COMPARATIVE ANALYSIS
***Bringing Our Children Home Act* (BOCHA)**
and
An Act respecting First Nations, Inuit and Metis children, youth and families* also known as *Bill C-92

SUMMARY ANALYSIS:

Bringing Our Children Home Act (BOCHA)	***An Act respecting First Nations, Inuit and Métis children, youth and families*** (Bill C-92)	***Issues and Concerns***
Purpose and Intent		
Bring First Nations children home through the reassertion of Manitoba First Nations jurisdiction with respect to Child and Family matters in a manner that reflects the First Nations' own laws, practice, standards and customs.	Affirm the rights and jurisdiction of Indigenous peoples (First Nations, Inuit and Metis) and will set out unilateral national principles as provisions of child and family services based on the; 1) best interests of child, 2) cultural continuity and 3) substantive equality.	**The substantive content of the Act does not meet treaty obligations to support First Nations control over child welfare because it does not provide clear and sufficient financial, governance, cultural or other supports, and specifically does not give First Nations sufficient autonomy to operate their own child welfare system. Does Bill C-92 meet treaty obligations? To determine this, we have to look more deeply at the content of the Bill as well as the consultation and negotiation process leading to Bill C-92.**
Jurisdiction		
Relies on inherent First Nations jurisdiction for their own laws.	Domesticates First Nations' jurisdiction and laws.	**Bill C-92 does not restore full jurisdiction to First Nations.**
Model		
Moves away from the provincial CFS apprehension model.	Continues with the provincial system by forcing tripartite arrangements, and involve the province in regulation and policy development.	**Bill C-92 legislates the provincial CFS model and participation, but there is no requirements for Provinces to modify or harmonize existing provincial CFS legislation with Bill C-92 nor subsequent First Nation CFS laws.**
Interests Served		
Well-being of child and family.	Best interest of the child.	**Best interests of the child is not clearly defined. And,**

		imposing a definition of "best interests of and Indigenous child again violates First Nations rights of self-determination.
Fiscal Arrangements (Funding)		
Canada makes direct equitable (fair and impartial) payments to First Nations.	There is no commitment of guaranteed funding from Canada.	**The origins of the deficiency in funding of on-reserve child welfare matters goes back to the 1950s and likely even earlier, and has never been rectified. In fact, the gap in funding of on-reserve and similar off-reserve child well-being and access to services funding has been forced upon Canada through the Canadian Human Rights Tribunal (Jordan's Principle) which is being implemented into Bill C-92 without First Nation consultation. In addition, lack of a financial guarantee should not go unnoticed and that the existing funding provisions permit whichever Minister is responsible to pay whatever and however the Minister wants.** **The regulatory powers of "any" Minister are prescribed by Bill C-92. Were Bill C-92 to be passed into law, the only way to change this would be to take the public and difficult step of returning to Parliament to amend or replace Bill C-92.**

Section by Section Comparative Analysis:

Bringing Our Children Home Act	***An Act respecting First Nations, Inuit and Métis children, youth and families (Bill C-92)***	***Issues and Concerns***
Comment: This Act is First Nation Specific and does not attempt to impose First Nations way of being on any other Indigenous group. This Act has been drafted with the input of elders, technicians and grass roots First Nation citizen members.	**Comment: This federal Act intends to force an amalgamation of Inuit and Metis peoples with First Nations people who hold distinct rights and relationship with the Crown/Canada. Neither informed consent nor dialogue took place regarding specifically this forced amalgamation of Indigenous Groups when Canada carried out its 65 engagements across Canada in 2018.**	

Bringing Our Children Home Act	***An Act respecting First Nations, Inuit and Métis children, youth and families (Bill C-92)***	***Issues and Concerns***
OUR ROOT FOUNDATIONS: Firstly speaks to children belonging to the Great Spirit and our responsibility for the children. That our laws and way of being have been passed down to us by the Great Spirit and that we reclaiming through our collective sovereignty and jurisdiction to care for and protect our children.	PREAMBLE: In the Preamble the foundation of this Act begins with the foundation of United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)	**The issue of treaty rights is not just legal or technical in nature. All Canadians are beneficiaries of the treaties between First Nations and the Crown. The treaties that built Canada must be honoured. This Bill must fulfill treaty obligations**. **To address the needs of Indigenous children and to help ensure that there are no gaps in the services are provided in relation to them, whether they reside on a reserve or not (Jordan's Principle context)**
PART 2: JURISDICTION AND EXPLANATION: SECTION 2.3: Our laws are to be interpreted by our appointed knowledge keepers of our laws and knowledge. SECTION 2.3.1: DEFINTIONS AND INTERPRETATION: The laws of our Nations are lowered to us by the Great Spirit. With what has been provided to us by the Great Spirit we have inherently practice and promote our collective sovereignty and self-determination in our entire way of life. Our laws and way of life has been passed down orally since time immemorial through our knowledge keepers. Our Nations have come together to create this *Act* in order to bring our children home and reclaim our collective sovereignty and self-determination. We have set out within this Act the basis of our origins as Nations. We all walk with a way of life that has been established by each of our respective Nations according to what the Great Spirit has provided.	INTERPRETATION SECTION 1: DEFINITIONS: care provider, child and family services, coordination agreement, family, Indigenous, Indigenous governing body, Indigenous peoples, Minister SECTION 2: RIGHTS OF INDIGENOUS PEOPLES: are recognized and affirmed by section 35 of the Constitution and will not be abrogated (done away with) or derogated (lessened). SECTION 3: CONFLICT – EXISTING AGREEMENT: Where there is a conflict with an existing treaty or self-government agreement that contains child and family services provisions the existing treaty or self-government agreement will prevail to the extent of the conflict or inconsistency. SECTION 4: MINIMUM STANDARDS: The application of provincial Acts and/or regulations are not affected by this Act, as long as there are no conflicts or inconsistencies.	**Canadian law imposes an obligation on the government to consult and, where possible, accommodate Aboriginal interests with respect to any changes in programs, policies or laws that may adversely affect Aboriginal or treaty rights. The duty to consult on issues affecting treaties cannot be satisfied by panels, working groups, nor by national-level negotiations. First Nations have never delegated their rights to consultation to the Assembly of First Nations. The duty to consult demands nation-to-nation consultation and negotiation. If the consultation process is going to be consolidated into larger groupings, the formal consent of each First Nation includes the consolidated group must be obtained. The duty to consult First Nation 'X' cannot be satisfied by consulting First Nation 'Y.'**

Bringing Our Children Home Act	*An Act respecting First Nations, Inuit and Métis children, youth and families (Bill C-92)*	*Issues and Concerns*
SECTION 2.3.8: NON-ABROGATION and NON-DEROGATION: This *Act* is not meant to do away with or take away from:a) Aboriginal Treaty Rights (or inherent) rights of a Nation; or, b) the special relationship between Canada and our *Anishinaabeg, Anishininwak, Dakota Oyate, Denesuline, and Nehethowuk/Inninwak* citizens.	SECTION 5: NUNAVUT ACT: Nothing will affect the Legislature of Nunavut's legislative powers referred to section 23 in the Nunavut Act **(see Appendix B)** **COMMENT:**	**Provincial law and standards are not required to be harmonized with First Nations standards.** **There is no mention of the Indian Act in this Act and what role it has in relation to Section 88 – general laws of application.**
	DESIGNATION OF MINISTER: SECTION 6: ORDER IN COUNCIL: The Governor in Council may designate ANY federal Minister to be the Minister referred to in the Act.	**Under Bill C-92, a Minister, ANY Minister can be designated which may create instability and inconsistencies with child and family service delivery and management, interpretation of this legislation, regulations and/or policy. The BOCHA does not identify a Minister as the Act is to be administered by First Nations.**
PART 2: JURISDICTION AND EXPLANATION SECTION 2.4.6: PURPOSE: Reconciliation and restitution measures will also be carried out by Canada in order to ensure that our *Anishinaabeg, Anishininwak, Dakota Oyate, Denesuline, and*	HER MAJESTY SECTION 7: BINDING HER MAJESTY: Her Majesty and the provinces are bound by this Act.	

Bringing Our Children Home Act	***An Act respecting First Nations, Inuit and Métis children, youth and families (Bill C-92)***	***Issues and Concerns***
Nehethowuk/Inninwak Nations are equipped with resources identical to that of Canada's provinces so that the purpose of this *Act* can be carried out successfully.		
PART 2: JURISDICTION AND EXPLANATION SECTION 2.4.1: The purpose of our Act is to reclaim, practice and promote our inherent responsibility, obligation and jurisdiction over our children and families regardless of where they are situated or reside, or have established a family or ancestral connection to a Nation(s). Our children are our most sacred gift and they will receive the care and protection they require.	PURPOSES AND PRINCIPLES SECTION 8: PURPOSE: a) affirms the rights and jurisdiction of Indigenous peoples, and b) sets out applicable principles on a NATIONAL LEVEL - in relation to child and family services.	
COMMENT: These principles are encompassed in original First Nations laws that would be defined and implemented in writing in the 5 language based First Nation law templates	PRINCIPLE SECTION 9(1): BEST INTERSTS OF THE CHILD: the Act references Best interests of the child but there is no further explanation, nor is there a definition of this principle in the Act as a whole. PRINCIPLE SECTION 9(2): CULTURAL CONTINUITY principle serves to ensure that an Indigenous child's: well-being, language, culture transmission and so forth will not be interfered with; placement will occur on a priority basis; the child will not continue to be assimilated or identity will not be destroyed; and characteristics and challenges of the region will be considered. PRINCIPLE SECTION 9(3): SUBSTANTIVE EQUALITY: rights and distinct needs of a child with a	**"in order to promote substantive equality between indigenous children and other children jurisdictional**

Bringing Our Children Home Act	*An Act respecting First Nations, Inuit and Métis children, youth and families (Bill C-92)*	*Issues and Concerns*
	disability are to be considered and accommodated so the child is placed in the same position as a child with no disability, views and preference of: the child must be considered (no age requirement is provided); governing bodies, Indigenous groups must be considered and not discriminated against, and gaps must not result in child and family services due to jurisdictional disputes.	**dispute must not relate in a gap in the child and family services that are provided in relation to indigenous children" (s. 3.e) (this is a Jordan's Principle context)**
PART 4: WELL-BEING OF CHILDREN AND FAMILIES SECTION 4.1: WELL-BEING OF A CHILD AND FAMILY: A child has the right to be loved, to be safe, to learn, to enjoy life in the child's original family home to ensure the original basis of well-being of the child is maintained, nurtured and protected in a culturally fundamental way. Children and families have the right to be free from poverty, obtain adequate shelter, clean water, whole and healthy food and clothing in order to create a life that is beneficial for the children and the adults within the family. SECTION 4.2: RESPONSIBILITY FOR THE WELL-BEING OF A CHILD: The holistic responsibility for a child's day-to-day well-being is the responsibility of a parent(s) or customary caregiver(s). SECTION 4.3: CARE OF A CHILD: Caring for our children must be comprised of the universal standard that Great Spirit has provided us with through the Great Binding Law and Seven Sacred Guides. SECTION 4.4: ACCESS TO SUPPORT:	BEST INERESTS OF INDIGENOUS CHILD SECTION 10(1): BEST INERESTS OF INDIGENOUS CHILD: is the primary consideration and paramount consideration in the context of child and family services and in case of decisions or actions related to child apprehension. SECTION 10(2) PRIMARY CONSIDERATION: must be given for the child's physical, emotional, and psychological safety security and well-being. SECTION 10(3) FACTORS TO BE CONSIDERED: a) language, religion, spiritual upbringing and heritage, b) needs, age, stage of development, i.e.: need for stability, c) nature and strength of child's relationship with parents and family, d) importance of ongoing relationship with community to preserve identity, e) child's views and preference considering maturity and capacity, f) planning for child including traditions and customs, g) family violence and its effects; and h) any civil or criminal order, measure, condition relevant to maintain the safety and well-being of the child	**Why would items of this nature be in a national Bill? Perhaps the negotiating partners thought these requirements were so obvious that they would be non-objectionable and make Bill C-92 appear more substantive? Or perhaps this was an attempt to reflect the kinds of requirements commonly found in provincial CFS laws? A First Nations CFS Act is not the same as a provincial CFS Act: Rather it is, or should be, an enabling act to establish the framework between the Crown and First Nations for Canada's support and First Nations jurisdictional authority over their children and family well-being.** **Whatever the intent of the government and the Assembly of First Nation negotiators was, in this instance, the length of the list of mandatory requirements seems to confirm that Canada intends to keep a tight hold over First Nations still. This appears to be Canada's effort to control every detail of First Nation CFS management**.

Bringing Our Children Home Act	***An Act respecting First Nations, Inuit and Métis children, youth and families (Bill C-92)***	***Issues and Concerns***
Children and families shall have fair and equitable access to services they require regardless of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered. SECTION 4.5: PREVENTATIVE SUPPORT: Preventative Support measures will be established and implemented in order to provide our children and families with the foundation, knowledge and tools regarding maintaining and sustaining well-being. SECTION 4.6: SUPPORT OF A CHILD AND FAMILY: Through the collective sovereignty and reclamation, practicing and promotion of self-determination, the governance of the Nation is vested with the responsibility of facilitating the support required in order to adequately sustain the well-being of the child and the family. SECTION 4.7: MEDIATION OF A FAMILY: Services will be established and implemented by the Nations in a way that helps with achieving and sustaining the well-being of the family for the benefit of the child(ren) and families. SECTION 4.8: CRISIS SUPPORT: Crisis Support Measures will be established in order to address the potential or actual compromising of a child's well-being and the well-being of the family.		

Bringing Our Children Home Act	*An Act respecting First Nations, Inuit and Métis children, youth and families (Bill C-92)*	*Issues and Concerns*
PART 2 JURISDICTION AND EXPLANATION: SECTION 2.4.5: PURPOSE: Interim measures will be launched immediately upon this Act coming into force and the over-arching authority for addressing the care nurturing, reunification and repatriation of our children and families in order to ensure the purpose of this Act is carried out. SECTION 2.4.6: PURPOSE: Reconciliation and restitution measures will also be carried out by Canada in order to ensure that our Anishinaabeg, Anishininwak, Dakota Oyate, Denesuline, and Nehethowuk/Inninwak Nations are equipped with resources identical to that of Canada's provinces so that the purpose of this Act can be carried out successfully. COMMENT: Provision of services will be addressed in the five First Nations language based law templates, as the BOCHA's sole purpose is to restore jurisdiction.	SECTION 11: PROVISION OF CHILD AND FAMILY SERVICES: SECTION 11: EFFECTS OF SERVICES: Provision of child and family services in a manner that meets the child's needs: a) physical, emotional, psychological safety, security and well-being, b) takes into account child's culture, c) allows knowing family origin, and d) promotes substantive equality SECTION 12(1): NOTICE: Notice must be provided to parent(s) and governing body that services are being provided to the child that 12(2) does not contain personal information. SECTION 13: REPRESENTATIONS AND PARTY STATUS: a) The parent(s) and b) a governing body have the right to make representations to the courts where there are court proceedings in relation to a child (there is no mention of financial support for making court representations). COMMENT: will funding be provided for these representations? SECTION 14(1): PRIORITY TO PREVENTATIVE CARE: Preventative care services are a priority service to be provided to support the family and child as well as 14(2) preventative services for prenatal mothers to avoid apprehension of a child. SECTION 15: SOCIO-ECONOMIC CONDITIONS: Poverty, lack of adequate housing and health of parent(s) must not be sole factors for apprehension.	

Bringing Our Children Home Act	*An Act respecting First Nations, Inuit and Métis children, youth and families (Bill C-92)*	*Issues and Concerns*
	COMMENT: These deplorable factors are being placed into draft legislation but there is no mechanism to address them – this requires further discussion.	
PART 2: JURISDICTION AND EXPLANATION Section 2.4.3: This Act is intended to ensure that our children and families are provided the care and guidance within the family home to the fullest extent possible. Section 2.4.4: Where the needs of the child(ren) are not able to be met in the family home, through a Anishinaabeg, Anishininwak, Dakota Oyate, Denesuline, and Nehethowuk/Inninwak Nation's customary appointment protocol, the child(ren) will always be firstly sought to be appointed under the care of extended family and within the community the child(ren) are being nurtured and cared for, or within the child(ren)'s original home Nation.	SECTION 16: PLACEMENT OF INDIGENOUS CHILD (priority list): a) parent(s), b) adult member of child's family, c) adult member of Indigenous community child is from, d) adult member of Indigenous community child is not from; and e) any other adult. SECTION 16(2): PLACEMENT WITH OR NEAR OTHER CHILDREN: Placement of child with siblings will be carried out if placement is appropriate. SECTION 16(3) FAMILY UNITY: Reassessment of placement must be conducted on an ongoing basis where the child(ren) does not reside with (a) parent and (b) adult member of child's family as above.	
Comment: this is always done through First Nation original laws and would be implemented through the five First Nations language based law templates, as the BOCHA's sole purpose is to restore jurisdiction.	SECTION 17: ATTACHMENT AND EMOTIONAL TIES: If child not placed with parents or adult family member the child's emotional ties to parents/family must be promoted.	
PART 2: JURISDICTION AND EXPLANATION SECTION 2.4.5: PURPOSE: Interim measures will be launched immediately upon this Act	SECTION 18(1) JURISDICTION – CHILD AND FAMILY SERVICES: The Act affirms Indigenous rights to administer and enforce laws in regards to child and family	

Bringing Our Children Home Act	*An Act respecting First Nations, Inuit and Métis children, youth and families (Bill C-92)*	*Issues and Concerns*
coming into force and the over-arching authority for addressing the care nurturing, reunification and repatriation of our children and families in order to ensure the purpose of this Act is carried out. SECTION 2.4.6: Reconciliation and restitution measures will also be carried out by Canada in order to ensure that our Anishinaabeg, Anishininwak, Dakota Oyate, Denesuline, and Nehethowuk/Inninwak Nations are equipped with resources identical to that of Canada's provinces so that the purpose of this Act can be carried out successfully. PART 6: SOLVING DIFFERENCES: The BOCHA which intends to restore full jurisdiction and contains a SOLVING DIFFERENCES section and the purpose of this Part is to enable citizens and persons who hold differing positions to achieve a just, timely and inexpensive resolution of matters of difference, taking into account the respective and applicable First Nation values that distinguish dispute resolution from litigation. The Nations will establish a solving differences process. The tenets of the Seven (7) Sacred Guides, best efforts and good faith shall be used.	services. SECTION 18(2) DISPUTE RESOLUTION MECHANISMS as long as a dispute resolution mechanism is implemented. SECTION 19: APPLICATION OF CANADIAN CHARER OF RIGHTS AND FREEDOMS The Charter of Rights and Freedoms is applicable to Indigenous governing bodies that assert jurisdiction over child and family services.	
PART 3: LAW-MAKING, APPROVAL, and PUBLICATION	SECTION 20: LAWS OF INDIGENOUS GROUPS, COMMUNITIES OR PEOPLES:	

Bringing Our Children Home Act	*An Act respecting First Nations, Inuit and Métis children, youth and families (Bill C-92)*	*Issues and Concerns*
SECTION 3.1: LAW-MAKING: SECTION 3.3.1: Where the Nations may choose to make laws respecting: a) the well-being, care and protection of the children and the family; and b) any additional matters that requires law creation in relation to the children, families, and/or community. SECTION 3.2: APPROVAL OF LAW(S) processes will be established not by the Minister but by Nations that require involvement, participation and approval by the citizens of the Nation citizens in order for the law to be effective and enforceable. SECTION 3.4: PROTECTIONS AND PRESERVATIONS OF LAW(S) will always ensure that our laws, protocols, regulations and policies will receive due protection so that they may be preserved by the Nations and Nation citizens who must always consent to any changes to our laws.	COORDINATION AND APPLICATION SECTION 20(1): NOTICE: Indigenous groups must provide the Minister with notice IF they choose to exercise their legislative authority.	
PART 5: FINANCIAL MANAGEMENT, ACCOUNTABILITY and ADMINISTRATION: SECTION 5.1 FINANCAL MANAGEMENT: Canada will provide transfer payments directly to the Nations. In addition, the federal Crown and the Nations shall establish a mutually acceptable	SECTION 20(2): COORDINATION AGREEMENT: A Coordination Agreement may be entered into between Canada, the Province and the Indigenous governing body for the provision of among other things: a) emergency services; b) support measures; c) fiscal arrangement (funding); and, d) any other coordination	**Equalization payments still require authorization through an Act; in the case of equalization, the *Federal-Provincial Fiscal Arrangements Act.* Treaties are the same. Treaties create a right to First Nation jurisdiction, self-determination and well-being, but the spending and the rules to fulfill the Crown's obligation must be spelled out in legislation.**

Bringing Our Children Home Act	*An Act respecting First Nations, Inuit and Métis children, youth and families (Bill C-92)*	*Issues and Concerns*
mechanism for the provision of direct transfer payments that are equitable, in order to carry out our jurisdiction over and on behalf of children and families regardless of where they are situated, or reside or have established a family or ancestral connection to a Nation(s). The Nations will address accountability measures by establishing transparent financial accounting practices that will require utilizing generally accepted accounting principles and audit reporting. SECTION 2.3.2 …this Act has effect within our respective ancestral lands. COMMENT: meaning beyond the First Nation and including traditional territories.	measure. SECTIONS 20(3) and 20(4): APPLICATION: Sections 21 and 22 are only applicable a coordination agreement is entered into or a year has passed after an Indigenous group has attempted to enter into a coordination agreement. COMMENT: There is no commitment of guaranteed funding from Canada. SECTION 20(5): DISPUTE RESOLUTION MECHANISM: A dispute resolution process will be available to conclude a Coordination Agreement. SECTION 21: FORCE OF LAW: Indigenous laws will: (1) have the force of federal law, (2) this will be the only Act that will affect interpretation laws of Indigenous Groups, and (3) have the Canadian Human Rights Act be applicable, SECTION 22(1) CONFLICT FEDERAL LAWS: Indigenous laws will prevail where there is an inconsistency notwithstanding the provisional requirements Section 10-15 (Best Interests of Indigenous Child) that must be complied with in this Act and 22(2) The reference to a "federal Act or regulation" in subsection 22(1) does not include a law that has the force of law under subsection 21(1). SECTION 22(3) PROVINCIAL LAWS: Indigenous laws will prevail over provincial law provisions where there is an inconsistency.	

Bringing Our Children Home Act	*An Act respecting First Nations, Inuit and Métis children, youth and families (Bill C-92)*	*Issues and Concerns*
	Section 23: APPLICATON TO INDIGENOUS CHILDREN – EXCEPTION: Indigenous law cannot be contrary to the best interests of the child. SECTION 24(1): CONFLICT – STRONGER TIES: Where a child has stronger ties to a community, the law the child has the stronger ties to will prevail and 24(2) this applies to law that has force under subsection 21(1)	
SECTION 3.3: PUBLICATIONS OF LAW(S): will be made available to citizen members and any other individuals, organizations or governments that require a copy of the Law by the respective Nation **COMMENT: and not by the Minister**.	PUBLICATION AND ACCESSIBILITY: SECTION 25: PUBLICATION: The Minister will ensure the Coordination Agreement is posted a) on a website and b) the Indigenous group law is made available by Minister. SECTION 26: ACCESSIBILITY: The Minister will ensure the law is made accessible.	
PART 5: FINANCIAL MANAGEMENT, ACCOUNTABILITY, and ADMINISTRATION: SECTION 5.4: INFORMATION MANAGEMENT and TRANSFER: the information by the Province of Manitoba and Canada to transfer all electronic and hard-copy information to the respective Nations regarding our children and families.	GENERAL SECTION 27: ROLE OF MINISTER: The Minister may collect and disclose data in relation to Indigenous child and family services.	
SECTION 5.4: INFORMATION MANAGEMENT AND TRANSFER: SECTION 5.4.1: The Province of Manitoba and Canada shall transfer all electronic and hard-copy	SECTION 28: AGREEMENTS – INFORMATION: The Minister may make agreements with the Provinces and Indigenous governing bodies regarding collection, retention,	

information to the respective *Anishinaabeg, Anishininwak Nehethowuk/Inninwak Dakota Oyate, Denesuline, Oji-Cree* Nations regarding our children and families. PART 7: OTHER MATTERS: SECTION 7.1.2: BOCHA would be reviewed by the First Nations every five (5) years or as required.	use and disclosure of information respecting child and family services and a) ensure Indigenous children are identified as Indigenous when being provided child and family services, b) support improvement of those services, and c) facilitate disclosure of that information to affected families and communities. SECTION 29: POWERS OF MINISTER: The Minister has the power to disclose information respecting child and family services in relations to services provided. SECTION 30: DISCLOSURES OF INFORMATION: Agreements identified in Section 28 may be established with a provincial government or a public body to collect or disclosed child and family services information in relation to services provided. SECTION 31(1): FIVE-YEAR REVIEW: In collaboration will carry out a review of operative capacity of the bill every 5 years with First Nations, Inuit and Metis groups. SECTION 31(2): REPORT: Minister must prepare report to include conclusions and recommendations including improvements to this Act. SECTION 31(3): TABLING OF REPORTS: The Minister must make the report to Parliament.	**There are also institutional consequences. Bill C-92 implies that government would have to set up an ongoing mechanism to compare First Nations child welfare quality management to equivalent provincial child welfare quality management in order to fulfill the requirements for the regulations under Bill C-92.**
COMMENT: The First Nation would carry out this responsibility.	REGULATIONS: SECTION 32(1): REGULATIONS: The Governor in Council may make policy and regulations as long as affected Indigenous groups are afforded the meaningful opportunity to collaborate.	

COMMENT: The First Nation would decide this point.	SECTION 32(2) PROVINCIAL GOVERNMENTS: The Provinces can participate in policy creation.	
PART 2: JURISDICTION AND EXPLANATION SECTION 2.4.5: PURPOSE: Interim measures will be launched immediately upon this *Act* coming into force and the over-arching authority for addressing the care nurturing, reunification and repatriation of our children and families in order to ensure the purpose of this *Act* is carried out. SECTION 2.4.6: PURPOSE: Reconciliation and restitution measures will also be carried out by Canada in order to ensure that our *Anishinaabeg, Anishininwak, Dakota Oyate, Denesuline, and Nehethowuk/Inninwak* Nations are equipped with resources identical to that of Canada's provinces so that the purpose of this *Act* can be carried out successfully.	TRANSITIONAL PROVISIONS: SECTION 33: REPRESENTATION AND PARTY STATUS: - The representation and party status in proceedings provision in the bill can be can be initiated on the day the bill comes into force as long as it is done in unison with the best interests of the child. SECTION 34(1): REGULATIONS: The Governor in Council may make any regulations or transitional policy or regulations as long as affected Indigenous groups are afforded the meaningful opportunity to collaborate. SECTION 34(2): PROVINCIAL GOVERNMENTS: The Provinces can participate in policy creation, which is not prevented by subsection 34(1).	
ANNEX "A" The BOCHA also provides an extensive and substantive Historical Background and Timeline because the elders have stated that First Nation people are entitles to know their origins and history that lead to the inception of the BOCHA.		

CLOSING COMMENTS:

First Nations must be committed to ensuring our children and families receive what they need rooted in our laws, ways of being, languages and cultures to prepare them to contribute productively to their First Nations families, clans, communities, and Indigenous Nations.

First Nations are committed to continuing to build our own systems to serve our peoples, and to being fully accountable to our peoples and after having carefully reviewed Bill C-92:

1) Bill C-92 fails to respect our inherent jurisdiction to pass our own laws under s. 35(1) of the *Constitution Act, 1982* which recognizes and affirms our aboriginal and treaty rights, including our inherent governance of our own children and families;

2) Bill C-92 would take us in the wrong direction as it substantially increases federal control over First Nations child welfare matters under s. 91(24) of the *Constitution Act, 1867*;

3) Bill C-92 fails to ensure our children and family systems would receive needs-based and equitable funding, continuing to leave our children and family systems with substantially less funding than non-First Nations children and family systems;

4) We call on Canada to negotiate a political accord on First Nations child welfare with the First Nations of Manitoba based on the following principles:

    a. First Nations take full responsibility for our children and family systems, with full accountability within our First Nation governments and to our peoples, including but not limited to: enacting laws pursuant to s. 35(1) that will ensure accountability, transparency, access, quality, and performance monitoring; and rebuilding our children and family systems, including the use of other mechanisms according to our needs.

    b. Canada and First Nations will negotiate to reach agreement on a new fiscal framework and relationship for our children and family systems, where Canada provides fiscal transfer payments that are needs-based, equitable, stable, predicable, and lead to First Nations outcomes as successful non-First Nations. And as well, cover capital costs for First Nations infrastructure to implement jurisdiction, implementation and management of our children and family matters on First Nations.

APPENDIX B

NUNAVUT ACT, S.C. 1993, c. 28

Legislative powers

23 (1) Subject to any other Act of Parliament, the Legislature may make laws in relation to the following classes of subjects:
(a) the election of members of the Assembly, including the qualifications of electors and of candidates for election;
(b) the disqualification of persons from sitting or voting as members of the Assembly;
(c) the indemnity and expenses of members of the Assembly, including members of a committee of the Assembly;
(d) the establishment and tenure of territorial offices and the appointment, conditions of employment and payment of territorial officers;
(e) the administration of justice in Nunavut, including the constitution, maintenance and organization of territorial courts, both of civil and of criminal jurisdiction, and the procedure in civil matters in those courts;
(f) the establishment, maintenance and management of prisons, jails or lock-ups in and for Nunavut;
(g) municipal and local institutions in Nunavut;
(h) hospitals and charities in and for Nunavut;
(i) the management and sale of the lands the right to the beneficial use or to the proceeds of which is appropriated to the Commissioner by section 49, and of the timber and wood on those lands;
(j) direct taxation within Nunavut in order to raise revenue for territorial, municipal or local purposes;
(k) licensing in order to raise revenue for territorial, municipal or local purposes;
(l) property and civil rights in Nunavut;
(m) education in and for Nunavut, subject to the condition that any law respecting education must provide that
(i) a majority of the ratepayers of any part of Nunavut, by whatever name called, may establish such schools in that part as they think fit, and make the necessary assessment and collection of rates for those schools, and
(ii) the minority of the ratepayers in that part of Nunavut, whether Protestant or Roman Catholic, may establish separate schools in that part and, if they do so, they are liable only to assessments of such rates as they impose on themselves in respect of those separate schools;
(n) the preservation, use and promotion of the Inuktitut language, to the extent that the laws do not diminish the legal status of, or any rights in respect of, the English and French languages;
(o) the solemnization of marriage in Nunavut;
(p) intoxicants in Nunavut, including the definition of
what constitutes an intoxicant;
(q) the incorporation of companies with territorial objects, excluding railway, steamship, air transport, telegraph and telephone companies;
(r) agriculture in Nunavut;
(s) the preservation of game in Nunavut;
(t) the entering into of intergovernmental agreements by the Commissioner or any other official of the Government of Nunavut;
(u) the expenditure of money for territorial purposes; **(v)** generally, all matters of a merely local or private nature in Nunavut;
(w) the imposition of fines, penalties, imprisonment or other punishment in respect of the contravention of any law made by the Legislature; and
(x) such other matters as the Governor in Council may, by order, designate.
=

Restriction on powers
(2) Nothing in subsection (1) shall be construed as giving the Legislature greater powers with respect to any class of subjects described in that section than are given to the legislatures of the provinces by sections 92 and 95 of the *Constitution Act, 1867* with respect to similar subjects de- scribed in those sections.

Laws in respect of Indians and Inuit
(3) Subject to any other Act of Parliament, nothing in subsection (2) shall be construed as preventing the Legislature from making laws of general application that apply to or in respect of Indians and Inuit.