

Daily sitting 2

Wednesday, November 20, 2019  
*10 o'clock a.m.*

Prayers.

Mr. Speaker, at the request of Mr. Savoie, reverted to Government Motions for the Ordering of the Business of the House.

With leave of the House, Mr. Savoie moved, seconded by Mr. Northrup: (Motion 1)

THAT notwithstanding Standing Rule 30, statements of condolence and statements of congratulation shall form part of the ordinary daily routine of business in the House and shall be called by the Speaker following Introduction of Guests;

THAT the time allocated for “Statements of Condolence and Congratulation” shall be limited to a maximum of twelve minutes and each statement shall be limited to a maximum of sixty seconds;

THAT statements of condolence shall take precedence over statements of congratulation and Members shall be recognized as follows: the Government first, followed by the Official Opposition and then other recognized parties in order of the size of their membership, until each recognized party has had an opportunity to make three statements;

THAT this Special Order shall remain in effect during the remainder of the 59<sup>th</sup> Legislative Assembly.

And the question being put, it was resolved in the affirmative.

It was agreed by unanimous consent to allow the Honourable the Premier and other Members to make lengthy Statements of Condolence.

The Honourable the Premier offered condolences to the family of the late Greg Thompson, P.C., Progressive Conservative MLA for Saint Croix (2018-2019) and Member of Parliament for Carleton—Charlotte (1988-1993) and New Brunswick Southwest (1997-2011).

Mr. Speaker offered condolences to the family of the late Jocelyne Roy Vienneau, New Brunswick’s 31<sup>st</sup> Lieutenant-Governor.

It was agreed by unanimous consent to extend the time allotted for Oral Questions by fifteen minutes.

It was agreed by unanimous consent to continue sitting through the noon recess.

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At 11.50 a.m. the House recessed. At 11.57 a.m. the House resumed.

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Ms. Landry, Member for Madawaska Les Lacs-Edmundston, laid upon the table of the House a petition urging the government to dissolve the committee and abandon the study on the consolidation of the Saint-Joseph-de-Madawaska, Saint-Jacques and Saint Basile Local Service Districts. (Petition 1)

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Mr. Harvey, Member for Carleton-Victoria, laid upon the table of the House a petition urging the government to chipseal Enterprise Road. (Petition 2)

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Ms. Thériault, Member for Caraquet, laid upon the table of the House a petition in opposition to the Naveco wind farm project in the Local Service Districts of d'Anse-Bleue and Dugas. (Petition 3)

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Mr. Coon, Member for Fredericton South, laid upon the table of the House a petition in support of a ban on the spraying of glyphosate in Crown forest management. (Petition 4)

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Hon. Ms. Anderson-Mason, from the Standing Committee on Law Amendments, presented the First Report of the Committee for the session which was read and is as follows:

November 20, 2019

To The Honourable  
The Legislative Assembly of  
The Province of New Brunswick

Mr. Speaker:

I have the pleasure to present herewith the First Report of the Standing Committee on Law Amendments for the session.

The report is the result of your Committee's deliberations on Bill 39, *An Act Respecting Proof of Immunization*.

On behalf of the Committee, I wish to thank those individuals and organizations who appeared before the Committee or provided written submissions. In addition, I would like to express my appreciation to the members of the Committee for their contribution in carrying out our mandate.

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Your Committee begs leave to make a further report.

Respectfully submitted,

(Sgd.:) Hon. Andrea Anderson-Mason, Q.C., MLA  
Chair of the Standing Committee on Law Amendments

The full report of the Committee as presented follows:

Mr. Speaker:

Your Standing Committee on Law Amendments begs leave to submit their First Report of the session.

On June 7, 2019, Bill 39, *An Act Respecting Proof of Immunization*, was introduced in the Legislative Assembly by the Honourable Dominic Cardy, Minister of Education and Early Childhood Development. The purpose of Bill 39 is to remove non-medical exemptions from the mandatory immunization requirements for public school and licensed early learning and child care admissions. The Bill requires students attending public schools and children in licensed early learning and child care facilities to provide either proof of immunization or a medical exemption on a form signed by a medical professional. On June 11, 2019, by resolution of the House, consideration of the subject matter of Bill 39 was referred to the Standing Committee on Law Amendments.

On July 9, 2019, the Committee met and determined that members of the public and interested stakeholders should be invited to provide input and advice to the Committee with respect to the issues raised by Bill 39. Public hearings were held in the Legislative Council Chamber for Bill 39 on August 27, 28 and 29.

The Committee heard from 30 presenters, including the Education and Early Childhood Development Minister, the Chief Medical Officer of Health, and the Child, Youth and Seniors' Advocate, on the issues surrounding Bill 39. The Committee also received approximately 265 written submissions, mainly in the form of emails, from individuals and organizations in New Brunswick and across North America.

On October 18, 2019, the Committee met with officials from the Office of the Attorney General and the Department of Health. Following the meeting, the Committee forwarded questions to the Department of Education and Early Childhood Development for response. The Committee met again on November 13, 2019, to consider the input received during the consultation process and to formulate a Committee report with recommendations to the

House. The Committee wishes to express its appreciation to the presenters who appeared at the public hearings and to those individuals and organizations who provided written submissions.

The Committee wishes to note that Bill 39 has since died on the Order and Notice Paper as the Second Session of the 59<sup>th</sup> Legislative Assembly was prorogued on November 19, 2019. Nonetheless, the mandate of the Committee to review the subject matter of the Bill remains in effect.

The following is a summary of the input received on the issues raised by Bill 39, with a recommendation to the House.

### **PUBLIC HEARINGS**

#### **Department of Education and Early Childhood Development**

The Honorable Minister of Education and Early Childhood Development was the first presenter at the public hearings on Bill 39. He explained the genesis of the Bill and advised the Committee that its purpose is to make immunization mandatory for children attending the public education system, in order to protect immune-compromised children and citizens at large. He submitted that the removal of the non-medical exemptions to vaccination does not deny the right of parents to choose what they believe is best for their children.

The Minister presented his concerns, in the wake of the Saint John measles outbreak, about the increasing influence of the anti-vaccination movement and about the need to maintain high vaccination rates. He advised that the school system has thus far failed to adequately track vaccination records for children attending the public education system, as required under the *Education Act*, an issue that came to light during the outbreak, and that increased the need for a discussion and action on the matter.

In reference to a study conducted in Ontario, he informed the Committee that education programs targeting vaccine hesitant parents have been inconclusive, further reinforcing the need for mandatory vaccination as the only measure capable of protecting children. On the question of the constitutionality of the measures advanced by Bill 39, the Minister acknowledged that, if passed, the Bill would most likely be challenged in court, the outcome of which is uncertain.

The Minister detailed a proposed schedule of implementation for the Bill. A new electronic system tracking vaccines would be launched in 2020, allowing for a better picture of the vaccination needs in the province. Schools and healthcare professionals could refer to the system to target

parents who may have simply forgotten the vaccination schedule of their children or have limited access to vaccination. The Bill would then come into force in 2021 to allow healthcare professionals to be adequately prepared. If parents refused to vaccinate their children accordingly, they would then need to provide a medical exemption or provide an alternative to the public school system, such as enrolling their children in a private school or home schooling.

According to the Minister, mandatory vaccination is becoming a response to the rise of the anti-vaccination movement. Maine and California have both opted for similar measures in the United States and the issue has been raised in other Canadian provinces (British Columbia, Ontario and Manitoba), although New Brunswick would be the first Canadian jurisdiction to pass such a law.

#### **New Brunswick Medical Society**

A representative of the New Brunswick Medical Society spoke on behalf of physicians in the province. He argued for the need to address vaccine hesitant parents through dialogue to provide answers to their concerns and to stress the importance of vaccination programs. He advised the Committee that the health advancements as a result of vaccination programs are the most monumental seen in Canada and that the World Health Organization has named vaccine hesitancy as one of the biggest threats to public health.

His presentation raised concerns on the ethical considerations of removing non-medical exemptions and on the possible negative consequences of the Bill that could penalize certain individuals. As a result of these considerations, the New Brunswick Medical Society recommended: that sufficient resources be allocated to support the proper distribution of vaccines, to support parents and students in the school system, and to support the Immunization Record Database to enable more accurate and up-to-date information for patients and healthcare providers; that the efforts to increase rates of vaccination be reinforced; and that a province-wide educational and awareness campaign on the benefits of vaccination be launched. In addition, with respect to the safety of vaccines, he informed the Committee about the abundance of scientific research related to vaccination, demonstrating their benefits and efficiency.

#### **Chief Medical Officer of Health**

The Chief Medical Officer of Health for the Province of New Brunswick explained that part of her mandate consists of educating the public on the value of vaccination; implementing the new vaccine registry; responding

to and controlling disease outbreaks; supporting public health partners to deliver the immunization program; and providing the science and evidence to help inform government legislation. As such, she advocates for the promotion of immunization and for keeping vaccination rates high.

The Chief Medical Officer gave the opinion that the Public Health Information Solution introduced by the Minister of Education and Early Childhood Development is a significant step forward in helping schools and healthcare professionals access up-to-date information about vaccination records. She further noted the importance of maintaining a dialogue with vaccine hesitant parents in order to improve their confidence and support them in getting their children vaccinated. She also informed the Committee on the effectiveness of vaccines, immunization being one of the most important ways to promote health, and of the significant risks associated with vaccine preventable diseases when compared to the lesser risk of a serious adverse reaction to a vaccine.

#### **Child, Youth and Seniors' Advocate**

The Child, Youth and Seniors' Advocate presented the results of the Child Rights Impact Assessment (CRIA) Advisory Opinion conducted in relation to Bill 39. The CRIA allows lawmakers to ensure legislative changes advance children's rights and best interests, and that negative impacts of proposed changes are identified and minimized to the greatest extent possible.

Following a thorough contextual analysis that included an overview of the situation in different jurisdictions, the Advocate advised that the need to improve New Brunswick and Canada's immunization rates is an important and pressing substantive policy objective. The existing legislative scheme has proven inadequate to meet national and global public health goals in relation to disease prevention. He further indicated that the recent outbreak of measles is a small indication of a much larger public health challenge, where New Brunswick's performance to date has been lacking.

The Committee was advised by the Advocate that other jurisdictions have adopted a legislative scheme similar to the one proposed in Bill 39, and where such laws have been adopted, they have helped improve immunization rates.

Regarding possible constitutional challenges to Bill 39, the Advocate gave the opinion that a *Canadian Charter of Rights and Freedoms* section 2 argument that the Bill violates an individual's freedom of conscience and religion would be difficult to establish but, if proven, the infringement would be held justifiable under a section 1 of the *Charter* analysis.

Similarly, he gave the opinion that a section 7 argument that the Bill violates an individual's right to life, liberty and security of the person would likely be rejected, but any infringement found by the courts would also be saved by section 1.

The Advocate recommended moving forward with the proposed Bill, but to also include it within a broader array of legislative and administrative measures that will help advance the legislative intent. These measures are in the areas of public education in relation to vaccine efficacy, improved coordination of vaccine delivery, the establishment of a provincial vaccine registry, better monitoring and reporting of provincial immunization and gap reduction efforts, and the consideration of creating a provincial vaccine adverse effects registry and a compensation mechanism.

#### **New Brunswick Pharmacists' Association**

Representatives of the New Brunswick Pharmacists' Association were in favour of Bill 39. Their input focused on the importance of vaccination in order to protect those most vulnerable, immune-compromised individuals. They submitted that vaccines have been proven safe and effective and explained how vaccination works and the process for vaccine approval in Canada.

#### **Vaccine Choice Canada**

A representative of Vaccine Choice Canada spoke about the loss of his son, believed to be related to vaccine injury, and about the mandate of his organization, which is to defend the ethical principle of informed consent. His presentation highlighted five main arguments that explained his opposition to Bill 39: vaccine products do not undergo the same level of safety testing as other medical products; vaccine products are not evaluated against a neutral placebo; the pre-license testing period is too short to evaluate the long-term safety of vaccine products; the safety of the vaccine program has not been established; and the legal immunity for vaccine manufacturers puts society at risk.

Documentation supporting these arguments and produced by Vaccine Choice Canada were provided to the Committee and were used by other presenters throughout the hearings.

A presenter from the legal profession representing Vaccine Choice Canada provided a legal analysis in opposition to Bill 39, arguing that if enacted it would force individuals to make a choice between vaccination and public education. In addition, according to his analysis, Bill 39 infringes the constitutional rights of citizens as protected by sections 2 and 7 of the *Charter*.

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**Other Presenters**

A former educator suggested that it may have been more appropriate for the public consultation process to precede the development of the legislation. He also stressed the importance of placing the focus on the needs of the child and making a concerted effort to accommodate whenever possible. He suggested alternatives to the legislation should be explored, including consideration of a judicial review of the proposed Bill.

The other presenters who appeared at the public hearings were not in favour of Bill 39. Two presenters, from the medical profession, voiced their opposition to the Bill, based on their experience in the practice of medicine in the United States. One objected to the idea that the law is necessary, arguing that the diseases for which vaccines are made are not increasing, that most vaccines do not prevent the spread of diseases and that the complete vaccine schedule which the Bill would require, has, in his opinion, not proven to be safe. The other presenter emphasized the conflicts of interests between the medical profession, elected officials and pharmaceutical companies. She argued that adverse events related to vaccines are withheld from physicians and the public and had reservations on the current vaccine schedule administered to children.

Some presenters questioned the science behind vaccines and argued there are links between vaccines and numerous diseases and adverse effects. They questioned the possible financial links and conflicts of interests between the American public health agencies and the vaccine manufacturers. In addition, they questioned the safety of the substances found in vaccines and their potentially negative impact on the health of children.

The remainder of the presentations at the public hearings consisted of individuals who presented their personal points of view on Bill 39, often based on their children's reaction to vaccination. Two presenters who were parents discussed the health complications of their son, which started following his infant vaccines.

Some presenters stated they were in favour of vaccination before witnessing their children experience certain reactions following the administration of vaccines, prompting them to start researching the issue and refusing further vaccination for their children.

The parents of children believed to have suffered from vaccine-related injury expressed the lack of consideration they felt in the healthcare system when attempting to find answers and solutions for their children's declining health. They submitted they were not properly informed of the risks associated with vaccines, felt pressured to continue with the vaccine



schedule despite the reactions they witnessed, and noted that the healthcare professionals administering the vaccines did not take the adverse reactions experienced seriously, as they were not forwarded to the registry of adverse effects.

They also argued that in light of these responses from the healthcare professionals, their children would probably not qualify for a medical exemption to mandatory vaccination and would thus have to be vaccinated in order to attend the public school system.

Doubtful about the safety and efficiency of vaccines, one presenter who was a parent explained that, in his opinion, vaccination is not a necessity to have healthy children and questioned the capacity of vaccines to prevent the spread of diseases.

Another main argument raised by the presenters in opposition to Bill 39 was that, if passed, the Bill would infringe on their rights, specifically the right to a public education for their children, and the right for parents to make decisions in the best interests of their children. Some presenters were not against vaccination, but rather were pro-choice, meaning they wanted the government to respect their individual rights to make informed decisions on the medical treatments provided to their children. They expressed the difficulty of having a constructive dialogue on the topic of vaccination without feeling bullied because of their perspective on the issue, and welcomed the openness demonstrated by the public consultation process.

Numerous presenters expressed their suspicions toward vaccine manufacturers and public health agencies, drawing for instance on documented examples of conflicts of interests in the United States. Some distributed articles highlighting certain risks associated with vaccines, the adverse events following immunization report from the Public Health Agency of Canada, and vaccine inserts detailing their possible adverse reactions and risks. This line of argument raised the question of the absence of a compensation plan for vaccine-related injuries and its necessity.

Several presenters in opposition to Bill 39 stated they would relocate to another province in the event that the Bill came into force, as they would not want their children to be vaccinated against their will and they could not afford to home school their children. They pleaded for government not to compromise a child's access to the public school system and, instead, look for alternatives that include a dialogue with vaccine hesitant parents.

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## WRITTEN SUBMISSIONS

The Committee received approximately 265 written submissions, mainly in the form of emails, in the days preceding and following the public hearings, mostly from New Brunswickers, but also from other Canadian jurisdictions and from citizens of the United States. The majority of the written submissions reflected an individual opinion from a personal perspective, reinforced at times by references, and were not submitted on behalf of organizations or professional associations.

### **Submissions Opposed to Bill 39**

The vast majority of the submissions were opposed to Bill 39. Three main themes emerged as the main concerns expressed in the written submissions. These are: the infringement of civil rights and individual freedom, the health implications of vaccines, and the suspicions about the pharmaceutical industry.

The following summary attempts to retrace the main ideas expressed under each theme.

#### **1. Infringement of Civil Rights and Individual Freedom**

As one of the main concerns expressed in the written submissions, numerous individuals perceived Bill 39 as an infringement of their rights.

A number of citizens believed the Bill infringes the *Charter* and constitutes a violation of their constitutional rights. Since they viewed vaccination as posing potential risks and as an invasive procedure, they asserted their right to informed consent, security of the person, and the right to choose. Additionally, they refuted the idea of a crisis following the measles outbreak in Saint John to justify what they understood as an infringement of their rights. It was argued that in order for a patient's consent to be regarded as informed, the patient must provide consent freely and without any coercion or deception. Another submission argued that fear-driven legislation to impose invasive medical procedures upon citizens without their desire or consent will create divisiveness and ultimately goes against our fundamental rights.

One argument raised in numerous submissions was the right of parents to determine what is best for their children, a matter in which the government should not, in their opinion, intervene. Some claimed that removing the non-medical exemptions to immunization for school children would infringe on the right to public education, as guaranteed by law, and undermine the diversity and inclusiveness of the education system. Also, according to this perspective, the Bill would result in an increased burden of responsibilities for school principals and personnel in applying the legislation.

One submission highlighted the concerns of the francophone community and the fear that if the Bill was to pass, francophone children would be at a disadvantage as French language private schools either do not exist in the province or are limited in number compared to their English counterparts.

A few individuals made the argument that vaccination conflicts with their personal beliefs, as they perceive the manufacturing and ingredients of vaccines as unethical and contrary to their faith. For that reason, they perceived the Bill as an infringement of an individual's freedom of conscience and religion.

Some of the submissions raised concerns about the perceived increase in government authority and power over an individual's body through mandatory vaccination and warned of its potential negative consequences.

## 2. Health Implications of Vaccines

The clear majority of the arguments contained in the written submissions sent in by the general public concerned the health implications of vaccines. Often accompanied by excerpts from anti-vaccination groups' webpages or by links to various websites and videos, the viewpoints expressed are varied but still presented similarities in their position.

Inadequate vaccination testing was one of the most common arguments found in the submissions, often referring to the "lack of double blinded placebo trials", to the "lack of evidence in the safety of the current combined childhood schedule of vaccinations", or to the "carcinogenic or mutagenic effects of vaccination". In relation to this argument, many proposed "mixed scientific results" on vaccination, the lack of transparency on the reporting of vaccine-related injuries that occur, and the lack of attention paid to the side effects.

Numerous accounts of perceived vaccine-related injuries and diseases were discussed in the submissions, most related to brain damage, autism, ADHD, and chronic illnesses. Another argument was that there are "more health problems today due to vaccines" and that "these diseases are more dangerous than those vaccines attempt to prevent". Personal stories of relatives and acquaintances believed to suffer from vaccine-related injuries were common to reinforce this argument, just as accounts of the healthy conditions of unvaccinated children or individuals were also told to emphasize the perceived dangers of vaccines.

Some of the opinions formulated against immunization brought forward the idea that vaccines destroy the immune system, advancing in some cases the thought that "having measles actually creates a stronger immune

system and protects against certain types of cancers” or that “vaccination weakens the body’s ability to respond to new viruses”. Many believed that unvaccinated children do not pose a threat in the transmission of diseases, no more than those vaccinated, and that vaccines have failed to achieve herd immunity.

### 3. Suspicious about the Pharmaceutical Industry

Several arguments presented in the written submissions expressed overall suspicions about pharmaceutical companies, justifying the position against mandatory vaccinations.

Drawing on the health-related concerns of vaccines, some argued that “sacrifices were made for the financial gains of the pharmaceutical companies”, claiming that the “vaccine studies were always conducted by vaccine manufacturers” and that pharmaceutical companies would unjustly “benefit from the sale of vaccines and the drugs needed to treat their side effects”.

According to this view, the push for mandatory vaccination is the result of the efforts of pharmaceutical companies that have a hidden agenda and have enrolled governments, regulatory bodies such as the American Center for Disease Control and Prevention, and the media by providing them with financial incentives.

The lack of accountability of pharmaceutical companies in the event of vaccine-related injuries, their “legal immunity” and the existence of a vaccine court in the United States fed the suspicions expressed against the industry.

### Submissions in Support of Bill 39

Among the few submissions received supporting Bill 39, the main arguments put forward by their authors raised the concern about the influence of the anti-vaccination movement and its potentially detrimental effect on the health of the population and the need to support evidence-based decision-making.

While the vast majority of written submissions were opposed to the Bill, one submission in support was particularly noteworthy. A senior scientist at the Ottawa Hospital Research Institute, who was unable to attend the public hearings, provided the Committee with a written submission explaining his view on mandatory vaccination, presenting a nuanced position on the issue.

Drawing on scientific literature, the doctor discussed the many benefits that immunization programs have brought to the world and emphasized the need for governments to pursue their goals of maintaining high vaccination rates to protect individuals, as reductions in vaccine coverage result in outbreaks that affect both vaccinated and unvaccinated individuals.

He presented his thoughts on both the positive and negative impacts of mandatory immunization policies. By looking at the examples of jurisdictions that removed exemptions to mandatory vaccination, he pointed to the benefits of increased immunization rates. On the other side, it was submitted that imposing a medical procedure can lead to parents withdrawing their children from the public health system, which would have a negative impact on public health.

The doctor acknowledged that given the evidence for these policies and the re-emergence of vaccine-preventable diseases, the benefits to the public may outweigh the infringements on a parent's right to choose. However, in order to proceed with removing non-medical exemptions, he argued for the need to consider whether all other less restrictive measures have been attempted and whether the policies, if adopted, will be effective. In addition, he argued in favor of the creation of a vaccine injury compensation program that would apply a principle of reciprocity, providing compensation in the rare event that a child was harmed by immunization.

The submission advised that the "removal of exemptions could be justified given the current public health climate and the evidence for benefit despite levels of uncertainty" and concluded by suggesting the following initiatives: constructive engagement should be conducted with potentially receptive vaccine hesitant communities; an effective immunization registry should be established; the opportunity to partner with Quebec on its vaccine compensation program should be discussed; sensitivity must be demonstrated to parents whose views may not align with the government since failure to do so could result in a spread of anti-vaccine sentiment; and the removal of exemptions policy should be periodically revisited, as mandating that such a policy may only be a temporary measure in the current environment of vaccine-preventable disease outbreaks may improve public acceptance of the policy.

### RECOMMENDATION

The Committee strongly supports immunization programs and is in agreement that there is a need to maintain high vaccination rates and accurate, current and complete immunization records. The Committee also wishes to report the concerns raised by those who appeared at the public hearings or provided written submissions. Accordingly, the Committee makes the following recommendation:

THAT the Legislative Assembly consider the issues and concerns outlined in this report during its consideration of any proposed legislation similar to Bill 39, *An Act Respecting Proof of Immunization*, to remove non-medical exemptions from the mandatory immunization requirements for children attending the public education system.

Pursuant to Standing Rule 78.1, Mr. Speaker put the question on the motion deemed to be before the House, that the report be concurred in, and it was resolved in the affirmative.

Hon. Ms. Anderson-Mason, from the Standing Committee on Law Amendments, presented the Second Report of the Committee for the session which was read and is as follows:

November 20, 2019

To The Honourable  
The Legislative Assembly of  
The Province of New Brunswick

Mr. Speaker:

I have the pleasure to present herewith the Second Report of the Standing Committee on Law Amendments for the session.

The report is the result of your Committee's deliberations on Motion 31 with respect to property assessment and taxation exemptions or benefits applicable to heavy industry.

On behalf of the Committee, I wish to thank those individuals and organizations who appeared before the Committee or provided written submissions. In addition, I would like to express my appreciation to the members of the Committee for their contribution in carrying out our mandate.

Your Committee begs leave to make a further report.

Respectfully submitted,

(Sgd.:) Hon. Andrea Anderson-Mason, Q.C., MLA  
Chair of the Standing Committee on Law Amendments

The full report of the Committee as presented follows:

Mr. Speaker:

Your Standing Committee on Law Amendments begs leave to submit their Second Report of the session.

On March 28, 2019, Motion 31, introduced by Gerry Lowe, Member for Saint John Harbour, was debated and passed by the House. The purpose of Motion 31 is to direct the Standing Committee on Law Amendments to hear from experts and stakeholders and report back to the House with recommendations on whether to reduce or eliminate any property assessment or property taxation exemptions or benefits that apply to heavy industry.

On July 9, 2019, the Committee met and determined that members of the public and interested stakeholders should be invited to provide input and advice to the Committee with respect to the issues raised by Motion 31. Public hearings were held in the Legislative Council Chamber for Motion 31 on September 4 and 5.

During the public hearings, the Committee heard from 20 presenters, including officials from various government departments and representatives of independent businesses, large industrial corporations, manufacturers and exporters, appraisers, business councils, various chambers of commerce, and other interested stakeholders. The Committee also received a total of 20 written submissions.

The Committee met again on November 13, 2019, to consider the input received during the consultation process and to formulate a Committee report with recommendations to the House. The Committee wishes to express its appreciation to the presenters who appeared at the public hearings and to those individuals and organizations who provided written submissions.

The following is a summary of the input received on the issues raised by Motion 31, with recommendations to the House.

### **MOTION 31**

Motion 31 states as follows:

*WHEREAS heavy industry benefits from a number of tax exemptions in New Brunswick;*

*WHEREAS public institutions such as hospitals have much higher assessments than many significant industrial properties;*

*WHEREAS the City of Saint John commissioned reports entitled “Municipal Property Tax Issues in The City of Saint John” and “City of Saint John Fair Taxation Report” that raise concerns with these exemptions;*

*WHEREAS Bill 10 was introduced in the fourth session of the 58th Legislature and Bill 9 in the current session of the 59th Legislature to address these issues;*

*BE IT RESOLVED that this House direct the Standing Committee on Law Amendments to undertake a study, including hearing from experts and stakeholders, and report back to the House with recommendations on whether to reduce or eliminate any property assessment or property taxation exemptions or benefits that apply to heavy industry;*

*BE IT FURTHER RESOLVED that this House direct the Standing Committee on Law Amendments to report back to the House with its recommendations within 120 calendar days of the adoption of this motion;*

*BE IT FURTHER RESOLVED that the Committee may, during a period when the Legislative Assembly is adjourned or prorogued, release a report by depositing a copy with the Clerk of the Legislative Assembly, and, upon the resumption of the sittings of the House, the Chair shall present the report to the Legislative Assembly.*

## **PUBLIC HEARINGS**

### **Government Officials**

Officials from the Department of Finance and Treasury Board, Department of Environment and Local Government, and Service New Brunswick opened the public hearings of the Committee with a joint presentation explaining the existing property tax system in New Brunswick and the issues raised by Motion 31. They reviewed the history of property tax in the province and detailed the assessment process of different classes of property, explaining that heavy industrial property is assessed at real and true value and that the profitability of a company is not taken into consideration when evaluating lands and buildings.

The officials acknowledged the importance of the revenues associated with property tax, estimated at \$530 million, distributed between the two levels of governments, provincial and local. On the question of taxation of machinery and equipment, they submitted that, in general, machinery and equipment are not assessed or taxed in Canada and that the jurisdictions that do assess and tax such property, apply tax rates much lower than the combined provincial and local rates used in New Brunswick.



On the particular issues raised by Motion 31, the officials indicated that: any changes to the non-residential property classification would impact resources and systems and alter the uniform treatment of businesses in New Brunswick; any potential sharing of provincial property tax related to heavy industrial properties would represent a transfer of tax room from the province to local governments; any changes would have potential implications to the community funding and equalization grant and other elements; if machinery and equipment are to be assessed, it would require a significant investment by Service New Brunswick in terms of resources, training and systems; and taxing machinery and equipment would be burdensome for capital-intensive industries and create disincentive for investment, productivity and growth.

In conclusion, the officials submitted that the current system helps ensure the competitiveness of infrastructure, which is important to economic activity and development, and reiterated government's commitment for comprehensive municipal tax reform that would look into the issues raised by Motion 31 within a broader framework of analysis.

#### **Cities of New Brunswick Association**

Representatives of the Cities of New Brunswick Association offered their perspective on property tax and municipal reform. They explained that the provincial municipalities that they represent have experienced continued economic growth over the last two decades, despite receiving only 8% of the taxes paid by New Brunswickers, the balance going to the provincial and federal governments, and that exemptions to large industries translate into higher taxes for residents.

While the costs of services have significantly increased, they argued that residents of neighboring unincorporated areas benefit from the services offered by municipalities without paying their fair share of taxes. The association offered the following recommendations to the Committee and indicated their willingness to work in a collaborative manner in designing and implementing the reforms: the government should undertake a full review of the property tax system and the municipal funding system and include all stakeholders in the process; the government should distribute all property tax levied to municipalities, as is the case in other Canadian jurisdictions; a fair share approach should be adopted to ensure all New Brunswickers pay a fair share for the services and resources they use; and apartment buildings should no longer be subjected to double taxation.

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**Business Associations, Chambers of Commerce and Other Stakeholders**

Throughout the hearings, representatives of several business associations, chambers of commerce and other stakeholders presented their perspectives on Motion 31. All were opposed to the taxation of machinery and equipment and the removal of the exemptions on heavy industry. Instead, they recommended greater government support in favour of business competitiveness in New Brunswick and a broad review and reform of the tax regime in place.

The representatives pointed out the difficult environment for small businesses in New Brunswick, already coping with recent additional financial constraints, such as the increase in land transfer tax, the increase in workers' compensation rates, and the introduction of a carbon tax. As a result, they argued that businesses already pay their fair share of taxes. Additionally, they argued that if machinery and equipment are taxed, it would negatively impact capital investment and increase the tax burden of small and medium businesses, dependent on heavy industry.

The representatives illustrated the numerous difficulties local businesses are already facing, such as an uncompetitive environment, a decreasing labour pool and an overly aggressive regulatory agenda. According to the representatives, taxing machinery and equipment would provide additional reasons not to invest in New Brunswick, which would have a domino effect on the rest of the economy and on job creation. They believed taxing machinery and equipment is a short-sighted solution to fixing the difficult financial situation of certain municipalities and suggested a better option would be comprehensive tax reform, looking at the total tax burden on businesses. They urged that government should undertake significant measures to encourage investment and create a more competitive business environment.

**Industry**

Sharing similar arguments as those advanced by the business associations, chambers of commerce and other stakeholders, representatives of a few large New Brunswick-based companies expressed their views on Motion 31 during the Committee hearings. All of these presenters emphasized the risks associated with Motion 31 and its perceived intent to increase taxation of heavy industry, which would affect their competitiveness.

The industry representatives argued that the discussion should not be limited to what municipalities receive from the current property tax system, but instead should look at what the industry pays in its entirety, in terms of taxes and through regulations. They highlighted the increased

costs to comply with new environmental regulations, their investments in local communities and their role as local job creators.

They advised the Committee of the difficulties in conducting fair interprovincial comparisons on taxation, as taxes may serve different purposes in each jurisdiction, and that higher assessment rates may be associated with lower tax rates. The representatives reiterated the importance of looking at the entire picture before adopting new measures. They also reminded the Committee of their limited use of municipal infrastructure. Providing the example that although heavy industry may cause greater damage to the roads, the industry generally does not benefit from other municipal services such as garbage collection.

### **The City of Saint John**

Representatives of the City of Saint John, including the Mayor and City Manager, appeared before the Committee. They assured the Committee that Saint John is pro-business and acknowledged that the city benefits from the economic contributions of heavy industry. Their presentation included taxation and assessment comparisons between heavy industry in certain other Canadian jurisdictions and in Saint John. The representatives noted the distinct differences and argued that it did not make sense that the property of heavy industry in the city was assessed at a lower value than similar industrial property in other jurisdictions and, accordingly, less property tax was paid than in other jurisdictions.

The representatives further submitted that the city does not receive an equitable distribution of tax revenue from heavy industry and requested that the provincial share of property tax on heavy industry be redistributed to municipalities. They also supported the government's commitment to undertake comprehensive municipal tax reform to achieve fair and equitable tax policy.

### **WRITTEN SUBMISSIONS**

The Committee received 20 written submissions on Motion 31 in the days preceding and following the public hearings, mostly from concerned New Brunswickers. The submissions reflected an individual opinion, reinforced at times by references, and were not submitted on behalf of organizations or professional associations with the exception of the Canadian Taxpayers Federation and the Atlantic Provinces Economic Council.

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**Submissions in Support of Motion 31**

The vast majority of the submissions expressed views in favour of the perceived intent of Motion 31, that being the eventual taxation of heavy industry machinery and equipment. Two main themes emerge as the primary concerns. These are: the perceived unfairness of the current property tax regime and the need to focus on climate action and environmental protection.

**1. Unfairness of the Current Property Tax Regime**

A reoccurring argument found in the written submissions was that heavy industry does not pay its fair share of taxes. It was argued that taxes paid by residents disproportionately subsidize industry's use of infrastructure, even though industry causes most of the damage to provincial and municipal roads. It was submitted that it is unjust that public institutions, such as hospitals, have a higher assessment than industrial properties and end up paying more property taxes.

Some residents highlighted the current difficult economic situation experienced by the City of Saint John and noted that the tax exemptions to heavy industry cost the province a significant amount in lost revenue, leaving residents to believe that the province is managed for the benefit of some and not for others. It was suggested that the current tax system leaves residents and small business in Saint John carrying a disproportionate portion of the financial obligations required to operate the city. Many recommended that the government undertake comprehensive reform of the provincial property tax system.

A few submissions specifically questioned whether a certain large conglomerate in Saint John was using the current tax system and its exemptions to avoid paying its fair share of taxes, while most of its revenues were perceived to not be accounted for in the province and thus not subject to provincial taxation.

One submission was of the opinion that Service New Brunswick arbitrarily sets assessments resulting in favoritism, discrimination, discrepancies from property to property, and unfairness to many taxpayers. To such a degree that the authors filed a constitutional challenge to the law governing the property tax assessment system. They also called for complete reform of the property tax regime.

**2. Climate Action and Environmental Protection**

A few submissions suggested a better public policy would be to eliminate tax exemptions and subsidies to highly profitable companies, such as those involved in the fossil fuel industry, and instead show leadership on climate action and environmental protection and dedicate resources to those endeavors.

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**Submissions Opposed to Motion 31**

The Canadian Taxpayers Federation submitted that increasing taxes on New Brunswick job creators to generate more revenue would have the opposite effect by driving business, investment and people out of the province. Instead, it was argued that government should focus on policies making the province a more welcoming place to live and start a business, and to make the province a more competitive environment relative to other jurisdictions in Canada and the United States. It was suggested that provincial business property taxes are substantial barriers to new business investment and it was recommended that government should consider the impact on business competitiveness when examining further taxation increases to business owners.

The Atlantic Provinces Economic Council submitted that while removing the exemptions that limit the application of property tax to machinery and equipment could help the City of Saint John address its fiscal challenges, it would negatively impact the economy of the city and the province as a whole. Meaning, it would increase operating costs, reduce profit margins, and increase the cost of investment, thus reducing the rate of return on investments. This would lead to lower investment in machinery and equipment, ultimately slowing productivity growth and weakening the international competitiveness of producers. Lower investment would lead to lower economic activity, fewer jobs and the possibility of relocation.

**RECOMMENDATIONS**

The Committee understands that the intent of Motion 31 was to initiate a public discussion on whether to reduce or eliminate any property assessment or property taxation exemptions or benefits that apply to heavy industry. Based on the input received, the Committee wishes to make the following recommendations:

1. THAT the government consider the issues and concerns outlined in this report.
2. THAT the government consider a review of taxation with a view of modernizing and improving the current property tax system.

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Pursuant to Standing Rule 78.1, Mr. Speaker put the question on the motion deemed to be before the House, that the report be concurred in, and it was resolved in the affirmative.

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The following Bills were introduced and read a first time:

By Hon. Mr. Carr,

Bill 2, *An Act to Amend the Greater Saint John Regional Facilities Commission Act.*

Bill 3, *An Act to Amend the Days of Rest Act.*

By Hon. Ms. Anderson-Mason, Q.C.,

Bill 4, *An Act to Amend the Provincial Offences Procedure Act.*

By Hon. Mr. Steeves,

Bill 5, *An Act to Amend the Executive Council Act.*

By Hon. Ms. Anderson-Mason, Q.C.,

Bill 6, *Enduring Powers of Attorney Act.*

By Mr. Coon,

Bill 7, *An Act to Amend the Crown Lands and Forests Act.*

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Mr. LePage gave Notice of Motion 2 that on Thursday, November 28, 2019, he would move the following resolution, seconded by Ms. Harris:

WHEREAS nursing home residents are among our most vulnerable citizens;

WHEREAS the shortage of nursing home workers is negatively impacting the quality of life and quality of care for nursing home residents;

WHEREAS the ongoing labour dispute is negatively impacting the recruitment and retention of nursing home workers;

WHEREAS two levels of court have ruled against the government and found nursing home workers have the right to strike despite the *Essential Services in Nursing Homes Act*;

WHEREAS further appeals are unlikely to succeed and certain to cost taxpayers significant sums of money;

WHEREAS the court has given the government the opportunity to amend the *Essential Services in Nursing Homes Act* before January 2020, when a stay on the right to strike will expire;

WHEREAS, despite the Premier's threats, no election outcome can overturn the court's ruling that nursing home workers have a right to strike;

WHEREAS a strike by nursing home workers would negatively impact nursing home residents and their families;

WHEREAS, this past session, the Legislative Assembly passed a motion in support of unaltered binding arbitration;

BE IT THEREFORE RESOLVED that this House urge the government to bring forward amendments to the *Essential Services in Nursing Homes Act* to provide for meaningful binding arbitration to resolve this labour dispute in lieu of strike action.

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Ms. Rogers gave Notice of Motion 3 that on Thursday, November 28, 2019, she would move the following resolution, seconded by Mr. McKee:

WHEREAS the herbicide glyphosate is used by the forest industry, NB Power, and the agricultural sector for vegetation control;

WHEREAS despite findings by Health Canada and New Brunswick's Chief Medical Officer indicating that glyphosate does not pose a cancer risk to humans at current exposure rates, concerns about the spraying of glyphosate remain;

WHEREAS, prior to taking any decision related to changes to the application of glyphosate in New Brunswick, it is important to hear from stakeholders including the forest and agricultural sectors, subject matter experts, and the general public;

BE IT THEREFORE RESOLVED that this House urge the government to refer the issue of glyphosate spraying to a legislative committee in order to hold public hearings, engage stakeholders, invite submissions, and make recommendations to government within six months.

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Mr. D'Amours gave Notice of Motion 4 that on Thursday, November 28, 2019, he would move the following resolution, seconded by Ms. LeBlanc:

WHEREAS nurse practitioners (NPs) are registered nurses with advanced education and training that prepare them for a broad scope of practice and maximum functionality within the health care system;

WHEREAS there are more than 7,400 licensed NPs in Canada, and over 130 in New Brunswick providing primary, acute and specialty care to patients of all ages and walks of life;

WHEREAS NPs diagnose, treat and prescribe medications and other treatments to patients through a caring, patient-centered, holistic model of care;

WHEREAS New Brunswick citizens have great trust in the high-quality care NPs provide, with over 3 million nationwide receiving care from a NP;

WHEREAS decades of research demonstrate the high quality of care provided by NPs;

WHEREAS New Brunswick continues to work towards ensuring that all NPs are practicing at full scope and barriers to NP care delivery are addressed and removed;

WHEREAS better utilization of NPs will continue to evolve through modernization of legislation and improved system policies that aim to create a more accessible, efficient, cost-effective and higher-quality health care system;

WHEREAS governmental and policy entities recognize the benefits of having NPs practicing at maximum scope within the health care system and vote to support changes to legislation that allow NPs to practice to their full capacity;

WHEREAS New Brunswick is proud to recognize and honour the service of NPs in our province;

BE IT THEREFORE RESOLVED that the Legislative Assembly urge the government to declare the week of November 8 to 14, 2020 and, thereafter, every second week of November as National Nurse Practitioner Week in the province of New Brunswick in recognition of the numerous contributions that NPs have made over the past half century and will continue to make to the health and well-being of Canadians.

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Mr. C. Chiasson gave Notice of Motion 5 that on Thursday, November 28, 2019, he would move the following resolution, seconded by Mr. D'Amours:

WHEREAS the 10-year education plans were developed with stakeholders from across the province including two representatives of the Progressive Conservative Party;

WHEREAS the 10-year education plans are only in their fourth year of implementation;

WHEREAS the current government promised to continue the implementation of the 10-year education plans and bring stability to the education system;



WHEREAS the current government's green paper on education proposes radical and untested reforms which would completely destabilize the education system;

BE IT THEREFORE RESOLVED that this House urge the government to abandon the green paper on education and instead focus on improving the education system by continuing to implement the 10-year education plans.

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Mr. McKee gave Notice of Motion 6 that on Thursday, November 28, 2019, he would move the following resolution, seconded by Mr. LeBlanc:

WHEREAS the Progressive Conservative Party received only 31.89% of the vote in the 2018 election;

WHEREAS the current government relies on the support of the People's Alliance, which received only 12.58% of the vote in the 2018 election;

WHEREAS 54.68% of New Brunswickers voted for parties in the 2018 election that do not support the current government;

WHEREAS 68.11% of New Brunswick voted against the platform of the Progressive Conservative Party in the 2018 election;

WHEREAS the current government lacks the moral authority to implement major reforms that were not debated in the last provincial election;

WHEREAS the current government recognized its lack of moral authority when it promised in its first throne speech to "invite all party leaders to offer input into legislation and regulations", "share the ability to make decisions", and "build broad coalitions in this house";

BE IT THEREFORE RESOLVED that this House urge the government to refer to legislative committees any major reforms for study and recommendations by all parties and feedback from the general public and outside experts.

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And then, 1.05 p.m., the House adjourned.