# Mandate and Roles Document As required by the Alberta Public Agencies Governance Act 

December 2023
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The Mandate and Roles Document for the ALBERTA MOTOR VEHICLE INDUSTRY COUNCIL ("AMVIC" or "Council") has been developed collaboratively between the Minister of Service Alberta and Red Tape Reduction ("Minister") and the Council concerning their respective legal and administrative roles and responsibilities relating to the delegation to the Council under the Consumer Protection Act. A clear understanding of the respective roles and responsibilities of the Department of Service Alberta and Red Tape Reduction and the Council contributes to good governance and effective agency operations and service delivery.

AMVIC, as a Public Agency, is subject to the Alberta Public Agencies Governance Act and is accountable to the Government of Alberta, through the Minister, in fulfilling its mandate and accountabilities. Nothing in this Mandate and Roles Document is intended to or shall interfere with the Council's proper exercise of any statutory powers of decision. Although the Department is responsible for ensuring the Council is effectively performing its delegated roles and responsibilities through oversight of the Board, the Council is an independent body making independent decisions.

## 1. Council Mandate

1.1 To protect consumers and industry from unfair practices in the automotive business industry.
1.2 AMVIC was incorporated as a society under the Societies Act and was continued under s. 137.8(1) of the Consumer Protection Act. AMVIC is established as a regulatory board to exercise the powers, duties and functions delegated to it under s. 136(5) of the Consumer Protection Act.
1.3 AMVIC is responsible for maintaining a mandatory licensing program for automotive businesses, and a registration program for automotive business salespersons, educating industry on regulatory compliance, informing consumers of their rights, and enforcing consumer protection laws. In addition to protecting Alberta consumers from unfair business practices and working towards building trust and confidence in the automotive business industry, AMVIC is also responsible for:

1. Fostering open and clear communication in the automotive business industry and supporting an honest exchange of information among industry, government and consumers.
2. Assisting the automotive business industry to build best business practices upon the framework of the Consumer Protection Act through education, compliance and enforcement of legislation.
3. Providing alternatives for resolution of consumer complaints.

## Public Agency Requirements

1.4 As a public agency, AMVIC is subject to the Financial Administration Act, the Alberta Public Agencies Governance Act, the Reform of Agencies, Boards, and Commissions Compensation Act and applicable regulations, the Public Sector Compensation Transparency Act, and the Conflicts of Interest Act. This includes the requirements applicable to the Chief Executive Officer ("CEO") as a Designated Senior Official under the Conflicts of Interest Act Part 4.3 Designation Order. Further, AMVIC is identified as a regulatory body in Schedule 1 of the Labour Mobility Act, and as such, is subject to that act and associated regulations.

## Regulatory Matters

1.5 With respect to the automotive business industry in Alberta, AMVIC has been delegated the following powers, duties and functions of the Director of Fair Trading under s. 136(5) of the Consumer Protection Act:

1. Licensing and registration administration under the Consumer Protection Act and the Automotive Business Regulation.
2. Investigations, inspections and enforcement under the Consumer Protection Act, the Automotive Business Regulation, the Cost of Credit Disclosure Regulation and the Internet Sales Contract Regulation.
3. Administration of the compensation fund.
4. Establishment of formal and informal educational programs for industry and consumers in relation to the automotive business industry.
1.6 The Council acknowledges that if it further delegates duties and powers, some of such delegated duties and powers of the Director of Fair Trading (as delegated) may require exercise of independent decision making and, for that purpose, the Council acknowledges that it will not interfere with the independent exercise of these statutory functions, but that it will review how those functions are carried out, consistent with reasonable supervision of the appropriateness of their delegation.

## Adjudicative Matters

1.7 The Council is responsible for administrative enforcement actions made by the Director of Fair Trading (as delegated) under the legislation. Those actions may be appealed to an appeal board established by the Minister as required under s. 179 of the Consumer Protection Act. The costs of any such appeals are the responsibility of AMVIC.

## Applicable Legislation to Regulatory and Adjudicative Matters

1.8 The Council has responsibilities under, and is subject to, a number of statutes and related regulations with respect to its delegated functions, governance and operational activities.
1.9 AMVIC is delegated responsibility for ensuring compliance with and enforcement of the Consumer Protection Act, the Automotive Business Regulation, Cost of Credit Disclosure Regulation and Internet Sales Contract Regulation.
1.10 AMVIC also assists with the enforcement of the Traffic Safety Act and its related Regulations as it relates to non-moving violations and various sections of the Criminal Code as identified in the AMVIC peace officer appointments under the Peace Officer Act.
1.11 The Council must comply with the Freedom of Information and Protection of Privacy Act ("FOIP") and is responsible for transfer of any records requested by the Government of Alberta under that legislation. FOIP specifies the manner in which personal information must be collected, used, disclosed, and protected. The legislation also provides a method for requesting access to records held by public bodies, including access to an individual's own personal information, and allows individuals to request a correction of their own personal information held by a public body. Information about the obligations of a public body under FOIP can be found at https://www.alberta.ca/freedom-of-information-and-protection-of-privacy.
1.12 The Council is responsible to retain and use any records received, obtained, or produced during the exercise of its powers, functions and duties under the Consumer Protection Act in accordance with the Records Management Regulation under the Government Organization Act.

Any records received, obtained, or produced by the Council during the exercise of its powers, functions and duties under the Consumer Protection Act are owned by the Government of Alberta.
1.13 AMVIC is responsible for ensuring compliance with the Peace Officer Act with respect to any employees who have been appointed as a peace officer or designated as a peace officer to whom the Peace Officer Act and regulations apply.
1.14 With respect to the employment of peace officers for the purposes of carrying out its powers, functions and duties under the Consumer Protection Act and Automotive Business Regulation, AMVIC:

1. shall conform to the requirements determined to be necessary by the Province from time to time for the employment of peace officers and in accordance with the Peace Officer Act;
2. shall employ a sufficient number of individuals as peace officers to provide an adequate level of province wide enforcement;
3. shall immediately notify the Minister and the Director of Law Enforcement if it appears that the Council may be unable to continue to act as an employer of peace officers, and in this event the Council shall cooperate fully with the

Minister and the Director of Law Enforcement to ensure a smooth transition of the peace officer's functions and duties to any subsequent authority;
4. acknowledges that information gathered from the RCMP and any municipal or regional police services may be subject to the Privacy Act (Canada), the Access to Information Act (Canada), and FOIP; and
5. agrees and expressly undertakes to protect and hold in confidence all information furnished to it by any police service, and except as may be required by law, the Council will prevent and protect such information from unauthorized disclosure, use, possession or knowledge by the Council's employees, agents, consultants, or other persons.

## 2. Duties and Responsibilities

2.1 The Government of Alberta is responsible for the legislative, regulatory and government policy framework in which the Council operates.

## The Minister

2.2 The Minister is accountable to the Legislature for the Council. The Minister reports to the Legislature on the affairs of the Council and answers questions about the Council.

The Minister:

1. appoints the Chair and public directors based on their assessment that the appointees have the appropriate knowledge, skills, experience and values to assist the Council in achieving its objectives and performing its functions;
2. oversees and provides input into the establishment of long-term objectives and short-term targets, if any;
3. oversees and advises the Council, as the Minister considers appropriate, respecting any government policies applicable to the Council or its activities or operations;
4. oversees and consults with the Council and requests its advice or comments on any matter respecting the development, establishment, amendment, termination or repeal of any enactment, program, directive, guideline or policy that is related to the Council's mandate;
5. approves the collection of money by the levy of assessments on licensees and salespersons for the purpose of enabling the Council to carry out the powers, duties and functions designated to it;
6. approves the Council's business and financial plan that forecasts a deficit for a fiscal year included in the plan in accordance with s.24.8 of the Automotive Business Regulation;
7. delegates to the Council its powers, duties and functions of the Director of Fair Trading under s.136(5) of the Consumer Protection Act;
8. provides approval of the Mandate and Roles Document; and
9. conducts regular (at least every seven years) reviews of the mandate and operations of the Council, in accordance with -s. 19 of APAGA.

## The Deputy Minister

2.3 The Deputy Minister is the Minister's designate and may act on behalf of the Minister, as appropriate. The Deputy Minister is responsible for providing leadership to guide the Department's ongoing oversight of, and engagement with, AMVIC in fulfilling its mandate, and providing general direction to the Assistant Deputy Minister and department staff in carrying out the Department's responsibilities under the Mandate and Roles Document.

## The Assistant Deputy Minister

2.4 The responsible Assistant Deputy Minister supports and acts under the general direction of the Deputy Minister, and to achieve the development and implementation of policy instruments, priorities, business plans, resources, budget and other matters of mutual interest between the Department and AMVIC. The Assistant Deputy Minister is responsible for providing oversight of the Department's responsibilities in relation to AMVIC and designates the Consumer Services Branch the following activities and responsibilities:

1. ensure the Department fulfills its role in support of the Council and monitor whether the Council is achieving its long-term objective and short-term targets;
2. monitor the operations and performance of the Council to ensure that it is acting within its mandate and in compliance with government policies while respecting the need of the Council for independence in conducting its adjudicative function;
3. monitor and ensure strategic alignment between the Council and Department respecting delegated roles and responsibilities;
4. establish, implement and oversee communication protocols and processes to ensure the Council is receiving appropriate support from the Department;
5. to achieve its delegated roles and responsibilities while at the same time ensuring the Department is able to effectively oversee the Council;
6. inform the Council of the Government of Alberta policies and direction affecting the work of the Council as well as address any policy gaps;
7. participate in the process of setting and monitoring the Council's strategic direction and targets;
8. evaluate the Council's business and financial plans and annual reports to provide recommendations to the Minister pertaining to oversight of the Council, and ensuring that it is fulfilling its mandate; and
9. oversee open and competitive, competency-based recruitment processes, and makes recommendations to the Minister for candidates to be appointed as public directors and the Chair.

## Executive Director and Other Department Staff


#### Abstract

2.5 The Council operates independently from the Government of Alberta in delivering on its delegated mandate and making regulatory decisions; however, the Council is accountable to the Minister. In order to assist the Minister in achieving their responsibilities with respect to the delegated responsibilities of the Council, the Consumer Services Branch of the Department is responsible for working with AMVIC. The role of the Executive Director of the Consumer Services Branch is to work with AMVIC's Chair, Board and CEO to ensure that AMVIC and the Assistant Deputy Minister's accountabilities are delivered upon.


2.6 The Consumer Services Branch is the primary liaison between AMVIC and the Department, and will provide policy guidance and advice to the Council on request or where appropriate. In addition, the Department will review and provide advice to the Minister respecting annual reports and business and financial plans to ensure effective oversight of the Council.

The Board
2.7 The Board is responsible for the governance of the Council and overseeing the management of the Council's business and affairs. The Board guides the Council's strategic direction, evaluates the performance of the Council's CEO, approves and monitors the Council's business and financial plan results, and is ultimately accountable to the Minister. Directors must act honestly, in good faith, leaving aside personal interests to advance the public interest and the mandate of the Council.

The Board is responsible for:

1. identifying appropriate business processes to assist in fulfilling its mandate, including the development of bylaws;
2. maintaining appropriate policies and procedures for reviewing complaints regarding the manner in which the Council carries out its mandate and roles;
3. developing and maintaining a Code of Conduct in accordance with the Conflict of Interests Act;
4. ensuring that all Directors comply with the Council's Code of Conduct in accordance with the Conflicts of interest Act;
5. ensuring that the Council develops and enforces appropriate operating policies for its directors, officers, employees and agents to ensure compliance with legislation and policies pertaining to personal information, confidential information, records management, FOIP and where reasonable, any other provision of the Mandate and Roles Document;
6. delegating the powers, functions and duties delegated to the Council by the Minister under s.136(5) of the Consumer Protection Act with respect to the automotive business industry in Alberta;
7. ensuring the activities of the Council and its delegates are within the scope of authority of the Consumer Protection Act, and within the Council's mandate as set out in this Mandate and Roles Document;
8. ensuring the Council is acting in accordance with governing legislation;
9. establishing committees as it deems necessary to carry out its duties, and ensuring that a written mandate of each committee is reviewed and approved annually;
10. appointing the CEO, monitoring and evaluating the CEO's performance, and approving the CEO's compensation in accordance with the Reform of Agencies Boards and Commissions Compensation Act and any applicable regulations under the Act;
11. ensuring that adequate plans are in place for management development and succession and conducting an annual review of such plans;
12. monitoring the financial performance of the Council, ensuring that, with the advice of the external auditors, the financial results are reported on a timely and regular basis, and in accordance with any applicable legislated requirements and accounting standards;
13. ensuring that all material developments, and significant emergent issues of the Council, are disclosed to the Minister on a timely basis;
14. overseeing compliance with all relevant policies, procedures and standards by which the Council operates, and ensuring that the Council operates at all times in compliance with all applicable laws and regulations, and to the highest ethical standards;
15. approving all matters which require Board approval as prescribed by applicable legislation and regulations, and ensuring that such matters are brought to the attention of the Minister if necessary;
16. providing new Directors with an orientation to the particular practices of their board, including their governance practices;
17. providing ongoing governance development opportunities for their Directors;
18. ensuring that the Board, through a process led by the Chair (or delegated committee), conducts an annual evaluation and review of the performance of the Board, its committees, the Chair of the Board and individual Directors. The Board reviews the results of the evaluations and discusses opportunities to improve Board effectiveness. Individual Director evaluations are used to identify opportunities to improve the individual Director's competence and to inform the re-appointment process, if applicable;
19. establishing processes for succession, including identifying competencies required to fulfill the Council's mandate, recruiting directors, evaluating and assessing the performance of directors, and ensuring the appropriate transfer of knowledge occurs within the Council;
20. preparing and providing to the Minister a business and financial plan for each fiscal year in accordance with s. 24.8 of the Automotive Business Regulation, and making these plans available to the public through the Council website at www.amvic.org;
21. preparing and providing to the Minister an Annual Report for each fiscal year in accordance with s.24.9 of the Automotive Business Regulation;
22. preparing and providing to the Minister any reports or other information required in accordance with s. 24.91 of the Automotive Business Regulation;
23. preparing and providing to the Minister financial reports respecting the Compensation Fund required in accordance with s. 31 of the Automotive Business Regulation;
24. developing mechanisms to communicate with the Minister and the Department on items of mutual concern; and
25. engaging in a strategic planning process which includes the consideration of the principal risks associated with the Council's business. The management of these risks is assigned to the CEO, and the status is periodically reviewed by the Board. The CEO is charged with the responsibility to assure that the Board and its committees are kept well informed of changing risks on a timely basis.

## Board Chair

2.8 With direction from the Board, the Chair represents the Board and its interests as well as the interests of the Council, in dealing with the Minister, the Department, the CEO, stakeholders and the community. The Chair is responsible for providing leadership for the Board and for effectively facilitating the work of the Board.

The Chair is responsible for:

1. ensuring board meetings are planned and managed appropriately;
2. ensuring that the Board, and its committees, have opportunities to meet independent of management;
3. ensuring the Board is supervising and providing direction to the CEO;
4. ensuring that the Board conducts an annual evaluation of its performance, the work of individual directors and the performance of the CEO;
5. providing the Department with a summary of the outcomes of board evaluations;
6. administering the Code of Conduct and ensuring that conflict of interest matters are addressed by the Board;
7. ensuring board governance training and orientation for new public, industry and industry director-at-large directors is conducted;
8. leading communications respecting the Council's achievements, priorities and challenges to the Minister, Deputy Minister and Department;
9. ensuring effective and regular communication with the Minister and Deputy Minister is maintained, keeping them informed of issues or events that concern the Minister or can reasonably be expected to be important in the exercise of the Minister's responsibilities;
10. recommending to the Minister the removal or suspension of public directors, when required and as contemplated in s.24.4 of the Automotive Business Regulation; and
11. on behalf of the Board, submitting annual reports, business and financial plans, and other accountability and governance documents and materials to the Minister.

## The Chief Executive Officer

2.9 The CEO is responsible for leading management, developing recommendations for and implementing the organization's strategy and reporting to the Board of Directors through the Chair.

The CEO is responsible for:

1. the day-to-day management of the Council;
2. ensuring that programs and services are being delivered within the standards and polices of the Council and the Government of Alberta;
3. establishing appropriate systems for the general administration and financial management and control of the Council;
4. monitoring performance and taking corrective action when problems are identified;
5. ensuring the proper management of the Council's risk in providing services and care of the organization's assets;
6. providing support to the Board to allow it to carry out its governance responsibilities;
7. working with the Board to prepare an annual business and financial plan and annual report in accordance with the guidelines provided by the Minister;
8. maintaining effective communications with the Board Chair, senior staff in the Department, other Ministries as required, stakeholders and other business partners; and
9. operating within the mandate, policies, standards and budget approved by the Board of the Council and the Government of Alberta.

## 3. Recruitment and Appointment of Directors

3.1 The Board is collectively constituted in accordance with the Automotive Business Regulation (s.24.2(1)) as follows:

1. seven directors, representing the public, appointed by Minister by order. The Minister must designate one of the public directors as the chair;
2. five industry directors, appointed by (respectively):
a. the Motor Dealers' Association of Alberta;
b. the Recreation Vehicle Dealers Association of Alberta;
c. the Canadian Independent Automotive Association - Alberta Chapter;
d. the Auctioneers' Association of Alberta;
e. the Alberta Automotive Recyclers and Dismantlers Association; and
3. one industry director-at-large, representing industry and appointed by a majority vote of industry directors.

## Director Eligibility

3.2 An individual is eligible to be or remain a Director in accordance with s.24.3 of the Automotive Business Regulation.

## Board Director Term

3.3 The term a director may serve is as outlined in s.24.2(5), 24.2(6) and 24.2(7) of the Automotive Business Regulation.

## Board Director Appointment

3.4 S.24.2 of the Automotive Business Regulation speaks to board membership and vacancies.
3.5 Industry associations may establish their own selection processes. When an industry organization appoints an industry director, they must submit notice in writing of the name of the director to the Chair (Automotive Business Regulation s.24.2(3)).
3.6 The Public Agency Secretariat (PAS), Public Service Commission, leads the planning and coordination of recruitment activities for public directors of all public agencies through collaboration with departments across the Government of Alberta and in accordance with the Alberta Public Agencies recruitment strategies.

## 4. Interaction between Council and Department

## Meeting Protocol

4.1 On an annual basis, the Minister or their delegate may meet with the Board to discuss the Council's long-term objectives and short-term targets, emerging strategic issues and government priorities.
4.2 A Department designate and the Council CEO will meet at least quarterly to foster a collaborative relationship, ensure alignment between the Council and the Government of Alberta, and discuss ongoing strategic and operational issues.
4.3 The Council will invite the Department to attend board meetings as an invited guest as appropriate.

## Communication Protocol

4.4 With respect to the publication of materials for public consumption, inquiries from media or public responses to emerging issues in the public domain.

1. Responsibilities of the Council:
a. Provide the Department with copies of any educational materials, public awareness materials, newsletters, news releases or similar communications products, not including social media, for comment before they are approved for publication or production.
b. Where requested by the Department, the Council will cooperate in the development of joint educational materials, public awareness materials, newsletters, news releases or similar communication products. Such a request cannot impose costs on the Council outside of staff resources.
c. The Council will advise, as soon as reasonably possible, the Department when a request for media availability has been made to any director or employee of the Council or when a director or employee of the Council has responded to a social media inquiry on a serious automotive or complaint issue.
d. Provide the Department with a summary of any interview or communication with media that is likely to result in media coverage, news stories or social media attention related to the automotive business industry.
2. Responsibilities of the Department:
a. The Department will advise the Council as soon as reasonably possible upon learning of any public comments by the Government of Alberta or any agent or employee thereof in relation to the automotive business industry.
b. The Department will advise the Council on the development of any educational materials, public awareness materials, newsletters, news releases or similar communication products that relate to the automotive business industry prior to the release of those products.

## 5. Accountability

## Review of Business and Financial Plan and Approval by Minister

5.1 The Council must, in accordance with s.24.8 of the Automotive Business Regulation, on an annual basis, prepare a business and financial plan for the next three fiscal years. At least 60 days before the end of the current fiscal year the Council must provide a copy of the business and financial plan to the Minister.
5.2 The business and financial plan must include information respecting the Council's goals, annual performance objectives and strategies for achieving them, and performance measures that will be used to evaluate whether the performance objectives are being met.
5.3 Additionally, the Council must obtain approval from the Minister before implementing a business and financial plan that forecasts a deficit for a fiscal year included in the plan.
5.4 The Council must fulfil its mandate and conduct its activities in a manner that is generally consistent with the current business and financial plan.
5.5 The Council will submit a funding and revenue plan to the Minister every three years for review and approval of the levy of assessments collected by the Council to carry out the powers, duties and functions designated to it.

## Complaints to Service Alberta and Red Tape Reduction

5.6 Complaints from consumers and businesses regarding decisions by AMVIC that are not subject to the appeal process set out under the Consumer Protection Act may fall under the authority of the Alberta Ombudsman. Complaints received by Service Alberta and Red Tape Reduction will be referred to the Alberta Ombudsman for review and investigation under the Ombudsman Act where appropriate.

## Annual Report and Audits

5.7 In accordance with s.24.9 of the Automotive Business Regulation, within six months after the end of a fiscal year, the Council must provide the Minister with an annual report and the audited financial statements respecting the fiscal year. Audited annual financial statements must be prepared in accordance with applicable accounting standards.

## Financial Administration Operation

5.8 AMVIC's financial administration will establish agency operation, reporting and budget processes, subject to applicable policies and guidelines that may be established by the Government of Alberta.

## Operational Reviews

5.9 An operational review of the Council will be completed:

- once every three years; or
- at any other time as directed by the Minister.
5.10 The review will be conducted by the Department on behalf of the Minister and will assess the Council's operations and governance to ensure appropriate oversight of the organization and with the aim to make recommendations to improve efficiency and effectiveness in carrying out the delegated mandate.
5.11 The Council will be provided a copy of the review criteria and objectives in advance of the review. The Council must submit any reports or other required information, including any information required for the purposes of a review of the Council, financial reporting or business and financial planning. The Council shall make all its books and records available to the Minister during such a review.
5.12 The Council will be provided with a written report of the review findings and recommendations based on the criteria. The report will include an assessment of the Council's completion of its obligations during the period covered by the review. A copy of the report will be given to each director of the Board.
5.13 The Council will respond to the recommendations, if any, resulting from a review within 90 days or such other time as the Minister may specify in writing and provide ongoing updates as necessary.


## Bylaws

5.14 The Council will ensure that the bylaws are in all respects acceptable to the Minister and the change to any bylaw is not effective until it is approved by the Minister, in accordance with s. 136 of the Consumer Protection Act.

## 6. Confidential Information

6.1 The Council acknowledges that the Government of Alberta and AMVIC are subject to FOIP. The Council is responsible to retain and use any records received, obtained, or produced during the exercise of its powers, functions and duties under the Consumer Protection Act in accordance with the Records Management Regulation under the Government Organization Act.
6.2 The Council acknowledges that certain information must be treated as confidential. Such confidential information includes:

1. information, whether emanating from databases or any other electronic source, made available to the Council by the Minister on a confidential basis; and
2. internal Government of Alberta information and intergovernmental information
all of which are collectively referred to as "Confidential Information". Except as expressly permitted in this section or required by law, the Council shall not disclose the Confidential Information or communicate Confidential Information to any person without the Minister's prior written consent.

## 7. Interaction with other Government of Alberta Ministries or Agencies

7.1 The Council, wherever possible, may establish a memorandum of understanding pertaining to its dealings with other Government of Alberta Ministries or Agencies to promote bilateral partnerships, transparency and establish mutually accepted expectations.

## 8. Administration

## Review of the Mandate and Roles Document

8.1 In accordance with s. 4 of the Alberta Public Agencies Governance Act, the Mandate and Roles Document must be reviewed and renewed, amended or replaced within three years after the day on which:

1. the Mandate and Roles Document, or
2. the most recent amendment to the Mandate and Roles Document, was signed. The Mandate and Roles Document may be amended at any time; any amendment must be approved by signature of the Chair and by the responsible Minister.
8.2 The Minister may initiate a review of the Mandate and Roles Document at any time as deemed necessary.

## Transparency

8.3 Copies of the Mandate and Roles Document will be filed with the Minister of Service Alberta and Red Tape Reduction, the Council and the Public Agency Secretariat. In support of the principle of transparency, this document will also be easily available to the public on the Council's website at www.amvic.org or through the Government of Alberta website at https://public-agencylist.alberta.ca/.

## Periodic Council Review

8.4 The mandate and operations of every public agency must, at least every seven years, be reviewed by the responsible Minister. The next review for the Council is scheduled for October 31, 2025.

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Board Chair

ALBERTA MOTOR VEHICLE INDUSTRY COUNCIL

December 5, 2023
Date

Minister

MINISTRY OF SERVICE ALBERTA and RED TAPE REDUCTION


