



**ASSEMBLY OF FIRST NATIONS
2021 SPECIAL CHIEFS ASSEMBLY
FINAL DRAFT RESOLUTIONS**

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DRAFT RESOLUTION # 0 1 / 2 0 2 1

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TITLE:	Amendment To Charter Re: Establishment of a 2SLGBTQQIA+ Council as a Recognized " Principal Organ" Under Article 5 of the AFN Charter
SUBJECT:	Advisory Council
MOVED BY:	Chairperson Khelsilem, Squamish Nation, BC
SECONDED BY:	Chief Brent Bisailion, Serpent River First Nation, ON

WHEREAS:

- A. The realities and lived experiences of 2SLGBTQQIA+ community members are unique and require their own space, place and voice within our larger decision- making structures and processes at the AFN.
- B. The MMIWG National Inquiry Report called upon all governments and services providers to be inclusive of all perspectives in decision making, including those of 2SLGBTQQIA+ people and youth;
- C. 2SLGBTQQIA+ peoples have, in the past, approached the Assembly of First Nations calling for the creation of a 2SLGBTQQIA+ Council as they seek fair representation at all levels of First Nation governance as well as opportunities to lend their voices and expertise to solving serious issues such as domestic violence, suicide, HIV/AIDS, and murdered and missing Indigenous people in North America.
- D. Resolution 10/98, recognizes that the AFN represents the interests of all First Nations individuals regardless of gender, age or residency;
- E. Article 27 establishes that the Charter may be amended by consensus or by general agreement of the Chiefs or their duly accredited representatives at any meeting of the First Nations in Assembly;

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

- 1. In accordance with Article 5.1, (Principal Organs) amend to the AFN Charter to include a 2SLGBTQQIA+ Council;
- 2. Direct the AFN to secure adequate resources to support the establishment of a 2SLGBTQQIA+ Council.
- 3. Adopt the following description of the 2SLGBTQQIA+ Council, including the Composition and Role and Function:

The 2SLGBTQQIA+ Council

ARTICLE 23 (D)

COMPOSITION

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1. The 2SLGBTQQIA+ Council shall consist of one or more 2SLGBTQQIA+ people in a leadership position representing each of the 11 regions according to the following formulas: one each from British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec and Labrador, Nova Scotia and Newfoundland, New Brunswick, Prince Edward Island, Northwest Territories, and the Yukon Territory. Each region will be responsible for identifying the process for the appointment of their regional representative. In addition, the Chairperson (or designate) shall be associated with the Secretariat and be a member of the Executive Committee.
2. The Chairperson will be selected by the representatives of the 2SLGBTQQIA+ Council, each representative will serve for a term of three years and shall be eligible for re-appointment.

ARTICLE 24 (D)

ROLE AND FUNCTION

1. The 2SLGBTQQIA+ Council may discuss any question or any matter within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and make recommendations to the Executive Committee, the Confederacy of Nations, the AFN Executive Committee or to any subsidiary organ on any such question or matter.
2. Any member of the 2SLGBTQQIA+ Council may participate fully in meetings of the AFN Executive Committee or of the Confederacy of Nations or of any subsidiary organ. The Chairperson (or designate) of the 2SLGBTQQIA+ Council may participate in meetings of the Executive Committee.
3. The 2SLGBTQQIA+ Council will determine and elaborate further on quorum, procedures, functions, etc. at the inaugural meeting of the Council.

DRAFT RESOLUTION # 02 / 2021

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TITLE:	Supporting First Nations Participation in the development of distinctions-based Health Legislation
SUBJECT:	Health
MOVED BY:	Chief Andrea Paul, Pictou Landing First Nation, NS
SECONDED BY:	Chief George Cote, Cote First Nation, SK

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 19: States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - ii. 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.
 - iii. 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 programmes affecting them and, as far as possible, to administer such programmes through their own institutions.
 - iv. Article 24 (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 right.
- B. Call to Action #18 of the Truth and Reconciliation Commission of Canada calls 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 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.
- C. The Crown holds an obligation to First Nations health as a result of Treaties, including the Medicine Chest clause in Treaty Six as well as section 35 of the *Constitution Act*, 1982.
- D. The Canadian Government has never formally acknowledged its legal and Treaty obligations to First Nations health.

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- E. The lack of legislative base outlining the federal government's obligation towards First Nations health leaves health services vulnerable to the political will of the government of the day.
- F. In 2015, the federal government promised a new relationship with Indigenous Peoples – one that would help deliver a better quality of life for their families and communities. In the *Walking the Road of Reconciliation* section of the Prime Minister's 2019 Speech from the Throne and the Minister of Indigenous Services' subsequent Mandate Letter it states,
 - i. co-develop new legislation to ensure that Indigenous people have access to high-quality, culturally relevant health care and mental health services.
- G. The 2021 Supplementary Mandate Letter from the Minister of Indigenous Services states,
 - i. expedite work to co-develop distinctions-based Indigenous health legislation with First Nations, Inuit and the Métis Nation, as well as a distinctions-based mental health and wellness strategy, and work with partners to address systemic racism in the healthcare system.
- H. In the *Supporting Canadians and Fighting COVID-19 Fall Economic Statement 2020*, the Minister of Finance Chrystia Freeland states,
 - i. To move forward with this commitment, the government proposes an initial investment of \$15.6 million over 2 years, starting in 2021-22, to support the co-development of distinctions-based health legislation with First Nations, Inuit and Métis Nation partners. This will begin the process of transforming health care delivery in Indigenous communities by ensuring Indigenous control over the development and delivery of health services.
- I. The National Inquiry into the Missing and Murdered Missing Indigenous Women and Girls Calls for Justice states,
 - i. 3.1: We call upon all governments to ensure that the rights to health and wellness of Indigenous Peoples, and specifically of Indigenous women and girls, and 2SLGBTQQIA people, are recognized and protected on an equitable basis.
- J. AFN Resolution 69/2017, *Exploring a Legislative Base for First Nations Health*, directs the Assembly of First Nations (AFN) to examine options related to federal First Nations health legislation that would articulate federal obligations towards First Nations' health, reflective of inherent, Treaty and international legal obligations, as well as the nation-to-nation relationship.
- K. The AFN has drafted a discussion paper examining the issues related to First Nations health legislation.
- L. The COVID-19 pandemic has shown that decisions impacting the health and well-being of First Nations are best made when First Nations are part of the decision-making processes with the federal government, provinces and territories.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

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1. Call on Canada to orient their approach to the development of distinctions-based health legislation by recognizing First Nation peoples' inherent right to self-determination over First Nations health matters.
2. Call on Canada to ensure that support will be provided to First Nations to make free and informed decisions of how best to care for and establish law, policies, and practices to support the health and well-being of First Nations.
3. Direct the Assembly of First Nations (AFN) to call upon Indigenous Services Canada (ISC) to engage in a focused dialogue with First Nations to substantively identify, recognize and engage the protocols, elements and processes under which to conduct legislative co-development.
4. Direct the AFN to call upon ISC to ensure that the timelines for engagement and co-development of health legislation are reflective of First Nations' needs and capacities and not those of the federal government.
5. Direct the AFN to call upon ISC to ensure that provincial and territorial governments are included the tri-partite discussions related to co-development.
6. Direct the AFN to call upon ISC to ensure individual First Nations are fully and sustainably funded to allow for their full, direct, and unfettered participation in all legislative co-development process and implementation.
7. Direct the AFN to support the participation of First Nations, regional organizations, and provincial/territorial organizations in their regional engagement processes and to lead national level dialogue and engagement.

DRAFT RESOLUTION # 03 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Creation of a National Treaty Commissioner's Office
SUBJECT:	Treaties
MOVED BY:	Chief Matthew Todd Peigan, Pasqua First Nation, SK
SECONDED BY:	Chief Cadmus Delorme, Cowessess First Nation, SK

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i.** Article 37 (a): Indigenous peoples have the right to recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.
 - ii.** Article 37 (b): Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.
- B.** The Vienna Convention on the Laws of Treaties, Article XXIV of *the American Declaration on the Rights of Indigenous Peoples* and the UN Declaration support the recognition of Indigenous Treaty Rights.
- C.** The Inherent Rights and governance structures of the Original Nations and Tribes of Turtle Island have existed since time immemorial and the Inherent Right to self-determination pre-dates contact with foreign colonial governments, including existing prior to the creation of the Canadian Constitution.
- D.** The international right of self-determination of all peoples is affirmed in Article 1 of both the UN Charter and the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.
- E.** Treaties are an expression and recognition of the self-determination of those Nations who entered into a Treaty relationship as equals to states.
- F.** Treaties concluded with European powers or their successors are international Treaties of Peace and Friendship, created for the purpose of coexistence rather than submission to the overall jurisdiction of colonial governments.
- G.** The relationship between First Nations and the Crown has been and must continue to be governed by the Treaty relationship and informed by the application of the law of nations.
- H.** Assembly of First Nations (AFN) Resolution 78/2015, *Establish a Treaty Commissioner's Office*, mandates the AFN to:
- i.** Affirm that First Nations in Treaties 1 to 11 entered into Treaties in which the Crown promised to provide them certain agricultural benefits upon their request.

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- ii. Direct the Assembly of First Nations to facilitate discussions amongst Treaty areas to explore options for the establishment of a Treaty Commissioner's Office for First Nations in Treaties 1 to 11.
 - iii. Call on the Federal Government to establish a Treaty Commissioner's Office under the direction of First Nation treaty regions facilitated by the AFN that will oversee the modernization and implementation of the Crown's Treaty obligations relating to agricultural benefits for Treaties 1 to 11.
- I. Recognizing that all First Nations are sovereign and self-governing and seek a renewed nation-to-nation relationship with the Crown, there is a need for a national independent mechanism to oversee and ensure the full implementation of First Nations Inherent and Treaty Rights.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Affirm that Treaties confirm the self-determination of First Nations as nations equal to states, establish a sacred treaty relationship between First Nations and the Crown, and create obligations for First Nations and Canada.
2. Direct the Assembly of First Nations (AFN) to facilitate discussions amongst Treaty Nations across Canada to explore options for the establishment of a National Treaty Commissioner's Office (TCO) for Treaty Nations, which will complement and build upon the mandates of existing Treaty Commissioner's Offices, where they exist.
3. Call on the Government of Canada to establish a National TCO in full partnership with Treaty First Nations, facilitated by the AFN, that will oversee the modernization of Treaty relationships, the implementation of the Crown's Treaty obligations and coordination with other relevant mechanisms, such as regional Treaty Commissioners.
4. Direct the AFN to call on the Government of Canada to establish a mechanism that no legislation is passed unless it is consistent with Treaty Relationships and supports Canada's international Treaty obligations to First Nations.
5. Direct the AFN to call on federal, provincial, and territorial governments to support First Nations in developing their own nation building processes.
6. Direct the AFN to facilitate the full participation of Treaty Nations in the development of a TCO and advocate that their free, prior and informed consent is respected throughout this process.
7. Direct the AFN to call on the Government of Canada to ensure that any process relating to the establishment or implementation of a National TCO will not prejudice negotiations or implementation of related initiatives currently being undertaken by Treaty Nations or existing Treaty Commissioners.
8. Direct the AFN to immediately advocate for sufficient resources to support Treaty Nations' full and equal participation in the creation of a National TCO including in co-development and engagement processes.

DRAFT RESOLUTION # 04 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Support for the United Nations International Decade of Indigenous Languages (2022-32)
SUBJECT:	Languages
MOVED BY:	Kukpi7 Wayne Christian, Splatsin, BC
SECONDED BY:	Ogimaa Duke Peltier, Wiikwemkoong, ON

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 13 (1): Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
 - ii. Article 14 (1): Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
 - iii. Article 16 (1): Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.
- B. Through Assembly of First Nations (AFN) Resolution 01/2015, *Support for the Full Implementation of the Truth and Reconciliation Commission of Canada's Call to Action*, the Chiefs-in-Assembly fully supported the Report's 94 Calls to Action including specific Calls (13, 14, 15, 16, 17, 84, and 85) about Indigenous Peoples' languages. .
- C. AFN Resolution 46/2018, *United Nations International Decade of Indigenous Languages*, was adopted on December 4, 2018 and, among other things, it called upon the federal government to propose, advocate, and support a timely United Nations declaration of an International Decade of Indigenous Languages.
- D. The United Nations declared 2019 to be the International Year of Indigenous Languages and subsequently declared 2022 to 2032 to be the International Decade of Indigenous Languages (IDIL).
- E. The *Los Pinos Declaration* (Chapoltepek) – *Making a Decade of Action for Indigenous Languages*, which resulted from the closing event of the International Year of Indigenous Languages, took place in Mexico City in February 2020. It highlighted the importance of enabling the use of Indigenous languages in justice systems, the media, labour, and health programming and set out a vision for planning and organizing the IDIL.
- F. The United Nations is urging participating States, including Canada, to support the development of a Global Action Plan and to develop National Action Plans for the IDIL.

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- G. The Department of Canadian Heritage plans to develop a National Action Plan for the IDIL with Indigenous Peoples.
- H. First Nations voices and visions for the revitalization of First Nations languages must be included and recognizable in any planning regarding the IDIL, both within Turtle Island and internationally.
- I. Based on AFN Resolution 06/2015, *Revitalization of Indigenous Languages: Concrete Actions to Support Indigenous Languages Teachers and Cultural Centres*, the AFN is developing a Draft First Nations Language Revitalization Strategy for the revitalization of First Nations languages, which may be used to support future discussions regarding long-term planning for the revitalization of First Nations languages.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Acknowledge the *Los Pinos Declaration (Chapoltepek) – Making a Decade of Action for Indigenous Languages* and adopt it as a guide for the Assembly of First Nations (AFN)'s participation in the International Decade of Indigenous Languages (2022-32).
2. Direct the Chiefs Committee on Languages, the Technical Committee on Languages and the AFN to broadly support activities of the IDIL for the benefit of First Nations languages.
3. Call on the Government of Canada, the Department of Canadian Heritage, and Global Affairs Canada or other involved federal departments, to engage directly and meaningfully with First Nations about planning and implementing Canada's participation in the IDIL.

DRAFT RESOLUTION # 05 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Holding a Ratification Process on Bill C-15
SUBJECT:	Rights
MOVED BY:	Chief Greg Desjarlais, Frog Lake First Nations, AB
SECONDED BY:	Chief Denise Stonefish, Delaware Nation of the Thames, ON

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 3: Indigenous Peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
 - ii. Article 4: Indigenous Peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their international and local affairs, as well as ways and means for financing their autonomous functions.
 - iii. Article 5: Indigenous Peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.
 - iv. Article 8 (1): Indigenous Peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture. (2) States shall provide effective mechanisms for prevention of, and redress for...(b) any action which has the air or effect of dispossessing them of their lands, territories, or resources.
 - v. Article 15: Indigenous Peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.
 - vi. Article 43: The rights recognized herein constitute the minimum standards for survival, dignity and well-being of the Indigenous Peoples of the world.
- B.** The Truth and Reconciliation Commission Calls to Action state:
- i. Call to Action 43: We call upon federal, provincial, territorial and municipal governments to fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework to reconciliation.
- C.** The Assembly of First Nations (AFN) Charter states:
- i. FUNCTIONS AND POWERS Article 7: 2. The First Nations-in-Assembly has power:
 - a) To discuss any matter related to the conduct or operations of any organ of the Assembly of First Nations and to make binding decisions regarding such matters.

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- ii. (d) To ensure that the positions and directions given by First Nations are implemented and to take disciplinary measures whenever the sacred trust and duty to perform and adhere to, in strict compliance with the delegation is deliberately breached.
 - iii. (e) To instruct the Executive Committee to proceed with a ratification process of its decisions regarding any subject matter of a fundamental nature that may affect the jurisdiction, rights, and survival of First Nations.
- D. While support for the UN Declaration was passed by AFN Resolution 86/2019, *Federal Legislation to Create a Framework for Implementation of the United Nations Declaration on Rights of Indigenous Peoples*, and further support for Bill C-262, *An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples*, was passed by AFN Resolution 97/2017, *Support for Bill C-262 "An Act to Ensure the Laws of Canada are in Harmony with the United Nations Declaration on the Rights of Indigenous Peoples"*, there is no documented support by way of a resolution by the Chiefs-In-Assembly for Bill C-15, *An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*.
- E. At a Special Chiefs Assembly held on December 3-5, 2019, in Ottawa, Ontario, the Chiefs-In-Assembly provided support for Resolution 86/2019 that stated that the Chiefs-in-Assembly:
 - i. 1. **seek a collaborative process** with the federal government consistent with the Liberal Party of Canada's commitment during the 43rd federal election....and,
 - ii. 2. Call upon the Government of Canada to develop **with** First Nations a national action plan to implement the UN Declaration (emphasis added).
- F. Support by Chiefs-In-Assembly to seek a collaborative process with the federal government and to develop with First Nations a national action plan, requires at a minimum, a clearly defined and communicated consultation process with rights holders.
- G. At the AFN Annual General Assembly, held December 8-9, 2020, a draft resolution 06/2020, seeking support by the Chiefs-In-Assembly on Bill C-15 was pulled prior to a vote and therefore did not receive support. Consequently, no mandate to pursue further work on Bill C-15 exists.
- H. On May 7, 2021, National Chief Perry Bellegarde stated to the Senate Standing Committee on Aboriginal Issues that "once Bill C-15 passes [into] legislation...the positive thing is the law and policy review within C-15...the comprehensive claims policy, the specific claims policy, additions to reserves, inherent right to self- government policy and the Indian Act which is still been here since 1876 all those things will need to get fixed and brought in line with the UNDRIP," as well as the issue of the Duty to Consult.
- I. Any proposed changes to policies and legislation may negatively impact the jurisdiction of First Nations and therefore requires an explicit mandate passed by way of a resolution.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

- 1. Direct that the Assembly of First Nations (AFN) Executive Committee immediately hold a ratification process to continue any work, and/or advocacy with respect to Bill C-15, *An Act respecting the United*

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Nations Declaration on the Rights of Indigenous Peoples, including any and all subsequent work on a national action plan as this work may negatively impact the jurisdiction of First Nations.

2. Direct the AFN to defer any decision-making regarding advocacy, future discussions, or meetings on Bill C-15 including a national action plan to rights holders, pending the results of a ratification process.

DRAFT RESOLUTION # 06 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	National Action Plan to Implement the United Nations Declaration on the Rights of Indigenous Peoples
SUBJECT:	United Nations Declaration on the Rights of Indigenous Peoples
MOVED BY:	Chief Emily Whetung, Curve Lake First Nation, ON
SECONDED BY:	Chief Leroy Constant, York Factory First Nation, MB

WHEREAS:

A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:

- i. Preambular paragraph 18: Convinced that the recognition of the rights of Indigenous Peoples in this Declaration will enhance harmonious and cooperative relations between the State and Indigenous Peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith.
- ii. 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 Rights and international human rights law.
- iii. Article 2: Indigenous Peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their Indigenous origin or identity.
- iv. Article 3: Indigenous Peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
- v. Article 4: Indigenous Peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
- vi. Article 43: The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the Indigenous Peoples of the world.

B. The Truth and Reconciliation Commission of Canada Calls to Action state:

- i. Call to Action 43: We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation.
- ii. Call to Action 44: We call upon the Government of Canada to develop a national action plan, strategies, and other concrete measures to achieve the goals of the United Nations Declaration on the Rights of Indigenous Peoples.

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- C. The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls Calls for Justice, as legal imperatives called upon all governments to:
- i. 1.2 Implement and fully comply with all relevant rights instruments (like UNDRIP and the 3rd Protocol to the United Nations Convention on the Rights of the Child).
- D. The Chiefs-in-Assembly have passed numerous Resolutions calling for implementation of the UN Declaration in Canada including:
- i. 38/2015, Canadas Obligation to Develop with Indigenous Peoples a National Action Plan for Implementation of the UN Declaration on the Rights of Indigenous Peoples;
 - ii. 28/2016, United Nations Declaration on the Rights of Indigenous Peoples 10 year Anniversary;
 - iii. 128/2016 , UN Declaration Legislative Framework and Interpretation of Canadian Laws;
 - iv. 97/2017 , Support for Bill C-262, An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples;
 - v. 14/2018, United Nations Declaration on the Rights of Indigenous Peoples-Legal Standing Implementation;
 - vi. 32/2019, Support the Declaration by Indigenous Nation and Peoples on Indigenous Territories, Colonial Doctrines and the Underlying Myth of Crown Title; and
 - vii. 86/2019, Federal legislation to create a framework for implementation of the United Nations Declaration on the Rights of Indigenous Peoples;
- E. The Government of Canada introduced Bill C-15, *An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples* on December 3, 2020; the Act states that the Responsible Minister "... must, in consultation and cooperation with Indigenous peoples and with other federal ministers, prepare and implement an action plan to achieve the objectives of the Declaration."
- F. On June 21, 2021, the *United Nations Declaration on the Rights of Indigenous Peoples Act* received Royal Assent; the Act commits Canada to table an Action Plan and make it public in no more than two years.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Affirm that the *United Nations Declaration on the Rights of Indigenous Peoples Act* does not domesticate First Nations' sacred rights affirmed and articulated in the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration).
2. Confirm that Canada, as a colonial Nation, does not acquire directly or indirectly any of the rights, privileges, responsibilities, or sacred relationships affirmed in the UN Declaration by virtue of the *United Nations Declaration on the Rights of Indigenous Peoples Act*.

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3. Remind all colonial governments that the UN Declaration does not require the colonial legislations such as the *United Nations Declaration on the Rights of Indigenous Peoples Act* to operationalize and apply the UN Declaration within Canada's colonial legal systems.
4. Call on the Government of Canada to immediately support First Nations, as the rights-holders, in co-developing the National Action Plan called for within two years by the *United Nations Declaration on the Rights of Indigenous Peoples Act*.
5. Direct the Assembly of First Nations (AFN) to advocate for First Nations participation in the creation of the National Action Plan to implement the UN Declaration.
6. Call on the Government of Canada to immediately provide sufficient resources to support full First Nations participation in the development of the National Action Plan.
7. Direct the AFN to hold a Special Chiefs Assembly to discuss the *United Nations Declaration on the Rights of Indigenous Peoples Act* as soon as practicable.
8. Direct the AFN to report back to the Chiefs-in-Assembly at every national gathering on the status of the National Action Plan until that plan is tabled and made public.

DRAFT RESOLUTION # 07 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE: Funding for Post-Secondary Indigenous Institutions and Students

SUBJECT: Lifelong Learning

MOVED BY: Chief Leonard Standing on the Road, Montana Cree Nation, AB

SECONDED BY: Chief Randy Ermineskin, Ermineskin Cree Nation, AB

WHEREAS:

- A. Our ancestors entered into Treaties with the Crown in right of Great Britain and Ireland to last as long as the sun shines, the grass grows and the waters flow.
- B. Our Nations consider education to be a lifelong learning experience.
- C. The Crown wanted to use some of our lands and territories to the depth of a plow for her subjects to live in peace and friendship.
- D. The Crown agreed as a Treaty commitment to provide education with the written reference to schoolhouse on each Treaty reserved lands.
- E. The successor state of Canada undertook from their beginning the promotion of educating Indians.
- F. The Indian residential school system was a failure to respect the Treaty Right to education.
- G. Since 1976, Canada ratified the *International Covenant on Economic, Social and Cultural Rights* (CESCR) which makes specific references to education, including:
 - i. Article 13 (1): The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace;
 - ii. Article 13 (2): The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
 - iii. Article 13 (2a): Primary education shall be compulsory and available free to all;
 - iv. Article 13 (2b): Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education; and

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- v. Article 13 (2c): Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education.
- H. Canada has failed to live up to their international commitments undertaken by the Crown in the making of Treaties and their international obligations as set out in the binding Convention.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Support the call for the Government of Canada to honour its obligations to lifelong learning by implementing the following measures:
 - a. provide First Nations post-secondary institutions sufficient core funding support;
 - b. increase monies for post-secondary students through substantial investments to address the historical inequity in the distribution of PSE funding;
 - c. provide sufficient funding to ensure that no student is left behind and that all students seeking to attend post-secondary studies have the financial support they need to access those studies;
 - d. provide monies to be made available for First Nations post-secondary institutions for the structural support of buildings and their upkeep;
 - e. provide needs-based funding developed by First Nations post-secondary institutions that includes sustainable and growth-oriented funding;
 - f. provide sufficient funds to redress the historic and chronic underfunding of First Nations post-secondary institutions that will support the functions, programs and services these institutions are unable to offer;
 - g. provide pay equity sustained by long-term operational funding;
 - h. recognize and respect First Nations leadership and authentication of programming in First Nations languages and knowledges;
 - i. make First Nations post-secondary institutions a funding priority and recognize First Nations control over First Nations education, especially programming in languages;
 - j. provide reciprocal acknowledgement of our national and international accreditations;
 - k. ensure that post-secondary funding for First Nations institutions and students will be protected so that there will not be a decrease or loss of this funding in future years; and
 - l. ensure that investments in post-secondary funding for First Nations institutions and students will fully encompass all areas.

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TITLE:	First Nations Control of Federal Funding in Education
SUBJECT:	Education
MOVED BY:	Proxy Tribal Chief Tyrone McNeil, Kwaw Kwaw Apilt First Nation, BC
SECONDED BY:	Chief George Ginnish, Eel Ground First Nation, NB

WHEREAS:

A. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:

- i. Article 13 (1): Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
- ii. Article 13 (2): States shall take effective measures to ensure that this right is protected and also to ensure that Indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.
- iii. Article 14(1): Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
- iv. Article 14 (2): Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
- v. Article 14 (3): States shall, in conjunction with Indigenous peoples, take effective measures, in order for Indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.
- vi. Article 19: States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- vii. 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 programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

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- B. First Nations have inherent and Treaty rights in regard to education and the Government of Canada must uphold and honour the inherent authority and jurisdiction of First Nations to exercise control over their education.
- C. Education is a fundamental human right and for First Nations, this right is uniquely situated within a framework of inherent rights that are constitutionally protected under section 35 of the *Constitution Act, 1982*, and supported by international mechanisms and instruments, including the UN Declaration.
- D. In accordance with Assembly of First Nations (AFN) Resolution 65/2017, *New Interim Funding Approach for First Nation Education*, and the Policy Proposal (v15), action is required to ensure First Nations education funding methodologies are less reliant on short-term proposal-based programming, are allocated in a manner that ensures substantive equality and are equitable between regions and their respective First Nations.
- E. In accordance with Assembly of First Nations Quebec-Labrador Resolution 11/2017 and to protect the most vulnerable student population, Quebec First Nations demand that the funding for Special Education not be included in the Indigenous Services Canada Interim Funding Formula but kept in its own program for delivering this essential service until the Regional Education Agreement is signed.
- F. Self-government agreements recognize the inherent right to self-government for First Nations and any new commitments or improvements made to First Nations education will recognize the entitlements to additional benefits as identified in each self-government agreement.
- G. The supplementary and targeted education programs funded by Indigenous Services Canada for First Nations currently include the Education Partnership Program (EPP), the High Cost Special Education Program (HCSEP), the Innovation in Education Program and the Research and Learning Program.
- H. The EPP and the HCSEP are proposal-based education programs that require reform to improve funding, equitability, and First Nations control.
- I. In accordance with Policy Proposal (v15), investments and commitments for First Nations special education would remain unchanged until a First Nations review of the federal program was complete.
- J. The *High Cost Special Education Program Review 2021* was completed by engaging First Nations education staff and leadership in all regions through discussion groups, surveys, data analysis, provincial scans and case studies.
- K. Results of this review call for additional major investments and First Nations led regional approaches to costing and funding for special education service delivery.
- L. The EPP is currently undergoing a review to better support First Nations in establishing their education service delivery systems that support their student needs and community education priorities; address and increase the program budget; and, support the service transfer of the program as determined by First Nations.
- M. Budget 2021 announced \$350 million over five years, starting in 2021-22, to expand access to adult education by supporting First Nations people who wish to return to high school in their communities and complete their high school education.

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- N. The targeted First Nations adult education funding must be a program that supports equitable and consistent access for lifelong learners in all First Nations schools.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Reaffirm First Nations inherent and Treaty rights to education.
2. Reaffirm that jurisdiction over First Nations education remains with each First Nation.
3. Call on the Government to Canada to improve and strengthen partnerships with First Nations that respects First Nations control of First Nations education and First Nations decision-making in all processes concerning education.
4. Call on the Government of Canada to fund First Nations education based on real needs and First Nations priorities rather than provincial comparability.
5. Support the Chiefs' Committee on Education, the National Indian Education Council and the Assembly of First Nations (AFN) to engage and lead the reform of supplementary and targeted education programs.
6. Support the recognition of First Nations' expertise and knowledge regarding First Nation education.
7. Support policy changes and program development through various processes such as a Memorandum to Cabinet or Treasury Board Submission, to the supplementary and targeted education programs that:
 - a. Exercise First Nations' Treaty and inherent and rights to education, honours and advances First Nations control of First Nations education, and conforms to and upholds Canada's Treaty and legal obligations to First Nations;
 - b. Align with AFN Resolution 65/2017, *New Interim Funding Approach for First Nation Education*, and the Policy Proposal (v15);
 - c. Ensures equitable, predictable and sustainable funding for longstanding successful programming that addresses the real needs and priorities of First Nations;
 - d. Ensures funding is based on substantive equality and an equitable methodology;
 - e. Provide and commit to clear, agreed-upon processes and timelines;
 - f. Does not define, limit, prejudice, abrogate or derogate from any of the rights, interests or jurisdiction of individual First Nations, or from advancing their own processes towards First Nations control of First Nations education; and
 - g. Ensures there are no new decisions or changes made to funding programs without full and thorough prior consultation with First Nations partners.
8. Support First Nations, regions or Treaty territories who may want to independently engage on any processes relating to improving supplementary and targeted education programs.

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TITLE: Community-based Indigenous-led Midwifery Education Pathways

SUBJECT: Midwifery, Health

MOVED BY: Chief David Nakogee, Attawapiskat First Nation, ON

SECONDED BY: Chief Scott McLeod, Nipissing First Nation, ON

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 2: Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.
 - ii. 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.
 - iii. 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 programmes affecting them and, as far as possible, to administer such programmes through their own institutions.
- B. Section 3.2 in the Calls for Justice issued by the National Inquiry into Missing and Murdered Indigenous Women and Girls calls upon all governments to provide adequate, stable, equitable, and ongoing funding for Indigenous-centred and community-based health and wellness services that are accessible and culturally appropriate, and meet the health and wellness needs of Indigenous women, girls, 2-Spirit, Lesbian, Gay, Bisexual, Transgendered, Queer, Questioning, Intersex, and Asexual (2SLGBTQQIA) people. The lack of health and wellness services within Indigenous communities continues to force Indigenous women, girls, and 2SLGBTQQIA people to relocate in order to access care. Governments must ensure that health and wellness services are available and accessible within Indigenous communities and wherever Indigenous women, girls, and 2SLGBTQQIA people reside.
- C. Assembly of First Nations (AFN) Resolution 21/2019, *Support for a Greater Investment into the Reclamation into Childbirth* called for the federal government to increase funding, training opportunities, and replace the outdated mandatory evacuation policy to help empower Indigenous women to reclaim the ceremony of childbirth closer to home.
- D. The National Aboriginal Council of Midwives (NACM), a national voice for Indigenous midwifery, has published a Core Competencies Framework, which provides a competency framework of Indigenous midwifery knowledges and skills to start growing and teaching Indigenous midwifery and revitalize and bring the practice of midwifery back to First Nations.

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- E. The NACM is working to expand opportunities for community-based Indigenous midwifery education. This would bring Indigenous-led midwifery education apprenticeships as close to home as possible for aspiring Indigenous students and is modelled on the successes of the Tsi Non:we lonnakeratstha Ona: grahsta' Aboriginal Midwifery Training Program (Ontario) and the Innulitsivik Midwife Training Program (Nunavik).
- F. The current university-based midwifery education system is failing prospective Indigenous midwives and urgently needs to be reformed so that midwifery training is more accessible and prospective students can remain close to home, connected with their families and communities.
- G. Revitalizing Indigenous-led, apprenticeship-based midwifery education in First Nations is essential to re-establishing, growing and sustaining Indigenous midwifery in First Nations. This improves perinatal outcomes and access to comprehensive sexual and reproductive health services in community, reducing the need for medical evacuations, and contributing to First Nations abilities to reclaim the childbirth ceremony.
- H. Strong, sustainable Indigenous midwifery in First Nations communities can address anti-Indigenous racism in health care and education services where primary care and health care provider training would be provided by First Nations midwives within their communities.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to call on the federal government to immediately and formally recognize midwives as essential primary health care providers.
2. Direct the AFN to call on the federal government to commit to sustained and comprehensive investments in midwifery as part of addressing anti-Indigenous racism in Canada.
3. Direct the AFN to call on the Federal government to commit to investments in Indigenous-led, community-based midwifery education pathways in First Nations.
4. Direct the AFN to support opportunities for community-based Indigenous midwifery education in partnership with the National Aboriginal Council of Midwives (NACM) and First Nations, in order to restore, grow and sustain Indigenous-led sexual and reproductive health care within First Nations.
5. Direct the AFN to work with NACM in the mobilization of an Indigenous midwifery-led health human resource strategy in order to recruit prospective midwives; particularly Indigenous youth who may want to explore the profession of midwifery within their First Nations.

DRAFT RESOLUTION # 10 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Establishment of a National Indigenous Information Technology Alliance (NIITA) Office
SUBJECT:	Health
MOVED BY:	Chief Derrick Henderson, Sagkeeng First Nation, MB
SECONDED BY:	Chief Tammy Cook-Searson, Lac La Ronge Indian Band, SK

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision-making institutions.
 - ii. 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.
 - iii. Article 24 (2): Indigenous individuals have an right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view of achieving progressively the full realization of this right.
- B. The United Nations Sustainable Development Goals (UN SDG) 2030 Agenda, “recognize that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth”. In response to this, Canada’s *Goal 9 – Industry, Innovation and Infrastructure* states that,
- i. 9.1 Develop quality, reliable, sustainable and resilient infrastructure, including regional and trans-border infrastructure, to support economic development and human well-being, with a focus on affordable and equitable access for all;
 - ii. 9.5.C Significantly increase access to information and communications technology and strive to provide universal and affordable access to the Internet in least developed countries by 2020.
- C. The Truth and Reconciliation Commission of Canada Call to Action states that,
- i. #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.

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- ii. #23: We call upon all levels of government to:
 - i. Increase the number of Aboriginal professionals working in the health-care field.
 - ii. Ensure the retention of Aboriginal health-care providers in Aboriginal communities.
 - iii. Provide cultural competency training for all healthcare professionals.
- D. In 2015, the federal government promised a new relationship with Indigenous Peoples – one that would help deliver a better quality of life for their families and communities. In the *Walking the Road of Reconciliation* section of the Prime Minister's 2019 Speech from the Throne and the Minister of Indigenous Services subsequent Mandate Letter states,
 - i. co-develop new legislation to ensure that Indigenous people have access to high-quality, culturally relevant health care and mental health services.
- E. The burden of inequities in accessing health services during the Covid-19 pandemic has been carried by First Nations across the country,
- F. Access to broadband, virtual care, and electronic vaccine documentation systems are critical for First Nations to manage and contain the impact of the virus, and are required to support self-determined, culturally relevant pandemic interventions.
- G. First Nations health centres across the country require support for Information Technology (IT) applications to effectively manage their own health services.
- H. The development of a Business Case was completed in 2021 to develop a National Indigenous IT Office. This Business Case was led in partnership with the Northern Intertribal Health Authority (SK) and the Assembly of Manitoba Chiefs (MB), with the contributions of First Nations Health Managers, digital health experts and IT professionals from across the country, along with engagement from key stakeholders across Canada.
- I. The Business Case was also supported with input from the Assembly of First Nation's (AFN) Digital Health Advisory Committee, a group of experts with experience in digital health with First Nations across Canada.
- J. The business case highlighted that a NIITA Office would provide IT services to First Nations health organizations in the following areas:
 - i. IT infrastructure, Strategic Leadership and Advisory Service;
 - ii. IT Procurement;
 - iii. IT Best Practices Development and Support; and,
 - iv. IT Professional Development and Networking.

D R A F T R E S O L U T I O N # 1 0 / 2 0 2 1

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THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

- 1.** Direct the Assembly of First Nations (AFN) to call upon the federal government to recognize the importance of a National Indigenous Information Technology Alliance (NIITA) supporting Information Technology (IT) Infrastructure and development for First Nation health centres across the country.
- 2.** Direct the AFN to call upon Indigenous Services Canada and the federal government to provide new funding to establish and sustain a NIITA Office.
- 3.** Call on the AFN to support the establishment of a National Indigenous IT Office with sustained and predictable funding.

DRAFT RESOLUTION # 11 / 2021

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TITLE:	Call for the Permanency of the Indian Residential Schools Resolution Health Support Program
SUBJECT:	Health, Indian Residential Schools
MOVED BY:	Chief Byron Louis, Okanagan Indian Band, BC
SECONDED BY:	Chief Harvey McLeod, Upper Nicola Band, BC

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision-making institutions.
 - ii. 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.
 - iii. Article 24 (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 of achieving progressively the full realization of this right.
- B.** The Truth and Reconciliation Commission of Canada, Calls to Action states that,
- i. #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.
 - ii. #21: We call upon the federal government to provide sustainable funding for existing and new Aboriginal healing centres to address the physical, mental, emotional, and spiritual harms caused by residential schools and to ensure that the funding of healing centres in Nunavut and the Northwest Territories is a priority.
 - iii. #23: We call upon all levels of government to:
 - i. Increase the number of Aboriginal professionals working in the health-care field.
 - ii. Ensure the retention of Aboriginal health-care providers in Aboriginal communities.
 - iii. Provide cultural competency training for all healthcare professionals.
- C.** The Calls for Justice from the National Inquiry into Missing and Murdered Indigenous Women and Girls also speak to healing from trauma including:

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- i. 7.2 We call upon governments and health service providers to ensure that health and wellness services for Indigenous Peoples include supports for healing from all forms of unresolved trauma, including intergenerational, multi-generational and complex trauma. Health and wellness programs addressing trauma should be Indigenous-led or in partnership with Indigenous communities and should not be limited in time of approaches.
- D. In 2015, the federal government promised a new relationship with Indigenous Peoples – one that would help deliver a better quality of life for their families and communities. In the *Walking the Road of Reconciliation* section of the Prime Minister's 2019 Speech from the Throne and the Minister of Indigenous Services subsequent Mandate Letter states:
 - i. co-develop new legislation to ensure that Indigenous people have access to high-quality, culturally relevant health care and mental health services.
- E. The 2021 Supplementary Mandate Letter from the Minister of Indigenous Services states:
 - i. expedite work to co-develop distinctions-based Indigenous health legislation with First Nations, Inuit and the Métis Nation, as well as a distinctions-based mental health and wellness strategy, and work with partners to address systemic racism in the healthcare system.
- F. Budget 2021 states that, "*The strategy will renew funding for the Indian Residential Schools Health Supports Program and Crisis Line, which provide healing supports for survivors of childhood trauma and residential schools. It will also stabilize and expand community-based supports and capacity, increase substance use treatment and prevention, and support workforce development.*"
- G. The Indian Residential School Resolution Health Support Program (IRS RHSP), under the Indian Residential School Settlement Agreement (IRSSA) is mandated to provide mental health and emotional support services to eligible former IRS Survivors and their families throughout all phases of the IRSSA.
- H. A growing number of Survivors with more complex cases and stories are accessing the IRS RHSP, which indicates confidence in receiving support from the program.
- I. Continuous and indefinite commitment from the federal government to the IRS RHSP is still not clear.
- J. The Chiefs-in-Assembly passed Resolution 29/2013, *Continuation of the Indian Residential Schools Resolution Health Support Program Beyond 2016*, which mandated the AFN to advocate for the reinvestment and continuation of funds for the IRS RSHP beyond 2016. It also mandated the AFN to work with the federal government to document the role that cultural supports have played in the healing outcomes of IRS Survivors and their families.
- K. The Assembly of First Nations (AFN) Report, *The Indian Residential Schools Resolutions Health Support Program Continuation*, was released on September 30, 2020 and reports that:
 - i. Indian Residential School Survivors and AFN Mental Wellness Committee (MWC) members want the program to continue to address the ongoing impacts of trauma. The program should exist, always and forever.
 - ii. Due to the painful legacy of residential schools, the MWC believes strongly that the Indian Residential Schools Resolution Health Support Program (IRS RHSP) must continue to be an

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- independent, stand-alone program that bears the Indian Residential School name. Survivors are adamant that it maintains its identity
- iii. Elders in their seventies and eighties have time to reflect on the past and to relive their experiences, reawakening previous traumas and painful memories of lack of control and helplessness, sadness and loneliness. Anxiety has also been triggered by uncertainty about the continuation of this vital program.
 - iv. The IRS RHSP allows for the collection of meaningful and relevant data, which supports prevention and services for Survivors and track successes.
 - v. Vicarious trauma can be inherent in working with and supporting those who have been traumatized and are working through multiple traumas.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to call on the federal government to affirm its commitment to reconciliation by establishing a permanent and enhanced version of the Indian Residential Schools Resolution Health Support Program (IRS RHSP). The permanent IRS RHSP program would focus on enhanced capacity, sustainable funding and resources, ensuring its ability to meet the complex needs of Indian Residential School Survivors and their families, including the provision of appropriate healing supports to address the ongoing effects of intergenerational trauma.
2. Direct the AFN to call on the federal government to continually assess and document the roles of the IRS RHSP Cultural Support workers to ensure they are supported through the Indian Residential Schools (IRS) Survivors healing journeys to prevent burnout, compassion fatigue, and high turnover rates.
3. Direct the AFN to call upon the federal government to ensure that work towards a permanent version of the IRS RHSP retains its distinct focus in serving IRS-related needs and that the newly enhanced program maintains its mandate to support Indian Residential School Survivors and their families.

DRAFT RESOLUTION # 12 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Support for Closing the Infrastructure Gap by 2030
SUBJECT:	Infrastructure
MOVED BY:	Ogimaa Kwe, Linda Debassige, M'Chigeeng First Nation, ON
SECONDED BY:	Chief Lance Haymond, Kebaowek First Nation, QC

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i.** Article 18: Indigenous Peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to obtain and develop their own Indigenous decision-making institutions.
 - ii.** Article 19: States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - iii.** 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 programmes affecting them and, as far as possible, to administer such programmes through their own institutions.
- B.** In the most recent Speech from the Throne, Canada re-iterated its commitment to eliminating the infrastructure gap between First Nations and the rest of Canada by 2030.
- C.** The COVID-19 pandemic has highlighted the significant gaps in First Nations infrastructure, such as overcrowded housing, poor connectivity, and lack of access to safe, clean and reliable drinking water, which makes preventative measures to avoid infection impossible in some First Nations.
- D.** In Budget 2021, the federal government identified distinctions-based investments of \$6 billion over five years, starting in 2021-22, with \$388.9 million ongoing, to support infrastructure, including housing, in Indigenous communities.
- E.** The 2016 Canadian Council for Public Private Partnership report *P3's: Bridging the First Nations Infrastructure Gap*, states "The infrastructure deficit across First Nations in Canada has been estimated by some experts to be between \$25 billion and \$30 billion (with some citing even higher figures)".

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- F. The Assembly of First Nations (AFN) continues to advocate for urgent investments to address the backlog of infrastructure, including housing, in First Nations to ensure First Nations' overall health and wellbeing. The AFN also continues to urge the federal government to commit to sustained long-term funding over the next five to fifteen years to bring infrastructure and housing in First Nations up to the same level as the rest of Canada.
- G. Closing the housing and infrastructure gap in its entirety is essential to moving forward towards First Nations care and control of housing and infrastructure.
- H. First Nations must define their infrastructure needs and future investments must take into account all infrastructure and housing, as well as operations and maintenance costs.
- I. The AFN also continues its work on the National First Nations Infrastructure Assessment, which will gather essential data and identify current First Nations assets and prepare an analysis of current and future infrastructure needs.
- J. ISC has committed to engaging with First Nations on closing the infrastructure gap. The AFN continues to urge the federal government to ensure that all regions are given sufficient resources in order for regional First Nations organizations, Tribal Councils, and First Nations to be prepared to engage fully with the federal government on closing the infrastructure gap.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to support regionally-led engagement and regional priorities, working in partnership with Canada to support meaningful First Nations participation in engagement sessions.
2. Direct the AFN to advocate to Canada for adequate funds to support sustained and meaningful engagement regarding closing the infrastructure gap with all First Nations.
3. Direct the AFN to call on Canada to work in full partnership and engage meaningfully with First Nations on First Nations-defined infrastructure needs, including a dedicated investigation into true housing and infrastructure needs and the co-development of a infrastructure plan to support closing the gap.
4. Direct the AFN to urge the federal government to make long-term and sustainable funding commitments to First Nations community infrastructure and housing, including but not limited to: water, wastewater, modernized operations and maintenance funding with escalators, connectivity, roads, educational facilities, health facilities, community buildings, and asset management programs.
5. Direct the AFN to ensure that this initiative does not delay existing endeavors, including First Nations-led processes and advocacy on both the National First Nations Infrastructure Assessment and the National First Nations Housing and Related Infrastructure Strategy.

DRAFT RESOLUTION # 13 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Meaningful engagement and involvement in the co-development of a Canada Water Agency
SUBJECT:	Water
MOVED BY:	Chief Lance Haymond, Kebaowek First Nation, QC
SECONDED BY:	Ogimaa Kwe Linda Debassige, M'Chigeeng First Nation, ON

WHEREAS:

- A. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:
- i. Article 18: Indigenous Peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to obtain and develop their own indigenous decision-making institutions.
 - ii. Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - iii. Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generation in this regard.
 - iv. Article 26 (1): Indigenous Peoples have the right to the lands, territories, and resources which they have traditionally owned, occupied or otherwise used or acquired.
- B. In December 2019, the federal government committed to creating a Canada Water Agency (CWA) in the Minister of Environment and Climate Change's mandate letter, which directed the Minister to work with the Minister of Agriculture and Agri-Food to "create a new Canada Water Agency to work together with the provinces, territories, Indigenous communities, local authorities, scientists and others to find the best ways to keep our water safe, clean and well-managed."
- C. The creation of a CWA has far reaching implications on First Nations water rights and governance and First Nations need to be included in any discussions regarding the management of water.

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- D.** The Assembly of First Nations (AFN) has advocated for First Nations inclusion in any discussions regarding the development of the CWA, through letters sent from the AFN National Chief to the Minister of Environment and Climate Change on July 31, 2020, and on April 27, 2021 which urged the Minister to set aside dedicated funding for First Nations participation in the engagement process and sought further clarity on the implications of a CWA on First Nations inherent and Treaty rights.
- E.** To date, the federal government's outreach process has not adequately engaged with all First Nations, due to rushed timelines, inadequate pre-engagement, and a lack of understanding on the importance of co-development.
- F.** The federal government must obtain the free, prior and informed consent of First Nations, including on matters related to water management, and any water-related agencies, policies or legislation that could have implications on Treaty rights and the rights affirmed in the UN Declaration.
- G.** All regions must be given adequate resources in order for regional First Nations organizations, Tribal Councils, and First Nations to be prepared to engage fully with the federal government on discussions regarding the development of the CWA.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

- 1.** Direct the Assembly of First Nations (AFN) to call on Canada to immediately work in full partnership and meaningfully engage with First Nations regarding the potential structure and priorities of a CWA, through a mutually collaborative process, that recognizes and affirms First Nations interests and rights to water.
- 2.** Direct the AFN to urge Environment and Climate Change Canada to ensure that any upcoming outreach with First Nations on the development of the CWA include dedicated funds and resources, in addition to timelines that respect the ability of First Nations to participate.
- 3.** Direct the AFN to work with the relevant Chiefs and technical bodies to identify priorities, issues, synergies, and concerns as they relate to the establishment and implementation of the CWA.
- 4.** Direct the AFN to urge Environment and Climate Change Canada to prioritize all water-related research and data collection that affect First Nations.

DRAFT RESOLUTION #14/2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Support for First Nations Decentralized Infrastructure
SUBJECT:	Water, Infrastructure, Treaty Rights
MOVED BY:	Chief Vernon Saddleback, Samson Cree Nation, AB
SECONDED BY:	Chief Leonard Standing on the Road, Montana First Nation, AB

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
- B. The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls has identified the First Nations water and housing crisis as a source of violence against First Nations women, girls and 2SLGBTQQIA people, responding with Call for Justice 4.1 that states:
- i. We call upon all governments to uphold the social and economic rights of Indigenous women, girls, and 2SLGBTQQIA people by ensuring that Indigenous Peoples have services and infrastructure that meet their social and economic needs. All governments must immediately ensure that Indigenous Peoples have access to safe housing, clean drinking water, and adequate food.
- C. AFN Resolution 53/2019, *Human Right to Clean Drinking Water*, recognizes and affirms the human right to clean drinking water. The human right to water and sanitation (HRWS) was recognized as a human right by the United Nations General Assembly on July 28, 2010.
- D. First Nations and all Canadians have the basic human right to clean drinking water. In addition, since the Walkerton Crisis of 2000, provincial governments have made clean drinking water a priority for all municipalities, while the federal government has failed to do the same for First Nations.
- E. Since the current federal government was elected in October 2015, eliminating all First Nation Long-Term Drinking Water Advisories within five years was made a top priority by the Prime Minister in his mandate letters to Cabinet. This commitment, however, only includes funded assets, and not individual systems.
- F. Closing the infrastructure gap by 2030 has been identified as a key commitment of the Federal Government to First Nations.
- G. First Nations across the country continue to face inadequate access to safe, clean water, and adequate infrastructure.

DRAFT RESOLUTION # 14 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

- H. Many First Nations lack sufficient infrastructure; in particular, many First Nations across Canada have decentralized infrastructure systems, such as wells, cisterns and septic tanks that are not covered under the Federal Government's priorities and are not adequately funded.
- I. Samson Cree Nation has, at any given point, over 130 advisories related to its individual water wells. Many residents have been unable to drink their water for many years.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to call on Canada to immediately work in full partnership with First Nations in developing a plan and approach to address all infrastructure gaps by 2030, including decentralized systems, and to establish regional working groups with rights holders on their true infrastructure needs, including decentralized systems.
2. Direct the AFN to call on Canada to resolve all drinking water advisories across First Nations, including individual systems, and to identify funding mechanisms to support First Nations in addressing these needs.
3. Direct the AFN to call on the Minister of Indigenous Services to meet with First Nations, including Samson Cree Nation, to develop a plan to address their ongoing infrastructure issues and persistent water advisories.

DRAFT RESOLUTION #15/2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Federal Government Financial Support for High Cost of Construction Materials
SUBJECT:	Infrastructure
MOVED BY:	Chief R. Don Maracle, Mohawks of the Bay of Quinte, ON
SECONDED BY:	Chief Lance Haymond, Kebaowek First Nation, QC

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
 - i. 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.
- B. First Nations are faced with dramatic increases in the cost of construction materials for housing and infrastructure projects.
- C. The cost of materials has risen significantly in the past year as a result of the COVID-19 pandemic.
- D. The May 2021 Statistics Canada report *Building construction price indexes, first quarter 2021* reports the “higher construction costs overall were mostly attributable to a shortage of construction materials, which led to higher month-over-month prices for softwood lumber (+11.9%) and veneer and plywood (+20.1%) in March. Softwood lumber (+118.9%) prices rose at their fastest year-over-year pace on record in March, partially because of low stocks following the temporary shutdown of sawmills during the first wave of the COVID-19 pandemic. The demand for materials continued to be high as building materials and supplies sold by wholesalers were up 19.1% year over year in February.”
- E. These statistics reflect the cost increases in 11 Census Metropolitan Areas (CMA) where competitive pricing exists. It does not represent the reality First Nations face when purchasing materials away from these CMAs where First Nations have to source construction materials at an increased cost, from limited suppliers, and with inadequate delivery options for remote First Nations.
- F. The high costs of materials increase the costs of home construction and infrastructure projects, thereby jeopardizing and delaying vital development.
- G. Allocation of the \$6 billion in Federal Budget 2021 for distinctions-based investments must consider robust financial support and provide emergency infrastructure funding to offset price increases to ensure planned or in-progress construction remain viable.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to advocate for robust financial support for First Nations housing and infrastructure projects.

D R A F T R E S O L U T I O N # 1 5 / 2 0 2 1

AFN Special Chiefs Assembly, December 7-9, 2021

2. Direct the AFN to urge Indigenous Services Canada (ISC) to acknowledge the impacts on First Nations due to the increased cost of construction materials resulting in significant impacts on the delivery of housing and infrastructure projects.
3. Direct the AFN to urge ISC to provide emergency funding to offset the financial burden placed on First Nations.

DRAFT RESOLUTION # 16 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE: Independent Review of the McLean Federal Indian Day Schools Settlement

SUBJECT: Indian Residential Schools

MOVED BY: Chief Karen Bird, Peter Ballantyne Cree Nation, SK

SECONDED BY: Proxy Neil Sasakamoose, Red Pheasant First Nation, SK

WHEREAS:

- A.** The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:
- i. Article 7 (1). Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
 - ii. Article 7 (2). Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.
 - iii. Article 8 (1). Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
 - iv. Article 8 (2). States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities; (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources; (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights; (d) Any form of forced assimilation or integration; (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them
- B.** The Government of Canada operated and funded Indian Day Schools, designed to assimilate Indigenous children, and affecting up to 200,000 children, many of whom suffered physical, verbal, and sexual abuse.
- C.** In August 2019, the Federal Court approved the McLean Indian Day School Settlement Agreement with five (5) levels of compensation and a deadline to file a claim by July 13, 2022.
- D.** In March 2020, COVID-19 was declared a global pandemic, and during this global health crisis, over 110,000 Day School Survivors filed a claim, many without legal counsel, technical resources or mental health supports.
- E.** Thousands of Survivors accepted the lowest claim level due to financial limitations, illness, onerous requirements of filing at higher levels, and barriers associated with disclosing abuse without adequate supports.

D R A F T R E S O L U T I O N # 1 6 / 2 0 2 1

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- F.** The Claims Administrator announced that claimants would not be allowed to change levels or offer additional information, known as progressive disclosure, if they filed a claim prior to June 15, 2020, thereby preventing potentially thousands of Survivors from achieving a fair and just settlement.
- G.** Day School Survivors who pursued level 2 to 5 claims without adequate supports are now receiving decisions downgrading their claims.
- H.** Due to these various problems, the July 22, 2022 deadline does not provide enough time for Survivors to file the highest claim for which they are eligible.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

- 1.** Call on the Assembly of First Nations to seek funding to establish an independent review of the implementation and administration of the Indian Day School Settlement Agreement. Upon receipt of funding, the independent review will be conducted and the findings will be presented to the Assembly of First Nations Annual General Assembly in July 2022.
- 2.** Call on the Parties to the Indian Day School Settlement Agreement to amend the Agreement to extend the deadline to submit a claim to July 2023 and remedy the decision to prohibit progressive disclosure by Day School Survivors.
- 3.** Call on the Parties to the Indian Day School Settlement Agreement to make adequate resources available immediately to Day School Survivors to prepare and file their claims, including funding for local mental health support, technical support, and legal support of their choice.

DRAFT RESOLUTION #17/2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Implementation of the Truth and Reconciliation Commission (TRC) of Canada's Calls to Action #81 and #82
SUBJECT:	Culture, Indian Residential School System
MOVED BY:	Chief Bob Gloade, Millbrook First Nation, NS
SECONDED BY:	Chief Tma Francis, Paqtnkek Mi'kmaw Nation, NS

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 7 (2): Indigenous Peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.
 - ii. Article 8 (1): Indigenous Peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
- B. The Truth and Reconciliation Commission Calls to Action state:
- i. #81: We call upon the federal government, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly accessible, highly visible, Residential Schools National Monument in the city of Ottawa to honour Survivors and all the children who were lost to their families and communities.
 - ii. #82: We call upon provincial and territorial governments, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly accessible, highly visible, Residential Schools Monument in each capital city to honour Survivors and all the children who were lost to their families and communities.
- C. Assembly of First Nations (AFN) Resolution 01/2015, *Support for the Full Implementation of the Truth and Reconciliation Commission of Canada's Calls to Action*, mandates the AFN to call upon the federal, provincial, territorial and municipal governments to take immediate steps to fully implement all Calls to Action.
- D. AFN Resolution 112/2019, *Urgent Action by Heritage Canada to Implement TRC Call to Action # 81*, directed the AFN to urge the federal government to allocate all necessary resources towards the implementation of Call to Action #81, that is for the installation of a world class, highly prominent Residential Schools National Monument to honour Survivors and all the children who were lost to their families and communities.
- E. Six years after the publication of the Final Report of the TRC, Calls to Action #81 and #82 have not been implemented in a meaningful way.

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- F. There are about twenty statues on the Parliament grounds but none recognizing the First Peoples of Canada.
- G. With the coming of the European traders, missionaries, settlers and the creation of Canada, Indigenous Peoples across Canada have endured racism and oppressive colonial attitudes that resulted in negative dealings and grievances with all layers of society
- H. A June 2019 poll conducted by the Canadian Race Relations Foundation, the AFN, and Abacus Data shows that the majority of Canadians believe governments are not doing enough to teach students about the legacy of the Indian Residential School System.
- I. The Joinet-Orentlicher Principles, adopted by the United Nations, have established that states have a responsibility and obligation to take measures to ensure that collective violence against a targeted group of people does not reoccur. In addition to providing compensation, making apologies, and undertaking educational reform, states also have a duty “to remember.” Under Principle 2:
 - i. A people’s knowledge of the history of its oppression is part of its heritage and, as such, must be preserved by appropriate measures in fulfillment of the State’s duty to remember... On a collective basis, symbolic measures intended to provide moral reparation, such as formal public recognition by the State of its responsibility, or official declarations aimed at restoring victims’ dignity, commemorative ceremonies, naming of public thoroughfares or the erection of monuments, help to discharge the duty of remembrance.
- J. A Residential Schools National Monument on Parliament Hill in Ottawa would recognize and honour the First Peoples of Canada (First Nations, Inuit and Métis). The monument would be dedicated to the memory of Indigenous Peoples across Canada who endured and suffered unnecessary hardships and racism in Canada’s 150-year old history and would fulfill TRC Call to Action #81.
- K. This Monument would honour Survivors and the children who were lost to their families and communities and would be a place where all visitors could remember, pray, reflect, shed tears, and begin forgiving, healing, and hoping for our future.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Reaffirm Assembly of First Nations (AFN) Resolution 112/2019, *Urgent Action by Heritage Canada to Implement TRC Call to Action #81*, by supporting a project to create a Residential Schools National Monument to honour Residential School Survivors and all the children who were lost to their families and communities.
2. Direct the AFN to support First Nations work with Inuit Tapiriit Kanatami, the Métis National Council, the Congress of Aboriginal Peoples and the Native Women’s Association of Canada on the development and design of the Residential Schools National Monument.
3. Direct the AFN to call on the federal, provincial and territorial governments to work with First Nations on fulfilling Truth and Reconciliation Commission of Canada’s Calls to Action #81 and #82 to install Residential School Monuments in each capital city across the country.
4. Direct the AFN to call on Canada to urge federal, provincial and territorial governments to secure funding for First Nations to participate in the development of these monuments.

DRAFT RESOLUTION # 18 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE: Full Involvement of First Nations in All Aspects of Specific Claims Policy Development

SUBJECT: Specific Claims, Policy Development

MOVED BY: Chief Mark Point, Skowkale First Nation, BC

SECONDED BY: Chief Lisa Robinson, Wolf Lake First Nation, QC

WHEREAS:

- A.** The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:
- i. Article 8 (2): States shall provide effective mechanisms for prevention of, and redress for:
 - i. (b): Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
 - ii. Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - iii. Article 27: States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.
- B.** The AFN-CIRNAC Joint Technical Working Group (JTWG) is currently the body tasked with reforming the specific claims process. The AFN has developed a draft proposal for a fully independent specific claims process based on a shared approach to justice and founded equally on the laws of claimant Nations and of Canada. This proposal is currently under review by First Nations throughout Canada.
- C.** In the interim, Canada and its representatives within Crown-Indigenous Relations and Northern Affairs particularly at the Specific Claims Branch and the Negotiation Support Directorate, continue to revise and develop policies, regulations, and guidelines unilaterally, without the full and equal participation of First Nations who are directly affected by the specific claims process.
- D.** Canada's conduct in this regard contravenes principles of fairness, equality, and transparency, fails to meet the minimum standards articulated in the UN Declaration, contradicts Canada's public commitments to work in full partnership with First Nations to advance reconciliation through the resolution of Nations' historical claims, and jeopardizes First Nations' access to justice.

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- E. Meaningful, direct dialogue with First Nations must be a priority and all policy work, including revising administrative procedures, from inception to finalization, must be guided by transparency, due process, and full enactment of the government-to-government approaches articulated within the UN Declaration, First Nations' rights under section 35 of the *Constitution Act, 1982*, and the honour of the Crown.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Call on Canada to prioritize substantive, direct dialogue with First Nations on all aspects of specific claims policy and procedures, both in the development of a fully independent specific claims process and regarding any interim changes to current policy or procedures, and that it cease undertaking unilateral policy development or revision.
2. Call on Canada to ensure that all representatives of Canada – its elected representatives and members of the public service and bureaucracy – proceed in matters of policy and procedure in strict accordance with the public commitments made to First Nations by the Prime Minister and members of Cabinet, as well as the legal provisions and principles that underlie them, in particular, the United Nations Declaration on the Rights of Indigenous Peoples, First Nations' rights under section 35 of the *Constitution Act, 1982*, and the honour of the Crown.

DRAFT RESOLUTION # 19 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE: Marine Indigenous Protected and Conserved Areas

SUBJECT: Fisheries, Environment, Water

MOVED BY: Judith Sayers, Proxy, Toquaht First Nation, BC

SECONDED BY: Chief Terry Richardson, Pabineau First Nation, NB

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and use lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
 - ii. Article 29 (1): Indigenous peoples have the right to the conservation and protection of their environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for Indigenous peoples for such conservation and protection, without discrimination.
 - iii. Article 32 (2): States shall consult and cooperate in good faith with indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
 - iv. Article 32 (3): States shall provide effective mechanisms for just and fair redress for any such activities and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.
- B. Indigenous-led governance and approaches to conservation such as Indigenous Protected and Conserved Areas (IPCAs) are increasingly recognized as effective and socially-just mechanisms to addressing the growing global biodiversity crisis.
- C. Assembly of First Nations (AFN) Resolution 64/2018, *Indigenous Protected and Conserved Areas – Pathway to Canada Target 1: Conservation 2020 Initiative*, mandates AFN's involvement in the Pathway Initiative and to support the ongoing establishment and implementation of Indigenous Protected and Conserved Areas.
- D. The marine component of Canada's Pathway to Canada Target 1: Conservation 2020 Initiative was led by the Department of Fisheries and Oceans Canada. A 2018 National Advisory Panel on marine protected areas adopted the report of the Indigenous Circle of Experts (ICE) in its recommendations to recognize and support the implementation of marine IPCAs as a means to further Indigenous reconciliation in Canada while contributing to Canada's marine conservation targets.

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- E. While the work of the ICE was focused on terrestrial protected areas, ICE recognized that the separation of the terrestrial and marine environments did not align with Indigenous worldviews and stewardship responsibilities and that IPCAs apply to both lands and waters.
- F. Environment and Climate Change Canada has taken significant steps since the 2018 ICE report to facilitate and support the implementation of IPCAs in the terrestrial environment through the Pathway to Canada Target 1: Conservation 2020 initiative.
- G. The December 2019 Prime Minister's mandate letter to the Minister of Fisheries and Oceans Canada directed the Minister to "work with the Minister of Environment and Climate Change to introduce a new ambitious plan to conserve 25 per cent of Canada's land and 25 per cent of Canada's oceans by 2025, working toward 30 per cent by 2030", which "should be grounded in science, Indigenous knowledge and local perspectives".
- H. The Department of Fisheries and Oceans Canada has yet to collaborate with Environment and Climate Change Canada or address the recommendations of the National Advisory Panel to enable IPCAs in the marine and coastal environment.
- I. This inconsistent approach towards support for IPCAs by the Crown, rooted in a colonial worldview, continues to create confusion and uncertainty for coastal First Nations' stewardship of their marine and coastal territories.
- J. First Nations are uniquely positioned through their intimate relationship with their lands and waters, and their traditional ways of knowing and management practices to lead efforts to protect, conserve and sustainably manage the environment and biodiversity contained within.
- K. The AFN is committed to the promotion and protection of Treaty and inherent rights of First Nations and to advancing the collective interests of First Nations relating to self-determination, stewardship, protection and conservation of the lands and waters of First Nations.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Support the Assembly of First Nations' (AFN) continued advocacy for the establishment of Indigenous Protected and Conserved Areas (IPCAs) as one mechanism to support First Nations' leadership in the conservation, protection, and management of their lands and waters.
2. Direct the AFN to urge the Minister of Environment and Climate Change Canada to ensure a whole-of-government approach for recognizing and supporting the establishment of IPCAs in terrestrial and marine environments, in collaboration with the Minister of Fisheries and Oceans Canada and in partnership with First Nations.
3. Direct the AFN to call upon the Ministers of Environment and Climate Change Canada and Fisheries and Oceans Canada to ensure the full and effective participation of First Nations in all aspects of environmental and marine conservation and protection by dedicating resources to enhance capacity and leadership in governance and management processes including through policy, program, and regulatory decision-making processes related to Canada's 2025 and 2030 conservation targets.

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4. Direct the AFN to engage with the Minister of Fisheries and Oceans Canada to implement the 2018 recommendations of the National Advisory Panel for the government of Canada to recognize and support the establishment of IPCAs in the marine and coastal environment.
5. Direct the AFN to work with the relevant Chiefs' and technical bodies, such as the National Fisheries Committee (NFC) and the Advisory Committee on Climate Action and the Environment ('ACE'), to identify priorities, issues, synergies, and concerns as they relate to the establishment and implementation of IPCAs in marine and coastal areas.

DRAFT RESOLUTION # 20 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	First Nations and Carbon Credits
SUBJECT:	Economics and Environment
MOVED BY:	Chief Sheldon Kent, Black River First Nation, MB
SECONDED BY:	Chief Rene Chaboyer, Cumberland House Cree Nation, SK

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 29 (1): Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands, or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination;
- B. Bill C-15, *An Act Respecting United Nations Declaration on the Rights of Indigenous Peoples*, states in the Preamble: “[T]he implementation of the Declaration can contribute to supporting sustainable development and responding to growing concerns relating to climate change and its impacts on Indigenous peoples.”
- C. The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) in its 2019 Global Assessment Report concluded that nature is declining globally at rates unprecedented in human history, with some one million species now threatened with extinction. This report argues that global biodiversity goals must recognize Indigenous Peoples’ vital contributions in protecting biological and cultural diversity.
- D. First Nations have a profound relationship with the land and all of creation based on traditional knowledge that has existed since time immemorial. This relationship is expressed as a cultural responsibility and sacred duty to care for and protect the land for future generations.
- E. First Nations traditional territories are under unprecedented pressure from the impacts of climate change, including biodiversity loss. This requires urgent action with adequate financial and technical capacity and infrastructure to ensure First Nations benefit from federal and provincial carbon offsets programs by having regulatory control relating to carbon tax credits.
- F. Chiefs-in-Assembly have passed several resolutions pertaining to carbon pricing, including Resolution 103/2017, *Carbon Pricing Regimes*, which calls on carbon pricing efforts to “respect First Nations inherent rights, Treaties, title and jurisdiction, and recognize First Nations inherent responsibilities to their traditional territories”, Resolution 09/2018, *Develop First Nations-Specific Solutions for the Greenhouse Gas Pollution Pricing Act*, which calls for, among other things, the inclusion of “First Nations right to self-determination, including the creation of First Nations Carbon Pricing Regimes”, and Resolution 61/2019, *Assembly of First Nations’ Participation in the Court Actions regarding the Constitutionality of the Greenhouse Gas Pollution Pricing Act*, which calls to ensure that “there is equity

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in the allocation of the revenues flowing from carbon pricing and that due consideration is given for First Nations jurisdiction over the area of carbon pricing in their traditional territories.”

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to demand Canada uphold the Treaty and Aboriginal rights of First Nations and to recognize that First Nations hold authority to strengthen their economies, among other things, through the use, control and regulation of carbon pricing, offsets, and credits.
2. Direct the AFN Environment Sector and other relevant Sectors, with guidance from the appropriate Chief's Committee to develop priorities and strategies to support First Nation's financial and technical capacity and infrastructure to lead efforts to offset carbon dioxide emissions and to design their own carbon pricing regimes.
3. Direct AFN to ensure that all discussions on carbon pricing properly reflect Treaty and “Aboriginal” rights, ensuring First Nations' authority and competence to design, control and implement their own carbon pricing regimes.

DRAFT RESOLUTION # 21 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE: Support for Regionally Developed First Nations Policing Service

SUBJECT: Policing/Justice

MOVED BY: Chief Clarence Easter, Chemawawin Cree Nation, MB

SECONDED BY: Chief David Monias, Cross Lake Band of Indians, MB

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
 - i. Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
- B. The First Nation Policing Program (FNPP) is a contribution program administered by Public Safety Canada (PSC). Through the FNPP, PSC provides 52% of eligible funding to support policing services while the provinces or territories provide the remaining 48%.
- C. There are two main types of policing agreements under the FNPP: (1) Self-Administered Agreements where the policing services are managed by a First Nation or group of First Nations, and (2) Community Tripartite Agreements where police officers from the RCMP provide dedicated policing services to a First Nation.
- D. The Government of Canada is now contemplating policing services as an essential service and is developing a legislative framework that will include sustainable and protected funding for policing and is working with National Indigenous Groups on said legislative framework.
- E. First Nations in Manitoba have not been adequately consulted by the federal government or any National group on this legislation and adamantly oppose a pan-Indigenous legislative approach to ensuring essential police services in their First Nations.
- F. First Nations in Manitoba wish to work with Canada and Manitoba to develop their own unique approach that will ultimately meet their unique First Nations' safety and policing needs.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to advocate for a Nation-to-Nation, treaty-based approach to the development of policing legislation.
2. Support the development of regional policing solutions that include the transfer of sustainable, guaranteed funding to the respective regions.

DRAFT RESOLUTION # 22 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Reaffirming Support for the Role and Mandate of the Assembly of First Nations Women's Council
SUBJECT:	Assembly of First Nations Women's Council
MOVED BY:	Chief Constance Big Eagle, Ocean Man First Nation, SK
SECONDED BY:	Chief Adrienne Jerome, La Nation Anishnabe du Lac Simon, QC

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous People (UN Declaration) states:
- i. Article 7 (1): Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
 - ii. Article 7 (2): Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.
 - iii. Article 22 (2): States shall take measures, in conjunction with Indigenous peoples, to ensure that Indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.
- B.** Assembly of First Nations (AFN) Resolution 16/2001, *Amendment to Charter Re: Establishment of a Council of Women as Recognized and 'Principle Organ', under Article 5 of the AFN Charter*, established the AFN's Women's Council as a principle organ of the AFN and affirmed the importance of building and strengthening partnerships between men and women in all levels of decision-making within the AFN, as an integral step in achieving an equitable society.
- C.** The AFN Charter Article 24(a) states that, "The Council of Women may discuss any question on matter within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and make recommendations to the Executive Committee, the Confederacy of Nations, the First Nations-in-Assembly or to any subsidiary organ on any such question or matter."
- D.** The AFN Women's Council Terms of Reference states that the purposes of the AFN Women's Council is to:
- i. Unify and create healthy, happy, and harmonious communities through cultural identity and cultural teachings based on: respect, love, courage, wisdom, honesty, humility and truth;
 - ii. Establish a gender-balanced perspective within First Nations communities within all entities dealing with First Nations, that honours the rights and aspirations of First Nations women.
- E.** Resolution 59/2019 directed the AFN that the role of the AFN Women's Council must be strengthened and supported by increased funding, resources and staff support to undertake the work of advocating

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for the implementation of the National Inquiry's Final Report *Calls for Justice* and the development and implementation of a National Action Plan.

- F. The AFN Women's Council provides a significant and much needed advisory role to the AFN Executive Committee and supports the work of the AFN Secretariat. The AFN Women's Council has contributed greatly to advancing issues relating to First Nations women, girls and 2SLGBTQIA+ people, which is evidenced in the work done to develop the National Action Plan.
- G. As an organ of the AFN, as explicitly contained in the AFN Charter, and in recognition of the many contributions the AFN Women's Council provides to advancing First Nations women's issues, the AFN Women's Council should be fully consulted with respect to any changes to its role, mandate, scope of the work it does, and advice it provides.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Reaffirm Resolution 59/2019 and direct the Assembly of First Nations (AFN) to prioritize obtaining appropriate funding, including government grants and private donorship, to ensure that the AFN Women's Council is properly resourced and at the forefront of advocacy for all First Nations women's issues.
2. Reaffirm that the AFN Women's Council will remain an independent, principle organ of the Assembly of First Nations, as currently constituted in the AFN Charter.
3. Direct that any changes to the scope, role, and mandate of the AFN Women's Council be undertaken in full consultation with the AFN Women's Council members and must be approved by a majority of the AFN Women's Council.

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TITLE:	2021 Post-Secondary Education Policy Proposal on First Nations Models
SUBJECT:	Post-Secondary Education
MOVED BY:	Chief, John Martin, Gesgapegiag, QC
SECONDED BY:	Proxy, Tribal Chief Tyrone McNeil, Kwaw Kwaw Apilt First Nation, BC

WHEREAS:

- A. *The United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:
- i. Article 13 (1): Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
 - ii. Article 13 (2): States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.
 - iii. Article 14 (1): Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
 - iv. Article 14 (2): Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
 - v. Article 14 (3): States shall, in conjunction with Indigenous peoples, take effective measures, in order for Indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.
 - vi. 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 programmes through their own institutions.
- B. Bill C-15, *United Nations Declaration on the Rights of Indigenous Peoples Act*, provides a legislative framework for recognizing the constitutional and human rights of Indigenous peoples, including in post-secondary education (PSE).
- C. Assembly of First Nations (AFN) Resolution 65/2017, *New Interim Funding Approach for First Nation Education*, implemented a new funding approach for K-12 education that supports First Nations control of First Nations education that should be consistent and continued for all levels of First Nations education, including PSE.

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- D. Assembly of First Nations (AFN) Resolution 21/2020, *First Nations-Led Local, Regional and Treaty-based Post-Secondary Education Models*, directed the Chiefs Committee on Education, National Indian Education Council and the AFN to work in partnership with Indigenous Services Canada to co-develop a policy proposal, as demonstrated through the *2021 PSE Policy Proposal on First Nations Models (V5)*, which that will supplement a Memorandum to Cabinet (MC) to obtain authority for First Nations to negotiate and conclude First Nations-led, local, regional and inherent/Treaty rights-based PSE models.
- E. Budget 2019 provided \$7.5 million over three years to support First Nations in exploratory discussions, engagement, partnership tables and First Nations-led local, regional and inherent /Treaty rights-based PSE model design with their citizens, which now require new authorities and adequate funding to conclude and implement these models.
- F. Strong, effective, and inclusive First Nations-led local, regional and inherent/Treaty rights-based PSE models provide a fundamental opportunity for First Nations to establish and control PSE systems and institutions, while also advancing reconciliation between the Crown and First Nations, as expressed in the Truth and Reconciliation Commission's Calls to Action and the UN Declaration.
- G. The Government of Canada is obliged to uphold and honour the authority of First Nations to exercise control over education.
- H. Predictable, sustainable and needs based funding for PSE holds Indigenous Services Canada (ISC) accountable to working with First Nations and fulfilling their mandate outlined in *Indigenous Services Canada: Strategic Plan 2020 to 2025* by ensuring First Nations assume control over the design and delivery of services, while also contributing to the devolution of ISC.
- I. The benefits of improved attainment in First Nations PSE would help close the employment gap between First Nations and non-Indigenous Canadians while also increasing First Nations economic self-reliance.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

- 1. Reaffirm First Nations inherent and Treaty right to post-secondary education (PSE).
- 2. Reaffirm that jurisdiction over First Nations PSE remains with each First Nation.
- 3. Reaffirm First Nations control of First Nations education.
- 4. Support the recommended *2021 PSE Policy Proposal on First Nations Models (V5)* to be presented to Cabinet as the First Nations submission through Indigenous Services Canada's Memorandum to Cabinet, which outlines the following:
 - a. Calls on the federal government to approve the policy authority for Canada to support First Nations to negotiate, conclude and fully implement their own First Nations-led local, regional and inherent/Treaty rights-based PSE models that may contain some or all of the following elements, but are not limited to:
 - i. Student Supports;
 - ii. Community-Based Student Supports;

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- iii. First Nations Institutions;
 - iv. First Nations Community-Based Program Supports; and
 - v. Administration, Governance and Leadership Capacity.
- b. Seeks investments over five years and ongoing to support the implementation for First Nations-led local, regional, and inherent/Treaty rights-based PSE models.
 - c. Seeks funding for ongoing technical tables and/or regional processes to prepare First Nations for final negotiation and conclusions of PSE models
 - d. Calls on the federal government to allocate additional investments, starting in 2022-2023, for current and unfunded First Nations PSE students and First Nations post-secondary institutions.
 - e. Calls on the federal government to unlock Budget 2021 funding of \$350 million over five years and provide an additional \$390 million for First Nations adult education, allocated regionally, to support First Nations in implementing programs that may include, but are not limited to, transitional programs to support PSE acceptance, high school graduation programs, language courses, culture and outdoor programs, literacy and basic skills courses, special education programs, professional development, and training for persons with disabilities.
 - f. Seeks to collaboratively update the *Grants and Contributions to Support the First Nations Post-Secondary Education Program (Terms and Conditions)* to support First Nations in implementing their own regional approaches and reflect the changes outlined in the policy proposal.
5. Affirm that the *2021 PSE Policy Proposal on First Nations Models (V5)* and process concerning First Nations PSE is not intended to detract or hinder First Nations from advancing their own bilateral or tripartite process, including separate Cabinet and Treasury Board processes, with Indigenous Services Canada and any relevant provincial or territorial government to develop their own policy approach and, identify the funding, resources and supports required to implement their respective models which may result in additional funding being required.
 6. Expect that the *2021 PSE Policy Proposal on First Nations Models (V5)* will be jointly presented to the Cabinet of Canada by Indigenous Services Canada and the Chiefs Committee on Education.

DRAFT RESOLUTION # 24 / 2021

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TITLE:	Government Income Support Programs and First Nations Digital Connectivity
SUBJECT:	Social, Infrastructure, Economic Development
MOVED BY:	Chief Derek Nepinak, Pine Creek First Nation, MB
SECONDED BY:	Chief Stan Grier, Piikani Nation (Peigan First Nation), AB

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
 - i. Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
 - ii. 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. Article 21 (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.
- B. Digital connectivity can support First Nations people to lift themselves out of poverty by providing access to education, support networks and financial institutions, and alleviating barriers that may exacerbate First Nations poverty.
- C. First Nations increasingly require coordinated timely responses to local emergencies, Global Positioning Systems (GPS), access to fire and emergency ambulance services on a comprehensive basis.
- D. Canada has made international commitments to reduce inequalities within Canada as part of its full commitment to the United Nations Sustainable Development Goals.
- E. The United Nations has expressed deep concerns that the pandemic is likely to reverse global progress made in reducing income inequality.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Call upon the Government of Canada to identify and achieve measurable goals to ensure broadband connectivity for First Nations and that the current connectivity targets of connecting 95% of Canadians by 2026 and 100% of Canadians by 2030 include First Nations.
2. Call upon the Federal, Provincial and Territorial governments to make income assistance programs on reserves more responsive to the realities of the global digital economy by developing a full subsidy for First Nations receiving income assistance support to ensure they can access digital connectivity, both on- and off-reserve, and in urban, northern, rural and remote First Nations.

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3. Call upon the Government of Canada to make programs on reserve more responsive to the increasing role of internet connectivity for delivering quality education on reserves to every First Nation child.
4. Call upon the Government of Canada to treat digital connectivity as an important element of building a strong economy to deal with the impacts of the pandemic, necessary to support First Nations emergency response and preparedness, and other global factors impacting First Nations social and economic development.
5. Direct the National Chief, the AFN Executive Committee and the AFN Secretariat to work with the Government of Canada to develop a comprehensive strategy with measurable deliverables to ensure broadband connectivity for all interested First Nations.
6. Direct the AFN to include connectivity as a consideration in the Income Assistance reform work underway, pursuant to AFN Resolution, 89/2019, *Continuing First Nations Income Assistance Program Reform*.

DRAFT RESOLUTION # 25 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Support for First Nations Inherent Rights, Title and Jurisdiction of Water Stewardship, including the Traditional Roles of First Nations Women
SUBJECT:	Water Stewardship
MOVED BY:	Chief Roberta Joseph, Tr'ondëk Hwëch'in First Nation, YT
SECONDED BY:	Chief Calvin Sanderson, Chakastaypasin Band of the Cree Nation, SK

WHEREAS:

A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:

- i. Article 22 (2): States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.
- ii. Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
- iii. Article 26 (1): Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
- iv. Article 27: States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.
- v. Article 28 (1): Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
- vi. Article 32 (1): Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
- vii. Article 32 (2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

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- viii. Article 32 (3): States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.
- B. First Nations have Inherent and Treaty rights regarding the protection of water within their lands and territories and the Government of Canada must uphold and honour the inherent authority and jurisdiction of First Nations to exercise stewardship, including protection and conservation of water.
- C. Water is a fundamental human right for First Nations, and this right is uniquely situated within a framework of inherent rights that are constitutionally protected under section 35 of the *Constitution Act, 1982*, and supported by international mechanisms and instruments, including the UN Declaration.
- D. Given the traditional roles of First Nations women and their connection to water, and in alignment with the *Charter of Rights and Freedoms of the Constitution Act, 1982* and the *Canadian Human Rights Act*, it is imperative that the Government of Canada bring Indigenous women, youth, and gender-diverse people to all decision-making tables where water is involved.
- E. First Nations water protectors have experienced violence and prosecution while protecting water on First Nations lands and territories.
- F. In 1995, the Government of Canada committed to including a Gender Based Analysis (GBA+) approach to all government policy and programs across federal departments and agencies, however, they have failed to do so, according to the 2015 Fall Reports of the Auditor General of Canada.
- G. Waters within First Nations lands and territories have become polluted and decreased in quality and quantity due, in part, to industrial practices that have taken place without the free, prior, and informed consent of First Nations.
- H. AFN Resolution 01/2019, *First Nations Treaty and Inherent Rights to Water*, directs the AFN to call on Canada to immediately work in full partnership with First Nations to advance the work needed to achieve reconciliation and the standards set out in the UN Declaration, including Articles 25 and 32 for the full and meaningful implementation of Indigenous water rights in their territories, as well as a legislative commitment to the UN Declaration.

THEREFORE, BE IT RESOLVED that the Chiefs-in-Assembly:

1. Reaffirm First Nations Inherent and Treaty rights to water and reaffirm that each First Nation retains jurisdiction over water in their territory.
2. Direct the Assembly of First Nations (AFN), with guidance from the Advisory Committee on Climate Action and the Environment ('ACE') to pursue funding to support First Nations water stewardship priorities related to First Nations' inherent rights, title, and jurisdiction.
3. Direct the AFN, with guidance from the ACE, to advocate for policy change and program development to support water stewardship for the betterment of First Nations, while ensuring that First Nations, AFN regions, and/or Treaty territories can independently choose to engage on any process relating to improving water protection within their lands and territories.

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4. Call on the Government of Canada, and all provinces and territories, to improve and strengthen partnerships with First Nations, to respect First Nations' jurisdiction over water, and to ensure First Nations' participation in decision-making processes concerning water protection and conservation, with a special emphasis on First Nations women.
5. Call on Canada to implement a Gender Based Analysis (GBA+) lens to all work pertaining to water that recognizes the traditional roles of First Nations women with respect to water.

DRAFT RESOLUTION # 26 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Support for a First Nations-led Pathway to the Sustainable Development Goals (SDGs)
SUBJECT:	Environment, Economic Development, Social Development
MOVED BY:	Chief Byron Louis, Okanagan Indian Band, BC
SECONDED BY:	Chief Lisa Robinson, Wolf Lake First Nation, ON

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
 - ii. 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 programmes affecting them and, as far as possible, to administer such programmes through their own institutions.
 - iii. Article 26 (1): Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
 - iv. Article 32 (1): Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
 - v. Article 32 (2): States shall consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
- B.** The United Nations Resolution, *Transforming our world: the 2030 Agenda for Sustainable Development* (2030 Agenda), unanimously adopted by the United Nations General Assembly in 2015, and affirmed over forty times, sets out the vision for sustainable development leading up to the year 2030, with an overarching goal to leave no one behind.
- C.** The 2030 Agenda is accompanied by 17 Sustainable Development Goals (SDGs) that measure progress against 169 targets for wide-ranging issues from climate change, environment, water, and clean energy to poverty, food security, health and education, among others. Many of the SDGs are interrelated and already reflected in the work carried out by the Assembly of First Nations (AFN).
- D.** The Chiefs-in-Assembly have passed several resolutions that directly reference the 2030 Agenda and the SDGs, including: *07/2018, Addressing First Nations Rights, Title, and Jurisdiction in Bill C-69*;

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47/2018, First Nations Oversight of Canada's Poverty Reduction Strategy; 63/2018, Eco-Agricultural Strategy; 92/2018, Social Innovation/Social Finance Framework—Leaving No One Behind; 19/2019, Seven Generations Continuum of Care; 98/2019, Poverty Reduction for all First Nations; 117/2019, First Nations Social Innovation and Social Finance Strategy; and 19/2020, Support First Nations with Connecting to the Internet.

- E. The SDGs align with AFN's ongoing work on closing the gap between First Nations and Canadians, poverty reduction and food security, climate leadership and clean energy efforts, stewardship for water and the environment, First Nations in the green and blue economy, First Nations health, education, and social programs, enhancing data sovereignty for First Nations, and gender inequality. The SDGs also reinforce the protection of human rights, non-discrimination and inclusion, especially for women, youth, and people with disabilities.
- F. Canada developed *Moving Forward Together – Canada's 2030 Agenda National Strategy*, which recognized First Nations to be partners in implementing the SDGs. However, First Nations were not included in the development of this strategy, and a distinctions-based analysis of the SDGs is absent.
- G. First Nations are not visible in data, such as Canada's reporting of the Sustainable Development Goals in the SDG Hub and the Canadian Indicator Framework. Data-disaggregation and recognition of Indigenous identity in national statistics as well as integration of community-based data from First Nation governments will improve the visibility of First Nations in official data and statistics, and allow for progress on the SDGs to be measured for First Nations to ensure no one is left behind.
- H. In its sixteenth session, the UN Permanent Forum on Indigenous Issues (UNPFII) recommended that governments establish permanent, open and inclusive mechanisms for consultation, participation, and representation of Indigenous Peoples in local, regional, national, and international processes and bodies relating to the SDGs. The UNPFII also recommended that governments allocate adequate resources towards implementation of plans that include Indigenous Peoples, as well as to ensure data disaggregation on the basis of Indigenous identifiers.
- I. Canada must review the 2030 Agenda and the SDGs through the lens of the UN Declaration and ensure that the domestic implementation of the SDGs recognizes and respects the rights, Treaties, self-determination, and the Free Prior Informed Consent (FPIC) of Indigenous Peoples.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to call on Canada to work in full partnership with First Nations to support First Nations' self-determination, participation, and the inclusion of distinct First Nations approaches in all efforts related to the Sustainable Development Goals (SDGs), Canada's 2030 Agenda National Strategy, and the accompanying Canadian Indicator framework.
2. Direct the AFN to conduct a distinct First Nations analysis of the SDGs and engage with First Nations to support the development of a First Nations-led pathway for their implementation.

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3. Call on Canada to enhance data disaggregation and data sovereignty for measuring progress towards the 2030 Agenda and to allocate resources for the development of First Nations' indicators to measure progress towards the SDGs for First Nations in a manner that respects the principles of Ownership, Control, Access and Possession (OCAP) for conducting research.
4. Urge Canada to take a human rights-based approach to sustainable development that aligns with the UN Declaration on the Rights of Indigenous Peoples as a framework for measuring progress towards the 2030 Agenda and the SDGs.

DRAFT RESOLUTION # 27 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE: Protecting the Institutional and Judicial Independence of the Specific Claims Tribunal

SUBJECT: Specific Claims Adjudication

MOVED BY: Chief Sidney Peters, Glooscap First Nation, NS

SECONDED BY: Chief Mark Point, Skowkale First Nation, BC

WHEREAS:

A. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:

- i. Article 8(2): States shall provide effective mechanisms for prevention of, and redress for:
 - (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
 - (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights
- ii. Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- iii. Article 27: States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process;
- iv. Article 28(1): Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
- v. Article 28(2): Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

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- B. The Government of Canada introduced the Specific Claims Action Plan: Justice At Last on June 12, 2007 to “ensure impartiality and fairness, greater transparency, faster processing and better access to mediation” for specific claims, resulting in new legislation, the *Specific Claims Tribunal Act (SCTA)*, which came into force on October 16, 2008. The 2008 SCTA provided that the Specific Claims Tribunal’s (Tribunal) adjudicative membership would consist of independent superior court judges, and that the Tribunal would have its own dedicated Registry (section 10), with an office in the National Capital Region. Additionally, the SCTA provided that the Tribunal’s Judges would have the power to make rules regarding Tribunal and Registry staff (section 12), and that the Registrar (a “Deputy Head” under the *Financial Administration Act*) would be responsible for managing the Tribunal’s work, including the duties and staff of the Tribunal, and be accountable to the Tribunal as an institution.
- C. The Tribunal was established in October 2008 as an independent adjudicative body with the authority to make final, binding decisions on specific claims. First Nations agreed to the establishment of the Tribunal on the basis of its independence, as guaranteed in the 2008 SCTA, and its ability to make final and binding decisions. For First Nations, these factors are fundamental aspects of the Tribunal’s legitimacy as an adjudicator of First Nations’ historical claims against the Crown.
- D. On March 1, 2010, the Assistant Deputy Attorney acknowledged that the Department of Justice, as a legal advisor to Canada, is in a conflict of interest in relation to the provision of legal counsel to the Tribunal.
- E. In 2014, the Harper government passed the *Administrative Tribunal Support Services of Canada Act (ATSSCA)* to “provide registry, administrative and other support services to 11 administrative tribunals”, which resulted in amendments being made to the SCTA resulting in the Tribunal’s loss of its dedicated Registry (repealing of section 10) and loss of control over its administrative operations, such as staffing and budgets (repealing of section 12). It further resulted in the relocation of the Tribunal’s administrative offices within a federal government department, accountable to the Minister of Justice.
- F. The passing of the ATSSCA and amendments to the SCTA were done unilaterally by Canada without any consultation with First Nations, and in advance of the legislative five-year review of the SCTA, contrary to what was explicitly promised to First Nations by Canada when it announced Justice At Last and established the Tribunal. The ATSSCA and amendments made to the SCTA have removed the statutory mechanism that guaranteed and protected the full judicial and institutional independence of the Tribunal and pose significant threats to First Nations’ confidence in the Tribunal’s independence.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to write to the Minister of Justice and the Minister of Crown Indigenous Relations to advocate for: the removal of the Specific Claims Tribunal (Tribunal) from the

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Administrative Tribunal Support Services of Canada Act (ATSSCA); the return of the Tribunal's dedicated registry; the resumption of Tribunal control over its administrative operations, such as staffing and budgets; the removal of the Tribunal's administrative offices from a federal government department, which is accountable to the Minister of Justice; the reinstatement of sections 10 and 12 of the *Specific Claims Tribunal Act (SCTA)*; and, a full review of the impacts of the *ATSSCA* on the Tribunal's independence.

2. Direct the AFN to write to the Minister of Justice and the Minister of Crown Indigenous Relations to urge that the current *SCTA* be amended, in full partnership with First Nations, to return legislative protections to the Tribunal's judicial and institutional independence, as well as align with Canada's legal obligations under the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*.

DRAFT RESOLUTION # 28 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Justice for First Nations Seeking Recognition and Reserve Land
SUBJECT:	Reserve Creation and Recognition
MOVED BY:	Chief Calvin Bruneau, Papaschase First Nation, AB
SECONDED BY:	Chief Calvin Sanderson, Chakastaypasin First Nation, SK

WHEREAS:

A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:

- i. Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
- ii. Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
- iii. Article 8(2): States shall provide effective mechanisms for prevention of, and redress for:
 - a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
 - b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources.
- iv. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
- v. Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

B. There are numerous First Nations that are not recognized by Canada and do not have reserve land. These First Nations may have been missed by Canada during adhesions to Numbered Treaties, excluded from flawed treaty-making processes, or wrongfully amalgamated by Canada. Furthermore, several First Nations had their members wrongfully enfranchised, were displaced from their traditional territories, or had their lands unlawfully surrendered by Canada.

C. First Nations are adversely impacted by the absence of protections and benefits that come with reserve ownership and federal recognition. These First Nations may be unable to access programs and

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services provided by the federal government. Additionally, these First Nations are prevented from exercising their inherent rights related to land and self-governance. First Nations who were wrongfully amalgamated by Canada may have reserve land but are unable to exercise their right to self-determination as distinct peoples.

- D. The Assembly of First Nations (AFN) hosted dialogue sessions in 2017 and 2018 to discuss the issues facing First Nations without a reserve or recognition. Senior federal officials attended these meetings and committed to support the development of a joint process to address First Nations concerns. Despite these commitments, Canada has not created an effective mechanism to provide redress for actions which deprived First Nations of their integrity as distinct peoples and dispossessed them of their lands, territories, and resources.
- E. The New Bands / Band Amalgamation Policy (NBBA Policy) provides the policy framework for the creation of new bands under section 17 of the *Indian Act*. The NBBA Policy fails to provide a clear, logical, and effective framework for First Nations to obtain recognition, acquire reserve land, and reverse the effects of wrongful amalgamation.
- F. Neither the *Indian Act* nor the *Addition to Reserve/Reserve Creation Policy Directive* provide adequate mechanisms for the recognition of First Nations or the provision of reserve land to unrecognized groups.
- G. Without access to an effective redress mechanism, First Nations are forced to engage in costly and prolonged litigation or rely on the political goodwill of the federal government. The lack of any effective policy or legislative framework exacerbates the vulnerable position of these First Nations.
- H. This is an urgent issue that cuts across various federal government departments. A comprehensive, multi-departmental approach is required to provide redress to First Nations seeking recognition and reserve land.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to call on Canada to take a comprehensive approach to addressing the unique issues facing First Nations without reserve lands or recognition, including through the creation of a senior or ministerial level table to oversee efforts to identify and implement targeted solutions within 12 months.
2. Call on Canada to work directly with the AFN and affected First Nations to review and re-design the New Bands / Band Amalgamation Policy (NBBA Policy) as well as other relevant laws and policies.
3. Call on Canada to provide adequate interim funding and resources to affected First Nations while policy and legislative review and re-design is ongoing.
4. Direct the AFN to facilitate the full participation of First Nations in the review and re-design of the NBBA Policy and other relevant laws and policies.
5. Direct the AFN to advocate for sufficient resources to support First Nations' full and equal participation in co-development and engagement processes related to the NBBA Policy and other relevant laws and policies.

DRAFT RESOLUTION # 29 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE: Traditional Occupations and Traditional Economies

SUBJECT: Economic Development

MOVED BY: Chief Byron Louis, Okanagan Indian Band, BC

SECONDED BY: Chief Mike Sack, Sipekne'katik First Nation, NS

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article (2): Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
 - ii. Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
 - iii. Article 20 (1): Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
 - iv. Article 26 (1): Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
 - v. Article 32 (1): Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
 - vi. Article 32 (3): States shall provide effective mechanisms for just and fair redress for any such activities, and 24 appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.
 - vii. Article 36 (1): Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.
 - viii. Article 37(1): Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

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- B. First Nations have Treaty and Inherent Rights to hunt, trap and harvest to pursue traditional occupations.
- C. First Nations continue to harvest animals, fish, plants and medicines that sustain our economies, traditions, spirituality and culture.
- D. Continued practice of traditional occupations is protected through numerous Supreme Court of Canada decisions and under international law.
- E. International Labour Organization Convention 111: Discrimination in Employment and Occupation has been applied to prevent discrimination against Indigenous peoples practicing traditional occupations and obligates states to adopt and pursue a national equity policy to eliminate discrimination in employment and occupation, including discrimination faced by Indigenous peoples as regards the exercise of their occupations.
- F. European conceptions of economic value and economic growth discount and fail to fully value the importance of environmental sustainability, cultural integrity or societal equity.
- G. The failure to properly value the importance of traditional economies to First Nations economic, social or cultural development results in the devaluation and diminishment of First Nations rights, cultures, traditions and prosperity.
- H. The Canadian economic system undervalues the importance of First Nations traditional occupations and overvalues the importance of market-based economies.
- I. The exercise of trade among and between First Nations, as well as other forms of traditional economies, has suffered historic and ongoing discrimination, which continues to undermine First Nations international trade and traditional economies.
- J. The complementary nature of traditional occupations and market-based economies means a balanced approach to the development and growth of First Nations market-based economies requires healthy and sustainable traditional economies.
- K. The continued development and growth, as well as enhanced global understanding of First Nations traditional economies will provide much-needed guidance and direction to governmental, industry and all other global market participants, as they seek a new global economy founded in principles of economic prosperity, environmental sustainability and inclusive growth.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to include considerations for traditional economies and traditional occupations across its work on economic and social development initiatives, [particularly with respect to supporting traditional occupations and First Nations artisans in international trade].
2. Direct the AFN to explore domestic and international advocacy avenues for First Nations to consider for their own advocacy on supporting traditional occupations and raising public awareness on the importance of traditional economies.

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3. Direct the AFN to explore international, national and regional work undertaken on alternative models to economic growth which better reflect First Nations views on how best to integrate traditional and market economies.
4. Direct the AFN to explore research and data collection initiatives with a view to being able to provide quantification of traditional economies.
5. Direct the AFN to advocate for the development of a national plan to eliminate all forms of discrimination faced by Indigenous peoples exercising traditional occupations.

DRAFT RESOLUTION # 30 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Strengthen First Nations Distinctions-Based Approaches on Accessibility/ Disabilities
SUBJECT:	Health
MOVED BY:	Chief Derrick Henderson, Sagkeeng First Nation, MB
SECONDED BY:	Grand Chief Abram Benedict, Mohawk Council of Akwesasne, ON

WHEREAS:

A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:

i. Article 5. Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social, and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social, and cultural life of the State.

ii. Article 8 1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture. 2. States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities.

iii. Article 21 (2): States shall take the 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.

B. The United Nations General Assembly Human Rights Council adopted Resolution #54/15.

Accelerating efforts to eliminate all forms of violence against women and girls: preventing and responding to all forms of violence against women and girls with disabilities, condemning particularly the high levels of violence faced by indigenous women and girls with disabilities.

C. The United Nations Convention on the Rights of Persons with Disabilities and associated United Nations Committee on the Rights of Persons with Disabilities issued Concluding Observations on Canada' s initial report, including specific recommendations to:

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- i. Adopt cross-sectorial strategies with a view to combating inequality and discrimination faced by persons with disabilities through, inter alia, affirmative action measures that include clear targets and the collection of data on progress achieved disaggregated by age, sex, and Indigenous background.
 - ii. Consider Article 5 of the Convention while implementing targets 10. 2 and 10. 3 of the United Nations Sustainable Development Goals, Agenda 2030, "Leave No One Behind".
- D. Employment and Social Development Canada's (ESDC) accessibility/ disability programs and polices consistently favor pan-Indigenous approaches in place of strengthening First Nations, through First Nations distinctions based-approaches.
 - E. There are ongoing concerns that pan-Indigenous groups are funded to carry out work on behalf of First Nations on disability issues, and accessibility related legislation, COVID-19 and employment data gathering, including the United Nations Convention on the Rights of Persons with Disabilities processes, as some examples.
 - F. Principally, pan-Indigenous disability groups are not set up to be the representative or accountable organizations of First Nations in Canada, or in international fora, including the United Nations Convention on the Rights of Persons with Disabilities processes.
 - G. There are additional concerns that provinces and territories are taking non-distinction-based approaches impeding First Nations rights to strengthen their distinct political, legal, economic, health/social, and cultural institutions and policies.
 - H. The Assembly of First Nations has passed several resolutions calling for distinctions-based approaches specific to enhancing policy and funding capacity for First Nations, by First Nations on accessibility/ disabilities: including: *Resolution 98/2017, Distinct First Nations Accessibility Legislation; Resolution 10/2018, Resources for Engagement on Distinct First Nations Accessibility Legislation; Resolution 110/2019, Funding for First Nations-Specific Programs, Services and Supports for Adults with Disabilities in First Nations, Resolution 19/2019, Developing a Seven Generations Continuum of Care for First Nations, by First Nations Health, Economic and Social Services, and Resolution 104/2004, AFN Opposes Government of Canada's Pan-Aboriginal Approach.*
 - I. There is a need to reassert AFN Resolution 07/2016, funding First Nations organizations to enable capacity and long-term sustainability to ensure that First Nations priorities are understood and addressed.
 - J. Reaffirming AFN Resolution 105/2016, to establish a National Office of Disabilities Unit at the AFN, and work with the federal government to secure resources and build capacity to set up a Regional Advisory Task Force, a strategic plan and advance priorities and rights of First Nations, by First Nations.

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- K. Bill C- 81, the Accessible Canada Act (disabilities) received royal assent in 2019, and in 2024, First Nations governments will be subject to the Act, necessitating urgency for meaningful capacity building to meet First Nations distinct needs.

THEREFORE, BE IT RESOLVED that the Chiefs-in-Assembly:

1. The Chiefs-in-Assembly and the Charter of the Assembly of First Nations confirm that the AFN review and update mandates where pan-Indigenous organizations may be holding instructions to represent First Nations on disability matters domestically and internationally.
2. The AFN call on the federal government to ensure that all Provinces and Territories work with First Nations to strengthen distinction-based approaches in all policies and processes on matters related to disabilities and accessibilities moving forward.
3. The AFN advocate for First Nations-focused bi-lateral processes with Employment and Social Development Canada and other federal departments on the United Nations Convention on the Rights of Persons with Disabilities where existing pan-Indigenous groups may otherwise be favored to lead developments.
4. The AFN advocate in support of the AFN Women's Council's work to ensure the 2021 Missing and Murdered Indigenous Women, Girls, and 2SLGBTQQIA+ People National Action Plan, funds a comprehensive intersectional plan that is inclusive of the lived realities of First Nations women and girls with disabilities.

DRAFT RESOLUTION # 31 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Support for the Conservation through Reconciliation Partnership
SUBJECT:	Environment
MOVED BY:	Chief Byron Louis, Okanagan Indian Band, BC
SECONDED BY:	Chief Terry Richardson, Pabineau First Nation, NB

WHEREAS:

- A.** The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 26 (1): Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
 - ii. Article 26 (3): States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.
 - iii. Article 29 (1): Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination
 - iv. Article 31 (1): Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
- B.** Canada has made commitments through the United Nations Convention on Biological Diversity (CBD) and the Pathway to Canada Target 1 to increase its conservation targets from 17 percent of all lands and waters by 2020, to 25 percent by 2025 and 30 percent by 2030.
- C.** To achieve these goals, Canada has undertaken the development of a broad Nature Agenda which will guide planning, decision-making, and strategies relating to the conservation of biological diversity, and attempt to link synergistically with national climate contributions.
- D.** In 2018, the Indigenous Circle of Experts (ICE) released the internationally recognized “We Rise Together” report and made 28 recommendations to foundationally change colonial conservation practices and promote the establishment of Indigenous Protected and Conserved Areas (IPCAs) as a means to achieve Canada’s international and domestic conservation targets.
- E.** Conservation partnerships are a key component in supporting the critical capacity building necessary to sustain the establishment and maintenance of IPCAs and Indigenous-led conservation more broadly.

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Working with academic partners can help to identify real and practical capacity solutions at all levels in support of First Nations-led conservation and stewardship efforts.

- F. The Conservation through Reconciliation Partnership (CRP) was established in 2019 to act on the ICE recommendations through the creation of a conservation through reconciliation network, promotion of ethical research, and the strengthening of capacity across nations, communities, sectors, and the general public. The CRP is a coalition of over 30 Indigenous and non-Indigenous leaders and organizations, scholars, conservation agencies and organizations, and knowledge mobilization specialists.
- G. Through AFN Resolution 64/2018, *Indigenous Protected and Conserved Areas – Pathway to Canada Target 1: Conservation 2020 Initiative*, the Advisory Committee on Climate Action and the Environment (ACE) has established an IPCA Working Group to advocate within the Pathway to Canada Target 1 process for First Nations inherent rights, Treaties, title and jurisdiction, including First Nations' knowledge systems, laws, governance, and management systems.
- H. The AFN Environment Sector is a member of the Pathway National Steering Committee (NSC) responsible for the direction and guidance of the Pathway to Target 1 initiative, and co-chair of the NSC's IPCA Working Group.
- I. The AFN's "Healing Path Forward" calls for supporting the establishment and maintenance of Indigenous Protected and Conserved Areas, permanent support for Indigenous Guardians to assist in achieving Canada's international biodiversity commitments, and to integrate efforts toward conservation, reconciliation, and climate action.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Express support, in principle, for the Conservation through Reconciliation Partnership (CRP).
2. Direct the Assembly of First Nations (AFN), led by the Environment Sector and with guidance from the Advisory Committee on Climate Action and the Environment (ACE), to develop a partnership with the CRP to advance this initiative and further support Indigenous-led conservation, including through the establishment of Indigenous Protected and Conserved Areas (IPCA).
3. Direct the AFN Environment Sector to provide updates on the CRP and related Indigenous-led conservation initiatives to the Chiefs-in-Assembly, as appropriate, at subsequent Assemblies.

DRAFT RESOLUTION # 32 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE: Next Steps on First Nations and Procurement

SUBJECT: Economic Development, Infrastructure

MOVED BY: Chief Richard O'Bomsawin, Conseil des Abénakis, QC

SECONDED BY: Chief Marven (Mervin) Cheechoo, Moose Cree First Nation, ON

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 5: Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully if they so choose, in the political, economic, social and cultural life of the State.
 - ii. Article 20: (1) Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
 - iii. 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.
- B. Improved access to federal, provincial/territorial (FPT), and private sector procurement, new trade opportunities, and support for First Nations businesses represents a significant growth opportunity for First Nations businesses. Federal Procurement alone generates approximately \$20 Billion in economic activity each year.
- C. Recent Chiefs-in-Assembly resolutions Assembly of First Nations (AFN) Resolution 38/2019, *Increasing First Nations Procurement Opportunities and Benefits* and AFN Resolution 93/2018, *Federal Government Procurement Programs for First Nations*, support recommendations to inform policy approaches on First Nations procurement opportunities and benefits and directs the AFN to work with the Government of Canada to prioritize First Nations involvement and access to government procurement programs and projects.
- D. The Government of Canada has committed to a mandatory Indigenous procurement target of 5% of all federal procurement and are working to propose a federal approach to Indigenous participation in procurement through Public Services and Procurement Canada (PSPC), Treasury Board Secretariat (TBS) and Indigenous Services Canada (ISC), including the modernization of the Procurement Strategy for Indigenous Business (PSIB).

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- E. As part of the work to modernize the PSIB, discussion has focused on the need to define “Indigenous Business.” Currently, ISC unilaterally determines what constitutes an “Indigenous Business.” Indigenous peoples have inherent and constitutionally protected Aboriginal rights that are recognized and affirmed under section 35 of the *Constitution Act, 1982*, including the right of self-determination. Defining Indigenous business implies defining who is Indigenous and, as such, this is also a matter of governance and self-determination.
- F. Indigenous organizations are working together to undertake research to examine the merits of establishing a collaborative national Indigenous supply institute in Canada. Procurement structural capacity and support is an important consideration for First Nations increased involvement in procurement opportunities and benefits.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to seek First Nations technical advice and policy input on First Nations procurement matters through the Interim Technical Committee on First Nations Involvement in the Economy.
2. Direct the AFN, with the guidance of the Chiefs Committee on Economic Development (CCED), to communicate to the federal government that the approach to defining First Nations business must be First Nations-led and based on First Nations rights of self-determination.
3. Direct the AFN, with the guidance of the CCED, to explore the establishment of a national Indigenous supply institute to support regional and national structural and capacity needs of First Nations as identified by the Chiefs-in-Assembly in AFN Resolution 38/2019.
4. Direct the AFN Executive Committee Economic Development portfolio holder to provide an update at the July 2022 Annual General Assembly on the procurement developments with regards to defining Indigenous business and the establishment of a collaborative national Indigenous supply institute.

DRAFT RESOLUTION # 33 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Cost to Address Decades of Federal Housing Neglect
SUBJECT:	Housing
MOVED BY:	Chief Lance Haymond, Kebaowek, QC
SECONDED BY:	Chief R. Donald Maracle, Mohawks of the Bay of Quinte, ON

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples states:
- i. Article 19: States shall consult and cooperate in good faith with Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - ii. 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 programmes affecting them and, as far as possible, to administer such programmes through their own institutions.
- B. The Assembly of First Nations (AFN), the Chiefs Committee on Housing and Infrastructure (CCoHI), First Nations and their regional organizations, in collaboration with federal partners, have reached a significant milestone by completing work to provide detailed data on the housing needs of First Nations.
- C. The documents that describe First Nations housing needs and the First Nations-led solution to the First Nations housing crisis are the Policy Reform Framework (2017); the 10 Year National First Nations Housing and Related Infrastructure Strategy (2018) and its Implementation Plan (2020); the Technical Report on the national First Nations housing survey (2018); the Housing Policy and Research Centre Feasibility study (2021); and the First Nations Housing and Related Infrastructure Needs Technical report (2021). These documents are collectively referred to as the AFN's *foundational housing documents*.
- D. To address the First Nations housing crisis, Canada must:
- i. Conclude agreements with First Nations to assume care, control and management of their own housing consistent with their inherent and Treaty rights and jurisdiction;
 - ii. Fulfill its fiduciary obligation to provide First Nations guaranteed and sufficient multi-year funding;
 - iii. Co-develop expanded financing options; and
 - iv. Co-develop sufficiently funded First Nations-exclusive federal housing programs for First Nations that choose not to assume control of their housing.

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- E. The federal government has taken some steps in transformative change to its First Nations housing policy by giving itself the authority to transfer control of housing services to First Nations, subject to agreement, and by providing short-term additional housing funds in several federal budgets.
- F. The current annual federal departmental program funding allocations are insufficient compared to the cost to close the housing gap in First Nations communities, which AFN-commissioned research estimates at \$39 billion in 2021 dollars and a further \$21 billion to build homes for 10% of citizens living away to migrate to their reserves or communities.
- G. There is sufficient data for the federal government to make further changes to its First Nations housing policy in partnership with the AFN, and to commit the funds required to close the housing gap.
- H. Additional work is required to address housing pressures that are occurring due to federal Bill S-3 legislation, which legislates the removal of sex-based discrimination in Indian status registration leading to an increase in band membership. Work will be required to include the repatriation of children to First Nations as a result of First Nations child welfare legislation. Additional work also includes migration of citizens to home community, the development of a national urban, rural and northern Indigenous housing strategy, and the establishment of the proposed National First Nations Housing & Related Infrastructure Policy & Research Centre.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the AFN to advocate that the federal government announce no later than in its 2022 Federal Budget a guaranteed 10-year commitment of;
 - a. \$39 billion to close the gap in First Nations on-community housing and adjusted annually to reflect cost-of-living increases; and
 - b. \$21 billion to build homes for 10% of First Nations citizens living away to migrate to their home communities.
2. Direct the AFN to urge the federal government to continue the partnership in housing by co-developing a Memorandum to Cabinet or similar mechanism with the AFN, leading to a detailed federal First Nations housing policy that is consistent with the AFN's *foundational housing documents*.
3. Direct the AFN to urge the federal government to recognize each First Nation's right to determine their own funding priorities to address the housing crisis, such as overcrowding, serviced lots, repairs/renovations, population growth, the creation of or addition to reserves including housing and infrastructure, or to attract citizens living away to migrate to their home communities.
4. Direct the AFN, with the collaboration of the regions, to continue to work with Canada to co-develop research into additional housing pressures and to report conclusions and recommendations to the Chiefs-in-Assembly to seek further direction.

DRAFT RESOLUTION # 34 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE:	Solidification of Political and Administrative Roles at the Assembly of First Nations
SUBJECT:	Healthy Boundaries Implementation
MOVED BY:	Chief Emily Whetung, Curve Lake First Nation, ON
SECONDED BY:	Chief Wanda Pascal, Teetl'it Gwich'in, NWT

WHEREAS:

- A. In 2005, the Assembly of First Nations (AFN) Renewal Commission issued a report identifying a “lack of clarity concerning the appropriate point of separation between political and administrative oversight functions [that] has contributed to a blurring of operational responsibility and accountability between the Executive and the AFN Secretariat.” (p.47).
- B. During the 2021 AFN elections, the current sitting National Chief presented a platform that included establishing a strategic direction planning process that would result in delineating the political and administrative functions of the AFN.
- C. The AFN is bound by non-Indigenous Common Law which results in a colonial and corporate approach.
- D. It is time to decolonize the AFN system through a political restructuring process.
- E. In 2020, the AFN Executive Committee adopted administrative restructuring “Organizing to Deliver: Strategic Reorganization of the Secretariat of the AFN”.
- F. Ontario and BC Regional offices have already undertaken processes to delineate their political and administrative functions.

THEREFORE, BE IT RESOLVED that the Chiefs-in-Assembly:

1. Support the AFN in creating healthy boundaries to create a delineation between the political and administrative roles and functions of the AFN.
2. Support the establishment of an ad hoc Chiefs Committee on political restructuring comprised of one Chief from each Region.
3. Support the establishment of an ad hoc technical advisory committee comprised of governance specialist and external legal counsel to support the work of the Chiefs Committee mentioned above.
4. Direct the Chiefs Committee to issue a final report and suite of recommended structural changes to ensure that the AFN becomes an organization that is relevant, connected, and effective in its national political advocacy role of supporting First Nations.
5. Direct a proposed expansion to the authority of the Management Committee to include responsibilities for all administrative functions of the AFN effective immediately.

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6. Ensure that the necessary amendments to the corporate by-laws are completed within 90 days of issuing the final report.
7. Ensure that the necessary amendments to the AFN Charter are distributed to Chiefs within 120 days of issuing the final report and presented at the following assembly.

DRAFT RESOLUTION # 35 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE: Indigenous Peoples Exemption: Federal Bilingual Requirements

SUBJECT: Rights – Official Languages

MOVED BY: Naa Sháade Háni Eric Morris, Teslin Tlingit Council, YT

SECONDED BY: Chief Nicole Tom, Little Salmon/Carmacks First Nation, YT

WHEREAS:

- A. Article 5 of the *United Nations Declaration on the Rights of Indigenous Peoples, 2007*, which the government of Canada has adopted without qualification, states that "Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State".
- B. The Teslin Tlingit Council seeks the support of the First Nations-in-Assembly to provide political support to achieve a legislated exemption for Indigenous Peoples from being required to be bilingual in both French and English in order to be hired in key positions within the federal public service or to be appointed to the Supreme Court of Canada.
- C. The BC First Nations Summit Chiefs in Assembly and the Council of Yukon First Nations have expressed their support to the Teslin Tlingit Council, by way of resolutions that mirror the details of this resolution, to seek a legislated exemption for Indigenous People not to be required to be bilingual in both French and English in order to be hired for positions within the federal government or for judicial appointments to the Canadian courts.
- D. Any employment or appointment criteria that require an individual to be bilingual in both French and English in order to be considered, hired or appointed to a position or role is a real and direct systemic barrier for Indigenous People and hinders the opportunity for Indigenous Peoples to fully participate and represent Indigenous perspectives throughout the federal government, and in important offices such as the Governor General's office and at the Supreme Court of Canada.
- E. The requirement of bilingualism fails to account for the legal and systemic barriers, such as the *Indian Act, 1876*, and the Residential School system, which were imposed on the original peoples of this Country and in effect have negatively impacted Indigenous Peoples' abilities to fully participate in the political, economic, cultural and social fabric of Canada.
- F. Having a federal government and important institutions that reflect and include Indigenous Peoples and perspectives provides for a culturally rich and diverse public service, which can serve to improve Crown - Indigenous Relations and provide for a more inclusive unified country.

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- G. The *Public Services Employment Act*, SC 2003, c.22 provides opportunity for the Public Service Commission of Canada to identify barriers to employment and seek exemptions which include:

Exclusion of positions and persons

"20 (1) Where the Commission decides that it is neither practicable nor in the best interests of the public service to apply this Act or any of its provisions to any position or person or class of positions or persons, the Commission may, with the approval of the Governor in Council, exclude that position, person or class from the application of this Act or those provisions. [...]

General regulatory power

22 (1) The Commission may make any regulations that it considers necessary to give effect to the provisions of this Act relating to matters under its jurisdiction. [...]

Qualification standards

31 (1) The employer may establish qualification standards, in relation to education, knowledge, experience, occupational certification, language or other qualifications, that the employer considers necessary or desirable having regard to the nature of the work to be performed and the present and future needs of the public service.

Identification of biases and barriers

(3) When establishing or reviewing qualification standards, the employer shall conduct an evaluation to identify whether they include or create biases or barriers that disadvantage persons belonging to any equity-seeking group. If a bias or barrier is identified in the course of the evaluation, the employer shall make reasonable efforts to remove it or to mitigate its impact on those persons."

- H. Bilingual exemptions are possible in accordance with the *Public Service Official Language Exclusion Approval Order* SI/2005-118, a regulation passed pursuant to section 20 of the *Public Services Employment Act*, SC 2003 c. 22.

THEREFORE, BE IT RESOLVED that the First Nations-in-Assembly:

1. Support the initiative to seek a legislated exemption for Indigenous Peoples, pursuant to the *Public Services Employment Act*, SC 2003, from any employment or appointment criteria that may require Indigenous Peoples to be bilingual in both French and English in order to:
 - a. be hired for positions within the federal public service or other government offices;
 - b. hold key positions such as Governor General of Canada; or
 - c. be considered for judicial appointments to Canadian courts, including the Supreme Court of Canada.

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2. Direct the Assembly of First Nations to provide political advocacy, which includes writing letters to the Commissioner of Official Languages, the Federal Minister of Official Languages and the Prime Minister of Canada.

DRAFT RESOLUTION # 36 / 2021

AFN Special Chiefs Assembly, December 7-9, 2021

TITLE: Call for Recommitment, Funding and Clear Timeline for Development and Implementation of a National First Nations Justice Strategy

SUBJECT: Justice

MOVED BY: Chief Harvey McLeod, Upper Nicola Band, BC

SECONDED BY: Chief Ken Watts, Tseshaht First Nation, BC

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
 - ii. Article 5: Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.
 - iii. Article 34: Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.
 - iv. 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.
- B. One enduring legacy of colonialism in Canada, as confirmed by countless studies, reports, inquiries, and commissions, includes systemic anti-Indigenous racism in society and within Canadian institutions.
- C. One expression of this legacy is that Indigenous peoples remain grossly overrepresented in interactions with the justice system, notably in corrections. Thirty percent of inmates in Canadian prisons are Indigenous, despite comprising 5% of the country's population. The number of incarcerated Indigenous Peoples in Canada has grown by 44% since 2010, while non-Indigenous prison populations have decreased by 13.7%. Indigenous women are even more overrepresented at 42% of female prison populations.
- D. It has been demonstrated time and again that there is an urgent need for a coordinated approach to transforming the justice system by dismantling colonial justice structures and reawakening Indigenous legal orders and traditions, consistent with the standards of Indigenous self-determination and self-government in the UN Declaration.

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- E. The implementation of the Calls to Action of the Truth and Reconciliation Commission and implementation of the National Action Plan in response to the Final Report of the Missing and Murdered Indigenous Women and Girls Inquiry (MMIWG2S+) remain delayed, further demonstrating the depth of systemic anti-Indigenous racism, that upholding Indigenous rights in relation to justice are still not a national priority, and that the lives affected by this crisis are less worthy of intervention.
- F. First Nations across the country, working at the community level and collectively, have been developing solutions to the urgent crises in the justice system.
- G. In March of 2020, the BC First Nations Justice Council's (BCFNJC) "*BC First Nations Justice Strategy*" was adopted by First Nations across British Columbia and was formally endorsed by the Province of BC, establishing a clear roadmap for transforming the justice system in the province. It is the first-of-its-kind First Nations-led comprehensive justice strategy that contains many elements and lines of action that can be taken at a national scale to advance reforms to the current justice system and steps to begin the process of reawakening Indigenous legal orders and traditions.
- H. Throughout the development of the *BC First Nations Justice Strategy*, and with the direction of BC First Nations, the BCFNJC has advocated for Canada to be a full partner in the development and implementation of a comprehensive national justice strategy with First Nations across Canada consistent with the minimum standards in the UN Declaration.
- I. On March 5, 2020, the BC Chiefs-in-Assembly endorsed Resolution 16/2020 "*Support for the Development of a National First Nations Justice Strategy*" calling for the development of a National First Nations Justice Strategy to be led by the Chiefs of the Assembly of First Nations, supported by the AFN Chiefs-in-Assembly. The resolution further seeks to ensure the development of a National First Nation Justice Strategy, including key elements from the *BC First Nations Justice Strategy*.
- J. On January 15, 2021, the Minister of Justice and Attorney General of Canada was given a revised Mandate Letter with direction to, "Develop, in consultation and cooperation with provinces, territories and Indigenous partners, an Indigenous Justice Strategy to address systemic discrimination and the overrepresentation of Indigenous people in the justice system" supported the Minister of Crown-Indigenous Relations, the Minister of Indigenous Services, the Minister of Northern Affairs, and the Minister of Public Safety and Emergency Preparedness.
- K. On August 15, 2021, the Prime Minister dropped the writ for a September 20, 2021, federal election, which in effect put a stop to efforts to develop a national Indigenous Justice Strategy.
- L. The Liberal Party of Canada released its 2021 election platform on September 1, 2021. While the document commits to advancing Indigenous jurisdiction in the administration of justice, it does not contain a specific reference to the development of a national Indigenous Justice Strategy.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

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1. Direct the Assembly of First Nations (AFN) to advocate and work with the Minister of Justice and Attorney General of Canada and relevant ministries to urgently co-develop a strategic framework to develop and implement a National First Nations Justice Strategy with adequate funding to support regional and community-based, self-determined holistic approaches to justice that are grounded in First Nations principles, protocols, laws, and traditions, including ensuring the framework is consistent with the minimum standards in the *United Nations Declaration on the Rights of Indigenous Peoples*.
2. Direct the AFN to advocate for a clear timeline and funding for a National First Nations Justice Strategy to be attached to the upcoming federal budget.
3. Direct the AFN to draw from existing work on the transformation of the justice system being championed by First Nations across the country, including, for example, the *BC First Nations Justice Strategy*, as the National First Nations Justice Strategy is developed.

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TITLE: Canada AFN Governance Review Table

SUBJECT: Governance

MOVED BY: Chief, Dennis Meeches, Long Plain First Nation, MB

SECONDED BY: Chief, Deborah Smith, Brokenhead Ojibway Nation, MB

WHEREAS:

- A. First Nations in Canada have rights beyond federally prescribed reserve lands.
- B. *Section 35 of the Constitution Act 1982* confirms that the Government of Canada recognizes and affirms Aboriginal and Treaty Rights including the First Nation rights to land, enforcement of treaties, and self-government.
- C. Canada's *Indian Act*, *First Nation Lands Management Act*, and *Framework Agreement* serve to define their relationship with First Nation in governance and land matters but fail to recognize Treaty, collective, and territorial governments. This creates a major and significant gap in the vehicles that Canada is utilizing to uphold legally binding agreements with First Nations.
- D. Due to these legislative gaps, First Nations are beholden to unworkable and impracticable processes imposed by the Government of Canada resulting in onerous delays to land acquisition, reserve creation, rights recognition, and economic progress.
- E. The Government of Canada is capable of enacting special and custom legislation where these gaps exists and has demonstrated to do so when it serves the best interest of Canada.
- F. On August 8th, 2021, Prime Minister Trudeau made a public statement that "Canada cannot move forward as a country if First Nations continue to be held back by colonial structures, systemic racism, and discrimination".

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations and Canada to establish a Governance table to formally review, analyze, and reform Canada's frameworks, legislation, and policies with implications on Indigenous land, rights, treaties, settlements, and governance; and formulate workable solutions including substantive systems-level change that will recognize and validate the autonomy of First Nation governance structures, beyond those that are federally prescribed.

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TITLE: Recognition of Governance and Treaty Governance

SUBJECT: Governance

MOVED BY: Chief, Dennis Meeches, Long Plain First Nation, Manitoba

SECONDED BY: Chief, Deborah Smith, Brokenhead Ojibway Nation, Manitoba

WHEREAS:

- A. The *Royal Proclamation of 1763* is the first legal recognition by the British Crown of Indigenous sovereignty and land rights. It set out the general principles of Treaty-making recognizing First Nations rights to the land and the right to self-govern. These rights are to be respected and honoured.
- B. First Nations in Canada have spent over a century and an abundance of resources to prove and assert their Treaty and Inherent Rights through the adversarial, burden of proof, court-based litigation process that has proved limiting to Indigenous rights jurisprudence.
- C. The current common law approach claims that First Nation rights must be specific to community rather than general in nature.
- D. Canada's *Inherent Right Policy* (1995) recognized the Indigenous right to self-government as a constitutionally protected right under section 35, granting Aboriginal communities the right to negotiate self-government agreements with the Government of Canada. The *Inherent Right Policy* continued to impose federal and provincial oversight over Indigenous communities exercising their inherent right to self-determination.
- E. In 1996, the *Report of the Royal Commission of Aboriginal Peoples* called for renewed national reconciliation efforts involving Canada, governments, and First Nations peoples. RCAP proposed the creation of an *Aboriginal Nations Recognition and Government Act*.
- F. Twenty years later, Canada announced the development of an *Indigenous Rights Recognition Framework* to provide a statutory alternative to litigating Indigenous rights in the courts. The AFN raised significant concerns in the consultation process and the intended outcomes of the framework, thus halted the process and called for a new process led by the First Nations. This framework was never tabled in the House of Commons
- G. Despite the First Nations attempts to advance the recognition of rights forward, Canada continues to impose legislative and policy instruments, and rights recognition "discussion tables" as a mechanism to divert the process of proving rights in the courts. Neither the statutory nor judicial approaches will serve First Nations interests as they remain rooted in Canada's principle of constitutional supremacy.
- H. Constitutional amendments, judicial processes, and statutory alternatives are mechanism to serve Canada's need for recognition to define how they fulfill their Treaty, legal, and constitutional obligations to First

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Nations. First Nations do not require these mechanisms to assert our Treaty, inherent, and legal rights. The onus is on Canada to harmonize their legislations with the First Nations' governance systems.

- I. There are 70 historic treaties in Canada signed between 364 First Nations and the Crown.
- J. Treaty One Nations consist of the following First Nations: Brokenhead Ojibway Nation, Long Plain First Nation, Peguis First Nation, Roseau River Anishinabe Nation, Sagkeeng First Nation, Sandy Bay Ojibway Nation and Swan Lake First Nation.
- K. Treaty One Nations assert their right to self-determination and right to maintain and develop their own political and economic institutions through the collective renewal of Treaty One governance systems consistent with historical Treaty relations and protocols.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

- 1. Recognize Treaty One Nations, as the Signatories of Treaty Number One, as a collective First Nations government in full legal force and effect.
- 2. Direct the Assembly of First Nations to support the development, establishment, and operationalization a self-governed First Nations institution that:
 - a. Recognizes First Nation Government, Collective First Nation Government, and Treaty Government Constitutions.
 - b. Defines the actions, institutional processes, and enforcement mechanisms for First Nations to give force and effect to the provisions of the United Nations Declaration on the Rights of Indigenous Peoples.
 - c. Develops a First Nations "Charter of Rights" that validates First Nation legal traditions, systems, and laws.

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TITLE: First Nation Leadership Pension Plan

SUBJECT: Fiscal Relations

MOVED BY: Chief David P. Mushquash, Pays Plat First Nation, ON

SECONDED BY: Chief Peter Collins, Fort William First Nation, ON

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. Article 17
 1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.
 3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.
 - ii. 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.
- B. Federal government indigenous departmental budgetary allocations are touted to be investments in improving First Nation quality of life and to be building prosperous communities;
- C. All members of Parliament including the Minister of Indigenous Services Canada and Minister of Crown Indigenous Relations receive a defined benefit pension plan under the *Members of Parliament Retirement Act* after two terms of office;
- D. All federal government employees including the Ministry of Indigenous Services Canada and Crown Indigenous Relations employees participate in the Public Service Pension plan which is a defined benefit pension plan under the *Public Service Superannuation Act*;
- E. Defined benefit pension plans referenced above are often referred to as “gold-plated” pension plans because they are among of the most expensive and generous pension plans available;
- F. Elected leaders of First Nations including chiefs and councilors, some who have served for decades,

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do not generally participate in any pension plans, are not generally considered employees of the First Nation, are not included in band employee benefits program, are not entitled to Employment Insurance, and do not generally contribute to the Canada Pension Plan which is one of three social safety nets for all Canadians;

- G. Absence of a formal pension plan for First Nation leadership contributes to misinformation about leadership remuneration;

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Call upon the Government of Canada to make provision for equality in regards to First Nation leadership pension plans, including:
 - a. Inclusion of a First Nation leadership pension allocation in First Nation transfers equitable to other federal public service sectors;
 - b. Amendments for inclusion of First Nation leadership and employees category in the federal *Public Service Superannuation Act*; and;
 - c. Providing restitution for decades of inequity related to First Nation leadership pension plans.
2. Direct the Assembly of First Nations to immediately engage with the government of Canada to advocate for equality for First Nation leadership pension plans and to support the work outlined above.