



April 10, 2019

## Bill C-69 – Impact Assessment Act

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Standing Senate Committee on Energy, the Environment and Natural Resources  
The Senate of Canada  
Ottawa, Ontario  
K1A 0A4

Dear Committee Members,

On behalf of the membership of the NSBA, I am writing to submit comments regarding the Standing Senate Committee on Energy, the Environment and Natural Resources' study of Bill C-69, the Impact Assessment Act. The NSBA has strong concerns about the suitability of this Bill to move the project assessment process forward such that project proponents have the certainty necessary to proceed with their project and the Canadian public has the peace of mind that the public interest is being safeguarded.

The NSBA is a member-driven and focused organization that serves, promotes, and protects business throughout Saskatoon and beyond. Although our grassroots and origins consisted of a handful of businesses from Saskatoon's north industrial area, today's NSBA is much more than that. We have a vibrant, growing membership in excess of 750 companies in industries and sectors spanning the regional economy. Within our membership is a large concentration of owner-managed businesses, founded and overseen by entrepreneurs. Many of our members are also involved in industries or supply chains that will be directly affected by Bill C-69.

As a matter of principle, the NSBA supports the implementation of a regulatory process for large projects that balances the economics of the project with environmental protection and stakeholder consultation. We also understand that a system that meets these diverse needs in such a way that provides concrete timelines to project proponents is hard to implement properly and that Bill C-69 is an attempt to solve this problem. It is also clear that the current regulatory system is not working, with projects being held up by numerous court challenges and instructions to revise or redo their applications.

However, the current process has been instructive insofar as it is working to establish a "common law" for project proponents and regulators to follow when attempting to correct the failings of the current system. Taking the TransMountain expansion project as an example, while the process has been extremely rough going, causing the original proponent to back out, the courts have now provided a path forward towards a final, unassailable project approval. As such, it is disappointing to the NSBA that the government chooses to pursue divergent legislation in Bill C-69 rather than codifying the decisions of the courts and providing workable timelines for meeting the new criteria. The new system proposed under C-69 will be subject to the same court challenges to iron out the wrinkles, thus postponing certainty for proponents to an undefined future date.

Under the current regulatory system, projects have experienced a great deal of politically motivated opposition, some from jurisdictional governments themselves. More than anything else, this political interference breeds uncertainty, scares off business investment from our country, and halts projects in their tracks. Yet instead of clearing this political interference from the system, Bill C-69 essentially codifies it by allowing government Ministers multiple opportunities to unilaterally pull the plug on the project. Given the extended timelines associated with the assessment process it is entirely plausible that an election could be held resulting in a change in Ministers and a project subsequently being disqualified for ostensibly political



SASKATOON'S BUSINESS ASSOCIATION



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reasons. Our regulatory system should protect against this type of political decision-making – allowing projects to be solely judged on their individual merits – and it is clear that Bill C-69 does not do so.

Further to this, Bill C-69 aims to introduce criteria for assessing projects that do not have any impact on the merit of the project itself, such as gender-based analysis. The NSBA supports past, current, and future efforts to bring traditionally marginalized groups into the workforce and/or into industries where they have not been a significant part of the workforce but believes that there are other ways to accomplish these goals without risking the fates of major projects that are otherwise within the public interest. The project itself is not more or less viable nor more or less environmentally friendly based on these factors and therefore it should not be judged upon them.

With these concerns noted, the NSBA recommends that Bill C-69 be defeated by the Senate and returned to the House to start over in the quest to solve Canada's regulatory issues. While some may argue for change for its own sake, the NSBA would argue that Bill C-69 has the potential to paralyze investment and major projects in this country by failing to provide even a modicum of certainty to project proponents. This will have knock-on effects on supply chains and local economies across the country as companies simply choose to not build in Canada. Sometimes change for its own sake can be more damaging than the status quo.

I am happy to address any questions from the Committee with regards to this letter or Bill C-69 at the Committee's convenience, including appearing as a witness in front of the Committee if necessary.

Sincerely,

Keith Moen  
Executive Director

Cc: The Honourable Scott Moe, Premier of Saskatchewan  
The Honourable Bronwyn Eyre, Minister of Energy and Resources  
Senator A. Raynell Andreychuk  
Senator Denise Batters  
Senator Lillian Eva Dyck  
Senator Marty Klyne  
Senator David Tkachuk  
Senator Pamela Wallin

