



ASSEMBLY OF FIRST NATIONS  
**Special Chiefs Assembly**

December 5-7, 2023

Shaw Centre – Ottawa, Ontario

*Ottawa is located on the unceded unsundered  
Territory of the Algonquin People.*

ASSEMBLÉE DES PREMIÈRES NATIONS  
**Assemblée extraordinaire des Chefs**

Du 5 au 7 décembre 2023

Centre Shaw - Ottawa ( Ontario)

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# Distinctions-Based Indigenous Health Legislation

*AFN Health Dialogue Session  
Monday, December 4, 2023*



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# Objectives

- Summarize progress to date on Distinctions-based Indigenous Health Legislation
- Provide context and rationale for Resolution 14/2023 calling for the AFN to temporarily suspend work on this file
- Create a space for dialogue on next steps for Distinctions-based Indigenous Health Legislation



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# AFN MANDATES ON FEDERAL HEALTH LEGISLATION

- **Resolution #69-2016**

- *Exploring a Legislative Base for First Nations Health (as one of the potential tools for affirming First Nations jurisdiction in health)*

- **Resolution #18-2021**

- *Supporting First Nations Participation in the development of Distinctions-based Health Legislation*

- **Resolution #16-2023**

- *Distinctions-based Indigenous Health Legislation*



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# **DISTINCTIONS-BASED INDIGENOUS HEALTH LEGISLATION**

- “The Government of Canada is committed to working in partnership to advance the priorities First Nations, Métis, Inuit and Intersectional Peoples put forward when it comes to health care and ensuring improved access to high-quality, culturally-relevant, safe care.
- To this end, in 2019, the Government of Canada made a commitment to hear from First Nations, Métis, Inuit and Intersectional People to identify those priorities and hear what people think of the proposed Indigenous Health Legislation, then work together to co-develop potential legislative options to address them.”

Source: What We Heard Report, January, 2023, Indigenous Services Canada



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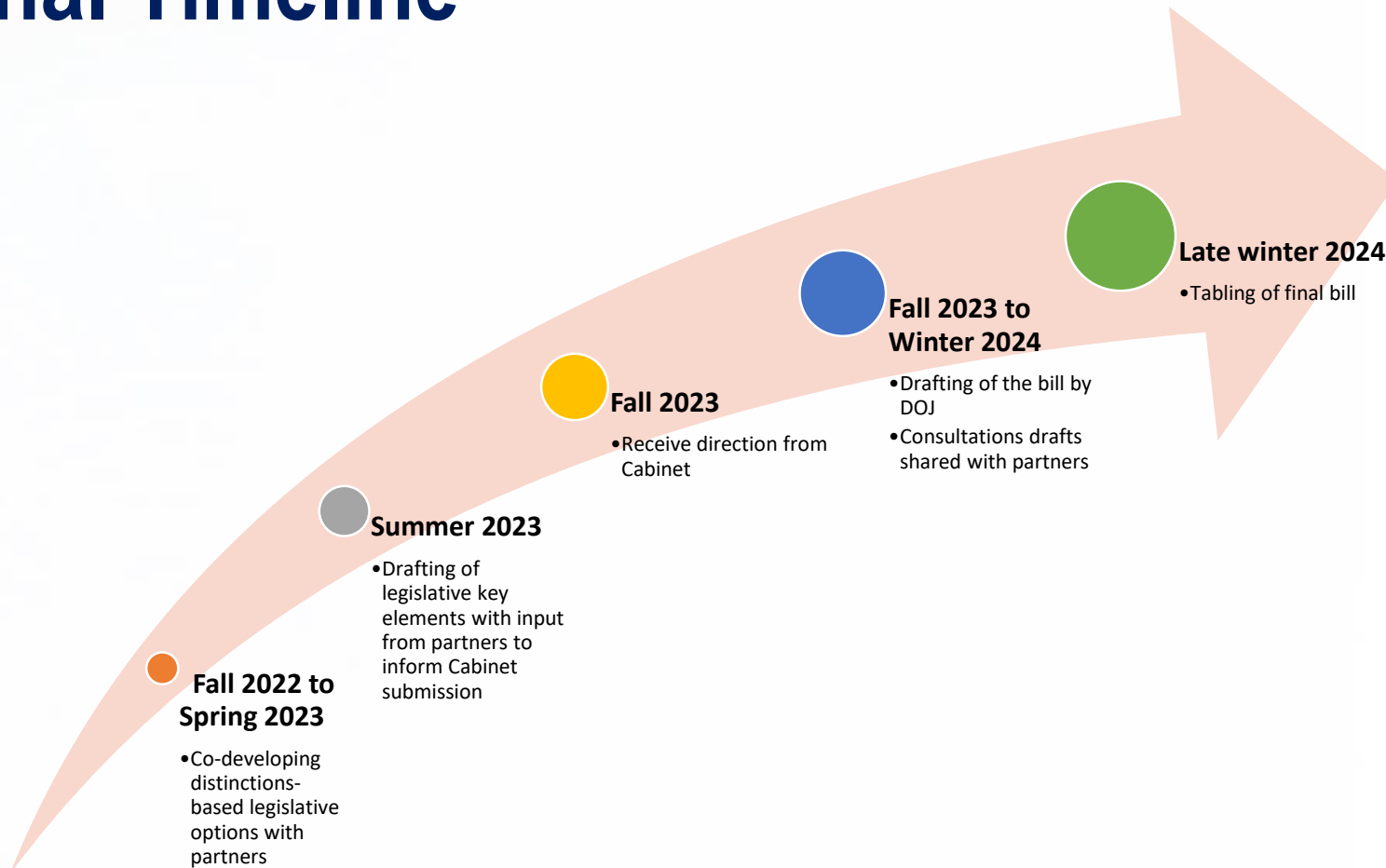
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# ISC Original Timeline





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## ISC Key Elements Document (August 2023)

- High-level overview of potential key elements for the proposed Distinctions-based Indigenous Health Legislation informed by feedback received from Indigenous groups in previous stages of the health legislation engagement process
- Summarizes discussions to date but cannot be construed as representing Government of Canada decisions. Mandates will be sought following this process based on the feedback provided.



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# AFN Health Analysis of Health Legislation Process

The AFN and regions have asserted persistent concerns and flaws in the health legislation process.

The Key Elements document is inadequate and misguided, lacking specific guarantees and detail in terms of legislative content. Other concerns include:

**Timeline:** First Nations' capacity to respond to scheduled release of benchmark documents from ISC to support distinctions-based Indigenous health legislation places them at a disadvantage for meaningful and precise contributions into legislative drafting.

**Funding:** First Nations have not been adequately and equitably funded to formulate strategically thorough assessments of the proposed legislation based on traditional health frameworks consistent with First Nations' worldviews and aspirations. National funding for engagement was \$1 million in total. This amount did not cover the costs of even one region's engagement funding request. As a result, participation from community and regional level engagement is insufficient to affirm comprehensive free, prior, informed consent.



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## AFN Health Analysis Cont'd

**Jurisdiction:** ISC has not respected the jurisdictional rights and realities of First Nations. There is no commitment demonstrated to ensure necessary work with the Provinces and Territories is incorporated during the trajectory of distinctions-based health legislation. Transparent agreements from the Provinces and Territories are necessary to strengthen engagement credibility and implementation viability.

**Treaty and Inherent Rights:** the Key Elements document is in opposition to the full implementation of and adherence to the Treaty Right to Health. It is inconsistent with the international, constitutional, and inherent rights of First Nations, undermining efforts for a renewed nation-to-nation relationship and First Nation self-determination specific to the area of health.





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# Resolution 14/2023 AFN SCA, December 2023

*Recommendation to First Nations-in-Assembly is to temporarily suspend AFN's participation in the proposed federal distinctions-based Indigenous health legislation discussions.*

Criteria to resume participation in discussion on health legislation:

- Adjusted timelines to ensure free, prior and informed consent of First Nations
- Adequate and equitable funding for First Nations to effectively engage with Rights-holders
- Firm Provincial and Territorial commitments to work with First Nations to implement Distinctions-based Indigenous Health Legislation in their jurisdictions
- Federal Commitment to implement the Treaty Right to Health
- More clarity on what health legislation will address re: health inequities for First Nations



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## Questions/Discussion

Thank you for your contributions to this discussion on Resolution 14/2023 on the proposed federal distinctions-based Indigenous health legislation

### Health Sector Contacts

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