SPECIAL CHIEFS ASSEMBLY
DECEMBER 4, 5 & 6, 2012, GATINEAU, QC

Resolution no. 42/2012

TITLE:	Leveraging Registered Education Savings Plans for Self-Sustainability
SUBJECT:	Education
MOVED BY:	Chief Thomas Bressette, Kettle and Stony Point First Nation, ON
SECONDED BY:	Chief Joe Miskokomon, Chippewas of the Thames First Nation, ON
DECISION:	Carried; 1 Abstention

WHEREAS:

A. The United Nations Declaration on the Rights of Indigenous Peoples recognizes in particular the right of Indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child, stated in Article 14.2: *Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination*; Article 21: *Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.*

B. Registered Education Savings Plans (RESPs) are a tool commonly enjoyed by many Canadians for investment towards their children's education.

C. There is a lack of saving and funding for higher education within First Nations communities across Canada. The RESP is not being utilized by First Nations families, meaning that while they are not receiving the motivational benefits of the RESP, they are also not receiving the government grants available for post-secondary education savings. First Nations which have expressed an interest in opening RESPs on behalf of families within each First Nation have not moved forward due to limitations in the Canadian Income Tax Act.

D. Section 146.1 of the Canadian Income Tax Act defines a "subscriber" – that is the individual who controls the RESP as an individual or a public primary caregiver. A First Nation cannot act as a

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subscriber to an RESP. First Nations are reluctant to invest funds into an RESP when the control of that RESP must be given over to an individual.

E. The Canada Education Savings Regulations allow Canada Education Savings Grants (CESG) to move from one child to another if it happens in the context of an "eligible transfer," defined in section 16 of the regulations. In general, an eligible transfer is limited to a transfer where the grants move between children who are siblings. If a First Nation were to open a group RESP for children within the First Nation and one of the children were not to pursue higher education, unless the RESP could be transferred to a sibling, the CESG would be required to be repaid to the Federal Government.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations to develop an advocacy plan to have the definition of a subscriber in Section 146.1 of the Income Tax Act expanded to include a First Nation, similar to the current inclusion of a public primary caregiver.
2. Direct the AFN to advocate for expanding the scope of en eligible transfer in Section 16 of the Canada Education Savings Regulations to include a transfer from one child within a First Nation to any other child within the First Nation.

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