

# The Road Ahead

A Planned Approach to Auto Insurance Solutions

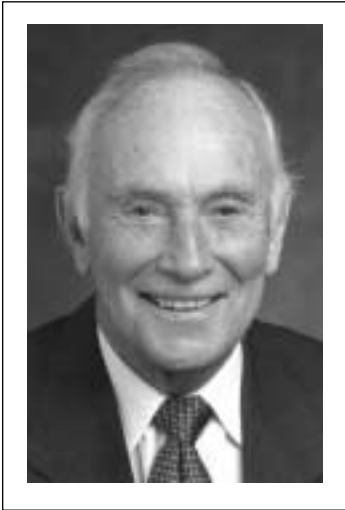


  
**NOVA SCOTIA**  
Environment and Labour

Financial Institutions Division

March 2003

# Minister's Letter



This Government, like you and other consumers, is concerned about the effect of rising auto insurance rates, especially on seniors and working families.

We've been following this regional issue very closely, actively working to find an appropriate solution. We asked the Utility and Review Board (UARB) to review the specific matter of auto insurance rates, and their report is expected soon. Meanwhile, we've been working to develop a consumer's guide to buying auto insurance, and we are continuing to meet with our Atlantic counterparts to discuss regional solutions.

Some of you took the opportunity to make your views on rates known by participating in the UARB review. Now, we are seeking your input on other issues relevant to auto insurance.

This paper - *The Road Ahead* - identifies key issues for your consideration. Consumers of auto insurance are the most important stakeholders involved in this issue, and your feedback is important to help Nova Scotia set the direction for future improvements to our auto insurance system.

Thank you in advance for sharing your views with us.

Sincerely,

Honourable Ronald S. Russell, CD  
Minister of Environment and Labour, Minister Responsible for Insurance

# Background and Introduction

During the past two years, Nova Scotian vehicle owners have experienced significant increases in auto insurance premiums. In December, 2001, an all-party committee of the Legislature invited the insurance industry to address this emerging issue. In February, 2002, the Government asked the Utility and Review Board (UARB) to review the specific matter of auto insurance rates. This report is expected shortly. At the same time, the Government of Nova Scotia has been gathering information, assessing options that may benefit consumers, and has consulted with other provinces, especially the other Atlantic Provinces, to identify ways to

stabilize auto insurance rates. Part of this process has involved exploring the viability of regional cooperation in dealing with this and related issues.

The Government has identified some ways to improve our auto insurance system, and to contribute to the stabilization of auto insurance rates.

The purpose of this discussion paper is to identify issues and possible solutions which the Government has developed to meet both consumer and government concerns. What is essential now is input from Nova Scotians. We invite and welcome response from Nova Scotian consumers that will assist Government

to implement improvements that meet both industry and consumer needs.

As a preliminary step, the Government has published "A Consumer's Guide to Buying Auto Insurance" which assists consumers to understand the auto insurance system. This guide has been well received. To date over 1,200 copies have been downloaded from The Department's web site. You can access the guide by calling the department or by visiting its web site at [www.gov.ns.ca/enla](http://www.gov.ns.ca/enla)

## Current Circumstances

As individual consumers, when we pay our insurance premiums, we are in fact placing our money into a pool of money with that of thousands of other consumers. That pool is then used to reimburse the claims of those few among us, who have the misfortune to be involved in an auto accident. We buy insurance with the hope that we personally will not have to collect. We also expect to pay a fair price for the protection we seek and require.

At the present time, no vehicle may be driven on public roads or highways in Nova Scotia unless it is insured. Auto insurance is regulated under the *Insurance Act of Nova Scotia*. This Act, and associated regulations, establishes minimum levels of auto insurance coverage that every vehicle owner must carry and the minimum benefits that must be provided by that coverage.

These minimum requirements are:

- **LIABILITY INSURANCE** that covers you if you injure someone or damage someone else's property with your car. The minimum is \$200,000 coverage – though most Nova Scotians carry between \$500,000 and \$1,000,000.
  - **ACCIDENT BENEFITS** that provide medical and rehabilitation expense benefits, funeral expense benefits, and loss of income benefits.
  - **UNINSURED AND UNIDENTIFIED AUTO INSURANCE** which protects you in the event of your being the victim in an accident with an uninsured or unidentified automobile.
- Many Nova Scotians also choose to be covered by additional optional insurance, such as:
- **COLLISION OR UPSET INSURANCE** which covers damage to your vehicle

in the event of an accident, regardless of who is at fault, including yourself. There is usually a deductible amount of between \$100 and \$500 by which your claim or benefit is reduced.

- **COMPREHENSIVE INSURANCE** which covers loss or damage to your vehicle caused by theft, vandalism, fire or a collision with an animal. There is normally a deductible amount of \$25 to \$100, except in the case of damage caused by theft or fire, in which case there is no deduction.

These provisions are outlined in what is called the Standard Auto Insurance Policy, which every consumer receives when they purchase auto insurance. The policy is divided into four sections: A – Third Party Liability, B – Accident Benefits, C – Loss



## Fundamental Principles and Assumptions

There are a number of fundamental principles, which underlie our auto insurance system in Nova Scotia.

Ultimately, reform of the auto insurance system should strike a balance between the cost of insurance and the coverage provided. It should ensure coverage is appropriate and available, that pricing is fair to consumers and providers within a competitive marketplace.

What are these fundamental principles that the Government believes Nova Scotians would expect to underlie our auto insurance system?

of or Damage to Insured Automobile, and D – Uninsured and Unidentified Automobile Coverage. In Nova Scotia, only Section C is optional.

The money you pay for insurance is called a premium. The actual amount, you are charged, is based on the insurance company's assessment of the amount of risk it must accept to insure your car.

Some drivers have difficulty finding an insurance company that will accept them

because of their previous driving record or other circumstances. These people may only find coverage through a non-profit group of insurance companies called Facility Association. This is a consortium of insurance companies that agree to insure very high-risk drivers, but for relatively high premiums.

## The Situation Across the Country

Automobile insurance in Canada is defined by each province or territory. Some jurisdictions have implemented a full no-fault system, whereby all benefits are paid by the driver's own insurance company. Quebec, Manitoba and Saskatchewan have had no-fault insurance systems in place for a number of years.

A no-fault system provides limited or no compensation for non-economic losses, such as pain and suffering. Regardless of who is at fault in the accident, there is also usually no right to sue. However, most no-fault systems do pay for property damage and personal injury up to pre-determined limits.

Manitoba and Saskatchewan's insurance systems are run by the government, while

British Columbia and Quebec's systems are administered jointly by the government and private insurers. Ontario has a modified no-fault system that limits the right to sue and is administered by private insurers. All other province's have private insurance systems.

Nova Scotia has a privately run system that includes some no-fault elements - that is, pre-set benefits provided by your own insurance company, regardless of fault. These elements are such things as medical expenses, loss of income and death benefits. Currently in Nova Scotia, there is no restriction on the right to sue.

- i. Because auto insurance is mandatory, it is appropriate that government work with the industry to ensure that consumers receive a fair deal in purchasing insurance, and in receiving fair and reasonable coverage for their premium expenditure.
- ii. Every driver, even high-risk drivers, should be able to obtain insurance coverage.
- iii. A competitive marketplace is the most fair and effective means through which to contain rising insurance premiums.
- iv. Consumers should know and understand what they are buying, what options exist, what costs are, and what benefits they are receiving or not receiving in return for their premium.
- v. It is appropriate that Government consult with Nova Scotians in the establishment of minimum standards, and in encouraging input from the public in the consideration and determination of fair and reasonable costs for such minimum levels of auto insurance.

# Insurance Regulation in Nova Scotia

The Nova Scotia Superintendent of Insurance is responsible for promoting and protecting the interests of insurance consumers. It does this through licensing and regulating insurance companies, insurance agents, brokers and adjusters in Nova Scotia. The Office of the Superintendent monitors the insurance industry to ensure compliance to the Insurance Act and Regulations. The only auto insurance rates

regulated in Nova Scotia are those issued through Facility Association.

The Office also accepts and responds to complaints or inquiries from the public. During the course of the past year, the number of complaints received by the Superintendent's Office has increased substantially, largely owing to complaints about increased rates for auto insurance.

The Superintendent's Office works

to assist consumers, however, the Superintendent is not specifically assigned the role of being a consumer advocate. Given the increasing interest consumers have in auto insurance issues, consideration is being given to the creation or identification of a body or official with specific responsibility for consumer advocacy regarding auto insurance, or insurance issues generally.

## Issues and Questions for Consideration

### A. The Question of Cost

During the past two years, most consumers have been faced with significant increases in their auto insurance premiums. This has been particularly challenging for Nova Scotians on fixed incomes, such as seniors, as well as for working families, students, and small businesses. For many people, auto insurance is not optional. They need their vehicles to go to work and to attend to their normal daily life.

The UARB review into auto rate increases, for which a report is pending, should provide some answers to the questions of whether these increases are justified.

Industry representatives say that the major cause of rate increases has been the significant growth in the number of what are called "soft tissue injury claims" (sprains and strains). A recent study by the insurance industry found that 70% of current injury claims are of this type. The same study found that 67% of the total funds paid out in claims are for "pain and suffering"—not economic loss. At the same time that the number of claims has increased, the number of auto accidents has been in decline in Nova Scotia, as have the number of auto fatalities. This reduction in accidents is attributed to the design of safer cars, safer roads and

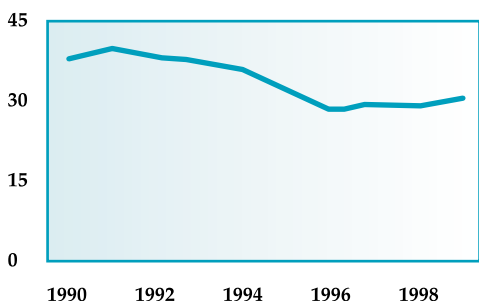
government efforts to encourage safe driving behaviours such as not drinking and driving.

Industry representatives suggest as well that other contributors to increased rates are the cost of repairing cars, and the rising cost of health care for those injured in auto accidents. In sum, the insurance industry's position is that rising premiums are the result of forces over which it has relatively little control.

Two other factors may be contributing to increasing insurance premiums. These are the impacts of fraud and general financial market conditions. In the case of both of these factors, the insurance companies

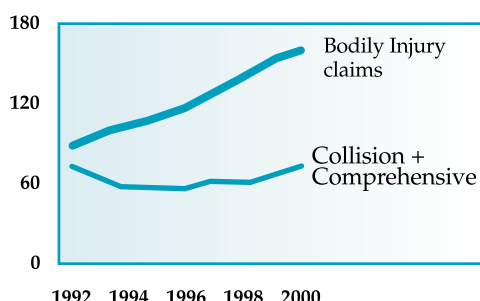
**Number of accidents**

Nova Scotia, thousands



**Claims costs by type**

Nova Scotia, millions of 2001 dollars



themselves are best able to assess the impact, if any, on premium increases.

Often smaller claims are subject only to cursory examination at best by insurers, no doubt for cost containment reasons. Would a higher degree of due diligence on the part of the companies reduce the number of fraudulent or exaggerated claims?

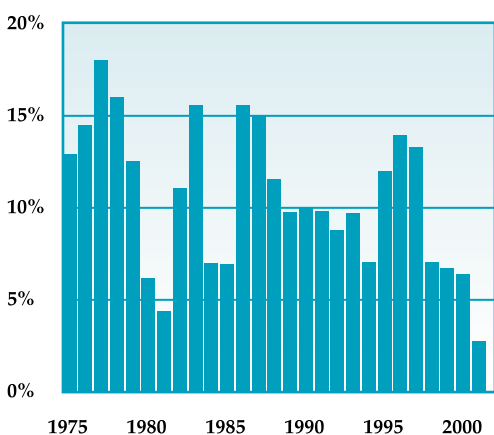
Insurance companies, like other financial institutions, invest the money they collect in premiums. In the past, these investments have yielded income, which helps offset the cost of claims. Recent years have generally

seen a succession of negative performances in financial markets. So, insurance companies have experienced reduced revenues from these sources.

Fluctuations in market prices are often cyclical. Therefore some people would argue that the market should be left to regulate itself, including prices. Others are skeptical about insurance companies being left to unilaterally establish rates.

### Return on equity

Private P&C Insurers, Canada



Source: IBC, with data from StatCan and A.M. Best

In the past, consumers had some flexibility to influence their insurance premiums that is not widely available in the market today. For instance, some insurance companies used to forgive a first minor accident, or make other discounts available to policy holders. However, in the current market,

these measures have largely disappeared. We believe that consumers would like to see a return to a market which provides them with more flexibility and the ability to influence their own premiums.

## B. No-Fault Systems

In a full no-fault system, your insurance company pays, regardless of fault. Even though fault is not required for the insurance company to process your claim, fault is still determined for driving record purposes, which can affect premiums of the at-fault driver. In providing benefits, the insurance company would refer to a list of prescribed benefits, set in advance. In a no-fault system, your right to sue is restricted, if not eliminated.

There are three provinces in Canada that currently administer full no-fault systems - Saskatchewan, Manitoba, and Quebec. Each of these systems is run by their respective provincial governments; there are no privately run full no-fault insurance systems in the country.

More research on no-fault systems would be required to understand what the impact would be on insurance premiums.

## What do you think?

1. What is the best means of stabilizing the price of auto insurance?
2. Should there be regular reviews of auto insurance rates and minimum required coverage and benefits? If so, should a consumer advocate be assigned to specifically represent the interests of consumers in such reviews?



## What do you think?

3. Should the government examine no-fault systems for Nova Scotia?

## What do you think?

4. If medical benefits were enhanced to ensure adequate coverage for recovery from an auto accident, would you support a restriction on the right to sue for pain and suffering for minor injuries?

5. Do you think such a provision should be mandatory and apply to all consumers, or be optional?

# C. Tort Reform or Restricted Right to Sue

A “tort” is a wrong or an injustice committed by one person against another. Tort or “civil” law is that area of legal practice wherein an alleged grieved party sues the party deemed responsible. The object of the suit is to receive damages (normally in the form of money) for the pain or loss suffered. In the event that the matter goes to court, the court or the judge must determine, first, if the claim is valid in the light of the evidence presented, then secondly, the amount of the damage that should be paid by the offending party.

There has clearly been an increase in the number of claims and lawsuits arising out of automobile accidents in Canada. Most commonly, but not always, such claims are settled out-of-court through negotiations between the insurance companies and the complainants. To facilitate less costly settlements, some form of optional “arbitrated settlement” process could be established as an alternative to going to court.

The actual number of very serious accidents in Nova Scotia, with deaths or major injuries, is relatively small. The industry perspective is that there should not be economic recovery where there has been no economic loss.

One way of dealing with this problem is to restrict or disallow claims for “pain and suffering”, where no economic loss or permanent injury or impairment has occurred. Such restrictions already exist in Ontario, Manitoba, Quebec and Saskatchewan. In fact, a majority of Canadians live in provinces, that restrict the right to sue for pain and suffering for minor injuries. In some cases, where pain and suffering is of a permanent nature, claimants are still allowed access to the civil litigation process.

## SOME OPTIONS THAT ARE UNDER ACTIVE CONSIDERATION BY THE GOVERNMENT OF NOVA SCOTIA ARE:

- Claims for non-economic loss could be restricted to injuries causing permanent and serious disfigurement or permanent and serious impairment to important physical, mental or psychological functions. With such a provision would be the expectation that there would be some appropriate discounted rate. Of these measures, this presents the most significant change from our current system, however industry suggests it will also have the greatest impact stabilizing rate increases.
- Wage loss settlements could be set at 100% of net wages. (The intent here would be to see that the accident victim receives the same amount that they would have earned had they not suffered injury or impairment as a result of the accident.)
- An injured party could be entitled to make application to the courts for a “structured settlement”. (A structured settlement is a form of annuity, which is paid to the victim over a period of years, in lieu of receiving a lump sum at the time of the settlement.) Obviously, this provision would only apply if the parties were unable to reach an out-of-court settlement. It would allow the court to award a structured settlement.



## *D. Choice Options*

While all vehicle owners in Nova Scotia are required to purchase minimum levels of insurance coverage for their vehicles, there are a number of choices they must make about what coverage they will have. Do they wish to purchase coverage beyond the minimum levels? Do they wish to purchase collision and comprehensive coverage?

Choice options are not to be confused with no-fault. A choice system gives the consumer the right to choose between having their right to sue restricted in return for a discount in premium, or no such restriction.

More research would be required to determine if this option is feasible in this market. However, it is presented here to solicit the preliminary response of consumers and industry. Several U.S. states provide such an option to their consumers, and at least one province, Saskatchewan, has recently done so in Canada. The Nova Scotia market is small, so this option may only be feasible on an Atlantic regional basis.

In a system with this option, restrictions on non-economic loss compensation only apply to the insured persons who have selected this option, and those driving under that person's insurance. If a driver who has chosen to have the restricted option on compensation is at fault in an

accident with a driver who has chosen not to have any restrictions, the not at-fault driver will receive compensation without restrictions. In other words, each driver gets the benefits for which he or she has paid. Insurance rates would have to accommodate the costs of providing coverage both ways. If you are the victim in an accident with a person who has opted for the restricted compensation option, you would still be entitled to sue for pain and suffering – and the other person's premium must accommodate that possibility.

Consumers electing such an option would continue to have a right to claim for financial loss suffered in an accident, such as medical costs and/or lost income.

The potential impact on rates would depend on the number of consumers who buy the choice option.

### **What do you think?**

**6. Should drivers have a choice between receiving full compensation for pain and suffering or having restrictions on such compensation?**



## E. Section 'B' Accident Benefits

As in most provinces, accident benefits coverage (Section "B" in the standard policy) is mandatory in Nova Scotia. This is insurance that covers medical expenses, loss of income and death benefits incurred by the insured consumer and is paid by your own insurance company, regardless of who is at fault in the accident. In this sense, these accident benefits are considered no-fault benefits.

It should be noted, as well, that all of these areas of coverage are only paid if the individual has not already been reimbursed for these expenses

through some other insurance coverage. Regardless, if there is no other coverage applicable, the victim's insurance provides this coverage, even if the victim is at fault.

If a system is introduced in Nova Scotia that restricts the right of victims to sue, it is particularly important that all persons be adequately covered in terms of medical and loss of income provisions in their insurance.

Currently, there is considerable variation in coverage minimums across the various provinces of Canada. The following table illustrates the degree of variation and the improvements that are being actively considered by Nova Scotia:

Benefit Category	BC	Ontario	NB	NS/NL/PEI	Suggested:
Medical Payments benefit	\$150,000.	\$100,000.	\$50,000.	\$25,000.	\$50,000.
Funeral benefit	\$2500.	\$6000.	\$2500.	\$1000.	\$2500.
Death benefit	\$5000. + \$145/Wk for 104 wks.	\$25,000.	\$50,000.	\$25,000.	\$50,000.
Loss of Income benefit	75% Gross wages to \$300./wk for 104 wks.	80% net wages up to \$400./wk for 104 wks.	\$250./wk for 104 wks.	\$140./wk for 104 wks.	\$300./wk for 104 wks.

## What do you think?

7. Should accident benefits be increased?

8. Should these benefits be raised if it means an increase in premiums?

9. Should these benefits be increased only in the event that a restriction is introduced in the right to sue, thus having a more stabilizing impact on rates?

10. If you think they should be increased, would you consider the following levels reasonable?

- Medical Benefits \$50,000
- Weekly Income Benefit net income to a maximum of \$300
- Death Benefit
  - Principal Income Earner \$50,000
  - Spouse \$50,000
  - Dependents \$2,500
- Funeral Benefit \$2,500

11. Do you agree that some of these benefits should be increased, but not others? If so, which ones?



## F. Underwriting Rules

These are rules used by underwriters, in effect the insurance companies, to assess the risk they are being asked to take. In Nova Scotia, these rules are established by the insurance companies and are based on their own business needs.

Underwriting is essentially an exercise in assessing risk. The guidelines and rate structures established by insurance companies are based on the past experience of many years and literally hundreds of thousands, indeed millions of cases. They are also able to identify high-risk categories of clients.

Each applicant for insurance is assessed against the higher or lower risk categories. Some of these have to do with the individual record or circumstances. Others have to do with that person's intended use of their automobile, how much they use their car, where they do most of their driving. Included in these considerations are such factors as: age, sex, marital status,

where you live, how you use your vehicle, who else is regularly using your car, your driving record and your accident claim history and those of any regular users of your vehicle, and the value of your vehicle. Once an underwriter has assessed your application, the company will make a decision as to whether to offer you a policy, and at what price or premium. If you have made your inquiry through an independent broker, that person is expected to get quotes on your file from different companies in order to get you the best deal.

At the present time, underwriting rules or guidelines are not regulated in Nova Scotia. In fact, the only province in which they are regulated is Ontario – though Newfoundland and Labrador is actively considering doing so as well. The Office of the Superintendent of Insurance has noted that an increasing number of complaints it receives pertain to underwriting rules, and

their application. The public's understanding of how decisions are made might be enhanced if the rules were made public in a formal way. This would also enable consumers to more accurately assess their own situation, if they believed that the rules were not being fairly applied to them.

Through regulation, rules could identify practices which are forbidden in determining rates or for disqualifying potential clients. Some examples of such rules might be:

- An underwriting rule is prohibited if in the opinion of the Superintendent it:
  - Is subjective
  - Is arbitrary
  - Has no relationship to the risk, or
  - Is contrary to public policy. (For example, if it is contrary to the Human Rights Act or the Canadian Charter of Rights and Freedoms)
- An insurer cannot decline, refuse to renew or terminate an auto insurance

## What do you think?

12. Should government regulate a framework for the establishment of the underwriting rules used by insurance companies to ensure that the rules are fair to consumers?

13. Should government require public disclosure of such rules, such as having them filed with the UARB or some other appropriate agency?

14. Should the Government regulate the terms and conditions under which insurance companies can place a client into the FA pool, or should it be left to insurance companies to make the determination?

15. Should the Government regulate requirements for notification to FA clients?

16. Should the Government require the FA to provide regular information to the Superintendent regarding the number of clients in the FA pool and the reasons for their being there?

contract for such reasons as (to provide a few examples):

- Age, sex, marital status
- Lapse in coverage
- Convictions unrelated to driving
- Physical or mental disabilities
- Income level
- Age of vehicle (inspection may be required after 8 years)
- An insurer may not use a risk classification system that includes elements such as: not at fault claims, unpaid claims or lapse in coverage, unless due to non

payment of premiums, suspension of driver's license, failure to inform insurer of an accident that would have led to a higher premium.

Further analysis of the impact of the regulation of the underwriting rules on efficiencies within the market will be necessary.

## *G. Facility Association*

Since auto insurance is compulsory for all drivers in Nova Scotia, provision must be made to ensure that insurance is available to all drivers, including high-risk drivers. Under normal circumstances, insurance companies decline to provide coverage to high-risk drivers. "Facility Association" is a non-profit group of insurance companies (four in Nova Scotia) that pool resources through which they offer insurance to high-risk drivers who normally they would not accept.

Premium costs for these clients, not surprisingly, are considerably higher than in the regular automobile market. No consumer would choose to be required to purchase auto insurance through Facility Association. And yet, drivers are not always advised that they only have access to auto insurance coverage through this pool. Naturally, insurance companies would rather not take on high-risk drivers through their regular programs. Complaints to the Office of the Superintendent of Insurance suggest that increasing numbers of consumers are being designated for the Facility Association pool.

Should consumer protection measures be established regarding Facility Association? Does a client have a right to be advised that

their application will be referred to the Facility Association pool? Such protections currently exist in Ontario and are being considered in Newfoundland and Labrador.

Of the many protections that could be established, three specific examples are:

- That Facility Association (FA) be written on the application, policy certificate and pink card so that the applicant knows that he or she is being proposed for coverage through FA;
- That drivers in FA be given an annual report on their status; and
- That FA be required to submit a regular report to the Superintendent advising the number of drivers being placed in FA and the reasons for the placement.

# In Conclusion What do You Think?

There are some major issues raised in this discussion paper. Shortly after this paper is published, the UARB is expected to table its report on auto insurance premiums. The issues and options presented here are important, and must be fully considered by Nova Scotians and their views shared with Government. We would request that your written submissions be presented to government by May 15, 2003. The Government will compile and publish a summary of the submissions received from the public. Then, there will be a further period of review and observation before the Government's response is tabled.

Throughout this paper, questions have been raised to which public input is essential. The Government also welcomes input on related issues that may not have been raised in this discussion paper, but which bear consideration in the minds of Nova Scotians. All input is welcome and essential. Please share your thoughts with us.

Submissions may be made in writing or by email.

Written submissions should be sent to:

**Auto Insurance Review, P.O. Box 697,  
Halifax, Nova Scotia, B3J 2T8.**

Internet submissions should be sent to:

**[Autoinsurancereview@gov.ns.ca](mailto:Autoinsurancereview@gov.ns.ca)**

## What do you think?

1. What is the best means of stabilizing the price of auto insurance?

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\_\_\_\_\_

2. Should there be regular reviews of auto insurance rates and minimum required coverage and benefits? If so, should a consumer advocate be assigned to specifically represent the interests of consumers in such reviews?

Yes  No

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. Should the government examine no-fault systems for Nova Scotia?

Yes  No

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. If medical benefits were enhanced to ensure adequate coverage for recovery from an auto accident, would you support a restriction on the right to sue for pain and suffering for minor injuries?

Yes  No

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Do you think such a provision should be mandatory and apply to all consumers, or be optional?

Yes  No

Comments: \_\_\_\_\_

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6. Should drivers have a choice between receiving full compensation for pain and suffering or having restrictions on such compensation?

Yes  No

Comments: \_\_\_\_\_

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\_\_\_\_\_

7. Should accident benefits be increased?

Yes  No

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8. Should these benefits be raised if it means an increase in premiums?

Yes  No

Comments: \_\_\_\_\_

\_\_\_\_\_

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9. Should these benefits be increased only in the event that a restriction is introduced in the right to sue, thus having a more stabilizing impact on rates?

Yes  No

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

10. If you think they should be increased, would you consider the following levels reasonable?

• For Medical Benefits \$50,000

Yes  No

• Weekly Income Benefit:  
net income to a max. of \$300

Yes  No

• Death Benefit

• Principal Income Earner \$50,000

Yes  No

• Spouse \$50,000

Yes  No



