



Budget 2018 Investments & Legislative Agenda for First Nation Land Management (FNLM)

   NALMA's 11th National Land Managers Gathering





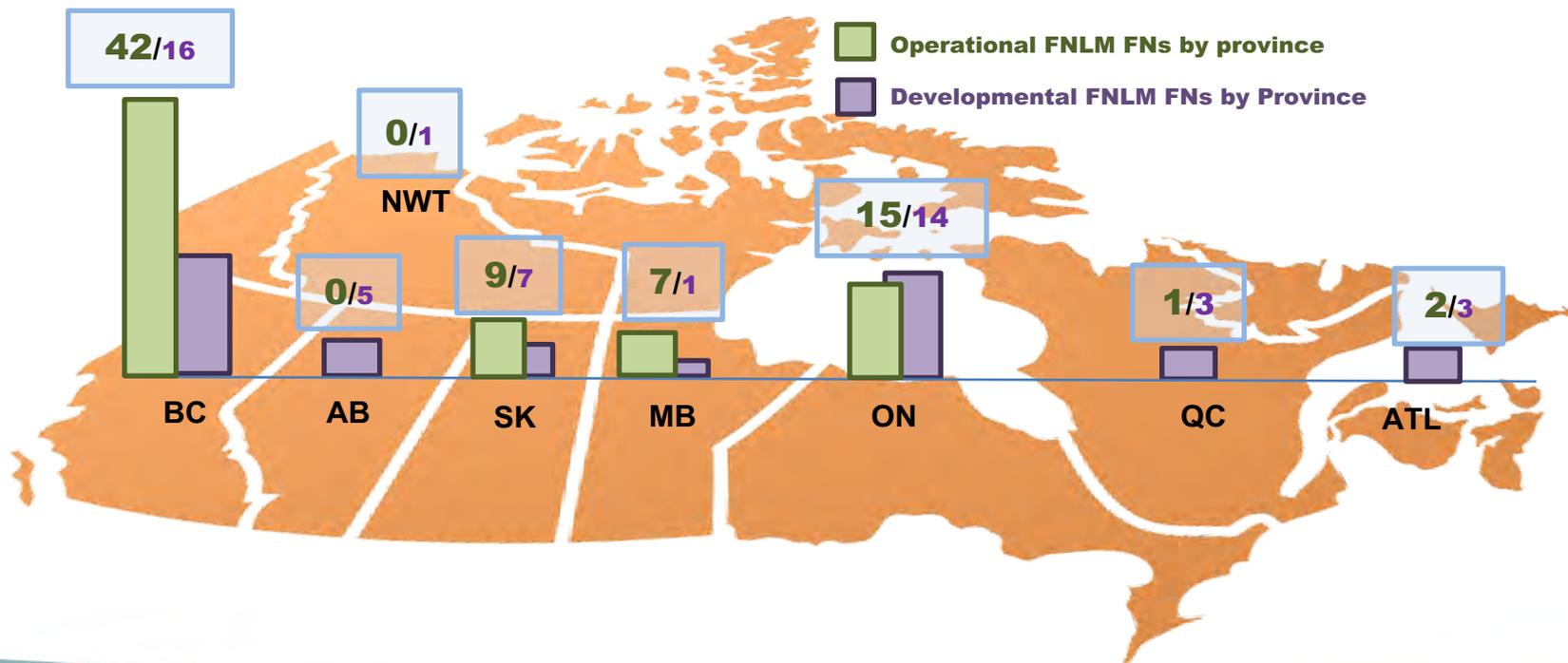
First Nation Land Management - A Federal Perspective

- First Nation Land Management (FNLM) is a government-to-government relationship through which First Nations can opt-out of the 33 sections of the *Indian Act* related to land and environmental management. FNLM is established by:
 - The **Framework Agreement on First Nation Land Management** (Framework Agreement) signed in 1996 and;
 - The ***First Nations Land Management Act*** (the Act) passed in 1999.
- First Nations have jurisdiction with all the powers of an owner and authority and legal status to operate as a government over their **reserve** lands and resources. This is triggered through a community developed and approved Land Code and includes the ability to design, administer and enforce laws according to cultural values, community priorities and objectives.
- FNLM is neither a program nor delegated authority. It is viewed by Canada as First Nation-led sectoral self-government and an incremental pathway to increased self-determination.



FNLM – A National Picture

- Communities who are operational or working towards becoming operational are considered “active” in FNLM. There are currently 126 active participants:
 - 50 Developmental communities
 - 76 Operational communities
 - There are two operational aggregates in BC, the SAY group (Skowkale, Aitchelitz, Yakweakioose – Kwawkwaw Apilt will join this aggregate once it becomes operational) and the SCS group (Soowahlie, Cheam, Scowlitz)





Budget 2018

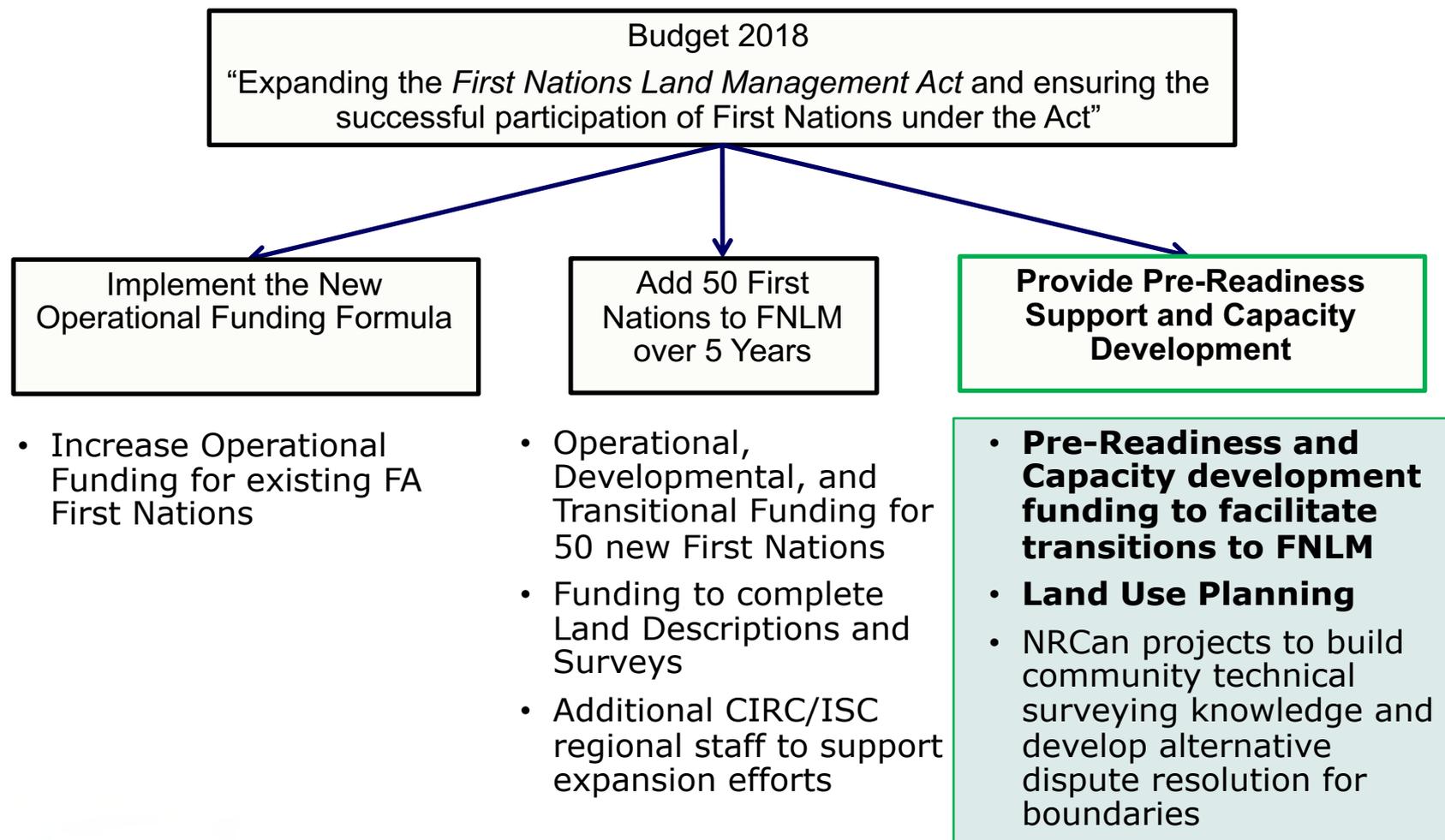
Investments



Budget Announcement

“To support the expansion of the *First Nations Land Management Act* and the successful participation of First Nations under the Act, Budget 2018 proposes to invest **\$143.5 million over five years**, beginning in 2018–19, and **\$19 million per year ongoing**. This funding will allow an **additional 50 First Nations** to enter into the Land Management Regime, while **providing pre-readiness support and capacity development** to ensure their successful participation.”

Overview of Budget 2018 FNLM Investments





Implementing the New Operational Funding Formula

- Canada and the LAB are legally obligated to negotiate funding for operational communities.
- New funding adds a fourth funding category, incorporates inflation, provides funding for environmental management, and maintains transitional funding for new operational communities.
- Top up to existing funding levels as agreed between the LAB and INAC in the Agreement-in-Principle on Operational Funding.

Core Contribution Categories Over Five Years (1% Inflation)					
	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
Category 1	\$272,258	\$274,981	\$277,730	\$280,508	\$283,313
Category 2	\$348,699	\$352,186	\$355,708	\$359,265	\$362,858
Category 3	\$457,283	\$461,856	\$466,474	\$471,139	\$475,851
Category 4	\$491,005	\$495,915	\$500,874	\$505,883	\$510,942



FNLM Expansion

- Developmental and operational funding to support 50 First Nations to become Framework Agreement signatories over the next five years.
- By 2022-23, nearly 200 signatories to the Framework Agreement with at least 100 operational under Land Code.

New FNLM Entrants Over Five Years					
	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
Entrants	5	15	10	10	10



Pre-Readiness and Capacity Development

- \$34.2M over 5 years will be used to develop lands and environmental management capacity among First Nations and increase “readiness” among communities interested in FNLM and entering the developmental phase of FNLM.
- Three components of Budget 2018’s pre-readiness and capacity development programming include:
 1. Proposal based funding for capacity development managed by the LAB and NALMA.
 2. Land Use Planning (LUP) funding co-managed by the Department, NALMA, and the Lands Advisory Board
 3. Technical Survey training and Alternative Dispute Resolution projects managed by Natural Resource Canada’s Surveyor General Branch.
- Two working groups have been established to guide the implementation of Budget 2018’s pre-readiness and capacity development funding:
 - A working group consisting of CIRC/ISC, LABRC, and NALMA is developing criteria and a funding methodology to help prepare First Nations for land management under a land code through training, skills development, project funding, and other capacity developing activities.
 - A second LUP and Surveys working group consisting of CIRC/ISC, NRCan, LABRC, and NALMA is developing prioritization and selection criteria for up to 70 land use plans and participation in the technical surveying skills development project.



Legislative Agenda



Two-phased Approach Approved by Cabinet

- **Phase 1 (1-2 years)** will:
 - focus on non-controversial, straightforward, but meaningful improvements in the short term to the Framework Agreement and the Act;
 - address recommendations from the First Nation Land Management Lands Advisory Board in its proposal to the Working Group of Ministers on the Review of Laws and Policies.
- **Phase 2 (3-5 years)** involves engagement on broader land reform and could include:
 - an expansion of First Nation Land Management jurisdiction (oil and gas; wills and estates; increased environmental management);
 - a proposal to build land management capacity in all First Nations;
 - a legal framework for traditional territories and title lands;
 - repealing the FNLMA to acknowledge the primacy of the Framework Agreement



Proposed FA/FNLMA Amendments: Phase 1

Theme	From	To
Verifier	<ul style="list-style-type: none"> Role of Verifier (independent third party) is mandatory throughout developmental and voting process. 	<ul style="list-style-type: none"> Role of the verifier optional <u>after</u> the development of the Land Code, voting managed by a Ratification Officer.
Ratification	<ul style="list-style-type: none"> Voting threshold combines minimum participation and majority of voters. 	<ul style="list-style-type: none"> Simple majority or a higher voting threshold as decided by the Nation.
Monies	<ul style="list-style-type: none"> Only revenue monies are part of the jurisdictional transfer. 	<ul style="list-style-type: none"> Include both revenue and capital monies as part of the transfer.
Lands Eligible for Management Under FNLMA	<ul style="list-style-type: none"> Only reserve lands can be managed under the Regime. 	<ul style="list-style-type: none"> Include federal land categorized as “lands set aside” (in Yukon).
UNDRIP	<ul style="list-style-type: none"> Regime silent on UNDRIP. 	<ul style="list-style-type: none"> Acknowledge Canada’s endorsement of UNDRIP.
Additions to Reserve	<ul style="list-style-type: none"> Additions to Reserve language procedural in nature and focus on making new lands subject to Land Code. 	<ul style="list-style-type: none"> Strengthen language to: <ul style="list-style-type: none"> Manage third party interests. Approve additions by Ministerial Order. Ensure added lands are brought under Land Code authority automatically.
Protection for Band Officials	<ul style="list-style-type: none"> Regime silent on protections. 	<ul style="list-style-type: none"> Similar protections to those employed by other local governments.



Proposed FA/FNLMA Amendments: Phase 1 (cont'd)

Theme	From	To
Expansion	<ul style="list-style-type: none">• Regime silent.	<ul style="list-style-type: none">• Acknowledge ability of First Nations to:<ul style="list-style-type: none">• Share and/or delegate resources and responsibilities• Manage jointly held reserves.
Enforcement Powers	<ul style="list-style-type: none">• Enforcement language is general.	<ul style="list-style-type: none">• Enable cooperative enforcement and valid collection remedies.
First Nations Land Registry	<ul style="list-style-type: none">• Canada must manage land registry.	<ul style="list-style-type: none">• Create legislative frame to enable 3rd party management of the registry.
Administrative	<ul style="list-style-type: none">• Certain provisions in the Regime are no longer relevant, lack clarity, or administratively onerous.	<ul style="list-style-type: none">• Update, modernize and clarify Regime language. For example:<ul style="list-style-type: none">• Scheduling by Ministerial Order rather than Order in Council• Clarify that prior <i>Indian Act</i> designations no longer apply under FNLMA• Update to align with other Federal Acts.



Key Milestones and Next Steps

- Treasury Board Submission to access funding.
- Draft & sign Memorandum of Understanding on Funding with LAB.
- Package to all operational communities detailing new funding and information on community-specific calculations.
- Identify program criteria for LUP, survey project, capacity training, etc. in partnership with LAB, NALMA, NRCan
- Implement FNLM Legislative Agenda, including:
 - Legislative drafting
 - Consultation
 - Bill introduction
 - Signing revised Framework Agreement