

**A REPORT TO THE LEGISLATIVE COUNCIL AND  
THE SENATE AND HOUSE INTERIM COMMITTEES  
ON INSURANCE AND COMMERCE  
OF  
THE ARKANSAS GENERAL ASSEMBLY  
(ACT 796 of 1993 and ACT 1143 of 1997)**

**ANNUAL STUDY OF THE WORKERS' COMPENSATION  
INSURANCE MARKET IN ARKANSAS**



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Arkansas Insurance Department**

**Approved by: Allen Kerr, State Insurance Commissioner**

**Date Submitted: September 1, 2018**

## **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 72.8% 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 2017, NCCI filed for decreases in the voluntary market loss costs of -8.4% and in the assigned risk plan rates -10.6%. In 2018 the NCCI filed for decreases of -15.4% for the voluntary market loss costs and -14.9% 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, \$0.57, compared to the regional average loss cost of \$0.81 and the countrywide average loss cost of \$1.15. The Arkansas average rates in 2017 were -72.8% 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<br>(effective 1/1/08) | 2.7%                    | 2.7%                      |
| 2008<br>(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%                    |
| 2018                       | -15.4%                  | -14.9%                    |

### **PAYROLL AND EXPERIENCE MODIFIER**

Reported payroll in Arkansas continues to increase while premiums for insureds continue to decrease. In 2017 the average experience modifier decreased slightly to 0.934 from 0.947. The 2017 countrywide average experience modifier is 0.947. 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 through June, 2018 was \$22,148,541 as compared to \$21,571,318 for 2017. As of the June, 2018, small premium employers (less than \$2,500 in annual premium) constituted approximately 72.2% of the plan policy volume with an average of \$1,040 in premium per policy. Average plan premium per policy as of June, 2018, was \$3,008 for all 1,730 policies in the plan. The top five business classifications seeking coverage in the assigned risk plan were involved with the construction industry.

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 the quarter ending in June, 2018, 64 employers were removed from the assigned risk plan saving those employers, on average 5.79% in premium.

### **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, 2017, the Commissioner re-appointed NCCI as Administrator for the Arkansas assigned risk plan until at least July 1, 2020.

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 2018* and Exhibit "B" entitled *Arkansas Residual Market 2nd Quarter 2018 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, 2017 to December 31, 2019, the carriers are 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. Consequently, even though Workers’ Comp Fraud is still an important and integral part of the Criminal Investigation Division, it is now less than ten percent of the referrals that come into CID as compared to insurance fraud as defined under Title 23. 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 2017 reporting period, there were 40 workers compensation referrals received by AIDCID. Of those referrals nine developed into investigated cases of which six were closed. One case was referred for prosecution, but the locally elected prosecutor declined to file charges. One case was successfully prosecuted and one case remains with an external prosecutor. Since the creation of the division in 1993, 165 cases have been referred for prosecution, which resulted in 122 convictions. Out of these 165 cases, only three prosecutions have resulted in acquittals. In the remaining cases, the charges were not filed by the locally elected prosecutors.

### **2017 LEGISLATIVE ACTIVITY OF THE 91<sup>ST</sup> GENERAL ASSEMBLY WITH REGARD TO WORKERS' COMPENSATION**

There were three Acts from legislative activity with regard to workers' compensation in 2017.

Act 658. Provides for the treatment of rabies under workers' compensation by requiring an employer to promptly provide reasonably necessary medical treatment to an injured employee who is exposed to rabies.

Act 804. Amended existing law regarding contractors who are required to be licensed to obtain and maintain workers' compensation coverage. This law removed the term "residential building contractor."

Act 1058. A.C.A. §11-9-805 was amended to provide for partial settlements of workers' compensation claims, in addition to full settlements as before. After the amendment, if a claimant is determined to be eligible for Medicare, the parties may now petition the Commission for a partial settlement of all issues other than the claimant's future medical treatment. The parties may now petition for a settlement of the indemnity portion of a claim and leave open the injured employee's right to continued future medical treatment at the employer's expense.

The parties also retain the ability to petition the Commission for a full and final settlement of all issues involved in a claim.

**SELECTED WORKERS' COMPENSATION DECISIONS  
FISCAL YEAR 2017  
ARKANSAS SUPREME COURT**

**Attorney's Fees**

*Arkansas Game and Fish Commission v. Oscar Gerard, Jr.*, 2018 Ark. 97 (2018). This case addressed the issue of attorney's fees payable in a workers' compensation claim when the respondent insurance carrier claimed an offset pursuant to A.C.A. §11-9-411(Repl. 2012).

The injured employee (claimant) sustained a compensable on-the-job injury on May 12, 2002. Appropriate claim-related medical expenses and indemnity benefits were paid. In 2015, the claimant sought additional temporary total-disability benefits, alleging that he was entitled to either permanent and total disability benefits or alternatively wage-loss disability benefits as a result of his work-related injury. The claimant asserted that AG&F should not be entitled to any offset pursuant to Ark. Code Ann. § 11-9-411 (Repl. 2012).

Following a hearing, an ALJ issued an opinion finding, among other things, that the claimant established his entitlement to a 35 percent wage-loss disability award and that AG&F was allowed to take credit for a previous 10 percent wage loss paid. The ALJ further found that AG&F was entitled to the offset provided for in Ark. Code Ann. § 11-9-411 because "it appears to this examiner that Mr. Gerard's Arkansas Public Employment Retirement System ("APERS") retirement benefits rate of \$2,424.67 to \$2,479.79 per month would far exceed his workers' compensation benefit rates of \$277.00 or \$369.00 per week." The ALJ also found that Gerard's attorney was entitled to a 25 percent fee on the indemnity benefits awarded to Gerard, "one-half of which is to be paid by the claimant and one-half to be paid by the respondents in accordance with Ark. Code Ann. § 11-9-715 [.]" AG&F tendered its half of the attorneys' fees. The parties did not appeal this order.

The claimant's attorney later filed a motion to enforce payment of the attorneys' fees. The motion requested that AG&F pay the remaining one-half, the claimant's one-half, of the attorneys' fees. AG&F responded that it had paid its one-half of the attorneys' fees and pursuant to Ark. Code Ann. § 11-9-715(a)(2)(B)(i), the claimant was responsible for the other half. The ALJ found that the "deduction of the claimant's one-half of the controverted attorneys' fees out of compensation payable to the claimant under Arkansas Code Annotated section 11-9-715(a)(2)(B)(i) precedes any reduction in benefits provided for under Arkansas Code Annotated section 11-9-411(a)(1)" and ordered AG&F to pay Gerard's one-half of the fees to Gerard's attorney out of the benefits awarded to the claimant. AG&F appealed to the Full Commission, and the Commission affirmed and adopted the ALJ's decision. AG&F appealed to the Arkansas Court of Appeals, which reversed the Full Commission's decision. *Arkansas Game & Fish Comm'n v. Gerard*, 2017 Ark. App. 523, at 1-4, 530 S.W.3d 887, 888-89. On December 14, 2017, the Arkansas Supreme Court granted the claimant's petition for review.

The Arkansas Supreme Court affirmed the decision of the ALJ and the Arkansas Workers' Compensation Commission and ordered AG&F to pay the claimant's one-half portion of the attorney's fee. The Court stated in its Opinion that "Simply put, the purpose of the

Workers' Compensation Act is to take care of the injured employee and pay the compensation. We reject AG&F's assertion that the offset statute takes precedence over the attorney's fees." A dissent by Chief Justice Kemp noted "section 11-9-715 and section 11-9-411 should be read harmoniously. Arkansas Code Annotated section 11-9-715(a)(2)(B)(i) expressly provides that each party is responsible for one-half of the attorney's fees, and the claimant's one-half is paid out of the "compensation payable" to the claimant. Thus, if the compensation payable is zero, because section 11-9-411's offset eliminates AG&F's obligation to pay any additional benefits to

Gerard, then deducting from zero still leaves AG&F with no responsibility to pay Gerard's share of the attorney's fees. Further, there is no statutory provision for employers to be fully responsible for attorney's fees, and there is no provision that permits them to seek reimbursement from APERS, as the majority suggests. The majority bases its decision on language that simply isn't in the workers'-compensation statutes. This court cannot rewrite section 11-9-715(a)(2)(B)(i) to state that an employer must pay 100 percent of the attorney's fees when no compensation is due to the claimant."

### **Scheduled vs. Unscheduled Injuries**

*Multi-Craft Contractors, Inc. v. Rick Yousey*, 2018 Ark. 107 (2018). In this case, the claimant was severely injured and sustained a skull fracture and numerous facial fractures, a broken foot and hand, torn rotator cuff, and other injuries. The injuries resulted in the claimant experiencing double vision in his left eye along with severe headaches.

At a hearing the claimant contended, among other things, that his eye/vision injury should be classified as an injury to the body-as-a-whole rather than a "scheduled injury". The Commission found that Yousey was entitled to a permanent anatomical-impairment rating of 29 percent for his brain injury and 24 percent for his left-eye injury, both to the body as a whole.

The Court of Appeals found that "We agree that neuropsychological testing, without more, is not adequate to establish an organic brain injury by "objective findings" within the meaning of Arkansas Code Annotated section 11-9-102. Here, however, Yousey has presented neurological testing and additional medical evidence of his brain injury." As for the claimant's left eye injury, the Court noted that "Based on Dr. Lawton's testimony, there is substantial evidence to support the Commission's finding that Yousey was entitled to a 100 percent loss of vision to his left eye. However, we hold that the Commission erred in converting Yousey's impairment to the body as a whole. As stated above, because Yousey's impairment to his left eye comes within the scheduled-injury category, he is limited to the scheduled benefits. We affirm the Commission's finding of 100 percent impairment to Yousey's left eye but modify the award to reflect that it is a scheduled injury."

## **ARKANSAS COURT OF APPEALS**

### **Subrogation**

*Public Employee Claims Division v. Gary Clark and Arkansas Livestock Auction, Inc.*, 2018 Ark.



App. 215 (2018). In this case, the claimant Clark was seriously injured in 2010 in an on the job accident. A third party action was filed against the facility where he was working at the time of his injury. PECD moved to intervene in the lawsuit and alleged it was entitled to a lien against a portion of the net proceeds of any settlement or judgment in Clark's favor pursuant to Arkansas Code Annotated sections 11-9-410 and 21-5-60. Arkansas Code Annotated section 11-9-410 is a workers'-compensation statute that allows an employer or carrier to recover on its payment of workers'-compensation benefits when an injured employee recovers damages in a tort action against a third party. Arkansas Code Annotated section 21-5-605 establishes PECD as "the unit of state government primarily responsible for the administration of public employee workers' compensation claims in the State of Arkansas." Ark. Code Ann. § 21-5-605(c) (Repl. 2016).

Clark's third party case was ultimately settled for \$325,000.00. A "post settlement hearing" between Clark and PECD was held in May, 2016. In describing the issue before the court, Clark's attorney stated that "at the time we settled this case we deposited into the registry of the establish that he will not be made whole, even by receiving that money."

Clark argued that PECD could not recover anything because he had not been made whole by the settlement and workers'-compensation payments he had received. PECD contended that its entitlement to a lien was absolute and that the made-whole doctrine did not apply. The court took the matter under advisement and subsequently entered an order finding that PECD was entitled to receive two-thirds of the deposited funds after payment of costs of collection. The court calculated this amount to be \$23,345. On appeal, PECD argued that the circuit court's award is contrary to the applicable law and that it is entitled to recover a greater amount. As it did below, PECD relied on Arkansas Code Annotated section 21-5-605(f)(3)(B) which states "the rights of the public employee, or his or her dependents, the public employer, and the division shall be governed by the provisions of § 11-9-410, provided, the rights of the public employer and the division in and to amounts received from the third party by the injured public employee, or his or her dependents, as a result of either settlement with or judgment against the third party shall be absolute."

The Court reversed and remanded the case back to the Circuit Court finding that "Although the parties and the court acknowledged that only \$75,000 was deposited with the court, there is no reason on the record before us that PECD's recovery should be limited to an amount calculated from the deposited sum as opposed to the entire settlement of \$325,000 as provided in section 11-9-410. Accordingly, we reverse and remand for further proceedings consistent with this opinion." **A.C.A. §11-9-505(a)(1)**

**Arkansas Dept. of Correction v. Christie Dawn Jennings**, 2017 Ark. App.446 (2017). The claimant, Jennings, sought benefits pursuant to A.C.A. §11-9-505(a)(1) due to the ADC's refusal to return her to work. The ADC controverted the claim. After a hearing, the ALJ ruled in favor of the ADC, finding that Jennings had not proved that she was entitled to benefits. In an opinion dated October 25, 2016, the Commission reversed the ALJ and awarded Jennings benefits under section 11-9-505. The Commission awarded Jennings her average weekly wages for a period beginning November 10, 2015, and not exceeding one year, benefits not to be subtracted. On appeal, the Court of Appeals affirmed the Full Commission's decision and noted that "We agree with the Commission's findings that allowing an injured employee to "reapply" and "be considered" for employment is not sufficient to meet the statutory requirement

that the employer return the employee to work. That is because the option to “reapply” and “be considered” for employment necessarily involves an element of uncertainty as to the outcome of the application process. Moreover, even if Jennings were rehired, she would have lost credit for the time she had successfully worked during her probationary period, requiring her to start anew. Both the plain language of the statute and its recognized purpose focus on returning an injured employee to work, and we agree with Jennings that reinstatement, rather than reapplication, was required.”

*Connie Burke v. Arkansas Dept. of Correction*, 2018 Ark. App. 231 (2018). In this case, the evidence demonstrated that the claimant had discussions with ADC personnel and had advised that she would not be returning to her position in security. Burke did not recall ever having a conversation, by email or otherwise, with Kimyata Randall. She also agreed that after she was released by her doctors to return to work, she was not contacted by ADC and asked to return to work. She explained that she had remained off work since being released by her physicians. She also said that she had looked on the Arkansas state-jobs website since then and that it appeared that there were jobs available within her restrictions. She agreed that she had never contacted ADC about going back to work or reapplying for a job. The ALJ and Full Commission denied benefits to the claimant.

The Court of Appeals affirmed and found that “Burke’s argument falters given the Commission’s findings that she was not a credible witness and that there was no credible testimony that there were jobs available within her physical restrictions. The Commission also found that Burke was released without any physical restrictions and made no credible effort to return to work. Without any attempt to return to work, it cannot be said that ADC refused to return her to work. This highlights the primary difference between this case and *Jennings*: in *Jennings*, the claimant requested to return to work and her employer denied her request.”

## 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. Frequency has experienced a dramatic decrease and continues that trend. 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, 2018

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



EXHIBIT "A"

# STATE ADVISORY FORUMS 2018

## Arkansas

**June 6, 2018**

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# Arkansas State Advisory Forum

- Future @Work (Video)
- Countrywide Workers Compensation System
- Arkansas Workers Compensation System
- Insurance Commissioner Allen Kerr
- Countrywide and Arkansas Labor Markets
- The Data Connection (Video)
- Legislative Issues
- Opioids and Workers Compensation
- Residual Market: Countrywide and Arkansas



# STATE ADVISORY FORUMS 2018

**Future @Work  
(Video)**



# STATE ADVISORY FORUMS 2018

## Countrywide Workers Compensation System

# Countrywide Workers Compensation (WC) System— An Overview



Premium decreased slightly in the most recent year

The combined ratio continues to show favorable results

Frequency declined again at the latest point

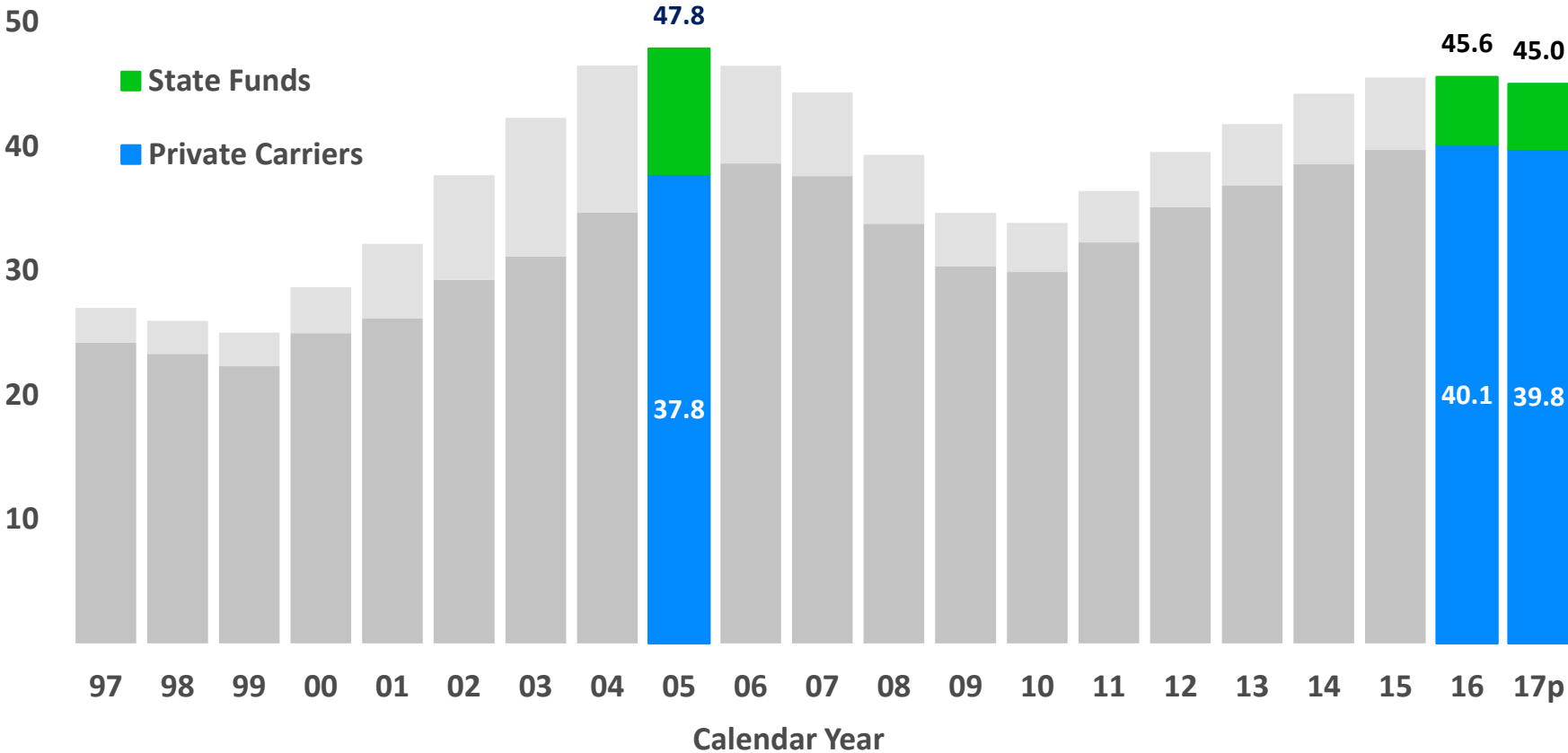
Medical and indemnity severity increased modestly



# 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

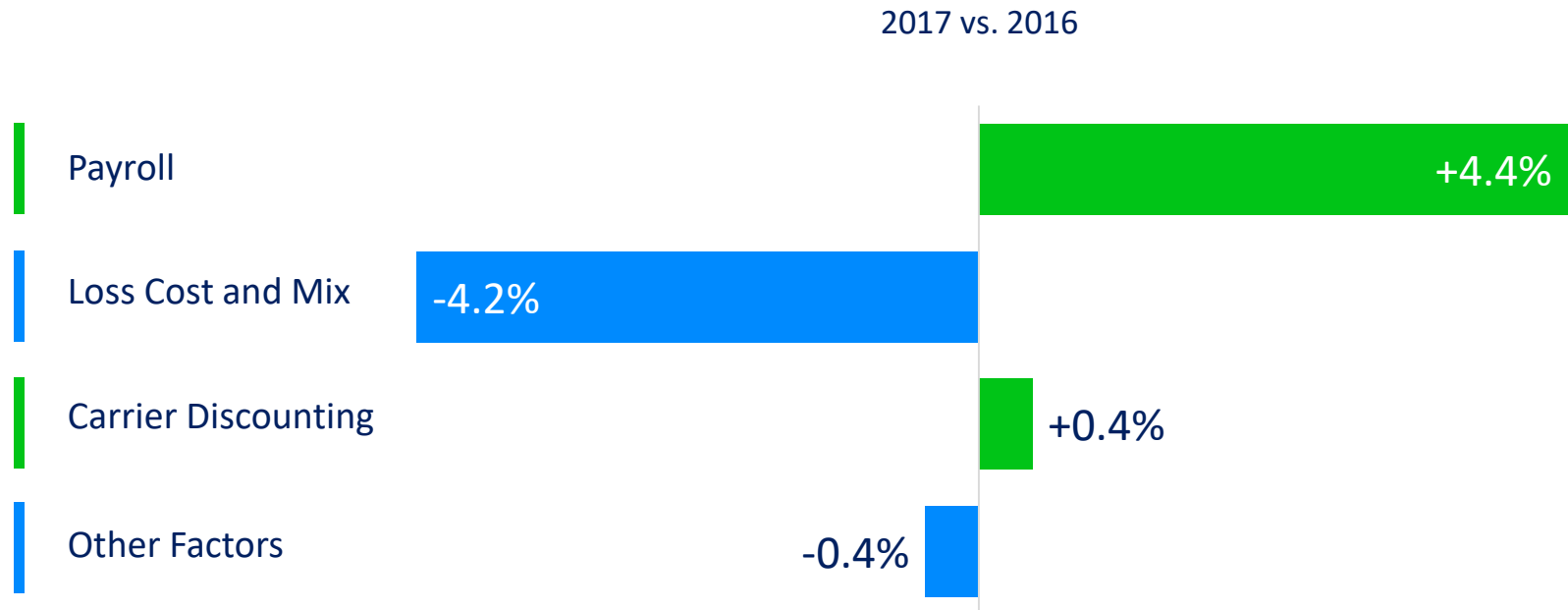
Each calendar year total for state funds includes all funds operating as a state fund in that year



# WC Direct Written Premium (DWP) Change by Component

## Private Carriers—NCCI States

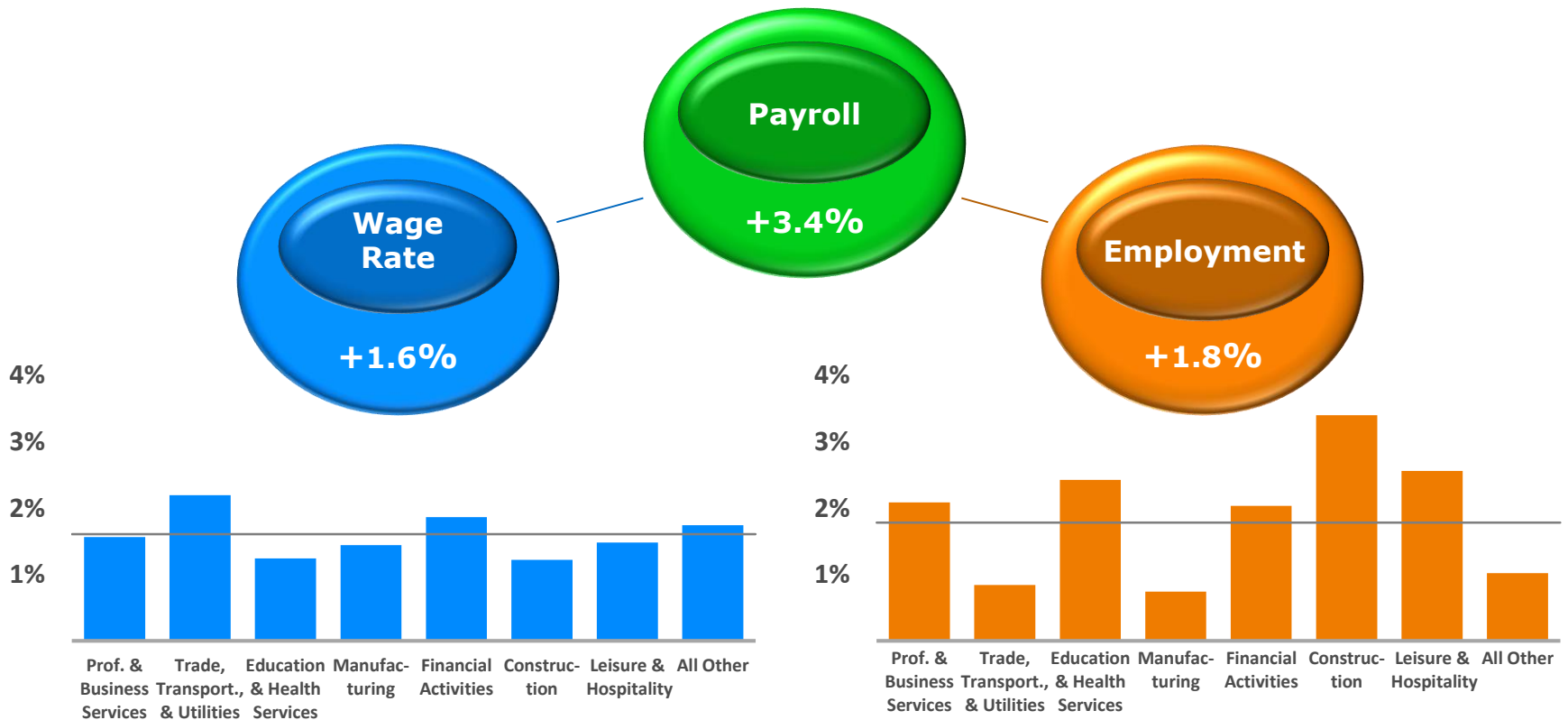
Change in Direct Written Premium: 0.0%



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

# Increases in Payroll Continue to Drive Changes in Premium

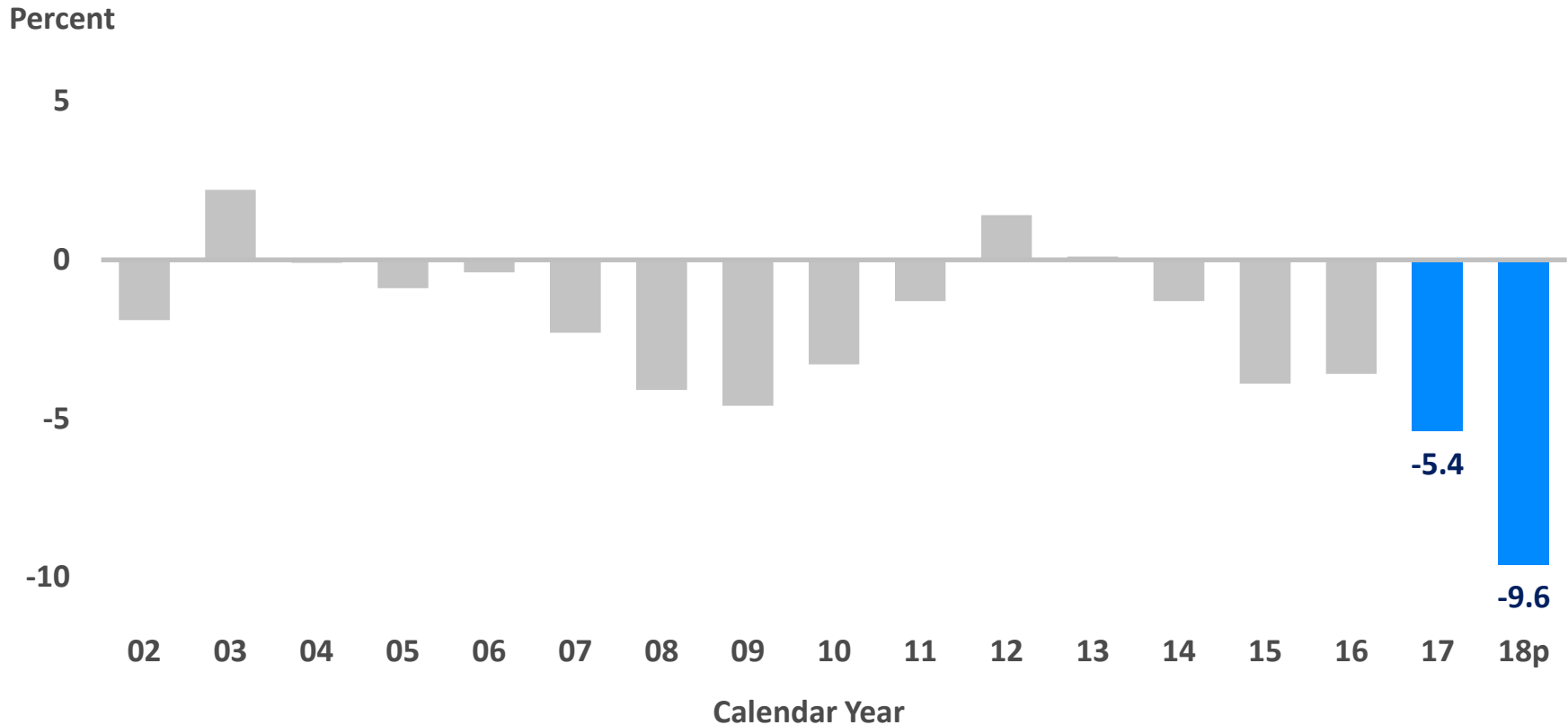
## Forecast Change 2016–2017



Sources: Moody's Analytics and NCCI

# WC Approved Changes in Bureau Premium Level

## Weighted by Effective Date—NCCI States

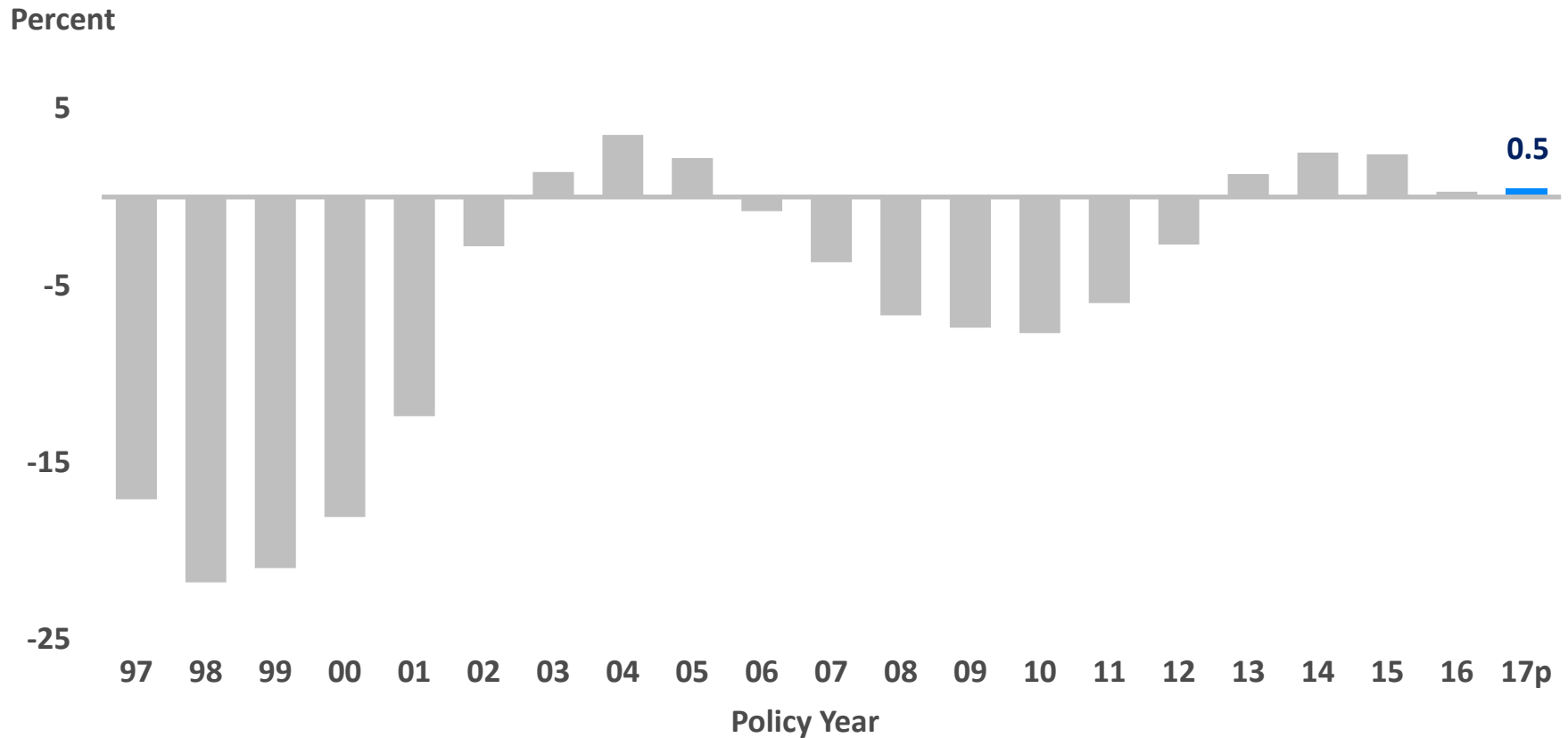


Source: NAIC's Annual Statement Statutory Page 14

Values reflect changes in average premium levels between years, based on approved changes in advisory rates, loss costs, assigned risk rates, and rating values, as of 5/10/2018  
IN and NC are filed in cooperation with state rating bureaus

# 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

Rate/loss cost departure reflects carrier departure from NCCI rate level, which excludes a profit and contingency provision and expense constant

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

# WC Impact of Discounting on Premium by Component

## Private Carriers—NCCI States

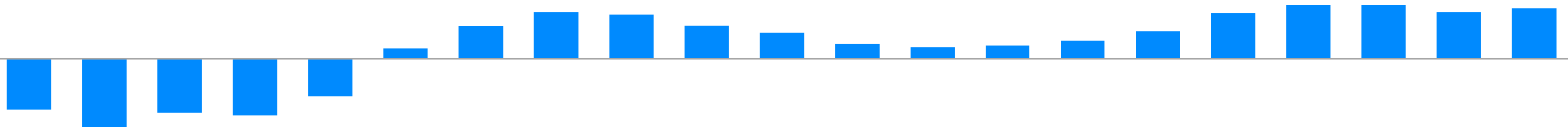
Dividends



Schedule Rating



Rate/Loss Cost Departure



97 98 99 00 01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17p  
Policy Year

p Preliminary

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

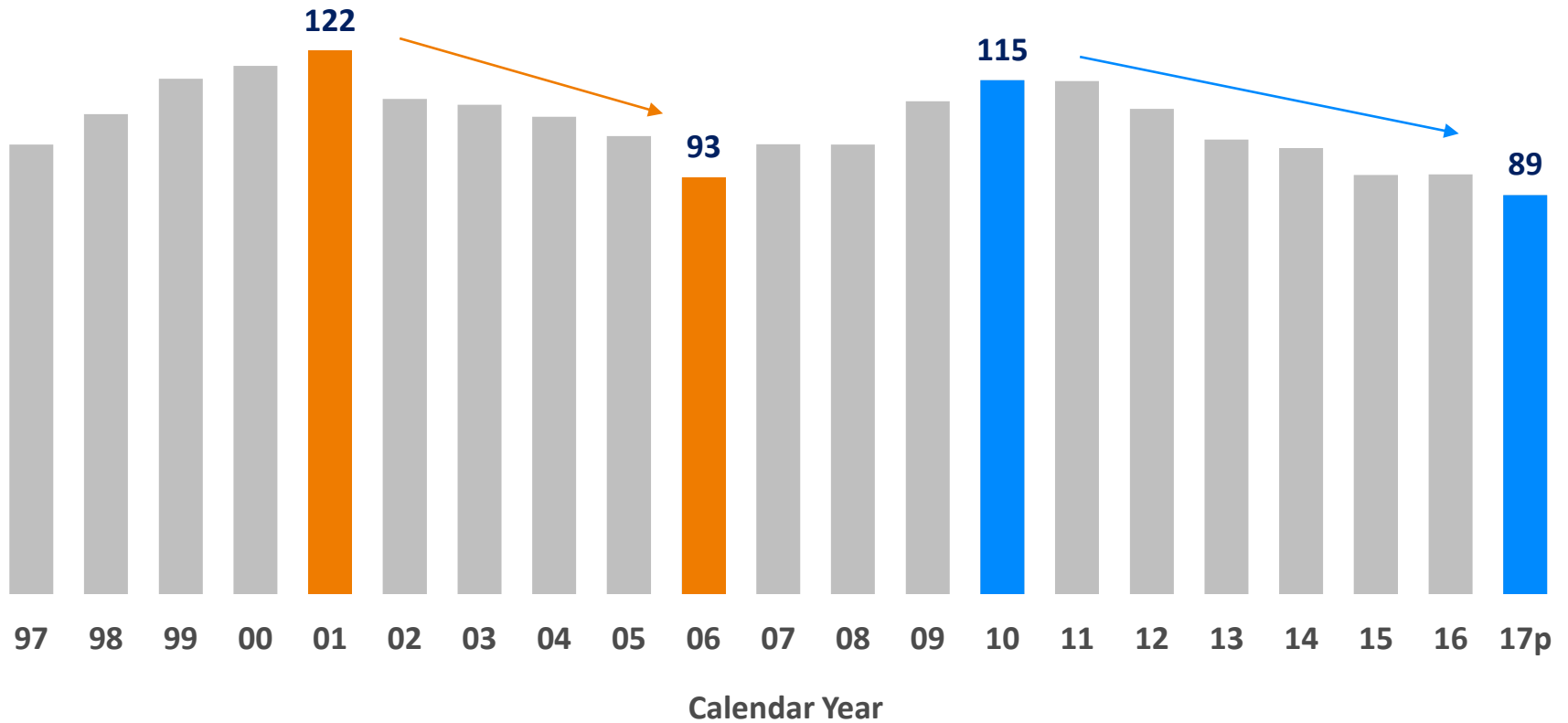
Dividend ratios are based on calendar year statistics

Rate/loss cost departure reflects carrier departure from NCCI rate level, which excludes a profit and contingency provision and expense constant

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

# WC Combined Ratio— Underwriting Gain Achieved Private Carriers

Percent



p Preliminary  
Source: NAIC's Annual Statement data

# WC Combined Ratio by Component

## Private Carriers



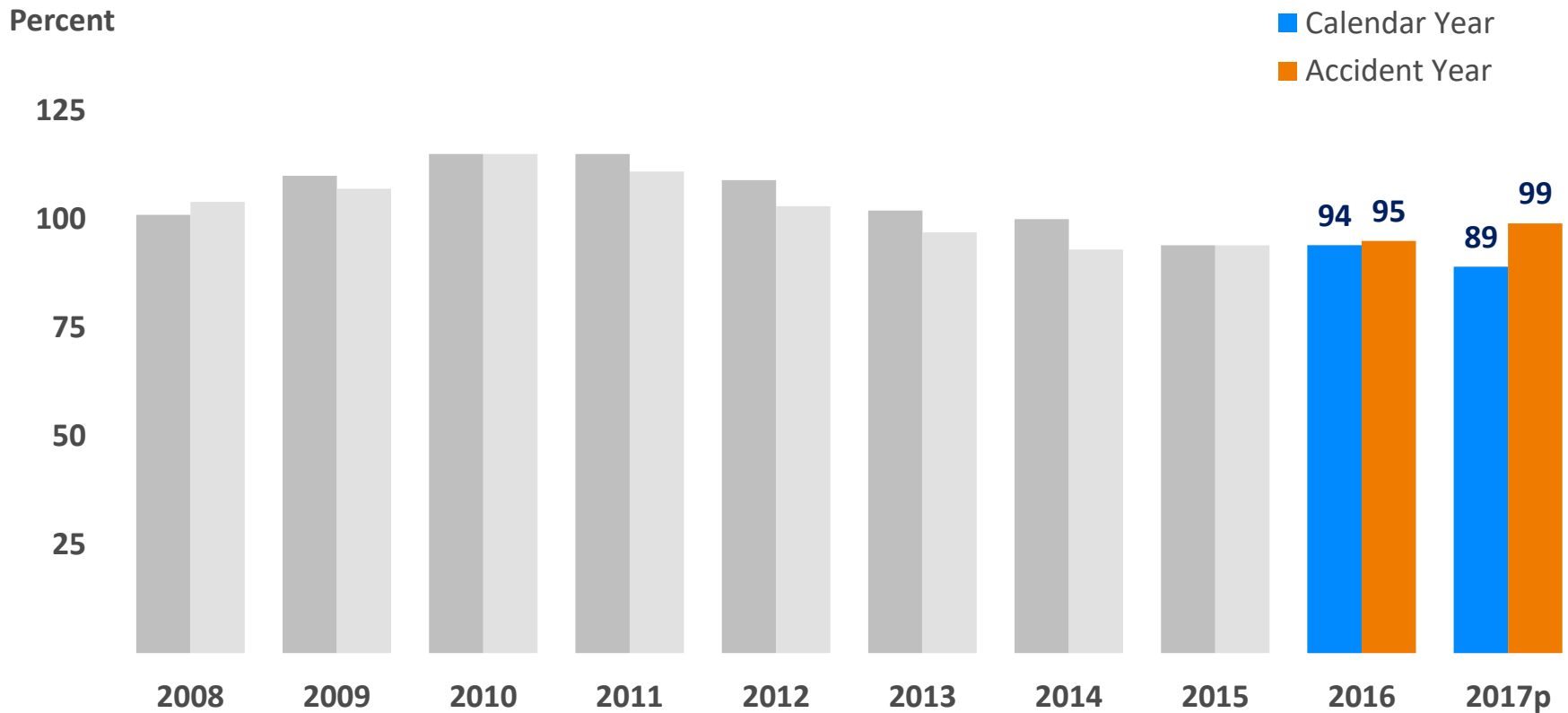
p Preliminary  
Source: NAIC's Annual Statement data





# WC Net Combined Ratios

## Calendar Year vs. Accident Year As Reported Private Carriers



p Preliminary

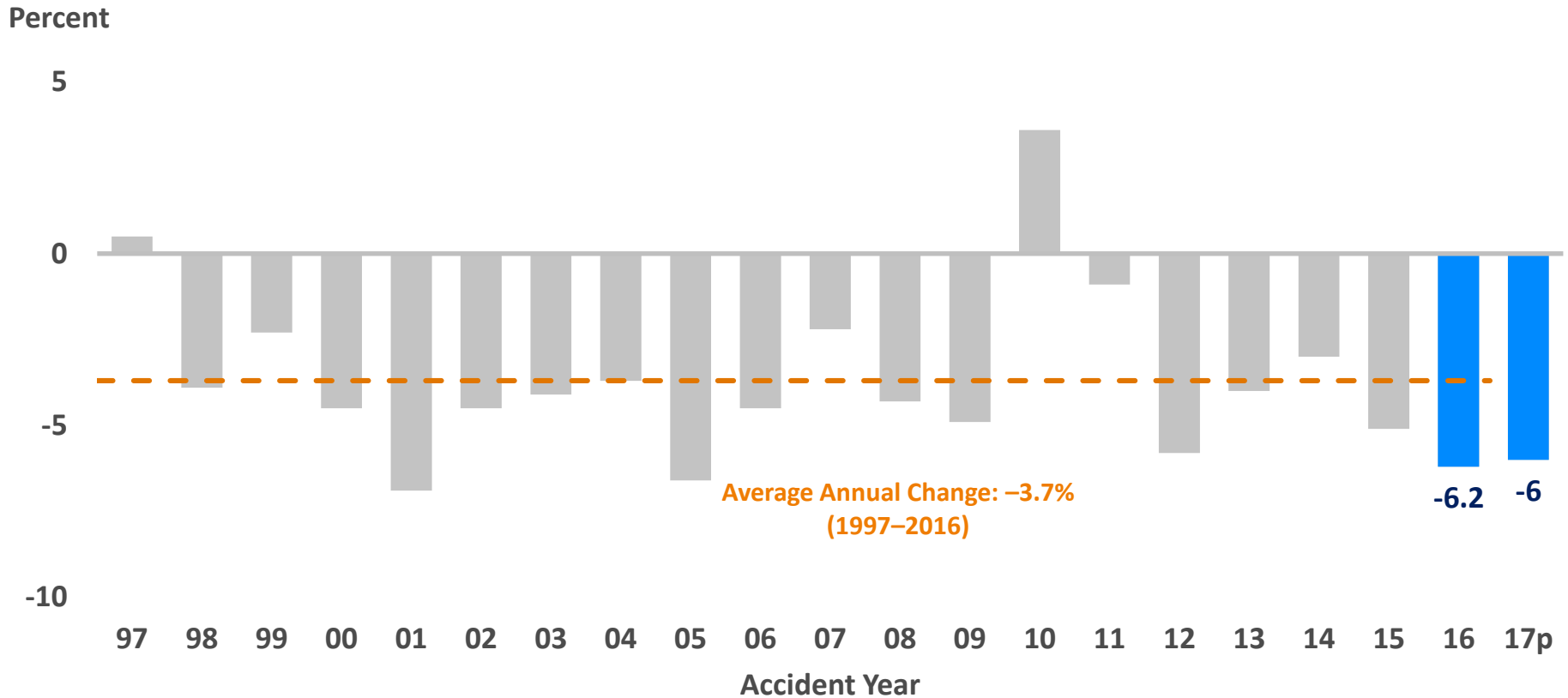
Source: NAIC's Annual Statement data

Accident Year information is reported as of 12/31/2017

Includes dividends to policyholders

# WC Lost-Time Claim Frequency

## Claims per \$1M Pure Premium 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 12/31/2017

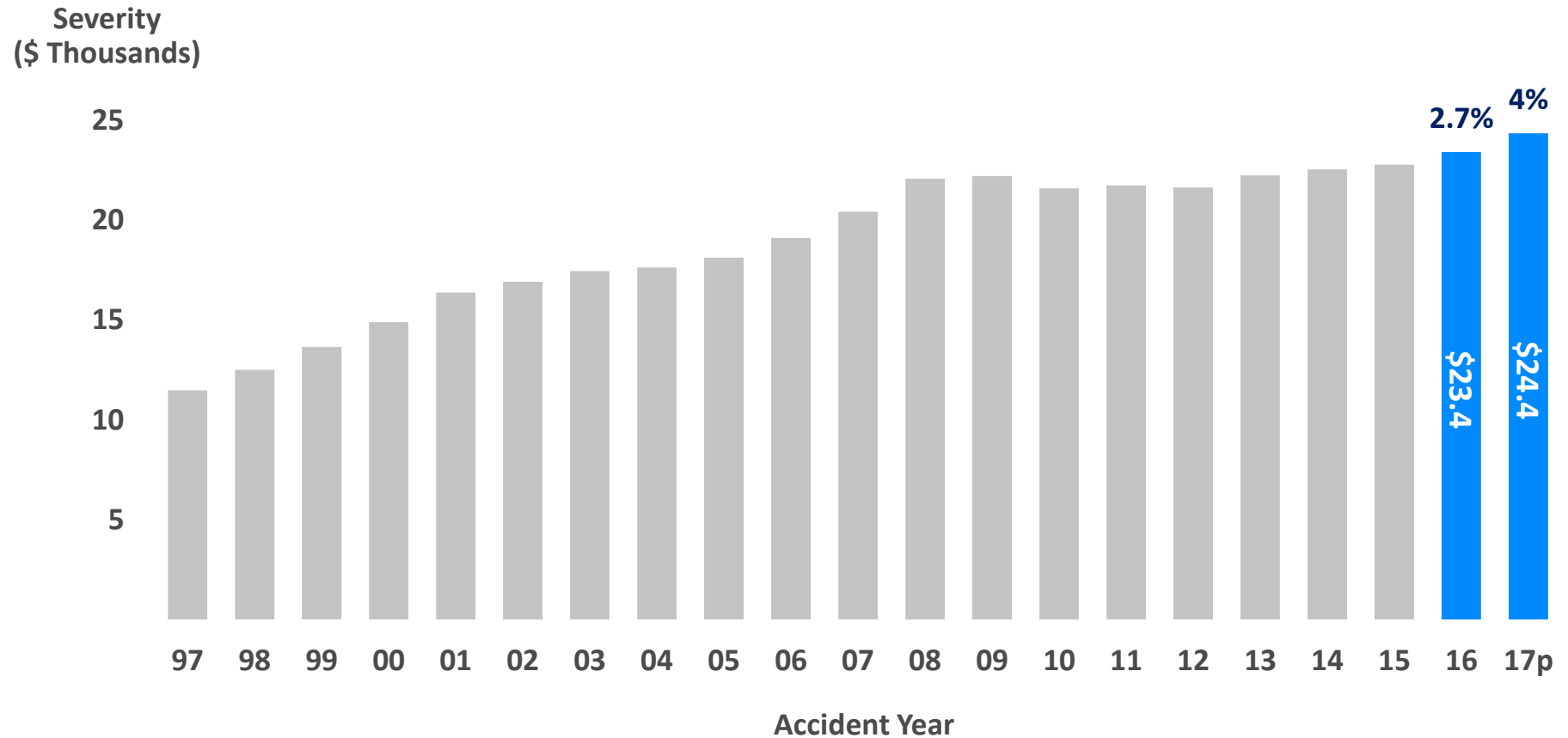
Source: NCCI's Financial Call data, developed to ultimate, premium adjusted to current wage and voluntary pure premium level, excludes high-deductible policies; based on data through 12/31/2016

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 Indemnity Claim Severity

## Private Carriers and State Funds—NCCI States



p Preliminary based on data valued as of 12/31/2017

Source: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2016

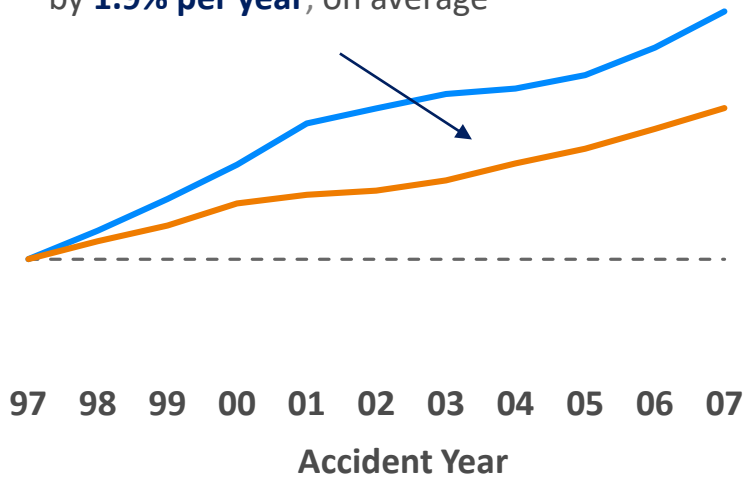
Values displayed reflect the methodology underlying the most recent rate/loss cost filing

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

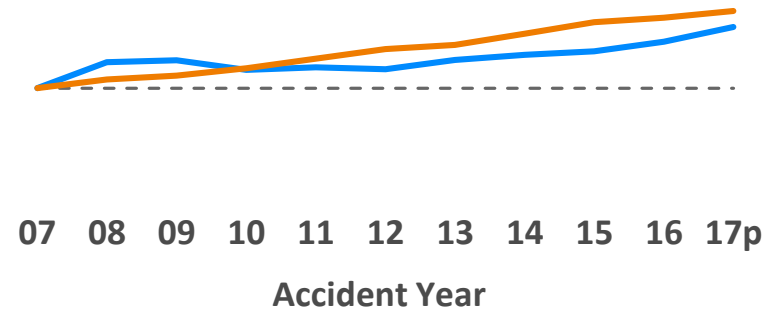
# Relative Growth Rates— Indemnity Severity vs. Wage Inflation

## Private Carriers and State Funds—NCCI States

Changes in indemnity claim severity **outpaced** changes in wage inflation by **1.9% per year**, on average



Indemnity claim severity and wages grew at a **similar rate**



p Preliminary based on data valued as of 12/31/2017

Sources: Severity: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2016

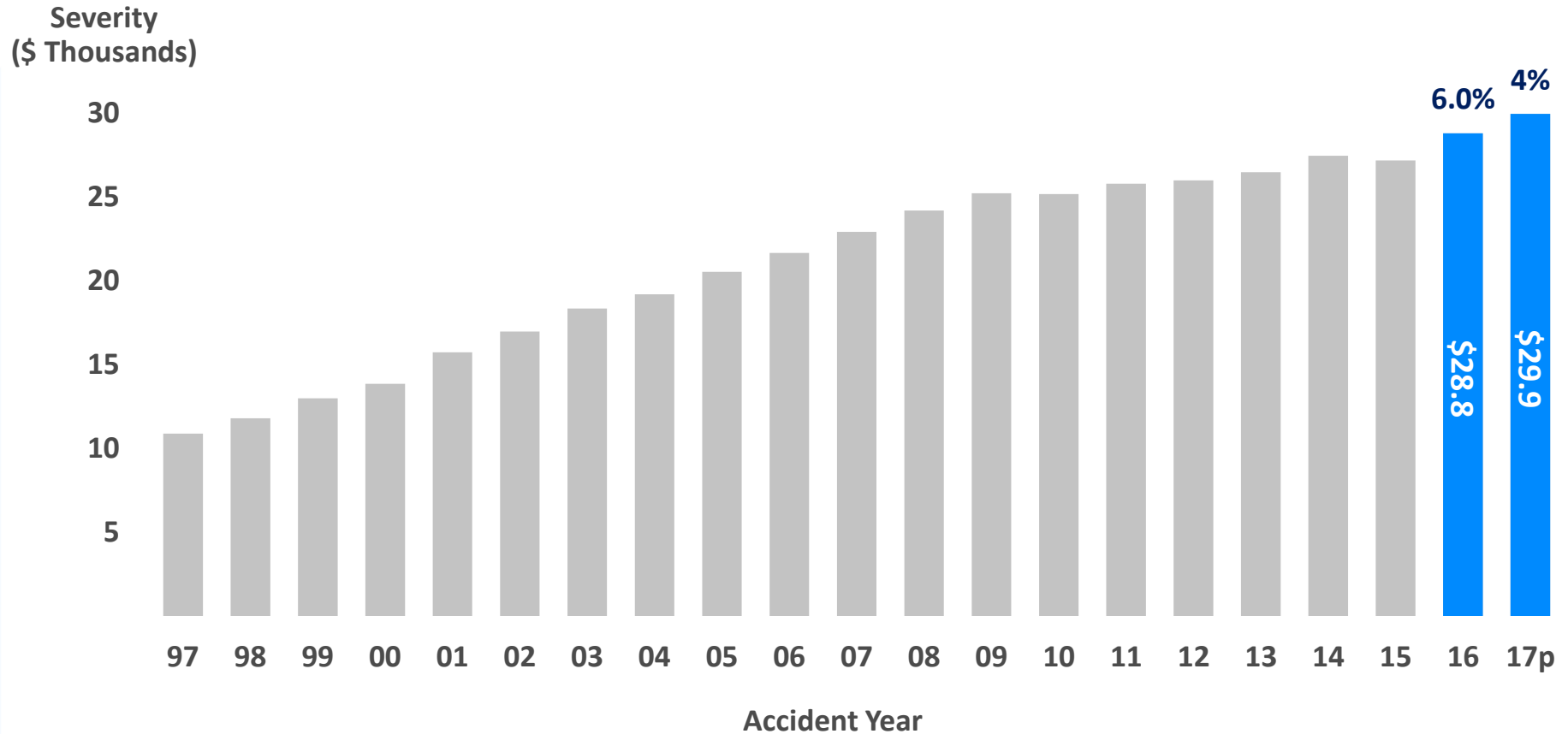
Values displayed reflect the methodology underlying the most recent rate/loss cost filing

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

US Average Weekly Wage: 1995–2007 and 2012–2016, Quarterly Census of Employment and Wages; 2008–2011, NCCI; 2017p, NCCI and Moody's Analytics

# WC Average Medical Lost-Time Claim Severity

## Private Carriers and State Funds—NCCI States



p Preliminary based on data valued as of 12/31/2017

Source: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2016

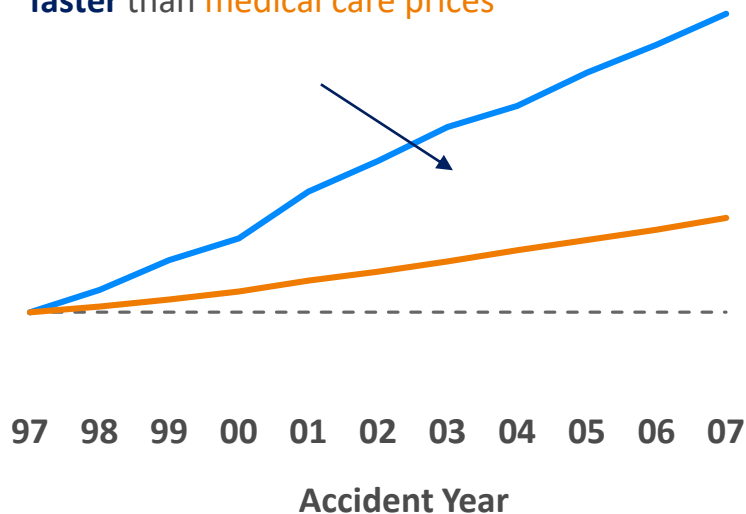
Values displayed reflect the methodology underlying the most recent rate/loss cost filing

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

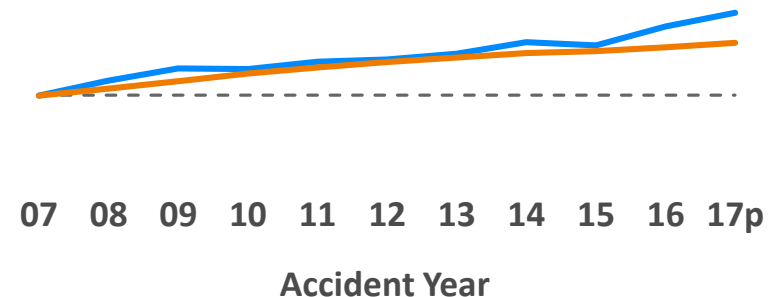
# Relative Growth Rates— Medical Severity vs. Price Inflation

## Private Carriers and State Funds—NCCI States

Medical lost-time claim severity  
grew approximately **4.5%** per year  
**faster** than **medical care prices**



Change in **Medical lost-time claim severity** and **medical care prices**  
**tracked** one another



p Preliminary based on data valued as of 12/31/2017

Sources: Severity: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2016

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

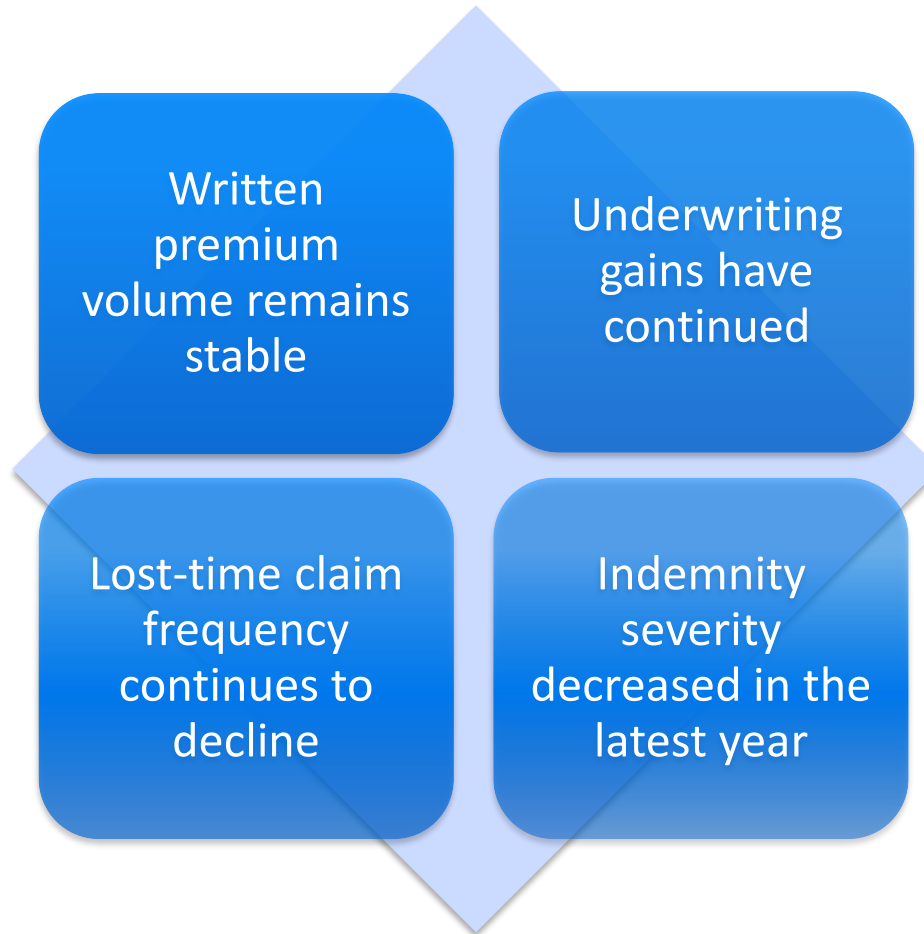
Personal Health Care (PHC) Chain-Weighted Price Index: Centers for Medicare & Medicaid Services



# STATE ADVISORY FORUMS 2018

## Arkansas Workers Compensation System

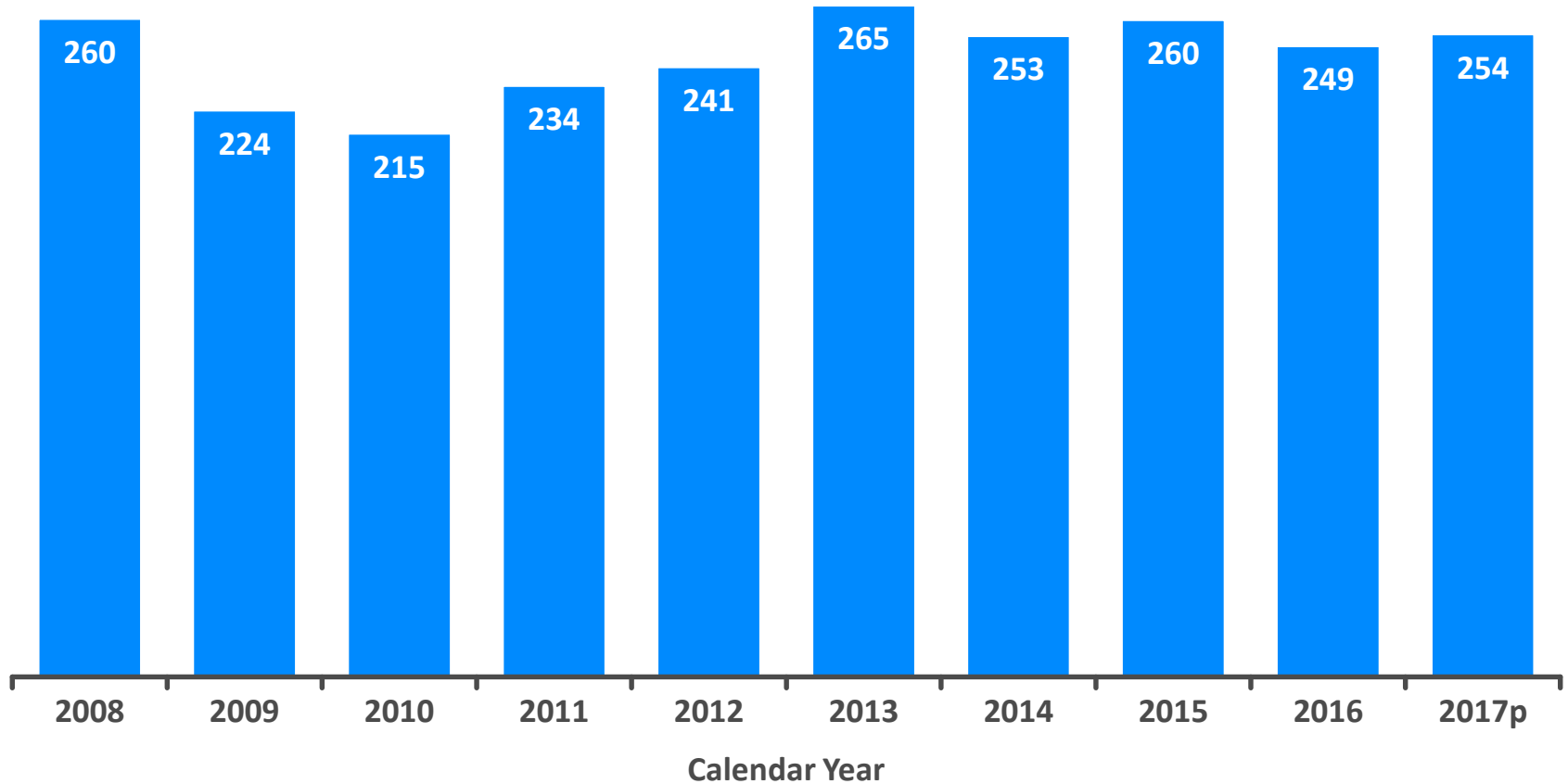
# Arkansas Workers Compensation System— An Overview





# Arkansas Workers Compensation Premium Volume

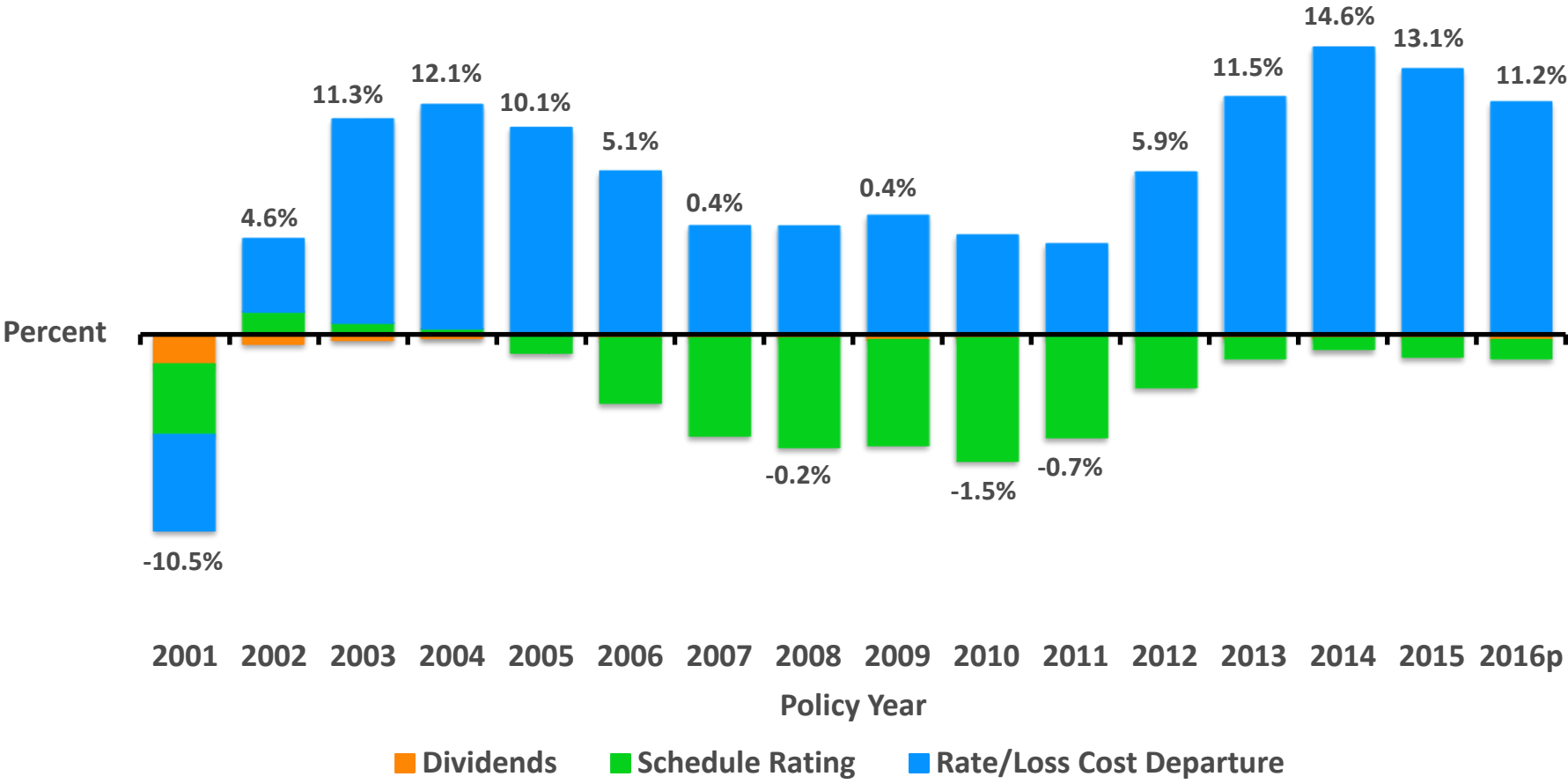
Direct Written Premium in \$ Millions



p Preliminary

Source: NAIC's Annual Statement data

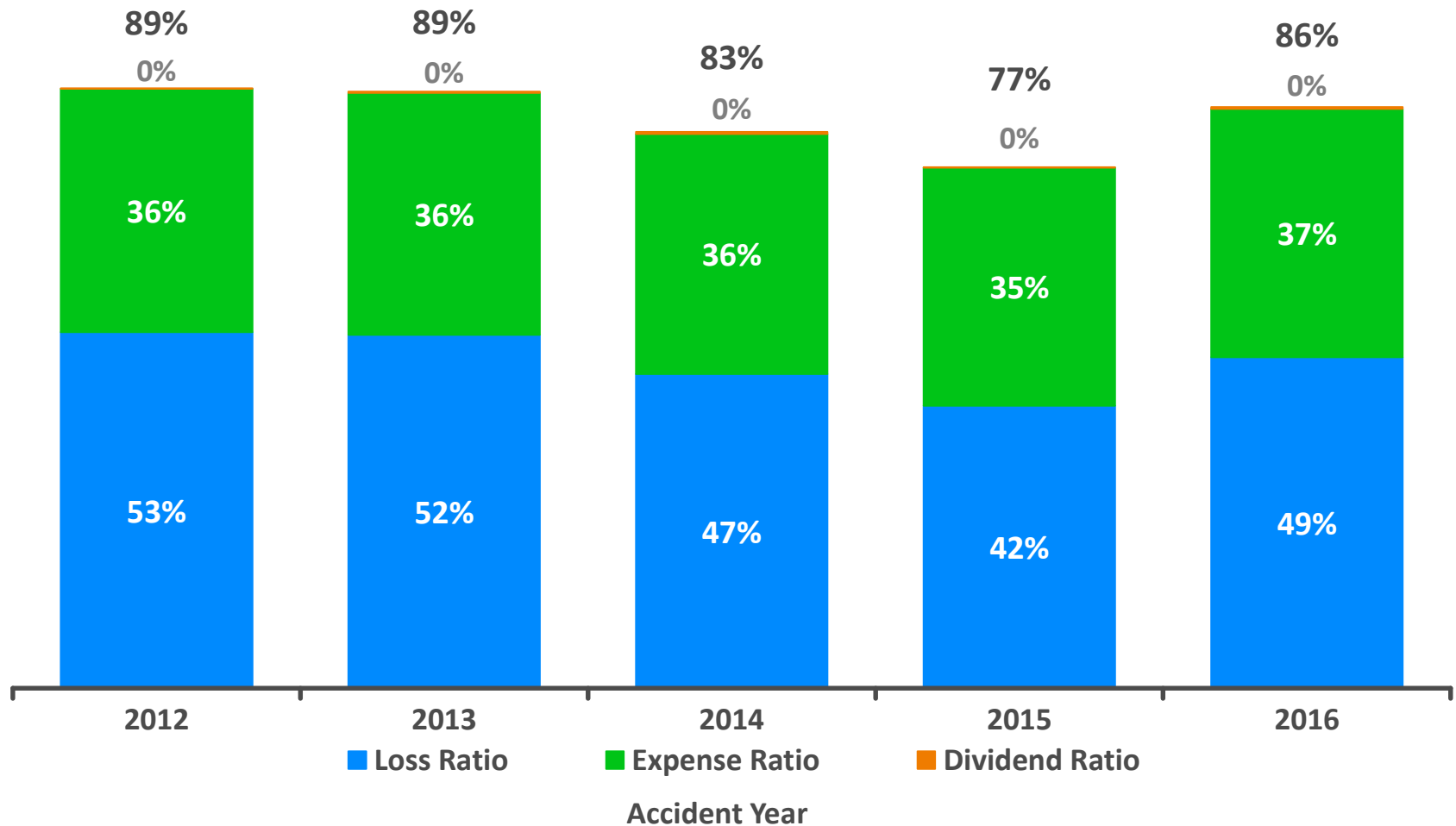
# Impact of Discounting on Workers Compensation Premium in Arkansas



p Preliminary  
 Based on data through 12/31/2016  
 Dividend ratios are based on calendar year statistics



# Arkansas Accident Year Combined Ratios by Component

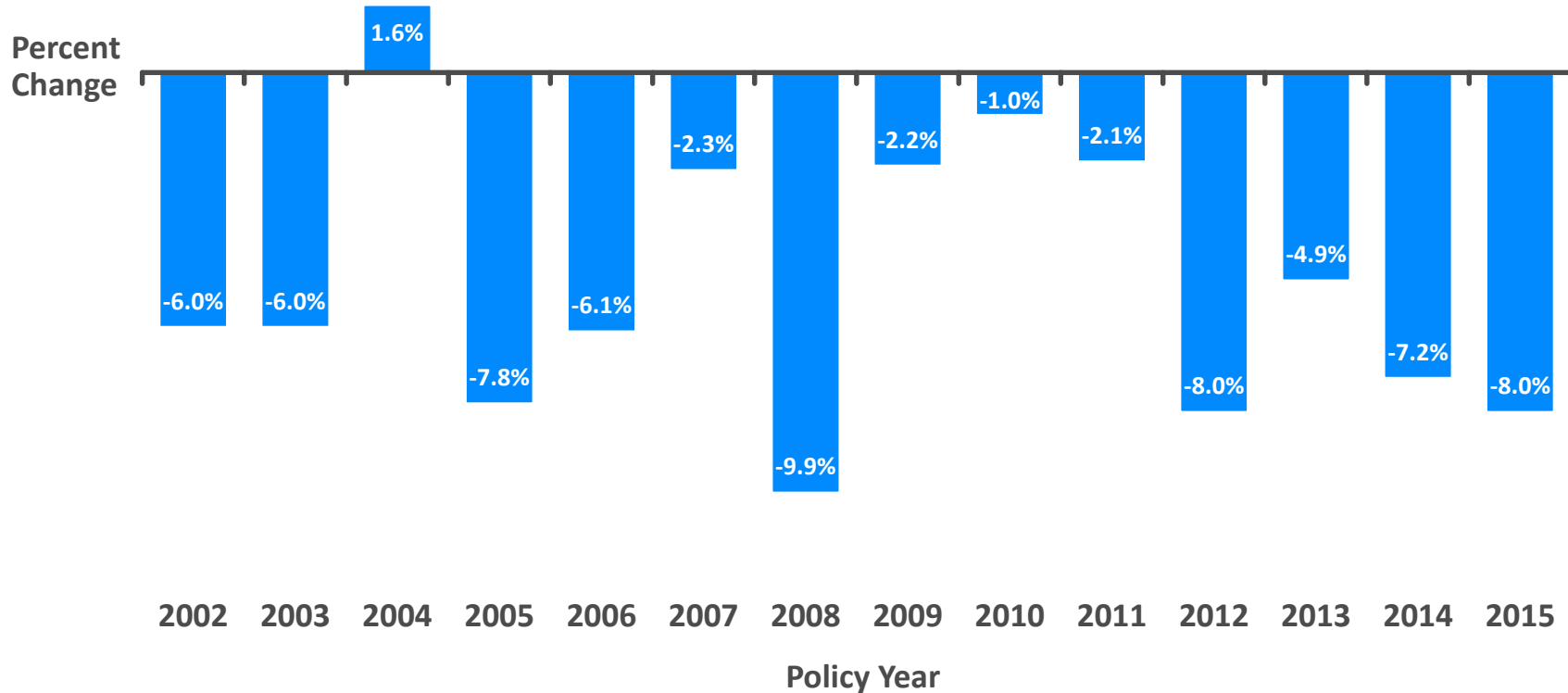


Sources: NCCI's financial data through 12/31/2016 and NAIC's Annual Statement data

# Arkansas Workers Compensation Lost-Time Claim Frequency

## Lost-Time Claims

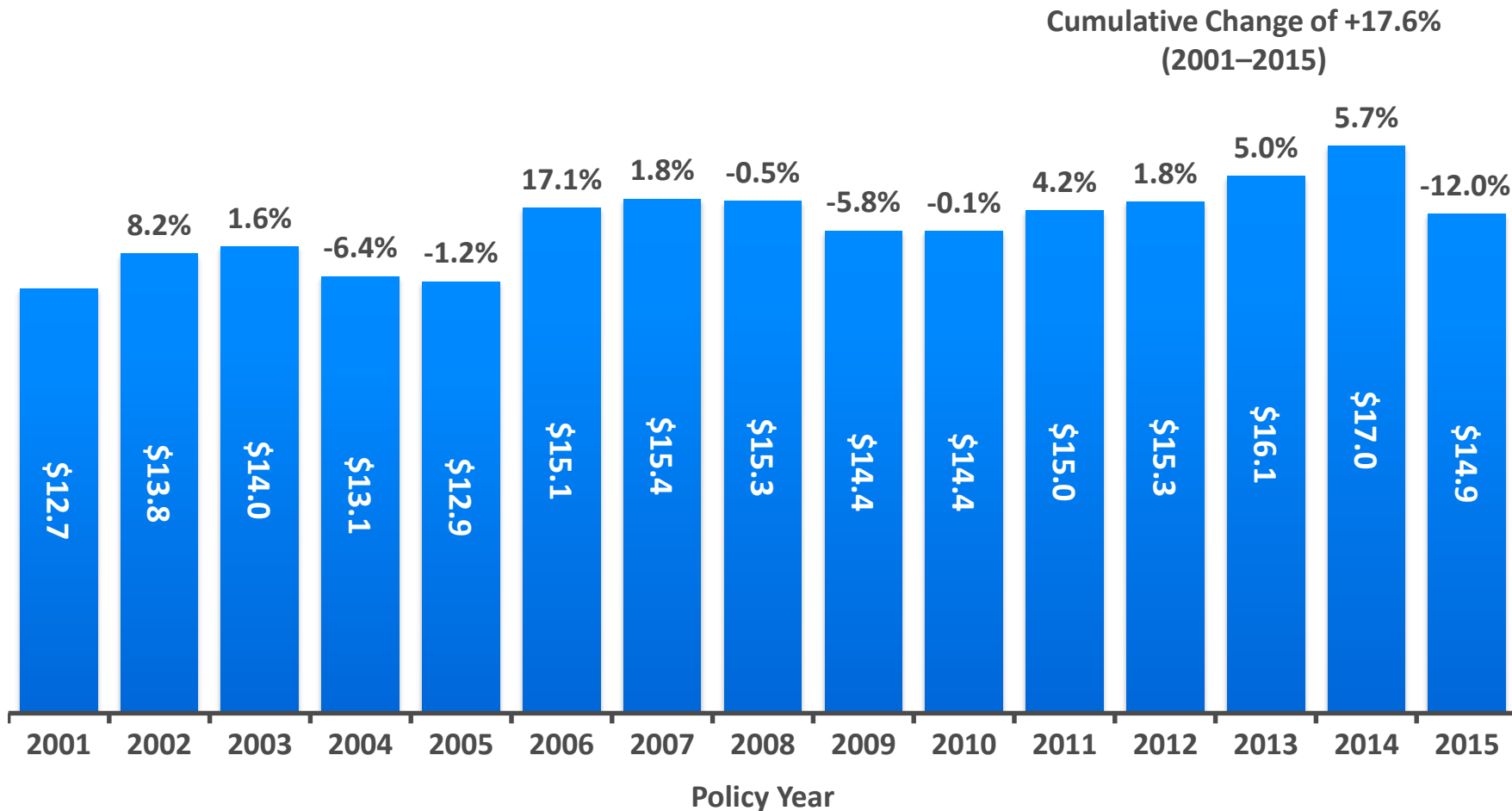
Cumulative Change of -51.6%  
(2001-2015)



Based on NCCI's financial data through 12/31/2016, developed to ultimate, and premium adjusted to common wage level

# Arkansas Average Indemnity Claim Severity

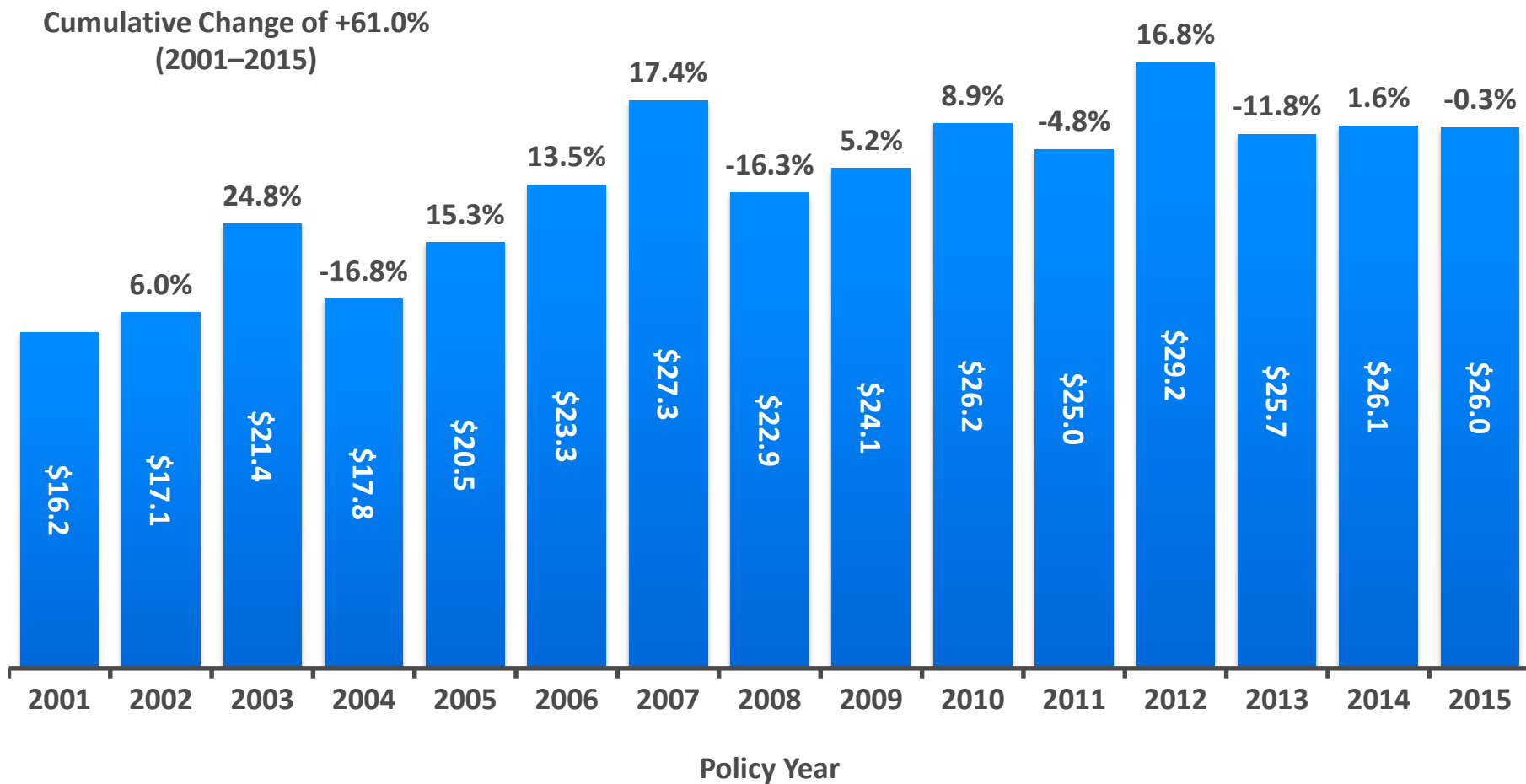
## Lost-Time Claim Severity in \$ Thousands



Based on NCCI's financial data through 12/31/2016, on-leveled and developed to ultimate

# Arkansas Average Medical Claim Severity

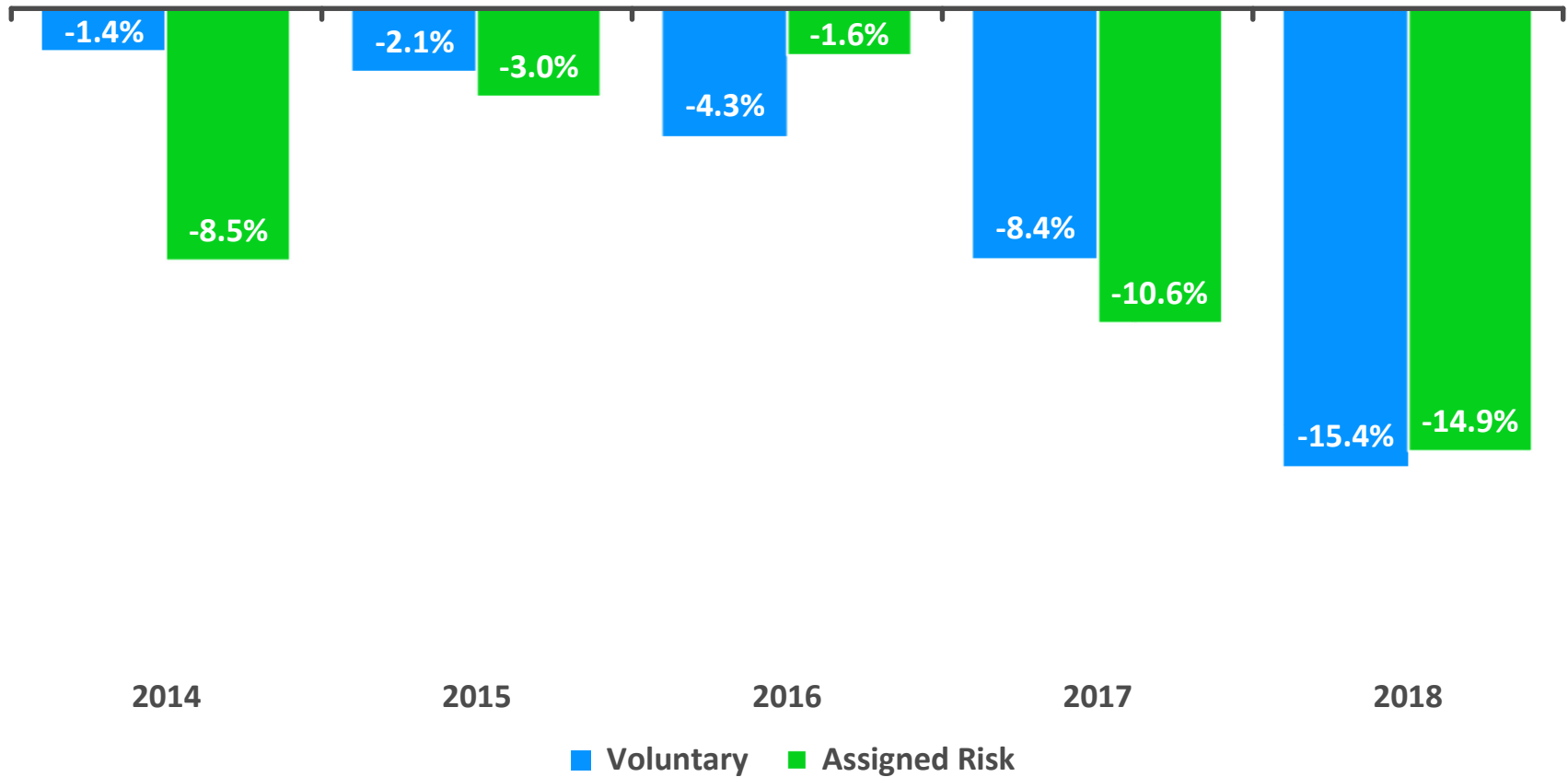
## Lost-Time Claim Severity in \$ Thousands



Based on NCCI's financial data through 12/31/2016, on-leveled and developed to ultimate

# Arkansas Filing Activity

## Voluntary Loss Cost and Assigned Risk Rate Changes



# Arkansas July 1, 2018 Loss Cost Filing

## Changes by Component

**Overall Loss Cost Level Change:**

**-15.4%**

**Change in  
Experience:  
-13.9%**

**Change in  
Trend:  
-3.8%**

**Change in  
Benefits:  
+2.3%**

**Change in  
LAE:  
-0.1%**



# Arkansas July 1, 2018 Loss Cost Filing

## Average Changes by Industry Group

**Overall Change: -15.4%**



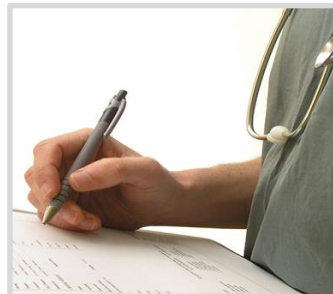
**Manufacturing: -15.9%**



**Contracting: -16.8%**



**Office & Clerical: -16.5%**



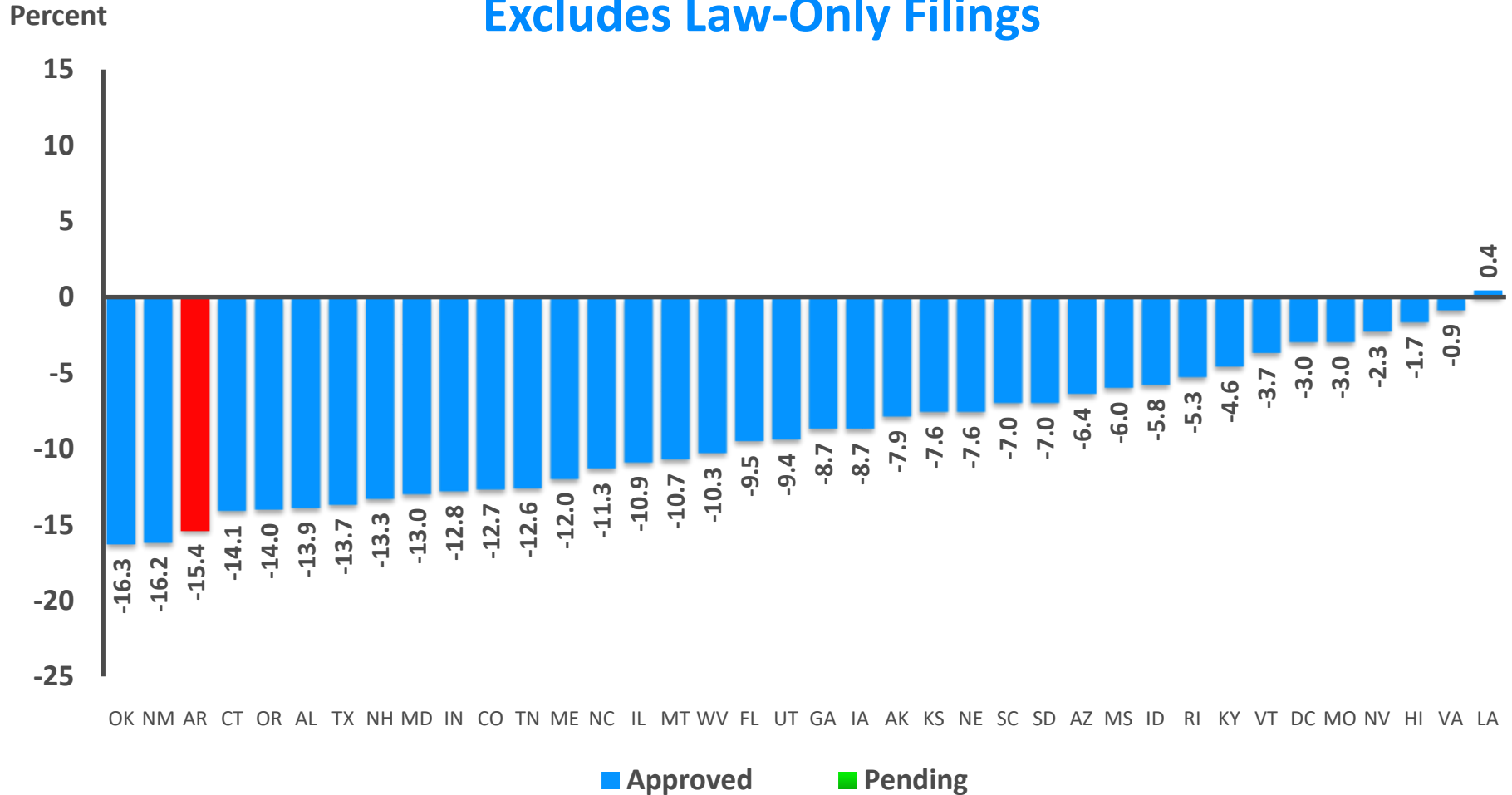
**Goods & Services: -14.1%**



**Miscellaneous: -14.5%**

# Current NCCI Voluntary Market Loss Cost/Rate Level Changes

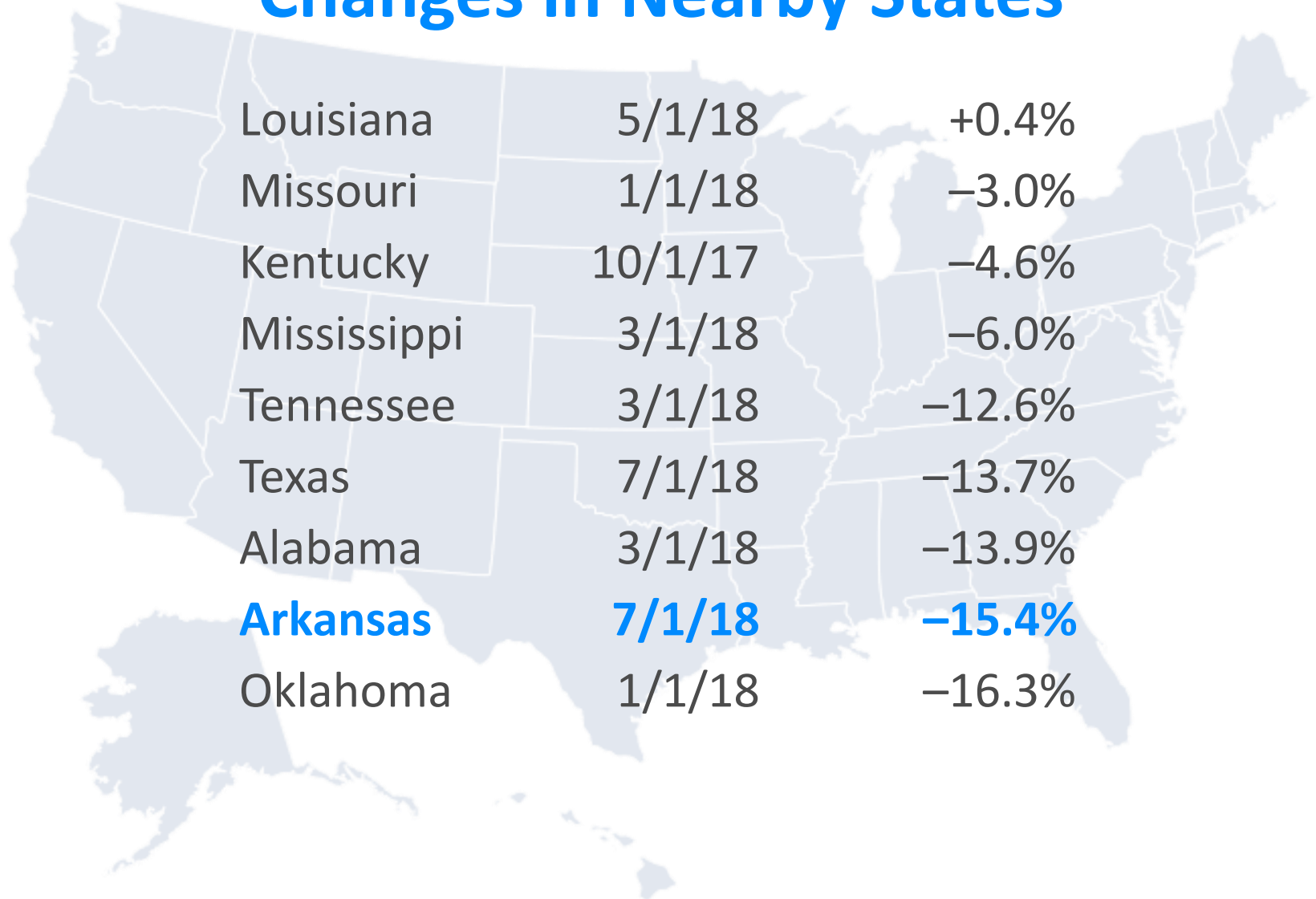
Excludes Law-Only Filings



Reflects the most recent experience filing in each jurisdiction

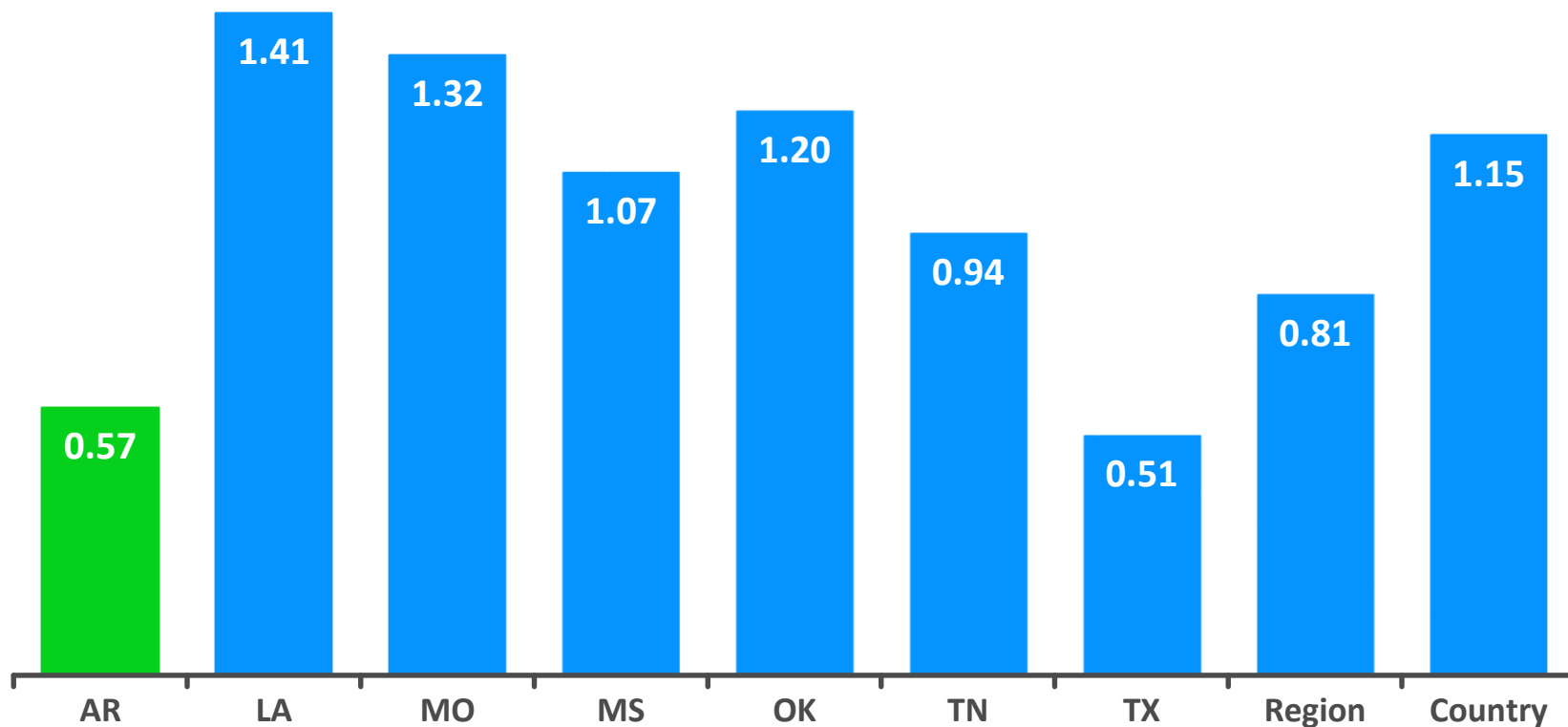
Due to the timing of the individual loss cost/rate filings, the figures shown may include changes from prior filing seasons

# Current Voluntary Market Loss Costs Changes in Nearby States



# 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



# STATE ADVISORY FORUMS 2018

**Insurance  
Commissioner  
Allen Kerr**



# STATE ADVISORY FORUMS 2018

## Countrywide and Arkansas Labor Markets

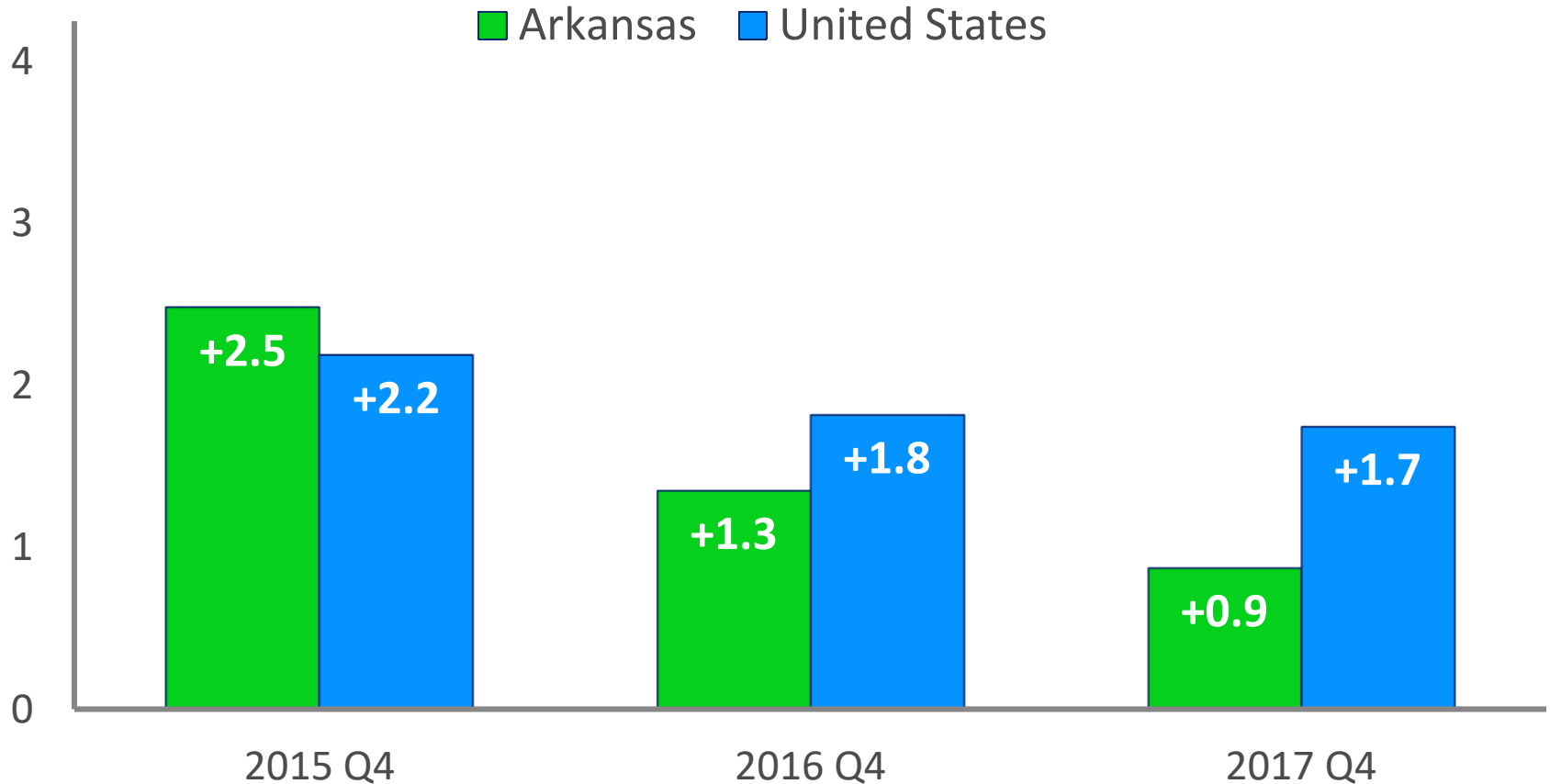
# National Economic Highlights and Their Impact on Workers Compensation

| National Economic Indicator                            | Potential Impact on the Workers Compensation Market                         |
|--|---|
| Private employment growth continues to be near 2%      | Continuing payroll and premium growth                                       |
| Wage growth is increasing and expected to accelerate   | Upward pressure on payroll and premium growth as well as indemnity severity |
| Medical inflation is forecasted to rise                | Increases in medical costs per claim  |
| Short-term and long-term interest rates have increased | Investment yields will increase across the spectrum of bond maturities      |

# Change in Private Employment

## Private Employment Growth Is Below Average

Percent



Year-on-year percentage change; employment is for Total Private Industry

Frequency of observation: quarterly; 2014 Q4–2017 Q4

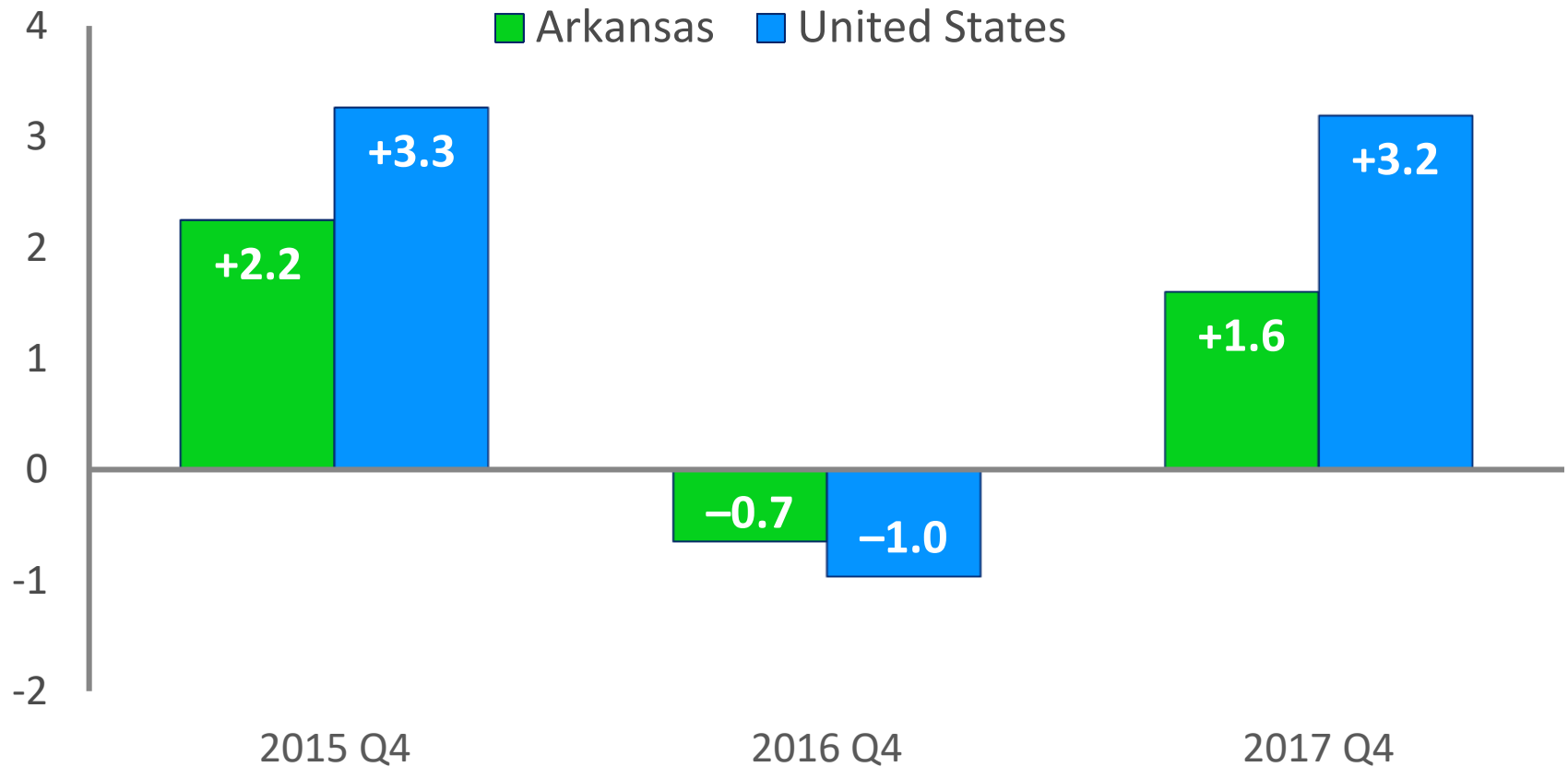
Sources: US Bureau of Labor Statistics, Moody's Analytics, and NCCI



# Change in Average Weekly Wages

## Wage Growth Is Below the Rest of the Nation

Percent



Year-on-year percentage change; wages are for Total Private Industry

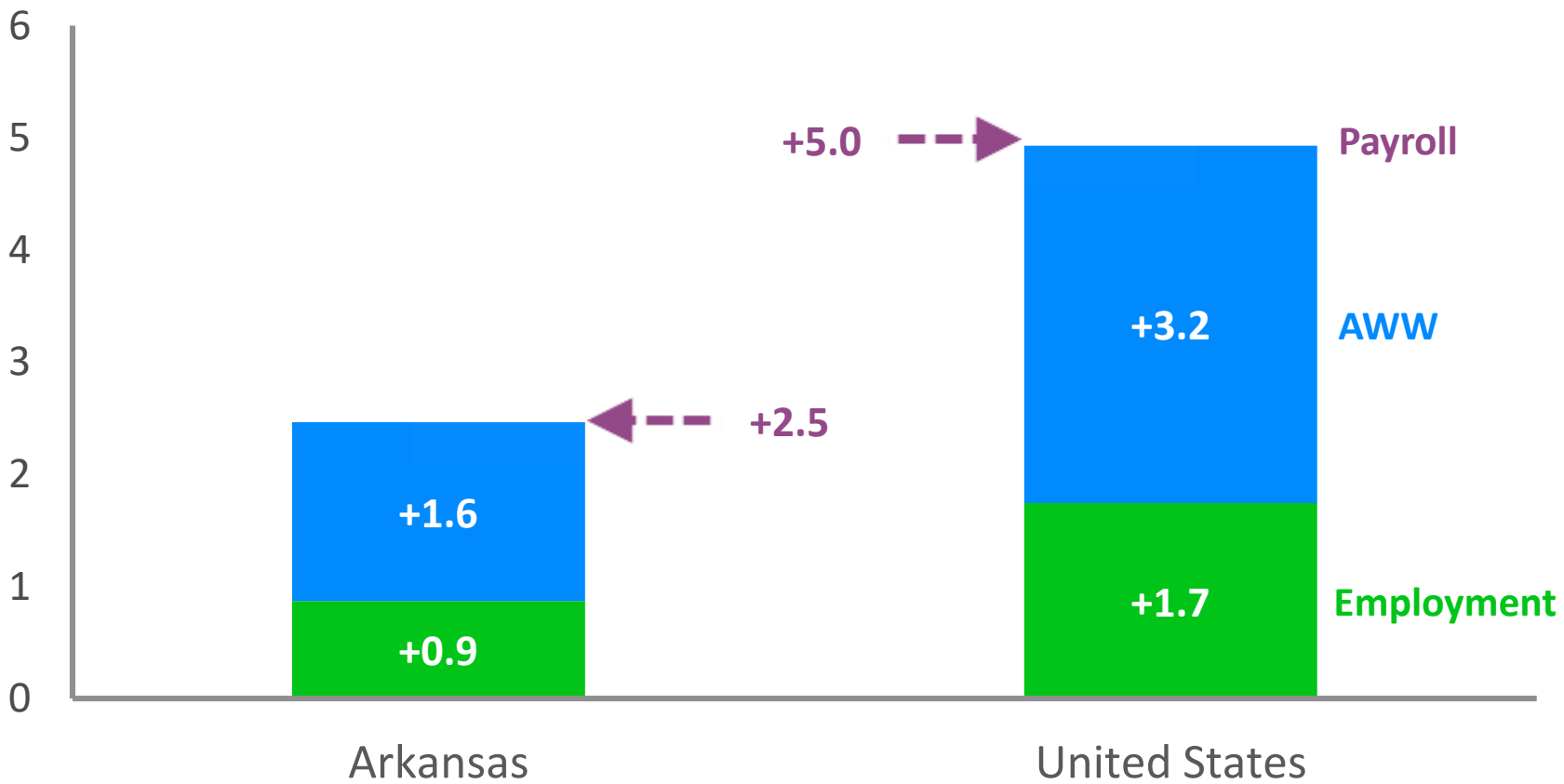
Frequency of observation: quarterly; 2014 Q4–2017 Q4

Sources: US Bureau of Labor Statistics, Bureau of Economic Analysis, Moody's Analytics, and NCCI

# Private Industry Payroll Growth Decomposition

## Payroll Growth Is Lower Than the Nation

Percent



AWW = Average Weekly Wage  
2017 Q4 year-on-year percentage change  
Sources: US Bureau of Labor Statistics, Bureau of Economic Analysis, Moody's Analytics, and NCCI



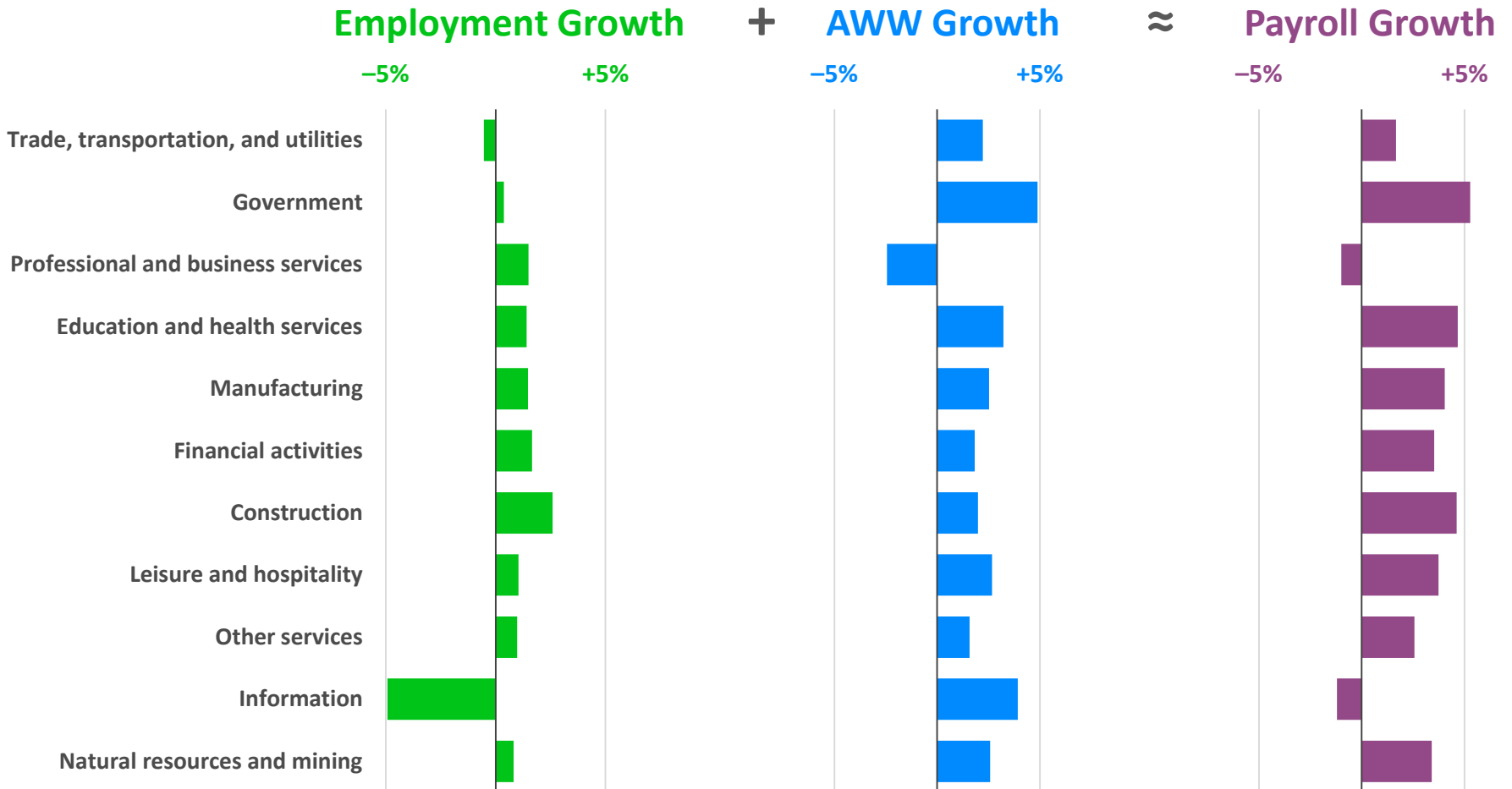
# Change in Employment by Industry

## Employment in Most Industries Has Increased in the Past Year

| Industrial Sector                    | Year-Over-Year Percent Change, 2017Q4 |      | Sector Size | % Share | 1-Year Change |
|--------------------------------------|---------------------------------------|------|-------------|---------|---------------|
| Education and health services        | AR                                    | +1.4 | 187,700     | 15      | +2,600        |
|                                      | US                                    | +2.1 |             |         |               |
| Manufacturing                        | AR                                    | +1.5 | 157,900     | 13      | +2,300        |
|                                      | US                                    | +1.5 |             |         |               |
| Professional and business services   | AR                                    | +1.5 | 145,100     | 12      | +2,100        |
|                                      | US                                    | +2.2 |             |         |               |
| Construction                         | AR                                    | +2.6 | 51,400      | 4       | +1,300        |
|                                      | US                                    | +3.3 |             |         |               |
| Leisure and hospitality              | AR                                    | +1.0 | 117,100     | 9       | +1,200        |
|                                      | US                                    | +2.3 |             |         |               |
| Financial activities                 | AR                                    | +1.7 | 53,100      | 4       | +900          |
|                                      | US                                    | +1.8 |             |         |               |
| Government                           | AR                                    | +0.4 | 211,400     | 17      | +800          |
|                                      | US                                    | +0.1 |             |         |               |
| Other services                       | AR                                    | +1.0 | 49,500      | 4       | +400          |
|                                      | US                                    | +1.7 |             |         |               |
| Natural resources and mining         | AR                                    | +0.8 | 9,300       | 1       | +100          |
|                                      | US                                    | +5.4 |             |         |               |
| Information                          | AR                                    | -4.9 | 12,900      | 1       | -600          |
|                                      | US                                    | -1.3 |             |         |               |
| Trade, transportation, and utilities | AR                                    | -0.5 | 250,700     | 20      | -1,400        |
|                                      | US                                    | +0.7 |             |         |               |

Employment numbers are rounded to the nearest hundred  
 Year-on-year percentage change; frequency of observation: quarterly; 2017 Q4  
 Sources: US Bureau of Labor Statistics, Moody's Analytics, and NCCI

# Arkansas Payroll Growth Decomposition by Sector



AWW = Average Weekly Wage

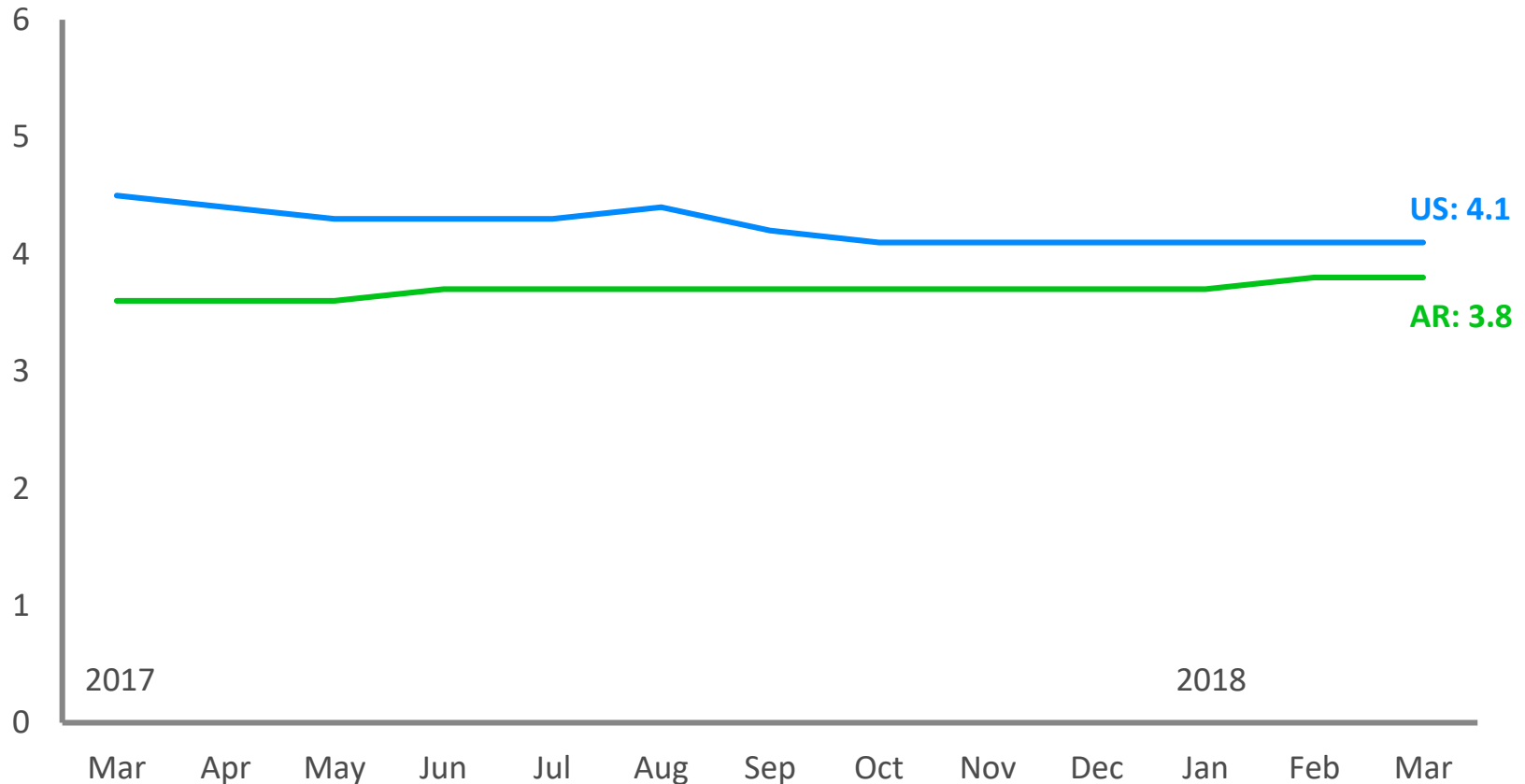
2017 Q4 year-on-year percentage change; sectors are in descending order by the volume of state payroll amounts

Sources: US Bureau of Labor Statistics, Bureau of Economic Analysis, Moody's Analytics, and NCCI

# Headline Unemployment Rate

## The Unemployment Rate Is Lower Than the National Rate

Percent



Headline Unemployment Rate, seasonally adjusted  
Frequency of observation: monthly; latest available data point: March 2018  
Source: US Bureau of Labor Statistics (BLS), [www.bls.gov](http://www.bls.gov)

# Arkansas Labor Market

- Unemployment rate is below the US rate
- Payroll growth is primarily driven by increases in wages rather than employment
  - Payroll growth is largest in the Government sector
  - Both the Construction and the Education and Health Services sectors also had strong payroll growth
- Employment growth is below the US rate
  - Education and Health Services and Manufacturing sectors added the most jobs
  - Construction grew at the fastest rate
  - Employment decreased in the state's largest sector—Trade, Transportation, and Utilities



# STATE ADVISORY FORUMS 2018

## The Data Connection (Video)



# STATE ADVISORY FORUMS 2018

## Legislative Issues

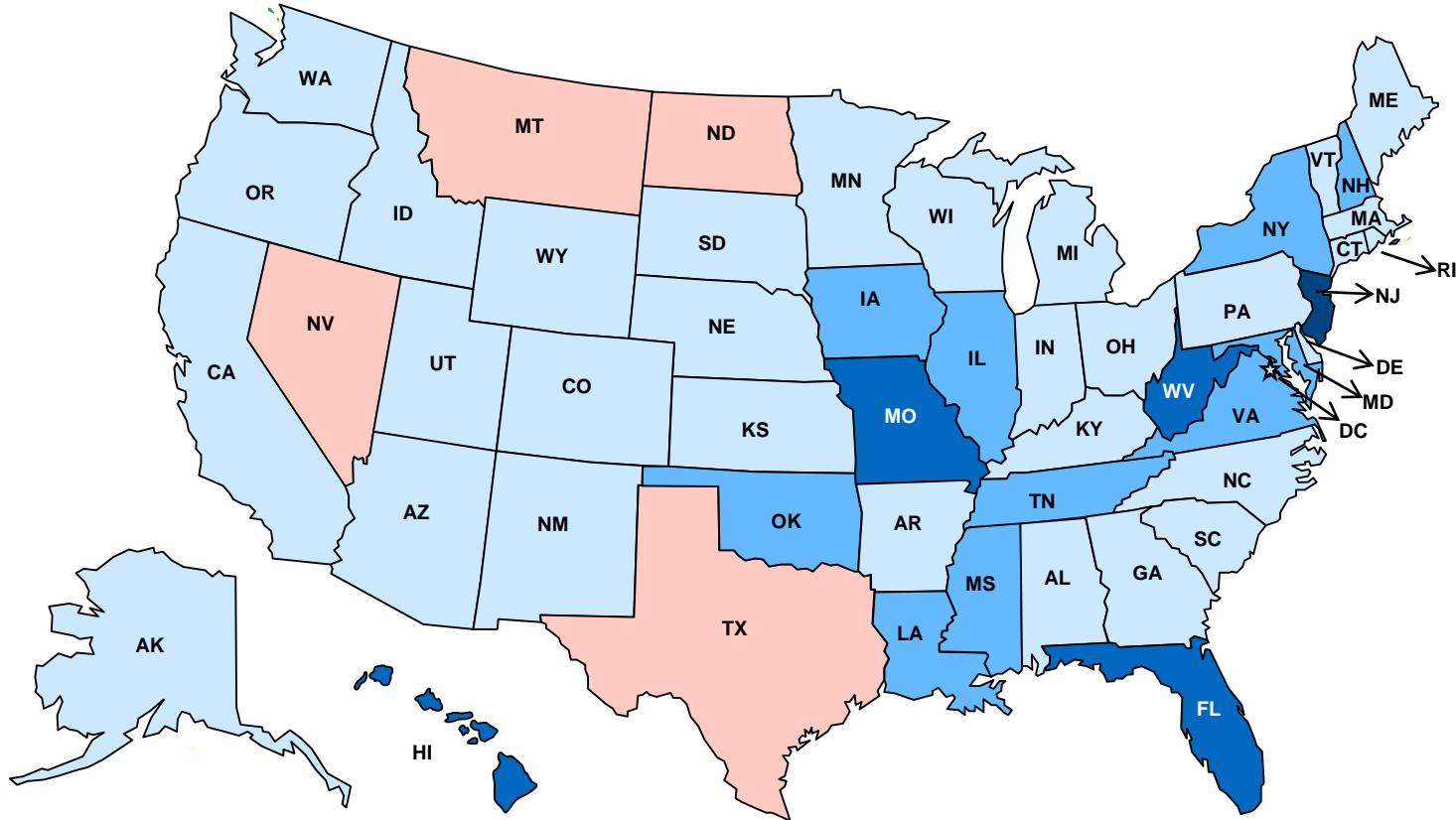


# Legislative Overview for 2018

As of March 2018:

- NCCI has tracked approximately 753 state and federal workers compensation-related bills
- 450 of the bills are in NCCI states
- 25 bills enacted (includes all jurisdictions and federal)

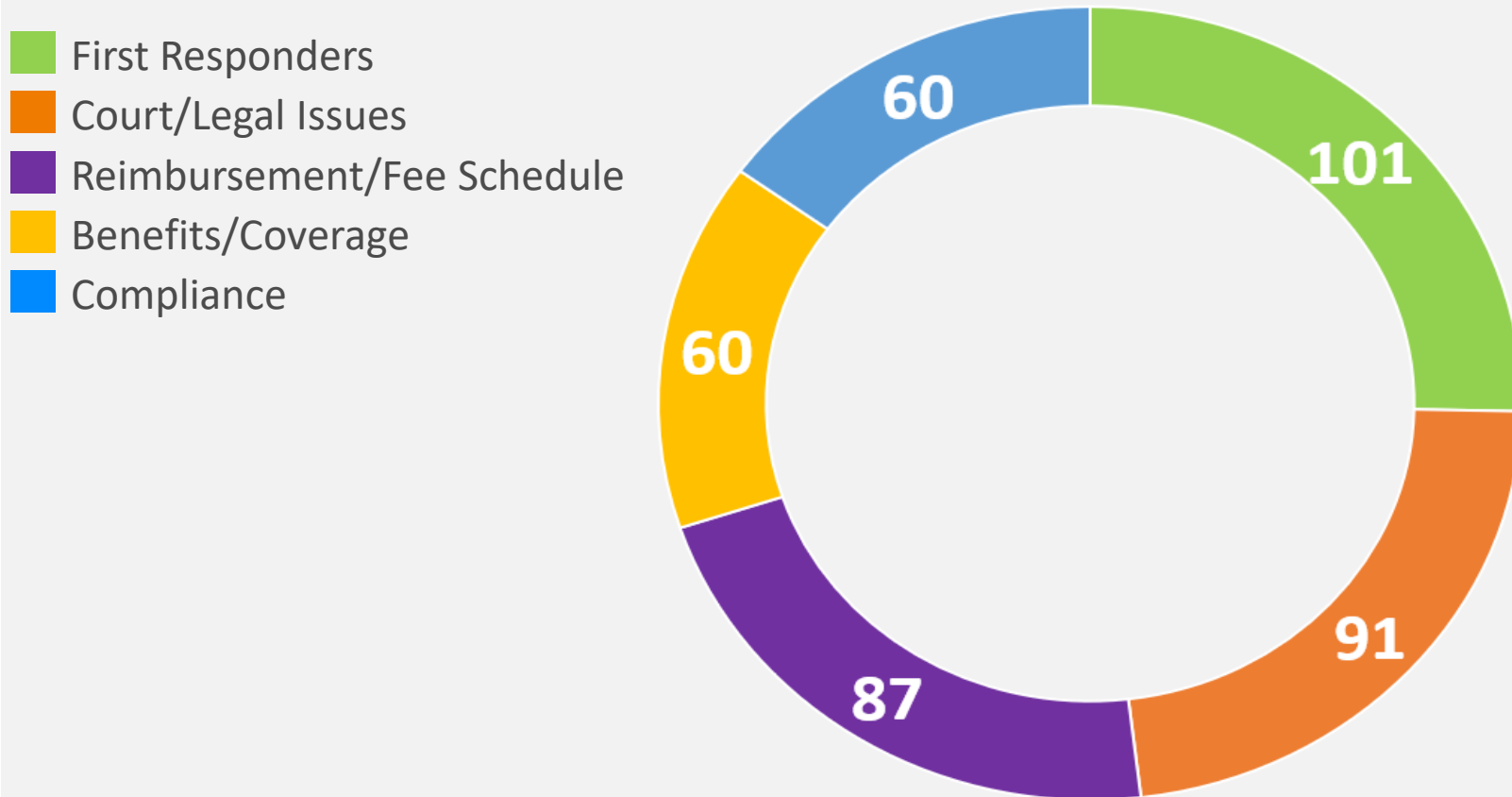
# 2018 Workers Compensation Legislative Activity



As of 5/2/2018

# Key Workers Compensation-Related Themes in Introduced Legislation

## 2018 Top 5 Workers Compensation Legislative Trends



# Federal Legislative and Regulatory Issues Impacting the Workers Compensation System

- NCCI works with Congress and federal agencies to provide information regarding issues that impact the state-based workers compensation system
- NCCI works closely with many federal agencies, including:
  - US Department of Labor (USDOL)
  - National Institute for Occupational Safety and Health (NIOSH)
  - Government Accountability Office (GAO)
  - US Department of the Treasury

# 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

Trump Administration SSDI Reverse Offset Proposal

## Medicare Set-Aside (MSA) Reform

Legislation to be introduced to bring greater efficiency to the MSA process

Congressional Budget Office scoring



# STATE ADVISORY FORUMS 2018

## Opioids and Workers Compensation

# What Is a Prescription Opioid?

- Prescription opioids are a class of drugs used to treat moderate to severe pain, particularly chronic intractable pain
- Prescription opioids include oxycodone (OxyContin<sup>®</sup>), hydrocodone (Vicodin<sup>®</sup>), and morphine
- Opioids bind to and activate opioid receptors on cells in the brain and body
  - Pain signals are blocked, and large amounts of dopamine are released
  - Misuse of opioids can slow down breathing, which can lead to death

# How Did We Get Here?

- Opioid addiction and overdose have reached epidemic levels over the past decade
- Physicians interviewed by NCCI point to four key factors that led to the rise in opioid prescribing and consumption:
  - The intent to cure pain
  - Wide acceptance that opioid painkillers were low risk and nonaddictive
  - A lack of experience in opioid addiction science
  - The scientific lag in determining a dosage ceiling for opioids
- According to the physicians interviewed:
  - 2001 Joint Commission standards—pain is a vital sign
  - New pain management culture seemed to form—pain must be viewed as a disease and treated



# Background

- According to the US Department of Health and Human Services (HHS), in 2016:
  - 11.5 million Americans misused prescription opioids
  - 2.1 million reported an opioid disorder
  - 116 died every day from an opioid-related overdose
- According to the Centers for Disease Control and Prevention (CDC), in 2016:
  - 40% of opioid overdose deaths involved a prescription opioid
  - The number of overdose deaths involving prescription opioids was five times higher than in 1999
  - The US prescribing rate for opioids was 61 prescriptions per 100 persons

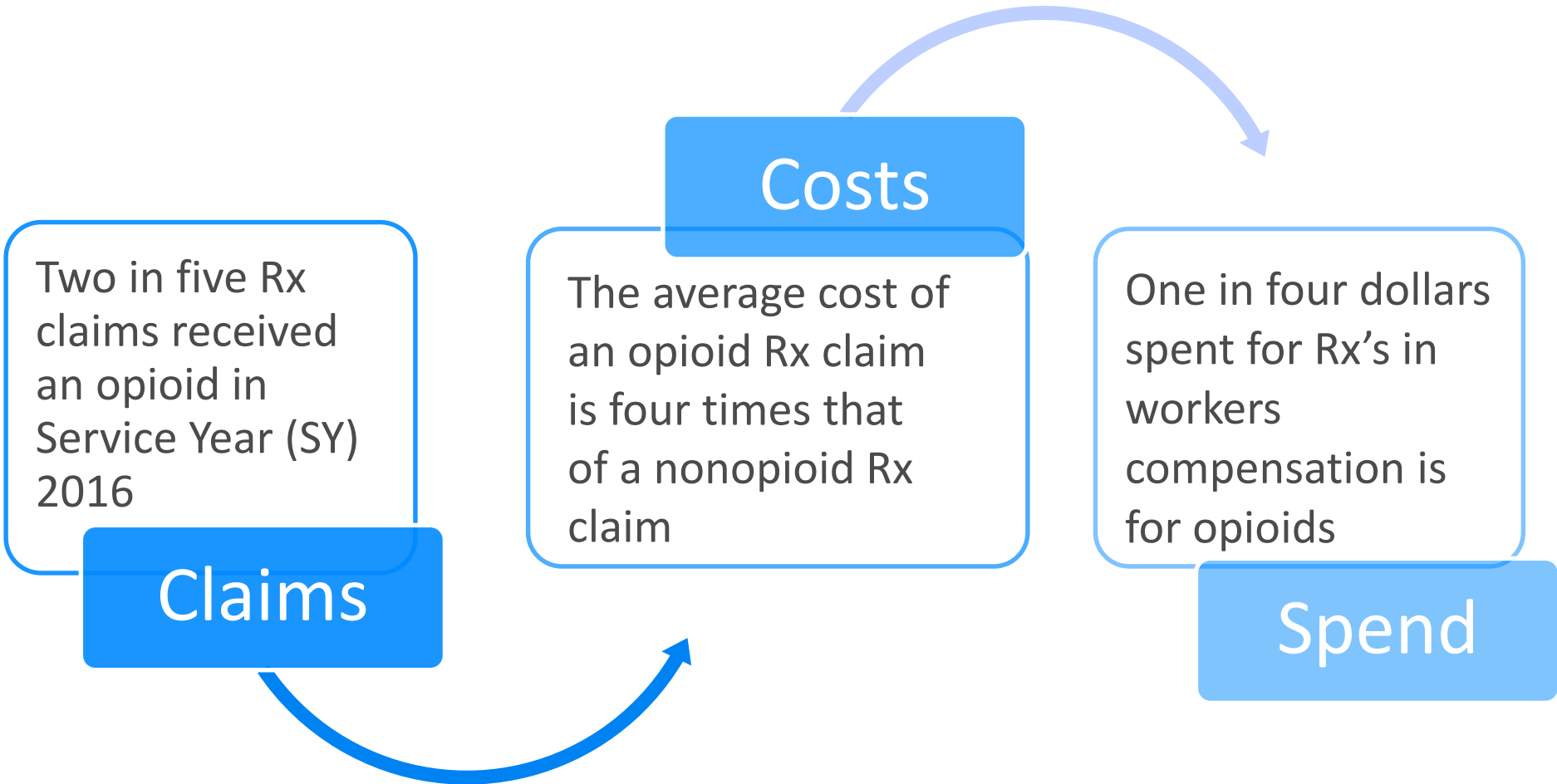


# Impact on Workers Compensation

- According to NCCI's data, injured workers who were prescribed at least one prescription in 2016 received three times as many opioid prescriptions as the US opioid prescribing rate
- Workers compensation is directly impacted because injured workers are often prescribed opioids for pain



# Opioids Are a Significant Share of Prescription Drug (Rx) Costs



Source: NCCI's Medical Data Call, Service Year 2016; states included are AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MI, MN, MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, and WI

# Top 10 Workers Compensation Opioid Drugs by Prescription Counts for Countrywide

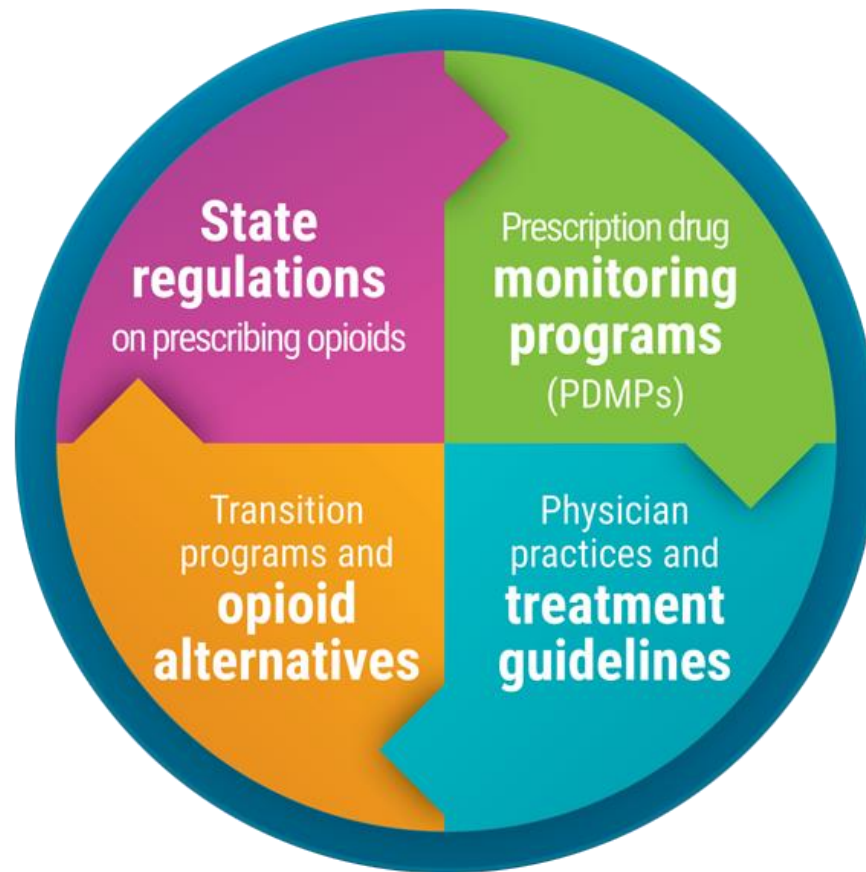
| Name of Opioid Drug                  | Type B/G | % of Drug Prescriptions | PPU Countrywide |
|--------------------------------------|----------|-------------------------|-----------------|
| Hydrocodone Bitartrate-Acetaminophen | G        | 9.7%                    | \$0.58          |
| Tramadol HCl                         | G        | 5.1%                    | \$1.16          |
| Oxycodone HCl-Acetaminophen          | G        | 4.7%                    | \$1.76          |
| Oxycodone HCl                        | G        | 2.8%                    | \$1.27          |
| Oxycontin®                           | B        | 1.2%                    | \$8.43          |
| Morphine Sulfate                     | G        | 1.1%                    | \$2.24          |
| Acetaminophen-Codeine Phosphate      | G        | 0.6%                    | \$0.47          |
| Hydromorphone HCl                    | G        | 0.4%                    | \$1.97          |
| Fentanyl Transdermal System          | G        | 0.3%                    | \$21.89         |
| Methadone HCl                        | G        | 0.3%                    | \$0.24          |

Source: NCCI's Medical Data Call, Service Year 2016; states included are AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MI, MN, MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, and WI



# State Regulator Perspective

State regulators interviewed by NCCI shared that tools in the fight against the opioid epidemic include:



# State Activity

- In 2016, governors from 40 states signed a compact to fight opioid addiction by adopting a series of steps with the following goals:
  - Reduce inappropriate opioid prescribing
  - Understand opioids and addiction better
  - Ensure a pathway to recovery for individuals with addiction
- This resulted in several states adopting rules and laws, including:
  - Prescribing guidelines
  - Drug formularies
  - PDMPs



# 2018 State Activity

In 2018, almost every state considered prescription drug legislation or regulatory changes, including:

- Drug formularies
- Limitation on physician dispensing and repackaged drugs
- PDMPs
- Choice of pharmacy
- Compound drugs
- Prescription drug fee schedules
- Pharmaceutical benefit management
- Drug rehabilitation



# Federal Activity

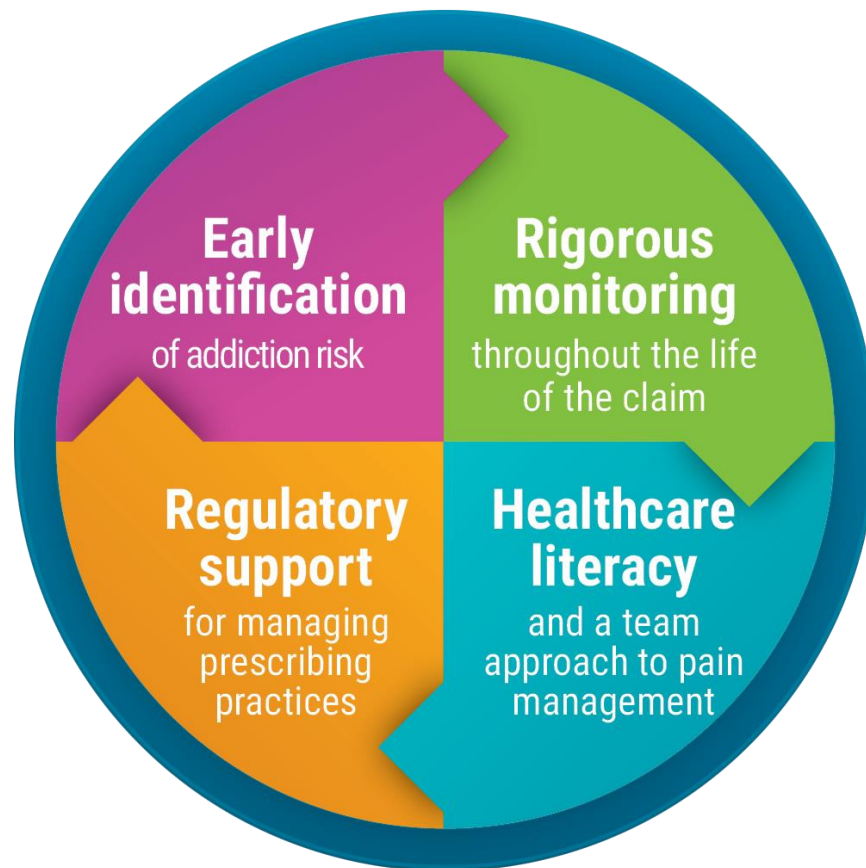
- Federal:
  - New Initiative to Stop Opioid Abuse and Reduce Drug Supply and Demand
  - CDC Guidelines provide recommendations for prescribing opioid pain medication
- Prescription Drug Monitoring Act of 2017





# Claims Professionals Perspective

Claims professionals interviewed by NCCI say that there are four key elements that are critical for successfully managing opioid use:



# Potential Alternative Treatments

## ■ Nondrug Treatments

- Physical therapy
- Yoga
- Acupuncture
- Massage therapy



## ■ Drug Treatments

- NSAIDs
- Gabapentin
- Lidocaine



## ■ Medical Marijuana?





ON  
**OPIOIDS**



Workers Compensation Perspectives

Find it on [ncci.com](http://ncci.com)



# STATE ADVISORY FORUMS 2018

## Residual Market: Countrywide and Arkansas

# Where Does NCCI Provide Residual Market Services?

- As of January 2018, NCCI provides Plan Administration services in the following states:
  - AK, AL, AR, AZ, CT, DC, GA, IA, ID, IL, KS, MS, NH, NM, NV, OR, SC, SD, TN, VA, VT, WV
  - Other Plan Services: DE, IN, NC
  
- As of January 2018, NCCI provides Pool Administration services in the following states:
  - National Pool: AK, AL, AR, AZ, CT, DC, DE, GA, IA, ID, IL, KS, NC, NH, NJ, NV, OR, SC, SD, TN, VA, VT, WV
  - New Mexico Pool
  - Tennessee Reinsurance Mechanism
  
- Financial and Actuarial Services: MA, MI

# Assigned Risk Plan Policies and Estimated Premium

By Market Share as of 12/31/17

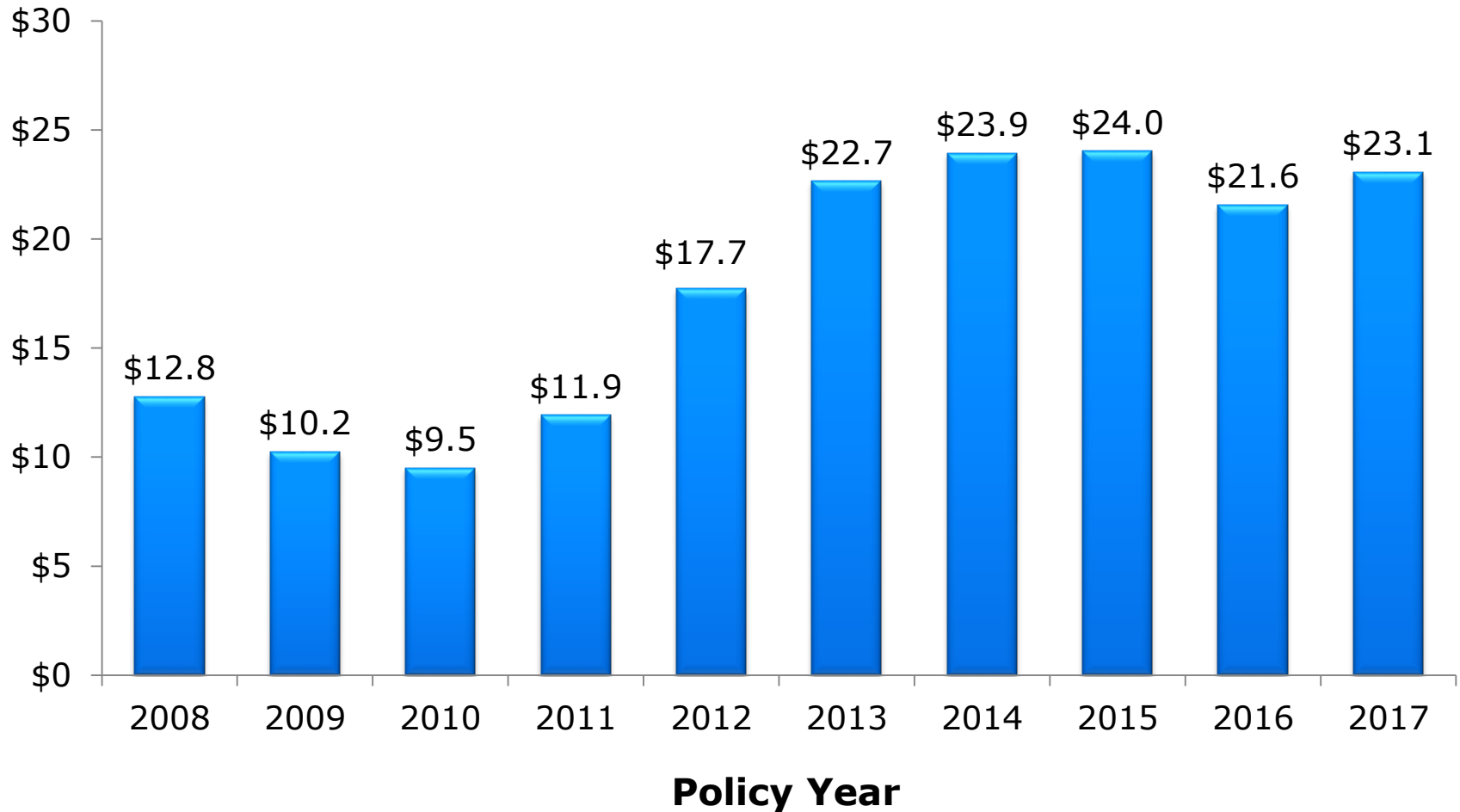
| State        | Total Policy Count | Total Premium        | Market Share % |
|--------------|--------------------|----------------------|----------------|
| AK           | 7,468              | \$33,684,821         | 16.1%          |
| VT           | 3,838              | \$17,986,224         | 10.3%          |
| AR           | 6,803              | \$23,076,982         | 9.6%           |
| TN           | 12,978             | \$62,849,355         | 8.7%           |
| KS           | 9,001              | \$27,805,502         | 8.6%           |
| NH           | 4,944              | \$17,508,396         | 7.8%           |
| NV           | 5,248              | \$21,588,506         | 7.6%           |
| VA           | 16,276             | \$61,167,550         | 7.2%           |
| SC           | 13,729             | \$34,603,981         | 6.8%           |
| WV           | 2,386              | \$15,555,676         | 6.4%           |
| OR           | 9,058              | \$36,874,920         | 6.1%           |
| GA           | 22,502             | \$69,854,580         | 6.0%           |
| CT           | 15,031             | \$44,999,559         | 5.6%           |
| AZ           | 5,951              | \$39,668,103         | 5.1%           |
| SD           | 1,449              | \$7,551,767          | 4.8%           |
| IA           | 4,402              | \$29,437,546         | 4.6%           |
| IL           | 34,268             | \$95,218,290         | 4.5%           |
| MS           | 2,592              | \$14,790,560         | 4.1%           |
| NM           | 1,926              | \$7,319,441          | 4.0%           |
| DC           | 1,119              | \$6,167,660          | 3.9%           |
| AL           | 1,634              | \$8,458,783          | 3.0%           |
| ID           | 929                | \$2,473,969          | 0.6%           |
| <b>Total</b> | <b>183,532</b>     | <b>\$678,642,171</b> | <b>6.0%</b>    |

Policy Count and Premium data are on a Policy Year basis as reported to NCCI, for policies effective from January 1, 2017 to December 31, 2017, including prorated cancellations, with all policies' premium associated to the dominant state. Market Share % is from NCCI's 2017 Residual Market Management Summary

# Arkansas Total Residual Market Plan Estimated Premium Volume

Premium in \$ Millions as of 12/31/17

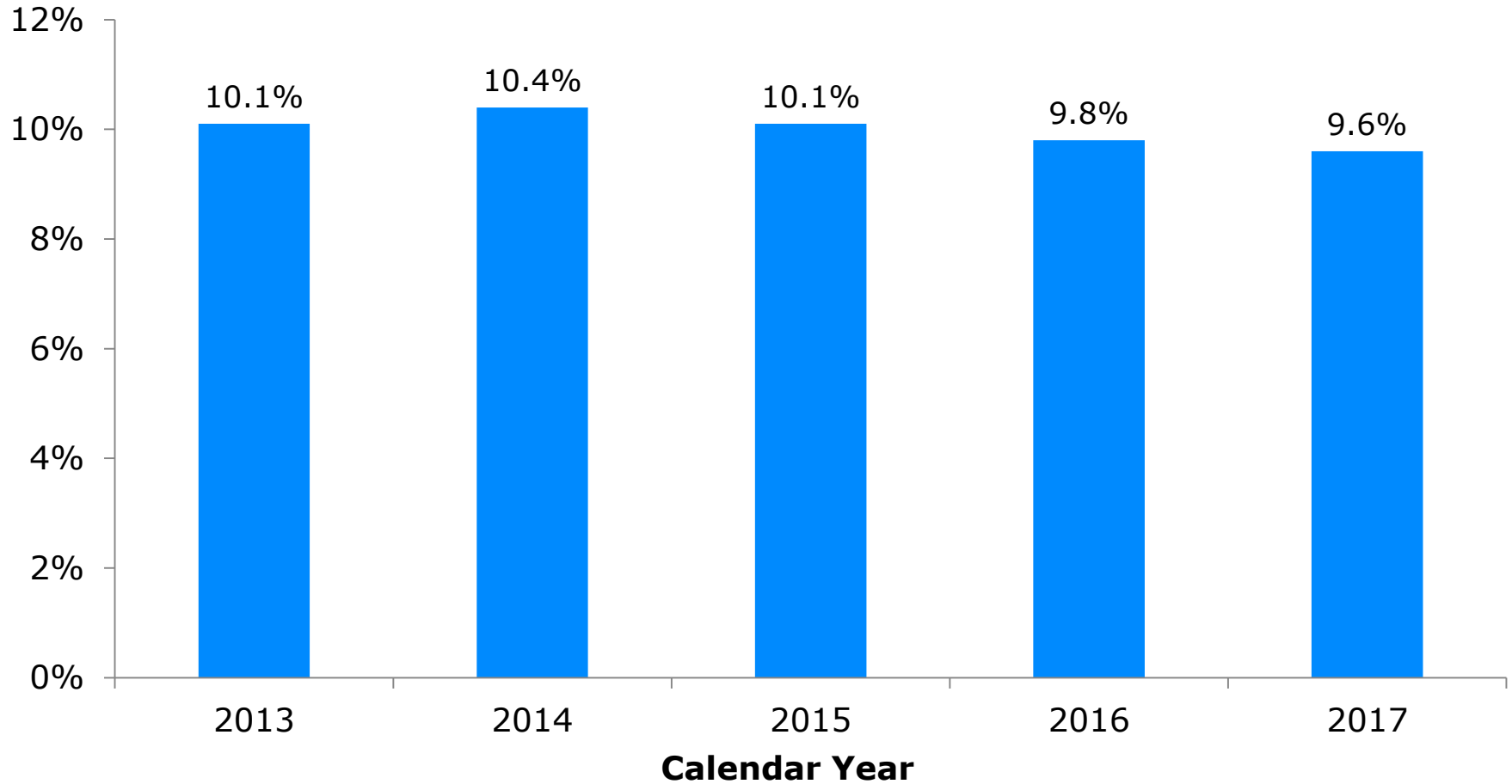
\$ Millions



Premium data is on a Policy Year basis as reported to NCCI, for policies effective from January 1, 2017 to December 31, 2017, including prorated cancellations, with all policies' premium associated to the dominant state.

# Arkansas Residual Market Share

## Plan Premium as a Percentage of Direct Written Premium

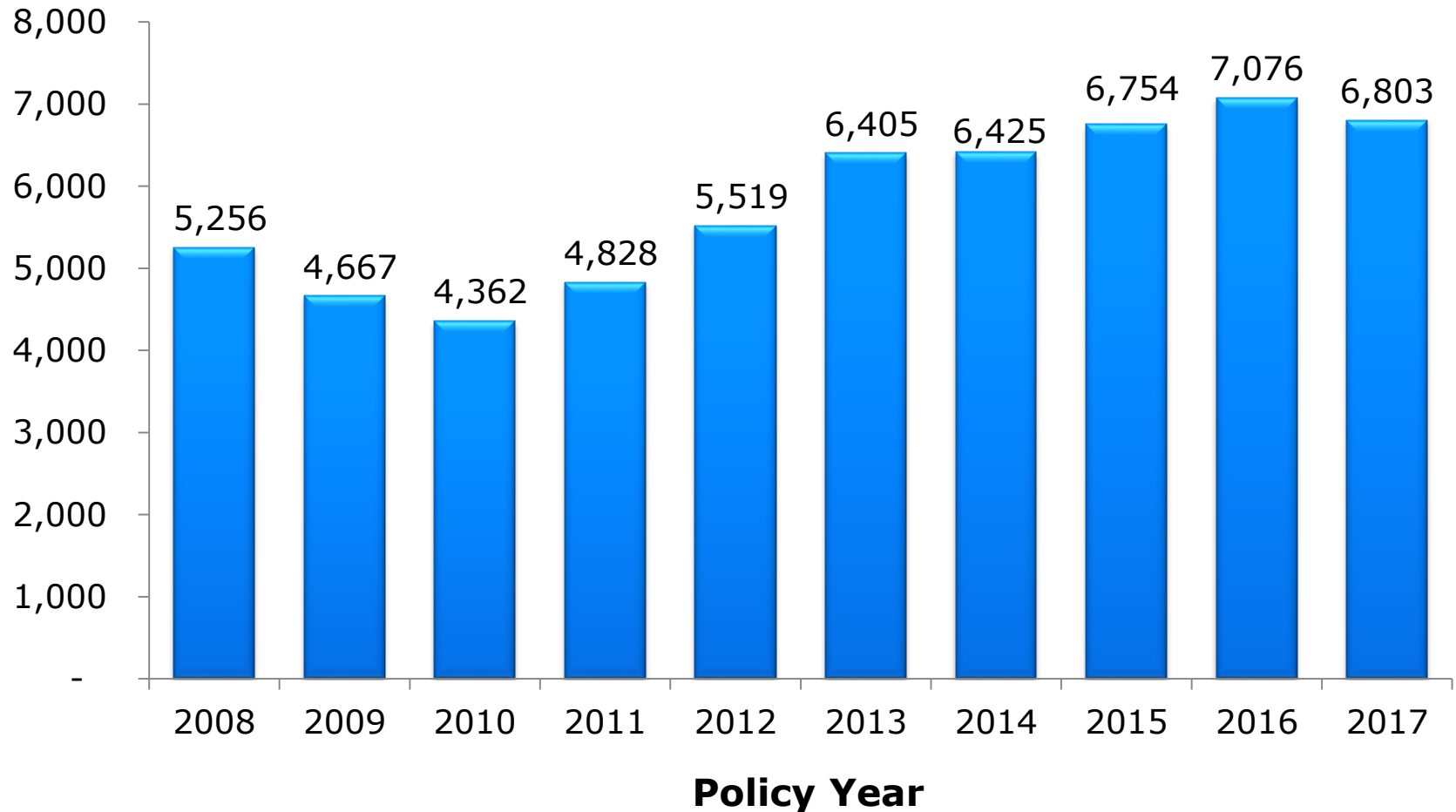


Market Share % is from NCCI's 2017 Residual Market Management Summary



# Arkansas Total Residual Market Plan Policy Counts

As of 12/31/17



Policy Count data is on a Policy Year basis as reported to NCCI, for policies effective from January 1, 2017 to December 31, 2017, including prorated cancellations, with all policies' premium associated to the dominant state.

# Arkansas Residual Market Change in Total Estimated Annual Premium

As of 12/31/17

| Size of Risk       | 2016   | 2017   | Change |
|--------------------|--------|--------|--------|
| \$0–\$2,499        | \$5.3  | \$5.2  | -2.3%  |
| \$2,500–\$4,999    | \$3.4  | \$3.2  | -6.2%  |
| \$5,000–\$9,999    | \$3.5  | \$3.7  | 3.6%   |
| \$10,000–\$49,999  | \$6.2  | \$6.5  | 4.5%   |
| \$50,000–\$99,999  | \$1.8  | \$1.6  | -6.5%  |
| \$100,000 and Over | \$1.4  | \$2.9  | 114.5% |
| Total              | \$21.6 | \$23.1 | 7.0%   |

Premium data is on a Policy Year basis as reported to NCCI, for policies effective from January 1, 2016 to December 31, 2016, and policies effective from January 1, 2017 to December 31, 2017, including prorated cancellations, with all policies' premium associated to the dominant state. Change is calculated based upon the Premium data.

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

As of 12/31/17

| Premium Range       | Policy Count | % of Policies | Total Premium       | % of Premium  | Average Policy Size |
|---------------------|--------------|---------------|---------------------|---------------|---------------------|
| \$0–\$2,499         | 4,993        | 73.4%         | \$5,203,800         | 22.6%         | \$1,042             |
| \$2,500–\$4,999     | 894          | 13.1%         | \$3,174,897         | 13.8%         | \$3,551             |
| \$5,000–\$9,999     | 523          | 7.7%          | \$3,657,506         | 15.9%         | \$6,993             |
| \$10,000–\$19,999   | 253          | 3.7%          | \$3,388,404         | 14.7%         | \$13,392            |
| \$20,000–\$49,999   | 100          | 1.5%          | \$3,102,489         | 13.4%         | \$31,024            |
| \$50,000–\$99,999   | 24           | 0.4%          | \$1,651,058         | 7.2%          | \$68,794            |
| \$100,000–\$199,999 | 10           | 0.2%          | \$1,275,190         | 5.5%          | \$127,519           |
| \$200,000+          | 6            | 0.1%          | \$1,623,638         | 7.0%          | \$270,606           |
| <b>Total</b>        | <b>6,803</b> | <b>100.0%</b> | <b>\$23,076,982</b> | <b>100.0%</b> | <b>\$3,392</b>      |

Policy Count and Premium data are on a Policy Year basis as reported to NCCI, for policies effective from January 1, 2017 to December 31, 2017, including prorated cancellations, with all policies' premium associated to the dominant state. % of Policies, % of Premium, and Average Policy Size are calculations from the Policy Count and Premium data.

# Residual Market Summary

- National
  - Stable residual market share
  - Manageable operating results
  - Residual market premium declined slightly in 2017
  - High levels of customer service satisfaction
- State
  - Increase in premium volume
  - Stable residual market share
  - Self-funded operating results

For additional state and countrywide information, please visit **[ncci.com](http://ncci.com)**.



# STATE ADVISORY FORUMS 2018

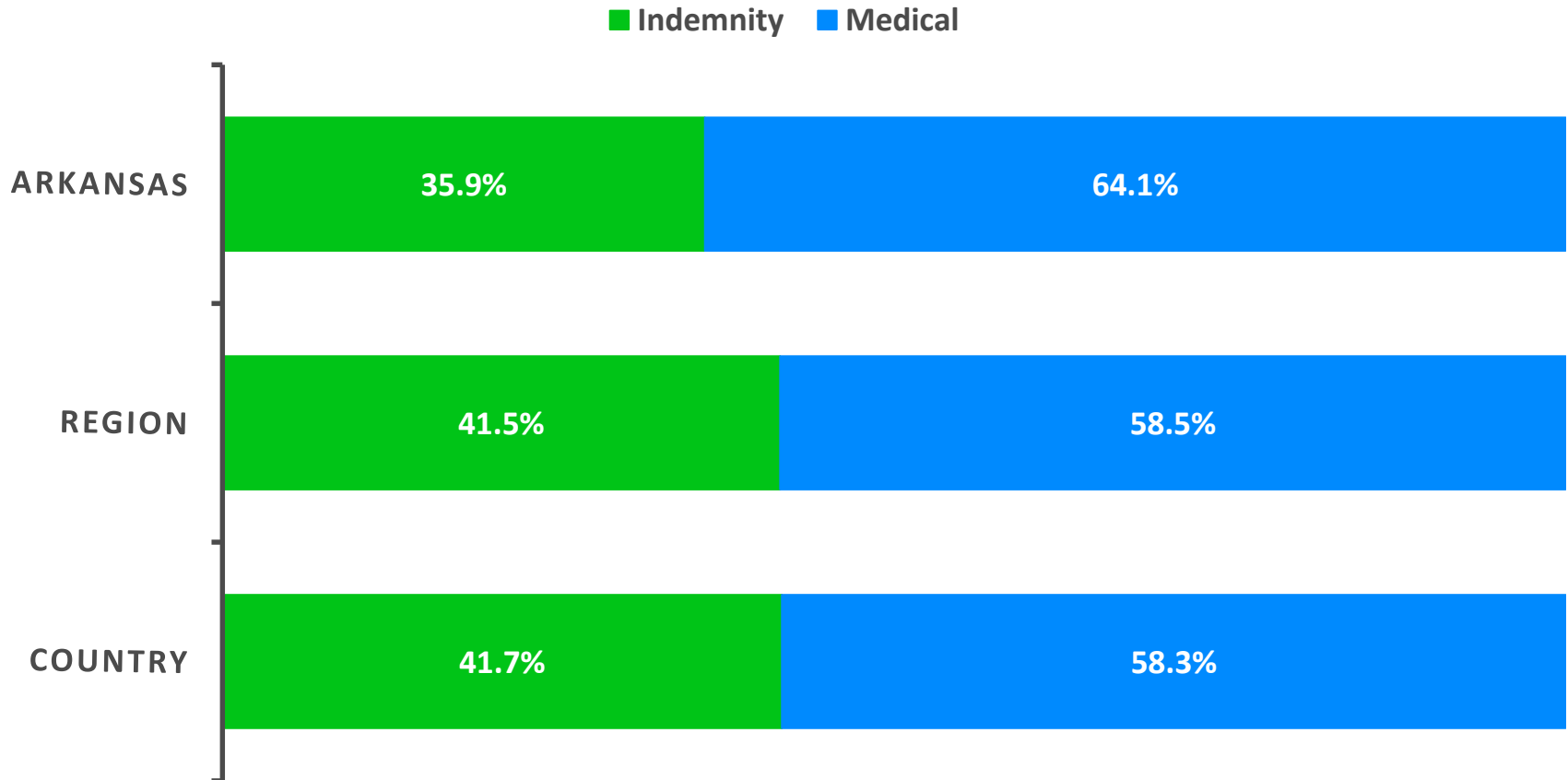
## Closing Remarks



# STATE ADVISORY FORUMS 2018

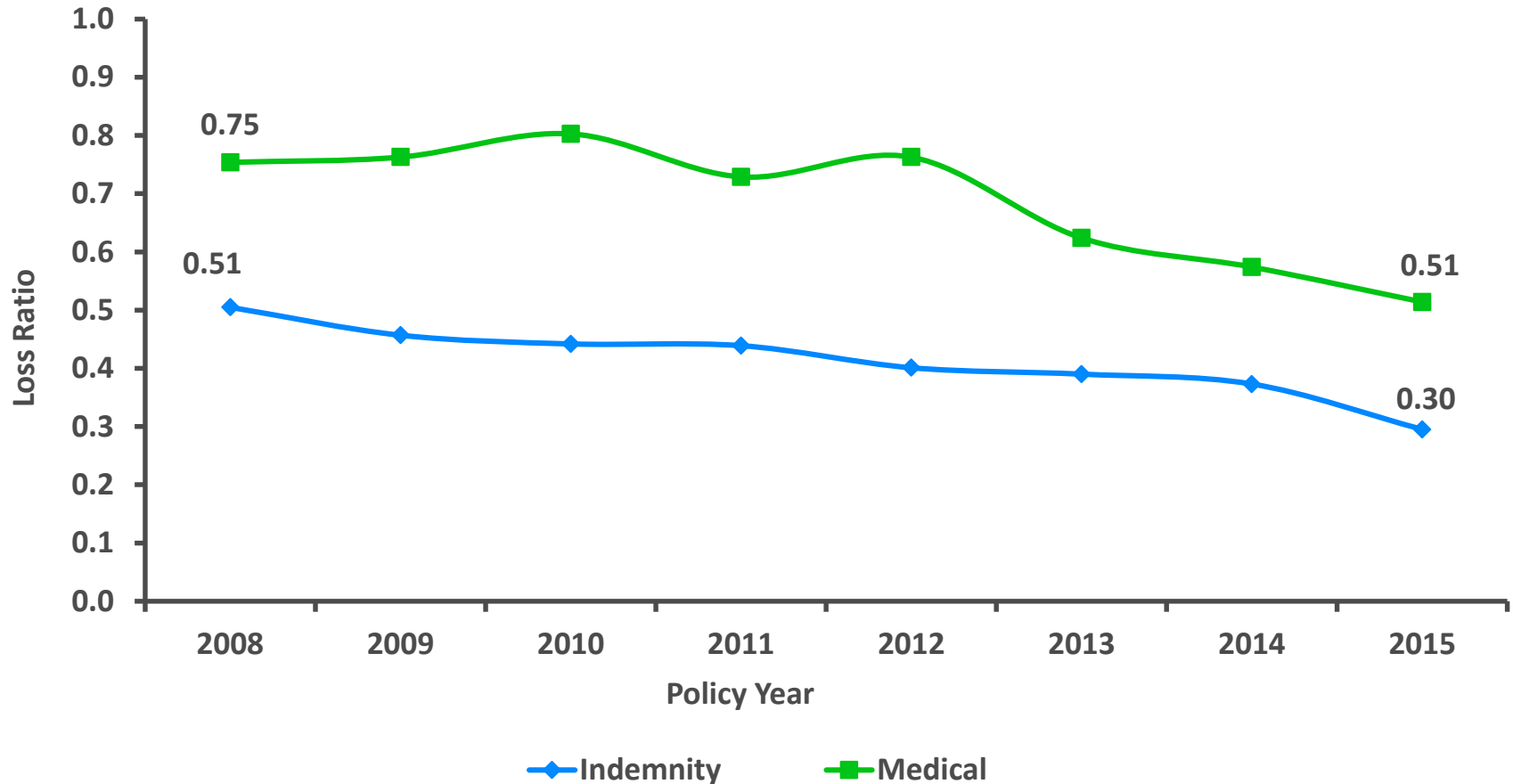
## Supplemental Information

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



Regional states are LA, MO, MS, OK, TN, and TX  
Based on NCCI's financial data through 12/31/2016

# Arkansas Indemnity and Medical Loss Ratios



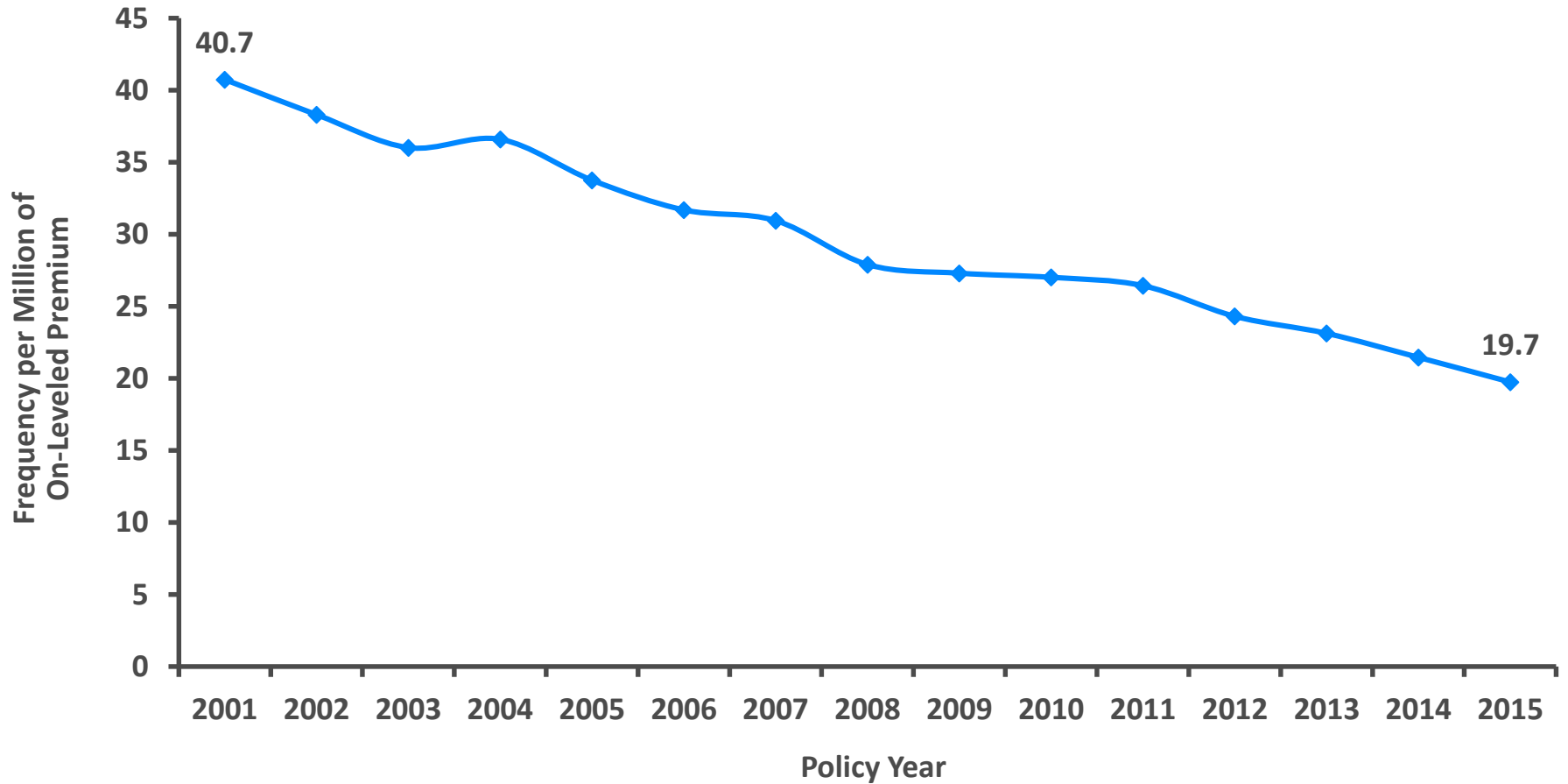
Based on NCCI's financial data through 12/31/2016 at current benefit level and developed to ultimate



# What Drives Indemnity and Medical Loss Ratios?

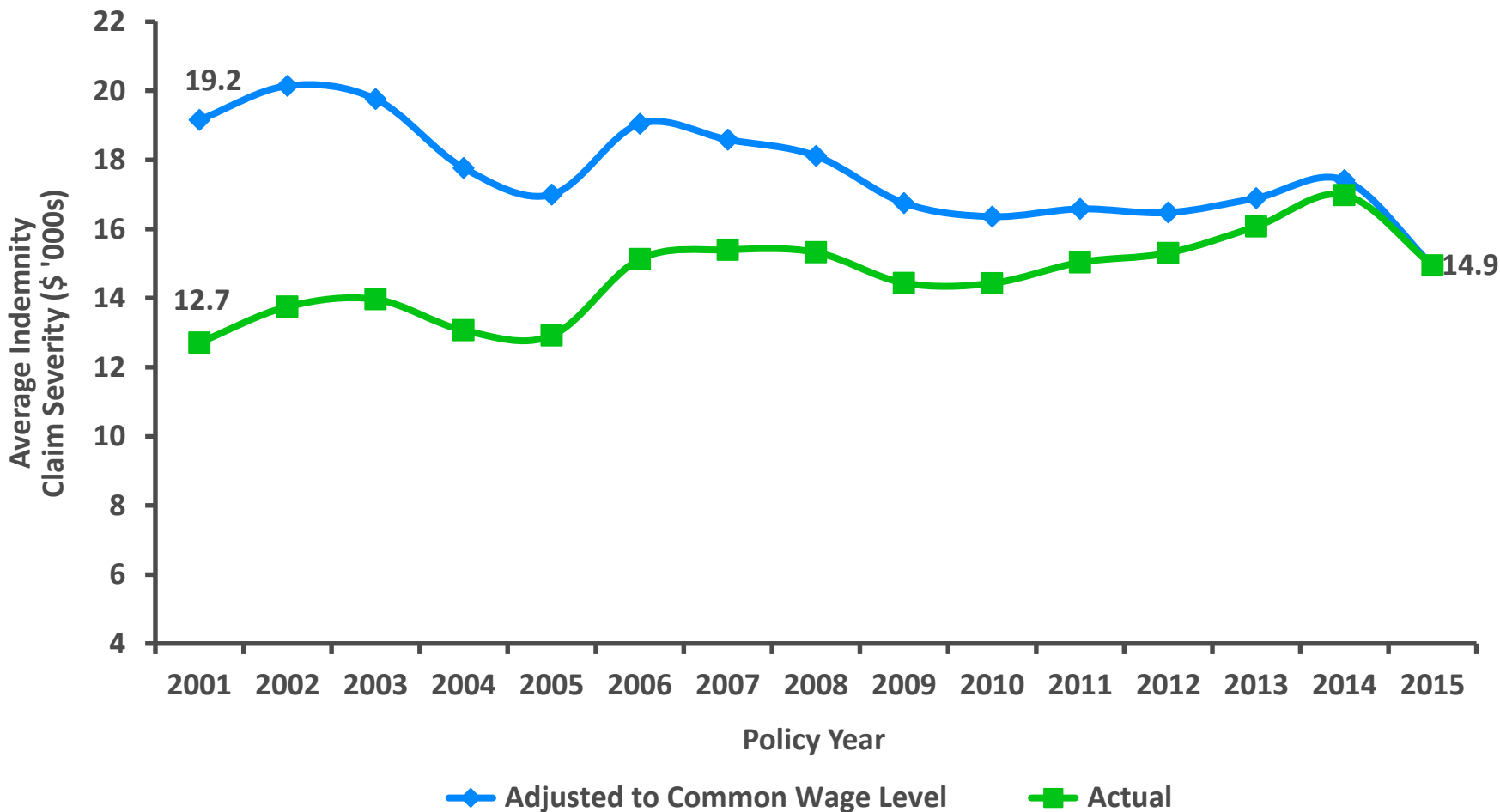


# Arkansas Claim Frequency



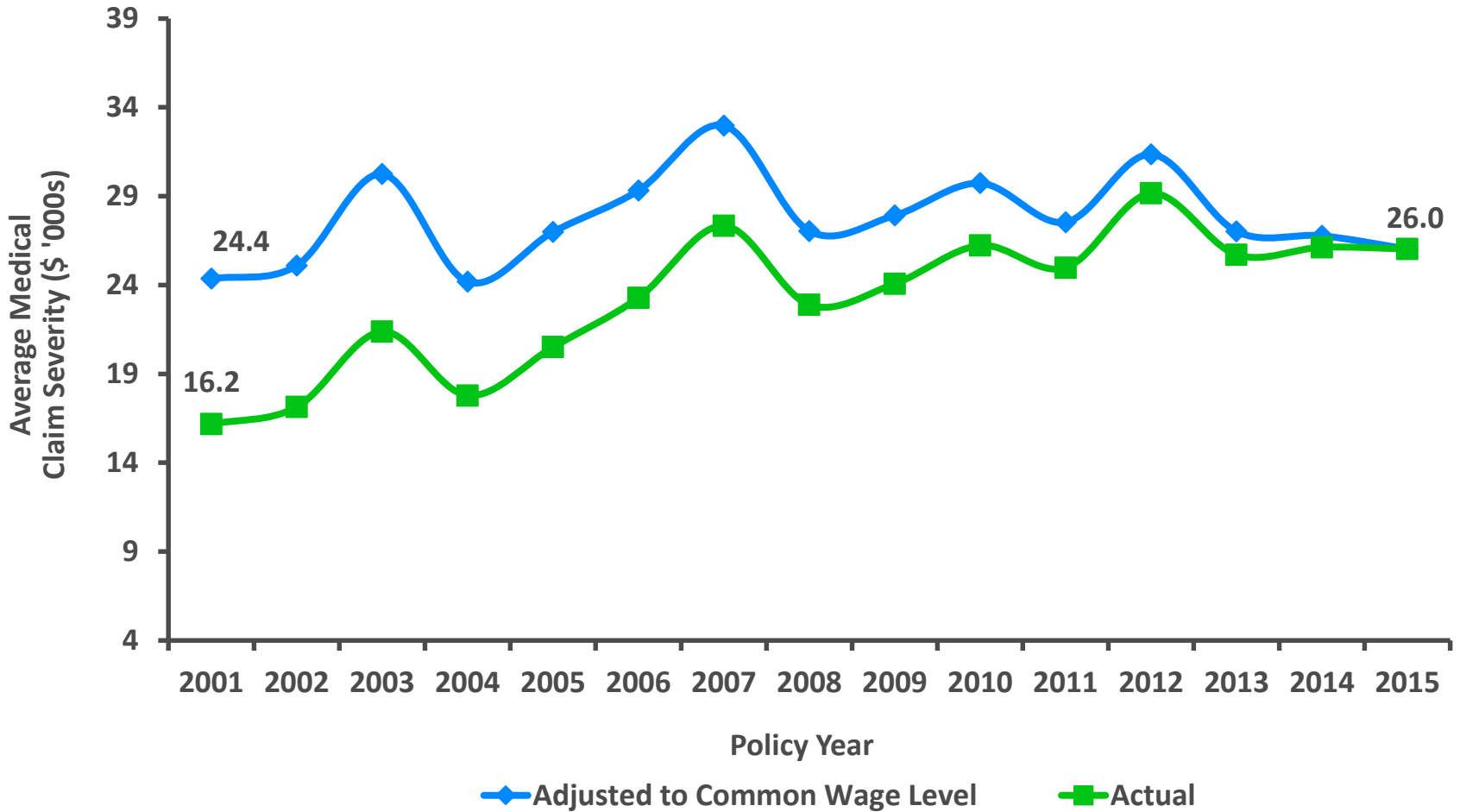
Based on NCCI's financial data through 12/31/2016 adjusted to a common wage level

# Arkansas Average Indemnity Claim Severity



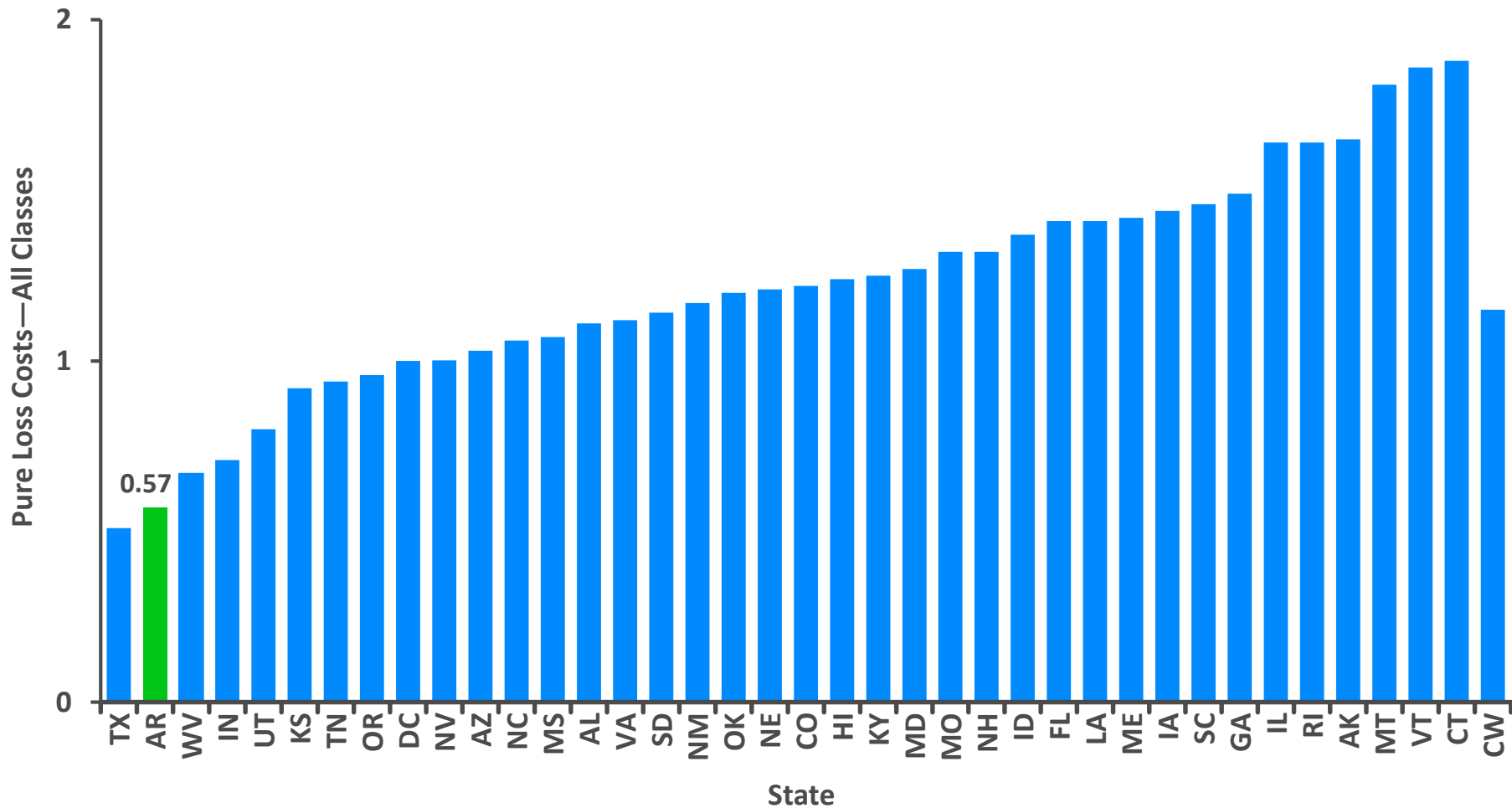
Based on NCCI's financial data through 12/31/2016 for lost-time claims at current benefit level and developed to ultimate

# Arkansas Average Medical Claim Severity



Based on NCCI's financial data through 12/31/2016 for lost-time claims at current benefit level and developed to ultimate

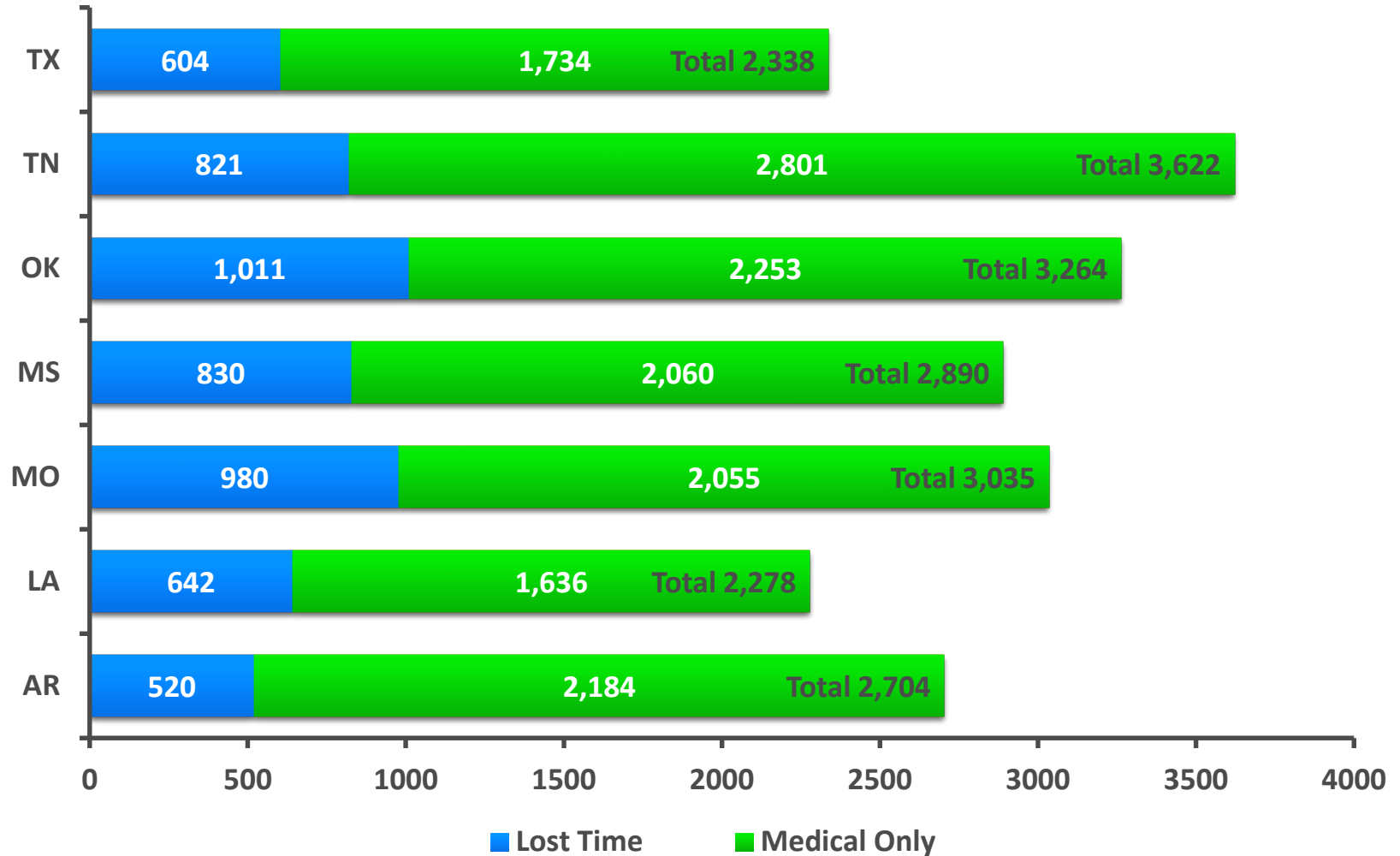
# Current Average Voluntary Pure Loss Costs Using Arkansas Payroll Distribution



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

# Arkansas Average Claim Frequency

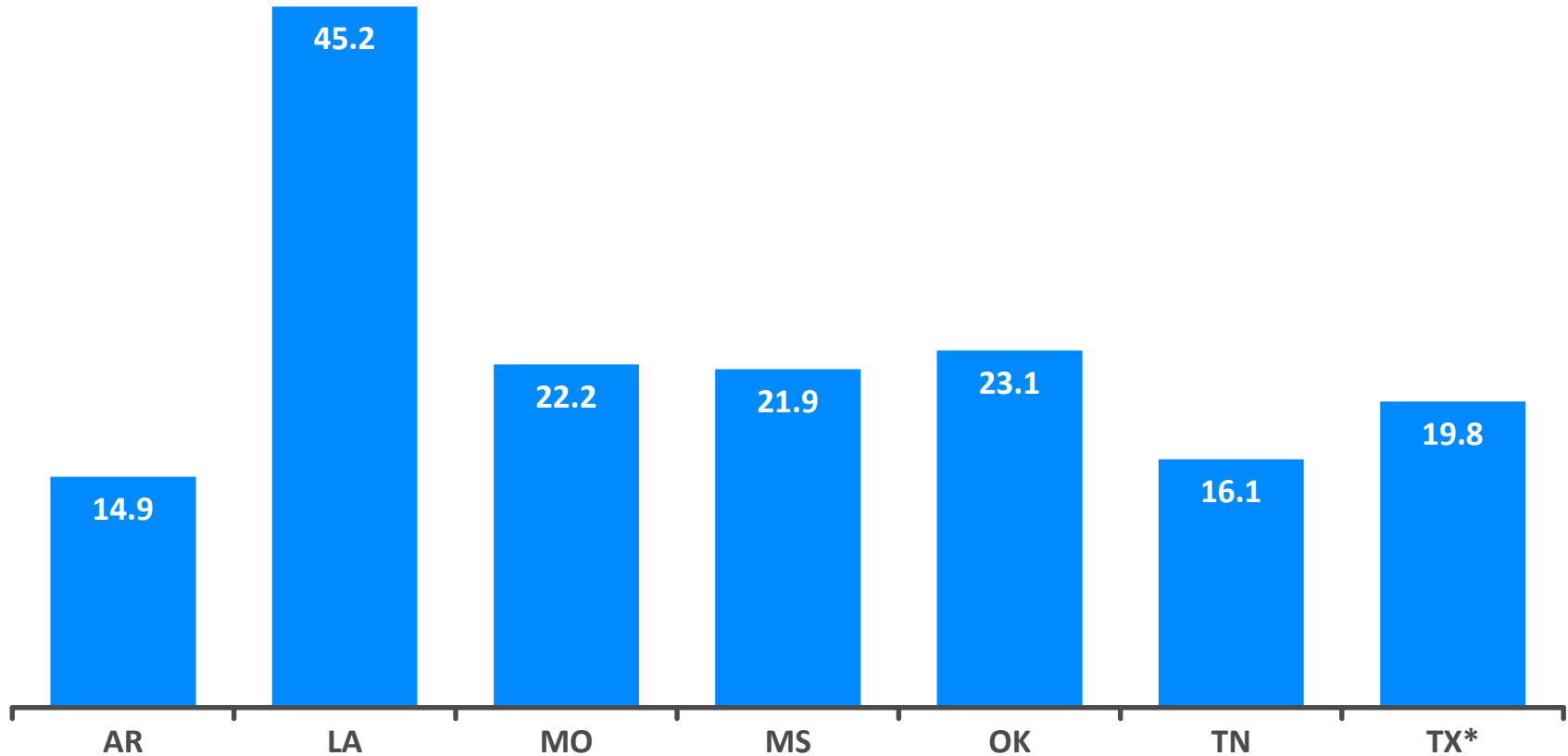
Frequency per 100,000 Workers—All Claims



Based on NCCI's *Statistical Plan* data

# Average Indemnity Claim Severity in the Region

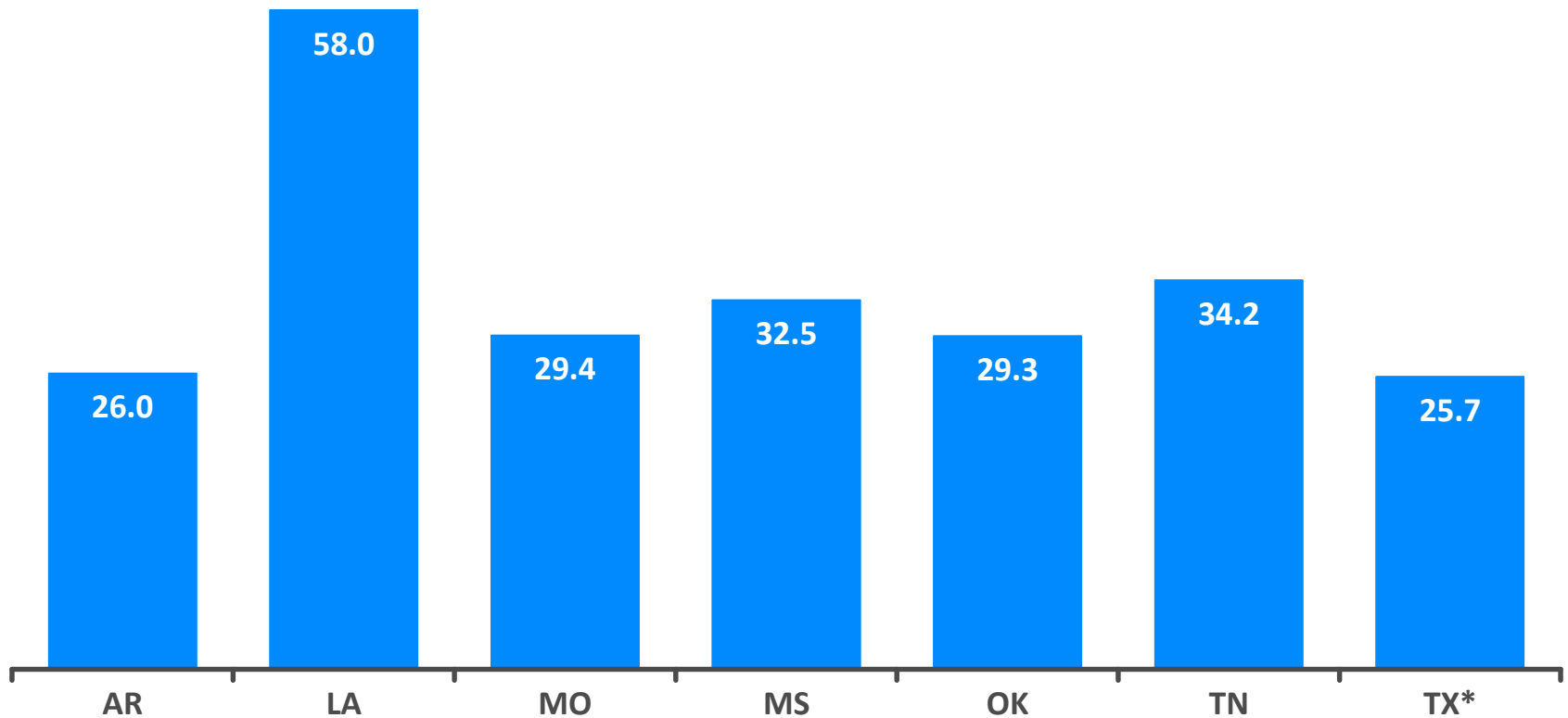
Lost-Time Claim Severity in \$ Thousands



\*Unlimited  
Based on NCCI's financial data

# Average Medical Claim Severity in the Region

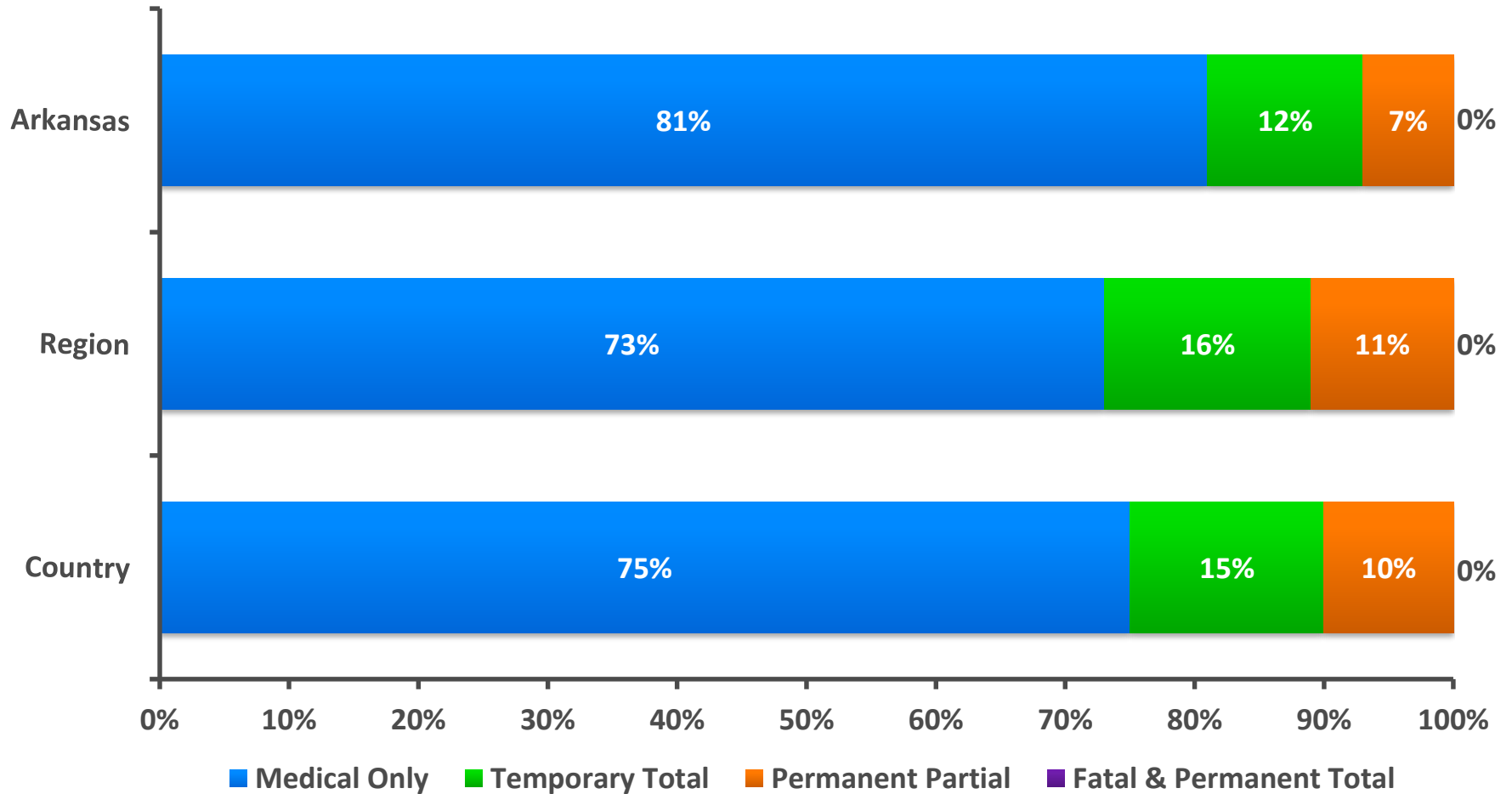
Lost-Time Claim Severity in \$ Thousands



\*Unlimited  
Based on NCCI's financial data



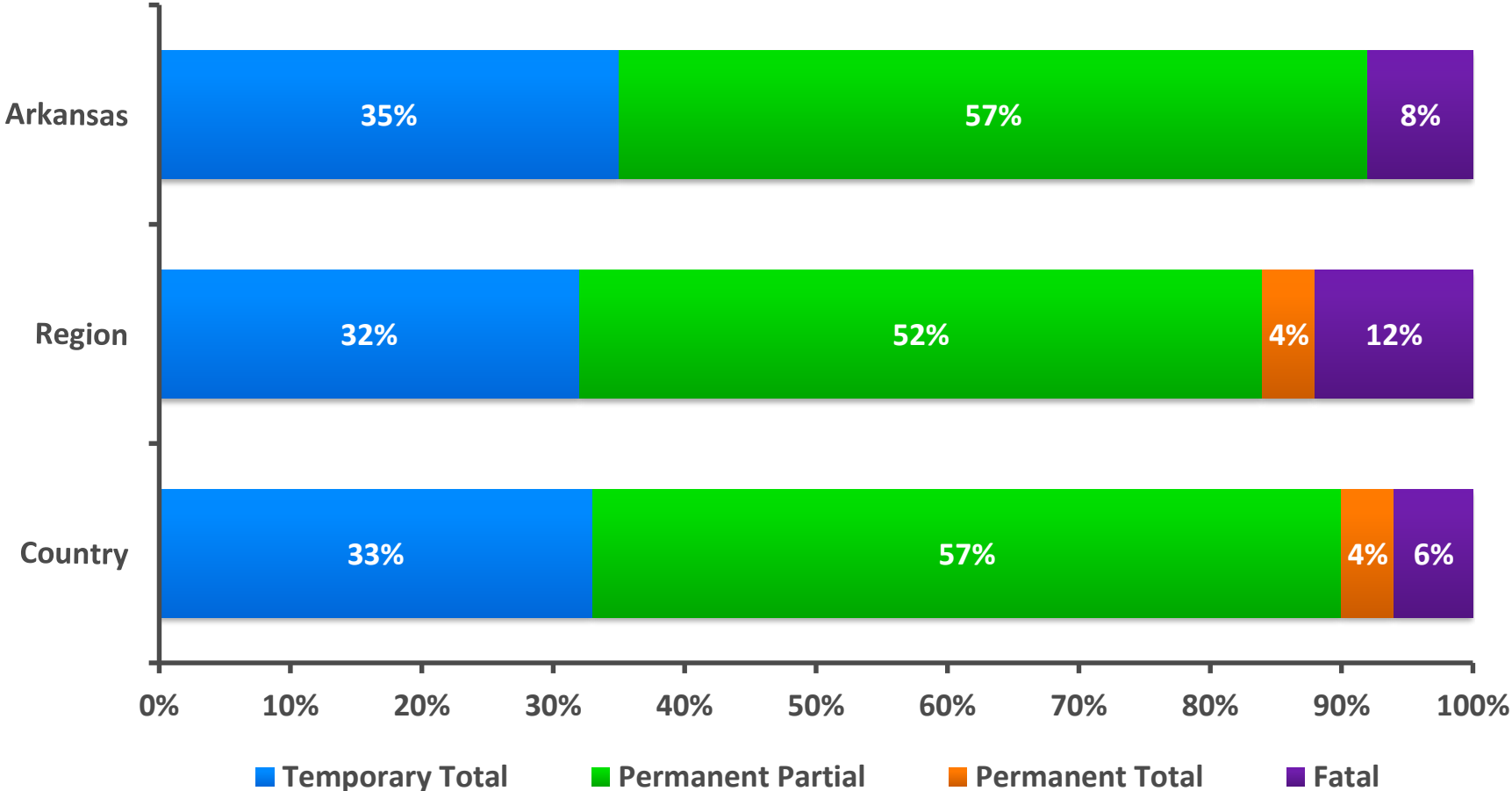
# Arkansas Distribution of Claims by Injury Type



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

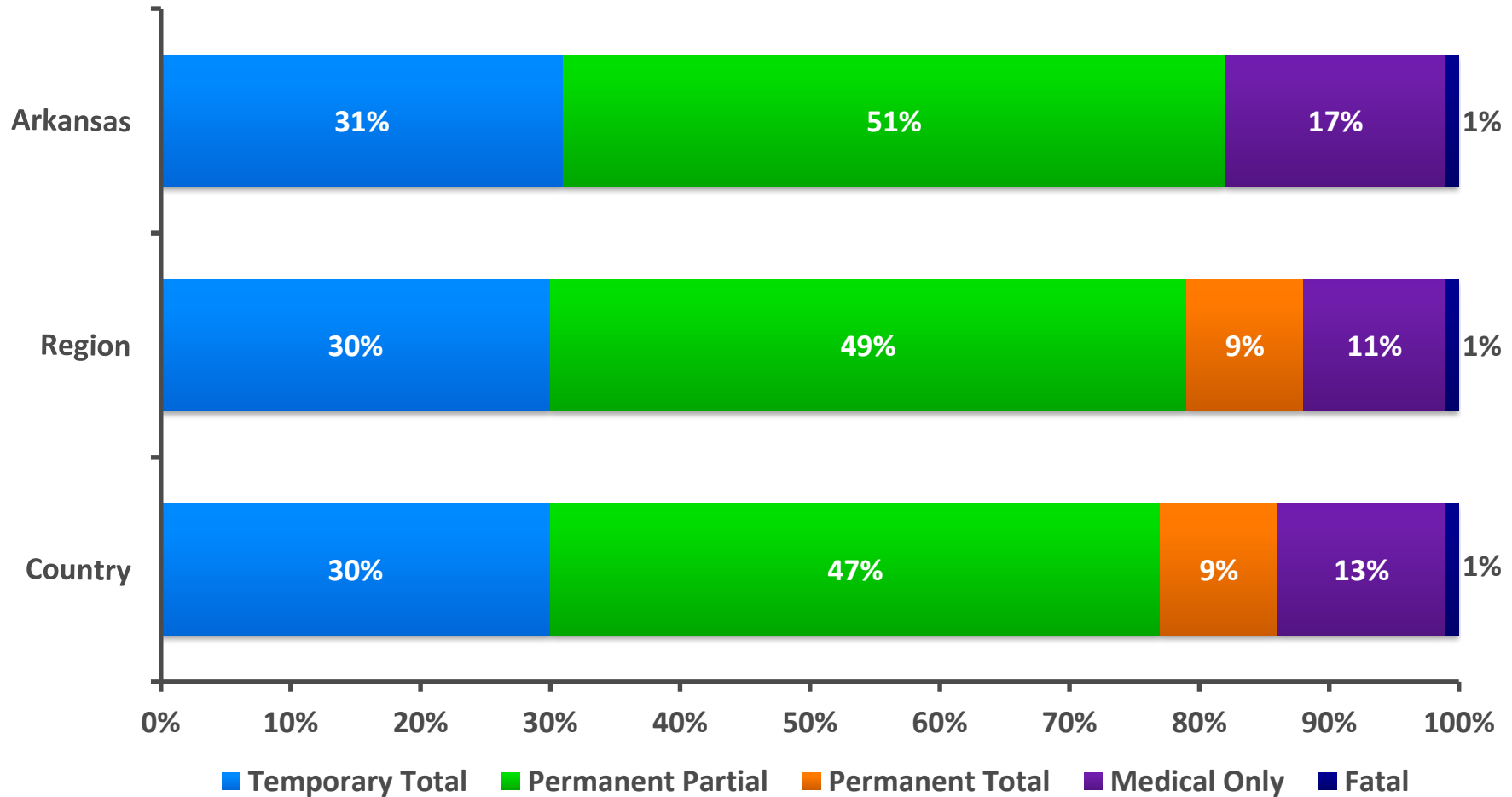
# Arkansas Indemnity Loss Distribution by Injury Type



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



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 2018

## 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, and the timing of the claim's report to the carrier.
- **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 2018

## Appendix

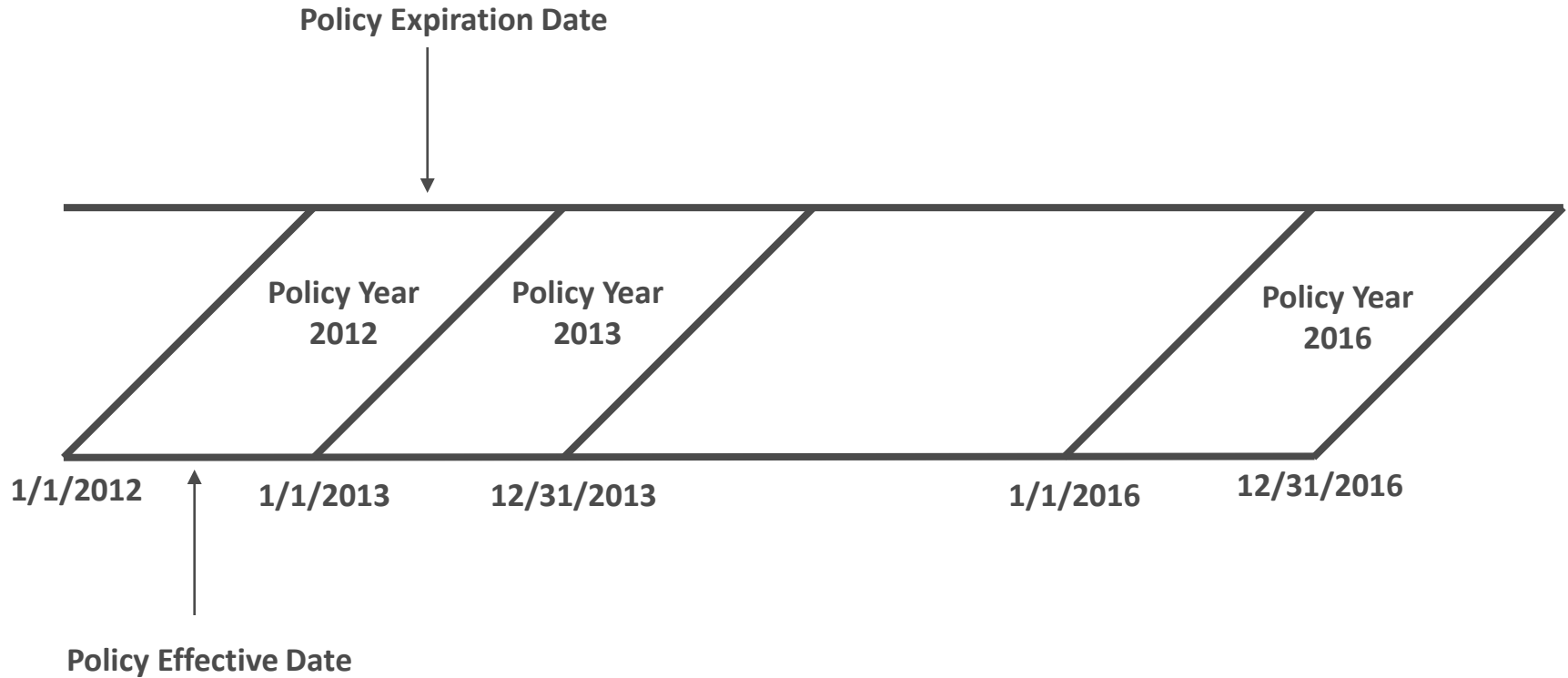
# NCCI's Worker Compensation Resources

- 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

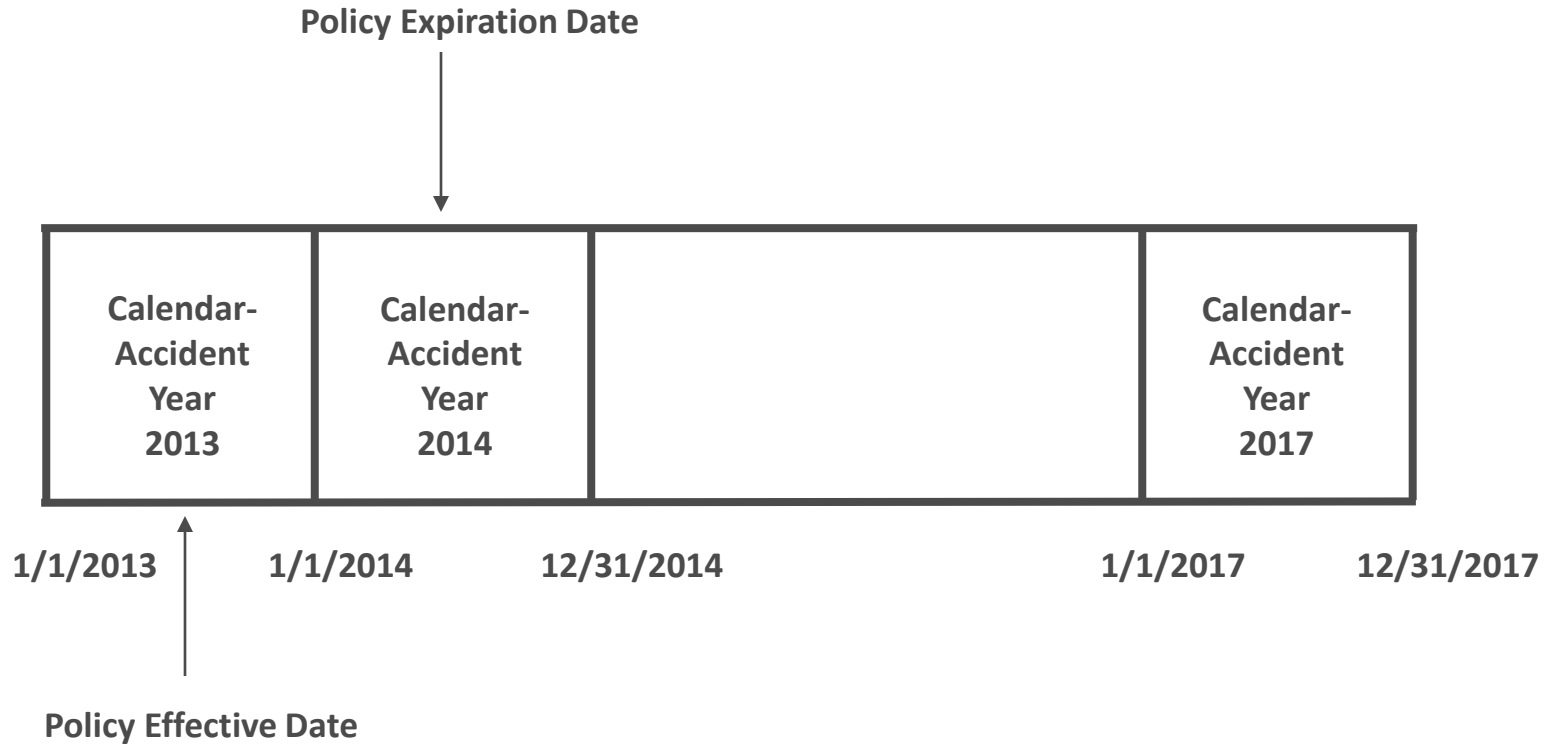
# Financial Aggregate Calls

- 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



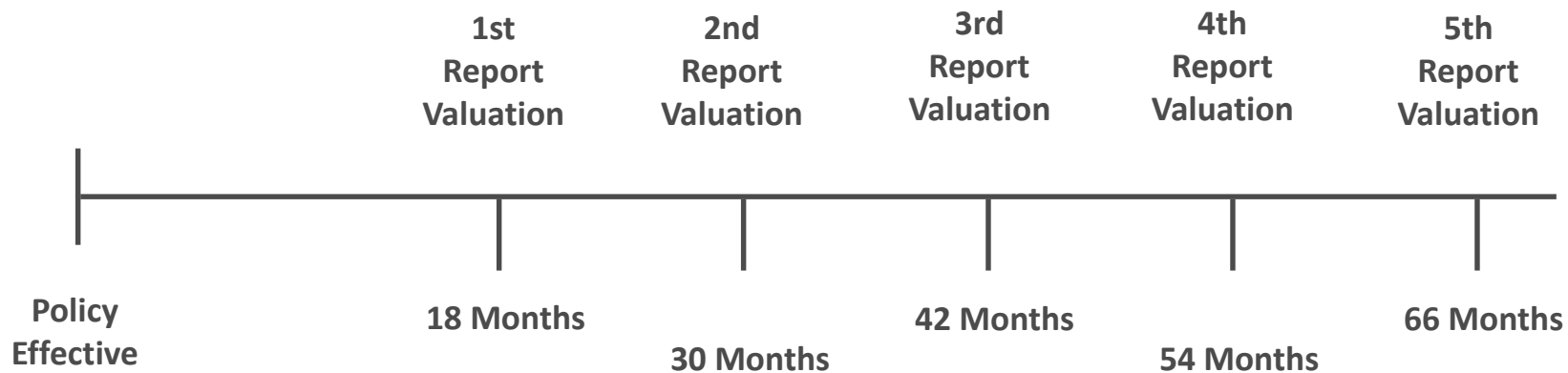
# Calendar-Accident Year Financial Aggregate Data



# 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 2018





## Executive Summary

NCCI, as Pool and Plan Administrator of the Arkansas Workers Compensation Insurance Plan, is pleased to provide the Second Quarter 2018 *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:

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

Sean Cordell, Plan Administration

561-893-3171



## Residual Market Demographics

### Residual Market Total Policies and Premium in Force

As of June 30, 2018—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.

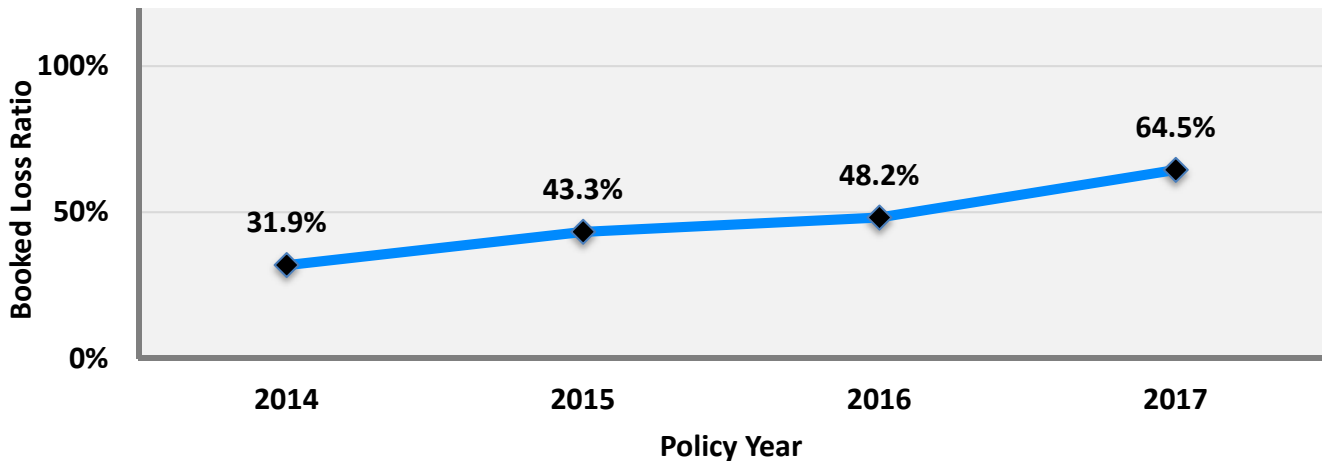
|                       | 2018         | 2017         | 2018 vs.<br>2017 # | 2018 vs.<br>2017 % |
|-----------------------|--------------|--------------|--------------------|--------------------|
| <b>Policy Count</b>   | 6,722        | 6,804        | -82                | -1.2%              |
| <b>Premium Volume</b> | \$22,148,541 | \$21,720,761 | \$427,780          | 2.0%               |



## Residual Market Demographics

### Arkansas Residual Market Reinsurance Pool Booked Loss Ratio Policy Year Financial Results through 1st Quarter 2018 for 2017 and prior years\*

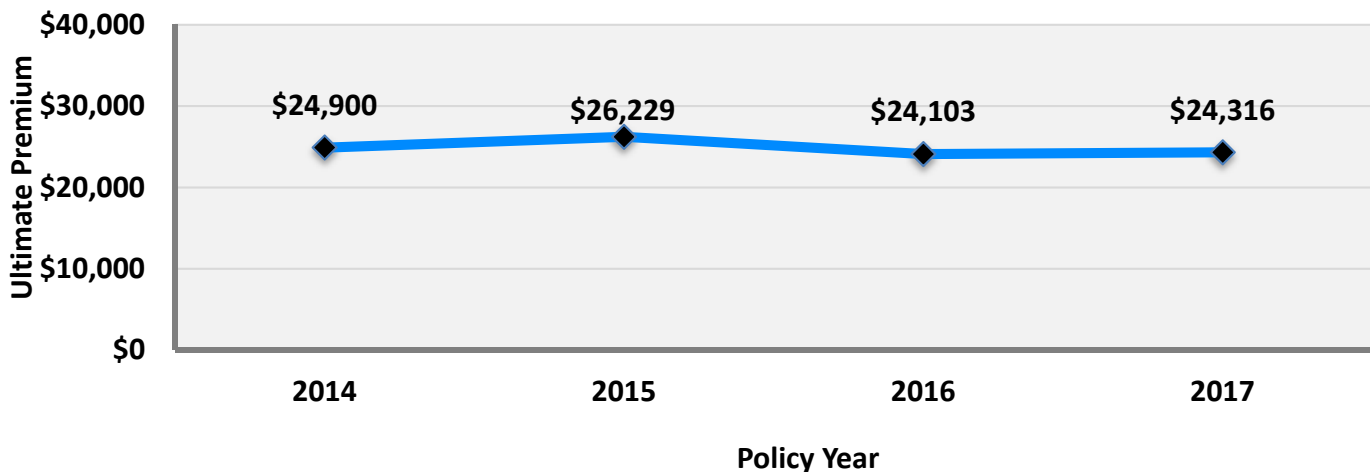
The ratio of total incurred losses to total earned premiums in a given period, in this state, expressed as a percentage.



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

#### Policy Year Financial Results through 1st Quarter 2018 for 2017 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 2018 data will be available the end of October 2018 due to the timing of data reporting

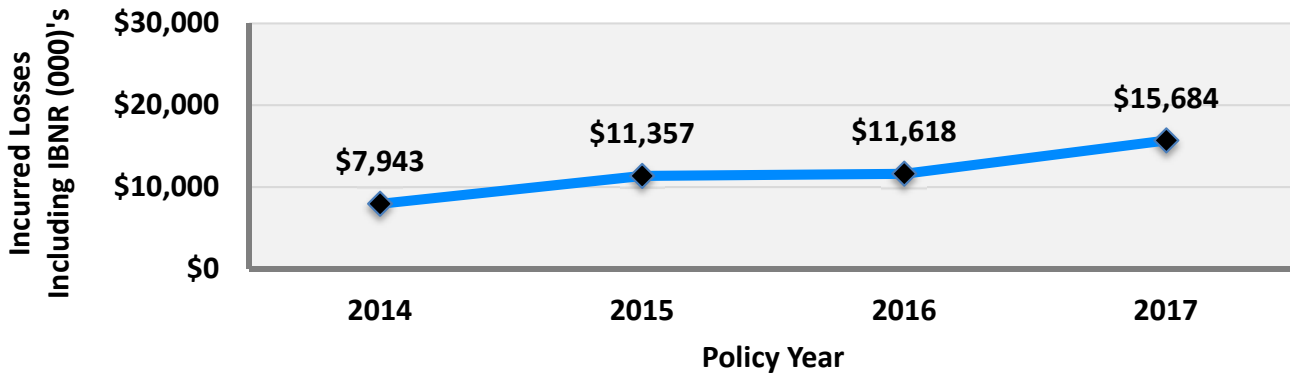


## Residual Market Demographics

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

#### Policy Year Financial Results through 1<sup>st</sup> Quarter 2018 for 2017 and prior years\*

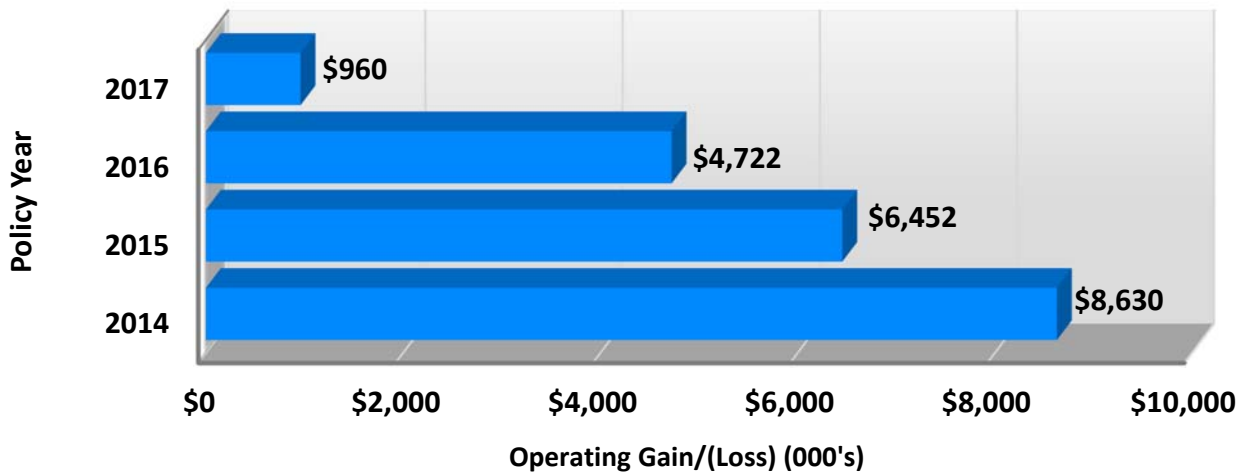
Policy year incurred losses reflect paid losses, case reserves and IBNR reserves for policies written in a particular policy year in that state.



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

#### Policy Year Financial Results through 1<sup>st</sup> Quarter 2018 for 2017 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 2018 data will be available the end of October 2018 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 2014-2018, obtained through NP-4 and NP-5 reports including traumatic and black lung claims, evaluated through 1<sup>st</sup> Quarter 2018.

| Policy Year | Gross Written Premium | Uncollectible Premium | Percentage |
|-------------|-----------------------|-----------------------|------------|
| 2014        | 25,338,950            | 439,338               | 1.7%       |
| 2015        | 26,819,846            | 590,380               | 2.2%       |
| 2016        | 24,875,468            | 459,744               | 1.8%       |
| 2017        | 24,088,687            | *                     | N/A        |
| 2018        | 4,610,654             | *                     | 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, 2018

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 2018.

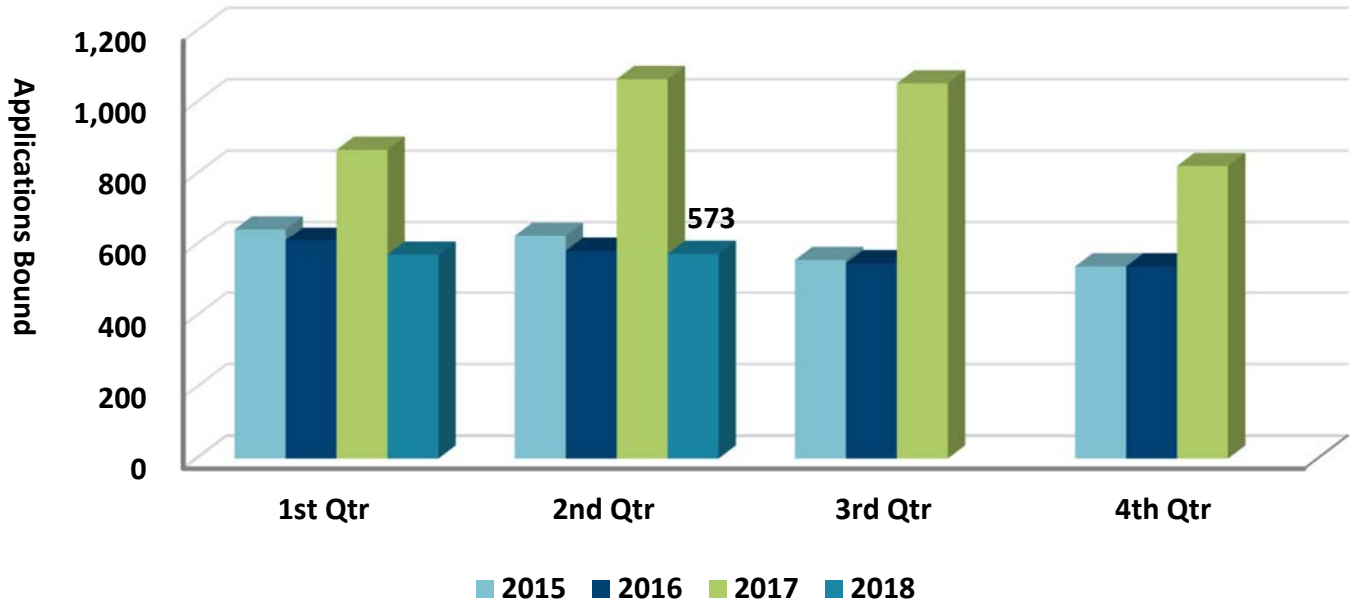
|  |        |
|--|--------|
| Number of Applications Reviewed by <b>VCAP<sup>®</sup> Service</b>                 | 639    |
| Number of <b>VCAP<sup>®</sup> Service</b> Matches                                  | 579    |
| <b>VCAP<sup>®</sup> Service</b> Offers as a % of Matches                           | 11.74% |
| Number of Confirmed <b>VCAP<sup>®</sup> Service</b> Policies                       | 64     |
| Confirmed <b>VCAP<sup>®</sup> Service</b> Policies as a % of Applications Reviewed | 10.02% |
| Savings as a % of Redirected Assigned Risk Premium                                 | 5.79%  |



## Residual Market Demographics

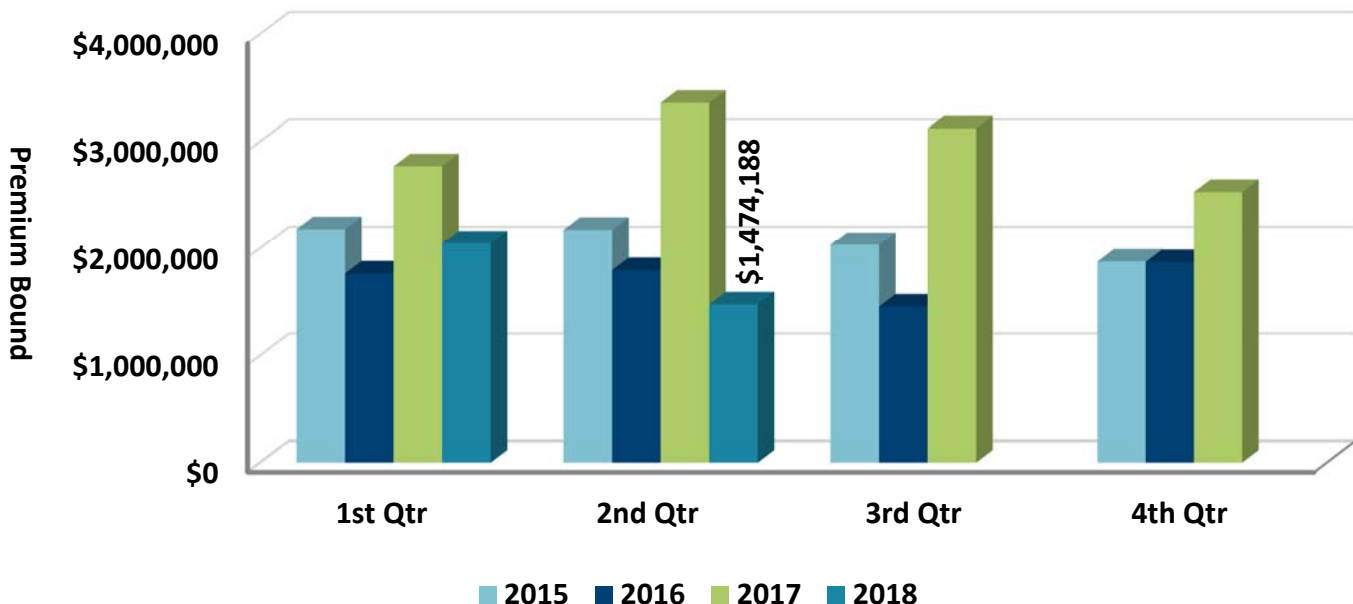
### Total Applications Bound — 2015 vs. 2016 vs. 2017 vs. 2018

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



### Total Application Premium Bound — 2015 vs. 2016 vs. 2017 vs. 2018

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).



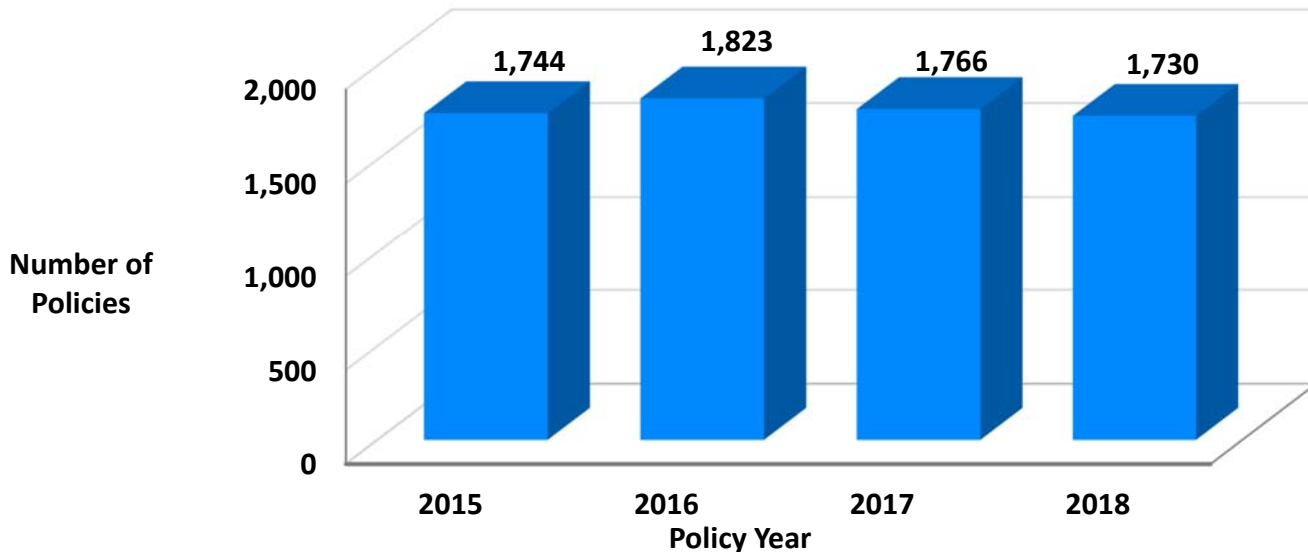


## Residual Market Demographics

### Residual Market Total Policy Counts

#### Second Quarter Data for Policies Reported through June 30, 2018

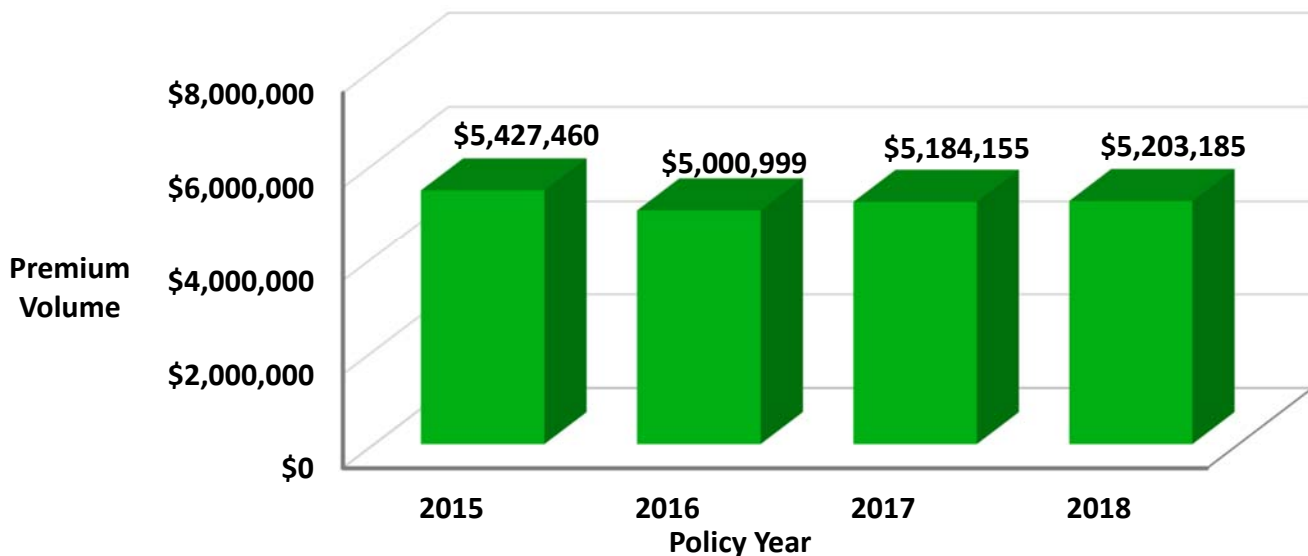
Total number of all Assigned Risk Plan policies with effective dates during the calendar period listed above.



### Residual Market Total Premium Volume

#### Second Quarter Data Reported through June 30, 2018

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, 2018

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         | 1,249        | 72.2%               | \$1,300,064         | 25.0%              | \$1,040         |
| \$2500–4999      | 233          | 13.5%               | \$818,124           | 15.7%              | \$3,511         |
| \$5000–9999      | 154          | 8.9%                | \$1,072,162         | 20.6%              | \$6,962         |
| \$10000–19999    | 65           | 3.8%                | \$890,570           | 17.1%              | \$13,701        |
| \$20000–49999    | 25           | 1.5%                | \$750,102           | 14.4%              | \$30,004        |
| \$50000–99999    | 2            | 0.1%                | \$127,198           | 2.4%               | \$63,599        |
| \$100000–199999  | 2            | 0.1%                | \$244,965           | 4.7%               | \$122,482       |
| \$200000 +       | 0            | 0.0%                | \$0                 | 0.0%               | \$0             |
| Total            | 1,730        | 100%                | \$5,203,185         | 100%               | \$3,008         |

### Second Quarter 2017 Data for Comparison

| Premium Interval | Policy Count | % of Total Policies | Total State Premium | % of Total Premium | Average Premium |
|------------------|--------------|---------------------|---------------------|--------------------|-----------------|
| \$0–2499         | 1,310        | 74.2%               | \$1,375,853         | 26.5%              | \$1,050         |
| \$2500–4999      | 225          | 12.7%               | \$795,309           | 15.3%              | \$3,534         |
| \$5000–9999      | 131          | 7.4%                | \$918,587           | 17.7%              | \$7,012         |
| \$10000–19999    | 72           | 4.1%                | \$969,204           | 18.7%              | \$13,461        |
| \$20000–49999    | 23           | 1.3%                | \$707,137           | 13.6%              | \$30,745        |
| \$50000–99999    | 3            | 0.2%                | \$166,561           | 3.2%               | \$55,520        |
| \$100000–199999  | 2            | 0.1%                | \$251,504           | 4.9%               | \$125,752       |
| \$200000 +       | 0            | 0.0%                | \$0                 | 0.0%               | \$0             |
| Total            | 1,766        | 100%                | \$5,184,155         | 100%               | \$2,936         |



## Residual Market Demographics

### Residual Market Top 10 Classification Codes by Policy Count Second Quarter Data Reported through June 30, 2018

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  | 367          | 21.2%         |
| 2    | 5551 | Roofing-All Kinds & Drivers  | 118          | 6.8%          |
| 3    | 5437 | Carpentry-Installation of Cabinet Work or Interior Trim                                | 63           | 3.6%          |
| 4    | 9014 | Janitorial Services by Contractors-No Window Cleaning Above Ground Level & Drivers     | 53           | 3.1%          |
| 5    | 6217 | Excavation & Drivers   | 51           | 3.0%          |
| 6    | 5474 | Painting NOC & Shop Operations Drivers   | 50           | 2.9%          |
| 7    | 5022 | Masonry NOC  | 44           | 2.5%          |
| 8    | 5445 | Wallboard Sheetrock Drywall Plasterboard or Cement Board Installation Within Buildings | 43           | 2.5%          |
| 9    | 7228 | Trucking-Local Hauling Only-& Drivers  | 43           | 2.5%          |
| 10   | 5221 | Concrete or Cement Work- Floors Driveways Yards or Sidewalks-& Drivers                 | 40           | 2.3%          |

### Residual Market Top 10 Classification Codes by Premium Volume Second Quarter Data Reported through June 30, 2018

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 | \$735,276 | 14.1%        |
| 2    | 5551 | Roofing-All Kinds & Drivers   | \$381,078 | 7.3%         |
| 3    | 7228 | Trucking-Local Hauling Only-& Drivers   | \$372,431 | 7.2%         |
| 4    | 2719 | Logging or Tree Removal - Mechanized Harvesting Exclusively                           | \$261,023 | 5.0%         |
| 5    | 8018 | Store: Wholesale NOC  | \$121,214 | 2.3%         |
| 6    | 0037 | Farm: Field Crops & Drivers   | \$120,246 | 2.3%         |
| 7    | 5474 | Painting NOC & Shop Operations Drivers  | \$116,133 | 2.2%         |
| 8    | 6217 | Excavation & Drivers  | \$114,869 | 2.2%         |
| 9    | 7229 | Trucking-Long Distance Hauling-& Drivers  | \$111,571 | 2.1%         |
| 10   | 5535 | Sheet Metal Work-Installation & Drivers   | \$102,570 | 2.0%         |



## 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.



## EXHIBIT "C"

# State of the Line

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# PROPERTY/CASUALTY (P/C) RESULTS

# P/C Industry Net Written Premium Growth

## Private Carriers

| Line of Business                          | 2016 (\$B)   | 2017p (\$B)  | % Change From 2016 |
|---|--------------|--------------|--------------------|
| Personal Auto                             | 207.4        | 221.9        | 7.0                |
| Homeowners                                | 80.6         | 82.2         | 2.0                |
| Other Liability (Incl. Product Liability) | 47.9         | 50.1         | 4.6                |
| <b>Workers Compensation</b>               | <b>40.1</b>  | <b>39.8</b>  | <b>-0.7</b>        |
| Commercial Multiple Peril                 | 33.8         | 34.1         | 0.9                |
| Fire & Allied Lines (Incl. EQ)            | 26.3         | 26.4         | 0.4                |
| Commercial Auto                           | 28.3         | 30.6         | 8.1                |
| All Other Lines                           | 63.7         | 67.0         | 5.2                |
| <b>Total P/C Industry</b>                 | <b>528.0</b> | <b>552.1</b> | <b>4.6</b>         |

p Preliminary

Source: NAIC's Annual Statement data for individual carriers prior to consolidation of affiliated carriers

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# P/C Industry Net Combined Ratio

## Private Carriers

| Line of Business                          | 2016 (%)   | 2017p (%)  | Difference From 2016 |
|---|------------|------------|----------------------|
| Personal Auto                             | 106        | 103        | -3                   |
| Homeowners                                | 93         | 107        | 14                   |
| Other Liability (Incl. Product Liability) | 111        | 101        | -10                  |
| <b>Workers Compensation</b>               | <b>94</b>  | <b>89</b>  | <b>-5</b>            |
| Commercial Multiple Peril                 | 102        | 108        | 6                    |
| Fire & Allied Lines (Incl. EQ)            | 90         | 124        | 34                   |
| Commercial Auto                           | 111        | 111        | 0                    |
| All Other Lines                           | 87         | 98         | 11                   |
| <b>Total P/C Industry</b>                 | <b>101</b> | <b>104</b> | <b>3</b>             |

p Preliminary

Source: NAIC's Annual Statement data for individual carriers prior to consolidation of affiliated carriers

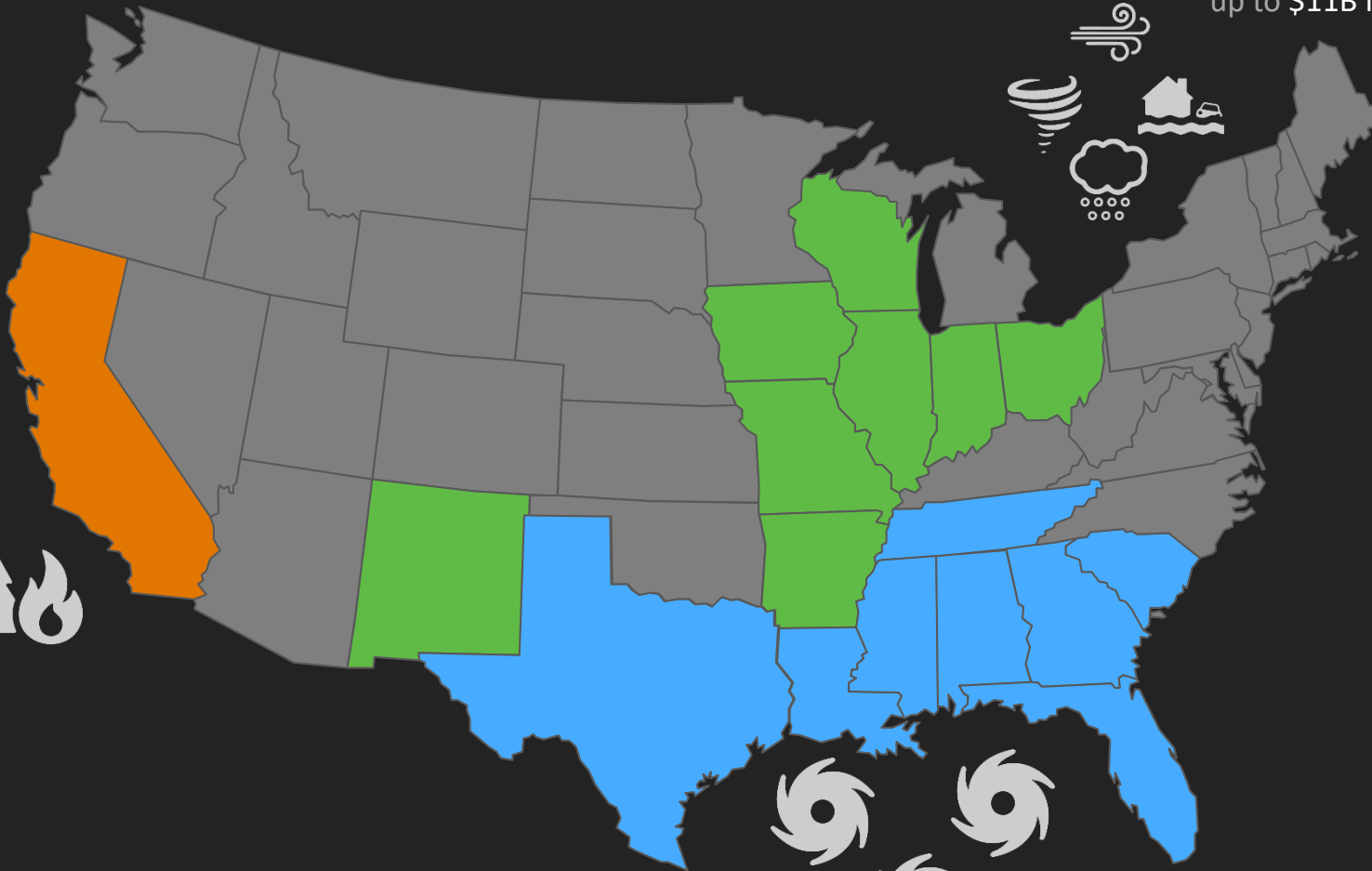
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# Impact of Catastrophes on P/C Losses

Several tornado, hail, wind, and flood events produced up to \$11B in insured losses



Wildfires destroyed structures, homes, and buildings, resulting in over \$11B in losses

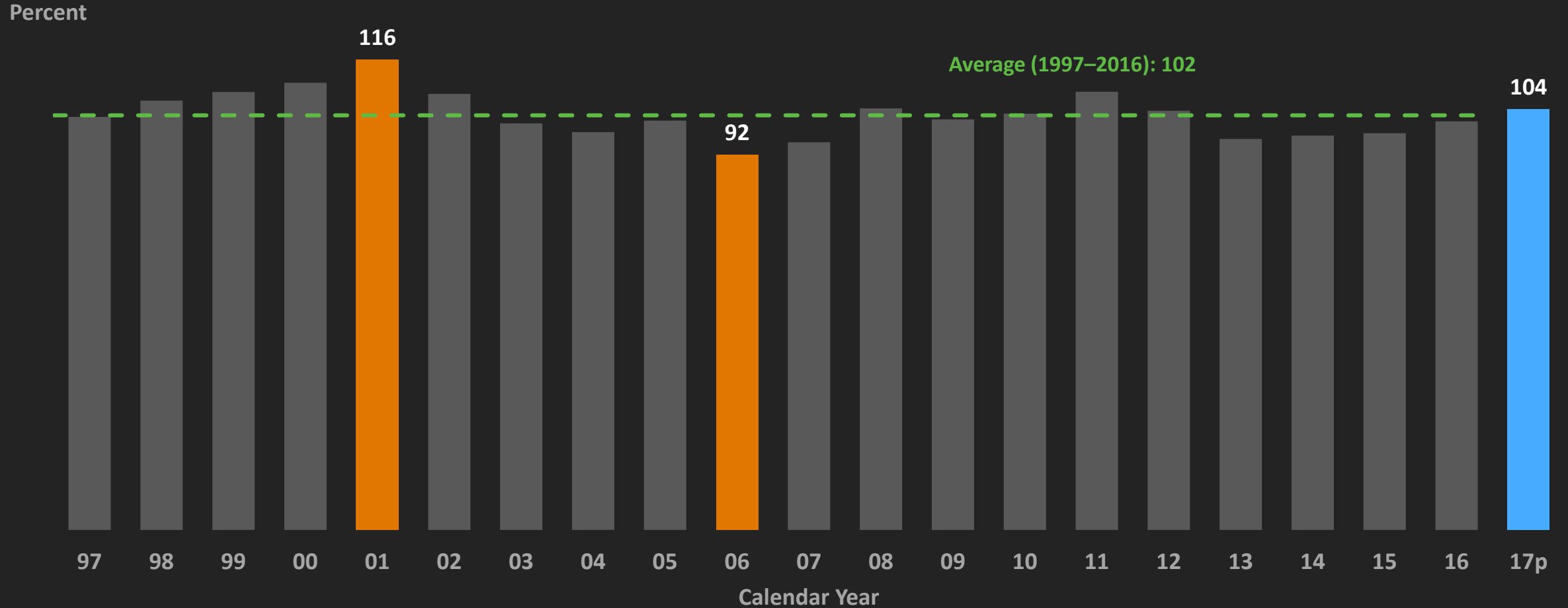


Major hurricanes had a combined impact on insured losses of \$56B



# P/C Industry Net Combined Ratio

Private Carriers



p Preliminary

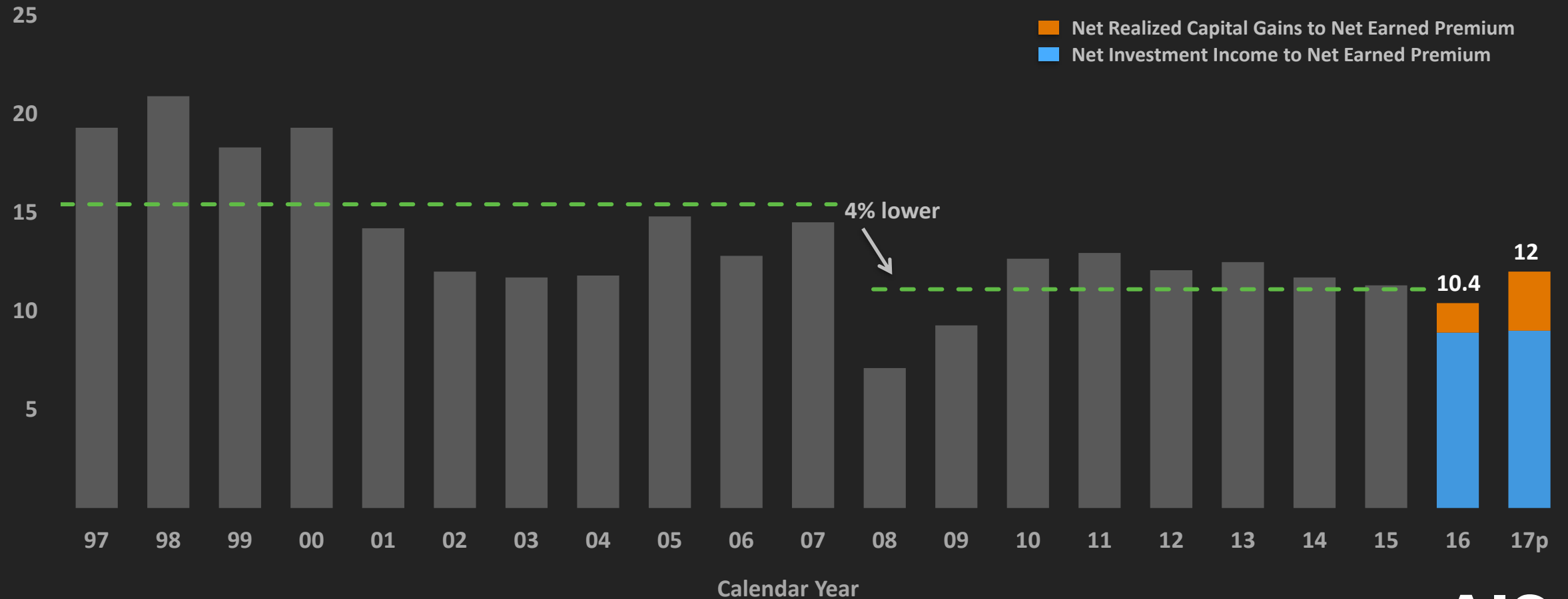
Sources: 1997–2007 and 2012–2017p NAIC's Annual Statement data; 2008–2011 ISO

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# P/C Industry Investment Gain Ratio

## Private Carriers

Percent

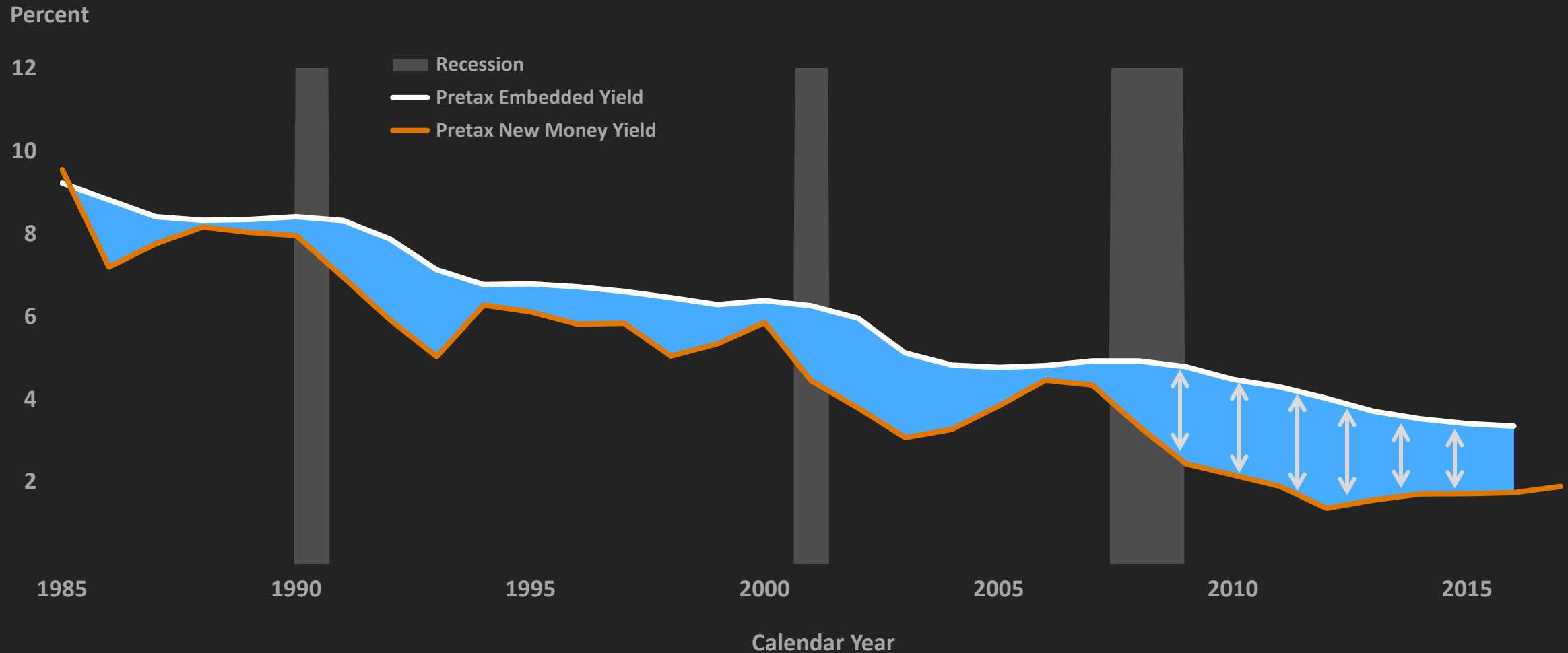


p Preliminary

Sources: 1997–2007 and 2013–2017p NAIC's Annual Statement data; 2008–2012 ISO

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# P/C Industry Bond Embedded Yield and New Money Yield



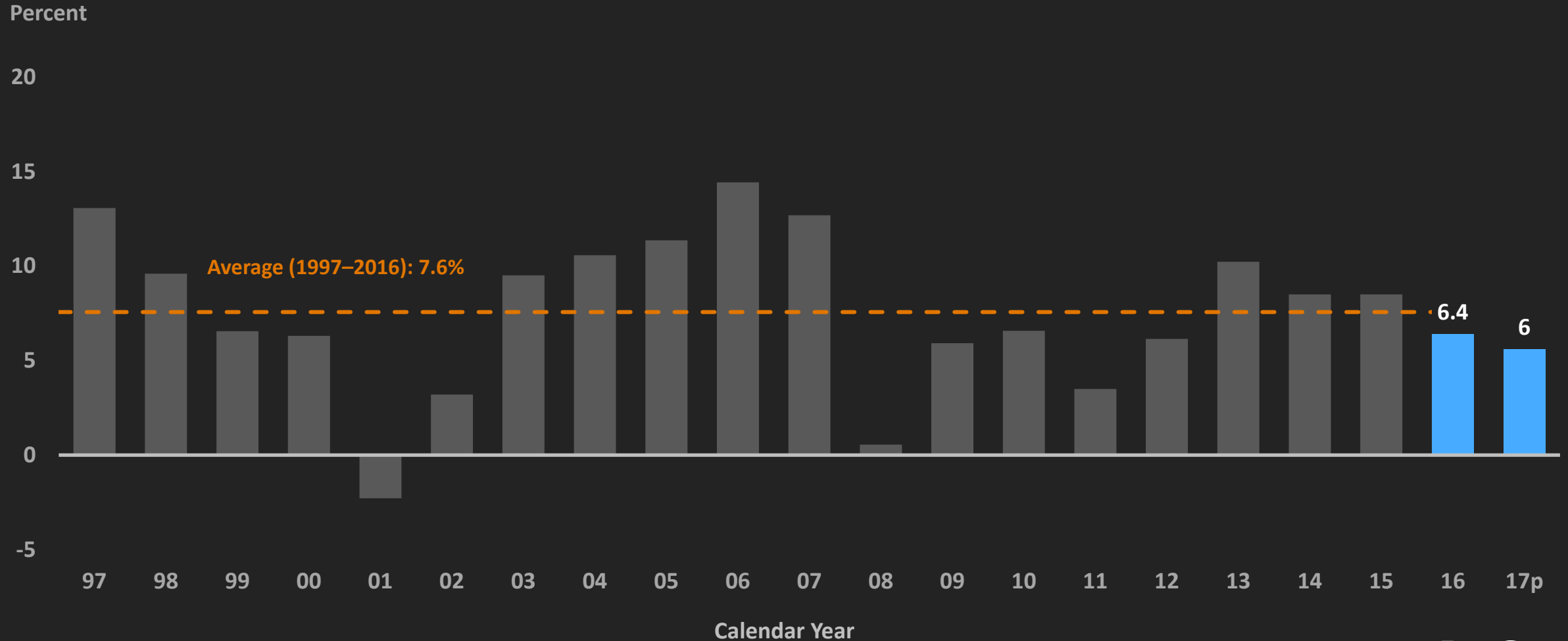
Sources: NCCI, *A.M. Best's Aggregates & Averages*, Federal Reserve Bank, Value Line, TreasuryDirect.gov, Barron's, and Bloomberg  
Embedded Yield is the reported investment income for bond instruments divided by the asset value of those instruments  
New Money Yield is the pretax yield on bonds

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# P/C Industry After-Tax Return on Surplus

## Private Carriers



p Preliminary

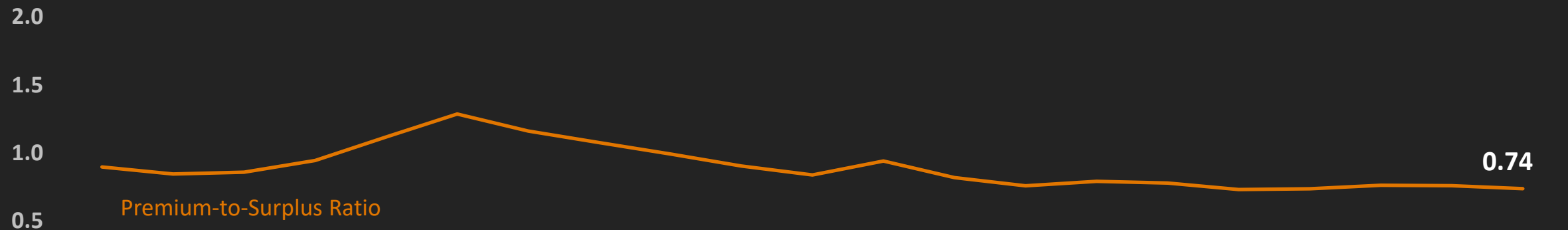
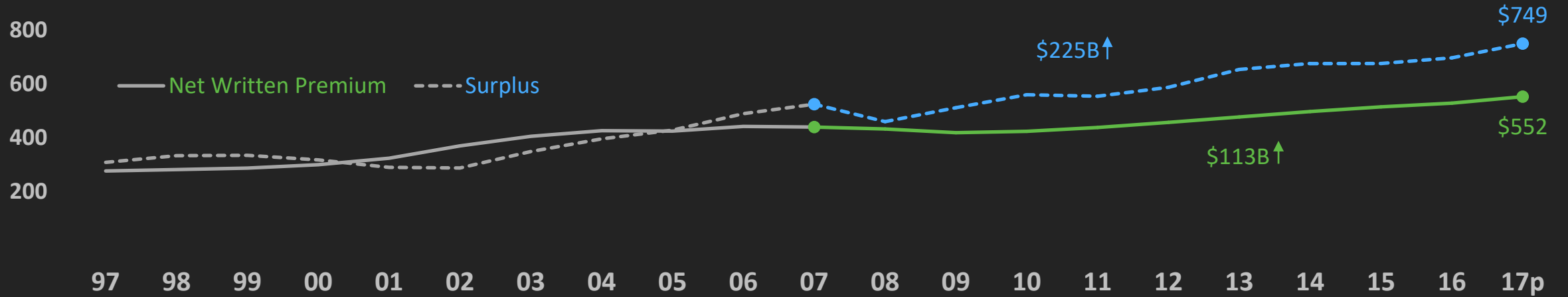
Sources: 1997–2007 and 2013–2017p NAIC's Annual Statement data; 2008–2012 ISO  
After-tax return on average surplus, excluding unrealized capital gains

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# P/C Industry Premium-to-Surplus Ratio

Private Carriers

\$ Billions



p Preliminary

Sources: 1997–2007 and 2013–2017p NAIC’s Annual Statement data; 2008–2012 ISO

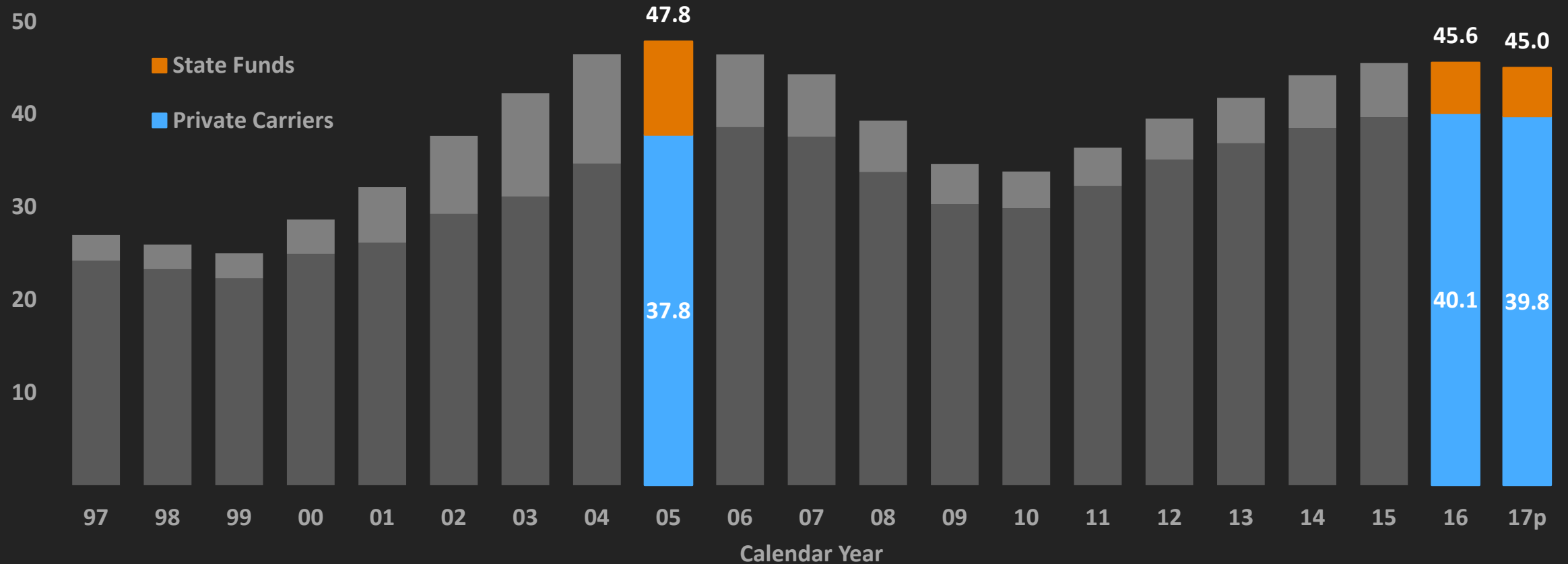
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# WORKERS COMPENSATION (WC) PREMIUM

# WC Net Written Premium

## Private Carriers and State Funds

\$ Billions



p Preliminary

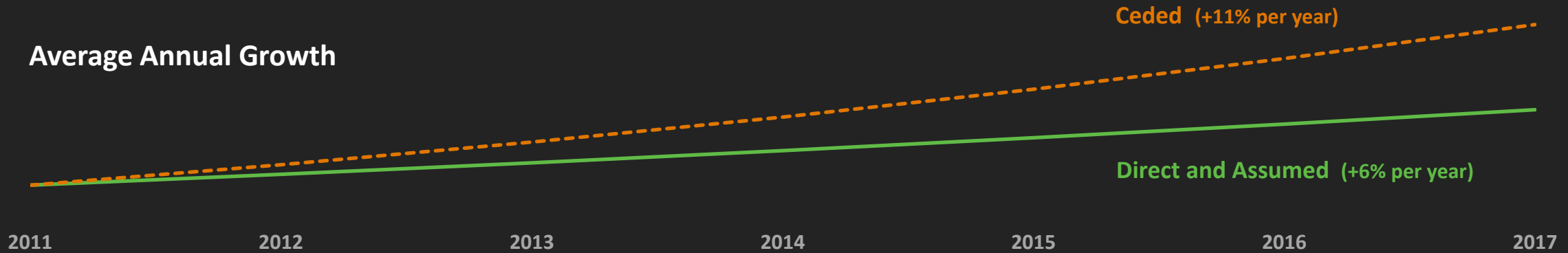
Source: NAIC's Annual Statement data; includes state insurance fund data for the following states: AZ, CA, CO, HI, ID, KY, LA, MD, MO, MT, NM, OK, OR, RI, TX, and UT  
Each calendar year total for state funds includes all funds operating as a state fund in that year

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# Proportion of Total WC Premium Ceded



## Average Annual Growth



Source: NAIC's Annual Statement data

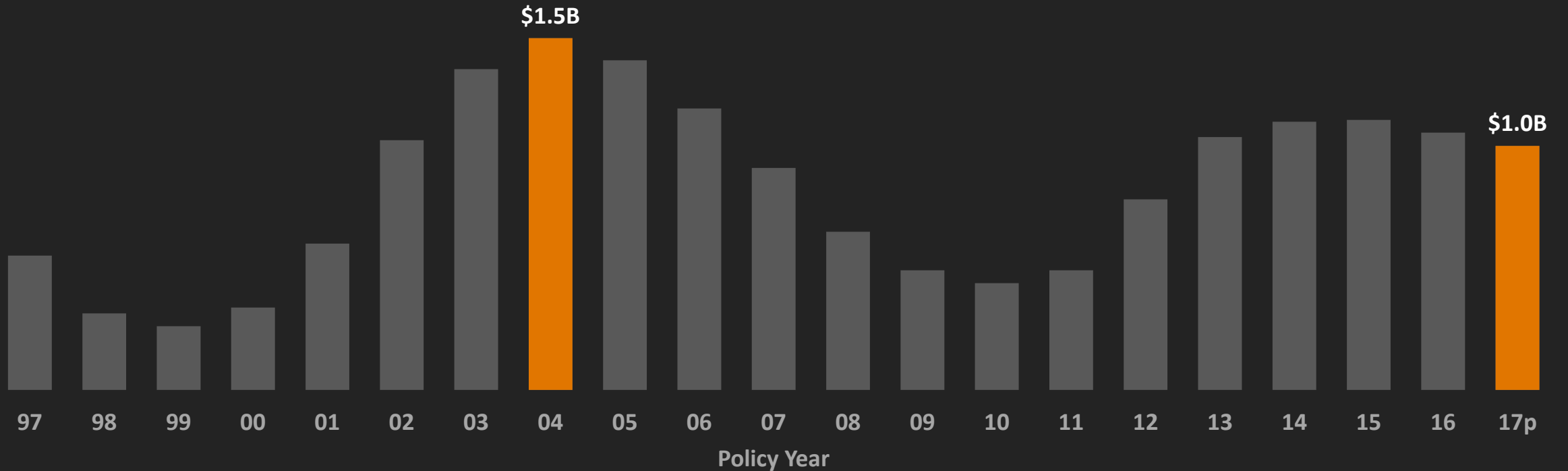
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# WC Residual Market Premium

NCCI-Serviced WC Residual Market Pools



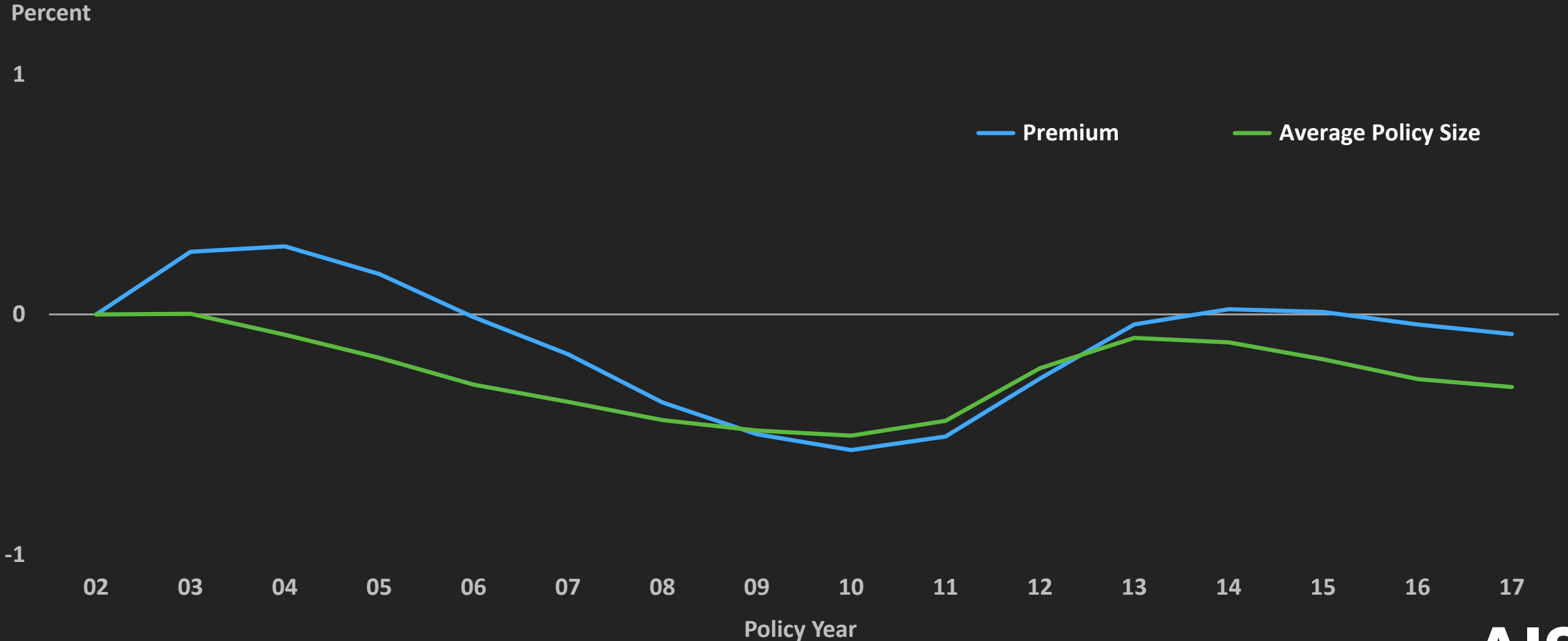
p Preliminary, incomplete policy year projected to ultimate  
Includes Pool data for all NCCI-serviced WC Residual Market Pool states, valued as of 12/31/2017  
Tennessee Reinsurance Mechanism premium is not included  
Source: NCCI's *Residual Market Quarterly Results*

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# WC Residual Market—Changes in Premium vs. Average Policy Size

NCCI-Administered WC Residual Market Plan States



Total estimated annual premium  
Includes Pool and direct assignment data for all NCCI-administered WC Residual Market Plan states

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# WC Residual Market Premium by Size of Risk

NCCI-Administered WC Residual Market Plan States

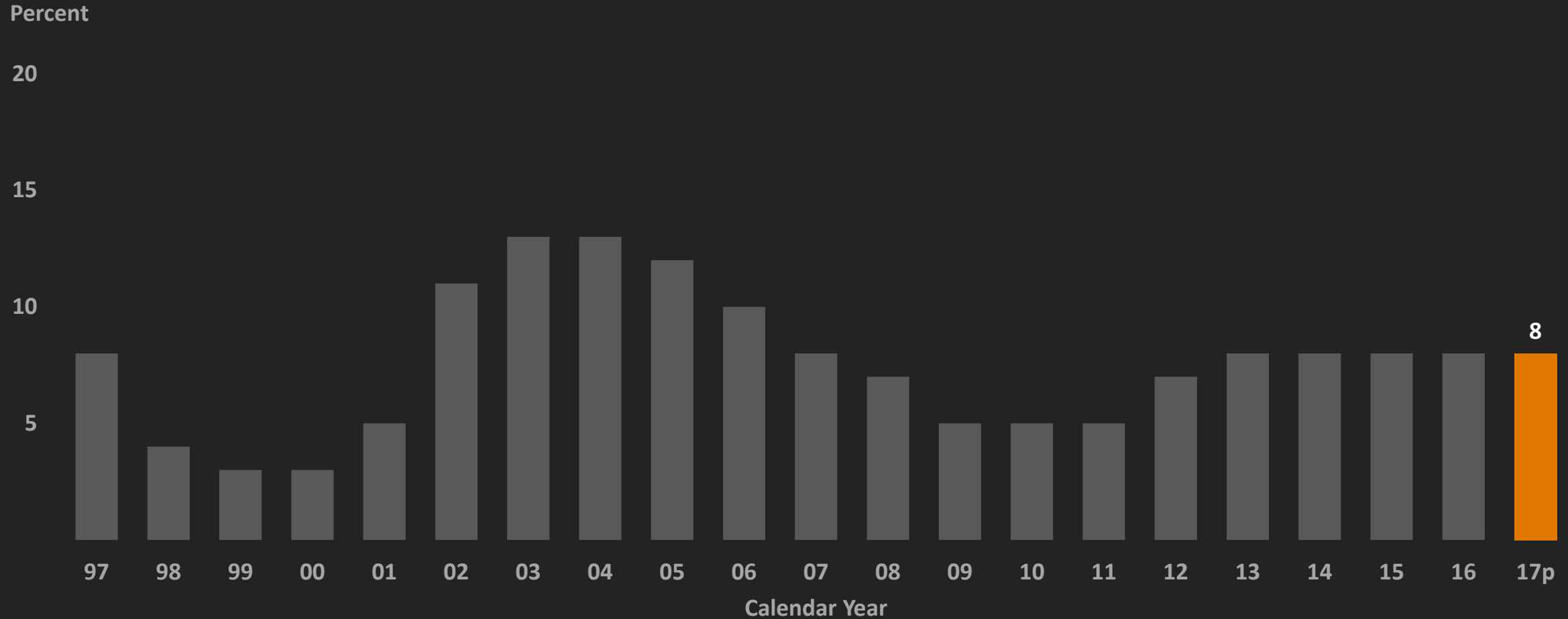
| Size of Risk        | Premium (\$ Millions) |              | % Change From 2017 |
|---------------------|-----------------------|--------------|--------------------|
|                     | Q1 2017               | Q1 2018      |                    |
| \$ 0 – 2,499        | 36.1                  | 39.3         | 9                  |
| \$ 2,500 – 4,999    | 20.0                  | 19.4         | -3                 |
| \$ 5,000 – 9,999    | 26.5                  | 25.3         | -5                 |
| \$ 10,000 – 49,999  | 68.5                  | 61.4         | -10                |
| \$ 50,000 – 99,999  | 21.2                  | 19.5         | -8                 |
| \$ 100,000 and Over | 26.6                  | 20.2         | -24                |
| <b>Total</b>        | <b>198.9</b>          | <b>185.1</b> | <b>-7</b>          |

Total estimated annual premium  
Includes Pool and direct assignment data for all NCCI-administered WC Residual Market Plan states

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# WC Residual Market Share

## NCCI-Serviced WC Residual Market Pools



p Preliminary

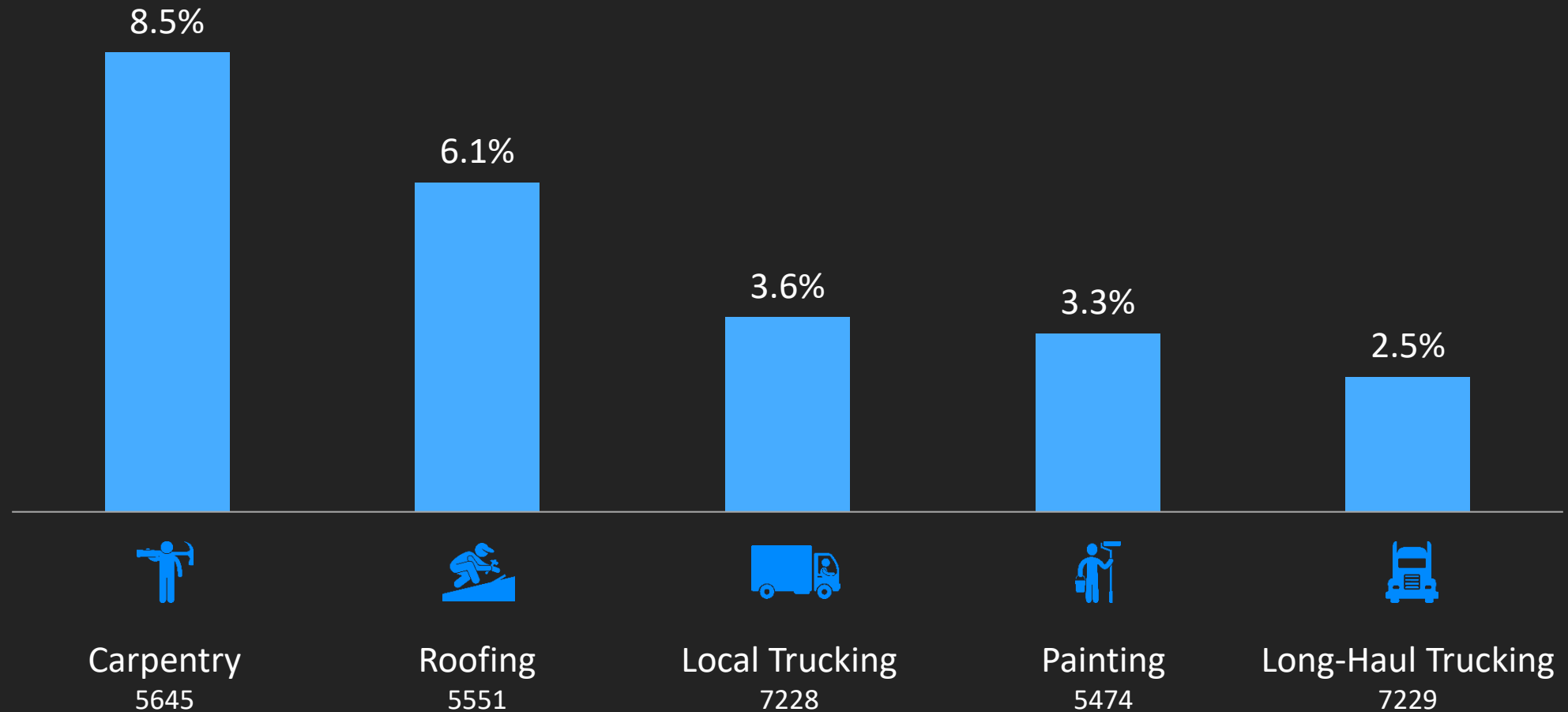
Includes Pool and direct assignment data for all NCCI-serviced WC Residual Market Pool states

Source: NCCI's *Residual Market Management Summary*

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# Top Five Residual Market Class Codes

Based on Residual Market Plan Total Written Premium for 2017



Top classification codes excluding the Standard Exception classifications

Results are based on manual premium volume for both intrastate policies and the state-specific portion of interstate policies

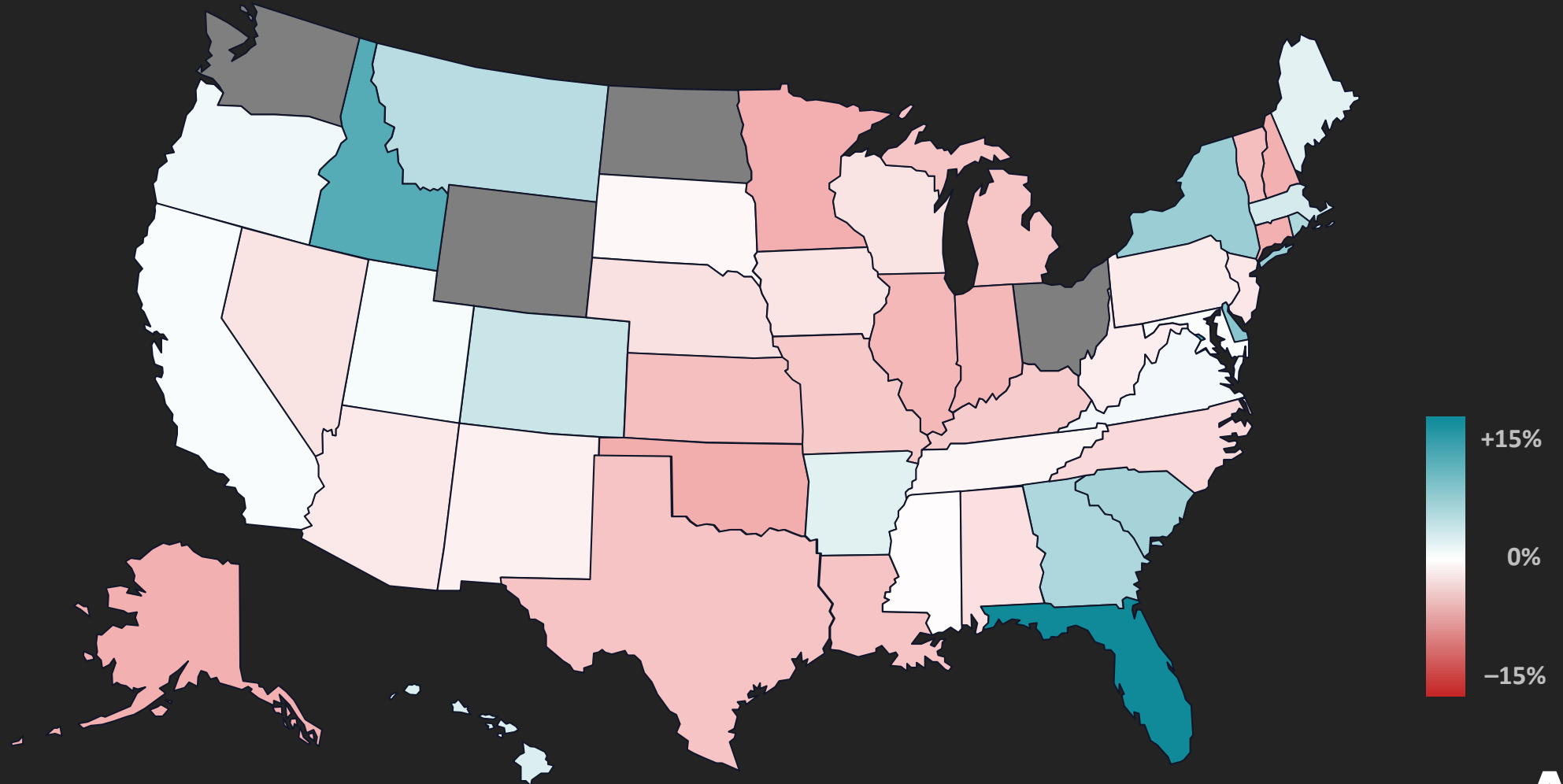
Source: NCCI's Policy data

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# WC Direct Written Premium Change—2017

Private Carriers



Source: 2016 and 2017 NAIC's Annual Statement Statutory Page 14

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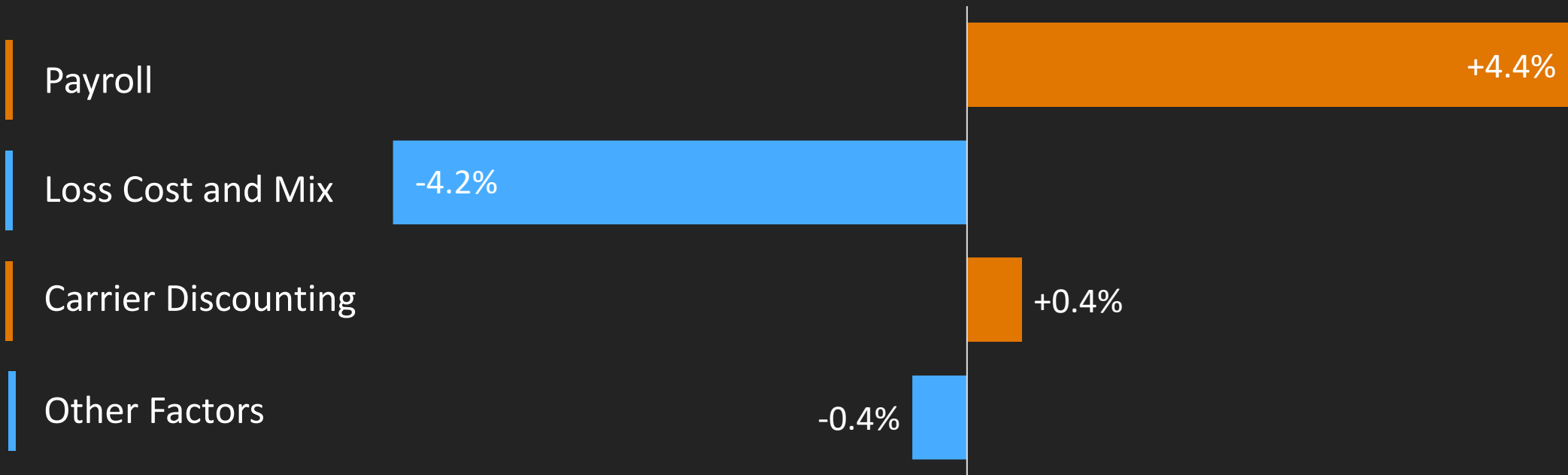
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# WC Direct Written Premium Change by Component

Private Carriers—NCCI States

Change in Direct Written Premium: 0.0%

2017 vs. 2016

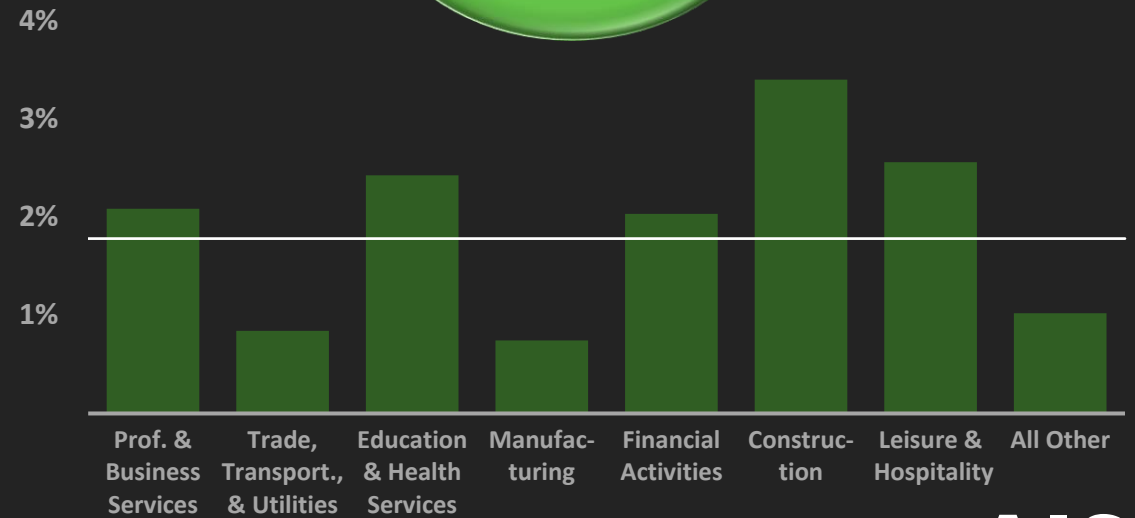
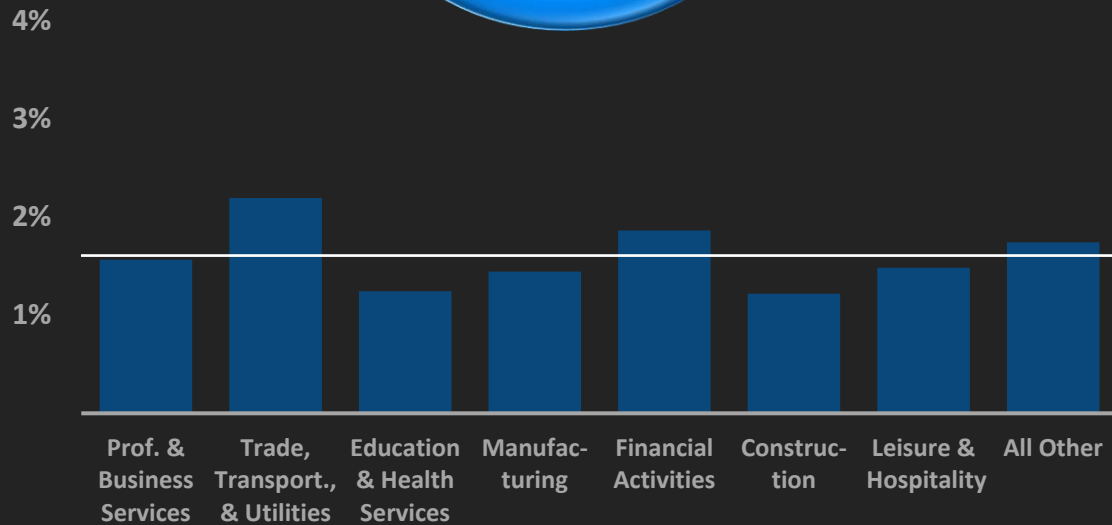
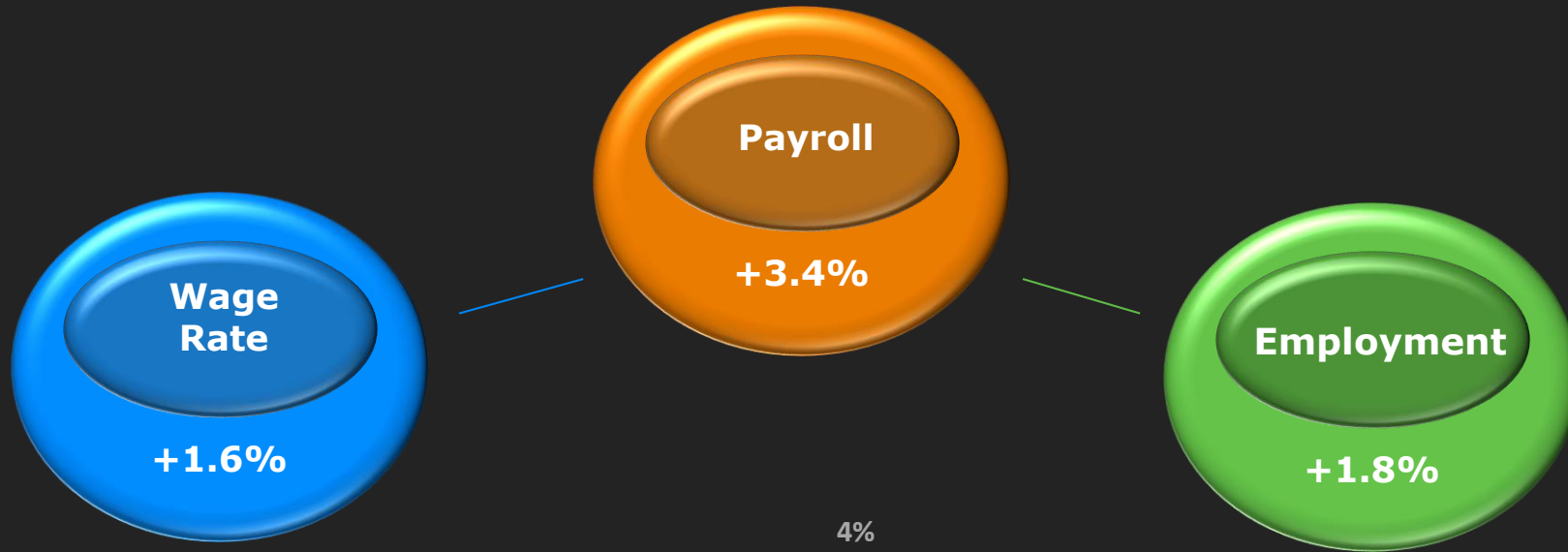


Sources: Direct Written Premium Change: NAIC's Annual Statement Statutory Page 14 for all states where NCCI provides ratemaking services  
Components: NCCI's Policy data

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# Increases in Payroll Continue to Drive Changes in Premium

Forecast Change 2016–2017



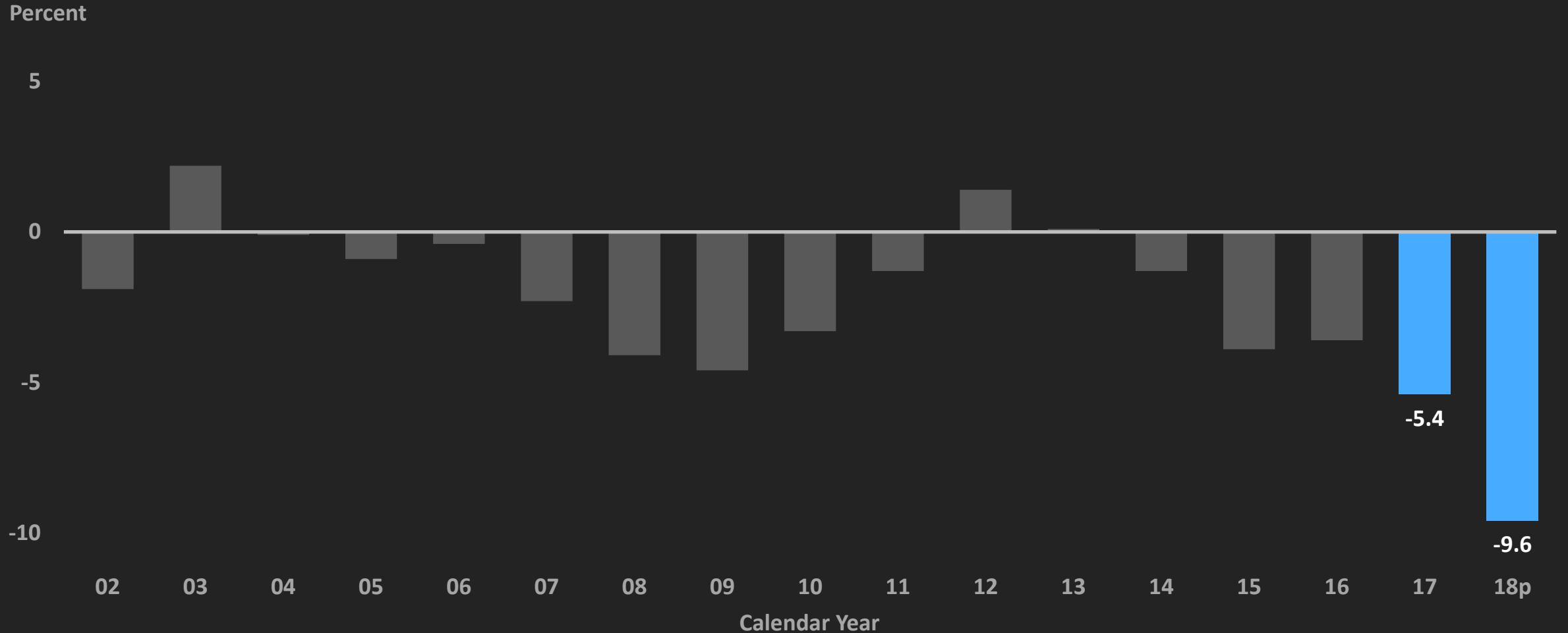
Sources: Moody's Analytics and NCCI

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# WC Approved Changes in Bureau Premium Level

Weighted by Effective Date—NCCI States



p Preliminary

Source: NAIC's Annual Statement Statutory Page 14

Values reflect changes in average premium levels between years, based on approved changes in advisory rates, loss costs, assigned risk rates, and rating values, as of 5/10/2018

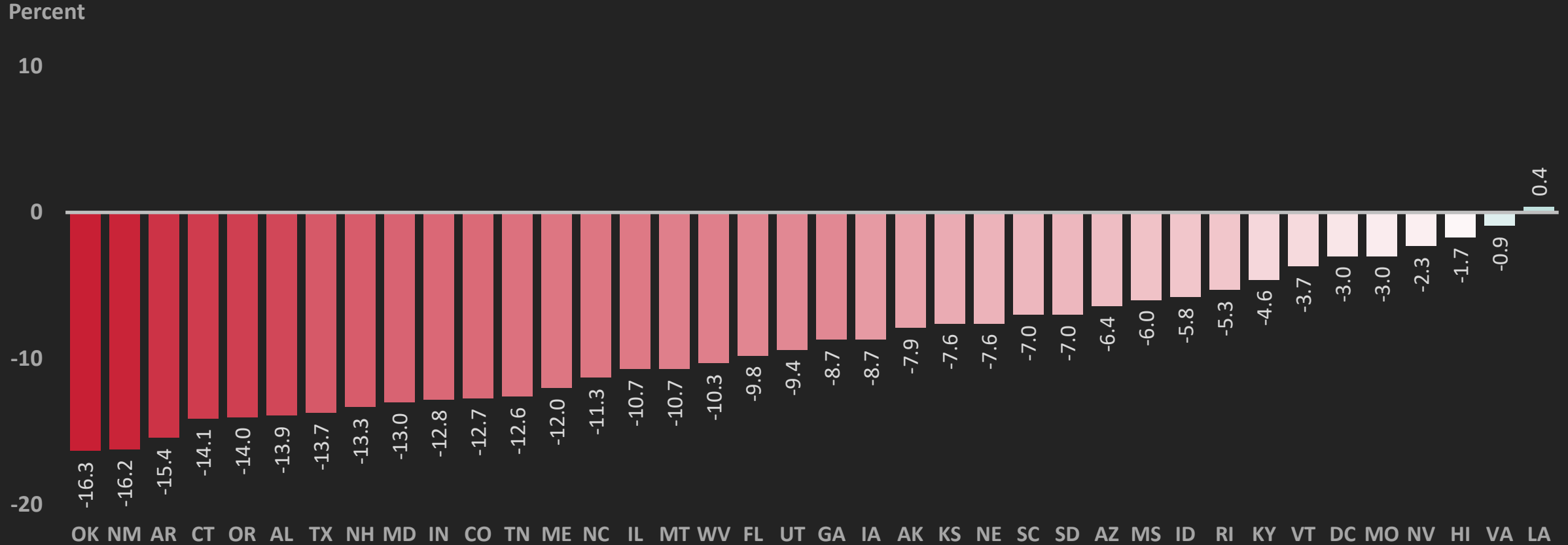
IN and NC are filed in cooperation with state rating bureaus

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# Most Recent Changes in Bureau Premium Level

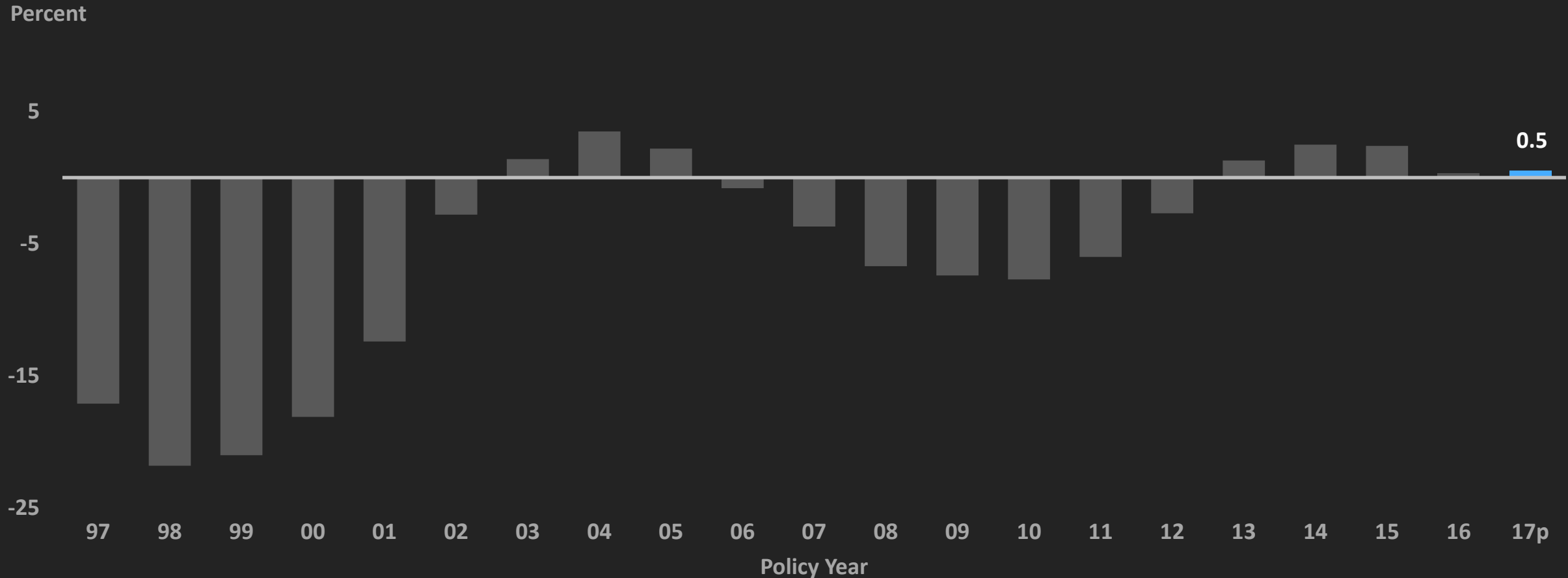
Voluntary Market, Excludes Law-Only Filings



Premium level changes in advisory rates, loss costs, and rating values, as of 5/10/2018, as filed by the applicable rating organization, relative to those previously approved  
IN and NC are filed in cooperation with state rating bureaus

# 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

Rate/loss cost departure reflects carrier departure from NCCI rate level, which excludes a profit and contingency provision and expense constant

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

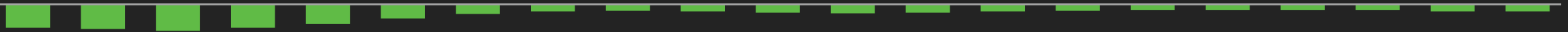
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# WC Impact of Discounting on Premium by Component

Private Carriers—NCCI States

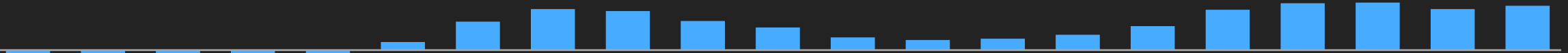
## Dividends



## Schedule Rating



## Rate/Loss Cost Departure



97 98 99 00 01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17p

Policy Year

p Preliminary

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

Dividend ratios are based on calendar year statistics

Rate/loss cost departure reflects carrier departure from NCCI rate level, which excludes a profit and contingency provision and expense constant

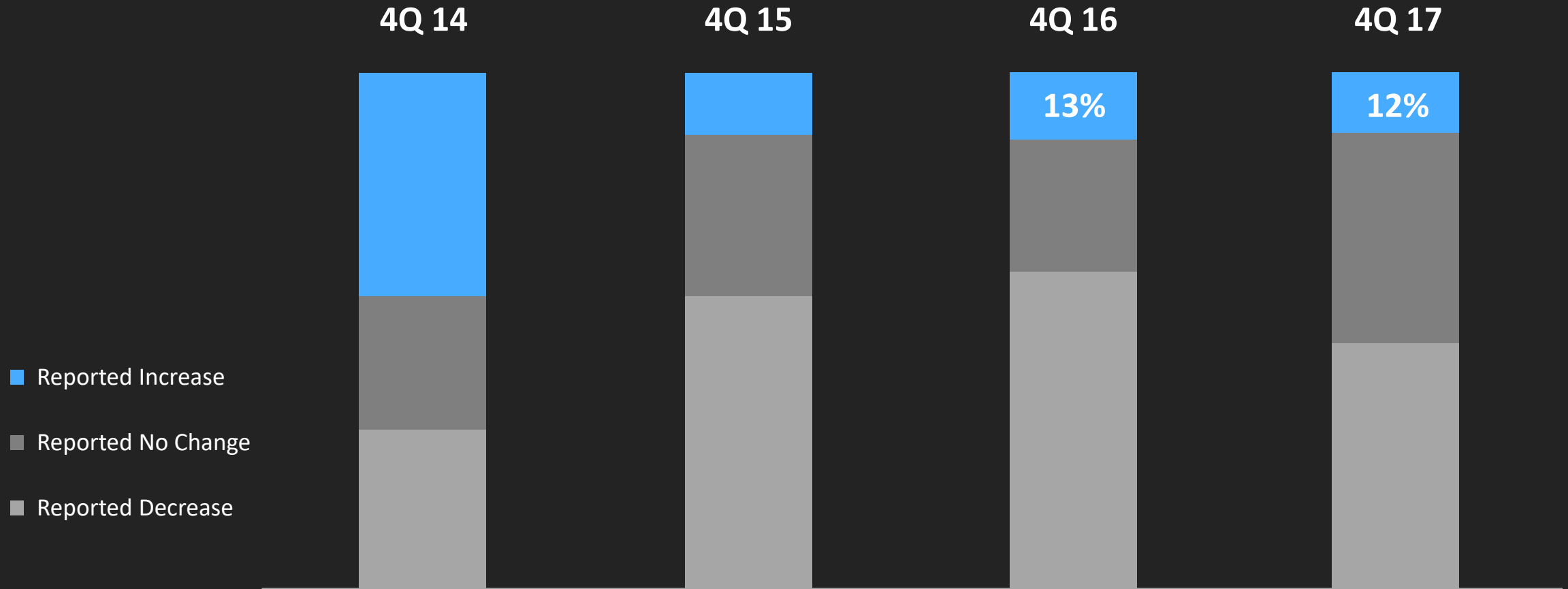
Based on data for all states where NCCI provides ratemaking services, excluding TX

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# WC Pricing—Market Index Survey

Percentage of Respondents

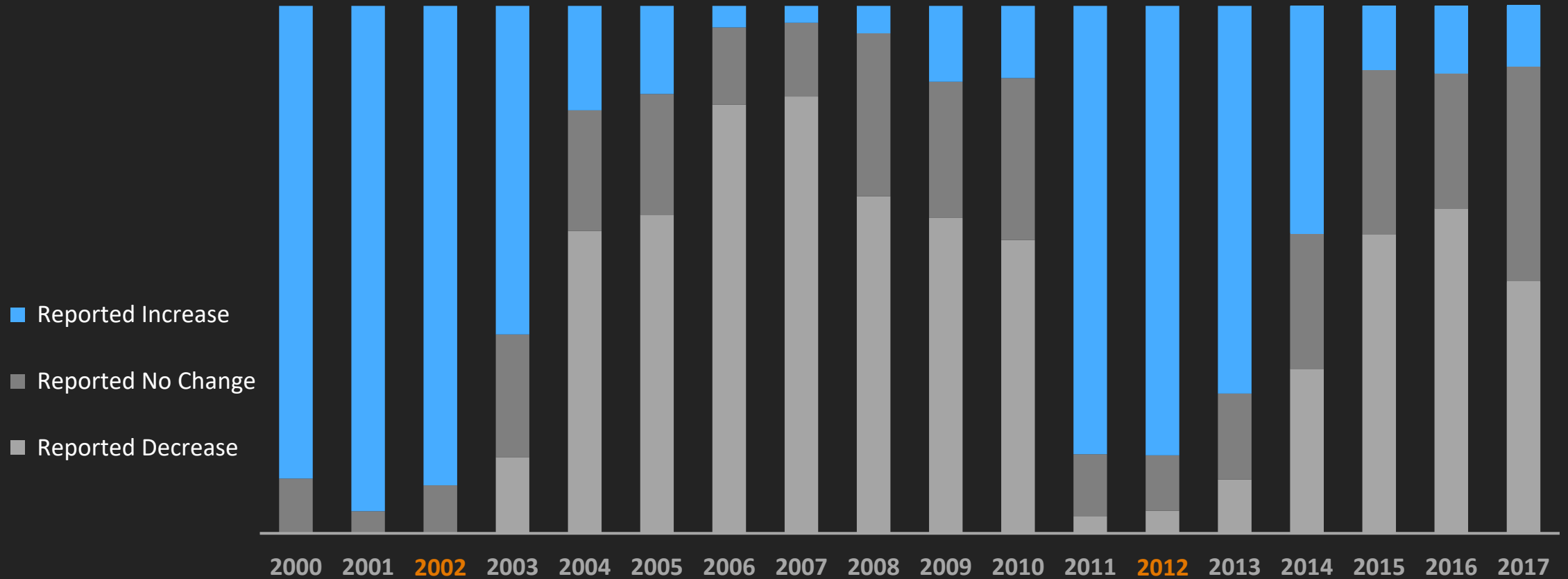


Sources: The Council of Insurance Agents & Brokers: Q4 P/C Market Index Surveys (2014–2017); results for “All Regions”

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# WC Pricing—Market Index Survey

Percentage of Respondents, Based on 4Q Results



Sources: The Council of Insurance Agents & Brokers: Q4 P/C Market Index Surveys (2000–2017); results for “All Regions”

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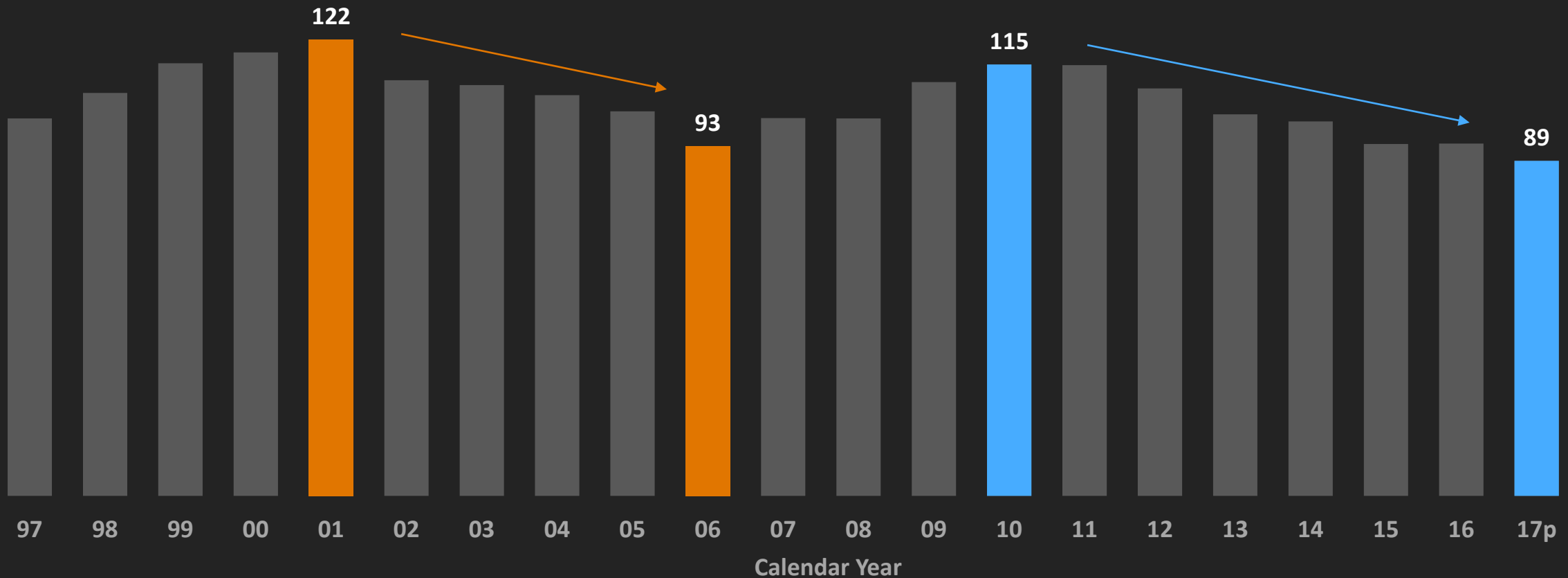
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# WORKERS COMPENSATION RESULTS

# WC Combined Ratio—Underwriting Gain Achieved

Private Carriers

Percent



p Preliminary

Source: NAIC's Annual Statement data

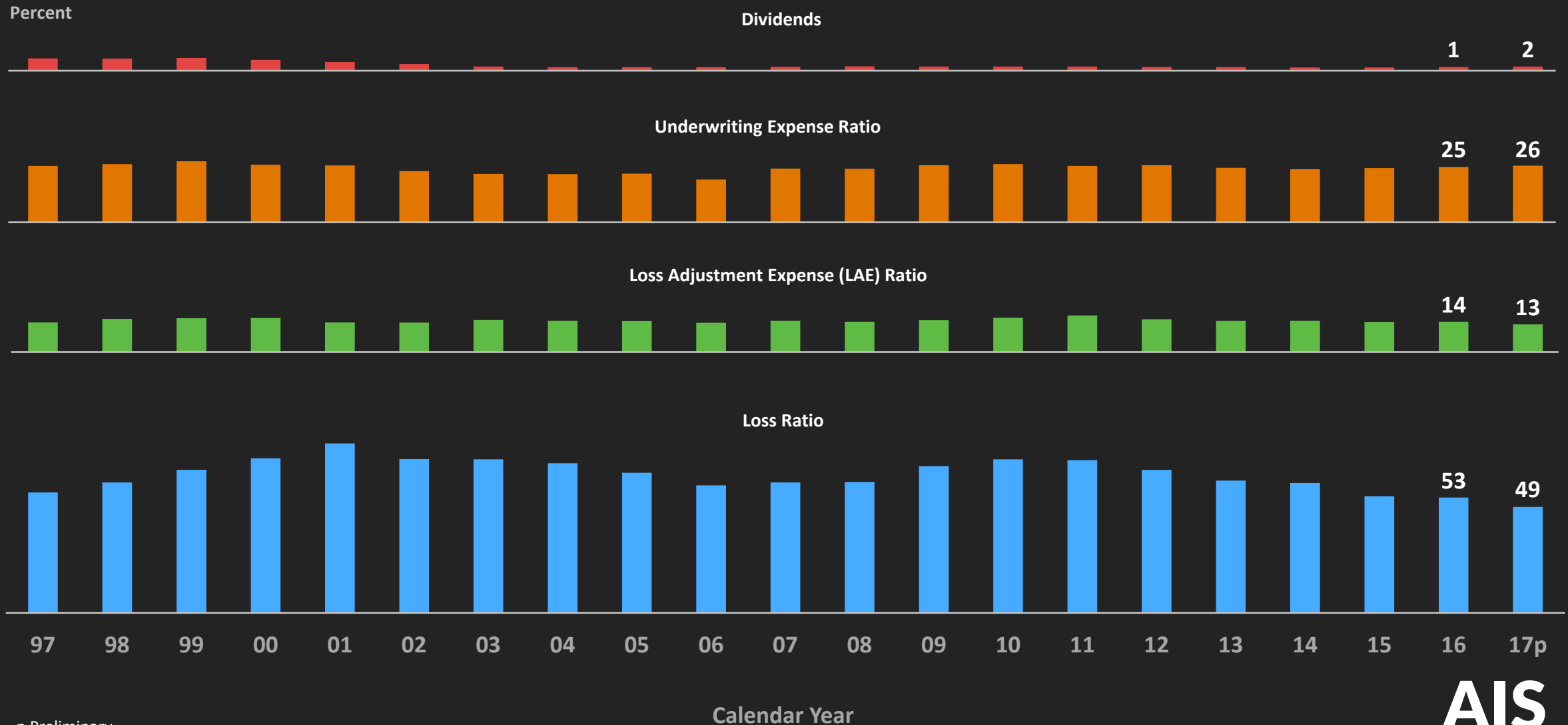
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# WC Combined Ratio by Component

## Private Carriers



p Preliminary  
Source: NAIC's Annual Statement data

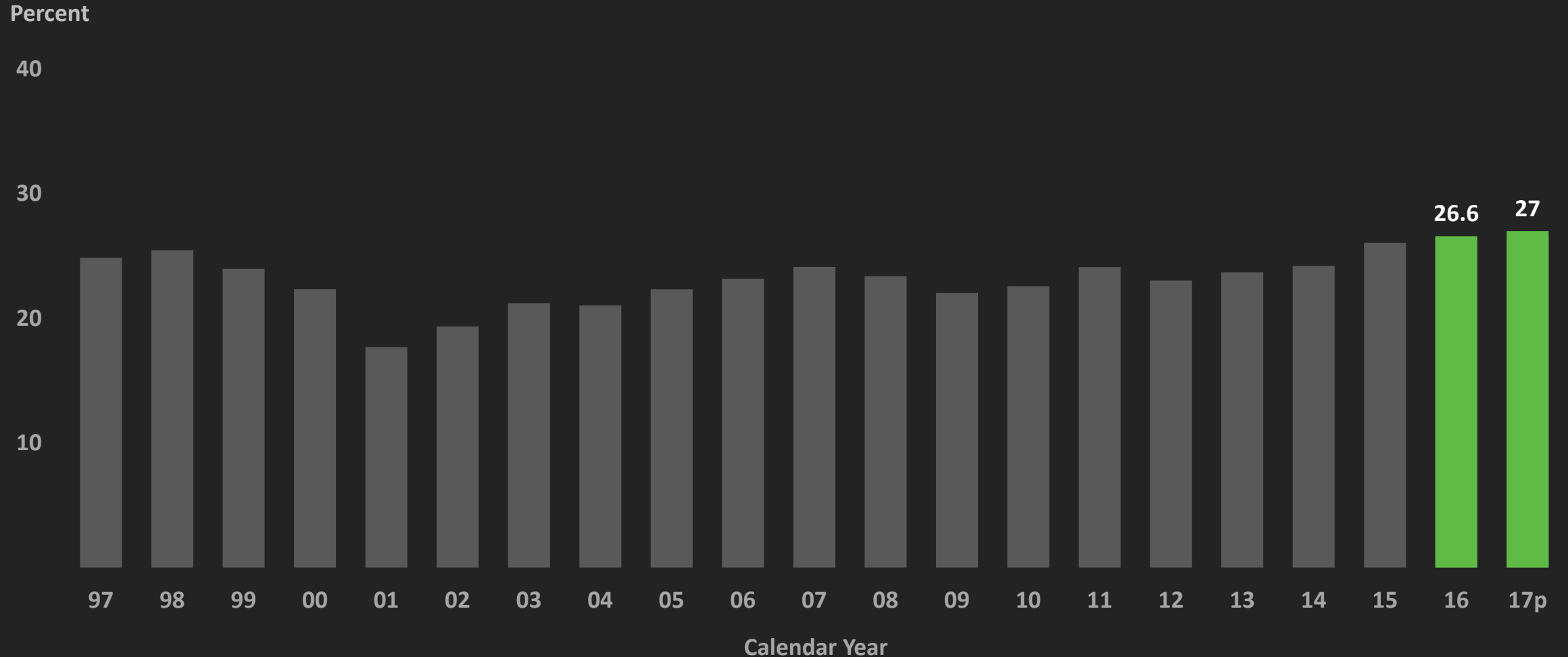
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Calendar Year

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# WC LAE-to-Loss Ratio—Net Incurred LAE to Incurred Losses

Private Carriers



p Preliminary

Source: NAIC's Annual Statement data

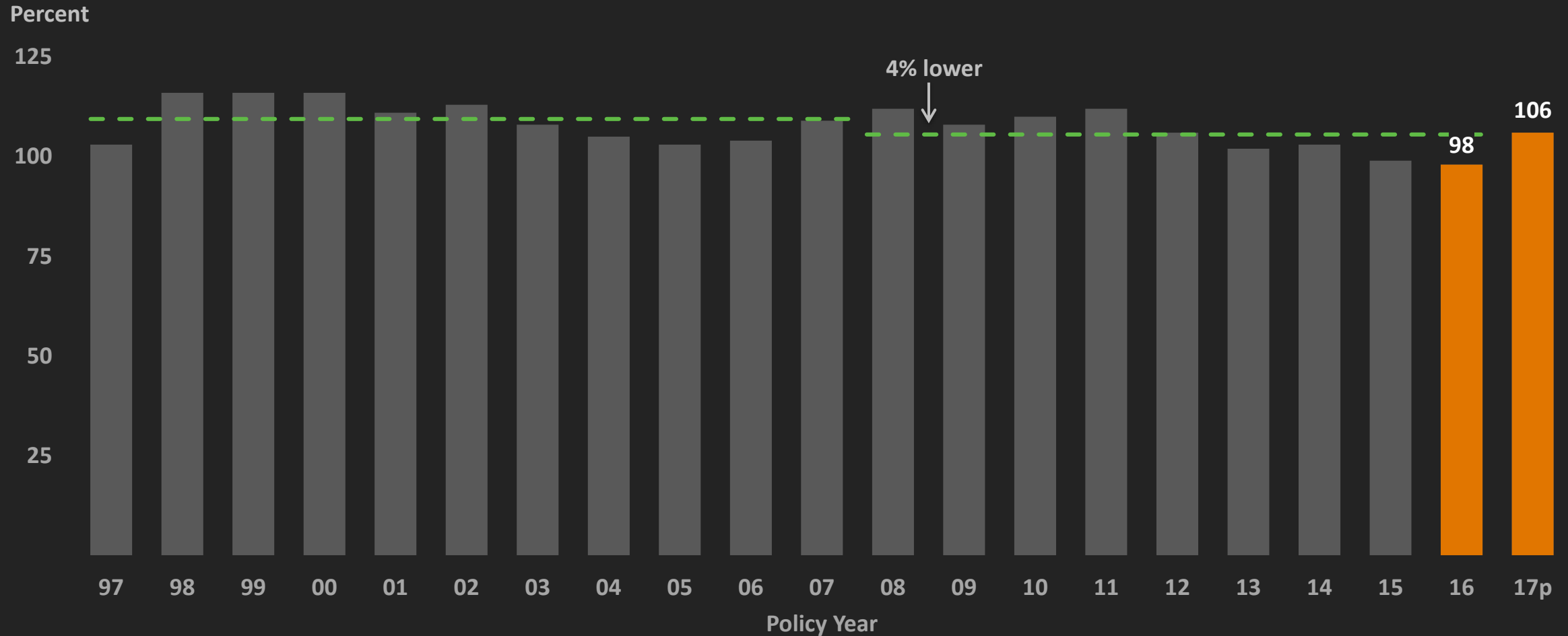
LAE includes Defense and Cost Containment Expense plus Adjusting and Other Expense

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# WC Residual Market Combined Ratio

NCCI-Serviced WC Residual Market Pools



p Preliminary, incomplete policy year projected to ultimate

Includes Pool data and Plan expenses for pool members for all NCCI-serviced WC Residual Market Pool states, valued as of 12/31/2017

Tennessee Reinsurance Mechanism experience is not included in the combined ratios

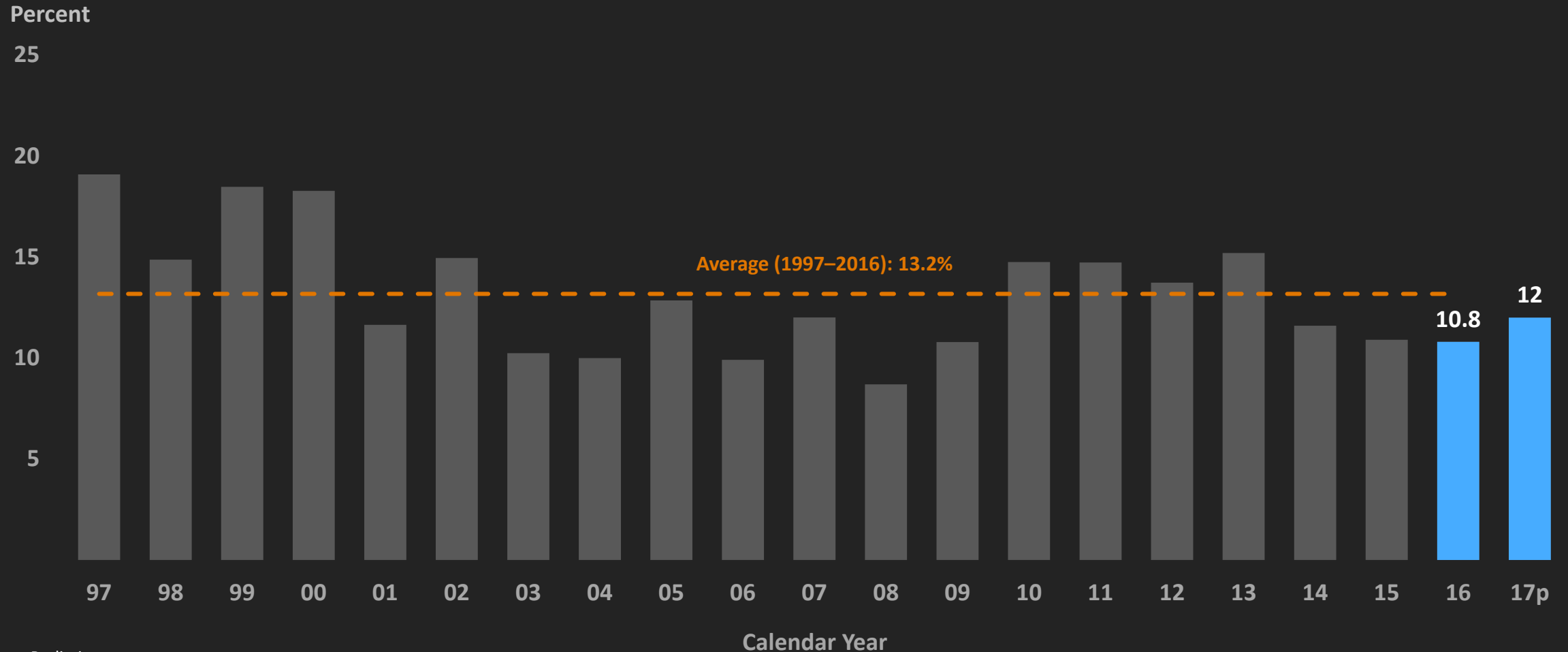
Source: NCCI's *Residual Market Quarterly Results*

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# WC Investment Gain on Insurance Transactions

Ratio to Net Earned Premium, Private Carriers



p Preliminary

Source: NAIC's Annual Statement data

Investment Gain on Insurance Transactions includes Other Income

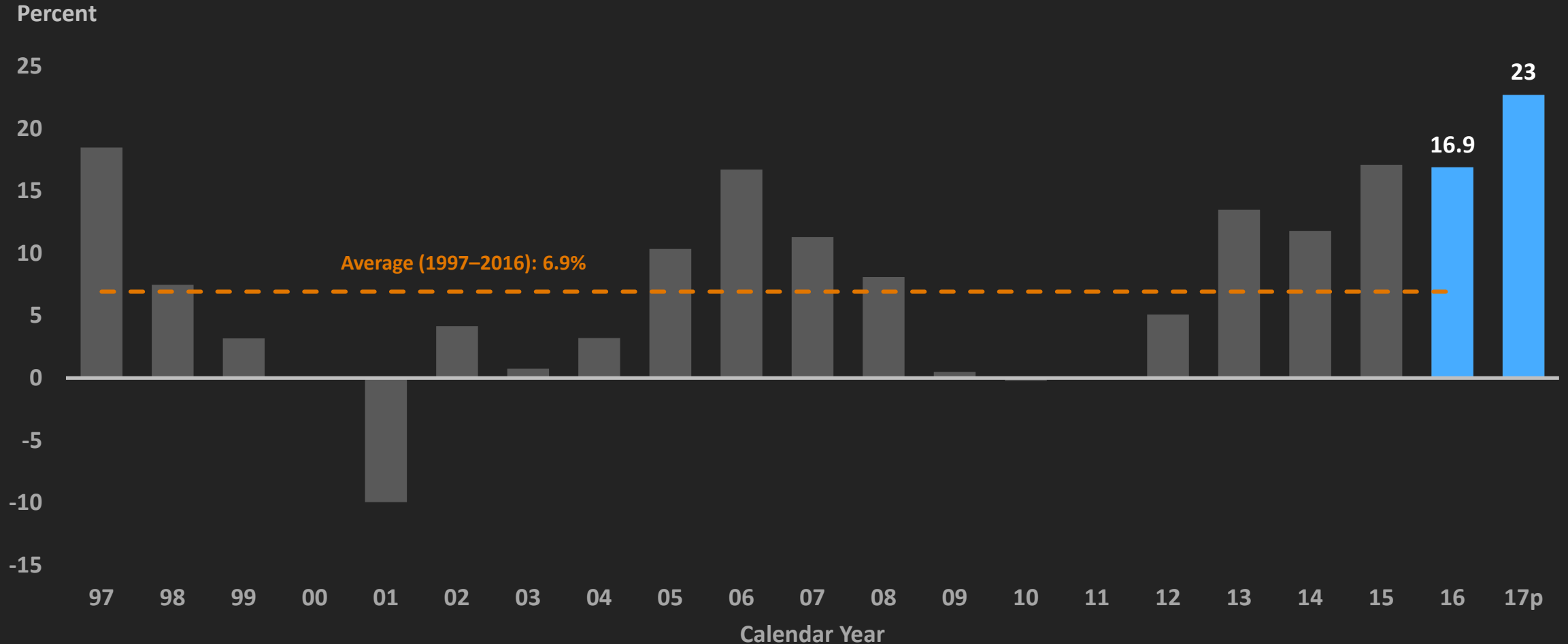
2013 is adjusted to exclude a material realized gain resulting from a single company transaction that involved corporate restructuring; unadjusted value is 19.4

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# WC Pretax Operating Gain

## Private Carriers



p Preliminary

Source: NAIC's Annual Statement data

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

2013 is adjusted to exclude a material realized gain resulting from a single company transaction that involved corporate restructuring; unadjusted value is 17.7

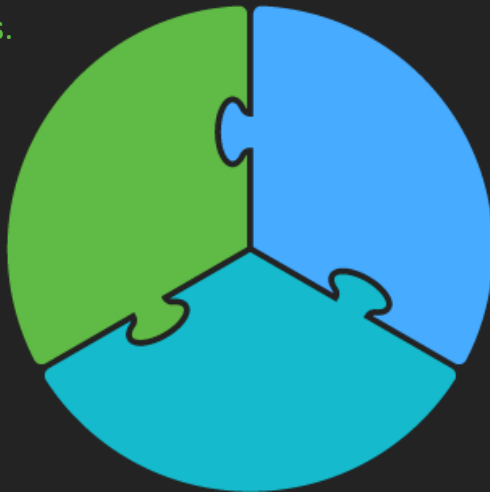
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# Social Security Disability Insurance and Workers Compensation

The idea of a “race to the bottom” is not borne out by the facts

## Interaction of Coverages

Most states did **not reduce WC** benefits in the last **15 years**.

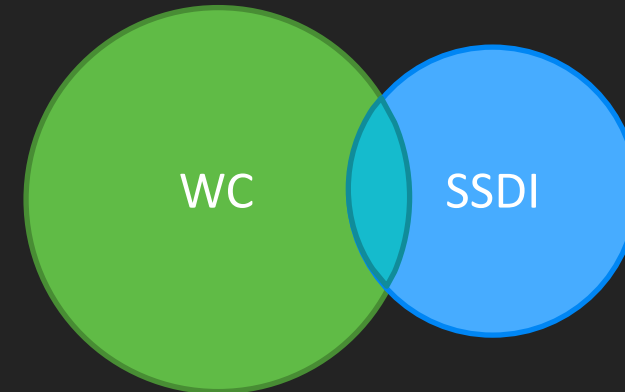


Observed **increases in SSDI** applications were impacted much more by the **Great Recession** than by WC benefit levels.

In states that did **lower WC** benefits, **SSDI applications** typically **decreased** following these reforms.

## Dual Recipients

SSDI and WC work together to provide benefits to dual recipients. While workers receive dual benefits, **WC** generally shoulders the **majority** of the cost.

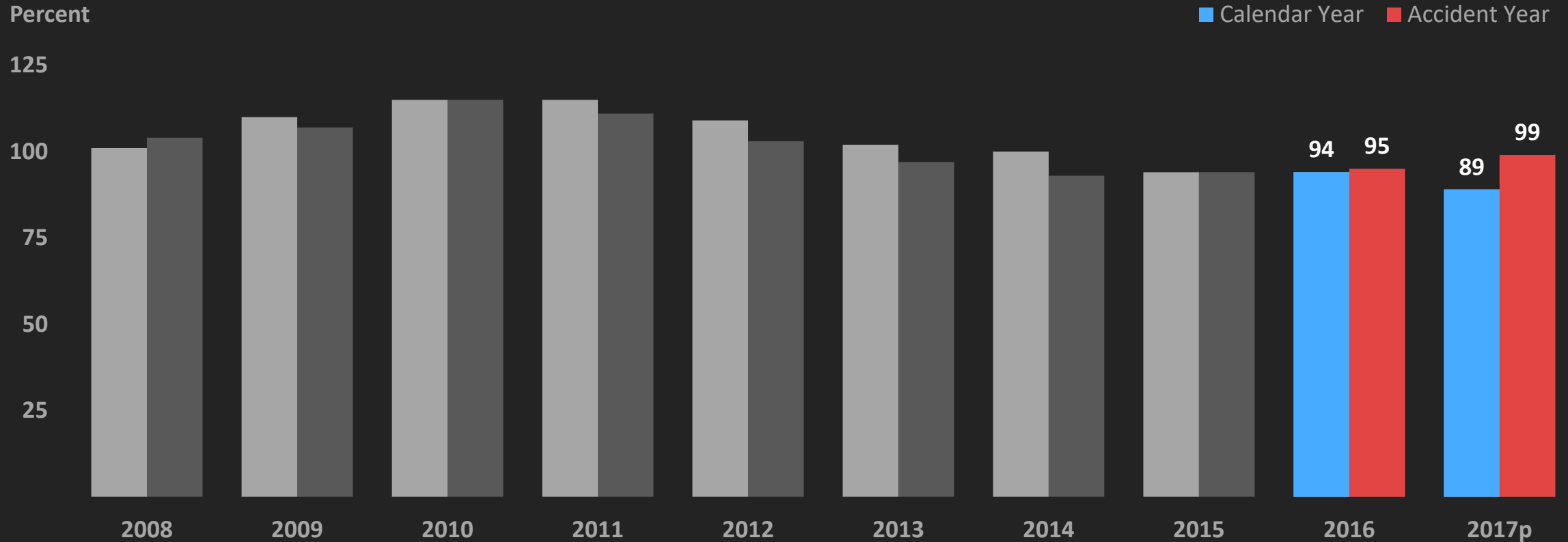


Cost shifting may serve to realign practices and/or to bring costs back in line with the original intent of a program, whether that program is WC, SSDI, or Medicare.

# WORKERS COMPENSATION ACCIDENT YEAR RESULTS AND RESERVE ESTIMATES

# WC Net Combined Ratios— Calendar Year vs. Accident Year As Reported

Private Carriers



p Preliminary

Source: NAIC's Annual Statement data

Accident Year information is reported as of 12/31/2017

Includes dividends to policyholders

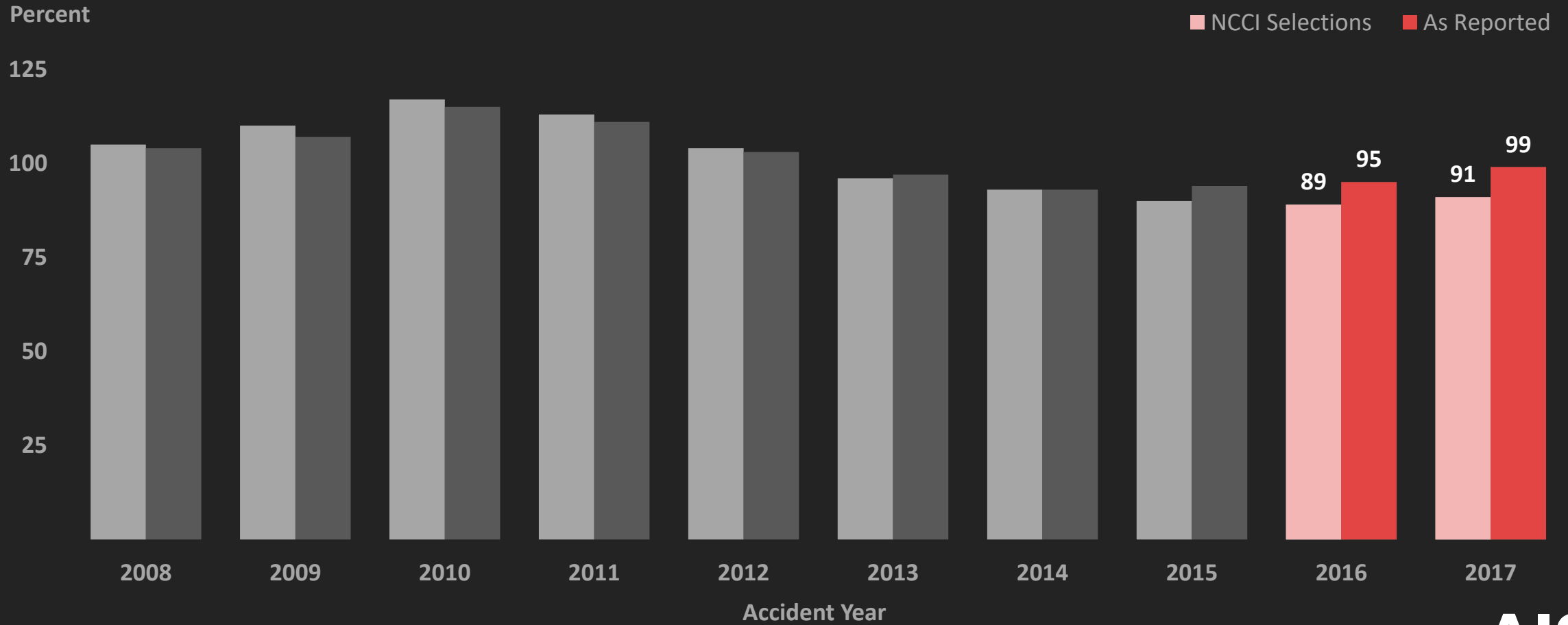
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# WC Net Combined Ratios— NCCI's Accident Year Selections vs. As Reported

Private Carriers



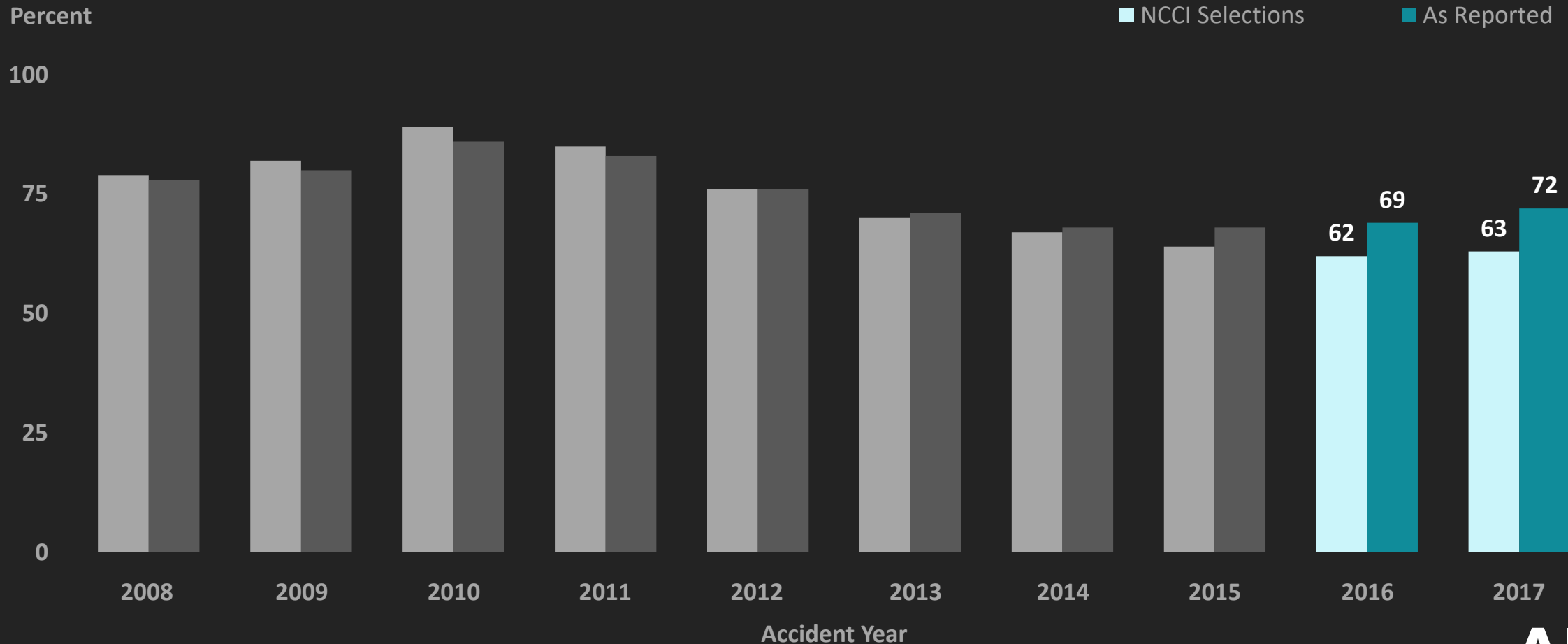
Sources: As Reported: NAIC's Annual Statement Schedule P—Part 1D data as of 12/31/2017  
NCCI Selections: NCCI's analysis based on NAIC's Annual Statement data

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# WC Net Loss and LAE Ratios— NCCI's Accident Year Selections vs. As Reported

Private Carriers



Sources: As Reported: NAIC's Annual Statement Schedule P—Part 1D data as of 12/31/2017

NCCI Selections: NCCI's analysis based on NAIC's Annual Statement data

As Reported Loss and LAE ratios are net of tabular reserve discounts and gross of nontabular reserve discounts

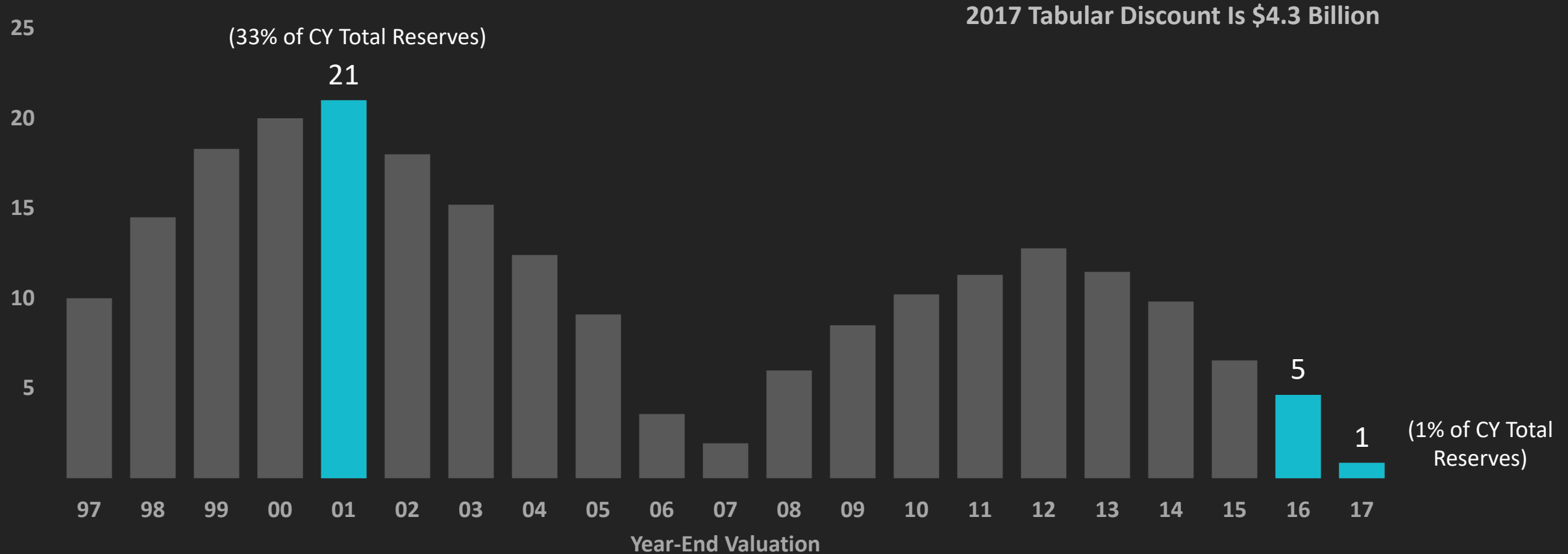
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# WC Net Loss and LAE Reserve Deficiencies

Private Carriers

\$ Billions



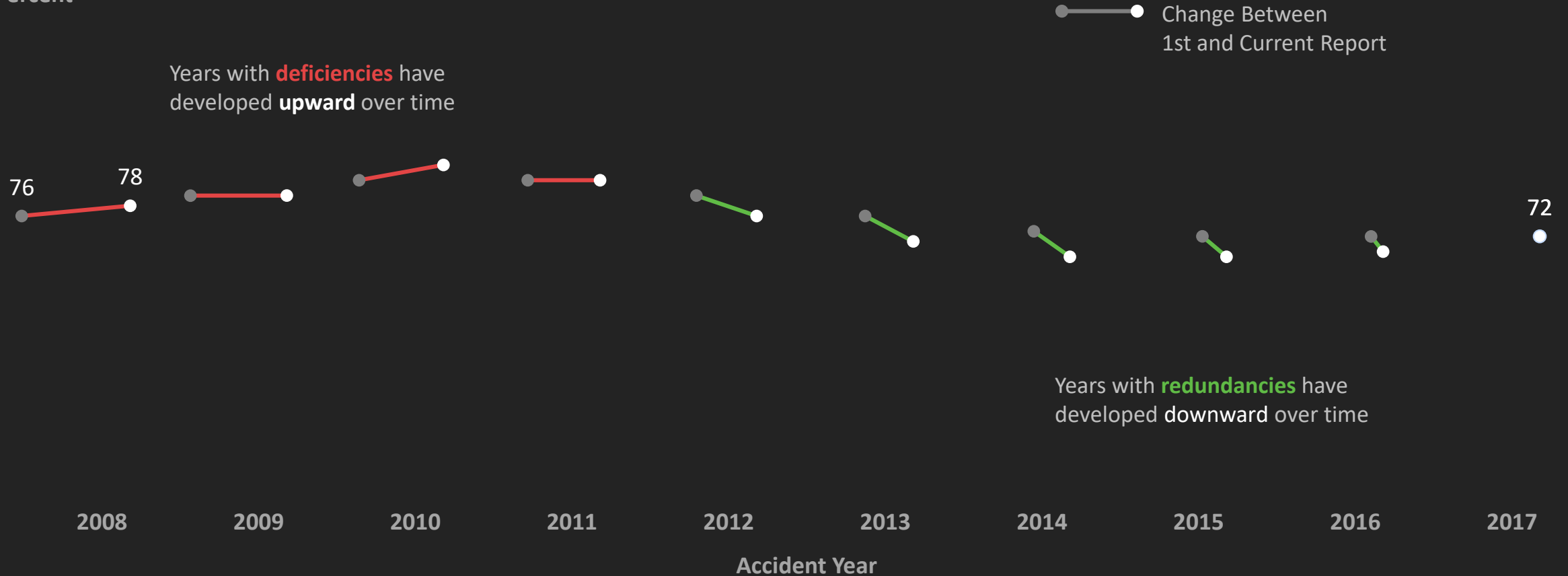
Source: NCCI's analysis based on NAIC's Annual Statement Schedule P—Part 1D data at year-end valuations  
Considers all reserve discounts as deficiencies

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# Emergence of Reported WC Net Loss and LAE Ratios

## Private Carriers

Percent



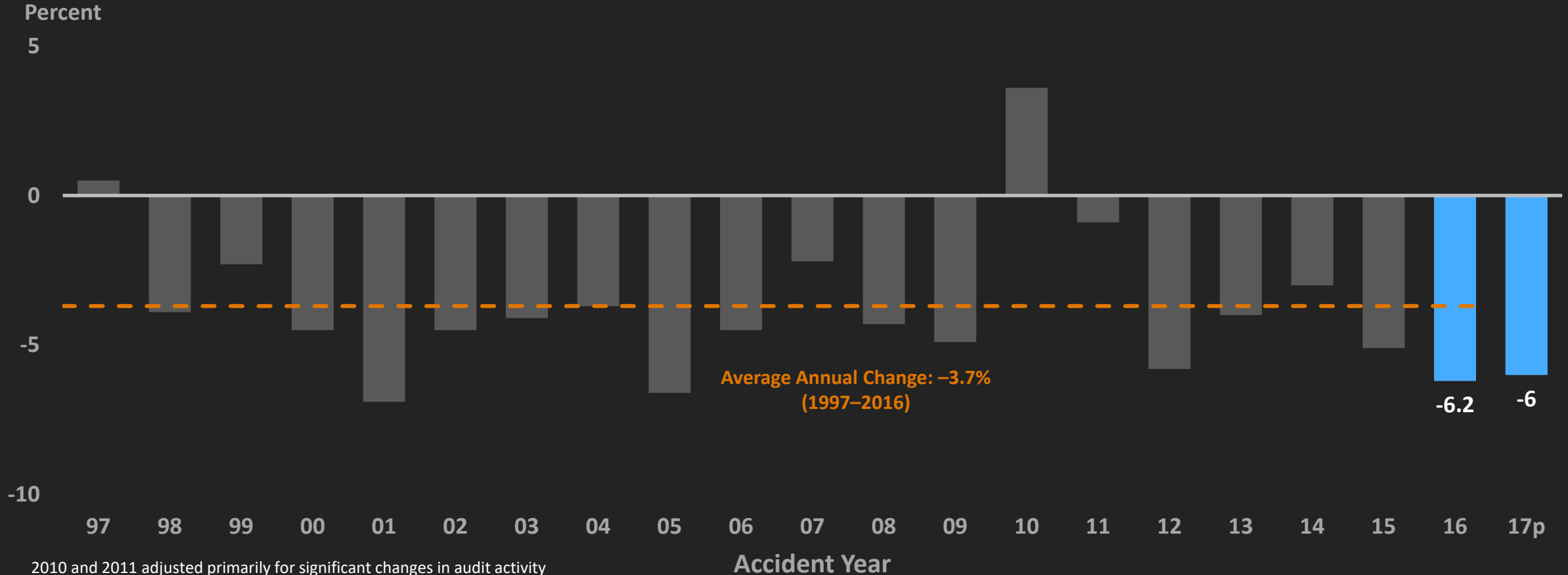
Source: NAIC's Annual Statement Schedule P—Part 1D data at year-end valuations  
As Reported Loss and LAE ratios are net of tabular reserve discounts and gross of nontabular reserve discounts

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# WORKERS COMPENSATION LOSS DRIVERS

# WC Lost-Time Claim Frequency

Claims per \$1M Pure Premium, 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 12/31/2017

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 12/31/2016

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

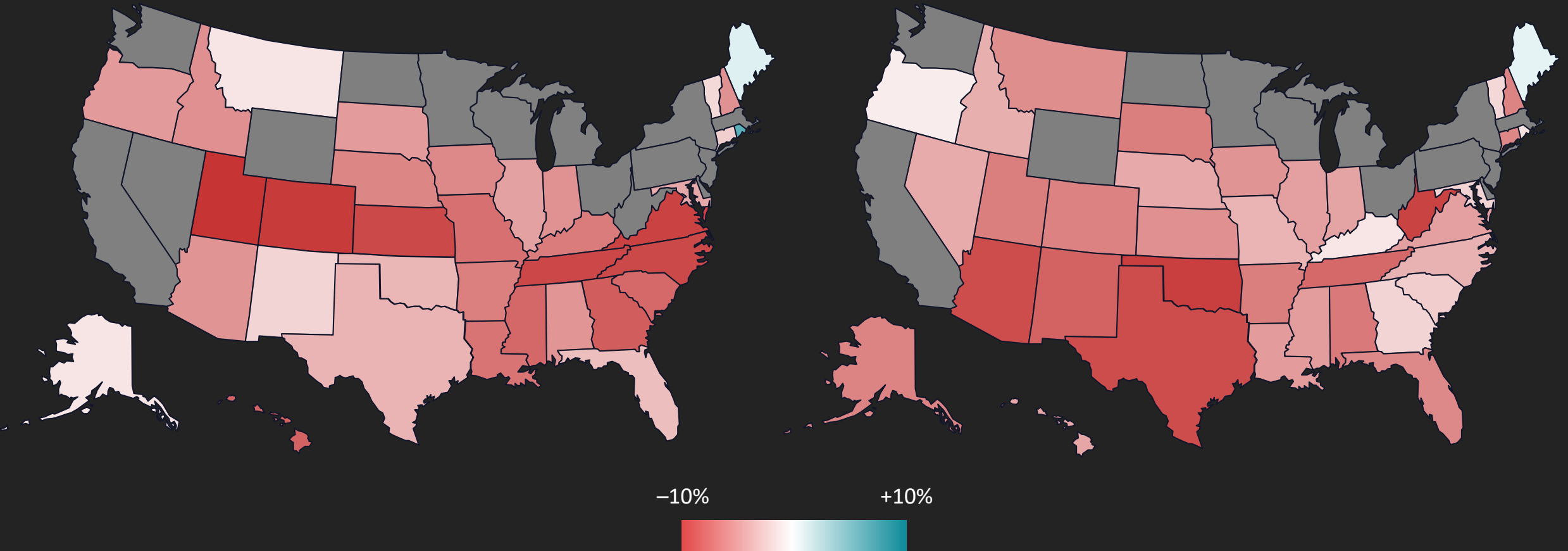
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# WC Lost-Time Claim Frequency

Average Annual Change 1992–1996

Average Annual Change 2012–2016



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 12/31/2016

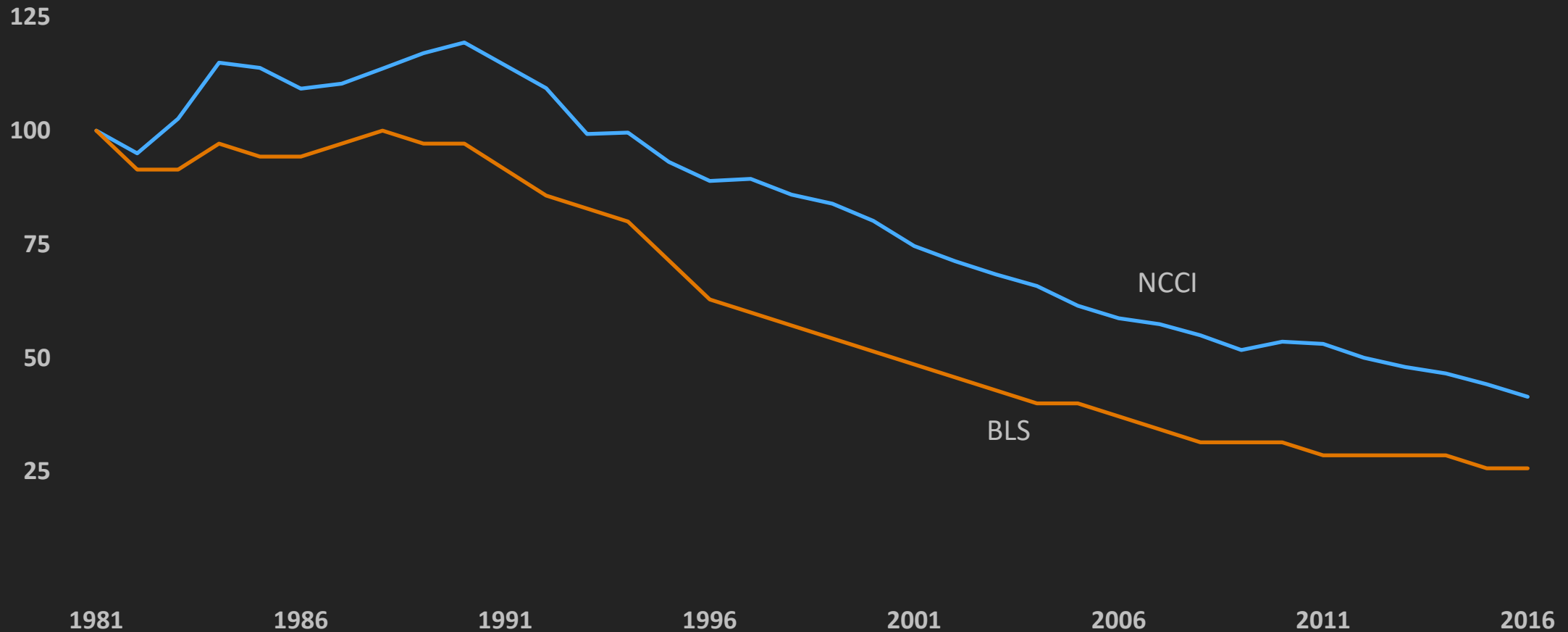
Values displayed reflect the methodology underlying the most recent rate/loss cost filing  
Includes all states where NCCI provides ratemaking services

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# NCCI and BLS Measures of Lost-Time Claim Frequency

Index 1981 = 100



Sources: US Bureau of Labor Statistics (BLS); incidence rate for total private industry; injury and illness cases involving days away from work  
NCCI's Frequency and Severity Analyses; lost-time claims based on the states where NCCI provides ratemaking services, including state funds; excludes high-deductible policies

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# Distribution of Lost-Time Claims by Size

Number of  
Lost-Time Claims

1,000,000

750,000

500,000

250,000

Under 10K 10K–20K 20K–30K 30K–40K 40K–50K 50K–60K 60K–70K 70K–80K 80K–90K 90K–100K 100K–110K 110K–120K 120K–130K 130K–140K 140K–150K 150K–160K 160K–170K 170K–180K 180K–190K 190K–200K 200K–210K 210K–220K 220K–230K 230K–240K 240K–250K

Claims less than the **average size** account for **75% of counts**, but contribute **25% to losses**.

2,500

2,000

1,500

1,000

500

1M–3M

3M–5M

5M–7M

7M–9M

9M–11M

Over 11M

Claims **over \$1M** account for less than **0.5% of counts**, but contribute **7% to losses**.

Claim Size Range (\$)

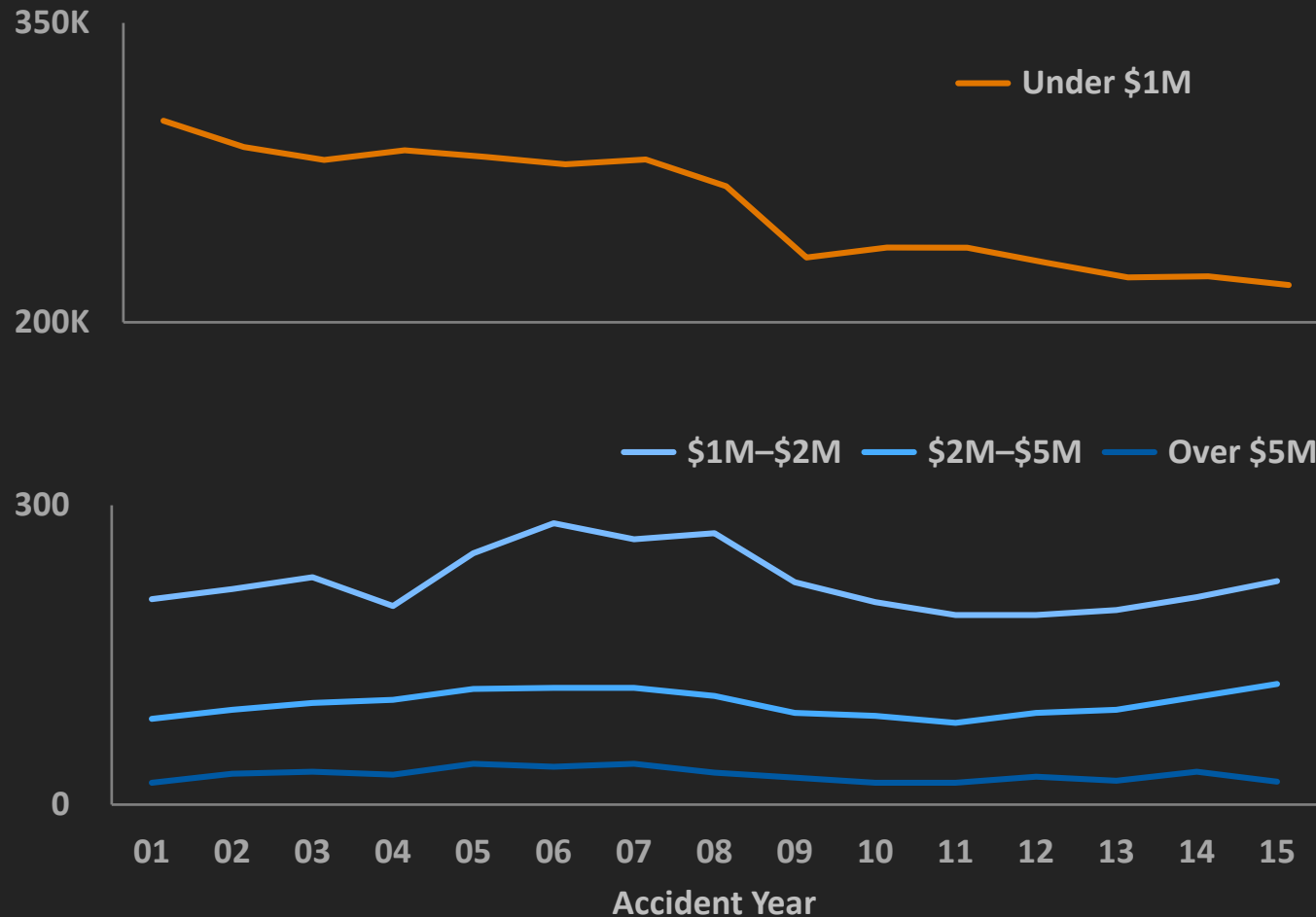
Source: NCCI's Unit Statistical Plan data; includes data for policies expiring between 2010 and 2015  
Includes all states where NCCI provides ratemaking services

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# Changes in Lost-Time Claims by Size

Number of Lost-Time Claims



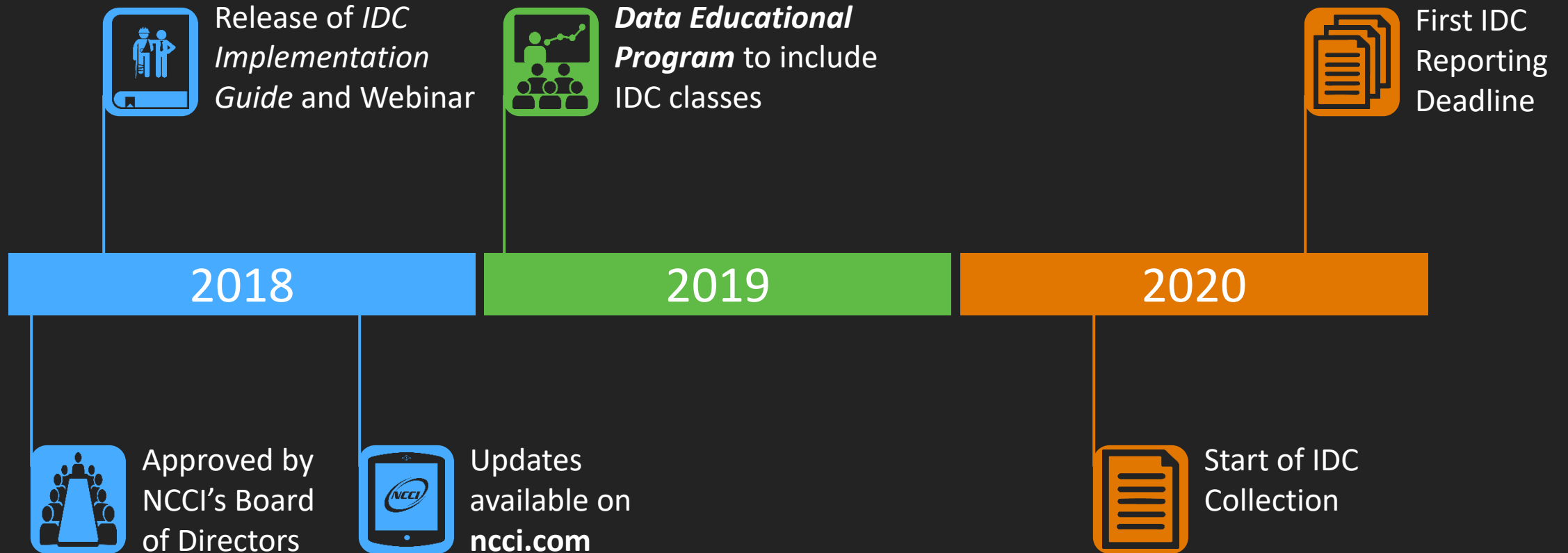
Over the last 15 years, the number of claims **under \$1M** has continued to **decline**, while the observed changes in **larger claim sizes** have been relatively **more volatile**

Source: NCCI's Financial Call data at 2nd report by Accident Year  
Includes all states where NCCI provides ratemaking services, excluding TX and WV

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# Indemnity Data Call (IDC)

## Implementation Timeline



Source: NCCI Circular IND-2018-02 "Indemnity Data Call—New Indemnity Data Call Resources—Available on **ncci.com**"

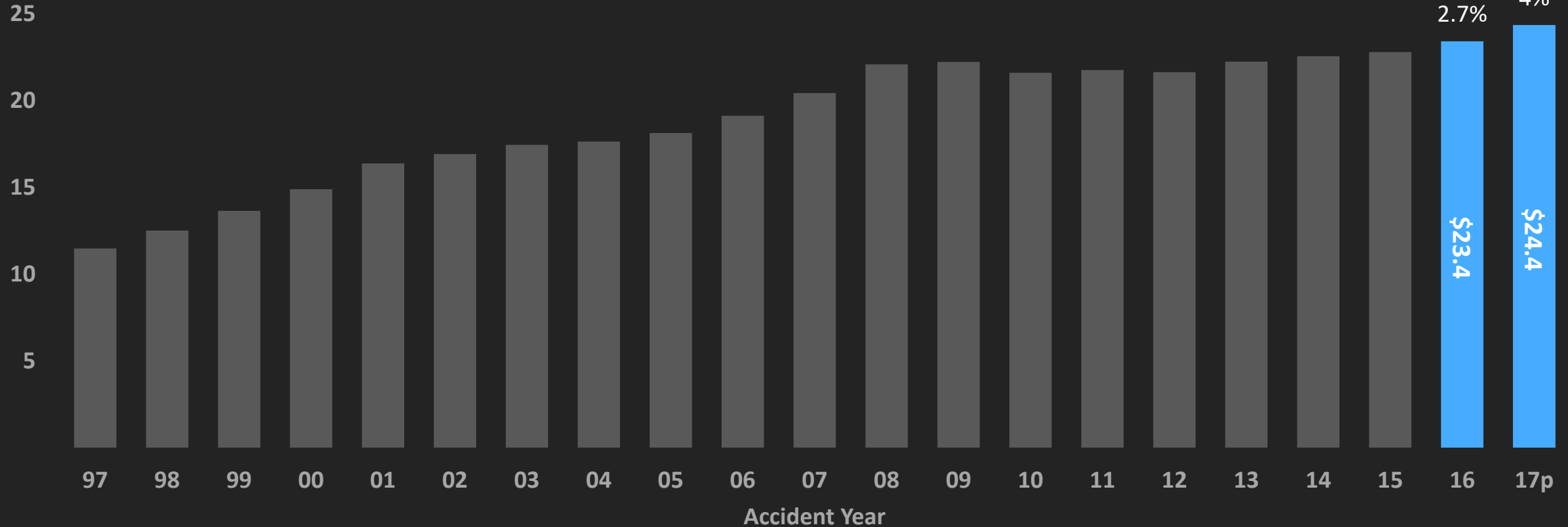
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# WC Average Indemnity Claim Severity

Private Carriers and State Funds—NCCI States

Severity  
(\$ Thousands)



p Preliminary, based on data valued as of 12/31/2017

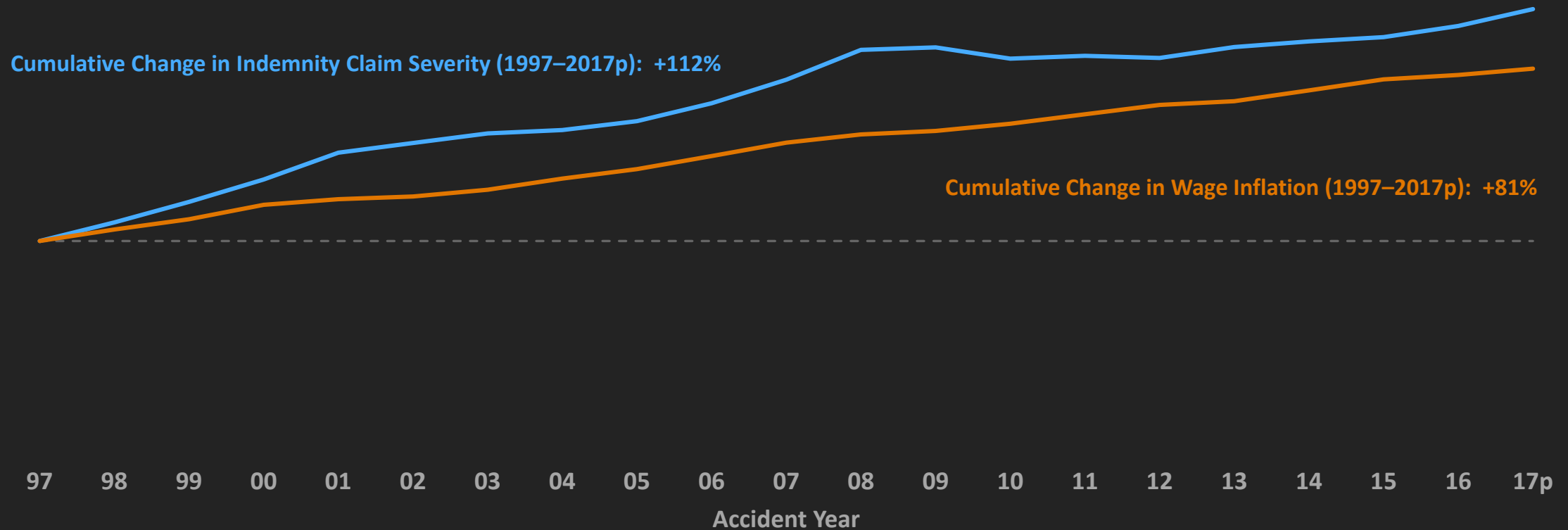
Sources: Severity: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2016

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

# WC Average Indemnity Claim Severity

Private Carriers and State Funds—NCCI States



p Preliminary, based on data valued as of 12/31/2017

Sources: Severity: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2016

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

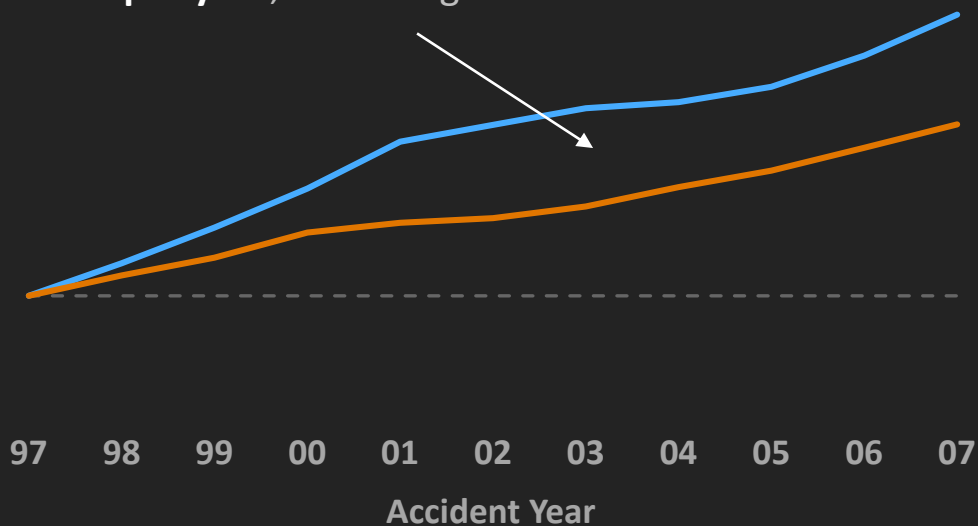
Includes all states where NCCI provides ratemaking services; WV is excluded through 2007

US Average Weekly Wage: 1997–2007 and 2012–2016 Quarterly Census of Employment and Wages; 2008–2011 NCCI and BLS; 2017p NCCI and Moody's Analytics

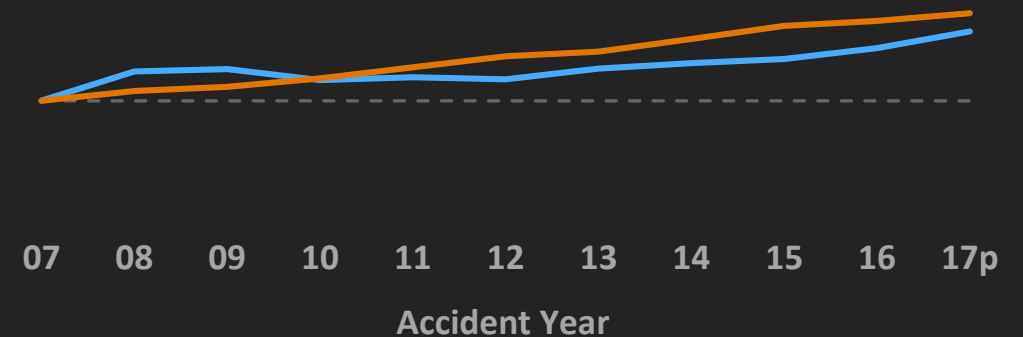
# Relative Growth Rates—Indemnity Severity vs. Wage Inflation

Private Carriers and State Funds—NCCI States

Changes in indemnity claim severity **outpaced** changes in wage inflation by **1.9% per year, on average**



Indemnity claim severity and wages grew at a **similar rate**



p Preliminary, based on data valued as of 12/31/2017

Sources: Severity: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2016

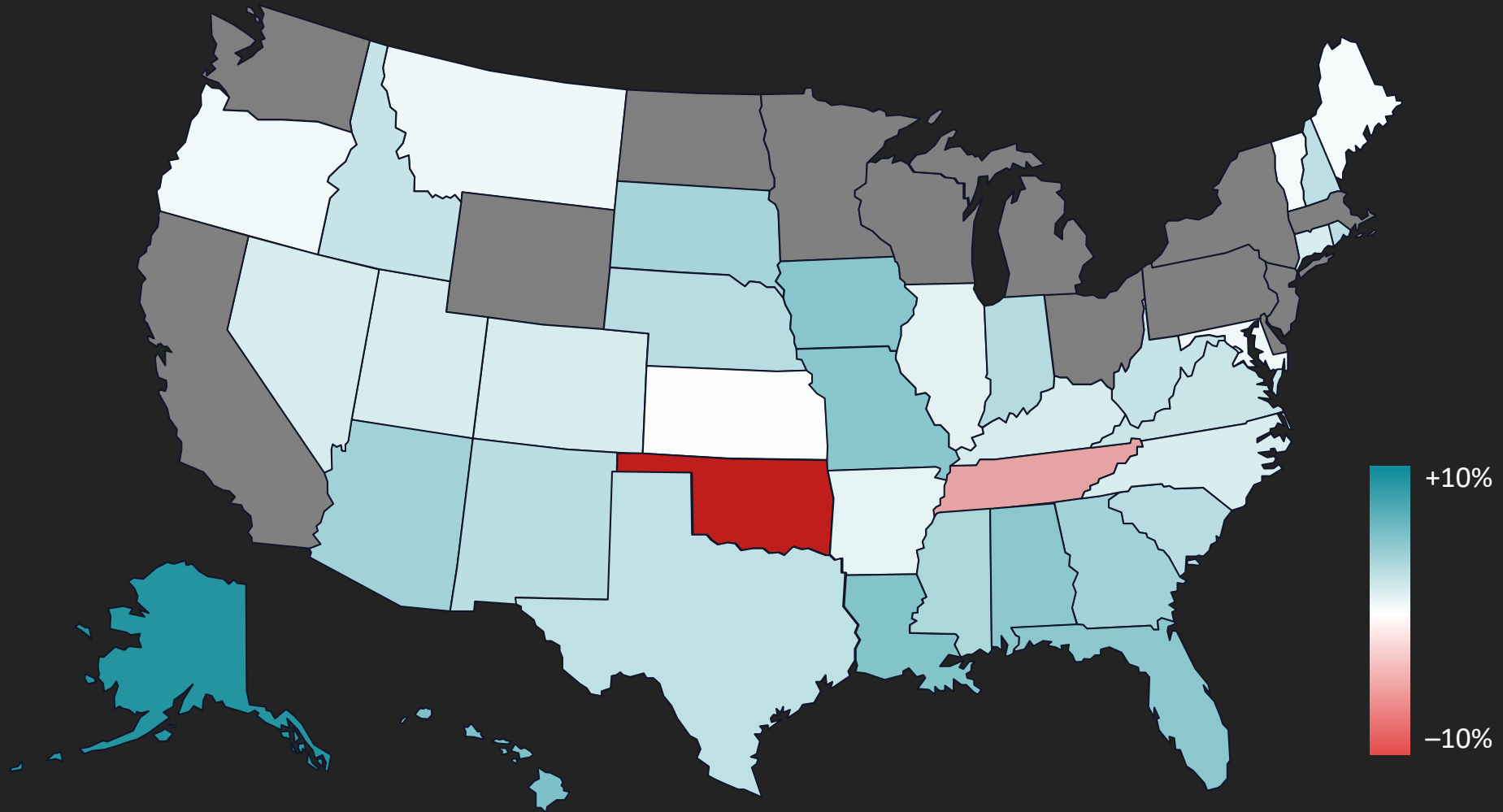
Values displayed reflect the methodology underlying the most recent rate/loss cost filing

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

US Average Weekly Wage: 1997–2007 and 2012–2016 Quarterly Census of Employment and Wages; 2008–2011 NCCI and BLS; 2017p NCCI and Moody's Analytics

# WC Average Indemnity Claim Severity

Average Annual Change 2012–2016, Private Carriers and State Funds—NCCI States



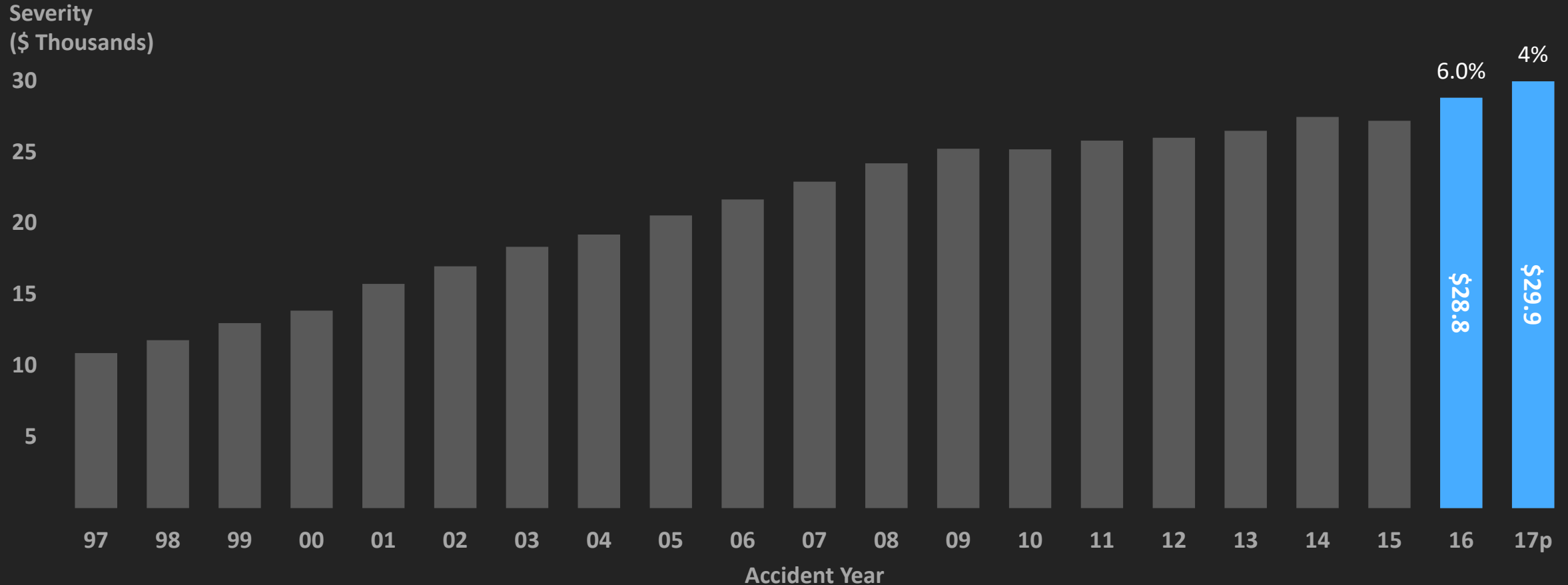
Source: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2016  
Values displayed reflect the methodology underlying the most recent rate/loss cost filing  
Includes all states where NCCI provides ratemaking services

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# WC Average Medical Lost-Time Claim Severity

Private Carriers and State Funds—NCCI States



p Preliminary, based on data valued as of 12/31/2017

Source: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2016

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

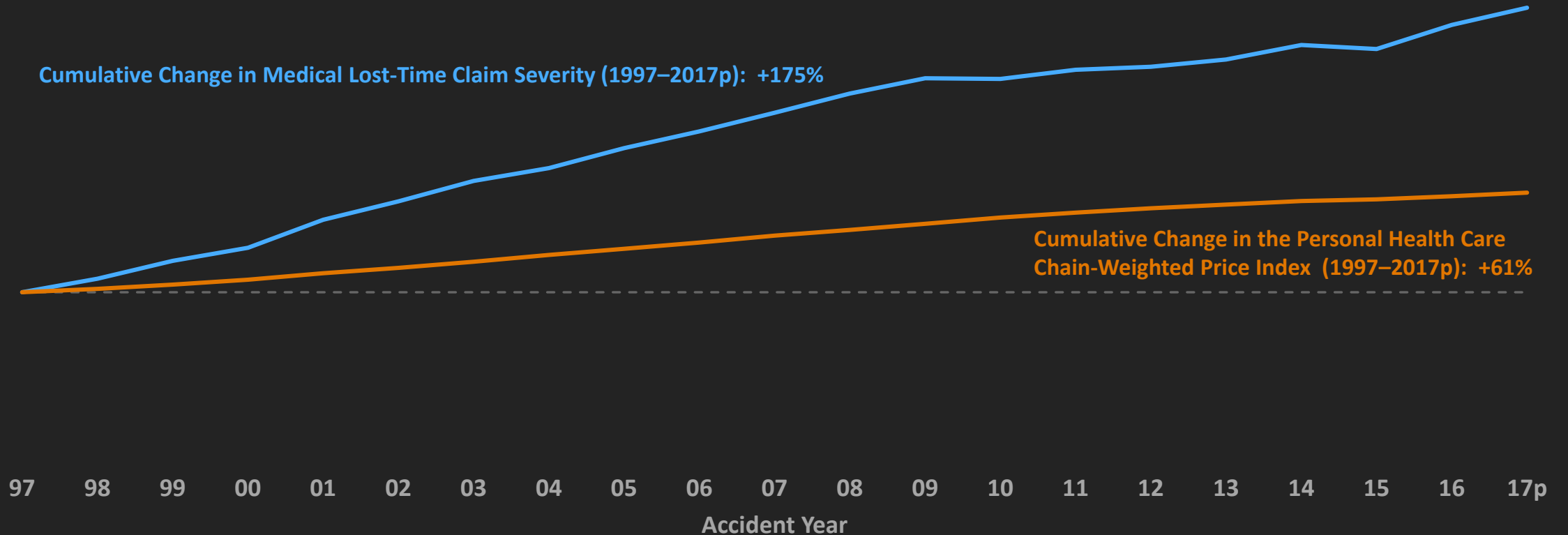
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# WC Average Medical Lost-Time Claim Severity

Private Carriers and State Funds—NCCI States



p Preliminary, based on data valued as of 12/31/2017

Sources: Severity: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2016

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

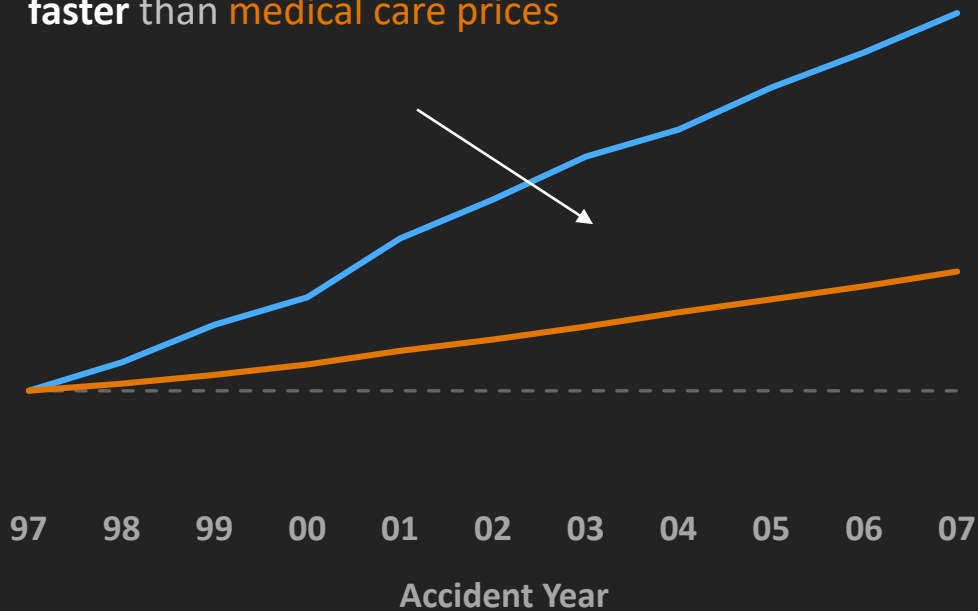
Includes all states where NCCI provides ratemaking services; WV is excluded through 2007

Personal Health Care (PHC) Chain-Weighted Price Index: Centers for Medicare & Medicaid Services

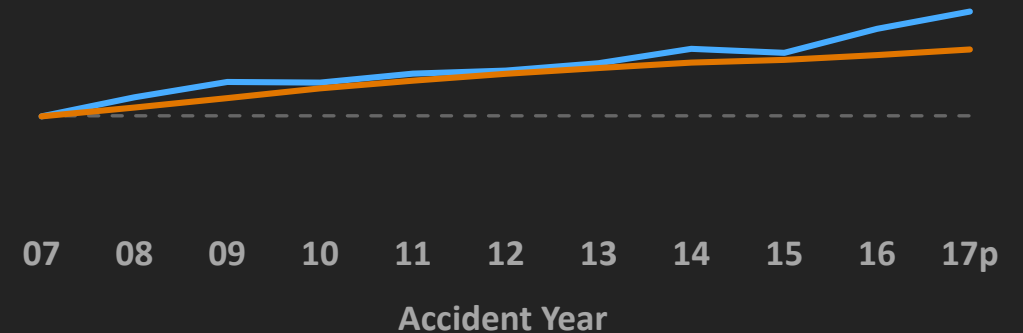
# Relative Growth Rates—Medical Severity vs. Price Inflation

Private Carriers and State Funds—NCCI States

Medical lost-time claim severity grew approximately **4.5%** per year **faster** than **medical care prices**



Change in **Medical lost-time claim severity** and **medical care prices** tracked one another



p Preliminary, based on data valued as of 12/31/2017

Sources: Severity: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2016

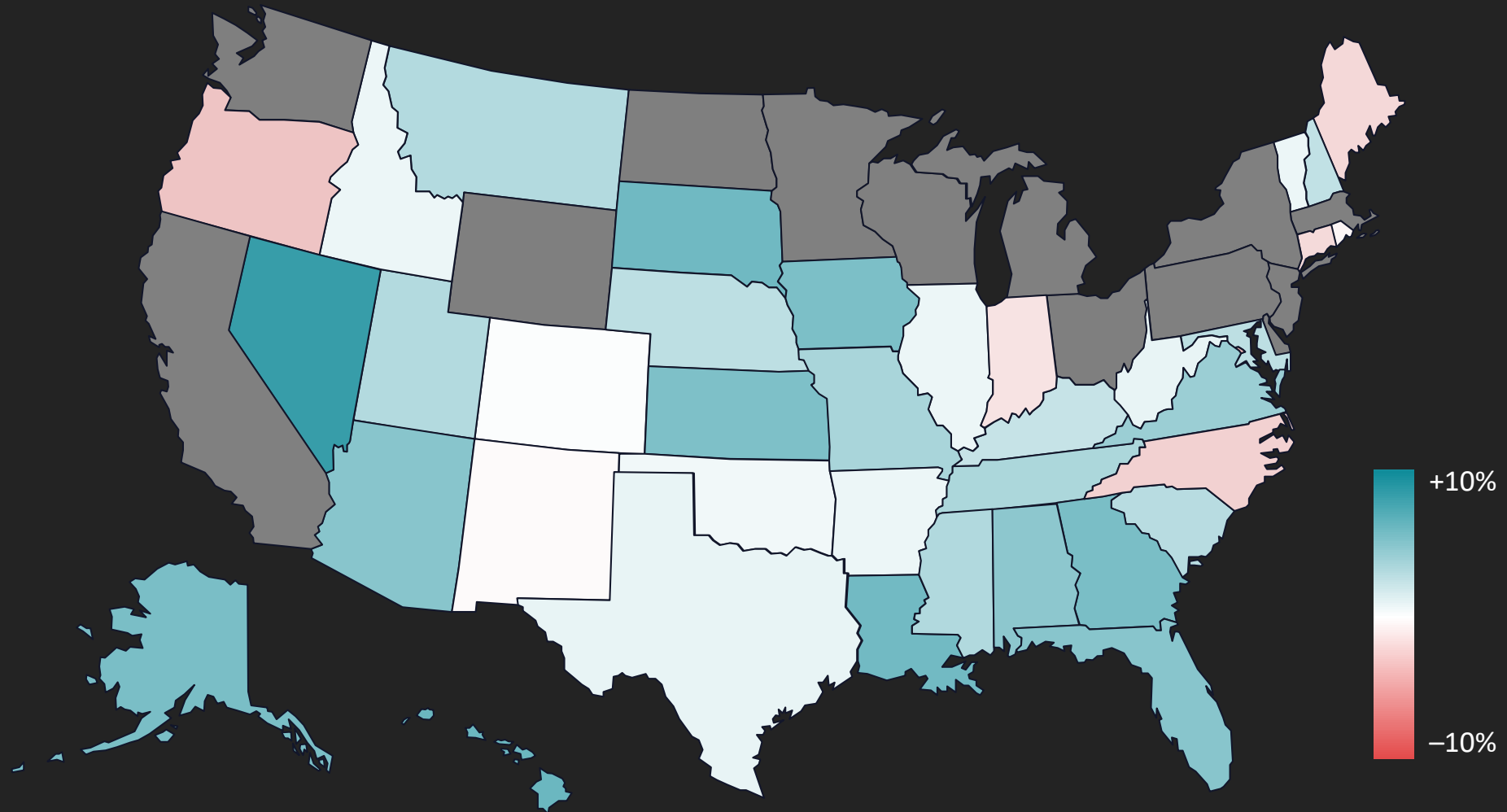
Values displayed reflect the methodology underlying the most recent rate/loss cost filing

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

Personal Health Care (PHC) Chain-Weighted Price Index: Centers for Medicare & Medicaid Services

# WC Average Medical Lost-Time Claim Severity

Average Annual Change 2012–2016, Private Carriers and State Funds—NCCI States



Source: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2016  
Values displayed reflect the methodology underlying the most recent rate/loss cost filing  
Includes all states where NCCI provides ratemaking services

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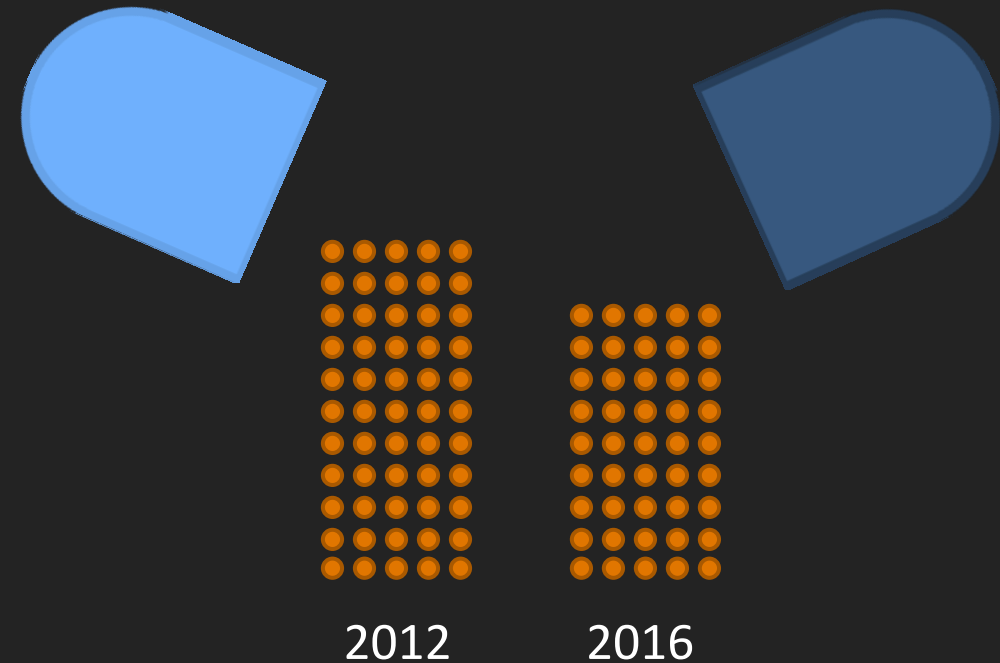
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# Utilization of Opioids

## The Decline in Prescribed Opioids in Workers Compensation

In **2012**, approximately **55%** of WC claimants with a prescription were prescribed an **opioid**

By **2016**, that share **decreased** to about **45%**



# Workers Compensation Summary

## On One Hand

- Investment income remained **below** the long-term average
- Loss costs continued to **decrease**
- Net written premium for private carriers **declined** slightly
- Lost-time claim frequency **fell** again

## On the Other Hand

- Combined ratio **improved** to the lowest level in over half a century
- Payroll continued to **increase**
- Reserve position continued to **strengthen**
- Severity **increases** remained moderate

# WHAT'S NEXT?

## RESEARCH

Opioids—Killer Pain Relief

Marijuana—The Move to Schedule II

Impact of Provider Networks on  
Workers Compensation Medical Costs

## **ncci.com**

Indemnity Data Call Implementation

Aggregate Loss Factors (ALF) on Demand

WC Motor Vehicle Accident Research

# QUESTIONS AND MORE INFORMATION

## MEET THE EXPERTS

Immediately following this session

## RESOURCES FOR THE STATE OF THE LINE PRESENTATION

Full presentation on [ncci.com](https://ncci.com)

*State of the Line Guide* on [ncci.com](https://ncci.com)

[stateoftheline@ncci.com](mailto:stateoftheline@ncci.com)