



FIRST REPORT
OF THE
STANDING COMMITTEE ON LAW AMENDMENTS

Second Session
Sixty-first Legislative Assembly
of the
Province of New Brunswick

December 10, 2025

MEMBERS OF THE COMMITTEE	
Hon. Mr. McKee, K.C., Chair Ms. Sodhi, Vice-Chair Mr. Arseneault Mr. M. LeBlanc Mr. Doucet Mr. Mallet	Mr. Robichaud Ms. M. Wilson Mr. Hogan Ms. Conroy Mr. Coon

December 10, 2025

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

Madam 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 19, *An Act Respecting the Right to a Healthy Environment*, the subject matter of which was referred to your Committee for consideration.

On behalf of the Committee, I wish to thank those who appeared before the Committee. 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. Robert McKee, K.C., M.L.A.
Chair

December 10, 2025

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

Madam Speaker:

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

On March 25, 2025, Bill 19, *An Act Respecting the Right to a Healthy Environment*, was introduced in the Legislative Assembly.

Bill 19 would, among other things, set out the rights of New Brunswick residents to a healthy environment, to be informed of and participate in environmental decision-making, and to seek remedies in court related to environmental protection matters. It would also establish a legislative officer called the Environmental Rights Commissioner.

On May 29, 2025, by resolution of the House, consideration of the subject matter of Bill 19 was referred to the Standing Committee on Law Amendments.

On August 19, 2025, your Committee met and decided to select and invite interested stakeholders to provide input and advice to the Committee with respect to the issues raised by Bill 19.

Your Committee held public hearings on September 18 and 19 and heard from eight invited presenters.

On December 9, 2025, your Committee met to consider the input received and to formulate a report with recommendations to the House.

The Committee wishes to express its appreciation to the presenters who appeared at the public hearings.

The Committee wishes to note that Bill 19 has since died on the Order and Notice Paper as the First Session of the 61st Legislative Assembly was prorogued on October 21, 2025. Nevertheless, 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 19, with recommendations to the House.

PUBLIC HEARINGS

The Committee heard from the Department of Environment and Local Government as well as presenters from the legal and environmental fields, the chief of a First Nation, and representatives from the agricultural and energy sectors. Presenters expressed broad support for the Bill's intent

to strengthen environmental protection and transparency, while identifying legal, procedural and practical issues with the Bill as presented.

Certain presenters underscored that Bill 19 represents an important proposal to enshrine environmental rights in New Brunswick law, while others questioned the inclusion of certain elements, advised that amending existing environmental legislation would be preferable, and urged careful amendments and clarification to ensure that the Bill's goals are achievable, coherent, and aligned with both provincial realities and national and international best practices.

What follows is a summary of what the Committee heard regarding the Bill as a whole, organized by theme, followed by comments relating to its specific parts.

Key Themes and Issues:

In addition to commenting on the specific provisions of Bill 19, presenters provided input touching on the following five themes and issues:

1. Alignment with Existing Legislation and Avoidance of Duplication

A recurring theme among presenters was the need to ensure that Bill 19 complements rather than conflicts with existing environmental and other legislation. The Department of Environment and Local Government's position is that the province's *Clean Air Act* and *Clean Water Act* are currently under review for purposes of modernization and could more effectively incorporate elements of Bill 19 than new, standalone legislation. Representatives of the agricultural and energy sectors echoed this concern, warning that the Bill's paramountcy provision (section 5) could create overlap and uncertainty in relation to existing regulatory frameworks. Lawyers presented concerns about duplication, inconsistencies and the potential for conflict between Bill 19 and current laws. In summary, some presenters urged that elements contained in Bill 19 should be implemented through coherent, harmonized updates to existing legislation rather than through a new, potentially conflicting Act. Others pointed out that standalone legislation has worked elsewhere, including in Ontario.

2. Indigenous Rights and Environmental Stewardship

The Chief of the Peskotomuhkati Nation at Skutik linked Bill 19 to broader themes of reconciliation and Indigenous environmental governance. He underscored that the environment is not merely a resource but a living home and that true environmental law must recognize Indigenous Peoples' long-standing relationship with the land. He cautioned that legislation has historically excluded Indigenous voices and favoured corporate interests, urging that Bill 19 serve as a vehicle for genuine consultation, co-management, and respect for Indigenous Peoples. His comments referenced the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and highlighted that Indigenous rights exist independently of provincial legislation. His remarks framed environmental protection as a moral and cultural duty shared across generations and grounded in mutual respect.

3. Economic and Sectoral Impacts

Several presenters warned that Bill 19 could have unintended economic and operational consequences if enacted without clear definitions and implementation guidelines. The Atlantica Centre for Energy argued that vague and overbroad terms and offence provisions relating to environmental harm could create regulatory uncertainty, delay energy transition projects and discourage investment in renewable initiatives. Similarly, the Agricultural Alliance of New Brunswick expressed concern that the Bill could expose farmers to investigations or legal actions for normal farming practices, increasing costs and stress within rural communities, and leading to unintended consequences, such as the inability to use certain tools to build soils resilient to climate change and grow certain crops. Both groups supported enhanced environmental protection in principle but urged a more pragmatic approach that balances sustainability with economic viability. They advocated for consultation with affected industries and clear, science-based criteria when developing environmental protection legislation.

4. Drafting, Fairness and Clarity Concerns

Two lawyers who appeared highlighted that Bill 19 should not be adopted in its current form as it requires revision to ensure precision in its use of terms and, at a minimum, the inclusion of thresholds and defences to legal actions and offence provisions. One lawyer expressed philosophical opposition to private enforcement mechanisms in general. Concern was expressed over ambiguities, including undefined terms that should be defined, a paramountcy provision that overlaps with other environmental legislation, and low thresholds for triggering liability for environmental harm—issues that could result in unnecessary litigation and uncertainty. They cautioned that poorly defined offences and the absence of standard defences (such as due diligence) could undermine fairness and burden the courts.

5. Transparency, Accountability and Public Trust

A shared theme across supportive and critical commentary was the importance of transparency in environmental decision-making. A former Environmental Commissioner of Ontario and a representative of East Coast Environmental Law argued that public access to environmental information, registries and decision rationales is vital for building trust and improving policy quality. The Department of Environment and Local Government and industry representatives agreed that public engagement is important but warned that unclear or open-ended mechanisms could cause administrative overload and erode efficiency.

Specific Parts of the Bill:

The Committee heard from presenters regarding specific provisions of Bill 19, which is organized into eleven numbered Parts.

Part 1: Definitions and Purposes

Part 1 defines terms used in the Act; sets out its stated purposes; makes it paramount over any conflicting legislation; sets out principles of interpretation drawn from environmental law; and provides that the Act does not derogate from Indigenous rights.

Presenters raised concerns about the definitions used in Bill 19. It was noted that terms defined differently than in other environmental or related legislation could cause uncertainty and administrative difficulties. For example, “air” is defined differently in the *Clean Air Act*, and “child”, while not defined in the Bill and therefore meaning any person under age 19, is defined in other Acts as any person under age 16. It was noted that the definition “person” is underinclusive as it omits “regional municipality”.

The Atlantica Centre for Energy criticized the Bill’s use of vague and overly broad language, such as a definition of “environmental harm” that includes “any contamination”, where “contaminant” is defined as including “any ... odour, heat, cold, sound, vibration ... that causes damage to property.” They warned that this could lead to overly expansive interpretations and regulatory confusion. Similarly, the Agricultural Alliance of New Brunswick warned that broad and vague language could open the door to misinterpretation or abuse, as the proposed definitions may prohibit standard farming practices that produce noise or odour. In addition, the Chief of the Peskotomuhkati Nation emphasized the need to strengthen and clarify terms like “children” and “residents” to reflect broader and more inclusive understandings, particularly from Indigenous perspectives. Presenters agreed that imprecise or inconsistent definitions in Bill 19 could lead to litigation and enforcement challenges and undermine the Bill’s intent.

The paramountcy provision was noted as problematic, as the *Clean Air Act*, *Clean Water Act* and *Clean Environment Act* also contain paramountcy provisions, and there may be situations in which the Bill conflicts with those Acts.

It was suggested that the principle of non-derogation from Indigenous rights would be better placed in the *Interpretation Act* so that it applies to all legislation.

Part 2: Environmental Rights and Obligations

Part 2 provides that every resident of the province has the right to a healthy and ecologically balanced environment and to be protected from environmental hazards, and it imposes an obligation on the government to protect these rights.

Presenters noted that some other Canadian jurisdictions, including Ontario, Quebec, the three territories, and, since 2023, the federal jurisdiction, have incorporated substantive environmental rights in legislation in various forms. The substantive right to a healthy environment may be distinguished from procedural rights, such as rights to access information, participate in decision-making and initiate court proceedings. Procedural rights provide tools for the public to participate in the protection of their substantive rights. Some procedural rights already exist in New Brunswick environmental legislation.

Benefits of a legislated right to a healthy environment were stated to include stronger environmental laws and policies, improved implementation and enforcement, greater public participation in decision-making, reduced environmental injustices, reduced pollution and promotion of the development of the common law of environmental protection.

Several presenters noted that Ontario's *Environmental Bill of Rights*, in force since 1994, was the subject of a March 2024 report by the Law Commission of Ontario which recommended amendments. They suggested that report be considered when developing legislation similar to Bill 19.

Presenters expressed a shared recognition of the importance of the right to a healthy environment but diverged on how it should be implemented. East Coast Environmental Law and the Chief of the Peskotomuhkati Nation emphasized that environmental rights are fundamental human rights, consistent with international standards such as the UN General Assembly's recognition of the right to a healthy environment and UNDRIP. Both underscored that these rights carry intergenerational obligations to protect children and future generations, with the Chief urging that the Bill's language explicitly reflect inclusivity and long-term stewardship.

Other presenters, including the Department of Environment and Local Government, acknowledged the Bill's intent but recommended integrating its principles into existing environmental legislation. The Department referenced the Government of Canada's 2025 implementation framework for the right to a healthy environment under the *Canadian Environmental Protection Act, 1999*, and suggested that it may be beneficial for New Brunswick to consider aligning with the federal approach.

Part 3: Public Participation in Government Decision-Making

Part 3 provides for: (a) opportunities for the public to participate in government decision-making regarding environmental legislation and policies, including consultation on proposals affecting environmental rights, (b) a right of public access to environmental information from government, (c) public interest standing before the courts for all residents, (d) an environmental registry, and (e) statements of environmental values to be published by the government explaining how the purposes of the Act will be applied in its decision-making.

East Coast Environmental Law supported the Bill's inclusion of procedural rights—public access to environmental information, participation in decisions and access to justice—arguing that these align with international standards and strengthen accountability. The former Ontario Environmental Commissioner praised the provisions for an environmental registry and Statements of Environmental Values (SEVs), citing their success in promoting transparency in Ontario and recommending that SEVs be required of more departments than the two proposed in the Bill. The Department of Environment and Local Government recognized the value of public input but noted that existing right to information legislation provides the public with a more robust scheme to access environmental information. The Chief of the Peskotomuhkati Nation emphasized that genuine participation requires shared decision-making with Indigenous Peoples. Industry and agricultural representatives supported consultation but warned that vague participation rights could create uncertainty and delays. There was agreement on the importance of public access and participation, but opinions differed on implementation and administrative balance.

Part 4: Environmental Rights Commissioner

Part 4 provides for the appointment of an Environmental Rights Commissioner, an officer of the Legislative Assembly with a mandate to review, investigate and report on environmental matters.

Presenters' views on the proposed Environmental Rights Commissioner role varied widely. The Department of Environment and Local Government questioned the need for a new legislative officer, suggesting that if such a role is desirable, existing legislative officers such as the Auditor General or Ombud could have such duties added to their mandates. It was observed that the Bill lacks necessary provisions to establish the role (for example, a nomination process and provisions for removal and term length) which are found in other Acts establishing legislative officers. Ontario's former Environmental Commissioner strongly supported creating an independent and dedicated commissioner to promote transparency and accountability but recommended removing the power to issue orders to ministers and instead specifying that the Commissioner has a duty to be available to Members of the Legislative Assembly to assist them in holding ministers to account. East Coast Environmental Law supported the inclusion of a commissioner to oversee public participation and enforcement, though the group recommended clarifying accountability mechanisms. By contrast, other presenters cautioned that the Commissioner's investigation powers, when coupled with the Bill's private enforcement provisions, could subject New Brunswickers to a multiplicity of proceedings regarding the same complaint, resulting in unfairness, increased costs and delays. The Commissioner's power to investigate any person (including private citizens), without procedural fairness protections, was criticized.

Parts 5 and 6: Application for Review and Investigation of Offences

Part 5 provides that any two residents, including children, may request a review of whether changes to provincial legislation or policies are required to protect the environment or children's environmental health, and that the Environmental Rights Commissioner refer the request to the appropriate department and report on progress.

Part 6 provides that any two residents, including children, may request that the Environmental Rights Commissioner investigate alleged breaches of certain laws and regulations. The Commissioner reports the results of such investigations and makes a recommendation to the Minister of Environment and Climate Change.

Comments on Parts 5 and 6 focused on balancing public empowerment with administrative practicality. Supporters such as East Coast Environmental Law endorsed these mechanisms as essential procedural rights that give residents meaningful tools to hold government and industry accountable, consistent with international environmental governance standards. They argued that allowing citizens to trigger reviews or investigations strengthens transparency, access to justice and protection of children's environmental health.

The former Ontario Environmental Commissioner, referencing Ontario's *Environmental Bill of Rights*, explained that similar citizen-initiated reviews and investigations have worked effectively in that province—improving environmental oversight and public trust while rarely resulting in frivolous use—and recommended that such provisions be retained with clear processes.

Conversely, the Department of Environment and Local Government, along with lawyers and industry representatives, warned that the low threshold for initiating reviews or investigations could overwhelm government capacity, duplicate existing enforcement systems or invite abusive claims. The need for procedural clarity and defined thresholds was stressed.

Part 7: Remedies and Legal Actions

Part 7 provides that any resident, regardless of whether they are directly affected, may apply for judicial review of a government decision involving environmental rights. It also provides that any resident may initiate an environmental protection action in court against the government or against a person who has breached, or is likely to breach, a law resulting in environmental harm.

Presenters expressed different perspectives on the proposed judicial review remedy and environmental protection actions. East Coast Environmental Law supported the inclusion of environmental protection actions, also known as citizen suits, to provide residents with tools to protect their right to a healthy environment. However, they, along with the Department of Environment and Local Government, recommended that the Bill expressly state the remedies that a court may order, similar to the federal and Ontario legislation. Those jurisdictions do not permit awards of damages to plaintiffs if successful in such actions.

Other presenters cautioned that the Bill's provisions for private enforcement and broad judicial review could invite excessive or politicized litigation, strain the courts, undermine democratic decision-making, and hinder major infrastructure and other projects. One lawyer warned that empowering individuals or groups to challenge government actions through the courts when they are not directly affected could shift policy authority and accountability away from elected officials, while another cautioned that availability of judicial review should be limited to cases in which the government fails to comply with the public participation requirements in Part 3, similar to Ontario's Act.

It was noted that there is a low threshold for bringing an environmental protection action, as environmental harm is broadly defined and, in the case of an action against the government, the fact that the government authorized the activity is not a defence. In addition, there is no exemption for activities that do not cause a material impairment of the environment or for the owner of a residential property where the impact is confined to that property.

Presenters expressed concern that Part 7 could expose farmers to civil liability for acceptable farm practices that would otherwise be exempt under the *Agricultural Operation Practices Act*.

Parts 8 and 9: Employer Reprisals and Protection Against Strategic Lawsuits Against Public Participation

Part 8 provides for complaints to the Labour and Employment Board in cases of employer reprisals against employees for exercising rights under the Act, and it authorizes the Board to make remedial orders.

Part 9 provides that a judge may declare any legal action or other pleading improper and impose a sanction against the responsible party where it is found to be vexatious, made in bad faith or retaliatory, among other reasons.

One presenter noted that, unlike Ontario's Act, the Bill does not place the onus on the employer to prove that it did not take a reprisal on a prohibited ground. It was also suggested that, since members of the public service have protections from reprisals under the *Public Interest Disclosure Act*, this provision should not apply to them.

The Bill's treatment of Strategic Lawsuits Against Public Participation (SLAPPs) was identified as needing clarification and consistency with other legal frameworks, and it was recommended that, if such a provision is desired, it be made applicable to all cases by including it in the *Judicature Act* rather than in legislation specific to the environment.

The former Ontario Environmental Commissioner confirmed that Ontario's *Environmental Bill of Rights* includes whistleblower protections, and that anti-SLAPP provisions were enacted separately from that Act in Ontario. He described these as important safeguards that help individuals report environmental violations without fear of retaliation, even if they are rarely invoked.

Part 10: Special Prohibition to Protect Children

Part 10 makes it an offence to knowingly subject any child to an environmental hazard or environmental harm. The offence is punishable by fines of up to \$200,000 for a first offence, \$500,000 for a second offence, and up to 18 months' imprisonment.

The Chief of the Peskotomuhkati Nation emphasized that the Bill's language around "children" and "residents" should be strengthened to reflect an inclusive, long-term responsibility to protect future generations, aligning with Indigenous perspectives that view environmental stewardship as a duty to both ancestors and descendants. East Coast Environmental Law also supported this principle implicitly, framing environmental rights as essential to public health and well-being, particularly for children and vulnerable populations, and highlighting that international human rights standards treat protection from environmental harm as a core obligation.

Other presenters expressed concern over the breadth of the offence, which would capture any environmental harm or hazard, broadly defined, no matter how minor, and without providing for a due diligence defence. Concern was also expressed that this broadly defined offence would be punishable by the most severe penalty available for a provincial offence.

Part 11: General Provisions

Part 11 provides for review of all government bills and regulations by the Environmental Rights Commissioner for consistency with the Act; a 7-year review of the Act; public release of documents supporting applications for permits, licences and other similar instruments in the environmental registry; and regulation-making authority for purposes of the Act.

While some presenters, including industry representatives, worried about regulatory duplication and administrative burden, others agreed that regular review of the Act and public disclosure of information would be essential to uphold the integrity and effectiveness of environmental rights in New Brunswick. The Agricultural Alliance questioned the absence of oversight by municipalities and rural communities in the making of regulations under the Act.

Summary of Recommendations Regarding Bill 19:

Presenters East Coast Environmental Law, the former Environmental Commissioner of Ontario and Peskotomuhkati Nation at Skutik were generally supportive of the Bill. The Department of Environment and Local Government and Atlantica Centre for Energy were supportive of the intent of the Bill but recommended against standalone legislation of this nature. The Agricultural Alliance of New Brunswick expressed concern over the Bill's impact on agricultural operations and recommended that it not be adopted in its current form. Two lawyers who appeared recommended the Bill not be adopted in its current form and identified several provisions to be removed entirely or substantially amended.

RECOMMENDATIONS

The Committee wishes once again to thank those who provided input on the subject matter of Bill 19 and to report their comments and concerns.

The Standing Committee on Law Amendments supports the Bill in principle given its recognition of the right to a healthy environment and its intent to strengthen environmental protection and transparency; however, it recommends:

- 1. That Bill 19, *An Act Respecting the Right to a Healthy Environment*, not be adopted in its current form given the legal, procedural and practical issues identified in the Bill.**
- 2. That the review and modernization of the *Clean Air Act* and the *Clean Water Act* being undertaken by the Department of Environment and Local Government take into consideration the key themes and issues outlined in this report.**