

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 THE WORKERS' COMPENSATION  
INSURANCE MARKET IN ARKANSAS



Prepared by: William R. Lacy, Director of Compliance  
Arkansas Insurance Department

Approved by: Allen Kerr, State Insurance Commissioner

Date Submitted: September 1, 2017

**REPORT TO THE LEGISLATURE ON ACT 796 OF 1993 THE STATE OF THE  
WORKERS' COMPENSATION MARKET FOR YEAR ENDING 2016**

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

Arkansas continues to enjoy a competitive workers' compensation market with the continuing effects of Act 796 of 1993.

In the most recent data available, Arkansas' combined ratio decreased to 80% ranking it among the lowest of any state for which Arkansas's statistical agent, the National Council on Compensation Insurance (NCCI), compiles loss data. In 2016, NCCI filed for decreases in the voluntary market loss costs of -4.3% and in the assigned risk plan rates -1.6%. Recently, in 2017 the NCCI filed for decreases of -8.4% for the voluntary market loss costs and -10.6% for the assigned risk market premiums. Several factors and trends in the industry may affect future rates. These factors include changes in claim frequency, 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's 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 2001 saw our first increase in the assigned risk plan rates while experiencing a decrease in the voluntary market. In 2016, Arkansas had the lowest loss costs in the region per \$100 of payroll, \$0.68, compared to the regional average loss cost of \$0.91 and the countrywide average loss cost of \$1.28. The Arkansas average rates in 2016 were -67.9% from 1995 when the law changes went into effect. There are still positive effects from this Act that benefits Arkansas employers.

<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%
2006	-0.5%	-2.0%
2007	-5.4%	-6.8%
2007 (effective 1/1/08)	2.7%	2.7%
2008 (effective 7/1/08)	-12.8%	-13.8%
2009	-7.0%	-6.4%
2010	1.9%	4.5%
2011	-5.8%	-9.7%
2012	-4.1%	-4.8%
2013	-7.4%	-6.7%
2014	-1.4%	-8.5%
2015	-2.1%	-3.0%
2016	-4.3%	-1.6%
2017	-8.4%	-10.6%

### **PAYROLL AND EXPERIENCE MODIFIER**

Reported payroll in Arkansas continues to increase while premiums for insureds continue to decrease. In 2016 the average experience modifier decreased slightly to 0.947 from 0.959. The 2016 countrywide average experience modifier is 0.95. Please refer to Exhibit “A” for additional statistical information regarding premiums.

### **ASSIGNED RISK PLAN**

The assigned risk plan has seen a history of decline in population since the passage of Act 796 except for a gentle upward trend during 2002 through 2004. It is down from a record high of \$150,000,000 in 1993, but up from low of \$6,566,275 in September 2000. Voluntary carriers continue to tighten underwriting and maintain their minimum premiums. The assigned risk estimated premium volume for 2016 was \$21,571,318 as compared to \$24,040,907 for 2015. The assigned risk plan premium declined in 2016 due to approved rate decreases. As of the end of 2016 small premium employers (less than \$2,500 in annual premium) constituted approximately 73.9% of the plan policy volume with an average of \$1,019 in premium per policy. Average plan premium per policy at the end of 2016 was \$3,049 for all 7,076 policies in

the plan. The top five business classifications seeking coverage in the assigned risk plan were carpentry, roofing, painting, masonry and carpentry installation.

In 2008, NCCI filed a Voluntary Coverage Assistance Program (VCAP), which has helped to remove some employers from the assigned risk plan by allowing voluntary carriers to file their underwriting guidelines for comparison to new applications submitted. When an application is received by NCCI, it is compared to the filed guidelines and if the risk appears to meet a company's guidelines, the application will be forwarded to the agent/insurer to determine whether they will make a voluntary offer of coverage. This program was approved effective October 1, 2008. As of 2016, 293 employers were removed from the assigned risk plan having a premium of \$1,285,989.

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

The NCCI is an "Advisory Organization" licensed in Arkansas to assist its member insurers with ratemaking and data collection activities. Effective July 1, 2014, the Commissioner re-appointed NCCI as Administrator for the Arkansas assigned risk plan until at least July 1, 2017.

Arkansas participates in the oversight of the market and the NCCI through a multi-state working group of the National Association of Insurance Commissioners (NAIC). The working group monitors data reliability and any other issues that arise involving the market.

In recent years, Arkansas has also 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. Participation in the examination task force, and 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. An advisory organization examination is designed to find concerns with statistical reporting and error correction. These concerns are remedied and monitored by a working group of the National Association of Insurance Commissioners (NAIC). The exams are to assure the errors never become significant enough to affect the overall reliability of the data reported by the NCCI for the State of Arkansas. NCCI's most recent examinations showed no significant issues.

The location of an office in Little Rock (mandated by 1993 legislation) continues to resolve many policy related service problems and provides Arkansas agents and insureds easy, immediate access to responsive company personnel. The effectiveness of this office is apparent in the reduction of the number of complaints received by the Insurance Department and the reduction in the number of appeals reaching the Appeals Board. The NCCI personnel assigned to the office are knowledgeable and committed to providing excellent service.

Attached are Exhibit "A" entitled *State Advisory Forum 2017* and Exhibit "B" entitled *Arkansas Residual Market 2nd Quarter 2016 Status Report*; and the exhibits are prepared by the NCCI and provide 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 provides, at no charge to the agent, the option to submit assigned risk applications online. Upon successful submission, the customer receives a confirmation code and application identification number for reference. There are significant savings to the plan when an application can be processed electronically. Arkansas agents have been extremely responsive to this initiative with 97% of applications being submitted online in 2016.

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, 2014, through December 31, 2016, the servicing carriers are Travelers Indemnity Company, Technology and Riverport (Berkley). For January 1, 2017 to December 31, 2019, the carriers will be Travelers, Technology and Liberty Mutual.

### **SUMMARY OF INSURANCE DEPARTMENT'S CRIMINAL INVESTIGATION DIVISION**

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 of 1993 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 Investigation Division during the 2005 Legislative Session to come in line with its present mandate to investigate not only workers' compensation fraud but all types of insurance fraud.

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 about 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 found at Ark. Code Ann. § 11-9-106 for conviction, 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. However, the Division is no longer dedicated to a single purpose for complex investigations, as it is tasked to investigate all insurance fraud under Title 23 and not just workers' compensation fraud under Title 11. As all of these complex cases evolve, they frequently require investigators to work through a myriad of leads to develop a case. Occasionally, even with the Division's dedicated resources, 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. In fact, many cases are not carried forward to prosecution. In many instances where there is not enough evidence to actually prosecute the case, the threat of prosecution is enough to get the parties involved to settle the cases outside of court, resulting in restitution for the aggrieved parties. While not technically prosecutor wins, these cases result in positive outcomes for injured workers in the state.

In the 2016 reporting period, there were 56 workers compensation referrals received by CID. Of those referrals received and after investigation only 12 were sent for legal review. Three new cases were referred to the elected prosecutor for prosecution. The investigative work continues on many of the cases that have been opened. Since the creation of the division in 1993, 162 cases have been referred for prosecution, which resulted in 121 convictions. Out of these 162 cases, only three prosecutions have resulted in acquittals. In the remaining cases, the charges were not filed or dropped by the locally elected prosecutors.

## **2016 LEGISLATIVE ACTIVITY WITH REGARD TO WORKERS' COMPENSATION**

There was no legislative activity with regard to workers' compensation in 2016.

### **2016 THIRD EXTRAORDINARY SESSION**

*Act 5.* Senate Bill 13 was titled as "An Act to Clarify Workers' Compensation Death and Permanent Total Disability Trust Payments Under the Workers' Compensation Law that Resulted from Initiated measure 1948, No.4; and to Lower Employers' Tax Rate." This Act provides that no claims may be made against the Death and Permanent Total Disability Trust Fund after June 30, 2019. It further provides that upon final payment of liabilities out of the Fund, the premium tax shall not exceed 1.5%.

### **91ST GENERAL ASSEMBLY**

A.C.A. §11-9-805. A.C.A. §11-9-805 was amended to allow for the partial settlement of all issues other than future medical treatment. If a claimant has been determined to be eligible for Medicare, the parties may petition the commission for a partial settlement of all issues other than future medical treatment.

A.C.A. §11-9-508. A.C.A. §11-9-508 was amended by defining rabies as a highly contagious and potentially deadly infectious disease. The exposure to rabies and the risk of infection is the direct result of an injury caused by the bite of a rabies infected animal. In such cases the employer shall promptly provide reasonably necessary medical treatment to an injured employee who is exposed to rabies. "Reasonably necessary medical treatment" means without limitation

any diagnostic and preventive measures prescribed for detection, diagnosis, and prevention of rabies.

## **SELECTED WORKERS' COMPENSATION DECISIONS**

### **FISCAL YEAR 2016**

#### **ARKANSAS SUPREME COURT**

##### **Exclusive Remedy**

*Hendrix v. Alcoa, Inc.*, 2016 Ark. 453 (2016). This case concerned the issue of whether the survivors of a deceased worker could file a wrongful death case against the decedent's former employer. The claimant had worked for Alcoa, Inc., from 1966 until his retirement in 1995. In September, 2012, the claimant filed a claim against Alcoa for workers' compensation benefits, alleging that he was exposed to asbestos during the course of his employment. On November 7, 2012, an administrative law judge found that the claim was barred under the provisions of Arkansas Code Annotated section 11-9-702(a)(2) (Repl. 2012).

The claimant died in November, 2013. In April, 2014, the estate initiated a wrongful-death and survival action against Alcoa. Alcoa filed a motion to dismiss asserting that the circuit court lacked jurisdiction because the wrongful-death claim fell within the exclusive-remedy provision of the Arkansas workers' compensation laws. The circuit granted the motion to dismiss and the estate appealed.

The case required the Supreme Court to construe the exclusive-remedy provision of the Act in conjunction with section 11-9-702(a)(2)(B). The exclusive-remedy provision of the Act is found at Arkansas Code Annotated section 11-9-105(a), which states in part that: (a) The rights and remedies granted to an employee subject to the provisions of this chapter, on account of injury or death, shall be exclusive of all other rights and remedies of the employee, his legal representative, dependents, next of kin, or anyone otherwise entitled to recover damages from the employer[.] The Court framed the issue in the case as whether the Act provides a remedy for an asbestos-related claim if the time of disablement does not occur within three years of the last injurious exposure.

The Supreme Court affirmed the motion to dismiss and held that the Act provides coverage for asbestos-related claims and the claimant's claim falls within the coverage of the Act. The Court noted that "coupled with the exclusive-remedy provision, it could not have been the intent of the General Assembly to absolve an employer of liability for worker's compensation after a period of time only to subject the employer to liability in tort after that period elapses."

## ARKANSAS COURT OF APPEALS

### Compensability

*Packers Sanitation Services v. Quintanilla, 2017 Ark. App. 213 (2017).* The claimant in this case is a 42-year-old undocumented immigrant from El Salvador. She has lived in the United States for over ten years, and she began working for Packers in February, 2015 under the alias Marisa Ramos. She assumed the fake identity because she did not have appropriate documentation to work in the United States. On May 7, 2015, she was using a pressure hose and chemicals to clean a production line when she stepped back into a two foot by two-and-a-half-foot uncovered drain and fell, injuring her shoulder, hip, and neck.

The Full Commission awarded benefits to the claimant and found she had sustained a compensable shoulder injury. The employer appealed and argued the claimant did not suffer a compensable injury, or that, if she did, she was not entitled to temporary total-disability benefits because of her status as an unauthorized alien with respect to employment as contemplated by federal law. The Court affirmed the finding of compensability and the award of benefits. The Court noted that Arkansas Code Annotated section 11-9-102(9)(A), in pertinent part, defines an “employee” as “any person, including a minor, whether lawfully or unlawfully employed in the service of an employer under any contract of hire.” The Court found that “It is clear that our legislature intended to provide workers’-compensation benefits to people in the claimant’s position, as our statute expressly includes in its definition of any person, whether lawfully or unlawfully employed.” The Court concluded that “whether she is an undocumented worker is inconsequential to this analysis. The Commission did not err on this point.”

*St. Jean Industries, Inc. v. Ezell, 2016 Ark. App. 516 (2016).* The claimant, a diabetic, worked as a machine operator for the employer manufacturing aluminum suspension parts for the automotive industry. The claimant sustained a blister on his left big toe as the machine he operated leaked coolant onto his feet, soaking his shoes and socks. The claimant testified that he had been wearing the boots for work for about six months when the blister appeared. The claimant testified that he reported the blister to a technical assistant the next day, and other company personnel within a day or two of observing the blister. The claimant’s toe had to be amputated about 6 weeks later.

A hearing was held and the claimant proved his entitlement to indemnity and medical benefits related to the toe injury. The employer appealed to the Court of Appeals which upheld the Full Commission finding. The claimant established a causal connection between his injury and a work-related incident through his testimony that he first felt pain in his foot while he was at work and that he saw the blister that night when he got home.

### Additional Medical Treatment

*Bankston v. U.A.L.R., 2017 Ark. App. 72 (February 1, 2017).* The claimant sustained an admittedly compensable injury to his low back for which medical and indemnity benefits were paid. The claimant then alleged that he was entitled to additional medical treatment and additional temporary total-disability benefits from August 20, 2014, through a date yet to be

determined. The ALJ found that the claimant had not met his burden of proving his entitlement to surgery or additional temporary total- disability benefits, and the claimant appealed to the full Workers' Compensation Commission (the Commission). On June 21, 2016, the Commission issued a 2–1 majority opinion affirming and adopting the ALJ's decision as its own.

The Court of Appeals affirmed the denial of benefits by the Full Commission. The respondents paid appropriate indemnity benefits to the claimant through August 20, 2014, at which time the claimant was released to return to full-duty work. Just prior to his release to return to work, the claimant had undergone a functional capacity evaluation that reflected that he had put forth an unreliable effort, and the ALJ noted that there were multiple examples of the claimant's inconsistency in effort contained in the report. Mere days after being cleared for work, Mr. Bankston resigned. The Court concluded that the evidence constituted a substantial basis for the denial of relief.

### **Statute of Limitations**

*Wal-Mart Associates, Inc. v. Armstrong*, 2017 Ark. App. 175 (March 15, 2017). The claimant filed for additional benefits in February, 2014. The statute governing the time for filing claims for additional benefits is section 11-9-702(b). The plain language of the statute is clear and sets forth two definitive time periods in which a claim must be brought: one year from the date of last payment of compensation or two years from the date of injury, whichever is greater. It was undisputed that Armstrong's left-shoulder injury occurred on December 24, 2006, and the last payment of compensation for Armstrong's left-shoulder injury was in August, 2012. Therefore, her claim for additional benefits, which was filed in February, 2014, was unquestionably filed more than one year from the date of last payment of compensation and more than two years from the date of injury.

Armstrong filed another Form AR-C in February, 2014. In completing this Form AR-C, Armstrong listed an accident date of December 24, 2006. She described the injury and body part injured, stating, "I was handing a box to someone when it slipped from that person's hands and fell on me injuring my left shoulder." As with the 2008 AR-C form, Armstrong selected both "initial" and "additional" benefits and checked all the boxes therein. Wal-Mart controverted the claim. The Full Commission awarded benefits to the claimant.

Wal-Mart appealed to the Court of Appeals arguing that the claim was barred by the Statute of Limitations, among other grounds. The Court focused on the contents of the 2008 Form AR-C completed by the claimant. The Court noted the claimant failed to provide sufficient information in the 2008 Form AR-C to toll the statute of limitations. In completing the 2008 Form AR-C, the claimant did not specifically list that she suffered neck and shoulder injuries. In fact, she listed no specific injury to any part of her body, choosing to leave her claim for injuries open-ended. Additionally, with regard to the type of benefits being sought, Armstrong checked all the boxes available on the 2008 Form AR-C. The Court concluded that "such a generic filing is the equivalent to no filing at all. It simply provides no information about the type of claim being asserted by the claimant. To allow such a generic filing to toll the limitations period indefinitely for some unspecified injury is contrary to the plain language of the statute and to the rationale of

our prior caselaw.” The Court concluded “ we hold, as a matter of law, the generic Form AR-C filed in this case was not sufficient to toll the statute of limitations.”

### **Employment Services**

*Wayne Holden & Co. v. Waggoner*, 2016 Ark. App. 309 (June 8, 2016). In this case the Court of Appeals reversed a decision of the Full Commission which had found that the claimant was performing employment services at the time he was involved in a fatal motor vehicle accident. The claimant was a resident of Texarkana, Texas and was assigned to work by the employer in and around Shreveport, Louisiana. The claimant was killed while riding as a passenger in a co-worker’s vehicle as they were returning to Texarkana after clocking out from work earlier on November 26, 2013.

The administrative law judge (ALJ) decided that Waggoner was performing employment services when he was fatally injured and awarded benefits based on the testimony received during the hearing. The Full Commission affirmed and adopted the ALJ’s written findings as its own.

The Court of Appeals reversed the Commission’s award of benefits finding there was no substantial evidence that Waggoner was directly or indirectly advancing his employer’s interest when he was fatally injured. He was not performing a special work-related task when the accident occurred. Nor had the employer explicitly or implicitly agreed to furnish transportation for Waggoner or agreed that travel to and from work was part of the employment services it had hired Waggoner to perform. His commute, however he chose to accomplish it (like carpooling), was not done within the course of employment for purposes of workers’-compensation law. Waggoner was no longer advancing his employer’s interests once he had finished work, clocked out, and left his fixed place of employment to go home.

## **NATIONAL MARKETS IN GENERAL**

While Arkansas continues to experience increases in the average indemnity and medical cost per lost time claim, claims frequency continues to decline resulting a continued decline in rates upon which premiums are based. Arkansas’s market remains strong and competitive.

The attached state of the industry report Exhibit “C” entitled State of the Line graphically depicts the sound condition of the workers compensation marketplace; still, the NCCI continues to discover that workers’ compensation results are affected by a number of factors that are having a negative impact on the market:

- lower earnings relating to investments;
- 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 continues to fall sharply since the reform efforts of 1993. This means fewer injured workers – the most valuable outcome imaginable for workers, their families, and employers.

## CONCLUSION

Absent the reforms encompassed in Act 796 of 1993, it is doubtful Arkansas's employers would now have the option of voluntary workers' compensation insurance. Rather, the assigned risk plan, designed to be a market of "last resort," would have become Arkansas's 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's 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. The evidence shows 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 injured within the course and scope of their employment have received timely medical treatment and the payment of much improved indemnity benefits. Eroding the positive changes incorporated into Act 796 would be counterproductive to continued economic growth and development.

Prepared: September 1, 2017

cc: The Honorable Asa Hutchinson, Governor  
The Honorable Dale Douthit, Chairman, AWCC  
The Honorable Karen H. McKinney, Commissioner, AWCC  
The Honorable Philip Alan Hood, Commissioner, AWCC  
Ms. Barbara Webb, Chief Executive Officer, AWCC  
Ms. Russ Galbraith, Insurance Chief Deputy Commissioner, AID  
Mr. Nathan Culp, Public Employee Claims Division Director, AID  
Mr. Pat O'Kelley, Criminal Investigation Division Director, AID  
Mr. Ryan James, Public Information Manager, AID



# STATE ADVISORY FORUMS 2017



## Arkansas

**June 15, 2017**

Terri\_Robinson@ncci.com  
501-753-5180

Katherine\_Williamson@ncci.com  
561-893-3145

**EXHIBIT "A"**

# Arkansas State Advisory Forum

- AIS Bill Donnell Video Excerpt
- Countrywide Workers Compensation System
- Arkansas Workers Compensation System and Filing Activity
- Commissioner Allen Kerr, Arkansas Insurance Department
- Countrywide and Arkansas Economic Outlook
- Legislative Issues: Countrywide and Arkansas
- Emerging Issue: 2017 Medical Marijuana Update
- Residual Market: Countrywide and Arkansas
- Q & A



# STATE ADVISORY FORUMS 2017

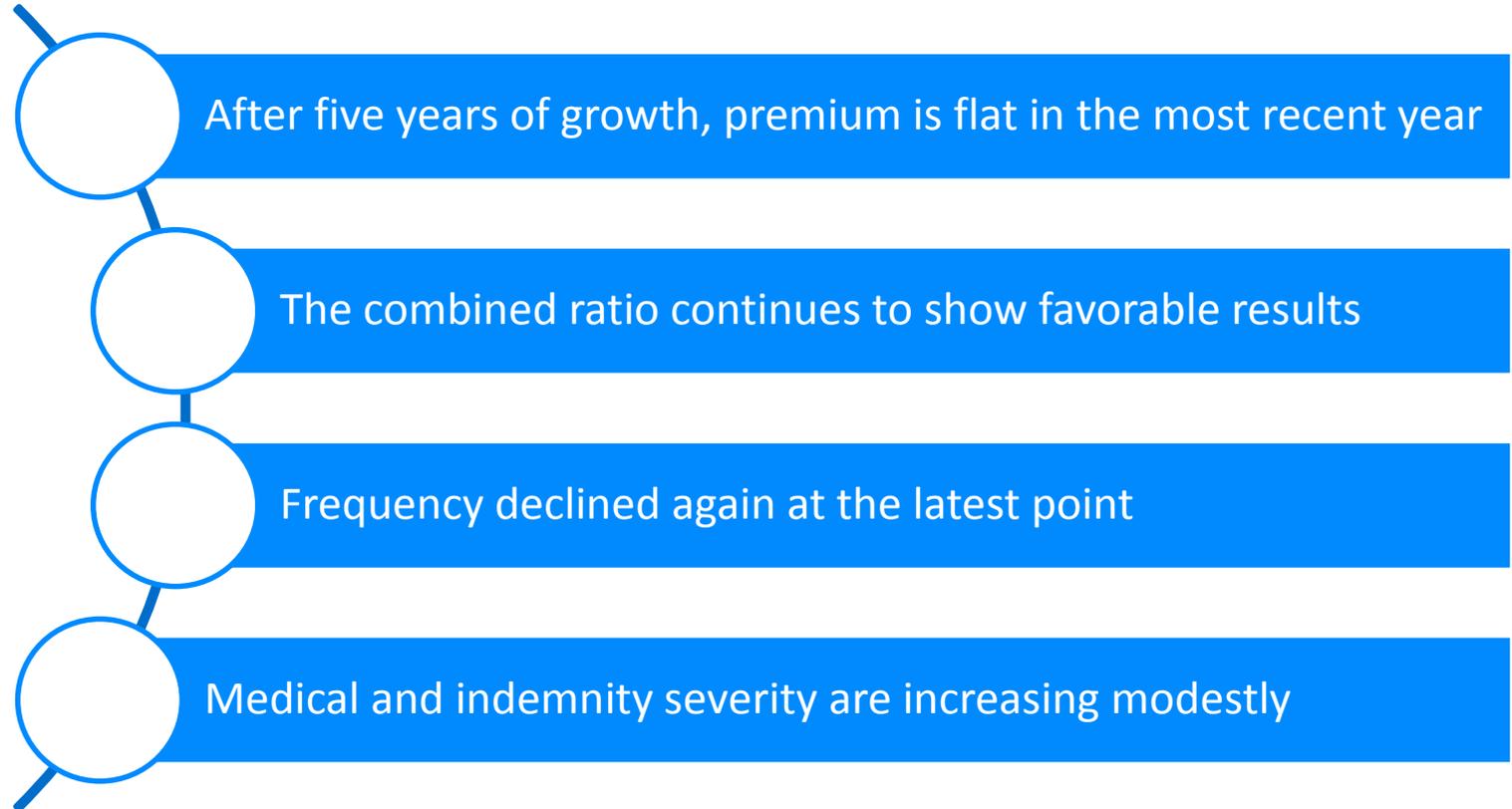
## **AIS Presentation Video Excerpt Bill Donnell NCCI President and CEO**



STATE ADVISORY FORUMS 2017

# Countrywide Workers Compensation System

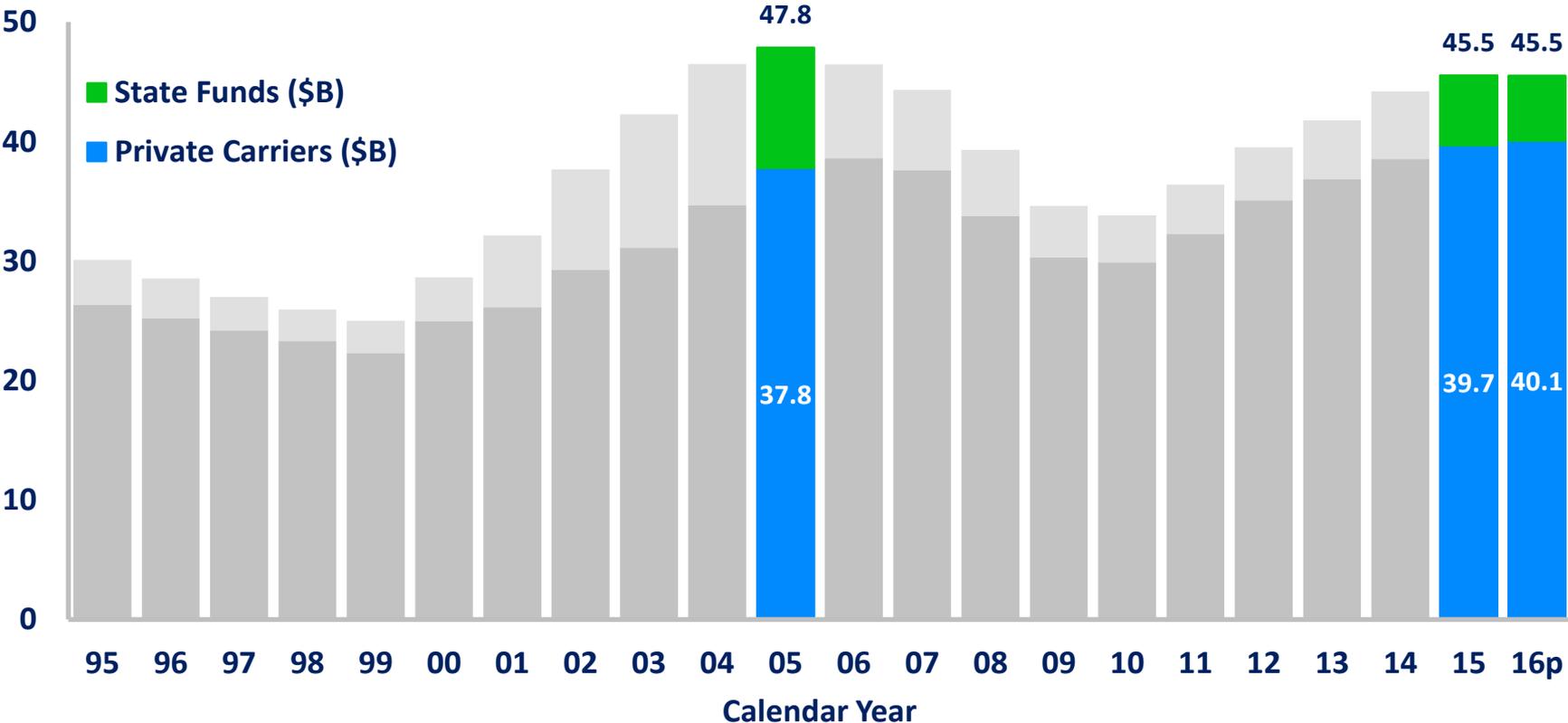
# Countrywide Workers Compensation System— An Overview



# WC Net Written Premium

## Private Carriers and State Funds

\$ Billions



p Preliminary

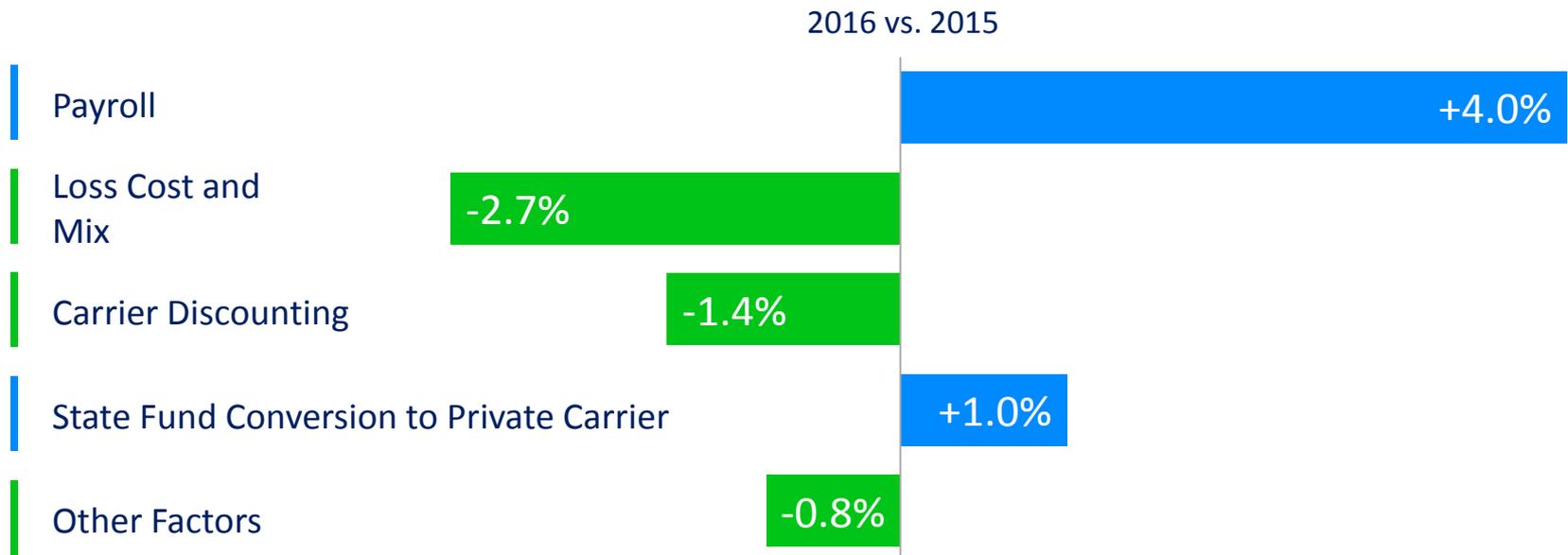
Source: NAIC's Annual Statement data; includes state insurance fund data for the following states: AZ, CA, CO, HI, ID, KY, LA, MD, MO, MT, NM, OK, OR, RI, TX, and UT  
 Each calendar year total for state funds includes all funds operating as a state fund in that year



# WC Direct Written Premium (DWP) Change by Component

## Private Carriers—NCCI States

Change in Direct Written Premium: 0.0%

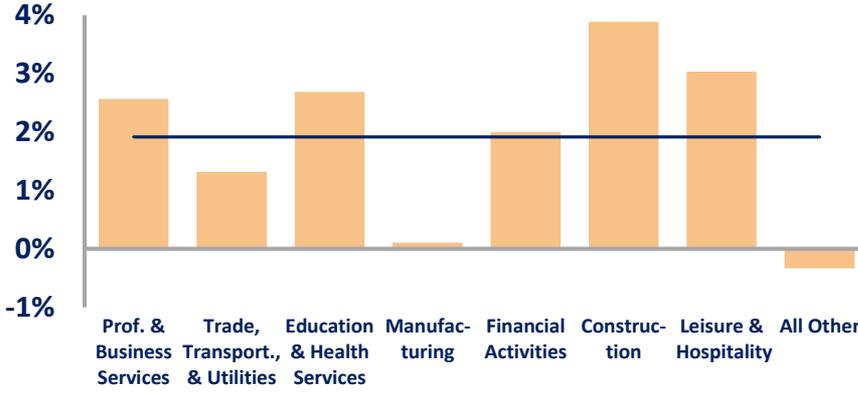
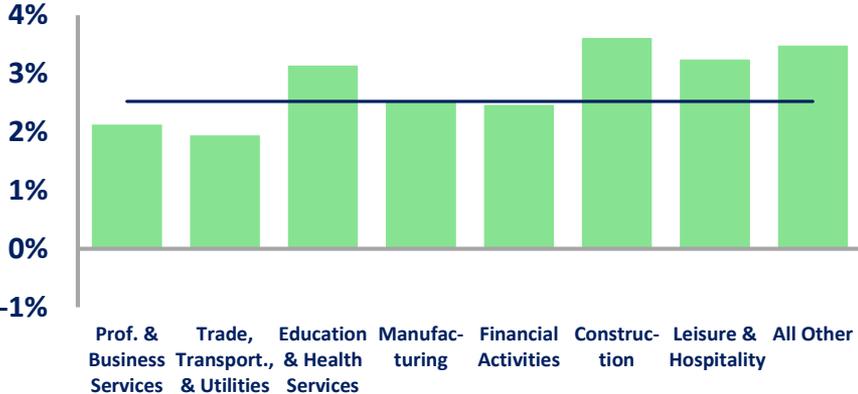


Sources: DWP Change: NAIC's Annual Statement Statutory Page 14 for all states where NCCI provides ratemaking services

Components: NCCI Policy data

# Increases in Payroll Continue to Drive Premium Growth

Forecast Change 2015–2016



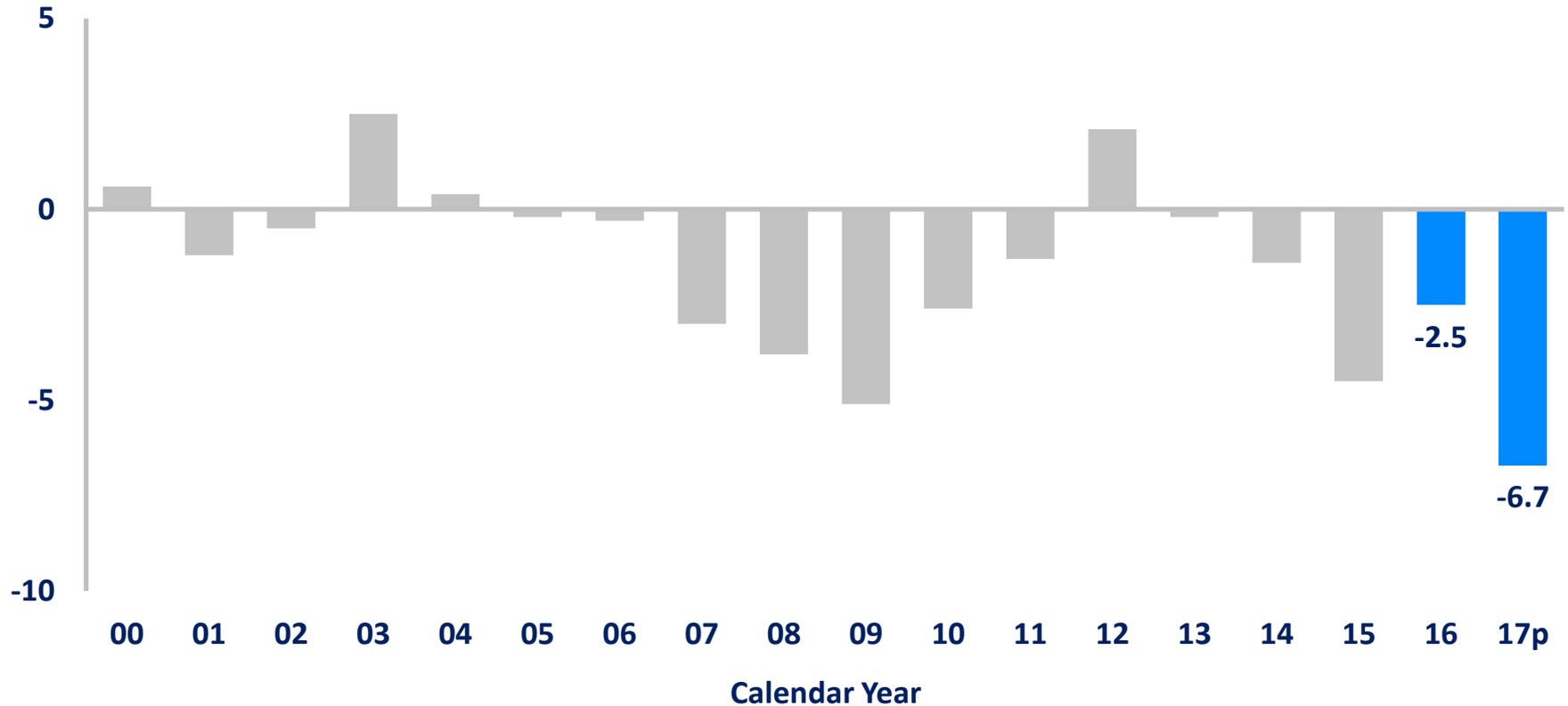
Sources: Moody's Analytics and NCCI



# WC Approved Changes in Bureau Premium Level

## By Effective Year for NCCI States

Percent



p Preliminary

Source: NAIC's Annual Statement Statutory Page 14

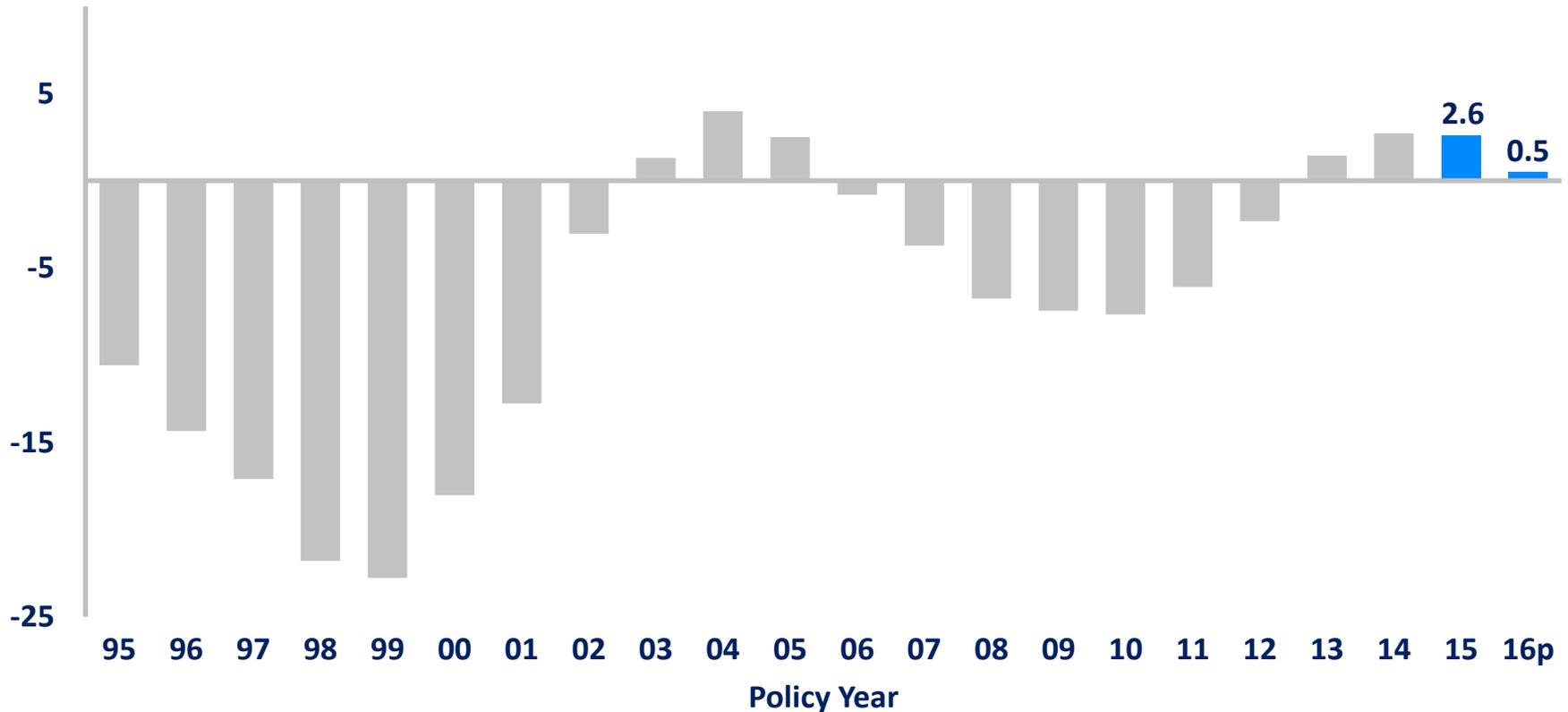
Bureau premium level changes reflect approved changes in advisory rates, loss costs, assigned risk rates, and rating values, as of 5/12/2017, relative to those previously approved in NCCI states only

IN and NC are filed in cooperation with state rating bureaus

# WC Impact of Discounting on Premium

## Private Carriers—NCCI States

Percent



p Preliminary

Sources: NAIC's Annual Statement Statutory Page 14 and NCCI's Financial Call data

NCCI benchmark level does not include a profit and contingency provision or expense constant

Based on data for all states where NCCI provides ratemaking services, excluding TX

# WC Impact of Discounting on Premium

## Private Carriers—NCCI States



p Preliminary

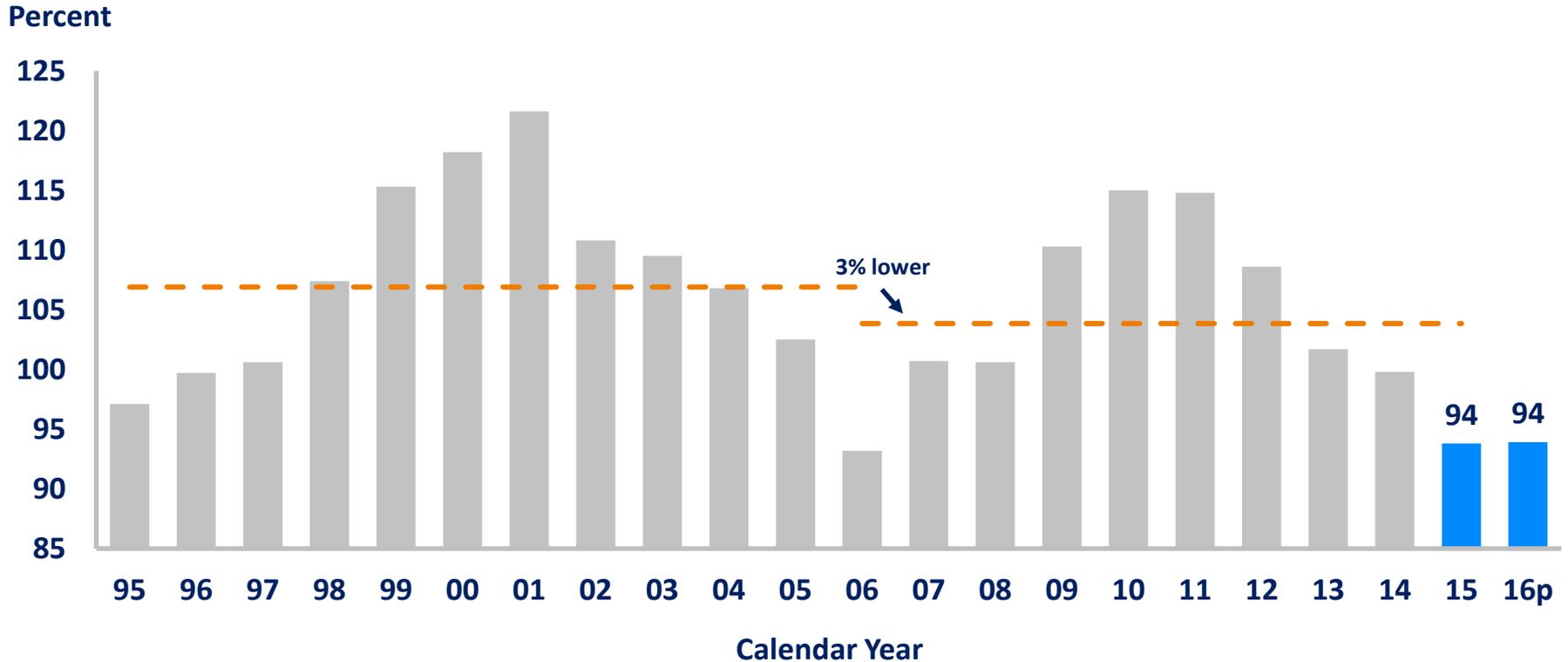
Sources: NAIC's Annual Statement Statutory Page 14 and NCCI's Financial Call data

Dividend ratios are based on calendar year statistics

NCCI benchmark level does not include a profit and contingency provision or expense constant

Based on data for all states where NCCI provides ratemaking services, excluding TX

# WC Combined Ratio— Underwriting Gain Achieved Private Carriers



p Preliminary

Sources: NAIC's Annual Statement Statutory Page 14 and NCCI's Financial Call data

Dividend ratios are based on calendar year statistics

NCCI benchmark level does not include a profit and contingency provision or expense constant

Based on data for all states where NCCI provides ratemaking services, excluding TX

# WC Combined Ratio Components

## Private Carriers

Dividends



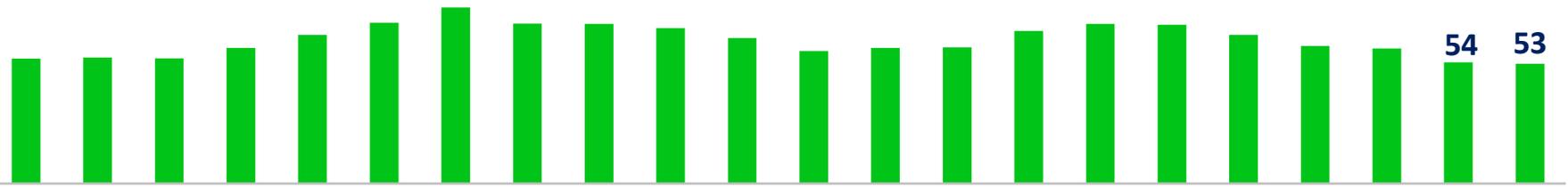
Underwriting Expense Ratio



Loss Adjustment Expense (LAE) Ratio



Loss Ratio



95 96 97 98 99 00 01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16p

Calendar Year

p Preliminary

Source: NAIC's Annual Statement data

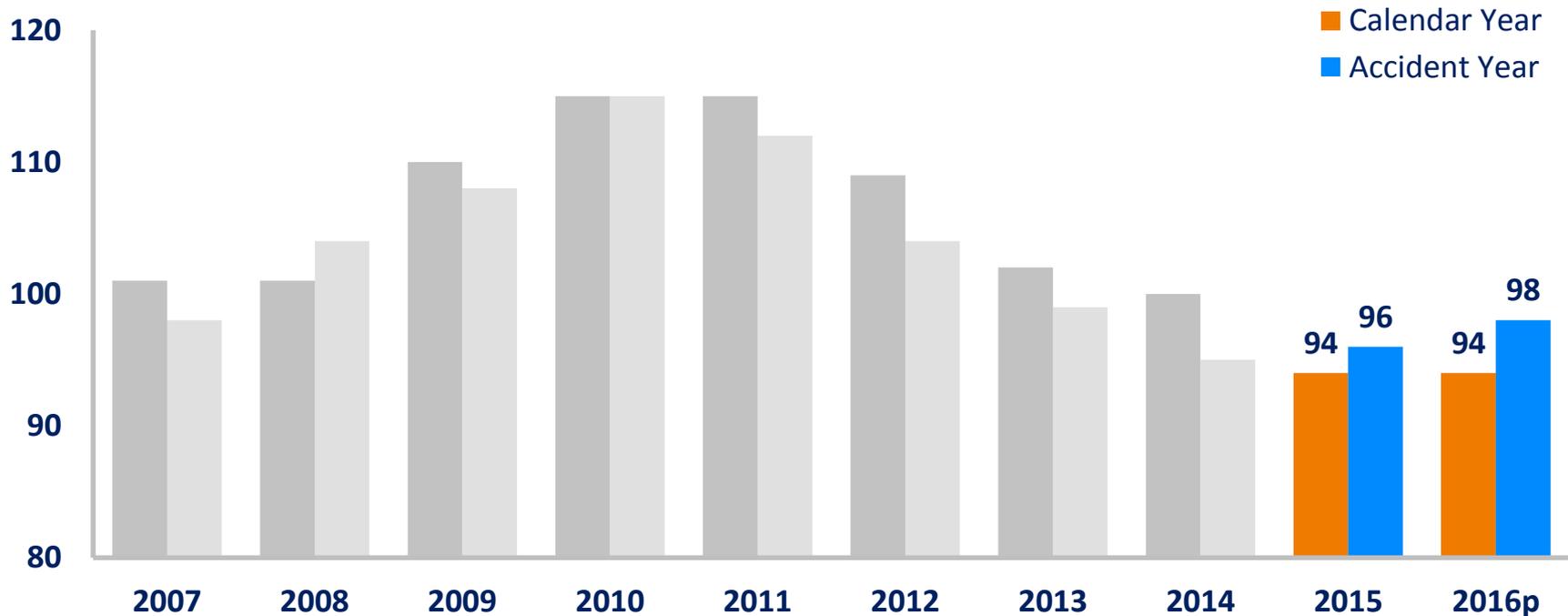


# WC Net Combined Ratios

## Calendar Year vs. Accident Year As Reported

### Private Carriers

Percent



p Preliminary

Source: NAIC's Annual Statement data

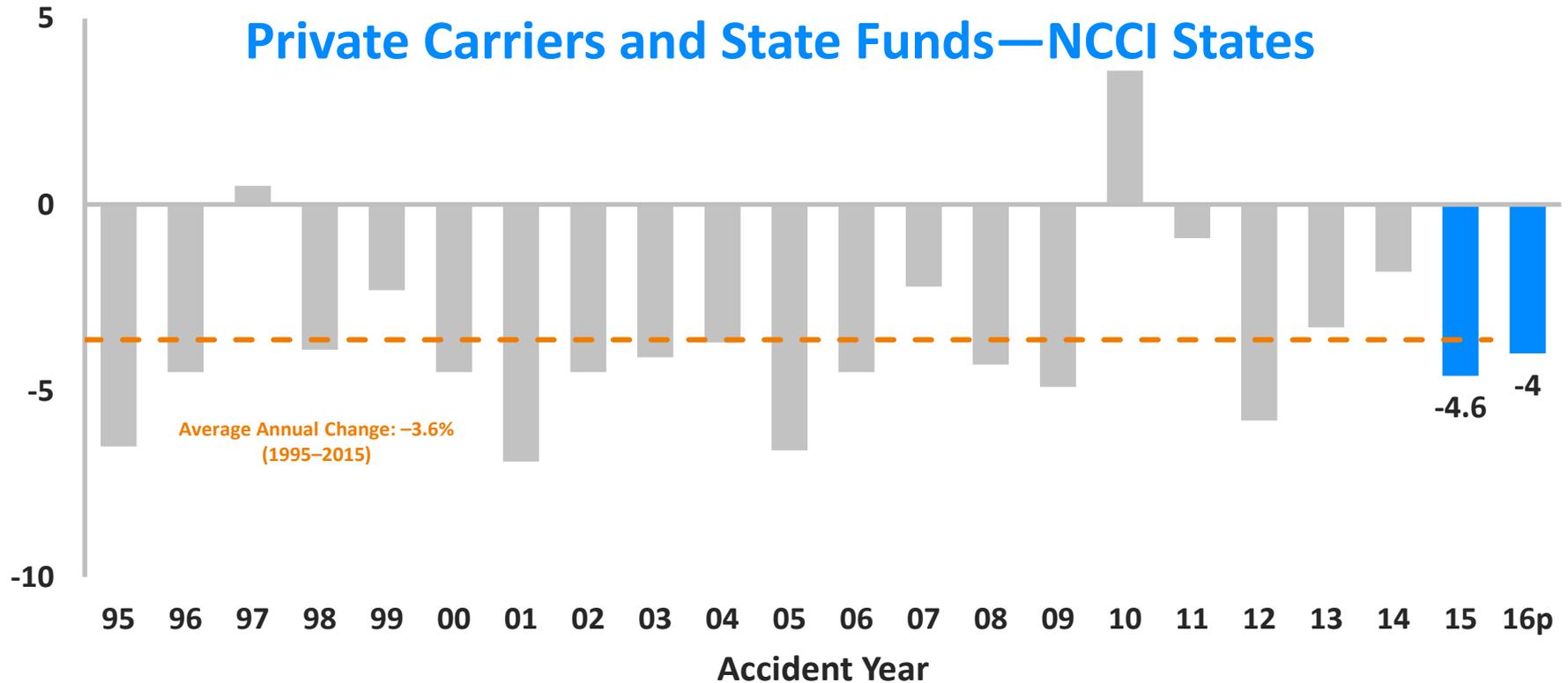
Accident Year information is reported as of 12/31/2016

Includes dividends to policyholders

# WC Lost-Time Claim Frequency— Change in Lost-Time Claims per \$1M Pure Premium

Percent

## Private Carriers and State Funds—NCCI States



2010 and 2011 adjusted primarily for significant changes in audit activity

p Preliminary based on data valued as of 12/31/2016

Source: NCCI's Financial Call data, developed to ultimate, premium adjusted to current wage and voluntary pure premium level, excludes high-deductible policies; based on data through 12/31/2015

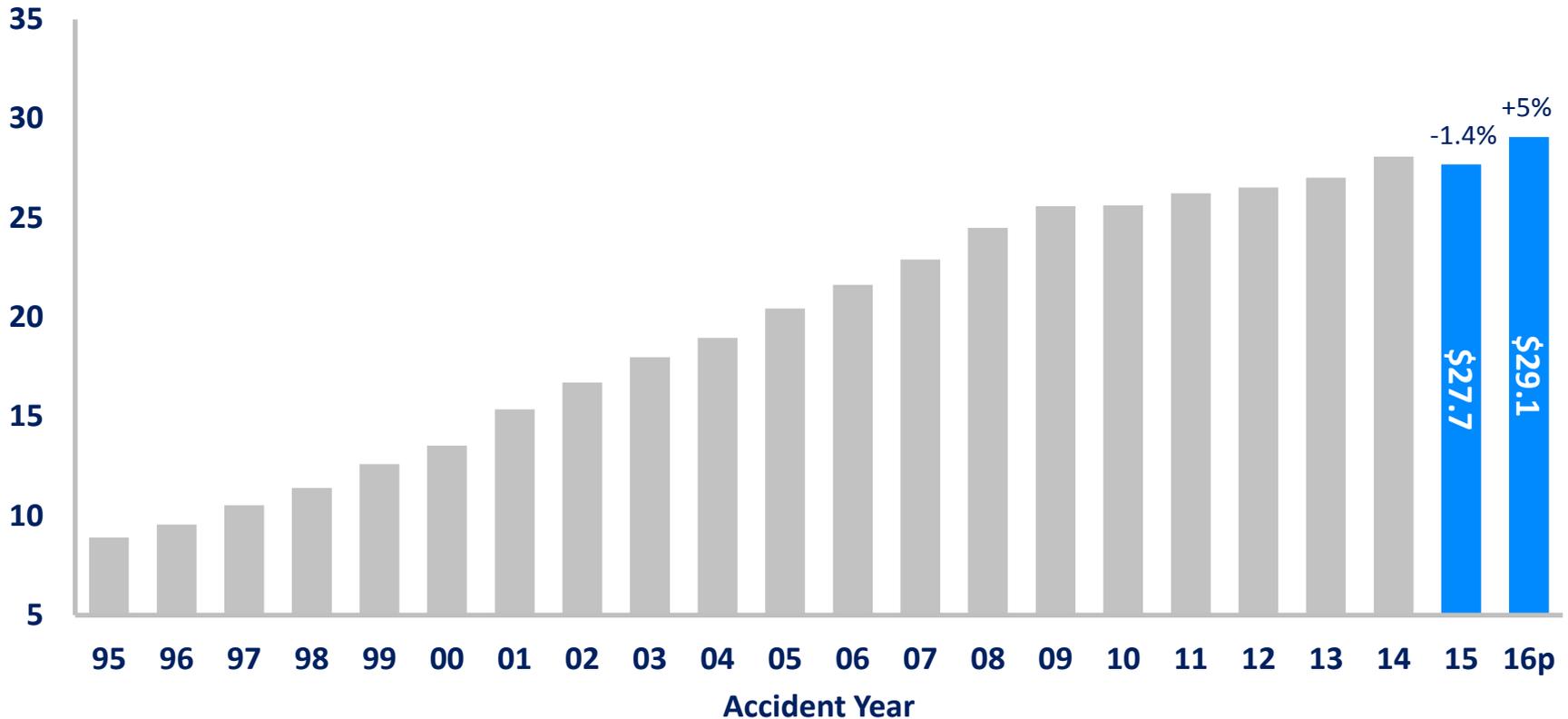
Values displayed reflect the methodology underlying the most recent rate/loss cost filing

Includes all states where NCCI provides ratemaking services; WV is excluded through 2011

# WC Average Medical Lost-Time Claim Severity

## Private Carriers and State Funds—NCCI States

Severity  
(\$ Thousands)



p Preliminary based on data valued as of 12/31/2016

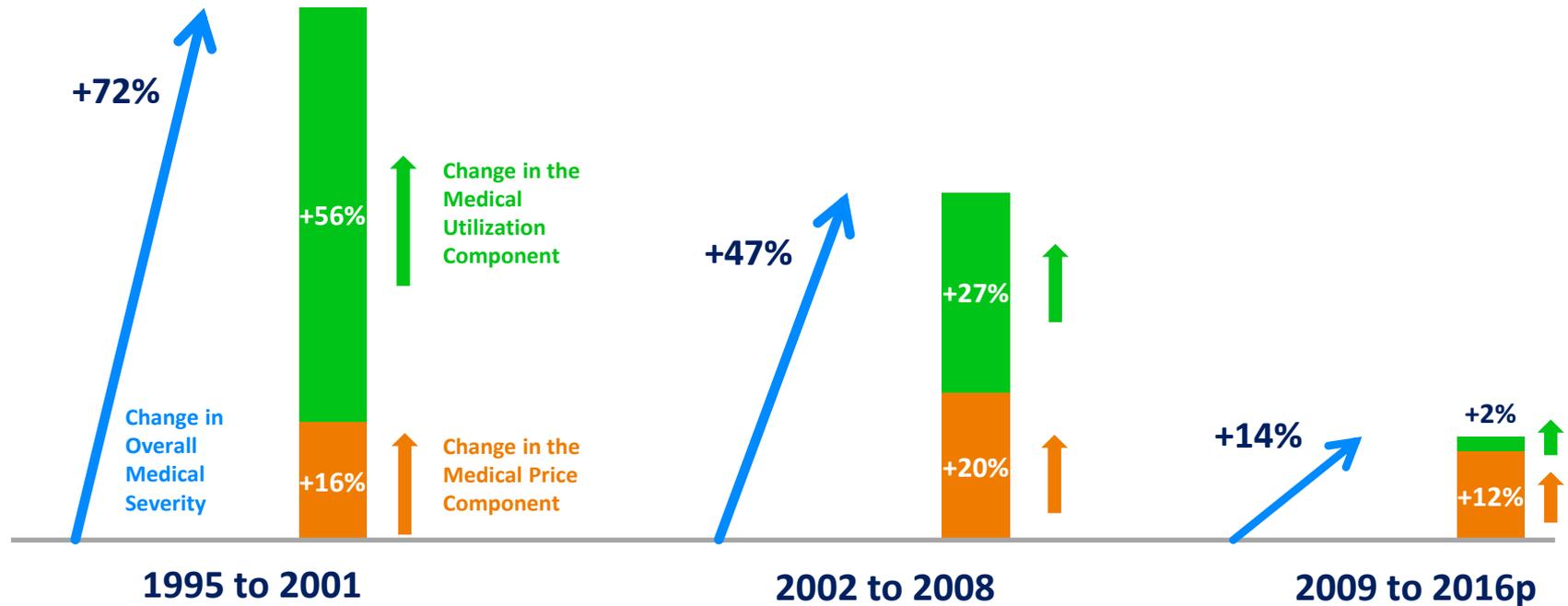
Source: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2015

Values displayed reflect the methodology underlying the most recent rate/loss cost filing

Includes all states where NCCI provides ratemaking services; WV is excluded through 2007

# Changes in Medical Lost-Time Claim Severity by Component

## Private Carriers and State Funds—NCCI States



p Preliminary based on data valued as of 12/31/2016

Sources: Severity: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2015

Values displayed reflect the methodology underlying the most recent rate/loss cost filing

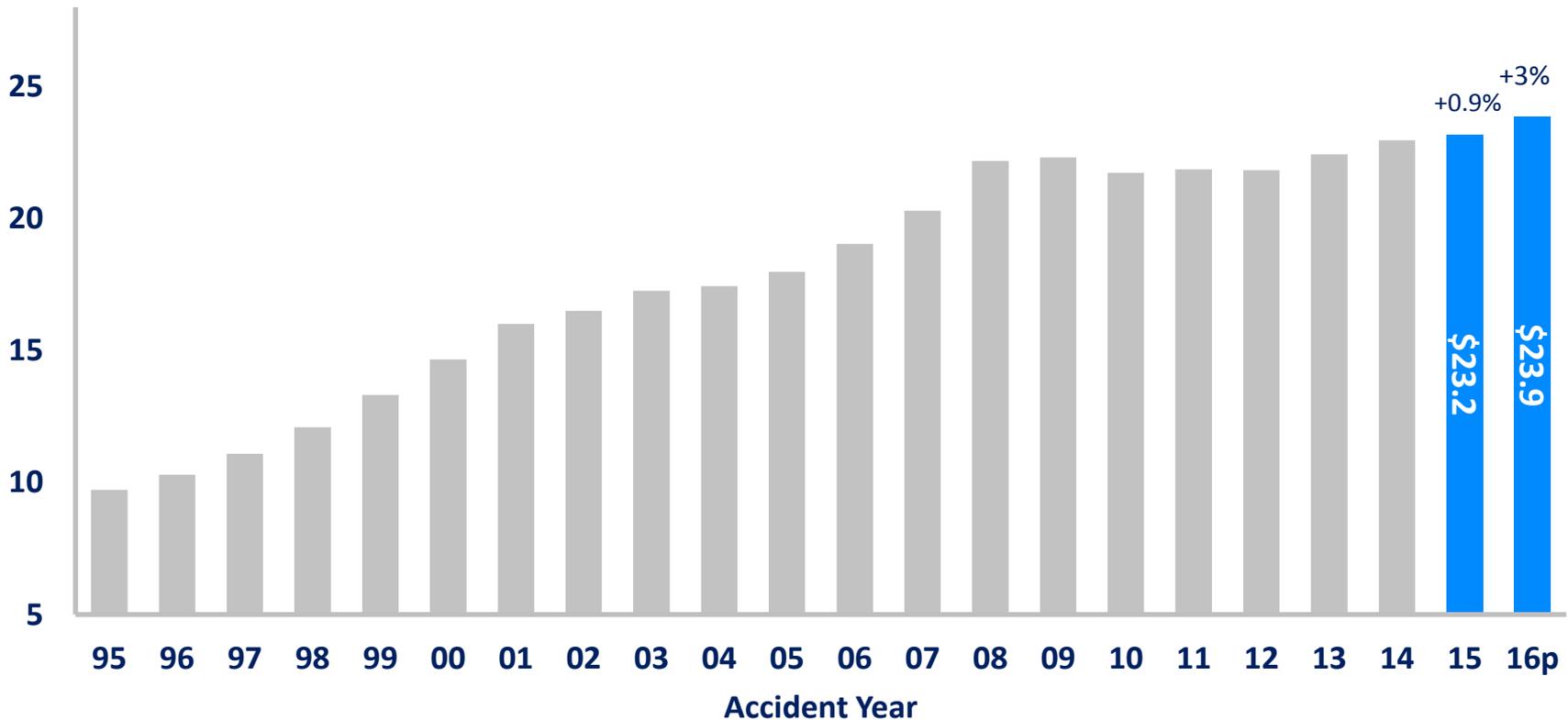
Includes all states where NCCI provides ratemaking services; WV is excluded through 2007

PHC Chain-Weighted Price Index: Centers for Medicare & Medicaid Services

# WC Average Indemnity Claim Severity

## Private Carriers and State Funds—NCCI States

Severity  
(\$ Thousands)



p Preliminary based on data valued as of 12/31/2016

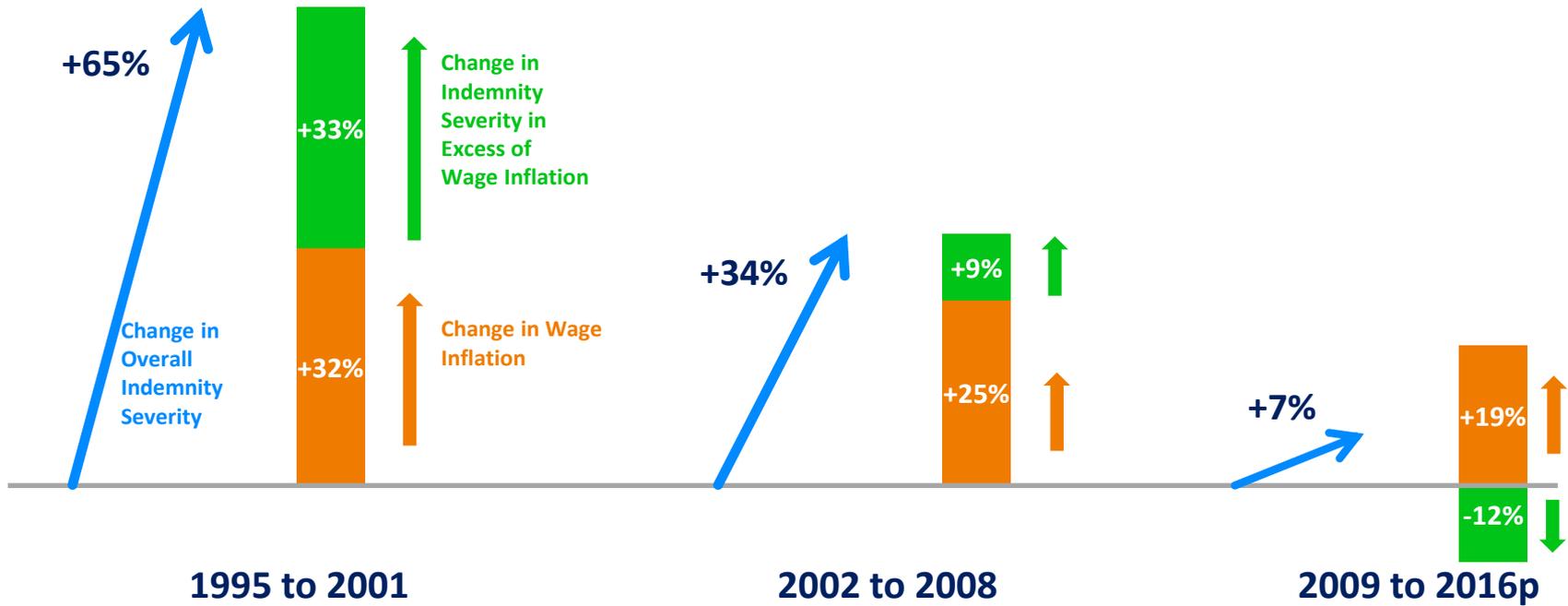
Source: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2015

Values displayed reflect the methodology underlying the most recent rate/loss cost filing

Includes all states where NCCI provides ratemaking services; WV is excluded through 2007

# Relative Growth Rates— Indemnity Severity vs. Wage Inflation

## Private Carriers and State Funds—NCCI States



p Preliminary based on data valued as of 12/31/2016

Sources: Severity: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2015

Values displayed reflect the methodology underlying the most recent rate/loss cost filing

Includes all states where NCCI provides ratemaking services; WV is excluded through 2007

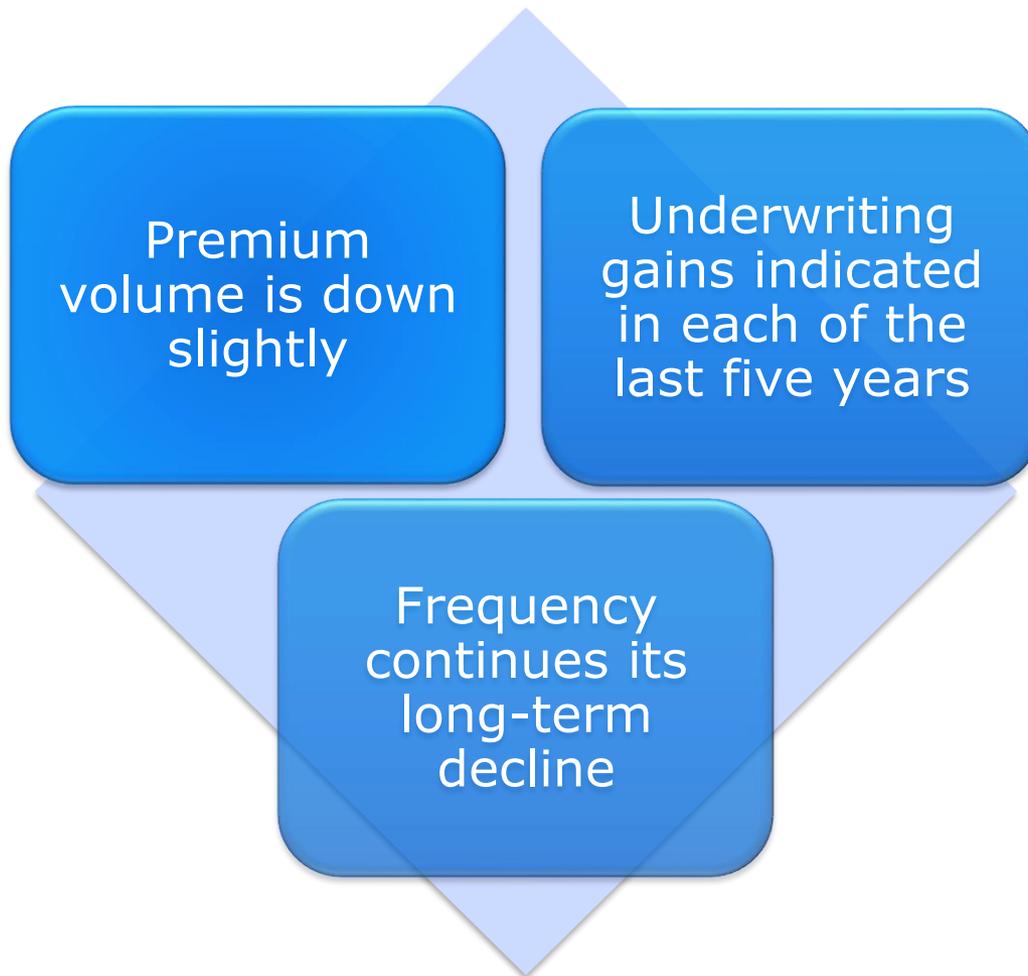
US Average Weekly Wage: 1995–2007 and 2012–2015, Quarterly Census of Employment and Wages; 2008–2011, NCCI; 2016p, NCCI and Moody's Analytics



STATE ADVISORY FORUMS 2017

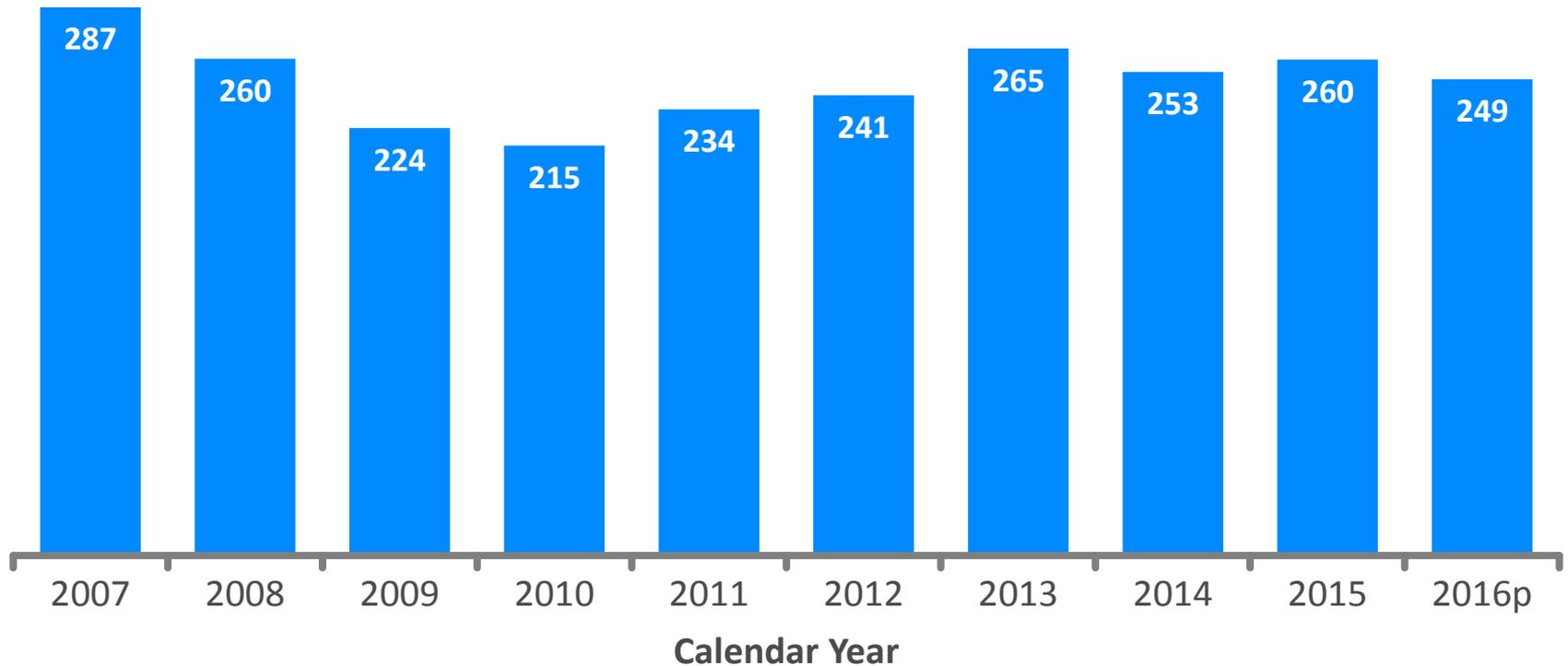
# Arkansas Workers Compensation System

# Arkansas Workers Compensation System— An Overview



# Arkansas Workers Compensation Premium Volume

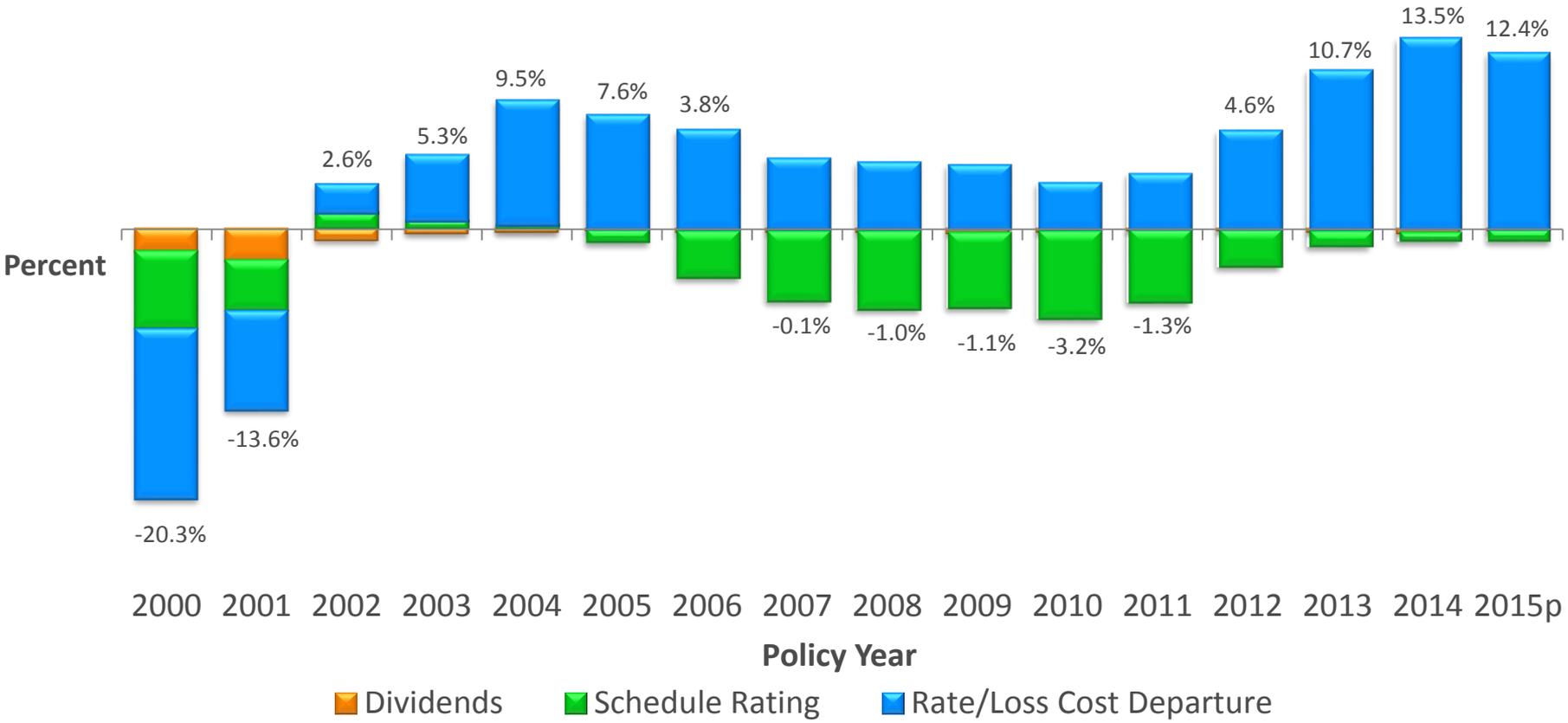
Direct Written Premium in \$ Millions



p Preliminary

Source: NAIC's Annual Statement data

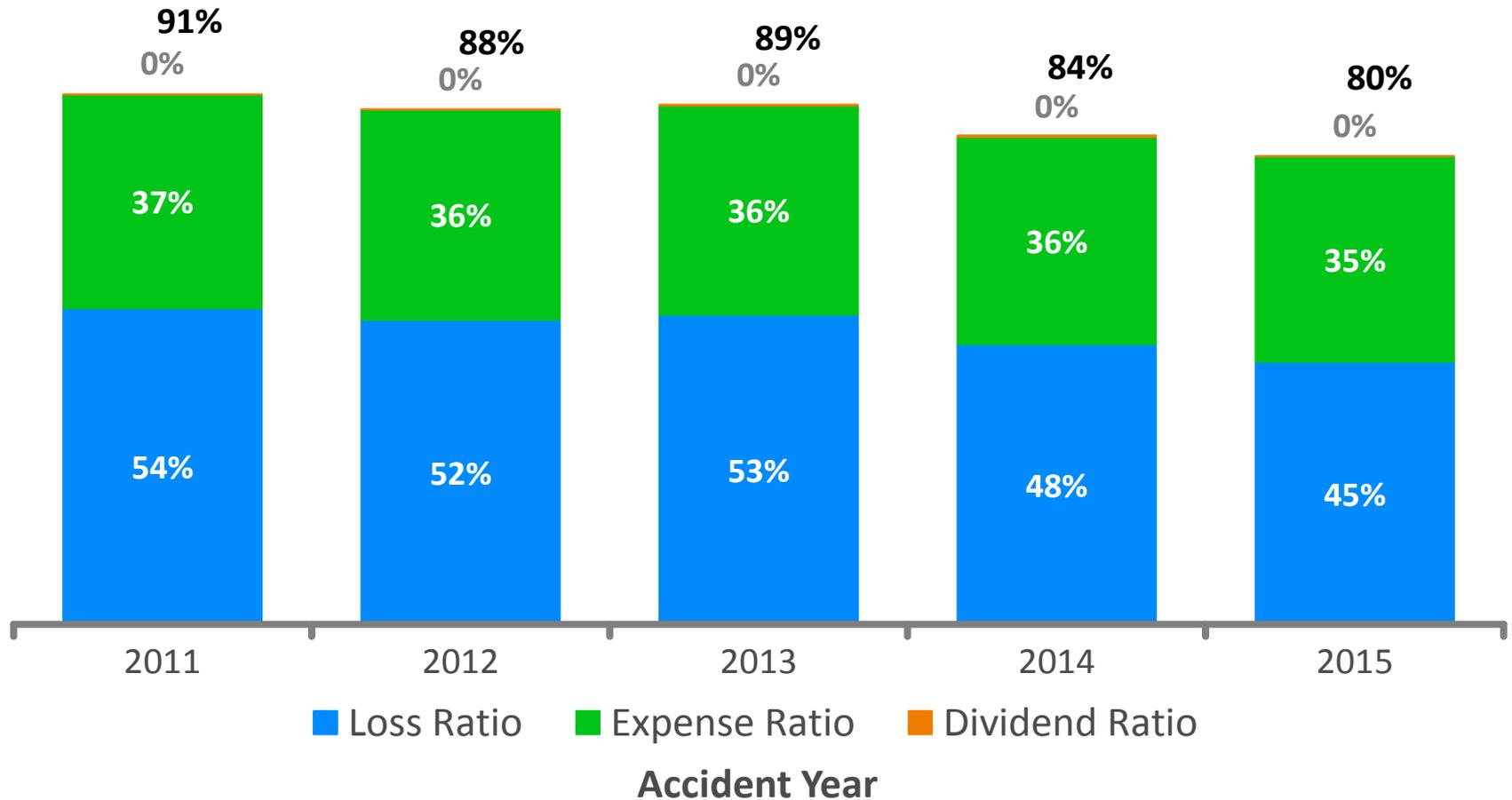
# Impact of Discounting on Workers Compensation Premium in Arkansas



p Preliminary  
 Based on data through 12/31/2015  
 Dividend ratios are based on calendar year statistics



# Arkansas Accident Year Combined Ratios by Component

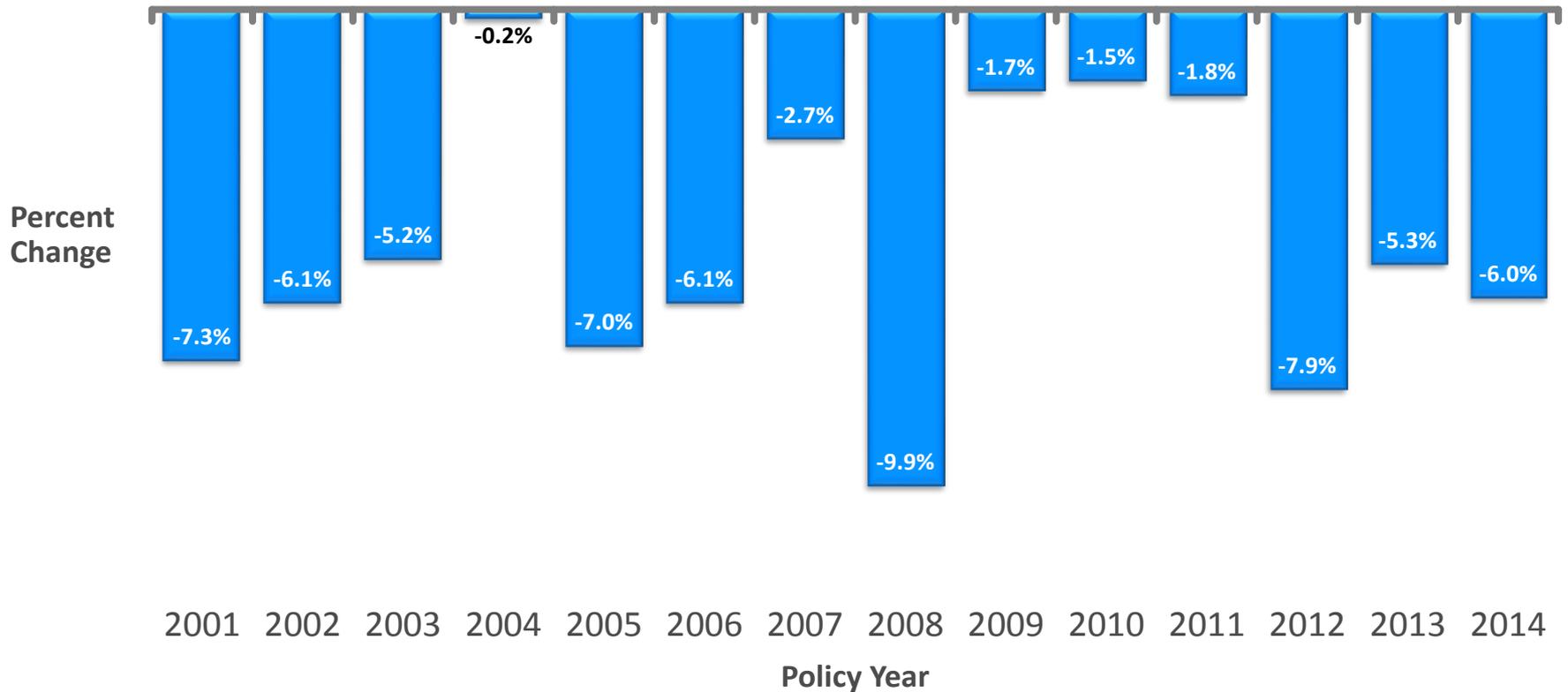


Sources: NCCI's financial data and NAIC's Annual Statement data

# Arkansas Workers Compensation Lost-Time Claim Frequency

## Lost-Time Claims

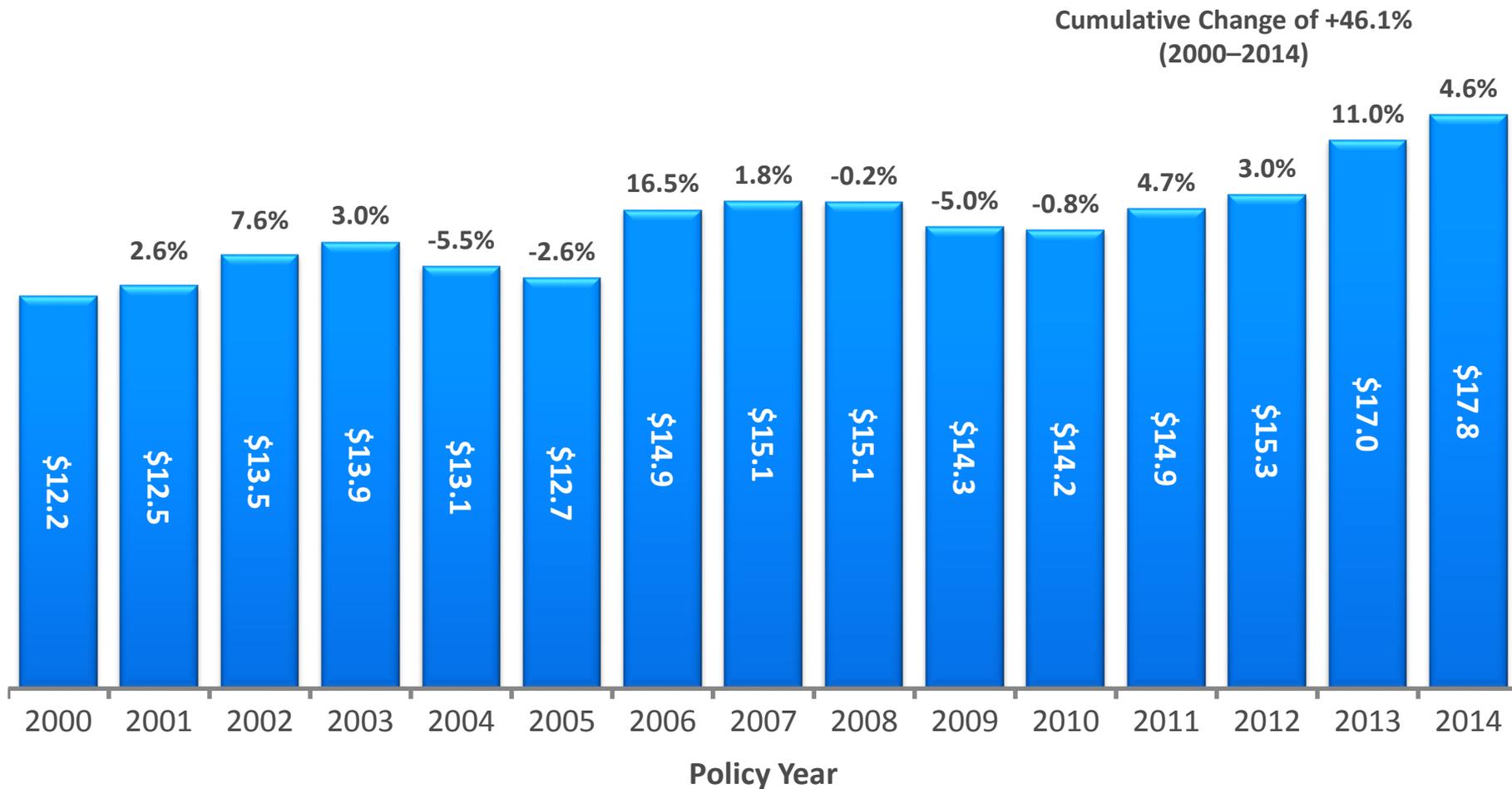
Cumulative Change of **-50.9%**  
(2000–2014)



Based on data through 12/31/2015, developed to ultimate

# Arkansas Average Indemnity Claim Severity

## Lost-Time Claim Severity in \$ Thousands

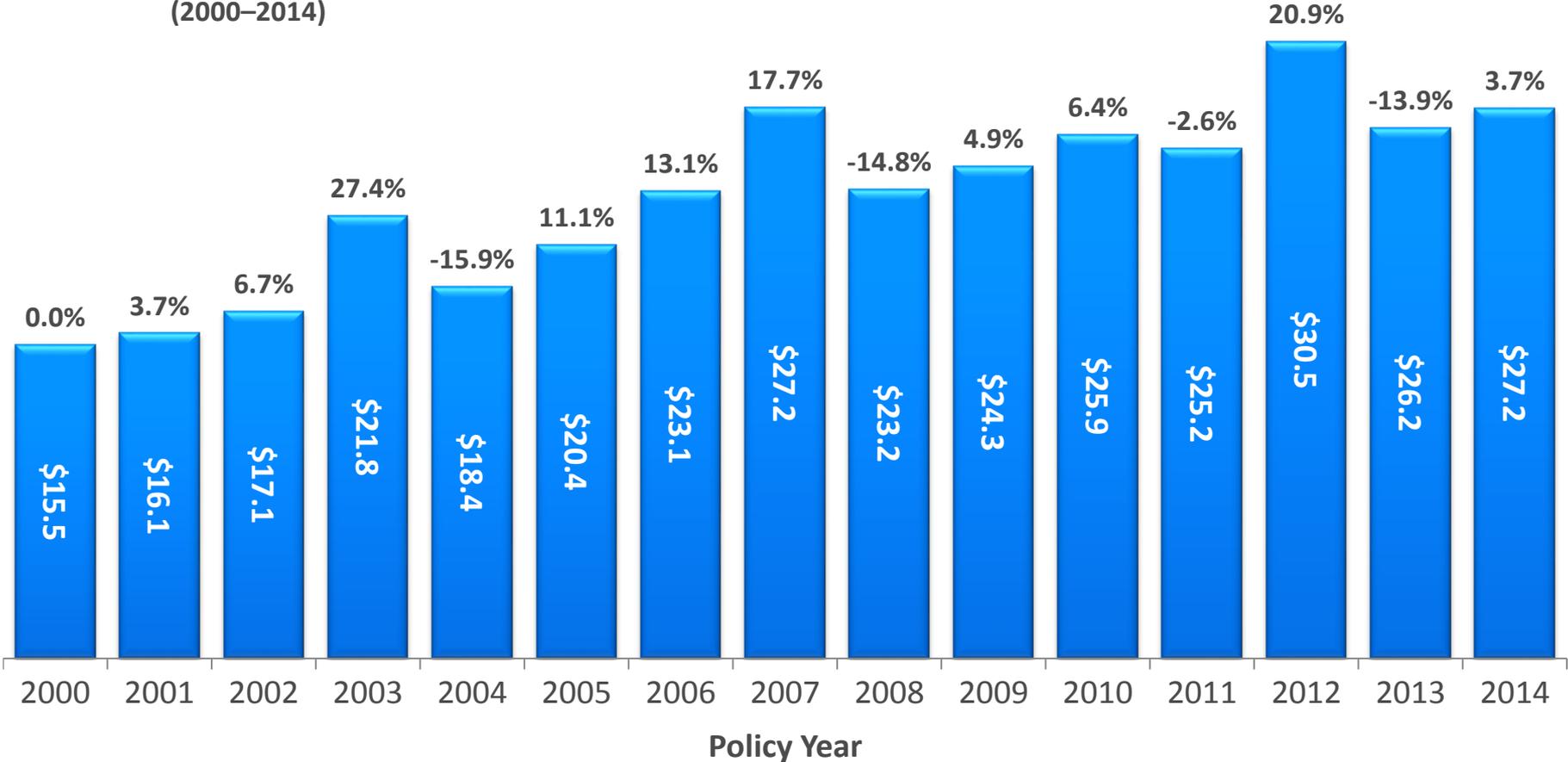


Based on data through 12/31/2015, on-leveled and developed to ultimate

# Arkansas Average Medical Claim Severity

## Lost-Time Claim Severity in \$ Thousands

Cumulative Change of +75.5%  
(2000–2014)

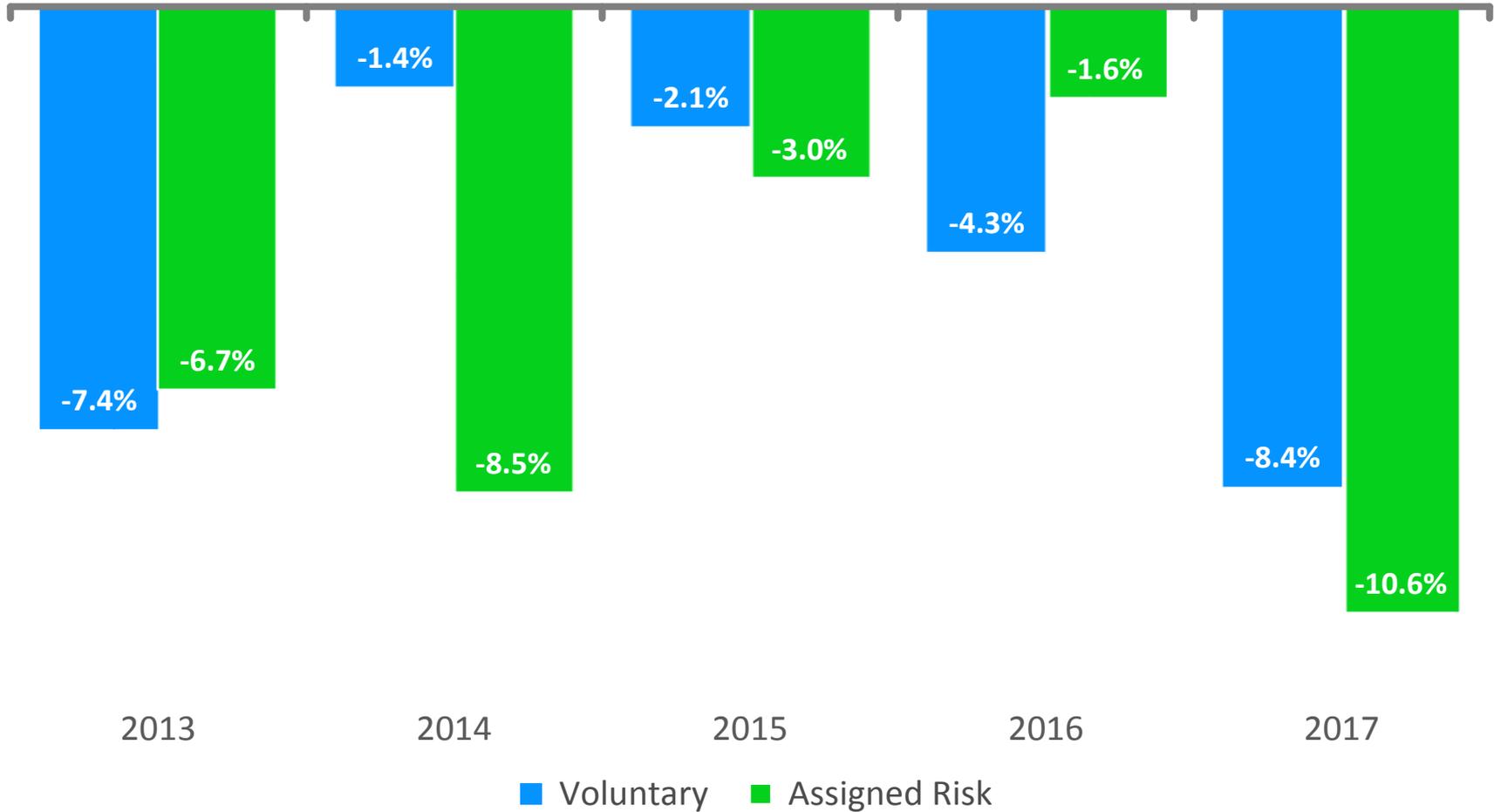


Based on data through 12/31/2015, on-leveled and developed to ultimate



# Arkansas Filing Activity

## Voluntary Loss Cost and Assigned Risk Rate Changes



# Arkansas

## July 1, 2017 Loss Cost Filing

Overall Loss Cost Level Change

-8.4%

Change in Experience -7.1%	Change in Trend -2.2%	Change in Benefits +0.4%	Change in LAE +0.3%
-------------------------------	--------------------------	-----------------------------	------------------------

# Arkansas July 1, 2017 Filing— Average Changes by Industry Group

**Overall Change –8.4%**



**Manufacturing –8.4%**



**Contracting –9.2%**



**Office & Clerical –10.4%**

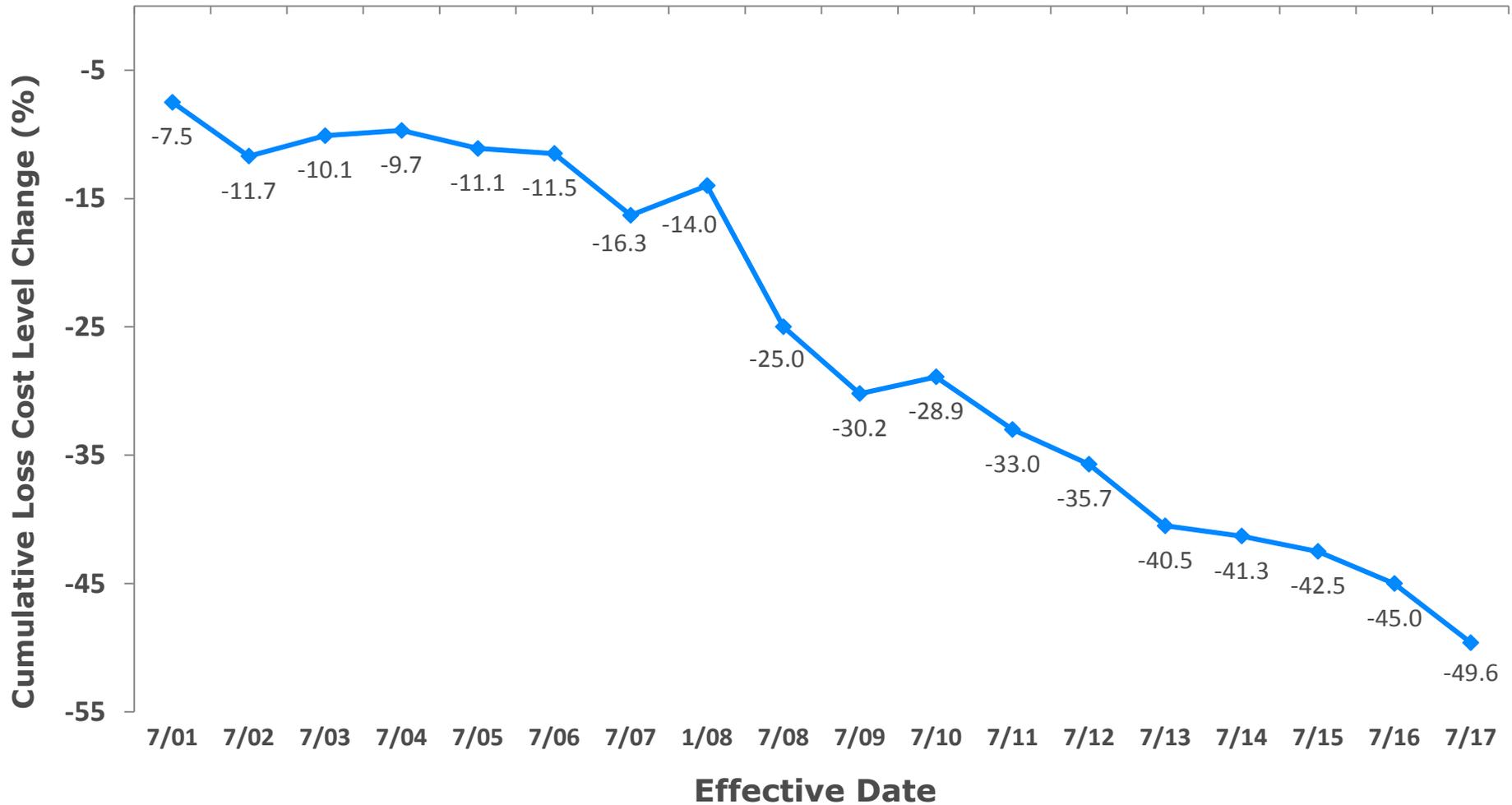


**Goods & Services –8.0%**

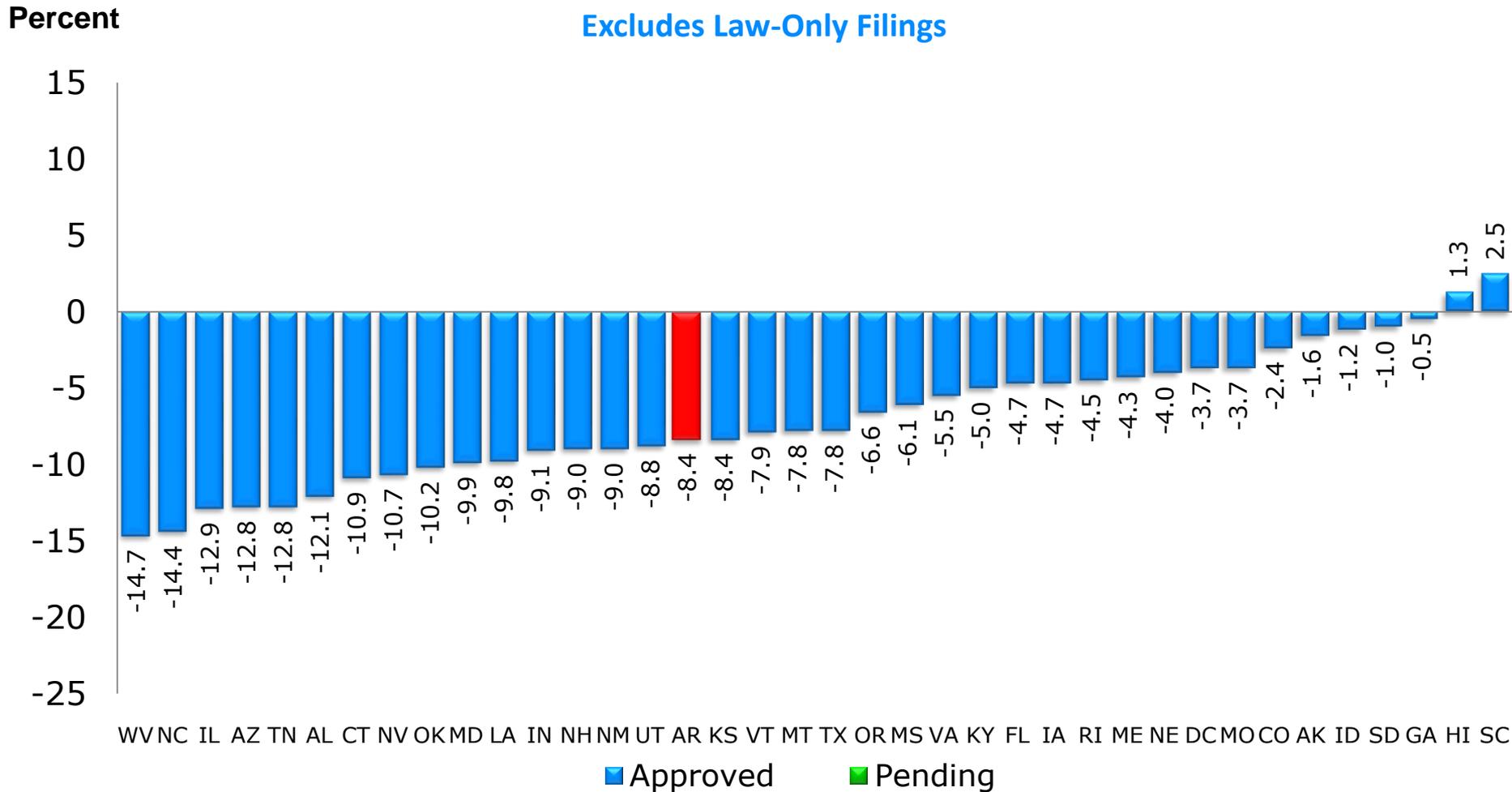


**Miscellaneous –7.0%**

# Arkansas Cumulative Approved Loss Cost Level Change



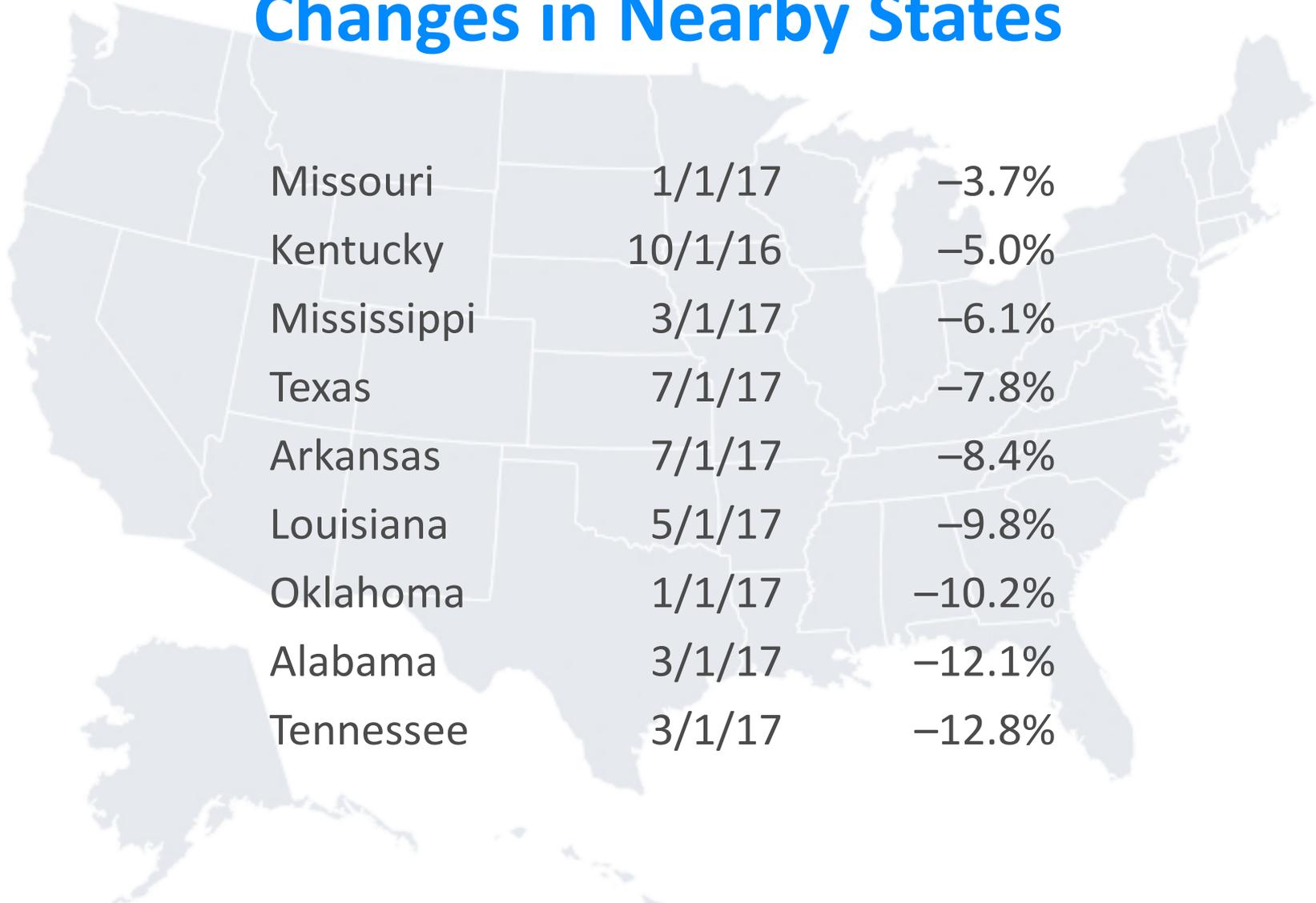
# Current NCCI Voluntary Market Loss Cost/Rate Level Changes



Reflects the most recent experience filing in each jurisdiction

Due to the timing of the individual loss cost/rate filings, the figures shown may include changes from prior filing seasons

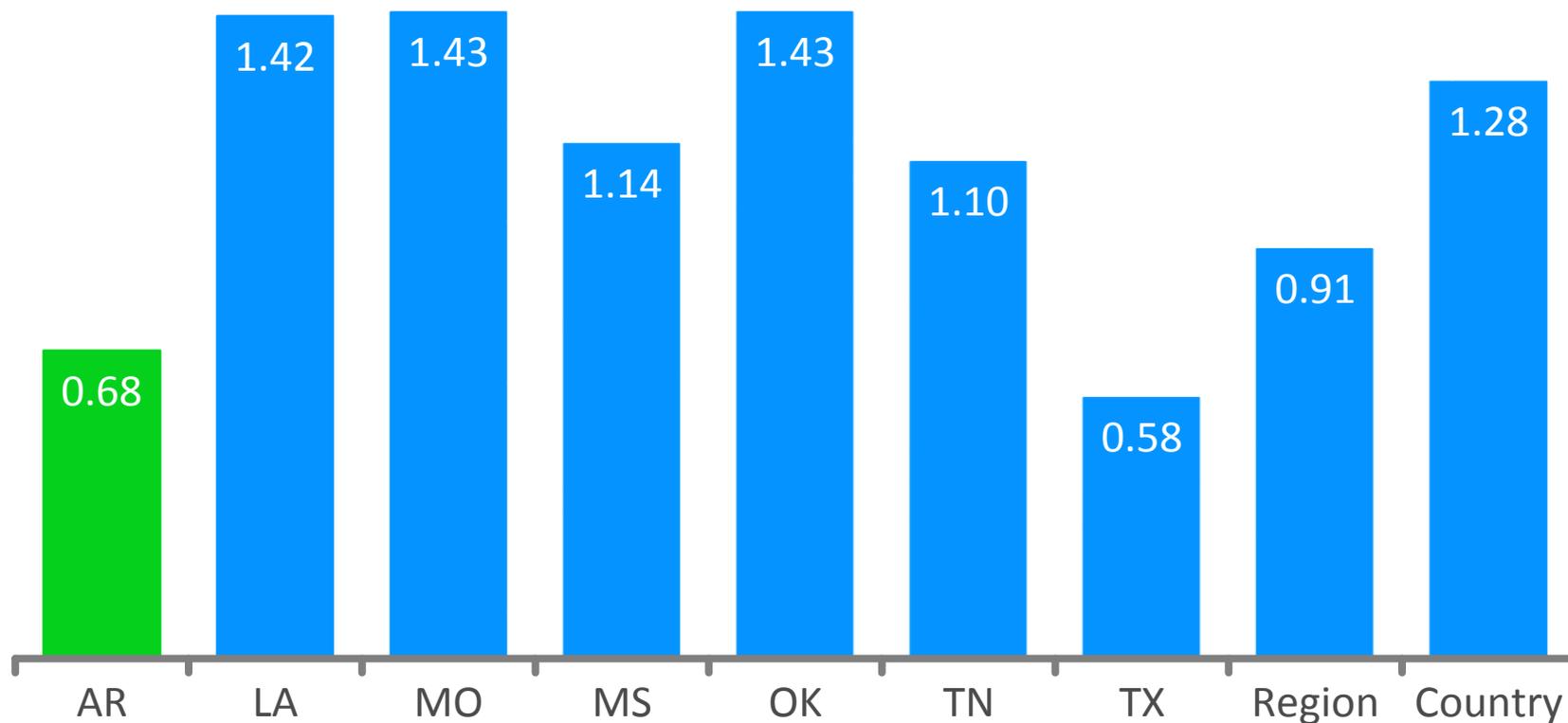
# Current Voluntary Market Loss Cost Level Changes in Nearby States



Missouri	1/1/17	-3.7%
Kentucky	10/1/16	-5.0%
Mississippi	3/1/17	-6.1%
Texas	7/1/17	-7.8%
Arkansas	7/1/17	-8.4%
Louisiana	5/1/17	-9.8%
Oklahoma	1/1/17	-10.2%
Alabama	3/1/17	-12.1%
Tennessee	3/1/17	-12.8%

# Current Average Voluntary Pure Loss Costs Using Arkansas Payroll Distribution

## Pure Loss Cost—All Classes



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



## **A Cautionary Tale: The Danger of Comparing Average Loss Costs Across States**



# STATE ADVISORY FORUMS 2017

## **Commissioner Allen Kerr Arkansas Insurance Department**



STATE ADVISORY FORUMS 2017

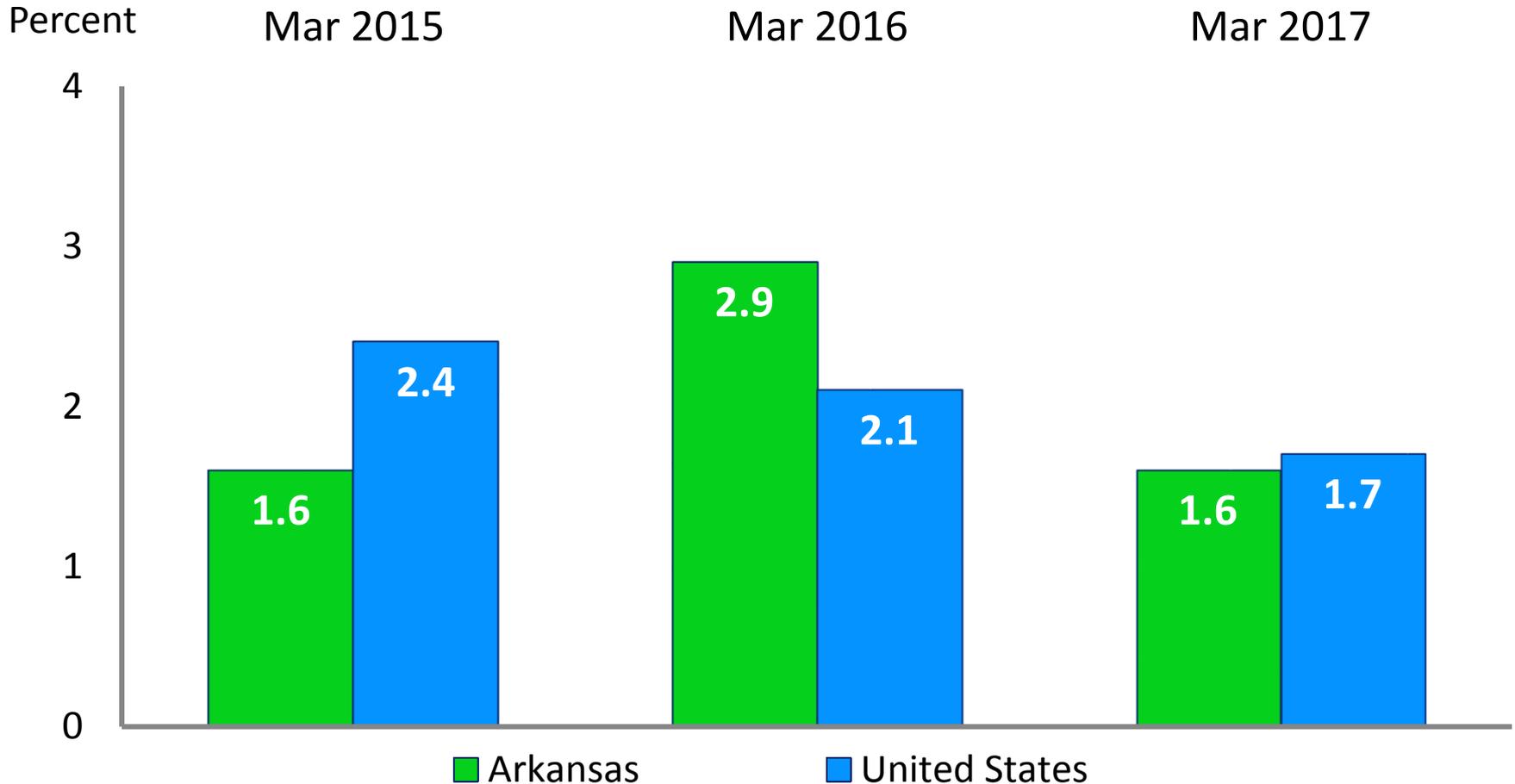
# Countrywide and Arkansas Economic Outlook

# National Economic Highlights and Their Impact on Workers Compensation

National Economic Indicator	Potential Impact on the Workers Compensation Market
Private employment growth is expected to continue to slow	Premium increases from higher payroll and higher expected claim frequency for new workers
Wage growth is poised to accelerate	Upward pressure on payroll and premium as well as indemnity severity
Medical inflation is forecast to slow slightly but still be above 3%	Increased pressure on medical costs per claim
Interest rates are expected to increase	Higher interest rates mean better returns on invested funds

# Change in Private Employment

## Private Employment Growth Is About Average



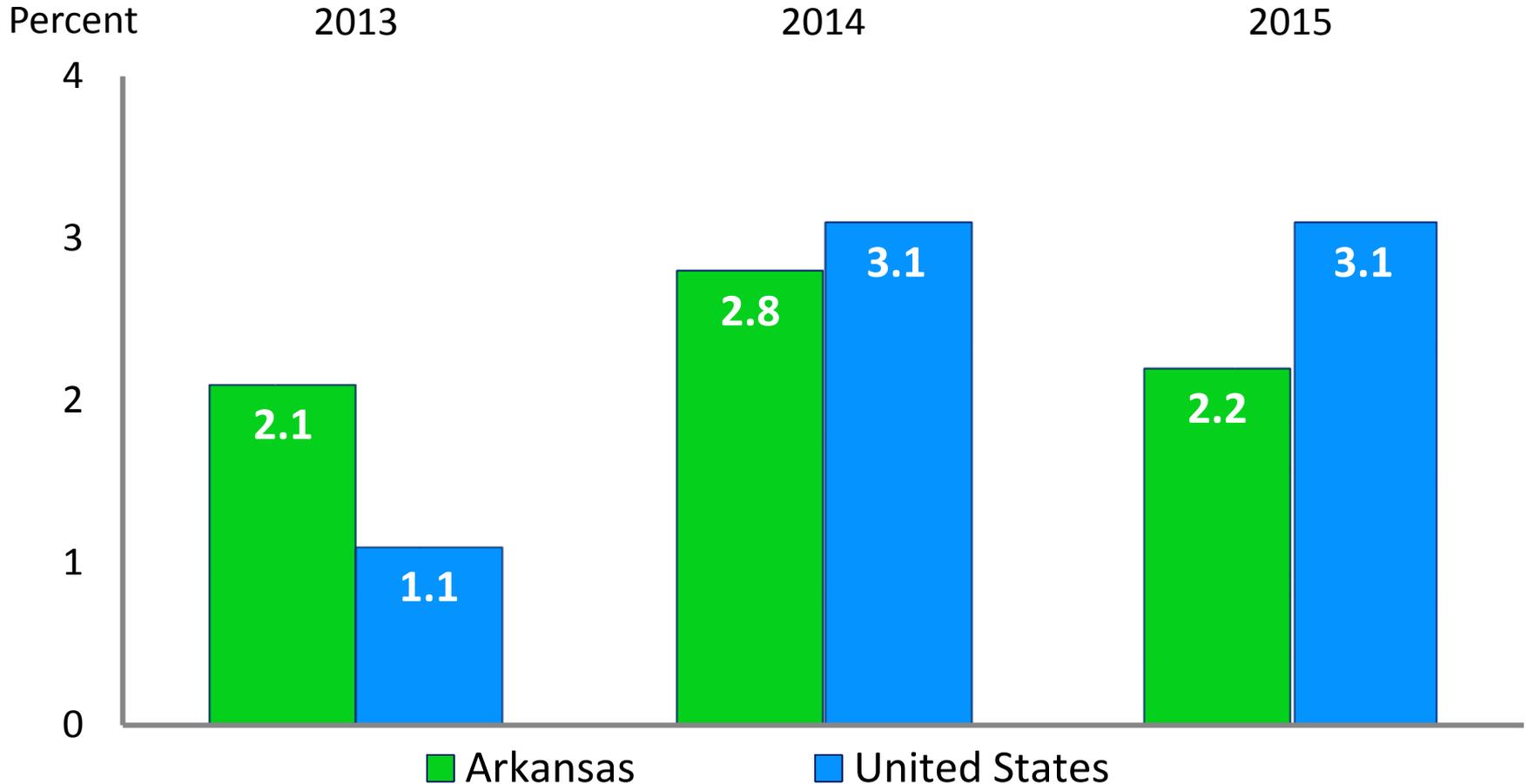
Private Nonfarm Employment, seasonally adjusted

Frequency of observation: monthly; latest available data point: March 2017; percentage change for the 12 months ending each December

Source: US Bureau of Labor Statistics (BLS), [www.bls.gov](http://www.bls.gov)

# Change in Average Weekly Wages

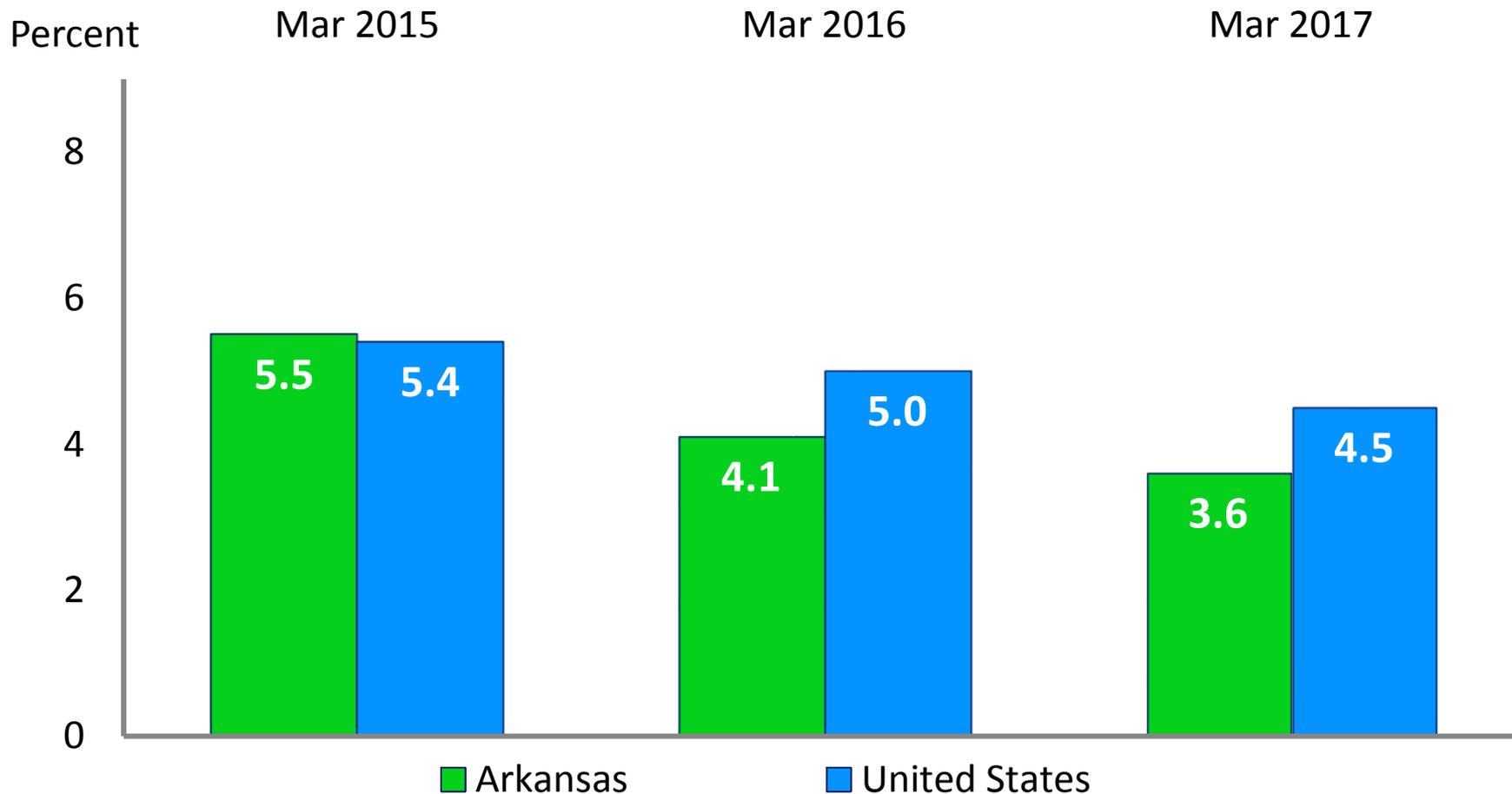
## Wage Growth Is Below the Rest of the Nation



Wages are for Total Private Industry  
Frequency of observation: annual; latest available data point: 2015  
Source: US Bureau of Labor Statistics (BLS), [www.bls.gov](http://www.bls.gov)

# Headline Unemployment Rate

## The Unemployment Rate Is Below Average



Headline Unemployment Rate, seasonally adjusted  
Frequency of observation: monthly; latest available data point: March 2017  
Source: US Bureau of Labor Statistics (BLS), [www.bls.gov](http://www.bls.gov)

# Change in Employment by Industry

## Employment in Most Industries Has Increased in the Past 12 Months

Industrial Sector		12-Month Percent Change, March 2017			Sector Size	% Share	12-Month Change
Education and Health Services	AR	+3.6		185,500	15	+6,500	
	US	+2.3					
Professional and Business Services	AR	+4.0		147,800	12	+5,700	
	US	+3.2					
Manufacturing	AR	+2.0		157,300	13	+3,100	
	US	+0.3					
Other Services	AR	+1.9		48,100	4	+900	
	US	+1.0					
Trade, Transportation, and Utilities	AR	+0.2		253,300	20	+600	
	US	+0.7					
Leisure and Hospitality	AR	+0.4		115,900	9	+500	
	US	+1.7					
Financial Activities	AR	+0.4		51,300	4	+200	
	US	+2.2					
Construction	AR	-0.8		50,200	4	-400	
	US	+2.6					
Information	AR	-4.4		13,100	1	-600	
	US	-1.2					
Natural Resources and Mining	AR	-10.3		6,100	0	-700	
	US	+0.4					
Government	AR	-0.8		211,900	17	-1,800	
	US	+0.7					

Percentage change for the latest 12 months as of March 2017

Current Employment Statistics Survey, seasonally adjusted; frequency of observation: monthly

Source: US Bureau of Labor Statistics (BLS), [www.bls.gov](http://www.bls.gov)

# Arkansas Economic Environment

- The unemployment rate in Arkansas is below the US rate
- Employment growth is close to the US rate:
  - Education and Health Services added the most jobs followed by Professional and Business Services which grew at the fastest rate
  - Trade, Transportation, and Utilities is the largest sector in the state, but it grew at the slowest pace
  - The Construction, Information, Natural Resources and Mining, and Government sectors have experienced declines
- Arkansas wage growth is below the US average



# STATE ADVISORY FORUMS 2017

## **Legislative Issues: Countrywide and Arkansas**

# 2017 Overview



**Countrywide, legislative activity has increased over prior years both in volume and content.**



**Regulation changes thus far concern medical cost management, claim handling, and effectuating enacted legislation.**

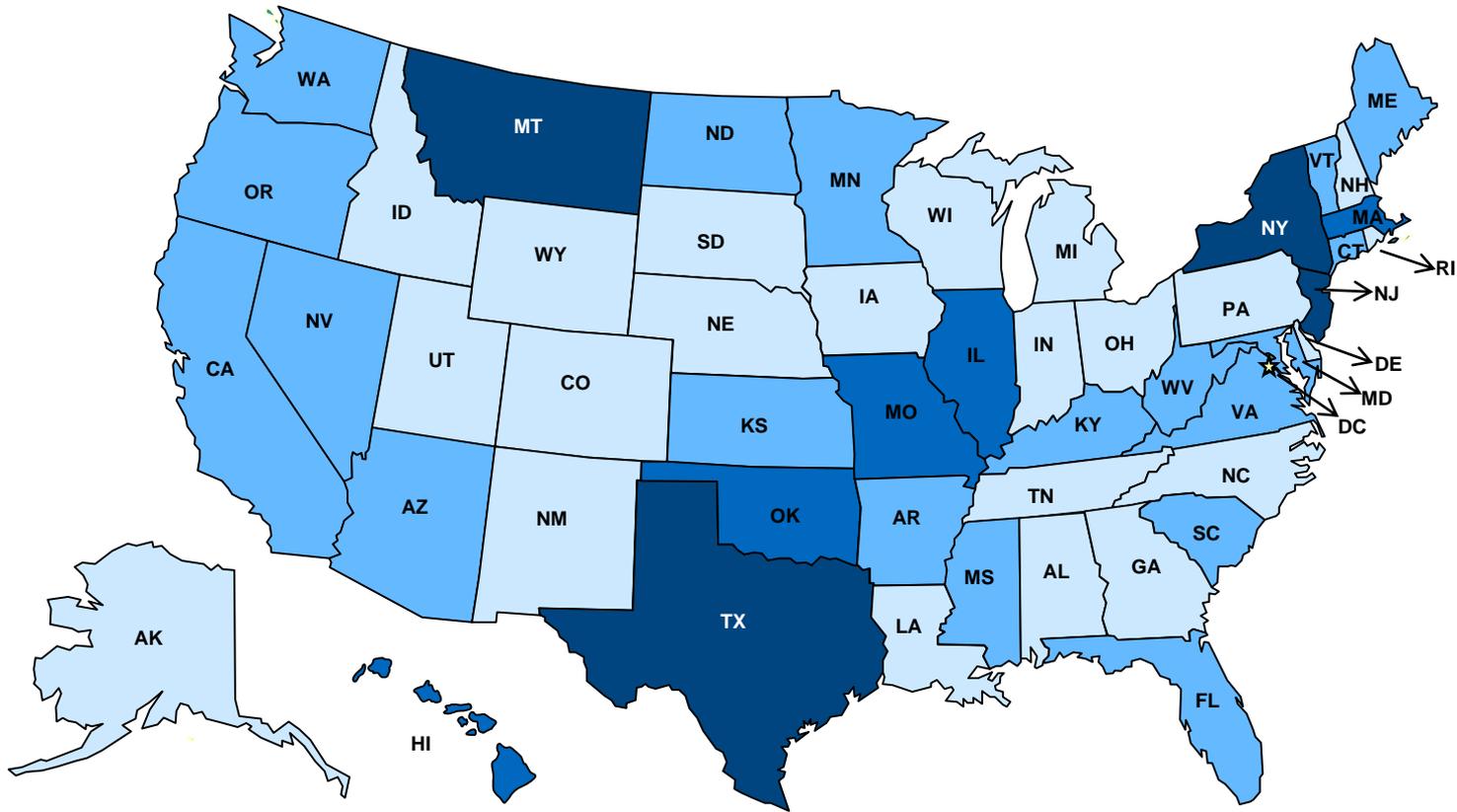


**Year to date, there have been fewer workers compensation-related cases at the state supreme court level than there were in 2016.**



**The 2016 General Election resulted in a net gain for Republicans in state government, where they now control both chambers of the legislature and the governor's office in 26 states.**

# 2017 Workers Compensation Legislative Activity



As of 5/1/2017

# Key Workers Compensation-Related Themes in Introduced Legislation

- First Responder Presumptions
- Indemnity Benefits
- Medical Cost Management
- Definitions

# Federal Focus on State-Based Workers Compensation System

## Increased interest in state insurance regulation:

Nexus between workers compensation program and Federal benefit programs

- a. Centers for Medicare & Medicaid Services
- b. Social Security Disability Insurance

Bipartisan Policy Center report—“Improving U.S. Insurance Regulation”—calls for considering minimal federal insurance standards for property/casualty (including workers compensation and life insurance lines).

CHOICE Act—(H.R. 10) would recast the federal focus on insurance issues by combining the Federal Insurance Office with the Financial Stability Oversight Council insurance representative and create the Office of the Independent Insurance Advocate.

# Federal Emerging Issues

## Regulation of Air Ambulance Services

Sen. Jon Tester (MT) introduced legislation to provide state authority

Federal Aviation Administration Reauthorization

## Social Security Disability Insurance(SSDI) Reform

SSDI Solutions Initiative recommendations

SSDI State Department of Labor Audit Pilot

## Medicare Set-Aside Reform

Legislation to be introduced to bring greater efficiency to MSA Process

Congressional Budget Office (CBO) scoring

# Arkansas Legislative Activity

- HB 1249/Act 562
  - Primarily establishes parameters for carrying a concealed handgun
  - Specifically disallows public university employees from receiving workers compensation benefits for injuries resulting from their own negligent acts in possessing or using a concealed handgun
  
- HB 1262/Act 154
  - When an employer establishes a qualified drug-free workplace program, an employee whose test shows a drug or alcohol present in an amount that exceeds prescribed levels may be precluded from workers compensation benefits and/or terminated
  - Eliminates the provision allowing a terminated employee to contest the test results before the Department of Labor

# Arkansas Legislative Activity

- HB 1813/Act 658
  - Under the workers compensation law, provides for the treatment of rabies upon exposure
  
- SB 760/Act 1058
  - Clarifies the law regarding final settlements:
    - Establishes the ability to petition for partial settlement of all issues other than future medical when the claimant is eligible for Medicare
    - Upon entry of a final full or final partial settlement, the Commission no longer has jurisdiction over the claim (except future medical expense claims for a final partial settlement).
  
- HB 1586 (Died in Senate)
  - Establishes duration limit of 450 weeks for permanent total disability claims
  - Under the workers compensation law, provides for the treatment of rabies upon exposure

# Arkansas Regulatory Activity

## Proposed Rule 099.41, Arkansas Workers' Compensation Drug Formulary

- Effective for claims with injury date on or after Sept. 1, 2017
- Includes all FDA-approved drugs
- Establishes a process for filling workers compensation prescriptions, including reviewing and prescribing opioid medications
- Implements a dispute resolution process between a provider and the reviewing pharmacists or pharmacy benefit manager
- Implements a Medical Cost Containment Division (MCCD) with review and decision making responsibility
- Right to appeal from MCCD to Administrative Law Judge
- Provides for rule review and yearly analysis



# STATE ADVISORY FORUMS 2017



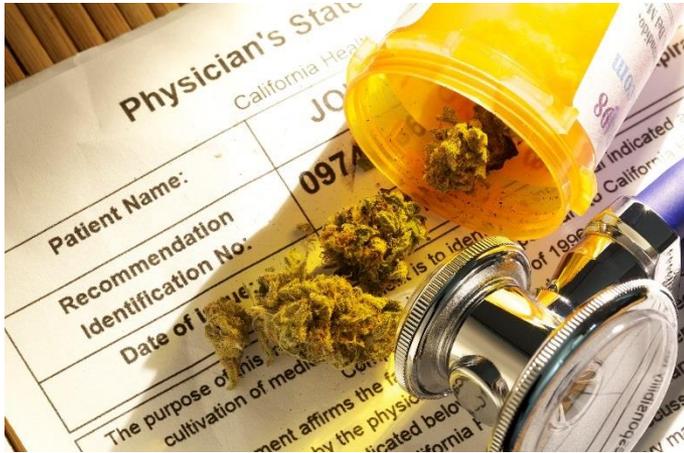
## EMERGING ISSUE

Legalization of  
Marijuana  
and the  
Impact on  
Workers  
Compensation

# Federal Activity

<i>US Drug Enforcement Administration</i>	Federal funds will not be used to prevent state implementation of medical marijuana laws	<i>Controlled Substances Act</i>	Unclear as to what will happen
<b>August 2016</b>	<b>May 2017</b>	<b>Currently</b>	<b>2017 and Beyond</b>
Will not classify marijuana	<i>House Resolution 244</i>	Marijuana is an illegal Schedule I drug	<i>Current Administration</i>

# State Activity



Medical Marijuana

29

Plus Washington, D.C.  
have legalized medical marijuana



Recreational Marijuana

8

Plus Washington, D.C.  
have legalized recreational marijuana

# Colorado Supreme Court

## *Coats v. Dish Network (2015)*



Employers can lawfully terminate workers for using marijuana outside of work hours even though the drug is LEGAL in the state.

# New Mexico Court of Appeals

## *Vialpando v. Ben's Automotive Services and Redwood Fire & Casualty (2014)*

- An insurer **MUST reimburse** a “qualified” work comp claimant for the **cost of medical marijuana** to treat low back pain
- **Appealed** to NM Supreme Court: Certiorari **denied**



# New Mexico Court of Appeals

## *Maez v. Riley Industrial* *Lewis v. American General Media (2015)*



An employer is required to **reimburse** a “qualified” claimant for medical marijuana if the drug is **reasonable** and **necessary** medical care for **treatment** of a work injury.

# United States District Court

Medical Prescription Form

Name Garcia v. Tractor Supply Co. Age \_\_\_\_\_  
Address New Mexico Date 2016

**R<sub>X</sub>** Court upheld **employee's termination** for failed drug test although medical marijuana use is permitted under state act.

Refill 0 1 2 3 4 5 PRN

Signature \_\_\_\_\_

Refill 0 1 2 3 4 5 PRN

# United States District Court

Medical Prescription Form

Name Swaw v. Safeway, Inc. Age \_\_\_\_\_  
Address W. District Washington Date 2015

**Rx** Dismissed employee's discrimination and retaliation claims after he was **terminated** for medical marijuana use and violating employer's drug-free workplace policy.

\_\_\_\_\_  
Signature

Refill 0 1 2 3 4 5 PRN

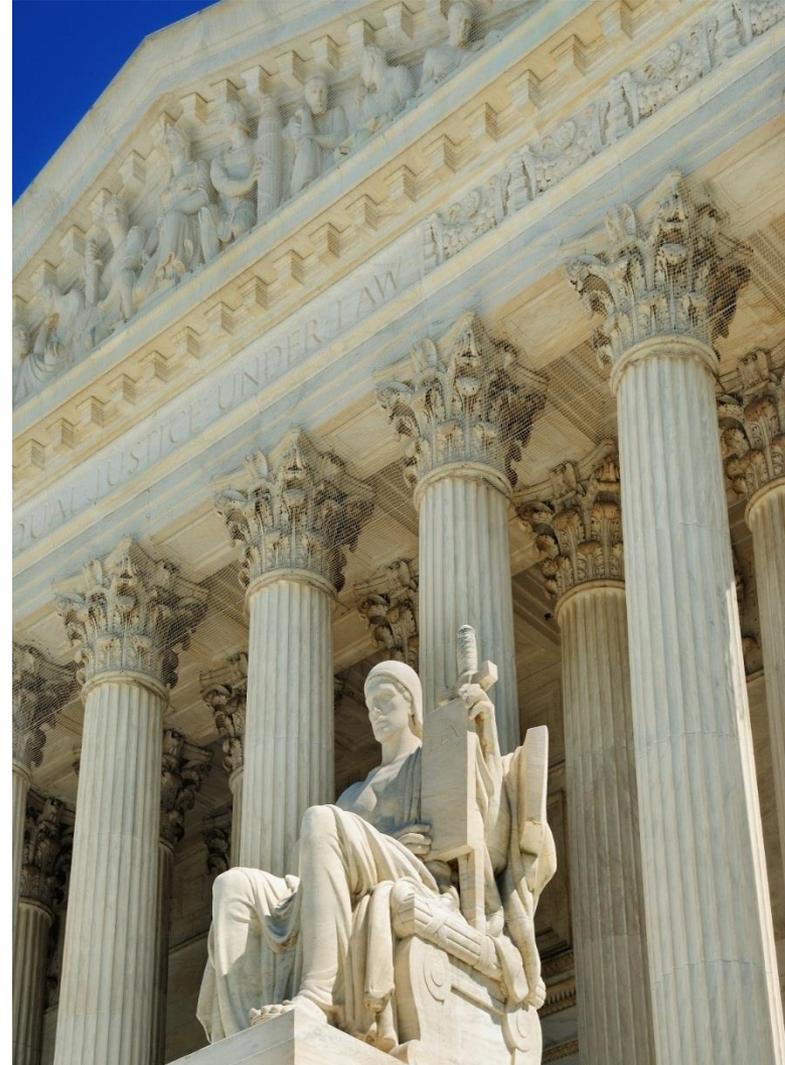
Medical Prescription Form  
\_\_\_\_\_  
Date 2016

Employee's  
failed  
medical  
mitted

# United States Supreme Court

*States of Nebraska and Oklahoma v. State of Colorado* (2016)

- The states challenged that **Colorado** law **violates** the Supremacy Clause of the **US Constitution**
- The Court **declined to hear the case**



# Connecticut Workers' Compensation Commission Decision

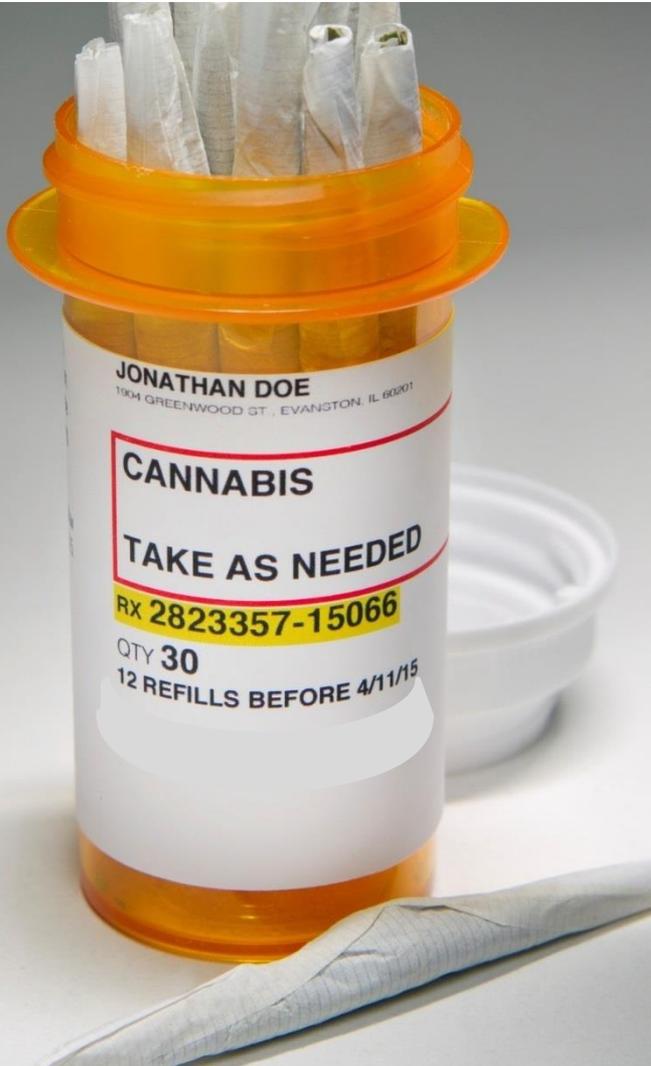
*Petrini v. Marcus Dairy, Inc. and Gallagher Bassett Service (2016)*



Upheld decision that the claimant's use of **medical marijuana** for pain management constitutes reasonable and necessary medical treatment

Appealed to Connecticut Court of Appeals

# Maine WC Board Decisions (2016)



Maine WC Board:

- *Noll v. Lepage Bakeries, Inc. and Cannon Cochran Management Services*
- *Bourgoin v. Twin Rivers Paper Co., LLC and Sedgwick CMS*

Self-insured employer is to reimburse costs for **“reasonable and proper”** use of medical marijuana under state’s WC and medical marijuana law

Appealed to ME Supreme Judicial Court: Certiorari denied in *Noll*; granted in *Bourgoin*

# Other Activity

- Five states (Connecticut, Maine, Minnesota, New Jersey, and New Mexico) allow reimbursement for WC under certain circumstances
- New Mexico:
  - Adopted a fee schedule to provide for reimbursement of medical marijuana to injured workers—effective January 1, 2016
  - Introduced legislation (SB 371/HB 527) in 2017 requiring employers/carriers to pay for medical marijuana for injured workers—did not pass
- North Dakota: Passed legislation (HB 1156) in 2017 prohibiting payment of WC benefits for medical marijuana

# Workplace Challenges

Currently, employers have not been restricted from enforcing drug-free workplace policies.

Employees who can legally use medical marijuana while off duty may still face consequences for arriving at work with detectable amounts of marijuana in their system.

There is a question as to whether lingering side effects may impact performance of regular work duties.



# Insurance Challenges



Insurers are receiving requests to pay for medical marijuana.

Reimbursement issues: Centers for Medicare & Medicaid Services and absence of National Drug Code.

Given friction between state and federal law, states and state courts are faced with the challenge of whether to approve medical marijuana treatment for work-related injuries.

# Questions Raised by WC Stakeholders

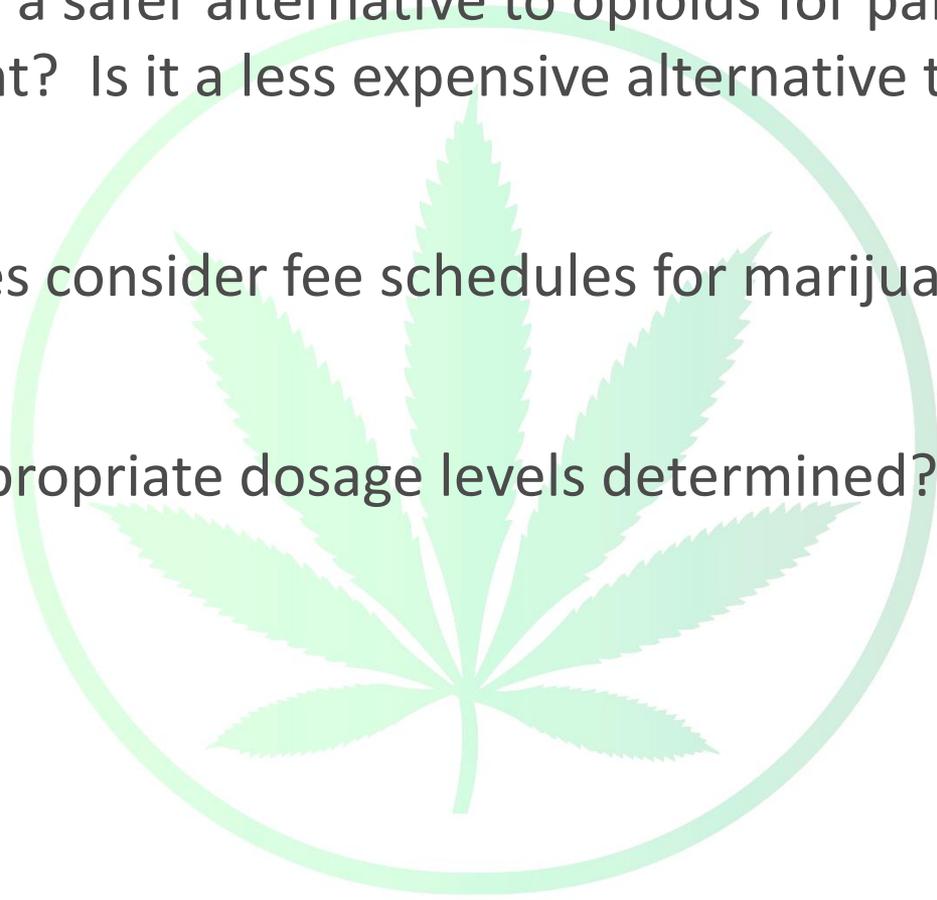
- What is the impact on Medicare Set-Aside Allocations since marijuana is still illegal under federal law?
- Should workers comp insurers be required to reimburse for medical marijuana if the drug is determined to be reasonable and necessary to treat a work-related injury?
- Will the trend to legalize marijuana impact the legalization of other drugs like cocaine and heroin?

# Questions Raised by WC Stakeholders

- When a state legalizes marijuana, what is the potential impact on neighboring states?
- Should employers in states where marijuana is legal consider allowing its use on the job? How would that impact drug-free workplace credits?
- Is it fair to punish employees with legal prescriptions for marijuana? Compare/contrast to how we treat workers taking opioids.
- What is the potential for increased accidents and injuries for marijuana users? How does this impact their co-workers?

# Questions Raised by WC Stakeholders

- Is marijuana a safer alternative to opioids for pain management? Is it a less expensive alternative to other drugs?
- Should states consider fee schedules for marijuana (like New Mexico)?
- How are appropriate dosage levels determined?



# Legalization of Marijuana—Summary



States are increasingly legalizing marijuana in some form for medical use.

Courts are increasingly dealing with contested cases of medical marijuana in the work environment.

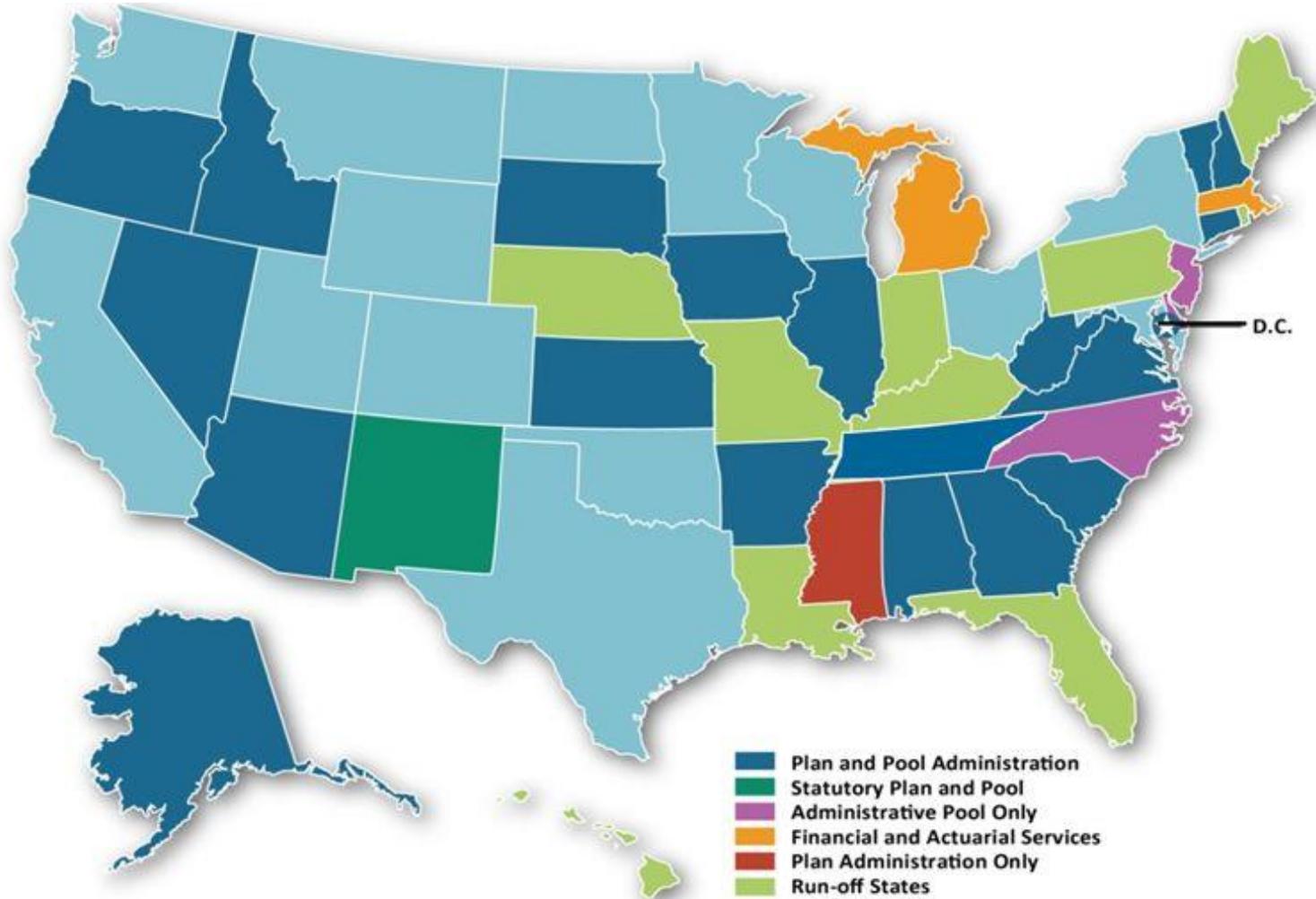
Marijuana is still illegal under federal law and remains a Schedule I drug.



# STATE ADVISORY FORUMS 2017

## **Residual Market: Countrywide and Arkansas**

# Where Does NCCI Provide Residual Market Services?





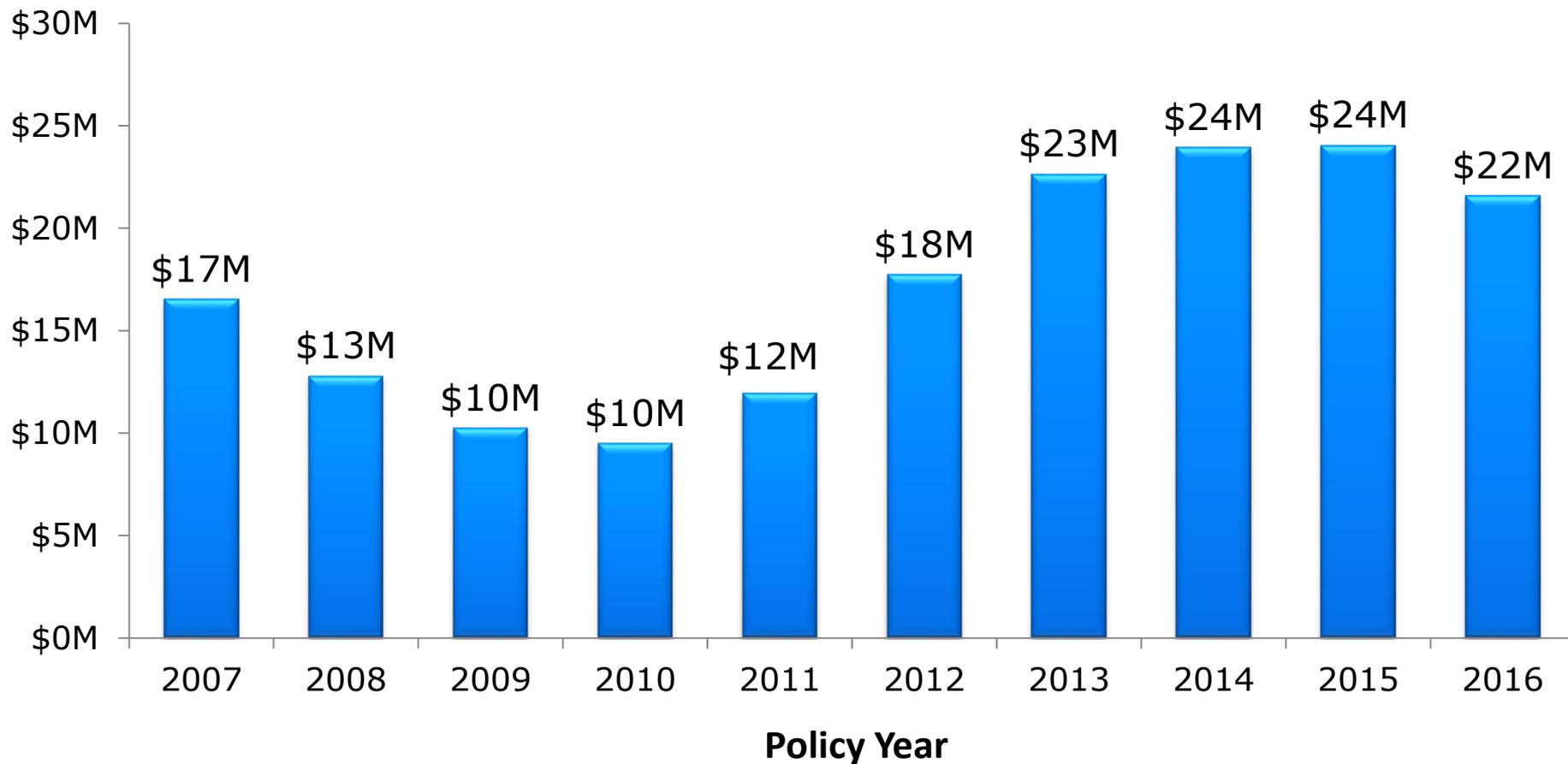
## **Residual Market Video Excerpt**

**Jim Nau, General Manager  
NCCI Residual Markets**

# Arkansas Total Residual Market Plan Estimated Premium Volume

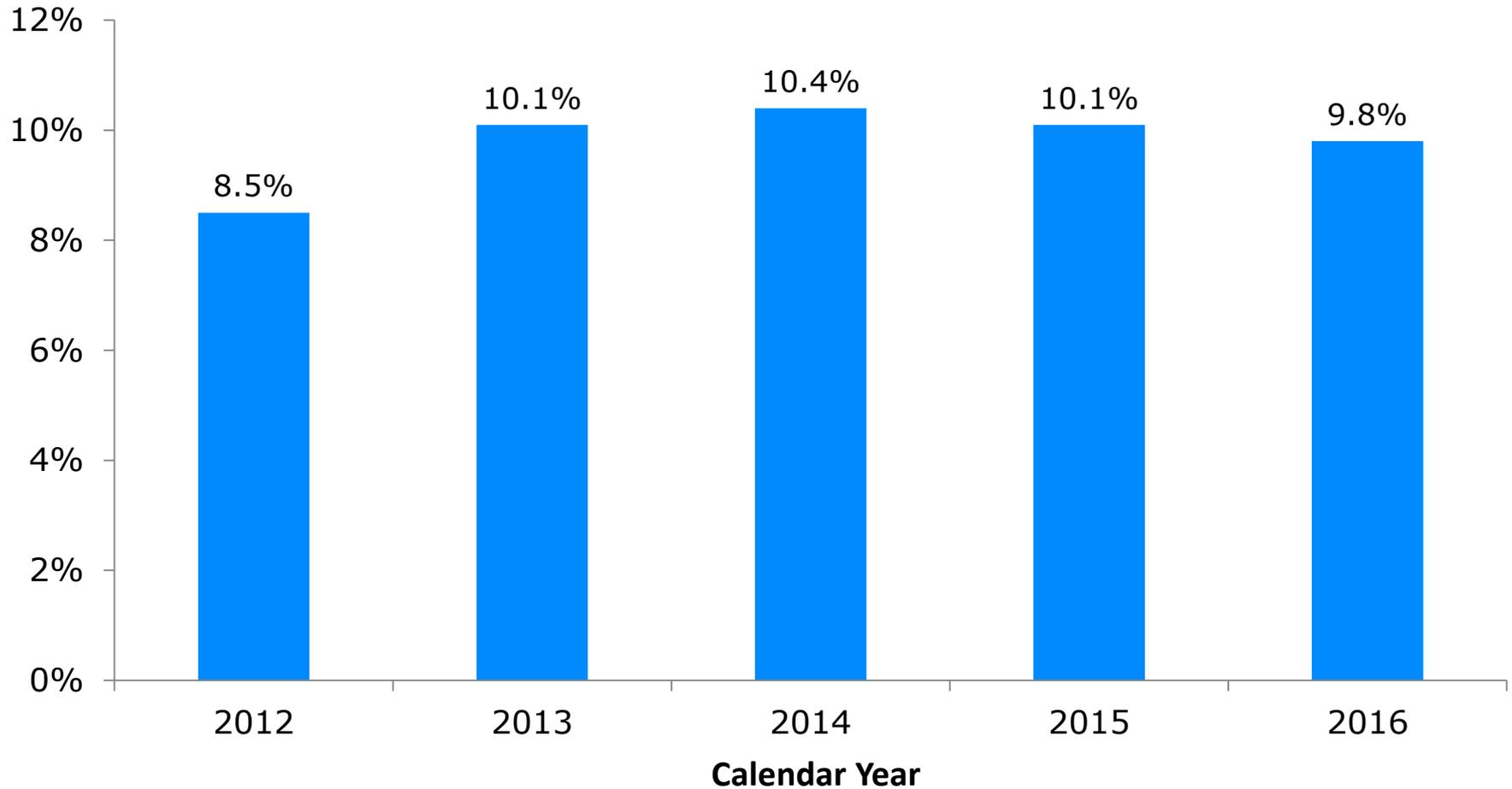
Premium in \$ Millions as of 12/31/2016

\$ Millions



# Arkansas Residual Market Share

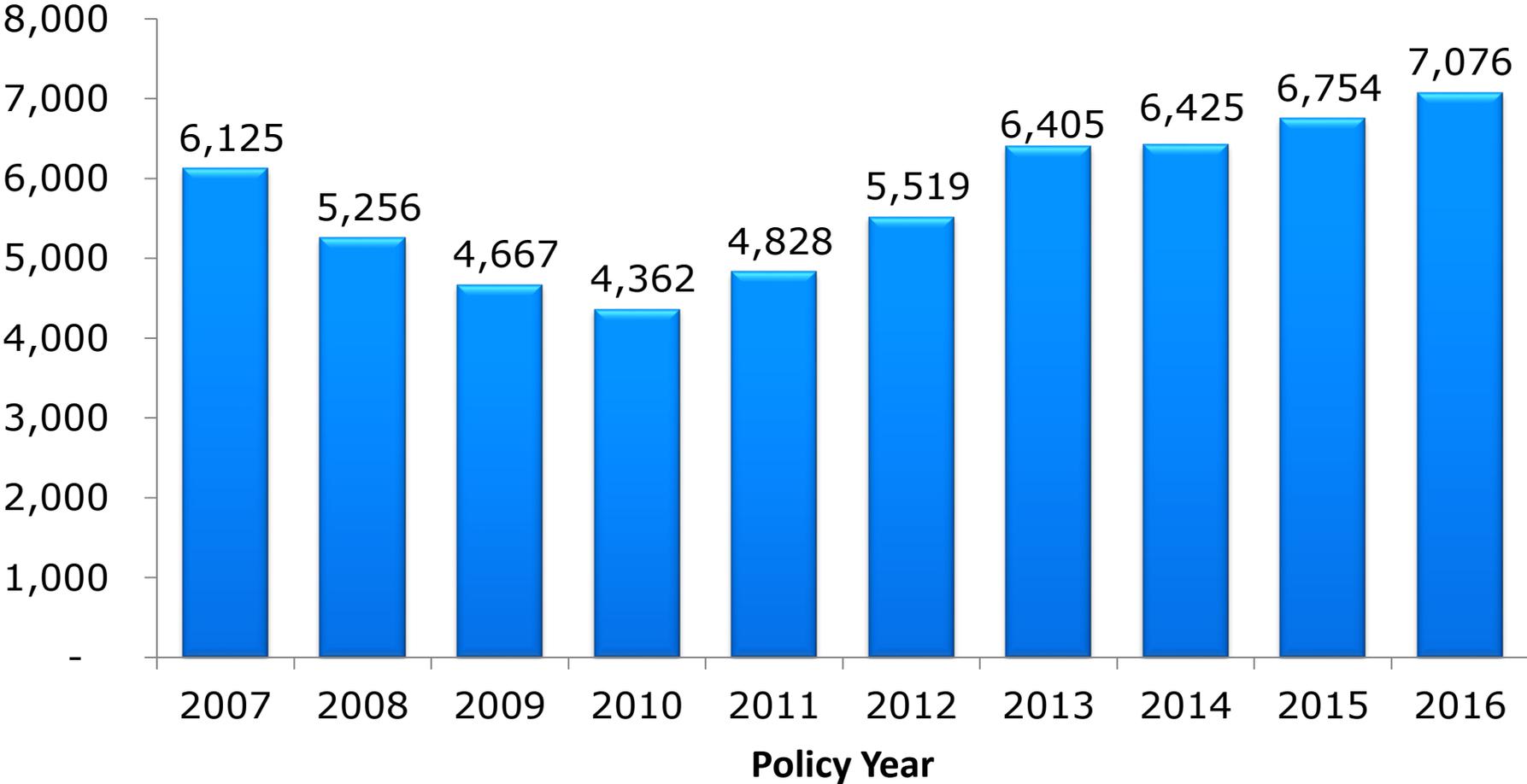
## Plan Premium as a Percentage of Direct Written Premium



\*Preliminary

# Arkansas Total Residual Market Plan Policy Counts

As of 12/31/2016



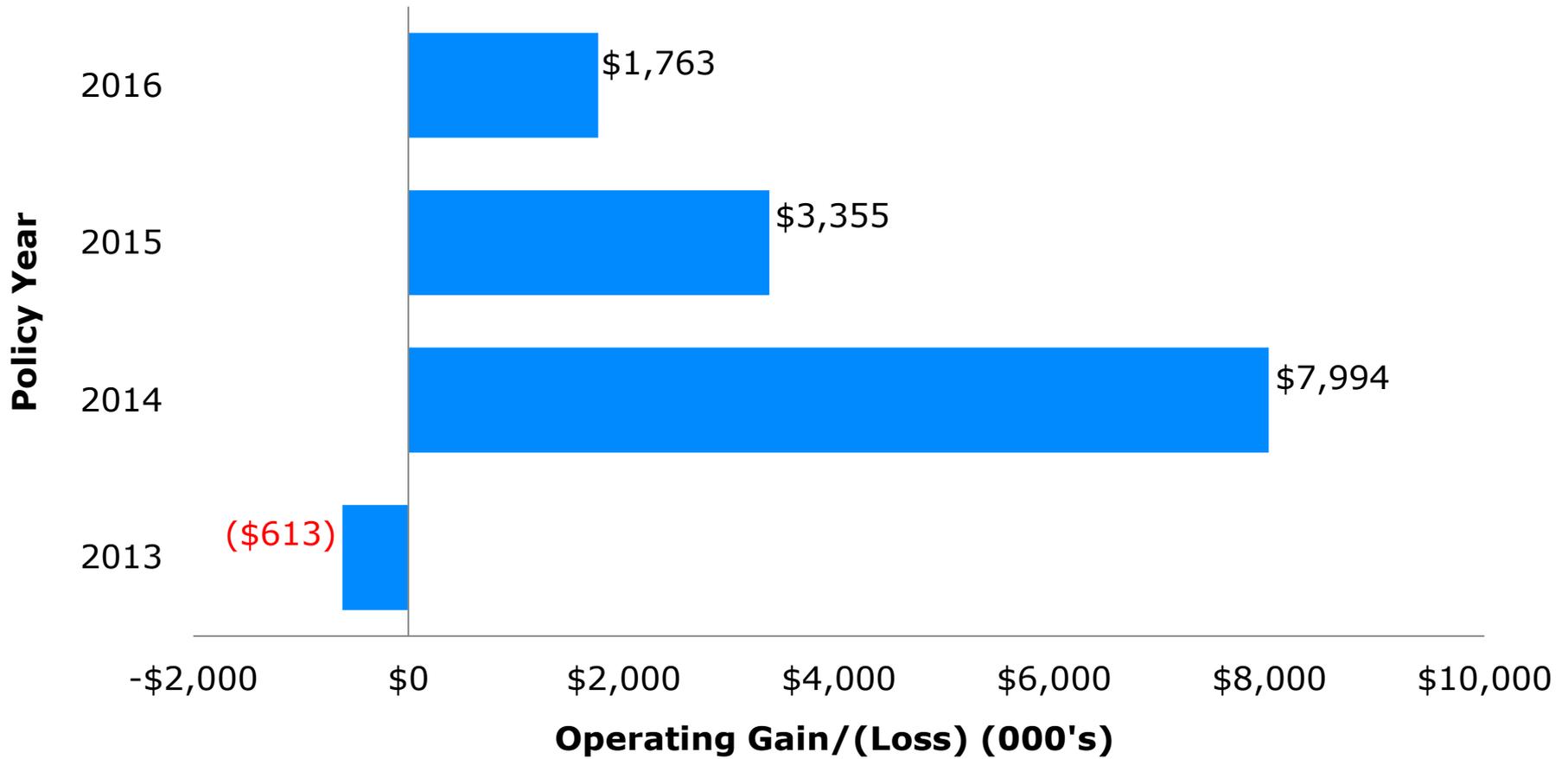
# Arkansas Average Size Accounts for Residual Market Policies and Estimated Premium

As of 12/31/2016

Premium Range	Policy Count	% of Policies	Total Premium	% of Premium	Average Policy Size
\$0–\$2,499	5,227	73.9%	\$5,328,307	24.7%	\$1,019
\$2,500–\$4,999	956	13.5%	\$3,384,492	15.7%	\$3,540
\$5,000–\$9,999	508	7.2%	\$3,530,493	16.4%	\$6,949
\$10,000–\$19,999	254	3.6%	\$3,421,808	15.9%	\$13,471
\$20,000–\$49,999	96	1.4%	\$2,789,403	12.9%	\$29,056
\$50,000–\$99,999	25	0.4%	\$1,765,246	8.2%	\$70,609
\$100,000–\$199,999	9	0.1%	\$1,065,777	4.9%	\$118,419
\$200,000+	1	0.0%	\$285,792	1.3%	\$285,792
Total	7,076	100.0%	\$21,571,318	100.0%	\$3,049

# Arkansas Residual Market Reinsurance Pool Net Operating Results

Estimated Net Operating Gain/(Loss)  
Projected to Ultimate as of 12/31/2016



# Residual Market Summary

- National
  - Stable residual market share
  - Manageable operating results
  - Residual market premium declined slightly in 2016
  - High levels of customer service satisfaction
- State
  - Decline in premium volume
  - Relatively stable residual market share
  - Self-funded operating results

Please visit **ncci.com** for additional state and countrywide information.



# STATE ADVISORY FORUMS 2017

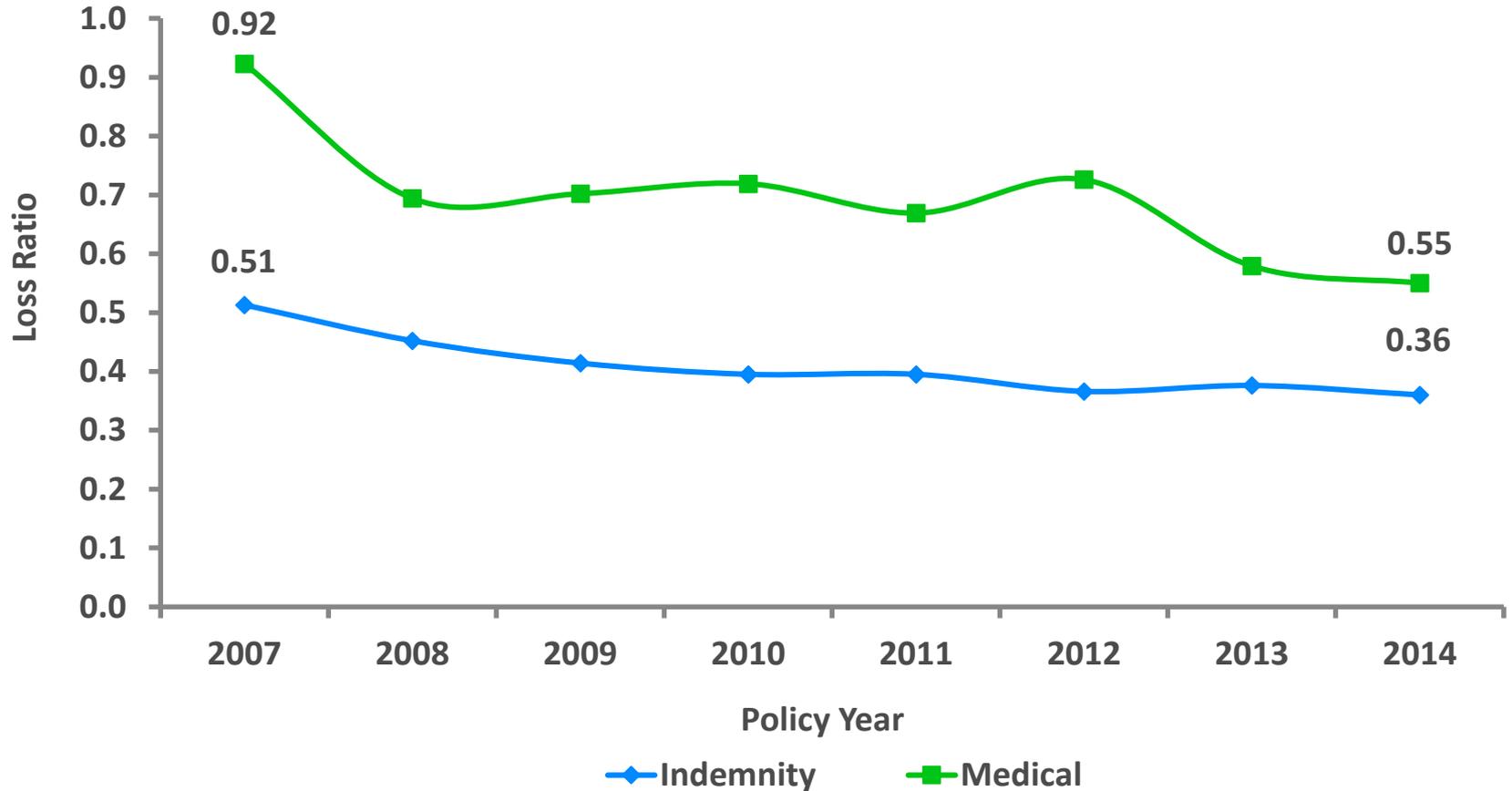
## Q & A



# STATE ADVISORY FORUMS 2017

## **Supplemental Information: Loss Cost Filing Support**

# Arkansas Indemnity and Medical Loss Ratios

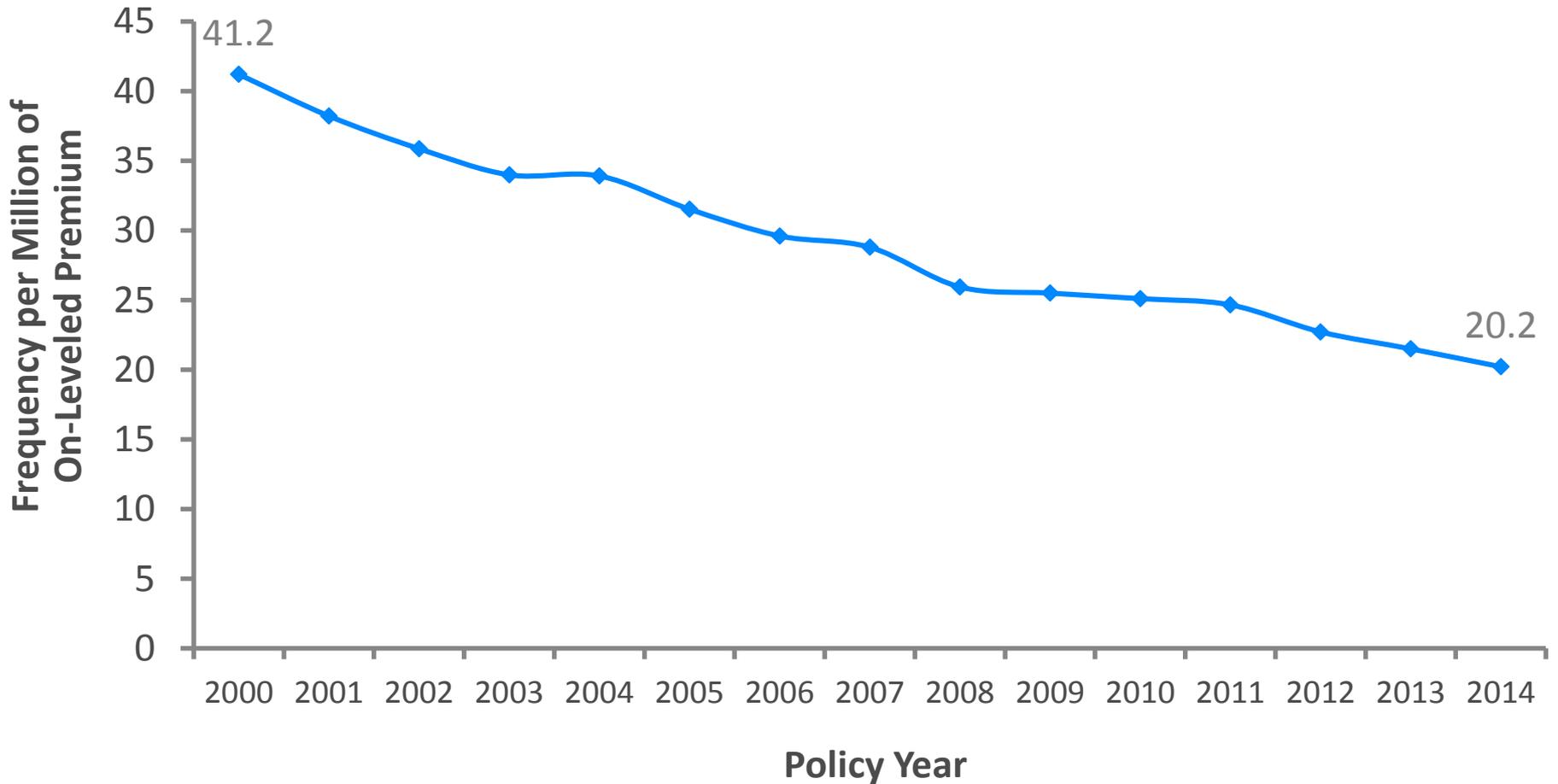


Based on NCCI's financial data at current benefit level and developed to ultimate

# What Drives Indemnity and Medical Loss Ratios?

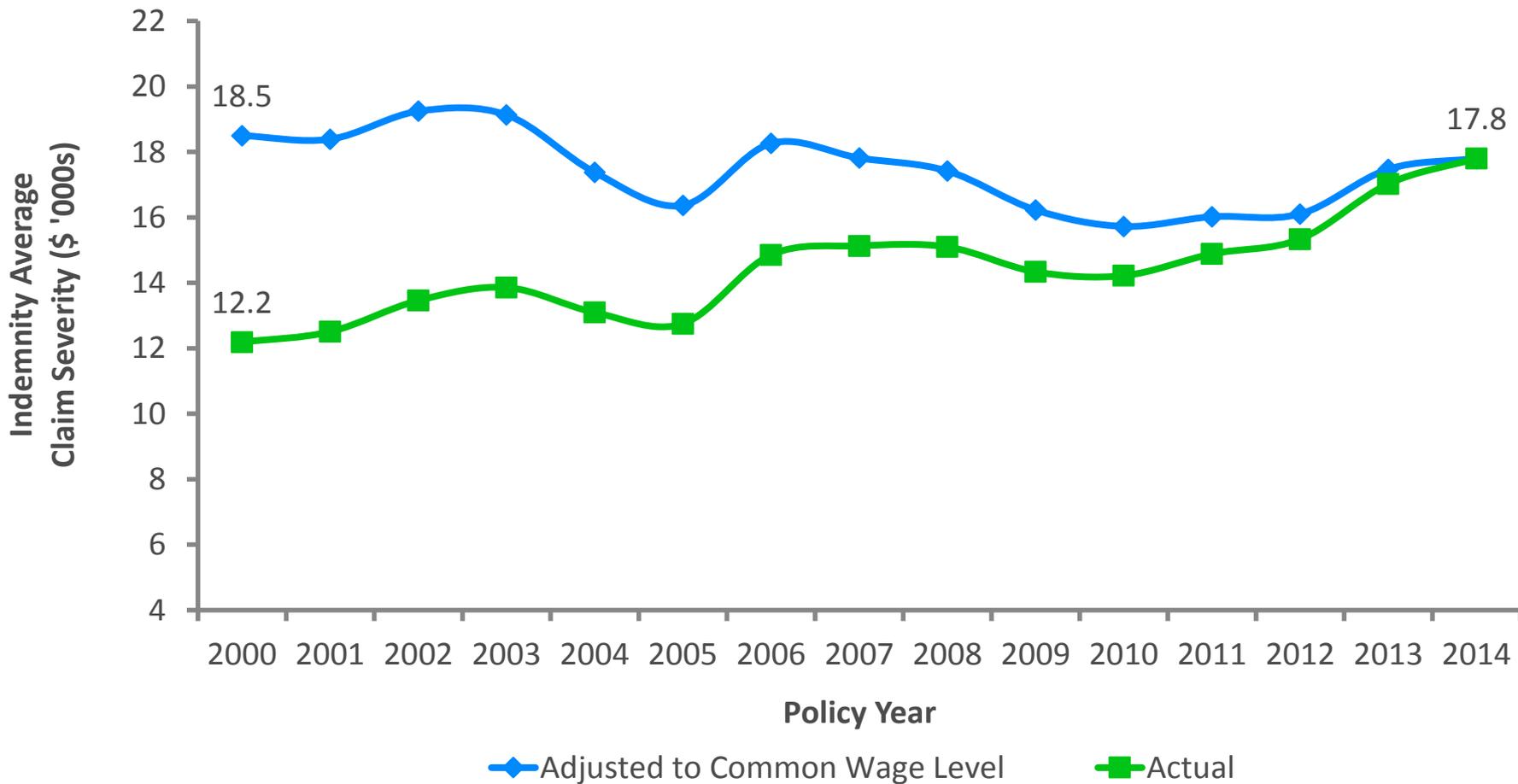


# Arkansas Claim Frequency



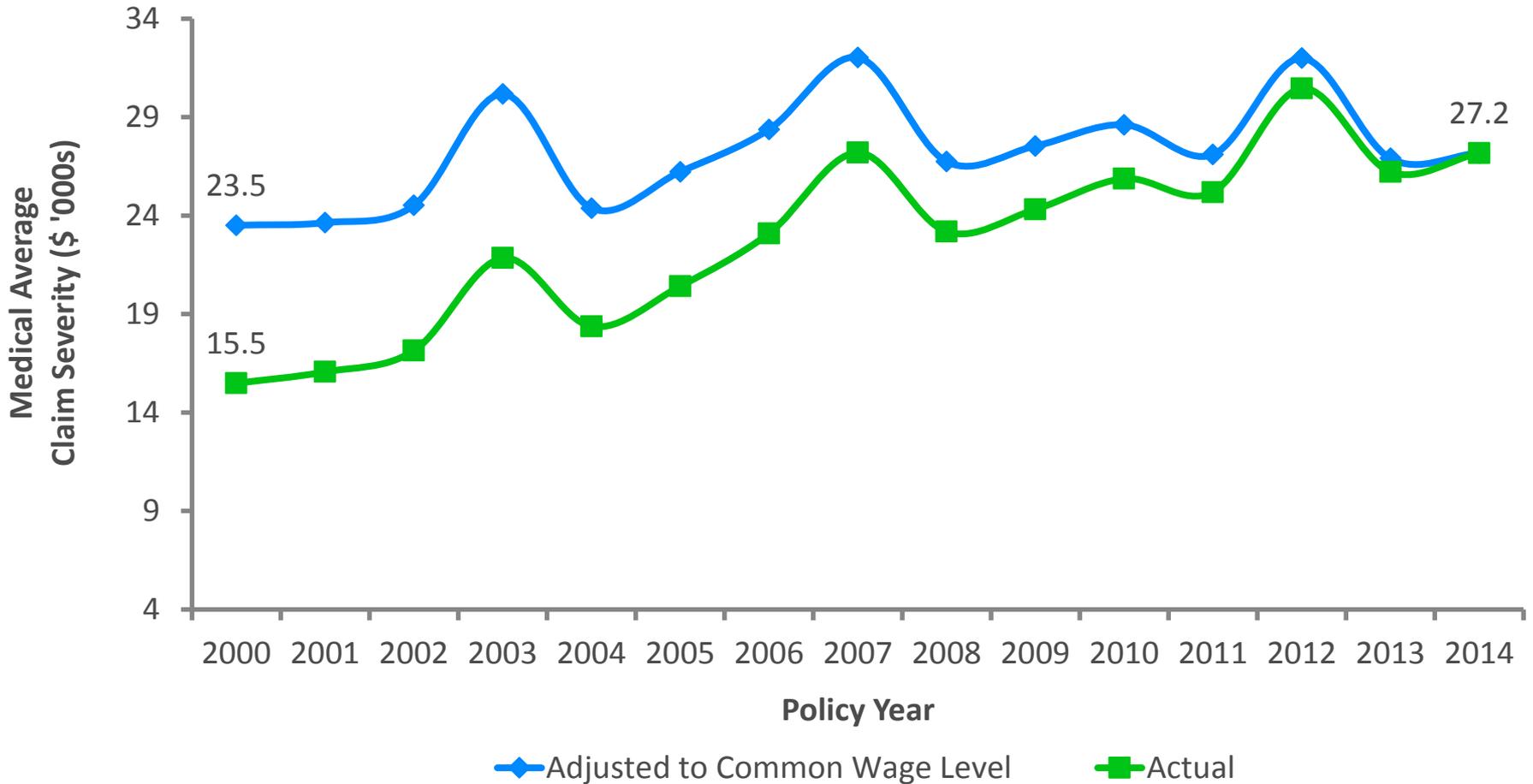
Based on NCCI's financial data  
Frequency of lost-time claims adjusted to a common wage level

# Arkansas Average Indemnity Claim Severity



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

# Arkansas Average Medical Claim Severity



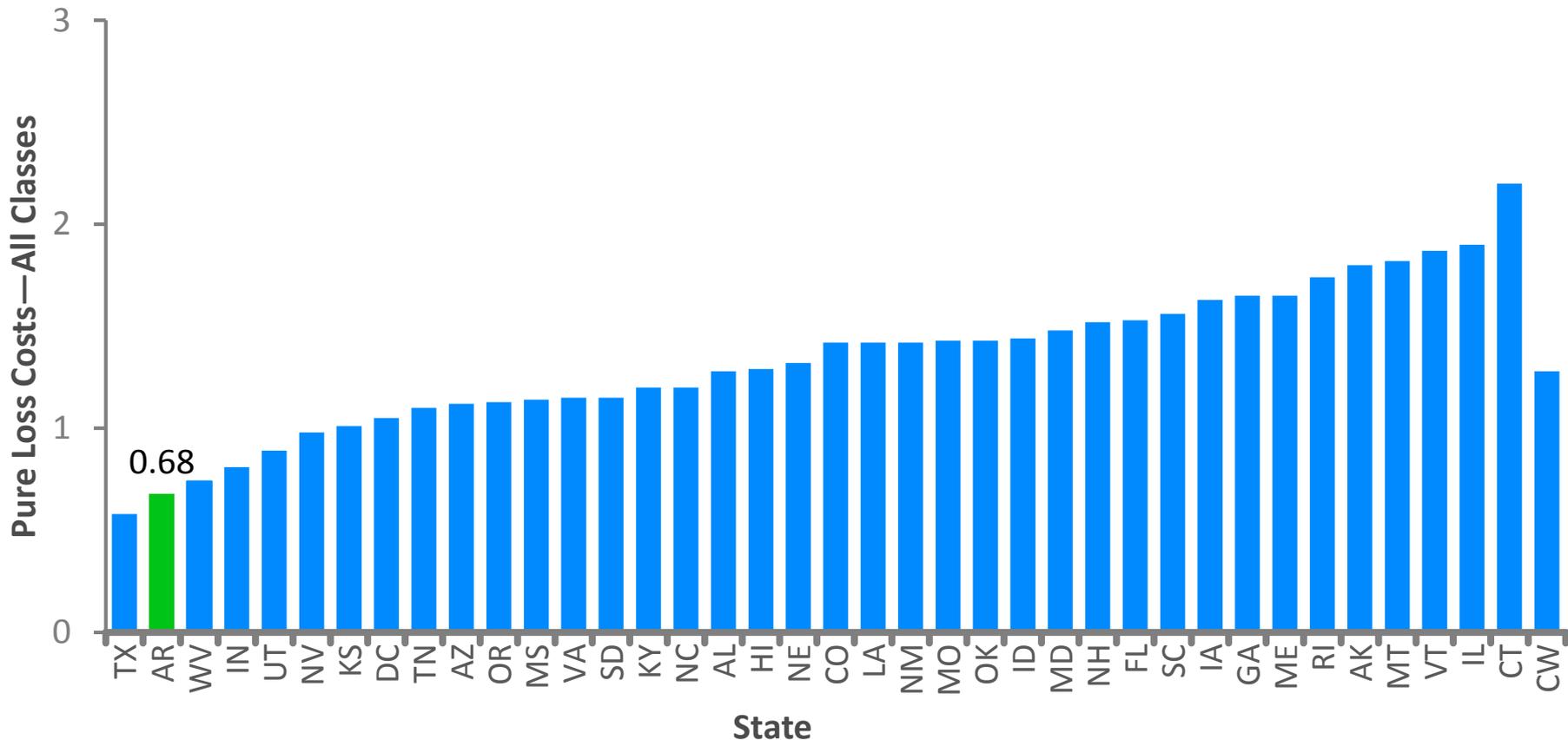
Based on NCCI's financial data for lost-time claims at current benefit level and developed to ultimate



# STATE ADVISORY FORUMS 2017

## Supplemental National/Regional/State Information

# Current Average Voluntary Pure Loss Costs Using Arkansas Payroll Distribution



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

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

## Arkansas



## Region



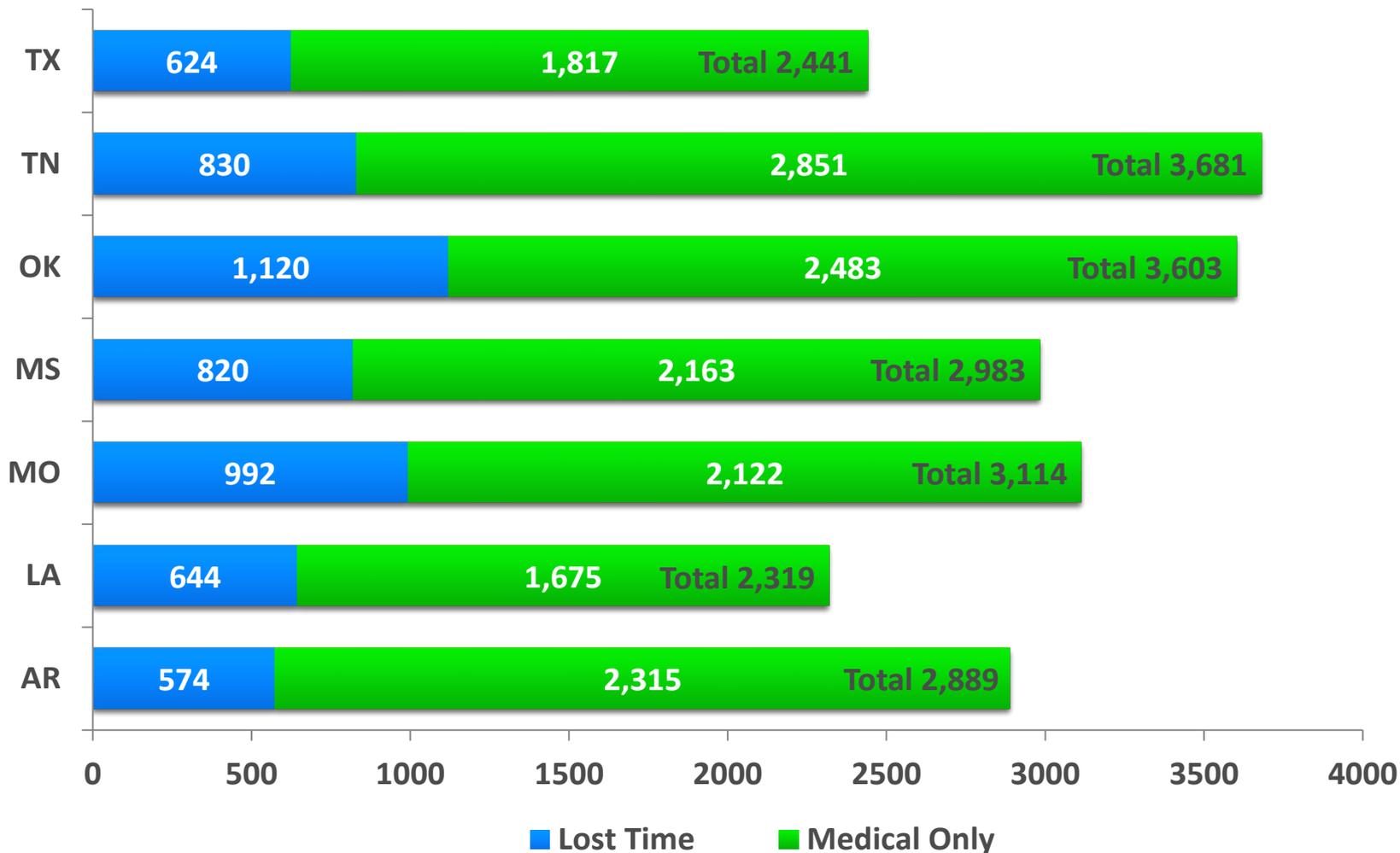
## Countrywide



Regional states are LA, MO, MS, OK, TN, and TX  
Based on NCCI's financial data

# Arkansas Average Claim Frequency

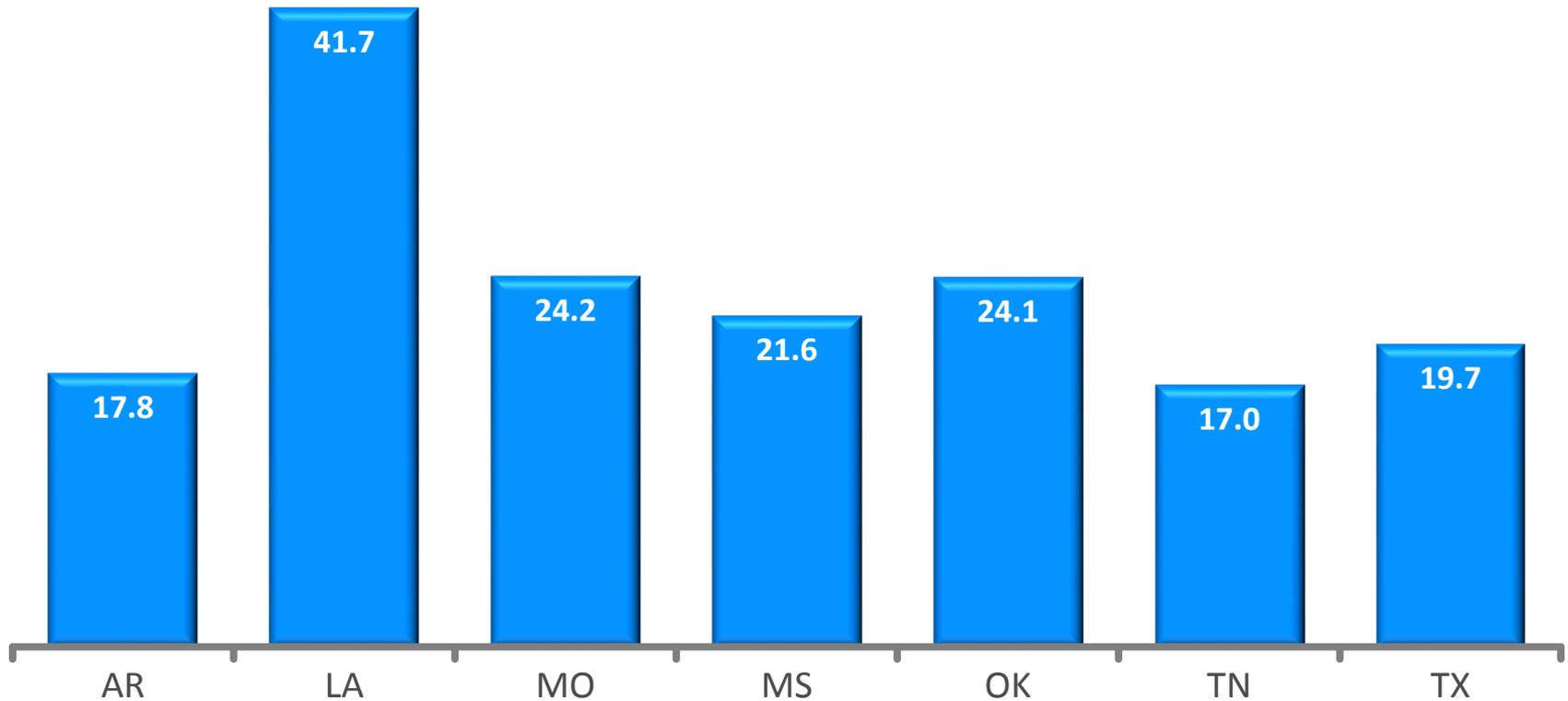
## Frequency per 100,000 Workers—All Claims



Based on NCCI's *Statistical Plan* data

# Average Indemnity Claim Severity in the Region

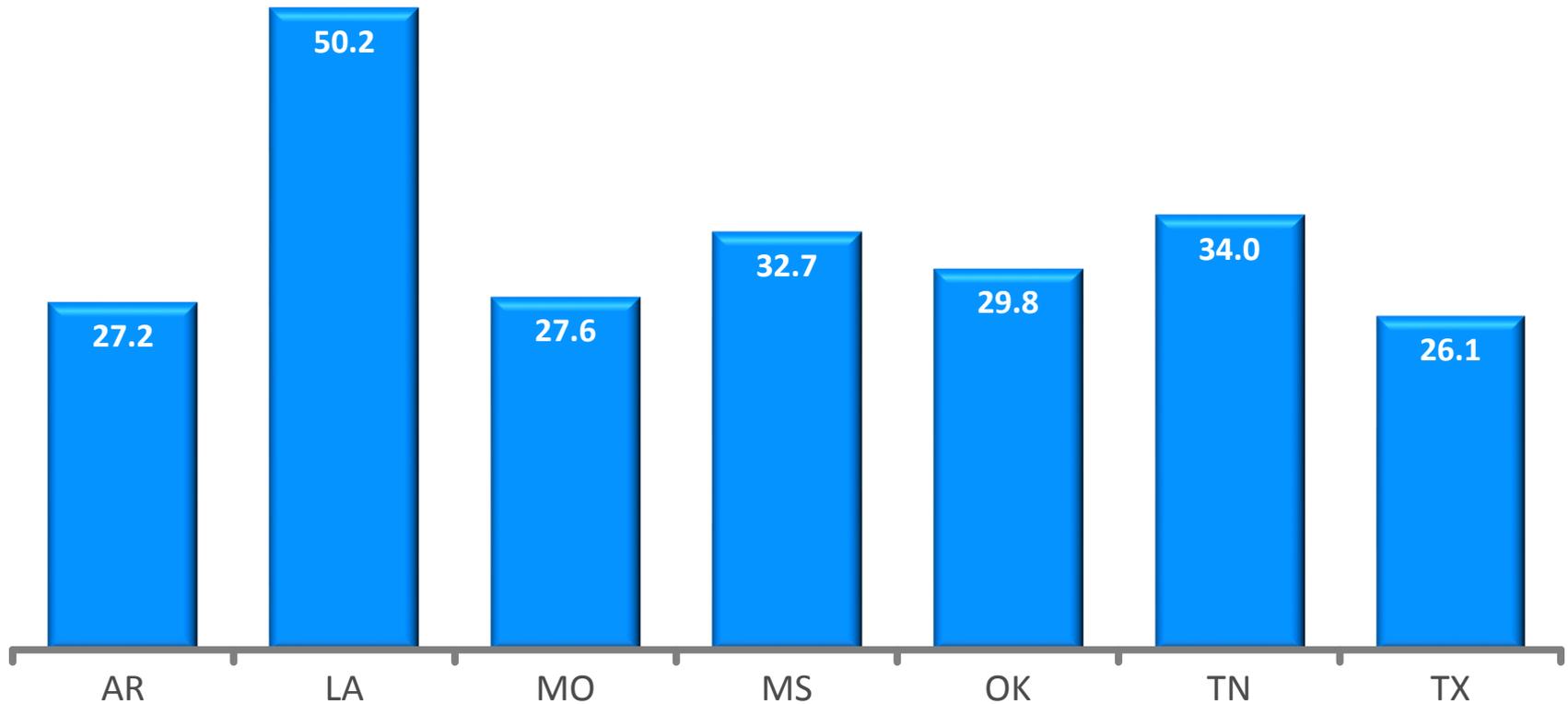
Lost-Time Claim Severity in \$ Thousands



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

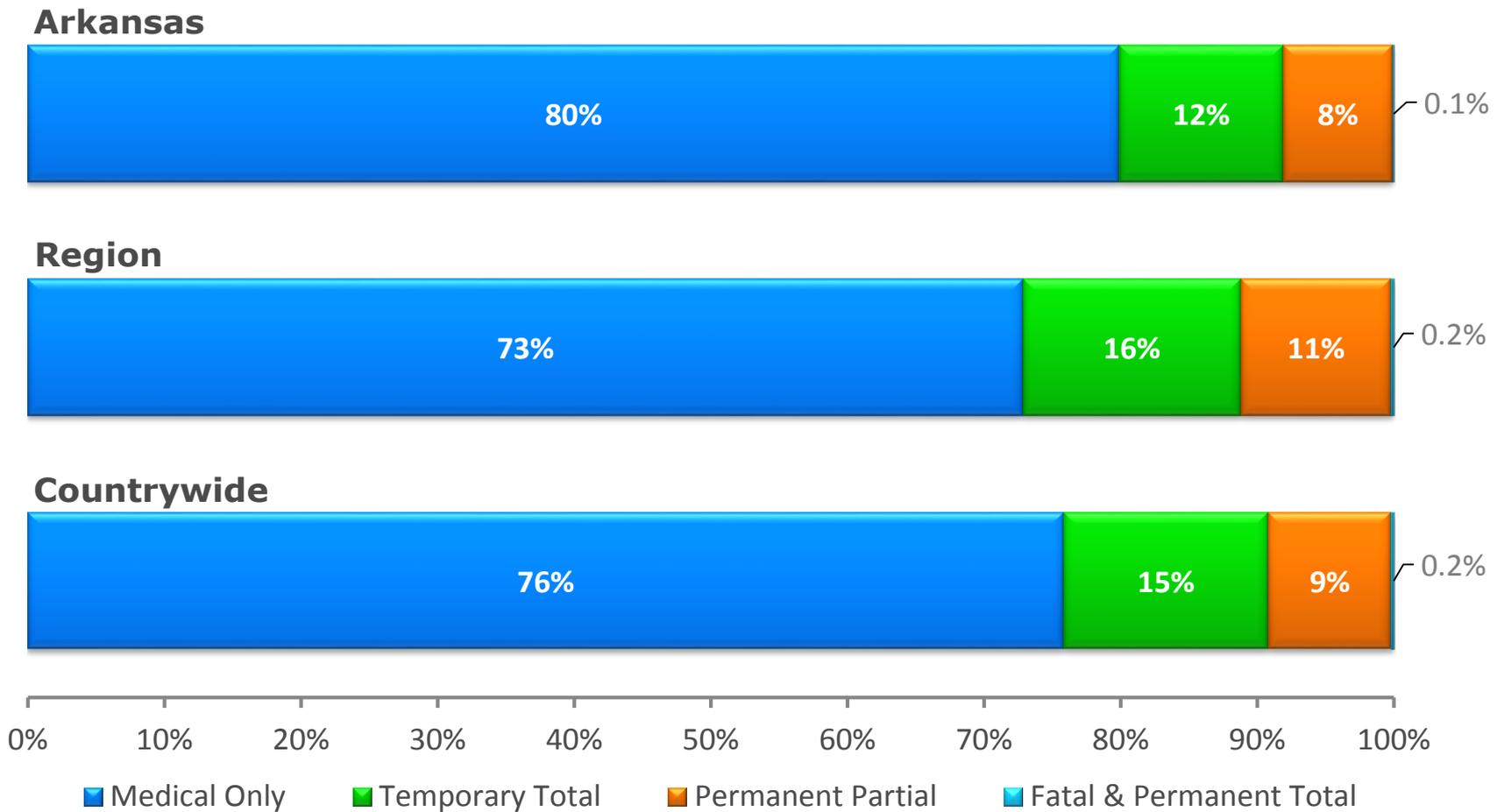
# Average Medical Claim Severity in the Region

Lost-Time Claim Severity in \$ Thousands



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

# Arkansas Distribution of Claims by Injury Type



Regional states are LA, MO, MS, OK, TN, and TX

Based on NCCI's *Statistical Plan* data for jurisdiction/claim type combinations for which three or more cases exist

# Arkansas Indemnity Loss Distribution by Injury Type

## Arkansas



## Region



## Countrywide



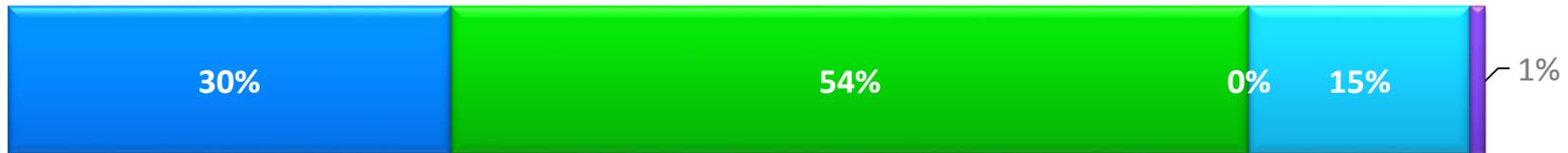
■ Temporary Total    
 ■ Permanent Partial    
 ■ Permanent Total    
 ■ Fatal

Regional states are LA, MO, MS, OK, TN, and TX

Based on NCCI's *Statistical Plan* data for jurisdiction/claim type combinations for which three or more cases exist

# Arkansas Medical Loss Distribution by Injury Type

## Arkansas



## Region



## Countrywide



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

Regional states are LA, MO, MS, OK, TN, and TX

Based on NCCI's *Statistical Plan* data for jurisdiction/claim type combinations for which three or more cases exist



# STATE ADVISORY FORUMS 2017

## Q & A



# STATE ADVISORY FORUMS 2017

## 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 100 workers.

# Glossary

- **Claim Severity**—The average cost of a claim. Severity is calculated by dividing total losses by the total number of claims.
- **Combined Ratio**—The sum of the (1) loss ratio, (2) expense ratio, and (3) 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 an 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)**—A disability that is permanent but does not involve a total inability to work. The specific definition and associated workers compensation benefits are defined by statute and vary by jurisdiction.
- **Policy Year (PY)**—The year of the effective date of the policy. Policy year financial results summarize experience for all policies with effective dates in a given calendar year 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.



# STATE ADVISORY FORUMS 2017

## Appendix

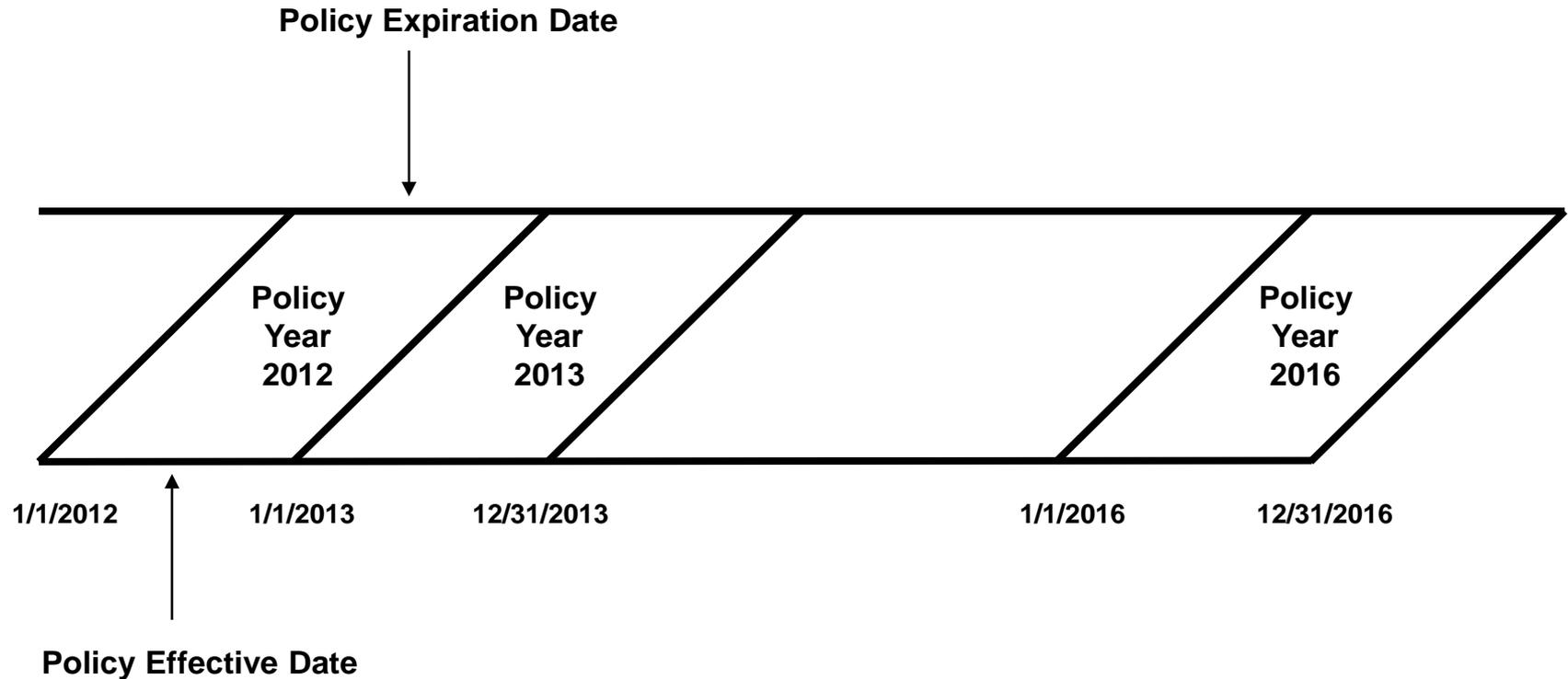
# NCCI's Workers Compensation Resources

- Financial Aggregate Calls
  - Used for aggregate ratemaking
- ***Statistical Plan for Workers Compensation and Employers Liability Insurance (Statistical Plan)***
  - Used for class ratemaking
- Detailed Claim Information
  - In-depth sample of lost-time claims
- Policy Data
  - Policy declaration page information

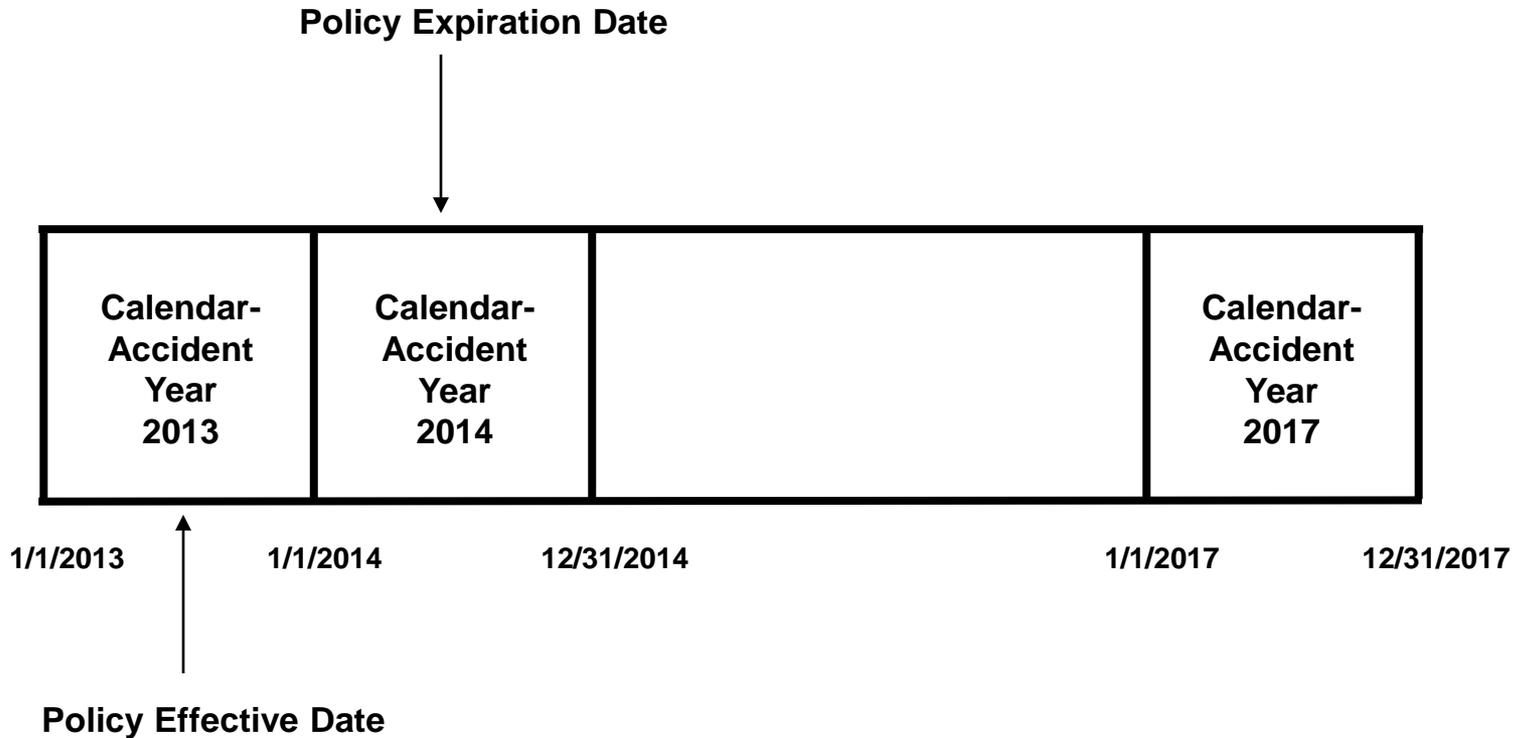
# Financial Aggregate Calls

- 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



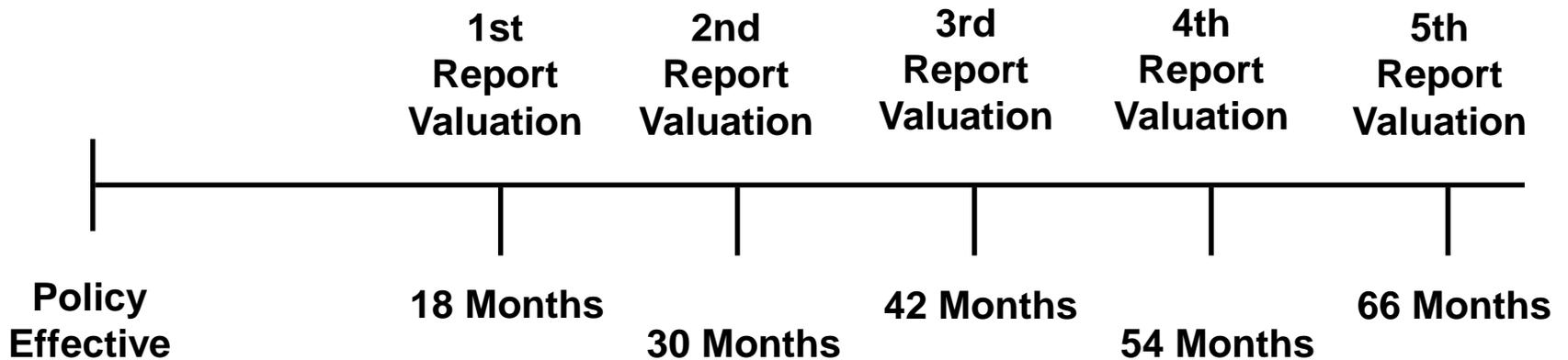
# Calendar-Accident Year Financial Aggregate Data



# Statistical Plan for Workers Compensation and Employers Liability Insurance (Statistical Plan) Data

- Experience by Policy Detail
  - Exposure, premium, and experience rating modifications
  - Individual claims by injury type
- Purposes
  - Classification relativities
  - Experience Rating Plan
  - Research

# Valuation of Statistical Plan Data





## EXHIBIT "B"



# Arkansas Residual Market State Activity Report

Second Quarter 2017



## Executive Summary

NCCI, as Pool and Plan Administrator of the Arkansas Workers Compensation Insurance Plan, is pleased to provide the Second Quarter 2017 *Arkansas Residual Market State Activity Report*.

Readers will notice that the order of our charts and tables has been reorganized, based on customer feedback. This will provide a more streamlined picture of the key measurement factors and issues relating to the operation of the Arkansas Plan. Residual Market demographics contained in this report include:

## Table of Contents

Residual Market Demographics	
Residual Market Total Policies and Premium in Force .....	1
Arkansas Residual Market Reinsurance Pool Booked Loss Ratio.....	2
Arkansas Residual Market Reinsurance Pool Ultimate Net Written Premium.....	2
Arkansas Residual Market Reinsurance Pool Net Operating Results .....	3
Collections/Indemnification.....	4
Voluntary Coverage Assistance Program.....	5
Total Applications Bound .....	6
Total Application Premium Bound.....	7
Residual Market Total Policy Counts .....	8
Residual Market Total Premium Volume.....	8
Total Premium Distribution by Size of Risk.....	9
Residual Market Top 10 Classification Codes by Policy Count .....	10
Residual Market Top 10 Classification Codes by Premium Volume .....	10
Glossary of Terms.....	11

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

Chantel Weishaar, Senior Technical Business Analyst      561-893-3015



## Residual Market Demographics

### Residual Market Total Policies and Premium in Force

#### As of June 30, 2017—compared to prior year

Total number of Assigned Risk Plan policies and estimated premium volume in force reported as of the date listed above. The other exhibits in this report describe quarterly and year-to-date data.

	2017	2016	2017 vs. 2016 #	2017 vs. 2016 %
<b>Policy Count</b>	6,742	6,836	-94	-1.4%
<b>Premium Volume</b>	\$21,745,871	\$22,425,694	-\$679,823	-3.0%

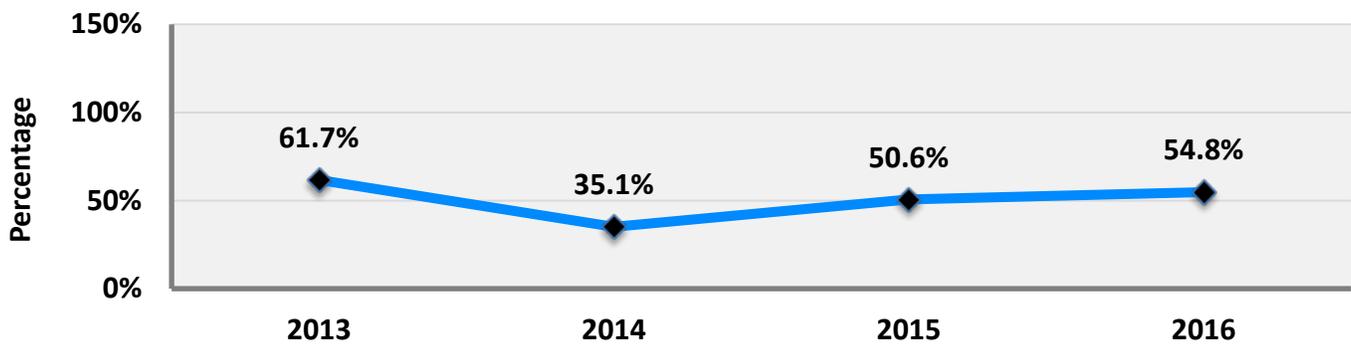


## Residual Market Demographics

### Arkansas Residual Market Reinsurance Pool Booked Loss Ratio Policy Year Financial Results through 1st Quarter 2017 for 2016 and prior years\*

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

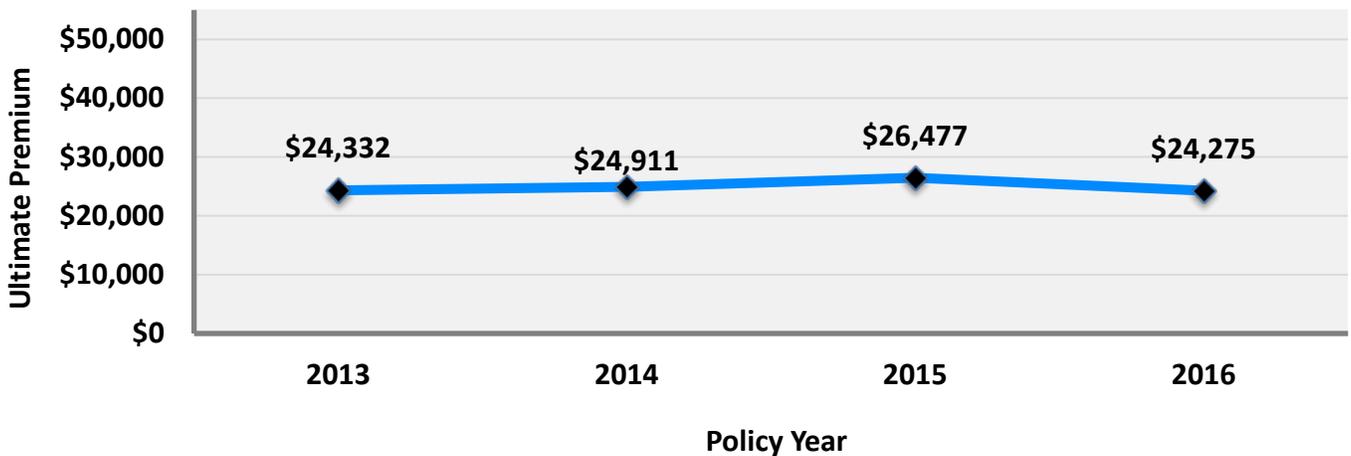
#### Booked Loss Ratio



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

#### Policy Year Financial Results through 1st Quarter 2017 for 2016 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 2017 data will be available the end of October 2017 due to the timing of data reporting

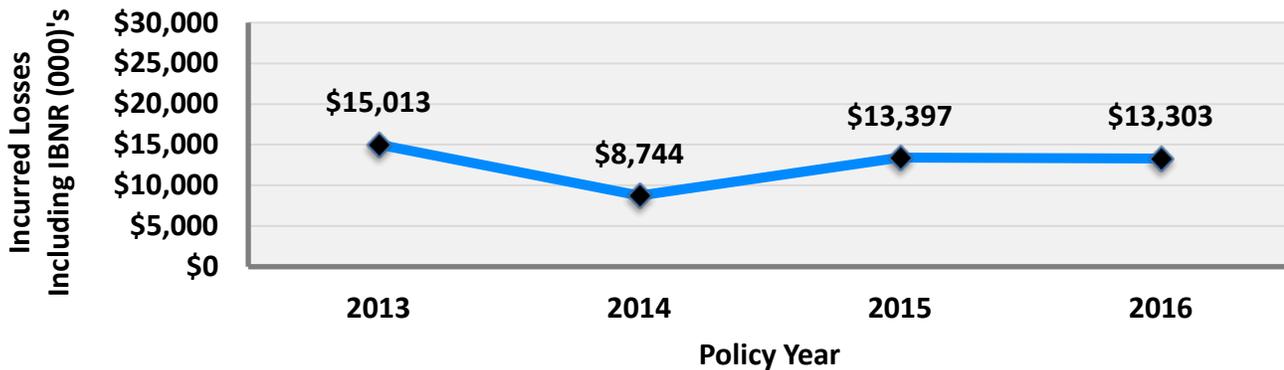


## Residual Market Demographics

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

#### Policy Year Financial Results through 1st Quarter 2017 for 2016 and prior years\*

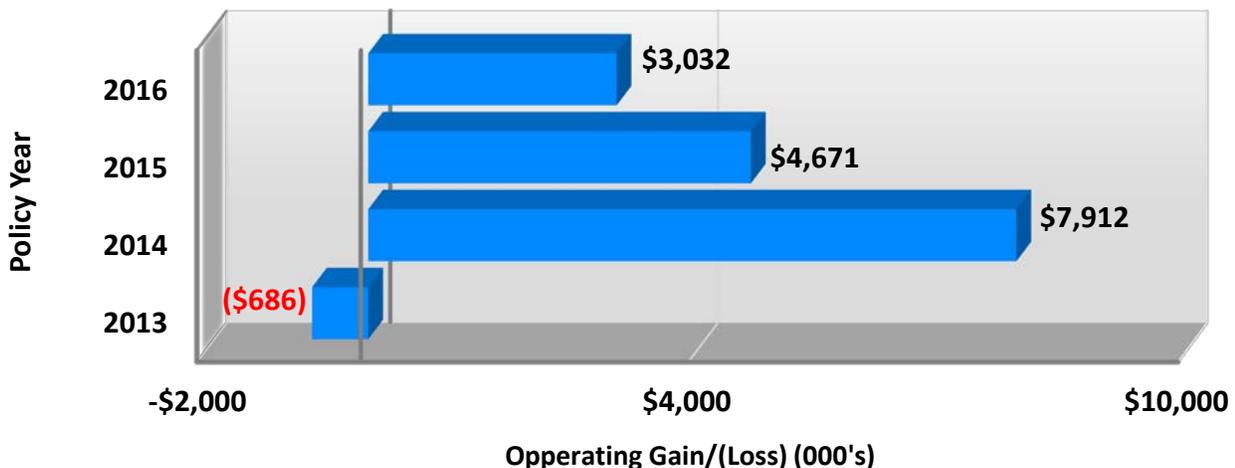
Policy year incurred losses reflect paid losses, case reserves and IBNR reserves for policies written in a particular policy year in that state.



### 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 2017 for 2016 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 2017 data will be available the end of October 2017 due to the timing of data reporting



## Residual Market Demographics

### Collections/Indemnification

The following shows a comparison of gross written premium and uncollectible premium reported in Arkansas for Policy Years 2013-2017, obtained through NP-4 and NP-5 reports including traumatic and black lung claims, evaluated through First Quarter 2017.

Policy Year	Gross Written Premium	Uncollectible Premium	Percentage
2013	\$25,069,829	\$738,040	2.9%
2014	\$25,326,786	\$415,579	1.6%
2015	\$27,079,009	\$415,127	1.5%
2016	\$23,536,794	*	N/A
2017	\$4,360,064	*	N/A

\* The uncollectible premiums provided are reported by the servicing carriers on a quarterly basis. Uncollectible premium is generally reported up to 24 months after the policy expiration date due to audit, billing, and collection requirements. Therefore, the uncollectible premium data has not yet developed for the more recent policy years.



## Residual Market Demographics

### Voluntary Coverage Assistance Program

#### Second Quarter Data through June 30, 2017

The volume of assigned risk applications redirected to the voluntary market through NCCI's **VCAP<sup>®</sup> Service**. The following shows the results **VCAP<sup>®</sup> Service** has provided during Second Quarter 2017.

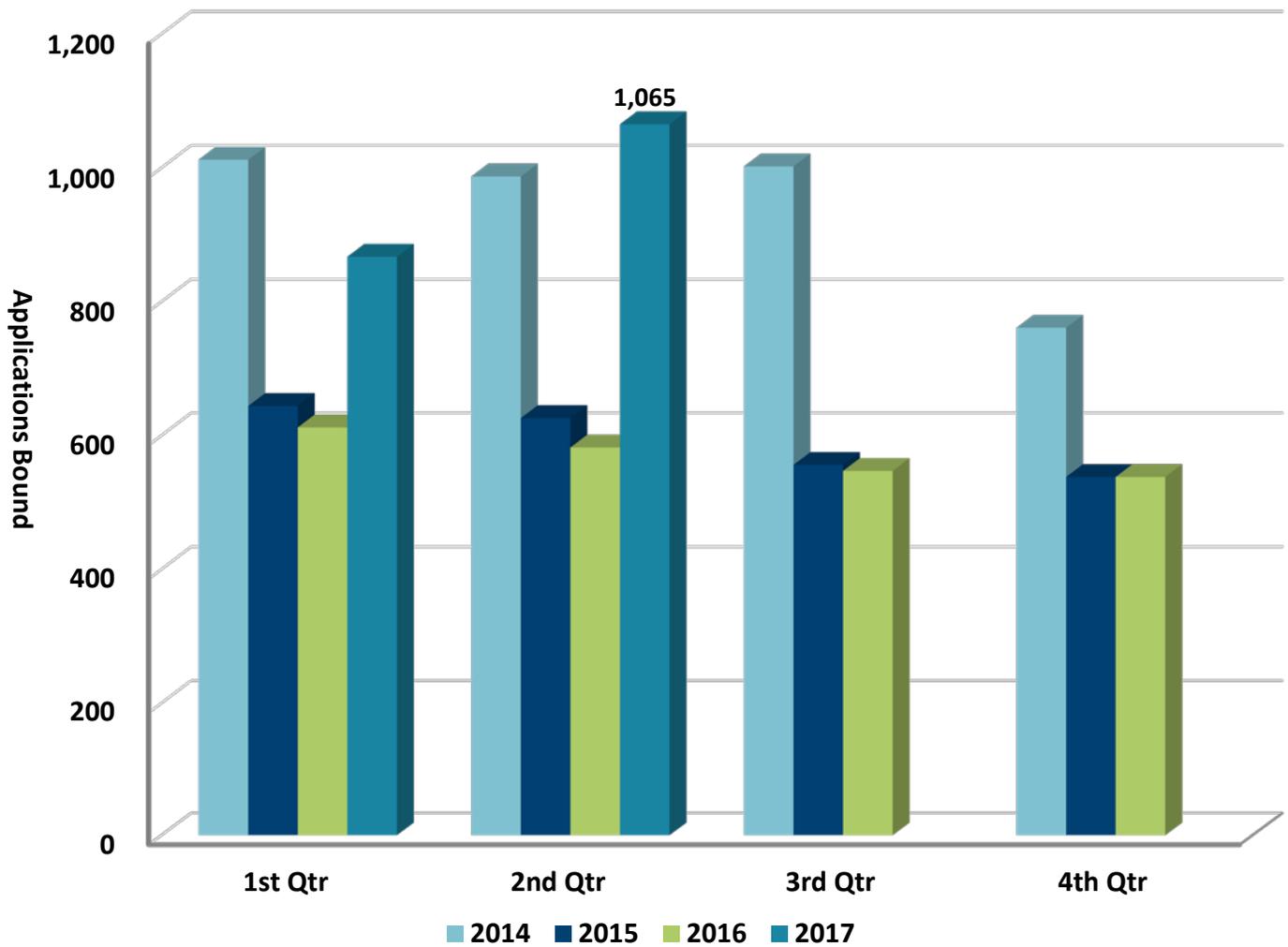
Number of Applications Reviewed by <b>VCAP<sup>®</sup> Service</b>	1,107
Number of <b>VCAP<sup>®</sup> Service</b> Matches	790
<b>VCAP<sup>®</sup> Service</b> Offers as a % of Matches	6.08%
Number of Confirmed <b>VCAP<sup>®</sup> Service</b> Policies	48
Confirmed <b>VCAP<sup>®</sup> Service</b> Policies as a % of Applications Reviewed	4.34%
Savings as a % of Redirected Assigned Risk Premium	15.02%



## Residual Market Demographics

### Total Applications Bound 2014 vs. 2015 vs. 2016 vs. 2017

The number of applications—both new and churn—that are assigned to a Servicing Carrier or a Direct Assignment Carrier (if applicable).

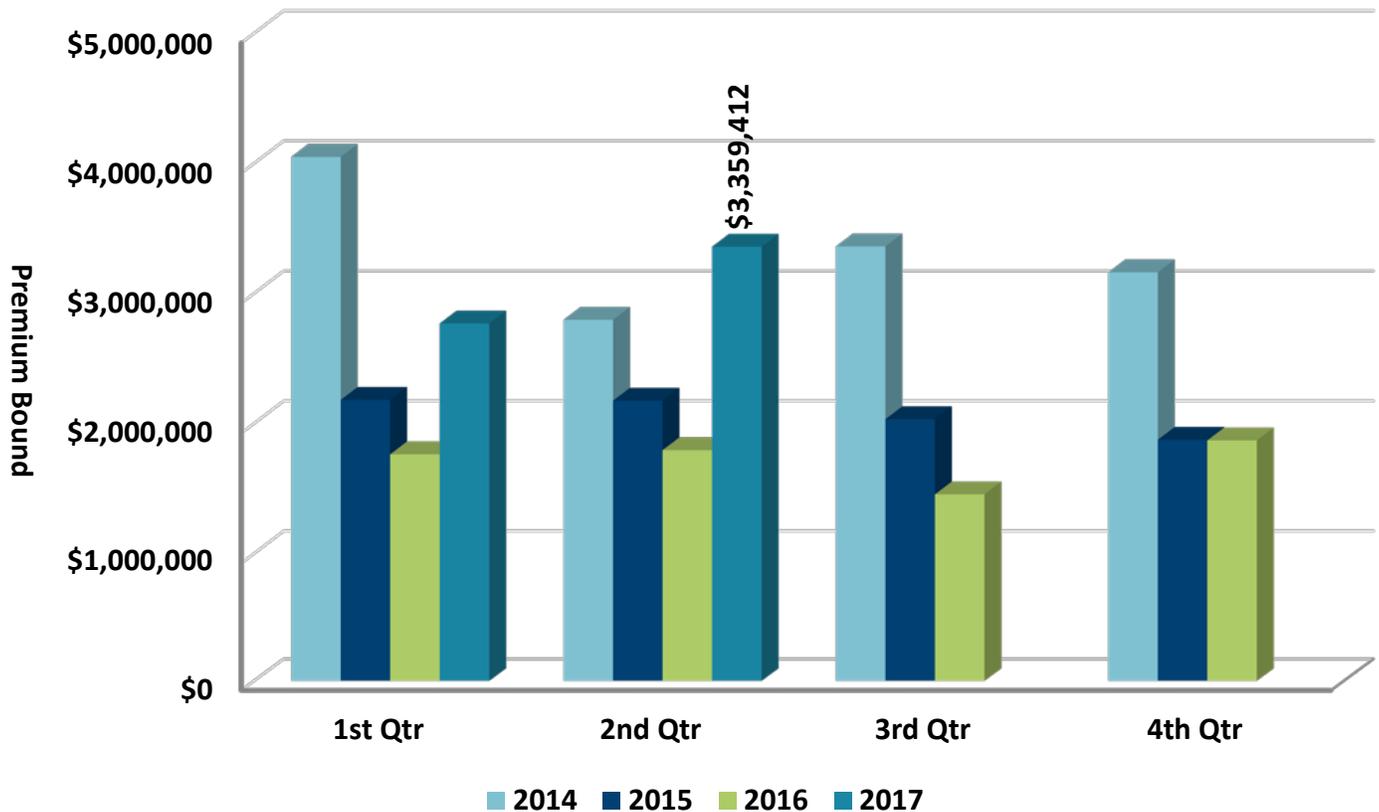




## Residual Market Demographics

### Total Application Premium Bound 2014 vs. 2015 vs. 2016 vs. 2017

The total estimated premium on bound applications—both new and churn—that are assigned to a Servicing Carrier or a Direct Assignment Carrier (if applicable).



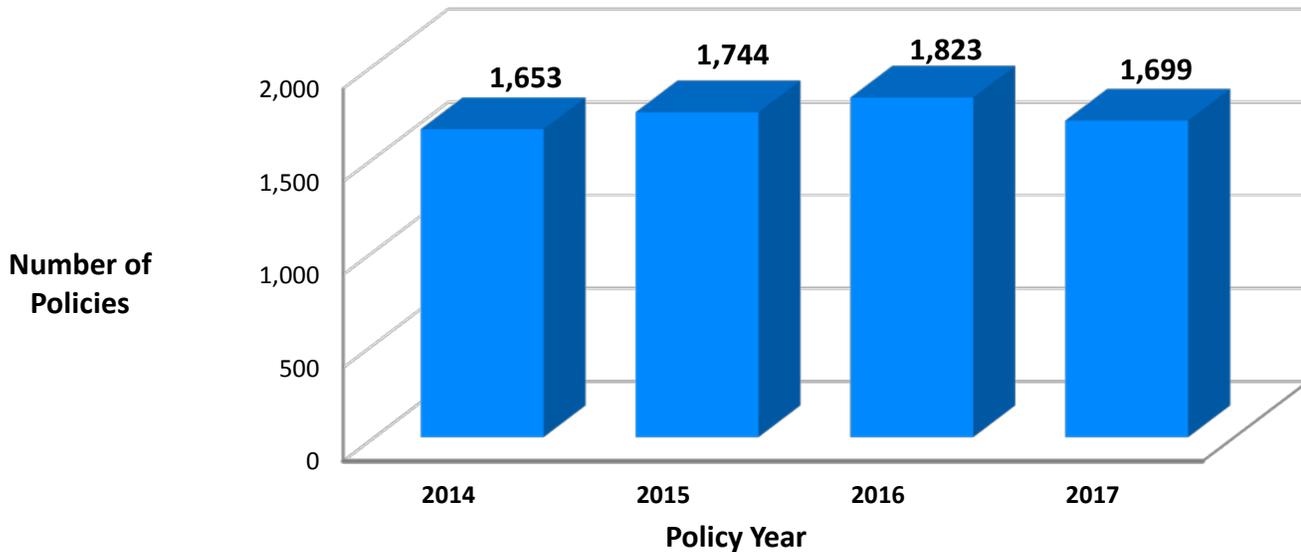


## Residual Market Demographics

### Residual Market Total Policy Counts

#### Second Quarter Data for Policies Reported through June 30, 2017

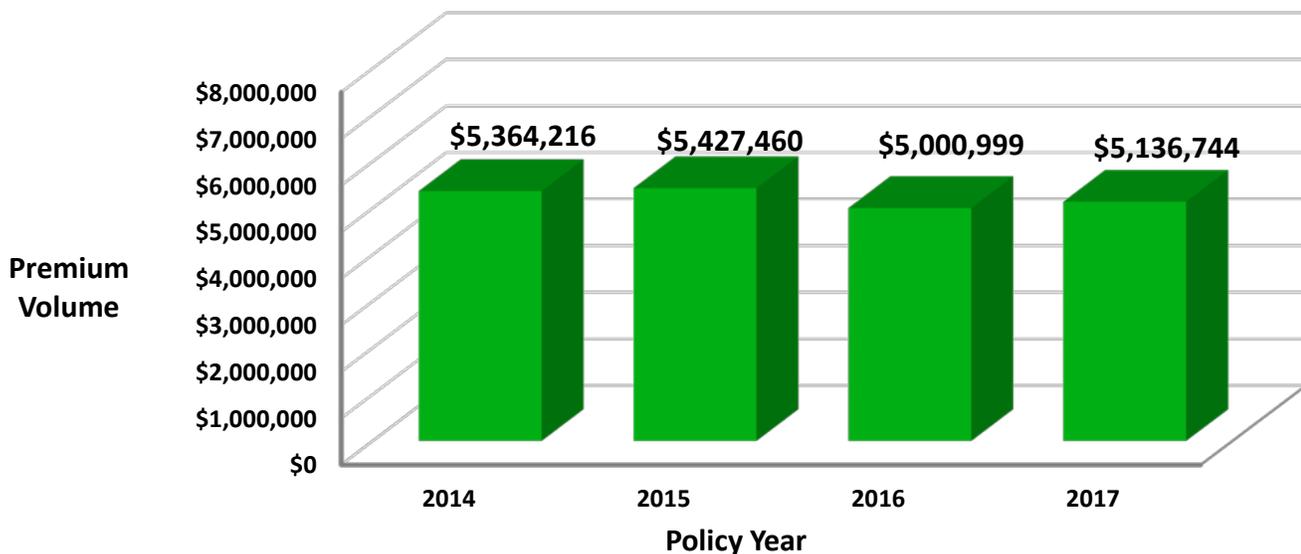
Total number of all Assigned Risk Plan policies with effective dates during the calendar period listed above.



### Residual Market Total Premium Volume

#### Second Quarter Data Reported through June 30, 2017

Total amount of all Assigned Risk Plan premium with effective dates during the calendar period listed above.





## Residual Market Demographics

### Total Premium Distribution by Size of Risk

#### Second Quarter Data Reported through June 30, 2017

The total number of Assigned Risk Plan policies reported to NCCI 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	1,244	73.2%	\$1,341,736	26.1%	\$1,078
\$2500–4999	228	13.4%	\$815,958	15.9%	\$3,578
\$5000–9999	138	8.1%	\$951,563	18.5%	\$6,895
\$10000–19999	66	3.9%	\$926,167	18.0%	\$14,032
\$20000–49999	15	0.9%	\$438,673	8.5%	\$29,244
\$50000–99999	6	0.4%	\$378,135	7.4%	\$63,022
\$100000–199999	2	0.1%	\$284,512	5.5%	\$142,256
\$200000 +	0	0.0%	\$0	0.0%	\$0
Total	1,699	100.0%	\$5,136,744	100.0%	\$3,023

### Second Quarter 2016 Data for Comparison

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0–2499	1,350	74.1%	\$1,358,187	27.2%	\$1,006
\$2500–4999	238	13.1%	\$842,658	16.9%	\$3,540
\$5000–9999	139	7.6%	\$951,068	19.0%	\$6,842
\$10000–19999	74	4.1%	\$1,013,335	20.3%	\$13,693
\$20000–49999	19	1.0%	\$551,243	11.0%	\$29,012
\$50000–99999	2	0.1%	\$140,345	2.8%	\$70,172
\$100000–199999	1	0.1%	\$144,163	2.9%	\$144,163
\$200000 +	0	0.0%	\$0	0.0%	\$0
Total	1,823	100%	\$5,000,999	100%	\$2,743



## Residual Market Demographics

### Residual Market Top 10 Classification Codes by Policy Count Second Quarter Data Reported through June 30, 2017

The top 10 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 Construction of Residential Dwellings Not Exceeding Three Stories in Height	384	22.6%
2	5551	Roofing-All Kinds & Drivers	126	7.4%
3	5022	Masonry NOC	56	3.3%
4	5474	Painting NOC & Shop Operations Drivers	53	3.1%
5	9014	Janitorial Services by Contractors-No Window Cleaning Above Ground Level & Drivers	48	2.8%
6	5437	Carpentry-Installation of Cabinet Work or Interior Trim	42	2.5%
7	5403	Carpentry NOC	42	2.5%
8	7228	Trucking-Local Hauling Only-& Drivers	39	2.3%
9	6217	Excavation & Drivers	36	2.1%
10	5445	Wallboard Sheetrock Drywall Plasterboard or Cement Board Installation Within Buildings	32	1.9%

### Residual Market Top 10 Classification Codes by Premium Volume Second Quarter Data Reported through June 30, 2017

The top 10 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 Construction of Residential Dwellings Not Exceeding Three Stories in Height	\$627,396	12.2%
2	5551	Roofing-All Kinds & Drivers	\$413,443	8.1%
3	7228	Trucking-Local Hauling Only-& Drivers	\$324,828	6.3%
4	2719	Logging or Tree Removal - Mechanized Harvesting Exclusively	\$200,081	3.9%
5	7229	Trucking-Long Distance Hauling-& Drivers	\$161,857	3.2%
6	3076	Sheet Metal Products Mfg.	\$147,092	2.9%
7	5403	Carpentry NOC	\$140,090	2.7%
8	5535	Sheet Metal Work-Installation & Drivers	\$126,981	2.5%
9	0037	Farm: Field Crops & Drivers	\$122,413	2.4%
10	5022	Masonry NOC	\$105,393	2.1%



## Glossary of Terms

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

**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.

**In Force (Policies/Premium)**—All policies and associated estimated premium that are current as of a given date.

**Incurred But Not Reported (IBNR)**—Pertaining to losses where the events that 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.

**Loss Ratio**—The ratio of total incurred losses to total earned premiums in a given period, expressed as a percentage. The formula for loss ratio is  $(\text{loss} + \text{loss adjustment expense}) / \text{earned premium}$ .

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

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

**VCAP<sup>®</sup> Service**—Voluntary Coverage Assistance Program is a supplemental program to NCCI’s Workers Compensation Insurance Plan. As part of NCCI’s strategic vision of maintaining and depopulating the residual market, NCCI’s **VCAP<sup>®</sup> Service** redirects coverage opportunities for employers to voluntary market insurers, which generally provide coverage at a lower cost. **VCAP<sup>®</sup> Service** provides an additional source for producers and employers to secure voluntary workers compensation coverage prior to entering the residual market for coverage.