

March 2, 2015

A New *UNB Act*? — Key Points

The *UNB Act* has played and continues to play a **foundational role** in shaping UNB:

- the original Act was passed in 1859 transforming King's College into the University of New Brunswick
- it is a **public act**, currently SNB 1984, Chapter 40, with subsequent amendments
- it **incorporates** UNB as a public institution, **defines** its governance structures, and **anchors** its identity as the provincial university of New Brunswick
- its major modernization in 1968 transformed a unicameral governance structure into a **bicameral governance** structure of separate but overlapping jurisdictions: a Board of Governors responsible for financial matters and a Senate responsible for academic matters
- several specific **amendments** to the 1984 Act have been passed including: creation in 1986 of the Saint John Senate structured in parallel with the Fredericton Senate; in 2003 a title change for the vice-president principally responsible for research matters

Because the *UNB Act* is a Public Act, major revisions require full consultation and public hearings and therefore the current Act provides **legislative protection** for all matters contained in the body of the Act, including:

- the **public interest**, as represented by provincial Cabinet oversight in important matters like the sale or long term lease of real property and the appointment of the president and of the chancellor
- the maintenance of **academic standards** through the consultative and deliberative processes of the Senates and the Faculty Councils
- **collegial rights** of academic staff, specifically deliberative, consultative, and democratic governance with parity between the Board and the Senates on joint committees, including search and review committees for presidents
- **collegial representation** and **due process** for students

The September 2014 proposal from the Board of Governors *UNB Act* Revision Steering Committee makes **radical changes** to the current *UNB*: it **removes rights** of academic staff and of students from legislative protection and also **removes public interest oversight**. It does this by two devices: critical wording changes to Act sections, and removal of sections

and placing them instead in bylaws that can be changed unilaterally by the Board at any time. AUNBT is responding with a proposal that respects the **historical role** of the Act and its link to UNB's role as the provincial university and the Province's only Anglophone national comprehensive university; protects the **public interest**; and preserves legislative protections of democratic **representation and shared (bicameral) governance**.

The Board Committee proposal could in effect through Board fiat return UNB to a **unicameral** governance structure such as existed before 1968; **disenfranchise** academic staff, students, alumni, and the public; **remove the checks and balances** that currently protect UNB's reputation and mission, and the public interest. For instance

- the Board Committee proposal would concentrate power in a **less representative** Board that could become predominately self-selected through Board fiat
- the Board would have **complete discretion** over a multitude of vital matters that are currently protected by legislation
- the Board itself would **no longer be obliged** to have representation from academic staff, students, or alumni
- the Board could have as few as **five members** and quorum, being in the bylaws rather than in the legislation, would be under the unilateral control of the Board
- the Board would no longer be constrained by the **checks and balances** of the Senates or the provincial government
- the role of the Senates in the appointment of the **president** would no longer be protected and the provincial government would be removed from the process (currently, the Board and Senates make a joint recommendation through a Board-Senates double majority requirement to the Lieutenant-Governor in Council, who then makes the appointment)
- the Board unilaterally could dispose of **lands or other assets** granted by the Crown and held in trust for the people of New Brunswick
- the Senates would become subservient to the Board, and hence the Board could have ultimate responsibility for **academic matters**
- the Board could disband either or both of the **Senates**, or create new "Senates" for commercial ventures formed and operated without proper academic oversight such as, to use the Board Committee's frequent example, an on-line operation
- the Board Committee's proposed Act revision could be used to **restrict** the rights of academic staff to democratic participation in university governance

The Board Committee's process for proposing a new *UNB Act* was and continues to be **deeply flawed**:

- the Board committee worked in administratively directed secrecy

- **lack of consultation:** although the Board Committee process began in 2013, there was no advance consultation with Senates, AUNBT, student organizations, or other representative bodies on appropriate revisions; the Committee's draft was not published until late September 2014; the first public information sessions began in early 2015; and there is no firm assurance by the Board or its Committee that there will be a full and fair opportunity for the UNB community, including the Senates, Faculty Councils, AUNBT and student bodies to deliberate on a second draft revised Act that is to be prepared in light of feedback from the community on the September 2014 draft
- **there are ongoing questions** about many of the assertions from the Board Committee
- the purportedly innocuous goals of the revision exercise **do not reflect** the substance of the Board Committee's proposal before the UNB community
- the **role of the Senates** in the process of considering the Board Committee's proposal remains ambiguous, and this major step has yet to be scheduled

The AUNBT proposal

- respects the **historical significance** of the Act to the people of New Brunswick
- preserves legislative protections of **representation and shared governance** by retaining references to separate constituencies such as faculty, students, alumni
- expands representation in University governance to include **Contract Academics**
- **modernizes** language and usage
- recognizes UNB's **bicameral** structure
- extends use of **term limits** for the Board
- maintains or increases **quorum** for governance bodies
- institutes **elected chairs** in Senates
- preserves and protects the powers of **Senates and of Faculty Councils**
- retains the role of the provincial government as the representative of the **people of New Brunswick**

For further information about the *UNB Act*, the Board's proposed revisions and AUNBT's response, go to <https://aunbt.ca/issues/unb-act/>.

AUNBT.ca