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Chair

The Honourable MaryAnn Mihychuk

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• (0845)

[English]

The Chair (Hon. MaryAnn Mihychuk (Kildonan—St. Paul, Lib.)): Good morning, everyone.

Following our discussion at the last meeting, we agreed to have the department here to talk about supplementary estimates.

We're very pleased to have you here to do that.

I'm going to ask the committee for its consideration in allocating some time at the end of our meeting, after our guests and questions, for an in camera session on committee business, as we have to deal with the subcommittee's report and look at the schedule.

Do I see any objections? Seeing none, I thank you.

We're now on supplementary estimates (A), 2017-18, with votes 1a, 10a, and L20a under the Department of Indian Affairs and Northern Development.

I'd first like to recognize that we're on the traditional territory of the Algonquin people.

Pursuant to Standing Order 81(5), the committee will now consider supplementary estimates (A) 2017-18. I will call vote 1 to permit general discussion of the estimates and questioning of the witnesses.

Here we go. Everyone has received the background information. We will open this up to the department.

Mr. Paul Thoppil (Chief Finances, Results and Delivery Officer, Department of Indian Affairs and Northern Development): Thank you.

[Translation]

Thank you, Madam Chair.

Honourable members, thank you for the invitation to discuss the Supplementary Estimates (A) for fiscal year 2017-18 for Indigenous and Northern Affairs Canada.

I would like to draw the committee's attention to the deck entitled 2017-18 Supplementary Estimates (A).

[English]

Supplementary estimates (A) include initiatives totalling \$750.1 million and will bring total investment for the department to approximately—

The Chair: Excuse me. Does everyone have translation?

An hon. member: I don't have—

Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.): Yes, I do.

The Chair: Please continue. I'm sorry for the interruption.

Mr. Paul Thoppil: All right.

This will bring the total investment for the department to approximately \$10.8 billion for 2017-18 to address the needs of indigenous peoples and northerners.

On slide 3 of the presentation, with respect to financial highlights, the net increase of some \$150.1 million comprises: one, \$446.5 million for specific claims settlements; two, \$174.7 million for the Operation Return Home Manitoba Interlake flood remediation settlement initiative; three, \$98.4 million related to budget 2017 investments for the on-reserve income assistance program, the youth employment strategy, and the specific claims program; and four, \$30.4 million for loans to support participation in the British Columbia treaty process.

In terms of voted expenditures, \$19.8 million will flow through vote 1, operating expenditures, primarily for the specific claims program; \$699.1 million through vote 10, grants and contributions, primarily for specific claims settlements and Operation Return Home; and, \$30.4 million as vote L20, as the chair indicated at the beginning, for loans to first nations in British Columbia to support participation in the British Columbia treaty process.

• (0850)

[Translation]

I will now briefly describe the major items.

On slide 4, the largest item in these Supplementary Estimates is \$446.5 million for specific claims settlements. This item will provide the department with sufficient funding, \$1.36 billion in the Specific Claims Settlement Fund for 2017-18, to pay anticipated specific claims settlements and awards from the Specific Claims Tribunal. INAC forecasts up to 60 specific claims settlements in 2017-18.

[English]

The second largest item in these supplementary estimates is \$174.7 million for the continued construction of housing and community infrastructure that is required to repair, rebuild, and re-establish four Manitoba first nations that were impacted by severe flooding in 2011. Funding will also be used to make compensation payments to the impacted first nations. On slide 5 you will see some evidence of progress that we're making on infrastructure in that regard in these four communities.

The third item, which totals \$39.2 million, is from budget 2017 and it's related to the on-reserve income assistance program. This funding is to reduce employment barriers for first nations youth by providing case management services to youth on reserve who are in receipt of income assistance.

[Translation]

Finally, the last few slides provide information pertaining to additional key initiatives, including objectives, outcomes, and status.

The Supplementary Estimates will enable us to continue to make concrete steps to address the needs of indigenous peoples and northerners.

[English]

My colleagues and I look forward to discussing any aspects of the supplementary estimates with you, and we welcome your questions regarding this presentation.

Thank you. *Merci beaucoup.*

The Chair: Thank you, Paul.

Questions are going to be opened by MP Michael McLeod.

Mr. Michael McLeod (Northwest Territories, Lib.): Thank you, Madam Chair.

Thank you for the presentation.

I am curious as to the total amount being identified here, \$10.8 billion. That's a bit above what you initially planned, I think, which was about \$9 billion. Could you explain what happened, or what was not accounted for so that you've gone over what you were initially planning to spend?

Mr. Paul Thoppil: Thank you very much, Mr. McLeod, for the question.

You are correct that prior to budget 2016 in particular, we were about \$9 billion, but in budget 2016, which was \$8.4 billion over a five-year investment in indigenous peoples, the first year was about \$1.2 billion of that amount, so you're seeing that reflected through the cycle of supplementary estimates into main estimates into this full year. That accounts for some portion of that from the \$9 billion. Then moving forward, you have the supplementary estimates (A) accounting for another \$750 million. Grosso modo, the impact of budget 2016 combined with supplementary estimates (A) for \$750 million accounts for going from your starting point of \$9 billion to where we are now at \$10.8 billion.

Mr. Michael McLeod: Okay.

In the main estimates you had identified \$9.9 billion and you're now at \$10.8 billion, so there seems to be some slippage going on there.

My second question is around specific claims. I'm curious as to how that's going in light of the independent tribunal having been set up. There was a review, and many of the first nations identified that there was a backlog.

Could you talk about that and how that's going?

Mr. Paul Thoppil: Sure. Given the significant impact of our supplementary estimates related to specific claims, my colleague Stephen Gagnon, who is the director general responsible for that program, will be best able to respond to your question, sir.

• (0855)

Mr. Stephen Gagnon (Director General, Specific Claims Branch, Treaties and Aboriginal Government, Department of Indian Affairs and Northern Development): Thank you, Mr. McLeod.

I would say that there have been a number of reviews of the program over the last couple of years. The minister was required to table a report in the House, and in order to do that, the former minister appointed Mr. Benoît Pelletier to go out to discuss the operation of the act and the tribunal with first nations and other interested stakeholders.

He provided a report to the minister. The minister tabled a report. Essentially, the Auditor General also reviewed the program and tabled a report last November. Public accounts reviewed that report and issued its own report a few weeks ago, I think some time in early May, so there has been substantial review of the program.

I don't want to speak for others, so my interpretation of what I've been hearing and what I've been reading is that first nations, generally speaking, are happy with the operation of the tribunal, although they do note that it's fairly formal and the formality adds to costs and the consumption of time.

What they were fairly critical of, though, was the operation of my branch, my department's approach to the negotiation process itself, the idea, I think, being that in 2007 when "Justice at Last" came along, first nations believed they were going to get a more co-operative approach to resolving specific claims. They believed that the department then stopped communicating with them, and the focus was just on hitting three-year timelines to get the negotiations completed, and the process has suffered. All of the reports we were getting back were about how we needed to start speaking to first nations and organizations again to talk about the process.

We are now working with—

Sorry?

Mr. Michael McLeod: But there are no changes to the act. Nothing has changed, so the backlog continues. How do you plan to resolve that?

Mr. Stephen Gagnon: We've formed a joint technical working group with the Assembly of First Nations.

Mr. Michael McLeod: Another review....

Mr. Stephen Gagnon: Well, a review with first nations to get to some kind of recommendations on process changes that they believe

Mr. Michael McLeod: I'm trying to get to the point where you're going to tell me that things are getting better, that we're going to resolve this.

Mr. Stephen Gagnon: Well, I hope that things will get better.

Mr. Michael McLeod: Maybe you can tell me how many have been resolved and how you plan to make it better in the immediate time period, not how many more studies you're going to do.

Mr. Stephen Gagnon: That's a fair question, and I know people are impatient. What we're trying to react to is the sense that we are making changes unilaterally, so we are working with first nation organizations to try to develop some recommendations that we hope will have some credibility and that will improve the situation.

Mr. Michael McLeod: Yes.

Mr. Paul Thoppil: If I might just....

Sorry.

Mr. Michael McLeod: I'm not hearing what I wanted to hear, so I don't think I'm going to be satisfied with another answer, but I can't ask questions without asking about the north.

On the money for infrastructure, under the department, there are two pots of money that I'm curious about: infrastructure for indigenous communities and the housing money. Is there a mechanism for that to flow into the Northwest Territories?

Mr. Paul Thoppil: Thank you for that, Mr. McLeod.

As you know, budget 2016 provided \$80 million over two fiscal years for housing, for northern and Inuit housing in that regard.

As of March 2017, \$25.5 million of it was allocated by INAC to Inuit land claim holders in the Nunavik, Nunatsiavut, and Inuvialuit settlement region for the construction and repair of housing units. In the three regions funded by INAC, it was \$50 million over two years for Nunavut, \$15 million over two years for Nunatsiavut, and \$15 million over two years for—

Mr. Michael McLeod: That's not the money I'm talking about.

I'm talking about the \$4 billion in infrastructure money for INAC and also the \$225 million for housing. Can that flow to the north or is it on-reserve funding?

Mr. Paul Thoppil: You are correct that in budget 2017 we received an allocation of \$4 billion over 10 years, together with Health and Public Safety, in order to deal with infrastructure needs, including housing. It's also to include within that allocation, yet to be defined, an allocation for Inuit housing.

Mr. Michael McLeod: What about the Northwest Territories?

The Chair: We have run out of time.

Mr. Paul Thoppil: Territorial housing is provided through the transfers between the federal government and the territories.

• (0900)

Mr. Michael McLeod: You might have to tell them that, because they're pointing at you guys funding us.

Mr. Paul Thoppil: Our commitment is to the Inuit land claim holders.

Mr. Michael McLeod: Thanks. That's good for now.

The Chair: All right.

The questioning now goes to MP Cathy McLeod.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Thank you, Madam Chair.

Thank you to the officials for coming today.

As a quick refresher, because I can't remember the numbers off the top of my head, out of the \$10.8 billion, how much of it is transfers and how much is for the department?

Mr. Paul Thoppil: Out of the \$10.8 billion, approximately \$950 million is for vote 1. Vote 1 is to be used for about \$300-odd million to deal with legal obligations that we have related to residential schools and legal obligations on contaminated sites. The actual amount for the operations of the department under vote 1 is \$633 million. That's for salaries and operations.

Mrs. Cathy McLeod: Thank you.

Mr. Paul Thoppil: That's out of that \$10.8 billion.

Mrs. Cathy McLeod: If I am a band member of—I don't know, I'll throw out a name—Sinixt First Nation in British Columbia, and I want to see the contribution agreement between the Government of Canada and my chief and council, do I have full access to it and the details of the agreement?

Mr. Paul Thoppil: That funding agreement.... We make the funding agreement. It's signed with chief and council, and we do hope that the funding agreement is made available to the community members. That is a document that I believe, in terms of that, we put... that's a public... That should be publicly accessible.

Mrs. Cathy McLeod: On the specific contribution agreements between the band and the Government of Canada, with regard to the itemization of what they're for, if I were a band member, could I get those details or would I have to go to the chief and council?

Mr. Paul Thoppil: I do hope that the governance and accountability between chief and council and their community members will permit that, obviously, to happen first. We want to respect the governance of a community in terms of that happening, and if not, they have recourse to INAC in order to make that request available.

Mrs. Cathy McLeod: I know there is the issue of audited statements, but I'm talking about the contribution agreements up front. There are significant new dollars, and there is new program funding. There is some with Ontario for youth.

Will that money go to individual bands or tribal councils? If so, is it done with an official Government of Canada announcement? For example, if you decide you're going to fund a lunch program, or in this case, youth employment, are there details so that if I am a band member I know that my band is receiving money for youth employment case management and how much my band is receiving?

Do we do press releases? Do we do announcements?

I guess that's the question at a band level.

Mr. Paul Thoppil: Chris, can I turn it over to you with regard to the question related to the youth employment strategy?

Mr. Chris Rainer (Director General, Education Branch, Education and Social Development Programs and Partnerships Sector, Department of Indian Affairs and Northern Development): I'm not aware of any press releases we have ever done to announce each allocation to each first nation for the youth employment strategy you are referring to. These arrangements, as Paul was saying, were done through the band council in that case. Other programs have delegated that to the tribal council, especially for education delivery services.

Mr. Paul Thoppil: It's proactive disclosure that we do on all grants and contributions, so the public knows.

Mrs. Cathy McLeod: That is at a generic level.

If the Government of Canada is contributing to the new horizons for seniors program or they're giving \$25,000 to the Legion, those things are done via press release, and people in a community know that the Legion is getting \$25,000 so it can fix its floors.

What I'm getting at is that a community could receive money for a hot lunch program and the lunch program not be provided, and it would have no idea that it was even getting money for a hot lunch program.

We have a level of transparency that is just not there for the people in communities, and I continue to be very concerned. If I had a child who was going to a school and I knew the government was funding a hot lunch program and my child wasn't getting a hot lunch, I could be holding my chief and council or whoever accountable, but if we do not ensure that information is provided in the same sense as it is for new horizons, or when my community knows it is getting \$25,000 to fix floors, we have a real problem with regard to information that is going directly to first nations communities.

• (0905)

Mr. Paul Thoppil: I understand the question and the issue. I can tell you that we are improving our communications and our reporting processes, particularly in light of the investments from budget 2016-17. One example is that of the infrastructure space which all citizens will be able to access online—it's already on a link on an NRCan geomatics platform—whereby you can tell by community what projects are being invested in across the country. We're moving into the next stage of making it a little bit more interactive with a drill-down to see the description of it so that community members know what monies they are actually getting for the infrastructure enhancements from budget 2016 onwards.

Mrs. Cathy McLeod: That's really a small example, but we have \$10 billion plus, and community members, it would appear, do not have the ability to easily access or understand what's coming into

their communities and what is coming in [*Inaudible—Editor*]. That's a concern.

Mr. Paul Thoppil: Thank you, Ms. McLeod, for the question.

As part of the new fiscal relationship that this government is committed to, one of the pillars of the negotiations or conversations we're having is actually defining that mutual accountability for first nations at the community level among the chief and council and members and all taxpayers for that money, so we are working on the issue you are raising.

The Chair: Thank you.

The questioning now goes to MP Romeo Saganash.

Mr. Romeo Saganash (Abitibi—Baie-James—Nunavik—Eeyou, NDP): Thank you, Madam Chair.

Thank you to all present here this morning, in particular Mr. Thoppil. I think he should be given an honorary membership to this committee from now on, given his regular presence.

I went through the numbers. In principle I agree with the majority of what has been asked here, but I want to start with something that's been troubling me over the last year and a half. It's with regard to the decisions from the Canadian Human Rights Tribunal and the impacts on your department's budget.

Let me start with this very simple question: does your department recognize the authority of the tribunal to order the government to do something or to stop doing something?

Mr. Paul Thoppil: Thank you for the question, Mr. Saganash. We do respect the decisions of the tribunal. I think what the minister has said is that we have gone beyond already what the tribunal has actually requested to date.

Mr. Romeo Saganash: That's not the interpretation of the tribunal.

I want to go back to what your department officials said under oath to the tribunal after the first decision, and then the compliance order. The officials said:

Canada has no system in place to ensure INAC administrators and staff responsible for the First Nations Child and Family Services program have read the Tribunal's decisions and understand them....Canada admits that Budget 2016 was prepared in the fall of 2015 and was not adjusted after any of the Tribunal's decisions.

Given the fact that we have no new numbers, even after Friday's decision, I get a sense that is becoming déjà vu. Let me read paragraph 74 from the tribunal's decision:

Canada's narrow interpretation of Jordan's Principle, coupled with a lack of coordination amongst its programs to First Nations children and families...along with an emphasis on existing policies and avoiding the potential high costs of services, is not the approach that is required to remedy discrimination. Rather, decisions must be made in the best interest of the children. While the Ministers of Health and Indigenous Affairs have expressed their support for the best interest of children, the information emanating from Health Canada and INAC, as highlighted in this ruling, does not follow through on what the Ministers have expressed.

Who's leading the show here? Is it the department or the ministers with respect to the first ruling and the three compliance orders that followed the initial ruling? What is going on? Obviously the tribunal does not agree with what you just said.

•(0910)

Mr. Paul Thoppil: From our standpoint, the tribunal has called for immediate funding relief based on need, expansion of Jordan's principle, and reform of the child welfare system. Beyond the statement you quoted from that official, \$200 million of additional funding has been made available to implement the decision from last year, with another \$254 million this year. That is our response on immediate relief.

We have approved more than 4,900 requests for supports and services for first nations children related to Jordan's principle. We are also working, led by our minister, with first nations, provinces, and territories at tripartite and technical tables on comprehensive reform that puts the well-being of children first, which is the other element.

We believe we are moving forward and addressing what the tribunal is requesting us to do.

Mr. Romeo Saganash: Obviously I heard the talking points in the House yesterday and the day before. A lot of people who have intervened in this case do not agree with what you just said either.

You talked about an expanded definition of Jordan's principle. Can you provide this committee with that expanded definition of Jordan's principle?

Mr. Paul Thoppil: I believe the minister has made it abundantly clear, at this committee and at other places, that it's about kids first and then about sorting out later the administration aspects at the jurisdictional level between the province and the federal government. That's why we've gone from zero to 4,900 service requests. We're responding right away to their needs, and then we are, back office, trying to work with the province on how we pay that out. So it's a "kids first" definition.

Mr. Romeo Saganash: Yes, but again, the tribunal does not agree with what you've just said. In fact, the tribunal confirms that you did not even act on expanding that definition and giving it a broad and generous definition. That has not happened, according to the tribunal. Who's telling the truth here? Is it the department or the tribunal?

Mr. Paul Thoppil: I can't comment on different bodies' interpretations. All I can comment on are track records since this program has come into place, on what we've accomplished that we continue to move forward on. I believe the number of service requests that we have done from a zero start base, combined with the amount of significant investments we have put in, is a testament to our willingness to do better.

Mr. Romeo Saganash: I think I have 30 seconds, so finally, I want to ask a specific question with respect to specific claims. The amount asked for, \$446 million, refers to anticipated specific claims settlements, and there's a forecast of 60 specific claims related to that amount. What are the criteria to determine which claims will be settled in this fiscal year?

Mr. Stephen Gagnon: There are no criteria. We just try to do our best to estimate what could possibly, in the most optimistic sense, come in this year. That depends on the state of the negotiations and how close we are to a settlement agreement, whether or not first nations have accepted offers, voted on offers, and approved things. Sixty would be a very large number. It just happens that we're getting close on a couple of negotiations where we've clustered a couple of

big things together. It's very optimistic, and it would be a historic year.

It's just to make sure that if everything goes our way, we'll have the money available to make those payments to first nations.

•(0915)

The Chair: Thank you.

The questioning now goes to MP Rémi Massé.

[*Translation*]

Mr. Rémi Massé (Avignon—La Mitis—Matane—Matapédia, Lib.): Thank you, Madam Chair.

My thanks to the witnesses for joining us and for participating in the committee's work on the review of Supplementary Estimates (A).

To prepare for our meeting this morning, I consulted the department's 2014-15 and 2016-17 budgets. I must admit that I was surprised to see that, in 2014-15, a little over \$1 billion had not been used. In 2015-16, unused funds amounted to \$900 million. That's a lot of money.

We are now in June. I am not telling you anything new when I say that the fiscal year starts on April 1 and ends on March 31. You are asking for additional funds this morning to the tune of about \$719 million—actually just over \$719,650,000.

Could you tell me what processes are in place to ensure that the department is able to adequately manage the funds being requested so that there is not a huge amount of money left unused at the end of the fiscal year?

Mr. Paul Thoppil: Thank you for the question.

This one is really popular. You mentioned our

[*English*]

track record of lapsing.

One must understand that the lapse usually is primarily made up of a couple of amounts. Those are specific claims envelopes, comprehensive claims envelopes, or items related to residential schools settlement agreements. As my colleague Stephen Gagnon mentioned, the timing of payouts related to a claim is.... We make what I would call a "highly educated forecast" of what we think is going to be a payout, but we know that due to community negotiations, timing of negotiations, community voting, and so on, it will slip. Therefore, what you've seen as a lapse is essentially the movement.

Those funds always have been not lost but have been re-profiled into future years in order to make them available for when those settlements close. There have been, through that record of lapses you've mentioned, no monies lost to first nation communities. In fact, all of those monies have been "future re-profiled" into future years' budgets in order to make available the monies.

To give you an example of what's at play, for example, these supplementary estimates (A) have an amount of \$446 million extra. This money is actually being re-profiled from future years back into this year because of the significant historic year—potentially—of settlements. You can see how monies from the past that are lapsing are being re-profiled into this year, and now, based on this year's forecast, monies for future years are being profiled. It's a moving game, but the objective remains the same year over year, which is that once a settlement is achieved, Canada must have the money available to honour its obligation.

It's difficult to explain to the public, that's for sure, but I hope you understand that it's the movement of the budget envelope year over year, through supplementary estimates and through re-profiling, in order to make sure that Canada can honour its obligations to indigenous peoples.

[*Translation*]

Mr. Rémi Massé: That process is difficult to explain, so imagine how obscure it can be for the average person. When we look at the details of the budgets—again, 2014-15 and 2016-17—we see that Vote 1 is \$259 million, and the one for grants and contributions is \$737 million. So there are significant amounts of money in various votes. Can you explain, with concrete examples, the process underlying all of that to help us fully understand?

The amounts of money are striking. However, given the considerable needs of indigenous communities, why are those amounts available? I understand part of what you're saying, but there are significant amounts of money available that could be carried over and used to help indigenous communities more. Can you give us some concrete examples to explain why those amounts are available?

• (0920)

[*English*]

Mr. Paul Thoppil: I would agree with you that one of the challenges we have at INAC is the complexity of the reporting of government budgetary cycles and the public accounts to indigenous peoples for their understanding of the monies that Parliament is voting on, and how those are transformed.

I think Ms. McLeod raised a question at the pointy end, but I think when they look at the government technical papers, those are not very helpful for them either, right?

An example of what the public accounts committee is working on with the President of the Treasury Board is improved note disclosure. What you may have seen in the main estimates and supplementary estimates (C) from last fiscal year is essentially some note disclosure for the first time, which actually evidences the amounts that have been late re-profiled so that you can make the linkage for the first time between amounts that have lapsed in the public accounts and amounts after the fact that the Minister of Finance and the Treasury Board have agreed to re-profile in future years.

The linkages have not been made directly as of yet, but at least it's a first attempt by the government to provide a bit more information to start tracking these lapses and whether the lapse is truly lost or whether it's actually still available in future years.

Evidence of the complexity of it is the example I've just cited in today's supplementary estimates (A). That \$446 million is actually being re-profiled from future years' budgeting into this year, for which there is no disclosure, but which I am providing to you orally.

I can understand, from an MP's perspective but also from the public's perspective, how people can get clarity of transparency regarding where the money is at any one point in time.

The Chair: Thank you.

You have less than five seconds. It's a complicated topic. We actually need a whole day on supplementary estimates and budgets.

The questioning now goes to MP Viersen.

Mr. Arnold Viersen (Peace River—Westlock, CPC): Thank you, Madam Chair.

Thank you to our guests for being here today.

My questioning will be particularly on the supplementary estimates dealing with specific claims.

I think you mentioned earlier that you anticipate 60 claims being settled this year. What does that mean when you say that 60 will be settled this year? Does that mean if a particular band is looking for its land claim, it will get that land at the end of this year, or does that mean we will now start the process of negotiating with all the other stakeholders that are in that area?

Mr. Stephen Gagnon: It's an "up to" amount and this is a very optimistic estimate, because we want to be sure that if we do get all the things flowing the way they are, that the money is available. We currently have over 220 active negotiations.

Typically the negotiations start off with the acceptance of a claim. We make a determination as to whether there has been a potential breach. We start negotiating, and then we work with the first nation on what the value of the claim would be in terms of the loss of use, for example, of the land value that was there and the benefits that should have accrued through the treaty.

We will come back and we will get a financial mandate through whatever level. Sometimes we have to go to Treasury Board, and sometimes our minister has the authority depending on the amount we're asking for. We make an offer. The first nation can then decide whether to accept it, and then we negotiate the terms of the release in the settlement. Typically the first nations will vote on this.

That's when we get a settlement. When a first nation has agreed, and has voted if it needed to—on anything over \$3 million, I think, we require a vote—then it can sign, and our minister will execute the agreement when she has all her authorities in place, and that's a settlement. That's what we're talking about.

I'm not sure if that answers your question, or...

Mr. Arnold Viersen: To some degree....

Here's what I'm dealing with in my riding, where I have the Lubicon Lake Nation and the Peerless Trout First Nation. Both are trying to get a reserve. They were missed when the Indian Act came in, so they don't have reserves. Both of them have been working on it for over 20 years. Peerless Trout has their first section. They call it phase one and then they work into phase two.

I'm wondering how those two particular cases are proceeding.

Mr. Stephen Gagnon: I'm sorry—I'm not trying to be overly bureaucratic—but those are not my files. I know that the Lubicon one is currently in negotiation.

I believe Peerless is trying to create the reserve, are they not, Paul? I don't know.

• (0925)

Mr. Paul Thoppil: I don't have visibility on those—

Mr. Arnold Viersen: They already have stage one, so they already have 10 square acres, I think, and they're working to.... In the end, there will be 92 square kilometres of land. They're coming to me and asking why this is taking so long. They're saying, "Hey, it took 20 years, and we finally have lines on a map." They're dealing with some third party interests in the area that they either have to buy out or sign contracts for lease with. I imagine that this money is going to help with that. Is that the case?

Mr. Stephen Gagnon: I don't know the particulars, so I have to be careful. Part of the balance is that there are always going to be other interests that need to be looked at, so there will be a consultation process when there are lands involved and other people who may have an interest. I can't speak to what might be—

Mr. Arnold Viersen: Is that what this money is for? Is this money for—

Mr. Stephen Gagnon: This money? No. Sorry. This money is to settle claims that have not yet been settled or awards from the Specific Claims Tribunal that have not yet been handed down.

Mr. Arnold Viersen: Okay, so on a land claim where they're trying.... In this case, the county, the municipality that the land is coming out of, has a large facility there and the county is saying that they have to buy the facility from them before they move out, essentially. Would this money be part of buying that facility?

Mr. Stephen Gagnon: No. This money is related to claims that have not yet been settled, so if you're talking about a specific case that has already been settled, like Peerless, that's not part of this amount.

Mr. Arnold Viersen: Okay. That will have to go through a different channel.

Mr. Stephen Gagnon: I assume so. I apologize, but I don't know exactly the answer to that question.

Mr. Arnold Viersen: Okay.

In the case of the Lubicon, they're still working to get their reserve

Mr. Stephen Gagnon: That's right.

Mr. Arnold Viersen: —so when the lines on the map get decided, does that then come with all the resource development that's happened in that area, with all the royalties that have been collected from that? Is that what this money is saying? Are we going to go back in time and we're going to say that we collected this much in royalties from all the oil interests in that area, this much in royalties from all the gravel interests in that area, and this much royalties from the stumpage fees, and we're going to collect that back over time and say that now, because these lines on this map are this area...? Is that how this claim works?

The Chair: A very short response, please.

Mr. Stephen Gagnon: Yes, that would be part of the negotiations. I don't have any information directly on that one.

The Chair: Perhaps the department could provide a written response to the member on those specific questions since no one here can answer it, if that's all right with the MP.

Mr. Arnold Viersen: That would be awesome. Thank you.

The Chair: All right.

Next we are moving to MP Mike Bossio.

Mr. Mike Bossio: Thank you, Chair.

Thanks to all of you for being here today and doing the best you can to answer our questions.

I want to go back to the line of questioning from Romeo Saganash.

There was \$200 million last year and there is \$240 million this year, I think you said, going into trying to fully implement Jordan's principle. This may not be a fair question, and if you don't feel you're in a position to answer it, I completely understand, but why do you feel there is a disconnect between where the tribunal is and where the department is, or do you feel that there is a disconnect?

Mr. Paul Thoppil: My personal view, what I believe, is that we all share the objective—the department, the minister and the tribunal. It's all about kids first, as the minister has said. It is trying to ensure that there is a sufficient amount of money to deal with the immediate needs, and that there are no jurisdictional squabbles that will impact the servicing of the individual, and realizing, as the minister has said a number of times, including at this committee, that the overall system is broken. There is a danger on the immediate level about how much money you put into a system that is actually broken and that needs to reform.

The question becomes, since everybody shares the objective, which is a bit long term, how do you move and what is the degree of agencies' capacity to move? There is a view on one side that the capacity should not be factored in, in terms of the agencies' ability to reform. Just give them all the money they want, and then they'll do it. But even the agencies themselves are saying, "We can't even get qualified staff to come in the door, so even if you give us the money, we won't be able to spend it." There's an operational element, in terms of the implementation of the orders, such that I think there may be a disconnect, essentially, between the aspirations that are coming at the tribunal and the reality on the ground of the agencies themselves to actually deliver. We're caught in the middle between what they are saying to us and what we are trying to say.

What I've been trying to articulate and what the minister has said is that we are respecting, in broad terms, what the tribunal has been saying in terms of immediate relief. I've cited some figures on the extra amount of money. We've also stated how many Jordan's principle cases health services we have set, starting from ground zero up to 4,900, and we have commenced reform negotiations. From an objectives perspective, we are adhering to what the tribunal is putting on the table.

● (0930)

Mr. Mike Bossio: Is the disconnect between the aspirational goals of the tribunal and the reality of being able to deliver on those immediately given that the system is broken?

Mr. Paul Thoppil: Yes. It's a timing issue, and program reform—

Mr. Mike Bossio: So the department has the intent to achieve those goals; it's just that you have restrictions and challenges to overcome in order to fulfill them completely.

Mr. Paul Thoppil: That is correct.

Mr. Mike Bossio: On the land claims front, I also have an indigenous community, the Mohawks of the Bay of Quinte, who have a land claim right now. Would that land claim be, potentially, coming from this money that's available there? Are you familiar with that claim?

Mr. Stephen Gagnon: Yes and yes.

Mr. Mike Bossio: Okay, good.

How far along are we now with the housing and the investments being made in Manitoba to try to resettle individuals impacted by the flood? Is that money going to fulfill the desire of the indigenous communities there, those four communities? Is it going to finally put them into their homes and back into their communities?

Mr. Paul Thoppil: That's correct. We expect all the evacuees from those first nations to be back in during the following fiscal year. They need to have a community and an infrastructure base to move back to, right?

Mr. Mike Bossio: Will this fulfill that?

Mr. Stephen Gagnon: Exactly.

Mr. Mike Bossio: Wonderful.

Thank you.

The Chair: The questioning now moves to MP Cathy McLeod.

Mrs. Cathy McLeod: Thank you.

Because I am from British Columbia, I want to talk a little about the loans, the \$30.4 million. How much is outstanding in loans right now?

Mr. Paul Thoppil: I have that number. You'll have to forgive me; it's somewhere in my notes.

Mrs. Cathy McLeod: Someone can look it up, and maybe when you—

Mr. Paul Thoppil: I can get back to you, if you wouldn't mind. I apologize for that.

Mrs. Cathy McLeod: We do have some claims that have now been settled in British Columbia. In terms of the financial component of the settlement, were those loans repaid with the money from this settlement?

Mr. Paul Thoppil: As part of the B.C. treaty process, when we get to a settlement stage we take into account the loans that are outstanding at that time. We ensure that this is part of the calculus of the settlement and they get repaid as part of the settlement process. That's correct.

Mrs. Cathy McLeod: So in British Columbia you have cleaned off the debt of all those that have been settled. There are not a lot, as I understand it.

Mr. Paul Thoppil: That's correct.

My colleague has just helped me out here. Since 1993 the BC Treaty Commission has allocated approximately \$675 million in negotiation support funding. That's about \$519 million in loans and \$156 million in contributions to date. One of the things I do as the chief financial officer is that before the settlement, I don't sign off on the cheque until I know if there are any outstanding loans related to that first nation, and make sure there is a set-off prior to payment.

Mrs. Cathy McLeod: Approximately how much is it costing each first nation? How many have been resolved, and how much has it cost them? What percentage of the financial settlement has it tended to take in terms of the payment?

● (0935)

Mr. Paul Thoppil: Each first nation has its own dynamics, and therefore their needs will be different. There's not what I would call a general kind of—

Mrs. Cathy McLeod: But how many have reached a stage where they have final settlement? It's less than five, is it not?

Mr. Paul Thoppil: I'm not so sure.

Just to provide a bit more information for you, Ms. McLeod, we provide 80% of the funding to first nations in the form of loans. Vote L20 is part of that. Another 12% is in the form of contributions. The B.C. government provides 8% of the funding also in the form of contributions.

Mrs. Cathy McLeod: Maybe you don't have it here, but to me it's a pretty logical piece of information. Perhaps you could table it. Out of the very few settlements that have happened, typically how much has been required in a loan—I know that sometimes these processes are 20 years plus—and how much has it taken out of the settlement? I think it would be some important information for us to have.

Mr. Paul Thoppil: I just found it. I'm sorry. Timing is everything.

As I mentioned earlier, in terms of loans to first nations in B.C., we have paid out \$538.7 million, and \$18.2 million of that is for groups that have settled. They are being repaid according to a concluded agreed schedule of repayment. That leaves \$520.5 million, Ms. McLeod, for groups that are still in negotiations.

Mrs. Cathy McLeod: That's at a more granular level. With regard to the \$18 million, how many does it represent, and how much does it represent of the final settlement, the outstanding number?

Mr. Paul Thoppil: That level of detail I can get back to you on in a written response, if you don't mind.

Mrs. Cathy McLeod: Thank you. I would appreciate that.

The Chair: You have only 20 seconds left.

Mrs. Cathy McLeod: Okay. I'll leave it for next time.

Thanks.

The Chair: MP Gary Anandasangaree, you have five minutes.

Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.): Thank you, Paul and the team, for joining us once again.

Going back to the Canadian Human Rights Tribunal ruling, I was trying to follow what you were saying. I know that the minister has outlined the spending, but I'm wondering if you could specify in terms of the timeline what a longer-term investment in this area would be and what kind of strategic objectives the department has with respect to addressing many of the underlying issues with respect to the ruling.

Mr. Paul Thoppil: Thank you for the question.

I can't necessarily provide a direct answer to your question, only because the minister has been very clear that this has to be co-developed in terms of reform with first nations and provinces and territories, so we need time to work that reform strategy out. In the meantime, we do acknowledge the principle espoused in the tribunal in terms of immediate relief. We're trying to do the immediate and the long term at the same time by putting money into the space, but at the same time trying to work out how we reform the system so that we don't have to deal with the magnitude of the problem in terms of the number of kids who are in care and in jeopardy. It's a parallel process going forward.

The reality is that in any engagement in co-development there is just a necessity for time. We need time to work that out, because we need to make sure we are not imposing a top-down, Ottawa-developed solution upon first nations and their kids and communities in terms of how this system needs to be reformed.

There are going to be impacts on the over 100 child and family agencies across the country on this, and there is a jurisdictional issue with the provinces and the territories as well, so it's complicated. We need all parties to come to some degree of consensus before we move forward to seek cabinet approval on a reform plan.

I apologize for not being able to respond further. All I can do is provide you with the operational context on program reform moving forward. But the intent and the willingness are there, and the immediate relief that we provided demonstrates an earnestness to respect the tribunal's order.

● (0940)

Mr. Gary Anandasangaree: With respect to the 4,900-plus payments based on Jordan's principle, what does that primarily relate to? Do you have a breakdown in terms of what those jurisdictional issues are? Are you able to get some agreement with the provinces, or does the province send a bill and we pay it?

Mr. Paul Thoppil: I'm going to ask my colleague, Chris Rainer, to respond.

Mr. Chris Rainer: In answer to your question, it's a mix of health services, of social services, and of education products.

In my realm in the education world, if you have a child with special education needs and the services aren't being provided, as Paul was saying before, it's to get out of the game of pointing the finger—whether it's the province or us—and it's to get the money into the hands, get that service to the student, and then we sort out whether it is a provincial obligation or a federal obligation.

We've had...in terms of transportation issues for children with some special education needs, in terms of some behaviour assistance for students, and certainly for direct health services as well. I don't have the breakdown of each of those categories, but it's been a good mix, from what I understand, of each of those three.

Mr. Gary Anandasangaree: Those are the initial payments. Is there recovery on them, or is there potential for recovery on any of those?

Mr. Chris Rainer: There have been a mix of cases. The money is there to get the money and direct delivery. If we find that special education services should have been provided by the province, then we work that out with them to replenish the services that were provided for.

One of the principles is that we do try to use the available sources of funding that are there for the intended purposes. In the case of special education, the release was there to use a special education allotment under education to provide those services immediately, and then we sort out afterwards if there was a need to recoup funding from the provincial services or not.

Mr. Gary Anandasangaree: With respect—

The Chair: That wraps it up.

MP Romeo Saganash, for three minutes.

Mr. Romeo Saganash: Thank you, Madam Chair.

I have a quick question to finish on the specific claims.

The Auditor General, in the fall 2016 report, mentioned that there was a decrease in the research funding for the specific claims. Does this request for an additional \$20 million restore that decrease?

Mr. Stephen Gagnon: No, it did not.

Mr. Paul Thoppil: No, it does not.

Mr. Romeo Saganash: Okay.

I want to go back to the Canadian Human Rights Tribunal, because I did ask a very specific question from the outset with respect to whether or not the department recognizes the authority of the tribunal to order the government to do something to stop doing something. You responded to that question by saying, "We respect", which is not an answer to my question really, so I want to come back to that because that's an important aspect.

One of the things the tribunal asked you to do in January 2016, in its first ruling, is to adopt a broad definition of Jordan's principle. You mentioned that there are 4,900 kids that benefited from funding recently. On what basis was that determined? Is it determined on a new definition that you have? The tribunal said again on Friday that discrimination continues. Does the department recognize the authority? It's a clear question.

I know the interpretation that you have is that you're respecting what you've been asked to do. That's not the question. I'm asking a very specific question. Do you recognize the authority of the tribunal to order the government to do something or stop discriminating?

• (0945)

Mr. Paul Thoppil: I'm going to repeat my answer, Mr. Saganash, with all due respect, and say that we are respecting the tribunal. I think there are issues we have to acknowledge in terms of what actually the tribunal will come out with in terms of jurisdictional responsibilities as one of many issues, whereby it's not necessarily a clear-cut answer, to be fair, in terms of responding to your question. I think it's more a matter of respect than the issue of authority, depending upon the jurisdictional issues, based on the confederation nature of our country, as just one of various elements in terms of trying to respond to your question on authority versus respect.

The Chair: Thank you.

I'm going to now ask the committee a question. The estimates scheduled in our agenda are to continue until 10:15 a.m. Is it the will of the committee to continue the questioning or to move on to other business?

An hon. member: Continue.

An hon. member: Move on.

The Chair: We have a situation where we don't have consensus. You can make a motion to continue or to end the questioning.

Don.

Mr. Don Rusnak (Thunder Bay—Rainy River, Lib.): I'll make a motion to move on to committee business.

The Chair: Okay, discussion.

Ms. McLeod.

Mrs. Cathy McLeod: Chair, we do have two hours. We did have an original schedule, which was an hour and a half. Although Mr. Saganash recognized the regular appearance of the witness, I don't know that it's so regular that we don't have enormous benefit by having this opportunity to discuss the supplementary estimates. I think we have an enormous amount to gain from continuing the

conversation. I'm not sure that our committee business will consume more than half an hour, so we certainly would be very disappointed and we'll vote against the motion.

The Chair: I understand that I made an error. Apparently this type of motion is a dilatory one and debate is not allowed. Therefore, we're going to call the vote.

It's a tie.

I vote with the government, with the Liberal Party. I vote in favour of the motion.

Mrs. Cathy McLeod: I have a point of order, Madam Chair.

I understand there are conventions around how the chair would vote, as opposed to with the government, when you have a request to continue the business. I would ask the clerk to interpret whether there is convention that would direct your vote at this time.

Mr. Gary Anandasangaree: Madam Chair, if I may clarify, I was actually distracted.

Mr. Romeo Saganash: That's not our fault.

Mr. Gary Anandasangaree: I was voting with the government. I do apologize, but I was distracted while the vote was going on.

The Chair: I'm going to call a short break as I review the documents and precedents. I'll come back to you in a minute.

Pursuant to *House of Commons Procedure and Practice*, chapter 20, page 1053, and I will quote directly, "The Chair is not bound to give reasons for his or her vote and is free to vote either way." That's in paragraph 3. Therefore, I understand your point of view and have cited the reference. The vote has occurred. It has been carried.

I want to sincerely thank the department for coming in. I appreciate your time and willingness to participate.

I'll suspend the meeting, and we will resume in camera.

[*Proceedings continue in camera*]

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