



Bicameral Mixed-member Proportional Representation (BMP)

A submission to the Special Committee on Electoral Reform

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SUMMARY

This proposal, submitted to the Special Committee on Electoral Reform (“ERRE”), is for a uniquely Canadian and achievable Proportional Representation that incorporates the existing first-past-the-post system. We, like so many others, want every vote to count and want a Parliament that truly represents the will of Canadians, all Canadians. That is why we are submitting this brief that fulfills the ERRE’s mandate, and addresses both houses of Parliament.

What is BMP?

Bicameral Mixed-member Proportional (or “BMP”) brings something new to the table by broadening the scope beyond the voting system and tackling another seeming intractable Canadian political problem: the Senate. BMP reinvents the Senate by using it to bring proportionality to Parliament.

Given the importance of electoral reform, and Canadians’ discontent with the Senate, we encourage the ERRE to consider enhancing both houses of Parliament (thus “bicameral”). BMP solves these two issues with one reform.

How BMP works

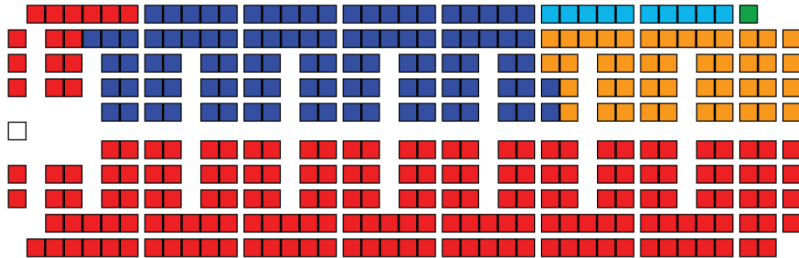
BMP is based on the Mixed-member Proportional system (or “MMP”) where a single legislature is created from a combination of “constituency seats” and “list seats”. Each constituency seat is represented by the winner of that constituency, or riding, from an election. After each constituency seat is determined, the remaining list seats are distributed to the parties that are underrepresented based on the popular vote. For example, if the Purple Party got 10% of the vote but only 5% of the constituency seats, they would be assigned enough list seats to make up 10% of the overall seats in the legislature.

Under BMP, the 338 constituency seats in the House of Commons are awarded to a single MP for each electoral district, just as they always have been. BMP “list” seats are designated within the Senate to the parties who are underrepresented in Parliament based on the popular vote

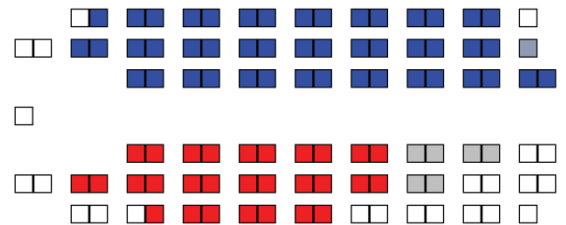


(principle 3 of ERRE's mandate: accessibility and inclusiveness).¹ This creates proportionality across both houses.

With BMP, Parliament goes from looking like this:²

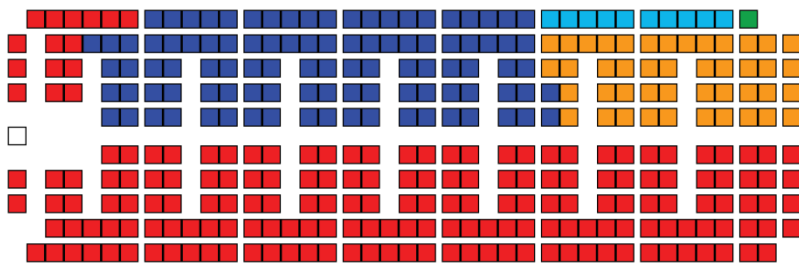


House of Commons

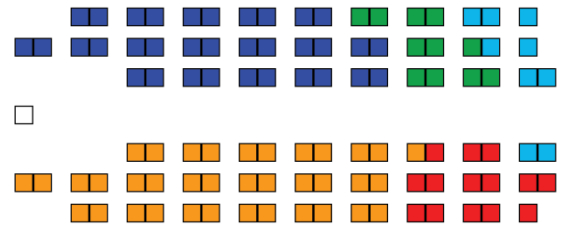


Senate

...to this:



House of Commons



Senate

BMP is an evolution of our trusted and traditional Westminster system. The big difference is that under BMP, the Senate is revitalised by speaking for the underrepresented. Canadians will gain an improved Parliament while keeping their familiar ballot.

Further, by using the Senate, BMP ensures that representation is proportional within the provinces and territories, as well as nationwide. This means that local minorities across Canada get their right to representation, be they NDP supporters in Western Canada or Conservative supporters in Atlantic Canada. With BMP, even though one house may be disproportional to the

¹ House of Commons, *Journals*, 42nd Parl., 1st Sess., No. 67 (7 June 2016).

² This is the seat distribution the day of the 2015 federal election; see Parliament of Canada, *Elections*, (Ottawa: Library of Parliament database, n.d.), online: Parliament of Canada <<http://www.lop.parl.gc.ca/ParlInfo/Compilations/ElectionsAndRidings/Elections.aspx?Menu=ElectionsRidings-Election&Language=E>> (last visited 5 October 2016) [*PARLINFO*].

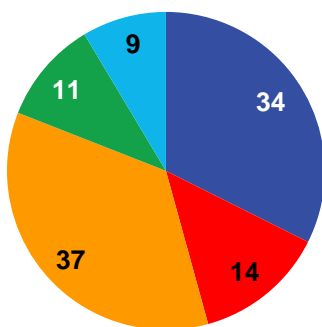
popular vote results of an election, proportionality is achieved throughout Parliament as a whole (principle 1: effectiveness and legitimacy).

WHY BMP?

Most other PR options before the ERRE, if not all, only address the House of Commons leaving half of Parliament still not representing the choices of Canadians. Many Canadians do not relate to the Senators that represent them.³ It is easy to see why. Not only can one party gain 100% of the power with fewer than half of the votes in Parliament's lower house, but Canadians have no influence in who represents them in the upper house. Every seat in Parliament under BMP is a reflection of Canadians' will (principle 2: engagement). BMP reaffirms the Senate's constitutional requirement to provide regional balance and representation on federal issues. It does all this without adding seats to Parliament or changing the voting method.

BMP also ensures greater stability than most other PR models. Under Canada's current responsible government system, the government must resign if it loses the confidence of the House of Commons. The odds of this occurring are higher if the House of Commons alone were elected using conventional PR. But there is nothing in the *Constitution*, nor is it a constitutional convention that the government must resign if it loses the confidence of the Senate. The worst that could happen is the Senate could refuse to pass House of Commons' Bills they feel need more work, and *vice versa*. But this is exactly what should happen within a government that

Composition of BMP Senate



represents various interests. To pass both the House and Senate, a Bill would normally have to satisfy more than one party, creating legislation that is more collaborative and reflective of Canadians' diverse perspectives (principle 4: integrity).

One of the many benefits of BMP is that voting can stay exactly the same. Canadians can make their choice on a single ballot when voting for a local MP (principle 5: local

³ "Two-in-three Canadians say the Senate is "too damaged" to ever earn their goodwill" (3 May 2016), online: Angus Reid Institute <<http://angusreid.org/senate-reform/>> (last visited 5 October 2016) [Angus Reid].



representation). With BMP, that same ballot lets Canadians choose all of their representatives, making every vote count.

How Would Senators be Selected?

Senate numbers are determined for each party deserving of additional representation in serving the goal of proportionality across the combined bicameral seat count for each province or territory. They could be selected from the best finishers in the election. Even independents finishing a strong second in their riding could, in theory, become Senators.

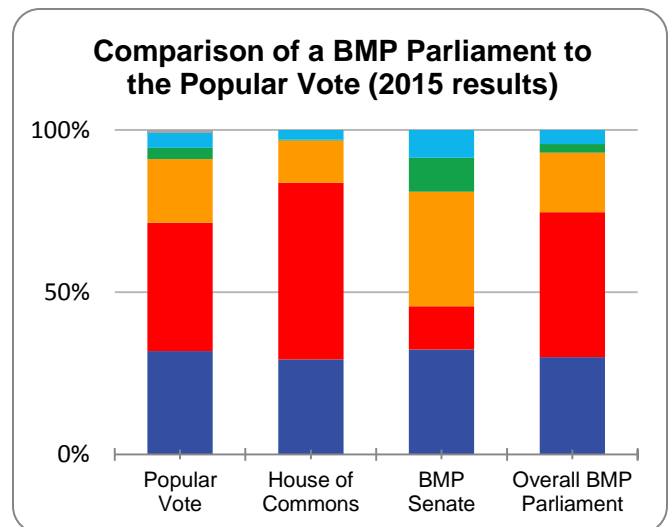
What about existing Senators?

Senators can agree to voluntarily resign when Parliament dissolves.⁴ However, the BMP system can still improve the balance of Parliament with as few as 20 open seats even if incumbents remain (see Appendix D).

Sober Second Thought

According to the Supreme Court of Canada, the framers of the *Constitution* intended Senators to have “security of tenure” giving them “independence in conducting legislative review.”⁵

While this may have been the framer’s original intent, a majority of Canadians no longer support this concept.⁶ Arguably, Senators from different parties with varying viewpoints could provide healthier legislative review. BMP enhances the Senate’s “sober second thought” with a shift from independence to accountability.




Is a Constitutional Amendment Required to Implement BMP?

The most effective way to implement BMP would be to amend or repeal sections 24, 29 and 32 of the *Constitution Act, 1867*. These amendments would have to be done under the 7/50

⁴ *Constitution Act, 1867* (U.K.), 30 & 31 Vict. c. 3, s. 30, reprinted in R.S.C. 1985, App. II, No. 5.

⁵ *Reference re Senate Reform*, 2014 SCC 32 at para. 79 [*Senate Reference*].

⁶ *Angus Reid*, *supra* note 3; Daniel Bitonti, “CTV Poll: 69% of Canadians don’t believe Senate is useful”, *CTV News* (1 January 2014) online: Bell Media <<http://www.ctvnews.ca/politics/ctv-poll-69-of-canadians-don-t-believe-senate-is-useful-1.1614680>>.



procedure (the approval of Parliament and seven provinces making up at least 50% of the population).⁷ There are a number of ways BMP could be implemented in the interim. For example, while constitutional negotiations are taking place a Prime Minister committed to BMP should put a freeze on appointments, and then undertake to fill all Senate vacancies as informed by BMP election results.⁸ This is a sample of how BMP can be implemented with flexibility.

We recognize any matter involving the *Constitution* can be difficult, but if better government is possible then we should strive for it.

CONCLUSION

Without any requirement to change the ballot, electoral districts, or the tenure of current Senators, BMP would be among the simplest available reforms. It will also produce strong and stable governments that are held in check by a Senate empowered with new relevance. Canadians will know that their vote will contribute to the composition of Parliament as a whole, reducing strategic voting and voter apathy.

The principle of BMP is to improve proportionality of the overall parliament, hence bicameral, relative to the vote. A BMP Senate would make a Parliament much closer to the popular vote.

Yes, BMP might require some constitutional amendments, but the *Constitution* is a “living tree” meant to change with “the realities of modern life.”⁹ What is ultimately needed is for different levels of governments to work together to give Canadians a representative democracy. BMP creates a Parliament that reflects Canadians’ interests with a made-in-Canada solution, and it can all be achieved with the same, simple ballot.

If you would like additional information, please see the Appendices and visit our website at www.bmp-bpm.ca.

⁷ *Senate Reference*, *supra* note 4 at paras. 71-85.

⁸ This type of scenario should be constitutional as per the *Senate Reference*, *supra* note 4 at paras. 50-67.

⁹ *Edwards v. Attorney-General for Canada*, [1930] A.C. 124 (P.C.), at p. 136; *Reference re Same-Sex Marriage*, [2004] 3 S.C.R. 698, 2004 SCC 79, at para. 22.



APPENDIX A

Methodology of Assigning Senate Seats

This appendix illustrates how a Bicameral Mixed-member Proportional (“BMP”) Senate could look using the 2015 federal election results.¹⁰ Actual results for 2019 and beyond will of course differ. The detailed mechanics of assigning Senate seats will be determined by experts in electoral systems. Since space is limited, we only show the final projected BMP Senate here. The complete analysis is available at www.bmp-bpm.ca.¹¹

Table A-1: 2015 Distribution of Seats in a Bicameral Mixed-member Proportional Senate

Party	NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	YT	NT	NU	Total
CPC	1	2	4	5	4	11	2			4	1			34
LPC	2	1	2				2	4	3					14
NDP	3	1	3	4	9	10	1	2	2			1	1	37
GPC			1	1	2	3	1		1	2				11
BQ					9									9
<i>Total</i>	<i>6</i>	<i>4</i>	<i>10</i>	<i>10</i>	<i>24</i>	<i>24</i>	<i>6</i>	<i>6</i>	<i>6</i>	<i>6</i>	<i>1</i>	<i>1</i>	<i>1</i>	<i>105</i>

You can see in the table above and the pie chart below that the Conservatives and New Democrats dominate the resulting Senate. The Liberals are the third party, which offsets their dominance in the Commons. The Greens, with low but nationwide support, earn 11 seats on top of the one earned outright in the Commons. The Bloc, with strong but concentrated support, earns 9 seats on top of 10 in the Commons.

¹⁰ *PARLINFO*, *supra* note 2.

¹¹ Our model uses the Largest Remainder Method to assign seats based on either Hare (Simple) or Droop quotas. It also allows a Threshold to be set for the smallest percentage of votes that will be considered in awarding seats.



Figure A-1: 2015 Composition of the BMP Senate by Party Affiliation

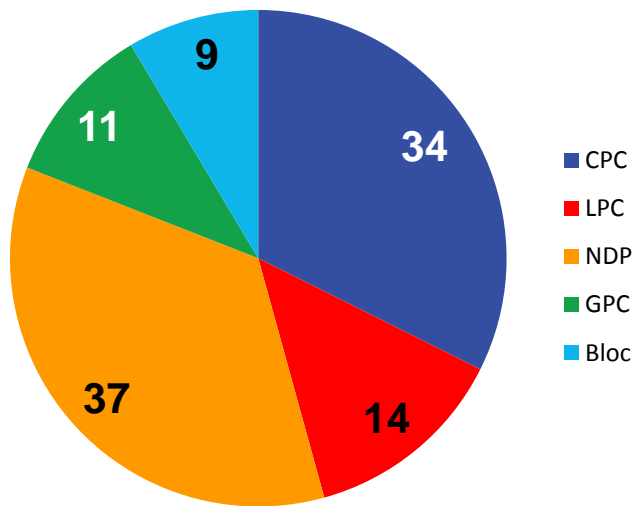
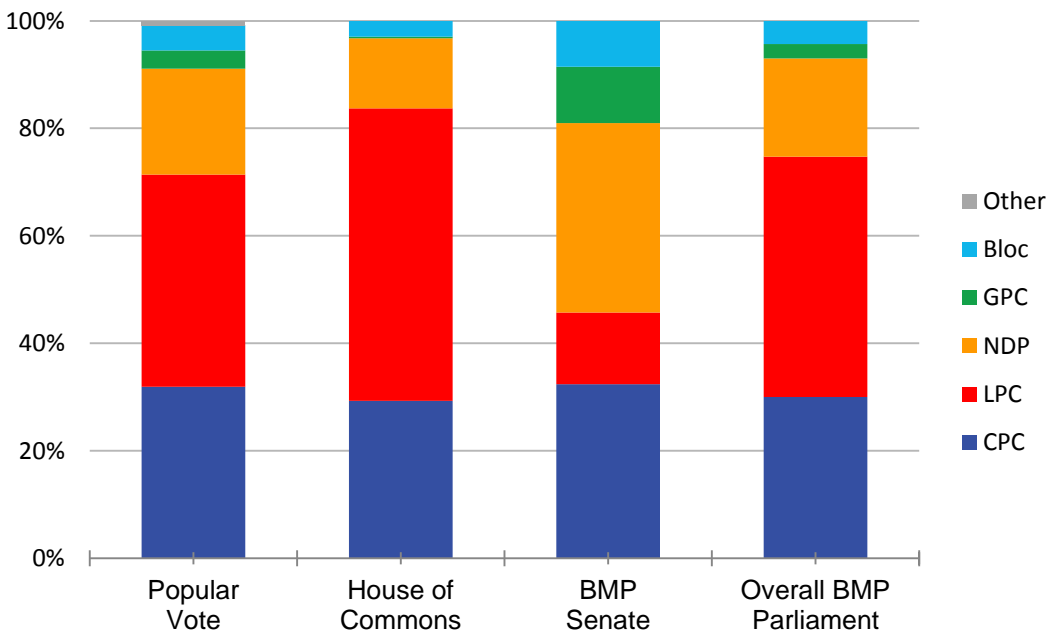


Figure A-2: Comparison of the Commons, Senate and Overall BMP Composition to the Electoral Vote





In striving for proportional representation, the vote is the standard of comparison. It is clear that the Liberals dominate the Commons, holding 54.4% of the seats on 39.5% of the vote. The BMP Senate is therefore weighted towards the parties that are underrepresented in the Commons. The resulting overall BMP Parliament (shown in the rightmost column) is much closer to the popular vote even though the Senate's 105 seats represent less than one-quarter of the total. Table A-2 confirms that BMP brings the parties' total seat count closer to the vote.

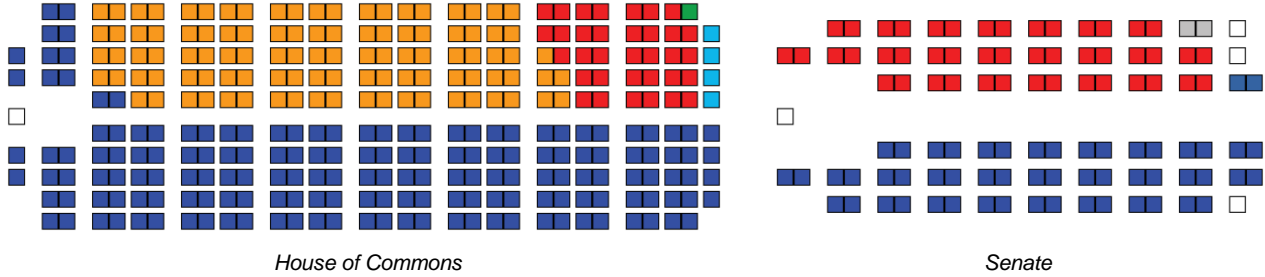
Table A-2: Comparison of BMP to the Electoral Vote

Party	Popular Vote	House of Commons	BMP Senate	Overall BMP Parliament
CPC	31.9%	29.3%	32.4%	30.0%
LPC	39.5%	54.4%	13.3%	44.7%
NDP	19.7%	13.0%	35.2%	18.3%
GPC	3.4%	0.3%	10.5%	2.7%
BQ	4.7%	3.0%	8.6%	4.3%
Other	0.8%	0.0%	0.0%	0.0%
	100.0%	100.0%	100.0%	100.0%



Appendix B BMP Model Results for Past Elections

Figure B-1: 2011 Actual Results:¹²



BMP Results:

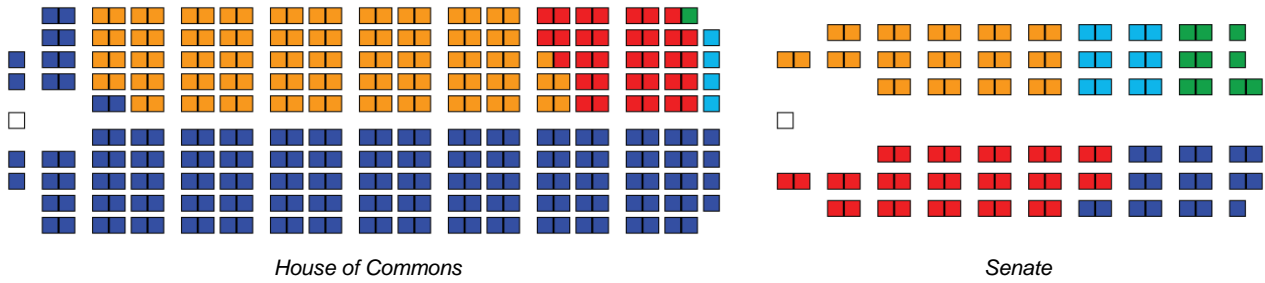
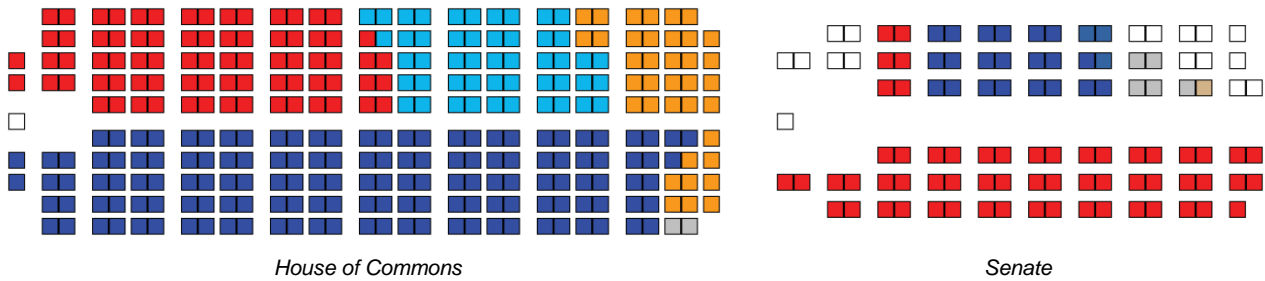
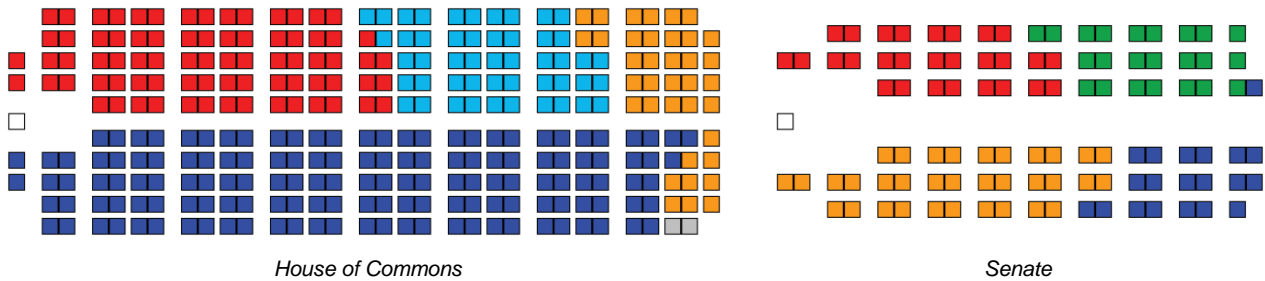


Figure B-2: 2008 Actual Results:¹³



BMP Results:



¹² PARLINFO, *supra* note 2.

¹³ *Ibid*, for more results visit www.bmp-bpm.ca.

APPENDIX C

Effect of BMP Parameters on Model Results

The simulations above incorporate several assumptions which can affect the outcome. As always, details matter. We have investigated the effects of quota (Hare and Droop) and threshold. For example, Table C-1 shows the results if a 3% threshold were imposed; i.e., a party would need 3% of the vote in a province or territory to be eligible for a BMP Senate seat. The change with respect to no threshold is shown in the rightmost column. Six seats change hands, shifting towards the larger parties as would be expected by imposing a threshold.

Table C-1: 2015 Distribution of Seats in a BMP Senate: 3% Threshold

Party	NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	YT	NT	NU	Total	Chg.
CPC	1	2	4	5	5	13	2			4	1			37	+3
LPC	2	1	2				2	4	4					15	+1
NDP	3	1	3	4	10	11	1	2	2			1	1	39	+2
GPC			1	1	0	0	1		0	2				5	-6
BQ					9									9	+0
<i>Total</i>	6	4	10	10	24	24	6	6	6	6	1	1	1	105	



APPENDIX D

Incumbent Senators in the BMP Model

The simulations above have assumed that all Senate seats can be awarded after every election. But what about incumbent senators? While the implementation of BMP could put substantial public and political pressure on sitting senators to resign, it will likely require a constitutional change to enforce it.

As of September 2016 there are 20 vacancies and 85 sitting senators including 41 Conservative, 21 Liberal and 23 Non-Affiliated.¹⁴ Most of the latter originally sat within party caucuses. The intent of BMP would be defeated by ignoring incumbents as it would be unfair to award additional seats to Conservatives and Liberals when they appointed sitting Senators. It is therefore fairest and most consistent to treat incumbent Senators by the affiliation of the Prime Minister on whose advice they were appointed.¹⁵ On that standard, there are 49 Conservatives and 36 Liberals.

BMP can be implemented by retaining these incumbents and counting them towards the respective provincial and territorial totals, thereby filling the 20 vacancies to achieve the best possible bicameral proportionality. It can be expected that such a BMP Senate will be less proportional than if all 105 Senate seats could be awarded.

Simulated BMP Results for 2015 Federal Election with 20 Vacancies

A re-simulation of the 2015 election results with the current Senators is shown in two stages below, beginning with the distribution of the 20 vacancies as of September 2016 in Table D-1.

¹⁴ *Ibid.*

¹⁵ For this exercise, Senators appointed by Progressive Conservative Prime Minister Brian Mulroney are considered Conservative.

Table D-1: Distribution of 20 Currently Vacant Seats in a BMP Senate (using 2015 results)

Party	NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	YT	NT	NU	Total
CPC						2								2
LPC														0
NDP		1	2	2	3	3	1							12
GPC						1	1			1				3
BQ					3									3
<i>Total</i>	0	1	2	2	6	6	2	0	0	1	0	0	0	20

The Conservatives, with 49 incumbents, still win 2 additional Senate seats under BMP due to underrepresentation in Ontario. The Liberals, with 36 incumbents and their majority in the Commons do not win any further seats. The majority of the seats go to the NDP, which reflects the mismatch between the vote and their Commons results. The final six seats are split evenly between the Greens and the Bloc Quebecois.

Combining the 85 incumbents with the 20 BMP Senators yields the complete BMP Senate. The results as compared to an empty Senate are also shown, from Table A-1 (repeated below in column A-1).

Table D-2: Distribution of Seats in a BMP Senate with Incumbents (using 2015 results)

Party	NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	YT	NT	NU	Total	A-1
CPC	4	1	4	5	11	12	2	4	3	3	1		1	51	34
LPC	2	2	4	3	7	8	2	2	3	2		1		36	14
NDP		1	2	2	3	3	1							12	37
GPC						1	1			1				3	11
BQ					3									3	9
<i>Total</i>	6	4	10	10	24	24	6	6	6	6	1	1	1	105	105

A BMP Senate with just 20 vacancies is clearly not very proportional, yet still an obvious improvement on the current *defacto* two-party Senate.



Simulated BMP Results for 2015 Federal Election with 39 Vacancies

By October 2019, for the next election, there will be an additional 19 vacancies, leaving 42 Conservatives and 24 Liberals. Repeating the exercise above would yield a BMP Senate as shown in Table D-3.

Table D-3: Distribution of Seats in a BMP Senate with Incumbents (using 2015 results)

Party	NL	PE	NS	NB	QC	ON	MB	SK	AB	BC	YT	NT	NU	Total	A-1
CPC	4	2	4	5	9	12	2	3	2	3	1		1	48	34
LPC	1	1	2	3	5	4	2	2	3	2				25	14
NDP	1	1	3	2	5	6	1	1	1			1		22	37
GPC			1		1	2	1			1				6	11
BQ					4									4	9
<i>Total</i>	6	4	10	10	24	24	6	6	6	6	1	1	1	105	105

A BMP Senate with 39 vacancies is still skewed by the incumbents, but is much more proportional. The chart below compares the proportion of the vote to that in the Commons, the Senate and the overall BMP Parliament. We can see that the overall BMP Parliament is still a better match to the vote than the Commons (although not as close as for an empty Senate - see Figure A-2).

Figure D-1: Comparison of the Commons, Senate (with 66 Incumbents in 2019) and Overall BMP Parliament to the Popular Vote

