

Bill C-45:
Jobs and Growth Act
(Omnibus Budget Bill)
Implication for Canada's North

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Bill C-45: Jobs and Growth Act (Omnibus Budget Bill)

The Conservative government tabled the Bill C-45: *Jobs and Growth Act* on October 18, 2012. It became law on December 14, 2012.

Bill C-45 was the second omnibus budget bill passed in 2012. The first omnibus budget bill was Bill C-38: *Jobs, Growth and Long-Term Prosperity Act*, which became law in June 2012. The Bills are intended to implement the provisions of the Conservative government's March 29, 2012 budget.

Omnibus is taken from the Latin to mean 'for everything'. Like Bill C-38, Bill C-45 is much more than a budget implementation bill. The 414 page Bill has more than 60 measures that change federal laws and regulations. Among the measures most likely to impact northerners is the replacement of the *Navigable Waters Protection Act* with the *Navigation Protection Act*. Other amendments change the *Indian Act*, the *Fisheries Act*, the Canada Pension Plan, and the Canada Labour Code. Bill C-45 also creates two new laws – one to enable the planned bridge between Windsor and Detroit and one to eliminate the Canadian Wheat Board.

Like Bill C-38, Bill C-45 is widely criticized by Canadians from all walks of life for the broad, sweeping effects to our quality of life. It is also strongly denounced for the lack of proper parliamentary debate, citizen information or discussion, and consultation with the parties most directly impacted.

As MP of the Western Arctic, I undertook a review of the implications of Bill C-38 to northerners. This review was released in October 2012. It is available on my website www.dennisbevington.ca. This review of Bill C-45 complements the October document. Like the previous review, it looks at those measures in Bill C-45 that are most relevant to northerners in terms of:

- Implications for democracy,
- Impacts on Aboriginal people and communities,
- Changes to environmental protection and management,
- Impacts on social security, labour rights, and jobs, and
- Oversight and accountability.

This review also considers where relevant, other legislation and actions that may impact northerners. Finally, this review provides examples of Canadians who have spoken out or taken action to oppose legislative changes made by the Conservative government.

What's in the Omnibus Budget Bill C-45?

The wide sweeping omnibus budget bill has four main parts:

Part 1: Amendments to the Income Tax Act and Related Regulations

A central feature of these amendments is to accommodate the Conservative government's plan to establish pooled registered pension plans.

Part 2: Measures in Respect to Sales Tax

This section relates to the implementation of the *Harmonized Sales Tax and the Goods and Services Act* (HST/GST) in the financial services sector. Measures include rules that allow certain financial institutions to obtain pre-approval from the Minister of National Revenue regarding methods to predetermine liability regarding the provincial component of the HST. Part 2 also confirms the authority for making certain GST/HST regulations.

Part 3: Federal-Provincial Fiscal Arrangements Act

This section amends the *Federal-Province Fiscal Arrangements Act* regarding the calculation of equalization payments to provinces and territories. The Act gives powers to the Minister of Finance to allocate transfer amounts related to specific investment flow through (SIFT) and employee profit sharing plans.

Part 4: Various Measures

This section of Bill C-45 contains 24 distinct measures related to the *Fisheries Act*, Canada Pension Plan, the *Indian Act*, *Judges Act*, Canada Labour Code, *Hazardous Materials Information Review Act*, *Employment Insurance Act*, *Immigration and Refugee Protection Act*, *Canada Mortgage and Housing Corporation Act*, *Navigable Waters Protection Act*, *Navigation Protection Act*, *Canadian Environmental Assessment Act 2012*, Canada Employment Insurance Financing Board, Public Sector Pensions, *Canada Revenue Agency Act*, *Access to Information Act*, *Canadian Security Intelligence Service Act*, *National Energy Board Act*, and *Department of Human Resources and Skills Development Act*, to name a few. This part of Bill C-45 has the most implications for northerners.

Implications for Democracy

Bill C-45 was brought into law without proper parliamentary process or recognition of the democratic and constitutionally-based rights of Canadians. The Bill passed in spite of 1,600 amendments from opposition parties in the House of Commons and efforts by the NDP Official Opposition to have the vote thrown out at third reading due to process irregularities.

Omnibus budget bills are an undemocratic and sloppy way to govern.

Like C-38, Bill C-45 is intended to implement the March 29, 2012 budget. But the Bill contains mostly non-fiscal measures that are unrelated to the budget. Nowhere is the replacement of the *Navigable Waters Protection Act*, weakening of the Canada Labour Code, or changes to the *Indian Act* identified in the March 2012 budget. Changes to laws and regulations have significant impact on Canadians. When they are tucked into Bill C-45 without any budgetary basis, rationale, or open discussion, they show the Conservative government's secretive and undemocratic way of governing.

Omnibus bills have been soundly rejected by Canadians from all walks of life. Bill C-45 like Bill C-38 contained too many unrelated and unrationalized measures to be properly assessed and debated in the House of Commons and with Canadians.

Speaking Out:

A Nova Scotia NDP member of the Fisheries Committee expressed his frustration, especially with the potential impacts to endangered fisheries. Referring to changes to environmental legislation in Bill C-45, he said: "This is a flawed process. We are asked as a committee to look at clauses in this Bill in an extremely short window of time, a mere handful of hours, and we do not even have the authority to propose amendments."¹

Hasty, ill-conceived, and poorly considered legislation is likely to contain errors or omissions as well as undermine the interests of Canadians. As discussed throughout this review, this is in fact the case. Bill C-45 contains

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<http://rabble.ca/blogs/bloggers/karl-nerenberg/2012/11/committee-hearings-are-near-sha-m-so-opposition-mps-will-consul>

several amendments to legislation that was approved just six months ago in omnibus budget Bill C-38. For example, amendments brought forth in C-45 associated with the *Canadian Environmental Assessment Act 2012* which was passed in Bill C-38, are examples of the problems that arise when too many non-evaluated measures are included in one bill.

On October 30, 2012, the Public Service Alliance Canada joined the chorus of opposition parties, environmental, scientific and indigenous groups, and other Canadians calling for Bill C-45 to be split up and debated separately.² In fact, this is what the government did to avoid any delay in the Bill being passed by the Conservative dominated Senate. This same process was not followed for the House of Commons despite the Prime Minister's own past criticisms of omnibus budget bills.

In 1994, Stephen Harper asked that the Liberal government's 21-page omnibus budget bill be thrown out on a point of order. He said that the bill was "so diverse that a single vote on the content would put members in conflict with their own principles." He contended that the House committee charged with evaluating budget bills would lack sufficient time and expertise to properly assess all of the measures contained in the bill. He urged the Speaker to carefully consider "this issue of democracy."³ Eight years later, as Prime Minister, Stephen Harper shows disdain for Canadian democracy by pushing two omnibus budget bills through Parliament totalling more than 800 pages and changes to more than 120 laws and regulations.

Canadians denounce the imposition of omnibus budget bill legislation as an affront to our democratic rights. We have expressed our opposition through:

- ***Participation in Idle No Move flash mobs throughout Canada including in Fort Simpson, Yellowknife, Fort Providence, Hay River, and Behchoko.***⁴
- ***Support for Chief Theresa Spence and others undertaking a six-week long hunger strike demanding justice for First***

² <http://www.psaac-afpc.com/news/2012/issues/20121030-e.shtml>

³ http://www.thestar.com/opinion/editorials/2012/10/19/omnibus_budget_bill_c45_is_an_affront_to_democracy.html

⁴ <http://hqyellowknife.com/home/local/news/v/Local/136771/Idle-No-More-Movement-Continues-In-the-NWT>

Nations, a review of Bills C-38 and C-45, and adherence to the duty to consult and accommodate indigenous Canadians as prescribed in Section 35 of the Constitution Act.⁵

- ***Coalitions of professionals, unions, academics, environmentalists, indigenous, and community groups gathering together in unprecedented numbers to speak against Bills C-38 and C-45.***⁶
- ***Petitions to the courts for example, by the Mikisew Cree and Frog Lake First Nations of northern Alberta, requesting a judicial review of the legality of Bills C-38 and C-45.***⁷
- ***More than 3,200 pages of correspondence objecting to Bill C-38.***⁸

Still, in the face of opposition in the House of Commons, hunger strikes, protests throughout the country, and court cases, the Conservative government continues to steamroll over, and circumvent democratic processes in Canada.

Speaking Out:

*Chief Theresa Spence, the Mushkegowuk people of Attawapiskat First Nation and the International Indian Treaty Council filed an 'urgent action' with the United Nations Committee on the Elimination of Racial Discrimination (CERD) to stop C-38 and C-45. The action is based on the Conservative government's failure to fulfill its duty to consult as guaranteed by the UN Declaration on the Rights of Indigenous Peoples and the Canadian Constitution Act.*⁹

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<http://www.cbc.ca/news/politics/story/2013/01/23/attawapiskat-spence-hunger-strike.html>

6 <http://thetyee.ca/Opinion/2012/07/16/Death-of-Evidence/> and <http://academicsinsolidarity.wordpress.com/>

7

<http://www.ammsa.com/publications/alberta-sweetgrass/mikisew-cree-frog-lake-begin-litigation-against-omnibus-bills> and <http://rabble.ca/columnists/2013/01/duty-consult-and-indigenous-rights>

8

http://www.thestar.com/news/canada/2012/10/17/flaherty_flooded_with_complaints_about_bill_c38.html

9 <http://canadians.org/blog/?p=19501>

*The UN is aware of the crisis confronting Canada's indigenous nations. James Anaya, the UN special rapporteur on the rights of indigenous people, has on at least three occasions in the last year, requested consent to conduct an official visit to Canada. The Conservative government continues to ignore his requests.*¹⁰

Citizens bear the costs of legislation imposed on them without due process.

Under Bill C-45 the *Navigation Protection Act* replaces the now dismantled *Navigable Waters Protection Act*. This replacement legislation will cost Canadians dearly.

The new legislation, the *Navigation Protection Act*, allows the federal government to shift the responsibility for defending navigation and environmental rights to citizens. Citizens will be forced to bear the costs of bringing lawsuits against proponents or the federal government in cases of lost navigation or environmental rights. Further, to assert these rights, citizens must work within the confines of common law that is ill equipped to take on a responsibility once filled by a long-standing federal law.¹¹

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<http://aptn.ca/pages/news/2013/03/13/ottawa-still-blocking-un-indigenous-peoples-rapporteur-from-landing-in-canada-on-official-visit/>

11 <http://www.oktlaw.com/wp-content/uploads/2013/01/summaryconcerns.pdf>

The Conservative government suppresses public information.

Whether a member of the governing or opposition parties, all MPs have the responsibility to scrutinize government information including spending to ensure government accountability to Canadians. Lack of information has thwarted MPs efforts to both represent their constituents and scrutinize the rationale, impacts, and spending associated with Bills C-38 and C-45.

The Parliamentary Budget Officer (PBO) functions under the *Accountability Act* to provide independent fiscal analysis to Parliament so that all MPs have the information they need to do their job. The PBO has encountered tremendous barriers to fulfilling the responsibilities of the position. Barriers include:

- Refusal by senior federal government managers to provide detailed financial data to rationalize expenditures and policy decisions,
- Lack of cooperation and non-compliance of federal Ministers in ensuring their departments/agencies work with the PBO, and
- Consistent accusations by Conservative Ministers and Senators that the PBO is operating outside the mandate of the position.

The PBO has sought an opinion from the courts to clarify the mandate of the office. At the time of writing the PBO's case was being heard by the court. It is unlikely that this issue will be resolved before the current PBO finishes his five year term at the end of March 2013.

Speaking Out:

Two former bureaucrats, Scott Clark and Peter DeVries, say the Conservative government's system of secrecy has eroded the integrity and credibility of federal budgets. The system of secrecy keeps parliamentarians and Canadians in the dark about how their money is spent. "They blast Prime Minister Stephen Harper's government for keeping internal budget records secret, for designing a system that means MPs don't know what they are approving when they vote on billions in spending, for engaging in a useless war with the Parliamentary Budget Officer, and for acting disgracefully through its omnibus budget bills."¹²

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<http://news.nationalpost.com/2013/03/04/a-disgrace-and-an-insult-to-parliament-ex-finance-officials-launch-scathing-critique-of-tory-budget-secrecy/>

The British Columbia Freedom of Information and Privacy Association has revealed the Conservative government's plan to centralize and diminish information on federal government websites.¹³ Many changes have already been made and much information has already disappeared, including the Aboriginal Canada Portal.¹⁴ Canadians should be concerned with diminishing access to federal government information. We should also be concerned with the Conservative government's use of taxpayer funded government websites to promote partisan positions. This breach of ethical practices was witnessed recently with Minister Julian Fantino posting partisan views on the CIDA website¹⁵ and the Conservative government posting its views on a bill calling for a national homelessness strategy on the CMHC website.¹⁶

In June 2012, Statistics Canada eliminated or reduced 34 surveys as a result of Conservative government cuts. Under the Conservative government we have seen the elimination of the long form census. Now the 2013-14 main estimates show a further attack on statistical data and analysis. Funding to Statistics Canada will be slashed by another 12%.¹⁷ The attack on information shows the Conservative government's preference for ideological rather than evidence-based decisions.

Speaking Out:

The United Nations right-to-food envoy Oliver De Schutter says that the Conservative government's decision to scrap the 35-year old long-form census creates a barrier to fighting poverty in Canada. He says that without these data it is not possible to compile an analytical portrait of the country.

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http://www.huffingtonpost.ca/vincent-gogolek/harper-government-websites-access-to-information_b_2838916.html

14 <https://www.itk.ca/front-page-story/aboriginal-canada-portal-will-be-shut-down>

15

<http://news.nationalpost.com/2013/01/16/julian-fantino-in-hot-water-after-partisan-letters-posted-to-government-website/>

16 <http://www2.macleans.ca/tag/cmhc/>

17

<http://www.leaderpost.com/news/national/Statistics+Canada+facing+more+funding+cuts+estimates+show/8031943/story.html>

“... in order to effectively combat hunger, food insecurity and malnutrition, it is necessary to have a comprehensive understanding of who is hungry, food-insecure and malnourished.”¹⁸

The Conservative government muzzles more public servants.

Environment Canada scientists require approval from the Privy Council Office before speaking publicly on such topics as climate change or the protection of polar bear and caribou. Last month the muzzle on federal government scientists tightened. As of February 1, 2013, new rules were put in place requiring all scientists working with the Department of Fisheries and Oceans (DFO) in the Central and Arctic Regions to:

- 1) treat all information as proprietary to DFO, and
- 2) have departmental approval before submitting research to any scientific journal.

On February 7th additional rules were put in place requiring the scientists to obtain prior consent before applying for research grants.¹⁹

A U.S. scientist working collaboratively with DFO has refused to sign onto these new rules. These rules follow a Conservative government trend of muzzling scientific research.

Speaking Out:

Dr. David Schindler, a world renowned scientist teaching at the University of Alberta, believes that the Conservative government’s closure of the Environmental Lakes Area research facility is linked to muzzling of scientists and quashing scientific evidence. He said that the research that was done at the research facility contradicts the claims of the oil industry and government about the impacts of the tar sands. “My guess is our current

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<http://www.theglobeandmail.com/news/politics/government-policies-impeding-fight-to-end-poverty-un-food-envoy-says/article9249498/>

19

<http://rabble.ca/blogs/bloggers/elizabeth-may/2013/03/tightening-grip-muzzling-scientists-ramps>

managers don't like to see this kind of research."²⁰

*Speaking on the same subject and about changes to Bill C-38, Bruce Hyer, the independent MP for Thunder Bay-Superior North says the Conservatives were "very proud at their discipline," "very proud that they were killing scientific research," and "very proud that they were muzzling scientists."*²¹

In addition to rules limiting the free speech of DFO and Environment Canada scientists, the Conservative government is also obstructing timely access to information. The state of information requests is the subject of a report of the Canadian Journalists for Free Expression. The journalists contend that fewer access to information requests are being processed and when they are, it is at a 'glacial pace.' They suggest that censorship is practiced by the Conservative government.²²

Systemic problems with federal government access to information procedures have also been identified by the Information Commissioner, Suzanne Legault. She had identified declining responsiveness to information requests. For example, in 2011/12 fewer requests were answered within 30 days than in the previous year and about 15% of applications were being responded to late.²³

Speaking Out

Following the release of their [report](#) 'Muzzling Civil Servants: A Threat to Democracy,' Democracy Watch and the Environmental Law Clinic of the University of Victoria filed a complaint with the federal Information Commissioner calling for a full investigation on the lack of freedom of federal government scientists to speak with the public and journalists. The complaint contends that federal policy violates the spirit of the Access to

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<http://www.theglobeandmail.com/news/politics/ottawa-notebook/research-on-oil-sands-impact-cost-centre-its-funding-scientists-say/article4266918/>

21 *ibid*

22

<http://m.theglobeandmail.com/commentary/censorship-is-alive-and-well-in-canada-just-a-sk-government-scientists/article8996700/?service=mobile>

23 <http://www.theglobeandmail.com/news/politics/ottawa-running-late-on-access-to-information-responses-watchdog-says/article7343832/>

and

<http://www.rabble.ca/blogs/bloggers/democracy-watch/2013/02/groups-file-complaint-federal-information-commissioner-callin>

Information Act.²⁴

Bill C- 45 affects the democratic rights of all Canadians. Northerners should be concerned that we have:

- **less access to publicly funded research,**
- **less ability to speak directly with public servants,**
- **less ability to participate in meaningful policy discussion,**
- **less access to information about and input into how public funds are spent,**
- **less ability to make evidence-based decisions,**
- **less ability for our MPs to get information and represent us in the House of Commons, and**
- **a government that snubs the very foundation of democracy in Canada, the Constitution Act.**

²⁴<http://democracywatch.ca/wp-content/uploads/InfoCommCompFeb202013.pdf> and <http://democracywatch.ca/wp-content/uploads/OpenGovReportJan2113.pdf>

Impacts on Aboriginal People and Communities

Bill C-45 continues to be a lightning rod for criticism and mobilization among indigenous Canadians and peoples around the world who are marginalized and suffer injustices in their own homelands. The Idle No More movement grew as a direct response to Bill C-45 and related bills that impact on indigenous rights in Canada.

Speaking Out:

Dennis Bevington, Member of Parliament for the Western Arctic, writing in the February 4, 2013 NewsNorth said: "The Idle No More movement was born out of frustration with the scope and significance of legislative changes that have been brought in by the Conservative government this year. Through two omnibus bills, C-38 and C-45, which eviscerated many of the environmental protections provided by federal law across the country, the Conservatives have said very strongly that development will trump all concerns. To First Nations, with their strong cultural attachment to the land and their court-established rights for consultation, this has been a great rallying point."

Arbitrary changes to the *Indian Act* ignore section 35 of the *Constitution Act*.

Bill C-45 changes the *Indian Act* to modify voting and approval procedures in relation to proposed land designations. The changes replace:

1. approval by Order-in-Council by approval of the Minister of Aboriginal Affairs, and
2. decisions by a majority of the band list by a simple majority rule of people in attendance at a meeting.

Changes to the *Indian Act*:

- narrow the scope of democracy in indigenous communities by replacing collective power with a form of majority rules.
- lower the threshold for the surrender of indigenous lands in that the Minister has the power to call a meeting, ask a Band to surrender

lands, and make a decision based on the majority of people at that meeting.

Speaking Out:

“Idle No More and Defenders of the Land, a network of Indigenous communities in land struggle, have joined together to issue this common call for escalating action. Our demands are clear and in accordance with the principles of coexistence and mutual respect between Indigenous and non-Indigenous Peoples. We demand that Canada, the provinces and the territories:

- 1. Repeal provisions of Bill C-45 (including changes to the Indian Act and Navigable Waters Act, which infringe on environmental protections, Aboriginal and Treaty rights) and abandon all pending legislation which does the same.*
- 2. Deepen democracy in Canada through practices such as proportional representation and consultation on all legislation concerning collective rights and environmental protections, and include legislation which restricts corporate interests.*
- 3. In accordance with the United Nations Declaration on the Rights of Indigenous Peoples’ principle of free, prior, and informed consent, respect the right of Indigenous peoples to say no to development on their territory.*
- 4. Cease its policy of extinguishment of Aboriginal Title and recognize and affirm Aboriginal Title and Rights, as set out in section 35 of Canada’s constitution, and recommended by the Royal Commission on Aboriginal Peoples.*
- 5. Honour the spirit and intent of the historic Treaties. Officially repudiate the racist Doctrine of Discovery and the Doctrine of Terra Nullius, and abandon their use to justify the seizure of Indigenous Nations lands and wealth.*
- 6. Actively resist violence against women and hold a national inquiry into missing and murdered Indigenous women and girls, and involve Indigenous women in the design, decision-making, process and implementation of this inquiry, as a step toward initiating a comprehensive and coordinated national action plan.”²⁵*

Eleven legislative proposals linked to Bill C-45²⁶ directly affect the rights of indigenous Canadians.

At the time of writing, the eleven bills were at various stages of the legislative process.²⁷ They are:

1. *Bill C-27: First Nations Financial Transparency Act* ²⁸ has been reviewed by the Senate Standing Committee on Aboriginal Affairs ²⁹ and was recently passed into law. The Bill provides a legislative basis for the preparation and public disclosure of First Nations' audited consolidated financial statements and of remuneration, including salaries and expenses that a First Nation or any entity that it controls pays to its elected officials. Much of this reporting is already done. The Bill also requires the publication of this information on a website maintained by or for the First Nation, and on the website of Aboriginal Affairs and Northern Development Canada (AANDC). Additional provisions of the legislation allow for court remedies and administrative measures to enforce compliance. Failure to comply with requirements could result in withholding or termination of funding. The Bill would impose standards on First Nation government officials beyond those required of officials with municipal, provincial, or federal governments. It undermines the competitiveness of First Nation-owned businesses by requiring these businesses to publicly report income and expenses. At the same time, the Bill does nothing to address long-standing financial issues facing First Nations.
2. *Bill S-2: Family Homes on Reserves and Matrimonial Interests or Right Act* was introduced in 2011. It is currently awaiting 2nd reading in the House of Commons. The Bill seeks to address gaps in laws about the division of property on reserve in the case of divorce. The legislation does not recognize First Nations' jurisdiction over reserve property, inherent self-government rights, or existing First Nation by-laws respecting matrimonial property. The Act provides no tools to address

25 <http://www.idlenomore.ca/>

26 <http://www.oktlaw.com/wp-content/uploads/2013/01/summaryconcerns.pdf>

27 <http://www.parl.gc.ca/legisinfo/LAAG.aspx?Language=E&Mode=1>

28 http://www.parl.gc.ca/About/Parliament/LegislativeSummaries/bills_ls.asp?ls=c27&Parl=41&Ses=1&source=library_prb&Language=E

29 http://www.afn.ca/uploads/files/parliamentary/parliamentary_wrap-up_-march_4_-_8,_2013_e.pdf

the many issues that impact on families on reserves including violence against women, housing conditions, and access to justice. The Act threatens First Nations' lands protected by treaty as exclusively First Nations, as a judge without notification to the First Nation, could give a non-First Nation person the indefinite right to occupy reserve land and property on that land.

3. *Bill S-6: First Nations Elections Act* is opt-in legislation that provides an alternative election regime under the *Indian Act*. The Bill extends the election term from two to four years; has provisions for a re-call mechanism; and allows elections to be contested in court. It sets out offences and penalties. The Bill enables the Minister to impose an election process at his discretion. The positive elements of choice in the proposed legislation are countered by the power the Bill gives the Minister to politically interfere in First Nations' elections and the diminished power of, and penalties facing Band members who protest illegal or problematic elections and governing processes. The Bill is currently awaiting 2nd reading by the House of Commons.
4. *Bill S-8: Safe Drinking Water for First Nations Act* allows Canada to override First Nation by-laws, band council resolutions, and policies that protect safe drinking water. The Act gives the Minister the power to compel First Nations to charge fees to members receiving safe drinking water. Contrary to section 35 of the *Constitution Act* (1982), the Bill also allows Canada to annul or destroy Aboriginal rights and treaty rights "to the extent necessary to ensure safe drinking water." The Bill does not provide the tools or the capacity for First Nations to comply with the provisions. The Bill is at 2nd reading in the House of Commons.
5. *Bill C-428: Indian Act Amendment and Replacement Act* is a Private Member's Bill introduced in June 2012. It is currently under study by the Standing Committee on Aboriginal Affairs and Northern Development. Some of the proposed amendments include repealing provisions that: limit by-law authority and require Ministerial approval before they can come into force; are related to residential schools; and give the Minister authority over the handling of wills and estates on reserves. The Bill would require the Minister to report annually on efforts to replace sections of the *Indian Act*. Like other legislation directly impacting First Nations, indigenous Canadians across the country are concerned with the lack of consultation about the Bill, lack of acknowledgement of First Nation authorities, and the potential to impose provincial/territorial laws on First Nations communities.

6. *Bill S-207: An Act to Amend the Interpretation Act* states that no legislation will be interpreted as annulling or destroying Aboriginal or treaty rights but if another Act (like Bill S-8) has this intent, S-207 would not prevent it. First Nations contend that the proposed bill not only violates treaties but directly contravenes the United Nations Declaration on the Rights of Indigenous People. The Standing Senate Committee on Legal and Constitutional Affairs has completed study of the Bill, and reported to the Senate. It now awaits debate at the report stage and 3rd reading.

7. *Bill S-212: First Nations Self-Government Recognition Bill*, introduced for the fourth time, would enable First Nations to take on much of the authority currently held by provinces/territories (e.g., fisheries, wildlife and habitat management, education, child protection and adoption, and health care). The Bill received 1st reading in the Senate in November 2012.

8. *Bill C-47: An Act to enact the Nunavut Planning and Project Assessment Act and the Northwest Territories Surface Rights Board Act and to make related and consequential amendments to other Acts* is currently before the Senate Committee on Aboriginal Affairs and Northern Development. The Bill implements provisions of land claim agreements. It enacts the *Nunavut Planning and Project Assessment Act* and the *Northwest Territories Surface Rights Board Act*. The Act establishes the Northwest Territories Surface Rights Board whose purpose is to resolve matters in dispute relating to terms and conditions of access to lands and waters in the NWT and the compensation to be paid for that access. The Bill is opposed by First Nations in areas of the NWT with unsettled claims. There are concerns that Bill C-47 may dilute First Nations participation on land/water and environmental assessment boards; limit First Nations' ability to control exploration and development of their lands; and have implications for land claim agreements and arrangements under territorial devolution. Northern witnesses appearing before the Senate Committee who supported the Bill presented many amendments to improve the legislation. These amendments were rejected by the Conservative dominated Committee. The Bill passed 3rd reading in the House of Commons on March 4, 2013 and has moved to the Senate where it is in 2nd reading.

Like the preceding eight bills, First Nations across the country have not been consulted on the development of the following two legislative proposals that

have yet to be introduced in the House of Commons. These proposals are the:

9. *First Nations Private Property Ownership Act* which would allow private property ownership within reserve boundaries and the sale of First Nations lands to non-indigenous people. The premise of the proposed legislation works against collective land ownership and the interests of future generations.
10. *First Nation Education Act* which is seen by First Nations as a move to enable the federal government to step away from both treaty and funding obligations for education and vacate jurisdiction to the provinces/territories.

To counter Conservative government legislation that undermines the human, collective, treaty, and constitutional rights of indigenous Canadians, NDP MP Romeo Saganash introduced *Bill C-469: Declaration on the Rights of Indigenous Peoples Act* in January 2013. The Act would require the Government of Canada to take all measures necessary to ensure that the laws of Canada are consistent with the United Nations Declaration on the Rights of Indigenous Peoples. It would also require the Minister of Aboriginal Affairs to report annually to Parliament for the next four years to review progress in implementing the law. The Bill has had 1st reading in the House of Commons.

Bill C-45 together with the eleven bills either in the House of Commons or the Senate will have a dramatic impact on indigenous northerners and by extension, all northerners. The full extent of these impacts is unknown as there has been little, if any, consultations with northerners. We do know that:

- ***Ten of the eleven bills violate indigenous constitutional rights due to the lack of consultation and efforts to accommodate.***
- ***The Minister of Aboriginal Affairs and Northern Development (AANDC) will gain more power to interfere in the lives of First Nations and Inuit.***
- ***The implications of the bills for land claim beneficiaries and Aboriginal governments throughout the NWT are unclear but may become clearer though the devolution agreement now in place between the federal and territorial governments and some indigenous groups.***
- ***The implications to the GNWT with respect to responsibilities for example, for safe drinking water or for education, are unknown again because of lack of discussion about the effects of the legislative proposals.***

Changes to Environmental Protection and Management

Both Bills C-38 and C-45 directly attacked Canada's environmental laws. The stealth and ruthlessness by which the Conservative government has attacked the environment sends a clear message to Canadians that the safety of the land, water, air, and citizens is a lower priority than exploiting non-renewable mineral and hydrocarbon resources.

Bill C-45 dismantles one of Canada's oldest federal environmental laws.

The *Navigable Waters Protection Act* was enacted in 1882. It was designed to protect Canadians' right to navigate waterways without interference from bridges, dams, pipelines, logging operations, and other developments. The Act was altered in 2009 under another omnibus budget bill by the then minority Conservative government. Changes in 2009 reduced the number and types of projects subject to approvals under the Act that could trigger a federal environmental assessment.

Bill C-45 does not just tinker with the Act but erases any connection between navigation and the environment. C-45 replaces the *Navigable Waters Protection Act* with the *Navigation Protection Act*. As Ecojustice has stated in its thorough review: "the law will no longer protect navigable waters – it will only protect navigation."³⁰ Under the new Act, proponents of industrial and infrastructure projects have unfettered access to disrupt and impact waterways without regard for environmental or navigation rights.

Speaking Out:

*Amnesty International*³¹ contends that changes to the Canadian Environmental Assessment Act, the Fisheries Act, the Navigable Waters Protection Act, and the proposed Safe Drinking Water for First Nations Act have profound implications for the rights of indigenous peoples as set out in treaties, affirmed in the constitution, and protected by international human rights standards.

30

http://www.ecojustice.ca/files/nwpa_legal_backgrounder_october-2012/at_download/file

31

<http://www.amnesty.ca/news/public-statements/joint-statement-supporting-chief-spence-and-idle-no-more>

By dismantling the *Navigable Waters Protection Act*, the federal government has abandoned jurisdiction over most water bodies.

Through the dismantling of the *Navigable Waters Protection Act*:

- Navigation and environmental rights related to more than 99% of Canada's lakes and rivers are unprotected. Now only 97 lakes and just 62 rivers retain some protection.³² Of the 97 lakes retaining some protection, 87% are in ridings with Conservative MPs. In the NWT, only Great Slave Lake, Great Bear Lake, and the Mackenzie River are protected under the new Act.
- Important water bodies that provide safe drinking water, support fish resources, enable navigation for subsistence or recreation purposes, or have heritage values are now unprotected from development.
- Treaty and constitutional rights and responsibilities have been violated as changes were made without any consultation with First Nations.
- Canada is now at risk as we may be unable to fulfill international obligations under the *Boundary Waters Treaty*.³³
- Opportunities for public participation in decisions about water bodies are severely diminished and in most cases, at the discretion of the Minister.

Speaking Out:

Contamination of the Athabasca River basin from tar sands operations is a significant threat to the ecosystem. A 'secret' May 2011 Environment Canada presentation released through access to information legislation reveals just how serious the industry's threat is. Threats to wildlife and downstream communities result from high levels of hydrocarbons and heavy metals, the high demand for water (e.g., one to four barrels per one barrel of oil), decreasing water levels and river flow, harm to fish, and alarmingly high levels of greenhouse gas emissions (e.g., estimated to rise in 2020 about 900% from 1990 levels). Graham Saul of Climate Action Network, contends that the federal government is aware of the level of ecosystem destruction associated with the tar sands but still promotes the tar sands industry as responsible and sustainable resource development. Mr. Saul asks what is ethical, responsible or sustainable about this level of environmental

32 <http://www.oktlaw.com/wp-content/uploads/2013/01/summaryconcerns.pdf>

33 http://www.ecojustice.ca/files/nwpa_legal_backgrounder_october-2012/at_download/file

destruction and GHG pollution? ³⁴ Evidence that the tar sands are anything but responsible or sustainable has been recorded by Global Forest Watch Canada. They have documented negative impacts to the woodland caribou population.³⁵ They also point to leaking tar sands tailing ponds that are contaminating groundwater.³⁶ The wide range effects of the tar sands are evident as far away as Peace River where families have been forced to evacuate their homes due to industrial pollution.³⁷

Bill C-45 continues gutting the *Fisheries Act* begun in Bill C-38.

The *Fisheries Act* was designed to protect fish including preventing dumping of harmful materials into fish-bearing waters. The *Fisheries Act* was gutted in Bill C-38 to such an extent that the Minister of Fisheries said that there were now tools available to authorize industrial water pollution.³⁸

C-45 amends the *Fisheries Act* to remove most fish habitat protection including from actions that prohibit the obstruction of fish passage. Some protections remain for fish of 'economic, cultural or ecological value.' Removing habitat protection and focusing only on fish with economic, cultural or ecological value undermines the fragile and delicate ecosystem of lakes and rivers and the sustainability of fisheries.

Changes to the *Fisheries Act* provide for certain amounts to be paid into an Environmental Damages Fund. While it is laudable that fines will be directed into reclamation or protection, more subjective terms used in the Act and massive cuts to Department of Fisheries and Oceans staff will limit the capacity to enforce these provisions.³⁹

34

<http://business.financialpost.com/2011/12/22/secret-environment-canada-study-warns-of-oil-sands-impact-on-habitat/?mid=5632864>

35

http://www.globalforestwatch.ca/pubs/2012Energy/01CaribouDisturbance/Caribou_Industrial_Disturbance_Media_2012.pdf

36

http://dirtyoilsands.org/news/article/oilsands_tailings_leaking_into_groundwater_joe_oliver_told_in_memo

37 <http://thetyee.ca/News/2013/03/02/Tar-Sand-Pollution-Refugees/>

38

<http://www.canada.com/Federal+fisheries+officials+stalling+talks+protect+water/7673443/story.html>

39 <http://wcel.org/sites/default/files/publications/WCELA%20Submission%20to%20Senate%20Committee%20on%20Bill%20C45%20November%202012.pdf>

The definition of Aboriginal fisheries in the amended *Fisheries Act* ignores constitutionally protected indigenous rights.

C-45 amendments to the *Fisheries Act* define the 'Aboriginal fishery' as fish "harvested by an Aboriginal organization or any of its members for the purpose of using the fish as food, for social or ceremonial purposes or for purposes set out in a land claims agreement entered into with the Aboriginal organization." The definition does not recognize Aboriginal commercial fisheries or the right of First Nations to fish for a living, a constitutional right that was established by the Supreme Court of Canada in 1999 with the outcome of the Donald Marshall case.

Speaking Out:

*Eriel Deranger with the Idle No More movement says that First Nations are worried about the inclusion of Aboriginal fishing rights in the Fisheries Act when they are already included in Section 35 of the Canadian Constitution. There is concern that this addition means that the Conservative government could be considering removing Section 35 from the Constitution. If this is the case, indigenous Canadians could face further erosion of democratic rights.*⁴⁰

The Fisheries Act allows Canada's water bodies to become toxic dumps.

Section 36 of the *Fisheries Act* is the basis for the 2002 [Metal Mining Effluent Regulations](#) (MMER) that regulate the deposit of mine tailings and other waste matter produced during mining into natural fish bearing waters. These regulations, administered by Environment Canada, apply to both new and existing mines. A loophole in the MMER allows for the deposit of pulp and paper liquid effluent, metal mining liquid effluent, petroleum liquid effluent, and effluents from other industrial sectors⁴¹ into natural fish bearing waters. In other words, the MMER allows rivers and lakes to be used as toxic dump sites. The loophole in the MMER is currently the subject of a court challenge.

Speaking Out:

The Brazilian mining giant Vale intends to use Sandy Point in Newfoundland and Labrador as a dump for its tailings. In 2010, the Sandy Pond Alliance of Newfoundland and Labrador applied to the Federal Court in Newfoundland and Labrador to protect this water body, well known for its trophy trout. In 2011 and 2012, Vale reportedly removed about 1,400 fish, mainly trout, from the water body and added three dams to its planned lake containment area for tailings from its new hydromet nickel processing plant. After several delays due to interventions by Vale and the Mining Association of Canada, the case was heard by Justice Elizabeth Heneghan.⁴² The outcome could have implications for the protection of lakes and rivers across Canada.

⁴⁰ <http://www.globalsaskatoon.com/primer/6442778794/story.html>

⁴¹ <http://www.dfo-mpo.gc.ca/habitat/role/141/1415/14151-eng.htm>

Since 2006, mining companies have applied to use 13 natural bodies in Canada as dumping sites or tailing impoundment areas. Five of these bodies have already been approved for this use. One of the 13 water bodies is in the NWT – Winter Lake, a lake that would be used as a dump by the Yellowknife Gold project of Tyhee NWT Corp.⁴³ Two other water bodies are in Nunavut.

Bill C-45 continues to tinker with the *Canadian Environmental Assessment Act*.

Bill C-45 makes further changes to the *Canadian Environmental Assessment Act, 2012* that became law in June 2012 through C-38. Bill C-38 significantly overhauled the environmental assessment process and put the power of decision in the hands of the Minister. Two months after passing C-38, the Minister had stopped 2,970 project reviews. Of project reviews halted, 678 involved fossil fuel energy and 248 involved a pipeline.⁴⁴

Bill C-45 makes further ‘technical’ amendments to the *Canadian Environmental Assessment Act, 2012* including a ‘transitional provision’ to make the new rules apply to designated projects that would have required an environmental assessment under the old rules. This means that more project reviews are likely to be halted.

Speaking Out:

Through access to information, Greenpeace Canada uncovered a letter to the federal government that involved every major oil and gas industry association.⁴⁵ The letter made public in January 2013 asked the government to overhaul six major environmental laws – the Canadian Environmental Assessment Act, the Species at Risk Act, the Fisheries Act, the National Energy Board Act, the Migratory Birds Convention Act, and the Navigable

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<http://www.pacificfreepress.com/opinion/12377-on-schedule-canada-turning-fresh-water-lakes-into-mine-tailing-dumps.html>

43<http://www.canadians.org/water/issues/TIAs/index.html>

44

<http://o.canada.com/2012/08/23/harper-government-kills-3000-environmental-reviews-on-pipelines-and-other-projects/#.UT43T1JAW98>

45

<http://wcel.org/resources/environmental-law-alert/smoking-gun-who-was-real-author-2012-omnibus-bills>

Water Act. Five of these acts have been replaced or dismantled through C-38 and C-45. Canadians want to know who is really the author of the omnibus budget bills?

Significant changes to the *Canadian Environmental Assessment Act* are of concern to northerners and other Canadians. We are worried that we have:

- Fewer opportunities to examine and engage in the review of major industrial projects.
- Weaker environmental laws that will create additional conflict among project proponents, governments, and First Nations.
- To incur significant costs of litigation to uphold rights established in numerous precedent setting legal cases involving First Nations and other Canadians.
- Less environmental protection.⁴⁶

Speaking Out:

Canada's Environment Commissioner, an adjunct to the Auditor General's office, issued his final report in February 2013.⁴⁷ He warned about gaps in federal environmental policy that expose Canada to great risks. For example, the estimated 200,000 shale gas hydraulic fracking wells today in Canada are expected to double by 2032. There are more than 800 substances used in fracking and 33 are known to be toxic. But little is known about the remaining hundreds of chemicals used in fracking.⁴⁸ Each shale gas well uses between 55,000 and 200,000 litres of chemical cocktail. Further, the Environment Commissioner says that there is no plan to deal with an off-shore oil spill; there have been no inspections of 70% of northern mining sites; financial assurances by resource companies in the case of a nuclear accident or oil spill are insufficient; and government rollbacks on

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<http://rabble.ca/blogs/bloggers/making-waves/2012/12/how-fracking-and-water-protection-affected-eliminating-hazardous>

47

<http://rabble.ca/blogs/bloggers/karl-nerenberg/2013/02/environment-commissioner-raises-alarm-government-remains-passive>

48

http://www.thestar.com/news/canada/2013/02/05/environment_commissioners_farewell_audit_screams_the_obvious_tim_harper.html

environmental oversight, review, and regulation contained in Bills C-38 and C-45 are creating confusion and 'near paralysis' within government. The Commissioner found that Aboriginal Affairs does not regularly assess whether companies are putting adequate resources aside to cover the cost of clean-up and whether mines are following the terms of water and land use licences. Levels of protection fall well short of what is required under the Oceans Act, which provides for a network of marine protected areas designed to allow ecosystems to flourish. As a result, Canada's oceans are increasingly threatened by climate change, pollution, and over fishing.⁴⁹

Bill C-45 eliminates the Hazardous Materials Information Review Commission (HMIRC).

The HMIRC is made up of representatives from labour, employers, chemical suppliers, and governments. It is an independent body that operates at arm's length from government. The body is responsible for science-based decisions to protect Canadians from toxic chemicals and hazardous materials in the workplace.

Bill C-45 eliminates the HMIRC and transfers the powers and responsibilities from the independent, scientific body to the Minister of Health. This means that worker and environmental safeguards could be compromised given cuts to Health Canada's budget and capacity. This could have significant effects on workers using hazardous materials such as in fracking and bitumen extraction processes.

Speaking Out:

Peter Redvers, a long-time NWT resident, speaking out about the Conservative government's economic action plan in the March 15, 2013 Yellowknifer said: "First, make legislative changes to the Fisheries Act, the Navigable Waters Protection Act, and the Canadian Environmental Assessment Act that significantly weaken environmental protection. Then fire many of Canada's top environmental scientists, close environmental research stations, and cut environmental inspection staff so that research, monitoring, and compliance oversight is seriously diminished. Then impose the NWT Surface Rights Board Act so that industry has carte blanche to explore and develop anyone's land. Then sign the Canada-China Foreign

⁴⁹ <http://www.huffingtonpost.ca/2013/02/05/environment-commissioner...>

Investment Protection and Promotion Agreement that allows Chinese state-owned corporations to sue the federal, territorial, and possibly Aboriginal governments for imposing social and/or environmental conditions that limit Chinese profits - with the lawsuits determined by secret corporate tribunals. Then amend the Mackenzie Valley Resource Management Act to speed up regulatory approvals and essentially undermine effective environmental assessment and regulatory processes. Then sign a Devolution Agreement with the GNWT such that it becomes responsible for implementing this industry-friendly lands and resources management regime with inadequate funding.... This action plan will allow resource development companies to exploit resources with the enthusiasm, haste, freedom, and lack of accountability that they had a few decades ago, leaving us once again (certainly within the next few decades) with newly-contaminated mine and other industrial sites, in the spirit of Colomac, Port Radium, Pine Point, Giant Mine, etc.”

Northerners need to be concerned about the ongoing changes to environmental law made through Bills C-38 and C-45. The changes put northerners at risk:

- ***From lack of protection of safe drinking water and fish bearing lakes and rivers.***
- ***From lack of mechanisms to stop water bodies from becoming dump sites.***
- ***Due to potentially high personal costs of defending navigational and environmental rights.***
- ***From ill preparedness for oil spills and little knowledge or capacity to deal with hazardous substances used in workplaces or such processes as fracking.***
- ***Due to poor decisions made in the approval of industrial projects and insufficient resources to clean-up and remediation sites.***
- ***By inheriting a failing system of mine inspections through the federal-territorial devolution process.***

Impacts on Social Security, Labour Rights, and Jobs

In name, Bills C-38 and C-45 were about jobs and growth. But through systematic attacks on information and evidence, there are no reliable data to show whether jobs have been created or the economy has grown. However, we do know that the Conservative government has driven up the deficit to \$18.7 billion through poor fiscal management, corruption, and wrong-headed priorities.⁵⁰ The effects of poor fiscal management are being felt by Canadians throughout the country and are creating concerns about social security and labour rights.⁵¹

The Conservative government attacks the most needy.

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<http://www.cbc.ca/news/politics/story/2013/03/21/pol-budget-2013-highlights-flaherty.html>

51

www.rabble.ca/news/2012/12/what-will-conservatives-omnibus-bill-c-45-mean-workers-canada

In May 2012, Human Resources Minister Diane Finley announced the phasing in of new Employment Insurance (EI) reforms. One reform targets workers who make frequent claims. Under the reforms, workers have only six weeks to look for a job in their field before they must accept any job that they are qualified for within 100 km of their home and as long as the pay is at least 70% of their previous salary. These changes to the *Employment Insurance Act* have profound affects in regions where seasonal work forms a significant part of the economy. This is the case in the north.

In December 2012, Minister Finley eliminated EI benefits for migrant workers.⁵² This comes on the heels of cuts to health care for migrants, rules that allow employers to pay migrant workers up to 15% less than other workers, and unilateral ministerial power to jail migrants. Targeting the most vulnerable of the vulnerable is beyond mean-spirited. It is in the eyes of some, the leading edge of the Conservative government's strategy to use the unemployed "as a tool to suppress the wages of all Canadian workers,"⁵³ and to erode Canada's social safety net, of which EI is a critical part.

The Conservative government ramped up its attack on EI recipients after Bill C-45 was passed. They contend that hundreds of millions of dollars are lost every year through false, fraudulent, or inappropriate EI claims. In January 2013, about 50 federal government employees began making unannounced visits to the homes of a random selection of 1,200 EI recipients to root out fraudsters. Demonizing and attacking the most vulnerable in society has driven thousands of Canadians to speak out against EI reforms.⁵⁴

Speaking Out:

"It's abusive," said Alma Breau-Thibodeau, of the Employment Insurance Action Committee In Defense of Workers. "They're abusing us like crazy. We all feel targeted by this law. . . You know it's gone too far when you're being checked upon at home. "We have telephones, you know. And post offices."⁵⁵

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http://www.huffingtonpost.ca/syed-hussan/ei-cuts-migrant-workers-canada_b_2317932.html

53

<http://www.thetelegram.com/Opinion/Columns/2013-03-09/article-3195735/Attacking-the-most-desperate/1>

54

<http://www.cbc.ca/news/politics/story/2013/02/23/quebec-employment-insurance-protests.html>

55 <http://www.winnipegfreepress.com/canada/federal-officials-make-house-calls-to-ei-recipients-192128141.html>

The Conservative government seems unbothered by the negative effects of EI reforms on Canadians. In fact, it is continuing these attacks. In the March 2013 budget, it appears that the Conservative government is taking back control of EI training transfers from the provinces and territories.⁵⁶ Halting the transfer of EI training funds to the provinces/ territories will enable the Conservative government to remake the Canadian labour force to conform to its vision of the country as a petro-state. As one Conservative insider has stated: "There's a general feeling there are too many kids getting BAs and not enough welders."⁵⁷ Labour market training initiatives undertaken by the Government of the NWT through federal funding transfers will be severely impacted. Women and others not able or willing to take up jobs with extractive industries will also be negatively impacted by less regional control of training funds.⁵⁸

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<http://fullcomment.nationalpost.com/2013/03/04/john-ivison-ottawa-set-to-cancel-2-billion-in-ei-training-transfers-to-the-provinces/> and http://www.thestar.com/news/canada/2013/03/07/clawing_back_job_training_money_could_expand_ei_backlash_hbert.html

57

<http://www.cbc.ca/news/business/story/2013/03/18/pol-greg-weston-harper-skilled-jobs.html>

58

<http://rabble.ca/blogs/bloggers/behind-numbers/2013/03/new-shoes-and-haircut-budget-2013-not-so-pretty-women-canada>

Speaking Out:

One of the poorest communities in Canada, the Burnt Church First Nation, has refused to sign its annual contribution agreement with AANDC. This was a tough decision given that unemployment is about 80% and the community depends on Ottawa's \$16 million contribution to provide education, housing, social assistance, economic development, land and trust services, and Indian government support. But this year the contribution agreement did not include a 'non-derogation' clause, as it always had. The non-derogation clause means that signing the funding agreement doesn't compromise any existing Aboriginal or treaty right. By signing the agreement, the Burnt Church First Nation would also be agreeing to other federal government policies, including guidelines on social programs which are particularly challenging for First Nations."⁵⁹

Bill C-38 and C-45 set the stage for massive public service job loss.

The March 2012 budget speech announced the elimination of 19,200 federal public service positions by 2015. The Conservative government has consistently refused to provide information about where these cuts will be made and how they will affect public services. Now, more than six months after the cuts were announced, Treasury Board President Tony Clement has revealed some information about the target of public service cuts.⁶⁰ The five departments losing the most jobs are:

- Public Safety 3,273
- Canada Revenue Agency 3,008
- Human Resources and Skills Development 2,008
- National Defence 1,621
- Health 1,416

Even in the face of massive job cuts the Conservative government maintains that the programs and services that Canadians rely on will not be affected. The Parliamentary Budget Officer disagrees. The PBO has found that budget cuts have directly and negatively impacted programs and services spending.⁶¹ At the same time, costs have risen for 'back office' or internal

⁵⁹ <http://www.ipolitics.ca/2013/03/17/fiscal-blackmail-in-canadas-poorest-quarter/>

⁶⁰ <http://www.theglobeandmail.com/news/politics/clement-outlines-which-departments-set-to-lose-jobs/article5403113/>

⁶¹ <http://www.cbc.ca/news/politics/story/2013/01/24/pol-cp-pbo-fiscal-reports.html>

services such as communications, information technology, human resources, and financial management. This outcome is in direct contradiction to the Conservative government's assertion that budget cuts would target primarily administrative and support costs.

Bill C-45 unilaterally creates a 'two-tiered' pension plan for federal public servants.

Bill C-45 changes the Canada Pension Plan so that new hires will be treated less favourably than existing workers. Public servants hired after January 1, 2013 will become eligible for their pensions later (at age 65 rather than at 60) and will have to contribute more to their pensions plans. Contributions will increase from the current 37% share to 50% over the next five years. According to the Public Service Alliance of Canada, pension contribution increases will result in the equivalent of a pay cut of about \$1,260/year for a worker earning \$45,000.⁶² This means that lower paid, younger, and new public servants will be more negatively impacted than older, longer-term public servants.

Bill C-45 puts Canadian workers at risk.

As discussed previously, the Hazardous Materials Information Review Commission (HMIRC) is responsible for ensuring dangerous chemicals and other hazardous materials used in workplaces are accompanied by accurate ingredient lists, toxicological information, and safety instructions. Employers rely on information from the HMIRC to train workers in the safe use of toxic, corrosive, carcinogenic, or otherwise dangerous substances. Bill C-45 eliminated HMIRC and moved its work to Health Canada. Cuts to the Health Canada workforce raise questions about whether new responsibilities can be addressed.

Under Bill C-45, the Minister of Health is required to form a council to direct the production of hazardous product labels and material safety data sheets. Whereas the HMIRC was made up of representatives from labour, employers, and industry groups, the new rules specify that representatives on the council can be from "any organizations ... that the Minister considers appropriate." This is troublesome given the Conservative government's track-record of patronage and incompetent appointments to key positions.

Canadian workers should be concerned about changes to hazardous materials information and regulation. Data from the HMIRC website show an alarming trend in suppliers not providing accurate or sufficient information

62 <http://www.pfac-afpc.com/news/2012/issues/20121019-e.shtml>

on hazardous materials.⁶³ In the north where there are wide disparities in English language literacy levels, we should be very concerned about the accuracy of information on hazardous materials.

Bill C-45 tinkers with the Canadian Labour Code.

The Canada Labour Code sets out workers' rights in federally-regulated sectors such as banks, telecommunications, and interprovincial transportation. Bill C-45 changes the Code in the areas of vacation pay, general holidays, and the complaints process.⁶⁴ Changes include:

- Requiring all vacation pay to be paid out within the 30 days following the employee's last day of work.
- Eliminating the current requirement for an employee to work at least 15 days in the previous 30 to be eligible for holiday pay.
- Time limits for complaints procedures.
- Greater control for inspectors over the inspection and complaints process.
- Recovery limits with respect to wages or monies owing.
- Amending various provisions to ensure gender-neutral language.⁶⁵

Without full debate and discussion, the impacts of Canadian Labour Code changes are unknown. However, there is concern that employees may not fair well as a result of changes to complaints processes.

63 <http://www.hmir-crrmd.gc.ca/data-donnees/index-eng.shtml>

64 <http://www.hicksmorley.com/index.php?name=News&file=article&sid=1438&catid=6>

65 <http://www.mondaq.com/canada/x/208306/employee+rights+labour+relations/Employment+Alert+Proposed+Amendments+To+The+Canada+Labour+Code>

Bill C-45 sets out federal rules for the creation of pooled registered pensions plans.

This savings vehicle is promoted by the Conservative government as important to the retirement security of workers without pension plans. Canadians having difficulty making ends meet are unlikely to benefit from this scheme, which is described as similar to an RRSP.⁶⁶

Bill C-45 creates a 'hiring credit' for small employers.

A temporary, partial refund of up to \$1,000 on Employment Insurance premiums will be issued to small businesses to encourage new job creation. It is unlikely that small businesses will reap any real benefit from the credit, given the recent two years of increases in EI premiums.⁶⁷ Further, businesses will be eligible for the credit whether or not they create any new jobs.⁶⁸

Bill C-45 phases out a variety of tax credits.

The Corporate Mineral Exploration and Development Tax Credit for pre-production mining expenditures and development expenditures will be phased out by 2015.⁶⁹ The elimination of the tax credit is not helpful to small mineral exploration and development projects in the north.

Bill C-45 also reduces and limits the criteria for Scientific Research and Experimental Development (SRED). Reducing this credit is counterproductive at a time when the north and Canada struggle to stay abreast of the technological innovations needed to adapt to climate change.

⁶⁶<http://www.rabble.ca/news/2012/12/what-will-conservatives-omnibus-bill-c-45-mean-workers-canada>

⁶⁷http://www.huffingtonpost.ca/ralph-goodale/bill-c-45_b_2039253.html#slide=more257827

⁶⁸http://www.canadianlabour.ca/sites/default/files/pdfs/2012-federal-budget-analysis-part-2-2012-10-19-en_2.pdf

⁶⁹ <http://www.thecoastgroup.ca/documents/FederalBudget2012Summary.pdf>

Northerners need to be concerned about:

- ***The health of our social safety net, especially Employment Insurance and training programs for people using EI.***
- ***Falling wages and benefits.***
- ***Fewer public programs and services.***
- ***Workplace safety especially given increasing pressures to permit fracking and offshore drilling.***
- ***Workplace practices that create inequities among workers.***
- ***Uncertain employee rights in the resolution of workplace conflicts.***

Oversight and Accountability

Oversight and accountability are complementary concepts. The Conservative government continues to fail Canadians on both scores.

Bill C-45 eliminates more oversight agencies.

Bill C-45 cuts three more independent bodies and moves authority to a specific cabinet minister. The loss of independent oversight bodies means that specialized and non-partisan responses to particular needs are threatened. This threat is greater in light of public services cuts as it is questionable whether federal departments have the capacity to absorb and address new responsibilities. The three agencies axed under Bill C-45 are:

1. The Canada Employment Insurance Financing Board, a Crown corporation run by a seven-member board. The Board set EI premiums and supervised EI funds. The elimination of the Board is consistent with the Conservative government's overall transfer of control over EI to Cabinet.
2. The Hazardous Materials Information Review Commission as discussed previously.
3. The Merchant Seamen Compensation Board, a three-person board that hears and decides benefit claims for merchant seamen injured or disabled on the job and not covered by provincial workers' compensation benefits. With the eliminated of the Board, its authority is transferred to the labour minister.

The Conservative government demands accountability of others but not of itself.

Since coming to power in 2006, the Conservative government has been riddled with scandals. These scandals range from misinformation to unscrupulous dealings with industry to loss of confidential public information to fraud. These scandals reveal the extent of poor oversight and accountability within the Conservative government. In recent months, scandals have included:⁷⁰

- Fraudulent claims by Conservative Senators P. Brazeau, M. Duffy and others.
- Fraudulent spending by cabinet ministers such as Bev Oda and Jason Kenney.
- Election fraud and subversion of electoral law by cabinet ministers such as Peter Penashue and Dean Del Mastro.⁷¹
- Flagrant abuse of public funds, spending a record \$500 million last year on legal services with the most spent by Indian Affairs and Northern Development⁷² and an estimated \$64 million for federal advertising.⁷³
- Irrational spending cuts for example, cutting a further 15% of Election Canada's budget even though election fraud investigations underway strike at the very heart of democracy.⁷⁴
- Total disregard for the confidential information of Canadians' receiving CPP and receiving student loans.⁷⁵

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<http://rabble.ca/blogs/bloggers/democracy-watch/2013/02/group-calls-key-changes-give-auditor-general-and-parliamentar>

71

http://www.thestar.com/news/canada/2013/03/17/conservative_scandals_could_overshadow_budget_in_house_this_week.html

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<http://o.canada.com/2012/11/07/federal-government-legal-spending-hit-record-500-million-last-year/>

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<http://www.winnipegfreepress.com/canada/feds-spent-21m-on-economic-action-plan-ads-in-2011-12-annual-report-197050301.html>

74

<http://blogs.ottawacitizen.com/2013/02/27/elections-canadas-budget-estimates-no-haircut/>

75 <http://www.twylah.com/globalmaritimes/tweets/306137885634088960>

While flouting public accountability, the Conservative government has increased accountability demands of others. *Bill C-27: First Nations Financial Transparency Act* demands accountability of First Nations that far exceeds that of any other governments in Canada. The heavy handed call for First Nations accountability was witnessed through the Conservative government's attack on Chief Theresa Spence of Attawapiskat.⁷⁶ Similarly, *Bill C-377: An Act to amend the Income Tax Act* imposes extensive disclosure requirements on unions that are far beyond those required of charities and private and public corporations. In both cases, the punitive nature of the legislation seems not to be about accountability but about ideology.

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<http://www.theglobeandmail.com/news/national/timing-of-attawapiskat-audit-release-comes-under-scrutiny/article9642839/>

Speaking Out:

“Cindy Blackstock has spent more than five years trying to hold Ottawa accountable for a funding gap on the welfare of Aboriginal children on reserves. Instead of dealing with that funding gap, Ottawa has spent nearly as long searching for dirt on Blackstock. In total, it has spent more than \$3 million trying to derail her bid to have the government’s funding policy ruled as discrimination against native children.”⁷⁷

The Parliamentary Budget Officer has been at the centre of efforts to ensure that parliamentarians are accountable for public funds. Over his five year term, the PBO has uncovered far too many accountability gaps.⁷⁸ He found that:

- The Conservative government’s assertion that it lacked the capacity to maintain Old Age Security benefits for 65-year olds was false.
- The cost for F-35 jets was actually closer to \$30 billion than the \$9 billion stated by the Conservative government.
- The cost of the Afghanistan mission was about \$18.1 billion rather than the \$8 billion announced by the Conservative government.
- Almost a year after the Conservative government announced cutting 19,200 public services jobs, only information can be found to rationalize cutting 500 jobs. Still no information is available about how job cuts will affect programs and services such food safety or conditions in First Nation or other Canadian communities.
- Despite plummeting crime rates, spending on policing, legal systems, and prisons has increased but most (73%) of the burden is falling on provincial/ territorial and municipal governments.⁷⁹

The PBO has been less successful uncovering the true costs of tax evasion in Canada. Efforts to uncover how much money is lost to overseas tax avoidance have repeatedly been stonewalled by Revenue Minister Gail Shae.

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http://www.thestar.com/news/canada/2012/10/22/tim_harper_tribunal_will_rule_whether_ottawa_retaliated_against_native_rights_advocate_cindy_blackstock.html

78 http://www.thestar.com/opinion/editorialopinion/2013/02/22/parliamentary_budget_officer_kevin_page_is_a_national_hero.html

79 <http://www.canada.com/news/crime%2Bplummets%2Bcosting%2Bmore%2Bthanks%2BHarper/8130551/story.html>

In these fiscally fragile times, loss of tax revenue is particularly troubling especially since the percentage of Canadian investment in countries known to be tax havens continues to grow from about 10% of GDP in 1987 to 24% in 2011.⁸⁰ According to Canadians for Tax Fairness, governments in Canada may be losing \$80 billion in revenue every year due to tax evasion and fraud.

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http://www.huffingtonpost.ca/2013/03/07/tax-evasion-canada-tax-gap_n_2831463.html

Speaking Out:

*Speaking on the lack of oversight and accountability within the Conservative government, Kevin Page, the Parliamentary Budget Officer says: “Even in the late 80s under a Progressive Conservative government, when we were talking about free trade and talking about GST... the Finance Department would release major papers on free trade impacts, calculation, there’d be a major debate. GST, the same thing: the big transition from a manufacturing sales tax. Analytical papers, lots of transparency, debate... That doesn’t exist right now.”*⁸¹

Northerners need to be concerned about the lack of oversight and accountability within the Conservative government. We need to be aware that:

- ***Rather than good policy, the government might launch a public relations campaign or litigation.***
- ***Information shared by Conservative government spokespeople is not always true.***
- ***Accountability and oversight are likely to get worse before they get better with the departure of the current PBO.***

What Can Northerners Do?

Northerners know that since the Conservative government came to power in 2006, we have lost so much – democratic institutions and processes, indigenous and human rights, programs and services, protection of our water and environment, and government information and openness.

⁸¹ <http://www.ipolitics.ca/2012/12/21/kevin-page-in-conversation-belief-is-not-enough/>

With dialogue and engagement of northerners, some of what has been lost might be regained or remade through our own public and Aboriginal governments.

Northerners can ensure that the recently signed devolution agreement⁸² truly does:

- Honour indigenous rights as recognized in historic and modern day treaties and the Canadian Constitution.
- Reflect the interests of northerners and the health of our environment and waters in decisions about how resources are managed, environmental assessment, and the use of lands and water for energy projects.
- Spend monies to protect the well-being of northerners and the health of our environment and waters.

Northerners can also look to a host of other initiatives that have been in play for the last several years to ensure our interests and our environment are protected, for example:

- The NWT-Alberta bi-lateral water agreement that is intended to ensure the health of water crossing the boundaries into the NWT.⁸³
- Proposed amendments to the NWT mining royalties regime.⁸⁴
- Revisiting the royalty regime and system for awarding lease rights for oil and gas to capture more revenues from oil and gas developments.⁸⁵

Northerners can also continue to speak out against injustices, environmental lawlessness, and undemocratic actions. We can call on our elected representatives in all orders of government to make sure they represent our interests. We can continue to host rallies in our communities, form coalitions, write letters, meet with government officials, and let our voices be heard. We all should continue to do these things to ensure that our interests and concerns are made known and respected.

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<http://devolution.gov.nt.ca/wp-content/uploads/2011/12/DevoSignedAiPIRCNWTMN.pdf>

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<http://norj.ca/2013/02/draft-nwt-alberta-bilateral-water-agreement-expected-by-late-spring/> and <http://environment.alberta.ca/03871.html>

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http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/discpap_1100100_036013_eng.pdf

85 <http://www.pembina.org/arctic/crossroads>