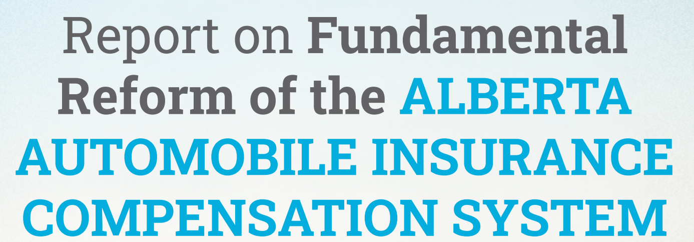


Report on Fundamental Reform of the ALBERTA AUTOMOBILE INSURANCE COMPENSATION SYSTEM

September 2020

by the Automobile Insurance Advisory Committee
for the Minister of Finance of the Government of Alberta

The Honourable Travis Toews

President of Treasury Board and Minister of Finance

208 Legislature Building

Edmonton, Alberta

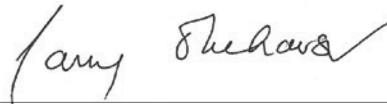
T5K 2B6

Honourable Sir:

With this letter, the Automobile Insurance Advisory Committee transmits its report on Fundamental Reform of the Alberta Automobile Insurance Compensation System.

Chris Daniel, Chair

Shelley L. Miller, Q.C.



Dr. Larry Ohlhauser, M.D.

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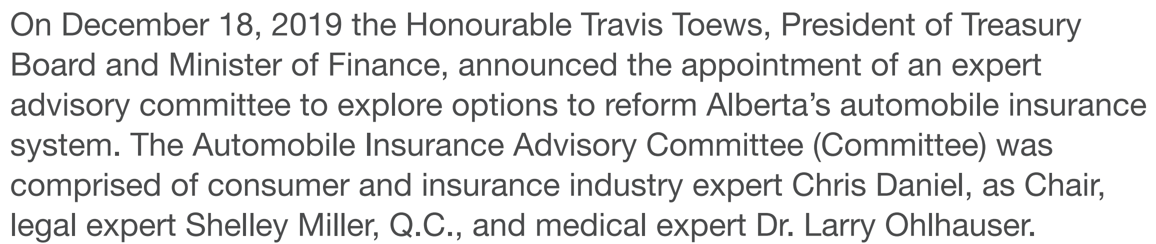
I Executive Summary



On December 18, 2019 the Honourable Travis Toews, President of Treasury Board and Minister of Finance, announced the appointment of an expert advisory committee to explore options to reform Alberta's automobile insurance system. The Automobile Insurance Advisory Committee (Committee) was comprised of consumer and insurance industry expert Chris Daniel, as Chair, legal expert Shelley Miller, Q.C., and medical expert Dr. Larry Ohlhauser.

The Committee's mandate is set out below:

- Develop and provide recommendations for Alberta's automobile insurance systems that are based on the following guiding principles:
  - i. a private sector delivery model for automobile insurance;
  - ii. fair accessible and affordable insurance for Albertans;
  - iii. timely and appropriate outcomes when claims are made; and
  - iv. a viable and sustainable automobile insurance system.
- The goals a fundamental reform would need to achieve include:
  - i. a private sector delivery model;
  - ii. appropriate medical benefits for Albertans injured in automobile collisions;
  - iii. easier access to income replacement benefits;
  - iv. requiring insurers to be responsive to the treatment, care and compensation needs of their customers, and accountable for their claims related decisions and practices;
  - v. to significantly reduce or eliminate costs from the system;
  - vi. to stabilize and potentially decrease automobile insurance rates; making them more affordable for Albertans in the long term; and
  - vii. to return the automobile insurance industry to long-term competitive sustainability.

At the outset of its investigation, the Committee delineated two categories of persons who will be affected. The first consists of the traffic injured, and the Alberta motorists who collectively pay for the losses of the traffic injured, as well as the fees, expenses and costs of various service providers.

The second consists of service providers who perform roles in the existing system, including insurance, health care and legal professionals, insurance brokers and agents, auto insurance regulators, suppliers and the legislators. However, as worthy as their interests and perspectives may be, the Committee recognized that these participants are not a genuine part of the motor accident compensation stake holding arrangement.

The only true fundamental stakeholders in this arrangement, the traffic injured and motoring public, are not in it by complete freedom of choice. Any Alberta motorist who wishes or needs to operate a motor vehicle in the province must purchase and maintain valid automobile insurance because the law has declared it mandatory to do so. The traffic injured are also not in the stakeholder arrangement by choice since no reasonable Albertan would seek to be injured in a motor vehicle accident.

It was important to reflect on the requirements and interests of these true stakeholders, separate and apart from the service providers who represent them. The Committee recognized it was also important to weigh and balance all the views presented, including those

of the service providers in the context of what reforms are required for the benefit of the two true stakeholders.

The Committee's paramount goal was to identify improvements so that Alberta traffic injured can more quickly get their lives back on track and so that Alberta motorists better understand where their premium dollars are applied in the compensation system, what factors affect the cost of automobile insurance and what factors will best achieve long-term premium stability so that they can expect in future to secure auto insurance that is more affordable, more available and less volatile in pricing increases.

The Committee found convincing evidence that:

a. since 1988 the cause of high automobile insurance premiums was ever increasing bodily injury loss costs, more specifically, the component of non-pecuniary general damage awards for pain and suffering and loss of amenities of life that resulted from the tort system litigation process;
b. since there was nothing in the system to control those increases, premiums would continue to rise over the long term and create an even more serious pricing problem;
c. some traffic injured were overcompensated while others were undercompensated;
d. between 2000 and 2019 additional scientific evidence continued to emerge in various jurisdictions in Canada and elsewhere to show that traffic accident health outcomes were improved where tort systems, with their characteristic features of delay, conflict, and the retention of dueling experts, were eliminated from auto insurance compensation systems and replaced with no-fault alternative models; and
e. the scientific evidence further showed that under tort systems, or hybrid tort systems, there was often found health services provided to traffic injured that were either incorrect, duplicative or ineffective, with the result that the health outcomes of traffic injured were further hindered.

In the face of these two consequences, undesirable from the perspectives of traffic injured and insured motorists alike, the Committee conducted extensive study of the history of auto insurance reform from 1946 to the present, from across Canada and elsewhere, and in Alberta from 1988 to the present to determine why this paradox has endured. The Committee found that in Alberta while there had been clear evidence of the first consequence since 1990, the developing scientific evidence of the second consequence over the last two decades has not received widespread recognition.

The Government of Alberta has undertaken auto insurance compensation reform on one occasion between 1990 and the present. In 2003 it elected to proceed with a modest tort reform to restrict recovery of non-pecuniary general damage awards for soft tissue injuries (the *Minor Injury Regulation*). It also enacted a health treatment reform (the *Diagnostic and Treatment Protocol Regulation*). These regulations impacted the traffic injured. It also enacted a regulation establishing a Grid to correct a problem of unaffordability of auto insurance premiums for young and new drivers.

The *Diagnostic and Treatment Protocol Regulation* (DTPR) was devised with the recognition that early access, appropriate diagnosis and effective treatment and early recognition of individuals who had alerting prognostic factors likely to give rise to chronic problems would improve treatment solutions and traffic accident health outcomes.

The Committee found that the scope of the *Minor Injury Regulation* was restricted from its original intent during the design process with the result that it would have a lesser effect in reducing non-pecuniary general damage awards and in turn the extent of savings it would deliver to the cost of automobile insurance.

The Committee found the DTPR also did not achieve its full potential between 2004 and the present due in part to the incomplete compliance with its requirements by health practitioners, incomplete supervision and oversight and the effects of the tort litigation processes that resulted in delay, duplication of health treatments and assessments and disincentive to recovery.

While additional amendments were made by government between 2004 and 2019 to mitigate the effect of court decisions impacting bodily injury loss costs, premium increases were the consequence. In short, the reforms to the auto insurance compensation system in Alberta from 2004 to the present did not produce long-term sustainability, affordability or accessibility in respect of auto insurance premiums.

The Committee reviewed the history of automobile insurance reform across the Canadian provinces and in the Australian state of New South Wales. One common thread found was that the cause of high automobile insurance premiums was ever increasing bodily injury loss costs, more specifically, the component of non-pecuniary general damage awards for pain and suffering and loss of amenities of life that resulted from the tort system litigation process.

Some Canadian provinces responded to loss cost inflation by eliminating the tort component of the automobile insurance system altogether and replacing the rights of recovery with a comprehensive care and income replacement system. This system is commonly referred to as no-fault benefits because the benefits are provided without the requirement to prove fault or otherwise have the economic and non-economic losses measured by the litigation process. Those jurisdictions then experienced stability in automobile insurance premium levels and consistency in delivery of health care benefits to traffic injured.

The jurisdictions that endeavored to preserve the tort component by rebalancing with differing degrees of no-fault benefits experienced only temporary periods of stability. The history of automobile insurance reform in Alberta reflected this same trend. The Committee found convincing evidence that the lack of long-term success in stabilizing premiums was due to uncontrolled increases in non-pecuniary general damage awards as well as the growing costs of legal or health service providers.

The Committee next examined judicial decisions in terms of constitutional authority of the province and legal commentary on the implications of automobile insurance reform in light of the *Canadian Charter of Rights and Freedoms*, ss. 1, 7, 15. The Committee took guidance from a decision of the Alberta Court of Appeal which pronounced that where full costs of care are awarded, damages for pain and suffering can be moderated by policy considerations, for example, workers' compensation regimes which limit or replace non-pecuniary damages.

The Committee next examined relevant scientific health studies which evaluated health outcomes when traffic injury models converted to no-fault compensation systems. These studies produced consistent, compelling evidence that restricting or eliminating the tort component in auto insurance compensation

models, together with a greater emphasis on evidence informed diagnosis and treatment, produces statistically better health outcomes.

The Committee considered actuarial evidence including various closed claims studies undertaken in Alberta between 1988 and 2019, which demonstrated statistically that automobile insurance rates have consistently increased over nearly two decades, as predicted by the AAIB in 1991. These increases have been consistently well in excess of Consumer Price Index increases.

The Committee received input from the public, including service providers and members of the Alberta motoring public by way of public surveys, written submissions and consultations with service providers.

The Committee also took into consideration its individual members' decades of experience with various aspects of the automobile insurance compensation system including experience with its rating boards, with personal injury litigation, with accident injury compensation, with medical and health treatment and diagnostic and treatment protocols, with tort reforms, with insurers and insurance intermediaries and academics.

The Committee concluded on the evidence it evaluated that the Alberta tort system has lost the ability to best serve the traffic injured and motoring public. The Committee concluded the optimal and only solution to produce long-term stability to auto insurance pricing is replacement of the existing hybid tort/no-fault model with a pure no-fault traffic accident care and compensation model.

The parallel solution to produce the best outcomes for traffic injured is a comprehensive evidence informed care model that builds on the DTPR implemented in 2003.

A pure no-fault model can rebalance the goals of traffic compensation resulting in fair, accessible and affordable insurance, timely and appropriate outcomes when claims are made, and a viable and sustainable automobile insurance system with modernized assessment and treatment protocols for all traffic injured. A pure no-fault system will produce greater opportunities to deliver improved health and benefits.

Improved health benefits delivered to all traffic injured will benefit families and dependants of the traffic injured as well as the motoring public and Alberta taxpayers. Better health outcomes would likely reduce the duration of recovery times, which in turn would result in earlier return to work and life activities and lower the nature and amounts of claims for pecuniary losses.

A redesigned pure no-fault accident compensation model will enable and incentivize health providers to develop consistent assessment and treatment protocols and collect patient feedback and objective treatment data to continue to inform those protocols. In the result the redesign will produce opportunities to deliver superior health outcomes for traffic injured and without the delays, duplications in services, adversarial processes and costs that exist under the current model.

The design of a health care model that provides appropriate medical evaluation, assessment and treatment modalities for those traffic injured who may have permanent incapacity and long term care needs is a complex task. It is better addressed by transforming the health care model so that medical, health and vocational expertise currently utilized in the tort system can be redirected to an administrative model that eliminates the features of adversity, conflict and dispute for better care, efficiency and cost.

A pure no-fault auto insurance compensation model will promote innovation and encouragement of optimal health treatment for Alberta traffic injured in an environment devoid of legislated adversarial conduct. Traffic injured, like all persons who suffer ill health, are better served if all their service providers are pulling in the same direction. This collaborative approach induces the injured to also take an active participatory role in their own recovery.

The Committee recommends a redesigned continuum of care model that establishes a new paradigm that will encourage collaboration, innovation and continuing improvement among service providers based on evaluation of performance, health outcomes and research. It combines the most useful features of existing health care treatment regimes with views of subject matter experts as to expansion to apply to all Alberta traffic injured.

The proposed continuum of care model will address the deficiencies identified in the current system, namely delay, conflict, inappropriate and ineffective treatment and duplications in service. It will reallocate resources to produce better health outcomes for all, not merely a portion of all traffic injured in Alberta.

The continuum of care model will provide more rational individualized diagnosis and treatment of Alberta traffic injured. In turn it will encourage the collaborative pursuit of optimal health outcomes among the health service providers, insurers, traffic accident regulators and the traffic injured themselves.

The continuum of care model contemplates a specialized pure no-fault long-term care program for catastrophically injured that will ensure individually designed treatment, rehabilitation and care over the life of the individual on the basis of best evidence informed protocols. To function in a private enterprise system, the Committee proposes the creation of a pool of funds contributed by a specified portion of every auto insurance policy premium, managed by an entity similar to the Facility Association. Where efficiencies can be achieved with improved protocols and provided it is always fully funded according to prudent actuarial calculations, premiums may be reduced or rebated.

In order to provide reasonable care to all traffic injured, the pure no-fault compensation model recasts the concept of compensation for pain and suffering and loss of enjoyment of life. For traffic injured who suffer a temporary non-permanent injury, in addition to the treatment to be provided under the care protocols, our proposed Model I provides a fund of money referred to as a rehabilitation maintenance account .

For the most serious injury cases that involve the most pronounced consequences of pain and suffering and loss of enjoyment of life, there is provision for an impairment benefit that will be specifically tailored to the circumstances of the individual case and will stand in place of the former court award for pain and suffering and loss of enjoyment of life.

In the case of the catastrophically injured person, the intent of the model is to provide proper compensation that will approximately replicate the amount of the lump sum award pronounced in the SCC Trilogy of cases, but in a different form and application.

The new model will extend to all traffic injured including those at fault. The Committee's expectation is that upon elimination of current costs that did not improve health outcomes, the reduction and elimination of certain lump sum payments for pain and suffering, the implementation, management and oversight of superior evidence informed protocols and

health provider practices, the model will deliver first, much improved health outcomes. In the medium and long term, where the pure no-fault model achieves maximum performance, it will deliver reductions in the cost of medical treatment and the amounts of income compensation required. Reduced stabilized costs will result in sustainable, predictable and stabilized premium levels over the long term.

This trend will be achieved through the maximum effort of all participants to deliver optimal performance which will be verified by collecting and examining all the relevant data and the use of modern technology including artificial intelligence and applying medical innovations.

Transferring the Alberta traffic injury compensation mechanism to an administrative body that oversees individual assessment of all traffic injured and provides well informed treatment individually will also provide a healthy environment for its health services providers.

The Government of Alberta retains the ultimate statutory and regulatory authority over the reformed auto insurance compensation model. A reformed traffic accident administrative regulatory structure would continue to owe a reporting obligation to government including responding to government requests and keeping it apprised of changing circumstances that required input and direction.

The Committee recommends the creation of a Traffic Injury Regulator, including a Board and Tribunal to oversee four arms of accident care and compensation: one of which will provide accident claims administration and support to help claimants advance claims for health treatment, benefits and economic losses. A second arm will be composed of certified and qualified medical experts to provide conclusive determinations of injured persons' extent of recovery and impairments. The medical panel process under the Alberta workers' compensation system is a useful example. A third arm will consist of claims assessment panels comprised of financial and vocational experts to provide conclusive determinations of income replacement for traffic injured.

The Committee recommends the current Automobile Insurance Rate Board (AIRB) be reconstituted to form a fourth arm to the Traffic Accident Board. There should be commensurate changes to the authority of the AIRB and some communication procedures by which the outcomes of the Traffic Injury panels and Tribunal can be periodically transmitted to the AIRB to inform its rate-approval responsibilities.

Each arm will have resort to the Traffic Accident Board for advice and direction and the claimants will have recourse to the Traffic Injury Tribunal for review or appeal in respect of the conclusive certificates issued.

The Committee concluded that these regulatory arms should be independent of both government and the auto insurance industry, however should be funded by the auto insurers who write business in Alberta, according to their proportionate share of the market, with some financial contribution also from the Government of Alberta, to take into account the savings it will incur due to elimination of administrative costs pertaining to court, health and rating process.

The Committee recommends that more expanded collaborative dialogue be undertaken among the auto insurance industry, health providers, claims providers, proposed injury navigators and government officials prior to and in the implementation phase before a final design is adopted. Collaborations among these providers could have long-term advantages in providing reliable information for insurers

to improve their array of optional programs and in turn those could inform improvements to the services delivered as regards the mandatory product.

With proportionate joint financial support the public can be assured of independence in the conversion to a regulatory process and optimal selection of subject matter experts who will oversee the claims processes, make the medical and financial determinations and rating and other market practices on the basis of objective and transparent predetermined qualification for the roles and appetite to participate.

The report of the consulting actuary demonstrated that under the Committee's proposed Model I, the pure-no fault compensation system would be expected to produce a 9.4% reduction in auto insurance premiums for the majority of consumers who purchase the full package of insurance which would include third party liability, accident benefits, uninsured and underinsured motorist, collision and comprehensive coverages. The Committee observes that if the auto insurers were able to deliver on the expected reduction in cost of overhead, by reason of the creation of the Traffic Accident Regulator, the 9.4% reduction might well deliver as much as 10%.

For those consumers who desire and require more extensive coverage for their potential medical health and financial losses after a traffic injury, the optional products the insurance industry has committed to make available should allow for a wide array of choice for consumers to tailor to their individual needs.

The Committee expects that once the operation of the model delivers the maximum expected improved health outcomes the premium reduction will remain stable in the medium term, i.e. three years, and should thereafter rise no faster than the Consumer Price Index increase in the long term.

The Automobile Insurance Advisory Committee submits its conclusions and recommendations in line with the guiding principles and desired goals outlined in its Mandate for achievement through a fundamental reform of automobile insurance compensation in Alberta.

The discussion, analysis and conclusions which follow are offered on the basis of a detailed review of the relevant judicial authorities. No members of the Committee are active members of the Law Society of Alberta, nor were any consulted in connection with this section. The Minister of Finance is cautioned to consult his own legal advisors for professional legal advice, if required.

II Summary of Conclusions and Recommendations

A. Conclusions

Automobile Insurance Reform

A. Analysis of Alternative Legislative Models

1. The historical review and evaluation of numerous commissioned reports over decades and across many Canadian provinces provided compelling evidence that reformed traffic accident compensation models which retain tort features result in continuing premium instability in the medium and long term.

2. It was evident to the Committee that in a reformed auto insurance model tort finds opportunities to grow and thrive. Two recent examples illustrate this phenomenon. The New South Wales model, redesigned in 1999 to minimize tort components, fell prey to pricing problems and bodily injury cost increases within 14 years. In short, the tort components found areas for regrowth. The Ontario experience was the same or similar, despite its intent to minimize tort with a high litigation threshold and enhanced accident benefits. Over time, tort components replicated with increasing litigation on the accident benefit side combined with duplication and increased service provider costs generated by legal and health professionals.

3. More importantly, since the conversion of some systems to full no-fault compensation, emerging scientific data has produced equally compelling evidence that tort models impede health outcomes and recovery of traffic injured.

4. The Committee was satisfied on the evidence of its detailed historical analysis of auto insurance reform experience that preserving any component of tort in a reformed automobile insurance system is inconsistent with the needs of traffic injured. Further, since it adds unnecessary expense to policy holders, it also adversely affects the motorists who pay for automobile insurance.

5. The Committee concluded from its analysis that there should be a transformation from the current model and its primary tort principle of money compensation for non-pecuniary damages to a pure no-fault model based on better, more timely rehabilitation and health outcomes and the replacement of court determination of the measure of traffic accident pecuniary losses through a collaborative administrative panel-based process. The current model of accident compensation should be reformed to expedite health outcomes and recovery to all traffic injured, including those who cannot prove fault of another driver.

6. The Committee concluded that to attain both optimal health treatment for all of its traffic injured and predictable, stable insurance premiums for road users, the Alberta motoring public would be best served in the medium and long term by the implementation of a pure no-fault system of automobile insurance designed with evidence-informed medical diagnostic and treatment protocols, and non-adversarial claims processes and assessments.

B. Analysis of Alberta Auto Insurance Reforms

7. From the analysis of the history of Alberta automobile insurance reform when compared to other similar hybrid tort models, the Committee drew the following lessons for Alberta:

   a. the various experiments undertaken by hybrid tort/no-fault auto insurance models from 1990 to 2017 in Canadian provinces and elsewhere when compared to pure no-fault models clearly show that the pure no-fault models have performed more effectively in terms of premium stability;

   b. those jurisdictions that endeavored to balance both tort and no-fault accident benefit components in one traffic accident compensation model were unsuccessful in delivering affordability, accessibility, and stability in premiums in the medium and long term;

   c. auto insurance reform models that preserve a tort component or tort components have been criticized for the adverse effects upon the health outcomes of traffic injured;

   d. pure no-fault models reduce recovery times, enhance health outcomes, expedite claims resolution for the benefit of the traffic injured and reduce premium costs for the benefit of insured motorists;

   e. a legislature contemplating a fundamental reform of its automobile insurance system should recognize that a broad consensus among all constituents, including both the traffic injured and the policy holders and service providers, is unlikely to be achieved; and

   f. a legislature which undertakes a fundamental reform of its automobile insurance system should expect to receive some initial opposition from various sectors of the public because such a transformation will be disruptive to certain service providers whose roles will be transformed, diminished or eliminated altogether.

Proposed Reform of the Alberta Automobile Insurance Compensation System

8. Increases to auto insurance premiums for insured Alberta motorists have continuously exceeded the Consumer Price Index increases for the past 3 decades, and have been sharply escalating since 2014. The current Alberta auto insurance compensation model does not deliver stability of premiums or long-term sustainability.

9. There are serious systemic problems in the current Alberta model. These are exacerbated by entrenched practices and processes that have not kept pace with the health needs of the traffic injured but have in fact prevented or delayed the introduction of modern innovations to improve health outcomes for the traffic injured and to prevent worsening of traffic injuries due to delays in claims resolution.

10. All Albertans, including those who do not form part of the insured motoring public, will be better served if the automobile insurance system provides at least a modicum of evidence-informed medical and health treatment to help all traffic injured receive proper care, participate optimally in their own recovery and see an expedited return to normal life activities including employment and leisure.

11. The Committee concluded that growing divergence between the intent and the result of the 2004 reforms is detrimental to the traffic injured and the motoring public, as is ongoing uncertainty flowing therefrom.

12. The Committee concluded that an alternative administrative health delivery model outside the tort system can provide individual evaluation of each injured person's injuries and losses, and can do so more effectively, more swiftly and with superior health outcomes for traffic injured than the current model.

13. The principle of deterrence is no longer a convincing justification for maintaining the tort system in auto insurance. Deterrence of risky driving is more effectively achieved with increased enforcement of traffic laws, increased penalties for traffic infractions, more extensive education about the consequences of risky driving and the pricing mechanism that requires reckless drivers to pay higher premiums for insurance, if they are not precluded altogether from driving due to traffic enforcement laws.

14. The long delays endemic in tort litigation could be avoided by substitution of medical review panels established under an administrative model. These would have the authority to make conclusive determination at appropriate milestones after an accident as to issues of medical impairment and future treatment requirements.

15. The requirement for duelling doctors to be engaged by both sides in litigation, to expend large amounts of time, resources and expense to craft written reports and prepare for possible cross-examination on their credentials and credibility is counterproductive. Instead doctors should be enabled to lead the inquiry, collaborate in a non-controversial, non-adversarial environment, and take factors into consideration that in a legal environment may have been excluded for procedural reasons. This will produce a more comprehensible and speedier resolution to the benefit of all participants and will permit final conclusions about the health condition of traffic injured much earlier than typically occurs in the litigation process.

16. The original design of the DTPR remains sound and should be further developed, enhanced in its design and extended to deal with all other injuries. The development and extension of the existing DTPR under a properly designed regulatory process will address the problems of some traffic injured in Alberta receiving inadequate, wrong or duplicative treatment that does not benefit their recovery. Such additional treatment protocols when reviewed, refined, and enforced in line with current evidence-informed practices will establish greater uniformity of treatment, will allow for greater relevant data collection and feedback to inform and track recovery methods that are safe and effective.

17. The Alberta tort system has lost the ability to best serve the traffic injured and motoring public. A pure no-fault model can rebalance the goals of traffic compensation resulting in fair, accessible and affordable insurance, timely and appropriate outcomes when claims are made, and viable and sustainable automobile insurance systems with modernized assessment and treatment protocols for all traffic injured. A pure no-fault system will produce greater opportunities to deliver improved health and benefits.

18. Improved health benefits delivered to all traffic injured will benefit families and dependants of the traffic injured as well as the motoring public and Alberta taxpayers. Better health outcomes would likely reduce the duration of recovery times, which in turn would result in earlier return to work and life activities and lower the nature and amounts of claims for pecuniary losses.

19. A redesigned pure no-fault accident compensation model will enable and incentivize health providers to develop consistent assessment and treatment protocols and collect patient feedback and objective treatment data to continue to inform those protocols. In the result the redesign will produce opportunities to deliver superior health outcomes for traffic injured and without the delays, duplications in services, adversarial processes and costs that exist under the current model.

20. The design of a health care model that provides appropriate medical evaluation, assessment and treatment modalities for all of those traffic injured who may have permanent incapacity and long-term care needs is a complex task. It is better addressed by transforming the health care model so that medical, health and vocational expertise currently utilized in the tort system can be redirected to an administrative model that eliminates the features of adversity, conflict and dispute for better efficiency and cost.

21. A pure no-fault auto insurance compensation model will promote innovation and encouragement of optimal health treatment for Alberta traffic injured in an environment devoid of legislated adversarial conduct. Traffic injured, like all persons who suffer ill health, are better served if all their service providers are pulling in the same direction. This collaborative approach induces the injured to also take an active participatory role in their own recovery.

22. Transferring the Alberta traffic injury compensation to an administrative body that oversees individual assessment of all traffic injured and provides well informed treatment individually will also provide a healthy environment for its health services providers.

Review of Health Outcomes Evidence

23. The peer-reviewed scientific evidence the Committee examined from evaluations of traffic injured recovery under no-fault compensation models since 2000 prove that health outcomes of traffic injured are improved after elimination of money compensation for pain and suffering.

24. The scientific evidence the Committee examined supports the contention that under a tort system claims are filed in a potentially adversarial environment that can promote the persistence of symptoms in claimants. In the course of proving that their pain is real, claimants may encounter conflicting medical opinions, unsuccessful therapies, and legal advice to focus their suffering or disability by continuous documentation.

25. The evidence the Committee examined suggests a tort system may influence patients' perception of their medical needs and how insurers/tort require them to legitimize their injury and then influence the patients to pressure clinicians for referrals.

26. A study under the tort system the Committee examined confirmed that too much health care too early after a soft tissue injury negatively influences the prognosis of whiplash patients. Early minimal care that promotes activation improves prognosis.

27. The study showed that fewer persons file claims for whiplash injury under the no-fault system, and those who did recovered faster than similar claimants under the tort system. Similar results have been produced in Alberta in respect of recovery periods for mild traumatic brain injury.

28. Scientific data studying long-term outcomes after orthopaedic trauma the Committee examined led to the conclusion that compensation schemes may impede recovery from injury by producing worse outcomes for compensable orthopaedic trauma patients, compared with non-compensable patients.

29. Under both the tort and the no-fault systems, the involvement of a lawyer was associated with delayed claims closure.

30. All of the foregoing medical evidence supports the finding of the trial judge in *Hartling v. Nova Scotia* (Attorney Genera*l), 2009 NSCA 130*, that:

    Unfortunately, the nature of the tort recovery system which is adversarial requires patients to focus on their pain and disability which is counter to the best methods of treatment which focusses patients on their abilities.

31. Under a no-fault system, there is no financial incentive to delay recovery since claimants have immediate access to medical care and other benefits without being required to substantiate their injuries.

32. The consistently developing medical evidence the Committee examined from 2000 to the present demonstrates that health outcomes of traffic injured are not well served by the tort system and preservation of any of its components in the Alberta automobile insurance compensation system is not justified. This is supported by testimony of health practitioners in the recent court challenges in Alberta and Nova Scotia.

33. Experience from other jurisdictions the Committee examined consistently suggests extended treatment and some investigative procedures, such as imaging and invasive treatment, are not recommended for most soft tissue injuries and can be linked with dependence and poor health outcomes.

34. New South Wales' and Ontario's experience provides further caution that fee for service payment models for treatment of traffic injured tend to support quantity over quality. Overtreatment occurs in compensation systems because sometimes the practitioner is not aware of or committed to best practice guidelines for soft tissue injuries and others are influenced to recommend treatment or extend treatment in response to pressure from patients or their families.

35. A study of patterns of early clinical care involving visits to general practitioners, chiropractors, or specialists did not show that early, aggressive care promotes faster recovery. Whiplash injury is less of a problem in jurisdictions where the involvement of healthcare providers is minimal.

36. In addition to establishing objective evidence that no-fault models are superior to tort models from a health outcome perspective, pure no-fault models have demonstrated the greater opportunity to collect reliable treatment data to inform, innovate and improve treatment modalities to traffic injured.

37. The implementation of the pure no-fault model in Québec enabled the Québec Task Force to utilize the data to establish a classification system for whiplash associated disorders as WAD I, II and III, and this system is now being used worldwide. This experience is strong evidence that a pure no-fault model for accident compensation can not only provide ongoing data to inform consistent, appropriate treatment for various categories of traffic injuries but is also better suited to utilize the data collected to implement innovative techniques to improve treatment more effectively and expeditiously.

38. The New South Wales' experience also supports the importance of collecting and analyzing data on patterns of rehabilitation and recovery to validate approaches that produce optimal health and functional outcomes for soft tissue injured persons. It provides supporting evidence that any reformed medical assessment model must ensure that treatment paths are consistent with established and current evidence-informed practice guidelines to facilitate optimal recovery and containment of treatment costs.

39. The New South Wales' experience also reinforced support for an independent panel of medical specialists who are the sole decision makers about assessment and treatment issues, noting that accessibility to skilled and qualified experts eliminates adversarial elements, such as duelling experts that can result in delay, increased cost and potential impaired recovery.

40. The evidence and experience pertaining to the development and implementation of the Alberta DTPR protocols the Committee examined since 2004 provides reliable validation of the benefits of that innovation and should be used as a foundation in the transformation of treatment of traffic injured in Alberta.

41. The Committee was satisfied that the peer-reviewed health evidence it examined further bolstered its conclusion that a pure no-fault model would be the optimal choice for treatment of Alberta traffic injured.

Actuarial Evidence from Tort Accident Injury Compensation Systems

42. From the actuarial evidence reviewed, the Committee concluded that since non-pecuniary awards for catastrophic injuries and minor injuries have been capped, whereas the four categories of injuries isolated in the 2019 Cheng Claims and Cost Study (see Sources) were not, claimants in those four categories have been overcompensated relative to the minor and catastrophically injured.

43. The primary cause of high and continuing increases in auto insurance premiums in Alberta and in other tort jurisdictions is that uncapped bodily injury loss costs continually increase and at a rate well in excess of Consumer Price Index increases for other market commodities.

44. Efforts in other tort jurisdictions to provide a solution to the excessive effect of tort on the cost of bodily injury claims have failed despite well considered experiments to preserve and balance both tort and no-fault components, as for example, in Ontario and New South Wales. The actuarial evidence supports the conclusion that the only effective and sure means to secure premium stability and sustainability in the long term is to remove the tort components altogether and to replace them with the best and proven innovations resulting from the pure no-fault models implemented in other jurisdictions.

Public Consultations

A. Evidence of Public Consultations 2003

45. The Committee concluded that automobile insurance reform is not a topic on which legislators can expect to secure broad support for the reasons that the subject is examined by so many different persons and groups from different angles, as well as from short, medium and long term perspectives. Previous attempts in Alberta to negotiate auto insurance reform for consensus among groups with vested interests showed that the original goal was diluted through disagreement among constituents, which resulted in half measures and undermined the long-term solutions the reform originally intended.

B. Results of 2020 Public Surveys

46. The responses to the 2020 public surveys could not be viewed as definitive in informing the Committee's final recommendations, however, it carefully considered the findings of Leger and noted the following most salient features of the responses as follows:

   a. 63% of respondents indicated that they do not feel their premiums are fair and reasonable;
   b. 56% and 64% respectively indicated they would prefer access to affordable insurance rates, as well as immediate to medical/rehabilitation and income replacement over the right to sue for a cash settlement;
   c. 77% of respondents indicated that at-fault drivers should be subject to penalties which could include fines, convictions along with higher insurance rates; and
   d. 42% of respondents indicated their desire to retain their right to sue in the event of a serious permanent injury.

47. Respondents clearly indicated that they considered auto insurance premiums are too high, and greater emphasis should be placed on rewarding good drivers and lowering repair costs.

C. Submissions from Insurance Industry Service Providers

Property Damage Product Reform

48. A no-fault model known as Direct Compensation Property Damage (DCPD) would deliver a simpler, faster claims process, improve the communication and service to the insured motorist, enable the insurer to predict future loss costs more accurately and likely result in some reduction in premium costs.

Reforms to Address Risky Driving Behavior

49. The Government of Alberta (GOA) should increase enforcement and penalties for high-risk driving offences, collect, maintain and disseminate results and data to help further educate consumers about the dangers and consequences of risky driving behavior.

50. The GOA should reform the graduated licencing and other driver training programs, including possible inclusion of retesting of penalized drivers, to build public confidence that such programs can effectively promote safe driving practices.

Reform of the Regulatory Process

51. As to concerns about the operation of the prior approval process, operation of the Grid, all-comers Rule, Territories, and use of rating factors, resulting in delay and confusion, the Committee concluded that the legislative reforms to the regulatory process in 2004 either are no longer meeting their intended goals or have created new problems, or both.

52. The Committee concluded that one of the reasons for the industry concerns is the overlapping jurisdiction of the AIRB and the Office of the Alberta Superintendent over rating conduct which results in conflicting and reportedly confusing rulings to insurers as well as delays over approvals, which weakens market relevance of the rate applications during the lapse of time.

53. The Committee concluded that the AIRB should take exclusive jurisdiction over all rating issues while the Superintendent should govern insurance solvency, financial reporting and other areas its supervised before the 2004 reforms.

54. AIRB, either as it presently exists or as reconstituted to enlarge its mandate, should re-examine:

    a. the prior approval model and a file and use model with a designed set of principles;
    b. whether to publish guidelines to apprise insurers of what information is appropriate to include in rating applications relative to risk assessment;
    c. the "all comers rule" and the Grid;
    d. previous Facility Association ceding arrangements and oversight of its premiums to ensure adherence to social policy considerations and actuarial evidence;
    e. the current Territories designation;
    f. establishing and publishing a list of prohibited rating factors;

g. remedies for non-compliance with guidelines; and

h. the benefit of retaining a delegate of the Superintendent of Insurance in the rate approval process.

55. The Committee concluded that:

a. reforms in these areas are likely to:

   i. minimize or eliminate the need for sudden legislative corrective actions such as rate freezes;

   ii. reduce cross subsidization of bad drivers by good drivers;

   iii. reflect the driving risk across geographic areas of Alberta; and

   iv. assist more drivers to qualify for mandatory insurance.

b. greater transparency, education and timely disclosure to consumers of amounts of the premium which are allocated for premium tax, medical treatment, the Alberta health care levy, cost of physical damage claims and bodily injury claims are likely to enhance the consumers' understanding of the components of the mandatory premium.

Reform of the *Judgment Interest Act*

56. The *Judgment Interest Act* should be amended to make the rate for non-pecuniary damages the same as the rate for pecuniary claims and to suspend claims for judgment interest on non-pecuniary damages for a period of two years from the date of accident loss as both would reduce the cost of insurance to motorists in a transition period.

Optional Insurance Products (UBI)

57. Permission to utilize and expand use of user based optional insurance products is a question that should be examined and determined by the AIRB, either as it presently exists or as reconstituted.

Legislation to mandate use of winter tires

58. The Committee concluded use of winter tires for the winter months in Alberta will reduce the occurrence and frequency of auto accidents and injuries.

Section B Benefits

59. The Section B Benefits system under the current model had demonstrated many flaws and was not delivering the original goals intended. A fundamental transformation of the current system for compensation for no-fault benefits was required.

The Tort/No-Fault Issue

60. The list of concerns about the tort features of the current model was extensive. The Committee concluded that since implementing modest and piecemeal reforms which have been demonstrated in other jurisdictions to be ineffective, undertaking one fundamental comprehensive reform on one occasion to all aspects of the current model will best achieve the goals of optimal health outcomes to traffic injured, together with affordability, accessibility and long-term sustainability of auto insurance premiums. Moreover, given that any auto insurance reform is likely to result in dislocation and disruption to many service provider businesses and operations, the Committee concluded that the extent of such adverse consequences will be contained if reform occurs at once, rather than in piecemeal increments over varying time periods.

61. Insurers' preparedness to now design competitive and well-structured optional income replacement coverages can address concerns about incomplete coverage for some traffic injuries. It will allow consumers at the time of renewal of issuance of their auto insurance policy to elect to purchase additional amounts of coverage to ensure compensation for the entirety of their provable income losses.

62. Those optional products should be subject to reasonable oversight by an independent traffic accident regulatory body to ensure fairness to consumers from pricing and coverage perspectives.

63. Under a reformed pure no-fault model, insurers should continue to be subject to oversight delivered by independent regulators with necessary subject matter expertise as regards all aspects of mandatory automobile insurance in Alberta.

Evidence-Informed Health Treatment for Traffic Injured

64. Other than legal service providers, most participants supported the view that removing or reducing the tort component would lessen the strain of litigation demands on medical and health professionals whose main professional purpose was treating traffic injured.

65. The Committee concluded that under a pure no-fault model there were many opportunities to optimize health treatment for traffic injured. These many opportunities are specifically listed below in our Recommendations.

66. Competent health service providers working collaboratively with the private insurers will have the relevant insight to respond to the requirements of fundamental reform. This is so even weighing facts that the reform will require transformative changes to health services delivery to traffic injured and more comprehensible and responsive oversight and regulation of insurers' conduct regarding their claims, compensation and rating practices.

67. There will be a sufficient appetite among competent health providers and insurers to collaborate in the design and delivery of a fundamental reform of the accident compensation model to eliminate adversarial conduct and unnecessary commercial operations currently existing between the traffic injured and the administrative health delivery and compensation services they require.

Reforms to the Assessment of Injury and Pecuniary Loss Process

68. Almost all service providers agreed that to be an effective alternative to the current model, the alternative regulatory injury evaluation and compensation regime must exclude conflict, disputation and adversarial features that increase cost, delay and added stresses to the injured claimant and include the service providers who desire to expedite optimal recovery and rehabilitation outcomes for traffic injured.

69. The Committee concluded that the market preparedness to offer a complete suite of optional products to provide first party coverage of those losses previously addressed under the tort model would probably satisfactorily fill any gaps for any traffic injured not fully made whole by the benefits provided in a reformed pure no-fault compensation model.

70. The Committee concluded that a composition of a series of mandatory benefits made available to all traffic injured under a mandatory policy supplemented by a series of optional enriched benefit that a consumer may choose or decline is the superior version of a choice model for motorists and traffic injured.

71. There should be a fully redesigned traffic injury regulatory body populated by independent subject matter experts to establish and maintain optimal health treatment and delivery of services for all traffic injured, for early and appropriate claims assessment.

72. In the transition period, the GOA may wish to establish regulations to limit fees for services for all such litigation support providers, including lawyers, court experts, and mediators to appropriate and transparent levels for so long as any tort component is retained in the accident compensation system.

Proposed Reform of Health Care Model

73. The Committee concluded that the redesigned continuum of care model outlined in Section X of this Report combines the most useful features of existing health care treatment regimes with views of subject matter experts. It establishes a new paradigm that will encourage collaboration, innovation and continuing improvement among service providers based on evaluation of performance, health outcomes and research.

74. The proposed continuum of care model will address the deficiencies identified in the current system, namely delay, conflict, inappropriate and ineffective treatment and duplications in service. It will reallocate resources to produce better health outcomes for all, not merely a portion of all traffic injured in Alberta.

75. The continuum of care model will provide more rational individualized diagnosis and treatment of Alberta traffic injured. In turn it will encourage the collaborative pursuit of optimal health outcomes among the health service providers, insurers, traffic regulators and the traffic injured themselves.

76. Because the proposed continuum of care model will extend to all traffic injured the Committee expects the elimination of current costs that did not improve health outcomes, the reduction and elimination of certain lump sum payments for pain and suffering, the implementation, management and oversight of superior evidence-informed protocols and health provider practices, will deliver much improved health outcomes. It further expects that over time, this redesign this will reduce the cost of medical treatment and income compensation due to improved health outcomes. Reduced stabilized costs will result in sustainable, predictable and stabilized premium levels over the long term.

77. The Committee concluded that the proposed pure no-fault private enterprise model should trend toward expediting recovery of Type I and Type II injuries, and optimizing treatment and long-term care for Type III injuries, all of which, in turn, should result in reduced medical costs and income claims over time. This trend will be achieved through the maximum effort of all participants to deliver optimal performance which will be verified by collecting and examining all the relevant data and the use of modern technology including artificial intelligence and applying medical innovations.

Proposed Reform of Auto Insurance Regulatory Regime

78. The Committee has included in its Recommendations extension of the jurisdiction of the AIRB or, alternatively, expanding its mandate under a new reform model. It offers a few additional words of guidance with respect to AIRB's role in future.

79. The Committee observes that the predecessor Alberta Auto Insurance Board was first constituted in approximately 1970 as a statutory body established independent from the GOA. From that date until about 2003, it functioned efficiently in delivery of rate and rate related decisions as a prior approval board.

80. In about 2003, the Alberta Auto Insurance Board was reconstituted as the Alberta Insurance Rate Board and since then reported directly to the Minister of Finance, as a part of the GOA although it has been funded by the automobile insurance industry. While the jurisdiction of the Alberta Insurance Rate Board is similar to that of its predecessor, as reported under Section XI C of this Report, some overlapping jurisdiction has emerged with that of the Alberta Superintendent of Insurance which has resulted in concerns about the efficiency of the operation of both regulators.

81. The Committee concluded that while the current Alberta Insurance Rate Board has worked well under the existing model, the motoring public would be better served if it reverted to its former status, so that it could provide independent expert advice to the GOA from time to time as circumstances dictate, and on a regular basis interact more nimbly and informally with auto insurers, new traffic regulators and other affected parties as regards rate and rate regulating issues.

82. With its existing expert knowledge about the specific operation of prior approval, the Grid, Territories, rating factors that should be permitted and prohibited and new optional products such as UBI, the current board members and staff are in a unique and valuable position to offer advice and guidance in an implementation phase.

Actuarial Forecast of Impact of Proposed Reforms

83. The report of the consulting actuary demonstrated that under the Committee's proposed Model I, the pure-no fault compensation system would be expected to produce a 9.4% reduction in auto insurance premiums for the majority of consumers who purchase the full package of insurance.

84. For those consumers who desire and require more extensive coverage for their potential medical health and financial losses after a traffic injury, the optional products the insurance industry has committed to make available, should allow for a wide array of choice for consumers to tailor to their individual needs.

85. The Committee observes that if the auto insurers were able to deliver on the expected reduction in cost of overhead, by reason of the creation of the Traffic Accident Regulator, the 9.4% reduction might well deliver as much as 10%.

86. The Committee expects that once the operation of the model delivers the maximum expected improved health outcomes, the premium reduction will remain stable in the medium term, i.e. three years, and should thereafter rise no faster than the Consumer Price Index increase in the long term.

Legal Considerations

87. Although no one can ever predict whether a legal challenge will be made following an auto insurance law reform, the prevailing judicial authority has clearly established that pure no-fault auto insurance regimes, like those that have been in force in Manitoba and Québec, are within the scope of provincial legislative authority and since they treat every member of the driving public equally, a challenge under the Charter would be without merit.

88. The decision of the Alberta Court of Appeal in *Morrow v Zhang* has satisfied the Committee that a Charter challenge to a future auto insurance reform would be untenable provided that, like the 2003 reform, it is developed and implemented as a package, balanced, interrelated and interdependent.

89. In summary, the Committee concludes Alberta's existing auto insurance system should be replaced with a pure no-fault accident compensation model with features described below.

B. Recommendations

Evidence-Informed Health Treatment for Traffic Injured

1. The Committee recommends removing the tort component to lessen the strain of litigation demands on medical and health professionals whose main professional purpose was treating traffic injured and replacement with a pure no-fault model under which enhanced care programs should be developed for all categories of injuries including psychological, chronic pain, and combinations and clusters of accident injuries.

2. The Committee recommends a fundamental reform to the delivery of health care to all traffic injured under a pure no-fault model to include as far as possible the following features:

   a. supporting early, active, and appropriate evidence-informed treatment aligned with and for traffic injuries;
   b. pre-approved treatment frameworks for common injuries based on evidence-informed care with associated schedules and policy limits;
   c. expedited access to care from prescribed providers;
   d. reducing transactional administrative burdens in the system;
   e. reducing duplication of services and overutilization;
   f. optimizing appropriate treatment modalities with consistent quality improvement to achieve recovery timeframe of 2 to 3 years for most injuries;
   g. codifying causation so that there can be reasonable finality of injury claims and proper evaluation of the injuries caused or contributed to by the traffic accident as distinct from other causes; and
   h. establishing:
      i. definitions of serious and catastrophic injuries;
      ii. definitions of chronic pain and psychological injuries;
      iii. expert medical panels to make conclusive determinations as to which claimants fall into which categories;
      iv. treatment regimes that will include an intended resolution date for the claimant and the service providers;
      v. an independent oversight body to supervise treatment providers to ensure that health providers are following evidence-informed guidelines in regimens to ensure optimal recoveries for traffic injured;

vi. a structured review process for traffic injured not recovering within the normal treatment guidelines or whose recovery has plateaued so that they can be referred for alternative treatment;

vii. clear return to work guidelines for claimants seeking disability payments to encourage gradual return to work programs, modified duties or retraining for different occupations;

viii. regulation of fees for health and dental health providers;

ix. means of collecting and aggregating health treatment data to ensure ongoing monitoring and evaluation of care programs, outcomes and continuous improvement of first party compensation based on reliable data; and

x. implementation of an electronic system for auto insurers in conjunction with a traffic injury regulator, health care and ancillary service providers to expedite transmission and processing of claim forms.

3. The Committee recommends the continuum of care model described in this Report be adopted as part of its proposed pure no-fault accident compensation model, with the intention that its service providers be subject to oversight of a new Traffic Injury Regulator as described in this Report.

4. The Committee recommends that the GOA engage a team of competent health providers to collaborate with the regulators and insurers in the design and delivery of a fundamental reform of the accident compensation model to eliminate adversarial conduct and unnecessary commercial operations currently existing between the traffic injured and the administrative health delivery and compensation services they require.

Reforms to the Assessment of Injury and Pecuniary Loss Process

5. The Committee recommends replacement of the current model with a pure no-fault care model to compensate all traffic injured without the requirement to prove fault of a negligent driver to be overseen and regulated by alternate traffic accident administrative structure, similar to Alberta workers compensation and other workers compensation models, which provide individualized assessments by a panel of medical experts and claims assessments by panels of experts. However, in the case of an Alberta traffic accident compensation model, the Committee recommends a model that takes the most effective features of those successful models and designs additional features that address the needs of the array of traffic injured that vary greatly from injured workers.

Section B Benefits

6. The Committee recommends that the current component of no-fault Section B Benefits be replaced by a pure no-fault model to provide appropriate insurance coverage to all traffic injured regardless of fault. The Committee recommends that the AIRB, either as it presently exists or reconstituted to enlarge its mandate, should have co-extensive authority to monitor and oversee the array of optional insurance products offered by insurers to supplement the health benefits provided to Alberta motorists under the reform from a pricing and consumer fairness perspective.

Establishment of an Independent Administrative Structure of Traffic Accident Regulation

7. The Committee recommends the establishment of a board and tribunal, described in this Report as the Traffic Accident Regulator, to oversee all operations and act as authority of last appeal which:
   a. serves as regulatory accident compensation tribunal for oversight of claims processes to ensure fair determination and provision of claimants' health and financial entitlement to benefits;
   b. serves as regulatory accident compensation tribunal for oversight of health and medical treatment, assessment and evaluation of permanent injury to ensure fair determination and provision of claimants' entitlement to health benefits;
   c. serves as regulatory accident compensation tribunal for oversight of claims assessment panels to ensure fair determination and provision of claimants' financial entitlement to benefits and compensation; and
   d. structured in a manner similar to the current Alberta WCB model although led by a statute appointed leader to ensure independence.

8. The Committee recommends that the Traffic Accident Regulator establish four administrative arms to oversee specific aspects of the pure no-fault accident compensation system.

9. The Committee recommends the Traffic Accident Regulatory model establish groups of subject matter experts that will serve on panels to provide conclusive and final medical evaluations, conclusive income loss assessments, oversight of health service providers to ensure ongoing education and professional development, and evidence-informed results.

10. The Committee recommends such alternative model select the most highly qualified medical and health experts, and the most highly qualified financial and vocational experts, the most highly qualified educators, all of whom will provide expert advice and will work collaboratively to determine medical impairment and future treatment issues, income calculations, and future care needs. Such collaborations will eliminate the need to prepare written reports for litigation proceedings, promote evidence-informed practices and protocols and hasten incorporating new innovations that can speed up treatment and recovery of traffic injured.

11. The Committee recommends the Traffic Injury Regulator establish maximum recovery standards to encourage and enable all participants, including traffic injured, health providers and claims navigators to move collaboratively toward closure of claims at the appropriate recovery milestones. These goals would be optimally delivered by removal or diminution of monetary gain incentives. Where insurers have developed an array of optional pecuniary and non-pecuniary insurance products, those can provide suitable supplements to consumers who desire to purchase the same for additional protection and security.

12. The Committee recommends that where a medical expert panel concludes injury recovery has been attained as far as possible, benefit and income claims are referred to a claims assessor panel for final resolution. If optional products are offered by the industry, those coverages may, subject to the traffic regulators, establish contractual terms for provision of the benefits.

Health Outcomes Evidence

13. Medical and health treatment for all traffic injured in Alberta should be reformed to incorporate and conform to consistent evidence-informed practices.

14. All reforms that can align with improved health outcomes for traffic injured should be incorporated into a reformed care and compensation traffic insurance model.

15. In light of compelling evidence that being involved in litigation can adversely affect a person's health, any services provided under the current model that directly or indirectly promote or sustain litigation, adversarial conditions, points of dispute, duplication of examinations and assessments or that otherwise do not promote prompt and optimal recovery of traffic injured should be eliminated.

16. Specifically, roles of service providers of treatments, follow-up visits, and referrals when patient health benefit or medical need is not informed by reliable evidence, or consultations in respect securing benefits, or income replacement, which may as a consequence prolong recovery by legitimizing patients' fears and creating unnecessary anxiety, should be eliminated.

17. Reform legislation should promote early acceptance of genuineness of reported symptoms of traffic injured and delivering prompt and appropriate pathways for ensuring appropriate treatment.

18. New protocols for treatment of all traffic injured must be introduced and regularly reviewed and refined with data developed and analyzed to minimize or eliminate overtreatment, undertreatment or ineffective and incorrect treatment of traffic injuries.

19. A reformed care model for Alberta should build on the existing DTPR model and expand it to be available to all traffic injured under a pure no-fault care model.

Program for Long-Term Care for Catastrophically Injured

20. The long-term care medical professionals should be engaged to assist in implementation of a long-term care model that would best serve the needs of those severely injured in traffic accidents.

21. The no-fault long-term care model established in New South Wales in 2007 should be considered as an example for persons severely injured in traffic accidents. The property and casualty insurers who distribute automobile insurance policies in Alberta should be engaged in dialogue to determine the viability of establishing a funding pool model to support a long-term care program.

22. A pure no-fault care model for Alberta should optimize development and application of data technology including innovations such as artificial intelligence to further identify and add evidence-based improvements to diagnosis and treatment to provide continued renewal of treatment modalities.

23. The Committee recommends that the GOA give consideration establishment of an ombudsperson or ombudsperson office for which to make application for additional compensation in exceptional or extraordinary cases. Such an office may serve to identify any cases that do not appropriately fall within one of the categories of injuries or due to extenuating circumstances warrant additional consideration.

24. The Committee recommends that the Auto Insurance Rate Board should be reformulated to comprise an essential part of a larger Traffic Injury Regulator. Those features that work well under the current private enterprise model should be retained and blended with those features that work well under the current Alberta Workers Compensation Model and which could be appropriately adapted to a comprehensive Traffic Injury Regulator in a private enterprise environment.

25. The Committee recommends that the most successful and applicable features of the current Alberta Workers Compensation model in terms of administrative regulatory structure be utilized as a guide in the design and then modified for the traffic accident injury context.

Implementation of reforms requires collaboration of insurance and health service providers

26. The Committee recommends that the ultimate details of a reformed pure no-fault auto insurance compensation model be developed in consultation with selected health and medical experts and thereafter ancillary health service providers.

27. The Committee recommends that there be consultation with insurance industry experts to determine what modifications are optimally delivered without compromising the reasonable needs of motorists.

28. The Committee recommends that more expanded collaborative dialogue be undertaken among the auto insurance industry, health providers, claims providers, proposed injury navigators and GOA officials prior to and in the implementation phase before a final design is adopted.

Property Damage Product Reform

29. The Committee recommends that the property damage component of the auto insurance compensation system be converted to a no-fault model known as Direct Compensation Property Damage (DCPD) under which the insured motorists' insurers will process the costs of repair directly in any event of fault. A driver who caused the collision will continue to be found responsible for the purpose of assessing appropriate rate adjustment.

30. The Committee recommends oversight of this program should be reposed under the AIRB, or as it may be reconstituted under a reform model. Implementation of this reform should be subject to transitional legislative change provisions to allow for orderly resolution of existing claims, including those under the *Motor Vehicle Accident Claims Act*.

Reforms to Address Risky Driving Behavior

31. The Committee recommends the GOA legislate increased penalties to punish and deter all types of risky driving behaviour.

32. The GOA should help enhance data collection of accident statistics to inform an education program to promote traffic safety. As well, all service providers should assist the GOA in:

    a. collecting relevant collision data about traffic collisions including by use of technological and other innovations;
    b. participating in providing more and consistent education about the dangers of and penal consequences for risky driving behavior;
    c. modifying the graduated licencing program to be principle-based and more affordable for new drivers; and
    d. developing consistent and informative education programs for consumers to foster a greater understanding of automobile insurance issues.

Reform of the Regulatory Process

33. The Committee recommends that the AIRB, or as it may be reconstituted to enlarge its mandate, determine and advise GOA whether the goals of auto insurance regulation would be better served by:

    a. retaining the prior approval model or converting to a file and use model with a designed set of principles;
    b. establishing a practice of publishing guidelines to apprise insurers of what information is appropriate to include in rating applications relative to risk assessment;
    c. evaluating, eliminating or replacing the "all comers rule" and the Grid;
    d. exploring whether to revert to previous Facility Association ceding arrangements and overseeing its premiums to ensure adherence to social policy considerations and actuarial evidence;
    e. revising, expanding or eliminating the current Territories designation;
    f. publishing and disallowing use of only those rating factors that are prohibited;
    g. establishing and enforcing remedies for non-compliance with those guidelines;
    h. preserving a voice for a delegate of the Superintendent of Insurance in the rate approval process; and
    i. consultation with its counterparts in other provinces, the Facility Association and auto insurers who carry on business in Alberta, to investigate whether to replace or maintain the all comers' rule and the Grid or devise an alternate mechanism that will be optimally responsive to market conditions as they evolve from time to time, and has regard to the following guiding principles:
        i. The premium charged to all motorists, including new entrants, fairly represents their risks;
        ii. The alternative solution must be transparent, easy to understand, administratively viable and sustainable;

iii. The alternative solution must strive to minimize cross-subsidization within the reasonable limits of an insurance system;
iv. the mechanism must ensure that no consumers are subject to unfair market practices;
v. the alternative solution must be flexible and adaptable to technological advances; and
vi. the alternative solution must be reviewed periodically to ensure it continually responds to needs of consumers.

34. Either the AIRB or a newly established Traffic Regulator should investigate provision for coverage for claims by pedestrians and cyclists not otherwise covered by auto insurance.

Judgment Interest Act

35. The Committee recommends the GOA amend the *Judgment Interest Act* to make the rate for non-pecuniary damages the same as the rate for pecuniary claims and to suspend claims for judgment interest on non-pecuniary damages for the two year period from the date of loss.

Optional Property Insurance Products

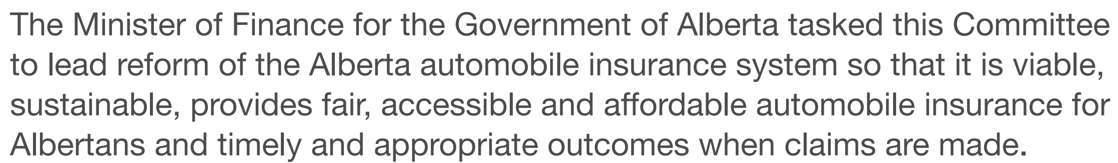
User Based Insurance

36. The Committee recommends that the AIRB, either as it presently exists or reconstituted to enlarge its mandate, should have exclusive authority:
    a. to collect more data about the potential costs and benefits of UBI;
    b. to determine whether expanding the areas of its current use would be fair to consumers and insurers;
    c. to determine what restrictions or guidelines should be implemented;
    d. to determine what information and education should be distributed and provided to motorists; and
    e. to determine what recommendations should be made to GOA to reform regulations pertaining to the same.

Legislation to mandate use of winter tires

37. The Committee recommends the GOA enact legislation to make mandatory use of winter tires for motor vehicles for some specified period between October and March of each winter season.

III Introduction



The Minister of Finance for the Government of Alberta tasked this Committee to lead reform of the Alberta automobile insurance system so that it is viable, sustainable, provides fair, accessible and affordable automobile insurance for Albertans and timely and appropriate outcomes when claims are made.

The terms of reference for this Committee are clear that the supplier of a reformed product will remain the private property and casualty industry licensed to write automobile insurance in the province.

An automobile accident compensation system is complex and involves a wide range of dynamics, behaviors, customs and processes that would require change to attain effective long-term reform. Delivering these outcomes will require a significant recalibration of the existing injury compensation components which may necessitate reduction or re-engineering of the roles of certain service providers, other than the supplier of the insurance product. With planned redistribution of resources, dislocation and disruption should be expected during the transitional period. Some existing service providers may prefer or be required to exit a reformed compensation model whereas opportunities may emerge for new service providers.

As reform is investigated, it is important to delineate the two categories of persons who will be affected. One category consists of service providers who perform roles in the existing system, including insurance, health care and legal professionals, insurance brokers and agents, auto insurance regulators, suppliers and the legislators. However, as worthy as their interests and perspectives may be, it must be understood that those participants are not a genuine part of the motor accident compensation stake holding arrangement.

The only true fundamental stakeholders are the traffic injured, and the Alberta motorists who collectively pay for the losses of the traffic injured, as well as the fees, expenses and costs of various service providers. It is important to reflect on the requirements and interests of these true stakeholders, separate and apart from the service providers who represent them.

The true stakeholders in this arrangement are not in it by complete freedom of choice. Any Albertan who wishes to operate a motor vehicle in the province must purchase and maintain valid automobile insurance because the law has declared it mandatory to do so. Because the private industry suppliers are numerous, there is some variation as to the cost of mandatory insurance, but the fact remains that Alberta motorists must purchase the product.

Purchasing auto insurance is often considered a necessity, rather than a choice, for those Albertans who drive for a living, or who must use a vehicle to travel distances to meet their living requirements.

The traffic injured are also not in the stakeholder arrangement by choice. No reasonable Albertan would seek to be injured in a motor vehicle accident, although some of the reasons for increased insurance costs include the existence of fraudulent or exaggerated claims.

Sometimes, but not always, the traffic injured also belong to the other stakeholder group, namely motorists, if they own an auto policy and pay into the pool of premiums to pay for their losses.

Automobile insurance differs from all other forms of insurance, because it deals with a private driving activity on public roads where people are placed at risk. Operating a motor vehicle is both a high-risk activity and one which most people engage in without expecting to cause or sustain injuries. In particular, most motorists do not expect a minor driving error could cause catastrophic injuries. This likely explains why automobile insurance was first made mandatory by law In Alberta in 1975.

Alberta policyholders who have never been injured in a motor vehicle accident are not likely to have a detailed understanding of the processes provided and required by traffic injured to obtain medical and health treatment to attain recovery or what specific financial benefits may be claimed for under the current system.

Albertans who have not sustained a traffic injury may not be aware that if they choose to retain legal counsel to pursue full monetary compensation in the court system, it may necessitate delay in receiving payment for desired and recommended medical and health care treatment, in receiving payment for loss of income or payment for various expenses needed to approve the claim, and the requirement to attend upon extra numbers of health experts to evaluate the state of their injuries.

The delay is often extended because the lawyers for the opposing parties each engage their own sets of experts on several categories of claims such as loss of past earnings, future earnings, earning capacity, rehabilitation, pain and suffering and loss of amenities of life.

Because the Alberta law has made auto insurance mandatory, the government has also established an independent auto insurance rate board (AIRB) to oversee the rates of automobile insurance in Alberta to ensure that the suppliers are charging a fair price for the product they provide. The AIRB independently evaluates complex actuarially based rating data to predict future loss costs for property damage and bodily injury to ensure motorists pay appropriate premiums that relate to the risk. However, it is not designed to, nor does it have any input or power to modify the impact on the measurement of injury awards produced by the legal system in lawsuits advanced by traffic injured.

The legal profession in Alberta provides its services to traffic injured even though it is recognized that money cannot adequately compensate for pain and suffering. It proceeds on the rationale that nevertheless money remains the best that can be provided by way of recompense for pain and suffering and the loss of enjoyment of life that results from traffic injuries.

A third aspect that factors into the quest to balance the requirements of traffic injured and auto insurance policy holders is the impact of judicial decisions that establish legal precedent as to the proper measure of money damages for individual traffic injured losses. A court case which awards higher amounts than previous decided injury cases usually results in a ripple effect of elevation of global damage awards for non-economic losses for pain and suffering and loss of enjoyment of life and for certain future economic losses in subsequent settled or tried cases.

The court process for assessing tort awards and the roles of legal service providers are not designed to, nor do they normally present, weigh or take into account evidence about the impact of those awards on the affordability of prices of auto insurance to policyholders.

Increased awards year over year make the actuaries' task of predicting future loss costs more and more uncertain, although it is certain that the premium levels must increase in response to the inflation of injury awards and settlements. In the end, it must be remembered that it is ultimately the individual policyholders who pay for the continuing annual increases in auto insurance premiums.

The path to recovery from traffic injuries is also not a static one. Medical science and research continually identify improved remedies, but such innovations are not always transmitted quickly, consistently and comprehensively throughout the accident injury health care system to the traffic injured.

With this overview, this Committee began its task to identify reforms to the current model that will provide major improvements for traffic injured. This may be expected to include more transparent, comprehensible and uniform service from the responding insurers, claim management that is better timed, is based on interdisciplinary evaluation of rehabilitation treatment, biopsychosocial and economic needs and has a view to restoring the traffic injured as far as possible to pre-accident health and life activities.

At the same time, the Committee would have to evaluate reforms that will ensure as far as possible that auto insurance is accessible, affordable and sustainable in the long term for the average Alberta motorist.

This Committee would carefully consider the views the service providers in this auto insurance system as regards the questions about how to better serve the true stakeholders. It recognizes that these service providers have legitimately conducted business and performed their roles in the existing system with obligations to do what they do within the regulations to maximize the benefits to their clients.

However, the Committee would have to weigh and balance these views in the context of what reforms are required for the benefit of the two true stakeholders. The Committee's task is to recommend improvements so that traffic injured can more quickly get their lives back on track and so that motorists better understand where their premium dollars are applied in the compensation system, what factors affect the cost of automobile insurance and what factors will best achieve long-term premium stability so that they can expect in future to secure auto insurance that is more affordable, more available and less volatile in pricing increases.

IV Automobile Insurance Reform

A. Chronological Review of Auto Insurance Reform and Analysis

The idea that the tort based system of compensation for automobile accident injuries in North America suffers from some fundamental unfairness is not a new one. Studies as early as 1932 have observed that many traffic injured are undercompensated or not compensated at all under tort based systems, while others, often those with less serious injuries, are overcompensated at the cost of the premium pool. These studies have spawned public debate over alternative compensation models followed by incremental legislative reform. A review of the studies and reforms followed by a deeper analysis of the reforms will help to explain why, in Alberta and elsewhere, the fundamental unfairness and premium instability continues to exist.

Societal response to automobile accidents

Legal commentators have identified the rationale for the traditional tort action as the primary societal response to accidents injuries on roadways in North America. As noted by Professor Ison in *The Forensic Lottery*, p 31-32 (1967):

"… [UK…] Parliament went no further than to require the owners of motor vehicles to carry third-party liability insurance. At the same time, a thorough interdisciplinary research project on compensation for the victims of road accidents… was undertaken at Columbia University in New York. The committee engaged in the study reported in 1932 recommending a scheme analogous to workmens' compensation…. This proposal has been the subject of political controversy in several of the United States, but has not so far been enacted. The adoption of such a plan, however, continues to be advocated in several countries, including Britain."

Professors Keaton and O'Connell in their textbook *Basic Protection 1-3* identified deficiencies in the negligence claim as a model for fair and timely compensation of traffic injured:

[M]easured as a way of compensating for personal injuries suffered on the roadways, the system [in the United States] falls grievously short. Some injured persons receive no compensation. Others receive far less than their economic losses. Partly this gap is due to the role of fault in the system…

Second, the present system is cumbersome and slow. Prompt payments for compensation for personal injuries are extraordinary indeed. And delays of several years before final payment – or determination that no payment is due – are common, especially in metropolitan areas. The backlog of automobile personal injury cases presents a serious community problem of delay in the courts, affecting other cases as well.

Third, the present system is loaded with unfairness. Some get too much – even many times their losses – especially for minor injuries. To avoid the expense and risks of litigation insurance companies tend to make generous settlements of small claims. This largesse comes out of the pockets of all who are paying premiums as insured motorists. Others among the injured,… get nothing or too little, and most often it is the neediest (those most seriously injured) who get the lowest percentage of compensation for their losses. Their larger claims are more vigorously resisted, and their pressing needs induce them to give up more in return for prompt settlement.

Fourth, operation of the present system is excessively expensive. It is burden enough to meet the total of losses that are inescapable when injuries occur. It is intolerable to have to meet the additional burden of administrative waste built into our methods of shouldering inescapable costs.… In the cases of relatively modest injury, the expense of the contest often exceeds the amount claimed as compensation. All this expense, of course, is added to automobile insurance costs and… is reflected in the premium of every insured.

Fifth, the present system is marred by temptations to dishonesty that lures into their snares a stunning percentage of drivers and victims. To the toll of physical injury is added all of psychological and moral injury resulting from pressures of exaggeration to improve one's case or defence…

Chronological review of auto insurance reform models between 1946 and 2015

The Columbia Plan (1932)

The Columbia University Council for Research in the Social Sciences issued a report in 1932 entitled *Report by the Committee to Study Compensation for Automobile Accidents* (*Columbia Report*). The Committee relied on information indicating that attorneys' fees ranged from ¼ to ½ half of sums recovered in negligence actions. The plan it proposed had the following features:

a. every registered motor vehicle was compelled to be covered by compensation insurance;
b. there was a compensation fund pooled by insurance premiums to compensate persons killed or injured by the operation of a registered vehicle without regard to fault;
c. there was no compensation for a vehicle operator involved in a single vehicle accident or to anyone for pain and suffering;
d. payments were made for wage loss with deductible and maximum amounts in place and made on a periodic as opposed to a lump sum basis;
e. medical care was covered;
f. property damage was outside the plan for the reason that private insurance coverage could fill this gap;
g. a person in receipt of benefits under the Columbia Plan could not sue in tort. (in court);
h. the plan would be board administered; and

i. the framers of the Columbia Plan believed most claimants would not retain lawyers which prompted the conclusion that "a larger portion of the money paid in premiums would find its way to injured persons". (p 150)

The Saskatchewan Plan (1946)

In 1946 a committee to study accident insurance compensation produced a report entitled *A Report on the Study of the Problem of Compensation for Victims of Automobile Accidents*. The report recommended compensation for injury or death regardless of fault.

Despite the recommendation, the Saskatchewan government enacted legislation which continued with tort but provided limited compensation on a no-fault basis to persons suffering bodily injury or death due to a motor vehicle accident. It was the first limited no-fault auto insurance plan in North America. It provided basic universal insurance to Saskatchewan owners and drivers on a break even basis. It did not include property damage or third-party liability. Premiums were to pay benefits and expenses. Any deficit was made up through increased premiums.

The Saskatchewan government enacted further legislation in 1948 which included collision, public liability and property damage insurance coverage. In 1953 it extended coverage for increased limits. High claims led to the first deficit which resulted in a rate increase.

The introduction of no-fault benefits legislation did not occur in any other Canadian provinces for approximately 25 years from this time.

The nature of the no-fault benefits when introduced in other provinces, i.e. Ontario in 1969, British Columbia in 1970, and Alberta in 1975, varied from jurisdiction to jurisdiction, but typically provided for some measure of income replacement, medical and rehabilitation expenses and death benefits. The intent was to provide some protection to the accident victims for the pecuniary losses and initially, these benefits were paid promptly.

For those who had an action in tort, the no-fault benefits provided interim support until the action could be set for trial. Those who could not maintain a tort action received only some indemnification for financial losses.

Royal Commission on Automobile Insurance, Report of the Commissioner, (July 30, 1968) (British Columbia)

On January 25, 1966 the British Columbia government appointed a *Royal Commission on Automobile Insurance* led by Justice R.A.B. Wooton to address the public discontent over the rapidly increasing cost of automobile insurance, specifically, to determine whether a no-fault scheme or the current tort process would be better in dealing with claims of persons injured in automobile accidents.

Following an exhaustive investigation, including a review of models in other jurisdictions, the Royal Commission (*Wooten Report*) in the words of Professor Craig Brown "delivered a condemnation of the tort system as it applied to automobile accidents. It recommended a pure no-fault scheme completely replacing tort law for automobile insurance."

The *Wooten Report* found there was dissatisfaction with the tort system, the cost of automobile insurance, litigation delays and lack of compensation for the at-fault driver who suffered serious injuries. It concluded that "the fault system cannot adequately protect the general public insofar as the automobile accident is concerned. [The Commissioners]

are firmly convinced that by a system of no-fault cover aided by other factors, the motorist and the general public would be better served." *Wooten Report*, 84 (1968).

Professor Brown noted that the Commission "stated a preference for competition as the means of encouraging innovation and serving the interest of consumers, and… came down firmly against the government monopoly for automobile insurance." (*No-Fault Automobile Insurance in Canada*, Craig Brown, Carswell 1988, pp 26-27)

Report of the Committee of Inquiry on Automobile Insurance (1974) (Quebéc)

In May 1971, the Government of Québec appointed a Committee lead by M. Jean-Louis Gauvin to report and make recommendations on the measures that should be adopted to reduce the cost of automobile accident losses and provide adequate compensation to victims in as equitable manner as possible, as well as on the findings made during its study.

In 1974 the *Auto Insurance Study Committee Report* (*Gauvin Report*) concluded that the fault concept must be completely abolished. The Committee had considered partial tort reforms but concluded they were compromises and half measures which were not acceptable because the compensation was inadequate for those in the greatest need such as insureds suffering from long-term disability, their dependents, dependents of those killed, and dependents of those drivers who were judged at fault and to whom compensation was refused. It said adequate compensation in all cases has a price, but if desirable to reduce the cost of automobile insurance, it would be wrong to do so by reducing the compensation to those who are the most disadvantaged.

In an historical account published in 1999 by one of the Committee members, (Claude Belleau) it was reported that every service provider directly affected rejected the notion of no-fault insurance (and a government monopoly delivery system). However, consumer groups and trade unions endorsed a no-fault insurance model.

Due to continuing public controversy, a subcommittee led by Québec Court Justice Desjardins was struck to examine the *Gauvin* proposals. It examined four options and its report of July 1975 adopted the *Gauvin* recommendations (except on the government supply aspect instead, suggesting entrusting administration of the basic compensation plan to existing government organizations).

A newly elected Québec government would not then endorse the *Gauvin Report* proposed no-fault model mainly due to the expected costs of transitioning to a government monopoly model that would increase premiums. It instead proposed a compulsory auto product with a modified no-fault plan, a proposal which was not favourably received.

In August 1976, the then elected Parti Québécois formed a Task Force which resulted in a report made public on April 15, 1977. That Task Force endorsed the concept of a full no-fault plan for bodily injuries but not full government ownership of all automobile insurance.

Instead, the Task Force proposed to entrust management of the basic plan for bodily injuries to a public insurer and let private insurers offer supplementary optional no-fault insurance plus compensation for property damage. It stated its preference to separate that part of automobile insurance that is of social importance to that part which is not. It hinted at a return on

premiums in the form of indemnities reaching 75 to 80% but did not promise a significant reduction in auto insurance premiums.

The Task Force received criticism from insurers, lawyers, trade unions and the news media mainly for the lack of commitment to reducing premiums. It was claimed that such a dual system would increase management process costs. Lawyers, brokers and claims adjusters all objected to their roles being reduced or locked out altogether. The Minister undertook a consultation tour which answered many public questions.

A Parliamentary Committee then studied the new bill for four months and received briefs opposing the plan from all vested interests.

On March 1, 1978, the government of Québec instituted a government monopoly compensation plan over the bodily injury portion while the property damage coverages remained in the hands of private insurers. The government also introduced the pure no-fault scheme which entirely eliminated the right to sue. It substituted a schedule of no-fault benefits to include awards for pain and suffering, as well as economic losses provided through mandatory first party insurance, to all individuals injured in automobile accidents.

The government also established the "Régie de l'assurance maladie du Québec" (Régie) as a Crown corporation to be responsible for providing public auto insurance for all drivers, passengers, pedestrians, bicyclists and motorcyclists involved in road collisions, whether or not they were at fault.

Belleau reported that the Québec system was very successful with respect to the issue of return on premium. An assessment in 1995 (Fluet-Lefebvre) estimated that the return for bodily injury claimants was 61% of the premium for the period 1978 to 1987. Between 1988 and 1992, it reportedly rose to 96%.

The Régie's successor, the Société de l'assurance automobile du Québec/Québec Automobile Insurance Corporation)(SAAQ), continues to operate the compensation fund for property damage due to uninsured or unidentified drivers. It paid $87 million from 1978 to 91 comprised of $5 million for administrative expenses and received $35 million from at-fault drivers. Between 1992 and 1994, it paid $0.9 million for administrative expenses.

Ontario Task Force on Insurance 1986

A Task Force led by the Ontario Minister of Financial Institutions appointed January 1986 and reporting May 1986 concluded that the tort system was not defensible, in theory or in practice, and that personally injured traffic victims would be better served under a pure no tort system. The reasons included:

a. the tort system in the personal injury area has reached the limits of its capacity: continuing it as a compensation mechanism using notions of negligence or fault will only deepen the incoherence, instability and continuing unpredictability;
b. proposals for tort reform that continue to obscure the fundamental tension between insurance and deterrence should be rigorously resisted;
c. deterrence can be answered outside of tort;
d. the compensation rationale fails, in theory and in practice;
e. compensation should proceed on a no tort basis;
f. fault will remain relevant in the premium pricing mechanism;

g. no tort accident compensation should remain in the hands of private industry so long as it can demonstrate its financial capacity to deliver at affordable premium levels;
h. the auto policy should provide unlimited medical and rehabilitation benefits, including cost of care and income replacement benefits at levels that should be reasonably adequate for the majority of citizens; and
i. additional coverage for income replacement in excess of basic insurance should be made available on the first party basis through voluntary purchase of additional layers.

Report of Inquiry into Motor Vehicle Accident Compensation in Ontario (1988)

Mr. Justice C. Osborne (*Osborne*) was appointed by the government of Ontario in May 1986 to consider the appropriate design of a no-fault system. He examined all aspects of Ontario's automobile insurance compensation scheme in his *Report of Inquiry into Motor Vehicle Accident Compensation in Ontario* delivered in February 1988.

Despite recognizing the favorable features of a pure no-fault model, *Osborne* concluded that the public did not seem to want it. He also expressed limited enthusiasm for threshold no-fault plans. He recommended that should the Government desire to introduce a no-fault compensation plan, consideration should be given to a modified threshold plan capping pecuniary damages for less serious injuries. (*1 Osborne* report 53). A more detailed examination of the analysis of alternate models by *Osborne* and others is found in Section IV B of this Report.

In exploring the question why no-fault compensation for workplace accidents is nearly universally recognized now, but not in the field of motor vehicle accidents, Osborne opined that one explanation for the difference might lie in the fact that both the legal profession and the insurance industry had a great deal at stake in the maintenance of the existing system and were able to exert a considerable influence against the widespread adoption of a no-fault system of compensation. He then noted that the insurance industry had, since 1970, altered its position by supporting a threshold no-fault model.

Report of the Autopac Review Commission (September 1988) (Manitoba)

Public dissatisfaction with the performance of the Manitoba Public Insurance Corporation prompted the Manitoba government in 1988 to establish the Autopac Review Commission chaired by Judge Robert Kopstein which in September 1988 issued the *Report of the Autopac Review Commission* (*Kopstein Report*).

The *Kopstein Report* stated that the provision of a reasonable living standard for the catastrophically injured must be the highest priority of an automobile compensation scheme. (*Kopstein Report* 102). The Commission recognised this priority might require reducing compensation for those suffering minor injuries:

"Minor injuries are disruptive and uncomfortable, but not tragic. It is, in my opinion, the potential to be injured critically and disabled permanently that motorists should most fear. It is for that eventuality that insurance make uncontested access to an acceptable level of compensation available. If it is necessary to compensate minor injuries less generously than at present in order to assist in the financing of adequate compensation for those severely and permanently disabled, it is appropriate, in my opinion, to do so. The largest portion

of insurance premiums pay for vehicle repairs and for minor injuries. To the extent that it may be necessary to limit those benefits within an affordable insurance plan design to restore, to a reasonably comfortable standard, individuals with suffered catastrophic personal injuries, they should be limited."

The Commissioners were firmly of the opinion that tort concepts provided inequitable results for injured person and recommended a pure no-fault compensation similar to that of Québec (*Kopstein Report* 105).

On March 1, 1994, the Manitoba government acted to contain large increases in bodily injury claims costs with the introduction of the Personal Injury Protection Plan. Modest no-fault benefits replaced the old tort-based model.

Alberta Automobile Insurance Board, Study of Premium Stability in Compulsory Automobile Insurance (September 12, 1991)

In 1990 the Alberta Automobile Insurance Board (AAIB) in response to public concerns about rapidly rising automobile insurance premiums and at the request of the Government of Alberta Minister of Consumer and Corporate Affairs, undertook a study of the Alberta automobile insurance system to determine whether there was a problem with premium stability, and if so, whether the cure was to modify its tort and no-fault features. (*AAIB study*)

The *AAIB study* showed that loss costs had increased dramatically since 1985 due to the increase in bodily injury loss costs, mostly resulting from non-pecuniary general damages claims. The AAIB said it expected loss costs would continue to increase because of continuing increases in frequency and severity of injury claims.

The AAIB also made the following findings:

a. claimants with minor injuries are overcompensated in the tort side of the system relative to all the traffic accident claimants with catastrophic injuries or undercompensated in the tort side of the system relative to all other traffic accident claimants. (*AAIB Study* 2);
b. at-fault claimants were inadequately compensated for the economic losses relative to tort claimants and there were structural deficiencies in the delivery of benefits in the current system. (*AAIB Study* 2);
c. all payments required under the system are subject to delays;
d. between 1988 and 1990, bodily injury loss costs increased 12.9%, more than twice that of the Consumer Price Index. (*AAIB Study* 3);
e. there was a pricing problem in the system because premium levels were not sufficient to meet current loss costs;
f. one of the reasons for that deficiency was that loss costs had increased at unusually high rates;
g. as there was no specific feature operating in the current system to control increases in claims costs, the AAIB expected loss costs to continue to increase in the long term unless bodily injury loss costs were curtailed in some fashion. (*AAIB Study* 3);
h. the more prices increase, more and more motorists would have difficulty affording automobile insurance. The resulting dissatisfaction would have to be addressed either by the participants in the system or the government, or both;

i. there was no uniform viewpoint among participants in the system about whether the costs or premium levels should be curtailed to preserve the balance in the system;
j. one of the methods examined to control premium increases was to reduce the amount paid to traffic injured;
k. AAIB recommended that to obtain the goal of premium stability and to maintain the cost of automobile insurance at an acceptable level, there must be a reduction or limitation of the amount of monetary compensation provided to accident injury victims. (*AAIB Study* 6);
l. AAIB observed that no one system is superior overall in obtaining the objectives of the automobile insurance system. It nevertheless commissioned an analysis of the current system and five alternative models;
m. AAIB did not recommend a pure no-fault model similar to that in place in Québec;
n. AAIB recommended three options. Option 1 was limitation of the right of recovery for all non-pecuniary damages in the form of a deductible of $10,000;
o. Option 2 was the implementation of enhanced no-fault benefits scheme with full tort rights subject to a deductible of $10,000 for all non-pecuniary damages and other tort reforms; and
p. Option 3 was the implementation of a threshold no-fault system similar to that in place in Ontario in 1991 under which tort rights would be restricted to only the most serious injury claims with enhanced no-fault benefits for other traffic injured.

Government of British Columbia consultant study (1996)

British Columbia motorists in about 1995 were reporting premiums were too costly. The British Columbia government froze rates for 1996 and 1997 and requested Insurance Corporation of British Columbia (ICBC) find ways to cut costs and control rising premium levels.

ICBC commissioned a study by three consultants, including KPMG, Eckler Partners and Exactor Services Inc. (the *KPMG report*) which delivered the following findings:

a. motor vehicle insurance costs increased higher than the rate of inflation from 1986 to 1996;
b. the average premium increased by 135% over the same period;
c. claims costs represent about 79% of total expenditures and increased at more than 6.5 % per year, after inflation;
d. claims operating cost expenses and commissions grew 5% per year faster than inflation over 1985 to 1995;
e. the introduction of premium tax in 1987 added to the increase in product costs;
f. bodily injury claims represent $0.50 of every dollar of claims, including legal and other tort claims costs;
g. the real bodily injury claims cost per insured vehicle nearly doubled over the ten-year period;
h. the trend was due to increased claims frequency and increase in average cost per claim;
i. bodily injury claims grew at 7% per year, far faster than rate of property damage claims;
j. bodily injury claims increased 50% over the past 10 years;
k. the propensity to file personal injury claims increased by 40% over the 10 years;

l. the average bodily injury claim was four times the average property damage claim; and
m. rising claims costs and numbers appeared to due to
   i. increasing propensity and ability to maximize awards especially due to non-economic losses;
   ii. growing sense of entitlement to receiving motor vehicle insurance payments;
   iii. growing inclination to focus on pain and suffering;
   iv. increased advertising by lawyers and tendency to seek legal representation;
   v. willingness of courts to increase types and amounts of compensation awards; and
   vi. increased incidence of fraud.

The study provided a cost breakdown of ICBC dollars from 1995 data which showed:

a. 87% of the costs related to payments to claimants and claims related expenses;
b. 8% of costs were paid for distribution of the product;
c. 9% of total expenses or $223 million represented total legal costs;
d. $670 million were paid to external suppliers, including defence counsel, glass repair shops, car rental agencies, medical payments and the like; and
e. brokers were paid $151 million.

In total, only 2/3 of claims costs and expenses were put in the hands of claimants for their claims or damage repairs. For personal injury claims, claimants received only 72% return with 17% paid to legal services.

The *KPMG report* provided a further explication of legal costs for 1995 as follows:

a. ICBC in-house legal department – about $7 million;
b. ICBC external defence counsel hired to defend tort claims – about $53 million;
c. cost for expert reports, independent adjusters, and private investigators required for litigated claims – about $17 million; and
d. estimated Plaintiffs' costs, including contingency fees and disbursements – about $146 million.

The *KPMG report* concluded that only by changing the volume and nature of claims shaped by the design of the insurance product could sufficient savings be achieved to bring loss costs in auto insurance under control. It stated that tinkering with or fine-tuning the product would not be sufficient and all service providers must make an equitable contribution to the solution.

The *KPMG report* said that the main benefit of the existing system is the preservation of the right of access to an independent process toward fair compensation to an innocent person injured by bad driving conduct. However, when this principle was measured against the deficiencies in the system, such as long delays and certainty about adequacy of compensation and rehabilitation, potential for exaggeration of claims and the high legal investigative cost to establish claims, it concluded such deficiencies work against the recovery of the traffic injured, erode the economics of the system and create an intolerable financial burden on policyholders.

The *KPMG report* recommended the system reform should:

a. embrace a comprehensive solution to realign the priority in favour of the seriously permanently and grievously injured;
b. accept that much of driving behaviour that causes accidents is due to inadvertent, momentary inattention or unexpected climate conditions that can happen to normally safe drivers; and
c. reframe the goals from acquiring as much monetary recovery as possible to achieving more effective health outcomes and wellness.

The *KPMG report* cautioned:

a. underlying problems must be addressed in the medium and long-term or the increasing cost trends will resurface;
b. there must be a reduction of legal processes and shift to more efficient expeditious and less costly dispute resolution;
c. there should be elimination of dispute through the system replaced by assured injury benefits; and
d. there needs to be re-focus on better health outcomes, simplified fair processes and improved driving behavior.

The *KPMG report* predicted that the era of tort in automobile insurance was nearing its end because the price of maintaining the current adversarial system is substantial premium increases, which takes a growing share of personal and collective social wealth, combined with unpredictable and unfair awards. Solicitor/client costs on a contingency basis up to 33 1/3 percent make this a major cost component in the current process. No-fault models can replace the costly and lengthy tort benefits with well-defined and controlled compensation through a tightly managed administrative process, protection and in shifting the focus to better health outcomes provided it preserves justice, fairness and equity.

The *KPMG report* also mentioned lessons learned from other jurisdictions including:

a. government-imposed rate freezes focus public attention on the issues of rising costs and the suffering manifested in those costs but are not a solution;
b. maintaining the status quo for compensation models like BC are not feasible;
c. failures of threshold no-fault systems are usually due to a tort threshold that does not adequately restrict the right to sue or lack of balance between the tort threshold and no-fault benefits for wage loss or medical care; and
d. no-fault models must have strong administrative controls on personal injury benefits and emphasize early, effective rehabilitation.

Saskatchewan (1988-1995)

Between 1988 and 1993 the Saskatchewan Government Insurance Company observed almost 40% of the claims dollar was allocated to bodily injury claims. It set up an Injury Study Advisory Board with the objectives of:

a. improving and updating benefits and coverage; and
b. realigning priorities to place medical and vocational rehabilitation first, loss of income next, then pain and suffering and addressing the injury crisis.

It was seen that bodily injury claims costs were continuing to increase above the rate of inflation. There was pressure to increase premium rates and the Rate Stabilization Fund

was depleted. In the year ending December 31, 1994, the Auto Fund had a loss of nearly $94 million and accumulated deficit of $105 million.

To address escalating cost of tort awards to traffic injured in 1995, Saskatchewan abolished fault-based indemnification subject to one exception whereby the right to take legal action for economic loss was maintained for traffic injured whose gross earnings exceed $50,000 per year. The Saskatchewan Auto Fund provided a Personal Injury Protection Plan similar to that of Manitoba. The benefits were indexed to the Consumer Price Index.

After implementation of the Personal Injury Protection Plan, the number of personal injury claims declined by 30%. Personal injury claims costs declined by 48% or $108 million. The tort remedy was further restricted by a 90% of net income limit. It is thought that the change to this compensation model was the major factor to explain the savings.

Ernst & Young review of the New South Wales motor accident scheme for the board of Motor Accident Authority (November 1998)

Against the backdrop of public dissatisfaction over record high premiums in the Australian state of New South Wales, its Motor Accidents Authority ("MAA") commissioned *Ernst & Young* (*E&Y*) to conduct a comprehensive review of the existing automobile insurance situation. *E&Y* reported that the claims costs were rising at a much higher rate than was the Consumer Price Index with no reason to believe that this unsatisfactory claims cost change rate trend would end. It said the state of affairs was not acceptable to the community or private insurers who underwrite the business.

The *E&Y report* concluded that the compensation benefits were not fairly distributed among automobile accident victims. Persons with severe injuries did not receive adequate sums to fund future care and those with non-severe injuries received more than they needed. Approximately 50% of the schemes resources were diverted to service providers involved in the determination of benefits eligibility. Future changes had to address the scheme's cost structure and a more equitable distribution of benefits.

New South Wales motor accident reform created and enacted in 1999

In December 1988 the MAA decided to investigate consensus for change which resulted in the creation of a working party whose recommendations led to the enactment of the *Motor Accident Compensation Act* 1999. (1999 NSW model)

The working party consisted of 16 persons, including two physicians, two rehabilitation health professionals, four insurance industry experts, four senior legal practitioners, two actuaries, the Attorney General's Director, and the General Manager of MAA. It conducted its work without any external involvement or input, except the facilitation by seconded Canadian legal counsel to the AAIB.

The group began its work in March 1999 and by early April presented by unanimous agreement an initial blueprint of reforms to the government Minister responsible for auto insurance reform, indicating the group could endorse the reform to its various constituents if the provisions were not altered by legislative process.

The original Motor Accidents bill was introduced into the Upper House of Parliament at the beginning of June and the legislation, with some

amendments, was passed by both Houses by July 1, 1999. On October 5, 1999 the new scheme was operative.

The reform occurred over the objection of the NSW Law Society and Bar Association whose members opposed the restriction of the rights of traffic injured victims to have the monetary value of their pain and suffering judicially determined. It occurred further without extensive evidence that the awards for pain and suffering were too high for NSW traffic victims or that the awards did not effectively console injured persons or that the price of the average automobile insurance premium was too high. An account of this working group/negotiated reform process may be found at (2000) *Insurance Law Journal 1*. (NSW)

The reforms under the 1999 NSW model are summarized as follows:

a. The focus was away from simply paying compensation for injuries and toward providing better, earlier health treatment. The new law streamlined the medical treatment process by introducing standardized medical treatment and a medical review panel to provide final determination of medical impairments and binding assessments of permanent impairment.
b. A dispute resolution panel was introduced to determine all remaining issues relating to work capacity and economic losses which decisions would be binding on the insurer. This was a major transformation in introducing an objective assessment of impairment as a gateway for economic loss.
c. While the model preserved the right of the claimant to appeal the dispute panel decision to the court, the intention was to deter further disputation by providing the disincentive of a legal costs penalty if the appeal was unsuccessful.
d. To produce the necessary reduction in costs, the model prohibited amounts payable for non-pecuniary general damages unless the injured person had a greater than 10% permanent impairment as defined by the American Medical Association guidelines.
e. Further refinements were added including maximum tariffs for legal and medical fees and advertising restrictions.

Once implemented, the reform was accepted by the public and most service providers, particularly health professionals. It also reduced and flattened premium levels. One study of health outcomes indicated traffic injured recovered more quickly after the reform was implemented and concluded the legislative reform was responsible. More detailed discussion appears in the Review of Health Outcomes Evidence in Section VI of this Report.

Elective/Choice model – Saskatchewan 2003

In Saskatchewan, an elective/choice model was implemented effective January 2003.

The theory of the elective/choice model (choice model) is that it permits the prospective insured motorist a choice between receiving speedy compensation for economic and medical costs on a no-fault basis and waiving the right to tort claims, or waiving the no-fault benefits and pursuing possible tort claims for the full measure of damages.

The operation of the choice model intends that where two people with no-fault insurance collide with each other, each seeks recovery for the losses from their own insurer. If two people with third-party coverage collide, they would proceed just as they do under a tort system. If a person with no-fault insurance collides with someone with third-party insurance, the first person claims losses from their insurer and is

not liable for the other person's losses, even if the first person was negligent. The second person has a tort claim against her own insurer if negligence on the part of the first driver could be proven. This claim would be much like tort claims against an uninsured motorist.

Some commentators have opined the choice by consumers under this model might be influenced by cost, such that low income and elderly consumers might choose the no-fault option because they are insuring lower than average perspective income losses. For example, when the state of Kentucky introduced the choice model in the 1970s, it became a de facto no-fault state. Commentators also opined that high-risk drivers and drivers and heavy vehicles might strategically select the no-fault option to insulate themselves from liability and coverage cost to negligently injured third parties.

The American states of New Jersey and Pennsylvania implemented very similar choice models in 1989 and 1990. Prior to the reform, New Jersey had a no-fault model whereas Pennsylvania had a tort model. A subsequent study of these choice models on outcomes such as less attorney usage, speedier time to payment and more consistent (equity) payments found higher insurance costs in both New Jersey and Pennsylvania.

A later study however showed that between 1990 and 1998 auto insurance premiums in Pennsylvania declined after about 44% of the insured population had chosen the no-fault option. It appeared that the factors that led choosing the no-fault option included price savings, household income, traffic density and political party preference. It found that males and households with increasing income were more likely to choose the no-fault option whereas increases in traffic density and attorney influence led to more full tort choice.

The *KPMG report* expressed the opinion that choice models are fraught with administrative difficulties of questions, in cases for example where the traffic injured never have the chance to make a choice, such as pedestrians, occupants of vehicles or dependents of non-automobile owners. It pointed to another difficulty in the method by which to appropriately allocate costs when an accident occurs between a tort policyholder and a no-fault policyholder. It said on balance, the systems have not been effective in health treatment or cost control.

In Saskatchewan at present, an injured claimant may have access to over $7 million in medical benefits for the claimant's lifetime, if necessary. Reportedly, no claimant has yet ever reached the maximum benefits available. SGI is said to be considering removing the upper limit on available for treatment, as actuarily it would have no impact on current automobile insurance rates. However, it has also been recently reported that only 0.05% of Saskatchewan motorist have opted for the tort option. It is unclear whether this is a rejection of tort or a rejection of the elective/choice model.

Auto insurance reform in Alberta 2003

In 2000, the Government of Alberta again became concerned that mandatory auto premiums were becoming unaffordable or unavailable. This led to a review of auto insurance and other interrelated issues such as fairness of risk classifications, claims cost pressures, adequacy of Section B benefits, ability of traffic injured, especially soft tissue injured, to access effective treatments and traffic safety initiatives to reduce injuries. The review resulted in the enactment of the *Insurance Amendment Act* No.2, S.A. 2003, c 40 (and Regulations). A detailed review of the reform process and the subsequent court

challenge is discussed in the Chronology of Alberta Auto Insurance Reform at Section IV (C) of this Report.

The Regulations established:

a. capped damage awards for certain injuries;
b. diagnostic and treatment protocols to improve recovery times for certain injuries.
c. increased Section B benefit limits to $50,000;
d. improved access to Section B benefits;
e. an insurance premium Grid to base premiums and driving records rather than age, gender and marital status;
f. an all comers' rule, with some exceptions;
g. a strengthened role of the Automobile Insurance Rate Board; and
h. a mechanism for premium rate dispute resolution.

The diagnostic and treatment protocols apply to sprains, strains and WAD (Whiplash-Associated Disorder) I and II injuries. The protocols authorize payment for injuries by their healthcare providers. The reforms were multifaceted, and were carefully balanced. It was explained that subsequently altering one component could render the entire program unfeasible.

The maximum premium Grid caps premiums. Insurers must compare their market premium to the Grid premium in charging a consumer, and if it is lower than the Grid, it must charge its market rate. About 80% of drivers are charged premiums lower than the Grid. About 20%, poor risks, drivers with poor driving records, or inexperienced drivers are charged premiums capped by the Grid.

There is no traditional risk sharing pool for private passenger risks. Insurers can cede policies into a Grid or a non-grid pool. The new Automobile Insurance Rate Board can now adjust premiums annually by comparing total premiums to industry wide loss costs, administrative and other relevant expenses. This ensures that industrywide costs are accounted for in premiums and industry wide savings are accounted to the consumer.

Report of the Atlantic Canada Insurance Harmonization Task Force (2003)

In 2003 the Council of Atlantic Premiers appointed a Task Force to undertake a comprehensive study of the full cost/benefit and legal implications of establishing an Atlantic Canada public automobile insurance system. The September 30, 2003 *Report of the Atlantic Canada Insurance Harmonization Task Force* (the *Atlantic Report*) included a report on alternative automobile insurance systems ranging in design from the pure tort model to the pure no-fault model, with various alternative models in between.

The Task Force interpreted its mandate to identify the most reasonable package of basic compulsory automobile insurance that best balanced the needs of both motorists and the traffic injured of Atlantic Canada. Those needs were interpreted to include the features of affordability and availability of basic compulsory insurance and reasonable compensation of those injured in automobile accidents.

The Task Force reviewed the findings of the 1968 *Wooten Report* in British Columbia, the 1988 *Kopstein Report* in Manitoba, the 1974 *Gauvin Report* of Québec, the 1988 *Osborne Report* in Ontario, the 1991 *AAIB Report* and the 1996 *KPMG report* in British Columbia. It also examined the auto insurance models in the Australian states of New South Wales, Queensland and Victoria.

The Task Force concluded that the evidence overwhelmingly supported the conclusion that the primary long-term and core solution to the problem of rising automobile insurance rates requires reform of the characteristics of the product and its design features.

The Task Force found that the core problem of increases in premiums has been consistently identified as the increase in bodily injury loss costs resulting from the tort elements of the auto compensation system.

The *Atlantic Report* identified two real issues: how the majority of traffic injured can come to terms with reasonable reduction of their compensation so that Atlantic Canadians can afford the cost of basic mandatory automobile insurance and how motorists can come to accept realistic and reasonable cost of insurance to pay for the injuries caused by the insured motorists. (*Atlantic Report* 5)

The *Atlantic Report* proposed that the resolution required recognition of the need to reduce the tort components as far as possible while maintaining the appropriate balance between the cost of premiums and the necessity of reasonable compensation.

Nova Scotia – 2003

As reported in the court challenge in the ***Hartling*** decision (discussed more fully in Section V (C) of this Report), in 2003 Nova Scotia motorists found themselves paying more and more for mandatory insurance coverage, and the Nova Scotia regulator concluded that:

a. premium increases are to be expected as long as the existing automobile insurance system in Nova Scotia remains;
b. the major reason is the increasing cost of claims;
c. the primary cause is claims for compensation for bodily injuries;
d. third party liability claim costs have been increasing much faster than collision and comprehensive claim costs;
e. the increase in the average cost of a bodily injury claim over the last five years had been dramatic; and
f. automobile insurers have been taking drastic rate action to restore profitability.

The Nova Scotia legislature proposed a reform that would implement a limit or “cap” upon all non-pecuniary general damage claims, except for the most serious permanent injuries. Through a legislative compromise that initial proposal was narrowed down to impact only a small group of traffic injured.

With a legislative compromise established, the government amended the *Insurance Act* to include a definition of “minor injury”, together the term “serious impairment”. The operative provisions set by regulation confirmed that the cap would be $2,500 and that certain listed injuries, including chronic pain, would be excluded from its application.

Although that legislation was later subjected to a legislative Charter challenge in ***Hartling***, it was upheld at the trial and appellate levels of the Nova Scotia courts.

Newfoundland and Labrador, New Brunswick and Prince Edward Island

In 2004 these provinces legislated a deductible of $2,500 for pain and suffering tort awards for minor injuries.

Ontario – implemented periodic reforms to the threshold/ no-fault model

In 2003, the Ontario government introduced further refinements to the maximum fee schedules for providers of health care and the requirement to submit treatment plans for approval by insurers which had been initially based on a negotiated agreement between providers and the insurance industry.

Later in 2003, a new government introduced legislation to temporarily freeze auto insurance rates and set an objective to reduce auto insurance rates by 10 per cent.

In 2006, the government eliminated the Designated Assessment Centres (DAC) system and reverted to resolving accident benefits disputes through insurer examination assessors.

In 2010, the government introduced further substantial reforms including changing benefits under the standard accident benefits coverage, a series of reforms to try to control costs, exploring the use of evidence-based treatment plans, capping the cost of medical assessments, capping the maximum benefit for a minor injury and other measures. Later the government introduced many of the recommendations of the Ontario Auto Insurance Anti-Fraud Task Force.

The 2017 *Marshall Report* concluded that all these previous periodic attempts at reform to alleviate the problems amounted to only ineffective tinkering.

Territories

North West Territories and the Yukon impose no constraints on claims for pain and suffering damages.

New South Wales: Introduction of no-fault long term care for catastrophically injured 2006-2007

In 2005 the New South Wales government determined that the 1999 auto insurance reform had led to a stable and affordable scheme which made it possible to expand coverage to all catastrophically injured persons whether they could prove fault or not.

The New South Wales government identified that about 125 people were catastrophically injured annually in New South Wales. They had significant daily needs including care, personal assistance, domestic support and an ongoing equipment and medical needs. It proposed a scheme Long Term Care and Support (LTCS) that would provide:

a. medical treatment;
b. acute inpatient care;
c. rehabilitation;
d. specialist and expert medical care; and
e. pharmaceutical expenses for life.

The long term care program would appoint a lifetime care coordinator to work with the person in the person's family. The coordinator would focus on helping the person adjust to the disability and help them regain as much daily function and independence as possible. It would also identify options for accommodation, transport, education, employment, social and recreational activity. In the acute care and rehabilitation phase, they would be working with the injured person to help develop rehabilitation and community participation plans that identify short and long-term goals consistent with desire.

The coordinator would also help the injured person and their family develop a community participation plan to enable the person to access all available activities and opportunities. The long-term planning process would include:

a. specific goals of the injured person including educational social and employment;
b. services and support required including identifying any specific skills;
c. time frames;
d. specific service entry exit and transitional strategies;
e. roles and responsibilities of those involved and support;
f. agreed review date to assess the adequacy of the plan; and
g. support for carers.

Following the rehabilitation towards discharge, the life care coordinator would help the person and family focus on living with their disability and identify their ongoing support needs. Following discharge the scheme would typically provide daily services as required, such as:

a. aids and appliances;
b. home and transport;
c. personal care;
d. domestic services;
e. childcare services;
f. nursing care;
g. assistance with community access;
h. educational and vocational services; and
i. respite care.

The program would provide lifetime care and support through a fully funded statutory trust. The government would also provide support, including medical costs, for the scheme.

An actuarial analysis estimated approximately 124 persons would be eligible to enter the scheme annually. This would include about 37 with spinal cord injury, 84 with traumatic brain injury, and three with other injuries, such as bilateral amputee, major internal injuries and severe burns.

Guidelines would establish the extent of the injury.

Standards would be developed for service providers covering a range of skills, training and experience. Care providers would be approved by the LTCS authority to ensure quality of service. The model of service delivery would as far as practicable give control of the selection of service providers and coordination of services to the injured person and or their family.

The government proposed to establish a board of the long term care program with authority that would:

a. oversee the fund, including its investment;
b. approve the guidelines for eligibility and care need assessment;
c. approve the assessor fee schedule; and
d. approve the care provider fee schedule.

An Advisory Council would be established including two practicing health professionals with relevant experience in treating persons with catastrophic injuries, consumer representatives from relevant disability organizations and care provider representatives. The Council would advise the minister and the government on the operation of the scheme.

The scheme would be fully funded through a levy on motorists collected in conjunction with motor accident insurance.

Funds paid into the scheme would be the full cost of providing lifetime care and medical treatment services to injured people. The pooling of the funds would protect against the possibility of poor estimation of an individual claimant.

For those eligible to enter the LTCS scheme, lump sums would no longer reflect compensation for future treatment lifetime care and domestic assistance performed on an unpaid basis, but would be provided through the scheme. Payments for damages for pain and suffering and economic loss would remain unchanged. In determining the levy, the LTCS Authority would rely on independent actuarial advice to ensure that the fully funded principle was maintained.

The NSW government obtained an actuarial no-fault long-term care costing study which gave a cost estimate based on the number of people injured in the 2005/2006 accident year.

The NSW government ultimately introduced on 1 October 2006 for children under 16 and on 1 October 2007 for adults the lifetime care and support scheme (icare) to improve the quality-of-life of the injured person and their family.

NSW MAA Report Why the NSW Green Slip Scheme needs to change – 2013

A summary of the findings of the *NSW MAA* in 2013 is as follows:

a. The need to establish fault means the NSW CTP Scheme is essentially adversarial. By comparison, the Victorian CTP Scheme is no-fault and premiums are considerably less expensive.
b. Every year there are about 7,000 people who cannot access more than the first $5,000 of benefits because they cannot prove the fault of another party. Their care and recovery may be compromised, including drivers in single vehicle accidents.
c. To claim benefits, the injured person must lodge a claim with the insurer of the vehicle most at fault and provide the insurer with details of the accident, their injuries and losses.
d. Once all the details of the injury have been established, the insurer is required to make offer of settlement. There may be disputes over liability, the extent and cause of injury and the settlement amount.
e. The negotiation and dispute processes are often costly and protracted. In NSW, very little is paid to injured people in the first year after an accident. Only medical expenses are paid on the way. Generally, the majority of the compensation is paid out between three and five years after the accident. … funds are not received by injured people when they need it most and would be most effective in assisting with a quicker recovery. Many disputes will end up in a formal assessment process or in court, which is frequently very stressful for injured people, contributing to secondary injuries.
f. The continuing need to prove disability or incapacity perversely discourages quick recovery as this tends to equate to reduced payments, creating a lump-sum compensation mind-set.
g. Compensation can also be reduced if it is determined that the injured person was partially at fault in the accident. Many people take a long time to reach an agreement as to their future needs and entitlements, only to have this amount reduced because they were considered partly at fault. For many such people, their ongoing needs arising from injury are not met despite a protracted claiming process.

h. Many of the payments made by insurers, including medical assessments and legal costs, are not benefits to claimants.
i. Because of the complexity and adversarial nature of the scheme, …, many engage a lawyer to help them with their claim. The system deters unrepresented claimants.
j. Since 1999, more has been spent on lawyers in the NSW Scheme than on medical and related treatment costs (excluding care) for injured people. The complex system also dissuades many people from making a claim in the first place, with only around half the people who could make a claim actually doing so, while others may simply give up or give in during the process, perhaps receiving sub-optimal benefits.
k. Fault-based schemes can be said to help uphold the principles of justice and fairness, by providing compensation for the wrongdoings of others and withholding benefits from those at fault. Some believe that this provides an incentive for people to drive safely, however because risk is effectively contracted out to the insurance company, there is little evidence that the price of a Green Slip influences driver behaviour.
l. Instead, as case studies show, the complex technicalities of the current scheme lead to disputes and unnecessary costs and delays, which do not help the injured person but increase Green Slip premiums.

Fair Benefits Fairly Delivered: A Review of the Auto Insurance System in Ontario April 11, 2017 by David Marshall

Mr. David Marshall (*Marshall*) was appointed in February 2016 to review and make recommendations as to improvements in the system of auto insurance in Ontario, noting that it was frequently criticized as having the most expensive auto insurance rates in the country.

Marshall was to advise on the development of further initiatives to reduce claims costs and uncertainty in Ontario's auto insurance system to focus on improving the efficiency and effectiveness of claims management in the system based on best practices in Ontario and other jurisdictions, coverage options, comparable systems, common traffic injuries, medical examinations and assessments, legal costs, dispute prevention, engagement and education and evidence-based treatment protocols.

Marshall analyzed the Ontario history of auto insurance reforms since 1990 as follows:

a. Before 1990, Ontario auto insurance operated largely as a tort system with minimal accident benefits on the no-fault side. The majority of accident victims were represented by lawyers.
b. In 1990, the government tried to shift the balance of compensation needs from the tort system to the no-fault accident benefits system. To save time and money, most compensation requirements were to be met through the accident benefits system with restrictions on what could be obtained through the tort system. The government also introduced a process of rate approvals and a system for dispute resolution outside the court process.

c. In 1994, the then government considerably expanded the accident benefits, extended the right to sue in tort for pain and suffering, but eliminated the right to sue in tort for economic damages.
d. In 1996, the government reintroduced the right to sue for economic damages but reduced the amount of coverage for medical and rehabilitation benefits under the accident benefits system. The government also introduced additional cost control measures, such as setting maximum fee schedules for providers of health care and the requirement to submit treatment plans for approval by insurers.
e. Later, in 2003, a new government introduced legislation to temporarily freeze auto insurance rates and set an objective to reduce rates by 10 per cent.
f. In 2006, the government eliminated the Designated Assessment Centres (DAC) system and reverted to insurer examination assessors to resolve disputes over accident benefits.
g. In 2010, the government introduced further changes, including:
    i. changing the standard accident benefits coverage;
    ii. presenting reforms to try to control costs;
    iii. exploring the use of evidence-based treatment plans;
    iv. capping the cost of medical assessments;
    v. capping the maximum benefit for a minor injury; and
    vi. other measures.
h. In June 2013, the government passed the *Prosperous and Fair Ontario Act*, which set out a target to reduce insurance premiums by 15 per cent over the next two years.
i. In 2015, the government introduced legislation impacting no-fault benefits, and in April 2016 a new dispute resolution system was introduced.

The government then acted upon recommendations of an expert advisory panel that undertook a review of the mandates of the Financial Services Commission of Ontario, the Financial Services Tribunal and the Deposit Insurance Corporation of Ontario (FSCO Mandate Review).

Marshall came to damning conclusions about the effects of this extensive history of auto insurance reform in Ontario as follows:

a. no-fault benefits had been increased and decreased;
b. access to tort has been increased and decreased;
c. cost control measures have been tried;
d. anti-fraud measures have been introduced;
e. freezing of insurance premiums has occurred;
f. a complete restructuring of the regulatory body has been undertaken;
g. following the past reform measures, costs and premiums have dropped for a few years and then begin to rise sharply to establish new highs;
h. although further changes in benefits were implemented in 2015 to curb costs, trends indicate that despite these changes' costs will once again rise;
i. while accident frequency has dropped, the cost of claims has consistently increased;
j. the road taken over 50 years to tinker with and adjust the system of auto insurance has fallen short in system innovation; and
k. there is clearly a need to structure the system so that it can be encouraged to innovate and change.

According to the *Marshall*:

a. The tort system is confrontational, time consuming, involves the cost of legal counsel and experts, and ties up negotiating time if settled out of court or court time if cases go to trial. Moreover, using the court system to get injured parties what they deserve results in a significant leakage in the benefit they actually receive since the award they get is reduced by the need to pay expert witnesses and large fees to lawyers.
b. The no-fault portion of the system is intended by many governments to provide most, if not all, essential needs of injured parties through a system that is more efficient, less costly and delivers more of the end benefit to the consumer than the tort system. Where the no-fault portion of the system is outsourced to the private sector, as in Ontario, the goals are challenging to meet. If not structured properly, this part of the system can start to mirror the tort system with its inevitable confrontation, costs and delays, which is what is happening in Ontario today.
c. It is important to remember that in the end, citizens who own vehicles pay, through their insurance premiums, for the full cost of the combined no-fault and tort systems, whichever way the system is structured.
d. It is also important to remember that not all injured persons have access to sue – only those who are not at fault. About 30 per cent of drivers who are involved in accidents are at fault which leaves this substantial proportion of injured persons out of the tort system and with access only to the basic no-fault coverage.
e. When the core entitlement decisions are readily determined by programs of care and neutral independent examiners, there should be little structural need for conventional litigation and a consequent improvement in both health outcomes, and the efficiency and cost of the system.

Of other specific concerns identified, *Marshall* noted that based on 2013 expenses, more than one dollar out of every four is not received by the accident victim in benefits; that is, $340 million is going to pay for competing medical opinions because insurers and claimants – or their lawyers – disagree on what is appropriate medical care, and another $100 million is going to lawyers' so that $4 billion in benefits, about $1.4 billion or some 35 per cent of the benefits costs are not going to accident victims which is undermining the integrity of the system and "the whole notion of getting benefits to deserving claimants quickly and inexpensively has been lost."

Marshall also observed as follows:

a. lawyer advertising having rapidly become "big business.";
b. the practice of obtaining clients through advertising then passing them onto other lawyers for a fee – in personal injury law have become unreasonable and disproportionate and, in many cases, clients are not sufficiently aware that they are being referred to another lawyer;
c. due to the high cost of acquiring cases, counsel might not be able to afford to spend adequate time with the client or be prepared to take the case to trial if necessary;
d. contingency fee pricing is not currently sufficiently transparent at the outset to consumers. In the personal injury market, the fee that a prospective client can expect to ultimately be charged often remains opaque, and it is difficult to determine whether a competitive fee structure is being proposed;

e. one area of particular concern is the reported practice by some lawyers of double dipping, which is, keeping part of the legal costs awarded to clients or charging their contingency fee on top of the legal costs. Keeping the disbursements and other practices not fully explained to the client up front are … potentially questionable; and
f. clients often suffer financial hardship. To meet this need, specialized firms called settlement loan companies step into the picture and provide bridge loans to auto insurance claimants ranging from an estimated $500 to $50,000 at high interest rates. There is very little transparency on who owns these settlement loan companies, how they obtain their financing and who refers clients to them.

Marshall concluded there should be very little, if any reason to have to hire a lawyer or resort to a finance company to provide a bridge loan, especially in cases where there are minor injuries.

Marshall noted that trying to estimate the care and other benefits needed in the future leads to lengthy negotiations over amounts which may or may not ever be put to the uses estimated. It also introduces professional negotiating via lawyers, which can result in a large dose of exaggeration and gamesmanship on both sides in an attempt to figure out what the other party is likely to settle for, not necessarily what the claimant actually needs. As long as there is a prospect of a lump-sum payment at the end of a process, injured parties may be advised to boost a claim in order to maximize the size of the payment. This does not serve either the injured person well (boosting a claim requires spending money on expert opinions and lengthening the time of disability) nor does it serve the system as a whole since added costs which are not necessary increases the cost of insurance for all participants.

To avoid this situation a major cultural shift needs to occur. … A claim should be handled on its merits. If health care is needed it should be provided either through the programs of care mentioned above or through the diagnosis and treatment recommended by the independent examiner –within the dollar and time limits of the policy.

With respect to the impact of removing a cash incentive, the study by *Dr. David Cassidy et al*. reported that when the Province of Saskatchewan changed its auto insurance system from a tort system where all compensation was given in cash vs. treatment to a no-fault system where treatment was provided instead of cash, the Saskatchewan system experienced a 28 per cent reduction in whiplash claims. Median time to closure of whiplash claims came down from 433 days to about 200 days. …a decision to make a whiplash claim could involve factors beyond actual medical need and include a prospect of financial gain.

Experience within the worker's compensation system shows that the majority of claimants, once they have recovered from their injury do not need further care and do not come back for more treatment. Those that do, account for a fairly small proportion. The actuaries will quickly adapt to the rate of recurrence and are able to advise management as to how much capital to set aside for this eventuality. This is also the process followed by the Québec auto insurance system which has demonstrated that their costs are the lowest in Canada.

A summary of *Marshall's* key findings are as follows:

a. the goals of all the principal stakeholders are not well aligned. As a result, the government's goal ... is being undermined;

b. claims appear to be unusually expensive, are taking too long to resolve, and too many accident victims are suffering a permanent serious impairment from what began as soft tissue injuries;
c. the system is open to inefficiency, excessive cost and over treatment;
d. expenditures are not going directly to the benefit of claimants (which) is threatening the very foundation of the system;
e. a major element of delay and extra cost is caused by the inability of parties to agree on an appropriate diagnosis and treatment of the injury. It has become a system that is largely focused on cash rather than care. ... The outcomes are not only more expensive but worse for injured parties;
f. legal representatives are charging claimants contingency fees as high as 30 or 35 per cent which is money out of the pockets of claimants who need these funds to replace lost income and pay for treatment;
g. disputes and settlements need to be focused on getting claimants timely access to necessary treatment and assessments;
h. catastrophically injured persons' needs change as they age; and
i. it is necessary and essential to find a better way to resolve the issue of how to efficiently diagnose and treat injuries under the no-fault system.

British Columbia – 1983-2020

Accident benefits were first introduced in 1969. Following recommendations of an Automobile Accident Compensation Committee in British Columbia in 1983, Part 7 of the *Insurance (Vehicle) Regulation*, BC Reg 447/83 was enacted. Since 1983 some sections have been amended several times over the years, other sections have been repealed and in certain years no amendments were made.

Amendments were made yearly between 1984 and 1995, with respect to coverage, medical or rehabilitation benefits, medical examinations, provisions to terminate benefits, for refusal to undergo treatment or training, employment during disability, medical examinations and medical certificates. Further amendments were made in 1997 and 1998. No amendments were made between 1999 and 2005. Amendments were made again in 2006, 2008, and 2010. No amendments were made between 2011 and 2017. In 2018 and 2019 numerous amendments were made.

In early 2020, the Government of British Columbia announced an intention to convert the automobile compensation system to a pure no-fault model. No legislation has been presented to the date of writing of this Report.

B. Analysis of Auto Insurance Reform Studies and Legislative Alternative Models

1946-1978

The Committee found significant the consistency in conclusions drawn by the studies of auto insurance reform in five Canadian provinces between 1946 and 1988 which uniformly recommended elimination of tort and replacement with a no-fault insurance model to provide compensation for all traffic injured. These findings are listed below with our emphasis noting the bold verdicts against the tort model:

a. Saskatchewan 1946 *Report on the Problem of Compensation for Victims of Automobile Accidents* recommended compensation for injury or accident regardless of fault;

b. British Columbia *Wooten Report* 1968, **"the fault system cannot adequately protect the general public insofar as the automobile accident is concerned…and by a system of no-fault cover aided by other factors the motorist and the general public would be better served."**;

c. Québec *Gauvin Report* 1974, **"partial tort reforms were compromises and half measures which were not acceptable because the compensation was inadequate for those in the greatest need and so the fault concept must be completely abolished."**;

d. Ontario Slater Report 1986, **"tort system was not defensible in theory or in practice and will only deepen the incoherence, instability and continuing unpredictability and instead personally injured traffic victims would be better served under a pure no (fault) system."**; and

e. Manitoba *Kopstein Report* 1988, **"tort concepts provided inequitable results for injured persons."** It recommended a pure no-fault compensation similar to that of Québec.

The Committee also found significant the fact that despite the consistent conclusion found after extensive study on each occasion between 1946 and 1988, most provinces resisted acting on those findings and recommendations.

1946 Introduction of no-fault benefits: Saskatchewan

Although the province of Saskatchewan was the first province to take the then revolutionary step in 1946 of introducing no-fault accident benefits for traffic injured that could not secure monetary recovery in tort, no-fault benefits were not adopted in any other Canadian province for more than 20 years.

The gradual introduction in around 1970 of a no-fault benefits component alongside a tort component in Ontario and Alberta was likely recognized by private enterprise auto insurance models as necessary to mitigate the harshness of the tort requirement of proof of causation by a negligent driver which deprive many traffic injured of any recovery for losses resulting from accidents. It also presented the attractive prospect of brokering a blended compromise that would take into account all competing interests.

1978 Introduction of pure no-fault model: Québec

As noted, Québec was the first province to respond to the problem to escalating auto premiums by eventually adopting the initial recommendations of a commissioned report issued in 1974 by eliminating tort altogether. When it enacted legislation in 1978 in line with the recommendations, it became the first pure no-fault accident compensation model of its kind in North America.

Although there was significant resistance to the original reform proposal from many sectors of the public which delayed the enactment of the legislation by several years, auto insurance premiums remained stable in Québec since that time, are reportedly the lowest in Canada and since1978, there have been no public calls for a restoration of tort remedies.

Despite its discernable success in attaining affordability and long term premium stability, no other provincial government adopted a pure no-fault accident compensation model for a further 14 years.

1978 expansion of tort remedies: The Supreme Court of Canada Trilogy

As may be well-known, in 1978 the Supreme Court of Canada (the Court) decided three personal injury cases which have become known as the Trilogy to set out clear and consistent principles to govern awards of damages in severe personal injury cases. The Court formulated guidelines for compensation for future care costs and loss of earnings capacity as well as to explain the purpose of awards for non-pecuniary damages which involved consideration of such factors as pain and suffering, loss of amenities and loss of expectation of life.

The Court held that if an injured person is properly provided for in terms of future care, large amounts should not be awarded for non-pecuniary damages, which should serve the function of making life more enjoyable for the disabled person above and beyond awards directly related to the injuries involved. One reason given by the Court for "capping" the non-pecuniary damage awards for catastrophically injured was recognition that insurance could not respond to unlimited general damage awards.

However, one consequence of the Trilogy became a more intensified focus on the pursuit of pecuniary loss claims of traffic injured in the tort system. Over the next decade, other statutory and common-law developments increased the number of people entitled to compensation, new rights of compensation have been created and higher awards have resulted which, in turn, have led to increased automobile insurance premium levels.

1986-1996

1986-1990 Introduction of threshold/ no-fault model: Ontario

The consequences of the Trilogy in impacting tort awards between 1978 and 1990 may have contributed to the decision of the Ontario government to transform its then existing maximum tort/minimum no-fault hybrid model to a model that strictly restricted tort rights but substituted enhanced no-fault benefits.

The transformation of the accident compensation model in Ontario had a fraught four year journey, as was the case in Québec, although the opposition was manifested in different forms with different consequences. In Ontario there were two comprehensive auto insurance reform inquiries undertaken in rapid succession both of which reflected extensive consultations with many affected parties.

First, the desire of the Ontario government to implement a pure no-fault model in line with the *Slater Report* of 1986 was unmet. Equally, the *Osborne Report*'s proposal to implement a modified threshold plan capping pecuniary damages for minor injuries was unmet.

The eventual solution, known as the Ontario Motorist Protection Plan (OMPP), dramatically restricted the right to sue for most traffic injured, allowing such right only to those permanently and severely injured. However, in exchange it enacted substantially enhanced no-fault benefits. OMPP was enacted into law without first achieving a broad majority consensus of the Ontario motoring public and soon after became the subject of a legal challenge.

In a 1992 ruling a Judge of the Ontario Superior court upheld the OMPP, explaining that this legislation did not deprive individuals of tort rights, because it exchanged their rights of action with a right to comprehensive no-fault benefits. Of interest, no appeal was taken from that decision, which has been since cited in later similar cases at higher court levels.

While it was initially expected that OMPP would effectively calibrate and balance the costs and benefits of the automobile compensation system so that Ontario motorists could expect flattening of premium levels, unintended consequences unfolding over time prevented attainment of that goal.

OMPP, after surviving a legal challenge, likely produced an extended expectation in Ontario and in other provinces which maintained private enterprise delivery systems, that reasonable balances between tort and no-fault components could be carefully calibrated to solve the problems of unavailability, unaffordability and instability in auto insurance premium levels.

However, against the Ontario trend premium increase problems in Manitoba and Saskatchewan were producing different developments in response to increased bodily injury loss costs.

1991 Recommendation for gradual tort reform: Alberta

In 1991 the *AAIB report*, after identifying causes for increasing premiums as increased bodily injury loss costs, particularly for non-pecuniary damages, recommended for premium stability modest tort reform in the short term and a threshold/no-fault model in the long term.

At the time the rate board (AAIB) conducted consultations with Osborne which likely informed the AAIB's decision to reject the pure no-fault model, despite its proven advantages, and to prefer the belief that reasonable balances

between tort and no-fault could solve the problems of unavailability, affordability and long-term instability in the auto insurance premium levels.

The AAIB recommendations produced strong opposition from the Alberta section of the Canadian Bar Association. In the event, no government action was taken to implement any of the AAIB recommendations.

1988-1994 Introduction of pure no-fault: Manitoba

While Ontario was undergoing a lengthy reform process, a commission led by a Manitoba jurist produced a report recommending abolishing the tort model in place of a pure no-fault model similar to that of Québec.

The tort-based model was replaced entirely with modest no-fault benefits in order to head off large increases in bodily injury claims costs by way of legislation enacted in 1994 (Personal Injury Protection Plan). This change occurred in Manitoba without evident protracted controversy or opposition. The *KPMG report* said the Personal Injury Protection Plan reduced the number of injury claims and produced a net reduction in premium of 34% in the first two years. From all reports, auto insurance premiums remained stable over the long term, and there have been no public calls from Manitobans from 1994 onward for a restoration of tort remedies.

1988-1995 Introduction of pure no-fault: Saskatchewan

After observing from 1988 to 1993 that almost 40% of the claims dollar was allocated to bodily injury claims in 1995 the Saskatchewan government took action to implement a no-fault plan similar to that of Manitoba but preserving a right to sue where a not at-fault claimant had economic damages exceeding the benefits provided under the plan. The tort remedy was further restricted by a 90% of net income limit.

1990-1996 Continuous modifications to threshold/no-fault: Ontario

In the mid 1990s problems began to emerge with the Ontario threshold/no-fault model (as described by *Marshall* in 2017), resulting in a series of modifications.

In 1994, the government considerably expanded the benefits under the accident benefits side of the system, extended the right to sue under tort for pain and suffering, but eliminated the right to sue under tort for economic damages.

In 1996, the government reintroduced the right to sue for economic damages but reduced the amount of coverage for medical and rehabilitation benefits under the accident benefits side of the system. It also introduced additional cost control measures, such as setting maximum fee schedules for providers of health care and the requirement to submit treatment plans for approval by insurance companies.

These various attempts to save costs by calibrating and recalibrating the balance of tort and no-fault components in the system were judged by *Marshall* to be unsuccessful in the long term.

1996-2003

1996 *KPMG Report Recommending No-Fault model*: British Columbia

In about 1995 British Columbia motorists were reporting premiums were too costly. The 1996 *KPMG Report* provided a deep insight into the British Columbia trends of premium cost increases from 1986 to 1996 which mirrored the rising premium trends in other provinces in the same interval.

The *KPMG Report* was blunt in its conclusions and recommendations in condemning the tort component of the traffic accident compensation system. Most revealing in its cost breakdown of ICBC dollars from 1995 data was the breakdown of actual legal costs due to the tort component totalling $223 million in 1995. The ability to identify precise legal costs in a government monopoly system is a clear advantage over private enterprise insurance models.

The *KPMG Report* concluded that only by changing the design of the insurance product could costs in auto insurance be brought under control and that tinkering with or fine-tuning the product would not be sufficient.

The *KPMG Report* also concluded that preserving a right of action in tort eroded the economics of the system and created an intolerable financial burden on policyholders. This was particularly so when measured against the deficiencies in the system such as long delays and certainty about adequacy of compensation and rehabilitation, potential for exaggeration of claims and the high legal investigative costs to establish claims worked against the recovery of the traffic injured.

The *KPMG report* predicted that the era of tort in automobile insurance is nearing its end whereas no-fault models can replace the costly and lengthy tort benefits with well-defined and controlled compensation through a tightly managed administrative process, protection and in shifting the focus to better health outcomes provided it preserves justice, fairness and equity.

These conclusions were compelling because they came from detailed study and analysis by actuaries and accountants who did not have the same type of vested interest in the auto insurance compensation system as other tort service providers. They also bore a strong resemblance to the criticisms levelled in other jurisdictions in other time intervals, such as in reports of *Ernst & Young* in Australia in 1999 and *Marshall* in Ontario in 2017.

1999 New South Wales, Australia

The 1999 motor accident reform in New South Wales was a response to public dissatisfaction with record high premiums. Its model introduced a shift away from money compensation for injuries and to standardized medical treatment. The model included a threshold for nonpecuniary general damages defined as more than 10% permanent impairment based on American Medical Association guidelines. This was intended to target premium cost reductions.

Another transformation in the 1999 reform was to legislate the determination of key issues such as medical impairment, work capacity and economic losses by expert panels rather than litigation. While the model preserved the right to appeal dispute panel decisions to court it intended to deter the frequency of appeals through a cost penalty for unsuccessful

appeals. As was proven in subsequent years, the concession to the adversarial process would eventually prove to have been counterproductive.

Summary of Results

What was clear from the history of all the various jurisdictions examined was that automobile insurance premium levels were increasing continuously at a rate motorists from the mid 1980s to the mid 1990s were reporting as unaffordable and unacceptable, and not only in Canadian provinces but elsewhere. All indications were that the main cause in all jurisdictions was bodily injury loss costs escalating and exceeding high rates of inflation and the Consumer Price Index.

The studies continuously recommended elimination or severe restriction of the tort component, and in Manitoba and Saskatchewan where the recommendations were accepted, public dissatisfaction has been quelled. In jurisdictions where the tort component was maintained, the pricing problems continued and the remedies implemented, if effective at all, were only so in the short term.

The enduring problems for the Ontario government since the 1990 reform have been vividly recounted in the *Marshall report*. In the same interval, the premium instability problems in Alberta and British Columbia, where no auto insurance reform was undertaken, other than increases to accident benefits, continued through the next two decades.

2003 Saskatchewan Introduction of Choice Model

In Saskatchewan a choice model was implemented effective January 2003. The Committee was unable to locate the history behind the decision to transition from the nearly pure no-fault model which had functioned from 1995 to 2003 without apparent reported systemic problems.

It is the Committee's understanding that motorists who have previously elected the no-fault option continue to have the no-fault product as their election, unless they take active steps to opt out of their previously selected option. Since the operation of the choice model from 2003 to the present, there has apparently been very little take up of the tort option by Saskatchewan motorists over the period from 2003-2019 (reportedly currently to be around 0.5%).

The choice model may seem at first blush as a unique and desirable model as it places the decision as to the type of compensation coverage to purchase in the hands of motorists. However, since in the Committee's view the Saskatchewan experience since 2003 has in effect been a de facto nearly pure no-fault model, it does not provide reliable evidence as to whether and how it would perform in a private enterprise insurance delivery system.

Some commentators consider the choice by consumers might be influenced by cost, such that low income and elderly consumers might choose the no-fault option because they are insuring lower than average prospective income losses. The *KPMG report* concluded that on balance this model was not effective in health treatment or cost control.

The AAIB recommended that a choice model be considered after an enhanced benefits model and before a threshold model had been tried out. However, as will be discussed in Section IV (C) of this Report, the choice model was considered and rejected in 2003. In the *Morrow* decision, the then current tort/no-fault system in Alberta was categorized as a threshold no-fault model, which was unsuccessful in controlling escalating bodily injury loss costs in the long term. It would then follow according to the AAIB recommendations, that the next model to be considered would be that of pure no-fault.

The Committee concluded that the Saskatchewan choice model is anomalous in relation to all the other automobile insurance reform experiences in Canadian provinces. That is not of itself sufficient reason to reject it. However, if as the Committee concludes, retaining a tort component cannot be defended on its own merits, then retaining it under a choice model would be equally indefensible.

In addition, the Committee is concerned that the choice models create a significant risk that many motorists, especially young and new drivers, will select the option that costs the least instead of making informed choices at the time of purchasing auto insurance. The Committee is concerned that many motorists under such a model would regret their choice if they were injured in a traffic accident and unable to recover the benefits and compensation that would have been available if they had made the opposite election. In the result, the Committee rejects the choice model because it would perpetuate the same deficiencies currently found in the tort system, with the same adverse consequences to traffic injured and the motoring public.

2003 Introduced caps to non-pecuniary damages for minor injuries: Alberta

In 2000 concerns that mandatory auto premiums were becoming unaffordable or unavailable led the GOA to review auto insurance issues including fairness of risk classifications, claims cost pressures, adequacy of Section B benefits, ability of traffic injured, especially soft tissue injured to access effective treatments and traffic safety initiatives to reduce injuries.

In the initial stage of reform, the proposed cap was to apply to claims for non-pecuniary damages for all except the permanent and catastrophically injured. Through the course of the legislative process, including consultations and responses to public concerns, the scope of traffic injured to be included under the cap was substantially reduced.

A detailed review of the reform process and the subsequent court challenge concluded in 2009 is discussed in the review of the history of Alberta auto insurance reform under Section IV (C) of this Report. In that discussion it will be seen that the reform package did not produce long-term stability in auto insurance premium levels in Alberta.

2003 Investigation of auto insurance reform: Atlantic Canada

The Atlantic Canada Insurance Harmonization Task Force (Task Force) found that the core problem of increases in premiums has been consistently identified as the increase in bodily injury loss costs. The *Task Force Report* proposed that product reforms in those jurisdictions must reduce the tort components as far as possible while maintaining the appropriate balance between the cost of premiums and the necessity of reasonable compensation.

2003 Introduced caps to non-pecuniary damages for minor injuries: Nova Scotia

After complaints from Nova Scotia motorists about increased premiums for mandatory insurance coverage, the Nova Scotia regulator drew conclusions similar to all other auto insurance compensation studies, i.e. that:

a. premium increases are to be expected as long as the existing automobile insurance system remains;
b. the major reason is the increasing cost of claims;
c. the primary cause is claims for compensation for bodily injuries;
d. third party liability claim costs have been increasing much faster than collision and comprehensive claim costs;
e. the increase in the average cost of a bodily injury claim over the last five years had been dramatic; and
f. automobile insurers have been taking drastic rate action to restore profitability.

The Government amended the *Insurance Act* to include a definition of "minor injury", together the term "serious impairment" which by regulation confirmed that non-pecuniary general damages for such minor injuries would be subject to a cap of $2,500 and that certain listed injuries, including chronic pain, would be excluded.

The evidence presented in the *Hartling* decision indicated the initial plan was to cap non-pecuniary general damage claims for all but the severely and permanently injured. However, through a political compromise in the legislative process, the group of traffic injured to be included under the cap was substantially reduced.

2003 Implementation of periodic reforms to the threshold/no-fault model: Ontario

The *Marshall Report* detailed the ongoing reforms undertaken by the Ontario government in 2003, 2006, and 2010 in an effort to control costs which continued to plague the auto insurance system. His conclusion that all the measures taken over that period amounted to only ineffective tinkering of the system serves as a warning to governments that piecemeal changes which do not solve the underlying cost issues will not be effective in the long term.

2013-2017

2013 Auto insurance reform model revealing deterioration: NSW

As noted, the *MAA* found deficiencies as of 2013 in the 1999 model mainly because proof of fault and the dispute processes in the scheme became highly adversarial which resulted in systemic benefit delays and unnecessary costs. This New South Wales experience demonstrates how tort can find opportunities to survive in an insurance model even where the right to sue has been restricted for the benefit of the traffic injured and motorists.

2013-2017 Auto insurance reform model revealing deterioration: Ontario

Marshall documented the Ontario history continuing auto insurance reforms between 2013 and 2015 and then decisively pronounced on their ineffectiveness, explaining that following each of the reform measures, costs and premiums decreased for a short period but then rose sharply to establish new highs. Despite further changes to curb costs, trends indicate claims costs will again rise, and cost of claims has consistently increased even though accident frequency has decreased.

Marshall's criticism of the impact of tort in Ontario was unflinching. First, he described it as confrontational, time consuming, and costly, then identified processes he considered particularly detrimental, such as the cost of legal counsel and experts which ties up negotiating time and the significant leakage in the benefit traffic injured receive by using the court system to secure their deserved compensation since their awards are reduced by the need to pay … large fees to lawyers.

Marshall was also critical of the additional costs to traffic injured by health as well as legal professionals' growing involvement in the no-fault accident benefits side of the system. He said governments intend the no-fault portion of the system to provide most, if not all, essential needs of injured parties through a system that is more efficient, less costly and delivers more of the end benefit to the consumer than the tort system. However where the no-fault portion of the system is outsourced to the private sector, and not structured properly, as he found to be the case in Ontario, this part of the system is beginning mirror the tort system with its inevitable confrontation, costs and delays.

Marshall was clearly concerned that it was the insured motorists who ultimately had to pay the full cost of the combined no-fault and tort systems, whichever way the system is structured. He was also concerned that the Ontario model excludes about 30 per cent of drivers (because they cannot prove the losses were due to a negligent driver) which leaves them with access only to the basic no-fault coverage.

Marshall also identified the solutions for the profound problems he exposed. First, he said where the core entitlement decisions are readily determined by programs of care and neutral independent examiners, there should be little structural need for conventional litigation and a consequent improvement in both health outcomes, and the efficiency and cost of the system.

Marshall then pointed the health outcome benefits shown in Saskatchewan system resulting from the removal of a cash incentive, namely a 28% reduction in whiplash claims and reduction of median time to closure of whiplash claims from 433 days to about 200 days.

Marshall also reported the positive outcomes found within the worker's compensation system which demonstrated that the majority of claimants, once they have recovered from their injury do not need further care or return for additional treatment. Those that do account for a fairly small proportion. He noted that actuaries in those models will quickly adapt to the rate of recurrence and are able to advise management how much capital to set aside for this eventuality. He noted with approval that the Québec auto insurance system follows this process, and their costs are the lowest in Canada.

Finally, the Committee noted that *Marshall* advocated a major cultural shift to promote claims processing on their merits so needed health care is provided through diagnosis and treatment as recommended by independent examiners and recognized that it should keep front of mind *Marshall's* trenchant analysis of the deficiencies in the Ontario system and the solutions he identified.

The thread running through *Marshall's* key findings is that the Ontario accident compensation system became too focussed on cash rather than care resulting in the loss of the goal of delivering benefits to deserving claimants quickly and inexpensively.

Conclusions

1. The historical review and evaluation of numerous commissioned reports over decades and across many Canadian provinces provided compelling evidence that reformed traffic accident compensation models which retain tort features result in continuing premium instability in the medium and long term.

2. It was evident to the Committee that in a reformed auto insurance model tort finds opportunities to grow and thrive. Two recent examples illustrate this phenomenon. The New South Wales model, redesigned in 1999 to minimize tort components fell prey to pricing problems and bodily injury cost increases within 14 years. In short, the tort components found areas for regrowth. The Ontario experience was the same or similar, despite its intent to minimize tort with a high litigation threshold and enhanced accident benefits. Over time, tort components replicated with increasing litigation on the accident benefit side combined with duplication and increased service provider costs generated by legal and some health professionals.

3. More importantly, since the conversion of some systems to full no-fault compensation, emerging scientific data has produced equally compelling evidence that tort models impede health outcomes and recovery of traffic injured.

4. The Committee was satisfied on the evidence of its detailed historical analysis of auto insurance reform experience that preserving any component of tort in a reformed automobile insurance system is inconsistent with the needs of traffic injured. Further, since it adds unnecessary expense to policy holders, it also adversely affects the motorists who pay for automobile insurance.

5. The Committee concluded from its analysis that there should be a transformation from the current model and its primary tort principle of money compensation for non-pecuniary damages to a model based on better, more timely rehabilitation and health outcomes and the replacement of court determination of the measure of traffic accident pecuniary losses through a collaborative administrative panel-based process. The current mode of accident compensation should be reformed to expedite health outcomes and recovery to all traffic injured, including those who cannot prove fault of another driver.

6. The Committee concluded that to attain both optimal health treatment for all of its traffic injured and predictable, stable insurance premiums for road users, the Alberta motoring public would be best served in the medium and long term by the implementation of a pure no-fault system of automobile insurance designed with innovative evidence-informed medical diagnostic and treatment protocols and non-adversarial claims processes and assessments.

C. Chronology of Alberta Auto Insurance Reform

Automobile insurance reform in Alberta has been marked by four significant events:

a. *A study of premium stability in compulsory auto insurance* by the Alberta Automobile Insurance Board (AAIB) in September 1991. The study generated a report which recommended three options for reform but no reform resulted.
b. An increase in the limits to Section B (no-fault) benefits in May 1995 from $5,000 to 10,000.
c. A major legislative reform in 2003 followed by supporting regulations in 2004. The reform included a cap on non-pecuniary damages for defined minor injuries and diagnostic and treatment protocols.
d. A constitutional challenge in 2004 to the reform legislation (*Morrow*) which is significant here for two reasons:
    i. testimony given at the trial by politicians and public servants about the process leading up to the legislation and regulations and by experts in accident compensation law, actuarial science and medicine; and
    ii. the outcome of the challenge which was a decision of the Alberta Court of Appeal in 2009 upholding the legislation.

These events will be considered in turn.

Alberta Automobile Insurance Board, A Study of Premium Stability in Compulsory Insurance (September 12, 1991)

In the late 1980s concerns had been raised by Albertans about the pricing of compulsory automobile insurance.

The Government of Alberta (GOA) wished to investigate whether there were means to establish greater stability of pricing in the short term and long term for the benefit of Alberta motorists.

It was also found desirable to examine:

a. the current cost of compulsory automobile insurance;
b. the merits of the existing tort system for personal injury and property damage by automobile accidents;
c. certain proposals for improvement to the tort system; and
d. the question of whether certain features of no-fault automobile insurance systems may better serve Alberta motorists.

In September 1991 the AAIB reported to the Alberta Minister of Consumer and Corporate Affairs on the following issues:

a. the cost effectiveness of the current automobile insurance system for claims arising out of automobile accidents;
b. the desirability of implementing modest reforms to the current automobile insurance system to enhance its cost effectiveness;

c. the cost savings and effectiveness of a no-fault system for compensation for claims arising out of automobile accidents; and
d. whether there were reasonable grounds to support the proposition that modifications to the current system that enlarge no-fault features would produce greater price stability in the short and long term.

The AAIB commissioned a claims costing study from Mr. Joe Cheng (*Cheng Study* 1990) and an economic analysis of alternate compensation models from Professors Michael Trebilcock and Bruce Chapman (*Trebilcock Report*). (Volume 2 of AAIB Report)

The AAIB examined previous research, including the 1988 *Osborne Report*, held discussions with administrators of alternate insurance systems in other jurisdictions, including SAAQ, the Department of Licensing and Regulation of the Insurance Bureau of Michigan, and the Ontario Insurance Commission.

The AAIB received advice from scholars who had studied auto insurance models in and outside of Canada including Professor Marc Gaudry of the University of Montreal, Professors Claude Fluet and Peter LeFebvre at University of Quebec, and Professor Jean Bigot at the University of Paris.

The AAIB also considered its own information and knowledge of the operating automobile insurance system in Alberta.

The AAIB's findings included the following:

a. after examining the history of automobile insurance premiums and loss costs from 1972 to 1989, it found loss costs had increased dramatically since 1985 mainly due to the increase in bodily injury loss costs;
b. the increases in loss costs, i.e. 12.9% between 1988 and 1990, were more than twice that of the Consumer Price Index, and were caused mainly by the rate of increase of bodily injury loss costs;
c. the third-party liability premium increases in 1989 and 1990 were not yet sufficient to bring premiums into balance with the current expected costs;
d. claimants with minor injuries were overcompensated in the tort side of the system relative to all other traffic injured. Claimants with catastrophic injuries were undercompensated in the tort side relative to all other traffic injuries;
e. at-fault claimants were inadequately compensated for their economic losses relative to tort claimants;
f. there were structural deficiencies in the delivery of benefits in the current system;
g. all payments required under the current system were subject to delays;
h. the then current data proved that there was a pricing problem in the system which would persist in the future without some measures to counteract it; and
i. loss costs would continue to increase because of continuing increases in frequency and severity of claims unless bodily injury costs were curtailed and effective cost saving measures were not undertaken.

The *Trebilcock Report* provided an evaluation of the current and alternate models but noted inherent problems in such an undertaking because of the basic disagreement about what goals the systems are designed to serve and uncertainty in proving how well a current system, or any alternatives, achieve those goals.

Taking into account the economic analysis of alternative models set out in the *Trebilcock Report*, the AAIB examined four alternative compensation models including; (a) a current system with tort reform, (b) tort with enhanced no-fault (the model proposed in the *Osborne Report*), (c) elective no-fault (choice) and (d) pure no-fault.

The AAIB also considered the *Osborne Report*, in particular, the comments at chapter 12.

Osborne concluded that the workable compensation options were pure no-fault, threshold no-fault and an add-on plan with coexisting no-fault benefits and tort system access. He also commented on the awareness and input of the public and interested groups and the cost and impact of shortcomings in the existing system.

As to public consultation, *Osborne* observed:

a. due to the lack of public awareness of the no-fault/tort components of the system, the tort/no-fault debate has not been a large concern to consumers;
b. academic opinion clearly favoured no-fault compensation;
c. although insurers recommended a threshold no-fault model, implicitly, their preference was for a pure no-fault model;
d. lawyers' groups and others urge resistance to anything that will erode the values of individual responsibility, deterrence, fairness, and individualized compensation;
e. both insurers and lawyers' groups have vested interests in the final disposition of what the auto insurance system is to be, which should affect the weight of their insights; and
f. all agreed first party no-fault accident benefits should be increased.

Regarding the existing systems problems, *Osborne* said:

a. most compensation problems including cost, uncertainty, delay and the undercompensated are reflected in criticism of the tort system; and
b. based on history, if premiums are not to be increased, funding for increased first party benefits can only be secured by systematically reducing or eliminating existing non-economic loss compensation rights.

Osborne did not accept that the increase in bodily injury claims costs was a trend that would necessarily press against the limits of affordable, accessible premiums in the future. In this, he would ultimately be proven wrong.

As to the pure no-fault option, *Osborne* made these comments:

a. A pure no-fault system ensures compensation to all injured in traffic accidents on the same basis. The emphasis is on economic loss, although some plans provide modest non-economic compensation (including Québec and New Zealand).
b. From a compensation standpoint, pure no-fault is superior to the tort system.
c. From a rehabilitation perspective, it is in the public interest that all injured be rehabilitated.
d. In a pure no-fault model legal costs will be dramatically reduced because of the elimination of third-party claims.

Osborne rejected pure no-fault on fairness and deterrence grounds, and because it seemed to him that few seemed to want it. (However, earlier in his report he observed that academics and insurers did. Moreover, the preamble to his terms of reference stated that no-fault automobile insurance system was recommended by the Ontario Law Reform

Commission 1973, the 1986 Task Force, and the Select Committee of the Legislature on Company Law.)

As to the threshold no-fault option, *Osborne* observed that it was superior to the tort system but that it would produce smaller savings in legal costs than pure no-fault. He rejected this option as inefficient and arbitrary.

Osborne favoured an add-on plan with substantially expanded no-fault benefits and some tort system access. In his opinion these "could coexist in a soundly structured plan delivered by the auto insurance system at reasonable cost."

Taking all the foregoing into consideration, the AAIB concluded that to deliver all auto insurance models' objectives, no alternative was superior overall. Its own conclusions on the alternative models are as follows:

Pure no-fault

AAIB did not seek cost estimates of a pure no-fault model but was satisfied that cost savings would be higher under a pure no-fault model, similar to that in place in Québec, than would be attainable under any other model. Thus, this model is superior in producing lowest premium costs. Further, a pure no-fault model would provide the highest degree of operational efficiency of all models.

AAIB concluded that pure no-fault and threshold no-fault systems function effectively in practice and noted that administrators in Québec and Michigan respectively reported a high degree of consumer satisfaction, although initially trade-offs were necessary that did not meet with approval of all groups of consumers.

Threshold no-fault

The threshold no-fault model implemented in Ontario resembled the model in place at the time in the state of Michigan. It was expected to eliminate the right to sue for about 88% of traffic injured and contemplated no recovery for moderate claims for non-economic losses or for psychological injuries. Claimants with high incomes would not receive full compensation for income loss, although they might choose to buy additional coverage.

AAIB noted that the cost savings would be higher under the threshold no-fault model and that it had greater potential for premium savings and price stability in the long term than tort and a tort model with modest reform.

The AAIB reported that if Albertans require their automobile insurance compensation system to provide traffic injured restoration as far as possible to preaccident condition, by calculating full tort compensation for pain and suffering and loss of enjoyment of life, then premium levels must be higher than those achieved by pure and threshold no-fault models.

Elective/Choice

The AAIB examined the proposed elective or choice model that was proposed in 1989 to the Ontario Automobile Insurance Board. It noted commentators' concerns that the choice model would be subject to serious adverse selection and that the more drivers choose no-fault; the higher will be the premiums for those who elect tort. As well, those who choose tort will have to sue their own insurers and pay premiums reflecting the cost of those claims.

The effect will be increasing divergence of average premiums between the two options which will cause all drivers to choose no-fault and, in effect, convert the system to a pure no-fault model.

Tort with modest reforms

As compared to the pure no-fault system which ranked first in the attainment of low premium costs and in operational efficiency, the tort model scored last on compensation coverage and operational efficiency, and also scored very poorly on the attainment of low premium costs.

There was overcompensation in cases of minor injuries and undercompensation in cases of catastrophic injuries. Some tort claimants were probably overcompensated for their wage loss as claimants represented by lawyers usually received higher recovery than those that did not. There was an unusually high inflation rate in bodily injury claims and some delays in receipt of compensation on the tort side.

The AAIB concluded that greater cost savings and effectiveness can be achieved by conversion to a primarily no-fault model with the sacrifice of certain tort benefits.

Despite the foregoing, AAIB concluded that there were not irreparable problems with the tort component of the system and that the pricing problem would be adequately met in the short term by implementing Option 1 or Option 2.

The AAIB warned that transformation of an auto insurance system is a significant undertaking and that in the automobile insurance market system changes can cause market dislocation and instability that will affect consumers and suppliers. The overhaul an auto insurance system can be costly and may have to be borne ultimately by consumers.

The AAIB recommended modifying the insurance system to reduce the amount paid to traffic victims. It proposed two modest tort reform options to attain premium stability in the short term, to reduce litigation and curtail the inflationary effect of claims costs over time.

Option 1

The AAIB concluded that greater price stability could be attained in the short term (five years) if modifications were made to the current system to enlarge the no-fault features and non-pecuniary tort benefit for catastrophically injured but to also restrict tort rights to correct overcompensation in some instances and to contain claims costs.

The AAIB suggested that cost savings could be achieved by imposing a deductible of $10,000 for all non-pecuniary damage claims and to implement other tort reforms such as mandatory structured settlements, adjustment of prejudgment interest rates for non-pecuniary general damage claims and elimination of the collateral benefits rule.

Option 2

The AAIB suggested an alternative Option 2 which was implementation of a threshold no-fault system with an enhanced no-fault benefit package. Under this option, the right to sue would be restricted to only the most serious claims and it would have to be considered whether such a threshold system should have a verbal or a monetary limit.

The AAIB noted that the cost savings under this option were lower than Option 1 but the benefits were more in line with those offered to the traffic injured in Ontario and Québec and the needs of Albertans in 1991-2. It expected that Option 2 might solve the problem of premium

stability in the long term. It recommended further study for the solution for premium and stability in the long term.

Because it could not determine if modest tort reform would ensure premium stability in the long term, it recommended the government consider alternative models in the order set out in the *Trebilcock report* until it achieved the combination of compensation features most suitable for Alberta motorists.

Public consultation

The Minister sought public input and received a written submission from the Canadian Bar Association Alberta Section (CBA) disagreeing with the recommendations.

Neither the CBA nor any other organization representing lawyers provided information as to:

a. the amount of fees charged and recovered by lawyers acting for traffic injured in conducting minor, severe and catastrophic personal injury cases;
b. the net amount of settlements or awards that were ultimately remitted to traffic injury clients compared to the amount paid by defendant;
c. the cost of litigation and the time taken to complete a personal injury case in minor, severe and catastrophic personal injury cases;
d. post litigation analysis of disposition of awards recovered; or
e. cost and number of expert witnesses required for injury cases.

Increase in no-fault benefits

In May 1995, the GOA increased Section B benefits from $5,000-$10,000 for medical rehabilitation and made some improvements within Section B to disability payments. (*Automobile Accident Insurance Benefits Regulation*, AR 114/95.) Otherwise no automobile insurance reforms were undertaken from September 1991 until 2003.

The 2003-2004 Reforms

Between 1986 and 2004 automobile insurance premiums in Alberta increased steadily to the point that there were concerns about affordability and accessibility of mandatory coverage. Auto insurers were required to submit applications for premium increases to the AAIB which required, among other things, that they be supported by sound actuarial data and opinions. Several actuaries who later gave evidence in the *Morrow* case came to conclusions about the causes of premium increases. These are outlined below.

Mr. Ted Zubulake's testimony included the following points:

a. bodily injury coverage financial results contributed to the insurer action between 1986 and 2004;
b. the greatest increase in costs through those periods was third-party liability coverage and escalation of bodily injury loss costs driven by minor soft tissue injury claims costs;
c. the average pain and suffering cost for minor injuries in 1990 was almost $3,000 whereas in 2003, the average pain and suffering cost for minor injuries was almost $17,000 in 2005 dollars;
d. this increase in excess of the compounded rate of growth amounted to an excess of 10% per year;

e. thus, minor injury accident related injuries such as soft tissue strains and sprains represented a high proportion of bodily injury liability claims costs;
f. between 2000 and 2003 auto insurance premiums sharply increased and became less available in the regular insurance market, mostly due to escalating bodily injury claims costs, likely driven by minor soft tissue injury claims costs; and
g. at the time the GOA was considering automobile insurance reforms, auto claims costs were increasing primarily due to higher minor soft tissue injury awards.

Dr. Ron Miller gave the following evidence regarding the causes of premium increases:

a. from 1984 to 1999 the average cost of third-party liability bodily injury coverage was increasing at a steep rate compared to the all Canada Consumer Price Index (CPI);
b. in Alberta and Canada, typically inflation inherent in third-party liability bodily injury costs exceeds the CPI inflation. Costs continued to increase because the inflation includes CPI inflation, but there is a load in addition;
c. from 1994 to 1998 claims frequency increased on average by about 2 to 3% per year while claims severity increased by 7.3% per year resulting in an increase in claims cost per auto on average of 9.8 %, while CPI inflation averaged only 1.6% per annum. Those results imposed large stress on the system which was likely the cause of the increase in rates, consumer dissatisfaction and resulting reform measures;
d. from 1999 to 2001 claims cost reduced and then spiked to the highest point in 2004; and
e. in 2000 the loss ratio at 100 and 110 was unprofitable (for insurers), reflective of the increase in bodily injury claims costs not being offset by sufficient premium increases.

Mr. Joe Cheng also testified about the causes of the premium increases:

a. between 1986 and 2002 bodily injury claims were rising faster than the Consumer Price Index by 28%;
b. between 1986 and 2002 bodily injury claims per 1000 vehicles had increased 72%, which is a significant factor contributing to premium increases;
c. compounding the increase in claims by 72% and the inflation over the Consumer Price Index at 28% presents 120% rising faster than the Consumer Price Index;
d. premium increases in 2001 to 2003 were mainly due to higher bodily injury claims costs and the need to redress the accumulated premium deficiency;
e. auto insurance premiums in 2002 and 2003 increased mainly because of the high cost of bodily injury costs which were rising at about 120% more than the Consumer Price Index. In hindsight, if insurers had realized that was occurring at that time consumers would have had to pay 45% more than the Consumer Price Index in that period;
f. the major issue in Alberta was the accumulated premium deficiency in 2001 and the insurers' need to catch up to the proper level. This is why premiums increased while claims may not have done so; and
g. if that trend continued, Albertans would find their own insurance premiums less affordable.

Testimony in *Morrow v. Zhang* – The political process behind the reform and the expert opinions related to it

The political process

Concerned about the continuing deterioration of the auto insurance market, the GOA undertook an investigation into possible reform. This led to Caucus of the GOA approving a policy option to revise the existing tort system with a deductible or cap on pain and suffering awards for minor soft tissue injuries. The reform produced some reductions in premiums.

Regulations that became part of the reform produced diagnostic and treatment protocols for the no-fault benefits provided by the standard auto policy and these have significantly improved the timeliness and effectiveness of treatment and helped Albertans with minor injuries recover.

The chronology of this process is instructive and so is set out in detail below.

In 2002, Alberta Finance (AF) and the Government of Alberta (GOA) became concerned about problems with the auto insurance system, including:

a. affordability;
b. long-term rising claims costs;
c. deteriorating returns and solvency of insurers;
d. unavailability of insurance in the regular market;
e. inadequate Section B benefits; and
f. barriers to effective treatment of minor injuries.

Premium increases, on average, were 11% in 2002 and 13% in 2003. Even larger increases were found for high-risk drivers. The Facility Association, (a non-profit organization whereby high-risk drivers who were refused insurance could access insurance through a pool underwritten by the auto insurers and distributed rateably among them) (FA), reported premiums increased 60% in 2002 and 9% in 2003.

Newly licensed and young drivers were assigned the same driving record as a driver with a claim. Drivers under age 25 were assigned higher premiums.

AF received many letters expressing concerns and commenting about a proposed cap on non-pecuniary claims.

Comparisons with other provinces showed that Alberta has much higher premiums than public systems for inexperienced young drivers and risks such as drivers with lapses in coverage. Rates approaching $7,000 were unaffordable to many drivers.

The Insurance Brokers Association of Alberta estimated the number of uninsured drivers was in the range of 10,000. The Motor Vehicle Accident Claims Fund data showed increases of about 11% in uninsured driving convictions (5300-5900) and 14% in claims from 2000 to 2002.

In 2002 Alberta auto insurers underwriting results, profit and return on equity fell. Thus, less capital was retained causing deterioration of solvency and capital tests. The Cooperators General Insurance Company had ceased writing new business in Alberta.

A reduction in capital translated into declining coverage and accessibility problems for consumers. The Insurance Bureau of Canada (IBC) reported the return on equity for the property casualty industry in Canada in 2002 was the worst on record in the previous 25 years.

Insurers pay a premium tax and also an annual health levy set by the Minister. Before the reforms, insurers could refuse any application for insurance but in such a case a driver was entitled to insurance from FA.

The financial pressures on insurers resulted in stricter underwriting guidelines, coverage being declined for more Albertans and more drivers being unable to obtain insurance other than through the FA. The FA noticed growth in the number of persons insured in 2002 which continued in 2003 (and 2004). Prior to the reforms it was five times higher than in February 2001.

The Superintendent of Insurance, Dennis Gartner, (Gartner) concluded the increases were not explained by a sudden increase in drivers with poor driving records.

FA would attempt to assign drivers without bad driving records the best possible rate. FA rates were very high for many classes but still subject to approval of the AAIB.

Gartner noted in his testimony that the 1991 AAIB report showed that the GOA should consider whether to continually increase premiums or modify the structure of system to control loss costs.

In 1995 damages awarded for most soft tissue injuries ranged from $6,000-$10,000. By 2000 they were at $24,000 and at 2002 they were at $29,000.

AF also identified a problem dating back to the 1991 AAIB report with inadequacy of Section B benefits. There was also difficulty in accessing treatment in part because benefits were being unfairly restricted or treatment terminated by insurers and victims had to pay for a treatment themselves and then wait for later insurer reimbursement. Some traffic injured were also having problems accessing effective treatment.

A report of the AAIB in 2002 noted a 100% increase in injury loss costs over the previous 10 years. It confirmed its earlier conclusion that there was nothing in the system to control bodily injury loss cost increases. It warned that premium increases could result in public backlash. It noted that between 1986 and 2002, bodily injury claims costs per vehicle had tripled while property damage claims grew only 23%.

Gartner noted in his testimony that Professors Neilson and Kleffner from the University of Calgary Haskayne School of Business recommended reduced access to compensation for non-economic losses.

The Office of the Superintendent of Financial Institutions reported that the financial position of the property casualty industry has been deteriorating for several years due to rising claims costs, especially in auto insurance, not matched by increases in premium revenue.

The GOA's investigation of possible auto insurance reform began in April 2003.

In April 2003 the Minister of Finance (MF) asked Robert Renner, MLA (Renner) to assist in developing reforms in response to concerns about rising insurance premiums and prepare options for discussion in July. It was recognized that auto insurance issues would be complex and controversial. There was media attention in Alberta and across Canada.

Although Renner had no insurance expertise and since 1993 no interest in auto insurance other than as a consumer, he had been chosen for his experience in dealing with complex issues and carrying forward government initiatives.

Renner and MLA colleagues had calls from many constituents regarding increased premiums and the problem of affordability of insurance. They heard insurers would move high-risk clients into the FA which resulted in higher premiums and coverage problems with having to hire a lawyer to pursue Section B benefits from their own insurer.

Renner was asked to report to Caucus on options for a 'made in Alberta' solution.

Renner and Gartner had several meetings to discuss options with the MF, the Deputy Minister and other government employees. They also engaged Mr. Jack Donahue, Q.C. (Donahue) to help explore with the Minister a range of options including no-fault insurance, caps on claims, public delivery, increased accident benefits, caps on premiums, or maintaining the status quo.

Gartner had examined portions of a survey indicating 39 out of 1000 agreed that putting a limit on settlements was an issue for Albertans.

Donahue, a practising lawyer in Calgary with 39 years of experience, although none in auto insurance or personal injury law, was engaged because of his long experience in providing policy, strategy and legal advice to government departments on troublesome files that involve policy and strategy. Donahue was to provide an external look at issues, frame the issues and prepare a strategy to address the issues to present to Caucus.

Renner and Gartner discussed with provincial officials the alternate models in different provinces and their experience with claim costs and premium stability. The universal message was that it would be impossible to control insurance costs or premiums unless soft tissue general damages were controlled.

Renner testified that the purpose of the reform was to make the cost of insurance more affordable and to pass the savings onto the consumer.

A strategy group (SG) was formed including the Deputy Minister of Finance, an official with the department and an economics professor to contribute to the work.

Donahue was informed that escalating premiums were troubling Albertans and were an issue in New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Ontario. The perception was that premiums were higher in Alberta than Manitoba and Saskatchewan. He could not recall if the SG had information in May 2003 that insurance premiums for auto policies were lower in no-fault jurisdictions than full tort jurisdictions.

The Deputy Minister gave guidelines to the SG as to what options were to be considered and recommended to Caucus. SG would look at presentations and discuss issues being directed by the Deputy Minister or the Superintendent.

The SG was largely looking to reform to solve the problem of young drivers finding insurance unaffordable and to reduce premiums that were unacceptably high for some drivers without making other drivers pay those costs. In assessing how to do so, the SG considered the models in Saskatchewan, British Columbia, Québec and the existing Alberta model.

Renner and Gartner conducted a cross country tour. They met with the Saskatchewan Minister responsible for insurance and SGI officials. In Manitoba Renner met with MPI and Gregg Hansen, president of Wawanesa Mutual Insurance Company (Hansen). In Toronto Renner met with an MLA responsible for government review. In Nova Scotia he met an insurance advocate appointed by the government. In Ontario he was told that deductibles have not been a solution because after implementation they had to increase the amount shortly thereafter. His impression was that the judiciary reacted to deductibles by increasing the general damage awards.

Manitoba and Saskatchewan advised that their provinces implemented no-fault regimes primarily to solve the cost problem presented by soft tissue injury damage awards. Québec also had a no-fault system. The Maritime provinces were considering alternatives. British Columbia indicated it controlled claims more effectively because ICBC was a sole provider and defended all claims aggressively. None had implemented general damage injury claims caps to that date.

In the cross-country tour to Gartner's recollection no public concerns about traffic injured not getting proper treatments by health professionals were raised.

The SG did not consider a government subsidized insurance scheme due to:

a. the significant costs to establish;
b. the increased economic risk;
c. the possible dislocation of jobs;
d. the fact that GOA was not in the business of being in business;
e. the transition issues to a public sector environment; and
f. Its view that the private sector with appropriate regulations was the more appropriate provider.

The SG identified there was a cost to eliminating the legal rights and creating a no-fault system but it would have the advantage of treating all traffic injured equally.

Despite awareness that it would provide consistent and thus equitable predetermined benefits, would simplify and speed up administration of claims and reduce administration and litigation costs, Renner did not endorse the no-fault model and noted (in Québec) consumers had to purchase insurance from the government for bodily injury claims and property insurance from private insurers.

Despite the advantages of predetermined benefits, ease of administration and reduced litigation and investigative costs, the SG rejected the no-fault model because it would entirely eliminate existing legal rights.

The SG did not consider the no-fault option or perform a formal cost benefit analysis as it felt Albertans would not be comfortable to give up the right to sue a wrongdoer. Donahue could not recall what comparisons were made as to the nature of coverage respecting costs and benefits.

The SG considered and rejected hybrid models which involves a choice between no-fault and tort, or combined the two. Saskatchewan could be considered a hybrid system with a tort option. The SG noted the first offered consumer choice but would be costly to administer or run concurrently and would risk cross subsidization.

Renner rejected the Saskatchewan model, concluding it would be costly to implement a no-fault model and then administer two systems concurrently. It also seemed to require

government intervention to ensure no cross subsidization among policyholders within the different systems.

The second hybrid model would require purchase from two different providers. It was presented as one option but was not preferred. Renner did not recall any formal cost benefit analysis of this model.

Renner favoured reforms that would produce reasonable entry-level premiums incentives for safe drivers, penalties for drivers with accidents and violations and regulation of awards for certain injuries.

The GOA asked the Alberta Civil Trial Lawyers Association (ACTLA) and Insurance Bureau of Canada (IBC) to recommend a joint solution for automobile insurance reforms which the GOA would seriously consider. However, ACTLA and IBC could not agree on several major issues and thus issued separate responses.

The SG prepared a presentation to Caucus including the no-fault option.

With advice of the SG, Renner and the MF returned to Caucus with three options for consideration:

a. a revised tort system with a deductible or cap on pain and suffering awards for minor soft tissue injuries and a benchmark premium for basic coverage varied only for driving record, class of vehicle and geographic territory;
b. a no-fault system that set predetermined limits for benefits for economic losses, limited payments for non-economic losses and prohibited or severely restricted the right to sue an at-fault party. (like Manitoba); and
c. a combined tort and no-fault system which the government regulated or possibly delivered no-fault injury benefits with the right to sue for property damage maintained under a tort system. (like Québec)

On July 7, 2003 Caucus accepted Option (a) and directed formation of an implementation team (team) to develop plans for the policy option. Caucus gave permission to cap non-economic soft tissue injuries although advised Renner was not certain it would be necessary. Renner and Donahue were appointed to co-chair the team.

The GOA never surveyed the public on whether there was support for a cap on general damages or other restrictions on recovery.

Donahue was advised to proceed with an implementation plan and present it in the fall. A team was established on July 11, 2003.

The team consisted of Donahue, Renner, Brian Kapusianyk, Hansen, Nick Geer, Shelley Miller and Alain Thibault. Messrs. Hansen and Thibault were insurance company executives. Mr. Geer was the then CEO of ICBC. Kapusianyk and Miller were lawyers from Calgary and Edmonton respectively.

Gartner's office created the auto insurance reform policy framework terms of reference as it interpreted Caucus' direction.

The team was given a draft auto insurance reform implementation plan dated July 16, 2003 along with briefing and background material pertaining to the Alberta insurance system, the process for rate setting, the FA, the Motor Vehicle Accident Claims Fund, a summary of other Canadian auto insurance systems, complaints received by the GOA, an analysis of media coverage, submissions from ACTLA, and IBC, information about reviews from Nova

Scotia, New Brunswick and Ontario, numerous independent studies and a summary of Alberta whiplash award decisions rendered between 1992 and 2002.

The issues to be addressed were those that related to minor soft tissue injuries and the cause of rising premium costs.

The consistent message was that the problem of long-term insurance premiums would not be solved unless the issue of minor soft tissue injuries was resolved. The team was to examine reforms either by way of a cap or a deductible imposed by regulation.

The team was also given other material Renner and Gartner collected from their cross Canada tour, the 1991 *AAIB report*, and the Supreme Court of Canada Trilogy of cases, to assess the question of whether court awards for minor injuries were equitable considering catastrophic injuries, though indexed for inflation, were capped.

The team also received a memorandum indicating other provinces were proposing to regulate non-pecuniary damages, and a memorandum from Miller comparing the merits of a cap against a deductible considering the experiences in Australia and Ontario, which led to the conclusion that a deductible would not be pursued.

After review of the materials it was clear that reform to all aspects of auto insurance would be required, premiums would have to be balanced against claims costs and reforms would have to consider the long-term viability of the auto insurance industry.

The team began work in August 2003 to identify and cost options for Section B benefit levels and for limitations on pain and suffering awards. It retained KPMG and Mercers to provide actuarial services.

KPMG was retained to advise what average premium would be required in Alberta to align it with other provinces and then calculate the reduction required to achieve the Caucus policy directive. The number was between $200 and $250 million.

KPMG analyzed closed claim surveys in 2001 in Nova Scotia and New Brunswick and concluded claims for minor injuries constituted 78% of the total amounts paid for all bodily injury claims. It applied then existing definitions from the Maritime provinces and Ontario. The team concluded that information would be reliable, very similar to an Alberta study, and so performing an Alberta closed claims study was unnecessary.

KPMG found significant savings could be obtained from caps and deductibles.

Renner knew from the actuarial calculations the amount of savings desired, i.e. between $200 and $250 million, and had a general idea of how to achieve it.

One of the main reasons for the reform was to reduce premiums especially for young drivers, seniors and FA candidates. The team considered whether it would be acceptable to take money saved by capping and use it to reduce premiums for young drivers. Raising premiums for all Albertans would not have been acceptable.

The team considered whether it was reasonable to treat minor injury claimants differently. As a trade-off, it favoured medical benefits to help expedite the recovery and evolved

treatment protocols so they would not have to fight for insurance payments. They had entitlements such as increased Section B benefits that others did not have to enhance their ability to recover and reduce the number of injured overall.

The team consulted with various service providers and interest groups. The potential for a cap was the subject of much public discussion. Gartner considered the main aspect of the debate was the insurance industry demanding a cap and trial lawyers rejecting any cap being imposed.

The team vigorously debated the issues. Not all agreed on the contents of the reforms or the policy direction of Caucus, but concluded a cap was the more appropriate option.

Donahue thought the $4,000 cap figure was a starting point provided by AF. He could not recall if the team had any input into that starting point or whether it was appropriate but said it did turn out to be the endpoint.

In 2002 AF had prepared draft legislation which included several of the reforms suggested in the 1991 *AAIB report*. The draft became known as *Bill 33*, although it was not proceeded with.

The team was directed to cost various items of the *Bill 33* reforms but not to present a formula and create a cap. It was asked to determine the amount that would be saved by imposing a $4,000 cap and how much would be saved by imposing the *Bill 33* tort reforms.

KPMG was asked to estimate the net savings with the cap of $4000 for minor personal injuries, increased accident benefits from $10,000 to $50,000 and implementation of the *Bill 33* tort reforms.

KPMG applied definitions from the Maritime provinces and Ontario which were not ultimately the definition used in Alberta.

Gartner said the lion's share of the savings was intended to be generated by the cap.

Approximately 10,000 claims would fall below the cap. Those 10,000 would generate roughly $200,000,000 in savings. This process would produce an average of $20,000 for each minor injury victim. On average 50% of Albertans would save an average of $150 on their auto premium. Capping minor injuries would treat those 10,000 Albertans differently but also by enlargement of the Section B benefits had made those benefits more accessible to those Albertans.

On August 13, 2003 a memo to the Agendas and Priorities Committee (APC) said that general damage awards for less serious injuries would likely need to be regulated. No mention of soft tissue injuries was made. The team proposed to define "major injuries" by specifically listing certain injuries as "major". Any injuries not included in that list would be designated as "minor injuries" and would be subject to the legislative cap.

Dr. Larry Ohlhauser (*Ohlhauser*) helped create a list of major injuries.

SPC disagreed with the August 13, 2003 approach to APC and directed a specific definition of what was a minor injury. SPC wanted more dollars involved in the decision and information as to who would be affected. The SPC sought to secure cost savings from other than major injuries and did not want the cap to unintentionally affect certain injured persons.

In September 2003 Ohlhauser was asked to find certain medical terms to develop regulations dealing with motor accident soft tissue injuries. He advised that most (80% to 90%) minor injuries such as strains and sprains, if properly treated, would heal in three months.

Ohlhauser reported that the assessment and diagnosis of treatment of some minor injuries have been inconsistent and there was no effective patient-focussed process for reassessing injuries for those who did not recover in the expected timeframe. He suggested that guidelines for consistent diagnoses and treatment of these injuries would help improve injured persons' recovery.

Ohlhauser was retained to assist to develop a process to help Alberta traffic injured to recover more quickly and effectively. However, *Ohlhauser's* work surrounding the treatment for different category of injuries was contentious among the health professionals.

After consultation with victims, lawyers and other stakeholders, the team developed proposals to present to SPC on October 15, 2003.

Renner recalled one of the difficulties with soft tissue injuries was determining when they had resolved and a discussion as to whether minor injury should be determined according to the time it takes to heal. That is why they designed treatment and diagnostic protocols.

Ohlhauser's proposal had a significant impact on the policy.

On October 15, 2003 the Minister's Report to SPC referenced a cap on claims. The intention was to cap less serious injuries.

Renner presented reforms designed to reduce premiums and increase accident benefits funded by the savings from the proposed cap and the *Bill 33* tort reforms. Renner also proposed guidelines for health practitioners in assessing injuries and treatment protocols that would not require prior approval of the insurer.

To that point Renner had proposed listing designated injuries so that anything not designated would be a minor injury.

Ohlhauser provided input to Renner's presentation to SPC on October 15, 2003.

At the SPC meeting, discussion with 25 to 30 Legislative members as to what should comprise minor injuries resulted in a consensus that they should consist of sprains and strains.

SPC did not agree to implement the proposed plan. It wanted a clear definition of minor injury. It wanted to address a process for defining minor strains and sprains, options to answer concerns about territory risk rating, a communication plan to the public and stakeholders for feedback and determining optional insurance to cover lower awards for minor injuries.

SPC asked Renner to specifically define what injuries would be considered minor and subject to the cap.

Ohlhauser was asked to organize a group of healthcare professionals to develop guidelines for diagnosing and treating minor injuries. Gartner was asked to look at other initiatives to reduce the incidence of injuries, particularly in relation to traffic safety.

The initial proposed minor injury definition was a sprain, strain or flexion extension injury to the spine that resulted in a functional limitation of not more than 18 months.

Ohlhauser's working group did not support the 18 month limitation on the proposed minor injury definition. He recommended WAD I, II, and III (whiplash associated disorder) be included in the definition.

At meetings on October 15 and 27th 2003, participants agreed that a minor injury should be something the average person would understand as a minor injury but with the legal definition.

On October 27, 2003 Ohlauser attended a further meeting with SPC.

SPC decided as follows:

a. the priority was to take care of traffic injured as the primary goal irrespective of any changes made to save money on the premium side;
b. Renner was directed to prepare a definition of minor injuries;
c. there should be recommended a process to define what would be minor injuries;
d. a protocol should not be developed until minor strains and sprains were defined; and
e. The Minister was to establish a process to define minor strains and sprains, address concerns regarding territory risk rating, establish communication process and determine if optional insurance could be provided to cover low awards for minor injuries.

The team began to look at the soft tissue injury definition but then a scare campaign was initiated that the GOA was going to cap all claims in the province. It then had to define for Caucus what was its original intent.

Donahue was not sure how it was arrived at but a draft definition was drawn based on something taken from the first SPC meeting, along with the definition of major serious injuries, because Caucus was responding to media reports that caps were to be applied to permanent injuries.

The definition became very important to SPC and evolved several times due, in large measure, to feedback from SPC, stakeholders, insurers, legal industries, consumers and victim groups.

SPC directed the team to stop advising what was not included in the definition but to include what was.

On October 30, 2003 Cabinet approved regulations to freeze premiums retroactively in order to stabilize premiums until the implementation plan was completed.

There was still a huge media campaign about minor injuries and increasing premium costs. Insurers were still applying to the AAIB for premium increases.

Gartner asked the AIRB to analyze the financial effect of the premium freeze.

The rate freeze took more funds out of the premium side and impacted some of the numbers examined but not the recommendations. Some of the recommendations were not contentious and were implemented sooner which resulted in some additional savings but mainly the insurers were required to absorb the cost of the freeze and were unhappy about it.

The AIRB responded that the effect of the rate freeze was to produce $25 million in premium reductions for the last two months of 2003 and $100 million for 2004. As a result of the rate freeze, Gartner said he had to come up with at least $125 million worth of savings to offset

the cost of the freeze. It was harder to show at the end of the process what all of the savings would be.

The GOA discussed how to compensate insurers for the loss of revenues resulting from the freeze. The freeze was a short-term item funded in part by the early proclamation of *Bill 53* with collateral benefits and tax rules plus freezing of the health levy which paid for it in part.

The net cost after mitigating measures would be funded by the insurance industry. The intent, after the mitigating factors were applied, was to leave to the industry to finance the rest of the freeze. It was not a consideration that insurers impacted by the freeze order would recoup their losses through the cap.

The Cabinet briefing on November 3, 2003 indicated that minor strains and sprains that heal quickly will be the only injury subject to the cap and the definition will be developed in consultation with organizations representing injured persons, consumers, insurers, lawyers and healthcare professionals. Cabinet directed outstanding issues return to SPC for final recommendations to Cabinet.

The actuaries could not confirm the purported savings of each of the latter proposals.

On November 3, 2003 SPC decided to include under the cap minor sprains and strains that heal relatively quickly. Reference to serious injury not expected to improve and the term "permanent" was specifically excluded.

SPC did not want to prohibit a *bona fide* case of an apparent minor injury that did not recover as expected from clearing the cap. It did not want the definition to include a time period for complete recovery. SPC realized there would be grey areas and wanted to leave it to the courts to determine what were 'normal activities'. A broken bone healing within a year would not be subject to the cap. A WAD injury with symptoms after 18 months would not be within the cap and would depend on court interpretation.

The team continued to meet with stakeholders.

The ultimate definition was continually restricted by Caucus and so the cost saving was continually reducing. The cost saving reductions reduced the number of persons affected by the cap because the object was if an Albertan had a minor accident the impact should be as minor as possible.

Gartner requested Ohlhauser provide advice as to the definition of "minor injury" and to develop protocols and guidelines for diagnosis and treatment to improve their prognosis.

Ohlhauser met with the team on November 7, 2003 and discussed the definition of minor injury.

Ohlhauser conducted a literature review, engaged professionals and representatives of healthcare groups, proposed a model for consideration and enlisted a core working group to provide input as to the diagnosis and treatment of all soft tissue injuries. He interviewed clinicians experienced in treating soft tissue injuries and interviewed others. He prepared a presentation for meetings with consumer and injury groups including insurance and legal.

After receiving feedback from IBC and WCB Ohlhauser determined that an evidence-based approach to diagnosing and treating whiplash injuries was consistently advocated. There was a wide variation in recovery times for WAD injuries in different circumstances and countries.

It was important to identify those less likely to recover quickly and uneventfully by referring to certain alerting factors. Once identified, those persons would more likely require multidisciplinary assessment and treatment by an inter-disciplinary rehabilitation team.

The object was to reduce the numbers of persons complaining of chronic whiplash symptoms. Improved recovery time could occur if care was managed properly which included making an accurate diagnosis, an appropriate injury treatment plan and identifying early the poor prognostic factors.

Around November 17 2003 a Ministerial Report referenced the definition with functional limitations lasting no more than 18 months. Renner, although involved in discussions, did not draft the report but agreed that a time element was part of the consideration at that time.

On November 17, 2003 the SPC considered a more specific definition for minor injury sprains and strains. Ohlhauser discussed the definition, said it was a work in progress and the development of diagnostic criteria would be finalized later.

The SPC accepted the suggested reforms and approved the recommendations for a more specific definition of minor injuries that became restricted to strains, sprains and flexion extension injuries to the spine.

The SPC accepted a revised report on November 17, 2003.

On November 18, 2003 Cabinet agreed to implement the auto insurance policy framework except optional insurance for pain and suffering coverage.

On November 19, 2003 a press release indicated the minor injury compensation limit of $4,000 would be restricted to minor strains and sprains and the reform package would save $250 million.

On November 24, 2003 *Bill 53* was introduced to the Legislature.

On November 27, 2003 Hansen resigned from the team stating he did not want his name to be associated with *Bill 53*. Many insurer executives expressed displeasure with the reforms.

On November 27, 2003 Ohlhauser met with Dr. Ferrari and reviewed other compilations including the *Québec Task Force Report* which had a useful classification system for grading whiplash associated disorders and enhancing communication between practitioners and insurance regarding the patient condition.

On November 28, 2003, Gartner, the Deputy Minister and Donahue met with insurance industry members.

The team was the disbanded in November 2003 and a new transition team was established.

Bill 53 was passed on December 3, and received Royal assent on December 4, 2003. (the *Insurance Amendment Act, No. 2.* S.A. 2003, c.40.)

On December 11, 2003 Gartner met with insurer chief executive officers to discuss their concerns with the benchmark premium system. They proposed an alternative to the benchmark system which was approved by the transition team and SPC.

The team continued to meet with stakeholders and discuss reforms and development of the definition which contained an 18 month time limit for recovery of sprain, strain and flexion and extension spine injuries.

Health professional groups Ohlhauser consulted said an 18 month time limit was not supported from a medical standpoint and the type of injuries contemplated by the cap would usually resolve far sooner. They wanted a diagnostic approach rather than an approach based on artificial time barriers.

The transition team concluded the result would undermine the goal of early and effective recovery through protocols and preapproval of Section B benefits.

Ohlhauser met with the core working group which originally included members of the Colleges of Physicians and Surgeons, Physical Therapists, and Chiropractors of Alberta, the Alberta Association of Occupational Therapists, Alberta Medical Association, Massage Therapists and Psychologists Associations. Their object was to understand the context of developing the "minor injury" definition, agree to a process to develop diagnostic criteria and treatment protocols, finalize the definition of minor injury and improve the Section B benefit processes.

On December 15, 2003 *Ohlhauser* advised that the 18 month timeframe was not consistent with the natural healing process or medically supportable and the subject injuries generally resolved prior to that time period. He recommended removal of the temporal limit and replacement with a reference to functional limitation.

Ohlhauser said the priority of healthcare providers should be to focus on assisting quick and effective recovery and any dispute resolution process dealing with entitlement to damages should be set out in a separate regulation to involve practitioners other than those providing the care to the injured person.

On December 15, 2003 the proposed definition of minor injury was examined in a meeting with the transition team. The definition was discussed between January, February and March 2004. Sprains, strains and WADS were singled out because KPMG warned that if they were not dealt with, premiums would not be stabilized.

Originally "minor injury" included contusions, minor concussions and fractures but those were eliminated after meetings with full Caucus. The SPC continued to limit the definition further than those in New Brunswick and Nova Scotia. When Caucus was informed the savings would not result, Caucus moved the focus from savings to the proper definition to reduce the impact as far as possible and not relate it back to savings.

On December 17, 2003 Gartner advised all licensed insurers in Alberta of a new Fair Practices Regulation put in place to prevent unfair market practices such as the requirement of a lawyer to notify an insurer of a retainer in respect of a claimant and the requirement of the insurer to disclose to the lawyer the policy limits of the insured's policy.

The transition team of Renner, Donahue, Kapasianyk, Gartner and AF and Department of Justice officials continued to develop the *Premium Regulation and Minor Injury and Treatment Protocols Regulations* and to implement the reform plan and oversee the transition up to June 2004.

Ohlhauser met with the core working group, and received feedback and responses from stakeholders to a draft of the continuing

care model. He met with representatives of Peace Hills Insurance Company which suggested the injured person have access to physicians for diagnosis within 2 to 3 days of the loss, treatment to be in accordance with internationally accepted practices and over treatment by clinics must be avoided. He provided the traffic injury recovery chart which identified three levels of claimants grouped according to recovery time.

On February 18, 2004 *Ohlhauser* presented to the transition team the most recent version of the injury management system he developed and a process for development of the diagnostic and treatment protocols.

After drafting the *Minor Injury Regulation* (*MIR*), relying on advice from Ohlhauser, the transition team sought comments from the insurance industry and ACTLA. The team consulted with interest groups, disseminated regulations to various organizations and received numerous responses. The insurance industry objected to various aspects of the reform.

On March 3, 2004 Ohlhauser met with his core working group which agreed in principle with the process for diagnosing of injuries in categories of WAD injuries. They and other consulted experts supported the notion of early access to practitioners to receive an appropriate diagnosis and effective treatment and advocated early recognition of individuals who had alerting prognostic factors that would likely give rise to chronic problems.

Since Ohlhauser knew some practitioners may not have the interest or skills to effectively manage the injured person, he introduced the concept of an injury management consultant to provide early consultation where diagnosis was in question or the person was not progressing as expected. He concluded if those persons could be early identified, they could be moved out of the protocols into a multidisciplinary assessment process using the biopsychosocial model to address factors.

In April 2004 Ohlhauser provided a draft of the minor injury regulation for comment. He received feedback from IBC, CBA and ACTLA.

On April 20, 2004 Renner presented to the SPC an explanation of the draft minor injury regulation, diagnostic and treatment protocols (DTPR), accident benefits and insurance grid regulation. Ohlhauser presented the injury management system.

Ohlhauser advised the SPC of the steps to be taken if the patient has not fully recovered by 12 weeks. The injury management consultant could provide early consultation before that and after assessment recommend multidisciplinary assessment or interdisciplinary rehabilitation.

The target outcome for sprain, strain and WAD I and II injuries was expected to be 90% by 12 weeks, if properly managed treatment and care following the DTPR. Potential barriers would include the patient not participating in the recovery, the practitioner not following protocols, and lack of further support by insurers in a timely manner for the multidisciplinary assessments in rehabilitation when requested by the practitioner.

The SPC approved the Grid regulation on April 28, 2004.

At a meeting on May 4, 2004 the remaining regulations were deferred. Between this date and the next meeting certain service providers wrote to object to the proposed regulations.

On May 27, 2004 the SPC agreed to recommend Cabinet approve the following four regulations:

a. *Minor Injury Regulation*;
b. *Diagnostic and Treatment Protocols Regulation*;
c. *Accident Insurance Benefits Regulation*; and
d. *Insurance Grid Regulation*;

subject to some wording variation to allow public insurers into the marketplace, to establish a review committee to monitor the implementation of regulations and to include traffic enforcement and safety initiatives as part of the package.

Renner said the original purpose of the reform package was to benefit individual Albertans who were paying too much for their premiums and not being treated properly for their injuries. He left the file in May 2004.

On June 21, 2004 Cabinet approved the regulations which became effective October 1, 2004.

During 2004, AF prepared to implement the reforms and an interpretive guide for calculation of the grid premium. Two insurers were asked to assist in drafting the premium regulation which turned out to be a controversial process.

After the regulations were passed on June 21, 2004, Ohlhauser worked with staff of AF to address implementation issues as to the time to educate practitioners, develop and distribute interpretive materials and prescribe forms and develop qualification standards for injury management consultants and certified examiners in clarifying final procedures.

The *Diagnostic and Treatment Protocols Regulation* stipulated that it would be reviewed at least every two years. Three working committees met regularly from October 2004 to April 18, 2006. *Ohlhauser* was the main architect of the protocols that finally appeared in the regulations.

After claimants have exhausted the initial set of treatments, they are entitled to continue to receive medical benefits under Section B unless the insurer asks for an independent medical assessment and that assessment determines the treatments are no longer required. The initial set of treatments are paid directly by the insurer with no requirement of insurer approval.

The Alberta Insurance Rate Board (AIRB) (successor to AAIB), sets the Grid premium on an annual basis which operates as a maximum to be charged for insurance in a particular category.

Population of FA fell and AF expected FA's market share to continue to decline. Convictions for uninsured driving had grown by 18% from 2000 to 2003 but had fallen by 10% from 2003-2005.

There have been no Alberta closed claims studies between that in 1991 and report of Ms. Barb Addie in 2006.

The elements of the reforms were balanced as to cost and policy. The policy balance was conducted at the level of the transition team and, ultimately, the elected officials.

The government considered but did not proceed with the DTPR for injuries other than those covered by current reforms.

During the development of the minor injury definition and protocols there were consultations from certain insurers, IBC and ACTLA for feedback. Gartner admitted that the insurance industry, the trial lawyers, IBC and the brokers considered the consultation was

inadequate. At the date of his testimony he concluded there was much consultation, his view was the consultation was adequate and more would not have resulted in consensus.

The GOA imposed an “all comers rule” which, except for a small portion of the market, requires all insurers to sell market insurance to any applicant.

The effect of the Grid regulation and the “all comers rule” is that all drivers are entitled to a capped rate which is either the insurer’s rate or the Grid rate set by the premium regulation. If the insurer does not want to provide insurance to an applicant, it refers the applicant to the risk sharing pool which was operated by the FA. The small portion of the market which is the exception is referred to as the “residual market” which is clearly defined in the regulations and provides that drivers with convictions or at-fault accidents pay the higher Grid rate. The FA continued to pay claims beyond 2004.

A review of the protocols was completed by October 2006 and provided to the Minister. At the trial date the GOA had no information as to whether there had been an improved cure period for minor injury victims from the reforms.

Since the cap was implemented, the health levy had gone up, premiums have gone down and no other funds have been injected into the system to fund increases in the health levy other than premiums.

GOA had not performed any calculations as to the amount of savings attributable to the application of the cap from April 1, 2005 to March 31, 2006.

Since implementation of the reforms, Albertans have seen reduction of premiums through the effect of the premium freeze, mandated reductions and the impact of the Grid system.

The insurance rate deductions decreased compulsory auto insurance premiums by 15%. AF had received few complaints from customers about unaffordable premiums, inaccessible coverage and unfair treatment by insurers.

AF was never able to determine whether auto insurers have been profitable as a result of their Alberta operations. No actuaries analyzed whether the protocol treatments added any costs to the system.

The GOA never performed an analysis as to the cost of benefits added back into the system for minor injury claims or the extent to which enlargement of Section B benefits would benefit the minor injury victims who would heal within 10 weeks of their accidents.

Testimony of Medical Experts

The medical experts identified a number of ways that the existing tort system fails to promote healthy outcomes for the traffic injured:

a. adversarial dealings with insurers could aggravate stress and trigger unwanted negative psychological reaction;
b. patients would benefit from removal of that adversarial relationship for a period of time;
c. traditional compensation procedures are prolonged and highly frustrating for victims and do not promote good early treatment but often delay specialist care;
d. innocent victims considered the compensation system did not seem sympathetic. They found it unpleasant to go through a court experience. Their encounters with the legal system did not give them the apologies, concern or sympathy they felt entitled to;
e. their frustration related to the slow and arduous process, conducted in a way that conveyed no sympathy, even if liability was

admitted. They were frustrated with the long time it took to settle and settlement was generally seen as a relief;

f. it was not the money that it was important because it did not get them back to their pre-accident state but concerns were pecuniary losses which caused the difficulties and delays in obtaining recompense for them;

g. traffic injured want to get back to normal and are upset by obstructions and delays. It is the injury and disability that caused the distress, often exacerbated by legal procedures;

h. outcomes for chronic whiplash patients may be adversely affected by getting involved in the legal process;

i. likely the entire litigation process, often drawn out for years, may be an adverse factor and removing an interest or a convenience for pursuing of litigation process may actually reduce (numbers of) chronic care patient;

j. a change in the compensation system that makes compensation an automatically brief process would be helpful;

k. traffic injured are blameless in respect of the conscious choices they make following a collision in ways that lawyers, therapists the media, and others encourage illness behaviour that is, at best, maladaptive and at worst, grief driven;

l. studies showed that being in litigation can affect a person's health; and

m. many subjects said money was not the most important issue but rather they wish those responsible showed awareness of their suffering.

The medical evidence emphasized the importance of early treatment under well-designed protocols to optimize recovery from whiplash injuries:

a. the type and intensity of clinical care initiated in the first month after the injury is associated with the rate of recovery from whiplash injuries;

b. whiplash patients are one of the highest users of the healthcare system and such open ended and infinite possibilities feed the current state of excess expenditure;

c. these injuries were very expensive and warranted research and investigation into the protocols;

d. evidence supported early immobilization, early return to normal activity, early exercise and multi model treatment for acute whiplash. Data also showed multidisciplinary biopsychosocial rehabilitation with a functional restoration approach improves pain and function;

e. well-designed early interventions to provide information and psychologically and behaviourally informed advice can be valuable in improving satisfaction and outcomes; and

f. routine clinical care of WAD disorders is generally in line with the recommendations of the Québec Task Force.

Evidence on Comparative Accident Compensation Models

Dr. Michael Trebilcock (*Trebilcock*) was qualified as an expert on and gave evidence about current comparative Canadian/American accident compensation law.

Trebilcock explained there are three theoretical classes of substantive values in discussing tort law and its alternatives, namely, individual responsibility, distributive justice, and affordability. He defined these values in the following terms:

a. Individual responsibility stresses deterrence and corrective justice and evaluates reforms in terms of whether it provides incentives to reduce accident injury. It also emphasizes imposing responsibility on drivers' morally culpable behaviour for violating individual autonomy and to restore the injured person as far as possible to pre-injury condition.
b. The distributive justice perspective views accidents as an inevitable by-product of urban society and does not expect tort economic incentives to impact accident causing behaviour or expect corrective justice components will affect behaviour because of the very existence of automobile insurance. This perspective argues that accident costs should be broadly spread to a general class of activities and horizontal equity requires that all persons similarly financially impacted should be similarly treated.
c. This means that alternatives to tort should be evaluated against the capacity to spread risks and provide meaningful compensation or low-cost insurance expeditiously to traffic injured to minimize the financial impact on their lives and to facilitate rapid and effective rehabilitation.
d. In tort compensation models, first and third-party automobile accident insurance is compulsory up to some minimum coverage floor and insurance costs are an unavoidable cost of driving. Cost will be of significant social importance given its potential regressive impact on low income drivers and its impact on physical mobility which is important in economic and social relationships. For those to place a high value on this objective, auto compensation models that minimize private and social transaction costs, and as a result the premium costs, are most attractive.
e. Auto insurance compensation systems must balance these three classes of values which means trade-offs are necessary.

Trebilcock outlined the comparative compensation systems with these comments:

a. In the United States nearly half of the states adopted compulsory no-fault models while the others retained a traditional third-party tort model. For those that adopted compulsory no-fault models, most were threshold systems that precluded a tort suits below a defined threshold, either monetary or verbal.
b. Those threshold models which are verbal relate to the severity of the injury. These models are vulnerable to medical expense padding to surmount the threshold and the effects of inflation. Some no-fault models have add-on regimes that provide first party no-fault benefits in addition to tort entitlements. The no-fault benefits vary widely between the various threshold and add-on regimes. In all U.S. threshold models claims for non-pecuniary damages below the verbal or monetary threshold are prohibited. This pattern is replicated in Canada.
c. Alternatives to the traditional tort model in automobile insurance context entail either a supplement or a replacement of tort. Elective choices schemes are more complex and adopted only in a small number of jurisdictions. Each option has many variations in theory and practice.
d. As to the trade-offs necessary to balance the three classes of values, the need to contain administrative costs and premium increases to acceptable bounds may elevate affordability to a higher priority over the abstract notions of distribution of justice or deterrence.

As to the achievement of the goal of individual responsibility/deterrence *Trebilcock* noted that:

a. Early studies of the Québec pure no-fault system indicated an increase in accidents which was attributed to the flat rate premium structure initially adopted which permitted certain high-risk drivers previously priced off the highway to continue to drive. Thus on this evidence, the tort model would achieve the deterrence goal better than a pure no-fault model.
b. The goal of corrective justice is well achieved under tort in that most auto victims with valid claims actually bring claims and achieve compensation, however, it did not well serve the other feature of corrective justice goal because there was overcompensation of many small claims and undercompensation of many large claims. Threshold, add-on and elective models insulate negligent drivers from costly consequences of their actions.

As the achievement of the goal of distributive justice, *Trebilcock* referred to a number of sources showing that the traditional tort model overcompensated for pain and suffering from minor injuries:

a. Many American and Canadian studies demonstrated that the tort system did not perform well in achieving the goal of distributive justice. In particular Canadian and American studies in the 1960s found that fewer than half of traffic injured received any compensation from tort. Recent U.S. evidence showed that between 1/3 and 1/2 of claimants would receive nothing under tort because there was no negligent driver or their own negligence barred recovery.
b. The *Osborne Report* showed that most paid claims were for minor injuries and 46% of all liability claim payments were for non-pecuniary damages, a pattern confirmed by U.S. data.
c. A 1991 *Rand study* reported that under traditional tort, traffic injured with economic losses less than $5,000 received compensation from all sources that averaged 2 to 3 times their economic losses while injured persons with much higher economic losses such as $10,000-$25,000 received compensation equal to just half of their economic losses.
d. The same pattern appeared from a 2001 study which found that 61% of claimants claim for only soft tissue strains and sprains and receive 39% of the total settlement amounts and 61% of total settlement amounts were for pain and suffering.
e. A 2005 *Newfoundland Public Utility Board (NFLD PUB) study* found that of total claim payments, 60.4% were for pain and suffering and 74% had at least one injury described as a sprain or strain of the neck, back or other area or a knee or shoulder injury and these claimants received 56% of total settlements. The NFLD PUB concluded that while most options did not lower insurance premiums, a higher deductible limit resulted in the greatest estimated savings for consumers.
f. A Nova Scotia closed claim study of 2002 found that 67% of total settlement amounts were for pain and suffering and 70% of claimants claimed only for soft tissue strains and sprains of the neck, back or other body parts and received 56% of total settlement amounts.
g. An American authority stated that automobile claims mostly constitute claims for soft tissue injury such as sprains and whiplash. These injuries are the most difficult to diagnose and at the same time there has been a drop in objectively diagnosable hard injuries such as broken bones. In tort, claimants seek to maximize their litigation recovery and the magnetic pull of potential tort awards is seen in the ratio of soft tissue injuries to hard

injuries in states with tort systems. California traffic showed about 250 soft tissue injuries for every 100 hard injuries. In Michigan the ratio is 70 to 100 because claimants have less incentive to run up medical bills.

With respect to affordability, *Trebilcock* said pure no-fault schemes entail the most modest premium level increases. Add-on schemes are quite costly. Threshold schemes moderate premium increases. Other no-fault schemes reflect lower administrative costs compared to tort states. Where the tort system plays a large role, administrative costs are highest because it is an adversarial system with lawyers, claims adjusters, courts and experts.

Trebilcock explained that much auto insurance/ tort reform is driven by public concern over escalating auto insurance premiums. No one scheme achieves all three goals better than other models and thus trade-offs are required across all three values. He elaborated with the following points:

a. Almost all models that have adopted some form of no-fault compensation reveal that the more generous the no-fault benefits regarding medical and rehabilitation costs and economic losses, the tighter are the constraints on recovery of non-pecuniary loss, including absolute prohibitions. *Trebilcock* explained that this is most evidenced in worker's compensation schemes and auto insurance no-fault systems.
b. *Trebilcock* then gave explanations for the need for a trade-off. One reason is the need to contain administrative costs and premium increases to acceptable bounds. Another is conventional wisdom that consumers display a lower willingness to pay for non-pecuniary damages mainly because money is less likely to replace non-pecuniary losses.
c. This trade-off is often found in no-fault jurisdictions, whether workplace or auto accidents. He noted even under tort models in Canada, caps on non-pecuniary general damages were established by the Trilogy in 1978 to the limit of $100,000 Canadian indexed to the Consumer Price Index. In this respect the Supreme Court of Canada adopted a distributive justice perspective stating that there must be some limit on non-pecuniary damages.
d. Non-pecuniary losses cannot be made good with money and money is not a good substitute for the loss. Hence, few parents buy insurance against the loss of their child's life because even a large sum of money would not bring the child back. That is why when consumers have a choice, they do not purchase insurance for the kinds of losses that money cannot make good.
e. To keep insurance coverage reasonably affordable it must be recognized that citizens will not pay as much for insurance to cover non-pecuniary losses as they will for pecuniary losses.
f. There is a long-standing view among policymakers, including judges and academic commentators, that non-pecuniary damages are not the same as pecuniary losses.
g. Another more pragmatic explanation is that non-pecuniary losses are by definition extremely difficult to verify and quantify. It is difficult for any external body, including a court, to verify that a person's feelings of stress, discomfort or depression exist at all, and when it does, what is the proper monetary amount for compensation? Pain and suffering may be a real loss but the issue is what money can do about it.

h. The problem of verifying its existence and its qualification introduces significant transaction costs into the tort insurance regime which translates into higher premiums and issues of affordability.
i. The transaction costs of establishing whether an injured person is off work and what are his income losses are trivial. But if the person claims headaches, depression or travelling anxiety, it is disproportionately costly to the calculation of losses to ascertain the truth of such complaints and what amount of compensation should be put upon it.
j. This problem introduces disproportionate transaction costs in a compensation system. These disproportionate transaction costs arise through the process of verifying and quantifying non-pecuniary losses relative to pecuniary losses which include the costs of lawyers, medical experts, claims adjusters, and running a court system, which are higher than the cost of evaluating pecuniary losses.
k. Most compulsory no-fault models have adopted a threshold system which precludes tort suits below defined thresholds. Thresholds vary dramatically with some monetary, relating to the level of medical expenditures typically in the range of $1,000 to $5,000 and others verbal, and relating to the severity of the injury. Monetary thresholds are vulnerable to medical expense padding to surmount the threshold and effects of inflation. As well, normal effects of inflation mean that more claims surpass the threshold even without padding.
l. Most worker's compensation schemes provide no, or very limited, benefits for non-pecuniary losses. Automobile no-fault systems reflect the same thinking which is that distributive justice ensures that all traffic injured, whether negligent or otherwise, have their pecuniary losses generously covered and, in order to make such a system affordable, requires a trade-off on the non-pecuniary loss component.

Trebilcock added these conclusions:

a. On the distributive justice issue studies show that paid claims perform better under no-fault and under tort a high fraction of claims relate to low levels of economic losses often less than $5000. Under tort minor claims are over-compensated and severe claims are under-compensated. 50 to 60% of total premium dollars go to non-pecuniary losses. From the viewpoint of distributive justice, there is no justification for such over compensation and under compensation.
b. To keep insurance coverage reasonably affordable, recognition must be given to the realities that consumers will not pay as much for insurance covering non-pecuniary loss as they will for pecuniary losses.
c. Empirical studies show that administration costs are the highest in a tort model because it is an adversarial system with lawyers, claims adjusters, courts and experts. Because the public is concerned about increased premium costs rather than the abstract issues of distributive justice or individual responsibility, the affordability issue cannot be dismissed.
d. Tort awards are a magnet for soft tissue claims and by adding these allegations, claimants and lawyers in threshold systems try to inflate the claim above the threshold and thereby double dip from the no-fault and fault benefits.
e. In summary, pure no-fault schemes entail the most modest premium levels in increases. Add-on schemes are quite costly. Threshold schemes moderate premium increases. Other no-fault schemes reflect lower administrative costs compared to tort states. Administrative costs in the tort system are

the highest, because it is an adversarial system with lawyers, claims adjusters, courts and experts.

f. The current Alberta model with the MIR is a threshold no-fault system.

Evidence on Canadian Insurance Industry Study

IBC under took a study of the Alberta reform. The purpose of the study was to benchmark and evaluate the implementation of the treatment protocols. It was managed by Barbara Sulzenko-Laurie (*Laurie*) who was qualified to give expert evidence about the development and execution of surveys and studies to measure and evaluate health care service policy initiatives. The methodology of the study was peer reviewed and endorsed by an independent consultant.

The findings of the IBC study concluded:

a. 30% of minor injury victims were represented by lawyers. After the reform, the percentage dropped to 15.5%. It was a concern that more than 40% of soft tissue claims remained open at six months.
b. *Laurie* thought the 90 day target has not been achieved because the public was not familiar with the protocols and what to expect. She did not agree that a closed claim was a good proxy for recovery as many might not close their claims in fear of a flareup or were anticipating the results of the subject litigation.
c. IBC during the course of the reform suggested an 18 month cut off for functional limitations would impair full recovery and prolong medical rehabilitation treatment. *Laurie* agreed. She thought imposing a time limit for consequences of an accident would incentivize claimants to remain focussed on their injury condition as opposed to recovery and return to their normal activities.
d. *Laurie* considered the rewards of the tort system encouraged claimants, their legal representatives and medical rehabilitation providers to prolong the recovery and to transform an injury into one requiring more complex care and a significantly longer duration. That condition can develop if appropriate care is not provided at the outset including appropriate education as to the nature of the condition.
e. IBC viewed the basic definition of minor injuries as too narrow and avenues created for escaping the definition were too easily crossed to serve the purpose of limiting non-pecuniary awards. *Laurie* recommended other injuries to be included in the minor injury definition such as contusion, lacerations, chipped teeth and the like.
f. IBC was concerned about meeting the objectives of the reform. One component of the reform had to do with reducing premiums. Another had to do with erecting a grid to protect drivers from high rate increases regardless of their experience. Another element of the reforms was to increase the maximum for no-fault benefits. All reform elements had to fit together.
g. IBC was concerned that permitting the number of self-limiting minor injuries to be treated as non-minor would increase the opportunities for stacking the awards. Although the reforms had not achieved 90% recovery in 90 days, the changes since the reform were already dramatic. There was much academic evidence that chronicity of conditions is often due to pending legal proceedings involved. This is a factor in prolonged, delayed recovery.

h. After the Alberta reforms, there was a significant decline in the diagnosis of WAD 1 and other sprains and strains. There was a significant increase in WAD II claims. There were some economic incentives to diagnose WAD IIs. The numbers getting treatment in the benchmark increased from 76% to 91%.
i. While there was no difference in the rates of claims closures for the first 12 weeks, the costs of treatment were increasing. Although the numbers of treatment were not increasing, price per treatment was increasing. Claims closures in 26 weeks were substantially increased. 30% of claims were closed in six weeks and 60% of claims were closed in the second post reform study. The rate of disability claims fell from 17 to 11%. The evidence of disputing cases declined from 20% to 7% in the second post reform study.
j. Closing a file does not assist recovery but is it is a consequence of recovery being impeded by legal proceedings, which could be a factor. *Laurie* opined that receiving a capped award of $4,000 could improve the patient outcome. She looked at the incidence of disability claims which were significantly down so suggested a relationship.

Actuarial Evidence

Evidence of some of the actuaries who testified in *Morrow* was discussed above. Some additional points in the evidence are outlined below.

Mr. Ted Zubulake, GOA Actuary, produced a report that said:

a. IBC studies in New Brunswick and Nova Scotia and his own study of Newfoundland and Labrador found that traffic accident soft tissue strains and sprains accounted for a high percentage of bodily injury liability claims and claims payments and most were for pain and suffering;
b. at the time the GOA was considering automobile insurance reforms, auto claims costs were increasing primarily due to higher minor soft tissue injuries;
c. in his opinion, the grid rating system, the new residual market and the risk sharing pools would help insured drivers be provided with insurance at predicted premiums and would mitigate availability and affordability concerns;
d. he thought increases in Section B accident benefits for medical and rehabilitation compensation from $10,000-$50,000 would reduce bodily injury liability costs by reducing the injured person's out-of-pocket medical and rehabilitation expenses;
e. he opined from his report and studies reviewed that bodily injury coverage financial results contributed to the insurer action between 1986 and 2004;
f. the *Newfoundland and Labrador study* dated March 2002 reported 67% of claims came from soft tissue injuries and sprains of the neck and back with no other injuries;
g. KPMG found that of 1441 claims of combined close claim studies, 1077 were for minor injuries which constituted 74% of the claims examined as ultimately defined by GOA; and
h. he opined that the $4,000 cap would moderate future annual increases for claims costs and bodily injury liability coverage.

Dr. Ron Miller added these comments:

a. In 2003, before the reforms were effected, claims were disappearing potentially because consumers receiving premium increases of 10% or more may have become conscious of the proposed reforms, the issue of affordability and knew that reporting an

at-fault claim would trigger a large premium increase. He had seen a similar pattern in other jurisdictions, such as New Brunswick and Ontario, showing that when there are dramatic premium increases, claims disappear from the system. He found strong statistical evidence that the third liability claims costs declined by 37%.

b. Since the reforms in January and October 2004, third-party liability bodily injury costs declined dramatically.

c. From his analysis of the Alberta experience to December 31, 2005 he thought it plausible (but admittedly speculation) that post reform some minor whiplash injury claimants were no longer motivated to seek settlement or the protocols were working as intended or both, such that claimants were exiting the system faster or not entering it. In any case this effect leads to a one-time reduction in frequency and severity for both third-party liability.

d. He thought another plausible conclusion was that if claimants and their lawyers climb the learning curve, those who had left the system may begin to re-enter it and all claimants find ways to increase compensable damages resulting in a one-time change to a positive forward trend in claims frequency and claims costs.

e. If *Bill 53* and related initiatives were declared illegal, he predicted adverse economic consequences for insurers and consumers, mainly increased costs stemming from higher claims costs. There would be a one-time aggregate additional all industry claims cost to Alberta insurers at the beginning of 2008 of about $630 million or $325 per car insured.

f. There would be an aggregate number for all business classes of about $800 million. None of these costs would be recoverable from future premiums. The premiums as of 2006 would be increased by 15 to 20% without recruitment for sunk costs from prior periods.

g. Declaring the reforms illegal would put costs back in which would result in an average increase in premiums of 15 to 20%.

h. Because the $4,000 was not separated out in the Statistical Plan, he could not separate easily its effect on the results. He agreed it was plausible but did not believe the 2004 and 2005 industry profits were greatly and unnecessarily accelerated by the product reform.

Ms. Barb Addie was retained January 20, 2006 to perform a closed claim study to determine whether New Brunswick and Nova Scotia closed claim data were a reasonable proxy to estimate the impact of the reforms of 2004 being considered by the Alberta government. Her conclusions were:

a. It was reasonable to use that data to estimate the reform costs. Comparison to the 1991 closed claims study from AAIB showed that the percentage of pain and suffering was very similar among the three surveys. The underlying data were adjusted for inflation to bring them to the same point in time.

b. The study showed that 62% of claimants suffered soft tissue injuries only and received 43% of the settlement amounts. Another 29% received settlement amounts for soft tissue and another injury. 91% of all claimants suffered some form of soft tissue injury. These claims represented 93% of the settlement amounts. 71% of the total settlements were for pain and suffering.

D. Analysis Of Alberta Auto Insurance Reforms

Auto insurance reform has a short history in Alberta, driven primarily by premium instability. As current premium levels are again a policy concern, it has become clear that long-term stability will not be possible as long as bodily injury loss costs remain uncontrolled in a tort environment. In addition, recent advances in rehabilitation medicine indicate that the tort environment leads to poor health outcomes for traffic injured Albertans. Analysis of these points follows.

Alberta Automobile Insurance Board, A Study of Premium Stability in Compulsory Insurance (September 12, 1991)

As noted in 1991, actuarial evidence presented to *AAIB* showed:

a. From 1972 to 1989, loss costs had increased dramatically.

b. The rise in loss costs, i.e. 12.9% between 1988 and 1990, more than twice that of the Consumer Price Index, was caused mainly by the rate of increase of bodily injury loss costs.

c. The third-party liability premium increases in 1989 and 90 were not yet sufficient to bring premiums into balance with the current expected costs.

AAIB key findings included the following:

a. Claimants with minor injuries are overcompensated in the tort side of the system relative to all other traffic injured. Claimants with catastrophic injuries are undercompensated in the tort side relative to all other traffic injured.

b. At-fault claimants are inadequately compensated for their economic losses relative to tort claimants.

c. There were structural deficiencies in the delivery of benefits in the current system.

d. All payments required under the current system are subject to delays.

e. The then current data proved that there was a pricing problem in the system which would persist in the future without some measures to counteract it.

f. Loss costs would continue to increase because of continuing increases in frequency and quantum of claims unless bodily injury costs were curtailed and effective cost saving measures were undertaken.

The Committee observes that despite the passage of three decades, the above problems identified in the Alberta hybrid tort/no-fault model remain present at this date.

Further the Committee observes that Professor Trebilcock's testimony in the *Morrow* case in 2008 remained consistent with the advice he provided to the AAIB in 1991.

Accordingly, the *AAIB*'s conclusions on the alternative models remain applicable:

a. Cost savings would be higher under a pure no-fault model similar to that in place in Québec than would be attainable under any other model. The pure no-fault model was superior in producing lowest premium costs and would provide the highest degree of operational efficiency of all models.

b. Administrators in Québec reported a high degree of consumer satisfaction, although trade-offs were initially necessary and did not meet with approval of all groups of consumers.
c. Cost savings would be higher under the threshold model implemented in Ontario which resembled the Michigan model and had greater potential for premium savings and price stability in the long term.
d. An elective or choice model such as that proposed in 1989 to the Ontario Automobile Insurance Board would result in increasing divergence of average premiums between the two options which would cause all drivers to choose no-fault and, in effect, convert the system to a pure no-fault model.
e. The tort model scored very poorly on the attainment of low premium costs and last on compensation coverage and operational efficiency.
f. There was overcompensation in cases of minor injuries and undercompensation in cases of catastrophic injuries. Some tort claimants were probably overcompensated for their wage loss as claimants represented by lawyers usually received higher recovery than those that did not. There was an unusually high inflation rate in bodily injury claims and some delays in receipt of compensation on the tort side.

However, certain other of the *AAIB*'s conclusions and recommendations did not stand the test of time. For example, auto insurance compensation history elsewhere and Alberta's own auto insurance history has shown that the pricing problems were not adequately met by implementing modest tort reforms to attain premium stability in the short term, to reduce litigation and to curtail the inflationary effect of claims costs over time.

The AAIB's suggested implementation of a threshold no-fault system with an enhanced no-fault benefit package and restricting the right to sue to only the most serious claims was proven by the Ontario experience to have been a failed enterprise. Instead, the history in most other jurisdictions have produced compelling evidence that certain of the problems with the tort system are irreparable.

Revisit of the 1991 AAIB analysis (with 2020 hindsight)

AAIB's prediction that loss costs would continue to increase because of continuing increases in frequency and quantum of claims unless bodily injury costs were curtailed and effective cost saving measures were undertaken has been proven correct in the interval from 1991 to the present.

Both *Osborne* and *AAIB* rejected the pure no-fault model in the expectation that preserving tort in a threshold no-fault model could provide long-term premium stability. This expectation was later proven to be unfounded. Between 1991 and the present, both Saskatchewan and Manitoba converted to pure or nearly-pure no fault models with the predictable consequences of higher cost savings, lowest premium costs and highest degree of operational efficiency of all models. Moreover, there is no evidence in those provinces of significant consumer dissatisfaction.

In hindsight, the best explanation the Committee discerns for the *AAIB* conclusion to reject consideration of the pure no-fault model is that there prevailed in the late 1980s and 1990s a lingering suspicion over the concept of accident benefits so that there was resistance to the broadening of their application. As well there prevailed steadfast belief in the tort precepts that wrongdoers should pay and the court system can best evaluate and measure accident losses, including non-pecuniary general damages.

As well, *AAIB* and *Osborne* both were strongly influenced toward the intuitive belief that these concepts were not to be minimized at the expense of other goals of auto insurance compensation models. Accordingly, if rebalancing was required, both concluded that it should occur on the no-fault side of the system, with only minor reforms to ancillary aspects to the tort model.

These are the explanations the Committee finds for the preference of *Osborne* for a continued tort model even in the face of his candid conclusions that:

a. Continued use of tort on its own cannot be justified on compensation grounds.
b. The tort system provides a disincentive to the public interest goal of rehabilitation for all traffic injured and which cannot be realistically achieved through the tort system.
c. He found no credible evidence that eliminating tort law for a no-fault alternative would increase accident frequency, that no-fault alternative models caused significant adverse effect on accident rates or that tort liability exerted a statistically measurable effect on the level of safe driving.

The Committee concludes that reports of *Osborne*, *AAIB* and the experience of the reforms in New South Wales in 2000 all reinforced the belief that if the benefit resources were simply reallocated, claimants would seek to recover only what was needed. The bodily injury loss costs would then cease to escalate, but instead stay stable and predictable in future, so that, in turn, premium levels would do the same.

Despite its own findings that the pricing problem in the auto insurance system would persist unless some curtailment of tort compensation occurred, the AAIB preferred the strategy of gradual reduction of tort components over time to avoid the shock to participants in the system of a comprehensive one-time transformation.

This Committee concludes that the AAIB viewpoint was likely arrived at in reliance upon both the *Osborne* conclusions, the Ontario government's decision to implement a threshold no-fault model, and because it accorded with its own concerns about the difficulties in undertaking legislative reform.

If as the Committee concludes, the experience in Ontario from 1990 to the present is of educative value on this front, it follows that gradual transformation of auto insurance systems or efforts to preserve all components to satisfy all participants is not an effective strategy for securing long term affordability, availability, stability and sustainability of reasonable premium levels.

Process of 2003 Alberta reform

Premium Increases

As noted, at the trial of *Morrow v Zhang*, there was no dispute among the actuaries' testimony as to the cause of premium increases between 1986 and 2004, recited below for ease of reference:

a. the average pain and suffering cost for minor injuries in 1990 was almost $3,000 whereas in 2003 the average pain and suffering cost for minor injuries was almost $17,000 in 2005 dollars;
b. this increase was in excess of 10% per year;
c. minor injury accident related injuries such as soft tissue strains and sprains represented a high proportion of bodily injury liability claims costs;
d. bodily injury coverage financial results contributed to the insurer action between 1986 and 2004;
e. between 2000 and 2003 auto insurance premiums sharply increased and coverage became less available mostly due to escalating bodily injury claims costs, more particularly minor soft tissue injury claims costs;
f. from 1984 to 1999 the average cost of third-party liability bodily injury coverage was increasing at a steep rate compared to the all Canada CPI;
g. from 1994 to 1998 claims frequency increased on average by about 2 to 3% per year while claims severity increased by 7.3% per year resulting in an increase in claims cost per car on average of 9.8 %, while CPI inflation averaged only 1.6% per annum which was likely the cause of the increase in rates, consumer dissatisfaction and resulting reform measures;
h. from 1999 to 2001 claims costs decreased and then spiked to the highest point in 2004;
i. in 2000 the loss ratios at 100% and 110% were the result of the increase in bodily injury claims costs not being offset by sufficient premium increases;
j. between 1986 and 2002 bodily injury claims were rising faster than CPI by 28%;
k. between 1986 and 2002 bodily injury claims per 1000 vehicles had increased 72%, thus significantly contributing to premium increases; and
l. auto insurance premiums in 2002 and 2003 increased mainly because bodily injury costs were rising at about 120% more than CPI. In hindsight, if insurers had realized that was occurring at that time consumers would have had to pay 45% more than CPI in that period. This trend, if it continued, would promote unaffordable auto insurance.

Developing Concerns

The problems emerging in the auto insurance system were reinforced by the *AAIB* findings in 2002 which noted:

a. a 100% increase in injury loss costs over the previous 10 years;
b. between 1986 and 2002, bodily injury claims costs per vehicle had tripled while property damage claims grew only 23%; and
c. there was nothing in the system to control bodily injury loss cost increases.

The problems emerging in the auto insurance system which began to concern Alberta Finance (AF) and the Government of Alberta (GOA) in 2002 included the following:

a. In 1995 damages awarded for most soft tissue injuries ranged from $6,000 – $10,000. By 2000 awards averaged $24,000 and at 2002 awards averaged $29,000. Those increases revealed that soft tissue injury damage awards were increasing at a higher rate than average and were affected by inflation.
b. Premium increases, on average, were 11% in 2002 and 13% in 2003 and even larger for high-risk drivers and those under age 25.
c. Comparisons with other provinces showed that Alberta had much higher premiums than public systems for inexperienced young drivers and risks such as drivers with lapses in coverage. Rates approaching $7,000 were unaffordable to many drivers.
d. A reduction in capital translated into declining coverage and accessibility problems for consumers.
e. The Office of the Superintendent of Financial Institutions reported that the financial position of the property casualty industry had been deteriorating for several years due to rising claims costs, not matched by increases in premium revenue, especially in auto insurance.
f. AF also identified a problem with inadequacy of Section B benefits dating back to the 1991 *AAIB report*.

The Committee considered it important to reflect on the actuarial evidence that the average pain and suffering costs for minor injury claims increased from approximately $3,000 in 1992 to approximately $17,000 in 2003 in 2005 dollars. This sharp escalation in amounts over a short interval was replicated in information from the GOA showing that between 1985 and 2000 the average soft tissue injury awards escalated from $8,000-$29,000. These examples starkly demonstrate the profound effect of tort producing overcompensation of minor traffic injuries, a problem identified in 1991 by the *AAIB*.

Political Process

The Committee considered the examination of the reform process in Alberta between April 2003 and June 2004 to be instructive for several reasons. First, it revealed how the competing goals to be served under any auto compensation system create an ongoing polarizing effect on the views of the participants, the service providers, the legislators and those charged with implementation. Second, the process demonstrated the challenges of forecasting the costs and cost savings of various alternative solutions which involve health outcomes and costs of a mandatory product. Third, it illustrated that modifying the proposed goals during a reform process with the aim of balancing all the competing views of various members of the public can have unintended adverse consequences.

For example, the Committee noted that articulated purpose of the reform seemed to shift during the course of the process, beginning with:

a. the reform goal to make the cost of insurance more affordable and to pass the savings onto the consumer, then
b. to solve the problem of young drivers finding insurance unaffordable and to reduce premiums that were unacceptably high for some drivers without making other drivers pay those costs, then
c. to reduce premiums especially for young drivers, seniors and FA candidates, then
d. to balance premiums against claims costs and consider the long-term viability of the auto insurance industry, then
e. to reduce premiums and increase accident benefits funded by the savings from the proposed cap and the *Bill 33* tort reforms, then
f. to avoid any changes on the premium side that would unfairly affect the ability of traffic injured to make claims, then
g. to allow only minor strains and sprains that heal quickly to be subject to a cap and to develop the definition in consultation with organizations representing injured persons, consumers, insurers, lawyers and healthcare professionals, and then
h. to benefit individual Albertans who were paying too much for their premiums and not being treated properly for their injuries.

Since the definition of minor injury was continually restricted over the course of the reform process, the original intention to cover a large number of traffic injured was lost and the compromise reduced the number of persons affected by the cap, which in turn reduced the premium savings. In the end, the amount of the intended savings could not be calculated.

The Cabinet's freezing premiums and legislating rollbacks on October 30, 2003 produced $25 million in premium reductions for the last two months of 2003 and $100 million for 2004 and, ultimately, the insurers were required to absorb the cost of the freeze.

Although the GOA on November 19, 2003 announced that the reform package would save $250 million, the GOA officials admitted it was harder to show at the end of the process what the total savings would be.

The GOA did not determine the cost of benefits added back into the system for minor injury claims or the extent to which enlargement of Section B benefits would benefit the minor injury victims who would heal within 10 weeks of their accidents. Nor did it calculate the amount of savings attributable to the application of the cap from April 1, 2005 to March 31, 2006.

Since October 1, 2004 the AIRB had decreased premiums in mandatory coverage by 15 – 18%.

The population of FA had fallen and convictions for uninsured drivers fell by 10% from 2003 to 2005.

Since the cap was implemented, the health levy increased but other than premiums no other funds were injected into the system to fund increases in the health levy.

The Committee also observed that the 2004 Alberta reform considered but rejected implementation of the elective/choice model referenced in the 1991 *AAIB Report*.

Revisit of *Morrow* expert evidence (with 2020 hindsight)

The *Claims and Costs Study for Treasury Board and Finance* dated November 2019 (*Cheng Claims and Cost Study*) revealed that the automobile insurance premiums continued to increase between 2004 and 2019 with a short period of premium leveling after the 2004 reform was implemented. These findings would suggest the auto insurance reform of 2004 was insufficient to produce premium stability in the long term.

From the health experts' evidence there emerged three consistent new trends:

a. tort systems undermined the early and effective recovery of non-catastrophic traffic injured;
b. the introduction of uniform diagnostic and treatment protocols without adversarial components improved health outcomes of traffic injured; and
c. those diagnostic and treatment protocols introduced in Alberta in 2004 were in line with innovations in treatment of traffic injured in other jurisdictions which showed better health outcomes with removal of tort components in auto insurance systems.

These trends evidenced emerging scientific data from other no-fault jurisdictions that were able to make comparisons of health outcomes after reduction of tort components and clinical experience of health practitioners as to the adverse effect on health recovery in a litigation environment.

The emerging health evidence since 2000 to the present date, which strongly indicates that tort undermines health outcomes for traffic injured, bolsters the GOA decision in 2003 to select against an elective/choice model for Alberta.

The Committee notes that as the 1991 *AAIB Report* recommended reforms proceed along a continuum, and that Professor Trebilcock described the 2004 reform as a threshold no-fault model, it follows that the next alternative model for consideration is the pure no-fault model.

Comparison of Alberta, New South Wales and Ontario Reform Processes

The Committee compared the auto insurance reform processes in Alberta in 2003 with those in New South Wales from 1999 to 2017 and Ontario from 1990 to 2017.

Alberta 2003

As noted, the legislative reform process in Alberta ended with a compromise. The recommendations of the implementation team were continually modified and required to be undertaken with continuous consultation with external service providers. The media commentary inflamed the views of the public, the elected officials and the Premier which resulted in further restrictions on the proposed reform. At the end of the legislative process, none of the service providers pronounced themselves satisfied with extent of consultation or the result.

As noted elsewhere, this pattern of political compromise also occurred in Nova Scotia.

These legislative reform experiences in two different Canadian provinces in a similar time period might lead to the conclusion that this is the process to be expected to unfold when transforming an accident compensation system for traffic injured and insured motorists.

However, the New South Wales reform of 1999 proves that an alternate method of system redesign by a select group of auto insurance subject matter experts is possible. Given the first-hand experience with this reform, the Committee concluded that it was worth comparison.

New South Wales 1999

As noted, the facilitator engaged a working group of knowledgeable participants of the compensation system which produced a redesign of the New South Wales auto insurance model in a period of about 60 days (from February to March 1999).

The working group was comprised of representatives of all the involved service providers. The members began with an agreement to examine together the entire accident compensation process starting with the date of a traffic injured accident and concluding with the process of renewal of auto insurance premium. The object of the enterprise was to insert features which benefitted the traffic injured and motorists and to eliminate those that did not.

There was no involvement of elected officials during the redesign process. There was no consultation with any service providers outside the working group during the reform process. There was no involvement of the media and no comment to the public during the process.

The working group challenged its members to analyze and reanalyze the developing reform model, taking into account how each proposed improvement would impact other features, so that it continued to build and refine a cohesive design that contemplated each service provider interacting with the traffic injured and policyholders until it had arrived at specific set of reforms which eliminated extraneous processes detrimental to the traffic injured experience and produced the desired amount of premium reduction. That proposed premium reduction was verified by the actuaries in the working group.

The intention was to establish mechanisms to enable the injured person to proceed along a recovery path in a collaborative environment with health providers, insurers and subject matter experts in place of the litigation features of the existing model, such as between the health providers and the injured person, and between the insurers and the injured person.

Only after the traffic injured had achieved recovery as far as possible were the future income and treatment claims evaluated by an independent panel of claims assessors. The intention was to eliminate the involvement of duelling experts and advisors, which even health providers advocated.

Importantly the redesign provided for elimination of all non-economic loss awards for persons whose injuries did not exceed 10% permanent impairment of the whole body.

The redesign established as its primary goal the need to provide early and effect of rehabilitation to traffic injured and eliminate as far as possible pre-existing adversarial processes. It established an independent medical review panel to provide conclusive determinations of the extent of the injury and future health requirements. After this panel had provided its determinations, the traffic injured could proceed to a second expert review panel to determine the necessary financial compensation for losses caused by the accident. The design then provided for recourse to the court for any disagreement with the panel findings.

The redesign also provided for enhancing private sector competition by relating the premium to more effective risk rating.

All members of the working group endorsed the final design.

The blueprint presented to the legislature to enact had been approved by the working group on the understanding that it would not be minimized or modified by the usual process undertaken by elected representatives. In the event, it received passage with only minor amendments by June of 1999 and was implemented by October 1999.

The medical and claims assessment panels were overseen by a principal claims assessor who was a statutory officer with legislative responsibilities pertaining to the assessment of claims. There was a roster of approximately 150 externally contracted medical assessors.

Although tort lawyers, whose roles were the most substantially reduced under the reformed model, expressed dissatisfaction with the reform, the remaining service providers, supported the changes.

According to reports the reform effected savings of $300 million (Au) annually and in the first ten years following, also produced reliable evidence of improved health outcomes for traffic injured. As of 2017 these features of the current model had been reported to be successful.

Ontario 1990-2015

The threshold no-fault model implemented in 1990 in Ontario began to reveal problems by the mid-1990s. The governments in 1994, 1996, 2013 and 2015 repeatedly attempted to resolve these problems by legislative changes both on the tort and accident benefits side, all of which by 2017 according to *Marshall* constituted a series of failed attempts to control premium costs.

Conclusions

From the analysis of the history of Alberta automobile insurance reform when compared to other similar hybrid tort models, the Committee drew the following lessons for Alberta:

a. the various experiments undertaken by hybrid tort/no-fault auto insurance models from 1990 to 2017 in Canadian provinces and elsewhere when compared to pure no-fault models clearly show that the pure no-fault models have performed more effectively in terms of premium stability;

b. those jurisdictions that endeavored to balance both tort and no-fault accident benefit components in one traffic accident compensation model were unsuccessful in delivering affordability, availability, stability in premiums in the medium and long term;

c. auto insurance reform models that preserve a tort component or tort components have been criticized for the adverse effects upon the health outcomes of traffic injured;

d. pure no-fault models reduce recovery times, enhance health outcomes, expedite claims resolution for the benefit of the traffic injured and reduce premium costs for the benefit of insured motorists;

e. a legislature contemplating a fundamental reform of its automobile insurance system should recognize that a broad consensus among all constituents, including both the traffic injured and the policy holders and service providers is unlikely to be achieved; and

f. a legislature which undertakes a fundamental reform of its automobile insurance system should expect to receive some initial opposition from various sectors of the public because such a transformation will be disruptive to certain service providers whose roles will be transformed, diminished or eliminated altogether.

V Legal Considerations

A. Statutory Framework

Under the distribution of powers in s. 91 and 92 of the *Constitution Act*, s. 92(13) in particular, the provinces have legislative authority to create, modify or abrogate causes of action in tort, legislative authority in relation to automobile insurance and the authority to enact a no-fault regime.

Case authorities have established that the administration of a no-fault motor vehicle accident plan by an administrative agency rather than the courts does not violate s. 96 of the *Constitution Act*. Workers' compensation boards and the Québec Régie are examples.

The authority of a province to modify tort rights and to enact no-fault auto insurance is clear, subject to compliance with the *Canadian Charter of Rights and Freedoms* (Charter).

B. Challenges Under the Charter

Charter challenges to automobile insurance and compensation laws have been made to reforms that capped non-pecuniary damages and have argued primarily that revoking tort rights discriminates against accident victims with minor injuries in a manner that offends Charter s.15 (1) or s. 7, which also brings into focus Charter s. 1. For reference these sections are set out below.

Section 1

s.1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Section 7

s.7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Section 15(1)

s.15 (1) Every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Two appellate court decisions, both released in 2009, one in Alberta, June 12, 2009 in ***Morrow v. Zhang*, ABCA 281**, Leave to Appeal dismissed December 17, 2009, (*Morrow*) and another in Nova Scotia on December 15, 2009 in ***Hartling v. Nova Scotia* (Attorney General), 2009 NSCA 130**, Leave to Appeal dismissed May 27, 2010, (*Hartling*) offer the best insight into how a reform package should be designed and drawn to avoid conflict with the Charter.

In 2003, Alberta enacted a reform which capped "pain and suffering" damages ("PSD") of minor injury victims of auto accidents and brought in enhanced no-fault benefits with standardized medical protocols. A Charter challenge was brought. The trial judge upheld the challenge in *Morrow*, but the Alberta Court of Appeal (ACA) reversed that decision ruling that the legislation did not offend the Charter.

Two things about *Morrow* are of special note here:

a. the method of analysis used by the ACA because it will serve as the standard for the future; and
b. the ACA's ultimate conclusion that a minor injury claimant's interest in PSD is not an interest which is fundamental, either societally or constitutionally, because this will foreclose future challenges of similar reforms.

C. Method Of Analysis

Morrow v. Zhang

Based on ***Morrow***, the following steps would be followed in analyzing an automobile insurance reform:

a. consider the entire reform package and the interrelationships and interdependencies of its components: [in this case, the reform capped PSD for minor injuries at $4,000 but the package included enhanced no-fault medical benefits with standardized medical protocols to deliver prompt and effective treatment for minor injuries];
b. define the group whose Charter rights are said to be infringed: [in this case minor injury claimants whose PSD are capped];
c. determine if the reform impacts of one or more of the characteristics listed in s. 15 (1) of the Charter or analogous thereto: [in this case the reform did arguably impact the s. 15 (1) characteristic of "disability" which consists of (i) physical or mental impairment, (ii) a functional limitation and (iii) the imposition of a disadvantage or socially constructed handicap]; and
d. determine if the differential treatment of the group discriminates in a substantive sense as by perpetuating prejudice, stereotyping or historical disadvantage.

In determining whether the reform discriminated against minor injury claimants in a substantive way, the ACA considered several contextual factors:

a. whether minor injury claimants are subjected to stereotyping or prejudice: [in this case the ACA noted that the reform provided an individualized assessment and no-fault treatment benefit in accordance with standardized medical protocols for all injury claimants which were inconsistent with stereotyping or prejudice];
b. whether there is correspondence between the reform and the needs and circumstances of minor injury claimants: [in this case the individualized assessment and access to prompt no-fault medical benefits led to the conclusion that there was sufficient correspondence between the reform and the needs of minor injury claimants to uphold the reform];
c. whether the reform has other ameliorative purposes and effects: [in this case there were none]; and
d. what is the nature and scope of the interest affected by the reform: [in this case the right of minor injury claimants to seek recovery of more than $4,000 for their PSD was not of constitutional or societal significance, nor did it restrict access to a fundamental social institution or affect a basic aspect of full membership in Canadian society].

Hartling v. Nova Scotia (Attorney General)

In 2003 Nova Scotia enacted a reform that capped PSD awards for minor injuries in order to achieve a reduction in mandatory auto insurance. The reform package there did not include the enhanced no-fault medical benefits with standard treatment protocols as it had in Alberta. A Charter challenge ensued. The trial judge decided that the reform did not offend the Charter and the Nova Scotia Court of Appeal (NSCA) agreed.

The challenge was brought on behalf of several differently placed individuals in order to enable the claimants to argue that the reform was discriminatory based on physical disability, mental disability and sex.

Because the trial judge dismissed the challenge, the expert evidence that he heard is noteworthy:

a. The NSCA noted evidence of Dr. J. David Cassidy, an expert Epidemiologist, specializing in Injury and Musculoskeletal Epidemiology, who testified:
   i. that the adversarial system may in fact hinder recovery;
   ii. his Saskatchewan study found the elimination of compensation for pain and suffering is associated with decreased incidents and an improved prognosis of whiplash injury;
   iii. they suspect the elimination of payments for pain and suffering might have affected the decision to claim for an injury in some cases;
   iv. as to improved prognosis, they believe the tort system is more adversarial and that legal conflict can delay recovery;
   v. **an adversarial system focussed the patient on pain and disability which is counter to the best methods of treatment which focusses patients on their abilities,** [emphasis added]; and
   vi. tort insurance is counter-productive to proper health care after injury.
b. Ms. Riis, a physiotherapist in practice for over 20 years testified that:
   i. she did not agree that there is a general disapproval attached to victims of soft tissue injuries and chronic pain;
   ii. since she began physiotherapy practice, she has seen growth in publicity around the prevalence of these conditions and a commensurate increase in the research effort and in the academic journal articles making the results of this research available to health professionals;
   iii. in her experience when patients become involved in legal proceedings arising from an injury, they may feel quite uncomfortable with the processes involved;
   iv. by their very nature, such suits can involve various medical examinations and questioning by representatives of all the parties involved in the case;
   v. these processes can be arduous, even exhausting and, as a treating practitioner, she has seen the emotional impact they can have on people; and
   vi. she also with some frequency encountered surprise and resistance from injury victims when their health care providers advise and advocate active approaches to treating conditions such as chronic pain, including an emphasis on movement, exercise and return to function in spite of ongoing pain.

The trial judge concluded:

"Unfortunately, the nature of the tort recovery system which is adversarial requires patients to focus on their pain and disability which is counter to the best methods of treatment which focusses patients on their abilities. I conclude that the evidence advanced by the applicants falls markedly short of meeting the onus that persons suffering soft tissue injuries, even those that result in chronic pain, are stereotyped, stigmatized or disadvantaged by society."

The NSCA followed a method of analysis similar to that used by the ACA in *Morrow*. It began with a proposition that the reform treated minor injury claimants differently to their disadvantage

and that this justified an inquiry into whether the disadvantage arose from prejudice or stereotyping. The NSCA determined that the evidence fell short of establishing that the reform perpetuated prejudice or stereotyping sufficient to trigger section 15 (1).

In coming to its conclusion, the NSCA referenced four contextual factors:

a. as to the factor of pre-existing disadvantage, the NSCA rejected the claimants' arguments that the reform created a new disadvantage based on pre-existing stereotyping because the trial judge had found the evidence of stereotyping was extremely limited and primarily a product of the adversarial system;
b. as the correspondence between the claimants' circumstances and the reform, the NSCA, noting that the reform included a number of measures aimed at premium reductions which would benefit the entire driving public and concluded that the reform sufficiently accommodated the claimants' needs, capacities and circumstances by capping, not eliminating, PSD for minor claims, leaving intact all of the rights of recovery such as wage loss, out-of-pocket costs, and cost of future care;
c. the factor of ameliorative purposes or affects was not applicable; and
d. as to the nature of the interest affected, the NSCA concluded that the reform was sufficiently attentive to the needs, capacities and circumstances of the claimants.

The Nova Scotia reform was also challenged as discriminating against women on the premise that, as women have historically been disadvantaged in the workplace, the cap on minor injury PSD affects them disproportionately. The NSCA acknowledged this effect but concluded that it did not trigger s. 15 (1) based on analysis of two of the contextual factors:

a. regarding correspondence between the reform and the needs of women as a group, the root problem is gender discrimination in the workplace, not the reform; and
b. regarding the interest affected, PSD remains an economic interest where exact quantification is elusive, carrying engrained elements of arbitrariness and the reform leaves all pecuniary heads of damage untouched.

Hernandez v. Palmer

Hernandez v. Palmer 15 C.C.L.I. 2d 187 (Ont. Ct. J 1992), (Hernandez) was a 1992 decision of the Ontario Supreme Court noteworthy because the Ontario reform, unlike those considered in *Morrow* and *Hartling*, involved curtailment of the right to sue in tort for PSD in all but the most serious injury cases. In addition, substantially enhanced no-fault benefits were brought in.

The reform was upheld. The judge's reasons included:

a. the question of whether an individual's ability to sue in tort should be limited in the public interest is a matter that "lies in the realm of general public policy" and determination of the matter falls within the exclusive domain of Ontario's elected representatives;
b. a court should not frustrate a scheme considered and designed by a Legislature to rectify a serious problem. Where tradeoffs are involved, there must be a reallocation of resources, and would have to affect some rights;

c. the reform did not offend s. 7 of the Charter. Restricting the ability of some traffic injured to sue in tort for damages did not infringe the principles of fundamental justice;

d. auto accident victims are a diverse collection of individuals without any common characteristics or history, linked only by the chance occurrence of having been injured by a motor vehicle. Everyone is a potential member of this class;

e. automobile accident victims do not constitute a traditionally afflicted group of the type that s. 15(1) is meant to protect. Thus, automobile accident victims are not a 'discrete and insular minority' that has suffered political, social and legal disadvantage in Canadian society;

f. there was no differentiation using a trait listed in s. 15(1) since traffic injured had not been victims of prejudice or subject to any historical, sociological or political disadvantage. Nor did it impose disadvantages on traffic injured as a class;

g. the legislation does not deprive individuals of rights but exchanges their present right of action with a right to comprehensive no-fault benefits;

h. the establishment of a no-fault insurance scheme for persons injured in automobile accidents therefore does not create inequality within the meaning of the Charter s. 15(1);

i. each group above and below the threshold is entitled to receipt of all the benefits available so the legislation is not subject to being successfully challenged;

j. what remained is a differentiation premised upon the severity and nature of the injuries sustained, which was not related to the personal characteristics of the victim and therefore is not a mental or physical disability as enumerated in s. 15(1) or a ground analogous thereto.

Report of Inquiry into Motor Vehicle Accident Compensation in Ontario 1988

The reform considered in Hernandez was preceded by an inquiry conducted by Mr. Justice Osborne of the Ontario Supreme Court. The constitutional aspects of his report which were based largely on a legal opinion secured from Professor Peter Hogg included:

a. a no-fault regime would provide less benefits than common law damages and would deprive some or all traffic injured of a tort action but such a reform would not in infringe either s. 7 or s. 15 of the Charter and would in any event be saved by s.1 of the Charter; and

b. justification of Worker's Compensation models which remove the right to sue in tort would apply equally to automobile insurance no-fault plans.

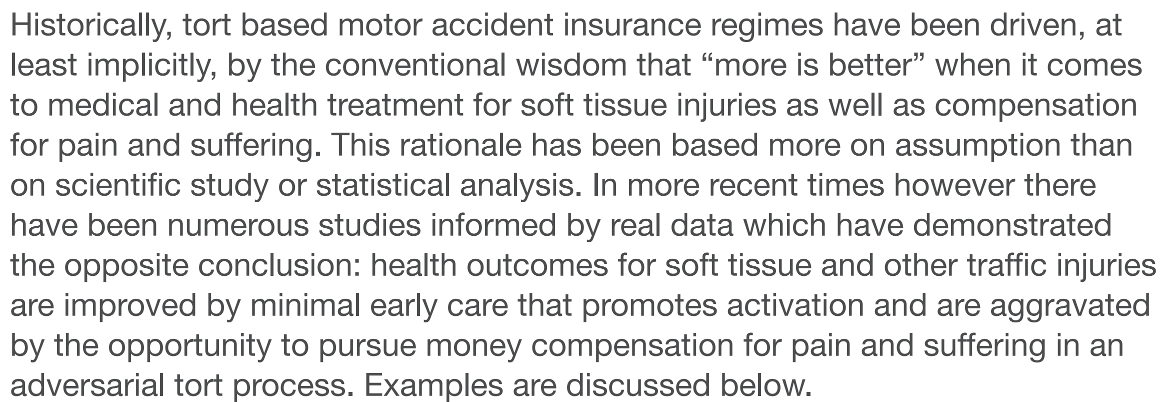
D. Conclusions

1. Although no one can ever predict whether a legal challenge will be made following an auto insurance law reform, the prevailing judicial authority has clearly established that pure no-fault auto insurance regimes, like those that have been in force in Manitoba and Québec, are within the scope of provincial legislative authority and since they treat every member of the driving public equally, a challenge under the Charter would be without merit.

2. The decision of the Alberta Court of Appeal in *Morrow v Zhang* has satisfied the Committee that a Charter challenge to a future auto insurance reform would be untenable provided that, like the 2003 reform, it is developed and implemented as a package, balanced, interrelated and interdependent.

The foregoing discussion, analysis and conclusions are offered on the basis of a detailed review of the relevant judicial authorities. No members of the Committee are active members of the Law Society of Alberta, nor were any consulted in connection with this section. Readers are cautioned to consult their own legal advisors for professional legal advice, if required.

VI Review of Health Outcomes Evidence



Historically, tort based motor accident insurance regimes have been driven, at least implicitly, by the conventional wisdom that “more is better” when it comes to medical and health treatment for soft tissue injuries as well as compensation for pain and suffering. This rationale has been based more on assumption than on scientific study or statistical analysis. In more recent times however there have been numerous studies informed by real data which have demonstrated the opposite conclusion: health outcomes for soft tissue and other traffic injuries are improved by minimal early care that promotes activation and are aggravated by the opportunity to pursue money compensation for pain and suffering in an adversarial tort process. Examples are discussed below.

A. Literature Review of Health Outcomes after Legislation Removing Compensation for Pain and Suffering

In an article published in the New England Journal of Medicine in 2000 and co-authored by Dr. J. David Cassidy, (then with the Alberta Centre for Injury Control and Research, Department of Health Sciences, University of Alberta, Edmonton) the authors concluded that **the elimination of compensation for pain and suffering is associated with the decreased incidence and improved prognosis of whiplash injury**. This study also reported:

a. a 28% reduction of the incidents of whiplash claims and the median time to the closure of claims was reduced by more than 200 days;
b. whiplash injury is less of a problem in jurisdictions where
   i. there is a little expectation of symptoms, disability, or compensation and
   ii. the involvement of healthcare providers is minimal;
c. providing compensation for pain and suffering after a whiplash injury increases the frequency of claims for compensation and delays the closure of claims and recovery;
d. a strong and consistent association between the time to the closure of claims and indicators of recovery from injury;
e. fewer persons filed claims for whiplash injury under the no-fault system, and those who did recovered faster than similar claimants under the tort system;
f. under a tort system, claims are filed in a potentially adversarial environment that can promote the persistence of symptoms in claimants;
g. in the course of proving that their pain is real, claimants may encounter conflicting medical opinions, unsuccessful therapies, and legal advice to document their suffering of disability;
h. tort claimants are more likely than no-fault claimants to report that they had never experienced neck pain before the injury;
i. tort claimants reported slightly higher levels of pain and slightly higher percentages of the body that were affected by the pain;

j. under the no-fault system, there is no financial incentive to delay recovery since claimants have immediate access to medical care and other benefits without being required to substantiate their injuries;
k. claimants who did not initially seek care or who initially saw only a physician closed their claims faster than those who initially saw a physical therapist or chiropractor, practitioners who are more likely to intervene actively;
l. minimal intervention in the acute period aids recovery; and
m. under both the tort and the no-fault systems, the involvement of a lawyer was associated with delayed claims closure.

Effect of Eliminating Compensation for Pain and Suffering on the Outcome of Insurance Claims for Whiplash Injury April 20, 2000 New England Journal of Medicine 2000, 342:1179–1186 J. David Cassidy DC PhD, Linda J. Carroll PhD, Pierre Côté DC, Mark Lemsta M.Sc, Anita Berglund B.Sc and Åke Nygren M.D., Ph.D

Similar results have been produced in Alberta in respect of recovery periods for mild traumatic brain injury.

***Prediction of Vocational Status 3 to 4 months After Treated Mild Traumatic Brain Injury*, Chris Paniak, PhD Journal of Musculoskeletal Pain, Vol 8 (1/2) 2000**

In 1995, a Québec Task Force developed the Québec Classification of Whiplash-Associated Disorders to assist health care workers in making therapeutic decisions. It was applied to a cohort of patients presenting for emergency medical care following their involvement in a rear-end motor vehicle collision.

A study evaluated the utility of the Québec Classification of Whiplash-Associated Disorders as an initial assessment tool, assess its ability to predict persistence of symptoms at 6, 12, 18, and 24 months post-collision. The results supported the use of the Québec Classification of Whiplash-Associated Disorders as a prognostic tool for emergency department settings.

Prognostic Value of the Quebec Classification of Whiplash-Associated Disorders *Spine (Phila Pa 1976)*. 2001 Jan 1; 26(1):36-41. Hartling L, Brisson RJ, Ardern C, Pickett W.

A study was undertaken in the Australian state of Victoria to determine the relationship between compensable status in a no-fault compensation scheme and long-term outcomes after orthopaedic trauma involved patients aged from 18 to 64 admitted between September 2003 in August 2004 with orthopaedic injuries and funded by the no-fault compensation scheme for transport related injury and deemed non-compensable. The results showed that compensable patients were more likely than non-compensable patients to report moderate to severe disability at follow up for the physical and mental summary scores. Compensable patients were less likely than non-compensable to have returned to work or study. The authors said their finding of worse outcomes for compensable orthopaedic trauma patients, compared with non-compensable patients added to the evidence that compensation schemes may impede recovery from injury.

***The Relationship Between Compensable Status and Long-Term Patient Outcomes Following Orthopaedic Trauma*:** Belinda J Gabbe, Peter A Cameron, Owen D Williamson, Elton R Edwards, Stephen E Graves and Martin D Richardson Med J Aust 2007; 187 (1): 14-17.

A study was undertaken to determine whether patterns of early clinical care involving visits to general practitioners, chiropractors, or specialists were associated with different rates of recovery. The conclusions were that the type and intensity of clinical care initiated within the first month after the injury is associated with the rate of recovery from whiplash injuries and did not support the hypothesis that early aggressive care promotes faster recovery.

Initial Patterns Of Clinical Care and Recovery From Whiplash Injuries: A Population-Based Cohort Study Arch Intern Med. 2005 Oct 24;165(19):2257-63. Côté P, Hogg-Johnson S, Cassidy JD, Carroll L, Frank JW, Bombardier C.

The *Marshall Report* quoted from the above study as follows (p 33):

"We found that increasing the intensity of care beyond two visits to (family doctors), beyond six visits to chiropractors, or adding chiropractic to medical care was associated with slower recovery from whiplash injuries even after controlling for initial injury severity. Clinicians who promote frequent visits may inadvertently encourage patients to cope passively with their pain...patients who cope passively with their pain may demand more clinical care. Relying on repetitive clinical care likely reinforces some patients' belief that whiplash is a serious disorder with a long, disabling course. As with low-back pain aggressively treating patients with acute whiplash injuries likely promotes illness behaviours and disability rather than return to normal activities."

A follow-up study was undertaken by the same authors to test the reproducibility of the finding that the intensity of health care utilization during the first month after the injury for whiplash injuries is associated with delayed recovery under a tort system of insurance. The authors found that increasing the intensity of care to >2 visits to a general practitioner, 6 visits to a chiropractor, or adding chiropractic care to general practitioner care was associated with slower recovery which was consistent with the findings of their previous study. Under no-fault insurance, patients who consulted a general practitioner and a specialist had a slower recovery than those who consulted a general practitioner once or twice.

The authors concluded that too much health care too early after a soft tissue injury negatively influences the prognosis of whiplash patients. The combination of chiropractic and general practitioner care significantly reduces the rate of recovery and appears to confer no benefit to patients. In short, early minimal care that promotes activation improves prognosis.

The authors noted that because patient pressure is a known predictor of physician behavior, doctors may use treatments, schedule follow-up visits, and refer patients when not medically needed, which in in turn may lead to adverse outcomes and even prolong recovery by legitimizing patients' fears and creating unnecessary anxiety.

The authors suspected that a tort system may influence patients' perception of their medical needs and how insurers/tort require them to legitimize their injury and then influence the patients to pressure clinicians for referrals.

Early Aggressive Care and Delayed Recovery from Whiplash: Isolated Finding or Reproducible Result? Rheum. 2007 Jun 15;57(5):861-8. Côté P1, Hogg-Johnson S, Cassidy JD, Carroll L, Frank JW, Bombardier C.

The *Marshall Report* commented on the above study as follows (p 32):

"The majority of injury claimants report that they have "minimal" or "minor" injuries at time of the accident. While symptoms may manifest themselves long after an accident, the fact is that most people are not seriously injured. Some 83 per cent of motor vehicle injuries involve whiplash or other soft tissue injuries such as a sprained back, which, most of the time, can be treated by relatively simple, short-term and inexpensive procedures that are well understood by health care providers."

A study conducted in the Australian state of New South Wales concluded that legislative change which both removed financial compensation of pain and suffering for whiplash and introduced clinical practice guidelines for its treatment had a beneficial effect on disability pain and recovery. The study noted that whiplash was the most prevalent injury in a compulsory, fault-based, third-party motor vehicle insurance scheme in New South Wales, Australia. It examined an auto insurance reform in 1999 that contained four key legislative changes:

a. removal of payment for compensation for pain and suffering for whiplash injured;
b. introduction of clinical practice guidelines for treatment of whiplash;
c. regulation to ensure earlier acceptance of compensation claims; and
d. earlier access to treatment for all types of injury.

The study produced evidence that showed health outcomes for people with whiplash were substantially improved after legislative change that restricted access to compensation for non-economic loss, introduced clinical guidelines for the management of whiplash, and provided earlier acceptance of compensation claims and greater provision of early treatment. The superior outcomes were sustained in a second group sustaining their injuries after the legislative change. Improvement was demonstrated in both the degree of disability, physical functioning in pain together with percentage of people recovered. The findings produced evidence that the structures of compensation schemes can positively influence health outcomes for injured people. The data also suggest that psychosocial factors contribute to the development of the disability after a whiplash injury.

The study showed a significant improvement in health status as assessed in relation to disability, pain and physical functioning after legislative change that reduced compensation for disability for whiplash injury and encouraged earlier acceptance of insurance claims and early treatment. The improvements in health outcomes were maintained for more than four years after the legislative change. The authors concluded that as the health status of people with whiplash improved after legislative change, design of compensation schemes should be undertaken with the understanding that the scheme structure may have substantial effects on the long-term health of injured people.

Legislative Change is Associated with Improved Health Status in People with Whiplash-SPINE Volume 33, Number 3, pp 250-254 @2008, Lippincott Williams and Wilkins, Ian D. Cameron, PhD, Trudy Rebbeck, PhD, Doungkamol Sindhusake, PhD, George Rubin, PhD, Anne-Marie Feyer, PhD, John Walsh BSc and William Scofield MA.

A study of the effects of a population-based media campaign providing positive messages about back pain in the Australian state of Victoria produced findings to suggest that strategy can be highly effective in reducing back related disability.

2001 Volvo Award Winner in Clinical Studies: Effects of a Media Campaign on Back Pain Beliefs and its Potential Influence on Management of Low Back Pain in General Practice
Rachel Buchbinder, MBBS (Hons) MSc. FRACP Spine Volume 26 number 23, pages 23535–25 (2001)

B. Expert Testimony in Recent Cases

Expert testimony in recent Canadian trials in Alberta and Nova Scotia pertaining to the constitutional validity of new legislation which capped awards for traffic injured with certain defined soft tissue injuries is consistent with studies referred to above.

Morrow v. Zhang, 2008 ABQB 98

Dr. Larry Ohlhauser (Ohlhauser) gave testimony about his engagement by the Alberta government to provide advice regarding the 2003 Alberta tort reforms. His testimony is summarized as follows:

a. Prior to 2003 there were no regulated standards of care applicable to the diagnosis and treatment of whiplash associated disorders, sprain or strains.
b. There were no well recognized tools to help the patient quantify pain. In about 2003 in the medical community the reporting of pain was essentially using subjective tools. Quantifying pain medically in his view required the subjective opinion of the patient and the practitioner.
c. There was nothing in the medical literature to define a "minor" injury.
d. He was retained to develop a process to help Alberta traffic injured to recover more quickly and effectively, provide advice as to the definition of "minor injury" and to develop protocols and guidelines for diagnosis and treatment to improve their prognosis.
e. When asked in September 2003 to find certain medical terms to develop regulations dealing with motor accident soft tissue injuries, Ohlhauser reported that the assessment, diagnosis and treatment of some minor injuries have been inconsistent and there was no effective patient focussed process for reassessing injuries for those who did not recover in the expected timeframe.
f. He considered the majority of injuries such a sprains and strains properly diagnosed and treated should heal within three months. He suggested a guideline to help improve recovery. His priority was to build a model that would be acceptable to patients.
g. He said the priority of healthcare providers should be to focus on assisting quick and effective recovery and any dispute resolution process dealing with entitlement to damages be set out in a separate regulation to involve practitioners other than those providing the care to the injured person.
h. He conducted a literature review, engaged professionals and representatives of healthcare groups, proposed a model for consideration and enlisted a core working group to provide input as to the diagnosis and treatment of all soft tissue injuries. He interviewed clinicians experienced in treating soft tissue injuries and interviewed others. There was a wide variation in recovery times for whiplash associated disorder (WAD) injuries in different circumstances and countries.
i. He determined that an evidence-based approach to diagnosing and treating whiplash injuries was consistently advocated.
j. It was important to identify those less likely to recover quickly and uneventfully by referring to certain alerting factors. Once identified, those persons would more likely require multidisciplinary assessment and treatment by an inter-disciplinary rehabilitation team.

k. The object was to reduce the numbers of persons complaining of chronic whiplash symptoms. Improved recovery time could occur if care was managed properly which included making an accurate diagnosis, an appropriate injury treatment plan and identifying early the poor prognostic factors.

l. He believed if the model was developed properly, more people would receive appropriate treatment and cost savings might result in future. He took into consideration that a time frame for recovery as part of the definition could ignore the physiological response expected from injured tissue and also secondary gain could be sought by continuing treatment for monetary gain or for attention.

m. He familiarized himself with identifying flags or alerting factors for some who may not progress to full recovery but instead lead to chronicity. He advised that biopsychosocial models identify that medical problems exist and address assistance to re-integrate into the community.

n. He met with Dr. Ferrari and reviewed other compilations including the *Québec Task Force report* which had a useful classification system for grading whiplash associated disorders and enhancing communication between practitioners and insurers regarding the patient condition.

o. The core working group originally included members of the Colleges of Physicians and Surgeons, Physical Therapists, and Chiropractors of Alberta, the Alberta Association of Occupational Therapists, Alberta Medical Association, Massage Therapists and Psychologists Associations. Their object was to understand the context of developing the “minor injury” definition, agree to a process to develop diagnostic criteria and treatment protocols, finalize the definition of minor injury and improve the section B no-fault benefit processes.

p. The model he designed recognized some items which are impairment but may not result in disability. He agreed some persons with chronic pain syndrome could also have a disability. He expected that most patients under his model would be pain free within three months although some would still report pain.

q. On March 3, 2004 he met with the core working group which agreed in principle with many of the presented concepts including diagnosing injuries and categories of WAD injuries.

r. Since he knew some practitioners may not have the interest or skills to effectively manage the injured person, he introduced the concept of an injury management consultant to provide early consultation where diagnosis was in question or the person not progressing as expected. He concluded if those persons could be early identified, they could be moved out of the protocols into a multidisciplinary assessment process using the biopsychosocial model to address factors that would otherwise be a barrier for efficient and effective recovery.

s. He and the experts agreed to reduce the likelihood of developing chronic conditions and ongoing impairment the primary healthcare practitioner in the case of a WAD I or II injury with alerting factors to recommend reassessment within 21 days of the accident and if the injury was not appropriately resolving, to refer the person to an injury management consultant for an assessment and report.

t. In April 2004 he provided a draft of the *Minor Injury Regulation* and *Diagnostic And Treatment Protocols Regulation* (DTPR) for comment. He advised of the steps to be

taken if the patient has not fully recovered by 12 weeks. The injury management consultant could provide early consultation before that and after assessment recommend multidisciplinary assessment or interdisciplinary rehabilitation.

u. The target outcome for sprain, strain and WAD I and II injuries was expected to be 90% by 12 weeks, if properly managed according to the DTPR. Potential barriers would include the patient not participating in the recovery, the practitioner not following protocols, or lack of further support by insurers in a timely manner for the multidisciplinary assessments in rehabilitation when requested by the practitioner.

v. After the regulations were passed on June 21, 2004, Ohlhauser worked to address implementation issues as to the time to educate practitioners, develop and distribute interpretive materials and prescribe forms and develop qualification standards for injury management consultants and certified examiners in clarifying final procedures.

w. He completed preparation of an interpretive bulletin in September 2004 outlining new protocols for diagnosis and treatment of auto accident minor injuries which went into effect on October 1, 2004.

x. He developed standardized forms to provide a record of the client, assist with administrative process, record information that may be required for legal processes and ensure proper disclosure and consent by the clients, practitioners and other parties. The forms were also intended to gather information for ongoing review and evaluation of the DTPR.

y. He assisted to develop standards to identify appropriately qualified individuals to be certified examiners and injury management consultants. He developed processes and guidelines, training materials and related resources for all service providers which were distributed to print or electronically.

z. He intended the DTRP to be evaluated on an ongoing basis to assess the effect of the reforms on the recovery of injured persons. Outcomes were expected to improve recovery, reduce cost to the insurance system for these injuries and reduce the frustration of participants with the rehabilitation process.

aa. After October 1, 2004 fees were established and published in the Alberta Gazette. Educational seminars were given to primary healthcare practitioners and injury management consultants.

ab. The objective of the DTPR was to attain recovery to patients and restore them to the same level of functionality as pre-accident. He considered being able to advise patients to expect recovery within 12 weeks would be an advance compared to pre-reform and would enable them to seek recovery without involvement. Except for massage therapists the core working group was unanimous.

ac. He made a plea for the regulations to differentiate treatment from disputes over the nature of the injury because the health community did not want to become legal experts when treating patients.

Dr. Richard Mayou had undertaken research since 1990 to examine psychological and behavioural complications of road accidents at the Oxford Accident and Emergency Department in the United Kingdom. His follow up study of traffic injured including whiplash injury revealed their considerable dissatisfaction with the procedures for seeking compensation. His evidence about this included the following:

a. Subjects were more often concerned with recognition of the distress and suffering than with the size of their financial settlement.

Many said money was not the most important issue but rather they wished those responsible showed awareness of their suffering.

b. Reasons for dissatisfaction with the compensation system were mainly to do with the amount or need for personal contact, flow of information and a satisfactory conclusion. The principal specific complaints were lack of information and a feeling that little more could be done without continual pressure and delays caused by apparent inefficiency.

c. The Oxford studies were the largest bodies of evidence using comprehensive quantitative measures of quality of life outcomes. …. Continuing care for those with persistent problems is often disorganized with poor communication between patients and health professionals. Innocent victims want recognition of their suffering, effective care, better information and more sympathetic and straightforward compensation procedures.

d. Evidence supported early immobilization, early return to normal activity, early exercise and multi model treatment for acute whiplash. Data also showed multidisciplinary biopsychosocial rehabilitation with a functional restoration approach improves pain and function. Well-designed early interventions to provide information and psychologically and behaviourally informed advice can be valuable in improving satisfaction and outcomes. Routine clinical care of WAD disorders is generally in line with the recommendations of the Québec Task Force.

e. Canadian researchers have played a leading role. In particular, Cassidy showed the benefits of introducing no-fault in Saskatchewan and that the type and intensity of clinical care initiated in the first month after the injury is associated with the rate of recovery from whiplash injuries.

f. He concluded that the traditional compensation procedures are prolonged, highly frustrating for victims and do not promote good early treatment but often delay specialist care of complications. Those seeking compensation want early recompense for their financial losses and sympathetic recognition of the reality of their distress and problems. He said those he has interviewed would be greatly reassured by recognition of their needs and the promise of the good care of the types set out in the DTPR.

g. In a 1997 paper reporting on interviewees who sought compensation, he found the victims reported long delays, lack of explanation, a feeling that the system did not believe in what they were saying or understand their situation. Whiplash victims felt frustrated and that financial losses and recompense was given begrudgingly and very late. Even if recognized, the treatment has been delayed.

h. He said injured people usually believe there are things they can do for themselves or with their family. They want to know what those things are and prefer to have some control over their futures.

i. His publications reported that innocent victims considered the compensation system did not seem sympathetic. They found it unpleasant to go through a court experience. Their encounters with the legal system did not give them the apologies, concern or sympathy they felt entitled to.

j. He noted their frustration related to the slow and arduous process, conducted in a way that conveyed no sympathy, even if liability was admitted. They were frustrated with the long time it took to settle and settlement

was generally seen as a relief. They did not worry about the amount of the settlement but simply wanted to shorten the length of the process.

k. Most said in the end it was not the money that was important because it did not get them back to their pre-accident state. Money was not totally what they were concerned about. What concerned interviewees were pecuniary losses which caused the difficulties and delays in obtaining recompense for them.

l. His research showed that traffic injured want to get back to normal and are upset by obstructions and delays. It is the injury and disability that caused the distress often exacerbated by legal procedures. He saw the separation of high quality medical care from insurance procedures as a major advantage.

m. He considered it an advantage that insurance and compensation had been separated from the medical care in the Alberta reforms…. Although some will not have substantial financial recognition, it is more important that people are treated with concern and sympathy in a positive way.

n. He said various aspects of compensation proceedings leave people with psychological stress, but he thought if the cap was present as part of an entire package with treatment and advantages it would not cause stress.

o. He did not agree the cap eliminated uncertainties and frustrations or the stress involved with dealing with lawyers and advancing a claim for compensation. He said traditional compensation procedures are prolonged and highly frustrating for victims.

p. The benefits of diagnostic and treatment protocols were substantial. Protocols remove barriers to care, strongly promote early evidence-based care for all, reduce delay and meet the need for better treatment for the large number of traffic injured in a way that is feasible and efficient. The proposed number of treatments is in line with literature on optimal care.

q. He considered the protocols meet the wishes and needs of patients for more organized acute care information and early recognition of problems. He expected the improvements in content and delivery of routine early care would have marked benefits in reducing the incidence of chronic complications.

r. The provision of significant treatment and continuing review for all cannot be demeaning.

s. He did not agree that the protocols suggested a standard approach for all but saw the reform legislation as accepting the genuineness and treatment needs of those accident victims and providing ways for ensuring appropriate treatment.

Dr. Robert Ferrari (Ferrari) was presented as an expert in musculoskeletal medicine, soft tissue injuries, related medical conditions, related associated disorders, clinical management, diagnosis, treatment and management of injuries and conditions. In the following evidence:

a. Regarding the Alberta reforms he did NOT agree that:
    i. reforms would increase stress and unwanted negative reaction of many patients, the reforms stated injuries were unreal or less deserving of treatment;
    ii. the protocols do not require objective proof of injury or impairment in the sense of certainty;
    iii. a number of persons injured with sprain, strain or WAD are as seriously affected as other injured types;
    iv. minor injury claimants are subject to limitations and compensation under the legislation. If they were as dramatically

affected as conjectured, they would be assessed as having a serious impairment and would not be subject to the compensation limits;

v. the protocols treat all persons the same;

vi. the protocols fail to recognize the different rehabilitation, biomechanical, vocational, occupational and comprehensive needs of patients suffering from such injuries or recognize the complex nature of many of such injuries; or

vii. the protocols impaired a physician's ability to act in accordance with good and ethical medical standards and thus affect the accuracy of the diagnosis or there were time restrictions on undertaking treatment.

b. In his opinion:

i. the protocols provide general guidelines, allow a wide array of treatment approaches and add adjunctive therapies which could be individually tailored to the injured person's needs;

ii. the protocols pre-authorized a wide array of treatment and then provided access to Section B expenses up to $50,000 and encourage evidence-based assessment;

iii. the psychosocial measures such as education, reassurance and discussing the social effects of re-establishing normal activities and self-care and the disadvantage of extended dependence on healthcare providers are emphasized throughout the protocols;

iv. the protocols place no restriction on what primary healthcare practitioners may prescribe for the individual injured person;

v. it was an unfounded fear that some insurance systems may lead to premature termination of treatment or other benefits for a significant number of patients who experience chronic pain;

vi. the reforms made the definition of pain impairment and disability straightforward. A health professional need not measure impairment or pain but only conclude that the person injured states that the pain is at a severity that it interferes with their function;

vii. the protocols provided all practitioners with evidence-based guidelines and a new injury management consultant process which are both important and prevent delays in therapy;

viii. he was always able to make a diagnosis of a WAD I or II on the first visit;

ix. requiring immediate categorization of the patient would not have a significant impact unless it was the difference between a WAD II or III; and

x. the categorization could affect the patient's decisions which could have medical and legal consequences.

When asked by patients of the advantages of being treated under the protocols Ferrari advised they would get information about treatment without delay. His main concern was to talk to patients about treatment. He said for legal implications remaining in or opting out of protocols, he advised them to consider legal advice.

Ferrari had published views that outcomes for chronic whiplash patients may be adversely affected by getting involved in the legal process. He noted studies showed the more patients talk about their symptoms the more severe the symptoms become.

Ferrari advised patients to not maintain a pain journal because studies showed the more patients rate their own pain, the more severely it is rated. Also he said paying too close attention to symptoms and worrying over them made them more severe.

From a medical perspective Ferrari did not have a concern about the use of the term "minor injury" but agreed that layperson could object to the view that their own injury was "non-minor". He agreed a soft tissue injury would be a more appropriate term.

Ferrari's published article stated that he does not consider that whiplash suffers are driven by a desire for compensation but likely the entire litigation process often drawn out for years may be an adverse factor and removing an interest or a convenience for pursuing of litigation process may actually reduce [numbers of] chronic care patients.

In Ferrari's view the *Minor Injury Regulation* was mainly designed to save money for all society including insurers, insurance providers, and those who pay for insurance.

Traffic injured may choose to enter litigation or not. If they do, he thought they should be aware of the potentially adverse effects psychologically of the process and those effects should be discussed and addressed through the course of the litigation.

In Ferrari's view:

a. the DTPR was intended to improve the health of Albertans;
b. a change in the compensation system that makes compensation an automatically brief process would be helpful;
c. traffic injured are often attended by lawyers, therapists, the media, and others who encourage illness behaviour that is at best maladaptive and at worst grief driven; and
d. studies showed that being in litigation can affect a person's health.

Barbara Sulzenko-Laurie (Laurie) was qualified as an expert in developing and working with surveys and studies to measure and evaluate policy initiatives and proposals with particular reference to health care service.

Laurie said IBC has undertaken significant initiatives in researching best practices and identifying and treating traumatic injuries.

She led a task force in 2003 for IBC that developed an evidence-based program of care for the treatment of whiplash, WAD I and II injuries. She worked with the medical rehabilitation community in implementing an evident-based program of care called pre-Preapproved Frameworks which are part of the Ontario regulations.

The project was undertaken to monitor the insurance system and to provide continuous quality improvement to monitor and identify problems and benchmark how it operated for soft tissue injuries, sprains and strains prior to and subsequent to the reform and to determine if objectives have been met, to determine what issues have emerged and unanticipated issues emerging from the reform. They looked mainly at administrative outcomes.

The purpose of the study was to establish a benchmark to allow evaluation of the implementation of protocols and to produce a baseline picture from 52 weeks of experience with 600 claims. The distribution of diagnoses showed that about 37% of injuries were WAD I. Significantly less than 50% were WAD II. The remainder were either sprain or strain injuries. Many claimants were not getting treatment in the first 12 weeks. In 12 weeks fewer than 10% of claims were closed and by 26 weeks almost 1/3 of claims were closed. This indicated it would be a challenge to obtain full recovery of 90% of soft tissue injuries within 90 days.

After the reforms, there was a significant decline in the diagnosis of WAD 1 and other sprains and strains. There was a significant increase in WAD II claims. There were some economic incentives to diagnose WAD IIs. The numbers getting treatment in the benchmark increased from 76% to 91%.

While there was no difference in the rates of claims closures for the first 12 weeks, the costs of treatment were increasing. Although the numbers of treatment were not increasing, price per treatment was increasing. Claims closures in 26 weeks were substantially increased. 30% of claims were closed in six weeks and 60% of claims were closed in the second post reform study. The rate of disability claims fell from 17 to 11%.

The evidence of disputing cases declined from 20% to 7% in the second post reform study.

Dr. Kim Burton (Burton), a PhD in clinical epidemiology and bio mechanics, was qualified as an expert to opine on evidence-based practice relating to whiplash associated disorders, sprains, strains and other back problems including the cause, nature and management of such injuries and conditions and comparisons to other jurisdiction guidelines and protocols.

Burton was retained by the GOA to review the *Minor Injury Regulation* (MIR) and the DTPR and to comment on the definitions of minor injuries, serious impairment, strains, sprains and WAD injuries and the appropriateness of the protocols. He was asked to compare the MIR and the DTPR with guidelines and protocols pertaining to whiplash associated disorders in other countries and with scientific evidence in general. His evidence included:

a. Most strains sprains and whiplash associative disorders are common health problems characterized by high prevalence rates in the population, symptoms without permanent impairment, high probability of rapid recovery and return to work, although long-term incapacity is the exception rather than the rule.
b. Predictors were unreliable as to which persons would proceed to long-term incapacity. Multi model intervention help to solve this concern which requires that all involved in the recovery including patients, health professionals, employers and insurers have the same common goals to act in a consistent and coordinated way to achieve resolution of the condition and return to normal participation.
c. Unless managed well, whiplash injuries can be problematic for patients and society. More WAD patients will recover within three months if improved treatment approaches can be implemented. Even if symptoms persist, they are not necessarily constant but rather come and go with fluctuating intensity and do not always require further care.
d. It can be uncertain whether those symptoms are directly related to a motor vehicle accident or simply a reflection of the high prevalence of musculoskeletal disorders among the general population. For example, 25% of persons experience neck pain for at least one day over the course of a week and over 2/3 find it difficult to carry out normal activities.
e. Some experience persisting symptoms that can be related to the injury but in most cases, there is no indication they have experienced a more severe injury, rather they have faced obstacles to recovery and have drifted into a chronic pain experience. The range covers the possibility of inadequate treatment or

individual psychological reactions to injury and pain. It is well accepted that the most effective management is early return to normal activities.

f. Failure to recover may be due to psychosocial obstacles not adequately addressed and may signify a transition to a chronic pain syndrome. WAD I and II are minor injuries and strains, sprains and WAD are common health problems and for most people represent nothing more than a transient experience that settles uneventfully with a combination of healthcare and self-management. A high proportion of such patients could recover within 90 days through the Alberta model but a final answer would only come from randomized controlled trials.

g. His research was funded by the Association of British Insurers. He said 25% of patients were still symptomatic two years post injury which meant they would still experience some symptoms. He did not advise patients that entering a claim would adversely affect their health and lead to chronic pain because that was not a clinical issue.

h. He said there was research indicating that persons engaged in litigation have a poorer outcome that people who do not.

Hartling et al. v. Nova Scotia (Attorney General) et al. (2009), 278 N.S.R. (2d) 112; 70 CCLI(4th) 25; 2009 NSSC2

In ***Hartling et al. v. Nova Scotia* (Attorney General) et al. (2009), 278 N.S.R. (2d) 112** (*Hartling*), certain expert medical evidence was adduced and commented upon by the trial judge. The Nova Scotia Court of Appeal noted:

a. the evidence of Dr. J. David Cassidy who suggested that the adversarial system may in fact hinder recovery:

   "¶ 62 Dr. Cassidy has extensive experience and qualifications. All parties agreed that Dr. Cassidy was qualified as an expert Epidemiologist, specializing in Injury and Musculoskeletal Epidemiology."

   "¶ 76 Dr. Cassidy was asked to explain why the elimination of compensation for pain and suffering is associated with a decreased incidents and an improved prognosis of whiplash injury and said that they observed these findings in Saskatchewan but cannot state with certainty why this happened. He said that they suspect the elimination of payments for pain and suffering might have affected the decision to claim for an injury in some cases. With respect to improved prognosis, he commented that they believe the tort system is more adversarial and that legal conflict can delay recovery. **An adversarial system focussed the patient on pain and disability which is counter to the best methods of treatment which focusses patients on their abilities** [emphasis added]. He stated 'in essence, tort insurance is counter-productive to proper health care after injury'."

b. evidence of Viivi Riis, a physiotherapist, as follows:

'... I do not agree that there is a general disapproval attached to victims of soft tissue injuries and chronic pain. Indeed, since I began practising as a physiotherapist more than twenty years ago, I have seen significant growth in the amount of publicity around the prevalence of these conditions. There has been a commensurate increase in the research effort in this area and in the academic journal articles making the results of this research available to health professionals.

It is my experience that when patients become involved in legal proceedings arising from an injury, they may feel quite uncomfortable with the processes involved. By their very nature, such suits can involve various medical examinations and questioning by representatives of all the parties involved in the case. These processes can be arduous, even exhausting and, as a treating practitioner, I have seen the emotional impact they can have on people. I have also with some frequency encountered surprise and resistance from injury victims when their health care providers advise and advocate active approaches to treating conditions such as chronic pain. These approaches include an emphasis on movement, exercise and return to function in spite of ongoing pain.'

c. The judge's comment:

Unfortunately, the nature of the tort recovery system which is adversarial requires patients to focus on their pain and disability which is counter to the best methods of treatment which focusses patients on their abilities.

C. Other Studies

Other studies have pointed to long recovery times and over-treatment of injured persons.

The *Pinnacle Study in Ontario* showed increases in claims for soft tissue injuries associated with increases in legal representation.

Comparisons with the statistics between this study and those from the time of the *Osborne Report* showed the following:

a. 91% of the claimants had some type of legal representation. At the time of the *Osborne report*, 54% of claimants had legal representation.
b. The majority of claimants ultimately commenced legal action against the insurer (83%). This is an increase of 60% since the *Osborne report*. The ultimate severity for claims in which legal action commenced was 14% higher than average.
c. The percentage of claimants with psychological trauma increased from 1.1% in the *Osborne report* to 36.2% in the current study. The percentage of claimants with mild neck injuries and mild back injuries increased from 3.4% to 27.2% and 1.5% to 25.3%, respectively. The percentage of claimants with shoulder soft tissue injuries also increased by 15.3%, from 14.9% to 30.2%.
d. The percentage of claimants with soft tissue neck injuries decreased from the *Osborne report* to the current study, going from 58.7% to 36.1%.
e. The actual time lost from work increased from the *Osborne report* where the median time lost from work was two months to the current claim study where the median time lost is seven months. In the *Osborne report*, 77% of the claims were settled before an action commenced. In the current claim study, 16% of the claims were settled before an action commenced.

Automobile Insurance Third Party Liability Bodily Injury Closed Claim Study in Ontario
Pinnacle Actuarial Resources, Inc (Pinnacle Study), August 13, 2014, p. 4 www.fsco.gov.on.ca/en/auto/Documents/abbreviated-report.pdf

The conclusions drawn in the *Marshall Report* on these findings were instructive:

a. *Marshall* observed that by comparison of the Pinnacle Study findings with that the Association of Worker's Compensation Benefit Systems in Canada the average duration of injury claims for 2015 (the length of time taken to get a worker back to health and to close the file) is just 76 days, about two and a half months, whereas it is one year to two years or more to resolve minor injury claims in the auto insurance system.
b. Moreover, the provincial worker's compensation systems in Canada find that the proportion of claims awarded permanent impairment benefits across Canada is about 13.5 per cent or almost half that found in the auto insurance system in Ontario.
c. *Marshall* concluded that soft tissue injuries should not normally develop into permanent impairments if they are treated properly to begin with. The rate of impairment in the threshold no-fault Ontario model is a warning sign that medical care is not being properly handled. Appropriate medical treatment has been shown to reduce or prevent the development of permanent impairments from soft tissue injuries by as much as 80 per cent.

A collaborative study conducted by a comprehensive group of health professionals in

its 2015 report proposed a new classification of traffic injuries, including Type I, Type II and Type III with these explanations:

a. The natural history of the initial injury is the basis for classification. A Type I injury is likely to recover within days to a few months of the collision; but during the period of recovery the patient may benefit from education, advice, reassurance and time-limited evidence-based clinical care. Type I injuries are the focus of this report. A Type II injury is not likely to undergo spontaneous recovery, and the injured person may require medical, surgical and/or psychiatric/psychological care. Type III injuries are a subset of Type II injuries, that involve permanent catastrophic impairment or disability. The care for Type II and Type III injuries is not covered in this report.
b. Persons with Type I injuries should be educated and reassured from the outset that their own inherent healing capacities are likely to lead to a substantial recovery. They should also be informed that only a discrete set of treatments show evidence of any benefit; and that the same evidence shows that benefit is largely on the basis of pain alleviation. Healthcare professionals need to listen to the patient's concerns and emphasize measures to assist them to cope, recognize and avoid complications.
c. Interventions for Type I injuries should only be provided in accordance with published evidence for effectiveness, including parameters of dosage, duration, and frequency; and within the most appropriate phase. The emphasis during the early phase (0-3 months) should be on education, advice, reassurance, activity and encouragement. Health care professionals should be reassured and encouraged to consider watchful waiting and clinical monitoring as evidence-based therapeutic options during the acute phase. For injured persons requiring therapy, time-limited and evidence-based intervention(s) should be implemented on a shared decision-making basis, an approach that equally applies to patients in the persistent phase (4-6 months).
d. Type II injuries typically involve a substantial loss of anatomical alignment, structural integrity, psychological, cognitive, and/or physiological functioning. The majority of patients with such injuries will require (in addition to natural healing) a significant amount of medical, surgical, rehabilitation, and/or psychiatric/psychological intervention to ensure an optimal recovery. There is an evidentiary basis for major concern about both the extent of recovery and about the likelihood of complications developing and/or persisting in the absence of such expert care; significant impairment and disability are primary concerns. Examples of traffic collision-induced Type II injuries include fractures of the femur and hip, shoulder dislocation/fracture, facial fractures, depression or post-traumatic stress disorder.
e. Type III injuries refer to the subset of Type II injuries which fall within the conceptual framework of catastrophic impairment within the Ontario Statutory Accident Benefits Schedule (SABS). In Ontario, there is a special set of entitlements available to patients whose injuries are extremely serious and permanent such as amputation, spinal cord injuries and severe brain injuries. Extended benefits are available for long-term attendant care, and medical and rehabilitative goods and services.

***Enabling Recovery from Common Traffic Injuries: A focus on the Injured Person*.** Côté P, Shearer H, Ameis A, Carroll L, Mior M, Nordin M and the OPTIMa Collaboration. UOIT-CMCC Centre for the Study of Disability Prevention and Rehabilitation. January 31, 2015.

D. New South Wales Introduction of No-Fault Long-Term Care for Catastrophically Injured – 2006-2007

In 2005 the New South Wales government (NSW) determined that the 1999 auto insurance reform had led to a stable and affordable scheme which made it possible to expand coverage to all catastrophically injured persons whether they could prove fault or not.

NSW identified that about 125 people in New South Wales were catastrophically injured annually who had significant daily needs including care, personal assistance, domestic support and ongoing equipment and medical needs. It proposed a scheme that would provide:

a. medical treatment;
b. acute inpatient care;
c. rehabilitation;
d. specialist and expert medical care; and
e. pharmaceutical expenses for life.

The model contemplates appointment of lifetime care coordinator to work with the person and the person's family. The coordinator would focus on helping the person adjust to the disability and help them regain as much daily function and independence as possible. It would also identify options for accommodation, transport, education, employment, social and recreational activity. In the acute care and rehabilitation phase, the coordinator would work with the injured person to help develop rehabilitation and community participation plans that identify short and long-term goals consistent with desire.

The coordinator would also help the injured person and their family develop a community participation plan to enable the person to access all available activities and opportunities. The long-term planning process would include:

a. Specific goals of the injured person including educational social and employment;
b. services and support required including identifying any specific skills;
c. time frames;
d. specific service entry, exit and transitional strategies;
e. roles and responsibilities of those involved and support;
f. agreed review date to assess the adequacy of the plan; and
g. support for carers.

Following the rehabilitation towards discharge, the life care coordinator would help the person and family focus on living with their disability and identify their ongoing support needs. Following discharge the scheme would typically provide daily services such as:

a. aids and appliances;
b. home and transport;
c. personal care;
d. domestic services;
e. childcare services;
f. nursing care;
g. assistance with community access;
h. educational and vocational services; and
i. respite care.

The program would provide lifetime care and support through a fully funded statutory trust. The government would also provide support for the scheme including medical costs.

An actuarial analysis estimated approximately 124 persons would be eligible to enter the scheme annually. This would include about

37 with spinal cord injury, 84 with traumatic brain injury, three with other injury such as bilateral amputee, major internal injuries and severe burns.

Guidelines would establish the extent of the injury.

Standards would be developed for service providers covering a range of skills, training and experience. Care providers would be approved by the LTCS authority to ensure quality of service. The model of service delivery would as far as practicable, give control of the selection of service providers and coordination of services to the injured person and/or their family.

It proposed a board of the long-term care program with authority that would:

a. oversee the fund, including its investment;
b. approve the guidelines for eligibility and care need assessment;
c. approve the assessor fee schedule; and
d. approve the care provider fee schedule.

An Advisory Council would be established including two practicing health professionals with relevant experience in treating persons with catastrophic injuries, consumer representatives from relevant disability organizations and care provider representatives. The Council would advise the minister and the government on the operation of the scheme.

The scheme would be fully funded through a levy on motorists collected in conjunction with motor accident insurance.

Funds paid into the scheme would be the full cost of providing lifetime care and medical treatment services to injured people. The pooling of the funds would protect against the possibility of poor estimation of an individual claimant.

For those eligible to enter the LTCS scheme, lump sums would no longer reflect compensation for future treatment lifetime care and domestic assistance performed on an unpaid basis, but would be provided through the scheme. Payments for damages for pain and suffering and economic loss would remain unchanged. In determining the levy, the LTCS Authority would rely on independent actuarial advice to ensure that the fully funded principle is maintained.

The NSW government obtained an actuarial no-fault long-term care costing study which gave a cost estimate based on the number of people injured in the 2005/2006 accident year.

The NSW government ultimately introduced the lifetime care and support scheme (icare) to improve the quality-of-life of the injured person and their family on 1 October 2006 for children under 16 and on 1 October 2007 for adults.

E. Conclusions

1. The foregoing peer-reviewed scientific evidence collected from evaluations of traffic injured recovery under no-fault compensation models since 2000 prove that health outcomes of traffic injured are improved after elimination of money compensation for pain and suffering.

2. The scientific evidence supports the contention that under a tort system claims are filed in a potentially adversarial environment that can promote the persistence of symptoms in claimants. In the course of proving that their pain is real, claimants may encounter conflicting medical opinions, unsuccessful therapies, and legal advice to document their suffering or disability.

3. The evidence suggests a tort system may influence patients' perception of their medical needs and how insurers/tort require them to legitimize their injury and then influence the patients to pressure clinicians for referrals.

4. A study under the tort system confirmed that too much health care too early after a soft tissue injury negatively influences the prognosis of whiplash patients. Early minimal care that promotes activation improves prognosis.

5. Fewer persons file claims for whiplash injury under the no-fault system, and those who did recovered faster than similar claimants under the tort system. Similar results have been produced in Alberta in respect of recovery periods for mild traumatic brain injury.

6. Scientific data studying long-term outcomes after orthopaedic trauma led to the conclusion that compensation schemes may impede recovery from injury by producing worse outcomes for compensable orthopaedic trauma patients, compared with non-compensable patients.

7. Under both the tort and the no-fault systems, the involvement of a lawyer was associated with delayed claims closure.

8. All of the foregoing medical evidence support the finding of the trial judge in the *Hartling* decision that:

   Unfortunately, the nature of the tort recovery system which is adversarial requires patients to focus on their pain and disability which is counter to the best methods of treatment which focusses patients on their abilities.

9. Under a no-fault system, there is no financial incentive to delay recovery since claimants have immediate access to medical care and other benefits without being required to substantiate their injuries.

10. The consistently developing medical evidence from 2000 to the present demonstrates that health outcomes of traffic injured are not well served by the tort system and preservation of any of its components in the Alberta automobile insurance compensation system is not justified.

11. This is supported by testimony of health practitioners in the recent court challenges in Alberta and Nova Scotia.

12. Experience from other jurisdictions consistently suggests extended treatment and some investigative procedures, such as imaging and invasive treatment, are not recommended for most soft tissue injuries and can be linked with dependence and poor health outcomes.

13. New South Wales and Ontario experience provides further caution that fee for service payment models' treatment of traffic injured tend to support quantity over quality. Overtreatment occurs in compensation systems because sometimes the practitioner is not aware of or committed to best practice guidelines for soft tissue injuries and others are influenced to recommend treatment or extend treatment in response to pressure from patients or their families.

14. A study of patterns of early clinical care involving visits to general practitioners, chiropractors, or specialists did not show that early, aggressive care promotes faster recovery. Whiplash injury is less of a problem in jurisdictions where the involvement of healthcare providers is minimal.

15. In addition to establishing objective evidence that no-fault models are superior to tort models from a health outcome perspective, pure no-fault models have demonstrated the greater opportunity to collect reliable treatment data to inform, innovate and improve treatment modalities to traffic injured.

16. The implementation of the pure no-fault model in Québec enabled the Québec Task Force to utilize the data to establish a classification system for whiplash associated disorders as WAD I, II and III, and this system is now being used worldwide. This experience is strong evidence that a pure no-fault model for accident compensation can not only provide ongoing data to inform consistent, appropriate treatment for various categories of traffic injuries but is also better suited to utilize the data collected to implement innovative techniques to improve treatment more effectively and expeditiously.

17. The New South Wales' experience also supports the importance of collecting and analyzing data on patterns of rehabilitation and recovery to validate approaches that produce optimal health and functional outcomes for soft tissue injured persons. It provides supporting evidence that any reformed medical assessment model must ensure that treatment paths are consistent with established and current best practice guidelines to facilitate optimal recovery and containment of treatment costs. Recognition is also necessary of those claimants with reduced motivation to comply with essential self-management aspects of a treatment program.

18. The New South Wales' experience also reinforced support for an independent panel of medical specialists who are the sole decision makers about assessment and treatment issues, noting that accessibility to skilled and qualified experts prevents delay and adversarial elements, such as duelling experts that can result in delay, increased cost and potential impaired recovery.

19. The evidence and experience pertaining to the development and implementation of the Diagnostic and Treatment protocols since 2004 provides reliable validation of the benefits of that innovation and should be used as a foundation in the transformation of treatment of traffic injured in Alberta.

20. The Committee was satisfied that all the peer-reviewed health evidence it examined further bolstered its conclusion that a pure no-fault model would be the optimal choice for treatment of Alberta traffic injured.

F. Recommendations

1. Medical and health treatment for all traffic injured in Alberta should be reformed to incorporate and conform to consistent evidence-informed practices.

2. All reforms that can align with improved health outcomes for traffic injured should be incorporated into a reformed care and compensation traffic insurance model.

3. In light of compelling evidence that being involved in litigation can adversely affect a person's health, any services provided under the current model that directly or indirectly promote or sustain litigation, adversarial conditions, points of dispute, duplication of examinations and assessments or that otherwise do not promote prompt and optimal recovery of traffic injured should be eliminated.

4. Specifically, roles of service providers of treatments, follow-up visits, and referrals when patient health benefit, or medical need is not based on reliable evidence, or consultations in respect securing benefits, or income replacement, which may as a consequence prolong recovery by legitimizing patients' fears and creating unnecessary anxiety, should be eliminated.

5. Reform legislation should promote early acceptance of genuineness of reported symptoms of traffic injured and delivering prompt and appropriate pathways for ensuring appropriate treatment.

6. New protocols for treatment of all traffic injured must be introduced and regularly reviewed and refined with data developed and analyzed to minimize or eliminate overtreatment, undertreatment or ineffective and incorrect treatment of traffic injuries.

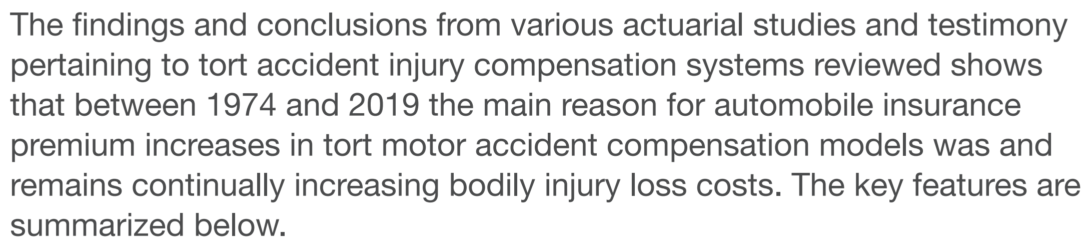
7. A reformed care model for Alberta should build on the existing DTPR model and expand it to be available all traffic injured under a pure no-fault care model.

8. The long-term care medical professionals should be engaged to assist in implementation of a long-term care model that would best serve the needs of those severely injured in traffic accidents.

9. The no-fault long-term care model established in New South Wales in 2007 should be considered as an example for persons severely injured in traffic accidents. The property and casualty insurers who distribute automobile insurance policies in Alberta should be engaged in dialogue to determine the viability of establishing a funding pool model to support a long-term care program.

10. A pure no-fault care model for Alberta will optimize development and application of data technology including innovations such as artificial intelligence to further identify and add evidence-based improvements to diagnosis and treatment to provide continued renewal of treatment modalities.

VII Actuarial Evidence from Tort Accident Injury Compensation Systems



The findings and conclusions from various actuarial studies and testimony pertaining to tort accident injury compensation systems reviewed shows that between 1974 and 2019 the main reason for automobile insurance premium increases in tort motor accident compensation models was and remains continually increasing bodily injury loss costs. The key features are summarized below.

A. *1990 Report on Alberta Motor Vehicle Claims Survey* (Cheng 1990)

The *Cheng 1990 report* to the AAIB documented the following findings:

a. About 2/3 of injured claimants including passengers and pedestrians were not at-fault and could claim for both tort and no-fault benefits. Over half the claimants had soft tissue injuries and received about 25% of the total claims dollars. About 10% of claimants had permanent injuries and about 3% of claimants had permanent and total disability.

b. In 1990 claims under $10,000, 83.1% of the claims related to non-pecuniary losses. For claims between $10,000-$75,000 non-pecuniary claims represented 57.1% of the claims. For claims over $75,000 non-pecuniary damages represented 18.2% of the claims.

c. Injury claims were increasing at 12.9% per annum which was more than twice the CPI increase. Claimants with counsel received more claim dollars for similar injuries. The rate of increase from 1988 to 1990 was 14% which was about 3% higher than claims without counsel.

d. 50% of claimants were represented by counsel.

e. The study could not fully capture the entire spectrum of legal expenses, only some payments of party and party costs which are expenses payable by a litigant for appearing or carrying on as a party to a proceeding which are allowed by the court according to Schedule C of the Rules of Court. It noted that the entire amount of payment of legal fees to claimants' lawyers was unknown.

f. After examining the data from 1972 to 1989, it found loss costs had increased dramatically since 1985 mainly due to the increase in bodily injury loss costs.

g. Claimants with minor injuries were overcompensated in the tort side of the system relative to all other traffic injured. Claimants with catastrophic injuries were undercompensated in the tort side relative to all other traffic injured.

h. At-fault claimants were inadequately compensated for their economic losses relative to tort claimants.

i. There were structural deficiencies in the delivery of benefits in the current system.

j. All payments required under the current system were subject to delays.

k. The data proved that there was a pricing problem in the system which would persist in the future without some measures to counteract it.

l. Loss costs would continue to increase because of continuing increases in frequency and severity of claims unless bodily injury costs were curtailed and effective cost saving measures undertaken.

B. *1998 New South Wales Ernst & Young Report*

The 1998 New South Wales Ernst & Young reported in NSW that:

a. claims costs were rising at a much higher rate than was the Consumer Price Index with no reason to believe that this unsatisfactory claims cost change rate trend would end;

b. the compensation benefits were not fairly distributed among automobile accident victims;

c. persons with severe injuries did not receive adequate sums to fund future care and those with non-severe injuries received more than they needed;

d. a large percent of the scheme's resources (approximately 50%) were diverted to service providers involved in the determination of eligibility of benefits; and

e. future changes had to address the scheme's cost structure and a more equitable distribution of benefits.

C. *Motor Vehicle Insurance in British Columbia – at the Crossroads* (KMPG Report 1996)

The *KPMG report*, which was prepared for ICBC and the government of British Columbia, made the following findings:

a. motor vehicle insurance costs increased at rates higher than the rate of inflation from 1986 to 1996;
b. the average premium increased by 135% over the same period;
c. claims costs represented about 79% of total expenditures and increased at more than 6.5 % per year after inflation;
d. claims operating cost expenses and commissions grew 5% per year faster than inflation from 1985 to 1995;
e. the introduction of premium tax in 1987 added to the increase in product costs;
f. bodily injury claims represented $0.50 of every dollar of claims, including legal and other tort claims costs;
g. the real bodily injury claims cost per insured vehicle nearly doubled over the ten year period;
h. the trend was due to increases in claims frequency and average cost per claim;
i. bodily injury claims grew at 7% per year, far faster than rate of property damage claims;
j. bodily injury claims increased 50% over the past 10 years;
k. the propensity to file personal injury claims increased by 40% over the 10 years;
l. the average bodily injury claim was four times the average property damage claim; and
m. rising claims costs and numbers appeared to due to:
    i. increasing propensity and ability to maximize awards especially due to non-economic losses;
    ii. growing sense of entitlement to receiving motor vehicle insurance payments;
    iii. growing inclination to focus on pain and suffering;
    iv. increased advertising by lawyers and tendency to seek legal representation;
    v. willingness of courts to increase types and amounts of compensation awards; and
    vi. increased incidence of fraud.

A cost breakdown of ICBC dollars from 1995 data showed:

a. 80% of the costs related to payments to claimants and claims related expenses;
b. 8% of costs were paid for distribution of the product;
c. 9% of total expenses or $223 million represented total legal costs;
d. $670 million were paid to external suppliers, including defence counsel, glass repair shops, car rental agencies, medical payments and the like; and
e. brokers were paid $151 million.

In total, only 2/3 of claims costs and expenses were put in the hands of claimants for their claims or damage repairs. For personal injury claims, claimants received only 72% return with 17% paid to legal services.

An explication of legal costs for 1995 to ICBC was as follows:

a. BC in-house legal department – about $7 million;
b. ICBC external defence counsel hired to defend tort claims – about $53 million;

c. cost for expert reports, independent adjusters and private investigators required for litigated claims – about $17 million; and
d. estimated plaintiffs' costs including contingency fees and disbursements – about $146 million.

D. KPMG – 2003 Government of Alberta Implementation Team

In 2003, KPMG was retained by the Alberta implementation team to advise what average premium would be required in Alberta to align it with other provinces and then calculate the reduction required to achieve the caucus policy directive. The number was between $200 and $250 million. It was asked to determine the amount that would be saved by imposing a cap of $4,000 on minor injury claims. The definition of "minor injury" was continually restricted by Caucus with the result that the cost saving was continually reduced and never accurately calculated.

E. Addie Closed Claims Study 2003

The closed claim study comparison performed by Barb Addie (Addie) showed that 62% of claimants suffered soft tissue injuries only and received 43% of the settlement amounts. Another 29% received settlement amounts for soft tissue and another injury. 91% of all claimants suffered some form of soft tissue injury. These claims represented 93% of the settlement amounts. 71% of the total settlements were for pain and suffering.

Comparison to the 1991 closed claims study from AAIB showed that the percentage of pain and suffering was very similar among the three surveys. The underlying data were adjusted for inflation to bring them to the same point in time.

Had Addie's 2006 study data been used by KPMG for the Implementation Team, instead of the 2002 New Brunswick study, a larger cap would have been needed to achieve the government's objective of reallocating 20% bodily injury costs to lower premiums and enhance Section B benefits.

F. Testimony of Actuaries – *Morrow Case* 2008

Mr. Ted Zubulake, GOA actuary, produced a report that said:

a. Between 2000 and 2003 auto insurance premiums sharply increased and became less available in the regular insurance market.
b. These insurer actions were mostly due to bodily injury claims costs.
c. The escalation of bodily injury costs was likely driven by minor soft tissue injury claims costs.
d. IBC studies in New Brunswick and Nova Scotia and his own of Newfoundland and Labrador found that traffic accident soft tissue strains and sprains accounted for a high percentage of bodily injury liability claims and claims payments, and most were for pain and suffering.
e. The Newfoundland and Labrador study dated March 2002 reported 67% of claims came from soft tissue injuries and sprains of the neck and back with no other injuries.
f. At the time the GOA was considering automobile insurance reforms, auto claims costs were increasing primarily due to higher minor soft tissue injuries.
g. Increases in Section B accident benefits for medical and rehabilitation compensation from $10,000-$50,000 would reduce bodily injury liability costs by reducing the injured person's out-of-pocket medical and rehabilitation expenses.
h. Bodily injury coverage financial results contributed to the insurer action between 1986 and 2004.
i. The greatest increase in costs through those periods was third-party liability coverage and escalation of bodily injury loss costs driven by minor soft tissue injury claims costs.
j. KPMG found that of 1441 claims of combined closed claim studies, 1077 were for minor injuries which constituted 74% of the claims examined as ultimately defined by GOA.
k. The average pain and suffering cost for minor injuries in 1990 was almost $3,000. In 2003, the average pain and suffering cost for minor injuries was almost $17,000 in 2005 dollars. This increase, greater than 10% per year, was in excess of the compounded rate of growth. Thus, minor injury accident related injuries such as soft tissue strains and sprains represented a high proportion of bodily injury liability claims costs.

Dr. Ron Miller, actuary, testified that:

a. From 1984 to 1999 the average cost of third-party liability bodily injury coverage was increasing at a steep rate compared to the all Canada CPI.
b. From 1994 to 1998 claims frequency increased on average by about 2 to 3% per year while claims severity increased by 7.3% per year resulting in an increase in claims cost per car on average of 9.8 %, while CPI inflation averaged only 1.6% per annum. Those results imposed large stress on the system which was likely the cause of the increase in rates, consumer dissatisfaction and resulting reform measures.
c. From 1999 to 2001 claims costs reduced and then spiked to the highest point in 2004.
d. In 2000 the loss ratio at 100% and 110% was unprofitable (for insurers), reflective of the increase in bodily injury claims costs not being offset by sufficient premium increases.

e. In 2003, before the reforms were effected, claims were disappearing. A possible explanation for this was that consumers receiving premium increases of 10% or more may have become conscious of the proposed reforms, the issue of affordability and knew that reporting an at-fault claim would trigger a large premium increase.
f. Miller had seen a similar pattern in other jurisdictions, such as New Brunswick and Ontario showing that when there are dramatic premium increases, claims disappear from the system. He found strong statistical evidence that the third-party liability claims costs declined by 37%.
g. Since the reforms in January and October 2004, third-party liability bodily injury costs declined dramatically.
h. It was plausible that:
    i. post reform some minor whiplash injury claimants were no longer motivated to seek settlement or the protocols were working as intended or both, such that claimants were exiting the system faster or not entering it. In any case this effect leads to a one-time reduction in frequency and severity for both third-party liability.
    ii. if claimants and their lawyers climb the learning curve, those who had left the system may begin to re-enter it and all claimants find ways to increase compensable damages resulting in a one-time change to a positive forward trend in claims frequency and claims costs.

Miller did not believe the 2004 and 2005 industry profits were greatly and unnecessarily accelerated by the product reform.

Miller noted that KPMG opined that the cap would be responsible for 70% of the savings and 30% would be due to the gross to net and collateral sources amendments.

Miller did not agree that the insurance cycle would have corrected the premium problems.

Mr. Joe Cheng, Actuary, testified that:

a. between 1986 and 2002 bodily injury claims were rising faster than the CPI by 28%;
b. between 1986 and 2002 bodily injury claims per 1000 vehicles had increased by 72%, which is a significant factor contributing to premium increases;
c. compounding the increase in claims by 72% and the inflation over the CPI at 28% presents 120% rising faster than the CPI;
d. premium increases in 2001 to 2003 were mainly due to higher bodily injury claims costs and the need to redress the accumulated premium deficiency;
e. auto insurance premiums in 2002 and 2003 increased mainly because of the high cost of bodily injury costs which were rising at about 120% more than the CPI. In hindsight, if insurers had realized that was occurring at that time consumers would have had to pay 45% more than the CPI in that period; and
f. if that trend continued, Albertans would find their own insurance premiums less affordable.

G. *Pinnacle Study 2017*

The *Pinnacle Study in Ontario*, which examined third-party liability bodily injury closed claims pointed to long recovery times and over treatment of injured persons, according to Marshall. In particular, it found that:

a. soft tissue injuries or associated with claimants accounted for 67% of the total claim payments in the study;
b. roughly 70% of the claimants were classified in the police report as having no, or minimal or minor injuries. Nonetheless the majority of the claimants developed serious and permanent impairment and the median time lost from work for these claimants was seven months; and
c. in Ontario annually about 25% of injured persons make bodily injury tort claims and to pass the verbal threshold, must produce medical evidence that they have suffered a permanent serious impairment of an important physical mental or psychological function a very high level of impairment from what were mostly soft tissue injuries.

H. *Claims and Cost Study* November 2019

The *2019 Claims and Cost Study*, J. S. Cheng & Partners, Inc. November 7, 2019 established that:

a. Between the years of 2011 and 2017 Alberta had the lowest casualty rates among the 10 provinces. Since 2010 most of the claims cost escalation was found to be attributed to bodily injury claims which accounted for 71% of the change in claims cost per vehicle from 2010 to 2018.

b. Adjusting the 2010 claims cost per vehicle to 2018 by the change in the CPI, bodily injury claims cost accounted for almost 100% of the escalation.

c. Non-pecuniary damages are the major cost driver with an annual inflation rate of approximately 9.9%. A significant increase in the incidence of four injury types: chronic pain, psychological injury, concussions and injuries involving the temporomandibular joint was found. These accounted for 78% of the non-catastrophic claims in 2017. (4 top injuries)

d. There were found two compounding factors: first, the number of claims with one or more of these four injuries increased by more than 88% and second, once a claim was presented with one or more of these injuries, its settlement value multiplied by 6 to 8 times versus other non-catastrophic injuries. Combining these two factors showed these four injuries were the fastest growing injury segment accounting for 46% of bodily injury loss dollars in 2010 and 78% in 2017.

e. In 2017, 7% of claimants presented their claims with injuries involving TMJ and the claims amount was 15% of all bodily injury claims amounts.

f. This report recommended the government consider no tort or non-pecuniary damages for automobile accidents occurring in Alberta for a long-term solution to bodily injury claims cost. In return mandatory accident benefits would include a schedule of lump sum benefits for non-pecuniary loss. This solution was used in Québec in controlling bodily injury loss costs because the scale of benefits does not increase faster than the CPI.

I. Findings

1. The foregoing actuarial information shows a continuous trend in Alberta from 1974 to 2019 as first reported upon in 1990, namely, that bodily injury loss costs in the Alberta traffic accident compensation system have been increasing, often at more than twice the rate of increase in CPI and have been the primary cause of auto insurance premium increases.

2. The same trend was found in British Columbia and New South Wales, and elsewhere in Canada.

3. Until the 2003 reforms in Alberta, no substantive measures had been legislated to slow or halt the inflationary problem. The original intent of those reforms was directed to a much larger reduction in the tort component than was eventually put into effect.

4. In the result, the 2003 tort reforms produced only a temporary curb on the increase in bodily injury loss costs. From the latest *Cheng* closed claim study, it could be seen that the tort component after 2004 to 2019 directed its focus on elevating certain other non-catastrophic injuries above the cap, and produced a strong spike in bodily injury loss costs despite reduction in frequency of traffic accidents.

J. Conclusions

1. From the actuarial evidence reviewed, the Committee concluded that since non-pecuniary awards for catastrophic injuries and minor injuries have been capped, where those four categories of injuries isolated in the *2019 Cheng Claims and Cost Study* were not, claimants in those four categories have been overcompensated relative to the minor and catastrophically injured.

2. The primary cause of high and continuing increases in auto insurance premiums in Alberta and in other tort jurisdictions is that uncapped bodily injury loss costs continually increase and at a rate well in excess of Consumer Price Index increases for other market commodities.

3. Efforts in other tort jurisdictions to provide a solution to the excessive effect of tort on the cost of bodily injury claims have failed despite well considered experiments to preserve and balance both tort and no-fault components, as for example, in Ontario and New South Wales. The actuarial evidence supports the conclusion that the only effective and sure means to secure premium stability and sustainability in the long term is to remove the tort components altogether and to replace them with the best and proven innovations resulting from the pure no-fault models implemented in other jurisdictions.

VIII Consultations

A. Evidence of Public Consultations 2003

The following summary documents consultations with service providers, industry experts, Legislative members and others during the auto insurance reform process in 2003. The original reform proposed was to impose a monetary limit (cap) upon most injuries except the most severe. There were many consultations some of which resulted in the cap being restricted to a far more limited group. Even with this substantial restriction, in the end there was no broad consensus supporting the reform package. As well, a failed challenge to the legislation was launched extending through some years before final determination by the Court of Appeal.

Summary of consultations on auto insurance reform in Alberta 2002-2004

In 2002, Alberta Finance (AF) released a discussion paper seeking feedback on issues including limiting loss of income awards to net rather than gross wages, preventing double recovery on lost income and medical and rehabilitation expenses for more than one insurance plan, providing enhanced benefits for person with catastrophic injuries and giving drivers the option of increasing their Section B accident benefits. It asked for feedback as to other measures to attain a balance between Alberta motorists and traffic injured.

2003

In January 2003 responses were received from Insurance Bureau of Canada (IBC), Alberta Civil Trial Lawyers Association (ACTLA), Insurance Brokers Association of Alberta, the Canadian Paraplegic Association and others. Following the consultations, AF drafted legislation tabled as Bill 33 but instead decided to conduct further consultation on broader ranges of options.

The GOA asked ACTLA and IBC to recommend a joint solution for automobile insurance reforms which the GOA would seriously consider. These associations could not agree on several major issues and thus issued separate responses. (April)

An implementation team was formed consisting of Donahue, Renner, Brian Kapusianyk, Gregg Hansen, Nick Geer, Shelley Miller and Alain Thibault. Messrs. Hansen and Thibault were insurance company executives. Mr. Geer was the then CEO of ICBC. Kapusianyk and Miller were Calgary and Edmonton lawyers respectively.

The implementation team was given briefing and background material pertaining to the Alberta insurance system, the process for rate setting, information pertaining to the Facility Association, the Motor Vehicle Accident Claims Fund, a summary of other Canadian auto insurance systems, complaints received from the GOA, an analysis of media coverage, submissions from ACTLA, IBC, information about reviews from Nova Scotia, New Brunswick and Ontario, numerous independent studies and a summary of Alberta whiplash decisions between 1992 and 2002.

The team consulted with various service providers and interest groups. The potential for a cap was the subject of much public discussion. (August).

The team began to look at the soft tissue injury definition but then a scare campaign was initiated that the government was going to cap all claims in the province.

The minor injury definition became very important to GOA Standing Policy Committee (SPC) and evolved several times due in large measure to feedback from SPC, stakeholders, insurers, legal industries, consumers and victim groups.

There was still a huge media campaign about minor injuries and increasing premium costs. Insurers were still applying to the AAIB for premium increases and the concern was that premiums were still increasing and reductions would reduce something already arising. Insurers were very upset. (October)

After consultation with victims, lawyers and other stakeholders, the team developed proposals presented to SPC on October 15, 2003.

At an SPC meeting on October 15, 2003, discussion with 25 to 30 Legislative members ensued as to what should comprise minor injuries which resulted in a consensus that they should consist of sprains and strains.

During the development of the minor injury definition and protocols, there were consultations from certain insurers, IBC and ACTLA for feedback.

After drafting the *Minor Injury Regulation*, relying on the advice from Dr. Larry Ohlhauser, (Ohlhauser) the team sought comments from the insurance industry and ACTLA.

The team continued to meet with stakeholders and discuss reforms and development of the definition which contained an 18 month time limit for recovery of sprain, strain and flexion and extension spine injuries. The medical community said an 18 month time limit was not supported from a medical standpoint. (November)

Ohlhauser met with the team on November 7, 2003 and discussed the definition of minor injury. He engaged professionals and representatives of healthcare groups, proposed a model for consideration and enlisted a core working group to provide input as to the diagnosis and treatment of all soft tissue injuries. He interviewed clinicians experienced in treating soft tissue injuries and interviewed others. He prepared a presentation for meetings with consumer and injury groups including insurance and legal. He received feedback from IBC and WCB.

Ohlhauser engaged a core working group which originally included members of the Colleges of Physicians and Surgeons, Physical Therapists, and Chiropractors of Alberta, the Alberta Association of Occupational Therapists, Alberta Medical Association, Massage Therapists and Psychologists Associations.

Ohlhauser presented to the College of Physicians and Surgeons, the Alberta Medical Association and other service providers to explain the planned regulatory changes.

2004

In February 2004 the team consulted with interest groups and disseminated regulations to various organizations and received numerous responses.

At a meeting on May 4, 2004 the remaining regulations were deferred. Between this date and the next meeting certain service providers wrote to object to the proposed regulations.

Ohlhauser had meetings attended by over 600 practitioners across Alberta during September 2004. He completed preparation of an interpretive bulletin in September 2004 outlining new protocols for diagnosis and treatment of auto accident minor injuries which went into effect on October 1, 2004.

Dennis Gartner, then Superintendent of Insurance, (Gartner) considered the main aspect of the debate was the insurance industry demanding a cap and trial lawyers rejecting any cap being imposed.

Gartner admitted that the insurance industry, the trial lawyers, IBC and the brokers considered the consultation was inadequate but he concluded there was much consultation. He did not think it would have resulted in a consensus and his view was the consultation was adequate.

After the legislation was passed, insurance industry representatives objected to various aspects of the reform.

As well, a failed challenge to the legislation was launched extending through some years before final determination by the Court of Appeal.

Conclusions

Based on the foregoing, as well as review of experience from other provinces, the Committee concludes that automobile insurance reform is not a topic on which legislators can expect to secure broad support for the reasons that the subject is examined by so many different persons and groups from different angles, as well as from short, medium and long term perspectives. Previous attempts in Alberta to negotiate auto insurance reform for consensus among groups with vested interests showed that the original goal was diluted through disagreement among constituents, which resulted in half measures and undermined the long-term solutions the reform originally intended.

B. Findings from 2020 Public Survey

In addition to providing the Committee with specific terms of reference to develop and provide recommendations for reform of Alberta's automobile insurance system, the Minister of Finance announced on December 18, 2019 that the Committee would engage with Albertans, industry stakeholders, and legal and medical experts as it gathered information and developed recommendations on how government can improve Alberta's automobile insurance system.

In furtherance of the public engagement, the Committee invited all Albertans to respond to a questionnaire it prepared. The Committee's designed survey included fifteen pre-set questions, one question inviting the respondents' opinions on how to reduce costs of vehicle repairs or replacement and a final question inviting the respondents to provide any general comments they desired. A copy of the Committee survey is attached as Appendix 2A.

Service providers including insurers, legal and health professionals were specifically invited to respond to five pre-set questions with the additional option of providing a written submission to the Committee. Samples of the questions to service providers are attached as Appendix 2B.

The survey was communicated on February 18, 2020 to Albertans through the Government of Alberta website and through social media, which included links to the survey with a posted completion date deadline of March 6, 2020. A total of 45,571 completed surveys were submitted to the Committee throughout the period of 18 days for response.

In addition, the Committee issued invitations for responses via direct email to some 98 service providers to which it received 34 written responses. After review of those responses, the Committee invited follow-up meetings resulting in 21 interviews. Due to the procedures implemented following the Covid-19 pandemic, those interviews occurred via videoconference with consent of the participants.

After the deadline for receipt of the public survey responses, the Committee learned that, unfortunately, some interference had taken place which rendered 14,552 of the survey responses suspect and contaminated the overall results.

The Leger firm was subsequently retained to complete an analysis of the survey and results, and its report is attached as Appendix 2C to this Report. The characteristics of the 14,552 suspect results are discussed in the *Leger Report* under the heading of Data Quality.

The Committee also received criticism of the public survey, including that the questions were not framed properly, it did not provide adequate balance between options and that a survey that relies upon responses from only anonymous persons who choose to fill out a public survey is not as reliable as a survey which undertakes a random selection of the broader community to complete the array of viewpoints.

The results of the 14,552 suspect responses were excluded from consideration. The Committee took into consideration the criticisms of the public survey process and information provided in the 31,019 responses and addresses the criticisms as follows.

First, the Committee takes full responsibility for the flaws alleged present in the survey questions. However, the Committee can confirm that its survey was not designed to secure any specific oriented results but was modelled after a similar survey circulated recently in a jurisdiction with nearly twice the population of Alberta. All the questions in the Committee's survey pertained to issues that were contained in the Committee mandate.

Although the Committee accepts that 31,019 responses in relation to the entire Alberta population of about 4.3 million may be fairly said to not clearly represent the views of the majority of motorists, it also recognizes that over 30,000 responses are a robust result in comparison to public surveys generally.

The Committee is grateful to those Albertans in excess of 30,000 who took the time to complete the survey since they demonstrated, at a minimum, that the topic is important and they are concerned.

At the same time, the Committee specifically accepts that the issues surrounding the topic of auto insurance reform are usually both complex and emotionally charged for the public and that seeking to obtain informed responses to questions that are concise but contain terms that are open to interpretation by the reader may be marginally helpful at best. This is one reason why the Committee has undertaken to include in this Report comprehensive and detailed explanations about:

a. auto insurance reform in Canada and elsewhere between 1946 and the present,
b. auto insurance reform in Alberta since 1990,
c. health professionals' testimony in recent court challenges to auto insurance reform,
d. scientific studies showing better health outcomes in jurisdictions where tort was reduced or eliminated,
e. actuarial studies and testimony about rising insurance premiums well in excess of the Consumer Price Index increases due mainly to rising bodily injury loss costs, and
f. findings in exhaustive studies of other auto insurance models that have similarities to the Alberta compensation system listing in detail the problems with the operation of auto insurance in balancing the cost of auto insurance against the cost of benefits to traffic injured.

The Committee considers that in light of the foregoing, the Government of Alberta may wish to conduct a more individually focused and reliable survey that selects at random a group of consumers who are familiar with the terms pertaining to auto insurance reform adopted in this Report and desirous of providing informed responses.

The views of several service providers who delivered written submissions and those who attended interviews provided more detail in their responses. These are analyzed in greater detail in Section VIII C below. However, it should not be taken from those lengthier discussions in the interviews that the Committee overlooked the importance of the views of the true stakeholders, namely the motoring public and the traffic injured, whose interests the Committee kept top of mind in every stage of its investigation.

That said, the Committee accepts that the responses to the public surveys could not be viewed as definitive in informing the Committee's final recommendations and did not include or compile in this Report the entirety of the contents of responses received. However, it carefully considered the findings of Leger which, with technological tools, was able to measure topics that were frequently mentioned and salient to the survey. Themes were

identified by linking key words and expressions which in turn represented common ideas in consumer responses.

The Committee found the most salient features of the responses as follows:

a. 63% of respondents indicated that they do not feel their premiums are fair and reasonable;
b. 56% and 64% respectively indicated they would prefer access to affordable insurance rates, as well as immediate to medical/rehabilitation and income replacement over the right to sue for a cash settlement;
c. 77% of respondents indicated that at-fault drivers should be subject to penalties which could include fines, convictions and higher insurance rates; and
d. 42% of respondents indicated their desire to retain their right to sue in the event of a serious permanent injury.

Respondents clearly indicated that they considered auto insurance premiums are too high, and greater emphasis should be placed on rewarding good drivers and lowering repair costs.

In response to the two questions (Q16 and Q17) dealing with consumer opinions, a total of 26,316 responses were received and frequently mentioned common ideas outlined below.

With respect to Q16, "reducing vehicle repair and replacement costs caused by collisions, theft, weather and the like", the following items were frequently mentioned:

a. higher premiums for expensive cars and bad driving records;
b. development of a parts replacement strategy that pertain to the use of aftermarket parts, i.e. non original equipment manufacturer (OEM);
c. regulate repair shops, caps on repairs and insurance rates;
d. no penalties for hail, theft claims and the like; and
e. increasing deductibles.

With respect to Q17 inviting suggestions with respect to automobile insurance reform, the following were considered both frequently mentioned and salient:

a. making automobile insurance more affordable, offering more discounts and cost control;
b. cap profits and the like;
c. "incentives for good driving, prices do not reflect clean records";
d. "preference for right to sue, don't take away right to sue at-fault driver"; and
e. "larger healthcare access, full recovery of out of pocket expenses and provide necessary treatment."

The Committee has in various other sections of this Report dealt in fuller detail with the subject of reducing automobile insurance rates in the long term so they are more affordable, accessible and provide sustainability.

The Committee did observe however that certain of the above listed issues, such as premiums for expensive vehicles, effect of bad driving records and reducing repair costs with equipment replacement strategy deserve specific comment.

Higher premiums for expensive vehicles

The AIRB regulates auto insurance premiums for all motor vehicles. Insurers utilize a system named "Canadian Loss Experience Automobile Rating" (CLEAR) to assess expected and actual claims experience of all private passenger vehicles, which takes into consideration elements such as repairability, damageability, risk of theft and other claim factors of each make and model of vehicle. They are then subject to a rating between 1 to 99. The cost of a vehicle does not necessarily pose a higher risk of loss or damage. On the other hand, vehicles more prone to being stolen, such as a 2009 Honda Civic, will be accorded a higher premium due to the higher proven risk factor. Some vehicles such as a 2016 Lexus may attract higher repair costs but may include added safety features that reduce the risk of accidents, which may result in a lower premium reflecting a blend of offsetting risks.

Bad driving records

Individual driving records are another relevant factor in ascertaining the appropriate premium for an insured motorist. However, as the law in Alberta makes the purchase of automobile insurance mandatory for all motorists, there is a requirement to ensure premiums are affordable. Any driver may commit the occasional driving error, but those who commit frequent errors or errors that constitute criminal driving conduct are expected to take responsibility for such conduct in the form of higher premiums to deter high-risk driving conduct.

To oversee the proper balance between high-risk driving behavior and affordable insurance for the majority of drivers, a system for developing premiums for such drivers known as the "Grid" has been in place in Alberta since 2004. This system requires a complete review to ensure fairness to all Albertans that responds to reflective premiums for good drivers and accessible and appropriate premiums for bad drivers. This system is discussed in more detail in VIII C below.

Development of an improved parts replacement strategy and oversight of repair businesses

One suggestion frequently referenced in the public survey to reduce auto repair costs was use of aftermarket parts in place of parts supplied by original equipment manufacturer (OEM).

The suggestion reflects the increasing costs of repair of vehicle damage due to a myriad of factors. Under the current system, newer vehicles are required to rely on original equipment manufacturers (OEM) for parts as well as service which has been shown to increase the cost of repair and narrow the number of repair facilities. Owners of newer vehicles are encouraged to attend pre-approved facilities with OEM parts with the implication that vehicle warranties may be at risk if other facilities or parts are selected.

The issue is whether motorists would be served as well if permitted to choose to repair their vehicles with aftermarket parts which may have been previously used or new, but manufactured by entities other than the original vehicle manufacturer.

A voluntary organization known as Canadian Automotive Service Information Standard (CASIS) exists, which provides a framework for the sharing, training, and vehicle repair information between OEM and the aftermarket industry to enable the aftermarket industry to operate and provide consumer choice for vehicle repairs and service. It emerged in response to a demand from consumers after some automobile manufacturers declined to make available all their services, for example, diagnostic tools, parts information and training information, to independent service and repair facilities.

Some other jurisdictions in Canada and other countries have or are developing "Right to Repair" frameworks for new legislation to require OEMs to release all relevant information to allow consumers to choose repair facilities and parts used. The Committee considers AIRB might investigate the benefits of enacting comparable legislation in Alberta to benefit consumers and reduce the cost of vehicle damage repairs.

Caps on insurance rates

The Alberta automobile insurance industry operates in a highly regulated environment and the regulator's process of reviewing insurance rates before authorizing insurers to charge the same to consumers already endeavors to ensure the premiums fairly reflect the risk of loss and damage.

The Committee is concerned to ensure that Albertans understand that asking or demanding government to "freeze rate increases" is a process that does not address at the same time the cause of rate increases, such as expenses or claims costs, and as a result artificially suppresses rates and leads to unexpected rate increases in the longer term which does not achieve either premium stability or consumer protection.

Making automobile insurance more affordable

The Committee recognizes that of the more than 30,000 responses from Albertans, 63% responded that they do not feel their premiums are fair and reasonable. In its list of recommendations, it has considered the viewpoints expressed through these responses as well as others.

In the result, however, the Committee recognizes that even with an optimally designed survey, it would be impossible to secure certain voices, such as those individuals who have never been, but will be injured in traffic accidents, including, most importantly, the approximately 160 Albertans who will be catastrophically injured in motor vehicle accidents annually in the years to come.

The Committee recognizes that even with an optimally designed survey, it may not capture the viewpoints of those Albertans who have appetite to digest the entirety of the analysis contained in this Report in order to make more informed responses, or otherwise do not have the time or appetite to contribute to the many faceted dialogue due to other understandable circumstances.

It is for these reasons that the Committee has taken pains to:

a. gather information from as many sources as practical on as many aspects of the operation of the current system that pertain to:
   i. the cost of insurance premiums;
   ii. the impact of the cost of compensation to traffic injured; and
   iii. the increasing costs for property damage,

b. synthesize and analyze all such information in order to make cogent and comprehensive recommendations so that the Legislature can determine what reforms to the current auto compensation system will best serve the combined interests of the only true stakeholders, the traffic injured and the insured motorists.

Conclusions

1. The responses to the public surveys could not be viewed as definitive in informing the Committee's final recommendations, however, it carefully considered the findings of Leger and noted the following most salient features of the responses as follows:

    a. 63% of respondents indicated that they do not feel their premiums are fair and reasonable;
    b. 56% and 64% respectively indicated they would prefer access to affordable insurance rates, as well as immediate access to medical/rehabilitation and income replacement over the right to sue for a cash settlement;
    c. 77% of respondents indicated that at-fault drivers should be subject to penalties which could include fines, convictions and higher insurance rates; and
    d. 42% of respondents indicated their desire to retain their right to sue in the event of a serious permanent injury.

2. Respondents clearly indicated that they considered auto insurance premiums are too high, and greater emphasis should be placed on rewarding good drivers and lowering repair costs.

C. Submissions of Insurance Industry Service Providers

Property Damage Product Reform

Under the current system in cases where the insured motorists have optional property damage coverage, sustain property damage and were not at-fault, their insurers will arrange for the repairs and then apply time and resources to recover the amounts paid, including the motorists' deductibles from the at-fault motorists' insurers, under a legal process known as subrogation.

The Committee found broad agreement from the service providers that the property damage component of the auto insurance compensation system should be converted to a no-fault model known as Direct Compensation Property Damage (DCPD).

Under the proposed DCPD, the insured motorists' insurers will process the costs of repair directly in any event of fault, and thereby eliminate the time and administrative costs of subrogation. A driver who caused the collision will continue to be found responsible for the purpose of assessing appropriate rate adjustment. This reform will deliver a simpler, faster claims process, improve the communication and service to the insured, enable the insurer to predict future loss costs more accurately and likely result in some reduction in premium costs. This model has been implemented successfully in Ontario and the Atlantic provinces.

Reforms to address risky driving behavior

The Committee also found broad agreement from the service providers in favour of increasing enforcement and penalties for high-risk driving offences to punish and deter the such offenders. The service providers also consistently supported maintaining data to inform increased and wider spread education about the dangers and consequences of risky driving behavior.

The Committee also heard that the graduated licencing program was widely viewed by young and new drivers as designed to build revenue rather than promote safe driving practice and that the efficacy of this program and driver training programs, including retesting of penalized drivers, should be reviewed to improve outcomes of intended goals.

Reform of the Regulatory process

Rate Regulation

As stated in the *Osborne report*, the goals of rate regulation should be premium fairness measured against sound insurance principles and market stability to benefit the consumer. The Committee agrees that appropriate rate regulation should provide a cost-efficient mechanism to ensure premiums charged by insurers are fair, predictable and ensure market stability.

There are two types of regulation in provinces where automobile insurance is delivered by the private sector, neither of which contemplates the setting of rates by the regulator. These are, with some modifications, (a) prior approval and (b) file and use.

Prior approval regulation requires the filing and regulatory approval of proposed rates before they are used. Alberta has maintained a prior approval system since 1970 which was provided by an independent agency created by statute. Its jurisdiction was confined to the compulsory section of the policy. Under legislation, it was subsequently replaced by the Automobile Insurance Rate Board which reports to the Minister of Finance and continues the prior approval model.

Under the file and use model, the insurer may put proposed rate changes into effect after filing the same with the regulatory agency. The filing typically includes evidence on losses, expenses and underwriting profits or losses and the proposed rates. Hearings may be held if the regulatory body has questions about the submission.

The Committee is of the view that a privately delivered auto insurance system requires some form of outside review of mandatory and optional insurance premiums to:

a. ensure external protection of the consumer against unreasonable or unjust premiums;
b. provide a modifying influence on insurer conduct;
c. ensure insurers' practices are transparent, and accord with acceptable governance practices; and
d. ensure market stability, accessibility and fairness.

Many insurers suggested as a more effective model:

a. transforming the rating oversight model to file and use;
b. greater transparency in the application of the legislation and regulations;
c. eliminating duplication between the regulators' roles; and
d. oversight of insurers led by principal-based regulation.

Specifically, it was recommended that:

a. there be a separation of the role of the AIRB from the Alberta Superintendent of Insurance so that the latter would focus on regulation, compliance and solvency of insurers;
b. the AIRB would be, and be seen as, independent from government, objective, empowered with full jurisdiction over rating issues; and
c. with such transformation, the AIRB could
    i. respond more quickly to changing consumer needs and market conditions;
    ii. continually calibrate the existing regulations in the best interests of Alberta motorists;
    iii. deliver more consistent enforcement and oversight of the compliance requirements of insurers to provide a more responsive regulatory environment for participants; and
    iv. promote modernizing regulations to enable more digital capability and frictionless consumer processes.

The Committee is of the view that so as to ensure minimal cost to the economy and the consumer, a reformed regulatory model should not be overly intrusive in the rating procedures so as to inhibit market innovation to the detriment to consumers where less intrusive measures will adequately resolve perceived problems, facilitate market innovation, competition and increase product choice for the benefit of consumers.

All comers' rule and the Grid

As part of the auto insurance reforms in 2004, the Government of Alberta introduced two regulations, one known as the "all comers rule" which required auto insurers to accept all applications for automobile insurance for private passenger vehicles at a reasonable premium and another known as the Grid rating system (Grid), the goal of which was to define and separate motorists with high risk for accidents from those with low or no risk driving behaviors.

There is broad consensus among auto insurers, the Facility Association and some regulators that the Grid is no longer achieving the goal originally intended. Instead, it has become cumbersome, complex and costly to administer and most critically, low or no-risk motorists are subsidizing high-risk drivers. At the same time technical innovations have provided insurers with greater pricing sophistication and in turn ability to differentiate between low and high-risk drivers.

However, there is not broad consensus as to what should be implemented in place of the all comers' rule and Grid. On the one hand, regulators must ensure that all motorists have a reasonable opportunity to purchase the minimum mandatory auto insurance product at a rate that properly reflects their own risks. On the other hand, insurers should be encouraged to utilize their superior technological assets to better deliver varied pricing to motorists at affordable levels, subject to the requirement to adhere to fair marketing practices. History has shown that some insurers or future participants have the appetite to further segment the group of drivers who cannot demonstrate long accident free history yet in other ways are provable low risks.

Territories

The Committee heard broad consensus that the current practice of maintaining only four rating territories for Alberta was no longer serving the purpose originally intended, which was to accurately assess accident risks according to geographic location. Current data collectable by insurers indicates that other more appropriate and accurate territorial factors affect accident risk and the existing four territory restriction results in unfairness to many insurers.

Reform of the *Judgment Interest Act*

The Committee also found broad agreement from the service providers for amendment of the *Judgment Interest Act* to make the rate for non-pecuniary general damages correspond with the prevailing rate of judgment interest for pecuniary losses.

Some service providers also suggested removal of the judgment interest for non-pecuniary damages while others, including some legal providers, suggested that such interest not apply for the first two years after the date of loss.

Optional Insurance Products

User-based insurance

The Committee heard submissions about the benefits of a new universal telematics tool, known as user-based insurance (UBI) that could improve the insurers' task of proper risk rating of insured motorists. The concept is that a device is activated when a motorist uses the vehicle and objectively tracks driving habits, including miles driven, braking habits, acceleration and time spent driving. Motorists who agree to use of the device will benefit by receiving a discount to their premiums if the information collected demonstrates the operator has low risk driving practices. This tool can objectively and, arguably, fairly reduce or eliminate cross subsidization.

The Committee heard that some insurers are offering a UBI program at no cost on a limited basis with the result that those motorists whose collected information establishes low risk driving behavior earn discounts on the price of their premium.

It was suggested that increased education and endorsement of the UBI programs could foster greater acceptance of its use for more of the motoring public and encourage better education and encouragement of the benefits of good driving behavior for both new and experienced motorists. It was suggested that wide use of such programs would induce safer driving habits, improve traffic safety and reduce accidents.

Some insurers recommended that such programs be made mandatory to allow consumers to benefit from lower rates due to lower usage or due to provable good driving behavior. On the other hand, concerns were also expressed about the disadvantages of making the use of such programs mandatory. First, there was concern that would adversely affect certain motorists to the extent that their insurance premiums would be unaffordable. Second, there was concern that a mandatory program would infringe a motorist's right to privacy or produce unfair results. Third, there was a concern that not all auto insurers currently operating in Alberta have the resources to deliver such programs and would be adversely affected from a competition standpoint. One regulator expressed concern that such programs might result in adverse selection of certain motorists, contrary to public policy.

Legislation to mandate use of winter tires

Service providers were in accord that the government should legislate mandatory use of snow tires to reduce collisions and serious injuries. The *2019 Cheng Claims and Cost Study* (Cheng) noted that the study conducted by the Ministère des Transports du Québec in 2011 revealed that road collisions in winter and serious injuries due to winter road collisions decreased by 5 percent and 3 percent, respectively. It also noted that after the first two seasons of enforcement it confirmed the use of winter tires from December to March 15 would reduce the accident rate. *Cheng* noted that collision rates increase from October to January. Others indicated the required use of winter tires should extend to March.

The Committee is satisfied that required use of winter tires would contribute to prevention of collisions and fatalities and reduction of health and hospital emergency costs.

Section B Benefits

The Committee also received reports of concerns as to whether Section B benefits are serving the needs of Alberta motorists. It was also reported to us that in too many instances traffic injured, usually with legal counsel, negotiate a one-time lump sum compensation which is distributed after deduction of the legal fee. The injured person will divert some or all of the remaining cash to unrelated matters while their injuries remain unresolved. The result is that they must resort to the provincial health care system which diverts resources that the insurance claim was intended to cover and ongoing medical treatment for more serious injuries must be borne by social assistance agencies, and, ultimately the tax payers.

One group contended that traffic injured rarely utilized the entirety of the limit of Section B accident benefits. On the other side, concern was expressed about increasing legal representation on Section B claims and that Section B claims costs were escalating by concerning percentage amounts in recent years. In both cases, optimal utilization of these benefits was not being achieved.

Others expressed concern that Section B benefits did not provide full income replacement and in cases of long-term serious injuries, the Section B Benefits are insufficient or do not reflect situational circumstances.

The Committee observed insurers' preparedness to now design competitive and well-structured optional income replacement coverages for consumers at the time of purchase of their auto insurance policy to elect to purchase additional amounts of coverage to ensure compensation for the entirety of their provable income losses.

The Committee considered that if those optional products were subject to reasonable oversight by an independent traffic accident medical expert regulatory body it would ensure appropriate treatment plans were prepared and followed with regular review and adjustment based on data collection feedback and new health treatment innovations, such optional products could address concerns about incomplete coverage for some traffic injuries.

With increasing availability of these options, however, there were also calls for balancing of the greater coverage capacity by the establishment of a maximum recovery standard to orient all participants, including claimants and health providers, toward the goal of restoring the traffic injured as far as possible to preaccident health.

A maximum recovery standard would encourage all participants to move toward closure of the claim at the appropriate recovery milestone, which goal would be better supported by the removal of monetary gain incentives.

The tort/no-fault issue

The greatest area of differing opinions was expressed in the area of monetary payments for traffic injured. A spectrum of views ranging from leaving the tort compensation component, with a minimum of "tweaks", as is, to the view that tort components were the primary cause of the increases in premiums and accordingly should be fully extinguished or largely diminished, except perhaps a short term retention of tort for a better defined category of catastrophically injured.

It is important to recall that the current auto insurance model in Alberta is in fact a blend of tort and no-fault compensation, otherwise also described as a hybrid or threshold model.

When Albertans, either individually or as a group, say they favour or oppose no-fault, we take them to mean that they oppose or favour enhancing the existing no-fault component of the current system to further reduce or eliminate the tort component.

Those who advocated a full or pure no-fault model intended that all traffic injured receive early and appropriate health treatment, individual assessment and treatment by certified collaborating medical and health experts and expert panels of claims assessors to evaluate and determine their income losses and care costs, past and future. They recognized that an alternative regulatory tribunal making final determinations as to the extent of recovery and impairment and extent of pecuniary losses would provide a replacement to the individual evaluations currently supplied by the tort system. They also recognized that a quick, efficient, and independent alternative appeal process free of legal disputation features would be required and desired.

Another key component of the tort/no-fault debate, apart from proper or enhanced health treatment for all traffic injured, is whether the extent of monetary compensation afforded by the current model should be reduced.

Reported weaknesses and abuses of the current tort/no-fault model

Discourages full compliance with treatment and encourages sickness behavior

Some of the industry participants expressed that the current court system encourages the traffic injured to delay their own recovery in the hope of later monetary compensation and encourages service providers to increase treatments for monetary gain. There is scientific and other data to support this view, as set out elsewhere in this Report.

Negotiated lump sum settlements leave some traffic injured untreated and encourage claims where no treatment is required

As noted with the concerns about lump sum settlements under Section B where the injured person will divert some or all of the remaining cash to unrelated matters while their injuries remain unresolved, which leaves ongoing medical treatment for more serious injuries to be borne by social assistance agencies, and, ultimately the tax payers, the Committee considers these same concerns may arise under the tort recovery model.

Exaggeration or dishonesty in claims behavior for monetary gain

Service providers have reported cases to us where injured claimants have exaggerated the extent of injuries and losses but have still been awarded substantial monetary court awards. The concern these kinds of cases pose is that other claimants will be encouraged to exaggerate claims. Some service providers have reported concerns about vulnerable traffic injured pursuing litigation with the hope of a future high cash payout while their health, physical, emotional and financial, remains sub-optimally addressed.

The extension of the above concern, also reported by insurers, was increased instances of fraudulent claims, which required increased costs to detect and disallow.

Diminution of the intended Effect of the *Minor Injury Regulation* and increased claims

We have heard that the effectiveness of the *Minor Injury Regulation* and cap has substantially deteriorated since 2011. It was reported to us that:

a. between 2011and 2019, bodily injury loss costs increased by 70%;
b. sprains and strains with no impairment decreased from 68% to 42%;
c. sprains/ strains lasting longer than six months increased by 700%;
d. concussion injuries increased by 500%; and
e. since 2012, payouts for pain and suffering increased by 40%.

We were not convinced that the majority of these percentage increases were due to greater medical advances or evidenced better identifying injuries, especially in the case of the 700% increase in sprains/strains lasting longer than 6 months.

It was recommended to us that cash settlements for traffic injured should be disallowed where injuries remain unresolved, that compliance with medically designed treatment plan should be a mandatory condition

of settlement and that such ongoing medical treatment should also be incorporated under the Section B accident benefits.

This concern, repeated to us frequently, refers to the non-pecuniary general damage award legislated by the *Minor Injury Regulation* in 2004, which currently stands at $5,296, as it is indexed for inflation. It was expressed that this award is claimed by many traffic injured instead of receiving the treatment they need. It also implies that some of those claimants may not have sustained a physical injury requiring any treatment. This means that such payouts are not benefitting the traffic injured the legislation intended to benefit, yet result in ongoing and increasing costs to motorists.

It was also reported that the current model does not encourage early return to work and thus income benefits should be scaled to produce incentives for that goal. Most quarters who advocated a more robust no-fault model supported a well-defined and thought out approach to standardize evidence-informed treatment plans, rules on experimental procedures and medications, and independent medical assessments to eliminate the adversarial behavior in the current model and provide a suitable substitute for individual assessment of injuries, losses and damages.

It was also recommended that generous benefit levels with affordable rates with income replacement at levels to cover most income earners would eliminate the need for tort. Insurers expressed an appetite to provide excess insurance for high income earners and supported regular indexing of benefits to ensure coverage levels were current.

Substantial percentage increases in Section B Claims

It was reported that medical rehabilitation costs under Section B had increased from 2011-2018 in ranges of 63% - 246%. The Committee was concerned that such increases might be partly due to suboptimal health treatment resulting in poor health outcomes.

Uncertainty caused by Court decisions redefining the wording of regulations

It was viewed by many participants in the current compensation system that the original intent of the *Minor Injury Regulation* has been eroded by the effect of court decisions reinterpreting the definition of minor injury and promoting uncertainty by declining deference to the Certified Examiner process contrary to the original legislative intent. One insurer reported its experience that the number of bodily injury exposures settled within the cap has decreased by 25%.

Legal service providers argued that the courts decisions are the sole and proper arbiter of how the legislation should be interpreted and if further litigation around the boundary of the threshold has resulted in a spike in bodily injury cases, that is how the tort system is intended to respond.

Some contended that between 2004 and early 2012 there was an accepted understanding among the participants about what injuries were subject to the limits of the regulation (i.e. the cap limiting the amount of monetary recovery) which resulted in stability of premiums for a short time. However, after a court decision in January 2012, a certain category of injury was ruled to be outside the cap which effect resulted in increased bodily injury claims costs. In turn,

some insurers reported the result produced a 6.4% cost increase annually since 2014 and added pressure to the premium levels.

In May 2018 the Government amended the *Minor Injury Regulation* to reverse the effect of the court decision but participants agree that this intervention leaves ongoing uncertainty about the impact those changes will have on the extent of future increasing bodily injury loss costs and in turn, ongoing premium instability.

What is often overlooked in this gradual rachet effect on bodily injury monetary compensation awards is that the cost of automobile insurance is never adjusted downward. Instead it creates a consistent, sometimes gradual, sometimes sharp, increase. The continuing uncertainty benefits neither of the two true stakeholder groups, the traffic injured and insured motorists. The endeavor to maintain the level of auto insurance premiums at a threshold that the majority of insured motorists can financially bear, while all the service providers' fees gradually increase, is not the optimal mechanism for delivering affordability, availability and sustainability of the auto insurance system in Alberta.

What is often also overlooked through a longer lens, namely the period between 1990 and 2018, is that the only interval where premium levels decreased was between 2004 to 2011, following the 2004 modest tort law reform. The eventual erosion of the law reform caused the trend to revert to an upward trajectory from 2012 to 2018. This trend was continued with period of price instability between 2018 and December 2019. This is ample evidence in the view of the Committee that the current model does not provide long term stability or certainty. For those contending that the current model requires only tweaks, the Committee concludes that none would provide stability, certainty or sustainability.

Except for personal injury lawyers, all service providers emphasized different examples from their own experience of the costly burden of litigation produced in the current system. While those costs are paid by insurers, they are ultimately borne by insured motorists and those traffic injured who are also insured motorists.

Some service providers recommended that a specific definition of what constitutes a catastrophic injury should be defined in the legislation or regulations and the right to sue for tort damages for traffic injuries should be limited to the category of those catastrophically injured. Others recommended all catastrophically traffic injured should receive full no-fault coverage even where they cannot prove their injures were due to a negligent driver.

Insurers have consistently expressed a developing appetite to deliver optional medical and disability products for consumers who desire additional protection in case the benefits provided by the standard auto product do not cover their specific medical expenses. This appears to be intended to deal with the most serious injuries. It appears insurers have appetite to provide in those products an option to the consumer to litigate the measure of the awards in court.

Expert fees in tort cases reported to be excessive

The Committee also found broad agreement from the service providers that the cost of expert fees in tort cases has continued over time to increase dramatically.

The amount of fees chargeable by experts is not regulated. Experts may charge their customers what the market will bear. When those fees are required to be reimbursed by an opposing party in the form of court costs, there is a limited right for review. For the most part,

the defendants insurers become responsible for the amount that the claimants' lawyer agreed to pay as expert fees.

Various insurers reported that the fees charged by subject matter experts, including medical doctors, engineers, and economists, were adding significant costs to tort claims. Insurers estimated the amount of expert reports at the conclusion of a claim to amount to 1/3 of the settlement amount paid to the claimant and, in turn, ultimately borne by the insured motorists.

One medical expert active in the injury trial process explained that the prevailing fee for medical reports had increased from a range of $800 in 1986 to $3,000-$5,000 at the present date. He himself expressed surprise at how high the range had escalated between 1986 and 2010.

However insurers, self-insurers and some legal voices confirmed that subject matter expert reports fees frequently now range from $20,000-$25,000. For those cases where multiple expert reports were sought from economists or medical experts, in the same or overlapping disciplines, the combined amounts are escalating to ranges of 5 and 6 figures.

Insurers reported cases in which economists' fees were very high because the expert was asked to provide not simply one report but also ongoing advice over the course of the legal proceedings. Others gave examples where two economists had been retained on one file by the claimant's lawyer to opine on different aspects of the pecuniary losses. We also heard that multiple expert reports costs were presented on individual files for an array of medical experts retained to opine on differing injuries.

Insurers reported that even where they attempted to tax or dispute the propriety of those amounts before a court or a taxing officer, they were rarely successful.

Insurers gave specific examples, including one where the trial judge commented unfavorably on the presentation of multiple health experts in a case that was neither difficult nor complex, but the costs required to paid by the insurer were in the range of $400,000 all the same.

Insurers' counsel retain for the defendant opposing experts so that large fees are also incurred on the defence side which add to the ultimate cost of claims.

In a follow up discussion the medical expert commented that the fee levels regulated by the Worker's Compensation system for medical experts were far lower, but cautioned that reducing the maximum fee for medical experts in the Alberta tort system to such levels would deter those experts from delivering expert opinions.

This one example was informative for several reasons. First, it illustrated the extent of inflation of medical expert report fee levels over time. Second, it revealed that current expert fees were in some cases 5 times as high as he thought. Third, it revealed that medical expert opinions were provided in pure no-fault injury compensation models for even lower levels than his own experience in the tort system. Fourth, it revealed that medical experts have a diminishing appetite for participating in tort cases unless it is sufficiently remunerative.

Concerning examples of undesirable practices to secure optimal tort awards

Insurers expressed the concern that claimants' lawyers had no limits imposed as to the number or timing of experts that could be secured prior to trial while defendants had limits on their numbers of follow up defendant medical examinations and the timing before trial at which they can secure the same and such inequality is exacerbated by the excessive delay in booking trial dates.

Concern was also expressed that some claimants' lawyers would use, as a negotiating tactic with a defendant insurer, the prospect that if an initial settlement proposal was not accepted early in the litigation phase, the claimant's lawyer would retain numerous experts and the fees for same would be added to the bill of costs for payment by the insurer at the end of the process.

Concern was also expressed that defendant insurers often do not learn of a claim by a traffic injured until 2 years after the date of loss when a lawyer must issue a statement of claim to preserve the limitation period. They have no early access to the information about health treatment or income losses and cannot participate in the recovery or return to work of the traffic injured.

As to the concern expressed that that traffic injured seeking recovery under Section B benefits would retain a lawyer to negotiate a lump sum settlement of their benefits and might spend the remaining funds unwisely and then have resort only to the Alberta health care system, legal service providers told us they personally did not engage in this practice. One suggested there should be legislated or regulated prohibition disallowing insurers from entering into lump sum settlements of Section B benefit claims.

Since these areas of the litigation process are not independently regulated and the personal injury legal community does not have the authority to police such excesses, there is no method by which to determine the extent of such practices, either in the Section B realm or elsewhere in the tort system. Accordingly, the reported existence of such practices together with absence of independent regulation is another matter of concern to the Committee.

Ever increasing amounts for various heads of damages

Insurers have reported that pecuniary and non-pecuniary damage awards continue to escalate and expressed related concerns including court awards increasingly allowing:

a. only small deductions to awards for failure of a plaintiff to mitigate;
b. awards for loss of housekeeping in addition to non-pecuniary general damages where previously those awards were included as a component;
c. loss of earning capacity awards without clear calculation of how the loss was arrived at;
d. duplication of income losses that include both loss of competitive advantage and loss of earning capacity; and
e. generous awards even after finding the plaintiff was not credible.

Insurers expressed concerns that such developments have the unintended consequence of encouraging claimants to pursue tort actions for the hope of increased monetary claim with little downside risk. The tort

system contains no additional mechanism to monitor or control the extent of such examples of escalation.

These matters are concerning to the Committee. It knows that Albertans expect their premium dollars to be allocated to actual and reasonable losses and not increasing numbers of cases where all the surrounding circumstances suggest plaintiffs have secured more than full compensation.

Cost of legal service providers

Except for legal service providers, who strongly disagreed, the Committee found broad agreement from other service providers that mandatory automobile insurance would be more affordable for motorists if a significant amount of or all legal costs were removed from the system. There was consensus that this could be accomplished by enriching first-party accident benefits and limiting or eliminating the right to sue.

Some insurers expressed concerns about lawyers' contingency fee arrangements with traffic injured including the following:

a. there is no restriction on the amount the plaintiff lawyer may negotiate with a claimant/ client;
b. while they may enable claims that have merit to be brought, they also encourage the advancement of claims that have none;
c. although lawyers justify contingency fee agreements and the percentages they charge on the reasoning that the lawyer assumes the risk of the litigation, some argue that in many cases liability is not in dispute and there is little risk that the lawyer will not secure some recovery, so the risk is minimal or non-existent;
d. litigation lawyers now have access to litigation loans and adverse cost insurance and this further reduces any risk of loss to them; and
e. people who rely on a contingency fee arrangements are often vulnerable due to poverty, impact of injuries, educational status or other social disadvantages. [See: M.S. v. DM Junior et al 2014 ABQB 702 (Canlii)]

Accordingly, some have advocated, as with expert witness, fees for caps on lawyer contingency fees.

The Committee conducted some exploration with legal service providers as to the percentages of fees charged under contingency agreements. The legal service providers stated first that contingency fee agreements are private and none volunteered to disclose any of their own fee structures. They seemed prepared to opine that fees could range from 22.5% to 40%. Only one specific example was provided of one, not in their group, who charged a 35% contingency fee for whatever stage the case was settled.

The Committee concluded from this information as well as its own personal knowledge of prevailing contingency fee percentages that that it was appropriate to assume a calculation of 33% as the average percentage recovery of plaintiff lawyers in Alberta traffic injury claims.

Concerns have been expressed that after impecunious traffic injured have eventually settled the claim years later, a large component or even most of the ultimate settlement has been reduced by legal contingency fees and fringe lenders' fees.

Fringe lenders

The Committee also explored with the legal providers the participation of fringe lenders in the automobile insurance system in Alberta. They told us fringe lenders are financial companies that offer loans to traffic injured persons to help pay for their immediate financial requirements. They exact interest payments on the loans that may range from 24-30%. In addition, they will charge an administration fee which becomes payable if the loan has not been repaid within six months. Repayment is usually secured by an assignment of settlement funds and direction to pay.

Lawyers have expressed muted views about fringe lenders. Some say they discourage their traffic injured clients from taking such loans. Some take a neutral position. Some say if not for their involvement, some traffic injured would not be able to maintain a lawsuit.

No one has measured the effect of these fringe lending service providers who deduct their fees from the traffic injured ultimate settlement.

The Committee considers the comments of the Alberta court in M.S. v. DM Junior et al, 2014 ABQB 702 (Canlii) stating that people who rely on contingency fee arrangements are often vulnerable due to poverty, impact of injuries, educational status or other social disadvantages apply with equal or even greater force in respect of fringe lenders.

The foregoing circumstances indicate to us that the lack of regulation of the activities of all service providers in the tort system contribute to continually escalating costs for the traffic injured and in turn, the motoring public. As well, there may be ongoing practices purportedly to benefit them, but which are not in their long-term best interest.

Evidence-informed health treatment for traffic injured

The Committee also found broad agreement from the service providers in favour of immediate and better health treatment for traffic injured.

Other than legal service providers, service providers submitted that removing or reducing the tort component would lessen the strain of litigation demands on medical and health professionals whose main professional purpose was treating traffic injured.

Service providers made varied suggestions as to the optimal alternative for health treatment for traffic injured, including:

a. support early, active, and appropriate evidence-informed treatment aligned with and for traffic injuries;
b. pre-approved treatment frameworks for common injuries based on evidence-informed care with associated schedules and policy limits;
c. expedited access to care from prescribed providers;
d. reducing transactional administrative burdens in the system;
e. reducing duplication of services and overutilization;
f. optimize appropriate treatment modalities with consistent quality improvement to achieve recovery timeframe of 2 to 3 years for most injuries;
g. codifying causation so that there can be reasonable finality of injury claims and proper evaluation of the injuries caused or contributed to by the traffic accident as distinct from other causes; and
h. Establishing
    i. definitions of serious and catastrophic injuries;
    ii. definitions of chronic pain and psychological injuries;
    iii. expert medical panels to make conclusive determinations as to which claimants fall into which categories;
    iv. treatment regimes that will include an intended resolution date for the claimant and the service providers;
    v. an independent oversight body to supervise treatment providers to ensure that health providers are following evidence-informed guidelines in regimens to ensure optimal recoveries for traffic injured;
    vi. a structured review process for traffic injured who are not recovering within the normal treatment guidelines or whose recovery has plateaued so that they can be referred for alternative treatment;
    vii. clear return to work guidelines for claimants seeking disability payments to encourage gradual return to work programs, modified duties or retraining for different occupations;
    viii. regulation of fees for health and dental health providers;
    ix. means of collecting and aggregating health treatment data to ensure ongoing monitoring and evaluation of care programs, outcomes and continuous improvement of first-party compensation based on reliable data; and
    x. implementation of an electronic system for auto insurers in conjunction with a traffic injury regulator, health care and ancillary service providers to expedite transmission and processing of claim forms.

Evaluating the value of the tort component of the compensation system against the burdens

Delays and increased costs due to tort system

Legal service providers maintained that preserving tort actions for traffic injured was an essential civil right. However, the majority of service providers endorsed the notion that tort actions have an adverse effect on health recovery and claims duration. That majority expressed concern about the delays resulting from the tort system which added costs to settlements and delayed resolution to the detriment of traffic injured.

Legal service providers conceded that the court system was overburdened and thus delays were experienced in setting trial dates or judicial dispute resolution (JDR) dates. Dates for long trials were currently being set for 2023 and 2024. However, since they rarely take cases to trial, they said it does not have a large impact in the majority of cases. On the other hand, insurers reported that many of their litigated claims do not resolve even by settlement until between 3-4 years and occasionally from 5-8 years after the date of loss.

Lawyers also conceded that it was increasingly difficult to book JDR dates with the judges in a timely way because other types of court actions often took priority over traffic injury cases.

Lawyers indicated when they preferred to expedite a settlement process and not endure long delays, they would propose mediation. They said mediators' charges were in the range of $3,000-$6,000. The original intention in mediation agreements was that the parties would split the cost of the mediator in order that both sides took an equal risk and would be equally motivated to arrive at a resolution. The practice was soon replaced by the acceptance by insurers to pay the entirety of the mediation fee. One insurer indicated that 7% of its litigation claims did not settle until mediation.

The Committee concluded that based on input from service providers, the system is likely incurring costs due to mediation which might have been avoided if the JDR system was not overloaded.

In response to requests to the Court of Queen's Bench of Alberta for statistical information concerning traffic injury lawsuits, the following information was provided:

a. Between January 1 and December 31, 2019, 8,562 Statements of Claim for motor vehicle accidents were filed province-wide in the Court of Queen's Bench.
b. Between January 1 and December 31, 2019, 6,393 Discontinuances of Statements of Claim for motor vehicle accidents were filed province-wide in the Court of Queen's Bench.
c. Many of the Discontinuances filed originated from Statements of Claim filed between 2005 and 2018.
d. Of those Discontinuances, 1,104 originated from Statements of Claim for motor vehicle accidents also filed in 2019.
e. Between January 1, 2019 and December 31, 2019, 429 JDRs were scheduled province-wide. Of those JDRs scheduled, 165 proceeded.
f. The court did not schedule JDRs between January 1-17 and 27-31 2019 due to other commitments.

g. Six JDRs were scheduled in Edmonton in January 2019 of which 4 proceeded. 17 were scheduled in Calgary in February 2019 of which 10 proceeded.
h. Typically, the court has scheduled JDRs for a full day but due to the current pandemic is now considering scheduling JDRs for half days.

Benefits of retaining Tort

Legal service providers were supportive of proposals from other service providers to strengthen traffic safety measures, reform of the property insurance product and changes to the regulatory regime to improve the environment for rating. Their suggestions to reduce costs regarding the tort component of the system were:

a. to amend the rate of pre-judgment interest;
b. to restrict claims for judgment interest until an action has been commenced;
c. to prohibit insurers from entering into lump sum settlements in Section B benefit claims; and
d. to introduce caps on expert fees.

The legal service providers contended that:

a. there was no compelling evidence that the system required enhancing the no-fault features of the current system;
b. mere "tweaks" such as those listed above would be sufficient to restore the affordability, availability and sustainability of insurance premiums to Albertans;
c. the evidence they had seen did not present adequate proof that the system was becoming unstable; and
d. the veracity of claims by other service providers that the costs of claims incurred was exceeding the amounts of premiums collected was questionable.

The viewpoints in the above paragraph were not shared by any of the other service provider groups.

Case for fundamental reform

The Committee evaluated all the submissions presented on this issue, including groups that were self-insurers, and concluded there are real and costly obstacles present in the tort system that adversely affect the best interests of the traffic injured and the insured motorists of Alberta, some of which include the following:

a. delays in resolution of injury claims;
b. negative impact on health outcomes of traffic injured due to intervention of litigation into the medical treatment regimen for traffic injured;
c. no provision in the tort system for litigation support providers to mitigate such adverse consequences for the traffic injured or the motoring public including the harmful effects of delays, increased costs, and continually escalating costs of settlement recovery;

d. the numbers of medical appointments and expert reports arranged to schedule for traffic injured clients ostensibly to maximize their financial recovery, can prolong the plaintiffs' sickness experience long after the tort action has been concluded; and
e. delays in claims resolution do not adversely affect the fee recovery of litigation support service providers including court experts, mediators, health corporations that provide litigation support, fringe lenders, investigators and the like.

The Committee recognized the underlying concern of legal service providers that fundamental tort reform could have substantial negative impact on their businesses. Accordingly, it took careful account of all their submissions. Nevertheless, it was necessary to recognize certain weaknesses in their submissions which are documented here for the benefit of all involved service providers.

While legal service providers see themselves as performing an important and perhaps indispensable role in representing the current and future traffic injured, and preserving fundamental legal rights, the Committee notes as follows:

a. they do not represent or speak for the majority of traffic injured Albertans who were at fault for their losses and cannot sue for damages in tort,
b. they do not represent or speak for that group of traffic injured who have the right to sue but choose to process their injury claims directly with insurers,
c. they do not represent or speak for those members of the medical and health community that will not accept as patients traffic injured who intend to pursue litigation,
d. they do not serve traffic injured interests after resolving their monetary claims, and
e. all service providers in the compensation system, including health and insurance providers, may rightly claim to represent the future traffic injured.

The Committee considered the contention of the legal service providers that insurers were not being sufficiently transparent about claims of unprofitability in Alberta and that the public information to date did not credibly or authentically verify those facts.

The Committee concluded those contentions were without foundation having regard to the following contradictory factors:

a. auto insurers are subject to substantial regulatory obligations to the Federal Office of the Superintendent of Insurance, under the *Insurance Act of Alberta*, to the Alberta Superintendent and the Automobile Insurance Rate Board, including payment of premium tax;
b. insurers in Alberta are answerable to those regulators as to the profits they earn from their automobile business and those profits regulated by being taken into consideration when the AIRB evaluates filings for rate approvals;
c. all of those regulators have imposed substantial reporting requirements on auto insurers and provide continuous oversight for the protection of motorists who must pay a mandatory premium;
d. as stated by the Alberta Court of Appeal in *Morrow v. Zhang*, "the (MIR) legislation deals with automobile insurance which is private, but highly regulated";
e. no one has suggested these regulators are not properly and continuously performing their statutory supervisory oversight responsibilities in auto insurance in Alberta;

f. the evidence from the *Morrow* case proved that as a result of the October 2003 rate freeze, the insurance industry was required to absorb substantial financial losses;

g. the reports provided to us from insurers confirmed that many of them had again sustained significant financial losses as a result of the rate cap imposed by the Government of Alberta in 2019;

h. information from the AIRB confirmed that the auto industry in Alberta as a whole paid out more in claims than it collected in premiums in 2018 from which we conclude that rising claims costs resulted in subsequent increase in premium prices; and

i. auto insurers are not answerable to the legal service providers for the profits they receive from the auto insurance business they conduct.

Lawyers who make the same argument to the Committee as regards auto insurers' profitability do not see any contradiction in their position, notwithstanding they are not subject to the same level of government regulation.

The legal services providers told the Committee that it is no one's business but the traffic injured how he or she spends their settlement funds. After they have provided legal services to ensure a precise calculation of each of the heads of damages claimable to compensate for past lost income, future lost income, future care, etc. and after lawyers deduct their contingency fee, what is certain under the existing system is that the funds received by the traffic injured will be less than the future care costs and income loss as calculated.

A settled claimant begins with a shortfall and at some point may be left to rely on the health care system to support their long-term care needs. If that claimant spends the settlement unwisely, that day may come even sooner.

If settled claimants are required to be supported by the Alberta Health system or the social services agencies because of shortfalls in their net settlement due to deduction of fees or misspending or both, it is certainly the business of all Alberta taxpayers.

Moreover, the motoring public, which ultimately pays for the mandatory auto insurance product, at rates which have consistently exceeded the Consumer Price Index increases over the last 30 years due to increasing bodily injury loss cost claims, might well consider itself entitled to know more about the composition of those costs including the fees of injury lawyers and may desire that the fees of all other service providers in the automobile insurance compensation system, lawyers, expert witnesses, fringe lenders and mediators be regulated.

The Committee has concluded that the injury lawyers' contention that the auto insurance industry claim that losses have exceeded premium income in recent years is not made in good faith is groundless. It tends to undermine without justification public confidence in auto insurers and the regulators who oversee premiums for the benefit of the motoring public.

By contrast, the submissions of the other service providers, including self-insurers, were more constructive, particularly as regards optimizing better health outcomes for traffic injured, and minimizing transaction costs in the current compensation system.

The Committee observes that its terms of reference provide that the automobile insurance compensation system of Alberta will continue to be delivered by private enterprise automobile insurance service providers.

Given that the insurance industry in Alberta, whatever other flaws it has, has been given the present opportunity to continue to provide the mandatory product to Alberta motorists, the Committee must consider reforms that preserve the role of insurers in any remodelled recommendation and permit them to better fulfil their responsibilities to both of the true stakeholders. They have an obligation to price the mandatory insurance product appropriately for all motorists and traffic injured. They have an obligation to deliver injury compensation benefits to traffic injured.

The evidence in the *Morrow* case proved the willingness of the auto insurance industry to apply their resources to research and study into the issues of treatment modalities to improve health outcomes of traffic injured, including in Alberta.

Moreover, with the history of the imposition of rate caps overruling the regulators and resulting in sudden unexpected financial costs, the fact that insurers are prepared to continue to conduct business in Alberta is a measure of the recent past accountability to the motoring public including traffic injured of auto insurers who carry on business in Alberta.

Under a reformed model, insurers will continue to be subject to oversight delivered by independent regulators with necessary subject matter expertise as regards all aspects of mandatory automobile insurance in Alberta.

The Committee notes that the information it received and evaluated demonstrated that competent health service providers working collaboratively with the private insurers will have on the whole the relevant insight to respond to the requirements of fundamental reform. This is so even weighing that the reform will require transformative changes to health services delivery to traffic injured and more comprehensible and responsive oversight and regulation of insurers and as regards their claims, compensation and rating practices.

While some service providers were prepared to recommend that retaining tort for the catastrophically injured would be acceptable, and others that tort be retained for pecuniary claims only, the Committee observed that the majority favoured reforms that would minimize the tort component as far as possible without compromising the evidence-informed needs of the individual traffic injured. The industry also indicated preparedness to offer optional insurance products to consumers to allay concerns about receiving less than full compensation under a more robust no-fault model.

The Committee is satisfied there will be a sufficient appetite among competent health providers and insurers to collaborate in the design and delivery of a fundamental reform of the accident compensation model to eliminate adversarial conduct and unnecessary commercial operations currently existing between the traffic injured and the administrative health delivery and compensation services they require.

The Committee is satisfied there should be a fully redesigned traffic injury regulatory body populated by independent subject matter experts to establish and maintain optimal health treatment and delivery of services for all traffic injured, for early and appropriate claims assessment.

In the interim the Government of Alberta may wish to establish regulations to limit fees for services for all such litigation support providers, including lawyers, to appropriate and transparent levels for so long as any tort component is retained in the accident compensation system.

Increase scope of anti-fraud conduct

One consistent argument presented in favour of eliminating cash settlements, awards for non-pecuniary general damages and the tort component is the removal of incentive for claimants to delay resolution for the hope of a higher monetary award. This has already been referenced in terms of slowing or undermining optimal health outcomes. A separate supporting contention is that this reform would also reduce the motivation for fraud and cut significant unwarranted costs from the system.

In addition, there was advocated a provincial fraud coalition strategy to combat all forms of fraud in the system including increasing penalties for fraudulent conduct, permitting insurers to take underwriting action in cases of misrepresentation and fraud on applications and claims, as well as regulatory action to delist fraudulent healthcare providers.

Time to implement reforms

Various entities cautioned that fundamental reform particularly on the bodily injury claims component of the system could require between 12 to 18 months for complete implementation in order to provide all service providers sufficient time to retrain, re-educate and redirect resources. They counselled that interim law reform measures implemented for effect during the transition period could expedite reduction of auto insurance rate levels. The Committee concluded those could include amending judgment interest legislation, regulating fees of certain service providers, such as plaintiff lawyer contingency agreements, expert witnesses, fringe lender loan arrangements, and capping of non-pecuniary general damage awards for non-catastrophic injuries.

Short term solutions, even implemented promptly, should not be treated as a substitute for substantive reforms that will address the long-term underlying problems of affordability, availability and sustainability.

D. Conclusions

Property damage product reform

1. The Committee concluded that a no-fault model known as Direct Compensation Property Damage (DCPD) would deliver a simpler, faster claims process, improve the communication and service to the insured motorist, enable the insurer to predict future loss costs more accurately and likely result in some reduction in premium costs.

Reforms to address risky driving behavior

2. The Committee concluded that the GOA should increase enforcement and penalties for high-risk driving offences, collect, maintain and disseminate results and data to help further educate consumers about the dangers and consequences of risky driving behavior.

3. The Committee concluded that the GOA should reform the graduated licencing and other driver training programs, including possible inclusion of retesting of penalized drivers, to build public confidence that such programs can effectively promote safe driving practices.

Reform of the Regulatory Process

4. Prior to 2004, the auto insurance industry typically reported that the then Alberta rate board was nimble, accessible and good to work with. Its areas of oversight and responsibilities were separate and distinct from those of the Superintendent of Insurance. *Osborne* in his report of 1988 said: “the Alberta board takes a relatively informal approached with deliberations in part borne of the belief that competition is the best method to improve the price to the public…it would appear that the Alberta rate review process is functioning well.”

5. Auto insurers and the non-profit Facility Association expressed a number of concerns to the Committee, including the operation of the prior approval process, operation of the Grid, all-comers rule, territories, and use of rating factors, resulting in delay and confusion. The Committee concluded that the legislative reforms to the regulatory process in 2004 either are no longer meeting their intended goals or have created new problems, or both.

6. The Committee concluded that one of the reasons for the industry concerns is the overlapping jurisdiction of the AIRB and the Office of the Alberta Superintendent over rating conduct which results in conflicting and reportedly confusing rulings to insurers as well as delays over approvals, which weakens market relevance of the rate applications during the lapse of time.

7. The Committee concluded that the best initial remedy would be to separate the roles of the AIRB and the Superintendent pertaining to auto insurance rating. The AIRB should take exclusive jurisdiction over all rating issues while the Superintendent should govern insurance solvency, financial reporting and other areas its supervised before the 2004 reforms. The Committee was reinforced in this view by the long and successful record of rating management enjoyed by the AIRB's predecessor, the AAIB.

8. The Committee concluded that AIRB, either as it presently exists or reconstituted to enlarge its mandate, should re-examine:

   a. the prior approval model and a file and use model with a designed set of principles;
   b. whether to publish guidelines to apprise insurers of what information is appropriate to include in rating applications relative to risk assessment;
   c. the "all comers rule" and the Grid;
   d. previous Facility Association ceding arrangements and oversight of its premiums to ensure adherence to social policy considerations and actuarial evidence;
   e. the current territories designation;
   f. the benefits of enacting comparable legislation in Alberta to benefit consumers and reduce the cost of vehicle damage repairs;
   g. establishing and publishing a list of prohibited rating factors;
   h. remedies for non-compliance with guidelines; and
   i. the benefit of retaining a delegate of the Superintendent of Insurance in the rate approval process.

9. The Committee concluded that:

   a. reforms in these areas are likely to:
      i. minimize or eliminate the need for sudden legislative corrective actions such as rate freezes;
      ii. reduce cross subsidization of bad drivers by good drivers;
      iii. reflect the driving risk across geographic areas of Alberta; and
      iv. assist more drivers to qualify for mandatory insurance.
   b. greater transparency, education and timely disclosure to consumers of amounts of the premium which are allocated for premium tax, medical treatment, the Alberta health care levy, cost of physical damage claims and bodily injury claims are likely to enhance the consumers' understanding of the components of the mandatory premium.

Reform of the *Judgment Interest Act*

10. The Committee concluded that the Judgment Interest Act should be amended to make the rate for non-pecuniary damages the same as the rate for pecuniary claims and to suspend claims for judgment interest on non-pecuniary damages for a period of two years from the date of accident loss, as this would reduce the cost of insurance to motorists.

Optional Property Insurance Products

User-Based Insurance

11. The Committee concluded that the user-based optional insurance products could be beneficial to consumers and to insurers alike. Expanding the areas of its current use subject to what restrictions or guidelines would be fair to consumers and insurers is a question that should be examined and determined by the AIRB, either as it presently exists or as reconstituted.

Legislation to mandate use of winter tires

12. The Committee concluded use of winter tires for the winter months in Alberta will reduce the occurrence and frequency of auto accidents and injuries.

Section B benefits

13. The Committee concluded that the Section B Benefits under the current model had demonstrated many flaws and were not delivering the original goals intended. As a result many Section B claimants were not receiving optimal treatment and recovery. These reports satisfied the Committee that a fundamental transformation of the current system for compensation for no-fault benefits was required. The Committee was fortified in this conclusion by the current appetite of the insurance industry to provide optional supplemental medical benefits coverage to those consumers desirous of purchasing the same.

The tort/no-fault issue

14. The Committee concluded that the list of concerns about the tort features of the current model was extensive and there should be no efforts expended on seeking to implement modest and piecemeal reforms which have been demonstrated in other jurisdictions to be ineffective. Given that any auto insurance reform is likely to result in dislocation and disruption, the Committee concluded that one fundamental reform on one occasion to all aspects of the current model will best achieve the goals of optimal health outcomes to traffic injured, together with affordability, accessibility and long-term sustainability of auto insurance premiums.

15. The Committee concluded that insurers' preparedness to now design competitive and well-structured optional income replacement coverages can address concerns about incomplete coverage for some traffic injuries. It will allow consumers at the time of renewal or issuance of their auto insurance policy to elect to purchase additional amounts of coverage to ensure compensation for the entirety of their provable income losses.

16. The Committee concluded that those optional products should be subject to reasonable oversight by an independent traffic accident regulatory body to ensure fairness to consumers from pricing and coverage perspectives.

17. The Committee concluded that under a reformed pure no-fault model, insurers should continue to be subject to oversight delivered by independent regulators with necessary subject matter expertise as regards all aspects of mandatory automobile insurance in Alberta.

Evidence-informed health treatment for traffic injured

18. The Committee concluded the service providers favour immediate and better health treatment for traffic injured. Other than legal service providers, most participants supported the view that removing or reducing the tort component would lessen the strain of litigation demands on medical and health professionals whose main professional purpose was treating traffic injured.

19. The Committee concluded that under a pure no-fault model there were many opportunities to optimize health treatment for traffic injured. These many opportunities are specifically listed below in our Recommendations.

20. The Committee concluded that competent health service providers working collaboratively with the private insurers will have on the whole the relevant insight to respond to the requirements of fundamental reform. This is so even weighing that the reform will require transformative changes to health services delivery to traffic injured and more comprehensible and responsive oversight and regulation of insurers as regards, their claims, compensation and rating practices.

21. The Committee concluded that there will be a sufficient appetite among competent health providers and insurers to collaborate in the design and delivery of a fundamental reform of the accident compensation model to eliminate adversarial conduct and unnecessary commercial operations currently existing between the traffic injured and the administrative health delivery and compensation services they require.

Reforms to the assessment of injury and pecuniary loss process

22. The Committee concluded from the submissions of many service providers that there is a superior alternative to a tort compensation model. Almost all agreed that to be an effective alternative to the current model, the alternative regulatory injury evaluation and compensation regime must exclude conflict, disputation and adversarial features that increase cost, delay and added stresses to the injured claimant, the system and the service providers that desire to expedite optimal recovery and rehabilitation outcomes for traffic injured.

23. The Committee concluded that the market preparedness to offer a complete suite of optional products to provide first-party coverage of those losses previously addressed under the tort model would satisfactorily fill any gaps for any traffic injured not fully made whole by the benefits provided in a reformed pure no-fault compensation model.

24. The Committee concluded that a composition of a series of mandatory benefits made available to all traffic injured under a mandatory policy supplemented by a series of optional enriched benefit that a consumer may choose or decline is the superior version of a choice model for motorists and traffic injured.

25. The Committee concluded that there should be a fully redesigned traffic injury regulatory body populated by independent subject matter experts to establish and maintain optimal health treatment and delivery of services for all traffic injured, for early and appropriate claims assessment.

26. The Committee concluded that in the transition period, the Government of Alberta may wish to establish regulations to limit fees for services for all such litigation support providers, including lawyers, court experts, and mediators to appropriate and transparent levels for so long as any tort component is retained in the accident compensation system.

E. Recommendations

Property damage product reform

1. The Committee recommends that the property damage component of the auto insurance compensation system be converted to a no-fault model known as Direct Compensation Property Damage (DCPD) under which the insured motorists' insurers will process the costs of repair directly in any event of fault. A driver who caused the collision will continue to be found responsible for the purpose of assessing appropriate rate adjustment.

2. The Committee recommends oversight of this program should be reposed under the AIRB, or as it may be reconstituted under a reform model. Implementation of this reform should be subject to transitional legislative change provisions to allow for orderly resolution of existing claims, including those under the *Motor Vehicle Accident Claims Act*.

Reforms to address risky driving behavior

3. The Government of Alberta should legislate increased penalties to punish and deter all types of risky driving behaviour.

4. The Government of Alberta should help enhance data collection of accident statistics to inform an education program to promote traffic safety. As well, all service providers should assist the government in:

   a. collecting relevant collision data about traffic collisions including by use of technological and other innovations;
   b. participating in providing more and consistent education about the dangers of and penal consequences for risky driving behavior;
   c. modifying the graduated licencing program to be principle-based and more affordable for new drivers; and
   d. developing consistent and informative education programs for consumers to foster a greater understanding of automobile insurance issues.

Reform of the Regulatory Process

5. The Committee recommends that the AIRB, or as it may be reconstituted to enlarge its mandate, determine and advise GOA whether the goals of auto insurance regulation would be better served by:

   a. retaining the prior approval model or converting to a file and use model with a designed set of principles;

   b. establishing a practice of publishing guidelines to apprise insurers of what information is appropriate to include in rating applications relative to risk assessment;

   c. evaluating, eliminating or replacing the "all comers rule" and the Grid;

   d. exploring reverting to previous Facility Association ceding arrangements and overseeing its premiums to ensure adherence to social policy considerations and actuarial evidence;

   e. revising, expanding or eliminating the current territories designation;

   f. publishing and disallowing use of only those rating factors that are prohibited;

   g. establishing and enforcing remedies for non-compliance with those guidelines;

   h. preserving a voice for a delegate of the Superintendent of Insurance in the rate approval process;

   i. consultation with its counterparts in other provinces, the Facility Association and auto insurers who carry on business in Alberta, to investigate whether to replace or maintain the all comers' rule and the Grid or devise an alternate mechanism that will be optimally responsive to market conditions as they evolve from time to time, and has regard to the following guiding principles:

      i. The premium charged to all motorists, including new entrants, fairly represents their risks;

      ii. The alternative solution must be transparent, easy to understand, administratively viable and sustainable;

      iii. The alternative solution must strive to minimize cross-subsidization within the reasonable limits of an insurance system;

      iv. the mechanism must ensure that no consumers are subject to unfair market practices;

      v. the alternative solution must be flexible and adaptable to technological advances; and

      vi. the alternative solution must be reviewed periodically to ensure it continually responds to needs of consumers.

6. Either the AIRB or a newly established Traffic Regulator should investigate provision for coverage for claims by pedestrians and cyclists not otherwise covered by auto insurance.

Judgment Interest Act

7. The Committee recommends the GOA amend the *Judgment Interest Act* to make the rate for non-pecuniary damages the same as the rate for pecuniary claims and to suspend claims for judgment interest on non-pecuniary damages for the two year period from the date of loss.

Optional property insurance products

User-Based Insurance

8. The Committee recommends that the AIRB, either as it presently exists or reconstituted to enlarge its mandate, should have exclusive authority:
    a. to collect more data about the potential costs and benefits of UBI;
    b. to determine whether expanding the areas of its current use would be fair to consumers and insurers;
    c. to determine what restrictions or guidelines should be implemented;
    d. to determine what information and education should be distributed and provided to motorists; and
    e. to determine what recommendations should be made to GOA to reform regulations pertaining to the same.

Legislation to mandate use of winter tires

9. The Committee recommends the Government of Alberta enact legislation to make mandatory use of winter tires for motor vehicles for some specified period between October and March of each winter season.

Section B benefits

10. The Committee recommends that the current component of no-fault Section B benefits be replaced by a pure no-fault model to provide appropriate insurance coverage to all traffic injured regardless of fault. The Committee recommends that the AIRB, either as it presently exists or reconstituted to enlarge its mandate, should have co-extensive authority to monitor and oversee the array of optional insurance products offered by insurers to supplement the health benefits provided to Alberta motorists under the reform from a pricing and consumer fairness perspective.

Evidence-informed health treatment for traffic injured

11. The Committee recommends removing the tort component to lessen the strain of litigation demands on medical and health professionals whose main professional purpose was treating traffic injured and replacement with a pure no-fault model under which enhanced care programs should be developed for all categories of injuries including psychological, chronic pain, and combinations and clusters of accident injuries.

12. The Committee recommends a fundamental reform to the delivery of health care to all traffic injured under a pure no-fault model to include as far as possible the following features:
    a. supporting early, active, and appropriate evidence-based treatment aligned with and for traffic injuries;

b. pre-approved treatment frameworks for common injuries based on evidence-informed care with associated schedules and policy limits;
c. expedited access to care from prescribed providers;
d. reducing transactional administrative burdens in the system;
e. reducing duplication of services and overutilization;
f. optimize appropriate treatment modalities with consistent quality improvement to achieve recovery timeframe of 2 to 3 years for most injuries;
g. codifying causation so that there can be reasonable finality of injury claims and proper evaluation of the injuries caused or contributed to by the traffic accident as distinct from other causes; and
h. establishing
    i. definitions of serious and catastrophic injuries;
    ii. definitions of chronic pain and psychological injuries;
    iii. expert medical panels to make conclusive determinations as to which claimants fall into which categories;
    iv. treatment regimes that will include an intended resolution date for the claimant and the service providers;
    v. an independent oversight body to supervise treatment providers to ensure that health providers are following evidence-informed guidelines in regimens to ensure optimal recoveries for traffic injured;
    vi. a structured review process for traffic injured who are not recovering within the normal treatment guidelines or whose recovery has plateaued so that they can be referred for alternative treatment;
    vii. clear return to work guidelines for claimants seeking disability payments to encourage gradual return to work programs, modified duties or retraining for different occupations;
    viii. regulation of fees for health and dental health providers;
    ix. means of collecting and aggregating health treatment data to ensure ongoing monitoring and evaluation of care programs, outcomes and continuous improvement of first-party compensation based on reliable data; and
    x. implementation of an electronic system for auto insurers in conjunction with a traffic injury regulator, health care and ancillary service providers to expedite transmission and processing of claim forms.

13. The Committee recommends that the GOA engage a team of competent health providers to collaborate with the regulators and insurers in the design and delivery of a fundamental reform of the accident compensation model to eliminate adversarial conduct and unnecessary commercial operations currently existing between the traffic injured and the administrative health delivery and compensation services they require.

Reforms to the assessment of injury and pecuniary loss process

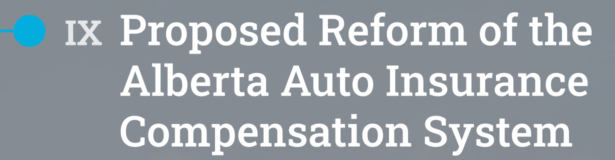
14. The Committee recommends replacement of the current model with pure no-fault care model to compensate all traffic injured without the requirement to prove fault of a negligent driver to be overseen and regulated by alternate traffic accident administrative structure, similar to Alberta workers' compensation and other workers' compensation models, which provide individualized assessments by a panel of medical experts and claims assessments by panels of experts. However, in the case of an Alberta traffic accident compensation model, the Committee recommends a model that takes the most effective features of those successful models and designs additional features that address the needs of the array of traffic injured that vary greatly from workers.

15. The Committee recommends the Traffic Accident Regulatory model establish groups of subject matter experts that will serve on panels to provide conclusive and final medical evaluations, conclusive income loss assessments, oversight of health service providers to ensure ongoing education and professional development, and evidence-informed results.

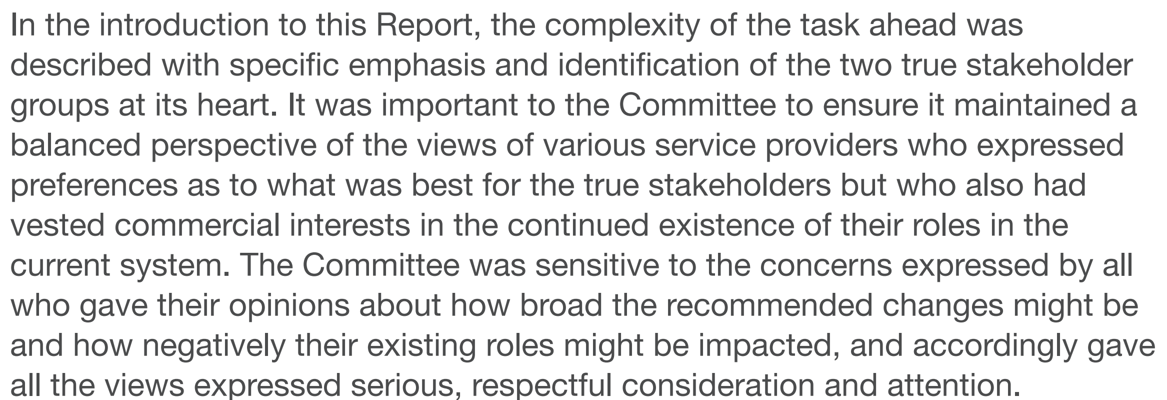
16. The Committee recommends such alternative model select the most highly qualified medical and health experts, and the most highly qualified financial and vocational experts, the most highly qualified educators, all of whom will provide expert advice and will work collaboratively to determine medical impairment and future treatment issues, income calculations, and future care needs. Such collaborations will eliminate the need to prepare written reports for litigation proceedings, promote evidence-informed practices and protocols and hasten incorporating new innovations that can speed up treatment and recovery of traffic injured.

17. The Committee recommends the traffic injury medical regulator establish maximum recovery standards to encourage and enable all participants, including traffic injured, health providers and claims navigators to move collaboratively toward closure of claims at the appropriate recovery milestones. These goals would be optimally delivered by removal or diminution of monetary gain incentives. Where insurers have developed an array of optional pecuniary and non-pecuniary insurance products, those can provide suitable supplements to consumers who desire to purchase the same for additional protection and security.

18. The Committee recommends that where a medical expert panel concludes injury recovery has been attained as far as possible, benefit and income claims are referred to claims assessor panel for final resolution. If optional products are offered by the industry, those coverages may, subject to the Alberta regulators, establish contractual terms for provision of the benefits.



IX Proposed Reform of the Alberta Auto Insurance Compensation System



In the introduction to this Report, the complexity of the task ahead was described with specific emphasis and identification of the two true stakeholder groups at its heart. It was important to the Committee to ensure it maintained a balanced perspective of the views of various service providers who expressed preferences as to what was best for the true stakeholders but who also had vested commercial interests in the continued existence of their roles in the current system. The Committee was sensitive to the concerns expressed by all who gave their opinions about how broad the recommended changes might be and how negatively their existing roles might be impacted, and accordingly gave all the views expressed serious, respectful consideration and attention.

Before making its final determinations as to conclusions and recommendations, the Committee took into consideration the following:

a. the history of proposed and actual auto insurance compensation reforms elsewhere in Canada and other countries;
b. the history of auto insurance reform in Alberta from 1990 to the present;
c. medical and health studies and evidence of medical and health expert witnesses;
d. applicable Charter law;
e. actuarial evidence and studies of Alberta claims experience;
f. information received during public consultations, including surveys;
g. information gleaned from a health advisory committee; and
h. its own combined experience of several decades in the Alberta automobile insurance compensation system.

The Committee secured statistical information from the Government of Alberta (GOA) indicating that as of July 1, 2019 the population of Alberta was 4,371,316. As of March 2019, there were 3,642,336 motorized vehicle registrations, excluding trailers, off-highway vehicles, and dealer plated vehicles. The total number of licenced drivers in 2019 was 3,229,821.

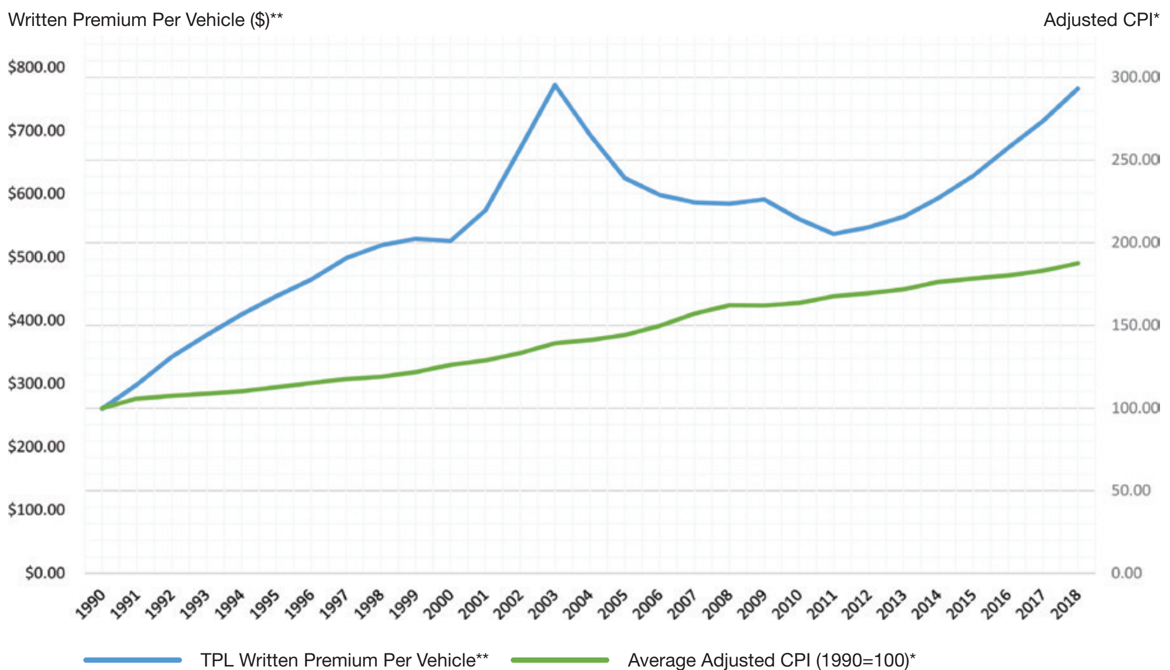
The AIRB confirmed that although there were 69 property and casualty insurers licenced to conduct auto insurance business in Alberta as of 2018, only 46 were active, 10 of which represented 93% of the share of the market.

The AIRB reported that in 2018 the auto insurance industry collected $3,500,000,000 in insurance premiums and paid a total of $3,800,000,000 in claims and operating expenses. In 2018 Albertans made 287,000 claims.

A. Additional Studies from Consulting Actuary

The Committee also requested two studies from its consulting actuary. The first was a comparison between the increase in written premium for insured vehicles from 1990 to 2018 and the average adjusted Consumer Price Index. A graph displaying this comparison is attached as Appendix 3 and is included below for ease of reference:

Alberta private passenger third party liability written premium per vehicle



* Source: Statistics Canada. Table 18-10-0004-13 Consumer Price Index, All-Items, Alberta, monthly, percentage change, not seasonally adjusted. CPI is recalibrated assuming AY 1990 is at 100pts.

** Written premium per vehicle adjusted by recalibrated CPI.

This graph confirms other evidence that increases to auto insurance premiums for insured Alberta motorists have continuously exceeded the Consumer Price Index increases for the past 3 decades, and have been sharply escalating since 2014. The Committee has been well satisfied from its analyses that the current Alberta auto insurance compensation model does not delivery stability of premiums or long-term sustainability.

The second study requested from its consulting actuary was an estimation of the transaction costs of private passenger motor vehicle litigation in Alberta expressed in 2018 dollars. The full report is attached as an Appendix 4. For ease of reference, the table showing distribution of transaction costs by item at page 11 of the report is reproduced below:

Transaction Costs of Injury Litigation

2018 Dollars	($)	(%)
Disbursements	28,336,011	7.4%
Insurer's Outside Counsel Fees	45,909,850	12.0%
Insurer's In-house Counsel Fees	5,390,239	1.4%
Independent Adjuster Fees	10,529,663	2.8%
Insurer's In-house Adjuster Fees	1,257,881	0.3%
Defence Medical Reports	5,468,795	1.4%
Other Expert Fees	7,108,317	1.9%
Other Claim Expenses	2,467,601	0.6%
Estimated Claimants' Lawyers Contingency Fees	276,165,554	72.2%
Estimated 2018 Total Transactional Costs	**382,633,911**	**100.0%**

Our review of auto insurance reform from many angles reveals the complexity of the auto insurance compensation system. As a result, there are many views about how it should be corrected and improved. The Committee has taken into consideration all the views expressed as well as its own experience in the practical operation of claims practices, tort litigation including from the perspective of plaintiffs and defendants, health treatment, supply of the insurance product, and problems of availability, affordability and sustainability of the injury compensation system.

Nevertheless, the history of auto insurance reform shows there will always be differences of opinion and usually public controversy which heightens the concerns of all consumers and service providers about changes that will diminish their entitlements.

It is thus always the Legislature whose responsibility it is to take informed decisions about how scarce resources must be reallocated by selecting a wise blend of choices and trade-offs for the best interests of all its constituents. The Committee has made its best objective efforts to provide the GOA with its conclusions after analysis of all the relevant considerations.

It was evident from our study that there are serious systemic problems in the current Alberta model. These are exacerbated by entrenched practices and processes that have not kept pace with the health needs of the traffic injured but have in fact prevented or delayed the implementation of modern innovations to improve health outcomes for the traffic injured and to prevent worsening of traffic injuries due to delays in claims resolution.

The increased transaction costs resulting from the tort components are clearly correlated with some of the premium increases. The above shown table clearly depicts the cost pressures the current tort system imposes on the premiums, most notably, legal fees. Reduction or elimination of the legal counsel and plaintiff lawyer contingency fees, expert fees and reports would have reduced costs in the range of $340,000,000 in 2018.

The Committee considers the small number of active auto insurance carriers conducting business in Alberta is a risk to the goals of affordability and accessibility to auto insurance. Improving conditions to increase competition, market innovation and expanded optional insurance products would be beneficial to the traffic injured and insured motorists in the way of allowing consumers to choose specific insurance products that are more tailored to their particular needs, which would protect them more appropriately in the event of traffic injury and loss and produce reduced premiums for those insured motorists who decline the additional optional products.

B. Health Outcomes for traffic injured Sub-optimal under the Current Model

The Committee found that health treatment for the majority of traffic injured is not delivered consistently or in an evidence informed manner contrary to the best interests of early and effective recovery. This is not the fault of hard-working health professionals. It is the result of the defects in the current system that do not serve the traffic injured and do not serve the health professionals.

A large part of that deficiency is due to the characteristics of the tort system which have historically resulted in delays in claims resolution, duplication of costs and services, undercompensating of those who are catastrophically injured and overcompensating those who are not. This is not the fault of the members of the legal profession or the judiciary. However, it is the result of serious and worsening defects in the current system that history has shown cannot be improved in a gradual continuous fashion but can be meaningfully addressed only by fundamental reform.

The Committee is satisfied that all Albertans, including those who do not form part of the insured motoring public, will be better served if the automobile insurance system provides at least a modicum of evidence-informed medical and health treatment to help all traffic injured receive prompt and appropriate medical and health treatment, participate optimally in their own recovery and see an expedited return to normal life activities including employment and leisure.

C. Compensation of All Traffic Injured Sub-Optimal under Current Model

First, those traffic injured who are currently excluded from the auto compensation system or whose health benefits were restricted because their injuries were not provably due to a negligent driver are in the result not monitored to ensure receipt of the most effective health treatment for their injuries. Their ongoing health problems are redirected to the health system or social agencies which result in a greater financial burden to all Alberta taxpayers.

Second, those persons may have sustained injuries due to circumstances that could happen to anyone. As examples, the following Alberta traffic injured cannot obtain maximum recovery under the current tort model:

a. injuries sustained due to the collision with an animal on the highway;
b. injuries sustained in accidents due to extremely icy highways and road, whiteout, smoke or fog conditions reducing visibility to nil; and
c. injuries due to an unidentified driver or a driver who was not legally at fault for the collision.

It is noted that even for traffic injured who have a right of action, court or settlement awards for the catastrophically injured are not always fully paid because the amount of the award exceeds the insurance policy limits of the motorist whose conduct caused the accident.

Third, the two principal rationales for maintaining a tort model in automobile insurance compensation, subject to debate since mandatory insurance was introduced to the system, have become even more seriously weakened over the last three decades in Alberta due to changing social, economic and commercial conditions.

D. Failure of Auto Insurance Reform by Piecemeal Increments to Deliver Long-term Stability

Failure to promote the early and effective recovery or resolution of claims of traffic injured to the detriment of their health outcomes has been also verified by health professionals in the Alberta auto insurance compensation system.

The *Minor Injury Regulation* (MIR) and the *Diagnostic Treatment and Protocols Regulation* (DTPR) were initially met with criticism, opposition and objection from many service providers. As a result, there was probably additional uncertainty, confusion and anxiety about whether and the extent to which important rights were being taken away in the name of cost reductions. Those reforms were put into effect in 2004 but, until the Court of Appeal decision issued in 2009, it was not clear to the service providers, traffic injured or motoring public whether those reforms constituted valid law.

The MIR and DTPR, in the first phases of operation, initially proved to be a satisfactory and, some would argue, a superior model for delivering health benefits and outcomes to traffic injured sustaining certain types of temporary soft tissue injuries. Those reform benefits likely also reduced some costs which enured to the benefit of all members of the motoring public.

However, there has been continuing disagreement among service providers since 2009 about what injury cases should be covered or excluded from the MIR and the DTPR. This uncertainty produced continuing litigation over the interpretation of the regulations which was an unintended consequence. One insurer reported to the Committee that its soft tissue injury claims that lasted longer than 6 months increased over the last 5 years by 700%. The growing divergence between the intent and the result of the 2004 reforms is detrimental to the traffic injured and the motoring public, as is ongoing uncertainty flowing therefrom.

It is detrimental to the traffic injured as a group because they cannot be sure whether a new court decision might result in a determination that their case has cleared the MIR cap and in turn allows the pursuit of increased monetary compensation in their cases. When a new court decision from time to time produces such results, it would reasonably leave traffic injured whose cases were settled before the decision wondering if they were insufficiently compensated.

The GOA endeavored to clarify the uncertainty resulting from court decision in 2012 by enacting additional measures in late 2017 and 2018. Despite its best legislative efforts, continuing calls for adjustment due to concerns over unaffordability, unavailability and unsustainability combined to add to the ample evidence in Alberta or in other private enterprise auto insurance models elsewhere that gradual and piecemeal tort reform has not succeeded and will not in future succeed in delivering a viable and sustainable insurance system, or significantly reduced or eliminated costs from the system.

As a result, while the Committee agreed that individual evaluation of each injured person's injuries and losses is an important goal to preserve in any reformed auto insurance compensation system, based on all the evidence, research, studies, viewpoints and, its own experience with the existing model, it was satisfied that an alternative administrative health delivery model outside the tort system can provide individual evaluation of each injured person's injuries and losses, and can do so more effectively, more swiftly and with superior health outcomes for traffic injured than the current model.

E. The Tort Principle of Deterrence Does not Deliver Intended Goal

The argument that a fault-based tort system must be maintained to deter motorists from risky driving conduct, again always subject to debate, has over time also become increasingly irrelevant. The original practical consequence under the tort system was that when a motorist was sued for damages for negligence causing injury, that person was frequently informed shortly after the accident that an injury had been alleged, and there would be an investigation and possibly a lawsuit, naming that motorist as a defendant. A lawsuit would determine the motorist's liability for alleged faulty driving conduct and the amount of damages payable to the injured person.

The motorist defendant might be required to participate in pre-trial and trial proceedings. The injured person would also give evidence about the injuries and losses. Such trials were open to the public. The evidence and the verdict might later be reported in the print media.

These consequences of the event could be seen to deliver specific deterrence to the individual driver and general deterrence to members of the public. But over the decades these consequences have disappeared from the current system.

Instead, when a motorist is involved in a minor collision with another motorist, now especially if it initially appeared due to a momentary and inadvertent driving error, there may be no indication that any injury resulted. After reporting the incident to the insurer, the motorist often hears nothing until well over two years later, because an injured claimant is not required to formally commence a lawsuit until within two years of the date of loss and has another year after that to serve notice of the lawsuit on the alleged at-fault motorist.

Some motorists in these circumstances never learn when the claim was finally settled or for what amount. As confirmed by all litigation service providers, such actions rarely proceed to trial. If the claim is settled before a trial, the results are not reported to the public. Moreover, not all trial decisions are publicized in news outlets or law reports. Even at conclusion of the claim, the motorist is not called upon to contribute financially to the amount of the assessed losses. In the result, the motorist who caused the accident does not normally experience an immediate cause and effect from the negligent driving on the day of the loss to the date of resolution.

This example is similar to many auto insurance cases in the current tort system. It demonstrates that practically, the intended effect of the principle of deterrence has lost its efficacy and the principle of deterrence is no longer a convincing justification for maintaining the tort system in auto insurance. The Committee concluded that deterrence of risky driving is more effectively achieved with increased enforcement of traffic laws, increased penalties for traffic infractions, more extensive education about the consequences of risky driving and the pricing mechanism that requires reckless drivers to pay higher premiums for insurance, if they are not precluded altogether from driving due to traffic enforcement laws.

F. The Tort Principle of Quantifying Damages on an Individual Basis Subject to Increasing Costs and Delays

The next principle tort proponents advance for maintaining tort is the need to ensure individual evaluation of each injured person's injuries and losses. However effective delivery of this goal has also departed widely from its original intent.

First, no service providers dispute that only a very small percentage of lawsuits launched to determine the true measure of damages in an individual case proceed to trial and determination by an impartial jurist after receipt of all the evidence in an open court.

Second, it is not disputed that only a small percentage of cases are resolved after an informal opinion is secured from a Queen's Bench trial judge in a judicial dispute resolution (JDR) process.

Third, it is common ground that there is much delay in scheduling dates for both these court processes due to overburdening of the resources in the court system.

The remaining claims advanced by traffic injured, if legal counsel is retained, are resolved by negotiating settlements by representatives of the parties rather than by an objective and impartial judicial determination of the proper measure of damages in each case.

As described in much detail in the *Marshall report*, additional concerning collateral deficiencies are resulting from the negotiation processes in injury claims, which are costly in terms of time, resources, and expenses, and which diminish the amounts of benefits and settlements ultimately delivered to the traffic injured.

As also described in much detail in the *Marshall report*, all of the foregoing circumstances are having a further important adverse effect of delaying recovery of traffic injuries and in some instances, exacerbating the extent of the pain and suffering of the injured person.

G. Lump Sum Payments for Pain and Suffering subject to misuse and abuse

Service providers including those in the legal community agreed that in the example of a claimant negotiating a lump sum payment in lieu of the established and accepted health benefits, it was undesirable to have the unintended consequence of the injured person paying a portion of his benefits to his legal advisor and then redirecting the balance of his lump sum payments to other unrelated purposes. This produced the result that the injuries remained and required further health treatment that would then have to be paid for by the Alberta taxpayers.

From the Committee's perspective, concern over this admitted, undesired consequence has equal application to all traffic injured, including those with more complicated and serious ongoing chronic pain, psychological consequences, jaw joint and concussion, or clusters of injuries, as well as the catastrophically injured.

The legal community, no matter how competent and careful, cannot ensure that any traffic injured person at any level of severity of injury, at the resolution of a lawsuit will responsibly preserve their remaining settlement funds and apply them appropriately to future care or loss of income.

The Committee further considers that an enhanced and enriched version of the originally designed DTPR will provide meaningful reduction and elimination of pain and suffering and loss of enjoyment of life, by way of improved and expedited health outcomes. Finally, it considers that the commitment of the insurance industry to offer additional optional insurance policies to those consumers who wish to purchase that protection will provide a reasonable replacement for the withdrawal of those benefits.

H. Need to extend and expand principles of DTPR to all non-catastrophic traffic injured

The members of the medical and health community and certain other service providers reported that the original intent of the *MIR* was for medical and health assessments of Certified Examiners (CEs) to be conclusive so that claims could be finalized promptly and decisively. However, over time, disputes by claimants often with legal representation arose over the CE conclusions resulting in some court decisions overruling the CE decisions and in turn, the deference intended to be accorded to those CEs. These consequences resulted in delays in resolution of claims and protracted recoveries.

There were also reports that various health practitioners subsequently failed to consistently follow the protocols, since there was no process to oversee, supervise and enforce compliance. This lack of compliance also weakened the original intent of the DTPR.

It was also identified that often skilled health practitioners declined treatment to patients who reported they were engaging in litigation, due to the subsequent requirement to be involved as a duelling expert.

The long delays endemic in tort litigation could be corrected by substitution of medical review panels established under an administrative model to have the authority to make conclusive determination at appropriate milestones after an accident as to issues of medical impairment and future treatment requirements.

The requirement for duelling doctors to be engaged by both sides in litigation to expend large amounts of time, resources and expense to craft written reports and prepare for possible cross-examination on their credentials and credibility is counterproductive. Instead doctors should be enabled to lead the inquiry, collaborate in a non-controversial, non-adversarial environment, and take factors into consideration that in a legal environment may have been excluded for procedural reasons. This will produce a more comprehensible and speedier resolution, to the benefit all participants and will permit final conclusions about the health condition of traffic injured much earlier than typically occurs in the litigation process.

As regards the reported problems of non-compliance by service providers under the DTPR, the original design of the DTPR remains sound and provided there were regulatory processes established to address the non-compliance and the weakening of the original intent, the DTPR could continue to serve the traffic injured in Alberta well in future. The Committee concluded that the DTPR should be further developed and expanded in its design to deal with all other injuries.

The development and extension of the existing DTPR under a properly designed regulatory process will address the problems of some traffic injured in Alberta receiving inadequate, wrong or duplicative treatment that does not benefit their recovery. Such additional treatment protocols when reviewed, refined, and enforced in line with current evidence-informed practices will establish greater uniformity of treatment, will allow for greater relevant data collection and feedback to inform and track recovery methods that are safe and effective.

I. The Tort model requires replacement by a Pure No-fault Model

The Committee concluded that the Alberta tort system has lost the ability to best serve the traffic injured and motoring public. Alternative pure no-fault models have rebalanced the goals of a traffic compensation resulting in fair, accessible and affordable insurance, timely and appropriate outcomes when claims are made, and viable and sustainable automobile insurance systems. With modernized assessment and treatment protocols for all traffic injured, a pure no-fault model will produce greater opportunities to deliver improved health and benefits.

Improved health benefits delivered to all traffic injured will benefit families and dependants of the traffic injured as well as the motoring public and Alberta taxpayers. Better health outcomes would likely reduce the duration of recovery times, which in turn would result in earlier return to work and life activities and lower the nature and amounts of claims for pecuniary losses.

A redesigned pure no-fault accident compensation model will enable and incentivize health providers to develop consistent assessment and treatment protocols and collect patient feedback and objective treatment data to continue to inform those protocols. In the result the redesign will produce opportunities to deliver superior health outcomes for traffic injured and without the delays, duplications in services, adversarial processes and costs that exist under the current model.

Such reallocation of resources under a pure no-fault model will also reduce and eliminate current costs in the system that benefit neither of these true stakeholder groups, in amounts that would exceed a range of $340 million annually.

J. Need for No-Fault Care and Compensation Model for All Catastrophically Injured

Despite careful consideration, the Committee ultimately rejected the suggestion that the tort model should be retained for the catastrophically injured who could prove fault of a negligent driver. If weakness of the tort components do not serve the traffic injured under the existing model due to delay in treatment, delay in receipt of benefits and delay in assessment of their income losses and cost of care needs, there is no logical justification for leaving the catastrophically injured out of the plan to reform receipt of the optimal benefits of the health care program for traffic injured.

The catastrophically injured group, more than any other, requires and deserves prompt expert medical and rehabilitation evaluation of the extent of injuries, optimal care and health benefits, long-term care and loss of income needs and prompt provision of those services, without the need to endure conflict over their entitlement. Moreover, the statistics presented to the Committee showed that the frequency of catastrophic injuries had decreased.

The primary purpose of a reformed automobile compensation system should be the optimal proper medical and health treatment of traffic injured, based on:

a. Evidence-informed practices, consistently evaluated;
b. improved treatment modalities;
c. established and continually improved from reliable data collection and analysis derived from modernized information technology; and
d. application and reliable feedback from traffic injured and health providers.

It is in the best interest of all Albertans, including those tax payers who pay for the health care system and social service agencies, that the optimal medical and health treatment proposed for the fundamental reform also should be available most especially, to all catastrophically traffic injured Albertans.

The design of a health care model that provides appropriate medical evaluation, assessment and treatment modalities for all of those traffic injured who may have permanent incapacity and long-term care needs before recovery or resolution as far as medically possible is a complex task. It is better addressed by transforming the health care model so that medical, health and vocational expertise currently utilized in the tort system can be redirected to an administrative model that eliminates the features of adversity, conflict and dispute for better efficiency and cost.

The Committee has considered features of the proven long-term care model implemented in 2007 in New South Wales that could be applied in the Alberta traffic context.

The Committee recognizes that in a private sector delivery model for automobile insurance, there is one claims resolution concern in providing in a new in a pure no-fault model properly calculated long-term care and compensation to the sector of traffic injured that have permanent catastrophic injuries and will never return to a pre-accident condition. That is because the insurer's obligation may extend indefinitely into the future.

Despite that obstacle, the Committee foresees that there would otherwise be added benefits of having the private enterprise system partner in the pursuit of excellence in managing long-term care for catastrophically injured.

The Committee considers that one viable solution to that obstacle is to develop for the long-term catastrophic injury care program a pool developed and funded by the property casualty industry through collection and delivery of a certain earmarked portion of each auto insurance policy. The Facility Association is an example of such an effective pool as was suggested in the *Osborne report* if such a catastrophic fund was to be created.

The Committee would foresee the management of the catastrophic injury fund by the independent Facility Association type entity, to ensure timely collection, and most prudent investment of the pool funds, pending requests for distribution by the Traffic Injury Regulator for the purposes of the long-term care program. Once the insurer had provided proper transfer of the funds earmarked for the pool, it could conclude and close its claims file.

In the view of the Committee, this proposed mechanism could provide a balanced approach to satisfy the industry, the catastrophically injured, the long-term care rehabilitation and vocational care community, and the Alberta motoring public.

In summary, a catastrophic injury long-term care program, as described in Section X of this Report, would be better suited for all Alberta traffic injured and the motoring public but would before implementation require consultation with insurance industry experts, and long-term care and rehabilitation health experts as to the optimal design and operation.

K. Delivery of goals listed in Mandate by Pure No-Fault Compensation Model

The Committee proposes replacement of the current model with a pure no-fault model characterized by the following central features:

a. implementation of an administrative traffic accident regulatory structure to replace the court for assessment of extent of injuries and pecuniary losses to traffic injured;
b. individual assessment of injuries, extent of recovery or impairment, and requisite future treatment to be conclusively determined by expert medical review panel within 2 years from the accident date for most cases and within 3 years of all remaining cases;
c. defined rehabilitation and care benefits and in the case of the most seriously injured, impairment benefits will replace lump sum payments for pain and suffering and loss of enjoyment of life; and
d. individual assessment of economic losses and future care entitlements to be conclusively determined by financial, vocational and rehabilitation expert review panel within 2 years from the accident date for most cases and within 3 years of all remaining cases.

L. Administrative Traffic Accident Regulatory Structure to replace the Court Assessment of Extent of Injuries and Pecuniary Losses

Replacing the tort system, including the traditional rules of the court system with a pure no-fault model, will require a new regulatory framework designed and committed to oversee the proper treatment of traffic injured in the claims process, including health services to address recovery, rehabilitation or ongoing care, and evaluation of medical and financial status for purposes of determining appropriate financial benefits to restore losses due to injury.

The Committee recommends the establishment of a board and tribunal, sometimes described in this Report as the Traffic Accident Regulator, to be funded primarily by insurers but led by a statute appointed independent administrator, to oversee all operations and act as the authority of last appeal. It would:

a. serve as regulatory accident compensation tribunal for oversight of claims processes to ensure fair determination and provision of claimants' health and financial entitlement to benefits;
b. serve as regulatory accident compensation tribunal for oversight of health and medical treatment, assessment and evaluation of permanent injury to ensure fair determination and provision of claimants' entitlement to health benefits;

c. serve as regulatory accident compensation tribunal for oversight of claims assessment panels to ensure fair determination and provision of claimants' financial entitlement to benefits and compensation;
d. establish liaison and exchange of relevant information with the Traffic Insurance Regulator; and
e. be structured in a manner similar to the current Alberta Workers' Compensation Board model although led by a statute appointed leader to ensure independence.

The Committee recommends that the Traffic Accident Regulator establish several administrative arms to oversee specific aspects of the pure no-fault accident compensation system.

One specific arm is described in this Report as the Traffic Claims Regulator and would be responsible for:

a. a standardized claims process for traffic injured to present claims for health treatment and monetary compensation;
b. a claim support service to provide comprehensive services for an end to end claims process and pathway;
c. a process for overseeing delivery of services by providers; and
d. processes for establishing qualifications and certifications of those who will be engaged in the provision of services for traffic injured.

Another specific arm is described in this Report as the Traffic Injury Regulator and would be responsible for:

a. a comprehensive process of individual assessments of accident losses for traffic injured including diagnosis, evaluation of appropriate health treatment, benefits and finalized impairment determination;
b. a comprehensive medical assessment process structured with panels whose decisions are conclusive evidence as to the degree of permanent impairment of the injured person, subject to a defined review and appeal process;
c. establishing a roster of panellists with appropriate training, qualifications, knowledge, experience and personal skills to evaluate and determine issues to be heard by medical and claims assessment panels; and
d. establishing a defined review and appeal process from the panel decisions.

Another specific arm is described in this Report as the Traffic Claims Assessment Regulator and would be responsible for:

a. a comprehensive claims assessment process structured with panels whose decisions are conclusive evidence as to entitlement to monetary payments for future care and income replacement claims; and
b. establishing a roster of panellists with appropriate training, qualifications, knowledge, experience and personal skills to evaluate and determine quantum of financial claims and benefits for traffic injured based on certificates issued by the Traffic Injury Regulator.

Another specific arm is described in this Report as the Traffic Insurance Rate Regulator and would be responsible for:

a. the duties of the existing Automobile Insurance Rate Board; and
b. any expanded duties delegated to it as it is reconstituted under the pure no-fault model.

The insurers carrying on business in Alberta will be underwriting a portion of the administrative costs of the new model. Many health professionals will be recruited to deliver the health services under a new health care model. The GOA will be responsible for legislation and periodic revision of regulations governing this model. To ensure optimal participation, exchange of information, feedback and contributions for continuous improvement, in service of the traffic injured and the motoring public, there must be sufficient representation of all of these views to, or at, the board.

M. Individual Assessment of Injuries and Treatment by review panel of medical and health experts within 2-3 years from the accident date

The details of the reforms are further described in Section X of this Report.

N. Defined Rehabilitation, Care or Impairment Benefits for most seriously injured

The pure no-fault care model will deliver, in place of awards for pain and suffering and loss of enjoyment of life, a set of defined rehabilitation or impairment benefits for various injured categories to improve recovery and health outcomes in the short, medium and long term and are more fully detailed in Section X of this Report.

Improved Health Outcomes

A pure no-fault model would put to an end the ongoing uncertainty about what treatment and compensation should be afforded to what category of injury. The Committee proposes a pure no-fault reform model that will be more transparent and more comprehensible to traffic injured and motorists.

A pure no-fault auto insurance compensation model will promote innovation and encouragement of optimal health treatment for Alberta traffic injured in an environment devoid of legislated adversarial conduct. Traffic injured, like all persons who suffer ill health, are better served if all their service providers are pulling in the same direction. This collaborative approach induces the injured to also take an active participatory role in their own recovery.

One example that demonstrates the value of a pure no-fault model is the case of Québec which, shortly after its model was put into place, was able to develop categories of soft tissue injury treatment now adopted worldwide, namely the Whiplash Affected Disorder I, II and III.

Improved Environment for Health Service Providers

Transferring the Alberta traffic injury compensation to an administrative body that oversees individual assessment of all traffic injured and provides evidence-informed treatment individually will also provide a healthy environment for its health services providers.

A pure no-fault model will reduce or eliminate delays in resolution of injury claims that attend the tort system, and the negative impact on health outcomes of traffic injured due to intervention of clusters of service providers into the medical treatment regimen for traffic injured.

The Committee expects that a new continuum of care model for all traffic injured will induce return to the health professional service providers who declined to treat traffic injured who presented as litigants and will elevate the quality and consistency of treatment in an environment characterized by mutual collaboration.

The numbers of medical appointments arranged for traffic injured will be reduced and will be based on effective evidence-informed health results.

O. Individual Assessment of Economic Losses and Future Care Entitlements by review panel of financial, vocational and rehabilitation experts within 2-3 years from the accident date

The Committee's reasoning behind substituting medical expert panels for the duelling experts of the tort model applies with equal force to financial, vocational and rehabilitation experts. It would eliminate the adversarial proliferation of economists, accountants and vocational experts, all expending large amounts of time, resources and expense to craft written reports and prepare for possible cross-examination on their credentials and credibility.

Instead, an expert panel would lead the inquiry, collaborate in a non-adversarial environment, and take factors into consideration that in a legal environment might have been excluded for procedural reasons. This transformation will produce a more comprehensible, transparent and speedier resolution to the benefit all participants. It will further permit finalized conclusions about the income and other pecuniary losses of traffic injured much earlier than typically occurs in the litigation process, in most cases within two years from the date of the accident.

The Committee initially contemplated that its proposed pure no-fault reform model provide full reimbursement of all provable pecuniary losses to be conclusively determined by a review panel of subject matter financial experts, supplemented with vocational and rehabilitation experts where the case required.

However, after examining alternative pure no-fault compensation models including those in Saskatchewan, Manitoba and Worker's Compensation systems, the Committee recognized that pure no-fault models usually stipulate some standard percentage such as 80% or 90% of full income replacement. The Committee recognized that this feature is likely incorporated in the interest of public policy to promote return to employment. It also noted that this type of calculation is consistent with the rationale and practice of group insurance compensation models.

The Committee also observed that under the current tort model, claimants represented by legal counsel also do not receive full recovery of their income losses due to the deduction of legal fees which may reduce the income recovery to around 70% of the total loss. The Committee recognizes the counterargument that claimants with legal counsel may recover additional amounts due to the skill in proving additional components of financial losses.

Nevertheless, the transformed pure no-fault panel of economic and financial experts will better serve the traffic injured and motoring public by producing dispositions of pecuniary claims based on established economic considerations and will be capable of modification and adjustment based on the ongoing review and consideration of prevailing economic conditions applicable to the injury claimants.

The costing of the pure no-fault compensation model together with three variations is contained in Section XII of this Report.

Elimination and Reduction of Costs

In addition to improving the health benefits of all traffic injured, the proposed pure no-fault model will eliminate numerous costs from the current system, including:

a. costs of subject matter court experts;
b. costs of duplicate assessments by duelling court experts;
c. delays in resolution of litigation cases;
d. service providers declining to serve clients who have elected litigation;
e. legal costs;
f. costs to maintain the court system; and
g. costs to the health system.

In addition to improving the health benefits of all traffic injured, a proposed pure no-fault model will eliminate suboptimal effects of the tort process including;

a. reduction of recovery to the traffic injured by engaging fringe lenders;
b. exaggerated or fraudulent claims to boost monetary recovery; and
c. adverse effects of spending lump sum settlements before injury recovery.

Limitations on monetary awards will eliminate the incentive to traffic injured to prolong, even unconsciously, sickness experience in the pursuit of a financial reward. There will be a rebalancing of compensation among all traffic injured to eliminate overcompensation in some cases and undercompensation in others. For those Albertans who wish to retain the opportunity to purchase insurance coverage for fuller protection of their losses, the insurance industry has committed to deliver optional insurance policies to cover the withdrawal of those benefits.

P. Legal Challenges to Fundamental Auto Insurance Reform

The Committee very carefully considered warnings that any no-fault reform recommended could be subject to legal Charter challenge. It reviewed comments by the Alberta Court of Appeal (ACA) in *Morrow v Zhang* as regards the authority of the Legislature to cap soft tissue injury claims.

The Committee took particular guidance from the following key points:

a. given that full costs of care are awarded, damages for pain and suffering can be moderated by policy considerations: For example, workers' compensation regimes limit or replace non-pecuniary damages;
b. every injured person is subject to the "cap" that exists by virtue of the limits of the tortfeasor's insurance or his own S.E.F. 44 endorsement;
c. the nature of the interest of traffic injured claimants is not of "fundamental" societal or constitutional importance;
d. the legislation deals with automobile insurance which is private, but highly regulated…;
e. other courts have found a cap or a threshold to be constitutional; and
f. the cap on soft tissue injuries … is not discriminatory because the legislation does not perpetuate the stereotype and it responds to the needs of the claimants.

The Committee observed that the ACA reasons affirm that the Legislature may enact a pure no-fault traffic accident compensation model. It further observed that where the reforms limited the awards available for pain and suffering in place of established assessment and treatment protocols, such legislation would not violate the Charter so long as the reforms are implemented as a package, balanced, interrelated and interdependent.

Q. Reform will promote long term stability and sustainability

The proposed reform will reduce the frequency of calls to GOA to reform deficiencies in the auto insurance compensation system because the regulatory regime to be put into place will be populated by subject matter experts who can advise how to respond more promptly to changes needed, whether health or medical, income loss calculation, rating practices, property damage repair processes, anti-fraud, traffic safety and the like on an on-going basis.

R. Further cost savings and improved competition will result from regulatory and property insurance reform processes

There are also similar problems in the regulatory component of the current system which suffer deficiencies for similar reasons as well as overlapping regulatory roles. These are not the fault of the industry members or regulators but are the result of entrenched processes that do not lend themselves to rapid response and continuous review and adjustment for the best interests of the insured motorists.

In the following sections of the Report, the Committee details proposals for a pure no-fault auto insurance compensation model that will properly and adequately treat traffic injuries of all Albertans, and encloses a report of its consulting actuary that details costing of its preferred pure no-fault model, as well as two other models to illustrate the type of projected savings under different variations. A fourth quasi-model displays the potential cost savings during a transition period before implementation.

The Committee recommends that the ultimate details of a reformed pure no-fault auto insurance compensation model should be developed in consultation with selected health and medical experts, and, thereafter, ancillary health service providers.

The Committee recommends that there be consultation with insurance industry experts to determine what modifications are optimally delivered without compromising the reasonable needs of motorists.

The Committee recommends that the most successful and applicable features of the current Alberta Workers' Compensation model in terms of administrative regulatory structure be utilized as a guide in the design and then modified for the traffic accident injury context.

S. Reforms to benefit the traffic injured require trade-offs to also ensure affordability, accessibility and sustainability of fair premiums

To extend the optimal treatment assessment and benefits to all traffic injured, regardless of the ability to prove fault, there must be reductions and eliminations of the awards, most particularly those associated with pain and suffering claims, available under the current model. This is an example of the necessary trade-off in exchange for more transparent and balanced recalibration of benefits to be reallocated to all Alberta traffic injured and paid by the motoring public through fair, accessible and affordable auto insurance premiums.

T. Preservation of tort action outside insurance compensation model against motorists found guilty of criminal driving conduct causing bodily injury

Despite its view that the tort insurance model currently does not effectively deliver the goal of deterrence, in the case of motorists convicted of criminal driving offences that caused injuries, the Committee sees merit in the Legislature considering whether to preserve a cause of action for any provable damages not covered under the pure no-fault model, or the optional coverages in place. Such preserved right of action would necessarily be conditioned on the premise that only the convicted motorist would be personally liable to the traffic injured plaintiff for any judgment. In short, there would be no right of action against the motorist's insurer for any amounts under such judgement.

U. Establishment of an Ombudsperson Office for Consideration of Additional Compensation in Exceptional or Extraordinary Cases

The Committee recommends that the GOA give consideration to the establishment of an ombudsperson or ombudsperson office for which application may be made for additional compensation in exceptional or extraordinary cases. Such an office may serve to identify any cases that do not appropriately fall within one of the categories of injuries, or warrant additional consideration due to extenuating circumstances.

V. Conclusions

1. Increases to auto insurance premiums for insured Alberta motorists have continuously exceeded Consumer Price Index increases for the past 3 decades, and have been sharply escalating since 2014. The current Alberta auto insurance compensation model does not deliver stability of premiums or long-term sustainability.

2. There are serious systemic problems in the current Alberta model. These are exacerbated by entrenched practices and processes that have not kept pace with the health needs of the traffic injured but have in fact prevented or delayed the introduction of modern innovations to improve health outcomes for the traffic injured and to prevent worsening of traffic injuries due to delays in claims resolution.

3. The Committee concluded that all Albertans, including those who do not form part of the insured motoring public, will be better served if the automobile insurance system provides at least a modicum of evidence-informed medical and health treatment to help all traffic injured receive proper care, participate optimally in their own recovery and see an expedited return to normal life activities including employment and leisure.

4. The Committee concluded that growing divergence between the intent and the result of the 2004 reforms is detrimental to the traffic injured and the motoring public, as is ongoing uncertainty flowing therefrom.

5. The Committee concluded that an alternative administrative health delivery model outside the tort system can provide individual evaluation of each injured person's injuries and losses, and can do so more effectively, more swiftly and with superior health outcomes for traffic injured than the current model.

6. The principle of deterrence is no longer a convincing justification for maintaining the tort system in auto insurance. Deterrence of risky driving is more effectively achieved with increased enforcement of traffic laws, increased penalties for traffic infractions, more extensive education about the consequences of risky driving and the pricing mechanism that requires reckless drivers to pay higher premiums for insurance, if they are not precluded altogether from driving due to traffic enforcement laws.

7. The long delays endemic in tort litigation could be avoided by substitution of medical review panels established under an administrative model. These would have the authority to make conclusive determination at appropriate milestones after an accident as to issues of medical impairment and future treatment requirements.

8. The requirement for duelling doctors to be engaged by both sides in litigation to expend large amounts of time, resources and expense to craft written reports and prepare for possible cross-examination on their credentials and credibility is counterproductive. Instead doctors should be enabled to lead the inquiry, collaborate in a non-controversial, non-adversarial environment, and take factors into consideration that in a legal environment may have been excluded for procedural reasons. This will produce a more comprehensible and speedier resolution, to the benefit of all participants and will permit final conclusions about the health condition of traffic injured much earlier than typically occurs in the litigation process.

9. The original design of the DTPR remains sound and should be further developed, enhanced in its design and extended to deal with all other injuries. The development and extension of the existing DTPR under a properly designed regulatory process will address the problems of some traffic injured in Alberta receiving inadequate, wrong or duplicative treatment that does not benefit their recovery. Such additional treatment protocols when reviewed, refined, and enforced in line with current evidence informed practices will establish greater uniformity of treatment, will allow for greater relevant data collection and feedback to inform and track recovery methods that are safe and effective.

10. The Alberta tort system has lost the ability to best serve the traffic injured and motoring public. A pure no-fault model can rebalance the goals of traffic compensation resulting in fair, accessible and affordable insurance, timely and appropriate outcomes when claims are made viable and sustainable automobile insurance systems with modernized assessment and treatment protocols for all traffic injured. A pure no-fault system will produce greater opportunities to deliver improved health and benefits.

11. Improved health benefits delivered to all traffic injured will benefit families and dependants of the traffic injured as well as the motoring public and Alberta taxpayers. Better health outcomes would likely reduce the duration of recovery times, which in turn would result in earlier return to work and life activities and lower the nature and amounts of claims for pecuniary losses.

12. A redesigned pure no-fault accident compensation model will enable and incentivize health providers to develop consistent assessment and treatment protocols and collect patient feedback and objective treatment data to continue to inform those protocols. In the result the redesign will produce opportunities to deliver superior health outcomes for traffic injured and without the delays, duplications in services, adversarial processes and costs that exist under the current model.

13. The design of a health care model that provides appropriate medical evaluation, assessment and treatment modalities for all of those traffic injured who may have permanent incapacity and long-term care needs is a complex task. It is better addressed by transforming the health care model so that

medical, health and vocational expertise currently utilized in the tort system can be redirected to an administrative model that eliminates the features of adversity, conflict and dispute for better efficiency and cost.

14. A pure no-fault auto insurance compensation model will promote innovation and encouragement of optimal health treatment for Alberta traffic injured in an environment devoid of legislated adversarial conduct. Traffic injured, like all persons who suffer ill health, are better served if all their service providers are pulling in the same direction. This collaborative approach induces the injured to also take an active participatory role in their own recovery.

15. Transferring the Alberta traffic injury compensation to an administrative body that oversees individual assessment of all traffic injured and provides well informed treatment individually will also provide a healthy environment for its health services providers.

W. Recommendations

1. The Committee recommends the establishment of a board and tribunal, described in this Report as the Traffic Accident Regulator, to oversee all operations and an authority of last appeal which:

   a. serves as regulatory accident compensation tribunal for oversight of claims processes, to ensure fair determination and provision of claimants' health and financial entitlement to benefits;

   b. serves as regulatory accident compensation tribunal for oversight of health and medical treatment, assessment and evaluation of permanent injury to ensure fair determination and provision of claimants' entitlement to health benefits;

   c. serves as regulatory accident compensation tribunal for oversight of claims assessment panels to ensure fair determination and provision of claimants' financial entitlement to benefits and compensation; and

   d. structured in a manner similar to the current Alberta Workers' Compensation Board model although led by a statute appointed leader to ensure independence.

2. The Committee recommends that the Traffic Accident Regulator establish several administrative arms to oversee specific aspects of the pure no-fault accident compensation system as described in Section IX of this Report.

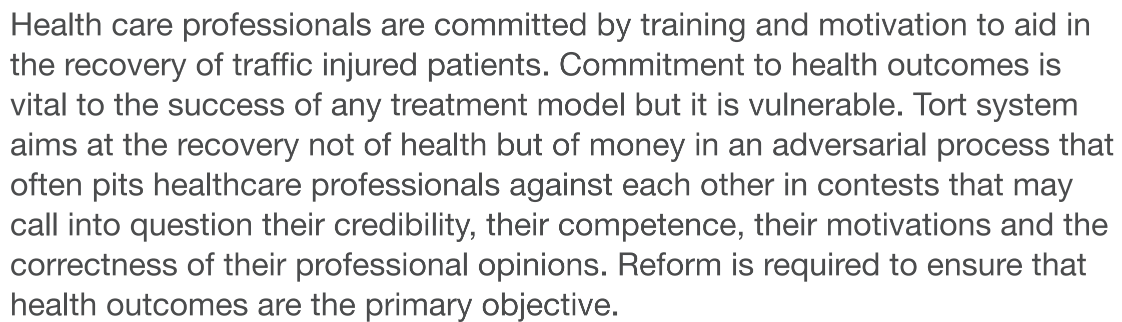
3. The Committee recommends that the ultimate details of a reformed pure no-fault auto insurance compensation model should be developed in consultation with selected health and medical experts, and, thereafter, ancillary health service providers.

4. The Committee recommends that there be consultation with insurance industry experts to determine what modifications are optimally delivered without compromising the reasonable needs of motorists.

5. The Committee recommends that the most successful and applicable features of the current Alberta Workers' Compensation model in terms of administrative regulatory structure be utilized as a guide in the design and then modified for the traffic accident injury context.

6. The Committee recommends that the GOA give consideration to establishment of an ombudsperson or ombudsperson office for which to make application for additional compensation in exceptional or extraordinary cases. Such an office may serve to identify any cases that do not appropriately fall within one of the categories of injuries or due to extenuating circumstances warrant additional consideration.

X Proposed Reform of Health Care Model



Health care professionals are committed by training and motivation to aid in the recovery of traffic injured patients. Commitment to health outcomes is vital to the success of any treatment model but it is vulnerable. Tort system aims at the recovery not of health but of money in an adversarial process that often pits healthcare professionals against each other in contests that may call into question their credibility, their competence, their motivations and the correctness of their professional opinions. Reform is required to ensure that health outcomes are the primary objective.

A. Pre-2004

Consultations with health care providers in Alberta prior to enactment of the *Diagnostic Treatment Protocols Regulations* (DTPR) revealed consensus that early diagnosis and treatment is known to hasten recovery of traffic injured and expedite their return to work and normal life activities.

However, there was no established consensus in the health community as to the optimal methods of assessment and treatment modalities for the category of traffic injuries now known as soft tissue injuries, including Whiplash Associated Disorders.

Prior to the introduction of the DTPR in 2004, individuals who were injured in a motor vehicle collision, except for treatment from their medical doctors, were required to pay from their own pockets for their assessment and treatments. This process often caused delays and disagreements regarding the type and extent of treatment required.

B. DPTR Model

Goals and Principles

The primary goal of DTPR was to ensure delivery to traffic injured covered by the regulation of prompt and effective health treatment to assist their recovery.

First, the DTPR introduced the principle of using best evidence for diagnosis and treatment to achieve better health outcomes.

Second, the DTPR introduced the practice of direct billing to insurers for a specified type and amount of initial treatment. This was designed to ensure that the initiation of treatment for traffic injured with soft tissue injuries was not delayed pending insurer approval.

The DTPR applied specifically to the following types of injuries: sprains, strains, whiplash-associated disorders (WADs), some temporomandibular disorder (TMD) injuries, and related physical or psychological symptoms. Other injuries such as fractures, internal injuries, permanent incapacitating and catastrophic injuries were excluded.

The DTPR specifically outlined the types of treatments recommended for strains, sprains and WAD injuries, specified limits on the number of visits and treatments required and authorized payment for treatments.

The DTPR was intended to streamline the assessment and treatment process for both traffic injured and primary health care practitioners (PHCPs). It also included provision for a second level health care assessment opinion for instances of traffic injured who were not recovering as expected. For example, if the PHCP was uncertain about the nature of the injury, or believed that the injury was not resolving appropriately or within the expected timelines, the DTPR provided for referral of the traffic injured to an Injury Management Consultant (IMC).

The IMC could:

a. provide advice;
b. following review of all relevant information regarding the injury, examine the patient with reference to the diagnosis and treatment under the DTPR;
c. report on the diagnosis and treatment; and
d. recommend a further assessment or a multidisciplinary assessment of the injury.

If a traffic injured was diagnosed with a WAD I or II injury and had any alerting characteristics that could influence progress, the PHCP was required under the DPTR to seek to reassess the patient within 21 days of the collision and if the injury was not resolving, refer the patient to an IMC for an assessment and report.

The IMC would provide a report to the PHCP and the insurer about the diagnosis and treatment of the traffic injured.

Erosion of Model

Enactment of the DTPR established initial consensus and acceptance by health professionals for an improved assessment and treatment of WAD injuries. However, the full potential of the model was not achieved.

Over time, lack of full compliance with the DTPR became more frequent, and as regards traffic injuries outside the DTPR, there was continued inconsistency of treatment, including probable overtreatment, undertreatment and ineffectual treatment.

In particular, the original purpose for which the IMC process was intended, namely improving clinical outcomes by conducting further investigations and assessments, confirming the diagnosis and prognosis or recommending other treatment modalities for the traffic injured was often ignored. Instead the IMC became focussed on requests for additional treatments under the DTPR.

The use of the alerting factors process was rarely followed.

Not all PHCPs respected the intent of the DTPR and some ignored information in the interpretive guides provided by the Superintendent of Insurance.

The DTPR process was not managed on behalf of the traffic injured, not universally monitored and there was a lack of accountability to ensure the clinical improvement of the patient.

There developed greater focus on active treatment, rather than evidence-informed patient education. As well, passive treatments which were meant to be a short term adjunct sometimes became instead the sole form of treatment.

After the 90 day DTPR process, the insurer was responsible to obtain a Medical Status Examination (MSE), or select a multidisciplinary assessment and treatment program. The health care provider had no authority to obtain an MSE or select a multidisciplinary assessment and treatment.

The Certified Examiner (CE) process has not met the intended purpose under the *Minor Injury Regulation* (MIR). It has been subject to erosion with the result that the CE roster is not current, and there is insufficient management, oversight and accountability of the CE process.

There is no system accountability to ensure reports are completed on a timely basis, consistent with the intent of the MI 3 forms under the MIR, or contain their opinions confirming the motor vehicle collision was the primary cause of the injury. As well, fees submitted for professional services were frequently not in compliance with the legislative guideline. Certain of these factors may have caused or contributed to courts declining to defer to CE opinions as the DTPR originally intended.

The current DTPR has no, or no effective, incentives for patients to recover and no, or no effective, incentives for PHCPs to improve patient outcomes.

Finally, the intervention of service providers in the litigation system dedicated to helping their clients to establish and maintain money claims for consequences of traffic injuries sometimes conflicted with, or delayed achievement of the goals of the health providers under DTPR.

C. Reform

Continuum of Care Model

The Committee is of the view that the diagnosis and treatment of all traffic injured would be better served by rededication to the original goals of the DTPR and extending its reach, with appropriate modifications and additions, so that it can have application as a superior care model for all Albertans injured in motor vehicle collisions.

Health outcomes would also be optimized by elimination of litigation, adversarial processes and friction points between the traffic injured and their health providers.

The Committee concluded that under a pure no-fault compensation model, Alberta could deliver these results by building further upon the original design of the existing DTPR so as to develop and deliver a modern, innovative, enhanced continuum of care model (hereafter COC), which continues to be principle-based, evidence-informed and apply to all traffic injuries.

The principle features of such an Alberta designed COC model will include the following:

a. encouraging collaboration among PHCPs, traffic injured and insurers;
b. incorporating in place of tort system service providers and representatives, independent injury navigators to advise and advocate on behalf of the traffic injured;
c. encouraging traffic injured at all stages to participate and remain engaged in their recovery, via for example, shared decision-making regarding choice of provider and treatment options;
d. eliminating any features that discourage traffic injured from early and effective recovery choices and encouraging those that do so; and
e. encouraging and incentivizing PHCPs to retain focus on improved health outcomes for the traffic injured.

For maximum health outcomes, the COC process must be independently and continuously managed, including continuously updating the COC with best available evidence, creating and maintaining ongoing education and training for PHCPs, independent injury navigators, and insurers.

The goals of all participants are aligned to help traffic injured patients resume as far as possible their normal pre-collision activities, assist in recovery and offset economic hardship as a result of the motor vehicle collisions.

A proposed enhanced COC model would ultimately require review, refinement and reassessment during a robust implementation phase involving service providers who would assist the culture shift, the transformation and develop and provide supporting roles. For the purposes of this Report, a proposed example is set out below for consideration.

Proposed Enhanced COC

Creation of new classifications of injuries

First, the Committee suggests creation of a classification of traffic injuries with neutral nomenclature to eliminate perceptions of stereotyping of persons who are traffic injured. The proposal is to create three classification of injuries as Type I, Type II and Type III.

Typical Symptomology and Treatment of Type I Classification

Traffic injuries that will normally fall into the Type I classification include strains and sprains of a musculoskeletal nature that from initial health assessment are expected to have a favorable recovery time ranging from a few days to a few months and leaving no permanent or serious impairment.

Since a Type I injury is likely to recover within days to a few months of the collision, patients should be educated and informed from the outset that their own inherent healing capacities are likely to lead to a substantial recovery and that while these injuries are disruptive and uncomfortable, they are not expected to have serious, long-term consequences.

During the period of recovery the patient may benefit from education, advice, reassurance and time limited evidence-informed clinical care in accordance with published evidence for effectiveness, including parameters of dosage, duration, and frequency.

For example, both patient and health providers should be reminded that most interventions produce at best, short-term benefits in the form of symptom relief and/or increased function and there is little evidence that higher dose intensity, more frequent attendance or prolongation of course of treatment are beneficial.

Diagnosis, treatment and rehabilitation

Type I injury diagnosis will be provided initially by a PHCP, which include medical doctors, physical therapists, chiropractors and nurse practitioners.

Primary Type I rehabilitation is contemplated to be provided independently by PHCP with reference to, and compliance with, enhanced protocols founded upon the former DTPR. Initially, it will not include psychological assessment, counselling or intensive daily programs.

Where, within 30 days of the primary rehabilitation, it is identified that the traffic injured is not resolving as expected, there will be a referral for an independent MSE. Following the MSE, a secondary rehabilitation may be recommended.

Secondary rehabilitation will entail a more comprehensive rehabilitation program provided by an interdisciplinary team that includes an assessment and all components of primary care. The PHCPs do not provide but are kept informed about this rehabilitation.

The emphasis of rehabilitation under secondary rehabilitation is treatment under the BioPsychSocial model (as currently defined under the existing DTPR) with the focus on restoration of function, reduction of pain and psychological sequelae.

Under the COC, clinical experts from all relevant disciplines, including psychology, psychiatry, neurology, and dentistry will assist in implementation design to develop and apply optimal practical protocols for assessment and treatment of complex injury cases that

involve concussion, TMD, chronic pain and psychological sequalae and will be applicable to both traffic injured and healthcare providers.

The injury navigator will monitor treatment and progress of the traffic injured.

Where during or at the conclusion of the secondary rehabilitation it is identified that the Type I injury will not resolve as initially expected, there will be referral for an interdisciplinary assessment and treatment using tertiary rehabilitation.

This innovation is expected to expedite recovery of the estimated 10-14% of traffic injured that did not previously respond to expected recovery milestones due to inappropriate assessment, untimely or ineffective treatment or delayed recovery including adversarial processes interfering with the focus of the traffic injured on optimal participation in treatment, or a combination of the foregoing.

Tertiary rehabilitation will provide the most comprehensive level of service, focussed more intensely on components of targeted treatment of the chronic pain and psychological sequelae.

However, injuries which initially include symptoms or complaints relating to TMD pain or mild traumatic brain injury (concussion) or otherwise will be referred for Specialist Assessment and Care.

Typical Symptomology and Treatment of Type II Classification

A Type II injury typically will involve some type of loss of anatomical alignment, surgical integrity, such as fractures or dislocations or psychological, cognitive, and/or physiological functioning.

As well, there may be found evidence for major concern in the absence of expert care about the likelihood of complications developing and/or persisting and potentially significant impairment and disability.

A Type II injury is not likely to undergo spontaneous recovery and the traffic injured may require medical, surgical and/or psychiatric/psychological care to attain optimal recovery.

Diagnosis, treatment and rehabilitation

Type II injury diagnosis initially may be provided by PHCP or emergency room physicians, and may require specialized consultation and/or inpatient hospitalization. Type II injuries will require specialist assessment and treatment that may involve inpatient care.

Type II injuries may be assessed, diagnosed and have treatment initiated by PHCP, but due to the severity of the injury, ultimately by specialist medical practitioners.

Rehabilitation for traffic injured with Type II injuries may require direction of medical doctors and include interdisciplinary team provision of ongoing care.

The injured person may require in-patient care. Their recovery may entail absence from work duties and they may need support for their daily care.

Monitoring of this traffic injured will require a specialist injury navigator.

The qualifications and certification of injury navigators contemplated under the COC for each of the injury classifications would be developed in consultation with subject matter experts in the implementation phase of the reform.

Typical Symptomology and Treatment of Type III Classification

Type III injuries are catastrophic injuries and typically include a severe injury to the brain, spine or spinal cord, and may also involve fractures of the skull or spinal column resulting directly from trauma in a crash, or indirectly from complications associated with the original injury. These injuries are extremely serious and permanently incapacitating and will require a specific regulatory definition such as the catastrophic impairment under the current Ontario Statutory Accident Benefits Schedule (SABS).

Although those currently catastrophically injured in Alberta will comprise a small and perhaps decreasing number, Type III treatment and rehabilitation will consist of a long-term specially designed engagement of health, vocational and long-term care specialists involving interdisciplinary teams.

The Committee proposes that Type III injuries will be managed under a specially designed program from a diagnostic, treatment and long-term care perspective, and funded by allocation of a specified portion of each auto insurance policy premium to a pool, with a pool fund entity manager and structure similar to the current Facility Association.

Diagnosis, acute treatment and short and long-term rehabilitation will be placed under the direction of a specialist medical and rehabilitation panel and monitoring of progress and care of Type III traffic injured. They will require a specialist injury navigator since these traffic injured will have significant daily needs including care, personal assistance, domestic support and an ongoing equipment, medical needs and require benefits available for long-term attendant care and services.

The Committee proposes to be included under reformed COC, features such as those observed under the NSW example, including the following:

a. provision for:
   i. medical treatment;
   ii. acute inpatient care;
   iii. rehabilitation;
   iv. specialist and expert medical care; and
   v. pharmaceutical expenses for life.
b. assignment of a provider certified as either specialist injury navigator or a lifetime care coordinator to:
   i. work in collaboration with the injured person, healthcare providers and insurers in the acute care and rehabilitation phases to help develop rehabilitation and community participation plans that identify short and long-term goals consistent with desire;
   ii. focus on helping the person adjust to the sequalae of the permanent injuries;
   iii. help regain as much daily function and independence as possible;
   iv. identify options for accommodation, transport, education, employment, social and recreational activity; and
   v. help the injured person and their family develop a community participation plan to enable the person to access all available activities and opportunities.
c. undertaking of a planning process to include:
   i. specific goals of the injured person including educational, social and employment;
   ii. services and support required including identifying any specific skills;
   iii. time frames;

iv. specific service entry, exit and transitional strategies;

v. roles and responsibilities of those involved in support;

vi. agreed review date to assess the adequacy of the plan; and

vii. support for carers.

Following the rehabilitation towards discharge, the life care coordinator would help the person and family focus on living with long-term injury sequelae and identify their ongoing support needs. Following discharge the program would typically provide daily services such as:

a. aids and appliances;
b. home and transport;
c. personal care;
d. domestic services;
e. childcare services;
f. nursing care;
g. assistance with community access;
h. educational and vocational services; and
i. respite care.

This lifetime care and support program would be financed through a fully funded pool collected from a portion of every auto insurance premium, using the current Facility Association structure as a model for the purpose of managing the fund and making distributions in accordance with the approval of the Traffic Injury Regulator (described under Section XI of the Report) according to established guidelines.

The guidelines would establish the particulars of the lifetime care and support and means by which the pool funds could be invested prior to use for the long-term benefit of the Type III injured.

Standards would be developed for service providers covering a range of skills, training and experience. Care providers would be approved by the Traffic Injury Regulator to ensure quality of service. The model of service delivery would, as far as practicable, give control of the selection of service providers and coordination of services to the traffic injured and or their families.

It may be advisable to establish an advisory council or board of the long-term care program with authority that would:

a. oversee the fund, including its investment;
b. approve the guidelines for eligibility and care need assessment;
c. approve the assessor fee schedule; and
d. approve the care provider fee schedule.

An advisory council would include two practicing health professionals with relevant experience in treating persons with catastrophic injuries, consumer representatives from relevant disability organizations, care provider representatives and members of the insurance industry. The advisory council would advise and report to the Minister or the GOA as to the operation of the model.

Funds paid into the program would be to provide the full cost of providing lifetime care and medical treatment services to this group of traffic injured. The pooling of the funds would protect against the possibility of poor estimation of the program. Lump sums would no longer reflect compensation for future treatment lifetime care and domestic assistance performed on an unpaid basis, but would be provided through the program.

Impairment benefits for pain and suffering and economic loss Type III injured would remain consistent with what is currently provided under the current accident compensation model.

In determining the portion of the premium to be dedicated to this fund, the Traffic Accident Regulator and the pool fund entity manager would rely on independent actuarial advice to ensure that the fully funded principle is maintained.

Continuum of care model to enhance optimum recovery for all traffic injured

Type I injuries are assessed, diagnosed and treated by PHCP using evidence-informed practice protocols defined in the COC.

The PHCP will engage the traffic injured in their rehabilitation, providing them with choice of provider and control of their rehabilitation within the COC.

The PHCP will complete the appropriate documents to initiate primary traffic injureds likely to recover. All documentation is to be collected by an independent injury navigator.

Recovery is attained when in the determination of the PCHP, or a medical panel when the case requires, the traffic injured is able to resume as far as possible, their normal, pre-collision activities.

Progress toward recovery is under the supervision of the PHCP, and initially, documented at or before 30 days, and reported to the injury navigator who will monitor the progress.

A maximum cost to the insurer for 90 days will be $3,500.

The traffic injured are incentivized to recover, by engaging in their rehabilitation programs and if there is agreement by the traffic injured, the PHCP and the injury navigator, that recovery is attained prior to 90 days, the file will be closed with the insurer and will not be opened again. At that point, monies that had not been required for rehabilitation will be placed into a Rehabilitation Maintenance Account (RMA).

The RMA will be accessible by the traffic injured to be used with prior joint approval and agreement of the PHCP and the injury navigator for purposes that sustain the recovered person's health and wellness, for example, personal training or health equipment.

At or before 30 days of rehabilitation, if there are alerting factors with a WAD diagnosis, progress is not moving forward as expected or the PHCP does not believe the injured person will likely recover, a referral for an independent Medical Status Examination (MSE) by a qualified practitioner must be made.

The MSE will recommend continued participation under the COC, a secondary rehabilitation program or an Interdisciplinary Assessment (IDA).

The secondary rehabilitation program is a more comprehensive rehabilitation program provided by an interdisciplinary team, but not the PHCP. The BioPsychoSocial model will be the focus of this program, in addition to restoration of function and reduction of pain and psychological sequelae. Reporting will occur on a regular basis to an injury navigator with a higher level of knowledge and experience to monitor the progress to recovery.

The secondary rehabilitation program will conclude within 90 days of the injury and costs will be within the original $3,500.

The traffic injured are incentivized to recover by engaging in their secondary rehabilitation program and if there is prior joint approval by the injured person, the PHCP and the injury navigator that recovery is attained within 90 days, the file is closed with the insurer and will not be opened again. Monies that had not been required for secondary rehabilitation at that point will be placed into an RMA.

The RMA can be accessed with the agreement of the PHCP and the injury navigator to be used for purposes to enhance the recovered person's health and wellness for example, personal training or health equipment.

If recovery is not attained within 90 days, a tertiary rehabilitation program will be initiated. This is the most comprehensive level. It will be delivered more intensely with additional components of treatment for chronic pain and psychological sequelae. Reporting will occur on a regular basis to an injury navigator with the highest level of knowledge and experience to monitor the progress to recovery.

The maximum cost to the insurer for rehabilitation program from 90 – 180 days will be $2,500.

The traffic injured is incentivized to recover by engaging in their tertiary rehabilitation program and if there is agreement by the injured person, the PHCP and the injury navigator that recovery is attained within 180 days, the file is closed with the insurer and will not be opened again. Monies that had not been required for this tertiary rehabilitation at that point, will be placed into an RMA.

The RMA can be accessed with the agreement of the PHCP and the injury navigator to be used for purposes to enhance the recovered person's health and wellness, for example, personal training or health equipment.

If recovery is not attained within 180 days, extended tertiary rehabilitation will be provided up to 240 days from the collision.

The maximum cost to insurers for this program will be $1,500.

The traffic injured is incentivized to recover by engaging in their extended tertiary rehabilitation program and if there is prior joint agreement by the injured person, the PHCP and the injury navigator that recovery is attained within 240 days, the file will proceed to final closure with the insurer. Monies that had not been applied for this final tertiary rehabilitation at that point, will be placed into an RMA.

The RMA can be in future accessed only for approved purposes to enhance the recovered person's health and wellness with the prior joint agreement of the traffic injured, the PHCP and the injury navigator.

Medical Expert Panels

If recovery is not attained by 240 days, a Medical Panel of experts will be convened.

The purpose of the Medical Panel is to provide its consensus opinion as to whether the traffic injured has reached a maximum medical outcome and no further improvement would be expected as well as a consensus opinion on the percentage of permanent or partial impairment (according to an impairment schedule designed and approved by the Traffic Injury Regulator) if any, that remains with that traffic injured.

At or before 2 years from the collision, a Medical Panel of experts will be required to deliver a consensus opinion as to when the injured person has reached maximal medical outcome and percentage of impairment for the purpose of assessing benefit entitlement.

The Committee is of the view that the Alberta Workers' Compensation Board medical panel is an example of a successful model to be emulated.

In a recent article entitled Medical Panels in Victoria Australia and Alberta Canada, Carol Newlands,(2019) 27 JLM 239, the features of the medical panels and Appeals Commission under the Alberta Workers' Compensation system were reviewed. The following points are noted:

a. The Workers' Compensation scheme in Alberta is an administrative system in which "the courts play only a supervisory role in ensuring that decisions are … reasonable".
b. Medical panels were introduced in 2002 following the enactment of the *Workers' Compensation Amendment Act* 2002 SA 2002, c. 27. Mr. Dunford, Minister of Human Services and Employment stated that "the purpose of the medical panel is to get an independent, expert consensus based medical opinion, adding that "this would be binding" on the Workers' Compensation Board (responsible for administering the compensation scheme) and the Appeals Commission (the final appeal body)."– Alberta, Parliamentary Debates, Legislative Assembly, 29 April, 2002, 1014.
c. This model has continued to function for 17 years and panels are seldom used (only 19 referrals in 2016 and 16 in 2018). Medical panels may be called upon to provide medical findings where the Board or the Appeals Commission request assessment assistance with a medical issue during their evaluation of a claim. If either evaluating body determines there are conflicting medical opinions in relation to an injured worker's claim, a panel referral is mandatory. *Workers' Compensation Act RSA* 2000 c. W-15 s. 46.3(2).
d. The Appeals Commission has "exclusive jurisdiction to examine, inquire into, hear and determine all matters and questions… arising under the compensation legislation and regulations pertaining to it. S.13.1(1)". Such decision is "final and conclusive and is not open to question or review in any court." S. 13.1(1) .
e. The panels are administered by the Medical Panels' Office staffed by the Medical Panels Commissioner, an independent medical practitioner appointed by Lieutenant-Governor in Council and any Deputy Medical Panels Commissioners similarly appointed. The Commission has a number of duties under the legislation, including the appointment of appropriate medical practitioners to a medical panel when one is requested.

f. Each panel consists of three medical practitioners, one selected by the worker, one chosen by the employer and one chosen by the Board. The Commissioner starts the selection process by drawing up a list of eligible members from the general list held by the College of Physicians and Surgeons of Alberta. The practitioner selected must have expertise in the medical matter under consideration, be registered in Alberta or have equivalent status in another province and be available and willing to undertake the role.

g. A practitioner who has treated the worker cannot serve as a member of the assessing panel nor can one who has been consulted regarding the worker's injury, except under special circumstances, [*Medical Panels Regulation Alta Reg* 21/2018 s. 2 (6)(b)] nor can one serve who has provided services to the worker or the employer or as a partner or associate of such a practitioner.

h. The injured worker, the Compensation Board and the employer may each choose a preferred practitioner. If the worker is self-employed, a member of the employer's family or is a partner or director in the employer's company, the Medical Panels Commissioner will choose a physician on the individuals behalf. Similarly, the Commissioner will choose a practitioner if any of the three selectors fails to do so within two weeks of receiving the compiled list.

i. The appointed panel receives and must review all available relevant documentation pertaining to the matter and may interview and examine the claimant worker. If the worker has elected to appoint a medical professional advisor, the latter may provide input and make representations to the panels.

j. After completing the steps, the hearing panel is required to provide a "report of its medical findings, including reasons supporting the medical findings …". *Regulation* 21/2018 s. 5

k. The legislation states that "[t]he medical findings of a medical panel are binding on the Board, the Appeals Commission and all other persons with a direct interest in the claim. The medical findings of a medical panel are final and conclusive and not open to question or review in any court." WCA RSA 2000 c.W-15 s. 46.3 (12) (13]

l. As such, there could be no review on the merits of the panels' medical findings. See *Alberta (Workers' Compensation Board) v. Alberta (Appeals Commission for Alberta Workers' Compensation)* 2010 ABQB368 (31 May 2010), where Hillier J. held that under the legislation, the Appeals Commission had "exclusive jurisdiction to examine, inquire into, hear and determine all matters and questions arising under (this) Act and the regulation…" (WCA s.13.1(1).

m. Hillier, J. further held that the Appeals Commission had been vested with a "very broad and comprehensive authority"… (p 81) to undertake its given role,… and that as such, it was the role of the Commission to interpret the relevant legislation and to do so in a manner "that is consistent with the scheme and the intention of the Act and that ensures coherence and avoids absurdity". (Page 82) He further noted that having received the findings of a medical panel, it was the responsibility of the appellate body to determine compensability issues by application of the required legal test. (p 85-88)

Benefits Assessor Panels

A panel of experts in medical and rehabilitation services will determine the level and extent of impairment benefits the traffic injured will be entitled to receive according to a schedule designed and approved by the Traffic Injury Regulator, such as that in place used under the no-fault benefits model used currently in Saskatchewan.

A panel of experts in future care and income replacement cost calculations will determine the future care costs and loss of past and future income and other related financial claims.

This panel would be modelled after the medical experts panel described above with appropriate modifications.

Additional costs may include home care costs, medical equipment for home care and the like.

Certain Specific Costs of Care Model

It is the Committee's understanding that the cost of diagnostic investigation, acute treatment and rehabilitation is currently billed to Alberta Health Services (AHS) and recovery of costs included in a health care levy negotiated with insurers. The reforms proposed may result in changes to the costs currently borne by the GOA and the insurance industry, and the costs currently transferred between the insurance industry and other entities such as Alberta WCB and self-insured entities and require appropriate cost transfer adjustment to eliminate or minimize cross subsidization.

D. Conclusions

1. The Committee concluded that the redesigned continuum of care model outlined combines the most useful features of existing health care treatment regimes with views of subject matter experts. It establishes a new paradigm that will encourage collaboration, innovation and continuing improvement among service providers based on evaluation of performance, health outcomes and research.

2. The proposed continuum of care model will address the deficiencies identified in the current system, namely delay, conflict, inappropriate and ineffective treatment and duplications in service. It will reallocate resources to produce better health outcomes for all, not merely a portion of all traffic injured in Alberta.

3. The continuum of care model will provide more rational individualized diagnosis and treatment of Alberta traffic injured. In turn it will encourage the collaborative pursuit of optimal health outcomes among the health service providers, insurers, the Traffic Accident Regulator and the traffic injured themselves.

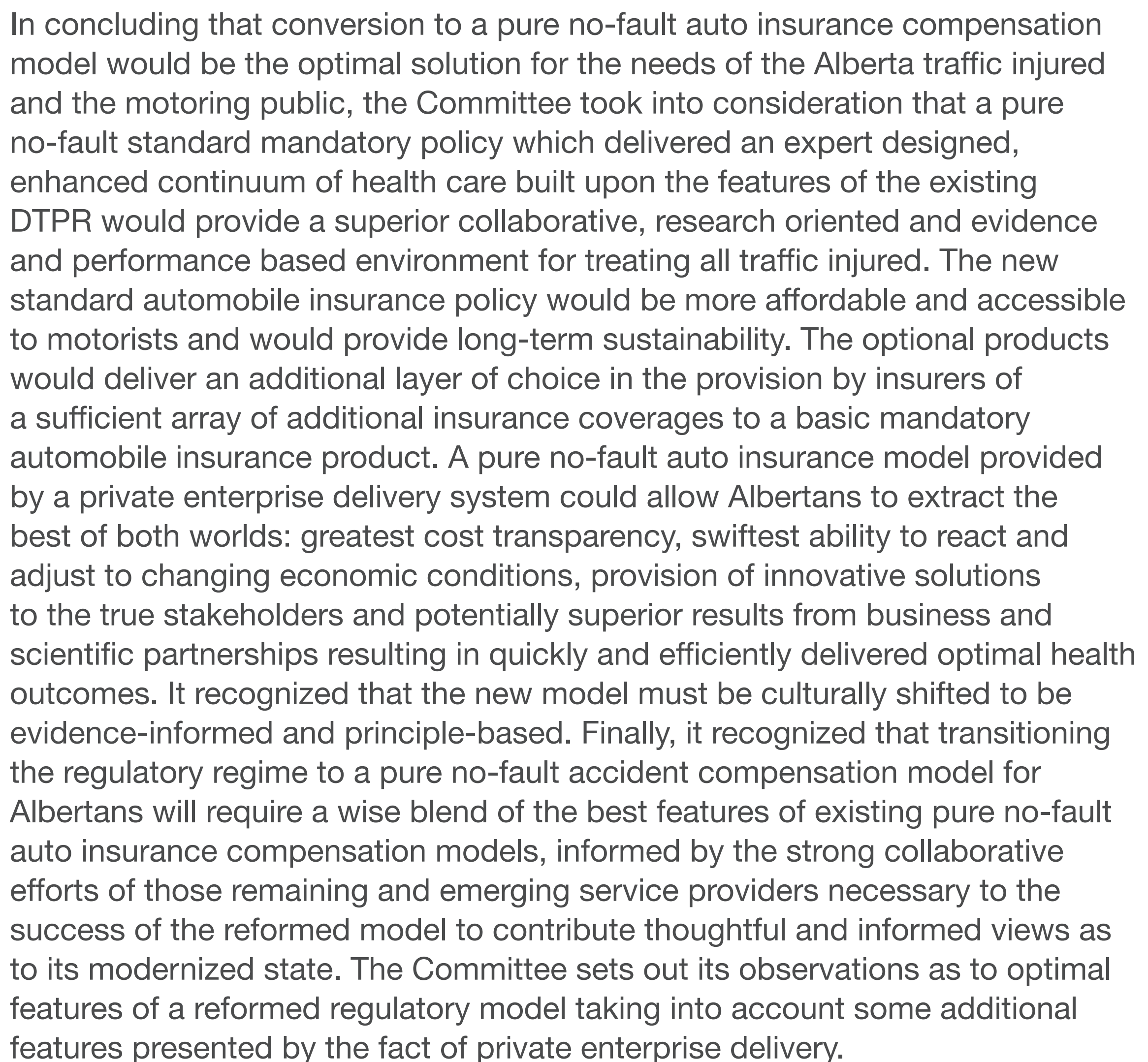
4. Because the proposed continuum of care model will extend to all traffic injured including those at fault, the Committee expects that the key elements of the new model, including the elimination of current costs that did not improve health outcomes, the reduction and elimination of certain lump sum payments for pain and suffering, the implementation, management and oversight of superior evidence-informed protocols and health provider practices, will deliver much improved health outcomes. It further expects that over time, this redesign will reduce the cost of medical treatment and income compensation due to improved health outcomes. Reduced stabilized costs will result in sustainable, predictable and stabilized premium levels over the long term.

5. The Committee concluded that the proposed pure no-fault private enterprise model should trend toward expediting recovery of Type I and Type II injuries, and optimizing treatment and long-term care for Type III injuries, all of which, in turn, should result in reduced medical costs and income claims over time. This trend will be achieved through the maximum effort of all participants to deliver optimal performance which will be verified by collecting and examining all the relevant data and the use of modern technology including artificial intelligence and applying medical innovations.

E. Recommendations

The Committee recommends the foregoing continuum of care model be adopted as part of its proposed pure no-fault accident compensation model, with the intention that its service providers be subject to oversight of a new Traffic Injury Regulator.

XI Proposed Reform of Auto Insurance Regulatory Regime



In concluding that conversion to a pure no-fault auto insurance compensation model would be the optimal solution for the needs of the Alberta traffic injured and the motoring public, the Committee took into consideration that a pure no-fault standard mandatory policy which delivered an expert designed, enhanced continuum of health care built upon the features of the existing DTPR would provide a superior collaborative, research oriented and evidence and performance based environment for treating all traffic injured. The new standard automobile insurance policy would be more affordable and accessible to motorists and would provide long-term sustainability. The optional products would deliver an additional layer of choice in the provision by insurers of a sufficient array of additional insurance coverages to a basic mandatory automobile insurance product. A pure no-fault auto insurance model provided by a private enterprise delivery system could allow Albertans to extract the best of both worlds: greatest cost transparency, swiftest ability to react and adjust to changing economic conditions, provision of innovative solutions to the true stakeholders and potentially superior results from business and scientific partnerships resulting in quickly and efficiently delivered optimal health outcomes. It recognized that the new model must be culturally shifted to be evidence-informed and principle-based. Finally, it recognized that transitioning the regulatory regime to a pure no-fault accident compensation model for Albertans will require a wise blend of the best features of existing pure no-fault auto insurance compensation models, informed by the strong collaborative efforts of those remaining and emerging service providers necessary to the success of the reformed model to contribute thoughtful and informed views as to its modernized state. The Committee sets out its observations as to optimal features of a reformed regulatory model taking into account some additional features presented by the fact of private enterprise delivery.

A. Making the Changes Necessary for Fundamental Alberta Auto Insurance Reform

The Government of Alberta (GOA) remains the ultimate legislative authority over the reformed auto insurance compensation model to enact statutory and regulatory laws applicable to Albertans. The Committee concludes that a reformed traffic accident regulatory structure would include reporting to GOA as required, responding to GOA requests and keeping it apprised of changing circumstances that required input and direction.

The Committee recognized that too much regulation can hinder the best efforts of private industry to provide products and services to consumers, while too little regulation can leave consumers unprotected. In the case of the standard mandatory insurance product, the Committee proposes a regulatory structure that will oversee all aspects of the accident compensation system. In the case of optional insurance products, with a much lighter regulatory touch, the traffic accident regulatory structure should attain a superior blend of innovation and improved provision of services from the competitive private enterprise participants.

The Committee concludes that for these twin goals to be attained, the traffic accident regulatory structure will be most responsive to both government and industry, if it is designed and operated independently of both, while still responsible to government for its performance and results and responsive to industry for timely adaptation to change and improvement as economic conditions require.

A meaningful shift in culture, model and processes requires participation and support from both existing and exiting service providers including insurers, health care providers, legal practitioners, ancillary providers and the existing regulators as well as the motoring public.

In particular, key service providers under the reform model, namely the remaining auto insurers and the health care providers, will need to undergo a significant culture shift from their current modes of operation. Their services will be streamlined, however, the goals will be to target and enhance superior outcomes. The new environment will enable facilitation of more performance-based interaction and connection among their sectors. The partnerships developed should enhance and coordinate their delivery of benefits to traffic injured.

The Committee observes that after transformation, the reformed regulatory regime must not be or become overly bureaucratic, since optimal health outcomes for traffic injured require swift delivery of effective treatment. The continuum of care model contemplates rapid review of treatment data to ensure treatments are effective and to allow adjustment, modification and innovation to be quickly translated to ensure continuous improvement. Proper oversight of qualification and training and continuous improvement of claims and health delivery is essential to ensure the high standards of performance initially established are maintained, updated and upgraded where needed. An independent structure with the authority to issue guidelines in respect of the performance of interrelated services should enhance coordination and innovation.

The Committee concludes that there exist in the current system many competent and able service professionals who may be recruited to adapt and adjust their skills to participate effectively and with employment satisfaction

in a new collaborative accident recovery environment that encourages joint participation to achieve common goals.

While it is not the intention of this Committee to prescribe a specific structure of the new regulatory regime, since the proper design requires more detailed dialogue in an implementation phase, the Committee outlines below the key features it has extracted from its study to guide those who undertake the implementation.

Needs of the new model

The Committee concluded that a culturally shifted, robust automobile insurance compensation system should address at least the following needs:

a. emphasis on recovery and wellness of the individual;
b. immediate and proactive treatment and return to work;
c. increased efficacy of health professional service in assessment and treatment of traffic injured;
d. greater predictability that ensures affordability of premiums and long-term stability;
e. monitoring of skills, capability, qualification and service patterns of all service providers;
f. independent oversight through a new auto insurance administration consisting of coordinated regulators and support staff to ensure fair determination and provision of claimants' entitlement to benefits;
g. sufficient authority for regulators, for example, to issue guidelines for effective monitoring, managing, incentivizing and sanctioning participants to ensure effectiveness; and
h. coordination and cooperation between regulators and service providers, including insurers, and health and claims assessors to adopt:
    i. effective data driven claims management; and
    ii. effective information technology to continuously analyze evidence to improve health recovery outcomes and to inform ongoing recalibration of regulatory guidelines and performance standards.

Changes in Culture

A robust auto compensation system culturally shifted toward these priorities would require:

a. adherence by all service providers to evidence-informed treatment guidelines and possible stipulated cost allowances to ensure uniform, effective and fair claims management and medical treatment;
b. undertaking by insurers to retrain and recruit future claims managers and currently employed claims management insurance staff with skillsets more appropriate to the reform model; and
c. accreditation of all service provider specialists participating in the new system.

A robust automobile compensation system culturally shifted toward these priorities would need to meet the following challenges:

a. maintaining balance and fairness of best practices in claims management process without legal representation;
b. exploring possibility of establishing a formal link with employers (as WCB does) to align rather than impede the guidance and management of treatment directed at rapid recovery and return to work;
c. collaborating with insurers to develop effective independent oversight;
d. designing guidelines to establish cooperative participation in delivering swift and effective management and resolution of claims;

e. ensuring insurers' healthy relationships with their claimants are preserved during the claims management and resolution process so as to facilitate the ability to manage the injured person's return to health and work; and
f. identifying fraudulent and managing exaggerated claims and methods to eliminate the same.

B. The New Model and Processes

The proposed pure no-fault model that replaces the tort system will substitute a new regulatory framework designed and committed to oversight of the proper treatment of traffic injured in the claims process, including health services to address recovery, rehabilitation or ongoing care, and evaluation of medical and financial status for purposes of determining appropriate financial benefits to restore losses due to injury.

The Committee concluded that the Alberta Workers' Compensation model provides a useful example of an administrative structure that delivers the services required for an entire provincial pool of injured persons, in place of tort. The Committee concluded that a Traffic Accident Regulator, independent from government and the auto insurance industry, can provide equal or superior oversight and regulation as regards the claims process, delivery of health benefits, assessment and determination of health status and claims, review or appeal processes, and certification and qualification of all service providers who participate under the reform model.

The Committee recommends implementation of an alternative administrative regulatory system, described in this Report as a Traffic Accident Regulator, that will replace tort components of the current model and provide for:

a. a standardized claims process for traffic injured to present claims for health treatment and compensation for pecuniary losses;
b. a comprehensive process of individual assessments of accident losses for traffic injured including diagnosis, evaluation of appropriate health treatment, benefits and finalized impairment determination;
c. a comprehensive process for determination of income replacement benefits; and
d. a process for overseeing delivery of services of providers including:
    i. health service provider certification;
    ii. insurer rating practices and processes;
    iii. income replacement service provider certification;
    iv. traffic research and innovation;
    v. accident injury research and innovation; and
    vi. research to combat fraudulent conduct, including theft and fire loss claims.

The reformed pure no-fault model requires a claim support service which would:

a. be funded by insurers but supervised by an independent administrator; and
b. provide at least the following services:
    i. central claims lodgement portal;
    ii. transparent, clear and comprehensive information to traffic injured claimants about claims processes;
    iii. greater knowledge and control for traffic injured with little or no experience in the claims process;

iv. assistance with administrative steps such as submission of claims form;
v. assistance to claimants to navigate the issues and options in their claims;
vi. advice on review processes and requirements;
vii. in certain limited cases where warranted, assistance to communicate with the insurer;
viii. a claimant advocate, navigator, or enhanced advice service available to persons who require enhanced support due to being socially disadvantaged, disabled, challenged due to diverse cultural or linguistic backgrounds so that they have multilingual, culturally appropriate and accessible information and basic advice to expedite the claims recovery process and provide cost effective information to claimants and their families;
ix. claims advocates or navigators that would support traffic injured;
x. informal claims process that would minimize bureaucracy;
xi. research on best practice approaches to injury prevention management and optimizing recovery;
xii. incentives to encourage more consumer-centric claims management with emphasis on wellness of injured consumer;
xiii. advice and assistance to service providers such as health, community services and government service providers;
xiv. collaboration between regulator and service providers to vigilantly identify and combat fraudulent and exaggerated claims; and
xv. exploration of possible insurance protection for employers who provide paid work for traffic injured who recovered to partial capacity.

The new model requires a medical assessment process to provide:

a. the following services:
   i. implementation of a reformed medical assessment model that ensures treatment paths are consistent with established and current best practice guidelines to facilitate optimal recovery and containment of treatment costs;
   ii. establishment of a single entry point;
   iii. early intervention including health provider screening for risk factors that may impede predicted recovery;
   iv. mandatory assessment processes after certain time period for all accident claims;
   v. with proactive treatment for injury, recognition of those claimants with reduced motivation to comply with essential self-management aspects of a treatment program;
   vi. single medical assessment conducted by a certified panel of medical specialists selected from a rotating roster;
   vii. establishing regulated treatment allowances aligning to best practice guidelines to be used uniformly by all insurers;
   viii. establishment of an independent panel of medical specialists as sole decision makers about assessment and treatment in lieu of duelling experts resulting in associated delay, increased costs and potential impaired recovery; and
b. be structured with:
   i. provision that the panel decisions will be conclusive evidence as to the degree of permanent impairment of the injured person; and

ii. provision that a review/appeal tribunal may not reject a medical panels' certificate as to the degree of permanent impairment and substitute its own determination unless there has been a denial of procedural fairness in the issue of the certificate and the tribunal is satisfied admission of the certificate would cause a substantial injustice to a party to the proceedings.

The new model requires a financial claims assessment process:

a. with these objectives:
   i. establish a roster of panellists with appropriate training, qualifications, knowledge, experience and personal skills to evaluate and determine quantum of financial claims and benefits for traffic injured based on certificates issued by the Traffic Injury Regulator;
   ii. set up and administer processes for claims assessments; and
b. within a framework containing:
   i. provision that the panel decisions will be conclusive evidence as to the benefits and financial compensation based on statutory table of claims; and
   ii. provision that a review/appeal tribunal may not reject a claims assessment panels' certificate as to the nature and amount of benefits and financial compensation and substitute its own determination unless there has been a denial of procedural fairness in the issue of the certificate and the tribunal is satisfied admission of the certificate would cause a substantial injustice to a party to the proceedings.

The new model requires a reconfigured rate regulator to continue the current role and duties of the AIRB and to take on additional responsibilities and to interact with the other arms of the Traffic Injury Regulator as has been described extensively in Sections VIII and IX of this Report.

The new model requires a reconfigured rate regulator to continue the current role and duties of the AIRB and to take on additional responsibilities and to interact with the other arms of the Traffic Injury Regulator as has been described extensively in Sections VIII and IX of this Report.

The new model requires a board to oversee all operations and final appeals which:

a. serves as regulatory accident compensation tribunal for oversight of claims processes to ensure fair determination and provision of claimant's health and financial entitlement to benefits;
b. serves as regulatory accident compensation tribunal for oversight of health and medical treatment, assessment and evaluation of permanent injury to ensure fair determination and provision of claimant's entitlement to health benefits; and
c. serves as regulatory accident compensation tribunal for oversight of claims assessment panels to ensure fair determination and provision of claimant's financial entitlement to benefits and compensation.

The Committee foresees that such a board could be structured in a manner similar to the current Alberta WCB model although led by a statute appointed leader to ensure independence.

Given that the insurers carrying on business in Alberta will be underwriting a portion of the administrative costs of the new model, there must be sufficient representation of their views on the board to ensure appropriate participation and feedback.

C. The Transitional Period

Role of Government

The GOA will need to provide certain communication services during the transition including:

a. an ongoing education for traffic injured and the motoring public about the model changes to ensure a sound understanding of the recovery model and set an expectation that traffic injured should receive timely support for return to health, social and economic participation;
b. an effective communications strategy to emphasize goal of recovery and wellness to encourage behavioral attitude shift during reform implementation process;
c. an effective communication strategy focussing on rapid recovery during reform period, such as the Traffic Accident Commission promotion activities in Victoria, Australia during its scheme transformation; and
d. periodic review, such as every three years, to determine, measure and adjust for impact on claimant experience, timeliness of benefits, performance and satisfaction of service providers, insurer profits and the like.

Role of Service Providers

Requirements for service providers choosing to transition and participate in the reformed model include:

a. adopting an approach to assist claimants in recovery, benefits management and finalization rather than claims and payment benefits disputes; and
b. all service provider specialists to undergo and receive appropriate accreditation.

Role of Insurers

Insurers will need to:

a. retrain future claims managers and currently employed claims management staff;
b. retrain and recruit staff with skillsets more appropriate to the new recovery model; and
c. adhere to guidelines and to ensure uniform, effective and fair market conduct in relation to injury claimants.

Role of Participating Medical/ Health Professionals

Medical/health professionals will need to:

a. pursue increased efficacy of health professional service in assessment and treatment; and
b. undergo and receive appropriate specialist's accreditation where required.

Role of Legal Professionals

Legal service providers choosing to transition and participate in the reformed model may find opportunities to serve a reformed regulatory role in the way of advising service providers or accepting term appointment to the accident compensation tribunal.

Future alignments

The establishment of the Traffic Accident Regulator board may be assisted by guidance from the past and current members and staff of the AIRB, which has been by all accounts, an effective regulator in a private enterprise model, to better inform the new roles and ensure linkages between the information as

to recovery and health outcomes and health innovations that may assist in forecasting future premium levels.

After implementation there may arise opportunities for collaborative relationships to develop between certain healthcare providers and insurers to maximize efficiencies and health outcomes. The Committee's view of the reform is that there should be space to foster development of such opportunities, provided that the oversight of the Traffic Accident Regulator always ensures the maintenance of, and compliance with, the standards it has established. These collaborations could have long-term advantages in providing reliable information for insurers to improve their array of optional programs and in turn those could inform improvements to the services delivered as regards the mandatory product.

Once implemented this model is expected to potentially reduce costs to the Alberta health system and to the court system.

It is worth keeping a weather eye on these potential reductions, if the government realizes savings it would otherwise have spent in maintaining the court system, while insurers are underwriting the cost of the replacement administration.

If the proposed reforms establish greater savings than anticipated over the medium and long term, those amounts should be monitored so that either refunds or reduced premiums are passed on to consumers. By the same reasoning, it may be necessary for the AIRB, in a reconstituted form, to be assigned an expanded role to monitor profit levels of insurers during the transition and going forward to ensure the profits do not reach excessive levels.

There should be a recognized role for the insurer associations such as IBAA, IBC and FA to participate in the information exchange and research projects for the mutual benefit of the Alberta traffic injured and motorists.

D. Traffic Injury Innovation

The Committee foresees opportunities to harness the benefits of a consolidated network of service providers to deliver accurate, easily understood and disseminated information to the motoring public and the traffic injured to encourage their participation in the pure no-fault accident compensation model for a combined effort to decrease the loss costs of automobile usage, and at once maximize the benefit of and reduce cost of health delivery services to traffic injured.

Where the new arms of a Traffic Accident Regulator can collate and refresh most informed information about ways to improve and optimize delivery of a new accident compensation system, they can also in combination improve all outcomes by sharing forward such information to all service providers with a view to educating and reinforcing the relevant information to the true stakeholders. Moreover, bolstering this process will deliver greater transparency of information exchange.

For example, educational information can be formulated for consistency among the Traffic Accident Regulator and registry agents, driver trainers, insurance agents and brokers, insurers, health providers, auto dealers, auto repair and car rental businesses, government departments and other social agencies and then delivered on a continuous stream to consumers.

The experiences of the Traffic Accident Claims Regulator can be informed and improved by ongoing exchange of information and innovations between insurer employees, and such improvements in turn communicated to consumers.

Opportunities for private enterprise service providers that are recruited under the new model may arise to improve delivery of products and services to consumers. One detailed example relates to health and medical clinics that currently serve the traffic injured.

The Committee was guided by the endorsement of the health strategies referenced in the *Marshall Report* (Porter Lee Article Harvard Business Review October 2013 Issue) and observed potential goals for a newly established traffic injury model could include:

a. eliminating features of a value-based system with decades long entrenched interests and practices;
b. encouraging clinicians to shift focus from the desire to maintain their traditional autonomy and practice patterns to prioritize patients' needs and patient value and have the discipline to progress through the resistance and disruptions that will result;
c. providers adopting the value goal, a culture of patients first, and the expectation of constant, measurable improvement;
d. establishing the primary goal of attaining health outcomes that matter to patients relative to the cost of achieving those outcomes;
e. shifting the focus from physician visits, hospitalizations, procedures, and tests to the patient outcomes achieved;
f. replacing with a system in which services for traffic injured are concentrated in health-delivery organizations and in the right locations to deliver high-value care;

g. shifting the care coordination, especially for patients with costly needs, to organizing around the patient's medical condition;
h. improving outcomes without raising costs or lowering costs without compromising outcomes, or both;
i. recognizing that providers who can improve patient outcomes, can improve the efficiency of providing excellent care;
j. delivering care by a dedicated, multidisciplinary team of clinicians who devote a significant portion of their time to the medical condition; and
k. encouraging such team to assume responsibility for the full cycle of care for the condition, so that
    i. providers see themselves as part of a common organizational unit;
    ii. patient education, engagement, and follow-up are integrated into care;
    iii. the unit has a single administrative and scheduling structure;
    iv. a clinical care manager oversees each patient's care process;
    v. the team measures outcomes, costs, and processes for each patient using a common measurement platform;
    vi. joint accountability is accepted for outcomes and costs;
    vii. focus to achieve the best outcomes at the lowest cost; and
    viii. as outcomes improve, with the tools to manage and reduce costs, even as reimbursements plateau and eventually decline, providers with teams with more experience and better data will improve value more rapidly and attract still more volume.

The Committee suggests consideration be given to a joint Traffic Injury Innovation Panel comprised of insurance industry and health experts to continue to research and review ways to optimize treatment for traffic injured.

With exploration of the viability of integrated patient units (IPUs), there could be added benefits and outcomes including:

a. potential for patients to miss fewer days of work and need fewer physical therapy visits;
b. better care can lower costs, and increase productivity;
c. producing faster treatment, better outcomes, lower costs, and, usually, improving the condition due to restructuring of work;
d. improving and excelling by tracking progress over time and comparing their performance to that of peers;
e. rigorous measurement of outcomes and costs may improve health care, and systemic measurement of results in health care can improve results; and
f. clinicians who document their patients' outcomes (such as their time to return to work) or the actual resources used in treating those patients over the full care cycle can objectively prove added value.

The joint Traffic Injury Innovation Panel could study the potential benefits of establishing agreed factors to assess the patient experience with the health status achieved such as:

a. degree of health or recovery:
    i. functional level achieved;
    ii. pain level achieved;
    iii. extent of return to physical activities; and
    iv. ability to return to work.

b. time to recovery:
    i. time to begin treatment;
    ii. time to return to physical activities; and
    iii. time to return to work.
c. disutility of care or treatment process:
    i. delays and anxiety; and
    ii. pain during treatment.
d. sustainability of health or recovery:
    i. nature of recurrence;
    ii. maintained functional level;
    iii. ability to live independently; and
    iv. need for revision or replacement.

Porter and Lee have reported that:

a. health care providers should consistently measure outcomes by condition to enable universal comparison and stimulate rapid improvement;
b. outcomes are starting to be incorporated in real time into the process of care, allowing providers to track progress as they interact with patients; and
c. providers should measure costs at the medical condition level, tracking the expenses involved in treating the condition over the full cycle of care.

In the view of the Committee, a collaborative approach among the regulators, auto insurers, health industries and all ancillary service providers could well provide a superior accident care compensation model for all Alberta traffic injured and motorists utilizing a collective aptitude and appetite for high-performance and proven outcomes.

Such a model would likely reduce health costs in the short and long term in properly treating traffic injured by eliminating costs of overtreatment, ineffective treatment and wrong treatment, and expediting delivery of health treatment and benefits.

Such a model would encourage all service providers to provide optimal service.

Such a model would eliminate substantial costs of the tort components of the existing system and redirect those savings to the motoring public.

Such a model would likely also reduce the financial burden on the Alberta health care system as regards those traffic injured who are not currently receiving any or any proper treatment for traffic injuries.

Such a model would reduce the costs to the court system, which resources could be redirected to other classes of cases.

E. Alignment with other government agencies

The Committee recognizes that implementation of this model will impact the existing roles of certain programs operated by other government and industry agencies which will require review and alignment, in particular about how to maintain appropriate deterrence of intentional driving misconduct, and how to treat traffic injured and wrongdoer motorists who do not have automobile insurance, including pedestrians and cyclists.

Other existing programs overseen by Alberta Health, and municipal and federal governments must also be reviewed to determine needs for alignment and to ensure duplication of services is eliminated and that appropriate cost sharing of accident benefits is undertaken.

F. Conclusions

1. The Committee has included in its recommendations extension of the jurisdiction of the AIRB or, alternatively, expanding its mandate under a new reform model. It offers a few additional words of guidance with respect to AIRB's role in future.

2. The Committee observes that the predecessor Alberta Auto Insurance Board was first constituted in approximately 1970 as a statutory body established independent from the Government of Alberta. From that date until about 2003, it functioned efficiently in delivery of rate and rate related decisions as a prior approval board.

3. In about 2003, the Alberta Auto Insurance Board was reconstituted as the Alberta Insurance Rate Board (AIRB) and since then reported directly to the Minister of Finance, as a part of the Government of Alberta, although it has been funded by the automobile insurance industry. While the jurisdiction of the AIRB is similar to that of its predecessor, as noted under Section VIII C of this Report, some overlapping jurisdiction has emerged with that of the Alberta Superintendent of Insurance which has resulted in concerns about the efficiency of the operation of both regulators.

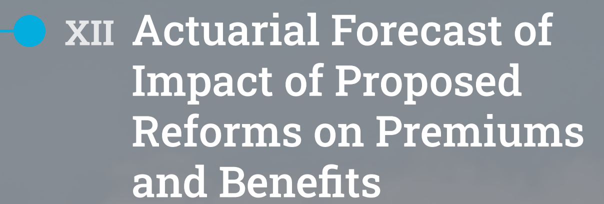
4. The Committee concluded that while the AIRB has worked well under the existing model, the motoring public would be better served if it reverted to its former status, so that it could provide independent expert advice to the government from time to time as circumstances dictate, and on a regular basis interact more nimbly and informally with auto insurers and other affected parties as regards rate and rate regulating issues.

5. With its existing expert knowledge about the specific operation of prior approval, the Grid, Territories, rating factors that should be permitted and prohibited and new optional products such as UBI, the AIRB members and staff are in a unique and valuable position to offer advice and guidance in an implementation phase.

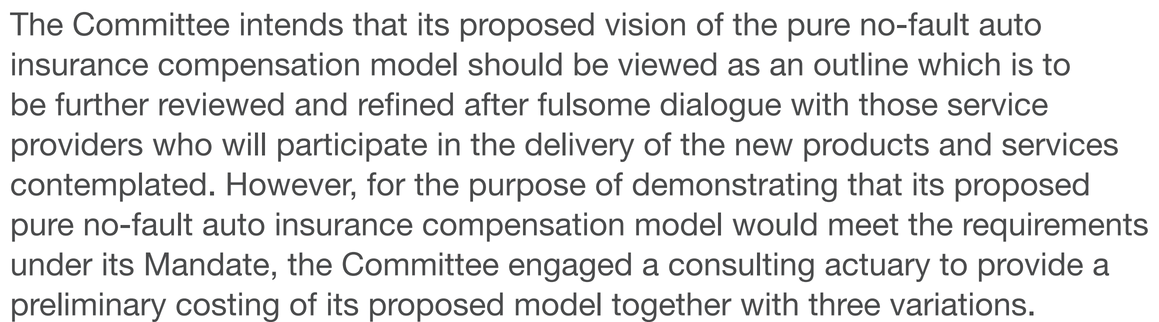
G. Recommendations

1. The Committee recommends that the Auto Insurance Rate Board should be reformulated to comprise an essential part of a Traffic Injury Regulator. Those features that work well under the current private enterprise model should be retained and blended with those features that work well under the current Alberta Workers' Compensation Model and which could be appropriately adapted to a comprehensive Traffic Injury Regulator in a private enterprise environment.

2. The Committee recommends that more expanded collaborative dialogue be undertaken among the auto insurance industry providers, health providers, claims providers, proposed injury navigators and government officials prior to and in the implementation phase before a final design is adopted. Collaborations among these providers could have long-term advantages in providing reliable information for insurers to improve their array of optional programs and in turn those could inform improvements to the services delivered as regards the mandatory auto policy.



XII Actuarial Forecast of Impact of Proposed Reforms on Premiums and Benefits



The Committee intends that its proposed vision of the pure no-fault auto insurance compensation model should be viewed as an outline which is to be further reviewed and refined after fulsome dialogue with those service providers who will participate in the delivery of the new products and services contemplated. However, for the purpose of demonstrating that its proposed pure no-fault auto insurance compensation model would meet the requirements under its Mandate, the Committee engaged a consulting actuary to provide a preliminary costing of its proposed model together with three variations.

As discussed in Section XI of this Report, the Committee retained a consulting actuary to predict potential saving of premium costs of its proposed pure no-fault model. The Committee provided the actuary with a series of assumptions upon which to proceed with its costing exercise.

The Committee explained its theory of a continuum of care program for traffic injured identified as Type I, II and III categories, as well as the proposal for a long-term care program that envisioned a fully funded pool for catastrophically injured, and managed by the Traffic Injury Regulator.

We asked the actuary to assume the creation of a new administrative infrastructure described as a Traffic Accident Regulator that would independently deliver a claims process for traffic injured, decisions by medical and financial expert panels to provide final determinations of permanent medical impairments and calculation of financial benefits. This regulator would include the tribunal to conduct reviews or appeals of panel decisions.

The Committee asked the actuary to base its costing on the experience of the Alberta Workers' Compensation Board as regards the number of claims and appeals under its existing system.

The Committee asked the actuary to assume the infrastructure cost for these offices would be borne by auto insurance premiums.

The Committee asked the actuary to cost a reformed model (Model 1) based on an assumption of 90% of full income replacement, in line with the provision in the Saskatchewan and Manitoba no-fault models. As noted, this percentage of recovery would be higher than the income recovery of tort claimants represented by legal counsel under the current model due to the estimated 33% reduction for contingency fees. However, it could, in other circumstances be lower than income replacement recovery of claimants who were not represented by counsel.

While the Committee is of the view that a pure no-fault model that delivers 100% recovery (other than in exceptional or extraordinary circumstances, such as traffic injured who are infants and children) is not appropriate on public policy grounds, it recognized that the final decision on the amount of replacement income rests with the Legislature.

Accordingly, for the purpose of making a comparison, the Committee instructed the actuary to cost a second model (Model 2) that would contain all of the components in Model 1 except for the assumption of 100% replacement income.

The Committee recognizes that more consultation with the service providers, regulators and government would be required, for example, to ascertain the viability of optional income replacement insurance products for consumers, before the precise percentages and other factors were finally selected for implementation.

The actuary was instructed to assume:

a. no change to the calculation of the health care levy paid to Alberta Health Services;
b. the Government of Alberta (GOA) would legislate mandatory use of winter tires for the winter seasons; and
c. the GOA would authorize conversion of property damage compensation to a direct compensation model (DCPD).

The actuary was instructed to disregard any savings that would accrue to automobile insurance from the reduction of overhead due to the creation of the Traffic Accident Regulator.

Although the Committee found no justification for any serious consideration to be applied to the elective/choice no-fault model as exists currently in Saskatchewan, for the purpose of comparing the premium cost of a tort automobile insurance policy in Alberta under an elective/choice no-fault version, the Committee requested its consulting actuary to perform that calculation and to include it in a third costing model (Model 3) for comparative purposes only.

Both the Committee and the consulting actuary recognized that the exploration of a costing exercise in an elective/choice scenario was problematic because there were many difficulties and questions surrounding the manner in which the Traffic Accident Regulator would deal with a component that pre-existed the current system. Accordingly, the model for this scenario is highly theoretical and must be treated as undertaken only for purposes of providing a general comparison of premium costs.

Finally, the Committee requested its consulting actuary to calculate the potential savings that could be achieved during the transitional period of the reform (Model 4). This version is not a stand-alone model, in fact, but an endeavor to assist the GOA in determining whether interim measures to reduce existing costs in the current system pending implementation of a pure no-fault model could produce savings and ease additional stress on the premium dollar for the benefit of the motoring public.

We confirm that:

a. the assumption referenced in paragraph 3 at page 266 was applied to the costing of Model 1 and 2;
b. the assumption in paragraph 4 at page 266 was implicit in its costing; and
c. when the tort option is selected under Model 3, all accident benefits recoverable were the same as those in the currently existing model.

The conclusions demonstrated that under the Model I, the pure-no fault compensation system would be expected to produce a 9.4% reduction in auto insurance premiums for the majority of consumers who purchase the full package of insurance.

While AIRB describes third-party liability and accident benefits as “basic” and all others as “additional coverages”, the Committee intends the term “full package” in this Report to include third-party liability, accident benefits, uninsured and underinsured motorist, collision and comprehensive coverages.

The Committee observes that if the auto insurers were able to deliver on the expected reduction in cost of overhead, by reason of the creation of the Traffic Accident Regulator, the 9.4% reduction might well increase to as much as 10%.

The Committee expects that once the operation of the model delivers the maximum expected improved health outcomes, the Basic premium rates will remain stable or decrease in the medium term, i.e., three years, and should thereafter rise no more than 1% above Consumer Price Index increases in the long term.

For those consumers who desire and require more extensive coverage for their potential medical, health and financial losses after a traffic injury, the optional products the insurance industry has committed to make available should allow for a wide array of choice for consumers to tailor to their individual needs.

The report of Joe S. Cheng, F.C.I.A, describing the outcomes of the 4 various costing models follows.

ACTUARIAL MODELLING

FOR THE

AUTOMOBILE INSURANCE

<u>ADVISORY COMMITTEE</u>

Prepared by: Joe S. Cheng, F.C.I.A

For: Treasury Board and Finance

Date of Letter: May 27, 2020

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May 27, 2020

Automobile Insurance Advisory Committee
c/o Treasury Board and Finance
4th Floor, Terrace Building
9515-107 Street
Edmonton, AB T5K 2C3

Dear Advisory Committee Members:

RE: Actuarial Modelling

The Government of Alberta has asked the Automobile Insurance Advisory Committee (“the Advisory Committee”) to develop alternate insurance compensation models to the current model. Treasury Board and Finance has engaged J. S. Cheng & Partners Inc. (JSCP) to assist the Advisory Committee in estimating the likely impact that the proposed automobile insurance models would have on private passenger automobile claims costs and consumer premiums in Alberta.

We are pleased to submit our report for your review. Please let us know if you have any questions or comments about our report.

Yours truly,

Joe S. Cheng, FCIA

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EXECUTIVE SUMMARY

The purpose of this report is:

- To determine the premium rate adequacy of the Alberta private passenger automobile insurance product for policies issued in policy year 2022;
- To estimate the impact on private passenger automobile (PPA) claims costs of proposed models of Alberta's automobile insurance system;
- To estimate the impact of the same proposed models on PPA premiums paid by consumers.

The proposed models were provided by the Advisory Committee and are briefly described below.

- Model 1 is a pure no fault insurance scheme that bars tort action for automobile accidents in Alberta. Besides higher benefits for medical, rehabilitation, attendant care or homecare, and income replacement, this scheme also provides benefits for diminished quality of life on a no fault basis. All no fault benefits are indexed to the Alberta CPI.
- Model 2 is the same as Model 1 except the income replacement benefit (IRB) for wage earners is set at 100% of net income (i.e. after tax, CPP contributions and EI premiums) vs 90% in Model 1.
- Model 3 offers insureds a choice between Model 1 and a tort option. When the tort option is selected, no fault benefits are the same as under the current product. All tort benefits would be paid by the insured's insurer (the one that collects the bodily injury liability premium). This is direct compensation for bodily injury liability claims.

- Model 4 is a transitional insurance scheme. The Advisory Committee recommends the following changes to the current product:
  a) Adjust the prejudgment interest (PJI) rate for non-pecuniary loss to match the interest rate for pecuniary loss.
  b) Cap claimant lawyer contingency fees at 25% of a settlement and all expert fees in the range of $3,000 to $5,000 per case.

Some new features would also be common among all four models. Direct compensation for vehicle damage (DCPD) would be introduced in Alberta with all licensed auto insurers automatically participating. Out of province insurers would be allowed to participate if they are signators to such an agreement. Non-vehicular damage and out of Alberta accidents would continue to be paid by the at fault party. Also, winter tires would be mandatory for the winter season, and insurers would be required to offer a discount for bodily injury, accident benefits, DCPD, collision and all perils.

The detailed benefits of each model are shown in Appendix 6.

The best way to compare the current product against all four models is to measure the loss cost (per vehicle) and premium for a full package policy[1].

	Full Package per Vehicle	Model Current	Model 1	Model 2	Model 3	Model 4
(1)	Claims cost	1,371	993	1,001	1,318	1,296
(2)	Target Premium*	2,053	1,542	1,553	1,982	1,952
(3)	3/31/2020 Average Premium	1,703				
(4)	Savings in Claims per Vehicle		-378	-370	-53	-75
(5)	Indicated Premium Change ($)	350	-161	-149	279	249
(6)	Indicated Premium Change (%)	20.6%	-9.4%	-8.8%	16.4%	14.6%

* Target premium is the premium that will produce a 7% profit margin on premium

[1] Most policyholders purchase a full package policy. A full package policy includes third party liability, accident benefits, uninsured and underinsured motorist, collision and comprehensive coverages. AIRB describes third party liability and accident benefits as Basic; all others are Additional coverages.

If Model 1, 2 or 3 should be adopted, accident benefit claims over five years in duration could be funded by a portion of automobile premiums, and managed by an organization similar to the Facility Association.

SUPPLEMENTAL INFORMATION

Item	Report Reference Page	Appendix Reference	
		Number	Page
Model Description	21	6	161
Costing of Model 1			
Funeral benefits	23	1.1	39
Death benefit	23	1.2	43
Medical/Rehabilitation expense	23	1.3	49
Certified attendant care or homecare expense	24	1.4	57
IRB for wage earners	24	1.5	61
IRB for non-wage earners	25	1.6	69
Diminished quality of life	25	1.7	73
Housekeeping	26	1.8	81
Supplementary benefits	26	7	165
Uninsured or unidentified motorost	26	7	165
Bodily Injury in Alberta	27	7	165
Bodily Injury outside of Alberta	27	7	165
Vehicle damage in Alberta	27	7	165
All other property damage	27	7	165
Underinsured motorist	27	7	165
Collision	28	7	165
Comprehensive	28	7	165
All Perils	28	7	165
Specified Perils	28	7	165
Costing of Model 2			
IRB for wage earners	29	2	85
Costing of Model 3			
Accident Benefits	29	3 & 7	93 & 165
Bodily Injury in Alberta	29	3 & 7	93 & 165
Bodily Injury outside of Alberta	30	3 & 7	93 & 165
Vehicle damage in Alberta	30	3 & 7	93 & 165
All other property damage	30	3 & 7	93 & 165
Others (Underinsured motorist, Collision, Comprehensive, All Perils and Specified Perils)	30	3 & 7	93 & 165
Costing of Model 4			
Accident Benefits	30	4 & 7	97 & 165
Bodily Injury in Alberta	30	4 & 7	97 & 165
Bodily Injury outside of Alberta	31	4 & 7	97 & 165
Vehicle damage in Alberta	31	4 & 7	97 & 165
All other property damage	31	4 & 7	97 & 165
Others (Underinsured motorist, Collision, Comprehensive, All Perils and Specified Perils)	31	4 & 7	97 & 165
Current Rate Adequacy	15	5	101
Estimate of Target Premium	32	7	165

DISTRIBUTION AND USE

This report is intended for the management of Treasury Board and Finance (TBF) and the Advisory Committee. Its sole purpose is to estimate the impact of proposed models on Alberta PPA claims costs and premiums.

This report is neither intended nor necessarily suitable for any other use. Distribution beyond the intended audiences is permitted provided that it is authorized by TBF and the recipient is made aware that they are a third party to this report and that JSCP will be available for further questions on this report.

Parties other than the management of TBF are third parties to this report. Any use which a third party makes of this report, or any reliance on or decisions to be made based on it, are the responsibility of such third parties. JSCP accepts no responsibility for damages, if any, suffered by any third party as a result of decisions made or actions based on this report.

DATA AND RELIANCE

We used the following data to produce our estimates:

- GISA's 2018-2 Incurred Loss Development Factor PPA excluding Farmers Alberta Report (Bulletin no: 2019-08)
- GISA's 2018-2 Incurred Loss Development Factor PPA excluding Farmers Alberta (Revised) Report (Bulletin no: 2019-15)
- GISA's 2018 Actual Loss Ratio Exhibit (Bulletin No: 2019-16)
- GISA's Catastrophe Report Alberta 2002-2018 (Bulletin No: 2019-47)
- GISA's Industry Expense Report (Bulletin No: 2019-06)
- GISA Accident Benefit Data by Transaction (2016-2018) and Kind of Loss Code
- AIRB's March 27, 2020 Bulletin: 01-2020
- AIRB's published approved rate level changes published for 2017Q4 to 2020Q1
- Alberta Traffic Collision Statistics (2016 and 2017)
- 2016 Alberta Census
- 2019 Alberta Closed Claims Survey
- OSFI financial data for property and casualty companies.

We have relied on the general accuracy of the above information, without audit or independent verification, and we assumed it was complete. The accuracy of our results is dependent upon the accuracy and completeness of this underlying data.

DEFINITIONS

Accident year 20XX is defined as the 12-month period in which claims occur. For example, accident year 2020 is the 12-month period from January 1 to December 31, 2020.

Accident year loss ratio is defined as ultimate (undiscounted) losses occurring in a 12-month period divided by the earned premiums in the same 12-month period. This is the loss ratio shown in GISA's actual loss ratio report.

AHS means Alberta Health Services.

AIRB is the Automobile Insurance Rate Board.

ALAE means allocated loss adjustment expenses.

Basic Coverage is third party liability plus accident benefits.

Full Package consists of Bodily Injury (BI), Direct Compensation (DC), Property Damage (PD), Accident Benefits (AB), Uninsured Automobile (UA), Underinsured Motorists (UM), Collision (CL or "Col."), and Comprehensive (CM or "Comp.") coverages.

Gender neutral: In this report, the term "he" is meant to include either he or she.

GISA is the General Insurance Statistical Agency.

Health Levy is the loss cost earmarked for AHS. According to GISA's 2018 Actual Loss Ratio Exhibit (Bulletin No: 2019-16), the Alberta health levy percentages are applied to earned Third Party Liability premiums with the resulting amount then added on to otherwise ultimate loss costs for the Third Party Bodily Injury coverage.

Injury Type is described in the Advisory Committee Report as Type I, II, or III. With the recommended treatment, Type I injuries are expected to have a favourable recovery time ranging from a few days to a few months and leaving no permanent or serious impairment. Type II injuries may involve some type of loss of anatomical alignment, surgical integrity (such as fractures or dislocations), or psychological, cognitive and/or physiological functioning. For costing, we subdivided Type II into 2S and 2L, where S and L stand for short and long duration, respectively. Type III is a catastrophic injury.

Loss Cost is the ultimate loss and ALAE per vehicle. Depending on the context, it may also include ULAE, Health Levy and catastrophe (CAT) loading. Loss cost is used interchangeably with claims cost.

Medical panel is an expert committee responsible for assessing the degree of impairment of severely injured claimants.

Net income means after tax and deductions for CPP and EI.

Policy year loss ratio is defined as losses against policies issued in a 12-month period divided by written premiums of the same policies.

PPA means Alberta private passenger automobile excluding vehicles rated as farm use.

Rate adequacy means a rate level that can achieve at least 7% of premiums as profit in accordance with AIRB's rate filing guidelines. A rate level that fails to achieve 7% of premiums as profit is deemed to be inadequate.

Target loss ratio is discounted losses (at an appropriate rate per annum) divided by target premiums that can achieve exactly 7% of premiums as profit.

Target premium means a premium level that can achieve exactly 7% of premiums as profit.

ULAE means unallocated loss adjustment expenses; they are insurers' salaries and overhead for the claims department.

Ultimate losses mean the sum of all claim payments (past and future payments excluding time value of money).

Uncertainty load is added to all no fault benefits in Models 1 and 2. It is added to reflect uncertainty in a new insurance scheme or where the data is limited. This is widely used in agriculture insurance ratemaking.

CURRENT RATE ADEQUACY METHODOLOGY

To determine the rate adequacy, we compare:

- March 31, 2020 written premium (based on 2018 written premium and approved rate changes from 2018 to March 31, 2020)
- Policy Year 2022 target premium (based on losses trended to January 1, 2023 and discounted to July 1, 2022)

March 31, 2020 Written Premium

As published by AIRB for each automobile insurance company from 2017Q4[2] to 2020Q1, we listed (i) the approved rate changes (basic and alternative/additional) effective January 1, 2018 to March 31, 2020, (ii) renewal date, and (iii) market share. The province-wide average approved rate change was the market share weighted average rate change of each company. The average rate adjustments are (see Appendix 5.7):

Description	Rate Adjustments to March 2020	Coverages
Basic	26.01%	Third Party Liability and Accident Benefits
Alternative/ Additional	8.33%	Underinsured Motorist, Collision, Comprehensive, Specified Perils and All Perils

We brought the GISA 2018 written premium per vehicle by coverage to March 31, 2020 level by applying the average approved rate changes (see Appendix 5.9).

[2]Rate changes published in one quarter may have renewal dates effective in later quarters. For example, some rate changes published in 2017Q4 were effective in 2018Q1.

Policy Year 2022 Target Premium

To calculate the Policy Year 2022 target premium per vehicle, we divide loss cost (trended to January 1, 2023 and discounted to July 1, 2022) by the target loss ratio.

The main steps are (details below):

- Develop ultimate loss cost (without ULAE and Health Levy)
- Remove actual catastrophe (CAT) losses
- Select ULAE factors
- Add Health Levy
- Trend ultimate loss cost (with ULAE and Health Levy)
- Select weights for undiscounted loss cost (with ULAE and Health Levy)
- Determine and apply Covid-19 factors
- Discount Loss Cost (with ULAE and Health Levy)
- Apply CAT loading
- Apply commissions, taxes, other acquisition expenses, general expenses and profit margin

(1) Develop Ultimate Loss Cost (without ULAE and Health Levy)

We used the earned vehicle and ultimate loss and ALAE from GISA's Incurred Loss Development Factor Report to determine the ultimate loss cost by coverage.

(2) Remove Actual Catastrophe (CAT) losses

GISA's Catastrophe Report Alberta showed the catastrophe loss and expense for Comprehensive, Specified Perils and All Perils. We removed these CAT losses from the loss cost in the previous step to avoid distorting the analysis. An expected CAT provision ("CAT Loading") would be added after discounting the loss cost (details below in step 9).

(3) Select ULAE Factors

GISA's Actual Loss Ratio exhibit showed the ULAE. For each accident year (2016-2018), we calculated ULAE factor by taking the ratio of the ULAE per earned vehicle to the ultimate loss and ALAE per earned vehicle (see Appendix 5.4). We selected 9.25% based on the three year average (9.24%).

The ultimate loss and ALAE per earned vehicle (i.e. loss cost) were grossed up for ULAE using the selected ULAE factor.

(4) Add Health Levy

According to GISA's 2018 Actual Loss Ratio Exhibit (Bulletin No: 2019-16), the Alberta Health Levy percentages are applied to earned Third Party Liability premiums with the resulting amount then added on to otherwise ultimate loss costs for the Third Party – Bodily Injury coverage. For each accident year (2016-2018), we calculated the Health Levy and added it to the Bodily Injury loss cost.

(5) Trend Ultimate Loss Cost (with ULAE and Health Levy)

For each accident year (2016-2018), ultimate loss and ALAE per earned vehicle were trended using factors from AIRB's March 27, 2020 Bulletin 01-2020 by coverage from July 1 of each accident year to the average accident date of policies issued in policy year 2022 (January 1, 2023). The cut-off date for the past and future trends is April 1, 2019. For details of the trend factor, please refer to Appendix 5.4.

(6) Select Weights for Undiscounted Loss Cost (with ULAE and Health Levy)

We selected weights of 0%, 40% and 60% for accident years 2016, 2017 and 2018, respectively because we could not get 2019 data in time for this study. The selected ultimate loss cost for policy year 2022 is the weighted average of the trended loss cost from the previous step (see Appendix 5.3).

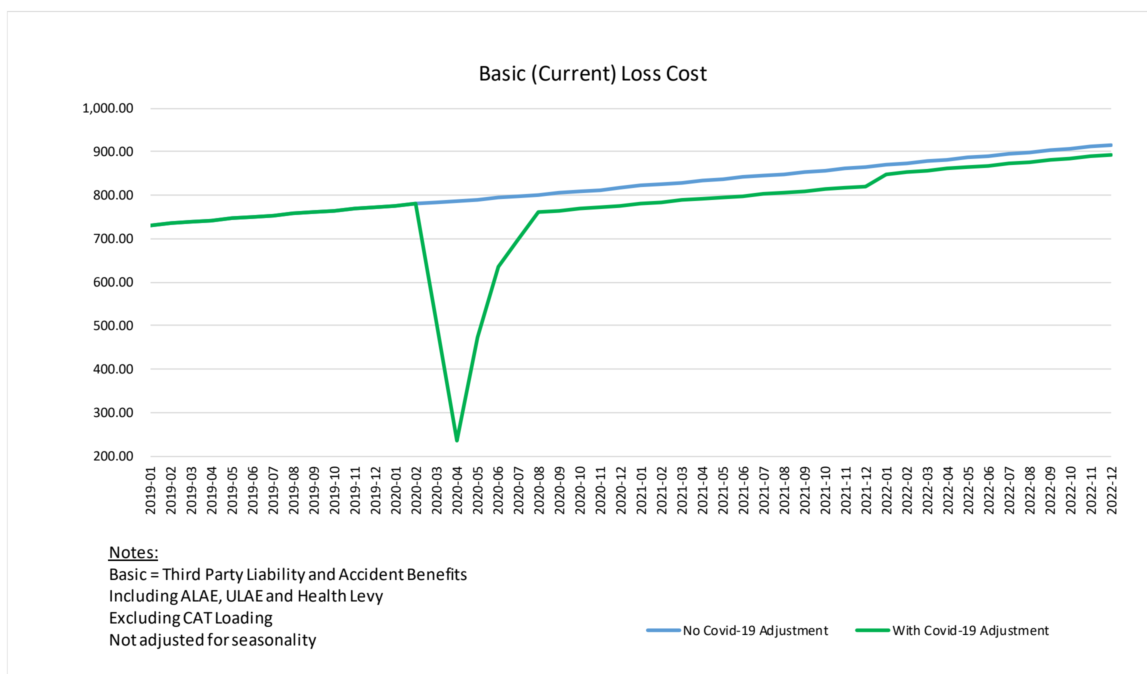
(7) Determine and apply COVID-19 factors

From mid-March 2020, some jurisdictions issued measures to either self-isolate or stay at home because of the COVID-19 pandemic. Even though these orders were gradually removed starting mid-May 2020, some people will continue to work from home and, therefore, spend less time travelling on the road. As a result, the frequency of vehicular collisions may decrease. Therefore, for coverages affected by the frequency of vehicular collisions, the ultimate loss cost per vehicle may also decrease. The table below summarizes the impact.

Coverage		Covid-19 Impact
Bodily Injury	BI	Reduced
Physical Damage	PD	Reduced
Accident Benefits	AB	Reduced
Underinsured Motorists	UM	Reduced
Collision	Col.	Reduced
Comprehensive	Comp.	No impact (not affected by frequency of accidents)
Specified Perils	SP	No impact (not affected by frequency of accidents)
All Perils	AP	2/3 of Collision impact

Note: Accident Benefits include Uninsured Motorists

We selected 15% for (accident year) 2020, 5% for 2021 and 2.5% thereafter. For details, please refer to Appendix 5.8. The impact of Covid-19 on the Basic loss cost of the current model is depicted in the following chart but it affects all models in this report equally.



Since we are estimating the loss cost for policy year 2022, only the 2.5% is applicable to this report.

(8) Discount Loss Cost

We derived the payment patterns by coverage (see Appendix 5.6) from the GISA-2018-2 Loss Development Exhibits PPA-excl. Farmers Alberta Paid Loss and Expense triangles and the GISA projected ultimate losses. We selected a discount rate of 3.00% based on the 2019 investment yield for Canadian P&C companies (see Appendix 5.10). Loss costs were discounted to the average date of premium receipt (July 1, 2022) in order to offset any investment income earned on premiums prior to losses and expenses being paid out (see Appendix 5.2).

(9) Apply Catastrophe (CAT) Loading

There are 3 coverages with a CAT loading: Comprehensive, Special Perils and All Perils. For Comprehensive, the CAT loading was 57% of the loss cost based on AIRB's March 27, 2020 Bulletin 01-2020. The All Perils CAT loading is equal to the Comprehensive CAT loading loss cost. For Specified Perils, we selected a

CAT loading 52.5% of the loss cost based the 10-year average of CAT losses (from GISA's Catastrophe Report) as a percentage of non-CAT losses (see Appendix 5.5). In Appendix 5.1, we applied the CAT loading to the discounted loss cost.

(10) Apply Commissions, Taxes, Other Acquisition Expenses, General Expenses and Profit Provision

Commissions, taxes, other acquisition and general expenses as percentages of written premiums were taken from Industry Expense Report (Bulletin No: GISA 2019-06) summed to 26.2% (see Appendix 5.1).

We used the calculated loss cost divided by 66.8% (one minus expenses [26.2%] minus profit provision of 7.0%) to derive the target premium by coverage.

MODEL COSTING METHODOLOGY

The detailed description of all four models is in Appendix 6. An abbreviated version is as follows:

Model 1

Model 1 is a pure no fault and no tort model for automobile accidents in Alberta. Vehicle damage is paid by one's insurer under direct compensation property damage (DCPD) if the motorist is not at fault; if the motorist is at fault, the damage is paid under collision provided that the coverage is purchased.

Coverage for all accidents outside of Alberta and optional coverages remain unchanged from today. No fault benefits are expanded as follows:

(1) Funeral benefits are based on reasonable expenses up to $10,000.
(2) Death benefits are $100,000 for the head of household; benefits for surviving dependents are also increased.
(3) Medical expenses are increased from $50,000 to $500,000 with benefits payable until death.
(4) Certified attendant care and homecare expenses for approved claimants are available up to $500,000.
(5) Income replacement benefit (IRB) for wage earners is set at 90% of net income up to $1,000 per week. Benefits are payable as long as the individual meets the disability definition. Employer benefits (net of taxes, CPP and EI) are deducted from the IRB. There is a 7-day waiting period.
(6) IRB for non-wage earners is payable subject to a medical and claims panel's determination for those over 18 years of age. There is a 6-month waiting period.
(7) Diminished quality of life benefit is payable to eligible claimants up to $300,000.
(8) Housekeeping expenses for approved claimants are payable up to $150 per week and $100,000 in aggregate.

All accident benefits are indexed by regulation.

Model 2

Model 2 is a variation of Model 1. The only difference is Model 2 provides 100% net income to disabled wage earners versus 90% net income in Model 1.

Model 3

Another variation of Model 1, Model 3 provides a choice to the motorist. Each owner of a vehicle can choose either Model 1 or a tort version. The tort option is the same as the current policy except the bodily injury (tort) benefits will be delivered by one's own insurer when the motorist is not at fault.

Model 4

Model 4 is a transition model as any of Models 1, 2 and 3 will need some lead time to implement. Model 4 is the same as the current policy except for the following:

(1) Prejudgment interest rate. The prejudgment interest rate on non-pecuniary loss shall be set by regulation to match the prejudgment interest rate on pecuniary loss.
(2) Claimant lawyer contingency fee. The contingency fee charged by claimant lawyers will be capped by regulation at 25% of the total settlement or award.
(3) Expert fees. The expert fees charged in automobile litigation claims will also be capped by regulation.

Costing of Model 1

First, we started with the loss cost for each coverage of the current policy as of December 31, 2018. Where more refinement is needed in accident benefits, we used transactional data by kind of loss code and claim ID to develop our loss cost estimate for June 30, 2018 accident date.

The following pages briefly describe our methodology by coverage.

1. Accident Benefits

 1.1 Funeral benefit (Appendix 1.1)
 From the GISA transactional data, we obtained a range of funeral expenses in 2016-2018. We applied the proposed benefits and weighted them using the above distribution.

 1.2 Death benefit (Appendix 1.2)
 From the GISA transactional data, we mapped the status of the deceased and the number of surviving dependents to the current benefit schedule. Then we applied the proposed benefit schedule to the distribution we obtained from the 2016-2018 data. The loss cost is simply the total death benefits from the above mapping divided by the number of vehicles.

 1.3 Medical/Rehabilitation expense (Appendix 1.3)
 The Advisory Committee in its Continuum of Care (COC) process defines 3 types of injuries. We used GISA's transactional data to allocate all claimants into these 3 types of injuries. First, we validated our assumptions to reconcile our estimate to the loss cost in accident year 2018 at the current benefit level. Once our estimate matched the 2018 loss cost, we adjusted the benefit level of the 0.5% of catastrophically injured to $500,000.

1.4 Certified attendant care or homecare expense (Appendix 1.4)

This is a new coverage. We reviewed Ontario's attendant care experience as well as Alberta's IRB for wage earners. We examined their respective claim durations. Based on our discussion with the Advisory Committee, we understand the process to approve a certified attendant care or homecare benefit will be based on the assessment of a medical panel. Additionally, there will be no lump sum cash settlement. Therefore, the duration will be more like that of Alberta IRB claims.

We used a weighted average of the two claim durations (Ontario attendant care and Alberta IRB) to select the attendant care/homecare expense duration. For a catastrophically injured recipient, the average duration is 77 months. Applying the appropriate monthly benefit in accordance with the model description allows us to obtain the loss cost.

1.5 IRB for wage earners (Appendix 1.5)

The current policy has a maximum benefit duration of 2 years. We allocated the current Alberta IRB claimants into 3 injury types. We used the 2016 Alberta census to obtain the age, gender and wage distributions. We assumed the number of claimants to be 2800 in 2022. Then we simulated a pool of 2800 claimants' IRB using 2019 tax software. We validated our simulation so that our model replicated the average claim size in 2016 accident year.

Once we reconciled our simulation with the current product, we changed the weekly benefit in our simulation to the Model 1 level and produced the benefits for 2800 claimants. To arrive at the loss cost, we divided the total benefits by the number of vehicles. The range of benefits by gross wage band is shown in Appendix 1.5.

1.6 IRB for non-wage earners (Appendix 1.6)

The data for this benefit is extremely limited in the current policy. Therefore, we examined Ontario's experience and the 2019 Alberta Closed Claim Survey to estimate the potential number of non-wage earner claimants in Model 1. For every four wage earners claiming IRB, we assumed there may be one non-wage earner eligible for some form of IRB. However, IRB for non-wage earners is only available for those 18 years of age or older and has a 6-month waiting period. After this adjustment, we settled for 261 claimants per year. We used the same simulation model for wage earners to generate an estimate of the non-wage earners' benefit. The loss cost is simply total non-wage earners IRB divided by the number of vehicles.

1.7 Diminished quality of life (Appendix 1.7)

The Advisory Committee noted that no amount of medical treatment may be able to restore every injured person to a pre-accident state. For those who have residual impairment after receiving the recommended treatment and reaching the maximum medical outcome, a medical and benefit panel will assess the amount of impairment and determine a permanent impairment (PI) score. The benefit payable would equal the PI score multiplied by the maximum PI benefit (starting at $300,000 on January 1, 2022).

In our costing, we used the Saskatchewan Impairment Benefit Schedule[3] as a proxy for this PI determination process. From the 2019 Alberta Closed Claim Survey, we had a sample of over 2,000 claimants with various types of injuries. For the purpose of this report, we used our judgment to assign a PI score to each claimant. Recognizing that any injury type could have 3 levels of severity (minor, medium, or severe), we used the actual non-pecuniary claim amount as a surrogate for the level of severity. Within each type of injury, a larger non-pecuniary claim amount was assumed to be a more severe injury.

---

[3] The Personal Injury Benefits Regulations being Chapter A-35 Reg 3 (effective January 1, 1995) as amended by Saskatchewan Regulations 70/2002, 121/2002, 48/2004, 73/2007, 79/2007, 43/2014, 59/2014 and 99/2016

Every claimant in the sample was assigned an injury description, level and PI score. The aggregate PI amount for all claimants is the product of (i) the number of claims by injury level, (ii)PI score, (iii) the maximum PI benefit. The aggregate amount divided by the number of vehicles would give the loss cost. We assumed the PI benefit would be paid no later than 2 years after the accident because the medical and benefit panel would need time to confirm that the impairment is permanent before an assessment commences.

1.8 Housekeeping (Appendix 1.8)

Subject to the approval of the medical panel, the housekeeping benefit would be paid periodically up to the maximum eligible amount based on injury type II or III. We used the Alberta IRB claim duration and Ontario housekeeping frequency multiplied by $150 per week to estimate the loss cost.

1.9 Supplementary benefits

These are accident benefits paid when an Alberta motorist has an accident outside of Alberta, but the benefits scale in the place of the accident is higher than Alberta's. The loss cost of this benefit is small currently and should become smaller if Model 1 is adopted. As there was insufficient data, we applied judgment to make an estimate.

1.10 Uninsured or unidentified motorist

The GISA data showed a very low loss cost. Under Model 1, the benefit will not be applicable for accidents in Alberta. Again, we applied judgment to estimate the loss cost of this benefit.

An uncertainty load is added to all no fault benefit (1.1 to 1.10) loss cost estimates.

1.11 Bodily Injury in Alberta

The loss cost would be zero. However, healthcare continues to be provided by AHS under all models. We assumed the same levy for all models. The loss cost indicated is for the health levy only.

1.12 Bodily Injury for accidents outside of Alberta

From the Closed Claims Survey we estimated the proportion of bodily injury losses outside of Alberta. We applied this percentage to the GISA bodily injury loss cost as an estimate for this benefit.

1.13 Vehicle damage in Alberta

One of the arguments in favour of DCPD is the ability to service one's own customers better by using preferred service providers to repair vehicles and provide rental cars. We assumed a 25% greater usage of preferred service providers with the insurers getting a 5% savings on average. This produced a 1.25% reduction in loss cost for vehicle damage in Alberta.

1.14 All other property damage

Vehicle damage outside of Alberta and all non-vehicular property damage will be settled on a tort basis. From Ontario (which is a DCPD province), we estimated the amount of tort property damage and applied the proportion to the historical property damage loss cost to estimate the non-DCPD percentage. Once we got the split between DCPD and all other property damage, we applied the Ontario percent allocation to Alberta property damage loss cost.

1.15 Underinsured Motorist

There are no changes from the current policy to any of the five coverages. Their loss costs are derived in Appendix 5.

1.16 Collision

There are no changes from the current policy to any of the five coverages. Their loss costs are derived in Appendix 5.

1.17 Comprehensive

There are no changes from the current policy to any of the five coverages. Their loss costs are derived in Appendix 5.

1.18 All Perils

There are no changes from the current policy to any of the five coverages. Their loss costs are derived in Appendix 5.

1.19 Specified Perils

There are no changes from the current policy to any of the five coverages. Their loss costs are derived in Appendix 5.

2. Trending to January 1, 2023 (Appendix 7)

From section 1, we obtained the loss cost of each coverage on June 30, 2018. We applied the trend factors in AIRB bulletin March 27, 2020 (01-2020) for all coverages except accident benefits in Models 1 and 2, and developed loss costs at the January 1, 2023 level.

For Models 1 and 2, we used the following annual trend factors:

i) 4% for medical (2% plus 2% CPI)
ii) 0% for death, non-wage earners IRB, diminished quality of life, supplemental benefit, and uninsured motorist as these benefit level will start on January 1, 2022
iii) 2% for all other accident benefits.

3. COVID-19 factor

After the COVID-19 pandemic, we assume that some people may work from home from time to time. The average usage of vehicles should decrease and result in a reduction of collisions. We assumed a 2.5% reduction in policy year 2022.

4. Mandatory winter tires in the winter season

Based on a Quebec study, the use of winter tires in the winter season should reduce collision frequency by 3-5%. As a large number of Alberta motorists already use winter tires in the winter season, we assumed a 2.5% reduction in bodily injury, DCPD, accident benefits and collision.

Costing of Model 2

The methodology for costing Model 2 is the same as for Model 1 except the loss cost for wage earners is 100% of net income. Details are in Appendix 2.

Costing of Model 3

3.1 Accident Benefits
The loss cost of accident benefits is the same as the Model 4 policy.

3.2 Bodily injury in Alberta
As the tort benefit will be paid by the motorist's own insurer, there should be better integration with accident benefits and employer contribution resulting in better savings. The average reduction of loss cost is 8.33%. Details are in Appendix 3.

3.3 Bodily injury outside of Alberta

The loss cost would be the same as the current policy.

3.4 Vehicle damage in Alberta

The loss cost is the same as Model 1.

3.5 All other property damage

The loss cost is also the same as Model 1.

3.6 Others (Underinsured Motorist Coverage, Collision, Comprehensive, All Perils and Specified Perils)

The loss costs are the same as Model 1.

Costing of Model 4

4.1 Accident Benefits

The loss cost is 97.5% of the current policy due to the mandatory winter tire requirement during the winter season.

4.2 Bodily Injury in Alberta

The change in PJI rate, capping claimant lawyer’s contingency fees to 25% of a settlement and expert fees to $3,000-$5,000 per case would result in 11.05% savings in loss cost. On top, there would be 2.5% savings due to the mandatory winter tire requirement during the winter season. The cumulative reduction in loss cost should be 13.28%. Details are in Appendix 4.

4.3 Bodily Injury outside of Alberta

The loss cost would be the same as the current policy.

4.4 Vehicle damage in Alberta

The loss cost is the same as Model 1 due to the mandatory winter tire requirement during the winter season and DCPD.

4.5 All other property damage

The loss cost is the same as Model 1.

4.6 Others (Underinsured Motorist Coverage, Collision, Comprehensive, All Perils and Specified Perils)

These are the same as Model 1.

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REFORM IMPACT ANALYSIS

The target premiums were determined as claims cost divided by 66.8% (expected claims ratio to premium). Claims costs (other than accident benefits) were discounted at 3% p.a. to recognize future investment income from the premiums received but not yet paid out in claims and expenses; accident benefits in Model 1 and 2 were discounted at 1% p.a. to reflect the indexing feature of the benefits. The general expenses were set to equal the current level so that the insurers would have sufficient time to reduce its human resources through attrition should any of the Models 1, 2, or 3 be adopted. Implicit in this assumption is an allowance for the cost of the Traffic Injury Regulator as defined by the Advisory Committee. The cost impact of all 4 models is as follows:

Full Package[1]	% of DWP[2]	Distribution of Total Expenses	Current($)	Model 1($)	Model 2($)	Model 3($)	Model 4($)
Total Claims	66.8%		1,371.14	992.70	1,001.23	1,318.31	1,296.23
Total Expenses	26.2%	100.0%					
- Commissions	12.6%	48.0%	258.22	193.96	195.41	249.28	245.53
- Taxes	3.8%	14.5%	78.00	58.59	59.03	75.30	74.17
- Other Acquisition Expenses	2.6%	9.8%	52.75	39.62	39.92	50.93	50.16
- General Expenses[4]	7.3%	27.7%	149.02	149.02	149.02	149.02	149.02
Total Profit[3]	7.0%		143.70	107.93	108.73	138.71	136.62
Target Premium	100.0%		2,052.82	1,541.82	1,553.34	1,981.54	1,951.72
Mar 2020 Premium			1,702.71				
Savings(+)/Inadequate(-)($)			(350.11)	160.89	149.37	(278.83)	(249.01)
Savings(+)/Inadequate(-)(%)[5]			-20.6%	9.4%	8.8%	-16.4%	-14.6%

Notes:
(1) Full package = TPL + AB + Underinsured Motorists + Collision + Comprehensive
(2) Premium cost allocation is from Industry Expense Report (Bulletin No: 2019-06)
(3) Target Profit is 7%. It is based on March 27, 2020 Bulletin:01-2020 from Automobile Insurance Rate Board.
(4) General expenses were determined as 7.3% of the target premium of the current model
(5) = Savings or Inadequate(-)($) / Mar 2020 Premium

The above analysis shows that the current model could experience 20.6% premium rate increase between April 2020 and 2022. Model 1 or 2 would have a potential premium reduction of 9.4% or 8.8%, respectively.

Model 3 or 4 would reduce claims cost but not enough to provide premium reduction from the March 31, 2020 level.

CONCLUSIONS

The Advisory Committee has considered four models:

Model 1 Pure No Fault with a Traffic Injury Regulator to deliver timely best practice medical treatment in a cost-effective manner.

Model 2 Every coverage is the same as Model 1 except IRB is increased from 90% of net income to 100%

Model 3 Choice between tort or no tort. If a motorist chooses the tort option, the policy is essentially the current product. The no tort option is Model 1.

Model 4 A transitional model. This is similar to the current product except the pre-judgment interest rate would be set to match the rate for pecuniary losses. Claimant lawyer contingency fees and expert fees would be capped.

All models would require mandatory winter tires during the winter season and vehicle damage in Alberta would be settled on a DCPD basis.

In terms of cost, Model 1 is the least expensive.

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Appendix 2	Costing of Model 2
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Appendix 4	Costing of Model 4
Appendix 5	Rate Adequacy of Current Model
Appendix 6	Model Description
Appendix 7	Derivation of Target Premium for Current Model as well as Model 1 to 4

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APPENDIX 1 – COSTING OF MODEL 1

Appendix 1.1	Funeral Benefit
Appendix 1.2	Death Benefit
Appendix 1.3	Medical/Rehabilitation Expense
Appendix 1.4	Certified Attendant Care or Homecare Expense
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Appendix 1.6	IRB for Non-Wage Earners
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Appendix 1.8	Housekeeping

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APPENDIX 1.1

Funeral Benefit

Alberta
Automobile Accident Insurance Benefits
Funeral Benefits

Loss Cost (including ALAE; excluding ULAE ,Health Levy and CAT)

			2016	2017	2018	Average	Weighted Average	Comments
(1)	Weights		0%	40%	60%			Selected
Current Product								
(2)	Reported Loss	($'000s)	796	729	933	819		GISA
(3)	Reported ALAE	($'000s)	19	25	13	19		GISA
(4)	Reported Loss & ALAE	($'000s)	815	753	946	838		GISA
(5)	Reported ALAE Ratio		2.36%	3.28%	1.39%	2.27%		= (3) ÷ (4)
(6)	Selected ALAE Ratio						7.00%	Assumption
(7)	Ultimate Loss & ALAE (Untrended)	($'000s)	808	723	909	813		GISA
(8)	Trend Factor		1.1772	1.0850	1.0000	1.0839		Model 5; Appendix D
(9)	Ultimate Loss & ALAE (Trended)	($'000s)	951	784	909	881		= (7) × (8)
(10)	Earned Car Years	('000s)	2,678	2,692	2,746	2,705		GISA
(11)	Ultimate Loss Cost (incl. ALAE) - Trended		0.36	0.29	0.33	0.33	0.32	= (9) ÷ (10)
(12)	Ultimate Loss Cost (ALAE only) - Trended		0.01	0.01	0.00	0.01	0.01	= (11) × (5)
(13)	Ultimate Loss Cost (excl. ALAE) - Trended		0.35	0.28	0.33	0.32	0.31	= (11) - (12)
Models 1 & 2								
(14)	Indicated Indemnity/Loss Increase		81%	86%	90%	86%		Page 2
(15)	Selected Indemnity/Loss Increase						90%	Page 2
(16)	Ultimate Loss Cost (excl. ALAE) - Trended						0.59	= (13) × [1 + (15)]
(17)	Ultimate Loss Cost (ALAE only) - Trended						0.04	= (16) × (6)
(18)	Ultimate Loss Cost (incl. ALAE) - Trended						0.63	= (16) + (17)
(19)	Winter Tire Savings Factor						0.975	Judgmentally Selected
(20)	Uncertainty Load						1.000	Judgmentally Selected
(21)	Loaded Loss Cost						**0.61**	= (18) x (19) x (20)

Alberta
Automobile Accident Insurance Benefits
Funeral Benefits

Indemnity/Loss Increase

(1) **Claimant Count**

Count	Total	2016	2017	2018
Under $5,000	119	49	36	34
$5,000 plus	362	117	114	131
Total	481	166	150	165

(2) **Current Benefit - Model 3 & 4**

Indemnity $	Total	2016	2017	2018
Under $5,000	354,219	150,736	104,366	99,117
$5,000 plus	2,163,251	652,503	649,340	855,357
Total	2,517,470	803,239	753,706	954,474

(3) **New Benefit - Model 1 & 2**

Increase	Indemnity $	Total	2016	2017	2018
0%	Under $5,000	354,219	150,736	104,366	99,117
100%	$5,000 plus	4,326,502	1,305,006	1,298,680	1,710,714
	Total	4,680,721	1,455,742	1,403,046	1,809,831
	% Increase	86%	81%	86%	90%
	Selected %	**90%**			

Note:

(1) GISA special reports.

(2) Current Model: Up to $5,000 in respect of the death of any one person.

(3) Model 1: Up to $10,000 in respect of the death of any one person

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APPENDIX 1.2

Death Benefit

Alberta
Automobile Accident Insurance Benefits
Death Benefits

Loss Cost (including ALAE; excluding ULAE ,Health Levy and CAT)

			2016	2017	2018	Average	Weighted Average	Comments
(1)	Weights		0%	40%	60%			Selected
Current Product								
(2)	Reported Loss	($'000s)	3,321	2,742	1,811	2,625		GISA
(3)	Reported ALAE	($'000s)	27	10	11	16		GISA
(4)	Reported Loss & ALAE	($'000s)	3,348	2,752	1,822	2,641		GISA
(5)	Reported ALAE Ratio		0.80%	0.36%	0.60%	0.60%		= (3) ÷ (4)
(6)	Selected ALAE Ratio						7.00%	Assumption
(7)	Ultimate Loss & ALAE (Untrended)	($'000s)	3,320	2,713	1,991	2,675		GISA
(8)	Trend Factor		1.1772	1.0850	1.0000	1.1021		Model 5; Appendix D
(9)	Ultimate Loss & ALAE (Trended)	($'000s)	3,909	2,944	1,991	2,948		= (7) × (8)
(10)	Earned Car Years	('000s)	2,678	2,692	2,746	2,705		GISA
(11)	Ultimate Loss Cost (incl. ALAE) - Trended		1.46	1.09	0.72	1.09	**0.87**	= (9) ÷ (10)
(12)	Ultimate Loss Cost (ALAE only) - Trended		0.01	0.00	0.00	0.01	0.00	= (11) × (5)
(13)	Ultimate Loss Cost (excl. ALAE) - Trended		1.45	1.09	0.72	1.08	0.87	= (11) - (12)
Models 1 & 2								
(14)	Indicated Multiplier Indemnity/Loss		4.83	5.25	8.02	5.73		Page 2
(15)	Selected Multiplier Indemnity/Loss						5.73	Page 2
(16)	Ultimate Loss Cost (excl. ALAE) - Trended						4.98	= (13) × (15)
(17)	Ultimate Loss Cost (ALAE only) - Trended						0.35	= (16) × (6)
(18)	Ultimate Loss Cost (incl. ALAE) - Trended						5.33	= (16) + (17)
(19)	Winter Tire Savings Factor						0.975	Judgmentally Selected
(20)	Uncertainty Load						1.000	Judgmentally Selected
(21)	Loaded Cost						**5.20**	= (18) x (19) x (20)

Using Transactional Data

Status of Deceased	Survivors	2016-2018 Claim Count	2016-2018 Average Benefit	Models 1 & 2 Average Benefit
2 Dependants		13	5,780	100,000
Dependant		34	2,421	50,000
Grief		22	433	0
Head	0 partners & 0 dependants	2	11,240	100,000
	1 dependant	2	27,104	150,000
	1 partner & 0 dependants	59	25,081	100,000
	1 partner & 1 dependants	8	29,550	150,000
	1 partner & 2 dependants	1	35,000	200,000
	1 partner & 3 dependants	1	41,400	250,000
	2 dependants	17	31,248	200,000
	3 dependants	17	37,071	250,000
	4 dependants	11	43,109	300,000
	5 dependants	3	49,133	350,000
	6 dependants	1	55,400	400,000
Head + 1 Dependant	1 dependant	1	29,200	200,000
	1 partner & 0 dependants	1	27,000	150,000
	1 partner & 1 dependants	3	32,750	200,000
	1 partner & 3 dependants	3	44,467	300,000
	2 dependants	2	33,500	250,000
	3 dependants	2	39,500	300,000
	4 dependants	1	45,000	350,000
	6 dependants	1	58,000	450,000
	8 dependants	1	71,066	500,000
	0 dependant	5	22,825	200,000
	1 dependant	1	35,800	250,000
	10 dependants	4	622,319	500,000
	9 dependants	1	87,464	500,000
Partner		66	10,079	
Partner + 1 Dependant		9	15,056	

Summary

Status of Deceased	**Survivors**	**2016-2018 Claim Count**	**2016-2018 Average Benefit**	**Models 1 & 2 Average Benefit**
Dependants		**47**	**3,350**	**63,830**
Grief		**22**	**433**	**0**
Head/Partner		**223**	**35,170**	**192,230**
Total		**292**	**27,431**	**157,080**

Dependant = Dependent Relative
Partner = Spouse/Interdependent Adult Partner
Head = Head of Household
Grief = grief counselling
Principal = principal sum payable

Number of deceased persons	Status of deceased persons	Description 1	Description 2	Current Benefits Payable		Survivor										
				Grief	Principal	1	2	3	4	5	6	7	8	9	10	Total
1 Deceased	Dependant	Up to age of 4 years		400	1,000											1,400
1 Deceased	Dependant	5 to 9 years		400	2,000											2,400
1 Deceased	Dependant	10 to 17 years		400	3,000											3,400
1 Deceased	Dependant	18 to 69 years		400	2,000											2,400
1 Deceased	Dependant	70 years and over		400	1,000											1,400
1 Deceased	Partner			400	10,000											10,400
1 Deceased	Head	0 survivors	0 partners & 0 dependants	400	10,000											10,400
1 Deceased	Head	1 survivor	1 partner & 0 dependants	400	10,000	15,000										25,400
1 Deceased	Head	1 survivor	1 dependant	400	10,000	15,000										25,400
1 Deceased	Head	2 survivors	1 partner & 1 dependants	400	10,000	15,000	4,000									29,400
1 Deceased	Head	2 survivors	2 dependants	400	10,000	15,000	6,000									31,400
1 Deceased	Head	3 survivors	1 partner & 2 dependants	400	10,000	15,000	4,000	6,000								35,400
1 Deceased	Head	3 survivors	3 dependants	400	10,000	15,000	6,000	6,000								37,400
1 Deceased	Head	4 survivors	1 partner & 3 dependants	400	10,000	15,000	4,000	6,000	6,000							41,400
1 Deceased	Head	4 survivors	4 dependants	400	10,000	15,000	6,000	6,000	6,000							43,400
1 Deceased	Head	5 survivors	1 partner & 4 dependants	400	10,000	15,000	4,000	6,000	6,000	6,000						47,400
1 Deceased	Head	5 survivors	5 dependants	400	10,000	15,000	6,000	6,000	6,000	6,000						49,400
1 Deceased	Head	6 survivors	1 partner & 5 dependants	400	10,000	15,000	4,000	6,000	6,000	6,000	6,000					53,400
1 Deceased	Head	6 survivors	6 dependants	400	10,000	15,000	6,000	6,000	6,000	6,000	6,000					55,400
1 Deceased	Head	7 survivors	1 partner & 6 dependants	400	10,000	15,000	4,000	6,000	6,000	6,000	6,000	6,000				59,400
1 Deceased	Head	7 survivors	7 dependants	400	10,000	15,000	6,000	6,000	6,000	6,000	6,000	6,000				61,400
1 Deceased	Head	8 survivors	1 partner & 7 dependants	400	10,000	15,000	4,000	6,000	6,000	6,000	6,000	6,000	6,000			65,400
1 Deceased	Head	8 survivors	8 dependants	400	10,000	15,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000			67,400
1 Deceased	Head	9 survivors	1 partner & 8 dependants	400	10,000	15,000	4,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000		71,400
1 Deceased	Head	9 survivors	9 dependants	400	10,000	15,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000		73,400
1 Deceased	Head	10 survivors	1 partner & 9 dependants	400	10,000	15,000	4,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	77,400
1 Deceased	Head	10 survivors	10 dependants	400	10,000	15,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	79,400
2 Deceased	2 Dependants	Up to age of 4 years		800	2,000											2,800
2 Deceased	2 Dependants	5 to 9 years		800	4,000											4,800
2 Deceased	2 Dependants	10 to 17 years		800	6,000											6,800
2 Deceased	2 Dependants	18 to 69 years		800	4,000											4,800
2 Deceased	2 Dependants	70 years and over		800	2,000											2,800
2 Deceased	Partner + 1 Dependant	Up to age of 4 years		800	11,000											11,800
2 Deceased	Partner + 1 Dependant	5 to 9 years		800	12,000											12,800
2 Deceased	Partner + 1 Dependant	10 to 17 years		800	13,000											13,800
2 Deceased	Partner + 1 Dependant	18 to 69 years		800	12,000											12,800
2 Deceased	Partner + 1 Dependant	70 years and over		800	11,000											11,800

Dependant = Dependent Relative
Partner = Spouse/Interdependent Adult Partner
Head = Head of Household
Grief = grief counselling
Principal = principal sum payable

				Current Benefits Payable												
						Survivor										
Number of deceased persons	Status of deceased persons	Description 1	Description 2	Grief	Principal	1	2	3	4	5	6	7	8	9	10	Total
2 Deceased	Head + 1 Dependant	0 survivors	0 partners & 0 dependants	800	12,000											12,800
2 Deceased	Head + 1 Dependant	1 survivor	1 partner & 0 dependants	800	12,000	15,000										27,800
2 Deceased	Head + 1 Dependant	1 survivor	1 dependant	800	12,000	15,000										27,800
2 Deceased	Head + 1 Dependant	2 survivors	1 partner & 1 dependants	800	12,000	15,000	4,000									31,800
2 Deceased	Head + 1 Dependant	2 survivors	2 dependants	800	12,000	15,000	6,000									33,800
2 Deceased	Head + 1 Dependant	3 survivors	1 partner & 2 dependants	800	12,000	15,000	4,000	6,000								37,800
2 Deceased	Head + 1 Dependant	3 survivors	3 dependants	800	12,000	15,000	6,000	6,000								39,800
2 Deceased	Head + 1 Dependant	4 survivors	1 partner & 3 dependants	800	12,000	15,000	4,000	6,000	6,000							43,800
2 Deceased	Head + 1 Dependant	4 survivors	4 dependants	800	12,000	15,000	6,000	6,000	6,000							45,800
2 Deceased	Head + 1 Dependant	5 survivors	1 partner & 4 dependants	800	12,000	15,000	4,000	6,000	6,000	6,000						49,800
2 Deceased	Head + 1 Dependant	5 survivors	5 dependants	800	12,000	15,000	6,000	6,000	6,000	6,000						51,800
2 Deceased	Head + 1 Dependant	6 survivors	1 partner & 5 dependants	800	12,000	15,000	4,000	6,000	6,000	6,000	6,000					55,800
2 Deceased	Head + 1 Dependant	6 survivors	6 dependants	800	12,000	15,000	6,000	6,000	6,000	6,000	6,000					57,800
2 Deceased	Head + 1 Dependant	7 survivors	1 partner & 6 dependants	800	12,000	15,000	4,000	6,000	6,000	6,000	6,000	6,000				61,800
2 Deceased	Head + 1 Dependant	7 survivors	7 dependants	800	12,000	15,000	6,000	6,000	6,000	6,000	6,000	6,000				63,800
2 Deceased	Head + 1 Dependant	8 survivors	1 partner & 7 dependants	800	12,000	15,000	4,000	6,000	6,000	6,000	6,000	6,000	6,000			67,800
2 Deceased	Head + 1 Dependant	8 survivors	8 dependants	800	12,000	15,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000			69,800
2 Deceased	Head + 1 Dependant	9 survivors	1 partner & 8 dependants	800	12,000	15,000	4,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000		73,800
2 Deceased	Head + 1 Dependant	9 survivors	9 dependants	800	12,000	15,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000		75,800
2 Deceased	Head + 1 Dependant	10 survivors	1 partner & 9 dependants	800	12,000	15,000	4,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	79,800
2 Deceased	Head + 1 Dependant	10 survivors	10 dependants	800	12,000	15,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	81,800
2 Deceased	Head + Partner	0 survivors	0 dependant	800	20,000											20,800
2 Deceased	Head + Partner	1 survivor	1 dependant	800	20,000	15,000										35,800
2 Deceased	Head + Partner	2 survivors	2 dependants	800	20,000	15,000	6,000									41,800
2 Deceased	Head + Partner	3 survivors	3 dependants	800	20,000	15,000	6,000	6,000								47,800
2 Deceased	Head + Partner	4 survivors	4 dependants	800	20,000	15,000	6,000	6,000	6,000							53,800
2 Deceased	Head + Partner	5 survivors	5 dependants	800	20,000	15,000	6,000	6,000	6,000	6,000						59,800
2 Deceased	Head + Partner	6 survivors	6 dependants	800	20,000	15,000	6,000	6,000	6,000	6,000	6,000					65,800
2 Deceased	Head + Partner	7 survivors	7 dependants	800	20,000	15,000	6,000	6,000	6,000	6,000	6,000	6,000				71,800
2 Deceased	Head + Partner	8 survivors	7 dependants	800	20,000	15,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000			77,800
2 Deceased	Head + Partner	9 survivors	9 dependants	800	20,000	15,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000		83,800
2 Deceased	Head + Partner	10 survivors	10 dependants	800	20,000	15,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	89,800

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APPENDIX 1.3

Medical/Rehabilitation Expense

Alberta
Automobile Accident Insurance Benefits
Medical Benefit
Loss Cost (including ALAE; excluding ULAE ,Health Levy and CAT)

2018 Earned Exposure	2,746,098	
Frequency Assumption	1.030%	
Expected Number of Claims	28,285	
Selected	28,300	141.5

Model 1

Injury Type	(1) Estimated 2018 # Claimants	(2) Average Duration (Months)	(3) Average Claim Size	(4) Untrended Undisc. Total Dollars	(5) 2018 Earned Vehicle	(6) Trended Undisc. Total Loss Cost	(7) Trended Disc. Total Loss Cost
Type 1	18,394	8.1	1,736	31,932,581	2,746,098	14.64	14.59
Type 2S	7,641	24.0	5,096	38,938,079	2,746,098	17.85	17.73
Type 2L	2,123	60.0	10,668	22,649,105	2,746,098	10.38	10.24
Type 3	142	77.0	500,000	71,000,000	2,746,098	27.55	26.92
Total	28,300	16.6	5,813	164,519,765	2,746,098	70.43	69.48

(8) Winter Tire Savings Factor	0.975	Loaded Loss Cost	72.10
(9) Uncertainty Load	1.050	Loaded Disc. Loss Cost	71.13

Note:

(1) Based on the selected expected number of claims and selected injury type distribution.
(2) See page 2.
(3) See page 3.
(4) = (3) x (1)
(5) AY 2018 Accident Benefits earned vehicles from GISA report .
(6) See page 2. Figures here are trended to Jul 1, 2018 with ALAE loading.
(7) See page 2. Figures here are trended to Jul 1, 2018 with ALAE loading.
(8) Judgmentally selected
(9) Judgmentally selected

Model 1 Loss Cost (including ALAE; excluding ULAE ,Health Levy and CAT) up to 5 Years and Beyond 5 Years

	AY 2016 trended to 2018		Type 1a	Type 1b	Type 1c	Type 2S	Type 2L	Type 3	Total	Source
(1)	Distribution		9.0%	43.0%	13.0%	27.0%	7.5%	0.5%	100.0%	Page 3 row (8)
(2)	Severity (Loss)		936	1,865	3,402	5,999	12,559	500,000		Page 3 row (16)
(3)	ALAE Factor	7.00%								Page 7
(4)	Severity (Loss & ALAE)	= (2) x [1 + (3)]	1,002	1,995	3,641	6,419	13,438	535,000		
(5)	Frequency	= 1.03% x (1)	0.093%	0.443%	0.134%	0.278%	0.077%	0.005%	1.03%	Page 4
(6)	Undiscounted Loss Cost	= (4) x (5)	0.93	8.84	4.87	17.85	10.38	27.55	70.43	
(7)	Duration (months)		3.0	8.0	12.0	24.0	60.0	77.0		Page 3 row (17)
(8)	Discounted Loss Cost		0.93	8.81	4.85	17.73	10.24	26.92	69.48	Page 6
	Loss Cost up to 5 years									
(9)	Undiscounted		0.93	8.84	4.87	17.85	10.38	23.77	66.64	Page 6
(10)	Discounted		0.93	8.81	4.85	17.73	10.24	23.34	65.91	Page 6
	Loss Cost beyond 5 years									
(11)	Undiscounted		0.00	0.00	0.00	0.00	0.00	3.78	3.78	Page 6
(12)	Discounted		0.00	0.00	0.00	0.00	0.00	3.58	3.58	Page 6

Severity and Duration Derivation

		3 months	8 months	12 months	24 months	no threshold	no threshold	
		≤ $3,500	≤ $7,500	≤ $12,000	≤ $25,000	≤ $50,000	> $50,000	
	AY 2016	**Type 1a**	**Type 1b**	**Type 1c**	**Type 2S**	**Type 2L**	**Type 3**	Total
	Untrended (Actual) Medical							
(1)	Incurred Loss (Loss only)	1,913,485	21,922,549	10,075,202	24,098,701	23,033,169	2,793,703	83,836,809
(2)	Medical Claims Count	2,406	13,840	3,486	4,729	2,159	34	26,654
(3)	Severity (1) / (2)	795	1,584	2,890	5,096	10,668	82,168	3,145
	Number of Months to Close a Claim							
(4)	Average	2.6	5.4	10.2	18.0	27.1	29.2	
(5)	Std. Dev.	0.6	1.3	1.2	3.6	3.8	7.6	
(6)	**Initial duration (months)**	**3.0**	**8.0**	**12.0**	**24.0**	**60.0**	**180.0**	
							Tail starts: 25.0	
	AY 2016	**Type 1a**	**Type 1b**	**Type 1c**	**Type 2S**	**Type 2L**	**Type 3**	**Total**
	Distribution based on Claims Count							
(7)	Indication	9.0%	51.9%	13.1%	17.7%	8.1%	0.1%	100.0%
(8)	**Selected**	**9.0%**	**43.0%**	**13.0%**	**27.0%**	**7.5%**	**0.5%**	100.0%
	Trended Loss only to 2018							
(9)	IL Trended using 8.5% factor	2,252,602	25,807,773	11,860,780	28,369,593	27,115,222	3,288,817	98,694,787
(10)	Severity (9) / (2)	936	1,865	3,402	5,999	12,559	96,730	3,703
(11)	(10) x (7)	85	968	445	1,064	1,017	123	3,703
(12)	(10) x (8)	84	802	442	1,620	942	484	**4,374**

Type 3 Severity & Duration

Type 3 Model 1 is a lifetime benefit with an aggregate limit of $500,000.
For this analysis, we assumed it takes 180 months to close a claim.

Type 3 monthly severity is, (13)= 4,030 = [Type 3 row (10)] / 24
Therefore, the expected model 1 type 3 severity, is (14)= 725,474 = [Type 3 row (10)] + (13) x [180 - 24]

(15) Type 3 severity is $500,000, which is the lower of (14) [$725,474] and aggregate limit [$500,000].
(16) With $500,000 as Type 3 severity, the expected time to close a claim (duration) is 77 months.

	Model 1 parameters	**Type 1a**	**Type 1b**	**Type 1c**	**Type 2S**	**Type 2L**	**Type 3**
(16)	**Severity: (10) and (15)**	936	1,865	3,402	5,999	12,559	500,000
(17)	**Duration: (6) and (16)**	3.0	8.0	12.0	24.0	60.0	77.0

Alberta
Automobile Accident Insurance Benefits
Medical Benefit

Frequency Derivation

Source: ALTA.PPAxF ILDF Triangles 2018-2

	Ultimate Claim Count	Car Years Earned	% Ult Freq	Weights
2016	26,558	2,677,526	0.99%	
2017	27,923	2,692,207	1.04%	40.00%
2018	28,002	2,746,098	1.02%	60.00%

Weighted Average	1.03%
Selected Frequency	**1.03%**

Payment Pattern

	Payment Pattern					
Month	Type 1a	Type 1b	Type 1c	Type 2S	Type 2L	Type 3
1	8.72%	3.22%	1.89%	1.12%	0.61%	0.06%
2	48.98%	20.84%	12.35%	7.72%	4.10%	1.88%
3	100.00%	45.16%	29.14%	18.10%	9.79%	5.78%
4		73.55%	45.92%	28.57%	16.09%	8.81%
5		86.99%	57.23%	36.52%	20.94%	11.47%
6		93.81%	66.14%	42.96%	25.32%	13.44%
7		97.67%	73.71%	49.11%	29.80%	14.73%
8		100.00%	79.98%	54.42%	33.53%	18.45%
9			88.04%	59.33%	38.12%	20.74%
10			93.54%	64.10%	41.73%	22.98%
11			97.23%	68.39%	44.90%	26.13%
12			100.00%	72.24%	48.35%	28.68%
13				76.61%	52.21%	32.77%
14				80.62%	55.07%	36.10%
15				83.87%	58.33%	39.95%
16				86.73%	61.06%	41.81%
17				89.07%	63.86%	43.10%
18				91.30%	66.91%	46.37%
19				93.32%	69.56%	47.99%
20				95.07%	72.40%	50.17%
21				96.74%	75.03%	51.04%
22				97.97%	77.72%	54.41%
23				99.04%	80.65%	55.56%
24				100.00%	83.87%	57.18%
25					84.32%	57.99%
26					84.76%	58.80%
27					85.21%	59.61%
28					85.66%	60.41%
29					86.11%	61.22%
30					86.56%	62.03%
31					87.00%	62.84%
32					87.45%	63.64%
33					87.90%	64.45%
34					88.35%	65.26%
35					88.80%	66.07%
36					89.25%	66.88%
37					89.69%	67.68%
38					90.14%	68.49%
39					90.59%	69.30%
40					91.04%	70.11%
41					91.49%	70.92%
42					91.93%	71.72%
43					92.38%	72.53%
44					92.83%	73.34%
45					93.28%	74.15%
46					93.73%	74.96%
47					94.17%	75.76%
48					94.62%	76.57%
49					95.07%	77.38%
50					95.52%	78.19%
51					95.97%	78.99%
52					96.42%	79.80%
53					96.86%	80.61%
54					97.31%	81.42%
55					97.76%	82.23%
56					98.21%	83.03%
57					98.66%	83.84%
58					99.10%	84.65%
59					99.55%	85.46%
60					100.00%	86.27%
61						87.07%
62						87.88%
63						88.69%
64						89.50%
65						90.31%
66						91.11%
67						91.92%
68						92.73%
69						93.54%
70						94.34%
71						95.15%
72						95.96%
73						96.77%
74						97.58%
75						98.38%
76						99.19%
77						100.00%

Undiscounted and Discounted payments

Annual rate 1.000%
Monthly rate 0.083%

	Duration (months)												
	3	8	12	24	60	77							
	Undiscounted Loss Cost							Discounted Loss Cost					
	0.93	8.84	4.87	17.85	10.38	27.55		0.93	8.81	4.85	17.73	10.24	26.92
Month	**Type 1a**	**Type 1b**	**Type 1c**	**Type 2S**	**Type 2L**	**Type 3**	**Discount factor**	**Type 1a**	**Type 1b**	**Type 1c**	**Type 2S**	**Type 2L**	**Type 3**
1	0.08	0.28	0.09	0.20	0.064	0.017	0.9996	0.08	0.28	0.09	0.20	0.064	0.017
2	0.37	1.56	0.51	1.18	0.362	0.502	0.9988	0.37	1.56	0.51	1.18	0.362	0.501
3	0.47	2.15	0.82	1.85	0.590	1.075	0.9979	0.47	2.14	0.82	1.85	0.589	1.073
4		2.51	0.82	1.87	0.655	0.833	0.9971		2.50	0.82	1.86	0.653	0.831
5		1.19	0.55	1.42	0.503	0.733	0.9963		1.18	0.55	1.41	0.501	0.730
6		0.60	0.43	1.15	0.455	0.543	0.9954		0.60	0.43	1.14	0.453	0.540
7		0.34	0.37	1.10	0.465	0.357	0.9946		0.34	0.37	1.09	0.462	0.355
8		0.21	0.31	0.95	0.387	1.025	0.9938		0.20	0.30	0.94	0.385	1.019
9			0.39	0.88	0.477	0.628	0.9930			0.39	0.87	0.474	0.624
10			0.27	0.85	0.374	0.619	0.9922			0.27	0.84	0.371	0.614
11			0.18	0.77	0.329	0.868	0.9913			0.18	0.76	0.326	0.860
12			0.13	0.69	0.359	0.703	0.9905			0.13	0.68	0.356	0.696
13				0.78	0.400	1.125	0.9897				0.77	0.396	1.114
14				0.71	0.297	0.919	0.9889				0.71	0.293	0.909
15				0.58	0.339	1.060	0.9880				0.57	0.335	1.048
16				0.51	0.283	0.511	0.9872				0.50	0.280	0.504
17				0.42	0.291	0.356	0.9864				0.41	0.287	0.351
18				0.40	0.316	0.901	0.9856				0.39	0.311	0.888
19				0.36	0.276	0.446	0.9848				0.36	0.272	0.440
20				0.31	0.294	0.602	0.9840				0.31	0.289	0.593
21				0.30	0.273	0.238	0.9831				0.29	0.268	0.234
22				0.22	0.280	0.929	0.9823				0.21	0.275	0.913
23				0.19	0.304	0.317	0.9815				0.19	0.299	0.311
24				0.17	0.334	0.447	0.9807				0.17	0.327	0.438
25					0.047	0.223	0.9799					0.046	0.218
26					0.047	0.223	0.9791					0.046	0.218
27					0.047	0.223	0.9783					0.046	0.218
28					0.047	0.223	0.9775					0.045	0.218
29					0.047	0.223	0.9766					0.045	0.217
30					0.047	0.223	0.9758					0.045	0.217
31					0.047	0.223	0.9750					0.045	0.217
32					0.047	0.223	0.9742					0.045	0.217
33					0.047	0.223	0.9734					0.045	0.217
34					0.047	0.223	0.9726					0.045	0.216
35					0.047	0.223	0.9718					0.045	0.216
36					0.047	0.223	0.9710					0.045	0.216
37					0.047	0.223	0.9702					0.045	0.216
38					0.047	0.223	0.9694					0.045	0.216
39					0.047	0.223	0.9686					0.045	0.216
40					0.047	0.223	0.9678					0.045	0.215
41					0.047	0.223	0.9670					0.045	0.215
42					0.047	0.223	0.9662					0.045	0.215
43					0.047	0.223	0.9654					0.045	0.215
44					0.047	0.223	0.9646					0.045	0.215
45					0.047	0.223	0.9638					0.045	0.215
46					0.047	0.223	0.9630					0.045	0.214
47					0.047	0.223	0.9622					0.045	0.214
48					0.047	0.223	0.9614					0.045	0.214
49					0.047	0.223	0.9606					0.045	0.214
50					0.047	0.223	0.9598					0.045	0.214
51					0.047	0.223	0.9590					0.045	0.213
52					0.047	0.223	0.9582					0.045	0.213
53					0.047	0.223	0.9574					0.045	0.213
54					0.047	0.223	0.9566					0.045	0.213
55					0.047	0.223	0.9558					0.044	0.213
56					0.047	0.223	0.9550					0.044	0.213
57					0.047	0.223	0.9542					0.044	0.212
58					0.047	0.223	0.9534					0.044	0.212
59					0.047	0.223	0.9526					0.044	0.212
60					0.047	0.223	0.9519					0.044	0.212
61						0.223	0.9511						0.212
62						0.223	0.9503						0.212
63						0.223	0.9495						0.211
64						0.223	0.9487						0.211
65						0.223	0.9479						0.211
66						0.223	0.9471						0.211
67						0.223	0.9464						0.211
68						0.223	0.9456						0.210
69						0.223	0.9448						0.210
70						0.223	0.9440						0.210
71						0.223	0.9432						0.210
72						0.223	0.9424						0.210
73						0.223	0.9417						0.210
74						0.223	0.9409						0.209
75						0.223	0.9401						0.209
76						0.223	0.9393						0.209
77						0.223	0.9385						0.209

Derivation of Accident Benefits ALAE Factor

Major Coverage AB
Valuation Year 201812

Accident half year	Paid Loss			Case Reserve				Claim Count		
	Loss Amount	Expense Amount	Total Paid Loss	Loss Amount	Expense Amount	Total Case Reserves	Total IL	Open	Closed	Total
201601	49,538,805	3,436,250	52,975,055	1,143,820	88,918	1,232,738	54,207,793	13,565	17	13,582
201602	63,629,782	4,206,430	67,836,212	3,558,792	221,622	3,780,414	71,616,626	16,035	26	16,061
201701	54,962,823	4,471,615	59,434,438	10,640,318	461,122	11,101,440	70,535,878	14,894	61	14,955
201702	54,615,676	4,447,200	59,062,876	15,557,421	975,750	16,533,171	75,596,047	16,034	122	16,156
201801	43,447,966	2,893,391	46,341,357	29,335,204	1,562,400	30,897,604	77,238,961	15,392	337	15,729
201802	15,826,008	1,059,859	16,885,867	61,584,771	2,414,171	63,998,942	80,884,809	10,240	5,839	16,079

GISA Accident Year	Paid Loss			Case Reserve				Claim Count			
	Loss Amount	Expense Amount	Total Paid Loss	Loss Amount	Expense Amount	Total Case Reserves	Total IL	Open	Closed	Total	IL Expense / IL Loss
2016	113,168,587	7,642,680	120,811,267	4,702,612	310,540	5,013,152	125,824,419	29,600	43	29,643	6.75%
2017	109,578,499	8,918,815	118,497,314	26,197,739	1,436,872	27,634,611	146,131,925	30,928	183	31,111	7.63%
2018	59,273,974	3,953,250	63,227,224	90,919,975	3,976,571	94,896,546	158,123,770	25,632	6,176	31,808	5.28%

Indicated ALAE Ratio	6.55%
Selected ALAE Ratio	7.00%

APPENDIX 1.4

Certified Attendant Care or Homecare Expense

Certified Attendant Care Benefit

Loss Cost (including ALAE; excluding ULAE, Health Levy and CAT)

Model 1

Injury Type	(1) Estimated 2018 # Claimants	(2) Average Duration (Months)	(3) Average Monthly Amount	(4) Undisc. Total Dollars	(5) Discounted 1.0% Total Dollars	(6) 2018 Earned Vehicle	(7) Undisc. Total Loss Cost	(8) Disc. Total Loss Cost
Type 1								
Type 2S	723	8.2	1,000	5,902,000	5,877,278	2,746,098	2.15	2.14
Type 2L	494	28.8	1,000	14,205,000	13,991,417	2,746,098	5.17	5.10
Type 3	19	76.7	4,078	5,945,000	5,773,741	2,746,098	2.16	2.10
Total	1,236			26,052,000	25,642,435	2,746,098	9.49	9.34

(9) Data Adjustment Load	1.000		
(10) Winter Tire Savings Factor	0.975		
(11) ALAE Load	1.070	Loaded Loss Cost	10.39
(12) Uncertainty Load	1.050	Loaded Disc. Loss Cost	10.23

Note:

(1) Not applicable to Injury Type 1. Injury type distribution is based on Disability Income claims distribution.
(2) Based on cash flow
(3) = (4) / [(1) x (2)]
(4) Based on cash flow
(5) Based on cash flow
(6) AY 2018 Accident Benefits earned vehicles from GISA report .
(7) = (4) / (6)
(8) = (5) / (6)
(9) Not Applicable
(10) Judgmentally selected
(11) Based on three-year weighted average of GISA Accident Benefit data
(12) Judgmentally selected

Description of Benefit

Type	Medical Indicated	Disability & Medicall Indicated	ADJ. Medical	ADJ. Disability & Medicall	%	Claim Count	Monthly Benefit 1st 6 months	7-24 months	Thereafter	Aggregate Limit	
1a	9.0%	4.5%									
1b	51.9%	27.7%									
1c	13.1%	13.8%									
2Sa					20.5%	253	1,000			6,000	
2La					6.0%	74	1,000			6,000	
2Sb	17.7%	31.6%	68.3%	58.6%	38.0%	470	1,000	1,000	1,000	60,000	
2Lb	8.1%	21.6%	31.2%	40.2%	34.0%	420	1,000	1,000	1,000	60,000	(to maximum 60m)
3	0.1%	0.7%	0.5%	1.3%	1.5%	19	6,000	6,000	3,000	500,000	
Total					100.0%	1,236					

2S and L are further split into categories a and b; category a is capped at 6 months

Discount rate

1.0%

Exposure		Frequency Assumption		Expected Number of Claims
2,746,098	(2018 Earned)	0.045%	(based on Ontario Experience)	1,236

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APPENDIX 1.5

IRB for Wage Earners

Alberta
Automobile Accident Insurance Benefits
Income Replacement Benefit for Wage Earners

Loss Cost (including ALAE; excluding ULAE, Health Levy and CAT)

2018 Earned Exposure	2,746,098	
Frequency Assumption	0.109%	(based on last 9 years)
Expected Number of WB Claims	2,985	
Expected Number of Non-Earner Claims	100	
Expected Number of Earner Claims	2,885	
Selected	2,900	

Model 1

Injury Type	(1) Estimated 2018 # Claimants	(2) Average Duration	(3) Average Monthly Amount	(4) Undisc. Total Dollars	(5) Discounted 1.0% Total Dollars	(6) 2018 Earned Vehicle	(7) Undisc. Total Loss Cost	(8) Disc. Total Loss Cost
Type 1	1,338	3.1	2,190	9,206,040	9,024,460	2,746,098	3.35	3.29
Type 2S	919	8.7	1,550	12,459,904	12,350,014	2,746,098	4.54	4.50
Type 2L	622	13.4	1,528	12,714,618	12,604,127	2,746,098	4.63	4.59
Type 3	21	346.5	1,026	7,467,230	6,367,057	2,746,098	2.72	2.32
Total	2,900	9.9	1,456	41,847,792	40,345,658	2,746,098	15.24	14.69

(9) Data Adjustment Load	1.057		
(10) Balance Back Factor	1.150		
(11) ALAE Load	1.070		
(12) Winter Tire Savings Factor	0.975	Loaded Loss Cost	20.29
(13) Uncertainty Load	1.050	Loaded Disc. Loss Cost	19.56

Note:

(1) Based on the selected expected number of claims and selected injury type distribution. Please refer to page 2 for injury type distibution.
(2) See page 3.
(3) = (4) / ((1) x (2))
(4) = simulated severity x (1). Please refer to page 3 for simulated undiscounted severity.
(5) = simulated discounted severity x (1). Please refer to page 3 for simulated discounted severity.
(6) AY 2018 Accident Benefits earned vehicles from GISA report .
(7) = (4) / (6)
(8) = (5) / (6)
(9) Data is capped and excludes IBNR and large losses.
This factor is to allow the simulated results to be on the same basis as GISA AY 2016.
(10) The simulated severity was calibrated using AY 2016 as the starting point.
This factor is to allow the simulated results to be on the same basis as the current GISA model.
(11) Based on AY2016 ALAE and Losses disability data.
(12) Judgmentally selected.
(13) Judgmentally selected.

Alberta
Automobile Accident Insurance Benefits
Income Replacement Benefit for Wage Earners

Simulation Validation

Within Simulated Claims:

Average Gross Income	57,234	Average Weekly Benefit	355
Median Gross Income	55,000	% Weekly Benefit =$400	62%
% With LTD	72%	% With STD	32%

Simulated Claim Profile					
Age		% Count	Gross Income		% Count
<20		0.0%	<10000		0.0%
20	24	8.4%	10,000	19,999	13.1%
25	29	15.8%	20,000	29,999	11.3%
30	34	15.0%	30,000	39,999	11.0%
35	39	11.8%	40,000	49,999	11.0%
40	44	12.0%	50,000	59,999	9.4%
45	49	10.0%	60,000	69,999	8.2%
50	54	10.2%	70,000	79,999	7.0%
55	59	6.7%	80,000	89,999	5.6%
60	64	6.9%	90,000	99,999	5.2%
>=65		3.4%	>=100000		18.3%

Observed - Closed Claim Study					
Age		% Count	Gross Income		% Count
<20		7.4%	<10000		4.9%
20	24	14.1%	10,000	19,999	9.3%
25	29	13.4%	20,000	29,999	23.9%
30	34	9.8%	30,000	39,999	18.8%
35	39	10.1%	40,000	49,999	11.3%
40	44	11.4%	50,000	59,999	8.2%
45	49	11.2%	60,000	69,999	7.0%
50	54	9.6%	70,000	79,999	6.6%
55	59	6.9%	80,000	89,999	2.7%
60	64	3.8%	90,000	99,999	1.9%
>=65		2.2%	>=100000		5.4%

Simulated			
Model 5	Severity	Duration (Months)	Weekly Benefit
Average	9,974	6.6	355
Percentile			
10%	1,333	0.8	263
20%	1,333	0.8	278
30%	3,067	1.8	344
40%	3,498	2.8	400
50%	4,808	3.8	400
60%	8,267	5.8	400
70%	11,733	7.8	400
80%	16,933	10.8	400
90%	27,398	19.8	400
95%	36,000	24.0	400
99%	41,600	24.0	400

Observed			
AY2016	Severity	Duration (Months)	Weekly Benefit
Average	9,986	6.1	347
Percentile			
10%	669	0.5	265
20%	1,250	0.9	308
30%	2,025	1.4	342
40%	3,064	2.0	363
50%	4,229	2.8	383
60%	6,086	4.1	400
70%	10,000	6.5	400
80%	17,099	11.5	400
90%	33,789	22.1	400
95%	41,450	24.0	400
99%	41,600	24.0	400

Average by Claim Type (Simulated)				
Model 5	Severity	Duration (Months)	Weekly Benefit	% of all claims
Type 1a	3,480	2.3	355	4.5%
Type 1b	3,967	2.6	358	27.5%
Type 1c	6,698	4.4	359	14.0%
Type 2S	11,481	7.6	353	31.5%
Type 2L	17,867	11.9	350	21.7%
Type 3	36,707	24.0	353	0.8%

Average by Claim Type (Observed)				
AY2016	Severity	Duration (Months)	Weekly Benefit	% of all claims
Type 1a	2,413	1.7	334	4.6%
Type 1b	3,569	2.3	343	27.8%
Type 1c	6,442	4.2	343	13.9%
Type 2S	11,984	7.6	350	31.7%
Type 2L	17,810	11.1	357	21.4%
Type 3	36,907	22.0	378	0.7%

Alberta
Automobile Accident Insurance Benefits
Income Replacement Benefit for Wage Earners

Simulation Summary by Model

Current Model				
	Undiscounted Severity	Discounted Severity	Duration (Months)	Weekly Benefit
Average	9,974	9,903	6.6	355
Perc.				
10%	1,333	1,324	0.8	263
20%	1,333	1,324	0.8	278
30%	3,067	3,050	1.8	344
40%	3,498	3,479	2.8	400
50%	4,808	4,783	3.8	400
60%	8,267	8,224	5.8	400
70%	11,733	11,673	7.8	400
80%	16,933	16,847	10.8	400
90%	27,398	27,134	19.8	400
95%	36,000	35,644	24.0	400
99%	41,600	41,189	24.0	400

Model 1				
	Undiscounted Severity	Discounted Severity	Duration (Months)	Weekly Benefit
Average	14,430	13,912	9.9	451
Perc.				
10%	1,030	1,023	0.8	163
20%	1,950	1,937	0.8	205
30%	3,008	2,992	1.8	264
40%	3,992	3,971	2.8	297
50%	6,505	6,469	3.8	343
60%	9,021	8,973	5.8	403
70%	13,279	13,211	7.8	562
80%	20,366	20,261	10.8	730
90%	29,582	29,398	19.8	1,000
95%	41,014	40,649	28.8	1,000
99%	97,205	95,460	56.8	1,000

Average by Claim Type (Simulated)				
Model 5	Undiscounted Severity	Discounted Severity	Duration (Months)	Weekly Benefit
Type 1a	3,480	3,458	2.3	355
Type 1b	3,967	3,944	2.6	358
Type 1c	6,698	6,656	4.4	359
Type 2S	11,481	11,396	7.6	353
Type 2L	17,867	17,734	11.9	350
Type 3	36,707	36,346	24.0	353

Average by Claim Type (Simulated)				
Model 1	Undiscounted Severity	Discounted Severity	Duration (Months)	Weekly Benefit
Type 1a	4,628	4,599	2.3	481
Type 1b	5,286	5,255	2.6	496
Type 1c	8,455	8,400	4.5	483
Type 2S	13,558	13,439	8.7	436
Type 2L	20,442	20,264	13.4	398
Type 3	355,582	303,193	346.5	233

Alberta
Automobile Accident Insurance Benefits
Income Replacement Benefit for Wage Earners

Weekly Benefit Summary

Assumptions:

Only people with more than $30k employment income shall have 95% chance to have group benefit
About 73% of all claimants have LTD benefit
LTD coverage level is 66%

				Group Benefits	IRB Weekly Benefits (Current)		
Gross Income Group	Gross Income used	Gross Weekly Earnings	80% of GWE	66% of GWE	Without Group Benefit	With Group Benefit	Group Benefit + IRB
$5,000 to $9,999							
$10,000 to $14,999	$12,500	$240	$192	$159	$192		
$15,000 to $19,999	$17,500	$337	$269	$222	$269		
$20,000 to $24,999	$22,500	$433	$346	$286	$346		
$25,000 to $29,999	$27,500	$529	$423	$349	$400		
$30,000 to $34,999	$32,500	$625	$500	$413	$400	$246	$659
$35,000 to $39,999	$37,500	$721	$577	$476	$400	$263	$739
$40,000 to $44,999	$42,500	$817	$654	$539	$400	$278	$818
$45,000 to $49,999	$47,500	$913	$731	$603	$400	$291	$894
$50,000 to $59,999	$55,000	$1,058	$846	$698	$400	$308	$1,006
$60,000 to $69,999	$65,000	$1,250	$1,000	$825	$400	$400	$1,225
$70,000 to $79,999	$75,000	$1,442	$1,154	$952	$400	$400	$1,352
$80,000 to $89,999	$85,000	$1,635	$1,308	$1,079	$400	$400	$1,479
$90,000 to $99,999	$95,000	$1,827	$1,462	$1,206	$400	$400	$1,606
$100,000 and over	$100,000	$1,923	$1,538	$1,269	$400	$400	$1,669

				Group Benefits	Weekly Benefit Model 1		
Gross Income Group	Net Annual Income	Net Weekly Earnings	90% of NWE	66% of GWE after tax	Without Group Benefit	With Group Benefit	Group Benefit + IRB
$10,000 to $14,999	$11,838	$228	$205		$205		
$15,000 to $19,999	$16,020	$308	$277		$277		
$20,000 to $24,999	$19,805	$381	$343		$343		
$25,000 to $29,999	$23,303	$448	$403		$403		
$30,000 to $34,999	$26,800	$515	$464	$367	$464	$97	$464
$35,000 to $39,999	$30,299	$583	$524	$411	$524	$113	$524
$40,000 to $44,999	$33,797	$650	$585	$456	$585	$129	$585
$45,000 to $49,999	$37,295	$717	$645	$500	$645	$146	$645
$50,000 to $59,999	$42,164	$811	$730	$567	$730	$163	$730
$60,000 to $69,999	$49,023	$943	$848	$655	$848	$193	$848
$70,000 to $79,999	$55,973	$1,076	$969	$742	$969	$227	$969
$80,000 to $89,999	$62,923	$1,210	$1,089	$825	$1,000	$264	$1,089
$90,000 to $99,999	$69,873	$1,344	$1,209	$912	$1,000	$297	$1,209
$100,000 and over	$73,092	$1,406	$1,265	$956	$1,000	$309	$1,265

Alberta
Automobile Accident Insurance Benefits
Income Replacement Benefit for Wage Earners

Current Model Simulated Cashflow
Based on 10,000 claims

Period		Incremental Paid	Cumulative Paid	LDF
Waiting Period Adj		(3,344,495)		
	1	82,396,089	79,051,594	
	2	20,691,845	99,743,439	1.26175
	3	-	99,743,439	1.00000
	4	-	99,743,439	1.00000
	5	-	99,743,439	1.00000
Total after 5 year		-		
Grand Total		99,743,439		

Alberta
Automobile Accident Insurance Benefits
Income Replacement Benefit for Wage Earners

Model 1 Simulated Cashflow
Based on 10,000 claims

Period		Incremental Paid	Cumulative Paid	LDF
Waiting Period Adj		(4,954,582)		
	1	99,191,980	94,237,398	
	2	15,914,427	110,151,825	1.16888
	3	6,827,409	116,979,234	1.06198
	4	3,304,581	120,283,815	1.02825
	5	1,737,985	122,021,800	1.01445
Total after 5 year		22,280,930		
Grand Total		144,302,730		

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APPENDIX 1.6

IRB for Non-Wage Earners

Income Replacement Benefit for Non-Wage Earners

Loss Cost (including ALAE; excluding ULAE ,Health Levy and CAT)

2018 Earned Exposure	2,746,098	
Frequency Assumption	0.109%	(based on last 9 years)
Expected Number of WB Claims	2,985	
Expected Number of Non-Earner Claims (current)	100	
Expected Number of Non-Earner Claims (model 1)*	725	

Model 1

Injury Type	(1) Estimated 2018 # Claimants	(2) Average Duration	(3) Average Monthly Amount	(4) Undisc. Total Dollars	(5) Discounted 1.0% Total Dollars	(6) 2018 Earned Vehicle	(7) Undisc. Total Loss Cost	(8) Disc. Total Loss Cost
Type 1	38	7.0	433	114,833	114,159	2,746,098	0.04	0.04
Type 2S	92	10.8	867	859,733	853,635	2,746,098	0.31	0.31
Type 2L	125	9.2	1,300	1,488,500	1,479,015	2,746,098	0.54	0.54
Type 3	6	340.5	1,540	3,145,122	2,743,680	2,746,098	1.15	1.00
Total	261			5,608,189	5,190,488	2,746,098	2.04	1.89

(9) Data Adjustment Load	1.000		
(10) Winter Tire Savings Factor	0.975		
(11) ALAE Load	1.070	Loaded Loss Cost	2.24
(12) Uncertainty Load	1.050	Loaded Disc. Loss Cost	2.07

Note:

* Based on Ontario experience, the number of non-earner claims has increased under Model 1. It is before the waiting period is applied.

(1) Based on Cash flow. Number of claims in model 1 are censored due to 6 months waiting period.
(2) = (4) / ((1) x (3))
(3) From Input
(4) Based on Cash flow.
(5) Based on Cash flow.
(6) AY 2018 Accident Benefits earned vehicles from GISA report .
(7) = (4) / (6)
(8) = (5) / (6)
(9) Not Applicable
(10) Judgmentally selected
(11) Based on the three year average of GISA disability data for current model.
Based on the three year average of GISA Accident Benefit data for Model 1.
(12) Judgmentally selected

Alberta
Automobile Accident Insurance Benefits
Income Replacement Benefit for Non-Wage Earners

Description of Benefit

Current

Type	Medical Indicated	Disability & Medical Indicated	Selected %	Claim Count	Maximum Weekly Benefit	Panel Assessment	Monthly Benefit 1st 6 months	Monthly Benefit 7-24 months	Maximum Weekly Benefit Thereafter	CPP* Disability	Monthly Benefit Thereafter	Aggregate Limit	Waiting Period (weeks)
1a	9.0%	4.5%	4.5%	3	135	100%	585	0		0	0	3,510	0
1b	51.9%	27.7%	27.7%	28	135	100%	585	0		0	0	3,510	0
1c	13.1%	13.8%	13.8%	14	135	100%	585	0		0	0	3,510	0
2S	17.7%	31.6%	31.6%	32	135	100%	585	0		0	0	3,510	0
2L	8.1%	21.6%	21.6%	22	135	100%	585	0		0	0	3,510	0
3	0.1%	0.7%	0.7%	1	135	100%	585	0		0	0	3,510	0
Total			100.0%	100									

Model 1

Type	Medical Indicated	Disability & Medical Indicated	Selected %	Claim Count	Maximum Weekly Benefit	Panel Assessment	Monthly Benefit 1st 6 months	Monthly Benefit 7-24 months	Maximum Weekly Benefit Thereafter	CPP* Disability	Monthly Benefit Thereafter	Aggregate Limit	Waiting Period (weeks)
1a			4.5%	30	400	25%	433	433	0	1,010	0	41,600	26
1b			27.7%	202	400	25%	433	433	0	1,010	0	41,600	26
1c			13.8%	101	400	25%	433	433	0	1,010	0	41,600	26
2S			31.6%	229	400	50%	867	867	0	1,010	0	41,600	26
2L			21.6%	157	400	75%	1,300	1,300	0	1,010	0	41,600	26
3			0.7%	6	400	100%	1,733	1,733	585	1,010	1,525	Unlimited	26
Total			100.0%	725									

* from government of Canada website

Discount rate
1.0%

Exposure
2,746,098 (2018 Earned)

Frequency Assumption
0.109% (based on recent 9 years)

Expected Number of Weekly Benefit Claims
2,985

Selected Earners Number of Claims
2,900

Non- Earners Ratio (current model)
3.5% (based on disability data, around 87/2800)

Expected Number of Non- Earner weekly Benefit Claims (current model)
102

Non- Earners Ratio (Model 1)
25.0% (based on Ontario Exp)

Expected Number of Non- Earner Weekly Benefit Claims (Model 1)
725

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APPENDIX 1.7

Diminished Quality of Life

Loss Cost (including ALAE; excluding ULAE, Health Levy and CAT)

Assumptions (Expected Claim Count)

26,000	Medical
52.00%	% without Diminished Quality of Life benefits
48.00%	% with Diminished Quality of Life benefits
12,480	Claim Count with Diminished Quality of Life benefits

(Non-zero) Diminished Quality of Life benefits

	Count (Page 4)		Benefit (Page 5)			
Type	Number	%	Average ($)	Total ($)	CAT[1] Total ($)	CAT[1] Total (%)
Minor	10,864	87.05%	3,035	32,968,714	0	0.00%
Medium	1,135	9.09%	19,245	21,834,648	0	0.00%
Severe	482	3.86%	78,333	37,728,988	24,082,333	26.03%
Total	**12,480**	**100.00%**	**7,414**	**92,532,350**	**24,082,333**	26.03%

Total Loss Cost

Loss (Indemnity)	92,532,350	
ALAE %	7.00%	Assumption
Loss & ALAE	99,009,614	
Car Years Earned	2,746,098	2018 Earned Exposure
Winter Tire Savings Factor	0.975	
Uncertainty Load	1.050	
Undiscounted Loss Cost	**36.91**	
Duration (years)	2.00	Assumption
Discount rate	1.00%	Assumption
Discounted Loss Cost	**36.18**	

Notes:

[1] CAT = rows (12), (30), (33), (34), (37), (39), (41), (43), (45), (47) on page 5

Alberta
Automobile Accident Insurance Benefits
Diminished Quality of Life

Based on non-zero pain and suffering records only

Row	Number of Injuries	JSCP Ref.	Injury Description	Actual Data (Current Product) Count Number	%	Average	Standard Deviation	Minimum	Maximum
(1)	N/A		Unknown injuries	9	0.39%	50,711	66,615	1,400	220,000
(2)	1	a	S or S	257	11.02%	2,786	2,614	100	25,000
(3)		b	WAD I	87	3.73%	2,194	1,427	250	5,020
(4)		c	WAD II	599	25.69%	3,979	3,255	308	55,000
(5)		d	WAD III	18	0.77%	7,242	7,682	1,000	30,000
(6)		e	TMJ no damage	5	0.21%	16,136	14,639	4,339	40,000
(7)		f	TMJ with damage	2	0.09%	40,533	37,523	14,000	67,065
(8)		g	Chronic	13	0.56%	21,002	18,276	6,500	64,000
(9)		h	Impairment	1	0.04%	32,000	0	32,000	32,000
(10)		i	Concussion	2	0.09%	1,500	707	1,000	2,000
(11)		j	Bony/lacerations/burns	16	0.69%	32,564	28,122	2,500	85,000
(12)		k	CAT	1	0.04%	60,000	0	60,000	60,000
(13)		l	Psych	5	0.21%	16,167	22,425	1,000	55,834
(14)		m	Other	25	1.07%	14,965	32,456	250	130,000
(15)	2	ab	S or S & WAD I	51	2.19%	2,347	1,891	200	9,000
(16)		ac	S or S & WAD II	527	22.60%	3,579	1,850	150	27,500
(17)		aj	S or S & Bony/lacerations/burns	17	0.73%	27,952	30,181	1,500	90,000
(18)		am	S or S & Other	19	0.81%	7,053	10,516	1,000	40,000
(19)		ce	WAD II & TMJ no damage	16	0.69%	20,552	21,601	4,250	65,000
(20)		cg	WAD II & Chronic	34	1.46%	17,281	18,042	3,000	90,000
(21)		ci	WAD II & Concussion	13	0.56%	10,714	10,747	2,008	35,000
(22)		cj	WAD II & Bony/lacerations/burns	15	0.64%	25,458	30,844	2,000	100,000
(23)		cl	WAD II & Psych	16	0.69%	16,718	11,328	2,000	38,000
(24)		cm	WAD II & Other	35	1.50%	18,850	23,211	1,000	100,000
(25)		dg	WAD III & Chronic	4	0.17%	76,050	35,491	38,000	123,000
(26)		gh	Chronic & Impairment	5	0.21%	44,000	25,100	10,000	80,000
(27)		gj	Chronic & Bony/lacerations/burns	2	0.09%	68,000	45,255	36,000	100,000
(28)		gl	Chronic & Psych	4	0.17%	46,250	17,017	30,000	70,000
(29)		gm	Chronic & Other	7	0.30%	31,714	22,306	8,500	62,500
(30)		jk	Bony/lacerations/burns & CAT	1	0.04%	350,000	0	350,000	350,000
(31)		jl	Bony/lacerations/burns & Psych	2	0.09%	90,000	7,071	85,000	95,000
(32)		jm	Bony/lacerations/burns & Other	15	0.64%	48,280	49,895	2,000	175,000
(33)		kl	CAT & Psych	1	0.04%	253,136	0	253,136	253,136
(34)		km	CAT & Other	1	0.04%	150,000	0	150,000	150,000
(35)			2 Injury Types (excl. above)	65	2.79%	14,104			
(36)	3		3 Injuries - Under $150,000	271	11.62%	32,200	37,589	1,000	319,022
(37)			3 Injuries - Over $150,000						
(38)	4		4 Injuries - Under $150,000	122	5.23%	47,932	40,622	3,293	210,000
(39)			4 Injuries - Over $150,000						
(40)	5		5 Injuries - Under $150,000	36	1.54%	88,185	141,533	4,559	715,000
(41)			5 Injuries - Over $150,000						
(42)	6		6 Injuries - Under $150,000	11	0.47%	61,573	37,966	20,300	165,000
(43)			6 Injuries - Over $150,000						
(44)	7	dfhijlm	7 Injuries - Under $150,000	1	0.04%	130,000	0	130,000	130,000
(45)			7 Injuries - Over $150,000						
(46)	8	adeghilm	8 Injuries - Under $150,000	1	0.04%	99,117	0	99,117	99,117
(47)			8 Injuries - Over $150,000						
(48)			Total	**2,332**	100.00%	**14,004**	**32,340**	**100**	**715,000**

Alberta
Automobile Accident Insurance Benefits
Diminished Quality of Life

Based on non-zero pain and suffering records only

Assumed Maximum **Current** Tort Benefit 300,000

				Actual Data (Current Product)							
	Number of	JSCP		Count (Number)				Average			
Row	Injuries	Ref.	Injury Description	Minor	Medium	Severe	Total	Minor	Medium	Severe	Total
(1)	N/A		Unknown injuries	7	1	1	9	25,200	60,000	220,000	50,711
(2)	1	a	S or S	251	6	0	257	2,476	15,752	0	2,786
(3)		b	WAD I	87	0	0	87	2,194	0	0	2,194
(4)		c	WAD II	593	6	0	599	3,716	29,928	0	3,979
(5)		d	WAD III	16	2	0	18	4,710	27,500	0	7,242
(6)		e	TMJ no damage	3	2	0	5	6,893	30,000	0	16,136
(7)		f	TMJ with damage	1	1	0	2	14,000	67,065	0	40,533
(8)		g	Chronic	8	4	1	13	9,253	33,750	64,000	21,002
(9)		h	Impairment	0	1	0	1	0	32,000	0	32,000
(10)		i	Concussion	2	0	0	2	1,500	0	0	1,500
(11)		j	Bony/lacerations/burns	10	2	4	16	13,303	47,500	73,250	32,564
(12)		k	CAT	0	0	1	1	0	0	60,000	60,000
(13)		l	Psych	4	0	1	5	6,250	0	55,834	16,167
(14)		m	Other	19	4	2	25	1,665	27,500	116,251	14,965
(15)	2	ab	S or S & WAD I	51	0	0	51	2,347	0	0	2,347
(16)		ac	S or S & WAD II	525	2	0	527	3,502	23,750	0	3,579
(17)		aj	S or S & Bony/lacerations/burns	11	3	3	17	8,221	48,750	79,500	27,952
(18)		am	S or S & Other	16	3	0	19	3,034	28,488	0	7,053
(19)		ce	WAD II & TMJ no damage	11	3	2	16	7,576	40,167	62,500	20,552
(20)		cg	WAD II & Chronic	23	10	1	34	8,247	30,787	90,000	17,281
(21)		ci	WAD II & Concussion	10	3	0	13	5,683	27,487	0	10,714
(22)		cj	WAD II & Bony/lacerations/burns	11	2	2	15	10,215	39,750	95,000	25,458
(23)		cl	WAD II & Psych	9	7	0	16	8,011	27,914	0	16,718
(24)		cm	WAD II & Other	25	7	3	35	7,029	35,571	78,333	18,850
(25)		dg	WAD III & Chronic	1	2	1	4	38,000	71,600	123,000	76,050
(26)		gh	Chronic & Impairment	3	1	1	5	30,000	50,000	80,000	44,000
(27)		gj	Chronic & Bony/lacerations/burns	1	0	1	2	36,000	0	100,000	68,000
(28)		gl	Chronic & Psych	3	0	1	4	38,333	0	70,000	46,250
(29)		gm	Chronic & Other	5	0	2	7	19,400	0	62,500	31,714
(30)		jk	Bony/lacerations/burns & CAT	0	0	1	1	0	0	350,000	350,000
(31)		jl	Bony/lacerations/burns & Psych	0	1	1	2	0	85,000	95,000	90,000
(32)		jm	Bony/lacerations/burns & Other	10	2	3	15	18,920	72,500	130,000	48,280
(33)		kl	CAT & Psych	0	0	1	1	0	0	253,136	253,136
(34)		km	CAT & Other	0	0	1	1	0	0	150,000	150,000
(35)			2 Injury Types (excl. above)	38	27	0	65	6,928	24,204	0	14,104
(36)	3		3 Injuries - Under $150,000	173	65	28	266	12,413	45,694	91,561	28,877
(37)			3 Injuries - Over $150,000	0	0	5	5	0	0	208,956	208,956
(38)	4		4 Injuries - Under $150,000	76	33	7	116	24,814	64,821	105,393	41,058
(39)			4 Injuries - Over $150,000	0	0	6	6	0	0	180,833	180,833
(40)	5		5 Injuries - Under $150,000	22	7	4	33	32,587	70,036	116,250	50,672
(41)			5 Injuries - Over $150,000	0	0	3	3	0	0	500,833	500,833
(42)	6		6 Injuries - Under $150,000	5	5	0	10	37,060	65,400	0	51,230
(43)			6 Injuries - Over $150,000	0	0	1	1	0	0	165,000	165,000
(44)	7	dfhijlm	7 Injuries - Under $150,000	0	0	1	1	0	0	130,000	130,000
(45)			7 Injuries - Over $150,000	0	0	0	0	0	0	0	0
(46)	8	adeghilm	8 Injuries - Under $150,000	0	0	1	1	0	0	99,117	99,117
(47)			8 Injuries - Over $150,000	0	0	0	0	0	0	0	0
(48)			Total	2,030	212	90	2,332	5,971	43,421	125,920	14,004

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Based on non-zero pain and suffering records only

Total Count (from page 1): 12,480

				Model 1 (New Benefit)							
	Number of	JSCP		Count (%)				Count (Number)			
Row	Injuries	Ref.	Injury Description	Minor	Medium	Severe	Total	Minor	Medium	Severe	Total
(1)	N/A		Unknown injuries	0.30%	0.04%	0.04%	0.39%	37	5	5	48
(2)	1	a	S or S	10.76%	0.26%	0.00%	11.02%	1,343	32	0	1,375
(3)		b	WAD I	3.73%	0.00%	0.00%	3.73%	466	0	0	466
(4)		c	WAD II	25.43%	0.26%	0.00%	25.69%	3,174	32	0	3,206
(5)		d	WAD III	0.69%	0.09%	0.00%	0.77%	86	11	0	96
(6)		e	TMJ no damage	0.13%	0.09%	0.00%	0.21%	16	11	0	27
(7)		f	TMJ with damage	0.04%	0.04%	0.00%	0.09%	5	5	0	11
(8)		g	Chronic	0.34%	0.17%	0.04%	0.56%	43	21	5	70
(9)		h	Impairment	0.00%	0.04%	0.00%	0.04%	0	5	0	5
(10)		i	Concussion	0.09%	0.00%	0.00%	0.09%	11	0	0	11
(11)		j	Bony/lacerations/burns	0.43%	0.09%	0.17%	0.69%	54	11	21	86
(12)		k	CAT	0.00%	0.00%	0.04%	0.04%	0	0	5	5
(13)		l	Psych	0.17%	0.00%	0.04%	0.21%	21	0	5	27
(14)		m	Other	0.81%	0.17%	0.09%	1.07%	102	21	11	134
(15)	2	ab	S or S & WAD I	2.19%	0.00%	0.00%	2.19%	273	0	0	273
(16)		ac	S or S & WAD II	22.51%	0.09%	0.00%	22.60%	2,810	11	0	2,820
(17)		aj	S or S & Bony/lacerations/burns	0.47%	0.13%	0.13%	0.73%	59	16	16	91
(18)		am	S or S & Other	0.69%	0.13%	0.00%	0.81%	86	16	0	102
(19)		ce	WAD II & TMJ no damage	0.47%	0.13%	0.09%	0.69%	59	16	11	86
(20)		cg	WAD II & Chronic	0.99%	0.43%	0.04%	1.46%	123	54	5	182
(21)		ci	WAD II & Concussion	0.43%	0.13%	0.00%	0.56%	54	16	0	70
(22)		cj	WAD II & Bony/lacerations/burns	0.47%	0.09%	0.09%	0.64%	59	11	11	80
(23)		cl	WAD II & Psych	0.39%	0.30%	0.00%	0.69%	48	37	0	86
(24)		cm	WAD II & Other	1.07%	0.30%	0.13%	1.50%	134	37	16	187
(25)		dg	WAD III & Chronic	0.04%	0.09%	0.04%	0.17%	5	11	5	21
(26)		gh	Chronic & Impairment	0.13%	0.04%	0.04%	0.21%	16	5	5	27
(27)		gj	Chronic & Bony/lacerations/burns	0.04%	0.00%	0.04%	0.09%	5	0	5	11
(28)		gl	Chronic & Psych	0.13%	0.00%	0.04%	0.17%	16	0	5	21
(29)		gm	Chronic & Other	0.21%	0.00%	0.09%	0.30%	27	0	11	37
(30)		jk	Bony/lacerations/burns & CAT	0.00%	0.00%	0.04%	0.04%	0	0	5	5
(31)		jl	Bony/lacerations/burns & Psych	0.00%	0.04%	0.04%	0.09%	0	5	5	11
(32)		jm	Bony/lacerations/burns & Other	0.43%	0.09%	0.13%	0.64%	54	11	16	80
(33)		kl	CAT & Psych	0.00%	0.00%	0.04%	0.04%	0	0	5	5
(34)		km	CAT & Other	0.00%	0.00%	0.04%	0.04%	0	0	5	5
(35)			2 Injury Types (excl. above)	1.63%	1.16%	0.00%	2.79%	203	144	0	348
(36)	3		3 Injuries - Under $150,000	7.42%	2.79%	1.20%	11.41%	926	348	150	1,424
(37)			3 Injuries - Over $150,000	0.00%	0.00%	0.21%	0.21%	0	0	27	27
(38)	4		4 Injuries - Under $150,000	3.26%	1.42%	0.30%	4.97%	407	177	37	621
(39)			4 Injuries - Over $150,000	0.00%	0.00%	0.26%	0.26%	0	0	32	32
(40)	5		5 Injuries - Under $150,000	0.94%	0.30%	0.17%	1.42%	118	37	21	177
(41)			5 Injuries - Over $150,000	0.00%	0.00%	0.13%	0.13%	0	0	16	16
(42)	6		6 Injuries - Under $150,000	0.21%	0.21%	0.00%	0.43%	27	27	0	54
(43)			6 Injuries - Over $150,000	0.00%	0.00%	0.04%	0.04%	0	0	5	5
(44)	7	dfhijlm	7 Injuries - Under $150,000	0.00%	0.00%	0.04%	0.04%	0	0	5	5
(45)			7 Injuries - Over $150,000	0.00%	0.00%	0.00%	0.00%	0	0	0	0
(46)	8	adeghilm	8 Injuries - Under $150,000	0.00%	0.00%	0.04%	0.04%	0	0	5	5
(47)			8 Injuries - Over $150,000	0.00%	0.00%	0.00%	0.00%	0	0	0	0
(48)			Total	87.05%	9.09%	3.86%	100.00%	10,864	1,135	482	12,480

Alberta
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Schedule	JSCP	Data

Maximum Benefit: 300,000

Row	Number of Injuries	JSCP Ref.	Injury Description	Model 1 (New Benefit) Permanent Impairment (PI) % Minor	Medium	Severe	Benefit = PI% × Maximum Minor	Medium	Severe
(1)	N/A		Unknown injuries	0.5%	7.0%	15.0%	1,500	21,000	45,000
(2)	1	a	S or S	0.0%	0.0%	0.0%	0	0	0
(3)		b	WAD I	0.0%	0.0%	0.0%	0	0	0
(4)		c	WAD II	1.0%	5.0%	10.0%	3,000	15,000	30,000
(5)		d	WAD III	3.00%	7.00%	12.00%	9,000	21,000	36,000
(6)		e	TMJ no damage	1.0%	4.0%	10.0%	3,000	12,000	30,000
(7)		f	TMJ with damage	4.0%	10.0%	40.0%	12,000	30,000	120,000
(8)		g	Chronic	1.0%	4.0%	10.0%	3,000	12,000	30,000
(9)		h	Impairment	1.0%	4.0%	10.0%	3,000	12,000	30,000
(10)		i	Concussion	1.0%	4.0%	10.0%	3,000	12,000	30,000
(11)		j	Bony/lacerations/burns	1.0%	2.0%	5.0%	3,000	6,000	15,000
(12)		k	CAT	N/A	N/A	100.0%	0	0	300,000
(13)		l	Psych	0.0%	5.0%	10.0%	0	15,000	30,000
(14)		m	Other	1.0%	5.0%	10.0%	3,000	15,000	30,000
(15)	2	ab	S or S & WAD I	0.0%	0.0%	0.0%	0	0	0
(16)		ac	S or S & WAD II	1.0%	5.0%	10.0%	3,000	15,000	30,000
(17)		aj	S or S & Bony/lacerations/burns	1.0%	2.0%	5.0%	3,000	6,000	15,000
(18)		am	S or S & Other	1.0%	5.0%	10.0%	3,000	15,000	30,000
(19)		ce	WAD II & TMJ no damage	1.0%	4.0%	10.0%	3,000	12,000	30,000
(20)		cg	WAD II & Chronic	1.0%	4.0%	10.0%	3,000	12,000	30,000
(21)		ci	WAD II & Concussion	2.0%	9.0%	20.0%	6,000	27,000	60,000
(22)		cj	WAD II & Bony/lacerations/burns	2.0%	7.0%	15.0%	6,000	21,000	45,000
(23)		cl	WAD II & Psych	1.0%	5.0%	10.0%	3,000	15,000	30,000
(24)		cm	WAD II & Other	3.0%	7.0%	12.0%	9,000	21,000	36,000
(25)		dg	WAD III & Chronic	3.0%	7.0%	12.0%	9,000	21,000	36,000
(26)		gh	Chronic & Impairment	5.0%	9.0%	14.0%	15,000	27,000	42,000
(27)		gj	Chronic & Bony/lacerations/burns	5.0%	9.0%	14.0%	15,000	27,000	42,000
(28)		gl	Chronic & Psych	1.0%	4.0%	10.0%	3,000	12,000	30,000
(29)		gm	Chronic & Other	3.0%	6.0%	12.0%	9,000	18,000	36,000
(30)		jk	Bony/lacerations/burns & CAT	100.0%	100.0%	100.0%	300,000	300,000	300,000
(31)		jl	Bony/lacerations/burns & Psych	1.0%	7.0%	15.0%	3,000	21,000	45,000
(32)		jm	Bony/lacerations/burns & Other	2.00%	7.00%	15.00%	6,000	21,000	45,000
(33)		kl	CAT & Psych	100.0%	100.0%	100.0%	300,000	300,000	300,000
(34)		km	CAT & Other	100.0%	100.0%	100.0%	300,000	300,000	300,000
(35)			2 Injury Types (excl. above)	1.0%	5.0%	10.0%	3,000	15,000	30,000
(36)	3		3 Injuries - Under $150,000	2.0%	5.0%	10.0%	6,000	15,000	30,000
(37)			3 Injuries - Over $150,000	50.0%	50.0%	50.0%	150,000	150,000	150,000
(38)	4		4 Injuries - Under $150,000	2.0%	10.0%	15.0%	6,000	30,000	45,000
(39)			4 Injuries - Over $150,000	75.0%	75.0%	75.0%	225,000	225,000	225,000
(40)	5		5 Injuries - Under $150,000	2.0%	15.0%	20.0%	6,000	45,000	60,000
(41)			5 Injuries - Over $150,000	100.0%	100.0%	100.0%	300,000	300,000	300,000
(42)	6		6 Injuries - Under $150,000	2.0%	20.0%	25.0%	6,000	60,000	75,000
(43)			6 Injuries - Over $150,000	100.0%	100.0%	100.0%	300,000	300,000	300,000
(44)	7	dfhijlm	7 Injuries - Under $150,000	2.0%	25.0%	30.0%	6,000	75,000	90,000
(45)			7 Injuries - Over $150,000	100.0%	100.0%	100.0%	300,000	300,000	300,000
(46)	8	adeghilm	8 Injuries - Under $150,000	2.0%	30.0%	35.0%	6,000	90,000	105,000
(47)			8 Injuries - Over $150,000	100.0%	100.0%	100.0%	300,000	300,000	300,000
(48)			Total				32,968,714	21,834,648	37,728,988

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				Comparison (Current Benefit vs. New Benefit)					
	Number of	JSCP		Current Benefit (Page 2)			New Benefit (Page 4)		
Row	Injuries	Ref.	Injury Description	Minor	Medium	Severe	Minor	Medium	Severe
(1)	N/A		Unknown injuries	25,200	60,000	220,000	1,500	21,000	45,000
(2)	1	a	S or S	2,476	15,752	0	0	0	0
(3)		b	WAD I	2,194	0	0	0	0	0
(4)		c	WAD II	3,716	29,928	0	3,000	15,000	30,000
(5)		d	WAD III	4,710	27,500	0	9,000	21,000	36,000
(6)		e	TMJ no damage	6,893	30,000	0	3,000	12,000	30,000
(7)		f	TMJ with damage	14,000	67,065	0	12,000	30,000	120,000
(8)		g	Chronic	9,253	33,750	64,000	3,000	12,000	30,000
(9)		h	Impairment	0	32,000	0	3,000	12,000	30,000
(10)		i	Concussion	1,500	0	0	3,000	12,000	30,000
(11)		j	Bony/lacerations/burns	13,303	47,500	73,250	3,000	6,000	15,000
(12)		k	CAT	0	0	60,000	0	0	300,000
(13)		l	Psych	6,250	0	55,834	0	15,000	30,000
(14)		m	Other	1,665	27,500	116,251	3,000	15,000	30,000
(15)	2	ab	S or S & WAD I	2,347	0	0	0	0	0
(16)		ac	S or S & WAD II	3,502	23,750	0	3,000	15,000	30,000
(17)		aj	S or S & Bony/lacerations/burns	8,221	48,750	79,500	3,000	6,000	15,000
(18)		am	S or S & Other	3,034	28,488	0	3,000	15,000	30,000
(19)		ce	WAD II & TMJ no damage	7,576	40,167	62,500	3,000	12,000	30,000
(20)		cg	WAD II & Chronic	8,247	30,787	90,000	3,000	12,000	30,000
(21)		ci	WAD II & Concussion	5,683	27,487	0	6,000	27,000	60,000
(22)		cj	WAD II & Bony/lacerations/burns	10,215	39,750	95,000	6,000	21,000	45,000
(23)		cl	WAD II & Psych	8,011	27,914	0	3,000	15,000	30,000
(24)		cm	WAD II & Other	7,029	35,571	78,333	9,000	21,000	36,000
(25)		dg	WAD III & Chronic	38,000	71,600	123,000	9,000	21,000	36,000
(26)		gh	Chronic & Impairment	30,000	50,000	80,000	15,000	27,000	42,000
(27)		gj	Chronic & Bony/lacerations/burns	36,000	0	100,000	15,000	27,000	42,000
(28)		gl	Chronic & Psych	38,333	0	70,000	3,000	12,000	30,000
(29)		gm	Chronic & Other	19,400	0	62,500	9,000	18,000	36,000
(30)		jk	Bony/lacerations/burns & CAT	0	0	350,000	300,000	300,000	300,000
(31)		jl	Bony/lacerations/burns & Psych	0	85,000	95,000	3,000	21,000	45,000
(32)		jm	Bony/lacerations/burns & Other	18,920	72,500	130,000	6,000	21,000	45,000
(33)		kl	CAT & Psych	0	0	253,136	300,000	300,000	300,000
(34)		km	CAT & Other	0	0	150,000	300,000	300,000	300,000
(35)			2 Injury Types (excl. above)	6,928	24,204	0	3,000	15,000	30,000
(36)	3		3 Injuries - Under $150,000	12,413	45,694	91,561	6,000	15,000	30,000
(37)			3 Injuries - Over $150,000	0	0	208,956	150,000	150,000	150,000
(38)	4		4 Injuries - Under $150,000	24,814	64,821	105,393	6,000	30,000	45,000
(39)			4 Injuries - Over $150,000	0	0	180,833	225,000	225,000	225,000
(40)	5		5 Injuries - Under $150,000	32,587	70,036	116,250	6,000	45,000	60,000
(41)			5 Injuries - Over $150,000	0	0	500,833	300,000	300,000	300,000
(42)	6		6 Injuries - Under $150,000	37,060	65,400	0	6,000	60,000	75,000
(43)			6 Injuries - Over $150,000	0	0	165,000	300,000	300,000	300,000
(44)	7	dfhijlm	7 Injuries - Under $150,000	0	0	130,000	6,000	75,000	90,000
(45)			7 Injuries - Over $150,000	0	0	0	300,000	300,000	300,000
(46)	8	adeghilm	8 Injuries - Under $150,000	0	0	99,117	6,000	90,000	105,000
(47)			8 Injuries - Over $150,000	0	0	0	300,000	300,000	300,000
(48)			Total	5,971	43,421	125,920	3,035	19,245	78,333

Key Questions

JSCP Reference	Bodily Injury Closed Claim Study in Alberta
	Q14 Please describe the claimant's injuries.* Select all that apply.
S or S	☐ a. Sprain or strain
WAD I	☐ b. Whiplash Associated Disorder (WAD) I
WAD II	☐ c. WAD II
WAD III	☐ d. WAD III
TMJ no damage	☐ e. Any a. to d., plus Temporomandibular Joint (TMJ) injury with no damage to bone or teeth or displacement of articular disc
TMJ with damage	☐ f. Any a. to d., plus TMJ injury with objective damage to bone or teeth or displacement of articular disc
Chronic	☐ g. Any a. to d. with duration lasting longer than six months (i.e. a chronic injury)
Impairment	☐ h. Any a. to d. resulting in impairment of a physical or cognitive function
Concussion	☐ i. Concussion
Bony/lacerations/burns	☐ j. Bony injuries, lacerations, burns, etc.
CAT	☐ k. Catastrophic injury, e.g. paralysis or brain injury
Psych	☐ l. Psychological injury or Post-Traumatic Stress Disorder (PTSD)
Other	☐ m. Other, please specify
	Q42 2) Non-pecuniary losses
	g. pain and suffering
	h. loss of consortium
	i. Fatal Accident Act damages, if applicable*

Thresholds for Actual Data (Current Product)

Minor	(No more than $50,000) $10,000 or less pain & suffering Less than the average for the injury type
Severe	(At least $50,000) CAT injury (injury k) Greater than $95,000 More than the 1 standard deviation above the average for that injury type

APPENDIX 1.8

Housekeeping

Loss Cost (including ALAE; excluding ULAE, Health Levy and CAT)

	Model 1							
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Injury Type	Estimated 2018 # Claimants	Average Duration	Average Monthly Amount	Undisc. Total Dollars	Discounted 1.0% Total Dollars	2018 Earned Vehicle	Undisc. Total Loss Cost	Disc. Total Loss Cost
Type 1								
Type 2S	193	3.9	650	483,700	482,839	2,746,098	0.18	0.18
Type 2L	138	3.9	650	346,450	345,834	2,746,098	0.13	0.13
Type 3	19	72.9	773	1,070,350	1,029,934	2,746,098	0.39	0.38
Total	350			1,900,500	1,858,607	2,746,098	0.69	0.68

(9) Data Adjustment Load	1.000
(10) Winter Tire Savings Factor	0.975
(11) ALAE Load	1.070
(12) Uncertainty Load	1.050

Loaded Loss Cost	0.76
Loaded Disc. Loss Cost	0.74

Note:

(1) Not applicable to Injury Type 1. Based on Disability Income claims distribution.
(2) Based on Cash Flow
(3) = (4) / [(1) x (2)]
(4) Based on Cash Flow
(5) Based on Cash Flow
(6) AY 2018 Accident Benefits earned vehicles from GISA report .
(7) = (4) / (6)
(8) = (5) / (6)
(9) Not Applicable
(10) Judgmentally selected
(11) Based on three year weighted average of GISA Accident Benefit data
(12) Judgmentally selected

Alberta
Automobile Accident Insurance Benefits
Housekeeping Benefit

Description of Benefit

Model 1

Type	Disability Expected Count	AttCare Expected Count	ADJ. Medical	ADJ. Disability & Medical	%	Claim Count	Monthly Benefit 1st 6 months	Monthly Benefit 7-24 months	Monthly Benefit Thereafter	Aggregate Limit
1a										
1b										
1c										
2Sa		253		20.5%	0.0%	0				
2La		74		6.0%	0.0%	0				
2Sb	919	470	58.8%	38.0%	55.0%	193	650	650		3,000
2Lb	622	420	39.8%	34.0%	39.5%	138	650	650		3,000
3	21	19	1.3%	1.5%	5.5%	19	650	650	650	100,000
Total					100.0%	350				

2S and 2L are further split into categories a and b; category a capped at 6 months

Assume number of type 3 claims under this section is in line with number of calims in disability income and attendant care sections.

Discount rate

1.0%

Exposure		Frequency Assumption		Expected Number of Claims
2,746,098	(2018 Earned)	0.012%	(based on Ontario Experience)	343

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APPENDIX 2 – COSTING OF MODEL 2

IRB for wage earners

Alberta
Automobile Accident Insurance Benefits
Income Replacement Benefit for Wage Earners
Loss Cost (including ALAE; excluding ULAE, Health Levy and CAT)

2018 Earned Exposure	2,746,098	
Frequency Assumption	0.109%	(based on last 9 years)
Expected Number of WB Claims	2,985	
Expected Number of Non-Earner Claims	100	
Expected Number of Earner Claims	2,885	
Selected	2,900	

Model 2

Injury Type	(1) Estimated 2018 # Claimants	(2) Average Duration	(3) Average Monthly Amount	(4) Undisc. Total Dollars	(5) Discounted 1.0% Total Dollars	(6) 2018 Earned Vehicle	(7) Undisc. Total Loss Cost	(8) Disc. Total Loss Cost
Type 1	1,338	3.1	2,520	10,591,124	10,364,630	2,746,098	3.9	3.8
Type 2S	919	8.7	1,863	14,977,728	14,839,874	2,746,098	5.5	5.4
Type 2L	622	13.4	1,840	15,311,833	15,174,155	2,746,098	5.6	5.5
Type 3	21	346.5	1,319	9,592,826	8,176,033	2,746,098	3.5	3.0
Total	2,900	9.9	1,756	50,473,510	48,554,691	2,746,098	18.38	17.68

(9) Data Adjustment Load	1.057		
(10) Balance Back Factor	1.150		
(11) ALAE Load	1.070		
(12) Winter Tire Savings Factor	0.975	Loaded Loss Cost	27.97
(13) Uncertainty Load	1.200	Loaded Disc. Loss Cost	26.91

Note:

(1) Based on the selected expected number of claims and selected injury type distribution. Please refer to page 2 for injury type distibution.
(2) See page 3.
(3) = (4) / ((1) x (2))
(4) = simulated severity x (1). Please refer to page 3 for simulated undiscounted severity.
(5) = simulated discounted severity x (1). Please refer to page 3 for simulated discounted severity.
(6) AY 2018 Accident Benefits earned vehicles from GISA report .
(7) = (4) / (6)
(8) = (5) / (6)
(9) Data is capped and excludes IBNR and large losses.
This factor is to allow the simulated results to be on the same basis as GISA AY 2016.
(10) The simulated severity was calibrated using AY 2016 as the starting point.
This factor is to allow the simulated results to be on the same basis as the current GISA model.
(11) Based on AY2016 ALAE and Losses disability data.
(12) Judgmentally selected.
(13) Judgmentally selected.

Alberta
Automobile Accident Insurance Benefits
Income Replacement Benefit for Wage Earners

Simulation Validation

Within Simulated Claims:

Average Gross Income	57,234	Average Weekly Benefit	355
Median Gross Income	55,000	% Weekly Benefit =$400	62%
% With LTD	72%	% With STD	32%

Simulated Claim Profile					
Age		% Count	Gross Income		% Count
<20		0.0%	<10000		0.0%
20	24	8.4%	10,000	19,999	13.1%
25	29	15.8%	20,000	29,999	11.3%
30	34	15.0%	30,000	39,999	11.0%
35	39	11.8%	40,000	49,999	11.0%
40	44	12.0%	50,000	59,999	9.4%
45	49	10.0%	60,000	69,999	8.2%
50	54	10.2%	70,000	79,999	7.0%
55	59	6.7%	80,000	89,999	5.6%
60	64	6.9%	90,000	99,999	5.2%
>=65		3.4%	>=100000		18.3%

Observed - Closed Claim Study					
Age		% Count	Gross Income		% Count
<20		7.4%	<10000		4.9%
20	24	14.1%	10,000	19,999	9.3%
25	29	13.4%	20,000	29,999	23.9%
30	34	9.8%	30,000	39,999	18.8%
35	39	10.1%	40,000	49,999	11.3%
40	44	11.4%	50,000	59,999	8.2%
45	49	11.2%	60,000	69,999	7.0%
50	54	9.6%	70,000	79,999	6.6%
55	59	6.9%	80,000	89,999	2.7%
60	64	3.8%	90,000	99,999	1.9%
>=65		2.2%	>=100000		5.4%

Simulated			
Model 5	Severity	Duration (Months)	Weekly Benefit
Average	9,974	6.6	355
Percentile			
10%	1,333	0.8	263
20%	1,333	0.8	278
30%	3,067	1.8	344
40%	3,498	2.8	400
50%	4,808	3.8	400
60%	8,267	5.8	400
70%	11,733	7.8	400
80%	16,933	10.8	400
90%	27,398	19.8	400
95%	36,000	24.0	400
99%	41,600	24.0	400

Observed			
AY2016	Severity	Duration (Months)	Weekly Benefit
Average	9,986	6.1	347
Percentile			
10%	669	0.5	265
20%	1,250	0.9	308
30%	2,025	1.4	342
40%	3,064	2.0	363
50%	4,229	2.8	383
60%	6,086	4.1	400
70%	10,000	6.5	400
80%	17,099	11.5	400
90%	33,789	22.1	400
95%	41,450	24.0	400
99%	41,600	24.0	400

Average by Claim Type (Simulated)				
Model 5	Severity	Duration (Months)	Weekly Benefit	% of all claims
Type 1a	3,480	2.3	355	4.5%
Type 1b	3,967	2.6	358	27.5%
Type 1c	6,698	4.4	359	14.0%
Type 2S	11,481	7.6	353	31.5%
Type 2L	17,867	11.9	350	21.7%
Type 3	36,707	24.0	353	0.8%

Average by Claim Type (Observed)				
AY2016	Severity	Duration (Months)	Weekly Benefit	% of all claims
Type 1a	2,413	1.7	334	4.6%
Type 1b	3,569	2.3	343	27.8%
Type 1c	6,442	4.2	343	13.9%
Type 2S	11,984	7.6	350	31.7%
Type 2L	17,810	11.1	357	21.4%
Type 3	36,907	22.0	378	0.7%

Alberta
Automobile Accident Insurance Benefits
Income Replacement Benefit for Wage Earners

Simulation Summary by Model

Current Model				
	Undiscounted Severity	Discounted Severity	Duration (Months)	Weekly Benefit
Average	9,974	9,903	6.6	355
Perc.				
10%	1,333	1,324	0.8	263
20%	1,333	1,324	0.8	278
30%	3,067	3,050	1.8	344
40%	3,498	3,479	2.8	400
50%	4,808	4,783	3.8	400
60%	8,267	8,224	5.8	400
70%	11,733	11,673	7.8	400
80%	16,933	16,847	10.8	400
90%	27,398	27,134	19.8	400
95%	36,000	35,644	24.0	400
99%	41,600	41,189	24.0	400

Model 2				
	Undiscounted Severity	Discounted Severity	Duration (Months)	Weekly Benefit
Average	17,405	16,743	9.9	513
Perc.				
10%	1,439	1,430	0.8	228
20%	2,362	2,349	0.8	245
30%	3,333	3,311	1.8	308
40%	5,032	5,005	2.8	381
50%	7,667	7,624	3.8	448
60%	11,237	11,179	5.8	450
70%	16,313	16,230	7.8	643
80%	23,447	23,324	10.8	811
90%	34,739	34,562	19.8	1,000
95%	50,042	49,486	28.8	1,000
99%	116,421	113,567	56.8	1,000

Average by Claim Type (Simulated)				
Model 5	Undiscounted Severity	Discounted Severity	Duration (Months)	Weekly Benefit
Type 1a	3,480	3,458	2.3	355
Type 1b	3,967	3,944	2.6	358
Type 1c	6,698	6,656	4.4	359
Type 2S	11,481	11,396	7.6	353
Type 2L	17,867	17,734	11.9	350
Type 3	36,707	36,346	24.0	353

Average by Claim Type (Simulated)				
Model 2	Undiscounted Severity	Discounted Severity	Duration (Months)	Weekly Benefit
Type 1a	5,234	5,202	2.3	539
Type 1b	5,962	5,927	2.6	554
Type 1c	9,687	9,624	4.5	542
Type 2S	16,298	16,148	8.7	500
Type 2L	24,617	24,396	13.4	466
Type 3	456,801	389,335	346.5	300

Alberta
Automobile Accident Insurance Benefits
Income Replacement Benefit for Wage Earners

Weekly Benefit Summary

Assumptions:
Only people with more than $30k employment income shall have 95% chance to have group benefit
About 73% of all claimants have LTD benefit
LTD coverage level is 66%

				Group Benefits	IRB Weekly Benefits (Current)		
Gross Income Group	Gross Income used	Gross Weekly Earnings	80% of GWE	66% of GWE	Without Group Benefit	With Group Benefit	Group Benefit + IRB
$5,000 to $9,999							
$10,000 to $14,999	$12,500	$240	$192	$159	$192		
$15,000 to $19,999	$17,500	$337	$269	$222	$269		
$20,000 to $24,999	$22,500	$433	$346	$286	$346		
$25,000 to $29,999	$27,500	$529	$423	$349	$400		
$30,000 to $34,999	$32,500	$625	$500	$413	$400	$246	$659
$35,000 to $39,999	$37,500	$721	$577	$476	$400	$263	$739
$40,000 to $44,999	$42,500	$817	$654	$539	$400	$278	$818
$45,000 to $49,999	$47,500	$913	$731	$603	$400	$291	$894
$50,000 to $59,999	$55,000	$1,058	$846	$698	$400	$308	$1,006
$60,000 to $69,999	$65,000	$1,250	$1,000	$825	$400	$400	$1,225
$70,000 to $79,999	$75,000	$1,442	$1,154	$952	$400	$400	$1,352
$80,000 to $89,999	$85,000	$1,635	$1,308	$1,079	$400	$400	$1,479
$90,000 to $99,999	$95,000	$1,827	$1,462	$1,206	$400	$400	$1,606
$100,000 and over	$100,000	$1,923	$1,538	$1,269	$400	$400	$1,669

				Group Benefits	Weekly Benefit Model 2		
Gross Income Group	Net Annual Income	Net Weekly Earnings	100% of NWE	66% of GWE after tax	Without Group Benefit	With Group Benefit	Group Benefit + IRB
$10,000 to $14,999	$11,838	$228	$228		$228		
$15,000 to $19,999	$16,020	$308	$308		$308		
$20,000 to $24,999	$19,805	$381	$381		$381		
$25,000 to $29,999	$23,303	$448	$448		$448		
$30,000 to $34,999	$26,800	$515	$515	$367	$515	$149	$515
$35,000 to $39,999	$30,299	$583	$583	$411	$583	$172	$583
$40,000 to $44,999	$33,797	$650	$650	$456	$650	$194	$650
$45,000 to $49,999	$37,295	$717	$717	$500	$717	$217	$717
$50,000 to $59,999	$42,164	$811	$811	$567	$811	$244	$811
$60,000 to $69,999	$49,023	$943	$943	$655	$943	$287	$943
$70,000 to $79,999	$55,973	$1,076	$1,076	$742	$1,000	$334	$1,076
$80,000 to $89,999	$62,923	$1,210	$1,210	$825	$1,000	$385	$1,210
$90,000 to $99,999	$69,873	$1,344	$1,344	$912	$1,000	$432	$1,344
$100,000 and over	$73,092	$1,406	$1,406	$956	$1,000	$450	$1,406

Alberta
Automobile Accident Insurance Benefits
Income Replacement Benefit for Wage Earners

Current Model Simulated Cashflow
Based on 10,000 claims

Period		Incremental Paid	Cumulative Paid	LDF
Waiting Period Adj		(3,344,495)		
	1	82,396,089	79,051,594	
	2	20,691,845	99,743,439	1.26175
	3	-	99,743,439	1.00000
	4	-	99,743,439	1.00000
	5	-	99,743,439	1.00000
Total after 5 year		-		
Grand Total		99,743,439		

Alberta
Automobile Accident Insurance Benefits
Income Replacement Benefit for Wage Earners

Model 2 Simulated Cashflow

Based on 10,000 claims

Period		Incremental Paid	Cumulative Paid	LDF
Waiting Period Adj		(5,538,437)		
	1	114,428,885	108,890,448	
	2	20,875,939	129,766,387	1.19172
	3	8,918,578	138,684,965	1.06873
	4	4,306,754	142,991,719	1.03105
	5	2,274,086	145,265,805	1.01590
Total after 5 year		28,780,782		
Grand Total		174,046,587		

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APPENDIX 3 – COSTING OF MODEL 3

Model 3 Savings Exhibit

Model 3 - Tort Option
Accident Year 2018 Level

<u>Assumptions:</u>

		Savings		Coverage		Cumulative	
1	**BI Reform Measures**						
		5.98%		BI	5.98%	5.98%	94.02%
2	**Mandatory Winter Tires***						
	Accident Benefits	2.50%		AB	2.50%	2.50%	97.50%
	Bodily Injury	2.50%		BI	2.50%	8.33%	91.67%
	Property Damage	2.50%		PD	2.50%	2.50%	97.50%
	Collision	2.50%		CL	2.50%	2.50%	97.50%
	All Perils	1.67%	assuming of all perils, 2/3 is collision	AP	1.67%	1.67%	98.33%
	*Reduction in frequency of accidents						
3	**Increase use of preferred service providers for repairs**						
	% Increase	25.00%					
	DCPD ony — Discount	5.00%	**smaller than 5%**	PD	1.25%	3.72%	96.28%

Savings

	1	**2**	**3**	**Total**
AB	**0.00%**	**2.50%**	**0.00%**	**2.50%**
BI	**5.98%**	**2.50%**	**0.00%**	**8.33%**
PD	**0.00%**	**2.50%**	**1.25%**	**3.72%**
CL	**0.00%**	**2.50%**	**0.00%**	**2.50%**
AP	**0.00%**	**1.67%**	**0.00%**	**1.67%**

Assumptions:

1 Deduct no fault benefits from tort awards (fully deductible)

	Saving %		Coverage			Cumulative
Reduction in BI from Med/Rehab	1.77%	Item 1 in Page 3	BI	5.52%	5.52%	94.48%
Reduction in BI from Income Replacement Benefits	3.75%	Item 2 in Page 3				
Total Reduction in BI	5.52%					

2 Reduce pre-judgment interest (PJI) from 4% to 1% for non-pecuniary damages — Not Applicable

	Saving %		Coverage			Cumulative
Non-Pecuniary PJI as a % of BI Losses			BI	0.00%	5.52%	94.48%
% Reduction in Non-Pecuniary PJI						
Total Reduction in BI	0.00%	Item 3 in Page 3				

3 Cap contingency fee from 33% of settlement to 25% — Not Applicable

	Saving %		Coverage			Cumulative
Contingency Fee as a % of BI Losses			BI	0.00%	5.52%	94.48%
% Reduction in Contingency Fee						
Total Reduction in BI	0.00%	Item 4 in Page 3				

4 Reduction in Claims Expenses due to Item (1) & (2) & (3)

	Saving %		Coverage			Cumulative
ALAE as a % of BI Losses	8.34%		BI	0.46%	5.98%	94.02%
% Reduction in BI Reforms	5.52%					
Total Reduction in BI	0.46%	Item 5 in Page 3				

Savings

	1	2	3	4	Total
BI	**5.52%**	**0.00%**	**0.00%**	**0.46%**	**5.98%**

Model 3: Choice Model
Tort BI Savings Based on Bodily Injury Closed Claim Study Data Trended to AY 2018 (Aggregate Close Year 2010, 2012 and 2017)

0 Total BI Payment and ALAE

		In Alberta	Outside of Alberta	Total	Reference
0.1	Aggregate $ Trended to AY 2018	116,493,690	10,532,461	127,026,151	From Transactional Expense study
0.2	Medical Expense	3,170,149	236,943	3,407,093	@8.5% trend rate.
0.3	Loss of Income Wage Earner	19,370,484	0	19,370,484	
0.4	Non-pecuniary PJI	5,006,454	239,977	5,246,431	
0.5	Contingency Fee	34,104,099	3,060,071	37,164,170	
0.6	ALAE	9,648,681	939,728	10,588,408	
0.7	Disbursement	3,499,257	319,790	3,819,047	
0.8	Other	41,694,567	5,735,952	47,430,518	

1 Calculate BI Savings from Accident Benefit Medical Expense Deduction

		In Alberta	Outside of Alberta	Total	Reference
1.1	Medical as % of BI	2.72%	2.25%	2.68%	= [0.2] / [0.1]
1.2	% BI Medical Deducted	71.02%	0.00%	66.08%	* See calculation Note
1.3	Savings in BI - Medical	1.93%	0.00%	1.77%	= [1.1] x [1.2]

2 Calculate BI Savings from IRB Deduction to Loss of Income Claim (Past and Future Income) for Wage Earner ("WE")

		In Alberta	Outside of Alberta	Total	Reference
2.1	Loss of Income as % of BI (WE)	16.63%	0.00%	15.25%	= [0.3] / [0.1]
2.2	% Income Claims Deducted	24.60%	0.00%	24.60%	** See Calculation Note
2.3	Savings in BI - Loss of Income (WE)	4.09%	0.00%	3.75%	= [2.1] x [2.2]

3 Calculate BI Savings from PJI (Prejudgment Interest) Reform — **Not Applicable**

		In Alberta	Outside of Alberta	Total	Reference
3.1	PJI as % of BI				= [0.4] / [0.1]
3.2	% PJI Reduction due to Reform				No reduction
3.3	Savings in BI - PJI Reform				= [3.1] x [3.2]

4 Calculate Savings from Capping of Contingency Fee — **Not Applicable**

		In Alberta	Outside of Alberta	Total	Reference
4.1	Contingency Fee as % of BI				= [0.5] / [0.1]
4.2	% Reduction from Capping				No reduction
4.3	% Reduction from other reforms				
4.4	Savings in BI - Contingency Fee				=([0.5]-([0.1]*(1 -[3.3])-[0.6]-[0.7])*25%) / [0.1]

5 Calculate BI Savings from ALAE

		In Alberta	Outside of Alberta	Total	Reference
5.1	ALAE as % of BI	8.28%	8.92%	8.34%	= [0.6] / [0.1]
5.2	% Reduction in ALAE	6.02%	0.00%	5.52%	= 1 - (1 -[1.3]-[2.3]-[3.3]-[4.4]) * [0.1] / [0.6] * [5.1]
5.3	Savings in BI - ALAE	0.50%	0.00%	0.46%	= [5.1] x [5.2]

6 Total Savings BI Reform

		In Alberta	Outside of Alberta	Total	Reference
6.1	Total Savings in BI	6.52%	0.00%	5.98%	= [1.3] + [2.3] + [3.3] + [4.4] + [5.3]

Assumptions:

1 BI Medical/Rehab payment is deducted by AB Medical, with an aggregate cap of $500,000. Excess Medical/Rehab stays in BI.
2 BI Loss of Income payment is deducted by Income Replacement Benefit (IRB). For wage earner, benefit is calculated lesser of $400 or 80% gross income weekly, maximum 2 years; for non-wage earner, benefit is maximum $135 weekly, maximum 26 weeks. Excess Loss of Income stays in BI. There are no non-wage earners within selection criteria, assumed no savings are applicable.
3 No PJI reform.
4 No Contingency fee reduction.
5 ALAE reduction is assumed to be proportional to the reduction in loss payment from all above reforms.

* Derivation of Medical Expense Deduction

		In Alberta	Outside of Alberta	Total	
	# Claimants Selected	356	12	368	
(1)	$ Trended Loss & ALAE Sample Selected	44,800,808	4,398,345	49,199,153	
(2)	Medical Expense in BI wo Ded.	3,170,149	236,943	3,407,093	
(3)	Medical Expense Deducted by AB	2,251,526	0	2,251,526	
(4)	% Deducted	71.02%	0.00%	66.08%	= (3) / (2)

** Derivation of Income Loss Deduction

		In Alberta	Outside of Alberta	Total	
	# Claimants Selected	373	0	373	
(1)	$ Trended Loss & ALAE Sample Selected	51,023,194	0	51,023,194	
(2)	Loss of Income Adj. @2018 Lvl wo Ded.	7,820,260	0	7,820,260	
(3)	IRB @ 2018 Lvl	1,923,413	0	1,923,413	
(4)	% Deducted	24.60%	0.00%	24.60%	= (3) / (2)

APPENDIX 4 – COSTING OF MODEL 4

Model 4 Savings Exhibit

<u>Assumptions:</u>

		Savings		Coverage		Cumulative	
1	**BI Reform Measures**						
		11.05%		BI	11.05%	11.05%	88.95%
2	**Mandatory Winter Tires***	Savings					
	Accident Benefits	2.50%		AB	2.50%	2.50%	97.50%
	Bodily Injury	2.50%		BI	2.50%	13.28%	86.72%
	Property Damage	2.50%		PD	2.50%	2.50%	97.50%
	Collision	2.50%		CL	2.50%	2.50%	97.50%
	All Perils	1.67%	assuming of all perils, 2/3 is collision	AP	1.67%	1.67%	98.33%
	*Reduction in frequency of accidents						
3	**Increase use of preferred service providers for repairs**						
	% Increase	25.00%					
	DCPD ony — Discount	5.00%	**<u>smaller than 5%</u>**	PD	1.25%	3.72%	96.28%

Savings

	1	**2**	**3**	**Total**
AB	**0.00%**	**2.50%**	**0.00%**	**2.50%**
BI	**11.05%**	**2.50%**	**0.00%**	**13.28%**
PD	**0.00%**	**2.50%**	**1.25%**	**3.72%**
CL	**0.00%**	**2.50%**	**0.00%**	**2.50%**
AP	**0.00%**	**1.67%**	**0.00%**	**1.67%**

Assumptions:

		Saving %		Coverage		Cumulative	
1	**Deduct no fault benefits from tort awards (fully deductible)**		Not Applicable				
	Reduction in BI from Med/Rehab		Item 1 in Page 3	BI	0.00%	0.00%	100.00%
	Reduction in BI from Income Replacement Benefits		Item 2 in Page 3				
	Total Reduction in BI	0.00%					
2	**Reduce pre-judgment interest (PJI) from 4% to 1% for non-pecuniary damages**	Saving %		BI	2.96%	2.96%	97.04%
	Non-Pecuniary PJI as a % of BI Losses	4.13%					
	% Reduction in Non-Pecuniary PJI	71.56%					
	Total Reduction in BI	2.96%	Item 3 in Page 3				
3	**Cap contingency fee from 33% of settlement to 25%**	Saving %					
	Contingency Fee as a % of BI Losses	29.26%		BI	7.25%	10.20%	89.80%
	% Reduction in Contingency Fee	24.77%					
	Total Reduction in BI	7.25%	Item 4 in Page 3				
4	**Reduction in Claims Expenses due to Item (1) & (2) & (3)**	Saving %					
	ALAE as a % of BI Losses	8.34%		BI	0.85%	11.05%	88.95%
	% Reduction in BI Reforms	10.20%					
	Total Reduction in BI	0.85%	Item 5 in Page 3				

Savings

	1	**2**	**3**	**4**	**Total**
BI	**0.00%**	**2.96%**	**7.25%**	**0.85%**	**11.05%**

0 Total BI Payment and ALAE

		In Alberta	Outside of Alberta	Total	Reference
0.1	Aggregate $ Trended to AY 2018	116,493,690	10,532,461	127,026,151	From Transactional Expense study
0.2	Medical Expense	3,170,149	236,943	3,407,093	@8.5% trend rate.
0.3	Loss of Income Wage Earner	19,370,484	0	19,370,484	
0.4	Non-pecuniary PJI	5,006,454	239,977	5,246,431	
0.5	Contingency Fee	34,104,099	3,060,071	37,164,170	
0.6	ALAE	9,648,681	939,728	10,588,408	
0.7	Disbursement	3,499,257	319,790	3,819,047	
0.8	Other	41,694,567	5,735,952	47,430,518	
		99,590,913	24,897,728		

1 Calculate BI Savings from Accident Benefit Medical Expense Deduction **Not Applicable**

		In Alberta	Outside of Alberta	Total	Reference
1.1	Medical as % of BI				= [0.2] / [0.1]
1.2	% BI Medical Deducted				No deduction
1.3	Savings in BI - Medical				= [1.1] x [1.2]

2 Calculate BI Savings from IRB Deduction to Loss of Income Claim (Past and Future Income) for Wage Earner ("WE") **Not Applicable**

		In Alberta	Outside of Alberta	Total	Reference
2.1	Loss of Income as % of BI (WE)				= [0.3] / [0.1]
2.2	% Income Claims Deducted				No deduction
2.3	Savings in BI - Loss of Income (WE)				= [2.1] x [2.2]

3 Calculate BI Savings from PJI (Prejudgment Interest) Reform

		In Alberta	Outside of Alberta	Total	Reference
3.1	PJI as % of BI	4.30%	2.28%	4.13%	= [0.4] / [0.1]
3.2	% PJI Reduction due to Reform	75.00%	0.00%	71.56%	* See Calculation Note
3.3	Savings in BI - PJI Reform	3.22%	0.00%	2.96%	= [3.1] x [3.2]

4 Calculate Savings from Capping of Contingency Fee

		In Alberta	Outside of Alberta	Total	Reference
4.1	Contingency Fee as % of BI	29.28%	29.05%	29.26%	= [0.5] / [0.1]
4.2	% Reduction from Capping	24.24%	0.00%	22.25%	= 1 - 25%/33% in Alberta
4.3	% Reduction from other reforms	2.75%	0.00%	2.53%	reduction from PJI reform
4.4	Savings in BI - Contingency Fee	7.90%	0.00%	7.25%	=([0.5]-([0.1]*(1 -[3.3])-[0.6]-[0.7])*25%) / [0.1]

5 Calculate BI Savings from ALAE

		In Alberta	Outside of Alberta	Total	Reference
5.1	ALAE as % of BI	8.28%	8.92%	8.34%	= [0.6] / [0.1]
5.2	% Reduction in ALAE	11.13%	0.00%	10.20%	= 1 - (1 -[1.3]-[2.3]-[3.3]-[4.4]) * [0.1] / [0.6] * [5.1]
5.3	ALAE Savings	0.92%	0.00%	0.85%	= [5.1] x [5.2]

6 Total Savings BI Reform

		In Alberta	Outside of Alberta	Total	Reference
6.1	Total Savings in BI	12.05%	0.00%	11.05%	= [1.3] + [2.3] + [3.3] + [4.4] + [5.3]

Assumptions:

1 No BI Medical deduction applicable.
2 No BI Loss of Income benefit deduction applicable.

3 The non-pecuniary PJI reform assumes the interest rate reduce from 4% annually to 1%.
4 Contingency Fee assumed to be capped at 25% compare to 33%.
5 ALAE reduction is assumed to be proportional to the reduction in loss payment from all above reforms.

*	Derivation of PJI Reform Reduction	In Alberta	Outside of Alberta	Total	
	# Claimants Selected	561	7	568	
(1)	$ Trended Loss & ALAE Sample Selected	77,521,468	4,545,580	82,067,048	
(2)	Trended Non-pecuniary PJI @ 4%	4,995,975	239,977	5,235,952	
(3)	Non-pecuniary PJI Reduction @ 1%	3,746,982	0	3,746,982	
(4)	% Reduction	75.00%	0.00%	71.56%	= (3) / (2)

APPENDIX 5 – CURRENT RATE ADEQUACY

Appendix 5.1	Current Rate Adequacy
Appendix 5.2	Discounted Ultimate Loss Cost (including ULAE and Health Levy; excluding CAT Loading)
Appendix 5.3	Selected Ultimate Loss Cost (including ULAE and Health Levy; excluding CAT Loading)
Appendix 5.4	2016-2018 Ultimate Loss Cost (including ULAE, Health Levy and CAT Loading)
Appendix 5.5	Specified Peril CAT Loading
Appendix 5.6	Selected Payment Pattern
Appendix 5.7	AIRB Approved Rate Changes
Appendix 5.8	Covid-19 Factor
Appendix 5.9	March 31, 2020 Written Premium per Vehicle
Appendix 5.10	Total Canadian P&C Investment Yield

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APPENDIX 5.1

Current Rate Adequacy

From Industry Expense Report (Bulletin No: 2019-06)

	% of DWP	Distribution of Total Expenses
Commissions	12.6%	48.0%
Taxes	3.8%	14.5%
Other Acquisition Expenses	2.6%	9.8%
General Expenses	7.3%	27.7%
Total Expenses	26.2%	100.0%

Target Profit is 7%. It is based on March 27, 2020 Bulletin:01-2020 from Automobile Insurance Rate Board.

Discounted to Jul 1, 2022

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Location: Alberta

Per Vehicle

Third Party Liability	% Of Target Premium	Undiscounted	Factor	Discounted	% Of Target Premium
BI Claims[2,3]	58.6%	622.99	0.8600	535.75	50.4%
PD Claims[2]	17.2%	182.49	0.9565	174.54	16.4%
Commissions	12.6%	133.76	1.0000	133.76	12.6%
Taxes	3.8%	40.41	1.0000	40.41	3.8%
Other Acquisition Expenses	2.6%	27.33	1.0000	27.33	2.6%
General Expenses	7.3%	77.20	1.0000	77.20	7.3%
Total Claims & Expenses	102.0%	1,084.17		988.99	93.0%
Number of written vehicles[4]	2,766,202		Target Profit	74.44	7.0%
			Target Premium	1,063.43	100.0%
Approved Rate Change @ Q1 2020	1.260		March 2020 GISA Premium[1]	899.51	
			Inadequate by	(163.92)	-18.2%

[3] BI claims per vehicle (loss cost) includes ULAE and Health Levy.

Per Vehicle

Accident Benefit	% Of Target Premium	Undiscounted	Factor	Discounted	% Of Target Premium
Claims[2]	70.8%	91.42	0.9432	86.23	66.8%
Commissions	12.6%	16.24	1.0000	16.24	12.6%
Taxes	3.8%	4.91	1.0000	4.91	3.8%
Other Acquisition Expenses	2.6%	3.32	1.0000	3.32	2.6%
General Expenses	7.3%	9.37	1.0000	9.37	7.3%
Total Claims & Expenses	97.0%	125.25		120.06	93.0%
Number of written vehicles[4]	2,767,256		Target Profit	9.04	7.0%
			Target Premium	129.10	100.0%
Approved Rate Change @ Q1 2020	1.260		March 2020 GISA Premium[1]	76.90	
			Inadequate by	(52.20)	-67.9%

From Industry Expense Report (Bulletin No: 2019-06)

	% of DWP	Distribution of Total Expenses
Commissions	12.6%	48.0%
Taxes	3.8%	14.5%
Other Acquisition Expenses	2.6%	9.8%
General Expenses	7.3%	27.7%
Total Expenses	26.2%	100.0%

Target Profit is 7%. It is based on March 27, 2020 Bulletin:01-2020 from Automobile Insurance Rate Board.

Discounted to Jul 1, 2022

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Location: Alberta

Per Vehicle

Underinsured Motorists	% Of Target Premium	Undiscounted	Factor	Discounted	% Of Target Premium
Claims[2]	82.2%	5.78	0.8129	4.70	66.8%
Commissions	12.6%	0.88	1.0000	0.88	12.6%
Taxes	3.8%	0.27	1.0000	0.27	3.8%
Other Acquisition Expenses	2.6%	0.18	1.0000	0.18	2.6%
General Expenses	7.3%	0.51	1.0000	0.51	7.3%
Total Claims & Expenses	108.4%	7.62		6.54	93.0%
Number of written vehicles[4]	2,710,549		Target Profit	0.49	7.0%
			Target Premium	7.03	100.0%
Approved Rate Change @ Q1 2020	1.083		March 2020 GISA Premium[1]	32.38	
			Adequate by	25.34	78.3%

Per Vehicle

Collision	% Of Target Premium	Undiscounted	Factor	Discounted	% Of Target Premium
Claims[2]	68.8%	297.73	0.9706	288.97	66.8%
Commissions	12.6%	54.42	1.0000	54.42	12.6%
Taxes	3.8%	16.44	1.0000	16.44	3.8%
Other Acquisition Expenses	2.6%	11.12	1.0000	11.12	2.6%
General Expenses	7.3%	31.41	1.0000	31.41	7.3%
Total Claims & Expenses	95.0%	411.11		402.36	93.0%
Number of written vehicles[4]	2,041,611		Target Profit	30.28	7.0%
			Target Premium	432.64	100.0%
Approved Rate Change @ Q1 2020	1.083		March 2020 GISA Premium[1]	425.86	
			Inadequate by	(6.78)	-1.6%

From Industry Expense Report (Bulletin No: 2019-06)

	% of DWP	Distribution of Total Expenses
Commissions	12.6%	48.0%
Taxes	3.8%	14.5%
Other Acquisition Expenses	2.6%	9.8%
General Expenses	7.3%	27.7%
Total Expenses	26.2%	100.0%

Target Profit is 7%. It is based on March 27, 2020 Bulletin:01-2020 from Automobile Insurance Rate Board.

Discounted to Jul 1, 2022

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Location: Alberta

Per Vehicle

Comprehensive	% Of Target Premium	Undiscounted	Factor	Discounted	% Of Target Premium
Claims excluding CAT[2]	44.1%	185.43	0.9650	178.95	42.5%
CAT Provision[5]	25.1%	105.70	0.9650	102.00	24.2%
Commissions	12.6%	52.91	1.0000	52.91	12.6%
Taxes	3.8%	15.98	1.0000	15.98	3.8%
Other Acquisition Expenses	2.6%	10.81	1.0000	10.81	2.6%
General Expenses	7.3%	30.53	1.0000	30.53	7.3%
Total Claims & Expenses	95.4%	401.36		391.18	93.0%
Number of written vehicles[4]	2,406,942		Target Profit	29.44	7.0%
			Target Premium	420.62	100.0%
Approved Rate Change @ Q1 2020	1.083		March 2020 GISA Premium[1]	268.07	
			Inadequate by	(152.56)	-56.9%

Per Vehicle

Specified Perils	% Of Target Premium	Undiscounted	Factor	Discounted	% Of Target Premium
Claims excluding CAT[2]	45.3%	69.05	0.9662	66.72	43.8%
CAT Provision[6]	23.8%	36.25	0.9662	35.03	23.0%
Commissions	12.6%	19.16	1.0000	19.16	12.6%
Taxes	3.8%	5.79	1.0000	5.79	3.8%
Other Acquisition Expenses	2.6%	3.91	1.0000	3.91	2.6%
General Expenses	7.3%	11.06	1.0000	11.06	7.3%
Total Claims & Expenses	95.3%	145.22		141.67	93.0%
Number of written vehicles[4]	21,786		Target Profit	10.66	7.0%
			Target Premium	152.33	100.0%
Approved Rate Change @ Q1 2020	1.083		March 2020 GISA Premium[1]	106.72	
			Inadequate by	(45.61)	-42.7%

[6] See Appendix 5.5. The CAT loading is 52.5% of normal claims.

From Industry Expense Report (Bulletin No: 2019-06)

	% of DWP	Distribution of Total Expenses
Commissions	12.6%	48.0%
Taxes	3.8%	14.5%
Other Acquisition Expenses	2.6%	9.8%
General Expenses	7.3%	27.7%
Total Expenses	26.2%	100.0%

Target Profit is 7%. It is based on March 27, 2020 Bulletin:01-2020 from Automobile Insurance Rate Board.

Discounted to Jul 1, 2022

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Location: Alberta

Per Vehicle

All Perils	% Of Target Premium	Undiscounted	Factor	Discounted	% Of Target Premium
Claims excluding CAT[2]	57.5%	522.74	0.9663	505.14	55.6%
CAT Provision[7]	11.6%	105.55	0.9663	102.00	11.2%
Commissions	12.6%	114.34	1.0000	114.34	12.6%
Taxes	3.8%	34.54	1.0000	34.54	3.8%
Other Acquisition Expenses	2.6%	23.36	1.0000	23.36	2.6%
General Expenses	7.3%	65.99	1.0000	65.99	7.3%
Total Claims & Expenses	95.3%	866.51		845.36	93.0%
Number of written vehicles[4]	20,919		Target Profit	63.63	7.0%
			Target Premium	908.99	100.0%
Approved Rate Change @ Q1 2020	1.083		March 2020 GISA Premium[1]	806.54	
			Inadequate by	(102.45)	-12.7%

[7] All Perils CAT = Comprehensive CAT

Per Vehicle

Grand Total [8]	% Of Target Premium	Undiscounted	Factor	Discounted	% Of Target Premium
Claims excluding CAT[2]	68.3%	1,289.78	0.9118	1,176.03	62.3%
CAT Provision	4.9%	93.05	0.9118	84.84	4.5%
Commissions	12.6%	237.45	1.0000	237.45	12.6%
Taxes	3.8%	71.73	1.0000	71.73	3.8%
Other Acquisition Expenses	2.6%	48.51	1.0000	48.51	2.6%
General Expenses	7.3%	137.03	1.0000	137.03	7.3%
Total Claims & Expenses	99.5%	1,877.56		1,755.59	93.0%
Number of written vehicles[4]	2,766,202		Target Profit	132.14	7.0%
			Target Premium	1,887.73	100.0%
			March 2020 GISA Premium[1]	1,562.66	
			Inadequate by	(325.07)	-20.8%

[8] TPL + AB + Underinsured Motorists
+ Collision + Comprehensive + Specified Perils + All Perils
with BI earned vehicles as the base

From Industry Expense Report (Bulletin No: 2019-06)

	% of DWP	Distribution of Total Expenses
Commissions	12.6%	48.0%
Taxes	3.8%	14.5%
Other Acquisition Expenses	2.6%	9.8%
General Expenses	7.3%	27.7%
Total Expenses	26.2%	100.0%

Target Profit is 7%. It is based on March 27, 2020 Bulletin:01-2020 from Automobile Insurance Rate Board.

Discounted to Jul 1, 2022

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Location: Alberta

Per Vehicle

Full Package [9]	% Of Target Premium	Undiscounted	Factor	Discounted	% Of Target Premium
Claims excluding CAT[2]	67.5%	1,385.84	0.9158	1,269.14	61.8%
CAT Provision	5.1%	105.70	0.9650	102.00	5.0%
Commissions	12.6%	258.22	1.0000	258.22	12.6%
Taxes	3.8%	78.00	1.0000	78.00	3.8%
Other Acquisition Expenses	2.6%	52.75	1.0000	52.75	2.6%
General Expenses	7.3%	149.02	1.0000	149.02	7.3%
Total Claims & Expenses	98.9%	2,029.52		1,909.12	93.0%
			Target Profit	143.70	7.0%
			Target Premium	2,052.82	100.0%
			March 2020 GISA Premium[1]	1,702.71	
			Inadequate by	(350.11)	-20.6%

[9] TPL + AB + Underinsured Motorists + Collision + Comprehensive

[1] [2018 GWP from 2018 Actual Loss Ratio Exhibit (Bulletin No: 2019-16)] x [1 + (Approved Rate Change)]. See Appendix 5.7 for Approve Rate Change

[2] Refer to Appendix 5.2; includes ULAE and Health Levy; excludes CAT

[4] From 2018 Actual Loss Ratio Exhibit (Bulletin No: 2019-16)

[5] Benchmark catastrophe provision of 57% is from the Semi-annual Review of Industry Experience - Final Report as of June 30, 2019, Private Passenger Vehicles, Alberta Automobile Insurance Rate Board March 27, 2020.

APPENDIX 5.2

Discounted Ultimate Loss Cost (including ULAE and Health Levy; excluding CAT Loading)

Undiscounted and Discounted Loss Cost Location: Alberta

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023
Discounted to Jul 1, 2022
Includes ULAE and Health Levy; excludes CAT

Undiscounted	BI	PD	AB	UM	CL	CM	SP	AP	Grand Total
Selected Ult Loss Cost	622.99	182.49	91.42	5.78	297.73	185.43	69.05	522.74	1,289.78

Payment Pattern for Accident Year using as of December 31, 2018 data

CY	BI	PD	AB	UM	CL	CM	SP	AP
2022	3.75%	55.15%	43.90%	0.30%	98.62%	79.55%	84.06%	86.02%
2023	10.40%	39.92%	38.87%	1.84%	1.38%	19.90%	15.21%	12.98%
2024	14.53%	4.05%	9.89%	5.06%	0.00%	0.52%	0.61%	0.25%
2025	15.59%	0.38%	1.84%	10.70%	0.00%	0.02%	0.12%	0.25%
2026	15.46%	0.19%	1.26%	13.71%	0.00%	0.01%	0.00%	0.25%
2027	13.09%	0.17%	1.25%	14.03%	0.00%	0.00%	0.00%	0.13%
2028	9.84%	0.11%	0.62%	14.03%	0.00%	0.00%	0.00%	0.12%
2029	6.57%	0.01%	0.46%	11.66%	0.00%	0.00%	0.00%	0.00%
2030	4.08%	0.01%	0.46%	11.66%	0.00%	0.00%	0.00%	0.00%
2031	2.76%	0.01%	0.46%	5.71%	0.00%	0.00%	0.00%	0.00%
2032	1.43%	0.00%	0.20%	2.57%	0.00%	0.00%	0.00%	0.00%
2033	0.95%	0.00%	0.20%	2.19%	0.00%	0.00%	0.00%	0.00%
2034	0.99%	0.00%	0.20%	2.18%	0.00%	0.00%	0.00%	0.00%
2035	0.14%	0.00%	0.19%	2.18%	0.00%	0.00%	0.00%	0.00%
2036	0.14%	0.00%	0.05%	2.18%	0.00%	0.00%	0.00%	0.00%
2037	0.14%	0.00%	0.05%	0.00%	0.00%	0.00%	0.00%	0.00%
2038	0.14%	0.00%	0.05%	0.00%	0.00%	0.00%	0.00%	0.00%
2039	0.00%	0.00%	0.05%	0.00%	0.00%	0.00%	0.00%	0.00%
	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

Payment Pattern for Policy Year

CY	BI	PD	AB	UM	CL	CM	SP	AP
2022	1.88%	27.58%	21.95%	0.15%	49.31%	39.78%	42.03%	43.01%
2023	7.08%	47.54%	41.39%	1.07%	50.00%	49.73%	49.64%	49.50%
2024	12.47%	21.99%	24.38%	3.45%	0.69%	10.21%	7.91%	6.62%
2025	15.06%	2.22%	5.87%	7.88%	0.00%	0.27%	0.37%	0.25%
2026	15.53%	0.29%	1.55%	12.21%	0.00%	0.02%	0.06%	0.25%
2027	14.28%	0.18%	1.26%	13.87%	0.00%	0.01%	0.00%	0.19%
2028	11.47%	0.14%	0.94%	14.03%	0.00%	0.00%	0.00%	0.13%
2029	8.21%	0.06%	0.54%	12.85%	0.00%	0.00%	0.00%	0.06%
2030	5.33%	0.01%	0.46%	11.66%	0.00%	0.00%	0.00%	0.00%
2031	3.42%	0.01%	0.46%	8.69%	0.00%	0.00%	0.00%	0.00%
2032	2.10%	0.01%	0.33%	4.14%	0.00%	0.00%	0.00%	0.00%
2033	1.19%	0.00%	0.20%	2.38%	0.00%	0.00%	0.00%	0.00%
2034	0.97%	0.00%	0.20%	2.19%	0.00%	0.00%	0.00%	0.00%
2035	0.57%	0.00%	0.20%	2.18%	0.00%	0.00%	0.00%	0.00%
2036	0.14%	0.00%	0.12%	2.18%	0.00%	0.00%	0.00%	0.00%
2037	0.14%	0.00%	0.05%	1.09%	0.00%	0.00%	0.00%	0.00%
2038	0.14%	0.00%	0.05%	0.00%	0.00%	0.00%	0.00%	0.00%
2039	0.07%	0.00%	0.05%	0.00%	0.00%	0.00%	0.00%	0.00%
2040	0.00%	0.00%	0.03%	0.00%	0.00%	0.00%	0.00%	0.00%
	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

Undiscounted and Discounted Loss Cost   Location: Alberta
Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023
Discounted to Jul 1, 2022
Includes ULAE and Health Levy; excludes CAT

Undiscounted	BI	PD	AB	UM	CL	CM	SP	AP	Grand Total
Selected Ult Loss Cost	622.99	182.49	91.42	5.78	297.73	185.43	69.05	522.74	1,289.78

Undiscounted

Year ending Jul 1, 2022	**BI**	**PD**	**AB**	**UM**	**CL**	**CM**	**SP**	**AP**	**Grand Total**	**Full Package** [1]
1	11.68	50.32	20.07	0.01	146.81	73.75	29.02	224.83		
2	44.08	86.75	37.83	0.06	148.87	92.21	34.27	258.76		
3	77.66	40.12	22.29	0.20	2.05	18.93	5.46	34.58		
4	93.82	4.04	5.36	0.46	0.00	0.50	0.25	1.31		
5	96.72	0.52	1.42	0.71	0.00	0.03	0.05	1.31		
6	88.93	0.33	1.15	0.80	0.00	0.01	0.00	0.99		
7	71.43	0.26	0.85	0.81	0.00	0.00	0.00	0.65		
8	51.12	0.11	0.49	0.74	0.00	0.00	0.00	0.31		
9	33.17	0.02	0.42	0.67	0.00	0.00	0.00	0.00		
10	21.31	0.02	0.42	0.50	0.00	0.00	0.00	0.00		
11	13.05	0.00	0.30	0.24	0.00	0.00	0.00	0.00		
12	7.41	0.00	0.18	0.14	0.00	0.00	0.00	0.00		
13	6.04	0.00	0.18	0.13	0.00	0.00	0.00	0.00		
14	3.52	0.00	0.18	0.13	0.00	0.00	0.00	0.00		
15	0.87	0.00	0.11	0.13	0.00	0.00	0.00	0.00		
16	0.87	0.00	0.05	0.05	0.00	0.00	0.00	0.00		
17	0.87	0.00	0.05	0.00	0.00	0.00	0.00	0.00		
18	0.44	0.00	0.05	0.00	0.00	0.00	0.00	0.00		
19	0.00	0.00	0.02	0.00	0.00	0.00	0.00	0.00		
Unpaid	611.31	132.17	71.35	5.77	150.92	111.68	40.03	297.91		
Ultimate Loss Cost[2]	**622.99**	**182.49**	**91.42**	**5.78**	**297.73**	**185.43**	**69.05**	**522.74**	**1,289.78**	**1,385.84**

Discounted

Discount Rate	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%		
Year ending Jul 1, 2022	**BI**	**PD**	**AB**	**UM**	**CL**	**CM**	**SP**	**AP**	**Grand Total**	**Full Package** [1]
1	11.51	49.58	19.78	0.01	144.66	72.67	28.59	221.53		
2	42.17	82.99	36.19	0.06	142.41	88.21	32.78	247.54		
3	72.13	37.26	20.70	0.19	1.90	17.58	5.07	32.12		
4	84.60	3.64	4.83	0.41	0.00	0.45	0.23	1.18		
5	84.67	0.46	1.24	0.62	0.00	0.03	0.04	1.15		
6	75.59	0.28	0.98	0.68	0.00	0.01	0.00	0.84		
7	58.94	0.21	0.70	0.67	0.00	0.00	0.00	0.54		
8	40.96	0.09	0.39	0.59	0.00	0.00	0.00	0.25		
9	25.80	0.02	0.33	0.52	0.00	0.00	0.00	0.00		
10	16.09	0.02	0.32	0.38	0.00	0.00	0.00	0.00		
11	9.57	0.00	0.22	0.18	0.00	0.00	0.00	0.00		
12	5.27	0.00	0.13	0.10	0.00	0.00	0.00	0.00		
13	4.17	0.00	0.12	0.09	0.00	0.00	0.00	0.00		
14	2.36	0.00	0.12	0.09	0.00	0.00	0.00	0.00		
15	0.57	0.00	0.07	0.08	0.00	0.00	0.00	0.00		
16	0.55	0.00	0.03	0.03	0.00	0.00	0.00	0.00		
17	0.53	0.00	0.03	0.00	0.00	0.00	0.00	0.00		
18	0.26	0.00	0.03	0.00	0.00	0.00	0.00	0.00		
19	0.00	0.00	0.01	0.00	0.00	0.00	0.00	0.00		
Ultimate Loss Cost	**535.75**	**174.54**	**86.23**	**4.70**	**288.97**	**178.95**	**66.72**	**505.14**	**1,176.03**	**1,269.14**

[1] TPL + AB + Underinsured Motorists + Collision + Comprehensive

[2] Appendix 5.3

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APPENDIX 5.3

Selected Ultimate Loss Cost (including ULAE and Health Levy; excluding CAT Loading)

Alberta Automobile Insurance
Undiscounted Loss Cost

	Weights	
0%	40%	60%

Ultimate Loss Cost **excluding** ULAE & Health Levy and **excluding** CAT

Coverage	GISA 2016	GISA 2017	GISA 2018	Trended to January 1, 2023 2016	Trended to January 1, 2023 2017	Trended to January 1, 2023 2018	Weighted Average	Covid-19 Factor	**Current Model**	Source
BI	375.24	380.78	374.91	597.60	561.50	511.90	531.74	2.50%	**518.45**	Page 2
PD	145.81	158.38	159.86	160.62	171.90	170.93	171.32	2.50%	**167.04**	Page 3
AB	47.74	55.06	59.26	81.13	86.24	85.54	85.82	2.50%	**83.68**	Page 4
UM	6.03	5.03	4.09	7.79	6.24	4.88	5.43	2.50%	**5.29**	Page 5
Col.	228.74	249.56	246.32	268.56	285.86	275.27	279.51	2.50%	**272.53**	Page 6
Comp.	102.22	31.66	37.23	200.10	180.70	162.41	169.73	0.00%	**169.73**	Page 7
SP	45.77	44.67	45.82	71.06	64.81	62.13	63.20	0.00%	**63.20**	Page 8
AP	382.58	388.26	410.58	493.68	481.73	489.83	486.59	1.67%	**478.48**	Page 9
Grand Total[1]	864.68	899.44	890.59	1,226.84	1,200.32	1,122.92	1,153.86	2.19%	**1,128.62**	Page 10
Full package[2]	905.78	880.48	881.66	1,315.80	1,292.45	1,210.94	1,243.55	2.16%	**1,216.72**	Page 11

Ultimate Loss Cost **including** ULAE & Health Levy and **excluding** CAT

Coverage	GISA 2016	GISA 2017	GISA 2018	Trended to January 1, 2023 2016	Trended to January 1, 2023 2017	Trended to January 1, 2023 2018	Weighted Average	Covid-19 Factor	**Current Model**	Source
BI	444.35	453.12	456.64	712.47	668.62	619.19	638.96	2.50%	**622.99**	Page 2
PD	158.19	172.88	175.95	175.48	187.80	186.74	187.17	2.50%	**182.49**	Page 3
AB	51.78	60.10	65.21	88.63	94.22	93.45	93.76	2.50%	**91.42**	Page 4
UM	6.55	5.49	4.51	8.51	6.82	5.33	5.93	2.50%	**5.78**	Page 5
Col.	248.14	272.40	271.12	293.40	312.31	300.73	305.36	2.50%	**297.73**	Page 6
Comp.	255.06	174.06	175.63	218.61	197.42	177.43	185.43	0.00%	**185.43**	Page 7
SP	64.83	59.97	57.89	77.63	70.80	67.88	69.05	0.00%	**69.05**	Page 8
AP	499.89	456.51	503.27	539.34	526.29	535.14	531.60	1.67%	**522.74**	Page 9
Grand Total[1]	1,074.02	1,049.98	1,060.54	1,399.92	1,366.53	1,286.74	1,318.63	2.19%	**1,289.78**	Page 10
Full package[2]	1,164.05	1,138.04	1,149.06	1,497.10	1,467.19	1,382.89	1,416.61	2.17%	**1,385.84**	Page 11

Notes:

[1] BI + PD + AB + UM + Col. + Comp. + SP + AP with BI earned vehicles as the base

[2] BI + PD + AB + UM + Col. + Comp.

Selected Ultimate Loss Cost: Alberta
Using Data as of December 31, 2018
Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

1 Bodily Injury (per earned vehicles)

Accident Year	**2016**	**2017**	**2018**
Trend Factor	1.5926	1.4746	1.3654
ULAE Factor	0.0925	0.0925	0.0925

Accident Year	**2016**	**2017**	**2018**	**Total**
GISA Number of Earned Vehicles	2,678,904	2,690,011	2,743,660	8,112,575
GISA Ultimate Loss Cost (excld. ULAE)	375.24	380.78	374.91	376.96
GISA ULAE per Earned Vehicles	31.69	34.92	37.83	34.84
GISA Health Levy per Earned Vehicles	37.42	37.42	43.90	39.61
GISA Ultimate Loss Cost (incld. ULAE & Health Levy)	444.35	453.12	456.64	451.41
GISA Average Earned Premium	606.35	647.10	689.44	647.96
GISA Ultimate Loss Ratio	73%	70%	66%	70%

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Using Accident Year 20xx Data	**2016**	**2017**	**2018**	**Weighted Average**
Ultimate Loss Cost (excld. ULAE & Health Levy)	597.60	561.50	511.90	531.74
ULAE per Earned Vehicle	55.28	51.94	47.35	49.19
Health Levy per Earned Vehicle	59.59	55.18	59.94	58.04
Ultimate Loss Cost (incld. ULAE & Health Levy)	712.47	668.62	619.19	**638.96**

Selected Ultimate Loss Cost	**638.96**	(Incld. ULAE & Health Levy)
COVID-19 adjustment	2.50%	
Adjusted Selected Ultimate Loss Cost	**622.99**	(Incld. ULAE & Health Levy)

Note:
Weighted average: 0% x 2016 + 40% x 2017 + 60% x 2018

Selected Ultimate Loss Cost: Alberta
Using Data as of December 31, 2018
Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

2 Property Damage (per earned vehicles)

Accident Year	**2016**	**2017**	**2018**
Trend Factor	1.1016	1.0853	1.0693
ULAE Factor	0.0925	0.0925	0.0925

Accident Year	**2016**	**2017**	**2018**	**Total**
GISA Number of Earned Vehicles	2,678,904	2,690,011	2,743,660	8,112,575
GISA Ultimate Loss Cost (excld. ULAE)	145.81	158.38	159.86	154.73
GISA ULAE per Earned Vehicles	12.38	14.49	16.10	14.34
GISA Ultimate Loss Cost (incld. ULAE)	158.19	172.88	175.95	169.07
GISA Average Earned Premium	606.35	647.10	689.44	647.96
GISA Ultimate Loss Ratio	26%	27%	26%	26%

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Using Accident Year 20xx Data	**2016**	**2017**	**2018**	**Weighted Average**
Ultimate Loss Cost (excld. ULAE)	160.62	171.90	170.93	171.32
ULAE per Earned Vehicle	14.86	15.90	15.81	15.85
Ultimate Loss Cost (incld. ULAE)	175.48	187.80	186.74	**187.17**

Selected Ultimate Loss Cost	**187.17**	(Incld. ULAE)
COVID-19 adjustment	2.50%	
Adjusted Selected Ultimate Loss Cost	**182.49**	(Incld. ULAE)

Note:
Weighted average: 0% x 2016 + 40% x 2017 + 60% x 2018

3 Accident Benefit (per earned vehicles)

Accident Year	**2016**	**2017**	**2018**
Trend Factor	1.6994	1.5663	1.4436
ULAE Factor	0.0925	0.0925	0.0925

Accident Year	**2016**	**2017**	**2018**	**Total**
GISA Number of Earned Vehicles	2,677,526	2,692,207	2,746,098	8,115,831
GISA Ultimate Loss Cost (excld. ULAE)	47.74	55.06	59.26	54.07
GISA ULAE per Earned Vehicles	4.04	5.03	5.95	5.02
GISA Ultimate Loss Cost (incld. ULAE)	51.78	60.10	65.21	59.08
GISA Average Earned Premium	56.99	57.50	59.64	58.06
GISA Ultimate Loss Ratio	91%	105%	109%	102%

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Using Accident Year 20xx Data	**2016**	**2017**	**2018**	**Weighted Average**
Ultimate Loss Cost (excld. ULAE)	81.13	86.24	85.54	85.82
ULAE per Earned Vehicle	7.50	7.98	7.91	7.94
Ultimate Loss Cost (incld. ULAE)	88.63	94.22	93.45	**93.76**

Selected Ultimate Loss Cost	**93.76**	(Incld. ULAE)
COVID-19 adjustment	2.50%	
Adjusted Selected Ultimate Loss Cost	**91.42**	(Incld. ULAE)

Note:
Weighted average: 0% x 2016 + 40% x 2017 + 60% x 2018

4 Underinsured Motorists (per earned vehicles)

Accident Year	**2016**	**2017**	**2018**
Trend Factor	1.2904	1.2407	1.1930
ULAE Factor	0.0925	0.0925	0.0925

Accident Year	**2016**	**2017**	**2018**	**Total**
GISA Number of Earned Vehicles	2,638,363	2,647,884	2,694,762	7,981,009
GISA Ultimate Loss Cost (excld. ULAE)	6.03	5.03	4.09	5.05
GISA ULAE per Earned Vehicles	0.51	0.46	0.41	0.46
GISA Ultimate Loss Cost (incld. ULAE)	6.55	5.49	4.51	5.51
GISA Average Earned Premium	28.51	29.23	29.71	29.16
GISA Ultimate Loss Ratio	23%	19%	15%	19%

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Using Accident Year 20xx Data	**2016**	**2017**	**2018**	**Weighted Average**
Ultimate Loss Cost (excld. ULAE)	7.79	6.24	4.88	5.43
ULAE per Earned Vehicle	0.72	0.58	0.45	0.50
Ultimate Loss Cost (incld. ULAE)	8.51	6.82	5.33	**5.93**

Selected Ultimate Loss Cost	**5.93**	(Incld. ULAE)
COVID-19 adjustment	2.50%	
Adjusted Selected Ultimate Loss Cost	**5.78**	(Incld. ULAE)

Note:
Weighted average: 0% x 2016 + 40% x 2017 + 60% x 2018

Selected Ultimate Loss Cost: Alberta
Using Data as of December 31, 2018
Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

5 Collision (per earned vehicles)

Accident Year	**2016**	**2017**	**2018**
Trend Factor	1.1741	1.1455	1.1175
ULAE Factor	0.0925	0.0925	0.0925

Accident Year	**2016**	**2017**	**2018**	**Total**
GISA Number of Earned Vehicles	1,980,822	1,987,893	2,026,609	5,995,324
GISA Ultimate Loss Cost (excld. ULAE)	228.74	249.56	246.32	241.59
GISA ULAE per Earned Vehicles	19.40	22.84	24.80	22.37
GISA Ultimate Loss Cost (incld. ULAE)	248.14	272.40	271.12	263.95
GISA Average Earned Premium	401.72	392.61	391.95	395.40
GISA Ultimate Loss Ratio	62%	69%	69%	67%

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Using Accident Year 20xx Data	**2016**	**2017**	**2018**	**Weighted Average**
Ultimate Loss Cost (excld. ULAE)	268.56	285.86	275.27	279.51
ULAE per Earned Vehicle	24.84	26.44	25.46	25.85
Ultimate Loss Cost (incld. ULAE)	293.40	312.31	300.73	**305.36**

Selected Ultimate Loss Cost	**305.36**	(Incld. ULAE)
COVID-19 adjustment	2.50%	
Adjusted Selected Ultimate Loss Cost	**297.73**	(Incld. ULAE)

Note:
Weighted average: 0% x 2016 + 40% x 2017 + 60% x 2018

6 Comprehensive (per earned vehicles)

Accident Year	**2016**	**2017**	**2018**
Trend Factor	1.5058	1.4139	1.3276
ULAE Factor	0.0925	0.0925	0.0925

Accident Year	**2016**	**2017**	**2018**	**Total**
GISA Number of Earned Vehicles	2,364,734	2,365,937	2,400,763	7,131,434
GISA Ultimate Loss Cost (excld. ULAE & CAT)	132.89	127.80	122.33	127.65
GISA Catastrophic Losses per Earned Vehicles	102.22	31.66	37.23	56.93
GISA ULAE per Earned Vehicles	19.95	14.59	16.07	16.86
GISA Ultimate Loss Cost (incld. ULAE & CAT)	255.06	174.06	175.63	201.44
GISA Average Earned Premium	220.41	226.22	238.95	228.58
GISA Ultimate Loss Ratio	116%	77%	74%	88%

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Using Accident Year 20xx Data	**2016**	**2017**	**2018**	**Weighted Average**
Ultimate Loss Cost (excld. ULAE & CAT)	200.10	180.70	162.41	169.73
ULAE per Earned Vehicle	18.51	16.72	15.02	15.70
Ultimate Loss Cost (incld. ULAE & excld. CAT)	218.61	197.42	177.43	**185.43**

Selected Ultimate Loss Cost	**185.43**	(Incld. ULAE; excld. CAT)
COVID-19 adjustment	0.00%	
Adjusted Selected Ultimate Loss Cost	**185.43**	(Incld. ULAE; excld. CAT)

Note:
Weighted average: 0% x 2016 + 40% x 2017 + 60% x 2018

7 Specified Perils (per earned vehicles)

Accident Year	2016	2017	2018
Trend Factor	1.5524	1.4508	1.3559
ULAE Factor	0.0925	0.0925	0.0925

Accident Year	2016	2017	2018	Total
GISA Number of Earned Vehicles	17,835	19,132	21,514	58,481
GISA Ultimate Loss Cost (excld. ULAE & CAT)	45.77	44.67	45.82	45.43
GISA Catastrophic Losses per Earned Vehicles	13.98	10.27	6.77	10.11
GISA ULAE per Earned Vehicles	5.07	5.03	5.30	5.14
GISA Ultimate Loss Cost (incld. ULAE & CAT)	64.83	59.97	57.89	60.69
GISA Average Earned Premium	103.09	102.86	98.96	101.50
GISA Ultimate Loss Ratio	63%	58%	58%	60%

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Using Accident Year 20xx Data	2016	2017	2018	Weighted Average
Ultimate Loss Cost (excld. ULAE & CAT)	71.06	64.81	62.13	63.20
ULAE per Earned Vehicle	6.57	5.99	5.75	5.85
Ultimate Loss Cost (incld. ULAE & excld. CAT)	77.63	70.80	67.88	**69.05**

Selected Ultimate Loss Cost	**69.05**	(Incld. ULAE; excld. CAT)
COVID-19 adjustment	0.00%	
Adjusted Selected Ultimate Loss Cost	**69.05**	(Incld. ULAE; excld. CAT)

Note:
Weighted average: 0% x 2016 + 40% x 2017 + 60% x 2018

8 All Perils (per earned vehicles)

Accident Year	2016	2017	2018
Trend Factor	1.2904	1.2407	1.1930
ULAE Factor	0.0925	0.0925	0.0925

Accident Year	2016	2017	2018	Total
GISA Number of Earned Vehicles	22,676	21,298	21,009	64,983
GISA Ultimate Loss Cost (excld. ULAE & CAT)	382.58	388.26	410.58	393.49
GISA Catastrophic Losses per Earned Vehicles	78.20	29.98	46.65	52.20
GISA ULAE per Earned Vehicles	39.11	38.27	46.04	41.08
GISA Ultimate Loss Cost (incld. ULAE & CAT)	499.89	456.51	503.27	486.77
GISA Average Earned Premium	671.80	694.27	725.82	696.63
GISA Ultimate Loss Ratio	74%	66%	69%	70%

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Using Accident Year 20xx Data	2016	2017	2018	Weighted Average
Ultimate Loss Cost (excld. ULAE & CAT)	493.68	481.73	489.83	486.59
ULAE per Earned Vehicle	45.67	44.56	45.31	45.01
Ultimate Loss Cost (incld. ULAE & excld. CAT)	539.34	526.29	535.14	**531.60**

Selected Ultimate Loss Cost	**531.60**	(Incld. ULAE; excld. CAT)
COVID-19 adjustment	1.67%	
Adjusted Selected Ultimate Loss Cost	**522.74**	(Incld. ULAE; excld. CAT)

Note:
Weighted average: 0% x 2016 + 40% x 2017 + 60% x 2018

9 Grand Total (per earned vehicles)[1]

Trend Factor	Refer to individual coverage appendices
ULAE Factor	Refer to individual coverage appendices

Accident Year	**2016**	**2017**	**2018**	**Total**
GISA Number of Earned Vehicles	2,678,904	2,690,011	2,743,660	8,112,575
GISA Ultimate Loss Cost (incld. ULAE, CAT & Health Levy)	1,074.02	1,049.98	1,060.54	1,061.49
GISA Average Earned Premium	1,189.36	1,228.74	1,283.25	1,234.17
GISA Ultimate Loss Ratio	90%	85%	83%	86%

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Using Accident Year 20xx Data	**2016**	**2017**	**2018**	**Weighted by each coverage**
Ultimate Loss Cost (excld. ULAE, CAT & Health Levy)	1,226.84	1,200.32	1,122.92	1,153.86
ULAE per Earned Vehicle	113.48	111.03	103.87	106.74
Health Levy per Earned Vehicle	59.59	55.18	59.94	58.04
Ultimate Loss Cost (incld. ULAE & Health Levy but excld. CAT)	1,399.92	1,366.53	1,286.74	**1,318.63**

Selected Ultimate Loss Cost	**1,318.63**	(Incld. ULAE & Health Levy; excld. CAT)
COVID-19 adjustment	2.19%	
Adjusted Selected Ultimate Loss Cost	**1,289.78**	(Incld. ULAE & Health Levy; excld. CAT)

Note:

[1] BI + PD + AB + UM + Col. + Comp. + SP + AP with BI earned vehicles as the base

10 Full Package[2]
(per earned vehicles)

Accident Year	**2016**	**2017**	**2018**	**Total**
GISA Ultimate Loss Cost (excld. ULAE)	936.44	976.62	966.77	960.04
GISA ULAE per Earned Vehicles	87.97	92.33	101.16	93.88
GISA Ultimate Loss Cost (incld. ULAE, CAT & Health Levy)	1,164.05	1,138.04	1,149.06	1,150.47
GISA Average Earned Premium	1,920.32	1,999.75	2,099.13	2,007.11
Ultimate Loss Ratio	61%	57%	55%	57%

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

	Sum of each coverage[2]			**Weighted**
Using Accident Year 20xx Data	**2016**	**2017**	**2018**	**Average**
Ultimate Loss Cost (excld. ULAE, CAT & Health Levy)	1,315.80	1,292.45	1,210.94	1,243.55
ULAE per Earned Vehicle	121.71	119.55	112.01	115.03
Health Levy per Earned Vehicle	59.59	55.18	59.94	58.04
Ultimate Loss Cost (incld. ULAE & Health Levy but excld. CAT)	1,497.10	1,467.19	1,382.89	**1,416.61**

Selected Ultimate Loss Cost	**1,416.61**	(Incld. ULAE & Health Levy; excld. CAT)
COVID-19 adjustment	2.17%	
Adjusted Selected Ultimate Loss Cost	**1,385.84**	(Incld. ULAE & Health Levy; excld. CAT)

Note:
[2] BI + PD + AB + UM + Col. + Comp.

APPENDIX 5.4

2016-2018 Ultimate Loss Cost (including ULAE, Health Levy and CAT Loading)

Using Data as of December 31, 2018
Bodily Injury
Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Accident Year	Loss Trend Factors	Average Accident Date (Trend From)	Trend Period	Past Loss Trend: Prior to Apr 1, 2019	Future Loss Trend: April 1, 2019 to Jan 1, 2020	Jan 1, 2020 to Jan 1, 2021	Jan 1, 2021 to Jan 1, 2022	Jan 1, 2022 to Jan 1, 2023
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2016	1.5926	1 Jul, 2016	6.5	8.00%	7.00%	7.00%	7.00%	7.00%
2017	1.4746	1 Jul, 2017	5.5	8.00%	7.00%	7.00%	7.00%	7.00%
2018	1.3654	1 Jul, 2018	4.5	8.00%	7.00%	7.00%	7.00%	7.00%

(1) Based on Col 4 to Col 7.
(4) & (5) These factors are from March 27, 2020 Bulletin: 01-2020 Automobile Insurance Rate Board.
(6) to (8) Same as Col 5

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	excld ULAE: Ult Loss Cost	excld ULAE: % Ult Loss Ratio	Health Levy: % of Earned TPL Premium	Health Levy: Half-year ($000's)	Health Levy: Full-year per earned vehicles
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(24)	(25)	(26)
20161	7,697	1,324,359	789,217	335,497	456,947	345.03	57.90%	6.31%	49,800	
20162	8,925	1,354,545	835,123	385,835	548,272	404.76	65.65%	6.04%	50,441	37.42
20171	8,367	1,322,493	841,554	302,938	484,701	366.51	57.60%	5.84%	49,147	
20172	8,592	1,367,518	899,157	306,586	539,591	394.58	60.01%	5.73%	51,522	37.42
20181	8,167	1,346,485	911,176	242,062	491,386	364.94	53.93%	6.01%	54,762	
20182	8,260	1,397,175	980,422	199,716	537,237	384.52	54.80%	6.70%	65,688	43.90
Total	**50,008**	**8,112,575**	**5,256,649**	**1,772,634**	**3,058,133**	**376.96**	**58.18%**		**321,359**	**39.61**

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	excld ULAE: Ult Loss Cost	excld ULAE: % Ult Loss Ratio	GISA ULAE per earned vehicles	GISA ULAE Factor
	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
2016	16,622	2,678,904	1,624,340	721,333	1,005,219	375.24	61.88%	31.69	8.45%
2017	16,959	2,690,011	1,740,711	609,524	1,024,291	380.78	58.84%	34.92	9.17%
2018	16,427	2,743,660	1,891,598	441,778	1,028,623	374.91	54.38%	37.83	10.09%
Total	**50,008**	**8,112,575**	**5,256,649**	**1,772,634**	**3,058,133**	**376.96**	**58.18%**	**74.45**	

Trended per earned vehicles

Data from Accident Year	ULAE	ULAE factor	Ult Loss Cost excld. ULAE	ULAE per earned vehicle	Ult Loss Cost incld. ULAE	Health Levy	Ult Loss Cost incld. ULAE & Health Levy
	(17)	(18)	(19)	(20)	(21)	(22)	(23)
2016	50.47	8.45%	597.60	55.28	652.87	59.59	712.47
2017	51.50	9.17%	561.50	51.94	613.44	55.18	668.62
2018	51.65	10.09%	511.90	47.35	559.25	59.94	619.19
Average ULAE Factor		9.24%					
Selected ULAE Factor		9.25%					

(1) to (14) 2018-2 Incurred Loss Development Factor PPA excld. Farmers AB (Revised) Report (Bulletin No: 2019-15)
(15) Ultimate Loss Cost From 2018 Actual Loss Ratio Exhibit (Bulletin No: 2019-16) less Col 13 less Col 26
(16) Col 15 / Col 13
(17) Col 15 x Col 1 [Loss Trend Factors]
(18) Col 17 / Col 19
(19) Col 13 x Col 1 [Loss Trend Factors]
(20) Col 19 x Selected ULAE Factor
(21) Col 19 + Col 20
(22) Col 26 x Col 1 [Loss Trend Factors]
(23) Col 21 + Col 22
(24) 2018 Actual Loss Ratio Exhibit (Bulletin No: 2019-16)
(25) Col 24 x Col 3

Using Data as of December 31, 2018
Property Damage
Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Accident Year	Loss Trend Factors	Average Accident Date (Trend From)	Trend Period	Past Loss Trend: Prior to Apr 1, 2019	Future Loss Trend: April 1, 2019 to Jan 1, 2020	Jan 1, 2020 to Jan 1, 2021	Jan 1, 2021 to Jan 1, 2022	Jan 1, 2022 to Jan 1, 2023
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2016	1.1016	1 Jul, 2016	6.5	1.50%	1.50%	1.50%	1.50%	1.50%
2017	1.0853	1 Jul, 2017	5.5	1.50%	1.50%	1.50%	1.50%	1.50%
2018	1.0693	1 Jul, 2018	4.5	1.50%	1.50%	1.50%	1.50%	1.50%

(1) Based on Col 4 to Col 7.
(4) & (5) These factors are from March 27, 2020 Bulletin: 01-2020 Automobile Insurance Rate Board.
(6) to (8) Same as Col 5

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	excld ULAE: Ult Loss Cost	excld ULAE: % Ult Loss Ratio
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
20161	37,652	1,324,359	789,217	180,218	180,038	135.94	22.81%
20162	41,288	1,354,545	835,123	210,569	210,569	155.45	25.21%
20171	40,810	1,322,493	841,554	204,970	205,585	155.45	24.43%
20172	41,750	1,367,518	899,157	217,000	220,472	161.22	24.52%
20181	43,233	1,346,485	911,176	211,778	223,849	166.25	24.57%
20182	39,198	1,397,175	980,422	162,070	214,742	153.70	21.90%
Total	**243,931**	**8,112,575**	**5,256,649**	**1,186,605**	**1,255,256**	**154.73**	**23.88%**

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	excld ULAE: Ult Loss Cost	excld ULAE: % Ult Loss Ratio	GISA ULAE per earned vehicles	GISA ULAE Factor
	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
2016	78,940	2,678,904	1,624,340	390,788	390,607	145.81	24.05%	12.38	8.49%
2017	82,560	2,690,011	1,740,711	421,970	426,057	158.38	24.48%	14.49	9.15%
2018	82,431	2,743,660	1,891,598	373,848	438,592	159.86	23.19%	16.10	10.07%
Total	**243,931**	**8,112,575**	**5,256,649**	**1,186,605**	**1,255,256**	**154.73**	**23.88%**	**14.34**	

Data from Accident Year	ULAE	ULAE factor	Trended per earned vehicles: Ult Loss Cost excld. ULAE	ULAE per earned vehicle	Ult Loss Cost incld. ULAE
	(17)	(18)	(19)	(20)	(21)
2016	13.64	8.49%	160.62	14.86	175.48
2017	15.73	9.15%	171.90	15.90	187.80
2018	17.21	10.07%	170.93	15.81	186.74
Average ULAE Factor		9.24%			
Selected ULAE Factor		9.25%			

(1) to (14) 2018-2 Incurred Loss Development Factor PPA excld. Farmers AB (Revised) Report (Bulletin No: 2019-15)
(15) Ultimate Loss Cost From 2018 Actual Loss Ratio Exhibit (Bulletin No: 2019-16) less Col 13
(16) Col 15 / Col 13
(17) Col 15 x Col 1 [Loss Trend Factors]
(18) Col 17 / Col 19
(19) Col 13 x Col 1 [Loss Trend Factors]
(20) Col 19 x Selected ULAE Factor
(21) Col 19 + Col 20

Trended Ultimate Loss And Loss Adjustment Expense & Ultimate Loss Cost | Location: Alberta | Appendix 5.4-3

Using Data as of December 31, 2018

Total - Accident Benefits

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Accident Year	Loss Trend Factors	Average Accident Date (Trend From)	Trend Period	Past Loss Trend: Prior to Apr 1, 2019	Future Loss Trend: April 1, 2019 to Jan 1, 2020	Jan 1, 2020 to Jan 1, 2021	Jan 1, 2021 to Jan 1, 2022	Jan 1, 2022 to Jan 1, 2023
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2016	1.6994	1 Jul, 2016	6.5	8.50%	8.50%	8.50%	8.50%	8.50%
2017	1.5663	1 Jul, 2017	5.5	8.50%	8.50%	8.50%	8.50%	8.50%
2018	1.4436	1 Jul, 2018	4.5	8.50%	8.50%	8.50%	8.50%	8.50%

(1) Based on Col 4 to Col 7.
(4) & (5) These factors are from March 27, 2020 Bulletin: 01-2020 Automobile Insurance Rate Board.
(6) to (8) Same as Col 5

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	excld ULAE: Ult Loss Cost	excld ULAE: % Ult Loss Ratio
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
20161	13,583	1,322,867	75,493	54,208	55,040	41.61	72.91%
20162	16,059	1,354,659	77,094	71,617	72,786	53.73	94.41%
20171	14,951	1,323,430	75,533	70,536	69,791	52.73	92.40%
20172	16,164	1,368,777	79,257	75,596	78,452	57.32	98.98%
20181	15,686	1,347,865	79,454	77,239	83,271	61.78	104.80%
20182	15,389	1,398,233	84,335	80,885	79,457	56.83	94.22%
Total	**91,832**	**8,115,831**	**471,165**	**430,080**	**438,796**	**54.07**	**93.13%**

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	excld ULAE: Ult Loss Cost	excld ULAE: % Ult Loss Ratio	GISA ULAE per earned vehicles	GISA ULAE Factor
	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
2016	29,642	2,677,526	152,587	125,824	127,826	47.74	83.77%	4.04	8.45%
2017	31,115	2,692,207	154,789	146,132	148,242	55.06	95.77%	5.03	9.14%
2018	31,075	2,746,098	163,789	158,124	162,728	59.26	99.35%	5.95	10.05%
Total	**91,832**	**8,115,831**	**471,165**	**430,080**	**438,796**	**54.07**	**93.13%**	**5.02**	

Data from Accident Year	ULAE (Trended per earned vehicles)	ULAE factor	Ult Loss Cost excld. ULAE	ULAE per earned vehicle	Ult Loss Cost incld. ULAE
	(17)	(18)	(19)	(20)	(21)
2016	6.86	8.45%	81.13	7.50	88.63
2017	7.88	9.14%	86.24	7.98	94.22
2018	8.59	10.05%	85.54	7.91	93.45
Average ULAE Factor		9.21%			
Selected ULAE Factor		9.25%			

(1) to (14) 2018-2 Incurred Loss Development Factor PPA excld. Farmers AB (Revised) Report (Bulletin No: 2019-15)
(15) Ultimate Loss Cost From 2018 Actual Loss Ratio Exhibit (Bulletin No: 2019-16) less Col 13
(16) Col 15 / Col 13
(17) Col 15 x Col 1 [Loss Trend Factors]
(18) Col 17 / Col 19
(19) Col 13 x Col 1 [Loss Trend Factors]
(20) Col 19 x Selected ULAE Factor
(21) Col 19 + Col 20

Using Data as of December 31, 2018
Underinsured Motorists
Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Accident Year	Loss Trend Factors	Average Accident Date (Trend From)	Trend Period	Past Loss Trend	Future Loss Trend			
				Prior to Apr 1, 2019	April 1, 2019 to Jan 1, 2020	Jan 1, 2020 to Jan 1, 2021	Jan 1, 2021 to Jan 1, 2022	Jan 1, 2022 to Jan 1, 2023
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2016	1.2904	1 Jul, 2016	6.5	4.00%	4.00%	4.00%	4.00%	4.00%
2017	1.2407	1 Jul, 2017	5.5	4.00%	4.00%	4.00%	4.00%	4.00%
2018	1.1930	1 Jul, 2018	4.5	4.00%	4.00%	4.00%	4.00%	4.00%

(1) Based on Col 4 to Col 7.
(4) & (5) These factors are from March 27, 2020 Bulletin: 01-2020 Automobile Insurance Rate Board.
(6) to (8) Same as Col 5

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	Ult Loss Cost (excld ULAE)	% Ult Loss Ratio (excld ULAE)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
20161	17	1,304,089	36,894	6,973	7,970	6.11	21.60%
20162	27	1,334,274	38,337	5,950	7,950	5.96	20.74%
20171	18	1,302,839	37,868	1,845	3,108	2.39	8.21%
20172	36	1,345,045	39,533	4,983	10,211	7.59	25.83%
20181	32	1,324,079	39,209	2,639	7,189	5.43	18.34%
20182	20	1,370,683	40,848	511	3,840	2.80	9.40%
Total	**150**	**7,981,009**	**232,689**	**22,902**	**40,269**	**5.05**	**17.31%**

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	Ult Loss Cost (excld ULAE)	% Ult Loss Ratio (excld ULAE)	GISA ULAE per earned vehicles	GISA ULAE Factor
	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
2016	44	2,638,363	75,231	12,924	15,920	6.03	21.16%	0.51	8.49%
2017	54	2,647,884	77,401	6,828	13,319	5.03	17.21%	0.46	9.15%
2018	52	2,694,762	80,057	3,150	11,029	4.09	13.78%	0.41	10.07%
Total	**150**	**7,981,009**	**232,689**	**22,902**	**40,269**	**5.05**	**17.31%**	**0.46**	

Data from Accident Year	ULAE (Trended per earned vehicles)	ULAE factor	Ult Loss Cost excld. ULAE	ULAE per earned vehicle	Ult Loss Cost incld. ULAE
	(17)	(18)	(19)	(20)	(21)
2016	0.66	8.49%	7.79	0.72	8.51
2017	0.57	9.15%	6.24	0.58	6.82
2018	0.49	10.07%	4.88	0.45	5.33
Average ULAE Factor		9.24%			
Selected ULAE Factor		9.25%			

(1) to (14) 2018-2 Incurred Loss Development Factor PPA excld. Farmers AB (Revised) Report (Bulletin No: 2019-15)
(15) Ultimate Loss Cost From 2018 Actual Loss Ratio Exhibit (Bulletin No: 2019-16) less Col 13
(16) Col 15 / Col 13
(17) Col 15 x Col 1 [Loss Trend Factors]
(18) Col 17 / Col 19
(19) Col 13 x Col 1 [Loss Trend Factors]
(20) Col 19 x Selected ULAE Factor
(21) Col 19 + Col 20

Using Data as of December 31, 2018
Collision
Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Accident Year	Loss Trend Factors	Average Accident Date (Trend From)	Trend Period	Past Loss Trend: Prior to Apr 1, 2019	Future Loss Trend: April 1, 2019 to Jan 1, 2020	Jan 1, 2020 to Jan 1, 2021	Jan 1, 2021 to Jan 1, 2022	Jan 1, 2022 to Jan 1, 2023
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2016	1.1741	1 Jul, 2016	6.5	2.50%	2.50%	2.50%	2.50%	2.50%
2017	1.1455	1 Jul, 2017	5.5	2.50%	2.50%	2.50%	2.50%	2.50%
2018	1.1175	1 Jul, 2018	4.5	2.50%	2.50%	2.50%	2.50%	2.50%

(1) Based on Col 4 to Col 7.
(4) & (5) These factors are from March 27, 2020 Bulletin: 01-2020 Automobile Insurance Rate Board.
(6) to (8) Same as Col 5

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	Ult Loss Cost (excld ULAE)	% Ult Loss Ratio (excld ULAE)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
20161	37,220	981,136	399,219	201,777	201,575	205.45	50.49%
20162	43,331	999,686	396,526	252,013	251,509	251.59	63.43%
20171	42,097	978,737	385,657	240,900	237,045	242.20	61.47%
20172	44,206	1,009,156	394,807	272,119	259,058	256.71	65.62%
20181	44,666	996,658	390,407	294,181	250,054	250.89	64.05%
20182	43,739	1,029,951	403,913	405,107	249,141	241.90	61.68%
Total	**255,259**	**5,995,324**	**2,370,528**	**1,666,098**	**1,448,382**	**241.59**	**61.10%**

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	Ult Loss Cost (excld ULAE)	% Ult Loss Ratio (excld ULAE)	GISA ULAE per earned vehicles	GISA ULAE Factor
	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
2016	80,551	1,980,822	795,745	453,790	453,084	228.74	56.94%	19.40	8.48%
2017	86,303	1,987,893	780,463	513,019	496,103	249.56	63.57%	22.84	9.15%
2018	88,405	2,026,609	794,320	699,289	499,195	246.32	62.85%	24.80	10.07%
Total	**255,259**	**5,995,324**	**2,370,528**	**1,666,098**	**1,448,382**	**241.59**	**61.10%**	**22.37**	

Data from Accident Year	ULAE (Trended per earned vehicles)	ULAE factor	Ult Loss Cost excld. ULAE	ULAE per earned vehicle	Ult Loss Cost incld. ULAE
	(17)	(18)	(19)	(20)	(21)
2016	22.78	8.48%	268.56	24.84	293.40
2017	26.16	9.15%	285.86	26.44	312.31
2018	27.72	10.07%	275.27	25.46	300.73
Average ULAE Factor		9.23%			
Selected ULAE Factor		9.25%			

(1) to (14) 2018-2 Incurred Loss Development Factor PPA excld. Farmers AB (Revised) Report (Bulletin No: 2019-15)
(15) Ultimate Loss Cost From 2018 Actual Loss Ratio Exhibit (Bulletin No: 2019-16) less Col 13
(16) Col 15 / Col 13
(17) Col 15 x Col 1 [Loss Trend Factors]
(18) Col 17 / Col 19
(19) Col 13 x Col 1 [Loss Trend Factors]
(20) Col 19 x Selected ULAE Factor
(21) Col 19 + Col 20

Using Data as of December 31, 2018
Comprehensive
Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Accident Year	Loss Trend Factors	Average Accident Date (Trend From)	Trend Period	Past Loss Trend: Prior to Apr 1, 2019	Future Loss Trend: April 1, 2019 to Jan 1, 2020	Jan 1, 2020 to Jan 1, 2021	Jan 1, 2021 to Jan 1, 2022	Jan 1, 2022 to Jan 1, 2023
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2016	1.5058	1 Jul, 2016	6.5	6.50%	6.50%	6.50%	6.50%	6.50%
2017	1.4139	1 Jul, 2017	5.5	6.50%	6.50%	6.50%	6.50%	6.50%
2018	1.3276	1 Jul, 2018	4.5	6.50%	6.50%	6.50%	6.50%	6.50%

(1) Based on Col 4 to Col 7.
(4) & (5) These factors are from March 27, 2020 Bulletin: 01-2020 Automobile Insurance Rate Board.
(6) to (8) Same as Col 5

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	excld ULAE: Ult Loss Cost	excld ULAE: % Ult Loss Ratio
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
20161	34,555	1,176,873	258,108	174,270	174,270	148.08	67.52%
20162	65,981	1,187,861	263,094	381,698	381,698	321.33	145.08%
20171	25,845	1,169,453	261,930	136,377	136,514	116.73	52.12%
20172	40,696	1,196,484	273,281	240,293	240,773	201.23	88.10%
20181	24,588	1,187,074	278,482	129,528	129,528	109.12	46.51%
20182	42,084	1,213,689	295,175	250,531	253,537	208.90	85.89%
Total	**233,749**	**7,131,434**	**1,630,070**	**1,312,697**	**1,316,321**	**184.58**	**80.75%**

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	Catastrophic Loss Expense ($000's)	Normal Loss Ult excld ULAE ($000's)	excld ULAE: Ult Loss Cost incld. CAT	excld ULAE & CAT: Ult Loss Cost	excld ULAE & CAT: % Ult Loss Ratio	GISA ULAE per earned vehicles	GISA ULAE Factor
	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)
2016	100,536	2,364,734	521,202	555,968	555,968	241,728	314,240	235.11	132.89	60.29%	19.95	8.48%
2017	66,541	2,365,937	535,211	376,670	377,287	74,911	302,376	159.47	127.80	56.50%	14.59	9.15%
2018	66,672	2,400,763	573,657	380,059	383,066	89,376	293,690	159.56	122.33	51.20%	16.07	10.07%
Total	**233,749**	**7,131,434**	**1,630,070**	**1,312,697**	**1,316,321**	**406,015**	**910,305**	**184.58**	**127.65**	**55.84%**	**16.86**	

Data from Accident Year	ULAE	ULAE factor	Trended per earned vehicles – Incld. CAT: Ult Loss Cost excld. ULAE	Excluding CAT: Ult Loss Cost excld. ULAE	Excluding CAT: ULAE per earned vehicle	Excluding CAT: Ult Loss Cost incld. ULAE
	(20)	(21)	(22)	(23)	(24)	(25)
2016	30.04	8.48%	354.03	200.10	18.51	218.61
2017	20.63	9.15%	225.47	180.70	16.72	197.42
2018	21.33	10.07%	211.83	162.41	15.02	177.43
Average ULAE Factor		9.23%				
Selected ULAE Factor		9.25%				

(1) to (12) 2018-2 Incurred Loss Development Factor PPA excld. Farmers AB (Revised) Report (Bulletin No: 2019-15)
(13) Catastrophe Report Alberta 2002-2018 (Bulletin No: 2019-47)
(14) Col 12 - Col 13
(16) Col 14 / Col 9
(17) Col 14 / Col 10
(18) Ultimate Loss Cost From 2018 Actual Loss Ratio Exhibit (Bulletin No: 2019-16) - Col 15
(19) Col 18 / Col 15
(20) Col 18 x Col 1 [Loss Trend Factors]
(21) Col 20 / Col 22
(22) Col 15 x Col 1 [Loss Trend Factors]
(23) Col 16 x Col 1 [Loss Trend Factors]
(24) Col 23 x Selected ULAE Factor
(25) Col 23 + Col 24

Trended Ultimate Loss And Loss Adjustment Expense & Ultimate Loss Cost | Location: Alberta | Appendix 5.4-7

Using Data as of December 31, 2018

Specified Perils

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Accident Year	Loss Trend Factors	Average Accident Date (Trend From)	Trend Period	Past Loss Trend Prior to Apr 1, 2019	Future Loss Trend April 1, 2019 to Jan 1, 2020	Jan 1, 2020 to Jan 1, 2021	Jan 1, 2021 to Jan 1, 2022	Jan 1, 2022 to Jan 1, 2023
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2016	1.5524	1 Jul, 2016	6.5	7.00%	7.00%	7.00%	7.00%	7.00%
2017	1.4508	1 Jul, 2017	5.5	7.00%	7.00%	7.00%	7.00%	7.00%
2018	1.3559	1 Jul, 2018	4.5	7.00%	7.00%	7.00%	7.00%	7.00%

(1) Based on Col 4 to Col 7.
(4) & (5) These factors are from March 27, 2020 Bulletin: 01-2020 Automobile Insurance Rate Board.
(6) to (8) Same as Col 5

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	Ult Loss Cost (excld ULAE)	% Ult Loss Ratio (excld ULAE)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
20161	71	8,882	913	444	443	49.93	48.55%
20162	139	8,953	925	624	622	69.50	67.25%
20171	71	9,329	964	376	375	40.20	38.91%
20172	129	9,803	1,004	677	676	68.97	67.34%
20181	70	10,823	1,075	515	502	46.39	46.71%
20182	105	10,691	1,054	686	629	58.87	59.71%
Total	**585**	**58,481**	**5,936**	**3,322**	**3,248**	**55.55**	**54.73%**

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	Catastrophic Loss Expense ($000's)	Normal Loss Ult excld ULAE ($000's)	Ult Loss Cost incld. CAT (excld ULAE)	Ult Loss Cost (excld ULAE & CAT)	% Ult Loss Ratio (excld ULAE & CAT)	GISA ULAE per earned vehicles	GISA ULAE Factor
	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)
2016	210	17,835	1,839	1,068	1,066	249	816	59.75	45.77	44.40%	5.07	8.49%
2017	200	19,132	1,968	1,054	1,051	197	855	54.94	44.67	43.43%	5.03	9.15%
2018	175	21,514	2,129	1,201	1,132	146	986	52.59	45.82	46.30%	5.30	10.07%
Total	**585**	**58,481**	**5,936**	**3,322**	**3,248**	**592**	**2,657**	**55.55**	**45.43**	**44.76%**	**5.14**	

Data from Accident Year	ULAE	ULAE factor	Trended per earned vehicles: Incld. CAT Ult Loss Cost excld. ULAE	Excluding CAT: Ult Loss Cost excld. ULAE	ULAE per earned vehicle	Ult Loss Cost incld. ULAE
	(20)	(21)	(22)	(23)	(24)	(25)
2016	7.88	8.49%	92.76	71.06	6.57	77.63
2017	7.30	9.15%	79.71	64.81	5.99	70.80
2018	7.18	10.07%	71.31	62.13	5.75	67.88
Average ULAE Factor		9.24%				
Selected ULAE Factor		9.25%				

(1) to (12) 2018-2 Incurred Loss Development Factor PPA excld. Farmers AB (Revised) Report (Bulletin No: 2019-15)
(13) Catastrophe Report Alberta 2002-2018 (Bulletin No: 2019-47)
(14) Col 12 - Col 13
(16) Col 14 / Col 9
(17) Col 14 / Col 10
(18) Ultimate Loss Cost From 2018 Actual Loss Ratio Exhibit (Bulletin No: 2019-16) - Col 15
(19) Col 18 / Col 15
(20) Col 18 x Col 1 [Loss Trend Factors]
(21) Col 20 / Col 22
(22) Col 15 x Col 1 [Loss Trend Factors]
(23) Col 16 x Col 1 [Loss Trend Factors]
(24) Col 23 x Selected ULAE Factor
(25) Col 23 + Col 24

Trended Ultimate Loss And Loss Adjustment Expense & Ultimate Loss Cost — Location: Alberta — Appendix 5.4-8

Using Data as of December 31, 2018

All Perils

Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Accident Year	Loss Trend Factors	Average Accident Date (Trend From)	Trend Period	Past Loss Trend: Prior to Apr 1, 2019	Future Loss Trend: April 1, 2019 to Jan 1, 2020	Jan 1, 2020 to Jan 1, 2021	Jan 1, 2021 to Jan 1, 2022	Jan 1, 2022 to Jan 1, 2023
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2016	1.2904	1 Jul, 2016	6.5	4.00%	4.00%	4.00%	4.00%	4.00%
2017	1.2407	1 Jul, 2017	5.5	4.00%	4.00%	4.00%	4.00%	4.00%
2018	1.1930	1 Jul, 2018	4.5	4.00%	4.00%	4.00%	4.00%	4.00%

(1) Based on Col 4 to Col 7.
(4) & (5) These factors are from March 27, 2020 Bulletin: 01-2020 Automobile Insurance Rate Board.
(6) to (8) Same as Col 5

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	excld ULAE: Ult Loss Cost	excld ULAE: % Ult Loss Ratio
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
20161	1,215	11,561	7,546	3,948	3,956	342.19	52.43%
20162	1,743	11,115	7,688	6,473	6,493	584.13	84.45%
20171	1,231	10,582	7,309	4,265	4,244	401.01	58.06%
20172	1,150	10,716	7,477	4,799	4,664	435.26	62.38%
20181	936	10,335	7,410	4,996	4,592	444.28	61.97%
20182	1,025	10,674	7,839	6,078	5,014	469.76	63.97%
Total	**7,300**	**64,983**	**45,269**	**30,559**	**28,962**	**445.69**	**63.98%**

Accident Year	Ultimate Number of Claims	Car Years Earned	Premium Earned ($000's)	Inc Loss + ALAE ($000's)	Proj Ult excld ULAE ($000's)	Catastrophic Loss Expense ($000's)	Normal Loss Ult excld ULAE ($000's)	excld ULAE: Ult Loss Cost incld. CAT	excld ULAE & CAT: Ult Loss Cost	excld ULAE & CAT: % Ult Loss Ratio	GISA ULAE per earned vehicles	GISA ULAE Factor
	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)
2016	2,958	22,676	15,234	10,421	10,449	1,773	8,675	460.78	382.58	56.95%	39.11	8.49%
2017	2,381	21,298	14,787	9,063	8,908	639	8,269	418.24	388.26	55.92%	38.27	9.15%
2018	1,961	21,009	15,249	11,074	9,606	980	8,626	457.23	410.58	56.57%	46.04	10.07%
Total	**7,300**	**64,983**	**45,269**	**30,559**	**28,962**	**3,392**	**25,570**	**445.69**	**393.49**	**56.49%**	**41.08**	

Data from Accident Year	ULAE	ULAE factor	Trended per earned vehicles — Incld. CAT: Ult Loss Cost excld. ULAE	Excluding CAT: Ult Loss Cost excld. ULAE	Excluding CAT: ULAE per earned vehicle	Excluding CAT: Ult Loss Cost incld. ULAE
	(20)	(21)	(22)	(23)	(24)	(25)
2016	50.46	8.49%	594.58	493.68	45.67	539.34
2017	47.48	9.15%	518.93	481.73	44.56	526.29
2018	54.93	10.07%	545.48	489.83	45.31	535.14
Average ULAE Factor		9.24%				
Selected ULAE Factor		9.25%				

(1) to (12) 2018-2 Incurred Loss Development Factor PPA excld. Farmers AB (Revised) Report (Bulletin No: 2019-15)
(13) Catastrophe Report Alberta 2002-2018 (Bulletin No: 2019-47)
(14) Col 12 - Col 13
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(19) Col 18 / Col 15
(20) Col 18 x Col 1 [Loss Trend Factors]
(21) Col 20 / Col 22
(22) Col 15 x Col 1 [Loss Trend Factors]
(23) Col 16 x Col 1 [Loss Trend Factors]
(24) Col 23 x Selected ULAE Factor
(25) Col 23 + Col 24

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APPENDIX 5.5

Specified Peril CAT Loading

Specified Perils

Accident Year	Total Loss & Expense Amount	Total Claim Count	Number of Earned Vehicles	Earned Premium
2009	521,154	128	19,380	1,249,586
2010	624,934	168	19,442	1,425,715
2011	541,463	131	19,145	1,520,035
2012	861,720	204	18,652	1,600,271
2013	645,944	153	17,827	1,661,071
2014	853,425	183	17,378	1,691,868
2015	787,525	186	17,332	1,745,561
2016	1,067,851	210	17,835	1,838,630
2017	1,053,637	200	19,132	1,967,879
2018	1,200,598	176	21,514	2,129,065

Accident Year	Catastrophic Loss & Expense Amount	Catastrophic Claim Count	Catastrophic Claim Severity	Catastrophic Claim Frequency	Catastrophic Loss Cost	Catastrophic Loss Ratio	CAT Losses as a % of Normal Losses
2009	190,258	35	5,436	0.18	9.82	15	57.5%
2010	239,412	79	3,031	0.41	12.31	17	62.1%
2011	158,550	36	4,404	0.19	8.28	10	41.4%
2012	467,415	120	3,895	0.64	25.06	29	118.5%
2013	250,727	66	3,799	0.37	14.06	15	63.4%
2014	337,333	82	4,114	0.47	19.41	20	65.4%
2015	261,208	84	3,110	0.48	15.07	15	49.6%
2016	249,327	68	3,667	0.38	13.98	14	30.5%
2017	196,511	44	4,466	0.23	10.27	10	22.9%
2018	145,695	26	5,604	0.12	6.77	7	13.8%
						10-years average	52.5%
						Selected	52.5%

Accident Year	Normal Loss & Expense Amount	Normal Claims Count	Normal Claims Severity	Normal Claim Frequency	Normal Loss Cost	Normal Loss Ratio
2009	330,896	93	3,558	0.48	17.07	26
2010	385,522	89	4,332	0.46	19.83	27
2011	382,913	95	4,031	0.50	20.00	25
2012	394,305	84	4,694	0.45	21.14	25
2013	395,217	87	4,543	0.49	22.17	24
2014	516,092	101	5,110	0.58	29.70	31
2015	526,317	102	5,160	0.59	30.37	30
2016	818,524	142	5,764	0.80	45.89	45
2017	857,126	156	5,494	0.82	44.80	44
2018	1,054,903	150	7,033	0.70	49.03	50

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APPENDIX 5.6

Selected Payment Pattern

Private Passenger Automobile - Excluding Farmers/Voitures de tourisme - sauf exploitants agricoles Third Party Liability/Respondsabilité civile
Paid Loss And Expense Amount ($000)/Montant de sinistres et de frais réglés ($000) Alberta/Alberta
Bodily Injury - Tort/Dommages corporels - Tort
as of December 31, 2018

	Developed Months															
Accident Year	**012**	**024**	**036**	**048**	**060**	**072**	**084**	**096**	**108**	**120**	**132**	**144**	**156**	**168**	**180**	**PROJECTED ULT LOSS**
2004	25,932	95,413	180,690	249,694	313,825	368,898	406,519	432,684	450,837	464,053	469,430	473,771	475,802	476,333	477,247	478,021
2005	23,834	71,333	119,130	170,234	231,961	281,735	319,023	354,591	375,869	386,323	393,506	396,881	403,599	404,400		406,900
2006	22,253	66,905	118,745	178,441	244,338	303,112	352,175	381,363	398,659	416,841	430,356	435,299	441,605			443,513
2007	20,464	64,567	119,451	190,787	250,754	314,376	360,998	394,942	418,204	434,702	443,243	450,028				454,881
2008	19,111	66,357	122,708	193,251	271,037	349,119	405,897	443,053	463,811	476,076	482,860					492,473
2009	17,780	66,816	125,280	193,632	262,124	336,027	391,401	428,066	452,663	465,531						474,959
2010	21,830	72,327	136,357	212,860	288,193	347,354	391,706	422,736	442,427							465,882
2011	22,376	76,960	152,002	237,319	323,493	387,281	443,252	473,013								513,621
2012	24,760	87,585	183,593	280,822	377,018	455,697	517,988									605,470
2013	20,808	91,836	194,566	302,160	419,380	513,170										675,562
2014	27,431	105,516	216,670	351,393	486,351											776,807
2015	24,699	98,170	249,719	410,311												904,253
2016	24,522	120,299	285,467													1,005,219
2017	27,852	127,728														1,024,291
2018	26,404															1,028,623

Percentage of ultimate amount at the end of each development period

2004	5.42	19.96	37.80	52.23	65.65	77.17	85.04	90.52	94.31	97.08	98.20	99.11	99.54	99.65	99.84			
2005	5.86	17.53	29.28	41.84	57.01	69.24	78.40	87.14	92.37	94.94	96.71	97.54	99.19	99.39				
2006	5.02	15.09	26.77	40.23	55.09	68.34	79.41	85.99	89.89	93.99	97.03	98.15	99.57					
2007	4.50	14.19	26.26	41.94	55.13	69.11	79.36	86.82	91.94	95.56	97.44	98.93						
2008	3.88	13.47	24.92	39.24	55.04	70.89	82.42	89.97	94.18	96.67	98.05							
2009	3.74	14.07	26.38	40.77	55.19	70.75	82.41	90.13	95.31	98.01								
2010	4.69	15.52	29.27	45.69	61.86	74.56	84.08	90.74	94.97									
2011	4.36	14.98	29.59	46.21	62.98	75.40	86.30	92.09										
2012	4.09	14.47	30.32	46.38	62.27	75.26	85.55											
2013	3.08	13.59	28.80	44.73	62.08	75.96												
2014	3.53	13.58	27.89	45.24	62.61													
2015	2.73	10.86	27.62	45.38														
2016	2.44	11.97	28.40															
2017	2.72	12.47																
2018	2.57																	
Avg	3.91	14.41	28.72	44.16	59.54	72.67	82.55	89.17	93.28	96.04	97.49	98.43	99.43	99.52	99.84			
Wtd Avg	3.59	13.89	28.64	44.39	59.92	72.97	82.78	89.28	93.34	96.10	97.52	98.47	99.44	99.53	99.84			
Selected	3.75	14.15	28.68	44.27	59.73	72.82	82.66	89.23	93.31	96.07	97.50	98.45	99.44	99.58	99.72	99.86	100.00	100.00
Incremental	10.40	14.53	15.59	15.46	13.09	9.84	6.57	4.08	2.76	1.43	0.95	0.99	0.14	0.14	0.14	0.14		

Private Passenger Automobile - Excluding Farmers/Voitures de tourisme - sauf exploitants agricoles Third Party Liability/Respondsabilité civile
Paid Loss And Expense Amount ($000)/Montant de sinistres et de frais réglés ($000) Alberta/Alberta
Property Damage/Dommages matériels
as of December 31, 2018

	Developed Months														
Accident Year	012	024	036	048	060	072	084	096	108	120	132	144	156	168	180	PROJECTED ULT LOSS
2004	100,692	153,297	156,917	157,361	157,593	157,787	157,796	157,807	157,881	157,896	157,888	157,897	157,888	157,888	157,888	157,888
2005	109,876	175,892	180,448	180,938	181,241	181,544	182,531	182,602	182,630	182,639	182,814	182,808	182,810	182,810		182,816
2006	117,603	211,492	226,401	227,560	227,909	228,152	228,487	228,625	228,634	228,811	228,805	228,812	228,813			228,825
2007	128,632	251,369	273,660	275,052	276,123	276,612	276,692	276,720	276,683	276,662	276,658	276,652				276,654
2008	148,571	280,057	293,737	295,517	296,379	297,320	297,488	297,518	297,635	297,649	297,647					297,647
2009	181,760	289,744	296,310	297,042	298,173	299,314	299,382	299,424	299,452	299,499						299,505
2010	173,158	284,722	293,040	294,321	294,922	295,227	295,493	295,521	295,527							295,549
2011	197,710	311,042	320,901	321,997	322,715	323,852	323,930	323,954								323,962
2012	176,163	323,563	338,225	339,646	340,344	340,417	340,505									340,515
2013	188,398	353,300	370,001	371,444	372,394	372,712										373,262
2014	206,040	373,752	392,616	394,694	395,234											395,681
2015	222,000	387,807	405,601	407,302												408,069
2016	210,448	374,484	388,893													390,607
2017	241,895	409,631														426,057
2018	255,884															438,592

Percentage of ultimate amount at the end of each development period

	012	024	036	048	060	072	084	096	108	120	132	144	156	168	180			
2004	63.77	97.09	99.38	99.67	99.81	99.94	99.94	99.95	100.00	100.01	100.00	100.01	100.00	100.00	100.00			
2005	60.10	96.21	98.70	98.97	99.14	99.30	99.84	99.88	99.90	99.90	100.00	100.00	100.00	100.00				
2006	51.39	92.43	98.94	99.45	99.60	99.71	99.85	99.91	99.92	99.99	99.99	99.99	99.99					
2007	46.50	90.86	98.92	99.42	99.81	99.98	100.01	100.02	100.01	100.00	100.00	100.00						
2008	49.92	94.09	98.69	99.28	99.57	99.89	99.95	99.96	100.00	100.00	100.00							
2009	60.69	96.74	98.93	99.18	99.56	99.94	99.96	99.97	99.98	100.00								
2010	58.59	96.34	99.15	99.58	99.79	99.89	99.98	99.99	99.99									
2011	61.03	96.01	99.06	99.39	99.62	99.97	99.99	100.00										
2012	51.73	95.02	99.33	99.74	99.95	99.97	100.00											
2013	50.47	94.65	99.13	99.51	99.77	99.85												
2014	52.07	94.46	99.23	99.75	99.89													
2015	54.40	95.03	99.40	99.81														
2016	53.88	95.87	99.56															
2017	56.78	96.14																
2018	58.34																	
Avg	55.31	95.07	99.11	99.48	99.68	99.84	99.95	99.96	99.97	99.98	100.00	100.00	100.00	100.00	100.00			
Wtd Avg	54.98	95.07	99.14	99.51	99.71	99.87	99.96	99.97	99.97	99.99	100.00	100.00	100.00	100.00	100.00			
Selected	55.15	95.07	99.12	99.50	99.69	99.86	99.97	99.98	99.99	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Incremental	39.92	4.05	0.38	0.19	0.17	0.11	0.01	0.01	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

Private Passenger Automobile - Excluding Farmers/Voitures de tourisme - sauf exploitants agricoles Accident Benefits/Indemnités d'accident
Paid Loss And Expense Amount ($000)/Montant de sinistres et de frais réglés ($000) Alberta/Alberta
Coverage Total/Toute l'experience
as of December 31, 2018

	Developed Months															
Accident Year	**012**	**024**	**036**	**048**	**060**	**072**	**084**	**096**	**108**	**120**	**132**	**144**	**156**	**168**	**180**	**PROJECTED ULT LOSS**
2004	25,115	50,227	54,581	55,223	55,451	55,623	56,007	56,276	56,398	56,505	56,578	56,641	56,876	56,945	57,007	57,614
2005	30,152	52,843	58,609	59,459	60,877	61,313	61,657	64,224	64,353	64,614	64,794	64,953	64,996	65,242		65,560
2006	30,363	54,788	60,015	60,839	61,176	61,673	62,853	63,542	63,646	63,876	63,889	63,959	64,008			64,310
2007	33,201	60,142	66,402	67,574	68,930	69,281	70,177	71,342	71,389	71,418	71,421	72,020				72,045
2008	35,548	65,355	72,942	75,329	75,723	76,224	76,941	77,124	77,227	77,299	77,391					78,100
2009	35,815	66,598	73,376	75,509	76,097	76,696	78,698	78,749	78,910	79,418						79,590
2010	37,122	66,418	72,974	74,583	75,727	76,611	77,289	77,496	77,564							78,327
2011	40,102	69,339	76,385	79,105	79,363	79,763	80,259	80,358								80,752
2012	40,135	73,962	83,200	85,288	86,563	87,871	88,372									91,559
2013	42,422	77,025	86,642	88,003	88,861	89,557										94,231
2014	44,909	82,087	92,744	94,138	94,773											97,791
2015	48,521	95,375	108,893	111,903												121,394
2016	52,597	105,304	120,811													127,826
2017	58,379	118,497														148,242
2018	63,227															162,728

Percentage of ultimate amount at the end of each development period

	012	024	036	048	060	072	084	096	108	120	132	144	156	168	180			
2004	43.59	87.18	94.74	95.85	96.25	96.54	97.21	97.68	97.89	98.08	98.20	98.31	98.72	98.84	98.95			
2005	45.99	80.60	89.40	90.69	92.86	93.52	94.05	97.96	98.16	98.56	98.83	99.07	99.14	99.52				
2006	47.21	85.19	93.32	94.60	95.13	95.90	97.73	98.81	98.97	99.33	99.35	99.45	99.53					
2007	46.08	83.48	92.17	93.79	95.68	96.16	97.41	99.02	99.09	99.13	99.13	99.97						
2008	45.52	83.68	93.40	96.45	96.96	97.60	98.52	98.75	98.88	98.97	99.09							
2009	45.00	83.68	92.19	94.87	95.61	96.36	98.88	98.94	99.15	99.78								
2010	47.39	84.80	93.17	95.22	96.68	97.81	98.67	98.94	99.03									
2011	49.66	85.87	94.59	97.96	98.28	98.77	99.39	99.51										
2012	43.84	80.78	90.87	93.15	94.54	95.97	96.52											
2013	45.02	81.74	91.95	93.39	94.30	95.04												
2014	45.92	83.94	94.84	96.26	96.91													
2015	39.97	78.57	89.70	92.18														
2016	41.15	82.38	94.51															
2017	39.38	79.93																
2018	38.85																	
Avg	44.31	82.99	92.68	94.54	95.74	96.37	97.60	98.70	98.74	98.97	98.92	99.20	99.13	99.18	98.95			
Wtd Avg	43.49	82.55	92.65	94.46	95.77	96.39	97.66	98.75	98.78	99.02	98.95	99.25	99.14	99.20	98.95			
Selected	43.90	82.77	92.66	94.50	95.76	97.01	97.63	98.09	98.55	99.01	99.21	99.41	99.61	99.80	99.85	99.90	99.95	100.00
Incremental	38.87	9.89	1.84	1.26	1.25	0.62	0.46	0.46	0.46	0.20	0.20	0.20	0.19	0.05	0.05	0.05	0.05	

Private Passenger Automobile - Excluding Farmers/Voitures de tourisme - sauf exploitants agricoles
Paid Loss And Expense Amount ($000)/Montant de sinistres et de frais réglés ($000) Alberta/Alberta
Underinsured Motorist /Sous-assurance des tiers
as of December 31, 2018

	Developed Months															
Accident Year	012	024	036	048	060	072	084	096	108	120	132	144	156	168	180	PROJECTED ULT LOSS
2004	14	43	115	664	2,632	2,904	3,108	3,140	4,359	4,585	4,603	4,792	4,796	5,056	5,059	5,138
2005	22	102	934	1,895	1,897	2,795	3,482	5,515	7,592	8,367	8,588	8,582	8,586	9,070		9,070
2006	41	80	204	2,089	3,205	3,826	5,029	6,468	6,977	8,115	8,186	8,483	8,485			9,015
2007	9	142	581	1,070	1,446	2,727	3,285	3,369	3,936	4,023	5,278	5,671				6,350
2008	17	52	125	442	1,287	1,477	2,948	5,179	5,380	5,557	5,620					5,757
2009	12	256	636	1,979	4,171	6,342	7,582	7,600	7,900	8,068						8,162
2010	2	66	343	987	1,127	2,149	4,657	4,981	5,603							6,797
2011	7	65	298	639	1,982	2,289	5,206	5,337								9,173
2012	14	147	1,025	2,456	3,798	5,807	6,796									11,082
2013	14	437	979	1,328	1,968	2,902										6,441
2014	56	95	319	1,662	3,392											8,231
2015	14	68	591	3,382												16,649
2016	27	1,192	2,615													15,920
2017	89	142														13,319
2018	86															11,029

Percentage of ultimate amount at the end of each development period

	012	024	036	048	060	072	084	096	108	120	132	144	156	168	180			
2004	0.27	0.84	2.24	12.92	51.22	56.52	60.49	61.11	84.84	89.23	89.59	93.26	93.34	98.40	98.46			
2005	0.24	1.12	10.30	20.89	20.92	30.82	38.39	60.81	83.71	92.25	94.69	94.62	94.67	100.00				
2006	0.45	0.89	2.26	23.17	35.55	42.44	55.79	71.75	77.39	90.02	90.81	94.10	94.12					
2007	0.14	2.24	9.15	16.85	22.77	42.94	51.73	53.05	61.98	63.35	83.12	89.30						
2008	0.30	0.90	2.17	7.68	22.35	25.65	51.20	89.95	93.45	96.52	97.61							
2009	0.15	3.14	7.79	24.25	51.10	77.70	92.89	93.11	96.78	98.84								
2010	0.03	0.97	5.05	14.52	16.58	31.62	68.51	73.28	82.43									
2011	0.08	0.71	3.25	6.97	21.61	24.95	56.75	58.18										
2012	0.13	1.33	9.25	22.16	34.27	52.40	61.33											
2013	0.22	6.78	15.20	20.62	30.55	45.06												
2014	0.68	1.15	3.88	20.19	41.21													
2015	0.08	0.41	3.55	20.31														
2016	0.17	7.49	16.43															
2017	0.67	1.07																
2018	0.78																	
Avg	0.29	2.07	6.96	17.54	31.65	43.01	59.68	70.16	82.94	88.37	91.16	92.82	94.04	99.20	98.46			
Wtd Avg	0.30	2.20	7.44	18.25	31.57	43.15	59.67	69.94	83.01	89.02	91.35	93.09	94.16	99.42	98.46			
Selected	0.30	2.14	7.20	17.90	31.61	45.64	59.67	71.33	82.99	88.70	91.27	93.46	95.64	97.82	100.00	100.00	100.00	100.00
Incremental	1.84	5.06	10.70	13.71	14.03	14.03	11.66	11.66	5.71	2.57	2.19	2.18	2.18	2.18	0.00	0.00	0.00	

Private Passenger Automobile - Excluding Farmers/Voitures de tourisme - sauf exploitants agricoles
Paid Loss And Expense Amount ($000)/Montant de sinistres et de frais réglés ($000) Alberta/Alberta
Collision/Collision
as of December 31, 2018

	Developed Months															
Accident Year	**012**	**024**	**036**	**048**	**060**	**072**	**084**	**096**	**108**	**120**	**132**	**144**	**156**	**168**	**180**	**PROJECTED ULT LOSS**
2004	176,193	187,650	185,991	185,797	185,723	185,730	185,697	185,606	185,571	185,544	185,528	185,524	185,490	185,477	185,471	185,472
2005	204,559	219,435	217,131	216,887	216,687	216,639	216,579	216,578	216,530	216,525	216,499	216,466	216,450	216,450		216,458
2006	259,687	300,733	288,116	287,559	287,633	287,603	287,561	287,542	287,625	287,613	287,610	287,595	287,589			287,590
2007	333,876	378,532	355,365	354,549	354,529	354,445	354,362	354,321	354,281	354,236	354,218	354,188				354,213
2008	367,663	388,473	376,950	376,839	376,814	376,927	377,054	376,896	376,817	376,816	376,790					376,798
2009	334,462	362,254	359,021	358,736	358,683	358,692	358,590	358,519	358,342	358,342						358,349
2010	302,505	325,210	321,366	321,176	321,147	321,142	321,013	320,966	320,949							320,983
2011	358,066	360,057	355,045	354,953	354,893	354,809	354,773	354,728								354,761
2012	344,416	378,065	369,707	369,401	369,326	369,249	369,197									369,301
2013	404,480	421,808	410,725	410,478	410,566	410,612										410,796
2014	447,660	454,740	441,821	441,344	441,389											441,592
2015	477,076	459,625	450,019	449,805												450,239
2016	469,526	461,831	453,100													453,084
2017	513,440	507,534														496,103
2018	529,958															499,195

Percentage of ultimate amount at the end of each development period

	012	024	036	048	060	072	084	096	108	120	132	144	156	168	180			
2004	95.00	101.17	100.28	100.18	100.14	100.14	100.12	100.07	100.05	100.04	100.03	100.03	100.01	100.00	100.00			
2005	94.50	101.38	100.31	100.20	100.11	100.08	100.06	100.06	100.03	100.03	100.02	100.00	100.00	100.00				
2006	90.30	104.57	100.18	99.99	100.01	100.00	99.99	99.98	100.01	100.01	100.01	100.00	100.00					
2007	94.26	106.87	100.33	100.09	100.09	100.07	100.04	100.03	100.02	100.01	100.00	99.99						
2008	97.58	103.10	100.04	100.01	100.00	100.03	100.07	100.03	100.01	100.00	100.00							
2009	93.33	101.09	100.19	100.11	100.09	100.10	100.07	100.05	100.00	100.00								
2010	94.24	101.32	100.12	100.06	100.05	100.05	100.01	99.99	99.99									
2011	100.93	101.49	100.08	100.05	100.04	100.01	100.00	99.99										
2012	93.26	102.37	100.11	100.03	100.01	99.99	99.97											
2013	98.46	102.68	99.98	99.92	99.94	99.96												
2014	101.37	102.98	100.05	99.94	99.95													
2015	105.96	102.08	99.95	99.90														
2016	103.63	101.93	100.00															
2017	103.49	102.30																
2018	106.16																	
Avg	98.17	102.52	100.13	100.04	100.04	100.04	100.04	100.03	100.02	100.01	100.01	100.01	100.00	100.00	100.00			
Wtd Avg	99.08	102.57	100.10	100.02	100.03	100.03	100.03	100.02	100.01	100.01	100.01	100.00	100.00	100.00	100.00			
Selected	98.62	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Incremental	1.38	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

Private Passenger Automobile - Excluding Farmers/Voitures de tourisme - sauf exploitants agricoles Comprehensive/Accident sans collision ni versement
Paid Loss And Expense Amount ($000)/Montant de sinistres et de frais réglés ($000) Alberta/Alberta
Coverage Total/Toute l'experience
as of December 31, 2018

	Developed Months															
Accident Year	012	024	036	048	060	072	084	096	108	120	132	144	156	168	180	PROJECTED ULT LOSS
2004	104,969	125,066	125,221	125,197	125,239	125,233	125,244	125,244	125,240	125,233	125,224	125,215	125,209	125,209	125,209	125,209
2005	119,582	153,362	153,721	153,733	153,751	153,747	153,717	153,703	153,701	153,692	153,684	153,666	153,663	153,661		153,666
2006	118,389	156,862	157,102	157,154	157,172	157,185	157,169	157,177	157,182	157,180	157,172	157,174	157,173			157,173
2007	176,021	233,916	234,038	234,071	234,103	234,055	234,091	234,132	234,128	234,131	234,097	234,094				234,099
2008	167,592	212,106	212,293	212,241	212,163	212,228	212,281	212,302	212,296	212,222	212,207					212,208
2009	187,323	227,165	227,356	227,360	227,254	227,218	227,199	227,185	227,185	227,178						227,189
2010	292,650	368,817	369,292	369,412	369,460	369,488	369,448	369,433	369,423							369,452
2011	171,836	212,596	212,785	212,749	212,702	212,664	212,649	212,654								212,655
2012	253,714	345,274	349,352	349,377	349,474	349,491	349,603									349,614
2013	275,362	339,032	342,379	342,630	342,745	342,748										342,786
2014	302,915	393,802	397,738	397,871	397,859											397,963
2015	332,435	406,566	409,750	409,743												410,093
2016	461,957	550,474	555,639													555,968
2017	310,664	374,663														377,287
2018	316,202															383,066

Percentage of ultimate amount at the end of each development period

	012	024	036	048	060	072	084	096	108	120	132	144	156	168	180			
2004	83.84	99.89	100.01	99.99	100.02	100.02	100.03	100.03	100.03	100.02	100.01	100.01	100.00	100.00	100.00			
2005	77.82	99.80	100.04	100.04	100.06	100.05	100.03	100.02	100.02	100.02	100.01	100.00	100.00	100.00				
2006	75.32	99.80	99.95	99.99	100.00	100.01	100.00	100.00	100.01	100.00	100.00	100.00	100.00					
2007	75.19	99.92	99.97	99.99	100.00	99.98	100.00	100.01	100.01	100.01	100.00	100.00						
2008	78.98	99.95	100.04	100.02	99.98	100.01	100.03	100.04	100.04	100.01	100.00							
2009	82.45	99.99	100.07	100.08	100.03	100.01	100.00	100.00	100.00	99.99								
2010	79.21	99.83	99.96	99.99	100.00	100.01	100.00	99.99	99.99									
2011	80.80	99.97	100.06	100.04	100.02	100.00	100.00	100.00										
2012	72.57	98.76	99.93	99.93	99.96	99.96	100.00											
2013	80.33	98.90	99.88	99.95	99.99	99.99												
2014	76.12	98.95	99.94	99.98	99.97													
2015	81.06	99.14	99.92	99.91														
2016	83.09	99.01	99.94															
2017	82.34	99.30																
2018	82.55																	
Avg	79.44	99.52	99.98	99.99	100.00	100.01	100.01	100.01	100.01	100.01	100.00	100.00	100.00	100.00	100.00			
Wtd Avg	79.66	99.38	99.96	99.98	100.00	100.00	100.01	100.01	100.01	100.01	100.00	100.00	100.00	100.00	100.00			
Selected	79.55	99.45	99.97	99.99	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Incremental	19.90	0.52	0.02	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

Private Passenger Automobile - Excluding Farmers/Voitures de tourisme - sauf exploitants agricoles
Paid Loss And Expense Amount ($000)/Montant de sinistres et de frais réglés ($000) Alberta/Alberta
Specified Perils/Risques spécifiés
as of December 31, 2018

	Developed Months															
Accident Year	**012**	**024**	**036**	**048**	**060**	**072**	**084**	**096**	**108**	**120**	**132**	**144**	**156**	**168**	**180**	**PROJECTED ULT LOSS**
2004	598	608	607	607	607	607	607	607	607	607	607	607	607	607	607	607
2005	599	694	695	697	697	697	697	697	697	697	697	697	697	697		697
2006	488	619	624	624	624	624	624	624	624	624	624	624	624			624
2007	566	695	695	703	707	707	707	707	707	707	707	707				708
2008	376	476	478	478	479	479	479	479	479	479	479					479
2009	428	517	522	521	521	521	521	521	521	521						521
2010	541	627	631	625	625	625	625	625	625							625
2011	469	539	539	542	541	541	541	542								541
2012	703	854	860	859	859	861	862									862
2013	557	636	648	648	648	646										646
2014	671	848	854	854	854											853
2015	671	773	786	787												788
2016	895	1,063	1,066													1,066
2017	856	1,044														1,051
2018	992															1,132

Percentage of ultimate amount at the end of each development period

	012	024	036	048	060	072	084	096	108	120	132	144	156	168	180			
2004	98.55	100.20	100.03	100.03	100.03	100.03	100.03	100.03	100.03	100.03	100.03	100.03	100.03	100.03	100.03			
2005	85.98	99.62	99.76	100.05	100.05	100.05	100.05	100.05	100.05	100.05	100.05	100.05	100.05	100.05				
2006	78.21	99.21	100.01	100.01	100.01	100.01	100.01	100.01	100.01	100.01	100.01	100.01	100.01					
2007	79.96	98.18	98.18	99.31	99.88	99.88	99.88	99.88	99.88	99.88	99.88	99.88						
2008	78.56	99.45	99.87	99.87	100.08	100.08	100.08	100.08	100.08	100.08	100.08							
2009	82.13	99.20	100.16	99.97	99.97	99.97	99.97	99.97	99.97	99.97								
2010	86.57	100.33	100.97	100.01	100.01	100.01	100.01	100.01	100.01									
2011	86.62	99.55	99.55	100.10	99.91	99.91	99.91	100.10										
2012	81.58	99.10	99.80	99.68	99.68	99.92	100.03											
2013	86.23	98.46	100.32	100.32	100.32	100.01												
2014	78.62	99.36	100.07	100.07	100.07													
2015	85.20	98.16	99.81	99.93														
2016	83.98	99.75	100.03															
2017	81.43	99.32																
2018	87.67																	
Avg	84.09	99.28	99.89	99.95	100.00	99.99	100.00	100.02	100.00	100.00	100.01	99.99	100.03	100.04	100.03			
Wtd Avg	84.03	99.27	99.88	99.94	99.99	99.98	100.00	100.01	100.00	100.00	100.00	99.99	100.03	100.04	100.03			
Selected	84.06	99.27	99.88	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Incremental	15.21	0.61	0.12	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

Private Passenger Automobile - Excluding Farmers/Voitures de tourisme - sauf exploitants agricoles
Paid Loss And Expense Amount ($000)/Montant de sinistres et de frais réglés ($000) Alberta/Alberta
All Perils/Tous risques
as of December 31, 2018

	Developed Months															
Accident Year	**012**	**024**	**036**	**048**	**060**	**072**	**084**	**096**	**108**	**120**	**132**	**144**	**156**	**168**	**180**	**PROJECTED ULT LOSS**
2004	9,175	10,547	10,514	10,462	10,429	10,429	10,425	10,422	10,420	10,420	10,420	10,420	10,419	10,419	10,419	10,419
2005	8,802	10,128	10,040	10,039	10,042	10,045	10,044	10,040	10,035	10,032	10,028	10,026	10,023	10,021		10,021
2006	7,175	9,160	9,063	9,056	9,039	9,044	9,042	9,042	9,042	9,042	9,041	9,041	9,041			9,041
2007	8,796	11,875	11,328	11,318	11,272	11,262	11,260	11,255	11,254	11,253	11,253	11,253				11,253
2008	8,567	9,989	9,730	9,767	9,794	9,810	9,809	9,811	9,808	9,807	9,806					9,806
2009	8,442	9,297	9,223	9,232	9,307	8,904	8,886	8,885	8,883	8,882						8,885
2010	8,123	9,703	9,643	9,658	9,662	9,619	9,616	9,614	9,613							9,613
2011	6,583	7,624	8,026	8,058	8,048	8,026	8,010	8,008								8,010
2012	6,598	8,110	8,022	8,009	8,029	8,032	8,064									8,064
2013	8,112	9,441	9,284	9,296	9,321	9,327										9,328
2014	7,890	9,057	9,481	9,562	9,563											9,567
2015	8,393	9,503	9,347	9,356												9,367
2016	9,029	10,480	10,408													10,449
2017	8,267	8,906														8,908
2018	8,462															9,606

Percentage of ultimate amount at the end of each development period

2004	88.06	101.23	100.91	100.41	100.10	100.10	100.06	100.03	100.01	100.01	100.01	100.01	100.00	100.00	100.00			
2005	87.84	101.07	100.19	100.18	100.21	100.24	100.23	100.19	100.14	100.11	100.07	100.05	100.02	100.00				
2006	79.36	101.31	100.24	100.16	99.97	100.03	100.01	100.01	100.01	100.01	100.00	100.00	100.00					
2007	78.17	105.53	100.67	100.58	100.17	100.08	100.06	100.02	100.01	100.00	100.00	100.00						
2008	87.37	101.87	99.23	99.60	99.88	100.04	100.03	100.05	100.02	100.01	100.00							
2009	95.02	104.64	103.81	103.91	104.75	100.22	100.02	100.00	99.98	99.97								
2010	84.50	100.93	100.31	100.46	100.51	100.06	100.03	100.01	100.00									
2011	82.19	95.19	100.21	100.60	100.48	100.21	100.01	99.98										
2012	81.82	100.57	99.48	99.32	99.56	99.60	100.00											
2013	86.97	101.22	99.53	99.66	99.93	99.99												
2014	82.47	94.67	99.10	99.95	99.96													
2015	89.60	101.45	99.79	99.88														
2016	86.41	100.30	99.61															
2017	92.81	99.98																
2018	88.09																	
Avg	86.04	100.71	100.24	100.39	100.50	100.06	100.05	100.04	100.02	100.02	100.02	100.01	100.01	100.00	100.00			
Wtd Avg	86.00	100.82	100.23	100.39	100.48	100.06	100.05	100.04	100.02	100.02	100.02	100.01	100.01	100.00	100.00			
Selected	86.02	99.00	99.25	99.50	99.75	99.88	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Incremental	12.98	0.25	0.25	0.25	0.13	0.12	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

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APPENDIX 5.7

AIRB Approved Rate Changes

Alberta Automobile Insurance Rate Board

Automobile Insurance Rate Board Filings

Table below from AIRB Filing Decisions

Period	Ending rate change	
	Basic	Alternative/ Additional
2018	6.30%	2.24%
2019	14.47%	3.89%
March 2020	7.25%	3.71%

Description	Average Premium Rate level in 2018	Ending Rate Change in 2018	On Level Factor	Rate Adjustments to March 2020
Basic	3.57%	6.30%	2.63%	26.01%
Alternative/ Additional	1.68%	2.24%	0.55%	8.33%

Insurer Name	2018 Approved Rate Change							
	Basic	Renewal	Basic	Renewal	Basic	Renewal	Basic	Renewal
Alberta Motor Association Insurance Company	**0.00%**	1-Jun-18	**3.10%**	1-Sep-18				
Allstate Insurance Company of Canada	**6.40%**	15-Feb-18						
Aviva General Insurance Company	**6.00%**	1-May-18						
Aviva Insurance Company of Canada	**2.10%**	1-Jul-18						
Belair Insurance Company Inc.	**1.50%**	31-Mar-18	**3.30%**	21-Jun-18	**0.30%**	2-Feb-19	**6.10%**	6-Feb-19
Certas Direct Insurance Company	**7.10%**	3-Apr-18						
Certas Home and Auto Insurance Company	**3.40%**	27-Mar-18	**3.90%**	3-Nov-18				
Chubb Insurance Company of Canada								
Continental Casualty Company	**3.20%**	1-Jun-18						
Co-operators General Insurance Company	**5.90%**	18-Jan-19						
COSECO Insurance Company	**4.40%**	1-Jun-18						
CUMIS General Insurance Company								
Economical Mutual Insurance Company	**8.40%**	2-Nov-18						
Facility Association	**4.50%**	1-Mar-18	**0.00%**	1-Oct-18				
Federated Insurance Company of Canada	**0.00%**	1-Sep-18	**0.00%**	15-Nov-18				
Hartford Fire Insurance Company								
Intact Insurance Company	**0.70%**	30-Jan-18	**3.60%**	11-May-18	**-0.20%**	13-Jul-18	**-1.60%**	17-Aug-18
Millennium Insurance Corporation	**26.70%**	1-Sep-18						
Northbridge Personal Insurance Corporation								
Northbridge General Insurance Corporation	**0.00%**	15-Nov-18						
Novex Insurance Company	**0.30%**	30-Jan-18	**5.80%**	11-May-18	**-0.20%**	13-Jul-18	**-1.00%**	17-Aug-18
Optimum West Insurance Company	**6.80%**	1-Aug-18						
Peace Hills General Insurance Company	**9.30%**	1-Feb-18						
Pembridge Insurance Company	**6.00%**	15-Apr-18						
Primmum Insurance Company	**2.20%**	1-Jan-18	**9.90%**	28-Sep-18				
Royal & Sun Alliance Insurance Company of Canada	**7.40%**	1-Mar-18						
Security National Insurance Company	**2.80%**	1-Jan-18	**10.00%**	28-Sep-18				
SGI Canada Insurance Services Limited	**5.40%**	15-Feb-18	**0.00%**	15-Dec-18				
Sonnet Insurance Company	**0.00%**	23-Dec-18						
TD Home and Auto Insurance Company	**3.00%**	1-Jan-18	**10.00%**	28-Sep-18				
The Dominion of Canada General Insurance Company	**5.00%**	1-Apr-18	**4.60%**	15-Aug-18				
The Personal Insurance Company	**8.60%**	3-Apr-18						
The Portage la Prairie Mutual Insurance Company	**5.50%**	1-Oct-18						
The Wawanesa Mutual Insurance Company	**10.70%**	1-May-18						
Tokio Marine & Nichido Fire Insurance Co. Ltd.	**0.00%**	15-Nov-18						
Traders General Insurance Company	**2.90%**	1-Jul-18						
Unifund Assurance Company								
Zenith Insurance Company	**0.00%**	15-Nov-18						
Zurich Insurance Company Ltd.	**0.10%**	15-Dec-18						
Other Companies								

Insurer Name	2019 & 2020 Approved Rate Change							
	Basic	Renewal	Basic	Renewal	Basic	Renewal	Basic	Renewal
Alberta Motor Association Insurance Company	**5.90%**	1-Sep-19						
Allstate Insurance Company of Canada	**-0.80%**	28-Feb-19	**6.30%**	1-Mar-19	**8.80%**	5-Dec-19	**4.27%**	1-Mar-20
Aviva General Insurance Company	**12.50%**	15-Jan-19	**16.00%**	1-Jan-20				
Aviva Insurance Company of Canada	**6.10%**	1-Apr-19	**15.29%**	1-Jan-20				
Belair Insurance Company Inc.	**0.40%**	15-May-19	**0.60%**	25-Sep-19	**14.20%**	16-Jan-20		
Certas Direct Insurance Company	**7.30%**	16-Apr-19	**29.80%**	17-Dec-19				
Certas Home and Auto Insurance Company	**6.30%**	2-Apr-19	**17.70%**	28-Jan-20				
Chubb Insurance Company of Canada	**20.37%**	1-May-20						
Continental Casualty Company	**33.80%**	1-Jan-20						
Co-operators General Insurance Company	**5.00%**	15-Feb-19	**12.80%**	10-Jan-20	**0.00%**	20-Mar-20		
COSECO Insurance Company	**7.80%**	1-Jun-19	**18.20%**	1-Jan-20	**5.98%**	22-Jun-20		
CUMIS General Insurance Company	**0.80%**	1-Aug-19						
Economical Mutual Insurance Company	**7.00%**	1-Apr-19	**21.50%**	31-Dec-19				
Facility Association	**0.00%**	1-Nov-19						
Federated Insurance Company of Canada	**0.00%**	28-Jul-19						
Hartford Fire Insurance Company	**10.70%**	1-Apr-19	**11.30%**	1-Apr-19				
Intact Insurance Company	**6.10%**	15-Jan-19	**0.00%**	7-Sep-19	**4.90%**	22-Nov-19	**0.00%**	1-May-20
Millennium Insurance Corporation	**7.90%**	1-Nov-19						
Northbridge Personal Insurance Corporation								
Northbridge General Insurance Corporation	**0.00%**	28-Jul-19						
Novex Insurance Company	**6.40%**	15-Jan-19	**6.60%**	22-Nov-19				
Optimum West Insurance Company	**6.80%**	1-Feb-19	**24.90%**	15-Nov-19				
Peace Hills General Insurance Company	**3.00%**	1-Apr-19	**27.90%**	15-Dec-19				
Pembridge Insurance Company	**-1.80%**	21-Jan-19	**5.10%**	28-May-19	**10.10%**	8-Dec-19	**0.01%**	28-May-20
Primmum Insurance Company	**6.40%**	1-Mar-19	**12.90%**	1-Jan-20				
Royal & Sun Alliance Insurance Company of Canada	**5.80%**	1-Apr-19	**7.20%**	1-Jan-20	**6.79%**	15-Apr-20		
Security National Insurance Company	**6.40%**	1-Mar-19	**14.00%**	1-Jan-20				
SGI Canada Insurance Services Limited	**18.90%**	15-Feb-19	**13.20%**	1-Dec-19	**4.34%**	15-Feb-20		
Sonnet Insurance Company	**4.20%**	1-Apr-19	**-0.10%**	5-Nov-19	**15.60%**	8-Dec-19	**0.00%**	31-Dec-19
TD Home and Auto Insurance Company	**6.90%**	1-Mar-19	**17.30%**	1-Jan-20				
The Dominion of Canada General Insurance Company	**7.00%**	1-Apr-19	**18.20%**	1-Jan-20				
The Personal Insurance Company	**8.60%**	2-Apr-19	**23.60%**	28-Jan-20				
The Portage la Prairie Mutual Insurance Company	**23.50%**	1-Feb-20						
The Wawanesa Mutual Insurance Company	**8.90%**	1-Apr-19	**20.80%**	15-Dec-19				
Tokio Marine & Nichido Fire Insurance Co. Ltd.	**0.00%**	28-Jul-19						
Traders General Insurance Company	**7.20%**	1-Apr-19	**18.79%**	1-Jan-20				
Unifund Assurance Company	**6.50%**	1-Feb-19	**7.80%**	1-Jun-19	**18.00%**	1-Dec-19		
Zenith Insurance Company	**0.00%**	28-Jul-19						
Zurich Insurance Company Ltd.	**0.10%**	31-Dec-19						
Other Companies								

Insurer Name	Average Premium Rate Level in 2018	Ending Rate in 2018	Ending Rate in 2019	Ending Rate in 2020 (March 31, 2020)	Market Share		
					Q3 2018 to Q2 2019	Q3 2019 to Q1 2020	Selected (Average)
Alberta Motor Association Insurance Company	1.010	1.031	1.059	1.000	5.80%	5.07%	5.44%
Allstate Insurance Company of Canada	1.056	1.064	1.147	1.043	2.77%	3.20%	2.99%
Aviva General Insurance Company	1.040	1.060	1.125	1.160	1.69%	1.69%	1.69%
Aviva Insurance Company of Canada	1.011	1.021	1.061	1.153	6.78%	6.28%	6.53%
Belair Insurance Company Inc.	1.029	1.048	1.075	1.142	2.17%	1.99%	2.08%
Certas Direct Insurance Company	1.053	1.071	1.393	1.000	0.64%	0.66%	0.65%
Certas Home and Auto Insurance Company	1.033	1.074	1.063	1.177	4.05%	4.39%	4.22%
Chubb Insurance Company of Canada	1.000	1.000	1.000	1.000	0.00%	0.00%	0.00%
Continental Casualty Company	1.019	1.032	1.000	1.338	0.00%	0.00%	0.00%
Co-operators General Insurance Company	1.000	1.000	1.112	1.128	6.86%	7.26%	7.06%
COSECO Insurance Company	1.026	1.044	1.078	1.182	0.76%	0.83%	0.80%
CUMIS General Insurance Company	1.000	1.000	1.008	1.000	0.16%	0.16%	0.16%
Economical Mutual Insurance Company	1.014	1.084	1.300	1.000	2.54%	2.87%	2.71%
Facility Association	1.038	1.045	1.000	1.000	0.21%	0.22%	0.22%
Federated Insurance Company of Canada	1.000	1.000	1.000	1.000	0.10%	0.10%	0.10%
Hartford Fire Insurance Company	1.000	1.000	1.110	1.000	0.00%	0.00%	0.00%
Intact Insurance Company	1.023	1.025	1.113	1.000	17.09%	14.89%	15.99%
Millennium Insurance Corporation	1.089	1.267	1.079	1.000	0.54%	0.55%	0.55%
Northbridge Personal Insurance Corporation	1.000	1.000	1.000	1.000	0.01%	0.01%	0.01%
Northbridge General Insurance Corporation	1.000	1.000	1.000	1.000	0.04%	0.04%	0.04%
Novex Insurance Company	1.035	1.048	1.134	1.000	2.15%	1.95%	2.05%
Optimum West Insurance Company	1.029	1.068	1.334	1.000	0.11%	0.17%	0.14%
Peace Hills General Insurance Company	1.085	1.093	1.317	1.000	1.45%	1.54%	1.50%
Pembridge Insurance Company	1.043	1.060	1.136	1.000	0.43%	0.73%	0.58%
Primmum Insurance Company	1.048	1.123	1.064	1.129	3.83%	4.16%	4.00%
Royal & Sun Alliance Insurance Company of Canada	1.062	1.074	1.058	1.072	0.90%	1.01%	0.96%
Security National Insurance Company	1.055	1.131	1.064	1.140	11.41%	11.53%	11.47%
SGI Canada Insurance Services Limited	1.047	1.054	1.346	1.043	1.65%	2.00%	1.83%
Sonnet Insurance Company	1.000	1.000	1.203	1.000	0.23%	0.44%	0.34%
TD Home and Auto Insurance Company	1.057	1.133	1.069	1.173	0.34%	0.30%	0.32%
The Dominion of Canada General Insurance Company	1.056	1.098	1.070	1.182	1.76%	2.09%	1.93%
The Personal Insurance Company	1.064	1.086	1.086	1.236	3.09%	2.76%	2.93%
The Portage la Prairie Mutual Insurance Company	1.014	1.055	1.000	1.235	0.47%	0.48%	0.48%
The Wawanesa Mutual Insurance Company	1.072	1.107	1.316	1.000	12.91%	13.80%	13.36%
Tokio Marine & Nichido Fire Insurance Co. Ltd.	1.000	1.000	1.000	1.000	0.01%	0.01%	0.01%
Traders General Insurance Company	1.015	1.029	1.072	1.188	1.50%	1.58%	1.54%
Unifund Assurance Company	1.000	1.000	1.355	1.000	4.41%	4.36%	4.39%
Zenith Insurance Company	1.000	1.000	1.000	1.000	0.04%	0.04%	0.04%
Zurich Insurance Company Ltd.	1.000	1.001	1.001	1.000	0.00%	0.00%	0.00%
Other Companies	1.000	1.000	1.000	1.000			0.97%
					98.90%	**99.16%**	**99.03%**
	1.0357	**1.0630**	**1.1447**	**1.0725**			100.00%

Insurer Name	2018 Approved Rate Change							
	Alternative	**Renewal**	**Alternative**	**Renewal**	**Alternative**	**Renewal**	**Alternative**	**Renewal**
Alberta Motor Association Insurance Company	**-0.20%**	1-Jun-18	**2.80%**	1-Sep-18				
Allstate Insurance Company of Canada	**2.80%**	15-Feb-18						
Aviva General Insurance Company	**3.60%**	1-May-18						
Aviva Insurance Company of Canada	**6.60%**	1-Jul-18						
Belair Insurance Company Inc.	**1.50%**	31-Mar-18	**3.90%**	21-Jun-18	**-0.60%**	2-Feb-19	**2.10%**	6-Feb-19
Certas Direct Insurance Company	**0.00%**	3-Apr-18						
Certas Home and Auto Insurance Company	**0.00%**	27-Mar-18	**0.00%**	3-Nov-18				
Chubb Insurance Company of Canada								
Continental Casualty Company	**2.80%**	1-Jun-18						
Co-operators General Insurance Company	**3.70%**	18-Jan-19						
COSECO Insurance Company	**5.80%**	1-Jun-18						
CUMIS General Insurance Company								
Economical Mutual Insurance Company	**0.70%**	2-Nov-18						
Facility Association	**6.00%**	1-Mar-18	**0.80%**	1-Oct-18				
Federated Insurance Company of Canada	**0.40%**	1-Sep-18	**1.10%**	15-Nov-18				
Hartford Fire Insurance Company								
Intact Insurance Company	**1.50%**	30-Jan-18	**4.50%**	11-May-18	**-0.30%**	13-Jul-18	**3.20%**	17-Aug-18
Millennium Insurance Corporation	**-25.90%**	1-Sep-18						
Northbridge Personal Insurance Corporation								
Northbridge General Insurance Corporation	**1.20%**	15-Nov-18						
Novex Insurance Company	**1.60%**	30-Jan-18	**1.60%**	11-May-18	**-0.30%**	13-Jul-18	**1.90%**	17-Aug-18
Optimum West Insurance Company	**2.60%**	1-Aug-18						
Peace Hills General Insurance Company	**-0.70%**	1-Feb-18						
Pembridge Insurance Company	**6.10%**	15-Apr-18						
Primmum Insurance Company	**3.80%**	1-Jan-18	**-4.20%**	28-Sep-18				
Royal & Sun Alliance Insurance Company of Canada	**3.90%**	1-Mar-18						
Security National Insurance Company	**2.60%**	1-Jan-18	**-2.10%**	28-Sep-18				
SGI Canada Insurance Services Limited	**4.50%**	15-Feb-18	**-3.10%**	15-Dec-18				
Sonnet Insurance Company	**1.00%**	23-Dec-18						
TD Home and Auto Insurance Company	**2.90%**	1-Jan-18	**-2.00%**	28-Sep-18				
The Dominion of Canada General Insurance Company	**-0.50%**	1-Apr-18	**0.30%**	15-Aug-18				
The Personal Insurance Company	**0.00%**	3-Apr-18						
The Portage la Prairie Mutual Insurance Company	**0.00%**	1-Oct-18						
The Wawanesa Mutual Insurance Company	**-1.90%**	1-May-18						
Tokio Marine & Nichido Fire Insurance Co. Ltd.	**1.20%**	15-Nov-18						
Traders General Insurance Company	**2.80%**	1-Jul-18						
Unifund Assurance Company								
Zenith Insurance Company	**-0.60%**	15-Nov-18						
Zurich Insurance Company Ltd.	**-2.50%**	15-Dec-18						
Other Companies								

Insurer Name	2019 & 2020 Approved Rate Change							
	Alternative	Renewal	Alternative	Renewal	Alternative	Renewal	Alternative	Renewal
Alberta Motor Association Insurance Company	**1.90%**	1-Sep-19						
Allstate Insurance Company of Canada	**1.20%**	28-Feb-19	**2.90%**	1-Mar-19	**11.90%**	5-Dec-19	**5.42%**	1-Mar-20
Aviva General Insurance Company	**-5.30%**	15-Jan-19	**13.50%**	1-Jan-20				
Aviva Insurance Company of Canada	**3.60%**	1-Apr-19	**14.65%**	1-Jan-20				
Belair Insurance Company Inc.	**0.00%**	15-May-19	**-1.10%**	25-Sep-19	**1.60%**	16-Jan-20		
Certas Direct Insurance Company	**0.00%**	16-Apr-19	**-0.20%**	17-Dec-19				
Certas Home and Auto Insurance Company	**2.20%**	2-Apr-19	**8.50%**	28-Jan-20				
Chubb Insurance Company of Canada	**1.99%**	1-May-20						
Continental Casualty Company	**9.14%**	1-Jan-20						
Co-operators General Insurance Company	**5.00%**	15-Feb-19	**10.70%**	10-Jan-20	**0.10%**	20-Mar-20		
COSECO Insurance Company	**2.10%**	1-Jun-19	**2.40%**	1-Jan-20	**-7.38%**	22-Jun-20		
CUMIS General Insurance Company	**8.70%**	1-Aug-19						
Economical Mutual Insurance Company	**2.40%**	1-Apr-19	**5.40%**	31-Dec-19				
Facility Association	**1.40%**	1-Nov-19						
Federated Insurance Company of Canada	**1.00%**	28-Jul-19						
Hartford Fire Insurance Company	**-3.90%**	1-Apr-19	**-3.30%**	1-Apr-19				
Intact Insurance Company	**3.20%**	15-Jan-19	**0.10%**	7-Sep-19	**2.60%**	22-Nov-19	**0.90%**	1-May-20
Millennium Insurance Corporation	**0.00%**	1-Nov-19						
Northbridge Personal Insurance Corporation								
Northbridge General Insurance Corporation	**1.00%**	28-Jul-19						
Novex Insurance Company	**3.10%**	15-Jan-19	**2.30%**	22-Nov-19				
Optimum West Insurance Company	**2.30%**	1-Feb-19	**13.20%**	15-Nov-19				
Peace Hills General Insurance Company	**7.50%**	1-Apr-19	**8.50%**	15-Dec-19				
Pembridge Insurance Company	**0.11%**	21-Jan-19	**4.90%**	28-May-19	**9.80%**	8-Dec-19	**-0.01%**	28-May-20
Primmum Insurance Company	**1.70%**	1-Mar-19	**3.70%**	1-Jan-20				
Royal & Sun Alliance Insurance Company of Canada	**4.00%**	1-Apr-19	**2.50%**	1-Jan-20	**2.80%**	15-Apr-20		
Security National Insurance Company	**2.50%**	1-Mar-19	**3.70%**	1-Jan-20				
SGI Canada Insurance Services Limited	**-15.50%**	15-Feb-19	**18.60%**	1-Dec-19	**5.88%**	15-Feb-20		
Sonnet Insurance Company	**6.70%**	1-Apr-19	**0.00%**	5-Nov-19	**28.20%**	8-Dec-19	**0.40%**	31-Dec-19
TD Home and Auto Insurance Company	**2.20%**	1-Mar-19	**-0.80%**	1-Jan-20				
The Dominion of Canada General Insurance Company	**2.40%**	1-Apr-19	**10.70%**	1-Jan-20				
The Personal Insurance Company	**0.30%**	2-Apr-19	**2.90%**	28-Jan-20				
The Portage la Prairie Mutual Insurance Company	**12.50%**	1-Feb-20						
The Wawanesa Mutual Insurance Company	**0.00%**	1-Apr-19	**0.00%**	15-Dec-19				
Tokio Marine & Nichido Fire Insurance Co. Ltd.	**-2.30%**	28-Jul-19						
Traders General Insurance Company	**2.60%**	1-Apr-19	**8.94%**	1-Jan-20				
Unifund Assurance Company	**3.50%**	1-Feb-19	**1.60%**	1-Jun-19	**-2.40%**	1-Dec-19		
Zenith Insurance Company	**-1.40%**	28-Jul-19						
Zurich Insurance Company Ltd.	**-2.20%**	31-Dec-19						
Other Companies								

Alternative (Additional) Approved Rate Change

Insurer Name	Average Premium Rate Level in 2018	Ending Rate in 2018	Ending Rate in 2019	Ending Rate in 2020 (March 31, 2020)	Market Share Q3 2018 to Q2 2019	Market Share Q3 2019 to Q1 2020	Market Share Selected (Average)
Alberta Motor Association Insurance Company	1.008	1.026	1.019	1.000	5.80%	5.07%	5.44%
Allstate Insurance Company of Canada	1.025	1.028	1.165	1.054	2.77%	3.20%	2.99%
Aviva General Insurance Company	1.024	1.036	0.947	1.135	1.69%	1.69%	1.69%
Aviva Insurance Company of Canada	1.033	1.066	1.036	1.147	6.78%	6.28%	6.53%
Belair Insurance Company Inc.	1.032	1.055	1.004	1.016	2.17%	1.99%	2.08%
Certas Direct Insurance Company	1.000	1.000	0.998	1.000	0.64%	0.66%	0.65%
Certas Home and Auto Insurance Company	1.000	1.000	1.022	1.085	4.05%	4.39%	4.22%
Chubb Insurance Company of Canada	1.000	1.000	1.000	1.000	0.00%	0.00%	0.00%
Continental Casualty Company	1.016	1.028	1.000	1.091	0.00%	0.00%	0.00%
Co-operators General Insurance Company	1.000	1.000	1.089	1.108	6.86%	7.26%	7.06%
COSECO Insurance Company	1.034	1.058	1.021	1.024	0.76%	0.83%	0.80%
CUMIS General Insurance Company	1.000	1.000	1.087	1.000	0.16%	0.16%	0.16%
Economical Mutual Insurance Company	1.001	1.007	1.079	1.000	2.54%	2.87%	2.71%
Facility Association	1.052	1.068	1.014	1.000	0.21%	0.22%	0.22%
Federated Insurance Company of Canada	1.003	1.015	1.010	1.000	0.10%	0.10%	0.10%
Hartford Fire Insurance Company	1.000	1.000	0.964	1.000	0.00%	0.00%	0.00%
Intact Insurance Company	1.054	1.091	1.060	1.000	17.09%	14.89%	15.99%
Millennium Insurance Corporation	0.913	0.741	1.000	1.000	0.54%	0.55%	0.55%
Northbridge Personal Insurance Corporation	1.000	1.000	1.000	1.000	0.01%	0.01%	0.01%
Northbridge General Insurance Corporation	1.002	1.012	1.010	1.000	0.04%	0.04%	0.04%
Novex Insurance Company	1.031	1.049	1.055	1.000	2.15%	1.95%	2.05%
Optimum West Insurance Company	1.011	1.026	1.158	1.000	0.11%	0.17%	0.14%
Peace Hills General Insurance Company	0.994	0.993	1.166	1.000	1.45%	1.54%	1.50%
Pembridge Insurance Company	1.044	1.061	1.153	1.000	0.43%	0.73%	0.58%
Primmum Insurance Company	1.027	0.994	1.017	1.037	3.83%	4.16%	4.00%
Royal & Sun Alliance Insurance Company of Canada	1.033	1.039	1.040	1.025	0.90%	1.01%	0.96%
Security National Insurance Company	1.020	1.004	1.025	1.037	11.41%	11.53%	11.47%
SGI Canada Insurance Services Limited	1.038	1.013	1.002	1.059	1.65%	2.00%	1.83%
Sonnet Insurance Company	1.000	1.010	1.373	1.000	0.23%	0.44%	0.34%
TD Home and Auto Insurance Company	1.024	1.008	1.022	0.992	0.34%	0.30%	0.32%
The Dominion of Canada General Insurance Company	0.997	0.998	1.024	1.107	1.76%	2.09%	1.93%
The Personal Insurance Company	1.000	1.000	1.003	1.029	3.09%	2.76%	2.93%
The Portage la Prairie Mutual Insurance Company	1.000	1.000	1.000	1.125	0.47%	0.48%	0.48%
The Wawanesa Mutual Insurance Company	0.987	0.981	1.000	1.000	12.91%	13.80%	13.36%
Tokio Marine & Nichido Fire Insurance Co. Ltd.	1.002	1.012	0.977	1.000	0.01%	0.01%	0.01%
Traders General Insurance Company	1.014	1.028	1.026	1.089	1.50%	1.58%	1.54%
Unifund Assurance Company	1.000	1.000	1.026	1.000	4.41%	4.36%	4.39%
Zenith Insurance Company	0.999	0.994	0.986	1.000	0.04%	0.04%	0.04%
Zurich Insurance Company Ltd.	0.999	0.975	0.978	1.000	0.00%	0.00%	0.00%
Other Companies	1.000	1.000	1.000	1.000			0.97%
	1.0168	**1.0224**	**1.0389**	**1.0371**	**98.90%**	**99.16%**	**100.00%**

APPENDIX 5.8

Covid-19 Factor

Alberta
Automobile Accident Insurance Benefits
Covid-19 Factors

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Accident Rate %			% of Drivers Working from		Covid-19 Loss Reduction		2020 Covid-19	
Month	2016	2017	Average	Home	Office	Home	Office	Factor	Accident Rate %
1	9.40%	9.80%	9.60%	50.00%	50.00%	0.00%	0.00%	100.00%	9.60%
2	7.30%	8.30%	7.80%	50.00%	50.00%	0.00%	0.00%	100.00%	7.80%
3	7.30%	8.60%	7.95%	50.00%	50.00%	70.00%	0.00%	65.00%	5.17%
4	6.70%	6.30%	6.50%	50.00%	50.00%	70.00%	70.00%	30.00%	1.95%
5	7.80%	7.10%	7.45%	50.00%	50.00%	70.00%	10.00%	60.00%	4.47%
6	8.30%	7.80%	8.05%	50.00%	50.00%	30.00%	10.00%	80.00%	6.44%
7	7.80%	7.40%	7.60%	50.00%	50.00%	15.00%	10.00%	87.50%	6.65%
8	7.40%	7.30%	7.35%	50.00%	50.00%	5.00%	5.00%	95.00%	6.98%
9	8.00%	7.50%	7.75%	50.00%	50.00%	5.00%	5.00%	95.00%	7.36%
10	8.90%	8.30%	8.60%	50.00%	50.00%	5.00%	5.00%	95.00%	8.17%
11	9.20%	11.10%	10.15%	50.00%	50.00%	5.00%	5.00%	95.00%	9.64%
12	11.90%	10.50%	11.20%	50.00%	50.00%	5.00%	5.00%	95.00%	10.64%
	100.00%	100.00%	100.00%					Indicated 2020	84.88%
								Selected 2020	**85.00%**
								Selected 2021	**95.00%**
								Selected 2022	**97.50%**

Notes:

(1) from Alberta Traffic Collisions Statistics 2016 page 8, Table 2.1
(2) from Alberta Traffic Collisions Statistics 2017 page 8, Table 2.1
(3) Average of (1) and (2)
(4) to (5) Assumed driver distribution
(6) to (7) Factor to reflect reduction in frequency due to lockdowns and use of vehicle
(8) = (4) × [1 - (6)] + (5) × [1 - (7)]
(9) = (3) × (8)

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APPENDIX 5.9

March 31, 2020 Written Premium per Vehicle

Alberta Private Passenger Automobile - Excluding Farmers
as of December 31, 2018

Table A: 2018-2Number of Written Vehicles

Bulletin No: 2019-16 (2018 Actual Loss Ratio Exhibit PPA excld. Farmers Alberta)

Coverage	Alberta
Third Party Liability	2,766,202
Accident Benefits	2,767,256
Underinsured Motorist	2,710,549
Collision	2,041,611
Comprehensive	2,406,941
Specified Perils	21,786
All Perils	20,919
Grand Total	2,766,202

Table B: 2018-2 Written Premium

Coverage	Alberta
Third Party Liability	1,974,656,204
Accident Benefits	168,876,722
Underinsured Motorist	81,014,426
Collision	802,591,310
Comprehensive	595,610,859
Specified Perils	2,146,196
All Perils	15,574,782
Grand Total	3,640,470,499

Table C: 2018-2 Written Premium @ March 31, 2020 level

Coverage	Alberta
Third Party Liability	2,488,220,552
Accident Benefits	212,797,817
Underinsured Motorist	87,762,284
Collision	869,440,792
Comprehensive	645,220,513
Specified Perils	2,324,957
All Perils	16,872,038
Grand Total	4,322,638,953

Table D: March 31, 2020 Written Premium per written vehicle

Coverage	Alberta
Third Party Liability	899.51
Accident Benefits	76.90
Underinsured Motorist	32.38
Collision	425.86
Comprehensive	268.07
Specified Perils	106.72
All Perils	806.53
Grand Total	1,562.66
Full Package[1]	1,702.71

Note:
Table C = Table A x [1 + (Rate Change = 26.01% for TPL & AB; 8.33% for other coverage)]
Table D = Table C / Table A
[1] TPL + AB + UM + Col. + Comp.

Data source for Table A and Table B:
(1) Data from 2018-2 Actual Loss Ratio Exhibit (Bulletin No: 2019-16; Product: AUTO1005-AB)

APPENDIX 5.10

Total Canadian P&C Investment Yield

		2019	2018
Cash and Cash Equivalents	01	3,176,192	2,491,442
Investment Income due and accrued	02	237,035	230,436
Investments Accounted for Using the Equity Method: Pooled Funds	45	7,776,587	7,520,427
Total Investments	19	62,492,348	59,281,609
Net investment income excld. Realized Gains (Losses) & Gains (Losses) from FVO or FVTPL		1,845,903	
Share of Net Income (Loss) of Pooled Funds using Equity Method	47	273,494	
	Total Canadian P&C Investment Yield	3.00%	

Source: (OSFI)

Q4 2018 P&C Assets

Q4 2018 P&C Statement of Income

Q4 2019 P&C Assets

Q4 2019 P&C Statement of Income

APPENDIX 6 – MODEL DESCRIPTION

Description of Models 1-4

Coverage	Model 1 - Pure No Fault (standard)	Model 2 - Pure No Fault (enhanced)	Model 3 - Choice (with or without tort)	Model 4 - Transitional
1 Bodily injury in Alberta	no tort	no tort	if no tort is selected, consumer will get Model 1; if tort is selected, consumer will get the current model for third party bodily injury liability but benefits are paid by own insurer; no fault benefits are fully deductible from tort benefits	tort with PJI reform; cap contingency and expert fees
2 Bodily injury outside of Alberta	tort, statutory minimum or selected limit	tort, statutory minimum or selected limit	tort, statutory minimum or selected limit	tort, statutory minimum or selected limit
3 Property damage (vehicles only) in Alberta	direct compensation	direct compensation	direct compensation	direct compensation
4 Property damage (all others)	tort, statutory minimum or selected limit	tort, statutory minimum or selected limit	tort, statutory minimum or selected limit	tort, statutory minimum or selected limit
5 Accident benefits				
5.1 Medical expenses				
Type I injury (minor)	reasonable expenses up to $3,500 within 90 days; additional medical or rehabilitation expenses up to $4,000 within 240 days; additional expenses of $4,500 subject to the approval of the injury navigator within 365 days.	reasonable expenses up to $3,500 within 90 days; additional medical or rehabilitation expenses up to $4,000 within 240 days; additional expenses of $4,500 subject to the approval of the injury navigator within 365 days.	reasonable medical expenses with sub-limits for certain treatments up to 2 year limit and $50,000 in aggregate	reasonable medical expenses with sub-limits for certain treatments up to 2 year limit and $50,000 in aggregate
Type II injury (permanent, non-CAT)	reasonable medical, rehabilitation and other expenses up to $25,000 within 2 years subject to the approval of injury navigator	reasonable medical, rehabilitation and other expenses up to $25,000 within 2 years subject to the approval of injury navigator		
Type III injury (CAT)	reasonable medical expenses until death subject to an aggregate sum of $500,000	reasonable medical expenses until death subject to an aggregate sum of $500,000		
5.2 Certified attendant care or homecare expenses				
Type I injury (minor)	not applicable	not applicable	not applicable	not applicable
Type II injury (permanent, non-CAT)	reasonable certified homecare expenses for 60 months subject to a maximum monthly amount of $1,000 and $60,000 in aggregate with the approval of the medical panel	reasonable certified homecare expenses for 6 months subject to a maximum monthly amount of $1,000 and $60,000 in aggregate with the approval of the medical panel	part of the $50,000 medical expenses	part of the $50,000 medical expenses
Type III injury (CAT)	reasonable certified attendant care expenses approved by the medical panel subject to a maximum of $6,000 per month in the first 2 years and $3,000 monthly thereafter; the aggregate amount is $500,000	reasonable certified attendant care expenses approved by the medical panel subject to a maximum of $6,000 per month in the first 2 years and $3,000 monthly thereafter; the aggregate amount is $500,000	part of the $50,000 medical expenses	part of the $50,000 medical expenses
5.3 Diminished quality of life				
Type I injury (minor)	not applicable	not applicable	not applicable	not applicable
Type II injury (permanent, non-CAT)	when maximum medical outcome is reached and impairment still exists, a permanent impairment (PI) benefit is payable based on the medical panel's assessment; the benefit is PI percent times the maximum amount;	when maximum medical outcome is reached and impairment still exists, a permanent impairment (PI) benefit is payable based on the medical panel's assessment; the benefit is PI percent times the maximum amount;	not applicable	not applicable
Type III injury (CAT)	A permanent impairment (PI) percent is determined by the medical panel; the benefit is the PI percent times the maximum amount ($300,000)	A whole person impairment (WPI) percent is determined by the medical panel; the benefit is the WPI percent times the maximum amount ($300,000)	not applicable	not applicable
5.4 Housekeeping benefit			part of the $50,000 medical expenses	part of the $50,000 medical expenses
Type I injury (minor)	not applicable	not applicable		
Type II injury (permanent, non-CAT)	reasonable housekeeping expenses subject to the approval of the injury navigator; the benefit is payable up to $150 per week for a maximum period of 6 months but not exceeding $3,000 in the aggregate	reasonable housekeeping expenses subject to the approval of the injury navigator; the benefit is payable up to $150 per week for a maximum period of 6 months but not exceeding $3,000 in the aggregate		
Type III injury (CAT)	reasonable housekeeping expenses subject to the approval of the medical panel; the benefit is payable up to $150 per week for a period of 24 months ; after 24 months, an assessment will be made by the medical panel for future housekeeping expenses . The aggregate amount is $100,000.	reasonable housekeeping expenses subject to the approval of the medical panel; the benefit is payable up to $150 per week for a period of 24 months ; after 24 months, an assessment will be made by the medical panel for future housekeeping expenses . The aggregate amount is $100,000.		

Coverage	Model 1 - Pure No Fault (standard)	Model 2 - Pure No Fault (enhanced)	Model 3 - Choice (with or without tort)	Model 4 - Transitional
5.5 Income replacement benefit (IRB) for wage earners	IRB is payable if a person as a result of an automobile accident cannot perform the occupation that they trained for during the first 2 years of disability and any occupation thereafter. Before age 65 the IRB is 90% of net wages (after tax, CPP, EI) less other benefits from employment(after tax basis, CPP, EI) up to $1000 per week; after age 65, IRB will be set at 2% times the number of years the individual has received this benefit. For those who are employed and disabled after 61, full benefits will be extended at 90% of net income for 5 years beyond 65 as long as they satisfy the definition of disability (2 yr own occ and all occ thereafter). There is a waiting period of 7 days for this benefit	IRB is payable if a person as a result of an automobile accident cannot perform his occupation that they trained for during the first 2 years of disability and any occupation thereafter. Before age 65 the IRB is 100% of net wages (after tax, CPP, EI) less other benefits from employment(after tax basis, CPP, EI) up to $1000 per week; after age 65, IRB will be set at 2% times the number of years the individual has received this benefit. For those who are employed and disabled after 61, full benefits will be extended at 90% of net income for 5 years beyond 65 as long as they satisfy the definition of disability (2 yr own occ and all occ thereafter). There is a waiting period of 7 days for this benefit	after a 7 day waiting period, 80% of gross wages less other benefits from employment up to $400 per week; maximum duration is 2 years	after a 7 day waiting period, 80% of gross wages less other benefits from employment up to $400 per week; maximum duration is 2 years
5.6 IRB for non-wage earners	the injured person must be 18 or over; there is a waiting period of 26 weeks or age 18 whichever is later; after the waiting period, a claim panel will assess the loss of earning capacity and assign a percent loss; IRB is equal to percent loss times $400 per week up to 2 years after 2 years if the person cannot perform normal daily activities, IRB is equal to $585 per week (median net wage) less any CPP disability	the injured person must be 18 or over; there is a waiting period of 26 weeks or age 18 whichever is later; after the waiting period, a claim panel will assess the loss of earning capacity and assign a percent loss; IRB is equal to percent loss times $400 per week up to 2 years after 2 years if the person cannot perform normal daily activities, IRB is equal to $585 per week (median net wage) less any CPP disability	18 years or over completely incapacitated unable to perform any household duties benefit is $135 per week up to 26 weeks	18 years or over completely incapacitated unable to perform any household duties benefit is $135 per week up to 26 weeks
5.7 Death benefit	$100,000 for the head of household or $100,000 for a spouse or adult interdependent partner plus $50,000 for each dependent child under 18 plus $25,000 for each dependent relative over 18 living in the same household; the aggregate benefit is $500,000	$100,000 for the head of household or $100,000 for a spouse or adult interdependent partner plus $50,000 for each dependent child under 18 plus $25,000 for each dependent relative over 18 living in the same household; the aggregate benefit is $500,000	$10,000 for the head of household or $10,000 for a spouse or adult interdependent partner plus varying amount for each dependent child depending on age plus $400 per family for grief counselling with respect of the death of any one person	$10,000 for the head of household or $10,000 for a spouse or adult interdependent partner plus varying amount for each dependent child depending on age plus $400 per family for grief counselling with respect of the death of any one person
5.8 Funeral benefit	up to $10,000 in respect of the death of any one person	up to $10,000 in respect of the death of any one person	up to $5,000 in respect of the death of any one person	up to $5,000 in respect of the death of any one person
5.9 Optional accident benefits	available to provide higher aggregate limit	available to provide higher aggregate limit	not applicable	not applicable
5.10 Indexation to Alberta CPI	automatic every January 1 based on change in CPI in the past 12 months ending on September 30 of the previous year	automatic every January 1 based on change in CPI in the past 12 months ending on September 30 of the previous year	not applicable	not applicable
6 Uninsured/unidentified motorist				
Bodily injury in Alberta	no tort	no tort	optional tort	tort with PJI reform; cap contingency and expert fees
Bodily injury outside of Alberta	tort	tort	tort, statutory minimum or selected limit	tort, statutory minimum or selected limit
Vehicle damage in Alberta	direct compensation	direct compensation	direct compensation	direct compensation
Vehicle damage outside of Alberta	either direct compensation or tort depending on location	either direct compensation or tort depending on location	either direct compensation or tort depending on location	either direct compensation or tort depending on location
Other property damage	tort	tort	tort	tort
7 Underinsured motorist				
Bodily injury in Alberta	not applicable	not applicable	optional tort	tort with PJI reform; cap contingency and expert fees
Bodily injury outside of Alberta	tort with selected limit	tort with selected limit	tort with selected limit	tort with selected limit
8 Collision	same as current policy;	same as current policy;	same as current policy;	same as current policy;
9 Comprehensive	same as current policy;	same as current policy;	same as current policy;	same as current policy;
10 All perils	same as current policy;	same as current policy;	same as current policy;	same as current policy;
11 Specified perils	same as current policy;	same as current policy;	same as current policy;	same as current policy;
12 Other features	mandatory winter tires	mandatory winter tires	mandatory winter tires	mandatory winter tires

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APPENDIX 7 – DERIVATION OF TARGET PREMIUM

Derivation of Target Premium for Current Model as well as Models 1 to 4

Alberta
Automobile Accident Insurance Benefits
Base Coverage Loss Cost (Incl. ALAE; Excl. CAT, ULAE and Health Levy) Comparison
Undiscounted basis (At July 01, 2018 Level)

	Incl. CAT			Excl. CAT			Excl. CAT Trended to 7/01/2018 Level							Trans.
	GISA AY 2016 Loss Cost	GISA AY 2017 Loss Cost	GISA AY 2018 Loss Cost	GISA AY 2016 Loss Cost	GISA AY 2017 Loss Cost	GISA AY 2018 Loss Cost	AY 2016 Loss Cost	AY 2017 Loss Cost	AY 2018 Loss Cost	Current Model Loss Cost	Model 1 Loss Cost	Model 2 Loss Cost	Model 3 Loss Cost	Model 4 Loss Cost
Accident Benefits (AB)														
(1) Funeral (KOL 30)	0.30	0.27	0.33	0.30	0.27	0.33	0.36	0.29	0.33	0.32	0.61	0.61	0.31	0.31
(2) Death Benefits (KOL 32)	1.24	1.01	0.72	1.24	1.01	0.72	1.46	1.09	0.72	0.87	5.20	5.20	0.85	0.85
Medical/Rehabilitation (KOL 31)	34.36	41.41	45.14	34.36	41.41	45.14	40.45	44.93	45.14	45.06			43.93	43.93
(3) Medical/Rehabilitation expenses											72.10	72.10		
(4) Certified attendant care or homecare expenses											10.39	10.39		
Disability Income (KOL 34)	11.26	12.19	12.73	11.26	12.19	12.73	13.26	13.23	12.73	12.93			12.61	12.61
(5) Earners IRB											20.29	27.97		
(6) Non-earners loss of earning capacity											2.24	2.24		
(7) Diminished quality of life											36.91	36.91		
(8) Housekeeping											0.76	0.76		
(9) Supplementary Benefits (KOL 37)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.01	0.01	0.01	0.01	0.01
(10) Uninsured Motorist (KOL 39)	0.58	0.18	0.33	0.58	0.18	0.33	0.68	0.19	0.33	0.27	0.02	0.02	0.27	0.27
Total Accident Benefits	**47.74**	**55.06**	**59.26**	**47.74**	**55.06**	**59.26**	**56.20**	**59.74**	**59.26**	**59.46**	**148.53**	**156.21**	**57.97**	**57.97**
Third Party Liability (TPL)														
Tort Bodily Injury (KOL 1,2)	375.24	380.78	374.91	375.24	380.78	374.91	437.67	411.24	374.91					
(11) BI in Alberta										357.15	0.00	0.00	327.39	309.73
(12) BI out of Alberta										32.29	32.29	32.29	32.29	32.29
Property Damage (KOL 9)	145.81	158.38	159.86	145.81	158.38	159.86	150.22	160.76	159.86					
(13) DCPD										153.48	147.77	147.77	147.77	147.77
(14) Other PD incl. Out of Alberta										6.74	6.74	6.74	6.74	6.74
Total Third Party Liability	**521.04**	**539.16**	**534.77**	**521.04**	**539.16**	**534.77**	**587.89**	**572.00**	**534.77**	**549.66**	**186.80**	**186.80**	**514.19**	**496.53**
Others														
(15) Underinsured Motorist (UM, Major Coverage 0)	6.03	5.03	4.09	6.03	5.03	4.09	6.53	5.23	4.09	4.55	0.38	0.38	4.55	4.55
(16) Collision (CL,Major Coverage 30)	228.74	249.56	246.32	228.74	249.56	246.32	240.32	255.80	246.32	250.11	243.86	243.86	243.86	243.86
(17) Comprehensive (COMP, Major Coverage 80)	235.11	159.47	159.56	132.89	127.80	122.33	150.72	136.11	122.33	127.84	127.84	127.84	127.84	127.84
(18) All Perils (Major Coverage 40)	460.78	418.24	457.23	382.58	388.26	410.58	413.80	403.79	410.58	407.86	401.06	401.06	401.06	401.06
(19) Specified Perils (Major Coverage 20)	59.75	54.94	52.59	45.77	44.67	45.82	52.41	47.80	45.82	46.61	46.61	46.61	46.61	46.61
Full Package (AB+TPL+UM+CL+COMP)	**1,038.66**	**1,008.28**	**1,004.00**	**936.44**	**976.62**	**966.77**	**1,041.66**	**1,028.89**	**966.77**	**991.62**	**707.42**	**715.10**	**948.41**	**930.76**

Note:
(1) Models 1 and 2: From Appendix 1.1; Models 3 and 4: expected to have 2.50% savings from current due to winter tire policy.
(2) Models 1 and 2: From Appendix 1.2; Models 3 and 4: expected to have 2.50% savings from current due to winter tire policy.
(3) Models 1 and 2: From Appendix 1.3; Models 3 and 4: expected to have 2.50% savings from current due to winter tire policy.
(4) Models 1 and 2, From Appendix 1.4; Models 3 and 4: expected to have 2.50% savings from current due to winter tire policy.
(5) Models 1 and 2, From Appendix 1.5; Models 3 and 4: expected to have 2.50% savings from current due to winter tire policy.
(6) Models 1 and 2: From Appendix 1.6; Models 3 and 4: expected to have 2.50% savings from current due to winter tire policy.
(7) Models 1 and 2: From Appendix 1.7; Models 3 and 4: expected to have 2.50% savings from current due to winter tire policy.
(8) Models 1 and 2: From Appendix 1.8; Models 3 and 4: expected to have 2.50% savings from current due to winter tire policy.
(9) 2.5% savings due to winter tire policy. In Models 1 and 2, costs are loaded with additional 5% due to expected frequency increase
(10) 91.71% savings in Models 1 and 2 due to reduction in BI claims in Alberta
(11) Due to no fault system and winter tires policy, 8.33% savings in model 3; due to all policy changes applicable, 13.28% savings in model 4
(12) No Change
(13) Due to winter tires and preferred shop policy, 3.72% savings in all models
(14) No Change
(15) 91.71% savings in Models 1 and 2 due reduction in BI claims in Alberta.
(16) Due to winter tires policy, 2.50% savings in all models
(17) No Change
(18) Due to winter tires policy, 1.67% savings in all models
(19) No Change

Alberta
Automobile Accident Insurance Benefits
Base Coverage Loss Cost (Incl. ALAE; Excl. CAT, ULAE and Health Levy) Comparison
Discounted basis (At July 01, 2018 Level)

		Disc Factor	Current Loss Cost	Model 1 Loss Cost	Model 2 Loss Cost	Model 3 Loss Cost	Trans. Model 4 Loss Cost
	Accident Benefits (AB)						
(1)	Funeral (KOL 30)	0.9432	0.30	0.58	0.58	0.29	0.29
(2)	Death Benefits (KOL 32)	0.9432	0.82	4.90	4.90	0.80	0.80
	Medical/Rehabilitation (KOL 31)	0.9432	42.50			41.44	41.44
(3)	Medical/Rehabilitation expenses	0.9432	0.00	71.13	71.13		
(4)	Certified attendant care or homecare expenses	0.9432	0.00	10.23	10.23		
	Disability Income (KOL 34)	0.9432	12.20			11.89	11.89
(5)	Earners IRB	0.9432	0.00	19.56	26.91		
(6)	Non-earners loss of earning capacity	0.9432	0.00	2.07	2.07		
(7)	Diminished quality of life	0.9432	0.00	36.18	36.18		
(8)	Housekeeping	0.9432	0.00	0.74	0.74		
(9)	Supplementary Benefits (KOL 37)	0.9432	0.01	0.01	0.01	0.01	0.01
(10)	Uninsured Motorist (KOL 39)	0.9432	0.26	0.02	0.02	0.25	0.25
	Total Accident Benefits		**56.08**	**145.42**	**152.77**	**54.68**	**54.68**
	Third Party Liability (TPL)						
	Tort Bodily Injury (KOL 1,2)						
(11)	BI in Alberta	0.8600	307.14	0.00	0.00	281.54	266.36
(12)	BI out of Alberta	0.8600	27.77	27.77	27.77	27.77	27.77
	Property Damage (KOL 9)						
(13)	DCPD	0.9565	146.79	141.33	141.33	141.33	141.33
(14)	Other PD incl. Out of Alberta	0.9565	6.45	6.45	6.45	6.45	6.45
	Total Third Party Liability		**488.15**	**175.55**	**175.55**	**457.09**	**441.91**
	Others						
(15)	Underinsured Motorist (UM, Major Coverage 0)	0.8129	3.70	0.31	0.31	3.70	3.70
(16)	Collision (CL,Major Coverage 30)	0.9706	242.76	236.69	236.69	236.69	236.69
(17)	Comprehensive (COMP, Major Coverage 80)	0.9650	123.37	123.37	123.37	123.37	123.37
(18)	All Perils (Major Coverage 40)	0.9663	394.13	387.56	387.56	387.56	387.56
(19)	Specified Perils (Major Coverage 20)	0.9662	45.04	45.04	45.04	45.04	45.04
	Full Package (AB+TPL+UM+CL+COMP)		**914.06**	**681.34**	**688.69**	**875.53**	**860.35**

Note:
Discount Factors are from Appendix 5
Yellowed sections use discount factors shown (3% discount rate).
Unhighlighted sections are discounted in applicable appendices (see below) using 1% discount rate/real rate of return
(3) Models 1 and 2: From Appendix 1.3
(4) Models 1 and 2: From Appendix 1.4
(5) Models 1 and 2: From Appendix 1.5
(6) Models 1 and 2: From Appendix 1.6
(7) Models 1 and 2: From Appendix 1.7
(8) Models 1 and 2: From Appendix 1.8

Alberta
Automobile Accident Insurance Benefits
Summary of Cost by Coverages **Current**
Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

		At July 01, 2018 Level				All Claim Related		Trending Factors					Undiscounted	Discounted
		Undisc. Loss Cost	Health Levy	CAT	9.25% ULAE	Undisc. Loss Cost	Disc. Loss Cost	2020 Jan.01 Factor	2021 Jan.01 Factor	2022 Jan.01 Factor	2023 Jan.01 Factor	Covid 19 Factor	PY2022 Loss Cost	PY2022 Loss Cost
	Accident Benefits (AB)													
(1)	Funeral (KOL 30)	0.32			0.03	0.34	0.32	1.130	1.085	1.085	1.085	0.975	0.48	0.46
(2)	Death Benefits (KOL 32)	0.87			0.08	0.95	0.90	1.130	1.085	1.085	1.085	0.975	1.34	1.27
	Medical/Rehabilitation (KOL 31)	45.06			4.17	49.22	46.43	1.130	1.085	1.085	1.085	0.975	69.28	65.35
(3)	Medical/Rehabilitation expenses	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(4)	Certified attendant care or homecare expenses	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
	Disability Income (KOL 34)	12.93			1.20	14.13	13.33	1.130	1.085	1.085	1.085	0.975	19.88	18.75
(5)	Earners IRB	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(6)	Non-earners loss of earning capacity	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(7)	Diminished quality of life	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(8)	Housekeeping	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(9)	Supplementary Benefits (KOL 37)	0.01			0.00	0.01	0.01	1.130	1.085	1.085	1.085	0.975	0.02	0.01
(10)	Uninsured Motorist (KOL 39)	0.27			0.03	0.30	0.28	1.130	1.085	1.085	1.085	0.975	0.42	0.40
	Total Accident Benefits	**59.46**	**0.00**	**0.00**	**5.50**	**64.96**	**61.27**						**91.43**	**86.24**
	Third Party Liability (TPL)													
	Tort Bodily Injury (KOL 1,2)	0.00			0.00	0.00	0.00	1.115	1.070	1.070	1.070	0.975	0.00	0.00
(11)	BI in Alberta	357.15	42.51		33.04	432.69	372.10	1.115	1.070	1.070	1.070	0.975	576.02	495.36
(12)	BI out of Alberta	32.29			2.99	35.28	30.34	1.115	1.070	1.070	1.070	0.975	46.96	40.39
	Property Damage (KOL 9)	0.00			0.00	0.00	0.00	1.023	1.015	1.015	1.015	0.975	0.00	0.00
(13)	DCPD	153.48			14.20	167.67	160.37	1.023	1.015	1.015	1.015	0.975	174.81	167.20
(14)	Other PD incl. Out of Alberta	6.74			0.62	7.37	7.05	1.023	1.015	1.015	1.015	0.975	7.68	7.35
	Total Third Party Liability	**549.66**	**42.51**	**0.00**	**50.84**	**643.01**	**569.85**						**805.48**	**710.29**
	Others													
(15)	Underinsured Motorist (UM, Major Coverage 0)	4.55			0.42	4.97	4.04	1.061	1.040	1.040	1.040	0.975	5.78	4.70
(16)	Collision (CL,Major Coverage 30)	250.11			23.14	273.25	265.21	1.038	1.025	1.025	1.025	0.975	297.73	288.97
(17)	Comprehensive (COMP, Major Coverage 80)	127.84		79.61	11.83	219.28	211.61	1.099	1.065	1.065	1.065	1.000	291.12	280.94
(18)	All Perils (Major Coverage 40)	407.86		90.00	37.73	535.59	517.56	1.061	1.040	1.040	1.040	0.983	628.30	607.15
(19)	Specified Perils (Major Coverage 20)	46.61		26.73	4.31	77.66	75.04	1.107	1.070	1.070	1.070	1.000	105.30	101.74
	Full Package (AB+TPL+UM+CL+COMP)	**991.62**	**42.51**	**79.61**	**91.73**	**1,205.47**	**1,111.99**						**1,491.53**	**1,371.14**

Note:
Past and Future trends are from AIRB 2020 Mid-year Review
2020 Jan 01 factor is the 18-month factor to bring the July 01, 2018 (base) to the Jan 01, 2020 level
COVID-19 Factors are applied to all sub coverages except for comprehensive and Specified Perils; for All Perils, the impact is expected to be 2/3 of the collision. The factor is assumed to be 0.983 = 1 - (2.5%x 2/3).

Alberta
Automobile Accident Insurance Benefits
Summary of Cost by Coverages **Model 1**
Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

	Alberta CPI Projection			
	1.018	1.02	1.02	1.02

		At July 01, 2018 Level				All Claim Related		Trending Factors					Undiscounted	Discounted
		Undisc. Loss Cost	Health Levy	CAT	9.25% ULAE	Undisc. Loss Cost	Disc. Loss Cost	2020 Jan.01 Factor	2021 Jan.01 Factor	2022 Jan.01 Factor	2023 Jan.01 Factor	Covid 19 Factor	PY2022 Loss Cost	PY2022 Loss Cost
	Accident Benefits (AB)													
(1)	Funeral (KOL 30)	0.61			0.06	0.67	0.63	1.027	1.020	1.020	1.020	0.975	0.71	0.67
(2)	Death Benefits (KOL 32)	5.20			0.48	5.68	5.36	1.000	1.000	1.000	1.000	0.975	5.54	5.22
	Medical/Rehabilitation (KOL 31)	0.00			0.00	0.00	0.00	1.058	1.040	1.040	1.040	0.975	0.00	0.00
(3)	Medical/Rehabilitation expenses	72.10			6.67	78.77	77.71	1.058	1.040	1.040	1.040	0.975	91.36	90.13
(4)	Certified attendant care or homecare expenses	10.39			0.96	11.35	11.18	1.027	1.020	1.020	1.020	0.975	12.06	11.88
	Disability Income (KOL 34)	0.00			0.00	0.00	0.00	1.027	1.020	1.020	1.020	0.975	0.00	0.00
(5)	Earners IRB	20.29			1.88	22.17	21.37	1.027	1.020	1.020	1.020	0.975	23.56	22.71
(6)	Non-earners loss of earning capacity	2.24			0.21	2.45	2.26	1.000	1.000	1.000	1.000	0.975	2.39	2.20
(7)	Diminished quality of life	36.91			3.41	40.32	39.53	1.000	1.000	1.000	1.000	0.975	39.32	38.54
(8)	Housekeeping	0.76			0.07	0.83	0.81	1.027	1.020	1.020	1.020	0.975	0.88	0.86
(9)	Supplementary Benefits (KOL 37)	0.01			0.00	0.01	0.01	1.000	1.000	1.000	1.000	0.975	0.01	0.01
(10)	Uninsured Motorist (KOL 39)	0.02			0.00	0.02	0.02	1.000	1.000	1.000	1.000	0.975	0.02	0.02
	Total Accident Benefits	**148.53**	**0.00**	**0.00**	**13.74**	**162.27**	**158.87**						**175.85**	**172.25**
	Third Party Liability (TPL)													
	Tort Bodily Injury (KOL 1,2)	0.00			0.00	0.00	0.00	1.115	1.070	1.070	1.070	0.975	0.00	0.00
(11)	BI in Alberta	0.00	42.51		0.00	42.51	36.55	1.115	1.070	1.070	1.070	0.975	56.59	48.66
(12)	BI out of Alberta	32.29			2.99	35.28	30.34	1.115	1.070	1.070	1.070	0.975	46.96	40.39
	Property Damage (KOL 9)	0.00			0.00	0.00	0.00	1.023	1.015	1.015	1.015	0.975	0.00	0.00
(13)	DCPD	147.77			13.67	161.44	154.41	1.023	1.015	1.015	1.015	0.975	168.31	160.98
(14)	Other PD incl. Out of Alberta	6.74			0.62	7.37	7.05	1.023	1.015	1.015	1.015	0.975	7.68	7.35
	Total Third Party Liability	**186.80**	**42.51**	**0.00**	**17.28**	**246.59**	**228.34**						**279.54**	**257.37**
	Others													
(15)	Underinsured Motorist (UM, Major Coverage 0)	0.38			0.03	0.41	0.33	1.061	1.040	1.040	1.040	0.975	0.48	0.39
(16)	Collision (CL,Major Coverage 30)	243.86			22.56	266.42	258.58	1.038	1.025	1.025	1.025	0.975	290.28	281.75
(17)	Comprehensive (COMP, Major Coverage 80)	127.84		79.61	11.83	219.28	211.61	1.099	1.065	1.065	1.065	1.000	291.12	280.94
(18)	All Perils (Major Coverage 40)	401.06		90.00	37.10	528.16	510.38	1.061	1.040	1.040	1.040	0.983	619.59	598.73
(19)	Specified Perils (Major Coverage 20)	46.61		26.73	4.31	77.66	75.04	1.107	1.070	1.070	1.070	1.000	105.30	101.74
	Full Package (AB+TPL+UM+CL+COMP)	**707.42**	**42.51**	**79.61**	**65.44**	**894.97**	**857.75**						**1,037.27**	**992.70**

Note:
CPI forecasting is from Government of Alberta 2020 fiscal plan (economic outlook section)
2020 Jan 01 factor is the 18-month factor to bring the July 01, 2018 (base) to the Jan 01, 2020 level
AB are trended using CPI related factors. Medical Benefit is trended by CPI+2%. Other sections are trended by AIRB factors.
Death Benefit,non-earner disability benefit, diminished quality of life, supplementary benefit and uninsured motorist are assumed to have no trend
COVID 19 factors are assumed to be as same as current model

Alberta
Automobile Accident Insurance Benefits
Summary of Cost by Coverages **Model 2**
Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

Alberta CPI Projection			
1.018	1.020	1.020	1.020

		At July 01, 2018 Level				All Claim Related		Trending Factors					Undiscounted	Discounted
		Undisc. Loss Cost	Health Levy	CAT	9.25% ULAE	Undisc. Loss Cost	Disc. Loss Cost	2020 Jan.01 Factor	2021 Jan.01 Factor	2022 Jan.01 Factor	2023 Jan.01 Factor	Covid 19 Factor	PY2022 Loss Cost	PY2022 Loss Cost
	Accident Benefits (AB)													
(1)	Funeral (KOL 30)	0.61			0.06	0.67	0.63	1.027	1.020	1.020	1.020	0.975	0.71	0.67
(2)	Death Benefits (KOL 32)	5.20			0.48	5.68	5.36	1.000	1.000	1.000	1.000	0.975	5.54	5.22
	Medical/Rehabilitation (KOL 31)	0.00			0.00	0.00	0.00	1.058	1.040	1.040	1.040	0.975	0.00	0.00
(3)	Medical/Rehabilitation expenses	72.10			6.67	78.77	77.71	1.058	1.040	1.040	1.040	0.975	91.36	90.13
(4)	Certified attendant care or homecare expenses	10.39			0.96	11.35	11.18	1.027	1.020	1.020	1.020	0.975	12.06	11.88
	Disability Income (KOL 34)	0.00			0.00	0.00	0.00	1.027	1.020	1.020	1.020	0.975	0.00	0.00
(5)	Earners IRB	27.97			2.59	30.56	29.40	1.027	1.020	1.020	1.020	0.975	32.47	31.24
(6)	Non-earners loss of earning capacity	2.24			0.21	2.45	2.26	1.000	1.000	1.000	1.000	0.975	2.39	2.20
(7)	Diminished quality of life	36.91			3.41	40.32	39.53	1.000	1.000	1.000	1.000	0.975	39.32	38.54
(8)	Housekeeping	0.76			0.07	0.83	0.81	1.027	1.020	1.020	1.020	0.975	0.88	0.86
(9)	Supplementary Benefits (KOL 37)	0.01			0.00	0.01	0.01	1.000	1.000	1.000	1.000	0.975	0.01	0.01
(10)	Uninsured Motorist (KOL 39)	0.02			0.00	0.02	0.02	1.000	1.000	1.000	1.000	0.975	0.02	0.02
	Total Accident Benefits	**156.21**	**0.00**	**0.00**	**14.45**	**170.66**	**166.90**						**184.77**	**180.78**
	Third Party Liability (TPL)													
	Tort Bodily Injury (KOL 1,2)	0.00			0.00	0.00	0.00	1.115	1.070	1.070	1.070	0.975	0.00	0.00
(11)	BI in Alberta	0.00	42.51		0.00	42.51	36.55	1.115	1.070	1.070	1.070	0.975	56.59	48.66
(12)	BI out of Alberta	32.29			2.99	35.28	30.34	1.115	1.070	1.070	1.070	0.975	46.96	40.39
	Property Damage (KOL 9)	0.00			0.00	0.00	0.00	1.023	1.015	1.015	1.015	0.975	0.00	0.00
(13)	DCPD	147.77			13.67	161.44	154.41	1.023	1.015	1.015	1.015	0.975	168.31	160.98
(14)	Other PD incl. Out of Alberta	6.74			0.62	7.37	7.05	1.023	1.015	1.015	1.015	0.975	7.68	7.35
	Total Third Party Liability	**186.80**	**42.51**	**0.00**	**17.28**	**246.59**	**228.34**						**279.54**	**257.37**
	Others													
(15)	Underinsured Motorist (UM, Major Coverage 0)	0.38			0.03	0.41	0.33	1.061	1.040	1.040	1.040	0.975	0.48	0.39
(16)	Collision (CL,Major Coverage 30)	243.86			22.56	266.42	258.58	1.038	1.025	1.025	1.025	0.975	290.28	281.75
(17)	Comprehensive (COMP, Major Coverage 80)	127.84		79.61	11.83	219.28	211.61	1.099	1.065	1.065	1.065	1.000	291.12	280.94
(18)	All Perils (Major Coverage 40)	401.06		90.00	37.10	528.16	510.38	1.061	1.040	1.040	1.040	0.983	619.59	598.73
(19)	Specified Perils (Major Coverage 20)	46.61		26.73	4.31	77.66	75.04	1.107	1.070	1.070	1.070	1.000	105.30	101.74
	Full Package (AB+TPL+UM+CL+COMP)	**715.10**	**42.51**	**79.61**	**66.15**	**903.36**	**865.78**						**1,046.19**	**1,001.23**

Note:
CPI forecasting is from Government of Alberta 2020 fiscal plan (economic outlook section)
2020 Jan 01 factor is the 18-month factor to bring the July 01, 2018 (base) to the Jan 01, 2020 level
AB are trended using CPI related factors. Other sections are trended by AIRB factors.
Death Benefit, non-earner disability benefit, diminished quality of life, supplementary benefit and uninsured motorist are assumed to have no trend
COVID 19 factors are assumed to be as same as current model

Alberta
Automobile Accident Insurance Benefits
Summary of Cost by Coverages **Model 3**
Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

		At July 01, 2018 Level				All Claim Related		Trending Factors					Undiscounted	Discounted
		Undisc. Loss Cost	Health Levy	CAT	9.25% ULAE	Undisc. Loss Cost	Disc. Loss Cost	2020 Jan.01 Factor	2021 Jan.01 Factor	2022 Jan.01 Factor	2023 Jan.01 Factor	Covid 19 Factor	PY2022 Loss Cost	PY2022 Loss Cost
	Accident Benefits (AB)													
(1)	Funeral (KOL 30)	0.31			0.03	0.34	0.32	1.130	1.085	1.085	1.085	0.975	0.47	0.45
(2)	Death Benefits (KOL 32)	0.85			0.08	0.93	0.88	1.130	1.085	1.085	1.085	0.975	1.31	1.23
	Medical/Rehabilitation (KOL 31)	43.93			4.06	47.99	45.27	1.130	1.085	1.085	1.085	0.975	67.55	63.71
(3)	Medical/Rehabilitation expenses	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(4)	Certified attendant care or homecare expenses	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
	Disability Income (KOL 34)	12.61			1.17	13.77	12.99	1.130	1.085	1.085	1.085	0.975	19.39	18.29
(5)	Earners IRB	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(6)	Non-earners loss of earning capacity	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(7)	Diminished quality of life	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(8)	Housekeeping	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(9)	Supplementary Benefits (KOL 37)	0.01			0.00	0.01	0.01	1.130	1.085	1.085	1.085	0.975	0.01	0.01
(10)	Uninsured Motorist (KOL 39)	0.27			0.02	0.29	0.28	1.130	1.085	1.085	1.085	0.975	0.41	0.39
	Total Accident Benefits	**57.97**	**0.00**	**0.00**	**5.36**	**63.34**	**59.74**						**89.14**	**84.08**
	Third Party Liability (TPL)													
	Tort Bodily Injury (KOL 1,2)	0.00			0.00	0.00	0.00	1.115	1.070	1.070	1.070	0.975	0.00	0.00
(11)	BI in Alberta	327.39	42.51		30.28	400.17	344.14	1.115	1.070	1.070	1.070	0.975	532.73	458.13
(12)	BI out of Alberta	32.29			2.99	35.28	30.34	1.115	1.070	1.070	1.070	0.975	46.96	40.39
	Property Damage (KOL 9)	0.00			0.00	0.00	0.00	1.023	1.015	1.015	1.015	0.975	0.00	0.00
(13)	DCPD	147.77			13.67	161.44	154.41	1.023	1.015	1.015	1.015	0.975	168.31	160.98
(14)	Other PD incl. Out of Alberta	6.74			0.62	7.37	7.05	1.023	1.015	1.015	1.015	0.975	7.68	7.35
	Total Third Party Liability	**514.19**	**42.51**	**0.00**	**47.56**	**604.25**	**535.93**						**755.69**	**666.84**
	Others													
(15)	Underinsured Motorist (UM, Major Coverage 0)	4.55			0.42	4.97	4.04	1.061	1.040	1.040	1.040	0.975	5.78	4.70
(16)	Collision (CL,Major Coverage 30)	243.86			22.56	266.42	258.58	1.038	1.025	1.025	1.025	0.975	290.28	281.75
(17)	Comprehensive (COMP, Major Coverage 80)	127.84		79.61	11.83	219.28	211.61	1.099	1.065	1.065	1.065	1.000	291.12	280.94
(18)	All Perils (Major Coverage 40)	401.06		90.00	37.10	528.16	510.38	1.061	1.040	1.040	1.040	0.983	619.59	598.73
(19)	Specified Perils (Major Coverage 20)	46.61		26.73	4.31	77.66	75.04	1.107	1.070	1.070	1.070	1.000	105.30	101.74
	Full Package (AB+TPL+UM+CL+COMP)	**948.41**	**42.51**	**79.61**	**87.73**	**1,158.26**	**1,069.90**						**1,432.01**	**1,318.31**

Note:
Past and Future trends are from AIRB Annual Review
COVID 19 factors are assumed to be as same as current model

Alberta
Automobile Accident Insurance Benefits
Summary of Cost by Coverages **Model 4**
Policies Issued on Policy Year 2022 & Trended to Jan 1, 2023

		At July 01, 2018 Level				All Claim Related		Trending Factors					Undiscounted	Discounted
		Undisc. Loss Cost	Health Levy	CAT	9.25% ULAE	Undisc. Loss Cost	Disc. Loss Cost	2020 Jan.01 Factor	2021 Jan.01 Factor	2022 Jan.01 Factor	2023 Jan.01 Factor	Covid 19 Factor	PY2022 Loss Cost	PY2022 Loss Cost
	Accident Benefits (AB)													
(1)	Funeral (KOL 30)	0.31			0.03	0.34	0.32	1.130	1.085	1.085	1.085	0.975	0.47	0.45
(2)	Death Benefits (KOL 32)	0.85			0.08	0.93	0.88	1.130	1.085	1.085	1.085	0.975	1.31	1.23
	Medical/Rehabilitation (KOL 31)	43.93			4.06	47.99	45.27	1.130	1.085	1.085	1.085	0.975	67.55	63.71
(3)	Medical/Rehabilitation expenses	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(4)	Certified attendant care or homecare expenses	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
	Disability Income (KOL 34)	12.61			1.17	13.77	12.99	1.130	1.085	1.085	1.085	0.975	19.39	18.29
(5)	Earners IRB	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(6)	Non-earners loss of earning capacity	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(7)	Diminished quality of life	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(8)	Housekeeping	0.00			0.00	0.00	0.00	1.130	1.085	1.085	1.085	0.975	0.00	0.00
(9)	Supplementary Benefits (KOL 37)	0.01			0.00	0.01	0.01	1.130	1.085	1.085	1.085	0.975	0.01	0.01
(10)	Uninsured Motorist (KOL 39)	0.27			0.02	0.29	0.28	1.130	1.085	1.085	1.085	0.975	0.41	0.39
	Total Accident Benefits	**57.97**	**0.00**	**0.00**	**5.36**	**63.34**	**59.74**						**89.14**	**84.08**
	Third Party Liability (TPL)													
	Tort Bodily Injury (KOL 1,2)	0.00			0.00	0.00	0.00	1.115	1.070	1.070	1.070	0.975	0.00	0.00
(11)	BI in Alberta	309.73	42.51		28.65	380.88	327.55	1.115	1.070	1.070	1.070	0.975	507.06	436.05
(12)	BI out of Alberta	32.29			2.99	35.28	30.34	1.115	1.070	1.070	1.070	0.975	46.96	40.39
	Property Damage (KOL 9)	0.00			0.00	0.00	0.00	1.023	1.015	1.015	1.015	0.975	0.00	0.00
(13)	DCPD	147.77			13.67	161.44	154.41	1.023	1.015	1.015	1.015	0.975	168.31	160.98
(14)	Other PD incl. Out of Alberta	6.74			0.62	7.37	7.05	1.023	1.015	1.015	1.015	0.975	7.68	7.35
	Total Third Party Liability	**496.53**	**42.51**	**0.00**	**45.93**	**584.97**	**519.34**						**730.01**	**644.76**
	Others													
(15)	Underinsured Motorist (UM, Major Coverage 0)	4.55			0.42	4.97	4.04	1.061	1.040	1.040	1.040	0.975	5.78	4.70
(16)	Collision (CL,Major Coverage 30)	243.86			22.56	266.42	258.58	1.038	1.025	1.025	1.025	0.975	290.28	281.75
(17)	Comprehensive (COMP, Major Coverage 80)	127.84		79.61	11.83	219.28	211.61	1.099	1.065	1.065	1.065	1.000	291.12	280.94
(18)	All Perils (Major Coverage 40)	401.06		90.00	37.10	528.16	510.38	1.061	1.040	1.040	1.040	0.983	619.59	598.73
(19)	Specified Perils (Major Coverage 20)	46.61		26.73	4.31	77.66	75.04	1.107	1.070	1.070	1.070	1.000	105.30	101.74
	Full Package (AB+TPL+UM+CL+COMP)	**930.76**	**42.51**	**79.61**	**86.09**	**1,138.97**	**1,053.31**						**1,406.34**	**1,296.23**

Note:
Past and Future trends are from AIRB Annual Review
COVID 19 factors are assumed to be as same as current model

Alberta
Automobile Accident Insurance Benefits
Target Premium Summary by Model

Full Package[1]	% of DWP[2]	Distribution of Total Expenses	Current($)	Model 1($)	Model 2($)	Model 3($)	Model 4($)
Total Claims	66.8%		1,371.14	992.70	1,001.23	1,318.31	1,296.23
Total Expenses	26.2%	100.0%					
- Commissions	12.6%	48.0%	258.22	193.96	195.41	249.28	245.53
- Taxes	3.8%	14.5%	78.00	58.59	59.03	75.30	74.17
- Other Acquisition Expenses	2.6%	9.8%	52.75	39.62	39.92	50.93	50.16
- General Expenses[4]	7.3%	27.7%	149.02	149.02	149.02	149.02	149.02
Total Profit[3]	7.0%		143.70	107.93	108.73	138.71	136.62
Target Premium	100.0%		2,052.82	1,541.82	1,553.34	1,981.54	1,951.72
Mar 2020 Premium			1,702.71				
Savings(+)/Inadequate(-)($)			(350.11)	160.89	149.37	(278.83)	(249.01)
Savings(+)/Inadequate(-)(%)[5]			-20.6%	9.4%	8.8%	-16.4%	-14.6%

Notes:
(1) Full package = TPL + AB + Underinsured Motorists + Collision + Comprehensive
(2) Premium cost allocation is from Industry Expense Report (Bulletin No: 2019-06)
(3) Target Profit is 7%. It is based on March 27, 2020 Bulletin:01-2020 from Automobile Insurance Rate Board.
(4) General expenses were determined as 7.3% of the target premium of the current model
(5) = Savings or Inadequate(-)($) / Mar 2020 Premium

Alberta
Automobile Accident Insurance Benefits
Target Premium Summary by Model

Current Model

For Policy Year 2022
Location: Alberta

Per Vehicle

Full Package	% Of Target Premium	Undiscounted	Factor	Discounted	% Of Target Premium
Claims	72.7%	1,491.53	0.9193	1,371.14	66.8%
Commissions	12.6%	258.22	1.0000	258.22	12.6%
Taxes	3.8%	78.00	1.0000	78.00	3.8%
Other Acquisition Expenses	2.6%	52.75	1.0000	52.75	2.6%
General Expenses	7.3%	149.02	1.0000	149.02	7.3%
Total Claims & Expenses	98.9%	2,029.52		1,909.12	93.0%
			Target Profit	143.70	7.0%
			Target Premium	2,052.82	100.0%
			Mar 2020 GISA Premium	1,702.71	
			Savings(+)/Inadequate(-) by	(350.11)	-20.6%

Model 1

For Policy Year 2022
Location: Alberta

Per Vehicle

Full Package	% Of Target Premium	Undiscounted	Factor	Discounted	% Of Target Premium
Claims	67.3%	1,037.27	0.9570	992.70	64.4%
Commissions	12.6%	193.96	1.0000	193.96	12.6%
Taxes	3.8%	58.59	1.0000	58.59	3.8%
Other Acquisition Expenses	2.6%	39.62	1.0000	39.62	2.6%
General Expenses[1]	9.7%	149.02	1.0000	149.02	9.7%
Total Claims & Expenses	95.9%	1,478.46		1,433.89	93.0%
			Target Profit	107.93	7.0%
			Target Premium	1,541.82	100.0%
			Mar 2020 GISA Premium	1,702.71	
			Savings(+)/Inadequate(-) by	160.89	9.4%

(1) General expense per vehicle is assumed to be the same as current model

Model 2

For Policy Year 2022
Location: Alberta

Per Vehicle

Full Package	% Of Target Premium	Undiscounted	Factor	Discounted	% Of Target Premium
Claims	67.4%	1,046.19	0.9570	1,001.23	64.5%
Commissions	12.6%	195.41	1.0000	195.41	12.6%
Taxes	3.8%	59.03	1.0000	59.03	3.8%
Other Acquisition Expenses	2.6%	39.92	1.0000	39.92	2.6%
General Expenses	9.6%	149.02	1.0000	149.02	9.6%
Total Claims & Expenses	95.9%	1,489.56		1,444.61	93.0%
			Target Profit	108.73	7.0%
			Target Premium	1,553.34	100.0%
			Mar 2020 GISA Premium	1,702.71	
			Savings(+)/Inadequate(-) by	149.37	8.8%

(1) General expense per vehicle is assumed to be the same as current model

Model 3

For Policy Year 2022
Location: Alberta

Per Vehicle

Full Package	% Of Target Premium	Undiscounted	Factor	Discounted	% Of Target Premium
Claims	72.3%	1,432.01	0.9206	1,318.31	66.5%
Commissions	12.6%	249.28	1.0000	249.28	12.6%
Taxes	3.8%	75.30	1.0000	75.30	3.8%
Other Acquisition Expenses	2.6%	50.93	1.0000	50.93	2.6%
General Expenses	7.5%	149.02	1.0000	149.02	7.5%
Total Claims & Expenses	98.7%	1,956.53		1,842.83	93.0%
			Target Profit	138.71	7.0%
			Target Premium	1,981.54	100.0%
			Mar 2020 GISA Premium	1,702.71	
			Savings(+)/Inadequate(-) by	(278.83)	-16.4%

(1) General expense per vehicle is assumed to be the same as current model

Model 4

For Policy Year 2022
Location: Alberta

Per Vehicle

Full Package	% Of Target Premium	Undiscounted	Factor	Discounted	% Of Target Premium
Claims	72.1%	1,406.34	0.9217	1,296.23	66.4%
Commissions	12.6%	245.53	1.0000	245.53	12.6%
Taxes	3.8%	74.17	1.0000	74.17	3.8%
Other Acquisition Expenses	2.6%	50.16	1.0000	50.16	2.6%
General Expenses	7.6%	149.02	1.0000	149.02	7.6%
Total Claims & Expenses	98.6%	1,925.20		1,815.10	93.0%
			Target Profit	136.62	7.0%
			Target Premium	1,951.72	100.0%
			Mar 2020 GISA Premium	1,702.71	
			Savings(+)/Inadequate(-) by	(249.01)	-14.6%

(1) General expense per vehicle is assumed to be the same as current model

XIII Appendices

A. Appendix 1 – Sources

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B. Appendix 2 – Public Submissions

Survey questionnaire

The Alberta Automobile Insurance Review Committee was formed by the Alberta Government to examine the current Automobile Insurance System. It is important that the Committee receive your personal feedback on this important issue.

It will take approximately 10 minutes to answer this survey. Please select the most accurate response for each of the ten questions that follow, according to your assessment of each. When the information refers to current system, this refers to as it is today.

The personal information is being collected and used pursuant to section 33(c) and section 39(1)(a) of the Freedom of Information and Protection of Privacy Act (FOIP). Questions about the FOIP Act or regarding the collection, use, or disclosure of this information, may be directed to the Information Access and Privacy office at 780-427-9687.

1: How old are you?

- Under 18
- Between 18 and 24
- Between 25 and 44
- Between 45 and 64
- 65 or over
- Prefer not to say

2: Are you…

- Male
- Female
- Non-binary/third gender
- Prefer not to say

3: What are the first three digits of your postal code?

____

4: Do you have a private passenger vehicle?

By this, we mean a passenger vehicle which you personally use, and you (or a member of your household) are responsible for obtaining automobile insurance

- Yes
- No

5: Please indicate if you or any member of your household are currently employed in any of the following professions. (Select all that apply)

- Medical community or health care practitioner
- Legal community
- Insurance industry
- None of the above

6: In the past 2 years, have you...

	Yes	No	Don't know	Prefer not to say
Purchased an auto insurance policy?	•	•	•	•
Renewed an existing insurance policy with the same company or agent?	•	•	•	•
Sought competitive quotes for automobile insurance?	•	•	•	•
Changed automobile insurance providers to obtain a better rate?	•	•	•	•
Had a claim made against you on your auto insurance?	•	•	•	•
Made a collision claim where you were at fault?	•	•	•	•
Made a claim against a responsible driver who was at fault?	•	•	•	•
Been denied automobile insurance coverage?	•	•	•	•

7: Have you ever been injured in an automobile accident?

- Yes
- No
- Don't know
- Prefer not to say

Please indicate how much you agree or disagree with the following statements:

8: My automobile insurance premiums are fair and reasonable.

Strongly agree	Agree	Neither agree or disagree	Disagree	Strongly disagree	Don’t know
•	•	•	•	•	•

9: I understand what my automobile insurance covers and what it doesn’t.

Strongly agree	Agree	Neither agree or disagree	Disagree	Strongly disagree	Don’t know
•	•	•	•	•	•

Under Alberta's current automobile insurance system:

- Medical benefits (called "accident benefits") are available to anyone injured in a collision regardless of fault, but those benefits are limited to $50,000 and are limited for two years following the collision (accident)

- Damages as a result of the actions of an at-fault driver, can either be negotiated or resolved directly with the at-fault driver's insurer, or the person suffering damages can sue the at-fault driver to recover those damages from the insurer.

- When people are injured in collisions, those not at-fault can claim against the at-fault driver for care costs that are not covered by the publicly-funded health system, as well as for lost income and pain and suffering damages.

- At-fault drivers are limited to claiming the no-fault medical and disability benefits available to them under their automobile policies (Accident Benefits). Seriously or catastrophically injured Albertans who are at-fault may not have access to the care that they need.

In developing reforms in auto insurance in Alberta, there will be trade-offs. Please indicate your preferences of various elements of models below.

10: In a situation where you were injured as a result of the actions of an at-fault driver, which would be more important to you? (select one.)

- The right to sue the at-fault driver for a cash settlement.

- Having coverage that provides immediate access to medical treatment and rehabilitation as well income replacement.

- Don't know / no preference

Alberta's current automobile insurance system focuses on the ability to make monetary claims against at-fault drivers. As a result, litigation is one of the main cost drivers in the system: hiring legal representatives and medical experts to support parties' interests is expensive and time consuming. Settlement costs, including interest, pain and suffering damages, and other damages, add cost pressure to the system. This, in turn, results in higher insurance rates for Albertans.

11: Please indicate which of the following is more important to you:

- The right to sue an at-fault driver for a cash settlement; or
- Access to more affordable automobile insurance rates
- Don't know / no preference

12: If you were injured in an automobile collision, what would be more important to you:

- The right to sue with the potential to receive a cash settlement at some point in the future that you would use to pay for all treatment and rehabilitation that you may require.
- No right to sue regardless of fault, however all medically required treatment and rehabilitation with income replacement are provided as long as required, potentially for the rest of your life.
- Don't know / no preference

13: Would you be willing to give up your right to sue an at-fault driver for a cash settlement if it meant that:

a) you received the treatment and rehabilitation you needed to get better;

b) you received the income replacement you needed to help pay your bills while you recover; and

c) you could pay less for your automobile insurance.

- Yes
- No
- Don't know

14: Would you be in favor of giving up your right to sue an at-fault driver for a cash settlement for pain and suffering if it meant that all Albertans suffering serious permanent injuries (such as loss of a limb, loss of eyesight, serious brain or spinal cord injuries) would be eligible to receive a one-time, lump-sum permanent impairment benefit?

- Yes
- No
- Don’t know / no preference

The vast majority of collisions do not occur intentionally. They happen because drivers make mistakes, errors in judgment, or due to weather conditions. In today’s environment drivers who are at-fault are limited to claiming the no-fault Accident Benefits available to them under their automobile policies.

As a result, Albertans who suffer a serious or catastrophic injury (such as severe brain injury or spinal cord injury), and are deemed at-fault for the accident, may not have access to the care or income support that they need. At-fault drivers are also subject to penalties under law and face higher insurance premiums.

15: If a driver is at-fault in a collision, how should they be held responsible for their actions:

- By giving them less access to treatment, rehabilitation, and income replacement benefits than would be available to injured Albertans who are not at-fault.

- By making them subject to penalties which could include fines, convictions and/or driving restrictions along with higher insurance rates.

- Don’t know / no preference

One of the cost pressures in the current automobile insurance system is vehicle repair and replacement.

On average, Albertans drive some of the most expensive vehicles in Canada. In addition, as vehicles have become more automated and have additional technology and safety features, they also tend to be much more expensive to repair after a collision. For example: A replacement bumper that may have cost $500 a few years ago may now cost several thousand dollars because repair or replacement includes sensors and cameras. Headlights that once cost $30 to replace can now exceed $1,700.

16: Please provide us with your ideas to help reduce the costs of vehicle repair or replacement (caused by collisions, theft, vandalism, weather, etc.)

Max 250 characters.

17: Do you have any other comments or suggestions that you would like to share with the committee on automobile insurance reform? Max 500 characters.

Letter submitting queries to service providers

Subject: Alberta Automobile Insurance Advisory Committee

Automobile Insurance Survey

The Alberta Automobile Insurance Advisory Committee (the Committee) invites submissions for automobile insurance reform for Albertans. The Committee is seeking your input and feedback on a series of questions related to automobile insurance in Alberta. Responses to the survey questions will be used as one source of information that will assist in the formulation of the recommendations by the Committee: **https://extranet.gov.ab.ca/opinio6/s?s=AutoInsurance**

In addition to the online survey, your organization may also choose to make a written submission to the Committee. Submissions may be sent to auto.advisorycommittee@gov.ab.ca. We request that you provide your written submissions during the same timeframe as the survey, from February 18 – March 6, 2020.

As part of your written submission, the Committee is seeking input on the following issues:

1. How to optimize treatment and claims outcomes for traffic injured;
2. How to reduce the timelines for securing treatment and claims compensation;
3. How to optimize accessible and affordable insurance for Alberta motorists;
4. How to satisfy Alberta motorists there is fairness in mandatory auto insurance pricing;
5. How to ensure long term viability and sustainability of the automobile insurance system;
6. How and what recommendations would you make to reduce costs in the current system.

Please provide contact information for your organization in the event the committee requires clarification or further information on your submission.

FOIPP Disclosure

The information provided to the Advisory Committee as collected by Alberta Treasury Board and Finance for the survey and any written submissions is being collected, used and disclosed under the authority of Alberta's *Freedom of Information and Protection of Privacy Act* sections 33-40. The information you provide will be used to inform support for elements of a proposed automobile insurance reform report. All submissions received will become the property of Alberta Treasury Board and Finance.

If you have questions about the collection of your personal information, please contact: auto.advisorycommittee@gov.ab.ca (mailto: auto.advisorycommittee@gov.ab.ca).

The Government of Alberta reserves the right to use and disclose information, as applicable from any submission in accordance with the provisions of the *Freedom of Information and Protection of Privacy Act.*

Leger Report

Report

Treasury Board and Finance

Analysis of Automobile Insurance Survey

April 9, 2020

Leger

We know Canadians

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BACKGROUND & METHODOLOGY

Online Survey

February 18 – March 6, 2020

Automobile Insurance Reform

Background

An expert advisory committee has been tasked with reviewing Alberta's automobile insurance system to reduce costs for consumers and ensure the system is sustainable. As part of the review, the committee sought input from Albertans, service providers and other stakeholders through online or written submissions.

The Government of Alberta contracted Leger Marketing to summarize feedback from Albertans, service providers and other stakeholders.

Online Survey Methodology

- The online survey was accessible between February 18 and March 6, 2020 on Alberta.ca.
- As is common with public engagement surveys, participation was voluntary and self-selected (i.e., does not represent a random sample of the Alberta population, but instead focuses on reaching as many members of the population as possible to ensure a diverse range of views is represented).

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SUMMARY

Online Survey

February 18 – March 6, 2020

Summary

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A total of 45,571 online surveys were submitted between February 18 and March 6, 2020.

Within this total, there were a significant number (14,552) of 'short' survey submissions, completed in 20 seconds or less, and without responses to either of the survey's two open-ended questions.

It is Leger's opinion that these responses represent an automated attempt to amplify or skew a particular view point for the committee's attention, and do not represent legitimate feedback from individual Albertans.

The characteristics of these responses, and evidence of survey interference is discussed in the section 'Data Quality', and the distribution of excluded submissions is presented in the Appendix for reference.

Summary

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The following results summary is based on the 31,019 survey submissions received between February 18 and March 6, excluding the ‘short’ survey submissions.

Quantitative survey results indicate:

- Most Albertans (63%) do not feel their insurance premiums are fair and reasonable.
- Having coverage that provides immediate access to medical treatment and rehabilitation as well income replacement is preferred over the right to sue for a cash settlement.
- One-third (33%) of Albertans would be willing to give up their right to sue an at-fault driver for a cash settlement for pain and suffering to ensure that all Albertans suffering serious permanent injuries would be eligible to receive a one-time, lump-sum permanent impairment benefit.
- Most (77%) of Albertans feel that at-fault drivers should be subject to penalties which could include fines, convictions and/or driving restrictions along with higher insurance rates, rather than giving them less access to treatment, rehabilitation, and income replacement benefits.

Summary

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Qualitative Survey Results:

- An analysis of the 26,316 responses to the survey's two open-ended questions surfaced several common and salient themes. Analysis was completed using a combination of Natural Language Processing (software categorization) and Leger's coding team.

- On ideas to reduce the cost of repairs and replacements, common and salient themes include:
    - Increasing premiums for expensive vehicles, and those with poor driving records;
    - Decreasing rates in general;
    - Lowering repair costs through the use of used/aftermarket parts;
    - Incentivizing the insurance of older, smaller, or more standard vehicles;
    - Evaluating or inspecting vehicle condition; and
    - Increasing deductibles amounts.

- Among additional comments for the committee to consider, common and salient themes include:
    - Making insurance more affordable;
    - Incentivizing good drivers with clean records, and penalizing those with poor driving's records;
    - Considering the hardships of ordinary Albertans;
    - Preference for the right to sue;
    - Greater focus on rehabilitation; and
    - Regulating insurance companies or having caps that limit profit.

A dataset of all responses to open-end questions is attached, allowing the committee to further explore specific suggestions and themes.

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DETAILED RESULTS

Online Survey

February 18 – March 6, 2020

Online Survey: Respondent Profile

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- Respondent profiles are shown in the table on the right, relative to the target audience (Albertans aged 18 and over)
- Efforts to promote public participation resulted in substantial coverage of the Alberta population and a diverse mix of age, gender and geographic regional groups.

Age	Survey Responses (n=31,019)	Alberta Population (18+)
Under 18	1%	-
Between 18 and 24	6%	11%
Between 25 and 44	49%	39%
Between 45 and 64	33%	34%
65 or over	10%	16%
Prefer not to say	2%	-

Gender	Survey Responses (n=31,019)	Alberta Population (18+)
Male	47%	50%
Female	50%	50%
Prefer not to say	2%	-

Region	Survey Responses (n=31,019)	Alberta Population (18+)
Calgary	29%	31%
Edmonton	22%	24%
Other Alberta	46%	46%

Note: population estimates are from Statistics Canada 2016 Census

Online Survey: Respondent Profile

Do you have a private passenger vehicle?	Survey Responses (n=31,019)
Yes	98%
No	2%

Profession	Survey Responses (n=31,019)
Medical community or health care practitioner	11%
Legal community	6%
Insurance industry	8%
None of the above	77%

Do you have a private passenger vehicle?
Please indicate if you or any member of your household are currently employed in any of the following professions (select all that apply).

Online Survey: Respondent Profile

In the past 2 years, have you...	Survey Responses (n=31,019)
Purchased an auto insurance policy	71%
Renewed an existing insurance policy with the same company or agent	91%
Sought competitive quotes for automobile insurance	65%
Changed automobile insurance providers to obtain a better rate	28%
Had a claim made against you on your auto insurance	10%
Made a collision claim where you were at fault	7%
Made a claim against a responsible driver who was at fault	17%
Been denied automobile insurance coverage	2%

Have you ever been injured in an automobile accident?	Survey Responses (n=31,019)
Yes	32%
No	66%
Don’t know	1%
Prefer not to say	2%

Online Survey: Detailed Results

Please indicate how much you agree or disagree with the following statements:

My automobile insurance premiums are fair and reasonable	Survey Responses (n=31,019)
TOTAL AGREE	21%
Strongly agree	6%
Agree	15%
NEITHER	14%
TOTAL DISAGREE	63%
Disagree	33%
Strongly disagree	30%
Don't know	2%

I understand what my automobile insurance covers and what it doesn't	Survey Responses (n=31,019)
TOTAL AGREE	69%
Strongly agree	21%
Agree	49%
NEITHER	14%
TOTAL DISAGREE	15%
Disagree	12%
Strongly disagree	4%
Don't know	2%

Online Survey: Detailed Results

Under Alberta's current automobile insurance system:

- Medical benefits (called "accident benefits") are available to anyone injured in a collision regardless of fault, but those benefits are limited to $50,000 and are limited for two years following the collision (accident)
- Damages as a result of the actions of an at-fault driver, can either be negotiated or resolved directly with the at-fault driver's insurer, or the person suffering damages can sue the at-fault driver to recover those damages from the insurer.
- When people are injured in collisions, those not at-fault can claim against the at-fault driver for care costs that are not covered by the publicly-funded health system, as well as for lost income and pain and suffering damages.
- At-fault drivers are limited to claiming the no-fault medical and disability benefits available to them under their automobile policies (Accident Benefits). Seriously or catastrophically injured Albertans who are at-fault may not have access to the care that they need.

In developing reforms in auto insurance in Alberta, there will be trade-offs. Please indicate your preferences of various elements of models below.

In a situation where you were injured as a result of the actions of an at-fault driver, which would be more important to you?	Survey Responses (n=31,019)
The right to sue the at-fault driver for a cash settlement	27%
Having coverage that provides immediate access to medical treatment and rehabilitation as well as income replacement	64%
Don't know/no preference	7%
No response	2%

Online Survey: Detailed Results

Alberta's current automobile insurance system focuses on the ability to make monetary claims against at-fault drivers. As a result, litigation is one of the main cost drivers in the system: hiring legal representatives and medical experts to support parties' interests is expensive and time consuming. Settlement costs, including interest, pain and suffering damages, and other damages, add cost pressure to the system. This, in turn, results in higher insurance rates for Albertans.

Please indicate which of the following is more important to you:	Survey Responses (n=31,019)
The right to sue an at-fault driver for a cash settlement; or	30%
Access to more affordable automobile insurance rates	56%
Don't know/no preference	7%
No response	6%

Online Survey: Detailed Results

Alberta's current automobile insurance system focuses on the ability to make monetary claims against at-fault drivers. As a result, litigation is one of the main cost drivers in the system: hiring legal representatives and medical experts to support parties' interests is expensive and time consuming. Settlement costs, including interest, pain and suffering damages, and other damages, add cost pressure to the system. This, in turn, results in higher insurance rates for Albertans.

If you were injured in an automobile collision, what would be more important to you:	Survey Responses (n=31,019)
The right to sue with the potential to receive a cash settlement at some point in the future that you would use to pay for all treatment and rehabilitation that you may require.	36%
No right to sue regardless of fault, however all medically required treatment and rehabilitation with income replacement are provided as long as required, potentially for the rest of your life.	48%
Don't know/no preference	9%
No response	6%

Online Survey: Detailed Results

Alberta's current automobile insurance system focuses on the ability to make monetary claims against at-fault drivers. As a result, litigation is one of the main cost drivers in the system: hiring legal representatives and medical experts to support parties' interests is expensive and time consuming. Settlement costs, including interest, pain and suffering damages, and other damages, add cost pressure to the system. This, in turn, results in higher insurance rates for Albertans.

Would you be willing to give up your right to sue an at-fault driver for a cash settlement if it meant that:

a) you received the treatment and rehabilitation you needed to get better;
b) you received the income replacement you needed to help pay your bills while you recover; and
c) you could pay less for your automobile insurance.

	Survey Responses (n=31,019)
Yes	55%
No	29%
Don't know/no preference	9%
No response	6%

Online Survey: Detailed Results

Alberta’s current automobile insurance system focuses on the ability to make monetary claims against at-fault drivers. As a result, litigation is one of the main cost drivers in the system: hiring legal representatives and medical experts to support parties’ interests is expensive and time consuming. Settlement costs, including interest, pain and suffering damages, and other damages, add cost pressure to the system. This, in turn, results in higher insurance rates for Albertans.

Would you be in favor of giving up your right to sue an at-fault driver for a cash settlement for pain and suffering if it meant that all Albertans suffering serious permanent injuries (such as loss of a limb, loss of eyesight, serious brain or spinal cord injuries) would be eligible to receive a one-time, lump-sum permanent impairment benefit?

	Survey Responses (n=31,019)
Yes	33%
No	42%
Don’t know/no preference	19%
No response	6%

Online Survey: Detailed Results

The vast majority of collisions do not occur intentionally. They happen because drivers make mistakes, errors in judgment, or due to weather conditions. In today's environment drivers who are at-fault are limited to claiming the no-fault Accident Benefits available to them under their automobile policies.

As a result, Albertans who suffer a serious or catastrophic injury (such as severe brain injury or spinal cord injury), and are deemed at-fault for the accident, may not have access to the care or income support that they need. At-fault drivers are also subject to penalties under law and face higher insurance premiums.

If a driver is at-fault in a collision, how should they be held responsible for their actions:	Survey Responses (n=31,019)
By giving them less access to treatment, rehabilitation, and income replacement benefits than would be available to injured Albertans who are not at-fault	3%
By making them subject to penalties which could include fines, convictions and/or driving restrictions along with higher insurance rates	77%
Don't know/no preference	13%
No response	7%

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QUALITATIVE ANALYSIS

Online Survey

February 18 – March 6, 2020

Qualitative Analysis

In total, 26,316 responses were received to the online survey's two open-ended questions:

	Responses
One of the cost pressures in the current automobile insurance system is vehicle repair and replacement. On average, Albertans drive some of the most expensive vehicles in Canada. In addition, as vehicles have become more automated and have additional technology and safety features, they also tend to be much more expensive to repair after a collision. For example: A replacement bumper that may have cost $500 a few years ago may now cost several thousand dollars because repair or replacement includes sensors and cameras. Headlights that once cost $30 to replace can now exceed $1,700. **Please provide us with your ideas to help reduce the costs of vehicle repair or replacement (caused by collisions, theft, vandalism, weather, etc.)**	14,148
Do you have any other comments or suggestions that you would like to share with the committee on automobile insurance reform?	12,168

Responses were analyzed using Ascribe text analysis software, and aided by Leger's qualitative coding team.

Qualitative Analysis: Methodology

Leger

Ascribe text analysis software automatically analyzes, categorizes and visualizes themes and opinions from verbatim comments. Ascribe is fueled by Natural Language Processing (NLP), a type of Artificial Intelligence (AI), referring to the ability of the software to understand human language as it is spoken and written. It mines text to look for patterns and adjusts program actions accordingly.

While software continuously improves, human guidance is still required to ensure quality results. Leger's coding team refined the analysis by suppressing extraneous information (i.e. irrelevant to the topic or too general to be useful) and improving the categorization of the vast quantity of text into meaningful themes and subthemes. For example, broad themes such as "automobiles" and "insurance" are not helpful in understanding public opinion on automobile insurance reform.

The process in Ascribe begins with the software examining each verbatim comment and building topics based on its algorithm and based on rulesets that can modify or alter some of the parameters of this algorithm. Essentially, the verbatim comments are compared to identify common expressions and extracts (most used words and expressions). These expressions and extracts are used to define the topics.

Qualitative Analysis: Interpretation

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Measures Used in this Analysis

Two measures are used in this text analysis: mentions and salience. In combination, these measures describe both the frequency with which topics are mentioned as well as the importance of the topics to human readers.

Leger advises readers of this report to take both of these measures into account, and to pay particular attention to themes that are frequently mentioned <u>and</u> salient.

Mentions (Frequency)

This refers to the frequency with which a topic is mentioned. Traditional text analysis has focused on this kind of measure, the interpretation being that the more a topic is mentioned the more important it is.

Salience (Importance)

This refers to the importance of the topic, taking into account the types of words that are used (e.g., nouns, verbs), placement within the comment, etc. Essentially, salience measures the extent to which it is predicted that humans would place importance on, or pay attention to, the topic.

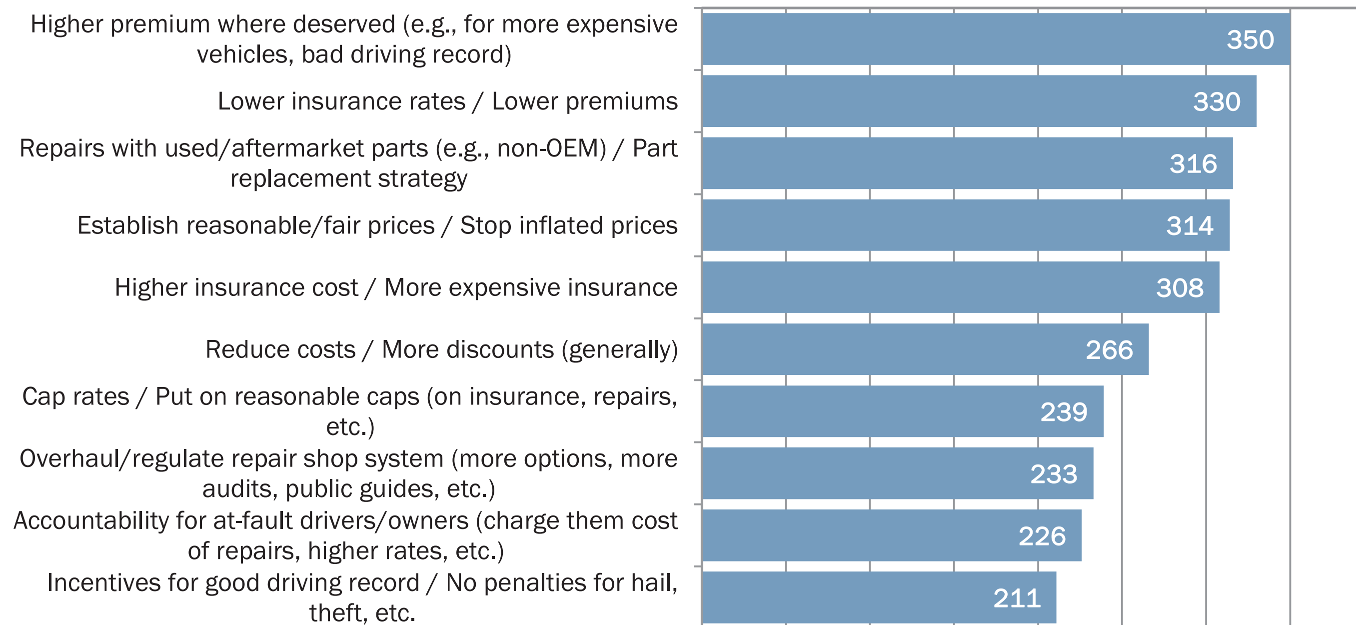
Themes

The themes were identified by linking key words and expressions together to represent common ideas that relate to the questions that were asked. Leger's coding team focused on identifying specific, solution-oriented themes, as opposed to broader themes which are more vague and less actionable. This approach, as well as the focus on salience in addition to frequency, leads to a long list of themes that each tend to have lower frequency (fewer mentions) than for a more broadly focused approach.

Ideas to Reduce Costs
Mentions (Frequency)

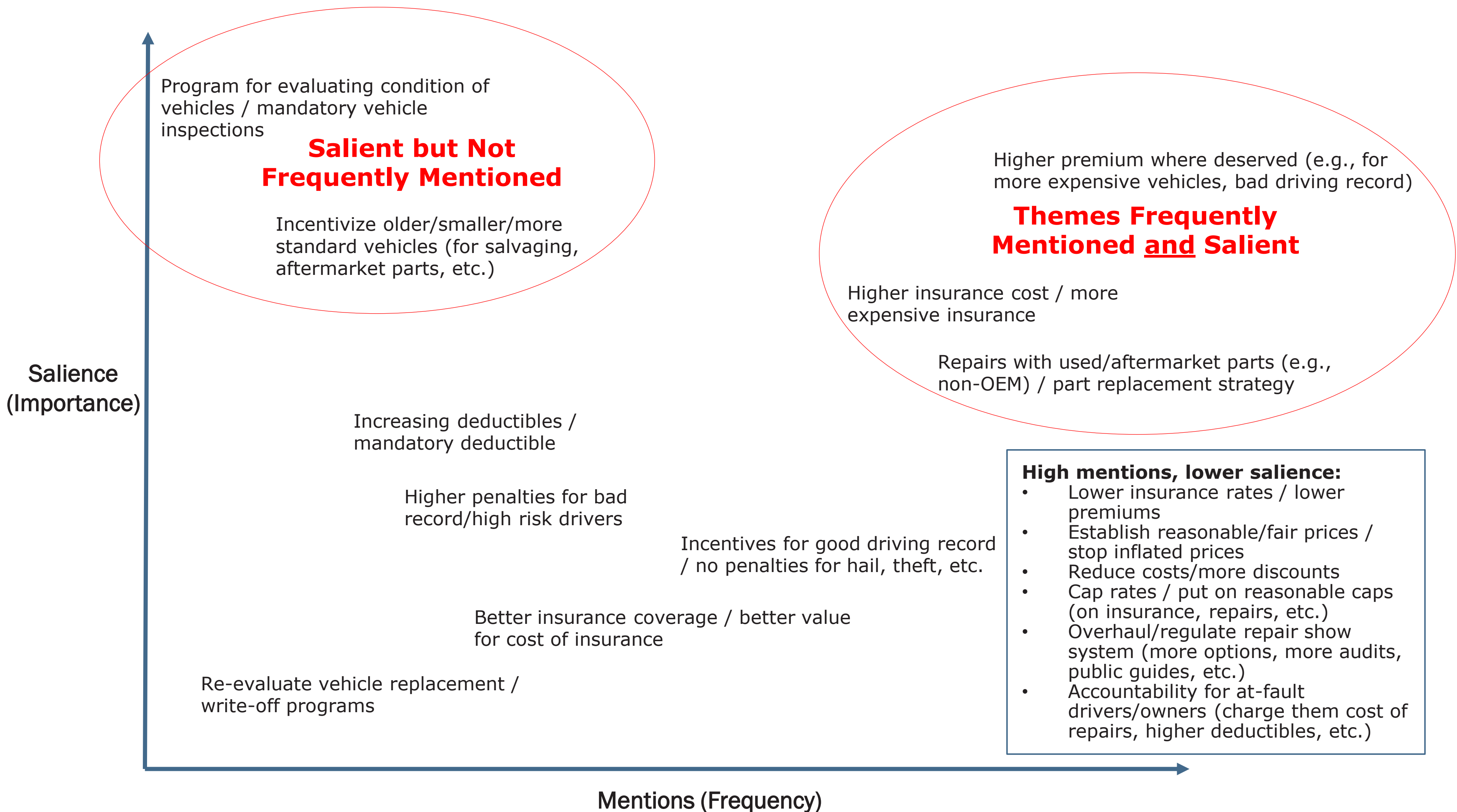
Q16: Please provide us with your ideas to help reduce the costs of vehicle repair or replacement (caused by collisions, theft, vandalism, weather, etc.)

A diverse range of responses were provided, included many comments that were off-topic. The most frequently mentioned themes that relate to the question asked are charging higher premiums where deserved, and lowering insurance rates / premiums, as shown below. Charging higher premiums where deserved is also highly salient, as shown on the following page. Other themes that are frequently mentioned and have relatively high salience are insurance costs being high / expensive, and repairs using used or aftermarket parts / part replacement strategies.



Ideas to Reduce Costs
Mentions vs. Salience

Q16: Please provide us with your ideas to help reduce the costs of vehicle repair or replacement (caused by collisions, theft, vandalism, weather, etc.)



Ideas to Reduce Costs
By Responses to Q13

Leger

The following page shows a comparison of the most frequently mentioned themes based on whether Albertans would be willing to give up their right to sue an at-fault driver for a cash settlement if it meant that: a) they received the treatment and rehabilitation they needed to get better; b) they received the income replacement they needed to help pay their bills while in recovery; and c) they could pay less for their automobile insurance.

The comparison shows that the theme of repairs with used or aftermarket parts / repair strategy is the most dominant theme among Albertans who would be willing to give up their right to sue, while it is only the eighth most mentioned theme for those who would not be willing to give up that right.

Accountability for at-fault drivers / owners is the fifth most frequently mentioned theme among those who would not give up the right to sue, while it is ranked 10th among those who would give up that right.

Most of the other top mentioned themes are ranked similarly by both groups.

Ideas to Reduce Costs
By Responses to Q13

Leger

Q16: Please provide us with your ideas to help reduce the costs of vehicle repair or replacement (caused by collisions, theft, vandalism, weather, etc.)
Q13: Would you be willing to give up your right to sue an at-fault driver for a cash settlement if it meant that: a) you received the treatment and rehabilitation you needed to get better; b) you received the income replacement you needed to help pay your bills while you recover; and c) you could pay less for your automobile insurance. (Yes/No)

	Total	Q13=Yes
Repairs with used/aftermarket parts (e.g., non-OEM) / part replacement strategy	316	258
Higher premium where deserved (e.g., for more expensive vehicles, bad driving record)	350	253
Lower insurance rates / lower premiums	330	236
Establish reasonable/fair prices / stop inflated prices	314	233
Higher insurance cost / more expensive insurance	308	222
Reduce costs / more discounts (generally)	266	207
Cap rates / put on reasonable caps (on insurance, repairs, etc.)	239	184
Overhaul/regulate repair shop system (more options, more audits, public guides, etc.)	233	181
Incentives for good driving record / no penalties for hail, theft, etc.	211	164
Accountability for at-fault drivers/owners (charge them cost of repairs, higher rates, etc.)	226	161

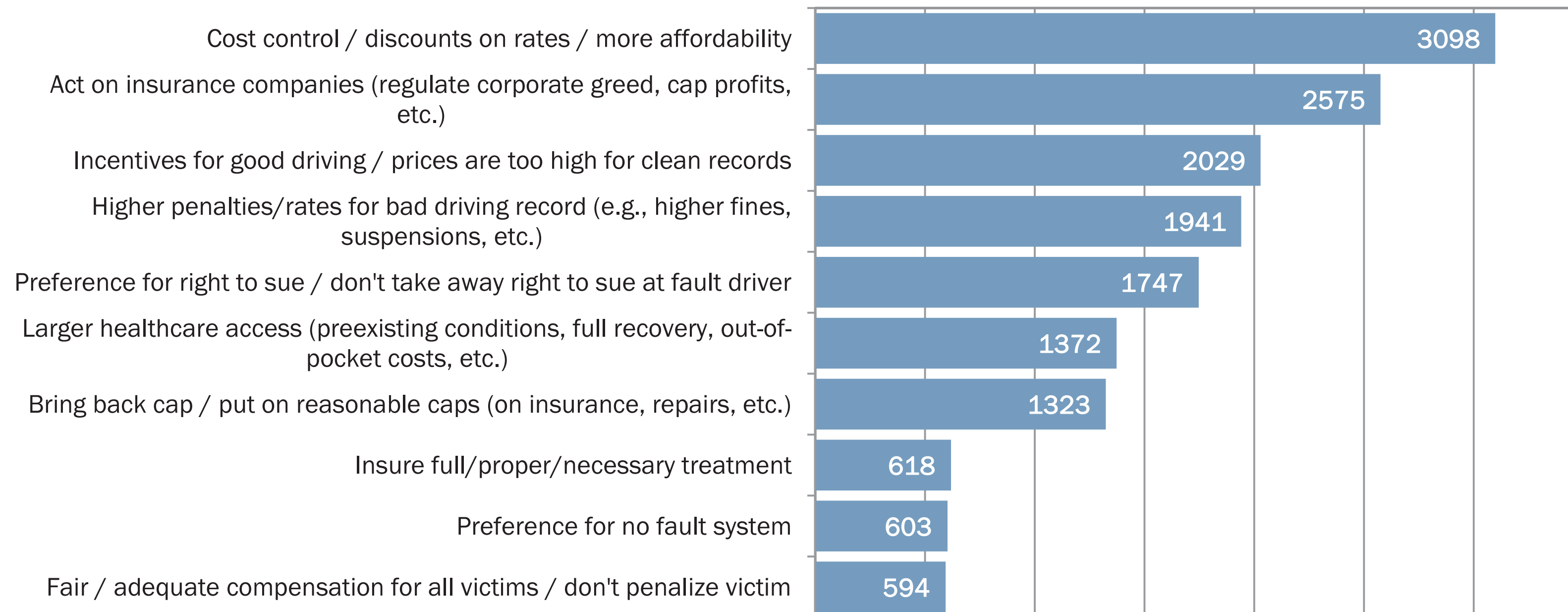
	Total	Q13=No
Higher premium where deserved (e.g., for more expensive vehicles, bad driving record)	350	67
Lower insurance rates / lower premiums	330	62
Establish reasonable/fair prices / stop inflated prices	314	59
Higher insurance cost / more expensive insurance	308	56
Accountability for at-fault drivers/owners (charge them cost of repairs, higher rates, etc.)	226	48
Reduce costs / more discounts (generally)	266	47
Restrict/set a cap to profits / greedy industry	192	46
Repairs with used/aftermarket parts (e.g. non-OEM) / part replacement strategy	316	43
Overhaul/regulate repair shop system (more options, more audits, public guides, etc.)	233	38
More government regulation / government-run system (e.g., public insurance)	196	38

Other Comments and Suggestions Mentions (Frequency)

Leger

Q17: Do you have any other comments or suggestions that you would like to share with the committee on automobile insurance reform?

The most frequently mentioned themes are cost control / discounts on rates / more affordability, and acting on insurance companies (regulate corporate greed, cap profits, etc.), as shown below. Cost control / discounts on rates / more affordability also has relatively high salience, as shown on the following page. Another theme that is frequently mentioned and has relatively high salience is incentives for good driving / prices being too high for drivers with clean records.



Other Comments and Suggestions
Mentions vs. Salience, for Top 10 Most Salient Themes

Q17: Do you have any other comments or suggestions that you would like to share with the committee on automobile insurance reform?

The Most Salient Themes Are Not Mentioned Frequently

- Reform should consider hardships of ordinary Albertans
- Higher Insurance Price
- Greater focus on rehabilitation
- Keep current system in place / no need for reform

Themes Frequently Mentioned and Salient

- Cost control / discounts on rates / more affordability
- Incentives for good driving / prices are too high for clean records

Higher deductible

Adjust rates for driver types (too expensive for youth compared to old, male vs. female, etc.)

Need to reform (more fairness, less bias, too flawed, etc.)

Higher penalties/rates for bad driving record

High mentions, lower salience:

- Act on insurance companies (regulate corporate greed, cap profits, etc.)
- Preference for right to sue / don't take away right to sue at fault driver
- Larger healthcare access (pre-existing conditions, full recovery, out-of-pocket costs, etc.)
- Bring back cap / put on reasonable caps (on insurance, repairs, etc.)
- Insure full/proper/necessary treatment
- Preference for no fault system
- Fair/adequate compensation for all victims / don't penalize victim

Salience (Importance)

Mentions (Frequency)

Other Comments and Suggestions By Responses to Q13

Leger

The following page shows a comparison of the most frequently mentioned themes based on whether Albertans would be willing to give up their right to sue an at-fault driver for a cash settlement if it meant that: a) they received the treatment and rehabilitation they needed to get better; b) they received the income replacement they needed to help pay their bills while in recovery; and c) they could pay less for their automobile insurance.

The comparison shows that the themes are ranked quite differently by the two groups.

Notably, those who would give up their right to sue most frequently mention the theme of cost control / discounts / affordability, followed by incentives for good driving / prices being too high for drivers with clean records. These themes are mentioned less - ranked 4th and 9th respectively - among those who would not give up the right to sue.

Those who would not give up the right to sue most frequently mention a preference for the right to sue, indicating a consistent position across the two survey questions. Some of those who would give up the right to sue also mention wanting the right to sue, with that theme ranked 7th. However, when faced with making a choice, they chose treatment and rehabilitation, income replacement, and the idea of paying less over having the right to sue.

Other Comments and Suggestions By Responses to Q13

Q17: Do you have any other comments or suggestions that you would like to share with the committee on automobile insurance reform?
Q13: Would you be willing to give up your right to sue an at-fault driver for a cash settlement if it meant that: a) you received the treatment and rehabilitation you needed to get better; b) you received the income replacement you needed to help pay your bills while you recover; and c) you could pay less for your automobile insurance. (Yes/No)

	Total	Q13=Yes		Total	Q13=No
Cost control / discounts on rates / more affordability	3093	2110	Preference for right to sue / don't take away right to sue at fault driver	1744	1120
Incentives for good driving / prices are too high for clean records	2029	1459	Act on insurance companies (regulate corporate greed, cap profits, etc.)	2571	982
Act on insurance companies (regulate corporate greed, cap profits, etc.)	2571	1327	Larger healthcare access (pre-existing conditions, full recovery, out-of-pocket costs, etc.)	1370	796
Higher penalties/rates for bad driving record (e.g. higher fines, suspensions, etc.)	1940	1207	Cost control / discounts on rates / more affordability	3093	702
Bring back cap / put on reasonable caps (on insurance, repairs, etc.)	1320	774	Higher penalties/rates for bad driving record (e.g. higher fines, suspensions, etc.)	1940	582
Larger healthcare access (pre-existing conditions, full recovery, out-of-pocket costs, etc.)	1370	447	Fair/adequate compensation for all victims / don't penalize victim	593	401
Preference for right to sue / don't take away right to sue at fault driver	1744	414	Preference for no fault system	603	399
Adjust rates for driver types (too expensive for youth compared to old, male vs female, etc.)	515	412	Bring back cap / put on reasonable caps (on insurance, repairs, etc.)	1320	398
Government-run system / more governmental responsibility	503	280	Incentives for good driving / prices are too high for clean records	2029	393
Higher premium (ex. for more expensive vehicles, bad driving record)	354	230	Insure full/proper/necessary treatment	617	347

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DATA QUALITY

Online Survey

February 18 – March 6, 2020

Alberta Government Identification of Issues

To protect respondent confidentiality, the Government of Alberta does not store personally-identifiable (including IP addresses) with individual survey responses.

However, a review of server activity by Service Alberta during the fielding of this survey revealed that, between February 27 and March 6, five (5) IP addresses made more than 130,000 requests to load an image embedded within the online survey, appearing on each of the 9 survey pages.

Over the same time period 14,552 ‘short’ surveys were submitted, initially identified by:

- A completion time of 20 seconds or less; and
- Providing no qualitative (text) responses

A closer analysis also revealed that all 14,552 ‘short’ surveys followed the same (identical) response pattern:

- All indicated a preference for the ‘right to sue’
- Randomization of demographic questions, and other attitudinal questions that do not address ‘right to sue’

Results from these ‘short’ surveys have not been included in the main body of this report, as they appear to be a deliberate attempt to skew results and over represent a particular viewpoint for the committee’s attention, and/or discredit the results of a survey that tens of thousands of Albertans provided input on. Combined results from these short surveys have been included in the Appendix for reference.

It should be noted that the Government of Alberta has fielded dozens of Public Engagement surveys in the past years, without interference from what appears to be a large-scale attempt to skew results. The evidence of such interference in this survey has lead to a review with the GOA of how public engagements can remain accessible to public participation, with security measures that do not compromise an individuals right to provide feedback anonymously.

Leger

APPENDIX

Online Survey

February 18 – March 6, 2020

Short Response Submissions (excluded from analysis)

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Age	Survey Responses (n=14,552)
Under 18	17%
Between 18 and 24	17%
Between 25 and 44	17%
Between 45 and 64	17%
65 or over	17%
Prefer not to say	17%

Gender	Survey Responses (n=14,552)
Male	45%
Female	55%
Prefer not to say	0%

Region	Survey Responses (n=14,552)
Calgary	18%
Edmonton	20%
Other Alberta	60%

Please indicate if you or any member of your household are currently employed in any of the following professions (select all that apply).	Survey Responses (n=14,552)
Medical community or health care practitioner	0%
Legal community	0%
Insurance industry	0%
None of the above	100%

Do you have a private passenger vehicle?	Survey Responses (n=14,552)
Yes	100%
No	0%

Short Response Submissions (excluded from analysis)

Leger

In the past 2 years, have you...	Survey Responses (n=14,552)
Purchased an auto insurance policy	100%
Renewed an existing insurance policy with the same company or agent	100%
Sought competitive quotes for automobile insurance	100%
Changed automobile insurance providers to obtain a better rate	0%
Had a claim made against you on your auto insurance	0%
Made a collision claim where you were at fault	0%
Made a claim against a responsible driver who was at fault	0%
Been denied automobile insurance coverage	0%

Have you ever been injured in an automobile accident?	Survey Responses (n=14,552)
Yes	45%
No	55%
Don’t know	0%
Prefer not to say	0%

Short Response Submissions (excluded from analysis)

Please indicate how much you agree or disagree with the following statements:

My automobile insurance premiums are fair and reasonable	Survey Responses (n=14,552)
TOTAL AGREE	34%
Strongly agree	17%
Agree	17%
NEITHER	17%
TOTAL DISAGREE	32%
Disagree	16%
Strongly disagree	16%
Don’t know	16%

I understand what my automobile insurance covers and what it doesn’t	Survey Responses (n=14,552)
TOTAL AGREE	33%
Strongly agree	17%
Agree	17%
NEITHER	17%
TOTAL DISAGREE	33%
Disagree	16%
Strongly disagree	17%
Don’t know	17%

Short Response Submissions (excluded from analysis)

Leger

Under Alberta's current automobile insurance system:

- Medical benefits (called "accident benefits") are available to anyone injured in a collision regardless of fault, but those benefits are limited to $50,000 and are limited for two years following the collision (accident)
- Damages as a result of the actions of an at-fault driver, can either be negotiated or resolved directly with the at-fault driver's insurer, or the person suffering damages can sue the at-fault driver to recover those damages from the insurer.
- When people are injured in collisions, those not at-fault can claim against the at-fault driver for care costs that are not covered by the publicly-funded health system, as well as for lost income and pain and suffering damages.
- At-fault drivers are limited to claiming the no-fault medical and disability benefits available to them under their automobile policies (Accident Benefits). Seriously or catastrophically injured Albertans who are at-fault may not have access to the care that they need.

In developing reforms in auto insurance in Alberta, there will be trade-offs. Please indicate your preferences of various elements of models below.

In a situation where you were injured as a result of the actions of an at-fault driver, which would be more important to you?	Survey Responses (n=14,552)
The right to sue the at-fault driver for a cash settlement	100%
Having coverage that provides immediate access to medical treatment and rehabilitation as well as income replacement	0%
Don't know/no preference	0%
No response	0%

Short Response Submissions (excluded from analysis)

Leger

Alberta's current automobile insurance system focuses on the ability to make monetary claims against at-fault drivers. As a result, litigation is one of the main cost drivers in the system: hiring legal representatives and medical experts to support parties' interests is expensive and time consuming. Settlement costs, including interest, pain and suffering damages, and other damages, add cost pressure to the system. This, in turn, results in higher insurance rates for Albertans.

Please indicate which of the following is more important to you:	Survey Responses (n=14,552)
The right to sue an at-fault driver for a cash settlement; or	100%
Access to more affordable automobile insurance rates	0%
Don't know/no preference	0%
No response	0%

Short Response Submissions (excluded from analysis)

Leger

Alberta's current automobile insurance system focuses on the ability to make monetary claims against at-fault drivers. As a result, litigation is one of the main cost drivers in the system: hiring legal representatives and medical experts to support parties' interests is expensive and time consuming. Settlement costs, including interest, pain and suffering damages, and other damages, add cost pressure to the system. This, in turn, results in higher insurance rates for Albertans.

If you were injured in an automobile collision, what would be more important to you:	Survey Responses (n=14,552)
The right to sue with the potential to receive a cash settlement at some point in the future that you would use to pay for all treatment and rehabilitation that you may require.	100%
No right to sue regardless of fault, however all medically required treatment and rehabilitation with income replacement are provided as long as required, potentially for the rest of your life.	0%
Don't know/no preference	0%
No response	0%

Leger

Short Response Submissions (excluded from analysis)

Alberta's current automobile insurance system focuses on the ability to make monetary claims against at-fault drivers. As a result, litigation is one of the main cost drivers in the system: hiring legal representatives and medical experts to support parties' interests is expensive and time consuming. Settlement costs, including interest, pain and suffering damages, and other damages, add cost pressure to the system. This, in turn, results in higher insurance rates for Albertans.

Would you be willing to give up your right to sue an at-fault driver for a cash settlement if it meant that:

a) you received the treatment and rehabilitation you needed to get better;
b) you received the income replacement you needed to help pay your bills while you recover; and
c) you could pay less for your automobile insurance.

	Survey Responses (n=14,552)
Yes	0%
No	100%
Don't know/no preference	0%
No response	0%

Short Response Submissions (excluded from analysis)

Alberta's current automobile insurance system focuses on the ability to make monetary claims against at-fault drivers. As a result, litigation is one of the main cost drivers in the system: hiring legal representatives and medical experts to support parties' interests is expensive and time consuming. Settlement costs, including interest, pain and suffering damages, and other damages, add cost pressure to the system. This, in turn, results in higher insurance rates for Albertans.

Would you be in favor of giving up your right to sue an at-fault driver for a cash settlement for pain and suffering if it meant that all Albertans suffering serious permanent injuries (such as loss of a limb, loss of eyesight, serious brain or spinal cord injuries) would be eligible to receive a one-time, lump-sum permanent impairment benefit?

	Survey Responses (n=14,552)
Yes	0%
No	100%
Don't know/no preference	0%
No response	0%

Short Response Submissions (excluded from analysis)

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The vast majority of collisions do not occur intentionally. They happen because drivers make mistakes, errors in judgment, or due to weather conditions. In today's environment drivers who are at-fault are limited to claiming the no-fault Accident Benefits available to them under their automobile policies.

As a result, Albertans who suffer a serious or catastrophic injury (such as severe brain injury or spinal cord injury), and are deemed at-fault for the accident, may not have access to the care or income support that they need. At-fault drivers are also subject to penalties under law and face higher insurance premiums.

If a driver is at-fault in a collision, how should they be held responsible for their actions:	Survey Responses (n=14,552)
By giving them less access to treatment, rehabilitation, and income replacement benefits than would be available to injured Albertans who are not at-fault	0%
By making them subject to penalties which could include fines, convictions and/or driving restrictions along with higher insurance rates	100%
Don't know/no preference	0%
No response	0%

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Leger is a member of the Canadian Research Insights Council (CRIC), the industry association for the market/survey/insights research industry.

Leger is a member of ESOMAR (European Society for Opinion and Market Research), the global association of opinion polls and marketing research professionals. As such, Leger is committed to applying the international ICC/ESOMAR code of Market, Opinion and Social Research and Data Analytics.

Leger is also a member of the Insights Association, the American Association of Marketing Research Analytics.

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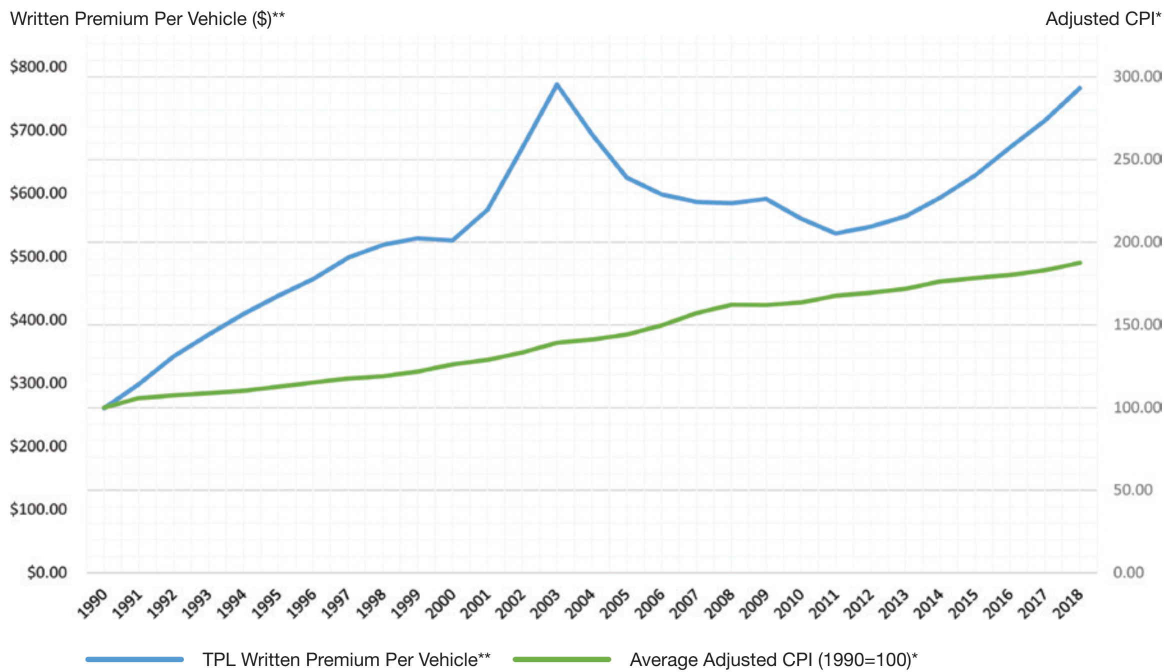
C. Appendix 3 – Cheng Rating Graph April, 2020

Alberta private passenger third party liability written premium per vehicle



* Source: Statistics Canada. Table 18-10-0004-13 Consumer Price Index, All-Items, Alberta, monthly, percentage change, not seasonally adjusted. CPI is recalibrated assuming AY 1990 is at 100pts.

** Written premium per vehicle adjusted by recalibrated CPI.

Appendix 4 – Cheng Transaction Cost Report April 20, 2020

ESTIMATE OF THE

ANNUAL TRANSACTIONAL COSTS OF
PRIVATE PASSENGER MOTOR VEHICLE
LITIGATION IN ALBERTA

EXPRESSED IN 2018 DOLLARS

Prepared by: Joe S. Cheng, F.C.I.A

For: Treasury Board and Finance

Date of Letter: April 8, 2020

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April 8, 2020

Automobile Insurance Reform Advisory Committee
c/o Treasury Board and Finance
4th Floor, Terrace Building
9515-107 Street
Edmonton, AB T5K 2C3

Dear Advisory Committee Members:

RE: Estimate of the Annual Transactional Costs of Private Passenger Motor Vehicle Litigation in Alberta

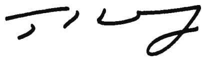
You have asked J. S. Cheng & Partners Inc. (JSCP) to estimate the annual transactional costs pertaining to litigation in the private passenger automobile (PPA) third party liability insurance system. Transactional costs are defined as:

(1) Disbursements,
(2) Insurers' lawyers fees (internal and external),
(3) Adjusters' fees (internal and external),
(4) Defence medical, expert reports and other related expenses, and
(5) Contingency fee paid by the plaintiff

We have used the 2018 all-industry PPA data and the 2019 Alberta closed claim survey to conduct this estimate. In our opinion, the 2018 transactional costs in the Alberta PPA third party liability insurance system was about $383 million for accidents in Alberta. On a per vehicle basis, transactional costs were about $140 per vehicle or 20.2% of third party liability premiums.

We are pleased to submit our report for your review. Please let us know if you have any questions or comments about our report.

Yours truly,



Joe S. Cheng, FCIA

Encl.

Data and Reliance

We have relied on the general accuracy of the information provided by General Insurance Statistical Agency (GISA) and surveys completed by several licensed Alberta insurers, without audit or independent verification, and we assumed it was complete. The accuracy of our results is dependent upon the accuracy and completeness of this underlying data.

Distribution and Use

This report is intended for the management of Treasury Board and Finance (TBF). Its sole purpose is to provide an estimate of annual private passenger motor vehicle litigation transactional costs in Alberta.

This report is neither intended nor necessarily suitable for any other use. Distribution beyond the intended audiences is permitted provided that it is authorized by TBF and the recipient is made aware that they are a third party to this report and that JSCP will be available for further questions on this report.

Parties other than the management of TBF are third parties to this report. Any use which a third party makes of this report, or any reliance on or decisions to be made based on it, are the responsibility of such third parties. JSCP accepts no responsibility for damages, if any, suffered by any third party as a result of decisions made or actions based on this report.

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1. Purpose of the Report

The purpose of this report is to estimate the annual transactional costs of private passenger motor vehicle litigation in Alberta.

2. Data

We have relied on information provided by licensed Alberta insurers in the form of completed surveys. In addition, we have used various General Insurance Statistical Agency (GISA) Alberta automobile exhibits.

3. Definitions

Allocated Loss Adjustment Expenses (ALAE) is the sum of the following items:

Insurer's Outside Counsel Fees	Defence Medical Reports
Insurer's In-house Counsel Fees	Other Expert Fees (such as actuary, economist)
Independent Adjuster Fees	Other Claim Expenses (such as police reports)
Insurer's In-house Adjuster Fees	

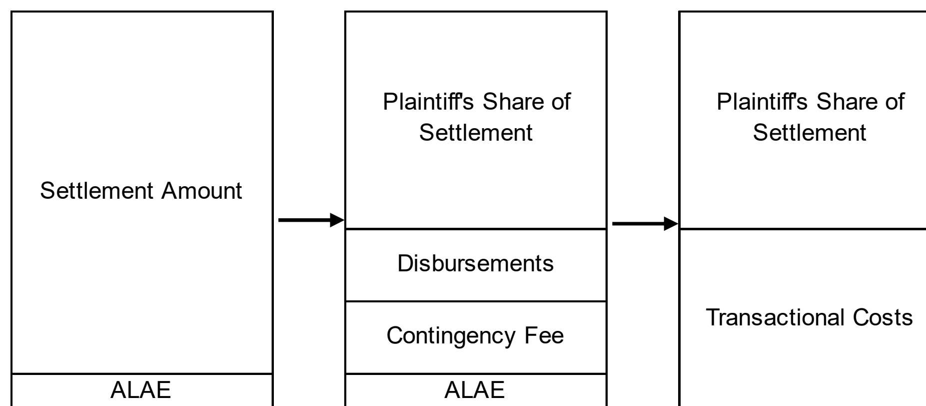
Unallocated Loss Adjustment Expenses (ULAE) are expenses incurred that cannot be attributed to a specific claim such as salary and rent of claims department.

Settlement amount includes past and future pecuniary losses (i.e. loss of income, medical and rehabilitation, etc.), non-pecuniary losses (i.e. pain and suffering, loss of consortium, etc.), prejudgment interest, plaintiff lawyer's costs and disbursements.

Loss and settlement amount are used interchangeably in this report.

Transactional costs are the sum of ALAE, disbursements, and contingency fees.

Total Loss & ALAE is the sum of settlement and ALAE. The following diagram shows the total loss & ALAE and the approach to derive the transactional costs in the total loss & ALAE.



4. Methodology

a. ALAE and settlement amount by claim are taken from the surveys completed by licensed Alberta insurers. The survey includes claims that were closed in years 2010, 2012 and 2017.

b. For the purpose of this report, we segregated the ALAE and settlement amount into two categories: Accidents in Alberta and accidents outside of Alberta.

c. Contingency fee is embedded in the settlement amount. The Automobile Insurance Reform Advisory Committee suggested that we use 33% of the total settlement amount less disbursements as the contingency fee of each claim.

d. For each claim, ALAE and settlement amount are trended from the date of the accident to June 30, 2018 (average accident date in 2018) using a trend rate of 8.5%. The trend rate is established using average severity of Alberta tort bodily injury claims from accident years 2010 to 2018. See Appendix C for details.

e. We divided the trended settlement amount into three components: plaintiff's share of settlement, disbursements, and contingency fees. Disbursements as well as contingency fees are added to ALAE to form the total transactional costs.

f. Total transactional costs (from step e) are then divided by the total trended loss and ALAE to derive the transactional costs percentage. See Appendix B for details.

g. Finally, we applied the transactional costs percentage (from step f) to the total loss and ALAE amount for accident year 2018 to derive the transactional costs at 2018 level.

h. To express the transactional costs as a percentage of premiums, we divided the 2018 transactional costs by the total third party liability (TPL) premiums in 2018. The total TPL premiums are taken from GISA's report.

The following table shows the estimated 2018 transactional costs in aggregate dollars and on a per vehicle basis:

Accident Year 2018	**Accidents in AB**	Accidents outside of AB	Total
(1) Transactional Costs as % of Loss & ALAE	**40.6%**	41.0%	40.6%
(2) Total Transactional Costs	**$382,633,911**	$34,978,840	$417,612,751
(3) Total TPL Premiums in AY2018	**$1,891,597,635**	$1,891,597,635	$1,891,597,635
(4) Transactional Costs % as TPL Premium	**20.2%**	1.8%	22.1%
(5) Earned Vehicle	**2,743,660**	2,743,660	2,743,660
(6) Transactional Costs per Vehicle (2) / (5)	**$139.5**	$12.7	$152.2

5. Distribution of Transactional Costs by Item

We expressed each item as a percentage of total transactional cost dollars at 2018 level. The distribution by item is shown below and in Appendix B1:

	Accidents in Alberta only	
2018 Dollars	($)	(%)
Disbursements	28,336,011	7.4%
Insurer's Outside Counsel Fees	45,909,850	12.0%
Insurer's In-house Counsel Fees	5,390,239	1.4%
Independent Adjuster Fees	10,529,663	2.8%
Insurer's In-house Adjuster Fees	1,257,881	0.3%
Defence Medical Reports	5,468,795	1.4%
Other Expert Fees	7,108,317	1.9%
Other Claim Expenses	2,467,601	0.6%
Estimated Contingency Fees	276,165,554	72.2%
Est. 2018 Total Transactional Costs	382,633,911	100.0%

6. Sensitivity Testing on Trend Rate Selection

In this report, we have trended all historical settlement amounts and ALAE to 2018 level using a trend rate of 8.5%. To ensure using a different trend rate would not affect the results significantly, we have repeated the calculations with a trend rate 1% higher and lower than the selected rate. This table shows the estimated 2018 transactional costs in aggregate dollars and per vehicle using 7.5% and 9.5% trend rates:

Accident Year 2018	**Accidents in Alberta only**		
Selected Trend Rate	**7.50%**	**8.50%**	**9.50%**
Transactional Costs as % of Loss & ALAE	40.4%	40.6%	40.7%
Total Transactional Costs ($)	$381,418,245	$382,633,911	$383,839,665
Total TPL Premiums in AY2018	$1,891,597,635	$1,891,597,635	$1,891,597,635
Transactional Costs % as TPL Premium	**20.2%**	**20.2%**	**20.3%**
Earned Vehicle	2,743,660	2,743,660	2,743,660
Transactional Costs per Vehicle (2) / (5)	$139.0	$139.5	$139.9
Difference in Transactional Costs per Vehicle	**-$0.4**	**$0.0**	**$0.4**

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7. INDEX TO THE APPENDICES

Appendix A	Summary of Transactional Costs at 2018 Level
Appendix B	Derivation of Transactional Costs Percentage
Appendix C	Trend Rate Selection
Appendix D	Sensitivity Testing on Trend Rate Selection
Appendix E	Derivation of Transactional Costs Percentage by Claim Close Year

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APPENDIX A

Summary of Transactional Costs at 2018 Level

Transactional costs in the Alberta (AB) Private Passenger Vehicle Litigation Summary (Bodily Only) for Accident Year 2018

<u>Summary: GISA Data for Accident Year 2018:</u>

		Breakdown of TPL Loss & LAE		
		TPL	PD	BI
(1)	Aggregate Loss & LAE & Health Service Levy	1,735,619,075	482,819,426	1,252,799,649
(2)	Earned Premium	1,891,597,635		
(3)	Earned Vehicle	2,743,660		
(4)	Health Service Levy	120,449,927	0	120,449,927
(5)	ULAE	147,954,999	44,227,905	103,727,094
(6)	Losses incl. ALAE	1,467,214,149	438,591,521	1,028,622,628

Notes:

(1) TPL data from GISA Loss Ratio Report AY 2018
PD & BI from (4) + (5) + (6)
(2) From GISA Loss Ratio Report AY 2018
(3) From GISA Loss Ratio Report AY 2018
(4) Earned Premium x 2018 Health Service Levy Factor (from GISA Loss Ratio Report)
(5) TPL = (1) - (4) - (6)
PD & BI proportionated based on (6) Losses incl. ALAE.
(6) From GISA Loss Development Factors Report AY 2018

Transactional Costs in the Alberta (AB) Private Passenger Vehicle Litigation Summary (Bodily Only) for Accident Year 2018

Bodily Injury: Aggregate ($) Basis for AY2018:

		Accidents in AB	Accidents outside of AB	Total
(1)	BI Loss & ALAE	943,333,672	85,288,956	1,028,622,628
(2)	Health Service Levy	120,449,927	0	120,449,927
(3)	ULAE	95,126,490	8,600,604	103,727,094
(4)	Total Losses incl. ALAE, ULAE & H.S. Levy	1,158,910,089	93,889,560	1,252,799,649
(5)	Transactional costs as % of Loss & ALAE	40.6%	41.0%	40.6%
(6)	Transactional costs ($)	382,633,911	34,978,840	417,612,751
(7)	Total TPL Premiums in AY2018	1,891,597,635	1,891,597,635	1,891,597,635
(8)	Transactional costs % as TPL Premium	20.2%	1.8%	22.1%

Per Vehicle Basis for AY2018:

		Accidents in AB	Accidents outside of AB	Total
(9)	Loss & ALAE	343.8	31.1	374.9
(10)	Health Service Levy	43.9	0.0	43.9
(11)	ULAE	34.7	3.1	37.8
(12)	Total Losses incl. ALAE, ULAE & H.S. Levy	422.4	34.2	456.6
(13)	Transactional costs as % of Loss & ALAE	40.6%	41.0%	40.6%
(14)	Transactional costs per Vehicle	139.5	12.7	152.2

Notes:

(1) Derived from Page 1. Proportionated based on Appendix B page 1, line (11) column (d)-(f).
(2) See Page 1 for details.
(3) Derived from Page 1. Proportionated based on (1).
(4) = (1) + (2) + (3)
(5) See Appendix B page 1, line (13) column (d)-(f). Based on BI claims in Alberta.
(6) = (4) x (5)
(7) From GISA report. See Page 1 for details.
(8) = (6) / (7)
(9) = (1) / Total Earned Vehicles in AY2018
(10) = (2) / Total Earned Vehicles in AY2018
(11) = (3) / Total Earned Vehicles in AY2018
(12) = (9) + (10) + (11)
(13) = (5)
(14) = (9) x (13)

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APPENDIX B

Derivation of Transactional Costs Percentage

Transactional Costs in the Alberta (AB) Private Passenger Vehicle Litigation
Derivation of Transactional Costs Ratio
Aggregate of Claims Close Years 2010, 2012 and 2017

		Actual in Data			**Trended to 2018 Level @ 8.5% per Annum**		
		Accidents in AB	Accidents outside of AB	Total Alberta	Accidents in AB	Accidents outside of AB	Total Alberta
		(a)	(b)	(c)	(d)	(e)	(f)
(1)	Total Settlement [including Item (2)]	52,202,753	4,671,421	56,874,173	106,845,010	9,592,733	116,437,743
(2)	Disbursements	1,553,595	156,819	1,710,414	3,499,257	319,790	3,819,047
(3)	Insurer's Outside Counsel fees	2,174,777	273,573	2,448,349	5,669,476	600,976	6,270,453
(4)	Insurer's In-house Counsel fees	267,020	12,737	279,757	665,649	32,276	697,925
(5)	Independent Adjuster fees	614,421	47,793	662,214	1,300,324	92,845	1,393,168
(6)	Insurer's In-house Adjuster fees	51,038	6,030	57,068	155,338	20,486	175,823
(7)	Defence Medical reports	254,431	34,643	289,074	675,350	86,747	762,097
(8)	Other Expert fees	350,356	34,016	384,371	877,817	74,492	952,309
(9)	Other Claim Expenses	130,600	13,724	144,324	304,728	31,906	336,634
(10)	Est. Contingency Fee	16,714,222	1,489,819	18,204,041	34,104,099	3,060,071	37,164,170
(11)	Total Losses and ALAE	56,045,395	5,093,936	61,139,331	116,493,690	10,532,461	127,026,151
(12)	Total Transactional Costs	22,110,459	2,069,153	24,179,612	47,252,036	4,319,589	51,571,625
(13)	**Transactional Costs as a % of Loss & ALAE**	**39.5%**	**40.6%**	**39.5%**	**40.6%**	**41.0%**	**40.6%**
(14)	Transactional Costs Ratio @ 9.5% trend rate				40.7%	41.0%	40.7%
(15)	Transactional Costs Ratio @ 7.5% trend rate				40.4%	41.0%	40.5%

Notes:

(1) From Claim and Cost Study Report page 175 - 176, including advanced payments.
(2) From Claim and Cost Study Report page 176
(3)-(9) From Claim and Cost Study Report page 179
(10) Contingency fee is estimated as 33% * [(1) - (2)]
(11) = Sum [(1), (3) : (9)]
(12) = Sum [(2) : (10)]
(13) = (12) / (11)
(14) See Appendix D - Sensitivity Testing for Trend Rate
(15) See Appendix D - Sensitivity Testing for Trend Rate

Transactional Costs in the Alberta (AB) Private Passenger Vehicle Litigation
Distribution of Transactional Costs Ratio

		Survey Data Accidents in Alberta only		Expressed in 2018 Dollars	
		($)	(%)	($)	(%)
(1)	Disbursements	3,499,257	7.4%	28,336,011	7.4%
(2)	Insurer’s Outside Counsel fees	5,669,476	12.0%	45,909,850	12.0%
(3)	Insurer’s In-house Counsel fees	665,649	1.4%	5,390,239	1.4%
(4)	Independent Adjuster fees	1,300,324	2.8%	10,529,663	2.8%
(5)	Insurer's In-house Adjuster fees	155,338	0.3%	1,257,881	0.3%
(6)	Defence Medical reports	675,350	1.4%	5,468,795	1.4%
(7)	Other Expert fees	877,817	1.9%	7,108,317	1.9%
(8)	Other Claim Expenses	304,728	0.6%	2,467,601	0.6%
(9)	Est. Contingency Fee	34,104,099	72.2%	276,165,554	72.2%
(10)	Total Transactional Costs	47,252,036	100.0%	382,633,911	100.0%

Notes:

Trended transactional costs are taken from Appendix B page 1.

Total transactional costs as 2018 level was taken from Appendix A

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APPENDIX C

Trend Rate Selection

Transactional Costs in the Alberta (AB) Private Passenger Vehicle Litigation
Bodily Injury - Selection of Trend Rate

Loss Trend Analysis:

Accident Year	Frequency	Severity	Loss Cost	Linear Regression Ln(Freq)	Ln(Sev)	Ln(LC)
2010	0.607	$34,153	$20,731	(0.4992)	10.4386	9.9394
2011	0.608	$36,604	$22,261	(0.4973)	10.5079	10.0106
2012	0.602	$42,035	$25,312	(0.5072)	10.6463	10.1390
2013	0.637	$42,779	$27,235	(0.4515)	10.6638	10.2123
2014	0.635	$47,447	$30,144	(0.4536)	10.7674	10.3137
2015	0.634	$53,748	$34,090	(0.4553)	10.8921	10.4367
2016	0.620	$60,475	$37,524	(0.4773)	11.0100	10.5327
2017	0.630	$60,398	$38,078	(0.4613)	11.0087	10.5474
2018	0.599	$62,618	$37,491	(0.5130)	11.0448	10.5319
			Co-efficient	0.0018	0.0814	0.0832
			R-Squared	0.0400	0.9696	0.9543
			Indicated Annual Trend	0.18%	8.48%	8.68%

	Annual	Daily
Selected Severity Trend	8.50%	0.022%
Selected +1.0% (for sensitivity analysis)	9.50%	0.025%
Selected -1.0% (for sensitivity analysis)	7.50%	0.020%

*Losses are trended from accident date to 6/30/2018 using daily trend rate

GISA Data used in Trend Analysis:

Accident Year	Car Years Earned	Number of Claims	Frequency per 100 Veh. %	Ultimate Losses $000	Severity	Loss Cost
2010	2,247,312	13,641	0.607	465,882	34,153	20,731
2011	2,307,245	14,032	0.608	513,621	36,604	22,261
2012	2,392,014	14,404	0.602	605,470	42,035	25,312
2013	2,480,463	15,792	0.637	675,562	42,779	27,235
2014	2,577,019	16,372	0.635	776,807	47,447	30,144
2015	2,652,570	16,824	0.634	904,253	53,748	34,090
2016	2,678,904	16,622	0.620	1,005,219	60,475	37,524
2017	2,690,011	16,959	0.630	1,024,291	60,398	38,078
2018	2,743,660	16,427	0.599	1,028,623	62,618	37,491
Total	22,769,198	141,073	0.620	6,999,728	49,618	30,742

Source: Alberta PP (excluding Farmers) ILDF Report: Tort Bodily Injury (KOL1,2)

APPENDIX D

Sensitivity Testing on Trend Rate Selection

Transactional Costs in the Alberta (AB) Private Passenger Vehicle Litigation

Sensitivity Analysis: Trend Rate Selection

Table 1: Transactional Costs Ratio using Different Trend Rate

	Trend Rate at 8.5% per Annum			Trend Rate at 7.5% per Annum			Trend Rate at 9.5% per Annum		
	Transactional Costs	Total Loss & ALAE	Transactional Costs Ratio	Transactional Costs	Total Loss & ALAE	Transactional Costs Ratio	Transactional Costs	Total Loss & ALAE	Transactional Costs Ratio
In Alberta	47,252,036	116,493,690	40.6%	43,103,818	106,605,502	40.4%	51,827,966	127,373,667	40.7%
Outside of Alberta	4,319,589	10,532,461	41.0%	3,951,242	9,642,067	41.0%	4,725,401	11,513,712	41.0%
Total	51,571,625	127,026,151	40.6%	47,055,060	116,247,568	40.5%	56,553,367	138,887,379	40.7%

Table 2: Impact of Trend Rate Selection on Estimated Accident Year 2018 Transactional Costs

	Accidents in Alberta			Accidents outside of Alberta			Total Alberta		
	Trend Rate Used			Trend Rate Used			Trend Rate Used		
	8.50%	7.50%	9.50%	8.50%	7.50%	9.50%	8.50%	7.50%	9.50%
AY2018 Losses & ALAE	943,333,672	943,333,672	943,333,672	85,288,956	85,288,956	85,288,956	1,028,622,628	1,028,622,628	1,028,622,628
Transactional Costs Ratio	40.6%	40.4%	40.7%	41.0%	41.0%	41.0%	40.6%	40.5%	40.7%
Estimated Transactional Costs	382,633,911	381,418,245	383,839,665	34,978,840	34,950,731	35,003,875	417,612,751	416,369,137	418,843,481
# of Earned Vehicles in 2018	2,743,660	2,743,660	2,743,660	2,743,660	2,743,660	2,743,660	2,743,660	2,743,660	2,743,660
Transactional Costs per Vehicle	139.5	139.0	139.9	12.7	12.7	12.8	152.2	151.8	152.7
Impact of Different Trend Rate		(0.4)	0.4		(0.0)	0.0		(0.5)	0.4

APPENDIX E

Derivation of Transactional Costs Percentage by Claim Close Year

Transactional Costs in the Alberta (AB) Private Passenger Vehicle Litigation
Derivation of Transactional Costs Ratio by Claim Close Year
Claims Close Year 2010

		Actual in Data			**Trended to 2018 @ 8.5% per Annum**		
		Accidents in AB	Accidents outside of AB	Total Alberta	Accidents in AB	Accidents outside of AB	Total Alberta
		(a)	(b)	(c)	(d)	(e)	(f)
(1)	Total Settlement [including Item (2)]	12,289,057	1,401,219	13,690,277	34,433,481	4,110,072	38,543,552
(2)	Disbursements	347,323	33,727	381,050	1,018,840	98,856	1,117,696
(3)	Insurer's Outside Counsel Fees	621,994	54,528	676,523	1,973,531	176,853	2,150,384
(4)	Insurer's In-house Counsel Fees	107,818	12,737	120,555	322,986	32,276	355,262
(5)	Independent Adjuster Fees	256,918	16,733	273,650	659,524	38,985	698,509
(6)	Insurer's In-house Adjuster Fees	40,925	6,030	46,955	129,104	20,486	149,589
(7)	Defence Medical Reports	81,216	32,438	113,654	249,080	83,158	332,238
(8)	Other Expert Fees	118,353	13,388	131,741	354,350	36,654	391,003
(9)	Other Claim Expenses	41,241	9,063	50,304	117,105	24,697	141,802
(10)	Est. Contingency Fee	3,940,773	451,272	4,392,045	11,026,831	1,323,701	12,350,533
(11)	Total Losses and ALAE	13,557,523	1,546,136	15,103,658	38,239,160	4,523,180	42,762,340
(12)	Total Transactional Costs	5,556,560	629,916	6,186,476	15,851,351	1,835,666	17,687,016
(13)	**Transactional Costs as a % of Loss & ALAE**	**41.0%**	**40.7%**	**41.0%**	**41.5%**	**40.6%**	**41.4%**

Notes:

(1) From Claim and Cost Study Report page 175 - 176, including advanced payments.
(2) From Claim and Cost Study Report page 176
(3)-(9) From Claim and Cost Study Report page 179
(10) Contingency fee is estimated as 33% * [(1) - (2)]
(11) = Sum [(1), (3) : (9)]
(12) = Sum [(2) : (10)]
(13) = (12) / (11)

Transactional Costs in the Alberta (AB) Private Passenger Vehicle Litigation
Derivation of Transactional Costs Ratio by Claim Close Year
Claims Close Year 2012

		Actual in Data			Trended to 2018 @ 8.5% per Annum		
		Accidents in AB	Accidents outside of AB	Total Alberta	Accidents in AB	Accidents outside of AB	Total Alberta
		(a)	(b)	(c)	(d)	(e)	(f)
(1)	Total Settlement [including Item (2)]	15,365,770	606,998	15,972,769	36,455,613	1,314,960	37,770,573
(2)	Disbursements	530,105	31,991	562,096	1,419,308	75,727	1,495,035
(3)	Insurer's Outside Counsel Fees	867,186	83,570	950,756	2,486,092	200,632	2,686,723
(4)	Insurer's In-house Counsel Fees	75,668	0	75,668	211,390	0	211,390
(5)	Independent Adjuster Fees	195,471	10,169	205,639	414,584	20,729	435,312
(6)	Insurer's In-house Adjuster Fees	8,713	0	8,713	22,561	0	22,561
(7)	Defence Medical Reports	97,280	0	97,280	270,394	0	270,394
(8)	Other Expert Fees	141,334	11,931	153,265	380,732	23,888	404,620
(9)	Other Claim Expenses	42,495	62	42,557	110,486	126	110,613
(10)	Est. Contingency Fee	4,895,769	189,753	5,085,522	11,561,981	408,947	11,970,927
(11)	Total Losses and ALAE	16,793,917	712,730	17,506,647	40,351,852	1,560,334	41,912,186
(12)	Total Transactional Costs	6,854,022	327,474	7,181,496	16,877,528	730,048	17,607,576
(13)	**Transactional Costs as a % of Loss & ALAE**	**40.8%**	**45.9%**	**41.0%**	**41.8%**	**46.8%**	**42.0%**

Notes:

(1) From Claim and Cost Study Report page 175 - 176, including advanced payments.
(2) From Claim and Cost Study Report page 176
(3)-(9) From Claim and Cost Study Report page 179
(10) Contingency fee is estimated as 33% * [(1) - (2)]
(11) = Sum [(1), (3) : (9)]
(12) = Sum [(2) : (10)]
(13) = (12) / (11)

Transactional Costs in the Alberta (AB) Private Passenger Vehicle Litigation
Derivation of Transactional Costs Ratio by Claim Close Year
Claims Close Year 2017

		Actual in Data			**Trended to 2018 @ 8.5% per Annum**		
		Accidents in AB	Accidents outside of AB	Total Alberta	Accidents in AB	Accidents outside of AB	Total Alberta
		(a)	(b)	(c)	(d)	(e)	(f)
(1)	Total Settlement [including Item (2)]	24,547,925	2,663,203	27,211,128	35,955,916	4,167,702	40,123,618
(2)	Disbursements	676,167	91,101	767,268	1,061,108	145,208	1,206,316
(3)	Insurer's Outside Counsel Fees	685,597	135,474	821,071	1,209,853	223,491	1,433,345
(4)	Insurer's In-house Counsel Fees	83,534	0	83,534	131,273	0	131,273
(5)	Independent Adjuster Fees	162,033	20,892	182,925	226,216	33,131	259,347
(6)	Insurer's In-house Adjuster Fees	1,400	0	1,400	3,673	0	3,673
(7)	Defence Medical Reports	75,935	2,205	78,140	155,875	3,589	159,464
(8)	Other Expert Fees	90,668	8,698	99,366	142,735	13,950	156,685
(9)	Other Claim Expenses	46,863	4,599	51,463	77,136	7,083	84,219
(10)	Est. Contingency Fee	7,877,680	848,794	8,726,474	11,515,287	1,327,423	12,842,710
(11)	Total Losses and ALAE	25,693,955	2,835,071	28,529,026	37,902,679	4,448,947	42,351,625
(12)	Total Transactional Costs	9,699,877	1,111,763	10,811,640	14,523,157	1,753,875	16,277,033
(13)	**Transactional Costs as a % of Loss & ALAE**	**37.8%**	**39.2%**	**37.9%**	**38.3%**	**39.4%**	**38.4%**

Notes:

(1) From Claim and Cost Study Report page 175 - 176, including advanced payments.
(2) From Claim and Cost Study Report page 176
(3)-(9) From Claim and Cost Study Report page 179
(10) Contingency fee is estimated as 33% * [(1) - (2)]
(11) = Sum [(1), (3) : (9)]
(12) = Sum [(2) : (10)]
(13) = (12) / (11)