

1996 BILL 32

Fourth Session, 23rd Legislature, 45 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ~~ALBERTA~~ ALBERTA

BILL 32

**ALBERTA HERITAGE SAVINGS
TRUST FUND ACT**

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 32

1996

ALBERTA HERITAGE SAVINGS TRUST FUND ACT

(Assented to , 1996)

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Preamble WHEREAS the mission of the Heritage Fund is to provide prudent stewardship of the savings from Alberta's non-renewable resources by providing the greatest financial returns on those savings for current and future generations of Albertans;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “endowment portfolio” means the endowment portfolio referred to in section 3;
- (b) “Heritage Fund” means the Alberta Heritage Savings Trust Fund referred to in section 2;
- (c) “mineral agreement” means an agreement as defined in the *Mines and Minerals Act*;
- (d) “non-renewable resource revenue” means
 - (i) money received by the Crown under a mineral agreement or a contract under section 9 of the *Mines and Minerals Act* or under a reservation of royalty in letters patent conveying title to a mineral,
 - (ii) money received by the Crown from or in connection with the disposition of the Crown’s royalty share of a mineral,
 - (iii) fees paid to the Crown in connection with the issuance of a mineral agreement,
 - (iv) money received by the Crown as a bonus to acquire a mineral agreement, and
 - (v) money received by the Crown pursuant to a contract under which the Crown agrees to accept that money in lieu of royalty otherwise payable under one or more leases of oil sands rights issued under the *Mines and Minerals Act*;
- (e) “Standing Committee” means the Standing Committee established under section 6;
- (f) “Special Act” with reference to any fiscal year means an Act of the Legislature authorizing the transfer from the General Revenue Fund to the Heritage Fund of a percentage of the non-renewable resource revenue received in that fiscal year;
- (g) “transition portfolio” means the transition portfolio referred to in section 3.

Alberta
Heritage
Savings Trust
Fund

2(1) There is hereby continued the Alberta Heritage Savings Trust Fund established under the *Alberta Heritage Savings Trust Fund Act*, RSA 1980 cA-27.

(2) The Provincial Treasurer shall hold, manage, invest and dispose of the assets of the Heritage Fund in accordance with this Act.

(3) The Provincial Treasurer shall establish and maintain a separate accounting record of the Heritage Fund.

Investments
by the
Heritage Fund

3(1) The investments and other assets of the Heritage Fund shall be contained

(a) in an endowment portfolio, and

(b) until no later than December 31, 2005, in a transition portfolio.

(2) Investments made under the endowment portfolio shall be made with the objective of maximizing long-term financial returns.

(3) Investments made under the transition portfolio shall be made with the objective of supporting the Government's short-term to medium-term income needs as reflected in the Government's consolidated fiscal plan.

(4) Subject to the regulations, when making investments the Provincial Treasurer shall adhere to investment and lending policies, standards and procedures that a reasonable and prudent person would apply in respect of a portfolio of investments to avoid undue risk of loss and obtain a reasonable return that will enable the endowment portfolio and the transition portfolio to meet their respective objectives.

Agreements
respecting
financial
matters

4(1) The Provincial Treasurer may enter into agreements providing for

(a) the lending of securities acquired or held pursuant to this Act, and

(b) the delivery to the Provincial Treasurer of collateral consisting of securities or classes of securities or of letters of credit.

(2) The Provincial Treasurer may enter into agreements or engage in other activities of a financial nature respecting investment under this Act, including, without limiting the generality of the foregoing, exchange agreements, futures agreements, option agreements, rate agreements, any other financial agreements or any combination of the agreements or activities referred to in this subsection.

Consolidated
Cash
Investment
Trust Fund

5 The endowment portfolio and the transition portfolio are designated as depositors in the Consolidated Cash Investment Trust Fund under the *Financial Administration Act*.

Standing
Committee

6(1) There is hereby established a standing committee of the Legislative Assembly called the “Standing Committee on the Alberta Heritage Savings Trust Fund” consisting of 9 members of the Legislative Assembly.

(2) The membership of the Standing Committee shall include 3 members of the Legislative Assembly who are not members of the governing party, but if there is

- (a) an insufficient number of non-government members to fill the 3 positions on the Standing Committee, or
- (b) an insufficient number of non-government members who are willing to fill the 3 positions on the Standing Committee,

the resulting vacant positions on the Standing Committee may be filled by members of the Legislative Assembly who are members of the governing party.

(3) The members of the Standing Committee shall be appointed at the commencement of each session in the same way that members are appointed to other standing committees of the Legislative Assembly.

(4) The functions of the Standing Committee are

- (a) to review and approve annually the business plan for the Heritage Fund;
- (b) to receive and review quarterly reports on the operation and results of the operation of the Heritage Fund;
- (c) to approve the annual report of the Heritage Fund;
- (d) to review after each fiscal year end the performance of the Heritage Fund and report to the Legislature as to whether the mission of the Heritage Fund is being fulfilled;
- (e) to hold public meetings with Albertans on the investment activities and results of the Heritage Fund.

(5) The Standing Committee may, without leave of the Assembly, sit during any period when the Assembly is sitting or when it is adjourned or after prorogation of a session of the Legislature.

Business plan **7(1)** The Provincial Treasurer shall for each fiscal year prepare and provide to the Treasury Board a business plan for the Heritage Fund.

(2) Once the Treasury Board has advised the Provincial Treasurer that the Treasury Board has approved the business plan, the Provincial Treasurer shall provide a copy of the approved business plan to the Standing Committee for the Standing Committee's approval.

(3) On the Standing Committee's giving its approval of the business plan, the Provincial Treasurer shall incorporate the business plan into the business plan prepared by the Provincial Treasurer under section 13 of the *Government Accountability Act*.

Income of Fund **8(1)** The income of the Heritage Fund accrues to and forms part of the Heritage Fund.

(2) The net income of the Heritage Fund less the amount allocated to the Heritage Fund under section 11 shall be transferred by the Provincial Treasurer from the Heritage Fund to the General Revenue Fund annually in a manner determined by the Provincial Treasurer.

Transfer of non-renewable resource revenue **9(1)** A percentage of the non-renewable resource revenue received in each fiscal year shall be transferred from the General Revenue Fund to the Heritage Fund in accordance with this Act, but only if the transfer is authorized by a Special Act.

(2) The title of a Special Act shall be the "*Alberta Heritage Savings Trust Fund Special Appropriation Act*" followed by a reference to the fiscal year to which it relates.

(3) The President of the Executive Council or a member of the Executive Council designated by the President of the Executive Council for the purpose shall, with leave of the Assembly, introduce a Bill for a Special Act in respect of each fiscal year.

(4) The Provincial Treasurer shall, with respect to each fiscal year in respect of which a Special Act is enacted, transfer the percentage authorized in accordance with subsection (1) of the non-renewable resource revenue received from the General Revenue Fund to the Heritage Fund in a manner determined by the Provincial Treasurer.

Other funds
paid into
Heritage Fund

10(1) In this section, “previous Act” means the *Alberta Heritage Savings Trust Fund Act*, RSA 1980 cA-27.

(2) Notwithstanding section 19 of the *Financial Administration Act*, money invested pursuant to section 6(1)(a) of the previous Act that is recovered through the disposition of assets owned by the Crown shall be included in and forms part of the Heritage Fund.

Inflation
proofing

11(1) Subject to subsections (3) and (4), for the fiscal years 1996-97 to 1998-99, the Provincial Treasurer shall retain from the income of the Heritage Fund and allocate to the endowment portfolio as soon as convenient after the end of each fiscal year the lesser of

(a) the amount equal to the value of the total equity of the Heritage Fund as recorded in the financial statements of the Heritage Fund for March 31 of the fiscal year multiplied by the percentage increase, if any, for that fiscal year in the Canadian gross domestic product price index specified by the Provincial Treasurer, and

(b) the amount, if any, by which the Province’s surplus as defined in the *Deficit Elimination Act* exceeds \$500 000 000 in that year.

(2) Subject to subsections (3) and (4), for the fiscal year 1999-2000 and subsequent fiscal years, the Provincial Treasurer shall retain from the income of the Heritage Fund and allocate to the endowment portfolio as soon as convenient after the end of each fiscal year an amount equal to the value of the total equity of the Heritage Fund as recorded in the financial statements of the Heritage Fund for March 31 of the fiscal year multiplied by the percentage increase, if any, for that fiscal year in the Canadian gross domestic product price index specified by the Provincial Treasurer.

(3) If the income of the Heritage Fund in a fiscal year is less than that required to be allocated to the endowment portfolio under subsection (1) or (2), the Provincial Treasurer shall allocate that income, if any, to the endowment portfolio as soon as convenient after the end of that fiscal year.

(4) For the purposes of subsections (1) and (2), if the percentage increase in the gross domestic product price index specified by the Provincial Treasurer is a negative number, that negative number shall be treated as if it were zero.

Phasing out of transition portfolio	<p>12(1) The Lieutenant Governor in Council shall in each fiscal year direct the Provincial Treasurer to allocate assets with a book value of \$1 200 000 000, or such greater amount as authorized by the Lieutenant Governor in Council, from the transition portfolio to the endowment portfolio.</p> <p>(2) Notwithstanding subsection (1), by December 31, 2005 all the assets of the Heritage Fund that remain allocated to the transition portfolio shall be removed from the transition portfolio and allocated to the endowment portfolio.</p>
Operating costs	<p>13 The Provincial Treasurer may charge a cost, expense or other payment to the Heritage Fund if in the opinion of the Provincial Treasurer the cost, expense or other payment was incurred or paid in respect of the Heritage Fund.</p>
Auditor	<p>14 The Auditor General is the auditor of the Heritage Fund.</p>
Quarterly reports	<p>15(1) The Provincial Treasurer shall, as soon as practicable after the end of each of the first 3 quarters of every fiscal year, prepare and provide to the Standing Committee a report on the activities of the Heritage Fund and financial statements for the preceding quarter.</p> <p>(2) When the Standing Committee is provided with a quarterly report under subsection (1), the Standing Committee shall furnish copies of the report to all members of the Legislative Assembly and to the Clerk of the Legislative Assembly within 2 months after the conclusion of the quarter for which the quarterly report was prepared and on doing so shall make the report public.</p>
Annual reports	<p>16(1) The Provincial Treasurer shall, as soon as practicable after the end of each fiscal year, prepare and provide to the Standing Committee an annual report of the Heritage Fund, including a financial statement audited by the Auditor General.</p> <p>(2) Once the Standing Committee has approved the annual report provided to the Standing Committee under subsection (1), the Standing Committee shall, on or before June 30 following the conclusion of the fiscal year for which the annual report was made, furnish copies of it to all members of the Legislative Assembly and to the Clerk of the Legislative Assembly and on doing so shall make the report public.</p>

Regulations **17** The Lieutenant Governor in Council may make regulations respecting the investments that may be made under this Act.

Transitional **18(1)** *In this section,*

(a) *“present investments and assets” means the investments and assets of the Heritage Fund as they existed before being allocated under subsection (2);*

(b) *“Trust Fund” means the Alberta Heritage Savings Trust Fund as constituted under the Alberta Heritage Savings Trust Fund Act, RSA 1980 cA-27.*

(2) *The Lieutenant Governor in Council may, within the fiscal year 1996-97, designate*

(a) *which of the present investments and assets or classes of those investments or assets, if any, are to be allocated to the endowment portfolio, and*

(b) *which of the present investments and assets or classes of those investments or assets are to be allocated to the transition portfolio.*

(3) *With respect to the fiscal year 1996-97,*

(a) *if investments and assets, or either of them, with a book value of not less than \$1 200 000 000 are allocated to the endowment portfolio under subsection (2)(a), section 12 shall not apply to that fiscal year except as otherwise directed by the Lieutenant Governor in Council, or*

(b) *if*

(i) *no investments nor assets, or*

(ii) *investments and assets, or either of them, with a book value of less than \$1 200 000 000,*

are allocated to the endowment portfolio under subsection (2)(a), section 12 shall apply to that fiscal year only to the extent necessary to make up the difference between the book value of the investments and assets allocated to the endowment portfolio under subsection (2)(a), if any, and \$1 200 000 000 or such greater amount as may be determined by the Lieutenant Governor in Council.

(4) *Notwithstanding that an investment or asset allocated to the endowment portfolio or the transition portfolio under subsection (2) does not meet the requirements of section 3, the Provincial*

Treasurer may deal with the investment or asset as the Provincial Treasurer considers appropriate.

(5) With respect to the operation, administration and management of the Heritage Fund, the Lieutenant Governor in Council may make regulations governing the transition from the Trust Fund to the Heritage Fund.

Amends RSA
1980 cA-17 **19** *The Alberta Corporate Tax Act is amended in section 26.41(1)(b) and (2)(b) by striking out “section 5” wherever it occurs and substituting “section 9”.*

Amends RSA
1980 cA-26 **20** *The Alberta Heritage Foundation for Medical Research Act is amended*

(a) by repealing section 7(2);

(b) by repealing section 24(4) and (5).

Amends SA
1981 cA-27.1 **21** *The Alberta Heritage Scholarship Act is amended in section 2(2) by repealing clause (a).*

Amends RSA
1980 cA-49 **22** *The Auditor General Act is amended in section 19(2)(b)(i) by striking out “, Heritage Fund vote”.*

Amends SA
1991 cC-22.1 **23** *The Conflicts of Interest Act is amended in section 9(2)(a)(iii) by striking out “or Heritage Fund vote as defined in the Financial Administration Act”.*

Amends RSA
1980 cF-9 **24** *The Financial Administration Act is amended*

(a) in section 1(1)

(i) in clause (a.1) by adding “or” at the end of subclause (i) and by repealing subclause (ii);

(ii) in clause (f) by repealing subclauses (i) and (ii) and substituting the following:

(i) a payment authorized by a supply vote.

(ii) a reimbursement, under the authority of one supply vote of a payment charged against another supply vote.

(iii) *by repealing clause (h);*

(b) *in section 32*

(i) *in subsection (1) by striking out “or a Heritage Fund vote” and by striking out “the Heritage Fund vote or”;*

(ii) *in subsection (2)(a) by striking out “or a Heritage Fund vote”;*

(iii) *in subsection (3) by striking out “or a Heritage Fund vote”;*

(iv) *in subsection (4) by striking out “or a Heritage Fund vote” wherever it occurs and by striking out “or the Heritage Fund vote”;*

(v) *in subsection (5) by striking out “or a Heritage Fund vote”.*

Amends SA
1992 cI-11.5

25 *The Irrigation District Rehabilitation Fund Act is amended in section 2*

(a) *in subsection (2) by repealing clause (a);*

(b) *by repealing subsection (3).*

Amends RSA
1980 cM-15

26 *The Mines and Minerals Act is amended in section 4.1(2)(b)(ii) and (3)(b) by striking out “section 5 of” wherever it occurs and substituting “section 9 of”.*

Amends RSA
1980 cN-5

27 *The Natural Gas Rebates Act is amended in section 9(3) by striking out “section 1(b) of”.*

Amends RSA
1980 cO-6

28 *The Oil Sands Technology and Research Authority Act is amended*

(a) *by repealing section 13(2) and substituting the following:*

(2) **The Provincial Treasurer shall pay to the Authority any money appropriated from the General Revenue Fund by the Legislature for the purposes of this Act in equal monthly instalments unless otherwise agreed between the Provincial Treasurer and the Authority.**

(b) *in section 19(5) by repealing clause (b).*

Repeal **29** *The Alberta Heritage Savings Trust Fund Act, RSA 1980
cA-27, is repealed on Proclamation.*

**Coming into
force** **30** *This Act comes into force on Proclamation.*