SPECIAL CHIEFS ASSEMBLY
DECEMBER 8, 9 & 10, 2009, OTTAWA, ON

Resolution no. 41/2009

TITLE:	Support for Constitutional Challenge to Ensure Parity of School Funding Between On-reserve and Off-reserve Schools
SUBJECT:	Education
MOVED BY:	Chief Eric Fisher, Wabaseemoong First Nation, Ontario
SECONDED BY:	Chief Cliff Tawpisin, Muskeg Lake Cree Nation, Saskatchewan
DECISION:	Carried by Consensus

WHEREAS:

A. A presentation was made by Jack London of Pitblado L.L.B. Barristers and Solicitors at the Special Assembly of the Assembly of First Nations, December of 2008 recommending a Constitutional Challenge to funding levels received by On-Reserve and off-reserve Schools for education. This challenge was to come from a First Nation within a Numbered Treaty with a strong education clause.

B. Treaty # 3 has a strong education clause and Wabaseemoong, Naotkamegwanning and Grassy Narrows First Nations are within Treaty #3.

C. After a preliminary assessment by Bimose Tribal Council it was determined that the funding levels supplied by Indian and Northern Affairs Canada (INAC) for an On-Reserve School at Naotkamegwanning First Nation in Treaty #3 receives approximately $1,400,000 less then the Keewatin Patricia District School Board would receive from INAC for the same number of students, or an average of $4,327 less per student for an on reserve school.

D. The Band Operated Funding Formula used to determine funding levels and distribute funds for First Nations education discriminates against First Nation learners, by funding First Nations schools at a per student rate significantly lower than provincial schools.

E. Due to ongoing underfunding of capital infrastructure for First Nations schools, First Nation communities across the country face health and safety risks in their schools, if in fact they have a school at all.

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F. The lack of funding affects First Nations' education outcomes on both a community and national scale, while INAC and the Government of Canada have failed to address this inequitable situation.

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

1. Support a legal action against the Government of Canada, the provinces of Canada and school districts for discrimination in education funding levels.

2. Support as may be determined the following communities in legal action against Canada for discrimination in education funding levels, Wabaseemoong, Naotkamegwanning and Grassy Narrows First Nations in a Court Challenge against Canada for proper funding equivalent to other Publicly Funded School Boards.

3. Support the development of a trust fund to support the litigation, to be managed by the three identified communities.

4. Ask the AFN Executive and the Secretariat to provide technical, legal and other support as required to the Communities to complete this challenge, including establishing the trust fund to support a rights based defence.

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