

Senate **GRO** | Sénat **BRG**

TOWARDS AN INDEPENDENT SENATE

A progress report to Canadians

Government Representative Office in the Senate

August 22, 2019

EXECUTIVE SUMMARY

History will note the remarkable role the Senate played during the life of Canada's 42nd Parliament. Simultaneous with major changes to the Senate appointment process, the upper chamber's debates and legislative reviews have led to significant improvements benefitting Canadians. In all, the Senate made changes to one third of Government bills, and also passed several pieces of its own groundbreaking legislation.

During this time, the Senate evolved to become a chamber with a majority of independent members, with most Senators no longer sitting in a partisan caucus with House of Commons colleagues. Many of the Senate's legislative contributions during this parliamentary session have flowed from this move to independence.

Under the more independent model, Prime Minister Justin Trudeau has so far appointed 50 Senators through an open, merit-based selection process whereby Canadians can apply or be nominated for consideration. This process has resulted in an institution that is more representative of Canadian society with respect to gender, cultural communities and Indigenous Peoples.

During the life of this Parliament, the Senate's most important contributions were legislative, helping to fulfill its role as a public institution of sober second thought. The chamber acted as an effective complementary body in reviewing and, when necessary, proposing changes to laws that affect Canadians' daily lives. This assertiveness was balanced by respect for the primacy of the elected chamber — the House of Commons — in parliamentary decision-making on Government legislation.

During these four years of profound institutional change, the increasingly independent Senate made significantly more contributions to Government legislation than under previous iterations. Some of those changes included:

- Ensuring fair legal protections against the revocation of Canadian citizenship;
- Securing major policy commitments for Indigenous communities in relation to cannabis legalization;
- Contributing to comprehensive reforms to the criminal justice system, including bolstering Canada's response to intimate partner violence;
- Securing an end to all gender discrimination in registration under the *Indian Act*;
- Upholding cooperative federalism in jurisdiction over consumer protection;
- Providing wider access to more competitive rail service in legislation to modernize federal transportation policies, including giving soybean farmers in Western Canada the same treatment as wheat, canola and lentil farmers; and
- Contributing 99 amendments to legislation regarding impact assessments for development projects.

A key to the success of these contributions was the open and collaborative approach taken by Government to policy ideas emerging from all groups in the Senate. However, when the Government disagreed with changes proposed by the Senate, the Senate showed restraint and deferred to the elected chamber.

A crucial difference between the new and the old system is underscored by the absence of party discipline directed to independent Senators on voting and other legislative matters. Previously, Senators largely accepted direction on how to vote from party leadership. This is still the case with Conservative Senators. In contrast, independent Senators (whether they are unaffiliated, members of the Independent Senators Group or the Independent Senate Liberals) are not directed how to vote and do not coordinate partisan strategy with Members of Parliament. They bring their own amendments, analysis and observations to legislation.

The increased influence of independent Senators has triggered a new level of public policy interaction between the House of Commons and the Senate. Cabinet ministers have regularly appeared at the Senate's Question Period, creating a more direct and open dialogue in line with a complementary bicameral Parliament.

While the road to passing legislation is more complicated, the laws that ultimately emerge are the product of a more inclusive and consultative process. Canadians can be satisfied that the Government and parliamentarians are working harder to get public policy right.

In the absence of a Government caucus in the Senate, the institution required a new mechanism to shepherd the passage of Government legislation.

This responsibility fell to the Government Representative Office (GRO), made up of Peter Harder (Government Representative in the Senate, appointed Senator by Prime Minister Justin Trudeau), Diane Bellemare (Legislative Deputy, appointed Senator by Prime Minister Stephen Harper), and Grant Mitchell (Government Liaison, appointed Senator by Prime Minister Paul Martin). The GRO represents Senate concerns to the Government and Government concerns to the Senate.

The mission statement that guides the GRO is:

To promote a less partisan, more independent, accountable and transparent upper chamber, that serves as an effective, complementary body to the elected House of Commons.

In our view, the Senate is well on its way towards meeting that goal. The renewed Senate is better serving Canadians, with opportunities ahead to further improve the institution.

This report evaluates how well the Senate has functioned during this transition. It also outlines some of the challenges that remain, and provides some observations and recommendations for the path forward.

THE ROAD TO RENEWAL

On January 29, 2014, Justin Trudeau, then leader of the third party in the House of Commons, triggered a new era of independence in the Senate, announcing that Liberal Senators would no longer sit in the national caucus along with elected Members of Parliament. At the time, Mr. Trudeau said that the party structure within the Senate was interfering with the institution's ability to act as an independent check to the politically driven elected chamber. The newly independent Liberal Senators then adopted a policy of not "whipping" — or coercing — votes.

In October 2015, Mr. Trudeau further solidified the move away from partisanship when he was elected as Prime Minister. With 22 vacancies in the 105-seat Senate, the Government created an open, arm's-length nomination process with merit-based criteria for the appointment of Senators. So far, Prime Minister Trudeau has appointed 50 independent Senators from a wide range of backgrounds. As well, some Senators appointed under the previous system chose to leave partisan caucuses in favour of independence.

The primary rationale for the reforms stemmed from a large and growing credibility gap between the institution and the public, exacerbated by expense controversies and efforts of the previous government to exert direct and inappropriate control over the Senate, a political culture that was described in a 2016 ruling of the Ontario Superior Court of Justice (*R. v. Duffy*). The Senate's institutional independence, and therefore its capacity to fulfill its complementary role, was compromised. It is therefore no surprise that between 2013 and 2015, only one of the previous Government's 61 enacted bills was amended by the Senate.

Many commentators had also long viewed the institution as excessively partisan and patronage-based — features that, in the minds of many Canadians, limited the Senate's potential for sober second thought.

Supreme Court guidance for an independent and complementary Senate

"The contrast between election for members of the House of Commons and executive appointment for Senators is not an accident of history.

The framers of the *Constitution Act, 1867* deliberately chose executive appointment of Senators in order to allow the Senate to play the specific role of a complementary legislative body of 'sober second thought.'

As this Court wrote in the *Upper House Reference*, '[i]n creating the Senate in the manner provided in the Act, it is clear that the intention was to make the Senate a thoroughly independent body which could canvass dispassionately the measures of the House of Commons': p. 77 (emphasis added).

The framers sought to endow the Senate with independence from the electoral process to which members of the House of Commons were subject, in order to remove Senators from a partisan political arena that required unremitting consideration of short-term political objectives.

Correlatively, the choice of executive appointment for Senators was also intended to ensure that the Senate would be a *complementary* legislative body, rather than a perennial rival of the House of Commons in the legislative process.

Appointed Senators would not have a popular mandate — they would not have the expectations and legitimacy that stem from popular election. This would ensure that they would confine themselves to their role as a body mainly conducting legislative review, rather than as a coequal of the House of Commons."

(Reference: Senate Reform, Supreme Court of Canada. 2014-04-25)

This deficit of trust led the Senate to move on several fronts, beginning in the 2011-2015 Parliamentary session, in the wake of controversy and scandal. For example, Senators now proactively disclose expenses online on a quarterly basis; their attendance and voting records are easily accessible online; and a more robust [Ethics and Conflict of Interest Code for Senators](#) is in effect. These new rules can lead to serious disciplinary measures, such as expulsion or suspension. The misconduct cases of former Senator Don Meredith and currently suspended Senator Lynn Beyak have demonstrated that the rules have teeth.

Aside from the Government's new appointment process, autonomy from Government direction has allowed the Senate to remain free from inappropriate executive influence as it creates new processes in its role as a provider of sober second thought. Over the course of the 42nd Parliament, these changes have delivered an impressive policy record for the Senate, complementing the work of the House of Commons and better performing its intended constitutional role, without requiring any changes to the Constitution itself.

ENHANCING SOBER SECOND THOUGHT

A less partisan and more independent institution

For generations before the last election, the Senate faced criticisms that it simply replicated the partisan dynamics of the House of Commons. As the Supreme Court of Canada noted in its [landmark 2014 ruling](#), the Senate was designed as an appointed body so that it not operate as a partisan echo chamber: "The framers sought to endow the Senate with independence from the electoral process to which members of the House of Commons were subject, in order to remove Senators from a partisan political arena that required unrelenting consideration of short-term political objectives."

In the past, the vast majority of Senators sat as members of either the Liberal or Conservative caucuses, and they worked to support the policy goals and electoral aims of their elected colleagues. Since Confederation, Senators have been appointed by the Governor General on the advice of the Prime Minister, a process that remains the case now. What changed in the 42nd

Merit-based criteria under new appointment process

Potential Senators are considered in the context of achieving gender balance in the Senate, with a priority given to those who represent Indigenous, minority and ethnic communities.

Although past political activities do not disqualify an individual, applicants must demonstrate an ability to bring independent and nonpartisan perspectives to the Senate.

Potential Senators are expected to be knowledgeable about the legislative process and the Canadian Constitution, including the Senate's role as a complementary chamber of sober second thought, regional representation and minority representation.

Ethics and integrity are considered as part of a potential Senator's ability to serve.

Nominees must possess one of the following: significant experience in the legislative process and public service, a recognized record of community service, or leadership and achievement in a profession or field of expertise.

Parliament is that Prime Minister Trudeau makes his recommendations following an open, arm's-length nomination process.

An independent advisory board was established to review applications with merit-based criteria, as well as constitutional requirements. Canadians can now apply themselves or nominate someone to be a Senator through an open process.

As a result, the Senate has grown more diverse and representative of Canadian society. The Senate is approaching gender parity, with nearly half of all Senators being women. There are now 12 Senators with Indigenous roots from across the country, comprising more than 10 per cent of the chamber. New independent Senators come from a variety of backgrounds, including former judges and police commissioners, educators and authors, public servants and human rights advocates, as well as banking executives, an art curator and a Paralympic athlete.

In March 2016, a group of former Conservative, Liberal and non-affiliated Senators announced the creation of an independent, nonpartisan working group, eventually called the Independent Senators Group (ISG). As new independent Senators were appointed and more Liberal and Conservative Senators left their caucuses, the ISG grew and now includes more than half of current Senators.

In response, the Senate changed its rules to recognize parliamentary groups that are not affiliated with a political party, as well as to authorize funding for such groups, including new groups that may form. Independent Senators are not beholden to party leadership or discipline; they are removed from the electoral and political fundraising process.

Of the three Senate groups — the ISG, the Independent Senate Liberals and the Conservatives — only the 29 Conservative Senators continue to sit as members of a national political caucus, devoted to the election of their House of Commons colleagues. Fulfilling this political objective often results in procedural tactics aimed at obstructing legislation, through delaying and, in some cases, preventing votes.

In the absence of a Government caucus in the Senate, a principal legislative role of the GRO is to find sponsors for Government bills based on their expertise and support of the policy. In addition, the GRO champions the review of Senate policies and practices to reflect the transition towards greater independence, as well as representing the Government's views to the Senate and the Senate's views to the Government.

The changes so far are renewing the institution's public credibility, as demonstrated in public opinion surveys and increased public engagement.

Public interest in the independent Senate has grown, evident in the significant hike in communication with civil society. In the five years before the appointment of independent Senators, the number of communications registered by lobbyists with the Senate did not surpass 500 over a year-long period, according to statistics from the Library of Parliament. The number jumped significantly to 824 in the 2016/17 fiscal year, and continued to rise — 1240 in the 2017/18 fiscal year and 1503 in the 2018/19

fiscal year. The ideas brought forward by those stakeholders were reflected in Senate debates and proposed amendments to legislation.

A recent [Nanos poll](#) demonstrates that negative impressions of the Senate are down over the past three years. While 66 per cent of Canadians surveyed said they had a negative impression of the Senate in 2016, fewer — 46 per cent — said the same thing in April 2019. By the same token, positive impressions jumped from 26 per cent to 37 per cent over the same time period. Moreover, nearly three in five Canadians think the changes being adopted will improve the Senate.

When it comes to the new appointment process for Senators, the poll shows that more than three quarters of Canadians support the new appointment process, while another seven in 10 believe that being allowed to apply to the Senate is a good change. Only three per cent of Canadians want to go back to the old system, according to the poll.

Nonetheless, the [Parliament of Canada Act](#) is still framed along the Government/Opposition model in the Senate and thus does not reflect the growing contingent of independent Senators. As such, the GRO recommends that the Act be updated to provide full rights to independent Senators and non-partisan groups in the Senate. Furthermore, the GRO recommends that the arm's-length, independent appointment process be made concrete in legislation.

[Appendix I](#) has brief biographical notes on the Senators appointed under the new process during the 42nd Parliament.

BETTER SERVING CANADIANS

The Senate's policy contributions

As the Supreme Court of Canada made clear in its [2014 reference](#), the Senate was designed as an unelected body to complement the elected House of Commons, through in-depth study of legislation. The growing independence of Senators, and their freedom from direction by a political party, is shaping an upper chamber that is increasingly assertive in pursuit of this role.

Prior to the new appointment system, the Senate has been often disdained — fairly or not — for acting as a rubber stamp on the decisions of the House of Commons. In other instances, it has been criticized for going beyond its complementary role, notably during the GST debates of former Prime Minister Brian Mulroney's government. In both cases, partisan interests were the main driver for rubber-stamping or overreaching.

However, the last four years have seen the emergence of a Senate that defers to the elected House of Commons while fulfilling its role as a complementary review body. The new Senate has shown an increased willingness to vigorously debate legislation, append strong observations, demand regular reviews of the effectiveness of legislation and propose amendments. As a result, the House of Commons accepted some, if not all,

Senate changes to 29 out of 88 Government bills that became law in the 42nd Parliament.

Deeper scrutiny of bills has resulted in more robust interplay among the House of Commons, the Senate and the public service. For example, public officials have been instructed to include Senate considerations when drawing up advice to Cabinet on the creation of new legislation. Ministers have also given Senators more opportunities to question them on policy and departmental performance. Since February 2016, Ministers have regularly appeared at Senate Question Period to discuss their portfolios.

The record will show that in the 42nd Parliament, the Senate has not defeated any Government bills and has yielded to the House of Commons' decisions on Senate amendments. While the Senate proposed changes to legislation more frequently than before, it has been guided by the Supreme Court reference and deferred to the elected chamber. When reviewing legislation, Senators work to ascertain whether a bill:

- Complies with the Constitution of Canada, including the *Charter of Rights and Freedoms*, as well as the division of powers between Parliament and the provincial legislatures;
- Respects international agreements and treaties;
- Infringes on the rights and interests of vulnerable minority or economically disadvantaged groups;
- Significantly affects a particular region; and/or
- Contains any drafting errors.

The Senate's traditional defence of Charter values and minority groups guided Senators' work this Parliament in relation to Indigenous Peoples' rights and interests. For example, Senate debate and study prompted an amendment to Government legislation that secured the elimination of all historic gender discrimination in registration provisions from the *Indian Act*. The Senate also obtained major policy commitments and clarifications for Indigenous communities in relation to cannabis legalization, including constitutional decision-making authorities, fiscal frameworks, and the development of culturally and linguistically appropriate education materials.

The increased presence of Indigenous leaders in the Senate will help ensure that all future legislation receives scrutiny and contributions from Indigenous perspectives. This change will strengthen Canada's public policies and further reconciliation between Indigenous and non-Indigenous people.

An example of the Senate applying a regional lens was evident in Senate amendments to Bill C-49, legislation to modernize federal transportation policies. One amendment provided wider access to more competitive options for rail service. Another amendment allowed that soybeans produced in Western Canada receive the same treatment as the region's wheat, canola, lentils and many other agricultural products.

In the case of Bill C-29, budget implementation legislation, Senators — particularly from Quebec — raised concerns about a provision to provide uniform federal consumer protections in the banking sector across Canada. Senators argued that some provincial laws were more robust than the proposed new federal law. In response, Senator Harder

moved an amendment to remove the consumer protection provisions, noting that the Government would revisit the issue. Two years later, in the fall of 2018, the Government followed through on its promise to create a law embodying the principle of cooperative federalism in Bill C-86, also budget implementation legislation.

As noted above, these are but a few examples of the Senate's improvements to Government bills this Parliament. Other changes included:

- Enhancing legal protections against the revocation of Canadian citizenship;
- Contributing to comprehensive reforms to the criminal justice system, including bolstering Canada's response to intimate partner violence, in particular in cases involving Indigenous women;
- Banning the sale of menthol cigarettes in Canada;
- Strengthening RCMP members' freedom of association in collective bargaining;
- Protecting farmers' human-made waterways against undue restrictions from new fisheries laws;
- Ending shark-finning and the import of shark fins;
- Securing definitive timelines for the review of Bill C-14, legislation on medical assistance in dying;
- Contributing 99 amendments to Bill C-69, regarding impact assessments for development projects, including limits on executive discretion; and
- Bringing significant and wide-ranging changes to a bill to improve Canada's access-to-information laws.

During this Parliament, there were only three instances when the Government refused all Senate changes, and the Senate consistently accepted the will of the elected chamber.

Yet, it must be said that the transition to a more independent Senate is not without challenges. Conservative Senators, working within a partisan culture as part of the national Conservative caucus, have routinely and publicly advocated for the Senate to defeat election platform bills, including the middle-class tax cut (Bill C-2), budgetary bills, cannabis legalization (Bill C-45), and the formalization of a long-standing crude oil tanker moratorium on Canada's north Pacific coast (Bill C-48). However, they were unable to secure sufficient votes from independent and independent Liberal Senators to achieve their aims.

Unfortunately, partisan delay and obstruction of non-Government bills (in particular private Members' bills initiated by elected MPs and approved by the House of Commons) have remained issues during this session of Parliament. Known as the "pocket veto," the strategy aims to block votes on non-Government legislation until the Senate runs out of time at the end of a session. Three non-Government bills of particular note — Bill C-337, requiring judges to undergo sexual assault training; Bill C-262, ensuring Canada's laws are in harmony with the United Nations Declaration on the

Rights of Indigenous Peoples; and Bill S-228, restricting food and beverage advertising to children — did not come to a final vote as a result of an end-of-session filibuster.¹

Non-Government bills that do not make it to a vote (such as bills C-337, C-262 and S-228) tend to be those that would have sufficient support to pass, but are opposed by small but determined factions. The GRO believes that if Senators wish to defeat non-Government bills that have been passed by the elected House of Commons, they should have the courage to do so transparently by proceeding to a democratic vote. Doing away with the undemocratic “pocket veto” provides yet another sound rationale for continuing to move forward with a less partisan and more independent Senate that will give due consideration to all legislation passed by a majority of elected MPs.

Still, some groundbreaking legislation initiated by Senators, known as Senate public bills, did become law this session with support from the House of Commons. In many cases, the Government worked collaboratively with Senators to develop the legislation into its final form. These bills included legislation to end the captivity of whales, dolphins and porpoises for entertainment purposes; to impose liability for foreign human rights abuses (known as the Magnitsky law); and to recognize Charlottetown as the birthplace of Confederation. Furthermore, a Senate public bill to ban the chemical precursors to fentanyl spurred regulatory changes.

Increased independence has, on one hand, created an environment for a more activist Senate. However, it has also launched a conversation on how far an appointed Senate can go in its dialogue with the elected House of Commons. In this Parliament, the Senate has succeeded as an institution that reviews legislation emanating from the House of Commons without overreaching by defeating or altering the principle of a Government bill duly passed by the elected chamber.

In summary, compared to four years ago, the Senate is serving Canadians with a greater number of contributions to improve federal legislation and public policy, while staying faithful to its original constitutional role and thereby renewing public trust.

[Appendix II](#) has a complete list of Government bills that have become law this session, including details of all those adopted with Senate amendments.

¹ <https://nationalpost.com/news/politics/dozens-of-bills-including-on-sexual-assault-and-undrip-die-in-senate-amid-conservative-filibuster>
<https://www.cbc.ca/news/politics/rona-ambrose-sex-assault-undrip-1.5182877>
https://www.vice.com/en_ca/article/43jwei/bill-to-improve-how-judges-handle-sexual-assault-cases-is-being-held-up-by-the-senate
<https://www.theglobeandmail.com/politics/article-senators-working-to-block-bill-that-restricts-food-and-drink-ads-aimed/>

MORE RESPONSIBLE TO CANADIANS

A more accountable and more transparent institution

In June 2012, expenses of individual Senators came under scrutiny following the [audit](#) of Auditor General Michael Ferguson. The report recommended that the Senate Administration improve oversight of expenses. Public trust in the institution crumbled as the RCMP launched a criminal investigation and laid charges against three Senators, one of whom was acquitted while the other two saw charges dropped.

In the wake of these events, the Senate made significant changes to its rules, beginning in the last Parliamentary session and continuing in this one. The Senate strengthened its proactive disclosure of expenses to ensure that details of specific travel expenses, service contracts and hospitality, are posted quarterly on the Senate website. Additionally, Senators must now sign a declaration of residency and show proof by producing a provincial health card or driver's licence. The Senate also adopted a new [Ethics and Conflict of Interest Code for Senators](#) to enhance public confidence in the institution, to provide greater guidance for Senators surrounding potential conflicts, and to establish a transparent system to review conduct by the Senate Ethics Officer, an independent, non-partisan Officer of Parliament.

The code was tested when the Senate Ethics Officer began an investigation into former Senator Meredith's sexual relationship with a teenage girl. Following a comprehensive report, the Senate's Standing Committee on Ethics and Conflicts of Interest recommended that he be expelled from the Senate in May 2017. Senator Meredith resigned before the full Senate could vote on his expulsion, but the case demonstrated that expulsion is now included as a potential consequence for Senators who violate the code's standards and the public values they embody.

The code was further tested when Senator Beyak refused to remove racist letters targeting Indigenous persons from her website — resulting in her suspension in May 2019, for the duration of the 42nd Parliament. The Senate Ethics Officer's report found that five letters on her Senate website contained racist content, and further detailed that she refused three proposed remedial measures: removing the letters; apologizing; and completing a course in cultural sensitivity with an emphasis on Indigenous issues. Following the publication of the report, the Standing Committee on Ethics and Conflict of Interest for Senators made several recommendations, including the suspension of Senator Beyak, which was supported by the Senate. When Parliament returns in the next session, the Senate may consider options for further action.

A Senate subcommittee on human resources also undertook a review of the institution's workplace harassment policy. Senators, staff and members of the Senate Administration must now complete mandatory harassment prevention training.

The Senate has also started testing a more organized and accessible debating structure in the consideration of bills. This practice was used during the debate of Bill C-45, legislation to legalize and regulate cannabis. The final debate comprised daily themes with scheduled votes on proposed amendments. As well, leaders from all groups in the Senate eventually agreed to a final vote on a specific day, allowing Canadians to better follow proceedings on this major policy change. Building on this success, and to increase transparency and reduce procedural obstruction, Senator Harder has proposed the creation of a Senate business management committee. Such a committee would propose flexible debating and voting schedules for bills. Business committees exist in comparable foreign jurisdictions, such as Scotland and New Zealand, and the GRO views the creation of such a committee as a priority in the next Parliament.

With respect to communicating with the public, television has finally made its way to the Senate, allowing Canadians to experience sober second thought more directly.

Unfortunately, while some progress was made toward the establishment of an audit and oversight committee that would include external members, this project has not yet been completed. Consistent with these efforts, we recommend that an audit and oversight committee composed of Senators and external members be formed within the first three months of the next Parliament to assure the public that Senators are free from conflict of interest in monitoring their own expenses.

Despite work still to do, the Senate is more accountable and transparent to Canadians four years into the new model.

RECOMMENDATIONS

A path forward for the Senate

The renewal of a legislative body as large and complex as the Senate involves many challenges and the task is yet to be completed. With this in mind, the GRO finds the following:

DEMOCRATIC DEFERENCE

- 1) **The Senate has acted consistently with the spirit of the Salisbury Convention, developed in the United Kingdom, which stipulates that**

Sunlight is the best disinfectant

In his June 2015 report on Senate expenses, Auditor General Michael Ferguson offered up many recommendations, including that “the oversight of Senators’ expenses should be performed by a body ... the majority of whose membership, including its chair, is independent of the Senate.”

The GRO has publicly advocated for the creation of such an independent oversight body to address the institution’s credibility deficit by demonstrating that it welcomes the probing eye of the public and the scrutiny of outside experts. To this end, some progress was made toward the establishment of a new Senate audit and oversight committee.

The AG’s recommendations are crucial to the efforts to gain the trust of Canadians and we therefore recommend the creation of an audit and oversight committee as soon as practicable.

an appointed upper chamber should respect promises made during an election campaign by the eventual winner of the vote. The Senate has also acted consistently with the principle that the defeat of Government legislation shall be considered a rare last resort, only in the most extraordinary of circumstances, such as an egregious deprivation of basic rights and freedoms. We would encourage the Senate to continue to follow this custom in the next Parliament, whichever party next forms government.

BUSINESS COMMITTEE

- 2) While in the midst of transformational change, the Government has withstood procedural obstruction and shepherded its legislation through the Senate. However, we also acknowledge that the process of planning and scheduling the Senate's workload should become more transparent, inclusive and less partisan. Accordingly, we recommend that the Senate establish a business management committee to manage and streamline the parliamentary process and limit purely procedural obstruction intended to delay the Senate's work and decisions.**

INDEPENDENT OVERSIGHT OF EXPENSES

- 3) While the Senate made some progress towards the eventual establishment of an audit and oversight committee that would include external members, this project did not reach completion this session. Consistent with these efforts, we recommend that an audit and oversight committee composed of Senators and external members be formed within the first three months of the next Parliament to assure the public that Senators are free from conflict of interest in monitoring their own expenses.**

UPDATING GOVERNING LAW

- 4) The *Parliament of Canada Act* no longer reflects the new reality of the Senate, within which independent Senators form the majority. The statute remains framed along the strict lines of the party-based model present in the House of Commons of a Government caucus. We recommend that it be updated, notably by providing full rights to independent Senators and nonpartisan parliamentary groups in the Senate. We would also urge the Government to legislate the independent, arm's-length appointment process. We encourage the Senate to modify its rules to reflect the move to increased independence.**

REFORMING THE REVIEW OF NON-GOVERNMENT BILLS

- 5) **The Senate continues to exercise its “pocket veto” over non-Government bills, as it has consistently over the course of its history. We recommend that within the first year of the next Parliament, the Senate introduce changes to the rules that would limit the potential for this delay tactic.**

CONCLUSION

History shows that excessive partisanship and top-down control by the executive has too often hampered the appropriate discharge of the Senate’s true constitutional duty as an independent revising chamber, undermining its credibility. Senators are constitutionally expected to serve the interests of Canadians above all else, not those of political parties or the Prime Minister’s Office.

The track record of the Senate four years into the new model provides reason for genuine optimism about the future of the institution as a more independent body providing a complementary voice within a bicameral parliament. The new independent appointment process has created a new culture in the Senate and a more representative institution. Together with Government openness to Senate ideas, this change has delivered better policy results for Canadians.

The Senate has exercised robust complementarity by improving legislation and shifting Government policy in a wide range of areas that have frequently corresponded to the subject-matter expertise of individual Senators, while appropriately maintaining the institution’s customary practice of ultimately approving legislation that has been adopted by the elected chamber. With respect to the review of Government legislation, the renewed Senate has acted neither as a rubber stamp for the Government nor as a rival to the people’s elected representatives.

The accomplishments, observations and recommendations included in this report are by no means exhaustive. In the main though, we believe that many of the changes enacted so far, will endure, even as further reforms are made. Should the next government continue to appoint independent Senators, the scheduled reduction of partisan members over the next mandate, along with increased experience gained by independent Senators, will make it increasingly difficult for the reforms of the independent Senate to be rolled back. The reform’s legislative results are also likely to continue to improve, reinforcing the success to date.

The newly independent Senate is acting as an effective, complementary body of sober second thought to improve laws for Canadians.