

**Cape Breton Regional Municipality**

**Special Council Meeting**

**AGENDA**

**FRIDAY, OCTOBER 20<sup>TH</sup>, 2023**

**9:00 A.M.**

**VIA  
VIDEOCONFERENCING**

# Cape Breton Regional Municipality

## Special Council Meeting

Friday, October 20<sup>th</sup>, 2023  
9:00 a.m.

### **AGENDA ITEMS**

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#### **Land Acknowledgement**

#### **Roll Call**

1. **APPROVAL OF AGENDA:** (Motion Required)
  
2. **Proposed Service Exchange Agreement with the Province of Nova Scotia**
  - Correspondence from Minister of Municipal Affairs dated September 15, 2023 (See page 3)
  - Correspondence from Minister of Municipal Affairs dated September 21, 2023 (See page 5)
  - Correspondence from Minister of Municipal Affairs dated September 28, 2023 (See page 7)
  - Correspondence from Mayor Amanda M. McDougall-Merrill to Minister of Municipal Affairs dated October 3, 2023 (See page 8)
  - Service Exchange Renegotiation and Municipal Government Act Review (SERMGAR) Advisory Committee February 2023 (See page 9)
  - Bill No. 340 *Municipal Reform (2023) Act* – First Reading October 17, 2023 (See page 24)

#### **ADJOURNMENT**



**Municipal Affairs and Housing  
Office of the Minister**

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September 15, 2023

Her Worship Amanda McDougall-Merrill  
Mayor  
Cape Breton Regional Municipality  
VIA EMAIL: [mayor@cbrm.ns.ca](mailto:mayor@cbrm.ns.ca)

Dear Mayor McDougall-Merrill:

As Minister of Municipal Affairs and Housing, the Premier has asked that I respond to your letter of September 6, 2023, in which you raise concerns about the proposed service exchange agreement and request a meeting with the Premier.

I want to take this opportunity to ensure we both understand the situation clearly. Department staff are currently working on the final proposal to submit to the Treasury Board and we would appreciate clarity from you.

Through the recent consultations it was made clear that CBRM would see savings of approximately \$4.5M upon implementation. As a part of the service exchange agreement, CBRM would see savings on Corrections, Net Operating Losses, a removal of responsibility for future obsolete schools along with having access to future programs around infrastructure and roads.

If you chose to proceed with a separate negotiation, it is important to be clear that the financial parameters outlined in the existing service exchange proposal will guide that process. Without an agreement in place, CBRM would not be entitled to the additional \$4.5M savings, while all other municipalities participating in the service exchange would receive their immediate benefit.

Without an agreement, you will continue to pay the amounts related to Corrections (approximately \$1M for the upcoming year) and your share of Net Operating Losses for Public Housing (estimated at around \$3.5M for 23/24). In addition, you would not be eligible to participate in the other parts of the new service exchange proposal, including the \$15M Infrastructure program, nor any roads programs included in the agreement going forward. Also, responsibility for any obsolete schools would remain the responsibility of the Municipality.

The Province is willing to commit to maintaining funding to match your previous Municipal Financial Capacity Grant for the next five years.

The Province is also willing to work with you, as part of negotiations, to develop a separate CBRM Charter.

.../2

Her Worship Amanda McDougall-Merrill  
Page 2

At this time, I request a motion of council clearly stating whether you want to be included in the service exchange agreement and receive the immediate additional financial support for CBRM totalling \$4.5M, or whether it is the preference of CBRM to delay potential additional savings while a separate agreement is negotiated with you.

Once we have that clarity, we can schedule future meetings with my office.

Sincerely,

**Original Signed by**

Honourable John A. Lohr  
Minister of Municipal Affairs and Housing

c: Honourable Tim Houston, Premier (PNS-36919-M1G4F0)

c-0541



**Municipal Affairs and Housing  
Office of the Minister**

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September 21, 2023

Her Worship Amanda McDougall-Merrill  
Mayor  
Cape Breton Regional Municipality  
VIA EMAIL: [mayor@cbrm.ns.ca](mailto:mayor@cbrm.ns.ca)

Dear Mayor McDougall-Merrill:

Further to your conversations with Deputy LaFleche from earlier this morning, and our previous letter dated September 15, 2023, there are two options available to CBRM regarding Service Exchange.

**OPTION 1** – Participate in the proposal currently being discussed for Service Exchange. Through the recent consultations, and as outlined in our CBRM one page summary sent on July 31, 2023, CBRM would see savings of approximately \$4.5 million upon implementation of the new Service Exchange Agreement, including the following:

- 1) **MFCG** – Under the new formula, CBRM will receive \$13,647,641. The Province will top that amount up with an additional \$1,688,197 for the next 5 years.
- 2) **Corrections** – The Province will stop collecting this amount from CBRM annually. The most recent figure for this was from the 2022/2023 fiscal year and showed CBRM would save \$1,054,547. This amount may fluctuate slightly annually but will generally increase in small amounts.
- 3) **Housing Net Operating Losses** – The Province will stop collecting this from CBRM annually. The exact annual amount is determined annually but is expected to continue to increase as additional funding and attention are paid to our extensive public housing properties in CBRM. The current estimate for the 2023/2024 figure is \$3,535,675.
- 4) In addition, if you are part of this proposed agreement, you will be eligible to participate in a new \$15 million annual infrastructure program and the Roads Part A program worth \$6.1 million annually.
- 5) Finally, the Province will take responsibility for any obsolete schools which are closed following the approval of this agreement.

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**OPTION 2** - Proceed with a separate negotiation. Should CBRM proceed in this way, it is important to be clear on two points:

- 1) The above savings of approximately \$4.6 million will not occur, at least until a separate agreement is reached.
- 2) The financial parameters outlined in the existing Service Exchange proposal will guide any separate negotiation with CBRM. That means the above annual savings of approximately \$4.6 million will be considered a cap within our negotiations.

If your preference is to pursue a separate agreement, the Province is willing to commit to maintaining funding to match your previous Municipal Financial Capacity Grant for the next five years. Also, within the process of negotiating, the Province is willing to work with you to develop a separate CBRM Charter.

As I requested on September 15, 2023, we request a motion of council clearly stating whether you:

- 1) want to be included in the Service Exchange Agreement and receive the immediate additional financial support for CBRM totalling \$4.5 million (current estimate), or
- 2) delay these potential additional savings while a separate agreement is negotiated with you.

Once we have that clarity, we can schedule future meetings with my office.

Sincerely,

**Original Signed by**

Honourable John A. Lohr  
Minister of Municipal Affairs and Housing

Attached

c: Honourable Tim Houston, Premier  
Honourable Brian Comer, MLA  
Marie Walsh, CAO, CBRM  
All Councillors, CBRM  
Valerie Pottie Bunge, Acting Deputy Minister, DMAH



**Municipal Affairs and Housing  
Office of the Minister**

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PO Box 216, Halifax, Nova Scotia, Canada B3J 2M4 • Telephone 902-424-5550 Fax 902-424-0581 • [novascotia.ca](http://novascotia.ca)

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September 28, 2023

Her Worship Amanda McDougall  
Mayor  
Cape Breton Regional Municipality  
320 Esplanade - Suite 400  
Sydney, NS B1P 7B9

Via Email: [mayor@cbrm.ns.ca](mailto:mayor@cbrm.ns.ca)

Dear Mayor Amanda McDougall:

In furtherance to my letter of September 21<sup>st</sup> outlining your options regarding CBRM's participation in the proposed Service Exchange agreement, I wanted to provide some clarity around timing. In that letter I requested a motion of council confirming your desire to participate in the proposed new service exchange agreement. I want to clarify that we need a response by noon Tuesday, October 4, 2023.

If we do not receive a response by that time, I will go forward with a proposal for a new service exchange agreement that includes CBRM.

Respecting the observance of Truth and Reconciliation Day on Monday, we are happy to receive your response through a scanned version sent via email directly to me at [Dmamin@novascotia.ca](mailto:Dmamin@novascotia.ca) or via fax at 902 424 0581.

Sincerely,

**Original Signed by**

Honourable John A. Lohr  
Minister of Municipal Affairs and Housing

# Amanda M. McDougall-Merrill

MAYOR, CAPE BRETON REGIONAL MUNICIPALITY

October 3, 2023

Hon. John Lohr, Minister  
Department of Municipal Affairs and Housing  
14th Floor North, Maritime Centre - 1505 Barrington Street  
P.O. Box 216 Halifax, NS B3J 2M4  
Email: dmamin@novascotia.ca

Dear Minister Lohr:

While I am grateful the Department recognizes the importance of moving forward with the proposed Municipal/Provincial MOU your deadline of providing a council motion to enter into this agreement by noon today is logistically impossible.

A motion of council requires a public meeting and debate - I welcome you and your staff to attend an upcoming meeting of CBRM Council to provide the necessary detail and policy associated with the proposed MOU for Council to decide upon. As you can appreciate, voting on something as important as the MOU requires significant thought and preparation – and answers to the many questions staff and Council continue to have regarding the proposal DMAH has put forward to all municipalities, and additionally the suggestion of a possible separate agreement specific to CBRM.

CBRM has two Regional Council meetings scheduled for the month – **October 10<sup>th</sup> at 6:00 pm** and **October 24<sup>th</sup> at 9:30 am**. Should neither of these meetings work within your schedule, we can call an Emergency Meeting of Council on a date that is more accommodating.

With gratitude,

Original Signed by

Mayor Amanda McDougall-Merrill

Cc: Paul LeFleche, Deputy Minister DMAH  
Marie Walsh, CAO CBRM  
CBRM Council

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320 Esplanade - Suite 400  
Sydney, NS, B1P 7B9  
mayor@cbrm.ns.ca

☎ (902) 574-0290  
📠 (902) 563-5585



**Service Exchange Renegotiation & Municipal  
Government Act Review (SERMGAR) Advisory  
Committee Recommendations**  
**February 2023**

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## **Preamble**

The Service Exchange Renegotiation and Municipal Government Act Advisory Committee (SERMGAR Committee) was formed by the Nova Scotia Federation of Municipalities (NSFM). The SERMGAR committee provides the following report and recommendations for consideration by the Province of Nova Scotia (Province). The report is based on discussions between the Province and the SERMGAR Committee between March 2022 and January 2023. The report discusses a series of agreed upon topics shaped in large part by a result of the NSFM member survey conducted between May and June of 2022.

These recommendations are made with the understanding that the SERMGAR committee is advisory only, and that robust consultation will take place which will provide an opportunity for all municipal units in Nova Scotia to provide feedback.

## The SERMGAR Committee's Proposal on Mandatory Contributions

Mandatory contributions have been a long-standing issue dating back to the Graham Commission (1975) where it was recommended that they be addressed<sup>1,2</sup>. They were discussed again following the 1995 service exchange but no progress was made. The 1998 Memorandum of Understanding (MOU) did not cover mandatory contributions<sup>3</sup>. In a 2007 MOU, it was agreed that the Province would not increase mandatory education contributions by more than consumer price index (CPI)<sup>4</sup>.

Concerns with mandatory municipal contributions (housing, corrections, and education) remain a top priority for the NSFM. These contributions account for one-fifth of all municipal expenditures and occur in areas of Provincial responsibility<sup>5</sup>. Last year, municipalities collected \$293,985,347 on behalf of the provincial government. Municipalities do not have input on how the contribution amount is determined, nor do they have control over how they are spent. Municipal expenditures are continuing to rise faster than the CPI and mandatory contributions add undue pressure on municipalities<sup>6</sup>.

In a survey conducted by the NSFM, mandatory contributions to housing, corrections, and education made up 3 of the top 5 expenditures to review. Participants stated that municipalities have increased responsibility in areas that are exceeding their capacity, and that municipalities should only oversee services and regulations that they can control or have a say in. Based on the NSFM survey, and research conducted over the last 50 years, a new agreement between the Province and municipalities should include the Province taking complete responsibility for the cost of corrections and regional housing authority operating losses.

It is imperative that other mandatory contributions made by municipalities continue to be a priority. It is of utmost importance that the matter be given due attention and consideration to ensure equitable and sustainable outcomes for all concerned. The NSFM requests the Department of Municipal Affairs and Housing (DMAH) to engage in productive discussions over the next five years with regards to contributions to education. In the interim, it is recommended that the current amounts for contributions to education remain frozen and not be subject to any increases.

**Proposed Action:** The Province assume full responsibility for the cost of corrections and operating losses incurred by regional housing authorities. Additionally, it is recommended that

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<sup>1</sup> Graham, J. (1975). An Introduction to the Nova Scotia Royal Commission, in *Canadian Public Policy* 1(3): 349-354

<sup>2</sup> <https://www.nsfm.ca/nsfm-resolutions.html>

<sup>3</sup> Nova Scotia, *Memorandum of Understanding Respecting Short Term Policy Initiatives and Comprehensive Review of Roles and Responsibilities*, April 7, 1998.

<sup>4</sup> Premier's Office. (2007, November 7). *Province Reaches New Financial Agreement with Municipalities* [Press Release]. Retrieved from: <https://novascotia.ca/news/release/?id=20071107001>.

<sup>5</sup> Provincial-Municipal Fiscal Review. (2013). *The Provincial-Municipal Fiscal Review, Part 1: The Current State of Municipal Government in Nova Scotia*.

<sup>6</sup> Provincial-Municipal Fiscal Review. (2013). *The Provincial-Municipal Fiscal Review, Part 1: The Current State of Municipal Government in Nova Scotia*.

the contribution towards education be temporarily frozen while discussions towards phasing out such contributions are underway.

## **The SERMGAR Committee's Proposal on Updating Municipal Financial Capacity Grant**

The Municipal Financial Capacity Grant (MFCG) is a topic of concern among Nova Scotia's municipalities. The SERMGAR committee, in response to this issue, conducted a survey and found that updating and improving the MFCG was a common suggestion among respondents. In response to this feedback, the committee has identified two key areas of focus for the MFCG: 1) updating the formula to ensure that it more accurately reflects the financial needs of municipalities, and 2) increasing the funding for the MFCG to provide much-needed support to municipalities. These efforts aim to address the chronic underfunding that has compromised the grant's ability to provide municipalities with a comparable level of service and tax rate.

To address these issues, the committee has made several recommendations based on research for updating the formula to ensure an accurate representation of municipalities<sup>7</sup>. The proposed updates aim to make sure appropriate comparison groups are used, review classifications for municipalities, modernize standard expenditures, and accurately measure fiscal capacity.

1. **Comparison Groups:** The committee recommends the formula continue to include Halifax Regional Municipality (HRM) and Cape Breton Regional Municipality (CBRM) data. This decision was made on the rationale that the data of HRM and CBRM are included in the calculation of other municipal formulas, such as education<sup>8</sup>.
2. **Municipal Classifications:** The committee and the Province have agreed a thorough review of municipal classifications is required (Class I, Class II). The review could not be completed in the initial phase of these MOU discussions but the committee highly recommends that it be a top priority for review in Schedule A and take no longer than one year to complete (See page 14). The committee recognizes it could be a significant factor for municipalities considering consolidation. While this review is ongoing, the SERMGAR committee proposes floor payments for municipalities facing reductions in MFCG funding due to the proposed new formula and freeze funding at current levels for municipalities undergoing consolidation. The objective of this review is to establish clear definitions for each class and remove any disincentive for current and future consolidation discussions.
3. **Modernized Standard Expenditures:** The current MFCG is estimated to include 40% of expenditures<sup>9</sup>. To ensure the formula is more reflective of the increasing pressures on municipalities, the committee has proposed updating the standard expenditures.
4. **Measurement of Fiscal Capacity/ Ability to Pay:** The current funding model does not accurately reflect differences between residential and commercial tax rates and the

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<sup>7</sup> Bird, R. M., & Slack, E. (2021). *Provincial-Local Equalization in Canada: Time for a Change?* Institute on Municipal Finance and Governance.

<sup>8</sup> Grace-Martin, K. (n.d.). *Outliers: to drop or not to drop. The Analysis Factor.* <https://www.theanalysisfactor.com/outliers-to-drop-or-not-to-drop/>

<sup>9</sup> Hobson, P., Cameron, D., & Locke, W. (2005). *A Question of Balance: An Assessment of the State of Local Government in Nova Scotia.* Government of Nova Scotia.

ability to raise taxes from these different groups<sup>10</sup>. The committee would like the formula to accurately reflect these differences.

The proposed updates to the MFCG formula aim to provide a more accurate representation of municipal fiscal capacity. The SERMGAR committee endorses the removal of the formula from the Municipal Grants Act for the purpose of efficiently reviewing and implementing adjustments<sup>11</sup>. This approach will enable timely modifications to the formula. These updates will ensure that the MFCG remains relevant and responsive to the evolving needs of municipalities and their residents. The endorsement comes with the understanding that the 12-month notice would apply.

Increasing funding in MFCG has been a priority of the NSFM for many years due to chronic underfunding and the need to offer comparable services and tax rates to citizens<sup>12</sup>. Despite being one of the most sophisticated grants in the country, the amount has remained frozen since 2014-2015<sup>13</sup>. Currently, \$20,445,966 (67.33%) of funding comes from Nova Scotia Power Incorporated (NSPI) while \$9,922,715 (32.67%) comes from the Province. In 2021, NSFM requested a \$20 million increase in Provincial funds for the grant over three years, but it was not implemented<sup>14</sup>. However, the funding was doubled for one year in 2021-2022 while an agreement was negotiated.

Aligned with the resolutions of the NSFM over the past 5 years, the committee proposes an increase of \$15 million in Provincial funding for MFCG, to be increased annually by the CPI. This would bring the total funding to \$45,368,681 and increase the Province's funding share to 57.47%. These changes would reflect the growing costs and need of municipalities.

**Proposed Action:** Update the MFCG formula to ensure an accurate representation of municipalities. Increase total funding in MFCG by \$15M plus CPI annually. Implement floor payments for municipalities facing reductions, and freeze funding at updated amounts for municipalities undergoing consolidation during the review of Class I and Class II classifications.

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<sup>10</sup> Hobson, P., Cameron, D., & Locke, W. (2005). A Question of Balance: An Assessment of the State of Local Government in Nova Scotia. Government of Nova Scotia.

<sup>11</sup> <https://nslegislature.ca/sites/default/files/legc/statutes/municipal%20grants.pdf>

<sup>12</sup> Hobson, P., Cameron, D., & Locke, W. (2005). A Question of Balance: An Assessment of the State of Local Government in Nova Scotia. Government of Nova Scotia.

<sup>13</sup> Bird, R. M., & Slack, E. (2021). Provincial-Local Equalization in Canada: Time for a Change? Institute on Municipal Finance and Governance.

<sup>14</sup> <https://www.nsfm.ca/nsfm-resolutions.html>

## **The SERMGAR Committee's Proposal on Roads**

The issue of funding for roads in Nova Scotia has been an ongoing matter of concern for the past number of years, as evidenced by its inclusion among the top five statements of concern by the NFSM. The deterioration of roads, both municipally and provincially owned, has only intensified the urgency of finding a solution. In response to this pressing issue, a Provincial-Municipal committee was formed in 2018, known as the NFSM Roads Committee. Comprised of representatives from the Department of Public Works (DPW), DMAH, NFSM, and Association of Municipal Administrators (AMANS), the committee has been working diligently over the past two years to review agreements and policies and propose the best possible solutions.

The SERMGAR committee understands the importance of finding a solution for roads, as the topic was referred to as a “stumbling block” during the 1995 service exchange<sup>15</sup>. The SERMGAR committee propose the results of the NFSM Roads committee be incorporated into the MOU for the purpose of ensuring the proper upkeep and maintenance of roads in Nova Scotia. Several changes to Part B have been recommend and are outlined below.

### **A) Municipal owned trunks & routes**

The new program would cover all trunks, routes and collectors and provide a 50-50 cost sharing option for repaving only. Applications will be submitted to DPW in a prioritized manner, and DPW will then choose which municipalities will be eligible based on a scoring system that takes into account the condition, and traffic volume.

Under the proposed program, no municipality could receive funding for more than one project per fiscal year, unless there are insufficient submissions. The cost sharing program will cover municipally owned trunks and routes, with a total length of 387.12 km. The estimated cost per km for eligible costs is \$350,000. This means that the annual cost of the program would be \$9,032,800 with 50% or \$4,516,400 being funded by the provincial government in year one.

This new program presents a valuable opportunity for municipalities in Nova Scotia to improve and provide safer and more reliable roads for their citizens. By sharing the costs with the provincial government, communities can achieve their goals of upgrading their infrastructure without putting an undue burden on their budgets.

### **B) Local Roads**

The NFSM Roads Committee proposed options for municipalities to participate in improving the conditions of local roads. There were 1648 eligible kilometres proposed by the NFSM Roads Committee. Through the committees discussions with the Province, the program was expanded to include all G, H, I, and J-class roads. SERMGAR committee recommends that this program be developed with an annual budget of \$20M in Provincial funding. The local roads

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<sup>15</sup> Hobson, P., Cameron, D., & Locke, W. (2005). A Question of Balance: An Assessment of the State of Local Government in Nova Scotia. Government of Nova Scotia.

program offers three options for municipalities to choose from, with participation being **optional**.

1. Municipalities can have a road paved/repaved by cost sharing 50/50 with the province (G,H,I ,and J-class roads). Following the pave/repave, the ownership will transfer from the Province to the municipality. For every kilometer of road transferred from the Province to the Municipality, one kilometre of J-class road contributions will be deleted from their annual contribution. Those without a J-class levy would be eligible for a one-time incentive based on the condition of the road being transferred.
  - The SERMGAR committee proposes the following changes: 1) paving be fully funded by the Province, 2) for every kilometer of local road transferred to the municipality, two kilometres of J-class road contributions will be deleted from their annual contribution to more accurately reflect the maintenance costs now and in the future.
2. Should roads categorized as G, H, I or J-class fall below the standard required to continue to be paved (Example: 500 average annual daily traffic), this road would be returned to gravel. These roads are still eligible for cost-sharing in Option 1 after it has been returned to gravel and the Province retains ownership.
3. Provincial local roads (not G, H, I, J) that are currently gravel can be considered for paving with costs covered in full by the Province on the provision that the ownership of the road is transferred to the municipality. This is a one-time transfer and no further provincial funding will be available once the road has been transferred.

**Proposed Action:** Implement NFSM Roads Committee Recommendations with an annual budget of \$20M in Provincial Funding. All road programs are **optional** for municipalities to participate. Part A, funding for routes and trunks, Part B, local road options. The SERMGAR committee proposes the following changes to Part B: 1) paving be fully funded by the Province, 2) for every kilometer of local road transferred to the municipality, two kilometres of J-class road contributions be deleted from their annual contribution.

## **The SERMGAR Committee’s Proposal on Infrastructure**

The province is growing rapidly and government has a goal of doubling the population by 2060. Achieving this goal will come with challenges and municipalities are part of the solution. The Province will need to partner with municipalities to successfully achieve economic and population growth. Expanding municipal infrastructure is an essential component. Every single day, Nova Scotian families and businesses rely on municipal infrastructure. These services provide drinking water, wastewater treatment, public safety services, recreation, transit, transportation services, and more.

Municipalities in Nova Scotia are facing significant challenges in paying for and repairing the infrastructure in their communities. Statistics Canada provides condition ratings that indicate many municipalities are grappling with aging infrastructure that is in desperate need of repair or replacement. For example, over 40% of municipal transit busses in Nova Scotia are in a state of disrepair<sup>16</sup>.

In a survey conducted by NSFPM, respondents frequently mentioned the concerns of deteriorating municipal infrastructure, and/or divestment from Provincial infrastructure within their boundaries. The cost of maintaining infrastructure has risen significantly in recent years, putting a strain on local budgets. As well as climate change taking its toll on current infrastructure and creating the need for green projects. This has led to difficult decisions about where to allocate limited resources, and many communities are struggling to keep up with the demands of a rapidly growing population.

The Federation of Canadian Municipalities (FCM) highlights the significant responsibility placed on municipalities as owners of the majority of the country’s infrastructure<sup>17</sup>. Despite the ever-growing demands on municipalities, they are often operating with limited resources. The SERMGAR committee endorses the stance of the FCM regarding the crucial need for increased funding for municipal infrastructure<sup>18</sup>. In pursuit of enhancing the capacity of municipal infrastructure, the committee recommends the modernization and expansion of both direct and indirect infrastructure funding programs. The committee proposes an application-based infrastructure funding program of \$10 million(See table). Application based programs are essential to support both large and small municipalities so that infrastructure projects are viable.

In addition, the SERMGAR committee proposes an allocation-based program to match the federal gas tax contribution to Nova Scotian municipalities over a 4-year period (See table). Each year the program will increase \$15 million, for four years. The funding would be allocated using the gas tax formula. After year four, the program would continue until the five-year review takes place. The indirect funding programs are essential as they allow municipal governments to

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<sup>16</sup> <https://www150.statcan.gc.ca/t1/tb11/en/tv.action?pid=3410025301#tables>

<sup>17</sup> <https://fcm.ca/en/resources/the-case-growing-the-gas-tax-fund>

<sup>18</sup> <https://fcm.ca/en/resources/the-case-growing-the-gas-tax-fund>

make long range plans with the certainty that funds are in place to support municipal infrastructure growth and expansion. The solution is starting now.

**Proposed Action:** Implement a four year infrastructure funding program with adequate funding to meet the needs of municipalities and population growth (For figures see table below). After year four, the program would continue until the five-year review takes place.

Year	NFSM Application	Allocated (Gas Tax Formula)	Total
1	\$ 10,000,000	\$ 15,000,000	\$ 25,000,000
2	\$ 10,000,000	\$ 30,000,000	\$ 40,000,000
3	\$ 10,000,000	\$ 45,000,000	\$ 55,000,000
4	\$ 10,000,000	\$ 60,000,000	\$ 70,000,000

## SERMGAR Committee’s Proposal on Surplus Schools

Concern with the ownership of surplus schools among municipalities in Nova Scotia is long standing. The issue has been among the NFSM’s top *Statements of Concern* since 2018<sup>19</sup>. Most recently, in a survey conducted by NSFME, it was indicated that over 60% of municipalities had considerable pressure on their budget and capacities due to surplus schools. A municipal respondent to the survey stated the following:

*“The impact of the disposal of surplus schools to municipalities by the Province is a significant pressure on municipalities, particularly rural municipalities where there are limited chances for redevelopment and issues with contamination and hazardous materials.”*

The issue stems back to 1982, when the responsibility of constructing and maintaining public schools shifted from municipalities to the provincial government. Schools built after 1982 were deemed to be provincial assets and those built before, were considered municipal assets. However, municipalities have stated that these assets can become significant liabilities if they are in state of disrepair or are left vacant for a long period of time. Article 78 of the Education Act, sets out the responsibility of municipalities to repair, alter, sell, or demolish the school properties. Along with holding responsibility for all costs, municipalities must pass on all profits from a sale or insurance claim to their regional centre for education. While some municipalities have been able to redevelop school sites, many are not in the financial position to do so. Nova Scotian municipalities are often left with no options aside from demolition, which comes with significant costs and safety concerns such as asbestos abatement.

Under Section 76 of the Education Act (S.N.S. 2018, c. 1), a regional centre for education can declare school buildings and lands unfit for public school purposes<sup>20</sup>. This declaration is sent to municipalities and takes effect at the beginning of the next school year. Under Section 77(2) regional centres for education can also state that school buildings and lands are longer required, deeming them surplus schools for municipalities to deal with. There is no set timeline for when this surplus designation takes effect. It is proposed that the regional centres of education shall provide a 12-month notice for declaring school buildings or lands surplus. Municipalities of Nova Scotia need adequate time to prepare and respond appropriately to the declaration.

The SERMGAR committee also highlights that the maintenance of a school and the decision to close a school is not the responsibility of municipalities. Article 77 (1) designates regional centres of education as having the exclusive control and responsibility to provide adequate maintenance and repairs to school buildings. The condition in which the surplus schools are transferred, puts a considerable financial pressure on municipalities, on top of their mandatory contributions to education costs. In the interest of developing an approach to managing surplus schools that is fair and feasible for municipalities, the SERMGAR Committee proposes that municipalities shall have a Right of First Refusal. This proposal echoes NSFME’s

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<sup>19</sup> <https://www.nsfm.ca/nsfm-resolutions.html>

<sup>20</sup> <https://nslegislature.ca/sites/default/files/legc/statutes/education.pdf>

*Statements of Concern* from 2019—which indicated NSFME had obtained a legal opinion stating that municipalities should have the choice but not the obligation to acquire surplus schools.

**Proposed Action:** The proposed action at this time is that the Province take ownership of surplus schools, and consider the municipal Right of First Refusal at a negotiated price. It is proposed that the regional centres of education shall provide a 12-month notice for declaring school buildings or lands surplus. The committee also recommends continue the existing practice for surplus schools in the Halifax Regional Municipality.

## **SERMGAR Committee's Long Term Discussion Plan (Schedule A)**

The SERMGAR committee and the Province have agreed to engage in ongoing discussions over the next 5 years, with the aim of addressing key issues and ensuring the continued effectiveness of the agreement. Both parties are committed to conducting an annual review of Schedule A and making necessary amendments to the MOU. In addition, regular progress updates on the agreement and Schedule A will be provided on a biannual basis to ensure transparency and effective implementation.

- MFCG: Review class structure (Class I, Class II), specifically in the context of municipal consolidation or amalgamation. This discussion point is the current priority of the SERMGAR committee, it is recommended that both parties continue to work together, with the expectation of implementing changes within 1-year.
- Policing models and associated costs.
- Fire and Emergency services.
- Municipal Contributions (Education rates & phase out, DNA Laboratory contributions)
- Grants in lieu.
- Increased tax tools.
- Regional Enterprise Networks.
- The creation of a program for municipal regionalization.
- Roads: municipal speed limits  
Transit: Public Transit (i.e. electrification, rapid transit, depots etc.), and community  
Transit Boundaries

**SERMGAR Committee's Proposal on HST Offset and Town's Foundation Grant**

The SERMGAR Committee recognizes the importance of the Harmonized sales Tax (HST) offset program and the Town's Foundation grant for the municipalities in Nova Scotia. Through the course of their discussions, the possibility of reallocating funds from these programs was considered. However, after thorough examination, the committee concludes that these programs are relied upon and hold great value for municipalities. No changes to these programs are recommended at this time.

# **BILL NO. 340**

**(as introduced)**



*1st Session, 64th General Assembly  
Nova Scotia  
2 Charles III, 2023*

Government Bill

## **Municipal Reform (2023) Act**

The Honourable John Lohr  
Minister of Municipal Affairs and Housing

(Explanatory Notes)

Second Reading:

Third Reading:

## Explanatory Notes

Clause 1 sets out the short title of the Act.

Clause 2 amends the Corrections Act to remove unused definitions and update the title of the Minister of Municipal Affairs and Housing.

Clause 3 replaces provisions respecting municipal contributions to the Province for corrections with a calculation to be prescribed in the regulations.

Clause 4 removes obsolete references to the Metropolitan Authority.

Clause 5 provides additional regulation-making powers for the Governor in Council.

Clause 6 amends the Education Act to

(a) allow the Minister of Education and Early Childhood Development to require surplus real property, including buildings built before 1981, to be transferred to the Province; and

(b) give municipalities a right of first refusal for the purchase of the surplus real property from the Province.

Clause 7 provides an additional regulation-making power for the Minister of Education and Early Childhood Development.

Clause 8 repeals a provision of the Education (CSAP) Act that is replaced by provisions added to the Education Act.

Clauses 9 and 10 replace provisions respecting municipal contributions to public housing losses to allow for an amount to be prescribed by the regulations made by the Minister of Municipal Affairs and Housing.

Clause 11 amends the Municipal Grants Act to clarify that a grant in lieu of property assessment taxes for a fiscal year is only payable for property as shown on the filed assessment roll for the relevant year.

Clause 12 removes an expired provision and references to business occupancy assessment.

Clause 13 amends the exclusions from a grant in lieu of property taxes to

(a) remove a property of the Minister of Community Services under the Housing Act; and

(b) add property of the Minister of Municipal Affairs and Housing under the Housing Supply and Services Act.

Clauses 14 and 15 remove provisions respecting municipal financial capacity grants and allow for the grants to be made to eligible municipalities or classes of municipalities in a total amount determined by the Governor in Council.

Clause 16 allows the Minister of Municipal Affairs and Housing to determine the total amount of town foundation grants payable and provides the calculation for the amount and frequency to be established by the regulations.

Clause 17 includes grants paid pursuant to the regulations, in addition to those paid pursuant to the Act, in a provision requiring information to be provided to the Minister of Municipal Affairs and Housing by municipalities prior to the payment of a grant.

Clause 18 provides additional regulation-making powers for the Governor in Council.

Clause 19 provides that this Act, other than certain clarification provisions, has effect on proclamation.

## **An Act Respecting Municipal Contributions and Grants**

Be it enacted by the Governor and Assembly as follows:

**1** This Act may be cited as the Municipal Reform (2023) Act.

### CORRECTIONS ACT

**2** Section 24 of Chapter 103 of the Revised Statutes, 1989, the Corrections Act, is amended by

- (a) striking out clauses (a) to (c);
- (b) adding "and Housing" immediately after "Affairs" in the first line of clause (e); and
- (c) striking out clause (f).

**3** Sections 26 to 30 of Chapter 103 are repealed and the following Section substituted:

26 (1) Subject to subsection (2), each municipality shall pay in each fiscal year a contribution towards the expense incurred by the Province for corrections as determined by a calculation prescribed by the regulations.

(2) Subsection (1) does not apply to a municipality exempted by the regulations.

(3) A municipality shall pay its contribution in four equal, quarterly instalments in April, July, October and January of each fiscal year.

(4) Any amount of a contribution owing to the Province by a municipality under this Section is a first charge on the municipality's entitlement to a grant pursuant to the Municipal Grants Act.

**4** Subsection 31(1) of Chapter 103 is amended by

(a) striking out "or the Metropolitan Authority" in the fourth line; and

(b) striking out ", except that in the case of the Metropolitan Authority "debt charges" means the interest only on outstanding sinking fund debentures" in the sixth to eighth lines.

**5** Subsection 32(1) of Chapter 103 is amended by

(a) relettering clause (a) as (ab); and

(b) adding immediately before clause (ab), as relettered, the following clauses:

(a) respecting the calculation of the contribution referred to in subsection 26(1) payable by a municipality or class of municipality;

(aa) exempting a municipality or class of municipality from the requirement to pay a contribution under subsection 26(1);

#### EDUCATION ACT

**6** Section 77 of Schedule A of Chapter 1 of the Acts of 2018, the Education Act, is amended by adding immediately after subsection (2) the following subsections:

(3) Subject to subsection (4), where an education entity no longer requires land and any pre-1981 buildings on the land, the Minister may require the lands and the buildings to be conveyed to the Province subject to any lien, mortgage or charge in respect of unmatured debt that exists at the time the land and buildings are declared to be no longer required.

(4) A municipality, unless it is excluded by the regulations, has the first right to offer to purchase the land and building referred to in subsection (3) from the Province for a negotiated amount, if the Province has no Provincial purpose for the land or building.

**7** Subsection 97(1) of Schedule A of Chapter 1, as amended by Chapter 14 of the Acts of 2019, is further amended by adding immediately after clause (lf) the following clause:

(lfa) excluding any municipality or class of municipality from the first right of offer in subsection 77(4);

#### EDUCATION (CSAP) ACT

**8** Subsection 93(1) of Chapter 1 of the Acts of 1995-96, the Education (CSAP) Act, is repealed.

#### HOUSING SUPPLY AND SERVICES ACT

**9** Section 11 of Chapter 36 of the Acts of 2022, the Housing Supply and Services Act, is repealed and the following Section substituted:

11 (1) Each municipality shall pay in each fiscal year a contribution towards the net operating losses incurred by the Province to support and provide public housing for the residents of that municipality.

(2) An agreement entered into by a member of the Executive Council or by the Province with a municipality with respect to the contribution referred to in subsection (1) continues to have legal force and effect unless or until terminated with notice by the Minister.

(3) The amount of the contribution referred to in subsection (1) is as set out in an agreement in effect under subsection (2) or, where there is no agreement in place, the amount of the contribution is calculated as set out in the regulations.

(4) A municipality, unless it is excluded by regulation, shall pay the municipal contribution amount towards public housing determined by the agreement in effect under subsection (2) or, where there is no agreement in place, as determined by the regulations.

**10** Subsection 15(1) of Chapter 36 is amended by adding immediately after clause (c) the following clauses:

(ca) exempting any municipality or class of municipality from the requirement to pay a municipal contribution towards public housing losses under subsection 11(1);

(cb) respecting the calculation of the municipal contribution amount towards public housing losses payable by a municipality or class of municipality;

#### MUNICIPAL GRANTS ACT

**11** Subsection 3(1) of Chapter 302 of the Revised Statutes, 1989, the Municipal Grants Act, is repealed and the following subsections substituted:

(1) The Minister shall pay out of the General Revenue Fund of the Province in each taxation year a grant in lieu of property assessment taxes to every municipality, village and service commission.

(1A) A grant under subsection (1) is payable in respect of the Provincial property, Provincially occupied federal property and property of supported institutions located within the municipality or within the area of jurisdiction of a village or service commission as shown on the filed assessment roll for that year.

**12** (1) Subsection 4(1) of Chapter 302, as amended by Chapter 9 of the Acts of 2003, is further amended by striking out "and business occupancy" in the fourth line.

(2) Subsection 4(1A) of Chapter 302 is repealed.

(3) Subsection 4(2) of Chapter 302, as amended by Chapter 7 of the Acts of 1994-95, Chapter 9 of the Acts of 2003, Chapter 6 of the Acts of 2005 and Chapter 21 of the Acts of 2007, is further amended by striking out "and business occupancy" in the third and fourth lines.

**13** Section 6 of Chapter 302, as amended by Chapter 9 of the Acts of 2003, is further amended by

(a) striking out clause (c); and

(b) adding immediately after clause (c) the following clause:

(ca) property of the Minister of Municipal Affairs and Housing under the Housing Supply and Services Act;

**14** Section 6 of Chapter 302 is repealed and the following Section substituted:

8 (1) The Minister may pay an annual municipal financial capacity grant to an eligible municipality or class of municipality in an amount as established by the regulations.

(2) The total municipal financial capacity grants payable to municipalities for that fiscal year is the amount determined by the Governor in Council.

(3) A municipal financial capacity grant for an eligible municipality or class of municipality in subsection (1) must be paid in four quarterly instalments in each fiscal year.

**15** Sections 9, 11 to 14, 16, 17 and 19 of Chapter 302 are repealed.

**16** Section 19A of Chapter 302 is repealed and the following Section substituted:

19A (1) The Minister may pay a town foundation grant to an eligible town or class of town.

(2) The total town foundation grants payable to towns for that fiscal year is the amount determined by the Minister.

(3) The calculation of the amount and frequency of a grant payable under subsection (1) is as established by the regulations.

**17** (1) Subsection 19B(1) of Chapter 302, as enacted by Chapter 5 of the Acts of 2002, is amended by adding "or the regulations" immediately after "Act" in the second line.

(2) Subsection 19B(2) of Chapter 302, as enacted by Chapter 5 of the Acts of 2002, is amended by adding "referred to in subsection (1)" immediately after "grant" in the first line.

**18** Section 37 of Chapter 302, as amended by Chapter 7 of the Acts of 1994-95, is further amended by adding immediately before clause (b) the following clauses:

(a) respecting the designation of an eligible municipality or class of municipality under subsection 8(1);

(aa) respecting the calculation of municipal financial capacity grants and entitlements, including by use of standard expenditures per dwelling unit, uniform assessments of municipalities and standard rates for classes of municipalities;

(ab) respecting the designation of an eligible town or class of town under subsection 19A(1);

(ac) respecting the calculation of a town foundation grant entitlement under subsection 19A(2);

(ad) respecting the frequency for the granting of a town foundation grant under subsection 19A(2);

#### EFFECTIVE DATE

**19** This Act, except Sections 11 and 12, has effect on such day as the Governor in Council orders and declares by proclamation.

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