

Intergovernmental and Aboriginal Affairs

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Introduction

The mandate of the Department is to coordinate, develop, and implement policies and programs of the Government of Saskatchewan governing relations between other provincial, federal, or international governments or governing organizations. The Department is also mandated to coordinate, develop, promote, and implement policies and programs of the Government of Saskatchewan relating to the social and economic development of the Indian and Métis peoples.

Overview of Department spending

The following is a list of major programs and spending reported by the Department in the *Saskatchewan Intergovernmental and Aboriginal Affairs: Annual Report 2000-2001* and the *Public Accounts 2000-2001: Volume 2: Details of Revenue and Expenditure*. (to view a copy of this report, see <http://www.gov.sk.ca/finance/paccts>)

	<u>Original Estimates</u>	<u>Actual</u>
	(in millions of dollars)	
Accommodation and Central Services	\$ 1.4	\$ 1.3
Provincial Secretary	1.9	2.3
Intergovernmental Affairs	2.1	1.9
Aboriginal Affairs	42.1	39.2
Administration	<u>1.0</u>	<u>1.1</u>
	<u>\$ 48.5</u>	<u>\$ 45.8</u>

The above spending for Aboriginal Affairs includes the amounts estimated and actual expenses by the Department of Municipal Affairs and Housing to the First Nations Fund. The Department of Intergovernmental and Aboriginal Affairs assumed responsibility for the First Nations Fund in August 2000.

Audit conclusions and findings

This section contains our audit conclusions and findings of the Department and of the First Nations Fund.

Our Office worked with KPMG, the appointed auditor of the Fund, using the framework recommended by the *Report of the Task Force on Roles, Responsibilities and Duties of Auditor* (see our website at <http://www.auditor.sk.ca/rrd.html>). Our Office and the appointed auditor formed the following opinions.

In our opinion for the year ended March 31, 2001:

- ◆ **The financial statements of the Fund are reliable;**
- ◆ **The Department had adequate rules and procedures to safeguard and control public money except for the matters reported otherwise in this part.**
- ◆ **The Trustees of the Fund did not have adequate rules and procedures to safeguard and control public money because of matters reported in this part; and**
- ◆ **The Department complied with authorities governing its activities relating to financial reporting, safeguarding assets, revenue raising, spending, borrowing, and investing. We are unable to determine if the Trustees of the Fund did so because of matters described in this part.**

The following sets out our audit findings in more detail for the Department and the First Nations Fund.

Audit findings for the Department

For the Department, we identify the activities that the Department has undertaken to comply with a previous recommendation.

Improving supervisory responsibility over First Nations Fund

In Chapter 3 of our 2001 Spring Report, we make the following recommendation. We continue to make this recommendation.

1. **We continue to recommend that the Department should supervise the Trustees of the First Nations Fund to ensure**

the Trustees spend public money with due care and in accordance with the provincial legislation.

The following sets out our expectations and the Department's progress towards compliance with this recommendation.

As previously mentioned, the Department assumed responsibility for the Fund in August 2000. The Department provides the Fund with money to be spent on social and economic development programs and policies for First Nations people.

We expected the Department to undertake sufficient steps to ensure that the money it paid to the Fund was spent for the purposes intended. Possible steps include those that would ensure the Trustees of the Fund clearly understand their fiduciary responsibilities, and the Trustees appropriately monitor the activities of the Fund. We expected the Department to receive information throughout the year from the Fund that would allow it make this determination.

Much of the Department's progress was made after its year-end. During 2000-01, the Department delayed the payments to the Fund until our Office had access to audit the Fund. It awaited the results of the audit before undertaking further steps. In June 2001, its Minister of Aboriginal Affairs met with the Chief of the FSIN. The Department advised us that the Minister and Chief discussed the need for the Fund to develop accountability measures to address the recommendations that we made in our 2001 Spring Report. In addition, the Department asked the FSIN to provide it with copies of the regular reports from First Nation bands on spending from the Fund. It has also asked the Fund to provide it with similar reports on other spending of the Fund.

Audit findings for the First Nations Fund

Background

The Saskatchewan Gaming Corporation Act (Act) established the First Nations Fund (Fund). Cabinet appoints the Trustees of the Fund.

The Trustees are stewards of public money and are responsible for carrying out economic development, social development, justice, health,

and other initiatives relating to First Nation bands (First Nations) as required by the Act.

The Legislative Assembly makes money available to the Department of Municipal Affairs, Culture and Housing for the Fund. Effective August 3, 2000, Cabinet made the Department of Intergovernmental and Aboriginal Affairs (Department) responsible for the Fund.

The Fund is subject to an audit under *The Provincial Auditor Act*. Cabinet appointed KPMG as the appointed auditor of the Fund.

For the year ended March 31, 2001, the Department paid \$11 million (2000 - \$11.8 million) to the Fund.

For the year ended March 31, 2001, the Fund had revenues of \$11.0 million (2000 - \$11.8 million) and expenses of \$11.0 million (2000 - \$11.8 million). The Department gave the Legislative Assembly the Fund's financial statements for the year ended March 31, 2001.

Summary of 2001 Spring Report recommendations

We released our 2001 Spring Report in June. In that Report, we provided our audit conclusion and findings for the Fund's year ended March 31, 2000 and made the following recommendations.

- ◆ The Trustees of the First Nations Fund should establish rules and procedures to ensure the First Nations (Indian bands) only use the money received from the Trustees for the purposes described in *The Saskatchewan Gaming Corporation Act*.
- ◆ The Trustees of the First Nations Fund should establish rules and procedures to ensure recipient organizations only use the money received from the Trustees for the purposes described in *The Saskatchewan Gaming Corporation Act* and the Framework Agreement.
- ◆ The Trustees of the First Nations Fund should ensure that all payments comply with the law; and

- ◆ The Trustees of the First Nations Fund should prepare an annual report that includes:
 - the Fund's financial statements;
 - the Fund's goals and objectives;
 - the Fund's planned and actual performance;
 - the Fund's risks and how the Trustees are managing those risks; and
 - a list of persons and organizations that have received money from the Fund and the amount each person or organization received.

Progress toward our recommendations

Because our 2001 Spring Report was not released until June 2001, the Trustees could not address the above recommendations during the year ending March 31, 2001. Since March 2001, the Trustees and the Federation of Saskatchewan Indian Nation (FSIN) have taken some steps to address them. The following is a summary of those steps.

1. Management provided us a copy of a letter dated July 31, 2001 sent to all First Nations. In that letter, the Chair of the Trustees reminded all First Nation Chiefs that they can only use the money they receive from the Fund for specific purposes. The letter listed those purposes. The purposes listed were consistent with the Act.
2. On August 17, 2001, the Trustees of the Fund passed a motion directing staff of the Fund to request the appropriate work plan and budgets for those institutions and programs that receive money from the Fund (other than the First Nations).
3. Management of the Fund provided us with a copy of motions passed on September 20, 2001 by the Economic & Community Development Commission of the FSIN.

The first motion reads:

Therefore be it resolved that the present First nations Trust Board of Trustees are to be replaced by non-elected/non-political appointments of individuals who possess appropriate and relevant business backgrounds.

The second motion reads:

Therefore be it resolved that the membership of the FSIN and Economic & Community Development Commission support the First Nation Trust Board of Trustees in development and implementation of a process of accountability between First Nations and other organizations or entities that receive money from the Trust Fund, and the Trustees of the First Nations Trust Fund.

4. Management provided us with a recommended accountability process between the Trustees and the First Nations. The process includes the following three conditions:

Agreement between the two parties

The Trustees and individual First Nations will sign agreements to confirm that:

- a) money was spent on specific purposes;
- b) money was spent on those purposes by specific dates;
and
- c) mechanisms are in place to deal with non-compliance issues in the event that this happens.

Reporting to the Trustees

A separate schedule within the audited financial statements or a note within the financial statements of each First Nations can state specifically what the money was spent on during the year.

Policy on non-compliance

In the event of non-compliance, the Trustees will develop a policy that clearly outlines the actions that the trustees must take.

In our 2001 Spring Report, we said we were concerned that the Trustees may continue to operate the Fund outside the provincial legislation. We said so because the Trustees maintained that the Fund they administered was not the Fund that was established under the Act. During our discussion with the Fund's management, we were advised that the Trustees now accept that the Fund they administer is the Fund

established under the Act. Also, the steps taken by the Trustees reflect this thinking.

We are encouraged by the steps taken by the Trustees. The Trustees need to further strengthen the proposed accountability process. The process should also include receiving project proposals from individual First Nations and other organizations. The proposals should set out the objectives that the First Nations and other organizations plan to achieve and how they plan to spend that money. The Trustees can then monitor how well the First Nations and other organizations achieved their planned objectives and how they spent the Fund's money.

Now that the Trustees have made the policy decisions, we expect management to set out its plan to implement the Trustees' decisions. Such a plan should include a timeline showing when operating policies and procedures will be revised. The plan should also describe what staff training, if any, is necessary and when the staff will be trained. It should also specify when the revised policies and procedures would be fully implemented.

Next year, we will assess how successfully the Trustees have implemented the proposed accountability process.

The following describes four areas of concern. Under each area, we make a recommendation for improvement.

Ensuring that the money the Trustees pay to the First Nations is used for the purposes described in the Act

The Trustees need rules and procedures to ensure that the money they pay to the First Nations is used for the purposes described in *The Saskatchewan Gaming Corporation Act* (Act) and are properly safeguarded until it is spent.

Section 20(1) of the Act authorizes the Trustees to make payments from the Fund to the First Nations in Saskatchewan for the following purposes:

- (a) economic development;
- (b) social development;
- (c) justice initiatives;
- (d) education development;

- (e) recreational facilities operation and development;
- (f) senior and youth programs;
- (g) cultural development;
- (h) community infrastructure development and maintenance;
- (i) health initiatives; and
- (j) charitable purposes in accordance with any agreement between:
 - (i) the Government of Saskatchewan or any of its agents; and
 - (ii) the Federation of Saskatchewan Indian Nations or Saskatchewan Indian Gaming Authority Inc.

To ensure the First Nations spend the money that they receive from the Trustees for the purposes described in the law, the 1994 Agreement between the Government and the FSIN states that the Chiefs' Assembly may establish criteria for making payments from the Fund. The established criteria may include the process for such payments and the requirements relating to audits of recipients of such payments (including the appointment of auditors for such purposes).

We expected the Trustees to have a fair and equitable method of allocating money to all First Nations in Saskatchewan. To ensure that the First Nations use that money for the objectives described in the Act, we expected the Trustees would ask the First Nations to provide project proposals to the Trustees. Such project proposals would set out what the First Nations planned to achieve for their people and how they planned to spend the money. We also expected the Trustees to have a process in place to monitor how well the First Nations achieved the planned objectives and to monitor the use of the money. Also, we expected the Trustees to have rules and procedures to ensure that the First Nations safeguard the money they receive from the Trustees until the money is spent. These expectations are common practices for Saskatchewan government agencies.

The Trustees paid money to the First Nations on a per capita basis using the membership of each First Nation. We think allocation to the First Nations on per capita basis is a fair and equitable method. The Trustees paid \$9.4 million to the First Nations in Saskatchewan for the year ended March 31, 2001. The Trustees, however, did not place conditions on the use of the money that they paid to the First Nations. Nor did the Trustees do any procedures to ensure that the First Nations spent the money for

the purposes described in the Act. As a result, the Trustees do not know if the First Nations spent the money for the purposes set out in law.

Because the Trustees did not properly carry out their responsibilities, we are unable to determine whether the money the Trustees paid to the First Nations was used for the purposes set out in the law.

2. We continue to recommend that the Trustees should establish rules and procedures to ensure the First Nations only use the money received from the Trustees for the purposes described in *The Saskatchewan Gaming Corporation Act*.

Management told us that the Trustees continue to work toward strengthening the Fund's accountability framework. Management also told us that under the Framework Agreement between the Government of Saskatchewan and the FSIN, First Nations are required to use the money they receive from the Fund for the purposes outlined in *The Saskatchewan Gaming Corporation Act*. Furthermore, management told us that the Agreement does not require First Nations to present project proposals to the Trustee before receiving money from the Trustees.

Ensuring that the money the Trustees give to the FSIN is spent for the purposes intended

During the year, the Trustees paid the FSIN the following amounts for the First Nations Addictions Rehabilitation Foundation (Foundation), the Saskatchewan Indian Veterans Association (Association), Justice initiatives (Justice), and for the administration of the Fund.

Foundation	\$ 944,350
Association	71,250
Justice	298,000
Administration	<u>100,000</u>
Total	<u>\$ 1,413,600</u>

We expected that the Trustees to have asked the FSIN to provide them with the business plans for those organizations requesting money from the Trustees. Such business plans would set out what the organizations intended to achieve and how they planned to use the money requested. We also expected that the Trustees would have processes to monitor

how successfully those organizations achieved the planned objectives and to monitor the use of the money. Also, we expected that the Trustees would have rules and procedures to ensure the recipient organizations safeguarded the money they received from the Trustees until the money is spent.

Payments for the Foundation

The Framework Agreement required the FSIN to establish a charity that would work in co-operation with government agencies to ensure that effective and accessible prevention and treatment programs for gambling addictions are available to the First Nations people. During the year, the Trustees paid \$944,350 to the FSIN for the Foundation. The Trustees could not provide us with any information relating to the operations of the Foundation or the programs that the Foundation provided to the First Nations people. The Trustees did provide us with the recently released FSIN annual report for the year ended March 31, 2001. That report includes information relating to the Foundation and a summary of the work that the Foundation did over the past year. The Trustees need to set out the objectives that they expect the Foundation to achieve with the money it receives from the Fund. Also, the Trustees need a report from the Foundation that sets out the Foundation's progress toward achieving those objectives.

The Trustees' rules and procedures were not sufficient to know that the money they paid to the FSIN for the Foundation was used for the purposes of the Foundation and that the Foundation is co-operating with government agencies. As a result, we are unable to determine whether the money that the Trustees paid to the FSIN for the Foundation was used for the purposes set out in the law.

Payments for the Association

Section 20(1) of the Act authorizes the Trustees to make payments for senior and youth programs. During the year, the Trustees paid \$71,250 to the FSIN for the Association. The Trustees could not provide us with any information about the objectives of the Association or the nature of programs that it provides to First Nations' veterans. Also, they could not provide written evidence that the money they gave the FSIN for the Association was used for the purposes of the Association. The Trustees

did provide us the recently released FSIN annual report for the year ended March 31, 2001. The report includes financial information relating to the Association, but provides no information on the operations of the Association. The report does not provide any information on the objectives that the Association intended to achieve and how well it achieved those objectives. The Trustees' rules and procedures were not sufficient to know whether the Association used the money as set out in law. As a result, we are unable to determine whether the money the Trustees paid to the FSIN for the Association was used for the purposes set out in the law.

Payments for Justice initiative

Section 20(1) of the Act authorizes the Trustees to make payments for justice initiatives. During the year, the Trustees paid \$298,000 to the FSIN for a justice initiative relating to an investigation and inquiry into the Saskatchewan justice system. The Trustees could not provide us with any information about the objectives of the justice initiative or how well the FSIN achieved those objectives. The Trustees did provide us the recently released FSIN annual report for the year ended March 31, 2001. The report provides financial information about the justice initiative, but provides minimal information about what the FSIN intended to achieve with the money that it received from the Fund and how successfully it achieved those objectives. The Trustees' rules and procedures were not sufficient to know whether the money they paid to the FSIN for the justice initiative was used for an investigation and inquiry into the Saskatchewan justice system. As a result, we are unable to determine whether the money the Trustees paid to the FSIN for the justice initiative was used for that purpose.

Payment for the fund administration

The Act states that the pay and the expenses of the Trustees and the necessary expenses of administering the Fund are a charge on and payable out of the Fund.

The Trustees paid the FSIN money for the administration of the Fund. We expected that the Trustees would have an agreement with the FSIN setting out the administrative duties that the Trustees required the FSIN

to do and a process for reimbursing the FSIN for the expenses it incurred for the Trustees.

The Trustees did not have a written agreement with the FSIN. Also, the Trustees did not have any evidence supporting the payments to the FSIN for administration of the Fund. The Trustees did not have details of the nature of expenses incurred by the FSIN on behalf of the Trustees. The Trustees' rules and procedures were not sufficient to know whether the money they paid the FSIN for administration was appropriate and complied with the law. As a result, we are unable to determine whether the money the Trustees paid to the FSIN for administration complied with the law. Also, we do not know how much, if any, the Trustees received as pay and expenses from the Fund.

- 3. We continue to recommend that the Trustees should establish rules and procedure to ensure recipient organizations only use the money received from the Trustees for the purposes described in the *Saskatchewan Gaming Corporation Act* and the Framework Agreement.**

Management told us that the Trustees have requested budgets and work plans from each of the programs funded. Also, management told us that the Trustees are working on formalizing the arrangements with the FSIN for the administration services.

Certain transactions not permitted under the law

Earlier, we said that we are unable to determine whether the Trustees complied with the laws governing the Fund's activities. During our work, we found certain transactions that are not permitted under section 20(1) of *The Saskatchewan Gaming Corporation Act* (Act). Section 20(1) of the Act authorizes the Trustees to make payments out of the Fund for the purposes described in that section.

During the year, the Trustees made the following payments:

National Assembly travel subsidy payments to the First Nations	\$ 144,000
White Bear First Nation payments for historical gaming costs	<u>100,000</u>
Total	<u>\$ 244,000</u>

National Assembly travel subsidy payments to the First Nations

During the year, the Trustees paid \$2000 to each First Nation to subsidize the cost of travel to an Assembly of First Nations' general meeting. The Trustees paid \$144,000 to the First Nations for the travel subsidies. Section 20(1) of the Act does not permit such payments. Accordingly, these payments are without authority.

White Bear First Nation – payment for historical gaming costs

During the year, the Trustees made a \$100,000 payment to the White Bear First Nation (White Bear) described as historical gaming costs related to the planning and development of the Bear Claw Casino. Also, the Trustees approved a total of \$300,000 for payments to White Bear over three years for those historical gaming costs. The Trustees plan to specifically approve these payments quarterly. The remaining \$200,000, if paid, would also lack proper authority. Section 20(1) of the Act does not authorize the Trustees to make payments to the First Nations for the planning and development of casinos. Accordingly, the \$100,000 payment to White Bear is without authority.

4. We continue to recommend that the Trustees should ensure that all payments comply with the law.

Management told us that the Chiefs in the regions were assisted with the travel costs to ensure that they provided directions to the Assembly of First Nations for policy development in the areas of social, economic, and educational development and health initiatives.

Also, management told us the payments to White Bear are contributions recognizing the positive financial benefits the First Nations in

Saskatchewan now receive and that the historical gaming costs were necessary costs for the economic development of First Nations in Saskatchewan.

Public accountability—preparation of an annual report

To assess the performance of an organization that uses public money, the Legislative Assembly and the public need to know what the organization is all about, how it manages its key risks, what it has done, where it is now, and what it plans to do. They also need information about the organization's goals and objectives and how successful the organization has been in achieving those objectives.

Most public sector organizations publish annual reports. Those annual reports, although still needing improvement, have much of the information the Legislative Assembly and the public need to assess the organizations' performance. The organizations also provide a list of persons who received money from them and the amount each person received.

Public disclosure of who received money from agencies handing public money is important for three reasons. First, public disclosure serves to remind officials that they are spending money that is entrusted to them by the public. Second, public disclosure adds rigour to decision-making as it ensures that those who spend public money know that their use of that money will be public. Third, public disclosure ensures that the public knows who has received their money.

The Trustees of the Fund do not prepare an annual report. The Trustees do table annual audited financial statements in the Legislative Assembly. Financial statements alone do not provide all of the information the public needs to assess the Fund's performance. Public support for organizations increases when they are fully transparent and provide performance information to the public and other stakeholders.

5. We continue to recommend that the Trustees prepare an annual report that includes:

- ◆ **the Fund's audited financial statements;**
- ◆ **the Fund's goals and objectives;**
- ◆ **the Fund's planned and actual performance;**

- ◆ **the Fund's risks and how the Trustees are managing those risks; and**
- ◆ **a list of persons and organizations who have received money from the Fund and the amounts each person and organization received.**

Management told us that the Trustees intend to publish an annual report for the Fund that will include some of the above information.

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