§ 2329. Motor vehicle insurance rates; excess profits. (a) Each insurer issuing policies that are subject to article fifty-one of this chapter, including policies of motor vehicle personal injury liability insurance or policies of motor vehicle property damage liability insurance or insurance for loss or damage to a motor vehicle, shall establish a fair, practicable, and nondiscriminatory plan for crediting to those purchasing such policies their share of the insurer's excess profit, if any, on such policies. An excess profit shall be an underwriting gain for the three most recent calendar years combined which is greater than the anticipated underwriting profit plus five percent of earned premiums for those calendar years. Each plan shall apply to policy periods for the periods January first, nineteen hundred seventy-four through August second, two thousand one, and the effective date of the property/casualty insurance availability act through June thirtieth, two thousand twenty-nine. The superintendent may, through duly promulgated regulations, waive any requirement for credit that the superintendent determines to be de minimis or impracticable, adopt forms of returns that shall be made to the superintendent in order to establish the amount of any credit due, establish periods and times for the determination and distribution of credits, and shall provide that insurers receive appropriate credit against any credits required by any such plan for policyholder dividends and for return premiums that may be due under rate credit or retrospective rating plans based on experience.

(b) If an insurer subject to this section distributes a credit pursuant to this section due to the reforms enacted in the state fiscal year two thousand twenty-six--two thousand twenty-seven budget, the insurer shall provide notice to policyholders of this credit and indicate that the credit was due to the reforms enacted in the state fiscal year two thousand twenty-six--two thousand twenty-seven budget. This notification shall be made at the time the credit is distributed.

(c) As used herein with respect to any three-year period, "anticipated underwriting profit" means the sum of the dollar amounts obtained by multiplying, for each rate filing of the insurer in effect during such period, the earned premiums applicable to such rate filing during such period by the percentage factor included in such rate filing for profit and contingencies. Separate calculations need not be made for consecutive rate filings containing the same percentage factor for

profits and contingencies. Underwriting gain or loss for each calendar year shall be computed as follows: the sum of the incurred losses and loss adjustment expenses as of March thirty-first of the following year, developed to an ultimate basis, plus the administrative and selling expenses incurred in the calendar year, plus policyholder dividends applicable to the calendar year, will be subtracted from the calendar year earned premium to determine the underwriting gain or loss.

(d) On or before March thirty-first of each year, an insurer subject to this section shall submit a report to the superintendent, in a format specified by the superintendent, demonstrating whether the insurer realized an excess profit for the three most recent calendar years combined. Such report shall include all relevant information required to calculate underwriting gain and loss and determine whether an excess profit threshold has been realized. If an insurer realized an excess profit, then the insurer shall notify the superintendent when the insurer has completed making any credits required by this section. If an insurer has realized an excess profit, the superintendent shall provide notice to the speaker of the assembly, the temporary president of the senate, the chair of the assembly insurance committee, the chair of the senate insurance committee, and the governor.

(e)(1) Each insurer subject to this section shall, by July first, two thousand twenty-seven, and annually thereafter, submit a report to the superintendent that:

(A) identifies and quantifies, in a manner prescribed by the superintendent, the estimated impact on losses, expenses, and premiums resulting from statutory or regulatory reforms enacted in or the result of the state fiscal year two thousand twenty-six--two thousand twenty-seven budget; and

(B) reflects such estimated impact in the insurer's proposed rates, rating plans, and rating rules.

(2) In reviewing any rate filing submitted after enactment of the state fiscal year two thousand twenty-six--two thousand twenty-seven budget, the superintendent shall consider the estimated impact of the reforms described in paragraph one of this subsection and shall not approve any rate that, after such consideration, fails to meet the standards set forth in section twenty-three hundred three of this article.

(3) On or before December thirty-first, two thousand twenty-nine, the superintendent shall submit a report to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the assembly insurance committee, and the chair of the senate insurance committee that:

(A) summarizes the estimated aggregate impact of the reforms described in paragraph one of this subsection on insurer losses, expenses, and premiums; and

(B) evaluates the extent to which such savings have been reflected in approved rates and realized by policyholders.

(4) The superintendent may promulgate regulations or guidance necessary to implement the provisions of this subsection.