

A REPORT TO THE LEGISLATIVE COUNCIL AND  
THE SENATE AND HOUSE INTERIM COMMITTEES  
ON INSURANCE AND COMMERCE  
OF  
THE ARKANSAS GENERAL ASSEMBLY  
(AS REQUIRED BY ACT 796 of 1993)

ANNUAL STUDY OF WORKERS' COMPENSATION  
INSURANCE MARKET IN ARKANSAS



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**REPORT TO THE LEGISLATURE ON ACT 796 OF 1993  
THE STATE OF THE WORKERS' COMPENSATION MARKET  
FOR YEAR ENDING 2004**

Previous reports to the Legislature have discussed in great detail the condition of Arkansas' Workers' Compensation marketplace prior to the passage of Act 796 in 1993, and subsequent to the changes brought about as a result of Act 796.

Arkansas continues to enjoy a competitive workers' compensation market with the lowest premium levels in decades.

In 2004, Arkansas had a calendar year combined loss ratio of 95.6% and a policy year combined loss ratio of 86.8%, which are among the lowest of any state for which Arkansas' statistical agent, the National Council on Compensation Insurance ("NCCI"), compiles loss data. NCCI filed for small decreases in both the voluntary market loss costs (1.5%) and assigned risk plan rates (2.8%). Several factors and trends in the industry, however, may offset future decreases. These factors include increased medical costs, increasing prescription drug utilization, increased reinsurance costs, and catastrophe loading for potential terrorism losses.

**CONTINUED RATE IMPACT OF ACT 796 OF 1993**

Arkansas' voluntary workers' compensation market would have disappeared and many employers would have found themselves unable to afford workers' compensation coverage, facing the choice of either closing down their business or operating outside the law, had Act 796 not become reality.

The impact of the Act on workers' compensation premiums is clear and significant. Prior to its enactment rates were increasing significantly. For example, for both the voluntary market and the assigned risk plan, rates in 1991 and 1992 increased 15% and 18% respectively. Passage of the Act forestalled anticipated rate increases in 1993 and 1994, with 1993 being the first year in the last ten in which there was no rate increase. 1993 and 1994 were years of market stabilization, and subsequent years have seen significant rate reductions in both the voluntary market and the assigned risk plan. Year 2000 saw our first increase in the assigned risk plan rates while experiencing a decrease in the voluntary market. In 2003, Arkansas had the lowest loss costs in the region per \$100 of payroll (\$1.26) compared to the regional average loss of \$2.11 and the countrywide average loss costs of \$2.00. There are still positive effects from this Act that benefit Arkansas employers. However, some of the changes are showing diminishing restraint on rates as reflected in recent rate filings.

<b>Year</b>	<b>Voluntary Market</b>	<b>Assigned Risk Plan</b>
1993	0.0%	0.0%
1994	0.0%	0.0%
1995	-12.4%	-12.4%
1996	-8.0%	-3.7%
1997	-4.7%	-7.6%

1998	-9.1%	-8.2%
1999	-4.1%	-3.0%
2000	-4.5%	-2.0%
2001	-7.5%	1.9%
2002	-4.5%	-1.9%
2003	1.8%	5.5%
2004	0.5%	5.1%
2005	-1.5%	-2.8%

### **PAYROLL AND EXPERIENCE MODIFIER**

Reported payroll in Arkansas continues to increase while premiums for insureds continue to decrease. The average experience modifier has increased minimally (0.90 to 0.92). This minimal change in experience modifier could represent the continuing effectiveness of loss control measures and the impact of the Hazardous Employer Program operated by the Health and Safety Division of the Workers' Compensation Commission. Please refer to Exhibit "A" for additional statistical information regarding premiums and modifiers.

### **ASSIGNED RISK PLAN**

The assigned risk plan has seen a consistent history of decline in population since the passage of Act 796 until the last two years. Down from a record high of \$150,000,000 in 1993, to a low of \$6,566,275 in September 2000, the premium volume as of December 31, 2004, increased to \$28,606,813. The increase in premium in the assigned risk plan is in part attributable to the failure of several insurers domiciled in California and other states. In addition, a portion of the increase may be attributable to an increase in plan population of small premium employers who have premiums too low to be attractive to the competitive market. In essence, their premiums are less than the minimum premium for which coverage is offered in the voluntary market. These companies may often get better rates through the plan; consequently, small premium employers constitute approximately 68.8% of the plan premium volume for an average of \$810.00 in premium per policy. In addition, the insurance companies are tightening their underwriting decisions for employers with higher losses or higher risk class codes.

For those employers qualifying for voluntary coverage, cost savings have been substantial. According to the NCCI, price discounting by voluntary carriers reached record levels of 24% during 1999. Carriers pulled back on the discounting in 2000 to 14.7% and, as anticipated, they further reduced discounts to -1.6% for 2003. These discounts were predominately comprised of discounts to scheduled rating and dividends, which offset small increases due to rate and loss cost departures.

### **PLAN ADMINISTRATION/SERVICING CARRIERS**

The NCCI is an "Advisory Organization" licensed in Arkansas to assist its member insurers with respect to rate making and data collection activities. Effective July 1, 2003, the Commissioner

re-appointed NCCI as Administrator for the Arkansas assigned risk plan until at least July 1, 2006.

Arkansas participated in a multi-state examination of the NCCI in its role as an advisory organization licensed pursuant to Ark. Code Ann. § 23-67-214. Periodic reviews of this nature function to assure the quality of the data, as well as presenting the opportunity to improve existing systems and procedures. Overall, the examination found concerns about statistical reporting and error correction. While those concerns are being remedied, they were never significant enough to affect the overall reliability of the data reported by the NCCI for the State of Arkansas.

Arkansas concluded its responsibilities as chair of this multi-state exam task force after it completed oversight of the implementation of several reforms to improve service and data quality of the organization. The Department and the Task Force continue to work with the NCCI to address data quality and service related issues.

The location of an office in Little Rock (mandated by 1993 legislation) resolved many of the service problems and has provided Arkansas agents and insureds easy, immediate access to responsive company personnel. The effectiveness of this office can be measured in the reduction of the number of complaints received by the Insurance Department and the reduced number of appeals which ultimately reach the Appeals Board. The one full-time employee and the one part-time employee of the office are knowledgeable and committed to providing excellent service.

Attached are Exhibits "B1 and B2" entitled *Arkansas Residual Market 1<sup>st</sup> and 2nd Quarter 2005 Status Reports*, respectively and Exhibits "C1 and C2" entitled *Arkansas Residual Market Annual 2003 and 2004 Status Reports*, respectively, prepared by the NCCI setting out, among other things, detailed information on risk profiles such as average premium size, top ten classifications by code and by premium, and a list of contacts within NCCI for specific areas of concern.

NCCI has also implemented a program which allows, at no charge to the agent, the option to submit assigned risk applications online. Upon successful submission, this allows the customer to immediately receive a confirmation code and application identification number for reference. There are significant savings to the plan when the applications can be processed electronically. Arkansas agents have been extremely responsive to this initiative with approximately 58% of applications being submitted electronically.

The Annual Servicing Carrier Performance Review conducted by NCCI reveals either "Commendable" or "Satisfactory" scores for all areas for Arkansas' servicing carriers. For the period commencing January 1, 2000, through December 31, 2003, the servicing carriers were Travelers Indemnity Company and Liberty Insurance Corporation. Due to the increased growth in the assigned risk plan, the number of carriers was increased to four. After evaluating the bids submitted as a result of a RFP, for the period January 1, 2004 through December 31, 200, the servicing carriers selected were Travelers Indemnity Company and Liberty Insurance Corporation, Union Insurance Company, and Companion Property and Casualty Company.

**SUMMARY OF INSURANCE DEPARTMENT'S  
CRIMINAL INVESTIGATION UNIT**

Before the passage of Act 796 of 1993, there had never been a criminal prosecution in Arkansas for workers' compensation fraud committed by employees, employers or healthcare providers. Act 796 created the Workers' Compensation Fraud Investigation Division and made any type of fraud committed within the workers' compensation system a Class D felony (maximum six years and/or \$10,000 fine). The Division was renamed the Criminal Investigations Division during the 2005 Legislative Session.

Fraud in the workers' compensation system was perceived to be epidemic. Since the majority of employers were in the "Plan," there was little, if any, incentive for thorough investigation of possibly fraudulent insurance claims and few consequences to those caught making intentional misrepresentations. Act 796 changed the entire landscape of the workers' compensation system, particularly in regard to the detection, prevention and prosecution of workers' compensation fraud.

The actual prosecution of a workers' compensation fraud case is contingent on many factors. Key among those factors is the elected prosecutor's willingness to carry a case forward. If the information provided from an investigation is not enough to meet the standards for conviction found at Ark. Code Ann. § 11-9-106, a prosecutor will be unwilling to pursue the case. Local law enforcement agencies often do not have the resources to investigate workers' compensation fraud; fortunately, the investigative authority of the Criminal Investigation Division allows the Arkansas Insurance Department to supplement these often under-funded local agencies. This Division's dedication to a single purpose allows for complex investigations which require time and focus that would otherwise not be available. As these complex cases evolve, they frequently require investigators to work through a myriad of leads to develop a case. Occasionally, even with dedicated resources for this single purpose being used, there simply is not enough information for a prosecutor to prosecute the crime. While the number of actual prosecutions varies from year to year, the possibility of investigation and prosecution is a constant deterrent. Any lessening of the Division's enforcement powers would likely result in a re-emergence of both frequency and severity of fraud committed by employees, employers, and healthcare providers.

The cases represented by the statistics noted below, which are comparable per capita to those of other states with active anti-fraud efforts, are believed to have had a significant impact on workers' compensation rates in Arkansas, and the deterrent factor has been substantial.

Act 743 of 2001 (The Act) significantly enhanced the efficiency and effectiveness of the Division by granting its investigators certified law enforcement authority. The Division can now execute arrest warrants, thus reducing the backlog of warrants that were awaiting service by local law enforcement agencies. Annual referrals to the Criminal Investigation Division have been reduced significantly since its first year of operation. This reduction is attributed to increased enforcement efforts under the Act. In the 2003-2004 reporting period there were 70 workers' compensation investigations opened.

During the same reporting period two cases were prosecuted. There was one prosecution win during the reporting period that resulted in a 36-month sentence in the Arkansas Department of Correction. Of the two cases that were referred to prosecution during the reporting period, one case resulted in a guilty plea in early 2005 and the other case is currently set for trial in August 2005. This information is not reflected in the statistics below because it falls outside of the reporting period, but was based upon the work done during the reporting period

Work continues on many investigations that were opened during the reporting period. Out of the 70 investigations opened during this time period 36 are still being investigated.

**Criminal Investigation Unit Activity Report**

**September 1, 2003 through August 31, 2004**

	<b>For Reporting Year '03 through '04</b>	<b>Division Totals (Since 10/93)</b>
<b>Investigations Opened</b>	<b>70</b>	<b>1,683</b>
Employee	59	1,284
Employer	9	328
Third Party	2	71
<b>Cases Referred for Prosecution by Legal Section</b>	<b>2</b>	<b>149</b>
Employee	2	119
Employer	0	17
Third Party	0	13
<b>Prosecutions Won</b>	<b>1</b>	<b>99</b>
Employee	1	76
Employer	0	14
Third Party	0	9
<b>Prosecutions Lost</b>	<b>0</b>	<b>3</b>
Employee	0	3
Employer	0	0
Third Party	0	0
<b>Fine/ Cost</b>	<b>\$300.00</b>	<b>\$179,488.34</b>
<b>Restitution</b>	<b>\$0.00</b>	<b>\$420,940.38</b>

**2005 LEGISLATIVE ACTIVITY WITH REGARD TO  
WORKERS' COMPENSATION**

The Legislature was in general session during 2005 and there was some legislation affecting workers' compensation insurance.

Act 505 of 2005

Act 505 provides amendments to Ark. Code Ann. §§ 11-9-303, 11-9-305, 11-9-306, and 11-9-409. The impact of the changes to Section 303 is that it transfers the responsibility for the collection of workers' compensation premium taxes for insurance carriers from the Insurance Commissioner to the Arkansas Workers' Compensation Commission. The Act impacts Ark. Code Ann. §§ 11-9-305 and 11-9-306 by changing responsibility for collecting workers' compensation premium taxes owed by public entities from the Public Employee Claims Division of the Arkansas Insurance Department to the Arkansas Workers' Compensation Commission.

Act 505 also contains the following amendment to Ark. Code Ann. § 11-9-409(d)(1):

(1) Any insurance company licensed to provide casualty insurance in the State of Arkansas and desiring to write workers' compensation insurance in Arkansas shall maintain or provide accident prevention services as a prerequisite ~~for a license~~ to write ~~such~~ workers' compensation insurance. ~~Such~~ The services shall be adequate to furnish accident prevention programs required by the nature of its policyholders' operations and shall include surveys, recommendations, training programs, consultations, analyses of accident causes, industrial hygiene, and industrial health services to implement the program of accident prevention services.

Act 1250 of 2005

Act 1250 contains an amendment to Ark. Code Ann. § 11-9-102(4)(A)(ii)(b) which adds "neck" to the definition of compensable injury not caused by a specific incident or not identifiable by time and place of occurrence. Prior to this amendment the Arkansas Supreme Court had interpreted this section to apply only to back injuries and not to neck injuries. In the past an injury to the neck which was not caused by a specific incident or which was not identifiable by time and place of occurrence had to be the result of rapid, repetitive motion in order to be a compensable workers' compensation injury. This amendment changes the law to provide the same standard for neck as well as back injuries.

Act 1692 of 2005

Act 1692 contains amendments to Ark. Code Ann. § 11-9-102(16)(A) to expand the definition of "objective findings" for occupational hearing loss to include results of medically recognized and accepted clinical diagnostic methodologies, including, but not limited to, audiological tests that measure air and bone conduction thresholds and speech discrimination ability.

Act 1711 of 2005

The Arkansas Legislature added Ark. Code Ann. § 17-25-514 to Arkansas Code Title 17, Chapter 25, Subchapter 5, requiring residential building contractors to secure workers' compensation coverage. The new statute is:

17-25-514. Workers' compensation required.

(a) A residential building contractor required to be licensed by the Residential Building Contractors Committee shall secure the payment of workers' compensation under §§11-9-401 – 11-9-411.

(B)(1) The Committee shall require proof of current workers' compensation coverage before issuing or renewing a license.

(2) If a residential building contractor is not required to secure payment of workers' compensation, a current certification of noncoverage issued by the Workers' Compensation Commission shall be submitted to the Committee with the application for a license or renewal of a license.

(c)(1) If a contractor fails to maintain workers' compensation coverage, the Committee shall revoke the contractor's license.

(2) A contractor's license that has been revoked due to failure to maintain workers' compensation coverage may be reinstated upon receipt of proof that the contractor has secured workers' compensation coverage.

(d) The Committee shall promulgate rules necessary to enforce this section.

Act 1917 of 2005

The Arkansas Legislature amended Ark. Code Ann. § 11-9-402 to provide that a prime contractor is liable for compensation to the employees of the subcontractor unless there is an insured intermediate subcontractor. The Act also adds the requirement that a certificate of noncoverage may not be presented to a subcontractor who does not have workers' compensation coverage.

**RECENT COURT DECISIONS****Arkansas Supreme Court**

*Dixon v. Salvation Army*, No. 04-545; 2005 WL 107126 (January 20, 2005): On June 11, 2001, the Claimant applied for and was eventually accepted to the Respondent's alcohol rehabilitation program. This program included attendance at Sunday and Wednesday church services, residence at the Respondent's Rehabilitation Center for 16 weeks, and 40 hours of work each week with a beginning stipend of \$7.00 weekly. While operating a forklift on August 24, 2001,

as part of his work therapy program, the Claimant sustained injuries which initially required confinement in a wheelchair. Since the Respondent had neither the facilities nor the resources to care for the Claimant in his injured state, he was released from their program. However, after his recovery, the Respondent hired the Claimant to a regular, full-time job that included duties which were similar to his work therapy. The Arkansas Workers' Compensation Commission denied benefits on the basis that the Claimant was not an employee of the Respondent, but the Arkansas Court of Appeals reversed that decision. In reversing the Court of Appeals and agreeing with the Commission, the Arkansas Supreme Court noted that it had to "determine whether Dixon was employed by the Salvation Army at the time he suffered injury on August 24, 2001." More particularly, the Court analyzed whether the Claimant had been performing "labor and services for the benefit of the Salvation Army 'or' for his own benefit" in relation to the rehabilitation program. For its analysis, the Court pointed out that the Salvation Army was a charity that operated adult rehabilitation centers in multiple states. Citing persuasive authority from New Mexico, the Court further noted that "where a person engages in conduct that might be considered work, but does it to further his own benefit rather than to further the benefit of another, the person is not an employee" (citing *Lance v. New Mexico Military Inst.*, 70 N.M. 158, 371 P.2d 995 (1962)). Comparing the Claimant to the appellant in *Joyce v. Pecos Benedictine Monastery*, 119 N.M. 764, 895 P.2d 286 (1995), the Court stated that "[the Claimant] similarly received room, board, a nominal sum, worked as assigned to assist in his goal to free himself from alcohol, and was at the Salvation Army Rehabilitation Center out of a desire to improve himself." Accordingly, the Court concluded that the Claimant was not an employee of the Salvation Army at the time of his injury and was thus not entitled to workers' compensation benefits.

***Fred's, Inc. v. Jefferson***, No. 04-1085; 2005 WL 730199 (March 31, 2005): The Arkansas Workers' Compensation Commission found that the Claimant sustained a compensable injury on April 25, 2002, and was entitled to reasonably necessary medical care, as well as temporary total disability benefits from April 26, 2002, through May 27, 2002. The Respondents appealed, contending that the Claimant had failed to produce medical evidence supported by "objective findings" (those findings which cannot come under the voluntary control of a patient pursuant to Ark. Code Ann. § 11-9-102(16)(A)(i)). The Supreme Court compared the facts to those in *Estridge v. Waste Mgmt.*, 343 Ark. 276, 33 S.W.3d 167 (2000), in which a physician had not documented any objective medical findings, such as spasms, to support a diagnosis of back strain but had prescribed Valium "as needed for muscle spasms." In that instance, the Court reasoned that "a doctor would not prescribe medication directed to be taken 'as needed for muscle spasm' if he did not believe muscle spasms were existent." In the present case, the Claimant's treating physician prescribed the muscle relaxant Flexeril but did not specify its purpose. Even so, the Court stated that "following the logic expressed in *Estridge*, a reasonable inference from the chronology of events is that the medication and physical therapy were prescribed to aid Jefferson and to treat her injury. Any other construction of these events does not withstand scrutiny or pass the test of reasonableness." The Court went on to affirm the Commission's award of temporary total disability benefits, and declined to consider the Respondents' argument that the Court of Appeals had acted extra-judicially in relying on the *Physicians' Desk Reference* to determine the usages of Flexeril: "We do not address this issue for the simple reason that other than raising the issue in its amended petition for review, Fred's did not file a supplemental brief

developing the issue or otherwise cite this court to relevant authority to support its position. This, we require.”

*Waste Mgmt. v. Estridge*, No. 05-16; 2005 WL 1485217 (June 23, 2005): The Respondents in this matter filed a motion for rule on the clerk with the Arkansas Court of Appeals, seeking to lodge an untimely record on appeal. The Court denied the motion and the Respondents subsequently petitioned the Arkansas Supreme Court for review. In affirming the Court of Appeals, the Supreme Court noted that appeals from the decisions of the Arkansas Workers’ Compensation Commission are governed by Ark. Code Ann. § 11-9-711 (Supp. 2003). According to the statute, a party may file an appeal in the office of the Commission within 30 days of receiving an order or award, and the “Commission shall send to the court of appeals all pertinent documents and papers, together with a transcript of evidence and the findings and orders, which shall become the record on review.” Here, the Respondents filed a timely notice of appeal but thereafter did not lodge the record until November 8, 2004, four days after the due date calculated by the Clerk of the Court of Appeals (November 4, 2004). The Respondents argued that the Commission was at fault for the delay, asserting that their attorney did not learn that the transcript was indeed ready until she received a phone call from the Commission on November 8, 2004. In holding to the contrary, the Arkansas Supreme Court reasoned that it was appropriate for the 90-day time limit for lodging a record, as prescribed by Arkansas Rule of Appellate Procedure (Civil) 5, to apply to workers’ compensation cases. The Court further held that, under long-standing case law, it was the duty of counsel alone to perfect an appeal. Moreover, the Court was not persuaded that the present facts constituted “extraordinary circumstances” to justify the delay. Finally, the Court found no merit in the Respondents’ argument that its notice of appeal was not truly “filed” until it paid the Commission’s customary \$15.00 processing fee on August 9, 2004, thus extending its time for lodging the record until November 8, 2004. Specifically, the Court reasoned that the \$15.00 fee was simply a prerequisite to the compilation of the record, and that there was nothing to support the proposition that a notice of appeal itself would go unrecognized by the Commission until such time as the fee was paid. Three justices strongly dissented from the majority opinion, essentially arguing that the clear language of Ark. Code Ann. § 11-9-711(a)(2)(A) placed the duty of assembling and tendering the record squarely on the Commission.

### Arkansas Court Of Appeals

(Date of Opinion, Docket Number, and Westlaw citation are provided where official Arkansas or Southwest Reporter citations are not yet available.)

*Linton v. Arkansas Dept. of Correction*, No. 03-1195; 2004 WL 1941222 (September 1, 2004): In this employment services case, a correctional officer sustained serious injuries while driving to a required meeting on his day off work. The Arkansas Workers’ Compensation Commission determined that the Claimant had failed to prove that his injury arose from the course and scope of his employment. On appeal to the Arkansas Court of Appeals, the Claimant argued that his claim fell within three different exceptions to the “going and coming” rule in that he: (1) was on a special errand for his employer; (2) was paid for his travel time; and (3) was a law-enforcement officer. In affirming the Commission’s decision, the Court acknowledged a lack of clarity as to whether the “special errand” exception was still valid following the passage of Act 796 of 1993.

However, the Court went on to point out that “it is essential to every employer that its employees come to work, and merely traveling to and from the workplace is not an activity covered under our workers’ compensation statutes.” The Court also noted that there was conflicting evidence pertaining to whether the Claimant was actually paid for his travel time and that it was the Commission’s function to resolve such conflicts. Finally, based on testimony offered at the hearing, the Court observed that the Claimant was not a certified law enforcement officer nor did he have the authority to investigate accidents or to stop speeding motorists.

***Dillard v. Benton County Sheriff’s Office***, No. 04-025; 2004 WL 2101980 (September 22, 2004): The Claimant sustained a compensable wrist injury on January 17, 1997, which eventually resulted in a 10% permanent anatomical impairment rating on December 4, 1997. When the Respondents did not pay any permanent disability benefits, the Claimant retained counsel and filed an AR-C with the Arkansas Workers’ Compensation Commission on June 5, 1998. Subsequently, on February 25, 1999, an Administrative Law Judge dismissed the claim without a hearing for lack of prosecution. The Claimant re-filed his claim in 2000 and, after retaining new counsel, again in 2002. Following a hearing in 2003, an Administrative Law Judge and, ultimately, the Full Commission, determined that the claim had been properly dismissed without objection in 1999 and that all subsequent claims were time-barred. For its reversal, The Arkansas Court of Appeals noted that, according to Ark. Code Ann. § 11-9-702(a) and (b), initial claims for compensation had to be filed within two years of the date of injury, while claims for additional compensation had to be filed within one year from the date of the last payment of compensation or two years from the date of injury, whichever is greater. The Court further pointed out that hearing requests must be made within six months of a claim filing or a claim can be dismissed without prejudice, at which time it is deemed to have never been filed unless re-filed within the time frame established by Ark. Code Ann. § 11-9-702. Moreover, the Court observed that “documents which do not specifically request additional benefits shall not be considered a claim for additional compensation” pursuant to Ark. Code Ann. § 11-9-702(c) (2002). The Claimant’s original AR-C filing did not include any “checked” boxes under the additional benefits section. Consequently, the Commission treated his subsequent filing as a claim for initial benefits that was time-barred. In finding that the original claim was one for “additional” benefits and had thus tolled the statute of limitations, the Court noted that the Claimant had requested benefits not previously received including permanent partial disability, rehabilitation and attorney’s fees, and that to deem the claim as one for “initial” benefits would be a “classic example of form over substance.” The Court further held that, even if the original claim was characterized as one for “initial” benefits, the Commission’s decision was still reversible since it had dismissed the original claim without a hearing “in clear violation of Ark. Code Ann. § 11-9-702(a).”

***Cook v. ABF Freight Systems, Inc.***, No. 04-266; 2004 WL 2239228 (October 6, 2004): The Claimant, an overnight bid driver, drove a fixed route for the Respondent from Little Rock to Dallas, Texas. Due to U.S. Department of Transportation Regulations, the Claimant would have to take an eight-hour rest break before returning to Little Rock the following day, which he could spend in an employer-provided hotel room (although he was not required to spend his rest period there). While at the Motel, the Claimant was not on the clock and was not paid; however, he was regarded as “on call.” On June 28, 2002, the Claimant awoke to his scheduled wake-up call from the hotel desk and walked into his restroom where he received an electric shock due to a leaking

fixture. The Arkansas Workers' Compensation Commission denied benefits due to a lack of employment services and the Arkansas Court of Appeals affirmed, distinguishing the present claim from others which had held that the use of toilet facilities while at work was a necessity that amounted to employment services. Instead, the Court reasoned that the Claimant: "was 'off the clock' and taking a mandated eight-hour overnight rest break when the accident occurred. There is no suggestion in the record that his planned use of the bathroom upon arising at 7:30 a.m. in the morning in question was in any respect different from his routine morning preparations, whether he was on the road or home." In light of this distinction, the Court affirmed the Commission's denial of benefits.

*Robinson v. St. Vincent Infirmary Med. Ctr.*, No. 04-165; 2004 WL 2397821 (October 27, 2004): The Claimant worked as a housekeeper and part-time supervisor for the Respondent, and was on her way to lunch after cleaning an operating room when she stepped off an elevator and slipped in a puddle of spilled coffee. The Claimant eventually underwent an IDET procedure to address discogenic changes in her lumbar spine. The Respondent denied the Claimant's subsequent effort to obtain workers' compensation benefits and an Administrative Law Judge ultimately found that the Claimant had failed to prove that she was performing employment services at the time of injury. On appeal to the Arkansas Court of Appeals, the Claimant argued, *inter alia*, that the facts of her claim fell within the ambit of *Ray v. Univ. of Arkansas*, 66 Ark. App. 177, 990 S.W.2d 558 (1999), in which the Claimant was found to be performing employment services while on a paid break since she remained responsible for assisting students if the need arose. The Court, however, affirmed the Commission's denial, holding that the present case was distinguishable from *Ray* since "Appellee gleaned no benefit from appellant going to the fourth floor to get her lunch. Her action was totally personal in nature...". The Claimant also argued that she had performed employment services by cleaning up the spilled coffee after her fall; however, the Court noted that this action occurred subsequent to the injury and was of no consequence in determining whether employment services were being performed at the actual time of accident.

*Moore v. Mueller Indus.*, No. 04-281; 2004 WL 2538276 (November 10, 2004): The Arkansas Workers' Compensation Commission denied benefits to the Claimant based on two separate findings: (1) the Claimant had failed to prove that her alleged injury was the major cause of her disability, and (2) the Claimant had failed to prove that her alleged injury was the result of rapid, repetitive motion. On appeal to the Arkansas Court of Appeals, the Claimant only challenged the Commission's findings as they related to rapid, repetitive motion. Because the Claimant's appeal left one of the Commission's alternate bases for denial unchallenged and thus undisturbed, the Court pointed out that "we must affirm this case without reaching the merits of appellant's point on appeal." In summary, even if the Court would have agreed with the Claimant's appeal as it related to the question of rapid, repetitive motion, the lack of an appeal as to the independent major cause finding left the Commission's denial of benefits intact.

*Morales v. Martinez*, No. 04-92; 2004 WL 2538269 (November 10, 2004): The Claimant sustained an injury while driving a forklift on November 1, 2001, which the Arkansas Workers' Compensation Commission found to be horseplay. On appeal to the Arkansas Court of Appeals, the Claimant contended that the Commission had erred in concluding that it was his burden to show that he was not engaged in horseplay at the time of his injury. The Court, however,

disagreed and stated that “the Commission correctly rejected appellant’s contention that horseplay was an affirmative defense which must be proven by an employer.” Further, the Court noted that “insomuch as the employee in a workers’ compensation case has the burden of proving a compensable injury...the Commission correctly held that appellant in the present case had the burden to prove that he sustained an injury while engaged in the performance of employment services rather than while engaged in horseplay.” The Court went on to find that there was substantial evidence to support the Commission’s finding that the injury resulted from horseplay, rendering moot the Claimant’s remaining arguments.

*Fred’s Inc. v. Jefferson*, No. 04-166; 2004 WL 2898814 (December 15, 2004): The Arkansas Court of Appeals affirmed the Arkansas Workers’ Compensation Commission’s award of benefits by way of an unpublished opinion issued on September 22, 2004. Subsequently, the Respondents filed a Petition for Rehearing, which the Court denied in a published opinion issued on December 15, 2004. In addition, the Court substituted its published opinion denying the Petition for Rehearing for its original decision issued on September 22, 2004. For their Petition, the Respondents argued that the Claimant had failed to present adequate evidence of objective medical findings and that there was insufficient evidence to support an award of temporary total disability benefits. In particular, the Respondents asserted that while there were references to muscle spasms in the record, these were based on “[Claimant’s] self-serving testimony and the subjective history that she gave to an emergency room nurse over five months after the alleged incident.” While acknowledging that the emergency room notes were ambiguous, the Court stated that “reasonable persons could certainly conclude that...muscle spasms were observed during the emergency-room visit.” Additionally, the Court concluded that a prescription for Flexeril constituted an objective finding in light of its description in the Physician’s Desk Reference: “...is indicated as an adjunct to rest and physical therapy for relief of muscle spasm associated with acute, painful musculoskeletal condition.” The Court also noted its reliance on *Estridge v. Waste Management*, 343 Ark. 276, 33 S.W.3d 167 (2000), in which the Arkansas Supreme Court reasoned that a prescription for Valium “as needed for muscle spasm” amounted to an objective finding. Finally, the Court determined that there had been substantial evidence to support the Commission’s finding with regard to temporary total disability, based on the Claimant’s testimony that no “sit-down” jobs were available with the Respondents. In his dissenting opinion, Justice Robbins pointed out that “the only reasonable interpretation [of the emergency room notes] is that Ms. Jefferson was complaining of spasms, and not that spasms were actually observed by medical personnel.” Further, Justice Robbins asserted that it “is entirely conceivable that Flexeril was prescribed on the sole basis of Ms. Jefferson’s subjective complaints, and there is nothing in the record to indicate otherwise.”

*Garcia v. A&M Roofing*, No. 04-530; 2005 WL 238142 (February 2, 2005): The Claimant fell and sustained injuries while working for his brother Pablo Garcia on a roofing job at a private residence owned by a Mr. Driggers. An Administrative Law Judge awarded benefits but the Full Workers’ Compensation Commission reversed, rejecting the Claimant’s argument that his brother Pablo was an uninsured subcontractor for Respondent A&M Roofing. Rather, the Full Commission concluded that the Claimant’s brother was an independent contractor, such that no benefits were owed by Respondent A&M. In reaching its own conclusion, the Court relied on *Bailey v. Simmons*, 6 Ark. App. 193, 639 S.W.2d 526 (1982) and pointed out that A&M had “secured” the roofing job on which the Claimant was injured and had contracted with and paid

Jesse Garcia to perform the work. Since A&M was thus contractually obligated to a third party (Driggers) for the work being performed, Jesse and subsequently his brother Pablo (to whom Jesse gave the job) were both uninsured subcontractors to A&M. Even though Jesse and Pablo may have been independent contractors for some purposes, the Court reasoned that this “did not preclude their also being subcontractors...for purposes of Ark. Code Ann. § 11-9-402.” As a prime contractor to an uninsured subcontractor, A&M bore workers’ compensation liability for the Claimant’s injuries under Ark. Code Ann. § 11-9-402. The Court also rejected A&M’s argument that it was “against public policy to hold it liable for the actions taken by an independent contractor.” Instead, the Court stated that “under that statute [11-9-402], it is clearly the public policy of this state that prime contractors are liable for workers’ compensation benefits to the employees of uninsured subcontractors.” Finally, in light of evidence that the Claimant had at some point obtained a Certificate of Non-Coverage (as had Jesse and Pablo), A&M asserted that “appellant elected to be excluded from coverage by obtaining his non-coverage certificate...”. However, the Court reiterated its agreement with the Claimant’s contention that, in this case, he was an employee of his brother Pablo. As such, he could not waive his right to compensation in light of Ark. Code Ann. § 11-9-108. The Court further reasoned that the presumption of non-coverage pertaining to both Jesse and Pablo did not extend to their employees.

***Wallace v. West Fraser South***, No. 03-1335; 2005 WL 361737 (February 16, 2005): The Claimant worked as a forklift operator for a sawmill in Huttig, Arkansas. On February 5, 2002, he attempted to cross a ditch by way of a 2` x 10` muddy board stretched across and seated atop a concrete block at each end. One end of the board slipped off its block when the Claimant began to walk across, resulting in an injury to his knee. During a recorded statement taken by an insurance claims adjuster on February 13, 2002, the Claimant explained that he had been “coming off break” at the time of the injury and was ten feet away from his worksite when the injury occurred. However, at the hearing, the Claimant related a somewhat different version of events, indicating that he had returned from a scheduled 2:30 – 2:45 daily break and had resumed working on his forklift when another piece of equipment broke down. This, according to the Claimant’s revised account, prompted him to dismount from his forklift to inquire about the length of time the other equipment would be out of service. Upon returning to his forklift from this conversation, the Claimant fell and injured his knee. The Arkansas Workers’ Compensation Commission determined that the Claimant’s recorded statement was the more credible of his two stories and, since he was “coming off break” at the time of injury, found that he had not been performing “employment services.” The Arkansas Court of Appeals reversed with a 5-4 decision, stating that “it is the activity occurring at the time of the injury, not the activity that preceded it, that is relevant to the question of...employment services.” The Court went on to state that “appellant was crossing a board, placed across the ditch for that purpose, in order to return to the forklift and continue his workday. No further inquiry is necessary...We hold that appellant’s crossing the board in order to return to work was an activity that directly advanced his employer’s interests and therefore constituted employment services.” The dissenting judges pointed out that the Commission had acted appropriately in resolving conflicting evidence and that its decision was supported by substantial evidence.

***Hamilton v. Gregory Trucking***, No. 04-861; 2005 WL 605554 (March 16, 2005): The Claimant sustained a compensable low back injury on May 5, 1995. His claim ultimately went to a

hearing before the Arkansas Workers' Compensation Commission for a decision on whether continued pain medications were reasonably necessary. The Administrative Law Judge found that two medications were indeed reasonably necessary, but that six others were not. In an opinion adopted as its own by the Full Commission, the Administrative Law Judge concluded that: "It is obvious from the evidence presented that the Claimant now has a substantial addiction to these narcotics...I have been involved in other similar cases where Dr. Kale was the treating physician. As a result, I am aware of his theory that chronic pain can be alleviated by using massive doses of strong narcotics to 'break the pain cycle'...However, it is apparent in this case that these massive doses of strong narcotics have not 'broken' the Claimant's 'pain cycle' after a period of approximately three years." Accordingly, the Administrative Law Judge and the Commission went on to find that continued narcotic medications were not reasonably necessary medical services for the Claimant's compensable injury. For its reversal, the Arkansas Court of Appeals asserted that "there was proof that [the Claimant's] authorized physician and several successive physicians prescribed medications to relieve that pain associated with [the Claimant's] compensable injury, and there was no medical proof to support the Commission's finding that some of those medications should be stopped completely." The Court further concluded that the Commission had ignored its own finding that the Claimant was addicted to narcotics prescribed by his authorized physicians, and "had overlooked its own order that [the Claimant] should be provided a new physician in the field of pain management for continued follow-up care or medical maintenance."

***Arkansas Methodist Hospital v. Hampton***, No. 04-988; 2005 WL 668613 (March 23, 2005): The Claimant was one of eight ICU nurses who worked a twelve-hour shift with no scheduled breaks. Given the lack of scheduled breaks, the nurses took turns picking up breakfast from the hospital cafeteria for the entire unit at approximately 7:15 a.m. The entire staff then ate in the glass-enclosed ICU break room while working on hospital charts and maintaining visual contact with their patients. On December 12, 2002, the Claimant sustained a hip injury while walking down the stairs to retrieve breakfast for her co-workers. An Administrative Law Judge with the Arkansas Workers' Compensation Commission denied benefits due to a lack of employment services. However, the Full Commission reversed, relying in large part on the fact that "the hospital required the ICU nurses to work a twelve-hour shift with no scheduled breaks, which meant appellee could not have left the premises to eat...the Commission found that the hospital could not have reasonably expected that the ICU nurses would not eat for a twelve-hour period, should have expected them to utilize the hospital cafeteria, and in essence, acquiesced to that practice." The Commission went on to apply *Ray v. Univ. of Arkansas*, 66 Ark. App. 177, 990 S.W.2d 558 (1999), stating that the Claimant was "within the time and space boundaries of her employment when she was injured because she was 'on the clock,' did not leave the hospital, and could have been asked to assist another patient or hospital employee while she was out of the unit." Finally, the Commission concluded that the hospital "directly benefited from appellee obtaining breakfast for the other nurses, reasoning that the hospital's purpose of offering quality patient care was furthered because only one nurse was away from the unit." In affirming the Full Commission's award of benefits, the Arkansas Court of Appeals noted that the case did not hinge on whether the Claimant was on a paid break, and that "no single factor determines whether an employee was performing employment services at the time an injury occurred." The Court essentially agreed with the Commission's overall analysis, noting that the accident at issue occurred "under circumstances that facilitated or advanced the hospital's interests and occurred

during a time in which appellee was compensated.” The Court also determined that the Claimant’s actions were beneficial to the hospital because it reduced the number of times that the ICU unit was not fully-staffed. Consequently, the Court concluded that “an employer must expect that employees will require nourishment during a twelve-hour work period. The established routine, which the hospital permitted and which appellee was following when she was injured, advanced the hospital’s interests by preserving patient care.”

***Jones Truck Lines v. Pendergrass***, No. 04-960; 2005 WL 768662 (April 6, 2005): The Claimant sustained a compensable knee injury in 1971 that eventually required replacement surgery and resulted in a 35% impairment rating assigned on February 12, 1976. Earlier, in 1974, the Claimant filed a Form A-7 with the Arkansas Workers’ Compensation Commission. Although the claim was referred for a hearing on two occasions, both proceedings were postponed by the parties and the claim was eventually placed on inactive status in 1976. The extent of the Claimant’s follow-up care after the rating was unclear; however, the record did reflect that the Claimant returned to his treating physician, Dr. Coker, on January 2, 1986, and then presented to Dr. Coker’s son on June 16, 2003. The younger Dr. Coker performed additional surgery and issued an impairment rating of 50% on December 30, 2003. The Respondents denied these later benefits, arguing that the claim was barred by either the doctrine of laches or by the appropriate limitations period. The Arkansas Court of Appeals affirmed the Commission’s finding that neither doctrine barred the latest claim for benefits. In particular, the Commission had found that the Claimant’s timely A-7 filing and associated claim for benefits in 1974 had never resulted in a final order ending the litigation or otherwise adjudicating the claim, such that the limitations period had been tolled ever since. Also, the Commission alternately found that the artificial knee joint that was the subject of both of the Claimant’s surgeries was an “apparatus that was permanently or indefinitely required as a result of the compensable injury” and that, consequently, the limitations period did not apply pursuant to Ark. Stat. Ann. § 81-1318(b) (in effect at the time the claim arose). Because the Respondents cited no legal authority for their position on Ark. Stat. Ann. § 81-1318(b) and did not address the 1974 A-7 filing at all, the Court did not disturb the Commission’s findings as to the statute of limitations. Likewise, the Court affirmed the Commission’s rejection of laches as a defense, noting that a second knee replacement could not have been litigated in 1974 and that there was “not a sufficient level of prejudice demonstrated below.”

***Ridell Flying Service v. Callahan***, No. 04-691; 2005 WL 768665 (April 6, 2005): The Claimant sustained significant injuries on April 9, 1995, while providing airborne firefighting services to Ridell, an uninsured entity, who was in turn contracted to the Arkansas Forestry Commission (AFC) to provide such services. An Administrative Law Judge found that the Claimant was an employee of Ridell rather than an independent contractor and, in turn, that the AFC was a prime contractor that bore workers’ compensation liability for the employees of its uninsured subcontractor (Ridell). The Full Workers’ Compensation Commission agreed that the Claimant was an employee and that Ridell was contracted to the AFC; however, the Full Commission further found that the AFC was not a “prime contractor” for purposes of workers’ compensation liability. The Arkansas Court of Appeals agreed, noting that the degree of control exerted by Ridell over the Claimant’s work and its provision of all necessary tools for him to complete his task comprised substantial evidence of his employment status. In addition, there was no evidence that the AFC itself owed a contractual obligation to a third party such that it did not rise

to the level of a prime contractor within the meaning of Ark. Code Ann. § 11-9-402. Consequently, liability for the Claimant's injuries ran only to Ridell.

***Kenneth McDonald v. Batesville Poultry Equip.***, No. 04-872; 2005 WL 846120 (April 13, 2005): The Claimant sustained a compensable scheduled injury to one of his lower extremities on May 5, 1999, that eventually resulted in a 50% permanent anatomical impairment rating. An Administrative Law Judge subsequently determined that the Claimant had been rendered permanently and totally disabled and that his claim for benefits had been lodged under Ark. Code Ann. § 11-9-519 (c), which provides that "in all other cases, permanent and total disability shall be determined in accordance with the facts." The Full Workers' Compensation Commission reversed, holding that Ark. Code Ann. §§ 11-9-519(b) and 11-9-521(g) were statutory bars to an award of permanent and total disability benefits for scheduled injuries. Those sections provided, respectively, that "in the absence of clear and convincing proof to the contrary, the loss of both hands, both arms, both legs, both eyes, or of any two (2) thereof shall constitute permanent and total disability," and "any employee suffering a scheduled injury shall not be entitled to permanent partial disability benefits in excess of the percentage of permanent physical impairment set forth above except as otherwise provided in Ark. Code Ann. § 11-9-519(b)." The Full Commission also found that, even if his claim was not barred, the Claimant was not permanently and totally disabled under the facts of the claim. The Arkansas Court of Appeals reversed the Commission's factual determination with regard to the Claimant's permanent and total disability status, and remanded for further considerations of the parties' statutory arguments. In particular, the Court determined that the Commission had violated the strict construction mandate of Act 796 of 1993 since Ark. Code Ann. § 11-9-521(g) bars "permanent partial disability" benefits for scheduled injury claims rather than "permanent total disability" benefits, and further directed the Commission to consider whether the Claimant's claim was allowed under Ark. Code Ann. § 11-9-519 (c).

***Cloverleaf Express v. Fouts***, No. 04-921; 2005 WL 958738 (April 27, 2005): The Respondents defended this case by asserting, among other things, that the Claimant had applied for and received a valid Certificate of Non-Coverage from the Arkansas Workers' Compensation Commission. In particular, the Respondents relied upon Ark. Code Ann. § 11-9-102(9)(D), which provides that "Any individual receiving a certification of noncoverage under this chapter from the Commission shall...be conclusively presumed not to be an employee for purposes of this chapter or otherwise." (Emphasis in original.) However, the Commission took into consideration Ark. Code Ann. § 11-9-402(c)(1)(B)(i): "A sole proprietor or the partners of a partnership...who deliver to the prime contractor a current certification of noncoverage issued by the Workers' Compensation Commission shall be conclusively presumed not to be covered by the law or to be employees of the prime contractor during the term of his or her certification or any renewals thereof." (Emphasis added.) Taking the two statutes in conjunction, the Commission determined that the use of the term "individual" in §11-9-102 referred only to a sole proprietor or a partner as mentioned in §11-9-402. The Commission also relied on one of its earlier opinions (*Golden v. Randy Wiggins Logging*, Full Workers' Compensation Commission opinion filed July 13, 1998; WCC File No. E602244), in which it had held a Certificate of Non-Coverage could not act as a waiver for individuals who are employees rather than sole proprietors or partners in a partnership. In reaching that decision, the Commission had taken into account Ark. Code Ann. § 11-9-108(a), which precludes an employee from waiving his/her right

to compensation. With regard to the present claim, the Arkansas Court of Appeals agreed with the Commission's ultimate ruling that the Respondents' interpretation of §11-9-102(9)(D) would create a conflict with §11-9-108(a) and would thus "be contrary to the purposes and objectives of the Workers' Compensation Act." The Court also affirmed the Commission's finding that the Claimant had been an employee, rather than an independent contractor, of the Respondents and that the unusual exertion he had engaged in on December 15, 2000, had been the "major cause" of his resulting physical harm.

***Pina v. Wal Mart Stores, Inc.***, No. 04-1045; 2005 WL 1111736 (May 11, 2005): The Claimant began working for the Respondent in February 1999, performing tasks such as folding t-shirts and stuffing envelopes. In October 1999, she complained to her supervisor of numbness affecting her hands and upper extremities, resulting in a re-assignment to a data-entry position. During a medical evaluation following a motor-vehicle accident in March, 2000, the Claimant mentioned numbness in her hands and, during a routine check-up in January, 2001, complained of pain and numbness affecting the wrists and hands. At that time, the Claimant also had positive Phalens' and Tinel's signs. Eventually, in January 2002, the Claimant reported to her employer that her hands were injured and she received a medical evaluation by Dr. Gary Moffitt, who suspected carpal tunnel syndrome. This was confirmed by electro diagnostic studies in April 2002, and the Claimant's attorney shortly afterward mailed a claim for compensation to the Arkansas Workers' Compensation Commission on April 23, 2002. Because the Claimant had first experienced her symptoms in October 1999, the Respondents argued that the claim was time-barred by the two-year statute of limitations. The Claimant, however, argued that the statute did not begin to run "until a nexus between her injury and her work environment was established and her condition stabilized." While the Administrative Law Judge agreed with the Claimant, the Full Workers' Compensation Commission reversed and denied benefits based on the expiration of the applicable limitations period. The Arkansas Court of Appeals noted that the Claimant's injury was both gradual and scheduled, such that the statute began to run when the injury became apparent to her as in *Minnesota Mining & Mfg. v. Baker*, 337 Ark. 94, 982 S.W.2d 11 (1999). Although the Commission had recognized that dicta in *Baker* suggested the statute did not run until a condition had ceased to deteriorate, the Court reasoned that any stabilization requirement was limited to hearing loss claims. The Court went on to determine that there was substantial evidence to support the Commission's finding that the Claimant's carpal tunnel syndrome had developed and become apparent to her by October 1999, such that her claim was time-barred by the time it was filed in 2002.

***Teasley v. Hermann Cos., Inc.***, No. 04-439; 2005 WL 1463425 (June 22, 2005): The Claimant sustained a serious hand injury on June 10, 2002, which the Respondents initially controverted due to a post-injury drug screen that was positive for marijuana metabolites; however, the Respondents subsequently accepted liability for the claim prior to the parties' pre-hearing telephone conference. On January 9, 2003, the Claimant's attorney filed a lien for attorney's fees and provided both the Commission and the Claimant's medical providers with notice of his intent to charge the providers an attorney's fee on collected medical bills. In a subsequent hearing on the Claimant's motion for approval of attorney's fees, the Commission held that the Claimant's attorney was not entitled to a fee from the Claimant's medical providers. On appeal, the Arkansas Court of Appeals noted that the principal statute in question, Ark. Code Ann. § 11-9-715(a), provides, in pertinent part, that "(B) Attorney's fees shall be twenty-five (25%) of

compensation for indemnity benefits payable to the injured employee or dependents of a deceased employee. Attorney's fees shall not be awarded on medical benefits or services as excepted as provided in subdivision (a)(4) of this section." In turn, subsection (a)(4) states that "Medical providers may voluntarily contract with the attorney for the claimant to recover disputed bills, *and* the attorney may charge a reasonable fee to the medical provider as a cost of collection." (Emphasis added.) The Court agreed with the Commission's interpretation of this statute and affirmed the denial of the Claimant's motion. In summary, the Commission had reasoned that the coordinating conjunction "and" was a modifier to the potential contract that might arise between a medical provider and a Claimant's attorney, rather than an alternative proposition such as would arise had the conjunction "or" been used in the statute, e.g., "voluntarily contract *or* charge a reasonable fee." Accordingly, since the Claimant's medical providers had not voluntarily contracted with his attorney for the collection of controverted medical expenses, they could not be required to pay an attorney's fee on those benefits.

### FUTURE PROJECTIONS

While Arkansas has seen slight increases in the average medical cost per lost time claim, and a slight hardening of the market in general, Arkansas' market remains strong and competitive. The attached state of the industry report (Exhibit "D") graphically depicts the sound condition of Arkansas' marketplace. Surrounding states have not been quite so fortunate.

The NCCI has pointed out that workers' compensation results are deteriorating countrywide. The NCCI identified a number of factors that are having a negative impact on the market:

- lower earnings relating to investments;
- assigned risk applications continue to increase;
- claim costs that are beginning to rise at more rapid rates than in previous years;
- pending proposals for benefit increases;
- challenges to workers' compensation as an exclusive worker remedy for workplace injury;
- recent federal initiatives that threaten to increase claim costs, broaden compensability definitions, and have the potential to create duplicate remedies;
- reform roll-back proposals in recent state legislative sessions;
- increasing costs of medical benefits; and
- increasing utilization of certain prescription pain medications

The NCCI does point out one favorable development among the negatives. The incidence of workplace injuries has fallen sharply since the reform efforts of 1993, and continues to decline. This means fewer injured workers – the most valuable outcome imaginable for workers and their families, as well as for employers.

## CONCLUSION

Absent the reforms encompassed in Act 796 of 1993, it is doubtful Arkansas insureds would now have the option of voluntary workers' compensation insurance. Rather, the assigned risk plan, designed to be a market of "last resort," would most likely have become Arkansas' market of "only resort." The General Assembly is to be highly commended for its leadership in reforming the workers' compensation market in our state while protecting the interests of the injured worker.

Arkansas employers must have available to them quality workers' compensation products in the voluntary market at affordable prices. The creation of good jobs requires a marketplace where all businesses, regardless of size, can grow. Maintaining a stable workers' compensation system is essential for this growth. There is no question that the reforms have worked. The incidence of fraud has been reduced through high-profile fraud prosecutions, employee compensation rates and benefits have been increased, and workers truly injured within the course and scope of their employment have received timely medical treatment and the payment of workers' compensation indemnity benefits. Eroding the positive changes incorporated into Act 796 would be counterproductive to continued economic growth and development.

Prepared: September 1, 2005

cc: The Honorable Mike Huckabee, Governor, C/O Mr. Shane Khoury, Regulatory Liaison  
The Honorable Olan W. Reeves, Chairman, AWCC  
The Honorable Karen H. McKinney, Commissioner, AWCC  
The Honorable Shelby W. "Terry" Turner, Commissioner, AWCC  
Mr. Alan McClain, Chief Executive Officer, AWCC  
Ms. Lenita Blasingame, Chief Deputy Commissioner, AID  
Mr. Nathan Culp, Public Employee Claims Division Director, AID  
Mr. Corey Cox, Criminal Investigation Division Director, AID  
Ms. Charlye Woodard, Communications Director, AID



# **Arkansas Workers Compensation State Advisory Forum**

- 8:30 Continental Breakfast**
- 9:00 State of the Industry  
State of Arkansas  
Arkansas Loss Cost Filing—July 1, 2005  
Frequency and Severity Developments in Arkansas  
Indemnity Severity  
Medical Severity  
Indemnity and Medical Benefits in Arkansas  
Legislative Issues Nationwide and in Arkansas  
The Residual Market in Arkansas**
- 11:45 Closing Remarks**





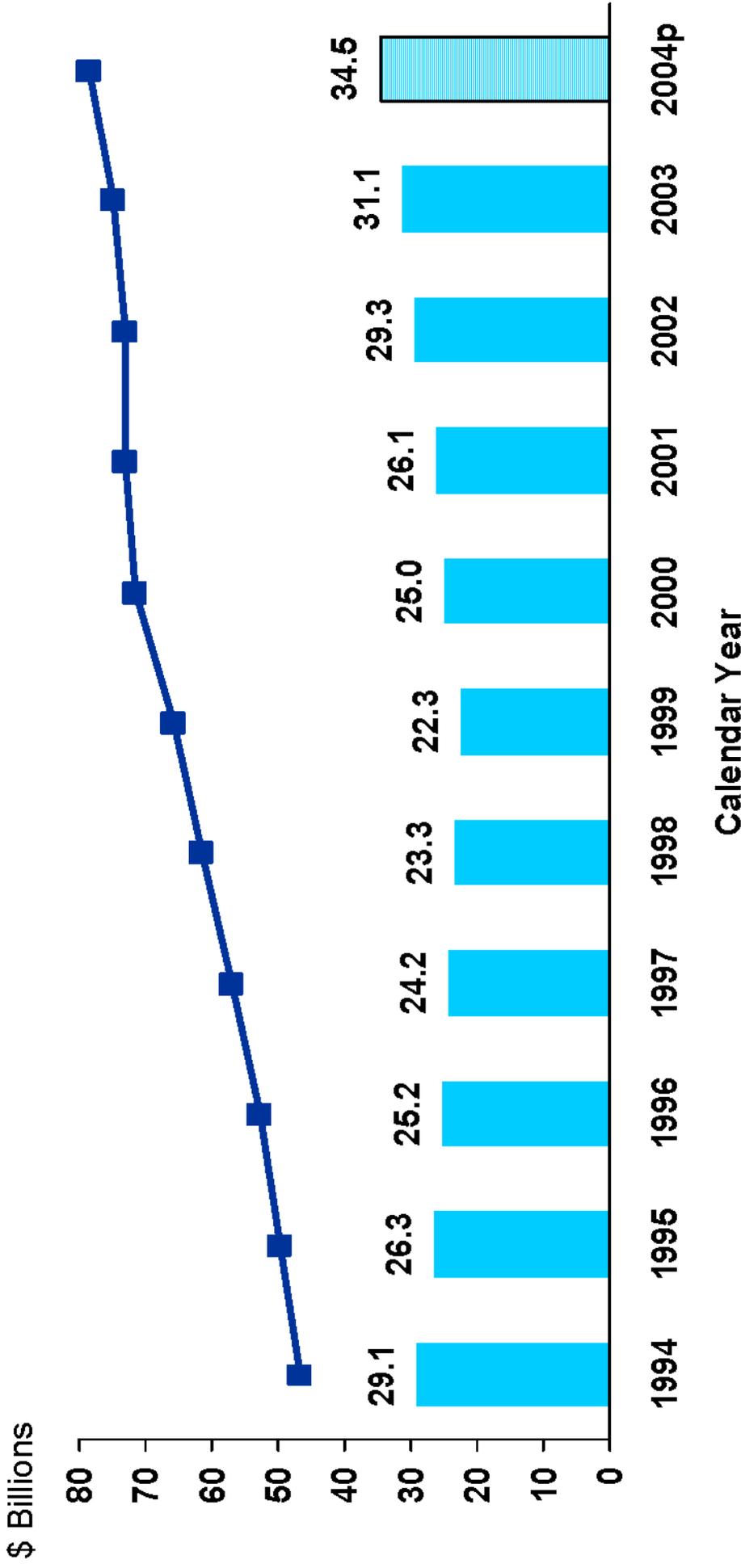
# State of the Industry—An Overview

- Continued overall system premium growth
- Decrease in calendar year combined ratios
- Improvement in accident year combined ratios
- Continued indemnity and medical cost pressures



# Workers Compensation Premium Volume: A Continued Period of Growth

Workers Compensation Net Written Premium—Private Carriers



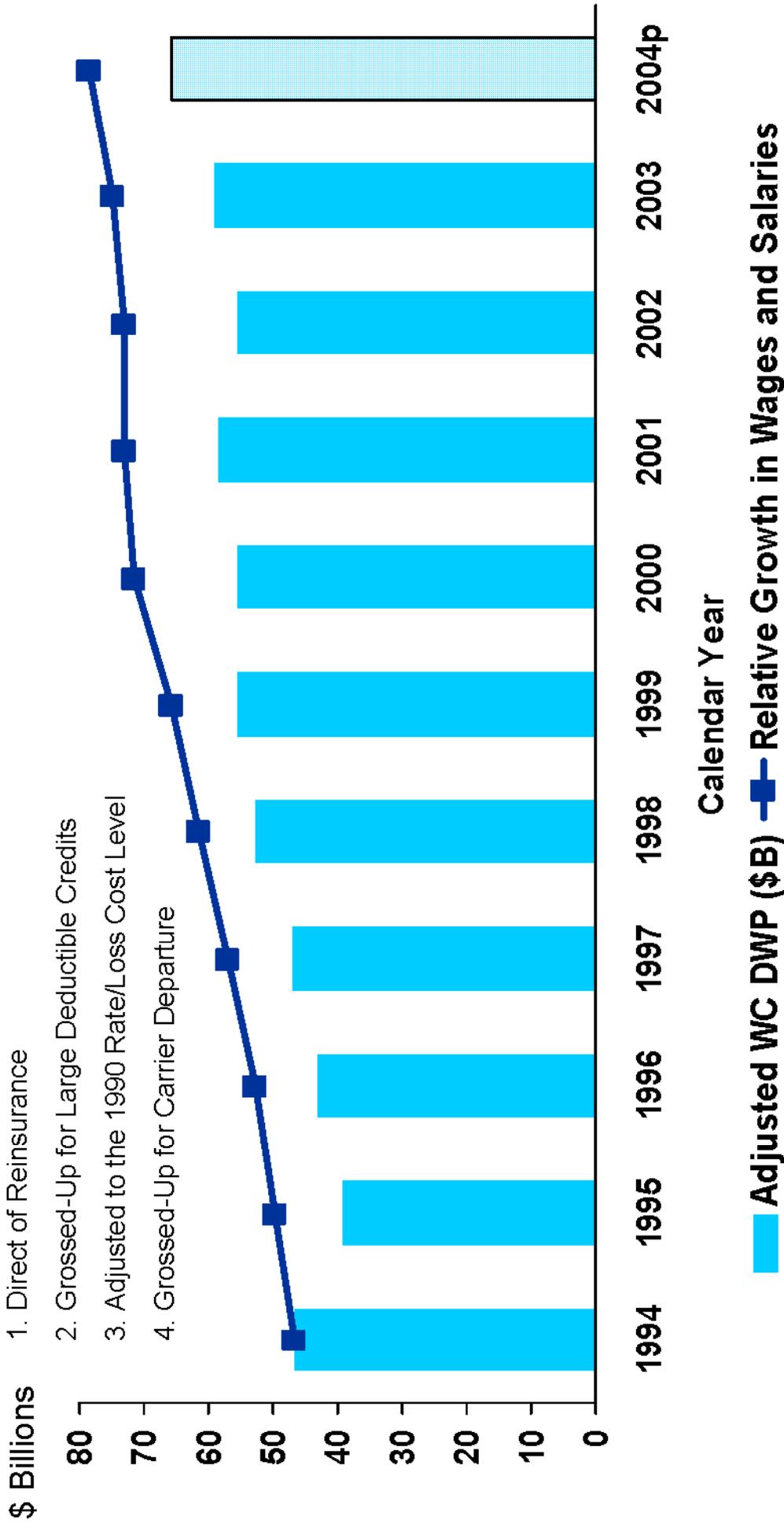
■ WC Net Written Premium (\$B) —■ Relative Growth in Wages and Salaries



p Preliminary.  
Source: 1994–2003, A.M. Best Aggregates & Averages; 2004p, NCCI

# Adjusted Workers Compensation Premium Volume

## Workers Compensation Direct Written Premium—Private Carriers

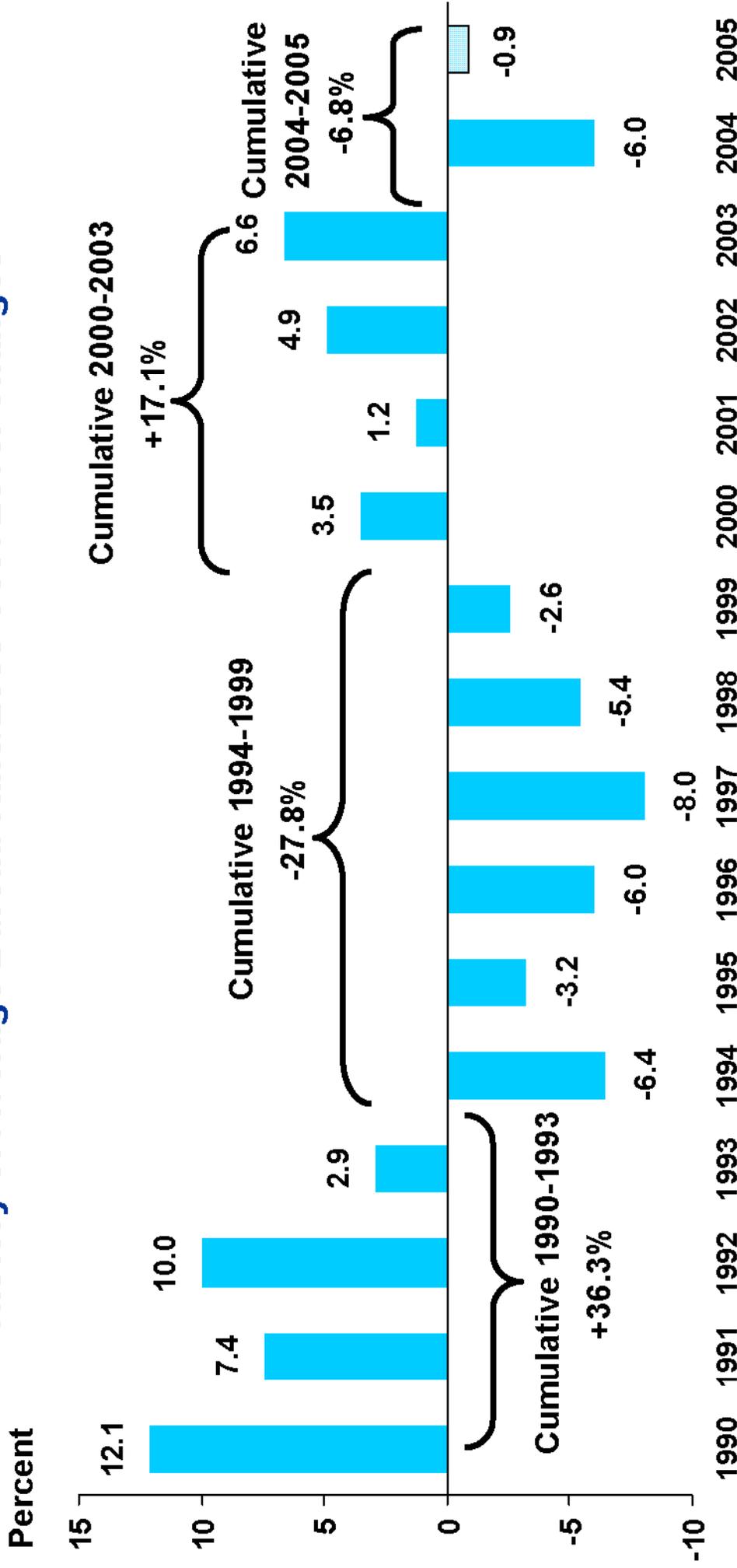


p Preliminary.  
 Source: NCCI



# The Average Approved Bureau Rate/Loss Costs

## History of Average Bureau Rate/Loss Cost Level Changes



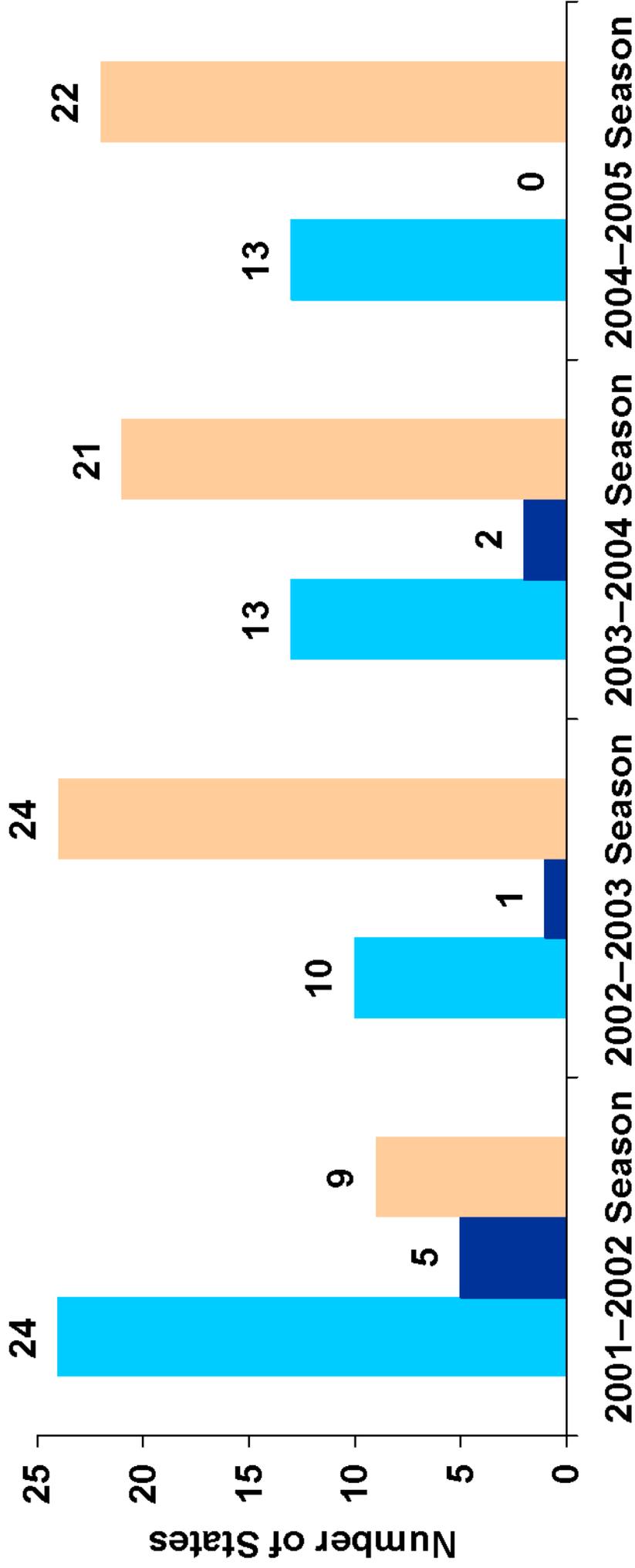
Calendar Year

Countrywide approved changes in advisory rates, loss costs, and assigned risk rates as filed by the applicable rating organization. The countrywide change is a weighted average of individual state changes based on state premium volumes and ignoring effective dates.



# Status of NCCI Filing Activity

## Voluntary Market Filings



■ Less than 0% ■ No Filing ■ 0% and greater



# 2004–2005 Filing Cycle

## NCCI Voluntary Market Filing Activity

- Data for 35 states has been reviewed
  - 22 states have filed increases
  - 13 states have filed decreases
- Range of voluntary filings: –20.2% to +12.1%

# State Voluntary Market Filings

## Southeastern NAIC Zone

South Carolina	7/1/04	+11.4%
Kentucky	9/1/04	+6.3%
Virginia	4/1/05	+4.9%
Tennessee	7/1/05	+3.9%
Louisiana	5/1/05	+2.3%
North Carolina	4/1/05	+2.0%
Mississippi	3/1/05	+0.6%
Alabama	3/1/05	-0.7%
Arkansas	7/1/05	-1.5%
Georgia*	12/1/04	-4.5%
Florida	1/1/05	-5.1%

\* Pending

# Law and Judicial Impacts

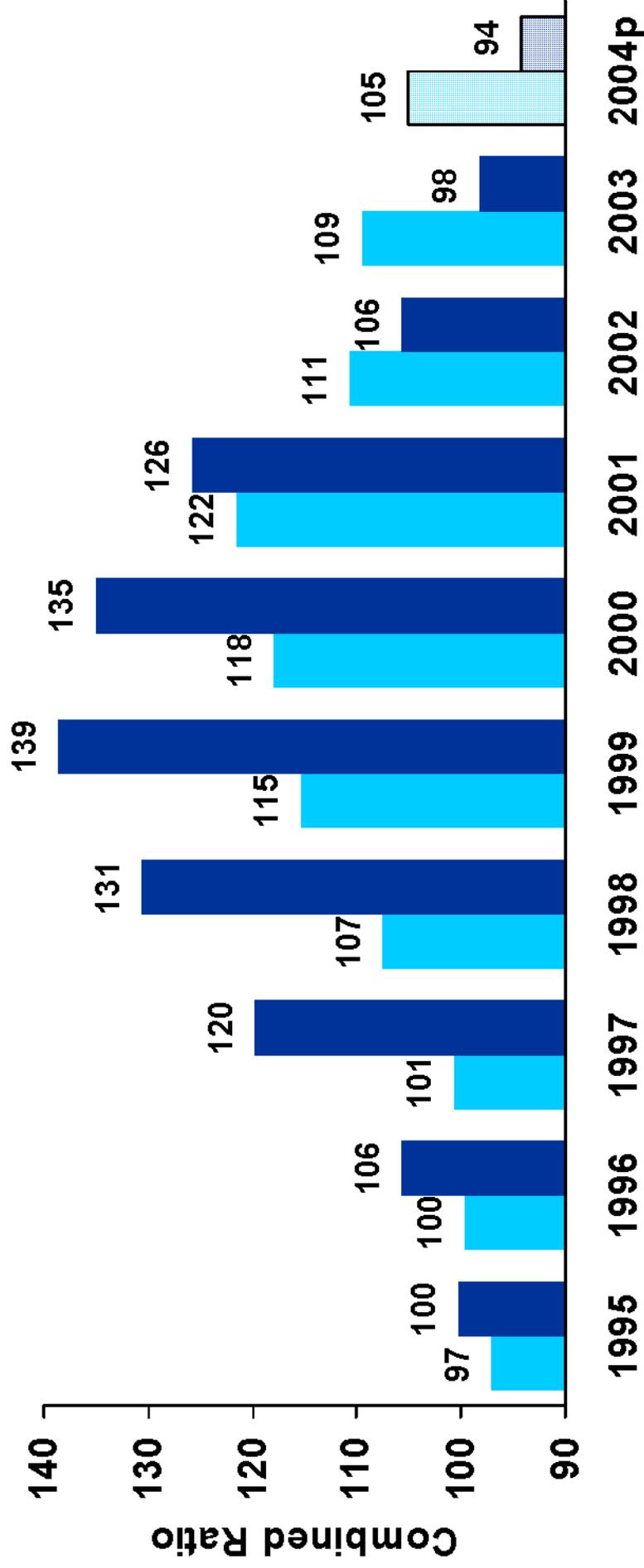
Tennessee\*                      7/1/05                      -6.9%

\* Pending



# Accident Year Combined Ratio Another Underwriting Profit in 2004

Workers Compensation Calendar Year and Ultimate Accident Year  
Private Carriers

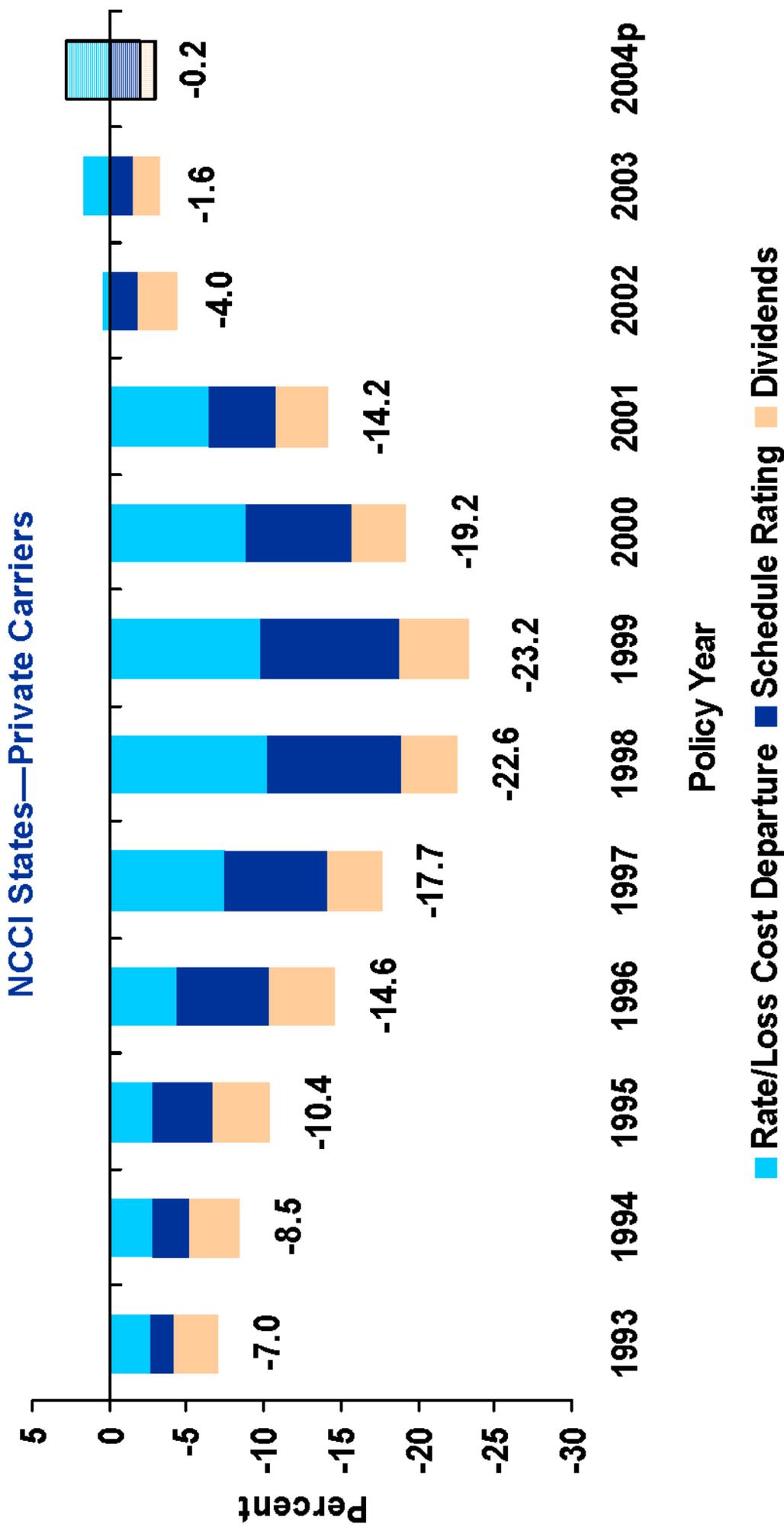


■ Calendar Year ■ Accident Year

p Preliminary  
 Accident Year data is evaluated as of 12/31/04 and developed to ultimate  
 Source: Calendar Years 1995–2003, A.M. Best Aggregates & Averages;  
 Calendar Year 2004p and Accident Years 1995–2004p, NCCI  
 Includes dividends to policyholders



# The Impact on Premium of Rate/Loss Cost Departures, Schedule Rating, and Dividends



<sup>p</sup> Preliminary

NCCI benchmark level does not include an underwriting contingency provision

Dividend ratios are based on calendar year statistics

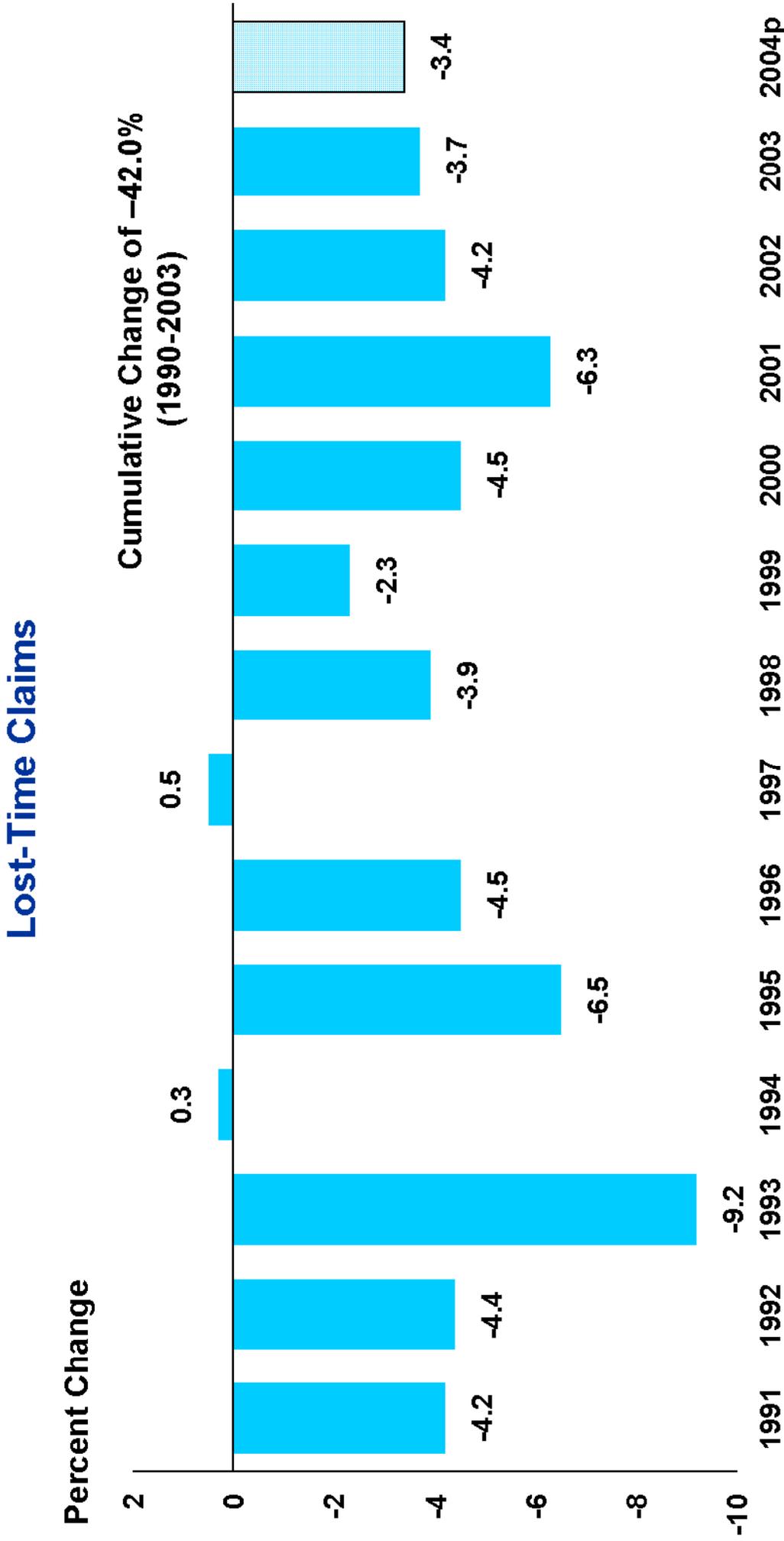
Based on data through 12/31/04 for the states where NCCI provides ratemaking services



# Workers Compensation Claim Frequency and Severity

- For each of the last 7 years (and 12 of the last 14), on-the-job claim frequency for workers compensation injuries has declined from the previous year's level
- Medical and indemnity costs continue to rise—somewhat negating the good news regarding reduced claims

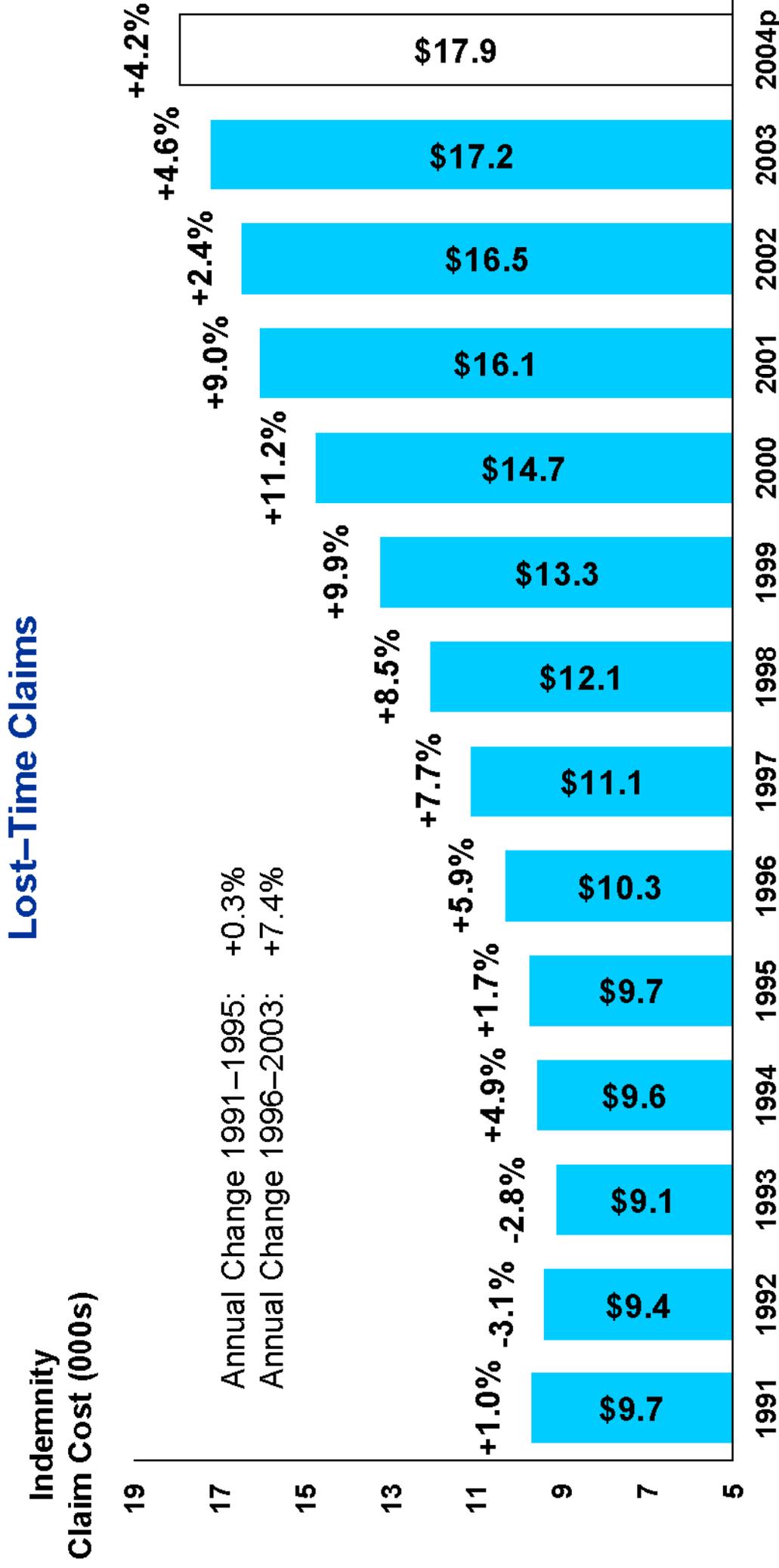
# Workers Compensation Lost-Time Claim Frequency Continues Its Decline



2004p: Preliminary based on data valued as of 12/31/04  
 1991-2003: Based on data through 12/31/03, developed to ultimate.  
 Based on the states where NCCI provides ratemaking services  
 Excludes the effects of deductible policies



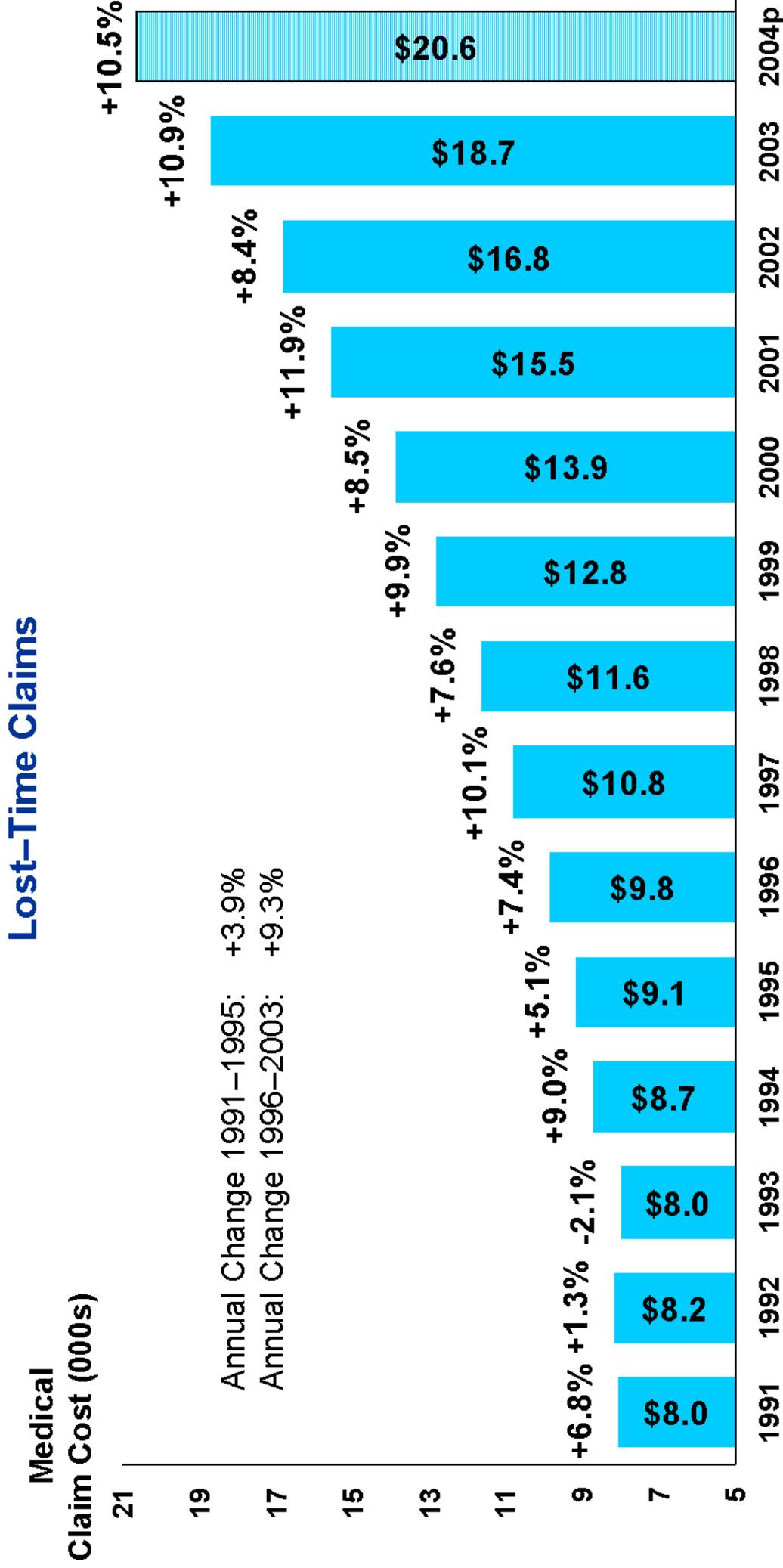
# The Growth in Workers Compensation Indemnity Claim Costs Has Eased in Recent Years



2004p: Preliminary based on data valued as of 12/31/04  
1991–2003: Based on data through 12/31/03, developed to ultimate.  
Based on the states where NCCI provides ratemaking services  
Excludes the effects of deductible policies



# Workers Compensation Medical Claim Cost Trends: Double-Digit Growth Continued in 2004

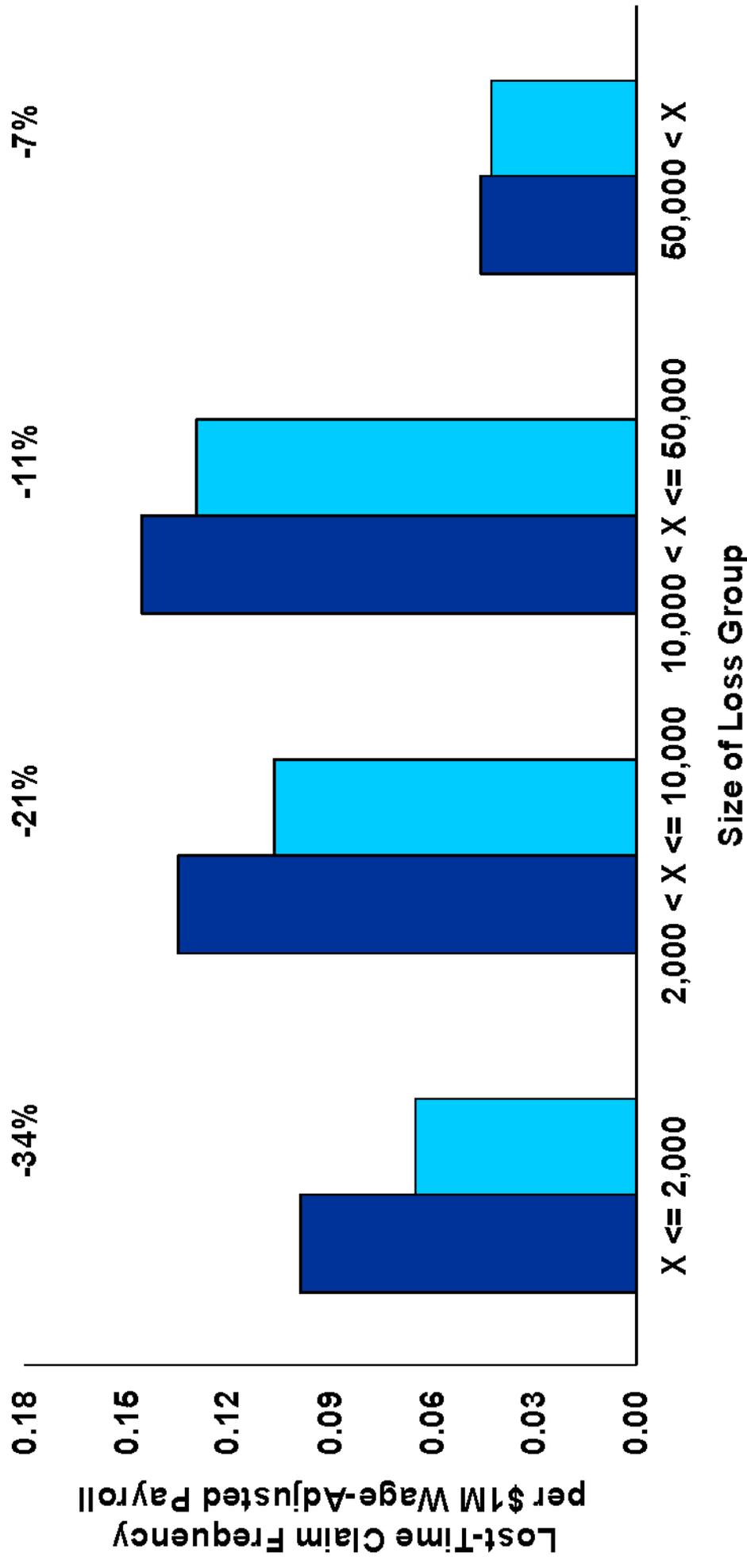


2004p: Preliminary based on data valued as of 12/31/04  
 1991–2003: Based on data through 12/31/03, developed to ultimate.  
 Based on the states where NCCI provides ratemaking services  
 Excludes the effects of deductible policies



# Lost-Time Claim Frequency by Size of Loss

Five-Year Change Between Policies Expiring in 1999 and 2003

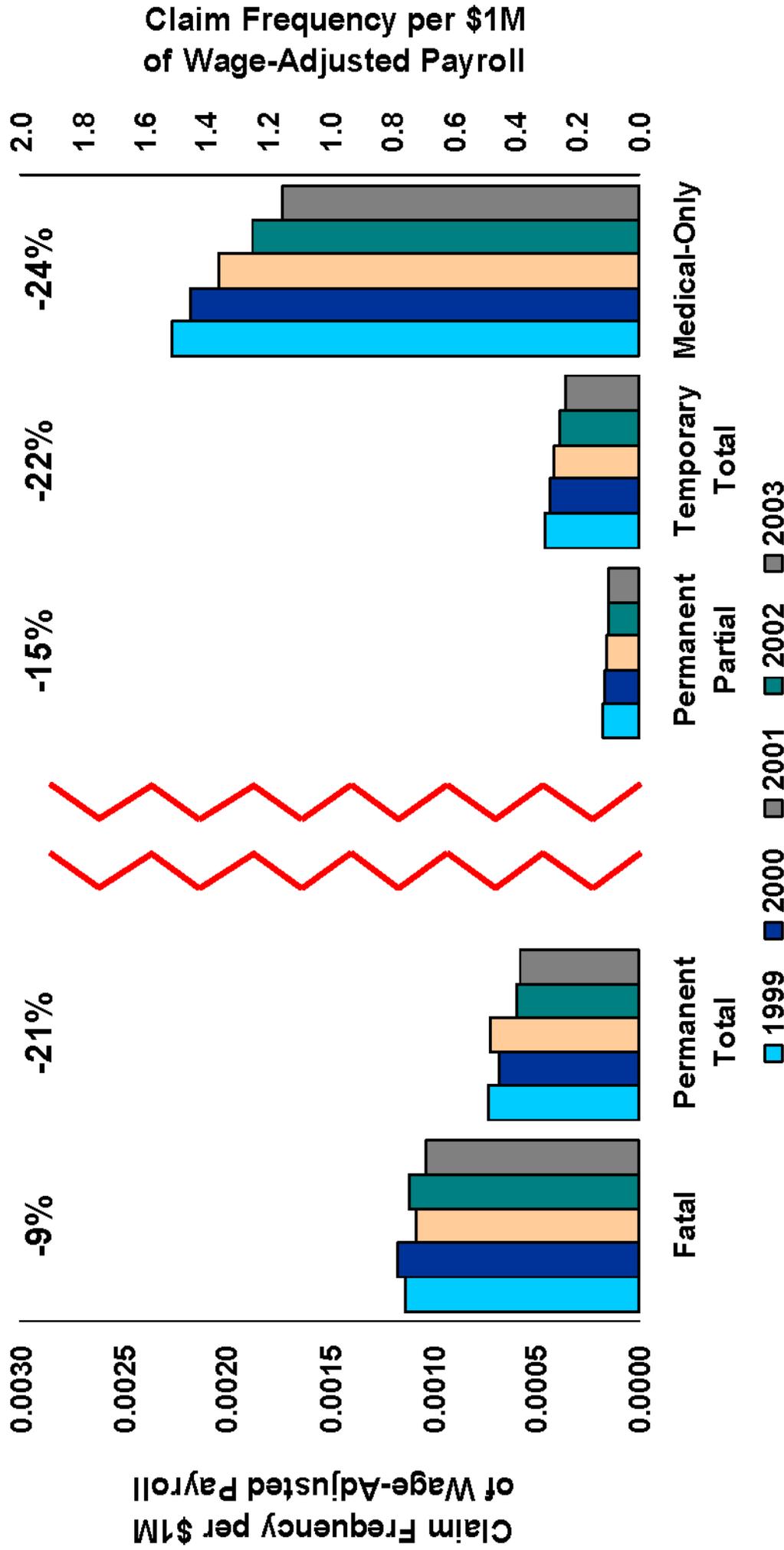


Loss Size Adjustments: 4.2% Indemnity, 7.4% Medical  
 Frequency = Lost-time claims / payroll; Payroll adjusted for inflation  
 Claim count determined at first report  
 NCCI states, excluding Texas



# Claim Frequency by Injury Type

Five-Year Change Between Policies Expiring in 1999 and 2003 at First Report



Frequency = Lost-time claims/payroll. Payroll adjusted for inflation  
 NCCI states only, excluding Texas and Florida



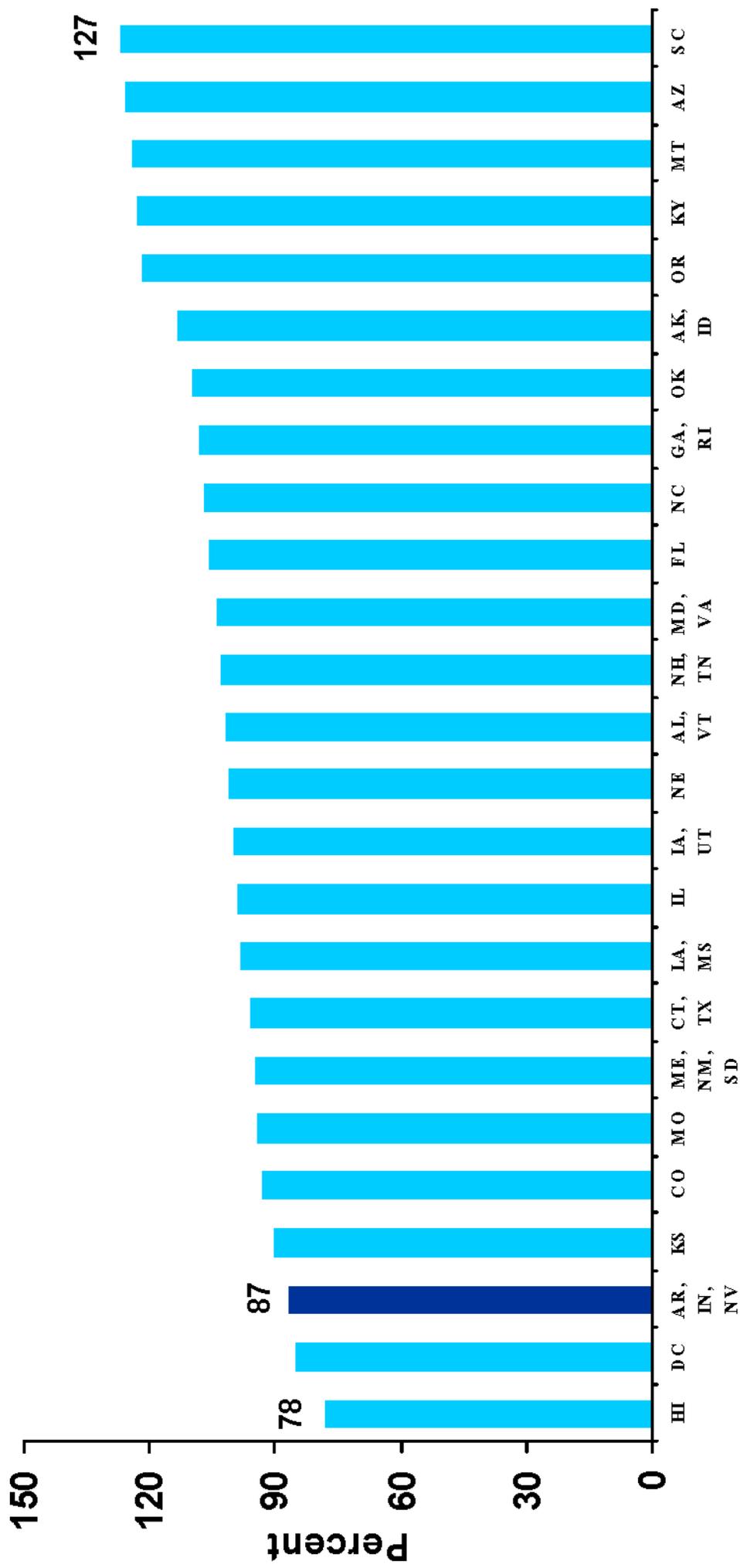


# Arkansas Workers Compensation System— An Overview

- One of the lowest combined ratios in the country
- Loss costs remain stable
- Lower than average indemnity claim costs
- Increasing medical costs
- Historically, less than average attorney involvement

# Results Vary From State to State

## Accident Year 2003 Combined Ratios

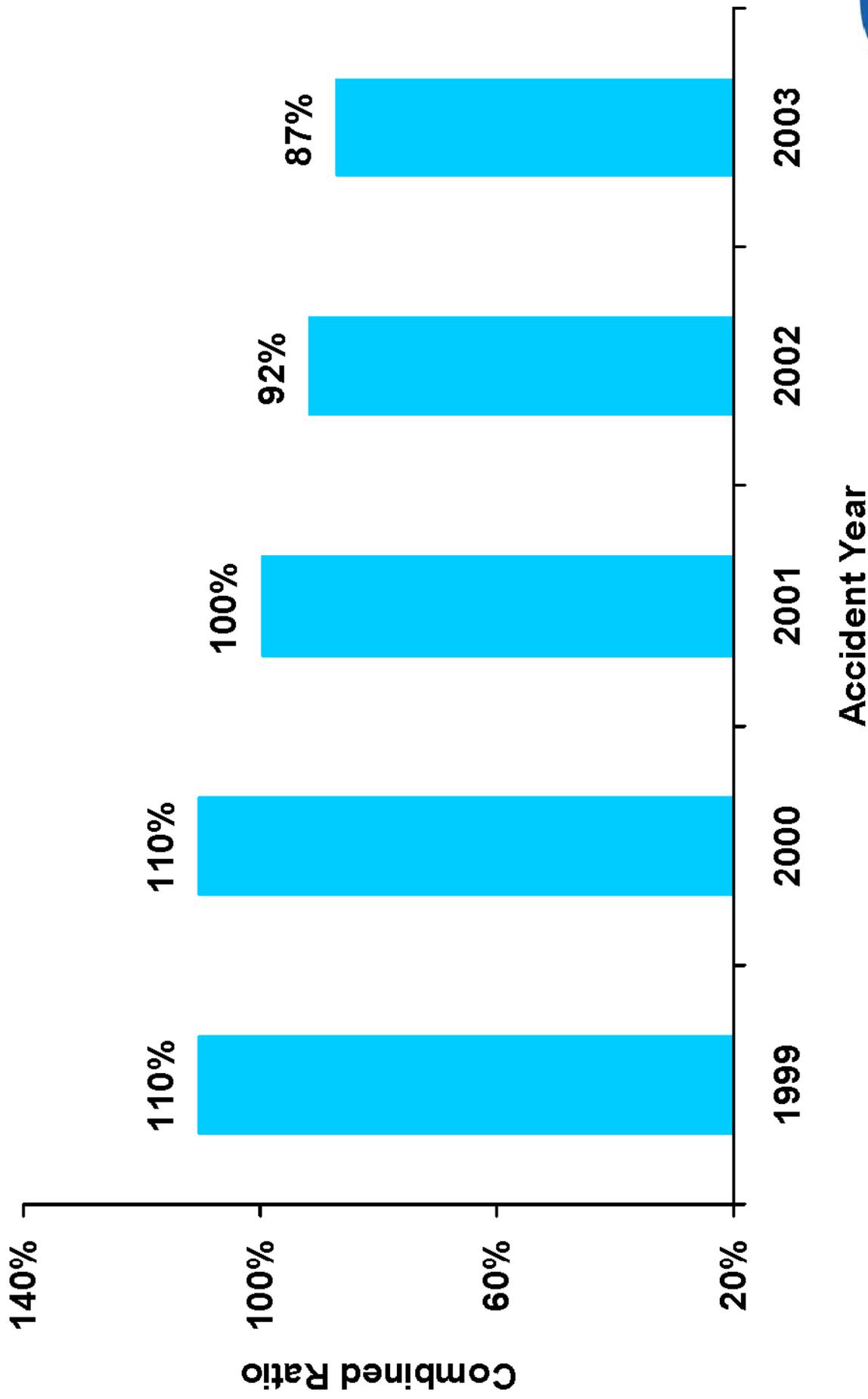


States



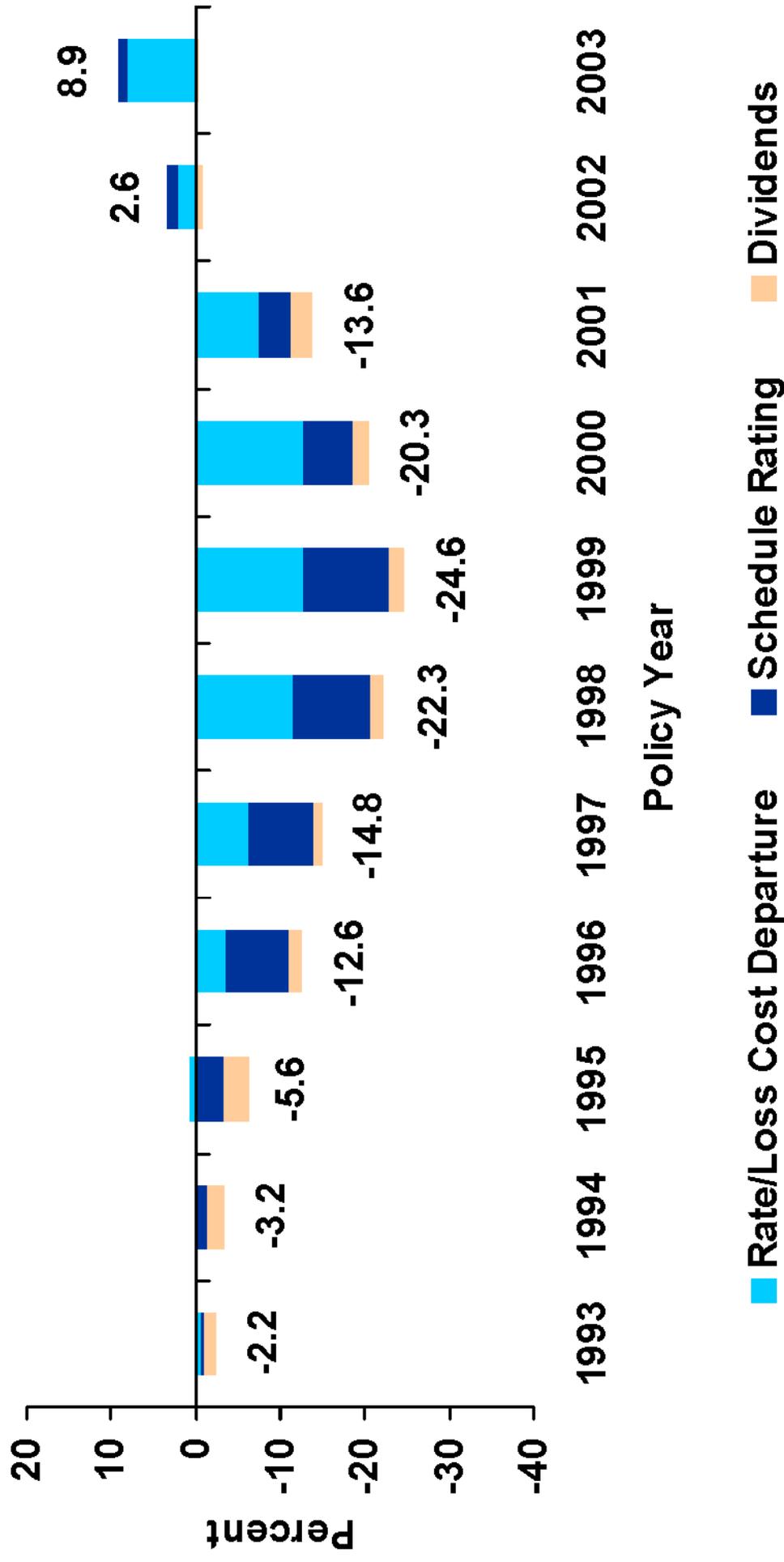
Data is evaluated as of 12/31/03.

# Arkansas Accident Year Combined Ratios



Source: NCCI financial data, NAIC Annual Statement data.

# The Impact on Premium of Rate/Loss Cost Departures, Schedule Rating, and Dividends in Arkansas



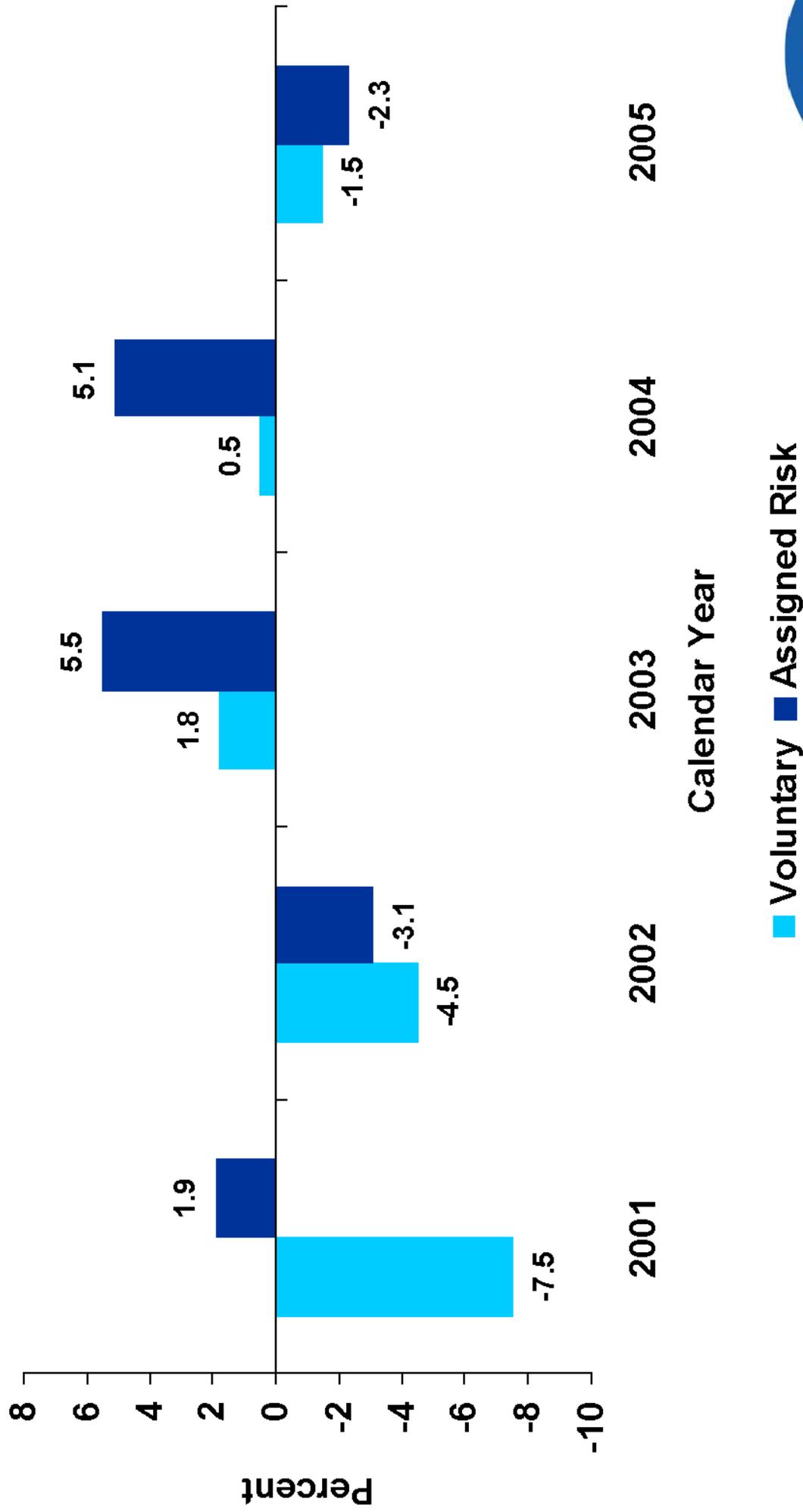
Based on data through 12/31/03.  
Dividend ratios are based on calendar year statistics.





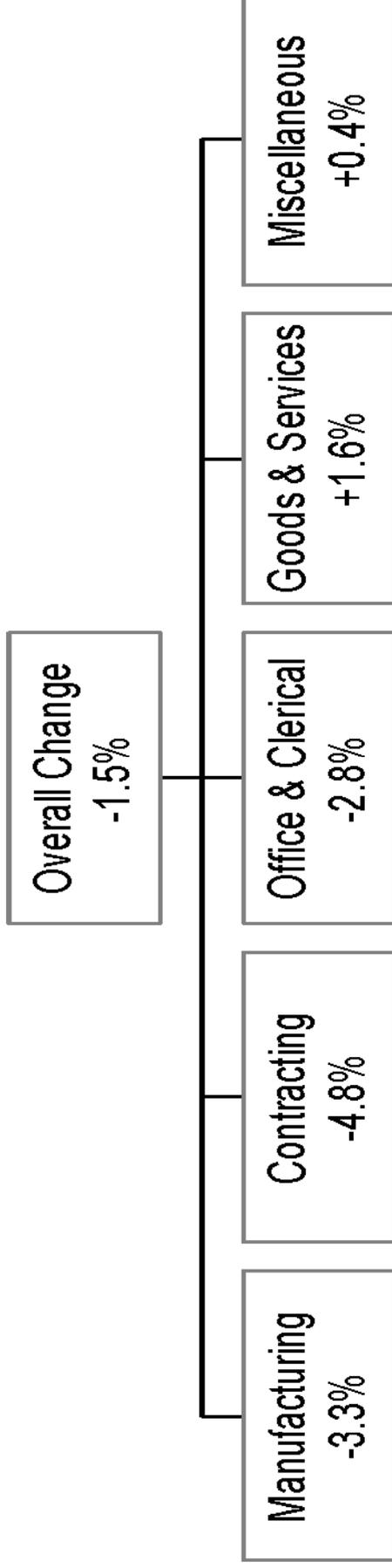
# Arkansas Filing Activity

## Voluntary Loss Cost and Assigned Risk Rate Changes

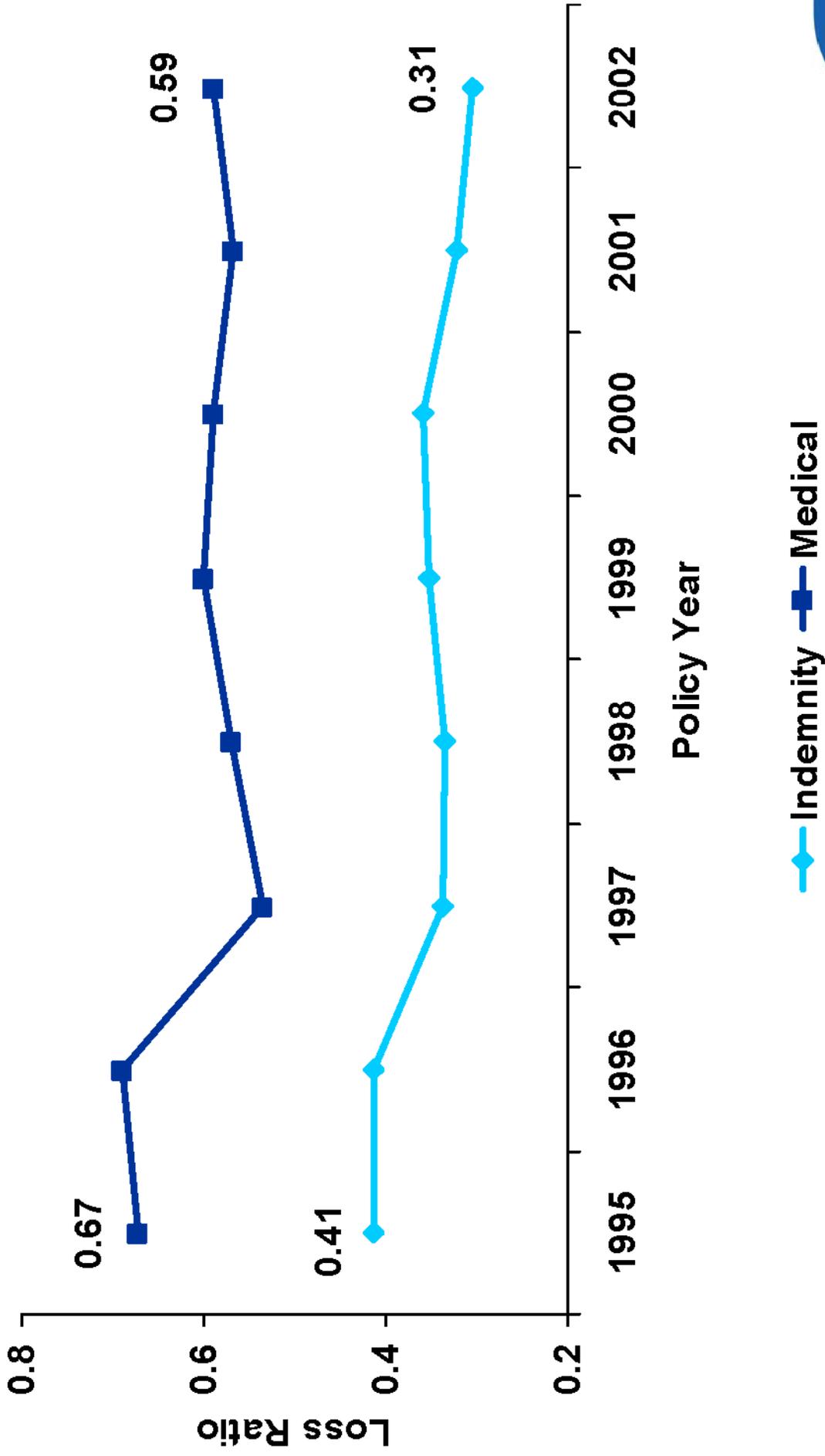


# Arkansas July 1, 2005 Filing

## Average Changes by Industry Group

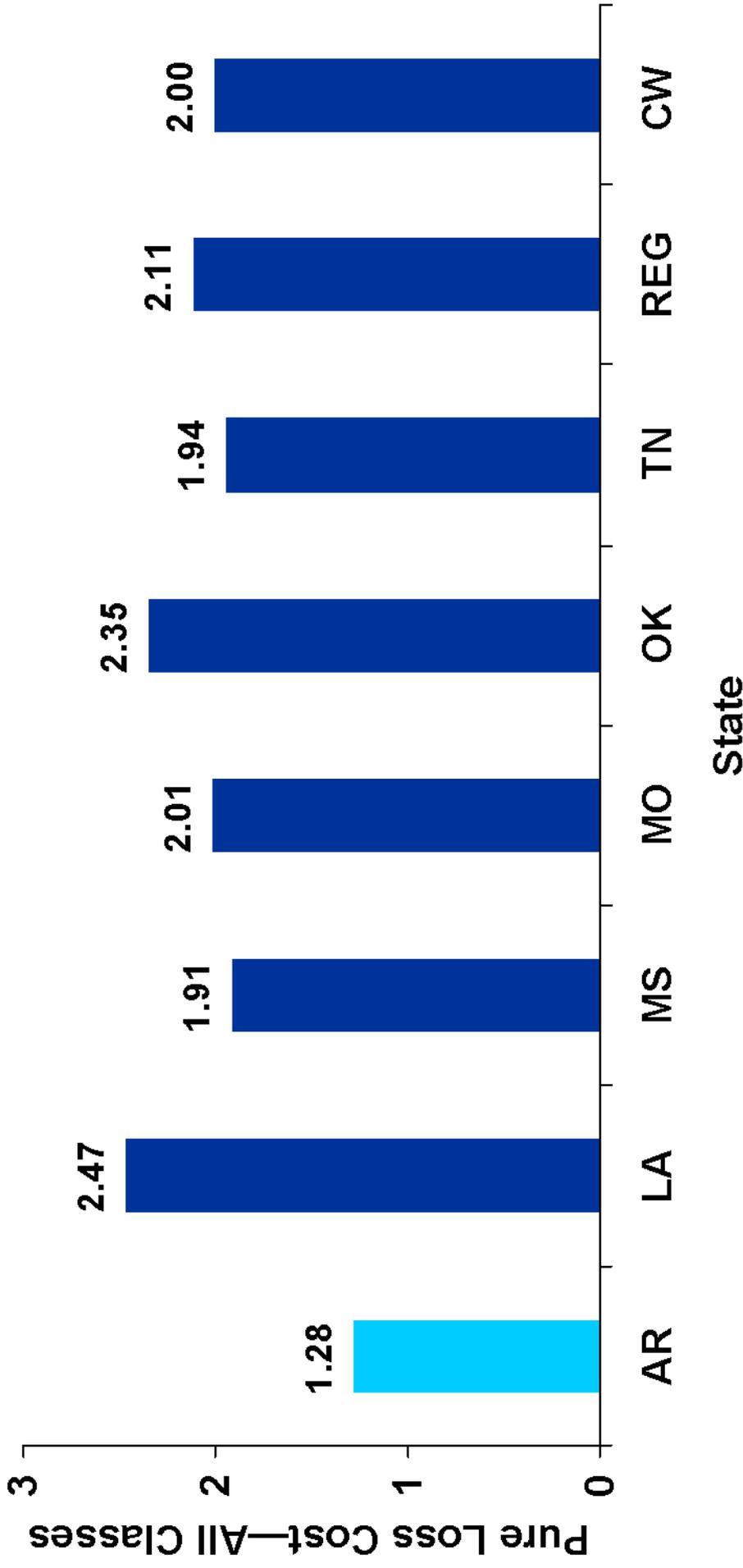


# Arkansas Indemnity and Medical Loss Ratios



Based on NCCI's financial data at current benefit level and developed to ultimate.

# Current Average Voluntary Pure Loss Costs Using Arkansas' Payroll Distribution



Based on the latest NCCI published rates and loss costs in the various states.



# Top Five Class Codes in Arkansas Based on Statewide Payroll

## 1998

8810—Clerical (24.9%)

8742—Outside Sales (6.7%)

8832—Physician (4.8%)

7229—Trucking: Long  
Distance (2.3%)

8833—Hospital (2.3%)

## 2002

8810—Clerical (32.4%)

8742—Outside Sales (6.9%)

8833—Hospital (4.8%)

8832—Physician (3.7%)

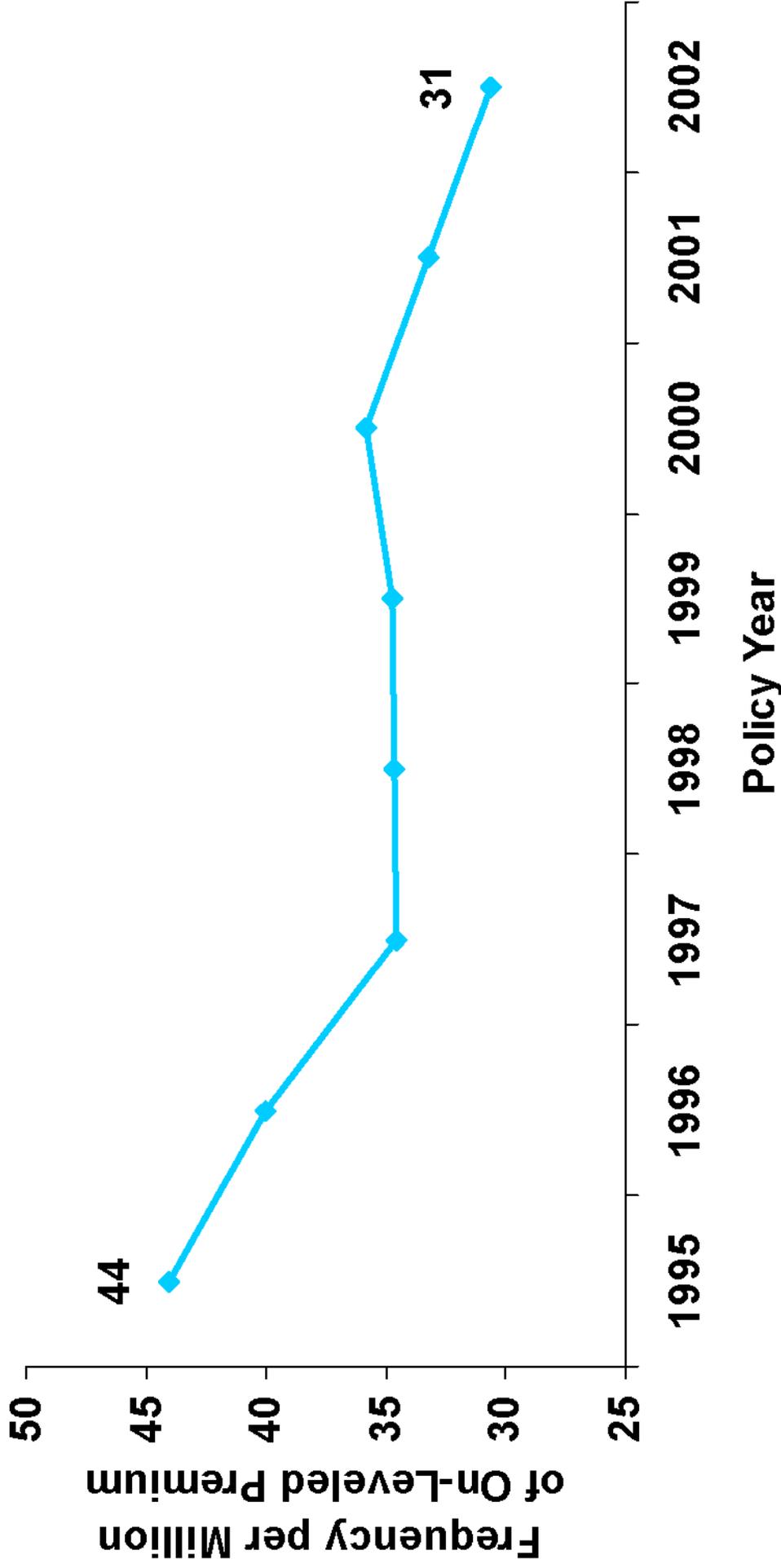
7230—Trucking: Package  
Delivery (2.1%)



# What Drives Changes in Frequency and Severity in Arkansas?

- System changes
- Economic developments/prospects
- Demographic developments/prospects

# Declines in Claim Frequency Have Contributed to Improving Results in Arkansas in the 1990s

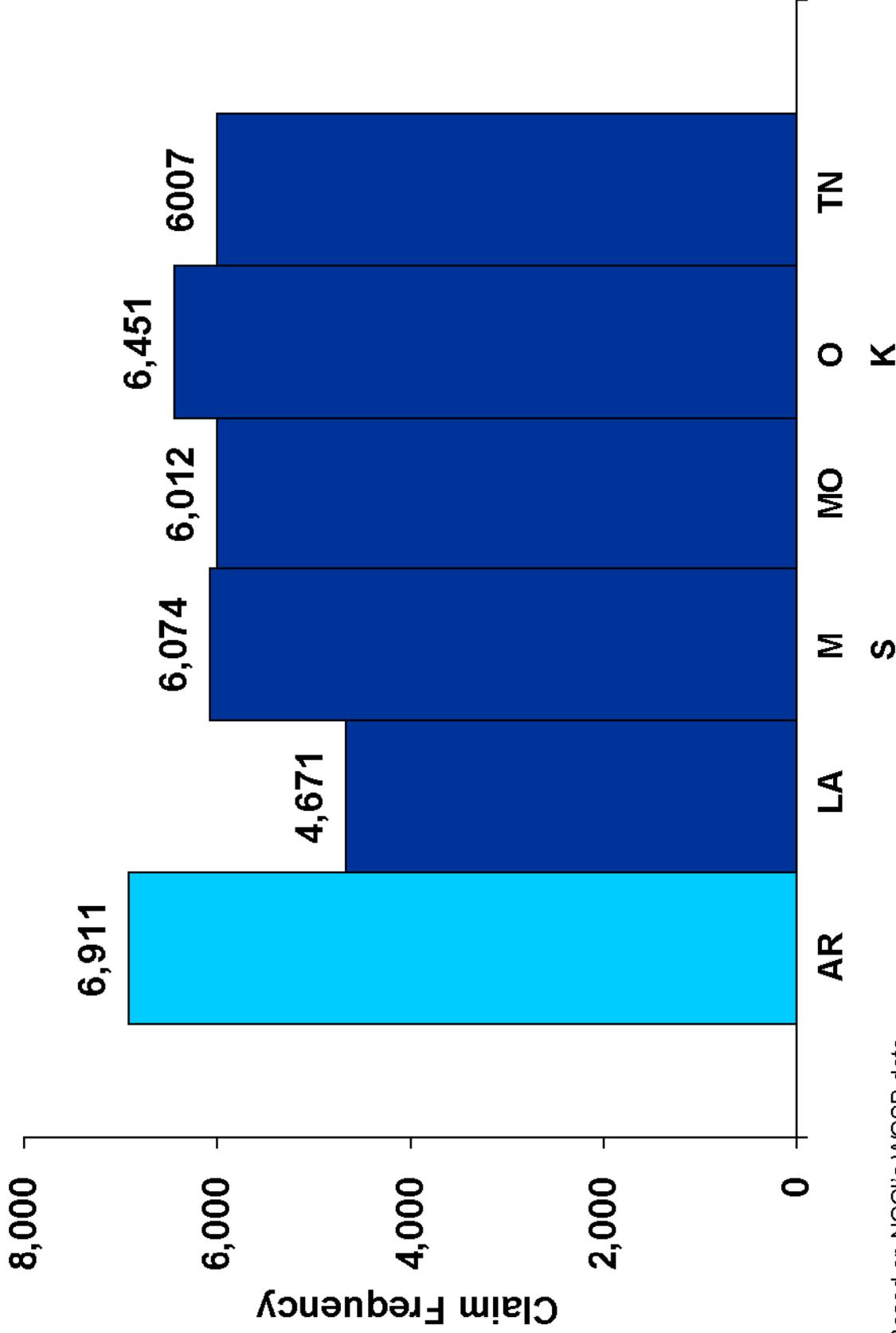


Based on NCCI's financial data.  
Frequency of lost-time claims.



# Arkansas Average Claim Frequency

Frequency per 100,000 Workers—All Claims

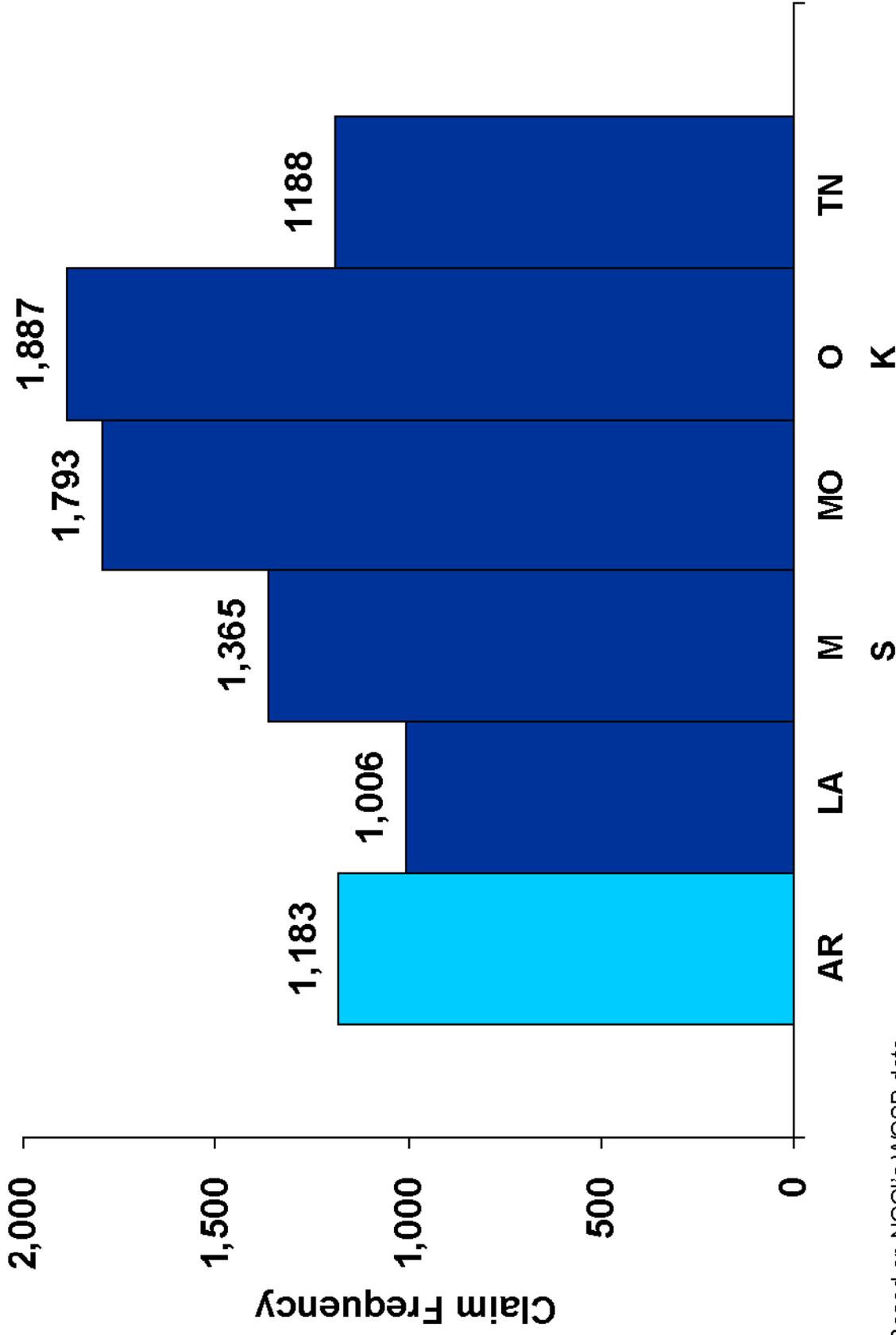


Based on NCCI's WCSP data.



# Arkansas Average Lost-Time Claim Frequency

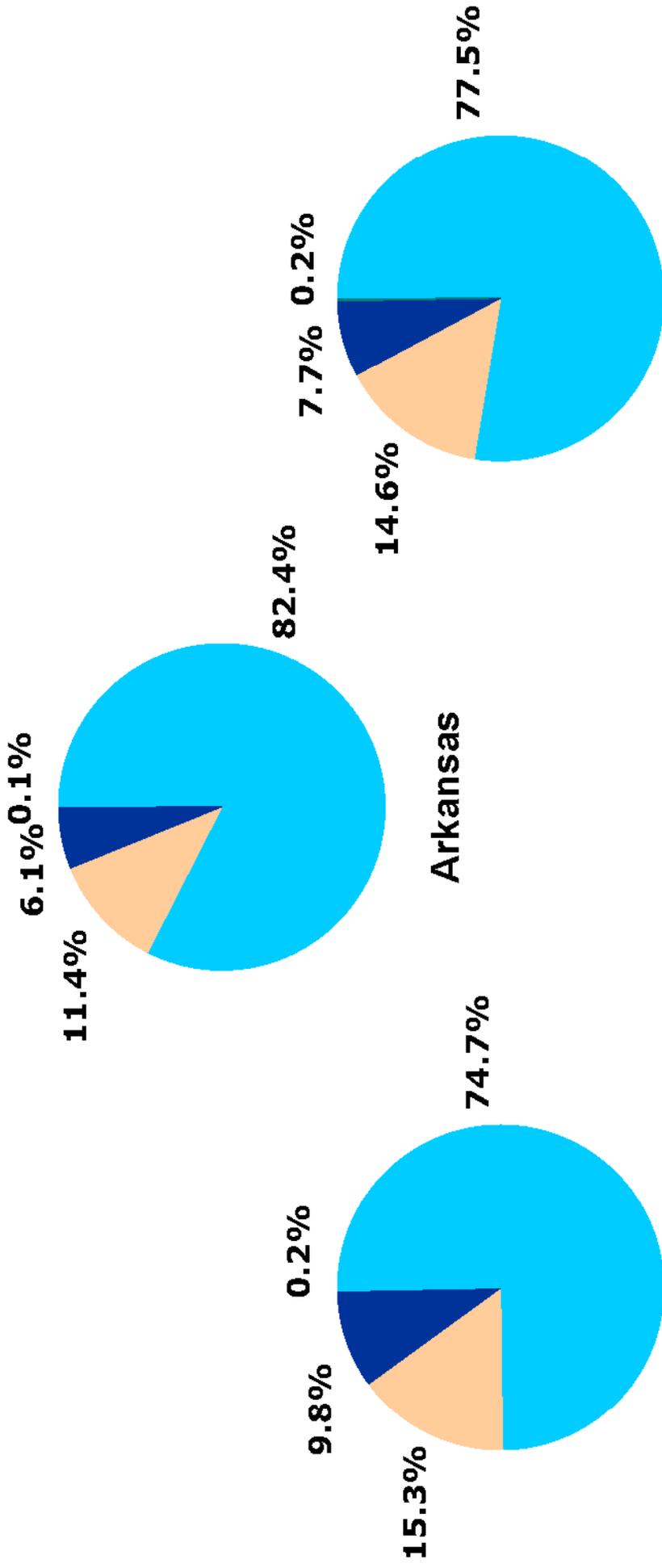
Frequency per 100,000 Workers—Lost-Time Claims



Based on NCCI's WCSP data.



# Arkansas Distribution of Claims by Injury Type



Regional Average

Countrywide

■ Medical Only
 ■ Temporary Total
 ■ Permanent Partial
 ■ Permanent Total/Fatal



Regional states are Louisiana, Mississippi, Missouri, Oklahoma, and Tennessee. Based on NCCI's WCSP data.

# NCCI Research on Claim Frequency

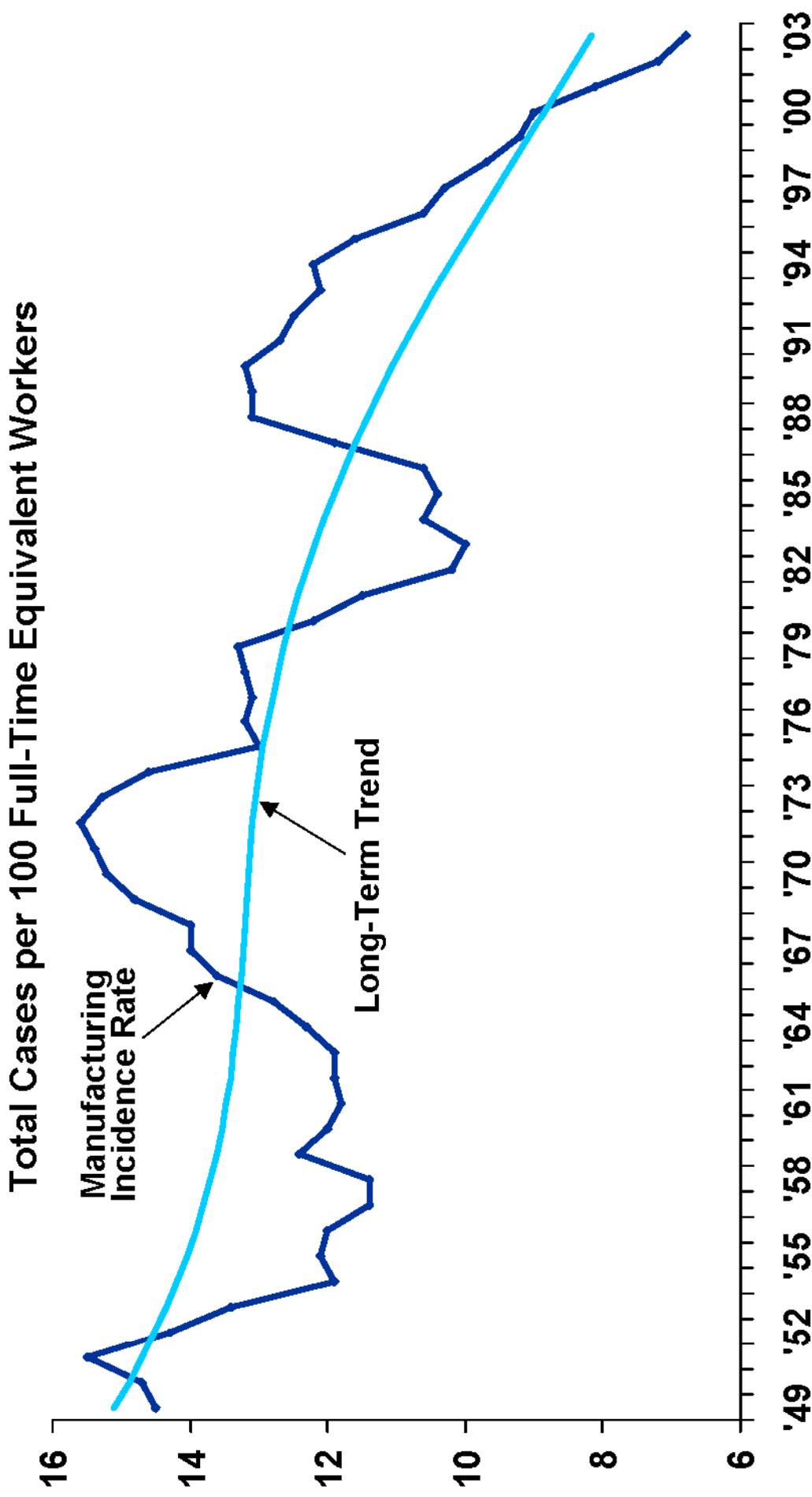
- Results from a recent NCCI Analysis using national data from the Bureau of Labor Statistics on Manufacturing Incidence Rates
- Implications for Arkansas



# Key Conclusions From NCCI's Research

- Swings in manufacturing incidence rates since the late 1940s can largely be explained in terms of changes in the experience level of the workforce, due to:
  - The ups and downs of the business cycle
  - Changes in the age composition of the workforce
- Lower incidence rates in the 1990s and into the current decade may also be a consequence of efforts to compete in an increasing global economy

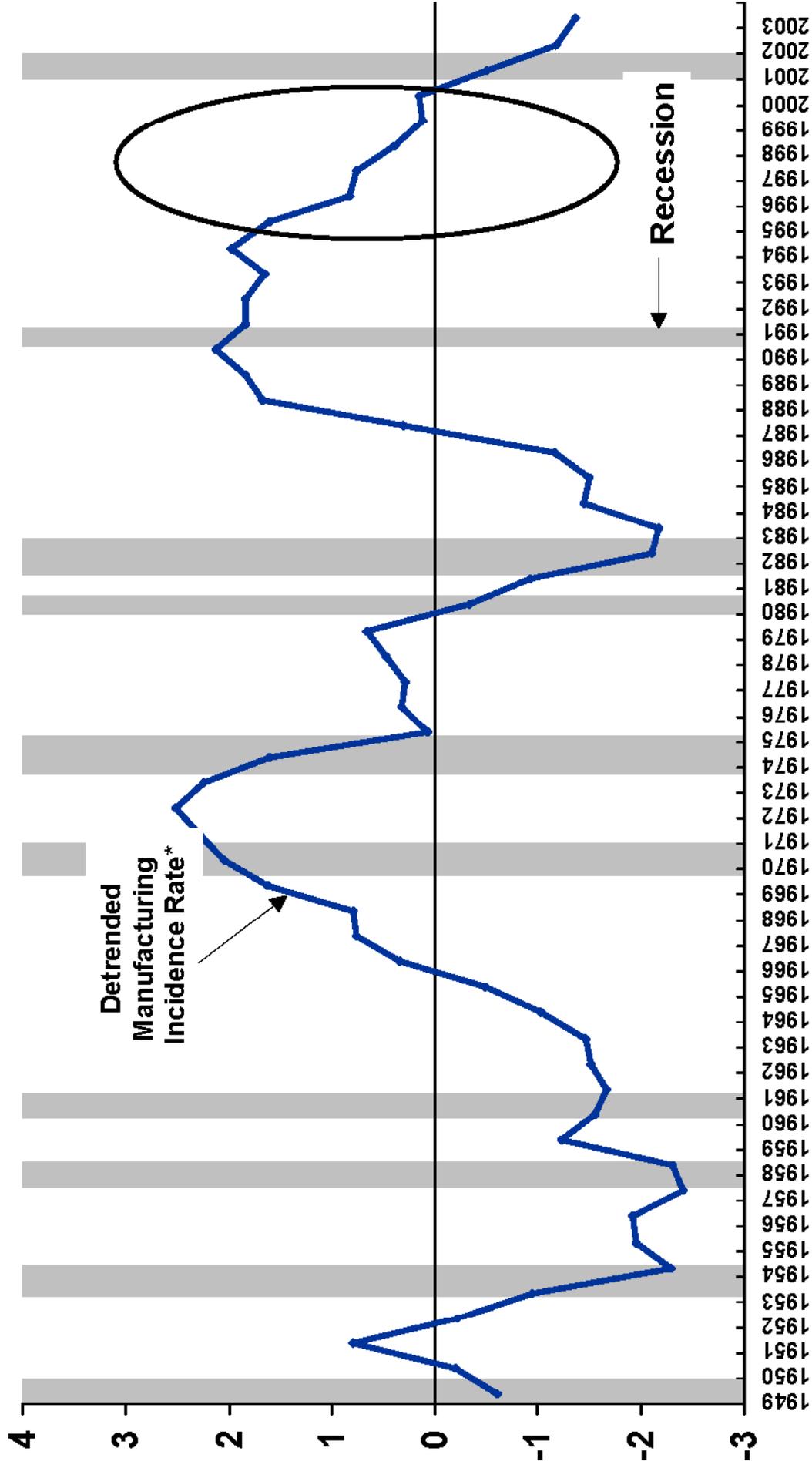
# US Mfg. Incidence Rates Display Both a Cyclical Pattern and a Long-Term Downtrend



Source: U.S. Bureau of Labor Statistics and NCCI



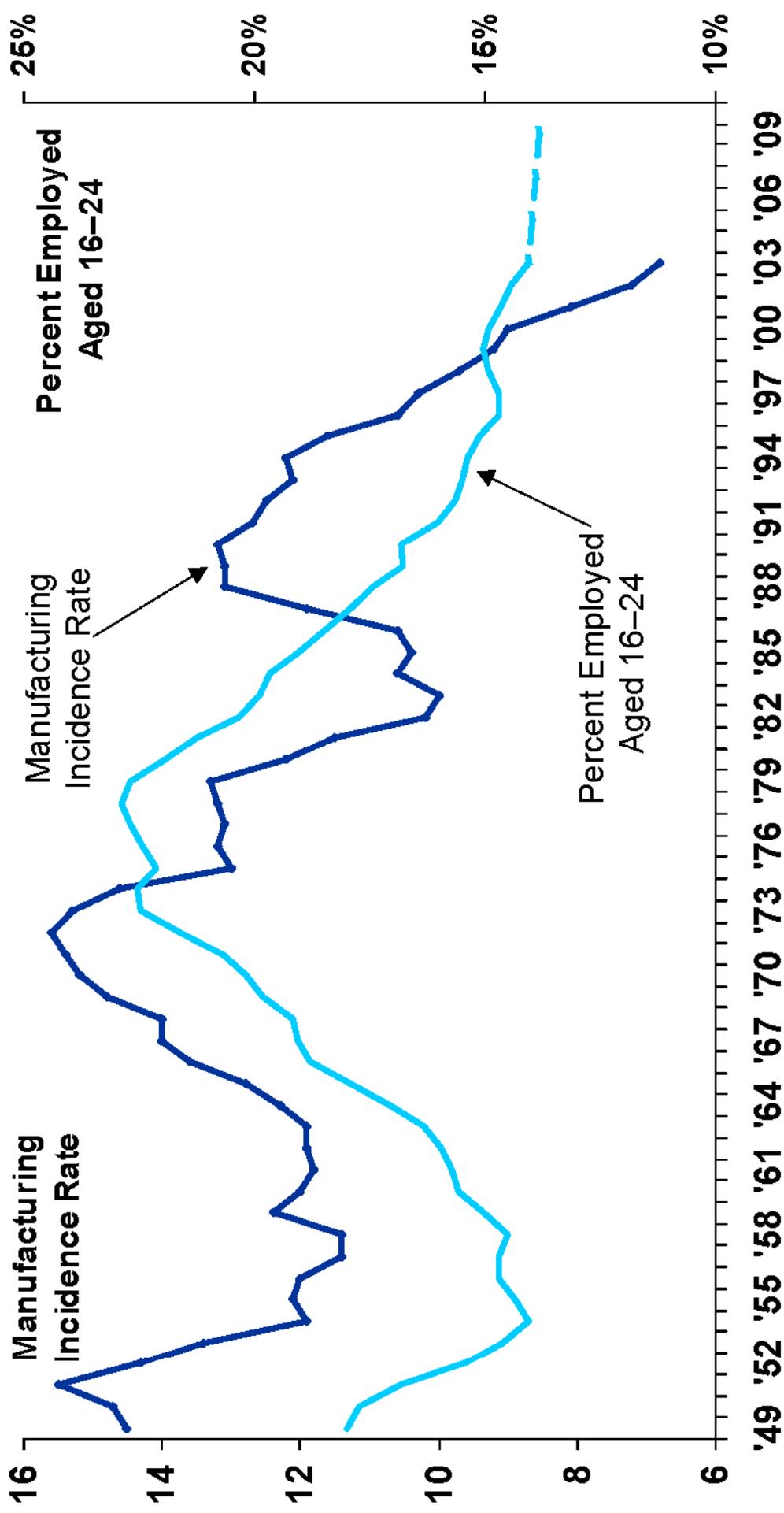
# Incidence Rates Typically Increase in Expansions and Decline in Recessions



\* Based on total claims per 100 full-time equivalent workers  
 Source: U.S. Bureau of Labor Statistics and NCCI—National Data



# Manufacturing Incidence Rates Have Also Generally Tracked Changes in the Share of Younger Workers



Source: U.S. Bureau of Labor Statistics, Bureau of the Census, and NCCI



# Factors Affecting the Recent Downtrend in Incidence Rates (Since the Mid-1990s)

- Impact of global competition
- Technology
- Legislative reforms
- Indirect impacts of OSHA

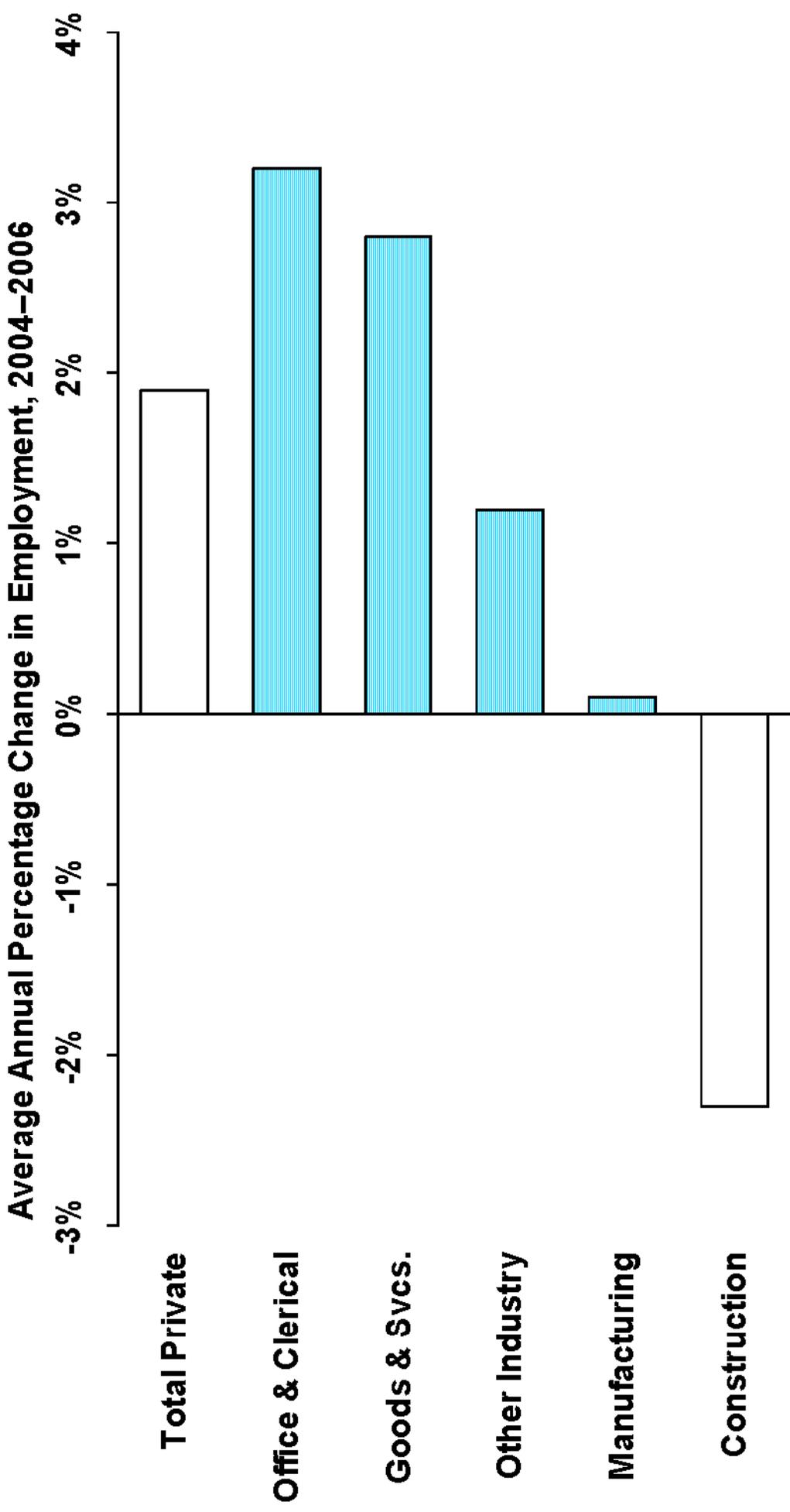
# Near-term Prospects for Manufacturing Incidence Rates

- Prospects for continued economic expansion suggest some upward pressure from “business cycle” effects
- Demographic projections imply a slowing rate of decline in the share of younger workers—suggests reduced downward pressure on incidence rates
- Intensity of global competition and need for ongoing productivity improvement will provide ongoing positive “spillovers” for workplace safety

# Implications for Frequency Trends in Arkansas

- Upward pressure from employment growth
- Downward pressure from demographic changes
- Downward pressure from ongoing efforts to respond to global competition

# Outlook for Total Private Employment in Arkansas

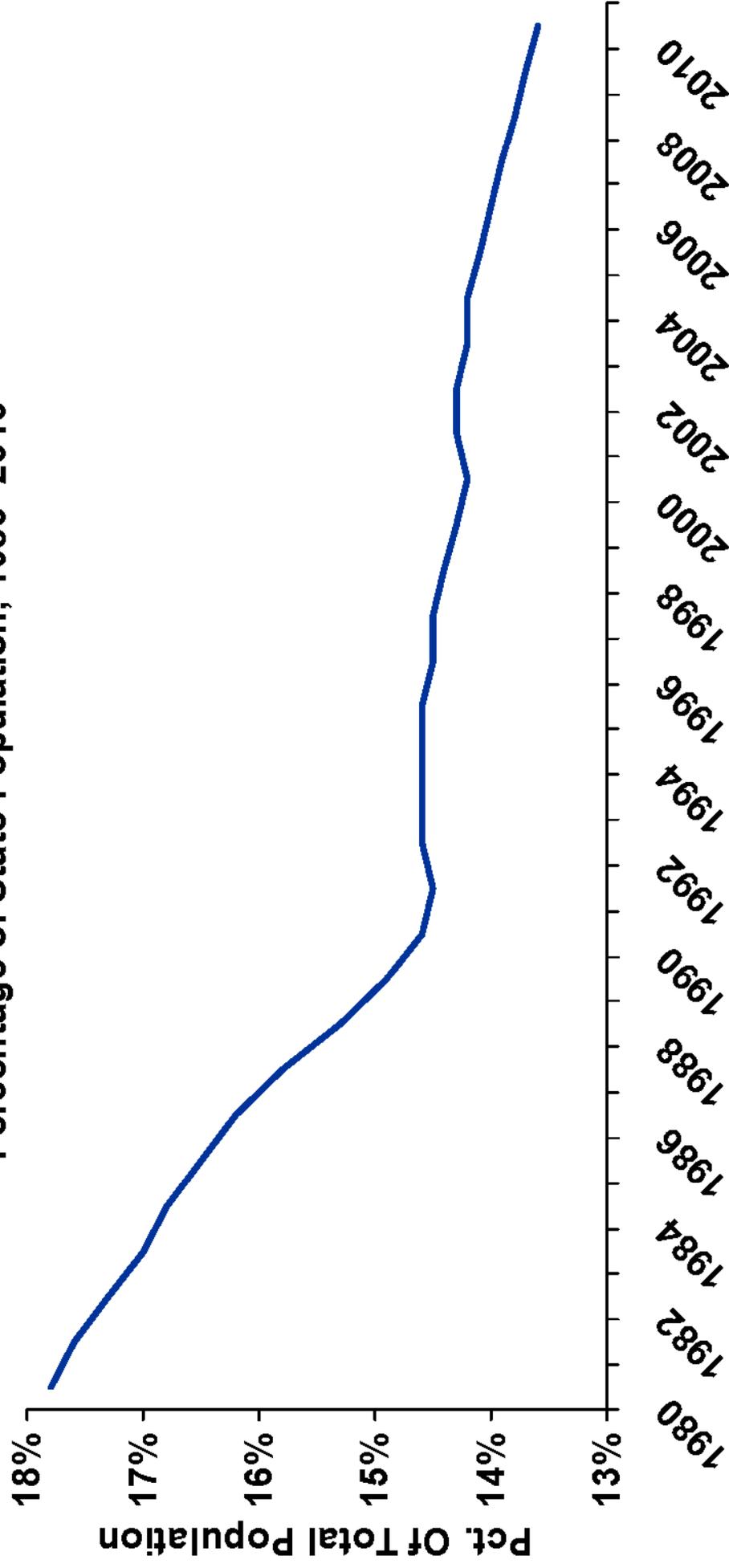


Source: Economy.com



# The Share of Younger Workers in Arkansas Is Likely to Trend Lower Through 2010

Age Group 15–24,  
Percentage of State Population, 1980–2010



Source: Bureau of Census; Economy.com



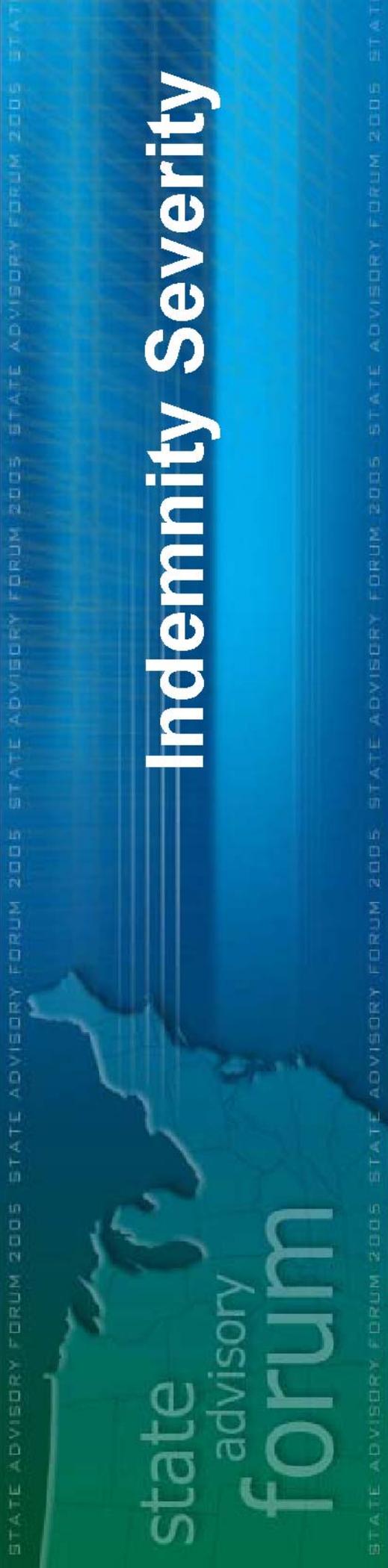
# Key Takeaways—Frequency

- Changes in the experience level of the workforce—due to the business cycle and demographics—largely explain the national pattern of manufacturing incidence rates since the late 1940s
- Analysis for Arkansas suggests some upward pressure on frequency from the business cycle
- However, any increases may be partly, if not entirely offset by downward pressures on frequency due to the changing age-mix of the workforce and the effects of globalization

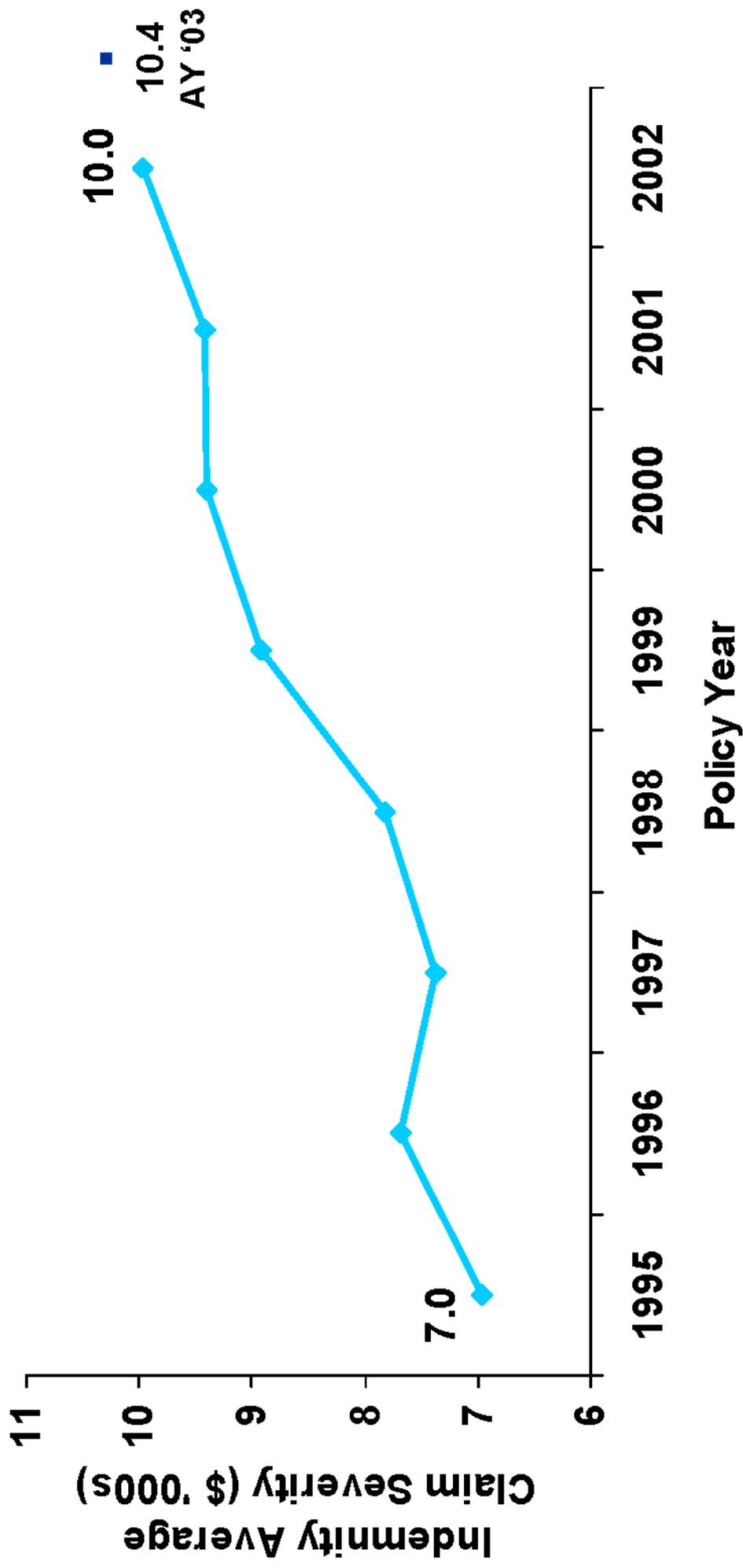


state  
advisory  
forum

# Indemnity Severity



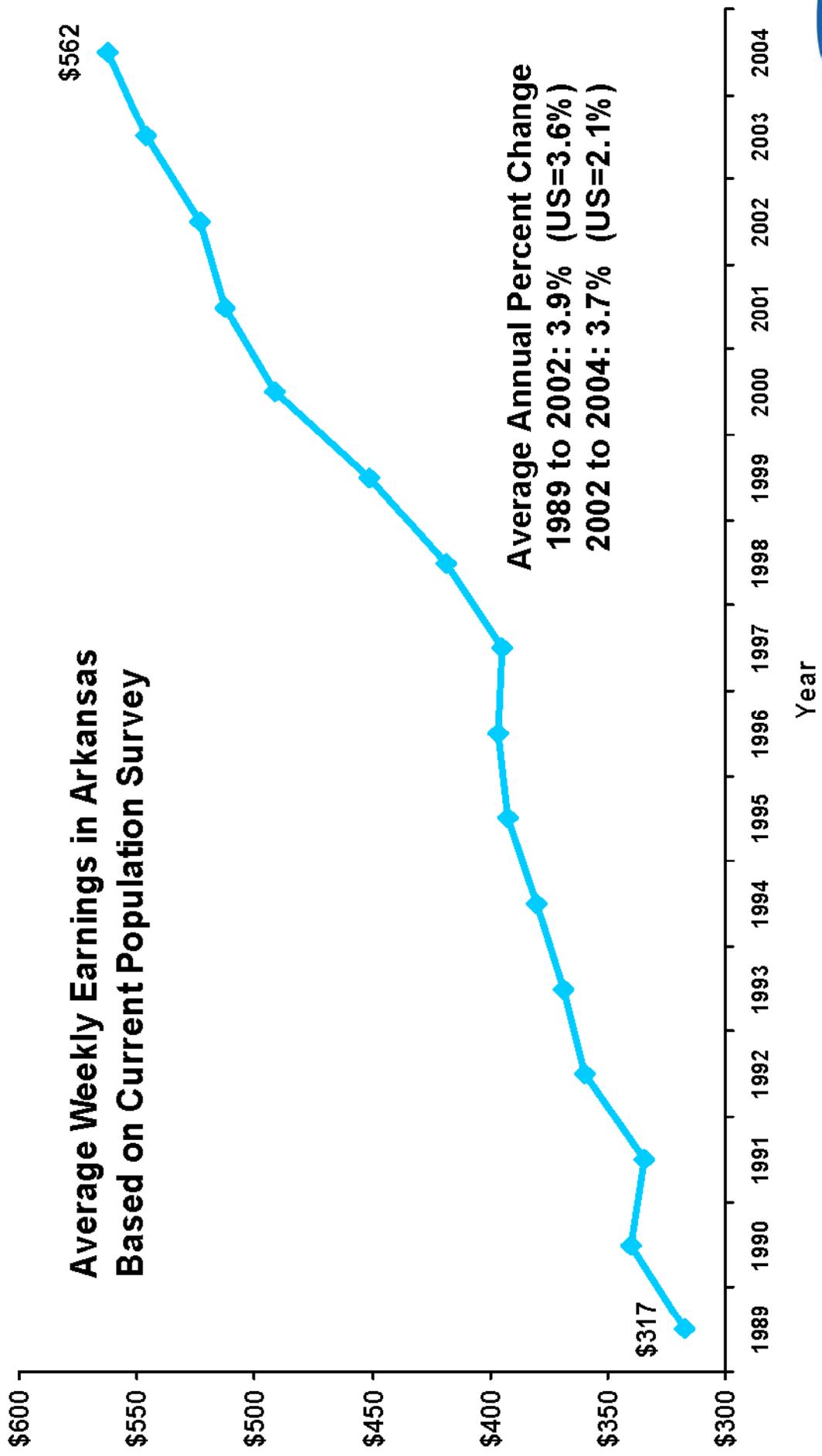
# Arkansas Average Indemnity Severity



Based on NCCI's financial data for lost-time claims at current benefit level and developed to ultimate.



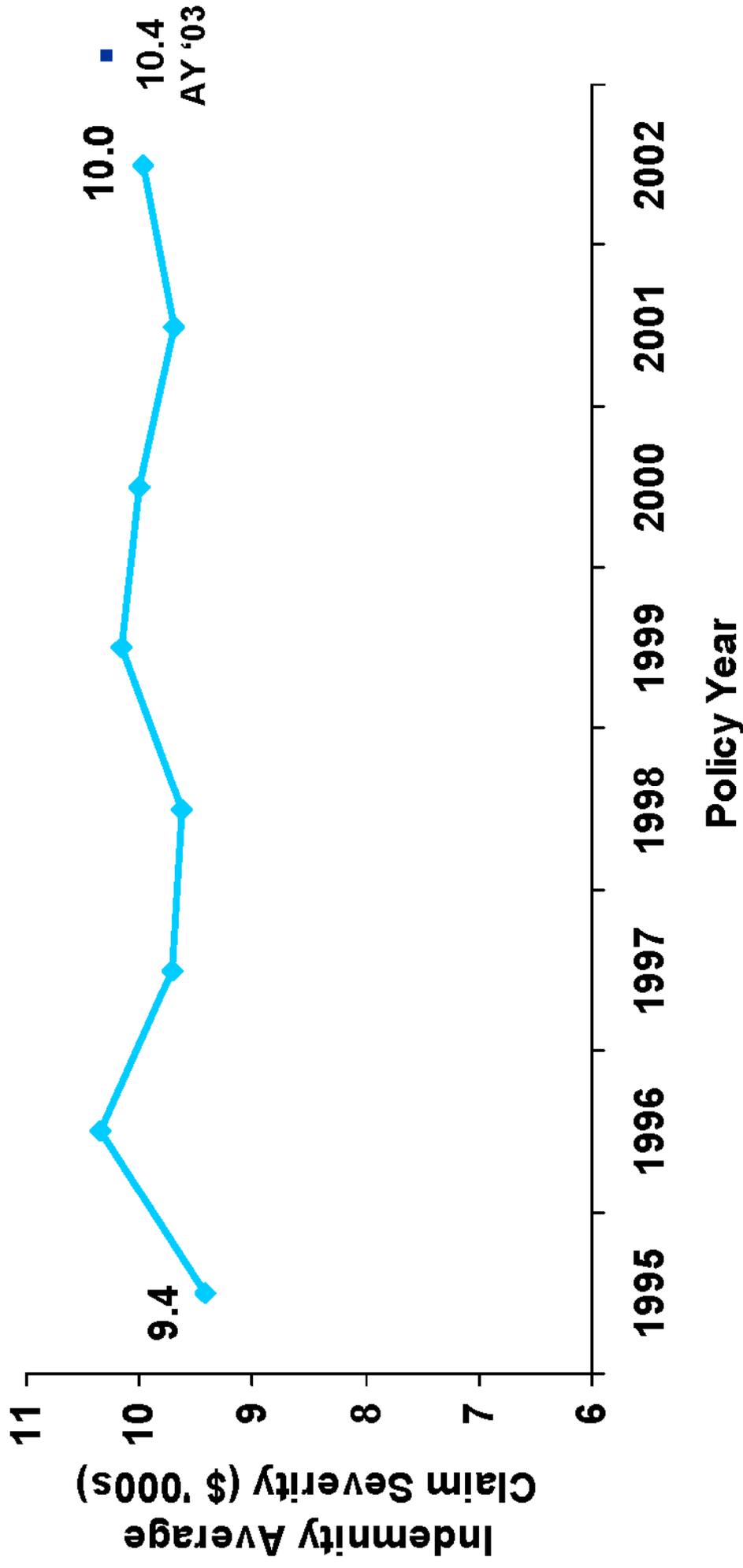
# Wages in Arkansas Have Continued to Trend Higher Through 2004



Source: U.S. Department of Census



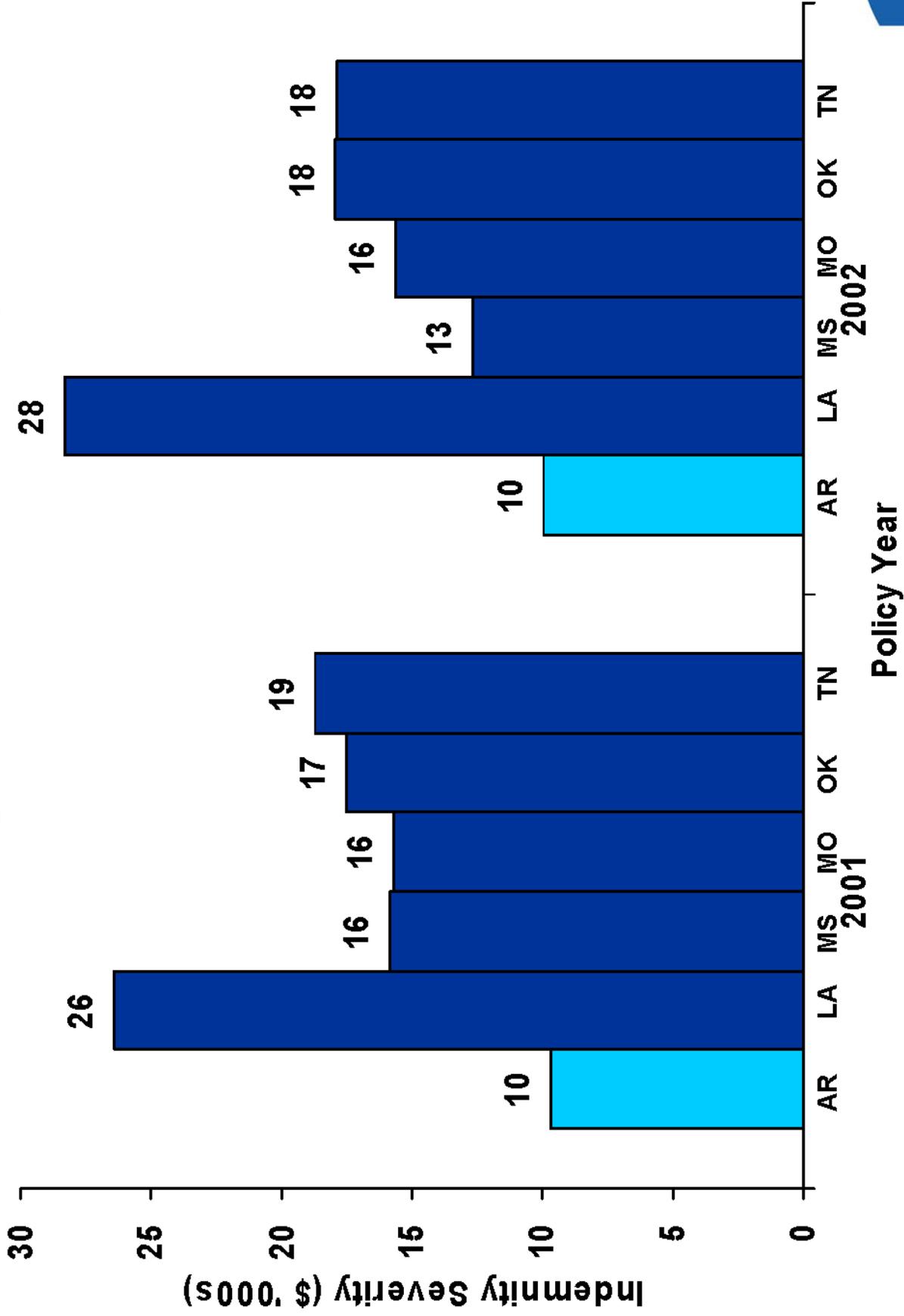
# Arkansas Average Indemnity Severity in Excess of Wage Growth



The severity figures shown are in excess of wage trend.  
Based on NCCI's financial data for lost-time claims at current benefit level and developed to ultimate.



# Arkansas Indemnity Average Claim Severity



Based on NCCI's financial data for lost-time claims.

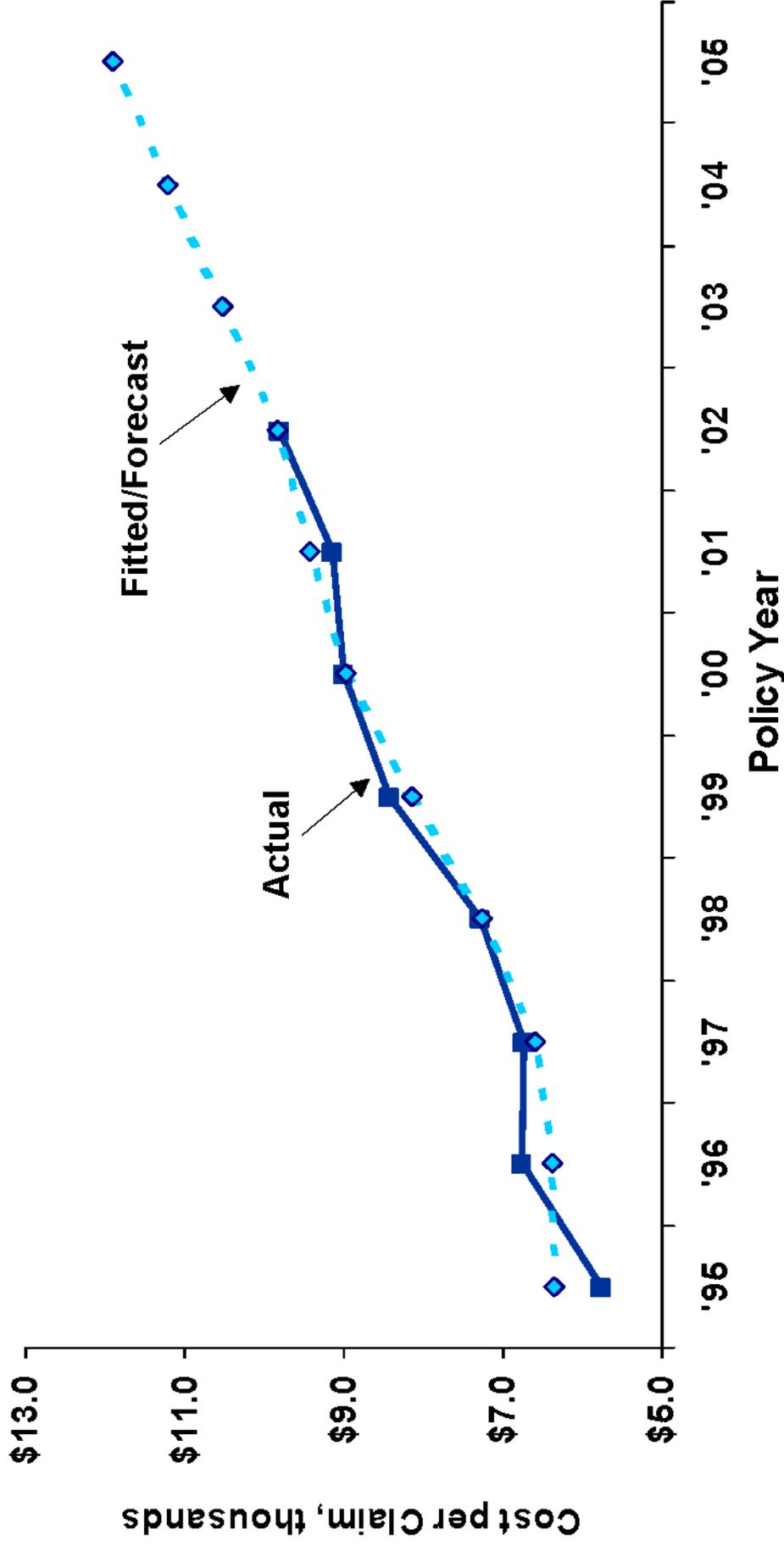


# Economic Drivers of Indemnity Severity

- Wages
  - Arkansas-specific information
- Demographics
  - How indemnity severity varies by age

# A Wage-Based Model Suggests Further Increases in Indemnity Severity in Arkansas

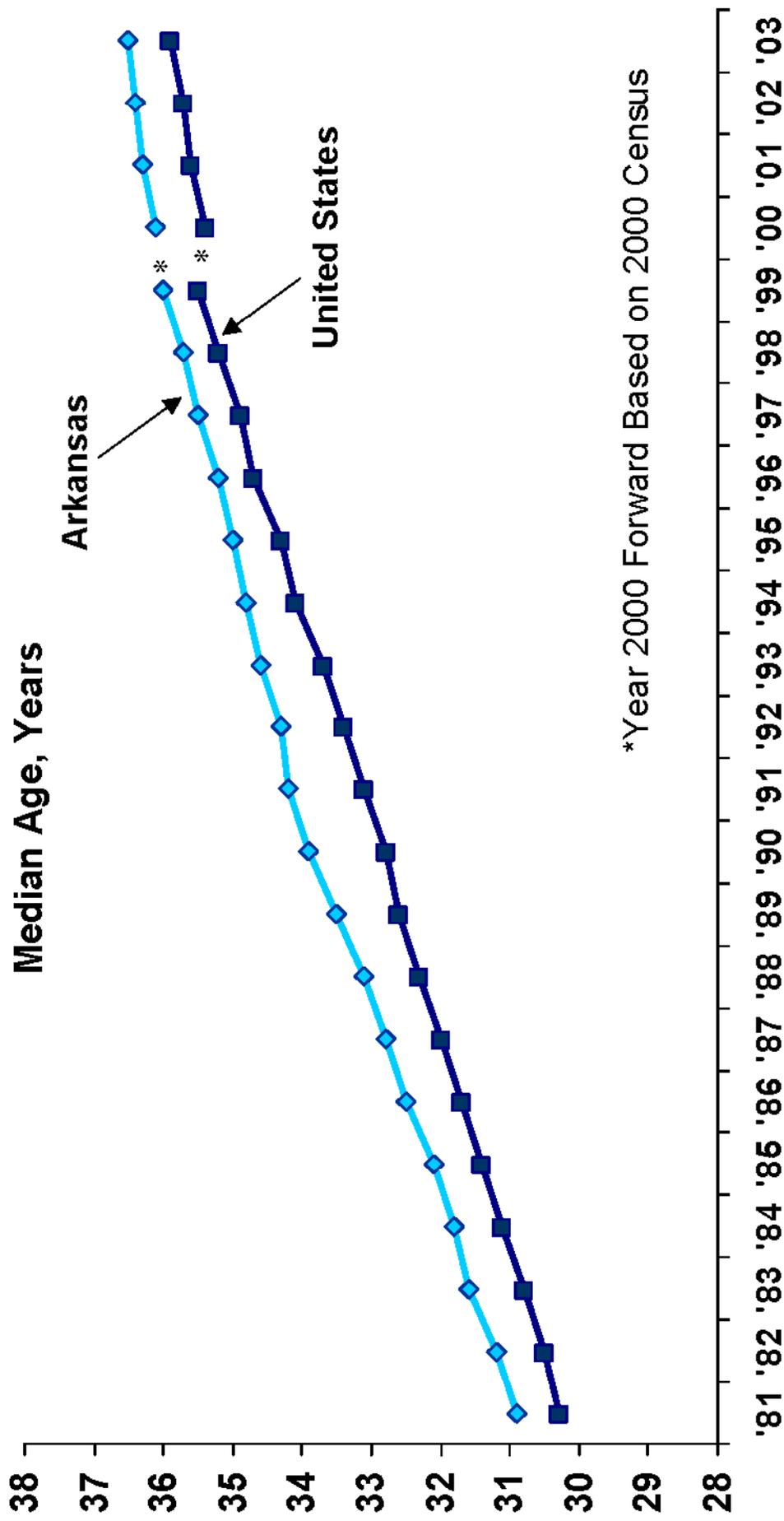
## Indemnity Severity, 1995–2005



Source: NCCI, indemnity severity shown prior to wage adjustment



# Arkansas Median Age Is Increasing in Line With That of the US



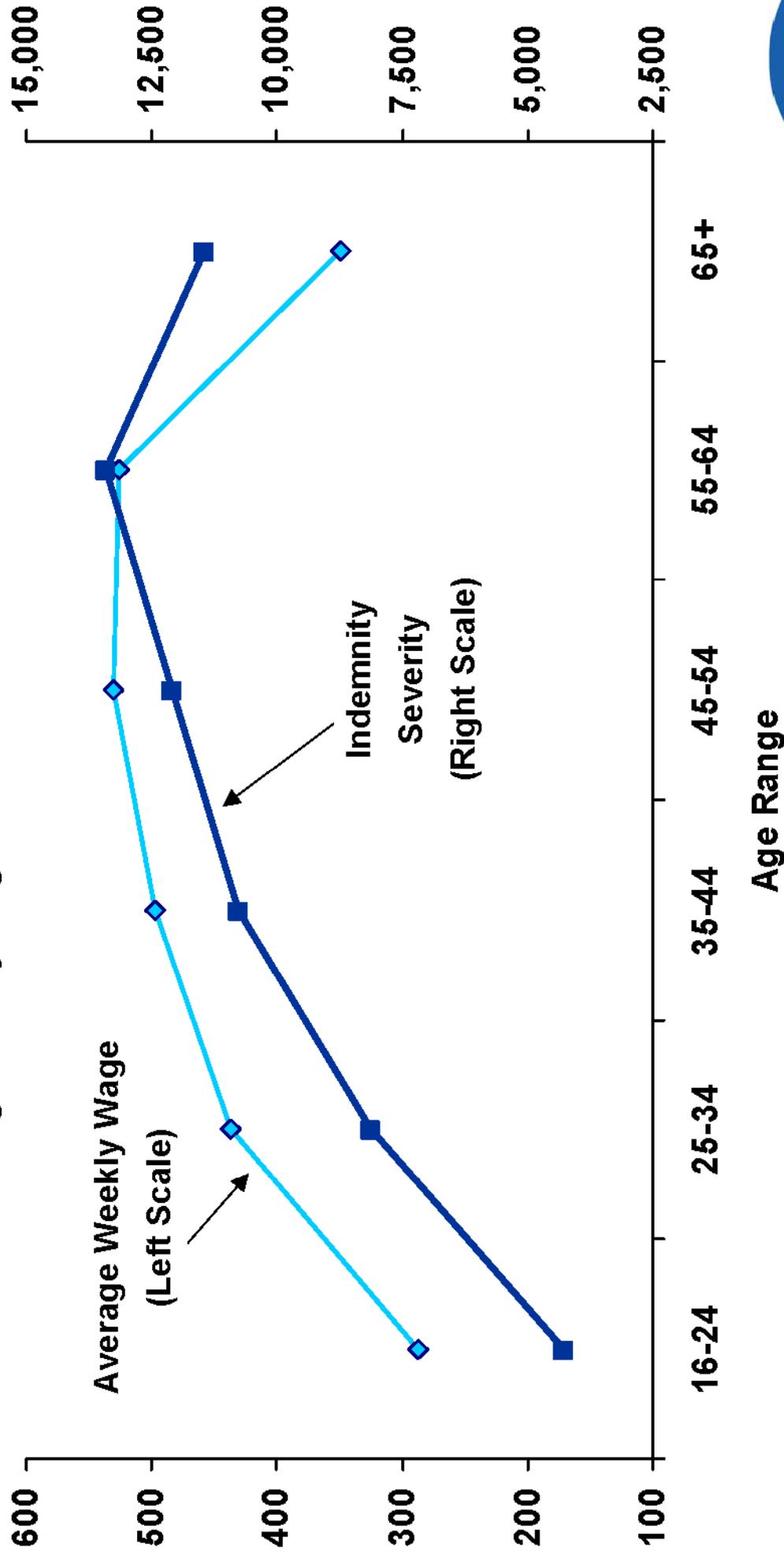
\*Year 2000 Forward Based on 2000 Census

Source: U.S. Census Bureau



# Indemnity Severity and Average Weekly Wage Both Decline for Ages 65+

Average Incurred Severity at 18 Months and Average Weekly Wages for All Lost-Time Claims



Source: NCCI (Countrywide data)

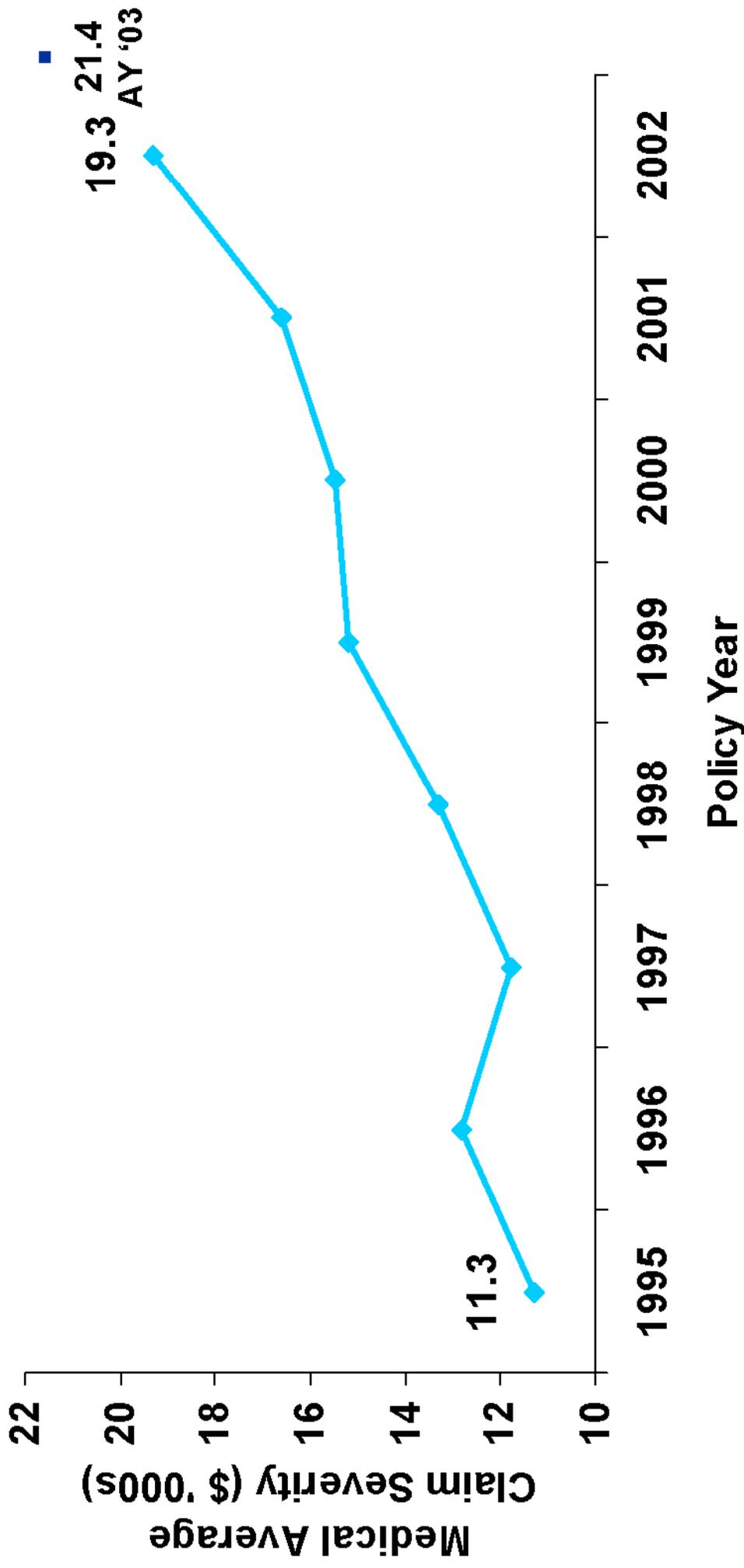


# Key Takeaways—Indemnity Severity

- A model relating Arkansas' indemnity severity to its average weekly wage suggests some upward pressure in the years immediately ahead.
- Indemnity severity also tends to increase with age. The aging of Arkansas' population also suggests some upward pressures going forward.



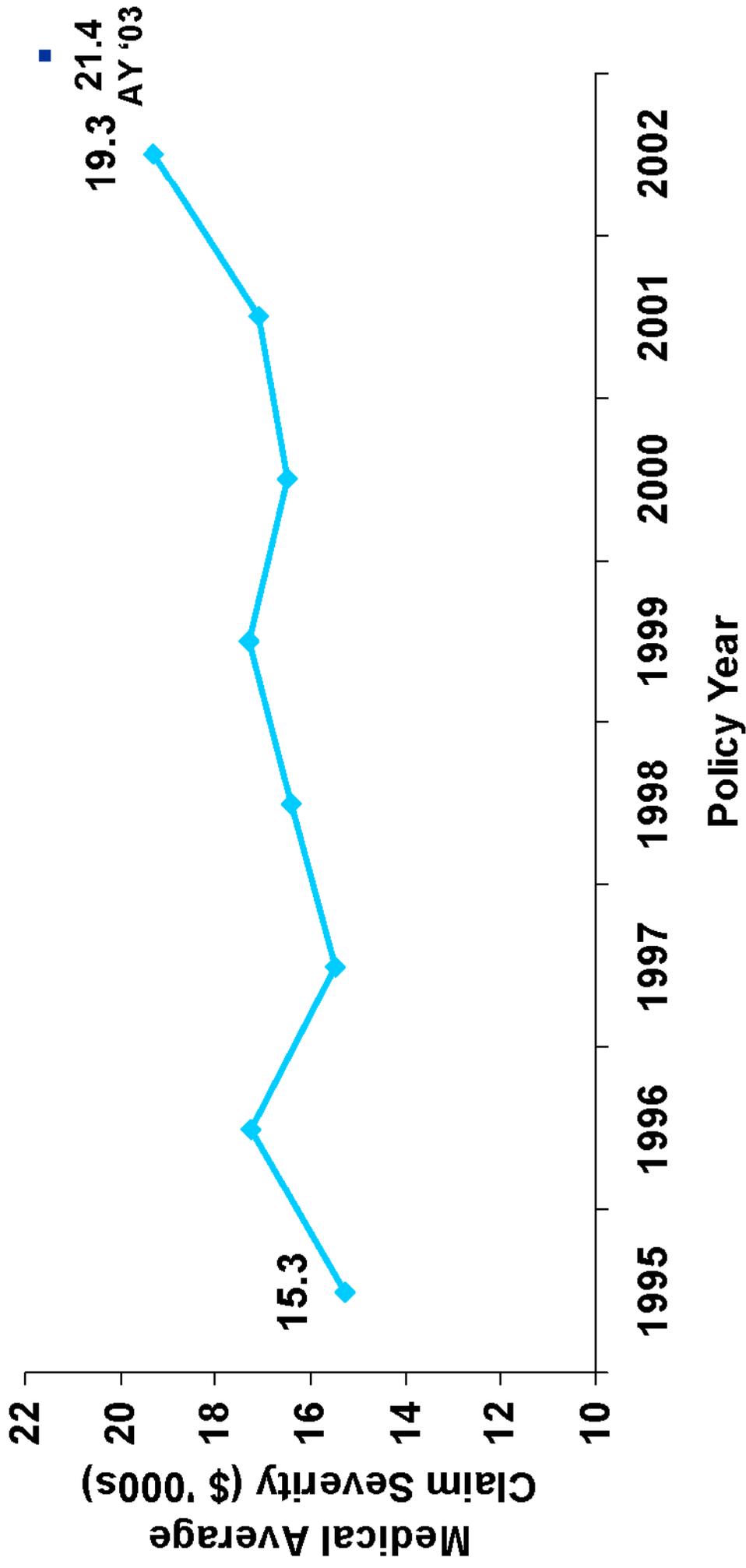
# Arkansas Average Medical Severity



Based on NCCI's financial data for lost-time claims at current benefit level and developed to ultimate.



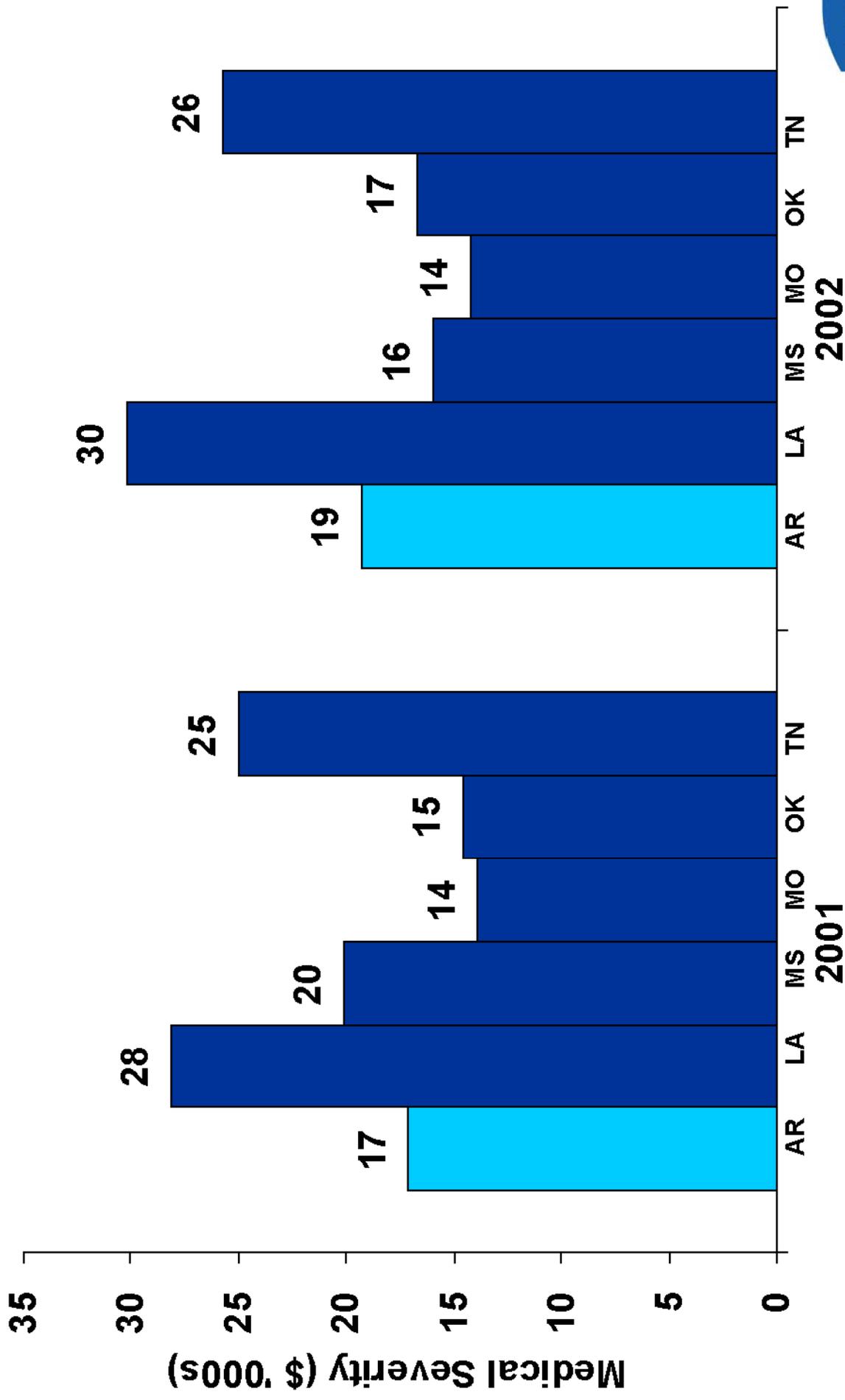
# Arkansas Average Medical Severity in Excess of Wage Growth



The severity figures shown are in excess of wage trend.  
Based on NCCI's financial data for lost-time claims at current benefit level and developed to ultimate.



# Arkansas Medical Average Claim Severity Compared With Neighboring States



Based on NCCI's financial data for lost-time claims.

Policy Year

# Economic Drivers of Medical Severity

- Medical Care Inflation
- Utilization
- Demographics

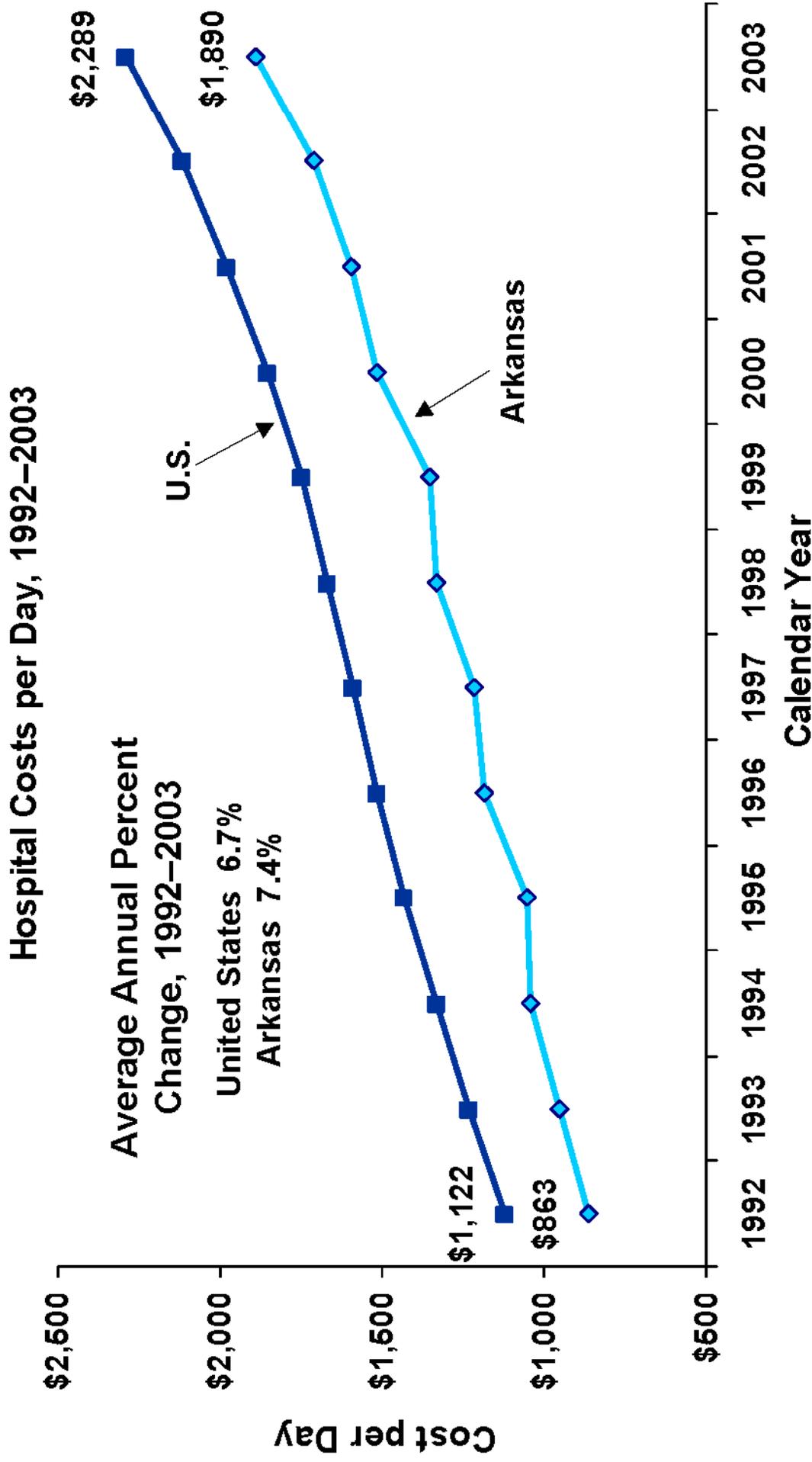
# Distribution of Medical Payments in Arkansas

## Percentage of Workers Compensation Medical Payments, Average, 1996– 2002

Complex Surgery and Anesthesia	17.0
Drugs and Supplies	13.8
Hospital Services	13.7
Physical Therapy	13.1
Office Visits	9.8
Complex Diagnostic Testing	7.7
Surgical Treatments	6.7
Diagnostic Radiology	4.6
Emergency Services	3.6
Pathology	1.1
All Other	9.0

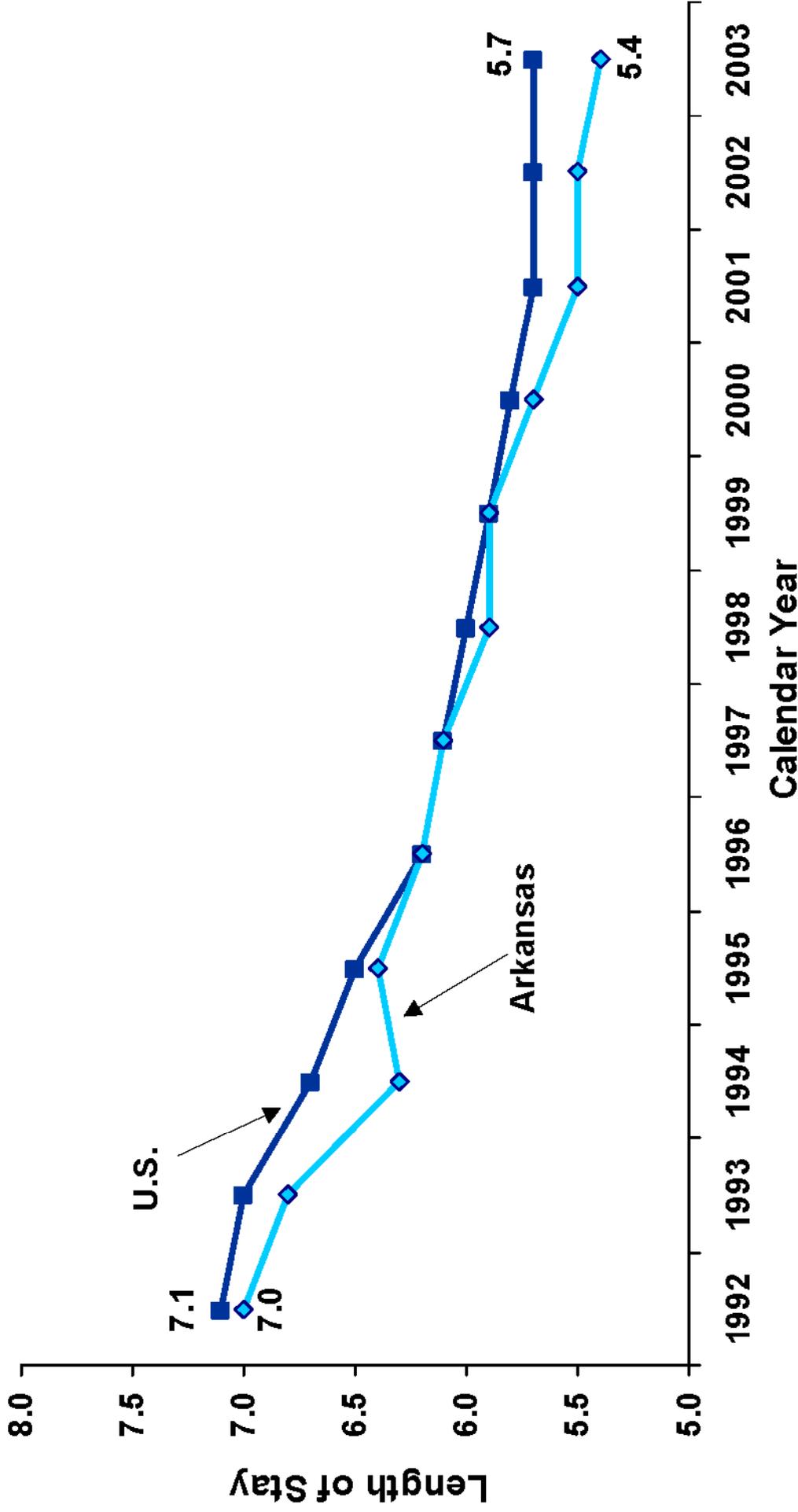
Source: NCCI

# Hospital Cost per Day in Arkansas Is Well Below That of the U.S.

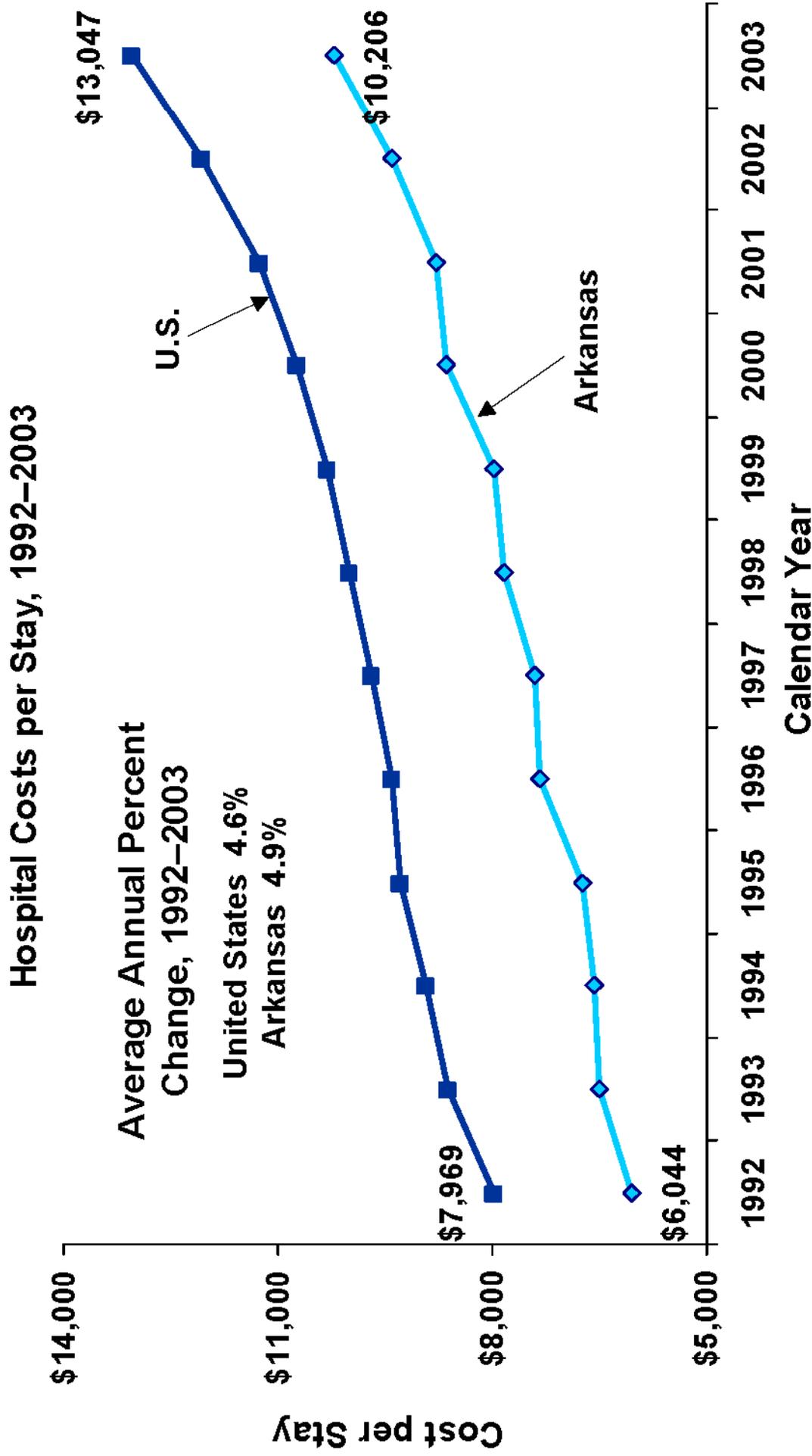


# Time in the Hospital Is a Bit Less in Arkansas Compared With That for the US

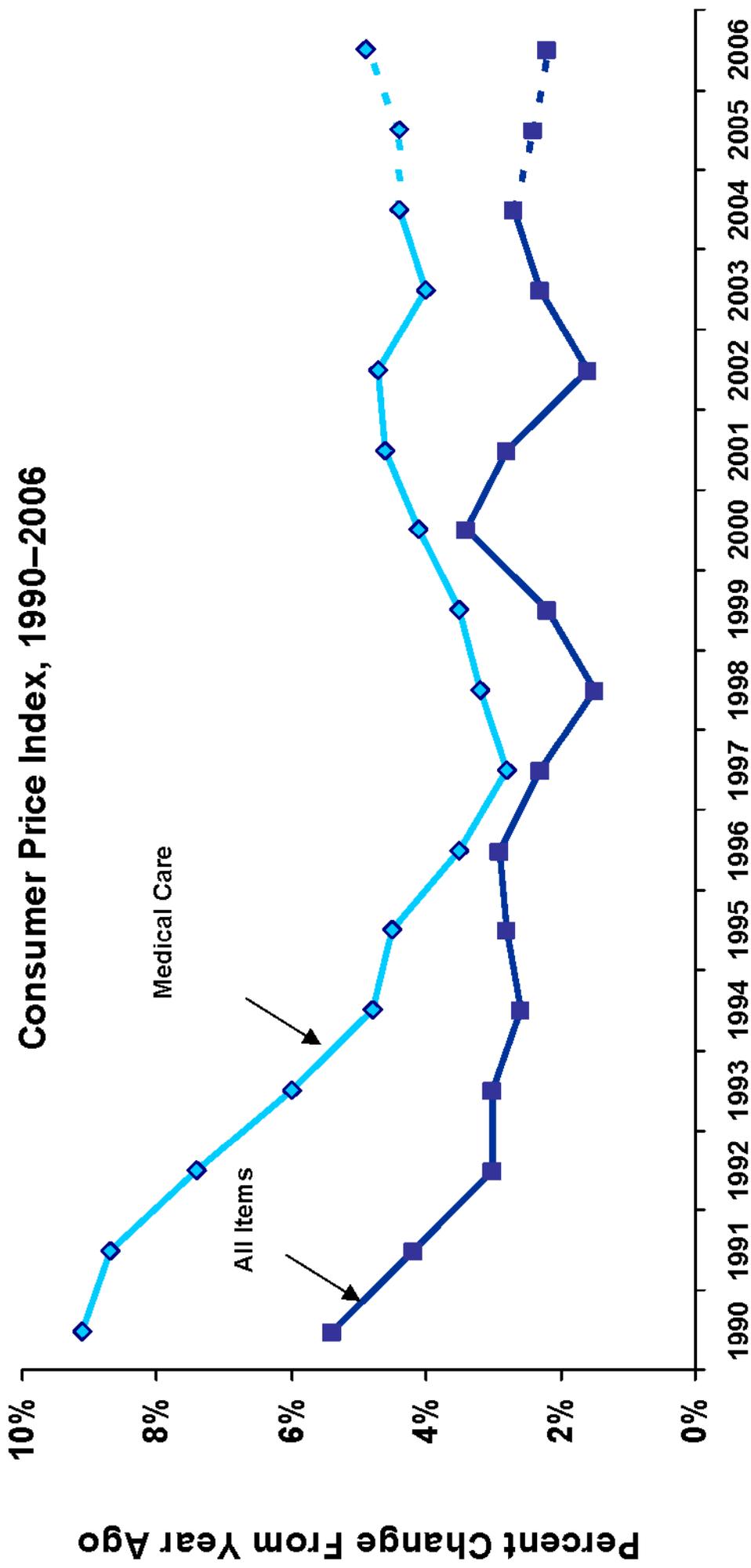
Average Length of Stay, 1992–2003



# Hospital Cost per Stay in Arkansas Is Substantially Below the US Average



# Further Increases in Medical Care Price Inflation Are Expected Through 2006



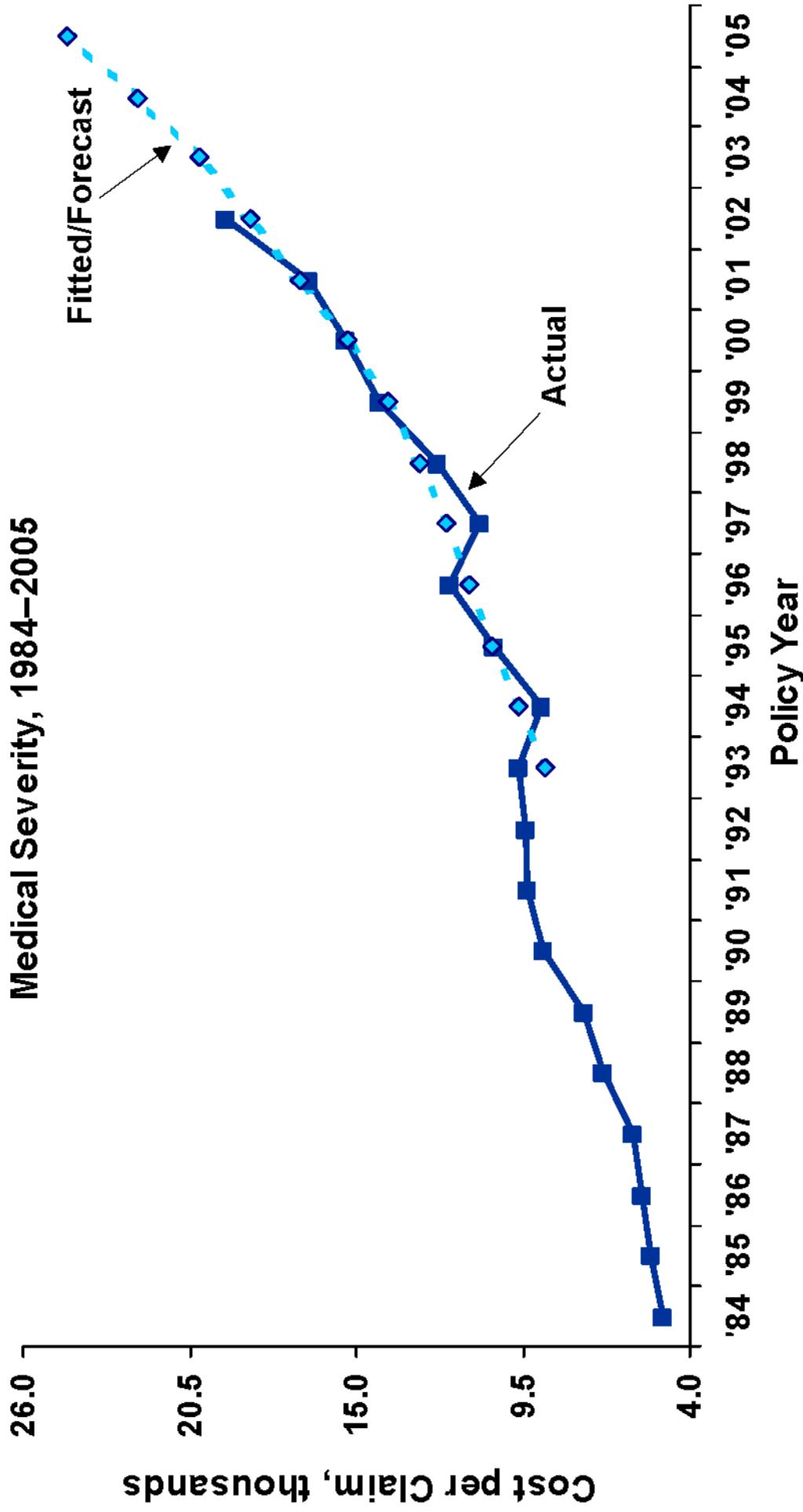
Source: U.S. Bureau of Labor Statistics for the historical data and Economy.com for the forecasts



# Changes in Utilization Can Come From Many Sources

- Changes in the number of services provided
- Changes in treatment modalities (use of MRIs instead of X-Rays)
- Introduction of newer pharmaceuticals/generics
- Changes in billing practices

# Medical Severity in Arkansas Is Forecast to Increase Through Policy Year 2005

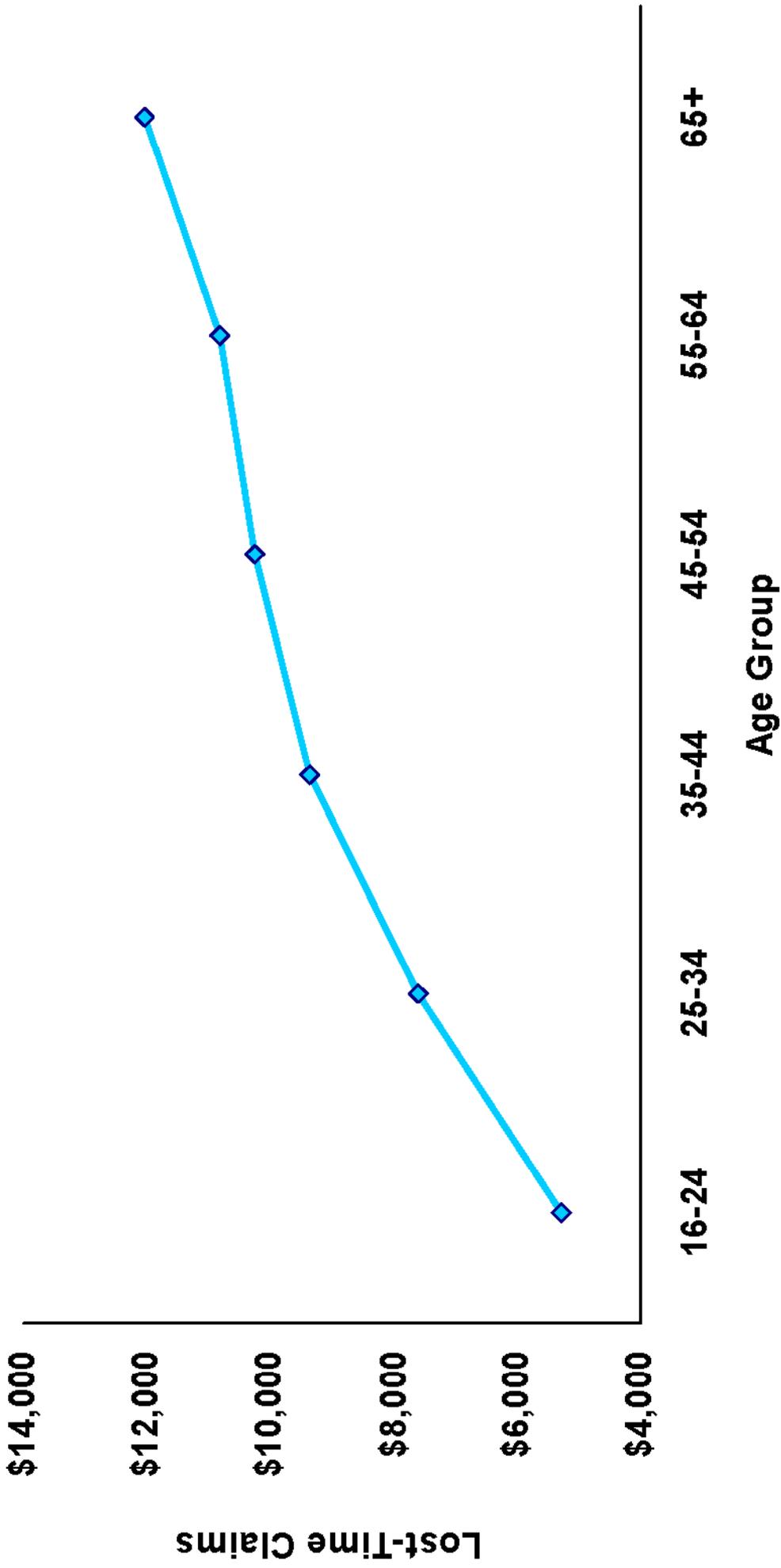


Source: NCCI



# Medical Severity Increases With Age

Average Medical Incurred Severity at 18 Months for Lost-Time Claims

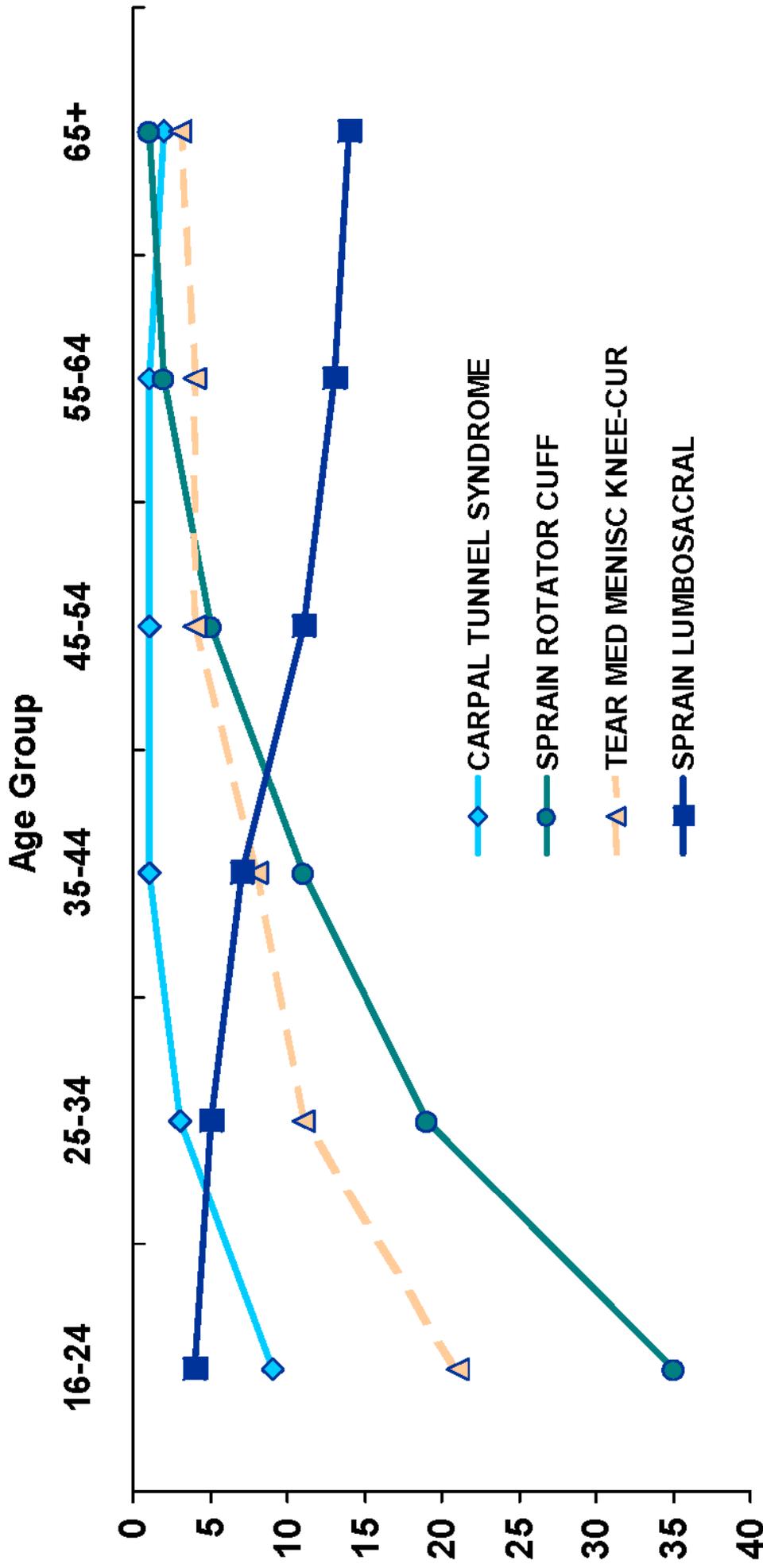


Source: NCCI (Countrywide Data)



# Lost-Time Claim Diagnoses Vary by Age

Frequency Rank for Lost-Time Claims

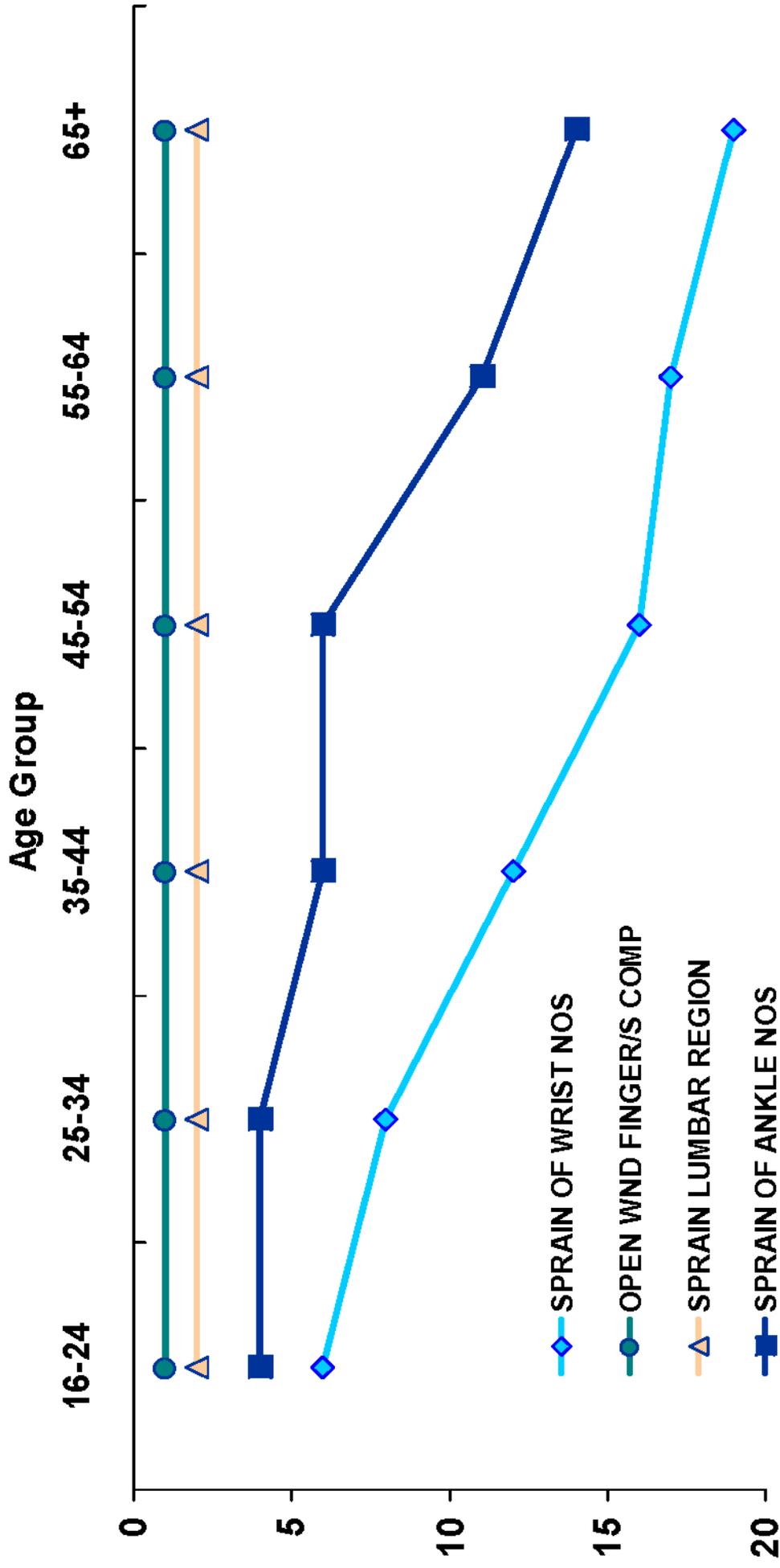


Source: NCCI (Countrywide Data)



# Medical-Only Claim Diagnoses Vary by Age

Frequency Rank for Medical-Only Claims



Source: NCCI (Countrywide Data)



## Key Takeaways—Medical Severity

- Major surgery, drugs and supplies, hospital services, and physical therapy account for nearly 60% of workers compensation medical payments in Arkansas between 1996 and 2002
- Hospital costs in Arkansas are well below those of the United States
- Ongoing increases in medical inflation and utilization suggest increases in medical severity in Arkansas
- Medical severity increases with age—and some more costly injury diagnoses tend to become more prevalent in older age groupings



# NCCI Prescription Drug Study

## Key Findings

- In 2001, workers compensation insurers paid roughly 75% more than group health for the same drugs
- Prescription drug share of medical costs in workers compensation increased to approximately 12% in Accident Year 2002
- After dominating for several years, utilization increases had a lesser impact than did price increases on workers compensation drug costs in 2002

# Workers Compensation vs. Group Health Payments for Prescription Drugs

- We compared payments for a fixed group of drugs common to workers compensation with payments made for those same drugs under group health in 2001
- Workers compensation paid approximately 125% of average wholesale prices (AWP)
- Group health paid approximately 72% of AWP
- Workers compensation paid approximately 75% more than group health

# Prescription Drugs Share of Total Medical Costs

## Accident Year Drug Costs/Total Medical (estimated at ultimate)

<u>Injury Year</u>	<u>% Rx</u>
1997	10.1%
1998	10.6%
1999	11.1%
2000	11.5%
2001	11.8%
2002	12.1%



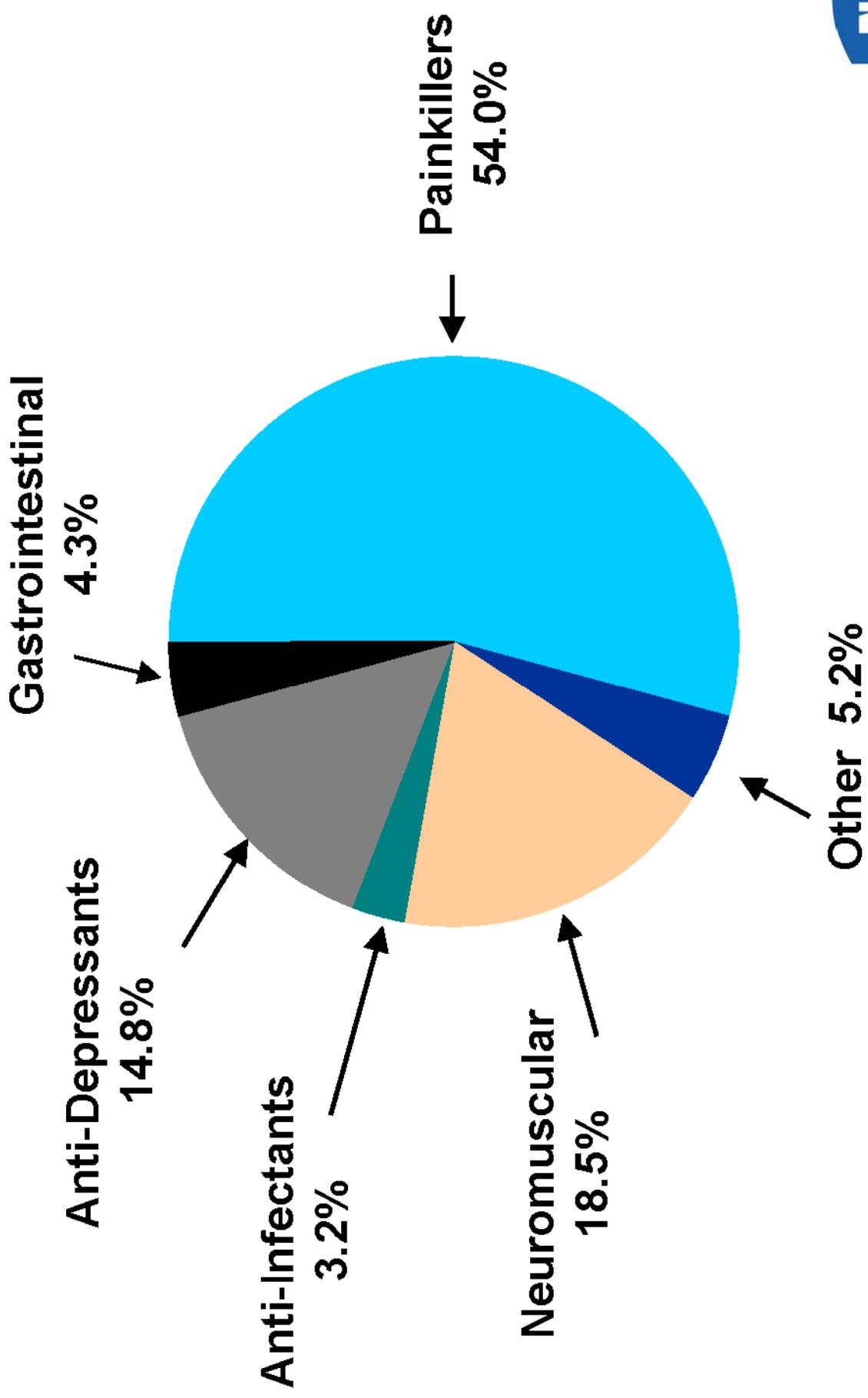
# Factors Affecting Change in Workers Compensation Drug Costs

<u>Years</u>	<u>Drug Price Impact</u>	<u>Utilization Impact</u>	<u>Total Impact</u>
1997–1998	1.07	1.06	1.13
1998–1999	1.12	1.21	1.35
1999–2000	1.07	1.16	1.25
2000–2001	1.08	1.22	1.31
2001–2002	1.08	1.07	1.15



# Most Prescribed Drugs in Workers Compensation

(1997–2002)



# Top Ten Prescribed Drugs in Workers Compensation by Total Paid

(1997–2002)

<u>Drug</u>	<u>% of Total Rx Paid</u>	<u>Brand vs. Generic</u>
Celebrex® (anti-inflammatory)	7.6%	Brand—generic not available
OxyContin® (painkiller)	6.6%	Brand—generic not available*
Vioxx® (anti-inflammatory)	5.6%	Brand—generic not available
Hydrocodone (painkiller)	5.4%	Generic
Neurontin® (painkiller)	4.9%	Brand—generic not available**
Carisoprodol (muscle relaxant)	3.2%	Generic
Ultram® (painkiller)	2.9%	Brand—generic not available
Cyclobenzaprine (muscle relaxant)	2.4%	Generic
Ambien® (sedative)	2.1%	Brand—generic not available
Naproxen® (anti-inflammatory)	2.1%	Generic

\* Generic versions of OxyContin® (oxycodone hydrochloride extended-release tablets FDA approved 3/04.

\*\* Generic for Neurontin® FDA approved 9/03.



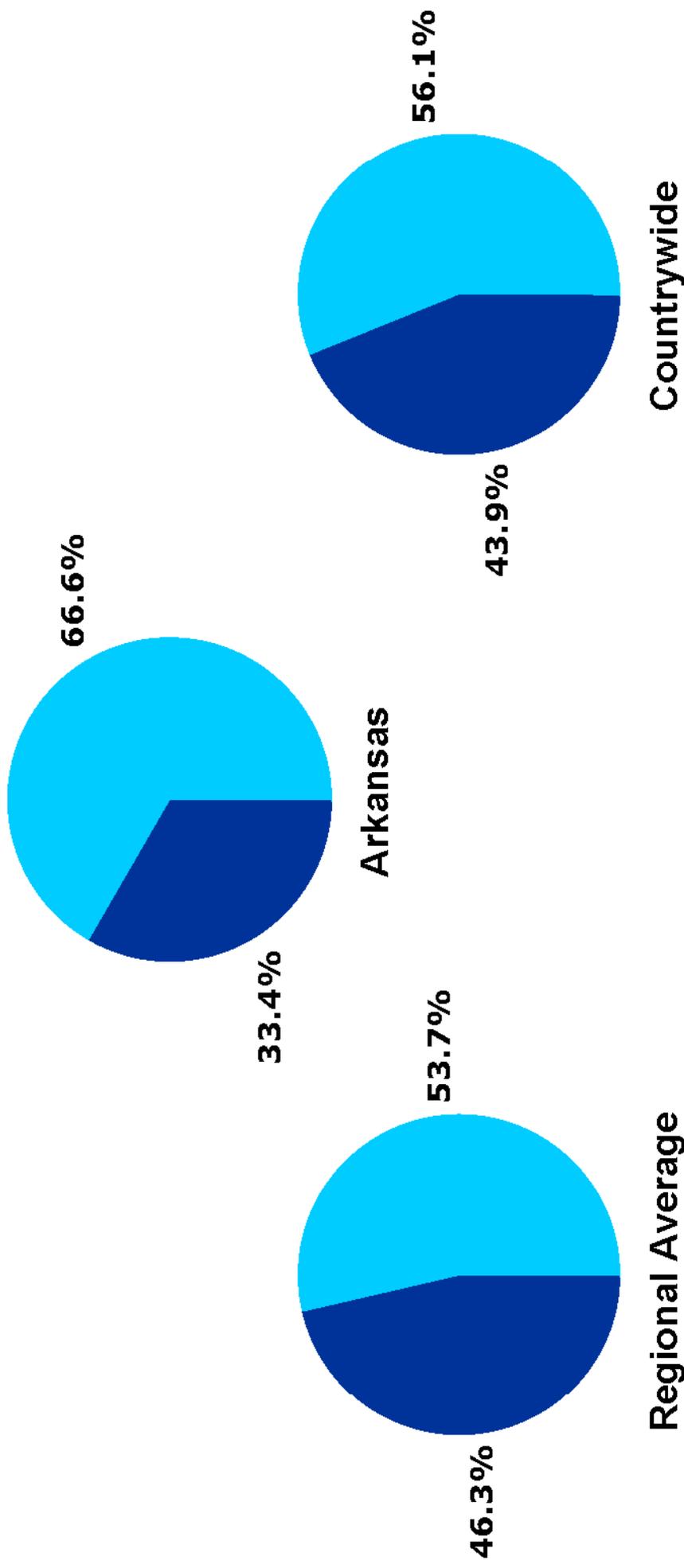
# Drugs Showing Rising Rankings in Workers Compensation

<u>Drug</u>	FDA Approval <u>Date</u>	Ranking 1997–2001 <u>Data</u>	Ranking 1997–2002 <u>Data</u>
Bextra® (painkiller)	11/01	1852	<b>19</b>
Ultracet® (painkiller)	8/01	212	<b>31</b>
Actiq® (painkiller)	11/98	224	<b>47</b>
Tizanidine HCL (muscle relaxant) — generic form of Zanaflex®	7/02	N/A	<b>34</b>
Tramadol (painkiller) — generic form of Ultram®	6/02	N/A	<b>39</b>





# Indemnity Benefits Constitute the Majority of Total Benefit Costs in Arkansas



Regional Average

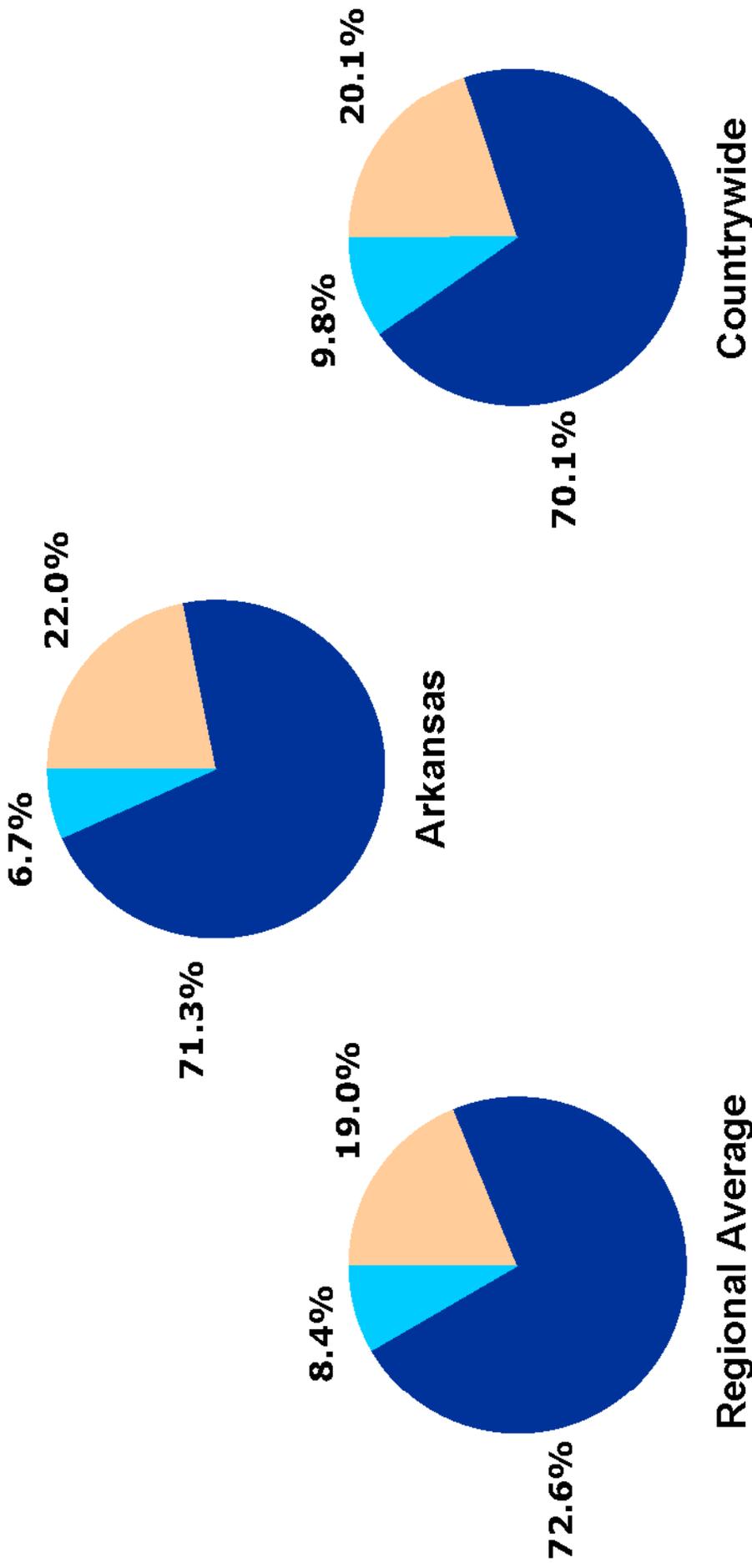
Countrywide

■ Indemnity   ■ Medical

Regional states are Louisiana, Mississippi, Missouri, Oklahoma and Tennessee.



# Arkansas Indemnity Loss Distribution by Injury Type

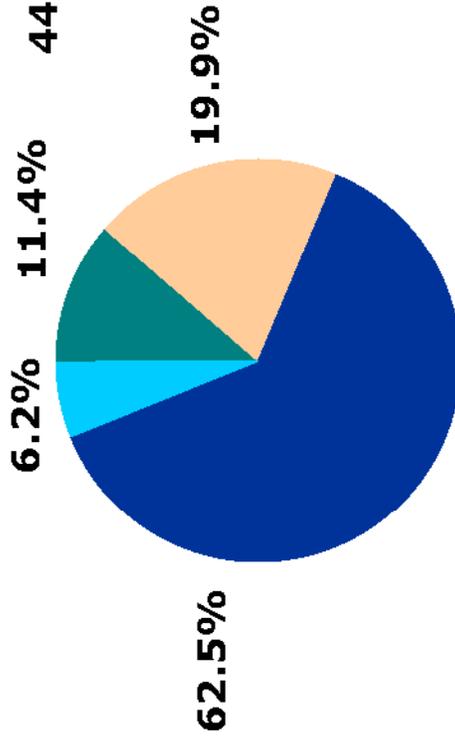
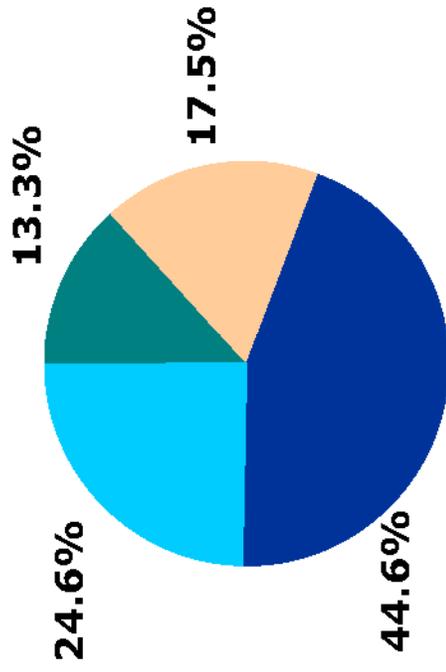


■ Temporary Total    
 ■ Permanent Partial    
 ■ Permanent Total/Fatal

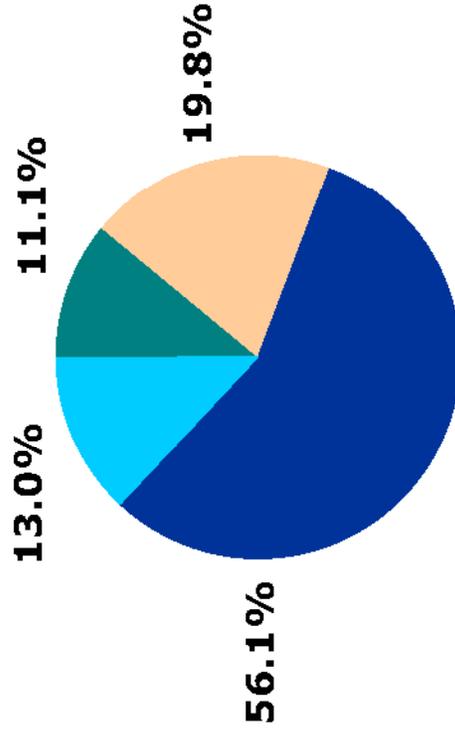


Regional states are Louisiana, Mississippi, Missouri, Oklahoma, and Tennessee. Based on NCCI's WCSP data.

# Arkansas Medical Loss Distribution by Injury Type



Regional Average



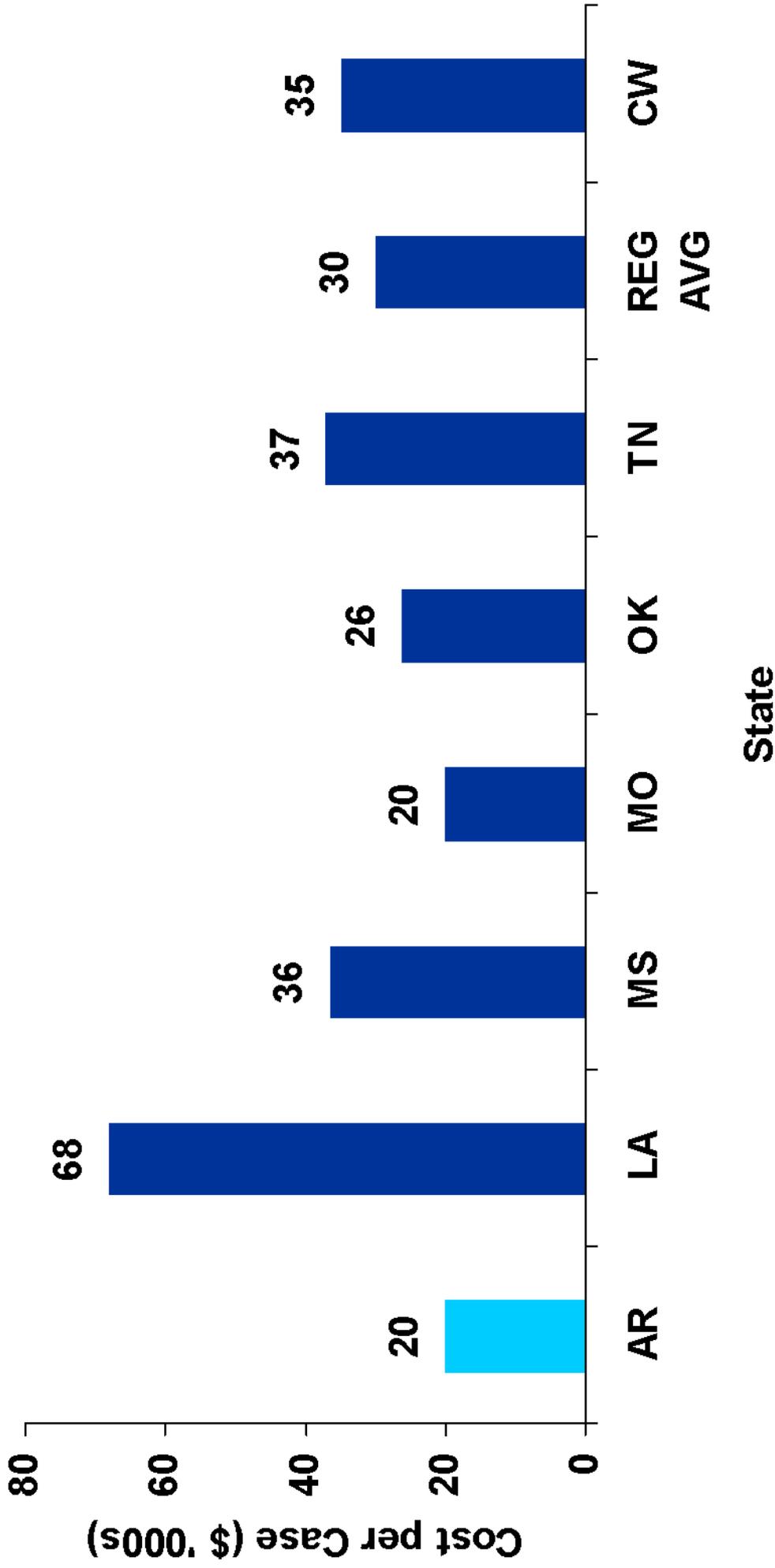
Countrywide

■ Medical Only
 ■ Temporary Total
 ■ Permanent Partial
 ■ Permanent Total/Fatal



Regional states are Louisiana, Mississippi, Missouri, Oklahoma, and Tennessee. Based on NCCI's WCSP data.

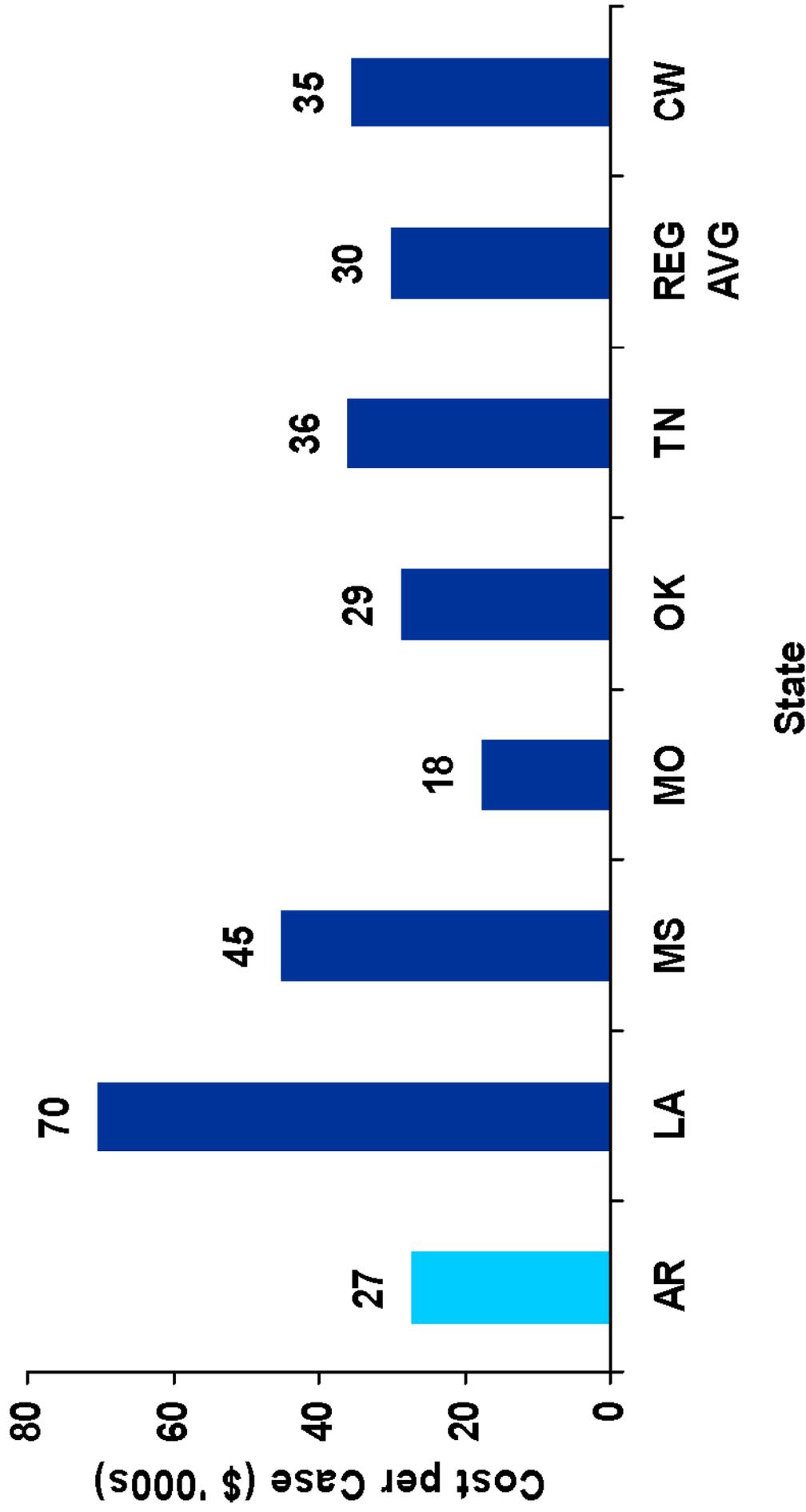
# Arkansas Indemnity Permanent Partial Average Cost per Case



Based on NCCI's WCSP data.



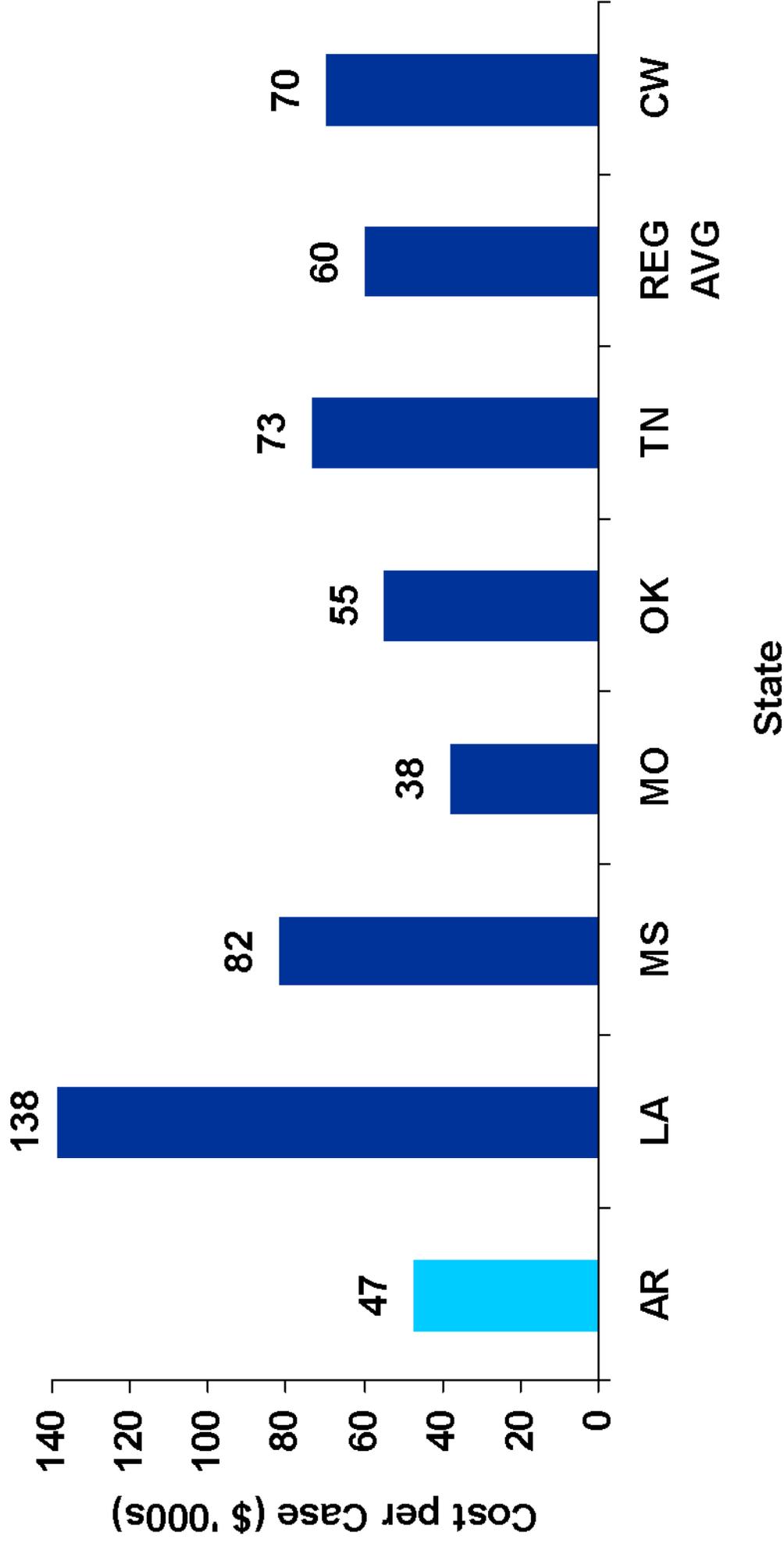
# Arkansas Permanent Partial Medical Average Cost per Case



Based on NCCI's WCSP data.



# Arkansas Permanent Partial Average Total per Case ...

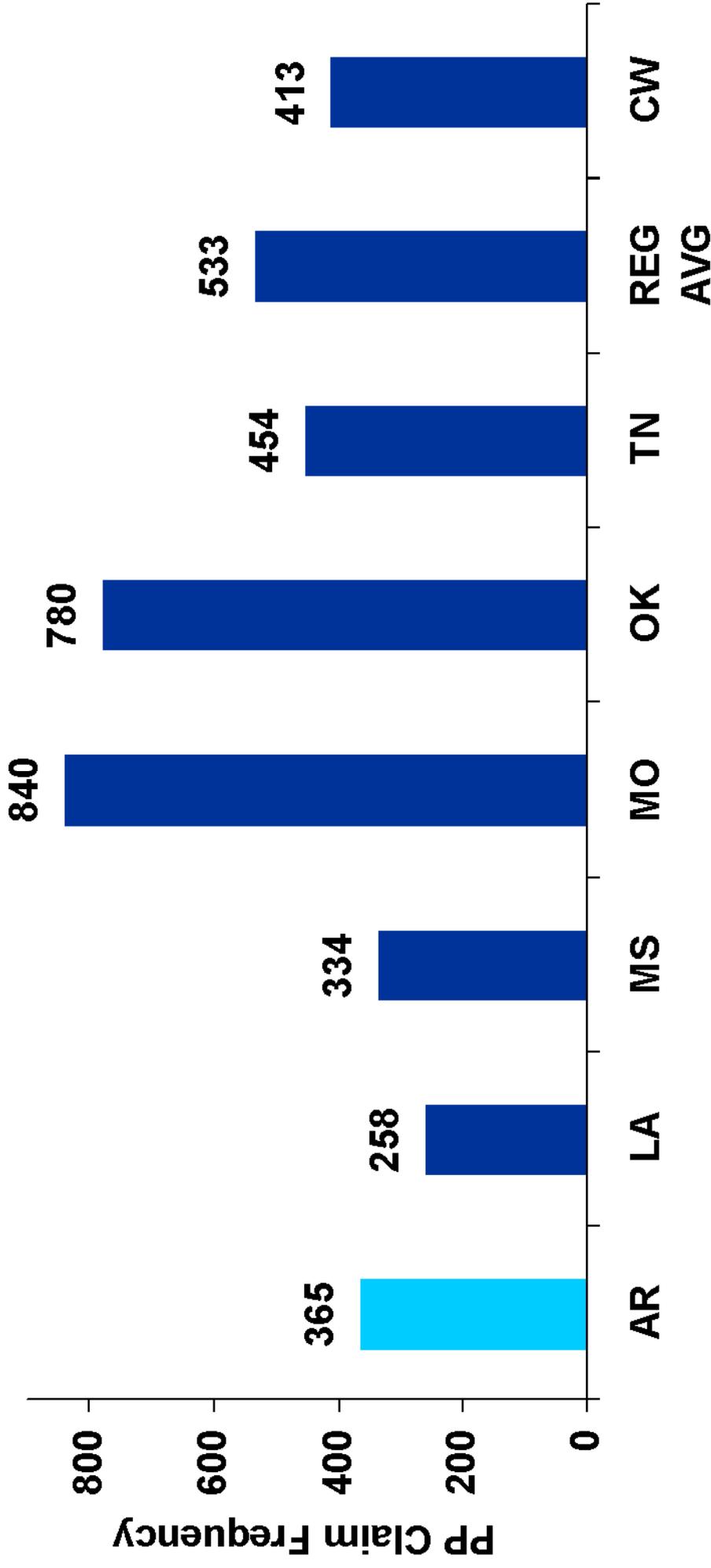


Based on NCCI's WCSP data.



# ... Times Arkansas Average Frequency of Permanent Partial Claims ...

Permanent Partial Frequency per 100,000 Workers



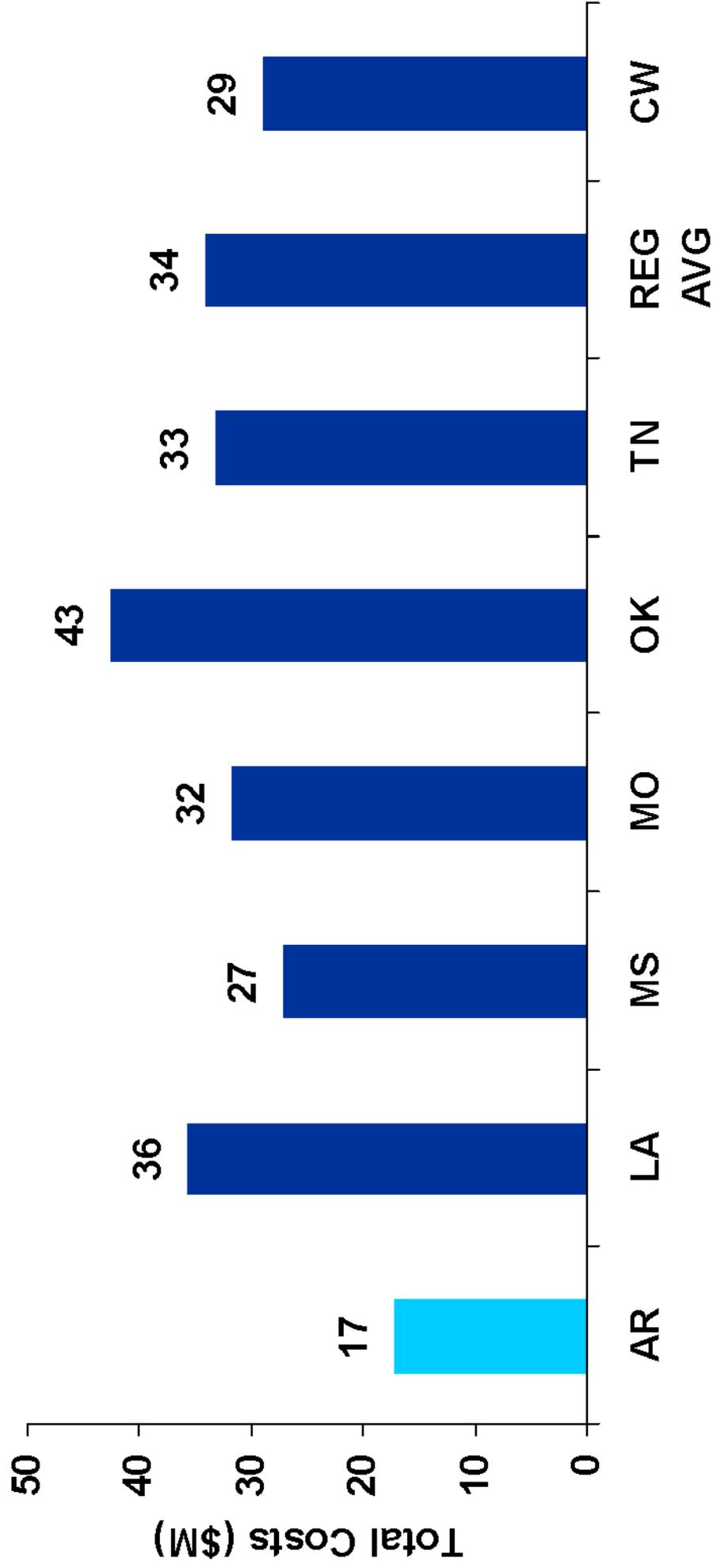
State



Based on NCCI's WCSP data.

# ... Gives Arkansas Permanent Partial Total Costs

Permanent Partial Costs per 100,000 Workers

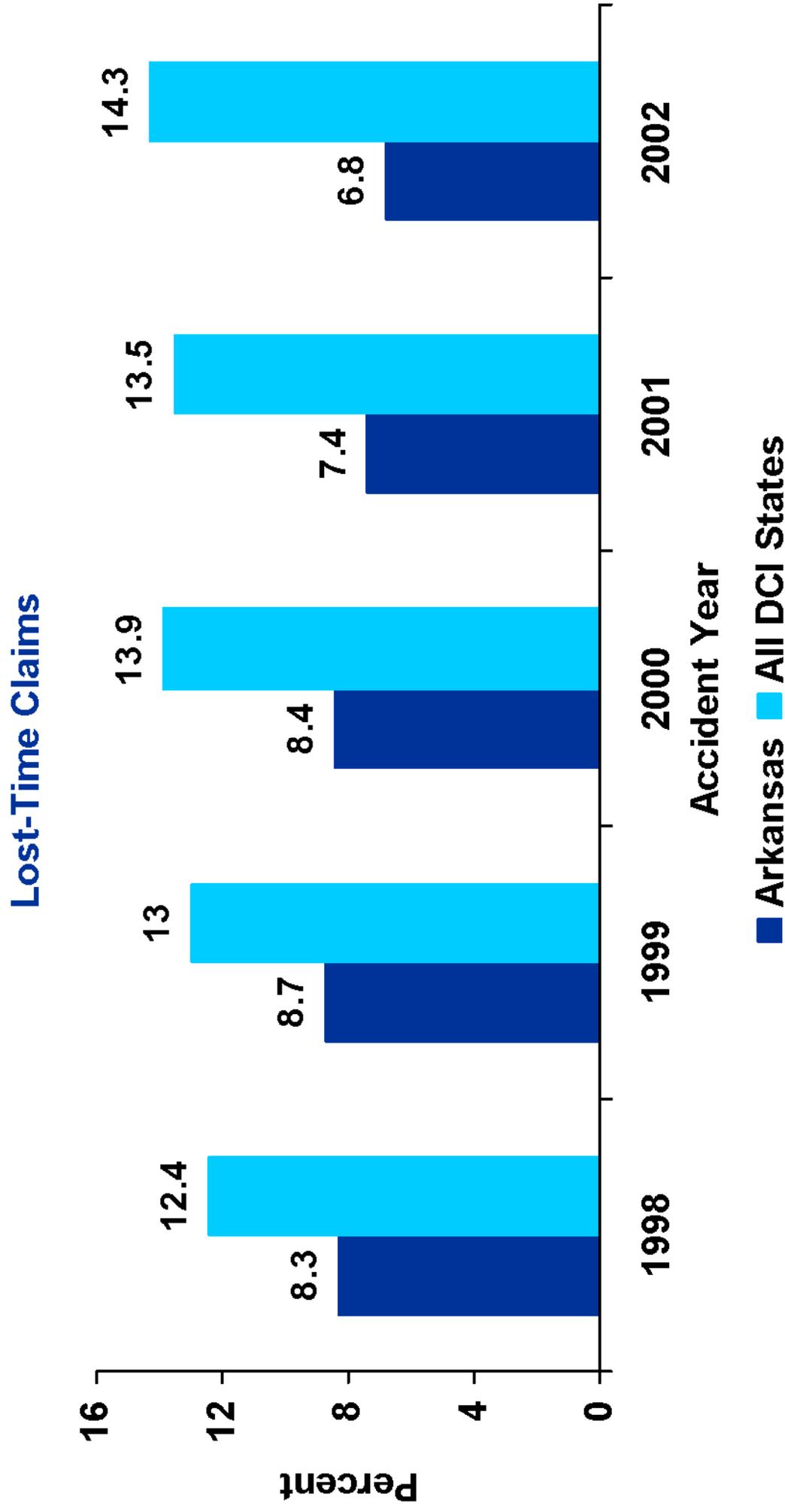


State



Based on NCCI's WCSP data.

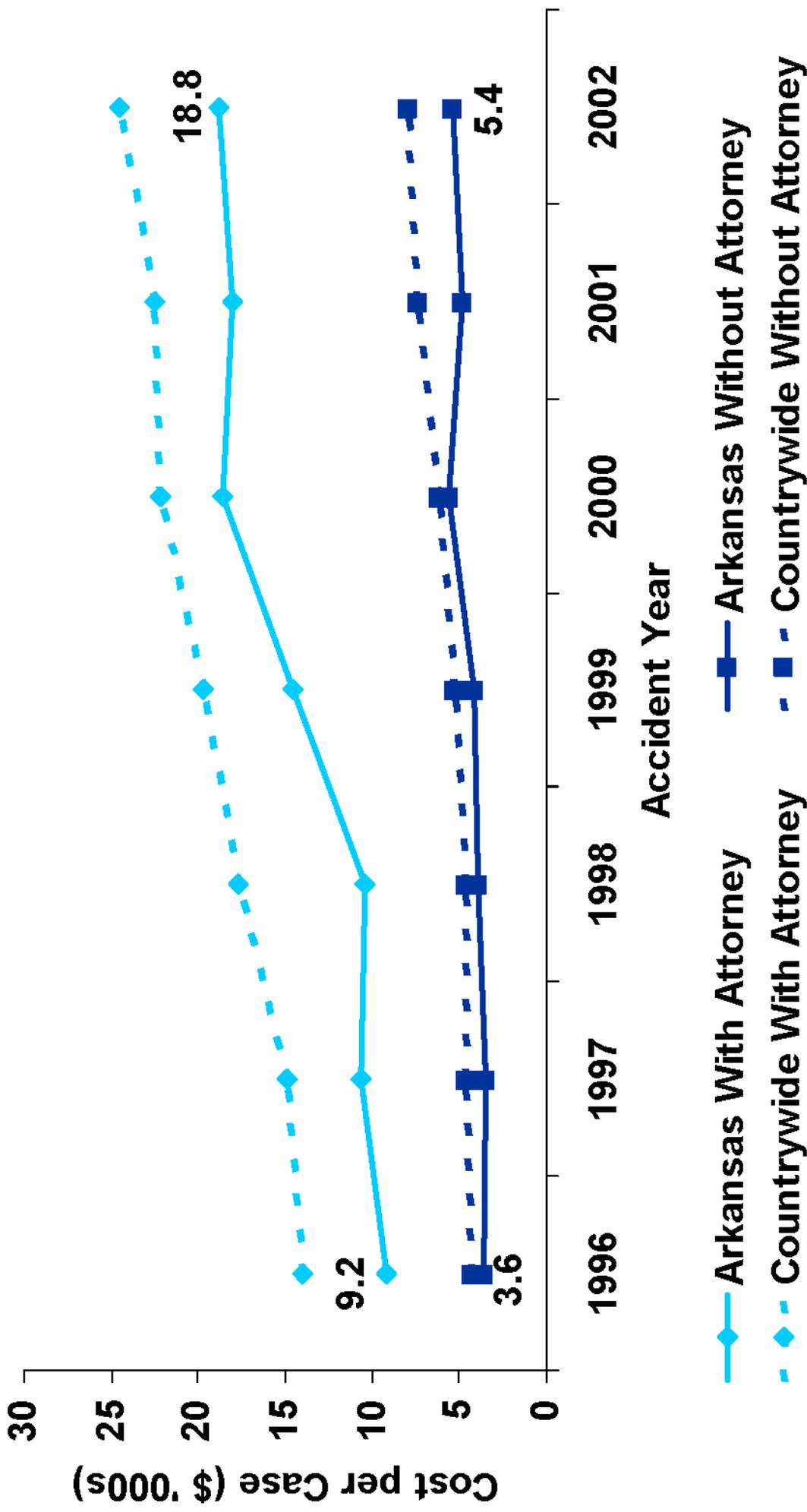
# Percentage of Claims With Attorney Involvement



Accident Years 1997 to 2001 at 2nd report.  
Based on NCCI's DCI data.



# Arkansas Indemnity Average Claim Costs When an Attorney Is Involved



Based on NCCI's DCI data.





## 2005 Legislative Challenges

- Workers compensation reform legislation has gained increased popularity. Major reform efforts are currently being undertaken in MO, OK, and TX.
- Follow-up reform work is being undertaken in TN and VT as these states pursue medical cost containment legislation required by the reforms of 2004.
- 15 states have new commissioners since the 2004 fall elections.
- Some states have been experiencing fall out from the NY Attorney General Spitzer's investigations of broker arrangements.

# Federal Legislative Issues

- Terrorism Risk Insurance Act (TRIA)
- SMART proposal

# Arkansas 2005 Legislation

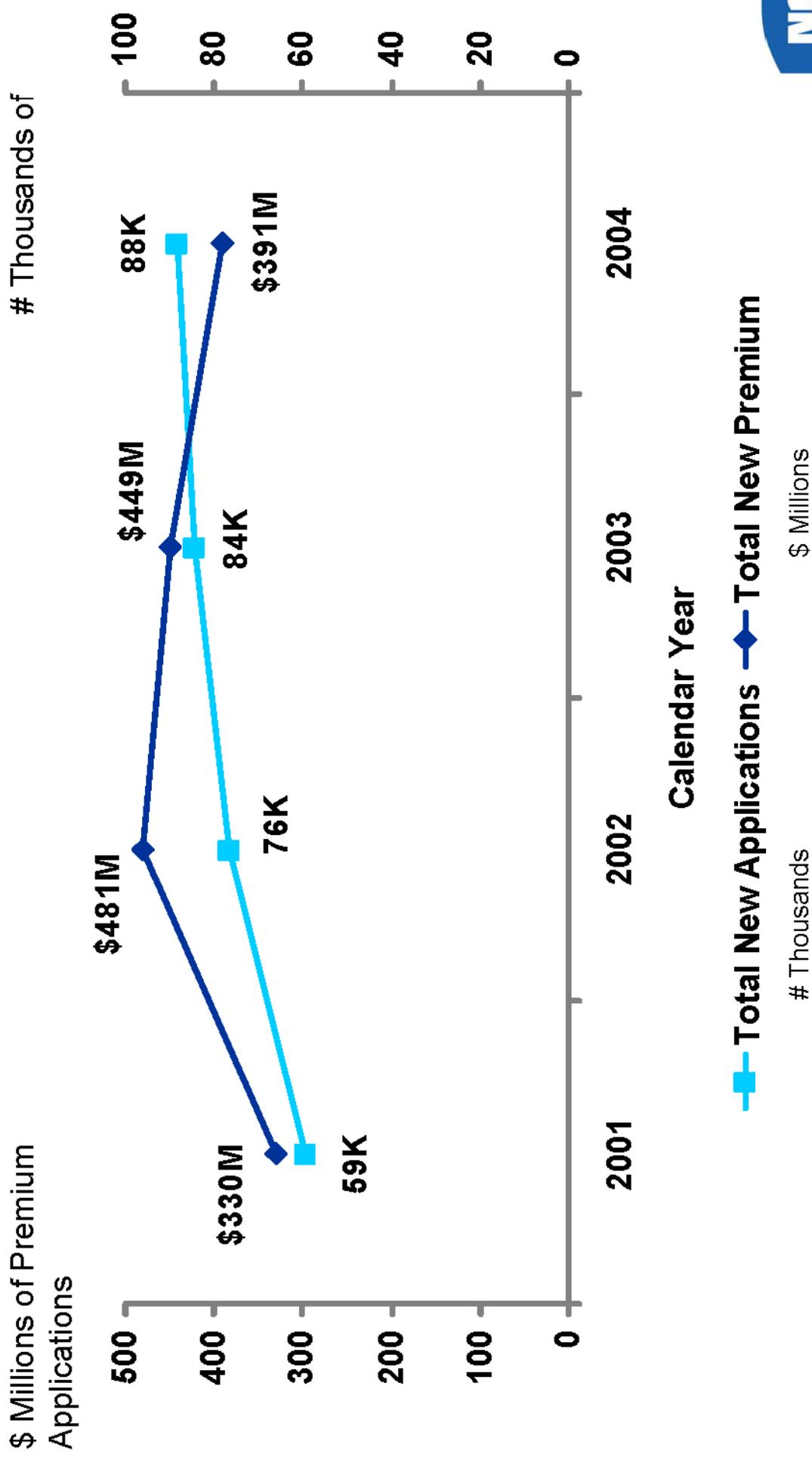
- HB 1011—Passed—Adds "neck" injuries to the workers compensation definition of compensable injuries not caused by a specific accident
- SB 489—Passed—Requires contractors to show proof of workers compensation coverage when applying for a new or renewal contractor's license
- SB 941—Passed—Prohibits the issuance of a certificate of noncoverage to a subcontractor that does not have workers compensation coverage

# Arkansas 2005 Legislation

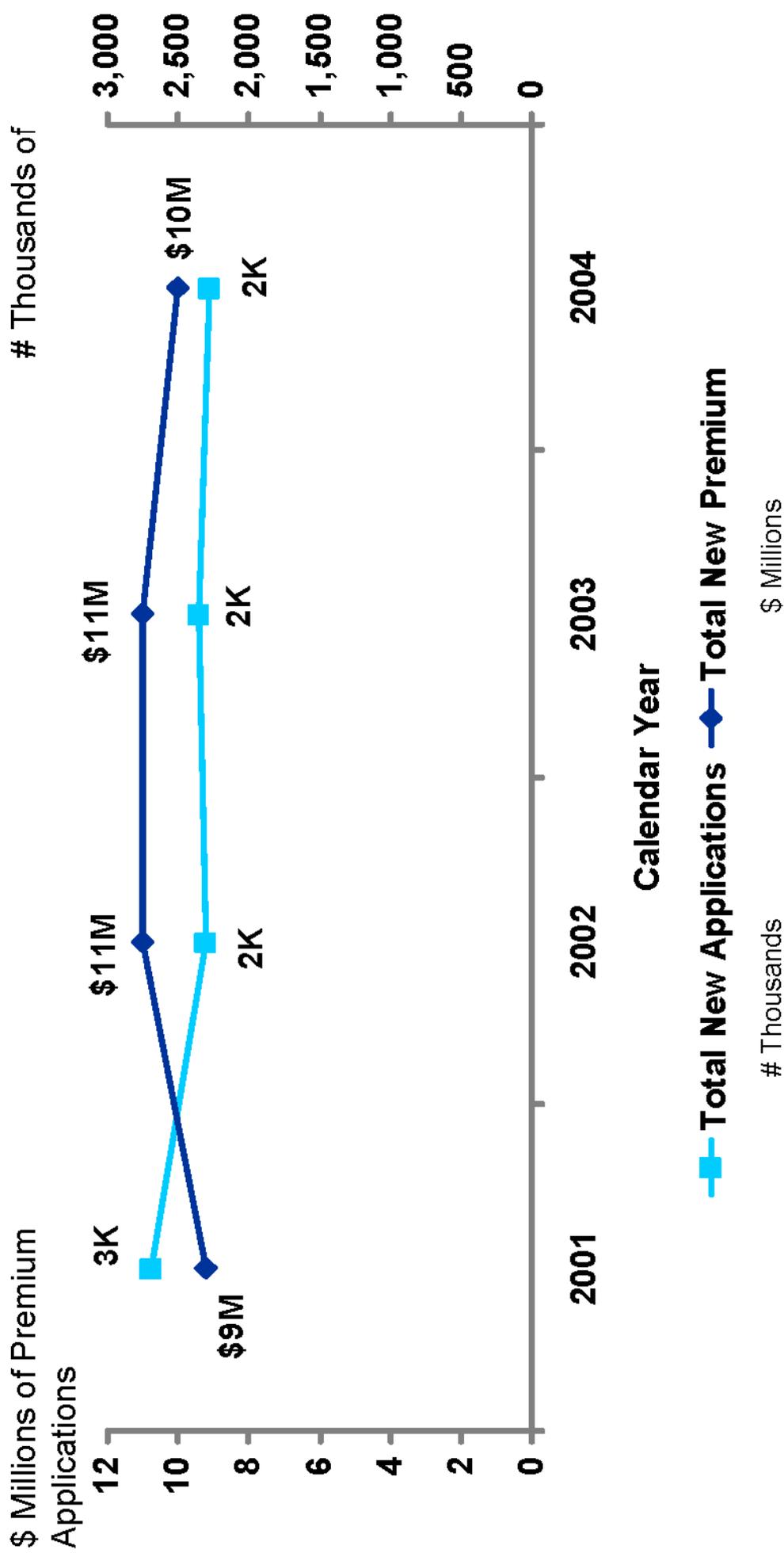
- **HB 1101—Not Passed—**Adds to the definition of "compensable injury" to consider an injury to an employee while traveling to or from the workplace as an injury "arising in the course of employment"
- **SB 47—Not Passed—**Relating to attorney fees for medical treatment awards in workers compensation cases where the recovery for indemnity benefits is \$5,000 or less or less than 20% of the total recovery



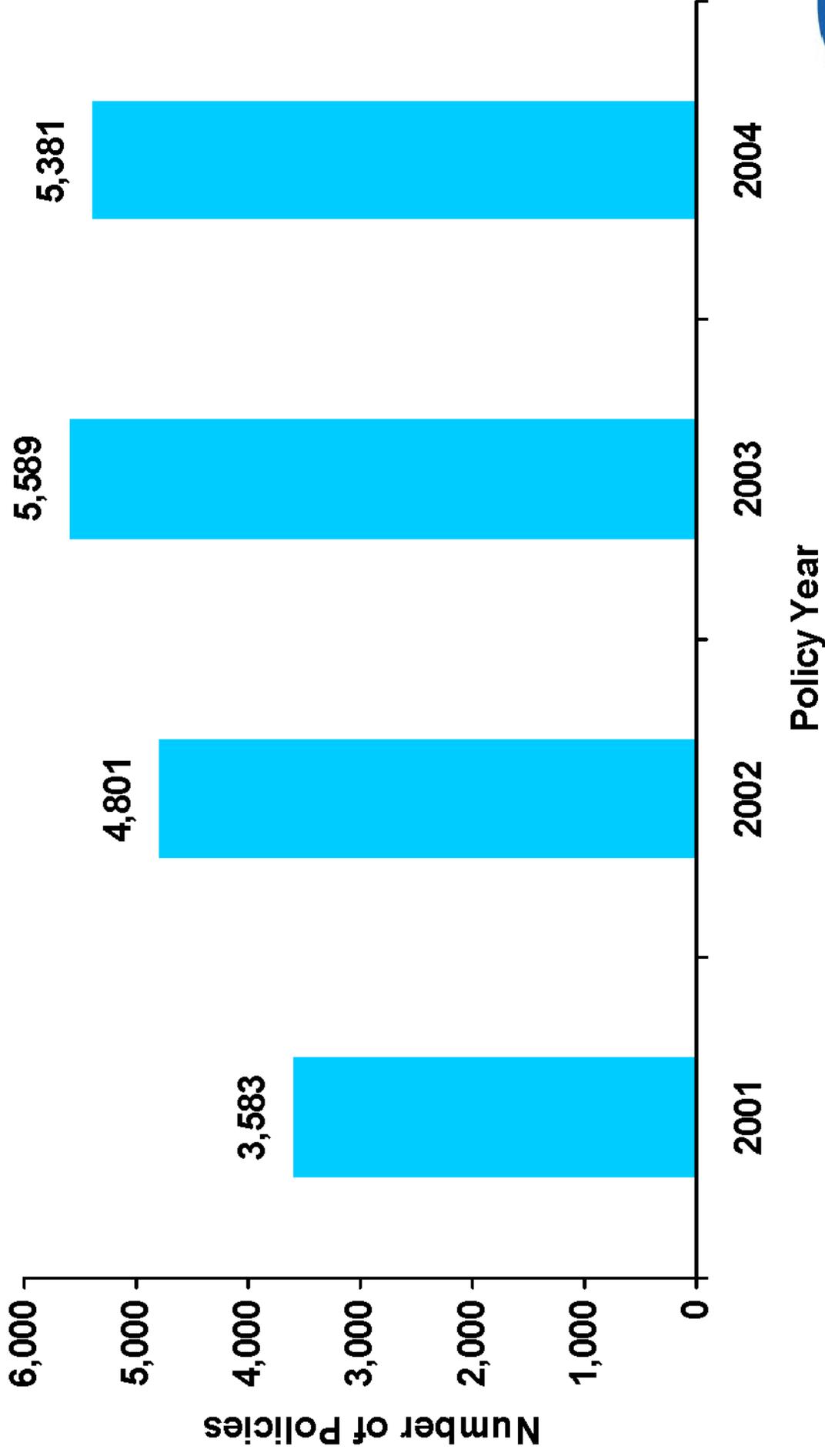
# Total Residual Market New Applications and Premium Assigned in All Plan States



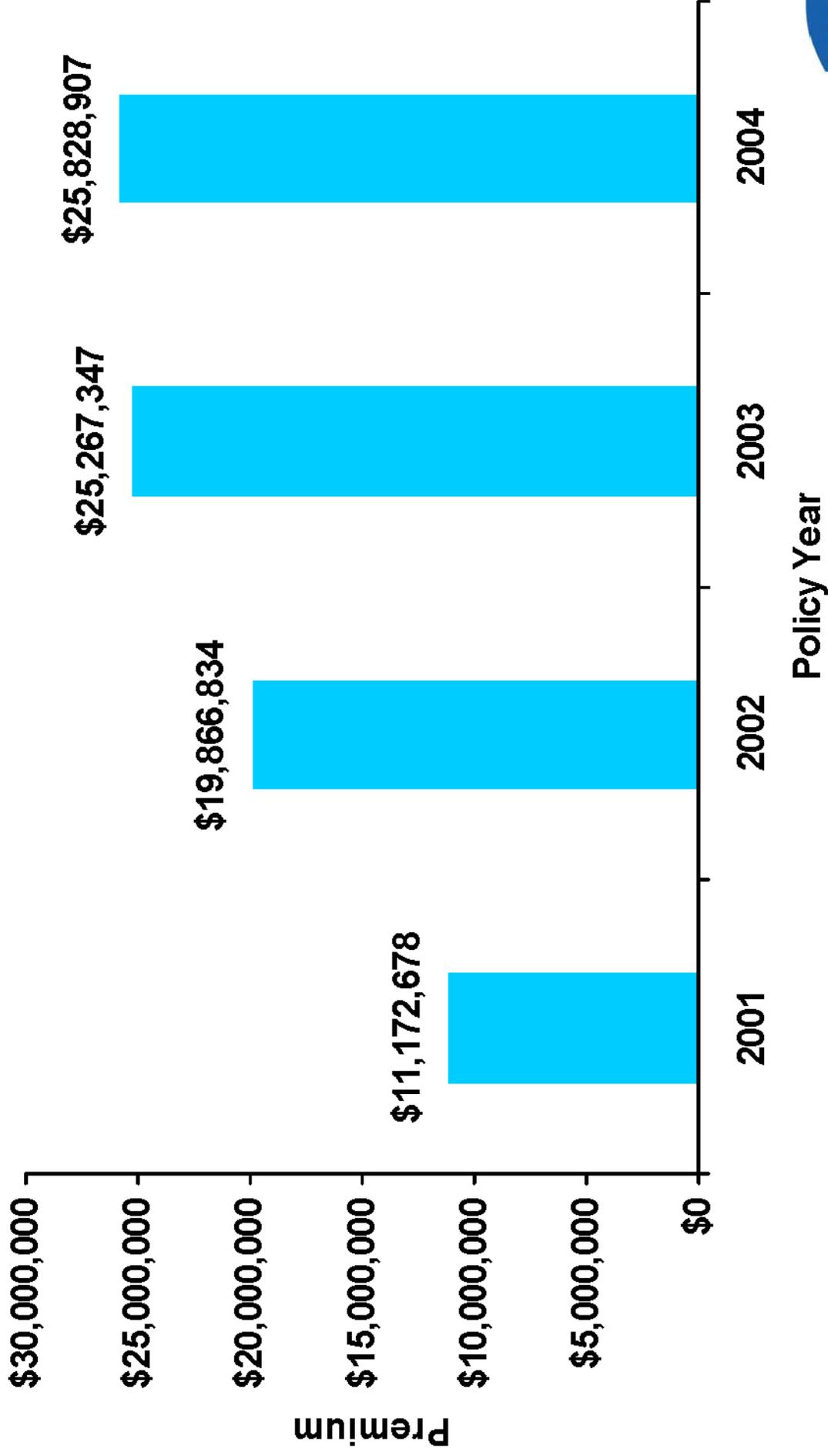
# Total Residual Market New Applications and Premium Assigned in Arkansas



# Arkansas Total Residual Market Plan Policy Count



# Arkansas Total Residual Market Plan Premium Volume



Note: Estimated premium from applications and policy information pages.

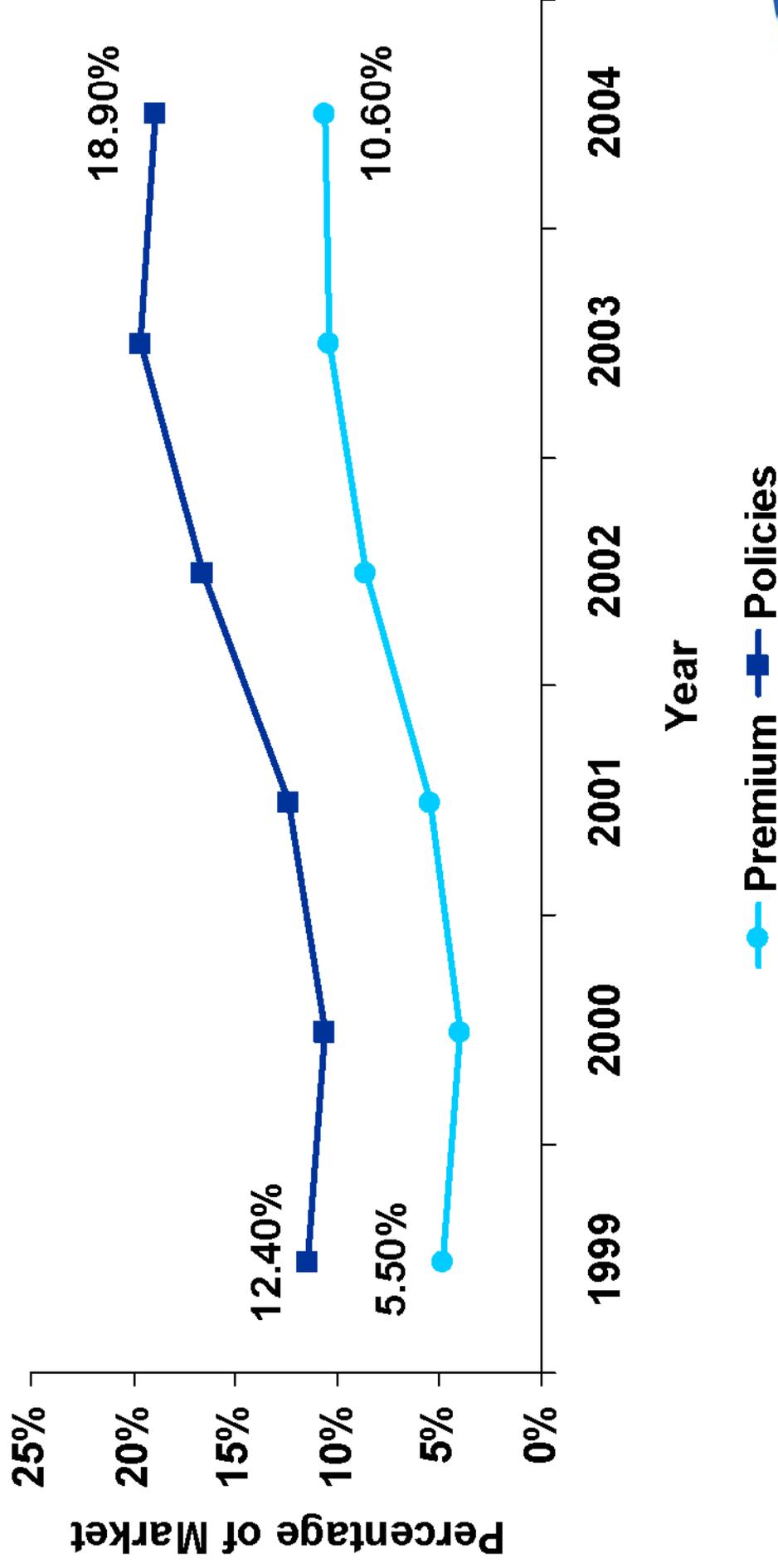


# Arkansas Residual Market Plan 2003 vs. 2004 Total Policy Size Comparison

Premium Size	2003		2004	
	# of Policies	Premium	# of Policies	Premium
\$0-\$2,499	3,757	\$3,215,016	3,610	\$3,187,460
\$2,500-\$4,999	809	\$2,470,615	736	\$2,320,801
\$5,000-\$9,999	482	\$2,955,591	485	\$3,004,387
\$10,000-\$19,999	279	\$3,253,928	301	\$3,650,564
\$20,000-\$49,999	165	\$4,392,008	149	\$4,308,264
\$50,000-\$99,999	66	\$3,614,045	63	\$3,958,452
\$100,000-\$199,999	23	\$2,450,960	32	\$3,749,613
\$200,000 and greater	8	\$2,915,184	5	\$1,649,366
<b>TOTAL</b>	<b>5,589</b>	<b>\$25,267,347</b>	<b>5,381</b>	<b>\$25,828,907</b>



# Comparison of the Market Share for the Residual Market in Arkansas by Total Policy Count and Written Premium



Note: Market share as a percentage of residual market total written premium/policies in force.



# Growing Percentages of New Arkansas Residual Market Plan Applications Are Being Processed Online

Percentage of Arkansas' New Applications Received via Electronic Transmission at Month's End

	<u>Arkansas</u>	<u>National Average</u>
December 2001	25.9%	29.9%
December 2002	35.0%	42.7%
December 2003	49.7%	57.7%
December 2004	57.8%	68.9%



# Top Five Class Codes in Arkansas Based on Residual Market Plan Total Policy Count

## Nationally

5645—Carpentry (7.8%)

8810—Clerical (5.9%)

5474—Painting (2.8%)

7228—Trucking, Local  
(2.6%)

8742—Outside Sales  
(2.6%)

## Arkansas

5645—Carpentry (10%)

8810—Clerical (7.1%)

8832—Physician (3.6%)

6217—Excavation (2.6%)

9082—Restaurant (2.4%)

# Top Five Class Codes in Arkansas Based on Residual Market Plan Total Written Premium

## Nationally

5645—Carpentry (4.6%)

8861—Charitable Organizations  
(3.5%)

7229—Trucking, Long Distance  
(2.7%)

7228—Trucking, Local (2.2%)

5551—Roofing (2.2%)

## Arkansas

5645—Carpentry (6%)

5022—Masonry (6%)

7229—Trucking, Long Distance  
(3.6%)

7423—Aircraft Operation (3%)

7720—Police Officers (2.5%)

# Demographics: Top Ten Zip Codes With the Largest Number of Arkansas Residual Market Policies

Zip Code	City	Policy Counts	% of Policies in Zip Code
71730	ELDORADO, AR	130	2.62%
71913	HOT SPRINGS, AR	116	2.34%
72712	BENTONVILLE, AR	109	2.20%
72756	ROGERS, AR	94	1.90%
71901	HOT SPRINGS, AR	88	1.78%
72764	SPRINGDALE, AR	78	1.57%
72401	JONESBORO, AR	75	1.51%
72701	FAYETTEVILLE, AR	74	1.49%
72653	MOUNTAIN HOME, AR	70	1.41%
72015	BENTON, AR	67	1.35%
		901	18.17%



# Demographics: Top Ten Zip Codes With the Largest Arkansas Residual Market Premium Volume

Zip Code	City	Premium in Zip Code	% of Premium in Zip Code	Avg Policy Size
71730	ELDORADO, AR	\$2,571,570	12.21%	\$19,781
71913	HOT SPRINGS, AR	\$485,956	2.31%	\$4,189
71731	EL DORADO, AR	\$366,012	1.74%	\$22,876
71854	TEXARKANA, AR	\$360,581	1.71%	\$6,556
72653	MOUNTAIN HOME, AR	\$343,724	1.63%	\$4,910
72078	JACKSONVILLE, AR	\$329,224	1.56%	\$36,580
72712	BENTONVILLE, AR	\$328,786	1.56%	\$3,016
72113	MAUMELLE, AR	\$307,647	1.46%	\$10,255
72143	SEARCY, AR	\$277,238	1.32%	\$4,401
72756	ROGERS, AR	\$256,074	1.22%	\$2,724
		\$5,626,812	26.70%	



# Demographics: Some Interesting Facts

New applications received by NCCI provide some interesting information, based on how the producers answer the questions, such as:

- Request USL&H coverage
  - 8 of 494 applications requesting USL&H coverage were from Arkansas (or 1.6%)
- Indicate that the risk was previously “Self-Insured”
  - 69 of 3,604 applications indicating previous self-insurance were from Arkansas (or 1.9%)

Note: “Self-Insured” could also indicate small accounts that were formerly group self-insureds or PEOs.



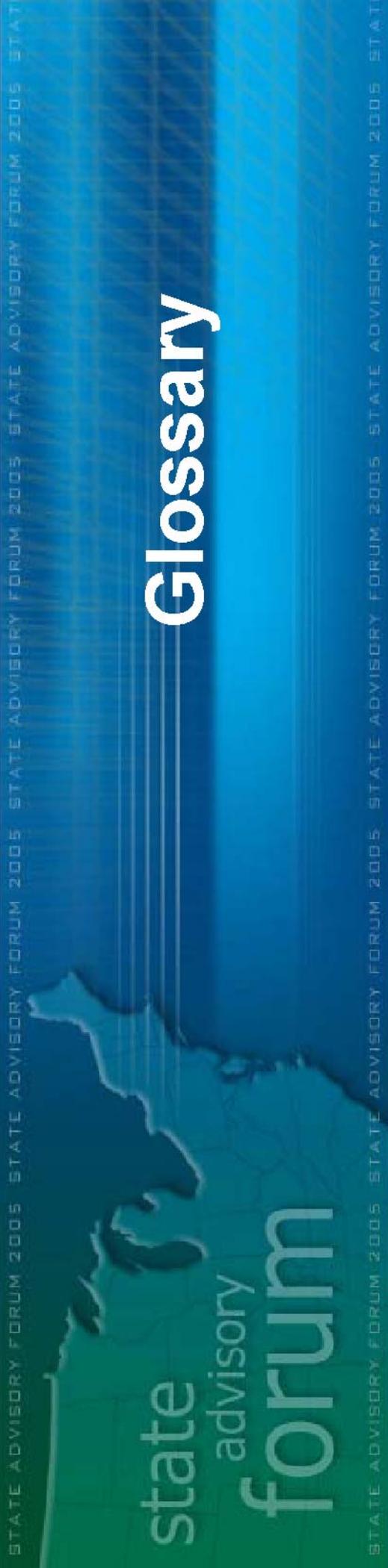






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# Glossary



# Glossary

- **Assigned Risk Adjustment Program (ARAP)**—An assigned risk market program that surcharges residual market risks based on the magnitude of their experience rating modification.
- **Calendar Year (CY)**—Experience of earned premium and loss transactions occurring within the calendar year beginning January 1, irrespective of the contractual dates of the policies to which the transactions relate and the dates of the accidents.
- **Calendar-Accident Year (AY)**—The accumulation of loss data on all accidents with the date of occurrence falling within a given calendar year. The premium figure is the same as that used in calendar year experience.
- **Claim Frequency**—The number of claims per unit of exposure. For example, the number of claims per million dollars of premium or per one hundred workers

# Glossary

- **Claim Severity**—The average cost of a claim. Severity is calculated by the dividing total losses by the total number of claims.
- **Combined Ratio**—The sum of the (i) loss ratio, (ii) expense ratio, and (iii) dividend ratio for a given time period.
- **Detailed Claim Information (DCI)**—An NCCI call that collects detailed information on an individual workers compensation lost-time claim basis, such as type of injury, whether or not an attorney was involved, timing of the claim's report to the carrier, etc.
- **Direct Written Premium (DWP)**—The gross premium income adjusted for additional or return premiums, but excluding any reinsurance premiums.



# Glossary

- **Indemnity Benefits**—Payments by an insurance company to cover a injured worker's time lost from work. These benefits are also referred to as “wage replacement” benefits.
- **Loss Ratio**—The ratio of losses to premium for a given time period.
- **Lost-Time (LT) Claims**—Claims resulting in indemnity benefits (and usually medical benefits) being paid to or on behalf of the injured worker for time lost from work.
- **Medical-Only Claims**—Claims resulting in only medical benefits being paid on behalf of an injured worker.
- **Net Written Premium (NWP)**—The gross premium income adjusted for additional or return premiums and including any additions for reinsurance assumed and any deductions for reinsurance ceded.



# Glossary

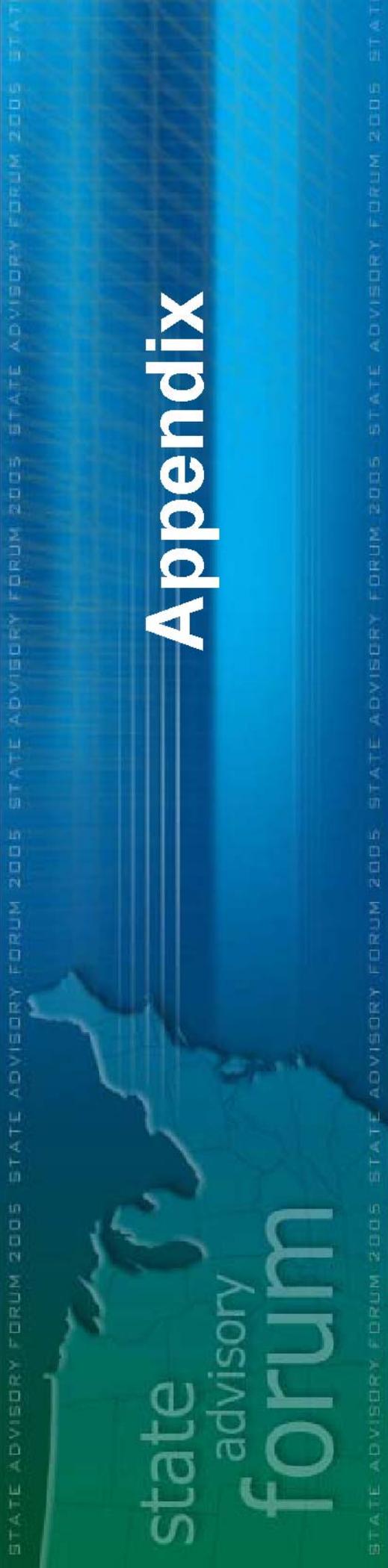
- **Permanent Partial (PP)**—Disability that prevents the insured from working at their own (and sometimes any) occupation. A disability is considered to result in partial permanent loss of earning power.
- **Policy Year (PY)**—Premium and loss data on business for a 12-month period for policies with inception dates within the 12-month period.
- **Schedule Rating**—A debit and credit plan that recognizes variations in the hazard-causing features of an individual risk.
- **Take-Out Credit Program**—An assigned risk program that encourages carriers to write current residual market risks in the competitive voluntary marketplace.
- **Temporary Total (TT)**—A disability that totally disables a worker for a temporary period of time.





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# Appendix



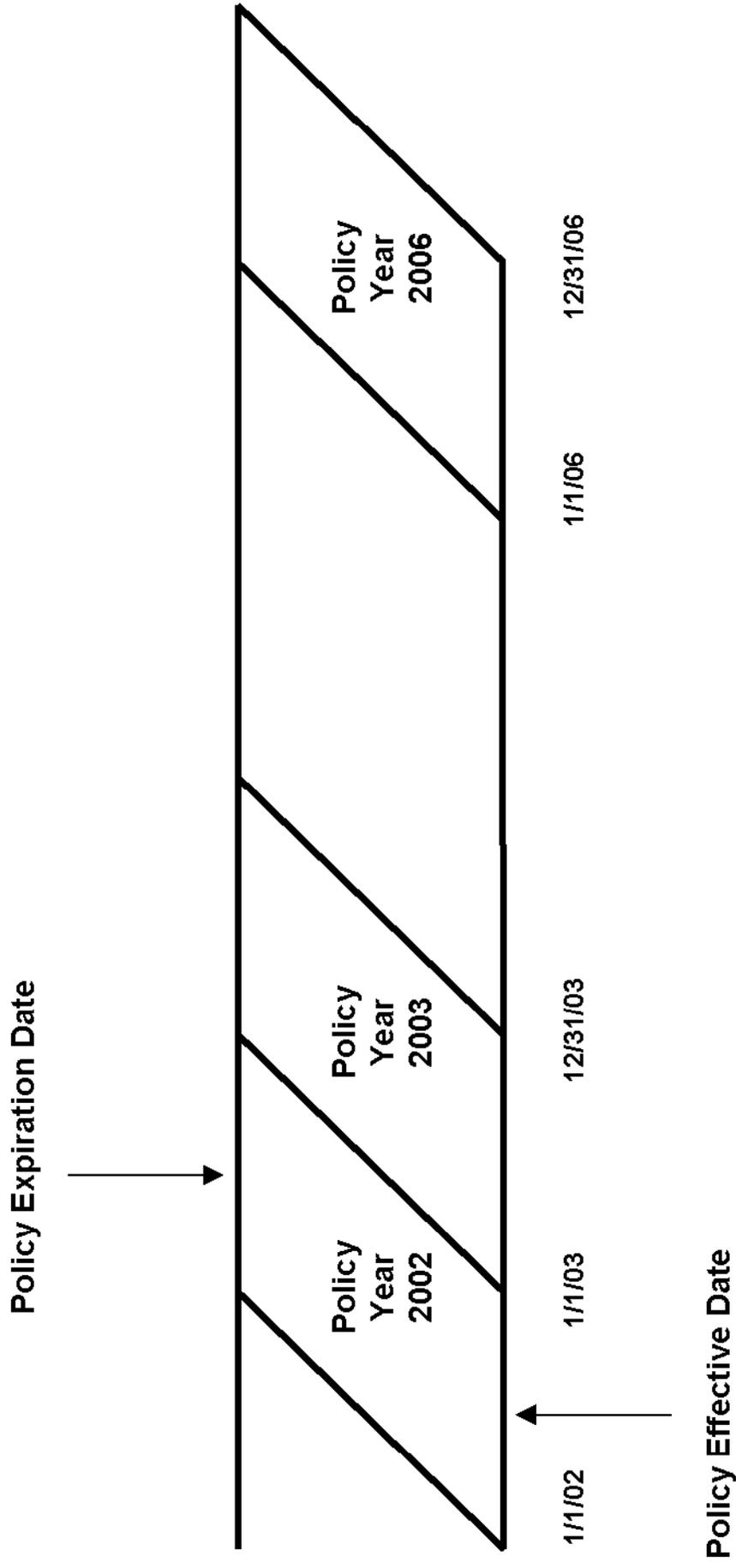
# NCCI Workers Compensation Databases

- **Financial Aggregate Calls**
  - Used for aggregate ratemaking
- **Workers Compensation Statistical Plan (WCSP)**
  - Used for class ratemaking
- **Detailed Claim Information (DCI)**
  - In-depth sample of lost-time claim information
- **Policy Data**
  - Policy declaration page information

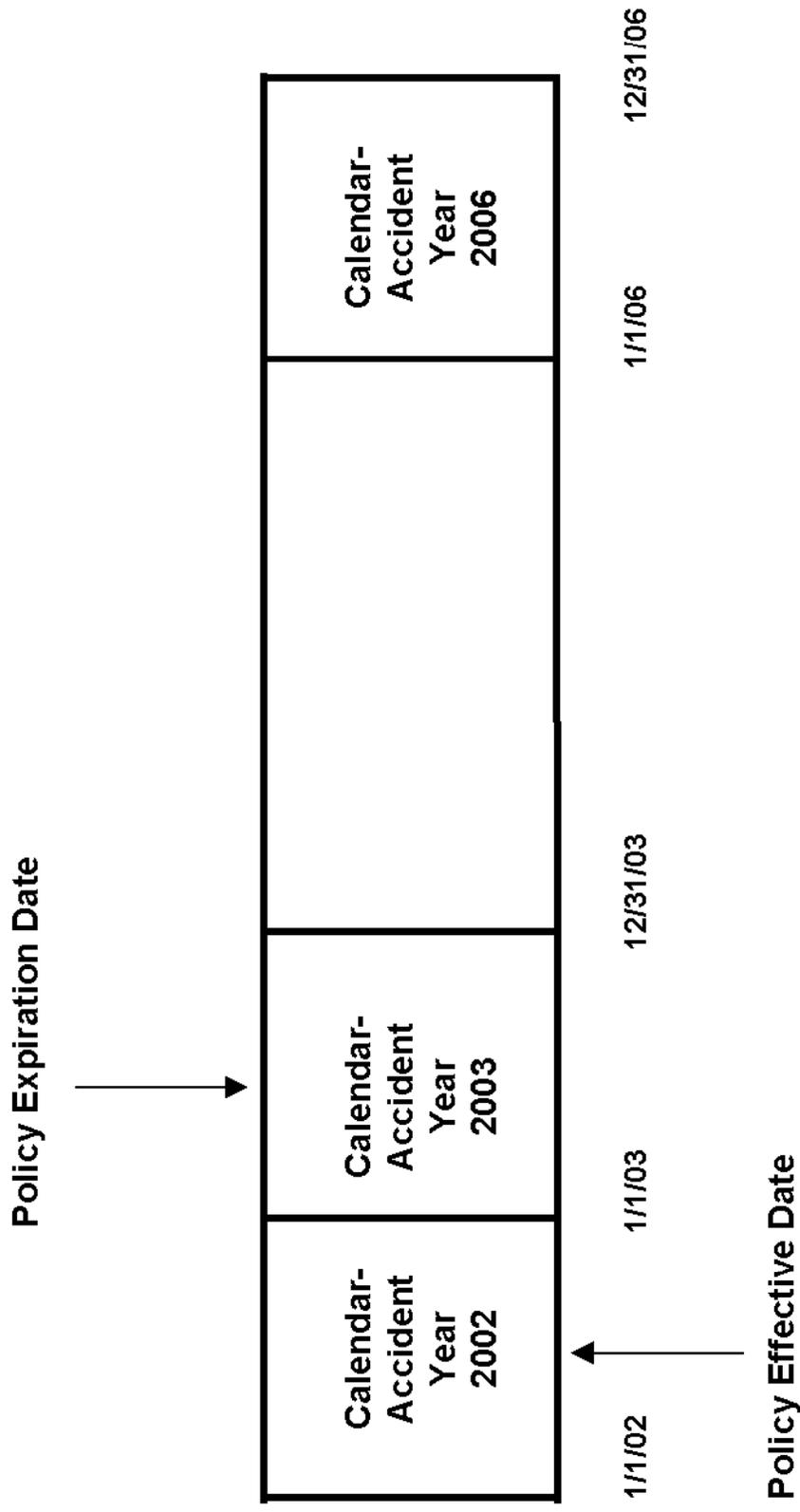
# Financial Aggregate Calls

- **Collected Annually**
  - Policy and calendar-accident year basis
  - Statewide and assigned risk data
- **Premiums, Losses, and Claim Counts**
  - Evaluated as of December 31
- **Purpose**
  - Basis for overall aggregate rate indication
  - Research

# Policy Year Financial Aggregate Data



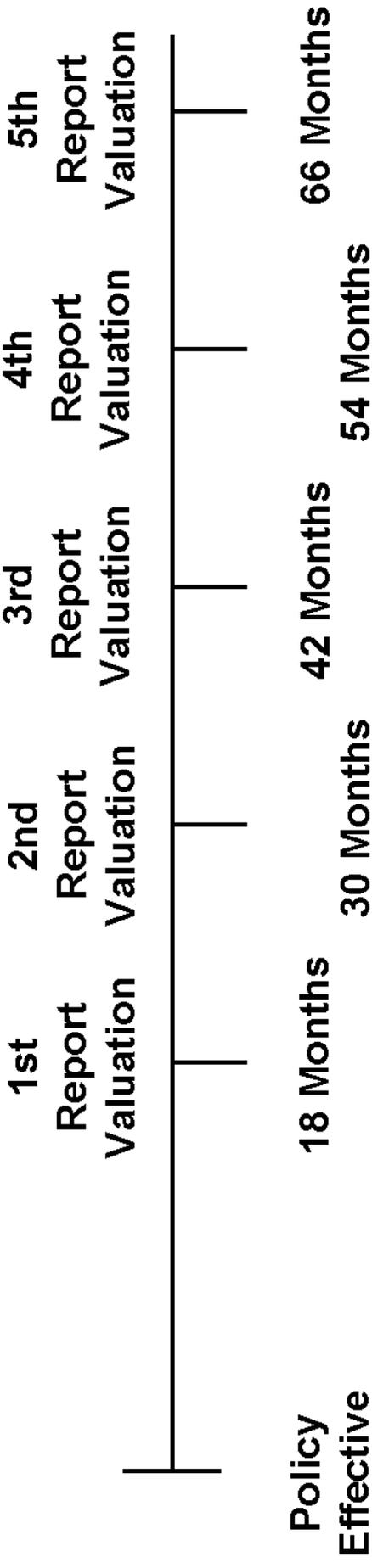
# Calendar-Accident Year Financial Aggregate Data



# Workers Compensation Statistical Plan (WCSP) Data

- **Experience by policy detail**
  - Exposure, premium, experience rating modifications
  - Individual claims by injury type
- **Purposes**
  - Classification relativities
  - Experience Rating Plan
  - Research

# Valuation of WCSP Data



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Readers will notice an update of the key measurement factors and issues relating to the operation of the Arkansas Plan. NCCI, has enhanced our data reporting tools to provide a more accurate picture of what is happening in your state.

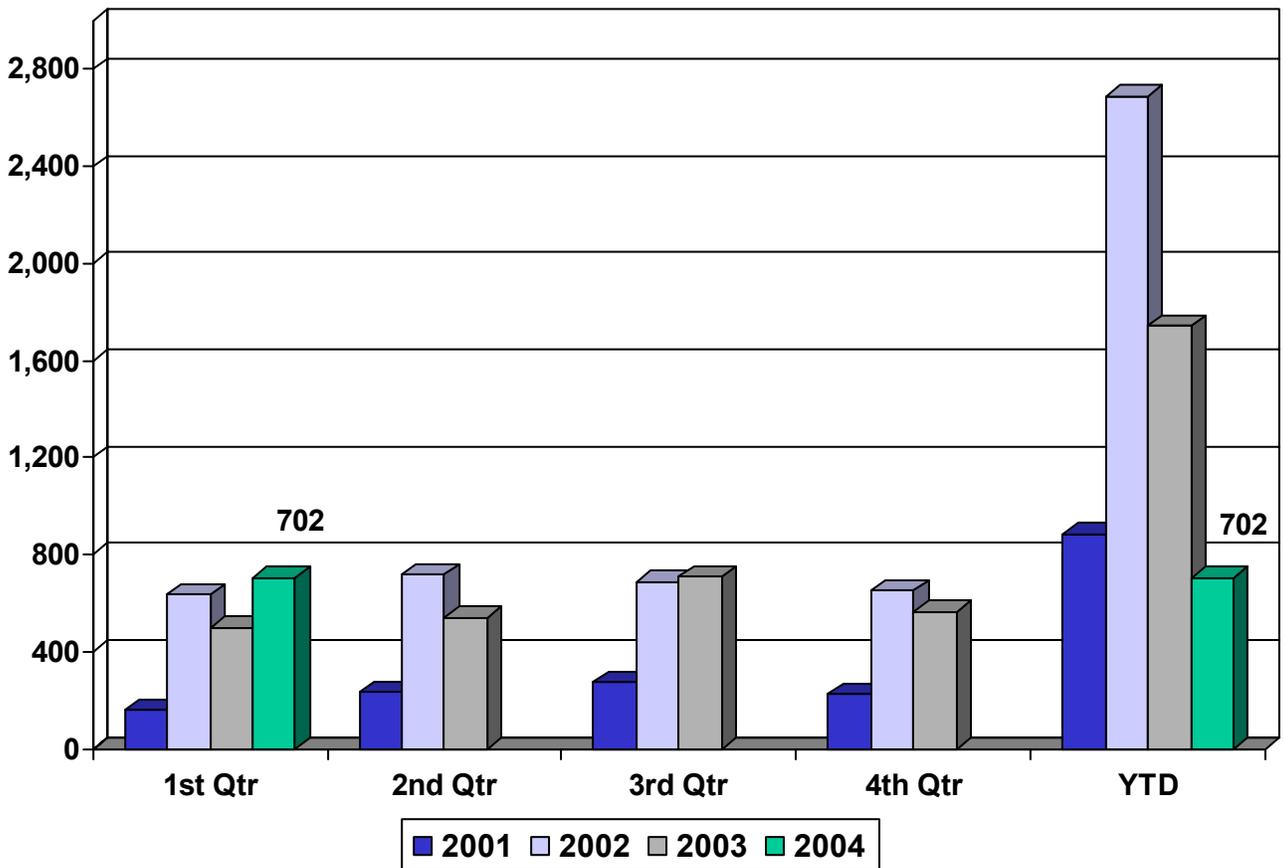
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Cathy Booth, State Relations Executive	(205) 655-2699
Lesley O'Brien, Underwriting Specialist	(561) 893-3186
Chantel Weishaar, Technical Specialist	(561) 893-3015

# Residual Market Demographics

## Arkansas Residual Market Total New Applications Bound 2001 vs. 2002 vs. 2003 vs. 2004

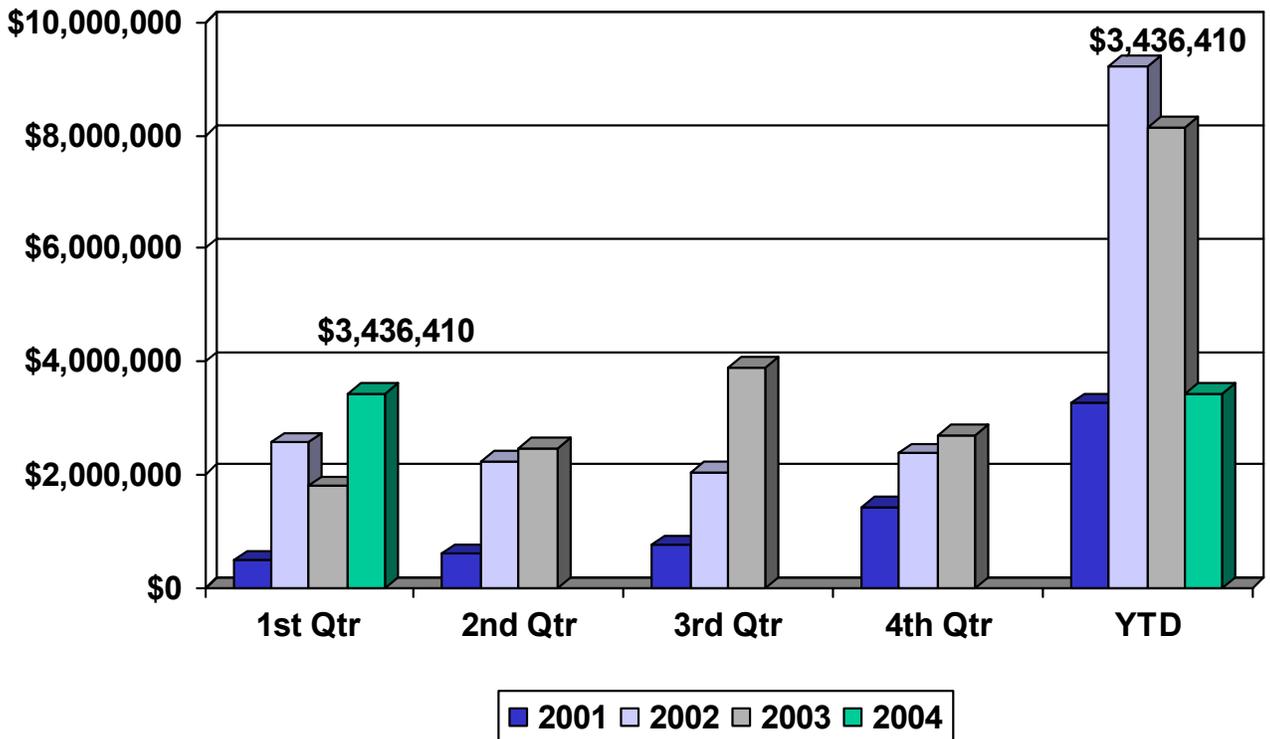
*The number of new applications that are actually assigned to a Servicing Carrier or Direct Assignment Carrier (if applicable).*



# Residual Market Demographics

## Arkansas Residual Market Total New Application Premium Bound 2001 vs. 2002 vs. 2003 vs. 2004

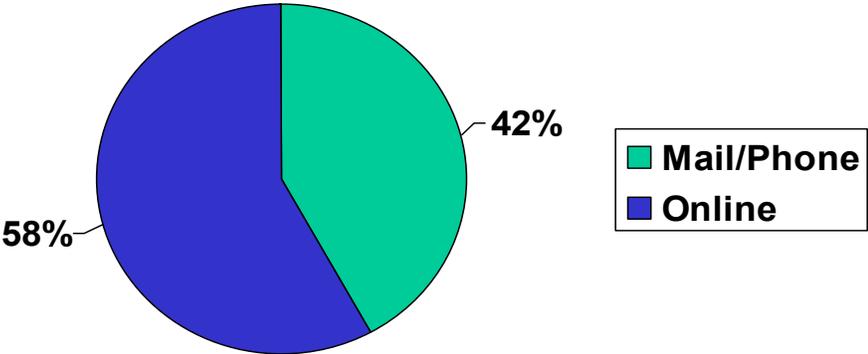
*The total estimated First Quarter premium on bound new applications assigned to as Servicing Carrier or Direct Assignment Carrier (if applicable).*



# Residual Market Demographics

## Percentage of New Applications Received by Submission Format Data through March 31, 2004

*The total percentage of new applications received via online, phone or mail formats.*

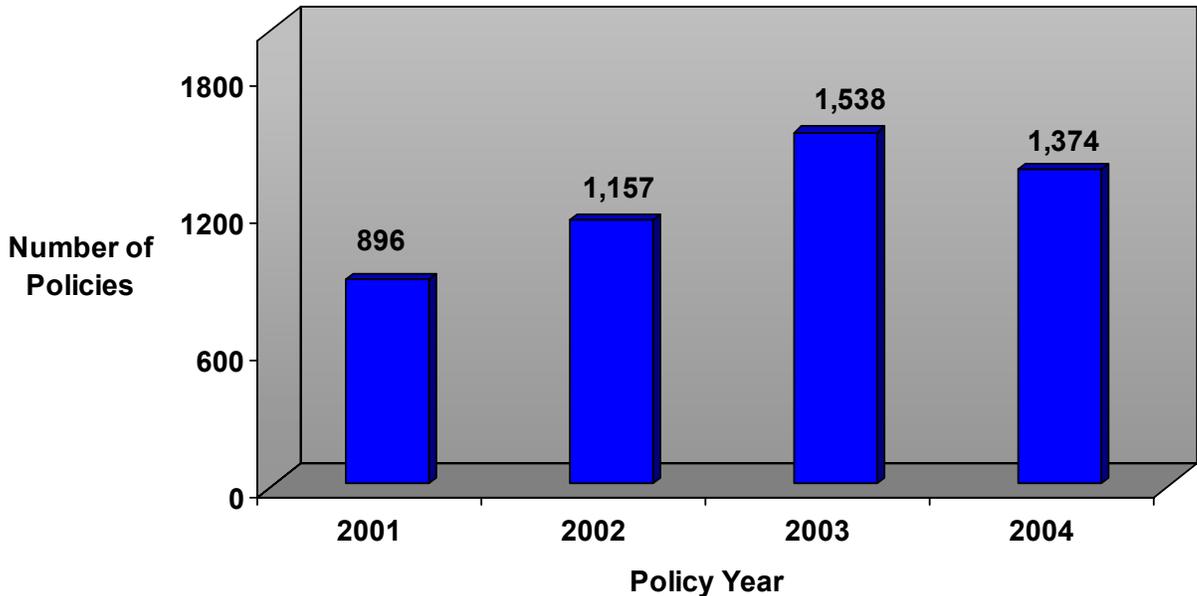


# Residual Market Demographics

## Residual Market Total Policy Counts

**First Quarter 2004 Data for Policies Reported through March 31, 2004**

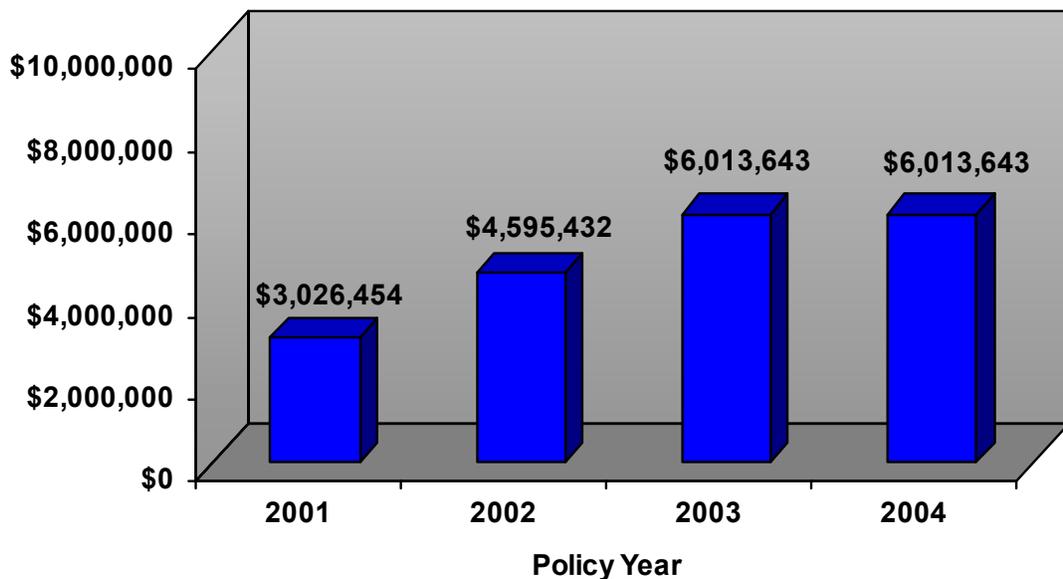
*Total Number of all Assigned Risk Plan Policies effective during this quarter and reported as of the date listed above.*



## Residual Market Total Premium Volume

**First Quarter 2004 Data Reported through March 31, 2004**

*Total Amount of All Assigned Risk Plan Premium effective during this quarter and reported as of the date listed above.*



# Residual Market Demographics

## Residual Market First Quarter 2004 Total Premium Distribution by Size of Risk Data Reported through March 31, 2004

*The total number of assigned risk plan policies reported to NCCI for the quarter by Direct Assignment and Servicing Carriers in a premium range as of the date listed above.*

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	949	69.07%	\$822,874	13.68%	\$867
\$2500 - 4999	171	12.45%	\$584,833	9.73%	\$3,420
\$5000 - 9999	118	8.59%	\$788,867	13.12%	\$6,685
\$10000 - 19999	71	5.17%	\$961,296	15.99%	\$13,539
\$20000 - 49999	49	3.57%	\$1,426,561	23.72%	\$29,113
\$50000 - 99999	12	0.87%	\$910,194	15.14%	\$75,849
\$100000 - 199999	4	0.29%	\$519,018	8.63%	\$129,754
Total	1,374	100%	\$6,013,643	100%	\$4,377

## Residual Market Total Premium Distribution by Size of Risk First Quarter 2003 Data for Comparison

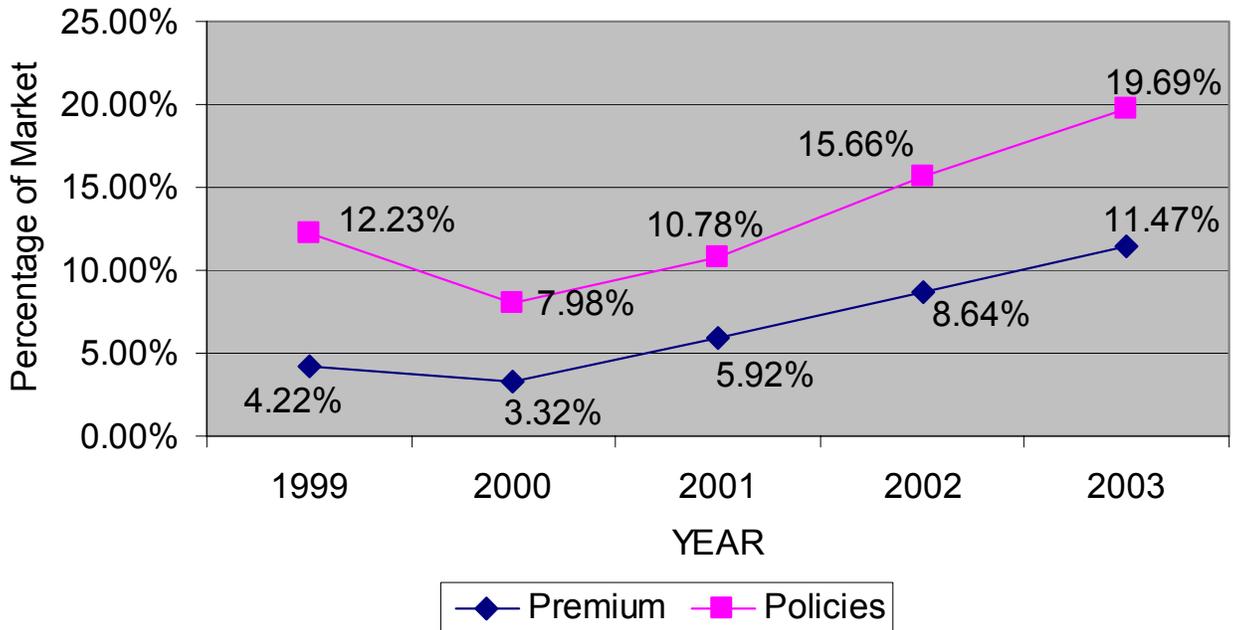
*The total number of assigned risk plan policies reported to NCCI for the previous quarter by Direct Assignment and Servicing Carriers in a premium range.*

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	1,028	66.84%	\$826,754	12.58%	\$804
\$2500 - 4999	225	14.63%	\$644,448	9.8%	\$2,864
\$5000 - 9999	140	9.1%	\$875,057	13.31%	\$6,250
\$10000 - 19999	67	4.36%	\$768,446	11.69%	\$11,469
\$20000 - 49999	52	3.38%	\$1,386,415	21.09%	\$26,661
\$50000 - 99999	17	1.11%	\$1,012,460	15.4%	\$59,556
\$100000 - 199999	8	0.52%	\$979,432	14.9%	\$122,429
\$200000 - Plus	1	0.07%	\$79,762	1.21%	\$79,762
Total	1,538	100%	\$6,572,774	100%	\$4,274

# Residual Market Demographics

## Total Arkansas Assigned Risk Plan Market Share

*The percentage of total assigned risk plan policies and premium, as compared to the total estimated annual premium and policies for the voluntary market, as of December 31, 2003*



# Residual Market Demographics

## Residual Market Top 10 Classification Codes by Policy Count Data Reported through March 31, 2004

*The top ten governing class codes by total policy count - policies issued by Servicing Carriers and Direct Assignment Carriers in this state as of the date listed above.*

Rank	Code	Description	Policy Count	% of Policies
1	8810	Clerical	120	8.73%
2	5645	Carpentry-Detached One Or Two Family Dwellings	116	8.44%
3	8832	Physician	53	3.86%
4	8279	Stable Or Breeding Farm	48	3.49%
5	9082	Restaurant NOC	44	3.2%
6	8742	Outside Salespersons	36	2.62%
7	8017	Retail Store	34	2.47%
8	0037	Farm: Field Crops	29	2.11%
9	7423	Aircraft Or Helicopter Operation	27	1.97%
10	9015	Buildings-Operation By Owner	27	1.97%

## Residual Market Top 10 Classification Codes by Premium Volume Data Reported through March 31, 2004

*The top ten governing class codes by premium volume written on total policies issued by Servicing Carriers and Direct Assignment Carriers in this state as of the date listed above.*

Rank	Code	Description	Premium	% of Premium
1	5645	Carpentry-Detached One Or Two Family Dwellings	\$270,228	4.49%
2	7229	Trucking-Long Distance Hauling	\$270,205	4.49%
3	7228	Trucking-Local Hauling Only	\$260,487	4.33%
4	8868	College: Professional Employees	\$254,765	4.24%
5	2710	Sawmill	\$232,932	3.87%
6	5474	Painting Or Paperhanging NOC	\$203,947	3.39%
7	9082	Restaurant NOC	\$184,005	3.06%
8	8833	Hospital: Professional Employees	\$146,844	2.44%
9	8832	Physician & Clerical	\$139,293	2.32%
10	7423	Aircraft Or Helicopter Operation	\$135,160	2.25%

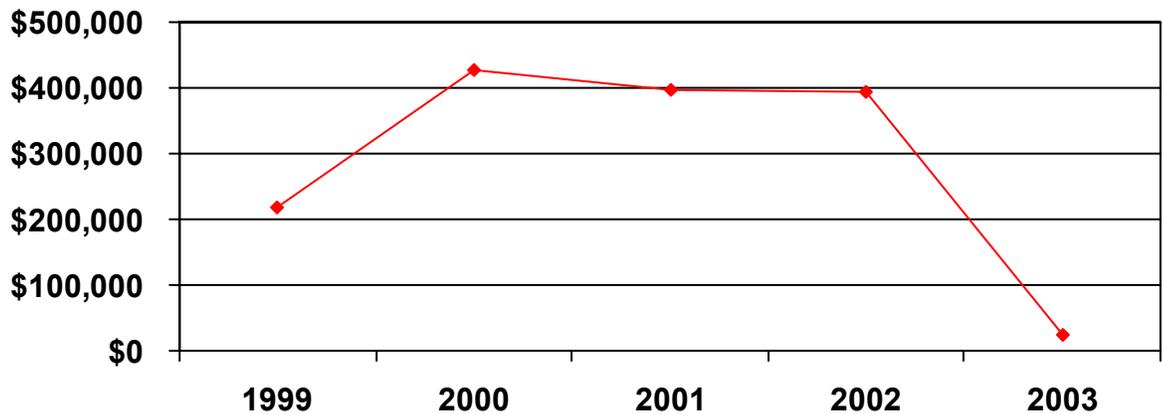
# Residual Market Demographics

## Collections/Indemnification

The following shows a comparison of gross written premium and uncollectible premium reported in Arkansas and the National Pool for Policy Years 1999-2003, obtained through NP-4 and NP-5 reports including traumatic and black lung claims, evaluated through Fourth Quarter 2003.

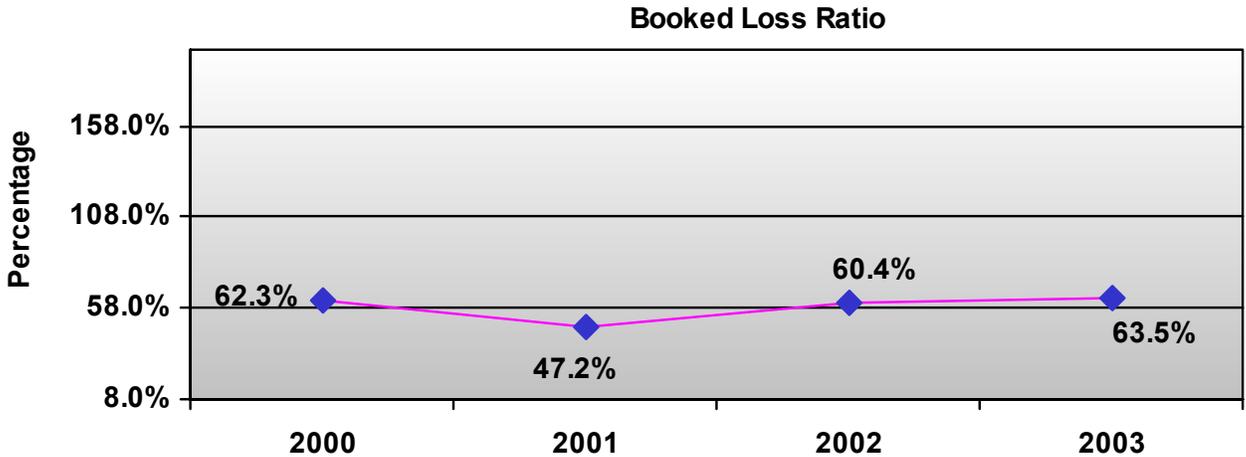
Alaska	Gross Written Premium	Uncollectible Premium	Percentage
1999	\$8,161,231	\$216,772	2.7%
2000	\$7,225,621	\$428,294	5.9%
2001	\$13,257,790	\$396,896	3.0%
2002	\$22,743,011	\$392,428	1.7%
2003	\$22,799,902	\$24,996	0.1%
National Pool 2003	\$923,853,720	\$796,986	0.1%

## Arkansas Uncollectible Premium

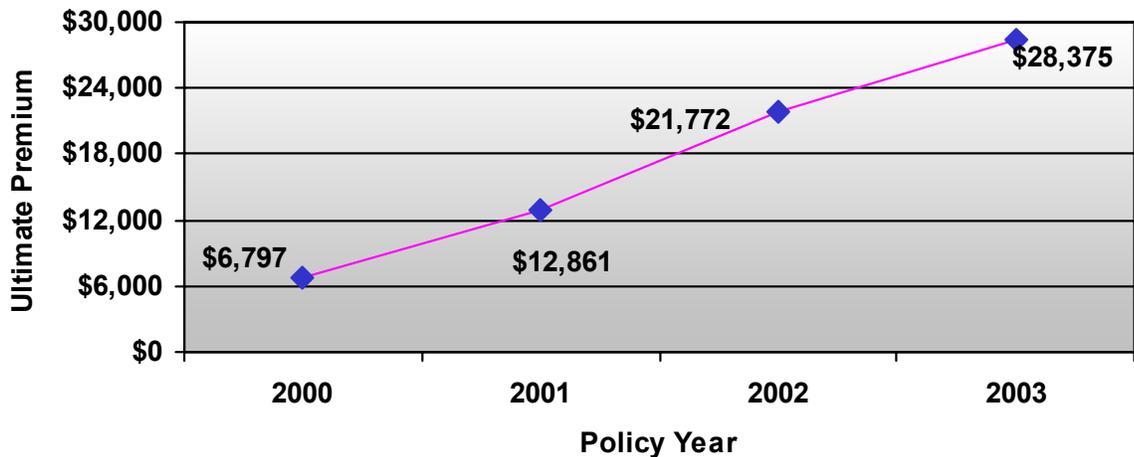


# Residual Market Demographics

**Arkansas Residual Market Reinsurance Pool Booked Loss Ratio**  
**Policy Year Financial Results through 4th Quarter 2003 for 2003 and prior years\***  
*The ratio of total incurred losses to total earned premiums in a given period, in this state, expressed as a percentage .*



**Arkansas Residual Market Reinsurance Pool Ultimate Net Written Premium**  
**(Projected to Ultimate) (000's)**  
**Policy Year Financial Results through 4th Quarter 2003 for 2003 and prior years\***  
*The premium charged by an insurance company for the period of time and coverage provided by an insurance contract in this state.*

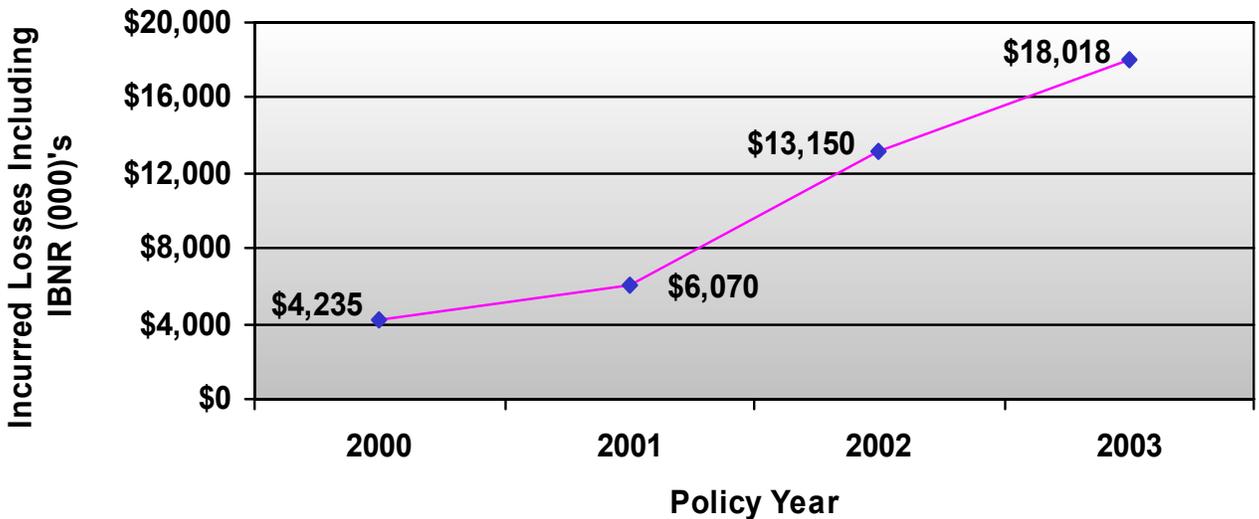


\*-First Quarter 2004 Data will be available the end of July 2004 due to the timing of data reporting

# Residual Market Demographics

## Arkansas Residual Market Reinsurance Pool Net Operating Results (Projected to Ultimate) Incurred Losses Policy Year Financial Results through 4th Quarter 2003 for 2003 and prior years\*

*Policy year incurred losses reflect paid losses, case reserves and IBNR reserves for policies written in a particular policy year in that state.*

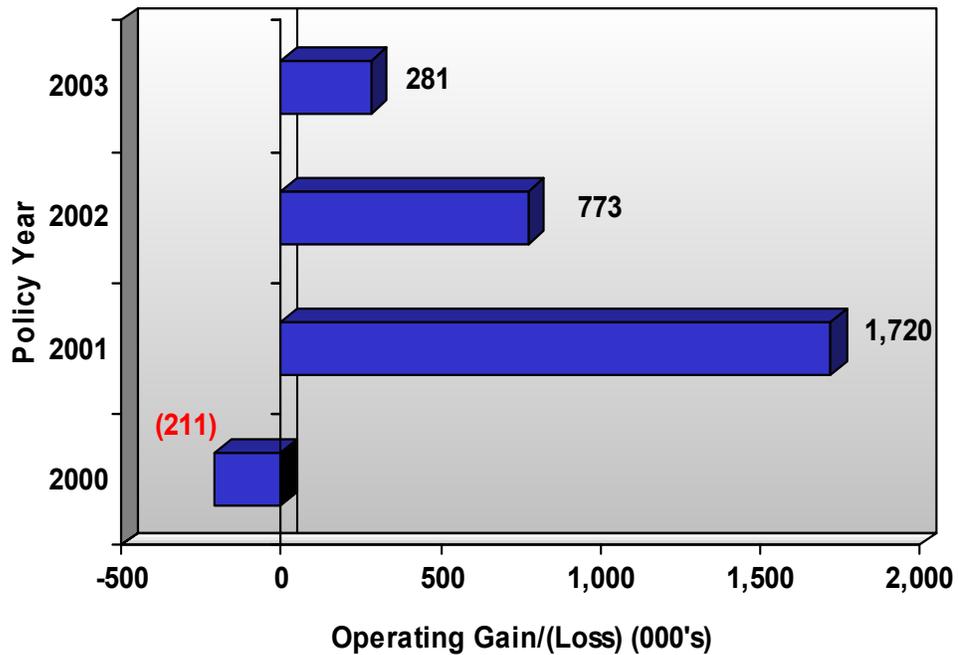


\*-First Quarter 2004 Data will be available the end of July 2004 due to the timing of data reporting

# Residual Market Demographics

## Arkansas Residual Market Reinsurance Pool Net Operating Results (Projected to Ultimate) Estimated Net Operating Gain/(Loss) (000's) Policy Year Financial Results through 4th Quarter 2003 for 2003 and prior years\*

*The financial statement presentation that reflects the excess of earned premium over incurred losses, less all operating expenses, plus all investment income in that state.*



# Glossary of Terms

**Combined Ratio**-The combined loss ratio, expense ratio and dividend ratio, expressed as a sum for a given period. The formula for combined ratio is [(loss + loss adjustment expense)/earned premium] + [underwriting expenses/written premium].

**EBNR (Earned But Not Reported) Premium Reserve**-A projection of additional premium that is expected to be uncovered after auditing at the end of the policy.

**Earned Premium or Premiums Earned**-That portion of written premiums applicable to the expired portion of the time for which the insurance was in effect. When used as an accounting term, "premiums earned" describes the premiums written during a period plus the unearned premiums at the beginning of the period less the unearned premiums at the end of the period.

**Incurred But Not Reported (IBNR)**-Pertaining to losses where the events which will result in a loss, and eventually a claim, have occurred, but have not yet been reported to the insurance company. The term may also include "bulk" reserves for estimated future development of case reserves.

**Underwriting Gain/(Loss)**-The financial statement presentation that reflects the excess of earned premium over incurred losses.

**Applications Bound**-The applications that are actually assigned to a Servicing Carrier or Direct Assignment Carrier (if applicable).

**Premium Bound**-The total estimated annual premium on bound applications.

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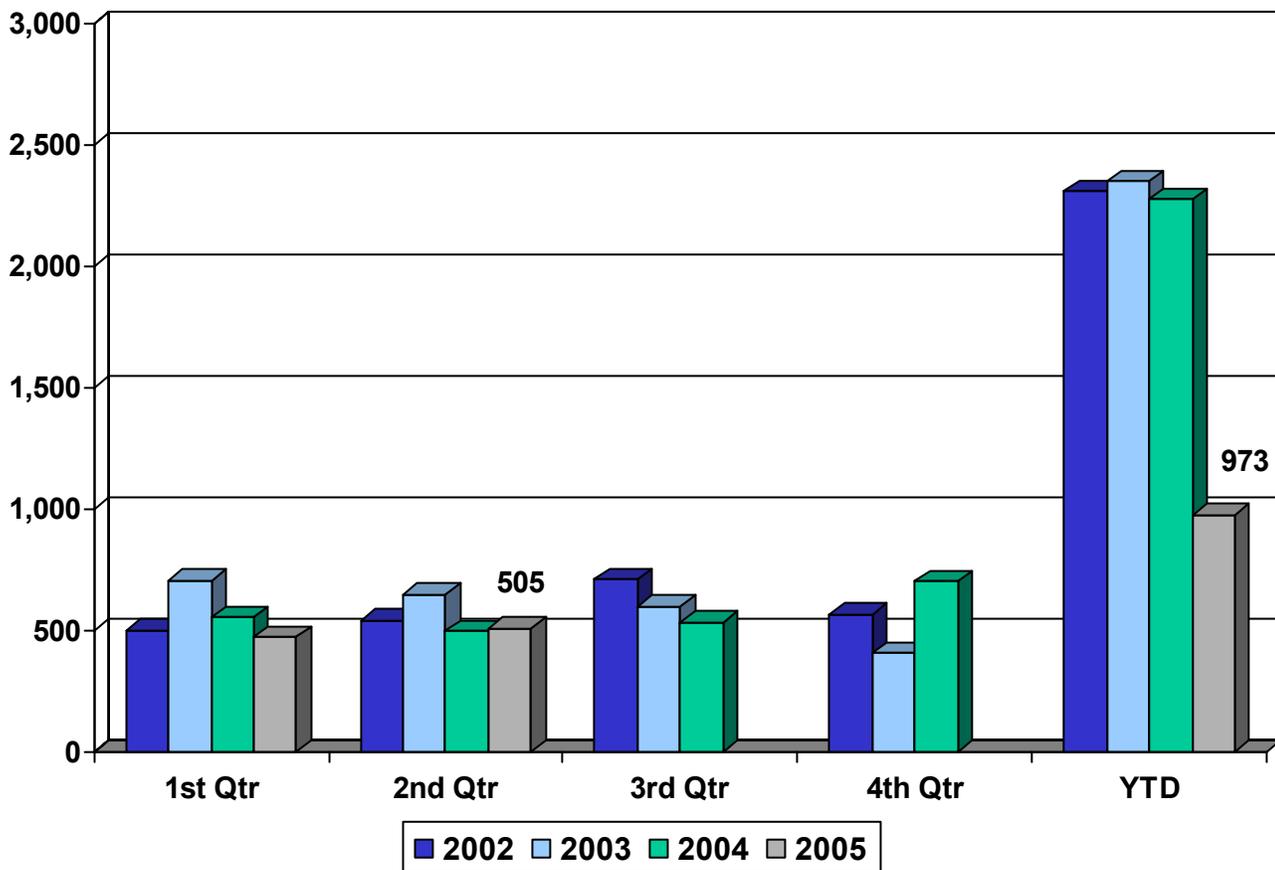
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Lesley O'Brien, Underwriting Specialist	(561) 893-3186
Chantel Weishaar, Technical Specialist	(561) 893-3015

# Residual Market Demographics – 2Q 2005

## Arkansas Residual Market Total New Applications Bound 2002 vs. 2003 vs. 2004 vs. 2005

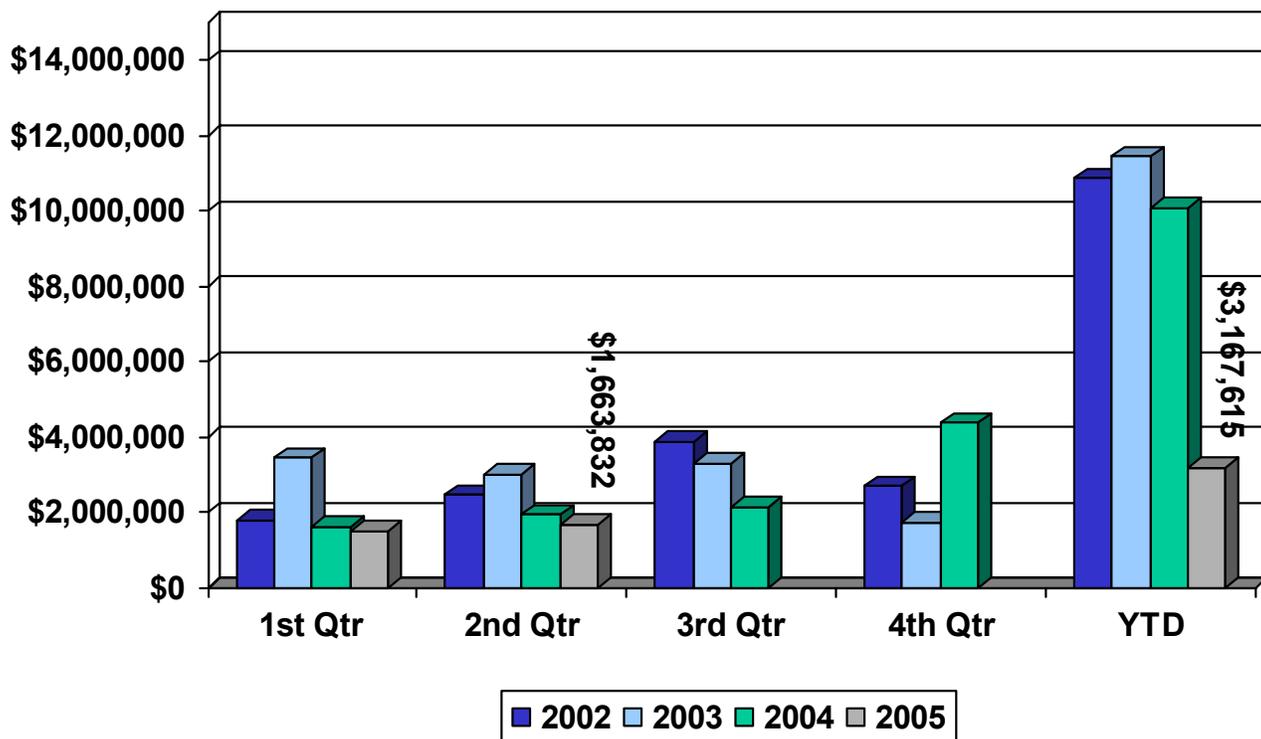
*The number of new applications that are actually assigned to a Servicing Carrier or Direct Assignment Carrier (if applicable).*



# Residual Market Demographics – 2Q 2005

## Arkansas Residual Market Total New Application Premium Bound 2002 vs. 2003 vs. 2004 vs. 2005

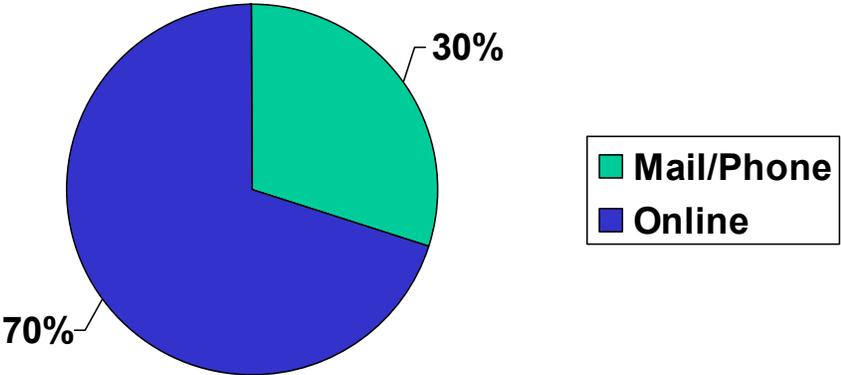
*The total estimated Second Quarter premium on bound new applications assigned to as Servicing Carrier or Direct Assignment Carrier (if applicable).*



# Residual Market Demographics – 2Q 2005

## Percentage of New Applications Received by Submission Format Data through June 30, 2005

*The total percentage of new applications received via online, phone or mail formats.*

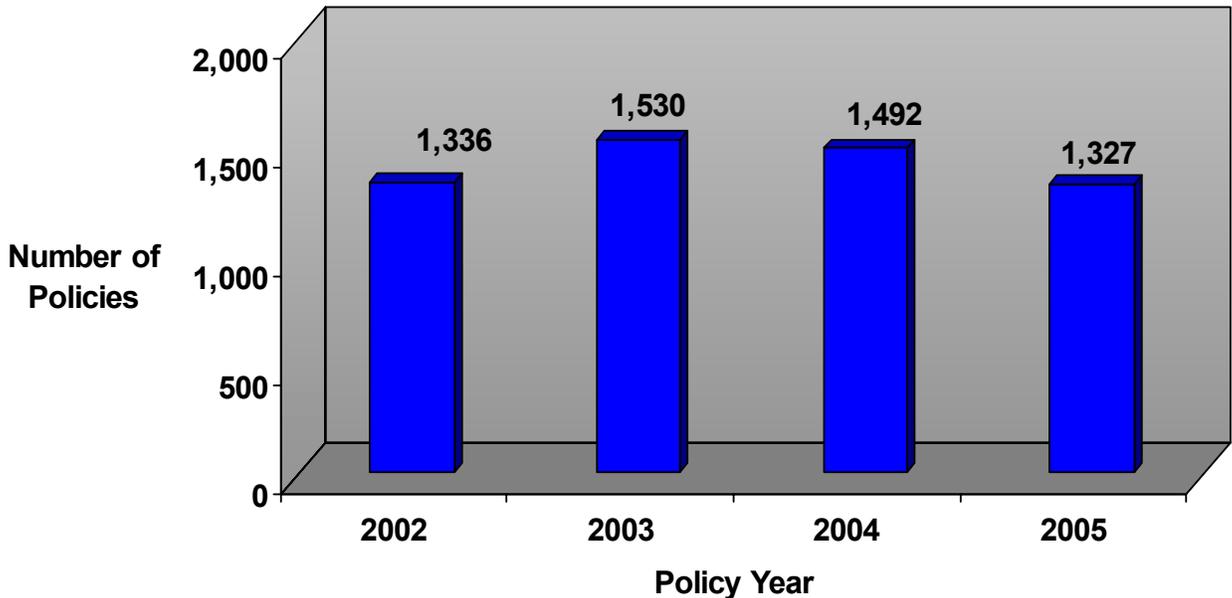


# Residual Market Demographics – 2Q 2005

## Residual Market Total Policy Counts

### Second Quarter Data for Policies Reported through June 30, 2005

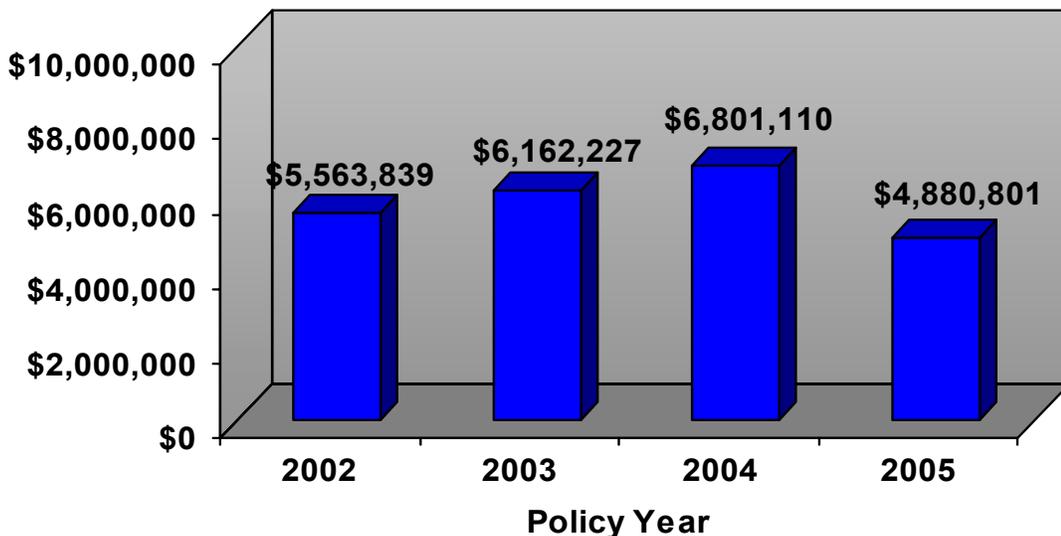
Total Number of all Assigned Risk Plan Policies effective during this quarter and reported as of the date listed above.



## Residual Market Total Premium Volume

### Second Quarter Data Reported through June 30, 2005

Total Amount of All Assigned Risk Plan Premium effective during this quarter and reported as of the date listed above.



# Residual Market Demographics – 2Q 2005

## Residual Market Second Quarter 2005 Total Premium Distribution by Size of Risk Data Reported through June 30, 2005

*The total number of assigned risk plan policies reported to NCCI for the quarter by Direct Assignment and Servicing Carriers in a premium range as of the date listed above.*

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	950	71.59%	\$890,789	18.25%	\$937
\$2500 - 4999	175	13.19%	\$576,059	11.8%	\$3,291
\$5000 - 9999	107	8.06%	\$709,278	14.53%	\$6,628
\$10000 - 19999	54	4.07%	\$679,486	13.92%	\$12,583
\$20000 - 49999	29	2.19%	\$880,441	18.04%	\$30,360
\$50000 - 99999	7	0.53%	\$438,552	8.99%	\$62,650
\$100000 - 199999	4	0.3%	\$504,024	10.33%	\$126,006
\$200000 - Plus	1	0.08%	\$202,172	4.14%	\$202,172
Total	1,327	100%	\$4,880,801	100%	\$3,678

## Residual Market Total Premium Distribution by Size of Risk Second Quarter 2004 Data for Comparison

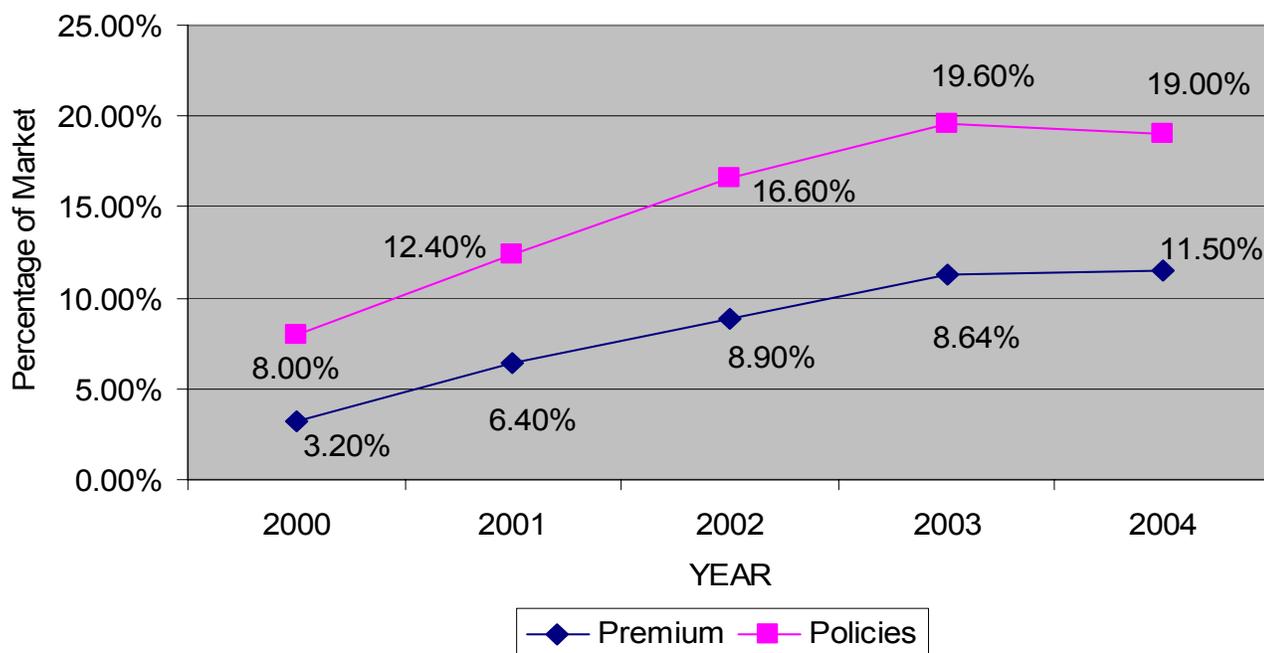
*The total number of assigned risk plan policies reported to NCCI for the quarter by Direct Assignment and Servicing Carriers in a premium range as of the date listed above.*

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	997	66.82%	\$876,081	12.88%	\$878
\$2500 - 4999	207	13.87%	\$628,827	9.25%	\$3,037
\$5000 - 9999	131	8.78%	\$813,978	11.97%	\$6,213
\$10000 - 19999	90	6.03%	\$1,052,501	15.48%	\$11,694
\$20000 - 49999	43	2.88%	\$1,223,208	17.99%	\$28,446
\$50000 - 99999	16	1.07%	\$956,162	14.06%	\$59,760
\$100000 - 199999	6	0.4%	\$594,464	8.74%	\$99,077
\$200000 - Plus	2	0.13%	\$655,889	9.64%	\$327,944
Total	1,492	100%	\$6,801,110	100%	\$4,558

# Residual Market Demographics – 2Q 2005

## Total Arkansas Assigned Risk Plan Market Share

*The percentage of total assigned risk plan policies and premium, as compared to the total estimated annual premium and policies for the voluntary market, as of December 31, 2004.*



# Residual Market Demographics – 2Q 2005

## Residual Market Top 10 Classification Codes by Policy Count Data Reported through June 30, 2005

*The top ten governing class codes by total policy count - policies issued by Servicing Carriers and Direct Assignment Carriers in this state as of the date listed above.*

Rank	Code	Description	Policy Count	% of Policies
1	5645	Carpentry-Detached One Or Two Family Dwellings	151	11.38%
2	8810	Clerical NOC	90	6.78%
3	8742	Outside Salespersons	43	3.24%
4	9014	Buildings-Operation By Contractors	40	3.01%
5	6217	Excavation	39	2.94%
6	8832	Physician & Clerical	31	2.34%
7	7423	Aircraft Or Helicopter Operation: All Other Employees & Drivers	30	2.26%
8	5474	Painting Or Paperhanging NOC	27	2.03%
9	9015	Buildings-Operation By Owner	27	2.03%
10	8380	Automobile Service Or Repair Center	26	1.96%

## Residual Market Top 10 Classification Codes by Premium Volume Data Reported through June 30, 2005

*The top ten governing class codes by premium volume written on total policies issued by Servicing Carriers and Direct Assignment Carriers in this state as of the date listed above.*

Rank	Code	Description	Premium	% of Premium
1	5645	Carpentry-Detached One Or Two Family Dwellings	\$303,562	6.22%
2	4484	Plastics Manufacturing: Molded Products NOC	\$203,930	4.18%
3	9403	Garbage, Ashes Or Refuse Collection	\$155,144	3.18%
4	6217	Excavation & Drivers	\$150,695	3.09%
5	7409	Aircraft Or Helicopter Operation: Aerial Application	\$147,014	3.01%
6	8380	Auto Service Or Repair Center	\$144,127	2.95%
7	3724	Machinery Or Equipment Erection Or Repair NOC	\$137,896	2.83%
8	3824	Auto, Bus, Truck Or Trailer Body Mfg.: NOC	\$137,237	2.81%
9	7423	Aircraft Or Helicopter Operation: All Other Employees & Drivers	\$111,400	2.28%
10	9082	Restaurant NOC/Caterer	\$105,154	2.15%

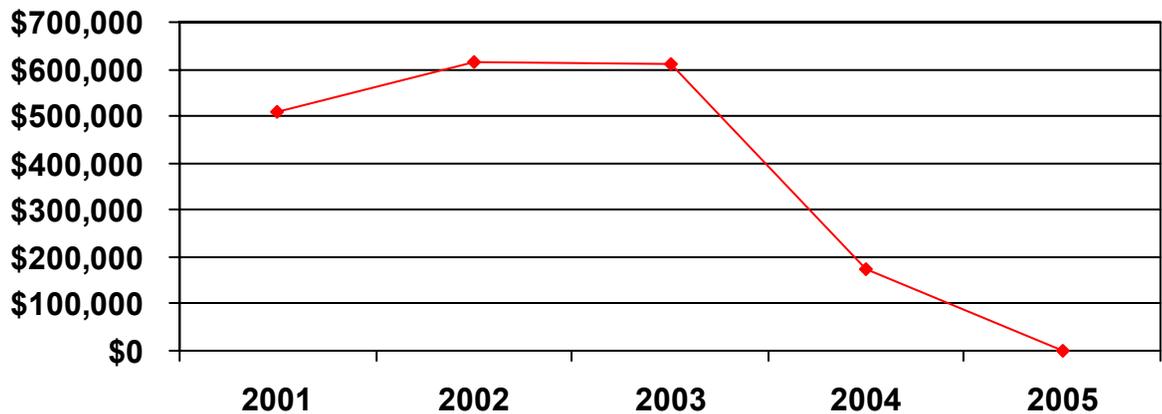
# Residual Market Demographics

## Collections/Indemnification

The following shows a comparison of gross written premium and uncollectible premium reported in Arkansas and the National Pool for Policy Years 2001-2005, obtained through NP-4 and NP-5 reports including traumatic and black lung claims, evaluated through First Quarter 2005.

Arkansas	Gross Written Premium	Uncollectible Premium	Percentage
2001	\$13,306,954	\$510,322	3.8%
2002	\$23,000,800	\$614,288	2.7%
2003	\$29,994,611	\$611,056	2.0%
2004	\$26,417,912	\$172,221	0.7%
2005	\$4,261,100	\$0	0.0%
National Pool 2005	\$201,200,146	\$0	0.0%

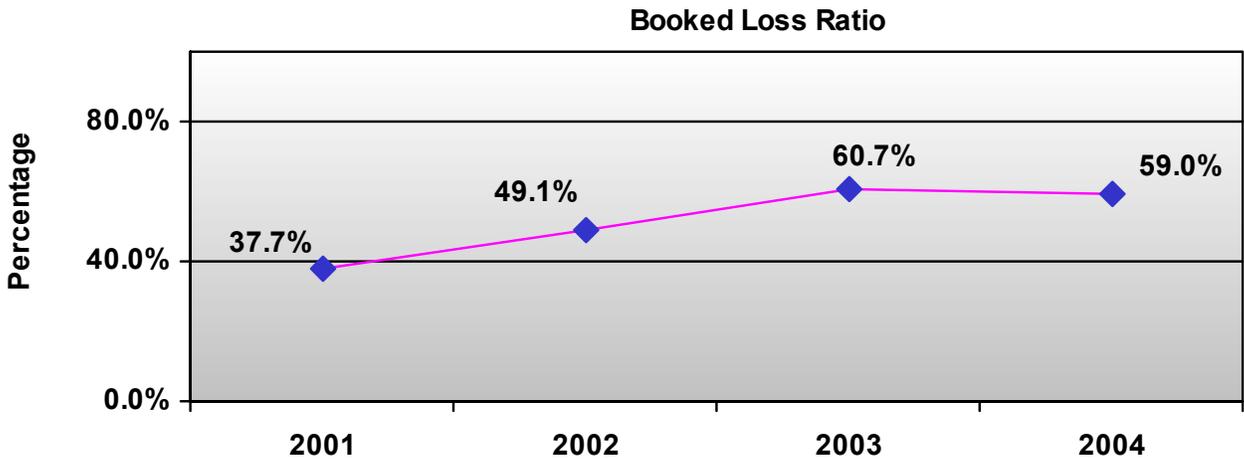
## Arkansas Uncollectible Premium



# Residual Market Demographics

## Arkansas Residual Market Reinsurance Pool Booked Loss Ratio Policy Year Financial Results through 1st Quarter 2005 for 2004 and prior years

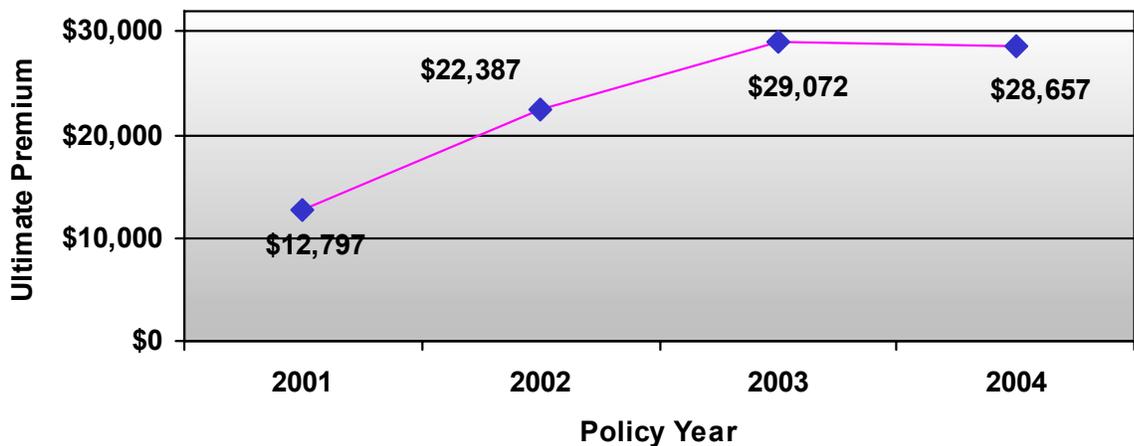
*The ratio of total incurred losses to total earned premiums in a given period, in this state, expressed as a percentage .*



## Arkansas Residual Market Reinsurance Pool Ultimate Net Written Premium (Projected to Ultimate) (000's)

### Policy Year Financial Results through 1st Quarter 2005 for 2004 and prior years\*

*The premium charged by an insurance company for the period of time and coverage provided by an insurance contract in this state.*



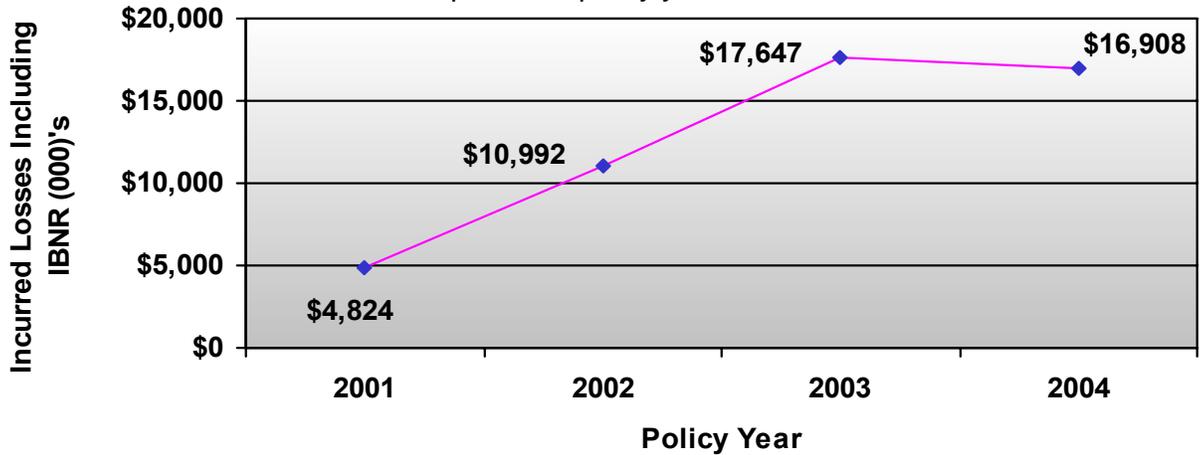
\*-Second Quarter 2005 Data will be available the end of October 2005 due to the timing of data reporting

# Residual Market Demographics

## Arkansas Residual Market Reinsurance Pool Net Operating Results (Projected to Ultimate) Incurred Losses

### Policy Year Financial Results through 1st Quarter 2005 for 2004 and prior years\*

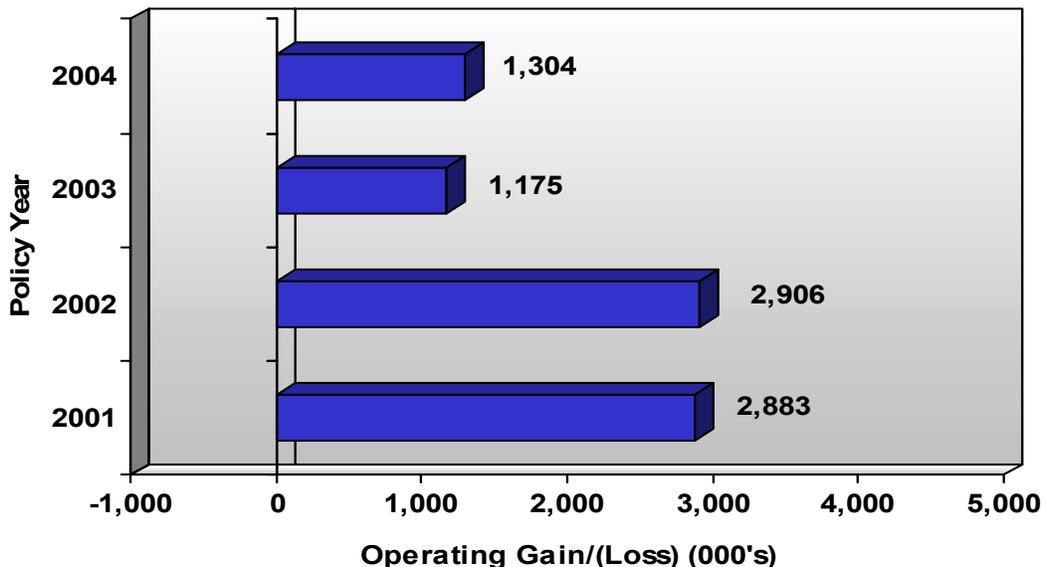
*Policy year incurred losses reflect paid losses, case reserves and IBNR reserves for policies written in a particular policy year in that state.*



## Arkansas Residual Market Reinsurance Pool Net Operating Results (Projected to Ultimate) Estimated Net Operating Gain/(Loss) (000's)

### Policy Year Financial Results through 1st Quarter 2005 for 2004 and prior years\*

*The financial statement presentation that reflects the excess of earned premium over incurred losses, less all operating expenses, plus all investment income in that state.*



\*-Second Quarter 2005 Data will be available the end of October 2005 due to the timing of data reporting

# Glossary of Terms

**Combined Ratio**-The combined loss ratio, expense ratio and dividend ratio, expressed as a sum for a given period. The formula for combined ratio is [(loss + loss adjustment expense)/earned premium] + [underwriting expenses/written premium].

**EBNR (Earned But Not Reported) Premium Reserve**-A projection of additional premium that is expected to be uncovered after auditing at the end of the policy.

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**Underwriting Gain/(Loss)**-The financial statement presentation that reflects the excess of earned premium over incurred losses.

**Applications Bound**-The applications that are actually assigned to a Servicing Carrier or Direct Assignment Carrier (if applicable).

**Premium Bound**-The total estimated annual premium on bound applications.

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# Executive Summary

NCCI, as Pool and Plan Administrator of the Arkansas Workers Compensation Insurance Plan, is pleased to provide the Annual 2003 Residual Market State Activity Report.

Readers will notice an update of the key measurement factors and issues relating to the operation of the Arkansas Plan. NCCI, has enhanced our data reporting tools to provide a more accurate picture of what is happening in your state. The following items are new in this edition of the annual state activity report:

- Total Assigned Risk Market Share
- Residual Market Experience Rating Modification Information
- Residual Market Collections/Indemnifications
- Residual Market Uncollectible Premium

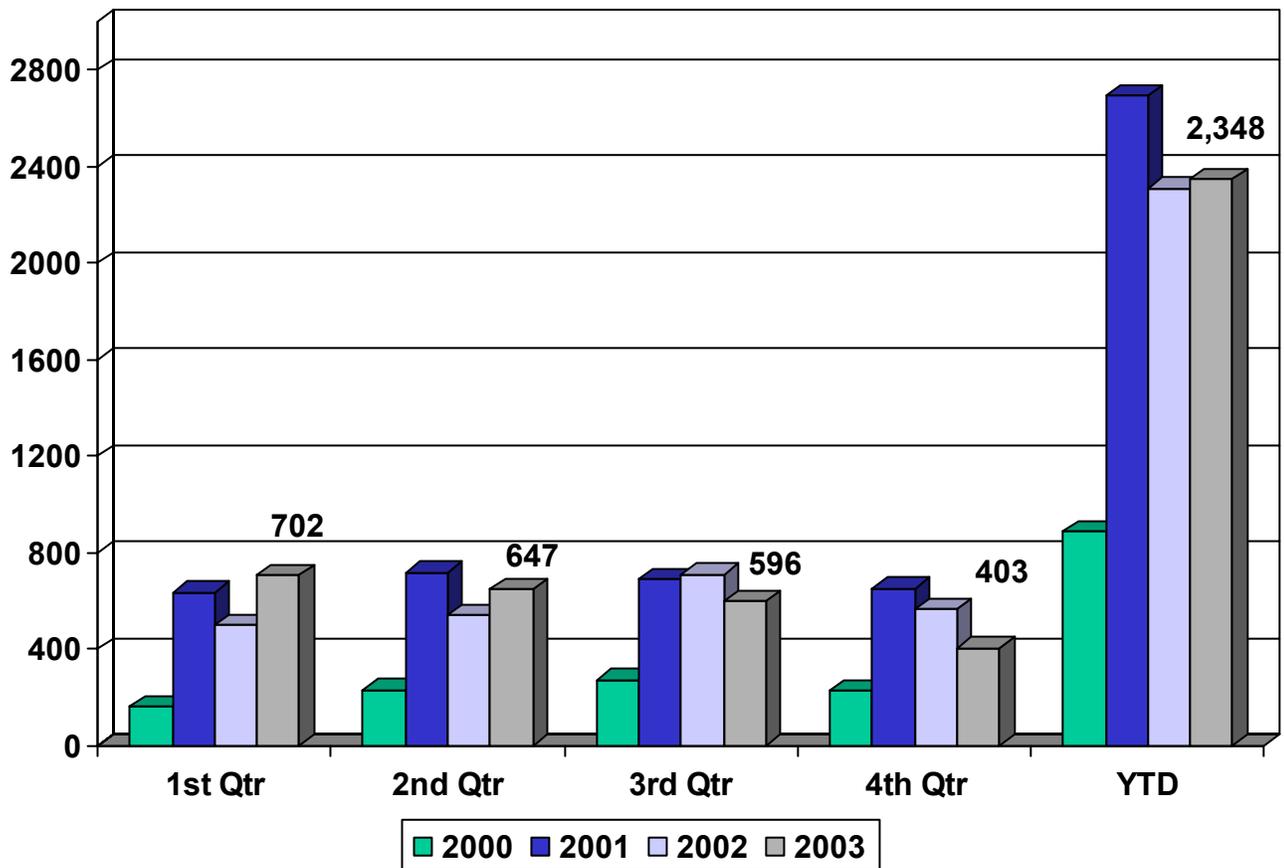
If you have any questions or comments about this report, please feel free to contact any of the individuals listed below.

Cathy Booth, State Relations Executive	(205) 655-2699
Lesley O'Brien, Underwriting Specialist	(561) 893-3186
Chantel Weishaar, Technical Specialist	(561) 893-3015

# Residual Market Demographics

## Arkansas Residual Market Total New Applications Bound 2000 vs. 2001 vs. 2002 vs. 2003

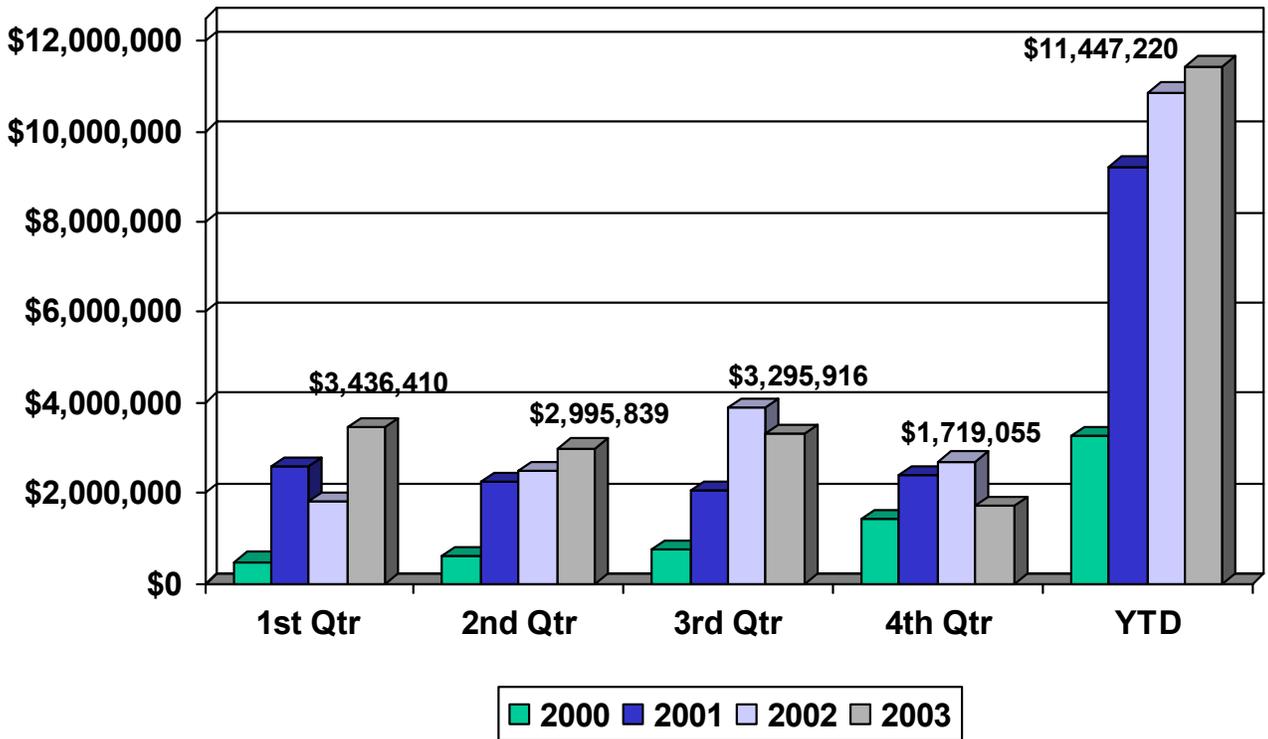
*The number of new applications that are actually assigned to a Servicing Carrier or Direct Assignment Carrier (if applicable).*



# Residual Market Demographics

## Arkansas Residual Market Total New Application Premium Bound 2000 vs. 2001 vs. 2002 vs. 2003

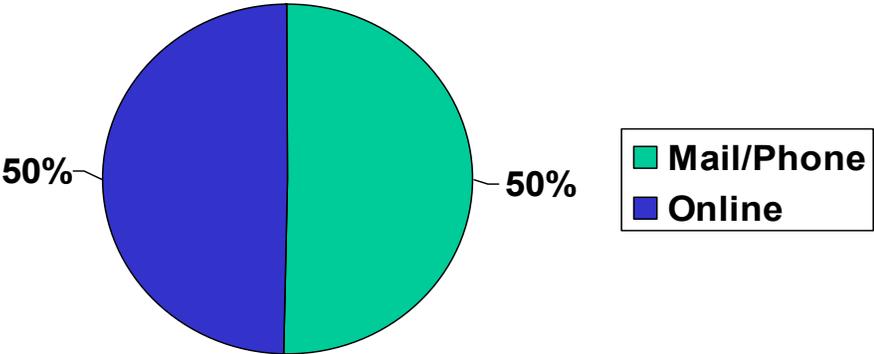
*The total estimated annual premium on bound new applications assigned to as Servicing Carrier or Direct Assignment Carrier (if applicable).*



# Residual Market Demographics

## Percentage of New Applications Received by Submission Format Data through December 31, 2003

*The total percentage of new applications received via online, phone or mail formats.*

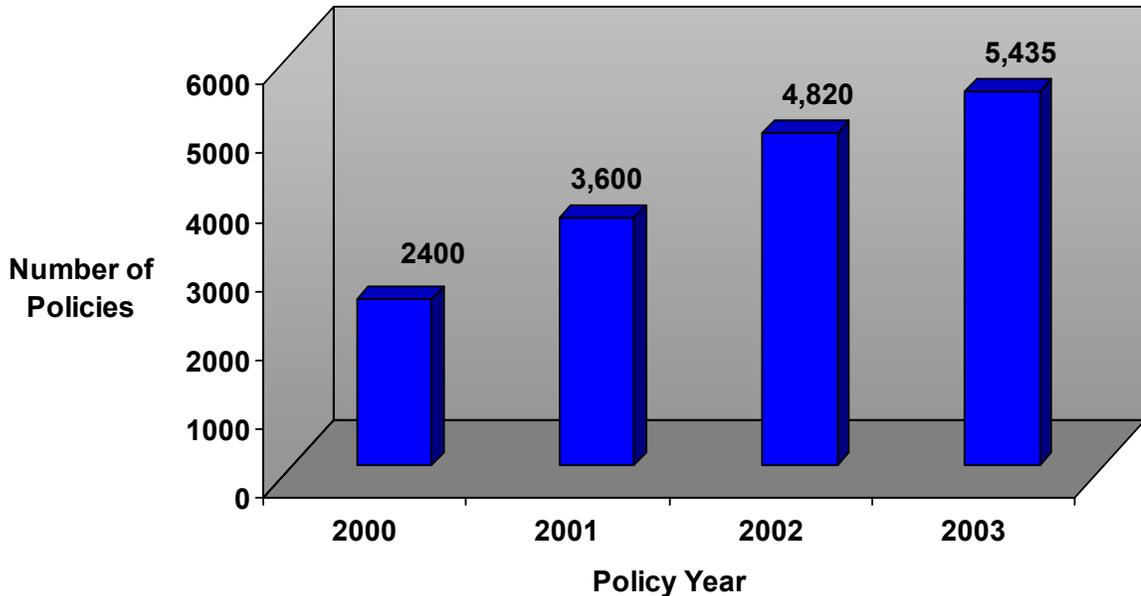


# Residual Market Demographics

## Residual Market Total Policy Counts

**Annual 2003 Data for Policies Reported through December 31, 2003**

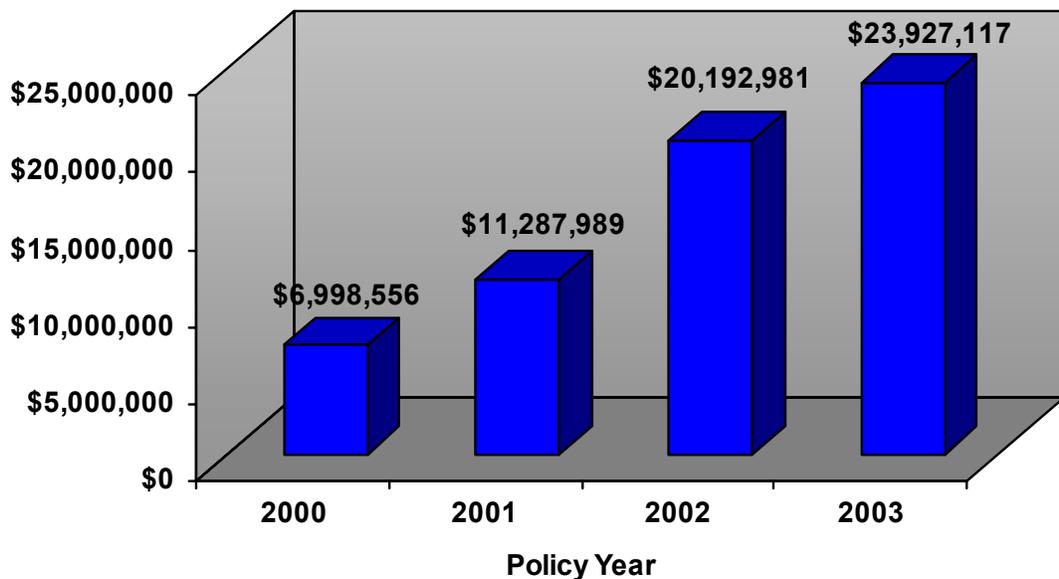
*Total Number of all Assigned Risk Plan Policies in force for the year as of the date listed above.*



## Residual Market Total Premium Volume

**Annual 2003 Data Reported through December 31, 2003**

*Total Amount of All Assigned Risk Plan Premium in force for the year as of the date listed above.*



# Residual Market Demographics

## Residual Market 2003 Total Premium Distribution by Size of Risk Data Reported through December 31, 2003

*The total number of assigned risk plan policies reported to NCCI for the year by Direct Assignment and Servicing Carriers in a premium range currently in force as of the date listed above.*

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	3,862	71.1%	\$3,399,880	14.2%	\$880
\$2500 - 4999	686	12.6%	\$2,444,622	10.2%	\$3,564
\$5000 - 9999	427	7.9%	\$2,989,226	12.5%	\$7,001
\$10000 - 19999	242	4.5%	\$3,263,067	13.6%	\$13,484
\$20000 - 49999	146	2.7%	\$4,408,238	18.4%	\$30,193
\$50000 - 99999	47	0.9%	\$3,227,253	13.5%	\$68,665
\$100000 - 199999	21	0.4%	\$2,795,550	11.7%	\$133,121
\$200000 - Plus	4	0.1%	\$1,399,281	5.8%	\$349,820
Total	5,435	100%	\$23,927,117	100%	\$4,402

## Residual Market Total Premium Distribution by Size of Risk Annual 2002 Data for Comparison

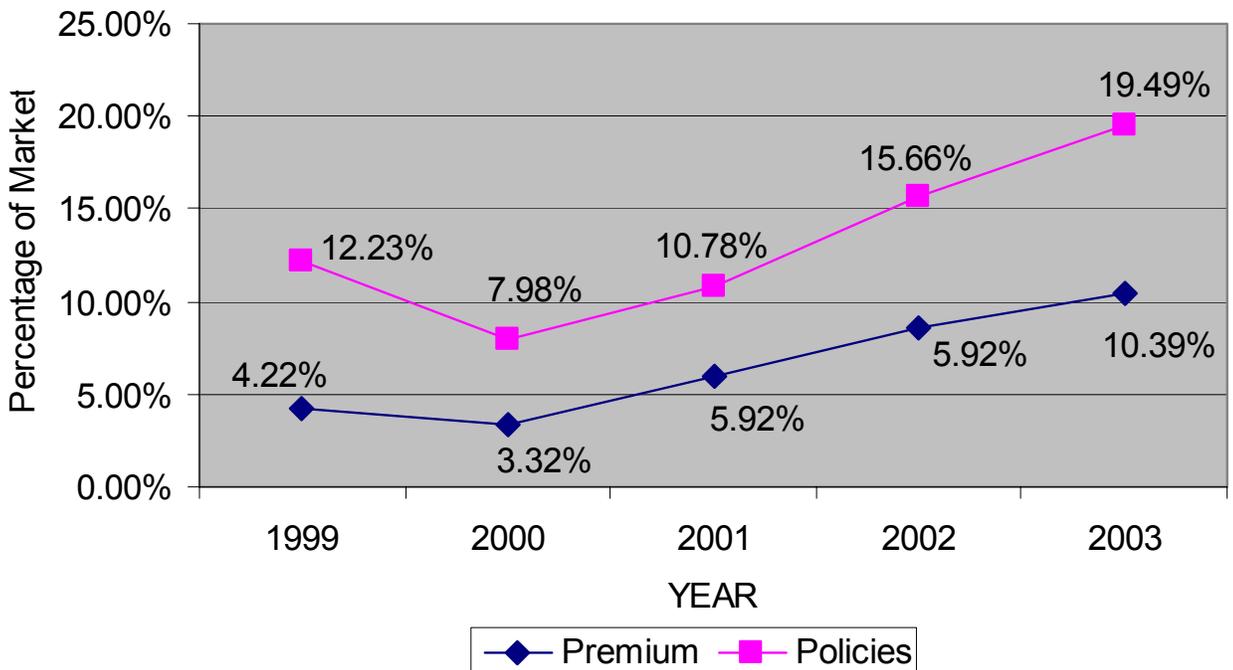
*The total number of assigned risk plan policies reported to NCCI for the previous year by Direct Assignment and Servicing Carriers in a premium range.*

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	3,497	72.6%	\$2,955,983	14.6%	\$845
\$2500 - 4999	597	12.4%	\$2,090,554	10.4%	\$3,502
\$5000 - 9999	346	7.2%	\$2,431,368	12%	\$7,027
\$10000 - 19999	208	4.3%	\$2,851,363	14.1%	\$13,708
\$20000 - 49999	118	2.4%	\$3,513,295	17.4%	\$29,774
\$50000 - 99999	34	0.7%	\$2,275,292	11.3%	\$66,920
\$100000 - 199999	16	0.3%	\$2,211,674	11%	\$138,230
\$200000 - Plus	4	0.1%	\$1,863,452	9.2%	\$465,863
Total	4,820	100%	\$20,192,981	100%	\$4,189

# Residual Market Demographics

## Total Arkansas Assigned Risk Plan Market Share Data Reported through December 31, 2003

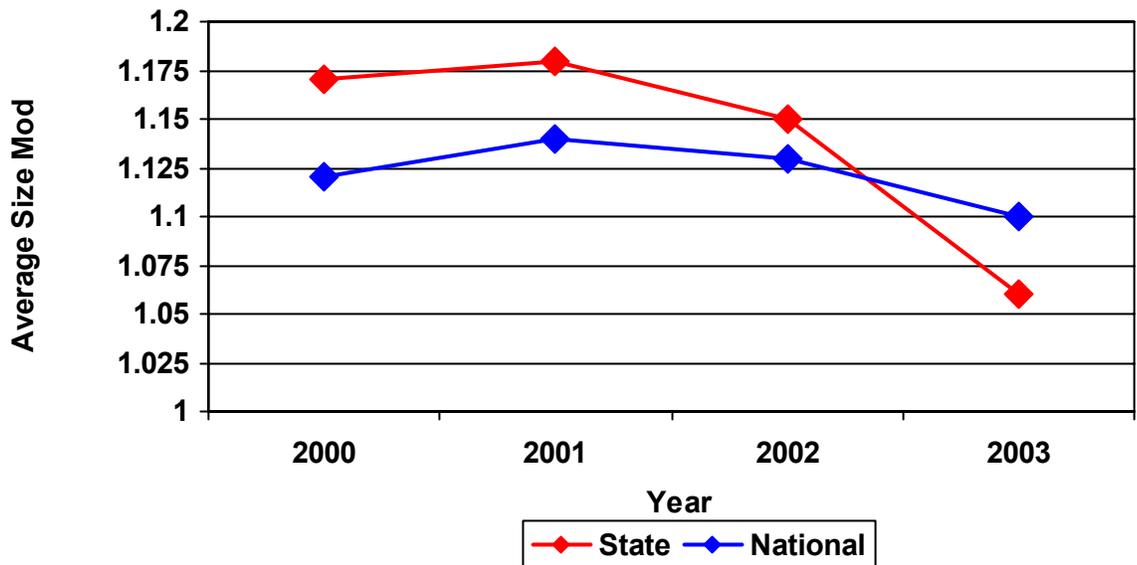
*The percentage of total assigned risk plan policies and premium, as compared to the total written premium and policies for the voluntary and assigned risk market.*



# Residual Market Demographics

## Residual Market Experience Rating Information – Average Mod Size on Assigned Risk Policies

*The average modification for all rated Residual Market policies in this state compared to the National average.*



# Residual Market Demographics

## Residual Market Top 10 Classification Codes by Policy Count Data Reported through December 31, 2003

*The top ten governing class codes by total policy count - policies issued by Servicing Carriers and Direct Assignment Carriers in this state currently in force as of the date listed above.*

Rank	Code	Description	Policy Count	% of Policies
1	8810	Clerical NOC	347	8%
2	5645	Carpentry	262	6%
3	8832	Physician & Clerical	192	4.4%
4	8017	Retail Store NOC	119	2.7%
5	9082	Restaurant NOC	113	2.6%
6	7423	Aircraft Or Helicopter Operation: All Other Employees	107	2.5%
7	9015	Buildings-Operation By Owner	98	2.3%
8	8742	Salespersons Outside	94	2.2%
9	6217	Excavation & Drivers	89	2%
10	8380	Automobile Service Or Repair Center	83	1.9%

## Residual Market Top 10 Classification Codes by Premium Volume Data Reported through December 31, 2003

*The top ten governing class codes by premium volume written on total policies issued by Servicing Carriers and Direct Assignment Carriers in this state currently in force as of the date listed above.*

Rank	Code	Description	Premium	% of Premium
1	5645	Carpentry	\$848,019	3.9%
2	7423	Aircraft Or Helicopter Operation: All Other Employees	\$797,876	3.6%
3	8006	Grocery Store	\$674,473	3.1%
4	8861	Charitable Or Welfare - Professional Employees And Clerical	\$637,640	2.9%
5	7229	Trucking-Long Distance Hauling	\$636,998	2.9%
6	9403	Garbage Ashes Or Refuse Collection	\$511,843	2.3%
7	9012	Building Ops By Owner Lessee	\$462,059	2.1%
8	7228	Trucking-Local Hauling Only	\$461,134	2.1%
9	7720	Police Officers	\$414,134	1.9%
10	3724	Machinery Or Equipment Erection Or Repair NOC	\$373,034	1.7%

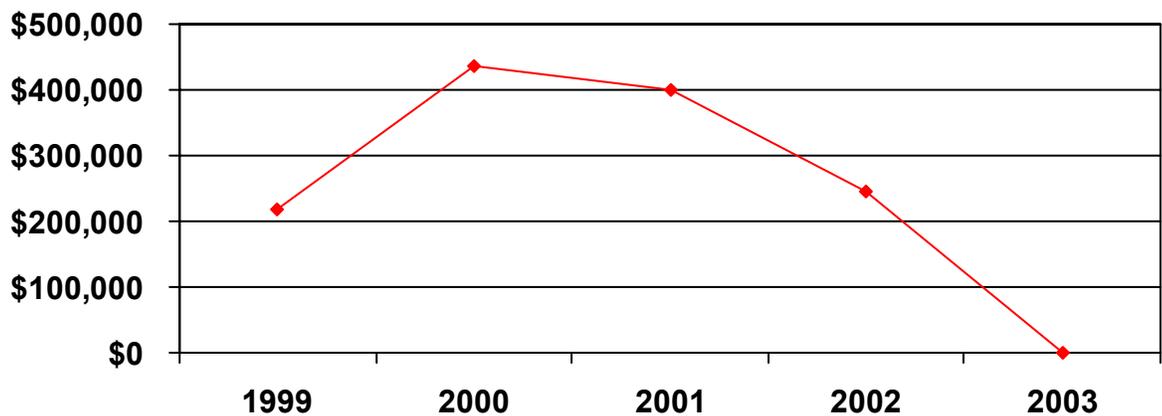
# Residual Market Demographics

## Collections/Indemnification

*The following shows a comparison of gross written premium and uncollectible premium reported in Arkansas and the National Pool for Policy Years 1999-2003, obtained through NP-4 and NP-5 reports including traumatic and black lung claims, evaluated through Third Quarter 2003.*

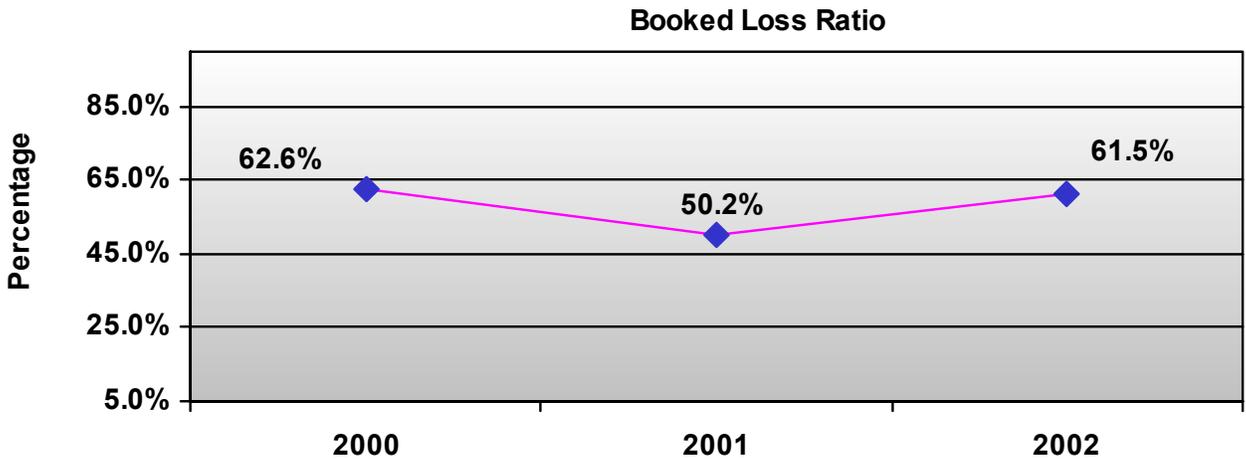
Arkansas	Gross Written Premium	Uncollectible Premium	Percentage
1999	\$8,161,800	\$217,572	2.7%
2000	\$7,225,621	\$435,239	6.0%
2001	\$13,157,856	\$400,911	3.0%
2002	\$22,405,247	\$246,684	1.1%
2003	\$16,003,023	\$0	0.0%
National Pool 2003	\$630,964,506	\$60,982	0.0%

## Arkansas Uncollectible Premium

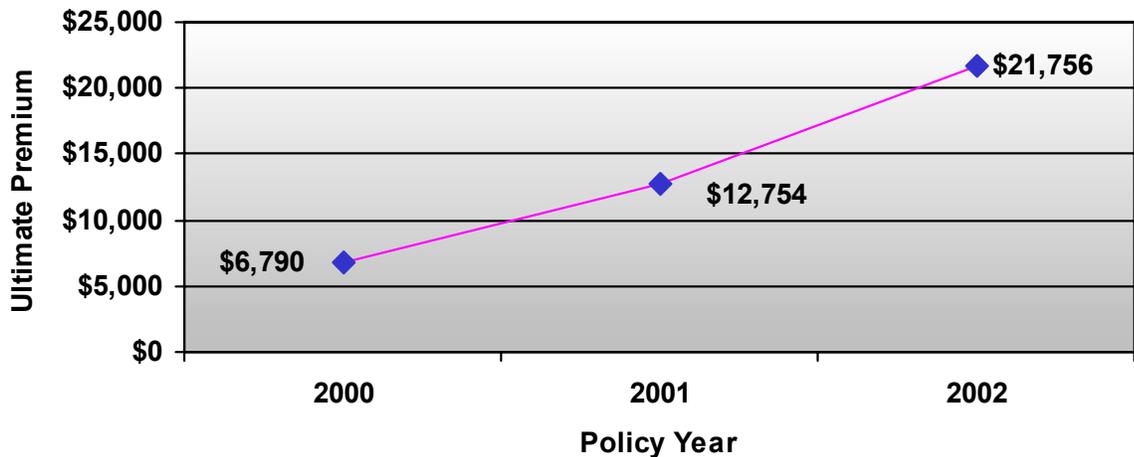


# Residual Market Demographics

**Arkansas Residual Market Reinsurance Pool Booked Loss Ratio**  
**Policy Year Financial Results through 3rd Quarter 2003 for 2002 and prior years\***  
*The ratio of total incurred losses to total earned premiums in a given period, in this state, expressed as a percentage .*



**Arkansas Residual Market Reinsurance Pool Ultimate Net Written Premium**  
**(Projected to Ultimate) (000's)**  
**Policy Year Financial Results through 3rd Quarter 2003 for 2002 and prior years\***  
*The premium charged by an insurance company for the period of time and coverage provided by an insurance contract in this state.*

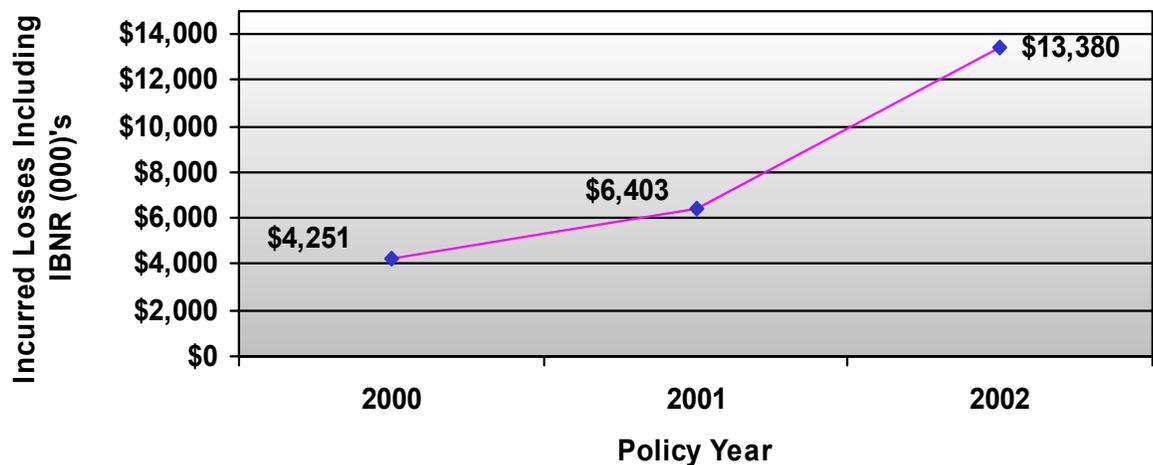


\*-Fourth Quarter 2003 Data will be available the end of April 2004 due to the timing of data reporting

# Residual Market Demographics

## Arkansas Residual Market Reinsurance Pool Net Operating Results (Projected to Ultimate) Incurred Losses Policy Year Financial Results through 3rd Quarter 2003 for 2002 and prior years\*

*Policy year incurred losses reflect paid losses, case reserves and IBNR reserves for policies written in a particular policy year in that state.*

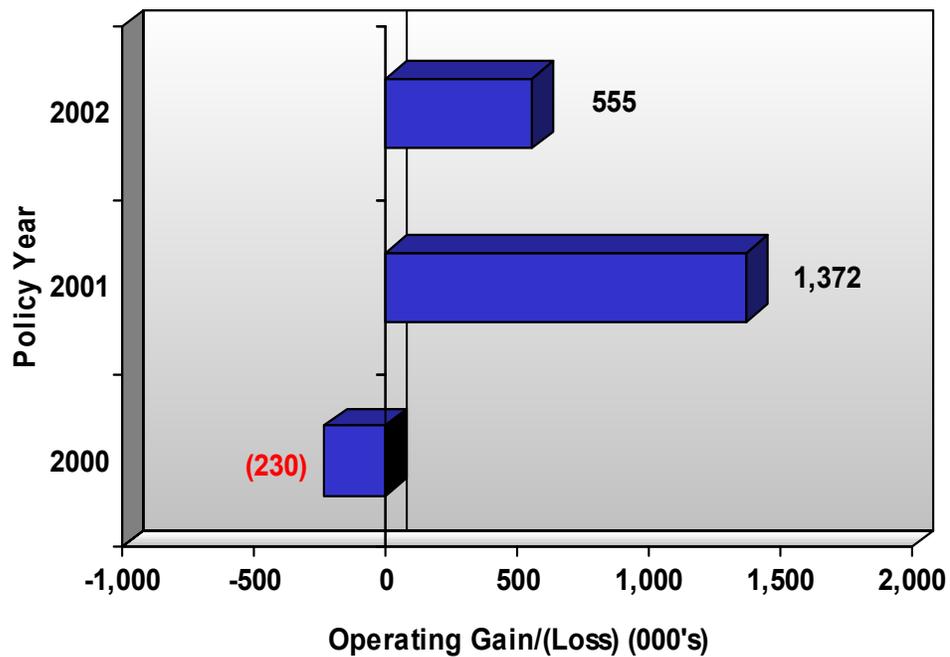


\*-Fourth Quarter 2003 Data will be available the end of April 2004 due to the timing of data reporting

# Residual Market Demographics

## Arkansas Residual Market Reinsurance Pool Net Operating Results (Projected to Ultimate) Estimated Net Operating Gain/(Loss) (000's) Policy Year Financial Results through 3rd Quarter 2003 for 2002 and prior years\*

*The financial statement presentation that reflects the excess of earned premium over incurred losses, less all operating expenses, plus all investment income in that state.*



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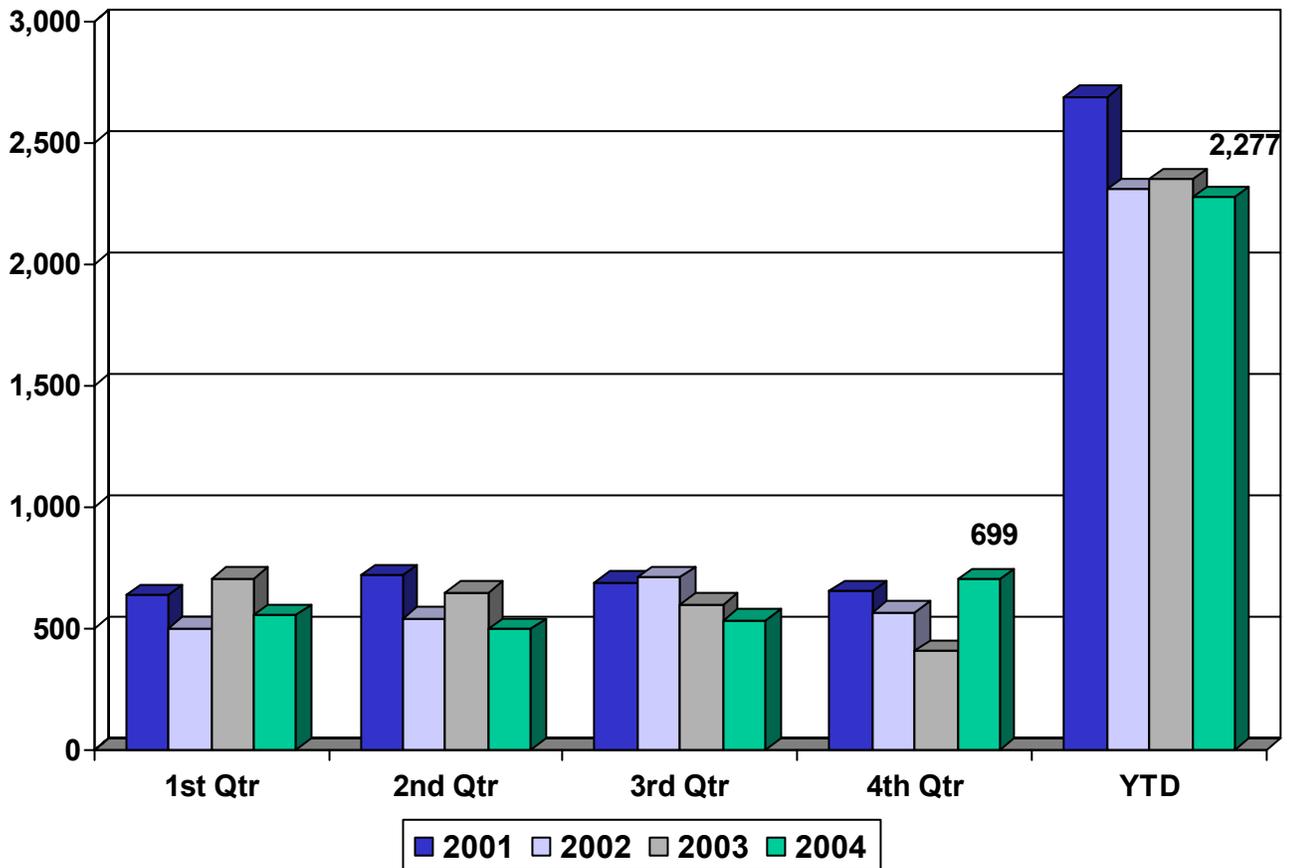
If you have any questions or comments about this report, please feel free to contact any of the individuals listed below.

Terri Robinson, State Relations Executive	(314) 843-4001
Lesley O'Brien, Underwriting Specialist	(561) 893-3186
Chantel Weishaar, Technical Specialist	(561) 893-3015

# Residual Market Demographics – Annual 2004

## Arkansas Residual Market Total New Applications Bound 2001 vs. 2002 vs. 2003 vs. 2004

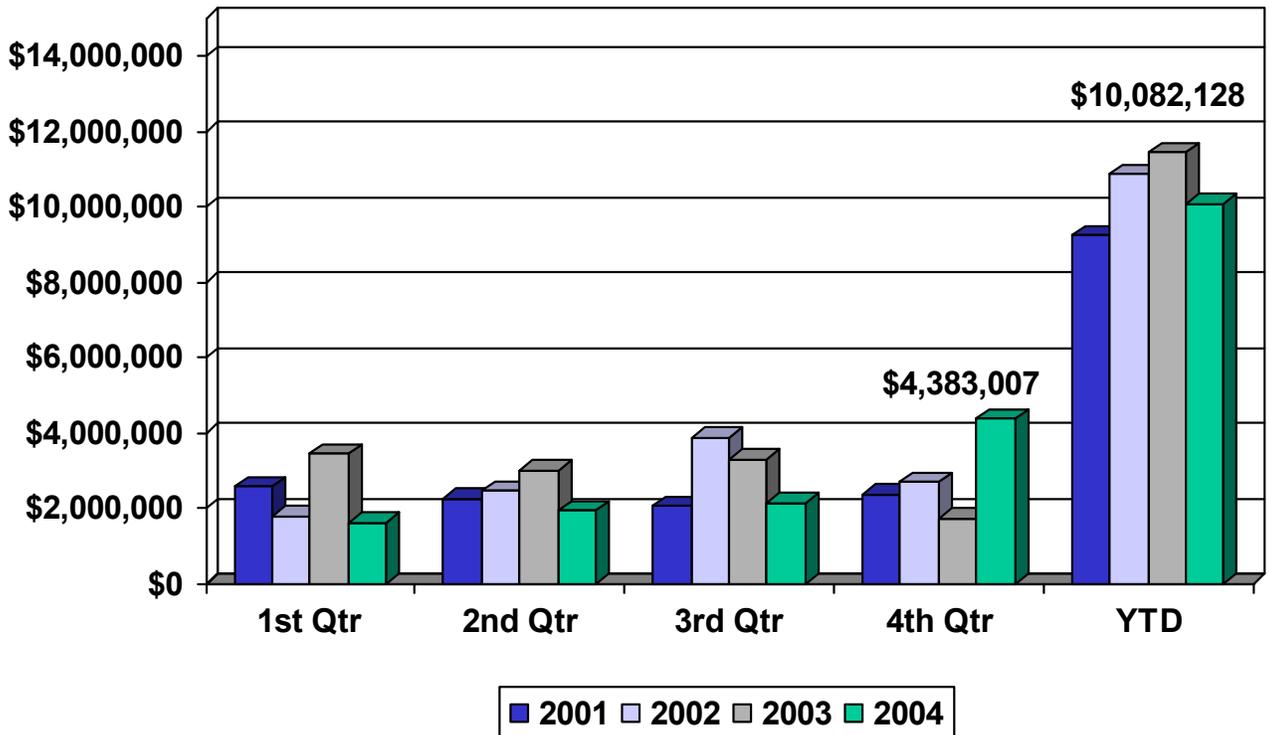
*The number of new applications that are actually assigned to a Servicing Carrier or Direct Assignment Carrier (if applicable).*



# Residual Market Demographics – Annual 2004

## Arkansas Residual Market Total New Application Premium Bound 2001 vs. 2002 vs. 2003 vs. 2004

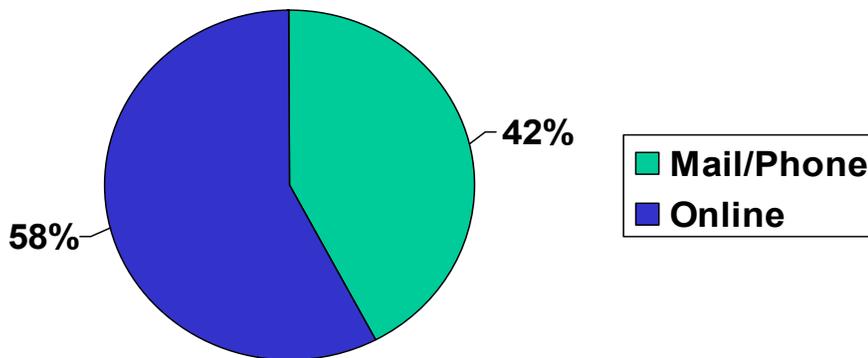
*The total estimated Annual premium on bound new applications assigned to as Servicing Carrier or Direct Assignment Carrier (if applicable).*



# Residual Market Demographics – Annual 2004

## Percentage of New Applications Received by Submission Format Data through December 31, 2004

*The total percentage of new applications received via online, phone or mail formats.*

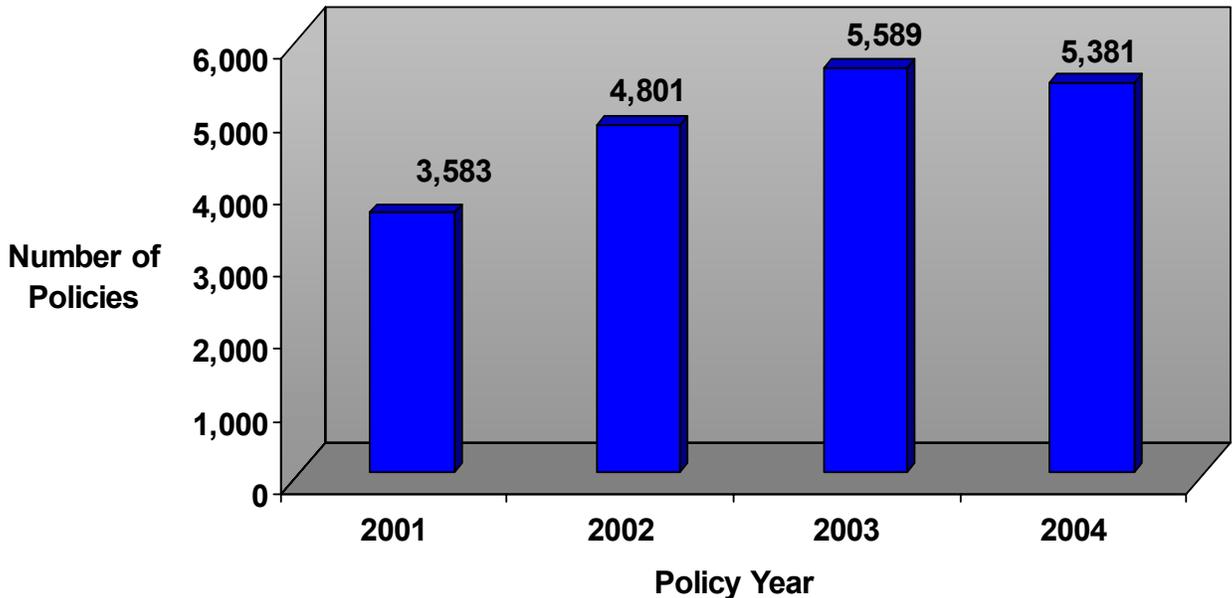


# Residual Market Demographics – Annual 2004

## Residual Market Total Policy Counts

Data for Policies Reported through December 31, 2004

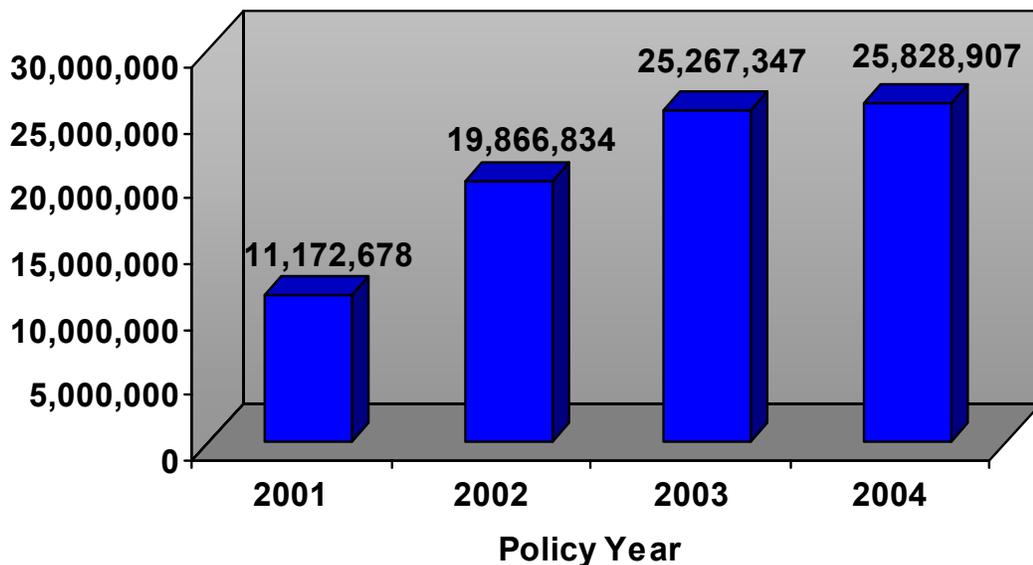
Total Number of all Assigned Risk Plan Policies effective during this year and reported as of the date listed above.



## Residual Market Total Premium Volume

Data Reported through December 31, 2004

Total Amount of All Assigned Risk Plan Premium effective during this year and reported as of the date listed above.



# Residual Market Demographics – Annual 2004

## Residual Market Total Estimated Annual Premium Distribution by Size of Risk Data Reported through December 31, 2004

*The total number of assigned risk plan policies reported to NCCI for the year by Direct Assignment and Servicing Carriers in a premium range as of the date listed above.*

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	3,610	67.09%	\$3,187,460	12.34%	\$882
\$2500 - 4999	736	13.68%	\$2,320,801	8.99%	\$3,153
\$5000 - 9999	485	9.01%	\$3,004,387	11.63%	\$6,194
\$10000 - 19999	301	5.59%	\$3,650,564	14.13%	\$12,128
\$20000 - 49999	149	2.77%	\$4,308,264	16.68%	\$28,914
\$50000 - 99999	63	1.17%	\$3,958,452	15.33%	\$62,832
\$100000 - 199999	32	0.59%	\$3,749,613	14.52%	\$117,175
\$200000 - Plus	5	0.09%	\$1,649,366	6.39%	\$329,873
Total	5,381	100%	\$25,828,907	100%	\$4,800

## Residual Market Total Estimated Annual Premium Distribution by Size of Risk Annual 2003 Data for Comparison

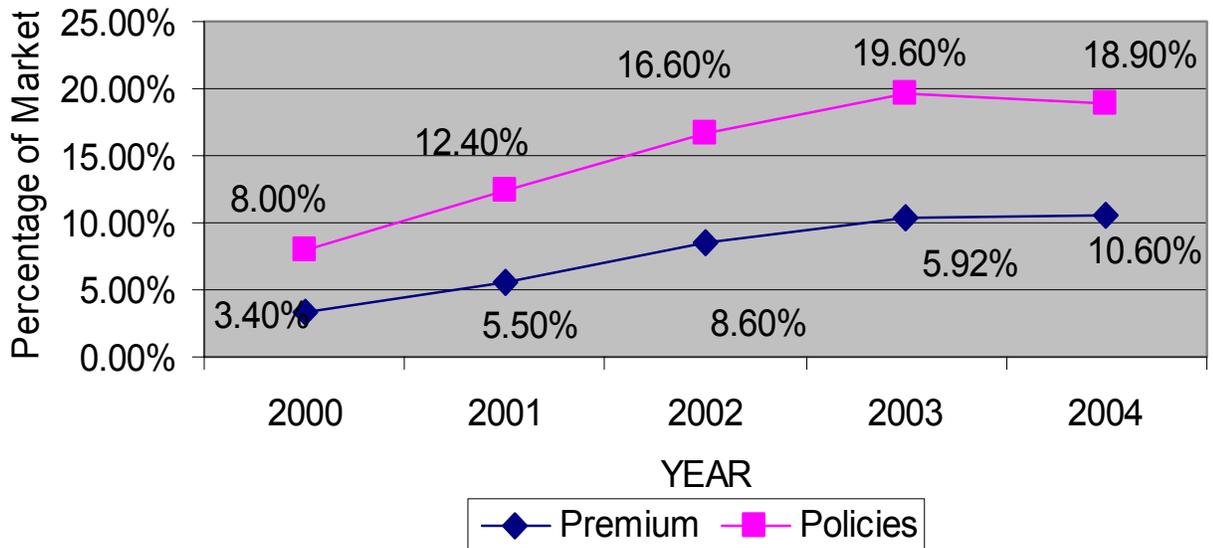
*The total number of assigned risk plan policies reported to NCCI for the year by Direct Assignment and Servicing Carriers in a premium range as of the date listed above.*

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	3,757	67.22%	\$3,215,016	12.72%	\$855
\$2500 - 4999	809	14.47%	\$2,470,615	9.78%	\$3,053
\$5000 - 9999	482	8.62%	\$2,955,591	11.7%	\$6,131
\$10000 - 19999	279	4.99%	\$3,253,928	12.88%	\$11,662
\$20000 - 49999	165	2.95%	\$4,392,008	17.38%	\$26,618
\$50000 - 99999	66	1.18%	\$3,614,045	14.3%	\$54,758
\$100000 - 199999	23	0.41%	\$2,450,960	9.7%	\$106,563
\$200000 - Plus	8	0.14%	\$2,915,184	11.54%	\$364,398
Total	5,589	100%	\$25,267,347	100%	\$4,521

# Residual Market Demographics – Annual 2004

## Total Arkansas Assigned Risk Plan Market Share

*The percentage of total assigned risk plan policies and premium, as compared to the total estimated annual premium and policies for the voluntary market, as of December 31, 2004.*



\* NOTE: The numbers as of December 2004 show the volume of assigned risk policies and *total estimated annual premium* for policies reported as of that date. This is meant to provide an estimate of where the year-end numbers might be. However, the final market share numbers are based on written premium on financial data reported to NCCI.

# Residual Market Demographics – Annual 2004

## Residual Market Top 10 Classification Codes by Policy Count Data Reported through December 31, 2004

*The top ten governing class codes by total policy count - policies issued by Servicing Carriers and Direct Assignment Carriers in this state as of the date listed above.*

Rank	Code	Description	Policy Count	% of Policies
1	5645	Carpentry-Detached One Or Two Family Dwellings	539	10.02%
2	8810	Clerical NOC	384	7.14%
3	8832	Physician & Clerical	194	3.61%
4	6217	Excavation & Drivers	138	2.56%
5	9082	Restaurant NOC	128	2.38%
6	8017	Retail Store NOC	123	2.29%
7	9015	Buildings-Operation By Owner	120	2.23%
8	8742	Outside Salesperson	119	2.21%
9	7423	Aircraft Or Helicopter Operation: All Other Employees & Drivers	108	2.01%
10	9014	Buildings-Operation By Contractors	108	2.01%

## Residual Market Top 10 Classification Codes by Premium Volume Data Reported through December 31, 2004

*The top ten governing class codes by premium volume written on total policies issued by Servicing Carriers and Direct Assignment Carriers in this state as of the date listed above.*

Rank	Code	Description	Premium	% of Premium
1	5645	Carpentry-Detached One Or Two Family Dwellings	\$1,570,831	6.08%
2	5022	Masonry NOC	\$1,539,419	5.96%
3	7229	Trucking-Long Distance Hauling	\$932,558	3.61%
4	7423	Aircraft Or Helicopter Operation: All Other Employees & Drivers	\$782,537	3.03%
5	7720	Police Officers	\$645,683	2.5%
6	3632	Machine Shop NOC	\$622,479	2.41%
7	7228	Trucking-Local Hauling Only	\$545,649	2.11%
8	6217	Excavation & Drivers	\$506,425	1.96%
9	8380	Automobile Service Or Repair Center	\$462,278	1.79%
10	5403	Carpentry NOC	\$459,994	1.78%

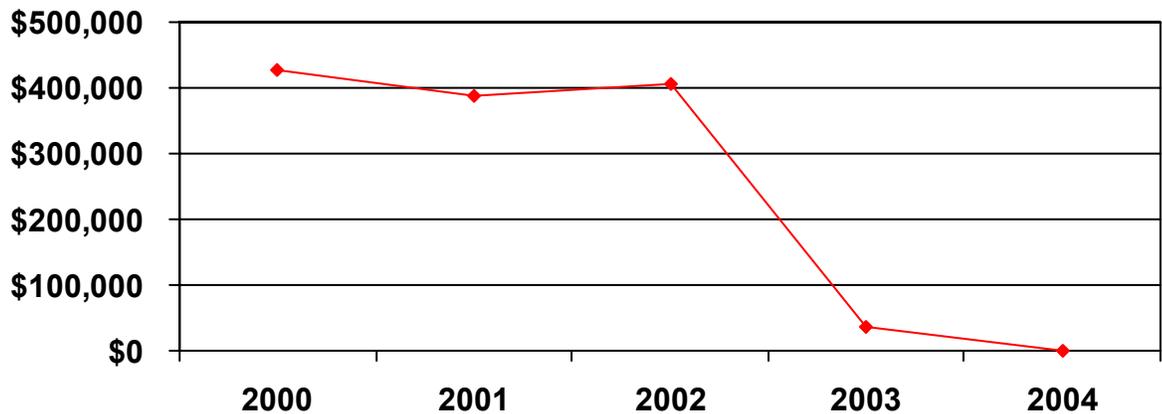
# Residual Market Demographics

## Collections/Indemnification

*The following shows a comparison of gross written premium and uncollectible premium reported in Arkansas and the National Pool for Policy Years 2000-2004, obtained through NP-4 and NP-5 reports including traumatic and black lung claims, evaluated through Third Quarter 2004.*

Arkansas	Gross Written Premium	Uncollectible Premium	Percentage
<b>2000</b>	\$7,233,178	\$426,494	5.9%
<b>2001</b>	\$13,248,502	\$388,599	2.9%
<b>2002</b>	\$22,929,998	\$406,266	1.8%
<b>2003</b>	\$26,157,117	\$35,907	0.1%
<b>2004</b>	\$4,748,020	\$0	0.0%
<b>National Pool 2004</b>	\$757,239,252	\$48,310	0.0%

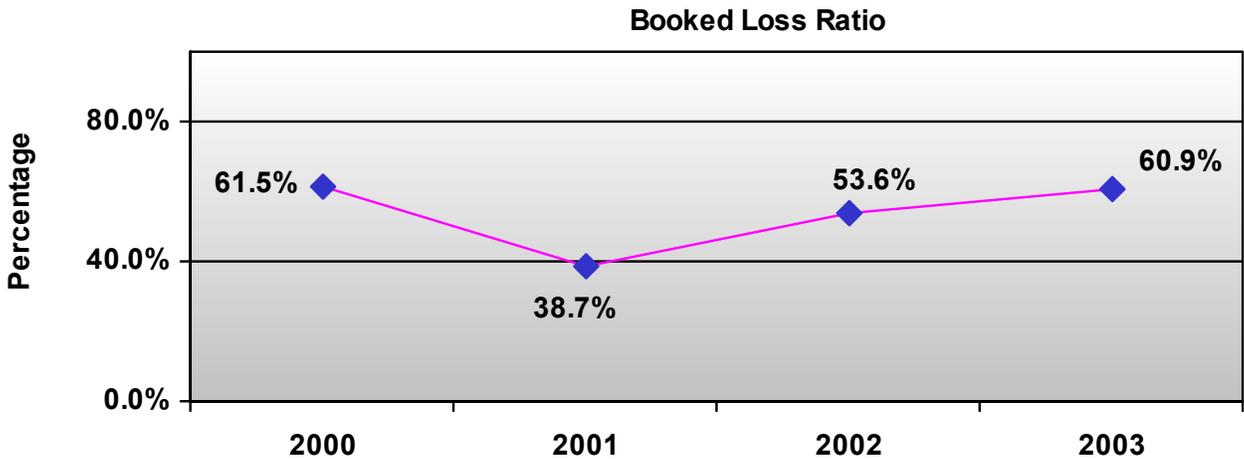
### Arkansas Uncollectible Premium



# Residual Market Demographics

## Arkansas Residual Market Reinsurance Pool Booked Loss Ratio Policy Year Financial Results through 3rd Quarter 2004 for 2003 and prior years

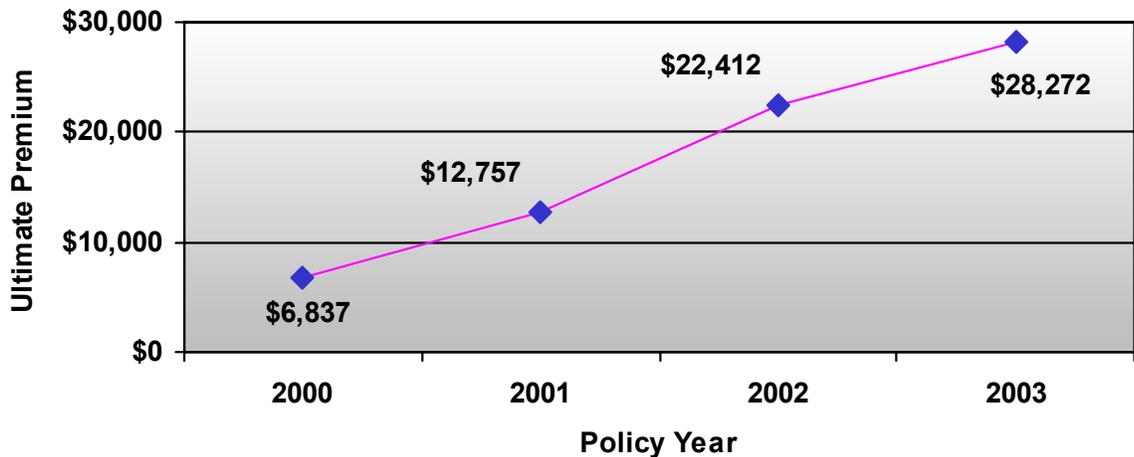
*The ratio of total incurred losses to total earned premiums in a given period, in this state, expressed as a percentage .*



## Arkansas Residual Market Reinsurance Pool Ultimate Net Written Premium (Projected to Ultimate) (000's)

### Policy Year Financial Results through 3rd Quarter 2004 for 2003 and prior years\*

*The premium charged by an insurance company for the period of time and coverage provided by an insurance contract in this state.*



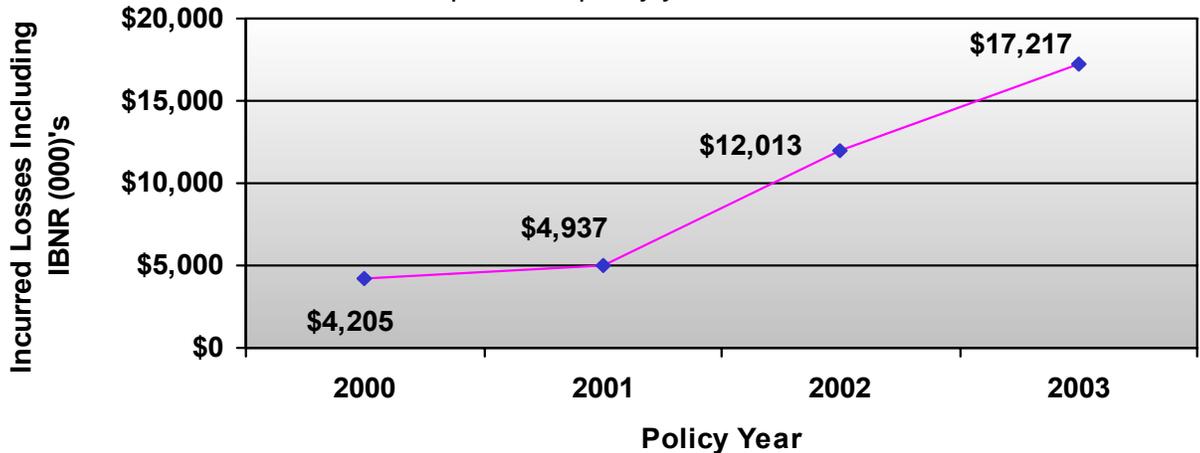
\*-Fourth Quarter 2004 Data will be available the end of April 2005 due to the timing of data reporting

# Residual Market Demographics

## Arkansas Residual Market Reinsurance Pool Net Operating Results (Projected to Ultimate) Incurred Losses

### Policy Year Financial Results through 3rd Quarter 2004 for 2002 and prior years\*

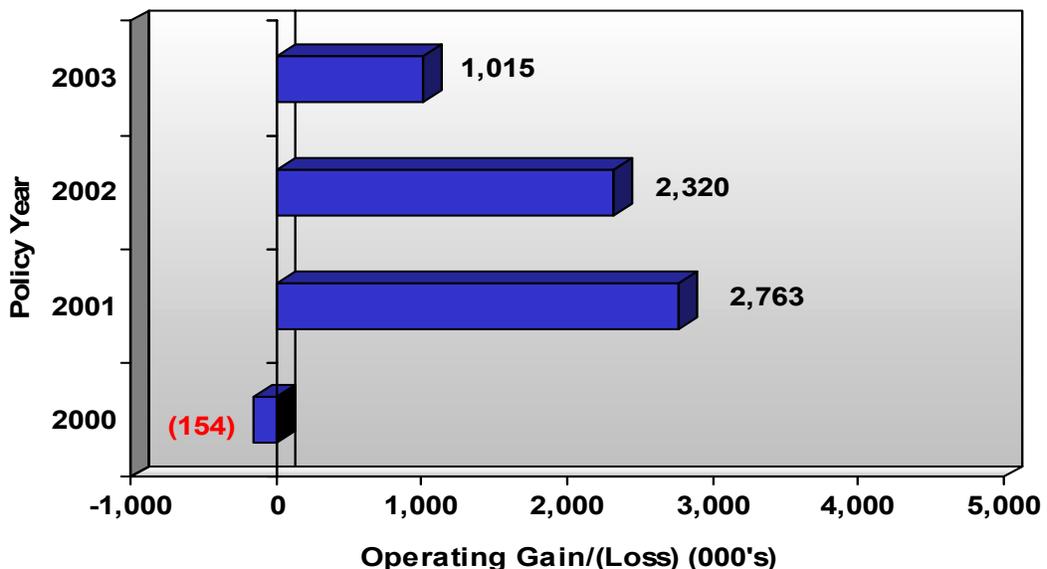
*Policy year incurred losses reflect paid losses, case reserves and IBNR reserves for policies written in a particular policy year in that state.*



## Arkansas Residual Market Reinsurance Pool Net Operating Results (Projected to Ultimate) Estimated Net Operating Gain/(Loss) (000's)

### Policy Year Financial Results through 3rd Quarter 2004 for 2003 and prior years\*

*The financial statement presentation that reflects the excess of earned premium over incurred losses, less all operating expenses, plus all investment income in that state.*



\*-Fourth Quarter 2004 Data will be available the end of April 2005 due to the timing of data reporting

# Glossary of Terms

**Combined Ratio**-The combined loss ratio, expense ratio and dividend ratio, expressed as a sum for a given period. The formula for combined ratio is [(loss + loss adjustment expense)/earned premium] + [underwriting expenses/written premium].

**EBNR (Earned But Not Reported) Premium Reserve**-A projection of additional premium that is expected to be uncovered after auditing at the end of the policy.

**Earned Premium or Premiums Earned**-That portion of written premiums applicable to the expired portion of the time for which the insurance was in effect. When used as an accounting term, "premiums earned" describes the premiums written during a period plus the unearned premiums at the beginning of the period less the unearned premiums at the end of the period.

**Incurred But Not Reported (IBNR)**-Pertaining to losses where the events which will result in a loss, and eventually a claim, have occurred, but have not yet been reported to the insurance company. The term may also include "bulk" reserves for estimated future development of case reserves.

**Underwriting Gain/(Loss)**-The financial statement presentation that reflects the excess of earned premium over incurred losses.

**Applications Bound**-The applications that are actually assigned to a Servicing Carrier or Direct Assignment Carrier (if applicable).

**Premium Bound**-The total estimated annual premium on bound applications.



*NCCI Holdings, Inc.*

# State of the Line

**Dennis Mealy, FCAS, MAAA**  
**NCCI Chief Actuary**

**May 5, 2005**  
**Orlando, Florida**

**AIS**  
*Annual Issues Symposium*  
**2005**

- I. Property & Casualty Results**
- II. Workers Compensation Results**
- III. Concluding Remarks**

# Property & Casualty Results

# P/C Industry Net Written Premium Growth By Line

## Private Carriers

Line of Business (LOB)	2002	2003	2004p	2003-2004p Change
Personal Auto	\$139.5 B	\$151.0 B	\$157.2 B	4.1%
Homeowners	\$40.0 B	\$45.7 B	\$49.5 B	8.4%
Other Liability (Incl Prod Liab)	\$30.9 B	\$37.8 B	\$42.7 B	12.9%
<b>Workers Compensation</b>	<b>\$29.2 B</b>	<b>\$31.1 B</b>	<b>\$34.5 B</b>	<b>10.9%</b>
Commercial Multiple Peril	\$25.4 B	\$27.4 B	\$28.9 B	5.4%
Commercial Auto	\$24.5 B	\$25.4 B	\$26.8 B	5.4%
Fire & Allied Lines (Incl EQ)	\$15.4 B	\$17.6 B	\$18.0 B	2.3%
All Other Lines	\$64.9 B	\$69.0 B	\$65.9 B	-4.5%
<b>Total All Lines</b>	<b>\$369.8 B</b>	<b>\$405.0 B</b>	<b>\$423.5 B</b>	<b>4.6%</b>

p Preliminary

Source: 2002-2003, A.M. Best Aggregates & Averages; 2004p Total, ISO; 2004p LOB, NCCI

# P/C Industry Net Combined Ratios Improved Modestly in 2004

## Private Carriers

Line of Business (LOB)	2002	2003	2004p
Personal Auto	104%	98%	94%
Homeowners	109%	98%	95%
Other Liability (Incl Prod Liab)	137%	114%	117%
<b>Workers Compensation</b>	<b>111%</b>	<b>109%</b>	<b>105%</b>
Commercial Multiple Peril	105%	101%	100%
Commercial Auto	103%	95%	92%
Fire & Allied Lines (Incl EQ)	89%	79%	88%
All Other Lines	105%	100%	99%
<b>Total All Lines</b>	<b>107%</b>	<b>100%</b>	<b>98%</b>

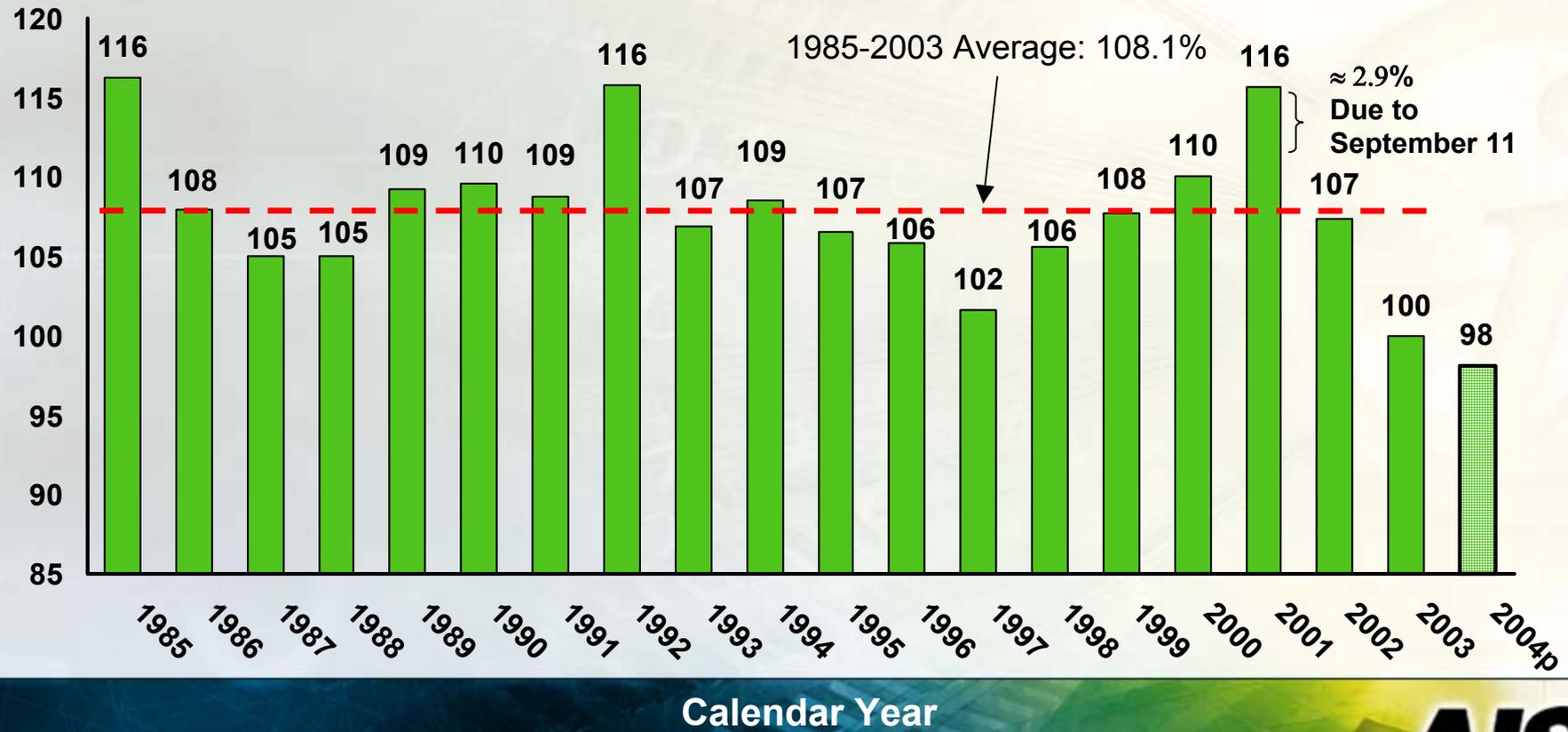
p Preliminary

Source: 2002-2003, A.M. Best Aggregates & Averages; 2004p Total, ISO; 2004p LOB, NCCI

# P/C Industry Calendar Year Combined Ratios

## Private Carriers

Percent

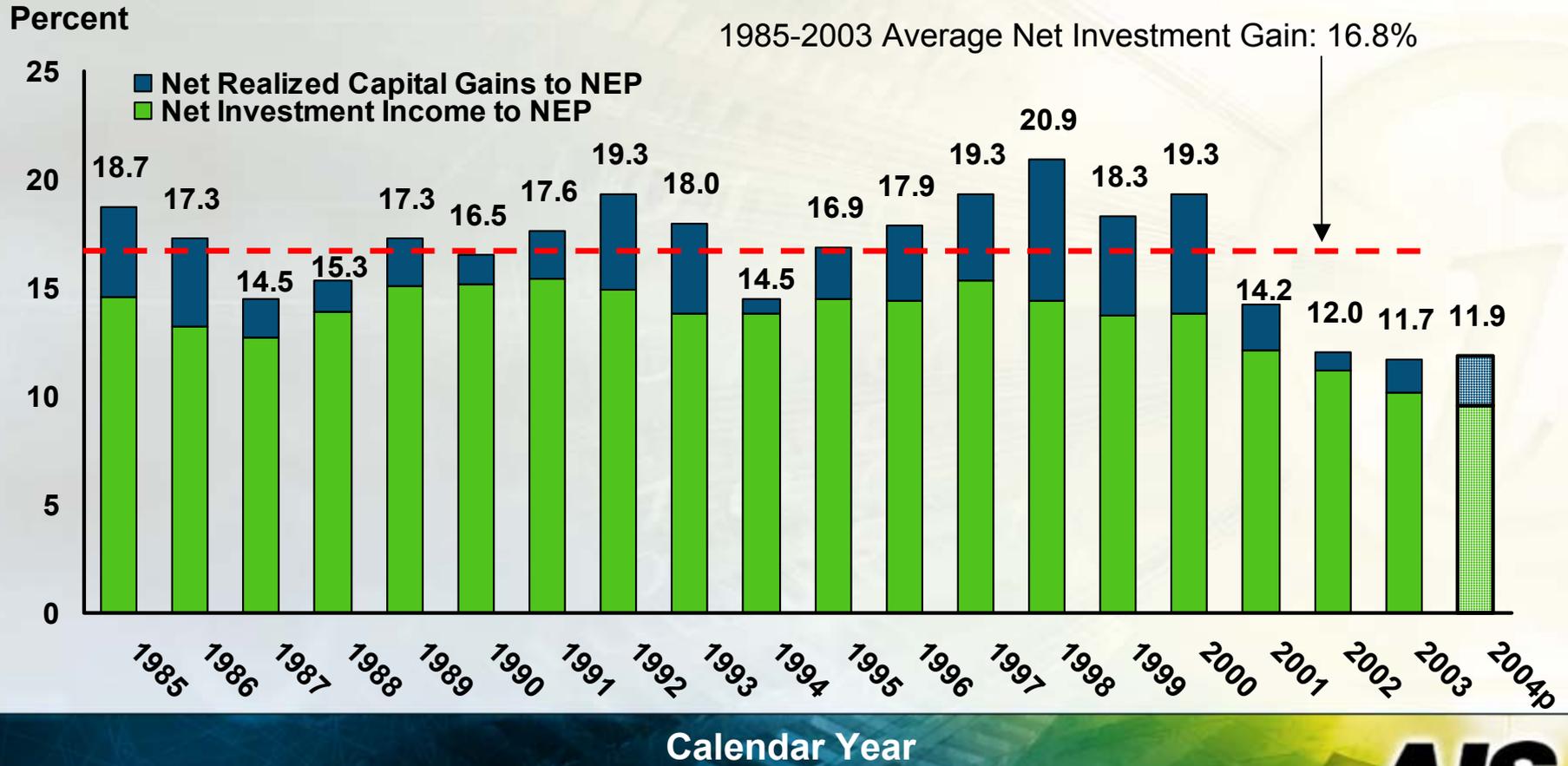


p Preliminary

Source: 1985-2003, A.M. Best Aggregates & Averages; 2004p, ISO

# Investment Gain Ratio Remains Below Historical Averages

## Private Carriers



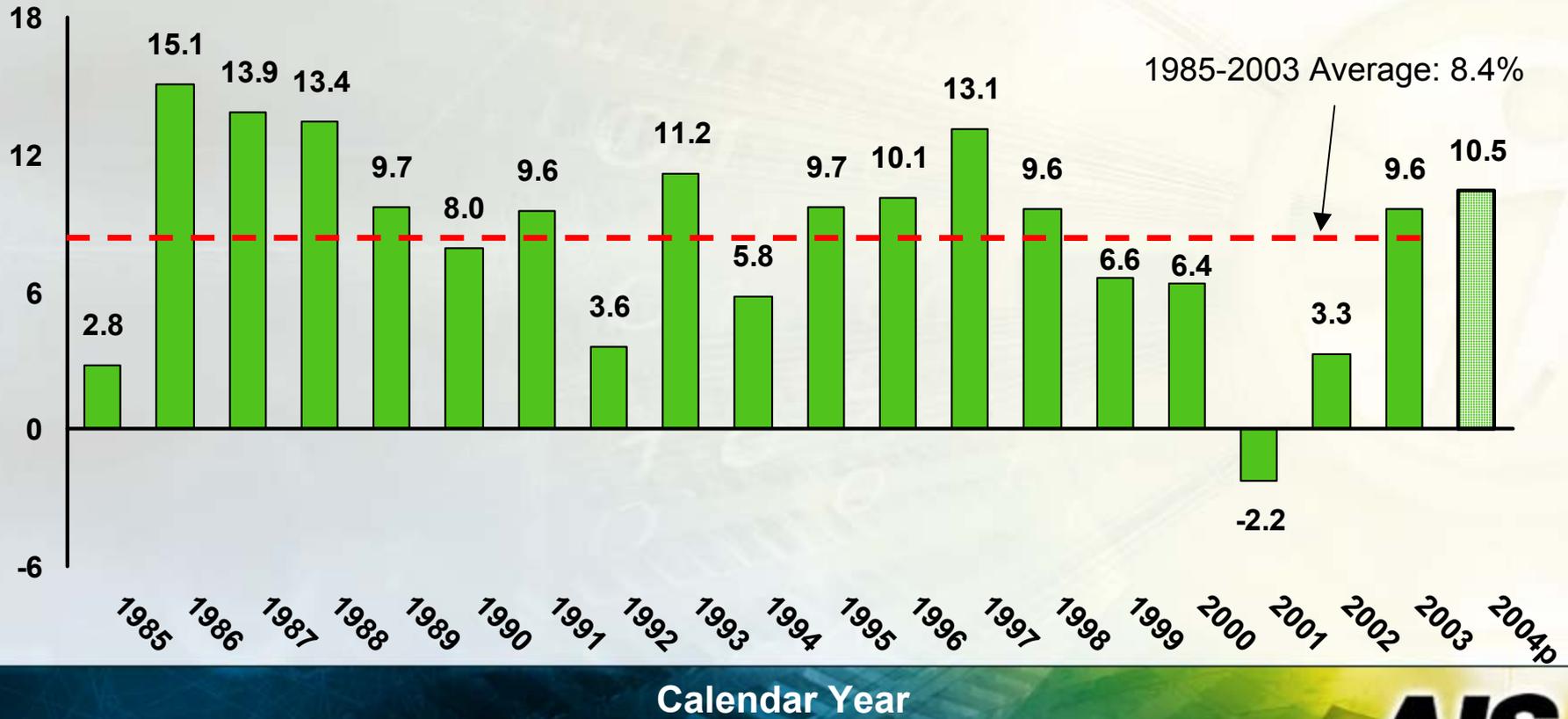
p Preliminary

Source: 1985-2003, A.M. Best Aggregates & Averages; 2004p, ISO

# Return on Surplus for P/C Industry Increased Slightly in 2004

## Annual After-Tax Return on Surplus—Private Carriers

Percent



p Preliminary

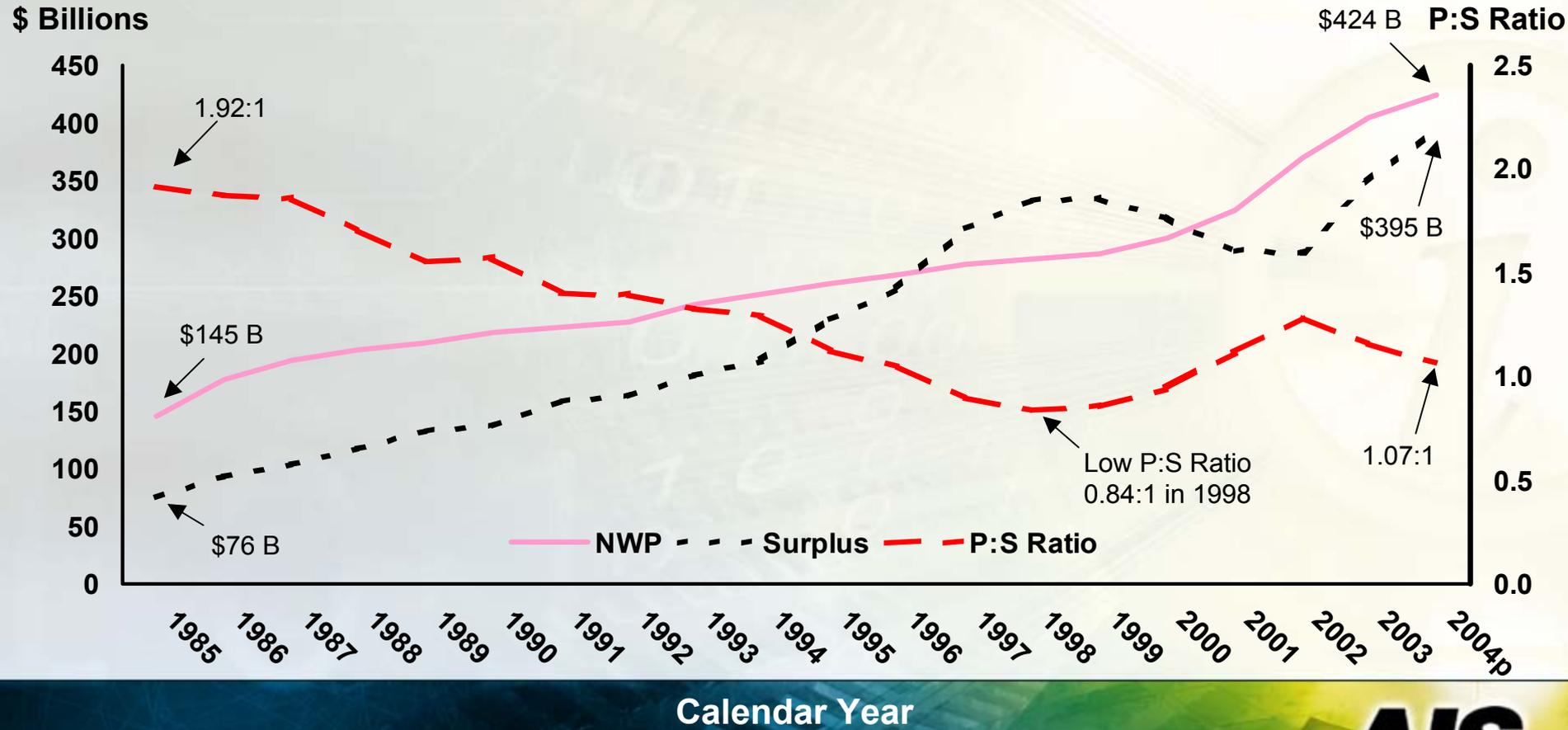
Source: 1985-2003, A.M. Best Aggregates & Averages; 2004p After-Tax Net Income, ISO;

2004p Surplus, 2003 A.M. Best Aggregates & Averages Private Carrier Surplus + 2004 ISO contributions to surplus

Note: After-tax return on average surplus, including realized capital gains 8

# P/C Industry Premium and Surplus Continue to Increase

## Private Carriers



p Preliminary

Source: 1985-2003, A.M. Best Aggregates & Averages;

2004p Surplus, 2003 A.M. Best Aggregates & Averages Private Carrier Surplus + 2004 ISO contributions to surplus

# Another Large Increase in Surplus for 2004

## Contributions to Surplus—Private Carriers

	2002	2003	2004p
Underwriting Losses	\$ (30.8) B	\$ (4.9) B	\$ 5.0 B
Investment Income	\$ 37.2 B	\$ 38.6 B	\$ 39.6 B
Realized Capital Gains	\$ (1.2) B	\$ 6.6 B	\$ 9.3 B
Other Income	\$ (0.8) B	\$ (0.0) B	\$ (0.5) B
Unrealized Capital Gains	\$ (20.8) B	\$ 25.0 B	\$ 9.9 B
Federal Taxes	\$ (1.3) B	\$ (10.4) B	\$ (14.7) B
Shareholder Dividends	\$ (7.1) B	\$ (9.1) B	\$ (13.3) B
Contributed Capital	\$ 18.8 B	\$ 11.3 B	\$ 8.3 B
Other Changes to Surplus	\$ 1.8 B	\$ 4.4 B	\$ 2.8 B
<b>Total</b>	<b>\$ (4.2) B</b>	<b>\$ 61.6 B</b>	<b>\$ 46.5 B</b>

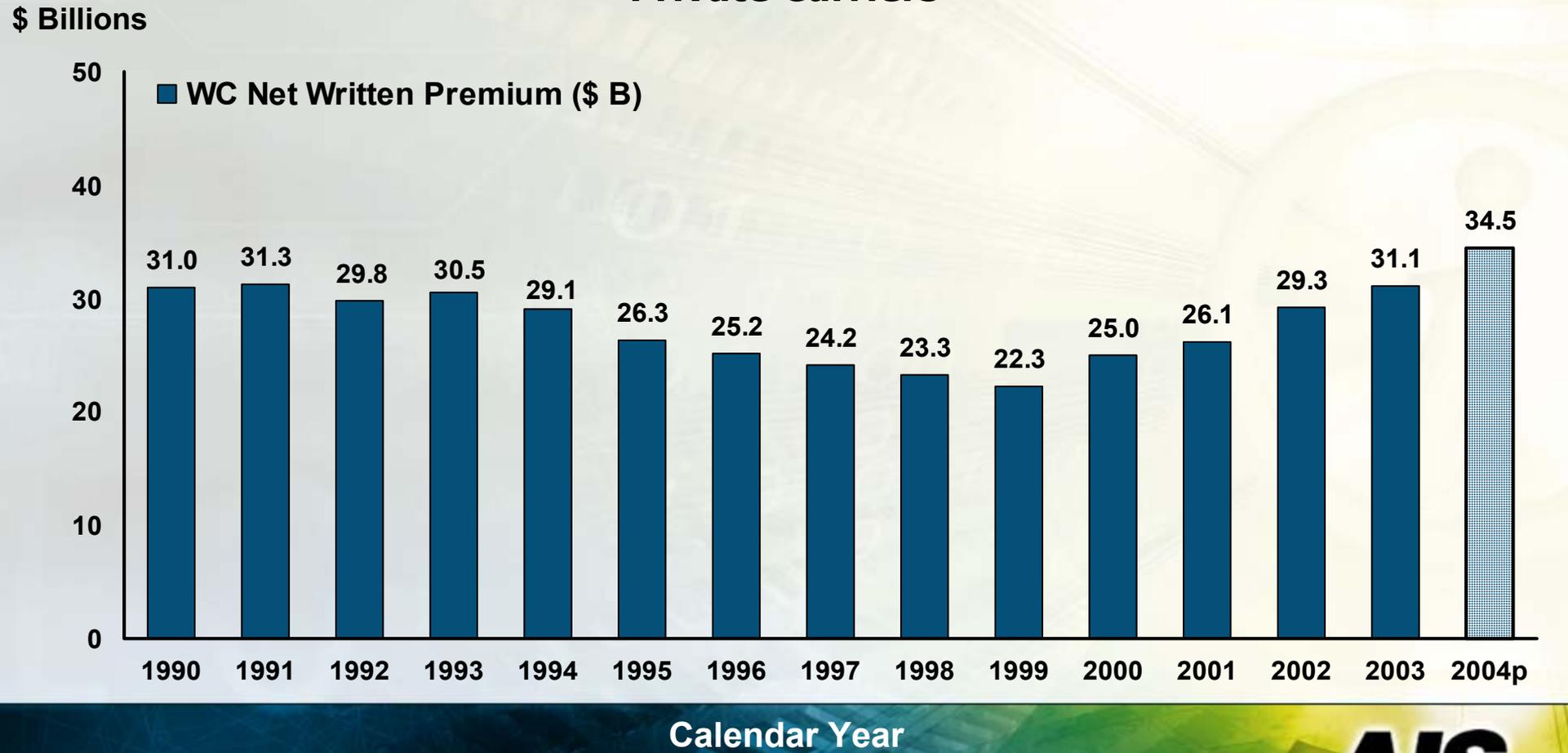
p Preliminary

Source: ISO

# Workers Compensation Results

# Workers Compensation Premium Continued to Rise in 2004

## Private Carriers

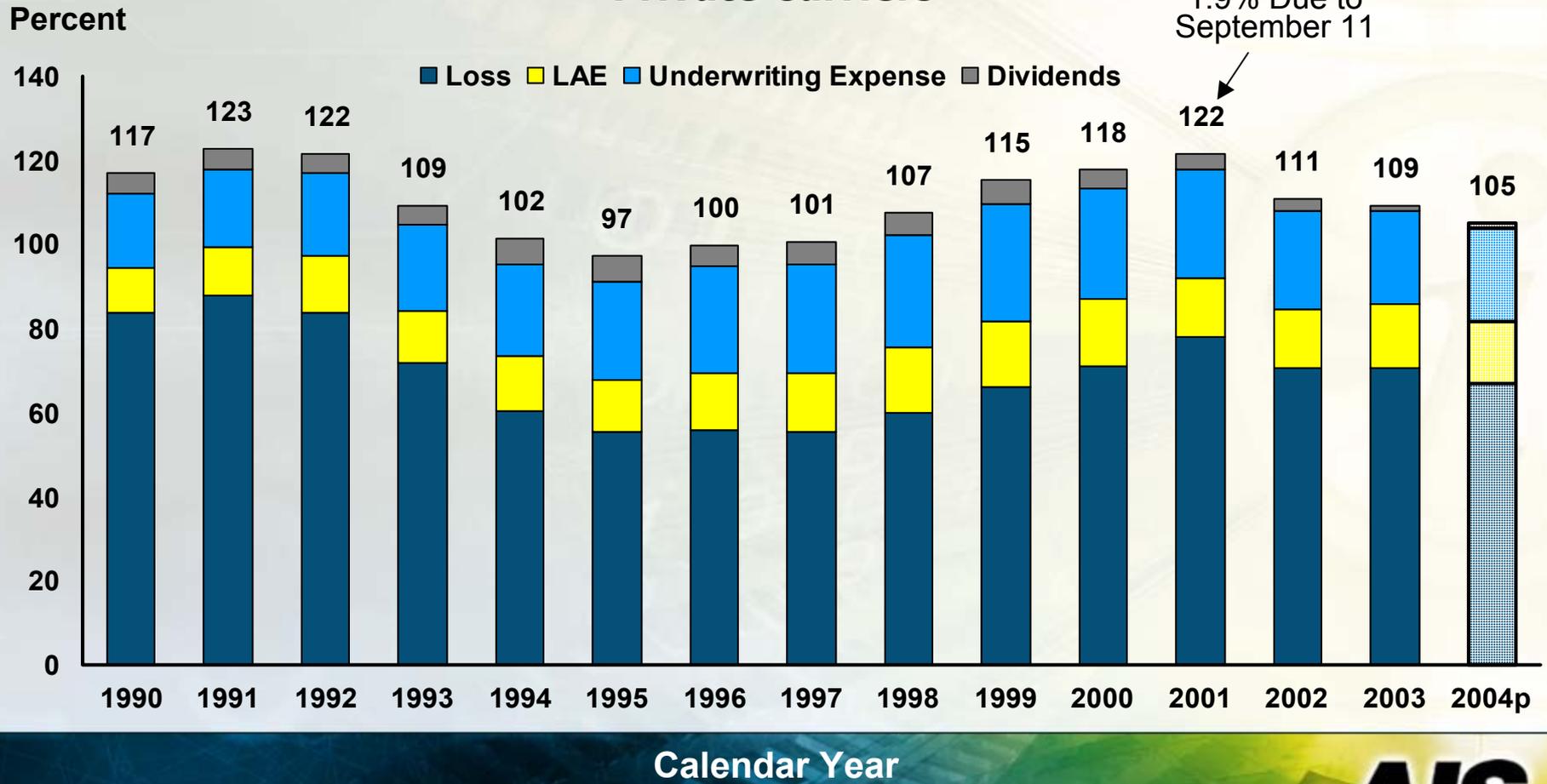


p Preliminary

Source: 1990-2003, A.M. Best Aggregates & Averages; 2004p, NCCI

# WC Calendar Year Combined Ratio Continued Its Modest Decline in 2004

## Private Carriers



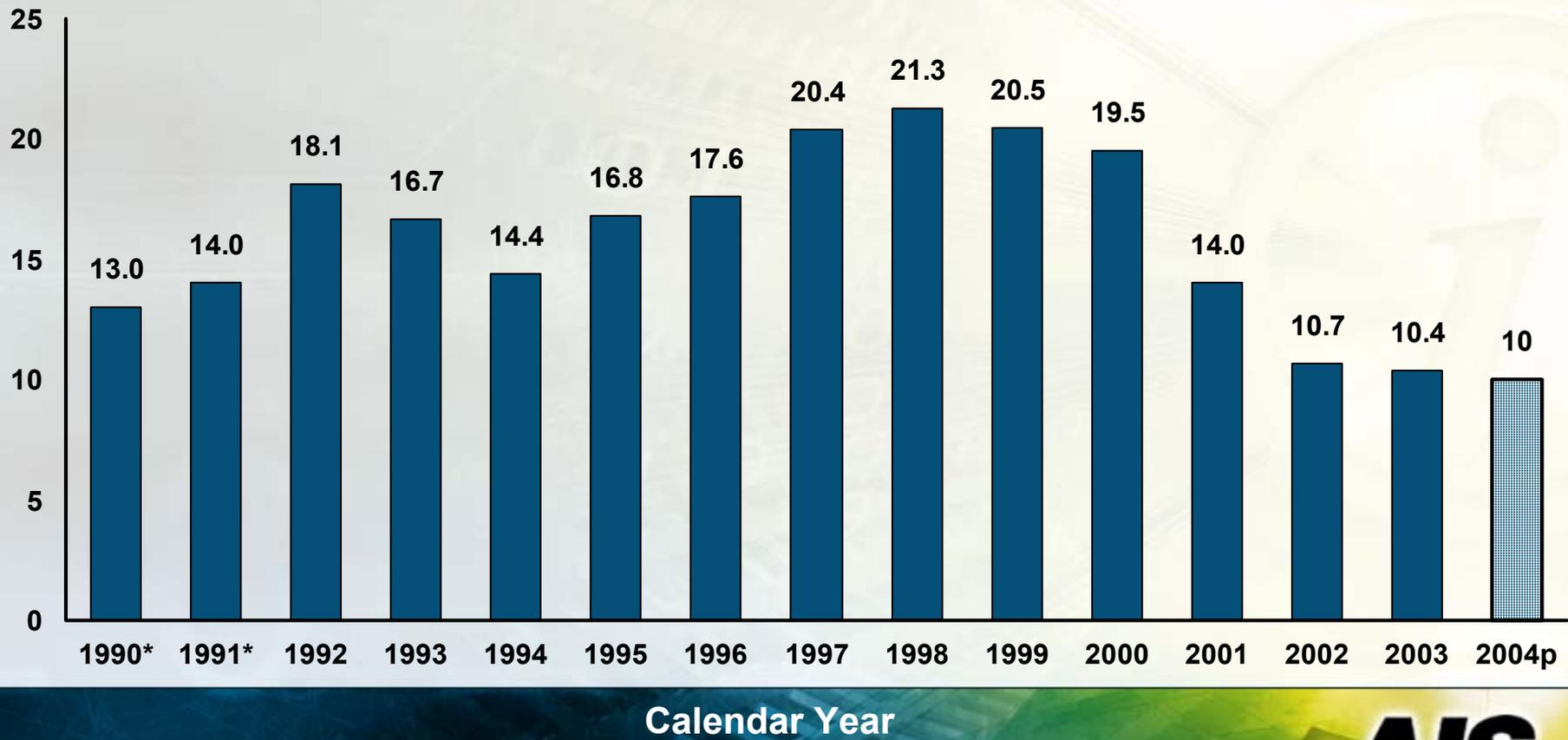
p Preliminary

Source: 1990-2003, A.M. Best Aggregates & Averages; 2004p, NCCI

# Low Workers Compensation Investment Returns Continued in 2004

## Investment Gain on Insurance Transactions to Premium Ratio Private Carriers

Percent



p Preliminary

\* Adjusted to include realized capital gains to be consistent with 1992 and after

Investment Gain on Insurance Transactions includes Other Income

Source: 1990-2003, A.M. Best Aggregates & Averages; 2004p, NCCI

# 2004 Workers Compensation Results Improved Over 2003

## Pre-Tax Operating Gain Ratio—Private Carriers

Percent



p Preliminary

\* Adjusted to include realized capital gains to be consistent with 1992 and after

Operating Gain equals 1.00 minus (Combined Ratio less Investment Gain on Insurance Transactions and Other Income)

Source: 1990-2003, A.M. Best Aggregates & Averages; 2004p, NCCI

# Workers Compensation Calendar Year Direct Combined Ratios

## Countrywide and NCCI States—Private Carriers

Percent



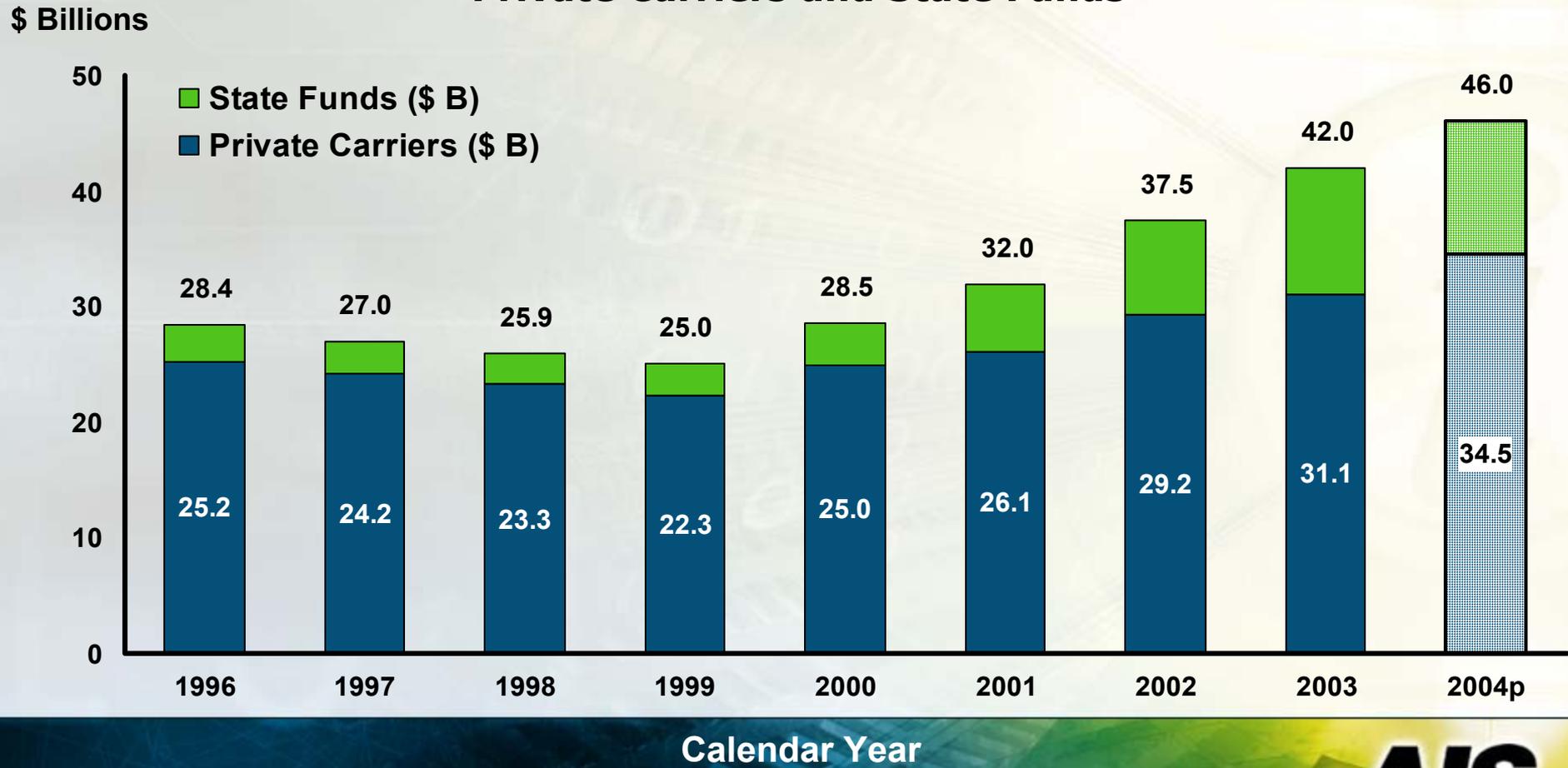
p Preliminary

Source: 1996-2003 Countrywide, A.M. Best Aggregates & Averages;  
1996-2003 NCCI States, Statutory Page 14 and Insurance Expense Exhibit;  
2004p, NCCI

Calendar Year

# Workers Compensation Premium Volume Continues to Grow

## Private Carriers and State Funds



p Preliminary

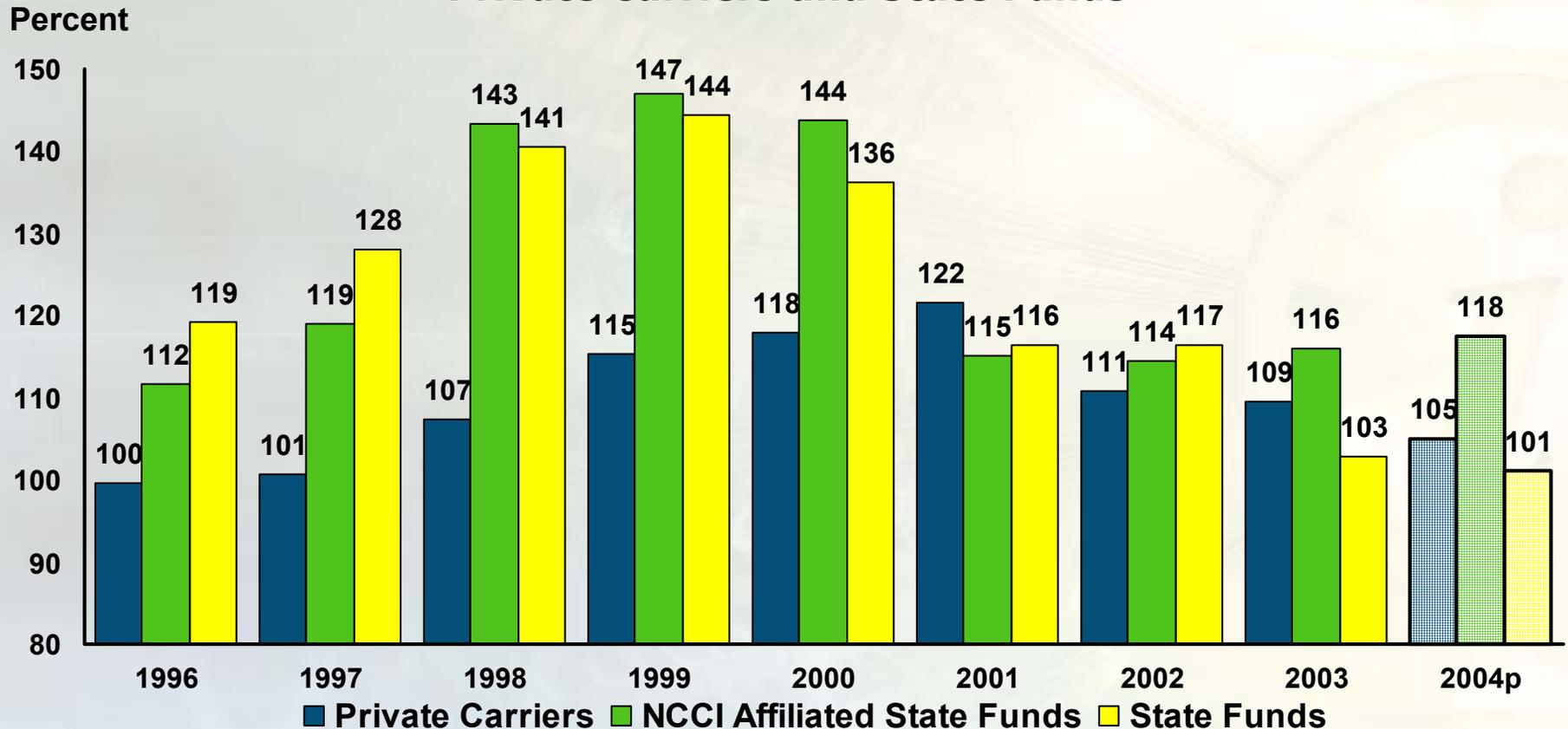
Source: 1996-2003 Private Carriers, A.M. Best Aggregates & Averages; 2004p, NCCI

1996-2004p State Funds: AZ, CA, CO, HI, ID, KY, LA, MO, MT, NM, OK, OR, RI, TX, UT Annual Statements

Calendar Year

# Workers Compensation Calendar Year Net Combined Ratios

## Private Carriers and State Funds



Calendar Year

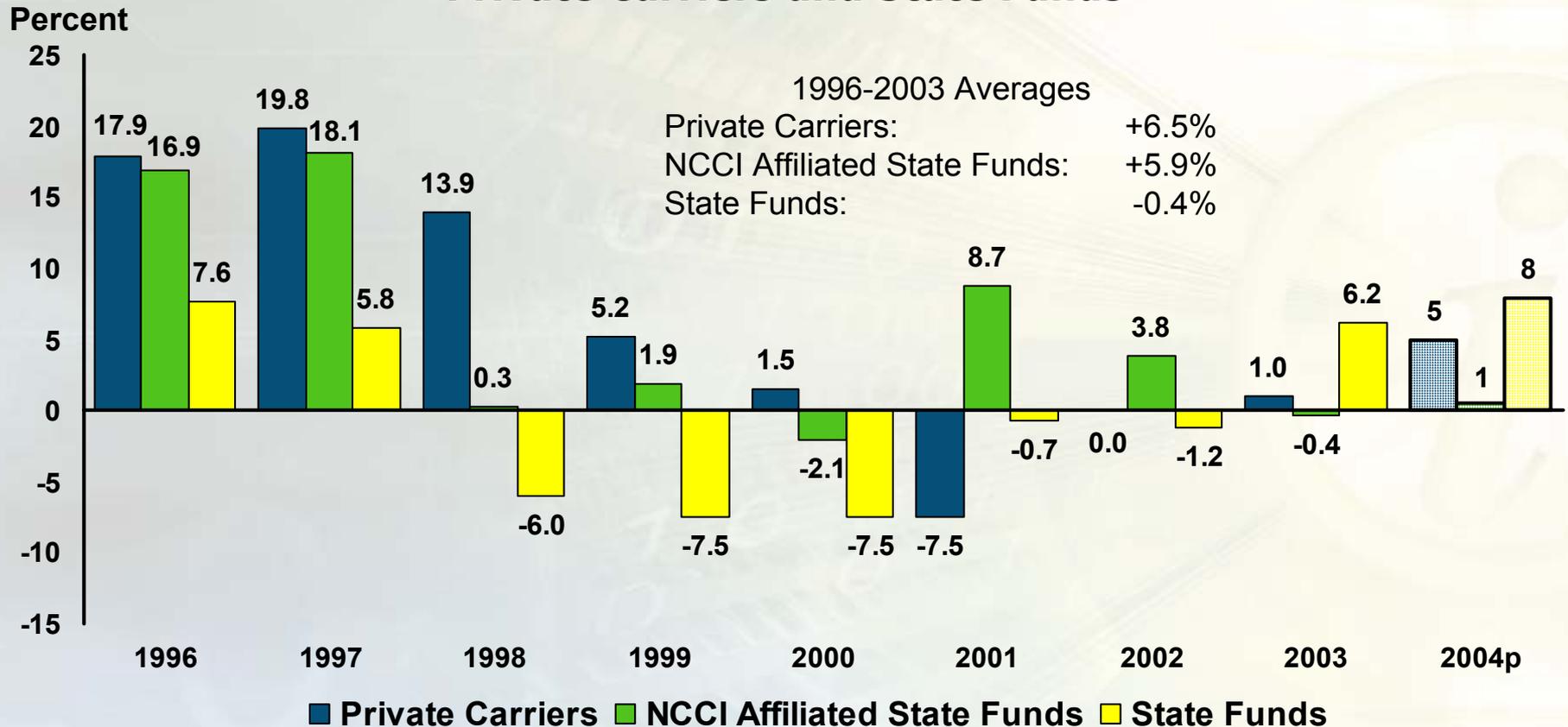
p Preliminary

Source: 1996-2003 Private Carriers, A.M. Best Aggregates & Averages; 2004p, NCCI

1996-2004p State Funds: AZ, CA, CO, HI, ID, KY, LA, MO, MT, NM, OK, OR, RI, TX, UT Annual Statements

# Workers Compensation Pre-Tax Operating Gain Ratios

## Private Carriers and State Funds



p Preliminary

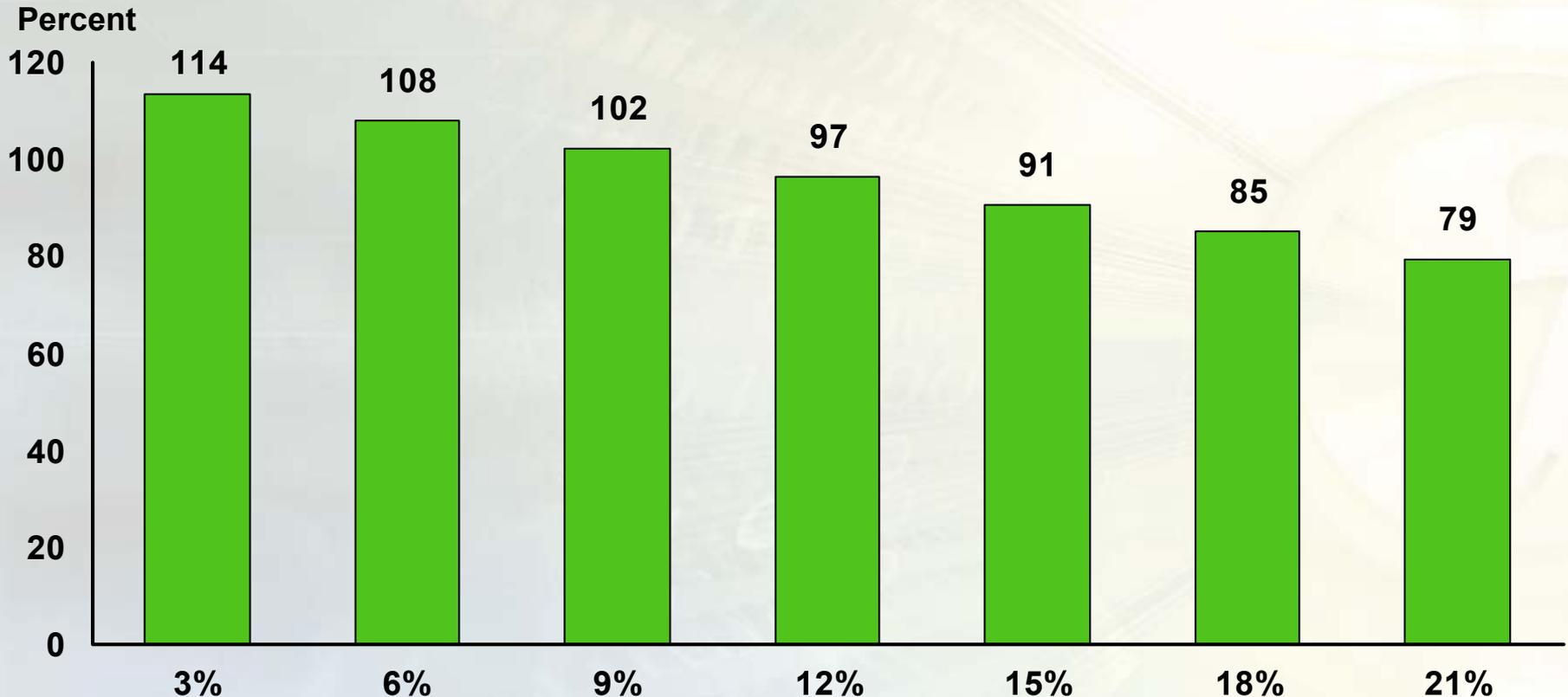
Operating Gain equals 1.00 minus (Combined Ratio less Investment Gain on Insurance Transactions and Other Income)

Source: 1996-2003 Private Carriers, A.M. Best Aggregates & Averages; 2004p, NCCI

1996-2004p State Funds: AZ, CA, CO, HI, ID, KY, LA, MO, MT, NM, OK, OR, RI, TX, UT Annual Statements

Calendar Year

# Workers Compensation Combined Ratios for Given Returns on Surplus



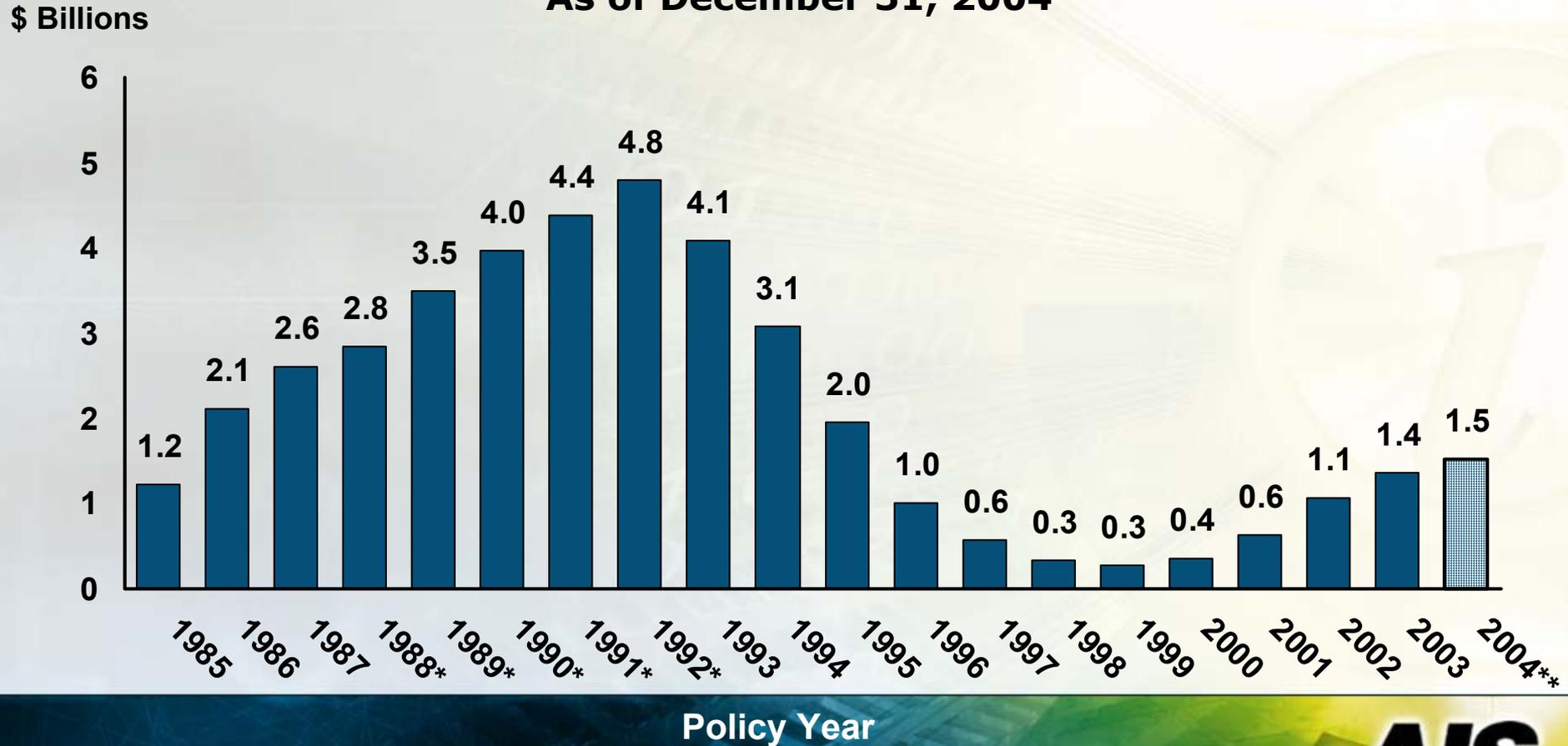
## Return on Surplus

Assumptions: 4.2% Pre-Tax Investment Yield; 3.2% After-Tax Investment Yield  
WC Premium to Surplus Ratio = 0.81; WC Reserves to Premium Ratio = 2.6

# Workers Compensation Residual Market

# Workers Compensation Residual Market Premium Volume

NCCI-Serviced Workers Compensation Residual Market Pools  
As of December 31, 2004

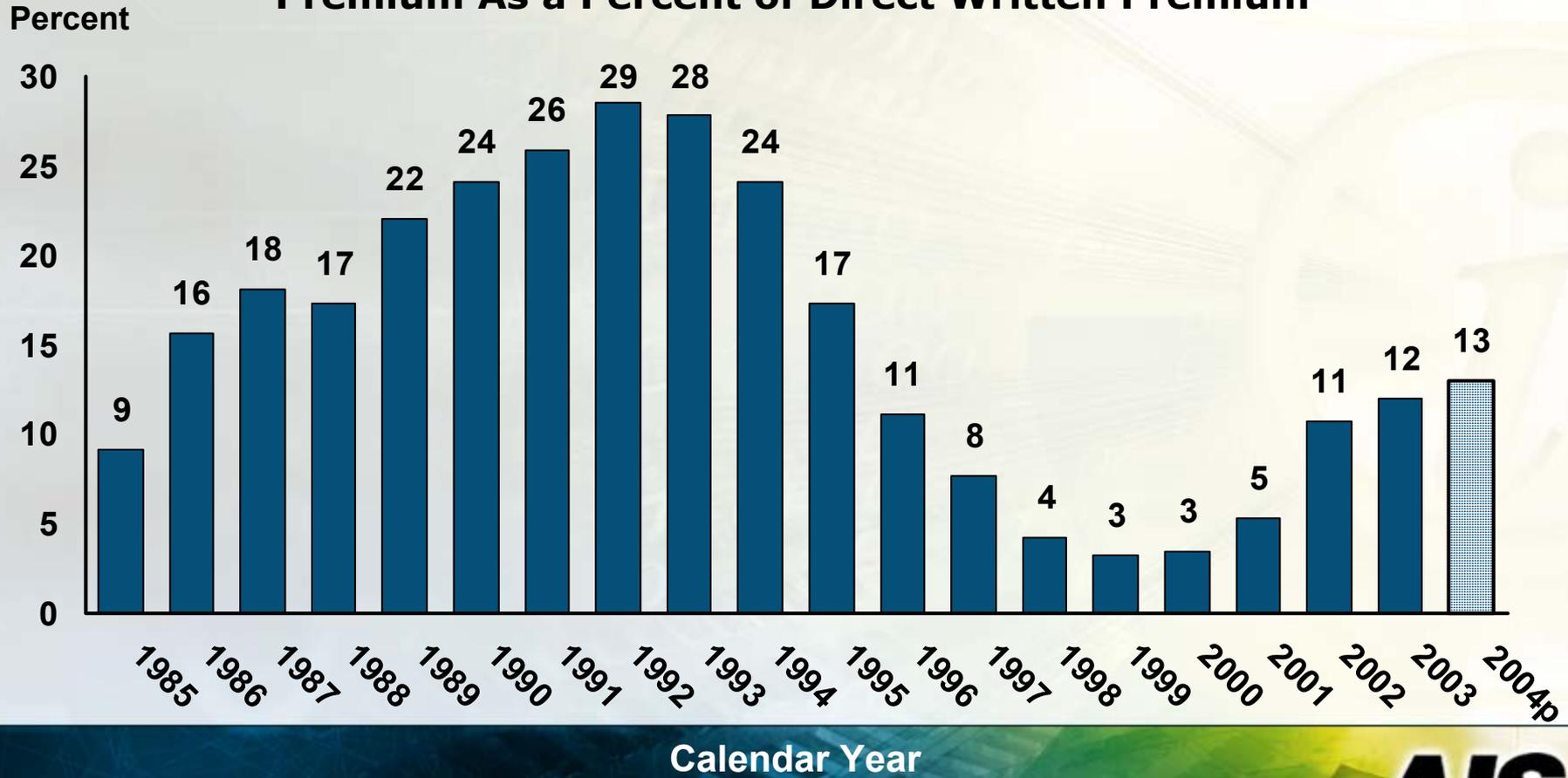


\* Excludes Maine Residual Market Pool

\*\* Incomplete Policy Year Projected to Ultimate

# Workers Compensation Residual Market Shares Continue to Rise

Workers Compensation Insurance Plan States\*  
Premium As a Percent of Direct Written Premium

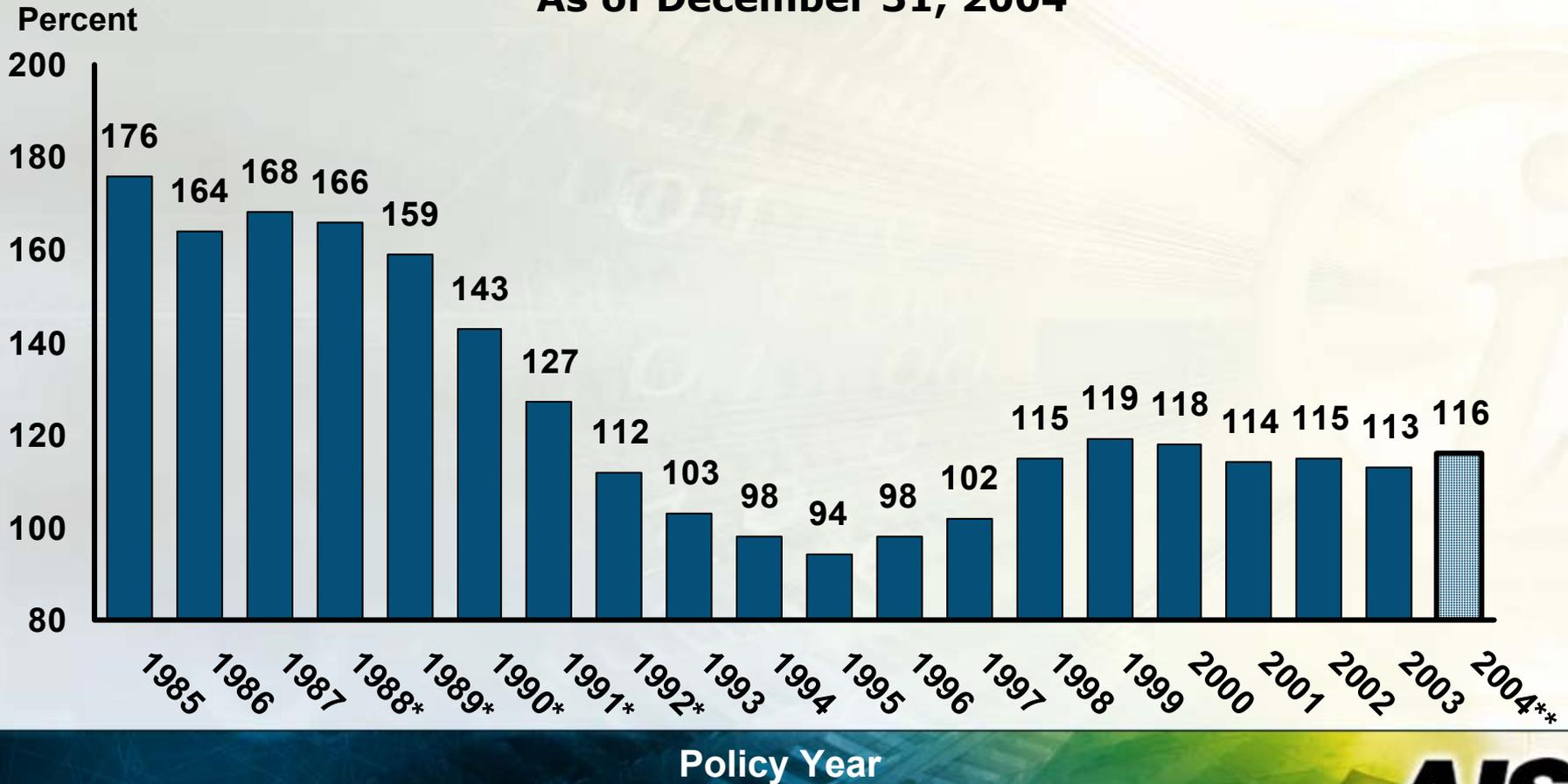


p Preliminary

\* NCCI Plan states plus DE, IN, MA, MI, NJ, NC

# Workers Compensation Residual Market Combined Ratios

NCCI-Serviced Workers Compensation Residual Market Pools  
As of December 31, 2004

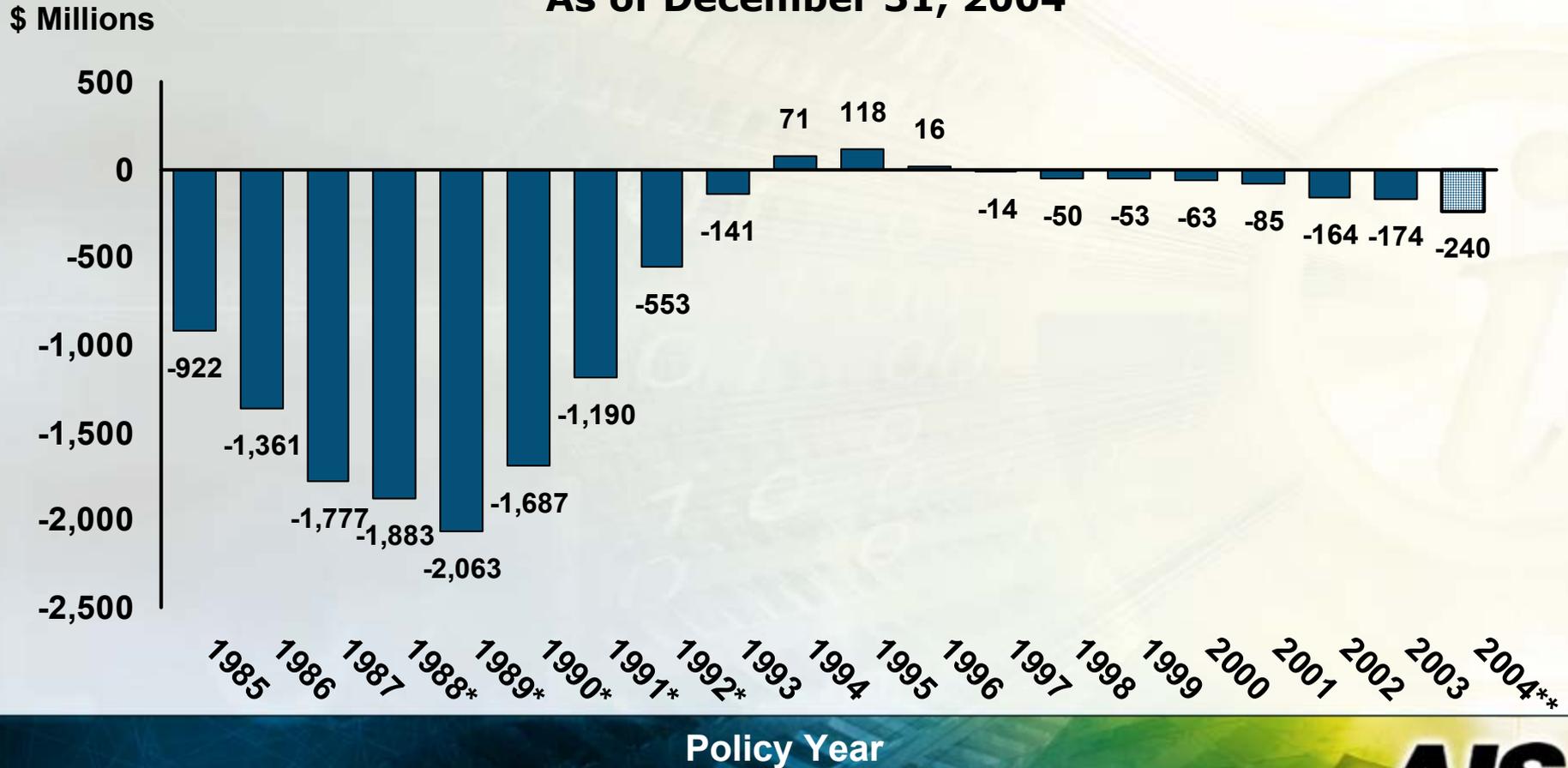


\* Excludes Maine Residual Market Pool

\*\* Incomplete Policy Year Projected to Ultimate

# Workers Compensation Residual Market Underwriting Results

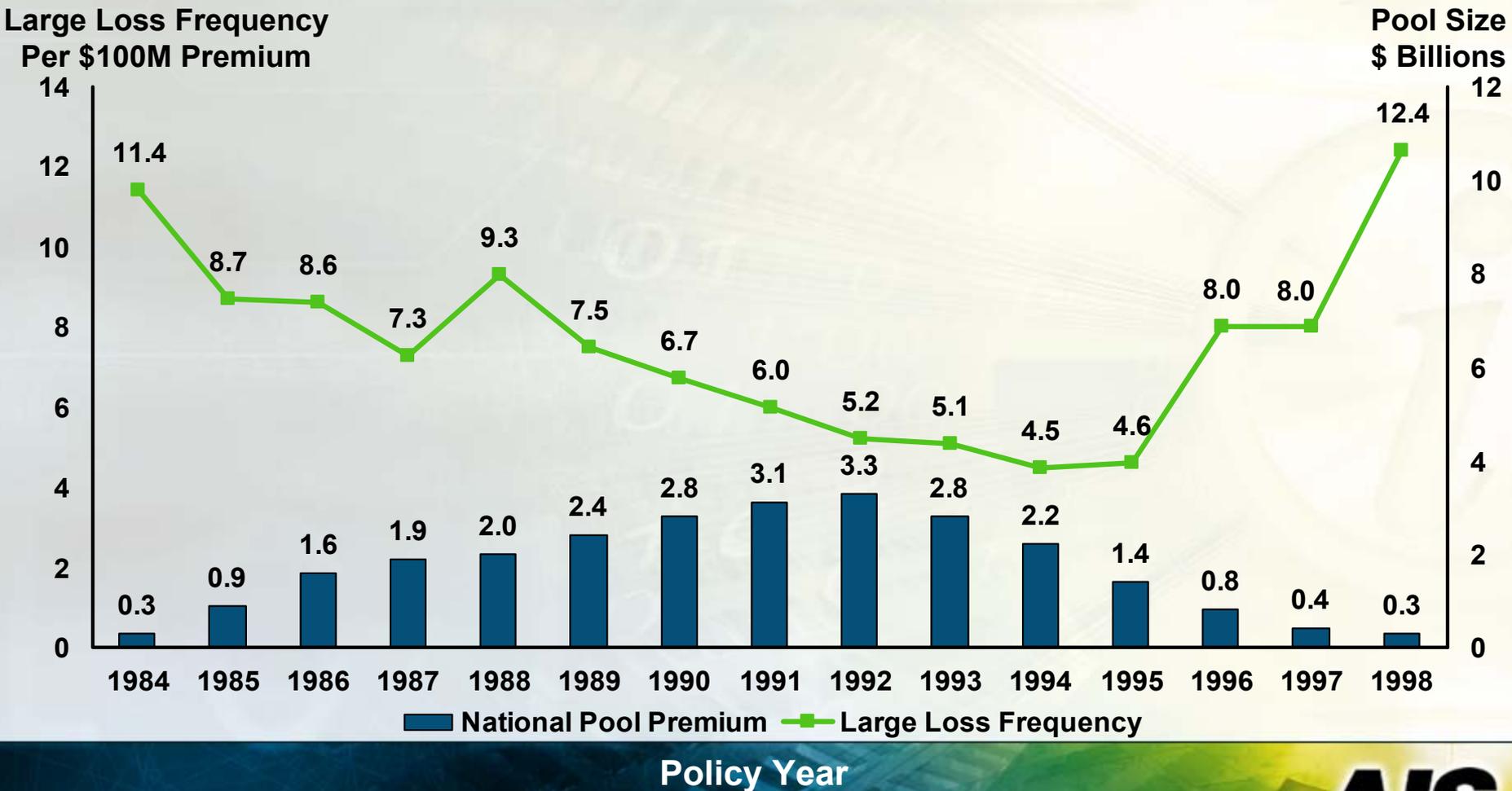
NCCI-Serviced Workers Compensation Residual Market Pools  
As of December 31, 2004



\* Excludes Maine Residual Market Pool

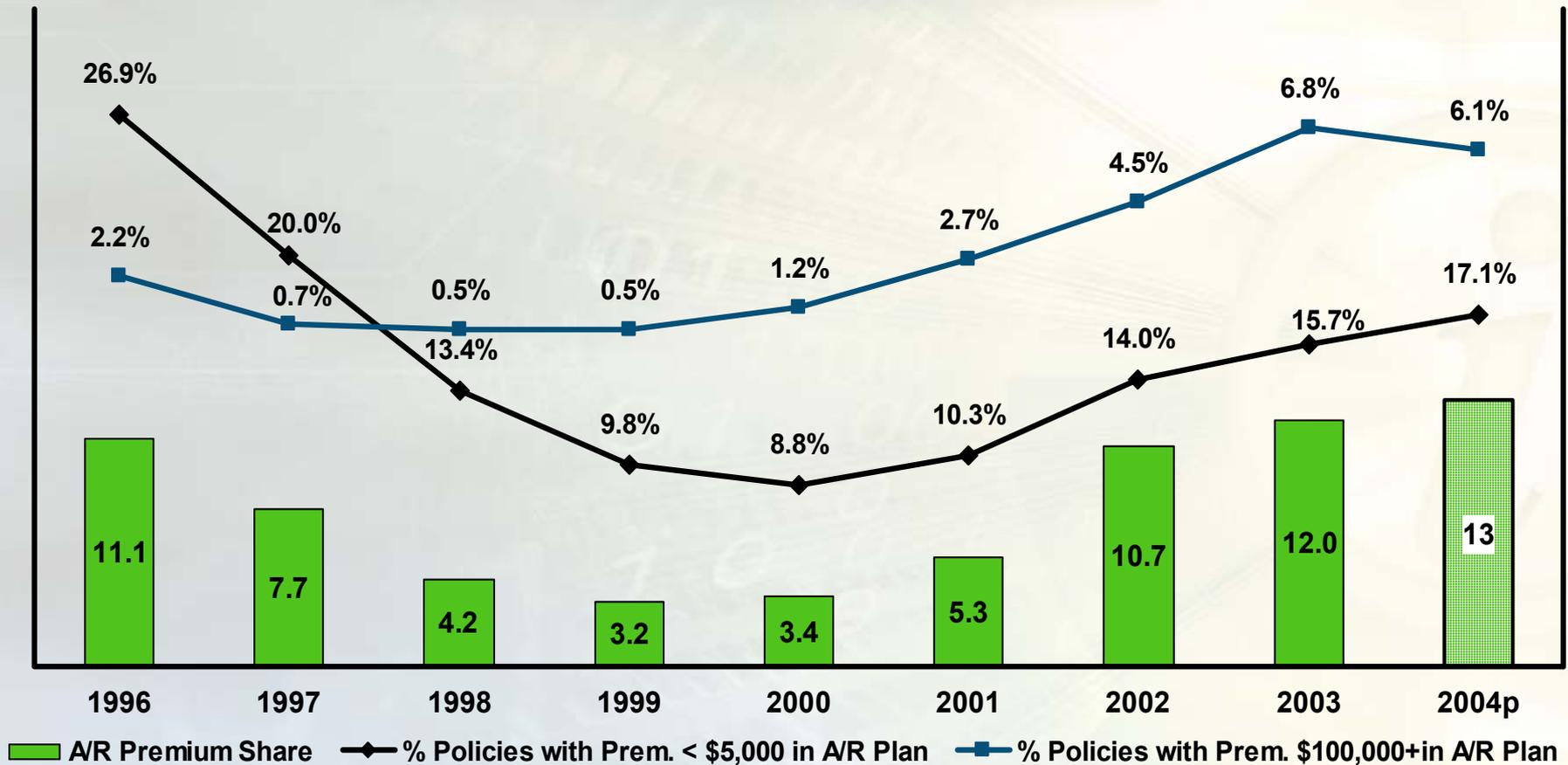
\*\* Incomplete Policy Year Projected to Ultimate

# WC Residual Market Frequency of Losses > \$500K vs. Pool Size



Source: NCCI Large Loss Call (Call #31)  
Includes data reported by Servicing Carriers for National Pool States Only (excluding Florida)

# Assigned Risk Market Premium Share vs. Policy Counts



p Preliminary

# Residual Market Plan Policy Growth

First Quarter 2005 vs. First Quarter 2004

Size of Risk	2004	2005	Change
\$ 0 - \$ 2,499	31,892	34,060	7%
\$ 2,500 - \$ 4,999	5,652	6,140	9%
\$ 5,000 - \$ 9,999	3,838	4,080	6%
\$ 10,000 - \$49,999	4,183	3,970	-5%
\$ 50,000 - \$99,999	566	580	2%
\$ 100,000 and over	368	334	-9%
<b>Total</b>	<b>46,499</b>	<b>49,164</b>	<b>6%</b>

Total number of assigned risk policies in force

Includes residual market policies for:

AL, AK, AR, AZ, CT, DC, GA, IA, ID, IL, IN, KS, NH, NM, NV, OR, SC, SD, VA, VT

# Residual Market Programs Mitigate the Burden

## Pricing Programs:

- Differential/Surcharge
- ARAP/SARAP
- Removal/Reduction of Premium Discount
- LSRP
- Two point or greater underwriting contingency provision
- Uncollectible premium provision

## Depopulation Mechanisms:

- Take-Out Credit Program
- Voluntary Compensation Assistance Program

## Improved Controls:

- Paid Loss Ratio Incentive Program
- Heightened carrier audit process

## Improved Efficiency:

- Servicing carrier bid process

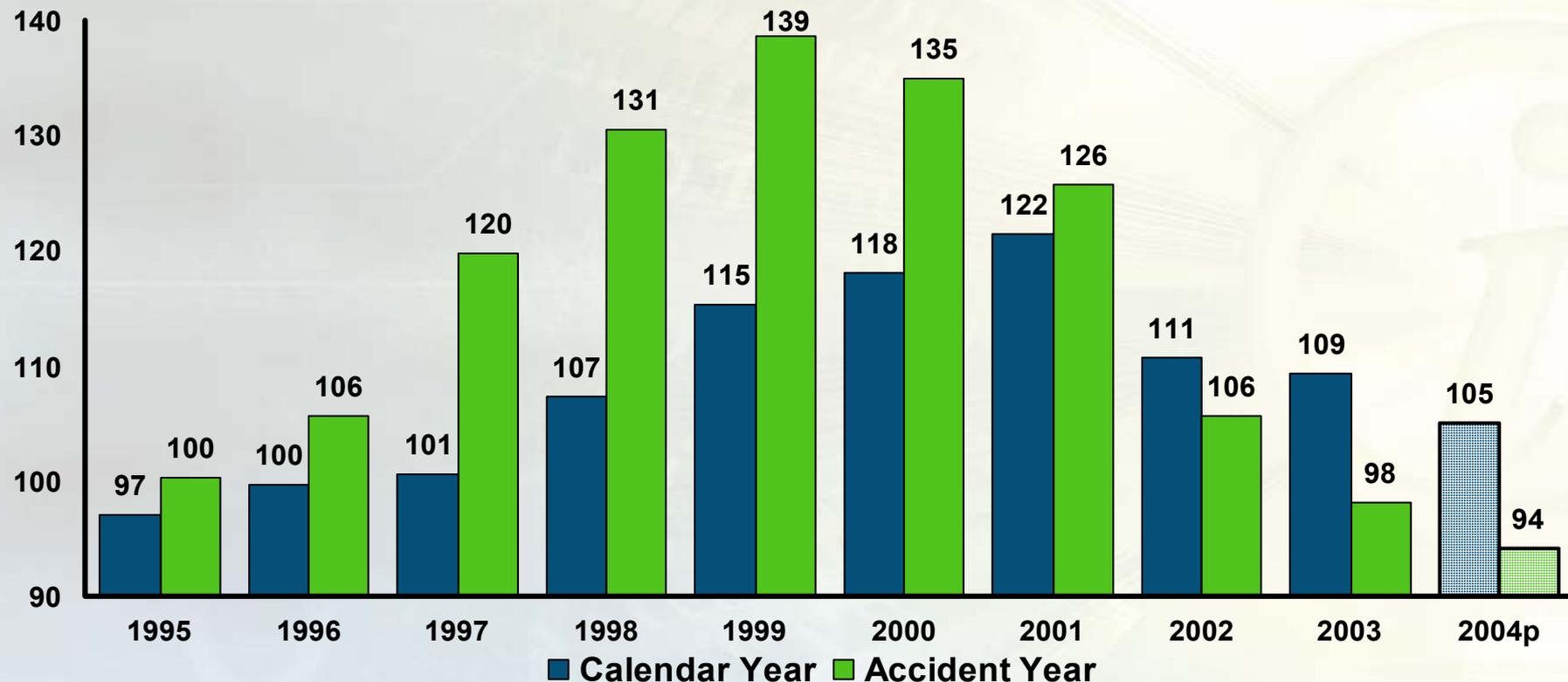
ARAP: Assigned Risk Adjustment Program  
SARAP: Simplified Assigned Risk Adjustment Program  
LSRP: Loss Sensitive Rating Plan

# **Workers Compensation Accident Year Results And Reserve Estimates**

# Accident Year Combined Ratio Another Underwriting Profit in 2004

Workers Compensation Calendar Year vs.  
Ultimate Accident Year – Private Carriers

Percent



p Preliminary

Accident Year data is evaluated as of 12/31/2004 and developed to ultimate

Source: Calendar Years 1995-2003, A.M. Best Aggregates & Averages;

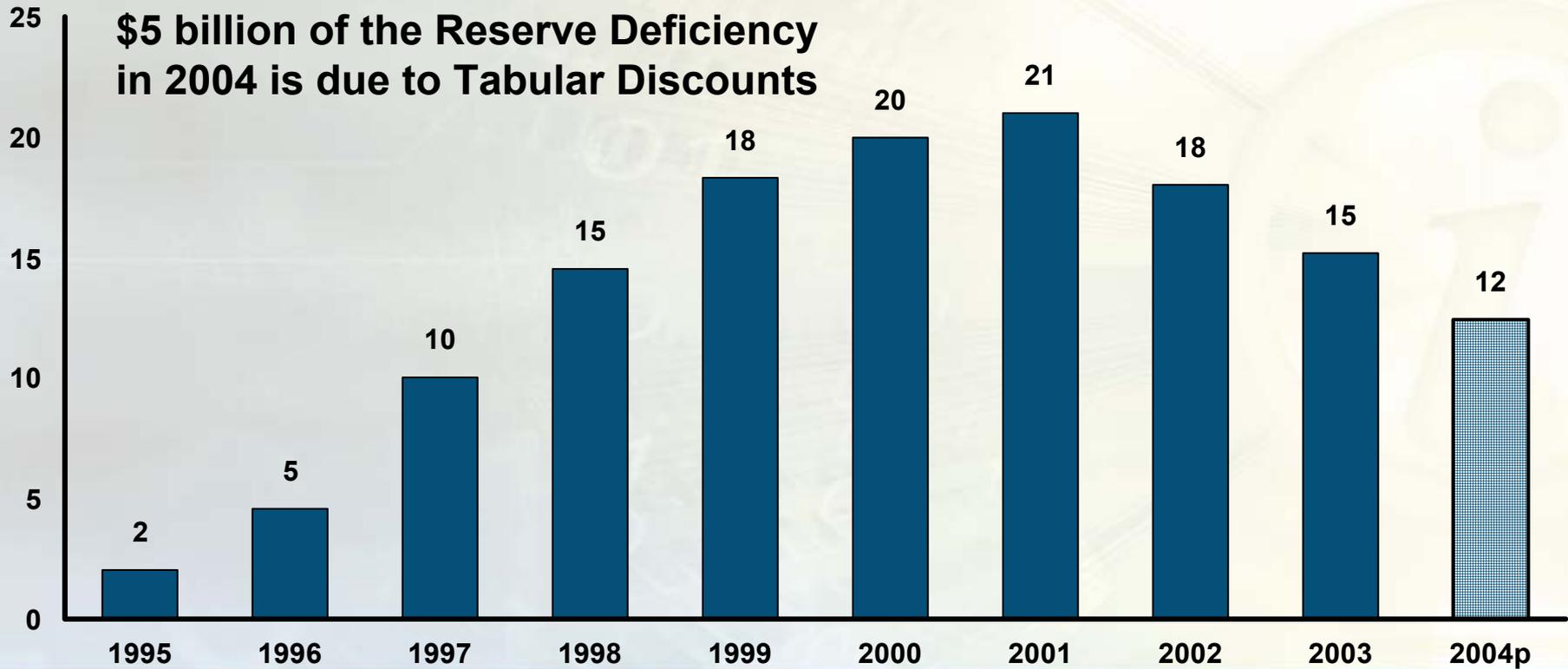
Calendar Year 2004p and Accident Years 1995-2004p, NCCI

Includes dividends to policyholders

# Workers Compensation Reserve Deficiencies Continue to Decline

## Private Carriers

\$ Billions



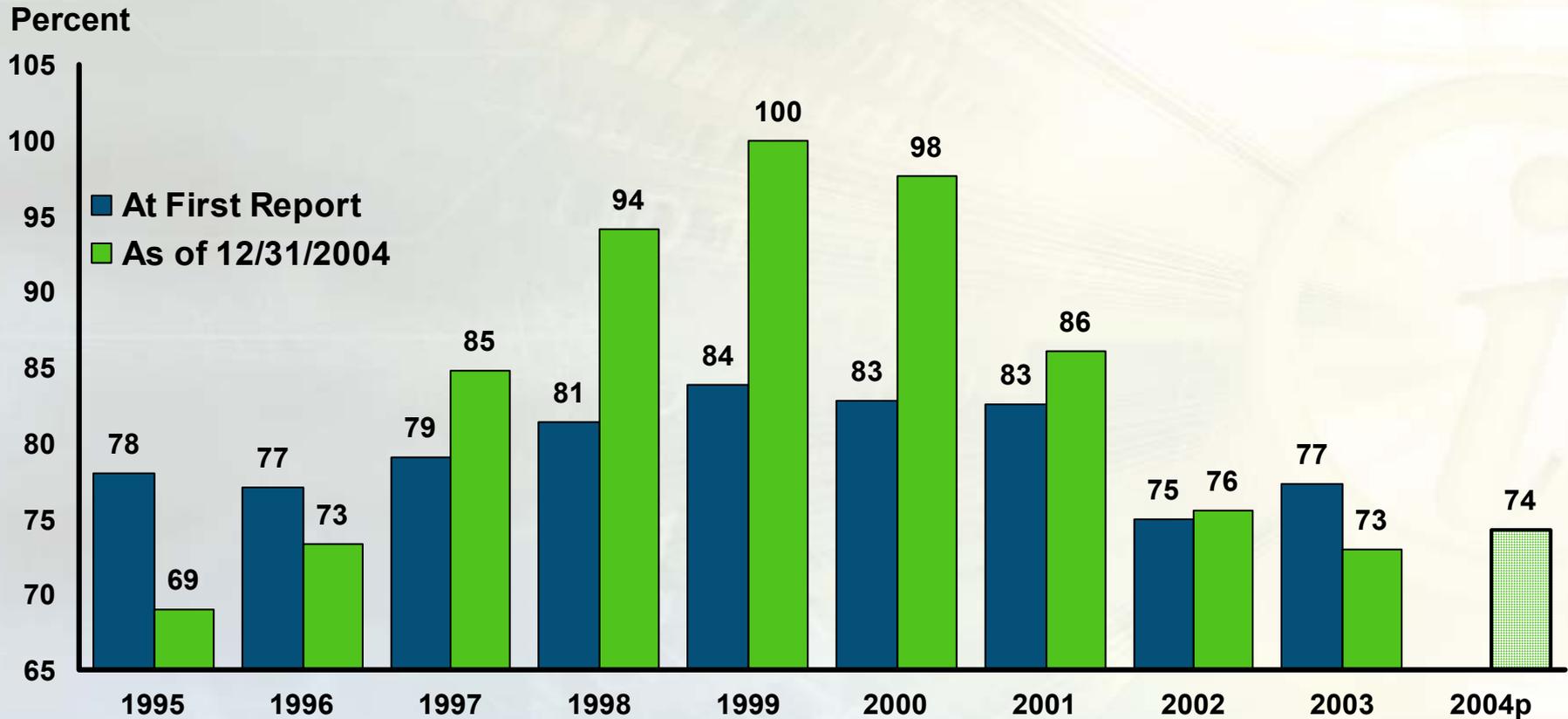
## Loss and LAE Reserve Deficiency Through Year End

p Preliminary

Difference between NCCI estimated ultimate losses and LAE as of 12/31/2004 and reported in Schedule P

# Workers Compensation Accident Year Loss & LAE Ratios

## Private Carriers



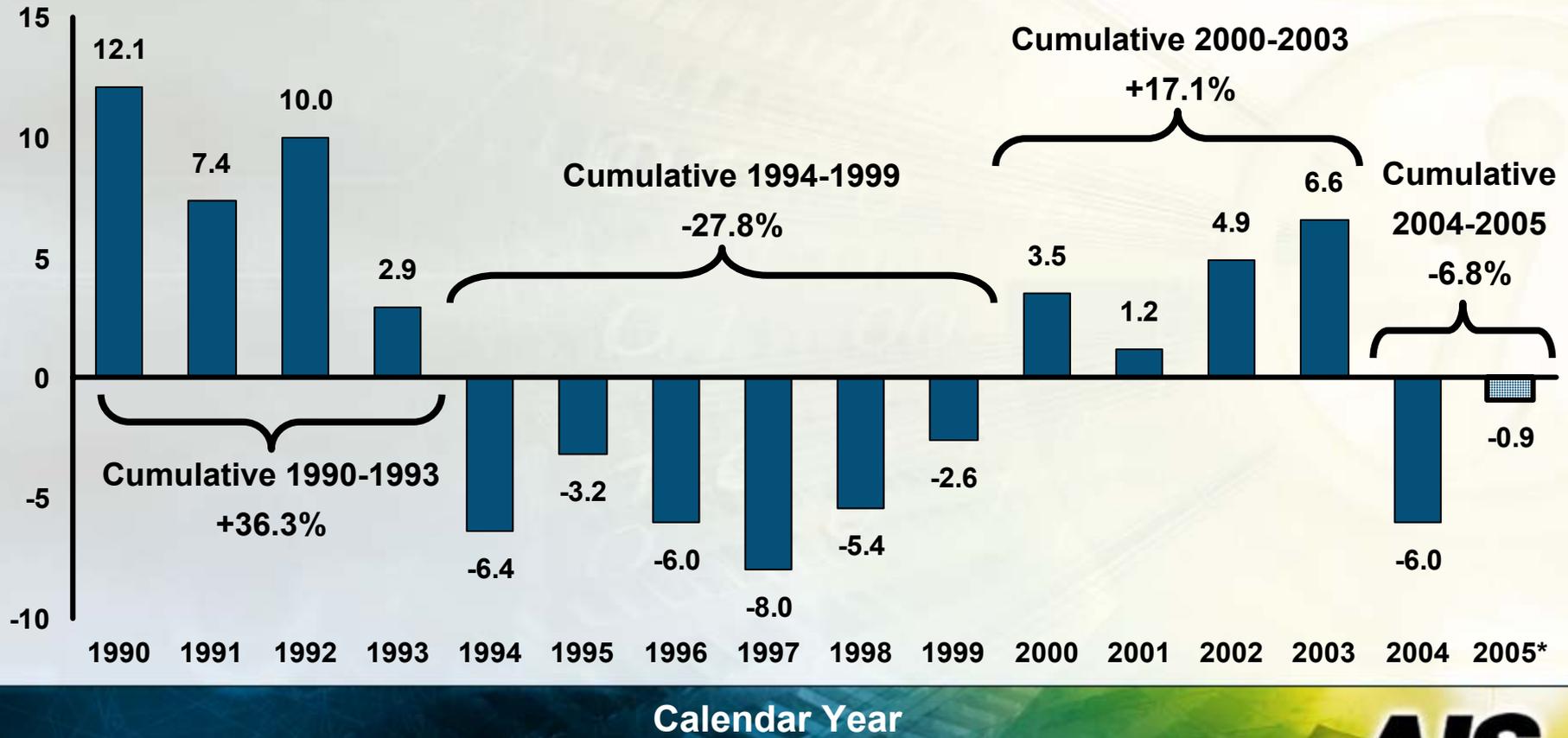
p Preliminary  
 Reported Loss and LAE reserves from Schedule P  
 Source: 1995-2004p, NAIC Annual Statement insurance data

# Workers Compensation Premium Drivers

# Average Approved Bureau Rates/Loss Costs

## History of Average WC Bureau Rate/Loss Cost Level Changes

Percent



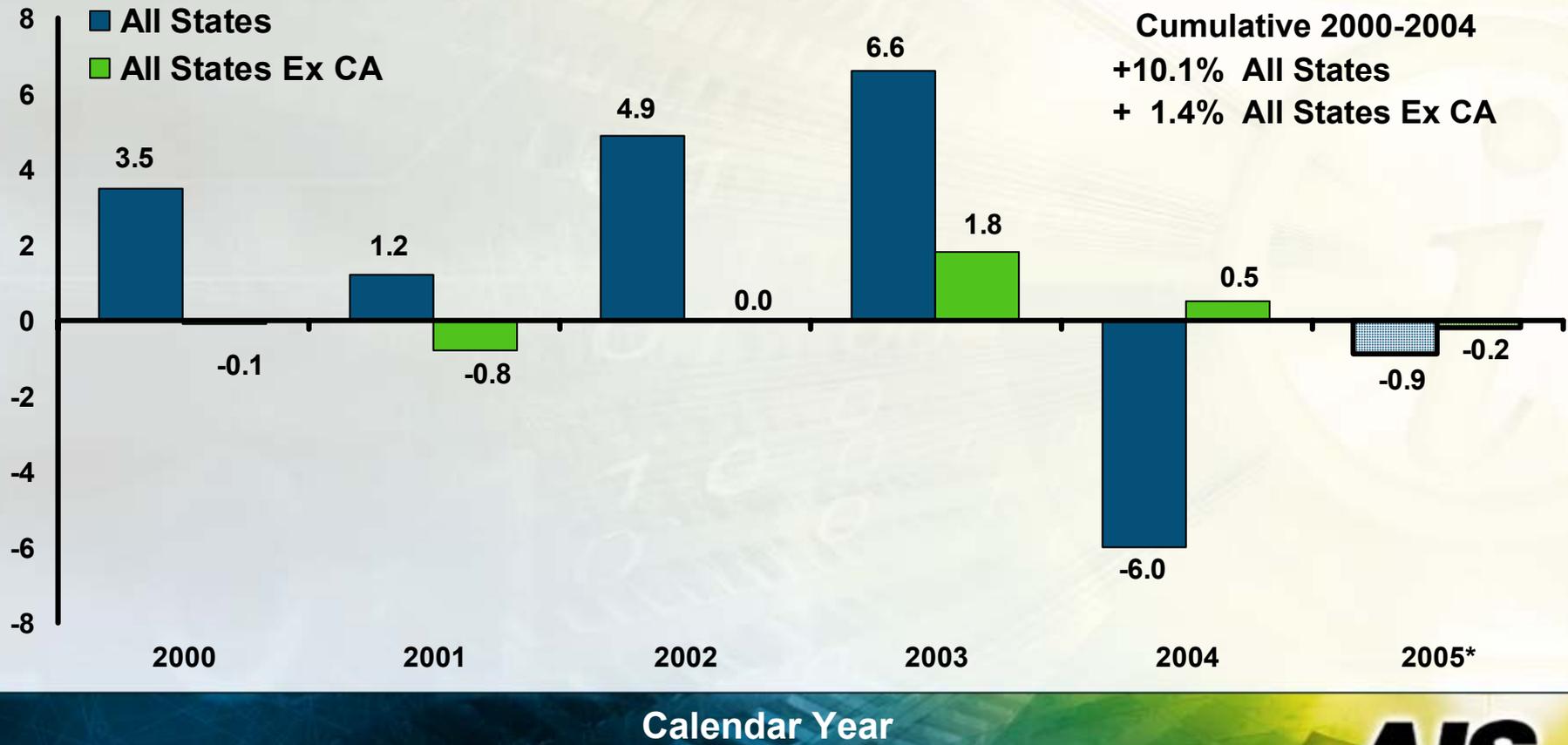
\* States approved through 04/15/2005

Countrywide approved changes in advisory rates, loss costs and assigned risk rates as filed by the applicable rating organization

# Average Approved Bureau Rates/Loss Costs

## All States vs. All States Excluding California

Percent



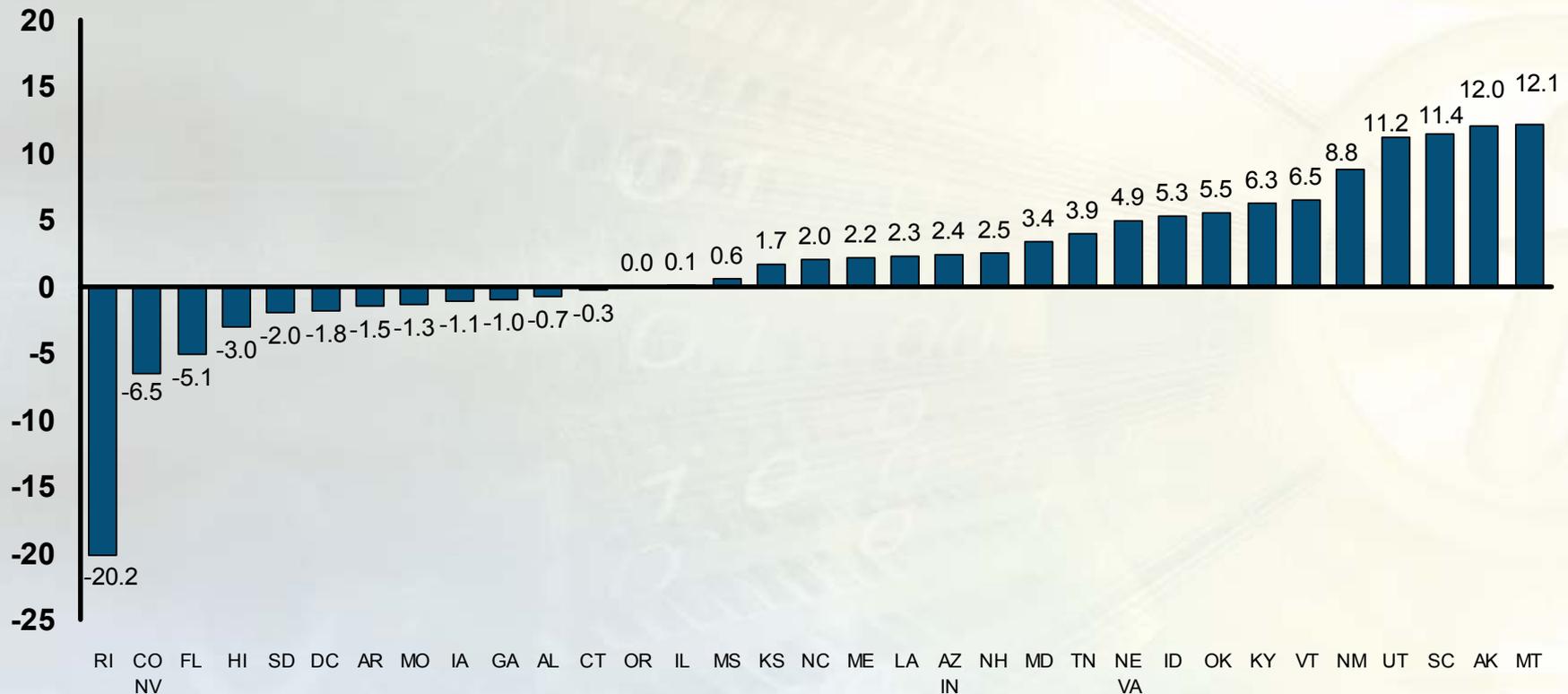
\* States approved through 04/15/2005

Countrywide approved changes in advisory rates, loss costs and assigned risk rates as filed by the applicable rating organization

# Current NCCI Voluntary Market Approved Rate/Loss Cost Changes

Excludes Law-Only Filings

Percent

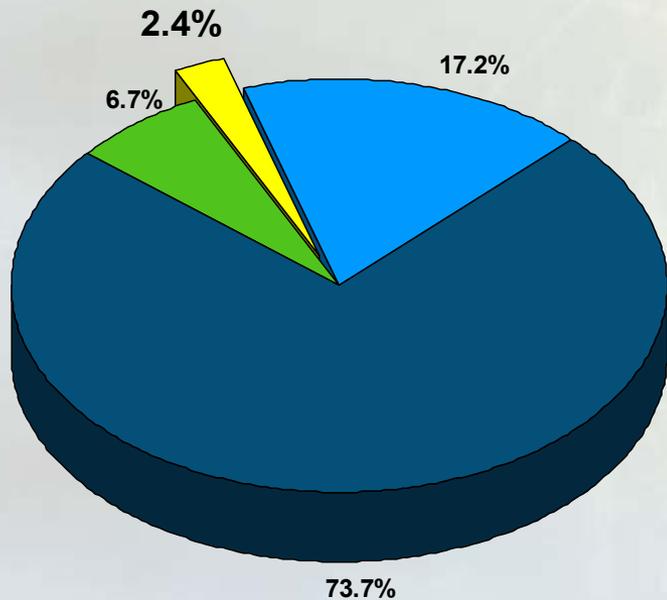


States approved through 04/15/2005

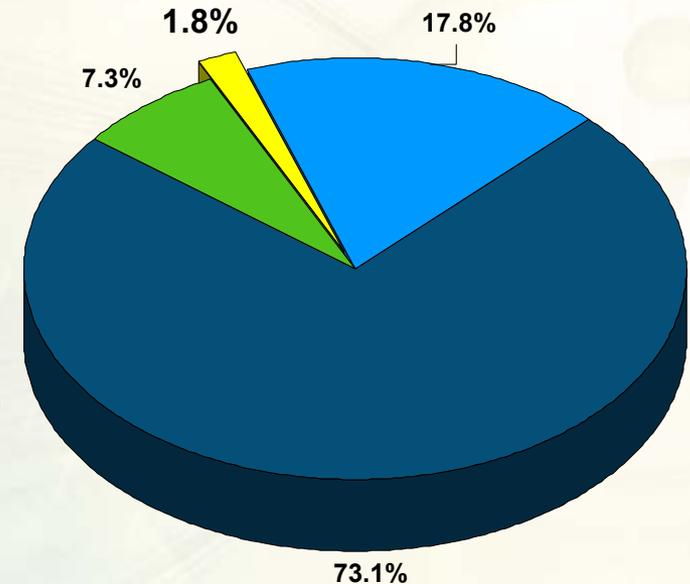
# Employer Costs As Percentage of Total Compensation

## Private Industry

1994



2004



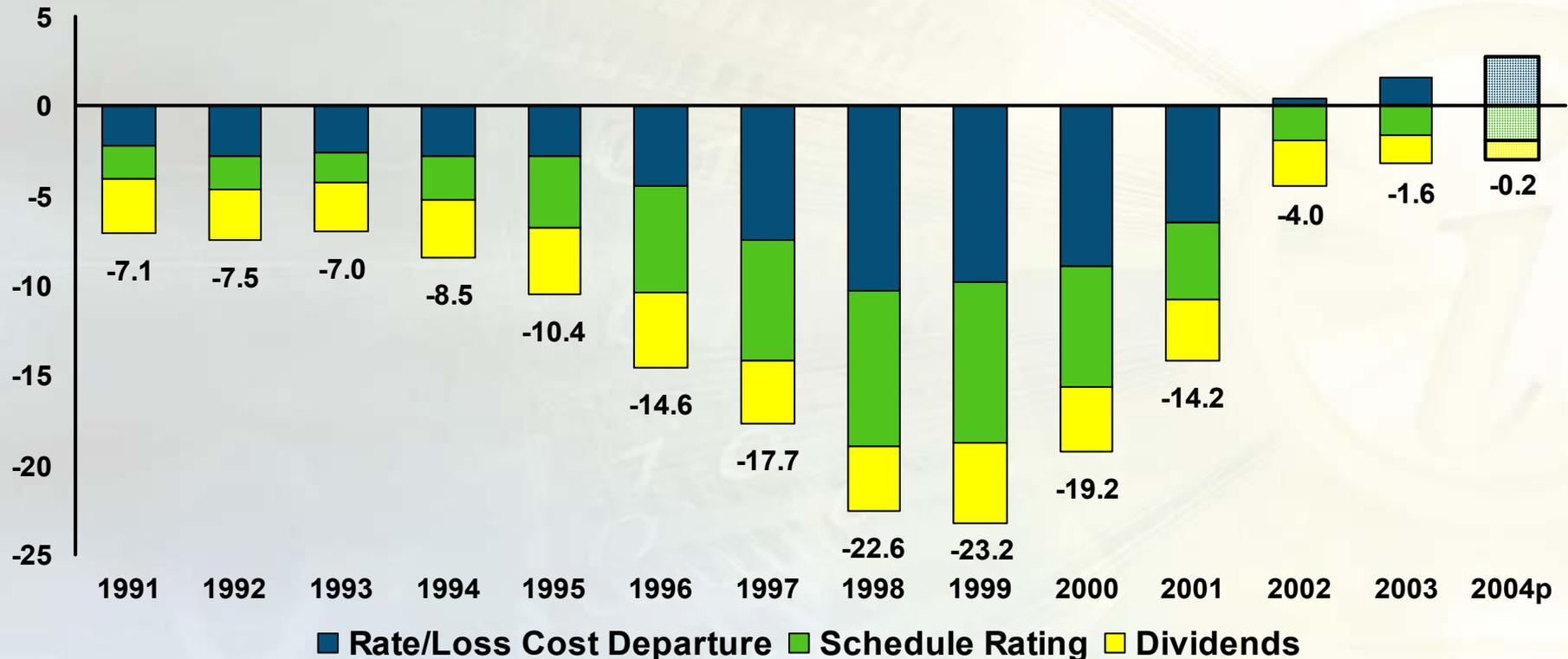
- Wages and Salaries
- Health Insurance
- Workers Compensation
- All Other

All Other includes Paid Leave, Insurance (other than Health), Social Security, Retirement and Savings  
Source: U.S. Department of Commerce, Bureau of Labor Statistics

# Impact of Discounting on Workers Compensation Premium

## NCCI States—Private Carriers

Percent

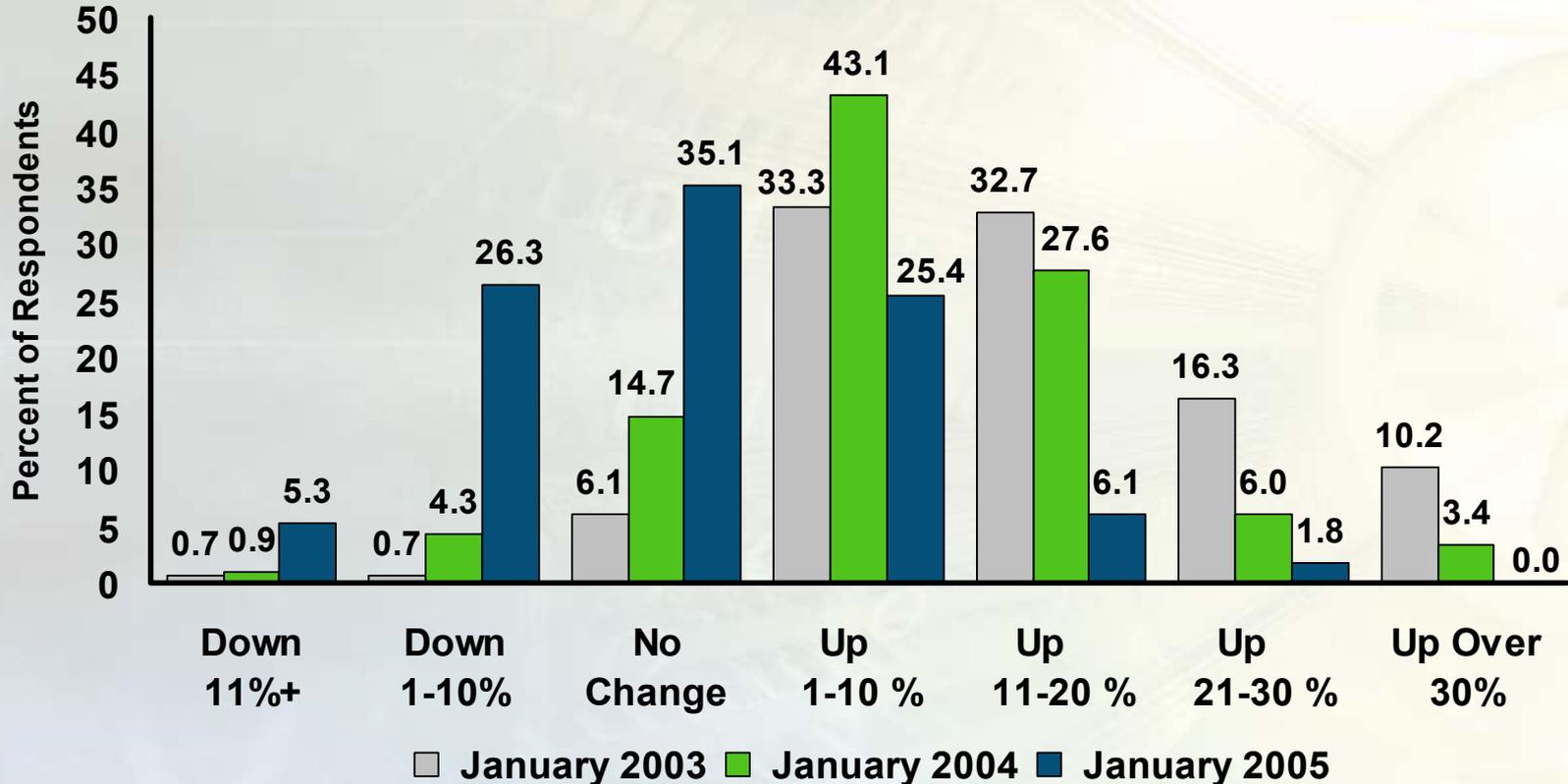


p Preliminary  
 NCCI benchmark level does not include an underwriting contingency provision  
 Dividend ratios are based on calendar year statistics  
 Based on data through 12/31/2004 for the states where NCCI provides ratemaking services

Policy Year

# According to Goldman Sachs, Most Survey Respondents See Flat WC Prices or Decreases in 2005

Agent Responses on Policy Renewal Premiums vs. 12 Months Prior

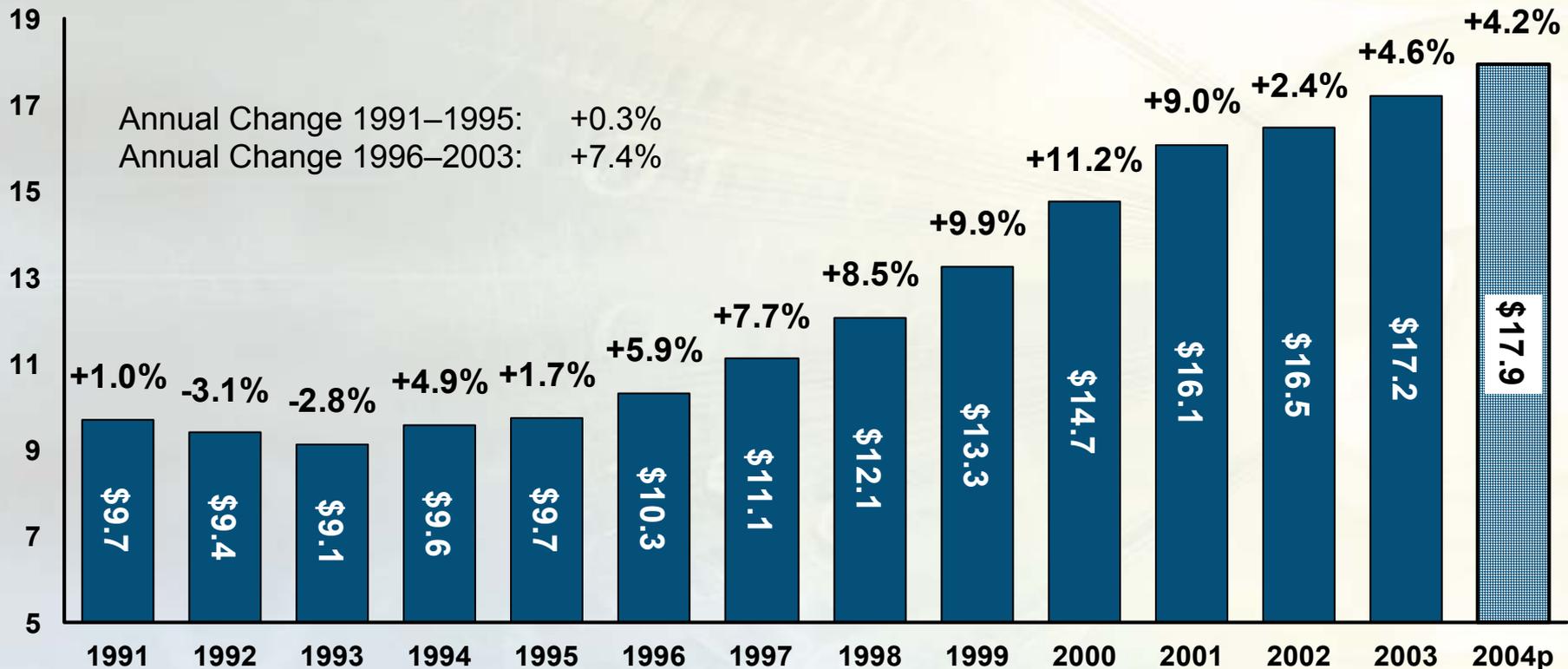


# **Workers Compensation Loss Drivers**

# The Growth in WC Indemnity Claim Costs Has Eased in Recent Years

## Lost-Time Claims

Indemnity Claim Cost (000s)



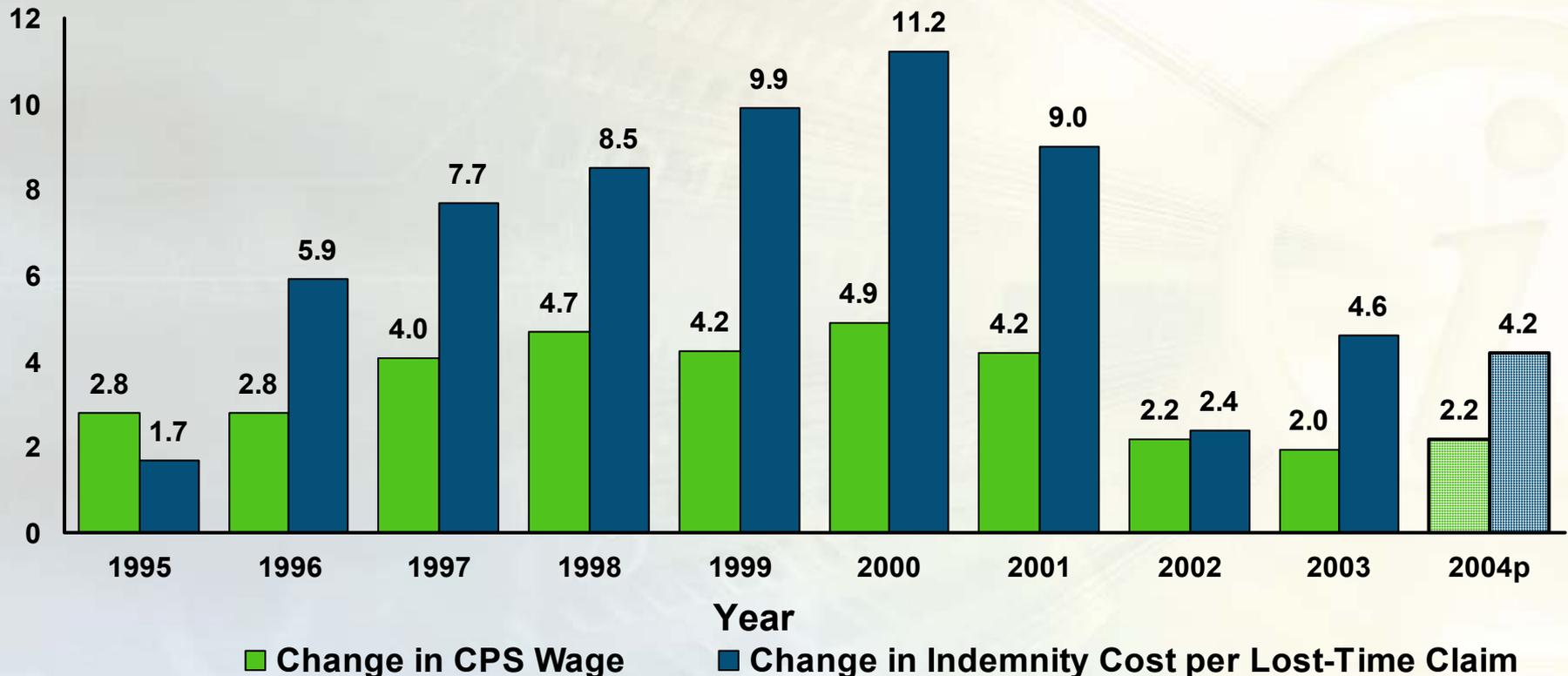
Accident Year

2004p: Preliminary based on data valued as of 12/31/2004  
1991-2003: Based on data through 12/31/2003, developed to ultimate  
Based on the states where NCCI provides ratemaking services  
Excludes the effects of deductible policies

# Workers Compensation Indemnity Severity Is Outpacing Wage Inflation

## Lost-Time Claims

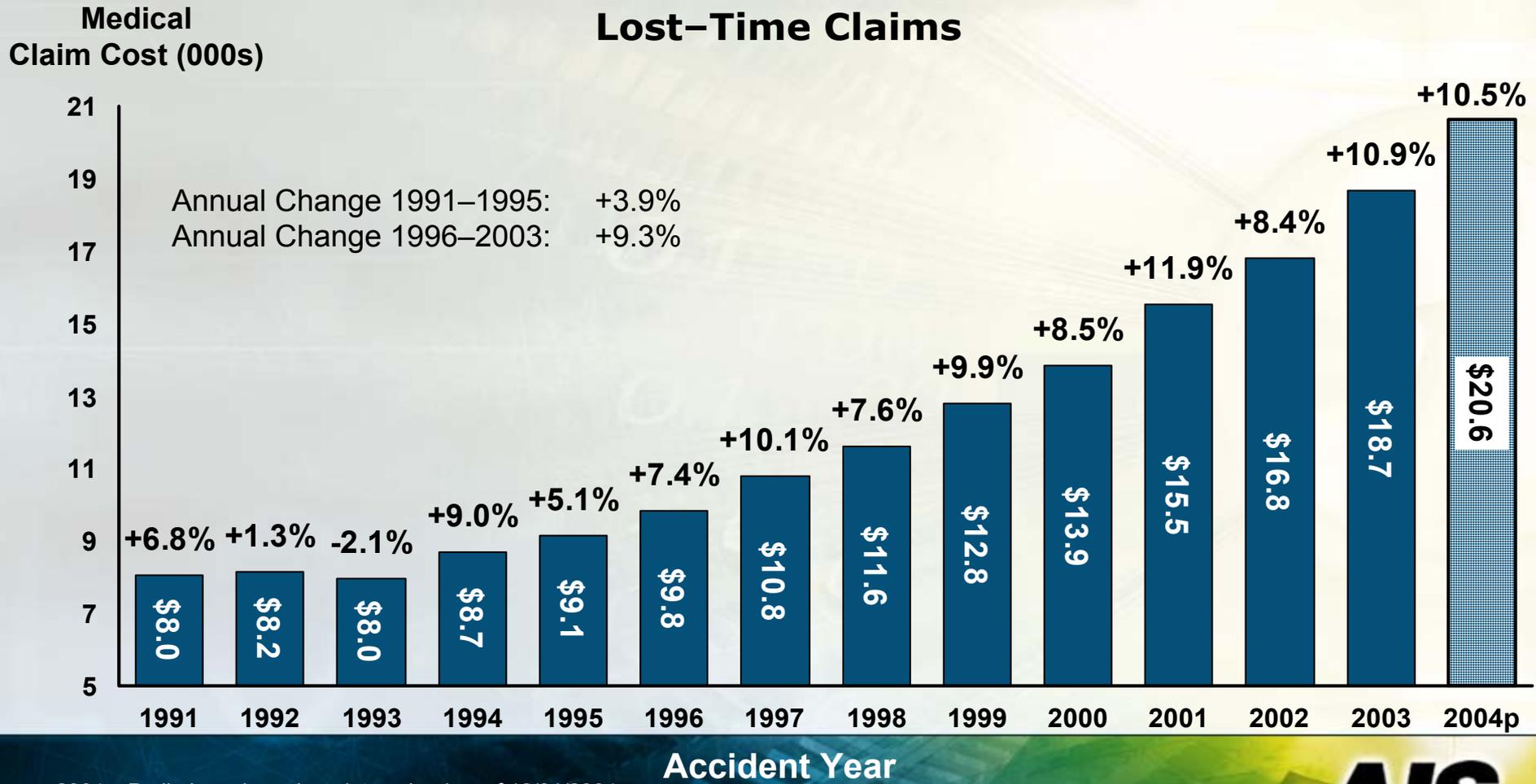
Percent Change



Indemnity severity 2004p: Preliminary based on data valued as of 12/31/2004  
 Indemnity severity 1995-2003: Based on data through 12/31/2003, developed to ultimate  
 Based on the states where NCCI provides ratemaking services, excludes the effects of deductible policies  
 Source: Calendar year Current Population Survey, Economy.com; Accident year indemnity severity, NCCI

# WC Medical Claim Cost Trends

## Double-Digit Growth Continued in 2004



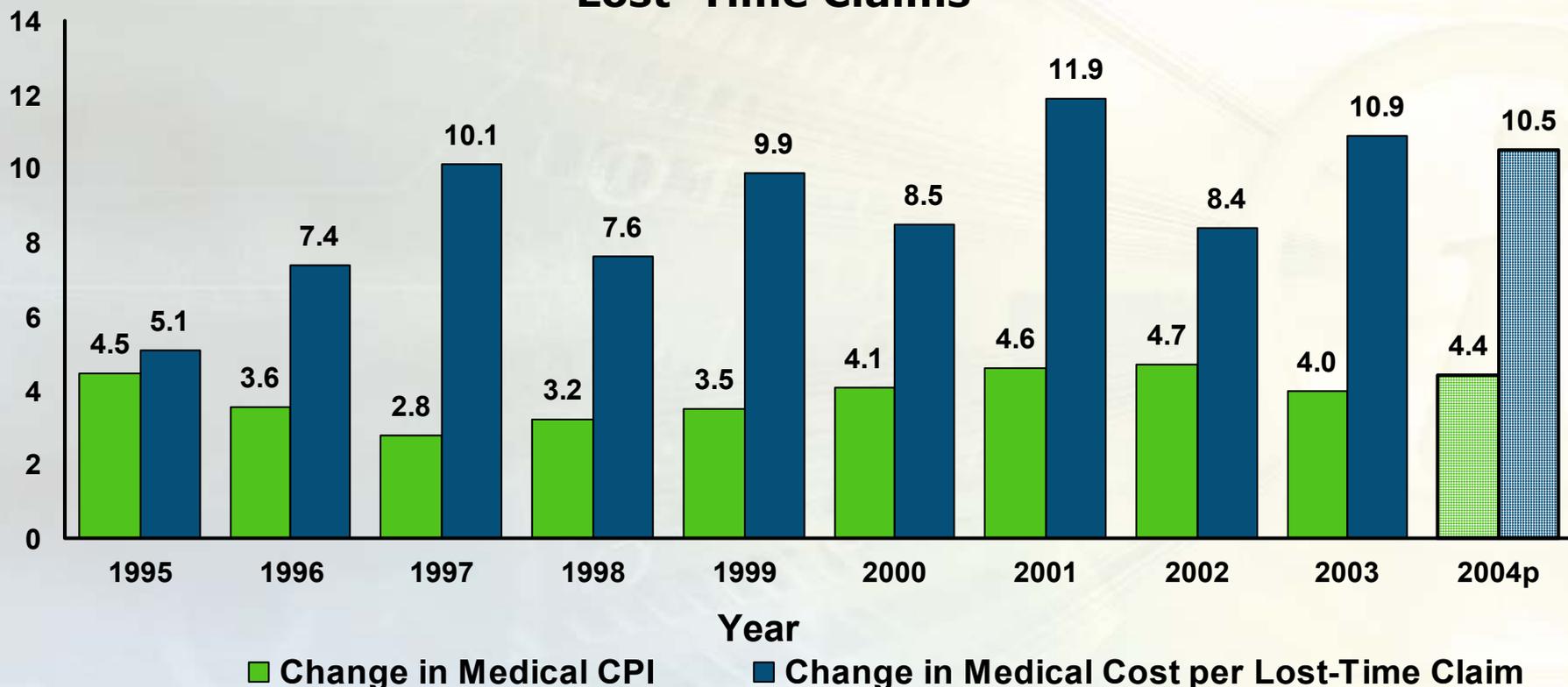
2004p: Preliminary based on data valued as of 12/31/2004  
 1991-2003: Based on data through 12/31/2003, developed to ultimate  
 Based on the states where NCCI provides ratemaking services  
 Excludes the effects of deductible policies

Accident Year

# Workers Compensation Medical Severity Has Been Growing Much Faster Than the Medical CPI

Percent Change

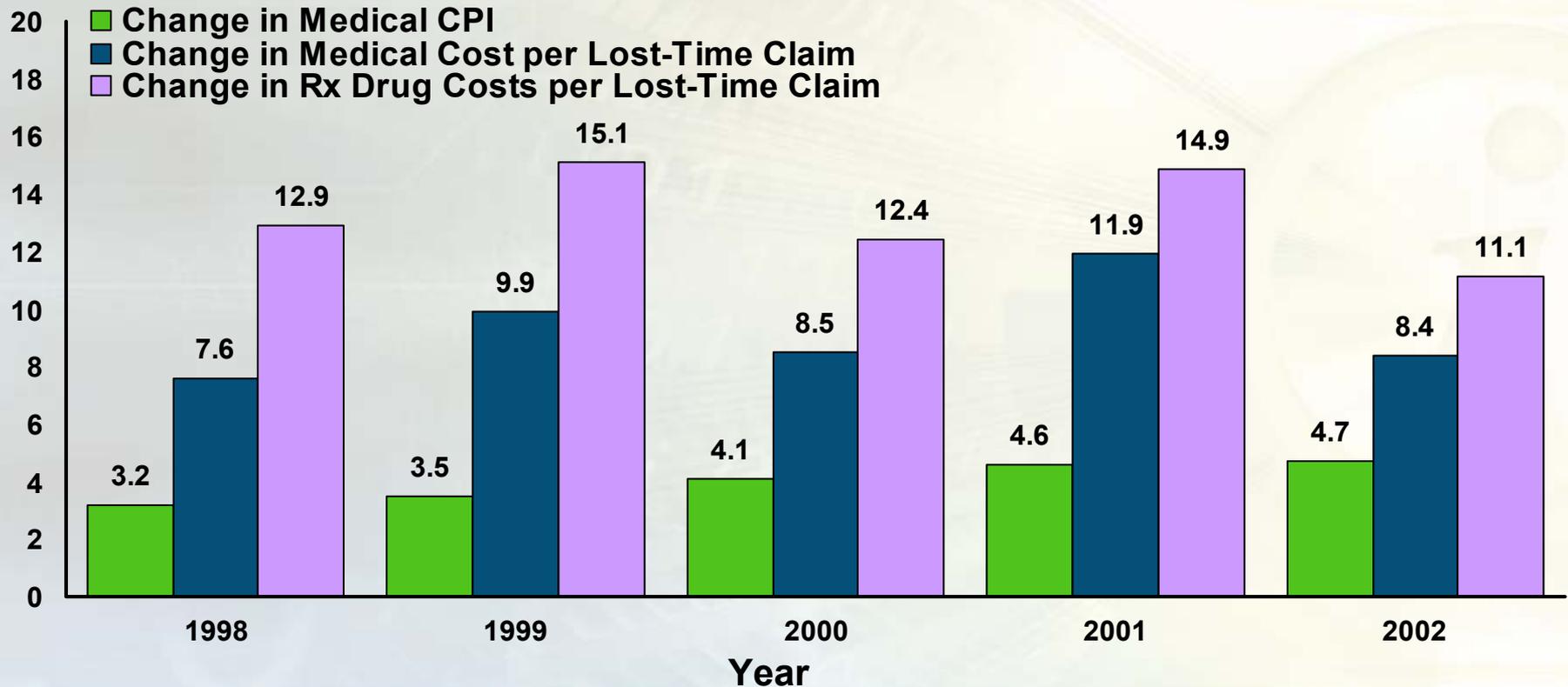
## Lost-Time Claims



Medical severity 2004p: Preliminary based on data valued as of 12/31/2004  
 Medical severity 1995-2003: Based on data through 12/31/2003, developed to ultimate  
 Based on the states where NCCI provides ratemaking services, excludes the effects of deductible policies  
 Source: Calendar year Current Population Survey, Economy.com; Accident year medical severity, NCCI

# Drug Costs Are Increasing More Rapidly Than Total WC Medical Costs

## Percent Change

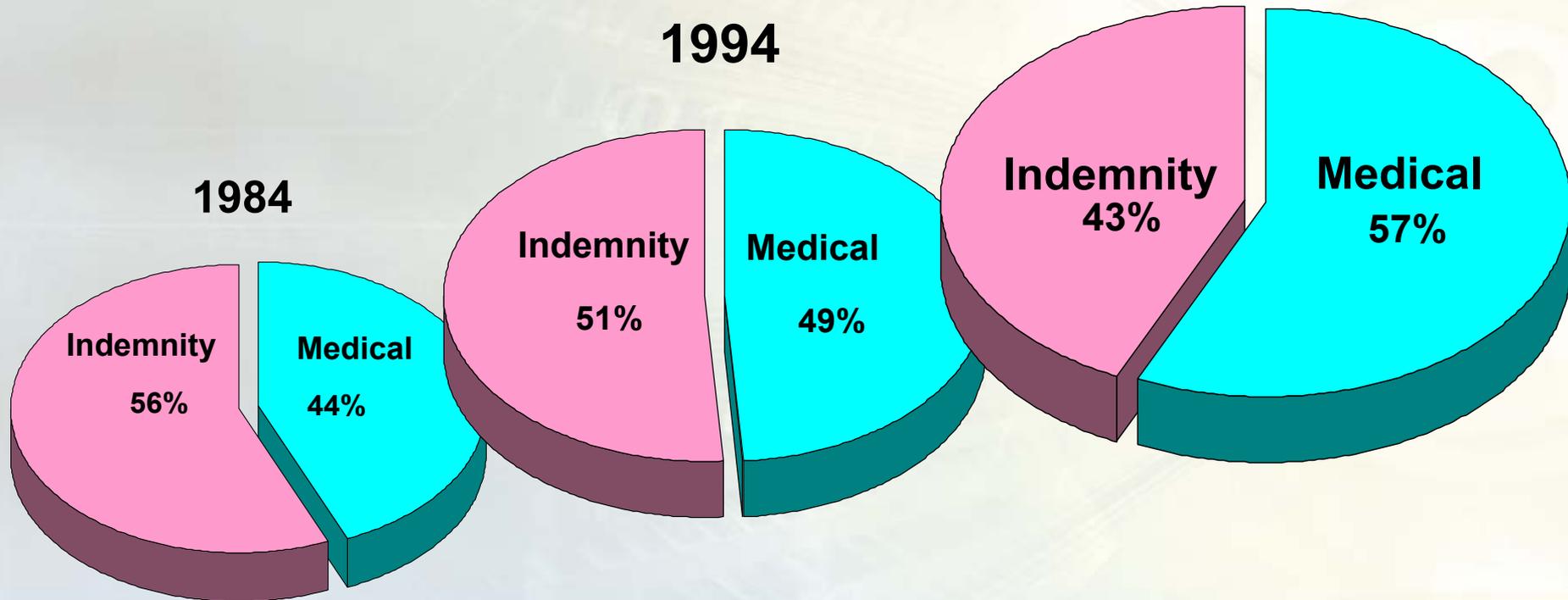


Medical severity: Based on data through 12/31/2003, developed to ultimate  
Based on the states where NCCI provides ratemaking services, excludes the effects of deductible policies  
Source: Calendar year Current Population Survey, Economy.com; Accident year medical severity, NCCI; Accident year  
Rx Drug Costs, NCCI estimate based on sample data provided by carriers

# Workers Compensation Medical Losses Are More Than Half of Total Losses

All Claims—NCCI States

2004p

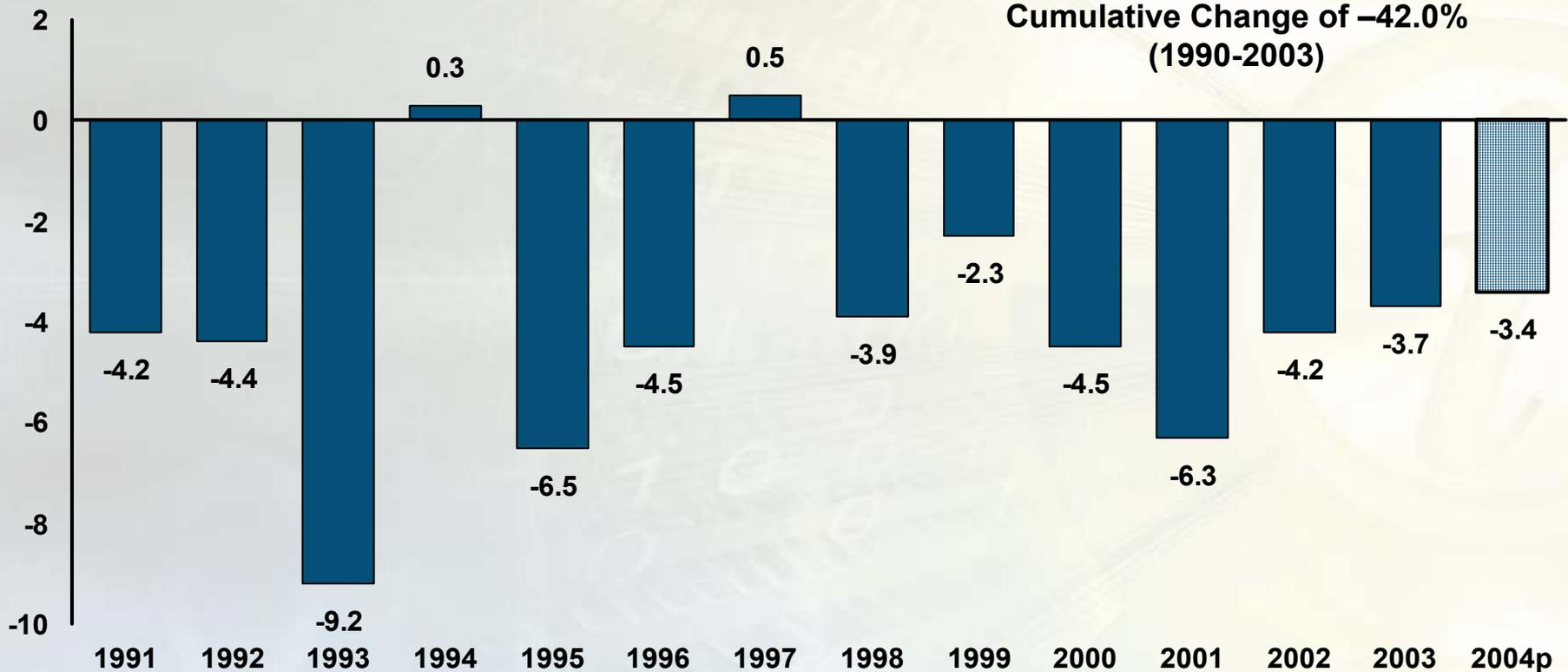


2004p: Preliminary based on data valued as of 12/31/2004  
1984, 1994: Based on data through 12/31/2003, developed to ultimate  
Based on the states where NCCI provides ratemaking services  
Excludes the effects of deductible policies

# Workers Compensation Lost-Time Claim Frequency Continues Its Decline

## Lost-Time Claims

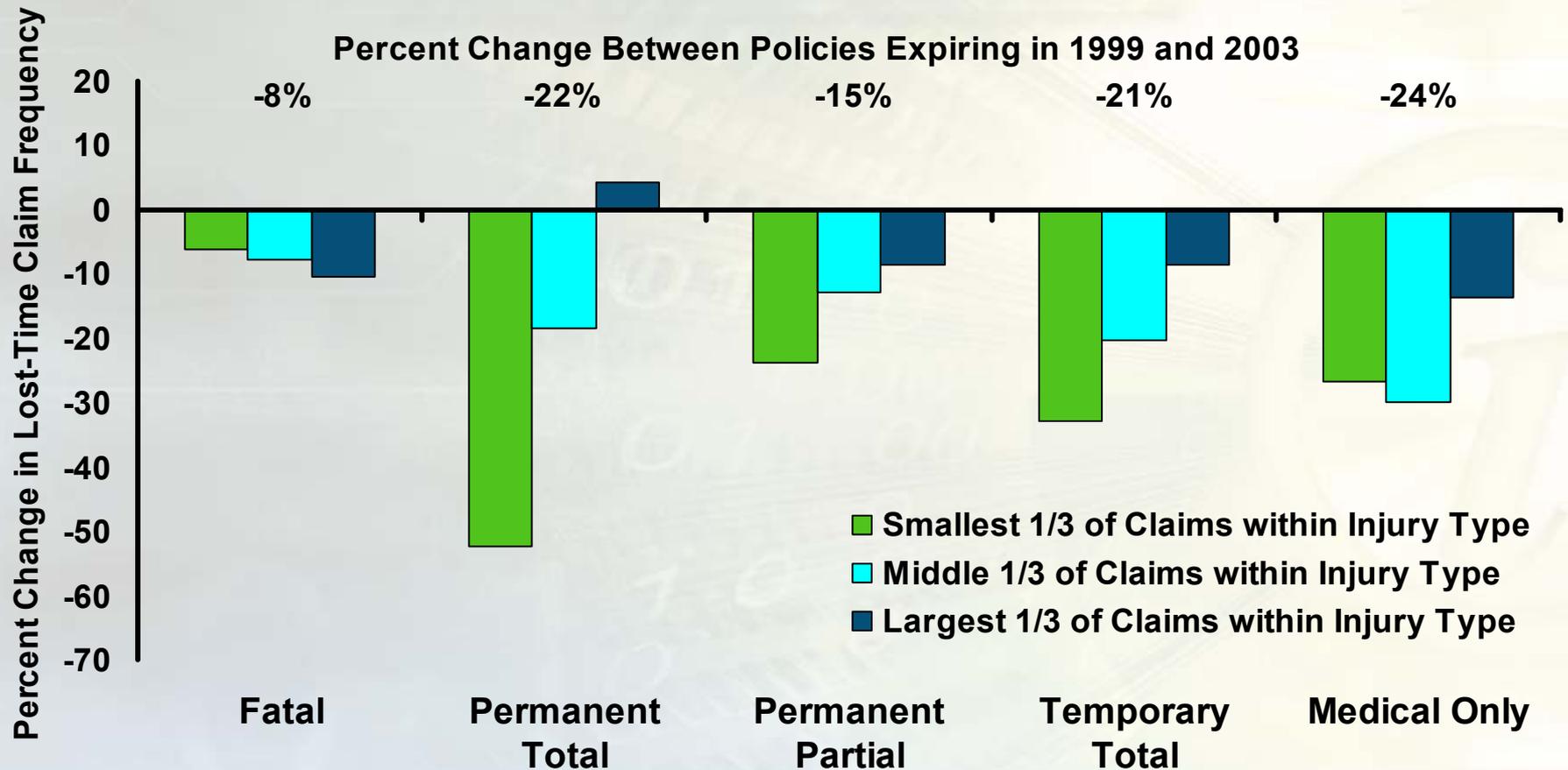
Percent Change



Accident Year

2004p: Preliminary based on data valued as of 12/31/2004  
 1991-2003: Based on data through 12/31/2003, developed to ultimate  
 Based on the states where NCCI provides ratemaking services  
 Excludes the effects of deductible policies

# Change in Lost-Time Claim Frequency By Injury Type and by Size of Loss Group

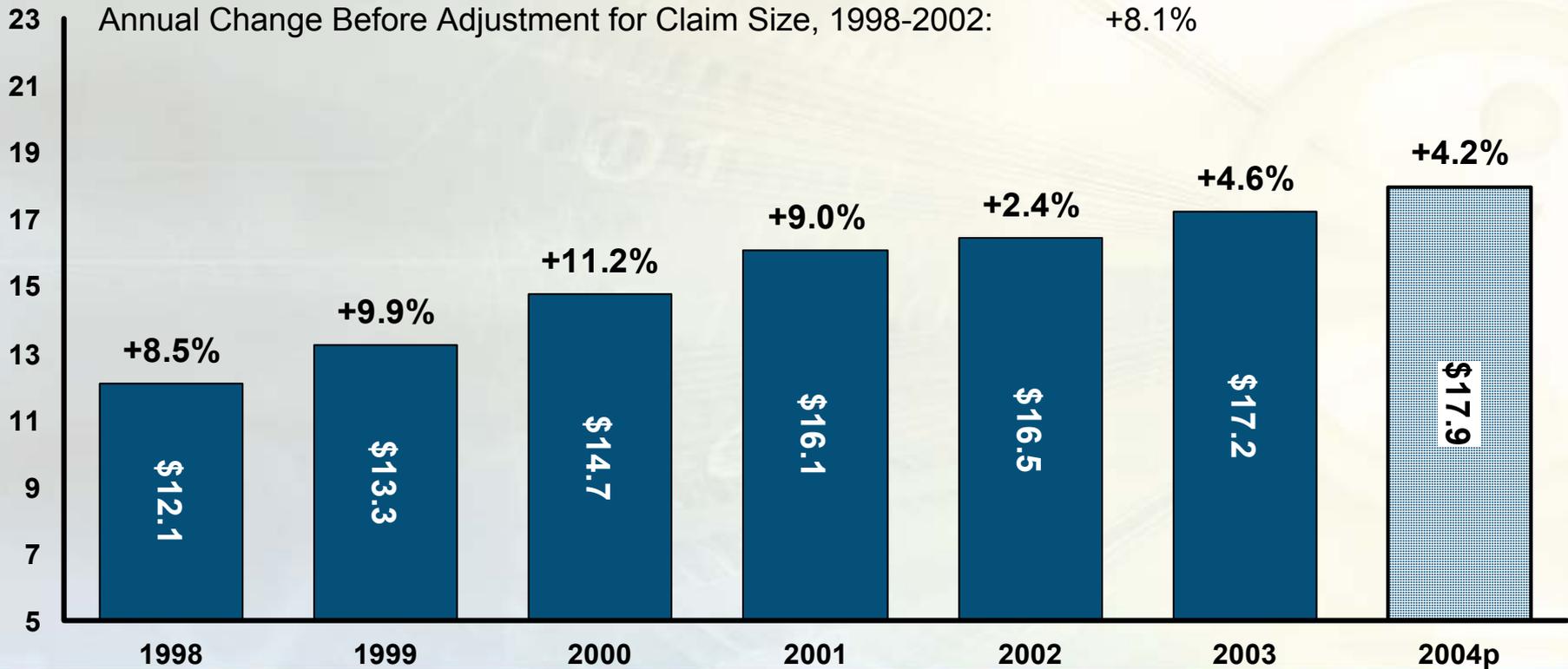


Loss Size Adjustments: 4.2% Indemnity, 7.4% Medical  
 Frequency = Lost-time claims / payroll; Payroll adjusted for inflation  
 Claim count determined at 1st report  
 NCCI states only, excluding Texas

# Workers Compensation Indemnity Claim Costs

## Lost-Time Claims

Indemnity Claim Cost (000s)



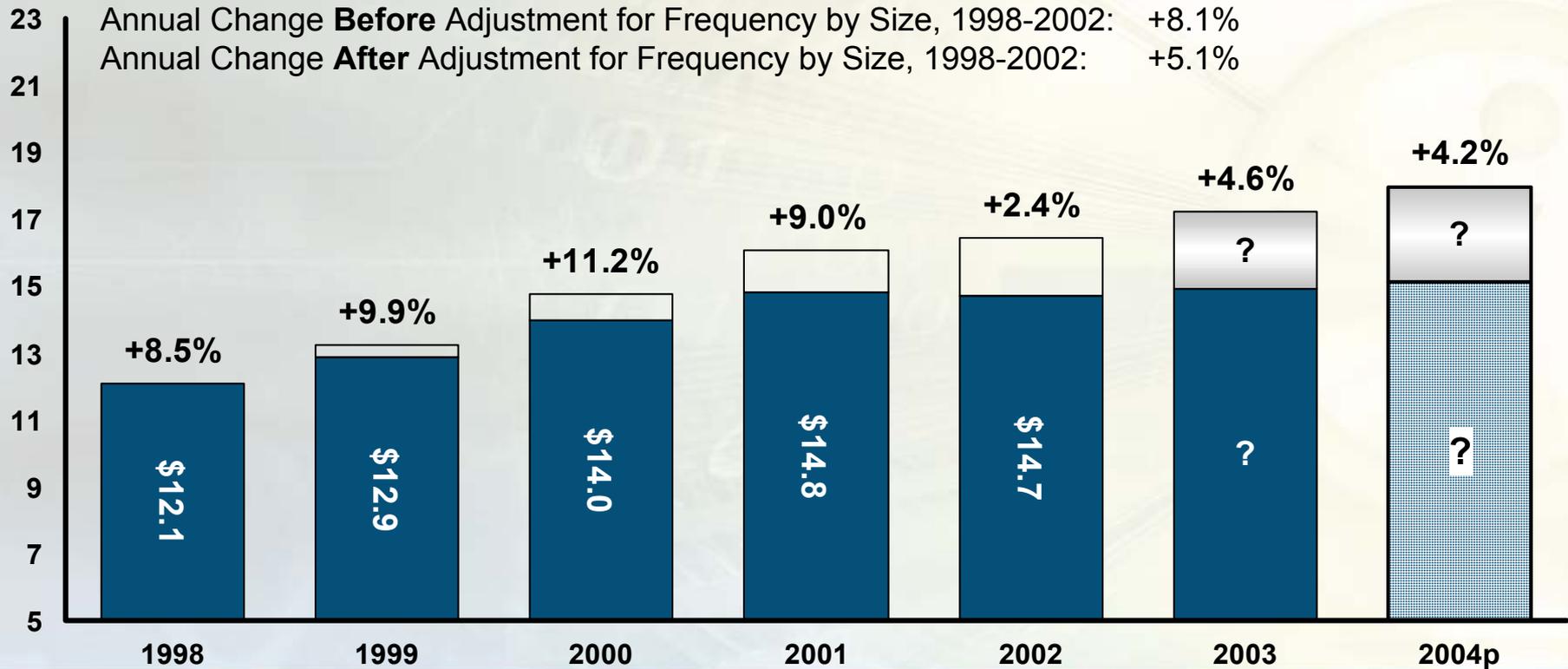
Accident Year

2004p: Preliminary based on data valued as of 12/31/2004  
 1998-2003: Based on data through 12/31/2003, developed to ultimate  
 Based on the states where NCCI provides ratemaking services  
 Excludes the effects of deductible policies

# Impact of Changes in Claim Size Distribution on Indemnity Claim Costs

Indemnity  
Claim Cost (000s)

Lost-Time Claims



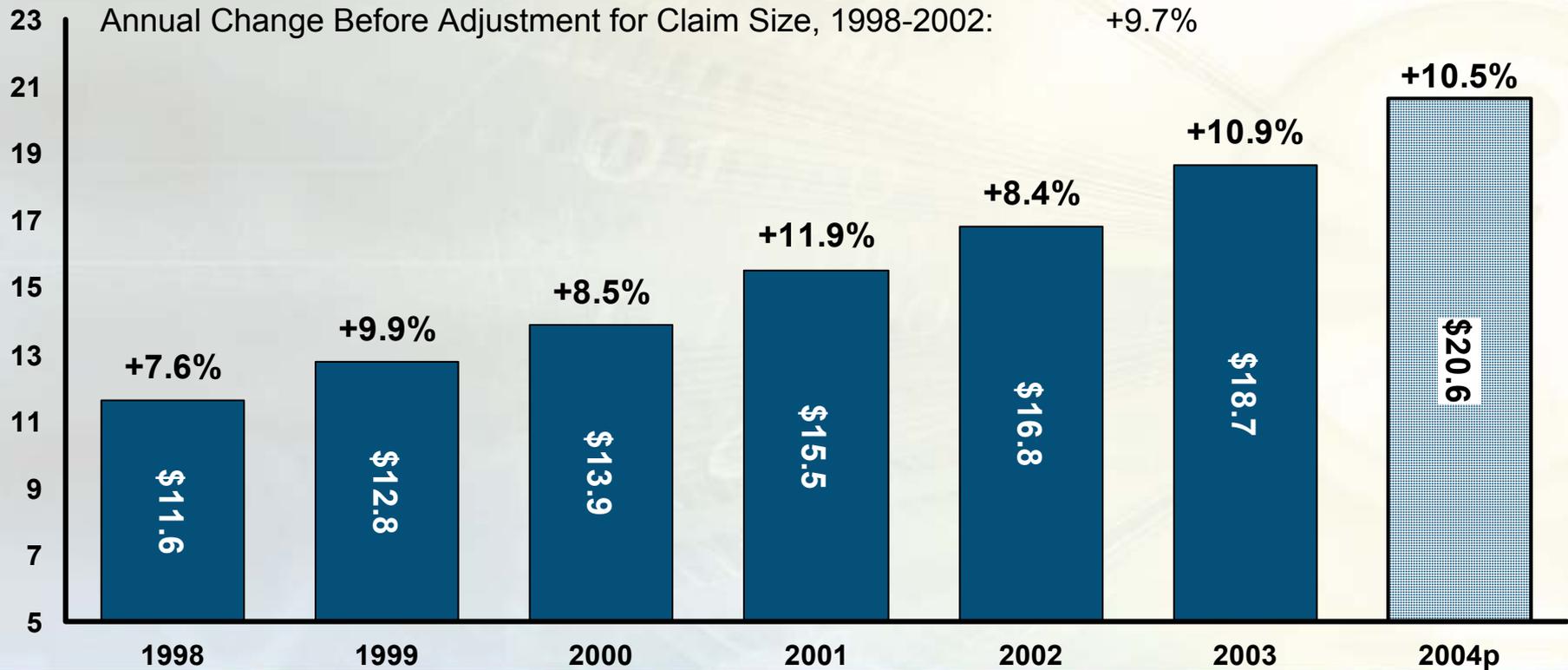
Accident Year

2004p: Preliminary based on data valued as of 12/31/2004  
1998-2003: Based on data through 12/31/2003, developed to ultimate  
Based on the states where NCCI provides ratemaking services  
Excludes the effects of deductible policies

# Workers Compensation Medical Claim Costs

Medical Claim Cost (000s)

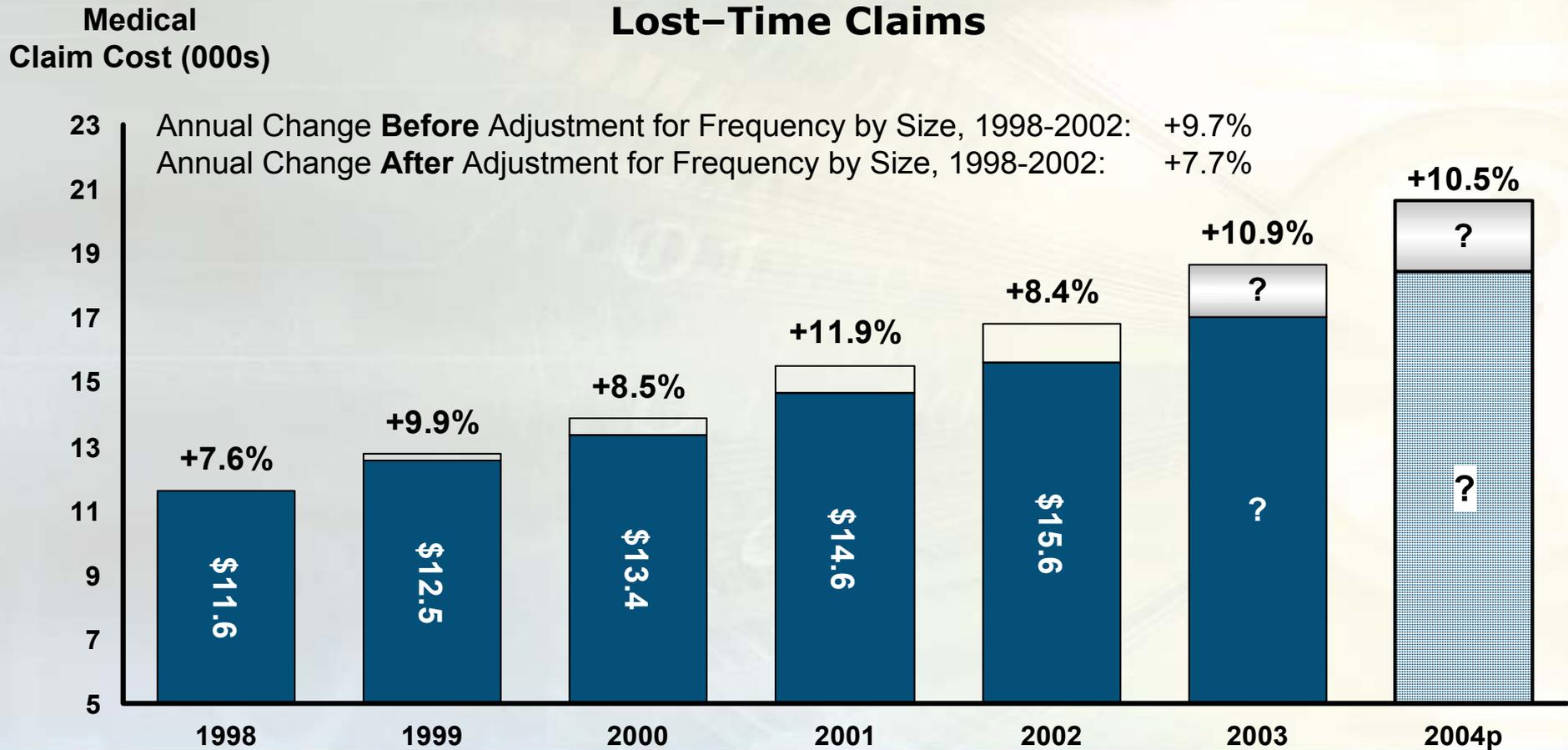
Lost-Time Claims



Accident Year

2004p: Preliminary based on data valued as of 12/31/2004  
 1998-2003: Based on data through 12/31/2003, developed to ultimate  
 Based on the states where NCCI provides ratemaking services  
 Excludes the effects of deductible policies

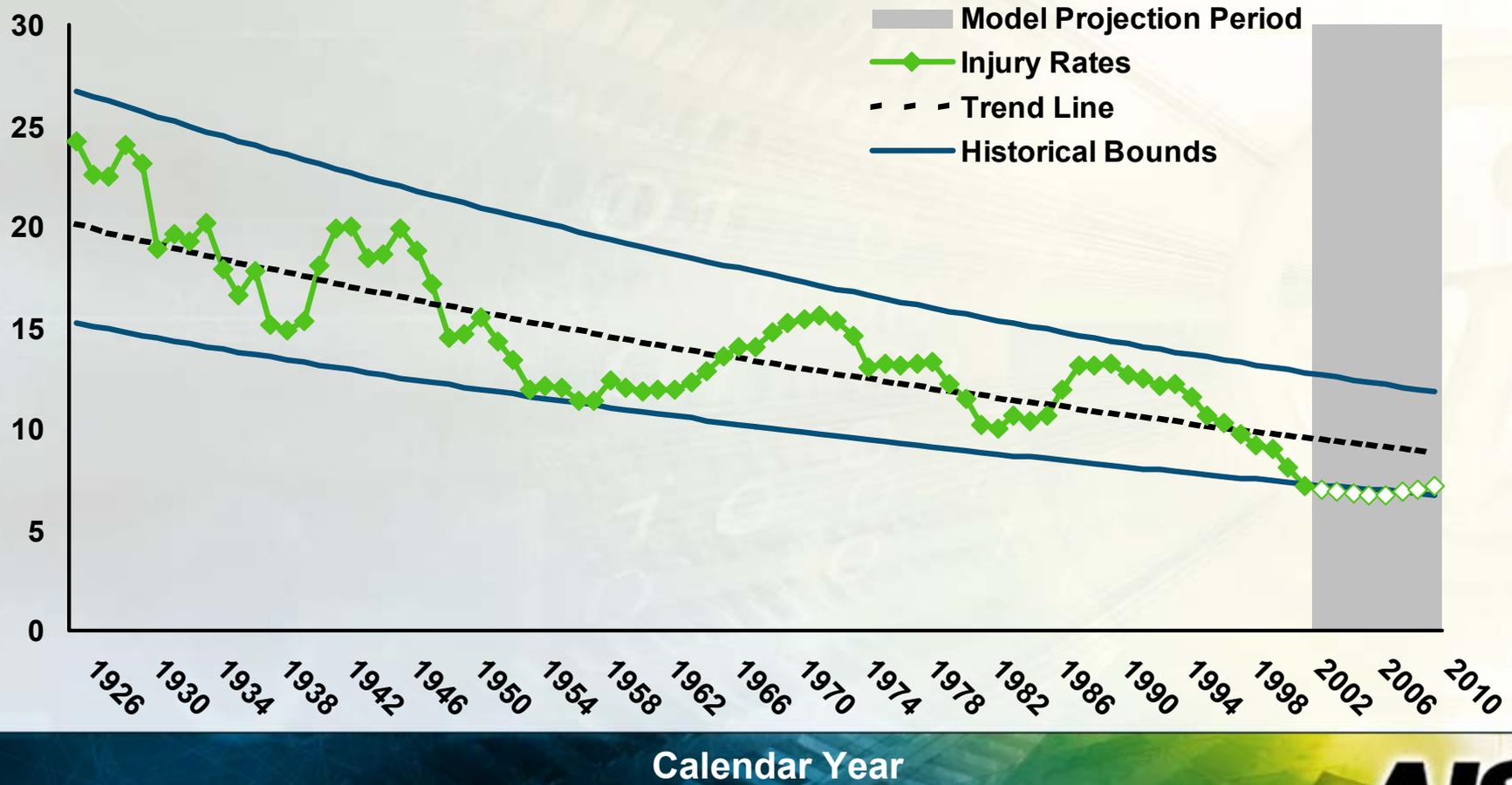
# Impact of Changes in Claim Size Distribution on Medical Claim Costs



2004p: Preliminary based on data valued as of 12/31/2004  
 1998-2003: Based on data through 12/31/2003, developed to ultimate  
 Based on the states where NCCI provides ratemaking services  
 Excludes the effects of deductible policies

# Patterns in Historical Labor Statistics Underlie a Possible Modest Upturn

## Manufacturing Injury Rates



Source: NCCI analysis of Bureau of Labor Statistics injury rates from 1926-2002

# **Impact of TRIA On Workers Compensation**

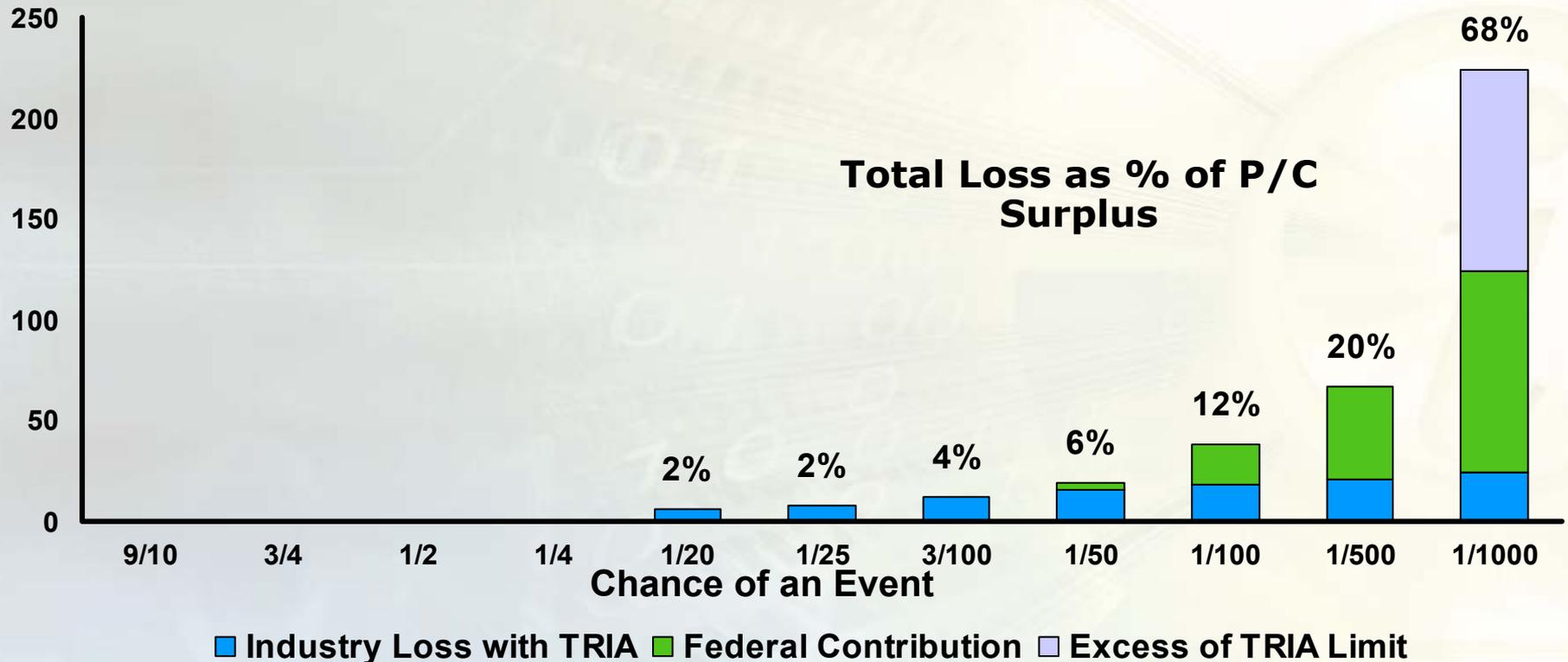
# When Does TRIA Make a Difference?

- TRIA's direct financial impact is limited to infrequent extreme events
- TRIA is not triggered under approximately 98% of the modeled scenarios
- TRIA enables the P/C market to function effectively with minimal financial exposure to taxpayer funds

# Under Most Scenarios TRIA Is Dormant, but When TRIA Is Triggered It Is Vital

## P/C Underwriting Loss With and Without TRIA Support

U/W Loss (\$ B)



# TRIA Supports Efficient, Competitive Insurance Markets

- Efficient, competitive markets have:
  - Many buyers and sellers
  - Available information to support estimates of costs, benefits and risks
- TRIA
  - Transforms the unknown into a quantifiable
  - Affordable pricing (e.g. NCCI's approved TRIA filings) allows for many buyers
  - Quantifiable, financially manageable "worst-case" scenarios allows for more sellers
- As with patents and copyrights TRIA is a "pro-market" government program

# Concluding Remarks

# In Summary

## Positives

- Results are improving
- Frequency continues to decline
- Industry making progress on reserve deficiency
- Residual Market burden still manageable

## Negatives

- Low investment returns continue to put pressure on underwriting results
- Medical severity continues rapid growth
- Calendar year results lag behind other lines
- Uncertainties surrounding TRIA extension

# In 2004, These Were Our Priorities

- Trending methods
- Large loss procedure
- Catastrophe provisions
- Excess loss factors
- Classification ratemaking

# Here's What We Accomplished

- Trending methods  
Revamped econometric trending model
- Large loss procedure  
Adopted in 30 states
- Catastrophe provisions  
Approved in 30 states
- Excess loss factors  
Adopted in 35 states
- Classification ratemaking  
Expanded Unit Statistical Plan to 10 reports

# What's Ahead for 2005

- Class ratemaking enhancements
  - Loss development by body part
  - Large loss capping
  - New credibility formulas
- Hazard Group remapping
- Econometric trending model using State Space modeling
- Terrorism provision response to TRIA