
Achieving Greater Accessibility

**NEW BRUNSWICK'S FRAMEWORK FOR
ACCESSIBILITY LEGISLATION**

Achieving Greater Accessibility by 2040 New Brunswick's Framework For Accessibility Legislation

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Introduction

Pursuant to Motion 78, the Legislative Assembly established the Select Committee on Accessibility (the Select Committee) in June 2021 with a mandate to consult with community stakeholders and government departments involved with the disability community on the state of accessibility and report to the House with recommendations.

The Select Committee issued an interim report in December 2022 entitled *Nothing About Us, Without Us: Moving Together Towards an Accessible New Brunswick*, which concluded that the need for accessibility legislation is urgent and should come before all other recommendations. The Select Committee proposed seven key components be included in New Brunswick's accessibility legislation. The following Framework for Accessibility Legislation (the Framework) is based on recommendations and key principles from the report and best practices in other jurisdictions.

New Brunswick's accessibility legislation will:

- Benefit all persons, especially persons with disabilities, by identifying, removing and preventing barriers to full and effective participation in society with the goal of achieving greater accessibility by 2040.
- Apply broadly to regulate the public sector and apply to the private sector with a view of establishing acceptable levels of barrier-free standards over time through collaboration.
- Include standardized definitions anchored in modern best practices.
- Include a governance structure to support accessibility improvements across the province and include stakeholders in a meaningful and ongoing basis in the development and implementation of standards, accessibility plans, and other legislative responsibilities.

- Include regulation-making authority to enact accessibility standards that will identify, remove and prevent barriers to full and effective participation and inclusion in society for persons with disabilities without deteriorating existing protections.
- Focus efforts on building awareness and capacity to help individuals and organizations adhere to the legislation and standards and include mechanisms to monitor progress on implementation (*to determine if the legislation is being implemented as planned*), evaluate effectiveness (*to determine if the legislation is achieving its objectives*), and promote compliance (*to ensure individuals and organizations are doing what they are supposed to under the legislation*).
- Outline reporting and accountability requirements of those responsible for the administration of the legislation.

Note: The Framework may be amended by legislative drafters during the drafting process while respecting the intent of the proposal.



Purpose

In recognition of the various rights and freedoms currently found in other instruments (United Nations Convention on the Rights of Persons with Disabilities (CRPD), the *Canadian Charter of Rights and Freedoms* and the *New Brunswick Human Rights Act*), the purpose of the legislation is to benefit all persons, especially persons with disabilities, towards achieving greater accessibility by 2040, particularly by the identification, removal and prevention of barriers, with emphasis on universal design, through the implementation of the legislation, which includes enacting standards in the following areas:

- government service delivery
- transportation
- education
- employment
- the built environment
- housing
- information and communication
- sport and recreation
- others that may be prescribed if necessary

Universal design means the design of products, environments, programs, and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.



Application

The legislation will first apply to government departments, followed by public sector bodies, and then to other entities (such as the private sector). The legislation will include regulation-making authority to exempt persons or organizations from the application of any provision of the act or the regulations, and to enable the creation of targeted measures to promote greater equity in accessibility. Application is further detailed in the following components of the legislation.

In line with the Select Committee's recommendation that accessibility legislation should not deteriorate existing protections, the legislation will clarify that nothing in accessibility legislation or its regulations will diminish the rights and protections offered to persons with disabilities under the New Brunswick *Human Rights Act*.

Standardized definitions

The legislation will focus on identifying, removing and preventing barriers to achieve accessibility, rather than focusing on disability alone, as disability ceases to be a factor if barriers to full participation are eliminated.

PERSON WITH A DISABILITY

“Person with a disability” means a person who has long-term physical, mental, intellectual, or sensory impairments which in interaction with various barriers may hinder the person’s full and effective participation in society on an equal basis with others. This definition is consistent with the CRPD and the *Premier’s Council on Disabilities Act*. This definition also recognizes the Select Committee recommendation for the use of person-first language versus identity-first language.

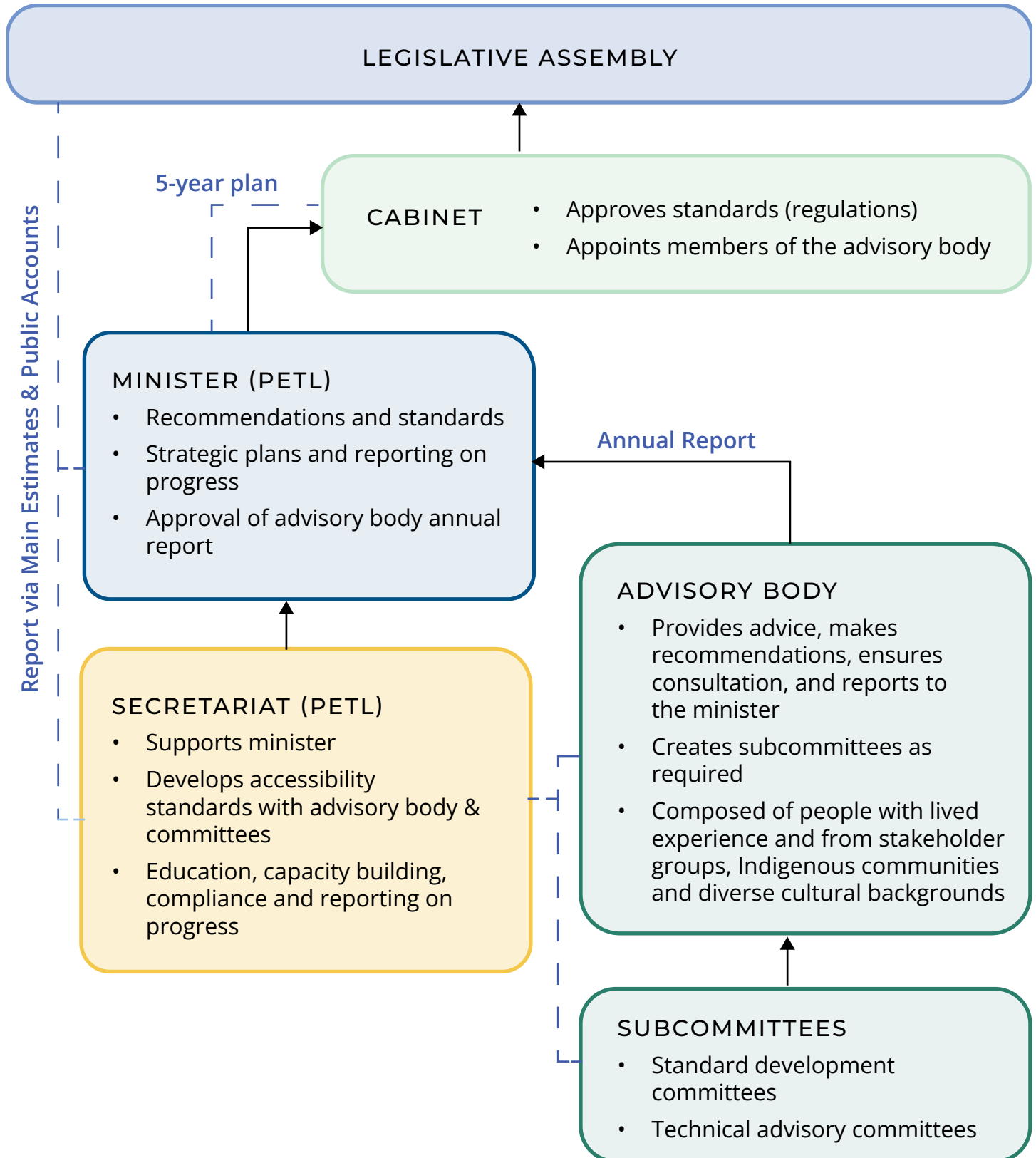


BARRIER

“Barrier” will be defined broadly and inclusively to incorporate anything that hinders or challenges the full societal participation of persons with disabilities. Consistent with other jurisdictions, the legislation will include the following categories of barriers:

- **Architectural/structural:** Design and physical features of buildings that prevent or limit access (e.g., service desks too high for customers using a wheelchair).
- **Attitudinal:** What we think and how we interact with people with disabilities (e.g., assuming something due to lack of knowledge or stereotypes).
- **Information or communication:** Limiting or preventing access to information that is otherwise available to the public (e.g., small print size).
- **Technology systems:** Usability of existing and emerging technologies (e.g., electronic documents without Alt Text).
- **Organizational or systemic:** Policies, procedures or practices that unfairly discriminate and prevent individuals from full participation (e.g., in-person meetings exclusively).

Governance model



ACCESSIBILITY PLANS



3-year plans to identify, remove, and prevent barriers in policies, programs, practices, and services.
Report on progress in Annual Report.



Part 1 GNB departments, SNB, ONB , NBHC and RDC within 18-months of the legislation coming into force.



Other prescribed public-sector entities (such as school districts, RHAs, local governments, universities, public libraries, and Crown Corporations and Agencies) within 1-year of being prescribed in regulation.

ACCESSIBILITY STANDARDS



Government Service Delivery



Transportation



Education



Employment



The Built Environment



Housing



Information and Communication



Sport and Recreation

Application, requirements, and timelines for public/private sector defined in regulation.

MINISTER RESPONSIBLE FOR ACCESSIBILITY LEGISLATION

A member of the Executive Council will be appointed by the lieutenant-governor in council to administer the legislation. This proposal recommends that the standalone governance structure be established under the Department of Post-Secondary Education, Training and Labour (PETL).

The minister responsible will be mandated to:

- Within one year of the act coming into force, prepare and make public a five-year strategic plan outlining steps to administer the legislation, to be updated every five years.
- Raise awareness of how persons with disabilities are impacted by barriers and promote and encourage the prevention and removal of barriers.
- Recommend and promote legislation, policies, programs and services in relation to accessibility.
- Work collaboratively with other ministers who are responsible for legislation, policies, programs and services related to accessibility.



- Oversee the development and implementation of accessibility standards.
- Assist in the adoption and integration of these standards.
- Receive recommendations from the advisory body and meet with them at least twice per year.
- Ensure that persons with disabilities are involved in the development, implementation and review of accessibility standards.
- Ensure that persons and organizations and public bodies that are subject to accessibility standards are consulted in the development, implementation and review of the standards, and provided with information about their duties under the standards.
 - Approve advisory body's annual report and make it publicly available.
 - Report to the Legislative Assembly annually through Main Estimates.

ACCESSIBILITY SECRETARIAT

A secretariat will be set up to:

- Support the minister responsible with the implementation and administration of the act and its regulations.
- Raise awareness and build capacity around accessibility.
- Develop accessibility standards in collaboration with the advisory body and standard development committees.
- Support the development of accessibility plans by providing guided templates and training.
- Monitor progress on implementation, evaluate effectiveness, and promote compliance.

- Act as a central government mechanism to ensure that the concerns of persons with disabilities are advanced and considered by government. This could include following up on other recommendations made by the Select Committee.
 - Maintain a database of its activities and operations and provide the minister with a summary report annually which will be released publicly as part of the minister's annual reporting.
 - Report to the Legislative Assembly annually through Public Accounts.
 - Continually review the act by working with stakeholders and recommend any improvements required over time.

The secretariat will require resources to guide its formative years and support government departments and public entities as legislative and regulatory requirements are implemented. With approval from the minister, the secretariat will have the authority to enter into Memorandum of Understandings (MOU) with Accessibility Standards Canada and other relevant entities.



ADVISORY BODY

The advisory body will be mandated to:

- Make recommendations to the minister on the priority of standards to be developed and the timelines for their implementation.
- Play a key role in awareness and capacity building efforts.
- File an annual report of their activities and operations with the minister.
- Have an obligation to consult with a range of key stakeholders when preparing any recommendations to the minister, including but not limited to individuals living with a disability and community organizations.
- With the approval of the minister, establish standard development committees.

These committees must include:

- Persons with disabilities or representatives from organizations representing persons with disabilities.
- Representatives of organizations likely to be affected by the standard being developed.
- Representatives from GNB departments that have responsibilities related to the standard being developed.
- Other representatives as deemed appropriate.
- With the approval of the minister, establish subcommittees of technical experts and other parties familiar with specific issues to provide input as required.
- Make recommendations to the minister on broader accessibility and disability issues.

- Meet with the minister at least twice per year.
- Should hold at least four regular meetings each year.

The composition of the advisory body will:

- Consist of no less than six members and no more than twelve members appointed by lieutenant-governor in council, and the majority of members must be persons with disabilities.
- Ensure representation from disability stakeholder groups, Indigenous communities, gender, as well as the linguistic, cultural and geographic diversity of the province.

Appointments to the advisory body will consider the competencies necessary to ensure it can fully meet its mandate. The advisory body's composition, quorum, terms of office, remuneration and reimbursement of expenses will be detailed in the legislation and relevant regulations. The first appointments will be made within four months of the new accessibility legislation coming into force.



Accessibility plans

Certain entities, as prescribed in legislation or regulation, will be required to develop and implement accessibility plans to identify, remove, and prevent barriers in policies, programs, practices, and services. One of the major responsibilities of the secretariat will be to support the development of these accessibility plans, including provision of guided templates and training. Accessibility plans will be a vital tool for the secretariat to measure and monitor the current state of accessibility in New Brunswick and progress towards the goal of achieving greater accessibility by 2040. The legislation will designate which entities must have an accessibility plan and outline their content and timeline for publishing.

WHO WILL NEED AN ACCESSIBILITY PLAN AND WHEN?

The legislation will:

- Require that all GNB departments, as well as Service New Brunswick, Opportunities New Brunswick, the New Brunswick Housing Corporation, and the Regional Development Corporation, develop an accessibility plan within 18-months of the legislation coming into force.
- Include regulation-making authority to prescribe which other public-sector entities (such as local governments, universities, public libraries, regional health authorities, school districts, and Crown bodies as defined under the Public Service Labour Relations Act) will be required to develop and implement an accessibility plan. The prescribed entities must release their plan within one-year of being prescribed in regulation.
- Require that all accessibility plans be made publicly available and updated every three years.

- Include provisions to allow certain designated public-sector entities (such as the councils of two or more local governments or regional service commissions) to agree that one accessibility plan be prepared for all entities that are party to the agreement.
- Require all GNB departments and prescribed public-sector entities to report annually on their accessibility plans as part of their existing reporting processes.

WHO WILL DEVELOP THE ACCESSIBILITY PLAN?

To inform the development of their plan, all entities will be required to establish an accessibility plan advisory committee that should include persons with disabilities, or representatives from organizations representing persons with disabilities.

WHAT WILL A PLAN INCLUDE?

Accessibility plans will outline:

- Measures the entity has taken and intends to take to identify, remove and prevent barriers
- The barriers identified or removed since the previous plan
- Information on how the entity will assess the effect on accessibility for persons with disabilities of any new proposed policies, programs, practices and services, laws or by-laws
- How the entity consulted persons with disabilities on the development of the plan.

Framework for standards development

Accessibility standards are a core part of accessibility legislation in all jurisdictions. Standards outline rules and requirements that persons or organizations must follow to identify, remove and prevent barriers to accessibility.

WHAT AREAS OF STANDARD DEVELOPMENT WILL BE INCLUDED?

- **Government service delivery** will address barriers in the design and delivery of services and programs provided by government to meet the needs of citizens and residents of the province.
- **Transportation** will address public transportation barriers encountered during activities of daily life.
- **Education** means the entire spectrum of inclusive educational opportunities from early childhood to post-secondary and beyond.
- **Employment** includes practices related to employee recruitment, hiring and retention.
- **The built environment** means the human-made environment in which people live, work, learn and play.
- **Housing** will address adaptable, accessible, and affordable home design.
- **Information and communication** will address barriers to accessing information provided in print, in person, on websites or in other formats.
- **Sport and recreation** include the provision of accessible sport, recreation and leisure activities.
- Others that may be prescribed as necessary.

Consistent with other jurisdictions some standard areas may entail the development of several standards. Specific areas of focus and scope will be identified and recommended by the advisory body.

WHO WILL DEVELOP THE STANDARDS?

The proposed legislation will include regulation-making authority to develop and implement accessibility standards in collaboration with the advisory body and its subcommittees which must include persons with disabilities and representatives of those who will be impacted by the standards.

Standards development will include consultation with experts, other provinces, and national organizations, including Accessibility Standards Canada, with the intent to align where possible.



WHO WILL THE STANDARDS APPLY TO?

Each standard will list which activities, persons, or organizations across the province should adhere to these standards and by when.

Each standard must consider any technical or economic factors that may be involved in its implementation. Different requirements and timelines could be proposed for different types and sizes of organizations.

WHEN WILL THE STANDARDS BE ENACTED?

Standards will be developed and implemented using a phased approach. The legislation will require priorities for the development and approval of accessibility standards and the timelines for their implementation to be included in the minister's five-year strategic plan.

Where standards will be in regulation, each standard will include a public review period through the regular posting process before they are enacted.

Ongoing reviews of provincial legislation, regulations and policies will occur during the development of each accessibility standard before they are enacted to avoid any legal inconsistencies.

REVIEW OF STANDARDS

Within five years after an accessibility standard is enacted, and every five years thereafter, the advisory body will undertake a review of the standard and submit a report with any recommendations to the minister.



Education, evaluation and compliance

The proposed legislation will primarily focus efforts on building awareness and capacity to help individuals and organizations understand and adhere to the legislation and standards. It will also include mechanisms to monitor progress on implementation (*to determine if the legislation is being implemented as planned*), evaluate effectiveness (*to determine if the legislation is achieving its objectives*), and promote compliance (*to ensure individuals and organizations are doing what they are supposed to under the legislation*).

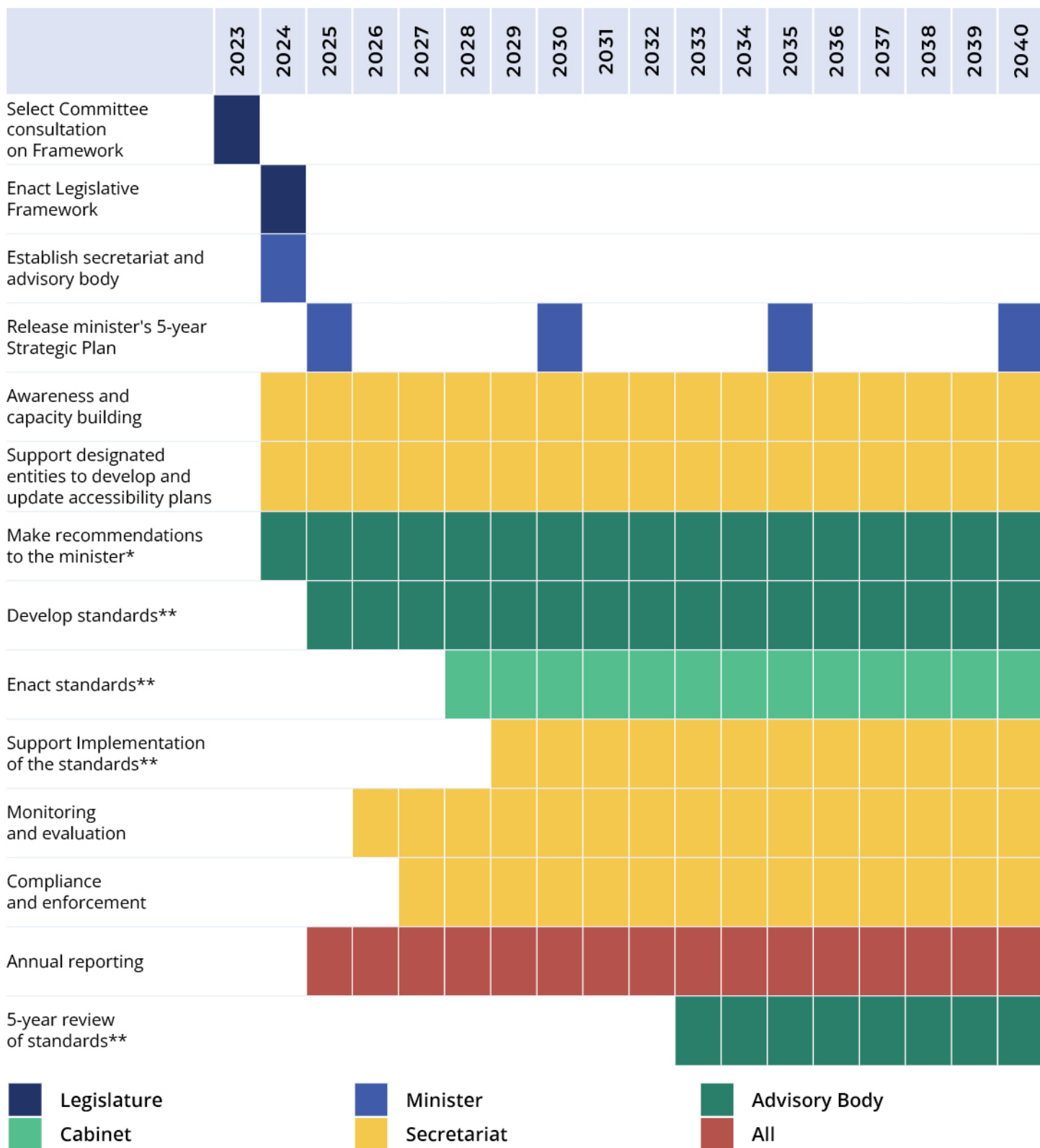
The legislation will include provisions:

- For an evaluation framework to be published that outlines how success will be measured, data collection requirements for individuals and organizations subject to the act and its standards, and reporting frequency.
- For a complaints process that will allow New Brunswickers to report when the act/standards are not being followed.
- To conduct necessary inspections, issue compliance orders and impose notice of administrative penalties with criteria and amounts to be established in regulation and which are consistent with other jurisdictions.
- To designate a director of compliance who will have the power to confirm, vary or withdraw a compliance order and/or administrative penalty.
- To appeal a decision of the director by filing a notice of appeal with the Court of King's Bench.
- For offences where a person or organization fails to comply with an order.
- That monetary penalties paid under the legislation will be used for the purpose of accessibility initiatives.
- For incentive-based measures to encourage and assist an individual or organization to meet or exceed an accessibility standard, where the minister believes it is in the public interest to do so.

Moving forward

Persons with disabilities must be directly involved in decisions that affect them, including the development of future accessibility legislation and standards. Along with community stakeholders, they will be asked to provide their feedback on this framework before legislation is introduced. The legislation will enable continued collaboration once it is enacted.

See next page for proposed key milestones towards achieving greater accessibility by 2040.



* The advisory body will make recommendations on priorities and timelines for standards development; establishment of standard development committees; standards to be enacted; and broader accessibility and disability issues.

**Work on standards areas will be incremental and continuous.