



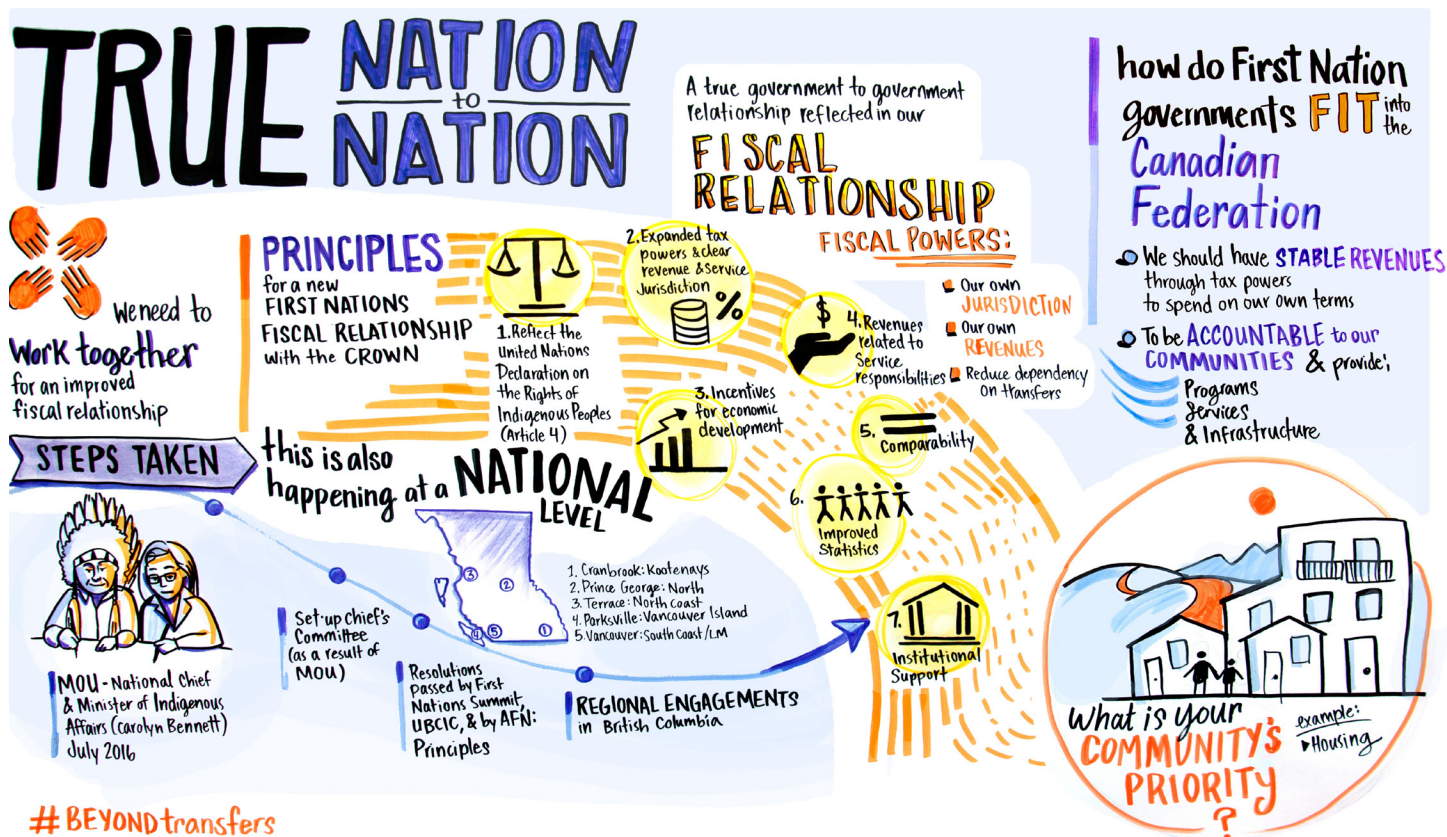
# CLEARING THE PATH

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A First Nations Tax Commission Quarterly Publication

## Defining a First Nations fiscal relationship with the Crown

Federal Minister of Justice: "We all need to continue to be strong proponents of change."



Graphic recording developed during the BC provincial dialogue session on fiscal relations in October 2017.

The FNTC has long championed the notion that a new fiscal relationship for First Nations should be built on a foundation of clear government powers and authorities that are not financed by transfers, but are instead financed by a core of clear revenue authorities.

On October 13, 2017, as part of regional engagements lead by a member of the AFN Chief's Committee on Fiscal Relations, Chief David Jimmie of Squiala First Nation, First Nations in BC participated in a second province-wide strategic dialogue session on defining a new fiscal relationship for First Nations and the Crown, building on the work, input and information shared at the initial dialogue session hosted by the First Nations Summit in June 2017. The meeting was also open to delegates from across Canada.

Many First Nations leaders delivered presentations to delegates on working together to create substantive change for Indigenous communities.



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## Chief Commissioner's Message



In November, I attended a conference with the new Minister of Indigenous Services, Minister Jane Philpott, and I was struck by her statements; "The Department of Indigenous Services may be the first government department ever created specifically with its own obsolescence as its goal."

Like many other leaders and many of you, I have been working on this project for most of my life. I remember in 1975 when we rejected government funds with the purpose of ending the Department of Indian Affairs role in our lives. The question, however, we asked back then is the same question we are asking today – What will replace the *Indian Act* and INAC?

Our poverty is not a result of our people or culture. It is a result of the *Indian Act* and INAC taking away our tax powers and other jurisdictions, our access to resources and economic opportunities and our institutions. We were legislated out of the economy and Canada.

With First Nations support we have demonstrated we can develop legislation that clears the path for our jurisdiction. Establish institutions to help us restore our jurisdiction. Build our administrative capacity to implement our jurisdictions in a manner that grows our economies and independent revenues. This is what we have done with the FMA, the fiscal institutions and the Tulo Centre of Indigenous Economics.

Our path away from the *Indian Act* and INAC is working. There are over 230 governments using the FMA and momentum is building quickly. We are seeing growth in FMA interest in Alberta, Ontario, the Atlantic and Manitoba to complement our strong foundation in BC and Saskatchewan. The current Tulo Centre student cohort in tax administration is our largest yet. We have demonstrated we can effectively assert tax, financial management and long-term financing jurisdiction. Now is the time to expand our model by working together to advance and implement three elements of our broader vision.

First, we must grow our independent revenue base. The FNTC and the other FMA institutions will be seeking your support to expand FMA on reserve tax powers to include the First Nation Goods and Service Tax, tobacco and cannabis tax and to add resource taxation within our traditional territories. These new tax powers should provide the basis for a new jurisdiction based fiscal relationship that will raise the quality of our services and infrastructure to national standards.

Second, we must expand the FMA services to support broader tax powers and more financing. We will also need to add at least three new institutions to support our governments. First, we are advancing the First Nations Infrastructure Institution (FNII) to build more sustainable infrastructure in our communities, faster and more cost effectively. Second, we will need an Indigenous Land Title Registry to replace the Indian Lands Registry. Our lands and the interests on them should be registered and protected in our registry. Third, we need to restore the Statistics Institute to support the new jurisdiction based fiscal relationship.

Lastly, we must expand the Tulo Centre to grow and build our administrative capacity for our new jurisdictions. The Tulo Centre will be offering a third certificate program in February in applied lands management and surveying. New courses and programs are required for infrastructure, new tax powers, the management of resources, information and finances.

In the coming months, we will be talking more about these new initiatives and will be asking for your support. We are hoping to have a National meeting for all FMA First Nations soon where we can discuss and advance the FMA agenda in more detail as we work with the government to make the colonial INAC and the *Indian Act* obsolete and reconcile our rightful place in Canada.

This is an exciting time for First Nations governments, our challenge is to ensure that the opportunities presented by this federal government become a reality and form stable foundation for the future.

With my sincere best wishes for your success in the upcoming year,

A handwritten signature in black ink that reads "Manny".

C.T. (Manny) Jules  
Chief Commissioner



# *First Nation Infrastructure Institution: Creating sustainable, safe infrastructure to support the growing needs of First Nation communities*

Healthy, vibrant communities need consistent access to energy, sanitation and clean water, as well as reliable transportation and communication.

Governments invest in infrastructure to create lasting economic, social and environmental benefits for its citizens. In turn, citizens contribute to the growth, progress and innovation of their communities.

Many First Nation communities are built with substandard, and in some cases, non-existent infrastructure. The lack of basic needs, at worst, puts the health and safety of the community at risk. At best, it hinders the ability of the community to thrive and prosper.

While funding is available for infrastructure projects, it is limited and layers of bureaucracy and planning gaps often lead to delays in projects.

As a result, First Nation infrastructure takes longer to build, costs more to build and does not last as long as municipal government infrastructure. It is not designed to be economically or fiscally sustainable and as result has much lower environmental and health outcomes.

A number of federal programs and initiatives have been developed to address these symptomatic gaps. For example, in the last two budgets, the federal government has substantially increased indigenous infrastructure funding and support. These additional federal resources and efforts are welcome and necessary. They will certainly provide short term improvements to some community infrastructure.

However, unless this additional revenue is supported by a comprehensive proposal to deal with the root causes of the infrastructure gaps – indigenous infrastructure ownership and jurisdiction – it is unlikely that this improved indigenous infrastructure will be fiscally, environmentally, or economically sustainable.

First Nations require an option to close these gaps and implement and protect their infrastructure jurisdiction. The *First Nations Fiscal Management Act* (FMA) and institutions provide a successful model to address some of these infrastructure challenges and implement jurisdiction.

Almost 230 First Nations are part of the FMA because it closes many infrastructure financing gaps and supports and protects their jurisdiction.

The FMA institutions and proponents are proposing the creation of FNII as an additional FMA institution to implement and protect infrastructure jurisdiction for interested First Nations.

FNII will build on the successful framework used by the FMA institutions to help interested First Nations build more sustainable infrastructure faster.

The development of the FNII proposal is guided by the following principles:

## **First Nation led**

The conception and design of the FNII has been and will continue to be guided, directed and controlled by First Nations. The FNII will be a First Nations-led institution that will be accountable to participating First Nations.

## **Optional**

FNII will be optional and respect the right of self-determination. Interested First Nations would opt into FNII services as with the FMA opt-in framework.

## **National**


FNII will be a national institution with offices across Canada. As a national institution, FNII will work with proponent communities to develop standards and procedures to ensure consistent service quality and efficiency across all regions. A national FNII is necessary to help implement and support infrastructure jurisdiction and move beyond working with INAC for interested First Nations. A national FNII in the FMA can help interested First Nations secure long-term stable infrastructure transfers.

## **Sustainable infrastructure**

FNII will focus on implementing infrastructure jurisdiction and supporting infrastructure and housing projects that increase economic development and independent revenues and raise environmental sustainability for interested First Nations. FNII will work with and support existing and new First Nation infrastructure institutions (local, regional, or national) and other possible partners that can help participating First Nations build more sustainable infrastructure.

## **FNII will be an FMA institution**

FNII will help participating First Nations assume jurisdiction over the full infrastructure lifecycle – planning, design, financing, construction, operation, maintenance and replacement. Like the other FMA institutions, it will provide standards, sample laws, training and templates to lower the costs and time of infrastructure. FNII will support those First Nations already in the FMA by helping them build and maintain infrastructure that grows their economies and revenues, faster and more cost effectively. It will help First Nations interested in joining the FMA by helping them access long term financing to build necessary infrastructure sooner and at a better price.

The FMA institutions and proponent First Nations are currently working to advance this initiative, sharing information and discussing the issues with interested First Nations, and seeking support from more potential proponents to help make FNII a reality. 



## *First Nations fiscal relationship with the Crown*

Harold Calla of the First Nations Financial Management Board reflected on the problem facing First Nations in Canada, “What happened in colonization is that we were marginalized and frozen in time. We were not allowed to evolve and build the capacities as other modern-day governments have. The majority of our communities are only familiar with transfer payment systems and as service delivery vehicles. What is thought of as self-government is actually self-administration of programs and services.”

FNTC’s Chief Commissioner C.T. (Manny) Jules shared his perspective, “If we’re going to have a level playing field as I said last June, we want the same deal that the federal and provincial governments gave themselves at the beginning and the birth of this country.”

“*For the smaller communities, national institutions are critically important because what we can do as a national institution is create standards and models that you would be able to assume at the local level. Not taking away any of your jurisdiction because I firmly believe all of our institutions are designed to facilitate your jurisdiction as opposed to the jurisdiction of the institutions.*”

- C.T. (Manny) Jules  
FNTC Chief Commissioner

“They divided up the land, put us on reserves and proceeded to exploit all the bounty of the land. And what do we do? We ask for transfers. Transfers are a nice way to say we’re dependent on somebody else. What we want is ultimately our own jurisdiction that extends beyond the postage stamp reserves that we live in. We have to be able to have our own jurisdiction.”

“We have all the differences like communities where I come from and other communities that are remote. How do we begin to overcome those differences? Tecumseh, one of my cultural heroes, said a single twig breaks but

a bundle of twigs is strong. And that’s what we’ve been able to demonstrate here in British Columbia. Without the involvement of the Union, the Summit and the BCAFN, the whole approach to fiscal relations isn’t going to happen. We have to do it together.”

Canada’s Minister of Justice and Attorney General, Jody Wilson-Raybould delivered a keynote address, stating, “Everyone in this room shares the same values and we all have the same goal of ultimately improving the lives of our people back home in our communities.”

“We are arguably in the best position that we could be, the best position that we have been in in a long time, perhaps forever, to do something truly transformative about advancements of rights and on a scale that we haven’t previously known.”

“We are in this place today because of all of you, because of your vision and the work that so many of you have done to get us to this point. It has been through your tenacity, your ingenuity, your leadership that many First Nations have already been able to begin to break through the most insidious of fiscal and government’s constraints that have inhibited Indigenous growth and potential and for you to have taken significant steps on the road to self-determination and self-government. But as we all know, more needs to be done.”

“If I can be so bold, and in my mind, today’s conference is all about planning, about being strategic, being progressive, being the trailblazers I know you all are. As Manny Jules likes to say, being on the bleeding edge of change. I think we can say we are no longer on the edge, rather we are now in the centre of the transition our country is going through to fully implement UNDRIP, to give meaning to s. 35 and to implementing the inherent right of self-government, creating opportunity and supporting positive change in communities.”

“We all need to continue to be strong proponents for change. To continue to be courageous and take bold steps.”

(Continued on next page...)

“*Moving forward, what we do together in partnership over the coming months and years will continue to lay the groundwork for truly changing the way Canada is governed, and the place of Indigenous people and our nations within Canada*”

- Honorable Jody Wilson-Raybould  
Federal Justice Minister and Attorney General



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## *First Nations fiscal relationship*

At the end of November, Chief Jimmie completed a report summarizing the input gathered from the regional engagement sessions and presented it to the Assembly of First Nations Special Chiefs Assembly.

In his presentations to the chiefs in assembly, Chief Jimmie said, “As part of the chief’s committee on fiscal relations, we’ve opened the door to dialogue amongst our people. Throughout the process, each of our provinces and territories had a responsibility to go out to the communities and do some regional engagement.”

BC First Nations will continue to advance the fiscal principles they have adopted as the foundation for a new fiscal relationship.

First Nations, the fiscal institutions and other First Nations organizations are committed to working together on options and recommendations. The First Nations Tax Commission will continue to advocate for a fiscal relationship that is based on First Nation revenue jurisdiction. 🌱

“

*In BC, we’re looking at jurisdiction and we’re looking at expanding tax powers, those were common themes we heard. We’re looking at these long-term commitments on funding and transfers. But how do we enshrine those in legislation? That’s the kind of commitment and true nation-to-nation relationship that we’re looking for.”*

- Chief David Jimmie (Squiala First Nation)  
Co-chair AFN Chiefs’ Committee on Fiscal Relations



## *New Tulo Centre Certificate in First Nation Applied Lands Management*

The Tulo Centre of Indigenous Economics is launching a new certificate program. The Certificate in First Nation Applied Lands Management will provide students with a practical skillset in surveying, mapping, GIS, planning and parcel/boundary principles.

The focus of this program is on applied lands management and will culminate in a project that applies the skills learned to an existing issue in each student's community.

This certificate is comprised of eight courses offered as one-week intensive seminars and are led by an experienced Tulo instructor.

Two courses will be offered in 2018:

- Land Tenure - March 2018  
This course introduces students to the fascinating differences of land tenure systems across Indigenous lands in general, and First Nation reserves in particular.
- Mapping 1 - April 2018  
This course offers an introduction to managing and processing geographic information in a digital world with a focus on Indigenous communities.

A student bursary program is available to provide limited financial support to First Nations in Canada to attend the accredited certificate programs.

To register for this program or to find out more information, please visit [www.tulo.ca](http://www.tulo.ca) or email [andrea@tulo.ca](mailto:andrea@tulo.ca). 🌱

## *Proposed standards respecting notices relating to local revenue laws*

In December 2017, the FNTC approved proposed Standards respecting Notices relating to Local Revenue Laws, 2017 for the purposes of seeking public input.

The proposed Standards respecting Notices relating to Local Revenue Laws include new requirements for the posting of annual laws, and extended notification and additional information requirements for certain types of local revenue laws.

Standards established by the FNTC are a part of the regulatory framework governing First Nation taxation under the FMA. They reflect best practices in property taxation, and are designed to support First Nation economic growth, First Nation jurisdiction, harmonization, and the interests of all stakeholders in the First Nation property tax system. First Nation laws must meet the requirements of the FMA, its regulations, and the FNTC’s standards.

As a matter of policy, the FNTC seeks public input prior to introducing or significantly amending its Standards. This input is critical in developing Standards that are acceptable and effective for participating First Nations and their taxpayers.

To obtain a copy of the proposed Standards, or to view a complete summary of the changes, visit [www.fntc.ca](http://www.fntc.ca). Please direct your comments to the FNTC at [mail@fntc.ca](mailto:mail@fntc.ca) or by telephone at (250) 828-9857. 🌱

# Canadian transmission pipeline industry committed to safety and transparency



canadian  
energy  
pipeline  
association

association  
canadienne  
de pipelines  
d'énergie

*The Canadian Energy Pipeline Association is dedicated to establishing the pipeline industry as leaders in operation and environmental stewardship. The FNTC and CEPA foster and encourage an effective working relationship on real property taxation issues, improved communications, and the creation of a better understanding of the issues facing the pipeline industry and First Nation tax authorities.*

*Clearing the Path recently asked CEPA to inform our readers of their organization's work.*

A lot has changed since the first Canadian transmission pipeline was built in 1853, a 25 kilometre cast iron pipe that moved natural gas to Trois Rivières, Quebec.

Today, Canada's sophisticated transmission pipeline system spans approximately 119,000 kilometres – and this number is set to grow as members of the Canadian Energy Pipeline Association (CEPA) propose to invest more than \$35 billion in pipeline projects in Canada over the next five years.

The industry has undergone significant changes in its commitment to safety, environmental protection and transparency. These changes are important steps for Canada's transmission pipeline operators, and while it is noted that the industry has a 99.999 per cent safe delivery record over the past ten years, operators are constantly working hard to get to zero incidents.

This is a priority for industry and Canadians alike. In its third-annual Transmission Pipeline Industry Performance Report, CEPA reveals how its members are performing in the areas of safety, the environment and socio-economic contributions.

## Zero significant incidents

The report outlines how the transmission pipeline industry has maintained the 99.999 per cent safety record, and the ongoing commitment to reach zero incidents. In 2016, CEPA members reported zero significant liquid releases and one significant natural gas release that occurred during the maintenance of a natural gas pipeline that was not operational.

To demonstrate their commitment to safety, CEPA

members conducted in-line inspection runs on approximately 39,059 kilometres of pipelines in 2016. During these inspections, tools that examine a pipeline from the inside identify changes such as dents or wall thinning that could threaten the pipeline's integrity. To inspect the outer walls of pipelines, CEPA members completed 2,696 integrity digs to check for suspected defects and make repairs.

## Commitment to continuous improvement

As an industry dedicated to continuous improvement, CEPA has made advancements in its flagship safety performance program, CEPA Integrity First®.

Integrity First is how CEPA member companies hold each other accountable and work collectively to strengthen the pipeline industry's performance. In 2016, Integrity First began implementing third-party verifications, validating members' self-assessments in emergency management.

Canadian transmission pipeline operators also invested \$22.8 million in innovative technology in 2016. These technologies focused on reducing corrosion, improving pipeline inspection, leak detection and damage prevention – all leading to safer operations.

## Impact on local and national economies

CEPA members invested nearly \$31 million in local communities in 2016, including \$3.2 million for Indigenous communities. CEPA members contributed \$1.5 billion to government tax revenue in 2016, money that supports infrastructure and services that Canadians value.

Transmission pipelines are proven to be the safest and most effective way to transport large quantities of liquids and natural gas. Canada's transmission pipeline companies are committed to preventing releases by pursuing and implementing pipeline integrity programs designed to proactively deal with potential threats to pipelines and by monitoring their pipelines 24/7 at centralized system control centres.

There is a dynamic discussion about pipelines in Canada, and all Canadians play a role in that conversation. Through continuous improvements, the industry's goal of zero incidents can become a reality.

Until then, CEPA will work to create more awareness about what pipeline operators do every day to ensure the energy Canadians use is delivered in the safest and most responsible way.

CEPA's 2017 Performance Report is available online at [www.pr17.cepa.com](http://www.pr17.cepa.com). ■



## Summer law intern Kateri Koster reflects on her time at the FNTC



Kateri Koster is from Stswechem'c/Xgat'tem First Nation, located in the Cariboo. Kateri grew up in her community and moved to Kamloops for high school and post-secondary, graduating with a Bachelor of Arts prior to beginning law school at Thompson Rivers University.

*Clearing the Path* recently had the opportunity to sit down with Kateri to discuss her career goals and her time at the FNTC.

### How did you decide to pursue law school?

I always knew I wanted to help my community. Many communities are remote or semi-remote and may not have much in the way of economic development but there's still a lot of potential for growth. Law seemed the best way to gain the technical capacity that I needed to really be able to assist my community meaningfully moving forward.

### What led you to the summer internship at FNTC?

I heard about the opportunity from one of my professors and sent in my application. Prior to coming to the FNTC, I knew very little about the organization or First Nation property taxation, which was a little intimidating but it was nice that I could take in everything and start with a fresh perspective.

### What will you take away from your experience at the FNTC?

The Commission has a really high standard for everything they produce, which is great. Everything I developed went through multiple reviews and that's probably one of my biggest takeaways. I experienced significant professional growth over the summer through constructive feedback. I learned how to write better and how to be a more effective communicator. It's good to get strong critiques to improve the quality of work you produce.

### What did you enjoy about working at the FNTC over the summer?

I spent a lot of my time doing technical law reviews. In doing those, I learned a lot about the FMA, the regulations, and Commission standards. I also did some presentations to First Nations with Marie Potvin, a member of FNTC's legal counsel. We went to a few communities and I got to listen to Marie speak to First Nations who are on different points in their journey toward taxation or their application of taxation. It was nice to see how the Commission adapts to different communities where they are currently, what they have and really tries to work with them to see their goals achieved.

I had the really good opportunity to attend a commission meeting in Fredericton. I think my favourite part of it was seeing the bigger picture of what FNTC is doing, is capable of doing, where the organization has been and where they're going. It was really helpful and motivating. 🌱

## National Aboriginal Lands Managers Association - Enhancing the professional development and technical expertise of Aboriginal lands managers

The National Aboriginal Lands Managers Association (NALMA), is a non-profit, non-political organization committed to raising the professional standards in First Nation land management and governance.

Our practical approach to addressing land management capacity involves working cooperatively with First Nations, Indigenous and Northern Affairs Canada (INAC) Headquarters (HQ), and their respective Regions, as well as other external governments, and organizations.

NALMA is comprised of 8 Regional Lands Associations, which provide technical support and networking opportunities to each of their members through meetings and training sessions that target the specific needs of their region. First Nations belonging to their respective Regional Lands Associations are automatically members of NALMA.

- Atlantic Region Aboriginal Lands Association (ARALA)
- British Columbia Aboriginal Land Managers (BCALM)
- First Nation Lands Managers Association for Quebec and Labrador (FNLMAQ&L)
- Ontario Aboriginal Lands Association (OALA)

- Planning and Land Administrators of Nunavut (PLAN)
- Saskatchewan Aboriginal Land Technicians (SALT)
- Treaty and Aboriginal Land Stewards Association of Alberta (TALSAA)

Our member communities operate under various land regimes, including the Reserve Land and Environment Management Program, First Nation Land Management Act, and Self Government.

NALMA's mission is to be a national organization of First Nation Lands Managers, which will actively network towards the enhancement of professional development and technical expertise in the functions of Land Management, which will also incorporate First Nations values and beliefs into Land Management always keeping in mind the grass-root practices when dealing with Land Management.

As stewards of the land, we are committed to empowering lands managers to the highest standards of ethics and professionalism. We are responsible for the sustainable management of our ancestral lands for future generations.

For more information, visit our website! [www.nalma.ca](http://www.nalma.ca). ■

# "First Nations Fiscal Relations in the 21st Century"

National Meeting of FMA and FNLMA First Nations planned for the spring of 2018.



# BEYOND transfers

Graphic recording developed during the fiscal relations dialogue session in October 2017.

The FMA Fiscal Institutions - the First Nations Tax Commission, the First Nations Financial Management Board (FMB) and the First Nations Finance Authority (FNFA) - have teamed up with the First Nations Lands Advisory Board to host a National Meeting of First Nations using the *First Nations Fiscal Management Act* (FMA) and *First Nations Lands Management Act* (FNLMA) in the spring of 2018.

The National Meeting will highlight First Nations at the forefront of expanding jurisdiction and their vision for the future. It will also be an opportunity to network with key leaders and influencers from First Nations who are leading the way in working to establish governance systems beyond the *Indian Act*.

The theme for the gathering is "First Nations Fiscal Relations in the 21st Century," with the goal to unify the collective voice of First Nations using the FMA and the FNLMA.

It will also be an opportunity to inform, educate and respond to First Nations' inquiries on how the Institutions and the Lands Advisory Board can support and enhance innovations in fiscal relations.

The National Meeting will be held in Vancouver, BC, in the spring of 2018. Please watch for more information from the FMA Fiscal Institutions and the Lands Advisory Board.

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