

## **AUNBT Response to the Board of Governors UNB Act Review Steering Committee’s Second “Discussion Draft” of proposed amendments to the UNB Act**

On April 27, 2015 the Board of Governors UNB Act Review Steering Committee released a new “Discussion Draft” with a significantly reduced set of proposed amendments to the current *UNB Act*. AUNBT welcomes the committee’s decision to set aside the majority of the provisions included in their initial proposal. The following comments set out our response to the current proposal.

1 Part A of the Board of Governors Steering Committee’s Discussion Draft proposes amendments to sections 13 and 14 of the current Act. These would remove from Section 14 the requirement for the approval of the Lieutenant-Governor in Council for specified real property transactions and eliminate Subsection 13(c) pertaining to leases of real property for terms not exceeding twenty-one years.

In our statement of April 14, 2015,<sup>1</sup> AUNBT explained that these provisions are important for the public interest, for historical and legal reasons, and for the ongoing financial security of UNB. We also demonstrated that such provisions are the norm across Canada for universities with similar histories and roles in their provinces.

UNB’s history is that of a public, provincial university. The most important and valuable lands of the University (in academic, economic, environmental, and public interest terms) are those transferred with the original act of incorporation of 1859, deriving from the Crown grant dated August 25, 1800 to the then College of New Brunswick. The grant declares this tract of approximately “five thousand nine hundred and fifty acres” for “the sole proper use and behoof of the said Governor and Trustees of the College of New Brunswick and their successors and assigns forever.” Accordingly, the 1859 *Act to establish the University of New Brunswick* included a provision (the 3<sup>rd</sup> Subsection of section 8) requiring “approval of the Governor in Council” for specified types of land and financial transactions. All subsequent amendments and revisions of the UNB Act have included such provisions (with Lieutenant-Governor in Council instead of Governor in Council).

The requirement for approval of the Lieutenant-Governor in Council for specified real property transactions has not been an impediment to various transactions pertaining to the Crown grant in 1800. In very approximate terms, the original 5950 acres was bounded by Charlotte Street on the North, Kimble Road on East, the new TransCanada Highway (or New Maryland) on the South, and Hanwell Road on the

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<sup>1</sup> This statement is posted at <https://aunbtweb.files.wordpress.com/2015/04/aunbt-task-force-statement-on-legislative-oversight.pdf> and also is attached to the present document.

West. Although the Fredericton Campus and the 3800-acre Woodlot remain, a great deal of this original land has been sold or leased. The land between Charlotte Street and Bishop Drive is of particular note. What the legislative oversight helps to ensure is that the public interest is protected, ie that there is a benefit to the academic operations of UNB, or a broader public interest is served.

A great deal of land from the Crown grant of 1800 has been sold, leased and traded during the past century and a half. It is our position that what does remain should only be sold, transferred, exchanged, disposed of, mortgaged, or leased within the context of an open, detailed, long-range plan which is publically accountable. This accountability should include social, environmental, academic and financial considerations, established through consultation with the university community. At present, the only guaranteed mechanism for independent public interest oversight is in the provisions of the Act requiring approval of the Lieutenant-Governor in Council. It is important for UNB's long-term future, as well as the public interest that such provisions remain in the Act. Indeed, they should be enhanced. Open and transparent consultation processes would help generate community support for plans to manage real property for the long-term benefit of UNB, as well as help secure approvals required under Section 14 of the current Act.

Because the Steering Committee to date has chosen not to develop their proposal with a view to standards and norms in place across Canada, we recommend that the members of the Steering Committee and all members of the Board of Governors familiarize themselves with the relevant provisions of other University Acts from comparable, provincial universities established as public institutions, in particular, the acts governing the universities of Alberta, British Columbia, Saskatchewan, Québec (notably the Université du Québec which like UNB was established as public from its first incorporation), and Newfoundland and Labrador. The UNB Board should align itself with legislative oversight provisions that require responsible planning, transparency and public accountability, in the interests of the UNB community and the people of New Brunswick generally.

2 Parts B through F of the Discussion Document propose a number of amendments which clarify and bring the Act into conformity with well accepted practice. Some of these amendments are consistent with or close to amendments AUNBT had proposed,<sup>2</sup> while we see others as positive improvements. We offer our support for all the changes included in Parts B through F.

3 Part G refers to the composition and size of the Board of Governors and, among other things, mentions AUNBT's proposal that the size of the Board be reduced to 19 voting members representing specified constituencies. The Board Steering Committee recommends "further consultation and study" on "composition and size for a reduced Board." We agree, and we would like to take the opportunity implied by that view to express our willingness to work with the Board of Governors

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<sup>2</sup> <https://aunbtweb.files.wordpress.com/2015/03/aunbt-proposed-unb-act-revisions-final.pdf>

and the Senates in a collaborative and open process to consider a range of revisions to the *UNB Act* that would be beneficial and acceptable to the entire UNB community and the Province.

**In summary:**

- AUNBT opposes the amendments proposed in Part A and submits that the entire wording of Sections 13 and 14 of the current Act should remain unchanged
- AUNBT supports all the amendments proposed in Parts B through F
- AUNBT looks forward to open and collaborative dialogue with the Board of Governors and the UNB community about improvements to the UNB Act

Finally, we repeat that the *UNB Act* is a Public Act of New Brunswick, and that the legislative oversight specified in the *UNB Act* pertaining to real property transactions is more limited than in the incorporation acts of universities with similar histories and roles in other provinces.