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DEFAULT PREVENTION AND MANAGEMENT 2017

Report of the Standing Committee on Indigenous and Northern Affairs

**Hon. MaryAnn Mihychuk
Chair**

MAY 2017

42nd PARLIAMENT, 1st SESSION

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has the honour to present its

SIXTH REPORT

Pursuant to its mandate under Standing Order 108(2) and the motion adopted by the Committee on Tuesday, February 21, 2017, the Committee has studied default prevention and management policy and has agreed to report the following:

TABLE OF CONTENTS

DEFAULT PREVENTION AND MANAGEMENT	1
INTRODUCTION	1
BACKGROUND ON THE DEFAULT PREVENTION AND MANAGEMENT POLICY	1
WHAT THE COMMITTEE HEARD.....	4
A. Root Causes of Defaults in First Nations Communities.....	4
B. Federal Programs and Initiatives to Support Financial Management.....	6
C. The Default Prevention and Management Policy	7
D. Moving Forward: Enhancing Financial Management Capacity of First Nations	9
CONCLUSIONS AND RECOMMENDATIONS.....	11
Funding	11
The Default Prevention and Management Policy.....	12
Capacity Building.....	13
Financial Management and Accountability	14
CONCLUSION.....	14
LIST OF RECOMMENDATIONS	17
APPENDIX A: LIST OF WITNESSES	19
APPENDIX B: LIST OF BRIEFS	21
REQUEST FOR GOVERNMENT RESPONSE	23
DISSENTING REPORT FROM THE CONSERVATIVE PARTY OF CANADA.....	25

DEFAULT PREVENTION AND MANAGEMENT

INTRODUCTION

In the past year, Parliament approved the transfer of approximately \$9.5 billion to Indigenous and Northern Affairs Canada (INAC) to support the delivery of programs and services to Indigenous people. The vast majority of this funding, approximately 90%, is transferred directly to First Nations through funding agreements. To manage the potential financial risks involved in this transfer of public funds, the agreements stipulate conditions under which the Department can intervene in the financial affairs of First Nations, the conditions of which are guided by the Default Prevention and Management Policy.

However, this policy has been a longstanding grievance among First Nations. Communities can be subject to default management for years, with limited opportunity to improve their internal capacity for financial management or implement a plan to recover from default. Among their primary concerns, First Nations argue that the current approach interferes with the band council's role in administering programs and services and has not yielded meaningful improvements for First Nations.

Recognizing these concerns, the House of Commons Committee on Indigenous and Northern Affairs (the Committee) adopted a motion on 21 February 2017 agreeing to study the issues and challenges related the Default Prevention and Management Policy.¹ The study was to examine key issues affecting financial management in First Nations communities, the federal programs to support financial management, the effectiveness of the current policy framework, and possible alternatives to the policy. To this end, the Committee held 6 meetings and heard from 32 witnesses, including government organizations, First Nations communities and organizations, tribal councils, service providers, and third party experts. The Committee also received 4 written briefs.

The Committee would like to sincerely thank everyone who participated in its study of default prevention and management in First Nations communities. Your valuable insights and experience helped to provide members with a deeper understanding of the default prevention policy and its implications. The Committee carefully listened to your testimony, and now reports its findings.

BACKGROUND ON THE DEFAULT PREVENTION AND MANAGEMENT POLICY

The Default Prevention and Management Policy (DPMP) sets out the conditions under which INAC may intervene in the affairs of First Nations in order to mitigate financial risks. Among other objectives, the policy aims to “help first nations to exit defaults as quickly as possible and in better shape, avoid future defaults, and build increased capacity

1 House of Commons, Standing Committee on Indigenous and Northern Affairs (INAN), [Minutes](#), 1st Session, 42nd Parliament, 21 February 2017: “pursuant to Standing Order 108(2), the Committee undertake a comprehensive study of the Department of Indigenous and Northern Affairs' Default Prevention and Management policy, including its purpose, efficacy and possible alternatives; that the witness list include but not be limited to Departmental Officials overseeing the program, First Nations community leaders, service providers, and experts; and that the committee report its findings to the House of Commons.”

for them to manage their affairs sustainably, accountably, and for the benefit of their citizens.”²

Departmental officials explained that default management is triggered by the possible disruption of programs and services for First Nations community members. Specifically, intervention under the policy is triggered in the following situations: the health, safety and well-being of members is at risk (such as a natural disaster), the First Nation has failed to meet the obligations outlined in the contribution agreement (including not signing a contribution agreement), an auditor has provided an adverse opinion of a community’s consolidated financial statement, or the First Nations’ finances have deteriorated.³ Not all of these triggers relate to financial management, which is a point of concern for many First Nations.⁴

As a first step, the DPMP aims to prevent potential defaults by monitoring the financial situation of First Nations, identifying risks, and addressing early warning signs before default occurs. To achieve these objectives, INAC uses the General Assessment tool to find early warning signs, and sends audit letters to First Nations whose debt ratios are approaching a level where intervention would be required.⁵ Once risks are identified, officials stated that the Department “engages” with First Nations to try and avoid defaults.⁶ However, witnesses emphasized that default prevention activities are very limited under the current policy, and once potential risks are identified, there is little follow-up or support provided to ensure that default is avoided.⁷ Once a default occurs, a community comes under the DPMP and is under one of the following three levels of default management, with an increasing level of intervention:

- **Recipient-Managed Action Plan (RMAP):** the First Nation is required to develop an action plan, known as a Management Action Plan, to address and prevent future defaults in their community.
- **Recipient-Appointed Advisor (RAA):** the First Nation is required to contract an expert advisor to help implement their Management Action Plan.
- **Third-Party Funding Agreement Management (TPFAM):** the Department contracts a third party to manage the funds provided through contribution agreements on behalf of the First Nation. This is the most

2 INAN, [Evidence](#), 1st Session, 42nd Parliament, 9 March 2017, 0905 (Paul Thoppil, Chief Financial Officer, Chief Financial Officer Sector, Department of Indian Affairs and Northern Development). Unless otherwise noted, all evidence cited in this report was presented at meetings held during the 1st Session, 42nd Parliament.

3 Ibid.

4 INAN, [Evidence](#), 11 April 2017, 0950 (Pamela Palmater, As an Individual); [Evidence](#), 4 April 2017, 0910 (Russell Diabo, Policy Consultant Advisor, Algonquin Nation Secretariat, Algonquins of Barriere Lake).

5 INAN, [Evidence](#), 23 March 2017, 1000 (Robert Campbell, Director, Aboriginal Services, MNP LLP).

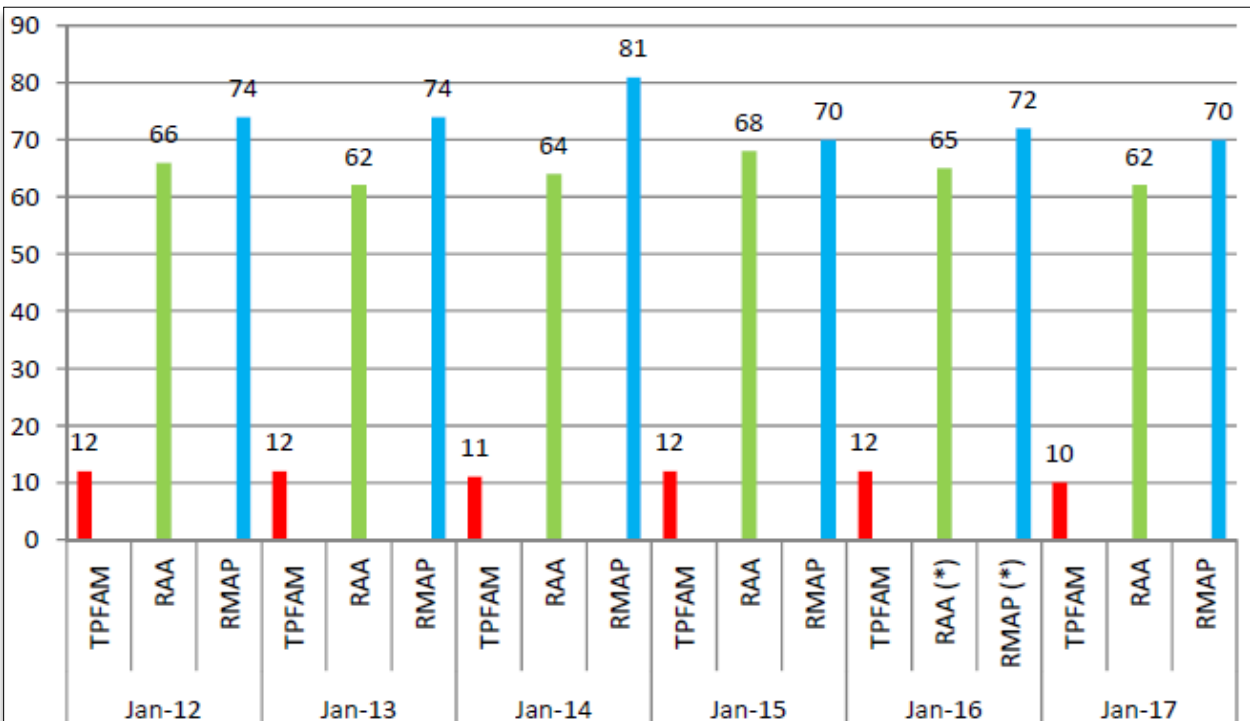
6 INAN, [Evidence](#), 9 March 2017, 0910 (Paul Thoppil).

7 INAN, [Evidence](#), 23 March 2017, 1000 (Robert Campbell).

intrusive form of intervention, used as a last resort in cases of serious default.⁸

Currently, there are 142 First Nations communities and organizations under the DPMP. Of the 618 First Nations in Canada, 5.4% are required to provide a Recipient-Managed Action Plan, 4.8% have a Recipient-Appointed Advisor, and 0.7% are under Third-Party Management.⁹ While the national figures may appear low, the Committee heard from witnesses such as Ghislain Picard, Regional Chief of the Assembly of First Nations Quebec and Labrador, that there are a number of First Nations on the cusp of falling under the default prevention policy.¹⁰ As indicated in Figure 1, the number of First Nations under each level of default management has not changed significantly over the past five years.

Figure 1: Number of First Nations with Intervention Underway, 2012 – 2017



Source: Indigenous and Northern Affairs Canada, *Responses to Follow Up Requests from the Standing Committee on Indigenous and Northern Affairs – March 9, 2017*.

Note: TPFAM is an acronym for Third-Party Funding Agreement Management; RRA is an acronym for Recipient-Appointed Advisor; and RMAP is an acronym for Recipient-Managed Action Plan.

8 INAN, [Evidence](#), 9 March 2017, 0905 (Paul Thoppil).

9 Ibid., 0915.

10 INAN [Evidence](#), 11 April 2017, 1000 (Chief Ghislain Picard, Regional Chief, Assembly of First Nations of Quebec and Labrador); [Evidence](#), 6 April 2017, 0925 (Andrew Yesno, Manager of Financial Advisory Services, Matawa First Nations).

The department has begun a review of the DPMP in order to ensure that the policy effectively minimizes financial risk and promotes First Nations' financial management capacity.¹¹ Changes to the DPMP also form part of a broader discussion to establish a new fiscal relationship with First Nations, which was the subject of a Memorandum of Understanding (MOU) between the federal government and the Assembly of First Nations signed on 12 July 2016. The MOU establishes a Joint Committee responsible for examining current funding approaches and financial transfer mechanisms, and with the input of First Nations, developing options for a new fiscal approach.¹²

Finally, the DPMP will also be included as part of the federal government's broader commitment to review legislation and policies pertaining to Indigenous people. On 22 February 2017, the government announced a Working Group of Ministers to ensure that the Crown is meeting its constitutional obligations with respect to Aboriginal and treaty rights, as well as international human rights standards, and supporting the Truth and Reconciliations Commission's Calls to Action.¹³

WHAT THE COMMITTEE HEARD

A. Root Causes of Defaults in First Nations Communities

The Committee heard that there is no single cause increasing the likelihood of defaults, but rather a series of multifaceted issues. There was broad consensus among witnesses that the primary factors contributing to defaults in First Nations communities are the structure of contribution agreements¹⁴ and the insufficient level of funding provided¹⁵. Specifically, witnesses such as Chief Arlen Dumas from the Swampy Cree Tribal Council emphasized that underfunding of programs in First Nations communities is the underlying contributor to defaults. The Committee heard that the current funding formula has not kept pace with population growth. For example, Chief Dumas explained that current funding levels in his community of over 3,500 remain unchanged from the amount provided in 1982, when the community's population was 1,000. As a result, it is very difficult to provide programs and essential services under the current funding levels.¹⁶ A potential disruption of programs and services places communities at risk of defaulting under the policy.

With respect to contribution agreements, Norm Odjick, Representative for the Assembly of First Nations Quebec and Labrador, explained that these agreements provide

11 Indigenous and Northern Affairs Canada, [2016–17 Report on Plans and Priorities](#).

12 Indigenous and Northern Affairs Canada and Assembly of First Nations, [Memorandum of Understanding](#), July 2016; Government of Canada, [Signing of a Memorandum of Understanding on a New Fiscal Relationship with the Assembly of First Nations](#).

13 Prime Minister's Office, [Prime Minister announces Working Group of Ministers on the Review of Laws and Policies Related to Indigenous Peoples](#), News, 22 February 2017.

14 INAN, [Evidence](#), 6 April 2017, 0940 (Andrew Yesno); [Evidence](#), 21 March 2017, 0905 (Grand Chief Sheila North Wilson, Manitoba Keewatinowi Okimakanak Inc.); [Evidence](#), 11 April 2017, 1000 (Norm Odjick, Representative, Assembly of First Nations of Quebec and Labrador).

15 INAN, [Evidence](#), 6 April 2017, 0850 (Chief Arlen Dumas, Chief, Swampy Cree Tribal Council); [Evidence](#), 6 April 2017, 0855 (Andrew Yesno); [Evidence](#), 23 March 2017, 0950 (Jacques Marion, Partner, Consulting, BDO Canada).

16 INAN, [Evidence](#), 6 April 2017, 0905 (Arlen Dumas).

funding for specific program areas only. Communities are not able to direct funding to other areas to cover unforeseen costs, as doing so would trigger intervention under the default management policy. As described by Mr. Odjick, the lack of flexibility affects long-term financial planning for community projects:

[F]or example, in your household budget you have funds targeted for clothing but your furnace is breaking down. If you can't divert some of that clothing budget for the furnace repairs, what happens? Eventually, it breaks, your pipes freeze and burst, and you've got water damage in your home. This is what our first nations administrators face in their communities with these budgets and restraints. The lack of flexibility causes a snowball effect that causes all kinds of different problems.¹⁷

Further, the Committee heard that the funding provided does not reflect the cost of delivering services.¹⁸ For example, Sheila North-Wilson, Grand Chief of Manitoba Keewatinowi Okimakanak Inc. (MKO), explained that one of their member communities' receives "\$50,000 a year to maintain their roads, and it costs a million dollars to do that in actual numbers."¹⁹ This gap leaves communities in a position where they cannot properly maintain infrastructure, which reduces its lifespan. Alternatively, diverting funding from other programs in order to cover the shortfall places communities under risk of default management.²⁰ As a result, Chief Alex McDougall of Wasagamack First Nation explained, communities "are starting basically with our hands tied behind our backs and trying to manage financial resources that are not nearly sufficient to meet the needs of the community."²¹

The lack of capacity for financial management is also one of the primary root causes of financial defaults in First Nations communities. The Committee heard that many First Nations have capacity challenges including a limited understanding of the terms and conditions of funding agreements and financial literacy,²² and difficulties recruiting and retaining qualified financial experts.²³ Witnesses such as the Assembly of First Nations emphasized the importance of First Nations hiring financial experts, such as chartered accountants and chief financial officers, to assist with long-term financial planning and economic development opportunities. However, very few First Nations can afford this cost.²⁴ Finally, First Nations are subject to significant financial reporting requirements, and as such, require skills to effectively manage multiple funding sources that are well beyond the skills necessary in other sectors.²⁵

17 INAN, [Evidence](#), 11 April 2017, 1000 (Norm Odjick).

18 INAN, [Evidence](#), 6 April 2017, 0905 (Arlen Dumas); [Evidence](#), 21 March 2017, 0905 (Sheila North Wilson).

19 Ibid.

20 INAN, [Evidence](#), 11 April 2017, 1000 (Norm Odjick).

21 INAN, [Evidence](#), 4 April 2017, 0910 (Alex McDougall).

22 INAN, [Evidence](#), 6 April 2017, 0950 (Dawn Madahbee Leach, Interim Chair, National Aboriginal Economic Development Board); [Evidence](#), 6 April 2017, 0855 (Andrew Yesno).

23 INAN, [Evidence](#), 11 April 2017, 1010 (National Chief Perry Bellegarde, National Chief, Assembly of First Nations); [Evidence](#), 11 April 2017, 1000 (Norm Odjick).

24 Ibid.

25 INAN, [Evidence](#), 23 March 2017, 0950 (Jacques Marion).

Witnesses also told Committee members that challenges related to community governance contribute to weak financial management practices.²⁶ In particular, short election terms under the *Indian Act* and frequent changes in government can impede those responsible from understanding community budgeting processes and inhibit the implementation of long-term financial plans.²⁷ Community governance challenges also include financial policies and procedures that are not established or enforced. Witnesses such as Charmaine Stick and Loretta Burnstick, who appeared before the Committee as individuals, stated that the lack of an institutional framework and enforceable policies relating to financial accountability contribute to the likelihood of defaults in First Nations communities.²⁸ Witnesses indicated that in some communities, band members do not have access to financial statements, which limits awareness of community finances and makes it difficult to hold band councils to account for their financial decisions.²⁹

Finally, the Committee heard that First Nations communities' own wealth creation needs to be encouraged.³⁰ Harold Calla from the First Nations Financial Management Board explained that limited economic development in First Nations communities has created dependency on federal transfers as the only source of income.³¹ The Committee heard that communities with own-source revenues are able to provide better programs. As such, communities with limited economic development, such as northern or remote First Nations, are more likely to fall under default management as they do not have the benefit of outside streams.³²

B. Federal Programs and Initiatives to Support Financial Management

Currently, INAC supports capacity building in financial management through the [Professional and Institutional Development Program](#). Through requests for proposals, this program funds First Nations, tribal councils and Inuit communities to develop capacity in 10 core areas of governance, one of which is financial management.³³ Departmental officials indicated to the Committee that the program's annual budget is \$9.3 million. This year, an additional \$4 million was allocated to the program, targeted to help First Nations with Management Action Plans develop their governance capacity.³⁴

26 Ibid.

27 INAN, [Evidence](#), 4 April 2017, 0855 (Alex McDougall); [Evidence](#), 21 March 2017, 0930 (Sheila North Wilson).

28 INAN, [Evidence](#), 11 April 2017, 0850 (Loretta Burnstick, As an Individual); 11 April 2017, 0855 (Stanley Bear, Chief Executive Officer, Indigenous Management Group Inc.); Charmaine Stick, [Submitted Brief](#), 1 May 2017

29 Ibid.

30 INAN, [Evidence](#), 23 March 2017, 0855 (Harold Calla, Executive Chair, First Nations Financial Management Board); [Evidence](#), 21 March 2017, 0900 (Sheila North Wilson).

31 INAN, [Evidence](#), 23 March 2017, 0855 (Harold Calla).

32 INAN, [Evidence](#), 11 April 2017, 1010 (Perry Bellegarde); [Evidence](#), 23 March 2017, 0950 (Jacques Marion).

33 Indigenous and Northern Affairs Canada, [Professional and Institutional Development Program](#).

34 INAN, [Evidence](#), 9 March 2017, 1005 (Serge Beaudoin, Director General, Sector Operations Branch, Regional Operations Sector, Department of Indian Affairs and Northern Development).

Witnesses explained to the Committee that this program is one of the few available to support financial management capacity development and the resources provided are far from sufficient to address the needs and demands of First Nations.³⁵ Further, the Committee heard that the program does not support default prevention activities, as program eligibility is restricted to communities that are already under default management. In addition, the proposal-based structure of the program further disadvantages communities that are experiencing capacity challenges, as they may have limited abilities to prepare proposals and administer programs, decreasing their likelihood of having a successful proposal in a competitive process.³⁶

The Committee heard that tribal councils can be another source of support, as they provide capacity development services, including the area of financial management. Andrew Yesno of the Matawa First Nations Management indicated that these services are geared towards building governance and financial management capacity, and can include working with band council staff and assisting with financial planning.³⁷ However, the Committee heard that funding cuts to tribal councils in 2014 significantly reduced their ability to provide financial advisory services.³⁸ Mr. Yesno commented that the rationale for these funding cuts was that “other national organizations would be there to fill in the gap such as [AFOA Canada], or [the First Nations Financial Management Board (FNFMB)]. In our region, although attempts were made, that has never really materialized and the void is still there.”³⁹

Finally, the Committee heard that capacity development services are provided by the First Nations financial institutions created under the *First Nations Fiscal Management Act*. Specifically, The Act established the First Nations Tax Commission, the First Nations Financial Management Board, and the First Nations Finance Authority in order to provide participating First Nations with enhanced financial management capacity, the ability to tax real property, and access to pooled borrowing. This is an optional regime, and First Nations interested in participating may request to be added to the schedule of the Act. Steve Berna, Chief Financial Officer of the First Nations Finance Authority explained that participation rate has steadily increased since the Act was established, and there are currently 211 participating First Nations.⁴⁰

C. The Default Prevention and Management Policy

There was broad consensus among the witnesses that the DPMP does not address the root causes of financial distress, nor does it build community capacity for financial management. Perry Bellegarde, National Chief of the Assembly of First Nations,

35 INAN, [Evidence](#), 23 March 2017, 1000 (Robert Campbell).

36 INAN, [Evidence](#), 11 April 2017, 1000 (Norm Odjick).

37 INAN, [Evidence](#), 6 April 2017, 0855 (Andrew Yesno).

38 INAN, [Evidence](#), 6 April 2017, 0855 (Andrew Yesno); [Evidence](#), 11 April 2017, 1000 (Norm Odjick).

39 Ibid.

40 INAN, [Evidence](#), 23 March 2017, 0905 (Steve Berna, Chief Operating Officer, First Nations Finance Authority).

contended that the policy was “designed to address risk to the department rather than improve performance on the ground.”⁴¹

The Committee heard a number of concerns related to the DPMP, among which, witnesses explained that the policy does not effectively prevent potential defaults. Specifically, there is “limited evidence” that early warning signs are identified and if so, little follow-up is provided.⁴² In addition, witnesses stated that communities under default management have difficulty accessing the support and resources needed to address defaults. First Nations must cover the cost of intervention, at an average \$170,000 a year, from their Band Support funding.⁴³ This approach was described as “punitive”, as it leaves very little funding available, if any, to support band administration activities or invest in local capacity.⁴⁴ Further, First Nations appearing before the Committee, such as the Algonquins of Barriere Lake, explained that third-party managers do not develop an “exit strategy” to help communities move out of default management or develop the skills for financial management. Robert Campbell from MNP Management stated that many elements of community-developed debt recovery plans (Management Action Plans) “cannot realistically be acted on, given current capacity levels and resources.”⁴⁵

The Committee also heard concerns related to technical elements of the policy, which affect the quality of the services provided by co-managers and third-party managers. Among the primary concerns raised with respect to third-party managers, BDO Canada identified the absence of repercussions for third-party managers who do not fulfil their duties under the contract, the hiring criteria that does not require firms to demonstrate a proven track record of working with First Nations, and monitoring processes that are inconsistently applied across different regions.⁴⁶ In addition, third-party managers do not have incentives to help communities out of default management, as doing so would put them out of a contract.⁴⁷ Finally, the Committee heard that third-party managers are only required to manage the finances in a given fiscal year, and not address existing debt.⁴⁸ With respect to co-managers, witnesses said that there are very few quality control measures established to “ensure that they are acting in the best interest of the First Nation or the Crown.”⁴⁹

Finally, the Committee heard that being under default management has other negative repercussions on First Nations. For instance, default management limits the role

41 INAN, [Evidence](#), 11 April 2017, 1010 (Perry Bellegarde).

42 INAN, [Evidence](#), 23 March 2017, 1000 (Robert Campbell).

43 INAN, [Evidence](#), 9 March 2017, 0935 (Serge Beaudoin).

44 INAN, [Evidence](#), 23 March 2017, 0950 (Jacques Marion); [Evidence](#), 23 March 2017, 1000 (Robert Campbell); [Evidence](#), 6 April 2017, 0855 (Andrew Yesno).

45 INAN, [Evidence](#), 23 March 2017, 1000 (Robert Campbell).

46 Ibid., 0950 & 1020 (Jacques Marion).

47 INAN, [Evidence](#), 11 April 2017, 1010 (Perry Bellegarde).

48 INAN, [Evidence](#), 4 April 2017, 0845 (Chief Casey Ratt, Chief, Algonquins of Barriere Lake); [Evidence](#), 4 April 2017, 0855 (Alex McDougall).

49 INAN, [Evidence](#), 23 March 2017, 0950 (Jacques Marion).

of chief and council in the financial administration of programs.⁵⁰ Communities also have limited access to funding opportunities for community infrastructure and housing: Grand Chief Nelson Genaille explained that First Nations under third-party management are not eligible for Ministerial Loan Guarantees, a program which provides First Nations with access to financing for the purpose of constructing or renovating homes.⁵¹ In general, communities under default management have fewer opportunities to pursue economic development and access private sector financing.⁵²

D. Moving Forward: Enhancing Financial Management Capacity of First Nations

There was broad consensus that, as a starting point, broad and substantive changes are needed to the DPMP in order for INAC to take a proactive approach to default prevention that emphasizes community capacity development. Further, these revisions must be made in partnership with First Nations.⁵³ Some witnesses, such as the Swampy Cree Tribal Council, felt that the policy should be wholly repealed and First Nations provided with the authority to manage funds.⁵⁴ However, the Committee also heard that it is important to set up communities for success, and that capacity development programs must be available to First Nations that may not have the financial management skills to take on these responsibilities.⁵⁵

The Committee heard that support to communities for developing strong governance and financial management practices are fundamental elements of addressing and preventing financial defaults. As Mr. Campbell explained, developing sound financial frameworks includes “understanding the budget process, having and enforcing sound financial policy and procedures, and required reporting for funders, investors, and most importantly nation members.”⁵⁶ Further, the Committee heard that sound financial management practices also contribute to access to economic development opportunities.⁵⁷ Witnesses explained that existing First Nations organizations, such as AFOA Canada and the Aboriginal financial institutions, play an integral role in building financial management capacity among First Nations communities. The National Aboriginal

50 INAN, [Evidence](#), 21 March 2017, 0930 (Sheila North Wilson); [Evidence](#), 4 April 2017, 0845 (Chief Casey Ratt, Chief, Algonquins of Barriere Lake); [Evidence](#), 4 April 2017, 0935 (Alex McDougall).

51 INAN, [Evidence](#), 6 April 2017, 0940 (Grand Chief Nelson Genaille, Grand Chief, Swampy Cree Tribal Council).

52 INAN, [Evidence](#), 11 April 2017, 0900 (Lorne Cochrane, Managing Partner, Indigenous Management Group Inc.).

53 INAN, [Evidence](#), 6 April 2017, 0950 (Dawn Madahbee Leach); [Evidence](#), 11 April 2017, 0950 (Pamela Palmater), [Evidence](#), 6 April 2017, 1005 (Terry Goodtrack, President and Chief Executive Officer, AFOA Canada); [Evidence](#), 11 April 2017, 0935 (Lorne Cochrane); [Evidence](#), 11 April 2017, 1015 (Perry Bellegarde).

54 INAN, [Evidence](#), 6 April 2017, 0910 (Arlen Dumas).

55 INAN, [Evidence](#), 23 March 2017, 0930 (Harold Calla).

56 Ibid., 1000 (Robert Campbell).

57 INAN, [Evidence](#), 11 April 2017, 0900 (Wendy Harris, President and Chief Executive Officer, Canadian Executive Service Organization).

Economic Development Board explained that the role of existing organizations should be “strengthened and used to their full measure.”⁵⁸

The Committee was encouraged to hear that there are a number of promising initiatives underway that focus on capacity building and First Nations-led programming. For instance, the FNFMB is participating in a pilot project to offer third-party management services in place of national accounting firms.⁵⁹ Currently, the organization is working with one community in Manitoba, providing capacity-building activities to support the development of financial management and governance structures.⁶⁰ In addition, the Committee heard of another pilot project to create working groups comprised of departmental officials, tribal councils and First Nations to provide targeted flexible funding arrangements to address default management. This pilot project was offered in the Neskantaga First Nation, and provided substantial benefits in a short time frame.⁶¹ Lastly, witnesses also informed the Committee that Aboriginal financial institutions, such as the Ulnooweg Financial Education Centre, are offering innovative approaches to enhance financial management, focused on educating chiefs and councils on financial management and strategic financial planning.⁶²

The Committee heard that long-term solutions to address financial challenges require a broad approach, with emphasis on encouraging communities to develop own-source revenues and capacity for economic development. Mr. Calla asserted that without systemic changes to support wealth management among First Nations, dependency on federal transfers will continue along with defaults in communities.⁶³ Witnesses explained that solutions lie in developing First Nations’ capacity for economic development and building on the institutional framework provided by the *First Nations Fiscal Management Act*. Witnesses emphasised the benefits of this framework, which include the Indigenous-led nature of the framework as well as the increased access to capital and capacity development opportunities.⁶⁴ However, as noted by Mr. Berna, there are over 400 First Nations that are not participating in this framework, and as such, more outreach work is needed to ensure that all interested First Nations are able to participate in this framework.⁶⁵

58 INAN, [Evidence](#), 6 April 2017, 0955 (Dawn Madahbee Leach).

59 Ibid., 0900.

60 INAN, [Evidence](#), 23 March 2017, 0925 (Suzanne Trottier, Director, Capacity Development and Intervention, First Nations Financial Management Board).

61 INAN, [Evidence](#), 6 April 2017, 0940 (Andrew Yesno).

62 Ibid., 0955 (Dawn Madahbee Leach).

63 INAN, [Evidence](#), 23 March 2017, 0920 (Harold Calla); [Evidence](#), 11 April 2017, 0905 (Wendy Harris).

64 INAN, [Evidence](#), 23 March 2017, 0850 (Clarence T. Jules, Chief Commissioner and Chief Executive Officer, First Nations Tax Commission).

65 Ibid., 0925 (Steve Berna).

CONCLUSIONS AND RECOMMENDATIONS

Following careful consideration of the testimony, the Committee finds that broad and substantive changes are needed in order to address both the concerns regarding the DPMP and the root causes of financial difficulties in First Nations communities. Committee members recognize that factors that contribute to defaults are multifaceted and that long-term solutions must focus on supporting community capacity development and provide greater control to Indigenous organizations to develop and deliver these support programs. In particular, comments from Regional Chief Ghislain Picard regarding his hesitation to appear as previous testimony before committees have not yielded “a lot of results” resonated with Committee.⁶⁶ As such, the members want to ensure that these sentiments do not continue, and want to see real changes that meaningfully address the concerns raised by witnesses and respond to financial difficulties in First Nations communities.

Funding

The Committee finds that the current funding arrangements are among the key systemic causes of financial difficulties in First Nations communities that require attention. The Committee was apprised of concerns not only in relation to the adequacy of funding, but also concerns related to the transfer of funding through annual contribution agreements. Contribution agreements do not provide the funding flexibility required to address community priorities or cover unanticipated community costs. First Nations must be in a position where they can maximize their funding to engage in strategic long-term community planning and pursue economic development to promote self-sufficiency. Not addressing these systemic challenges will place First Nations at continued risk of experiencing financial difficulties and default management.

The Committee recognizes that broader issues surrounding funding are part of the discussions currently underway between the government and the Assembly of First Nations for a new fiscal relationship. As part of these discussions, the Committee encourages the government to refocus how funding is delivered in order to support a longer-term view of wealth management among First Nations. As such, the Committee recommends the following:

Recommendation 1

That the Government of Canada, as part of the discussions for a new fiscal relationship, revise the funding formula with a view to provide adequate funding based on needs and population growth.

Recommendation 2

That the Government of Canada, as part of the discussions for a new fiscal relationship, provide First Nation communities and urban organizations with access to long-term and flexible funding arrangements; and that mutual accountability measures be developed.

66 INAN, [Evidence](#), 11 April 2017, 1000 (Ghislain Picard).

The Default Prevention and Management Policy

The Committee is concerned that the Default Prevention and Management Policy has not prevented, nor addressed, financial defaults in First Nations communities in a meaningful way. In particular, it is concerned about the absence of enforcement or quality control measures in the policy to ensure that First Nations are receiving the capacity building opportunities required and to ensure that First Nations are moving out of default management as quickly as possible. Confirming that co-managers and third-party managers have demonstrated their qualifications to work with First Nations communities, and are properly monitored using standardized processes, are minimum requirements. Third-party managers that do not support community development and do not actively work to help communities out of intervention ought to face repercussions.

Further, the Committee was seized by testimony explaining the negative implications of intervention under the policy that further penalize First Nations under default management, such as restrictions placed on financing opportunities for housing and requiring payment from Band Support funding. As a result, First Nations are placed in the impossible position of having to implement debt recovery plans without having the resources available to develop internal capacity to address the causes of default.

The Committee recognizes that changes to the DPMP will not address all of the root causes of financial distress. However, there are immediate changes that could be made to improve the policy. Specifically, the Committee feels that significant changes must be made to the policy to remove the reactive and punitive measures, and therefore recommends the following:

Recommendation 3

That Indigenous and Northern Affairs Canada, in consultation with First Nations, take immediate steps to revise the Default Prevention and Management Policy with the overarching goal of transitioning activities to Indigenous-led institutions; and that interim reforms:

- **provide early engagement and capacity building opportunities as the first step of default prevention and management;**
- **revise the criteria for triggering default management so that intervention only occurs as a last resort to provide support for financial management;**
- **ensure that debt recovery plans are jointly developed between the First Nation and the co-manager or third-party manager;**
- **improve the monitoring and assessment of third-party managers and co-managers;**
- **establish enforceable timelines and service standards for third-party managers and co-managers that include penalties for failing to meet the stated obligations;**

- **strengthen the qualification requirements for third-party managers; and**
- **develop a new model to finance intervention costs, where Indigenous and Northern Affairs Canada pays the full cost of intervention.**

Recommendation 4

That Indigenous and Northern Affairs Canada table a report in the House of Commons within five years of tabling the Government response to this report outlining the progress made towards implementing this report's recommendations, reducing the number of First Nations under default management and transitioning default management and financial capacity building activities to Indigenous-led institutions, including an update of the issues and challenges encountered.

Recommendation 5

That the Government of Canada remove restrictions placed on financing for First Nations under default management, such as those placed on Ministerial Loan Guarantees.

Recommendation 6

That the Government of Canada support innovative pilot projects, such as mentorship programs, that address financial defaults and enhance financial management.

Capacity Building

In addition to changes to the Default Prevention and Management Policy, the Committee would like to address the core issues that contribute to default management. Importantly, communities in financial distress are more likely to experience capacity challenges such as administration staff with inadequate financial literacy skills and challenges recruiting and retaining financial experts. While First Nations under financial management have a demonstrated need for support, Committee members heard that very few federal programs for capacity development are available to those communities, and hardly any are available to communities not already under default management. Capacity development is crucial for the timely resolution of defaults, but more importantly, for emphasizing default prevention and providing communities with the skills necessary to avoid defaults in the first place.

Addressing default prevention will require meaningful changes aimed at supporting and empowering communities to build their internal capacity. Members firmly believe that sustainable solutions to address default management lie in promoting local capacity, emphasizing default prevention, and working with Indigenous organizations. As such, the Committee recommends the following:

Recommendation 7

That the Government of Canada take immediate steps to support arms-length Indigenous financial organizations to establish capacity building programs to support financial management in First Nations communities; and that these independent organizations be properly resourced to provide these services.

Recommendation 8

That the Government of Canada take immediate steps to support arms-length Indigenous financial organizations to provide training and certification opportunities in financial management and financial literacy to local band councils and administration staff; and that these services be appropriately funded.

Financial Management and Accountability

As First Nations look to develop internal capacity to pursue economic development opportunities, emphasis must be placed on supporting communities to establish the foundations for success. Strong governance systems include financial management systems, such as enforceable policies and reporting requirements, and are an integral component of sustainable financial management practices and default prevention. Members must be able to understand the financial situation of their community and the changes necessary to move out of default.

Importantly, as noted in the testimony before the Committee, stable governance systems and established financial management practices also feed into economic opportunities and help to create a foundation that is conducive to business development. To attract private sector capital and promote confidence among investors, First Nations must have well-developed financial policies that address financial reporting and accountability. While some First Nations have established comprehensive financial management procedures, others have not yet developed these systems.

The Committee recognizes that work is underway to promote financial transparency and accountability. Specifically, the federal government has announced that it is working on a new approach to improve accountability and transparency among First Nations, and has launched an engagement process with First Nations leaders and members to this effect. As part of this effort, the Committee strongly encourages the government to review the issues raised in this report and to support communities to establish financial administration frameworks that promote accountability and best practices in financial management.

CONCLUSION

Moving away from the default management system will require comprehensive changes that address the overarching economic, social, and historical inequities that place First Nations at greater risk of financial distress. There are immediate changes that should be made to the DPMP to improve the quality of services provided to First Nations. However, sustainable solutions must also address the systemic challenges that contribute

to financial distress, which emphasize default prevention and community capacity. Importantly, this requires enhancing funding and shifting the focus away from the current system of annual contribution agreements towards a comprehensive approach that supports wealth management and provides sustainable and long-term approaches. It is our hope that the recommendations outlined in this report provide the basis for the immediate changes needed to the DPMP as well as the longer term approaches to addressing the systemic causes of financial distress.

LIST OF RECOMMENDATIONS

Recommendation 1

That the Government of Canada, as part of the discussions for a new fiscal relationship, revise the funding formula with a view to provide adequate funding based on needs and population growth. 11

Recommendation 2

That the Government of Canada, as part of the discussions for a new fiscal relationship, provide First Nation communities and urban organizations with access to long-term and flexible funding arrangements; and that mutual accountability measures be developed..... 11

Recommendation 3

That Indigenous and Northern Affairs Canada, in consultation with First Nations, take immediate steps to revise the Default Prevention and Management Policy with the overarching goal of transitioning activities to Indigenous-led institutions; and that interim reforms:

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- improve the monitoring and assessment of third-party managers and co-managers;
- establish enforceable timelines and service standards for third-party managers and co-managers that include penalties for failing to meet the stated obligations;
- strengthen the qualification requirements for third-party managers; and
- develop a new model to finance intervention costs, where Indigenous and Northern Affairs Canada pays the full cost of intervention..... 12

Recommendation 4

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That the Government of Canada take immediate steps to support arms-length Indigenous financial organizations to establish capacity building programs to support financial management in First Nations communities; and that these independent organizations be properly resourced to provide these services. 14

Recommendation 8

That the Government of Canada take immediate steps to support arms-length Indigenous financial organizations to provide training and certification opportunities in financial management and financial literacy to local band councils and administration staff; and that these services be appropriately funded. 14

APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<p>Department of Indian Affairs and Northern Development</p> <p>Serge Beaudoin, Director General Sector Operations Branch, Regional Operations Sector</p> <p>Renetta Siemens, Deputy Chief Financial Officer Corporate Accounting and Material Management, Chief Financial Officer Sector</p> <p>Paul Thoppil, Chief Financial Officer Chief Financial Officer Sector</p>	2017/03/09	48
<p>Manitoba Keewatinowi Okimakanak Inc.</p> <p>Sheila North Wilson, Grand Chief</p>	2017/03/21	49
<p>BDO Canada</p> <p>Harry Lake, Partner Consulting</p> <p>Jacques Marion, Partner Consulting</p> <p>First Nations Finance Authority</p> <p>Steve Berna, Chief Operating Officer</p> <p>First Nations Financial Management Board</p> <p>Harold Calla, Executive Chair</p> <p>Suzanne Trottier, Director Capacity Development and Intervention</p> <p>First Nations Tax Commission</p> <p>Clarence T. Jules, Chief Commissioner and Chief Executive Officer</p> <p>MNP LLP</p> <p>Kenny Ansems, Provincial Director Aboriginal Services, British Columbia</p> <p>Robert Campbell, Director Aboriginal Services</p> <p>Clayton Norris, Vice-President Aboriginal Services</p>	2017/03/23	50
<p>Algonquins of Barriere Lake</p> <p>Russell Diabo, Policy Consultant Advisor Algonquin Nation Secretariat</p> <p>Casey Ratt, Chief</p>	2017/04/04	51

Organizations and Individuals	Date	Meeting
Algonquins of Barriere Lake Tony Wawatie, Interim Director General	2017/04/04	51
Wasagamack First Nation Alex McDougall, Chief		
AFOA Canada Terry Goodtrack, President and Chief Executive Officer	2017/04/06	52
As an individual Charmaine Stick		
Matawa First Nations Andrew Yesno, Manager Financial Advisory Services		
National Aboriginal Economic Development Board Dawn Madahbee Leach, Interim Chair		
Swampy Cree Tribal Council Arlen Dumas, Chief Nelson Genaille, Grand Chief Peter Norman, Manager Finance and Administration		
As individuals Loretta Burnstick, Finance Clerk Finance Department, Alexander First Nation Pamela D. Palmater, Chair in Indigenous Governance Department of Politics & Public Administration, Ryerson University	2017/04/11	53
Assembly of First Nations Perry Bellegarde, National Chief		
Assembly of First Nations of Quebec and Labrador Norm Odjick, Representative Ghislain Picard, Regional Chief		
Canadian Executive Service Organization Wendy Harris, President and Chief Executive Officer		
Indigenous Management Group Inc. Stanley Bear, Chief Executive Officer Lorne Cochrane, Managing Partner		

APPENDIX B LIST OF BRIEFS

Organizations and Individuals

Colomb, Andrew

Ennis, Dan

Lees, John

Stick, Charmaine

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 48, 49, 50, 51, 52, 53, 56, 57 and 58](#)) is tabled.

Respectfully submitted,

Hon. MaryAnn Mihychuk

Chair

Economic Opportunity, Financial Transparency, and Shared Responsibility: The Conservative Party of Canada's Dissenting Report

Study of the Default Prevention and Management Policy

Cathy McLeod, Member of Parliament for Kamloops – Thompson – Cariboo

Arnold Viersen, Member of Parliament for Peace River – Westlock

David Yurdiga, Member of Parliament for Fort McMurray – Cold Lake

The Conservative Members of the House of Commons' Standing Committee on Indigenous and Northern Affairs acknowledge the importance of the Committee's recent study on INAC's Default Prevention and Management Policy. There are areas in which we agree in the Committee's report, but there are three specifically in which we have grave concerns.

First, the Liberal majority on the Committee failed to recognize the need to develop and promote economic opportunities for First Nations communities, especially those that are in rural or remote locations. These issues were highlighted numerous times by witnesses to the Committee. Mr. Harold Calla, the Executive Chair of the First Nations Financial Management Board, testified on March 23, 2017 that no amount of funds from federal, provincial or territorial governments would solve all issues in Indigenous communities. He stated:

I always like to ask: does anybody ever think there's going to be enough transfer funding to take care of the issues? I was in the Senate Committee last year. Housing and infrastructure is between \$20 billion and \$30 billion. Where is all of that money going to come from if we don't engage the private sector, if we don't engage in business and economic development?

Sheila North Wilson, Grand Chief of the Manitoba Keewatinowi Okimakanak Inc., provided the same view in her testimony on March 21, 2017:

When we look at the future of my province and much of the country, it is increasingly understood that the greater participation of Indigenous people in this economy is critical to their future economic prosperity. Ensuring the success of Indigenous advancement in the workplace will take major investments on and off reserves. The payoffs for the economy will be in the billions of dollars.

Mr. Calla and Grand Chief Wilson are right: the benefits for Indigenous young people in particular, and the country as a whole, cannot be understated. This opportunity can be seized, but only if the federal Government is willing to provide the tools necessary for job growth in communities. One potential avenue is equity partnerships; thirty-one First

Nations in British Columbia and Alberta were equity partners in Enbridge's Northern Gateway Pipeline. Collectively they stood to benefit from more than \$2 billion directly from the project. However, the Liberal Government chose not to consult them when shutting down the project, a lost opportunity for jobs, education and long-term benefits for band members, especially young Indigenous people.

Given the importance of economic opportunities and jobs for the future benefit of communities, we recommend:

That the Government of Canada, in collaboration with First Nations, Indigenous organizations, and private companies, develop the tools to provide economic opportunities for First Nations communities, and for First Nations in urban centres across Canada.

Second, it must be stated that Canada's Indigenous peoples need basic tools to keep their leadership financially accountable. These are the same tools that are available to all other Canadians in provinces, territories and municipalities across the country. As Conservative members of the Committee, we are deeply disappointed that the Liberal majority on the Committee did not recognize the crucial nature of this issue in the report.

As testimony to the Committee shows, corruption and mismanagement is one of the contributing factors to a First Nation defaulting. Lorretta Burnstick, a band member and former Chief Financial Officer of Alexander First Nation, told the Committee on April 11, 2017:

When I look at the opportunities lost because of corruption and mismanagement, it's heartbreaking. I know that money is not everything, but sound financial management, strong governance, and laws and policies that are enforceable are needed in order to make things run more smoothly in our communities.

The Liberal Members chose to ignore grassroots band members who are fighting to see the books in their communities, and thus reduce the possibility of default.

Just over a month after taking office, the Minister of Indigenous and Northern Affairs gutted the *First Nations Financial Transparency Act* by removing the compliance measures. Despite this, the vast majority of First Nations continue to comply with the *Act*. This is commendable. These leaders have listened to their communities, and are providing members with the tools that keep themselves and their offices accountable and transparent to their own people.

On April 6, 2017, Charmaine Stick appeared before the Committee. She is a member of Onion Lake Cree Nation, and has been courageously standing up for financial transparency in her community, a community that has refused to comply with the *Financial Transparency Act*. In a brief she submitted to the Committee on May 1, 2017, she wrote:

I have struggled for years to get answers from our leaders regarding the Onion Lake Cree Nation's finances.

I have read the few documents provided by the band. I have read more detailed documents that have been leaked to me. That reading has raised more questions than answers.

I have contacted officials at Indigenous and Northern Affairs, but they've been unwilling or unable to provide answers.

I have attended band meetings and asked questions of our leaders directly, but they too have failed to provide answers.

I have gone on a 13-day hunger strike to demand transparency.

I am now partnering with the Canadian Taxpayers Federation to launch a court application to compel my chief and council to publicly provide transparency.

I know my experience is different from the stories that you often hear from our leaders. They say they provide documents when requested and answer questions in public meetings. But think about that in the context of the way things work in Ottawa. I watched Question Period in person for the first time after the committee meeting and it was entertaining, but it wouldn't be good if it were the only source of transparency. A few band meetings a year aren't enough for First Nations communities. There needs to be clear requirements for transparency and strong standards for accountability.

Ms. Stick wrote further:

Grassroots people in First Nations communities must have the basic tools of transparency. The federal government must provide those tools through the *First Nations Financial Transparency Act*. Give the grassroots the tools of transparency and we will strengthen accountability from within First Nations communities. The government is making it a priority to strengthen the nation-to-nation relationship between the Crown and First Nations and it's important to remember nations are made up of people, and our leaders derive their power from the people.

The Conservative Members of the Committee are not alone in our firm belief in the necessity for financial transparency and accountability. Mr. Mike Bossio, the Liberal Member for Hastings — Lennox and Addington, said in Committee on April 6, 2017, "I don't fault the previous government for wanting to try to find

transparency and accountability.” Further, Mr. Perry Bellegarde, National Chief of the Assembly of First Nations, told the Committee on April 11, 2017:

I totally support transparency and accountability, and it has to be there. If my mom's watching this, she'll say 'yes', because she knows what it's like. She wants transparency and accountability. She's 80 years old and she'll tell me if I'm saying something wrong. She wants to make sure those resources are utilized in an effective and efficient way for everyone but with results achieved on the ground.

We would like to note that unlike the *Financial Transparency Act*, the Liberal Government has maintained the current legal framework around marijuana growth, distribution and use in Canada, even though they have now introduced new legislation intended to change that framework. As the Prime Minister said in the House of Commons on April 11, 2017, “Until the House chooses to legalize and control marijuana, the law remains the law.” Similarly, the Minister of Justice and Attorney General told the House on April 10, 2017, “Until cannabis is legal in the country, the law remains the law and should be obeyed.”

Given the precedent, recognized by the Liberal Government, that the current law be upheld until it is amended or replaced by the Parliament of Canada, we recommend:

That Indigenous and Northern Affairs Canada enforce the compliance measures of the *First Nations Financial Transparency Act* until such time as a more robust system, developed with First Nations, is put in place to ensure First Nations chiefs and councils are financially accountable and transparent to their communities.

It appears the Liberal MPs on the Committee, and the Liberal Government, are unwilling to provide First Nations with the tools they need to keep their own leadership accountable, and prefer a paternalistic, top-down approach where information is maintained – and controlled – by the offices of Indigenous and Northern Affairs in Ottawa. This is shameful.

However, we are encouraged by the inclusion of recommendations to provide funding to Indigenous-run organizations that provide financial management training and capacity-building programs. These are necessary steps to improve financial management on-reserve, but transparency for finances must be included as well.

Third, Recommendation 3 in the main report states that:

That Indigenous and Northern Affairs Canada, in consultation with First Nations, take immediate steps to revise the Default Prevention and Management Policy with the overarching goal of transitioning activities to Indigenous-led institutions; and that interim reforms... develop a new

model to finance intervention costs, where Indigenous and Northern Affairs Canada pays the full cost of intervention.

We agree that Indigenous and Northern Affairs Canada needs an incentive to better assist First Nations to stay clear of, and get out of, default management. However, First Nations themselves need an incentive for the same reason.

Thus, we recommend revising Recommendation 3 to state,

That Indigenous and Northern Affairs Canada, in consultation with First Nations, take immediate steps to revise the Default Prevention and Management Policy with the overarching goal of transitioning activities to Indigenous-led institutions; and that interim reforms... develop a cost-sharing model to finance intervention costs, where Indigenous and Northern Affairs Canada share the cost of the intervention with the community.

In closing, Conservative Members of the Standing Committee on Indigenous and Northern Affairs are concerned that the recommendations within the main report do not recognize the desire for financial transparency and accountability by grassroots band members; the urging for more job-creating economic opportunities; and the need for a cost-sharing model to finance intervention costs. There are great opportunities in these areas to provide practical tools, and hope, for struggling First Nations in Canada.

List of recommendations:

1. That the Government of Canada, in collaboration with First Nations, Indigenous organizations, and private companies, develop the tools to provide economic opportunities for First Nations communities, and for First Nations in urban centres across Canada.
2. That Indigenous and Northern Affairs Canada enforce the compliance measures of the *First Nations Financial Transparency Act* until such time as a more robust system, developed with First Nations, is put in place to ensure First Nations chiefs and councils are financially accountable and transparent to their communities.
3. That Indigenous and Northern Affairs Canada, in consultation with First Nations, take immediate steps to revise the Default Prevention and Management Policy with the overarching goal of transitioning activities to Indigenous-led institutions; and that interim reforms...
 - a. provide early engagement and capacity building opportunities as the first step of default prevention and management;

- b. revise the criteria for triggering default management so that intervention only occurs as a last resort to provide support for financial management;
- c. ensure that debt-recovery plans are jointly developed between the First Nation and the co-manager or third-party manager;
- d. improve the monitoring and assessment of third-party managers and co-managers;
- e. establish enforceable timelines and service standards for third-party managers and co-managers that include penalties for failing to meet the stated obligations;
- f. strengthen the qualification requirements for third-party managers; and
- g. develop a cost-sharing model to finance intervention costs, where Indigenous and Northern Affairs Canada share the cost of the intervention with the community.