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Disaster in the Making: UCP Government Grabs Control of the Alberta Law Foundation's Funding Decisions

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Bill Commented On: [Bill 39 Financial Statutes Amendment Act 2025](#) (31st Leg, 1st Session, second reading)

Mixed together with an omnibus financial bill in the current session of the Legislature, the UCP government proposes to threaten the independence of the Alberta Law Foundation (Foundation), and in doing so, the independence of the legal profession. The bill also jeopardizes the core funding that the Foundation has historically provided to support not-for-profit organizations that help the Foundation deliver on its mandate, including poverty law clinics and those involved in public legal education. The Minister of Finance introduced [Bill 39: Financial Statutes Amendment Act 2025](#) for first reading in the Legislature on March 10 and the Bill is currently in second reading. Section 7 of Bill 39 proposes to amend the *Legal Profession Act*, [RSA 2000, c L-8](#) to change the rules governing how the Foundation allocates funding grants by inserting a large measure of political control, and to require the Foundation to increase its funding contribution to Legal Aid Alberta. Consistent with amendments imposed on Legal Aid Alberta by the UCP government in 2024, the UCP government seeks to give the Minister of Justice control over the funding of access to justice programs. In response to these proposed amendments, two of the three board members appointed to the Foundation by the Alberta UCP government have resigned.

Introducing Bill 39

Bill 39 is a money bill that proposes amendments to a number of financial statutes including the *Alberta Corporate Tax Act*, [RSA 2000, c A-15](#), the *Alberta Personal Income Tax Act*, [RSA 2000, c A-30](#), and the *Fuel Tax Act*, [SA 2006, c F-28.1](#). However, Bill 39 also curiously proposes amendments to benefits-conferring legislation, including the *Child, Youth and Family Enhancement Act*, [RSA 2000, c C-12](#) and the *Income and Employment Supports Act*, [SA 2003, c I-0.5](#), as well as amendments to the *Legal Profession Act*, [RSA 2000, c L-8](#) (*LPA*), which are the focus of this comment. (On the use and abuse of omnibus bills, see Adam M. Dodek, “Omnibus Bills: Constitutional Constraints and Legislative Liberations” (2016) 48 *Ottawa L Rev* 1, available [here](#).)

In his address to the Legislature during the first reading of Bill 39, the Minister of Finance introduced the amendments to the *LPA* with the following claims:

Mr. Horner: Thank you, Mr. Speaker. I request leave to introduce Bill 39, the Financial Statutes Amendment Act, 2025. This being a money bill, Her Honour the Honourable the Lieutenant Governor, having been informed of the contents of the bill, recommends the same to the Assembly.

Mr. Speaker, last week I proudly stood to introduce Budget 2025, a budget of tough but measured choices to meet the needs of Albertans and maintain the Alberta advantage. Bill 39, which I'm pleased to introduce today, reflects our commitment to meeting the challenge Alberta faces today by proposing to implement key policies I outlined in my Budget Address.

The legislative amendments contained within Bill 39 would allow us to move forward with some of the most important components of Budget 2025. That includes updates to the fiscal rules to give government the flexibility to use surplus cash to improve its net financial position, amendments to allow for the new 8 per cent tax bracket, and amendments to double the statutory contribution to Legal Aid Alberta to 50 per cent from 25 per cent.

As the government faces an uncertain economic picture, particularly when you throw in U.S. tariffs, increased protectionism, and an upcoming federal election, we're meeting the challenge with a prudent financial plan. I'm pleased to move first reading of Bill 39, the Financial Statutes Amendment Act, 2025.

(Alberta Hansard, [31st Leg, 1st Sess \(March 10, 2025\)](#) at 2478, emphasis added)

The Minister's statement is at best misleading in relation to funding for Legal Aid Alberta because nowhere in this money bill is the UCP government increasing its contribution to that program. Legal Aid Alberta signed a new five-year agreement with the provincial government and the Law Society of Alberta in the fall of 2024 that guaranteed \$110 million funding in provincial government funding in 2025 ("[New legal aid agreement reached](#)," Legal Aid Alberta, 4 September 2024). However, the UCP government's contribution was reduced by \$22 million to \$88 million in the 2025 budget introduced on February 27, 10 days before Bill 39 was introduced ("[Analyzing the 2025 Alberta Budget](#)" Enough for All, 3 March 2025) The reference to "doubling the statutory contribution to Legal Aid Alberta" is in fact a reference to the Government's intention to appropriate fully 50% of the Foundation's revenues to support Legal Aid Alberta, doubling the contribution from its previous 25%.

In other words, the Government proposes to reduce its own commitment to Legal Aid and at the same time to order the Foundation to backfill that loss of financial support. We acknowledge the legal and constitutional importance of legal aid (see details in Appendix A), but our position is that the Government of Alberta has a responsibility to fund legal aid out of general revenues and not raid the revenues that accrue to the Alberta Law Foundation. In order to understand why this is so offensive we need to understand two things: first, the source of the Foundation's revenues, and second, the fact that the Foundation was already picking up the slack from the provincial government's underfunding of legal aid by funding many different legal aid clinics, as well as contributing 25% of its revenues to Legal Aid Alberta.

The Source of the Foundation's Revenues

The Foundation and its grants are not funded by Alberta taxpayers. The Foundation's revenue comes instead from interest earned on lawyers' pooled trust accounts principally associated with trust funds held by lawyers to facilitate the buying and selling of homes. Before prices made housing beyond the reach of most of Canada's middle class, we would have said the Foundation's money came primarily from middle-class buyers and sellers of homes.

It works this way, and has for the last fifty-plus years. A buyer's purchase money is briefly held in their lawyer's trust account until the necessary documents are received from the seller's lawyer and registered. Each seller's money would also be briefly held by their lawyer in their trust account until the money could be released to the buyer. Each middle-class home buyer's and seller's money would be mixed with – “pooled” – in the law firm's pooled trust account. The amounts were said to be so small and the money stayed in the pooled trust account for so little time, that the cost of figuring out how much interest each buyer's and seller's money earned and paying that interest to buyers and sellers would exceed the interest earned. This scheme is reflected in section 126 of the *LPA* and sections 119.17 and 119.18 of the [Rules of the Law Society of Alberta](#).

However, when upper-class buyers and sellers buy or sell homes, or corporations buy or sell businesses, the amount of money involved usually warrants a lawyer opening a separate trust account just for that one client's money. Upper-class buyers and sellers and corporations receive the interest on their money because it is held in a separate trust account. Middle-class buyers and sellers do not receive the interest on their money because it is held in a pooled trust account; it is not their property.

Instead of letting banks or law firms use buyers and sellers' money for free, or allowing lawyers to keep the interest (which was seen to create a conflict of interests), governments across the country created law foundations. The Alberta Law Foundation was created in 1973 and the *LPA* it compulsory for all lawyers to maintain an interest-bearing trust account in an authorized depository and instruct that depository to remit the interest earned to the Foundation (see now s 126 of the *LPA*).

The Foundation is funded primarily by middle-class Albertans buying and selling homes, and not by taxpayers. Our personal income tax system is progressive, with income determining how much tax is paid and upper-class Albertans paying a greater percentage of their income. That is not the case with interest earned on lawyers' trust accounts. Replacing the provincial underfunding of Legal Aid Alberta by \$22 million with Foundation revenues is a bait and switch.

There are other problems with the UCP government confiscating the interest earned on lawyers pooled trust accounts. The fact that the source of the Foundation's revenue is dependent on house prices and interest rates makes their revenue unpredictable and volatile. With the higher interest rates and housing prices realized over the last few years the Foundation's annual revenues have increased significantly, jumping from approximately \$30 million in 2019-2020 to \$90 million in 2022-2023 and \$155 million in 2023-2024 (see the Foundation's [audited financial statements](#)). The revenue for the 2024-2025 fiscal year was first projected to bring the Foundation's 25% contribution to \$30 million – the same as its entire revenue just five years ago (Cindy Tran, [Province looks to double Alberta Law Foundation's contribution to Legal Aid Alberta](#),” Edmonton Journal, 15 January 2025).

If the Foundation's contribution rises to 50% or what is now projected to be \$68 million, and \$22 million covers the Legal Aid Alberta shortfall, where is the rest of the Foundation's compulsory contribution to Legal Aid Alberta going? Has the Minister of Finance said?

The volatility of the Foundation's revenue and the dependence of dozens of organizations delivering legal help to Albertans on its grants has always meant that the Foundation kept a lot of money in reserve and invested so that it could continue to support the organizations it funds the next time we see lower housing prices or lower interest rates or both. Its internally restricted reserves (money committed to future years, stabilization and strategic reserves, and funds for large projects) plus its unrestricted net assets grew to \$226,998,049 in 2024 ([Audited Financial Statements year ended March 31, 2024](#) at 6). However, the UCP government is apparently eying the cash reserves as well, saying: "With Alberta Law Foundation's significant cash reserves, and proper management of these resources, there is minimal risk of losing funding for initiatives they support," according to the press secretary for Alberta's minister of justice. (Matthew Scace, ["Potential changes to Legal Aid Alberta funding source raises concern among non-profits"](#) Global News, 16 January 2025).

The Mandate of the Foundation

Section 119 of the *LPA* establishes the core mandate of the Foundation:

119 The objects of the Foundation are

(a) to receive money and property and to maintain and manage a fund, the interest and capital of which is to be used from time to time as the board of directors of the Foundation sees fit for

- (i) conducting research into and recommending reform of law and the administration of justice;
- (ii) establishing, maintaining and operating law libraries;
- (iii) contributing to the legal education and knowledge of the people of Alberta and providing programs and facilities for those purposes;
- (iv) providing assistance to native people's legal programs, student legal aid programs and programs of like nature;
- (v) contributing to the costs incurred by the Legal Aid Society of Alberta to administer a plan to provide legal aid under an agreement under section 4;

(b) to do all other things that are, in the opinion of the directors, incidental or conducive to the attainment of the objects enumerated in clause (a).

The Foundation operates through its Board of Directors which consists of seven persons: the Minister's designate, two persons appointed by the Minister from outside the Law Society, two persons appointed by the Benchers of the Law Society and two persons appointed by the other directors. The *LPA* initially afforded the Foundation full discretion in the manner in which it allocated available funds but this changed in 2000 when the *Act* was amended to add s 119(v) and

to add a provision (s 123(2)) to require the Foundation to make 25% of its annual revenues available to Legal Aid Alberta.

Section 7 of Bill 39, if enacted, will make two further significant amendments to the *LPA*, both of which further limit the authority of the Foundation's Board of Directors. First, an amended section 123(2) will require the Foundation to allocate 50% of its revenues to fund Legal Aid Alberta, unless the Minister directs otherwise. Second, the proposed amendments will generally require prior ministerial approval of any funding commitment by the Foundation of more than \$250,000. The Foundation itself notes that this change will affect nearly all of its funding decisions (see [here](#)). The Minister may vary the general rule by exempting classes of funding commitments and classes of recipients. The proposed amendments provide no guidance as to how the Minister is to exercise their discretion. In sum, if Bill 39 is enacted by the Legislature the Board of Directors will have zero control over 50 per cent of the Foundation's revenues, while its decisions with respect to the remainder of the funds will be subject to ministerial oversight and veto with zero guidance as to how the minister's veto power will be exercised.

The move to grant the Minister more control over funding on access to justice programs is consistent with how the UCP government has granted the Minister power to control the services and very existence of the legal aid program itself, as one of us explained in [Alberta Threatens the Independence of its Legal Aid Program](#). The increased requirement on Foundation funding from 25% to 50% also seems to be in line with the UCP government's overall push to reduce public funding for the legal aid program. This required allocation will also have a significant negative impact on the Foundation's ability to fund other legal clinics and access to justice programs.

What is particularly disturbing is that the Minister appears to have arrogated to themselves the power of prior approval of grants even before Bill 39 has passed. This is attributable to the *in terrorem* effect of a transitional provision in the Bill (s 7(4)) which provides that if the Foundation makes a funding commitment or grant agreement without the Minister of Justice's approval between the day Bill 39 received first reading (March 10, 2025) and the day the Bill actually becomes law, "that funding commitment or grant agreement is to be treated as void and of no force and effect as of the day it was made or entered into." Faced with such a draconian provision the Foundation no doubt perceived the need to already begin to refer its grant approvals to the Minister; the first reading of the bill was perhaps carefully timed.

The results are startling and give a clear indication that the Minister will not be shy about exercising this new-found power. The Foundation reports that for its March 2025 funding cycle, of the 15 grants submitted for Ministerial review, one was approved without change, five were denied, and nine were approved with reduced amounts. The Minister has not provided any public justification for reducing or denying grants which the Foundation Board of Directors had already approved following the Foundation's application vetting process. In at least one instance, it would appear that the Minister denied funding that would have added capacity for community legal information and advice in Lethbridge (see [here](#)) – an intervention seemingly at odds with the Foundation's statutory mandate. We provide more details of the results of the Minister's interference with the Foundation's March funding decisions in Appendix B.

The increase in the Foundation's contribution to Legal Aid Alberta from 25% to 50% is also retroactive. It is "deemed to come into force ... on the day the bill receives first reading" (s 7(5)).

In sum, Bill 39 compounds the nefarious practice that began with the Klein government in 2000 of the government appropriating to itself trust interest monies that do not belong to it by doubling the monies that the Foundation must dedicate to Legal Aid Alberta and adds to this appropriation the insertion of effective political control over the balance of the Foundation's funding decisions.

One result of the increased allocation to Legal Aid Alberta has to be the corresponding loss in revenues that the Foundation can use to support existing service providers. Let us take the case of Calgary Legal Guidance (CLG). One of us (Nigel) has previously served on the Board of CLG including a term as chair. CLG is a non-profit legal organization dedicated to providing free legal guidance to those who do not have access to paid services. According to its most recent annual report ([2023 – 2024](#)), approximately 73% of CLG's \$4.24 million budget comes from the Law Foundation. The same report records that 3,000 people received advice from a volunteer lawyer and a further 2400 people received legal advice from CLG specialized legal programs. These programs include a homeless outreach program, a social benefits advocacy program, an immigration law program, an elder law program, a domestic violence/family law program, a Sexual Violence Survivors Legal Advice Program, a Pre-Apprehension Child Welfare Program, and the Sahwoo Mohkaak Tsi Ma Taas program (a program that provides legal services and support centered around culture with the goal of increasing access to justice for Indigenous people).

One can only think that a 25% cut in the revenues available to the Foundation to fund agencies like CLG will have a significant impact on the availability of these sorts of services. There is no indication that the Government has done any sort of impact analysis of the removal of these revenues from the justice social services sector. One of the most important attributes of CLG is that its mere existence facilitates the volunteer activities of Calgary lawyers by mobilizing them and providing the necessary infrastructure within which they can provide volunteer advice services. In other words, organizations like CLG (such as the Edmonton Community Legal Centre, Community Legal Clinic – Central Alberta, and Lethbridge Legal Guidance, all Foundation-funded) are able to multiply the benefits provided by the Foundation's support through volunteer contributions. The threat of reduced Foundation support (due to the revenues that the Foundation must dedicate to Legal Aid Alberta) combined with equally real but unpredictable threat of ministerial interference with the granting process will impair the work of CLG and similar organizations serving the needs of the most vulnerable members of our society. That is the real cost of Bill 39.

Appendix A: The Legal Aid Society of Alberta

Legal Aid Alberta is incredibly important to Alberta's justice system. Its existence is essential to meeting governments' obligations under the Canadian Charter of Rights and Freedoms including the right to a fair trial (s 11(d)), the right to life, liberty and security (s 7), and the right to equal protection and equal benefit of the law (s 15). Most of their assistance is provided by duty counsel and by lawyers in private practice engaged by certificates to provide advice and representation to low-income individuals for set rates (see [here](#)).

However, Legal Aid Alberta has restrictions on who it can help and what type of legal problems it can help them with. There are financial eligibility rules based on household incomes and only certain types of legal problems are dealt with (Legal Aid Alberta, [Resources: Eligibility](#)). Most of their work and money is spent on criminal law matters.

Although each province and territory is responsible for the delivery of legal aid services based on their own policies and procedures, criminal legal aid is also funded by the federal government, as is immigration and refugee legal aid in seven provinces, including Alberta. Justice Canada publishes annual reports on “Legal Aid in Canada” which reveal some interesting facts about Alberta’s approach ([Legal Aid in Canada 2022-2023](#), Dept of Justice Canada).

In 2022-2023 (the most recent report), an average of 51% of all legal aid expenditures across Canada were related to criminal matters, but in Alberta the percentage was 79% (Legal Aid in Canada 2022-2023 at 7). Not surprisingly, Alberta had the highest proportion of other civil applications refused for coverage restrictions in the country; 40% were refused because the matters were not covered (Legal Aid in Canada 2022-2023 at 12).

It matters that Alberta spends disproportionately on criminal matters because of the gender imbalance in what is funded (criminal law matters) and what is not funded (family law matters). In 2022-23, across Canada, 61% percent of legal aid clients were male, while 38% were female, with the remaining category of “other” representing gender diverse people, and unknown responses (Legal Aid in Canada 2022-2023 at 17, 43). On the other hand, females made up 60% of civil legal aid clients across Canada (Legal Aid in Canada 2022-2023 at 43). Alberta did not provide numbers to reveal legal aid client by gender (Legal Aid in Canada 2022-2023 at 44). We expect that, given the disproportionate amount of funding spent on criminal matters, the percentage of male clients in Alberta is much greater.

Alberta’s approach to legal aid, combined with the type of projects funded by the Foundation that are related to family law and survivors of family violence (some of which are mentioned in Appendix B), means that women and children will bear most of the burden of the UCP’s replacement of government funding with Foundation funding.

Appendix B: Summary of the Minister’s Decisions on the Foundation’s March Funding Cycle and the Anticipated Impact of Reduced Revenues

The Foundation accepts and approves grant applications four times a year. The March 2025 applications were just the first to be affected by Bill 39.

Only 58% of the funding that had been requested by fifteen organizations that applied for Foundation grants in March and approved by the Foundation was approved by the Minister. Only one received the amount it had requested. Five were denied entirely, including Boyle Street Community Services (a community organization providing poverty law services in Edmonton), SafeLink Alberta Society (serving southern Alberta communities by working to reduce the harms associated with sexual activity and substance use), Centre for Sexuality (a Calgary-based community-based organization delivering programs and services to support healthy sexuality),

Sweetgrass Youth Alliance (a Lethbridge-based youth-focused community group), and Grande Prairie Family Education Society (a large Peace River area organization that offers a Parent Child Assistance Program, Fetal Alcohol Spectrum Disorder family support, and much more). When doubling the Foundation's statutory contribution to Legal Aid Alberta from 25% to 50%, the Minister failed to acknowledge in the Legislature that this increase would come at the expense of community-based organizations. But that is exactly who is not getting the funding they applied for and the Foundation approved.

Of those significantly underfunded, the Community Legal Clinic – Central Alberta is one example. The Clinic's grant was approved in March for 29% less than requested and approved by the Foundation (see [here](#)). This clinic provides free legal advice from volunteer lawyers to eligible low-income Albertans and representation from staff lawyers on criminal matters, tenants' issues, immigration documents, employment and social benefits, and photo ID affidavit clinics. They serve Central Alberta (with offices in Red Deer), Fort McMurray, Lloydminster, and Medicine Hat. This is also legal aid, with more of a focus on civil matters.

The other community organizations whose funding was significantly cut include the Kinbrace Community Society (offering refugee claimants housing and other support) which will receive 68% less than requested. Lethbridge Legal Guidance (volunteer lawyers provide legal information and advice on a variety of legal issues to those who cannot get legal aid) received 32% less than requested over 3 years. Rural Red Deer Restorative Justice (addressing and repairing the harm caused by crime to residents of Central Alberta) was approved for 21% less than requested. And Wahkohtowin Law and Governance Lodge (a dedicated research unit based at the University of Alberta with goals of upholding Indigenous laws and governance in order to answer TRC Call to Action #50) will receive 72% less than requested.

Many of the Foundation's grantees awaiting their turn for Ministerial approval are legal aid clinics that are available with legal advice and information when Legal Aid Alberta is not, as are, the Community Legal Clinic – Central Alberta and Lethbridge Legal Guidance mentioned above. Those still waiting to see how destructive the next rounds of grant approval will include Calgary Legal Guidance, Edmonton Community Legal Centre, Student Legal Assistance – University of Calgary, and Student Legal Services of Edmonton – all of which rely greatly on lawyers and law students who volunteer their time and expertise. This is also legal aid.

Many of the Foundation's grantees offer programs focused on ending gender-based violence and supporting the survivors of gender-based violence. These programs help fulfill Alberta's action plan to end family violence, which is part of the National Action Plan to End Gender-Based Violence. In addition to several programs offered by Calgary Legal Guidance, the grantees include FearIsNotLove (offering legal information, assistance and referral to vulnerable women), Luna Child and Youth Advocacy Centre (providing legal information, assistance, and referral to child and youth victims of abuse and their caregivers in Calgary), Rowan House Society (a Southern Alberta emergency shelter providing legal information, assistance and referrals for vulnerable women), and the Women's Centre of Calgary's Legal Advice Clinic.

Current programs serving Indigenous peoples and the mandate of reconciliation, in addition to the Wahkohtowin Law and Governance Lodge, include the Elizabeth Fry Society of Calgary (offering

an Indigenous restorative justice program), the Indigenous Law Students Association at the University of Alberta, and the Yellowhead Tribal Community Corrections Society. However, the previously approved Indigenous Law Institute project at the University of Alberta has been “halted”. This was a major initiative in Indigenous legal education and research that was two years in development. The Foundation’s reserves include \$100 million earmarked for the Institute’s construction and endowment. However, the UCP government sees the Foundation’s reserves as something to be used to replace the doubling in funding to Legal Aid Alberta.

The Alberta Law Foundation is asking Albertans to contact their MLAs about Bill 39 – see [“Speak up against Bill 39”](#).

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