

OUR LAND IS OUR FUTURE

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UNION OF B.C. INDIAN CHIEFS
CHIEFS COUNCIL

JUNE 7TH – 8TH, 2023

MUSQUEAM COMMUNITY CENTRE, X^WMƏØK^WƏY^ƏM (MUSQUEAM TERRITORY)

Resolution no. 2023-26

RE: Fiscal Framework Development for Resumption of Jurisdiction by First Nations over Children and Families

WHEREAS First Nations title and rights holders have the inherent right to self-determination, which includes jurisdiction over our children and families as constitutionally protected under Section 35 of the *Constitution Act, 1982*, described in the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration), and affirmed in Bill C-92: *An Act respecting First Nations, Inuit and Métis children, youth and families* (C-92);

WHEREAS work is underway to transform child and family services in British Columbia, including development of a new fiscal framework to support resumption of jurisdiction by First Nations over their children and families in BC, but improved information sharing and opportunities for First Nation input and involvement are necessary to ensure that the framework reflects the needs and realities of First Nations in BC;

WHEREAS the UN Declaration, which the government of Canada has adopted without qualification, and has, alongside the government of BC, passed legislation committing to implement, affirms:

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.

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.

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.

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.

Article 37: 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;

WHEREAS on January 26, 2016, and via subsequent rulings, the Canadian Human Rights Tribunal (CHRT) ordered Indigenous Services Canada (ISC) to cease its discriminatory practices and reform the national First Nations Child and Family Services (FNCFS) Program, policies, procedures, and agreements to comply with the CHRT's findings;

WHEREAS through resolutions at the Chiefs' Assemblies, the Chiefs in BC have supported and endorsed work to reform FNCFS by the BC Assembly of First Nations (BCAFN), First Nations Summit (FNS), and UBCIC, working together as the First Nations Leadership Council (FNLC), including the development of an Action Framework (UBCIC Resolution 2016-44, FNS Resolution 1016.11, BCAFN Resolution 22/2016), a Tripartite process between BC, Canada and FNLC (UBCIC Resolution 2017-06, FNS Resolution 0217.19, BCAFN Resolution 06/2017), and a Reconciliation Charter;

WHEREAS in 2019, the Government of Canada enacted C-92, affirming inherent Aboriginal and treaty rights, and supporting First Nations governments to pass laws, enforce laws, and put in place coordination arrangements for all aspects of child and family services, based on First Nations laws, priorities, customs, traditions, and practices;

WHEREAS by Resolution 01/2019, the Chiefs-in-Assembly directed the BCAFN Regional Chief, working with the UBCIC and FNS as part of the TWG, to create a detailed transition strategy to meet the needs of First Nations in BC for review and input by the Chiefs, which is ongoing;

WHEREAS Canada provides funding to the Province through a bilateral Service Level Agreement (SLA) for costs of child and family service delivery for First Nations on-reserve that are not served by a Delegated Aboriginal Agency;

WHEREAS while the broader transformation toward a new and effective fiscal model to support First Nations children and families in BC is taking place, as committed to in the Reconciliation Charter, an updated SLA continues to be used as an interim measure so that First Nations do not see disruptions in services;

WHEREAS in 2018, the Institute of Fiscal Studies and Democracy (IFSD) was hired by the Assembly of First Nations and the First Nations Child & Family Caring Society to research and define a funding approach and performance measurement framework for FNCFS that aligns with the requirements articulated through legislation and judicial decisions;

WHEREAS IFSD research, which is still underway, has informed negotiations on the current Agreement-in-Principle, on long-term reform of FNCFS, which was signed in 2021, and the revised Final Settlement Agreement (FSA) on FNCFS, Jordan's Principle, and the reform of Indigenous Services Canada (ISC), which was signed in 2023; and

WHEREAS IFSD research currently underway, builds on previous IFSD data collection and findings, and includes some BC-specific data. Next steps for IFSD are to 1) Build examples of funding models (with consideration of different starting points) based on findings; 2) Request regional review meetings of the models to ensure they capture different needs; and 3) Prepare a final report for December 2023 with a summary of findings.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council fully supports the development of a long-term funding agreement, that ensures the holistic transformation of First Nations Child and Family Services (FNCFS) to a new fiscal framework, which supports First Nations resumption of jurisdiction over their children and families and realizes the intention and spirit of the UN Declaration and recent legislation and judicial decisions;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council calls on the Institute of Fiscal Studies and Democracy (IFSD), which is completing cost modeling work to develop a new fiscal framework, to ensure full alignment and engagement with First Nations in British Columbia, in all aspects of development;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council calls on IFSD to engage in consistent communication with UBCIC, the BC Assembly of First Nations (BCAFN), and the First Nations Summit (FNS), working together as the First Nations Leadership Council (FNLC), to support engagement with First Nations in BC and ensure reviewal and analysis of IFSD reports, by FNLC contracted experts;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive, working with the BCAFN and FNS, as the FNLC, to work with IFSD to provide input and promote opportunities for First Nations in BC to provide direct input in the development of a new fiscal framework; and

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council calls on Canada and the Province of British Columbia, as members of the Tripartite First Nations Children and Families Working Group, to share information with and support IFSD's cost modelling work to ensure accurate reflection of and funding to address the needs and priorities of First Nations in BC.

Moved: Chief Ralph Leon, Sts'ailes
Seconded: Chief Donald Edgars, Old Massett Village Council
Disposition: Carried
Date: June 8, 2023