

**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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**REPORT TO THE LEGISLATURE ON ACT 796 OF 1993
THE STATE OF THE WORKERS' COMPENSATION MARKET
FOR YEAR ENDING 2020**

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's 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 2020, NCCI filed for decreases in the voluntary market loss costs of -9.4% and in the assigned risk plan rates -10.8%. In 2021 the NCCI filed for decreases of -1.1% for the voluntary market loss costs and -1.6% for the assigned risk plan rates. 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. The market stabilized in 1993 and 1994, and there have been significant rate reductions in both the voluntary market and the assigned risk plan in subsequent years. In 2020, Arkansas had the lowest loss costs in the region per \$100 of payroll, \$0.50, compared to the regional average loss cost of \$0.69 and the countrywide average loss cost of \$.91. The Arkansas average loss costs in 2021 were -76.5% from 1995 when the law changes went into effect. There are still positive effects from this Act that benefit Arkansas employers.

Year	Voluntary Market	Assigned Risk Plan
1993	0.0%	0.0%
1994	0.0%	0.0%
1995	-12.4%	-12.4%
1996	-8.0%	-3.7%
1997	-4.7%	-7.6%
1998	-9.1%	-8.2%
1999	-4.1%	-3.0%
2000	-4.5%	-2.0%
2001	-7.5%	-1.9%
2002	-4.5%	-1.9%
2003	1.8%	-5.5%
2004	0.5%	-5.1%
2005	-1.5%	-2.8%
2006	-0.5%	-2.0%
2007	-5.4%	-6.8%
2007 (effective 1/1/08)	2.7%	2.7%
2008 (effective 7/1/08)	-12.8%	-13.8%
2009	-7.0%	-6.4%
2010	1.9%	4.5%
2011	-5.8%	-9.7%
2012	-4.1%	-4.8%
2013	-7.4%	-6.7%
2014	-1.4%	-8.5%
2015	-2.1%	-3.0%
2016	-4.3%	-1.6%
2017	-8.4%	-10.6%
2018	-15.4%	-14.9%
2019	-3.4%	-4.2%
2020	-9.4%	-10.8%
2021	-1.1%	-1.6%

PAYROLL AND EXPERIENCE MODIFIER

Reported payroll in Arkansas continues to increase while premiums for insureds continue to decrease. In 2020 the average experience modifier increased slightly to 0.956 from 0.951. The 2020 countrywide average experience modifier is 0.954. 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 a 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 2020 was \$21,525,283 as compared to \$22,180,504 for 2019. As of June 2020, small premium employers (less than \$2,500 in annual premium) constituted approximately 71.8% of the plan policy volume with an average of \$1,077 in premium per policy. Average plan premium per policy as of June 2020 was \$3,277 for all 1560 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 2021, 185 employers were removed from the assigned risk plan, saving those employers, on average 5.35% 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, 2020, the Commissioner re-appointed NCCI as Administrator for the Arkansas assigned risk plan until at least July 1, 2023.

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 and provides an 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 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 2021* and “Exhibit B” entitled *Arkansas Plan Premium Report July 2021*. These 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 100% of applications being submitted online in 2021.

The most recent Annual Servicing Carrier Performance Review conducted by NCCI reveals either “Commendable” or “Satisfactory” scores for all areas for Arkansas’s servicing carriers. For the period commencing January 1, 2020 to December 31, 2022, the carriers are Travelers, Technology, Liberty Mutual and AmGuard Insurance Company.

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 of incarceration and/or \$10,000 fine).

Fraud in the workers’ compensation system was perceived to be epidemic. Since the majority of fraudulent claims involved employers in the “plan,” there was little, if any, incentive for thorough investigation of possibly fraudulent insurance claims and few consequences for those caught making intentional misrepresentations. Act 796 changed the entire landscape of the workers’ compensation system, particularly 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 Workers’ Compensation Fraud Investigation Division, now known as the Criminal Investigation Division (CID), allows the Arkansas Insurance Department to supplement these often under-funded local agencies. The Division was renamed the Criminal Investigation Division during the 2005 Legislative Session when its investigative authority expanded to all types of insurance fraud. The Division is now

tasked with investigating all insurance fraud under Title 23 (1142 total cases in 2020) and not just workers' compensation fraud under Title 11.

Consequently, even though workers' compensation fraud is still an important and integral part of the Criminal Investigation Division, it remains less than four percent (3.5%) 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 CID'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.

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 2020 reporting period, there were 40 workers' compensation referrals received by AIDCID. Of those referrals 20 developed into investigated cases of which 19 were closed. There was one case referred for prosecution, but then closed for insufficient evidence. Since the creation of the division in 1993, CID has referred 167 cases for prosecution, resulting in 123 convictions. Out of these 167 cases, only three prosecutions have resulted in acquittals. In the remaining cases, the charges were not filed by the locally elected prosecutors.

SELECTED WORKERS' COMPENSATION DECISIONS
FISCAL YEAR 2020

ARKANSAS SUPREME COURT

Wage Loss Disability

Leroy Calhoun v. Area Agency on Aging of Southeast Arkansas, 2021 Ark. 56 (March 11, 2021).

This case addressed the wage-loss disability issue and whether the employer had made a bona fide offer of employment to the injured worker following his recovery and release to return to work.

In January 2016, Leroy Calhoun was severely injured in a motor vehicle accident. The van he was driving overturned and he was not restrained at the time. He suffered a fractured neck, a closed-head injury, and other serious bodily injuries. He underwent extensive medical treatment and rehabilitation and was released to return to work approximately one year after the accident.

In March 2017, a representative of the employer's insurance carrier sent Calhoun's counsel a fax message stating that the employer could accommodate his restricted duty release and work was available for him starting immediately. The message asked the counsel to notify Calhoun to contact the employer for his work schedule. About three months later the employer sent Calhoun himself a letter which stated that light duty work was available on March 3, 2017 and that the employer had not heard from him regarding his return to work. The employer asked Calhoun to advise of his decision to return to light duty work so the employer would be prepared for his return. Calhoun stated that he did call and talk to Jamerson but conceded that he did not ask about any specifics of the job offered. Instead, Calhoun told her that he was in too much pain to work. Jamerson testified that Calhoun called her after he received the second letter. She recalled that the job available was as a greeter and that it was sedentary. She stated that she did not relay

details about the job requirements because she wanted to get Calhoun's input on his abilities and "customize" the job to meet his abilities and disabilities. She offered no testimony as to the position's anticipated weekly wages.

In an opinion dated June 6, 2019, the ALJ found that Calhoun proved that he was entitled to a 60 percent wage-loss award in addition to his 24 percent anatomical-impairment rating. The ALJ determined that appellees made no bona fide job offer because the position and wages offered were not clear. AAA appealed both the wage-loss determination and the finding that it did not extend a bona fide offer of employment. The Commission reversed the ALJ's decision. The Commission did not address the validity of the ALJ's wage-loss determination but concluded that any wage-loss award was precluded because AAA made a bona fide and reasonably obtainable offer for Calhoun to be employed at wages equal to or greater than his average weekly wage at the time of the accident. Calhoun appealed, and the court of appeals reversed the Commission's decision and remanded for an award of benefits. *Calhoun v. Area Agency on Aging of Se. Ark.*, 2020 Ark. App. 366, 607 S.W.3d 176. The Arkansas Supreme Court granted AAA's petition for review.

The Supreme Court found that the employer did not prove the existence of a bona fide offer to Calhoun to be employed at wages equal to or greater than his average weekly wage at the time of the accident. The Court noted that no hearing testimony was offered to establish the number of hours that Calhoun would receive with the employment AAA offered. Calhoun may have prevented this information exchange when he was discussing the employment offer with AAA. However, pursuant to Ark. Code Ann. § 11-9-522(c)(1), the employer or the employer's insurer has the burden to prove the existence of a bona fide offer for the employee to be employed at wages equal to or greater than his or her average weekly wage at the time of the accident. AAA

could have met this burden at the hearing, but it offered no evidence regarding the number of hours Calhoun would receive. Because AAA never introduced any evidence at the hearing to establish the number of available hours, it did not prove the existence of a bona fide offer to Calhoun to be employed at wages equal to or greater than his or her average weekly wage at the time of the accident. We must give effect to every word in our statutes, including those placing the burden on AAA to prove that the employment offered would have been at wages equal to or greater than his prior weekly wage. Here, because AAA introduced no evidence pertaining to the number of hours of work that Calhoun would receive, it failed to prove the existence of an employment at wages equal to or greater than his average weekly wage at the time of the accident. Because AAA failed to introduce evidence regarding the number of hours of work available to Calhoun, substantial evidence does not support the Commission's decision that the employment AAA offered would have been at weekly wages at least equal to those Calhoun previously earned.

ARKANSAS COURT OF APPEALS

Hearing Loss Injury

Craighead County and AAC v. Garland Tipton, 2020 Ark. App. 416 (September 23, 2020).

At the time of his injury, Tipton was fifty-seven years old and had worked as a deputy sheriff in Craighead County for eight years. On July 25, 2017, Tipton responded to a call from his niece, who said her husband was acting strangely and had locked himself in a shed. After Tipton approached the shed, it exploded, and he was thrown three to four feet, resulting in injuries to his forearm and shoulder. After the explosion, Tipton also complained of loss of hearing, tinnitus, and a sensation of fullness in his right ear.

At an appointment on August 15, 2017, with audiologist Amy Stein, Tipton admitted that he had suffered from intermittent tinnitus in both ears before the explosion but said that the volume had increased in his right ear. At the hearing, he testified that he had experienced ringing in his ears before the explosion, but it would occur only every three or four months, and it always went away. He had never consulted a doctor about it. He denied suffering from any hearing loss before the explosion. He also testified that he initially thought the problem was mainly in his right ear but discovered at the audiologist's office that the hearing loss in his left ear was actually worse. Dr. Stein assessed Tipton at 20.6 percent hearing loss in his left ear and 13.1 percent in his right, for a combined binaural hearing loss of 14.4 percent.

On July 31, 2019, an administrative law judge (ALJ) held a hearing on the disputed issues and found that Tipton had met his burden of proof with respect to a compensable acute hearing-loss injury, was entitled to reasonably necessary medical treatment, and was entitled to permanent anatomic-impairment benefits for binaural hearing loss in the amount of 14.4 percent. The Commission affirmed the decision of the ALJ and adopted his findings and conclusions.

The Court of Appeals addressed Ark. Code Ann. §11-9-102(16)(A)(iii) and affirmed the decision of the Commission awarding benefits. Its decision finding binaural hearing loss rather than hearing loss in the right ear only is not based on speculation and conjecture but rather on objective medical evidence. There was no evidence that Tipton suffered from hearing loss before the incident. Medical evidence was introduced to prove that Tipton suffered from binaural hearing loss after the incident.

Compensability

Mary Willis v. Arkansas Department of Correction, 2021 Ark. App. 50 (February 3, 2021).

Ms. Willis worked as a correctional officer for the Arkansas Department of Correction. In March, 2014 she suffered non-work injuries to her neck and back, which required surgery in April 2014 and August 2014, respectively. She said that after her surgeries, she remained off work and continued to receive medical treatment for her neck and back. When her FMLA leave expired in September 2014, Willis was terminated from the ADC. Willis applied for Social Security disability benefits based on these neck and back conditions. Her application was denied initially, but following an appeal, she was granted benefits in February 2016.

On July 29, 2015, Willis was rehired by the ADC. She testified that she had some discomfort in her neck and back upon her rehire but that she was able to pass a physical and complete the essential functions of her job. On September 28, Willis was climbing the ladder to the watch tower at the prison when she felt a pop in her low back and felt pain there. She reported the incident and her low-back pain to her supervisor, Captain McNary. The ADC accepted her lumbar injury as compensable.

Willis testified that she has continued to have neck pain since the September 28 incident and has sought medical treatment for it. She asked the ALJ to find that she suffered a compensable neck injury as a result of the September 28 incident and that she is entitled to permanent partial-disability benefits for her compensable low-back injury. In a September 26, 2019 opinion, the ALJ found that Willis had failed to prove by a preponderance of the evidence that she sustained a compensable neck injury on September 28, 2015, and that she also failed to prove that she is entitled to permanent partial-disability benefits for her compensable lumbar injury of September 28. In denying Willis's claims, the Commission found that she was not a credible witness, and it afforded significant weight to the opinions of Dr. Cathey. Willis appealed the ALJ's opinion, and

on February 21, 2020, the Commission entered an opinion affirming and adopting the ALJ opinion.

The Court of Appeals held that substantial evidence supported the Commission's finding that Willis failed to prove that she suffered a compensable neck injury on September 28 while employed by the ADC. The ALJ specifically asked Willis at the hearing whether she felt anything in her neck when she was climbing the ladder and her back popped, and Willis answered no. Willis did not report a neck injury on September 28 to her employer or doctor. Her neck exam on September 28 revealed "no abnormalities." Finally, Dr. Athota opined that Willis's neck and arm complaints are not work related.

It was undisputed that Willis suffered from a significant preexisting neck injury. She had neck surgery in 2014, she applied for and ultimately received Social Security disability benefits for this injury (along with her preexisting low-back injury), she admittedly experienced discomfort in her neck when she was rehired by the ADC in 2015, and she complained of neck pain radiating into her arms on September 8—just weeks prior to the September 28 incident. The Commission afforded great weight to the September 8 report, which it is entitled to do. *Marshall v. Ark. Dep't of Corr.*, 2020 Ark. App. 112, at 6, 594 S.W.3d 160, 163. Because Willis had presented with neck and arm complaints just weeks before the alleged work incident and because of inconsistencies in her reports to her doctors concerning the existence and cause of her neck pain, the Commission discounted her hearing testimony that her neck and arm pain were caused by the work incident.

Objective Medical Findings

Tina L. Melius v. Chapel Ridge Nursing Center, 2021 Ark. App. 61 (February 10, 2021).

Appellant Tina Melius brought a workers'-compensation claim against appellees Chapel

Ridge Nursing Center, LLC, and Amtrust North America Insurance alleging that she sustained a compensable injury to her right buttock and thigh on July 11, 2018. An administrative law judge (ALJ) denied compensability, specifically finding that Melius failed to provide evidence in the form of objective medical findings. Melius appealed the ALJ's decision to the Arkansas Workers' Compensation Commission (Commission), which affirmed and adopted the ALJ's opinion. Ms. Melius appealed to the Court of Appeals.

On July 11, 2018, Melius, a treatment nurse at Chapel Ridge Nursing Center, reported an on-the-job injury to her right thigh and buttock that occurred after helping lift a patient who was being transferred to the emergency room. On the day of the injury, she was seen by Dr. Keith Holder at Mercy Clinic. According to Dr. Holder's notes, Melius complained of a sharp, shooting pain in her right gluteal area that began when she began to walk away after helping lift a patient from the bed to a gurney. Dr. Holder's examination notes indicated that Melius had pain to palpitation over the piriformis in her right hip. Dr. Holder diagnosed Melius with a strain of muscle, fascia, and tendon of right hip. She was given a prescription for tizanidine, which is used to treat muscle spasticity, and placed on restricted-duty work status, which restricted lifting to twenty pounds or less and limited bending, stooping, and twisting. It was also recommended that Melius alternate between sitting, standing, and walking as tolerated. Dr. Holder additionally noted that Melius suffered from rheumatoid arthritis and could continue to take naproxen as previously prescribed. Ms. Melius saw Dr. Holder numerous times over the next few months and various treatment modalities were prescribed.

A hearing was held on Melius's claim for workers' compensation benefits and the ALJ denied benefits for Melius's injury, finding Melius failed to prove by a preponderance of evidence that she sustained a compensable injury to her right buttock and thigh and failed to provide evidence

in the form of objective medical findings to support her contention that she suffered spasms related to the injury on July 11, 2018. The ALJ stated, “She stated she had pain and spasms 1–4 times per day. The medical evidence, however, does not support her contentions. She was treated by several physicians, none of whom found evidence of spasms or made any notations for objective findings of spasms.” The ALJ denied admissibility of a cell-phone video and photographs of spasms due to lack of authenticity. Furthermore, the ALJ did not find Melius’s testimony credible. The Full Commission affirmed and adopted the ALJ decision.

The Court of Appeals noted that Melius was diagnosed with a strain of muscle, fascia, and tendon of right hip, received medication, and subsequently was referred to physical therapy and a pain specialist for relief. The issue was whether she presented proof of objective medical evidence and whether the injury was work related. The Court of Appeals agreed with Melius’s argument that her diagnosis of muscle strain along with prescribed treatment of medications, physical therapy, and pain management is sufficient to establish objective findings.

The Court of Appeals found that the Commission erred in holding that a doctor or a physical therapist must actually view muscles spasms as a requirement for muscle spasms to be a compensable injury.

Employment Services

Juan Lopez v. James Divito Racing Stable, 2021 Ark. App. 257 (May 26, 2021).

Juan Lopez leaped out of a second-story window to escape a fire while off duty and sleeping in a space above some racing stables. He fractured his spine on the landing. He sought medical treatment and temporary total-disability benefits. The administrative law judge found that Lopez proved by preponderance of the evidence that he sustained a compensable injury, because at the time of his injury, he was providing employment services to James Divito Racing Stable. The

Arkansas Workers' Compensation Commission reversed the ALJ's decision, holding that Lopez was not providing such services when he was injured. Lopez appealed.

Lopez has worked in the horse-racing industry for eighteen years. In February 2018, Divito hired Lopez as "hot walker." A hot walker is one who walks horses after a training session or a race to cool them down. Lopez worked for Divito from 5:30 a.m. to 10:30 a.m. each morning. In addition to these regular hours, Lopez worked when Divito had horses running in races, which happened about twenty-five times during the four-month racing season at Oaklawn. Lopez claimed that he was "on call" if his employer needed "something at any time." Divito disagreed with that assessment and said that Lopez did not have any "on call" duties outside of the race times or his regular morning work hours. According to Divito, Lopez did not work in the afternoons unless a horse from his stable raced and "[u]nless [Lopez's] number comes up."

Divito testified that it was common in the horse-racing industry for the racetrack to provide housing for "the help" because "they can't afford to stay other places and—you know, it's easier for them to stay there and they can't afford to stay other places. It's too expensive." According to Divito, "There's no requirement for my stable help to stay at the racetrack. If they want to live somewhere else, that's fine." Divito did not pay Oaklawn for stabling his horse; Divito did not pay for the rooms above the stables that were available for his employees, either. Lopez said that he chose to live at the stables because the trainer provided it to him for free, because he could not afford to live anywhere else, and because "we have to be there or they will call us [to come work.]"

The night before his injury, Lopez went out to eat with a friend, came back to his room, and fell asleep around 11:30 p.m. Lopez testified that the trainer had told him to start work at 6:00 a.m. the next morning. He awoke Tuesday morning to a fire and the smell of smoke; he said that

the fire started at 5:45 a.m. Lopez tried to open the door to his room but could not because of the fire. So he jumped out of a second-story window above the stables, which was approximately ten feet to the ground. Lopez agreed that he was not doing anything work-related on the night of the injury. Lopez escaped the fire but suffered a burst fracture of his T12 vertebra in the escape and was transported to a hospital by ambulance. He underwent a successful short segment fixation and fusion surgery and stayed in the hospital four days. Lopez could not work for more than ten months as a result of his injury.

The ALJ found that Lopez was performing employment services when the fire occurred pursuant to the risk doctrine described in *Deffenbaugh Industrial v. Angus*, 313 Ark. 100, 852 S.W.2d 804 (1993), and applied by the court in *Jivan v. Economy Inn & Suites*, 370 Ark. 414, 260 S.W.3d 281 (2007). The Commission reversed the ALJ's decision. It concluded that Lopez was not providing employment services when he was injured. The Commission found that this case was unlike *Deffenbaugh* and *Jivan* because Lopez was not required to live on premises as a condition of his employment. Instead, the Commission found that he willfully chose to stay at Oaklawn because it was free and convenient. The Commission concluded that, because Lopez was doing nothing to further the interest of his employer at the time of the injury, he failed to prove by a preponderance of the evidence that the injury was compensable.

The Court of Appeals held that there was a substantial basis for the denial of benefits. Lopez was not within the time and space boundaries of his employment when he was injured. He had returned from dinner, there was no race the next day, and his set work hours did not begin until later that morning. What Lopez was doing at the time of the injury—sleeping— was not inherently necessary for the performance of his job as a hot walker. He was merely attending to his own personal needs. Lopez was not indirectly advancing his employer's interest either.

Anatomical Impairment Rating

Pete Eldridge v. Pace Industries, LLC, 2021 Ark. App. 245 (May 19, 2021).

This appeal follows the June 18, 2020 decision of the Arkansas Workers' Compensation Commission affirming and adopting the November 4, 2019 opinion of the administrative law judge (ALJ). The Commission found that appellant Pete Eldridge was entitled to medical treatment, but he failed to prove by a preponderance of the evidence that he was entitled to an anatomical impairment rating greater than 37 percent and that he had failed to prove by a preponderance of the evidence that his attorney was entitled to additional attorney's fees. On appeal, Eldridge argues that the Commission erred by finding that he was not entitled to a 50 percent impairment rating for his compensable injury and that he was not entitled to additional attorney's fees on the rating because it "flowed directly from prior litigation on controverted medical treatment."

Eldridge worked for appellee Pace Industries, LLC (Pace), as a quality-control auditor in the mining and metal-die-casting industry. Eldridge sustained a compensable left-knee injury on July 26, 2016, for which Pace initially provided medical treatment and temporary total-disability benefits. After a period of additional medical treatment, Eldridge underwent evaluation for the purpose of determining his anatomical-impairment rating. He obtained a rating of 50 percent that included a pain component; Pace then sought an independent medical evaluation (IME) to obtain a rating that did not include subjective complaints of pain in the rating and accepted the assessed 37 percent anatomical-impairment rating to the left lower extremity. Pace awarded Eldridge the proper benefits associated with the 37 percent rating.

In a November 4, 2019 opinion, the ALJ awarded Eldridge the requested additional medical treatment but found that Eldridge was entitled to only a 37 percent anatomical-impairment

rating; accordingly, no award of attorney's fees was granted. Eldridge then filed an appeal to the Commission, which entered an order affirming and adopting the decision of the ALJ on June 18, 2020. On appeal to the Court of Appeals, Eldridge contended that he was entitled to a higher impairment rating and that the Commission erred in its June 18, 2020 opinion by not awarding him attorney's fees.

The Court of Appeals found that the Commission gave significant weight to the May 2019 impairment evaluation summary conducted by Jones and Byrd. The Commission has the authority to accept or reject a medical opinion and the authority to determine its probative value. The Court of Appeals found that substantial evidence supported the Commission's finding that Eldridge was only entitled to a 37 percent anatomical-impairment rating to the left lower extremity.

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 in 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 an impact on the market:

- Medical services contribution to the costs of claims;
- Impact of fee schedule updates on physician payments;
- Mega claims in workers' compensation;
- Motor vehicle accidents in workers' compensation;
- Changing employee demographics effects on claims frequency; and
- Hazard group updates.

The incidence of workplace injuries continues to fall 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 need quality workers' compensation products in the voluntary market at affordable prices. The creation of good jobs requires a marketplace where all businesses, regardless of size, can grow. Maintaining a stable workers' compensation system is essential for this growth. The evidence shows the reforms have worked. The incidence of fraud has been reduced through high-profile fraud prosecutions, employee compensation rates and benefits have been increased, and workers injured within the course and scope of their employment have received timely medical treatment and the payment of much improved indemnity benefits. Eroding the positive changes incorporated into Act 796 would be counterproductive to continued economic growth and development.

Prepared for submission by: September 1, 2021

cc: The Honorable Asa Hutchinson, Governor
 The Honorable Mike Preston, Secretary, Department of Commerce
 The Honorable Dale Douthit, Chairman, AWCC
 The Honorable Christopher Palmer, Commissioner, AWCC
 The Honorable Scott Willhite, Commissioner, AWCC
 David Greenbaum, Chief Executive Officer, AWCC
 Mr. 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

ARKANSAS

STATE ADVISORY ON DEMAND

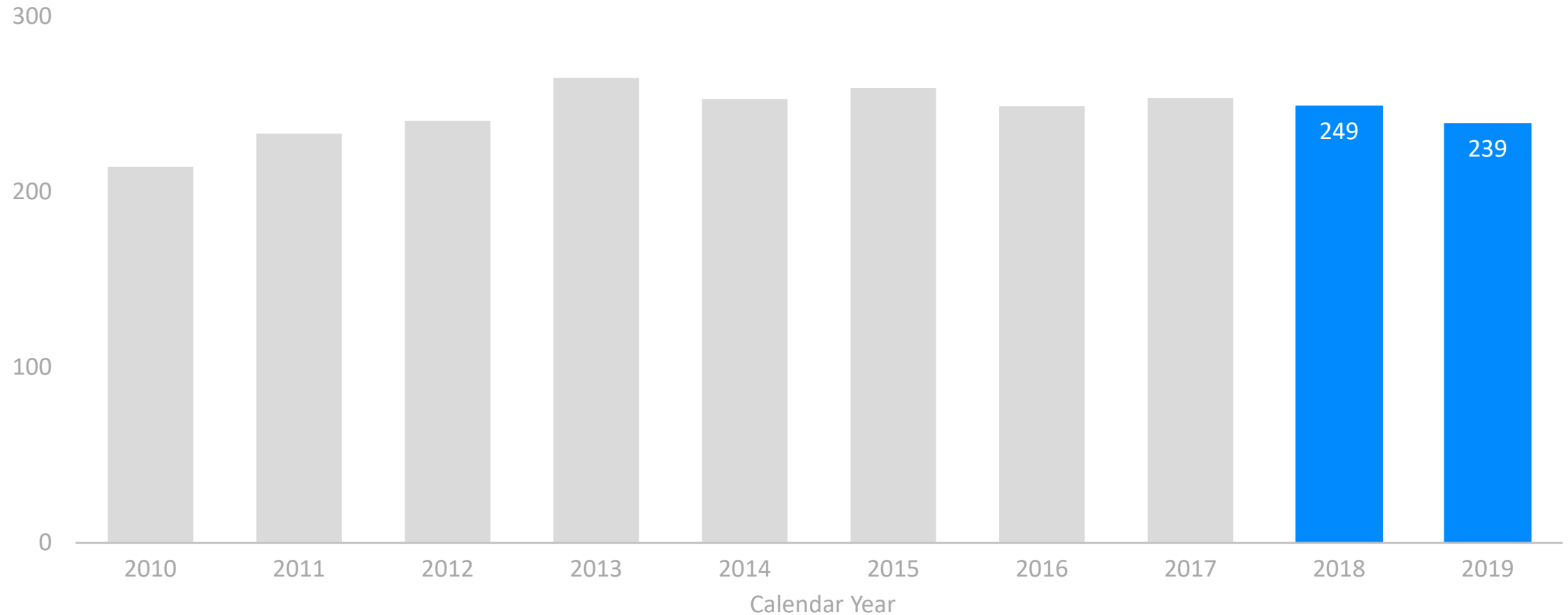
March 2021

Arkansas Workers Compensation System— An Overview

- Direct written premium decreased in the latest year
- The combined ratio continues to show favorable results
- Lost-time claim frequency increased slightly in the latest year

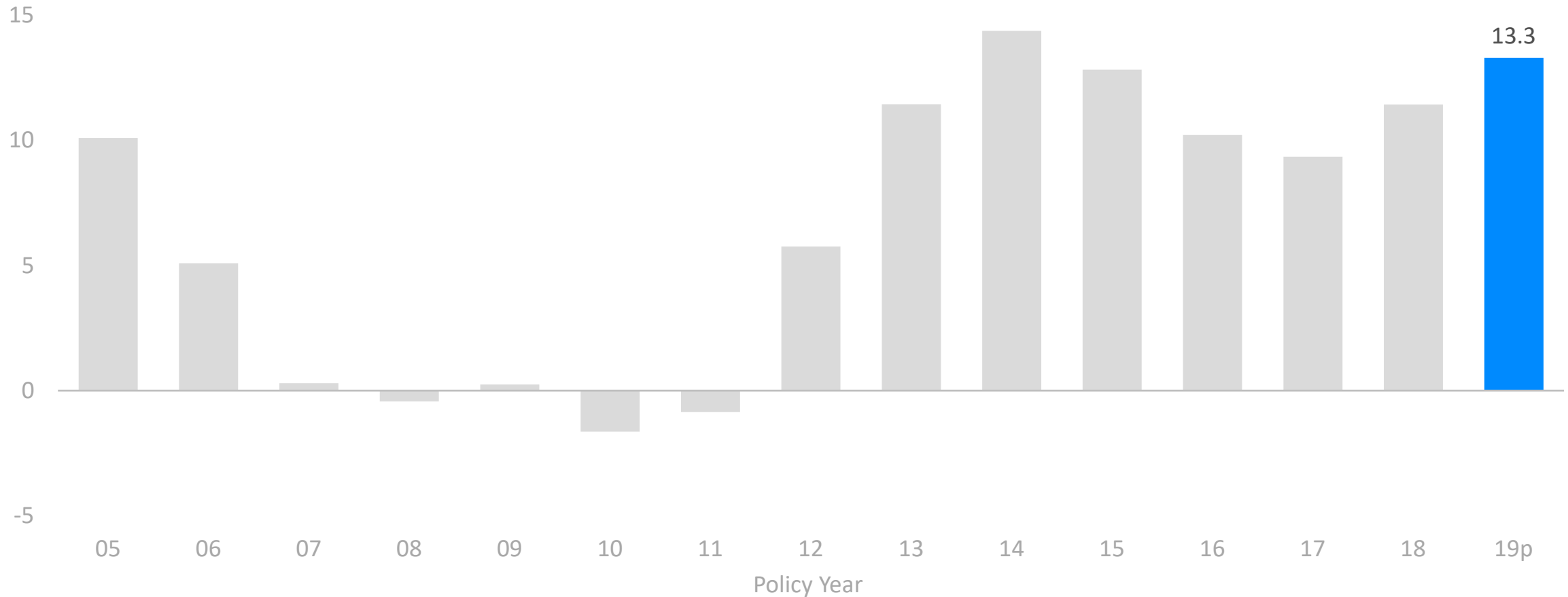
Arkansas Premium Volume

Direct Written Premium in \$ Millions



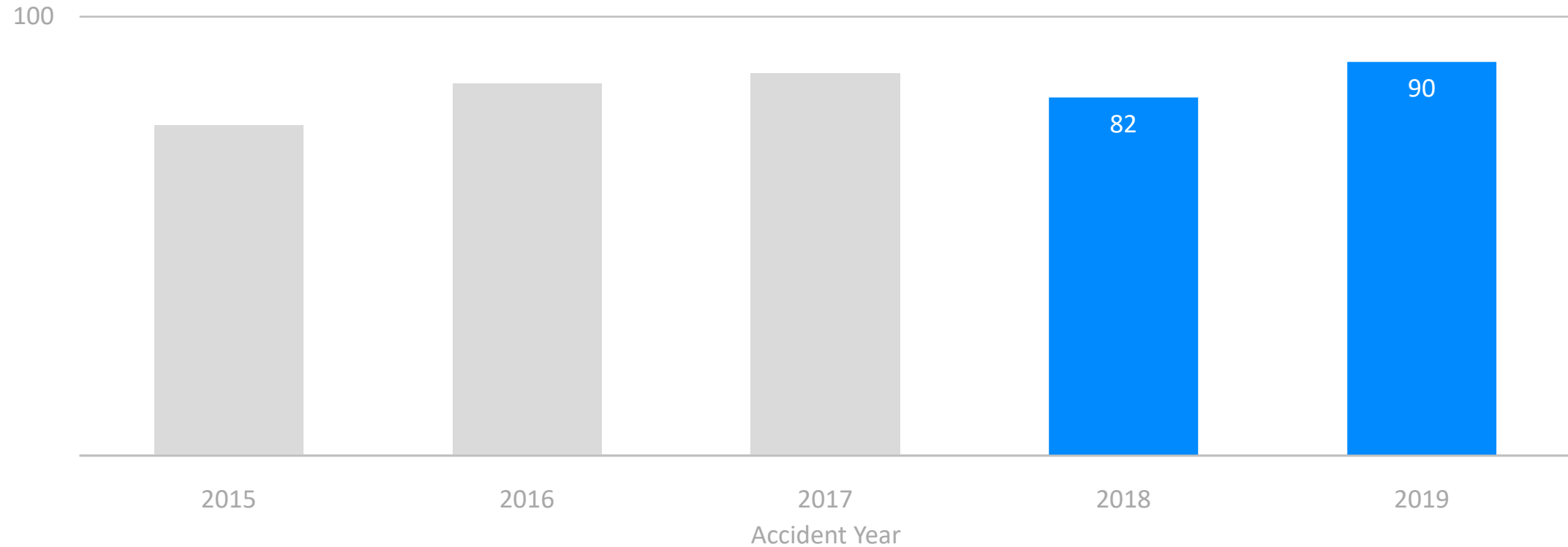
Source: NAIC's Annual Statement data.

Impact of Discounting on Workers Compensation Premium in Arkansas



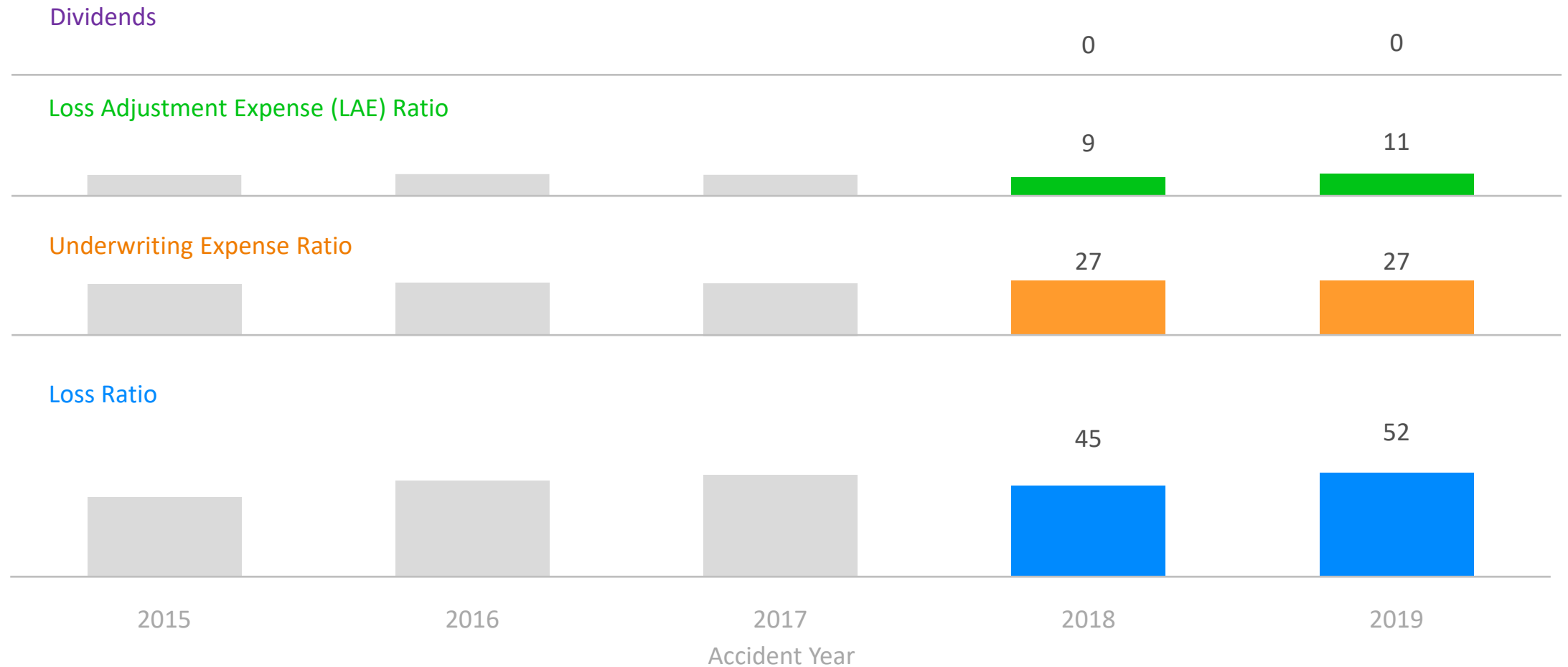
p Preliminary.
Based on data through 12/31/2019.

Arkansas Combined Ratios



Sources: NCCI's financial data through 12/31/2019 and NAIC's Annual Statement data.

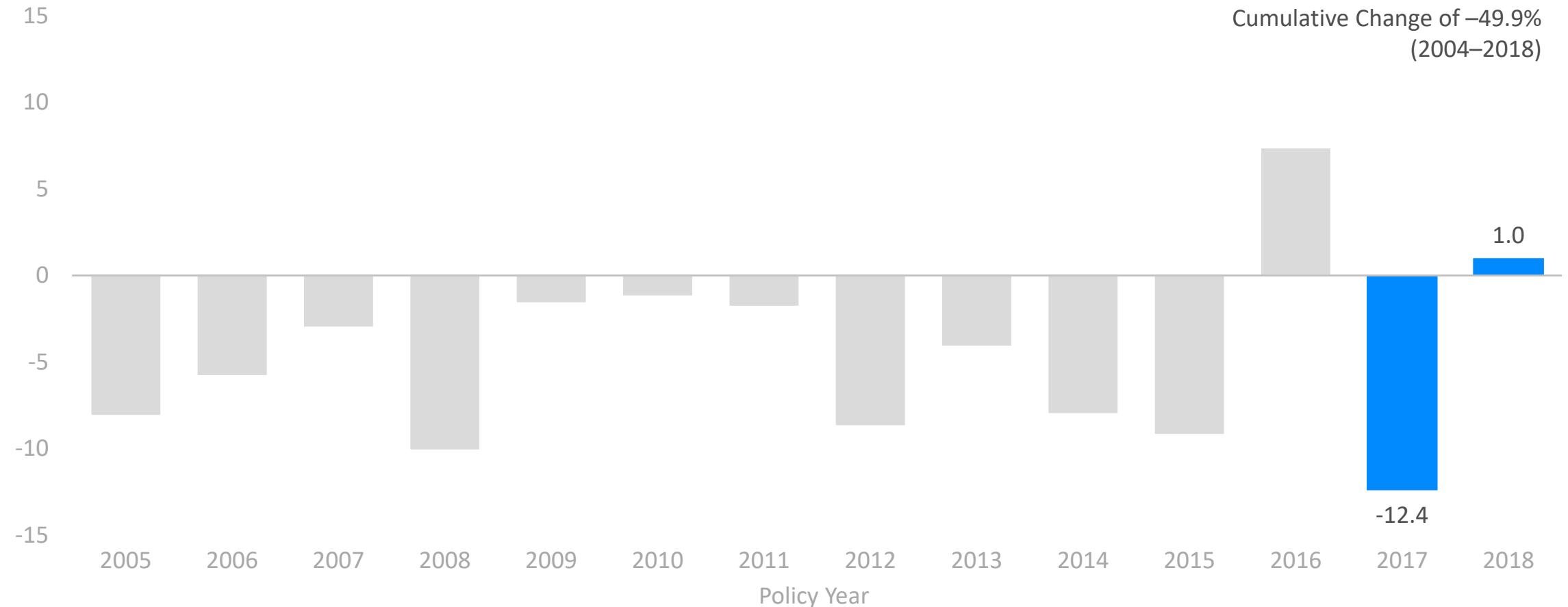
Arkansas Combined Ratios by Component



Sources: NCCI's financial data through 12/31/2019 and NAIC's Annual Statement data.

Arkansas Change in Claim Frequency

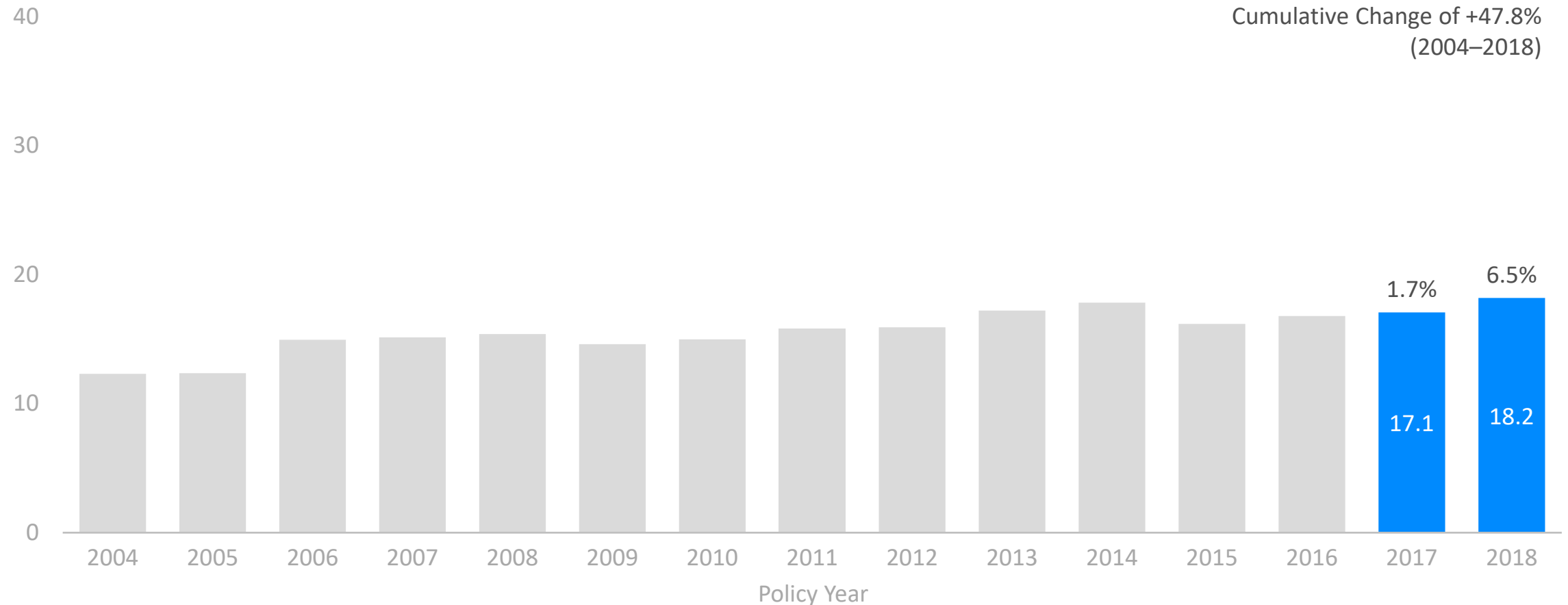
Percent Change in Lost-Time Claims, per \$ Million of On-Leveled Premium



Based on NCCI's financial data through 12/31/2019, on-leveled, and developed to ultimate, with premium adjusted to common wage level.

Arkansas Average Indemnity Claim Severity

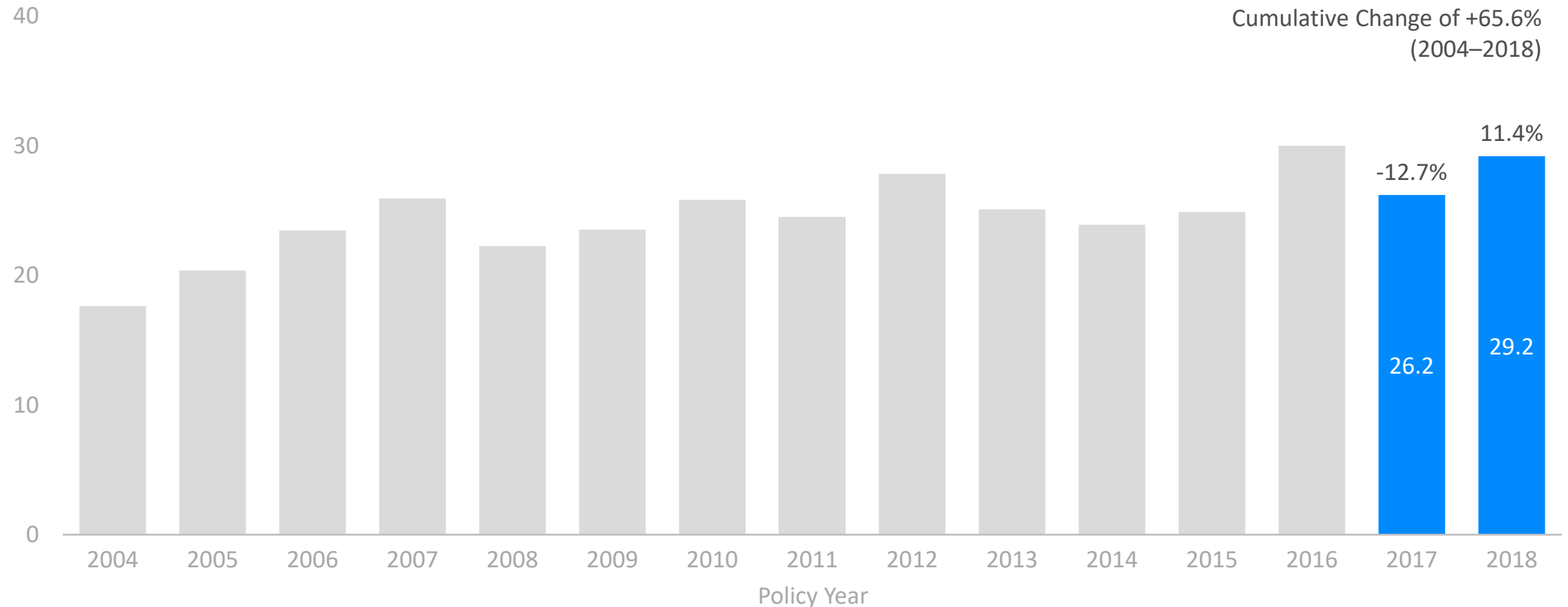
Lost-Time Claim Severity in \$ Thousands



Based on NCCI's financial data through 12/31/2019, on-leveled, and developed to ultimate.

Arkansas Average Medical Claim Severity

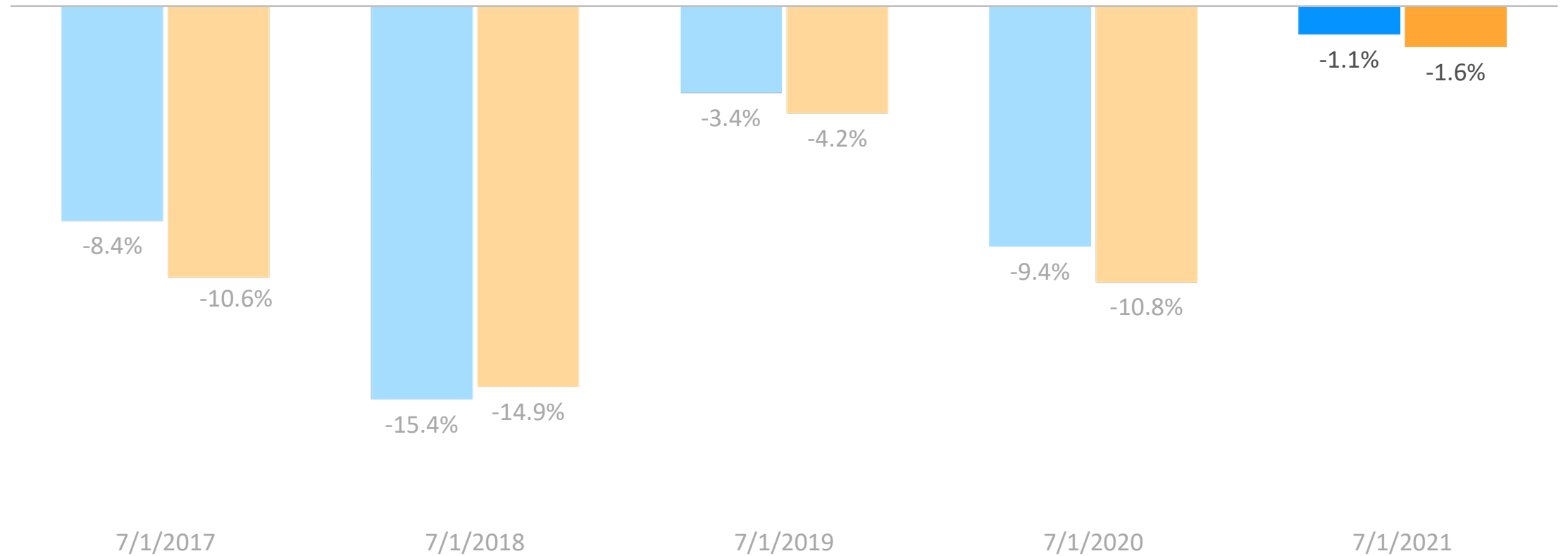
Lost-Time Claim Severity in \$ Thousands



Based on NCCI's financial data through 12/31/2019, on-leveled, and developed to ultimate.
Note that medical-only losses are included in the numerator.

Arkansas Filing Activity

Voluntary Loss Cost and Assigned Risk Rate Changes

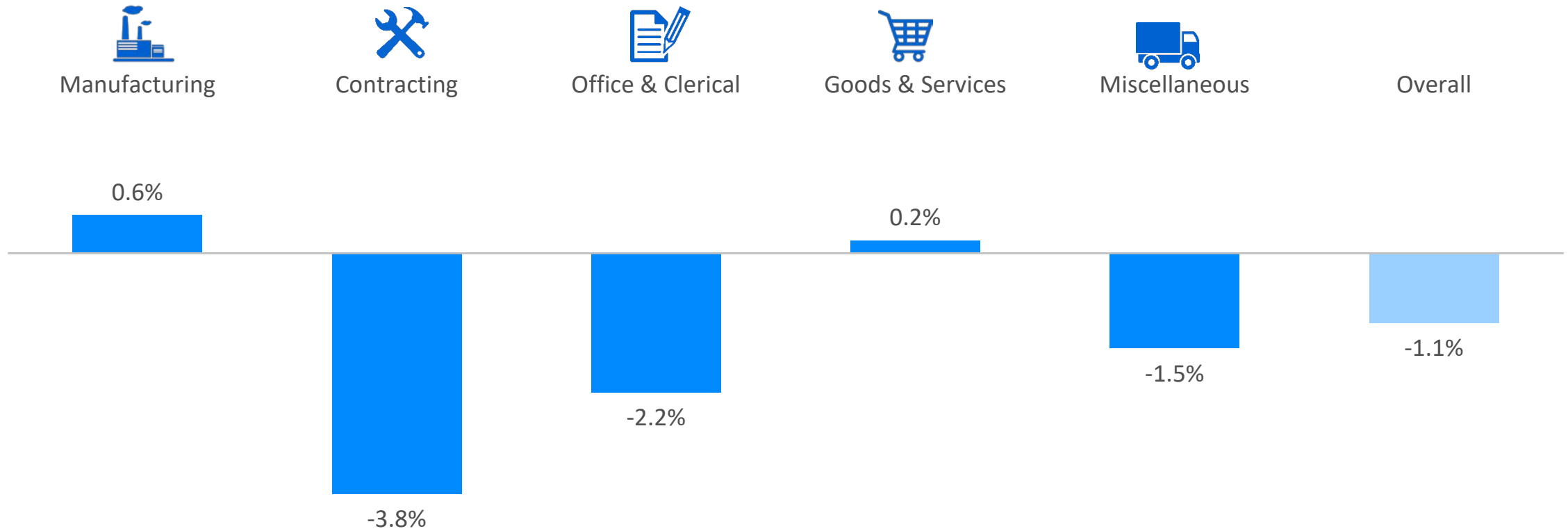


Arkansas July 1, 2021 Loss Cost Filing

Change in Experience:	−2.8%
Change in Trend:	+0.0%
Change in Benefits:	+0.8%
Change in Loss-based Expenses:	+0.9%
<hr/>	
Overall Loss Cost Level Change:	−1.1%

Arkansas July 1, 2021 Loss Cost Filing

Average Changes by Industry Group



Arkansas Economic Drivers



Medical



Manufacturing



Logistics

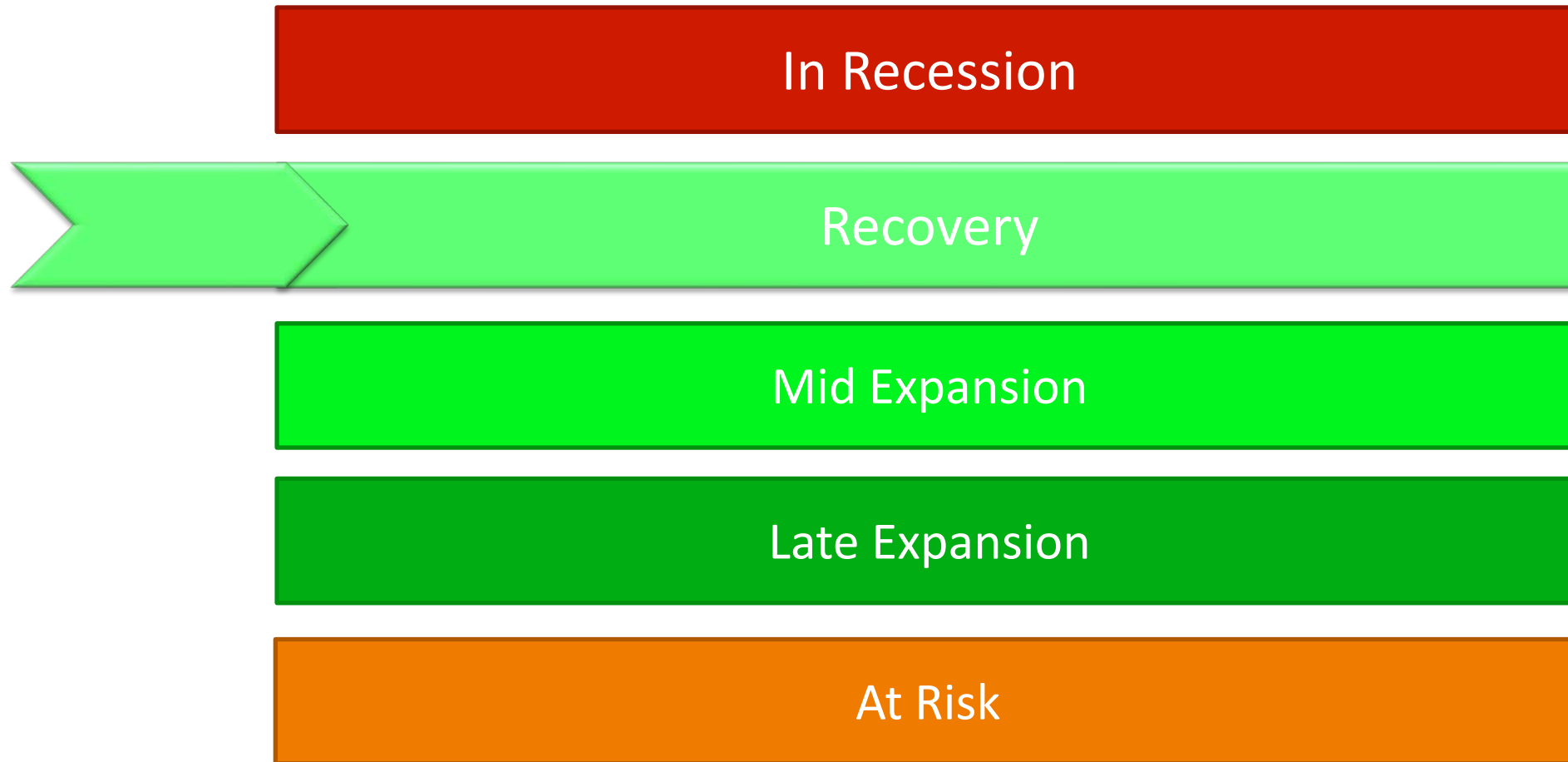
Source: Moody's Analytics, Précis® U.S. State, Arkansas, September 2020.

Arkansas Economic Assets and Challenges

- Assets
 - Very low business costs and low employment volatility
 - Positive migration trends
 - Significant natural gas resources
- Challenges
 - Lower per capita income and educational attainment
 - Few jobs in tech, knowledge-based industries

Source: Moody's Analytics, Précis® U.S. State, Arkansas, September 2020.

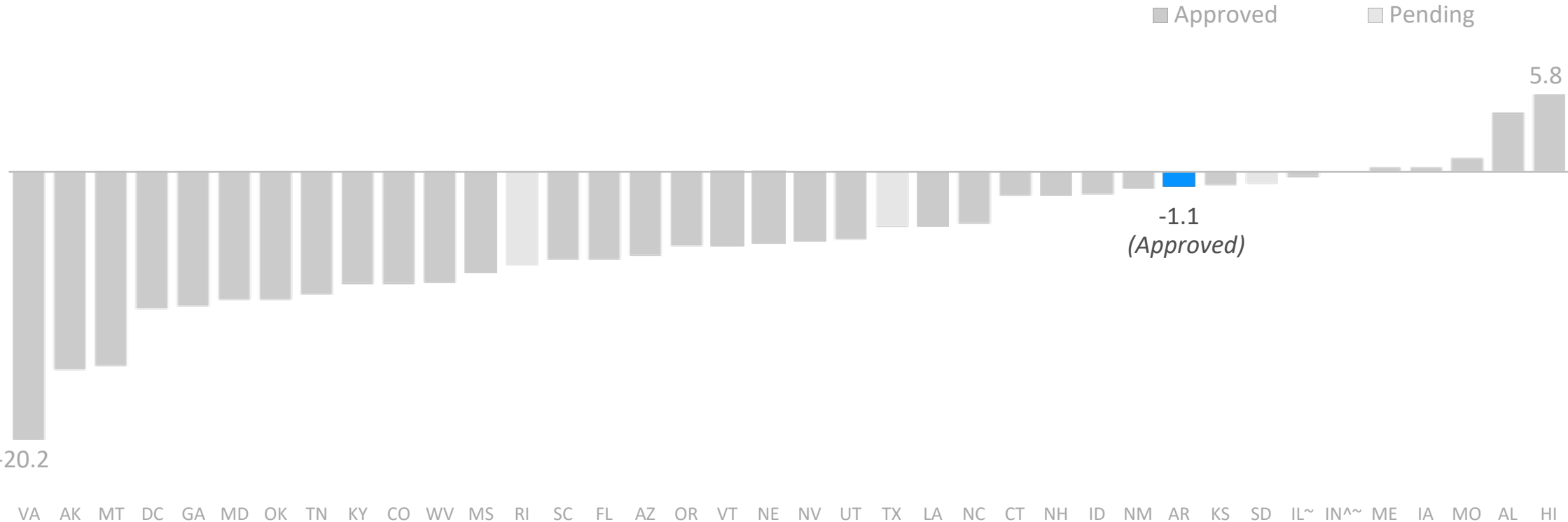
Arkansas Business Cycle Status



Source: Moody's Analytics, Précis® U.S. State, Arkansas, September 2020.

Current NCCI Voluntary Market Loss Cost/Rate Level Changes

Excludes Law-Only Filings

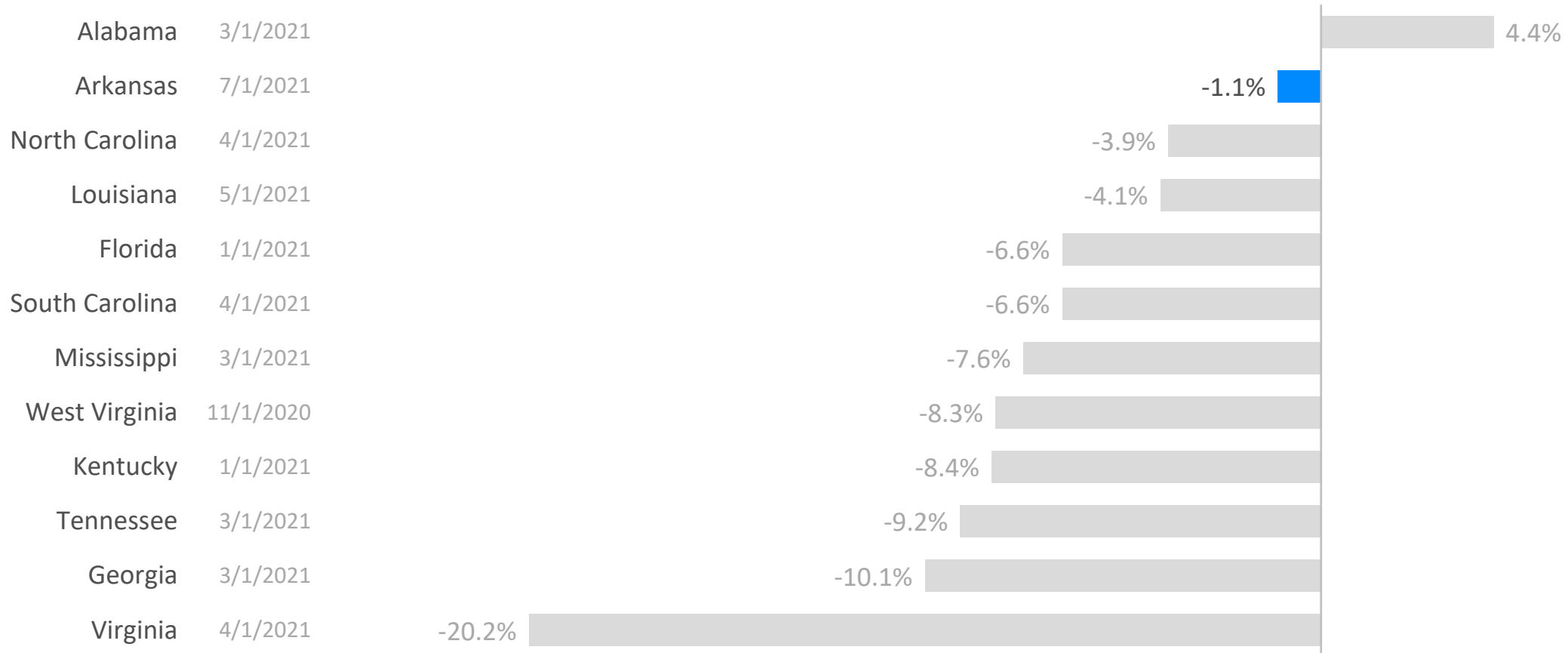


^IN approved a flat (0.0%) rate level change.
~Value shown is a rate level change; the IL and IN lost cost level changes are -2.8% and 0.0%, respectively.
Reflects the most recent experience filing in each jurisdiction as of 3/19/2021.
Due to the timing of the individual loss cost/rate filings, the figures shown may include changes from prior filing seasons.



Current Voluntary Market Loss Cost/Rate Changes

Southeastern States

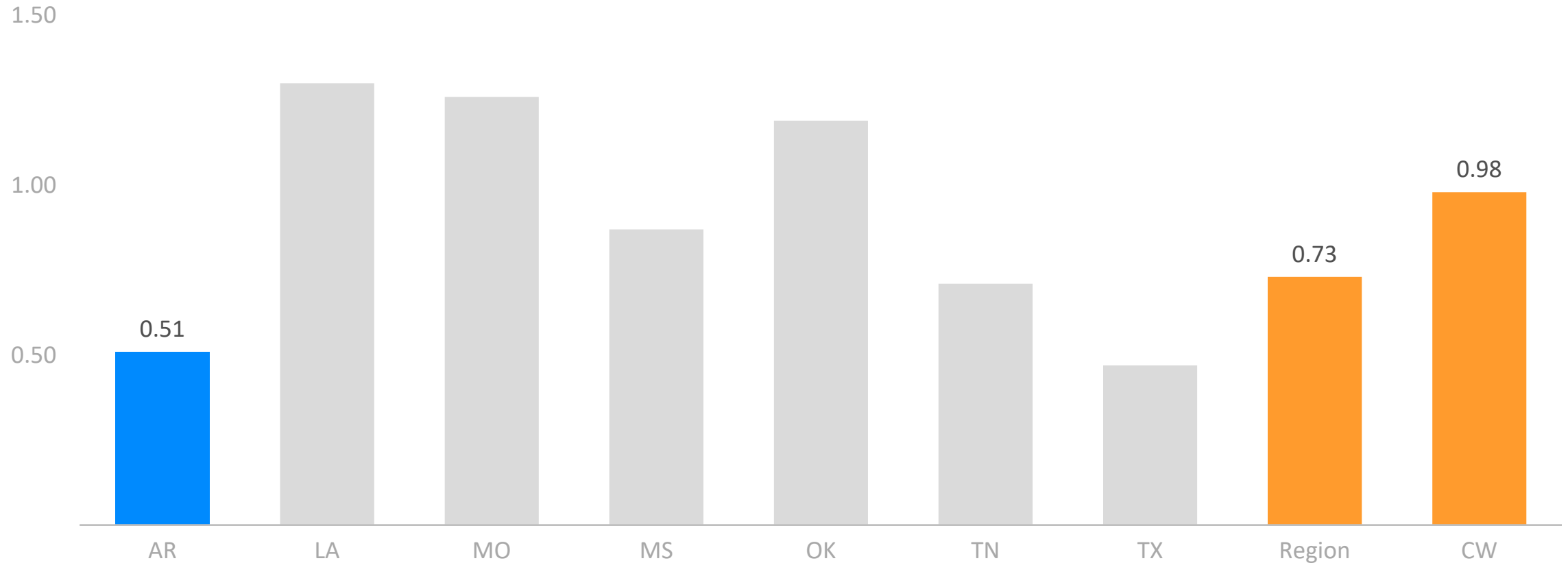


Reflects the most recent experience filing in each jurisdiction as of 3/19/2021.

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

Average Voluntary Pure Loss Costs

Using Arkansas Payroll Distribution

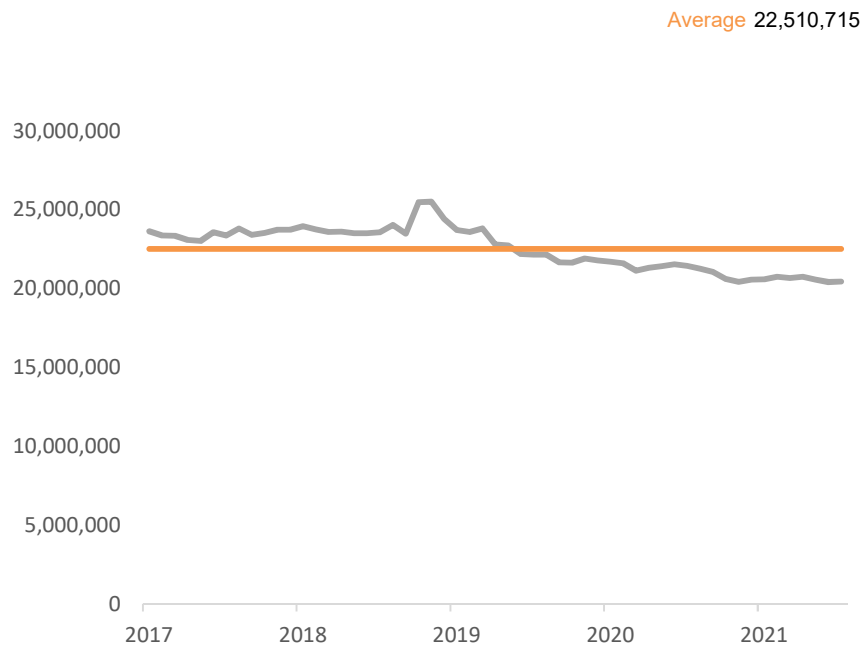


Based on approved rates and loss costs in various jurisdictions from filings using data valued as of 12/31/2018.

EXHIBIT "B"



Arkansas Plan Premium Report July 2021



AR

\$2.1 million less premium than average

\$38.4 (000) more premium than in June

Premium Data Parameters

The Plan Premium figures below represent the size of the residual market in Arkansas as of the end of the month stated. These figures are 12-month rolling totals based on policies reported to NCCI by Assigned Carriers. They include assignments less than 120 days old that have not yet been reported as policies and a percentage of recently expired policies that NCCI expects to be renewed. These totals are net of cancellations and include any additional premium due to policy endorsements.

Arkansas Plan Premium Report

	2017	2018	2019	2020	2021
Jan	23,629,421	23,951,298	23,704,293	21,695,357	20,582,406
Feb	23,369,443	23,745,407	23,590,188	21,602,913	20,743,796
Mar	23,348,871	23,592,420	23,810,698	21,136,655	20,665,864
Apr	23,073,914	23,600,461	22,790,524	21,317,707	20,735,967
May	23,018,278	23,500,730	22,737,340	21,413,463	20,556,286
Jun	23,556,627	23,511,816	22,180,504	21,525,283	20,408,868
Jul	23,362,169	23,562,582	22,150,789	21,438,523	20,447,308
Aug	23,815,183	24,021,119	22,136,720	21,243,355	
Sep	23,391,068	23,482,843	21,652,835	21,054,124	
Oct	23,517,404	25,475,125	21,635,441	20,591,500	
Nov	23,715,689	25,499,957	21,895,265	20,424,543	
Dec	23,723,785	24,423,320	21,776,112	20,555,787	

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The Source You Trust

EXHIBIT "C"

Annual Issues Symposium 2021

STRONGER **TOGETHER**

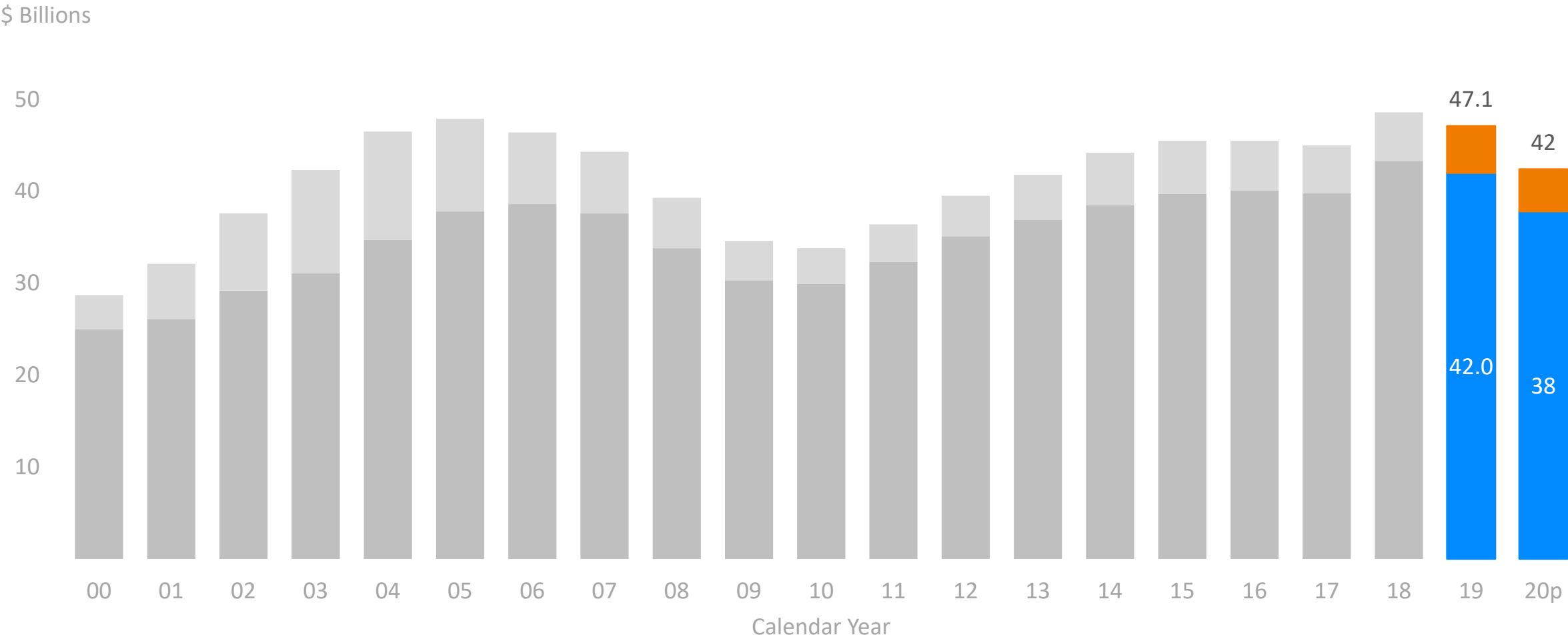
State of the Line Report

AIS
2021 **AIS**
VIRTUAL

Workers Compensation (WC) Premium

WC Net Written Premium

Private Carriers and State Funds

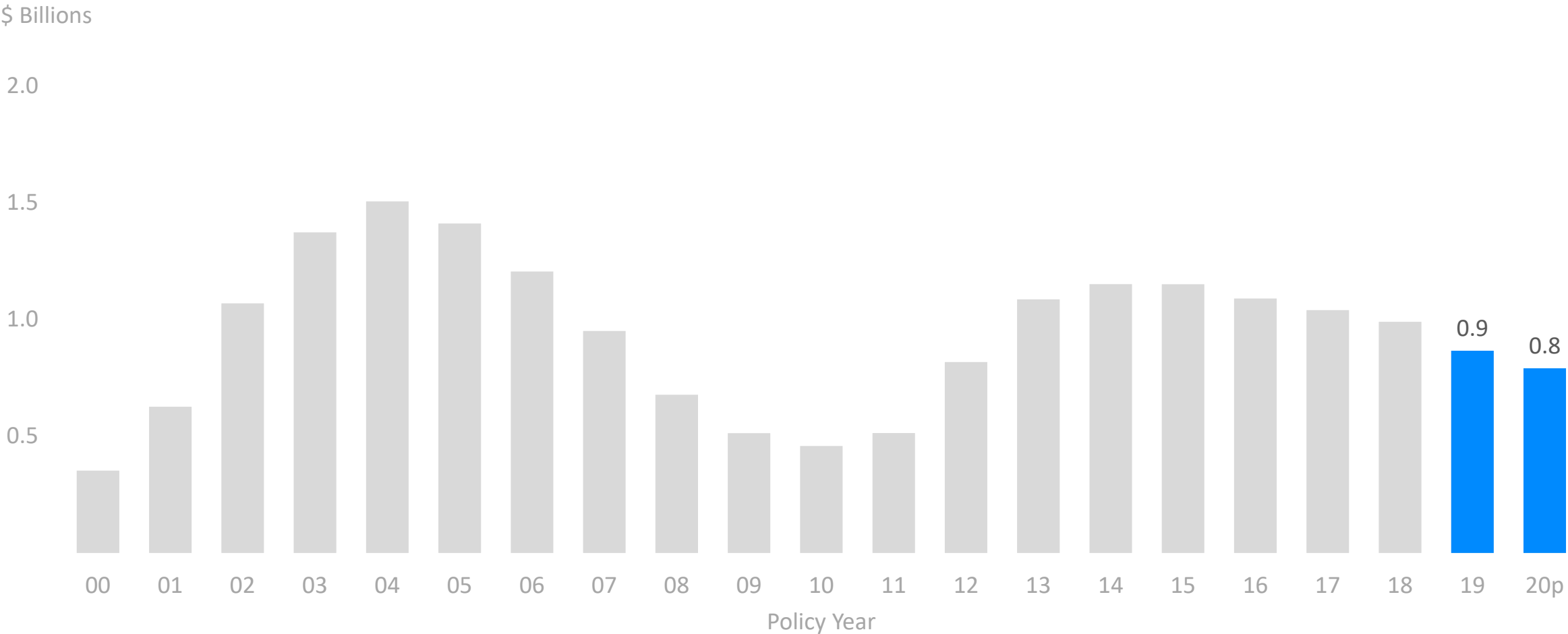


p Preliminary

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 Residual Market Premium

NCCI-Serviced WC Residual Market Pools

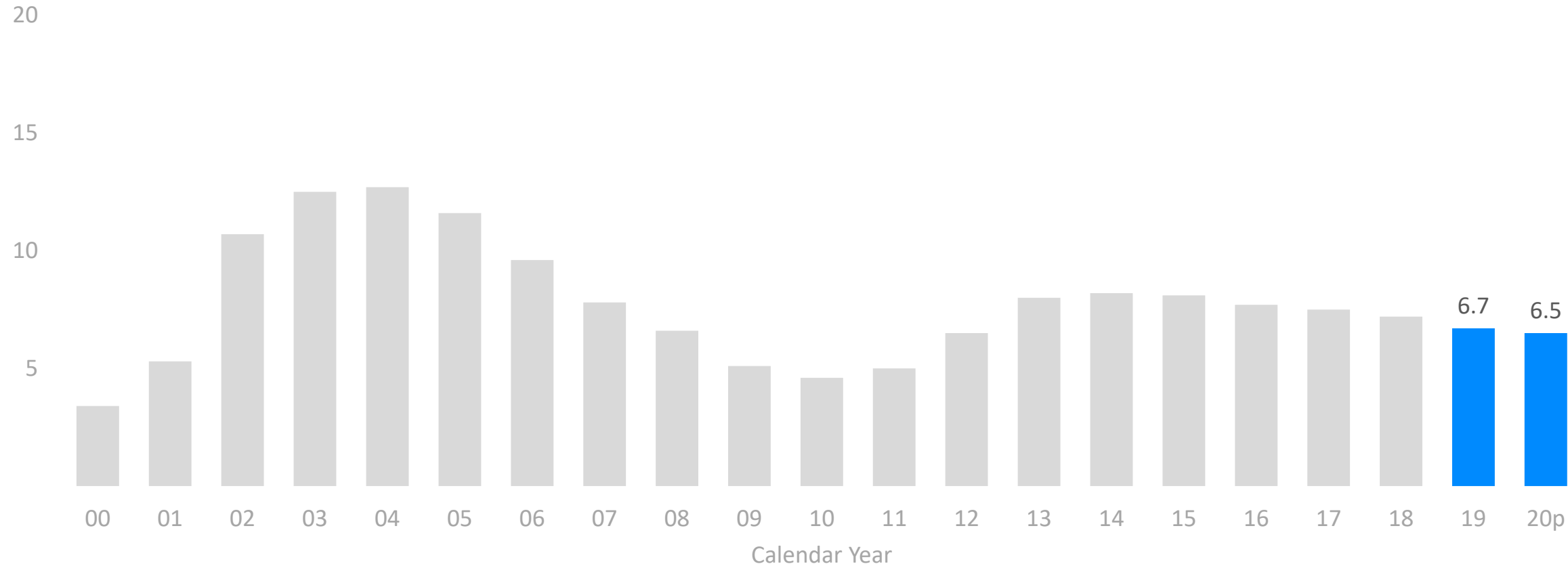


p Preliminary, incomplete policy year projected to ultimate
Source: NCCI's **Residual Market Quarterly Results**
Includes Pool data for all NCCI-serviced WC Residual Market Pool states, valued as of 12/31/2020
Tennessee Reinsurance Mechanism premium is not included

WC Residual Market Share

NCCI-Serviced WC Residual Market Pools

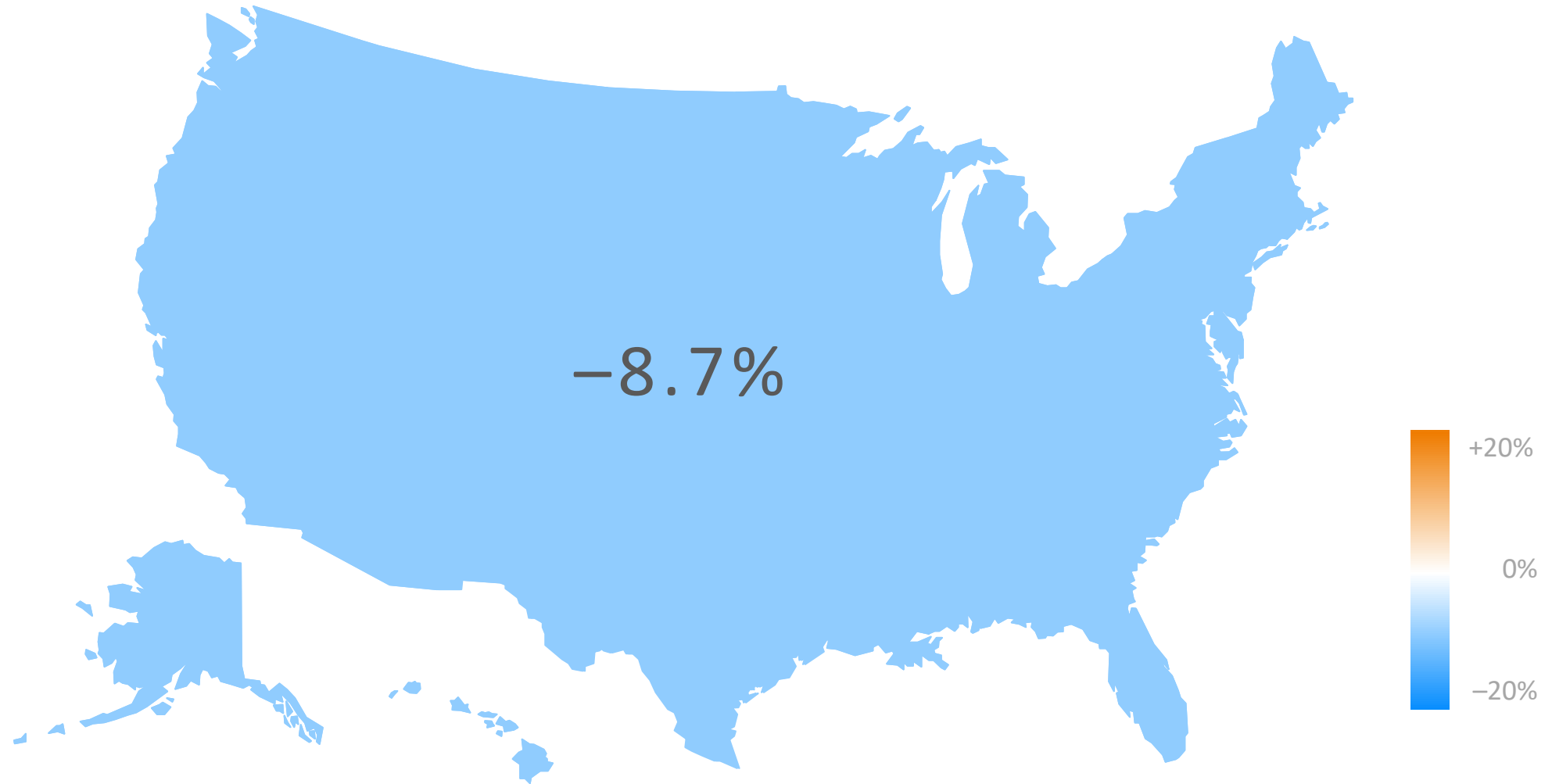
Percent



p Preliminary
Source: NCCI's **Residual Market Management Summary**
Includes Pool and direct assignment data for all NCCI-serviced WC Residual Market Pool states
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WC Direct Written Premium Change—2020

Private Carriers

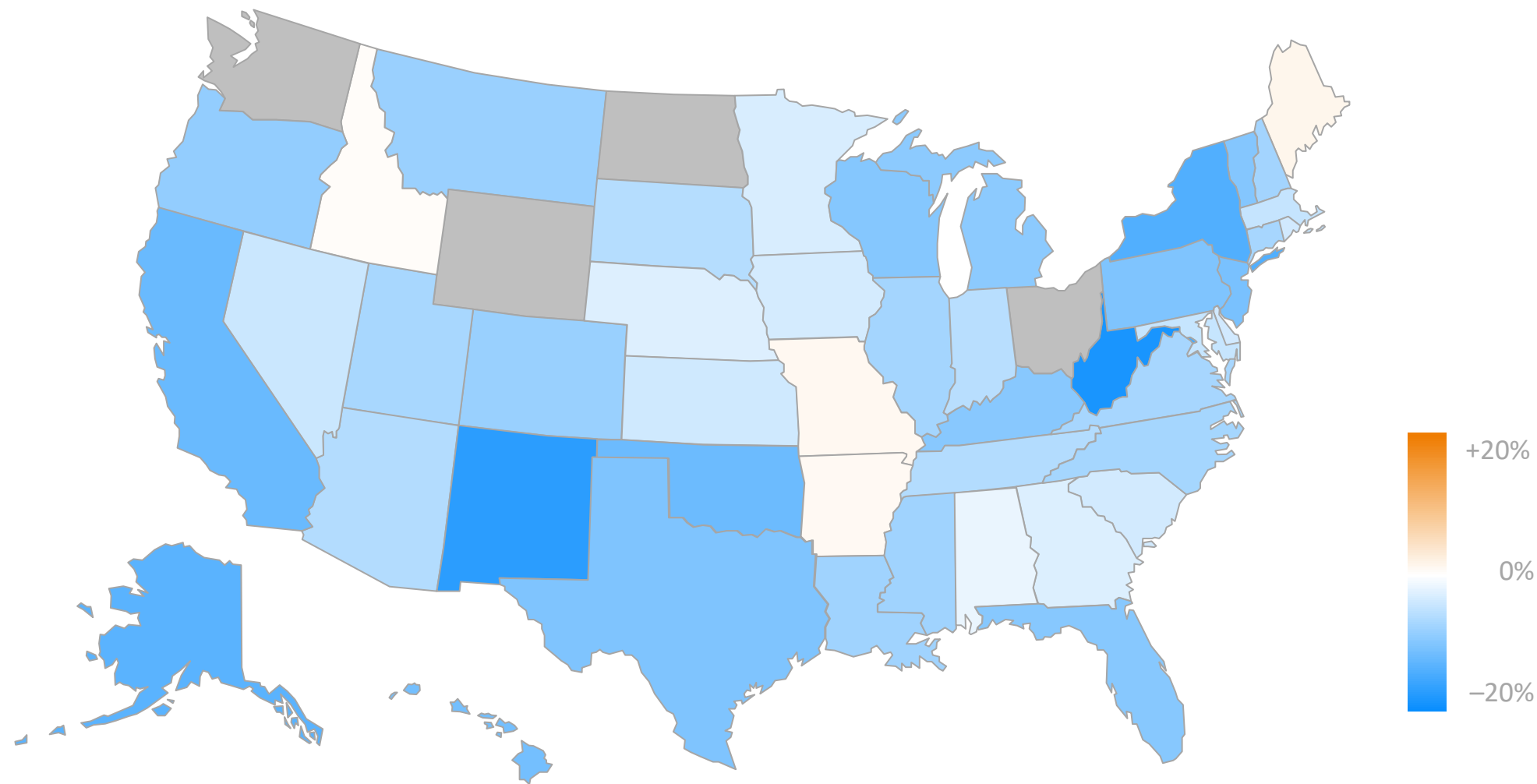


Source: 2019 and 2020 NAIC's Annual Statement Statutory Page 14

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WC Direct Written Premium Change—2020

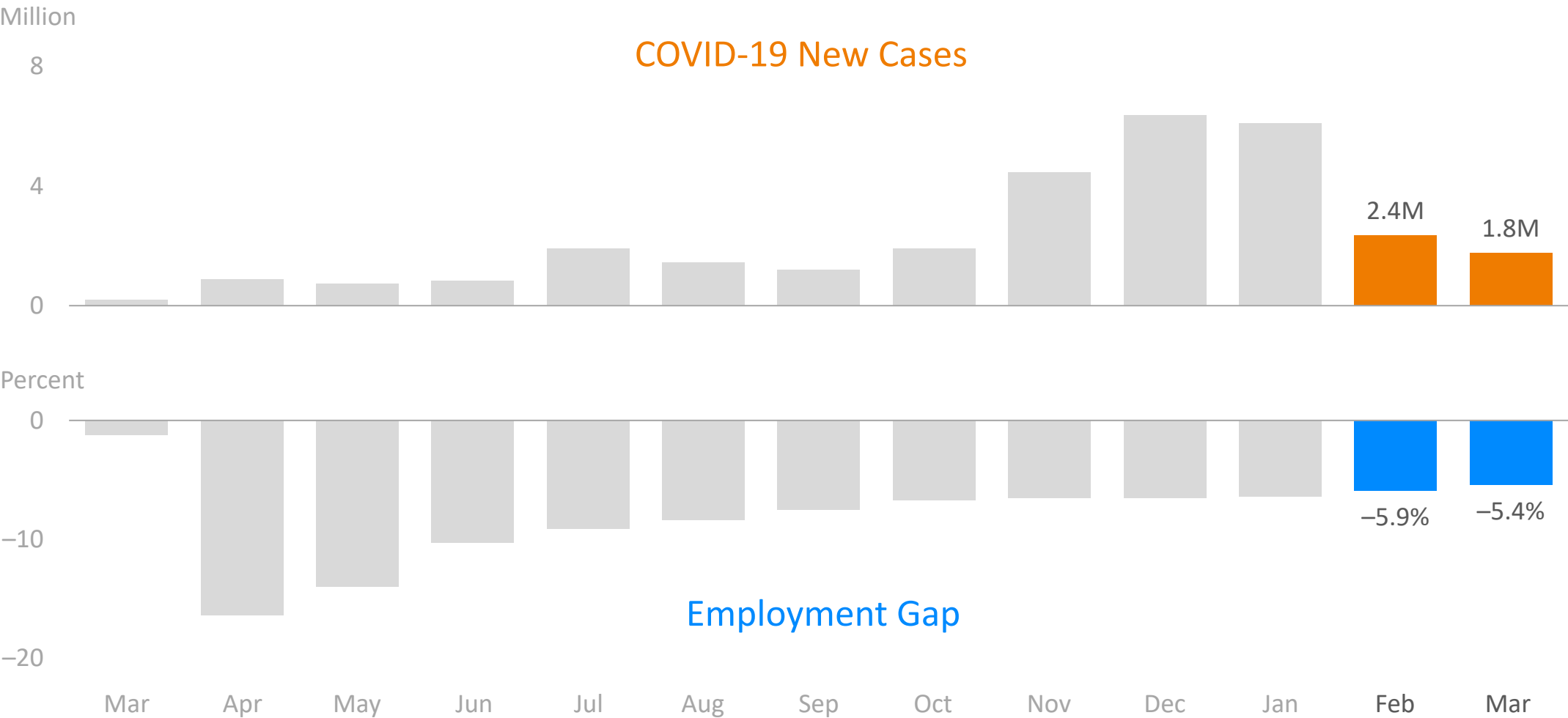
Private Carriers



Source: 2019 and 2020 NAIC's Annual Statement Statutory Page 14

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US Employment Gap and New COVID-19 Cases

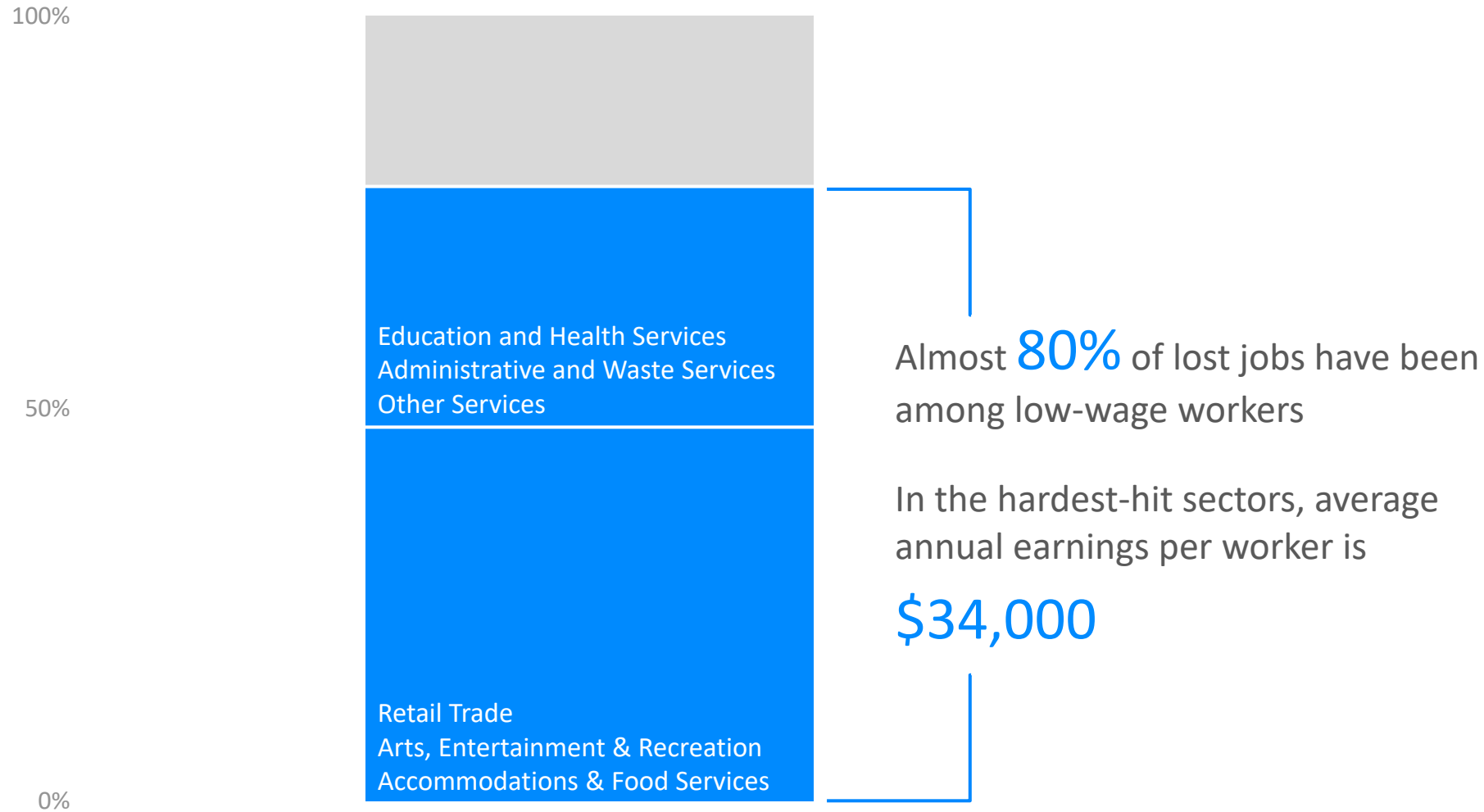


Sources: Centers for Disease Control and Prevention, US Bureau of Labor Statistics, and NCCI

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COVID-19 Job Losses Were Concentrated Among Low-Wage Earners

February 2021



Sources: US Bureau of Labor Statistics and NCCI

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Payroll Change Includes Offsetting Employment and Wage Effects

Forecast Change 2019–2020

Payroll 0.7%



Employment –6.2%



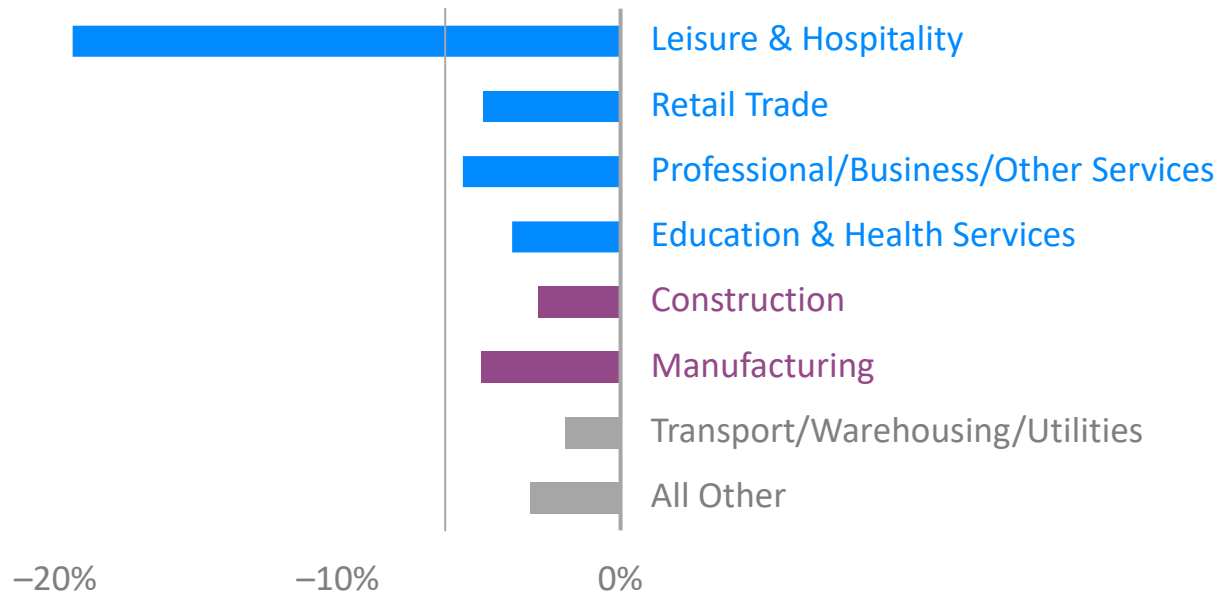
Wage Rate 7.4%



Wages and Hours
3.0%



Employment Mix
4.3%

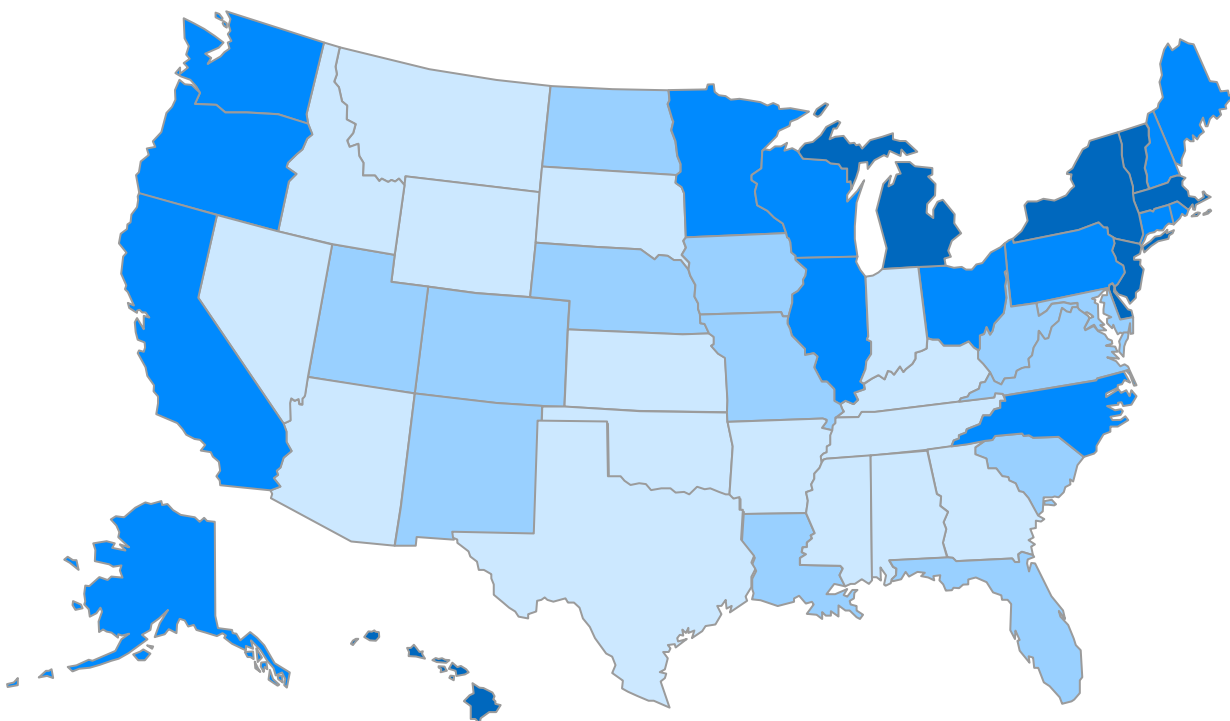
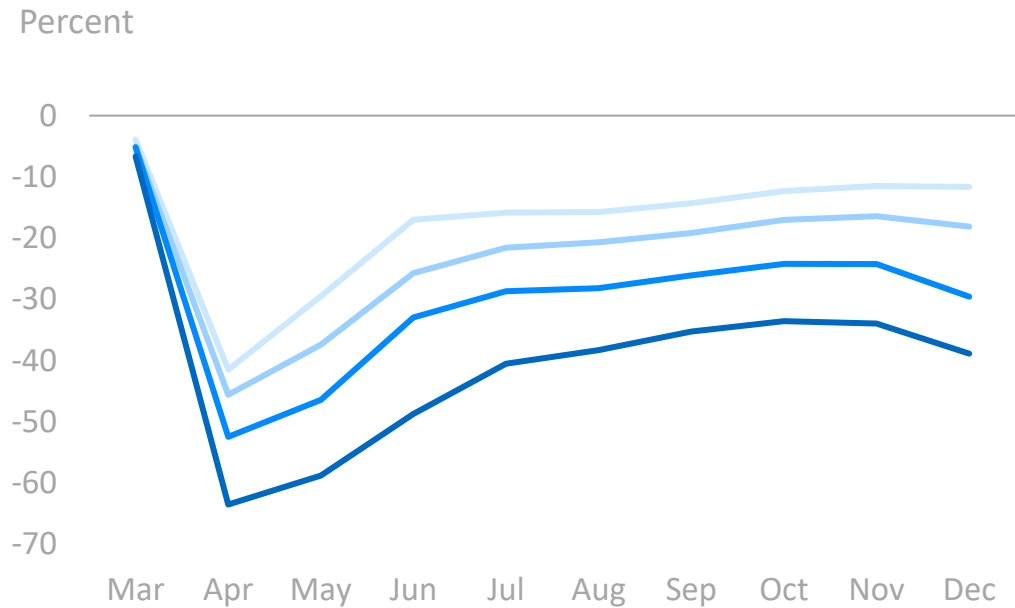


Sources: Moody's Analytics and NCCI

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Job Losses—Leisure and Hospitality

Employment Gap by State Group, March–December 2020

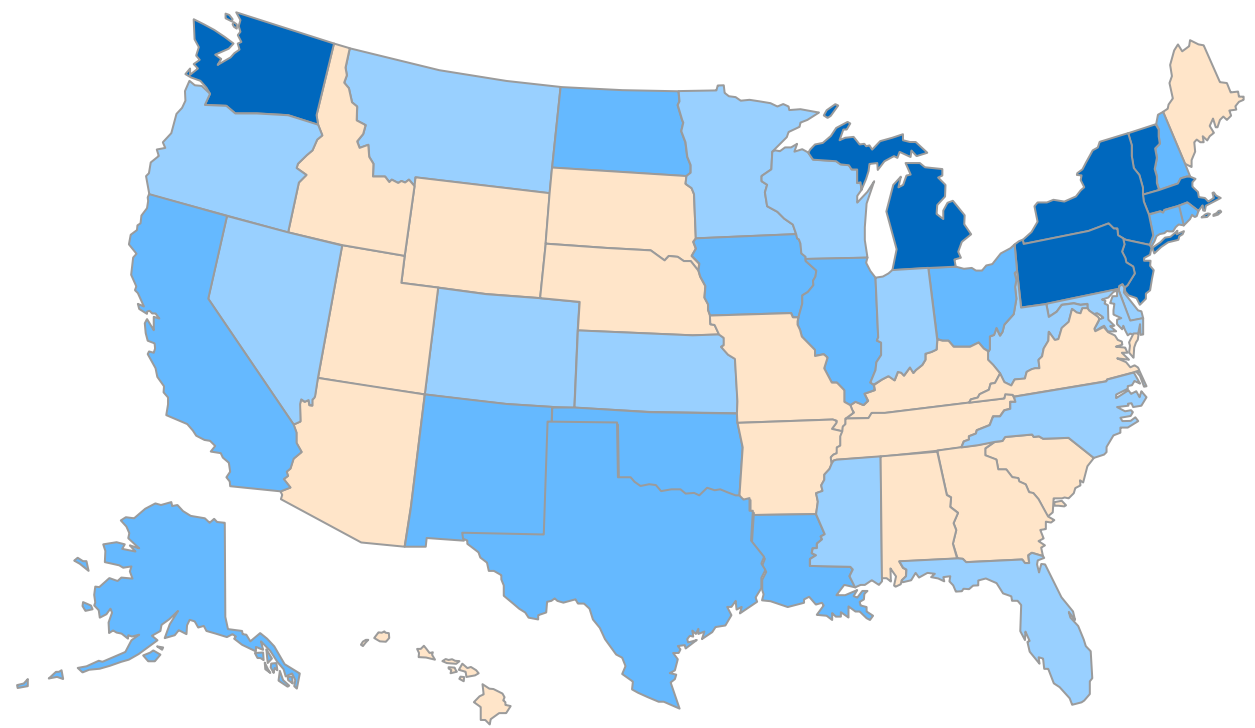
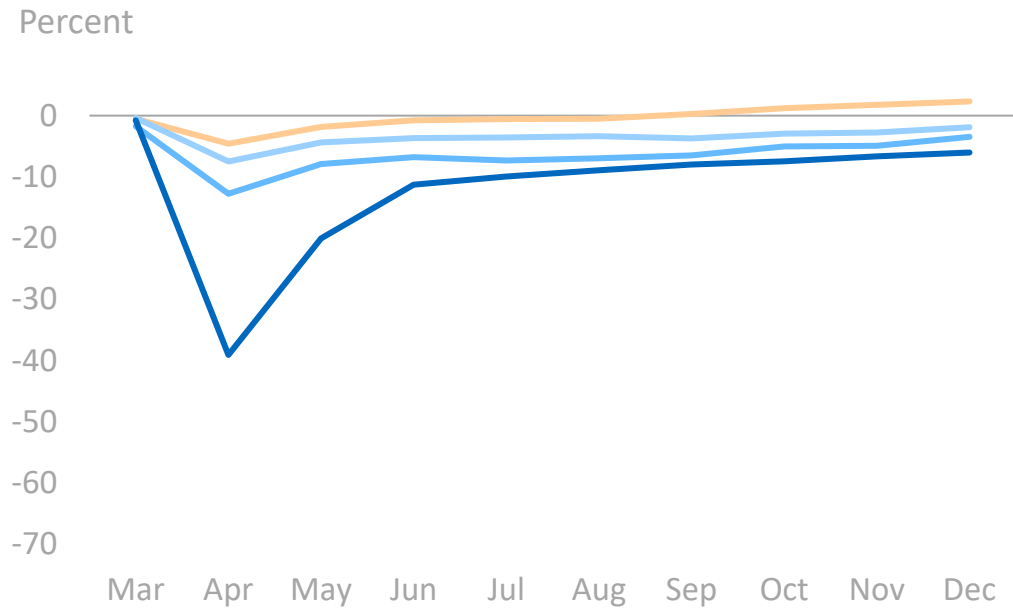


Sources: US Bureau of Labor Statistics and NCCI

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Job Losses—Construction

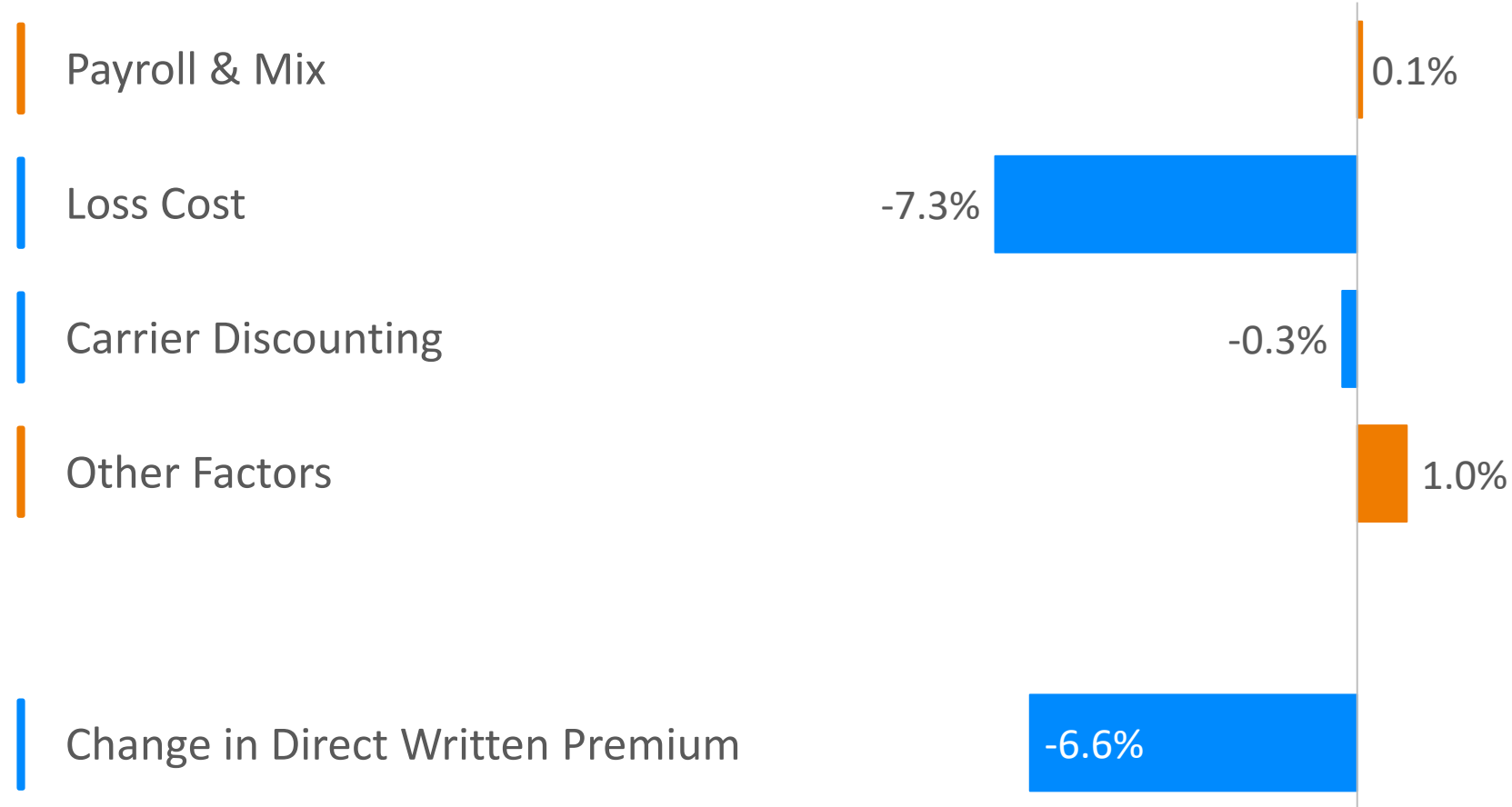
Employment Gap by State Group, March–December 2020



WC Direct Written Premium Change by Component

Private Carriers—NCCI States

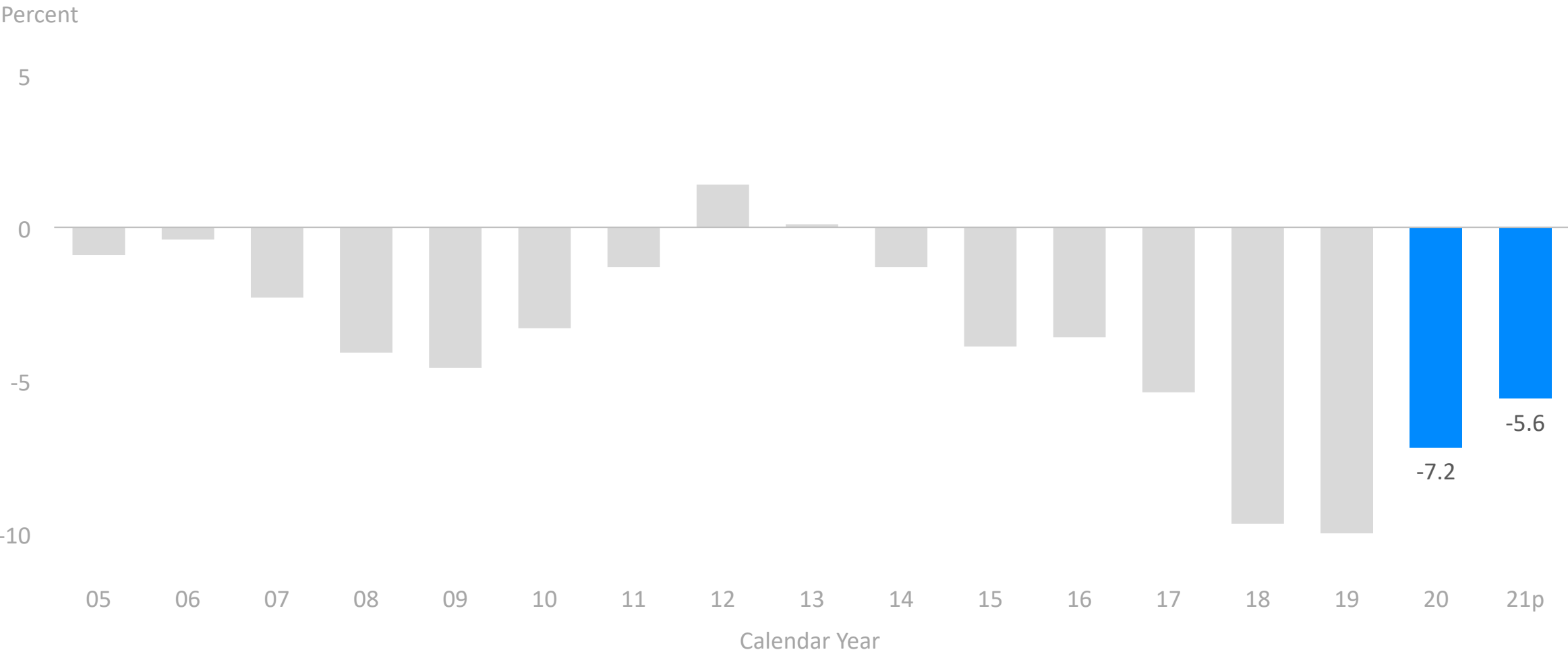
2019 vs. 2020



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

WC Approved Changes in Bureau Premium Level

Weighted by Effective Date—NCCI States



p Preliminary

Source: NAIC's Annual Statement Statutory Page 14

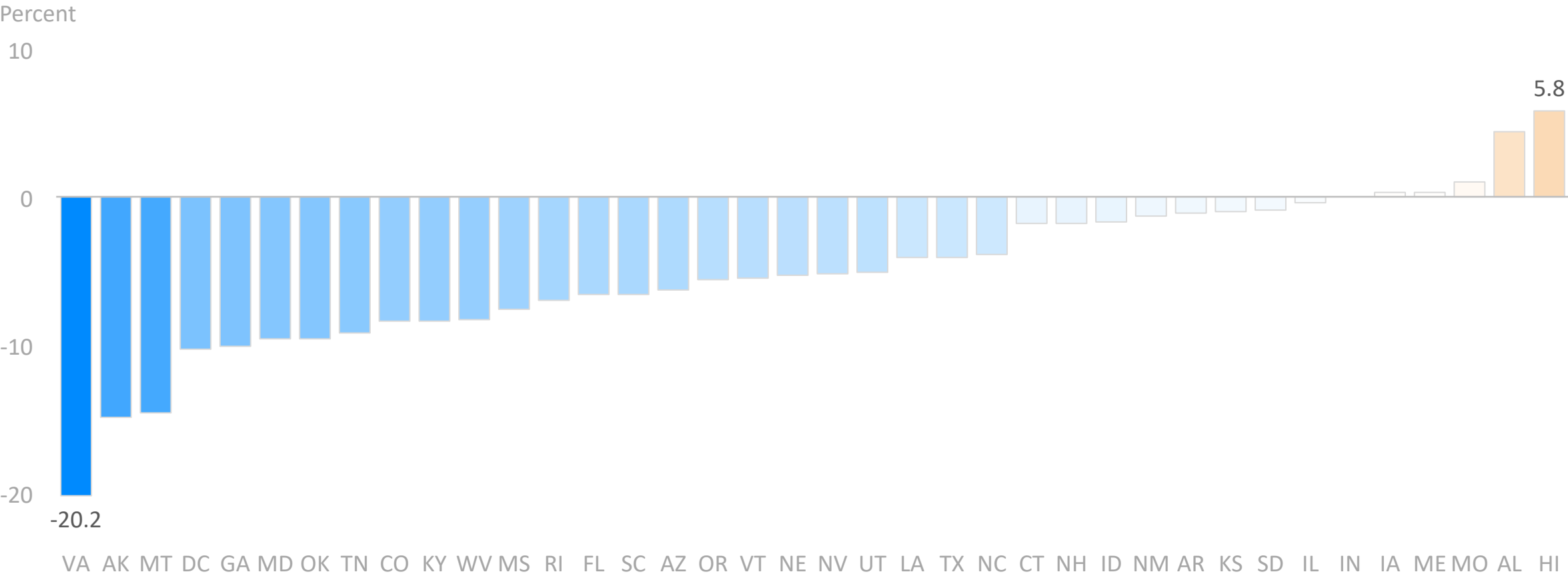
Values reflect changes in average premium levels between years, based on approved changes in advisory rates, loss costs, assigned risk rates, and rating values, as of 4/30/2021

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 4/30/2021, as filed by the applicable rating organization, relative to those previously approved
IN and NC are filed in cooperation with state rating bureaus

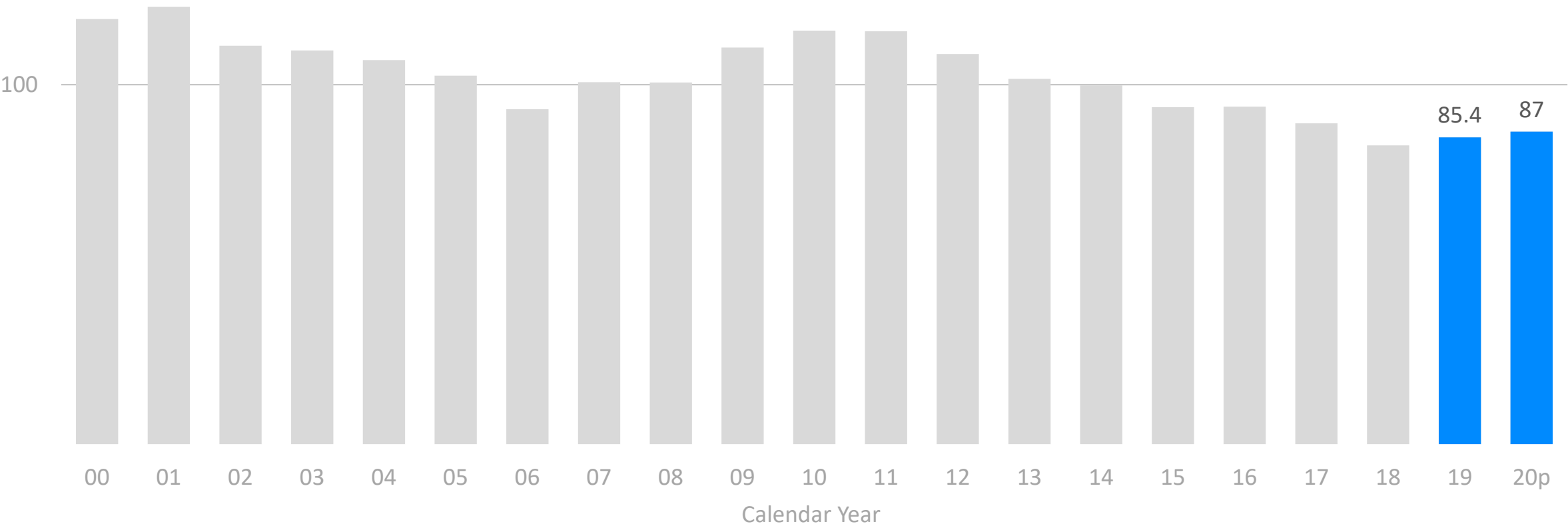


Workers Compensation Results

WC Net Combined Ratio

Private Carriers

Percent

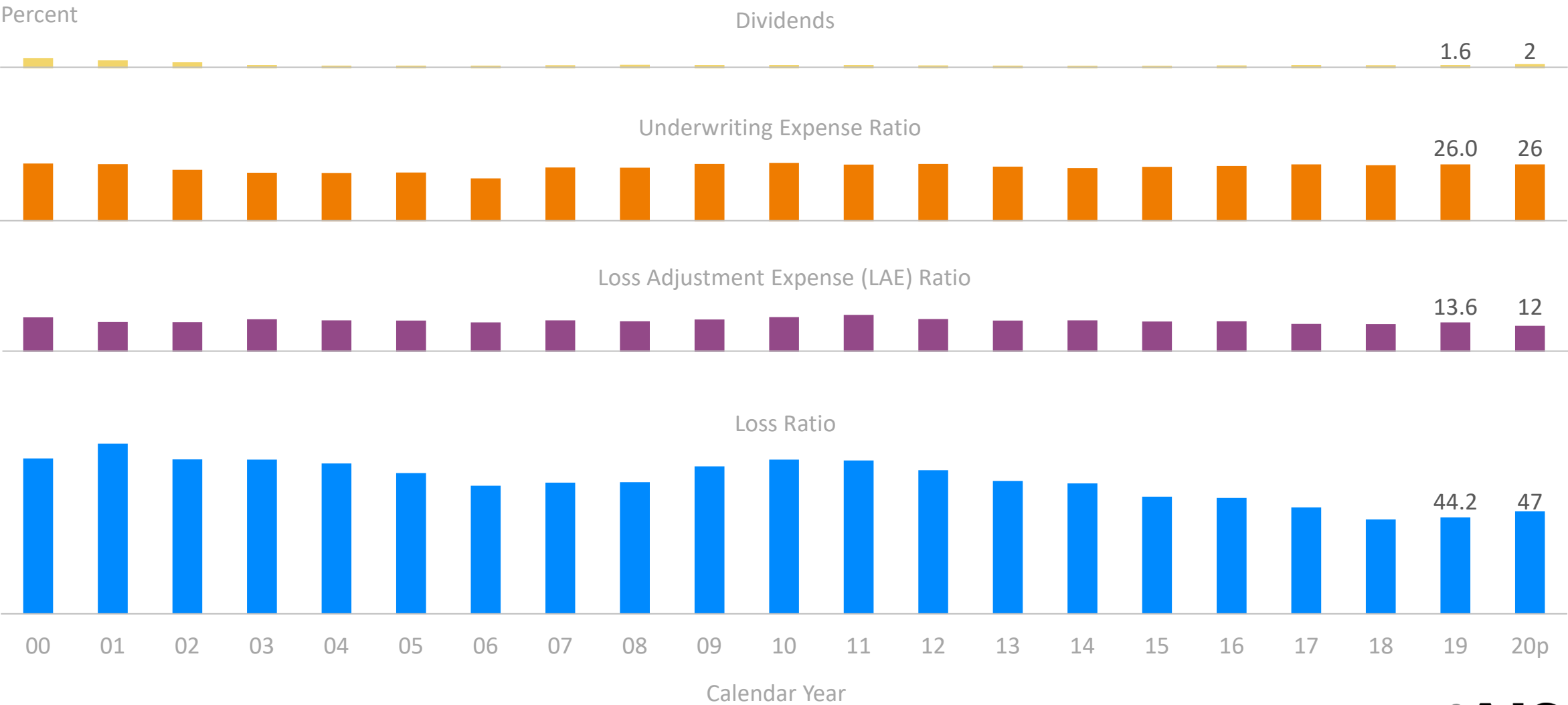


p Preliminary
Source: NAIC's Annual Statement data

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WC Net Combined Ratio by Component

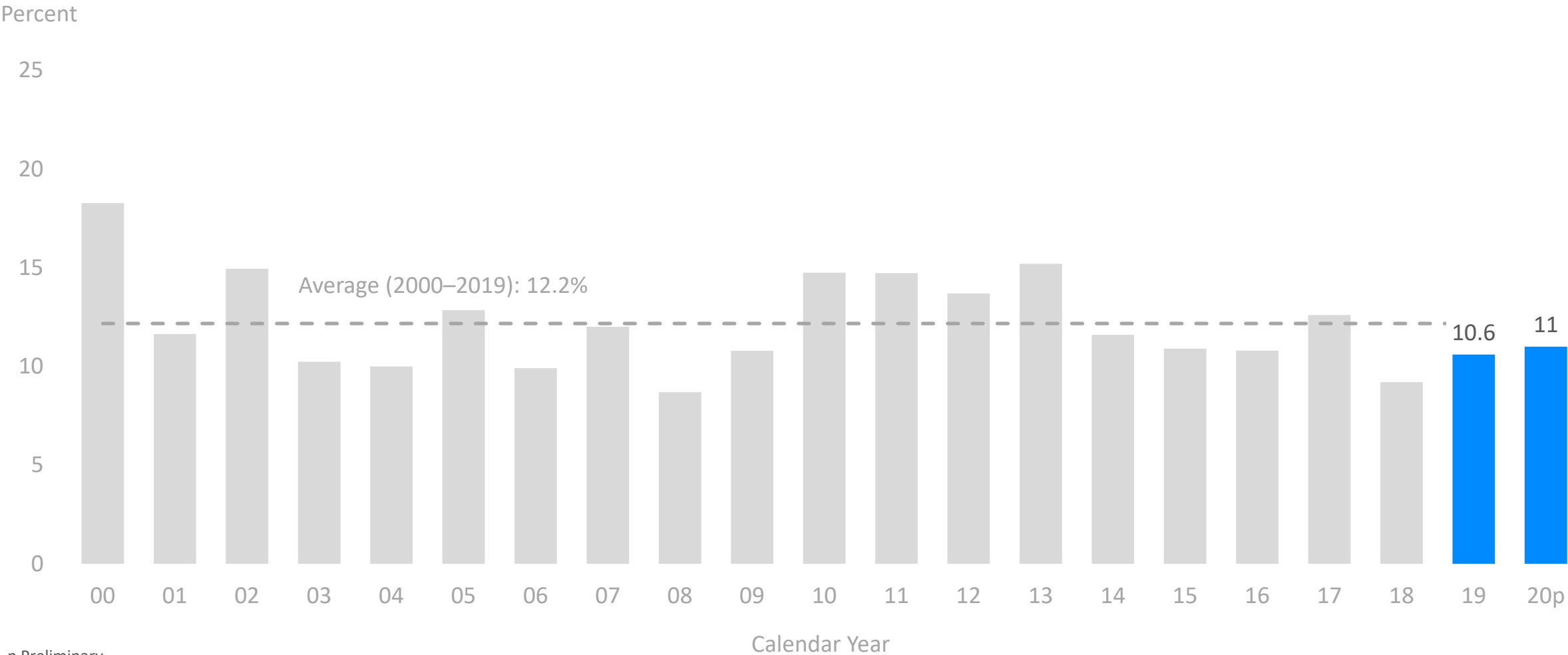
Private Carriers



p Preliminary
Source: NAIC's Annual Statement data

WC Investment Gain on Insurance Transactions

Ratio to Net Earned Premium, Private Carriers



p Preliminary

Source: NAIC's Annual Statement data

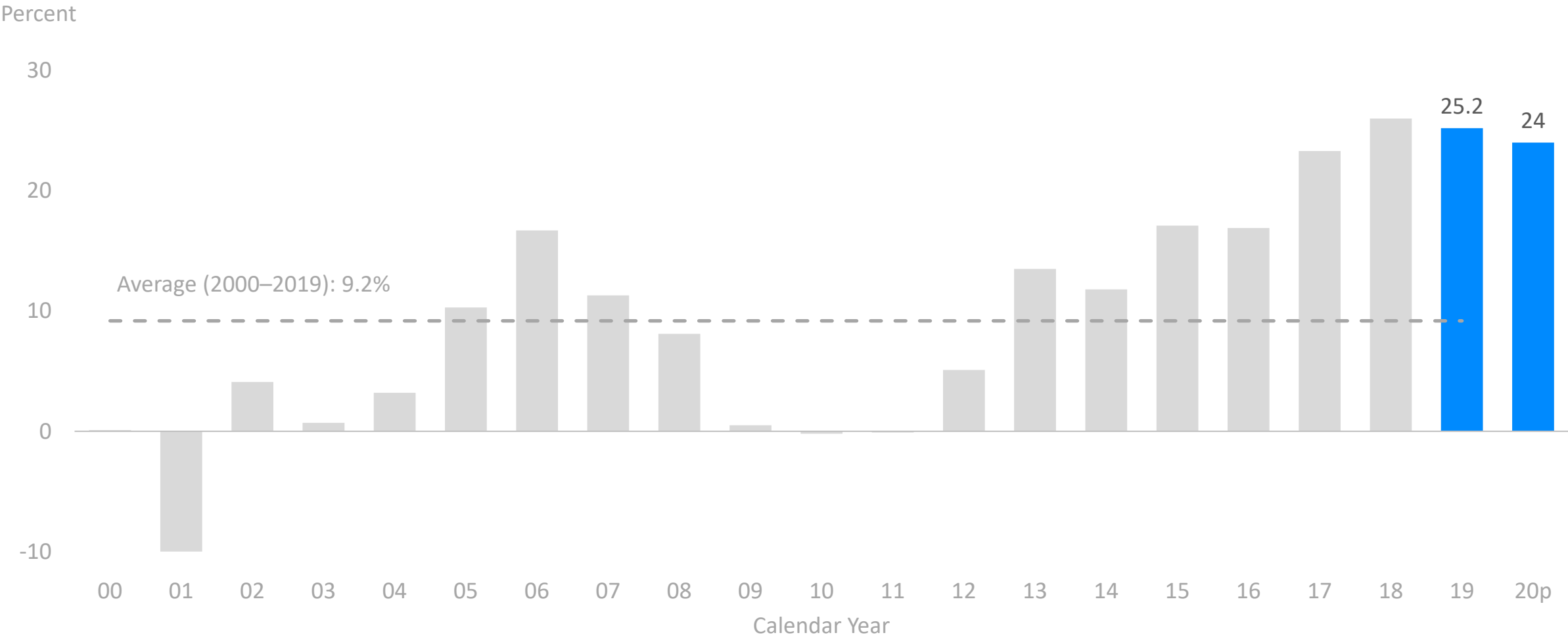
Investment Gain on Insurance Transactions includes Other Income

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

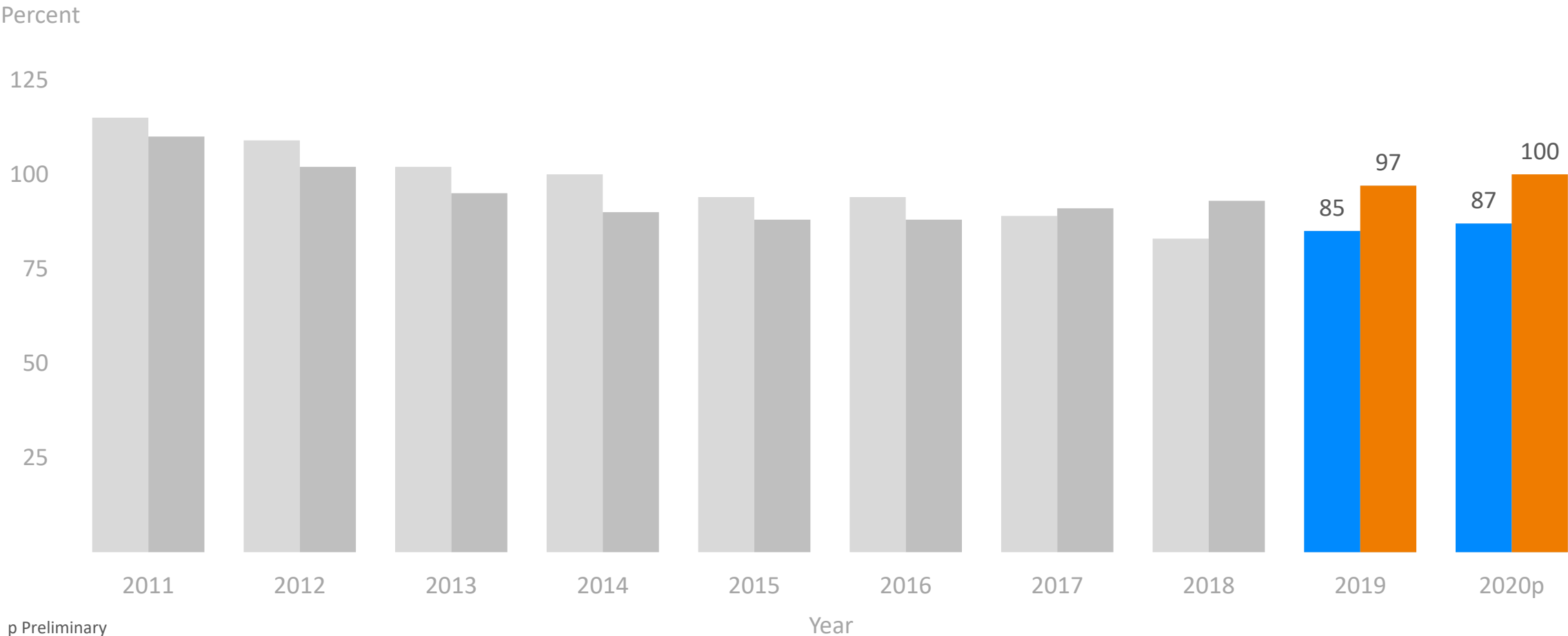
Source: NAIC's Annual Statement data

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

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

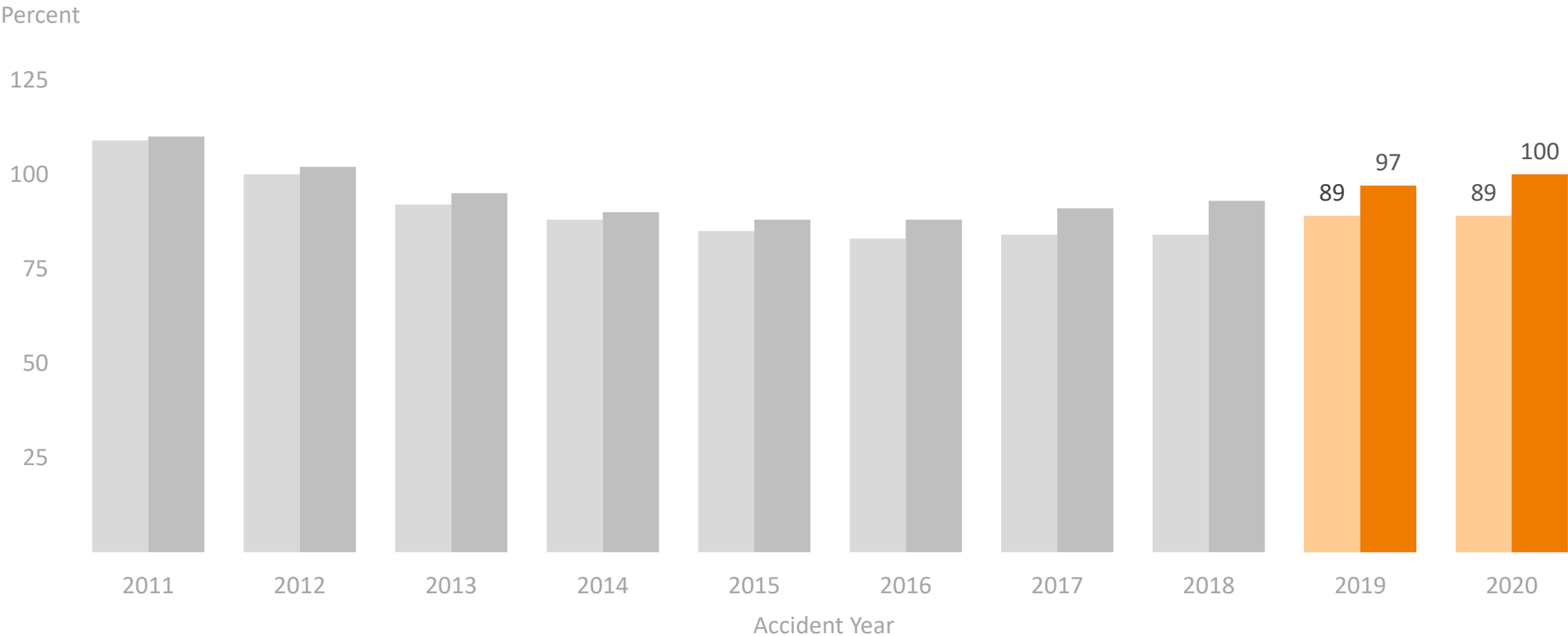
Private Carriers



p Preliminary
Source: NAIC's Annual Statement data
Accident Year information is reported as of 12/31/2020
Includes dividends to policyholders

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

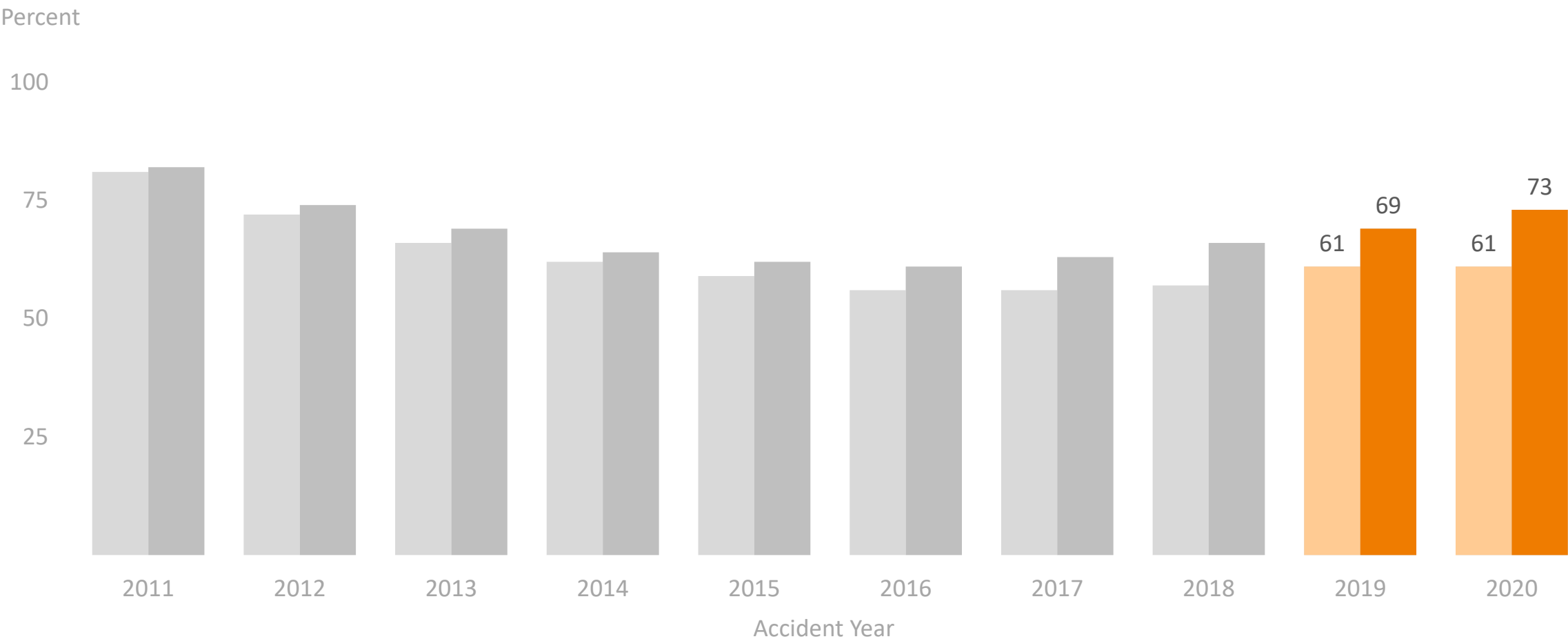
Private Carriers



Sources: As Reported: NAIC's Annual Statement Schedule P—Part 1D data as of 12/31/2020
NCCI Selections: NCCI's analysis based on NAIC's Annual Statement data

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

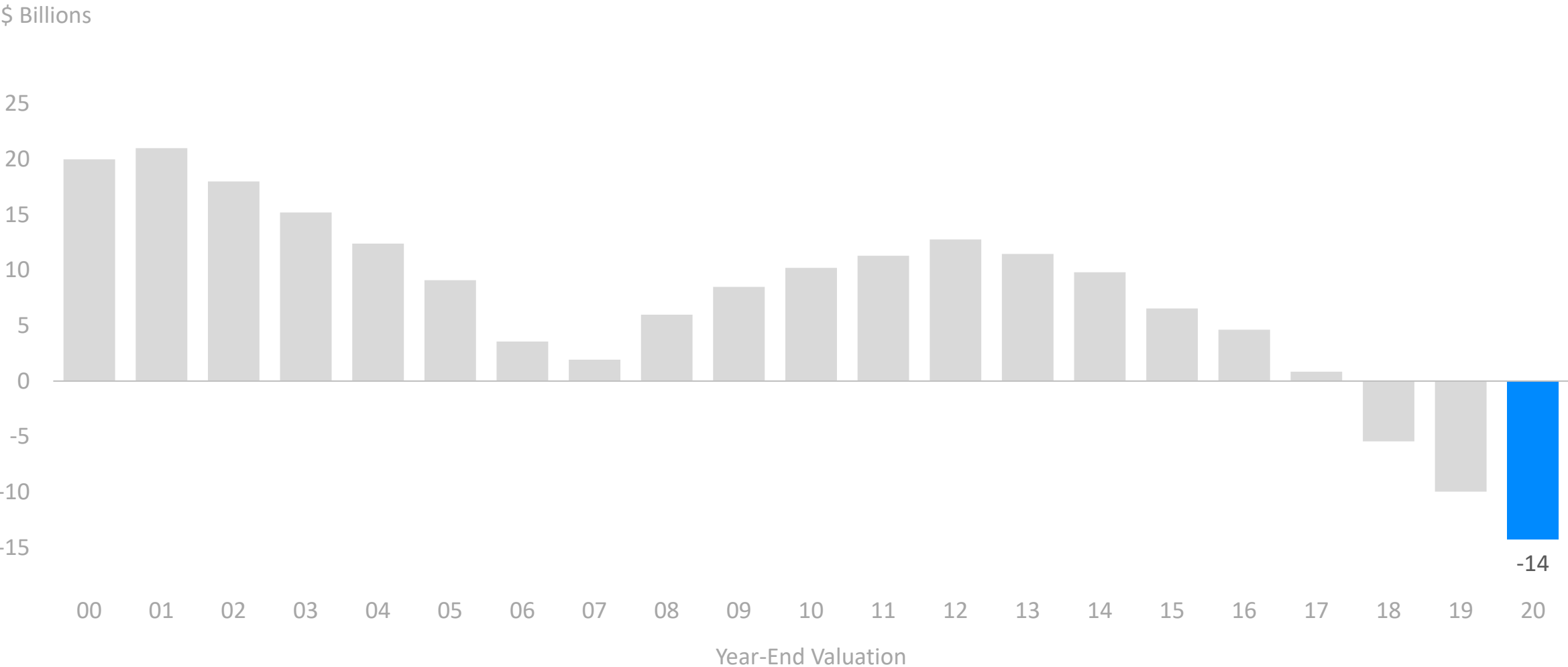
Private Carriers



Sources: As Reported: NAIC's Annual Statement Schedule P—Part 1D data as of 12/31/2020
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

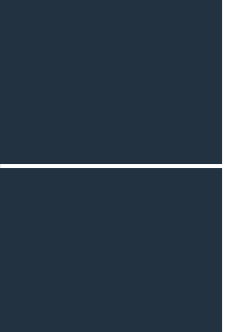
WC Net Loss and LAE Reserve Adequacy

Private Carriers



Source: NCCI's analysis based on NAIC's Annual Statement data
Considers all reserve discounts as deficiencies

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Property & Casualty (P&C) Industry Results

P&C Industry Net Written Premium Growth

Private Carriers

Line of Business	2019 (\$B)	2020p (\$B)	% Change From 2019
Personal Auto	247.7	243.5	
Homeowners	92.3	96.1	
Other Liability (Incl. Product Liability)	64.4	72.9	
Commercial Multi Peril	38.9	40.7	
Commercial Auto	38.9	39.8	
Workers Compensation	42.0	37.8	-10.0
Fire & Allied Lines (Incl. Earthquake)	32.3	35.5	
All Other Lines	77.6	82.3	
Total P&C Industry	634.0	648.9	2.3

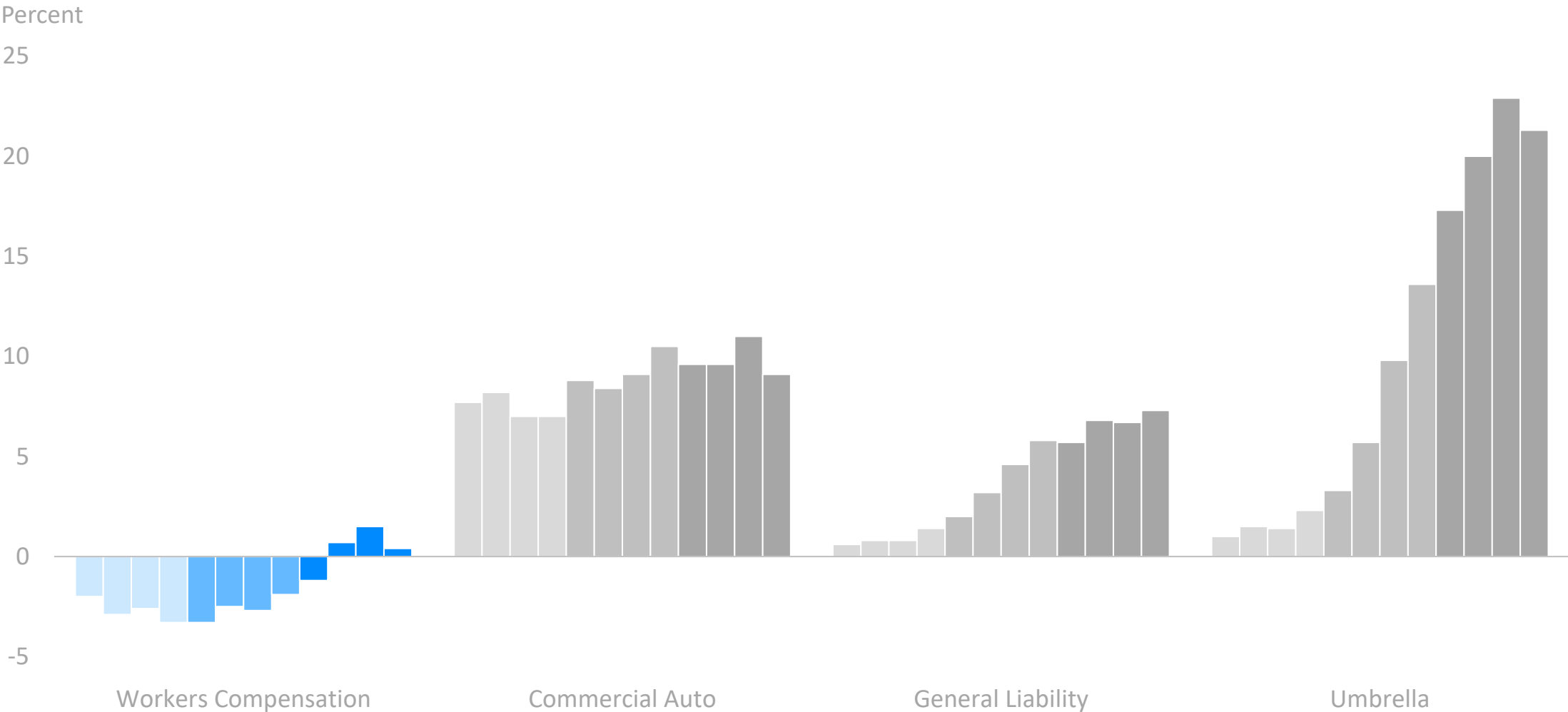
p Preliminary

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

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Quarterly Average Premium Changes by Line of Business

Q1 2018–Q4 2020



Sources: The Council of Insurance Agents & Brokers: Q4 P/C Market Index Surveys (2018–2020)

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P&C Industry Net Combined Ratio

Private Carriers

Line of Business	2019 (%)	2020p (%)	Difference From 2019
Personal Auto	99	93	
Homeowners	99	107	
Other Liability (Incl. Product Liability)	106	105	
Commercial Multi Peril	105	110	
Commercial Auto	109	102	
Workers Compensation	85	87	2
Fire & Allied Lines (Incl. Earthquake)	98	103	
All Other Lines	92	97	
Total P&C Industry	99	98	-1

p Preliminary

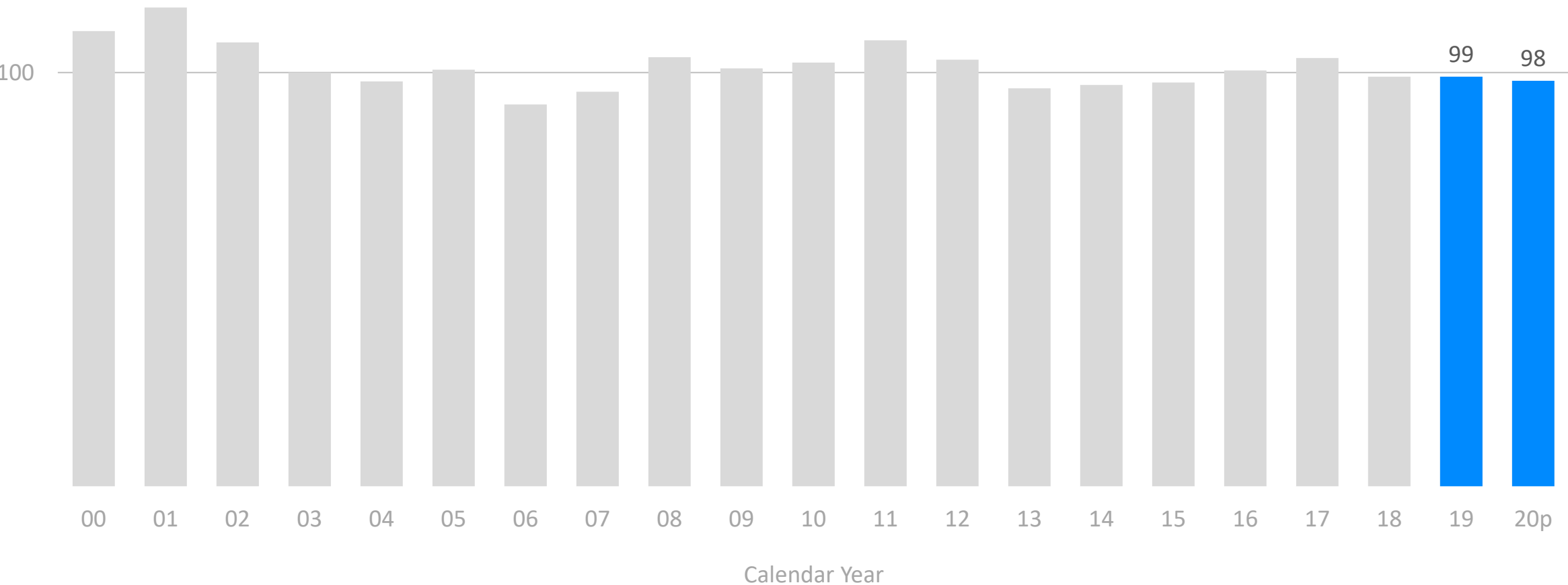
Source: NAIC's Annual Statement data for individual carriers prior to consolidation of affiliated carriers

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P&C Industry Net Combined Ratio

Private Carriers

Percent



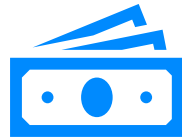
p Preliminary
Sources: 2000–2008 and 2013–2020p NAIC’s Annual Statement data and 2009–2012 ISO



COVID-19 Losses

What Our Data Tells Us About COVID-19 Losses

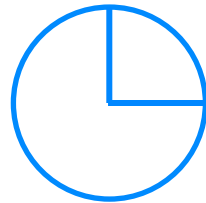
\$260M in losses



45,000 claims



75% of claims are lost-time



\$6,000 average severity

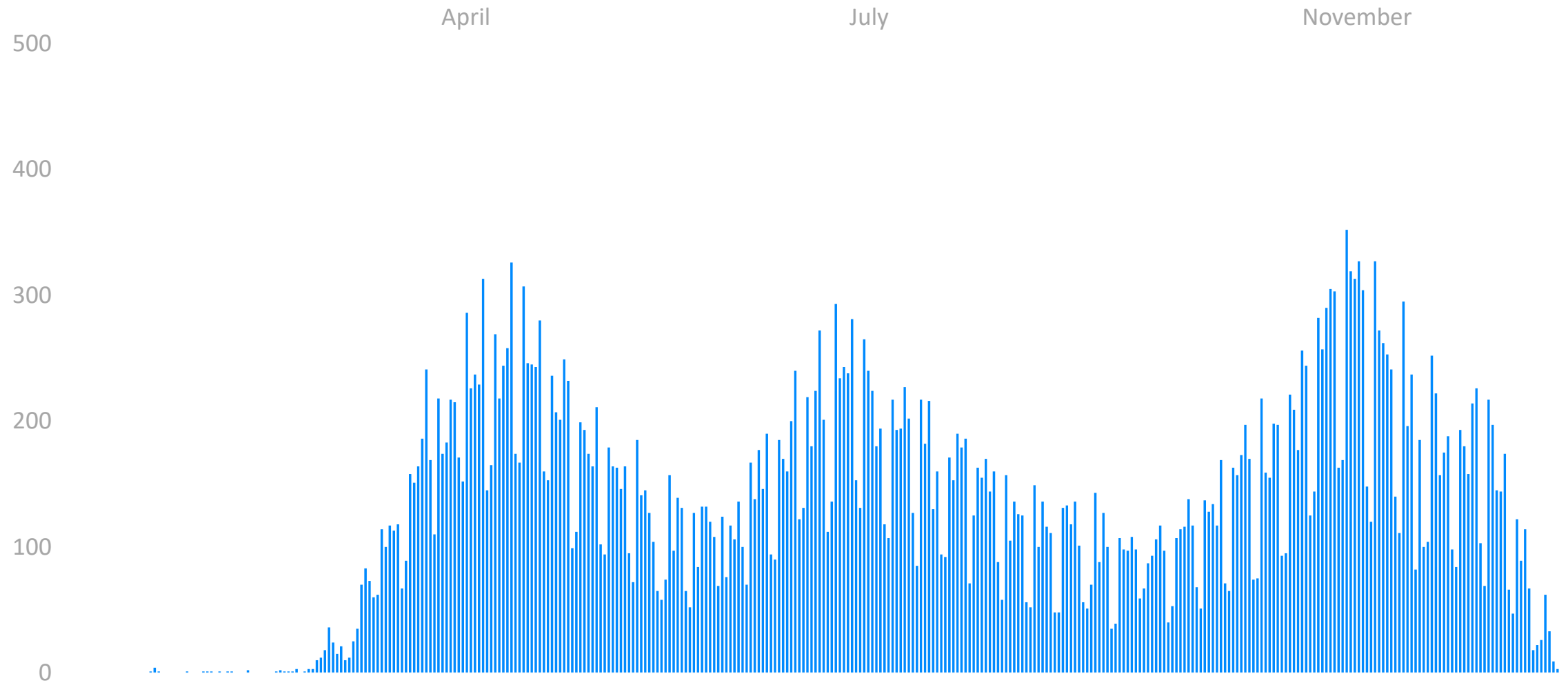


Source: NCCI's Financial Call data through 12/31/2020

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Reported COVID-19 WC Claim Count Surges Remained Consistent

Private Carriers and State Funds

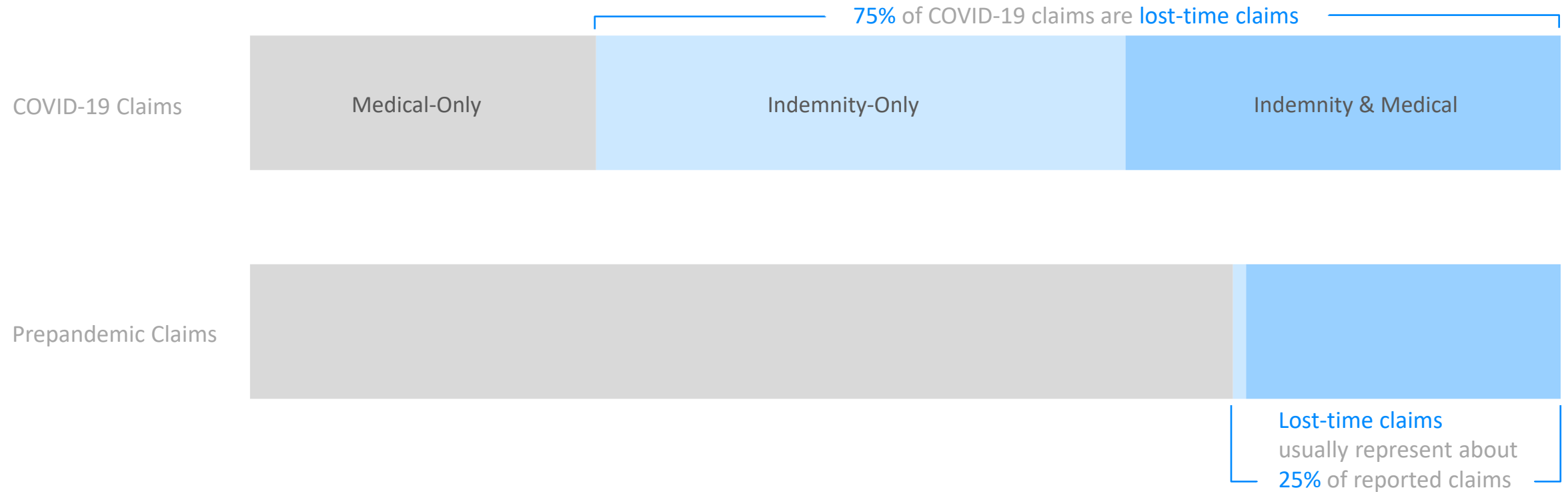


Source: NCCI's Financial Call data through 12/31/2020

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Majority of COVID-19 Claims Are Lost-Time Claims

Private Carriers and State Funds



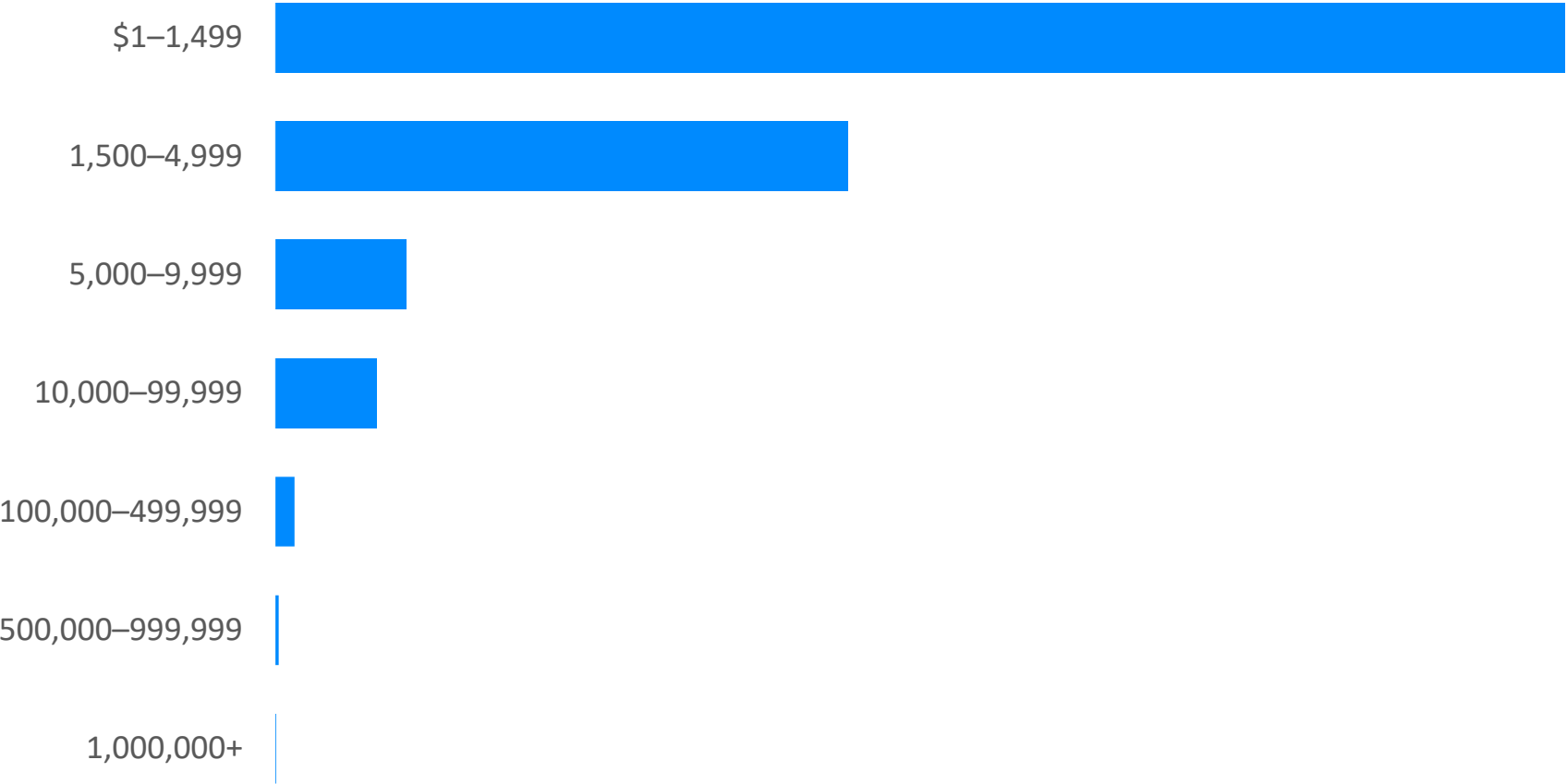
Sources: COVID-19 Claims: NCCI's Financial Call data through 12/31/2020

Prepandemic Claims: NCCI's *Statistical Plan* for Policy Year 2018

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COVID-19 Claims by Size of Loss

Private Carriers and State Funds

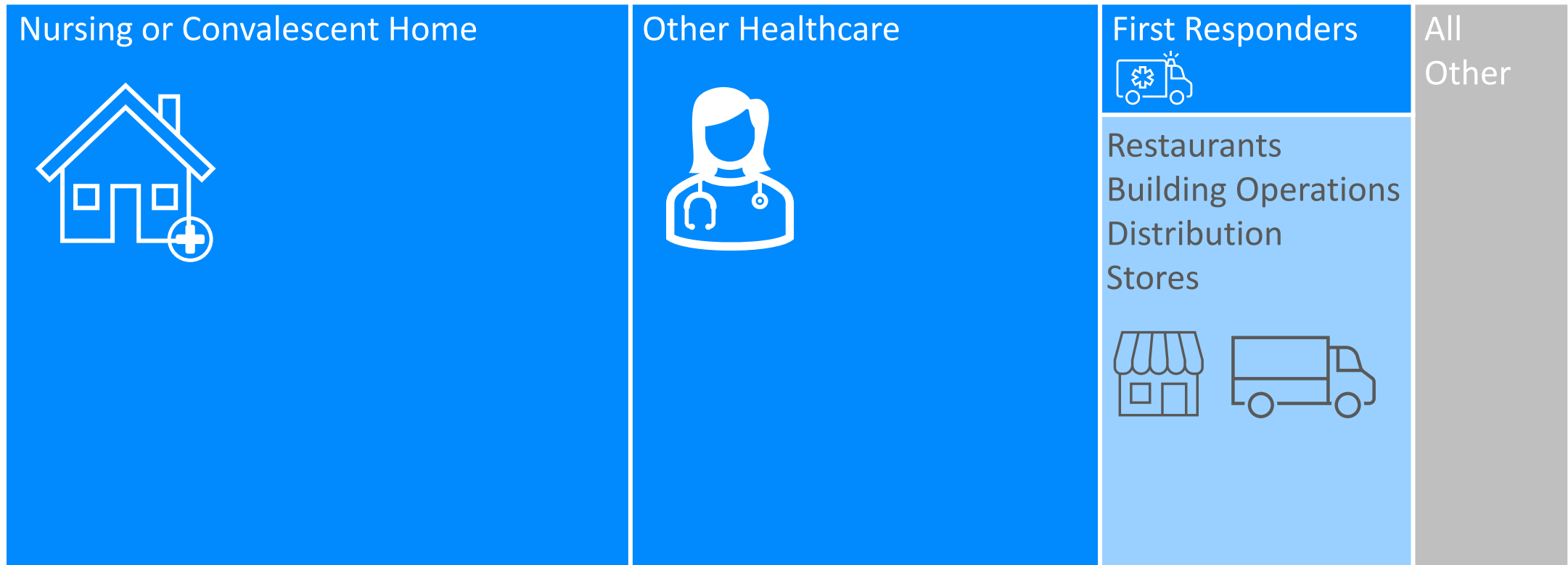


Source: NCCI’s Financial Call data through 12/31/2020
Indemnity and Medical Paid+Case Losses

Distribution of COVID-19 Claims by Industry

Private Carriers and State Funds

Healthcare and First Responders accounted for almost 75% of all COVID-19 claims



Sources: NCCI’s Financial Call data through 12/31/2020 and NCCI’s Policy data

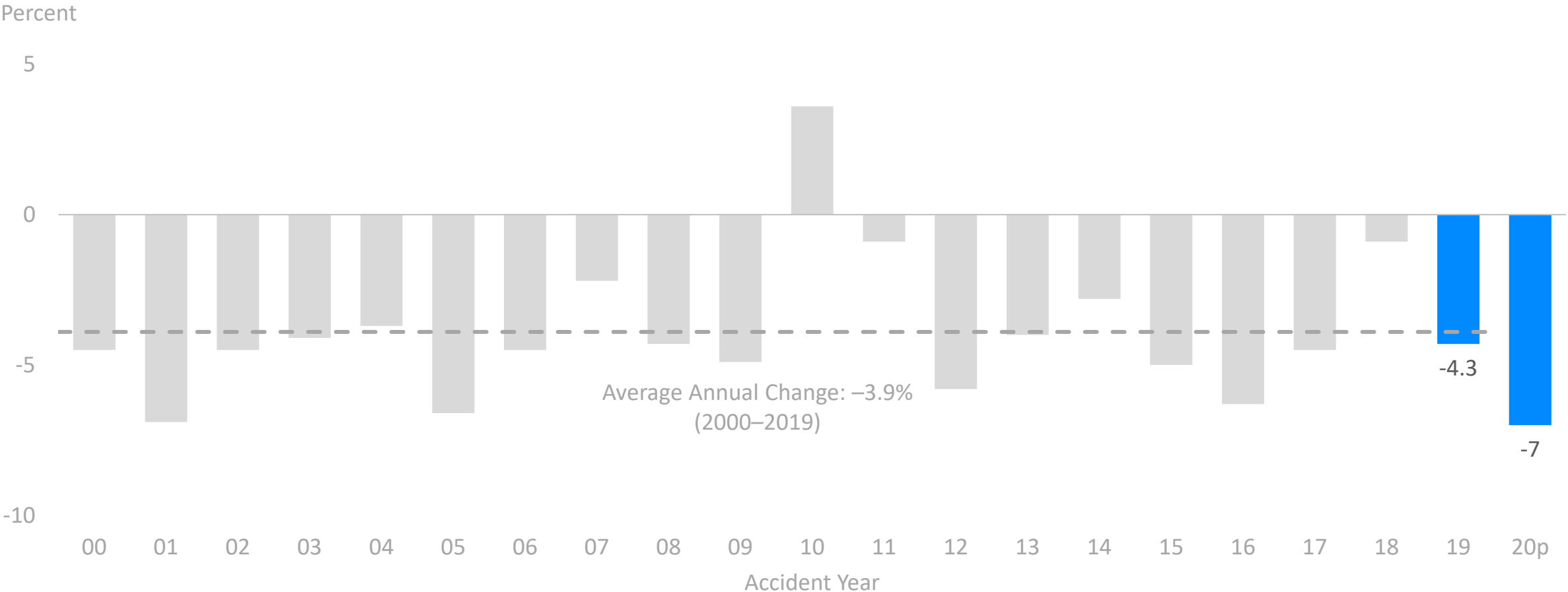
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Workers Compensation Loss Drivers

WC Lost-Time Claim Frequency

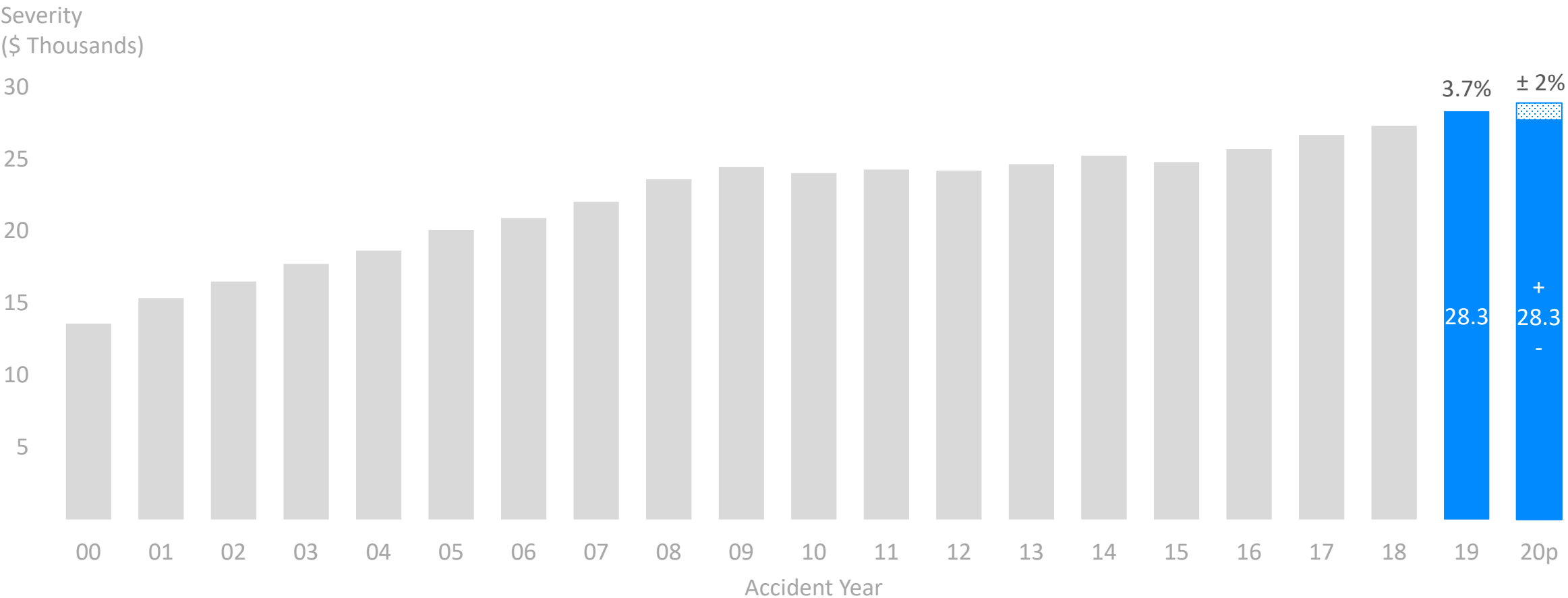
Change in Claims per \$1M Pure Premium, Private Carriers and State Funds—NCCI States



2010 and 2011 adjusted primarily for significant changes in audit activity
p Preliminary, based on data valued as of 12/31/2020; excludes COVID-19 claims
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 12/31/2019
Includes all states where NCCI provides ratemaking services; NV is excluded through 2001, TX is excluded through 2006, and WV is excluded through 2011

WC Average Medical Lost-Time Claim Severity

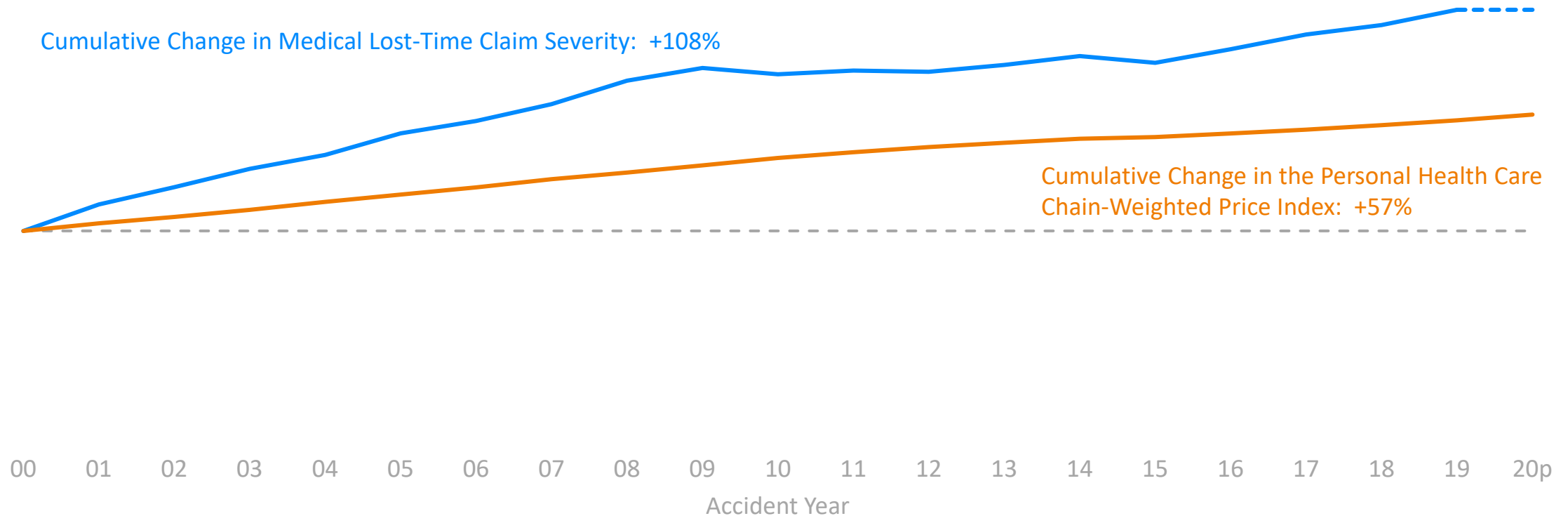
Private Carriers and State Funds—NCCI States



p Preliminary, based on data valued as of 12/31/2020; excludes COVID-19 claims
Source: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2019
Values displayed reflect the methodology underlying the most recent rate/loss cost filing
Includes all states where NCCI provides ratemaking services, WV is excluded prior to 2010, TX is excluded prior to 2006, and NV is excluded prior to 2004

WC Average Medical Lost-Time Claim Severity

Private Carriers and State Funds—NCCI States



p Preliminary, based on data valued as of 12/31/2020; excludes COVID-19 claims

Sources: Severity: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2019

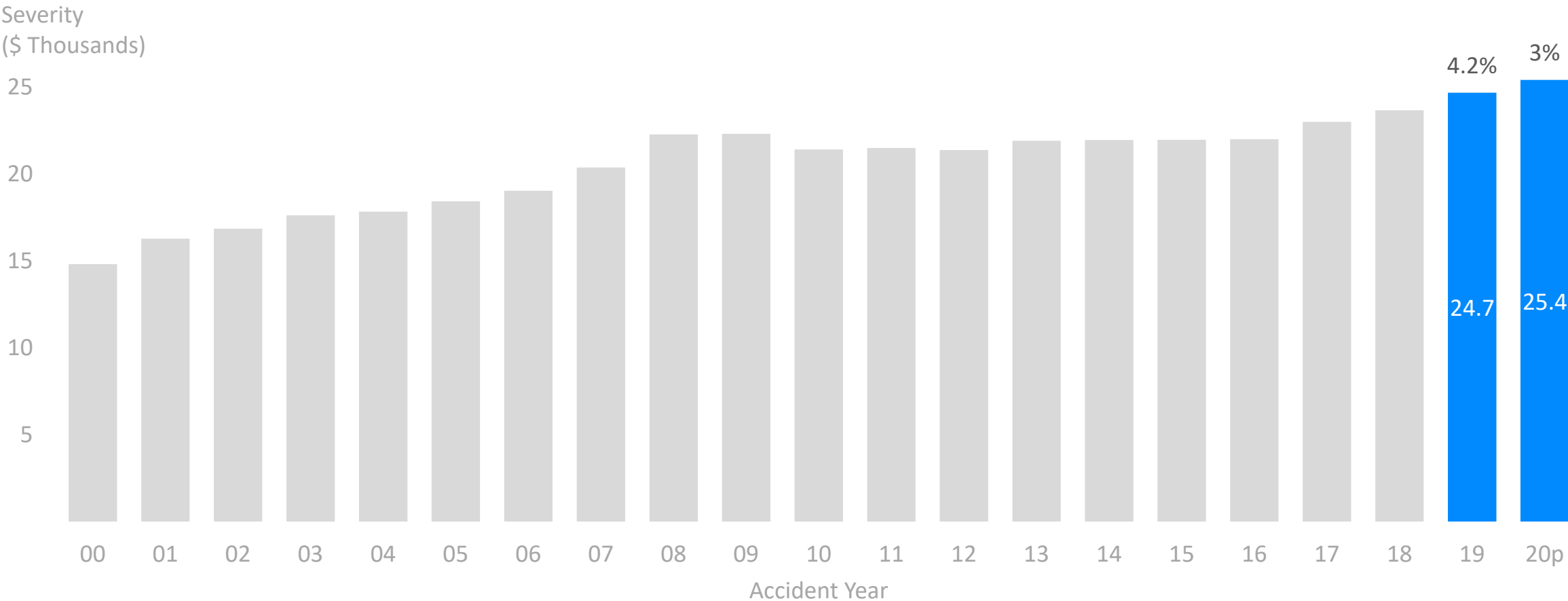
Values displayed reflect the methodology underlying the most recent rate/loss cost filing

Includes all states where NCCI provides ratemaking services, WV is excluded prior to 2010, TX is excluded prior to 2006, and NV is excluded prior to 2004

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

WC Average Indemnity Claim Severity

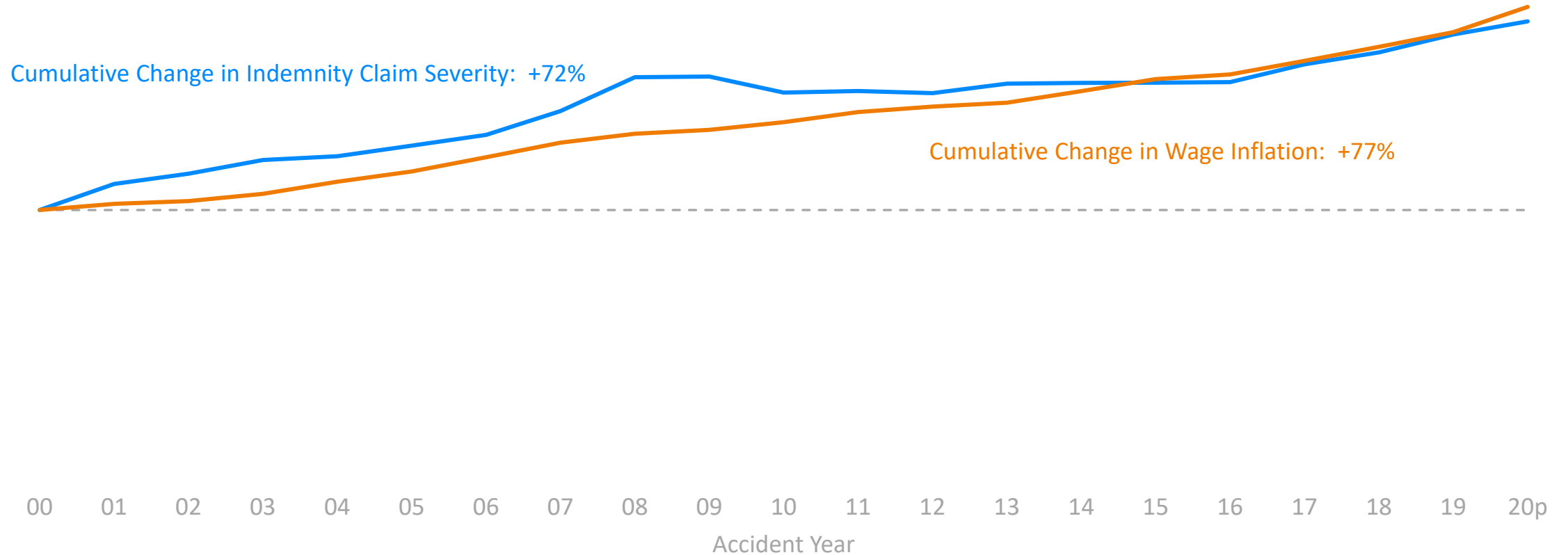
Private Carriers and State Funds—NCCI States



p Preliminary, based on data valued as of 12/31/2020; excludes COVID-19 claims
Source: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2019
Values displayed reflect the methodology underlying the most recent rate/loss cost filing
Includes all states where NCCI provides ratemaking services, WV is excluded prior to 2010, TX is excluded prior to 2006, and NV is excluded prior to 2004

WC Average Indemnity Claim Severity

Private Carriers and State Funds—NCCI States



p Preliminary, based on data valued as of 12/31/2020; excludes COVID-19 claims

Sources: US Average Weekly Wage: 2000–2007 and 2012–2019 Quarterly Census of Employment and Wages, US Bureau of Labor Statistics; 2008–2011 NCCI; and 2020p NCCI and Moody's Analytics

Severity: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies; based on data through 12/31/2019

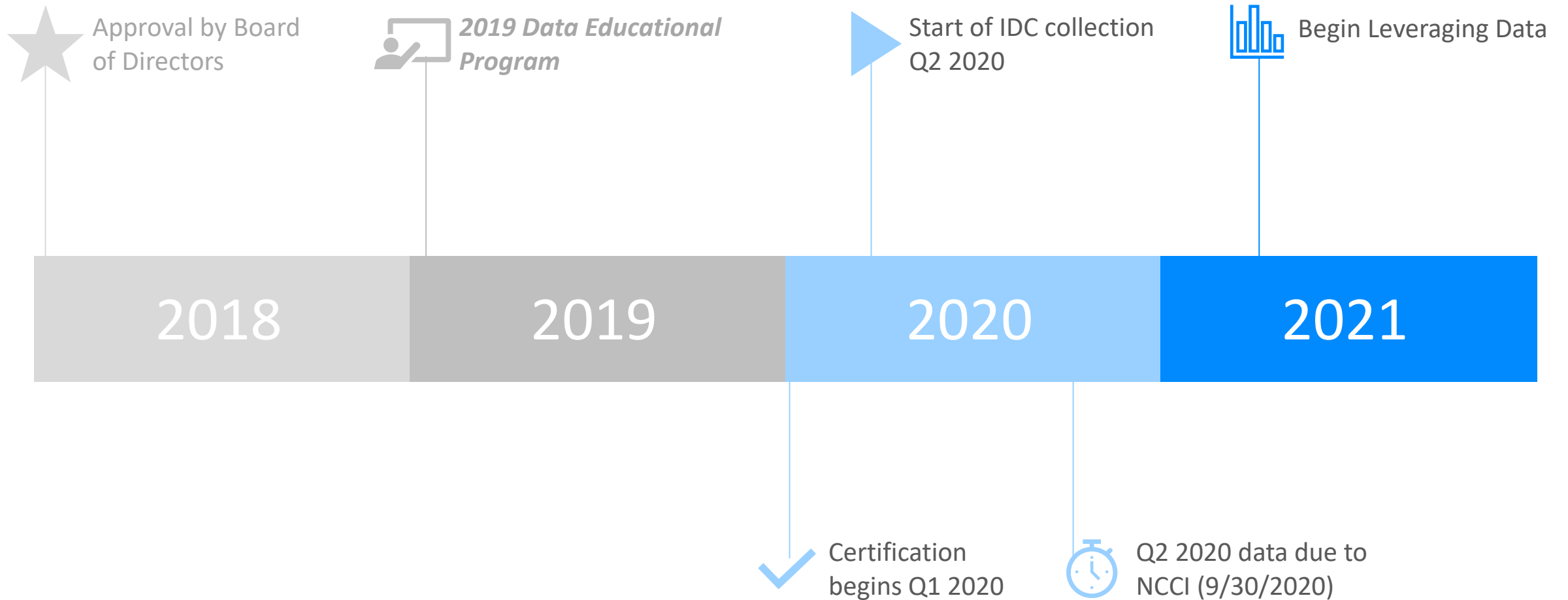
Values displayed reflect the methodology underlying the most recent rate/loss cost filing

Includes all states where NCCI provides ratemaking services, WV is excluded prior to 2010, TX is excluded prior to 2006, and NV is excluded prior to 2004



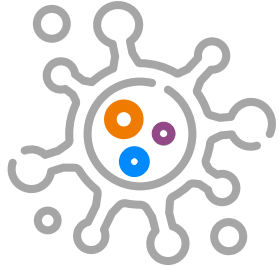
Legislative Landscape

Indemnity Data Call (IDC) Pathway



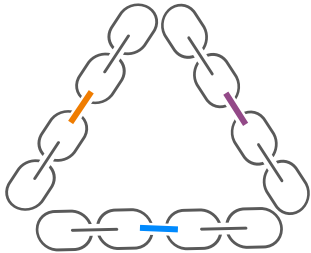
Indemnity Data Call

Uses to Date



Information on COVID-19 Claims

- Provides an early glimpse into COVID-19 claim characteristics
- Supplies insight on presumption legislation related to quarantine claims

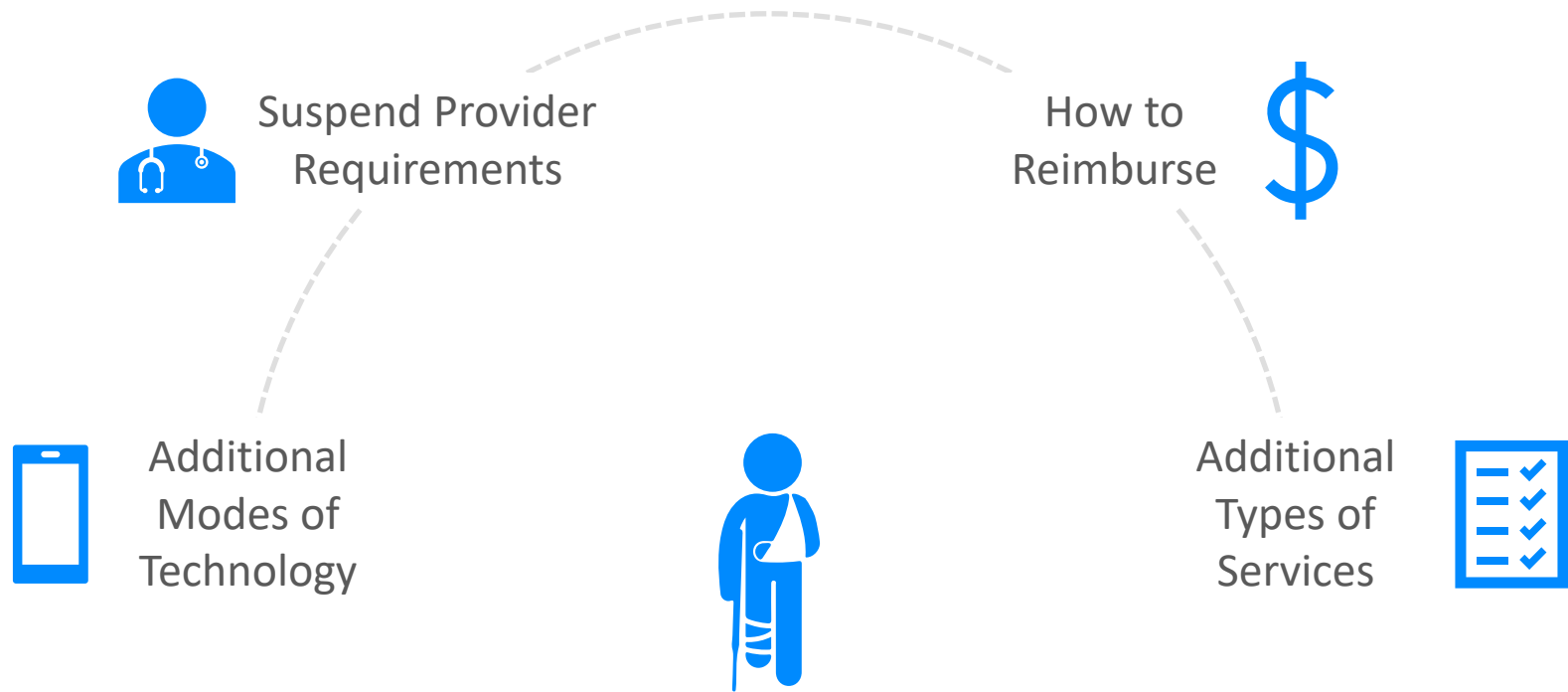


Data Linking

Enhances the quality and depth of the information we collect by linking with:

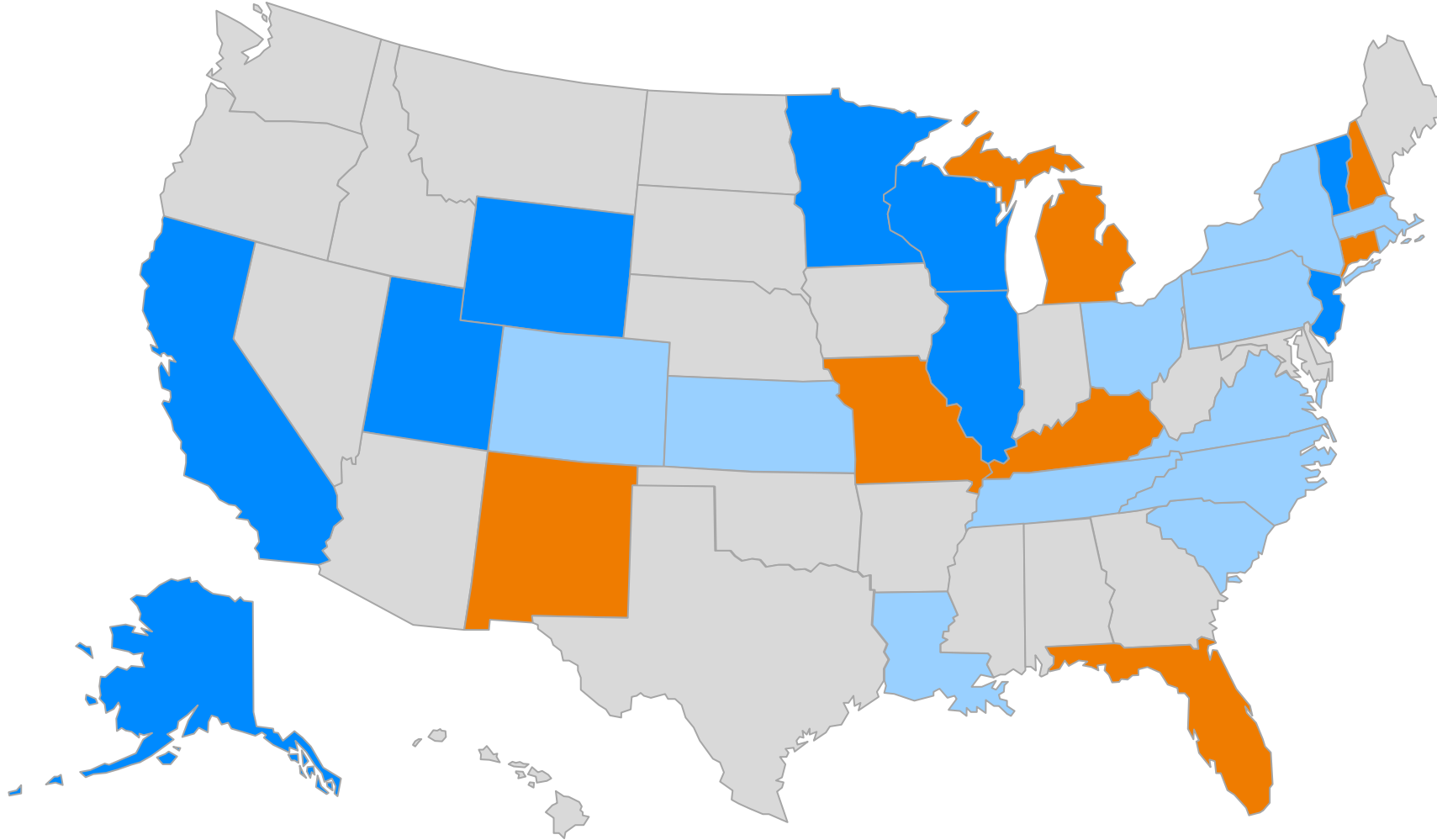
- Medical Data Call
- Unit Statistical Plan
- Financial Data Call—Call #31

Telemedicine Legislative Actions Summary



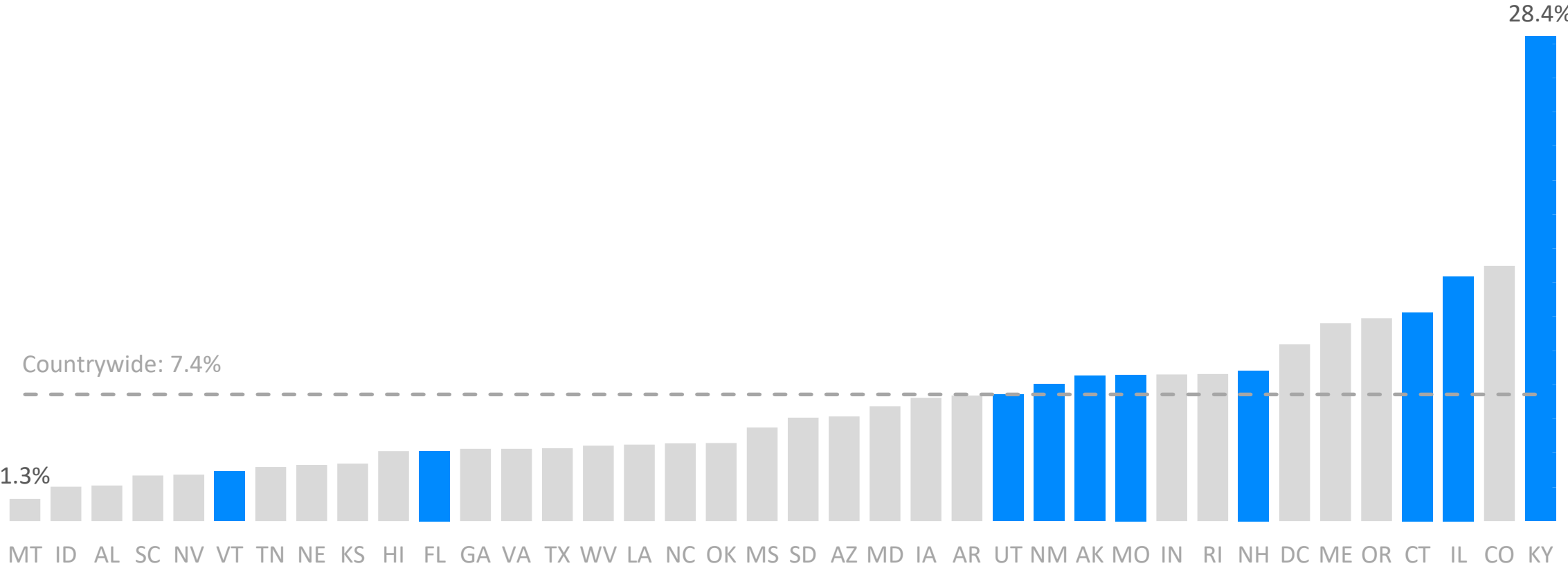
COVID-19 State Presumption Actions—2020

States That **Enacted** or **Proposed** Legislative Changes and States That Took **Executive or Regulatory Action**



COVID-19 Claim Counts to Total Claim Counts—Accident Year 2020

States [Implementing Presumptions in 2020](#)



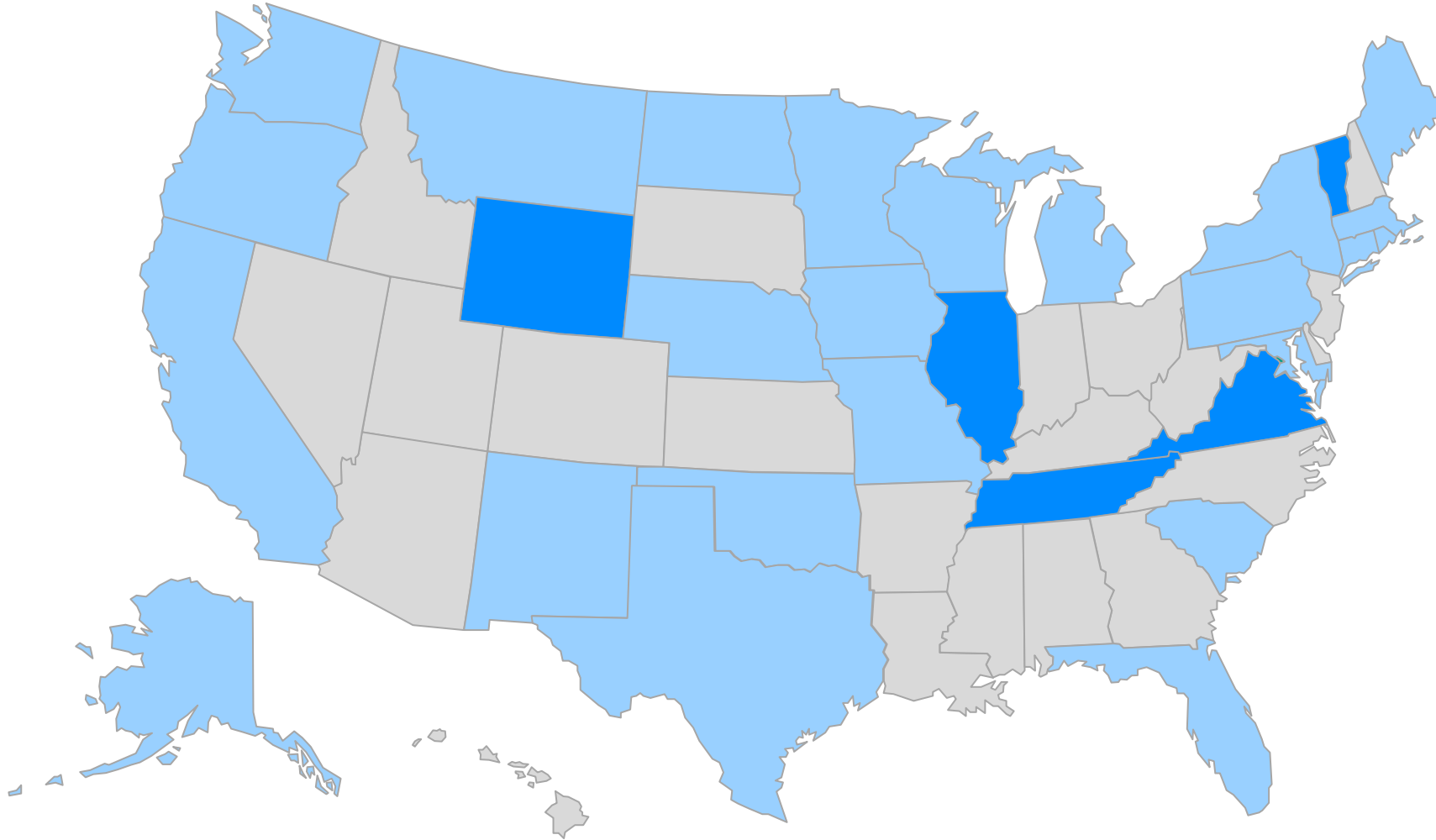
Source: NCCI's Financial Call data through 12/31/2020
Lost-time claims; large deductibles are excluded

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COVID-19 State Presumption Actions—2021

States That Have Enacted or Proposed Legislative Changes

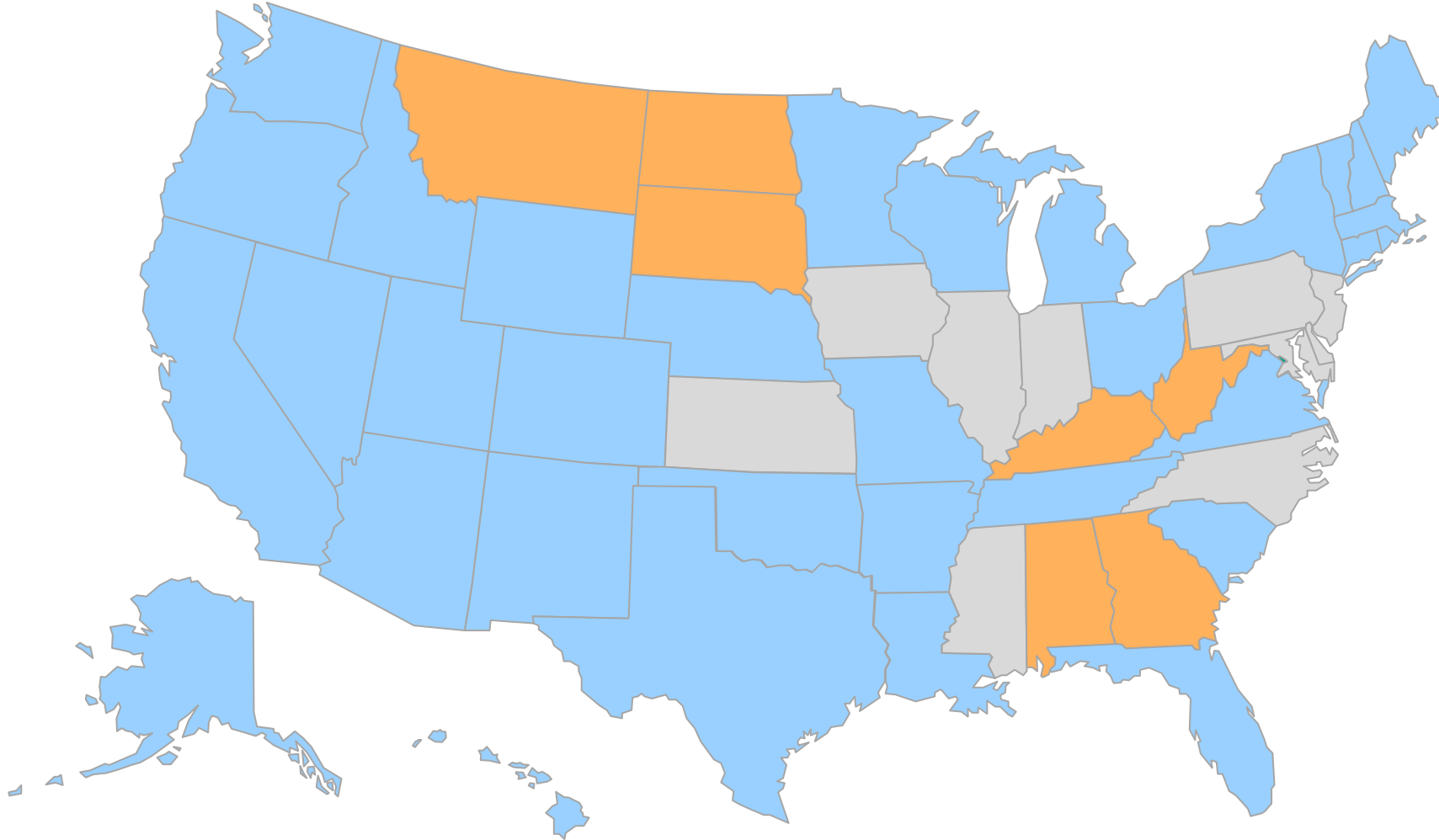


Includes actions that are more general than COVID-19 (e.g., presumption for infectious or contagious diseases)

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Mental-Mental Injuries and Workers Compensation

States That **Exclude Coverage**, **Specify Coverage**,¹ or Are Silent on Coverage² in Statutes

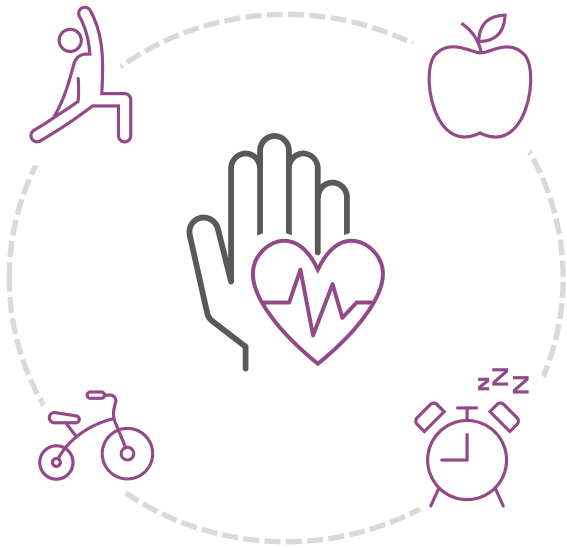


¹The extent of such coverage varies across jurisdictions

²Subject to existing case law

Where Will PTSD/CTSD* Coverage Come From?

Wellness Program



Group Health Insurance



Workers Comp



*PTSD—Posttraumatic Stress Disorder/CTSD—Continuous Traumatic Stress Disorder

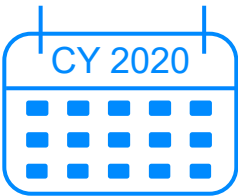
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2020 Workers Compensation Highlights



Net written premium
decreased by
10%

Reported combined ratios:



87%



100%



\$14B
reserve redundancy

Excluding COVID-19 claims:



Claim
frequency
declined by
7%

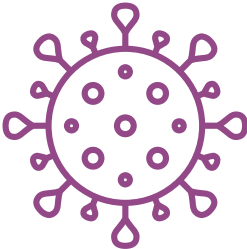
Indemnity severity
increased **3%**



Medical severity
expected to change
within **-2% to +2%**



\$260M
reported COVID-19 losses



Looking Ahead in 2021: Keep an Eye on These Topics



Future COVID-19 **Variants/Surges**



Premium Recovery for WC



Impact of **Vaccines**



Permanent Disability



Retroactive **Presumptions**



Loss Development

Is 2020 purely an anomaly or will there be lasting effects?



Resources on **ncci.com**

State of the Line Report

State of the Line Guide

COVID-19 Resource Center