SUPPORT NEW APPROACHES TO COMPARABILITY

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1. EXECUTIVE SUMMARY

This report has been compiled to inform the deliberations of the Assembly of First Nations (AFN) and Department of Indigenous Services Canada (DISC) formerly Indigenous and Northern Affairs Canada (INAC) as they move toward transforming the fiscal relationship between First Nations and the Crown. It is submitted under the aegis of Technical Working Group #1, Sufficiency, which was tasked with reviewing the federal government's current approach to assessing comparability, and identifying relevant domestic and international approaches to assessing comparability that could demonstrate results to citizens, First Nations communities, governments, and Parliament.

The Institute on Governance, in consultation with the co-chairs of the Working Group, developed a framework to guide the research into funding agreements used by different levels of government, both in Canada and Internationally. The statements in this report reflect the findings and conclusions of the IOG, and are intended for review and to inform discussions of the Technical Working Groups moving forward.

This report defines comparability and related terms and concepts; details the current context as it pertains to funding First Nations; explains how Canadian and international governments assess comparability to determine funding and/or service levels; and concludes with a discussion of how using comparability of outcomes for funding some services for First Nations could be beneficial, how that would work, and the supports that would be needed to undertake that change.

First Nations and The Federal Government's Current Fiscal Relationship(s)

As part of this review the Institute on Governance conducted interviews with over twenty stakeholders from DISC, Health Canada, the AFN, First Nations service providers, First Nations leaders, and external experts to better understand how various government departments were approaching comparability for the purposes of determining service and funding levels. Areas of expertise included health, education, social services, lands, economic development, finance, policy, regional program and service delivery.

Many government officials talked about capacity, particularly in relation to the costs of running First Nations governments and administration. A challenge, however, is that there are no governments similar First Nations in Canada and very few government programs have reliable estimates of the costs of administration. Often cited was a desire for a simplified funding formula as current approaches are too varied, complicated/lacking in transparency while the data collected was commonly portrayed as useless, burdensome and arbitrary.

Concerns were expressed by all participants particularly in relation to the lack of consistent approaches to determining funding levels and transparency in how funding levels are currently determined. Among First Nation leaders consulted, the current legal and fiscal relationship between First Nations and the federal government is viewed as being based on fundamental

assumptions that are inherently paternalistic. There is, however a significant movement underway to reframe the relationship between First Nations and the federal government towards a model that is less paternalistic, focused on outcomes, and simplified in terms of reporting requirements. Many of the stakeholders considered the present to be a time of transition and were hopeful that the new relationship being developed between the First Nations and the federal government would produce improved results for First Nations communities and, by extension, for Canada.

National and International Comparison Based-Funding Models

In Canada, the largest federal transfers are measured by inputs and outputs, and, although funds are for specific service areas such as health and education, the provinces have discretion on how they spend the funds (what they want to target). Within provinces, education funding, and transfers to municipalities are focused on access to services; they are not concerned with comparable outcomes, but covering basic standards of services and providing additional services based on specific situations, such as students with special needs. One major exception is the British Columbia First Nations Health Authority, which emphasizes both access and outcomes. It is goal-oriented with a ten-year plan that will measure specific outcomes.

Internationally, transfers tend toward being outcome-based. Countries with regional inequities commonly try to offset their inequity by providing additional funds to subnational governments so they can ‘catch up’ to the others. In countries where some communities have experienced severe marginalization (such as South Africa) inequality (such as Germany post-the fall of the Berlin wall), and widespread poverty (such as in Brazil), efforts have been made to create specific index criteria that are used to justify providing additional funds to areas with more need than others. Likewise, Scandinavian countries provide additional funds for access to services based on criteria principally related to quality of life standards and remoteness; rural areas receive more funds per resident by nature of increased costs for service delivery and the unique needs of isolated communities. Since there is a diversity of needs across First Nations communities, this international trend – comparable outcomes and the use of a composite index – would be of benefit for allocating sufficient funds in the First Nations context.

Moving Forward

As First Nations’ capacities grow, it is expected that the level of autonomy and flexibility in the funding arrangements will also evolve. Both the federal government, provincial governments and First Nations need to work in partnership to reform the current fiscal relationship. Reform should include determination of funding levels reflecting a true nation-to-nation relationship based on agreed-upon formulas and standards of comparison. This report makes the following recommendations:

RECOMMENDATION 1: Transform Comparability Models for First Nations

At the most basic level, it is recommended that measurements of comparability should include a measure of need (consumption/demand) and expenditure to fulfill that need with comparison

to non-Indigenous communities within the geographical vicinity. The Government of Canada would need to work with First Nations to establish comparisons with non-Indigenous communities within geographical vicinities (i.e. provincial comparisons for education). Parties will need to decide when and how to factor in resources (including own source revenue(OSR)/ability to pay) to provide the services as is done within other equalization models. Unique needs of First Nation communities should be assessed using a needs-based index.

It is recommended that a multi-party working group be formed to first develop and test a needs-based (composite) index for a core service area (envelope) such as local public services (waste removal, water, etc.) or health, which can be drafted in relation to provincial/territorial standards.

RECOMMENDATION 2: Replace funding mechanisms with statutory fiscal transfers.

It is recommended that the funding of First Nation communities evolve from multiple contribution agreements to larger fiscal transfers; recognizing that interim steps may require a movement to longer term block funding.

RECOMMENDATION 3: Focus on outcomes.

Under the new fiscal relationship, government and First Nations should strive towards outcome-based funding models. These outcomes should be defined by First Nations as part of their plans to address both socio-economic gaps and long-term priorities.

RECOMMENDATION 4: Legislate the foundations to the New Fiscal Relationship.

It is recommended that the federal government legislate the key foundations of the new fiscal relationship including legislating access to statutory transfers similar to provincial and territorial legislation for their residents and the introduction of institutional supports to support capacity building and monitoring and reporting in First Nation communities.

RECOMMENDATION 5: As the relationship evolves, mutual accountability models should be introduced with First Nation Leaders ultimately being accountable to their communities.

RECOMMENDATION 6: Transform the reporting relationship

Within the new nation-to-nation relationship, accountability for results should fundamentally evolve from First Nation to the federal government towards First Nations to their people – similar to that found with fiscal transfers from the federal government to provincial and territorial governments. Reports should be community-based and highlight the achievement of planned results and outcomes rather than program-based and contractual outputs.

RECOMMENDATION 7: Encourage collaboration between First Nations communities through aggregation.

2. INTRODUCTION

2.1 Background

The Government of Canada has signaled its commitment to renewing its relationship with Indigenous peoples toward one that is truly nation-to-nation. This new relationship, based upon mutual accountability, also necessitates the establishment of a renewed fiscal relationship between these nations.

To that end, the Assembly of First Nations (AFN) and DISC signed a Memorandum of Understanding to jointly undertake a comprehensive review of the existing fiscal relationship, to research, and to develop proposals and recommendations for the design of a new fiscal relationship that moves toward sufficient, predictable, and sustained funding, and lifts the 2% cap on annual funding increases to First Nations.

The MOU outlines the principles the two signatory organizations will follow in undertaking the technical reviews and in making recommendations to the Joint Committee by the end of December 2017.¹ There are three working groups supporting the First Nations Fiscal Relations initiative under the DISC-AFN MOU:

- **Technical Working Group #1 - Sufficiency:** to propose approaches to address the 2% cap, re-base funding where needed and propose escalator options in order to ensure First Nations have access to comparable services and programs as other Canadians.
- **Technical Working Group #2 - Predictability:** to propose new vehicles to ensure effective, timely and predictable access to funding in a manner comparable to similar programs and services other Canadians enjoy. This includes advancement of policies and innovations on how funding and related terms and conditions will flow in a new fiscal relationship.
- **Technical Working Group #3 - Mutual Accountability:** Propose options for a mutual accountability framework that will demonstrate results to citizens / First Nations communities, governments and Parliament in closing socio-economic disparities and inequities. This includes appropriate possible metrics and indicators, as well as data sources to support them.

In support of the Memorandum of Understanding and the signatories' commitment to a renewed fiscal relationship with First Nations, DISC has hired the Institute on Governance to analyze various approaches or standards as a basis for measuring comparability in different regions, sectors, over a period of time, and under various governance models.

2.2 Purpose and Scope of Paper

The object of the paper is to support the partnership between AFN and DISC toward ensuring ongoing and sufficient fiscal resources to provide comparable public services in First Nation communities, and to close gaps in physical, social, and human capital. The purpose of this report is to review the federal government’s current approach to assessing comparability and identify relevant approaches to assessing comparability. This report reviews a range of methodologies for measuring funding and service comparability in Canada and internationally.

The report defines comparability and related terms and concepts; details the current context as it pertains to funding First Nations; explains how Canadian and international governments assess comparability to determine funding and/or service levels; and concludes with a discussion of an outcome-based funding model and how a legislative base and institutional support could enhance comparability, particularly with regard to standards of public services.

2.3 What is Comparability?

The term *comparability* is rather simple to define as “*capable of being compared; having features in common with something else to permit or suggest comparison.*”

While the concept of comparability seems relatively simple on paper, in the context of determining the financing and provision of services and programs to meet the needs of Indigenous communities, it is much more complex. The objectives and foundations for comparability differ depending on what is being compared, and the purpose of the comparison, and the measurement mechanisms for calculating comparability, depend on how comparability is defined.

The concept of comparability has been a part of the Canadian federation and is exemplified by its inclusion in the Canadian Constitution, 1982. Section 36(1) highlights the importance of promoting equal opportunities for the well-being of Canadians, furthering economic development to reduce disparity in opportunities, and providing essential public services of reasonable quality to all Canadians. To support the pursuit of that objective, in Section 36(2), Parliament and the government of Canada are committed to the principle of “equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably *comparable* levels of public services at reasonably *comparable* levels of taxation.”

Constitution Act, 1982

36(1) Without altering the legislative authority of Parliament or of the provincial legislatures, or the rights of any of them with respect to the exercise of their legislative authority, Parliament and the legislatures, together with the government of Canada and the provincial governments, are committed to

(a) promoting equal opportunities for the well-being of Canadians;

(b) furthering economic development to reduce disparity in opportunities; and
(c) providing essential public services of reasonable quality to all Canadians.

36(2) Parliament and the government of Canada are committed to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.

Noteworthy in Section 36(2) is the relationship between the terms “sufficient” and “reasonably comparable”. In particular, “sufficient” is synonymous with being “reasonably comparable”. The question is how does one measure what is “reasonable,” and what constitutes “comparable.” These terms, however, remain largely undefined and absent in practice. In fact, the constitution does not operationalize these terms, it instead bases funding on a comparability of fiscal capacity. Historical relations are wrought with trial and error, nuance, discretion, negotiation, and disagreement over what is essential and what is reasonable. Defining these terms, and deducing ‘what’ something is sufficient for, or comparable to, is vital for informing the new fiscal relationship between the federal government and Indigenous peoples.

In Canada, there is increasing recognition that First Nations peoples should have reasonably comparable opportunities and access to public services. They should have comparable health care, social services, and other essential public services. A number of different approaches to measuring comparability are used in Canada to ensure citizens, regardless of where they live, have a comparable level of programs and services.

Comparability is dependent on defining objectives, purpose, and mechanisms. Reaching agreement on the baseline, model and the process for evolving the funding foundations and formulas will be paramount to building the trust of First Nation communities in the sufficiency and sustainability of funding.

Richard Zuker has identified three dimensions of comparability for public services, as follows:

- **Scope** refers to the range of services provided; e.g., in Education, it would refer to such services as assessment; support services for special needs; language and culture; music, art, and physical education; physical spaces and furnishings for various activities; the range of supporting equipment and material.
- **Quantity** refers to quantitative measures of service levels in relation to the number and of the persons being served; e.g., in Education, it would refer to such measures as class size, number of teachers, teacher’s aids, and specialists; the size of physical spaces; the quantity of supporting equipment and material.
- **Quality** refers to the relevant characteristics of the resources in relation to the services to be provided; e.g., in Education, it would refer to such characteristics as the qualifications of teachers and other staff; the curriculum; the characteristics of the

physical facilities and furnishings; the characteristics of supporting equipment and material.²

2.3.1 Determining the Level of Need for Public Funding of Program and Services

In economic literature there are two main rationales for the comparability of public services: Economic Efficiency and Fiscal Equity.

Economic Efficiency

The purpose of equalization transfers is to contribute to an efficient allocation of resources in a federation. This is, however, quite rare as, in most cases, policies that contribute to equity interfere with economic efficiency, and vice versa.

The essence of an equalization transfer system, therefore, is usually *fiscal equity* to compensate for horizontal fiscal disparities across local governments arising from differences in fiscal capacity and/or expenditure needs.

Fiscal Equity

‘Fiscal’ refers to government finances, and ‘equity’ refers to fairness – it is the equal treatment of ‘equals’, (as mentioned above, this is the principle of Section 36(2) of the Constitution). It can help to reduce economic differences that can result in out-migration of populations and permit fairer competition among sub-national governments, and strengthen federal solidarity.

Horizontal Fiscal Equity (HFG)

HFG is the ongoing goal of equalization programs despite the fact that circumstances are forever in a state of flux, in response to changes in economies, sources of revenues and shifting notions of what constitutes essential services, interjurisdictional negotiations and methods of access. Equalization-type programs, therefore, need constant readjustment, but the rationale of having a relevant standard for the capacity to provide service standards across jurisdictions remains a continuing objective. The typical measure of horizontal fiscal imbalance involves the comparison between fiscal capacity measures and expenditure need measures (both of which are discussed below).

Fiscal capacity refers to the government’s revenue capacity relative to its expenditure need. A state with low fiscal capacity has a relatively small revenue base, a relatively high need for expenditures, or—as is often the case—a combination of both.

While a variety of methods are used around the world to measure fiscal capacity of subnational governments, UN-Habitat has found that none of them are simple, due to scarcity of necessary data³. Regardless of the difficulties, research indicates that actual collected revenues should not be used as a proxy for fiscal capacity because that often introduces powerful negative incentives to own tax revenue effort.⁴

Expenditure Need, which is widely used in the economic literature, refers to the needs of residents for public programs and services. It only becomes a measurable concept with the specification of benchmarks or standards. The term “expenditure needs” can be misleading unless related to specific standards of service or to some overall envelope of expenditures, otherwise perceptions of what may be a need can easily escalate to completely unaffordable expenditure levels⁵ or may be significantly underestimated.

Expenditure need refers to the cost of providing specific standards of service to a group of people or subnational government. Factors that can influence expenditure needs include the following:

- The services in question
- The population to be served and their relevant characteristics (including size and density)
- Geography (including remoteness), topography, and climate
- Labour costs and other input costs
- Standards regarding the quality and frequency of service provision

It is important to note that the term ‘Expenditure Need’ refers to the measurement of expenditure requirements to deliver some standard package of public goods and services, and not at some unlimited subjective level. The term **Expenditure Comparability** refers to the subset of expenditure need measures in which the standards are based on (a range of) comparable levels of public services amongst jurisdictions.

2.3.2 Other Factors Impacting Measures of Comparability

There are other factors that impact measurements of comparability including sufficiency of funding, sustainability, and standards – each of which are critical in a First Nation context.

Sufficiency: refers to having an adequate amount of something, generally something essential. It is an amount of something that is enough, or has the quality of being good enough to meet a need. It necessitates having a benchmark or standard for what is adequate, and what is essential. In the context of disadvantaged groups, it may also include a mechanism for deducing what is sufficient to reduce that socio-economic gap of a particular group in relation to another.

Sufficiency is required to address in Crown-First Nations fiscal relations. The Assembly of First Nations and GOC, through their joint work, have recently co-developed and proposed an approach to sufficiency, which highlights factors that influence how sufficiency levels shift over time.

The Assembly of First Nations Proposed Approach to Sufficiency:

- Increase base funding to First Nation governments to catch up

- Establish appropriate escalators to keep up
- Assess need and invest in closing the socio-economic gaps on an ongoing basis (mechanism required)
- Support revenue generation
- Recognize tax powers
- Resolve land & resource issues
- Involve provincial & territorial governments
- Change funding approach for infrastructure O&M

Approaches to sufficiency require consideration for readjustment and a degree of flexibility over time which speaks to the concept of 'Sustainability'.

Sustainability: In a traditional sense, sustainability refers to ensuring those who deliver public services can sustain it over the longer term. In the context of a new fiscal relationship, sustainability implies assurances that funding sources will continue to meet the ongoing and future needs of First Nations.⁶

Standards: Standards are the fundamental reference for a system of weights and measures, which allow for comparative assessment. Standards are often used to determine the levels of funding or appropriate access to services required and/or compare the levels of public services amongst jurisdictions; they can be mandatory (legislative or regulatory), or discretionary. Standards can be used as a basis for measuring comparability and in identifying gaps. For something to be comparable, sufficient, or adequate, it needs to be compared with something else.

A wide variety of standards are used in the delivery of public, and private, services, including various types of *output* and *input* standards, that are established by a variety of institutions, for a wide range of purposes. The most common types of standards are:

Output Standards

- *Principles*, such as under The Canada Health Act which provinces and territories are expected to uphold
- *Client Standards*, to determine eligibility
- *Service Level Standards*, such as wait times, service quality, health and safety, design and construction, water quality, machinery and equipment performance

Input Standards

- *Quantity Standards*, such as office spaces
- *Quality Standards*, such as professional qualifications for construction materials
- *Cost Standards*, such as salaries, wages and benefits; materials and supplies

- *Input Ratio* Standards, such as student-teacher ratios, nurses-to-patient ratios, energy efficiency
- *Scale*, which refers to the impact of the scale of operations

In Canada and other OECD countries, standards for measuring comparability are often geographically-based, in terms of deducing the average rates of services for one jurisdiction and comparing one's own jurisdiction or community against those averages.

Standard of Living: The standard of living is a measure of economic welfare and is a broader basis of comparability. It generally refers to the availability of scarce goods and services, usually measured by per capita income or per capita consumption, calculated in constant dollars. Standards of living are often used for international comparisons indicating the quality of life for countries.

The World Bank Group has found that the most direct (and popular) measures of living standards are income and consumption. In its attempt to measure gaps in health outcomes between jurisdictions, the World Bank recommends defining standard of living in terms of income, expenditure, and consumption:

- **Income:** The amount of money received during a period of time in exchange for labour or services, from the sale of goods, resources or property, or as a profit from financial investments.
- **Expenditure:** Money payments or the incurrance of a liability to obtain goods or services (note: this includes inputs and capacity).
- **Consumption/Need:** Final use of goods and services, excluding the intermediate use of some goods and services in the production of others.⁷

Composite Socio-Economic Indicator: Composite measures are those that aim to incorporate several domains of information into a singular (i.e., scalar) quantity. Common examples include efforts to integrate information about educational attainment, annual earned income, and occupational prestige into a single number for each person or group.

Human Development Index

The United Nations produces annual Human Development Reports based on their Human Development Index (HDI). The HDI measures the average achievements in a country in three basic dimensions of human development: a long and healthy life, access to knowledge and a decent standard of living.

The Inequality-adjusted Human Development Index (IHDI) adjusts the Human Development Index (HDI) for inequality in distribution of each dimension across the population. The IHDI accounts for inequalities in HDI dimensions by “discounting” each dimension’s average value according to its level of inequality. The IHDI equals the HDI when there is no inequality across people but is less than the HDI as inequality rises. In this sense, the IHDI is the actual level of

human development (accounting for this inequality), while the HDI can be viewed as an index of “potential” human development (or the maximum level of HDI) that could be achieved if there was no inequality. The “loss” in potential human development due to inequality is given by the difference between the HDI and the IHDI and can be expressed as a percentage.

The challenge is to derive the best indicators to reflect real, sustainable economic welfare, social development and human wellbeing.

The right measurement is a powerful instrument for assessing social and economic progress; wrong or imprecise measurements can be a source of hazard and can do more damage for that which is compared. According to Jacobs and Slaus (2010) *“the essential purpose of economic activity is the promotion of human development, welfare and well-being in a sustainable manner, and not growth for growth’s sake, yet we lack effective measures to monitor progress toward these objectives”*.

As will be outlined further in Section 3, a number of countries are using composite indexes to determine levels of funding to address socio-economic gaps. These include: Brazil, South Africa, and India.

Challenges of Measuring Comparability

There is no agreement on the best approach to measuring comparability. Many will argue for comparability on inputs and outputs and geographical vicinity; increasingly there is a movement towards comparability of access and outcomes. And others argue that comparability should be based on international standard of living indexes. What follows are a number of arguments for measuring comparability in funding for First Nations communities.

In 2011, the Auditor General of Canada noted the following in relation to comparability:

To provide true comparability, it would be important to include a clear statement of comparability in program objectives and define comparability on a program-by-program basis. Roles and responsibilities would also need to be specified, as would the level of services required for comparability. In addition, the costs of achieving comparability would have to be determined and programs would have to be adequately funded. It would be necessary to establish measures for evaluating performance and determining whether the program was achieving the desired outcomes.^{8]}

In 2016, the Canadian Human Rights Tribunal directed the federal government to take actions to redress and to prevent continued discriminatory practices in relation to Indigenous people in Canada. Central to the argument is that *“finding a mirror group may be that, in light of their distinct needs and circumstances, no one is like them [any individual or group, in this case First Nation children] for the purposes of comparison.”⁹* In their ruling the tribunal argues that *“human rights principles, domestic and international, require AANDC to consider the distinct*

needs and circumstances of First Nation children and families.”¹⁰ In this regard, the ruling pointed to international human rights principles as the comparable standard.

There are a number of arguments regarding how to approach measuring comparability, the most common of which are:

- provincial standards as being most useful for assessment at a program level (e.g., program-by-program basis) (Auditor General)
- for education and health – standards and indicators are best used at measuring gaps. Comparisons should be made at the level of indicators to help close the gap between Indigenous and non-Indigenous people (Truth and Reconciliation Commission). This is supported by the United Nations, which has found that comparability for health can determine gaps between the health outcomes of Indigenous people and non-Indigenous people, and these gaps should be measured by key indicators such as life expectancy and suicide rates:

*Although overall the health situation of indigenous peoples in Canada has improved in recent years, significant gaps still remain in health outcomes of aboriginal as compared to non-aboriginal Canadians, including in terms of life expectancy, infant mortality, suicide, injuries, and communicable and chronic diseases such as diabetes.*¹¹

- for child welfare cases, appropriate comparisons cannot be made or is not sufficient, although normative standards of care for minimal level of service may show gaps and is a good indicator of service standards for all Canadian children (Canadian Human Rights Tribunal)
- many will argue that housing, on the other hand, is not comparable but should be based on specific local needs, as is evident from the UN’s positive reporting on Canadian Mortgage and Housing Corporation (CMHC):

*[CMHC] provides funding to provinces and territories for housing, which in turn, decide on priorities in their respective jurisdictions. This affords provinces and territories the flexibility to design and deliver programs in order to address Inuit-specific housing needs and priorities as they see fit.*¹²

As these arguments suggest, there is no one approach to measuring comparability in order to determine funding approaches. Most reviews examining adequacy of funding and provision of programs and services to First Nation communities do highlight, however, that comparability is appropriate for measuring gaps in program and service delivery.

2.3.4 Determining Appropriate Funding Levels for Indigenous Communities – What Should be the Basis of Comparison?

Many international jurisdictions are using standards to measure and address critical gaps and outcomes between sub-populations by using more detailed (i.e. targeted) standards of living. The framework, outlined below (e.g., comparable inputs, access, outputs and outcomes), is

used in Section 4 to analyze how other jurisdictions are approaching the measurement of comparability in relation to the funding and provision of public services.

Comparable Inputs: are the resources available to support and deliver on the required activities. Comparable inputs include funding levels and/or supports. Inputs can also include the resources available to deliver services including staff, infrastructure, equipment and/or revenue (taxes and transfers). The Yukon First Nations used a comparable input approach to argue that the current funding formula under the Financial Transfer Agreement did not reflect the higher labour costs to compete and attract people to their public sector labour market.

Comparable Access: examines access to services and programs which are comparable with those available to other residents of a nation or jurisdiction. Comparable access is often used in health care to assess the access of rural regions to public programs and services. Comparable access includes comparable levels of service as well as the ability to obtain similar services.

Rural Index – Australia

In Australia – rural health funding programs have tested an alternative method for the measurement of access to primary care, based on combining the three key access elements of spatial accessibility (availability and proximity), needs (population health) and mobility.¹³

The Index of Rural Access has been found to provide a more sensitive and appropriate measure of access compared to existing classifications which currently underpin policy measures designed to overcome problems of limited access to health services. The most powerful aspect of this new index is its ability to identify access differences within rural populations at a much finer geographical scale. This index highlights that many rural areas of Victoria have been incorrectly classified by existing measures as homogenous in regards to their access.

Access Indicators: measure how easily a community can obtain a service. Access indicators can generally be categorized as follows:

- *Overall access* indicators show how readily services are accessed by those who need them across the eligible or relevant population.
- *Timeliness of access* indicators are important for services where there is limited supply, sometimes resulting in delays in access.
- *Affordability indicators* are used for service areas where consumers face at least part of the cost of the service and cost can be a barrier to obtaining the service.¹⁴

Comparable Outputs: are the direct, tangible products from an activity. They include targeted outputs related to the quantity of services that meet a pre-established goal or standard (i.e. secondary school graduation rates). This can be measured in relation to established benchmarks/standards such as wait times for health services. Measurements of outputs do not imply whether the beneficiary is any better off as a result of the activities. While the 2017 Vector Study found limited examples of output comparability, it did note that an output

comparability approach would go much farther to address geographic (i.e., remoteness) differences between communities.¹⁵

Comparable Outcomes: are the benefits or changes for individuals or communities that result from the delivery of programs and services by a government. They can be measured as comparable socio-economic outcomes (e.g., changes in life expectancy, teen suicide rates, graduation rates, etc.). They are more than the production of an output and speak more broadly to the changes or results from an activity.

Within the context of First Nations, an outcome-based approach to comparability would require that Indigenous communities develop desired community level outcomes that are based on sufficient and sustainable long-term funding programs, in line with regional standards. Within the framework of a new fiscal relationship, Indigenous leaders would be accountable to their community members.

Within the context of First Nations, it is increasingly important to assess outcomes. Within the current context of funding First Nations, accountability for money spent and outputs continue to be the priority focus. As noted by the Auditor General of Canada, programs and funding for First Nations are often run in ways that meet the goals of the funding departments, but not of the people they are meant to serve.

Too often, what we see is government organizations managing to certain metrics, managing to certain performance measures, that matter from the point of view of the department that's delivering the program but do not matter so much from the point of view of the person receiving the program.

There are few examples of an outcome-based approach to comparability in an Indigenous context¹⁶. As noted by Vector Research and Fiscal Realities Consultants:

The current discussion about alternative Indigenous governments fiscal arrangements appears to be bogged down in nuances between comparability of inputs rather than comparability of outcomes, or even outputs, in remote First Nation communities.

The use of input comparability is unlikely to lead Indigenous communities towards the outcomes desired in the near and long term. The concept of outcome-based funding is vastly different from the concept of comparable outcomes where the former is based on funding levels that are determined in order to support the achievement of expected level of outcomes over time and the latter is focused on the achievement of comparable outcomes – with the baseline of comparison agreed upon by participating parties.

By focusing on outcomes, governments move away from examining the historic gap and towards defining the future outcomes desired, determining the appropriate level of funding to

get to regional standards (at a minimum), and then defining the realistic path forward to achieve those outcomes.

3. CURRENT CONTEXT: APPROACHES TO DETERMINING FUNDING

3.1 Beyond the Indian Act; Moving Toward Self-Governance

The Canadian federation was born in 1867, and the foundational constitutional document, the British North America Act, divided powers between the federal and provincial governments, assigning most power over matters pertaining to 'Indians and land reserved for the Indians' to the federal government. The Indian Act of 1876 established a system of government by chiefs and band councils and delegated certain nominal powers to band governments, but left most power and responsibility in the hands of federal Indian Agents. Over the second half of the twentieth century, First Nation bands began to assume more and more responsibility for their own affairs, and the department became primarily a funder of programs and services, rather than the provider. Indigenous resistance and activism has seen the recognition of Indigenous rights in Section 35 of the Constitution Act in 1982, the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UN-DRIP) and the signature of a number of Modern Treaties and Self-Government agreements, stretching from 1975 to the present day, including the establishment of Nunavut in 1997 (as a result of the Nunavut Land Claims Agreement).

DISC and other federal government departments fund non-self-governing First Nations under four main authorities: grants, contributions, alternative funding arrangements, and flexible transfer payments, although the vast majority of funds are transferred through contribution agreements that are reviewed annually. Funding under these arrangements is delivered to First Nations governments through Comprehensive Funding Arrangements, DISC First Nation Funding Arrangements, and Canada First Nation funding arrangements. These together constitute the means of providing the money available to Indigenous communities through the four main departments responsible for distributing Indigenous funding: DISC, Health Canada, Employment and Social Development Canada (ESDC), and Canada Mortgage and Housing Corporation (CMHC). Devolution has resulted in First Nation governments assuming greater responsibility for public programs and services with federal government funding. This relationship is of great importance but, as currently structured, limits self-determination – given the nature of funding and places a significant and onerous reporting burden on First Nations governments, which hinders their ability to use funding to achieve desired outcomes as defined by the community. Currently the focus is on meeting reporting requirements to demonstrate appropriate use of funding. While Canada has made many attempts to rationalize the existing system over the years, progress has been slow and inconsistent.

Fiscal relations with First Nations that have signed Self Government Agreements are slightly different. These agreements, which have provided for direct Indigenous ownership of over 600,000 square kilometers of land, and transferred over \$3.2 billion in capital, provide signatory First Nations governments with a range of responsibilities and authorities over their own citizens, and any other resident of their territory, including powers of taxation. They can be comprehensive, or narrower sectoral agreements providing self-government for a particular policy area, such as education. The core of First Nations financing comes from the Financial Transfer Agreement, negotiated every five years with the federal government. The standard for these agreements is similar in principle to that used for equalization payments, providing for reasonably comparable services by First Nation governments at reasonably comparable levels of taxation. It should be noted that many self-governing First Nation governments indicate that funding levels are insufficient to meet that objective and, for the most part, have not fully assumed the jurisdiction that is available under these agreements.

3.2 Problems and Potential: How the Federal Government is Currently Funding First Nations¹⁷

As part of this review the Institute on Governance conducted interviews with over twenty stakeholders from DISC, Health Canada, the AFN, First Nations service providers, First Nations leaders, and external experts to better understand how various government departments were approaching comparability for the purposes of determining program/service and funding levels. Areas of expertise included health, education, social services, lands, economic development, finance, policy, regional program and service delivery.

Many government officials talked about capacity, particularly in relation to the costs of running First Nations governments and administration. A key challenge is the lack of comparable governments to First Nations in Canada and the fact that very few government programs have an estimate of the costs of administration. Often cited was a desire for a simplified funding formula as current approaches are too varied and complicated (although no models or funding formulas were provided). Further complicating the ability to make comparisons is the limited data available on First Nation communities. This was partly attributed to recent changes and reduction in the information First Nations are required to submit as part of their funding agreements as well as the termination of federal funding for the First Nations Statistical Institute.

Concerns were expressed by all participants, particularly in relation to the lack of consistent approaches to (and transparency in) determining funding levels for First Nations. Interestingly, both federal employees and First Nations leaders expressed similar concerns – such as a need for better data. This is significant given the need for adequate data to make comparisons and determine, not only funding levels, but outcome achievement.

As mentioned in Section 2, comparability is often measured according to:

- Inputs (comparable funding levels and/or supports)
- Outputs – the quantity of services that meet a pre-established goal or standard, (i.e. secondary school graduation rates) and the quantity of services that meet a benchmark in relation to another jurisdiction, (i.e. wait times for health services)
- Comparable Access (accessing services and programs which are comparable with those available to other residents of a nation or jurisdiction), i.e. waste removal
- Outcomes (comparable socio-economic and other outcomes as other residents of a nation or jurisdiction), i.e. regional life expectancy averages

The following table depicts how each department and institution measures comparability. This table was derived from interview consultations. (Interview summaries for these departments and the AFN are in ANNEX C).

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Education and Social Development Program and Partnership	√	√	√	√
Health Canada, First Nations and Inuit Health Branch, Assistant Deputy Minister, Regional Operations	√	√	√	
Treaties and Aboriginal Government, Fiscal Policy Directorate	√	√		
Regional Operations	√	√	√	
Lands and Economic Development			√	
Atlantic Policy Congress of First Nations Chiefs Secretariat	√			√
British Columbia First Nations Health Authority			√	√

Funding models were often described as complex and inefficient, and it was widely accepted that there was a need for better data to inform the determination of funding levels. Types of comparable measurements ranged across the board, from inputs to outcomes, with the most common used being access. The most successful funding models, however, focused on outcomes.

In many of the interviews, the British Columbia First Nations Health Authority (BC FNHA) was identified as an example of a First Nation success story. When the BC FNHA began they 1) looked at how to address disparities in health status and 2) undertook a study which looked at relative access. The participating parties wanted to determine how to best use available resources, and a comparative study found that First Nations were less likely to use primary health care and prevention services and were more like to seek services through acute care and emergency rooms. They used that information to work with key partners and stakeholder to improve access to primary health care and prevention services, so as to decrease the need for

acute care and emergency visits. Their success can be attributed to partnership with the provincial and federal government, flexible approaches and testing, building of trust, improved accountability and information-sharing, and a commitment, embedded in the agreements between parties, to deal with the determinants of health. Another success story came from the other side of the country, where the Atlantic Policy Congress of First Nations Chiefs Secretariat implemented education reform.

Case Study: Atlantic Policy Congress of First Nations Chiefs Secretariat (Education)

When reassessing and restructuring their approach to education on-reserve, the Chiefs decided they needed investment to reach the same spending and outcomes as non-indigenous communities within the province. They looked at indicators based on the number of students and per capita costs by province for non-Indigenous children and used that information to forecast costs for First Nation students and school boards. The chiefs did not look at catch-up or gaps; they only looked at inputs and performance outcomes. Infrastructure (building better schools) was considered separate (under a separate funding envelope) and not prioritized by this collective.

The focus was on 1) outcomes/performance of students and 2) investment in systems – configuring core investments to achieve expected outcomes. Since the key cost drivers in any school are the teachers, they decided to allocate more funds toward hiring qualified teachers. They added culture and language into the curriculum and fostered community engagement around those subjects. The latter had a big impact on outcomes such as increased pride, improved grades and graduation rates. The process of reporting changed so that the federal government only receives the same minimal progress reports that the community receives.

While their success with education does not necessarily translate into other service areas, they nonetheless recommended that for each service sector communities pick 3-5 important indicators and strive to achieve them: “pick the ones that make the most sense and where you can get the data.” To date, the results have been positive; their next step is to apply indicator-focused reform to other service areas.

These successful initiatives were the exception, however, as most departments acknowledged inefficiencies in funding and service gaps. Most interviewees also saw this as a period of change and transformation, and were optimistic the future could bring more transparent and flexible funding arrangements.

3.3 Overview of How Governments Assess Comparability to Determine Funding/Service Levels

A transfer payment is a payment made by a central government to a subnational recipient for a specific or a general purpose; a block transfer payment is a single all-encompassing payment as

opposed to numerous smaller payments. Virtually every country has some form of redistribution of wealth through transfers, but the purposes for the transfers vary. Some countries focus on comparable outcomes, while others provide additional funding with the goal of improving access to equitable services. This section looks at Canadian and International transfer funding, and assesses the means by which funding levels were decided through the lens of comparability.

Many of the examples that follow are equalization transfers, in that the ultimate goal is to equalize wealth on a per capita basis, so that all regions within a country have equitable qualities of life, including the ability to access essential services, as defined by the state or the court of public opinion. In lieu of equalization, citizens tend to leave less prosperous areas for where there are more economic opportunities, and by extension tax-funded public services, which further impedes areas with economic difficulties and has the potential to destabilize a nation. In the absence of equalization, it has been argued, citizens might relocate in order to access better services, lower taxes, and employment opportunities. Yet subnational governments do not want to give up the independence of their jurisdictions, as is evident in Article 9 (1985) of the European Charter of self-governance, which makes reference to the importance of the freedom of local authorities to exercise policy discretion:

European Charter of Local Self-Government, 1985, Article 9 – Financial Resources of Local Authorities:

5. The protection of financially weaker local authorities calls for the institution of financial equalization procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.
6. Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.
7. As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.

Transfers, grants, and contributions are distributed for different reasons, some specific, and others general purpose, but they generally serve to equalize funding levels, to equalize access to services and to improve undesirable socio-economic factors (See Annex A for a list of types of transfers).

Our jurisdictional scan looked at national and international examples of transfers, the comparable factors used to measure those transfer amounts, and their rationale according to these measurement types. The following table highlights examples which were derived from

extensive research on global transfer models and were selected because they offer some insight into comparability that contain some relevance to the discussion of future options for First Nations funding. The following table shows the examples used in this section, and the types of measurements of comparability they use. (Summaries of each transfer are included in ANNEX D).

Transfer	Type of Comparable Measurement			
	Inputs	Outputs	Access	Outcomes
Canadian				
Canadian Social Transfer	✓	✓		
Canadian Health Transfer	✓	✓		
Equalization	✓			
Territorial Formula Financing	✓	✓	✓	
Education Funding in Ontario	✓		✓	
Education Funding in Saskatchewan	✓		✓	
Ontario Municipal Transfers			✓	
British Columbia First Nation Health Authority			✓	✓
International				
Australia	✓	✓	✓	✓
Germany	✓	✓		✓
South Africa				✓
Brazil (Health)				✓
The United States Indian Housing Block Grant Program		✓		✓
Denmark			✓	✓
Norway			✓	✓
Sweden			✓	✓

In Canada, the largest federal transfers are measured by inputs and outputs (albeit the latter are discretionary), and, although funds are for specific service areas such as health and education, the provinces have discretion on how they spend the funds (what they want to target). At the provincial level, while provinces have significant revenue raising authority, the transfer payments they receive from the federal government have become essential components of the provincial budgets and are necessary to maintain a high standard of public service delivery. Provincial governments are ultimately responsible for local affairs and municipal budgets but, due to the municipal control of property tax revenue, provinces do not transfer large amounts of money to local governments for on-going operations. They do, however, have mechanisms for providing additional unconditional funds to municipalities. The Ontario government, for example, uses the Ontario Municipal Partnership Fund (OMPF) as a mechanism for transferring payment to municipalities, transferring \$505 million in unconditional funding to 338 municipalities of varying size and wealth across the province.¹⁸ Through the OMPF Ontario spent \$505 million in unconditional funding on 388 municipalities.¹⁹ It uses the following mechanisms to allocate funds to governments based on relative need:

1. Assessment Equalization Grant
2. Northern Communities Grant
3. Rural Communities Grant
4. Northern and Rural Fiscal Circumstances Grant
5. Transitional Assistance²⁰

Provinces are not concerned with comparable outcomes, but with covering basic standards of services and providing additional services based on specific situations, such as students with special needs. One major exception is the British Columbia First Nations Health Authority, which emphasizes both access and outcomes. It is goal-oriented with a ten-year plan with specific outcomes and indicators.

Internationally, transfers tend toward being outcome-based. Countries with regional inequity (i.e. South Africa, Brazil) try to offset observed inequities by providing additional funds to subnational governments so they can 'catch up' to the others. The purpose is to close gaps, which are often comparable in terms of outcomes, and need is deduced through the application of composite indexes.

Case Study: Brazil (Health Transfer)

Fiscal transfers in support of Brazil's Unified Health System are administered under a federal program called Annual Budget Ceilings. The program has two components:

1. Under the first component, equal per capita financing from the federal government that passes through states to municipalities is provided to cover basic health benefits.
2. The second component provides federal financing for hospital and ambulatory care and all registered health care providers – state, municipal, and private – are eligible for grant financing through their municipal government.

Under this grant, funding for hospital admissions and high-cost ambulatory care is subject to a ceiling for each type of treatment.

The Health transfer uses a composite index based upon principal component analysis:

- Infant mortality
- 1-64 mortality
- 65+ mortality
- Mortality rate by infectious and parasitic diseases
- Mortality rate for neoplasia
- Mortality rate for cardiovascular conditions
- Adolescent mother percentage
- Illiteracy percentage
- Percentage of homes without sanitation
- Percentage of homes without running water²¹

Brazil has a modern history of socio-economic diversity, and intergovernmental transfers are used as a means of improving outcomes rather than just a redistribution of wealth based on population. The criteria used for health funding demonstrates this outcome-based approach: the more criteria a municipality ‘checks off’, for example, the more funding that municipality receives. The goal of utilizing criteria, or health indicators, is to provide extra funds that can alleviate these discrepancies and increase longevity.

Likewise, Scandinavian countries also use composite indexes to determine need so as to calculate additional funds for access to services in rural locations. Rural areas receive more funds per resident by nature of increased costs for service delivery and the unique needs of isolated communities.

In 2008, Australia made a major 25-year commitment to reduce disadvantage among Aboriginal and Torres Strait Islander people with respect to life expectancy, child mortality, access to early childhood education, educational achievement, and employment outcomes. The initiative, called Closing the Gap, has not been as successful as was initially hoped for, but it nonetheless offers lessons for Canada, primarily in terms of aspiration and dedication.

Case Study: Australia (Closing the Gap)

Australia has made a major commitment to reduce the socio-economic disadvantages among Aboriginal and Torres Strait Islander people with respect to health outcomes including targets related life expectancy, child mortality, access to early childhood education, educational achievement, and employment outcomes. This 25-year initiative – *Closing the Gap* – which all levels of government committed to in 2008, includes input from every major Indigenous and non-Indigenous health body in the country, as well as reconciliation groups, human rights organizations, NGOs, and a national Indigenous representative body, the National Congress of Australia's First Peoples, which was established in 2010. Targets were developed by 3 working groups of the Steering Committee, each led by a notable and respected Indigenous leader.

Targets include:

- Close the life expectancy gap within a generation
- Halve the gap in mortality rates for Indigenous children under five within a decade
- Ensure access to early childhood education for all Indigenous four year olds in remote communities within five years
- Halve the gap in reading, writing and numeracy achievements for children within a decade
- Halve the gap for Indigenous students in year 12 attainment rates
- Halve the gap in employment outcomes between Indigenous and non-Indigenous Australians within a decade

Ten years in, the *Closing the Gap* initiative has received some criticism as of late, since only one of the seven targets is on track (halving the gap for Indigenous students in year 12 attainment

rates). A report by the Productivity Commission found the proportion of federal funding that went directly to Indigenous organizations for program service delivery has fallen by a third since the initiative began. This was attributed to a ‘tumultuous’ political landscape and a focus on targets as opposed to long term outcomes and outcomes oriented funding. Legislation would have helped solidify political commitment, and, while targets were set, they needed an overriding strategy to achieve them, and that required a commitment to funding, which was cut over the years. As noted by Victorian Aboriginal affairs minister, Natalie Hutchins *“It may not be a target in itself but it may be a core principle that underpins how we achieve the targets. It’s one thing to set a bunch of targets, it’s another thing to have a strategy that underpins it to achieve them.”*

When discussing Closing the Gap in 2008, Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner, warned, *“A plan that is not adequately funded to meet its outcomes cannot be considered an effective plan.”*²² Canada would do well to keep that in mind.

With the exception of Australia, none of these international models are directly translatable to First Nations in Canada (or to other countries, as all models are country-specific), other countries have gone to varying degrees to base their funding on comparability of outcomes, and these cases demonstrate that different types of comparability standards are feasible and operational. These models are not static. They are regularly reviewed and modified based on new circumstances, better data, new policies, etc.

The next section presents findings on comparability-based funding as derived from the interviews, the jurisdictional scans, and the desire of the federal government and First Nations to establish a new nation-to-nation relationship.

4. EFFECTING REAL CHANGE FOR CANADA’S INDIGENOUS PEOPLE – COMPARABILITY AND BEYOND

Addressing the socio-economic gaps experienced by First Nations and historic underfunding is more complex than simply increasing the funding to First Nation communities. Time and investments are needed to develop new approaches to comparability in a way that can be trusted by First Nation leaders and government. Mutual accountability and transparency on policy, factors and formulas need to become normalized, and both funding and services rendered must be sustainable and reliable in order to build long term trust and a true nation-to-nation relationship.

The fiscal relations between Canada’s federal and provincial governments have evolved over time, which has led to the development of trust and confidence in the formulas used to

determine levels of equalization and transfer payments. In addition, federal, provincial and territorial governments have reached a level of development and are supported by institutions that can collect data and monitor and report on standards and indicators – which allows for more precise and high-level measures of comparison.

Both the Prime Minister and the Truth and Reconciliation Commission have called for a true nation-to-nation relationship. Today there appears to be a will among partners; a way forward must now be found. This requires bold commitments to sustainable funding and working in partnership with First Nations to achieve meaningful change and outcomes. This path forward needs to be cemented in legislation so that it cannot be easily undone by changes in government.

Based on the research and review undertaken for this report (i.e., research, review of Canadian and international jurisdictions and interview consultations with federal and Indigenous stakeholders), the following section identifies critical components and steps for evolving how the federal government undertakes comparisons to inform and determine appropriate funding for First Nation communities.

4.1 Redefining Comparability in the Context of a New Fiscal Relationship

In Canada, there have been extensive calls for change and action in how First Nation people and communities are funded and in the provision of comparable public programs and services. Receptive to the need for change, the federal government has outlined an approach to support the implementation of the inherent right of Indigenous self-government, which calls for taking into account:

- the shared objective of ensuring the comparability of basic public services for Indigenous peoples to those available to other Canadians in the vicinity (comparability does not mean that programs, services or funding must be identical in all cases);
- the need for reasonably stable, predictable and flexible funding arrangements for Indigenous governments and institutions;
- existing levels of support provided by governments;
- the jurisdictions, authorities, programs and services to be assumed by Aboriginal governments or institutions;
- the ability to raise own-source revenues, and other resources available to it; and,
- the efficiency and cost-effectiveness of the proposed arrangements, including issues related to the size, location and accessibility of the group/groups.²³

It is clear that the current fiscal arrangements and approaches are not addressing the needs of First Nations communities in Canada (including socio-economic gaps). There is a desire from both parties (First Nations and the federal government) to move toward more stable funding and to address the numerous socio-economic gaps faced by First Nations communities in

Canada. While many may argue for the need to address the historic gap in funding of public programs and services, others are focused on the current and the future needs to close the socio-economic gap. Under the latter, First Nations identify the outcomes they desire within the range of provincial or regional standards; determinations are made on the cost to achieve the outcomes and plans are put in place to support the achievement of the outcomes (including multi-year funding, capacity building, roles of partners, etc.). This approach can currently be found in some areas of First Nation health and education. A needs-based or composite index may provide a more transparent and effective way of helping to determine differential needs of First Nations within large program envelopes. Research demonstrates that this is an approach used in a number of countries, including Canada and around the world, both to address socio-economic gaps among historically disadvantaged groups and/or as part of more complex equalization formula.

4.1.1 Transform the Baseline for Comparability

Current federal funding models for First Nations are discretionary with the level of the fiscal transfer based on a “designated” level of expenditures to fund programs and services. The level of funding, generally, are not determined based principle of comparability of service levels, standards, need or outcome with non-First Nation communities, and when it is, it is used discretionarily.²⁴

In the current First Nation context, measurements of comparability should include: 1) a measure of need (consumption/demand) in relation to provincial/regional standards and 2) expenditure to fulfill that need in order to close gaps and subsequently maintain standard levels of service. Expenditure must include measurements of capacity to fulfill that need including infrastructure, HR, governance capacity, administration, etc. Parties will need to decide when and how to factor in resources (including own source revenue(OSR)/ability to pay) to provide the services as is done within other equalization models.

Note: The issue of income or own-source revenue is highly contentious. For First Nations under self-government, the relationship between expenditure need and OSR was addressed by a federal fiscal transfer calculation under which transfers are determined in part by taking into account an assessment of own source revenue capacity. A moratorium was recently imposed on the application of OSR considerations in determining federal transfers to self-governing First Nations. It is widely recognized that forms of Indigenous own-source revenue should not be considered in determining funding levels until current gaps in physical, social, and human capital are addressed.

This approach is also consistent with the World Bank Group Standard of Living measure which includes measures of income, expenditure, and consumption. It is also consistent with the 1996 Royal Commission of Aboriginal People, which recommended:

The financing mechanism used for equalization purposes be based not only on revenue-raising capacity, but also take into account differences in the expenditure needs of the Aboriginal governments they are designed to support, as is done with the fiscal arrangements for the territorial governments, and that the tax effort that Aboriginal governments make be taken into consideration in the design of these fiscal arrangements. (2.3.18)

4.1.1.1 Determining Comparable Standards – the Use Geographically-Based Minimum Standards

There is a need to ensure that funding levels are based on reasonably objective methodology and processes for establishing the base, or minimum, level of funding necessary to meet services needed. In the case of First Nations, where expenditure levels are determined primarily by federal funding formulas with little input from First Nations, and access to public services on First Nations lands are generally inferior to those available to other Canadians – external standards are required for achieving Horizontal Fiscal Equity.

The Government of Canada will need to work with First Nations to establish appropriate comparisons with non-First Nations communities within geographical vicinities – this may be provincial/territorial standards or may be regional standards depending on the program envelope under review. As this review has demonstrated, not all program envelopes lend themselves to provincial/territorial standards, such as child welfare or housing.

The purpose of a geographically based standard is to provide First Nations with, at a minimum, the same standards as the non-First Nations within their vicinity (whether defined regionally, provincially/territorially, or more locally) to the extent possible. A First Nation community in Southern Ontario, for example, should at least have similar services to non-Indigenous communities in Southern Ontario (access to clean drinking water; education, etc.). Likewise, while the standards and availability of health services in Prince Edward Island are less than those in Southern Ontario, First Nations communities in PEI should, at a minimum, expect the same standards and levels of services available to the non-Indigenous population in PEI.

In cases where communities within comparable vicinities suffer from disadvantages, a needs-based or composite index (discussed below) can be used to identify factors unique to First Nations and will help to determine where higher levels of funding are required to achieve the standard.

4.1.1.2 Create a Needs-Based Index (Composite Index)

First Nations and the federal government should create a needs-based (or composite) index to measure and address socio-economic gaps. The exact composition of the indicators would be determined by First Nations and governments through co-development and testing. Factors that could be included in an index include: mortality rates; access to waste

management/disposal; the number of people per household; high school dropout rates; teen pregnancies; etc. This is in line with the Truth and Reconciliation Commission's call to action on Health, which includes a demand for reports focusing on indicators:

We call upon the federal government, in consultation with Aboriginal peoples, to establish measurable goals to identify and close the gaps in health outcomes between Aboriginal and non-Aboriginal communities, and to publish annual progress reports and assess long-term trends. Such efforts would focus on indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.²⁵

Indexes are used in Canada in terms of provincial transfers to municipalities to allow for funding of unique municipal needs and differences based on ability to raise taxes, remoteness/isolation, transportation, etc. This includes the Northern and Rural Municipal Fiscal Circumstances index which measures the municipality's fiscal circumstances relative to other northern and rural municipalities in the province. However, the factors that go into these indexes are limited. More relevant examples can be found in countries such as Brazil, South Africa and India (highlighted below) where national governments are attempting to close gaps that are evidenced among historically disadvantaged and marginalized populations, through more detailed indexes designed to address the more complex needs unique to each community. This was highlighted in Brazil's health transfer program in Section 3. Scandinavian countries use composite indexes to determine which jurisdictions need extra funding due to factors pertaining to remoteness. India is an example of a country that has benefited remarkably by using social development indicators that are used to determine areas of progress and jurisdictions that need more financial support than others.

Case Study: India

Thirty years ago, India was using traditional measures based on per capita GDP in constant dollars to formulate its per capita living standards and was unsatisfied with the results, which were diluted by the per capita GDP growth, and made social development progress look slow. To obtain a more reliable basis for policy-making and assessment, in 1980 the Government of India identified 107 indicators of development for regular monitoring at the local and national level. The study searched for parameters that were correlated with rising living standards. Among other factors, the study found that life expectancy had risen by 60%, infant mortality was down by a third, literacy had more than doubled since 1950, the total number of schools and colleges had almost tripled, primary school enrollment had quadrupled, the number of hospital beds had tripled, and per capita food consumption had risen 25%. As a result, India has a much more effective means of understanding gains in social development and needs, and can allocate resources according to areas of greatest need.²⁶

It is recommended that the federal government work with First Nation leaders to develop and test needs-based or composite indexes for large funding envelopes such as health or local public services. Internationally, there are many examples where these types of indexes are used to address/close the gaps in health outcomes including Brazil, South Africa, Australia, etc.

4.1.2 The Critical Foundations of the New Relationship

4.1.2.1 Building Trust

Over time, successive federal and provincial acts, policies and programs have failed to recognize and protect Indigenous rights. This has led to an increasing lack of trust among First Nations with the federal government. Moreover, the present legal and fiscal relationship between First Nations and the federal government rests on fundamental assumptions that are inherently paternalistic. There is, however, a significant movement underway towards reframing the relationship between First Nations and the federal government towards a model that is more empowering and enabling, less paternalistic, less focused on compliance, and less burdensome in terms of reporting requirements. Building trust between the parties will take time.

The federal government and First Nations must be willing to co-operate, negotiate, test and revise comparability and funding models in order to improve them and develop confidence in them, as well as with each other. Establishing institutions and processes for collecting the required information and data, including a needs-based or composite index, will aid in developing confidence as it will clarify the needs and goals of First Nations community. Gathering data and establishing new working and funding arrangements takes time.

4.1.2.2 Increasing Transparency

DISC began publicly releasing Canada's fiscal approach for self-government arrangements in 2015, including policy and funding methodologies, rather than treating them as confidential negotiating mandates. The policy lays out the principles of Canada's fiscal approach, the models under which funds are transferred, and the accountability relationships expected, in a clear manner.²⁷ But for the 95% of First Nations that have not entered into full self-government agreements and which generally remain funded by DISC and other government departments, there are still issues around clarity and consistency of federal funding policies, and negotiations remain adversarial and complex.

Establishing a new nation-to-nation relationship will require transparency, particularly, through public disclosure of funding methodologies, transfers, budgets and financial statements. Four main facets reflecting the principle of transparency are:

- *Transparency* – Fiscal arrangements should be managed openly and transparently, with funding policies and methods set out clearly.
- *Information sharing*: relevant and appropriate information and data are collected, managed and shared.²⁸

- *Program operation and outcomes*: that are clear (transparent) to the recipient authorities, their community members and the general public.
- *Focus on outcomes*: objectives of payment activities are clearly defined and contribute to the achievement of public policy outcomes.²⁹

Transparency, as well as trust, can be aided through collaboration with a co-coordinating institution that holds similar powers as the Parliamentary Budget Officer, who provides independent financial analysis, including oversight on calculations of estimates, trends, and costs.

4.1.3 Replace Funding Mechanisms with Statutory Fiscal Transfers

The majority of First Nations programs on reserves are funded through federal government contributions, which require onerous reporting requirements and offer limited predictability. The most significant limitations with these agreements are that they do not always focus on service standards or results and demonstrate an overall lack of trust that First Nations can be responsible and accountable for results. Moreover, these funding vehicles offer little in terms of stability given the fact that they are based on annual renewals of agreements and associated funding. Sustainable funding is required to provide consistency and the ability to plan into the future.

Many actors in the policy space, including DISC itself, have studied the possibility of moving from a contribution-based model to a fiscal transfer, which, if legislated, would provide greater funding certainty, sustainability and the potential to reduce the reporting burden on First Nations while enhancing the quality of service they are able to provide. This would also demonstrate greater trust on the part of government, with considerably fewer paternalistic assumptions about the responsibility and capability of First Nations governments.

Long-term grants and eventually statutory fiscal transfers should be renewed at least every 10 years following review in order to provide consistency and predictability as well as address changing situations and conditions. Critical to any long-term fiscal transfers are scheduled review periods, where concerns regarding funding formulas can be addressed and adjustments made in order to ensure the funding is evolving as appropriate.

As the funding relationship evolves and trust develops, First Nation governments should be encouraged to focus funding on the achievement of outcomes of importance to their citizens. In these instances, the First Nation government would determine its own long-term outcomes and funding would be directed towards the achievement of those outcomes over time. We argue that achieving outcomes are not a requirement, but they are goals, and as such they can be monitored and progress reported on. Outcomes can shift based on First Nations priorities, and, depending on the sector, funding should factor the attainment of outcomes into account, but not require every cited outcome to be achieved, since social and economic outcomes cannot always be guaranteed. Lowering addiction rates cannot be guaranteed, but it is still a goal worth striving for; should it be prioritized in a First Nation community. When expected

outcomes are not achieved, proper monitoring and review can lead to adjustments in order to better achieve expected outcomes.

4.1.4 Mutual Accountability

“First Nations traditional social systems were founded on the concept of reciprocal accountability – that each member of the community was accountable for their decisions and actions, and for their contributions to the community’s wellness as a whole. These ancestral teachings are the underpinning of our definition and processes for reciprocal accountability” (BC First Nations Health Authority).³⁰

It is important to reframe the federal government-First Nations accountability relationship away from a paternalistic, compliance-based model that most closely resembles an agent-principal relationship towards a more mutual, reciprocal model, based on a nation-to-nation, government-to-government relationship. Relationships between donors and recipients, or funders and beneficiaries, are intrinsically unequal, and the assumptions underlying the current relationship are inherently paternalistic.

Today, accountability of First Nations remains first to the federal government for funding and results, and not to their own citizens. Fundamental to any renewed fiscal relationship is the recognition that First Nations governments should be accountable first to their citizens, as are all governments. Reciprocity or mutual accountability between the two levels of government requires this foundational change. Superficial adjustments to accountability systems will have little long-term impact without fundamental change to the foundations of the relationship between First Nations and the Crown. Stable, predictable government-to-government fiscal transfers along the same lines and principles as provincial, territorial, or municipal funding are needed to achieve true mutuality.

If positive change is to occur, it is recognized that First Nations themselves will have to play an important role in bringing about the changes. First Nations will need to lead in:

- Comprehensive planning including the identification of outcomes,
- Providing input into legislative changes,
- Developing effective, accountable governance and service standards within their communities, and
- Determining how those standards will be monitored and enforced.³¹

4.1.5 Planning and Reporting Based on Outcomes

First Nations governments face the most burdensome reporting regimes of any government in the Canadian federation. While the Government of Canada has continued to invest efforts to reduce and simplify reporting requirements, the process is still burdensome and complex, and

our interviewees commonly mentioned that the reports are not of much value or use. The AFN confirmed in 2011 that at least 168 separate reports are required annually of First Nations governments by the four federal departments and agencies that provide the most funding to First Nations: DISC, Health Canada, Human Resources and Skills Development Canada (now ESDC), and CMHC.^{32 33} That amounts, given that there are only around 250 work days in a year, to very nearly two reports every three days. This estimate does not reflect other reporting requirements to provincial and territorial governments. The AFN has estimated that DISC alone receives over 60,000 reports from First Nations annually.³⁴ The Auditor General has found significant overlap and duplication among these required reports, and with the exception of some financial documents, the recipient departments were found to make limited use of the information submitted. The Office of the AG voiced concern that the burden of these reporting requirements meant that scarce administrative and financial resources were being used in reporting on a program-by-program basis, rather than investing in long-term planning and reporting on results.³⁵

Within the current funding and accountability agreements, First Nations are limited in their ability to plan for the total envelope of funds received in a more strategic and long-term fashion focused on the achievement of community-driven outcomes. The scale of the reporting burden aside, the majority of information provided to the federal government by First Nations relates narrowly to compliance with departmental reporting requirements on a program by program basis. DISC, Health Canada, HRSDC, and CMHC are oriented in the reports they require towards narrow accountability for inputs spent, activities undertaken, and outputs produced, without concern for what outcomes the spending actually achieved. Information on performance and outcomes in a First Nations context is often difficult to acquire, or nonexistent. What data is collected and gathered, on school graduation rates, for example, or on recipients of social assistance, is often of limited use for measuring the performance of a given program or service or whether the community, as a whole, is better off.³⁶

In a true nation-to-nation relationship, First Nations should define community priorities and outcomes and report on the achievement of these outcomes to their people. Moving towards an outcomes-based model would be a significant shift from historically paternalistic relationships in which the federal government primarily defines the nature of the funding and accountability relationships. It should be noted, most government around the world have only recently moved to outcomes-based planning and reporting. In Canada, the movement to outcome-based planning and reporting began in the 1990s and has continued to evolve; with a significant investment of time and capacity building within government and among key stakeholders. Similar investments in funding to support capacity building and the allocation of time will be required for First Nations.

4.2: Long-Term Investments in the Renewed Relationship

Comparability, while useful, is only one tool toward long-term sustainable change in the relationship between the federal government and First Nations. There are a number of other factors that will impact success in this area, one of which is legislative change.

4.2.1 A Legislative Base

Canada, Australia, and Germany are a few examples of countries that have legislated equalization transfer payments. Contrary to legislated funding, discretionary funding is not mandated by law. Such funding may derive from unexpected needs, from tradition, or in order to promote national solidarity, and they often have a specific purpose. The central government of Thailand, for example, distributes discretionary funds to subnational governments on a formula basis, and the amounts and types of grants differ annually. This has been criticized for having a lack of transparency, that it “leads to self-interested politics; [and] delays on allocation have presented difficulties for local government planning and managing finances throughout the fiscal year.”³⁷ According to the Auditor General, the Indian Act fails as legislation and there is “little federal legislation that applies to First Nations.”³⁸

Appropriate Legislative Base for Programs

5.58 The *Indian Act*, established in 1876, is widely considered to be an outdated piece of legislation that, for the most part, does not address current issues. Housing, education, and health and safety are examples of areas where legislation now exists provincially but where there is little federal legislation that applies to First Nations.³⁹

With respect to the federal government’s relationship with First Nations, there is an absence of legislation regarding public service provisions for First Nations. For the most part, the provision of such services is based on policies that are at the discretion of Ministers and public servants, in place of the role of legislation. This is a unique situation that First Nations people live under in Canada. No other population group in Canada resides in such an unregulated environment with regard to their governments.

Over the years, Canada’s First Nations have been subjected to the changing policy directions of new governments. This has meant that funding has been vastly inconsistent over time rather than being continued, sustained and predictable. Critical examples include the 21-year old 2% cap placed on federal funding for First Nations. First imposed in 1996, it meant that despite inflation and a fast-growing population, funding for First Nations communities, programs and services could only increase by two per cent each year. After twenty years of implementation it has recently been announced that this cap has been lifted.

The importance of new legislation was highlighted in the May 2006 Status Report of the Auditor General of Canada. Good legislation can, over time, replace all or many parts of that Act. In June 2011, the Auditor General of Canada released a Status Report, Chapter 4, which addressed programs for First Nations on Reserves. The Auditor General found “*that living conditions are poorer on First Nations reserves than elsewhere in Canada,*” and that the “*progress was*

generally unsatisfactory in implementing [previously made] recommendations that are most important to the lives and well-being of First Nations people.”⁴⁰ The report noted that a lack of a legislative base is an issue, as was a lack of clarity concerning comparability.

As Canada and First Nations move toward self-determination and possibly self-government, on a sectoral or comprehensive basis, legislation should initially be adopted and then amended over time to more effectively meet evolving needs. To provide a relevant example, when the territorial governments of Yukon and Northwest Territories assumed jurisdiction and responsibility for lands and resources from the federal government through devolution, they initially adopted the essence of the federal legislation to smooth the implementation process and amended it over time as problem areas became evident and needs evolved. To use one example, the formula moved from including a 100% tax back of Eligible Revenues, to the introduction of an Economic Development Incentive, to the inclusion of 70% of Revenue Capacity.⁴¹

A sound legislative base is required for Indigenous people to secure access to the type of public services and rights enjoyed by other Canadians. Legislation, by itself, cannot guarantee comparability and access, but it is hard to see how comparability, sufficiency and sustainability of funding and closing the gap can be assured to First Nations people without sound legislation.

4.2.2 Institutional Support

Institutional support will be crucial to helping First Nations establish a true nation-to-nation relationship (including fiscal) with the federal government. Taken together, the institutions enabled under the First Nations Fiscal Management Act (including the First Nations Tax Commission; First Nations Financial Management Board; and the First Nations Finance Authority) provide a reservoir of raw financial data and technical and administrative capacity and expertise that will be of great importance in the establishment of new First Nation institutions, including the First Nations Auditor General, as discussed below. There will be considerable crossover between all of these bodies as the following new institutions are established and begin to get off the ground.

The following are the most critical institutions to support comparability.

4.2.2.1 Independent Commission Governing the Relationship

An important weakness of the current relationship between Indigenous peoples and the federal government is the lack of formal structures to safeguard changes to the relationship beyond the leadership commitment of the government of the day, which is subject to sudden change. Short of prime ministerial or ministerial commitment, there are no mechanisms in place to ensure that the relationship is managed independently of political considerations. Legislation would ensure a base for the relationship but an independent commission would provide a non-

partisan platform from which partners can negotiate in a mutually beneficial structured way with cooperative oversight.

The federal government's relationship with Canada's Indigenous peoples is too important to be managed in an unstructured way. To allow for the development of the foundations needed to entrench agreed upon standards of comparability and ensure continued progress toward equalizing the standard of living of Indigenous communities in Canada, an external, independent body (such as First Nations Funding Arrangements Commission (FNFAC)) may be needed, established in legislation or the Constitution, to:

- support agreement on standards and formulas for comparing and determining funding and service levels;
- monitor the fiscal relationship; and
- ensure both sides meet their stated commitments and that the relevant discussions and negotiations take place to manage this relationship.

Such a body must have a sound legal footing, most likely being established in statute, be bound to meet with sufficient frequency, and be empowered with its own secretariat to manage operations and relationships.⁴²

The current government is already committed to implementing the recommendations of the Truth and Reconciliation Commission, which include a call to establish a National Council on Reconciliation as an independent, national oversight body with membership jointly appointed by the Government of Canada and national Indigenous organizations, with a mandate to monitor and report to Parliament on progress towards reconciliation. Models for this kind of body exist already, both around the world, and in proposals that have been made, but never implemented in Canada. Australia and South Africa are good examples of countries with intergovernmental institutional support, whereas New Zealand, Norway, and Sweden are examples of countries with co-operative federal-Indigenous institutional support.⁴³

It is worth noting that the Expert Panel on the TFF did not support the idea of establishing a separate, independent permanent commission to address TFF issues. Continuing the current approach with a legislated TFF program, expanded accountability, annual reporting requirements, and mechanisms for Parliamentary review, was viewed as being a better match for Canada's federation. The findings of this study, however, suggest otherwise, particularly given the federal government has not been consistent in reviewing the mechanisms and funding models used to determine changing fiscal requirements. An independent commission is also a risk-mitigation strategy for keeping commitments following the changing of governments.

4.2.2.2 First Nation Data and Statistical Institute

The more factors taken into account to measure differences in expenditure requirements, the more extensive the data requirements will be. Where the data available are initially limited, the factors taken into account can be expected to be limited. But over time, there tends to be a

strong and important relationship between the measurement of expenditure need and data development. The desire to improve the measurement of expenditure need will lead to a demand for more extensive and improved data, which may likely have not occurred without this demand. The enhanced data available will then be taken into account in the measurement of expenditure requirements.⁴⁴

It is recommended that a First Nation Data and Statistical Institute or supporting organizational structure be established. There is a need for an organization or a combination of organizations which can assist First Nation governments in collecting the data they need to manage for results and report to their citizens, to collate and aggregate data for regional and national reporting, to provide the comparative data to inform funding and service levels discussions, and to allow First Nation governments to assess outcome achievement vis a vis what is being achieved elsewhere. At the same time, there is a need for significant investments in systems to track indicators and measure outcomes.

It is clear that a supportive structure for the data needs of First Nation governments and for the common needs of First Nations and Canada must exist if the fiscal relationship between the federal government and First Nations is to progress toward better outcomes. In addition, governments need to recognize and factor in the cost to First Nations in collecting and managing data and statistical information.

DISC should work with the AFN either to identify a suitable successor organization, or encourage government to support a new entity (or entities) capable of supporting the production and delivery of timely, relevant, and accessible data on First Nations in Canada. The First Nations Information Governance Centre may be well placed to take on this role, or to advise on the appropriate form that any new institution should take.

At the federal level, there are a number of agencies that have a role in collecting vital data and statistics to inform funding levels. These include:

- Statistics Canada
- Canadian Institute for Health Information
- Public Health Agency of Canada

The expertise in these organizations should be leveraged in helping to develop the capacity of a First Nation Data and Statistical institute.

Understanding Past Failures

The First Nations Statistical Institute (FNSI) was created in 2006 under the First Nations Fiscal Management Act as a First Nations-led Crown Corporation. It was tasked with acquiring and increasing the accessibility of data relevant to First Nations in order to improve planning and decision-making in important policy areas. While historically there has been much information available about the lives of Indigenous peoples in Canada, produced by a range of organizations, it has been difficult for potential users to access. This is particularly true in

relation to health care – service provision and outcomes. Moreover, government statistical methods and approaches have often failed to meet the needs of First Nations, and many communities routinely boycotted data-gathering exercises by Statistics Canada and DISC.

The FNSI was established to address these challenges, and to become the authoritative source of information on the fiscal, economic, and social conditions of First Nations and their institutions. It was eliminated by federal budget cuts in 2014 without achieving any of its identified objectives. Understanding the contributing factors to the limited progress of the FNSI will be important to ensuring the success of a future First Nation Data and Statistical Institution.

4.2.2.3 First Nations Auditor General

Another important institution to support the nation-to-nation relationship is an Indigenous Auditor General (AG), who will serve to hold governments accountable for the manner in which they spend public funds, and to make recommendations to improve the functioning of public service organizations. Since the 1990s and the report of Royal Commission on Aboriginal People, there have been calls for a separate AG responsible for Indigenous peoples. The AFN has called for such an institution and DISC has done studies on its potential feasibility. A new institution could be created under the auspices of the current AG of Canada, in order to ensure that relevant expertise is retained and encouraged as the new Indigenous institution develops.

A series of private members' bills were introduced throughout the 1990s and 2000s that attempted to install such a mechanism, but all died on the order papers before they could become law. First Nations opposed these efforts as unilateral federal government efforts, citing flaws in the process of appointing the relevant officials, which was deemed not to sufficiently involve First Nations. Adequate consultation with Indigenous communities will be necessary to ensure that the new arrangement has legitimacy and the appointment process of key officials will need to be more than just a governor-in-council appointment, with appointments being made after due discussion with Indigenous groups. Such an institution would have to be First Nations led and First Nations specific. The capacity being developed by the institutions established under the First Nations Fiscal Management Act will be essential in obtaining the necessary expertise to make such an arrangement a practical, effective reality.

4.2.3 The Importance of Aggregation

It will be important to ensure First Nations have the capacity to support new funding and accountability arrangements pertaining to comparability, but comparability is very hard to achieve given the size, distribution, geographical locations and diversity of First Nations communities. Collective and collaborative initiatives between individual First Nations governments through community-driven nation rebuilding could increase capacity to introduce new funding models and arrangements in order to support true nation-to-nation relations and comparative approaches to service standards and access. Such collaboration and rebuilding could take place along treaty lines, along lines of culture or language, or along some other

metric, depending on First Nations preference. This speaks to the Royal Commission on Aboriginal People's recommendation on nation rebuilding:

We have concluded that the right of self-government cannot reasonably be exercised by small, separate communities, whether First Nations, Inuit or Métis. It should be exercised by groups of a certain size – groups with a claim to the term 'nation'.

The problem is that the historical Aboriginal nations were undermined by disease, relocations and the full array of assimilationist government policies. They were fragmented into bands, reserves and small settlements. Only some operate as collectivities now. They will have to reconstruct themselves as nations.⁴⁵

Individual communities should be empowered to reconstitute and rebuild themselves into larger nations, with the reconstruction taking the form most desired by communities. First Nations collective service provision has recently proven useful for increasing service access and achievement of standards in areas such as First Nation education and healthcare in British Columbia and First Nation education in Nova Scotia. As a result, regional cooperation should be given serious consideration in order to achieve better economies of scale and progress toward equitable and comparable service standards, access, delivery, and outcomes. This will likely require further study and analysis.

5. CONCLUSIONS AND RECOMMENDATIONS

Today, Canada is on the precipice of a new era in Indigenous relations. The federal government has committed to pursuing a nation-to-nation relationship based on recognition, rights, respect, co-operation and partnership with Indigenous people. The nation-to-nation relationship with Indigenous peoples has been identified as a seminal priority for Canada's sesquicentennial and presents an opportunity for Canada and Indigenous people to define a new path towards mutual prosperity.

In order to fully realize a new fiscal relationship, a transformative approach is required to determine appropriate service levels and funding models for First Nations. While many will argue that there are few comparator groups to First Nations – particularly given historical gaps in program and service levels – most will agree that new approaches to funding and comparability are required to better support First Nation communities in achieving the outcomes they both need and desire. Internationally, and in Canada, there are numerous examples of unique approaches that have been used to measure comparability and determine overall service requirements with isolated successes in areas such as education in Nova Scotia and health care in British Columbia.

While recognizing that flaws exist within the current system, immediate changes must be made to better address the need of First Nations. This includes transitioning from the current

program focused funding models towards statutory fiscal transfer models. Given the evidence found with this research, comparability needs to be made on a broad, program or sector level such as education, health, housing, community and social services envelopes. Funding requirements related to associated administration, capacity, infrastructure, language and culture would all be factored in under each broad program area (or funding envelope); rather than the current system of distributing funds through numerous administratively burdensome portfolios within programs.

There is a recognition that implementing the recommendations in this report (and those of other studies/reviews that came before it) will take time and that First Nation communities do not have the luxury of time. As a result, the IOG provides the following recommendations which are designed to introduce short term changes to the existing systems while developing new approaches and systems that can allow for fair comparability and renewed funding models that are predictable, sufficient and sustainable.

RECOMMENDATION 1: Transform Comparability Models for First Nations

At the most basic level, it is recommended that measurements of comparability should include a measure of need (consumption/demand) and expenditure to fulfill that need with comparison to non-Indigenous communities within the geographical vicinity. The Government of Canada would need to work with First Nations to establish comparisons with non-Indigenous communities within geographical vicinities (i.e. provincial comparisons for education). Parties will need to decide when and how to factor in resources (including own source revenue(OSR)/ability to pay) to provide the services as is done within other equalization models. As with self-governing First Nations, it is recommended that forms of Indigenous own-source revenue should not be considered in determining funding levels until current gaps in physical, social, and human capital are addressed.

Co-development and testing are required to build trust in the relationship and the introduction and use of composite indexes to determine funding levels to close gaps in public services and socio-economic outcomes. Demonstrated success in key program areas will lead to a willingness to fully adopt and develop composite indexes and standards in other large block program areas.

Develop and Test Needs-Based Indexes

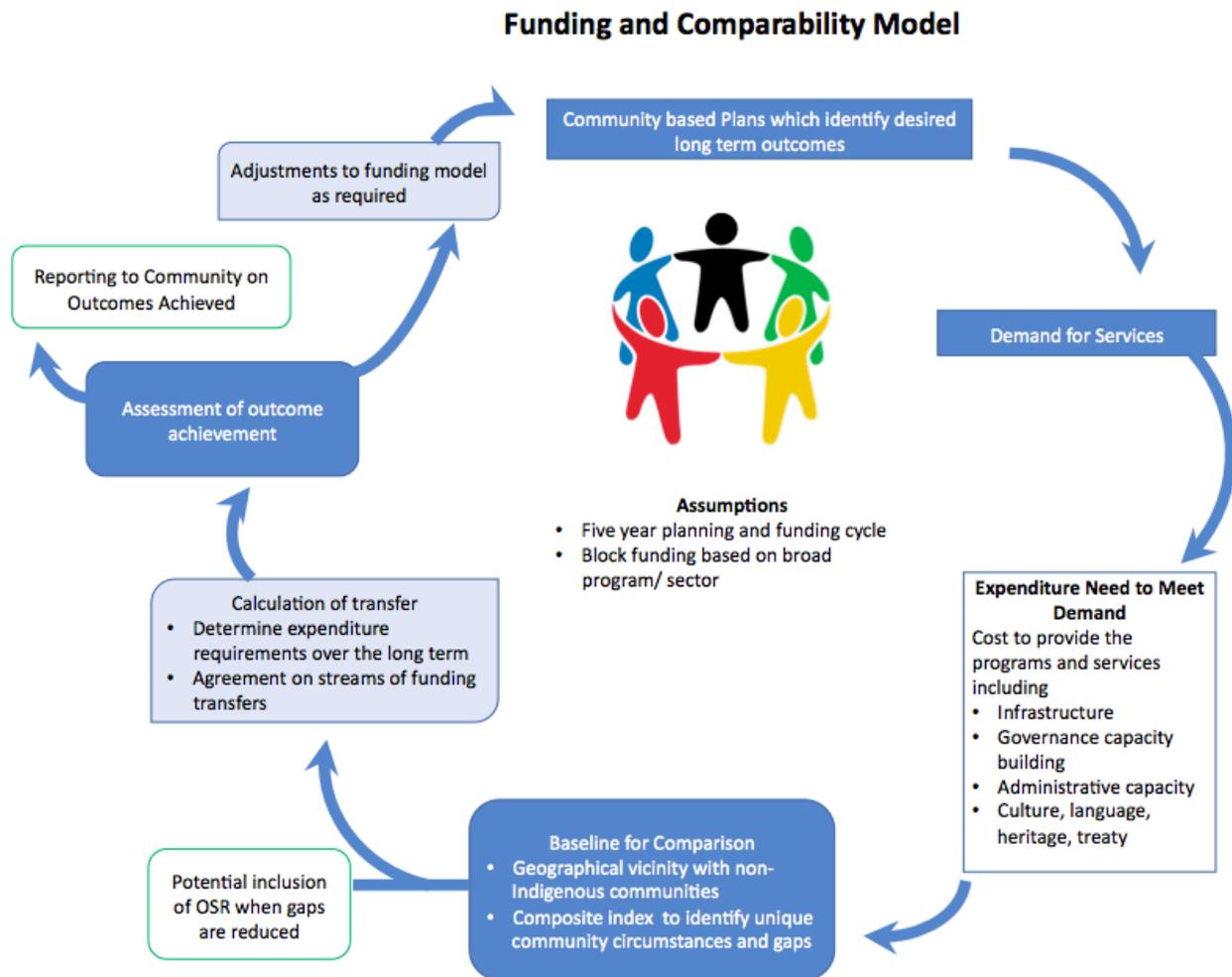
It is recommended that a multi-party working group be formed to first develop and test a needs-based (composite) index for a core service area (envelope) such as local public services (waste removal, water, etc.) or health, which can be drafted in relation to provincial/territorial standards. This working group will oversee testing and refinement of the model. This was an approach used by the BC FNHA and those consulted emphasized the need for all parties to work together to develop trust in each other, in the processes, formulas and the resulting outcomes.

These indexes are not static. They are regularly reviewed and modified based on new circumstances, better data, new policies, etc. Taking examples from other international

jurisdictions and recommendations from the TRC, factors included in a housing index might include: remoteness; water/sewage; number of occupants per household; unemployment; etc.

For First Nations, it is unlikely that the information and data required to support more detailed composite indexes are currently available. It is expected that these composite indexes will grow in complexity as they are tested, trusted, and as new data and information systems are developed to assess new factors of importance to First Nations.

The following chart illustrates the recommended approach to evolving funding and comparability models for First Nations:



As First Nation capacity grows, it is expected that the level of autonomy and flexibility in the funding arrangements will also evolve. Both the federal government and First Nations need to work in partnership to reform the current fiscal relationship.

RECOMMENDATION 2: Replace funding mechanisms with statutory fiscal transfers.

It is recommended that the funding of First Nation communities evolve from multiple contribution agreements to larger fiscal transfers; recognizing that interim steps may require a movement to longer term block funding. Many parties, including the AFN, the Penner Committee, and the Royal Commission on Aboriginal Peoples (RCAP), recommend the abandonment altogether of contributions, and the recognition of First Nations as an order of government, entitled to intergovernmental transfers routinely just as are provincial and territorial governments.

There is a clear desire to move to transparent, predictable and sustainable funding models for First Nation communities – ones that are reflective of outcomes. If legislated, statutory fiscal transfers would provide greater funding certainty, sustainability and the potential to reduce the reporting burden on First Nations while enhancing the quality of service they are able to provide. This would also demonstrate greater trust on the part of government, with considerably fewer paternalistic assumptions about the responsibility and capability of First Nations governments.

Long-term grants and eventually statutory fiscal transfers should be renewed at least every 10 years in order to provide consistency and predictability as well as address changing situations and conditions. Critical to any long-term fiscal transfers are scheduled review periods, where concerns regarding funding formulas can be addressed and adjustments made in order to ensure the funding is evolving as appropriate.

It is recommended that to get to statutory fiscal transfers, models must evolve from contribution agreement funding on a program by program basis to longer-term envelopes, leaving First Nations governments room to reallocate funding in accordance with their priorities. Consistency of funding between scheduled reviews is important in order to provide predictability, meet expectations, and readjust as situations demand.

RECOMMENDATION 3: Focus on outcomes.

Under the new fiscal relationship, government and First Nations should strive towards outcome-based funding models. These outcomes should be defined by First Nations as part of their plans to address both socio-economic gaps and long-term priorities.

It is important to note that focusing on outcomes does not mean that First Nations would be penalized for failing to produce outcomes. Outcomes are targets identified by the First Nations and governments should have the flexibility to try different approaches toward their achievement. Experiences of successes (and failures) should be shared among First Nations, and if the data shows that one approach is not working, then new avenues can be tried. Outcomes are easier to obtain on some files than on others. Having fewer people per housing unit, for example, can be achieved relatively easily through funding, which can be spent on building houses. Lowering addiction rates, on the other hand, may require a whole-of-community approach, incorporating both traditional and modern health care access and service delivery, and other factors, and results may take years to realize. Expected outputs (i.e. the building of X

number of houses) and desired outcomes (i.e. a significant drop in suicide rates) should be agreed upon, so that all partners are clear on timeframes and predicted results.

RECOMMENDATION 4: Legislate the foundations to the New Fiscal Relationship.

It is recommended that the federal government legislate the key foundations of the new fiscal relationship including legislating access to public services similar to provincial and territorial legislation for their residents. Such legislation would form the basis for developing funding and inter-government fiscal arrangements with First Nations governments.

Statutory fiscal transfers should be legislated to ensure commitment, predictability, and reliability. Institutional support, which will be crucial to helping First Nations establish a true nation-to-nation relationship (including fiscal) with the federal government, should also be legislated. These may include:

- First Nations Data and Statistical Institute
- First Nation Auditor General
- Independent Commission Governing the Relationship
- Independent financial advisory body similar in role to the Parliamentary Budget Officer (oversight on estimates, trends, and costs)

The entire structure and arrangement, based on agreement(s) between national Indigenous organizations (such as the AFN) and the federal government, should be imbedded in one or more pieces of legislation, and supporting regulations, including the standards, the funding, formulas, the establishment of the commission, including its responsibilities, and authorities.

A legislative base is essential to ensuring the commitment of future governments to a nation-to-nation relationship in terms of legislating funding commitments to Indigenous people. The Australian *Closing the Gap* initiative provides an example of the consequence of not securing long term commits to Indigenous peoples in legislation.

RECOMMENDATION 5: As the relationship evolves, mutual accountability models should be introduced with First Nation Leaders ultimately being accountable to their communities.

As part of this evolution of the nation-to-nation relationship, the federal government must work with First Nation communities to define outcomes and ensure appropriate accountability to First Nation citizens. Notions of accountability need to shift from a one-sided paternalistic relationship that is compliance-focused to mutual accountability models that reflect a true partnership. There is a need for accountability to shift from the federal government to First Nations citizens. Accountability necessitates trust and transparency, and reports should be available to First Nations citizens.

The federal government and First Nations must be willing to co-operate, negotiate, and test funding models in order to improve them. Trust is necessary, and building trust between the

parties will take time and collaboration and transparency within the process and among parties will be foundational in building trust. The federal government and First Nations should practice transparency and openness in fiscal matters – in particular, through public disclosure of funding methodologies, transfers, budgets and financial statements. An independent financial advisory body similar in role to the Parliamentary Budget Officer, (oversight on estimates, trends, and costs), could help in this area.

RECOMMENDATION 6: Encourage collaboration between First Nations communities through aggregation.

Individual communities should be empowered to reconstitute and rebuild themselves into larger nations, with the reconstruction taking the form most desired by communities. First Nations collective service provision has recently proven useful for increasing service access and achievement of standards, and this can be viewed as a positive step toward aggregation, which takes time.

RECOMMENDATION 7: Transform the reporting burden.

It is recommended that the reporting burden for First Nations communities be dramatically reduced. The reporting burden costs First Nations in terms of time and administrative and financial resources, and the reports are still not being used to reflect community priorities and performance indicators.

Within the new nation-to-nation relationship, accountability for results should fundamentally evolve from First Nation to the federal government towards First Nations to their people – similar to that found with fiscal transfers from the federal government to provincial and territorial governments. Reports should be community-based and highlight the achievement of planned results and outcomes rather than program-based and contractual outputs. This is no easy task and investments need to be made to build capacity among First Nations to undertake long term community planning (including defining targets and outcomes) and building the systems to support accurate and timely monitoring of progress and reporting on results.

Summary

The call to action and for change in Canada's relationship with its First Nations is not new; there have been many including the Truth and Reconciliation Commission; the Canadian Human Rights Tribunal; the United Nations Report of the Special Rapporteur on the Rights of Indigenous Peoples; (see Annex B for further information). These calls have resulted in limited meaningful change and have failed to meet the basic human rights and principles for Canada's Indigenous people. Meaningful and long-term change will require bold actions. Next steps will require a commitment to address the needs of First Nation based on a national strategy; a transparent and agreed upon approach to determining comparability; legislation to ensure

future governments do not alter the commitment to First Nations; and the introduction of renewed government-to-government relationship based on mutual accountability.

Changes to the existing system should be conducted in three stages. The first stage would consist of research and development toward reform while adjusting funding models towards longer term block funding. The second would consist of investment in longer-term changes, and the final stage is the implementation of changes that would fundamentally alter the fiscal relationship and the long-term outcomes for First Nations. The following table highlights the recommended criteria for each stage.

Short Term (1Year)	Medium Term (Year 2-3)	Long Term (Year 5+)
Consult with FN on grant and statutory funding model by envelope	Begin drafting of legislative changes and consultations on legislative changes including statutory transfer funding	Legislate the foundation for the new fiscal First Nations/Crown relationship
Begin consultations with FN on planning for outcomes, data and information gaps, key factors to include in a needs-based index; potential legislative changes; institutional supports	Introduce outcome-based reporting	Implement outcomes-based plans
Begin developing mutual accountability model	Introduce 10-year block funding	Implement Statutory Fiscal Transfers
Engage First Nations on critical institutional supports and priorities	Begin testing composite index	Implement outcome-based reporting
Begin developing composite index based on factors unique to FN and relevant standards	Pilot outcome-based plans	First Nation begin reporting on achievement of outcomes as outlined in the plans
Implement 10-year grant (envelope) funding	Implement and test mutual accountability model	Facilitate or work toward aggregation
Build capacity for planning and reporting	Co-development of institutional supports	
Develop approaches to support community-based outcome planning	Develop statutory fiscal transfer funding formulas based on community demand and costs to meet demand (both expenditure and capacity) in relation to PT standards	
	Create systems for collecting	

Short Term (1Year)	Medium Term (Year 2-3)	Long Term (Year 5+)
	the required data to inform comparability and reporting on outcomes	

ANNEX A: TYPES OF TRANSFERS

The most common types of transfers are:

Equalization general purpose block transfers in Scandinavian countries, as in Canada, tend to be provided for the funding of agreed-upon services, but the spending of those funds is often discretionary in practice since federal governments, generally, do not want to infringe upon the independent-decision-making capabilities of democratic subnational governments.

Specific purpose block transfers are “intended to provide incentives for governments to undertake specific programs or activities. These grants may be regular or mandatory; discretionary or ad hoc. They typically specify the type of expenditures that can be financed (input-based conditionality) [...but they] may also require attainment of certain results in service delivery (output-based conditionality).”⁴⁶

Some other types of transfers are:

Transfer Payments: “A monetary payment, or a transfer of goods, services or assets to a third party that does not result in the acquisition by the Government of any goods, services or assets.”⁴⁷

Grants: “A grant is an unconditional transfer payment where the eligibility criteria that are applied before payment assure that the payment objectives will be met. An individual or organization that meets the eligibility criteria for a grant can usually receive the payment without having to meet any further conditions. Grants are not subject to being accounted for or audited.”⁴⁸

Conditional Grants: These are used to finance provincial infrastructure projects, which tend to be one-time payments rather than reoccurring. Specific purpose grants can be used for projects such as building schools or hospitals, which are usually linked to national objectives, although they do call into question provincial independence since they serve to influence the spending behaviour of provinces.

Contributions: “A contribution is a conditional transfer payment in which there are specific terms and conditions that must be met by a recipient before payment is given. Contributions, unlike grants, are subject to performance conditions that are specified in a contribution agreement. Before receiving a contribution, the recipient must provide a performance measurement strategy, including an explanation of the program objectives and expected results; performance indicators and targets; and internal audit and evaluation strategies. The government can audit the recipient’s use of a contribution.”⁴⁹

ANNEX B: CALLS FOR CHANGE

Royal Commission of Aboriginal People

With regard to financing Aboriginal governments, in 1996 the Royal Commission of Aboriginal People recommended that:

- Aboriginal governments established under a renewed relationship have fundamentally new fiscal arrangements, not adaptation or modification of existing fiscal arrangements for Indian Act band governments. (2.3.17)
- The financing mechanism used for equalization purposes be based not only on revenue-raising capacity, but also take into account differences in the expenditure needs of the Aboriginal governments they are designed to support, as is done with the fiscal arrangements for the territorial governments, and that the tax effort that Aboriginal governments make be taken into consideration in the design of these fiscal arrangements. (2.3.18)
- Financial arrangements provide greater fiscal autonomy for Aboriginal governments by increasing access to independent own-source revenues through a fair and just redistribution of lands and resources for Aboriginal peoples, and through the recognition of the right of Aboriginal governments to develop their own systems of taxation. (2.3.19)
- Aboriginal citizens living on their territory pay personal income tax to their Aboriginal governments; for Aboriginal citizens living off the territory, taxes continue to be paid to the federal and relevant provincial government; for non-Aboriginal residents on Aboriginal lands, several options exist:
 - all personal income taxes could be paid to the Aboriginal government, provided that the level of taxation applied does not create a tax haven for non-Aboriginal people;
 - all personal income taxes could be paid to the Aboriginal government, with any difference between the Aboriginal personal income tax and the combined federal and provincial personal income tax going to the federal government (in effect, providing tax abatements for taxes paid to Aboriginal governments); or
 - provincial personal income tax could go to the Aboriginal government and the federal personal income tax to the federal government in circumstances where the Aboriginal government decides to adopt the existing federal/provincial tax rate. (2.3.20)
- Aboriginal governments reimburse provincial governments for services the latter continue to provide, thereby forgoing the requirement for provincial taxes to be paid by their residents. (2.3.21)
- Non-Aboriginal residents be represented effectively in the decision-making processes of Aboriginal nation governments. (2.3.22)
- Revenues arising from specific claims settlements not be considered a direct source of funding for Aboriginal governments and therefore not be included as own-source funding for purposes of calculating fiscal transfers. (2.3.23)

- Financial settlements arising from comprehensive land claims and treaty land entitlements not be considered a direct source of funding for Aboriginal governments. (2.3.24)
- Investment income arising from Aboriginal government decisions to invest monies associated with a financial settlement — either directly or through a corporation established for this purpose — be treated as own-source revenue for purposes of calculating intergovernmental fiscal transfers unless it is used to repay loans advanced to finance the negotiations, to offset the effect of inflation on the original financial settlements, thereby preserving the value of the principal, or to finance charitable activities or community works. (2.3.25)
- Federal and provincial governments and national Aboriginal organizations negotiate(a) a Canada-wide framework to guide the fiscal relationship among the three orders of government; and (b) interim fiscal arrangements for those Aboriginal nations that achieve recognition and begin to govern in their core areas of jurisdiction on existing Aboriginal lands. (2.3.26)

May 2006 Status Report of the Auditor General of Canada

In the May 2006 Status Report of the Auditor General of Canada, the importance of new legislation was highlighted:

Appropriate Legislative Base for Programs

5.57 A legislative base for programs clarifies respective roles and responsibilities, eligibility, and other program elements. For example, in the area of prescription drug use analysis and the potential for serious harm caused by the misuse of prescription drugs, we noted the absence of specific enabling legislation and recommended that the Department seek a renewed mandate to clarify the authority base, purpose, and objective of the program. In this case, the absence of a legislative base caused confusion among government officials and clients about the jurisdiction, allocation of responsibilities, and rights of the Department and clients. We noted that Health Canada has not sought a legislative mandate for its Non-Insured Health Benefits program. Senior officials have also noted the importance of such a mandate for identifying and clarifying the rights and obligations of both the federal organization and its clientele.

5.58 The *Indian Act*, established in 1876, is widely considered to be an outdated piece of legislation that, for the most part, does not address current issues. Housing, education, and health and safety are examples of areas where legislation now exists provincially but where there is little federal legislation that applies to First Nations.

5.59 In other cases, new legislation has served to provide a sound foundation for initiatives. The government has brought forward legislation for the successful conclusion of land claims and the development of new institutions. In addition, Indian and Northern Affairs Canada and First Nations have also co-operated in developing the *First Nations Land Management Act*, *First*

Nations Oil and Gas and Moneys Management Act, and the First Nations Commercial and Industrial Development Act. We found that the processes leading to the successful legislation in these instances had the following common elements: First Nations proposed the legislation to address roadblocks to progress they had identified, and the legislation resulted from successful negotiations and addressed First Nations needs. We noted that the legislation assisted the federal government in meeting its stated policy objectives, and the legislation includes the provision for optional participation of individual First Nations.

United Nations Declaration on the Rights of Indigenous Peoples, 2007

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights⁴ and international human rights law.

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programs affecting them and, as far as possible, to administer such programs through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and wellbeing of the indigenous peoples of the world.

Auditor General 2011 Report

In June 2011 the Auditor General of Canada released a Status Report, Chapter four of which addressed Programs for First Nations on Reserves. The Auditor General found “that living conditions are poorer on First Nations reserves than elsewhere in Canada,” and that the “progress was generally unsatisfactory in implementing [previously made] recommendations that are most important to the lives and well-being of First Nations people.”⁵⁰ The report noted the following four structural impediments that “severely limit the delivery of public services to First Nations communities and hinder improvements in living conditions on reserves:”

- lack of clarity about service levels,
- lack of a legislative base,
- lack of an appropriate funding mechanism, and
- lack of organizations to support local service delivery.

Under the first impediment, the report mentioned a lack of clarity when it comes to comparability to be a major concern.

2011 June Status Report of the Auditor General of Canada: Lack of clarity about service levels

Mainly through INAC, the federal government supports many services on reserves that are normally provided by provincial and municipal governments off reserves. It is not always evident whether the federal government is committed to providing services on reserves of the same range and quality as those provided to other communities across Canada. In some cases, the Department’s documents refer to services that are reasonably comparable to those of the provinces. But comparability is often poorly defined and may not include, for instance, the level and range of services to be provided.

To provide true comparability, it would be important to include a clear statement of comparability in program objectives and define comparability on a program-by-program basis. Roles and responsibilities would also need to be specified, as would the level of services required for comparability. In addition, the costs of achieving comparability would have to be determined and programs would have to be adequately funded. It would be necessary to establish measures for evaluating performance and determining whether the program was achieving the desired outcomes.⁵¹

Truth and Reconciliation Committee’s Calls to Action

The Truth and Reconciliation Commission of Canada Calls to Action includes some calls which are relevant to the future of funding and comparability models between First Nations and the federal government. Since Prime Minister Justin Trudeau has stated his intention to implement these calls, consideration must be given to the ones which speak to comparability.

Truth and Reconciliation Commission of Canada Calls to Action that are Relevant to Comparability	
Child Welfare	<p>1. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care by:</p> <ul style="list-style-type: none"> i. Monitoring and assessing neglect investigations. ii. Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside. iii. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the history and impacts of residential schools. iv. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the potential for Aboriginal communities and families to provide more appropriate solutions to family healing. v. Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers. <p>2. We call upon the federal government, in collaboration with the provinces and territories, to prepare and publish annual reports on the number of Aboriginal children (First Nations, Inuit, and Métis) who are in care, compared with non-Aboriginal children, as well as the reasons for apprehension, the total spending on preventive and care services by child-welfare agencies, and the effectiveness of various interventions.</p>
Education	<p>8. We call upon the federal government to eliminate the discrepancy in federal education funding for First Nations children being educated on reserves and those First Nations children being educated off reserves.</p> <p>9. We call upon the federal government to prepare and publish annual reports comparing funding for the education of First Nations children on and off reserves, as well as educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people.</p> <p>10. We call on the federal government to draft new Aboriginal education</p>

	<p>legislation with the full participation and informed consent of Aboriginal peoples. The new legislation would include a commitment to sufficient funding and would incorporate the following principles:</p> <ul style="list-style-type: none"> i. Providing sufficient funding to close identified educational achievement gaps within one generation. ii. Improving education attainment levels and success rates. iii. Developing culturally appropriate curricula. iv. Protecting the right to Aboriginal languages, including the teaching of Aboriginal languages as credit courses. v. Enabling parental and community responsibility, control, and accountability, similar to what parents enjoy in public school systems. vi. Enabling parents to fully participate in the education of their children. vii. Respecting and honouring Treaty relationships.
<p>Health</p>	<p>18. We call upon the federal, provincial, territorial, and Aboriginal governments to acknowledge that the current state of Aboriginal health in Canada is a direct result of previous Canadian government policies, including residential schools, and to recognize and implement the health-care rights of Aboriginal people as identified in international law, constitutional law, and under the Treaties.</p> <p>19. We call upon the federal government, in consultation with Aboriginal peoples, to establish measurable goals to identify and close the gaps in health outcomes between Aboriginal and non-Aboriginal communities, and to publish annual progress reports and assess long-term trends. Such efforts would focus on indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.</p> <p>20. In order to address the jurisdictional disputes concerning Aboriginal people who do not reside on reserves, we call upon the federal government to recognize, respect, and address the distinct health needs of the Métis, Inuit, and off-reserve Aboriginal peoples.</p>

UN Report: The Situation of Indigenous Peoples in Canada

In 2014 the United Nations published a Report of the Special Rapporteur on the Rights of Indigenous Peoples: The situation of Indigenous Peoples in Canada. The report found that, in the ten years since their last report, the well-being gap between aboriginal and non-aboriginal people in Canada has not narrowed.” The report included criticisms and also noted positive developments. Those which are relevant to the discussion are included on the table below.

UN Report of the Special Rapporteur on the Rights of Indigenous Peoples: Key Points⁵²	
Social and Economic conditions	<p><u>Criticisms</u></p> <p>Although in 2004 the previous Special Rapporteur recommended that Canada intensify its measures to close the human development indicator gaps between indigenous and non-indigenous Canadians in health care, housing, education, welfare, and social services, there has been no change in that gap in the intervening period in relation to registered Indians/First Nations. (paragraph 15)</p> <p>One might expect that the costs of social services required by indigenous peoples would be higher than those of the general population given their needs and the geographic remoteness of many indigenous communities. However, it does not appear that Canada has dedicated higher resources to social services for indigenous peoples. (16)</p> <p><u>Positive Developments</u></p> <p>Socio-economic conditions for Métis and non-status Indians have improved, according to government data. (15)</p>
Education	<p><u>Criticisms</u></p> <p>At every level of education, indigenous people overall continue to lag far behind the general population. Government representatives have attributed the gap in educational achievement in large measure to high levels of poverty, the historical context of residential schools, and systemic racism. (17)</p> <p><u>Positive Developments</u></p> <p>It bears noting that there exist a number of laudable government education programs, some of which have demonstrated success. The Aboriginal Head Start in Urban and Northern Communities program has shown achievements in eliminating disparities between aboriginal and non-aboriginal children in terms of school readiness; unfortunately, this program reaches less than 10 % of aboriginal children. Additionally, some provincial governments are making efforts to ensure that Canadian students learn more about the aboriginal contribution to the country, and to promote aboriginal students' success. For example, Saskatchewan has mandatory treaty education and includes First Nations and Metis content, perspectives and ways of knowing into curricula, and is currently developing a pilot strategy for teaching Cree. (19)</p> <p>In a positive development, in February 2014, the Government, supported by the Assembly of First Nations, announced CAN\$1.9 billion in additional education funding starting in 2015, including CAN\$500 million for education infrastructure, and a 4.5 per cent annual "escalator" for core funding, to commence in 2016, in place of the longstanding two per cent cap on funding increases. The Government</p>

	<p>also affirmed that First Nations will maintain control over education. However, it remains unclear to what extent First Nations were adequately consulted about these developments. (22)</p>
<p>Housing</p>	<p><u>Criticisms</u></p> <p>The housing situation in Inuit and First Nations communities has reached a crisis level, especially in the north, where remoteness and extreme weather exacerbate housing problems. Overcrowded housing is endemic. Homes are in need of major repairs, including plumbing and electrical work. (24)</p> <p>Overall, investments have not kept pace with the demand for new housing or the need for major renovations to existing units. Government representatives have attributed the lack of adequate funding in a large measure to the difficulties presented by the communal ownership of indigenous lands in obtaining mortgages or financing for housing. In response, the Government has established loan guarantees, for which First Nations can apply, to provide security for on-reserve housing loans. Despite loan guarantee increases in recent years, much more remains to be done to provide secure loans for housing, both on and off reserve, in a way that respects and accommodates for the communally held nature of aboriginal lands. (26)</p> <p><u>Positive Developments</u></p> <p>CMHC provides funding to provinces and territories for housing, which in turn, decide on priorities in their respective jurisdictions. This affords provinces and territories the flexibility to design and deliver programs in order to address Inuit-specific housing needs and priorities as they see fit. In addition to CMHC funding, some arrangements specific to housing in the Inuit regions have been made. Most recently, the Government of Canada announced an investment of CAN\$100 million, over two years, to support the construction of about 250 new housing units in Nunavut under Canada’s Economic Action Plan 2013. (27)</p> <p>The Special Rapporteur notes with satisfaction the enactment in June 2013 of legislation regarding on-reserve matrimonial real property, the Family Homes on Reserve and Matrimonial Interests or Rights Act, to provide equivalent protections to aboriginal women in the event of a marriage breakdown, as recommended by the previous Special Rapporteur in 2004. (28)</p>
<p>Health</p>	<p><u>Criticisms</u></p> <p>The health of First Nations, Inuit and Métis people in Canada is a matter of significant concern. Although overall the health situation of indigenous peoples in Canada has improved in recent years, significant gaps still remain in health outcomes of aboriginal as compared to non-aboriginal Canadians, including in terms of life expectancy, infant mortality, suicide, injuries, and communicable and</p>

	<p>chronic diseases such as diabetes. (29)</p> <p><u>Positive Developments</u></p> <p>A recent positive development in British Columbia, which could provide a model for other areas, is the 2013 implementation of a tripartite agreement to achieve a more responsive health care system. The oversight and delivery of federally funded health services in British Columbia have been transferred to First Nations, while the three levels of government (First Nations, provincial and federal) work collaboratively to support integration and accountability. (30)</p> <p>In a positive development, in 2000 the Province of Manitoba and the Manitoba Métis Federation, which represents Métis rights and interests in the province, signed a memorandum of understanding for the delivery of community-based and culturally appropriate child and family services, which has demonstrated important successes. (31)</p>
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The report concluded with recommendations, four of which are relevant to the funding, and delivery, of services:

- The Government should ensure sufficient funding for services for indigenous peoples both on and off reserve, including in areas of education, health, and child welfare, in light of the rights and significant needs of indigenous peoples and the geographic remoteness of many indigenous communities; and insure that the quality of these services is at least equal to that provided other Canadians. (84)
- Federal, provincial and aboriginal governments should improve upon their coordination in the delivery of services. Continued efforts should be made to support indigenous-run and culturally appropriate social and judicial services, and to strengthen and expand programs that have already demonstrated successes. (85)
- Canada must take urgent action to address the housing crisis in indigenous communities both on and off reserve, especially communities in the north, and dedicate increased funding towards this end. In particular, the Government as a matter of urgency should work with Inuit representatives to ensure affordable, sustainable and adequate housing in the Arctic, and to design and construct housing to adapt to the region's environment and culture. (86)
- The Government should work with indigenous peoples to enhance education opportunities for them, and in particular should consult with indigenous peoples, through their representative institutions, to address any outstanding concerns they may have related to the proposed First Nations Education Act, including with respect to adequate funding. (87)

First Nations Child and Family Caring Society of Canada CHRT Ruling

In February 2007, Cindy Blackstock, executive director of the First Nations and Family Caring Society, and the Assembly of First Nations, filed a complaint against Ottawa with the Canadian Human Rights Commission, arguing that the federal government provides less funding for child welfare on reserves than provincial governments provide for children off reserves. As a result, they argued, more children on reserves end up in the child welfare system.

In a decision published in January 2016, The Canadian Human Rights Tribunal agreed, explaining that “AANDC’s design, management and control of the FNCFS Program, along with its corresponding funding formulas and the other related provincial/territorial agreements have resulted in denials of services and created various adverse impacts for many First Nations children and families living on reserves.”⁵³

The Tribunal ruled that the government “cease the discriminatory practice and take measures, in consultation with the Commission on the general purposes of the measures, to redress the practice or to prevent the same or a similar practice from occurring in future.” On comparability, the judges wrote “AANDC’s reasonable comparability standard does not ensure substantive equality in the provision of child and family services for First Nations people living on reserve.”

**First Nations Child and Family Caring Society of Canada et al. v. Attorney
General of Canada (for the Minister of Indian and Northern Affairs Canada),
January 26, 2016**

[465] AANDC’s reasonable comparability standard does not ensure substantive equality in the provision of child and family services for First Nations people living on reserve. In this regard, it is worth repeating the Supreme Court’s statement in *Withler*, at paragraph 59, that “finding a mirror group may be impossible, as the essence of an individual’s or group’s equality claim may be that, in light of their distinct needs and circumstances, no one is like them for the purposes of comparison”. This statement fits the context of this complaint quite appropriately. That is, human rights principles, both domestically and internationally, require AANDC to consider the distinct needs and circumstances of First Nations children and families living on-reserve - including their cultural, historical and geographical needs and circumstances – in order to ensure equality in the provision of child and family services to them. A strategy premised on comparable funding levels, based on the application of standard funding formulas, is not sufficient to ensure substantive equality in the provision of child and family services to First Nations children and families living on-reserve.

Reporting on Ottawa’s progress a year later, in May 2017 the Tribunal found that “despite a number of positive and encouraging developments, Canada has not yet brought itself into full compliance with the Tribunal’s rulings regarding Jordan’s Principle,” that “Canada is not yet in full compliance with this Panel’s orders,” and that “Canada seems to want to continue

proffering similar policies and practices to those that were found to be discriminatory.”⁵⁴ A main area of concern was that the definition of ‘Jordan’s Principle’ remained too limited. On comparability, the judges wrote of its limitations as a model, as well as that of the “normative standard of care,” since they do not take into account specific needs and historical disadvantages.

First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada), May 26, 2017

[69] [T]he emphasis on the “normative standard of care” or “comparable” services in many of the iterations of Jordan’s Principle above does not answer the findings in the Decision with respect to substantive equality and the need for culturally appropriate services (see Decision at para. 465). [cited above] The normative standard of care should be used to establish the minimal level of service only. To ensure substantive equality and the provision of culturally appropriate services, the needs of each individual child must be considered and evaluated, including taking into account any needs that stem from historical disadvantage and the lack of on-reserve and/or surrounding services (see Decision at paras. 399-427).

[70] In this regard, the normative standard of care in a particular province may help to identify some gaps in services to First Nations children. It is also a good indicator of the services that any child should receive, whether First Nations or not. For example, in the hearing on the merits, the Panel heard that Health Canada will only pay for one medical device out of three and, if it is a wheelchair, it is paid for once every five years. The normative standard of care generally provides for all three devices to be paid for (see Decision at para. 366 and Jordan’s Principle Dispute Resolution Preliminary Report (Terms of Reference Officials Working Group, May 2009), Exhibit HR-13, tab 302). This example highlights the gap and flawed rationale contributing to Health Canada’s policy, which does not take into account a child’s growth over five years.

[71] However, the normative standard may also fail to identify gaps in services to First Nations children, regardless of whether a particular service is offered to other Canadian children. As The Way Forward for the Federal Response to Jordan’s Principle – Proposed Definitions document identifies [...], under the “Considerations” for “Option One”: “The focus on a dispute [over payment of services between or within governments] does not account for potential gaps in services where no jurisdiction is providing the required services.”

In November, 2017, The First Nations Child & Family Caring Society of Canada initiated their “Spirit Bear Plan” to End Inequalities in Public Services for First Nations Children, Youth and Families.

Through this campaign, they call on:

1. **CANADA** to immediately comply with all rulings by the Canadian Human Rights Tribunal ordering it to immediately cease its discriminatory funding of First Nations

- child and family services. The orders further require Canada to fully and properly implement Jordan's Principle (www.jordansprinciple.ca).
2. **PARLIAMENT** to ask the Parliamentary Budget Officer to publicly cost out the shortfalls in all federally funded public services provided to First Nations children, youth and families (education, health, water, child welfare, etc.) and propose solutions to fix it.
 3. **GOVERNMENT** to consult with First Nations to co-create a holistic Spirit Bear Plan to end all of the inequalities (with dates and confirmed investments) in a short period of time sensitive to children's best interests, development and distinct community needs.
 4. **GOVERNMENT DEPARTMENTS** providing services to First Nations children and families to undergo a thorough and independent 360° evaluation to identify any ongoing discriminatory ideologies, policies or practices and address them. These evaluations must be publicly available.
 5. **ALL PUBLIC SERVANTS**, including those at a senior level, to receive mandatory training to identify and address government ideology, policies and practices that fetter the implementation of the Truth and Reconciliation Commission's Calls to Action.

National Inquiry into Missing and Murdered Indigenous Women and Girls Calls to Action

In the National Inquiry into Missing and Murdered Indigenous Women and Girls Interim Report, released November 1, 2017, the inquiry made some preliminary recommendations and calls to action. Those which are relevant to funding or providing essential support services include the following:

- Improved access to safe housing for Indigenous women, girls, and LGBTQ2S people;
- Responsive, accountable, and culturally appropriate child and family services; bridging education (primary to post-secondary), skills training, and employment gaps between Indigenous peoples and non-Indigenous people;
- Addressing the disproportionate rates of poverty among Indigenous people, and Indigenous women specifically;
- Accessible and culturally appropriate health, mental health, addictions, and trauma services for Indigenous women, girls, and LGBTQ2S people;
- Programming for Indigenous men to help break and prevent cycles of violence;
- More frequent and accessible transportation services available to Indigenous women, girls, and LGBTQ2S people;
- That federal, provincial, and territorial governments provide project funding, in addition to regular operational funds, to help ensure Indigenous organizations' full and meaningful participation in the National Inquiry.
- That the federal government immediately provide additional funding to Health Canada's Resolution Health Support Program and expand its services to meet the

- increased needs flowing from the National Inquiry's work, and at a minimum for the duration of the National Inquiry.
- That Health Canada's Resolution Health Support Program provide funding to Indigenous organizations and other service providers (including provincial and territorial governments) through contribution agreements and transfer funds to provide the necessary health supports to families and survivors participating in the National Inquiry's Truth-Gathering Process and engaging in its commemoration activities⁵⁵

Prime Minister's Commitment

On August 28, 2017, through a statement from the PMO's office, Prime Minister Justin Trudeau repeated his stated commitment to a renewed relationship with Indigenous Peoples and recognized the socioeconomic gap between Indigenous Peoples and non-Indigenous Canadians:

The Government of Canada is committed to a renewed relationship with Indigenous Peoples, based on the recognition of rights, respect, co-operation, and partnership.

We have worked to implement this vision along two interrelated tracks: closing the socioeconomic gap between Indigenous Peoples and non-Indigenous Canadians, and making foundational changes to our laws, policies and operational practices based on the recognition of rights to advance self-determination and self-government.

We recognize that relationships built on colonial structures have contributed to the unacceptable socio-economic gap. While day-to-day realities in Indigenous communities must continue to be addressed directly, there must also be a path to systematic change.

[...W]e need to shed the administrative structures and legislation that were conceived in another time for a different kind of relationship. The moment is upon us to work with even more focus with Indigenous Peoples and our provincial and territorial partners toward making our national journey of reconciliation a reality.

<https://pm.gc.ca/eng/news/2017/08/28/new-ministers-support-renewed-relationship-indigenous-peoples>

ANNEX C: SUMMARIES OF INTERVIEWS

Education and Social Development Program and Partnership

During our interview, federal officials explained that the program baselines are “not about inputs anymore,” but comparable outcomes. There are a variety of programs and they are in the process of transformation, in discussion with First Nations.

The process for calculating education funding was described as “extremely complex,” but ultimately the calculation process is “regional, based on (per capita) provincial comparability and First Nations' needs.” Historical programs are also a factor, and it usually comes down to a “local discussion,” the desire to offer similar services as provinces offer, and adding additional elements such as language and cultural studies. Comparability is used for calculating the scope of services but given constrained budgets federal departments don’t often provide the exact same services as provinces (e.g., provinces will often provide case workers, while the federal government often does not provide the resources for these services). Funding is primarily based on provincial standards on a program-by-program basis.

Interviewees mentioned that there is research being conducted in Atlantic Canada on what social assistance funding/programs the provinces offer in comparison to what First Nations receive. There is some concern by First Nations that the two are not comparable, which is the reason for the study.

Looking forward, the interviewees would like to take a social determinants approach. This would focus on community needs and how they are expressed rather than just strict comparability to provincial programs. The interviewees expressed that the route to positive change is to increase First Nation control over programs, provide large block funds, and collectively look at outcomes, gaps, and solutions over time. They recommend getting out of a ‘one size fits all’ mentality, deciding formula at a local level through community planning (should First Nations opt to develop community plans), and creating a formula that takes remoteness into account. Also noted was a need to shift emphasis away from the reporting burden, and focus on “outcomes rather than counting dimes,” because, at present, they “follow every penny, but that hasn’t been fruitful.”

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Education and Social Development Program and Partnership	√	√	√	√

Health Canada, First Nations and Inuit Health Branch (FNIHB), Assistant Deputy Minister, Regional Operations

FNIHB was explained as being “complementary” to provincial services. The model was described as being “post WWII” and underfunded due to a 3% cap, which is not enough to cover the growth of both prices for services and population. First Nations are eligible to receive supplementary funds that are time-limited and are used for basic services, such as covering the cost of nurses, and responding to emergencies.

There has been an increase in home community care, and funding is based on the population of registered ‘Indians’ on a reserve, with an adjustment for remoteness. A “service” gap assessment was conducted in 2016, so they are focusing on programs identified as required, such as prenatal health. They would prefer partnership in services with First Nation communities, so as to “negotiate the compliment.”

Describing a few provinces, it was explained that Saskatchewan created a committee co-partnership, and First Nations do their own gap analysis. Ontario is co-coordinated by the Chiefs of Ontario. Manitoba has consultation with advisory tables represented by tribal councils, and the British Columbia First Nations Health Authority receives a large block for operations. The latter was noted as a productive model, that they have done “amazing work in focusing on access with positive outcomes.” It was also mentioned how the Northwest Territories is a hybrid of agreements because of self-governance; Yukon is covered by a tri-partite table, and Nunavut is covered by a Memorandum of Understanding.

Final thoughts were that they encourage looking at the needs of each community, that this is a transition period, and that, while still very program-based, they are “operating now by working with First Nations and population health trends,” although there “needs to be more strategizing based on essential services and the feds need to entrench themselves.”

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Health Canada, First Nations and Inuit Health Branch, Assistant Deputy Minister, Regional Operations	√	√	√	

Treaties and Aboriginal Government, Fiscal Policy Directorate

The focus for Treaties and Aboriginal Government is on “input and outputs” and it was expressed during our interview that comparability, understood as a synonym for “expenditure need,” relates to baseline funding and funding for unique community issues or conditions. The Fiscal Policy Directorate also suggested that comparability should not be linked to outcomes because it is difficult to measure and it is difficult to ensure accountability.

The interviewees explained that currently the emphasis is on closing gaps, making commitments to negotiate, and they acknowledge that there is an agreement that research needs to define expenditure needs. A major challenge is that there are no comparable governments to First Nations, and there is a need to understand and assess governance workload and functions. They want to co-develop a new policy with a funding formula First Nations will accept. This policy should reduce gaps such as children’s reading ability. There are no current discussions about comparable baselines such as demographics, and they need access to better and reliable data.

It was expressed that Canada will clarify assessing expenditure need (without necessarily committing to funding), and that nation building and rebuilding requires economies of scale. The federal government is seen as being in favour of First Nations adopting self-government, although smaller First Nations communities are challenging, so they could benefit from aggregation.

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Treaties and Aboriginal Government, Fiscal Policy Directorate	√	√		

Regional Operations

During our interview, it was explained that comparisons are necessarily regional, that is, they are relative to other local communities. One interviewee said, “every region is different because each province is different – the costs of teachers, rental rates – as a result when you try to go national you have to look at regions.” Although the interviewees acknowledge there cannot be a “one-size-fits-all funding model,” they try to provide comparable funding levels to provinces, with education being the example, although they acknowledge that it’s like “apples and oranges.” A main focus is on negotiating comparable access and service delivery, and the funding formula is primarily per capita and comparable costs provided in a block form.

It was noted that there are funding gaps in inputs since policy designers cannot find a funding mechanism that can compare the different funding levels while also comparing access and service delivery. Interviewees roundly believed that a “universal formula” will not work for comparable access. It was also suggested that block funding does not alleviate the “special needs” even self-governed communities have. Overall, the relationship should move from being more “transactionable” toward being more “interactive.”

Going forward, they would like to see a capacity and needs-based funding approach that gives autonomy (and flexibility) to First Nations, although calculating needs is difficult without more information (better reporting). Funding should be based on needs and capacity, a per capita baseline with the ability to enrich different services, and close gaps. Interviewees

recommended that consideration should also be given to funding based on an index, and community plans.

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Regional Operations	√	√	√	

Lands and Economic Development

On environmental services, one interviewee mentioned wrestling with “coming to comparability from funding rather than outcomes.” Wastewater management, for example, the funding of which is allocated through infrastructure, was mentioned as being “far from comparable,” and services such as waste collection were region specific.

Funding is allocated through infrastructure planning and the comparison is between on-reserve and off-reserve. Targets have improved to now be judged as “adequate,” and provincial standards are used for some areas (such as standards for contaminated sites) and federal standards are used for others. If an area isn’t regulated, it is still often supported through contribution. Municipal service agreement amounts are often examined, since services are often region specific. In remote areas it comes down to the comparability of access and adequacy with regional municipalities. The interviewees state that they can’t fund every gap, but nor can municipalities; some choice must be involved since there is no “cookie cutter approach.”

Governance capacity is a core element that needs attention and data gaps are an ongoing problem area. Funding should be based on inputs or capacity with governance in mind. The increasing calls for proposals are creating a climate in which communities are competing against each other. Aggregation, however, was cited as a positive development. Overall, they felt that the calculation of funds needs to start with the base need, because “a formulaic approach doesn’t work.”

The interviewees were of the opinion that the model needs a rethink, including as to what the core functions of government entail, (i.e., one community of 300 has 80 people working on administration, which takes up a lot of time and expense). They explained that communities need more support, training, and tools, since First Nations governance capacity is a core element that needs continued focus and accurate cost assessments. Economic development should be considered, as well as capacity, input, and opportunity-based comparability.

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Lands and Economic Development			√	

Atlantic Policy Congress of First Nations Chiefs Secretariat

When reassessing and restructuring their approach to education on-reserve, the Chiefs decided they needed investment so as to eventually get to the same spending and outcomes as non-Indigenous communities. They looked at indicators based on the number of students and per capita costs by province for non-Indigenous children and used that information to forecast costs for students and school boards. Two main cost drivers were used: volume and price. The chiefs did not look at catch-up or gaps; they only looked at inputs and performance outcomes. Infrastructure (building better schools) was considered separate and not prioritized by this collective.

The focus was on 1) outcomes/performance of students and 2) investment in systems – configuring core investments. Since the key drivers in any school are the teachers, they decided to allocate more funds toward hiring better teachers. They added culture and language into the curriculum and fostered community engagement around those subjects. The latter had a big impact on outcomes such as increased pride and improved grades. The process of reporting changed so that the federal government receives the same (minimal) reports that the community receives, which focuses on performance. They learned there is “no systematic way to calculate by community. Squawkers get more than non-squawkers.”

Their success with education does not necessarily translate into other service areas. In Nova Scotia, for example, the health population profiles are very different between the two communities, with the provinces dealing with an aging workforce while the Indigenous population is much younger. Consequently, it is difficult to compare the service populations.

For each service sector they recommend that communities pick 3-5 important indicators and strive to achieve them, “pick the ones that make the most sense and where you can get the data.” Communities must build the right capacity to deliver and improve services over time if block funding is the goal, “Do it service by service.” Block funding may not work until both the Crown and First Nations see service improving. Block funds should start with blocks by large service area as opposed to one all-encompassing transfer. Strong governance is needed to deliver complex programs. Also emphasized was that an Indigenous Data Centre, controlled and owned by First Nations, would be of great benefit.

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Atlantic Policy Congress of First Nations Chiefs Secretariat	√			√

British Columbia First Nations Health Authority (FNHA)

When the Health Authority began they 1) looked at how to address disparities in health status and 2) undertook a study which looked at relative access. They wanted to determine how best to use available resources, which, as was explained, was “not about getting to equivalency, but

how to make gains in terms of access to health services and improving better attainments of levels of health.”

In a comparative study they determined that First Nations were using less primary health care and prevention and more acute care and emergency rooms. They use that information and work with partners to improve access. It was mentioned that they have extensive interactions with the province and that the “Tripartite approach is a departure and key to innovation.” Flexibility was also noted as being important; since “the options possible with the new funding models facilitate a recipient's path to increased local decision-making through self-administration and financial control over health programs and services.” Recipients can reallocate funds among any Program Activity during a fiscal year, provided that Mandatory Programs are delivered in that fiscal year (with some exceptions). Recipients may retain the unspent amount for reinvestment in priorities listed in the Health Plan, or as may otherwise be approved by the FNHA.

One of the most significant issues was that the federal approach to mental health is based on crisis, but FNHA wanted a comprehensive approach, so today they support teams in the regions and try to be proactive and not reactive, which was explained as being a significant change. Regional offices work side by side with communities to help develop plans and even put project managers in the community to support planning and implementation.

Another issue is that there are legal, quasi-legal, and privacy elements that impede access to data, yet they need access to aggregate data on health statistics and service utilization. They are still working on calculating what it would take to deliver a standard level of service to all communities; they still do not cover 100% of them.

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
British Columbia First Nations Health Authority			√	√

The Assembly of First Nations

Since it is important to gain an understanding of the perceptions, needs, and wants of all partners in a nation-to-nation relationship, we also interviewed some members from the Assembly of First Nations for their input on contemporary fiscal matters and future ideas. Our discussions primarily revolved around health and education.

On **Health** an interviewee explained how FNIHB tried to do a comparison with geographically close communities, but since the other locations they looked at also had poor health it was decided that it was not an ideal method. A nation-to-nation comparison in remote areas is therefore not useful. To arrive at equitable outcomes an inventory of each community’s needs would be required, but that was considered “impossible to ascertain” and, in light of the poor

data available, it is currently not possible. Funds are calculated through a regional allocation formula alongside negotiation.

Specific issues mentioned include the difficulty in measuring outcomes for mental health; non-status people's access to services on reserve which are already underfunded; doctors and nurses do not want to go to remote areas and those who do are often young and inexperienced; the capacity money for community health plans go to communities that are comparatively "well to do," but does not reach poor communities; and the FNIHB has said "no" to standards because they "needed more information" which is not available.

On **Education**, it was expressed by an interviewee that DISC does not look at comparability, there is no written policy, and formulas are regionally-based and "ad hoc applied." DISC, it was claimed, looks at services and cost to provide a similar level of service in similar geographic (provincial) locations; in order to produce comparable outcomes they first need comparable access to educational services. Chronic underfunding and historical deficits are serious concerns that need to be addressed; better data collection would certainly help in this area.

The interviewee would prefer a policy that identifies a funding model based on provincial comparability of services, but also includes cultural elements (such as language) and geography. It should include organizations, schools, and partners, as determined with First Nations, recognize that First Nations, Métis, and Inuit have specific needs, and identify successes and gaps. It should aim for outcomes, which can be measured in 5-10 years. The Mi'kmaq education agreement was cited as being a success story in this direction.

Overall, it was recognized that health is currently focused on access and education is focused on comparability with provinces, but there needs to be an evolutionary process directed toward shared outcomes. These outcomes, it must be noted, do not apply for every sector; housing was mentioned as an area in which funding should remain needs-based. First Nations should have the same standards as provinces, and comparability should be a base from which additional funds can be added based on equity of services, since there is not equal capacity between nations, or between First Nations and provinces. A shift away from a programmatic "analytical, linear-based approach" and toward one that is holistic ("focused on cultural continuity, access to land, etc.") was needed. This must come from a true recognition of a government-to-government relationship.

ANNEX D: SUMMARIES OF NATIONAL AND INTERNATIONAL TRANSFERS AND FORMULAS

Examples in Canada

Major Federal transfers in Canada *CHT, CST, TFF and Equalization*

In Canada, at the National Level, there are four major transfer payment programs administered by the federal government: the Canadian Social Transfer, the Canadian Health Transfer, Equalization and the Territorial Formula Financing. The Canadian Social Transfer (CST) is in support of post-secondary education, social assistance and social services, including early childhood development and early learning and childcare. The Canadian Health Transfer (CHT) is a program in support of the health systems of the provinces and territories. The CHT funds are contingent upon the provinces respecting national principles regarding universal accessibility for health care as established by the federal government. Both base comparability on population.

According to the Department of Finance Canada, Territorial Formula Financing (TFF) is a form of equalization payment that funds public services in the Northwest Territories, Nunavut, and the Yukon, so that residents of these territories can enjoy similar services to those of the provinces. TFF is an annual unconditional transfer from the Government of Canada to the three territorial governments enabling them to provide essential public services in the North, such as hospitals, schools, infrastructure and social services, and recognizes the high cost of providing public services in the North as well as the challenges the territorial governments face in providing these services to a large number of small, isolated communities.⁵⁶

Territorial Formula Financing (TFF) is based on a formula that calculates the difference between a territory's Gross Expenditure Base, and their capacity to raise their own revenues through taxation and services, while also taking into account the higher cost of delivering services to remote, under populated Northern communities. The federal government funds the resultant difference. Given the relatively small tax bases and revenue generation capacities of the three territories, federal funding thus constitutes the bulk of territorial government revenues. Like equalization, the CHT, and the CST, TFF is unconditional, and is intended to promote reasonably comparable services and levels of taxation for all Canadians. However, it is questionable whether funding is sufficient to enable the provision of public services generally available to provincial residents, particularly in the case of Nunavut. It is taken as a given that the democratically elected legislatures of the various territorial governments will effectively exercise the necessary accountability for how funding is spent.

The federal government also funds and administers the “Equalization Program” to deal with horizontal fiscal imbalances among the provinces. The Program’s goal is to ensure that

“provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation,” which is found in Section 36(2) of the Constitution. Equalization payments are calculated based on the ability of a province to raise a comparable level of revenues using comparable (or average) rates of taxation. Equalization funds are unconditional block grants, meaning there are no federal conditions on the transfers, allowing the recipient province to spend the money however it chooses. It is important to note that the Equalization program is based only on equalizing revenue capacity and does not take into account expenditure comparability.

Under the provincial fiscal equalization program, through which this provision is carried out, equalization payments are administered annually by the federal government, from revenues raised all across the country, to the “have not” provinces (those with below the average revenue-raising capacity) as an unconditional transfer.

It is important to note that Section 36(2) of the Constitution Act refers to “...ensure that provincial governments have sufficient revenues to provide reasonably comparable services.....”; it does not require or guarantee that everyone necessarily has access to reasonably comparable services. There is no mention of capacity to deliver. It is inferred that there is a basic assumption that provinces can deliver services.⁵⁷ The unconditionality of equalization payments recognizes and respects the independence of provincial governments to design their own programs to meet the unique needs and desires of their residents. As is the case for provincial governments that do not require equalization, recipient provincial governments, not the federal government, are responsible for how that money is spent, and accountability is assumed through the provincial governments’ electoral processes. The result is that provincial governments have the fiscal capacity consistent with the principles of reasonable comparability under 36(2) of the Constitution, and they have discretion as to how they spend these funds together with their own revenues.

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Canadian Social Transfer	✓	✓		
Canadian Health Transfer	✓	✓		
Equalization	✓			
Territorial Formula Financing	✓	✓	✓	

The Canadian Social Transfer and the Canadian Health Transfer are both concerned with comparable funding levels toward providing comparable levels of service, but they do not measure access or outcomes. They focus on inputs and outputs, the latter of which are discretionary in practice although accountability rests with the provinces toward their citizens, who have the power to vote for a change of government if unsatisfied with government spending (as well as other factors of governance). Territorial Formula Financing is likewise concerned with inputs and outputs, but also takes into account the ability to access services in

remote, isolated communities. Equalization between provinces only takes into account inputs, and these unconditional transfers can be spent unconditionally.

Education Funding in Ontario

In Ontario, the Ministry of Education provides funding, for primary and secondary public education through the annual Grants for Student Needs (GSN), which is a collection of grants that accounts for about 89% of the Ontario Ministry of Education’s budget (excluding education property tax expense). The grants cover for main areas: Funding for Classrooms; Funding for Schools; Funding a Locally Managed System; and Funding for Specific Education Priorities.

Funding for Classrooms consists of:

- Per Pupil Grants
- Grants for Continuing Education and Other Program Grants
- Cost Adjustments and Qualification and Experience Grants

Funding for Schools consists of:

- School Foundation Grant
- School Facility Operations and Renewal Grant

Funding for a Locally Managed School System consists of:

- School Board Administration and Governance
- Student Transportation Grant
- Declining Enrolment Adjustment
- Geographic Circumstances Grant⁵⁸

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Education Funding in Ontario	✓		✓	

Education funding in Ontario consists of grants which provide comparable funding levels to schools across the province, some of these grants, such as the annual Grants for Student Needs and the Student Transportation Grant, speak to access to comparable services. The grant does not provide funding based on comparable outcomes.

Education Funding in Saskatchewan

According to the 2014-2015 Prekindergarten-Grade 12 Education Funding Manual for Saskatchewan, education expenses are measured by the following components:

1. Governance; costs associated with boards of education executing their responsibilities, as well as costs for other governance purposes, such as elections, membership fees and dues, negotiating fees, public relations, research, etc.

2. Administration; funding for boards to conduct business administration functions of the school division, including administrative salaries and non-salary items, such as travel costs, computer supplies and software programs
3. Instruction; Costs associated directly with instruction
4. Plant Operations and Maintenance; including utilities and minor renovations
5. Complementary Services; Instructional and other costs associated with the Pre-Kindergarten Program
6. Transportation; operating costs for student transportation and school bus renewal costs through purchase or leasing
7. Tuition Fee Expense; for students attending school outside the provincial public education system, including on-reserve schools, regional colleges, specialized schools within Saskatchewan and schools outside of Saskatchewan
8. Associate Schools; for the operation of associate schools with which Boards of Education they have a contractual agreement, excluding for capital expenditures.
9. Debt Repayment; allocated costs for principal and interest payments for approved borrowing by the school boards

The funding formulas for each of these Components are described in the Manual, along with data and sources.⁵⁹

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Education Funding in Saskatchewan	✓		✓	

As with education funding in Ontario, in Saskatchewan education funding is based on costs of services although the funding formulas also include access to comparable services, such as transportation, but it does not provide funding based on comparable outcomes, like graduate rates.

Ontario Municipal Transfers

At the provincial level, while provinces have significant revenue raising authority, the transfer payments they receive from the federal government have become essential components of the provincial budgets and are necessary to maintain a high standard of public service delivery. Provincial governments are ultimately responsible for local affairs and municipal budgets but, due to the municipal control of property tax revenue, provinces do not transfer large amounts of money to local governments for on-going operations.

The Ontario government uses the Ontario Municipal Partnership Fund (OMPF) as a mechanism for transferring payment to municipalities, transferring \$505 million in unconditional funding to 338 municipalities of varying size and wealth across the province.⁶⁰ Combined with uploads of various municipal service responsibilities to the province in certain municipalities, Ontario

spends more than \$2.3 billion in payments to fund local government activities.⁶¹ It uses the following mechanisms to allocate funds to governments based on relative need:

6. Assessment Equalization Grant
7. Northern Communities Grant
8. Rural Communities Grant
9. Northern and Rural Fiscal Circumstances Grant
10. Transitional Assistance⁶²

The **Assessment Equalization Grant** provides funding to lower-tier municipalities with limited property assessment capacity due to lower property values and limited non-residential assessment. The grant amount is determined by calculating a total assessment differential for the municipality. This amounts to the difference between the total assessment per household and the threshold set by the province below which a municipality cannot fall. To arrive at the grant amount the difference is multiplied by the total number of households in the community.

The **Northern Communities Grant** allocates funding to northern municipalities in recognition of the unique challenges they face. The grant is based on the number of households in a community, multiplied by a per-household amount set by the province, which in 2016 was \$214.50.

The **Rural Communities Grant** provides funding to lower-tier municipalities based on the proportion of their population residing in rural or small communities. A Rural and Small Communities Measure score is assigned to a municipality, with municipalities scoring 75% or more on the index receiving the full per-household amount of \$134.50, and other communities being allocated less on a sliding scale. The municipality's score is then multiplied by its total number of households to determine the final grant.

The **Northern and Rural Fiscal Circumstances Grant** was introduced during the 2014 redesign of the OMPF, and is provided to municipalities eligible for funding through the Northern Communities and/or Rural Communities Grants. The grant provides targeted support in addition to these fixed per-household amounts, in recognition of the fact that not all northern and rural municipalities have the same fiscal circumstances. A community is assigned a score on the Northern and Rural Municipal Fiscal Circumstances Index, which ranks municipalities on a scale of zero to ten, with ten representing the most challenging relative circumstances, and zero representing relatively positive circumstances. That score determines the per-household amount to which a community is entitled, and that amount is then multiplied against the number of households in the community to determine the total grant amount.

The **Northern and Rural Municipal Fiscal Circumstances Index** used to determine the size of an eligible community's Northern and Rural Fiscal Circumstances Grant measures the fiscal capacity of a given municipality relative to other northern and rural municipalities in the province. It is determined using six indicators:

- Weighted Assessment Per Household
- Median Household Income
- Average Annual Change in Assessment (New Construction)
- Employment Rate
- Ratio of Working Age to Dependent Population
- Percentage of Population Above Low-Income Threshold

The first two indicators constitute the primary indicators, and the following four constitute secondary indicators. The indicators are scored on a range from -100% to 100%, reflecting how the value of a municipality’s indicator compares to the median for comparable northern and rural municipalities, represented by zero. A municipality with a negative score is below the median, and a municipality with a positive score is above it.

A community’s place on the index is determined through three steps. First, the municipality’s primary and secondary indicators are scored based on their relationship to the median for northern and rural municipalities, as determined by indicators across the province. Second, an indicator score is calculated based on the municipality’s average of both primary and secondary indicators. Third, using the results of these scorings, the community is placed on a scale running from 0 to 10, based on the relative results of each municipality’s average indicator score: the lower the ranking, the more relatively positive the community’s fiscal circumstances, and the higher the ranking, the more challenging the circumstances. As a result, a community with a score of 5 has relatively typical fiscal circumstances, close to the median for northern and rural communities.

Transitional Assistance is a temporary measure designed to assist municipalities in adjusting to the program as redesigned, and to provide stability as the new circumstances are adjusted to. This assistance ensures that municipalities receive a guaranteed level of support based on their 2014 OMPF allocation. Specifically, municipalities in the north will receive at least 90 per cent of their 2014 allocation, while municipalities in other regions of the province will receive at least 80 per cent of their 2014 allocation. These minimum levels of support will be enhanced, up to 100 per cent, for eligible northern and rural municipalities with more challenging fiscal circumstances, as measured by the northern and rural MFCI.

The OMPF ensures that baseline levels of service are delivered by all municipalities in the province, despite wide variations in fiscal capacity and tax base. The system ensures that those municipalities that most require support receive it in a targeted way, while allowing large, wealthy municipalities capable of supporting themselves to do so.

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Ontario Municipal Transfers			✓	

Ontario Municipal Transfers are generally concerned with providing comparable access to services and programs to that of other jurisdictions within the province. With the exception of the Assessment Equalization Grant, which provides comparable levels of funding (inputs), the grants recognize the unique challenges and costs of providing services in Northern and other rural municipalities.

British Columbia First Nations Health Authority

The Tripartite First Nations Health Plan signed by the First Nations Leadership Council (FNLC), the Government of Canada, and the Government of British Columbia (BC) on June 11, 2007 committed the parties to put in place a new structure of governance that “leads to improved accountability and control of First Nations health services by First Nations.”⁶³

Key principles embedded in the agreements between parties:

- Respect for cultural knowledge and traditional health practices;
- Respect for diversity;
- A commitment to overcome jurisdictional issues through “effective working relations”;
- A commitment to deal with the determinants of health;
- No duplication of programs and services, and no creation of a parallel health system;
- A commitment to reciprocal accountability and ensuring no impact on Aboriginal treaty rights or fiduciary responsibilities; and
- Open and timely information-sharing”⁶⁴

Parties have agreed to “work together collaboratively and be accountable to one another at all levels to achieve our shared goals, living up to our individual and collective commitments.”⁶⁵

The BC First Nations Health Authority has agreed to commitments for a new structure of tripartite governance for First Nations health and they envision:

- a comprehensive health plan for each First Nation;
- services that meet the needs of First Nations communities and individuals no matter where they live;
- greater control by First Nations;
- effective linkage between First Nations delivered services and those delivered by provincial health authorities; and
- Health Canada’s evolution from a designer and deliverer of health services to a funder and governance partner.⁶⁶

Although the interview pointed to a current emphasis on access, their 10-year health plan that sets in motion the changes necessary to improve the health of First Nations in British Columbia and to close the gaps in health status between First Nations people and other British Columbians points to a future focus on outcomes. Key performance indicators are:

- Life expectancy at birth;
- Mortality rates (deaths due to all causes);
- Infant mortality rates;

- Diabetes rates;
- Status Indian youth suicide rates;
- Childhood obesity; and,
- Practicing, certified First Nation health care professionals.⁶⁷

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
British Columbia First Nations Health Authority			✓	✓

The British Columbia First Nations Health Authority emphasizes access and outcomes. It is goal-oriented and collaborative with a focus on providing “efficient” service delivery and it includes a ten-year plan that will measure specific outcomes. Key performance indicators, such as mortality rates, speak to the emphasis on outcomes; as access to health services improves one would expect a corresponding decrease in mortality rates, for example. As came out during our interviews, the success of this outcome-based collaborative health initiative has sparked a lot of interest within DISC and in First Nations communities.

International Examples

Internationally, countries have come up with a myriad of models for transferring funds to subnational governments. Australia and Germany are often cited in literature pertaining to interjurisdictional transfers; as such they have been included in this discussion. Brazil, South Africa, and Scandinavia are also briefly discussed, as they utilize criteria that speak to impoverished or remote areas, respectively, as is the United States’ Indian Housing Block Grant Program, an annual formula grant that provides housing and housing-related assistance to low-income American Indigenous communities.

Australia

At the national level, the federal government is responsible for ensuring that the state governments are reimbursed for foregone tax revenue. Australia resolves vertical and horizontal fiscal imbalances by means of intergovernmental transfer programs.

Vertical fiscal imbalance is rectified through federal grants, of which there are two types:

- General Purpose Payments: Grants injected into state government budgets and which state legislatures can freely expend for whichever purpose they choose.
- Specific Purpose Payments: Commonly referred to as tied grants, these monetary transfers are given to states for specific aims. Generally, the federal government drives national policy initiatives through tied grants, such as the integration of state road networks.

Horizontal fiscal imbalance is dealt with through the federal government’s program of horizontal fiscal equalization. The revenues from the federal GST are distributed among all

states on the basis of recommendations made by the Commonwealth Grants Commission (CGC). The CGC's recommendations are based on principles of horizontal fiscal equalization, which it describes as: "each State should be given the capacity to provide the average standard of State-type public services, assuming that it does so at an average level of operational efficiency and makes an average effort to raise revenue from its own sources". The richer states receive less than the Australian average per capita share of GST revenues while the poorer states receive more than the Australian average per capita share.

At the state level, state governments have to deal with the conditions of having little revenue raising capacity. This has evolved into states relying heavily on federal grants and adapting their needs based on providing the best services available. State ministries provide information to the federal government regarding the degree to which the state tax base has changed relative to other states and how much expenditure needs have changed relative to other states.

At the local level, municipal governments work with the state governments to ensure that their needs are represented in the information relayed by the states to the federal government.

The Council of Australian Governments (COAG) is the chief intergovernmental forum in Australia. COAG is comprised of the Prime Minister (Chair), State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association (ALGA). COAG meets up to four times a year, with its outcomes contained in communiqués released at the end of each meeting. Formal agreements are embodied in Intergovernmental Agreements.

Closing the Gap Initiative

Closing the Gap is a government strategy, committed to in 2008, that aims to reduce disadvantage among Aboriginal and Torres Strait Islander people with respect to life expectancy, child mortality, access to early childhood education, educational achievement, and employment outcomes. It was developed in response to a report and subsequent social justice campaign. It is a formal commitment made by all Australian governments to achieve Aboriginal and Torres Strait Islander health equality within 25 years. It also included the input of a national Indigenous representative body, the National Congress of Australia's First Peoples, which was established in 2010.

The targets were developed by 3 working groups of the Steering Committee, each was led by a notable Indigenous person with extensive health experience. Comparability is based on outcomes with the goal of health equity, and funds are allocated for specific goals, including:

- over 133,000 additional health checks and 400,000 additional chronic disease management programs for Indigenous people with a chronic condition
- support for more than 160 new Indigenous outreach working positions
- 75 extra health professionals and practice managers in Indigenous healthcare services
- 38 new GP registrar training posts in Indigenous health services
- in the first year over 40 Indigenous outreach working positions will be supported, as well over 15 new health professionals and practice managers

- the construction of up to 4,200 new houses to be built in remote Indigenous communities,
- upgrades and repairs to around 4,800 houses in remote communities with a program of major repairs
- increased local training and employment opportunities in construction and housing management (providing up to 2,000 new jobs)
- support up to 9,000 families in accessing safe and healthy housing.
- funding for 35 children and family centres to provide early learning, child care and parent and family support services to Indigenous children and families
- Up to 13,000 Indigenous Australians will be assisted into employment over four years through the creation of waged market jobs
- improvements to the delivery of services across 26 remote locations across the Northern Territory, Western Australia, Queensland, New South Wales and South Australia.

The following table shows the initiatives area of focus, investment, and expected outcomes.

Closing the Gap National Partnership Agreements (between the Commonwealth of Australia, the states, and the territories), 2009		
Area	Investment	Outcomes
Indigenous early childhood development	\$564.6 million over six years	<ul style="list-style-type: none"> • Indigenous children are born and remain healthy • Indigenous children have the same health outcomes as non Indigenous children • Indigenous children acquire the basic skills for life and learning • Indigenous families have ready access to suitable and culturally adequate early childhood and family support
Remote service delivery	\$291.2 million over six years	<ul style="list-style-type: none"> • Improve the access of Indigenous families to a full range of suitable and culturally adequate services • Raise the standard and range of services accessible to Indigenous families to the level provided to the other Australian families • Improve the level of governance and leadership within Indigenous communities and organizations • Provide better and simpler access to government services in remote Indigenous communities • Increase social and economic participation to promote personal engagement, responsibility and, more broadly, positive social norms.
Indigenous economic participation	\$228.8 million over five years	<ul style="list-style-type: none"> • Halving the employment gap between Indigenous and other Australians
Remote Indigenous housing	\$1.94 billion over ten years	<ul style="list-style-type: none"> • Address severe overcrowding by increasing the availability of new houses • Improve the condition of current houses • Ensure rental houses in remote Indigenous communities are well maintained and managed.
Indigenous health outcomes	\$1.57 billion over four years	<ul style="list-style-type: none"> • Preventive health: reduction of the factors that contribute to chronic disease, including tobacco, and an integrated alcohol, drugs and mental health services • Primary health care: access expansion and coordination of comprehensive culturally appropriate health care, services and allied services

		<ul style="list-style-type: none"> • Hospital and related care: delivery of better outcomes through quality improvement, cultural appropriateness of hospitals and related care • Patient experience; ensuring the cultural appropriateness of the health care workforce by engagement in genuine partnerships with Indigenous communities in order to allow the most vulnerable people to re-engage with hospital and related services • Sustainability: augmentation of Indigenous people in the health care workforce, reform and improvement of health care supply, creation of sustainable programs and funding schemes and performance benchmarks and indicators to best respond to the changing need of Indigenous people's service need
Remote Indigenous public internet access	\$6.967 million over four years	<ul style="list-style-type: none"> • Increased public access to online resources and services, principally for financial, educational, health, economic and social purposes • Increased awareness of the benefits and uses of online resources and services • Increased computer literacy enabling effective use of information and communication technology and the internet • Increased information literacy enabling the search for, evaluation and use of online information • Increased internet use that facilitates transactions and communication with government agencies, businesses, communities and families
Northern Territory	\$807.4 million over three years	<ul style="list-style-type: none"> • Improved safety, health and wellbeing of Indigenous children • Improved school engagement and performance • Sustainable communities to support children and youth including through education and employment pathways.

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Australia	✓	✓	✓	✓

The Australian model is primarily focused on inputs and outputs, that is; its main purpose is to provide comparable funding levels and comparable services between all jurisdictions of the federation, although the Closing the Gap initiative, which has taken a whole of government approach, is focused on Outcomes, many of which pertain to access.

Germany

Germany's approach to equalization takes a four-step process: tax sharing; special VAT sharing with the poorest states; fiscal transfers from richer to poorer states; and a final federal adjustment, grants/payments, for the poorest states.⁶⁸ It is triggered by differences between a measure of the capacity of a state and its municipalities and an indicator of fiscal need. The fiscal need indicator is based on population size and per-capita average of all states' tax revenue.⁶⁹

The state's share of Vertical Tax Sharing revenues is allocated in two steps:

- A minimum of 75% is distributed according to the state's population shares

- The remaining 25% of the Vertical Tax Sharing share is used for the purposes of horizontal fiscal equalization

Supplementary federal grants, which are vertical transfers, consist of two components:

- Type I grants, which provide additional assistance to poorer states to bring their financial capacities at least up to 97.5% of the national average.
- An additional type II grant is paid to account for special needs, including structural adjustment in the eastern German states.⁷⁰

A needs indicator, based on population, the number of students, and the number of unemployed people, is compared against a subnational unit's financial strength to determine a localities need for unconditional transfers. Social welfare expenditures are a shared responsibility; the central government outlines the broad policy and spending levels, while local governments determine need and distribute the funds.⁷¹

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Germany	✓	✓		✓

Germany measures comparability for inputs, outputs, and outcomes. Equalization is primarily input and output focused as wealth is redistributed to offset inequity, but the type II grant for special needs (i.e. infrastructure) is provided to some states for specific outcomes.

South Africa

At the national level, the federal government is in charge of the vast majority of intergovernmental transfers. While the constitution outlines that the federal government is the principle tax raising authority, it also states that expenditures are to be controlled and administered by sub-national governments, if they have the capacity to do so effectively. This has gradually created a vertical fiscal imbalance. The federal government now accounts for over 95% of provincial revenue and approximately 75% of municipal revenue. The federal government issues both general and special purpose transfers. General transfers are in line with approved budget spending laid out in the previous year's federal budget. Special purpose transfers are designated through discretionary-spending clauses in the federal budget and are aimed at alleviating short-term concerns. Health care, education and social security represent the majority of transfer payment destinations. A small portion of money is also automatically transferred unconditionally to the provincial governments.

At the provincial level, the lack of financial resources raised by provincial governments means that they distribute very minimal amounts of revenue to municipal governments. The present framework of South Africa's fiscal system leaves provincial governments largely out of both revenue raising and expenditure authorities.

At the local level, municipal governments raise relatively significant amounts of revenue in comparison to provincial governments. However, their lack of administrative capacity means that many of these taxes are handled centrally.

Federal government transfers to local governments are determined according to a formula based on the degree of poverty in the municipal areas:

- The basic package includes assistance to meet the cost of providing water, sanitation, and other municipal services for all households earning less than a certain monthly income
- Some transfers are part of multi-year programs established by the federal government such as the Municipal Infrastructure Grant (MIG).
- The MIG is distributed to all municipalities based on a formula that accounts for existing backlogs in service delivery as well as the functions assigned to individual municipalities.⁷²

In South Africa, the Provincial Equitable Share is a formula-driven grant program that distributes unconditional transfers to provinces. The Constitution gives the provinces a role in determining their revenue share through their representation in the National Council of Provinces (the national second chamber). The Constitution provides for a Financial and Fiscal Commission, which makes recommendations on the allocation of revenues and transfers between national, provincial, and local governments. Recommendations are reviewed by the Budget Council and the Budget Forum, both of which are intergovernmental councils. The national Minister and Department of Finance make the final decisions.⁷³

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
South Africa				✓

While inputs, outputs, and access are measured toward determine funding levels, South Africa emphasizes outcomes when distributing its intergovernmental transfers. Local government transfers, for example, utilize a formula that accounts for poverty, cost of services, backlogs in service delivery, but they emphasize specific areas (water; sanitation) and specific outcome-based projects (the Municipal Infrastructure Grant). This is not surprising, since inequality and inequity has long been a source of division in South Africa, and outcome-based funding formulas are a tool that can allow some municipalities ‘catch-up’ to others.

Brazil (Health)

Fiscal transfers in support of Brazil’s Unified Health System are administered under a federal program called Annual Budget Ceilings. The program has two components:

3. Under the first component, equal per capita financing from the federal government that passes through states to municipalities is provided to cover basic health benefits.

4. The second component provides federal financing for hospital and ambulatory care and all registered health care providers – state, municipal, and private – are eligible for grant financing through their municipal government.

Under this grant, funding for hospital admissions and high-cost ambulatory care is subject to a ceiling for each type of treatment.

The Health transfer uses a composite index based upon principal component analysis:

- Infant mortality
- 1-64 mortality
- 65+ mortality
- Mortality rate by infectious and parasitic diseases
- Mortality rate for neoplasia
- Mortality rate for cardiovascular conditions
- Adolescent mother percentage
- Illiteracy percentage
- Percentage of homes without sanitation
- Percentage of homes without running water⁷⁴

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Brazil (Health)				✓

As with South Africa, Brazil has a modern history of socio-economic diversity, and intergovernmental transfers are used as a means of improving outcomes rather than just a redistribution of wealth based on population. The criteria used for health funding demonstrates this outcome-based approach: the more criteria a municipality ‘checks off’, for example, the more funding that municipality receives. The goal of utilizing criteria, or health indicators, is to provide extra funds that can alleviate these discrepancies and increase longevity.

The United States Indian Housing Block Grant Program

The Indian Housing Block Grant Program (IHBG) is authorized by the *Native American Housing Assistance and Self-Determination Act* of 1996 (NAHASDA), which was reauthorized in 2008. NAHASDA recognizes the right of tribal self-governance and the unique relationship between the Federal Government and the governments of Indian tribes, established by long-standing treaties, court decisions, statutes, Executive Orders, and the United States Constitution. NAHASDA requires the US Department of Housing and Urban Development (HUD) to engage in formal negotiated rulemaking with IHBG recipients to periodically review and issue program regulations. The IHBG is an annual formula grant to provide housing and housing related assistance to low-income American Indians and Alaska Natives who live on Indian reservations or in other traditional Indian areas. The actual IHBG recipients are eligible tribal governments or their designated housing entities, which deliver the housing assistance to families in need. IHBG recipients have the flexibility to design and implement appropriate, place-based housing

programs, according to local needs and customs. IHGB recipients often leverage their grant funds as catalysts for further community and economic development. HUD’s Office of Native American Programs (ONAP) administers the IHGB program.

IHGB recipients are held accountable for their progress in completing self-defined housing activities and complying with NAHASDA’s program requirements.

Recipients are responsible for “self-monitoring,” which the IHGB defines as being “responsible for monitoring their own grant activities to ensure compliance with applicable Federal requirements and their performance under their Indian Housing Plan (IHP).” Recipients are responsible for preparing an annual (at minimum) “performance report providing an assessment of IHGB program progress and goal attainment under IHP.”⁷⁵ ONAP staff monitors recipient compliance and progress.

	Inputs	Outputs	Access	Outcomes
The United States Indian Housing Block Grant Program				✓

The United States Indian Housing Block Grant Program is measured by comparable outcomes. Recipients have flexibility in the design and cultural needs of their homes, but are accountable for completing these projects, as negotiated with the US Department of Housing and Urban Development

Scandinavia: A Needs Based Approach

Scandinavian countries are often cited at or near the top of global quality of life indexes. Denmark, Norway, and Sweden all have equalization transfer systems which include socio-economic and demographic criteria that influence the amount of funding provided to subnational governments for the delivery of services. Unlike Canada, the Scandinavian approach to equalization is need-based; the Scandinavian system takes into account situations that are specific to each country, with some overlap in areas such as remoteness (travel time), poverty, and mental health issues.

Socio-economic and Demographic Indexes for Equalization Transfer Payments in Scandinavian Countries	
Denmark	<ul style="list-style-type: none"> • Travel time • Unemployment • Families having poor housing conditions • People living in rented flats • Single people • Psychiatric patients • Children of poorly educated parents⁷⁶

Norway	<ul style="list-style-type: none"> • Divorced parents • Unemployed • Travel time and distance • Mortality • Persons with mental disabilities • Older single people • Immigrants⁷⁷
Sweden	<ul style="list-style-type: none"> • Childcare (age; parental employment; population density) • Care of the elderly (age; balance of the genders; occupational background; rural areas) • Individual and family care (single women with children; migration; non-Nordic national; density of the settlement) • Compulsory schooling (rural areas, age structure, home language) • Upper secondary school (age; study program preferences) • Water and sewage (sparseness of settlement; geographical conditions) • Street and roads (traffic; weather conditions) • Unemployment rates • Construction costs • Heating costs • Frigid zone allowance • Additional expenditure due to population loss • Additional expenditure due to weak population base (population within a radius of 30 and 90 Km) • Administration, travel, and rescue services (population; population density; degree of urbanization)⁷⁸

Type of Comparable Measurement

	Inputs	Outputs	Access	Outcomes
Denmark			✓	✓
Norway			✓	✓
Sweden			✓	✓

Denmark, Norway, and Sweden provide funding based on needs. Some of the criteria they use to decide the amount of funding points to outcomes (mortality rates; poor housing conditions – the assumption is these should be improved), but most of the criteria point to access to services for rural, isolated areas (travel time; heating costs; sparseness of settlement).

Endnotes

¹ The report was presented and approved through a Chief's resolution as well as endorsed/ approved by the Minister of DISC and is available at: https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ-ACH/STAGING/texte-text/reconciliation_new_fiscal_rel_approach_1512565483826_eng.pdf.

² Richard C. Zuker. Comparability: What does it mean and how can it be implemented for First Nations in Canada? Presented to federal and AFN Officials, June 20, 2017, 5.

³ https://sustainabledevelopment.un.org/content/documents/1732The%20Challenge%20of%20Local%20Government%20Financing%20in%20Developing%20Countries%20_3.pdf.

⁴ Ibid

⁵ <http://www.econpublica.unibocconi.it/files/Martinez-Vazquez.pdf>

⁶ According to the World Commission on Environment and Development, sustainability is a “process of change in which the exploitation of resources, the direction of investments, the orientation of technological development and institutional change are all in harmony and enhance both current and future potential to meet human needs and aspirations.”

⁷ Measurement of Living Standards

<http://siteresources.worldbank.org/INTPAH/Resources/Publications/459843-1195594469249/HealthEquityCh6.pdf>, World Bank Group

⁸ The report goes into greater detail on Comparability in section 4.49: “Comparability of services. In our 2008 audit, we recommended that INAC define what is meant by its policy requirement that services be reasonably comparable, define its expectations for culturally appropriate services, and implement these into its program. INAC agreed with the recommendation and committed to a clearer definition, in tripartite agreements, of comparability of services with those provided by provinces. We found that INAC has not defined what is meant by comparability. Until it does so, it is unclear what is the service standard for which the Department is providing funding and what level of services First Nations communities can eventually expect to receive. We also found that the Department had not conducted a review of all social services available in the provinces to see whether they are the same as what is available to children on reserves.

4.50 In our 2008 audit, we noted that INAC had entered into a new funding arrangement in Alberta, enabling First Nations child and family service agencies in that province to deliver services that comply with provincial legislation. However, we noted that the funding model under the new Alberta tripartite agreement did not address all of the funding disparities we had identified. Since that audit, INAC has expanded its Enhanced Prevention Focused Approach and has negotiated new tripartite framework agreements with five other provinces: Manitoba, Nova Scotia, Prince Edward Island, Quebec, and Saskatchewan. The new approach includes greater emphasis on prevention services and is intended to increase comparability with services offered in provinces. INAC officials expect that the approach will reduce the number of children in care, but it is too early to observe results.

4.51 The new tripartite agreements enable the provision of additional services beyond those offered in INAC's initial program. However, without having defined what is meant by comparability, the Department has been unable to demonstrate that its new Enhanced Prevention Focused Approach provides services to children and families living on reserves that are reasonably comparable to provincial services.

4.52 We also found that the Department has not developed a formal definition of what it means by “culturally appropriate services.” In response to this recommendation, however, INAC has developed a guiding principle on what culturally appropriate services would entail. This principle has been embedded in the tripartite agreements with the provinces under the new approach. It is also reflected in the business plans of First Nations child and family service agencies. According to INAC, a guiding principle instead of a definition allows service providers to more readily adapt their programs to the culture in each community.”

⁹ First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada), January 26, 2016, paragraph 325

¹⁰ First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada), January 26, 2016, paragraph 465

¹¹ United Nations Report of the Special Rapporteur on the Rights of Indigenous Peoples: The situation of Indigenous Peoples in Canada, 2014.

¹² Ibid.

¹³ ref: <https://bmchealthserves.biomedcentral.com/articles/10.1186/1472-6963-9-124>



¹⁴ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2265683/>

¹⁵ Vector Research and Fiscal Realities Economists Fiscal Models Supporting Comparability of Funding for Indigenous Self-Governments Final Draft, April 28, 2017

¹⁶ Vector Research and Fiscal Realities Economists Fiscal Models Supporting Comparability of Funding for Indigenous Self-Governments Final Draft, April 28, 2017

¹⁷ INAC uses five types of funding authority to dispense funding to First Nations governments, listed here in accordance with the requisite level of flexibility: Grants, Alternative Funding Arrangements, Flexible Transfer Payments, and Contributions.

1. A Grant is the most flexible form of transfer payment, as it is not subject to a detailed accounting or normally subject to audit by INAC. Eligibility and entitlement is established in advance of distributing the grant, and the recipient may need to meet certain pre-conditions for its receipt, as well as being required to report on results achieved, but the funding can generally be distributed according to the needs of the individual First Nation.
2. Block Contribution Funding provides funding over a period of up to ten years, as well as the flexibility to transfer funds across programs and retain surpluses. This flexibility comes with the responsibility for deficits. Eligible First Nations and Tribal Councils can design programs and allocate funds to meet community needs and priorities provided that certain minimal program requirements are met. First Nations and Tribal Councils wishing to enter into an arrangement under the AFA authority must meet various entry requirements and readiness assessment criteria, as well as the requirements of individual program terms and conditions.
3. Flexible Contribution Funding is an option that is available to First Nations governments allowing funds to be moved within cost categories of a single program during the active lifetime of the relevant funding agreement. First Nations must meet certain assessment criteria to be eligible for this funding mechanism. A program also requires at least a two-year relationship with a recipient in order to receive this funding, usually as part of a multi-year funding agreement. The recipient can redirect funding among the various cost categories of the specific program being funded, as established in the funding agreement. Unspent funds must be returned to INAC at the end of the project, program, or agreement.
4. Fixed Contribution Funding is provided as an option to First Nations governments where annual funding is based on predictable formulae or fixed costs. It is distributed on a program basis with incentives to ensure that programs and services are managed effectively within a fixed budget. Surpluses can be retained for use at the discretion of the First Nation or Tribal Council, provided that certain minimum program requirements are upheld. Reporting requirements are supposed to assess program performance, rather than assessing for how each dollar was spent.
5. Contributions are conditional transfer payments dispensed for specific purposes that cannot be altered, subject to performance conditions outlined in a funding agreement, account and audit. There is provision for advances to be paid, and there is no provision for the retention or carry forward of surpluses at the end of the fiscal year, with unused monies returning to INAC. Contributions are usually used to fund proposals or reimburse variable costs such as income assistance. This is the basic funding unit INAC uses to fund First Nations, and the most commonly used.

INAC uses these five authorities as building blocks to construct various funding arrangements for First Nations and Tribal Councils. Since 2011, the principal funding arrangements currently in use are:

- First Nations and Tribal Councils National Funding Agreements,
- Streamlined Funding Agreements for First Nations (Optional)
- Canada Common Funding Agreements for First Nations and Tribal Councils which are similar to First Nations and Tribal Councils National Funding Agreements, except that they consolidate programs and funding available from departments other than INAC.

¹⁸ Ministry of Finance Government of Ontario, “2017 OMPF Allocation Notices,” Ministry of Finance, accessed May 9, 2017, <http://www.fin.gov.on.ca/en/budget/ompf/2017/munlist.html>.

¹⁹ Government of Ontario, “Ministry of Finance Update” (AMO Conference 2016, Ministry of Finance, Provincial-Local Finance Division, August 16, 2016), <https://www.amo.on.ca/AMO-PDFs/Events/16CONF/Proceedings/ConcurrentsB/ImprovingTransparencyandBuildingADoheny20160816.aspx>.

²⁰ Government of Ontario, “Ontario Municipal Partnership Fund (OMPF),” Ministry of Finance, accessed May 9, 2017, <http://www.fin.gov.on.ca/en/budget/ompf/2017/>.



²¹ Boadway, Robin, and Shah, Anwar (eds.). *Intergovernmental Fiscal Transfers: Principles and Practice. Public Sector Governance and Accountability Series*. Washington, DC: The World Bank, 2007.

²² (Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner, IqPC Collaborative Indigenous Policy Conference, Brisbane, 11 June 2008).

²³ <https://www.aadnc-aandc.gc.ca/eng/1100100031843/1100100031844>

²⁴ Richard C. Zucker, *Models of Fiscal Financing*, 2011.

²⁵ Truth and Reconciliation Commission of Canada: *Calls to Action*, 2015

²⁶ Garry Jacobs and Ivo Šlaus, *Indicators of Economic Progress: The Power of measurement and Human Welfare*, CADMUS, 1(1), October 2010, 59-60

²⁷ "Toward a New Approach to Aboriginal Self-Government Fiscal Arrangements in Canada," Discussion Paper (Ottawa: Aboriginal Affairs and Northern Development Canada, February 2012).

²⁸ Government of Ontario, "Ontario Municipal Partnership Fund (OMPF)."

²⁹ Ibid.

³⁰ "First Nations Health Authority," accessed May 9, 2017, <http://www.fnha.ca/>.

³¹ Ibid.

³² "First Nations Accountability Fact Sheet" (Ottawa: Assembly of First Nations, June 2011),

http://www.afn.ca/uploads/files/accountability/11-05-31_fs-accountability_fe.pdf.

³³ Government of Canada, "Chapter 1—Streamlining First Nations Reporting to Federal Organizations."

³⁴ "First Nations Accountability Fact Sheet."

³⁵ Government of Canada, "Chapter 1—Streamlining First Nations Reporting to Federal Organizations."

³⁶ Ibid.

³⁷ Martinez-Vazquez, Jorge; Searle, R. J., *Fiscal Equalization: Challenges in the Design of Intergovernmental Transfers*. New York: Springer, 2007.

³⁸ 2006 May Status Report of the Auditor General of Canada, Chapter 5 – Management of Programs for First Nations

³⁹ Ibid.

⁴⁰ The report also stated: "Despite the federal government's many efforts to implement our recommendations and improve its First Nations programs, we have seen a lack of progress in improving the lives and well-being of people living on reserves. Services available on reserves are often not comparable to those provided off reserves by provinces and municipalities. Conditions on reserves have remained poor. Change is needed if First Nations are to experience more meaningful outcomes from the services they receive. We recognize that the issues are complex and that solutions will require concerted efforts of the federal government and First Nations, in collaboration with provincial governments and other parties.

We believe that there have been structural impediments to improvements in living conditions on First Nations reserves. In our opinion, real improvement will depend on clarity about service levels, a legislative base for programs, commensurate statutory funding instead of reliance on policy and contribution agreements, and organizations that support service delivery by First Nations. All four are needed before conditions on reserves will approach those existing elsewhere across Canada. There needs to be stronger emphasis on achieving results.

⁴¹ Other changes include moving from an annual GDP ceiling applied to the PLE Escalator, to a cumulative GDP ceiling, to no ceiling; Increases to the GEB to accommodate program transfers from the federal government, the largest ones being for devolution of lands and resources; Ad hoc reductions and increases to the GEB; The adjustment of the GEB escalator from PLE to the Population Adjusted Gross Expenditure Base (PAGE) escalator, to take account of the rate of change in population of each territory relative to the national average; To the split of TTF between the GNWT and the new Government of Nunavut; From administration by INAC, to Finance Canada, to incorporation in the Fiscal Arrangement Act alongside side other major transfers to provincial governments and territories; From the measurement of Eligible Revenues using 1985-86 territorial tax rates, to National Average Tax Rates (NATR) based on a modified form of the Representative Tax System (RTS) used for Equalization, to the full application of the RTS, (excluding for resource revenues); To TFF funding formulas for each territorial government separately, to a combined funding envelope, and back to separate arrangements; From a 100% tax back of Eligible Revenues, to the introduction of an Economic Development Incentive, to inclusion of 70% of Revenue Capacity.

⁴² This independent commission could oversee the development of the relationship between First Nations and the Government of Canada and the roles and responsibilities could include:

Hiring qualified staff; Training of staff; Conducting research and analysis; Identifying, assembling, and safely maintaining relevant data, both current and historical and providing ready access to non-confidential data and



information; Consulting widely with knowledgeable governmental and non- organizations and experts in Canada and globally; officials from federal and other governments in Canada; First Nations government officials; First Nations People, and other relevant advisors, experts, and stakeholders; Coordinating the activities of supporting institutions and service providers, and engaging First Nations Governments and sectoral experts in dialogues on the basis for making comparisons (e.g., formulas, factors of analysis); developing principles and criteria for measuring expenditure comparability; and recommending methods for measuring expenditure comparability; Developing measures and safely maintaining records on these measures of expenditure comparability; Identify capacity issues among Indigenous communities; Monitoring success of the newly established nation-to-nation relationship and identifying what system improvements are needed; Reporting regularly on the Commission, its activities, plans, finances, research and analysis, methods; the measures of expenditure comparability by sector and First Nation; and recommendations for change.

According to Richard Zuker, the advantages of an independent commission are:

Objectivity; Transparency; Legitimacy; Credibility; Expertise; Focused mission and dedicated staff; Broad consultations including open hearings; Appeal process; Accountability (to First Nations People, First Nations Governments, the Federal Government, Parliament, Canadians). (Richard C. Zucker, “Comparability: What Does it Mean and How Can it be Implemented for First Nations in Canada?,” 2017).

⁴³ In New Zealand, where the Treaty of Waitangi between the Crown and the Māori nation is supported by a permanent commission of inquiry known as the Waitangi Tribunal has been an established part of the legislated governance landscape since 1975. The Scandinavian countries of Norway and Sweden have both established separate parliaments for the Sami people, who were recognized as indigenous peoples in Sweden in 1977, and in Norway in 1990. The parliaments are established by special enabling legislation, and empowered to legislate on matters of relevance to the Sami people. Like the devolved assemblies in Scotland, Wales, and Northern Ireland, they are established by statute, and not constitution, and can technically be overruled on certain matters by the national parliaments, but they form an important vehicle for both the preservation of Sami culture and the sovereignty of Sami people over their own affairs, and matters of cultural, economic, and political importance, such as education, health care, and language.

⁴⁴ Richard C. Zucker, *Models of Fiscal Financing*, 2011.

⁴⁵ The Royal Commission of Aboriginal People, 1996

⁴⁶ Boadway, Robin, and Shah, Anwar. *Fiscal Federalism: Principles and Practice of Multiorder Governance*, New York: Cambridge University Press, 2009, 309.

⁴⁷ Transfer Payments: A Federal Perspective Presentation to FMI – Ontario Chapter, February 15, 2012, Treasury Board of Canada Secretariat

⁴⁸ Parliamentary Information and Research Service, “Grants and Contributions (PRB 05-49E),” Library of Parliament, February 7, 2006, <http://www.lop.parl.gc.ca/content/lop/ResearchPublications/prb0549-e.htm>.

⁴⁹ Ibid.

⁵⁰ The report also stated: “Despite the federal government’s many efforts to implement our recommendations and improve its First Nations programs, we have seen a lack of progress in improving the lives and well-being of people living on reserves. Services available on reserves are often not comparable to those provided off reserves by provinces and municipalities. Conditions on reserves have remained poor. Change is needed if First Nations are to experience more meaningful outcomes from the services they receive. We recognize that the issues are complex and that solutions will require concerted efforts of the federal government and First Nations, in collaboration with provincial governments and other parties.

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⁵² James Anaya, Report of the Special Rapporteur on the rights of indigenous peoples: The situation of indigenous peoples in Canada, United Nations General Assembly, 2014

⁵³ First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada), January 26, 2016, <https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/127700/index.do>

⁵⁴ First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada), May 26, 2017 <https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/232587/index.do>.

⁵⁵ Interim Report: The National Inquiry into Missing and Murdered Indigenous Women and Girls, November 1, 2017

⁵⁶ Government of Canada, "Territorial Formula Financing," federal transfers, Department of Finance, (January 1, 2000), <https://www.fin.gc.ca/fedprov/tff-eng.asp>.

⁵⁷ This was a serious problem for Nunavut and would be an important (deficiency or gap) that would need to be addressed for many First Nations in order for comparable access to be achieved even with sufficient funding to achieve that objective. Collective action among First Nations can facilitate closing the capacity gap.

⁵⁸ Richard Zuker, Examples of Comparability-Based Expenditure Funding: Canadian and International, Prepared for Tr'ondëk Hwëch'in First Nation, May 10, 2016

⁵⁹ Ibid.

⁶⁰ Ministry of Finance Government of Ontario, "2017 OMPF Allocation Notices," Ministry of Finance, accessed May 9, 2017, <http://www.fin.gov.on.ca/en/budget/ompf/2017/munlist.html>.

⁶¹ Government of Ontario, "Ministry of Finance Update" (AMO Conference 2016, Ministry of Finance, Provincial-Local Finance Division, August 16, 2016), <https://www.amo.on.ca/AMO-PDFs/Events/16CONF/Proceedings/ConcurrentsB/ImprovingTransparencyandBuildingADoheny20160816.aspx>.

⁶² Government of Ontario, "Ontario Municipal Partnership Fund (OMPF)," Ministry of Finance, accessed May 9, 2017, <http://www.fin.gov.on.ca/en/budget/ompf/2017/>.

⁶³ *Implementing the Vision: Governance of First Nations Health Services in British Columbia: A Working Paper of the Tripartite Governance Committee*, Tripartite First Nations Health Plan

⁶⁴ *Implementing the Vision: Governance of First Nations Health Services in British Columbia: A Working Paper of the Tripartite Governance Committee*, Tripartite First Nations Health Plan

⁶⁵ Joe Gallagher, CEO, FNHA Tla'Amin Nation, *The First Nations Health Authority: BC's new health partnership is an act of reconciliation*, The First Nations Health Authority, September 15, 2016,

⁶⁶ *Implementing the Vision: Governance of First Nations Health Services in British Columbia: A Working Paper of the Tripartite Governance Committee*, Tripartite First Nations Health Plan. Expected outcomes for BC FNHA include: It must be fully accountable to First Nations; It should reduce bureaucracy and maximize services; Its policies and programs should be based on the comprehensive health plans of B.C. First Nations; It should improve



efficiency in both administration & health service delivery; It should be founded on a First Nations definition of health that is holistic and includes the physical, mental, emotional, spiritual and social aspects; It should support a comprehensive set of public health, health promotion and disease prevention and primary health services; It would operate in partnership (with clearly defined roles and responsibilities, authority and jurisdiction) with the health programs and authorities of the provincial and federal governments; It should include special provisions for effective service delivery where there are multiple jurisdictions and multiple service organizations, such as in the case of urban and off-reserve First Nations people; It should develop clear and systematic working relationships between First Nations health organizations and provincial health organizations and support clarification of roles and responsibilities, better co-ordination, shared goals and planning, and improved results for the First Nations communities of BC; It should work with other components of the BC health system through direct and indirect measures to improve health services across the continuum.^[1]_{SEP}

⁶⁷ 2008-2011 VCH Aboriginal Health and Wellness Plan, Vancouver Coastal Health, Briefing Note, September 12, 2008

⁶⁸ Anderson, George. "Intergovernmental Revenue Sharing and Transfers," in George Anderson, *Fiscal Federalism: A Comprehensive Introduction*, Toronto: Oxford University Press, 2010, 50-67.

⁶⁹ Nuria Bosch and Jose M. Duran, *Fiscal Federalism and Political Decentralization: Lessons from Spain, Germany, and Canada*. United Kingdom: Edward Elgar Publishing Limited, 2008.

⁷⁰ Sven Jari Stehn, Sven, and Fedelino, Annalisa. *Fiscal Incentive Effects of the German Equalization System*. International Monetary Fund, 2009.

⁷¹ Boadway, Robin, and Shah, Anwar. *Fiscal Federalism: Principles and Practice of Multiorder Governance*, New York: Cambridge University Press, 2009

⁷² 2008 Local Government Budgets and Expenditure Review: 2003/04 – 2009/10 National Treasury Republic of South Africa, www.treasury.gov.za/.../Chapter%20-%20Intergovernmental%20transfers.pdf

⁷³ Watts, Ronald L. "Equalization in Commonwealth Federations." *Regional and Federal Studies*. 13(4), Winter 2003. 111-129. London: Frank Cass.

⁷⁴ Boadway, Robin, and Shah, Anwar (eds.). *Intergovernmental Fiscal Transfers: Principles and Practice. Public Sector Governance and Accountability Series*. Washington, DC: The World Bank, 2007, 38.

⁷⁵ "NAHASDA Indian Housing Block Grant Recipient Self-Monitoring Guidebook" (Office of Native American Programs: Department of Housing and Urban Development, n.d.), https://portal.hud.gov/hudportal/documents/huddoc?id=DOC_8747.pdf.

⁷⁶ Ponitowicz, Marzanna, and Wyszowska, Dorota. "Dysfunction of Fiscal Equalization Mechanisms in the System of Local Government Finances in Poland." *Lex Localis – Journal of Local Self-Government*, 13(4), 1019 - 1045, October 2015.

⁷⁷ Ibid.

⁷⁸ Boex, Jamie, and Martinez-Vazquez, Jorge. *Designing Intergovernmental Equalization Transfers With Imperfect Data: Concepts, Practices, and Lessons*. Atlanta: Georgia State University, 2004.

