# NL MPs vote against Equalization changes

The Conservative government's 2009 budget plan was passed in the House of Commons last night with a vote of 211 to 91, bringing a more-or-less official end to the 2008 coalition agreement struck by opposition parties.

The New Democratic Party and the Bloc Québécois voted against the government's budget, but, in an unusual turn of events, they were joined by six Liberal Party Members of Parliament (MPs) from Newfoundland and Labrador.

Liberal Party leader Michael Ignatieff, who is also leader of the official opposition in the House of Commons, would normally be expected to ensure that all his MPs maintain party discipline and vote together as a party or be punished, but Ignatieff allowed Liberal MPs from Newfoundland and Labrador to vote against the budget.

Liberal MPs from Newfoundland and Labrador reacted to an apparently unexpected change to the 2009 budget affecting federal transfers to the province. In particular, the change affects that province's choice of calculation of entitlements under the federal Equalization program. This program provides federal tax revenue to provincial governments which do not have the fiscal capacity to raise tax revenue of their own adequate to meet a threshold set by an average of all provinces. The Equalization program is designed to implement a national commitment, articulated in section 36(2) of the *Constitution Act, 1982*, to ensuring that "provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation."

Alberta has never received federal tax revenue under the program and, for the first year since the modern Equalization program was initiated in the 1950s, neither will Newfoundland and Labrador. *So why are Newfoundlanders and Labradorians upset by the federal government's 2009 budget changes to that province's calculation of Equalization entitlement?*

The answer is that even though Newfoundland and Labrador will not receive Equalization in 2009-10, the federal government's calculation of Equalization entitlements is *also* used to determine so-called "Equalization offsets" that Newfoundland and Labrador receive as a result of bilateral agreements with the federal government stretching back to 1985. The Liberal MPs from Newfoundland and Labrador, along with the premier of the province, maintain that the federal government's changes to the Equalization formula in the 2009 budget will reduce that province's offset payments.

As a matter of constitutional jurisdiction, Newfoundland and Labrador does not own the offshore nonrenewable natural resources that today comprise a significant amount of provincial revenue in that province, but the federal government negotiated an "as if"

arrangement with Newfoundland and Labrador (the 1985 Atlantic Accord[1]) that provides the province revenue benefits similar to the arrangement it would have had if the oil were on land.

The federal government's formula for calculating Equalization factors in the potential revenue-raising capacity of provinces on five dimensions including personal and corporate income tax, but takes into account actual revenues that come from natural resources. To quell concerns on the part of Newfoundland and Labrador that its efforts to gain provincial revenue from offshore oil development would come at the cost of a reduction in its Equalization entitlements, the federal government agreed to provide Equalization offsets to temporarily replace Equalization dollars lost as a result of new provincial oil revenue. This agreement was struck to bolster regional economic development in Newfoundland and Labrador.

Negotiation between the federal government and Newfoundland and Labrador in 2005 led to further protection of nonrenewable natural resource revenues from "clawback" under the Equalization formula (2005 Atlantic Accord provinces are given the option, when calculating Equalization entitlements, to choose between a 2005 formula (70 percent of natural resource revenue and a five province standard), and two formulas outlined in the 2007 federal budget. The 2007 budget gave provinces the opportunity to exclude either 50 or 100 percent of resource revenues from the Equalization formula. In short, changes to the Equalization formula, announced by the Conservative government in its 2007 budget, included the option of Newfoundland and Labrador choosing the most lucrative of three different calculations for determining Equalization offsets, each based on a formula for calculating Equalization entitlements.

Budget 2009 changed this flexibility and thus the treatment of provincial natural resource revenue in the caculation of Equalization offsets. In the 2009 budget, the federal government requires Newfoundland and Labrador to choose the least lucrative of the three calculations of Equalization offsets.

In voting against the 2009 budget, the six Liberal MPs from Newfoundland and Labrador were opposing the federal government's alleged unilateral elimination of the province's choice of Equalization formula, noting that the 2009 budget did away with the options presented in the Conservative's 2007 budget, with no negotiation. The federal government's change to its Equalization calculations could mean a loss of more than $1.5 billion.

Today, Premier Danny Williams noted that his government has not looked at legal recourse to the federal government's actions, but would pursue it if the opportunity arose.

## Further reading:

Jennifer Smith, "Intergovernmental Relations, Legitimacy, and the Atlantic Accords" *Constitutional Forum constitutionnel* Vol. 17, No. 3 (2008).

[1] Memorandum of Agreement between the Government of Canada and the Government of Newfoundland and Labrador on Offshore Oil and Gas Resource Management and Revenue

Sharing (1985).

[2] Arrangement between the Government of Canada and the Government of Newfoundland and Labrador on Offshore Revenues (2005), online: <http://www.gov.nl.ca/atlanticaccord/agreement.htm>.

[3] RS, 1985, c F-8, online: <http://laws-lois.justice.gc.ca/eng/acts/f-8/page-1.html>.