

Dear NDP Caucus Member;

My name is Nick Coleman. I am a Consulting Economist living in Vancouver and I work for Discovery Economic Consulting in Victoria. I have degrees in Mathematics and Economics from the University of Victoria and have spent 20 years working in economic analysis, primarily analyzing the economic loss suffered due to injuries, whether sustained in auto collisions or otherwise. My colleagues and I have authored thousands of reports that have been routinely used as expert evidence by the Courts of British Columbia.

Over the years we have taken great pride in providing triers of fact with necessary evidence to assist them in making accurate awards that compensate collision victims fairly. Our reports are, by rule, non-adversarial.

I was extremely disappointed to hear the announcement that ICBC will be switching to a new insurance scheme. When the announcement was made, I immediately read the Technical Briefing Presentation that was published on the ICBC web site. I looked at the new system through a non-partisan lens and I was pleasantly surprised, that is, until I looked further into the actual plan<sup>1</sup> and thought about what was not highlighted in the presentation. At this point I realized that I had been hoodwinked by a piece of propaganda.

### The Current State of Affairs

ICBC claims has stated that the cost of claims has risen by 43 percent in 5 years. However, a significant portion of this increase has been as a result of inflation, changes to the prescribed discount rate, and an increase in the number of claims. This assertion can be demonstrated by (amongst other things not set out in this letter), the following facts:

- the period from 2013 to 2018 saw general inflation increases of about 8.5 percent and wage increases of about 11 percent;
- additionally, in 2014, there was an amendment made to the prescribed discount rates used to calculate the present value of future losses to more accurately reflect the current market rates. This change was made in the interest of fairness. For a 30-year-old individual the changes to the discount rate could easily increase the value of their award by 20 percent or more; and
- although we cannot be sure of whether the per-claim cost has changed, the number of claims reported has increased: from 917,000 in 2013<sup>2</sup> to 1,021,000 reported claims in 2018/2019<sup>3</sup> (an increase of 14 percent) and the number of ICBC reported crashes has increased: from 265,000 in 2013 to 315,000 in 2018<sup>4</sup> (an increase of 19 percent).

These three factors, taken together, appear to account for the increase in the cost of claims, and therefore suggest that **it is unlikely that there has been an increase in the real cost per claim.** That is, on average, claims are settling for the same amount as they have settled for in the past.

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<sup>1</sup>Better benefits, lower rates: Moving to a care-based insurance model. A paper detailing government's intended changes at ICBC. For discussion and consultation purposes only.

February 2020. <https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/organizational-structure/crown-corporations/enhanced-care-coverage-intentions-paper.pdf>

<sup>2</sup> ICBC 2013 Annual Report.

<sup>3</sup> ICBC 2018/2019 Annual Service Plan Report.

<sup>4</sup> RoadSafetyBC, Road Safety Highlights, November 1, 2019.

## Changes to the Current Scheme

In a corresponding move it was announced that **changes to the Evidence Act** would be introduced in the legislature. Similar changes introduced via regulation were ruled to be **unconstitutional** just last October.<sup>5</sup>

Even if there has been a small increase in the real cost per claim as a result of expert evidence/expert reports tied to the increased efficiency and knowledge of the expert community, it is likely a reflection of **victim compensation moving towards their real value**.

As professional forensic economists, our estimates have been based on ever more pointed data acquired systematically over the years, resulting in better estimates of loss as well as reduced bias in our calculations.

For example, awards for earning losses of women in the early 1980s were often discounted up to 60 percent for employment contingencies which resulted in gross under-compensation for educated working women<sup>6</sup>.

Any attempt to hide the real cost of driving to society, whether by moving to a no-fault system, artificially lowering the value of victims' claims by limiting their ability to prove their claims, or by other means is to do a disservice to all British Columbians<sup>7</sup>. This sort of move is, in fact, **in opposition to the worldwide effort to internalize externalities of driving and owning a motor vehicle**.

## The Proposed Scheme

The proposed scheme is not a no-fault insurance scheme in the traditional sense, because those who are at fault will have their premiums increase, it is a no-fault scheme in the sense that those who are at fault will still be compensated by their insurance.

Studies have shown that the accident rate increases when no-fault insurance systems are introduced. British Columbians should expect this to be the case under the proposed scheme because it still rewards at-fault drivers with compensation.

In addition, it is unclear how such assessments will be calculated if fault is apportioned to each driver involved – likely we will see more cases where fault is split and the premiums of both drivers increase.

The biggest downfall of the proposed scheme will be that people will not have any recourse if ICBC determines their loss to be less than what they believe it to be.

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<sup>5</sup> Crowder v. British Columbia (Attorney General), 2019 BCSC 1824.

<sup>6</sup> As the data on which our calculations are based on has increased in detail it has become clear that there was a sexist effect where educated women were effectively penalized by having their earnings reduced due to the large number of women who did not work full-time due to being primarily responsible for childcare in their homes.

<sup>7</sup> Recently Nobel-winning economist Joseph Stiglitz argued that it is time to kill the GDP measure because it is not taking into account the environment, inequality, or political stability (three metrics that are of utmost importance), stating that "If we measure the wrong thing, we will do the wrong thing." (<https://www.fastcompany.com/90435788/a-nobel-winning-economist-says-its-time-to-kill-the-gdp>). Measuring ICBC's bottom line in a world of artificially reduced claims will result in B.C. measuring the wrong thing.

The effect of the proposed scheme will require the residents of and visitors to B.C. to maintain trust that ICBC will **not** short-change them, when it is much more likely to be the case that ICBC **will** short-change people, whether it is because of corporate culture, budget pressure, political reasons, or a predisposition to err on the side of awarding conservative losses.

On top of the trust issues, the proposed scheme calls for compensating people for only 90 percent of their wage losses. Thus, every person involved in a motor vehicle collision in B.C. that suffers a wage loss will be under compensated by law.

In addition, I understand that the wage loss benefits will be indexed to price inflation. Wages in B.C. have historically increased about 1 percent faster than price inflation; thus after 10 years the value of the wage loss benefits will be eroded by about 10 percent.

Finally, the proposed scheme places a value on the life of each British Columbian:

- spouse (tied to deceased's age and income at time of death) or, if no spouse, any dependents: \$60,000 to \$500,000;
- dependant (based on age of surviving dependent): \$30,000 to \$60,000;
- dependant with disabilities (based on age of surviving dependant and in addition to the dependent benefit noted above): \$28,000;
- non-dependant child or parent: \$14,000.

In effect British Columbians are getting all the downside of a tort system (premium increases after an accident) and all the downside of a no-fault system (under compensation and increases in the number of accidents and kilometers driven).

#### The Unfairness of the New Scheme as it Relates to Compensation for Earning Losses

The proposed scheme will make determination of amounts to be paid related to lost earnings based on the earnings of the individual at the time they are injured. Any scheme that is based on current rather than potential income actively discriminates against the following groups:

1. The unemployed.
2. People who are not participating in the labour force - including parents of young children.
3. Students.
4. Young People.
5. Part-time Workers - including parents of young children.
6. Women and Minorities.

The proposed scheme also discriminates against older workers as wage loss benefits will only be paid to age 65 (or presumably for a short period for workers who over 65 and working when they are injured). This means that workers who intended to work past their age 65 will be under compensated and workers who are older than age 65 when they are in a motor vehicle collision.

High income earners will also be discriminated against as the proposed scheme will only compensate wage loss up to about \$93,000 per year. Those who earn more than this amount will be under compensated.

### Cost Savings of “20 Percent”

The Government has announced that rates will fall by 20 percent next year. For the reasons set out above, this proposed scheme is not worth 80 percent of our current premiums.

But, putting this assertion aside, the proposed scheme will rely on private disability insurance to compensate injured parties for their wage losses, whereas previously, private disability insurance was recoverable from the person at-fault in the collision. The private disability insurance issuers are undoubtedly going to raise rates in response to this change. This rate increase will be borne by British Columbians either through premiums, or for those whose employer pays for disability insurance through lower wages.

The proposed scheme will also cost British Columbians time and money. By making the cost of driving cheaper we will necessarily increase the number of kilometers driven. This will both increase congestion, robbing British Columbians of their time, and put pressure on the government to increase the supply of infrastructure, the cost of which will be borne by the tax payers of British Columbia.

The additional kilometers driven will have a negative impact on the environment, resulting in more greenhouse gasses, a cost that British Columbians will eventually bear.

It is not clear what the average amount people in B.C. will save on premiums for insurance as a result of this change, if any, but premium savings will most certainly be less than 20 percent.

Furthermore, it is well established that in the long term the auto insurance premiums charged under no-fault schemes are higher than the premiums charged in tort schemes CITE. Therefore, **we are likely to see premiums increase** after the initial “promotional” rate.

### Alternative Ways Forward

Notwithstanding the above, we agree that there are inefficiencies within the current system, and that some reform could improve results for both ICBC and for collision victims.

The best way forward would be to keep the current ICBC scheme but **change the adversarial approach taken by ICBC toward injury claims**. Providing collision victims with **fair and timely settlement offers** would greatly reduce the number of cases that lawyers are involved in, and even among the cases in which ICBC and the collision victim engage counsel, will reduce the number of cases that go to trial. Similarly, making fair offers to plaintiffs (or accepting fair offers from plaintiffs who have retained counsel) will reduce the number of cases that go to trial and the number of cases where the plaintiffs are awarded double costs.

There are also some obvious changes to the ICBC premium model that would lead to more efficient pricing and to people paying for the insurance they need. The most impactful and most obvious change would create a model where drivers pay a per kilometer rate for insurance. Changing to an online renewal and registration system would also reduce costs.

Additionally, or alternatively, the most effective way to reduce ICBC's deficit without artificially lowering the value of victims' claims is by **reducing the number and severity of motor vehicle collisions**. Given the pace of technological advances in the auto industry and in the world in general there are many ways ICBC could take action to reduce the number of (and the severity of injury resulting from) car collisions. We list the most obvious of these here:

- introduce mandatory continuing education<sup>8</sup> for drivers;
- tie insurance rates to real time driving performance and distance driven – this would lead to safer driving habits and fewer kilometers driven in the province;
- increase minimum insurance rates for people driving older vehicles because these vehicles have less safety features and provide greater incentives to get older vehicles off the road;
- introduce barriers for high risk drivers to maintain the privilege of driving;
- optimize speed limits, including implementing variable speed limits across the province;
- reintroduce photo radar and traffic cameras;
- increase distracted driving and drunk driving enforcement; and
- increase traffic violation penalties to make them more punitive.

#### The Proposed Scheme Only Serves the Political Aspirations of its Architects

Minister Eby is the former executive director of the B.C. Civil Liberties Association. Both he and Premier Horgan have repeatedly been on record as saying that No-fault insurance was not an option. Eby and Horgan's motivation to go back on their word and erode the personal liberties of British Columbians in favour of lowering premiums for everyone is brazenly politically motivated as highlighted by the promise of 20 percent savings in insurance premiums.

The new scheme is going to punish people who are injured in a motor vehicle collision through no fault of their own by stripping them of their rights. This is yet another case of politicians taking from the most vulnerable in our society because it is the least politically costly thing to do. And the net result of thieving British Columbians civil liberties will be to save them \$30 per month on car insurance premiums.

As brazenly politically motivated this flip-flop is, it lacks an essential quality: its impact on the next election can only be negative. Already, less than a week after the announcement, the media is focused on pipeline protests and the only ICBC content are commentary pieces uncovering the unpleasant realities of the new scheme from the propaganda that was presented at the unveiling.

In October 2021, there will be no one left who remembers that they are saving \$30 per month in insurance after that money is eaten up by the subscription to the Disney channel that they were then able to afford and have since stopped watching. And groups like the trial lawyers association and civil liberties association, the thousands of people who will be put out of work by this new

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<sup>8</sup>Newly licensed drivers in British Columbia can drive for decades without further education after passing two practical examinations.

scheme, and many more who will experience the “compensation” ICBC will offer to them after they have been injured in a motor vehicle collision are not likely to forget this move at election time.

When you vote on the new ICBC scheme and the changes to the *Evidence Act* please keep in mind that if you vote for the changes you will be voting to take away the rights of British Columbians and legislate discrimination and breaking a key campaign promise.

Imagine losing your 25-year-old child or grandchild because they were killed in a motor vehicle collision that was caused by another driver being told that the value of that life was \$14,000.

Imagine being in intense pain and, as noted by Ms. Walker in her opinion piece in the Times Colonist<sup>9</sup>, having to ask for your ICBC adjuster’s permission to see your chiropractor and not getting a response for a week.

A large number of British Columbia residents will suffer hardship as a result of the proposed amendments. Some forward-looking residents may consider leaving the Province if these proposed changes become law.

Are you willing to make all the sacrifices outlined above in order to save British Columbians what amounts to minor and inconsequential reductions in auto insurance premiums?

What is wrong with asking the people of B.C. to pay for the real cost of driving?

I reiterate that any change to hide the real cost of driving would result in a disservice to all British Columbians and their children.

Nicholas Coleman, BSc (Mathematics) and MA (Economics)

c.c. Minister David Eby, Premier John Horgan

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<sup>9</sup> <https://www.timescolonist.com/opinion/op-ed/island-voices-no-fault-insurance-in-b-c-will-hurt-us-all-1.24081390>