

FINANCIAL COMPENSATION OF FIRST NATIONS LEADERS

BY TOM FLANAGAN AND LAURA JOHNSON | NOVEMBER 2015



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EXECUTIVE SUMMARY

Due to passage of the *First Nations Financial Transparency Act*, systematic data about the compensation of chiefs and councillors are now available. Multiple regression analysis identifies three variables that explain part of the variation in pay:

- More populous First Nations offer higher compensation;
- Better funded First Nation governments, as measured by revenue per capita, offer better pay;
- Alberta First Nations offer higher compensation than those in other provinces.

Much variation, however, remains unexplained and difficult to justify. The authors recommend two measures intended to make compensation of chiefs and councillors more transparent to First Nations members as well as to the general public:

- Distinguish pay for governmental responsibilities from pay for business activities (only six First Nations made this distinction in their 2013-14 reports);
- Develop a standard scale for compensation based on the responsibilities of office and the size and income of the community.

Greater transparency should lead to more efficiency in First Nations government as well as more informed and less acrimonious public debate about compensation.

INTRODUCTION

The pay of First Nation chiefs and councillors has long been a topic of discussion in Canada. Typically, debate breaks out in the media after the appearance of reports about chiefs or councillors who are making what seem to be excessive salaries. Discussion based on anecdotal reports is often animated but is limited by the absence of systematic evidence. Hard data are now available, due to passage in 2013 of the *First Nations Fiscal Transparency Act* (FNFTA),¹ which requires annual public disclosure from First Nations of compensation paid to chiefs and councillors.

After reviewing the history of the *Act*, this paper offers a statistical analysis of compensation for chiefs and councillors. Our multiple regression model shows that compensation tends to increase both with the size of the First Nation and with its per capita revenue. There is also an Alberta effect, probably due to higher general levels of wealth and income in that province that prevailed at the time the data were collected. We conclude with recommendations designed to reduce variation in compensation and to distinguish payment for carrying out governmental functions from payment for running First Nations business enterprises. If adopted, these recommendations will improve the quality of information available to First Nations members as well as to the public and should reduce the acrimony that sometimes arises over the compensation paid to chiefs and councillors.

THE UNIQUE CHARACTER OF FIRST NATIONS GOVERNANCE

Before presenting our research results, it is useful to recall some of the unique features of First Nations governance and to see how it differs from other local governments in Canada.

- Many First Nations have very small populations; therefore, chiefs and councillors may be volunteers or even paid employees of the First Nation – arrangements one does not find elsewhere.
- First Nation governments often have relatively large councils, as the *Indian Act* provides for one councillor per 100 members up to a maximum of 12 councillors (custom governments may depart from this formula in either direction).
- Many First Nations have virtually no private sector economy on the reserve, frequently making their governments the only employer.
- First Nation governments are not supported by local tax revenue but by federal transfers and own-source business revenue.
- The collective ownership of First Nation land, combined with the absence of the formal regulatory regimes that exist in other jurisdictions, complicates the job responsibilities of chief and council.
- They often have duties that are quite different from those of other local governments. They may manage business enterprises; they may run social services such as schools and clinics that in other jurisdictions are controlled by separate authorities; they may have to negotiate land claims and other issues with provincial and federal governments.
- The close-knit family structure of many First Nations means that chief and council may carry out functions such as funerals that other jurisdictions do not consider governmental.
- Being a chief or councillor is often a full-time job, whereas being a mayor or councillor in a small Canadian community is usually a part-time job that is accompanied

by other non-governmental opportunities to earn an income.

- Income earned by First Nations members on reserve is not subject to provincial or federal income tax.

For all these reasons, it is difficult to make direct comparisons between the compensation of First Nations chiefs and councillors and those who manage local governments elsewhere in Canada. This paper will not attempt to draw such comparisons but will present an internal analysis of compensation for chiefs and councillors.

LEGISLATIVE HISTORY

Under the *Indian Act*, First Nations communities are required to report financial information to Aboriginal Affairs and Northern Development Canada (AANDC). Prior to the FNFTA, a member of a First Nation could request this information from the band, and if denied, the member could lodge a complaint with AANDC.² Frequently, individuals were redirected to their band councils without receiving the requested information.

At the grassroots level, individuals on reserves were sometimes concerned about the lack of transparency regarding financial information, including the salaries paid to officials. In 2009, Phyllis Sutherland, a member of the Peguis First Nation, discovered that “the chief and band council from her small reserve of 3,700 people were making between \$173,030 and \$251,747 per year, tax-free.”³ She shared this information with the three major federal political parties as well as the Canadian Taxpayers Foundation (CTF), a not-for-profit advocacy group, which released the information to the media.⁴ The salaries seemed high, given that 65 per cent of the houses on the Peguis reserve should have been condemned or renovated.⁵

It was then revealed that the chief of the Enoch Cree Nation earned \$180,000 per year, tax-free, and there was “an average salary of \$175,725 for the 10 band councillors, and six-figure incomes for a third of its senior bureaucrats.”⁶ The CTF received the following note with the Enoch Nation’s financial information:

*I am writing this letter out of pure frustration. I live on the Enoch Cree Nation and we should have no problem providing for our people. The problem is the greed of our leadership and the lack of motivation. We are under a different system than the real world ... we have nowhere to turn I have requested copies of the budgets for several years from both INAC (Indian and Northern Affairs Canada) and Chief and Council and have never received anything.*⁷

In 2010, the CTF set up a Web site to help First Nations members access their bands’ financial information,⁸ and Kelly Block, Conservative MP for Saskatoon-Rosetown-Biggar, introduced a private members bill. Her Bill C-575, *An Act Respecting the Accountability and Enhanced Financial Transparency of Elected Officials of First Nations Communities*, or the FNFTA, had its first reading in Parliament in October 2010. This bill “would require some reserve politicians’ salary details to be posted on the Internet. However, it exempted money paid to a reserve politician if it came from a band-owned enterprise.”⁹ According to Block, Bill C-575 was “a straightforward bill. If passed in its current form, it would require first nations to proactively disclose the salaries they earn and the expenses they have been reimbursed when the funds come from federal tax dollars.”¹⁰ The bill passed its second reading in March of 2011 with support from 15 Liberal MPs as well as the Conservative caucus.¹¹

In the parliamentary Committee session, Block shared a letter she received from a First Nations individual:

*I have felt compelled to email you my support for the first nations bill you have introduced. It is so long overdue and needed. The situation on my reserve is the former chief and council – and all names have been redacted, I would add – have to account for a whopping \$1.3 million in oil moneys missing, yet no one ever hears about this, nor do the media care. With a bill of this nature, it could have been prevented, in my opinion. Please do all you can to have this bill passed and implemented immediately so that our future, the children, never have to go through this, as we have allowed through ignorance and deceit.*¹²

During House of Commons debate, Liberal and NDP MPs voiced concerns that consultation with First Nations individuals and communities was not complete, that the bill was redundant given the reporting requirements already

in place, that it violated the United Nations Declaration on the Rights of Indigenous Peoples and that it was inherently racist and perpetuated stereotypes.¹³ In any event, Bill C-575 died on the order paper when a general election was called on March 26, 2011.

After the Conservatives were returned to office, the June 2011 Speech from the Throne set the stage for Bill C-27 to be tabled later that year, promising that the government would “support transparency for First Nations communities by requiring their chiefs and councillors to publish their salaries and expenses.”¹⁴ On November 23, 2011, the *First Nations Financial Transparency Act*, Bill C-27, was introduced by the Minister of Aboriginal Affairs and Northern Development Canada. The bill was inspired by Kelly Block’s private members bill, C-575, but added the requirement to publish the audited consolidated financial statements for each First Nations community.¹⁵ AANDC was already receiving audited consolidated financial statements and a schedule of salary, honoraria and travel expenses for all band officials, but C-27 required that the information be made public on the Department’s Web site.¹⁶ The immediate goal of the bill was to eliminate the requests that AANDC was receiving from First Nations individuals for their band’s financial information. The desired result of the bill was to enhance transparency and accountability on First Nations communities, as well as encourage private sector activity on reserves.

Second reading took place on June 20 and 21, 2012, with six hours of debate over two sessions. Opposition speakers had the same criticisms that they had for Bill C-575, namely that First Nations were not appropriately consulted, that the required level of reporting would be onerous and redundant and that the bill violated the United Nations Declaration on the Rights of Indigenous Peoples. Additional issues included questioning why the public should be able to access the reserves’ financial information and whether the publication of financial reports would undermine the competitiveness of private enterprise on reserves.¹⁷ Defenders of the bill argued that C-27 had developed

from C-575, which had arisen due to concerns from First Nations individuals. Given that the financial information to be published is identical to that already reported to AANDC, the reporting requirements would not be increased. The publication of the data would reduce the need for members of First Nations to ask the band council or AANDC for the information. The financial statements would be reported in aggregate to eliminate the possibility that their publication would impede competitiveness or private investment. Allowing the public to access the records would eliminate the possibility that First Nations individuals who requested the information could be identified and targeted.

The bill was carried with a vote of 139-121 and was referred to the Standing Committee on Aboriginal Affairs and Northern Development. Twenty-one witnesses testified both for and against the bill, representing organizations such as the CTF, the Frontier Centre for Public Policy, the Office of the Auditor General of Canada, the Aboriginal Financial Officers Association of Canada, the Office of the Privacy Commissioner of Canada and representatives from specific First Nations communities. The concerns expressed in committee were similar to those voiced in the floor debates over C-575 and C-27.

Phyllis Sutherland, the woman from the Peguis First Nation who had first sent financial information from her reserve to the CTF, spoke about the difficulties people faced when asking for financial information.

I will tell you our experience and the reality of trying to access information. ATIP [Access to Information and Privacy] forms from me and from other band members have been ignored; requests for information have also been ignored by trustees of our treaty land entitlement; and members are subjected to intimidation tactics such as fearmongering, public attacks, and attempts to destroy a person's credibility.¹⁸

After some amendments were made and accepted at the report stage, the bill finally passed third reading on

November 27, 2012, with a vote of 159 to 131.¹⁹ It went through the Senate without further amendment and received royal assent on March 27, 2013.²⁰

Since the FNFTA became law, most bands have complied with the reporting requirements. The government was lenient with its initial deadline of 120 days after the first quarter and extended the deadline by another 120 days. On December 8, 2014, the Minister of Aboriginal Affairs and Northern Development stated:

Effective immediately, we are taking court action as provided by the Act against band governments who have indicated their intention not to comply with the Act. ...

We will continue to withhold funding for non-essential programs for all non-compliant First Nations.²¹

As of July 2015, eight First Nations were in court, challenging the Act's constitutionality, after having refused to file the required information.²²

Independent of any court decision, the FNFTA may be repealed after the 2015 election. Liberal leader Justin Trudeau has announced his intention to replace it with something more "respectful."²³ The NDP also continues to oppose the Act, but the party has not been as explicit about repealing it.²⁴ Whatever may happen, the Act's reporting and publication requirements have for the first time created a systematic body of data about the compensation paid to First Nations chiefs and councillors.

DATA

Data for this paper were captured in May 2015 from the First Nations' community profiles pages on the Web site of the AANDC.²⁵ Under the FNFTA, First Nations must file a schedule of remuneration and expenses for chief and council members as well as audited consolidated financial statements. These are posted on the Department's Web site under the FNFTA tab.

The data used in this study are for fiscal 2013-2014; reports for fiscal 2014-2015 were not available at the time of our research. The data are almost, but not quite, complete. We retrieved information on remuneration for 560 out of a possible total of 618 officially recognized First Nations²⁶ or 91 per cent of the theoretical maximum total of cases. The First Nations that operate under self-government legislation are not obliged to report, and some others have refused to comply and are challenging the constitutional validity of the FNFTA in court.

There are obvious imperfections in the data because First Nations are not required to follow a standard template in reporting. A few reported chiefs' governmental salaries separately from other salaries earned for running tribal businesses, while most merged these items. Other First

Nations reported a variety of honoraria and expenses without specifying the nature of these payments. We have thus used the variable of total compensation in our analysis because it appeared to be the most inclusive. Some chiefs and council members may have also received additional payments for carrying out duties in tribal, regional and national Aboriginal organizations; these payments do not have to be reported under the FNFTA and are not included in the analysis.

The audited consolidated financial statements are also not consistent in the categories under which revenue is reported. We have had to use our judgment in creating new variables such as Per Cent Own-source Revenue. For reasons of missing and imperfect data, we do not claim that our study is definitive. It is an exploratory first attempt to use the existing data to explain variation in compensation levels for First Nation chiefs and council members, but like all such initial attempts, more-complete studies based on better data will probably succeed it in time.

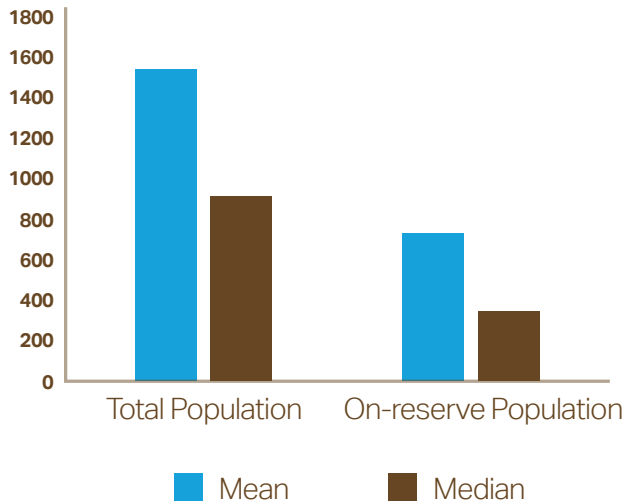
Figure 1 summarizes the central tendencies for both chiefs and councillors in the 2013-2014 fiscal year.

Figure 1: Total Compensation for First Nations Chiefs and Councillors, Fiscal 2013-2014



Figure 2 shows the mean and median values for First Nations populations, both total and on reserve, according to the 2011 census.

Figure 2: Population of First Nations, 2011 Census



A high degree of variation in compensation exists. Chiefs' salaries ranged from \$0 to \$914,219, and total remuneration from \$13,816 to \$930,793 in 2013-2014.²⁷ Councillors'

salaries ranged from \$0 to \$297,539, and total remuneration from \$0 to \$389,620. Similar or even larger variation is found in the worlds of sport, entertainment and business, where individual performance is crucial to success, but it is uncommon in the world of government. Modern governments set salary scales based on qualifications and seniority and typically pay close attention to what other governments are doing so that similar jobs are similarly rewarded across jurisdictions.

The federal government does not set compensation norms for chiefs and councillors, and it appears that First Nations make little attempt to standardize pay across jurisdictions. Pay scales for leaders are apparently influenced by local cultural, economic and political factors as much as by organizational imperatives.

Variation in First Nations compensation is also visible across Canadian regions, provinces and territories. Figure 3 shows provincial and territorial means and medians for chiefs' salaries and total compensation, while Figure 4 provides the same data for councillors.

Figure 3: Total Compensation for Chiefs Arranged by Province and Region

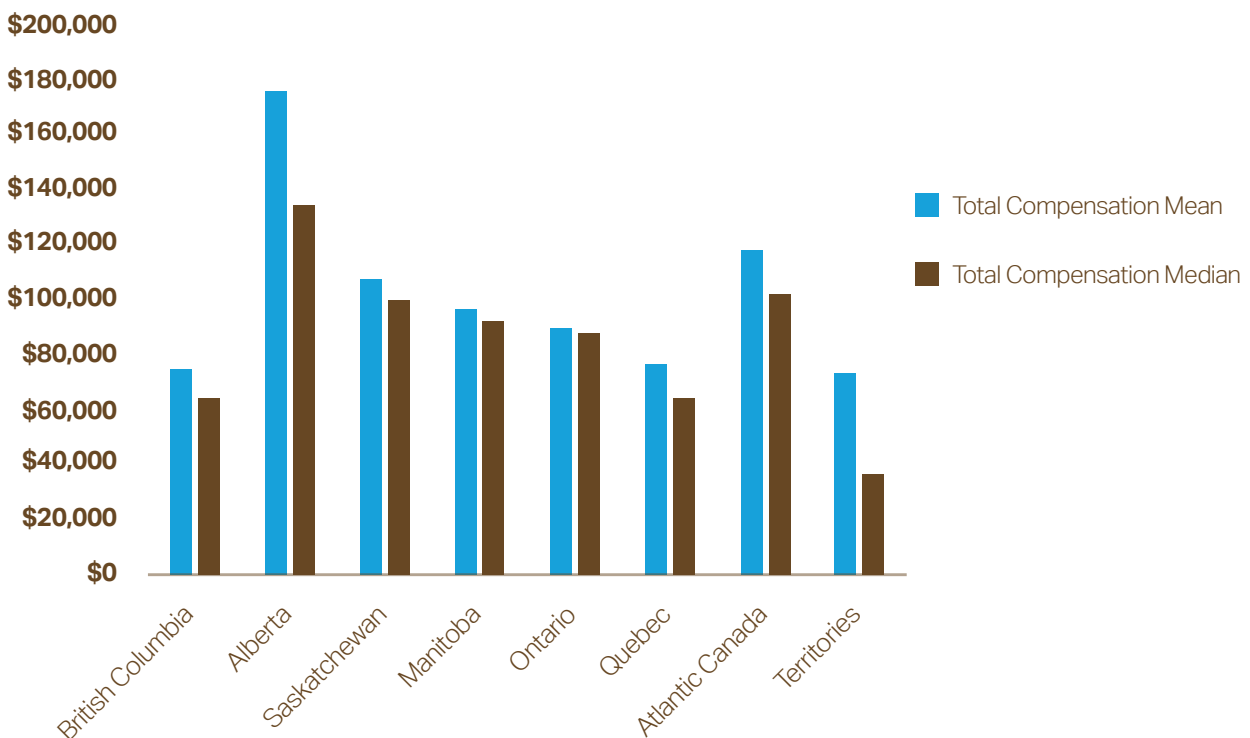
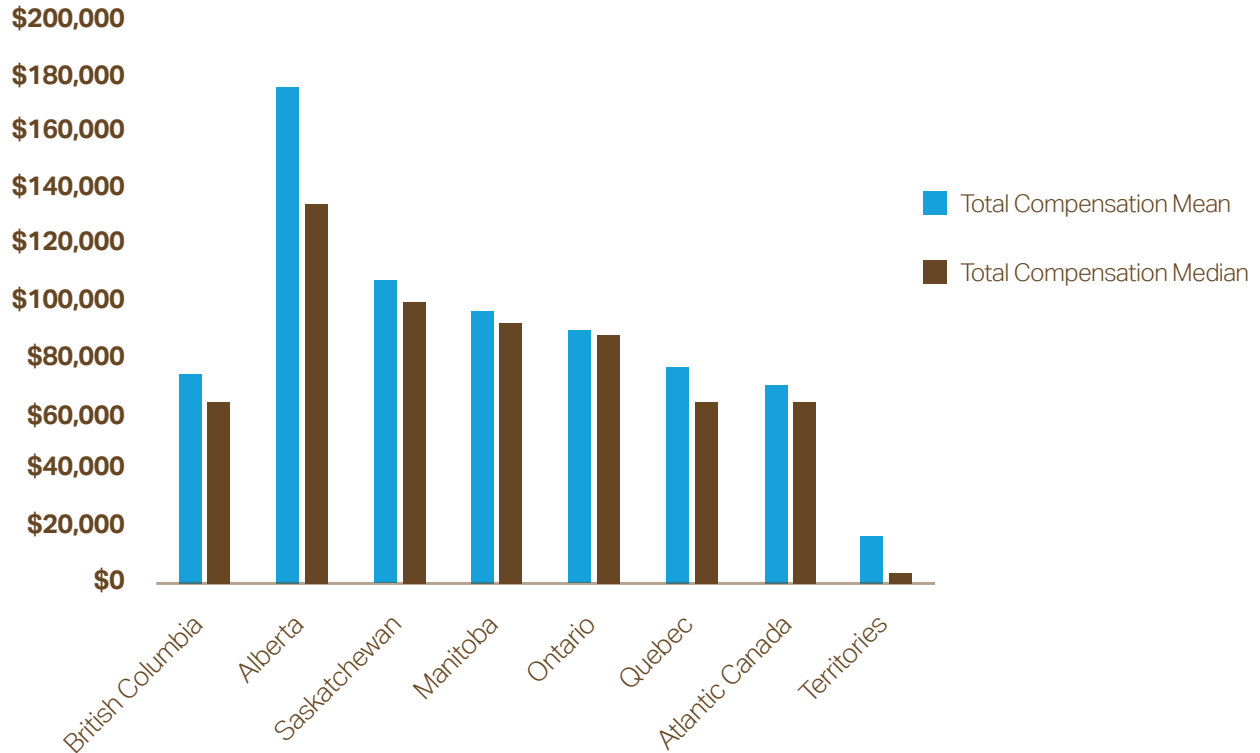


Figure 4: Total Compensation for Councillors Arranged by Province and Region

No complete explanation for these differences is obvious. Alberta First Nations have by far the highest levels of compensation for both chiefs and councillors, which makes sense in terms of the wealth generated by the petroleum industry during the time of this study. Alberta First Nations share in that wealth because they have historically received 100 per cent of royalties from production on reserve, and they now receive additional benefits from impact and benefit agreements for activity on "traditional territories."²⁸ However, if that is the explanation for Alberta, what explains the relatively high levels of compensation prevailing for chiefs in the Atlantic region, where the standard of living is lower than in the rest of Canada and few First Nations have large resource revenues? With economics seemingly excluded, the explanation must lie in local cultural and political factors.

EXPLAINING THE VARIANCE

In this section, we use standard statistical techniques to explain at least part of the large variation in compensation packages for elected officials. The first step is to look for candidate variables that could plausibly contribute to an explanation. We have settled on the following five, which are within our database drawn from the First Nations' community profiles:

1. ON-RESERVE POPULATION. Larger jurisdictions in Canada tend to pay elected representatives more than smaller jurisdictions do. In general, cities pay mayors and councillors more than towns do; provinces pay MLAs more than cities pay elected officials; Canada pays MPs more than provinces pay MLAs. There are exceptions, but this is the general tendency. Higher pay for greater population would be logical for First Nations, because larger numbers of people on reserve bring more demand for services from the band government – housing, education, welfare, medical care, roads, sanitation, etc. A larger population also probably means more time spent in consultation with members, which is a major responsibility of representatives everywhere. We thus arrive at our first hypothesis: H(1): First Nations with larger populations will tend to pay higher compensation to officials.

2. TOTAL REVENUE PER CAPITA. In all organizations, those who are responsible for the larger budgets earn higher salaries. In universities, for example, the president, who is responsible for the entire budget, earns more than deans, who are responsible for their faculties; and deans earn more than department heads, whose budgetary responsibility is still more restricted. It would be logical for First Nations to behave in a similar way. However, we have to divide total revenue by population, because First Nations with larger populations receive higher annual financial support from the federal government. Thus, we arrive at H(2): First Nations with higher revenue per capita will tend to pay higher compensation.

3. NET FINANCIAL ASSETS PER CAPITA. First Nations vary enormously in the wealth that they hold in federal trust accounts, bank accounts and other assets. Their financial positions range from \$76-million in net debt to \$454.5-million in net wealth (the oil-rich Samson Cree Nation in Alberta). Greater wealth takes more acumen to manage, so in the world of finance and investment, those who manage larger trust or investment funds receive better compensation than those who manage smaller funds. Therefore, it might be logical for First Nations with larger net assets to pay higher compensation to elected officials, there being more at stake. Again, we divide by population, because larger First Nations will tend to have larger assets. Thus emerges H(3): First Nations with higher financial assets per capita will tend to pay higher compensation.

4. PERCENT OWN-SOURCE REVENUE. Own-source revenue is generated by economic activity that a First Nations engages in, such as leasing reserve land, collecting property taxes on lease land, earning resource royalties and operating businesses such as casinos, golf courses, hotels, lumber mills and airlines. A few First Nations are totally dependent on government transfers, so their Per Cent Own-source Revenue is zero, while a few are so active in business that their Per Cent Own-source Revenue approaches 100 per cent. The vast majority are in between, with a median value of 24 per cent. It seems reasonable to expect that First Nations with higher Per Cent Own-source Revenue would have more activity to manage, so elected officials might be better paid. Thus arises H(4): First Nations with higher Per Cent Own-source Revenue will tend to pay higher compensation.

5. THE ALBERTA EFFECT. This is an explanation of a different type. Because of Alberta's resource wealth, we would expect First Nations in that province to have higher revenue, greater financial assets and higher Per Cent Own-source Revenue. However, the great difference noted in

the preceding section between compensation levels in Alberta First Nations and those in all other provinces and regions suggests that there may also be an Alberta effect going beyond the effect of the four demographic and economic variables discussed above. Living in wealthy Alberta may create higher expectations for compensation on the part of First Nations' officials. Thus we come to H(5): Compensation is higher in Alberta than can be accounted for solely by the objective factors of population, revenue per capita, net financial assets per capita and Per Cent Own-source Revenue. We can test this hypothesis by creating a dummy variable in which Alberta First Nations are coded 1 and all others are coded 0.

We test the five hypotheses against two measures of compensation:

1. CHIEFS' TOTAL REMUNERATION. This is all payments including salary as band chief, salary as business executive, honoraria, expenses and travel. We decided it was advisable to use this all-inclusive measure because First Nations' reporting was not consistent. Inclusion of travel and other expenses in this variable is, of course, debatable, because they may cover legitimate business expenses without any frills. However, given the secrecy that surrounded First Nations' business affairs before the passage of the FNFTA, it seems likely that travel and other expense accounts were to some degree an equivalent of income.

2. COUNCILLORS' AVERAGE TOTAL REMUNERATION. This includes the same forms of payment as the chiefs' and for the same reasons. The only difference is that the total remuneration for councillors in each First Nation is divided by the number of councillors in order to produce an average figure. Councillors do not all necessarily receive exactly the same compensation, so we had to compute an average figure.

With numerical variables of this type, measured in numbers of people or dollars, the most common statistical procedure for hypothesis testing is ordinary least squares (OLS) regression. Strictly speaking, OLS regression requires that all variables be normally distributed, which means that the mean and median have the same value, and other observations are symmetrically distributed about the centre point. As the reader will have already noticed in Figures 1 and 2, the means of the compensation variables are substantially higher than the medians are, which arises from the lack of symmetry in the distribution. This is also true of the demographic and financial variables. In each case, a long tail of higher values extends to the right. Statistical tests for skewing suggest that the variables are so far off the normal distribution that it is better to use logarithmic regression rather than OLS (see the Technical Appendix for details).

In logarithmic regression, calculations are done not with the real values of those variables but with the natural logarithms of those values (computed on the base e , an irrational number approximately equal to 2.718...). This has the effect of pulling in the long tails of a non-normal distribution closer to normal. The regression line is linear for the logarithms but in effect becomes curvilinear for the real values, allowing a tighter fit of non-normal data to the line, thus reducing the error variance and producing a higher level of explanation.

Table 1 summarizes the bivariate (i.e., using only independent variable to explain the dependent variable) tests of our five hypotheses against the measures of compensation for chiefs and councillors. The entry in each cell is the correlation coefficient produced by regressing compensation upon the explanatory variable, with both being logged.²⁹ Correlations that are statistically significant at the .05 level are marked with * and those that are significant at the .01 level or beyond are marked with **.

Table 1: Bivariate Tests of Five Hypotheses

	Chiefs' Compensation	Councillors' Compensation
H(1)	.26*	.44**
H(2)	.04	-.19**
H(3)	.09*	.02
H(4)	.01	.08*
H(5)	.23**	.30**

Looking at these bivariate correlations, it seems that H(1) and H(5) are best supported by the evidence, i.e., on-reserve population size and the Alberta effect have the strongest power to explain the differences in compensation for chiefs and councillors. The explanatory effect, moreover, is greater for councillors than for chiefs. The three financial variables seem to play no significant role (the correlation with Total Revenue Per Capita is statistically significant but in the wrong direction).

Before coming to a conclusion, however, we must move from the bivariate to the multivariate level of analysis, using several independent variables to explain the dependent variable. The statistical procedure known as multiple regression allows us to assess all five explanatory variables simultaneously, isolating the impact of each, net of the impact of all the others. Such an approach is necessary, because the explanatory variables do not act in isolation but interact with each other in complex ways.

For those not familiar with multivariate analysis, a comparison with medical research on heart disease may be helpful. Research has identified a number of causal lifestyle factors for heart disease such as smoking, obesity, lack of exercise, fatty diet, overindulgence in alcohol and poor sleep habits. However, these causes are clearly interconnected: e.g., smoking and obesity make it more difficult to exercise regularly. To get an overall prediction of the risk of heart disease, we need a procedure for combining the causal factors and assessing their effect net of all the factors – *ceteris paribus*, "other things being equal" in the famous phrase of statisticians.

Table 2 reports the multivariate analysis of the effects of our five independent variables upon the two dependent variables, namely chiefs' total remuneration and councillors' average total remuneration. These two equations are available in the Technical Appendix. Here, in the interest of easy comprehension, we summarize the results. The first number in each row of the table is the coefficient between the logarithm of the independent variable and the logarithm of Chiefs' Total Compensation. The second number is the probability that a coefficient of this magnitude could occur by chance. The third number is the coefficient between the logarithm of the independent variable and the logarithm of Councillors' Total Average Compensation. The fourth number in the row is the probability that a coefficient of this magnitude could occur by chance.

Table 2: Summary of Multivariate Analysis

	Chiefs		Councillors	
	Coefficient	Probability	Coefficient	Probability
H(1)	.26	<.0001	.32	<.0001
H(2)	.38	<.0001	.25	<.0001
H(3)	.08	.03	-.03	.55
H(4)	.00	.94	.07	.03
H(5)	.36	.0004	.68	<.0001
R	.50		.53	
R Squared	.25		.29	

In OLS regression, the interpretation of the coefficient is intuitively straightforward; the coefficient can be visualized as the slope of the straight line representing the relationship between the independent and dependent variable, *ceteris paribus* (other things being equal). The greater the slope, the steeper the line, and the more impact the independent variable has upon the dependent variable. Thus, in OLS regression, a coefficient of 0.26 (the first in Table 2) would mean that for every unit increase in the independent variable (one more person living on the reserve), the expected value of the Chief's Total Remuneration would increase 0.26 units (26 cents). Unfortunately, this intuitive interpretation does not apply in logarithmic regression, because the relationship between the logarithm and the underlying variable is curvilinear, not linear. What can be said, however, is that a larger coefficient signals a stronger impact than does a smaller coefficient.

The probability values tell us how likely it is that the relationship in question is real and not just a result of chance or error variance. A value of <.0001 says that there is less than one chance in 10,000 that the relationship is just a product of chance. A value of .03 tells us that such a relationship might arise by chance three times in a hundred – signalling a much greater risk of error if we accept the relationship as real.

The H(1) line of Table 2 confirms the finding of the bivariate analysis that the size of on-reserve population is positively related to compensation for both chief and council. Put simply, the more people, the higher the pay. The H(2) line, however, departs from the results of the bivariate analysis by suggesting that revenue per capita is also positively related to compensation. Again, to put it simply, the bigger the budget, the higher the pay for elected representatives. The H(3) and H(4) lines are more or less in accord with the bivariate findings that Net Financial Assets Per Capita and Per Cent Own-source Revenue are unrelated to compensation levels. There are, to be sure, two marginally significant probability values (both = .03), but one is for chiefs and the other is for councillors. The picture for these

two variables is inconsistent, and any possible relationship is much weaker than for On-reserve Population and Total Revenue Per Capita.

Finally, the Alberta effect shows up as strongly significant in both columns. Even after the effect of objective demographic and financial variables is taken into account, there is something about the Alberta environment that promotes higher pay for chiefs and councillors. The effect is not as strong as it appears in a simple listing of mean compensation by province, because Alberta First Nations on average have more revenue per capita than First Nations in the rest of Canada do. So some – but not all – of the apparent Alberta effect can be explained by differences in endowments. The multiple regression tells us, however, that pay is higher in Alberta even after allowing for these factors.

The Alberta effect is probably due to the resource wealth of Alberta's economy, in which First Nations participate. First Nations with oil and gas royalties or lucrative impact and benefit agreements for activities on their traditional territories are able to pay higher compensation to political leaders. We speculate that a spillover of expectations leads to higher pay across the board. Chiefs and councillors of Alberta First Nations that do not have as much income participate in tribal and regional organizations with their wealthier colleagues and could come to see higher compensation as normal. This is admittedly speculative, but it is consistent with the evidence reported under the FNFTA. It is also consistent with the well-known fact that earnings were higher in Alberta than elsewhere in Canada at the time of the study. At the beginning of 2015, the average annual wage in Alberta was \$60,476 versus \$49,000 for Canada in general.³⁰ If this explanation is correct, then we could expect the Alberta effect upon the compensation of chiefs and councillors to become less pronounced if oil prices remain low for a period of years.

The values .50 and .53 labelled R below the main table are the multiple correlation coefficients between the dependent variables (Chiefs' Total Remuneration and

Councillors' Average Total Remuneration respectively) and the aggregate of the five independent variables entered into the regression equation. In Table 1, the highest bivariate correlation coefficients achieved for any single variable were for On-reserve Population (.26 when correlated with Chiefs' Total Remuneration and .44 when correlated with Councillors' Average Total Remuneration). The increase from .26 to .50 for chiefs and from .44 to .53 for councillors represents the growth in explanatory power achieved by considering multiple variables simultaneously.

Note that the increase is greater for chiefs than for councillors. This suggests that Per Capita Revenue, which did not show up as a significant factor in the bivariate analysis, is more important for chiefs than for councillors. This accords with common sense observation that chiefs have a greater executive role than councillors do. When the budget is larger per capita, it is logical that the person primarily responsible for managing that budget should be better compensated.

Finally, the R Squared value represents the percentage of statistical variance explained by the multiple regression equation – 25 per cent for chiefs, 29 per cent for councillors. These modest values are typical of social science research into complex questions of public affairs. They suggest that although we have explained something, we are far from explaining everything. Differing compensation levels must be affected by many other factors for which we have no data and cannot represent in our equations. Because our findings are modest, we will be cautious in the recommendations we put forth in the next section.

DISCUSSION AND RECOMMENDATIONS

The high average level of compensation combined with the great variation gives rise to unusual levels of compensation in particular cases. For example, 28 chiefs in 2013-2014 had total remuneration over \$200,000 and 10 received over \$300,000, with one over \$900,000 (admittedly a special case that probably will not be repeated). Councillors were not as highly paid as chiefs were, because they do not perform the same executive functions. However, on 16 First Nations, the average total compensation of councillors was over \$150,000, with a high of almost \$390,000. Publication of such cases can inflame public opinion, so it might be in the self-interest of First Nations to do something about this.

As First Nations get more involved in the world of business and their officials preside over greater cash flow, demands for transparency are likely to increase. In a recent decision, the British Columbia Court of Appeal held that the concept of fiduciary duty, which has been used to describe the relationship of the Canadian government to First Nations, can also be used to describe the relationship of chief and council to the membership of a First Nation.³¹ Councillors of British Columbia's Lower Kootenay Indian Band, who had paid themselves \$5,000 each as a retroactive honorarium for concluding a deal with the Regional District of Central Kootenay, were ordered to return the payments. Inexplicably high levels of compensation are likely to cause continuing unrest as First Nations people become more educated and sophisticated in business dealings.

In some cases, the explanation for very high cases of compensation may be that the First Nation is running successful business operations in which political leaders play an important role and is, so to speak, paying these salaries with its own money. If that is the case, it should be of no concern to Canadian taxpayers, any more than the earnings of top athletes, entertainers and business executives should be set by public policy. However, only six First Nations chose to report the earnings of business executives separately from compensation for performing

governmental functions. It would be helpful if all First Nations would make this distinction so that both members and outside observers can be clear about how public money is used.

We make two recommendations for implementation by the government of Canada. First, Parliament should amend the FNFTA to require First Nations to report governmental compensation and business compensation as different categories. In the small communities of First Nations, it is impossible to separate business and government to the extent expected in the rest of Canada, but it is important and useful to make this distinction in reporting compensation, as indeed six First Nations already do. As long as transfer payments from the federal government pay for governmental functions of First Nations,³² the Canadian public, as well as the members of First Nations, should be entitled to know how that money is spent. Separate reporting of compensation for governmental and business functions should, in the end, help reduce the ill will sometimes generated by media stories about the incomes of First Nations' leaders.

Second, AANDC should work with First Nations toward developing an approved schedule of compensation for chiefs and councillors, with the goal of reducing the high variation that prevails. The result should be a grid of compensation levels that vary according to the size of the First Nation and the size of its budget, variables that our study has identified as having a significant impact. The compensation grid should also allow for the extra functions that First Nations sometimes have to exercise beyond those of most Canadian municipalities. A study by professional compensation evaluators might be a useful part of the exercise.

In an ideal world of self-government, First Nations would undertake this for themselves. Modern governments everywhere attempt to compensate according to function,

and jurisdictions study each other to make sure their pay scales are fair, effective and affordable. In principle, First Nation governments should act in the same way. There are, however, some practical obstacles to First Nations taking the lead. For one thing, most First Nations are so small they do not have the resources to do this. The obvious Aboriginal body to take the lead is the Assembly of First Nations (AFN), but the AFN is composed of chiefs, who, along with councillors, are the principal beneficiaries of the current loose system. Perhaps regional and tribal organizations could play a useful role here if the AFN is unable to act.

An additional factor that makes it difficult for First Nations to address their compensation levels is the absence of taxation on Indian reserves.³³ In other Canadian governments, some taxpayers are keenly aware of what politicians earn, and they can rouse public opinion against high compensation, because they (correctly) regard it as coming out of their pockets. Among First Nations, in contrast, politicians are paid not by members' taxes, which do not exist, but by transfers from Canadian taxpayers. Members of First Nations, therefore, do not have the same incentive to monitor the pay of their political leaders. They perceive (correctly) that chiefs' and councillors' pay does not come out of their pockets.

The stated purpose of the FNFTA was to make sure that members of First Nations get the information necessary to make an informed judgment about pay levels, but the absence of taxation means that incentives for action are low. Nonetheless, publication of the 2013-2014 FNFTA data led to at least three reported instances of chiefs coming under fire within their own nation for excessive pay. In one British Columbia case, the chief was defeated in the next election, but in another case in the same province, the chief was seemingly vindicated by being returned to office.³⁴ In March 2015, the Peguis First Nation elected a new chief, Cindy Spence. She ran on a "platform of accountability and transparency saying she would have a public meeting about the \$22 million Peguis received for its Treaty Land Entitlement (TLE) and the purchase of 40 acres of land in the Rural Municipality of Headingley."³⁵

The incumbent chief whom she defeated was Glenn Hudson, whose salary of \$174,230 in 2008-2009 was the focus of the information given to the CTF that started the movement toward the FNFTA.

We suggest that our two recommendations will help the FNFTA achieve its stated purpose. The result will not be perfect, because the absence of taxation limits the incentives for action within First Nations, but the level of public information will improve. Unfair criticism can be reduced if people are aware of the rationale for pay scales and understand what aspects of job performance are the conduct of business enterprises rather than governmental functions. That in turn will make it easier to identify and remedy any egregious cases of overpayment, which waste money within First Nations and generate unnecessary criticism of First Nations on the part of Canadian taxpayers.

TECHNICAL APPENDIX

Table A1: List of Variables

Name	Mean	Median	Standard Deviation	Skewness
On-reserve Population	736	360	1,192	4.48
Total Revenue Per Capita	\$96,715.69	\$24,045.72	\$337,704.45	6.77
Net Financial Assets Per Capita	\$48,151.37	-\$1,096.77	\$528,898.79	12.34
Percent Own-source Revenue	28%	24%	20%	2.52
Chiefs' Total Remuneration	\$94,524.60	\$84,181.00	\$73,794.97	5.65
Councillors' Average Total Remuneration	\$54,846.85	\$48,938.67	\$41,611.72	2.49
Alberta = 1, Not Alberta = 0	0.058	0	0.234	3.785

Table A2

Multiple Regression Equation for Chiefs

$$\text{Log Chiefs' Total Remuneration} = 5.05 + 0.26A + 0.35B + 0.08C - 0.00D + 0.36E$$

Where A = Log Registered population on reserve

B = Log Total revenue per capita on reserve

C = Log Net financial assets per capita on reserve

D = Log per cent own-source revenue

E = Alberta/Not Alberta (Alberta = 1, Not Alberta = 0)

Table A3

Multiple Regression Equation for Councillors

$$\text{Log Councillors' Total Remuneration} = 6.75 + 0.32A + 0.25B - 0.03C + 0.07D + 0.68E$$

Where A = Log Registered population on reserve

B = Log Total revenue per capita on reserve

C = Log Net financial assets per capita on reserve

D = Log per cent own-source revenue

E = Alberta/Not Alberta (Alberta = 1, Not Alberta = 0)

ENDNOTES

¹*First Nations Financial Transparency Act*, S.C. 2013, c. 7. Available online at <http://laws-lois.justice.gc.ca/eng/acts/F-11.66/page-1.html>.

²"Questions and Answers Related to the *First Nations Financial Transparency Act* (FNFTA)," Aboriginal Affairs and Northern Development Canada. Available online at <http://www.aadnc-aandc.gc.ca/eng/1399312715586/1399312880474>.

³Troy Lanigan, *Fighting for Taxpayers: Battles Fought and Battles Ahead* (Regina: Canadian Taxpayers Federation, 2015), p. 91.

⁴Mary Agnes Welch, "Peguis Leaders' Pay Beats Premier's," *Winnipeg Free Press*, December 19, 2009. Available online at <http://www.winnipegfreepress.com/local/peguis-leaders-pay-beats-premiers-79710347.html>.

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⁷*Fighting for Taxpayers*, p. 92.

⁸Colin Craig, "RESERVETRANSPARENCY.CA," Canadian Taxpayers Federation. Available online at <http://www.taxpayer.com/others/reservetransparency.ca>.

⁹*Fighting for Taxpayers*, p. 93.

¹⁰Parliament of Canada, Standing Committee on Aboriginal Affairs and Northern Development, March 8, 2011. Available online at <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5023417&Language=E&Mode=1&Parl=40&Ses=3>.

¹¹*Ibid.*

¹²*Ibid.*

¹³*Ibid.*

¹⁴"Here for All Canadians. Stability. Prosperity. Security. Speech from the Throne, June 3, 2011." Available online at http://www.speech.gc.ca/local_grfx/docs/sft-ddt-2011_e.pdf.

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¹⁶Backgrounder – *First Nations Financial Transparency Act*, November 23, 2011, Government of Canada. Available online at <http://news.gc.ca/web/article-en.do?crtr.sj1D=&crtr.mnthndVI=12&mthd=advSrCh&crtr.dpt1D=6680&nid=950849&crtr.lc1D=&crtr.tp1D=930&crtryrStrtVI=2011&crtr.kw=&crtr.dyStrtVI=1&crtr.aud1D=&crtr.mnthStrtVI=11&crtr.page=1&crtryrndVI=2011&crtr.dyndVI=17>.

¹⁷House of Commons Debates, June 20, 2012. Available online at <http://www.parl.gc.ca/HousePublications/Publication.aspx?Pub=Hansard&Doc=144&Parl=41&Ses=1&Language=E&Mode=1>.

¹⁸Standing Committee on Aboriginal Affairs and Northern Development, October 22, 2012. Available online at <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5773145&Language=E&Mode=1&Parl=41&Ses=1>.

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²⁰"*First Nations Financial Transparency Act*," Aboriginal Affairs and Northern Development Canada. Available online at http://www.aadnc-aandc.gc.ca/eng/1322056355024/1322060287419?utm_source=transparency&utm_medium=url.

²¹"Update on First Nations Financial Transparency Act," statement by Bernard Valcourt, Minister of Aboriginal Affairs and Northern Development Canada, December 8, 2014. Available online at <http://news.gc.ca/web/article-en.do?nid=912909>.

²²Terry Reith and Briar Stewart, "Federal Government, First Nations Face Court Battle over Transparency Act," CBC News, July 27, 2015. Available online at <http://www.cbc.ca/news/canada/edmonton/federal-government-first-nations-face-court-battle-over-transparency-act-1.3167268>.

²³*The Huffington Post Canada*, "Justin Trudeau Vows to Scrap First Nations Financial Transparency Act," August 11, 2014. Available online at http://www.huffingtonpost.ca/2014/08/11/justin-trudeau-first-nations-financial-transparency_n_5668640.html.

²⁴Peter O'Neil, "17 B.C. First Nations Have Not Complied with Financial Transparency Act," *The Vancouver Sun*, November 24, 2014. Available at <http://www.vancouversun.com/touch/story.html?id=10410394>.

²⁵"Welcome to First Nation Profiles," Aboriginal Affairs and Northern Development Canada. Available online at <http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/index.aspx?lang=eng>.

²⁶The total given in ibid is 618. The media often gives varying totals.

²⁷The total of \$930,793 paid to Kwikwetlem Chief Ron Giesbrecht is an outlier. Giesbrecht was not just the chief. He also had a contract as the band's economic development officer, and he received a 10 per cent bonus (\$800,000) for brokering compensation from British Columbia for the band's possible Aboriginal title to Burnaby Mountain. Tristin Hopper, "Kwikwetlem Chief Got Massive Salary in Part by Abandoning Land Claim and Taking 10% of \$8M Payout," *National Post*, August 12, 2014. Available online at <http://news.nationalpost.com/news/canada/kwikwetlem-chief-got-massive-salary-in-part-by-abandoning-landclaim-and-taking-10-of-8m-payout>.

²⁸Tom Flanagan, "Resource Revenue Sharing, Property Rights and Economic Incentives," Frontier Centre for Public Policy, July 24, 2015. Available online at <https://www.fcpp.org/node/28>.

²⁹It was not necessary to log the Alberta dummy variable.

³⁰Peter Harris, "So, How Much Are We Earning? The Average Canadian Salaries by Industry and Region," Workopolis, February 27, 2015. Available online at <http://www.workopolis.com/content/advice/article/how-much-money-are-we-earning-the-average-canadian-wages-right-now>.

³¹*Louie v. Louie*, 2015 BCCA 247, British Columbia Court of Appeal, June 3, 2015. Available online at <http://www.canlii.org/en/bc/bcca/doc/2015/2015bccca247/2015bccca247.html>.

³²The Band Support Funding Program Policy is described in <https://www.aadnc-aandc.gc.ca/eng/1100100013828/1100100013833>.

³³John Graham and Jodi Bruhn, "In Praise of Taxes: The Link between Taxation and Good Governance for First Nations Communities," Institute On Governance, February 2009. Available online at http://iog.ca/wp-content/uploads/2012/12/2009_February_policybrief32.pdf.

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