

ASSEMBLY OF
MANITOBA CHIEFS



"AMC opposes the bill based on the inherent jurisdiction of First Nations over their families and children, their discriminatory treatment by the failed colonial system, and the rights of First Nations to challenge unlawful and discriminatory treatment in court."

Bill 2 - The Budget Implementation and Tax Statutes Amendment Act (BITSA)

Sponsored by the Honourable Mr. Fielding, Minister of Finance

First Reading: October 9, 2020

Second Reading: November 5, 2020

Committee of the Whole: November 5, 2020

Royal Assent: November 6, 2020

About the bill

- Originally introduced on March 19, 2020 as Bill 34 – The Budget Implementation and Tax Statutes Amendment Act (BITSA) in an emergency sitting to fast track its passing.
- This omnibus bill upholds the Government of Manitoba's practice of clawing back funding of the Children's Special Allowances (CSA) for First Nations children in care. Among other things, this bill also immunizes the province from related legal actions.
- BITSA was reintroduced as Bill 2 in October 2020 and received royal assent in November 2020.

How the bill affects First Nations

- The Children's Special Allowance (CSA) is federal funding that is provided to Child and Family Services (CFS) Agencies for the sole purpose of care, maintenance, education, training, recreation or any advancement of children in care. Each child is meant to receive approximately \$455- \$530 monthly. Since 2005, the Province of Manitoba has been capturing CSA funds as it relates to First Nations children off-reserve. As a result, the most vulnerable children in society have not received the necessary funding to ensure their social inclusion. The amount of theft by the Province of Manitoba from First Nations children amounts to \$338 million dollars through this practice.

AMC's position on the bill

- AMC resolution APR-17.05 Children's Special Allowance Recoveries directs that "the Chiefs-in-Assembly fully canvas all legal options, and subject to financial resources, legally challenge the Province of Manitoba on its position on Children's Special Allowances."
- AMC opposes the bill based on the inherent jurisdiction of First Nations over their families and children, their discriminatory treatment by the failed colonial system, and the rights of First Nations to challenge unlawful and discriminatory treatment in court.

AMC activities on the bill

- On April 14, 2020, Grand Chief Dumas and the Women's Council held a virtual press conference and sent out a press release opposing Bill 34.
- On April 15, 2020, the AMC Grand Chief's Office sent a letter to the Manitoba Premier stating the bill should be withdrawn and not expedited.
- On October 7, 2020, the AMC, Manitoba NDP Caucus and Manitoba Liberals held a joint press conference at the Manitoba Legislature and released a joint statement regarding Bill 34. Following the press conference, Grand Chief Dumas was the first volunteer to initiate the Traditional Team Fast. The Traditional Team Fast continued until November 6th with 59 additional volunteers who fasted to bring awareness of the long-standing issue and to call for change and better outcomes for children in care.
- On October 20, 2020, the Grand Chief wrote a letter to the Prime Minister calling on the federal cabinet to intervene in the introduction of Bill 2 by the Province of Manitoba which seeks to bypass the courts and justify the continued theft of federal funding, the CSA, from First Nations children.
- On October 26, 2020, the Grand Chief's Office invited all First Nations CFS Agencies to participate in a Team Fast at the Manitoba Legislative Building against Bill 2, which took place from the time the bill was reintroduced and passed.
- On November 6, 2020, the day after it was passed, the AMC filed a Notice of Application challenging the validity of section 231 of BITSA.
- The Notice of Application seeks an order, among other things, to challenge the clawback, remittance, denial and failure to provide adequate supports to First Nations children in care under the federal *Children's Special Allowance (CSA) Act*. The arguments of AMC are grounded in the inherent jurisdiction of First Nations over their families and children, their discriminatory treatment by the failed colonial system and the rights of First Nations to challenge unlawful and discriminatory treatment in court.
- The AMC also takes issue with the failure of the province to apply the *CSA* exclusively toward the care, maintenance, education, training or advancement of a child in care; and the denial of the right to access the Manitoba Court of Queen's Bench by those affected.
- May 17, 2021 the following affidavits were filed to the Manitoba Court of Queen's Bench to support AMC's legal challenge to Manitoba's legislation concerning the treatment of the CSA: Grand Chief Arlen Dumas (AMC), Cora Morgan (FNFAO), Chief Monias (Pimicikamak Cree Nation), Chief Sheldon Kent (Black River First Nation), Elder Florence Paynter (AMC Elder's Council), and Alvin Henderson.
- A court hearing is set for October 2021, where the AMC and two other parties will present their arguments and issues separately.

