



**SECOND REPORT
OF THE
STANDING COMMITTEE ON LAW AMENDMENTS**

**Third Session
59th Legislative Assembly
of the
Province of New Brunswick**

November 20, 2019

MEMBERS OF THE COMMITTEE

Hon. Ms. Anderson-Mason, Q.C., Chair
Mr. Northrup, Vice-Chair
Hon. Mr. Stewart
Mr. Fitch
Mr. K. Chiasson

Mr. Landry
Ms. Landry
Mr. McKee
Ms. Mitton
Mr. DeSaulniers

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,

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

November 20, 2019

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

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.

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.

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.

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.