

MOWAT RESEARCH #152 | JUNE 2017

How to Build a Skills Lab

A new model of institutional
governance in Canada

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Mowat Centre

ONTARIO'S VOICE ON PUBLIC POLICY



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Acknowledgements

The authors would like to thank the many anonymous reviewers and interviewees for their helpful comments and suggestions. The authors would also like to thank Elaine Stam for her design work on this report as well as Sunil Johal, Scott Perchall and Reuven Schlozberg for their helpful contributions.

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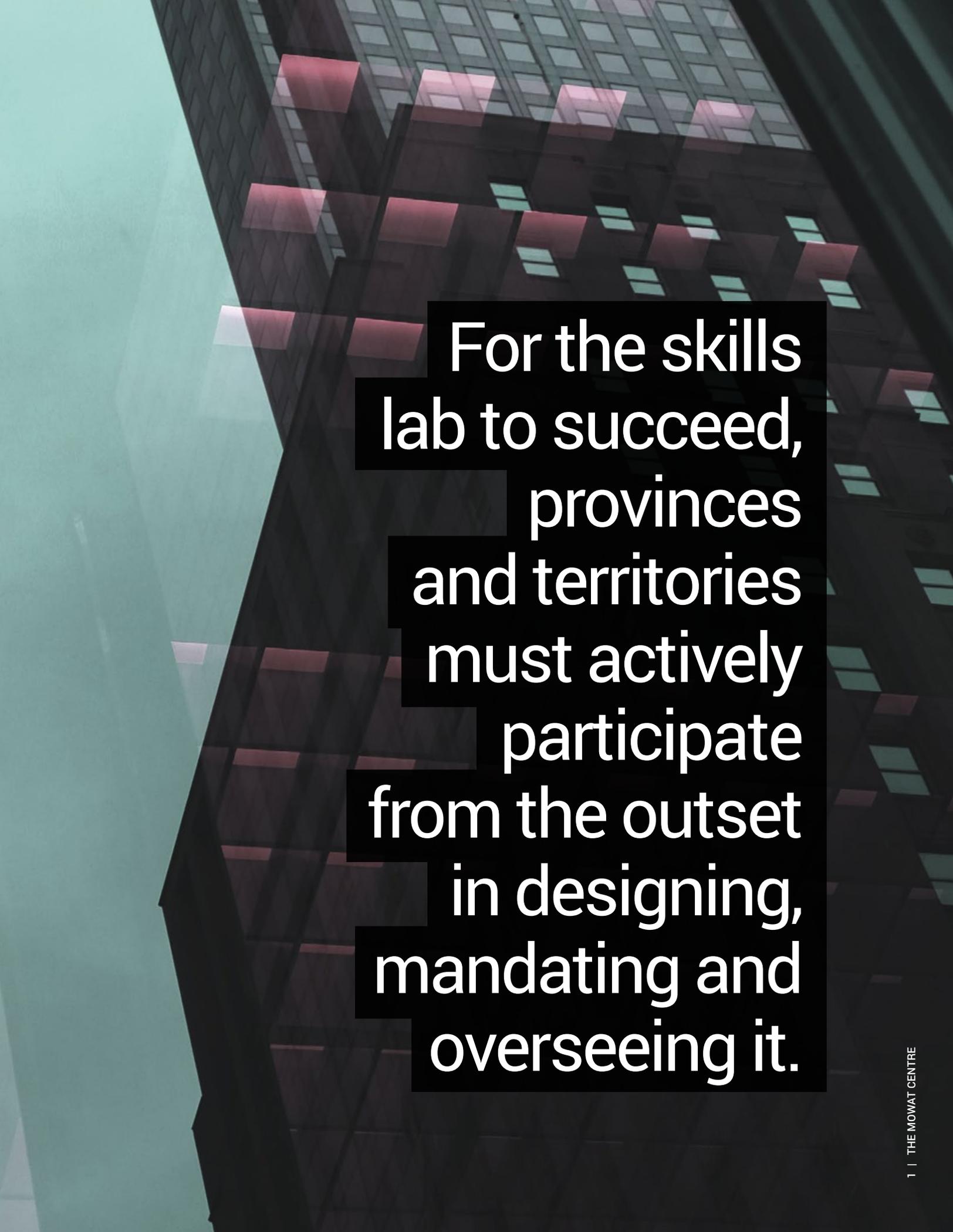
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**For the skills
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INTRODUCTION

In the aftermath of the economic crisis, few policy issues have attracted as much attention as skills development. Discussion has focused on the types of skills that employees need to ensure they can successfully navigate an ever-more demanding labour market, and those that employers need to have on hand to help them survive in an ever-more competitive marketplace. This has been accompanied by concerns about skills gaps and mismatches — about whether some Canadians are making poor choices when it comes to their education and training, and whether the labour market is beset with a paradoxical combination of over- and under-qualified workers.

In this context, attention has continued to focus on the need for better labour market information to guide the decisions of employees, employers and policymakers alike. As an advisory panel on the issue argued in 2009, “a good LMI [labour market information] system will help to improve the matching of people and jobs both in times of labour shortages and high unemployment. And a good LMI system is always necessary to make sure that the right policy decisions are made to improve the economy’s performance and lower unemployment.”¹

In particular, those concerned with the need to better align workers’ skills with the needs of employers have identified two significant shortcomings with respect to labour market information in Canada: an insufficient level of granularity in the data that tell us what is really going on in the labour market, and a lack

of evidence about what kinds of skills training programs are actually succeeding in helping employees keep their jobs or transition to new ones.²

It is for this reason that the announcement in the recent federal budget that Ottawa will spend \$75 million a year to establish “a new organization to support skills development and measurement in Canada”³ — a skills lab — struck many as a much-needed breakthrough. One commentator argued that the skills lab proposal is “a welcome addition to the current skills debate in Canada” because it “identifies the critical questions we must seek to ask and answer, and acknowledges what we do not yet know.” The proposed organization “has the potential to serve as an invaluable complement, coordinator and clearinghouse for these efforts

1 Advisory Panel on Labour Market Information (2009). *Working Together to Build a Better Labour Market Information System for Canada - Final Report*, p. i. Ottawa: Advisory Panel on Labour Market Information. Available at http://publications.gc.ca/collections/col-lection_2011/rhdcc-hrsdc/HS18-24-2009-eng.pdf.

2 Advisory Panel on Labour Market Information (2009). *Working Together to Build a Better Labour Market Information System for Canada - Final Report*, p. i. Ottawa: Advisory Panel on Labour Market Information. Available at http://publications.gc.ca/collections/col-lection_2011/rhdcc-hrsdc/HS18-24-2009-eng.pdf.

3 Government of Canada (2017). *Building a Strong Middle Class: Budget 2017*, p. 57. Ottawa: Government of Canada, 2017). Available at <http://www.budget.gc.ca/2017/docs/plan/budget-2017-en.pdf>.

to highlight the best ideas and to develop and disseminate the best solutions.”⁴

In order to successfully implement the skills lab proposal, a number of questions will need to be answered – including questions about what it will measure and how, about the right mix of descriptive and experimental research, and about how it will fit into the complex network of actors and agencies that are already active in this policy landscape. More critical than these, however, is the question of governance – and it is on this question that this paper will focus. It is the skills lab’s governance structure that will ultimately determine how successful it will be.

As others have already recognized, “if an appropriate governance structure is not established, it is impossible to develop the kind of LMI system we need.”⁵ This is true in large part because of the inescapable fact that labour market policies and the information that underpins them unfold in Canada in the context of intersecting federal-provincial-territorial jurisdictions. As a result, “a higher level of co-operation and coordination among governments is thus now required to make sure that Canadians get the LMI they need and deserve. And this will require making sure that the LMI system has the appropriate governance structure.”⁶

The starting point for the development of an appropriate governance structure is the recognition that the skills lab cannot be a solely federal initiative. For the skills lab to succeed, provinces and territories – the primary policy actors in the field of skills training and development – must not simply be consulted; they must actively participate in designing, mandating and overseeing it from the outset.

In the absence of some quick and creative thinking about how Ottawa can co-design and co-govern institutions jointly with the provinces and territories, the skills lab will never live up to expectations. It will inevitably founder on the same jurisdictional rocks as previous well-intentioned but poorly conceived federal initiatives in the area of skills development – an area that is hardly an exclusively federal responsibility.

The skills lab, therefore, should be seen not solely as an opportunity to operate as a laboratory for skills development and measurement but as an experiment in the development of a more mature approach to federal-provincial institutional co-governance in Canada. A model of federal-provincial-territorial “co-ownership” of the skills lab would not only improve its chances for success, but could serve as an innovative, practical model for overcoming some of the recurring frictions that Canada’s federal system can create.

4 Weingarten, Harvey P. (2017). “FutureSkills Lab: A Step in the Right Direction.” *It’s Not Academic Blog Post*, The Higher Education Quality Council of Ontario (HEQCO), February 28, 2017. Available at <http://blog-en.heqco.ca/2017/02/harvey-p-weingarten-futureskills-lab-a-step-in-the-right-direction/>.

5 Advisory Panel on Labour Market Information (2009). *Working Together to Build a Better Labour Market Information System for Canada - Final Report*, p. iv. Ottawa: Advisory Panel on Labour Market Information. Available at http://publications.gc.ca/collections/collection_2011/rhdcc-hrsdc/HS18-24-2009-eng.pdf.

6 Advisory Panel on Labour Market Information (2009). *Working Together to Build a Better Labour Market Information System for Canada - Final Report*, p. 91. Ottawa: Advisory Panel on Labour Market Information. Available at http://publications.gc.ca/collections/collection_2011/rhdcc-hrsdc/HS18-24-2009-eng.pdf.

THE SKILLS LAB PROPOSAL

The idea of a skills lab emerged from a report of the federal government’s Advisory Council on Economic Growth, released earlier this year. The report recommended the formation of a national “laboratory for skills development and measurement” to perform three core functions:⁷

- » run pilot programs in skills development;
- » gather new forms of labour market information;
- » measure outcomes of skills training programs and identify best practices.

While the budget announcement was much shorter on detail than the Advisory Council’s report, it confirmed that the new organization is expected to do these kinds of things. According to the budget, the skills lab will explore new approaches to skills development, collect information about the skills needed in the labour market, and share information about what types of program are the best bets for future investments in skills development.⁸ There is no doubt that these activities could make important contributions to the improvement of labour market outcomes.

The purpose of the skills lab, then, is not in question: who could argue against the collection of better and more comprehensive information to guide program development, the testing of existing and new approaches to

skills development, and the documentation and dissemination of best practices? The problem with the skills lab does not lie with its purpose. The problem is its governance – that is, the issues of where its authority derives from, how it will make decisions, and to whom it will give account.⁹ The failure to address these issues with provinces and territories in mind will put the skills lab proposal at risk.

According to the Advisory Council, the skills lab should be a non-governmental organization, at arm’s length and with operational independence from government. This type of structure will “ensure impartiality” and avoid “the perception of undue federal government influence.”¹⁰ Beyond this point, however, the proposed governance structure of the organization becomes

7 Advisory Council on Economic Growth (2017). *Building a Highly Skilled and Resilient Canadian Workforce through the FutureSkills Lab*, pp. 2-3. Ottawa: Advisory Council on Economic Growth. Available at <http://www.budget.gc.ca/aceg-ccce/pdf/skills-competences-eng.pdf>.

8 Government of Canada (2017). *Building a Strong Middle Class: Budget 2017*, p. 57. Ottawa: Government of Canada, 2017). Available at <http://www.budget.gc.ca/2017/docs/plan/budget-2017-en.pdf>.

9 For a brief discussion of the meaning of governance, see Institute on Governance (2017). *Defining Governance*. Available at <http://iog.ca/defining-governance/>.

10 Advisory Council on Economic Growth (2017). *Building a Highly Skilled and Resilient Canadian Workforce through the FutureSkills Lab*. Ottawa: Advisory Council on Economic Growth, pp. 15 and 13. Available at <http://www.budget.gc.ca/aceg-ccce/pdf/skills-competences-eng.pdf>.

confused, particularly as it pertains to its potential relationship to provincial and territorial governments.

- » On the one hand, the Advisory Council appears to envision a formal role for provinces and territories. It recommends that provincial and territorial governments (together with the federal government as well as non-governmental organizations) should have a role in appointing the skills lab's staff. It also cites the Canadian Institute for Health Information (CIHI) as a useful governance model, drawing attention to the role of provinces and territories in its funding and therefore to the fact that CIHI is formally accountable back to both federal and provincial-territorial governments.¹¹
- » On the other hand, the Advisory Council overplays the notion of the skills lab's potential independence. An organization such as the skills lab can operate at arm's length from government, but it must still be created by, authorized by, mandated by and accountable to government. The crucial question in the case of the skills lab, therefore, is whether the skills lab will be mandated by and will formally report back to a federal department, or whether it is to be co-created and run with joint oversight by the 14 federal, provincial and territorial governments. References to CIHI notwithstanding, the Advisory Council's report is silent on this issue. Its report mentions that the skills lab should "work with" and "provide advice and recommendations to" provincial and territorial governments.¹² But asking an organization to work with provincial partners

is not the same as asking provinces to play a role in forming, mandating and overseeing it. Statistics Canada works with provinces and territories, but that did not mean that provinces and territories could step in to persuade Statistics Canada to retain the mandatory long-form census questionnaire in 2011 when the federal minister to which the agency is formally accountable directed it to do otherwise.

The Advisory Council's report, of course, is a recommendation, not policy – having proposed the idea of the skills lab, it is arguably fair for the advisors to leave the details of how to make it work to the government. Unfortunately, the federal budget is even less clear than the Advisory Council's report – in fact, it is entirely silent on the subject of the skills lab's structure or governance. It is possible to consider this as a plus, since it creates an opportunity to reflect on the advantages and disadvantages of different governance models before final decisions are made. And it is precisely in the spirit of constructively informing these decisions that the recommendations advanced in the remainder of this paper are being put forward. At the same time, the federal government had the opportunity in the budget to signal clearly that its own vision of the skills lab is one of an institution whose governance is shared with the provinces and territories. The fact that it chose not to send this signal is a significant cause for concern.

11 Advisory Council on Economic Growth (2017). *Building a Highly Skilled and Resilient Canadian Workforce through the FutureSkills Lab*. Ottawa: Advisory Council on Economic Growth, pp. 13 and 15. Available at <http://www.budget.gc.ca/aceg-ccce/pdf/skills-competences-eng.pdf>.

12 Advisory Council on Economic Growth (2017). *Building a Highly Skilled and Resilient Canadian Workforce through the FutureSkills Lab*, p. 16. Ottawa: Advisory Council on Economic Growth. Available at <http://www.budget.gc.ca/aceg-ccce/pdf/skills-competences-eng.pdf>.

WHY THE ISSUE OF GOVERNANCE MATTERS

There is nothing wrong with the federal government deciding to invest more resources to experiment with new approaches, assess the effectiveness of existing programs, and identify best practices in areas of federal jurisdiction. No one would question the structure of a lab focused on improving the effectiveness of military training, international trade missions, or income support programs – all things that the federal government is responsible for delivering. The federal government is not solely (or even mainly) responsible for delivering programs and services related to skills development, and it is in this context that a unilateral federal initiative to measure the outcomes of these programs and services is ill-conceived.

Again, the issue is not whether the proposed skills lab will have operational independence from its sponsoring federal department; rather, the issue is where the lab will derive its authority from and to whom it will report. Even if the lab is placed at “arm’s length” from government, key questions will remain, such as: who sets it up? who writes its rules? who provides direction and oversight? who evaluates its performance? If the answer to each of these questions is the federal government, acting alone, several inevitable problems arise.

The first, of course, is a political one, in that one or more provinces are likely to resist the initiative as undue interference in its jurisdiction. This is precisely what happened in 2003 when the federal government launched the Canadian Council on Learning (CCL), a similar initiative intended to boost the development of human capital in Canada through the gathering and dissemination of evidence. The CCL spent most of its five-year mandate trying either to persuade provinces to work with it or, in the face of its inability to

do so (with some exceptions), expressing its frustration with Canada’s federal nature. Neither of these activities was particularly productive. The fact that the federal budget instructs the planned skills lab to work in partnership with “willing” provinces¹³ is an up-front admission on the federal government’s part that at least some provinces are unlikely to be willing. This simply begs the question of why bother implementing a proposal designed to “address skills gaps and support lifelong learning throughout Canadians’ working lives”¹⁴ that will only be able to be active in those parts of the country whose governments choose to “opt in.”

In anticipating the reluctance of at least some provinces to work with the skills lab, it is important to avoid falling into the trap of assuming that this would stem from some

13 Government of Canada (2017). *Building a Strong Middle Class: Budget 2017*, p. 57. Ottawa: Government of Canada, 2017). Available at <http://www.budget.gc.ca/2017/docs/plan/budget-2017-en.pdf>.

14 Government of Canada (2017). *Building a Strong Middle Class: Budget 2017*, p. 57. Ottawa: Government of Canada, 2017). Available at <http://www.budget.gc.ca/2017/docs/plan/budget-2017-en.pdf>.

combination of defensiveness, small-mindedness or obstructionism on the part of provincial governments. It is more accurate to note that as a matter of good governance within a federation, roles and responsibilities are kept clear by ensuring that reviews of programs are conducted by the order of government that is responsible for delivering them. Provinces are deeply affected by the decisions that Ottawa takes in everything from when and where to deploy military personnel, to how to run the RCMP, to how to manage relations with First Nations – to name but a few examples. But no one would think it was a good idea for a province to establish a “lab” to find out how Ottawa could do these things better.

There are two possible objections that could be made to this argument. The first is that skills development is not a matter of exclusive provincial jurisdiction; the second is that the federal government has the responsibility to collect statistics across all areas regardless of jurisdiction. These objections can both be dealt with quickly. In the first case, whatever one’s opinion is as to the role of the federal government in skills development, much of what the skills lab is being asked to look at involves educational institutions and programs that squarely fall under provincial jurisdiction. The Advisory Council’s report makes this clear when it proposes a role for the skills lab in the development of college and university programs, the creation of school curriculum, the development of foundational skills “early in life,” the establishment of “a coherent national approach” to “linking degrees and credentials to skills and competencies,” and more generally “establishing an education system where students can ‘learn to learn.’”¹⁵ The second objection can be countered simply by referring to

the skills lab’s proposed mandate, only a small part of which deals with the collection of data. The weight of the mandate involves assessing outcomes, identifying best practices, setting objectives and issuing advice to governments. In the absence of a better governance structure for the skills lab, the execution of such a mandate will inevitably take on the air of a federal agency telling the provinces what to do in areas of provincial jurisdiction, with predictable results.

15 Advisory Council on Economic Growth (2017). *Building a Highly Skilled and Resilient Canadian Workforce through the FutureSkills Lab*, pp. 15 and 13. Ottawa: Advisory Council on Economic Growth. Available at <http://www.budget.gc.ca/aceg-ccce/pdf/skills-competences-eng.pdf>.



BOX 1

Federal and Provincial Roles in Skills Training

The federal government's role in skills training and development is largely limited to that of a funder. The federal government transfers about \$3 billion to the provinces and territories to support a range of programs. There are several major streams of federal funding and programming, which support the development of a skilled workforce. The largest federal funding stream for skills training is linked with Employment Insurance (EI). EI Part 2 benefits refer to skills and other employment supports which are funded by EI premiums, and in most cases, are available only to EI-eligible unemployed workers. Currently, the federal government transfers approximately \$2 billion annually to the provinces through Labour Market Development Agreements (LMDAs), and provinces have wide flexibility to design and administer the programming this funding supports. In its 2017 budget, the federal government announced that LMDAs would increase by an average of around 15 per cent annually, for a cumulative total of an additional \$1.8 billion over six years.

The 2017 federal budget also included an announcement that several other programs which are not linked to EI – Canada Job Fund Agreements, Labour Market Agreements for Persons with Disabilities, the Targeted Initiative for Older Workers – will be combined into a single Workforce Development Agreement, to be negotiated with each province.

Provinces are recipients of federal funding, but are the primary policy actors in the field of skills training and development. This has been true particularly since the mid-1990s, when the federal government opted to vacate the skills training space and cede resources to the provinces. Provincial agencies like Employment Ontario, Emploi-Québec, WorkBC and Alberta Works lead skills programming. The policy model differs from province to province. In Ontario, for example, most skills programs are implemented by private and non-profit third parties. In Quebec, services are delivered by the provincial agency directly. Along with implementing EI-linked and other federally-supported programs, provinces have developed a range of supplementary programs, focused on general skills and employment supports, apprenticeships, youth, literacy and basic skills, newcomers and foreign-trained professionals and so on.

The fact that a significant portion of the skills training programs is funded through the LMDAs and related federal transfers means that federal politicians and officials are naturally interested in knowing the impact of these programs on labour market outcomes. But given the central role of provinces and territories in program design and delivery, the collection of evidence on program outcomes can only happen with their full participation.

For those who find the political argument somewhat tiresome, the best option might appear to be pushing ahead, over the objections of the more vocal provinces, on the grounds that skills development is too important to allow it to be derailed by federal-provincial squabbling (or on the grounds that Ottawa transfers so much money to the provinces for skills training that it is perfectly entitled to insist on a mechanism to assess what that money is buying in terms of labour market outcomes). This approach runs into a second set of problems that are more practical in nature.

The first is that a unilateral approach will end up being able to provide only a partial picture of the skills situation in Canada. In the absence of ten provincial and three territorial partners, the data collected will be incomplete, the approaches tested will be overly selective, and the recommendations issued will be limited in scope and impact. For some, having partial evidence will be better than having none. At the same time, however, a skills lab that ends up having to navigate around several no-go zones across the country will be hampered at every turn and ultimately fail to live up to expectations.

This inability to cover the country will likely also result from the difficulty that the lab will have in working in partnership with complementary intergovernmental bodies such as the Council of Ministers of Education, Canada (CMEC), the Canadian Education Statistics Council (CESC) and the Forum of Labour Market Ministers (FLMM). The Advisory Council emphasizes the importance of the skills lab collaborating with these bodies, suggesting, for instance, that the lab “would provide advice and recommendations to the FLMM and CMEC on skills objectives, skills development, and measurement priorities,

including reporting on outcomes.”¹⁶ But because these bodies generally work by consensus, any one province can block any of this type of activity from taking place. While the idea of proceeding with “willing” provinces might work on a province-by-province basis, it is unlikely to work in the case of intergovernmental bodies, where all provinces must be willing in order for an activity to proceed.¹⁷

Secondly, a unilateral approach will likely lead to a duplication of effort and activities and a lack of coordination in terms of the dissemination of evidence and recommendations. A skills lab imposed on the provinces will likely work independently of similar agencies already in operation, such as the BC Centre for Employment Excellence, the *Observatoire compétences-emplois (OCE)* in Quebec, or the Ontario Workforce Innovation Centre (see Box 2). While these agencies and the proposed skills lab may not be exactly alike in terms of mandate, they are similar enough that the creation of the skills lab in the absence of buy-in from provinces such as BC, Quebec or Ontario will lead to a situation where competing agencies will be vying for the role of both convenor and authoritative voice within the sector. In this context, provincial governments that already have established relationships with their provincial agencies will have little incentive to pay attention to the activities of a federal skills lab that they had no role in creating and have no role in managing.

16 Advisory Council on Economic Growth (2017). *Building a Highly Skilled and Resilient Canadian Workforce through the FutureSkills Lab*, pp. 3, 11 and 16. Ottawa: Advisory Council on Economic Growth. Available at <http://www.budget.gc.ca/aceg-ccce/pdf/skills-compences-eng.pdf>.

17 This does not mean that all provinces need to be equally interested or enthusiastic; but it does mean that no province can object as a matter of principle to the association of the intergovernmental agency with the initiative in question and the precedents that such an association might create.

BOX 2

Selected Provincial Skills Agencies

Several provinces have created their own workforce development agencies, particularly in recent years. These agencies share several functions, including communicating the existing evidence on effective skills policy to government and stakeholders, producing new research and acting as hubs and coordinating bodies for sectoral partners.



QUEBEC

The Quebec Observatoire compétences-emplois (OCE), based at the Université du Québec à Montréal, was founded by the Government of Quebec's Commission des partenaires du marché du travail in 2010. OCE examines best practices in workforce development, with a particular emphasis on examining policy and programming in other jurisdictions. The research it produces informs the work of the Commission des partenaires du marché du travail, which is a consultative body comprised of business, labor, education, community and governmental organizations.

BRITISH COLUMBIA

The BC Centre for Employment Excellence began operation in 2012. It is a division of the Social Research and Demonstration Corporation, and funded by the governments of Canada and British Columbia, under the BC-Canada Labour Market Development Agreement. Along with knowledge translation from existing research and evidence, the Centre also pilots projects to test new approaches to workforce development, and operates a hub for connecting job support professionals with provincial services.



ONTARIO

The Ontario Workforce Innovation Centre, established at Ryerson University with funding from the Government of Ontario, was launched in early 2016. The Centre funds research from community and academic partners, and is also developing an evidence-based training and capacity-building practice. It operates five regional hubs in the province. In September 2016, the first round of research funding, totalling \$175,000 was announced.



Finally, there is the problem of incentives within the sector. One of the most striking things about the skills lab is its proposed budget, \$50 million per year at the start, growing to \$75 million.¹⁸ This amount will surpass that of Statistics Canada in the area of socio-economic statistics and dwarf that of several other agencies in the field of education and labour market information and research in Canada (see Box 3). For those looking for better information and evidence, this is no doubt a good thing – it suggests that the skills lab is not a “boutique” initiative but a serious attempt to lay the groundwork for evidence-based decision making. The arrival of the skills lab in the skills development ecosystem, however, will likely have the same effect as throwing chunks of bread at one end of a duck pond – suddenly everyone will stop what they are doing and start swimming in a new direction. Of course, whatever funding the skills lab will have available for pilot projects, for instance, will be a fraction of the operating budgets of institutions such as public colleges. But it will represent a significant portion of the additional funding available to top up constrained operating budgets. The incentive to chase the skills labs dollars will be there, and it is in this context that the question of who is setting priorities will matter. If a provincial government is attempting to use what levers it has to encourage its institutions to focus on retraining older workers, and the skills lab wants to fund pilot projects to help youth to transition into the labour force (or vice versa), the result will be an absence of clear signals about the direction in which the sector is supposed to move. In an ideal world, of course, these options would not be mutually exclusive; in practice, institutions cannot innovate in every direction at once, and the absence of clear policy direction backed up by consistent financial incentives risks setting skills development efforts back rather than moving them forward.

18 Government of Canada (2017). *Building a Strong Middle Class: Budget 2017*, p. 57. Ottawa: Government of Canada, 2017). Available at <http://www.budget.gc.ca/2017/docs/plan/budget-2017-en.pdf>.

BOX 3

Comparing Annual Budgets

Skills Research/ Statistical Agencies	Annual Budget
Skills Lab	\$75M fully phased-in ¹⁹
Statistics Canada (Labour, education, income, and tourism statistics)*	\$44M ²⁰
Canadian Council on Learning	\$17M ²¹
Millennium Scholarship Foundation Research Program**	\$5.7M ²²
Higher Education Quality Council of Ontario	\$5M ²³
Labour Market Information Council	n.a.

*Statistics Canada publishes budgetary breakdowns based on groupings of statistical programs. This figure includes some statistical programs not related to skills and labour (e.g. tourism). Statistics Canada’s annual labour market information budget alone is therefore somewhat less.

** Approximate average annual direct expenses on research including demonstration projects but excluding bursary payments to students issued in the context of research experiments; also does not include expenses on staff or administration.

19 Government of Canada (2017). *Building a Strong Middle Class: Budget 2017*, p. 57. Ottawa: Government of Canada, 2017). Available at <http://www.budget.gc.ca/2017/docs/plan/budget-2017-en.pdf>.

20 Statistics Canada (2016). *Report on Plans and Priorities 2016-17*, p. 43. Ottawa: Minister of Industry. Available at <http://www.statcan.gc.ca/eng/about/rpp/2016-2017/index>.

21 Ekos (2008). *Summative Evaluation of the Canadian Council on Learning*, p. 1. Ottawa: Ekos Research Associates Inc. Available at <http://www.ekospolitics.com/articles/0148.pdf>.

22 Canada Millennium Scholarship Foundation (2010). *Legacy 2009-10 (Annual Report)*, p. 5. Montreal: Canada Millennium Scholarship Foundation.

23 Higher Education Quality Council of Ontario (2016). *HEQCO Annual Report 2015/16*, p. 29. Toronto: Higher Education Quality Council of Ontario. Available at <http://www.heqco.ca/SiteCollectionDocuments/HEQCO-2015-2016%20AR.pdf>.

BOX 4

Quebec's M-30: Act respecting the Ministère du Conseil exécutif

Provincial buy-in is not just a political nicety but a practical necessity, if the skills lab is going to wield its resources effectively and develop working relationships with public agencies in the provinces. For example, Quebec's *Act respecting the Ministère du Conseil exécutif* establishes that no departments, educational body, municipality, or public agency in the province can enter into an agreement with a federal public agency or receive federal funding, without the approval of either provincial Cabinet or the minister responsible for Intergovernmental Relations and the Canadian Francophonie. This requirement applies, regardless of the amount of funding under discussion, and conditions may be attached to its approval. This provision effectively prevents the federal government from trying to go around the Quebec government in order to work with Quebec public institutions. It is a simple model that other provinces could adopt.

For all these reasons, then, a federally designed and managed skills lab (even one placed at operational arm's length from its sponsoring federal department) risks being ineffective. It will also duplicate efforts and undermine efforts to achieve policy coherence, which of course is ironic for an organization whose own mission would be to identify best practices for optimizing the results of government spending. This is why governance matters.

The arrival of the skills lab in the skills development ecosystem, however, will likely have the same effect as throwing chunks of bread at one end of a duck pond – suddenly everyone will stop what they are doing and start swimming in a new direction.

A hand holding a pen is positioned over a laptop keyboard. In the foreground, a hand is touching a tablet that displays a map. The background is softly blurred, showing a desk and a window with light coming through.

There are plenty
of examples
of nimble
agencies with no
governance role
for provinces and
territories, and of
intergovernmental
forums that are
not nimble.

MODELS OF GOVERNANCE

In some ways, it is not surprising that the governance issue was treated imprecisely by the Advisory Council, and not at all in the federal budget, as there are in fact few models in Canada to use for guidance. That is to say, there are few models relating to the governance of agencies with a mandate to collect data, measure outcomes and disseminate best practices in areas of shared, overlapping or contiguous jurisdiction that combine:

- » arms-length operational independence from government to ensure nimbleness;
- » the direct involvement of all 14 federal, provincial and territorial governments.

In fact, “nimbleness” is only one of the reasons why the Advisory Council recommends the skills lab be established at arm’s length from government; the fuller rationale is that independence will ensure that the lab is “nimble and entrepreneurial” and able “to bring all stakeholders to the table on equal footing, to align well with intergovernmental organizations while avoiding the perception of undue federal government influence, and to remain nimble and thoroughly informed.”²⁴ For the sake of brevity, we will focus the discussion on the quality of nimbleness – a quality that we agree is a necessary to the skills lab’s success.

The challenge, then, is that of achieving both of the qualities noted above. In the first instance, there are a number of *intergovernmental agencies* that oversee the collection and publication of statistics relating to skills, including the CESC and the FLMM. Both the CESC and the FLMM, however, are intergovernmental committees and not agencies separate from government – they thus meet the second criteria of involving the provinces and territories in governance but not the first criteria of operational independence. The FLMM has taken steps to set up a new agency called the Labour Market Information Council (LMIC), but it is unlikely that this agency, once established, will enjoy full operational independence. The length of time it has taken to establish the LMIC – which was announced in 2015 but which is still not active – is an indication of the challenges of only working through slow-moving (i.e. not-so-nimble) intergovernmental forums.

24 Advisory Council on Economic Growth (2017). Building a Highly Skilled and Resilient Canadian Workforce through the FutureSkills Lab, pp. 2 and 13. Ottawa: Advisory Council on Economic Growth. Available at <http://www.budget.gc.ca/aceg-ccce/pdf/skills-competences-eng.pdf>.

Statistics Canada, which presides over the collection and publication of education statistics and labour market information, meets neither of the two criteria. The Liberal Party's election promise to "make Statistics Canada fully independent"²⁵ notwithstanding, the government's proposed amendments to the Statistics Act (Bill C-36) will not place the agency at arm's length from the federal government. Moreover, the Canadian Statistics Advisory Council that will come into existence once Bill C-36 becomes law does not provide any formal role for provinces and territories, representing a missed opportunity to open the door to more genuine intergovernmental collaboration in the oversight of the country's national statistics program.

There are a number of more independent agencies in existence that are able to act more swiftly, notably the suite of federally created and funded foundations whose origins date back to the late 1990s. These include the Canadian Foundation for Innovation (CFI) and Genome Canada, and previously included the Canada Millennium Scholarship Foundation which operated between 1999 and 2010. These foundations are examples of how governments can achieve operational nimbleness by establishing a not-for-profit corporation (NFPC). NFPCs operate at arm's length from government, and are independent in the sense that they are answerable to their board of directors or members, not government ministers or departments.

25 Liberal Party of Canada (2015), *A New Plan for a Strong Middle Class*, p. 37. Available at: <https://www.liberal.ca/wp-content/uploads/2015/10/New-plan-for-a-strong-middle-class.pdf>.

BOX 5

Labour Market Information Council

In 2015, federal, provincial and territorial Labour Market Ministers endorsed the creation of a new Labour Market Information Council (LMIC) and a complementary new National Stakeholder Advisory Panel. The LMIC will be an independent, non-profit body with a board of directors comprising federal and provincial deputy ministers and the Chief Statistician of Canada.

The LMIC's mandate will be to ensure that labour market information (LMI) is comprehensive, meets recognized standards and reflects local labour market realities and needs, while also supporting the development and promotion of a new collaborative platform for disseminating LMI. According to the FLMM's October 2016 communiqué, the LMIC is on track to hold its inaugural meeting and finalize the membership of the LMI Stakeholders Advisory Panel in the coming months.

According to Don Drummond and Cliff Halliwell writing for the *Business Council of Canada*, the "new council would have considerable responsibility, but not much authority and not many resources." As such, it should "focus on projects that can succeed only with effective collaboration between the federal government, the provinces and territories," such as ensuring "that surveys and measurements used by different jurisdictions meet recognized standards."²⁶

26 Drummond, Don and Cliff Halliwell (2016). *Labour Market Information: An Essential Part of Canada's Skills Agenda*, pp. 10-11. Ottawa: Business Council of Canada. Available at: <http://thebusinesscouncil.ca/wp-content/uploads/2016/06/Labour-Market-Information-June-13.pdf>.

BOX 6

CFI Governance²⁷

The Canada Foundation for Innovation is a good example of a not-for-profit corporation set up by the federal government to operate at arm's length in a nimble fashion. The mission of CFI is to benefit Canadians by strengthening the capability of Canadian universities, colleges, research hospitals and non-profit research institutions to carry out world-class research and technology development.

The CFI is governed by a board of directors made up of 13 individuals, six of whom are appointed by the Government of Canada. The directors are drawn from a variety of backgrounds, each with a unique perspective and understanding of the research and innovation environment. Appointed for a three-year renewable term, they bring with them expertise in the private, institutional, academic, research and government sectors.

The CFI directors hold fiduciary responsibility, and are required to oversee CFI operations and prudently manage CFI funds. The board of directors reports to CFI members, a higher governing body similar to a company's shareholders, but representing the Canadian public. The CFI members are responsible for the appointment of seven of the 13 directors. They also receive and review audited financial statements, appoint auditors and approve the annual report at their annual meeting.

Provinces and territories do not have a role in appointing board members or directors.

NFPCs incorporated federally are subject to the Canada *Not-for-profit Corporations Act*. Governments may have the ability to influence an NFPC through a number of ways, notably by establishing their mandates and rules of operation, often through legislation. As funders, governments can also influence the priorities of an NFPC and require them to report on results as a condition of receiving continuing funding. As consumers of an NFPC's products or services, governments can influence the direction of an NFPC in the same way a for-profit corporation seeks to be relevant to its clients. Governments can also influence NFPCs through the appointment of the board chairs, directors or members. Directors of NFPCs, however, owe their fiduciary duty to the corporation, and as such should operate independently from government.²⁸

The federally created foundations clearly meet the criteria of nimbleness. An early review of their effectiveness by the Treasury Board of Canada Secretariat concluded that these instruments, among other things, "are responsive, flexible organizations; have introduced innovative business models and approaches to the selection and monitoring of projects; are results

²⁷ Canada Foundation for Innovation (2011). *CFI Strategic Roadmap 2012-17*, p. 19. Ottawa: Canada Foundation for Innovation. Available at: <https://www.innovation.ca/sites/default/files/pdf/2011%20CFI%20Strategic%20Roadmap%20final%20English%202012-04-04.pdf>.

²⁸ Broder, Peter (ed.) (2002). *Primer for Directors of Not-for-Profit Corporations: Rights, Duties, and Practices*. Ottawa: Industry Canada. Available at: [https://www.ic.gc.ca/eic/site/cilp-pdci.nsf/wwapj/Primer_en.pdf/\\$FILE/Primer_en.pdf](https://www.ic.gc.ca/eic/site/cilp-pdci.nsf/wwapj/Primer_en.pdf/$FILE/Primer_en.pdf).

oriented; ... [and] have established effective working relationships with their partners and stakeholders.”²⁹ While the foundations might choose to include former provincial officials on their boards of directors, however, they are ultimately accountable only to their federal sponsor – there is no formal role for provinces and territories in creating, mandating, directing or reviewing the operations of these agencies.

This is not to suggest that these agencies do not enjoy productive working relationships with the provinces. This is made easier by their particularly focused and technical mandates, which in general are related to the advancement of scientific research or the allocation of research funding through independent peer review processes, and not to the review of provincial spending or program outcomes. The Canada Millennium Scholarship Foundation was a notable exception, as its mandate called on it to establish a program in an area (student financial assistance) in which the provinces were already very active. The Foundation, however, had a number of unusual advantages, notably its ability to partner directly with provinces on program delivery by co-funding provincial student aid programs.³⁰ It is not clear how easy it would be to replicate the Foundation’s success in the absence of the \$300 million annually of top-up funding for provincial programs that the Foundation was able to provide.³¹

It appears, then, that there are plenty of examples of nimble agencies with no governance role for provinces and territories, and of intergovernmental forums that are not nimble. What is more elusive are examples that combine both criteria. Again, CIHI stands out: it operates in an area of sometimes shared and sometimes contested jurisdiction; it collects and disseminates evidence that underpins informed decision making; it operates at arms-length of any government department; and there is a formal role for provinces and territories on the board of directors (see Box 7). It is no surprise, then, that the Advisory Council pointed to CIHI as an example from which to draw lessons.

What makes CIHI an example to follow is not only the formal role for provinces and territories on its board, but their role in conceiving, designing and mandating it.

29 Treasury Board of Canada Secretariat (2007). *Evaluation of Foundations*, Section VII.B.1. Ottawa: Treasury Board of Canada Secretariat. Available at <http://www.tbs-sct.gc.ca/report/orp/2007/ef-fe/ef-fetb-eng.asp>.

30 The authors of this paper wish to disclose that Andrew Parkin was part of the Foundation’s management team. For a history of the Foundation, see Cameron, Silver Donald (2010). *One Million Futures: The Remarkable Legacy of the Canada Millennium Scholarship Foundation*. Vancouver: Douglas & McIntyre.

31 The Foundation provided funding directly to students, and not to provinces. Students, however, accessed the funding through provincial student financial assistance programs, and the effect of Millennium’s awards was to increase the total amount of aid available to students in each province.

BOX 7

CIHI Co-Creation and Board Structure

CIHI emerged from the work of the National Health Information Council (NHIC), composed of federal, provincial and territorial government representatives, reporting to the Conference of Deputy Ministers of Health and to the Chief Statistician of Canada.

In 1990, the NHIC commissioned the National Task Force on Health Information, chaired by former Chief Statistician of Canada Dr. Martin Wilk. Dr. Wilk's 1991 report recommended the creation of a non-governmental institute for health information. The report reflected a recognition that structural issues that inhibit the coordination and cooperation required between more-or-less autonomous constituencies needed to be overcome in order to create comprehensive and consistent health data in Canada. This in turn would require consensus through authoritative compromise among equal persons who represent all health constituencies.³² To give effect to this vision, the creation of CIHI was approved by Ministers of Health in 1992, and CIHI was incorporated in 1993. As such, CIHI was co-created, with almost all governments in on the ground floor (Quebec stood aside for an initial period but did not seek to prevent other provinces from going ahead).

Despite changes over the years, the principle of co-creation is still reflected in CIHI's board structure. The composition of its board attempts to balance government, non-government and regional representation. CIHI's board includes:

- » One director or designate from Health Canada.
- » One director or designate from Statistics Canada.
- » Eleven regional directors, where each of the six regions (Territories; BC; the Prairies; Ontario; Quebec; and the Atlantic) is represented by two directors, as follows:
 - »» Five directors nominated by the provincial governments;
 - »» Five directors nominated by a non-governmental individual or organization; and
 - »» One director nominated either by the Territorial governments or by a non-governmental territorial individual or organization.
- » Two directors at large who are nominated by a non-governmental individual or organization.
- » One director at large, independent of government or non-governmental organizations, who will act as chair.³³

The CIHI board's Governance and Privacy Committee (GPC) is responsible for soliciting names of individuals who are qualified to become the board chair. Following its assessment of nominees, the GPC makes a recommendation to the Members of the Corporation to be voted upon at the annual general meeting or at a special meeting of the members.

32 Wilk, Martin (1991). *Health Information for Canada: Report of the National Task Force on Health Information*. Ottawa: National Health Information Council. Available at: <http://www.statcan.gc.ca/pub/4220352-eng.pdf>.

33 Canadian Institute for Health Information (2016). *Board of Directors' Governance Handbook 2016*, pp. 10 and 17. Toronto: Canadian Institute for Health Information. Available at: https://www.cihi.ca/sites/default/files/document/governance-handbook_2016_en_web.pdf. Further clarification provided in comments from a reviewer.

Our argument, however, is that the Advisory Council failed to draw attention to the most important lesson of all relating to the CIHI model, which is that the organization was created through the process of negotiations, including intergovernmental negotiations – meaning that it was co-created by federal and provincial governments as well as agencies within the health sector itself. As a result, the first executive staff members of CIHI did not have to spend the first few years of their tenure chasing the provinces to obtain their *ex post facto* buy-in to a unilateral federal action. What makes CIHI an example to follow, therefore, is not only the formal role for provinces and territories on its board, but their role in conceiving, designing and mandating it.

If Canada is short on models – with CIHI standing out as a notable exception – it is instructive to briefly examine practices from other federations. Examples of more collaborative approaches to the collection and dissemination of national statistics do exist, suggesting that practices within the Canadian federation may have become outdated. There is a governance role for sub-national governments, for instance, within some national statistics agencies. In the case of Australia, states and territories are represented in the Australian Statistics Advisory Council which oversees the Australian Bureau of Statistics – a simple arrangement which, as mentioned, was omitted from the modifications to Statistics Canada currently under consideration. The arrangement is more sophisticated in Germany, where the *länder* have a role in collecting statistics through their own agencies which are then aggregated at the national level through the national statistical agency. *Länder* representatives work directly with the national agency to coordinate statistical programs.

In some federations, attempts to balance nimbleness and federal-provincial co-governance have led to further experimentation in institutional design. An interesting and potentially useful example presents itself in Switzerland – another highly decentralized federation with stark regional and linguistic diversity – particularly with respect to education policy. According to the division of powers contemplated in the Swiss Constitution, the main responsibility for education lies with the cantons, “but in reality there is a complex interaction between the three levels of government.”³⁴ To navigate through those complex interactions, the Swiss have adopted an innovative approach to shared federal-cantonal governance in the sphere of educational research.

The Swiss Coordination Centre for Research in Education (SCCRE)³⁵ is the institution mandated with strengthening educational research in Switzerland by establishing a better dialogue between educational policy, practice, administration and research.³⁶ SCCRE is a joint institution of both the federal and cantonal governments, equally owned and funded by the two levels. The board structure that the SCCRE uses to give effect to the co-ownership principle is perhaps the example from which Canada could learn most.

34 Denzler-Schircks, Stefan (2006). “Educational Research and Development in Switzerland: Country Background Report on behalf of the Swiss Council for Research in Education.” *OECD/CERI Review*, p. 7. Paris: OECD. Available at: http://www.sgbf.ch/jahreskongresse/CERI_SWISS-CBR_dec06.pdf.

35 In German: Schweizerische Koordinationskonferenz Bildungsforschung (SKBF); in French: Conférence suisse de coordination pour la recherche en éducation (CORECHED).

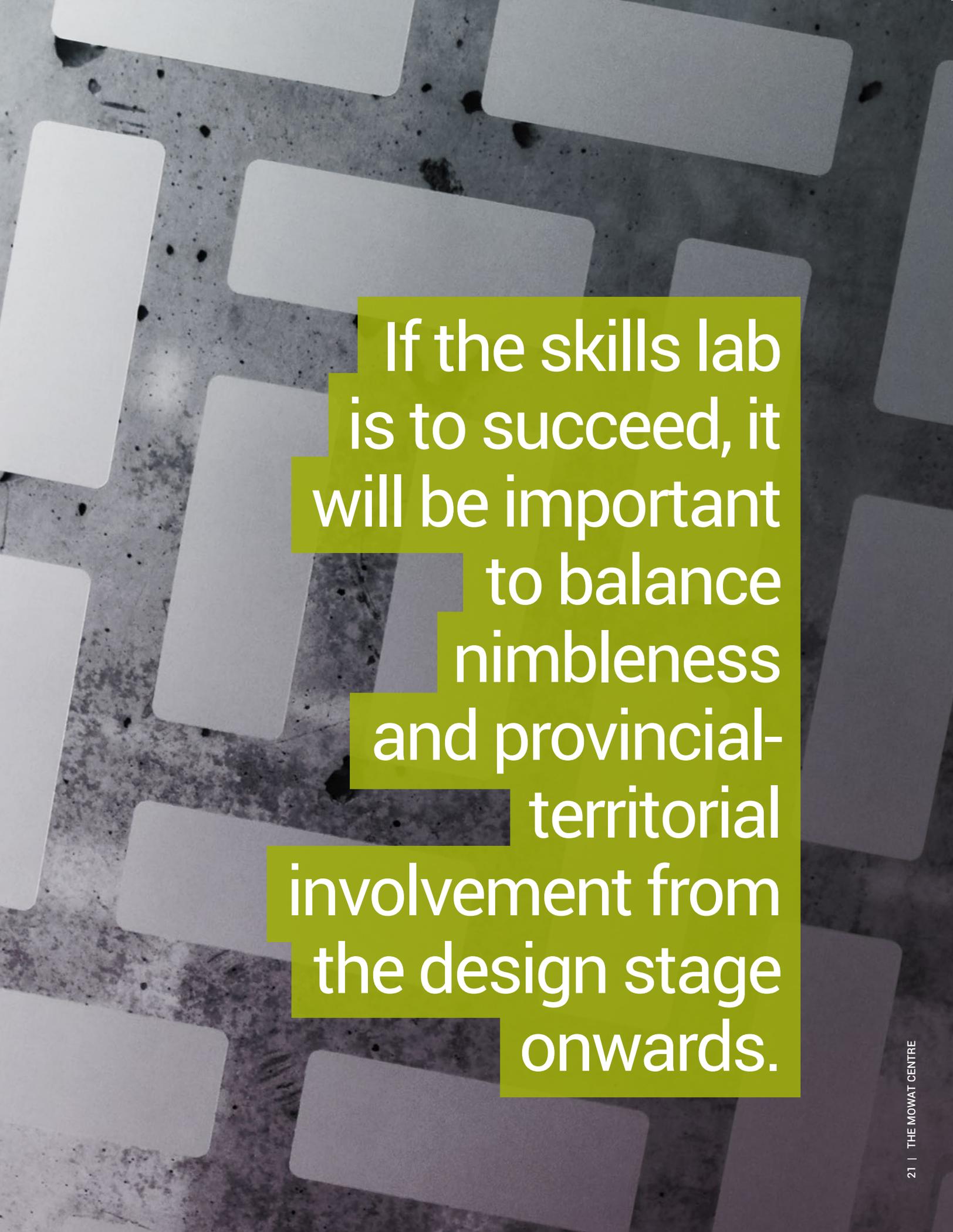
36 SKBF-CSRE (n.d.). *About Us: Mandate*. Aarau: SKBF-CSRE. Available at: <http://www.skbf-csre.ch/en/about-us/mandate/>.

Equal weighting of the federal and cantonal members on the board ensure that no single party can unilaterally push its agenda through.

The co-owners of the SCCRE (the federal and canton governments) are equally represented on the four-person governing board, with two members allotted to the federal side and two to the cantonal side. Both sides independently nominate their two representatives. Each member's vote is weighted equally, meaning that decisions can only be made if three out of four members are in favor of a particular decision. Equal weighting of the federal and cantonal members on the board ensure that no single party can unilaterally push its agenda through. If either the federal or cantonal side opposes an issue, refusal to negotiate brings with it the risk of deadlock. Institutionally, this incentivizes trade-offs, bilateral negotiation and accommodation of difference. This structure is also fundamentally different than the consensus-based approach that can often bog down progress on intergovernmental issues in Canada with joint-decision traps. A small, nimble, arm's-length and accommodation-centred structure similar to the SCCRE's could serve a fledgling institution such as the skills lab well in setting a decisive course for itself while ensuring both federal and provincial interests are represented.

In the Canadian context, a federal-provincial "co-ownership" approach to the skills lab could be realized in a similar fashion. As co-owners of the organization, federal, provincial and territorial governments would have shared influence in shaping its mandate and by-laws, in appointing its members and directors, in providing direction and oversight, and in evaluating its performance. Within that framework, the status of the skills lab as an independent not-for-profit corporation would mean that the board of directors and members would have fiduciary responsibility to the corporation itself, and not any one government or minister. At the same time, however, the lab's directors and executive would approach provinces and territories, not as stakeholders or even partners, but as co-owners to whom they must ultimately account.

It is important to note that this requires meaningful steps to be taken on both the federal and provincial-territorial sides of the equation. On the one hand, Ottawa would have to "let go" in the sense of agreeing to share governance with provinces and territories. Simply put, the skills lab would no longer be a federal agency – which of course is the point of the co-governance model. The provinces, however, would have to agree to become more engaged with the governance question and more open to innovation. This would mean moving beyond the options of either saying "no" or removing the lab's independence and nimbleness by placing it under the direction of an intergovernmental committee. While it is important for the federal government to take a step back and reconsider its plans for implementing the skills lab proposal, it is no less important for provinces to take a step forward and signal an interest in making co-governance work in practice.



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CAN THE SKILLS LAB SUCCEED?

RECOMMENDATIONS

The skills lab cannot fulfill expectations if it proceeds as a unilateral federal initiative — even if, following its establishment, it is encouraged to work in collaboration with “willing” provinces. If the skills lab is to succeed, it will be important to balance nimbleness and provincial-territorial involvement from the design stage onwards. The skills lab, therefore, should be seen not solely as an opportunity to operate as a laboratory for skills development and measurement but as an experiment in federal-provincial institutional governance in Canada. To that end, we recommend the following:

1] The federal government should state that the skills lab it envisions is one that will be jointly created, owned and managed by all 14 governments, and invite the provinces and territories to begin discussions with it to this end. Should the discussions fail to produce an agreement on how the skills lab should move forward with the support of all 14 governments, the federal government should commit to withdrawing the proposal — the option of proceeding unilaterally should be ruled out in advance.³⁷ For some, moving the initiative into the domain of federal-provincial-territorial talks will be seen as a lamentable shift that will only slow down the process of launching the much-needed agency — or worse, that will ensure that it never gets launched at all. One answer to this objection is to emphasize again the importance of consulting with other governments on matters that affect their jurisdiction before making budget announcements, rather than after the fact.

That said, to speed the process along, the 14 governments could jointly nominate a small group of experts (such as former deputy ministers) to work on their behalf to more quickly design a mutually acceptable model.

2] For their part, provinces and territories should meet the federal government half-way and commit to engaging in these discussions in good faith. The potential investment of \$225 million over four years to strengthen the evidence base around skills development is significant enough that every effort should be made to salvage it by moving quickly to identify and agree to an acceptable federal-provincial-territorial governance model for the skills lab. Provinces and territories may wish to also give consideration as to how they might contribute to the finances of the skills lab (e.g. by co-funding specific research experiments or evaluations relating to programs in their jurisdiction; purchasing of products and services; etc.).

³⁷ The federal government could consider other fall-back options at this point, such as distributing the funds set aside for the skills lab to existing labour market research centres, transferring the funds to a granting agency, or inviting provinces to submit research proposals that would make use of the funds, without setting up a new federal agency.

3] In addition, the provinces and territories should commit to the notion that the skills lab that emerges will be placed at arm's length from all governments and not under the direct operational control of an intergovernmental committee of ministers, deputy ministers or other officials. Nimbleness and independence from day-to-day political direction are crucial to the skills lab's success. Not only would trying to run the lab as a branch of an intergovernmental committee make it ineffective, it would also be impractical: senior government officials are too busy governing their own departments to become involved in the very serious business of exercising fiduciary duties on behalf of an external corporation with a multi-million dollar budget. Federal, provincial and territorial governments should set the mandate of the agency, establish the model for its governance and appoint its directors, but their officials should not constitute the board of directors themselves.

4] The skills lab can be authorized by and accountable to all 14 governments without being run directly by them. At a minimum, then, the 14 governments should agree on a governance model that resembles either that of CIHI – with a balanced board drawn from both orders of governments as well as from outside of government – or of federally-funded foundations, such as the CFI, with the exception that board members should be appointed jointly by the federal, provincial and territorial governments.

5] The 14 governments, however, should endeavour to go beyond this step and agree to a more innovative model of a corporation that is literally co-owned by the partners in the federation – either jointly owned by all federal, provincial, and territorial governments, or shared between a federal department and a provincial-territorial agency such as the Council of the Federation (now known as “Canada’s Premiers”) or the

The experience gained in jointly creating the skills lab should serve as an ice-breaker that leads to further innovation in the field of the collection and dissemination of evidence.

Council of Ministers of Education, Canada (CMEC). (Both the Council of the Federation and CMEC exist as corporate bodies that can enter into business arrangements of this nature.)

This will set a precedent in developing assets within the federation than are co-owned and co-managed, and will mark a significant step away from an outdated federal dynamic in which the federal government must continually expend energy enticing or cajoling provinces into buying into (or agreeing not to opt out of) unilateral and poorly conceived federal initiatives.

6] The experience gained in jointly creating the skills lab should serve as an ice-breaker that leads to further innovation in the field of the collection and dissemination of evidence. The successful creation of a jointly owned agency could, for instance, serve as a model for a more genuinely independent national statistic agency, one that is accountable to all 14 governments within the federation. As an interim step, a revamped advisory council that will come into being with the passage of Bill C-36 could be jointly appointed by the federal and provincial-



territorial governments and given a mandate to look at a new, more federally appropriate governance arrangement for Statistics Canada. Beyond Statistics Canada, the co-created co-governance model developed in the case of the skills lab could be built upon in efforts to expand evidence-based and experimental policy research in other issue areas, such as poverty reduction or criminal justice.

By virtue of its geography, demography and federal structure, Canada itself is a skills lab. The composition and dynamics of its labour market vary across regions, and the policies that shape human capital development are delivered in the main by 13 different provincial and territorial governments. This decentralization and variation underpins the country's success in education and economic development. It also introduces ample opportunities to learn from policy differences and experiment with new approaches. Diversity and decentralization are our strength. But to take full advantage of this strength, the appreciation of our federated nature must go beyond rhetoric. It must inform and be reflected in the design and implementation of public policies, initiatives and agencies. Only on these terms can proposals such as the skills lab deliver on expectations.

