



## Comparative Funding Analysis: Loving Justice Plan and Canada's Plan

On August 20, 2025, the Canadian Human Rights Tribunal (Tribunal) issued 2025 CHRT 80, ordering Canada, the First Nations Child and Family Caring Society (Caring Society), and the Assembly of First Nations (AFN) to submit plans and remedies for long-term national reforms to First Nations Child and Family Services (FNCFS), with the goal of permanently ending discriminatory conduct. Canada, the Caring Society and AFN had to file their submissions with the Tribunal by December 22, 2025, either jointly or separately. The Caring Society and AFN were further ordered to collaborate with the National Children's Chiefs Commission and ensure the voices of young people were included. As Canada refused to collaborate, two distinct plans were submitted to the Tribunal, the First Nations led Loving Justice Plan and Canada's National Plan. This information sheet outlines the key differences between the two plans' funding approaches.

- ✓ Loving Justice is a First Nations led national-plan (outside of Ontario) that represents the gold standard for ending discrimination, preventing its recurrence and upholding the rights of First Nations children, youth and families. It outlines a funding approach that is durable, utilizes needs-based funding, with protections of statutory or special purpose allotment mechanisms, which aligns with the Tribunal findings that discretionary, short-term funding contributes to systemic discrimination.
- ✓ Canada's Plan is a Canada developed approach that presents a national framework based on the rejected Final Settlement Agreement with pre-set national envelopes and formula-based allocations, according to population and regional implementation. Canada cites a multi-year fiscal commitment totalling \$35.5 billion through 2033-34 and \$4.4 billion ongoing<sup>1</sup>, the plan does not include legislated, statutory appropriation.

Loving Justice	Canada's Plan
<b>Funding Basis:</b> Needs-based + actuals backstop	<b>Funding Basis:</b> Formula-based, population driven
<b>Funding protection:</b> Yes (Statutory or special allotment)	<b>Funding Protection:</b> No statutory protection
<b>Capacity Funding:</b> Yes – Funded at actuals	<b>Capacity Funding:</b> No designated capacity funding – Capacity building drawn from children's service funds
<b>Reallocation Protection:</b> Yes	<b>Reallocation Protection:</b> No protection – Reallocation risk remains
<b>Actuals:</b> Permanent backstop until better data exists	<b>Actuals:</b> Ends in 2027 (except limited areas subject to Canada's discretion)
<b>Prevention Funding:</b> Needs-based	<b>Prevention Funding:</b> \$2,500 per person on reserve
<b>Capital Funding:</b> Actuals until new mechanism is co-developed	<b>Capital Funding:</b> Proposal-based after 2027, federal discretion and ultimate decision-making

<sup>1</sup> Canada's Plan, Part 1.1

	Loving Justice	Canada’s Plan
Baseline Funding	<p>Reflect the actual cost of delivering FNCFS, including prevention, protection, cultural supports, governance and infrastructure.<sup>2</sup></p>	<p>Uses 2022-23 funding levels as its baseline, adjusting for inflation and population size.<sup>3</sup></p> <p>*Baseline funding is not adjusted for remoteness.</p>
Protection against Reallocation	<p>Statutory funding as the primary safeguard against politicised or discretionary decisions.</p> <ul style="list-style-type: none"> <li>● Special Purpose Allotment prohibit lapsing and prevents reallocation to other programs at year-end.<sup>4</sup></li> <li>● Federal legislation, including the <i>Financial Administrative Act</i>, cannot be invoked to avoid or delay meeting funding obligations.<sup>5</sup></li> </ul>	<p>Lacks non-reallocation safeguards.</p> <p>Reallocation risk remains. Funds could be diverted or reduced, creating uncertainty for children, families and service agencies.</p>
Population Substantive Equality	<p>A substantive equality approach to population.</p> <ul style="list-style-type: none"> <li>● Includes registered members, First Nations children and families temporarily off reserve due to education, health, lack of housing or other structural barriers, as well as those who wish to live on reserve but cannot.<sup>6</sup></li> </ul>	<p>Uses a narrow administrative approach where population counts are derived from the IRS.<sup>7</sup></p>
Prevention	<p>Prevention funding is embedded within a broader structural framework that recognizes cultural continuity, community-defined needs and the structural drivers of child welfare involvement.<sup>8</sup></p> <ul style="list-style-type: none"> <li>● Prevention is understood as a multi-layered set of supports tailored to each First Nation’s service model and capacity rather than a single formula.</li> <li>● Research finds that the minimum operational budget required is approximately \$1.2M/year.<sup>9</sup></li> </ul>	<p>Applies a fixed formula of \$2,500 per registered on-reserve person, indexed to inflation, with a minimum of \$75,000 per Nation.<sup>10</sup></p>

<sup>2</sup> Loving Justice, Section 6.C

<sup>3</sup> Canada’s Plan, Part 1.2 (Baseline Funding)

<sup>4</sup> Loving Justice, Section 6.B

<sup>5</sup> Loving Justice, Section 6.A

<sup>6</sup> Loving Justice, Section 6.C

<sup>7</sup> Canada’s Plan, Part 1.2 (Population)

<sup>8</sup> Loving Justice, Section 6.C

<sup>9</sup> [Study of Budget Needs and Funding in the Amended Draft Agreement for Long Term Reform of FNCFS Program Full Report](#)

<sup>10</sup> Canada’s Plan, Part 1.2 (Prevention Funding)

	Loving Justice	Canada’s Plan
Capital Funding	<p>Capital at actual costs - including construction, purchase, repairs, maintenance, replacement and lifecycle needs - until a First Nations-codeveloped capital mechanism is designed, validated by First Nations experts, approved by the National Oversight Council and accepted by the Tribunal.</p> <ul style="list-style-type: none"> <li>● Need is presumed valid, and Canada bears the burden of proving otherwise.<sup>11</sup></li> </ul>	<p>Annual proposal-based capital system after 2027, relying on ISC’s existing infrastructure processes and the Colliers Lifecycle Cost Model.<sup>12</sup></p> <ul style="list-style-type: none"> <li>● Capital project proposals are assessed, ranked, and prioritized based on ISC-determined need.</li> <li>● Competitive processes that tend to favour communities with greater administrative capacity.</li> </ul>
Emergency and Special Circumstances	<p>Comprehensive, needs-based emergency funding at actual costs.<sup>13</sup></p> <ul style="list-style-type: none"> <li>● Recognizes the wide range of emergencies affecting First Nations requiring immediate and adequate financial support to prevent crises from escalating into child welfare involvement.</li> </ul>	<p>Limits emergency funding to a fixed portion of a broader 13% allocation.<sup>14</sup></p> <ul style="list-style-type: none"> <li>● Additional funding requires providers to submit a Service Provider Funding Adjustment Request and wait for a federal decision.</li> </ul>
Adjustment Factors and Remoteness	<p>Information technology, data, poverty supports, emergency funding, inflation, insurance and liability costs, cultural continuity, and remoteness - are interconnected drivers that must flex with real community-defined needs.</p> <ul style="list-style-type: none"> <li>● Remoteness is a structural condition that compounds every aspect of service delivery and therefore requires a flexible, responsive funding approach.</li> </ul>	<p>Standardized formula with remoteness adjustments triggered only when a community meets a 0.40 threshold in the Statistics Canada Index of Remoteness.<sup>15</sup></p>
Capacity Funding	<p>Requires Canada to fully fund regional organizations, technical tables, secretariats and agencies to ensure First Nations have the governance capacity necessary for self-determined services.<sup>16</sup></p> <ul style="list-style-type: none"> <li>● Creates a dedicated capacity envelope funded at actuals for at least five years, enabling adequate staffing, planning and the development of community-driven service models.</li> </ul>	<p>A general willingness to support regional structures but makes no binding commitments.<sup>17</sup></p> <ul style="list-style-type: none"> <li>● Does not identify a dedicated capacity fund, requiring capacity needs must be paid from allocations intended for frontline supports and services.</li> </ul>

<sup>11</sup> Loving Justice, Section 6 (Capital Funding subsection)

<sup>12</sup> Canada’s Plan, Part 1.2 (Capital Funding)

<sup>13</sup> Loving Justice, Section 6.C (Emergency Plan Funding)

<sup>14</sup> Canada’s Plan, Part 1.2 (Funding for IT, results and Emergency)

<sup>15</sup> Canada’s Plan, Part 1.2 Remoteness Adjustment

<sup>16</sup> Loving Justice, Section 6.D

<sup>17</sup> Canada’s Plan, Part 1.2 (Regional Secretariat Support)