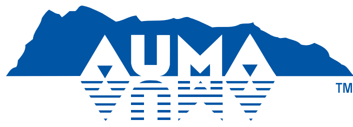

September 17, 2015

Honourable Deron Bilous
Minister of Municipal Affairs
404 Legislature Building
10800 – 97 Avenue
Edmonton, AB T5K 2B6

Dear Minister Bilous:

The Alberta Urban Municipalities Association and Alberta Association of Municipal Districts and Counties believe that it is important to jointly focus our efforts on key issues affecting governance and sustainability as the Municipal Government Act review moves forward. Accordingly, we have reached agreement on the enclosed key foundational policy changes.

Thank you for the opportunity to collaborate with the province in this important process. We look forward to continuing our partnership in governance into the future.

Sincerely,

Helen Rice AUMA President	Al Kemmere AAMDC President

Enclosure

AUMA and AAMDC Key Policy Changes

Provincial – Municipal Relationship:

Joint Policy Position	Description
Require the province to undertake mandatory municipal consultation and engagement when municipal interests are impacted by the decisions of any provincial ministry.	The provincial government needs to seek municipal input on changes to legislation, policies and programs that affect municipalities. Without this input, provincial decisions could have unintended consequences and may jeopardize the sustainability of municipalities, create fiscal or governance challenges, and/or result in inconsistencies between provincial and municipal policy directions. Requiring municipal consultation decreases the risk of problematic changes and allows for integrated provincial and municipal actions that better serve the public interest and can be implemented in a more efficient and effective manner. The requirement to consult and engage with municipalities must be explicitly written in the Act, and should include decisions made by all government ministries.
Use the *Municipal Government Act* to establish a formalized government to government partnership between democratically elected provincial and municipal governments.	The AUMA, AAMDC, and their member municipalities believe that it is fundamentally important to establish a new partnership between provincial and municipal governments. Albertans expect them to work in a close and collaborative partnership and there needs to be a process to ensure that any downloading of provincial responsibilities and services to municipalities is undertaken consultatively and matched with compensating financial supports. The MGA review process is an ideal opportunity to modernize the relationship between the province and municipalities as a true formalized partnership that enables both parties to act more effectively as orders of government.
Municipalities should be primarily accountable to their citizens rather than the province.	This change reflects the current undue level of provincial control over municipal actions. The existing MGA requires ministerial approval for a number of municipal actions, which erodes the democratic principle that municipalities should principally be accountable to the individuals that elect them. The ability of municipalities to make local decisions without ministerial/provincial oversight could be implemented through a preamble outlining the relationship between the province and municipalities. This change would have broad implications in all municipal powers, restructuring what municipalities can do based on democratic values.

Municipalities should be obligated to engage with impacted sectors of the citizenry and community on municipal decisions.	AUMA and AAMDC agree that with greater authority and autonomy comes a greater responsibility to work with residents and the non-resident tax base. To reflect the municipal commitment to accountability, the MGA should explicitly state the requirement for municipalities to engage with impacted sectors of the citizenry and community on municipal decisions that impact them. The foundation for this requirement has already been set through Bill 20 which requires municipalities to create a bylaw outlining their public participation policy.
Require meaningful municipal engagement in the planning and operation of provincial infrastructure.	Provincially owned and developed community infrastructure such as schools, hospitals or roads is extremely important to municipalities and their residents. Historically, this infrastructure has been developed without meaningful input from municipalities. This has led to concerns regarding placement, timeframe for developments, permitting processes, servicing and unforeseen costs to municipalities. Giving municipalities input into the development and operation of community infrastructure would grant provincial decision makers valuable insight while ensuring that difficulties such as permitting delays or unforeseen costs are avoided. Input should begin in the planning process and continue through until the decommissioning of the assets.
Empower municipalities with the autonomy to make local decisions without provincial oversight.	The current Municipal Government Act tends to provide in detail limitations on municipalities, either in the Act or in regulation. Examples of municipal actions with undue provincial oversight include establishing a community revitalization levy, establishing a municipal corporation, and spreading revenue deficiencies across multiple fiscal years. Instead of these tight restrictions, the Act should broadly empower municipalities to act according to their discretion without provincial oversight. This change would limit instances that require ministerial approval to situations that have impacts outside municipal boundaries, or involve disputes or legal changes (such as fee disputes or status changes).

Environmental

Expand the current definition of environmental reserves to allow for municipalities to be responsible environmental stewards and effectively protect other sensitive or high-value ecological areas from development (e.g. tree stands, wildlife habitat, and wetlands).	Environmental reserves are currently restricted to specific scenarios that are limited largely to bodies of water or areas likely to flood. The current legislation does not allow municipalities to effectively protect other sensitive or high-value ecological areas from development (e.g. tree stands, wildlife habitat). Additionally, the legislation does not appropriately define bodies of water, or address the need for wetlands to be included for environmental reserves. The AUMA and AAMDC support empowering provisions in the Municipal Government Act that allow municipalities to act as responsible environmental stewards through site specific assessments.

Finances

Provide for regular and public reviews of property assessment and/or taxation exemptions to ensure that they continue to meet the policy objectives they are intended to fulfill.	Regular reviews of exemptions at least every five years should be undertaken to ensure that these exemptions meet their intended objectives.
Broaden the scope of offsite levies to better enable municipalities to cover the capital costs of new infrastructure for essential and soft services.	The scope of how municipalities can utilize offsite levies is currently very narrow. The MGA restricts offsite levies to capital costs related to specific projects such as roads and water facilities. However, new developments also need many other municipal services such as new or expanded facilities for fire rescue services, police service, transit service, and recreation facilities. The AUMA and AAMDC recommend that offsite legislation should be modernized to enable municipalities to recover the true costs of new developments.
Broaden revenue generating authority.	Municipalities currently lack the revenue generating capability to effectively manage the service and infrastructure needs of their communities, particularly in light of large infrastructure deficits. Additional revenue sources are needed to address funding shortfalls and alleviate the dependence on the property tax. Potential revenue sources include fees, tolls, and levies for the use of services and infrastructure.

Provide for voluntary use of regional revenue tools as agreed to by municipal partners.	The AUMA and AAMDC support empowering provisions in the Municipal Government Act that would allow for the collection of revenue through regional revenue tools at the discretion of municipalities involved. These voluntary tools can come in the form of regional gas taxes, value added taxes, service fees, or even mutually agreed upon property taxation rates, and be used to fund vital regional projects such as transit or road construction.
Reform the provincial transfer system to provide municipalities with stable and predictable funding through ensuring that grants for core municipal services: • are statutory and indexed; • determined according to a funding formula developed in consultation with municipal associations; • are unconditional (not application based); and • are used for purposes in alignment with provincial-municipal priorities.	Currently, the system of transfers from the province to municipalities disproportionately utilizes conditional grants for roughly 97 per cent of total transfers. This is far greater than the proportion of conditional grants in other provinces. As this funding is subject to annual appropriation, it can change significantly from year to year, as evident by the MSI experience where funding falls far short of the originally committed levels. This unpredictability makes it very challenging for municipalities to comply with the new requirement for three year operating and five year capital plans since a significant portion of their revenue base is not known and is outside of their control. It is therefore impossible to develop asset management and capital plans in particular given that the availability of associated infrastructure funding is unknown. Municipalities are therefore seeking a model similar to the federal gas tax fund where transfers are statutory and indexed. As the method of allocating funds to municipalities needs to be aligned with service responsibility, municipal associations should be engaged in the development of funding distribution formulas. Another shortcoming of the current approach is that it is very inefficient for provincial and municipal governments. Many municipalities hire grant writers as they lack the ability or time to submit onerous grant applications and want to ensure that their proposed projects can be presented in a way that allows them to compete with projects submitted by other municipalities. This creates an administrative burden as municipalities expend time and resources on the application process and, in turn, the province has to manage a process to review and assess the applications. As well, there is a risk that a high need project may not be funded because of the application challenges. It would be far more efficient for the funds to flow directly to municipalities so that they can use them according to the eligibility criteria set out by the province. The existence of eligibility criteria enables the province to be certain that funding will be used for purposes that they support, while providing municipalities with the autonomy to manage their infrastructure risks through making local

	decisions on funding priorities. Through performance measures and associated outcome based reporting, municipalities will be held accountable for their infrastructure decisions. This reporting will enable municipalities to demonstrate prudent infrastructure management and good governance through decisions that ensure the protection of public health and safety while considering other infrastructure needs.

Planning

Provide municipalities with the title to their roads to align legal ownership with existing responsibilities and liabilities.	Municipalities other than cities do not currently hold the title to municipal roads within their boundaries, despite carrying the fully responsibility for all associated costs and liabilities with the road. In some instances this impedes planning and decision making.
Require mandatory intermunicipal development plans.	As a binding agreement, intermunicipal development plans help to guide the process of development regionally, which is important given Alberta's rapid population growth. These plans can address regional growth goals, economic development, or infrastructure requirements. In 2015, the province announced Bill 20 which will create a defined hierarchy of plans, placing intermunicipal development plans at the top. This makes this change even more important, as intermunicipal development plans will be essential to guide growth and development throughout municipal regions.
Clarify annexation process.	Provide for a streamlined process for annexations that occur pursuant to an intermunicipal development plan. Provide clear guidelines for evidence-based determinations on contested annexations.
Allow for inclusionary zoning to facilitate affordable housing.	Inclusionary zoning is the practice of requiring the development of affordable housing during other development. It can come in several forms: an alteration to the land use bylaw or an ordinance that requires a minimum ratio or number of affordable housing per development type, and off-site levy, or an "opt-out" that allows developers to make a payment in lieu of developing affordable units. Allowing municipalities to utilize inclusionary zoning would assist the provincial government in meeting the need for affordable housing in Alberta without resulting in the downloading of unreasonable costs to municipalities.

General

Reform the current system of joint and several liability to address the role of municipalities in providing the public good.	The system of joint and several liability allows a person who was harmed or wronged by several parties to be awarded damages from any one, several, or all of the liable parties. Because municipalities are seen as an easy target given their access to financial resources, they are often included as defendants in lawsuits even where the level of municipal liability is extremely low (e.g. one per cent liable). If other defendants are unable to pay, the municipality will be in the position of paying the entire judgment. This issue comes up frequently with regard to linking municipal road maintenance and design to auto accidents. Reform is necessary to ensure that municipalities are not required to make financial restitutions that are disproportionate to their liability if co-defendants are unable to pay.
Provide a streamlined process for voluntary amalgamations.	Bill 20 provided the authority for the Minister to create regulations concerning amalgamations. Further development of legislation should ensure a streamlined approach that recognizes the importance of good-faith negotiation, evidence-based need, municipal autonomy, local needs and contexts, and community identity.
Maintain key authorities in the current *Municipal Government Act* (e.g. natural person powers, enforcement processes).	The MGA currently includes several provisions that should be maintained in future iterations (e.g. granting of natural person powers to municipalities, the system of enforcement at the local level and through the court system, and retaining a separation between residential and non-residential tax rates). Any changes to guiding principles should be made only after extensive engagement with municipalities.

Assessment and Taxation

Ensure that assessment definitions are regularly updated through municipal engagement to ensure clear understanding.	Many of the assessment-related definitions in the *Municipal Government Act* and the regulations relating to the assessment of property for property tax purposes have not been updated for decades. There are many incidences where the definitions do not adequately provide clear direction in provincial government assessment and tax policy. Areas of particular concern are all of the definitions relating to regulated property (linear property, machinery and equipment, railway, and farm land). Others include the definition of assessment, those relating to assessment classes, and equalized assessment.

	The province should ensure there is an effective, transparent and timely process to engage municipal government in regular reviews and amendments of legislation pertaining to definitions for property assessment and tax policy.
Align condition and valuation dates for different types of property to ensure that more assessment complaints can be heard prior to setting tax rates.	Currently, for all property other than linear property, the condition date is December 31 and the valuation date is July 1. The reporting (condition) date of linear property is October 31. Aligning the dates for different types of property would ensure that more complaints can be heard prior to setting the tax rates.
Require mandatory municipal consultation and engagement on all significant changes to the property assessment and taxation system.	This change would introduce a legislated requirement for the provincial government to consult and engage municipalities on significant tax policy changes. Municipalities are the level of government most closely associated with property assessment and taxation, and should be involved in any discussions regarding changes that will impact them.
Assess property in a manner as closely based on market value principles as possible, except where a clearly articulated rationale for a regulated rate is identified and expressed in the legislation.	Exemptions to market value and the use of a regulated rate must be supported by a clear rationale such as a difficulty in determining market value (e.g., properties such as malls, pipelines, and large industrial fixtures) or the requirement to address a unique policy consideration (e.g., farm property).
Regularly update methods of valuing regulated properties at a minimum five year interval.	There are several types of regulated properties in Alberta that have legislation regarding how they are to be valued. In several instances, this legislation is outdated and needs to be updated to reflect modern circumstances. For instance, machinery and equipment depreciation tables are outdated and assume short lifespans for equipment (e.g. 20 years for an oil sands plant). In addition, the construction cost reporting guide needs to be updated by moving towards a market value system that takes local factors into consideration. Currently, values are set based on what construction costs would be in the City of Edmonton. This system does not reflect widely varying costs across the province that are impacted by local labour supply and demand. For instance, construction costs in the Regional Municipality of Wood Buffalo are considerably higher than in Edmonton due to the influence of the energy industry.

<table>
<tr><td>Legislate provincial grants in lieu of taxes.
Require the province to provide grants in lieu of taxes on all property owned by public entities other than municipalities (e.g. provincial property, schools, hospitals, universities).
Provide grants in lieu of taxes or alternative funding to compensate municipalities for the costs associated with all seniors’ housing as well as other affordable housing.</td><td>Currently, properties owned by the provincial government are not taxable by municipalities. Legislation also exempts some other properties including schools, seniors’ residences, and non-profit organizations. Despite this, municipalities are still responsible for servicing them with roads, water and wastewater, administration services, and more. Grants in lieu should be clearly established in legislation as a statutory responsibility of the province to pay.</td></tr>
<tr><td>Enable municipalities to utilize electronic administration of property assessment and taxation.</td><td>The current legislation requires municipalities to maintain a physical paper assessment and/or taxation roll including all of the required information outlined in legislation. Furthermore, it requires physical paper assessment and/or taxation notices to be mailed to property owners.

With the advent of computers and the internet these processes are no longer the optimal choice in administering assessment and taxation functions. The vast majority of assessments across the province are determined with the assistance of Computer Assisted Mass Appraisal (CMA) systems, and the assessment and taxation rolls are automated. Actual paper assessment rolls, taxation rolls, assessment notices and taxation notices must be printed in order to meet provincial legislation, a wasteful and unnecessary duplication of effort.</td></tr>
<tr><td>Review education property taxes.
Vacate or reduce provincial reliance on the education property tax requisition; or
Establish a direct link between the amount of Municipal Sustainability Initiative (MSI) funding and education property taxes in legislation.</td><td>In Alberta, the provincial government collects a property tax requisition to cover the costs related to its responsibility to provide an education system. These taxes are added to municipal property taxes through an annual requisition. As municipalities do not have access to significant alternative revenue sources other than the property tax, this limits their capacity to increase rates to cover responsibilities out of concern for causing too large a burden on ratepayers.

The AUMA and AAMDC recommend that the province reduce reliance on the education property tax requisition to address this issue. In lieu of this, a direct link should be established between the amount of Municipal Sustainability Initiative Funding and education property</td></tr>
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	taxes in legislation to compensate for reduced taxation capacity.
Allow municipalities to split non-residential property into assessment and taxation subclasses other than "vacant" or "improved".	The splitting of property assessment and taxation classes into subclasses allows municipalities to more effectively recoup costs from certain land uses, or incentivize specific types of development. Some types of non-residential property exert higher costs on municipalities due to heavier usage of municipal infrastructure. Having separate assessment and taxation subclasses allow municipalities to recoup these costs. In addition, municipalities can incentivize beneficial development by creating lower subclasses for development they want to attract. While the splitting of residential property into subclasses is currently possible, municipalities can only split non-residential property into the classes of "vacant" or "improved".
Amend legislation to confirm that privately owned property leased by the Crown is subject to property tax, and clarify that the province is responsible for delinquent taxes on Crown-leased property.	The intent of the *Municipal Government Act* is that even when the Crown leases privately owned property, the owner of the property is responsible for the assessment and the property taxes due on the property. The Crown is not the assessed person and includes, in the lease fee, a property tax component. In the past, a decision made by the Composite Assessment Review Board interpreted the legislation to mean that the property under lease is exempt from taxation since it is Crown owned land. In the reverse scenario in which a private party leases Crown-owned land, that party becomes the assessed person and is responsible for paying the taxes on the property under lease. However, given that the land is Crown-owned and the Crown is not an assessed person, if that person is delinquent in paying the property taxes there is no recourse for the municipality other than expensive litigation. While the federal government has a policy in place that remits a payment in lieu of taxes on these properties as if the lease was not in place if the lessee is delinquent, the province has refused to pay such grants. This change would confirm that privately owned property leased by the Crown is in fact subject to the property tax, and also clarify that the province is responsible for any delinquent taxes on said Crown-leased property.
Clarify and resolve requirements for information sharing between assessors	The current *Municipal Government Act* provides for municipalities to collect information about properties for processes of determining assessment. These sections

and property owners, recognizing the diverse capacities of municipalities.	provide that a property owner must provide the information requested by the assessor. However, there are two issues with the current legislation. First, there is a lack of clarity regarding definitions in the MGA clauses that give assessors the ability to request information. The current legislation gives assessors the ability to request any information deemed "necessary" from property owners, and provide property owners with information "sufficient" to determine how their assessment is prepared. However, there is no clearly defined meaning behind these terms. Second, two court cases from 2008 and 2011 have diminished municipalities' ability to undertake mass appraisal by limiting the nature of the information municipalities can collect. Amendments should clarify and resolve these issues so that assessors are fully aware of what information they can request and will need to share, and have the ability to collect information for use in mass appraisal modeling.