



**Assembly of First Nations**

**Submission to the House Standing  
Committee on Finance**

**Study on Bill C-97, Budget Implementation Act, 2019**

**May 21, 2019**

The Assembly of First Nations (AFN) makes this submission to the House Standing Committee on Finance (FINA) regarding Bill C-97, the Budget Implementation Act, 2019.

Although other elements of Bill C-97 are of significance, this submission is limited to comments on Part 4, Division 25, described as “Various Measures Related to Indigenous Matters.”

#### **Part 4, Division 25**

Part 4, Division 25, Subdivisions A and B create two new departments, Indigenous Services Canada (ISC) and Crown-Indigenous Relations and Northern Affairs Canada (CIRNA). Subdivision C repeals the Department of Indian Affairs and Northern Development (DIAND) and addresses transitional, consequential, and coordinating matters relating to other legislation necessitated by the dissolution of DIAND and the creation of ISC and CIRNA. Subdivision D then proposes various amendments to other legislation relevant to First Nations necessitated by the creation of ISC and CIRNA.

There was inadequate engagement with First Nations prior to the tabling of Bill C-97. Since tabling, there has been insufficient time for First Nations governments and representative organizations to thoroughly review and analyze the Bill, obtain legal opinions on the matters raised, and prepare submissions. This process has failed to fulfil the duty of the Government of Canada to obtain the free, prior and informed consent of First Nations on matters directly affecting inherent and Treaty rights, title and jurisdiction. As the process followed for the development of Part 4, Division 25 of Bill C-97 constitutes a violation of First Nations rights, Parliament should take steps to ensure that it is never repeated.

Articles 18 and 19 of the United Nations Declaration on the Rights of Indigenous Peoples (the UN Declaration) enunciate the rights of Indigenous Peoples to participate in decision-making in matters affecting Indigenous rights, “in accordance with their own procedures” and require States, such as Canada, to “consult and cooperate in good faith” in order “to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them”. These rights, accepted without reservation by Canada, have been violated with regard to Part 4, Division 25 of Bill C-97.

As a consequence, the AFN cannot support Bill C-97 in its current form.

#### **Recommendation**

1. That Bill C-97 be amended to delete the entirety of Part 4, Division 25.

## **ABOUT THE ASSEMBLY OF FIRST NATIONS**

The Assembly of First Nations (AFN) is the national organization representing First Nation governments and approximately 1.5 million citizens living on reserve and in urban and rural areas from coast to coast to coast. The AFN is dedicated to advancing the priorities and aspirations of First Nations through review, study, response and advocacy on a broad range of issues and policy matters. This includes facilitation and coordination of national and regional discussions and dialogue, advocacy efforts and campaigns, legal and policy analysis, communicating with governments, including facilitating relationship building between First Nations and the Crown as well as public and private sectors and general public.

The National Chief is elected every three years by Chiefs who are elected by members of their nations, and receives direction from Chiefs-in-Assembly.

There are 634 First Nations in Canada with established governance systems, each led by a Chief who is entitled to be a member of the Assembly. The AFN National Executive is made up of the National Chief, 10 Regional Chiefs and the chairs of the Elders, Women's and Youth councils. First Nations are part of more than 50 distinct nations with unique cultures and languages.

First Nations have a unique and special relationship with the Crown and the people of Canada as set out in the Royal Proclamation of 1763 and manifested in Treaties, the Constitution Acts of 1867 and 1982, Canadian common law and International law, and as outlined in the United Nations Declaration on the Rights of Indigenous Peoples.