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(Committee Business — Senate — 41th Parliament, 1st Session)

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MEMBERSHIP

THE STANDING SENATE COMMITTEE ON ABORIGINAL PEOPLES 41th Parliament, 1st Session

(June 2, 2011 -)

The Honourable Gerry St. Germain, P.C.
Chair

The Honourable Lillian Eva Dyck
Deputy Chair

and

The Honourable Senators:

Salma Ataullahjan
Patrick Brazeau
Larry Campbell
* James S. Cowan (or Claudette Tardif)
Jacques Demers
*Marjory LeBreton, P.C. (or Claude Carignan)
Sandra Lovelace Nicholas
Don Meredith
Jim Munson
Dennis Glen Patterson
Nancy Greene Raine
Nick G. Sibbeston
*Ex officio members

Other Senators who have participated in this study:

The Honourable Senators Maria Chaput, Jane Cordy, Roméo Antonius Dallaire, Nicole Eaton, Joyce Fairbairn, P.C., Céline Hervieux-Payette, P.C., Elizabeth Hubley, Vim Kochhar, Hector Daniel Lang, Elizabeth (Beth) Marshall, Elaine McCoy, Wilfred P. Moore, Nancy Ruth, Richard Neufeld, Kelvin Kenneth Ogilvie, Rose-May Poirier, Larry Smith, Carolyn Stewart Olsen and Terry Stratton

Committee Clerk:
Marcy Zlotnick

*Analyst from the Parliamentary Information and
Research Service of the Library of Parliament:*
Tonina Simeone

ORDER OF REFERENCE

Extract from the *Journals of the Senate* of Thursday, June 16, 2011:

The Honourable Senator St. Germain, P.C. moved, seconded by the Honourable Senator Champagne, P.C.:

That the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report on the federal government's constitutional, treaty, political and legal responsibilities to First Nations, Inuit and Metis peoples and on other matters generally relating to the Aboriginal Peoples of Canada;

That the papers and evidence received and taken and work accomplished by the Committee on the subject during the Third Session of the Fortieth Parliament be referred to the Committee; and

That the Committee submit its final report no later than December 31, 2012, and that the Committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

The question being put on the motion, it was adopted.

Gary O'Brien

Clerk of the Senate

ACKNOWLEDGEMENT

The Committee wishes to express its deep appreciation to all those who appeared before us throughout the course of this important study and who so generously offered their time, their knowledge and their wisdom. Their insights and experiences have been invaluable in helping us to understand the challenges faced by First Nations in delivering a high quality education, and have shaped our findings and conclusions.

I would like to express my personal appreciation to the members of the Committee who were available for the many hours of meetings in Ottawa and during our fact-finding missions. Their commitment to ensuring that every First Nation child benefits from an educational program that prepares them for a full and productive life is evident throughout these pages.

Particular mention should be given to Tonina Simeone from the Parliamentary Information and Research Service of the Library of Parliament for her support and professionalism in assisting the committee during this study. I would also like to thank the Clerk of the Committee, Marcy Zlotnick, who was responsible for organizing all Committee meetings held on this study as well as overseeing translation and printing of all the reports. The Committee also acknowledges Ceri Au, Senate Communications Senior Advisor, who provided valuable assistance in helping to publicize the work of the Committee.

We also want to thank the staff of each of the members of the Committee for their contributions. They have had to endure a substantially increased work load throughout the study.

I know I speak on behalf of the Committee in saying that it is our sincere desire that the government will find these recommendations pertinent and timely. We hope that this report will contribute to the comprehensive reform and renewal of First Nations education that is so urgently required.

Senator Gerry St. Germain

Chair of the Committee

CHAIR'S FOREWORD

As Chair of the Standing Senate Committee on Aboriginal Peoples, I am honoured to have participated in the Committee's study on First Nations elementary and secondary education in Canada and to present this report on the Committee's behalf.

For thousands of years, the Aboriginal peoples of Canada co-existed and organized social structures based on the world around them. Prior to the arrival of European settlers, First Nations people had their own well-established systems of education. Learning was rooted in their natural environment and, from an early age, children were taught the skills necessary to thrive in that environment and to contribute to their families and communities.

For over a century, however, Canadian policies have eroded the traditional social and political systems of Aboriginal peoples. Systematically, Aboriginal nations have been undermined and effectively "detrIALIZED". Once great nations, they have been relegated to reserves too small to sustain their prosperity and way of life, reserves that "ghettoized" First Nations communities, separating them from the rest of Canadian society. Canadians are coming to understand the traumatic impacts of the residential school system, an assimilationist system that failed to educate Aboriginal children and deliberately disconnected them from their languages, cultures, and traditions, ripped them from their homes, and, in far too many cases, brutalized Aboriginal children. Government after government continued this vicious cycle...killing the spirit, the heart and soul, of Aboriginal people. Against this systemic onslaught, Aboriginal peoples were eventually "welfare-ized". And the result is this horrific dilemma that we face today.

Today, First Nations communities are driving the momentum for fundamental change with passion and commitment. They do so not only to ensure that all children have an opportunity to achieve their full creative and economic potential, but also --- and equally importantly --- so that education is never again used against them as a tool of disconnection and alienation from their identities and cultures.

We began this work because all of our previous studies, whether they concerned economic development, governance, specific claims, or other issues, always pointed to education as the key to unlocking the potential of Aboriginal citizens. After many months of inquiry, we are convinced that the current patchwork of individually operated and funded First Nations schools on reserves has failed First Nations students. Piecemeal approaches that simply direct more money at the situation will not work. What is required is a complete restructuring of First Nations education.

This report makes two key recommendations that we believe are crucial to achieving structural reform and moving First Nations education from a situation of crisis to one of hope. Education is the vehicle that lifts us all up. Our first recommendation, which calls for a First Nations Education Act is intended to design a new and better vehicle. The second recommendation puts the necessary fuel in the vehicle, to get us where we need to go. The cost --- in lost opportunities ----of not meeting this challenge is unacceptably high, both for First Nations and for Canada. This is a Canadian issue, not an Aboriginal issue, and we must all shoulder our responsibility as Canadians. This is an urgent moment in our shared history. Together, Canadians must act decisively, and boldly. Canada must succeed.

PREFACE

*There is a longing among the youth of my nation
to secure for themselves and their people
the skills that will provide them with a sense of
purpose and worth.*

*They will be our new warriors; their training will
be much longer and more demanding than it was
in the olden days...*

*But they will emerge with their hand held
forward not to receive welfare, but to grasp a
place in society that is rightly ours.*

Chief Dan George

INTRODUCTION

They [the children] bring with them the aspirations and goals of parents, grandparents, and their extended community family. Their laughter and chatter in the halls and classrooms echoes with those who have taken the path before them...In their backpacks, they are carrying a symbolic burden that weighs them down...The students themselves are not yet aware of this accumulated collective yoke as they enter the school building. They are all carrying a national and collective educational deficit.¹

First Nations education is in crisis. In some First Nations communities a staggering 7 out of 10 First Nations students will not graduate from high school this year. In far too many others, countless First Nations children will never attend a school equipped with libraries, science and technology labs or athletic facilities. And incredibly, in a country as rich as ours, some First Nations children will never set foot in a proper school.²

If we believe that education is a basic human right, then we are most certainly failing First Nations children.

For over 35 years, numerous reports have documented the very serious problems with the provision of First Nations education in Canada, including teacher training, retention and recruitment, the development of culturally-appropriate curriculum, language instruction, parental engagement, and funding necessary to deliver a high quality education. Together, these studies advance a number of crucial reforms aimed at improving the educational outcomes of First Nations youth. To date, however, very few of the proposed reforms have been implemented.

First Nations witnesses have told us clearly that they do not need, nor do they want, another report telling them what they already know. We were told that what is required is urgent action and meaningful support to enable the development of properly resourced First Nations education systems. As a Committee, we have heard this message clearly. With this report, we want to honour the steps already taken, while not shrinking from the hard truths we heard.

¹ Standing Senate Committee on Aboriginal Peoples, *Proceedings*, Bob Atwin, Executive Director, First Nation Education Initiative Incorporated, 4 October 2011.

² Standing Senate Committee on Aboriginal Peoples, *Proceedings*, Angus Toulouse, Regional Chief of Ontario, Chiefs of Ontario, 14 December 2010.

Among the many issues this Committee has examined, education is surely one we must get right. We can no longer afford to make the provision of education to First Nations children a casualty of narrow policy thinking. The human and economic costs of failing to meaningfully address the educational success of First Nations children and youth are too immense for small measures.

Fortunately, there is a growing recognition among all levels of government that reform of First Nations primary and secondary education is urgently required in order to ensure that First Nations children are provided similar opportunities for academic success as those enjoyed by other Canadians. While our advice to the federal government may focus on practical recommendations for the comprehensive reform of First Nations primary and secondary on-reserve education, we remind policy-makers that these recommendations are not an end in themselves. We are now all on a path toward reconciliation. To walk this path honourably we must act not only to transform First Nations education in a way that reconnects First Nations children to their languages, cultures and communities, but we must also transform our fundamental relationship with the First Peoples of this country, from paternalism to partnership. Finally, we must make good on our promises and responsibilities and act boldly today to restore what was wrongly diminished: a child's hope for their future, a chance to reach their full creative potential and to take their rightful place in their community and in their country.

A. COMMITTEE MANDATE AND PROCESS

For many years, members of this Committee have shared a long-standing concern about the troubling gap in educational attainment between First Nations children on reserves and the rest of the Canadian population; a gap which, at current rates of progress, will take nearly three decades to close. Recognizing the critical need to improve the educational outcomes of First Nations children, in April 2010, the Standing Senate Committee on Aboriginal Peoples agreed to undertake a study examining potential strategies for reform of First Nations on-reserve primary and secondary education.

In setting out the terms of reference for this study, we were keenly aware that many aspects of First Nations education have been extensively studied. While we have benefitted enormously from this work, our intention is not to re-examine issues that have been well researched and documented elsewhere. Rather, the Committee determined that it would focus primarily on

identifying solutions to the structural barriers impeding the delivery of a high quality on-reserve primary and secondary education, with a particular focus on three broad themes: governance and service delivery structures, tripartite education agreements and possible legislative frameworks.

The Committee began its hearings in Ottawa on 13 April 2010. Over the course of our study, we held 28 public meetings and heard from over 90 witnesses. In addition to these hearings, on 18 October 2011, we convened a round-table of key education practitioners to assist us in our examination of concrete proposals for reform. Round-table participants included Dr. Marlene Atleo, Dr. Bruce Stonefish, Dr. Colin Kelly, James Wilson and Harvey McCue. Committee members are deeply appreciative of the insights and the clarity provided by the participants and for their invaluable assistance in helping us navigate the complexities surrounding potential reform options.

The Committee also felt it was vital to visit on-reserve schools and to meet with First Nations teachers, students and principals in their communities in order to better understand the opportunities and challenges they experience on a daily basis. We traveled to Saskatchewan, Nova Scotia, Alberta and New Brunswick, where we were privileged to meet the bright and enthusiastic students of Kihew Waciston Cree Immersion School, Chief Taylor Elementary School, Mount Royal Collegiate, Whitecap Elementary School, Eskasoni Elementary and Middle School, Chief Allison Bernard Memorial High School and Chief Harold Sappier Memorial Elementary School. Educators and community members welcomed us warmly into their schools and spoke proudly of their achievements and candidly of their challenges. We witnessed the concerted efforts of communities to reclaim their languages and observed the importance of immersion programs in elementary schools. We were greeted enthusiastically by the children in their own languages while young, budding performers sang their traditional songs to us. In each of the schools we visited we found dedicated educators and individuals working with limited resources to develop programs that best serve the needs of their students and who are committed to creating safe and warm learning environments.

We were moved both by the successes and the obstacles faced by First Nations in securing and providing basic education services to their children. We have listened carefully to the testimony placed before this Committee and now report on our findings.

SETTING THE CONTEXT

A. A BRIEF HISTORY OF FIRST NATIONS EDUCATION IN CANADA

It is time to turn the page on the failed policies and approaches of the past, to give full life and expression to First Nations control of First Nations education.³

In order to identify meaningful directions for future change in First Nations education, we must first understand the factors that gave rise to the present situation. Critical to this understanding is a recognition that all but one period in the history of First Nations education in Canada were characterized by European conceptions of education. Not surprisingly, this is a history marked by conflict and concern, not only as a result of the collision of differing worldviews, but also because of the exclusion of First Nations communities, parents, and Elders from the education of their children.⁴

The historical evidence indicates that much of First Nations formal education has been dominated by either churches or governments, and guided by an education philosophy rooted in ideology rather than pedagogy. The result is that many First Nations people identify education negatively, as a deliberate effort to minimize their languages and cultures. Understood from this perspective, the history of First Nations education, rather than empowering and valuing First Nations children and youth, has, in fact, impoverished successive generations.

Against a backdrop of failed education policies, First Nations communities are driving the momentum for fundamental change with passion and commitment. They do so not only to ensure that all children have an opportunity to achieve their full potential, but equally important, to ensure, in the words of the National Chief of the Assembly of First Nations, Shawn A-in-chut Atleo, “that never again would our children be ripped from their homes and families and disconnected from their identity and cultures under the guise and in the name of education.”⁵

i. Pre-contact Period

³ Standing Senate Committee on Aboriginal Peoples, *Proceedings*, Shawn A-in-chut Atleo, National Chief, Assembly of First Nations, 2 November 2011. [Hereinafter referred to as *Proceedings*].

⁴ Sheila Carr-Stewart and Larry Steeves, *First Nations Educational Governance: A Fractured Mirror*, Canadian Journal of Educational Administration and Policy, Issue 97, December 2009, p. 2.

⁵ *Proceedings*, National Chief Shawn Atleo, 2 November 2011.

Prior to the arrival of European settlers, First Nations people had their own well-established systems of education. Rooted in the community and the natural environment, First Nations children were taught, from a young age, the skills necessary to survive in often harsh environments. Situated within a spiritual worldview, knowledge was transmitted by the elders and members of the community through an informal process that provided youth the skills and attitudes necessary for daily life. This natural process of teaching and learning that marked pre-contact First Nations education was described by Professor Verna Kirkness:

The development of the whole person was emphasized through teachings often shared in storytelling... through which children learned traditional values such as humility, honesty, courage, kindness and respect... Traditional education was strongly linked to the survival of the family and the community. Learning was geared to knowledge necessary for daily living. Boys and girls were taught at an early age to observe and utilize, to cope with and respect their environment. Independence and self-reliance were valued concepts handed down to the young. Through observation and practice, children learned the art of hunting, trapping, fishing, farming, food gathering, child-rearing, building shelters. They learned whatever their particular environment offered through experiential learning.⁶

This period marks the only time where the education of First Nations children and youth was wholly designed, planned and implemented by First Nations communities to prepare their children for the environment in which they were to live.⁷

ii. The Mission and Residential Schools Period

Little can be done with him (the Indian child). He can be taught to do a little farming, and at stock raising, and to dress in a more civilized manner, but that is all. The child who goes to a day school learns little while his tastes are fashioned at home, and his inherited aversion to toil is in no way combatted.⁸

From early contact through to Confederation, missionaries would play a central role in the education of First Nations children. Beginning in the mid-17th Century, Protestant and Catholic missionaries established schools, often with the support of the state, to spread Christianity to the

⁶ Verna Kirkness, *Aboriginal Education in Canada: A Retrospective and a Prospective*, Journal of American Indian Education, Vol. 39 No.1, Fall 1999.

⁷ Department of Indian Affairs and Northern Development Canada, *Indian Education*, 1982 at Annex C, p.2.

⁸ Cited in Verna Kirkness, *Aboriginal Education in Canada: A Retrospective and a Prospective*.

various “nations and tribes” of the New World. At the time, the mission schools were seen as the best method of “civilizing the natives” and, according to the 1996 *Report of the Royal Commission on Aboriginal Peoples*, were “without apology, assimilationist.”⁹ According to Harvey McCue, these efforts continued until the 1830s when the policy of residential schools was formally established.

At Confederation, the federal government was assigned constitutional jurisdiction for “Indians and lands reserved for the Indians” and thus became responsible for the education of First Nations children. A cornerstone of federal Indian education policy through to the 1950s was the residential school. The Indian Residential Schools (IRS) educational system saw more than 150,000 First Nations, Inuit and Métis children taken to boarding schools, miles away from their families, to be “civilized,” educated, and converted to Christianity. Though the system formally ended in 1969, several government-run schools remained open until the 1990s.

During much of this period, the federal government, together with several Christian churches, renewed its efforts to provide First Nations children with a parochial education. A key objective of this system was that of “aggressive assimilation” through segregation.¹⁰ According to the logic of the time, the removal of First Nations children from the influence of their communities, parents, and elders would enable them to be educated and fully immersed in the values and practices of mainstream society, that is to say, Euro-Christian values. Duncan Campbell Scott, Deputy Superintendent General of Indian Affairs from 1913 to 1932, saw education, along with intermarriage, as a central element in the policy of absorbing and enfranchising First Nations people into the general population:

The happiest future for the Indian race is absorption into the general population, and this is the object of the policy of our government... The great forces of intermarriage and education will finally overcome the lingering traces of native custom and tradition.¹¹

⁹ Canada, Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples, Gathering Strength*, 1996, Vol. 3, Chapter 5, p. 434.

¹⁰ Justice C. MacPherson, *MacPherson Report on Tradition and Education: Towards a Vision for Our Future*, September 1991, p. 2.

¹¹ Duncan C. Scott, "Indian Affairs, 1867-1912", in Adam Shortt and Arthur G. Doughty, eds., *Canada and Its Provinces*, Vol. VII, Toronto, Glasgow, Brook and Company, 1914, pp. 493-526.

By the mid-1970s, the damaging effects of the schools were becoming widely recognized. Initial revelations of physical and sexual abuse at the schools released a flood of further revelations and a broader focus on other damages wrought by the system. The legacy of this trauma was highlighted by the Royal Commission on Aboriginal Peoples, which identified the IRS system as a “failed policy” that continues to have adverse effects on Aboriginal communities today.

iii. Integration

A movement away from residential schooling began after World War II, partly in response to the deep dissatisfaction of First Nations with the deplorable conditions and dramatically poor educational outcomes experienced by their children.¹² Adding to this widespread criticism, in 1948, a Joint Parliamentary Committee on Indian affairs issued a major report highlighting the serious problems facing First Nations people. The report recommended that “whenever and wherever possible Indian Children should be educated in association with other children.”¹³ The recommendation, enthusiastically embraced by Indian Affairs officials and the federal government, began the process of phasing out residential schools, and continued over much of the following four decades, as students were gradually integrated into provincial education systems or sent to on-reserve day schools.

The sharp policy shift from segregation toward integration increased the role of provinces and territories in the education of First Nations children, while diminishing that of the federal government and the churches. Once again, however, little accommodation was made for the educational aspirations and needs of First Nations people, including respect for their languages, history and cultures. Integration, in this sense, was decidedly one-sided. Nevertheless, by the 1970s, almost 60% of First Nations students were attending provincial or territorial public schools.

¹² The 1966 Survey of the Contemporary Indians of Canada (also referred to as the Hawthorn Report) noted a 94% drop-out rate of on- and off-reserve high school students.

¹³ Special Joint Committee of the Senate and House of Commons, *Minutes and Proceedings*, June 21, 1948, p. 188.

The zenith of the federal government's integration policy was its *Statement of the Government of Canada on Indian Policy*, or White Paper, issued in 1969. This document proposed the complete integration of First Nations children into the existing provincial and territorial education systems. The policy, however, was fiercely opposed by First Nations across the country. Not only was integration seen as having failed to improve the social and economic conditions of First Nations, it was also not considered an appropriate foundation for educating First Nations children.

iv. Local Control

First Nations leadership countered the White Paper's plan to transfer all educational services for First Nations to provincial and territorial governments with their own proposal. In 1972, the National Indian Brotherhood, precursor to the Assembly of First Nations (AFN), articulated its vision of education in a position paper entitled *Indian Control of Indian Education*. This document set out an educational philosophy affirming the principles of parental responsibility and of First Nations local control of education.

Soon after the document's release, then Minister of Indian Affairs, Jean Chretien, accepted the proposal as a new basis for federal education policy.¹⁴ Accordingly, since 1973, federal policy with respect to First Nations education has, in theory, been driven by adherence to the goals and principles set out in the position paper *Indian Control of Indian Education*. As a result, throughout the 1970s and into the 1980s, the federal government embarked on a process of transferring administrative responsibility for on-reserve elementary and secondary education to First Nations. The transfer of control of schools to First Nations was, for the most part, accomplished within existing federal legislation, administrative arrangements, and policies.

The implementation of the policy of *Indian Control of Indian Education* has not been without its challenges. Key among the criticisms has been that "Indian control" has often meant little more than First Nations administration of federal education programs and policies. Nevertheless, parental responsibility and local control of on-reserve education is much more prevalent today than in 1973.

¹⁴ House of Commons Standing Committee on Indian Affairs and Northern Development, *Minutes and Evidence*, Issue No. 18, 24 May 1973, 11:20.

B. THE CURRENT FRAMEWORK FOR FIRST NATIONS EDUCATION

With some notable exceptions (discussed below), there are currently three basic models by which First Nations students receive primary and secondary education services. They are:

- federal schools controlled by the Department of Aboriginal Affairs and Northern Development Canada (AANDC/ the Department);
- local schools operated by individual First Nations (also referred to as band-operated schools); and
- provincial and/or territorial public school systems.

According to AANDC, there are approximately 518 band-operated schools in Canada. Band-operated schools must ensure that their teachers are certified to teach in the band's province and that the school follows the provincial curriculum, adapted to reflect the First Nation's language and culture, where possible. Many of these schools are supported by regional education service organizations that were initiated and funded by groups of First Nations, with additional support from AANDC.¹⁵ In some areas, support services are provided directly by First Nations political organizations or tribal councils (e.g., Yorkton Tribal Council, Prince Albert Grand Council, Association of Iroquois and Allied Indians, Federation of Saskatchewan Indian Nations).

Departmental estimates indicate that of the 120,000 eligible on-reserve First Nation students, 60% attend school on reserve. The remaining 40% attend provincial schools (usually at the secondary level), and less than 2% attend the seven schools operated by the federal government.

C. THE FEDERAL ROLE

Constitutional authority to make laws in relation to education generally rests with provincial governments, while the federal government retains responsibility for elementary and secondary education on First Nations reserves. Federal authority for matters dealing with "Indians, and lands reserved for the Indians," including education, stems from section 91(24) of the *Constitution Act, 1867*.

¹⁵ Examples of First Nations multi-school organizations include, but are not limited to: First Nations Education Steering Committee, Cree School Board, L'Institut Culturel Educatif Montagnais, Treaty Seven First Nations Education Consortium, Treaty 8 Education Initiative, Indigenous Education Coalition, New Brunswick Education Initiative, Mi'kmaq Kina'matnewey.

Under this constitutional authority, the federal government has enacted various pieces of legislation dealing specifically with First Nations people. The most significant of these is the *Indian Act*, which governs nearly all aspects of the lives and lands of First Nations people, including education.¹⁶ In addition to the federal government's constitutional authority and existing legislation, the numbered treaties, concluded between 1871 and 1910, commit the federal Crown to maintaining schools and providing educational services to signatory First Nations as part of its ongoing treaty obligations.¹⁷ The federal government's long-standing practice, however, has been to deliver educational services within the context of the education provisions of the *Indian Act*.

Sections 114–122 of the *Indian Act* authorize the Minister of Indian Affairs and Northern Development to “establish, operate and maintain schools for Indian children.” The education provisions of the Act, however, deal largely with truancy and make no reference to substantive education issues or the quality of education to be delivered. Importantly, the *Indian Act* does not authorize bands to set up and run their own schools and makes no reference to band councils or First Nations educational authorities.

Federal responsibility for First Nations primary and secondary education is managed principally by the Department of Aboriginal Affairs and Northern Development Canada through its Elementary and Secondary Education Program. The program supports instructional services in on-reserve schools, reimbursement of tuition costs for students who attend off-reserve provincial schools, and other services such as transportation, counseling and financial assistance. Current federal policy commits to providing educational services to First Nations that are comparable to those “required

¹⁶ *Indian Act*, RSC 1985, c I-5, available at: <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-i-5/latest/rsc-1985-c-i-5.html>.

¹⁷ For example, Treaties 1 and 2, state: “Her Majesty agrees to maintain a school in each reserve hereby made, whenever the Indians of the reserve shall desire it.” Treaty Six provides slightly different language and reads as follows: “Her Majesty agrees to maintain schools for instruction in such reserves hereby made, as to her Government of the Dominion of Canada may seem advisable, whenever the Indians of the reserve shall desire it.”

in provincial schools by the statutes, regulations or policies of the province in which the reserve is located.”¹⁸

According to its *2011–2012 Report on Plans and Priorities*, AANDC will spend roughly \$1.65 billion for educational services, with projections of \$1.68 billion for 2012–2013 and \$1.70 billion for 2013–2014. Education funding, excluding capital costs, is calculated using a national formula (last updated in 1996) and distributed through various funding arrangements with First Nations and the provinces. Since 1996, there has been a 2% cap on annual increases in AANDC’s education funding, including capital expenditures.

Although still legally and constitutionally responsible for education, for the past 30 years, the Department has largely limited its role to one of funding education services. A 2010 evaluation of the federal education program describes the approach taken by the Department (formally called Indian and Northern Affairs Canada or INAC):

INAC has approached education programming much like other programming in the Department. This means that INAC has assumed the position of a funder and has given the control of education programming over to First Nations communities and organizations. In theory, this is respecting the principle of First Nations control of education. The reality, however, is that INAC still requires a large amount of reporting and has a statutory obligation for education under the *Indian Act*.¹⁹

Importantly, the departmental evaluation acknowledges that First Nations responsibility for education has been restrained and that “without appropriate capacity and resources, many communities are unable to maximize the impact that First Nations control of education could have over something as fundamental as education of children.”²⁰

D. RECENT ATTEMPTS AT REFORM

i. Jurisdictional Agreements in Education

¹⁸ Department of Aboriginal Affairs and Northern Development Canada, *Audit of the Elementary and Secondary Education Program*, 1 May 2009, p. i.

¹⁹ Department of Aboriginal Affairs and Northern Development Canada, *Audit of the Elementary and Secondary Education Program*, May 2009. The document is available on line at: <http://inac-ainc.info/ai/arp/aev/pubs/au/ese/ese-eng.asp>.

²⁰ Department of Aboriginal Affairs and Northern Development Canada, *Formative Evaluation of the Elementary/Secondary Education Program On-Reserve*, February 2010, p. 11.

There have been some promising developments in recent years to reform First Nations education, in particular in Nova Scotia (1998), British Columbia (2006) and among the Cree in Northern Québec (1975). Each of these jurisdictional agreements replaces the education provisions of the *Indian Act* and provides legal recognition of First Nations authority over education. They represent notable examples of First Nations-initiated reform to improve elementary and secondary educational services on reserve.

The first such agreement was the establishment of the Cree School Board (CSB) in 1975 with the signing of the James Bay and Northern Quebec Agreement (JBNQA), the first comprehensive land claims agreement in Canada. In July 1978, the CSB was formally constituted under Quebec's *Education Act*. Underlying the philosophy of the CSB is that the Cree language and culture are at the root of the Cree education system.

The JBNQA and the subsequent establishment of the CSB marked a significant departure from past education practices. Notably, under section 16 the JBNQA, the Cree took control of their children's education, including the ability to decide the language of instruction, design the curriculum, hire teachers and set a Cree school calendar. The latter would allow Cree youth to participate in traditional hunting and fishing activities, as well as obtain a classroom education. Today, the CSB controls a substantial budget (expenditures for 2009 totalled approximately \$116,778,918) and provides education services to over 3,600 students at the primary, secondary and post-secondary levels. The agreement has allowed for the implementation of a distinctively Cree curriculum in economics, geography, and history, as well as in-service training for Cree teachers. Efforts are also underway to establish a land-based Cree hunting and trapping vocational option for students.

In addition to this agreement, in 1998, Parliament enacted the *Mi'kmaq Education Act*, giving effect to the *Final Agreement with respect to Mi'kmaq Education* in Nova Scotia. This was the first tripartite education agreement (federal, provincial, First Nations) to provide for the transfer of jurisdiction for education to Eleven Mi'kmaq First Nations, with 12,656 members. Under the agreement, the education sections of the *Indian Act* ceased to apply to the participating communities. The agreement also provides that First Nation laws regarding education on reserves will prevail over provincial education laws. It requires participating First Nations to provide education services at a standard comparable with other education systems in Canada.

Despite some challenges, the implementation of the agreement in Nova Scotia has led to specific improvements in education. Seven of the ten Mi'kmaq communities control and manage elementary and/or secondary schools on reserve. Some, like Wagmatcook and Eskasoni, have developed extensive Mi'kmaq immersion and secondary programs, with graduation rates above the national average for band-operated schools. A total of 38 Mi'kmaq teachers have been trained at St. Francis Xavier University. Band-operated schools have enjoyed stable enrolment, and a culturally-relevant curriculum has been developed. Statistics from the Mi'kmaw Kina'matnewey indicate that:

- Over 2,700 on reserve Mi'kmaw Kina'matnewey students attend school from primary to grade 12, with approximately two thirds attending schools on reserve, (Primary in Nova Scotia is referred to as kindergarten in other provinces).
- Four First Nations have a primary to grade 12 school; three First Nations have a primary to grade 6 school; and four First Nations have a primary school. The remainder of students attend provincial schools.
- Since June 2007 over 420 Mi'kmaw Kina'matnewey students have graduated from grade 12. This is a graduation rate of over 70%.

Lastly, on 5 July 2006, the Government of Canada, the province of British Columbia, and the First Nations Education Steering Committee signed the Education Jurisdiction Framework Agreement, which put in place a process to transfer jurisdiction over on-reserve education to participating First Nations in British Columbia. The *First Nations Jurisdiction over Education in British Columbia Act* gives effect to the framework agreement. This allows the Government of Canada and interested First Nations in British Columbia to negotiate individual education agreements, thereby transferring education authority to participating First Nations. The legislation also establishes a First Nations Education Authority to support First Nations in exercising education jurisdiction in three key areas: teacher certification, school certification and the establishment of curriculum and examination standards. Importantly, once a participating First Nation and the Government of Canada ratify a Canada-First Nation Education Jurisdiction Agreement, sections 114-122 of the *Indian Act* will no longer apply. Participating First Nations, as opposed to the Minister of Aboriginal Affairs, will assume responsibility for providing educational services from kindergarten to grade 12 on reserve.

ii. Federal Reform Initiatives

Recognizing the need to address the poor educational outcomes of First Nations children, and shortcomings in existing federal policies and practices, in December 2008, the federal government launched its Reforming First Nation Education Initiative.²¹ The Initiative includes two new programs aimed at supporting improvements in student literacy and numeracy, as well as partnership arrangements between First Nations and provincial schools.

Designed to be complementary, the proposal-driven programs are funded annually and are supplementary to the Elementary/Secondary Education Program. The priority of the First Nation Student Success Program is to increase the literacy and numeracy of First Nation students and to improve student retention. The program funds First Nations educators to develop and implement school success plans, conduct student learning assessments, and measure student performance.

The Education Partnership Program, which is the second of the Initiative's two programs, supports the participation of regional-level First Nations' organizations in developing and implementing partnership arrangements and joint action plans with provincial schools and educators. The goal of developing such arrangements is to "open the way to sharing information and better coordination between First Nation and provincial schools." Participating provinces are expected to fund and support joint activities in provincial schools.

While it is too soon to assess the effectiveness of these programs in improving the success of First Nations elementary and secondary students, the broader question of how these programs promote structural reform is of some significance.

iii. Inuit Educational Reform

Although issues related to Inuit education fall outside the scope of this particular study, they are no less pertinent. With drop-out rates as high as 75% in many Inuit communities, strengthening and improving Inuit education demands our focused and immediate attention.

²¹ Department of Aboriginal Affairs and Northern Development Canada, "Government of Canada Launches Two New Programs To Improve First Nations Education," 2 December 2009. See also "Reforming First Nations Education" at: <http://www.aadnc-aandc.gc.ca/eng/1314210313525>.

Educational reform to reflect an Inuit-centered approach respecting Inuit culture and history has been a priority among Inuit leaders since the 1970s, and continues to this day. The Kativik School Board (KSB), established under the 1975 James Bay and Northern Québec Agreement, for example, is a concrete expression of Inuit control of Inuit education. The KSB serves 14 communities in Nunavik, Québec and has the exclusive jurisdiction to provide pre-school, elementary, secondary and adult education. It is responsible for developing programs and teaching materials in Inuktitut, English and French, training Inuit teachers to meet provincial standards and encouraging and supervising post-secondary education. Like the Cree School Board, the KSB is governed by Quebec provincial law entitled The Education Act for Cree, Inuit and Naskapi Native Persons.

Importantly, in 2006, the Inuit Tapiriit Kanatami, launched an educational initiative with the objective of bringing together all four nations of Inuit Nunangat (Inuit homeland) to chart a vision for Inuit education and develop a national strategy. In 2008, a National Summit on Inuit Education was held in Inuvik, Northwest Territories, which resulted in the creation of an Inuit Education Accord. The Accord, signed by governments and national and regional Inuit organizations, set up the National Committee on Inuit Education (NCIE) mandated to examine the seven themes identified in the Accord: bilingual education, mobilizing parents, Inuit-centred curriculum, post secondary success, capacity building, collecting and sharing information, and early childhood education.

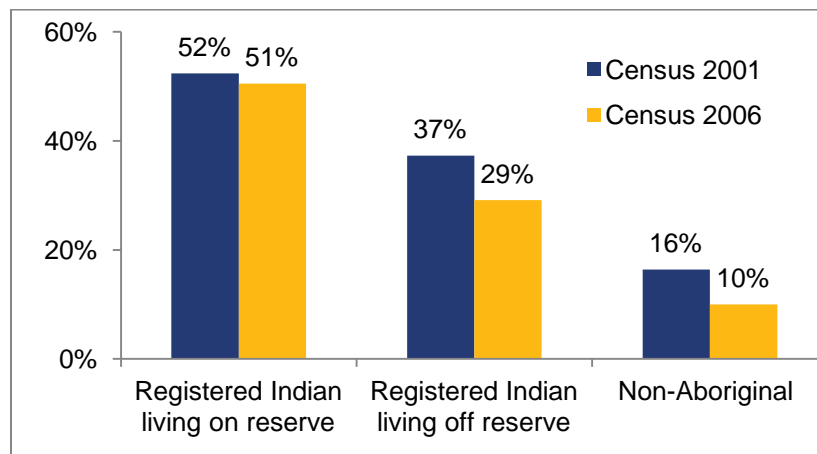
The Committee welcomes the June 2011 launch of First Canadians, Canadians First: The National Strategy on Inuit Education. The culmination of two years of intense work by the NCIE, the report sets out ten core recommendations to improve Inuit education. These recommendations are intended to offer children support to stay in school, stress the importance of developing Inuit language systems and culture, and increase the increase the number of educational leaders and bilingual instructors for early childhood education. The Committee encourages federal, provincial and territorial governments to work closely with Inuit governments and representative organizations to ensure that these recommendations are implemented in a timely fashion and to create a new era in Inuit education.

E. THE EDUCATIONAL ATTAINMENT GAP

A gap in educational attainment between First Nations people on reserves and the rest of the Canadian population has been noted for some time. In a 2000 report to Parliament, the Auditor General of Canada estimated that it would take over twenty years, at the current rate of progress, for First Nations students to reach parity in academic achievement with other Canadians. This number rose to 28 years in a 2004 follow-up report, due to rapidly improving outcomes in the broader Canadian population.²²

In 2006, at least half of the on-reserve population aged 25 to 34 did not have a high school leaving certificate, compared with 10% for other Canadians of the same age (see figure below). A comparison of the 2001 and 2006 Census results indicate that little progress has been made in improving the on-reserve educational achievement rates.

Figure 1: High School Non-completion Rates for First Nations People and Non-Aboriginal People Aged 25 to 34, 2001 and 2006.



Source: Figure prepared by the Library of Parliament using data from Statistics Canada, 2001 and 2006 Census tabulations. (Under-reporting of high school completions contributed to the elevated results obtained in censuses before 2006.)

²² Office of the Auditor General of Canada, “Chapter 4: Indian and Northern Affairs Canada – Elementary and Secondary Education,” *Report of the Auditor General of Canada – April 2000*, pp. 4–5, see also “Chapter 5: Indian and Northern Affairs Canada – Education Program and Post-Secondary Student Support,” *Report of the Auditor General of Canada to the House of Commons*, November 2004, p. 1.

Research indicates that education is by far the most important determinant of labour market outcomes and plays a key role in improving social outcomes. Closing the gap in high school graduation rates is therefore critical if governments are to address the economic and social challenges facing a majority of First Nations people.

F. CALL TO ACTION

In December 2010, the federal government, along with the AFN, announced the creation of a national panel of experts to advise on options, including legislation, to improve the educational outcomes of First Nations students.²³ This announcement followed the AFN's June 2010 Call to Action on First Nations Education, which highlighted the need for a fundamentally new approach to education that turns the page on the Indian residential schools era. Specifically, the AFN's Call to Action seeks:

- reconciliation and implementation of First Nations rights within all federal and provincial education, legal, and policy regimes;
- an education guarantee creating a secure fiscal framework for First Nations education;
- funding arrangements based on real costs, indexation and appropriate treatment for northern and remote communities; and
- building education systems, including professional and accountable institutions to support teachers as well as language and cultural curriculum.²⁴

There have been encouraging signals that the federal government is prepared to embark upon a course of reform, in collaboration with First Nations, to improve the delivery, governance and accountability for the provision of education on reserves. In addition to the creation of the National Panel, an important step in this direction is the Canada-First Nations Joint Action Plan.

²³ Department of Aboriginal Affairs and Northern Development Canada, "Government of Canada and the Assembly of First Nations Announce the Creation of a Panel of Experts to Lead Engagement on First Nations Elementary and Secondary Education," 9 December 2010.

²⁴ Assembly of First Nations, "AFN National Chief Shawn A-in-chut Atleo Launches Call to Action on First Nations Education," 9 June 2010.

Announced in June 2011 by the Minister of Aboriginal Affairs and the National Chief of the Assembly of First Nations, the Action Plan identifies education as a joint strategic priority.²⁵

²⁵ Department of Aboriginal Affairs and Northern Development Canada, “Canada-First Nations Action Plan,” is available on line at: <http://www.aadnc-aandc.gc.ca/eng/1314718067733>.

FIRST NATIONS EDUCATION: WHAT THE COMMITTEE HEARD

We believe that success in providing education to [First Nation] students can be achieved only if their needs and aspirations are appropriately identified and served by an education system that is designed to meet them.²⁶

Witnesses testifying before this Committee identified a number of broadly shared concerns with respect to the provision of elementary and secondary education in First Nations communities. They spoke passionately about the need to integrate First Nations knowledge into the curricula and pedagogy, both on reserves and in public schools. They talked to us about the challenges of recruiting, training, and retaining qualified teachers, the importance of language instruction and immersion programs, the link between parent and community participation in the educational outcomes of students, and the need for adequate resources to build and maintain healthy school facilities and to deliver a range of educational programs, including language instruction and gifted and special needs programs.

Most importantly, perhaps, witnesses told us that bold and decisive action was urgently required to address the critical state of First Nations education in many communities across the country. Many noted that educational success for First Nations children and youth is particularly pressing given that they are the youngest and fastest growing population in Canada. Estimates suggest that by 2026, some 600,000 Aboriginal youth will come of age to enter the labour force.²⁷ Given that education is a principal driver of employment and labour force participation, we heard that improving education outcomes will be vital for young First Nations people entering the labour market, as well as for Canada's economic productivity, as their share of the labour force grows.

In soliciting testimony from witnesses across the country, we deliberately sought not to replicate existing studies. Rather, we felt it important to try to build on what has already been done. Several reports, such as the *Final Report of the Minister's Working Group on Education* (2002), the *Report of the Royal Commission on Aboriginal Peoples* (1996) and *Tradition and Education: Towards a Vision for Our Future* (1988), have examined virtually all aspects of First Nations

²⁶ Office of the Auditor General of Canada, "Chapter 4: Indian and Northern Affairs Canada – Elementary and Secondary Education," *Report of the Auditor General of Canada – April 2000*.

²⁷ Jeremy Hull, *Aboriginal Youth in the Canadian Labour Market*, Horizons, Volume 10, Number 1, 2008.

education. Their recommendations represent a substantive and continuous path of reform. Each offers an important roadmap and vision for the future that is grounded in an extensive process of engagement with teachers, communities, parents and students. Recognizing this tremendous body of work, Committee members focused specifically on potential areas for structural reform. The following section summarizes the issues most commonly raised by First Nations witnesses throughout our hearings on these matters.

A. LIMITATIONS OF THE CURRENT MODEL

First and foremost, in order to dispense quality, results-based education, you need to have a real education system.²⁸

Unlike other communities in provinces and territories, First Nations on reserves have historically lacked access to the benefits that a system of education provides to elementary and secondary students. They note that while provincial governments have established comprehensive education systems, including ministries of education, elected school boards, education acts and legal requirements for parental involvement, the education system in place for First Nations children lacks several, if not most, of these features.

Unlike the public school system in other jurisdictions, First Nations elementary and secondary education reflects governance primarily at one level – the school (first level). Witnesses suggested that many of the benefits that flow from structures that provide educational services at other levels – such as school boards (second level) and ministries of education (third level) – are either absent or insufficient.²⁹ In her appearance before the Committee, then Auditor General of Canada, Sheila Fraser, stated: “I think everyone recognizes that when [educational] programs were transferred to First Nations, many of the institutions and structural supports were not there to achieve it.”³⁰

First Nations education is described by Michael Mendelson and others as a stand-alone village school model of education that was replaced in other jurisdictions decades ago. “The old village model, sometimes operating under the administration of the town mayor,” Mendelson writes, “is

²⁸ Lise Bastien, Director, First Nations Education Council, *Proceedings*, 8 June 2010.

²⁹ Harvey McCue, *First Nations 2nd and 3rd Level Services: A Discussion Paper for the Joint Working Group INAC-AFN*, April 2006.

³⁰ Sheila Fraser, former Auditor General of Canada, *Proceedings*, 12 May 2010.

long gone everywhere – except on First Nations reserves.”³¹ Missing from the individually-run, band-operated school model are a wide range of educational services, such as curriculum development, teacher training, development of principals, testing and quality assurance, legal accountability to students and their families, and the larger support structure that makes a modern school work, commonly referred to as second- and third-level services.³² The result, according to Professor John Richards of Simon Fraser University, is that “the present system of approximately 500 schools with average school populations of 100 students can never achieve the results we want.”³³

The absence of a governance and administrative education infrastructure to support individual schools continues to be a long-standing concern raised by witnesses. The absence of these critical educational supports is considered by many to directly contribute to the low education outcomes of First Nations students. James Wilson, Treaty Commissioner of the Manitoba Treaty Relations Commission and a former educator, linked the poor educational outcomes on reserves to the absence of these standards, infrastructure and institutional supports:

Current educational outcomes on reserves are far below Canadian standards. With no laws governing on-reserve education, vast funding and support inequities, infrastructure deficits, and no common measurements of success, the resulting graduation rates in some provinces are as low as 29 per cent.³⁴

Similarly, Ms Lise Bastien, Director of the First Nations Education Council, observed:

In our minds, the Government of Canada has never kept its promise to fully support the autonomy of Indian education as adopted in 1972. Its support has been limited to transferring administrative authority, along with the all-too-often inadequate funding, and administrative rules that make it difficult to ensure quality management.³⁵

³¹ Michael Mendelson, *Why We Need a First Nations Education Act*, Caledon Institute of Public Policy, October 2009 report, p.4.

³² Caledon Institute of Social Policy, Caledon Commentary, *Improving Primary and Secondary Education on Reserves in Canada*, October 2006, p.4.

³³ John Richards, Professor, Public Policy Program, Simon Fraser University, *Proceedings*, 2 June 2010.

³⁴ James B. Wilson, Treaty Commissioner of Manitoba, Treaty Relations Commission of Manitoba, *Proceedings*, 4 October 2011.

³⁵ Lise Bastien, Director, First Nations Education Council, *Proceedings*, 8 June 2010.

The majority of witnesses acknowledged that it is unrealistic to expect 630 individual First Nations across the country, many located in rural or remote regions, and with less than 1,000 residents, to effectively manage an educational program with limited resources.

Departmental officials further affirmed the challenges for education delivery on reserves in the absence of an education infrastructure. They told us that while the specific operation of schools was devolved to individual First Nations, a corresponding system of education to support those schools and to assist students in their educational goals was not developed. Ms. Kathleen Keenan, Director General of the Education Branch, observed:

[M]any of the schools are very small and in very small communities, so people do the best they can with the resources they have available. In the wake of devolution, it was set up so that each community had its own school, and typically they do not have the access to the kinds of services provincial governments now have. They do not have entities like school boards to aid and abet, and they do not have ministries of education. They look to the provincial curriculum for the kinds of education they should be providing to their students, but it is a fluid and very unstructured approach to delivering education.³⁶

Recognizing the challenges associated with band-operated schools operating without substantial educational and administrative supports, several witnesses spoke of the need for a comprehensive restructuring of First Nations education. Regional Ontario Chief, Angus Toulouse of the Chiefs of Ontario, told the Committee:

We must replace an antiquated system of isolated and under-resourced schools with a systemic approach that links support and ensures capacity, including the ability to plan and effectively manage this essential service – the basic right of our children to a good education. The way forward must be centred on our students, must respect our rights and must confirm a First Nations education system.³⁷

Witnesses emphasized, however, that the highly paternalistic, archaic, and skeletal education provisions of the *Indian Act* cannot be the basis upon which reform will be built. Although it is the statutory root of federal First Nations education policy, the provisions are exceptionally

³⁶ Kathleen Keenan, Director General, Education Branch, Department of Aboriginal Affairs and Northern Development Canada, *Proceedings*, 28 April 2010.

³⁷ Angus Toulouse, Regional Chief of Ontario, Chiefs of Ontario, *Proceedings*, 14 December 2010.

vague and provide no guidance on the organizing goals, principles or processes of First Nations education. Equally, if not more importantly, the *Indian Act* makes no reference to, and provides no authorization for, First Nations or First Nations educational authorities to establish schools and deliver educational services. Thus, although the Act sets out the powers of the Minister, and his or her authority to enter into agreements with various governments and legal entities for the education of First Nations children, it has effectively “institutionalized the exclusion of First Nations people in the delivery of educational services.”³⁸ In his appearance before the Committee, National Chief Shawn Atleo described the *Indian Act* education framework as outdated and fundamentally wrong. He states:

With no recognition of First Nations rights or responsibility, and no commitment to stability and resourcing, the *Indian Act* fails every test as a vehicle to support education.³⁹

Commenting on this concern, Sheila Carr-Stewart suggests that the current system is a fractured image of the provincial system that does not build on indigenous education practices, cultures, and languages, nor does it provide educational support mechanisms similar to provincial systems. Echoing the view of a vast majority of witnesses, Dr. Colin Kelly, Official Trustee, Northland School Division, observed:

The fact that these types of services are almost non-existent at the band-operated school level may help in explaining the unacceptable student achievement gap between band and provincially-operated schools.⁴⁰

While some First Nations have attempted to address this gap in educational services and develop much-needed educational infrastructure, for the most part, the key components of an education system for First Nations are missing on reserves across Canada.⁴¹ According to numerous witnesses, the next step is to create the necessary supports, including financial infrastructure and other elements of educational infrastructure, so that there can be a high quality First Nations education system. Harvey McCue told us that “[w]e need to go beyond the band-operated school

³⁸ Sheila Carr-Stewart and Larry Steeves, *First Nations Educational Governance: A Fractured Mirror*, p.2.

³⁹ Shawn A-in-chut Atleo, National Chief, Assembly of First Nations, *Proceedings*, 4 November 2011.

⁴⁰ Colin Kelly, Official Trustee, Northland School Division no. 61, *Proceedings*, 16 November 2010.

⁴¹ Michael Mendelson, *Why We Need a First Nations Education Act*, p.1.

to establish regional education structures that are commonly referred to in the provincial system as school boards.”⁴²

The federal role, in this respect, should be one of *enabling* First Nations to create and to adopt viable education systems, while acknowledging that primary responsibility for education rests with First Nations. Witnesses offered some key observations with respect to how an “enabling federal role” might best be understood. Colin Kelly, for example, told us that such a federal role would include enabling the removal of systemic and legislative barriers that inhibit First Nations from developing educational systems that meet their needs; the federal role would also involve ensuring the necessary resources to achieve the delivery of comparable educational services, whether one resides on- or off-reserve.⁴³ Consistently, witnesses talked about the federal government’s role as one of supporting First Nations in taking primary responsibility for the delivery of education services within their nations. “The only way this will work,” Bruce Stonefish observed, “is if the government takes an enabling role to let us speak and do what we feel is necessary in education.”⁴⁴

B. THE NEED FOR A FIRST NATIONS EDUCATION INFRASTRUCTURE

We need transformative change. We need true First Nations control of education, not a devolution of administrative control of someone else’s vision of education for our students.⁴⁵

The vast majority of witnesses appearing before the Committee noted that the chronic under-education of First Nations children is attributable, to a large extent, to the fact that a comprehensive system of education on reserves does not exist in Canada. Witnesses were consistent in their view that the absence of a well-developed education infrastructure, including adequate resources for the provision of second and third level services, is among the key factors contributing to the poor education outcomes of First Nations learners. According to Harvey McCue, the services delivered by second and third level structures are “desperately needed”. He stated that:

⁴² Harvey McCue, appearing as an individual, *Proceedings*, 18 October 2011.

⁴³ Colin Kelly, appearing as an individual, *Proceedings*, 18 October 2011.

⁴⁴ Bruce Stonefish, appearing as an individual, *Proceedings*, 18 October 2011.

⁴⁵ Guy Lonechild, former Chief of the Federation of Saskatchewan Indian Nations, *Proceedings*, 7 October 2010.

We need to create a bare essential system that includes the schools as the first level of an education system. We need a second level which is comparable to school boards that provide second-level services and a third level institution or body that compares or is parallel to a ministry or department of education.⁴⁶

Commenting on the need to develop an educational infrastructure, Lise Bastien told the committee that:

We currently have band schools, band councils and the Department of Indian Affairs. In a provincial education system, there is the government, its department [of education] ... school boards, parent associations and schools ... this is not a system that can be improvised, it must be carefully thought out and established to ensure that all chains of command are in place so that quality services can be delivered. Therefore, a real education system includes schools, which make up the first level: the schools have to be properly funded in order to offer front-line services. You then also need associations, school councils, school boards and officials who will develop programs and standards, monitor the quality and provide schools with pedagogical support. ... You need to have second-or-third level service associations to ensure and support high quality within our schools.⁴⁷

Second-level services are recognized as an essential part of the efficient and effective operation of any school system, and are a matter of regular business for provinces and territories. In most jurisdictions, school boards are legislated and responsible for the delivery of educational services within a defined geographic area. Second level services are described as:

School-board like services that are delivered in the form of curriculum support, instructional coaching, mentorship and other forms of professional supports for teachers, student services such as special education services, and professional development, all in the name of supporting school-based programming to improve student learning.⁴⁸

A majority of witnesses appearing before the Committee emphasized that, if the education achievement gap is to be meaningfully addressed, First Nations schools require the establishment of First Nations school boards mandated to deliver a range of second-level services, comparable

⁴⁶ Harvey McCue, *Proceedings*, 18 October 2011.

⁴⁷ Lise Bastien, Director, First Nations Education Council, *Proceedings*, 8 June 2010.

⁴⁸ Department of Indian Affairs and Northern Development/Assembly of First Nations, *Second Level Services Band Operated Schools*, December 2007, p. 2.

to those offered by provincial school boards. “In reality,” Harvey McCue told the Committee, “the absence of anything resembling a system has led us to this difficult situation with respect to the deplorable state of First Nations education in this country.”⁴⁹

The importance of third level services in the delivery and management of First Nations education was also emphasized by witnesses. While school boards deliver a range of educational services that directly support classroom instruction, such as curriculum development and professional development supports for teachers and principals, ministries of education are generally responsible for the provision of third level services. Set out in the provincial and territorial education acts, third-level service institutions typically provide a broad overview of education that local school boards are unable to provide as they lack the resources and time to identify new directions and innovations in education. Typically, provincial ministries of education are resourced and empowered to undertake activities that could include, but are not limited to:

- establishing standards for teacher certification and teacher education programs;
- researching, developing and testing curriculum documents for school and school board use;
- strategic planning for elementary and secondary education;
- setting standards for educational attainment; and
- establishing codes of conduct.⁵⁰

Michael Mendelson suggested that the functions performed by the education ministries, together with the school boards, are what comprise, or knit together, a *system* of education. Similarly, Harvey McCue noted that without this third level structure, a high quality First Nations education program may meet with disappointment and only partial success.

Notably, Colin Kelly highlighted the importance of third-level structures to the overall *governance* of a First Nations education system, which for the most part, he argued, is left to chiefs and councils, who are, by their very nature, overtaxed and under-resourced by a host of other responsibilities. “The danger,” he suggested, is that decisions become “based on politics rather than on pedagogy.”⁵¹

⁴⁹ Harvey McCue, *Proceedings*, 18 October 2011.

⁵⁰ Harvey McCue, *Discussion Paper*, p.40.

⁵¹ Colin Kelly, Official Trustee, Northland School Division no. 61, *Proceedings*, 16 November 2010.

A number of other witnesses pointed to the importance of removing politics from the day-to-day operations of the schools. Unlike provincial school systems, second- and third-level service and governance structures in First Nations' communities are not supported by legislation that clearly defines their responsibilities and corresponding accountability to the community and parents. As a result, argued Harvey McCue, existing First Nations education organizations reflect a degree of accountability that in most instances is "political rather than educational".⁵² James Wilson explained that because band councils, rather than educational authorities, are responsible for managing education budgets, those funds may be diverted to other priorities. "Speaking as an educator," he told us, "I would support that education money...be spent strictly on education."⁵³

Numerous witnesses indicated that provincial school boards function as part of a larger system of education and that, by comparison, First Nations educational organizations operate without the advantages that such a system offers to school boards. Harvey McCue suggested that in the absence of "education structures that operate at a provincial-territorial level" First Nations organizations will continue to operate in relative isolation from one another.⁵⁴

The Committee received testimony from First Nations educational organizations across the country working to deliver second-level supports to their schools. However, many of the First Nations organizations we met with are relatively small and have few resources at their disposal. Accordingly, in comparison to provincial school boards, they offer a relatively limited range of services and only rarely do they have the range of responsibilities that are vested in off-reserve school boards.⁵⁵

Witnesses were of the view that establishing larger, regional education systems to address student needs is required to provide the foundation and establish economies of scale necessary for a strong First Nations education system. Consequently, many witnesses acknowledged that some measure of consolidation of band-operated schools is necessary. In his appearance before the Committee, James Wilson described the process currently underway in Manitoba where 56 independent schools are looking at ways to come together to develop an amalgamated province-

⁵² Harvey McCue, *Discussion Paper*, p.35.

⁵³ James Wilson, *Proceedings*, 4 October 2011.

⁵⁴ Harvey McCue, *Discussion Paper*, p.36.

⁵⁵ Michael Mendelson, *Why We Need a First Nations Education Act*, October 2009.

wide First Nations education system that allows them to share resources, curriculum and assessment tools, as well as human resources.⁵⁶

We were told that some of the key factors to consider in this regard include the identification and determination of an appropriate aggregation of First Nations for the purposes of delivering second-level services. The student population, geography, and number of communities are considered important factors for the purposes of determining an appropriate aggregation with respect to second-level service delivery. In testimony to the Committee, Michael Mendelson suggested that, “First Nations school board districts need to be large enough to be able to provide centralized services efficiently to their schools.”⁵⁷ John Richards suggested a minimum size of eight to ten schools could potentially comprise a school district, and where possible, should bring together First Nations with a common affinity (i.e., along treaty lines). However, several other witnesses sounded a note of caution in this regard. Although they indicated that First Nations are aware of the benefits that some form of consolidation of band-operated schools could bring, they emphasized that the aggregation of schools or regional authorities must be determined by First Nations themselves, rather than being dictated by the federal government.

Some witnesses indicated that there are some very real and practical challenges to moving toward consolidation. John Richards told the Committee that, “Legitimately, First Nations leaders have prized their ability to resurrect First Nations as viable, political institutions. They are very careful to guard their prerogatives. It will be a hard exercise in negotiation to persuade them that it is worthwhile to give up a certain amount of individual band authority to a professional school district.”⁵⁸ On this point, however, Colin Kelly suggested that rather than asking First Nations to cede their authority, partnerships and a pooling of resources may be more effective. He stated, “Governance does not mean that First Nations need to give up individual authority or autonomy. Governance can mean the pooling of resources and supports to facilitate existing governance and partnership with provincial jurisdictions and educational organizations.”⁵⁹ Other witnesses indicated that while some resistance is probable, a process of community consultation could

⁵⁶ First Nations Education System Working Group, A First Nations Education System: A Concept Paper for the Assembly of Manitoba Chiefs, September 2010, *Submission to the Committee*, 4 October 2011.

⁵⁷ Michael Mendelson, Senior Scholar, Caledon Institute of Social Policy, *Proceedings*, 5 May 2010.

⁵⁸ John Richards, Professor, Public Policy Program, Simon Fraser University, *Proceedings*, 2 June 2010.

⁵⁹ Colin Kelly, Official Trustee, Northland School Division no. 61, *Proceedings*, 16 November 2010.

“mollify objections or concerns that First Nations leadership might have toward these fundamental reforms.”⁶⁰

In addition to second- and third-level First Nations educational organizations, some witnesses also recommended a fourth-level structure be established at the national level. Harvey McCue suggested that such a body would:

[p]rovide an overview capacity to ensure that education standards are being met; to address any difficulties in the provinces and territories where they might exist; and to conduct research that would be useful to other education bodies in the system to ensure that First Nations education remains on the cutting edge.⁶¹

Similarly, David Newhouse, Chair and Associate Professor of Indigenous Studies at Trent University proposed:

Going forward, it is important that we establish a national Aboriginal institution, a national Aboriginal education council that will guide all of these efforts. It will begin to be able to work with local school boards, with local First Nations, with local tribal colleges, with First Nations post-secondary education institutions and the provinces. That will bring the best thinking and best practices to the table and will commission research that will keep the pressure on...That sort of national attention and infrastructure is extremely important. If not, we will be in the same position 30 years down the road.⁶²

National Chief Atleo identified the functions of such a national body as including support for First Nations research, data, innovation, teacher training and curriculum development. While supporting the need for some form of national education commission, some witnesses suggested that it should not become another department that would act as “an overseer of everything that happens”. Rather, as Colin Kelley suggested, a key role would be to mediate between the three levels of government and ensure that the necessary resources are there to run an effective education system.

⁶⁰ Harvey McCue, appearing as an individual, *Proceedings*, 18 October 2011.

⁶¹ *Ibid.*

⁶² David Newhouse, Chair and Associate Professor, Indigenous Studies, Trent University, *Proceedings*, 15 June 2010.

Finally, while several witnesses highlighted the need for appropriate governance and service delivery structures, almost all cautioned against imposing such structures, whether through policy or funding arrangements, on First Nations. “It is up to First Nations,” Sheila Carr-Stewart told the Committee, “to choose options and to decide how to do that, but we have to move from funding individual First Nations to create a system of education.”⁶³ Ruth Massie, Grand Chief of the Council of Yukon First Nations remarked, “Unless changes are made by the Indian people themselves, it will have the same results; a one hundred percent dropout rate.”⁶⁴ In a similar vein, the Hon. Bill McKnight, Saskatchewan’s Treaty Commissioner, cautioned against unilateral federal action stating that:

Canada cannot and should not think that it can find or implement or support the changes alone. It is a return to the paternalistic past, that past that we are working hard to put behind us, and we have done that with some success.⁶⁵

National Chief Atleo also underscored the need for a First Nations’ community-based consultative process as the foundation of the development of First Nations education systems. He noted that reform must start, first and foremost, at the community level and that second- and third-level supports “must emerge from the nations themselves”. He reminded us that although there may be differences in the way First Nations develop and operate these structures across the different provinces and regions, they all share the same commitment to improving educational outcomes for First Nations children.

C. THE FEDERAL FUNDING FORMULA

The majority of Canadians have never seen what passes for schools in isolated First Nations communities, and they do not truly understand the type of environment that has been deemed appropriate for our children. This is a terrible injustice, and it has to come to an end.⁶⁶

⁶³ Sheila Carr-Stewart, Professor, Department Head and Graduate Chair, Department of Educational Administration, University of Saskatchewan, *Proceedings*, 2 November 2010.

⁶⁴ Ruth Massie, Grand Chief, Council of Yukon First Nations, *Proceedings*, 28 September 2011.

⁶⁵ Hon. Bill McKnight, P.C., Treaty Commissioner, Office of the Treaty Commissioner of Saskatchewan, *Proceedings*, 7 October 2010.

⁶⁶ Terry Waboose, Deputy Grand Chief, Nishnawbe Aski Nation, *Proceedings*, 19 October 2011.

The vast majority of witnesses appearing before the committee, identified funding, or more precisely, underfunding, of First Nations education to be among the most critical factors preventing the delivery of high quality education on reserves. Specifically, witnesses noted that the current national funding formula, first developed in 1987 and last updated in 1996, is both outdated and inadequate to support the educational requirements of a modern 21st century school system.

Since 1996, there has been a 2% cap on annual increases in AANDC's programs to First Nations, including education. The cap has been a source of ongoing concern among First Nations as population and inflationary pressures, as well as community expectations, place increasing demands on their education systems, which, they argue, are already chronically underfunded. According to numerous witnesses, these constraints on annual increases in federal education funding, coupled with what is an ineffective funding formula, have resulted in education shortfalls in multiple areas, ranging from student and classroom support services to infrastructure. In testimony to the Committee, Regional Chief Angus Toulouse described the impact of the cap on the ability of First Nations to deliver a range of education services and supports. He stated:

The impacts of this cap can be felt everywhere, from antiquated education facilities, to day-to-day classroom operations, to the lack of resources available to fully develop and sustain First Nation structures that provide second and third level supports.⁶⁷

The Assembly of First Nations has called for a new approach to education funding that addresses the multiple elements critical to a high quality education program.

In his appearance before the Committee, the National Chief Atleo told us that the federal funding formula fails to effectively respond to the educational needs of First Nations communities.

The current approach for funding First Nations schools through an outdated formula, combined with time-limited, proposal-based programs, is just not an acceptable approach. The 2% cap on annual expenditure increases that has been there since 1996 has meant that classroom funding in First Nations education has not kept up with

⁶⁷ Angus Toulouse, Regional Chief of Ontario, Chiefs of Ontario, *Proceedings*, 14 December 2010.

inflation, nor with population growth. We estimate that at least a 6.3% increase was required over this time period simply to keep up.⁶⁸

This view that the existing funding formula represents a fundamentally unsustainable basis upon which to build and to deliver a comprehensive elementary and secondary education program was echoed by numerous witnesses, including Lise Bastien, who told us that:

The funding formula currently used for our band schools goes back 22 years. It has never been reviewed. I do not think that as Canadian parents you would accept sending your children to a school that uses a funding formula that is 25 years old. A true funding formula assesses services and costs.⁶⁹

Similarly, Nathan Matthews of the First Nations Education Steering Committee in British Columbia told us that:

Our primary source of funding is the federal government. There is an obligation on the federal government to deal with these issues. The funding we receive is not comprehensive, it is not adequate, it is not sustainable and it is not secure....We are prevented from fully developing the capacity that we must have in order to provide appropriate education for our kids, and without adequate resourcing, we will continue to be frustrated. This is one of the key issues facing not only First Nations in BC, but First Nations across the country.⁷⁰

Of significant concern to witnesses, and to members of the Committee, is that the federal funding formula does not take into account all of the educational components required to operate a modern school system. Basic services such as school libraries, student assessments, athletic programs and facilities, technology, curriculum development and language programs, we were told, are simply not included in the funding formula. The frustration of having to fill the gap in services, with limited resources, was expressed continually throughout our public hearings. “We are struggling with the dollars we get to run our band schools,” asserted Chief Crowshoe of the Blackfoot Confederacy.⁷¹

⁶⁸ Shawn Atleo, National Chief, Assembly of First Nations, *Proceedings*, 2 November 2011.

⁶⁹ Lise Bastien, Director, First Nations Education Council, *Proceedings*, 8 June 2010.

⁷⁰ Nathan Matthews, Negotiator, British Columbia First Nations Education Jurisdiction Negotiations, First Nations Education Steering Committee, *Proceedings*, 26 October 2010.

⁷¹ Reg Crowshoe, Chief, Blackfoot Confederacy, *Proceedings*, 26 October 2010.

Importantly, numerous witnesses also spoke to us of the persistent challenges of trying to recruit and retain qualified teachers under the current funding model. We heard, repeatedly, that many First Nations lack the financial capacity to provide teachers with the same salaries and benefits they might otherwise receive in nearby public schools. Witnesses emphasized that these disincentives made it difficult for communities to attract experienced, qualified teachers who would stay for a sustained period of time. Chief Larry Cachene of the Saskatoon Tribal Council put it simply, “We need good teachers and to get good teachers we need the resources.”⁷² The result is a dramatically higher teacher turnover rate and a subsequent lack of continuity for students in First Nation schools. Denis Vollant, Executive Director of the Institut Tshakapesh, described the situation among several First Nations communities in Québec as follows:

There is a very high teacher turnover. Last year, 30% of the teachers left us as did 50% of the school principals...It is an ongoing battle every year...We are unable to provide the same salary range found in the school boards that are located close to the region.⁷³

Similarly, Claudine VanEvery-Albert, Councillor, Six Nations of the Grand River, observed:

One of the real difficulties is that bands cannot afford to pay salaries that are similar to provincial salaries. They often pay up to 30% lower...once these teachers get a little experience they go off into a local district school board. Therefore there is little continuity.⁷⁴

Another common funding-related issue raised by several witnesses was the poor quality and deterioration of on-reserve school buildings, infrastructure and outdated technology, including dial-up internet access. According to Paul Cappon, President and Chief Executive Officer of the Canadian Council on Learning, only 17% of First Nations communities have access to broadband services, compared to 64% of non-First Nations communities.⁷⁵ Concerns regarding the building and maintenance of schools and school infrastructure were widely acknowledged by witnesses and also identified in the AFN’s *First Nations Control of First Nations Education Policy Framework*. The policy calls on the Government of Canada to recognize that “there is a

⁷² Larry Cachene, Chief, Saskatoon Tribal Council, *Proceedings*, 7 October 2010.

⁷³ Denis Vollant, Executive Director, Institut Tshakapesh, *Proceedings*, 8 June 2010.

⁷⁴ Claudine VanEvery-Albert, Councillor, Six Nations of the Grand River, *Proceedings*, 26 October 2010.

⁷⁵ Paul Cappon, *Proceedings*, 21 April 2010.

crisis with regard to the construction of schools and other learning facilities in First Nations communities.”⁷⁶

Several witnesses spoke to us of the challenges, under the current funding formula, of trying to maintain safe and secure schools for their children. We heard about children being unable to attend school for weeks, if not months, because the water was unsafe to drink or because mould was found in the school. Terry Waboose, Deputy Grand Chief of the Nishnawbe Aski Nation (NAN), provided compelling testimony to us on how deficiencies in capital and infrastructure funding have created a crisis in many First Nations communities across the country, including NAN communities, where some lack school facilities entirely. We were deeply moved by the Deputy Grand Chief’s “cry for help” on behalf of the youngest members of the NAN’s 49 First Nations and his description of the unacceptable, unsafe and often unsanitary school conditions experienced by far too many children. He recounted the challenges, though difficult for many of us to comprehend, that are a daily reality in many remote and isolated First Nations communities. The Deputy Grand Chief told us that:

Tragically, several First Nations in Nishnawbe Aski Nation do not even have schools. Many students attend schools in retrofitted buildings or in portables, temporary solutions that eventually become long-term solutions. We have students who have never been to a real school, and we do not know if they ever will.

One NAN community has not had education programs or services for more than five years. In fact, there are children in that community who have never been to school, but neither the provincial nor the federal government feels that they have the responsibility to address this injustice.

There is currently a 12- to 15-year-old backlog in new school construction in NAN territory. The majority of the schools in NAN territory are over 20 years old and have many safety and space issues, including mould, overcrowding, unsafe air and water quality, portable classrooms and a lack of sufficient operating and maintenance funding.⁷⁷

⁷⁶ Assembly of First Nations, *First Nations Control of First Nations Education: It’s Our Vision, It’s Our Time*, July 2010, p.15. The document can be consulted at: http://www.afn.ca/uploads/files/education/3.2010_july_afn_first_nations_control_of_first_nations_education_final_eng.pdf.

⁷⁷ Terry Waboose, Deputy Grand Chief, Nishnawbe Aski Nation, *Proceedings*, 19 October 2011.

We were further presented with troubling testimony that many First Nations communities have to make difficult, if not impossible, choices regarding which education services can be provided to their students, and at what level, as a result of funding shortfalls. Rex Isaac, Councillor, Walpole Island First Nation, told the Committee that many First Nation communities, including his own, face steep challenges in securing the necessary resources to be able to assess and to provide adequate services for special needs students. As a result, in some instances, these students have to be schooled off-reserve to ensure that they receive the basic supports they need:

In Ontario, the provincial average of special needs children is approximately 10 %. In First Nations, it is tripled. We are not receiving any more dollars. If we have a student who has extreme special needs, we have two options. One option is we send them off the reserve, away from their people, their homes and those who love and support them; the second option is that we expend the majority of our budget for special education of that one child at the expense of all other children.⁷⁸

In addition, we heard that First Nations, in many instances, are having to move funding from other priority areas, such as housing or drinking water, to meet the educational needs and goals of their communities and students.

Although the stated objective of federal education programming is to “provide eligible students living on First Nations’ reserves with elementary and secondary education programs comparable to those required in provincial schools,”⁷⁹ it is unclear how this policy objective can be met without the provision of sufficient funding. Time and again we heard about the disparity in funding between students residing on-reserve and those who attend schools off the reserve. Commenting on this disparity, Colin Kelly told us, “you have heard chiefs tell you that they get approximately \$2,000 less per student; that is very much their reality. It is very difficult to introduce the kinds of programs that are needed, the kinds of interventions that are needed, and attract and keep staff.”⁸⁰ Even more frustrating to First Nations is the fact that the federal government often pays substantially higher fees for First Nations students attending public

⁷⁸ E. Rex Isaac, Band Councillor, Walpole Island First Nation, *Proceedings*, 22 March 2011.

⁷⁹ Department of Aboriginal Affairs and Northern Development Canada, *Audit of the Elementary and Secondary Education Programs*, 1 May 2009, p.i.

⁸⁰ Colin Kelly, Official Trustee, Northland School Division no. 61, *Proceedings*, 16 November 2010.

schools through tuition arrangements with provincial and territorial school boards than it pays for students on nearby reserves.

Witnesses suggested that these funding inequities are further complicated when provincial governments introduce programs that First Nations are expected to implement, but for which no additional federal, or provincial monies, are provided. Ms VanEvery-Albert talked about a number of special programs that were introduced in Ontario by the education ministry, including literacy and early childhood development programs, for which targeted funding was provided to provincial school boards; no equivalent funding was extended to band-operated schools, federally or provincially, to implement similar programs. Colin Kelly cautioned the Committee that this situation has the potential to create a two-tiered education system where provincial schools have an unfair advantage.⁸¹

Evidence suggests that long-standing concerns regarding the resourcing of First Nations education programs and facilities are legitimate. In 2004, the Auditor General of Canada noted that the Department was unable to determine whether the funding provided to First Nations was sufficient to meet the education standards required by its own policies.⁸² An internal departmental evaluation confirmed that “there is no evidence that funding allocations from regional offices to First Nations were based on any rationale that takes the current structure of educational responsibilities into account.”⁸³

The Committee heard from First Nations and non-First Nations witnesses alike: the way First Nations education is currently funded inhibits effective accountability mechanisms and is inadequate for achieving improved outcomes or specific levels of services. Several witnesses argued that a new funding formula, negotiated by the parties, based on the real education costs and on appropriate accountability mechanisms, must be developed to replace the existing funding model, a model widely seen as outdated, ineffective, inequitable and “inadequate to

⁸¹ Colin Kelly, *Proceedings*, 18 October 2011.

⁸² Office of the Auditor General of Canada, “Chapter 4: Indian and Northern Affairs Canada – Education Program and Post-Secondary Student Support,” *Report of the Auditor General of Canada to the House of Commons*, November 2004.

⁸³ Department of Aboriginal Affairs and Northern Development, *Formative Evaluation of the Elementary/Secondary Education Program On Reserve*, 24 February 2010.

allow First Nations education systems to provide comparable programs of study with the provinces – which have undertaken major educational reforms over the last twenty years.”⁸⁴ Witnesses such as Regional Ontario Chief Angus Toulouse commented that “the current arbitrariness and inequity must be replaced by a stable funding arrangement based on real cost drivers.”⁸⁵

Throughout our hearings, several witnesses advocated for a statutory base for First Nations education funding to replace the current system of contribution agreements, which must be renewed annually. In questioning the viability of the current approach, Solomon Sanderson, Chairman of the First Nations Forum, remarked, “How can you legitimately provide sustainable funding and meet certain program standards for delivery without having a proper legislative base?”⁸⁶ Other witnesses underlined the fact that First Nations students are the only segment of Canadian society without a statutory guarantee for funding for education. In his testimony to the Committee, National Chief Atleo suggests that a statutory base for the provision of First Nations education services must be part of any structural reform initiative:

We are looking for transformation from the federal government away from their Indian Act described role towards a statutory guarantee to support the enabling of First Nations to control their education and to establish a fiscal transfer system from the federal government to the First Nations' system...Those would be some fundamental transformations on the part of the federal government. That is the boldness that I am principally referring to.⁸⁷

Finally, while funding is seen as a necessary condition to improving the educational outcomes of First Nations children, we were told that, by itself, it is not a sufficient condition. Rather, we heard that unless accompanied by structural reforms, including the establishment of second- and third-level education structures, more money will likely not suffice. Witnesses suggested that there needs to be a move away from funding individual First Nations to providing funding that enables First Nations to create a *system* of education. On this point, Sheila Carr-Stewart told the Committee that:

⁸⁴ First Nations Education Council, *Paper on First Nations Education Funding*, February 2009, p.19.

⁸⁵ Angus Toulouse, Regional Chief of Ontario, Chiefs of Ontario, *Proceedings*, 14 December 2010.

⁸⁶ Solomon Sanderson, Chairman, First Nations Forum, *Proceedings*, 27 October 2010.

⁸⁷ Shawn Atleo, National Chief, Assembly of First Nations, *Proceedings*, 2 November 2011.

To simply give a First Nation who manages a small school the equal amount of money, let us say \$7,000 that they transfer to the provincial school when children transfer to provincial schools, will not solve the problem. We have to create larger systems. We have conducted research in southern Saskatchewan. We need more than a 50 per cent increase in funding to create the same level of service if we continually go with small entities. We have to move to larger entities to provide a strong educational system, and we have to move away from the federal government going only on a unit cost without consideration of what services we are looking to approve.⁸⁸

Witnesses expressed concern that investing more money under the current model may not result in sustainable improvements to educational outcomes. What is required, we were told, is a strategy that addresses both financing and structural reform simultaneously.

D. THE PROVINCIAL ROLE AND PARTNERSHIPS

The question of what the relationship with the provinces should be, particularly in light of the substantial role they play in education, was raised on several occasions during committee hearings. While witnesses acknowledged the important role provinces can play, particularly with respect to the sharing of information and education resources, the discussion was framed within the principles of cooperation, equality, and partnership, rather than a transfer of jurisdiction. Acting Grand Chief of the Association of Iroquois and Allied Indians (AIAI), Denise Stonefish, for example, told us that AIAI member nations “support partnership agreements as long as they do not interfere with First Nations jurisdiction.”⁸⁹ In testimony to the Committee, Ms. Carr-Stewart remarked on the issue as follows:

There are many ways, without turning the program holus-bolus over to the provinces, that we can maintain the rights of First Nations people. The federal government can be responsible for funding partnerships and paying for their share of the partnerships with provincial school divisions. We often forget that there are many arrangements between provincial school boards and the First Nations people already in place across Canada.⁹⁰

⁸⁸ Shelia Carr-Stewart, Professor, Department Head and Graduate Chair, Department of Educational Administration, College of Education, University of Saskatchewan, *Proceedings*, 2 November 2010.

⁸⁹ Denise Stonefish, Acting Grand Chief, Association of Iroquois and Allied Indians, *Proceedings*, 4 October 2011.

⁹⁰ Sheila Carr-Stewart, Professor, Department Head and Graduate Chair, Department of Educational Administration, University of Saskatchewan, *Proceedings*, 2 November 2010.

Gwen Merrick of the Manitoba First Nations Education Resource Centre told the Committee that:

Regarding partnerships with provinces, we have many partnerships but they are all based on the notion of mutual benefit and respect. ... It is possible to do things in a way that is rooted in First Nations philosophy – ways of knowing and ways of doing things – and be accountable at the same time.⁹¹

The proposal that a possible option for reform of First Nations education would be to expand provincial and territorial *jurisdiction* and *responsibility* for First Nations education did not receive a high level support among First Nations and non-First Nations witnesses alike. Rather, according to witness testimony, a strategy of forcing all First Nations on-reserve education under provincial jurisdiction would be fiercely resisted by First Nations. On this point, Nathan Matthews of the First Nations Education Steering Committee in British Columbia told the Committee that:

We have no appetite for working under the province or having to go to the province to have any of our educational needs met. We are fully capable of handling every aspect of education for the kids in our communities.⁹²

The resistance to an expansion of provincial jurisdiction in the area of First Nations education, in part, relates to the view that provincial school systems have not done a significantly better job of educating First Nations students. Colin Kelly observed:

The education deficit faced by First Nation students is not limited to band-operated systems. First Nations students attending provincial and territorial schools are not achieving at the same level as their non-First Nation counterparts.⁹³

Similarly, Guy Lonechild, then Chief of the Federation of Saskatchewan Indian Nations, told the Committee:

⁹¹ Gwen Merrick, Associate Executive Director, Manitoba First Nations Education Resource Centre, *Proceedings*, 1 June 2010.

⁹² Nathan Matthew, Negotiator, First Nations Education Steering Committee *Proceedings*, 26 October 2010.

⁹³ Colin Kelly, Official Trustee, Northland School Division no. 61, *Proceedings*, 16 November 2010.

It is often said why not just join the provincial system? Well, in Saskatchewan and Manitoba, the graduation rates and results are no better according to INAC information. In fact, they are worse.⁹⁴

The legacy of the residential school period—in particular the negative effects of having children removed from their communities, as well as previous attempts at integration—are key considerations among witnesses when evaluating the expected educational outcomes of transferring First Nations education to provincial school systems. “My belief,” Larry Steeves, Assistant Professor in the Faculty of Education at the University of Regina, told the Committee, “has been that for families that remain in their home communities, the First Nations system would be the most effective in supporting the kind of student learning that needs to occur.” This view was shared by numerous witnesses who felt strongly that a nurturing learning environment, grounded in First Nations languages, knowledge systems, and culturally-relevant curricula, would be best achieved by First Nations assuming full responsibility for educating their children. According to Professor Marie Battiste:

The consequence of this forced assimilative educational system has been traumatic for First Nations peoples, and reconciliation to Aboriginal knowledge within their contexts and place should be a restorative feature of education for the future of First Nations.⁹⁵

A related concern is that a transfer to provincial jurisdiction fails to recognize and build upon the existing initiatives and efforts that First Nations are undertaking across the country to improve the delivery of education in their respective communities. Moreover, some witnesses suggested that reinforcing First Nations education infrastructure would be welcomed by the provinces. Lise Bastien told the Committee:

Having a robust parallel [First Nation] system does not scare the province at all. ... On the contrary, for them, reinforcing our structures will help them welcome young First Nation students into their system and vice versa.⁹⁶

⁹⁴ Guy Lonechild, former Chief, Federation of Saskatchewan Indian Nations, *Proceedings*, 7 October 2010.

⁹⁵ Marie Battiste, Professor and Director, Aboriginal Education Research Centre, University of Saskatchewan, *Proceedings*, 2 November 2010.

⁹⁶ Lise Bastien, Director, First Nations Education Council *Proceedings*, 8 June 2010.

Michael Mendelson suggested that any proposal to expand provincial jurisdiction in the area would also likely be unacceptable to provinces and expensive for the federal government. He stated:

Nor would such a transfer of responsibility be acceptable to most provincial governments. On a practical level, putting aside issues of principle, most provinces would not accept a jurisdictional transfer without ironclad guarantees from the federal government regarding financing. This is especially true of the Prairie Provinces with the largest numbers of First Nations peoples on reserves, relative to the size of these provinces. The financial negotiations would drag on, likely for decades, before a province would accept such a transfer.⁹⁷

Finally, the transfer of First Nations education to the provinces or territories was considered by numerous witnesses as constituting an unacceptable abdication of federal legal, constitutional, and treaty obligations. Echoing the view expressed by many witnesses, Corinne Mount Pleasant-Jetté told the committee that such a transfer would be “a full abrogation of responsibility of the government of this country. Canada has a responsibility, a moral obligation and a legal obligation. What do you do? Do you simply say: Sorry folks, we cannot afford you anymore?”⁹⁸

Notwithstanding these reservations, numerous witnesses spoke of the benefits of partnerships, including with the provinces, but emphasized that they should occur in the context of a renewed and reformed education system grounded in First Nations control, self-determination and the realization of treaty promises. Within such a framework, Colin Kelly observed, “one partner is not subservient to the other. We look at the strengths and abilities of both and build on them.”⁹⁹ He went on to state:

The education of First Nations children should not be the sole responsibility of only one order of government with on-reserve students funded by the federal government and off-reserve students falling to the responsibility of the province. All students in a province should be afforded comparable access to education, legislative

⁹⁷ Michael Mendelson, *Why We Need a First Nations Education Act*, p. 14.

⁹⁸ Corinne Mount Pleasant-Jetté, President, Mount Pleasant Educational Services Inc., *Proceedings*, 9 June 2010.

⁹⁹ Colin Kelly, Official Trustee, Northland School Division no. 61, *Proceedings*, 16 November 2010.

guarantees, and opportunities. Issues of funding, barriers and competition for students should not be a factor to student success. Student access to programs should not be determined by geography and home address.¹⁰⁰

Witnesses further identified the high mobility of First Nations students on- and off-reserves, and the corresponding need to ensure transferability between provincial and First Nations education systems with respect to academic standards, as a critical factor undergirding the desirability for partnerships. In this regard, partnerships were seen as vital in addressing many outstanding educational issues, including the sharing of the resources, knowledge, and expertise required to improve and ensure comparability between systems.

In addition, witnesses noted that provincial and territorial influence in the lives of First Nations students is substantive. Much of the learning materials, curricula, pedagogy, and standards used in First Nations schools are either produced or approved by provincial or territorial education departments.¹⁰¹ They emphasized that because 40% of First Nations students attend off-reserve schools, partnerships can enhance the accountability of provincial systems in the education of First Nations youth, in part, by providing mechanisms for structured First Nations input into the educational needs and goals of First Nations students attending public schools. Witnesses observed that by removing barriers that exist between on-reserve and off-reserve students, partnerships help to improve the educational services and quality of education for First Nations students attending both band-operated and provincial schools.

Current partnership arrangements also reflect the diverse needs and experiences of First Nations. For example, we heard from Chief Gilbert Whiteduck of the Kitigan Zibi First Nation that his community has worked closely with local school boards to develop reciprocal tuition agreements. Others, as will be discussed in greater detail below, have recently signed onto formal tripartite arrangements with the federal and provincial governments. These regional-level

¹⁰⁰ Ibid.

¹⁰¹ Canada, *Our Children – Keepers of the Sacred Knowledge: Final Report of the Minister’s Working Group on Education*, December 2002, p. 35

arrangements are seen as important avenues for encouraging better coordination between First Nations and provincial schools, as well as for sharing expertise and services.

E. TRIPARTITE AGREEMENTS IN THE CONTEXT OF REFORM

There appears to be a consensus among witnesses appearing before this Committee that tripartite agreements may be an aspect of a broader solution, but not a complete answer to the systemic reform of First Nations education.

Under its Reforming First Nations Education Initiative, launched in 2008, the federal government is encouraging the negotiation of tripartite education agreements through financial incentives. While the form of the agreements vary, they tend to focus on concrete steps that can be taken to improve student success. In addition to the federal Education Partnerships Program “created to support the establishment and advancement of formal partnership arrangements”¹⁰² between First Nations and the provinces, Budget 2010 announced a further \$30 million over two years for “implementation-ready” tripartite agreements. To date, the federal government has concluded tripartite agreements with regional First Nations organizations and provincial authorities in four provinces (Manitoba, New Brunswick, Alberta and Prince Edward Island) and a sub-regional agreement with the Saskatoon Tribal Council.

Unlike the agreements concluded in British Columbia in 2006 (*First Nations Jurisdiction over Education in British Columbia Act*) and Nova Scotia in 1998 (*Mi'kmaq Education Act*), however, these agreements are not legally binding and do not involve a transfer of jurisdiction recognized by new federal and provincial legislation. Nevertheless, the agreements are focused on promoting collaborative relationships between the parties, and cover a range of practical issues designed to improve the educational outcomes for First Nations students attending both band-operated schools and provincial schools. These include, for example: service and tuition agreements, performance criteria and indicators, improved accountability measures, transition protocols, curriculum and resource development, data collection and management as well as the development of specific action plans. Importantly, these agreements also commit the parties to exploring targeted and agreed-upon strategic funding opportunities. Notably, and uniquely, the

¹⁰² Department of Aboriginal Affairs and Northern Development Canada, *Reforming First Nations Education*.

The document can be consulted on line at:

<http://www.aadnc-aandc.gc.ca/eng/1314210313525/1314210385978>

2008 Memorandum of Understanding signed with 15 New Brunswick First Nations commits the province to reinvesting 50% of all future tuition payments received from First Nations. The commitment has a potential value of \$40 million over five years, subject to all tuition being received from the First Nations.

Despite these benefits, several witnesses indicated to us that while tripartite education agreements are useful and can help in the sharing of resources and expertise between First Nations and provincial educational organizations, they do not constitute an adequate and sustainable basis for systemic reform. For example, Regional Chief Angus Toulouse told the Committee:

First Nations have seen some positive tripartite collaboration in Ontario ... we believe there is value in continuing to foster those opportunities. ... That being said, it is not our position that a tripartite agreement is necessary to do what is most needed for First Nations students. It is our belief that a securely funded education system with confirmed roles, responsibilities and relationships will augment, support and improve tripartite collaborations.¹⁰³

Others cautioned that tripartite agreements, while beneficial, were not a lasting solution to the education challenges relating to First Nations primary and secondary education. For some, because they are developed within the framework and constraints of the *Indian Act*, these agreements necessarily limit their ability to achieve the kind of change and reform being advocated by First Nations educators and leaders. The sorts of reform that would see accountability for results shared among provincial, federal and First Nations governments and that would recognize First Nations jurisdiction are considered not to be substantively possible absent a legislative basis.

Some First Nations witnesses expressed a reluctance to enter into tripartite agreements out of concern that they could pave the way for the eventual transfer of jurisdiction and federal responsibility for First Nations education to the provinces or territories. However, agreements which are local in nature, for example between First Nations schools and local district school boards, tended to be viewed favourably. The value of these agreements, according to some witnesses, rests in part with the relationship-building exercises that lead to partnerships with various school authorities in the district.

¹⁰³ Angus Toulouse, Regional Chief of Ontario, Chiefs of Ontario *Proceedings*, 14 December 2010.

Despite these concerns, several witnesses spoke to us of the practical and tangible benefits of having such agreements in place. Referring to the 2009 *Education Partnership Letter of Understanding* concluded with 63 Manitoba First Nations, James Wilson indicated that access to provincial education resources was greatly improved under the agreement. He told us:

Before the agreement, the province would not set foot on reserve. We would ask the province for an assessment specialist and they said: well, we cannot do any training on reserve...After the agreement came into effect, we requested assessment specialists, and right away they flew them up and spent two days on reserve in our community.¹⁰⁴

Others highlighted other positive aspects of tripartite agreements, such as allowing for potentially better comparators and standards, particularly with respect to funding levels for students attending the public school systems. Addressing the tripartite agreement with Treaty 6, 7, and 8 First Nations, Chief Crowshoe of the Blackfoot Confederacy told the Committee:

We are struggling with the dollars we get to run our band schools. Again, when we talk about tuition, there is a difference in tuition that is paid for off-reserve and on-reserve schooling. We are hoping to improve the funding for tuition with this tripartite agreement.¹⁰⁵

During our site visit to New Brunswick, we heard a similar message with respect to the positive benefits of the tripartite agreement in place in that province. Among other things, we were told that the agreement is intended to develop measures to ensure a smooth transition for students between provincial and band-operated schools and commits the parties to working together to address outstanding issues related to tuition. Highlighting the importance of the agreement to New Brunswick First Nations, the Executive Director of the First Nation Education Initiative, Bob Atwin, told the Committee:

I cannot overemphasize the importance of partnership in respect of moving ahead. Our agreement in New Brunswick clearly states that the province, as the main provider of education, has a responsibility

¹⁰⁴ James Wilson, Treaty Commissioner of Manitoba, Treaty Relations Commission of Manitoba, *Proceedings*, 4 October 2011.

¹⁰⁵ Reg Crowshoe, Chief, Blackfoot Confederacy, *Proceedings*, 26 October 2010.

not just to First Nations people, but also to the population as a whole.¹⁰⁶

According to Mr. Atwin and others, tripartite agreements are significant not only because they recognize that education requires all parties to work collectively to bring about systemic change, but perhaps more importantly, because they make all parties accountable for the educational outcomes of First Nations students, irrespective of where their school is situated.

The evidence with respect to tripartite agreements, in the end, was mixed. While a majority of witnesses see these agreements as important instruments for sharing resources, removing barriers, creating strategic learning opportunities for First Nation students, and committing the parties to agreed-upon targets and initiatives, many feel they do not go far enough in recognizing the educational goals of First Nations. In this respect, the temporary and “administrative” nature of the agreements is considered by some to be their most significant limitation. Though they offer opportunities for practical, cooperative arrangements to address ongoing educational issues, they fail to recognize, in a substantive way, the aspirations of First Nations for self-determination and self-governance in education, away from the *Indian Act*, and toward, in the words of National Chief Atleo: “a statutory guarantee to support the enabling of First Nations to control their education and to establish a fiscal transfer system from the federal government to the First Nations' system.”¹⁰⁷

F. LEGISLATION AS A POSSIBLE REFORM OPTION

There is in fact no education system for the First Nations...All other children in this country benefit from legal protection in the field of education. The only children deprived of this security are First Nations children living on reserves.¹⁰⁸

Each of the provinces and territories in Canada has enacted comprehensive education legislation. However, there is no similar legal framework governing First Nations education on reserve. Typically, provincial and territorial education acts set out, among other things, the duties and

¹⁰⁶ Bob Atwin, Executive Director, First Nation Education Initiative Inc., *Submission*, 4 October 2011.

¹⁰⁷ Shawn Atleo, National Chief, Assembly of First Nations, *Proceedings*, 2 November 2011.

¹⁰⁸ The Honourable Jim Prentice, then Minister of Indian Affairs and Northern Development, First Nations Education Council, *Paper on First Nations Education Funding*, p. 29.

responsibilities of school boards, principals, teachers, parents, and students, and provide for the structured input and involvement of community members, parents and other stakeholders. Unlike the provinces, however, the federal government has not enacted specific legislation governing First Nations education, beyond the modest provisions set out in the *Indian Act* and various policy statements and guidelines.

Commenting on the disparity in legal protections afforded to students attending provincial and territorial schools to those available to First Nations students on reserve, James Wilson stated:

Students [in Manitoba] are governed by the *Public Schools Act*...and the *Education Administration Act*. This is a copy of the relevant acts in Manitoba; 150 plus pages...Students on reserve in Manitoba are governed by the *Indian Act*. We have three pages on the relevant sections of the *Indian Act*. I think that is the beginning of the inequity right there.¹⁰⁹

The limitations of the *Indian Act* as a framework for First Nations education was often raised by witnesses. Specifically, they noted that the Act's education provisions deal mainly with truancy, and make no reference to substantive education issues or the quality of education to be delivered. Equally problematic is that the Act also provides no legal recognition or authority to First Nations for the provision of education. In fact, while the provisions of the Act authorize the Minister of Indian Affairs and Northern Development to "establish, operate and maintain schools for Indian children" and enter into agreements with other governments and legal entities, no reference is made to band councils or First Nations educational authorities. As a result, witnesses suggested that they are in a sort of legal limbo and find themselves operating schools with no clear legislative framework to guide their efforts.¹¹⁰ "The critical problem," stated Michael Mendelson, "is that there is no legislation that recognizes First Nations' right to control their own education and to set up the organizations that allow them to do so effectively."¹¹¹

Not surprisingly, numerous witnesses indicated that the *Indian Act* should be replaced by education-specific legislation that gives meaningful expression to the relationship established by

¹⁰⁹ James Wilson, Treaty Commissioner of Manitoba, Treaty Relations Commission of Manitoba, *Proceedings*, 4 October 2011.

¹¹⁰ See also, Report of the Standing Committee on Aboriginal Affairs and Northern Development, *Sharing the Knowledge: The Path to Success and Equal Opportunities in Education*, June 1996, p. 35.

¹¹¹ Michael Mendelson, *Why We Need a First Nations Education Act*, p.28.

the treaties and that acknowledges the desire of First Nations to access equal opportunities for their children and to move toward greater self-reliance. Indeed, without an adequate legislative basis supporting the provision and delivery of First Nations educational services, witnesses indicated that they are often vulnerable to the “arbitrariness and inequities” of federal policies and directives, over which they have little control or input.

In his seminal review of *Tradition and Education*, Justice James MacPherson observed: “a good portion of federal policy cannot be found anywhere; it just happens depending on who might be involved in a particular matter at a particular time in a particular locale.”¹¹² This observation, made twenty years ago, remains as true today as it was in 1991. Echoing these observations, in testimony to the Committee, Colin Kelly observed:

As long as it [education] is run through policy, any decisions can be made at the bureaucratic or even at the ministerial level...That is why someone can say: We will hold increases in First Nations education funding to 2 percent.¹¹³

Witnesses also remarked that although current federal policy commits to providing educational services to First Nations at a level “comparable to those required in provincial schools”, there is no legislation setting out the appropriate authorities and accountabilities by which to achieve that objective. In testimony to the Committee, Michael Mendelson explained:

We do not have a system of law that will ask the executive function of government, represented by the Department of Indian Affairs and Northern Development...about its roles and responsibilities. What are you accountable for? What must you provide to First Nations? In return, what do you expect First Nations to provide to you? None of this is set out anywhere in law.¹¹⁴

The lack of a legislative base for on-reserve education has, according to the Office of the Auditor General of Canada, resulted in services that are ill-defined and confusion about roles and responsibilities in delivering those services, as well as about federal responsibility for funding

¹¹² Justice C. MacPherson, *MacPherson Report on Tradition and Education: Towards a Vision for Our Future*, September 1991, p. 12.

¹¹³ Colin Kelly, Official Trustee, Northland School Division no. 61, appearing as an individual, *Proceedings*, 18 October 2011.

¹¹⁴ Michael Mendelson, Senior Scholar, Caledon Institute of Social Policy, *Proceedings*, 5 May 2010.

them adequately. In her 2011 status report, then Auditor General of Canada, Sheila Fraser stated:

Provincial legislation provides a basis of clarity for services delivered by provinces. A legislative base for programs specifies respective roles and responsibilities, eligibility and other program elements. It constitutes an unambiguous commitment by government to deliver those services. The result is that accountability and funding are better defined.¹¹⁵

Given existing policy and legislative gaps, witnesses indicated that new federal legislation, developed in consultation with First Nations, could help to clarify the basis upon which education services are provided and to specify the roles and responsibilities of the respective parties. However, all witnesses acknowledged that federal legislative measures must not be imposed on First Nations. Those who favoured legislation were careful to point out to us that any such initiative must be done on a consultative, cooperative and voluntary basis, whereby First Nations could opt in to a legal framework.

Importantly, witnesses were unanimous in the view that federal legislation must recognize First Nations jurisdiction over education and adhere to the principles articulated in the United Nations Declaration on the Rights of Indigenous Peoples. Specifically, they noted that the Declaration, formally adopted by the Government of Canada on 12 November 2010, establishes the right of First Nations to control their own educational systems. In his comments to the Committee, Regional Chief Angus Toulouse expressed the widely shared view that the legal recognition of First Nations jurisdiction is fundamental:

Let me begin by expressing that the federal government continues to have an obligation to ensure that First Nations can implement their inherent right to exercise jurisdiction over lifelong learning. This entitlement is affirmed by the spirit and intent of treaties signed in exchange for the sharing of the territories and lands and is guaranteed also by section 35 of the 1982 Constitution of Canada.¹¹⁶

¹¹⁵ Office of the Auditor General of Canada, “Status Report of the Auditor General of Canada to the House of Commons, Chapter 4 – Programs for First Nations on Reserves”, June 2011, p. 3.

¹¹⁶ Angus Toulouse, Regional Chief of Ontario, Chiefs of Ontario *Proceedings*, 14 December 2010.

Among the witnesses who addressed the issue of legislation directly, a majority linked the need for legislation to the requirement to ensure the provision of stable, adequate and consistent funding. Dr. Marlene Atleo told the Committee that there “needs to be an opportunity to move away from this crisis management approach” in funding First Nations education toward “a statutory financial base so that there can be some planning.”¹¹⁷ Roberta Jamieson, President and Chief Executive Officer of the National Aboriginal Achievement Foundation further remarked:

We need a firm legislative mandate to ensure that the resources are in place. Parliament should pass legislation stating that every First Nations child on-reserve should have access to an equitable education that is funded at the same level as their non-Aboriginal neighbours.¹¹⁸

Several witnesses noted that a resourcing formula for First Nations education as part of any proposed legislation would enable two things to occur: first, education funding would be targeted strictly to educational programs, of which there is currently no assurance; second, it would provide for appropriate and reciprocal accountability mechanisms. On the specific issue of First Nations accountability, Ms. Jamieson added:

We need an Indian education act or First Nations education act that sets aside x amount of dollars, with outcomes. Let us have the accountability strings; let us have a rope and transparency required; then let us annually require a report to be tabled on how we are doing at changing the landscape of high school completion.¹¹⁹

Addressing the willingness of First Nations to adhere to these requirements, Colin Kelly told us:

My experience would not lead me to believe that First Nations would have any difficulty with funding specifically allocated to the delivery of educational services on reserve and to be accountable for those dollars either through an audit or financial check.¹²⁰

¹¹⁷ Marlene Atleo, , *Proceedings*, 18 October 2011.

¹¹⁸ Roberta Jamieson, President and Executive Officer, National Aboriginal Achievement Foundation, *Proceedings*, 15 June 2010.

¹¹⁹ *Ibid.*

¹²⁰ Colin Kelly, Official Trustee, Northland School Division no. 61, appearing as an individual, *Proceedings*, 18 October 2011.

We heard repeatedly that while a comprehensive, national model might appear to some to be an effective solution, there would be a significant risk of displacing ongoing initiatives and regional jurisdictional agreements. Such a process, it was suggested, could be cumbersome to implement and may lead to confusion in those regions where existing arrangements are well-established. As there is no single solution appropriate to all, witnesses told us that federal legislation must enable the development of education systems, rather than prescribing what those systems should look like. Legislation should enable First Nations to develop their own education systems and laws, including second and third level structures, rather than dictating a single model across the country. On this point, Harry Lafond, Executive Director, Office of the Treaty Commissioner of Saskatchewan told the Committee:

What we need is legislation to allow recognition of existing institutions in our communities and for the First Nations communities to come alive and to be honoured for the work that they are responsible for in organizing education for our children.¹²¹

Harvey McCue reiterated the view that an essential feature of any proposed legislation must be its flexibility. There would be little sense, he observes, in suggesting that the Cree School Board in northern Québec or the Mi'kmaq Education Authority in Nova Scotia, be dismantled in favour of a one-size-fits-all national model to govern and manage education at local and regional levels.¹²² He remarked:

I do not think it would be helpful to have something comparable to the provincial education act that every province and territory has. I do not think the detail included in those provincial and territorial education acts needs to be replicated or even sought in a First Nations education act. It should be a framework and specific goals would include situating the jurisdiction for education in a First Nations education system.

Witnesses also emphasized the need to ensure that any proposed legislation reflect the educational goals and aspirations identified by First Nations. Marie Battiste told us: “Legislation framed

¹²¹ Harry Lafond, Executive Director, Office of the Treaty Commissioner of Saskatchewan, *Proceedings*, 7 October 2010.

¹²² Harvey McCue, *An Analytical Review of First Nations Elementary-Secondary Education*, 31 March 1999, p.18.

outside of Aboriginal peoples' concerns and considerations cannot do justice to them and to their education.¹²³ Similarly, Bob Atwin told the Committee:

There is a strong indication that legislation is really a First Nations community right, and it is not a right of the federal government or provincial government to be dictating or working alone to try to solve what I consider to be the problems of the day.¹²⁴

Legislation is also seen as critical for establishing a solid foundation for partnerships across all levels of government. As we have already noted, the *Indian Act* does not recognize First Nations or First Nations education authorities as legal entities with whom governments may enter into agreements to deliver education services. By clarifying the responsibilities of First Nation educational authorities, legislation could help to strengthen their position with respect to other levels of government. Establishing a clear, legislative basis for First Nations educational structures, would, according to Michael Mendelson, allow us to:

[s]et up a system so that First Nations can enter into partnerships with the provincial ministries, use their standards for teacher education and use their standards of other kinds, use their expertise and their knowledge, but be able to draw on them as partners. Right now, they cannot do that, and they do not do that.¹²⁵

The importance of legislation in creating avenues for partnerships among legally recognized entities, rather than at the bureaucratic level, was also noted by Dr. Marlene Atleo:

I would recommend that there be some level of legislation that will bring Aboriginal and non-Aboriginal systems together at the federal level. They interface anyway, except mainly through the bureaucracy.¹²⁶

The Committee notes that not all witnesses agreed that legislation was required. Some like, Marie Battiste, expressed concern that federal legislation would be designed to meet federal or

¹²³ Marie Battiste, Professor and Director, Aboriginal Education Research Centre, University of Saskatchewan, *Proceedings*, 2 November 2010.

¹²⁴ Bob Atwin, Executive Director, First Nation Education Initiative Inc., *Proceedings*, 4 October 2011.

¹²⁵ Michael Mendelson, Senior Scholar, Caledon Institute of Social Policy, *Proceedings*, 5 May 2010.

¹²⁶ Marlene Atleo, *Proceedings*, 18 October 2011.

provincial needs, rather than those of the First Nations. Others pointed to the treaty right to education as the basis for their jurisdiction and for federal educational responsibilities.

Ultimately, there was a strong consensus among those who appeared before us, that legislation, developed in close consultation with First Nations, and reflecting their aspirations, could provide a foundation for a reformed system of governance, financing, accountability and clarity of roles and responsibilities for First Nations education. As a potential option for reform, legislation that would enable the development of properly resourced, multi-level, First Nations educational organizations could establish, for the first time in Canada, an actual *system* of First Nations education.

G. CURRENT FEDERAL REFORM INITIATIVES

As we described earlier, in December 2008, the federal government implemented its Reforming First Nations Education Initiative in recognition of the need to address the shortcomings in its education policies and practices. The Initiative is directed at improving the educational outcomes among First Nations students in three priority areas: literacy, numeracy and student retention. It also provides support for collaborative partnerships between First Nations, the provinces, and AANDC. As discussed above, the two programs included in the Initiative – the Education Partnerships Program (EPP) and the First Nations Student Success Program (FNSSP) – are proposal-driven, whereby interested First Nations and educational organizations submit applications for funding from the federal government within the criteria established under the programs. According to departmental officials, this Initiative, including the two programs, represents the “foundation for change” and long-term reform.¹²⁷

First Nations witnesses told us that they were generally supportive of the Department’s new education programs. They spoke positively about the projects they have been able to implement as a result of the additional, targeted funding in a range of areas, including professional development and coaching, curriculum development, special needs, and students-at-risk. However, while many found the programs helpful, none who addressed this matter, except for departmental officials, felt they constituted a meaningful basis for comprehensive, systemic

¹²⁷ Christine Cram, then Assistant Deputy Minister, Education and Social Development Programs and Partnerships, Department of Aboriginal Affairs and Northern Development, *Proceedings*, 13 April 2010.

change. George Ross, School Administration Advisor for the Manitoba First Nations Education Resource Centre, told us:

Today, there is some acknowledgement about the dismal state of First Nations education systems by the federal government. Some new programs, for example, the FNSSP, have been implemented. AANDC calls it reform. It has to be transformation...Reform is not the answer.¹²⁸

Similarly, Regional Chief Toulouse commented:

Fundamental change is required. We are frustrated by the stopgap approach of Indian Affairs, whose response to our pleas for help and the Auditor General's reports is to put in time-limited proposal-driven programs.¹²⁹

Chief Gilbert Whiteduck spoke to us of the limitations inherent in targeted, time-limited programs on the ability of First Nations to plan substantive education reforms and to develop educational systems that deliver much-needed second and third level services. He remarked:

Targeted programs, announcements of two years of funding, \$10 million for that does not help develop an education system. We run more than just the school. We are supposed to be running an education system, which means you have the school level, secondary and third level services. All of that, in my mind, is where it has failed. It has failed in the sense that the funding approvals and the policies tied to it did not support opportunities for First Nations to be successful in developing a system. In regard to the policies or programs, I would say that many of the programs, the new initiatives that have been brought forward, which are viewed as targeted funding programs, have had no impact at the community level. No impact.¹³⁰

Other witnesses who receive funding under these programs expressed frustration in having that funding, at least from their perspective, arbitrarily reduced by the Department. Despite the benefits obtained under these programs, Bob Atwin told us:

¹²⁸ George Ross, School Administration Advisor, Manitoba First Nations Education Resource Centre, *Proceedings*, 19 October 2011.

¹²⁹ Angus Toulouse, Regional Chief of Ontario, Chiefs of Ontario, *Proceedings*, 14 December 2010.

¹³⁰ Gilbert W. Whiteduck, Chief, Kitigan Zibi Anishinabeg First Nation, *Proceedings*, 24 November 2010.

It was a crushing blow when we received word that the allocation for 2010-2011 would be approximately 50 percent less than the previous year.¹³¹

Keith Frame, Assistant Director of Education for the Prince Albert Tribal Council, described a similar experience:

In our organization, \$2 million was arbitrarily removed and no one explained why. The FNSSP is ongoing, but every three years you have to apply. At the application stage, you are not guaranteed that your children will have access to that success money.¹³²

Importantly, several witnesses argued that because the programs, and in particular the First Nations Student Success Program, are proposal-driven, they tend to favour First Nations who can write effective applications, rather than responding to those with the greatest educational needs. Accordingly, “[i]f you do not write well,” Keith Frame told the Committee, “your students will not get an opportunity to experience that success.”¹³³ He further remarked:

The trouble with proposal-driven programs is that you first have to be a very articulate proposal writer. If you are not, the committee might not recognize you or your proposal and need for funding, which is very interesting considering it is called the First Nations Student Success Program.¹³⁴

While it is too soon to assess the merits of the two new programs established under the federal Reforming First Nations Education Initiative, they will not, in our estimation, bring about systemic change. First Nations will undoubtedly benefit from the additional funds to provide much needed education services in their schools. However, as we have seen, that funding is temporary and flows within a system that is fundamentally flawed. Thus, any progress achieved by First Nations is likely to be short-lived. The Committee believes that this is the fundamental weakness of this strategy and that a substantive restructuring of First Nations education is required.

¹³¹ Bob Atwin, Executive Director, First Nation Education Initiative Incorporated, *Proceedings*, 4 October 2011.

¹³² Keith Frame, Assistant Director of Education, Prince Albert Grand Council, *Proceedings*, 4 October 2011.

¹³³ Ibid.

¹³⁴ Ibid.

FINDINGS AND CONCLUSIONS

We need to take some very bold steps to address a completely unacceptable situation. If that situation continues with our same practices and legislation, it will be [in place] for a significant number of years, and we will lose more generations.¹³⁵

Currently, every First Nation community is left on their own to try to develop and deliver a range of educational services to their students. First Nations schools operate without any statutory recognition and authority to do so. Federal policy to guide efforts in this regard is, at best, ad hoc and piecemeal. The Department requires First Nations to educate their students at levels comparable to provincial and territorial jurisdictions, and yet provides them no meaningful supports by which to do so. No one actually knows who is ultimately accountable for the educational outcomes and services provided to First Nations students. This situation is, quite frankly, incomprehensible.

Having considered the evidence before us, it is clear to the Committee that the current patchwork of individually-operated and funded First Nations schools on reserve is failing to deliver a high quality education to First Nations students. Lacking critical educational supports, First Nations are the only segment of Canadian society who, today, do not benefit from a modern system of education. Without access to an education that prepares them for meaningful, healthy and productive lives, too many First Nations children face an uncertain future.

First Nations, and other Canadians, are anxious to see meaningful and effective reforms implemented. Piecemeal approaches will not work in addressing the chronic under-education of First Nations students. To continue in this fashion is to sacrifice another generation of students. As a Committee, we have heard unequivocally that fundamental, systemic change is required to replace an antiquated system of isolated and improperly resourced First Nations schools with the necessary organizational infrastructure needed for a 21st Century school system. The time to act is now. We must seize on the growing momentum and consensus on the need for reform. The way forward, while undoubtedly challenging, must be grounded in cooperation and the basic right of every child to a decent education.

¹³⁵ Colin Kelly, Official Trustee, Northland School Division no. 61, *Proceedings*, 16 November 2010.

Among the most difficult testimony presented to this Committee is that, right now, across this country, there are uncounted numbers of First Nations children and youth who are receiving an education vastly unequal to their non-First Nations neighbours. Alarming drop-out rates and poor academic performance continue to compromise the future of many First Nations youth. In some instances we heard that children will attend schools that are crumbling, infested with black mould or that are situated on contaminated land. Most of these children will learn from textbooks that neither reflect who they are or speak to them of who they can become. In time, some will be lost to themselves, to their families and communities, and to this country.

As we draw our report to its conclusion and formulate our recommendations, as a committee we are mindful that while the “work is not easy...it must be done right.”¹³⁶ Canadians understand that the future social and economic benefits to Canada of effectively addressing these admittedly complex issues are great, and that the costs of inaction are unacceptably greater. If we are serious about the addressing the educational outcomes of First Nations students, then we must begin by acknowledging this one simple fact: no *system* of education exists for First Nations elementary and secondary education on reserve in Canada.

A. JURISDICTION FOR FIRST NATIONS EDUCATION

In an effort to address these educational structural deficiencies, some observers have suggested that responsibility for First Nations education should be transferred to the provinces and/or territories. The reasons commonly offered to support this proposal rest on the substantial education expertise and organizational structures available in those jurisdictions. As we have seen, however, this proposal would very likely be strongly resisted by First Nations, if not by the provinces and territories themselves. Moreover, as we outlined earlier in the report, a policy of integration was previously attempted by the Government of Canada with dismal educational results for First Nations students. More importantly, we believe that such a strategy would lead to protracted legal challenges and put any practical advances in First Nations education on hold for years, if not decades. We agree with the view of several witnesses, and clearly articulated by Michael Mendelson:

¹³⁶ Shawn Atleo, National Chief, Assembly of First Nations, *Proceedings*, 2 November 2011.

A strategy of forcing all First Nations on-reserve education under provincial jurisdiction is one of those public policy chimeras that haunt policy development, presenting a seemingly attractive alternative which cannot be implemented but serves to obstruct the evolution of more complex but realistic strategies.¹³⁷

Committee members also recognize the very legitimate desire of First Nations, not simply to administer, but to be responsible for, the education of their children. They argue that education is an inherent right of Aboriginal self-government, and in the case of treaty First Nations, a solemn promise to be kept by the Crown. First Nations also point to Canada's recent endorsement of the *United Declaration on the Rights of Indigenous Peoples*, and in particular article 14:

Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.¹³⁸

While we firmly agree that the transfer of jurisdiction for First Nations education to the provinces/territories is not a viable legal or public policy option, we are equally of the view that all levels of government must participate in the process of improving the quality of education for First Nations children. Many First Nations already have operational agreements with provincial school boards that range from reciprocal tuition agreements to more extensive arrangements for teacher certification and curricula development. The small size and isolation of many First Nations schools, the need to ensure the transferability of students and teachers between on-reserve schools and public schools, and secure access to key resources underscore the need for First Nations and provinces/territories to work together effectively in order to achieve synergies and efficiencies. These partnerships should be encouraged and celebrated, but in a manner that recognizes and respects each of the parties' jurisdiction.

B. FINANCIAL COSTS AND ECONOMIC BENEFITS OF REFORM

We have already suggested throughout this report that simply putting more money into the current "system" of individual schools is not likely to substantially improve educational results

¹³⁷ Michael Mendelson, *Why We Need a First Nations Education Act*, p. 14.

¹³⁸ The *United Nations Declaration on the Rights of Indigenous Peoples* was formally endorsed by the Government of Canada on 12 November 2010. The document can be consulted on line at: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf.

unless accompanied by major structural reforms. Elsewhere in Canada, schools are supported by a vast array of second- and third-level services provided by school boards, departments of education, associations and education faculties, to name a few. Each performs a variety of functions necessary for ensuring that a high-quality education program can be delivered to students. The types of services provided by these institutions are both vital and expensive. They require economies of scale that the current model of individually band-operated schools, which are constrained by size, capacity, internal resources, and location, would be unable to achieve on their own. As a Committee, we feel it is critical, therefore, to move beyond simply funding individual First Nations schools to funding First Nations education systems offering second- and third-level services.

We are aware of concerns that creating a system of First Nations education could be too expensive to implement. In 2009, the First Nations Education Council undertook a study of what it would cost to create and maintain effective First Nations education systems. They found that a funding commitment of approximately \$431 million over five years for implementation and ongoing costs would enable 614 First Nations communities to become members of First Nations education systems offering second-level services. Following implementation, annual funding requirements nationally would be about \$151 million.¹³⁹ Michael Mendelson suggests that a First Nations education system comprised of school boards (one for at least 2,500 students) and managed by six First Nations Regional Education Authorities across the country would require, at maturity, an annual investment of approximately \$200 million.¹⁴⁰ The Education Authority would deliver a range of third level services in partnership with the provinces of Atlantic Canada, along with Manitoba, Saskatchewan, Alberta, British Columbia, Québec, and Ontario. While substantial, these amounts are certainly not prohibitive. Moreover, the potential impact of improved Aboriginal education levels on the Canadian economy is considerable. A 2009 report released by the Centre for Study on Living Standards suggests that the rates of return on investments in education are high “and possibly higher than has generally been believed.”¹⁴¹

¹³⁹ First Nations Education Council, Paper on First Nations Funding, p.31.

¹⁴⁰ Michael Mendelson, *Why We Need a First Nations Education Act*, pps. 19-20.

¹⁴¹ Centre for the Study of Canadian Living Standards, *Investing in Aboriginal Education: An Economic Perspective*, February 2010, p.iii. The document can be consulted on line at: <http://www.csls.ca/reports/csls2010-03.pdf>.

They estimate that parity in educational outcomes between Aboriginal and non-Aboriginal students could add as much as \$3.5 billion in total tax revenue for all levels of government by 2026. The authors also indicate that a complete closure of both the educational and the labour market outcome gaps would lead to cumulative benefits of \$400.5 billion and savings of \$115 billion in avoided government expenditures over the 2001 to 2026 period. Surely, these figures alone should compel us to act in haste. The benefits of substantively restructuring the First Nations education system dramatically outweigh the costs.

C. RECOMMENDATIONS FOR A NEW FRAMEWORK FOR FIRST NATIONS EDUCATION SYSTEMS IN CANADA

It's not that we don't know what to do...It's that we don't do what we already know.¹⁴²

If transferring jurisdiction for First Nations education to the provinces and territories is not the answer, the question then is how do we create a system of First Nations education in Canada that best serves the educational needs of students on reserve?

First Nations schools in this country exercise what limited control they have over education in a legislative vacuum. No federal statute recognizes the authority of First Nations governments, or their educational organizations, to manage and deliver educational services. The *Indian Act* makes no reference to First Nations in the matter of education. For many reasons, beyond simply its lack of substantive education provisions, the Act must be replaced. Moreover, we are reminded that it is under this piece of legislation that First Nations children were removed from their homes, and brought under the authority of churches, ostensibly to be educated for a world not yet prepared to welcome them.¹⁴³ With no clear statutory enactment on this point, First Nations educational authorities risk not being recognized as valid legal entities. This places limitations on First Nations in their relations with provincial school boards and their ability to

¹⁴² The Honourable Bill McKnight, Treaty Commissioner, Treaty Commission of Saskatchewan, "The Treaty Right to Education, Systemic Change in First Nations Education – We Are All Treaty People," *Submission*, 7 October 2010.

¹⁴³ In June 2006, then Minister of Indian Affairs and Northern Development, speaking before the Truth and Reconciliation Commission, announced that the federal government intended to repeal the sections of the *Indian Act* that allow for the establishment of the residential schools system. See Department of Aboriginal Affairs and Northern Development, "Backgrounder – Changes to the Indian Act Affecting Indian Residential Schools," accessed 15 November 2011. The document is available on line at: <http://www.aadnc-aandc.gc.ca/eng/1100100015573>.

enter into contractual arrangements to share resources and, where appropriate, harmonize standards.

The absence of federal First Nations education-specific legislation has also resulted, as we have seen, in a lack of clarity about the roles and responsibilities of the federal government in the provision of First Nations education. We completely reject the departmental position that it is a mere “funder” of educational services to First Nations. The absence of legislation setting out federal responsibilities, as John Richards observed, has meant that the Department has “already walked away from the question of accountability and performance.”¹⁴⁴ Witnesses argued, and we concur, that the federal role is not merely to fund First Nations educational services; it is to work, hand in glove, with First Nations to help build their educational capacity and institutions so that they are able to deliver an effective educational program to their students, comparable to provincial and territorial offerings.

In recent years, First Nations communities across the country have attempted to address these critical gaps in educational services. We met with several First Nations that have created regional organizations in order to establish much needed educational infrastructure. They do so, however, with tenuous authority and without any specific funding to enable their systems to offer second- and third-level services comparable to those offered by provincial/territorial systems. The Committee agrees that the absence of such supports are among the key factors that contribute to the unacceptable gap in educational attainment rates between First Nations students and their Canadian counterparts; a gap that is unlikely to substantially improve unless this educational infrastructure deficit is addressed.

The Committee further recognizes that the method of delivering First Nations educational services – whether through band councils or regional education authorities – is a community decision. However, we believe that a system of First Nations education, including second- and third-level structures, *properly resourced*, will be widely supported. We strongly support and encourage the efforts of First Nations to establish educational authorities, separate from band

¹⁴⁴ John Richards, Professor, Public Policy Program, Simon Fraser University, *Proceedings*, 2 June 2010.

councils and accountable to the parents and community members, and believe they need a legislative basis from which to operate.¹⁴⁵

A new system of education, designed to meet the needs of First Nations people in a modern context, is needed. Guided by the evidence placed before this Committee, we find that a federal First Nations Education Act is necessary to begin to build the proper foundation for such a First Nations system of education. Such legislation should be developed as a framework, rather than a detailed code that would attempt to cover every aspect of elementary and secondary education. It should explicitly recognize First Nations authority over education, as well as provide a legal underpinning for First Nations second- and third-level education authorities. Acknowledging the need for flexibility, it should not, however, prescribe those structures. The development of federal First Nations education legislation must be firmly rooted in a consultative process and significant community engagement. Accordingly, the Committee recommends as follows:

RECOMMENDATION 1

That the Government of Canada, in consultation with First Nations and First Nations educational authorities, develop a First Nations Education Act; that this Act explicitly recognize the authority of First Nations for on-reserve elementary and secondary education; and that it enable the establishment of First Nations controlled second-and-third level education structures; and that the application of this Act to individual First Nations communities be optional, and provide for the repeal of the education sections of the *Indian Act* for those First Nations that opt into the new Act.

We have already noted that increasing funding alone, unless accompanied by structural reform, will likely not achieve sustained and improved results in First Nations education. Similarly, we believe that structural reform without a revised method of financing First Nations education will meet with only partial success.

¹⁴⁵ Report of the Standing Committee on Aboriginal Affairs and Northern Development, *Sharing the Knowledge: The Path to Success and Equal Opportunities in Education*, June 1996, p. 64.

The Committee has heard from First Nations and non-First Nations alike that the mechanisms by which First Nations education is currently funded inhibits appropriate accountability mechanisms for achieving improved outcomes and specific levels of service. As we noted earlier, funding for educational services provided to First Nations generally occurs through the use of contribution agreements, which must be renewed on an annual basis, and often do not coincide with the school year. This severely limits the ability of First Nations to plan and creates uncertainty about funding levels.

In a 2011 status report to Parliament, the Auditor General of Canada identified the lack of appropriate funding mechanisms as one of the four key structural impediments that severely limit the delivery of public services to First Nations and impedes improvements in educational outcomes. According to the Auditor General, statutory funding “could remove the uncertainty that results when funding for services depends on the availability of resources.”¹⁴⁶ A statutory base for First Nations education funding has been advocated by First Nations educators and leaders for well over thirty years and was a consistent theme throughout our hearings.

The Committee finds that statutory funding for First Nations education is necessary to ensure the stable and predictable financing required for planning, teacher retention and recruitment, language instruction, culturally-relevant curriculum development, assessment, data collection and management and a range of other critical activities necessary to support a modern educational program. Importantly, the Committee believes that the preservation of First Nations languages must be among the core elements supported by a revised funding formula. During our site visits we have seen how language and immersion programs contribute to academic success. Language is also a significant aspect of culture. The evidence suggests, however, that First Nations languages are under increasing threat of survival. There is therefore a tremendous urgency to support their preservation and survival. First Nations languages, as Claudine VanEvery-Albert reminds us, “live only here” and when “they are gone they are gone from the face of this earth forever.”¹⁴⁷

¹⁴⁶ Office of the Auditor General of Canada, “Status Report of the Auditor General of Canada to the House of Commons, Chapter 4 – Programs for First Nations on Reserves”, June 2011, p. 4.

¹⁴⁷ Claudine VanEvery-Albert, Councillor, Six Nations of the Grand River, *Proceedings*, 26 October 2010.

Based on the evidence placed before us, we believe that a new funding formula, negotiated by the parties and based on real cost drivers, must be developed to replace the current system of contribution agreements. Accordingly, the Committee further recommends:

RECOMMENDATION 2

That the proposed First Nations Education Act provide statutory authority to the Minister of Aboriginal Affairs and Northern Development Canada to make payments from the Consolidated Revenue Fund to First Nations educational authorities, with the objective of providing educational services on reserves; that the methodology for establishing the amount of these payments be enshrined in regulations authorized under the Act, and developed in consultation with First Nations; that these regulations would consider key cost drivers such as demographics and remoteness; and that the formula for establishing payments include, among other things, First Nations language preservation and revitalization programs.

It is not sufficient simply for the Department of Aboriginal Affairs and Northern Development Canada to bring forward framework education legislation and expect to achieve results. First Nations must be provided with a meaningful opportunity to be able to opt in to that legislation in a timely manner. While many First Nations have educational organizations in place that can deliver second and third- level services, not all are at a similar level of readiness. We are therefore strongly of the view that a Canada-First Nations joint *action plan* for implementing education reforms be developed and that a process to achieve these reforms be carefully laid out. This process must include sustained and dedicated support for First Nations to undertake community and regional consultations in order to move forward with education reform. We therefore recommend as follows:

RECOMMENDATION 3

That the Department of Aboriginal Affairs and Northern Development Canada, in collaboration with First Nations organizations and the Assembly of First Nations, take immediate steps to develop a Canada-First Nations Action Plan for education reform;

and that the joint action plan include a process to ensure that First Nations are able to opt into a First Nations Education Act within agreed-upon timelines.

Finally, as a Committee, we have over the years grown increasingly frustrated with the lack of progress achieved in improving the living conditions and educational outcomes of First Nations people. Despite good intentions and commitments, year after year we find there has been little meaningful change. We are concerned that once the National Panel on First Nations Elementary and Secondary Education completes its important work, there will not be a formal process in place to monitor the progress or pace of reforms. We believe it is necessary that a mechanism be established to ensure that the process of transforming First Nations education succeeds. Accordingly we recommend:

RECOMMENDATION 4

That a task force, jointly appointed by the Minister of Aboriginal Affairs and Northern Development Canada and the Assembly of First Nations, be established to oversee and monitor progress related to First Nations educational reform; and that the task force report annually, for the next five years, to the Minister of Aboriginal Affairs and Northern Development Canada and to the National Chief of the Assembly of First Nations.

We believe that, together, these four recommendations will provide the basis for the fundamental reform of First Nations education. The Committee expects that the federal government will take timely action to implement structural reforms to First Nations education.

D. CONCLUDING REMARKS

All who have examined this issue agree that reform of First Nations education is urgently required. In order to obtain the best possible education for First Nations children we must recognize that education cannot merely be a local administrative concern. It is time to move from the current ad hoc, *non-system* of First Nations control for education and toward First Nations' full legal responsibility for a comprehensive system of elementary and secondary on-reserve education. We believe that the goals of improving education must include reversing the dependency inherently built into the *Indian Act*, and ensuring the long-term self-reliance of First Nations. A properly resourced First Nations-run education system could pave the way towards

academic success and the cultural renewal necessary to lead First Nations out of dependence toward the full partnership that the treaties guarantee.¹⁴⁸

If education, as National Chief Atleo reminds us, was once a tool of disconnection and suppression of First Nations' languages and cultures, it must now be a tool of reconnection and reconciliation. The consequence of a once assimilative educational system has been traumatic for First Nations peoples and reconciliation should be a restorative feature of education. Only when First Nations are able to take full responsibility for education, including developing curricula, defining educational standards and certifying teachers, will the quality of on-reserve education improve and the future of First Nations students be secure.

The process of renewal and reform of First Nations education will undoubtedly be challenging. It will require all parties to work collectively to bring about systemic change. It will demand sustained political commitment at the highest levels of the federal government and challenge First Nations leaders to come together to establish educational systems that are, first and foremost, accountable to their communities. It is vital that every First Nations child receive an education that not only prepares them to participate fully in the economic life of their communities and Canadian society, but enables them to do so as First Nations citizens, "linguistically and culturally competent to assume the responsibilities of their nations."¹⁴⁹

We believe that the willingness and commitment from all parties to undertake reform is there. The time is now upon us to act. We cannot, and must not, fail another child.

¹⁴⁸ James Wilson, Treaty Commissioner of Manitoba, Treaty Relations Commission of Manitoba, *Proceedings*, 4 October 2011.

¹⁴⁹ Canada, Royal Commission on Aboriginal Peoples, Report of the Royal Commission on Aboriginal Peoples, *Gathering Strength*, 1996, Vol. 3, Chapter 5, p. 446.

APPENDIX A – WITNESSES

| Meeting Date | Agency and Spokeperson | Brief |
|----------------|--|----------|
| April 13, 2010 | Indian and Northern Affairs Canada: Christine Cram, Assistant Deputy Minister, Education and Social Development Programs and Partnerships; Sheilagh Murphy, Acting Director General, Operations and Planning Support Branch; Claudette Russell, Director, Strategic Policy and Planning Directorate. | X |
| April 21, 2010 | Canadian Council on Learning: Paul Cappon, President and Chief Executive Officer; Jarrett Laughlin, Senior Research Analyst and Team Lead. | X |
| April 28, 2010 | Indian and Northern Affairs Canada: Eric Guimond, Acting Director, Research and Analysis Directorate; Kathleen Keenan, Director General, Education Branch. | X |
| | Statistics Canada: Jane Badets, Director, Social and Aboriginal Statistics Division; Evelyne Bougie, Analyst, Social and Aboriginal Statistics Division. | X |
| May 5, 2010 | Caledon Institute of Social Policy: Michael Mendelson, Senior Scholar. | X |
| May 12, 2010 | Office of the Auditor General of Canada : Sheila Fraser, Auditor General of Canada; Ronnie Campbell, Assistant Auditor General; Frank Barrett, Principal. | X |

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| June 1, 2010 | Northern Nishnawbe Education Council: Barry McLoughlin, Director of Lifelong Learning. | |
| | Manitoba First Nations Education Resource: Gwen Merrick, Associate Executive Director. | X |
| | Indigenous Education Coalition: Bruce Stonefish, Executive Director. | X |
| | Ontario Native Education Counselling Association: Cindy Fisher, President. | X |
| June 2, 2010 | Simon Fraser University, C.D. Howe Institute: John Richards, Professor, Public Policy Program. | X |
| June 8, 2010 | First Nations Education Council: Lise Bastien, Director. | X |
| | Institut Tshakapesh: Denis Vollant, Executive Director. | X |
| June 9, 2010 | Mount Pleasant Educational Services Inc.: Corinne Mount Pleasant-Jetté, President. | X |
| June 15, 2010 | National Aboriginal Achievement Foundation: Roberta Jamieson, President and Chief Executive Officer; Noella Steinhauer, Director of Education. | X |
| | As an individual: David Newhouse, Chair and Associate Professor, Indigenous Studies, Trent University. | X |
| October 7, 2010 | Office of the Treaty Commissioner of Saskatchewan: Honourable Bill McKnight, P.C., Treaty Commissioner; Harry Lafond, Executive Director. | X |
| | Federation of Saskatchewan Indian Nations: Guy Lonechild, Chief; | X |

Gerry Hurton, Executive Director of Education.

As an individual: X
Vivian Ayoungman.

Confederacy of Treaty Six First Nations: X
Quintine Kootenay, Grand Chief Liaison
Officer.

Treaty 8 First Nations of Alberta: X
Rose Laboucan, Chief, Driftpile First Nation;
Eileen Lines, Interim Director of Education.

Treaty 7 Management Corporation: X
Sheena Jackson, Education Director;
Evelyn Good Striker, Education Researcher.

Edmonton Public Schools: X
Margaretha Ebbers, Supervisor, Aboriginal
Education, Programs;
Edgar Schmidt, Superintendent.

Wild Rose Public Schools: X
Brian Celli, Superintendent of Schools.

Edmonton Catholic Schools:
Richard Dombrosky, Assistant Superintendent,
Learning Services - Enhancement.

Red Deer Public Schools: X
Bruce Buruma, Director of Community.

Northwest Nations Education Council:
Gerry Guillet, Director of Education, Chief
Executive Officer; X
Wes Fine Day, Cultural Advisor/Partnership
Coordinator.

Ile-a-la-Crosse School Division: X
Lon Borgerson, Director of Education;
Duane Favel, Chair, Board of Education.

Regina Public Schools: X
Calvin Racette, Aboriginal Education
Coordinator;
Dave Hutchinson, Superintendent;
Betty McKenna, Elder.

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| | Saskatoon Tribal Council: Larry Cachene, Chief; John Barton, Acting Director of Education. | |
| October 26, 2010 | Six Nations of the Grand River: Claudine VanEvery-Albert, Councilor. | X |
| | Blackfoot Confederacy: Reg Crowshoe, Chief. | X |
| | First Nations Education Steering Committee: Nathan Matthew, Negotiator, British Columbia First Nations Education Jurisdiction Negotiations; Christa Williams, Negotiator, British Columbia First Nations Education Jurisdiction Negotiations. | X |
| October 27, 2010 | University of Regina: Larry Steves, Assistant Professor, Faculty of Education. | X |
| | First Nations Forum, First Nations Public Policy: Solomon G. Sanderson, Chairman. | X |
| November 2, 2010 | University of Saskatchewan: Sheila Carr-Stewart, Professor, Department Head & Graduate Chair, Department of Educational Administration, College of Education; Marie Battiste, Professor and Director, Aboriginal Education Research Centre. | X |
| November 16, 2010 | Northland School Division No. 61 Colin Kelly, Official Trustee. | |
| November 24, 2010 | Kitigan Zibi Anishinabeg First Nation: Gilbert W. Whiteduck, Chief. | X |

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| December 14, 2010 | Cree School Board (Quebec): Abraham Jolly, Director General. | |
| | Chiefs of Ontario: Angus Toulouse, Regional Chief of Ontario. | |
| March 22, 2011 | Walpole Island First Nation: E. Rex Isaac, Band Councillor, Portfolio: Education | |
| March 23, 2011 | Government of the Northwest Territories: Dan Daniels, Deputy Minister, Department of Education, Culture and Employment. | X |
| September 28, 2011 | Mi'kmaw Kina'matnewey: Eleanor Bernard, Executive Director; John Jerome Paul, Director of Program Services; John Donnelly, Negotiator. | X |
| | Union of Ontario Indians – Anishinabek Nation: Murray Maracle, Education Director. | |
| | Council of Yukon First Nations: Ruth Massie, Grand Chief. | X |
| October 4, 2011 | Association of Iroquois and Allied Indians: Denise Stonefish, Acting Grand Chief; Gina McGahey, Education Coordinator. | X |
| | First Nation Education Initiative Inc.: Bob Atwin, Executive Director. | |
| | Prince Albert Grand Council: Keith Frame, Assistant Director of Education. | X |
| | Treaty Relations Commission of Manitoba: James B. Wilson, Treaty Commissioner of Manitoba. | |
| October 5, 2011 | Inuit Tapiriit Kanatami: Mary Simon, President. | |

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| October 18, 2011 | As individuals: Bruce Stonefish; Colin Kelly; Marlene Atleo; Harvey McCue; Jamie B. Wilson. | |
| October 19, 2011 | Manitoba First Nations Education Resource Centre: George Ross, School Administration Advisor. Nishnawbe Aski Nation: Terry Waboose, Deputy Grand Chief. | X |
| November 2, 2011 | Assembly of First Nations: Shawn (A-in-chut) Atleo, National Chief; Richard Jock, Chief Executive Officer; Morley Googoo, Regional Chief; Jennifer Brennan, Senior Strategist | X |
| No specific date | Rocky Christian School: Robert Duiker, Principal. | X |
| No specific date | Maliseet/Mi'kmaq Education in New Brunswick: David Perley. | X |
| No specific date | Mi'kmaw Kna' matnewey: John Donnelly. | X |
| No specific date | St. Thomas University: Andrea Bear Nicholas. | X |