



**ASSEMBLY OF FIRST NATIONS  
CHIEFS COMMITTEE ON FISCAL  
RELATIONS**

***First Nations Fiscal and Statistical Management  
Act***

**QUESTIONS AND ANSWERS  
IN RESPONSE TO THE POSITION PAPER  
PREPARED BY  
THE IMPLEMENTATION COMMITTEE**

**November 20, 2002**

***Hasn't the proposed Fiscal Institutions Act already approved by the Chiefs of the AFN?***

**Myth:** What the Chiefs originally approved was the development of new fiscal arrangements with Canada. The Chiefs' Committee concentrated on the development of fiscal institutions. An Act of Parliament was not approved. Nor was it known the "First Nations" institutions would be run by Boards appointed by the federal cabinet. The contents of the Act was not known until August, 2002. Any decisions of the Chiefs before August 2002 could not have foreseen the Act being dealt with now.

**Truth:** The mandate to develop the fiscal institution legislation is clear. Here is a quote from the AGA resolution passed at Halifax in 2001; "that the four new national First Nation fiscal institutions be established through federal legislation" and "ensure that the legislation accurately reflects the design and functions of the First Nation fiscal institutions as proposed and set forth in the business plans for the said institutions." Legislation is based on business plans which were provided to the Assembly as early as 1999.

***Did the "Institutions Package" win approval at the 2001 Halifax AFN Assembly?***

**Myth:** Support for the package at Halifax was uncertain. Consensus could not be reached, and a 60% majority could not be obtained. An agreement was reached that any Bill would be brought before an Assembly of Chiefs to decide if the Bill would have support of the AFN. When the next Assembly was held in Kahnawake, there was no draft bill to place before the Chiefs. The "National Conference" held in Vancouver in September, 2002, was not an Assembly meeting. The matter is now before the Special Assembly taking place in Ottawa November 19-20, 2002.

**Truth:** The resolution is valid. It was supported by more than 60% of the Chiefs in attendance. A legal opinion supports this.

***Does the proposed Bill guarantee First Nations that it will not diminish or change our Treaties, our rights, or the federal government's fiduciary responsibilities?***

**Myth:** There is no “ non-derogation clause” in the proposed Bill. A non-derogation clause would be a clause which says that nothing in the legislation is intended to affect, alter, diminish our rights. Most other Bills have such a clause. The absence of such a clause could be interpreted by courts as meaning that there was no intent of Parliament to ensure that First Nation rights are not affected.

**Truth:** The legislation does not diminish or change Treaties, rights or federal fiduciary responsibilities. (see attached legal opinion). As a comfort clause, the institutions have advanced a non-derogation provision for the legislation.

***The proposed Fiscal Institutions Act and the Minister's Governance Act are quite separate initiatives, aren't they?***

**Myth:** They are all part of the same package, according to the Minister. That is why they are being advanced at the same time, along with the Claims Bill and amendments to the Land Management Act. The last time there was talk about such a flurry of legislation was when the White Paper proposed in 1969 to introduce such a package of law to do away with Indians and reserves in Canada. As an example of linkage, laws passed by a First Nation under the proposed Governance Act will be published in a “First Nations Gazette” which is managed by the proposed “First Nation Tax Commission”. The councils the proposed institutions are to be dealing with are councils established under the Governance Act.

**Truth:** The bills are separate. The fiscal legislation is First Nation inspired and led and the Governance Act is not. The origins of the Fiscal Institution legislation predate the Governance Act by at least 10 years. The fiscal institution legislation is enabling and optional; the Governance Act is imposed. The First Nation Gazette published by the ITAB and the Native Law Centre at the University of Saskatchewan has been publishing law since 1997.

***Will the proposed new institutions support First Nations exercising their inherent rights to self-government?***

**Myth:** The draft Fiscal Institutions Act and the Minister's Governance Act are closely linked. The Fiscal Institutions draft Bill states that the terms it uses are to be the same as they are defined in the *Indian Act*. The *Indian Act* is being amended by the Governance Act.

**Truth:** The institutions provide essential tools which First Nation communities may use to help implement their inherent rights. First they will help ensure inherent rights are recognized (see Matsqui Supreme Court decision). Second they will provide a framework necessary to implement inherent rights (see Boldt decision).

***Is it certain the proposed Fiscal Institutions Act will be "optional"?***

**Myth:** The proposed Act does not state it will be optional. Neither is there any protection for a First Nation against being forced into the Act. It could, for example, be made a condition of a funding arrangement that a deduction will be made if a First Nation does not acquire its own source of revenues through taxation under the proposed Act. Ottawa even has a name for it "OSR" = "own source revenues". The proposed Statistical Institute will collect data on a First Nation whether there is consent or not.

**Truth:** This is enabling optional legislation. First Nations can choose to use the institution through their own laws or agreements. They can choose not to use the institution and exercise the same power through other mechanisms. They can choose to stop using the services of the institutions. To provide comfort, the institutions have requested that the preamble state that First Nations may choose to use the institutions.

***Will First Nations still be able to handle their own revenues as an inherent rights even if they do not opt in to any institution?***

**Myth:** If the proposed bill becomes law, it will mean Parliament intends the inherent rights of self-government not to include the collection and management of a First Nations revenues.

**Truth:** The inherent right of self-government includes the collection and management of revenues and this legislation supports that. As stated earlier there are other options to exercise this inherent right.

***Could a First Nation opt in to just one institution?***

**Myth:** The proposed institutions are interlocking. Each one functions in conjunction with the others. The “Statistics Institute” collects data about a First Nation for the use of the other institutes. A First Nation cannot borrow money from the “Finance Authority” without the consent of the “Tax Commission” and a certificate of good management from the “Management Board”.

**Truth:** First Nations can opt into one of the following institutions; the Tax Commission through a local revenue law, the Management Board through a law or agreement or the Statistics Institute through an agreement. Borrowing membership in the Finance Authority requires coordinated services from the institutions.

***With the new institution in place, will a First Nation still be free to pass bylaws and laws?***

**Myth:** A First Nation will not be able to pass certain kinds of laws or bylaws without obtaining the approval of the proposed “Tax Commission”.

**Truth:** Currently, First Nations must submit all by-laws to the Minister for approval or disallowance. As a result of this legislation, First Nation controlled institutions will approve First Nation laws.

***Will “harmonization of tax laws” be helpful to First Nations who have opted in?***

**Myth:** Harmonization means First Nations will not be able to attract businesses to establish job opportunities on reserve by offering a break on taxes. The tax rate on reserve will have to be similar to the off-reserve tax rate.

**Truth:** Harmonization refers to similar standards. It has nothing to do with similar tax rates. Under this legislation, First Nations have the clear jurisdiction to establish their own tax rates. Standards reduce complexity and create efficiencies allowing First Nations to participate in the economy.

***With the new institutions in place, will a First Nation be able to pass bylaws regarding licenses and other locally-raised revenues without getting approval?***

**Myth:** A First Nation’s laws regarding the collection and expenditure of revenue, especially where non-Indians may be involved, will require the approval of the proposed Tax Commission, whose members are appointed by Indian Affairs. The Commission will have the power to ensure the rights of non-Indians are protected. The Commission will also ensure that a First Nation’s tax laws are in harmony with those of surrounding municipalities.

**Truth:** Currently First Nations must submit such laws to the Minister of Indian Affairs for approval or disallowance. With this legislation, First Nation controlled institutions will replace the Minister’s authority for approval. National standards are required to ensure the interests of non-voting non-member are protected as was recommended in RCAP.

***Under the proposed legislation, can a First Nation do whatever it wishes with revenues which it raised?***

**Myth:** Under the proposed legislation, a First Nation is constrained both by the proposed Governance Act and the proposed new institutions Bill to spend local revenues only on local infrastructure as approved by the Tax Commission whose members are appointed by the federal cabinet. The Commission can veto any bylaw passed by a First Nation. The First Nation will also be required to ask the Tax Commission for approval of its annual budget of expenditures. This is a striking denial of the right of First Nations to govern themselves.

**Truth:** First Nation governments are responsible to their citizens and their tenants. Currently, First Nations make expenditures as per their agreements and contracts. The revenue streams that can be collected by First Nations under this legislation are directly associated with service responsibilities and priorities established by First Nations. This is precisely how the current First Nation tax system works. This protects the interests of all First Nations to govern themselves.

***Can the citizens of a First Nation be assured they will retain control of their government if they opt in to the institutions?***

**Myth:** Under the proposed legislation, a Council could be required by the Tax Commission to delegate its laws-making authority over budgets and financial administration to any “person or body”. This would be a set-back to the principles of self-government. A First Nation that is slow in collecting taxes or debts could be obliged to surrender not only to a third-party manager, but to allow that manager the power to make laws. Worse, the proposed “Management Board” would have pre-assigned authority to step in and act as agent for the First Nation. A First Nation would be obliged to turn over all documents and records to the Commission.

**Truth:** Currently the federal government approves or disallows all First Nation laws. The institutions provide for First Nation control of their government’s local revenues. Provisions have been made to delegate authority where a number of First Nations share a reserve in common, or a number of First Nations wish to rebuild their nation. Delegations to the Management Board improve the credit rating and have been requested by member First Nations to protect the integrity of the borrowing pool. Delegating these authorities is optional.

***Will a First Nation's dealings with the proposed institutions be private and confidential?***

**Myth:** A First Nation is obliged to provide the institution with any information requested. The Commission is obliged to provide the Minister with any information he requests. Audits will be provided to non-Indian taxpayers and the public.

**Truth:** The local revenue activities of all governments participating in the market economy are public. Currently, all First Nation local revenue budgets and tax rates are published in the First Nations Gazette. This practice will continue under the legislation. The Minister will receive the same information as the general public.

***Will the proposed Fiscal Institutions Act continue to protect reserve lands and assets from being seized by outside parties?***

**Myth:** In fact, it opens the door by overriding the protection of s.89 of the Indian Act and permits debt enforcement by non-Indian third parties. When taxes are overdue for two years, a third-party manager could sell the debt to an outside party who could use seizure and enforcement remedies.

**Truth:** Section 89 is not overridden. Borrowing in the Finance Authority is not secured by real property but rather reflects the collective credit of the borrowing pool and the stability of property tax revenue. The enforcement provisions for First Nations collecting property taxes from leaseholders reflect current practices.

***Will the proposed powers of the Tax Commission be less intrusive than the power wielded by Indian Affairs?***

**Myth:** In some situations, the Commission's powers are more intrusive. A complaint by a First Nation citizen or a non-Indian taxpayer can trigger a review. If the Commission finds the First Nation at fault, it can order remedies. If the Commission feels the First Nation is not responsive, it can tell the management Board to step in and take over. There are no appeals to the Commission's orders, and no provisions for due process.

**Truth:** The Tax Commission will protect First Nation tax jurisdiction by facilitating the resolution of disputes subject to due process and appeals.

***Can a First Nation run a deficit for spending from its local revenues?***

**Myth:** Although today First Nations can run an 8% deficit without triggering DIAND intervention, a First Nation opting in to the institutions will be allowed 0% deficit. This will cause First Nations to raise more money locally, meaning less money coming in from DIAND.

**Truth:** It is standard practice for all governments collecting local revenues not to run an operating deficit. The legislation ensures this for the local revenue account. This provision does not apply to other accounts and will serve to protect local revenues from federal offsets.

***Does a First Nation who has opted into the proposed system of institutions still remain free to make the best financial arrangement possible?***

**Myth:** The proposed Finance Authority has first call over the income of the First Nation. It also has a monopoly over all debts of more than a year, and can charge higher rates. The First Nation cannot go to a chartered bank or other lender, even if there are better rates and arrangements available. This will remove competitiveness from the money market, and all First Nations are likely to have to pay more.

**Truth:** Under this legislation, First Nations continue to be free to choose their best financial options. One of those options for long term debt is to use the Finance Authority and benefit from the collective borrowing power. The Finance Authority is not a monopoly but a cooperative owned and governed by its First Nation members. This model has been tested and proven to provide the lowest available costs of borrowing. This model has been so successful that it has made the banks more competitive.

***Can a First Nation determine its own rules for financial administration?***

**Myth:** A First Nation becomes subject to the veto and absolute control of the “Management Board”, one of the new institutions.

**Truth:** The legislation is enabling and optional. First Nations will determine their own rules for financial administration as per Generally Accepted Accounting Practices. The Management Board will provide services to support First Nations and, if requested, certify that generally accepted financial management standards are met.

***If a First Nation who opts in to the proposed institutions becomes dissatisfied, can it decide to “Opt out”?***

**Myth:** For the Finance Authority, First Nations who wants out must obtain approval of all the other members in the system. For the Tax Commission, amendments would be required of the bylaws, and the Tax Commission has a veto on bylaws, meaning it has the last say as to whether a First Nation can leave the system.

**Truth:** A community can always choose to stop using the services of the fiscal institutions. Although this situation has never arisen with the Indian Taxation Advisory Board, each of the institutions will develop an opt-out process to ensure that it CAN take place. Obviously, to protect the system and other First Nations, there will be some requirements such as fully paying outstanding debentures or honoring existing service agreements in these opt-out processes.

***Will the proposed Fiscal Institutions Act lead to a new fiscal arrangement or relationship with Canada?***

**Myth:** That was the original mandate of the Chiefs’ Committee on Fiscal Relations. However, fiscal relations remain today as they have been for decades: merely the means to facilitate devolution of DIAND programs to band council administration. The proposed Act does not in any way deal with a new fiscal relationship, and, in fact, is likely to further entrench the status quo.

**Truth:** The fiscal institutions are the first step towards a new fiscal relationship with Canada. A new fiscal relationship must include improved transfer and revenue options for First Nations. The fiscal institutions will improve transfer options by providing improved data and financial management systems. They will increase revenue options by clarifying existing revenue jurisdictions and providing a framework to increase revenues and revenue options.

***Does the proposed Fiscal Institutions Act fulfil the recommendations of the Royal Commission on Aboriginal Peoples, the Penner Committee or the Senate Report “Forging New Relationships”?***

**Myth:** To the contrary, the proposed institutions lead away from the recommendations of these reports. They further entrench the dominant role of the government in having institutions under its control and strengthen the current colonial relationship.

**Truth:** The legislation addresses some of the recommendations in the RCAP and the Penner committee. For example, the Statistics Institute, new financing options and clear tax jurisdiction are recommended by RCAP. Further the Penner committee recommended legislation under 91(24) “designed to occupy all areas of competence necessary to permit First Nations to govern themselves effectively and to ensure that provincial laws would not apply on Indian lands...”

***Can we be sure the proposed Act which was circulated for the first time in August, 2002, will be the Act which will become law?***

**Myth:** The draft Bill presented in August was not complete, and some major decisions have to be made. Really, there is no finished proposals to set before the Chiefs. But even then there is no guarantee that draft will be final. The Minister may make any changes he wishes before tabling the Bill in Parliament. Then the Standing Committee, often with the involvement of the Minister, may recommend further changes which will be passed by Parliament. First Nations have little control over this process.

**Truth:** The National Chief, the Executive and the Chiefs Committee on Fiscal Relations take their mandate seriously. The July 2001 mandate states “... that the National Chief and Executive Committee of the Assembly of First Nations, the Co-Chairs and representatives of the Chiefs Committee on Fiscal Relations, along with its technical support team and the appropriate staff of the Secretariat:... in the legislative development process ensure that the legislation accurately reflects the design and functions of the First Nation fiscal institutions as proposed and set forth in the business plans for the said institutions, and prepare and mount a lobby in Parliament, including appropriate participation in Parliamentary Committees, to ensure that the proposed First Nation Fiscal Institutions Act is passed as envisioned

herein.”

***Does the proposed Fiscal Institutions Act set out the entire law?***

**Myth:** It sets out the statute, but not the regulations. The regulations would be proclaimed by the federal cabinet *after* the Bill becomes law. The regulations are not subject to debate by Parliament - the government has the final say. The Minister has not revealed his plans for regulations so they can be examined in advance along with the statute. As well, the new institutions can proclaim standards that could affect First Nations.

**Truth:** The scope of additional regulation is defined in the legislation and will be developed by First Nation controlled institutions.

***Has the Chiefs’ Committee obtained independent legal advice on the proposed Fiscal Institutions Act so Chiefs can take that into account?***

**Myth:** No independent legal opinions or risk assessments have been presented by the Chiefs’ Committee, nor are there any options given, or balancing of advantages and disadvantages. No potential risks have been identified by the Bill’s sponsors. In fact, the proposed Bill is being presented as “risk-free”. No due diligence has been done. The results of the post-Kanawake discussions between those leaders favouring the institutions and DIAND officials has not been disclosed. The approach seems to be a one-sided “Eat it. You’ll like it.” No informed decision can be made on ratifying the Bill without these assessments.

**Truth:** There are a number of legal opinions regarding the institutions. In particular, the AFN has sought a legal opinion on the impact of the legislation specifically on treaty and aboriginal rights and the fiduciary obligation. This opinion is available.

***Are funds available to assist First Nations who wish to obtain independent expert advise or opinion? Or to oppose the proposed legislation?***

**Myth:** The only funding from DIAND has been for those who support the proposed Bill. No funding has been provided to First Nations who are undecided and wish to have further independent information, and none has been provided to those who are opposed to the proposed legislation.

**Truth:** As in all instances, First Nations can seek funding or use their own sources of revenue to gain any additional advice or opinion.

***Has Indian Affairs taken a neutral position on the proposed legislation on Institutions?***

**Myth:** Indian Affairs is fully backing the proposed legislation and is investing heavily in ensuring it goes to Parliament. The proposed institutions fit like a glove into DIAND's agenda of having First Nations raise their own revenues through taxation and other sources. The Bill's path through Parliament will be much smoother if it has AFN support.

**Truth:** Canada's support of this legislation has not come easily. It has required a significant lobby effort by First Nations, the AFN and the fiscal institutions. First Nations have informed and led the development of the consultative draft of the legislation. This commitment must continue in the balance of the legislative process.

***Is the Crown responsible if the proposed Fiscal Institutions make a mistake and damage one or more First Nations?***

**Myth:** If the proposed institutions make a mistake which damages a First Nation, the Crown is not responsible.

**Truth:** The institutions are independent of the Crown and responsible for their actions.

***Does the Government retain its fiduciary duties to First Nations regarding matters which would be handled by the new institutions?***

**Myth:** The fiduciary duties are being passed over and assumed by the proposed institutions, and the Crown is shielded from any breaches committed by them.

**Truth:** Canada remains responsible for its duties and obligations to First Nations. Nothing in this legislation reduces these obligations (see legal opinion).

***Will the proposed legislation make the federal government more accountable to First Nations?***

**Myth:** There is nothing in the proposed Bill which addresses the responsibilities of the government of Canada.

**Truth:** The First Nation Statistics Institute has the capacity and expertise to enable First Nations to compare our service standards to those of other governments. This will allow us to hold other governments accountable.

***Is the Minister turning over the operation of the proposed Fiscal Institutions to First Nations control?***

**Myth:** The Minister, through Cabinet, keeps control of appointments made to the Boards of the proposed institutions, determines how much money, if any, they will receive, and how they will conduct their business. The Minister can shut down the institutions or severely cut their budgets at any time, just as he did with the First Nations Governance Institute which actually had started up operations in Manitoba at a cost of \$750,000.

**Truth:** These institutions are First Nation controlled and independent. Federal legislation provides for certainty and stability. There are sufficient safeguards to protect the Tax Commission, the Financial Management Board and First Nations Statistics so that the Minister would have no power to give any directions to any of the institutions with respect to their core functions. The Minister must consider the representations made by First Nations on these appointments. The criteria for choosing the representatives will also ensure that they will have had experience with respect to First Nations' issues, and knowledge of the mandate of the respective institutions. The Board of the Finance Authority is elected by its member First Nations from amongst the Borrowing Pool.

***As a result of the proposed Fiscal Institutions, will First Nations receive more resources in support of their governments and programs?***

**Myth:** The current unjust and colonial fiscal relationship stays solidly in place. First Nations will not receive any more money to pay for basic services. First Nation jurisdiction will still be ignored. The same arguments between federal and provincial governments about who is responsible for programs and services will continue. The dependency on federal funding agreements will continue. First Nations will continue to have little control over their money and decision-making.

**Truth:** The fiscal institutions will improve transfer options by providing improved data and financial management systems. They will increase revenue options by

clarifying existing revenue jurisdictions and providing a framework to increase revenues and revenue options.

***As a result of the proposed legislation, will the federal and provincial governments stop trying to assert their tax jurisdiction over us on reserve?***

**Myth:** There is nothing in the proposed Bill about federal and provincial governments abandoning their claim to jurisdiction over us on reserves. The taxation referred to in the legislation is municipal-type taxation.

**Truth:** The legislation strengthens First Nation jurisdiction from encroachment by the provinces. The legislation states that any order rule or regulation or First Nation law made under the legislation will prevail over provincial and federal laws.

***Will First Nations retain their same legal status if the proposed Fiscal Institutions legislation passes?***

**Myth:** The legal status will be changed both by the *Governance Act* and by the proposed Fiscal Institutions Act. First Nations will become “natural persons”, just like any company or corporation. Corporations are “made-up persons” which come into existence through a charter granted by the Crown. They continue to exist only so long as the Crown considers that they are entitled to their charter. First Nations already have their legal status well established in Canadian law, and need nothing more. In fact, anything more is really something less.

**Truth:** The legal status of First Nations is not changed by the fiscal legislation. First Nations are not required to incorporate under the fiscal legislation and their well-established legal status is reinforced.

***Will the new institutions be aggressive in advancing First Nation rights and interests?***

**Myth:** That is not the mandate of the Tax Commission. The Commission’s mandate is to balance the interests of taxpayers with the interests of First Nation governments. The proposed Act says all Commissioners have to support the object of local taxation.

**Truth:** First Nations led and controlled institutions will protect and enhance First Nation jurisdiction. This is in the business plans and this is in the mandates of the institutions. The Tax Commission is no different than the other institutions in this regard.

***Will the new institutions help First Nations to generate enough local revenues to promote “sustainable economic development”?***

**Myth:** Only a few First Nations in Canada have much of a property taxation base. For the vast majority, a tax system makes no sense at all. But there’s another problem: First Nations with tax revenues are forced to use these revenues for local infrastructure, and cannot invest it for economic development. The main beneficiary of tax revenues, then, is Indian Affairs, who can reduce money provided. One economist has stated, “The (Institutions) Initiative appears to be the Trojan Horse to enable the eventual takeover by the ‘independent’ institutions, created by federal government legislation, of all spending decisions on reserves.”

**Truth:** Over 100 First Nations are already collecting local revenues and over 30 additional communities are actively considering this option. The institutions will help First Nations generate more local revenues and will promote sustainable economic development. The institutions provide the tools to grow First Nations economies and protect First Nation local revenues from federal claw back. The use of local revenues for infrastructure is the best investment for sustainable economic development according to widely accepted economic theory.

***Wouldn’t these proposed new Institutions advance the goal of self-government?***

**Myth:** In fact, the new legislation is a set-back. The only authority offered to the proposed institutions is *delegated* authority, granted at the pleasure of the federal government. The new institutions will not operate through the inherent right to self-government or any other right. The colonial grip of government is thereby tightened rather than loosened.

**Truth:** The institutions provide essential tools which First Nation communities may use to help implement their inherent rights of self government. First they will help ensure self government inherent rights are recognized (see Matsqui Supreme Court decision). Second they will provide a framework necessary to implement self government inherent rights (see land mark Boldt decision).

***Is the proposed Fiscal Institutions legislation necessary to accomplish the objectives it says it wishes to accomplish?***

**Myth:** The same objectives can be accomplished without legislation. The same institutions can be set up by the government as a program or service under existing authorities. The work of the Tax Advisory Board has gone on for years without any new laws, and the other institutions can operate in a similar way.

**Truth:** The objectives of this legislation cannot be accomplished without the legal certainty of legislation. For instance, this legislation provides certainty that provincial governments can't tax. It allows First Nations to pool their borrowing requirements and achieve a high credit rating. It protects the confidentiality of First Nation data.

***Do First Nations need the proposed legislation to accomplish their own objectives in this area?***

**Myth:** Everything which the proposed institutions will do can be done today by First Nations. Not only are First Nations competent to do this without legislation, but we have the right to control institutions of this nature. Any First Nation who wish to have one or more of these institutions can collaborate, form an institution, share expertise and experience, all without any legislation. Government does not need legislation to support such true First Nations institutions.

**Truth:** First Nations may exercise the same powers through self-government agreements, their inherent rights or any other mechanism. This legislation enables First Nations to gain the economic strength of union.

***But isn't legislation necessary so First Nations can issue bonds?***

**Myth:** Corporations issue bonds. The First Nations Financial Authority group is already issuing bonds. Legislation might bring greater security for investors and thus lower interest rates, but if that is the only objective, it would be far cheaper for the federal government to just subsidize the difference. Also, as investors gain confidence in First Nations, interest rates will decline.

**Truth:** Junk bonds can be issued by anyone. The question is will anyone buy them. Small First Nations understand that on their own, it is unrealistic and un-economic to issue their own bonds. First Nations are not corporations but would issue unsecured bonds using local revenues as governments. Legislation will bring greater

security for investors, thus lowering interest rates.

***Will the current definition of the term “First Nation” remain unchanged by the draft Bill?***

**Myth:** The definition of the term “First Nation” has been expanded in the proposed Bill by saying a “First Nation” includes “any other aboriginal group prescribed by regulation that has agreed to be bound by the provisions of the Act.” Since the regulations are still secret, it is possible that any group of “aboriginal people” could be defined by the Act as a “First Nation”. The proposed Bill could open the backdoor to groups becoming “First Nations” and claiming and competing for funding. Lands owned by such groups would be designated as “First Nation Lands”.

**Truth:** The legislation will not change the definition of First Nation or reserve. The legislation applies only on reserve lands under the jurisdiction of First Nations and bands. Regulations may be developed to allow First Nations whose lands are not defined as reserves under the Indian Act to choose to use the services of the institutions. These communities, in an open process, will advance these regulations.

***Even if there are a few rough spots, won’t the new institutions bring new income and greater self-government?***

**Myth:** One expert, Dr. Fred Lazar, an economist at York University, sums it up in this way: “The bottom line: the proposed Initiative will do nothing to enable the First Nations to exercise their inherent self-government rights and their sovereignty. Nor will it do anything to spur the development of First Nations communities and economies.”

**Truth:** Other experts disagree. “The exercise of tax jurisdiction by small governments and the creation of opportunities for debt finance are activities where cooperation is necessary and the First Nations Fiscal and Statistical Institutions Initiative is, on net, a very sophisticated movement forward in this area and one that offers substantial benefits to First Nations.” – Professor Emeritus of Economics, Dr. Robert Bish.

***If all the answers to the questions are “No”, does this mean Chiefs should do something about it?***

Myth: We can get off to a fresh start, based on our inherent, aboriginal and Treaty rights, a government-to-government fiscal relationship, consideration of the recommendations in the Penner Report and the Report of the Royal Commission on Aboriginal Peoples, and the principles of our Charter. A proposed mandate should be brought back to an Assembly of Chiefs for approval and implementation.

Truth: What should the Chiefs do if the answers to all the questions are “Yes”?