Submissions to the Standing Senate Committee on Energy, the Environment and Natural Resources regarding Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts

By and on behalf of Canada’s Building Trades Unions

Arlene Dunn
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What we do and why we are interested in this Committee Review?

This submission is made on behalf of Canada’s Building Trades Unions (CBTU). We are the International Unions that have jurisdiction in the construction, maintenance and fabrication portions of Canada’s Construction Industry. I’m using the term “Construction” generically for the industry, because what our members do is much more than simply the ‘building’ of something. This industry is found in every Canadian city, town and village and our more than 500,000 women and men are employed constructing everything from a garden shed through to the biggest buildings in Canada, virtually every refinery, pulp and paper mill, potash facility, generating station, nuclear plant and such commercial and institutional construction that includes roads, bridges, overpasses, hospitals and all forms of civic infrastructure. Our work is not just done on a job site but is done in a number of facilities and fabrication shops that provide modules or other components that are incorporated into the structures that we work on. And, once structures are built, we are employed in their operation, renovation, maintenance and repurposing. Each year, we invest over $300 million dollars across our 175 training centres to ensure our members are the safest, most skilled and most highly qualified in the industry.

The International Craft Unions that compose CBTU are:

- International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers
- Labourers’ International Union of North America
- International Union of Painters and Allied Trades
- Operative Plasterers’ and Cement Masons’ International Association of the United States and Canada
- Sheet Metal, Air, Rail and Transportation Workers
- International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America
- United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada
- International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
- International Union of Elevator Constructors
- International Union of Operating Engineers
- International Union of Bricklayers and Allied Craftworkers
- United Brotherhood of Carpenters
- International Brotherhood of Electrical Workers
- International Association of Heat and Frost Insulators and Allied Workers
**Recommendation:**
Create a place for Labour and voice for jobs at the table in this process

Few, if any, pieces of Federal Legislation will impact the future of Canada’s Skilled Trades as much as *Bill C-69*. On any given day easily 40 per cent of Canada’s Building Trades Union members are employed in some sort of energy production project, maintenance on those projects or fabricating components for those projects. Skilled tradespeople work on all forms of electrical generation, tidal, wind, solar, geothermal, biomass, nuclear, thermal generation, all forms of Hydro projects. We work on natural resource extraction projects, transmission lines, including pipeline and electro-transmission, natural resource processing and distribution facilities, mines, roads, bridges, railroads and all other ways in which resources get converted to or processed. The voice of skilled labour is imperative to a project’s success and safety.

**Recommendation:**
Provide for training, apprenticeship and employment opportunities for Indigenous and local communities by a mandatory CBA process

The inclusion of labour helps mitigate potential protests and gains buy-in from the local communities who are consulted and considered as the labour force is developed. This is most efficiently achieved through community benefits agreements, otherwise known as CBAs, which serve to ensure that under-represented groups have priority and guaranteed access to training and good jobs, promoting growth in the local labour force and supply community. Consequently, Canada’s Building Trades Unions are immensely interested in the success of *Bill C-69*.

**Recommendation:**
Encourage growth in the economy by getting Canadian resources to market(s)

We often participate in Project Reviews that determine the viability of a proposed project and the technical reviews that pertain to things like community safety, protection of the environment, community engagement, the employment of local and Indigenous communities and the general relevance of the project in terms of the economic well-being of the area, the region, and the country as a whole. Having seen the process take nearly two decades, in the case of the Mackenzie Valley pipeline; the disruption on projects like Keystone XL and Energy East and the
unrelenting tendency to question each and every decision and each and every step within a
decision in the Courts, we are, at least, disheartened by what has happened to date.

It is worthy to note that when the various LNG projects were being touted in British Columbia,
those for international shipments of clean burning Canadian Natural Gas which would be used to
supplant “dirty” coal-fired generation in other parts of the world, similar projects were
proceeding through the Environmental/Feasibility approval processes in the United States. All
projects were proposed at roughly the same time; those in Louisiana, Oregon and Mississippi
have been shipping product for the last several years. One project out of dozens proposed, has
been approved in British Columbia but has not yet begun full-scale construction. Proponents of
the LNG projects have indicated the difficulty in project approvals, from the time it takes to the
complexity of the review, court intervention and overall costs of the process – all of which
hinder investment in Canada. Those projects have simply gone somewhere else, where the
approval climate is ‘friendlier’ and much more certain.

The failure of Energy East, while there may be a host of causes, points out the fragility of the
current process. Energy East would have replaced 800,000 barrels of foreign crude per day, at
the Brent Crude price, being imported into Canada and completely erased Canada’s dependence
on foreign oil sources. Canada has over 17,000 tanker movements on the East Coast each year
and almost all of those are in support of importing foreign oil. The failure of Energy East was not
merely about lost pipeline jobs, but the loss of thousands of high-skilled, high-paying and
challenging skilled trades jobs created through the extraction process, through refining and
processing the resource and maintaining and upgrading infrastructure throughout the process. In
addition to the construction component of a job like Energy East, thousands of enduring jobs
would have been created; it takes the same skills to operate and maintain the facilities as it takes
to initially build them AND, most importantly, THESE JOBS ARE THERE 365
DAYS/YEAR, FOR THE LIFE OF THE PROJECT. The major refining and upgrading
facilities in Canada also spend somewhere in the range of $1 – 2 billion annually on sustaining
construction which is a variety of smaller projects that make the operations more efficient; things
like debottlenecking, improving capacity, improving product or providing better environmental
protection. Roughly speaking, a $1 billion project produces about 5 - 6 million person-hours of
work for the trades.

Bill C-69, in its current form, leaves much of substance to Regulations which do not currently
exist. Where you cannot see the Regulatory framework that will actually make the system work,
Canadians are essentially being asked to buy something sight unseen.

Recommendation: Bill C-69 ought to create certainty, include economic
growth as key component
In a general way we support the concepts and ideas that Bill C-69 sets out to put in play. We have had enough experience with the predecessor legislation to know that it did not really work for anyone, save and except the people who wanted to disrupt project approvals.

This is the first real chance there has been to provide a blend of the responsible development of our natural resources with a rigorous, efficient, fair and timely assessment process. It is imperative to provide proponents with the certainty necessary to invest, and the public with the confidence to know that the most appropriate, scientific and regulatory standards are being applied in what may be their “backyard”.

We put great stock in what the Atlantic Council of Premiers and the Government of Alberta, through its former and new Premier, have to say about Bill C-69; these provincial leaders are concerned about economic growth and have made a strategic commitment to environmental safeguards. Bill C-69 would benefit by giving Economic Growth Equal Status in the Preamble, because it makes good sense that the positive impacts of economic growth be considered within the Assessment of any project.

To be successful, Bill C-69 needs to create certainty in terms of process and timelines. The timelines need to be both reasonable and predictable with meaningful deadlines in place to ensure no opportunities for filibusters to unreasonably stall a project are available.

**Recommendation:**  
**Political and policy decisions should not be part of the review process - final assessment decisions should be based on science and technical expertise**

Proponents need to know what the rules are going in. Any rational assessment process needs to define, at the earliest possible stage, what is essential to the assessment and proper consideration be given to the processes. Political and policy decisions should be taken away from the review process. It is a major mistake to politicize the process of merging policy decisions with the technical nature of the process. The best scientific information and technical expertise that is available should be engaged. That also means that the regulator needs to have the in-house scientific and technical capacity to do so. Such expert staffs of the “Regulator” are likely best placed to make evidence-based and science-based decisions, free of emotion, public debate and political considerations to ensure predictability of processes and approvals of a project. While there is – and should be – space for public input as part of the criteria to approve a project, this should be at the level of the “Regulator”. This means that the discretionary powers granted to the responsible Minister of the Crown ought to have the entire gambit of economic, social, environmental and other benefits as mandatory considerations. Decisions from a project assessment ought not be made from a political standpoint or the mood of wish. Final decision of the regulatory ought to be based on solid facts that can be backed up by science and technical application.
**Recommendation:**

**Do not let those interested in mere delay highjack the process**

The participation of the public is important to success but the nature and scope of public participation needs to be established early and clearly in the assessment process to ensure further challenge or delays, following public consultation, is not created through lack of clarity or ambiguity in the legislation. It fits within reason to ensure that people along the right-of-way, in the areas affected, Indigenous people, local communities, labour and the general public should have a right to be consulted.

Removing the number and extent of legal challenges ought to be a goal of any such legislation. The people who wish to be heard must make a meaningful contribution. There is a duty to consult; it would certainly be much more appropriate for project review panels to be vested with discretion to determine who they hear from and to give more weight to those directly affected by the project.

It is inappropriate to include what amounts to “veto” or the ability to endlessly extend process timelines except in the most unusual of cases and where such concessions will be granted, there needs to be clear reasons for doing so.

Where there is more than one possible regulator (the Canadian Nuclear Safety Commission, the Offshore Petroleum Board (s), Provincial Regulators, or other federal Regulators) there ought to be ‘one stop shopping’ and not a plethora of hearings. The closest cooperation possible by the various regulators ought to be the order of the day.

As we read Bill C-69 in its current form, it seems to have a built-in prohibition that stops a proponent from doing anything in support of the designated project until it’s actually approved. This seems non-productive. We should allow for routine planning and preparation - work that may generate positive opportunities for local and Indigenous communities. Surely that nothing whatsoever can be done until final approval, cannot be the intent? 

The last of general concern that needs to be expressed is the “litigation trap”; this is nothing more than using the Courts (and abusing the process of the Court) to the financial and economic detriment of the proponents and those who might economically benefit from projects. Funding for such challenges frequently does not even come from Canadian sources. Often, these challenges are solely intended to stall until time expires or until the proponent goes away. There needs to be a final and binding process that is tightly written and the areas in which the Court may intervene be clearly defined.
In Summary:

With the greatest respect *Bill C-69* misses the mark in many material aspects. This piece of legislation has an enormous impact on our 500,000 members as well as an enormous spectrum of Canadians who are engaged in natural resource extraction, processing, distribution and consumptive industries. It is too important to all of our collective futures to be left to chance, uncertainty and unpredictable results.

In closing and, given where *Bill C-69* is in the legislative process, we propose a few strategic amendments as set forth herein that, in our opinion, the *Bill* absolutely must have if it becomes law.

We will leave these proposed amendments with you today for your consideration and review.

We thank you for your attention.

**ALL OF WHICH IS RESPECTFULLY PRESENTED**

Per:  

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Canada’s Building Trades Unions