Thank you for the opportunity to provide a submission to the Standing Senate Committee on Energy, the Environment and Natural Resources for its consideration as it examines Division 5 of Part 4 of Bill C-86.

The Government of Newfoundland and Labrador believes that climate change is one of the world's most challenging long-term problems and urgent global action is needed to avoid dangerous levels of warming. To this end, the Province is committed to doing its part to tackle the problem and, in December 2016, Premier Ball, along with 12 other First Ministers, adopted the Pan-Canadian Framework on Clean Growth and Climate Change (PCF). This national plan contains numerous commitments to reduce greenhouse gas (GHG) emissions, build resilience to climate impacts and grow the clean economy.

The application of carbon pricing across Canada is a key element of the PCF. Consistent with the federal government's requirement that provinces and territories put in place their own carbon pricing systems or be subject to the federal backstop, Newfoundland and Labrador committed to develop a provincial approach tailored to its unique circumstances. The design of the provincial system was informed by a number of principles, including the need to maintain industrial competitiveness and deliver meaningful reductions in greenhouse gas emissions. On October 23, 2018 the federal government announced that, following its review, the province's carbon pricing plan met the requirements of the federal benchmark. A copy of the provincial plan is attached to this submission for your information.

The Province's carbon pricing plan provides for a hybrid system with two components: a carbon tax to be applied to all combusted fossil fuels, unless otherwise exempted, and an output-based performance system for large industrial emitters. After exemptions, the system will cover 76 per cent of the provincial economy. With respect to performance standards, the Province's Management of Greenhouse Gas Act (MGGA) will establish GHG reduction targets...
for all onshore and offshore facilities that emit more than 25,000 tonnes of greenhouse gas emissions per year, and require annual compliance. To extend the MGGA to the offshore area, which accounted for approximately 16 percent of provincial GHG emissions in 2016, it is necessary to amend the federal and provincial Atlantic Accord Implementation Acts. The executive branches of both the federal and provincial governments support this.

On October 29, 2018, the federal government tabled Bill C-86, which implements certain provisions of the budget tabled in Parliament on February 27, 2018, as well as other measures. Division 5 of Part 4 of Bill C-86 amends the Canada—Newfoundland and Labrador Atlantic Accord Implementation Act to, among other things, allow for the application, within the offshore area, of the provincial greenhouse gas pricing regime and to confer powers and impose duties and functions on the Canada—Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB) for the application of that regime. It also amends the Greenhouse Gas Pollution Pricing Act to provide that the provincial regime does not apply if the offshore area is mentioned in Part 2 of Schedule 1 to that Act.

This approach is consistent with, and respects, the unique regulatory regime that governs the Canada-Newfoundland and Labrador Offshore Area, the 1985 Atlantic Accord. This agreement between the Government of Canada and the Government of Newfoundland and Labrador granted the Province significant decision-making powers and financial benefits, while confirming the federal and provincial governments as equal partners in the joint management of offshore oil and gas developments. No petroleum activity can occur in the offshore area without the C-NLOPB’s authorization and it has effectively fulfilled this role for over 30 years. It is important to recognize this regional difference in governance regime and that Accord implementing legislation often supersedes other federal legislation in this area.

From an economic perspective, oil production in the C-NL Offshore Area represents 25 per cent of Canada’s conventional light crude production and there has been over $56 billion in industry expenditures on exploration, development and operations. The industry represents 25 per cent of provincial GDP and over 40 per cent of our exports. Going forward, our government anticipates the potential for significant growth and even greater contribution to provincial financial well-being.

Due to the vast potential of the oil and gas sector, the Government of Newfoundland and Labrador recently announced Advance 2030 – A Plan for Growth in the Newfoundland and Labrador Oil and Gas Industry which envisions over 100 new exploratory well drilled and multiple basins producing over 650,000 barrels per day from new and existing projects. To ensure this continued interest and growth requires a regulatory regime that is efficient, effective, transparent and globally competitive, and ensures that activity is undertaken in an environmentally responsible manner. These factors, among others, are important in attracting and retaining investment opportunities to the benefit of our respective Governments. This is contingent on a competitive investment environment that supports the investment of long-term capital. Industry has identified a number of potential risks to continued investment. These risks include regulatory uncertainty associated with many ongoing federal legislative initiatives including those associated with the implementation of carbon pricing offshore.

It is our government’s position that applying the provincial greenhouse gas pricing regime in the offshore area will deliver meaningful reductions in GHG emissions while minimizing uncertainty. It is also consistent with the joint offshore management approach that underpins the Atlantic Accord, including implementation through the C-NLOPB. This approach
also provides for a single, seamless large industry carbon-pricing regime to be implemented in the province, consistent with PCF commitment. The provincial approach will be tailored to the unique nature of the offshore petroleum industry. From a cost-benefit perspective, our analysis indicates that similar environmental outcomes can be achieved in the offshore area under the provincial system for approximately 20 percent of the cost to industry of federal regulations.

Industry supports this approach, including the continued application of a single regulator offshore. Our government completed numerous consultations including each offshore operator, the Canadian Association of Petroleum Producers (CAPP), the Newfoundland Offshore Industries Association and Nalcor Energy, and has engaged the C-NLOPB on an ongoing basis to ensure that the provincial regulatory approach can be effectively integrated with existing current licensing, reporting and compliance practices implemented by the C-NLOPB. Two key messages were derived from these consultations, which were reinforced in follow-up letters from CAPP to the Province on August 7, 2017 and June 21, 2018. Specifically, there is a clear preference by all participants for the provincial, not federal, carbon pricing system to apply. Moreover, industry participants noted that competitiveness issues are of key concern, particularly given the imposition of other federal climate change-related and environmental regulations in the near term and identified the need for regulatory approaches that recognize unique local constraints.

The Government of Newfoundland and Labrador is committed to environmental protection including reducing GHG emissions, and will advance action to this end that is tailored to the needs and circumstances of our province. The provincial government supports the approach to the Atlantic Accord Implementation Act amendments in Bill C-86 and will be introducing legislation to the make parallel amendments to the provincial Atlantic Accord Implementation Act in the current sitting of the provincial House of Assembly.

I thank you for the opportunity to comment on Bill C-86.

Sincerely,

GORDON McIntosh,
Deputy Minister
Natural Resources

JAMIE CHIPPETT,
Deputy Minister
Municipal Affairs and Environment

Attachment
## Made-in-Newfoundland and Labrador Carbon Pricing Plan

<table>
<thead>
<tr>
<th>Issue</th>
<th>Proposed Approach</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Start date</td>
<td>January 1, 2019</td>
</tr>
<tr>
<td>2 Coverage</td>
<td>Before exemptions, approximately 91 per cent of provincial GHG emissions in 2016 on a National Inventory Report (NIR) basis (9.8 MT of a total of 10.8 MT of GHG emissions). This share is the highest among provinces and reflects the fact that the province has a small share of GHG emissions from non-energy sectors such as agriculture, industrial processes and waste. Including exemptions as outlined below, the effective coverage is approximately 76 percent.</td>
</tr>
<tr>
<td>3 Regulatory approach</td>
<td>Hybrid system comprised of performance standards for large industrial facilities and large scale electricity generation, and a carbon tax on transportation, building fuels, electricity generation and other fuels combusted in the province. Within the overall 76 percent coverage of carbon pricing, coverage includes approximately 33 per cent for a carbon tax and 43 per cent for performance standards for large industry and large scale electricity generation.</td>
</tr>
<tr>
<td>4 Greenhouse gases covered</td>
<td>CO2, CH4, N2O, 19 HFCs, nine PFCs, and SF6. NF3 is not regulated at this time, however, the Province will amend its reporting regulations to include NF3. (There are negligible NF3 emissions in the province). CO2, CH4 and N2O account for 99.9 percent of provincial GHGs subject to carbon pricing.</td>
</tr>
<tr>
<td>5 Fuels covered</td>
<td>All fuels for which a federal carbon price is established in the federal Greenhouse Gas Pollution Pricing Act.</td>
</tr>
<tr>
<td>6 Legislative mechanisms</td>
<td>Carbon tax – provincial Revenue Administration Act and regulations. Legislative amendments and new regulations to facilitate application of a carbon tax will be enacted in Fall 2018 following completion of stakeholder and Indigenous consultations. A copy of the existing Act and regulations are available at <a href="https://www.assembly.nl.ca/legislation/sr/statutes/r15-01.htm">https://www.assembly.nl.ca/legislation/sr/statutes/r15-01.htm</a> <a href="https://www.assembly.nl.ca/legislation/sr/Regulations/rc110073.htm">https://www.assembly.nl.ca/legislation/sr/Regulations/rc110073.htm</a> Performance standards for large industry and large scale electricity generation – provincial Management of Greenhouse Gas Act and regulations. Legislative amendments will be finalized in Fall 2018 to facilitate GHG regulation in the offshore area, fully regulate large scale electricity generation and provide an opt-in for industrial and electricity generating facilities that emit between 15,000 and 25,000 tonnes per year. New regulations pursuant to the Act will be finalized in Fall 2018 to enable facility-level GHG targets to be set and fully establish alternative compliance mechanisms. Stakeholder and Indigenous consultations have been completed. A copy of the existing Act and reporting regulations are available</td>
</tr>
</tbody>
</table>
Offshore area adjacent to Newfoundland and Labrador – federal Canada-Newfoundland and Labrador Atlantic Accord Implementation Act and provincial Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act (the “Accord Acts”). The Accord Acts require amendments to establish enabling authorities to extend the Management of Greenhouse Gas Act to the offshore area adjacent to Newfoundland and Labrador and to enable the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB) to implement regulations pursuant to the Management of Greenhouse Gas Act in the offshore area. These amendments require the concurrence of the Federal Government. Provincial Minister Coady wrote to federal Minister Carr on April 18, 2018 to initiate this amendment process. A copy of the provincial Accord Act is available at https://www.assembly.nl.ca/legislation/sr/statutes/c02.htm

The Atlantic Accord Implementation Act (the Act) allows for the imposition of provincial taxes as if the offshore area were in the Province. The current definition of “Consumption Tax Acts” included in the Act does not reference a provincial carbon tax. Provincial officials were advised by their federal counterparts in June that a change to the definition of “Consumption Tax Acts” to reference a provincial carbon tax is not necessary due to the fact that fuels used for offshore activities are likely purchased in our province. While this may be the case, the Government of Newfoundland and Labrador does have concerns as the overall tax rates that apply to fuel consumed by offshore operators shall increase significantly with the introduction of a carbon tax. It is the Province’s intention to impose the provincial carbon tax to the offshore area. The Province intends to monitor purchases of fuel used in offshore activities. Should tax leakage become an issue in the offshore area, we look forward to federal support in amending the Act to include carbon taxes.

<table>
<thead>
<tr>
<th>Sectors and sources covered</th>
<th>All energy sectors and sources as contained in the NIR, pending amendments to the Accord Acts for the offshore area, will be subject to a carbon tax unless regulated by the Management of Greenhouse Gas Act or otherwise exempted.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Before exemptions, a carbon tax is expected to cover approximately 47 percent of GHG emissions and sources in the province on a NIR basis, primarily but not limited to transportation, building fuels and non-large scale electricity generation. Proposed exemptions to a carbon tax are outlined below. These exemptions will reduce coverage to about 33 percent.</td>
</tr>
<tr>
<td></td>
<td>Before exemptions, performance standards are expected to cover approximately 44 percent of GHG emissions and sources in the province, including petroleum facilities in the offshore area (pending amendments to the Accord Acts), refining, primary mining, iron ore pelletizing, metal smelting, pulp and paper and large scale electricity generation (pending</td>
</tr>
</tbody>
</table>
amendments to the Management of Greenhouse Gas Act) sectors that emit over 25,000 tonnes per year. The Province is exploring an opt-in provision to reduce this threshold to 15,000 tonnes of GHG emissions per year. Proposed exemptions to performance standards are outlined below. These exemptions would reduce the effective standards coverage to about 43 percent.

| 8 | Carbon price | The provincial carbon tax rates shall commence at $20 tonne. The provincial Gasoline Tax will be adjusted with a goal of Atlantic parity relating to provincial taxation (including carbon tax) of fuel products. The Carbon Tax rates will only increase based on changes to Atlantic parity that allows for rate increases.

With respect to performance standards, the contribution rate to the Greenhouse Gas Reduction Fund, an alternative compliance mechanism established in the Management of Greenhouse Gas Act (section 6) (further detailed below), will mirror the carbon tax rates in the federal Greenhouse Gas Pollution Pricing Act.

| 9 | Exemptions to the carbon tax | The Provincial carbon tax will provide the following exemptions:

i. The same exemptions as those contained in the federal Greenhouse Gas Pollution Pricing Act (with the exception as noted in (v) below).

ii. Fuels sold to Registered Status Indians, Band Councils and Band empowered entities pursuant to the Indian Act.


iv. All current provincial exemptions and/or rebates as specified under the Revenue Administration Act regulations, specifically sections 14, 16 and 19.

v. Fuels sold in sealed, pre-packaged containers of ten litres or less.

vi. Aviation fuel.

vii. Fuels used for offshore petroleum exploration.

viii. Silviculture.

Further to the exemptions listed above, the International Fuel Tax Agreement (IFTA) is a cooperative agreement among the Canadian provinces and most American states to make it easier for interjurisdictional carriers to report and pay taxes on fuel consumption. Member jurisdictions work together to track, collect and share the taxes payable on motor fuels. For administrative ease and to mitigate compliance efforts, the Province is proposing to adopt British Columbia’s approach to imposing the necessary price signals on IFTA commercial vehicles. In that province, fuel used in an IFTA commercial vehicle is exempt from carbon tax and an additional fuel
Among these exemptions, the largest categories include heating fuels (estimated at 9.5 percent coverage), aviation fuel (1.9 percent), marine transportation (1.0 percent), primary resource industries (1.0 percent), methane GHGs in the oil and gas sector (0.5 percent), and diesel electricity generation (0.4 percent).

When combined with exemptions to performance standards, the combined carbon pricing coverage is approximately 76 percent of total provincial emissions.

For a facility that opts to be regulated according to a performance benchmark, the benchmark will be set according to the following parameters:

i. It may include all comparable facilities that are located in Canada and the United States, as appropriate, that produced commercial output equal to at least 50 percent of its reported capacity in the year that the benchmark is set.

ii. It will be set on the basis of capacity, production and greenhouse gas emissions as reported to Environment and Climate Change Canada and the United States Environmental Protection Agency and shall be adjusted at least annually or every third year, based on data availability.

iii. All facility emissions will be included in calculation of the performance benchmark, including fixed process emissions.

iv. Where that facility uses an energy source that differs from normal industry practices in North America, GHG emissions will be adjusted by converting the energy source used at the facility to the energy source generally used by industry on a British Thermal Unit basis using standard emissions factors published by Environment and Climate Change Canada and amended from time to time. The adjustment factor will be determined based on information provided by the facility where the facility demonstrates that the adjustment factor is objectively and reasonably calculated.

v. The performance benchmark will be set at the top tercile of all facilities in the benchmark. However, performance credits (described below) can only be earned based on the facility exceeding the top quartile.

<table>
<thead>
<tr>
<th>11</th>
<th>Performance standards - sector benchmark</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>For a facility that opts to be regulated according to a performance benchmark, the benchmark will be set according to the following parameters:</td>
</tr>
<tr>
<td></td>
<td>i. It may include all comparable facilities that are located in Canada and the United States, as appropriate, that produced commercial output equal to at least 50 percent of its reported capacity in the year that the benchmark is set.</td>
</tr>
</tbody>
</table>
ii. It will be set on the basis of capacity, production and greenhouse gas emissions as reported to Environment and Climate Change Canada and the United States Environmental Protection Agency and shall be adjusted at least annually or every third year, based on data availability.

iii. All facility emissions will be included in calculation of the performance benchmark, including fixed process emissions.

iv. Where that facility uses an energy source that differs from normal industry practices in North America, GHG emissions will be adjusted by converting the energy source used at the facility to the energy source generally used by industry on a British Thermal Unit basis using standard emissions factors published by Environment and Climate Change Canada and amended from time to time. The adjustment factor will be determined based on information provided by the facility where the facility demonstrates that the adjustment factor is objectively and reasonably calculated.

v. The performance benchmark will be set at the top tercile of all facilities in the benchmark. However, performance credits (described below) can only be earned based on the facility exceeding the top quartile.

| 10 | Performance standards – historical approach | Performance standards will include the following parameters:

i. Each regulated onshore facility will be assigned an annual GHG reduction target equal to 6 percent below its 2016 to 2017 historical average emissions-to-output ratio for 2019 as calculated by the provincial government based on verified emissions reports submitted to the provincial government using the Western Climate Initiative methodology, rising to 8 percent below its 2016 to 2018 average emissions-to-output ratio in 2020, 10 percent below its 2016 to 2018 average emissions-to-output ratio in 2021 and 12 percent below its 2016 to 2018 average emissions-to-output ratio in 2022 and subsequent years. Fixed process emissions will be excluded from the calculation (details below).

ii. Each regulated offshore petroleum facility will be assigned the same percentage reductions to its average emissions level, excluding federally regulated emissions for methane from venting and fugitives.

iii. Mobile Offshore Drilling Units (MODUs) that are not undertaking exploration and meet the Management of Greenhouse Gas Act GHG threshold will be regulated under the Management of Greenhouse Gas Act with its annual target prorated based on the number of days it operates per year. MODUs not undertaking exploration and not meeting these thresholds will be subject to the carbon tax.

iv. For the purposes of in-pit mining at a primary mining facility and at the request of the facility, output will be defined as total materials
moved on the mining lease.

v. An option will be provided for each industrial facility to use an industry-wide performance benchmark, where feasible, rather than an historical-based target (further details below).

vi. Where a facility produces two or more distinct products, the facility’s average greenhouse gas-to-output ratio for each product will be used where the facility demonstrates that the products are distinct and that the product-specific ratios are objectively and reasonably calculated.

vii. For the Holyrood Thermal Generating Station, baseline production will be set at the level projected by Newfoundland and Labrador Hydro in its detailed 2012 study that informed the development of Muskrat Falls.

viii. New entrants and significantly modified facilities will be phased in through establishing a three year grace period at the start of production, and progressively phasing-in greenhouse gas reduction targets in equal increments over a five year period until the full target is applied in year eight. MODUs are not to be considered as a new facility or significantly modified facility.

Fixed process emissions identified in item (i) above include emissions from natural ore carbonates, limestone flux and dolomite flux at IOC’s pelletizing operations, hydrogen production at North Atlantic Refining, and soda ash, lignosulfonate, hydrex 3443 and related sources at Vale’s hydrometallurgy facility. These emissions will not reduce carbon pricing coverage for performance standards as, in the NIR, they are considered as industrial processes and are therefore not subject to carbon pricing.

12 Exemptions to performance standards

The federal government is regulating methane GHG emissions from venting and fugitives in the oil and gas sector. These emissions will be exempted from performance standards. Offshore exploration activities will also be exempted. This will reduce the effective performance standards coverage by up to 1.0 percentage points.

13 Alternative compliance options to meet performance standards

The Management of Greenhouse Gas Act (section 5) provides for the use of greenhouse gas reduction credits as an alternative compliance mechanism. Three forms of credits are established in the Act, including:

i. Greenhouse Gas Reduction Fund credits. The Fund is established in Section 6 of the Act and the Fund purpose and structure is outlined in Sections 6 to 9 of the Act. These credits will be priced at the federal carbon tax rate.

ii. Performance credits. Performance credits will be awarded to a facility for over-achieving its GHG reduction target in a year. However, for a facility opting for a performance benchmark, performance credits will only be awarded to a facility for over-achieving reductions up to the top quartile. Credits are bankable by a facility and are tradeable across facilities. The credit price will be
determined by the market (i.e., the price may vary from the federal carbon price).

iii. Offsets credits. The Act makes provision for offsets credits. The provincial system will not include carbon offsets in 2019. A provincial offsets system will be developed after 2019 and will be informed by the design of offsets system in other provinces and by the federal government, and by ongoing work by the Canadian Council of Ministers of the Environment.

Purchased greenhouse gas reduction credits by a facility, which excludes performance credits that it generates at its own facility, cannot be used to meet more than 90 percent of its GHG target obligation in 2020, 85 percent in 2021 and 80 percent in 2022 and subsequent years. If these thresholds are not met, a facility shall pay into the GHG Reduction Fund any required remaining obligation to be in compliance at a rate equal to 4 times the federal carbon price in that year. These limits on access to credits do not apply to offshore facilities.

A greenhouse gas reduction credit cannot be used by a regulated operator to reduce carbon tax that may be levied under the Revenue Administration Act or any other provincial or federal legislation.

<table>
<thead>
<tr>
<th>14</th>
<th>Enforcement mechanisms</th>
</tr>
</thead>
</table>

**Carbon tax – Existing Department of Finance administrative processes will be used for monitoring and compliance. This will include fuel-specific sales volume and value data by fuel type and will be expanded to include fuels for which an existing gas tax is not applied. The Revenue Administration Act (Part II) contains inspection and compliance authorities that will apply to implementation of a carbon tax.**

**Performance standards – Annual reporting process will include submission of an annual GHG report by June 1 of a given year following a reporting period, a verification report by September 1 of that year, and a compliance report by November 1 of that year. The Management of Greenhouse Gas Act (sections 13 to 25 and section 28) contains inspection and compliance authorities that will apply to implementation of performance standards. Pending amendments to the Accord Acts, the C-NLOPB will be delegated responsibility for receiving and approving reports from offshore petroleum facilities.**

<table>
<thead>
<tr>
<th>15</th>
<th>Reporting</th>
</tr>
</thead>
</table>

**Carbon tax – carbon tax revenues will be reported through annual provincial budget processes. Using these administrative records, the Province can estimate annual GHG emissions from fuels covered by a carbon tax on the basis of revenue received (estimates calculated using provincial administrative records may differ from NIR reported estimates using Statistics Canada data). Additional revenue detail can be provided to the Federal Government (pending a review of desired federal reporting requirements, once provided).**

**Performance standards – the Management of Greenhouse Gas Act requires (section 6) public reporting on the activities of the Fund, including revenues collected, and requires (section 10) annual and public reporting of GHG emissions from regulated facilities. Regulations to this effect are in place (weblink provided above) and data collection started in 2016 (onshore...**
Operators of offshore petroleum facilities and the Holyrood Thermal Generating Station (HTGS) report their emissions on a voluntary basis (HTGS emissions estimates are published). Additional detail can be provided to the Federal Government (pending a review of desired federal reporting requirements, once provided).

| Anticipated environmental outcomes | Cumulative direct on-site GHG reductions below business-as-usual are projected to total up to 1.7 MT between 2019 and 2030. |