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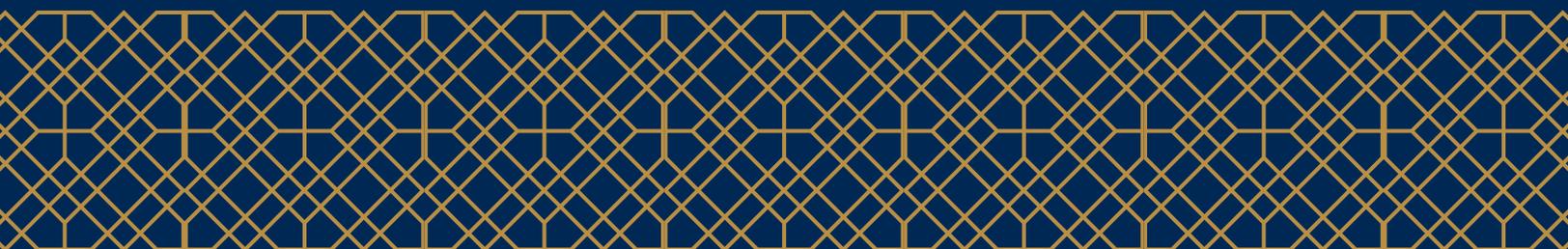


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Role of the Parliamentary Budget Officer

Recommendations to Amend the 2017
Budget Implementation Act

Spring 2017



About this Document

The Institute of Fiscal Studies and Democracy (IFSD) is a Canadian think-tank sitting at the nexus of public finance and state institutions. Fiscal ecosystems include governments, legislatures, the public administration and other key actors and institutions in our political and economic life. This ecosystem, rooted in hundreds of years of political history and economic development, is composed of an intertwined set of incentives, public and private information and a complex and sometimes opaque set of rules and processes based on constitutional law, legislative law, conventions and struggles for power. The actors within this system depend on one another as well as the robustness and transparency of information and processes, all underpinned by a society's standards of accountability. It is at this dynamic intersection of money and politics that the Institute of Fiscal Studies and Democracy @uOttawa aims to research, advise, engage and teach. The IFSD has been funded by the Province of Ontario to undertake applied research and student engagement in public finance and its intersection with public administration, politics and public policy. The IFSD undertakes its work in Canada at all levels of government as well as abroad, leveraging partnerships and key relationships with organizations such as the World Bank, OECD, IMF and US National Governors Association.

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Purpose

The purpose of this note is to provide recommendations to strengthen the legislation pertaining to the Parliamentary Budget Officer as set out in the proposed 2017 Federal Budget Implementation Act. The recommendations pertain to concerns of limiting the independence of the Officer, and restricting the mandate the Officer carries out for Parliament, as well as to weaknesses relating to what happens when the government and public service fail to provide information to the Officer as prescribed by the Act.

Context

Since the introduction of the Office of the Parliamentary Budget Officer (PBO) by the previous Conservative government in 2006, Parliamentarians and Canadians got to see the value of an independent fiscal institution (IFI) providing financial analysis to the Senate and to the House of Commons as they voted, debated, and held the government to account on how they sought to spend taxpayer funds. However, the then government also restricted the independence of the PBO by embedding it in the Library of Parliament, by limiting and then cutting its budget, and by denying the PBO the information it needed to do its job. Perhaps most important, the government and public service repeatedly challenged the very mandate of the PBO.

In its 2015 electoral platform, the now Liberal government promised to “make the Parliamentary Budget Officer truly independent” by addressing shortcomings in the previous government’s legislation (A New Plan for the Middle Class, p. 31). As part of the [Budget Implementation Act](#) (2017) (BIA)¹, the government tabled amendments to the Parliament of Canada Act (rather than enact a separate statute) to fulfil its platform commitments. **The government can be applauded for making a number of important improvements to the legislation, including making the PBO an Officer of Parliament independent of Library of Parliament, for increasing the tenure of the PBO to seven years (thereby extending it beyond the electoral cycle), for creating a role for the Senate and the House of Commons to select the Officer, and for raising the criteria for dismissal.**

However, when compared to the existing legislation (as defined in section 79.1 of the [Parliament of Canada Act](#)), to the internationally-accepted [OECD Principles for Independent Fiscal Institutions](#), and to legislation for other Officers of Parliament (e.g. Auditor General) as well as to legislation governing PBOs in other jurisdictions, the proposed legislation falls short of the government’s own commitment to make the PBO “truly independent” and, in many respects, can be seen as as step backwards from the existing legislation.

Since tabling the BIA, however, the federal government has signaled, through the media, that it is willing to make amendments to the proposed legislation. In this spirit, the Institute of Fiscal Studies and Democracy (IFSD) proposes key amendments to the proposed legislation in order to help the government fulfil its commitments to Canadians and to better comply with internationally accepted OECD guidelines, to which Canada is a signatory.

¹ The full title of the Budget Implementation Act is *Bill C-44: An Act to implement certain provisions of the budget tabled in Parliament on March 22, 2017 and other measures.*

Analysis

Parliamentarians have two fundamental responsibilities when it comes to fiscal scrutiny: 1) *ex-ante* (i.e. before they vote on bills) due-diligence on government proposals for spending and taxation as laid out in legislation related to the Budget and Supply (of spending authorities for departments and agencies) and 2) *ex-post* (i.e. audit or after the fact) analysis of how government managed public money. The PBO supports Parliamentarians in the first function and the Auditor General (AG), in the second.

Fiscal scrutiny across the two responsibilities happens throughout a full-year financial cycle, which includes: 1) the budget (including the Budget Implementation Act and the Ways and Means Motions); 2) the Estimates (including Main Estimates, Supplementary Estimates, the Departmental Reports on Plans and Priorities (RPP), and the Departmental Performance Reports (DPR)); and 3) the previous year's Public Accounts (including the Public Accounts of Canada, the Consolidated Financial Statements of the Government of Canada, and the Report of the AG).

However, the processes by which a government collects and spends money are often quite out of sync with the way parliamentarians debate, deliberate, and vote. Readers should consider that Parliamentarians receive the Public Accounts some 200 days after the close of the fiscal year. This means that they are required to vote on the following year's Main Estimates before having scrutinized the previous year's Public Accounts. That's equivalent to a household making a budget and preparing to spend for 2017-2018 before closing the books on 2016-2017.

As part of the financial cycle, Parliamentarians are required to examine nearly \$300 billion in annual spending, \$100 billion in tax expenditures, as well as spending for new budget measures (for the next fiscal year), while monitoring the \$2 trillion economy and managing their constituency and party responsibilities. To best serve Parliamentarians (and Canadians), a PBO should produce independent, non-partisan analysis to support Parliamentarians as they fulfil their fundamental role as guardians of the public purse. **It would be a fundamental mistake to undermine Parliament's ability to fulfil its Magna Carta (1215) obligations by holding the executive to account by weakening an office like the PBO at the service of the legislature.**

The table annexed to this report compares and contrasts the proposed legislation with the existing legislation, OECD guidelines, legislation from other Canadian Officers of Parliament, and other PBOs around the world.

Based on this analysis, the IFSD concludes that [the proposed legislation](#) is diminished by:

1. A constrained mandate—when compared to the existing legislation—that is now largely premised on reacting to government reports rather than undertaking proactive analysis (section 79.2 (1)); and severely limits the ability of individual parliamentarians to request cost estimates (section 79.2 (1) (e) and (f)); as well as renders ambiguous the PBO's self-initiated work on government Estimates (section 79.2 (1) (d)).
2. Risks to the independence of the PBO by requiring that the Speaker of the Senate and the Speaker of the House of Commons approve its annual work plan (section 79.14 (2)).
3. Restrictions to the timely publication of PBO analysis by requiring that it be submitted while Parliament is in session (section 79.2 (2)).

The following gaps in the legislation were missed opportunities for improvement:

1. No mention of qualifications for the position of Parliamentary Budget Officer, i.e. expertise and experience in federal budgeting, financial and economic analysis, etc.
2. Absence of any meaningful recourse for denied requests for information.
3. Lack of requirement for independent external evaluation of the PBO.

The IFSD recommends the following amendments to the proposed legislation that are aligned to the OECD's Principles for Independent Fiscal Institutions and are consistent with legislation and practices of other Officers of Parliament.

Please refer to the table in Annex 1 organized based on the OECD Principles for further detail on the guidelines and for additional analysis on the amendments.

Legislation reflecting these proposed amendments can be found in Annex 2.

I. Mandate

The mandate of a PBO should be defined in legislation and, based on that mandate, the Office should autonomously determine its work plan. Requiring approval of its work plan by the Speakers, other political actors, or civil servants, undermines the ability of the PBO to undertake proactive, objective analysis and risks political or other interference or the perception of interference in the delivery of its analysis.

It is recommended that the mandate of the PBO be to provide independent (including self-initiated) analysis on the economy and the nation's finances, analysis of the Estimates of the government, as well as costing requests (originating from Parliamentarians) from the Senate and House of Commons to enable Parliamentarians to debate, deliberate, and vote on an informed basis on the financial matters before them.

II. Independence and Non-partisanship

The PBO should be appointed based on technical competency and merit. International assessments, including an [evaluation](#) and [research](#) by members of the IFSD, indicate that the leadership of the PBO is a key determinant of the success of the office for both the credibility of its analysis and its ability to attract and retain competent staff.

It is recommended that the legislation require that the appointee for the position of Parliamentary Budget Officer be an expert with experience in federal budgeting and fiscal and economic analysis.

III. Resources

A PBO's resources should enable it to fulfil its mandate. Compared to peer PBOs that have similar mandates, Canada's PBO is under-resourced, both financially and in terms of human resources.

Resources (cont'd)

It is recommended that the PBO budget be commensurate with the scope and breadth of its mandate, using peer organizations from international jurisdictions with similar functions and mandates as benchmarks.

IV. Relationship with the Legislature

A PBO should be accountable to the legislature and provide its members with timely and relevant analysis. Restricting the ability of a PBO to freely publish its analysis by requiring that it report through Speakers or other political actors, non-elected administrators in the Parliamentary apparatus, or civil servants can politicize or risks the perception of politicizing the Office's reporting.

It is recommended that the legislation enable the PBO to table and publish its analysis publicly and free from intermediaries by reporting directly to Parliament to ensure that it contributes in a timely and relevant fashion to parliamentary debate and public discourse.

V. Access to Information

To reduce the asymmetry in information between the executive and legislative branches, a PBO should have access to information related to the execution of its mandate defined in legislation and obtained at no cost. It should be incumbent upon the PBO to justify its request for information. Should a request be denied, the PBO should have recourse in protection and defense of its mandate and obligations to Parliament.

It is recommended that legislatively defined mechanisms for access to information and recourse (should access be denied), be included in the proposed PBO legislation, with recourse to the Federal Court of Canada being chief among these mechanisms.

VI. Transparency

To protect its mandate and gain credibility, a PBO should publish all its work and information on its operations. Elected officials, civil servants, and parliamentary administrators should not have the ability to review and amend reports prior to publication or influence the timing of release of the publications. Any real or perceived interference by these actors violates the independence of the Office.

It is recommended that the legislation enable the PBO to table and publish its analysis as it is produced to ensure it contributes in a timely and relevant fashion to parliamentary debate and public discourse (regardless of whether or not Parliament is sitting).

VII. External Evaluation

A PBO should regularly assess its work and operations through internal and external evaluations, to improve the Office's ability to discharge its mandate and ensure the quality of its analysis and the suitability of its resources.

External Evaluation (cont'd)

It is recommended that the legislation require both regular internal reviews (e.g. peer review of products) and independent external reviews (every five years) of the PBO's context, input, outputs and outcomes.

LEGEND
Level of Alignment with OECD Principles

	No alignment
	Little alignment
	Some alignment
	Mostly aligned
	Fully aligned

Annex 1: PBO Legislation Table

This table is also available [here](#) as an Excel workbook.

OECD Principles	Description	Existing Legislation	Existing legislation's fulfillment of guidelines	Proposed Legislation	Potential of proposed legislation to fulfill guidelines	Analysis	Recommendation
Independence and non-partisanship	<ul style="list-style-type: none"> Independent Fiscal Institution (IFI) must be free of political influence; its work must be objective. Head of the IFI should be selected based on merit and technical competence, without reference to political affiliation. Professional standing, experience in government and/or academia, competence in economics and public finance, as well as familiarity with the budget process are critical. IFI leadership should be free to hire and dismiss staff in accordance with labour laws. 	<ul style="list-style-type: none"> In existing legislation, the PBO is appointed by the Governor in Council based on the recommendations of a committee led by the Parliamentary Librarian (see section 79.1 (3)). The nature of this appointment may limit the willingness of a PBO to 'speak truth to power, without fear of retribution or dismissal from the Governor in Council, i.e. Prime Minister. The Librarian may also be seen to impinge on the independence of the PBO through administrative measures (e.g. cutting the PBO's budget). Current legislation has no requirement that the PBO be an expert in budgetary and fiscal analysis. 		<ul style="list-style-type: none"> Proposed legislation makes the PBO an independent Officer of Parliament, that reports to the Speaker of the Senate and the Speaker of the House of Commons. While there are some consistencies with the arrangements for other Officers of Parliament, there are important differences. The other Officers of Parliament do not have legislation contained in the Parliament of Canada Act, and the AG for instance, reports to Parliament rather than to the Speakers. The PBO is appointed by the Governor-in-Council (i.e. Prime Minister) with approval by resolution of the Senate and the House of Commons, following consultation with caucus leaders in the Senate and leaders of all recognized parties in the House of Commons (section 79.1 (1)). The PBO's remuneration and expenses are fixed by the Governor-in-Council (i.e. the Prime Minister) (section 79.1(5)). 		<p>The success of the IFI is inextricably linked to its leadership. Lessons from evaluations in other jurisdictions, such as the United Kingdom, confirm the importance of leadership for stakeholder confidence in and success of the IFI. Failure to select and appoint a competent and qualified head risks the credibility of the office's analysis and its ability to attract and recruit qualified staff. It is not explicit from the proposed Canadian legislation that recommendation for the head of the PBO from Parliamentarians is binding on the Prime Minister, nor does the recommendation need to reflect a consensus among political parties, meaning that the government can still select their preferred appointee. Other Officers of Parliament such as the Auditor General and the Chief Electoral Officer have their position classification stated in legislation as equivalent to Supreme Court and Federal Court justices respectively.</p>	<p>1.0 It is recommended that the legislation require that the appointee for the position of Parliamentary Budget Officer be an expert in federal budgeting and fiscal and economic analysis.</p> <p>Suggested text might read as follows: The Parliamentary Budget Officer shall be selected on the basis of merit and technical competence, without reference to political affiliation. In order to be appointed under the relevant subsection, a person must, at the time of his or her appointment,</p> <p>a. have demonstrated expertise and experience in federal budgeting as well as competency in financial and economic analysis across the financial cycle of the Government of Canada; and</p> <p>b. have an appropriate educational background, including a graduate degree in economics, finance or accounting or a related field.</p> <p>1.1 The PBO's remuneration, should be equivalent to a DM-1 salary of the federal public service. This salary would be commensurate to the mandate, the scope of duties.</p> <p>1.2 Parliamentarians may wish to amend the legislation to ensure that the appointee enjoys the consensus of all recognized political parties in the House of Commons and the Senate.</p>
Local ownership	<ul style="list-style-type: none"> IFI should be informed by the country's legal foundations, fiscal framework, political system, and culture. IFT's functions, structure, and mandate should reflect these characteristics. 	<ul style="list-style-type: none"> In a Westminster parliament like Canada's, there is a significant asymmetry of information between the executive and legislative branches which provides an important opportunity for a PBO to support transparency and informed legislative approval (or refusal) in fiscal and economic matters. Current PBO legislation is rudimentary. Bolstered legislation to improve the PBO's timely access to information, to support its independence, and to ensure the appropriateness of its leadership are needed. 		<ul style="list-style-type: none"> The proposed legislation positively defines the purpose of the PBO to: "provide for an independent and non-partisan Parliamentary Budget Officer to support Parliament by providing analysis, including analysis of macro-economic and fiscal policy, for the purposes of raising the quality of parliamentary debate and promoting greater budget transparency and accountability." (79.01). While the balance of the legislation clarifies the structure of the PBO, there are restrictions to its independence by limiting its ability to undertake work proactively and to report on its analysis as it develops. This structure can hamper the PBO's ability to produce the timely and relevant analysis defined in its purpose. 		<p>New legislation reinforces and clarifies the role of the PBO as a servant of Parliament, to operate in a manner similar to other officers of parliament. However, the proposed legislation also restricts the PBO's reporting and analysis by requiring it to table reports only when Parliament is sitting and requires that it produce a work plan for approval by the Speakers.</p>	<p>No recommendation for legislative amendment (please refer to "Mandate" below).</p>

OECD Principles	Description	Existing Legislation	Existing legislation's fulfillment of guidelines	Proposed Legislation	Potential of proposed legislation to fulfill guidelines	Analysis	Recommendation
Mandate	<ul style="list-style-type: none"> IFI should be defined in legislation that includes its mandate, i.e. the production and types of analysis and reports it will produce, who can request the reports and analysis, as well as timelines for release (if appropriate). IFI should autonomously determine the reports and analysis it will produce as well as its own work program (within the scope of its mandate). 	<ul style="list-style-type: none"> Current legislation defines the mandate of the PBO. In practice, the PBO determines what it will produce based on its mandate, as well as from requests from Parliamentary committees and individual Parliamentarians. The PBO is mandated to provide: 1) fiscal analysis; 2) economic analysis; 3) costings of government proposals; and 4) analysis of the estimates (see section 79.2). The PBO is also mandated to undertake research and analysis at the request of the following committees: Standing Committee on National Finance of the Senate; Standing Committee on Finance of the House of Commons; Standing Committee on Public Accounts of the House of Commons, as well as individual Parliamentarians (see section 79.2). 		<ul style="list-style-type: none"> New legislation appears to preserve three of the four aspects of the PBO's mandate. However, the previously permitted self-initiated work would now rank well below the mandated analysis premised on reacting to government reports. Analysis would have to be pre-planned and included in the annual work plan (for approval by the Speakers), which is in and of itself a new requirement. The PBO's ability to undertake costings at the request of individual Parliamentarians is restricted to those that they have or may be making before Parliament (see section 79.2 for mandate details). The PBO is required to submit an annual work plan to the Speaker of the Senate and the Speaker of the House of Commons for approval. The PBO's right to undertake proactive research is in question. The PBO is now mandated to undertake the costing of political platforms prior to a federal election, which is an expansion of its existing mandate. 		<p>The mandate in the current legislation is comparatively better than the superfluous and restrictive mandate in the proposed legislation. The costing of proposals is severely curtailed, and three aspects of the existing PBO mandate, including analysis on the national economy, the state of the nation's finances and Estimates, are obscured. Within this framework, previous costing reports such as the cost estimate of the F-35 Joint Strike Fighter and Truth in Sentencing Act, among others would not have been undertaken. The scope of the PBO's mandate is further constrained in the proposed legislation with the requirement to submit an annual plan for approval by the Speaker of the Senate and the Speaker of the House of Commons. There are other jurisdictions, such as Australia's PBO that are required to produce a work plan, aligned to resource allocations. The plan, however, is only required to be made public and is not submitted for approval (see section 64Q, https://www.legislation.gov.au/Details/C2011A00170).</p> <p>Requiring that the PBO's work plan be approved by the Speaker of the Senate and the Speaker of the House of Commons, who are political actors, limits the ability of the PBO to undertake proactive work delivered in a relevant timeframe that was not foreseen based on emerging developments in the Canadian economy and national finances (e.g. 2008 recession).</p>	<p>2.0 It is recommended that the proposed legislation include the following preamble: The Parliamentary Budget Officer is mandated to provide independent financial and economic analysis to the Senate and House of Commons to enable parliamentarians to vote on an informed basis, to support their debate and deliberation, and to undertake fiscal scrutiny to hold the government to account.</p> <p>2.1 It is recommended that the mandate of the PBO revert to the breadth and simpler language of the current legislation, including that:</p> <p>a. The PBO may undertake self-initiated work on the economy, state of the nation's finances and the Estimates of the government;</p> <p>b. The costing requests originating by Members of Parliament (MP) and Senators be subject to the scope of the existing legislation;</p> <p>c. The PBO produce a publicly available work plan, reserving the right to update and amend it based on changes in the Canadian economy and the state of the nation's finances, as well as requests from committees and individual Parliamentarians within the mandate of the PBO;</p> <p>d. As in the legislation for the Ontario Financial Accountability Officer (FAO), the PBO reserves the right to balance the needs of committees and individual Parliamentarians by refusing to undertake certain work, if necessary.</p>
Resources	<ul style="list-style-type: none"> IFI funding should be commensurate to its mandate and should enable the office to credibly fulfill its functions, including staff remuneration. Budgets should be published and treated in the same way as those of audit or other independent offices to ensure independence. Guaranteed multi-year funding can help to insulate the office from political pressure and interference. 	<ul style="list-style-type: none"> The PBO does not have a line item in appropriations bills. The PBO's budget is currently included as a line item in the appropriation for the Library of Parliament. The PBO's funding is renewed annually. The PBO's budget has been reduced in the past—it was restored only after public and Parliamentary outcry. 		<ul style="list-style-type: none"> There is no precise budgetary increase prescribed by the new legislation. The PBO will now have a separate appropriation and will submit an operating plan each year to the Speakers. 		<p>It is a positive and important development for the independence of the PBO to have its budget defined as a separate line item in appropriations. On resources, however, IMF and other comparative analysis suggest that Canada's PBO is significantly under-resourced compared to similarly mandated offices that also undertake fiscal and economic forecasts, estimates assessments and costings. The Canadian PBO has fewer financial and human resources than peer organizations in the Netherlands, South Korea and the United States that undertake similar work. There are also instances where funding levels change to meet demands, like in Australia's PBO, which has guaranteed funding with the potential for increases during election periods to meet supplementary demands on their work.</p>	<p>3.0 It is recommended that the PBO budget be commensurate with the scope and breadth of its mandate, using peer organizations from international jurisdictions with similar functions and mandates as benchmarks.</p>
Relationship with the legislature	<ul style="list-style-type: none"> IFI should be accountable to the legislature. IFI's reports should be submitted to Parliament in a timely fashion in order to contribute to relevant debates. IFI leadership or senior staff should appear before budget or equivalent committees to answer questions. IFI's budget should be scrutinized by Parliament. Parliament's budget committee (or equivalent) should have a role in IFI appointment or dismissal. Legislation should define requests for analysis to the IFI from budget or equivalent committees, individual members, and other committees. For IFIs under the jurisdiction of the legislature, requests from committees or sub-committees are preferred rather than those from individual members and political parties. 	<ul style="list-style-type: none"> Based on existing legislation, Canada's PBO is legally a creature of the Library of Parliament (see section 79.1) at the service of Parliament, i.e. the PBO is accountable to Parliament for its reporting (through committees (see section 79.2)), while being administratively accountable to the Library of Parliament for its operations and funding. 		<ul style="list-style-type: none"> New legislation makes the PBO both functionally and administratively accountable to the legislature, i.e. the Speaker of the Senate and the Speaker of the House of Commons are responsible for administrative control of the Office (79.12). The PBO is now subject to tabling procedures which restrict the flexibility of open publishing that it previously enjoyed, undermining the timeliness of publications (79.2 (2)). 		<p>The PBO is now subject to tabling procedures which could require it to publish only when Parliament is sitting. This may restrict the flexibility of open publishing that the PBO previously enjoyed and is necessary, in order to maintain the relevance and currency of its analysis (e.g. reports produced during summer recess like the Fiscal Sustainability reports, Expenditure Monitor, Performance reporting on Budget 2012 cuts, 2015 Updated Pre-Budget Fiscal Outlook, etc.).</p> <p>Parliamentarians may wish to clarify in the legislation the approximate timing and tabling of regular PBO reports (e.g. forecasts, fiscal updates, etc.) while guaranteeing the free publication of other reports and analysis produced at the request of Parliamentarians and committees. Reporting through the Speakers and being administratively accountable to them, risks politicizing the mandate and functions of the PBO.</p>	<p>4.0 It is recommended that the legislation enable the PBO to table and publish its analysis publicly and free from intermediaries by reporting directly to Parliament to ensure that it contributes in a timely and relevant fashion to parliamentary debate and public discourse.</p>

OECD Principles	Description	Existing Legislation	Existing legislation's fulfillment of guidelines	Proposed Legislation	Potential of proposed legislation to fulfill guidelines	Analysis	Recommendation
Access to information	<ul style="list-style-type: none"> There is asymmetry between a government's and an IFI's access to information. The IFI should, therefore, have access to information (such as methodology and assumptions underlying the budget and other fiscal proposals) guaranteed in legislation and reaffirmed through memoranda of understanding or protocols. Such information should come at no cost. The IFI should be resourced to pay for government actuarial services, if appropriate. Restrictions in access to information should be defined in legislation. Protection of privacy for some data (e.g. taxpayer data) and of sensitive information (e.g. national defence, security), are appropriate. 	<ul style="list-style-type: none"> Current legislation (see section 79.3 (1)) contains an access to information guarantee (see section 79.3 (2) for exclusions). In practice, however, this guarantee is not always upheld and can be easy to dismiss. 		<ul style="list-style-type: none"> The PBO will get access to information from Crown and other agencies not previously covered by the PBO's information access rights (section 79.4 (1)). 		<p>While the new rights of access are slightly more expansive, there are no materially significant consequences for refusing, restricting, or frustrating requests for information.</p> <p>There are various OECD IFIs, e.g. PBOs, that have guaranteed access to information through their founding legislation (e.g. South Korea, Slovak Republic, Slovenia). In other cases such as that of Australia, a memorandum of understanding (MOU) to produce data can compel the release of the information based on an agreement. Although it is not a legally defined right, the MOU can help an IFI build its case to access data. Such provisions provide the IFIs with a recourse mechanism if ever their access to data is threatened.</p>	5.0 It is recommended that legislatively defined mechanisms for access to information and recourse (should access be denied), be included in the proposed PBO legislation, with recourse to the Federal Court of Canada being chief among these mechanisms.
Transparency	<ul style="list-style-type: none"> Given the nature of its mandate, an IFI gains credibility and protects its independence by publishing all of its work and information on its operations. IFI reports and analysis, including methodologies and underlying data, should be freely available to all. IFI leadership should be free to testify and appear before committees. Reports and analysis should be delivered to Parliament in a timely fashion and relevant for debates. Release dates of major reports and analysis should be established and should be coordinated with the release of relevant government reports and analysis. IFIs should release their work in their own name. 	<ul style="list-style-type: none"> Report release protocol is not included in the existing legislation. In practice, the PBO publishes information on its operations and makes all its work available to the public via its website. The OECD guidelines favour direct reporting to Parliament via relevant committees and to all other public. 		<ul style="list-style-type: none"> Given that the PBO is to provide analysis that is timely and relevant as well as, typically, in-year in nature, any restrictions on tabling may reduce the effectiveness of the Office. There will now be specific tabling windows for reports, only when Parliament is sitting (section 79.2 (2)). The legislation does not and should not provide any opportunity for civil servants to review products prior to their release to parliamentarians and Canadians. 		<p>The proposed legislation reduces and limits the declared purpose of the PBO (to raise the quality of parliamentary debate and promote budget transparency and accountability) by restricting its ability to publish its analysis as it arises.</p> <p>Canada's Auditor General has no restrictions on the topics or timing of its reporting, as stated in the Auditor General Act: "The Auditor General is the auditor of the accounts of Canada, including those relating to the Consolidated Revenue Fund and as such shall make such examinations and inquiries as he considers necessary to enable him to report as required by this Act."</p> <p>The proposed legislation for the PBO would reduce the Office's ability to undertake proactive research (that arises based on changes to Canada's economy and fiscal state) and would have its ability to report on these findings restricted to times when Parliament is sitting. As an Officer of Parliament concerned with ex-ante due-diligence – a fundamental responsibility of parliamentarians dating back to the Magna Carta – the PBO should have the same capacity to produce and report on its analysis as the Auditor General, concerned with ex-post</p>	6.0 It is recommended that the legislation enable the PBO to table and publish its analysis as it is produced to ensure it contributes in a timely and relevant fashion to parliamentary debate and public discourse (regardless of whether or not Parliament is sitting).
Communications	<ul style="list-style-type: none"> IFI's ability to promote transparency is linked to the uptake and use of its work by media, civil society, and other stakeholders, as these groups can hold the government to account. 	<ul style="list-style-type: none"> The PBO's stakeholders and its relationships with them are not explicitly defined in legislation. The PBO's primary stakeholders are Parliamentarians, given the reporting relationship and capacity to produce analysis and reports at their request (or at the request of committees). It is the task of PBO leadership and its senior staff to develop and sustain relationships with stakeholders for report and analysis dissemination, to provide briefings, and to answer their questions. 		<ul style="list-style-type: none"> New legislation does not provide further guidance on the PBO's stakeholders or its communications with them. 		<p>The IMF considers it a good practice for IFIs to emphasize the importance of using the media as an extension of the IFI's capacity to warn the public and stakeholders as well as to inform them. Media uptake and reporting of the PBO's work is also an indicator of its effectiveness in communicating with the public and can be leveraged by the PBO as an evaluation tool.</p>	No recommendation for legislative amendment. It is recommended that the PBO continue to follow OECD guidelines and other internationally recognized best-practices, such as those detailed by the IMF.

OECD Principles	Description	Existing Legislation	Existing legislation's fulfillment of guidelines	Proposed Legislation	Potential of proposed legislation to fulfill guidelines	Analysis	Recommendation
External evaluation	<ul style="list-style-type: none"> • IFI should regularly evaluate its work and practices, e.g. annual evaluation on the quality of its analysis, review of specific reports, permanent advisory panel/advisory board, and peer review by another country's IFI. 	<ul style="list-style-type: none"> • There is no provision in current legislation for an annual external review or any other form of review. • It is a PBO practice to have peer reviewers for reports and analysis. 	○	<ul style="list-style-type: none"> • New legislation does not require any form of review. 	○	<p>Evaluation is an accountability mechanism to ensure an effective, transparent and non-partisan PBO. Independent external evaluation (every five years, for instance), can assess the reasonableness of its financial and human resources (inputs), the credibility and soundness of its analysis (outputs), and its effectiveness in enhancing parliamentary and public debate (outcomes). Real-time evaluation, such as peer-review, can also support the PBO's discharge of its mandate and enhance stakeholder perceptions of quality and impartiality.</p>	<p>7.0 It is recommended that the legislation require both regular internal reviews (e.g. peer review of products) and independent external reviews (every five years) of the PBO's context, input, outputs and outcomes, pursuant to OECD guidelines.</p>

Annex 2: Proposed Amendments to BIA

Purpose

79.01 Sections 79.1 to 79.5 provide for an independent and non-partisan Parliamentary Budget Officer mandated to provide independent financial and economic analysis to the Senate and House of Commons to enable parliamentarians to vote on an informed basis, to support their debate and deliberations and to undertake fiscal scrutiny to hold the government to account

Appointment

79.1 (1) The Governor in Council shall, by commission under the Great Seal, appoint a Parliamentary Budget Officer after consultation with the following persons and after approval of the appointment by resolution of the Senate and House of Commons:

(a) the persons referred to in paragraphs **62(a)** and **(b)** and the leader of every caucus and of every recognized group in the Senate; and

(b) the leader of every recognized party in the House of Commons.

79.1 (2) The Parliamentary Budget Officer shall be selected on the basis of merit and technical competence, without reference to political affiliation. In order to be appointed under the relevant subsection, a person must, at the time of his or her appointment,

(a) have demonstrated expertise and experience in federal budgeting as well as competency in financial and economic analysis across the financial cycle of the Government of Canada; and

(b) have an appropriate educational background, including a graduate degree in economics, finance or accounting or a related field.

Tenure

(2) The Parliamentary Budget Officer holds office during good behaviour for a term of seven years but may be removed for cause by the Governor in Council on address of the Senate and House of Commons.

Reappointment

(3) The Parliamentary Budget Officer may be reappointed for one or more terms of up to seven years each. However, the Parliamentary Budget Officer shall serve no more than 14 years in office in total.

Interim appointment

(4) In the event of the absence or incapacity of the Parliamentary Budget Officer, or if that office is vacant, the Governor in Council may appoint any person to hold that office in the interim for a term not exceeding six months, and that person shall, while holding office, be paid the remuneration and expenses that may be fixed by the Governor in Council.

Remuneration and expenses

(5) The Parliamentary Budget Officer shall be paid the remuneration equal to the salary of a Deputy Minister (Level 1) in the federal Public Service and expenses fixed by the Governor in Council.

Deputy head

79.11 (1) The Parliamentary Budget Officer shall rank as and have all the powers of a deputy head of a department, shall perform the duties of the office on a full-time basis and shall not hold any other office under Her Majesty or engage in any other employment. The Parliamentary Budget Officer has the control and management of the Office of the Parliamentary Budget Officer.

Powers to contract

(2) The Parliamentary Budget Officer may, in carrying out the work of the Office of the Parliamentary Budget Officer, enter into contracts, memoranda of understanding or other arrangements.

Staff

(3) The Parliamentary Budget Officer may employ any officers and employees and may engage the services of any agents and mandataries, advisers and consultants that the Parliamentary Budget Officer considers necessary for the proper conduct of the work of the Office of the Parliamentary Budget Officer.

Technical assistance

(4) The Parliamentary Budget Officer may engage on a temporary basis the services of persons having technical or specialized knowledge necessary for the proper conduct of the work of the Office of the Parliamentary Budget Officer.

Authorization

(5) The Parliamentary Budget Officer may, subject to the conditions that he or she sets, authorize any person to exercise any powers under subsections **(2)** to **(4)** on behalf of the Parliamentary Budget Officer that he or she may determine.

Salaries

(6) The salaries of the officers and employees of the office of the Parliamentary Budget Officer shall be fixed according to the scale provided by law.

Payment

(7) The salaries of the officers and employees of the Office of the Parliamentary Budget Officer, and any casual expenses connected with the office, shall be paid out of moneys provided by Parliament for that purpose.

Payment (cont'd)

(8) Before each fiscal year, the Parliamentary Budget Officer shall cause to be prepared an estimate of the sums that will be required to pay the charges and expenses of the Office of the Parliamentary Budget Officer during the fiscal year.

Inclusion in government estimates

(9) The estimate referred to in subsection **(8)** shall be submitted to the Speaker of the Senate and the Speaker of the House of Commons and then transmitted to the President of the Treasury Board, who shall lay it before the House of Commons with the estimates of the government for the fiscal year.

Administration

79.12 (1) The direction and control of the Office of the Parliamentary Budget Officer and its officers and employees is vested in the Parliamentary Budget Officer.

Cooperation

79.13 The Parliamentary Budget Officer and the Parliamentary Librarian shall take all reasonable steps to cooperate with each other to avoid any unnecessary duplication of resources and services provided to parliamentary committees and members of the Senate and the House of Commons.

Annual work plan

79.14 (1) Before each fiscal year, the Parliamentary Budget Officer shall prepare an annual work plan for that year that includes

- (a)** criteria for the allocation of resources to the various functions within the Parliamentary Budget Officer's mandate;
- (b)** a list of matters of particular significance relating to the nation's finances or economy or Estimates of the government or priorities of the government that should be brought to the attention of the Senate and the House of Commons during the year; and
- (c)** a statement of the manner in which the Parliamentary Budget Officer intends to prioritize requests for his or her services from parliamentary committees and members of the Senate and the House of Commons.
- (d)** this workplan will be updated as required to reflect developments in the Canadian economy, state of the nation's finances, the Estimates of the government and other emerging government priorities.
- (e)** the Parliamentary Budget Officer shall make the workplan available to the public

Mandate — Parliament not dissolved

79.2 (1) During periods when Parliament is not dissolved, the mandate of the Parliamentary Budget Officer is to

- (a)** provide, on his or her own initiative, independent analysis to the Senate and to the House of Commons about the state of the nation's finances, the Estimates of the government and trends in the national economy;

Mandate — Parliament not dissolved (cont'd)

(b) The Parliamentary Budget Officer may prepare reports containing the Parliamentary Budget Officer's analysis of any of, but not limited to, the following federal government documents:

- (i) a budget tabled by or on behalf of the Minister of Finance,
- (ii) an economic and fiscal update or statement issued by the Minister of Finance,
- (iii) a fiscal sustainability report issued by the Minister of Finance,
- (iv) the Estimates of the government;

(c) shall, if requested to do so by any of the following committees, undertake research into and analysis of matters relating to the nation's finances or economy:

- (i) the Standing Committee on National Finance of the Senate or, if there is not a Standing Committee on National Finance, the appropriate committee of the Senate,
- (ii) the Standing Committee on Finance of the House of Commons or, if there is not a Standing Committee on Finance, the appropriate committee of the House of Commons,
- (iii) the Standing Committee on Public Accounts of the House of Commons or, if there is not a Standing Committee on Public Accounts, the appropriate committee of the House of Commons,
- (iv) the Standing Committee on Government Operations and Estimates of the House of Commons or, if there is not a Standing Committee on Government Operations and Estimates, the appropriate committee of the House of Commons;

(d) shall, if requested to do so by a committee of the Senate or of the House of Commons, or a committee of both Houses, that is mandated to consider the Estimates of the government, undertake research into and analysis of those Estimates;

(e) shall, if requested to do so by a committee of the Senate or of the House of Commons, or a committee of both Houses, estimate the financial cost of any proposal that relates to a matter over which Parliament has jurisdiction; and

(f) shall, if requested to do so by a member of the Senate or of the House of Commons, estimate the financial cost of any proposal that relates to a matter over which Parliament has jurisdiction.

Parliamentary Budget Officer may refuse a request

79.2 (2) The Parliamentary Budget Officer may in his or her discretion refuse any request by a Senator or Member of Parliament or a committee of Parliament.

Reports to be tabled

(2) The Parliamentary Budget Officer shall provide any report prepared under paragraph **(1)(a)** or **(b)** to the Speaker of the Senate and the Speaker of the House of Commons, who shall each table the report in the House over which he or she presides. The Parliamentary Budget Officer shall make the report available to the public one business day after the day on which the report is provided to the Speaker of the Senate and the Speaker of the House of Commons.

Request by committee

(3) The Parliamentary Budget Officer shall provide a report containing the research and analysis or estimate requested by a committee under paragraph **(1)(c)**, **(d)** or **(e)** to the chair of the committee that requested it. The Parliamentary Budget Officer shall make the report available to the public one business day after the day on which the report is provided to the chair of the committee that requested it.

Request by member

(4) The Parliamentary Budget Officer shall provide a report containing the estimate requested under paragraph **(1)(f)** to the member of the Senate or of the House of Commons who requested it. The Parliamentary Budget Officer shall make the report available to the public one business day after the day on which the report is provided to the member.

If Parliament is dissolved

(5) If Parliament is dissolved before a report is provided to the chair of the committee or to the member under subsection **(3)** or **(4)**, the Parliamentary Budget Officer shall discontinue work on the request.

Mandate — general election

79.21 (1) During the period described in subsection **(2)**, the Parliamentary Budget Officer shall, at the request of an authorized representative or a member, estimate the financial cost of any election campaign proposal that the authorized representative's party or the member is considering making.

Period

(2) For the purposes of subsection **(1)**, the period begins on the 120th day before the date fixed under section **56.1** or **56.2** of the Canada Elections Act and ends on the day before the date of the next general election. However, if Parliament is dissolved before that 120th day, the period begins on the day on which Parliament is dissolved and ends on the day before the date of the next general election.

Request

(3) A request referred to in subsection **(1)** shall be made in writing and describe the proposal for which an estimate is requested, including relevant details and objectives.

Additional information

(4) The Parliamentary Budget Officer may, in writing, request additional information from an authorized representative of the party on behalf of which an estimate was requested or from the member who made a request for an estimate.

Ministerial agreement

(5) A minister who presides over a department within the meaning of paragraph **(a)** of the definition department in section **2** of the Financial Administration Act may, at the request of the Parliamentary Budget Officer, personally agree that his or her department will provide assistance to the Parliamentary Budget Officer in preparing estimates under subsection **(1)** during the period described in subsection **(2)**.

Confidentiality

(6) The Parliamentary Budget Officer shall not disclose to a minister any information related to a request for an estimate under subsection **(3)**.

Ministerial involvement

(7) A minister who, under subsection **(5)**, agrees that his or her department will provide assistance shall

(a) instruct his or her deputy to make any arrangements that his or her deputy considers necessary for the provision of the assistance, including, at the deputy's discretion, arrangements respecting the terms under which the assistance is to be provided; and

(b) abstain from any personal involvement in the provision of the assistance.

Confidentiality

(8) If the Parliamentary Budget Officer makes a request to a deputy referred to in paragraph **7(a)** for assistance in preparing an estimate under subsection **(1)**, the Parliamentary Budget Officer shall not disclose to the deputy or any other person in the department the identity of the party on behalf of which the estimate was requested or the identity of the member who made the request for an estimate.

Confidentiality

(9) Except for the purposes of subsection **(10)**, information that is obtained or created in the provision of assistance referred to in subsection **(8)** shall not be disclosed to any person other than the Parliamentary Budget Officer.

Assistance of other departments

(10) In order to provide assistance referred to in subsection **(8)**, a person in a department may provide information to and obtain information from a person in another department if

(a) the other department is also a department within the meaning of paragraph **(a)** of the definition department in section **2** of the Financial Administration Act; and

(b) the minister who presides over the other department has also agreed to provide assistance under subsection **(5)**.

Withdrawal of request

(11) An authorized representative of the party on behalf of which the estimate was requested or the member who made the request may withdraw it, in writing, before a report containing the estimate is provided to an authorized representative or the member. If a request is withdrawn, the Parliamentary Budget Officer shall discontinue work on the request and shall not disclose the request or the estimate.

Report

(12) The Parliamentary Budget Officer shall provide a report containing the estimate to an authorized representative of the party on behalf of which the estimate was requested or to the member who made the request.

Proposal publicly announced

(13) An authorized representative of the party on behalf of which an estimate was requested or the member who made a request shall notify the Parliamentary Budget Officer, in writing, if the proposal for which the estimate is requested has been publicly announced.

Report made public

(14) The Parliamentary Budget Officer shall make a report available to the public as soon as feasible after the report has been provided to the authorized representative or the member under subsection **(12)** and the Parliamentary Budget Officer has been notified that the policy proposal has been publicly announced. However, the Parliamentary Budget Officer shall not make the report available to the public on or after the date of the general election.

Estimate not completed

(15) If, in the Parliamentary Budget Officer's opinion, he or she does not have sufficient time or information to complete a requested estimate within the period described in subsection **(2)**, the Parliamentary Budget Officer shall notify an authorized representative of the party on behalf of which the estimate was requested or the member who made the request, in writing, that he or she is discontinuing work on the estimate and that it will not be completed.

Publication of request and statement

(16) If the Parliamentary Budget Officer discontinues work on a request under subsection **(15)** and the request is for an estimate of the financial cost of a proposal that has been publicly announced, the Parliamentary Budget Officer shall, before the end of the period described in subsection **(2)**, publish the request and a statement of the reasons why the request could not be completed.

Definitions

(17) The following definitions apply in this section.

authorized representative means the leader of a recognized party in the House of Commons on the day before the first day of the period described in subsection **(2)** or a person authorized in writing by the leader for the purposes of this section. (*représentant autorisé*)

member means a person who is a member of the House of Commons on the day before the first day of the period described in subsection **(2)** but who is not a member of a recognized party on that day. (*membre*)

Annual report

79.22 The Parliamentary Budget Officer shall, within three months after the end of each fiscal year, submit a report on his or her activities under sections **79.2** and **79.21** for that year to the Speaker of the Senate and the Speaker of the House of Commons, who shall each table the report in the House over which he or she presides. The Parliamentary Budget Officer shall make the report available to the public after it has been tabled in either the Senate or the House of Commons.

Definitions

79.3 The following definitions apply in sections **79.4** and **79.5**.

department has the same meaning as in any of paragraphs **(a)**, **(a.1)** and **(d)** of the definition *department* in section **2** of the Financial Administration Act. (*ministère*)

head has the same meaning as in section **3** of the Access to Information Act. (*responsable d'institution fédérale*)

parent Crown corporation has the same meaning as in subsection **83(1)** of the Financial Administration Act. (*société d'État mère*)

Access to information

79.4 (1) Except as provided by any other Act of Parliament that expressly refers to this subsection, the Parliamentary Budget Officer is entitled, by request made to the head of a department or of a parent Crown corporation, to free and timely access to any information under the control of the department or parent Crown corporation that in the judgment of the Parliamentary Budget Officer is required for the performance of his or her mandate.

(2) When a department or a parent crown corporation refuses to fulfil a request under subsection **(1)**, it shall indicate in writing to the Parliamentary Budget Officer why the information does not meet the conditions of subsection **69(3)** of the Access to Information Act or, why the information requested falls under the exceptions in subsection **(2)**.

(3) The Parliamentary Budget Officer may notify the relevant parliamentary committee if the Parliamentary Budget Officer is of the opinion that a government institution has failed to comply with a request under subsection **(1)**.

(4) Notwithstanding subsection **(3)**, the Parliamentary Budget Officer may, according to his or her discretion, refer the matter to the Federal Court in accordance with section **18.3** of the Federal Courts Act.

Exception

- (2)** Subsection **(1)** does not apply in respect of any information
- (a)** the disclosure of which is restricted under section **19** of the Access to Information Act;
 - (b)** that is protected by solicitor-client privilege or professional secrecy of advocates and notaries or by litigation privilege;
 - (c)** the disclosure of which is restricted under any provision of any other Act of Parliament set out in **Schedule II** to the Access to Information Act; or
 - (d)** that is a confidence of the Queen's Privy Council for Canada as defined in subsection **39(2)** of the Canada Evidence Act.

Confidentiality

- 79.5** The Parliamentary Budget Officer, and every person referred to in subsections **79.11(3)** and **(4)**, shall not disclose any information that comes to their knowledge under subsection **79.21(9)** or section **79.4**, unless the disclosure is essential for the performance of the Parliamentary Budget Officer's mandate and
- (b)** in the case of information referred to in subsection **79.21(9)**, the minister's deputy has consented to the disclosure; or
 - (c)** in the case of information referred to in section **79.4**, the head of the department or parent Crown corporation who provided the information has consented to the disclosure.

