

Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

August 23, 2016

VIA E-MAIL & MESSENGER

Marty Garrity
Director
Bureau of Legislative Research
State Capitol, Room 315
Little Rock, AR 72201

RE: Annual Study of the Workers' Compensation Insurance Market in Arkansas

Dear Ms. Garrity:

Ark. Code Ann. § 23-67-304 requires the Commissioner to conduct an annual study detailing the workers' compensation insurance market in Arkansas and to report the findings to the Legislative Council and the Chairs of the Senate and House Insurance and Commerce Committees. In compliance, please see the enclosed report for the year ending 2015.

If you have any questions regarding this report, please contact Compliance Manager Bill Lacy at (501) 371-2801 or bill.lacy@arkansas.gov.

Sincerely,

Allen W. Kerr
Insurance Commissioner

cc: The Honorable Asa Hutchinson, C/O Katie Beck, Regulatory Liaison, Office of the Governor
Carol Stapleton, Legislative Council Liaison, Bureau of Legislative Research (3 copies)
The Honorable Dale Douthit, Chairman, AWCC
The Honorable Karen H. McKinney, Commissioner, AWCC
The Honorable Philip Alan Hood, Commissioner, AWCC
Barbara Webb, Chief Executive Officer, AWCC
Russ Galbraith, Chief Deputy Commissioner, AID
Bill Lacy, Compliance Division Manager, AID
Nathan Culp, Public Employee Claims Director, AID
Pat O'Kelley, Criminal Investigation Assistant Director, AID
Ryan James, Communications Director, AID

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

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



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

Approved by: Allen Kerr, State Insurance Commissioner

Date Submitted: August 23, 2016

REPORT TO THE LEGISLATURE ON ACT 796 OF 1993 THE STATE OF THE WORKERS' COMPENSATION MARKET FOR YEAR ENDING 2015

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 85% 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 2015, NCCI filed for decreases in both the voluntary market loss costs -2.1 and assigned risk plan rates -3.0. 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 2015, Arkansas had the lowest loss costs in the region per \$100 of payroll, \$0.76, compared to the regional average loss cost of \$0.99 and the countrywide average loss cost of \$1.35. The Arkansas average rates in 2015 were -64.1% from 1995 when the law changes went into effect. There are still positive effects from this Act that benefits 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% |

| Year | Voluntary Market | Assigned Risk Plan |
|-------------------------|-------------------------|---------------------------|
| 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 | -8.5% | -1.4% |
| 2015 | -2.1 | -3.0 |
| 2016 | -4.3 | -1.6 |

PAYROLL AND EXPERIENCE MODIFIER

Reported payroll in Arkansas continues to increase while premiums for insureds continue to decrease. In 2015 the average experience modifier has stayed consistent at 0.959. The 2015 countrywide average experience modifier is 0.975. 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 premium volume for 2015 was \$26,987,429 as compared to \$24,517,070 for 2014. The assigned risk plan premium grew in 2015 due to the growth in new businesses. In 2015 the carriers continue to decline to write small policies and new businesses, which are two factors in the growth of the assigned risk plan to \$25,939,948. It is anticipated that the assigned risk plan will continue to grow due to the voluntary carriers changing underwriting rules. In essence, the small business’ premiums are less than the minimum premium for which coverage is available in the voluntary market. These employers may not be able to get coverage in the voluntary market; consequently, as of the end of 2015 small premium employers (less than \$2,500 in annual

premium) constituted approximately 72.1% of the plan policy volume with an average of \$1,026 in premium per policy. Average plan premium per policy at the end of 2015 was \$3,560 for all 6,754 policies in the plan.

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 insurer to determine whether they will make a voluntary offer of coverage. This program was approved effective October 1, 2008. By December 31, 2015, 249 employers were removed from the assigned risk plan having a premium of \$1,006,383. We believe that as carriers become more familiar with this program, the number of policyholders taken out of the plan will continue to grow as will policyholder savings.

PLAN ADMINISTRATION/SERVICING CARRIERS

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

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

In recent years, Arkansas has also participated in a multi-state examination of the NCCI in its role as an advisory organization licensed pursuant to Ark. Code Ann. §23-67-214. Participation in the examination task force, and periodic reviews of this nature, function to assure the quality of the data, as well as presenting the opportunity to improve existing systems and procedures. An advisory organization examination is designed to find concerns with statistical reporting and error correction. These concerns are remedied and monitored by a working group of the National Association of Insurance Commissioners (NAIC). The exams are to assure the errors never become significant enough to affect the overall reliability of the data reported by the NCCI for the State of Arkansas. NCCI's most recent examinations showed no significant issues.

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

Attached are Exhibit "A" entitled *State Advisory Forum 2016*, and Exhibit "B" entitled *Arkansas Residual Market 2nd Quarter 2016 Status Report*; and the exhibits are prepared by the NCCI and provide detailed information on risk profiles such as average premium size, top ten classifications by code and by premium, and a list of contacts within NCCI for specific areas of concern.

NCCI provides, at no charge to the agent, the option to submit assigned risk applications online. Upon successful submission, the customer receives a confirmation code and application identification number for reference. There are significant savings to the plan when an application can be processed electronically. Arkansas agents have been extremely responsive to this initiative with 97% of applications being submitted online in 2015.

The 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, 2014, through December 31, 2016, the servicing carriers are Travelers Indemnity Company, Riverport Insurance Company (W.R. Berkley Group), and Technology Insurance Company (AmTrust).

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.

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

The cases represented by the statistics noted below, which are comparable per capita to those of other states with active anti-fraud efforts, are believed to have had a significant impact on workers' compensation rates in Arkansas, and the deterrent factor has been substantial. In fact, many cases are not carried forward to prosecution. In many instances, 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 2015 reporting period, there were 64 workers' compensation investigations opened. The Division received convictions on three cases. Three new cases were referred to prosecution. The investigative work continues on many of the cases that have been opened. Since the creation of the division in 1993, 159 cases have been referred for prosecution, which resulted in 120 convictions. Out of these 159 cases, only three prosecutions have resulted in acquittals. In the remaining cases, the charges were not filed or dropped.

2015 LEGISLATIVE ACTIVITY WITH REGARD TO WORKERS' COMPENSATION

There was no legislative activity with regard to workers' compensation in 2015.

2016 THIRD EXTRAORDINARY SESSION

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

SELECTED WORKERS' COMPENSATION DECISIONS

FISCAL YEAR 2015

ARKANSAS COURT OF APPEALS

Additional Medical Treatment

Ernest E. Rice v. Boyd Metals and Travelers Insurance Company, 2015 Ark. App. 443 (September 2, 2015). This case concerned the issue of whether the injured worker had proven that additional medical treatment recommended by his physician was reasonable and necessary and causally related to his work injury. The claimant, Ernest Rice, sustained multiple injuries to his back, shoulder and neck during a motor-vehicle accident in August, 2010. The claimant received medical treatment from various physician and medical facilities. The claimant had been sent to a drug treatment and rehabilitation center at the expense of the workers' compensation insurance carrier to get him off narcotics at the recommendation of the case manager and his then

treating physician. The claimant eventually requested a change of physician and came under the care of Dr. Covey for continuing treatment and pain management. Dr. Covey examined the claimant and recommended among other treatments, a pain pump, a medial branch nerve block, cervical and lumbar x-rays, and an MRI lumbar spine to determine the cause of the numbness in his legs and low back. The workers' compensation insurance carrier notified the claimant that they were only going to cover the one-time visit with Dr. Covey and were not going to cover any tests or medications.

A hearing was held at the Arkansas Workers' Compensation Commission before an Administrative Law Judge. The ALJ found that the claimant did not prove that the additional medical treatment as recommended by Dr. Covey was reasonable, necessary, and causally related to the work injury. The Full Commission affirmed and adopted the ALJ's opinion as its own. The claimant then appealed to the Arkansas Court of Appeals.

The Court of Appeals analyzed A.C.A. §11-9-508(a)(Repl. 2012) which requires an employer to provide an employee with medical and surgical treatment "as may be reasonably necessary in connection with the injury received by the employee." The Court reversed the findings of the ALJ and Full Commission and found that the medical evidence sufficiently proved the claimant's need for some additional medical treatment, albeit not as recommended by Dr. Covey. The Court noted that:

However, there was no medical proof or support cited by the Commission that appellant's condition did not warrant any further treatment, and counsel had specifically clarified during the hearing that "all additional treatment by Doctor Covey" was at issue before the Commission. In fact, the Commission's conclusion ignores its own findings that appellant had changed physicians from Dr. Baskin to Dr. Covey and that both Dr. Baskin and Dr. Covey prescribed and recommended many of the same non-narcotic medications and forms of treatment. Therefore, the Commission's finding that the claimant has not proven that he is entitled to any additional medical treatment in the form of pain management is not supported by substantial evidence, because fair-minded persons could not have reached the same conclusion if presented with the same facts.

The Court reversed and remanded to the Commission to award additional medical benefits.

Rodriguez v. Superior Industries, 2015 Ark. App. 647 (April 27, 2016). The claimant, Fabio Rodriguez, sustained a compensable low-back injury on January 5, 2013. The claimant was treated and released to return to work. The claimant was seen again by the physician on January 28, 2013, at which time it was noted the claimant had pain in his lower back and pain radiating down both legs. Physical therapy was prescribed for the claimant but it was noted the claimant had made "little progress" after six physical therapy sessions. The treating physician examined the claimant and noted that his "pain is out of proportion to the clinical findings" and described the claimant's back pain as "nonorganic". An MRI was ordered and the claimant was eventually referred to a neurosurgeon for consultation. A repeat MRI was reviewed and found to show "findings inconsistent with the patient's pain pattern and physical exam. Therefore, no surgery is recommended." The claimant continued to report increasing and worsening lower back pain. The claimant subsequently moved to Houston, Texas.

A hearing was held before an ALJ to address the issues of whether the claimant was entitled to additional medical treatment in Houston, Texas, and whether the employer was responsible for providing transportation to the claimant's medical appointments related to his low-back injury. The ALJ issued an opinion on January 27, 2015, finding that appellant failed to prove his entitlement to additional medical treatment by a preponderance of the evidence, specifically noting that he "[found] that no additional medical treatment [had] been recommended by any medical provider." The Commission affirmed the ALJ, finding that the claimant failed to prove his entitlement to additional medical treatment. It further found that the claimant "received reasonably necessary medical treatment in the form of medication, injections, and physical therapy."

The Court of Appeals agreed with and affirmed the Full Commission decision that while there was medical evidence that appellant had a compensable injury—which the appellees accepted—there was no medical evidence of continued pain or injury that needed management by additional medical treatment.

Compensability

Ingram v. Tyson Mexican Original, 2015 Ark. App. 519 (September 30, 2015). Aubrey Jay Ingram was a maintenance mechanic for Tyson Mexican Original and sustained a compensable right shoulder injury in June, 2001. The claimant underwent 3 surgical procedures on his right shoulder and was released from care in December, 2002 with a 4 percent impairment rating to the body as a whole and with a two pound lifting restriction and work not higher than shoulder level. The results of a functional capacity evaluation conducted on January 16, 2003, indicated that Ingram could perform physical demands in at least the medium category for work with occasional lifting. In March, 2004, Ingram underwent a revision rotator-cuff repair, and in December, 2004 he had surgery on his right thumb. He was returned to work in March, 2005 on restricted duty.

In July, 2005 the claimant left his employment with Tyson and was hired by another employer. The claimant sustained a knee injury in April, 2006 while working for the subsequent employer. The claimant then underwent a right carpal tunnel release and surgery on his right thumb. In October 2009, Ingram saw Dr. Wesley K. Cox, an orthopedic surgeon specializing in disorders of the shoulder. Dr. Cox gave the claimant injections for his right shoulder. Ingram sought additional medical treatment by Dr. Cox, which appellee controverted. Ultimately, it was approved by the Commission, and Dr. Cox performed a right-biceps tenodesis on March 27, 2012. The claimant continued to be treated by Dr. Cox for right shoulder complaints. In Dr. Cox's notes dated January 9, 2013, he first reported that Ingram had complained of left-shoulder pain. In June, 2013, Dr. Mark Bonner diagnosed a rotator cuff syndrome in the claimant's left shoulder.

On July 31, 2013, the claimant reported an injury that occurred on February 1, 2013 and alleged that the injury was due to "overuse because of my compensable right shoulder injury." A hearing was held and an ALJ found that the claimant's left-shoulder condition was a compensable consequence of the right-shoulder injury, but the Full Commission reversed that finding and determined that the claimant had failed to prove that he sustained a compensable injury to the left shoulder.

On appeal to the Court of Appeals, the claimant argued the 2014 MRI showed an objective finding of injury to his left shoulder and that Dr. Cox made the causal connection between the overuse of his left shoulder and his compensable right-shoulder injury. The Court noted that the Full Commission specifically found that the claimant was not a credible witness and that the Commission is not bound by a doctor's opinion that is based largely on facts related to him by the claimant where there is no sufficient independent knowledge upon which to corroborate the claimant's claim. It appeared to the Court that Dr. Cox had relied primarily on Ingram's statements concerning the use of his arms in forming his opinion on causation and that the Commission had assigned little weight to Dr. Cox's opinion. The Court affirmed the Full Commission decision and held that the Commission's decision displayed a substantial basis for the denial of benefits.

Tyson Foods, Inc. v. Turcios, 2015 Ark. App. 647 (November 12, 2015). The claimant was employed to clean the corporate buildings of Tyson and fell twice while performing that job. The first fall occurred in August, 2013, and the second in October, 2013. The claimant injured his right knee both times with the second fall in October being the more severe of the two. An MRI revealed that the claimant had a meniscus tear in the right knee and a suspected chronic partial tear involving proximal and mid ACL. The employer Tyson accepted the meniscus injury as compensable and paid for knee surgery to repair the meniscus tear but did not accept and controverted medical treatment for the ACL injury.

Mr. Turcios was released to return to restricted-duty work before his knee surgery occurred but Tyson had no positions available within his restrictions. So Turcios received TTD benefits until March 5, 2014. On March 10, 2014, Dr. Sites released him to light-duty work after the meniscus surgery. Tyson provided a position in the mail room sorting papers which accommodated the claimant's work restrictions. The claimant called in sick on March 10, but worked on March 11. He worked sporadically until Tyson terminated his employment on March 31, 2014, when he missed another day of work. Tyson said Turcios was terminated because he had accumulated too many points under its attendance policy.

A hearing was held before the Arkansas Workers' Compensation Commission and an ALJ found that the claimant sustained compensable injuries to his right knee "in the form of a MCL tear" caused by the two work-related falls. The ALJ also found that the claimant had failed to prove by a preponderance of the evidence that he suffered a compensable injury in the form of an ACL tear.

The Full Commission reversed the ALJ in a 2-1 decision and found that the claimant suffered the ACL injury as a result of his compensable right-knee injury and was entitled to medical treatment. The Commission also found that the claimant had proved his entitlement to TTD benefits from March 6, 2014, through a date yet to be determined.

The Court affirmed the Full Commission's decision to award medical benefits for the ACL injury. The Court noted that the Full Commission credited the opinion of the surgeon, Dr. Sites, over the opinion of another physician.

The Court reversed and remanded to the Commission on the issue of temporary total disability benefits. The Commission had found that the claimant proved he was entitled to TTD

benefits beginning March 6, 2014, until a date yet to be determined. The Court remanded the issue back to the Full Commission and indicated:

As the Commission decision stands now, we cannot make a meaningful review of this case. This is so because, in part, the only factual findings we have by the Commission regarding TTD are in the above-referenced quote. It is unclear whether the Commission determined that Turcios remained in his healing period or started a new healing period, whether he suffered a total incapacity to earn a meaningful wage, whether Turcios “returned to work” within the meaning of section 521, whether Turcios’s absenteeism was related to his compensable knee injury or an unrelated medical issue, and whether Turcios’s alleged violations of Tyson’s attendance policy did or did not affect his TTD eligibility under section 526. We therefore reverse and remand to the Commission for further findings and proceedings consistent with this opinion on this point.

Permanent Partial and Permanent Total Disability

Skinner v. Tango Transport, Inc., 2016 Ark. App. 304 (June 1, 2016). The claimant, Herschel Skinner, injured his right foot on June 10, 2010, while working for Tango Transport, Inc. The healing period for the injury ended on June 10, 2011. A hearing was held May 25, 2012, before the Workers’ Compensation Commission on the issues of additional TTD benefits, the extent of claimant’s permanent impairment rating, and permanent and total disability benefits. The claimant was ultimately found to be entitled to additional TTD benefits, that he had a 53% impairment rating to the foot, and that he was permanently and totally disabled. A second hearing was held regarding the payment of benefits and the claimant’s contention that he was entitled to dual payments of PPD benefits and permanent and total disability benefits. The ALJ and Full Commission found that pursuant to A.C.A. §11-9-502(b) the claimant was not entitled to simultaneous payments of PPD and permanent total disability benefits. The claimant appealed that and other findings to the Court of Appeals.

The Court found that “after reviewing the entire opinion, we do not agree with appellant’s interpretation. Although the opinion addressed appellant’s entitlement to PPD and PTD because Respondents No. 1 controverted both PPD in excess of 6.25% and PTD, the opinion did not specifically order Respondents No. 1 to simultaneously pay both benefits. To do so would necessarily require the ALJ to have found appellant 153% disabled in contravention of statutory authority. See Ark. Code Ann. §§ 11-9-501(b) and 519(a). However, the ALJ specifically found that appellant had sustained 53% anatomical impairment to the right foot and that the “evidence preponderates that he has been rendered permanently and totally disabled within the purview of the Arkansas Workers’ Compensation Act.” Furthermore, a review of the record indicates that how the benefits were to be paid was not at issue during the first hearing. In fact, at the first hearing, appellant argued that he was entitled to PTD and alternatively PPD. Thus, res judicata and law of the case do not dictate this case, and we must affirm on this point on appeal.”

Anatomical Impairment

St. Francis County v. Washington, 2015 Ark. App. 497 (September 23, 2015). The Arkansas Workers’ Compensation Commission determined that Thomas J. “Tommy” Watlington was not entitled to wage loss but that he was entitled to a 10% permanent partial-disability rating. On

appeal, St. Francis County and its insurance carrier argued that the Commission's decision that the employee is entitled to a 10% rating was erroneous and should be reversed. The claimant was injured on October 31, 2011, when he cut his face while in pursuit of a suspect. The claimant received tetanus shot and later experience numbness and tingling which worsened over time. Tests revealed that the claimant had suffered an adverse immunological reaction to the tetanus vaccination. The claimant was later assigned a 10% permanent physical impairment.

A hearing before the Administrative Law Judge (ALJ) was held on August 8, 2014, and the ALJ filed an opinion on October 14, 2014, finding that the claimant sustained a permanent physical impairment in the amount of 10% and that he sustained wage-loss disability in the amount of 7%. The decision was appealed to the Full Commission. The Full Commission found that the claimant was not entitled to wage-loss but that he was entitled to the 10% anatomical impairment rating. The employer appealed the decision of the Commission awarding the 10% permanent impairment rating.

The Court noted that Permanent impairment has been defined as "any permanent functional or anatomical loss remaining after the healing period has ended." *Main v. Metals*, 2010 Ark. App. 585, at 9, 377 S.W.3d 506, 511. Any determination of the existence or extent of physical impairment must be supported by objective and measurable findings. *Dillard's v. Johnson*, 2010 Ark. App. 138, 374 S.W.3d 92. "Objective findings" are those that cannot come under the voluntary control of the patient. Ark. Code Ann. § 11-9-102(16)(A) (Repl. 2002); *Vangilder v. Anchor*

Packaging, Inc., 2011 Ark. App. 240. The Court concluded that the 10% rating is supported by objective medical findings, including the post injury MRI, which confirmed abnormalities in the claimant's brain. The Commission found that the abnormalities were causally related to the October 31, 2011, compensable injury and that Watlington proved the compensable injury was the major cause of his 10% permanent anatomical-impairment rating and the Court affirmed the Commission's decision.

Attorneys Fees in Other Jurisdictions

Castellanos v. Next Door Co., Supreme Court of Florida, April 28, 2016. The Florida Supreme Court held that the mandatory attorney's fee schedule which capped attorney's fees was unconstitutional. The Court held that the mandatory fee schedule precludes any determination of whether the fee award is reasonable to compensate the attorney violates the due process clause of the U.S. and Florida constitutions.

Injured Workers' Assoc. of Utah v. Utah, 2016 UT 21 (May 18, 2016). The Utah Supreme Court held that the sliding-scale fee schedule and an overall cap on the maximum amount of attorney's fees for claimant's attorneys violated the Utah Constitution. The Utah Supreme Court held that it had the exclusive authority to govern the practice of law under the state constitution.

NATIONAL MARKETS IN GENERAL

While Arkansas continues to experience increases in the average indemnity and medical cost per lost time claim, claims frequency continues to decline resulting a continued decline in rates upon

which premiums are based. Arkansas's market remains strong and competitive.

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

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

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

CONCLUSION

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

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

Prepared: August 23, 2016

cc: The Honorable Asa Hutchinson, Governor
The Honorable Dale Douthit, Chairman, AWCC

The Honorable Karen H. McKinney, Commissioner, AWCC
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Ms. Barbara Kerr, Chief Executive Officer, AWCC
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ARKANSAS

State Advisory
FORUMS 2016

June 2, 2016

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EXHIBIT "A"



Arkansas Workers Compensation State Advisory Forum

- State of the Industry
- Arkansas—Outlook and Observations
- State of the Economy
- Filing Activity
- NCCI Item Filing Activity
- Legislative and Regulatory Issues
- Comments from Insurance Commissioner Allen Kerr
- Claim Frequency and Severity
- Arkansas Residual Market
- Closing Remarks



NCCI Market Outlook

- **2012—“Conflicted”**
- **2013—“Encouraging”**
- **2014—“Balanced”**
- **2015—“Calm Now ... but Turbulence Ahead”**
- **2016—“Transforming”**



Bill Donnell
NCCI President and CEO

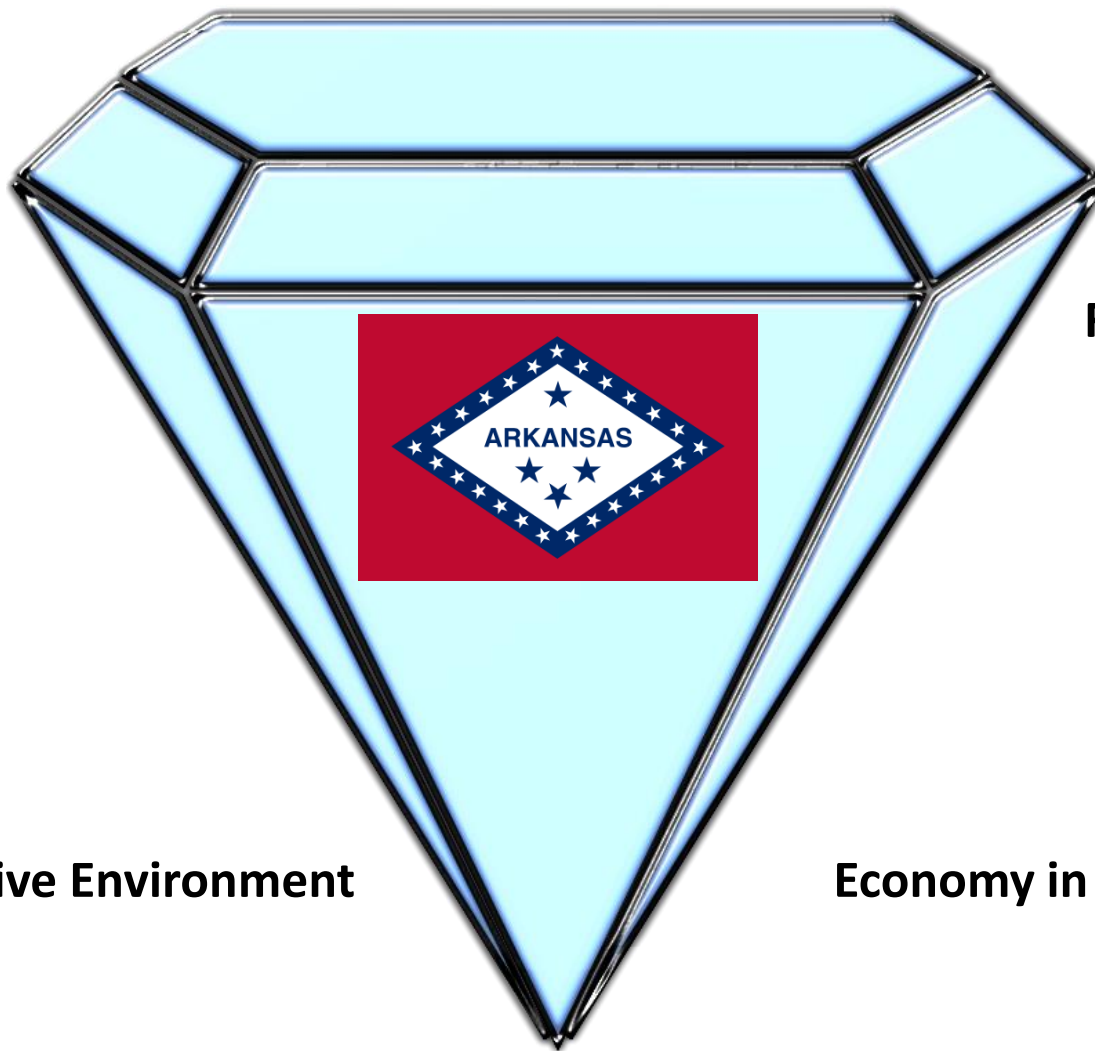
Arkansas—Solid as a Rock

**Decreases in
Overall Loss
Cost Level**

Favorable Results

Stable Legislative Environment

Economy in Recovery Phase





State Advisory FORUMS 2016

State of the Industry



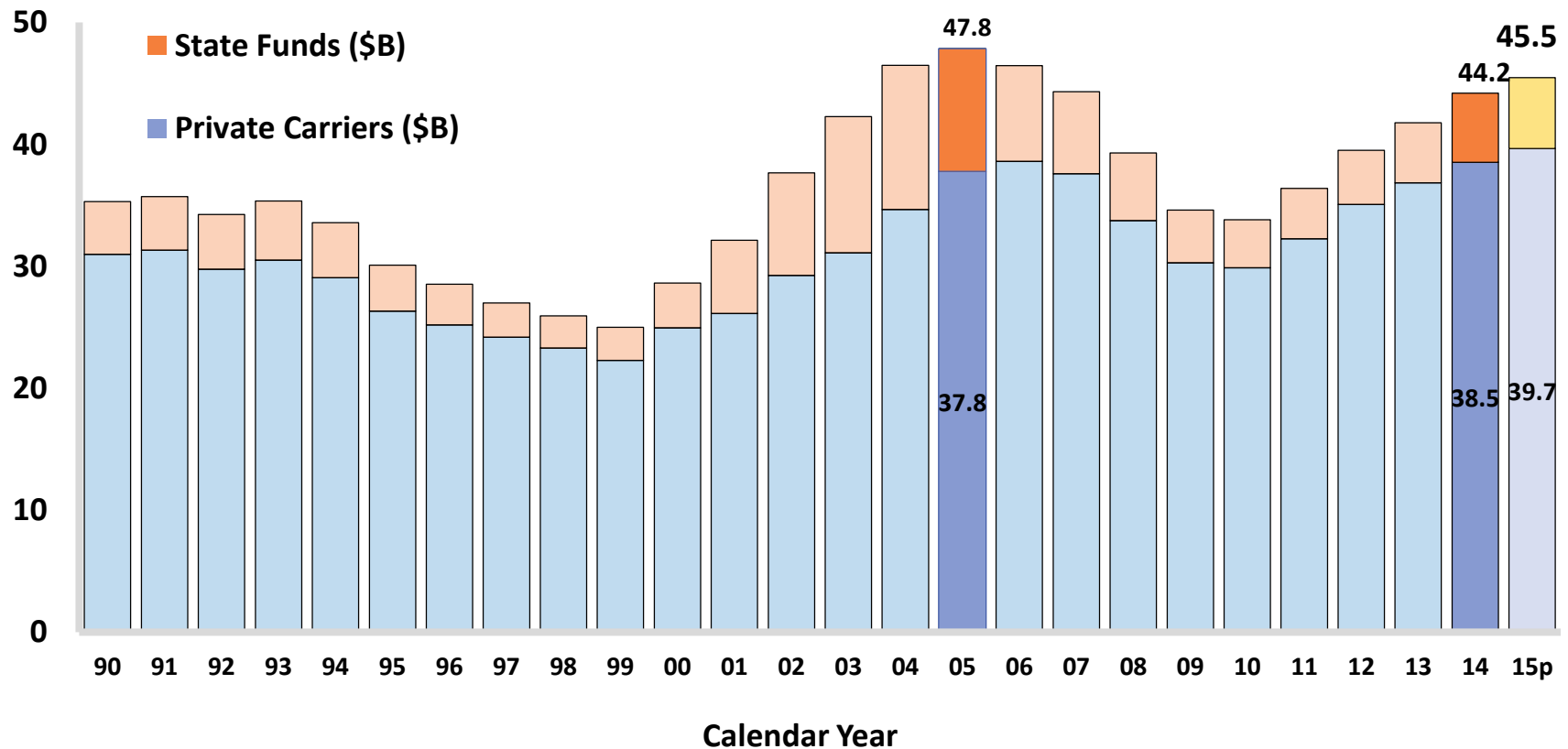
State of the Workers Compensation Market

- Net written premium volume increased for the fifth consecutive year
- Calendar year and accident year combined ratios continued to improve
- Lost-time claim frequency again decreased
- Lost-time claim severity changes were small—increasing for indemnity and decreasing for medical
- Residual market premium remains manageable

Countrywide Workers Compensation Net Written Premium—Growth Continued

Private Carriers and State Funds

\$ Billions



p Preliminary

Source: Annual Statement data

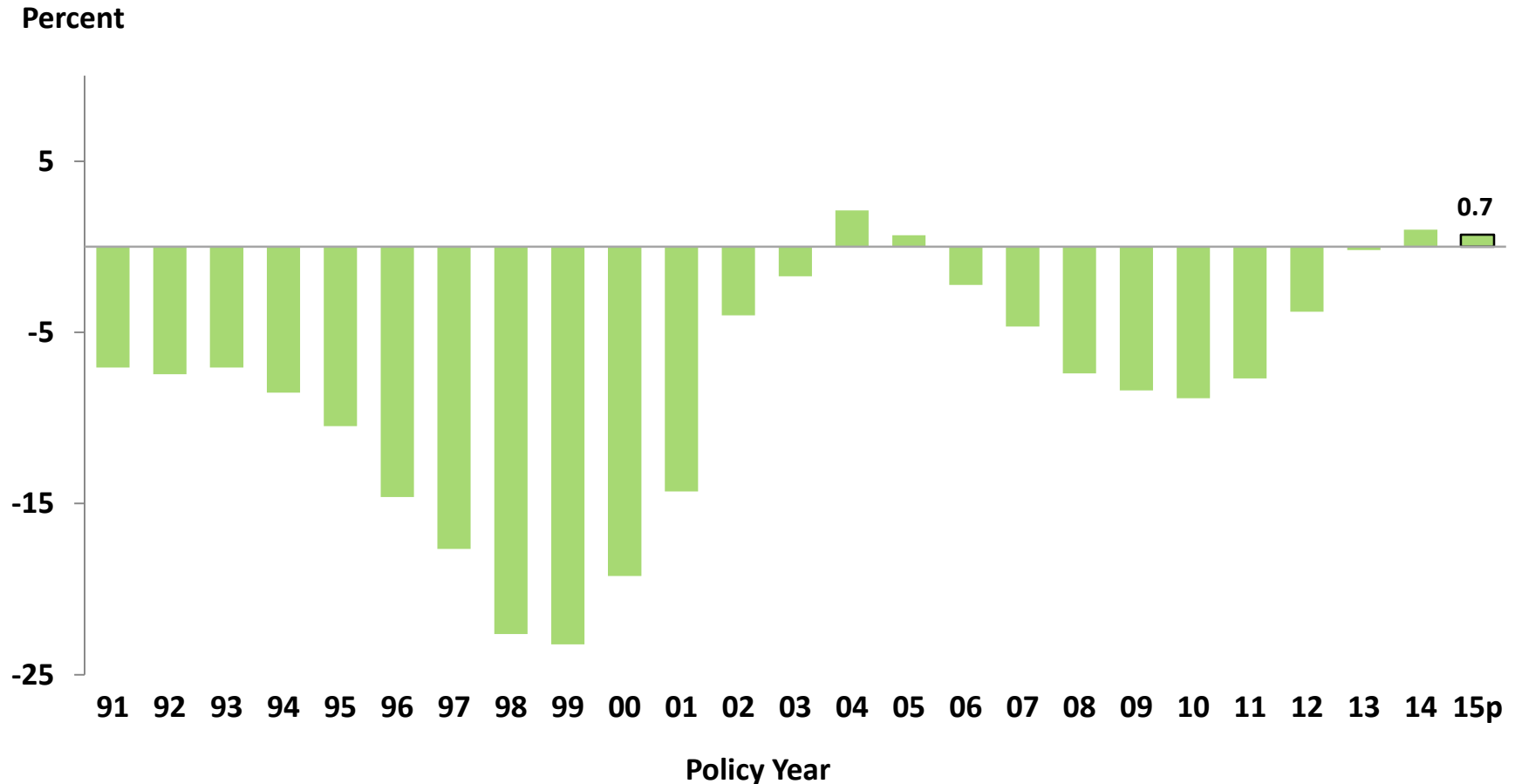
Includes state insurance fund data for the following states: AZ, CA, CO, HI, ID, KY, LA, MD, MO, MT, NM, OK, OR, RI, TX, and UT

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



Countrywide Workers Compensation Impact of Discounting on Premium

NCCI States—Private Carriers



p Preliminary

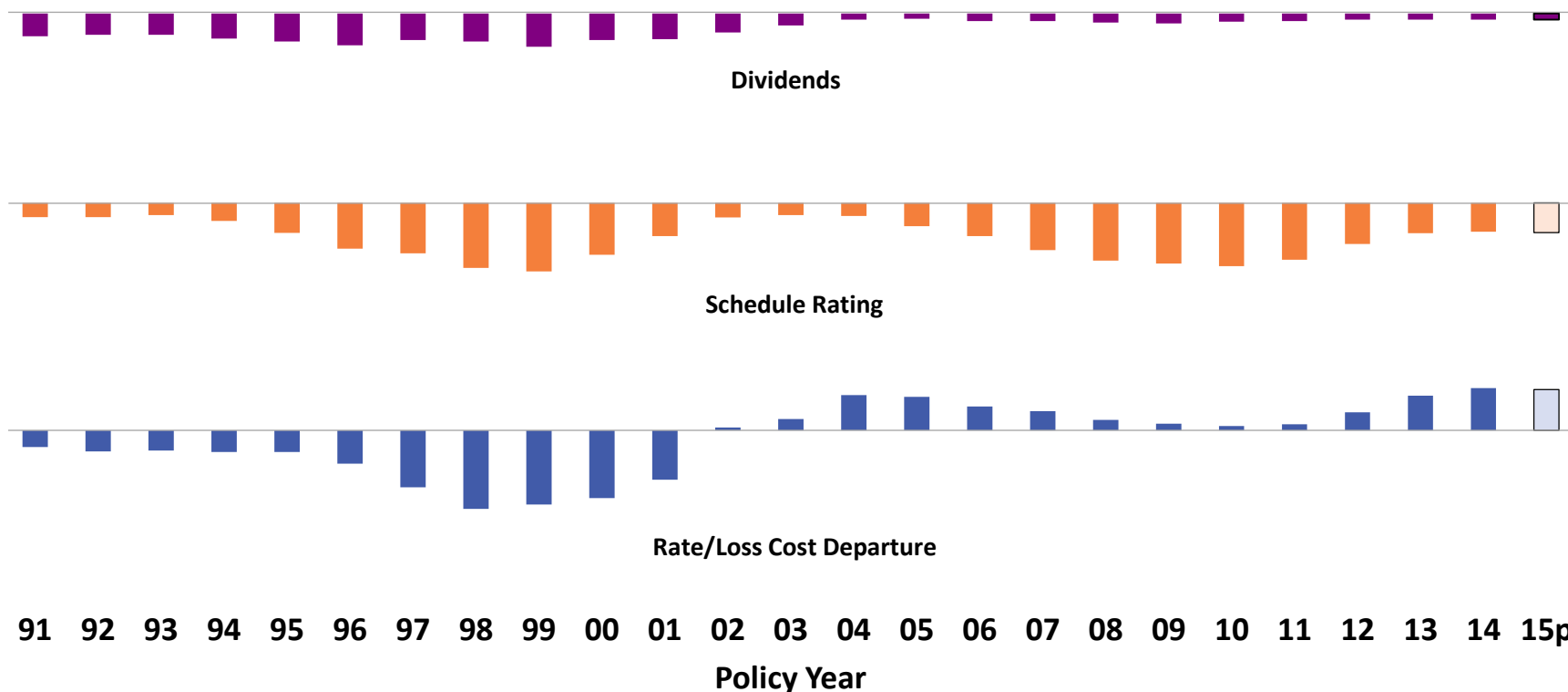
Sources: Annual Statement Statutory Page 14 and NCCI's Financial Call data

NCCI benchmark level does not include a profit and contingency provision

Based on data valued as of 12/31/2015 for all states where NCCI provides ratemaking services, excluding TX

Countrywide Workers Compensation Impact of Discounting on Premium

NCCI States - Private Carriers



p Preliminary

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

Dividend ratios are based on calendar year statistics

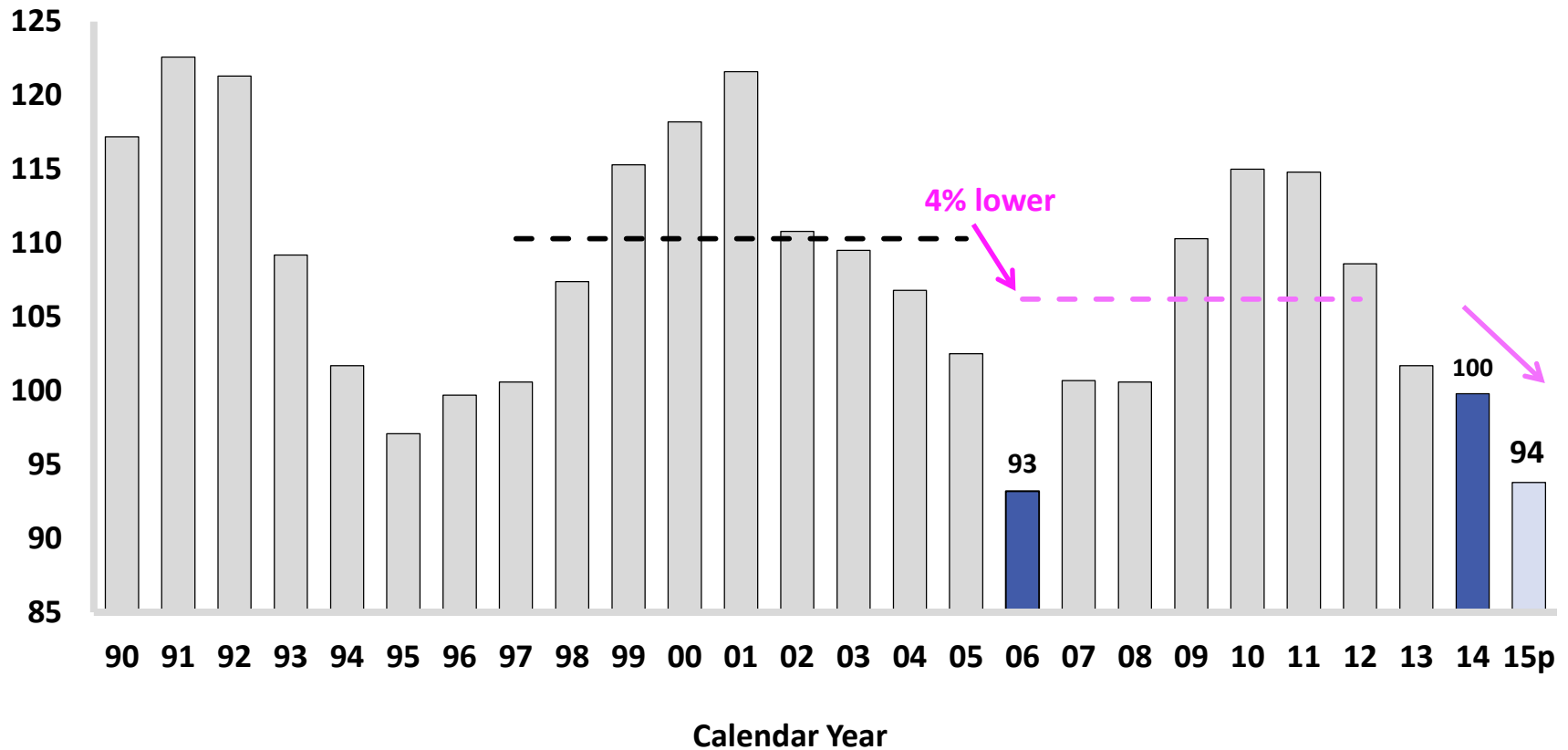
NCCI benchmark level does not include a profit and contingency provision

Based on data valued as of 12/31/2015 for all states where NCCI provides ratemaking services, excluding TX

Countrywide Workers Compensation Combined Ratio—Underwriting Gain Achieved

Private Carriers

Percent



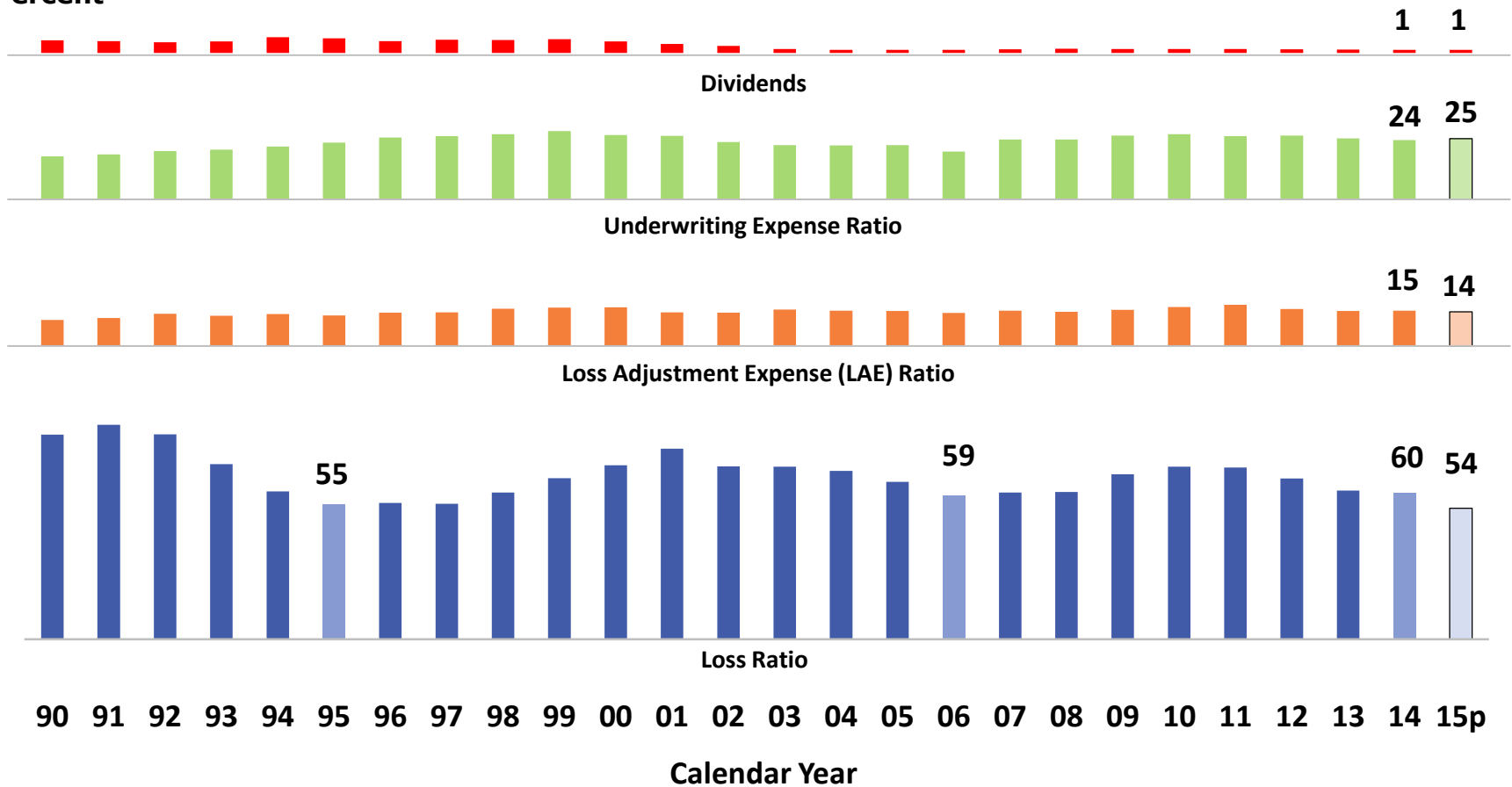
p Preliminary
Source: Annual Statement data



Countrywide Workers Compensation Combined Ratio Components

Private Carriers

Percent



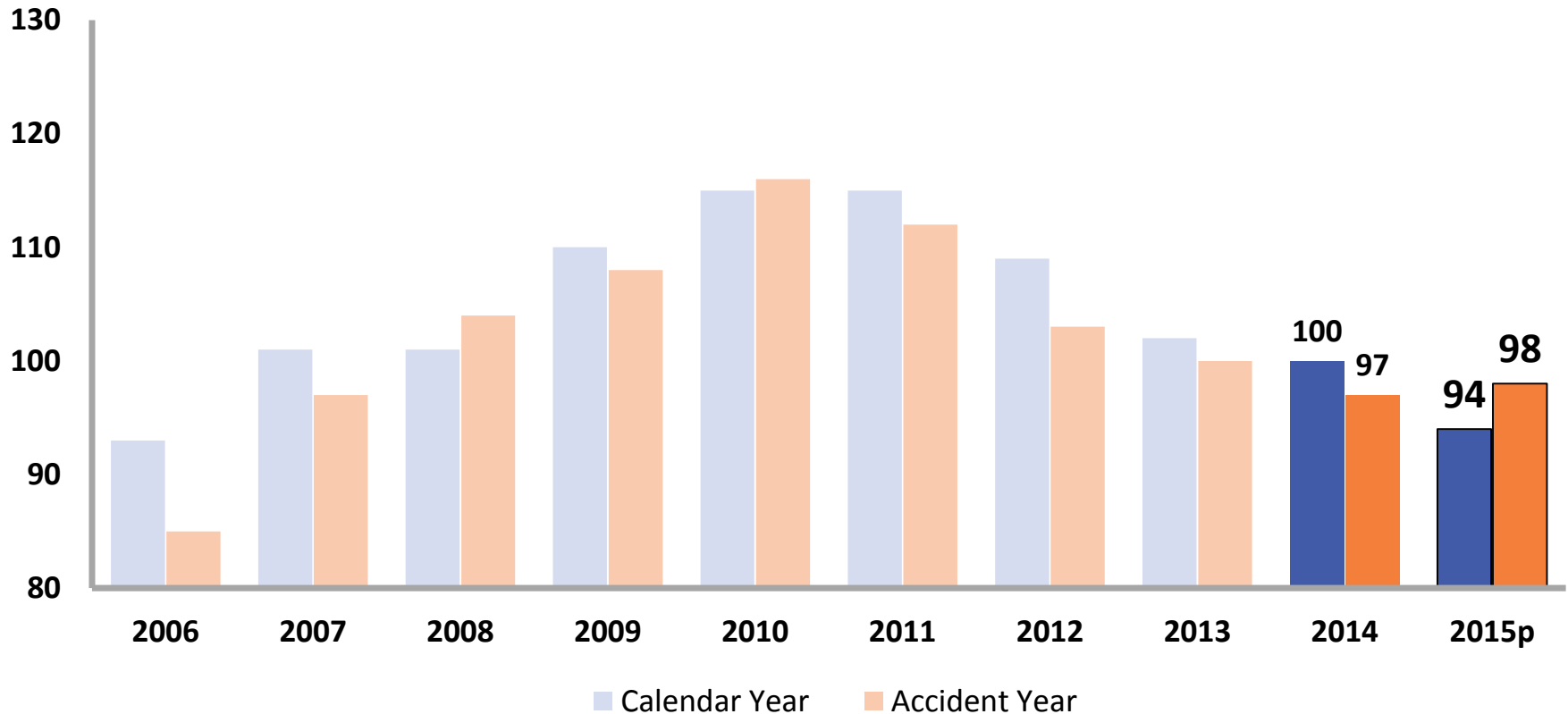
p Preliminary

Source: Annual Statement data



Countrywide Workers Compensation Net Combined Ratios

Calendar Year vs. Accident Year as Reported—Private Carriers



p Preliminary

Source: NCCI analysis based on Annual Statement data

Accident Year information is reported as of 12/31/2015

Includes dividends to policyholders



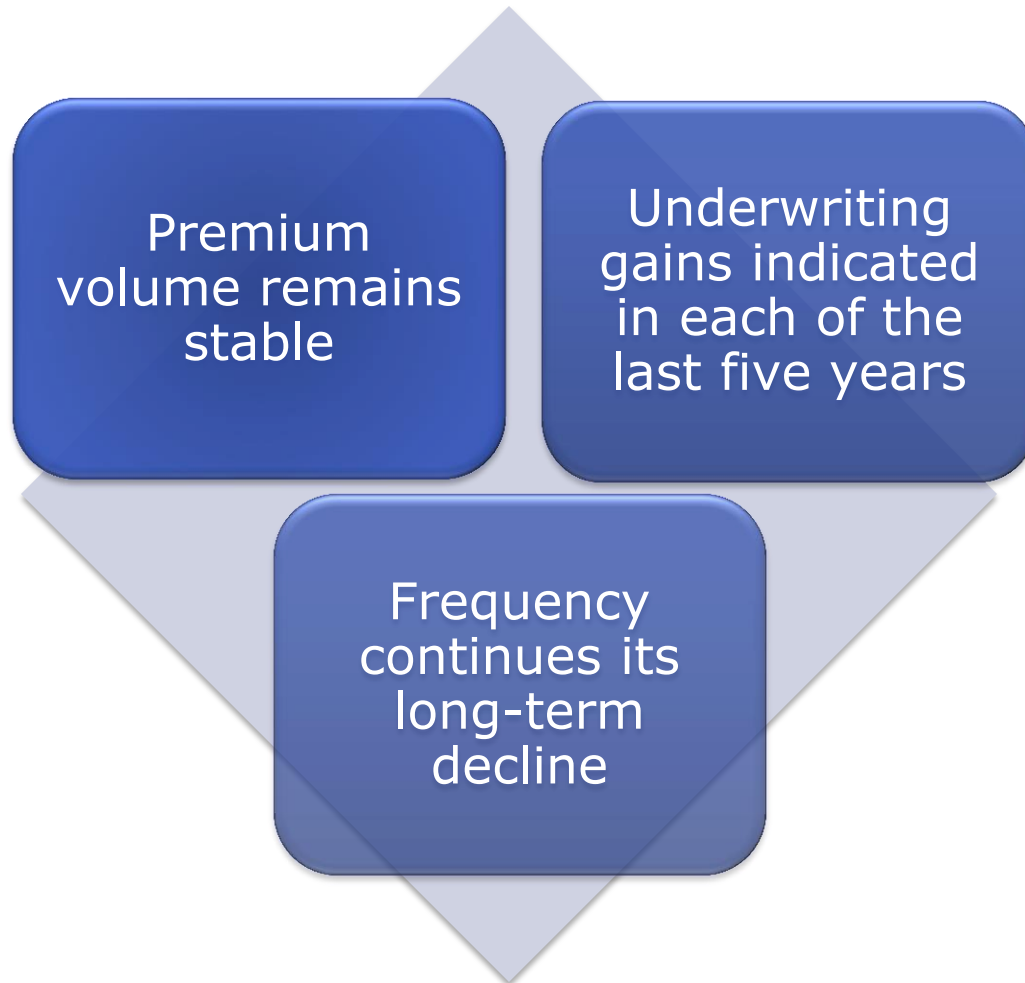


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Arkansas— Outlook and Observations

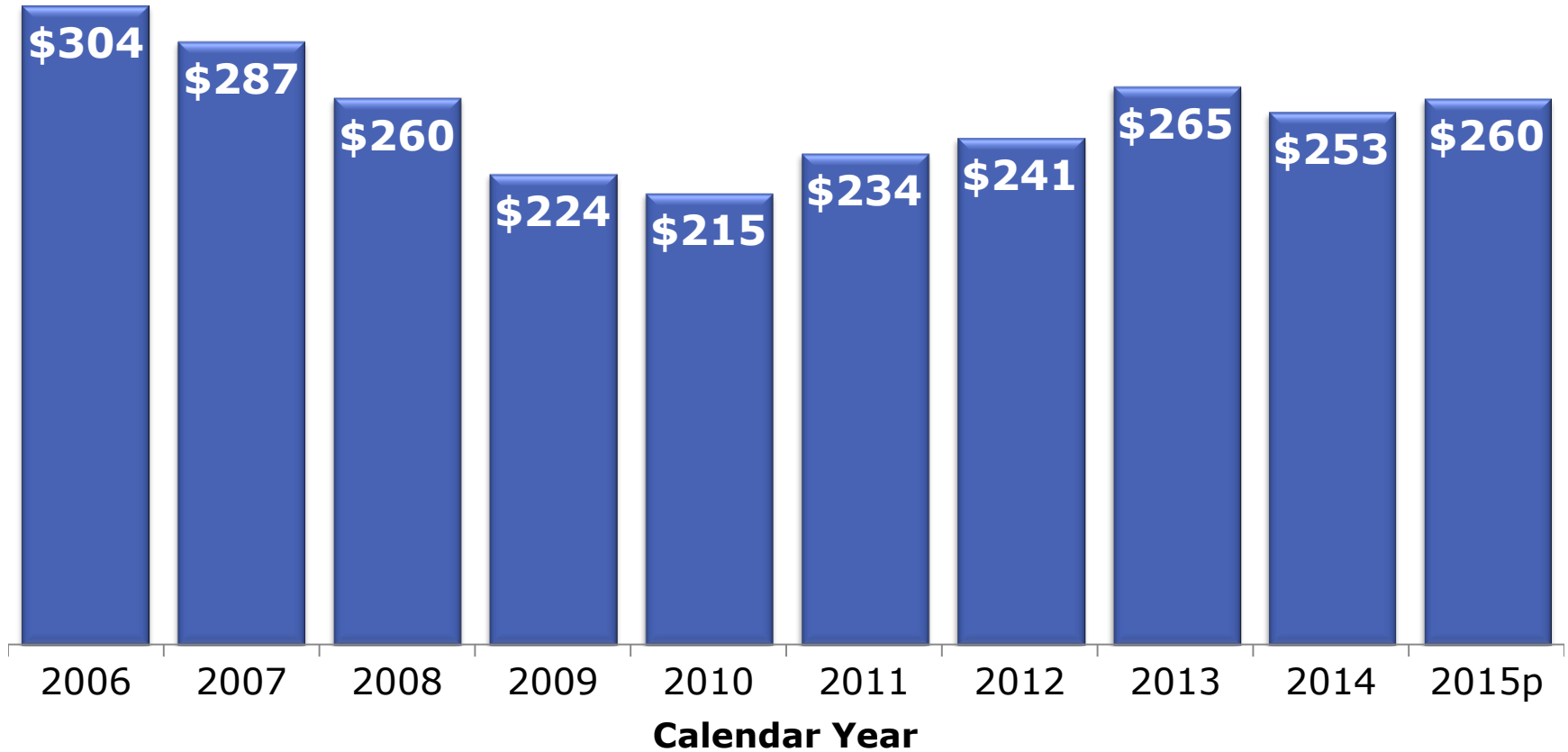


Arkansas Workers Compensation System— An Overview



Arkansas Workers Compensation Premium Volume

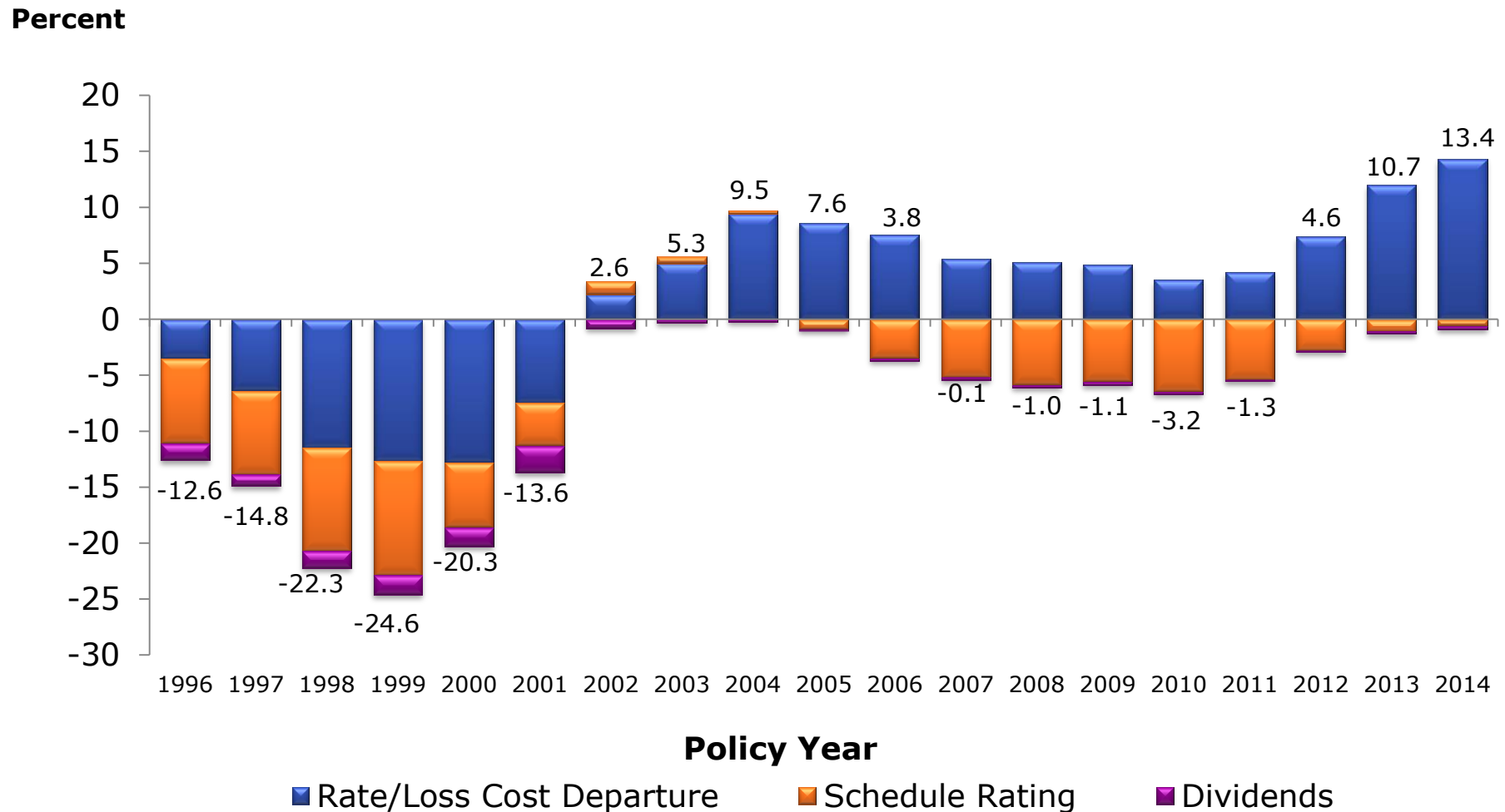
Direct Written Premium in \$ Millions



p Preliminary

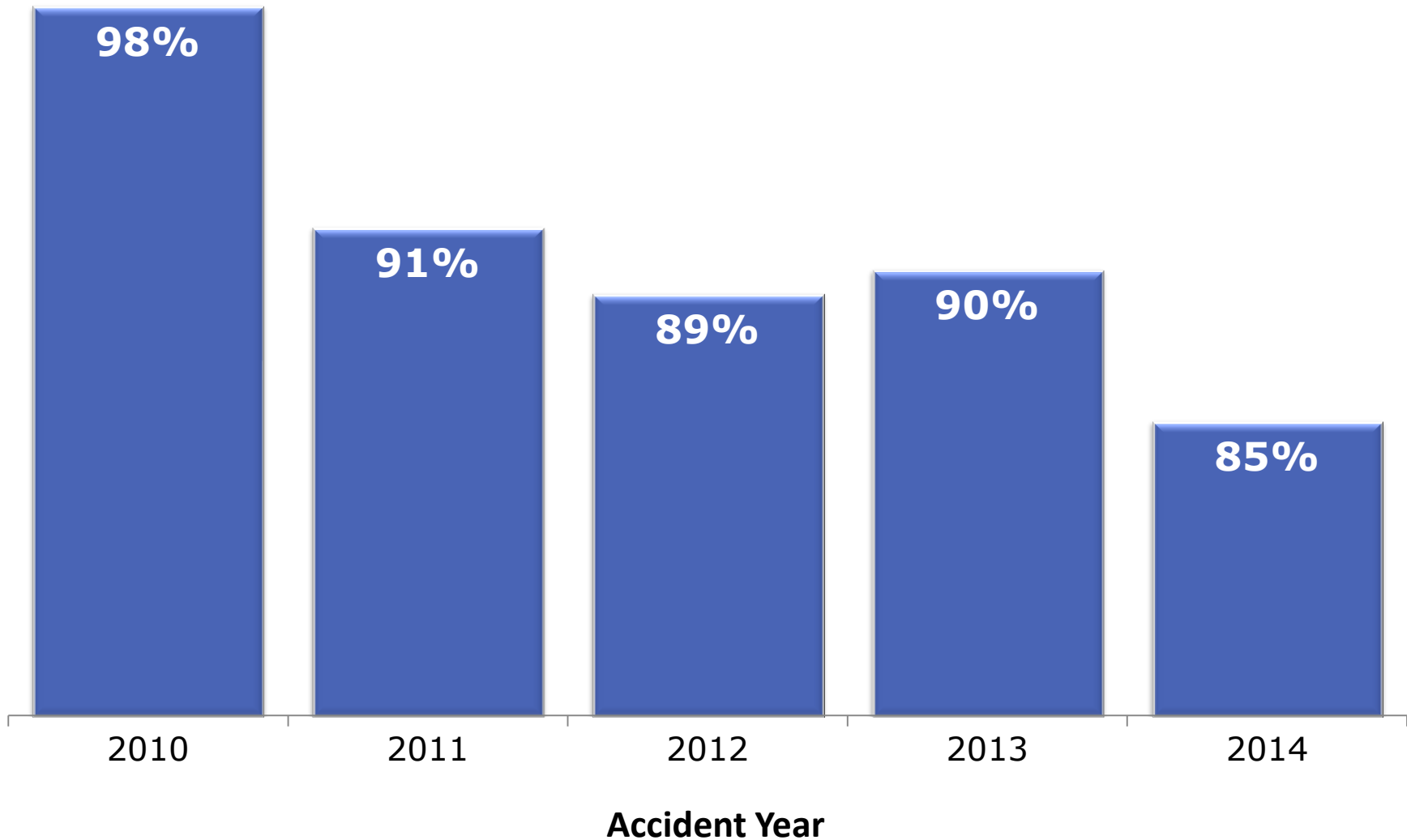
Source: NAIC's Annual Statement data

Impact of Discounting on Workers Compensation Premium in Arkansas



Based on data through 12/31/2014
Dividend ratios are based on calendar year statistics

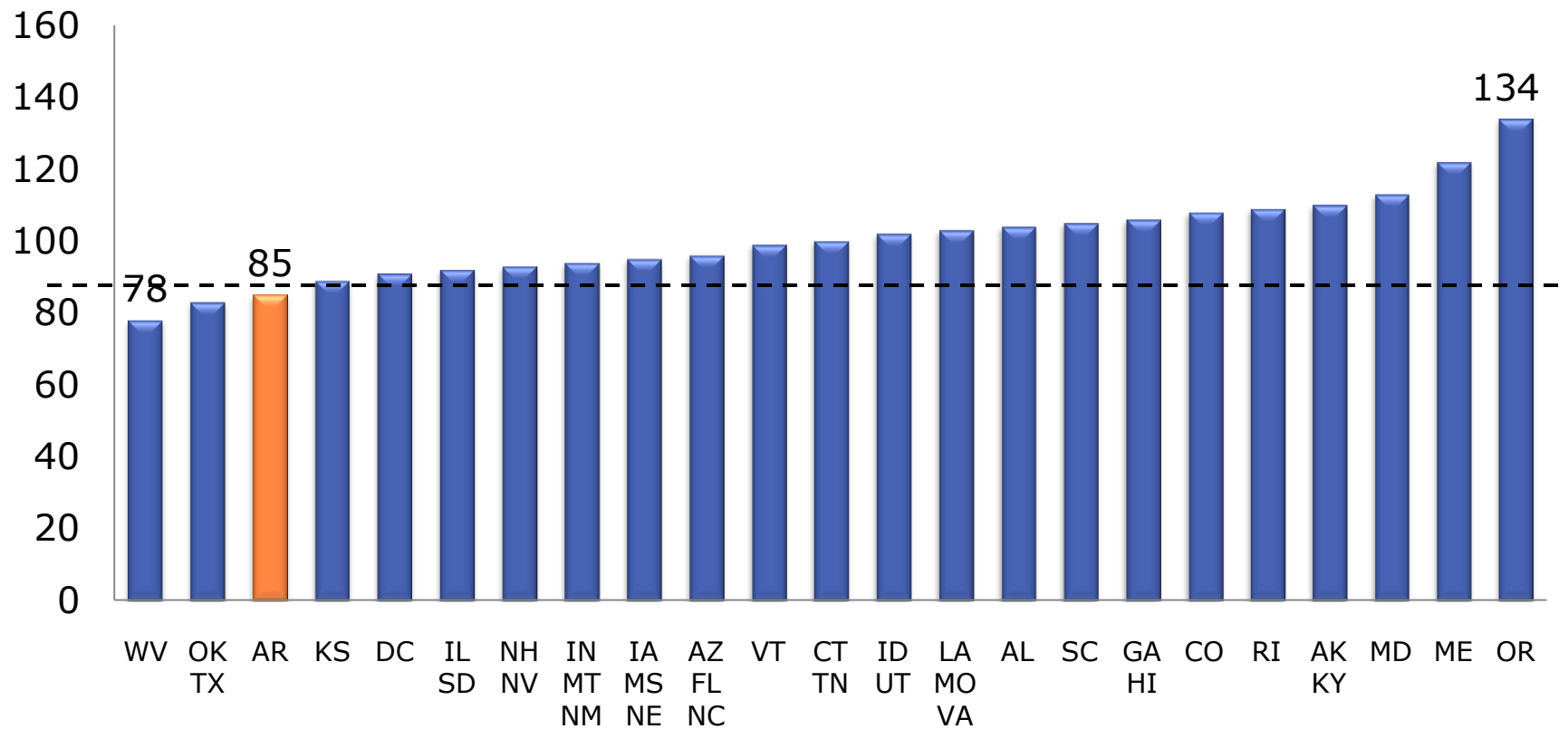
Arkansas Accident Year Combined Ratios



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

Results Vary From State-to-State

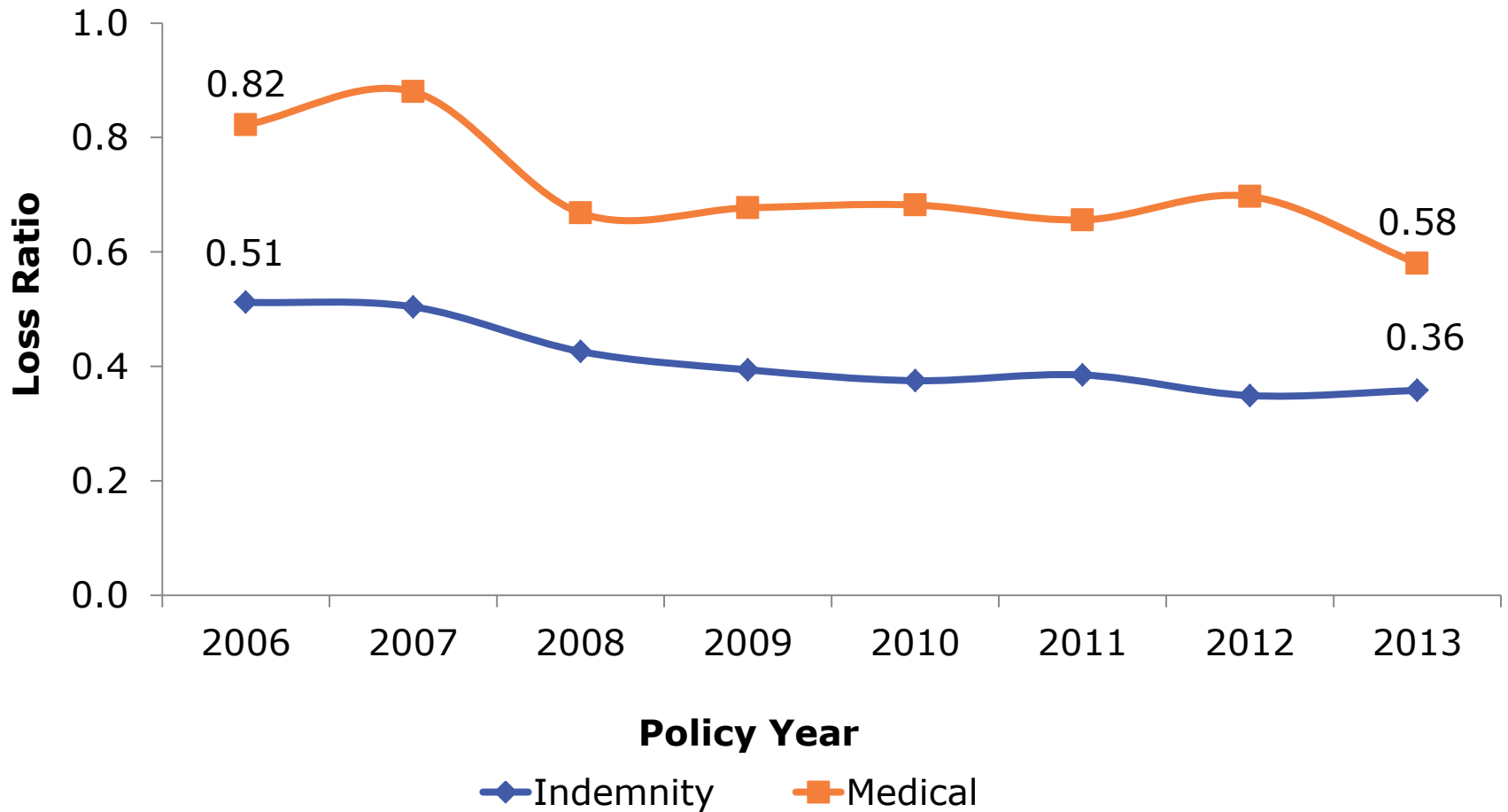
Accident Year 2014 Combined Ratios



Data is evaluated as of 12/31/2014



Arkansas Indemnity and Medical Loss Ratios



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



State Advisory FORUMS 2016

State of the Economy

Nationwide Economic Outlook



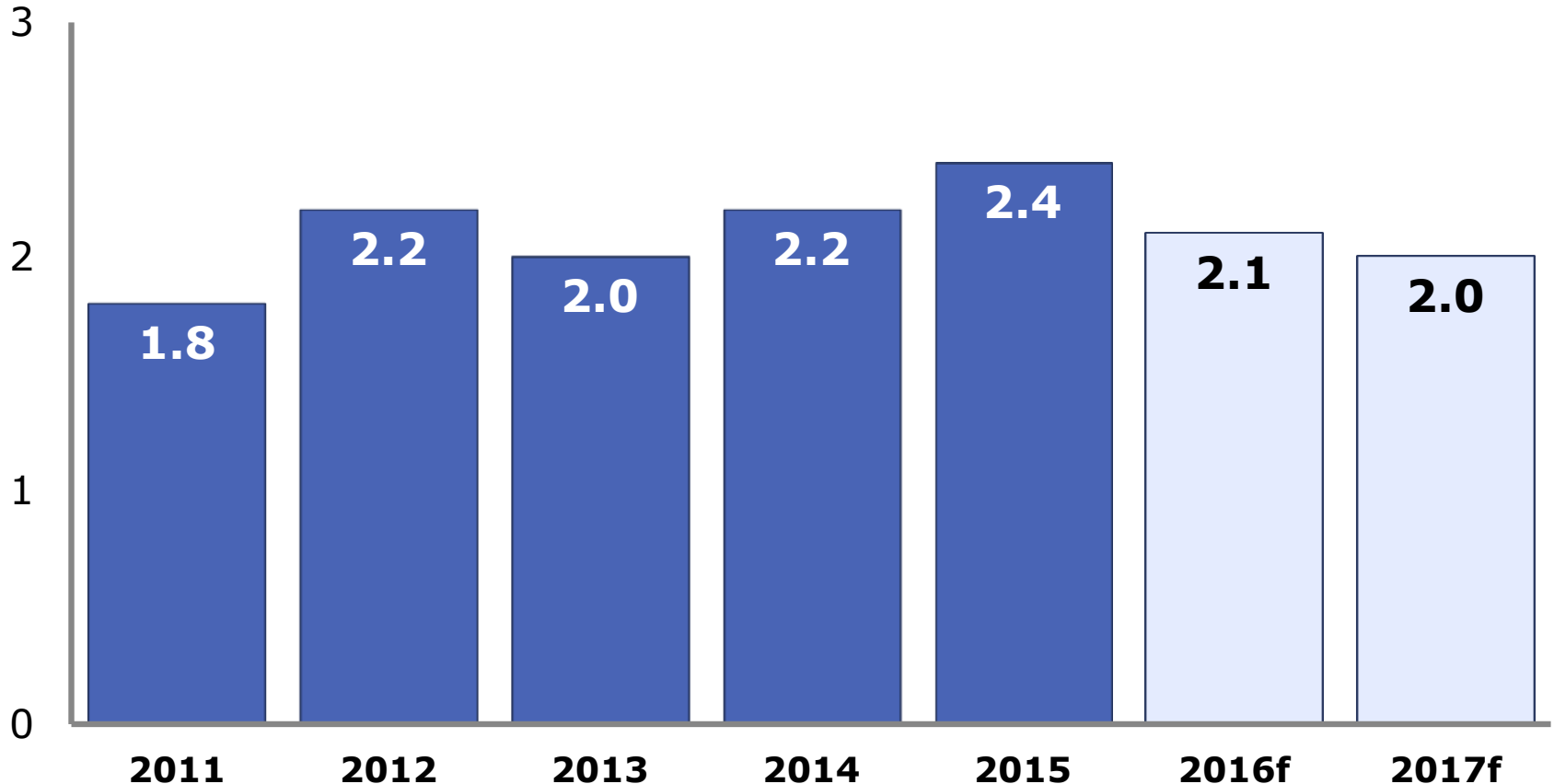
National Economic Highlights and Their Impact on Workers Compensation

| National Economic Indicator | Potential Impact on the Workers Compensation Market |
|---|--|
| Private employment is expected to continue to grow slowly | Premium increases from higher payroll and higher expected claim frequency for new workers |
| Wage growth is poised to accelerate | Upward pressure on payroll and premium as well as indemnity severity |
| The Federal Reserve has started raising rates | Higher interest rates mean better returns on invested funds |
| Oil and natural gas prices are low | Low energy prices benefit most producers, but layoffs in the energy sector negatively impact energy-dependent states |

Forecast Is for Continued Growth Near 2% in the Private Sector

US Private Employment Growth

Annual
Growth Rate
Percent



f Forecast

Private Nonfarm Employment

Frequency of observation: annual; latest historical data point: 2015; forecast year(s): 2016–2017

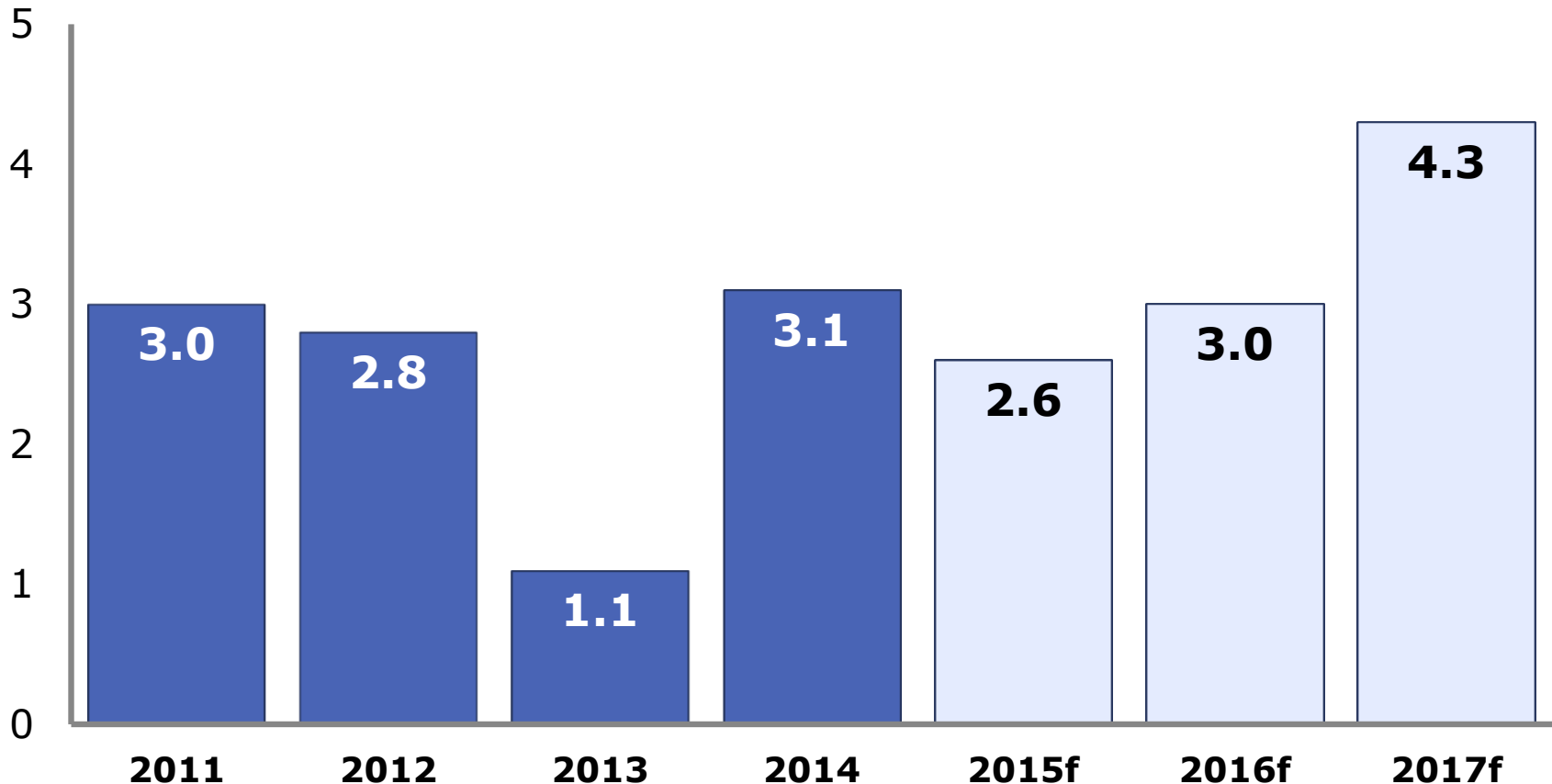
Sources: US Bureau of Labor Statistics (BLS), www.bls.gov and Moody's Analytics



Wages Are Forecast to Accelerate This Year and Next

US Average Weekly Wage Growth

Annual
Growth Rate
Percent



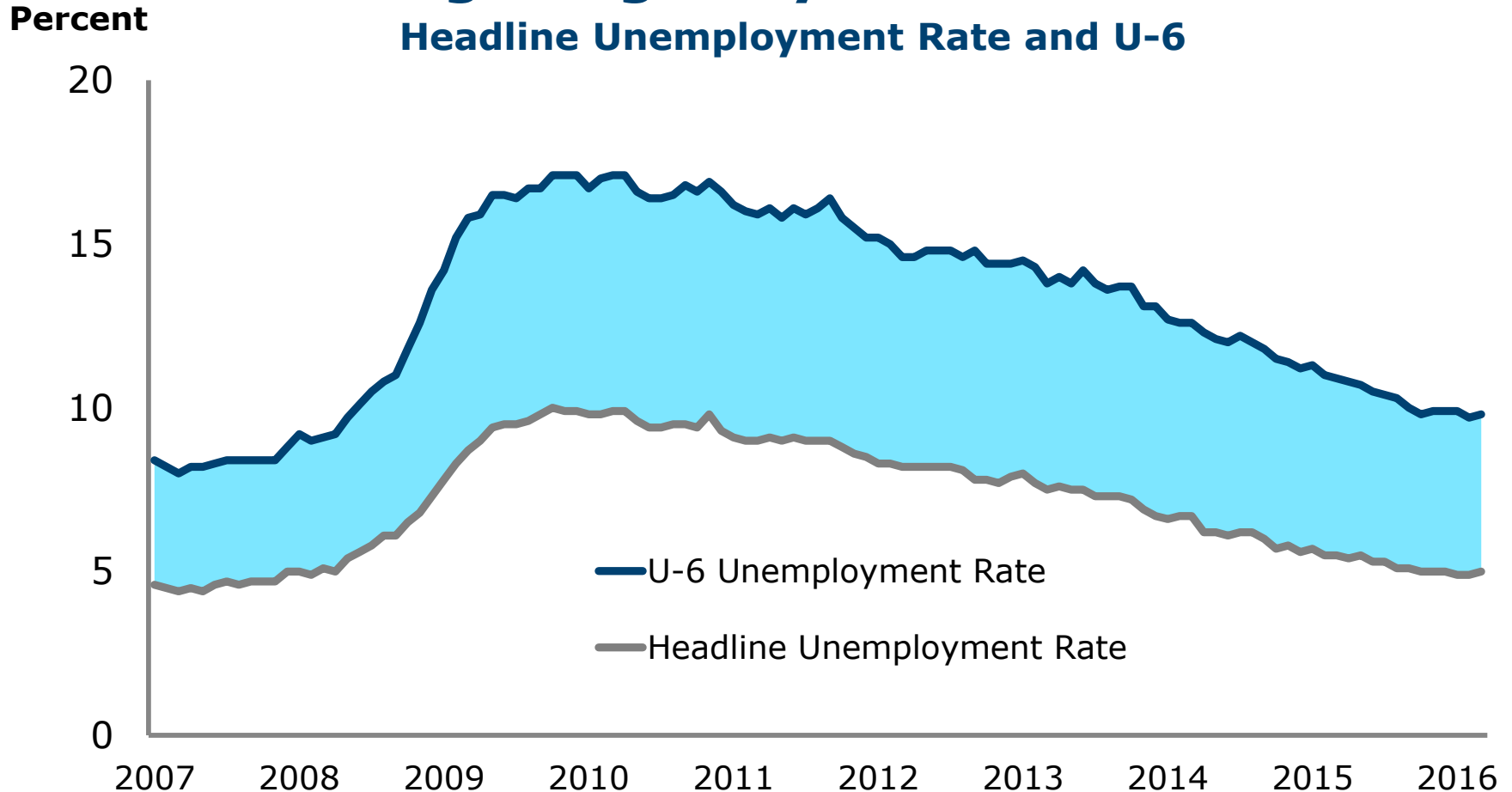
f Forecast

Wages are for Total Private Industry

Frequency of observation: annual; latest historical data point: 2014; forecast year(s): 2015–2017

Sources: US Bureau of Labor Statistics (BLS), www.bls.gov and Moody's Analytics; NCCI

The US Unemployment Rate Continues to Decline, but Is Higher When Including Marginally Attached Workers



U-6 measures the number of the unemployed, the marginally attached, and the part-time for economic reasons

Headline (official) unemployment rate and U-6 are seasonally adjusted

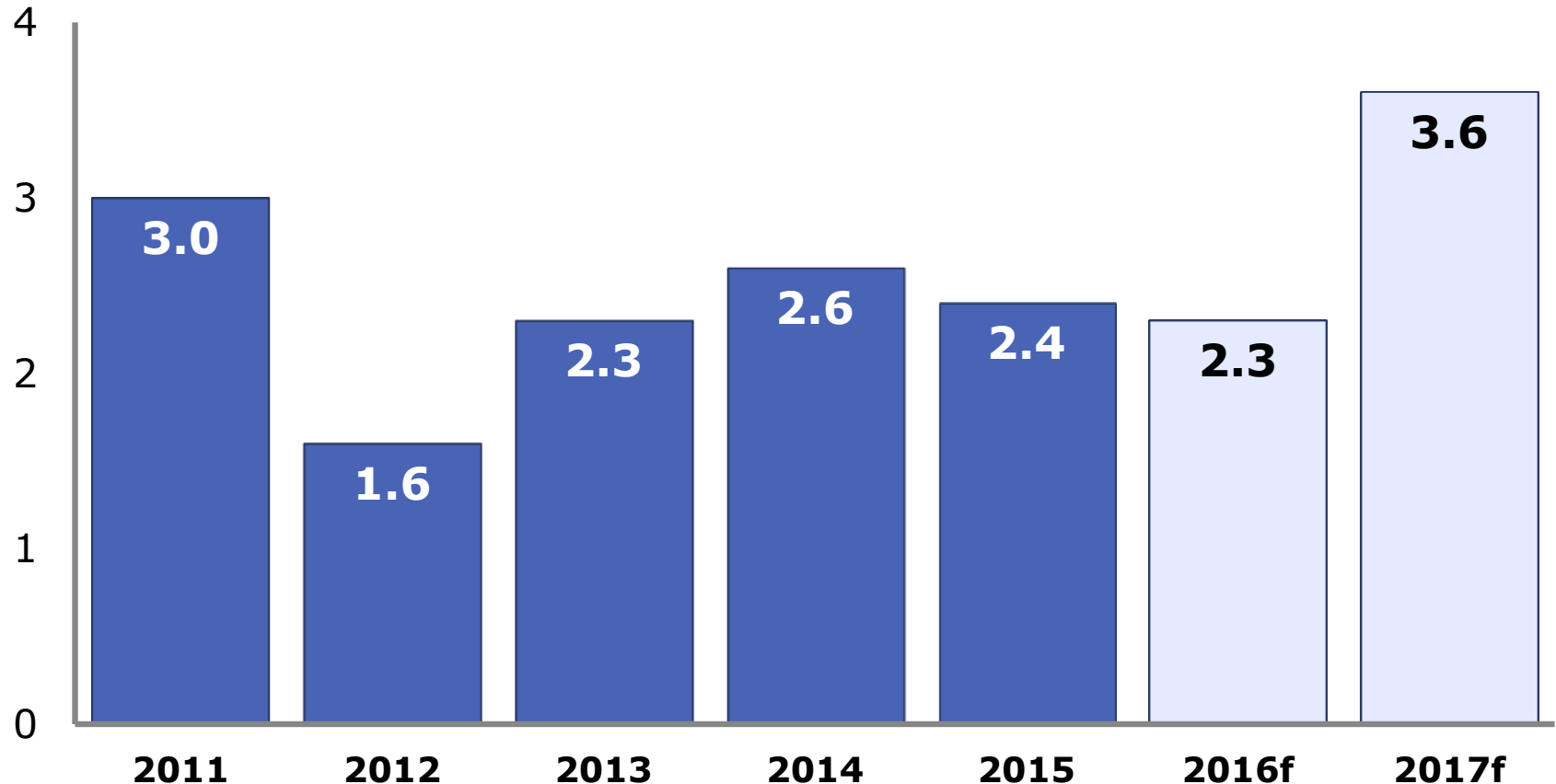
Frequency of observation: monthly; latest available data point: March 2016

Sources: Moody's Analytics, www.economy.com; US Bureau of Labor Statistics (BLS), www.bls.gov

Interest Rates Are Expected to Increase in 2017

10-Year Treasury Notes

Percent



f Forecast

Frequency of observation: interest rate as of June; latest historical data point: June 2015; forecast years: 2016–2017

Sources: Federal Reserve Board; Moody's Analytics





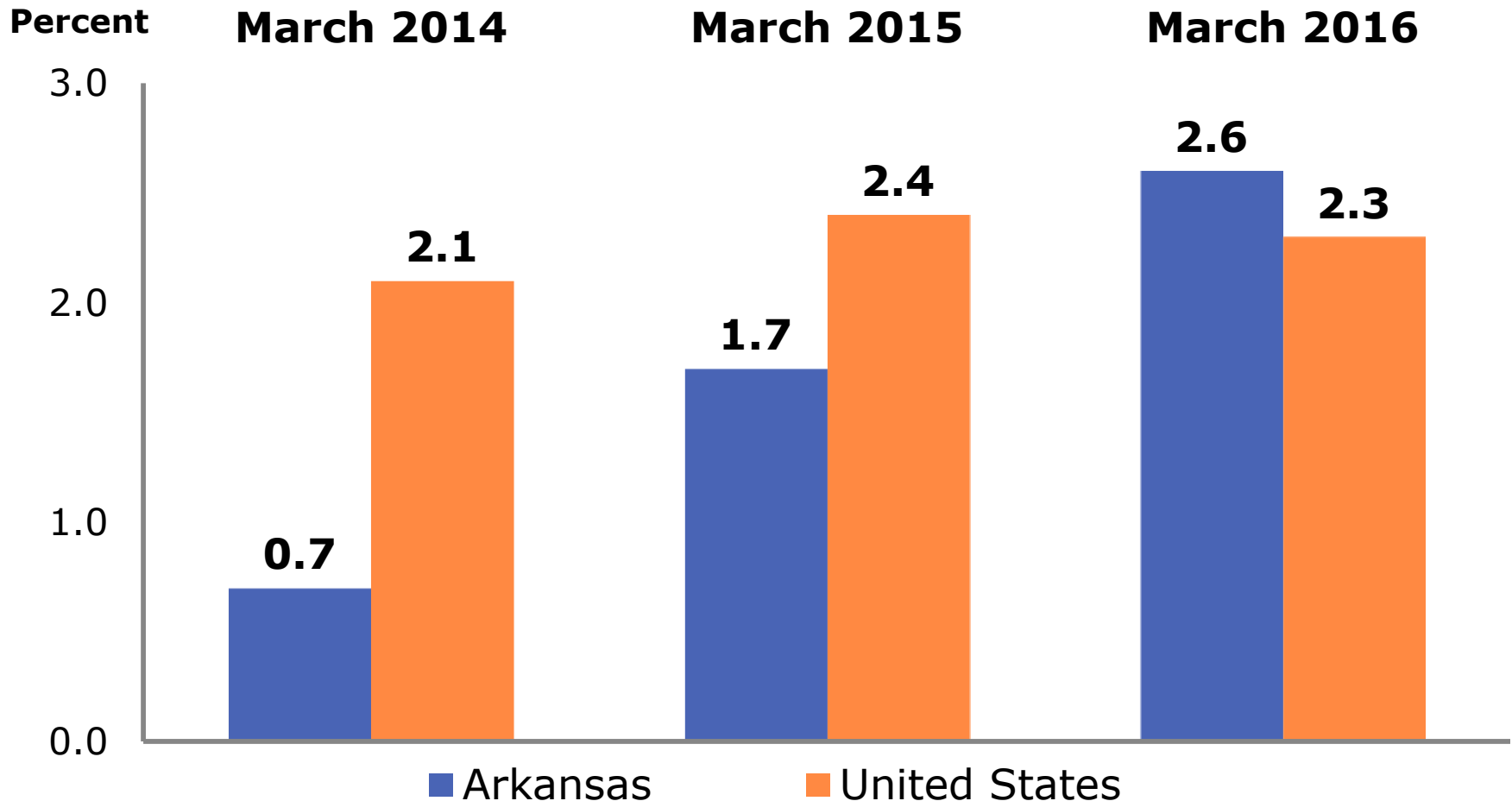
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How Does the Arkansas Economy Compare?



Change in Private Employment

Private Employment Growth Is Above Average

























Private Nonfarm Employment, seasonally adjusted

Frequency of observation: monthly; latest available data point: March 2016; percentage change for the 12 months ending each March

Source: US Bureau of Labor Statistics (BLS), www.bls.gov

Change in Employment by Industry

Employment Has Increased for Most Industries in the Past 12 Months

| Industrial Sector | | 12-Month Percent Change, March 2016 | | Sector Size | % Share | 12-Month Change |
|--------------------------------------|----|-------------------------------------|---|-------------|---------|-----------------|
| Leisure and Hospitality | AR | +5.7 |  | 115,900 | 9 | +6,300 |
| | US | +3.1 |  | | | |
| Information | AR | +5.3 |  | 13,900 | 1 | +700 |
| | US | +1.4 |  | | | |
| Professional and Business Services | AR | +5.2 |  | 142,900 | 12 | +7,100 |
| | US | +3.1 |  | | | |
| Education and Health Services | AR | +3.3 |  | 179,300 | 15 | +5,800 |
| | US | +3.3 |  | | | |
| Trade, Transportation, and Utilities | AR | +2.8 |  | 256,500 | 21 | +7,000 |
| | US | +1.9 |  | | | |
| Other Services | AR | +2.3 |  | 44,400 | 4 | +1,000 |
| | US | +1.3 |  | | | |
| Construction | AR | +2.1 |  | 48,600 | 4 | +1,000 |
| | US | +4.7 |  | | | |
| Financial Activities | AR | +0.4 |  | 49,200 | 4 | +200 |
| | US | +1.8 |  | | | |
| Government | AR | +0.1 |  | 212,800 | 17 | +300 |
| | US | +0.6 |  | | | |
| Manufacturing | AR | -1.4 |  | 153,200 | 13 | -2,100 |
| | US | -0.2 |  | | | |
| Natural Resources and Mining | AR | -15.3 |  | 7,200 | 1 | -1,300 |
| | US | -16.2 |  | | | |

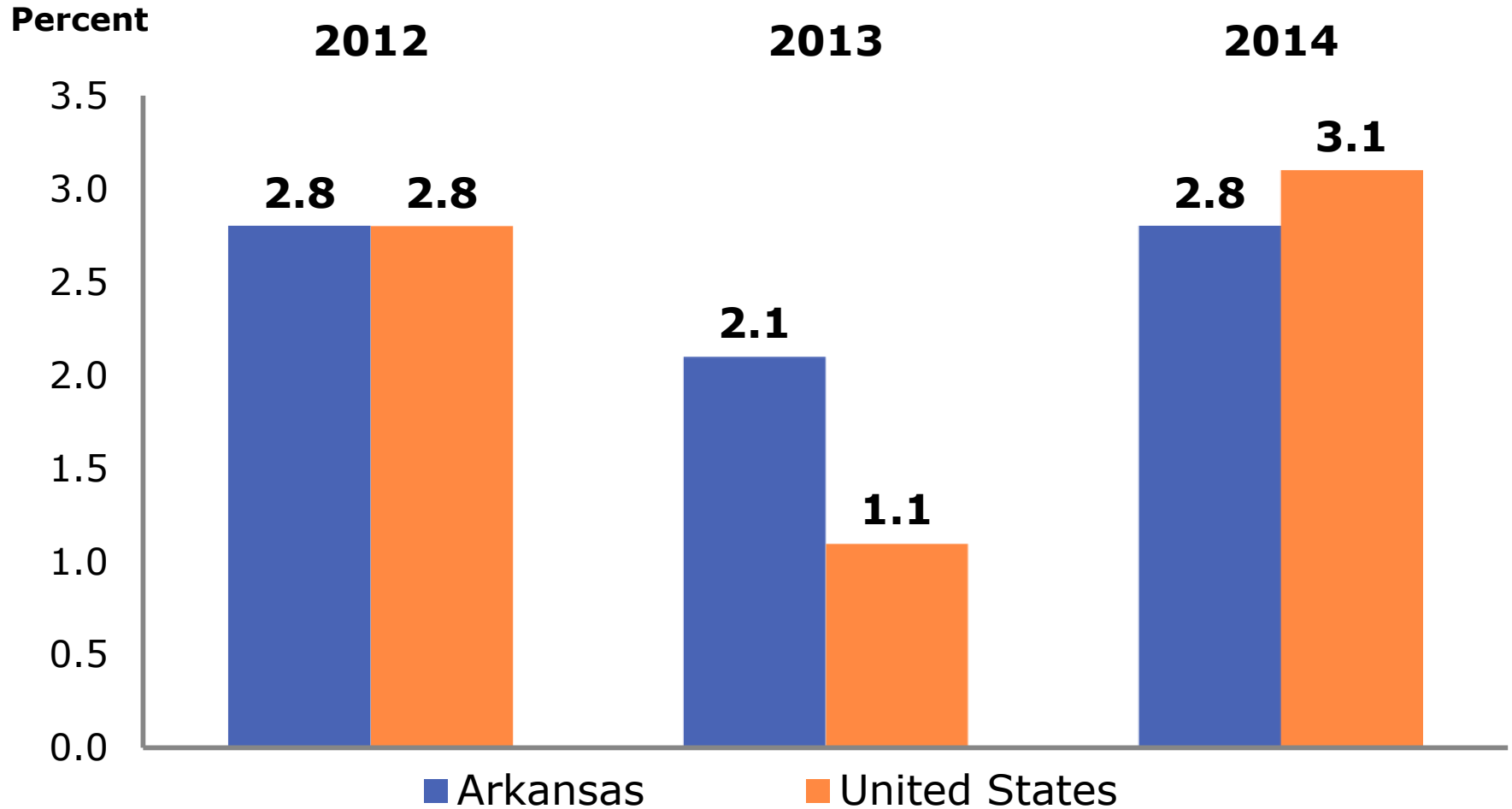
Percentage change for the latest 12 months as of March 2016

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

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

Change in Average Weekly Wages

Wage Growth Is Below the Rest of the Nation



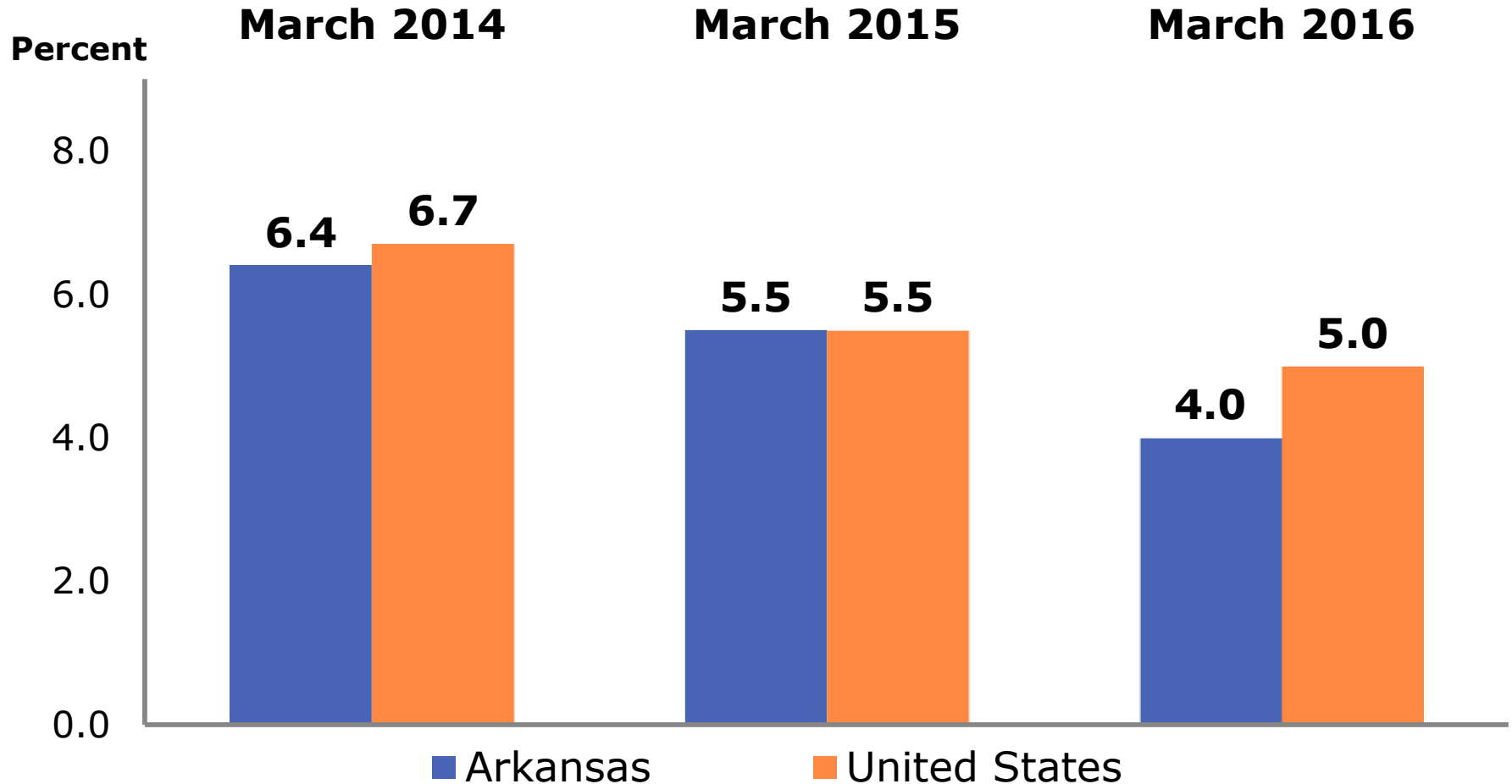
Wages are for Total Private Industry

Frequency of observation: annual; latest available data point: 2014

Source: US Bureau of Labor Statistics (BLS), www.bls.gov

Headline Unemployment Rate

The Unemployment Rate Is Below the National Average



Headline Unemployment rate, seasonally adjusted
Frequency of observation: monthly; latest available data point: March 2016
Source: US Bureau of Labor Statistics (BLS), www.bls.gov

Arkansas Economic Highlights

- The unemployment rate in Arkansas is below the US rate
- Employment growth is above the US rate having accelerated over the last couple quarters:
 - Leisure and Hospitality, Information, and Professional and Business Services are the top-performing sectors in the state, each having grown by more than 5%
 - Manufacturing jobs have declined, but food manufacturing is improving due to increased demand for poultry
 - Natural resources and mining jobs have declined due to low natural gas prices
- Arkansas wage growth is below the US average



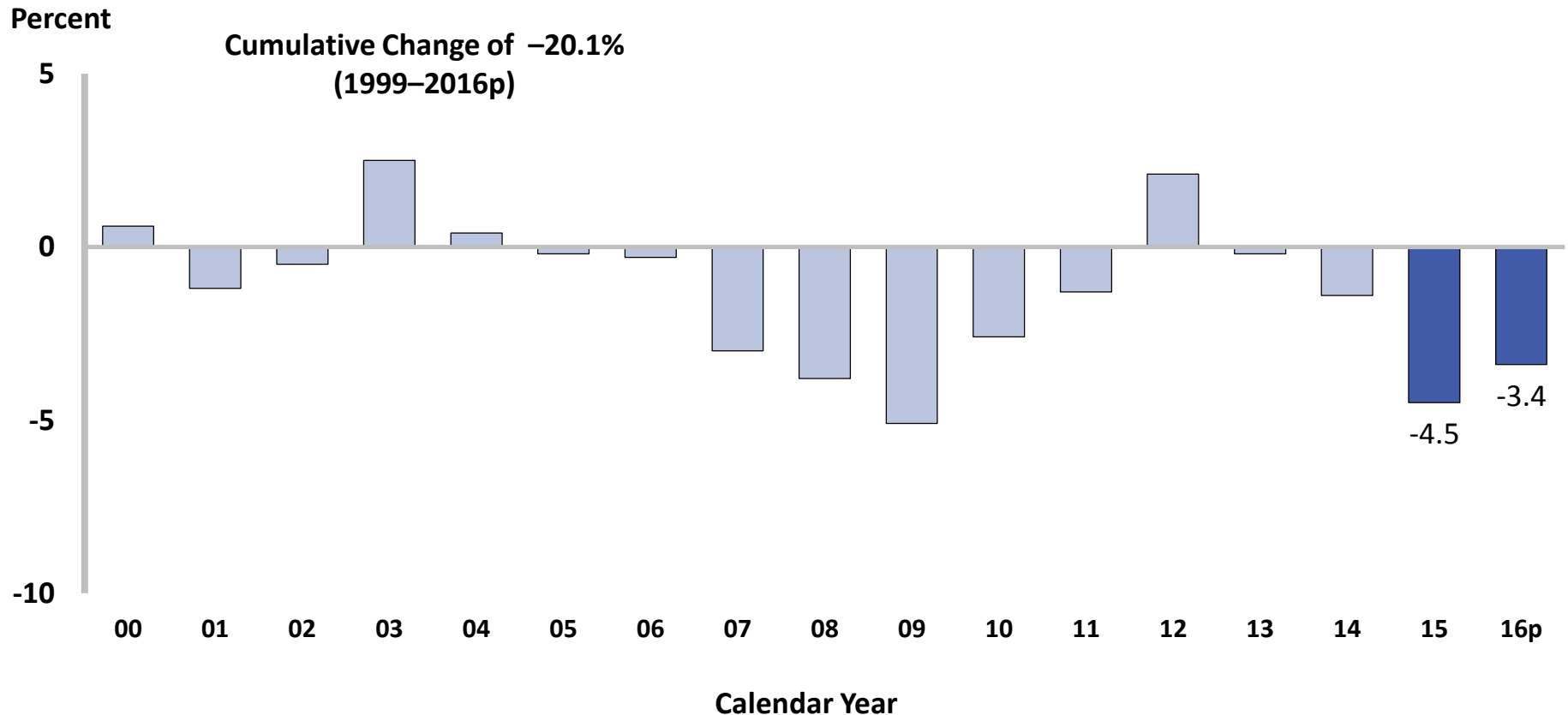
State Advisory FORUMS 2016

Filing Activity



Countrywide Workers Compensation Approved Changes in Bureau Premium Level

By Effective Year for NCCI States

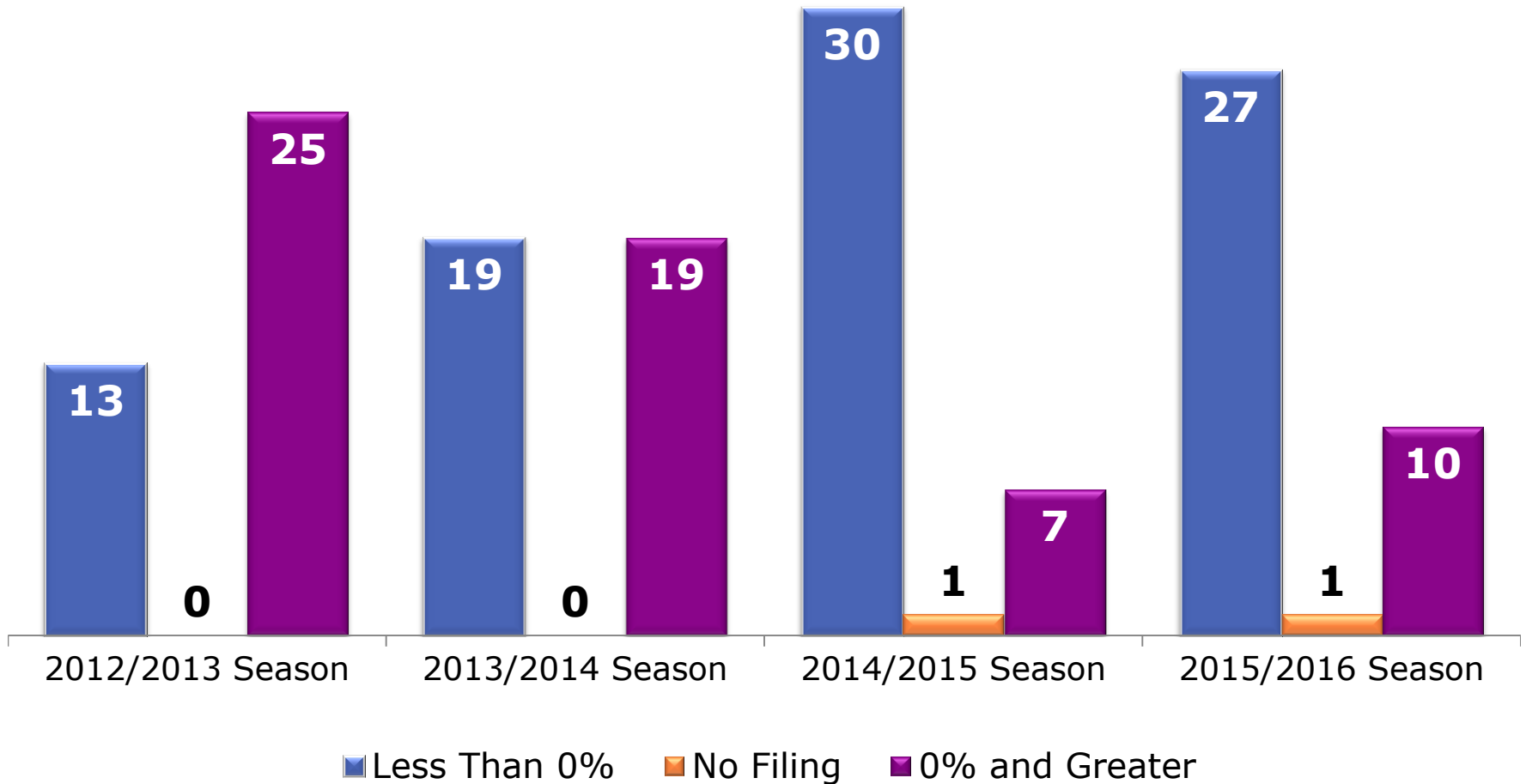


p Preliminary

Bureau premium level changes reflect approved changes in advisory rates, loss costs, assigned risk rates, and rating values, relative to those previously approved in NCCI states only; IN and NC are filed in cooperation with state rating bureaus

NCCI Voluntary Market Filing Activity

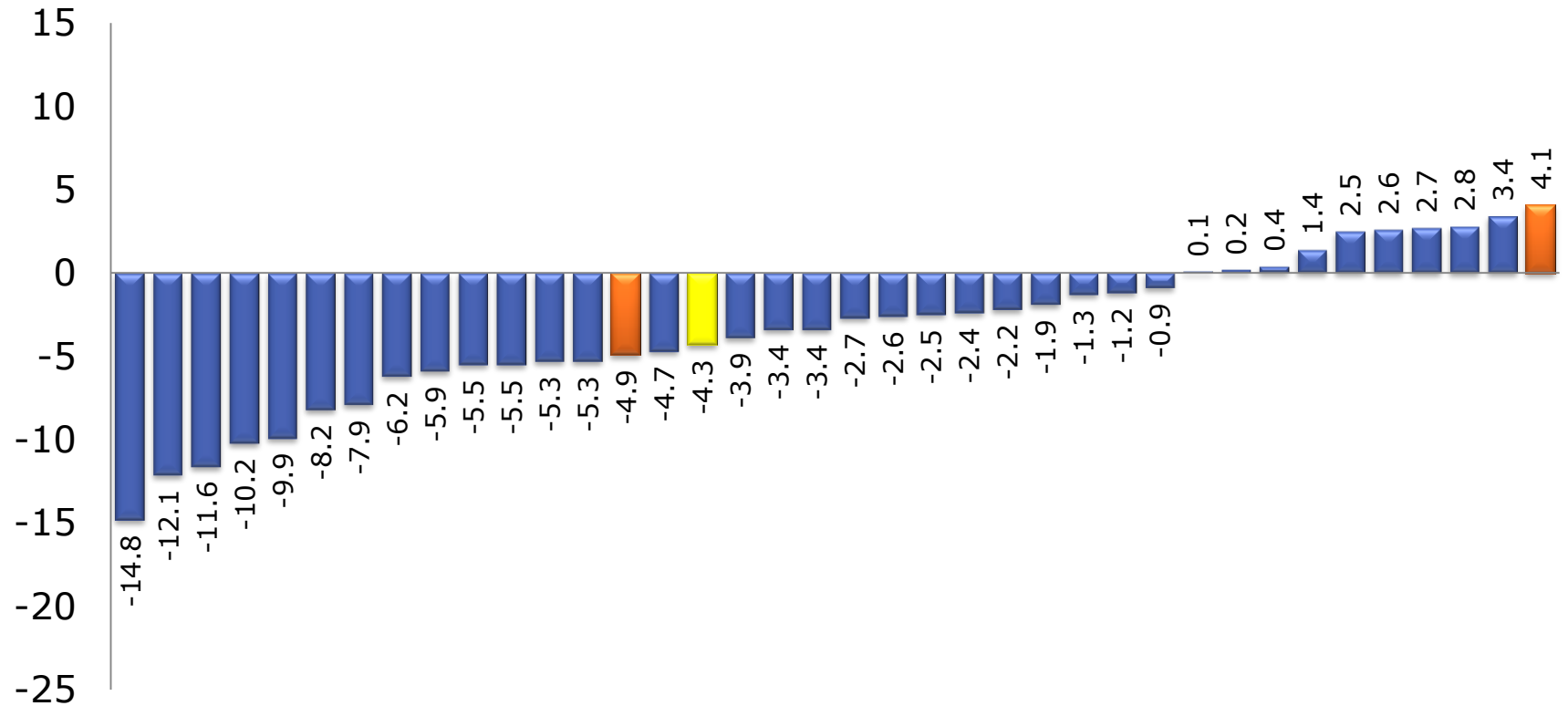
Number of State Loss Cost/Rate Filings by Filing Season



Current NCCI Voluntary Market Loss Cost/Rate Level Changes

Excludes Law-Only Filings

Percent



OKWVKS NCTX AL MSNMNH IL NVMDOR RI FL AR CT KY MT LA AK UTMOAZ COSD NE TN ME ID DC HI IN VT IA GAVA SC

■ Approved ■ Pending

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 Level Changes in Nearby States

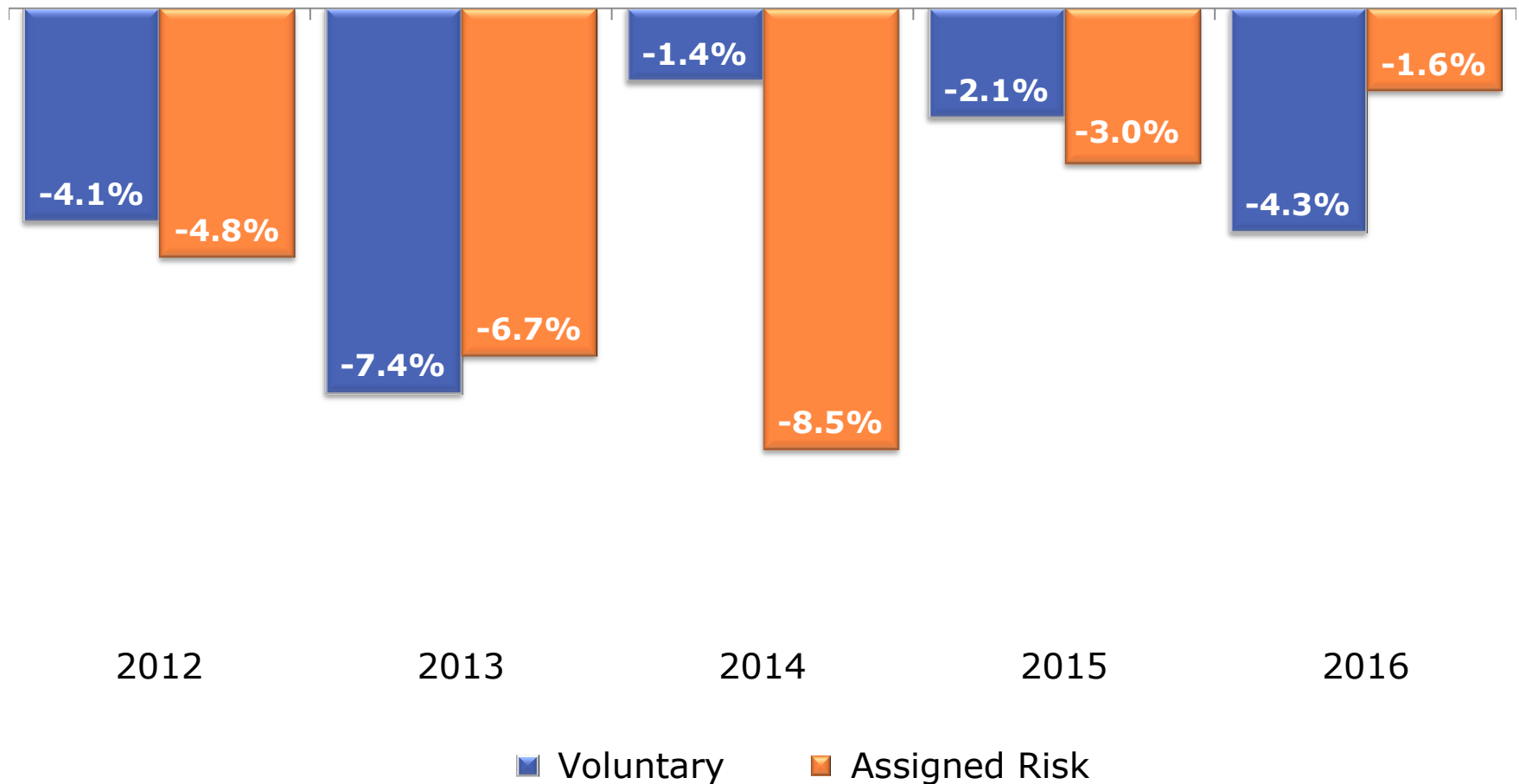
| | | |
|-----------------|---------------|--------------|
| South Carolina* | 9/1/16 | +4.1% |
| Tennessee | 3/1/16 | -0.9% |
| Missouri | 1/1/16 | -2.4% |
| Louisiana | 5/1/16 | -2.7% |
| Kentucky | 10/1/15 | -3.4% |
| Arkansas | 7/1/16 | -4.3% |
| Mississippi | 3/1/16 | -7.9% |
| Alabama | 3/1/16 | -8.2% |
| Texas | 7/1/16 | -9.9% |
| Oklahoma | 1/1/16 | -14.8% |

*Pending

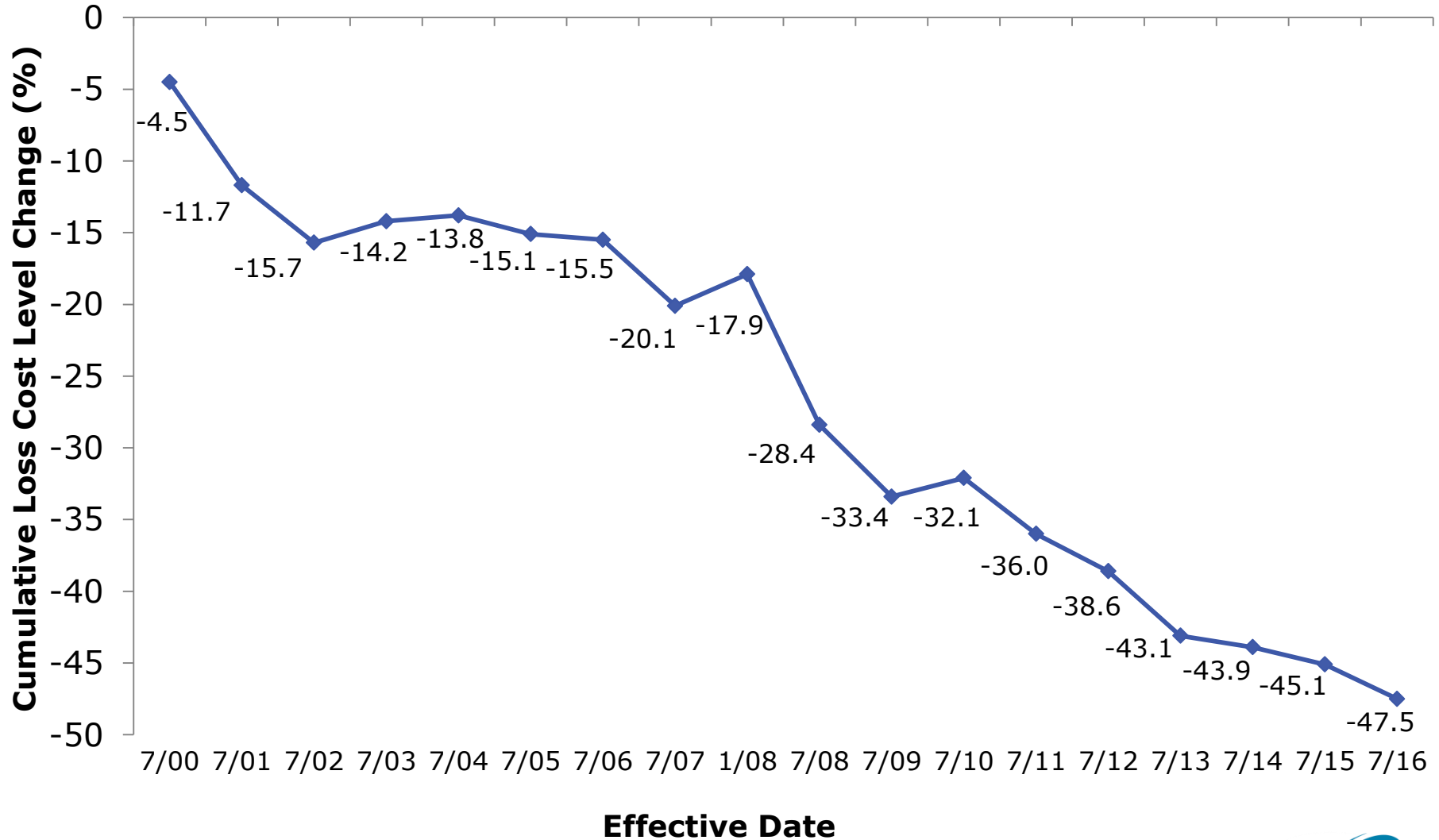


Arkansas Filing Activity

Voluntary Loss Cost and Assigned Risk Rate Changes



Arkansas Cumulative Approved Loss Cost Level Change



Arkansas

July 1, 2016 Loss Cost Filing

Overall Loss Cost Level Change: -4.3%

Changes due to:

**Experience and
Trend
-4.4%**

Experience
-2.9%

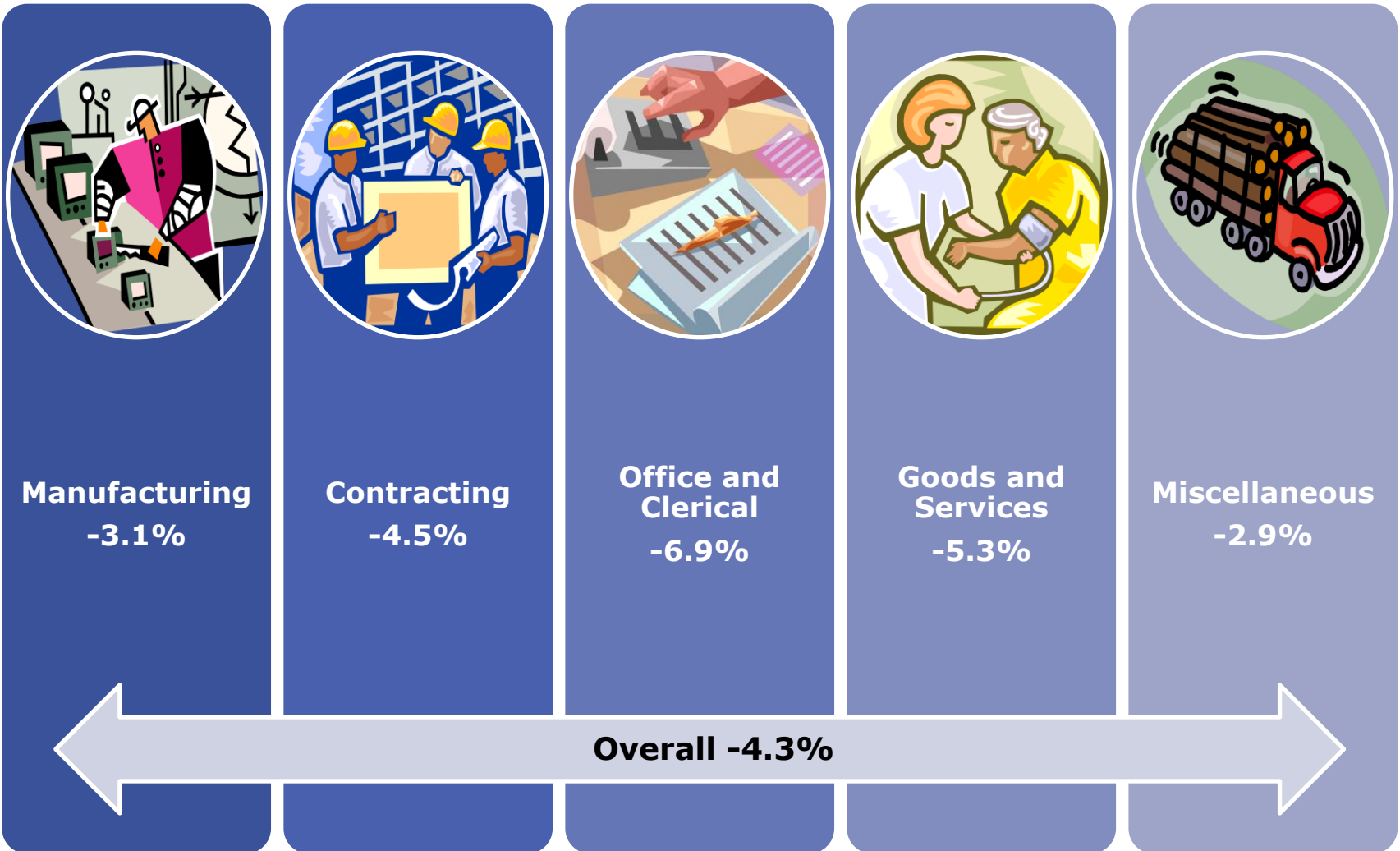
Trend
-1.5%

**Benefits
+0.4%**

Indemnity
(SAWW)
+1.1%

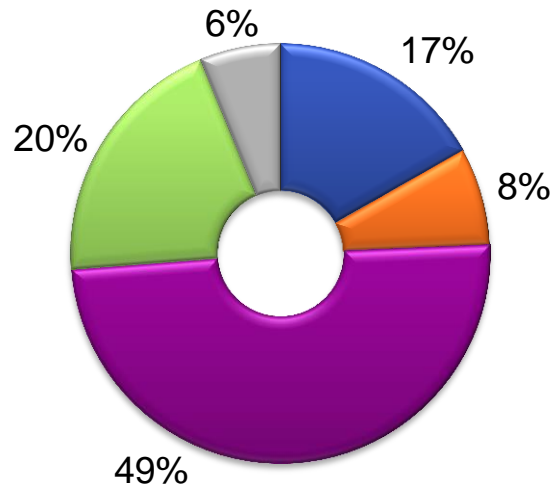
**LAE
-0.3%**

Arkansas July 1, 2016 Filing— Average Changes by Industry Group

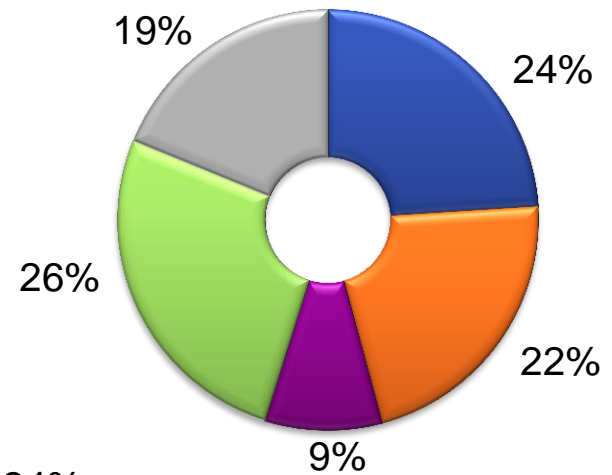


Arkansas Current Distribution by Industry Group

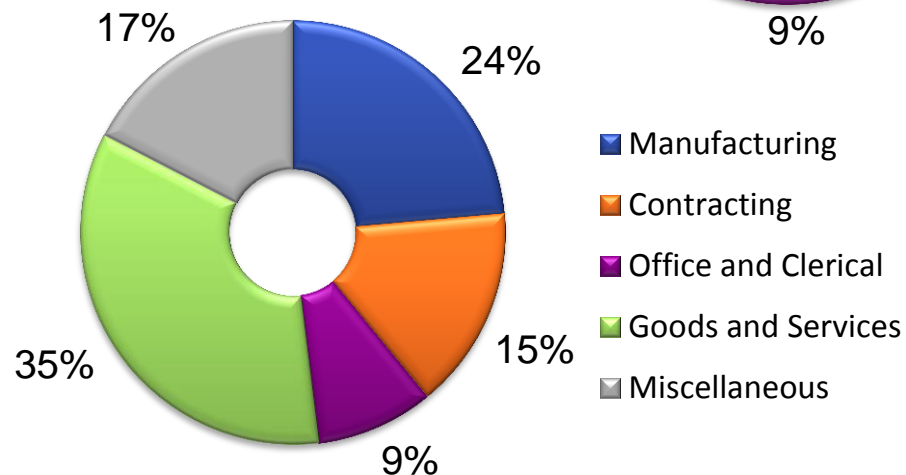
Payroll



Standard Premium



Claim Count

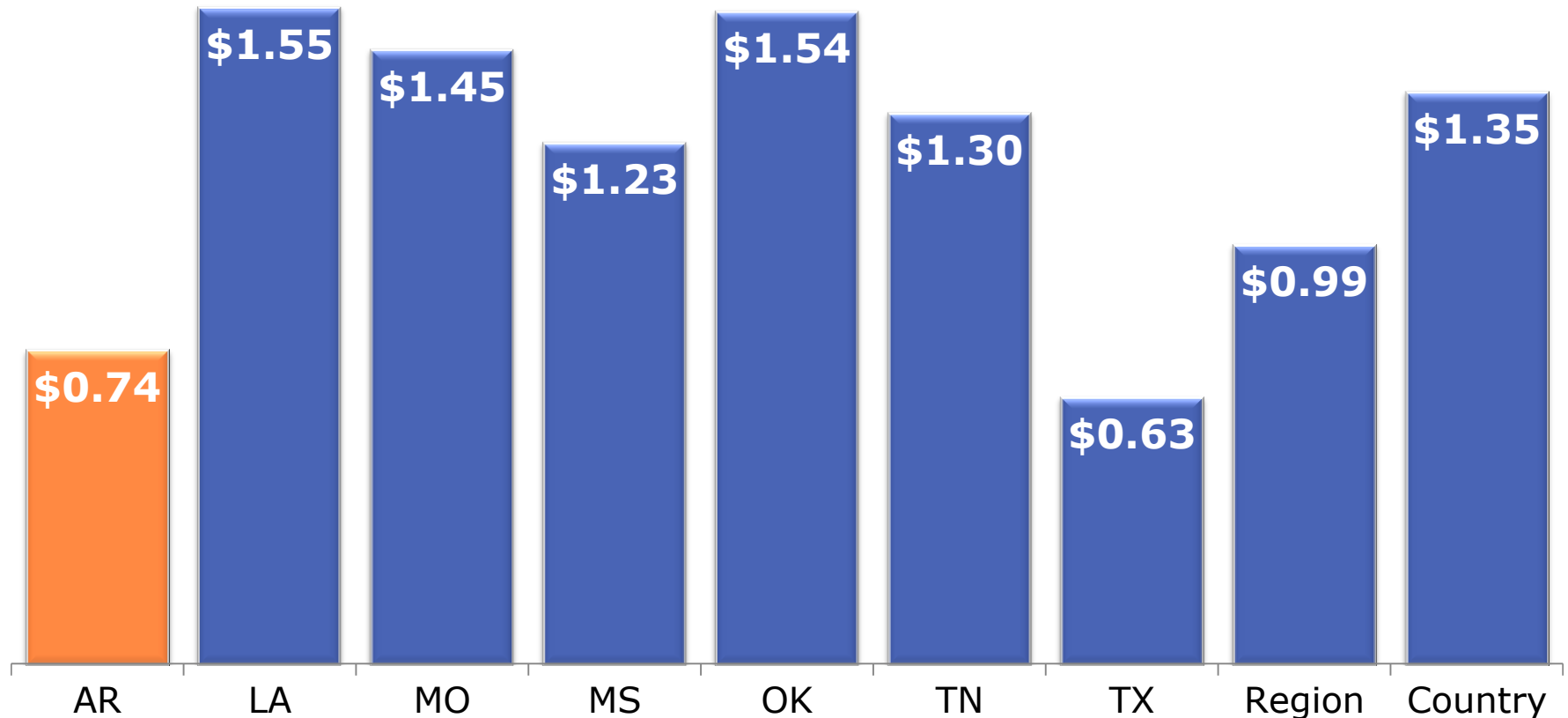


- Manufacturing
- Contracting
- Office and Clerical
- Goods and Services
- Miscellaneous

Based on NCCI's *Statistical Plan* data

Current Average Voluntary Pure Loss Costs Using Arkansas Payroll Distribution

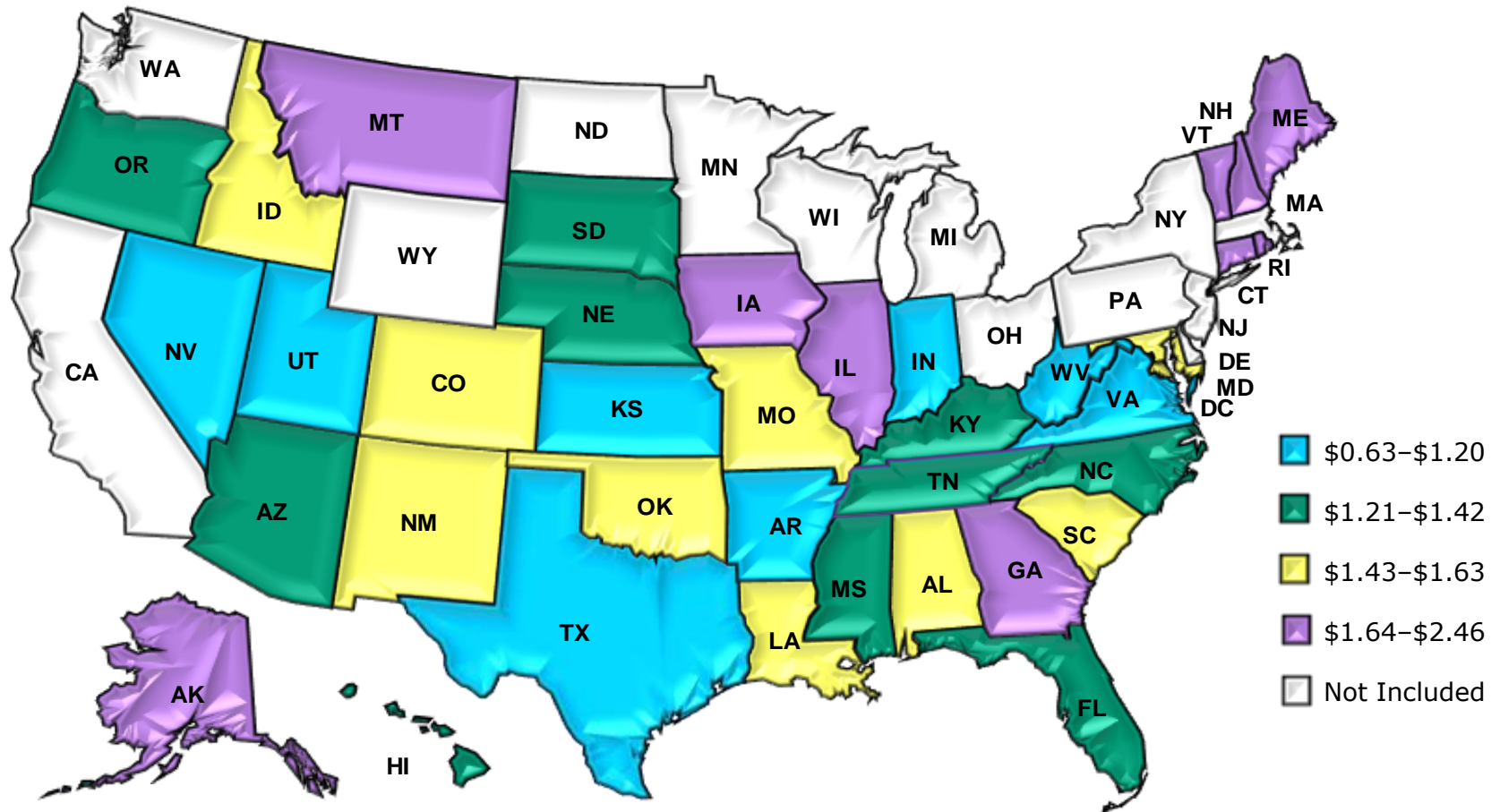
Pure Loss Cost—All Classes



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

*Texas uses a classification plan that can vary significantly from other NCCI states, potentially affecting the magnitude of its loss cost in relation to other states

Average Voluntary Pure Loss Cost Quartiles Using Arkansas Payroll Distribution



Arkansas = \$0.74

Countrywide = \$1.35

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



State Advisory FORUMS 2016

NCCI Item Filing Activity

- **Plan Premium Eligibility Threshold**
- **Elimination of Low Credibility Classifications**



Premium Eligibility Threshold (PET)

- Experience rating premium eligibility levels have not increased in many years
- NCCI's research has shown that the Experience Rating Plan's PETs are too low in most states
- Under the current PETs, risks that are too small to expect even one claim could receive a credit for being claim-free
- Generating credits for very small claim-free risks results in higher debit modifications for these risks for having just one claim

NCCI's PET Proposal

- Annually index the state PET for wage inflation
- Base the wage inflation index on the state average weekly wage as determined and published in the Quarterly Census of Employment and Wages (QCEW) by the US Bureau of Labor Statistics
- Round the indexed PET up or down to the nearest \$250

Implementation

Proposal will establish a change in PET six months after a state's loss cost/rate filing effective date

- For example, July 1 for states with January 1 loss cost effective dates
- The extra lead time between the loss cost/rate filing effective date and PET effective date allows for the smooth production of experience rating modifications
- This avoids an extra item filing each year

PET Impact

- Increasing the PET will only change the population of experience-rated risks. It will:
 - Not affect the calculation of the experience rating modification
 - Have no impact for the vast majority of employers
- A risk that is currently not eligible for experience rating would continue to not be eligible

PET Impact (cont'd)

- An experience-rated risk whose premium is near the PET may fall below the revised PET. Potentially, this risk:
 - Would no longer be experience-rated, and a unity factor of 1.00 would apply
 - May become experience-rated again, if its premium increases to meet or exceed the new eligibility levels
- A risk that is currently experience rated and remains eligible based on the revised PETs will not be affected.

PET Example

| \$8,000/\$4,000 | | | | |
|-------------------|-----------------|-----------------|-----------------|-----------------|
| Current State PET | Example 1 | Example 2 | Example 3 | Example 4 |
| Indexed State PET | \$4,327 | \$4,377 | \$4,001 | \$3,400 |
| New State PET | \$8,500/\$4,250 | \$9,000/\$4,500 | \$8,000/\$4,000 | \$8,000/\$4,000 |



State Advisory FORUMS 2016

Item B-1431: Low Credibility Classifications to Be Eliminated



Item B-1431

- This is a national classification item, focused on three areas:
 - Eliminating low credibility classifications
 - Mapping eliminated classifications
- To become effective concurrent with each state's approved loss cost/rate filing effective on and after October 1, 2016, unless otherwise noted
- Applicable to new and renewal policies

Credibility

- Credibility is the degree of reliance assigned to a certain body of data, expressed as a weight ranging from 0 to 1
- The higher the number, the more credible the data
- Lower credibility numbers mean that the data is less reliable (more volatile)
- Claims can result in significant year-to-year swings of rates or loss costs

Eliminating Classifications

- 8 national classifications to be eliminated

Examples:

- 1852—Asbestos Goods Mfg.
 - 2386—Lace Mfg.
 - 2913—Rattan, Willow or Twisted Fiber Products Mfg.
-
- 2 Arkansas state special classifications to be eliminated:
 - 1745—Hone or Oil Stone Mfg.
 - 1745—Oil or Hone Stone Mfg.
 - 1745—Soapstone or Soapstone Products Mfg.
 - 8295—Cotton Merchant
 - 8295—Cotton Storage

Mapping Classifications

- Eliminated classifications may have a small amount of remaining exposure or the possibility of generating exposure in the future
- In these cases, NCCI recommends where that exposure should be classified
- This is referred to as mapping

| State | State Special Classification to Be Eliminated | Proposed National Classification (Unless Otherwise Noted) |
|-------|---|--|
| AL | 3117—File Mfg. | 3118—File Mfg. |
| | 7500—Gas Works & Salespersons, Drivers | 7502—Gas Works & Drivers |
| | | 8742—Salespersons or Collectors—Outside* |
| AR | 1745—Hone or Oil Stone Mfg. 1745—Oil or Hone Stone Mfg. 1745—Soapstone or Soapstone Products Mfg. | 1803—Hone or Oil Stone Mfg. & Drivers 1803—Soapstone or Soapstone Products Mfg. & Drivers |
| | 8295—Cotton Merchant 8295—Cotton Storage | 8103—Cotton Merchant 8103—Cotton Storage |

* The indicated national phraseology currently applies in this state. Therefore, no national exhibit is proposed for approval.

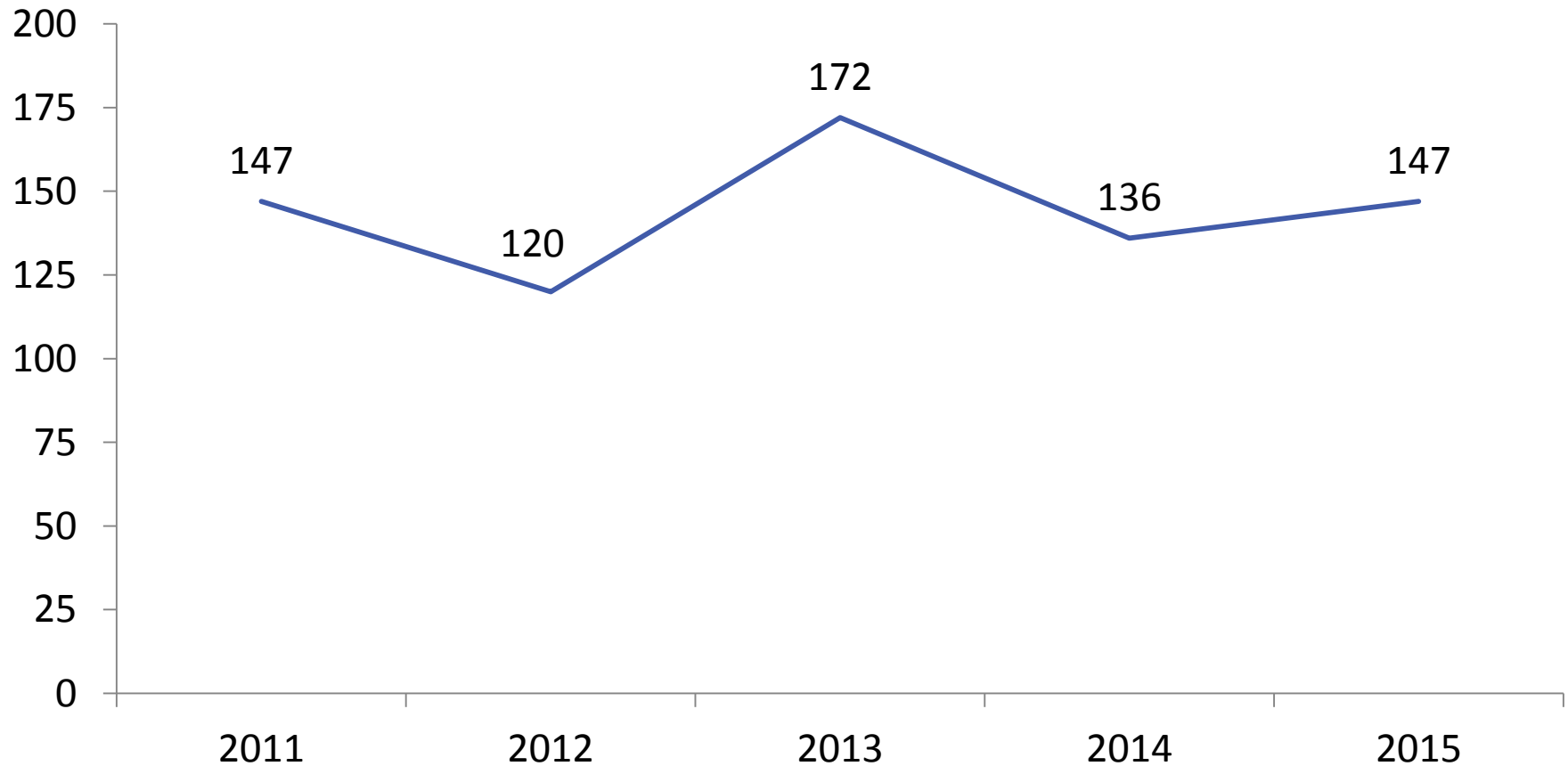


State Advisory FORUMS 2016

Legislative, Regulatory, and Judicial Issues



Number of Requests to NCCI for Pricing of Law/Regulation Changes in the Last Five Years



Key Workers Compensation— Related Topics in 2016 Legislation

- First Responder Presumption
- Employer/Employee Definition
- Medical Cost Management
- Independent Contractors and Misclassification
- Exclusive Remedy
- Opt-Out

Medical Cost Management—Drug Formulary

- States Recently Instituting Drug Formularies:
 - Tennessee Rule 0800-02-25-.04, effective August 28, 2016
 - California AB 1124, effective on or before July 1, 2017
- Recent Legislation Proposing Formularies:
 - Nebraska LB 1005, deferred due to prioritization
 - Louisiana HB 725
- Recent Regulations Proposing Formularies:
 - Arizona—Rules R20-5-1301 through 1312
 - Nevada guidelines
- Study to Explore Feasibility of Implementation:
 - North Carolina has completed the study required in HB 97, recommending further review and postponing implementation to no earlier than July 1, 2018

Opt-Out

Introduced, but no further action has been taken:*

- South Carolina Employee Injury Benefit Plan Alternative (HB 4197)
- Tennessee Employee Injury Benefit Alternative (HB 997/SB 721)

*As of May 24, 2016



Key Takeaways



Legislative activity for 2016 is about average for an election year

No significant workers compensation measures have progressed

Opt-out proposals in South Carolina and Tennessee have failed to advance

The financial impact on the state workers compensation system of legislation priced in 2016 ranged from -3.7% to +6.0%

Judicial Issues—Workers Compensation-Related Statutes Held Unconstitutional

FL: Mandatory claimant attorney fee schedule
Castellanos v. Next Door Co. (FL Supreme Court)

OK: Portions of Opt-Out Law (Employee Injury Benefit Act)
Vasquez v. Dillard's, Inc. (OK Workers' Compensation Commission)

– **Decision under review by OK Supreme Court**

PPD deferral upon employee's return to work
Maxwell v. Sprint (OK Supreme Court)

PA: Impairment determined by "most recent edition" of *AMA Guides to the Evaluation of Permanent Impairment*
Protz v. WC Appeals Board (PA Commonwealth Court)

– **Decision under review by PA Supreme Court**



State Advisory FORUMS 2016

Arkansas Legislative and Judicial Issues



Arkansas Legislature 2016 Special Session

- Legislation was initially drafted to close the Death and Permanent Total Disability Trust Fund (Fund) to new claims effective January 1, 2017.
 - NCCI estimated that if the drafted legislation were enacted, Arkansas loss costs could have increased between +3.6% and +4.6% in order to prefund for the portion of indemnity benefits that would no longer be the responsibility of the Fund
- On May 23, 2016, amended legislation was enacted closing the Fund effective **July 1, 2019**. NCCI will be reevaluating its earlier analysis as a result of the change in effective date.

Judicial Issues: Wilhelm v. Parsons

Will Arkansas Supreme Court grant the employee's petition for review and hear this case?

- **Claimant's Argument:** Exception to exclusive remedy should be created when the employer breaches a statutory duty
- **Employer's Argument:** No such exclusion necessary
 - Statutory penalties already exist for employer's wrongful actions
 - Failing to report employee wages could result in retroactive premium adjustment
 - Employee has no workers compensation remedy because he failed to file a workers compensation claim within the two-year statute of limitations

Judicial Issues: Hendrix v. Alcoa, Inc.

Arkansas Supreme Court

Does exclusive remedy bar suit even if claimant is not eligible for WC benefits?

Scheduled for Oral Arguments June 2, 2016

- **Claimant's Argument:** Exclusive remedy provision does not apply because she has no remedy against the employer
 - Arkansas Workers' Compensation Commission ruled that the claimant was not eligible for workers compensation benefits because the disease did not manifest within the statutory three-year period after the last occupational exposure
 - Subsequent tort suit against the employer is barred by exclusive remedy provision
- **Employer's Argument:** Exclusive remedy applies



State Advisory FORUMS 2016

Kids Chance of Arkansas

**Educating Children of
Injured Workers**





State Advisory FORUMS 2016

Arkansas Commissioner of Insurance

Allen Kerr



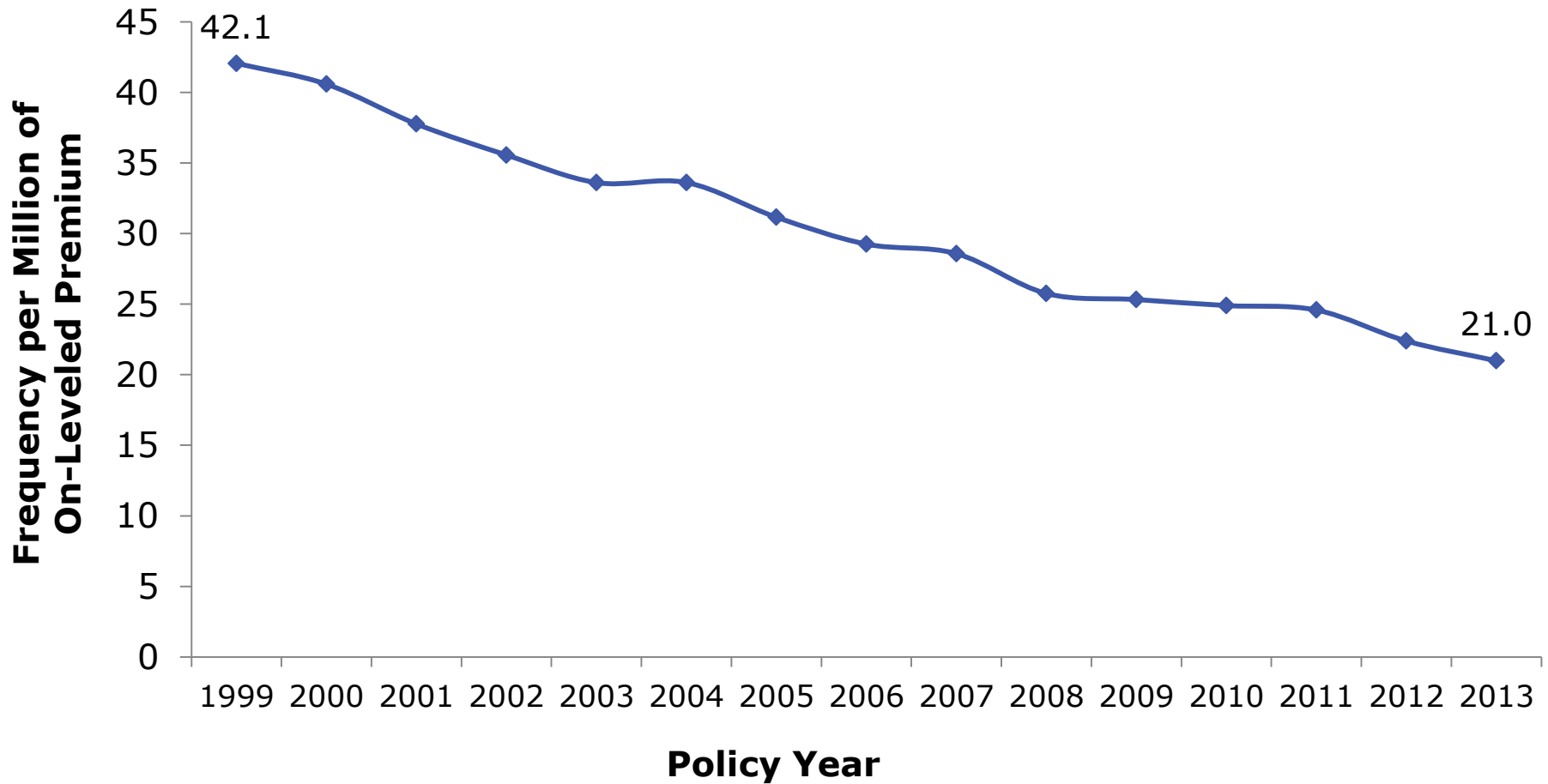


State Advisory FORUMS 2016

Claim Frequency and Severity



Arkansas Claim Frequency



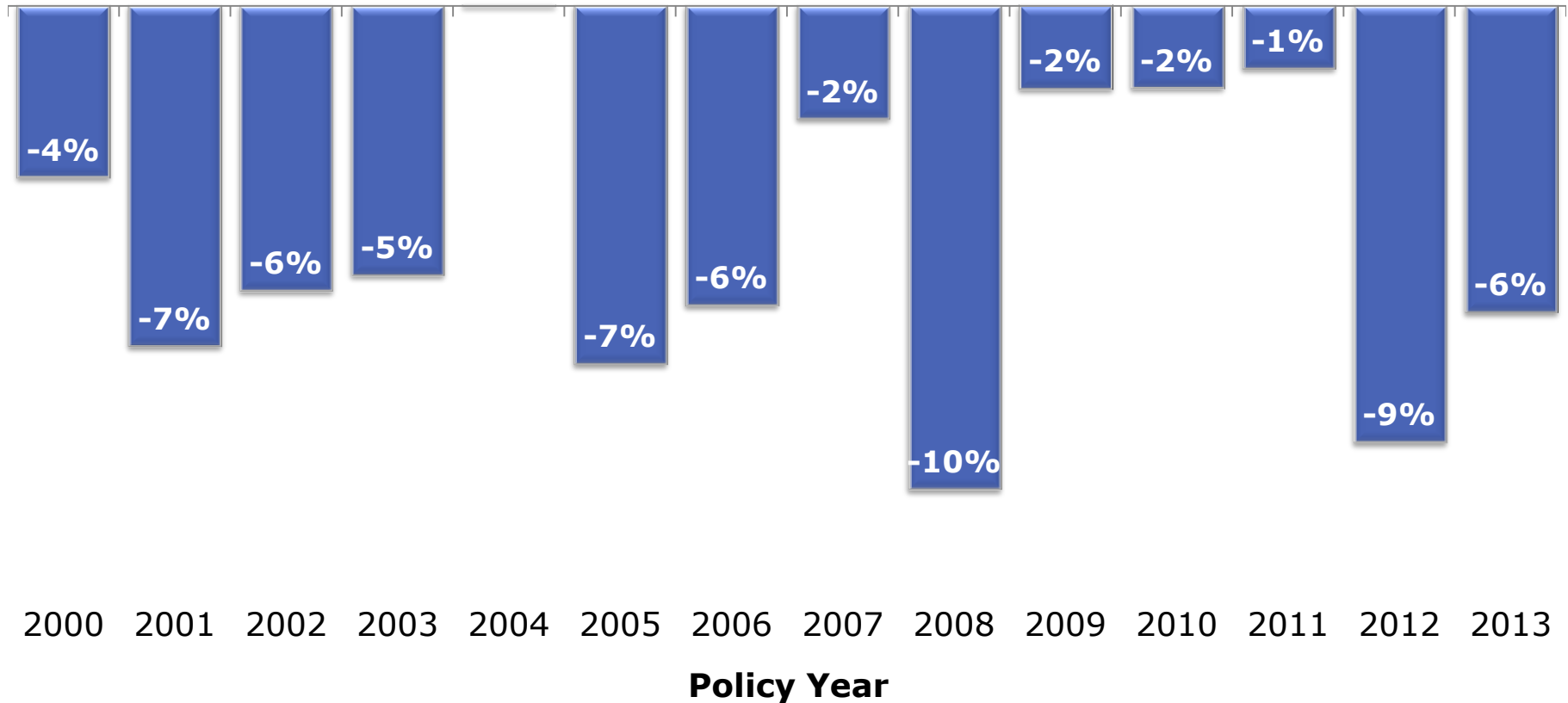
Based on NCCI's financial data
Frequency of lost-time claims adjusted to a common wage level

Arkansas Workers Compensation Lost-Time Claim Frequency

Lost-Time Claims

Percent
Change

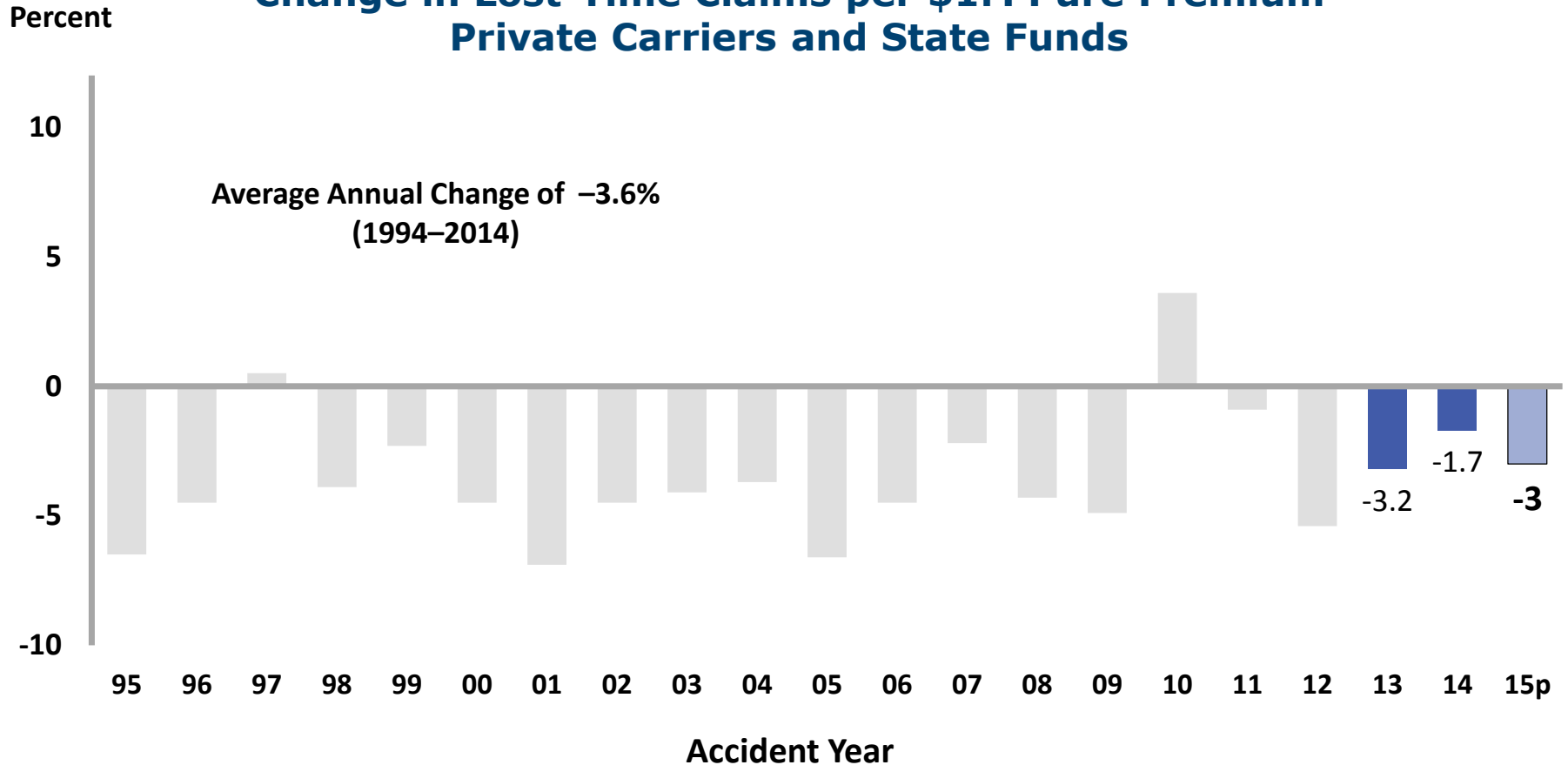
Cumulative Change of **-50.1%**
(1999–2013)



Based on data through 12/31/2014, developed to ultimate

Countrywide Workers Compensation Lost-Time Claim Frequency

**Change in Lost-Time Claims per \$1M Pure Premium
Private Carriers and State Funds**



2010 and 2011 adjusted primarily for significant changes in audit activity

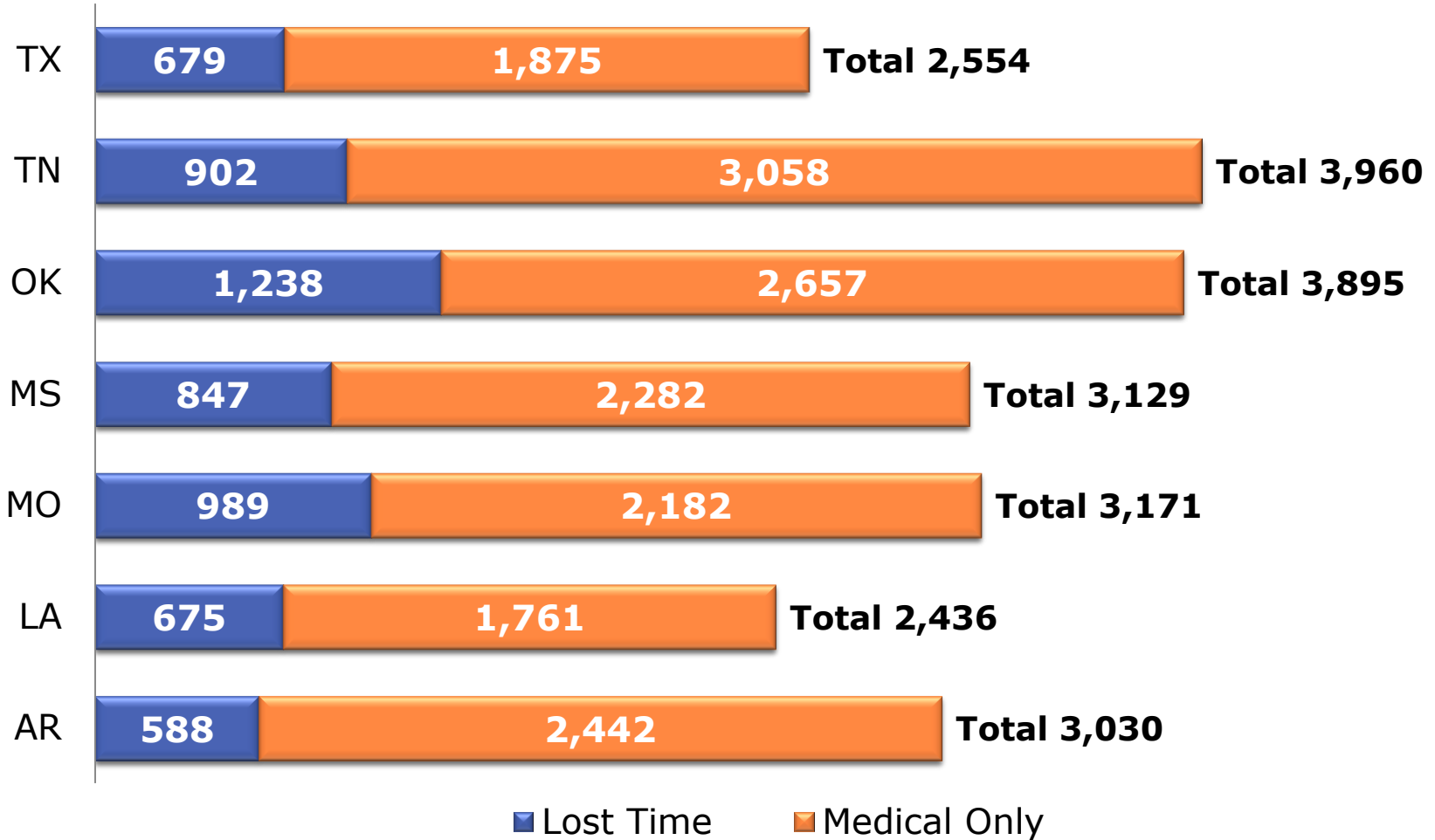
p Preliminary based on data valued as of 12/31/2015

Source: NCCI Financial Call data, developed to ultimate and adjusted to current wage and voluntary loss cost level, excludes high-deductible policies; 1994–2014: based on data through 12/31/2014

Includes all states where NCCI provides ratemaking services; WV is excluded through 2014, but included in 2015

Arkansas Average Claim Frequency

Frequency per 100,000 Workers—All Claims



Based on NCCI's **Statistical Plan** data

Claim frequency for Arkansas based on data from policies with effective dates between February 2012 and January 2013

Arkansas Distribution of Claims by Injury Type

Arkansas



Region



Countrywide



0% 20% 40% 60% 80% 100%

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

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

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

Medical Benefits Constitute the Majority of Total Benefit Costs in Arkansas

Arkansas



Region



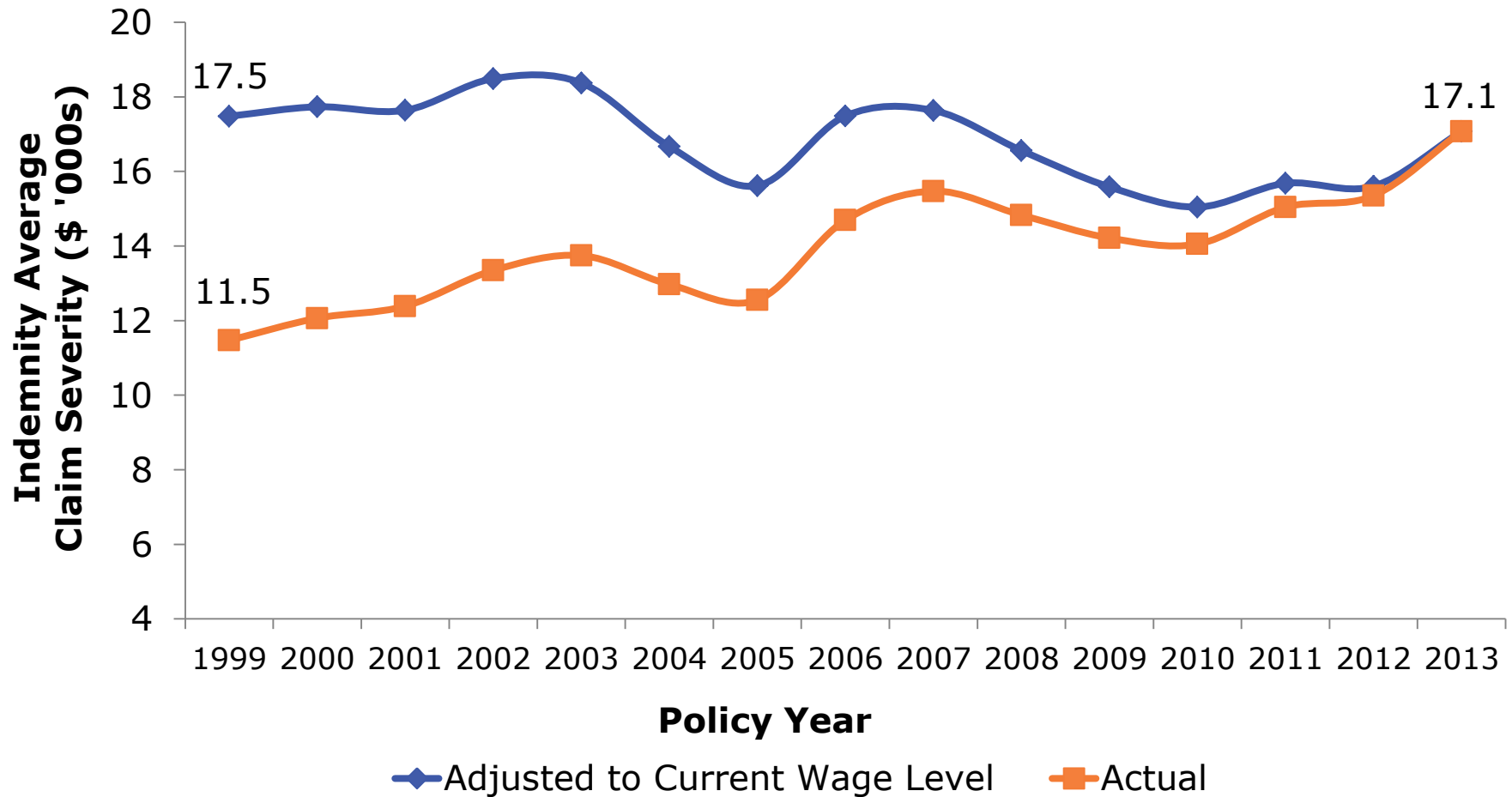
Countrywide



0% 20% 40% 60% 80% 100%

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

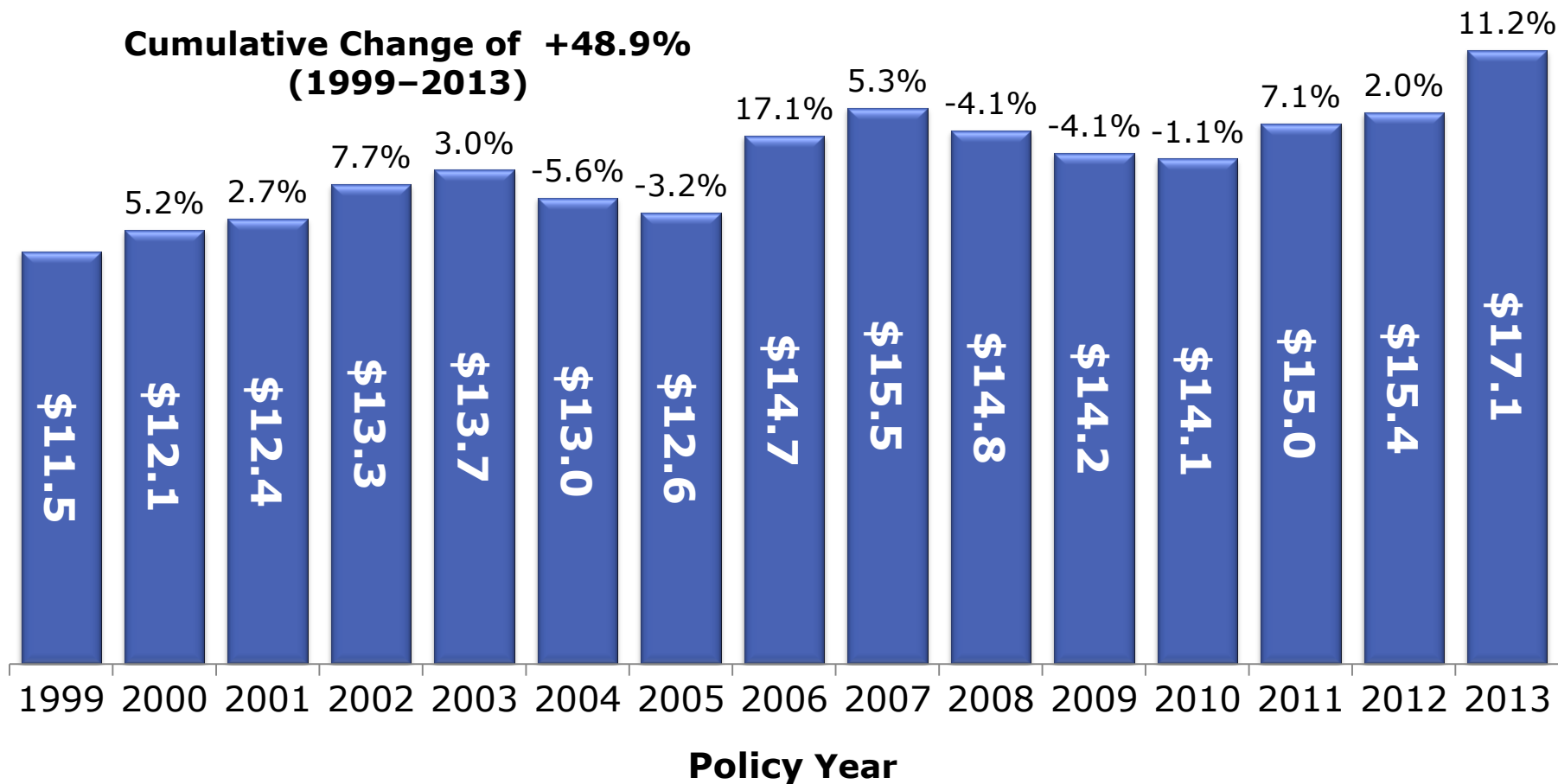
Arkansas Average Indemnity Severity



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

Arkansas Average Indemnity Claim Severity

Lost-Time Claim Severity in \$ Thousands

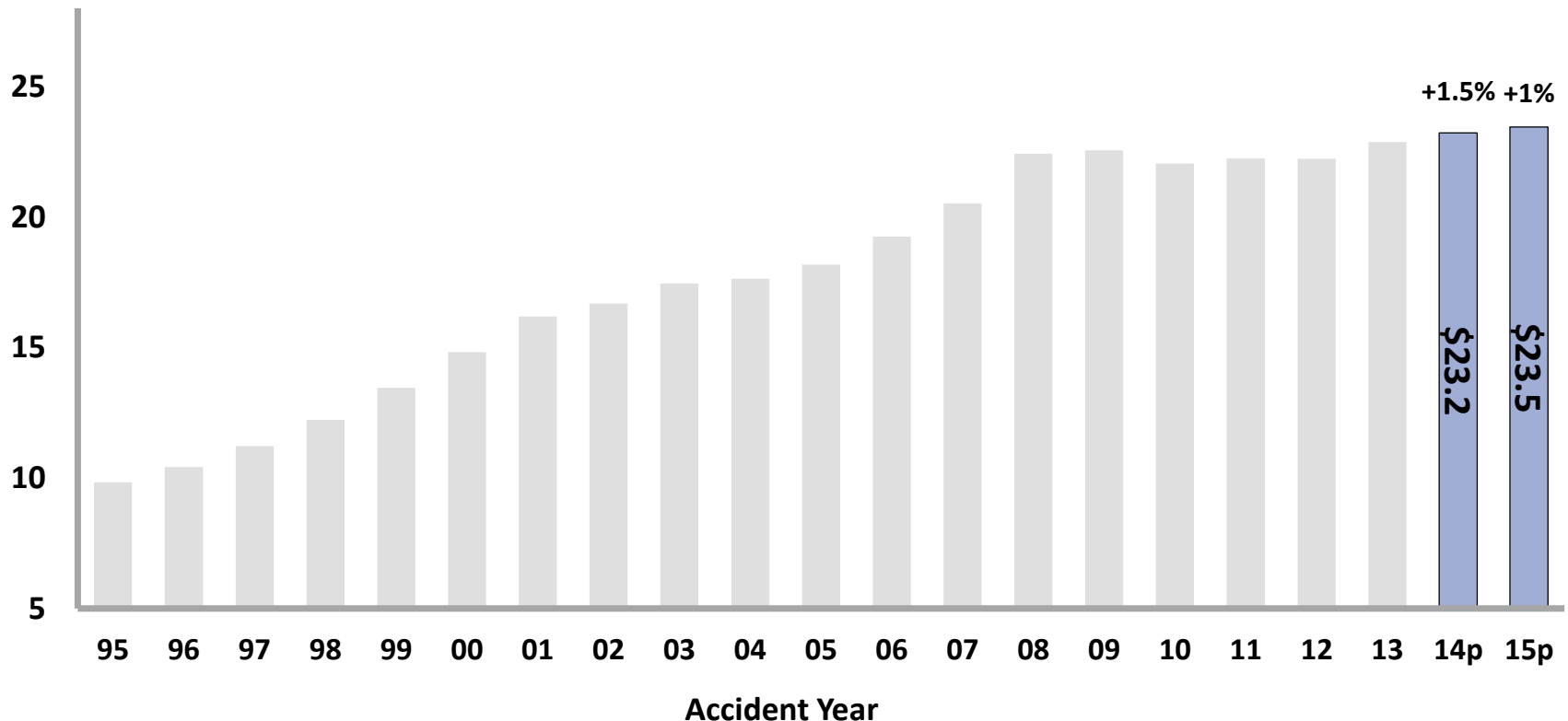


Based on data through 12/31/2014, on-leveled and developed to ultimate

Countrywide Workers Compensation Average Indemnity Cost per Lost-Time Claim

Private Carriers and State Funds—NCCI States

Severity
(\$ Thousands)



p Preliminary based on data valued as of 12/31/2015

Source: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies;

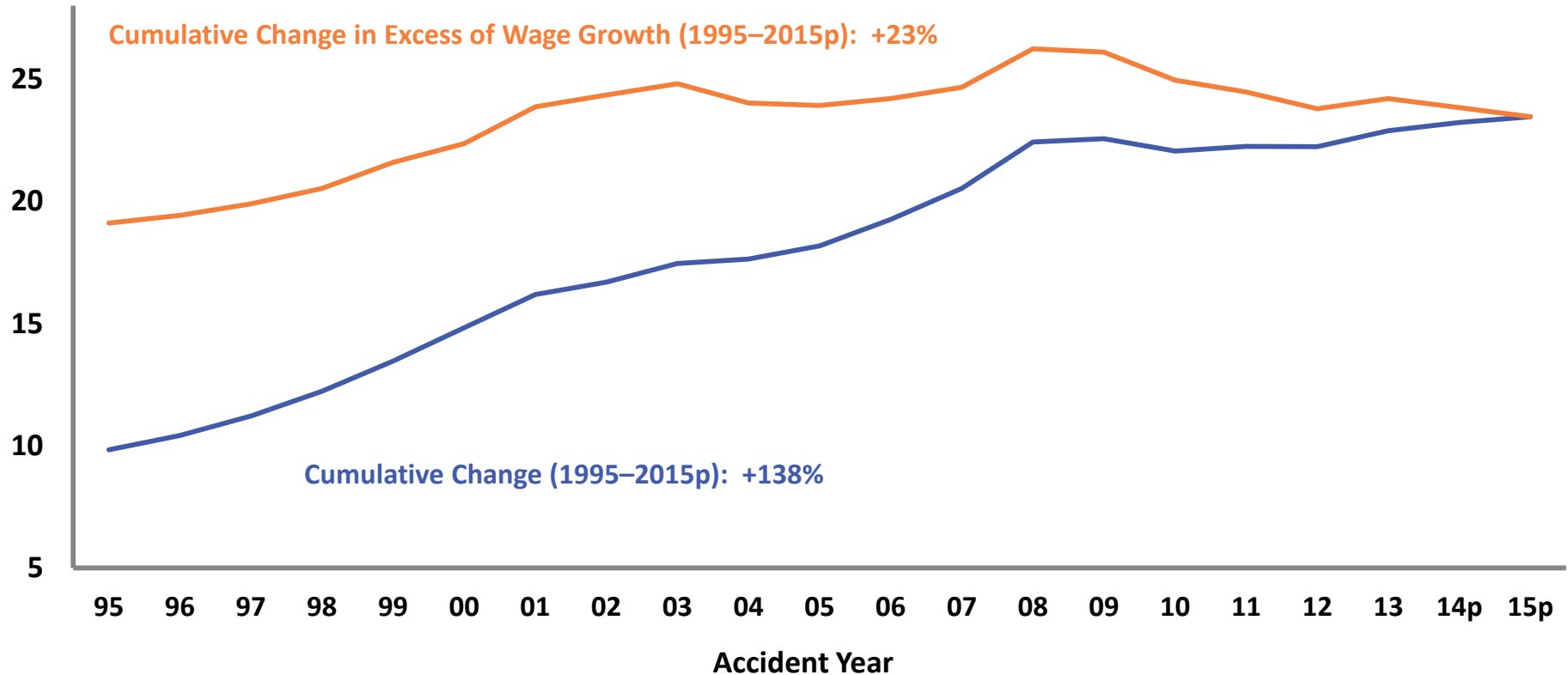
1994–2013: based on data through 12/31/2014

Includes all states where NCCI provides ratemaking services; WV is included in 2014 and subsequent

Countrywide Workers Compensation Average Indemnity Cost per Lost-Time Claim

Private Carriers and State Funds—NCCI States

Severity
(\$ Thousands)



p Preliminary based on data valued as of 12/31/2015

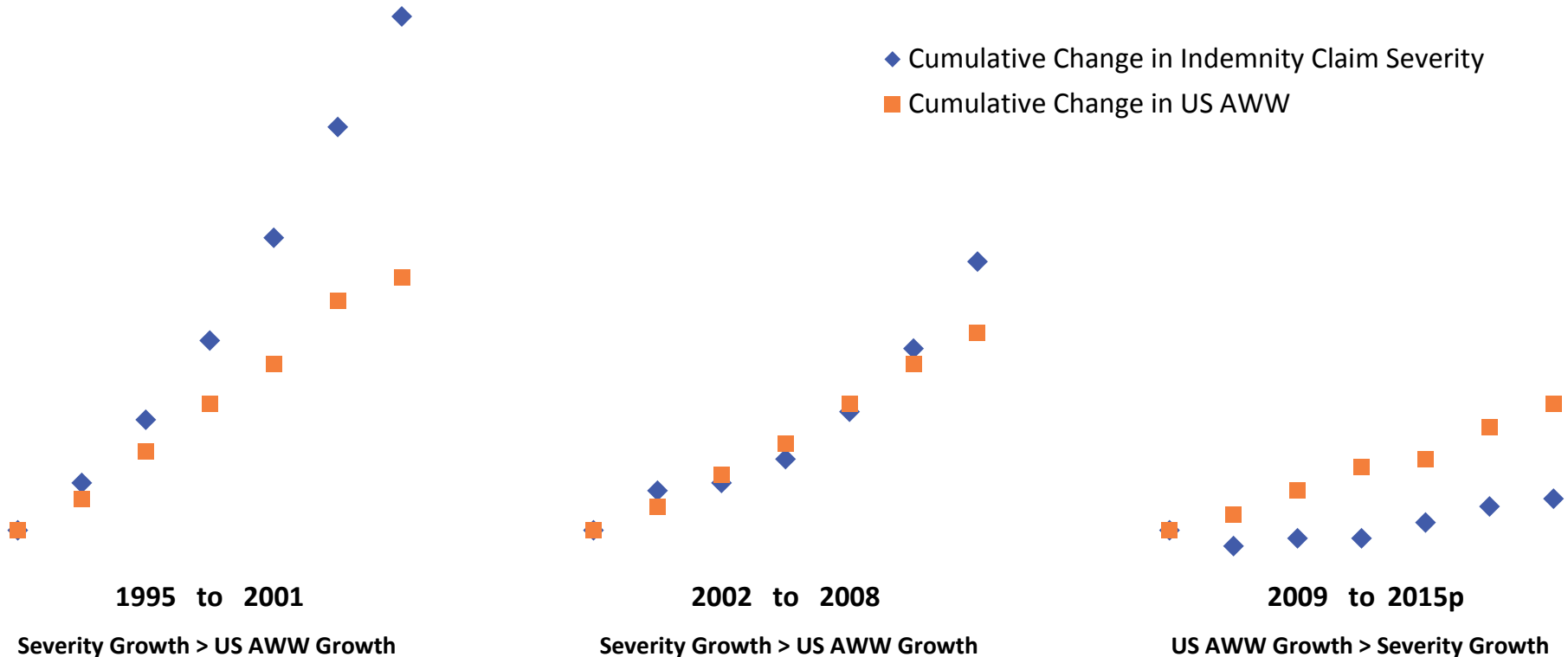
Sources: Severity: NCCI Financial Call data, developed to ultimate, excludes high-deductible policies; 1994–2013: based on data through 12/31/2014

US Average Weekly Wage: 1994–2007 and 2012–2014, Quarterly Census of Employment and Wages; 2008–2011, NCCI; 2015p, NCCI and Moody's Economy.com

Includes all states where NCCI provides ratemaking services; WV is included in 2014 and subsequent

Countrywide Relative Growth Rates— Indemnity Severity vs. Wage Inflation

Private Carriers and State Funds—NCCI States



p Preliminary based on data valued as of 12/31/2015

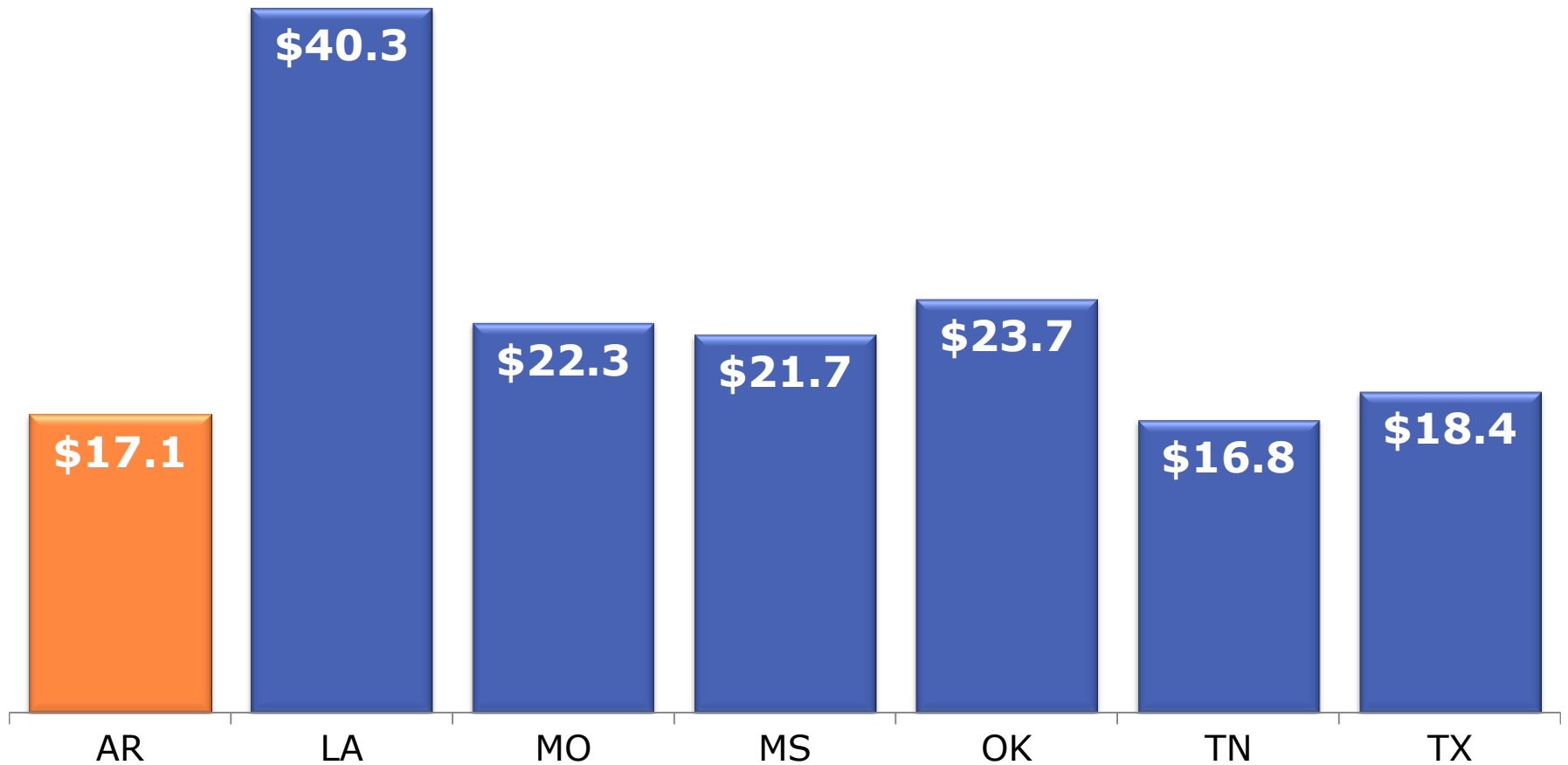
Sources: Severity: NCCI Financial Call data, developed to ultimate, excludes high-deductible policies; 1994–2013: based on data through 12/31/2014

US Average Weekly Wage: 1994–2007 and 2012–2014, Quarterly Census of Employment and Wages; 2008–2011, NCCI; 2015p, NCCI and Moody's Economy.com

Includes all states where NCCI provides ratemaking services; WV is included in 2014 and subsequent

Average Indemnity Claim Severity in the Region

Lost-Time Claim Severity in \$ Thousands



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

Arkansas Indemnity Loss Distribution by Injury Type

Arkansas



Region



Countrywide



0% 20% 40% 60% 80% 100%

■ Temporary Total

■ Permanent Partial

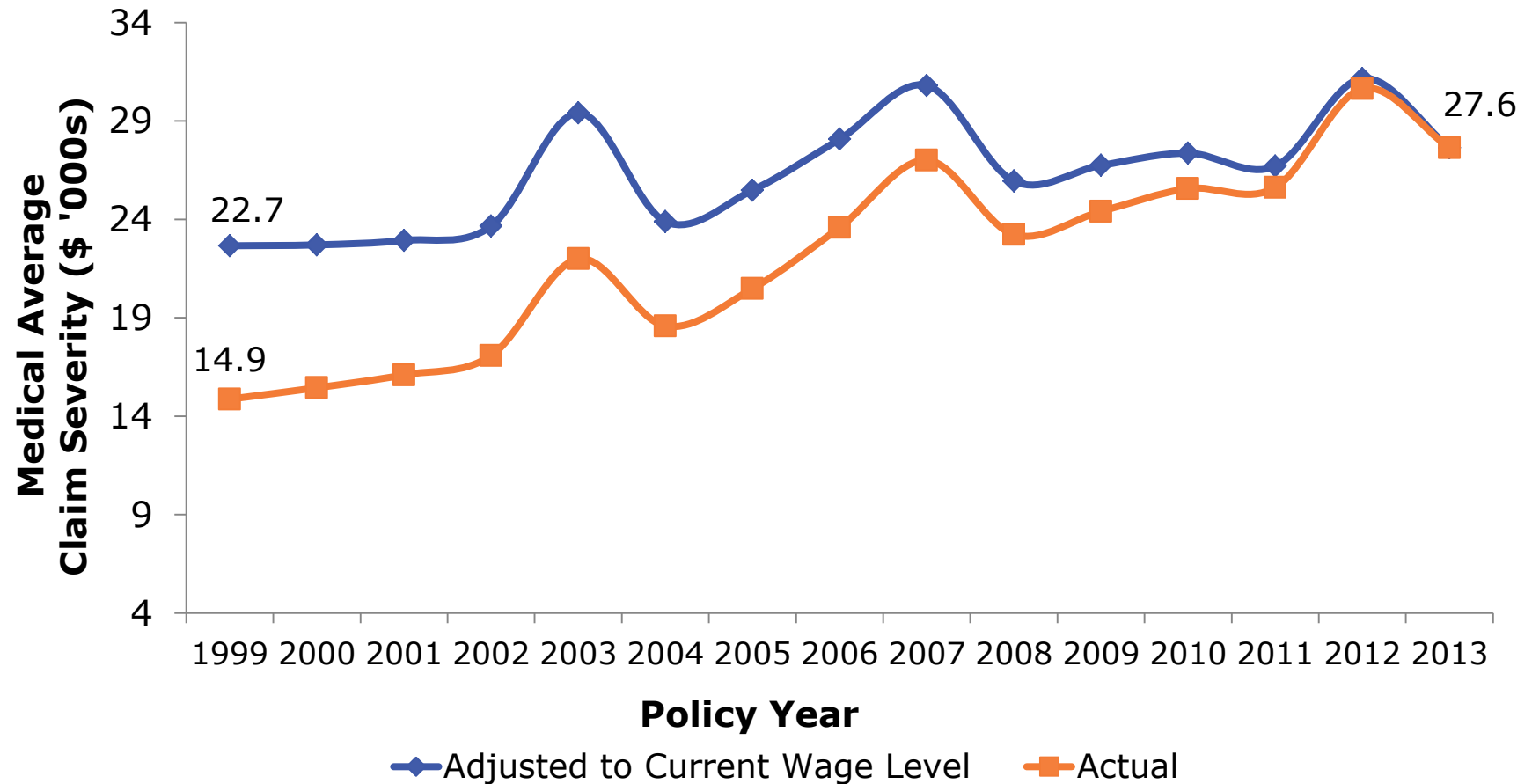
■ Permanent Total

■ Fatal

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

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

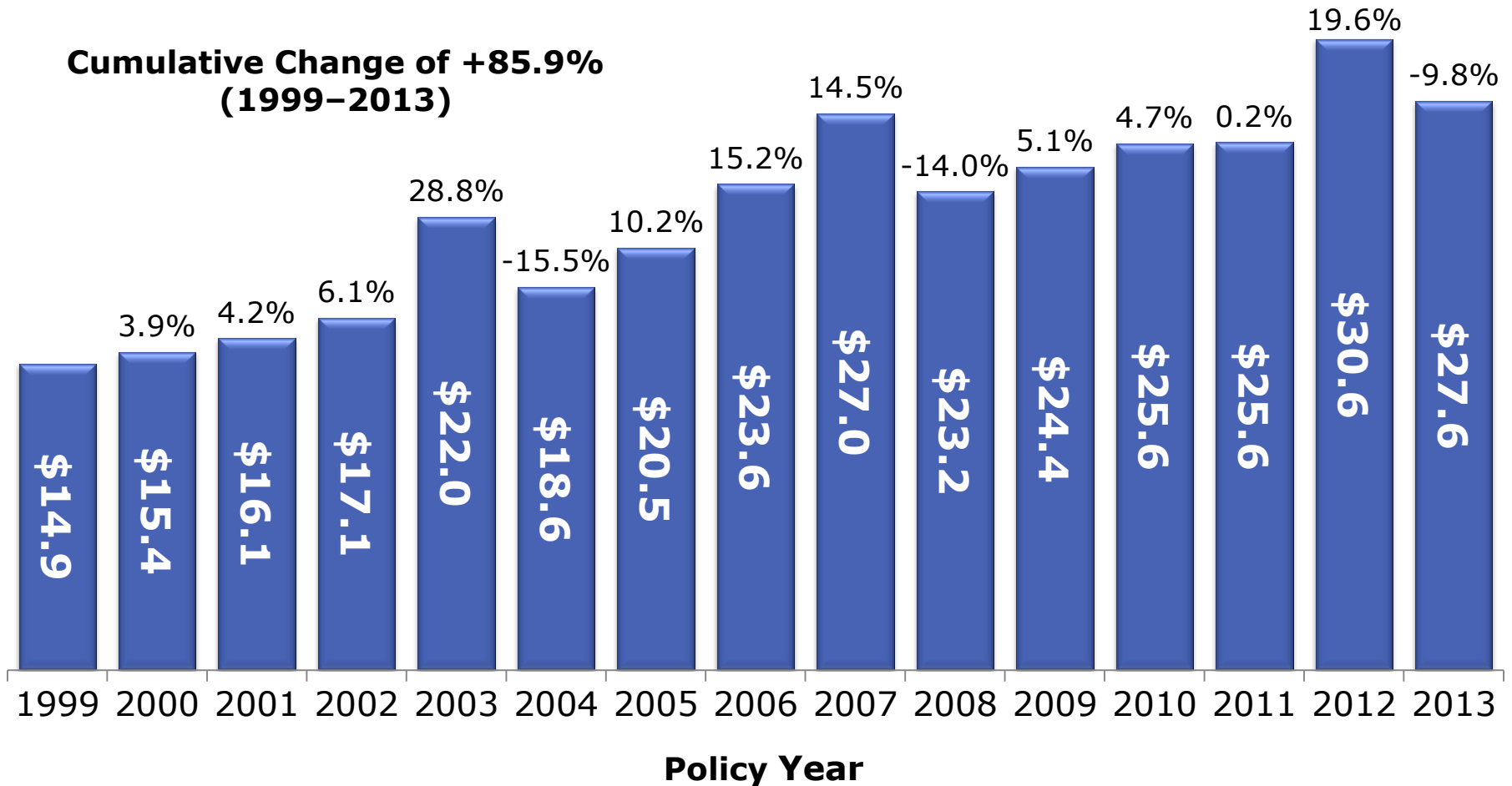
Arkansas Average Medical Severity



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

Arkansas Average Medical Claim Severity

Lost-Time Claim Severity in \$ Thousands

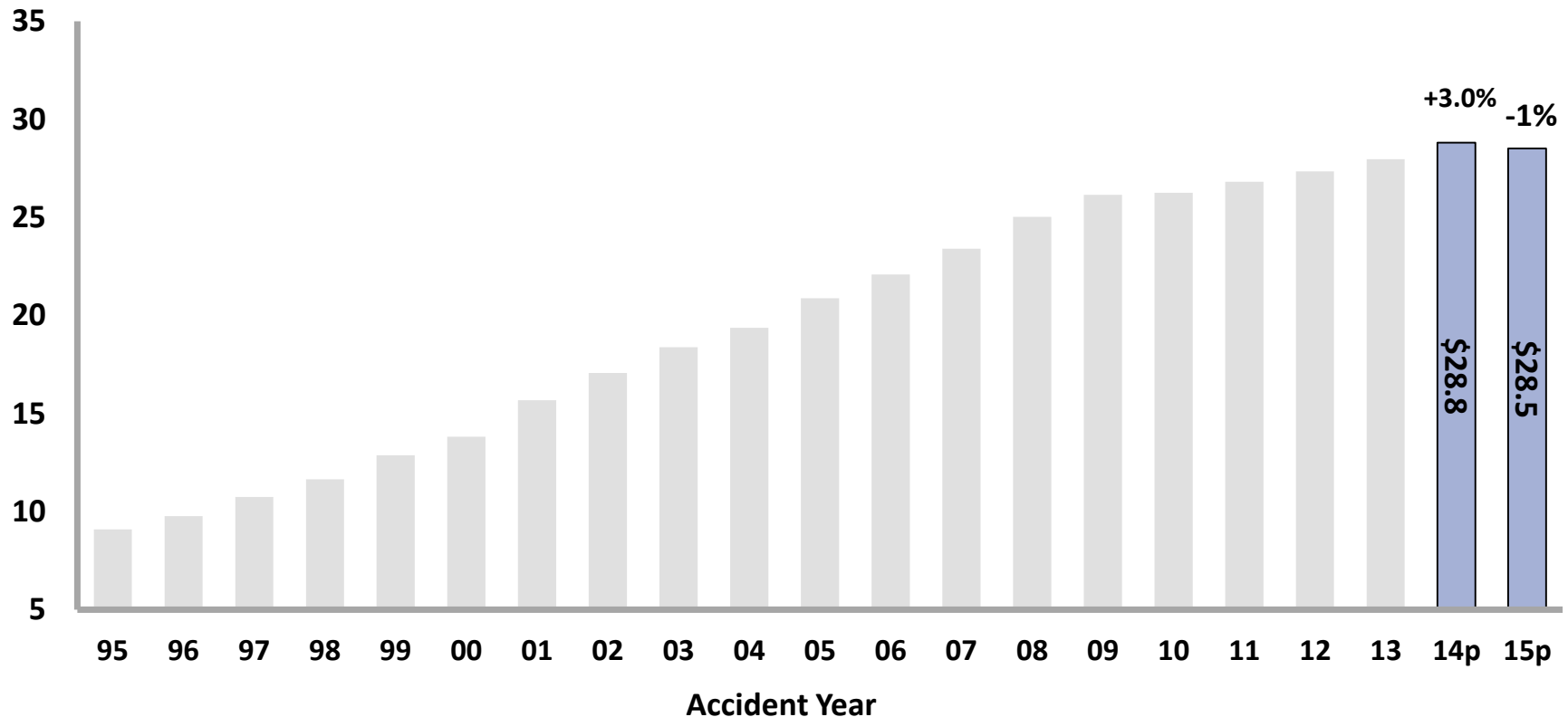


Based on data through 12/31/2014, on-leveled and developed to ultimate

Countrywide Workers Compensation Average Medical Cost per Lost-Time Claim

Private Carriers and State Funds—NCCI States

Severity
(\$ Thousands)



p Preliminary based on data valued as of 12/31/2015

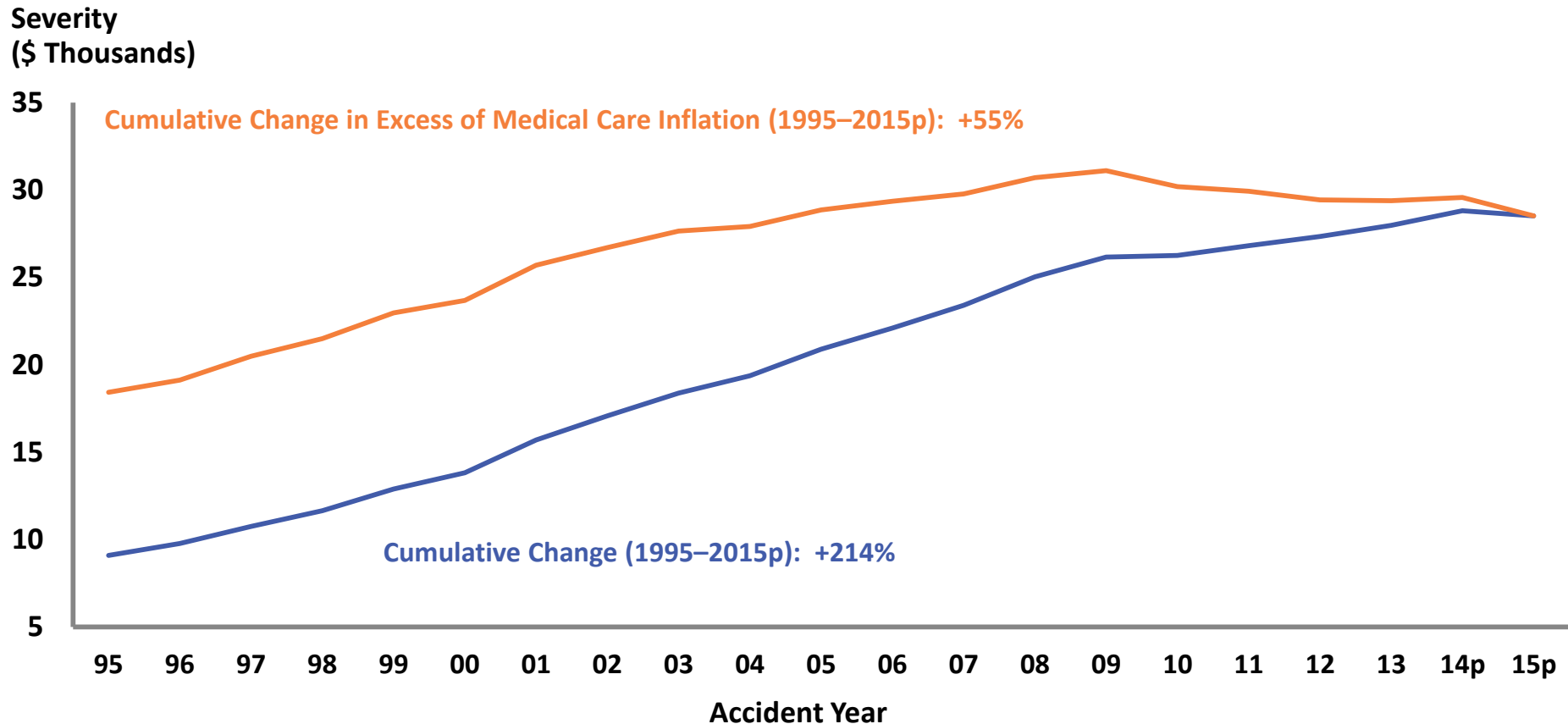
Source: NCCI's Financial Call data, developed to ultimate, excludes high-deductible policies;

1994–2013: based on data through 12/31/2014

Includes all states where NCCI provides ratemaking services; WV is included in 2014 and subsequent

Countrywide Workers Compensation Average Medical Cost per Lost-Time Claim

Private Carriers and State Funds—NCCI States



p Preliminary based on data valued as of 12/31/2015

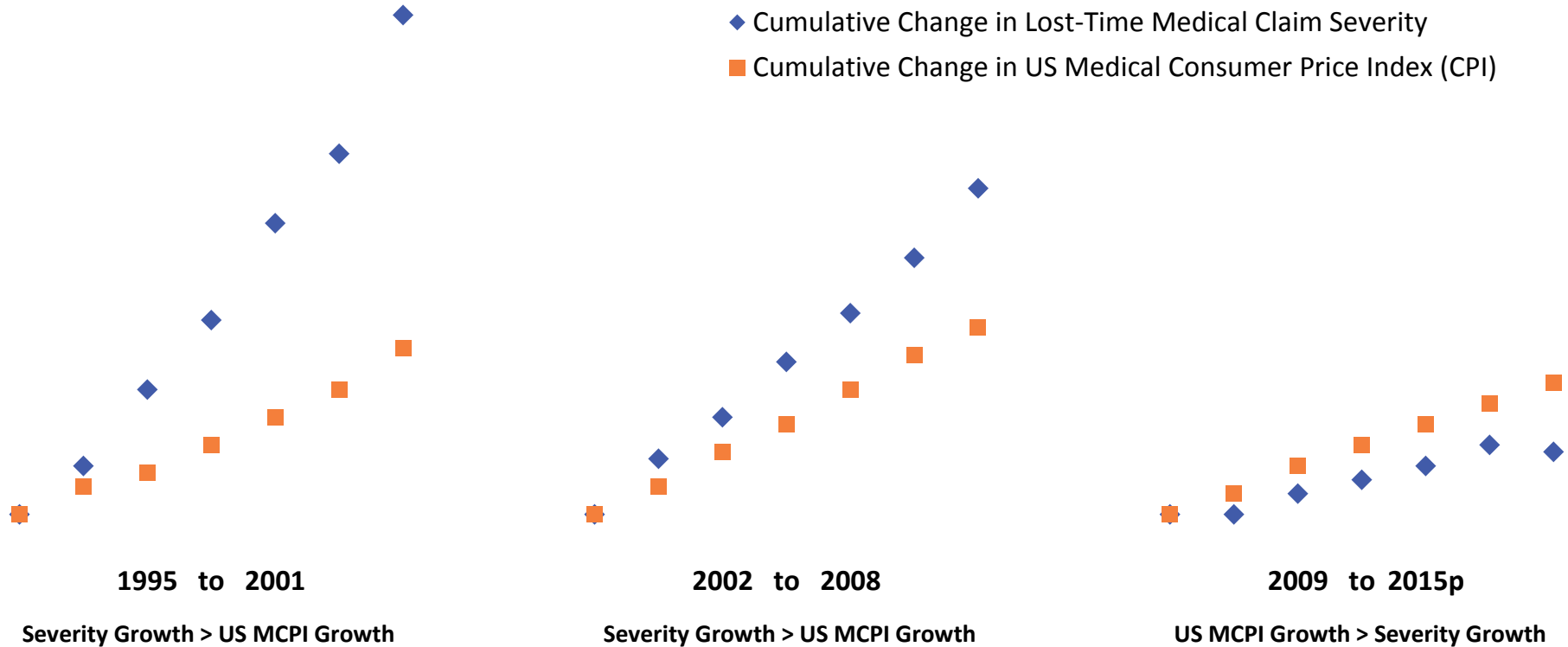
Sources: Severity: NCCI Financial Call data, developed to ultimate, excludes high-deductible policies; 1994–2013: based on data through 12/31/2014

US Medical Consumer Price Index: US Bureau of Labor Statistics

Includes all states where NCCI provides ratemaking services; WV is included in 2014 and subsequent

Countrywide Relative Growth Rates Medical Severity vs. Medical Care Inflation

Private Carriers and State Funds—NCCI States



p Preliminary based on data valued as of 12/31/2015

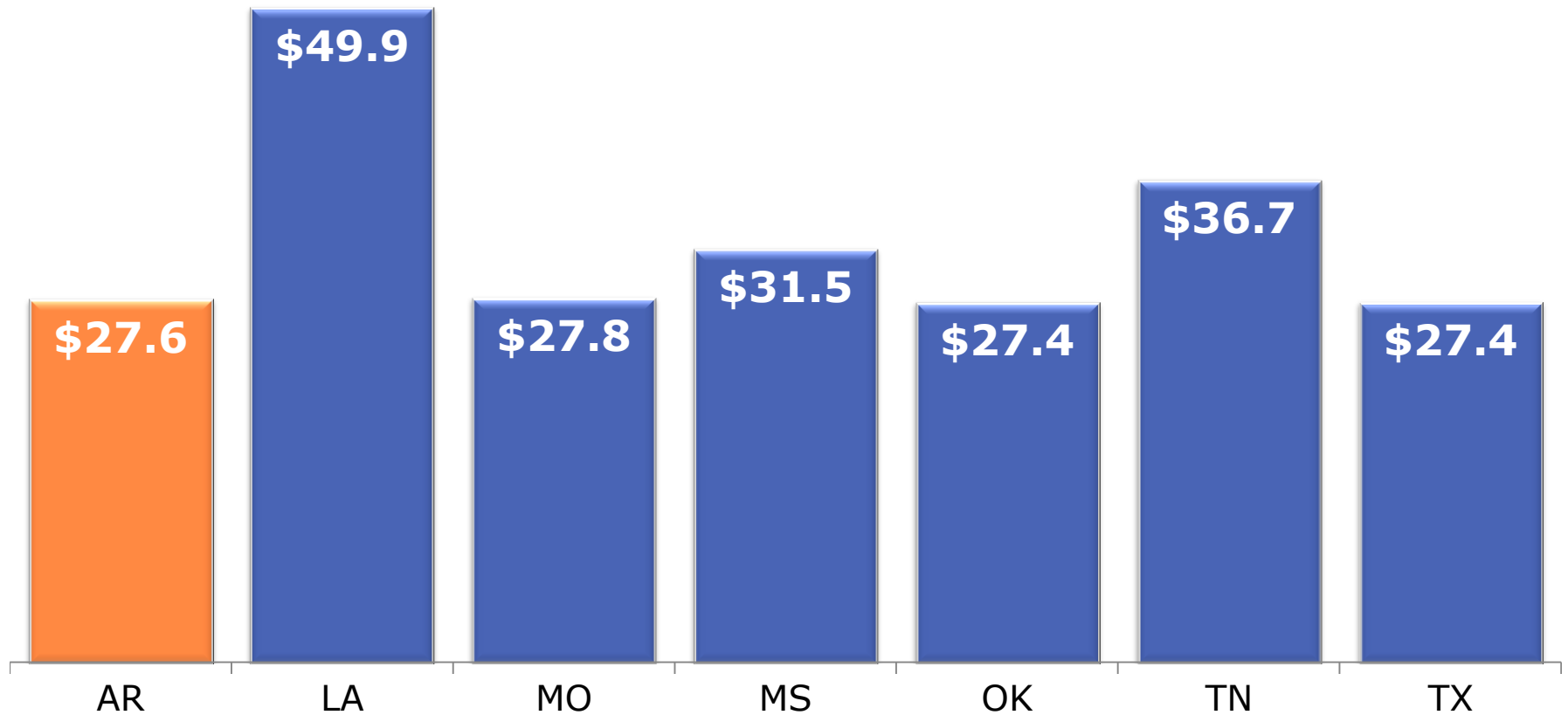
Sources: Severity: NCCI Financial Call data, developed to ultimate; excludes high-deductible policies; 1994–2013: based on data through 12/31/2014

US Medical CPI: US Bureau of Labor Statistics

Includes all states where NCCI provides ratemaking services; WV is included in 2014 and subsequent

Average Medical Claim Severity in the Region

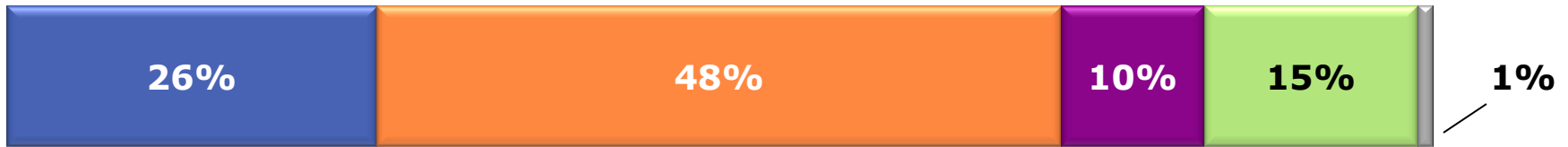
Lost-Time Claim Severity in \$ Thousands



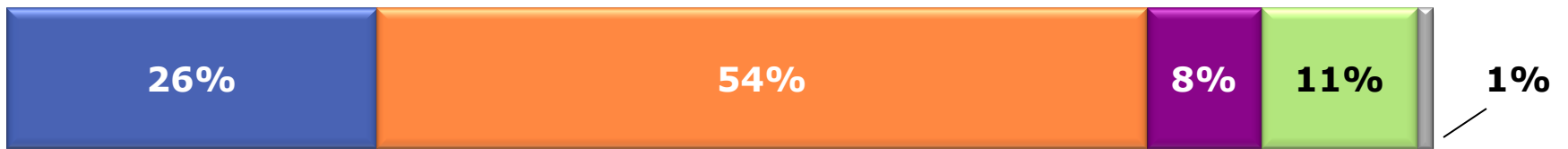
Based on NCCI's financial data for lost-time claims

Arkansas Medical Loss Distribution by Injury Type

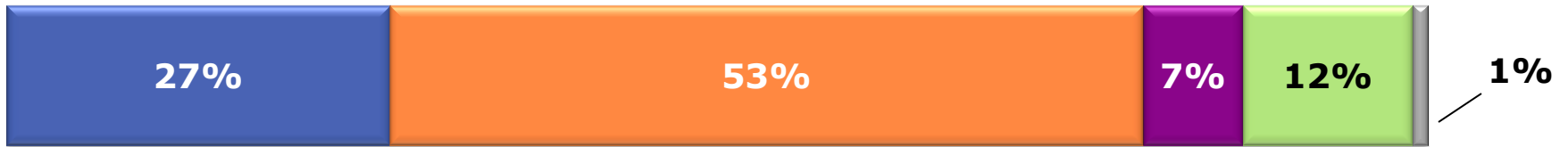
Arkansas



Region



Countrywide



0% 20% 40% 60% 80% 100%

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

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

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

Key Takeaways— Claim Frequency and Severity

Claim frequency
continues to
decline

Medical
benefits comprise
almost 70%
of overall
benefits

Severity remains
favorable when
compared to
other states
in the region



State Advisory FORUMS 2016

Arkansas Residual Market





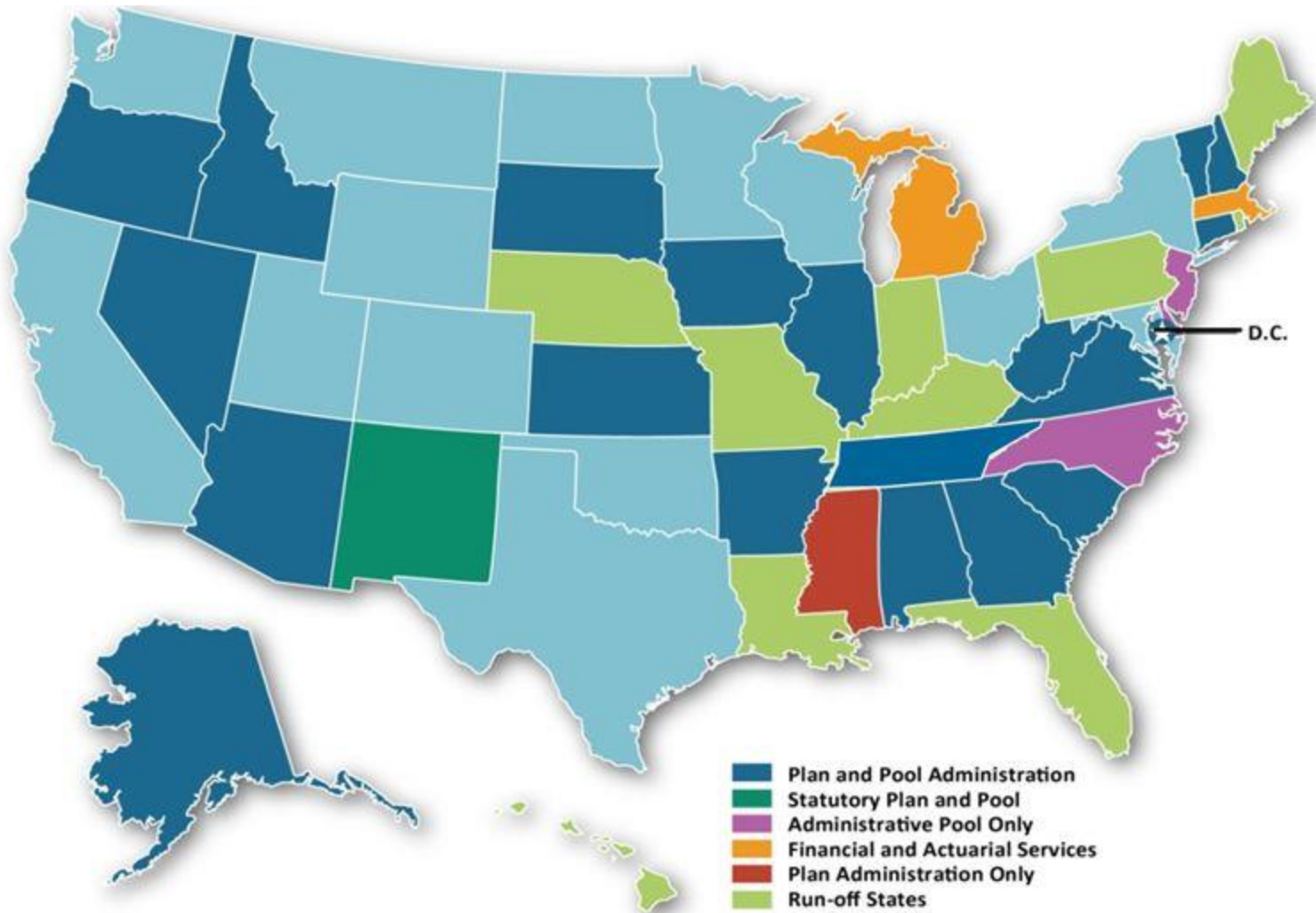
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Residual Market Video Excerpt

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



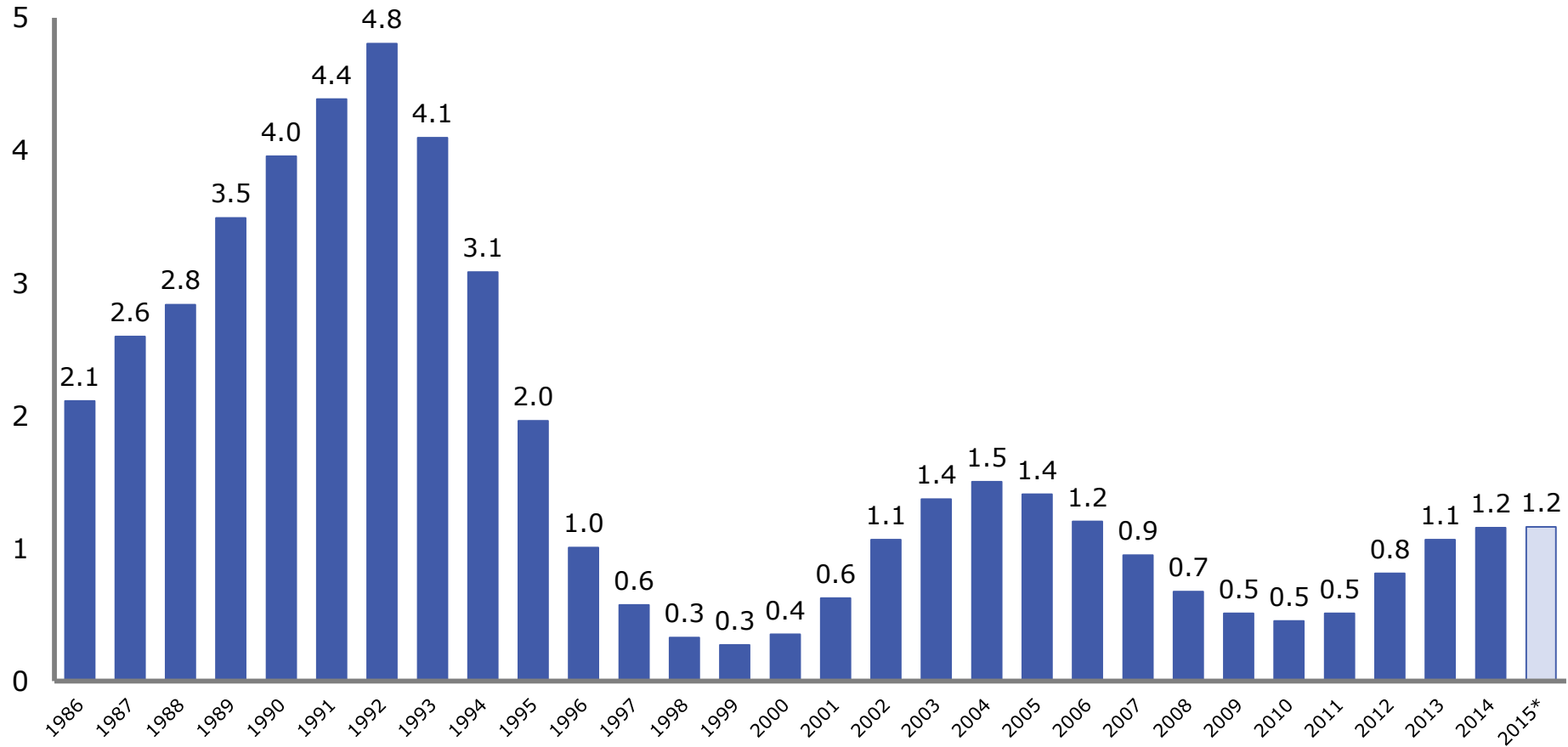
Where Does NCCI Provide Residual Market Services?



Workers Compensation Residual Market Premium

NCCI-Serviced Workers Compensation Residual Market Pools as of 12/31/2015

\$ Billions

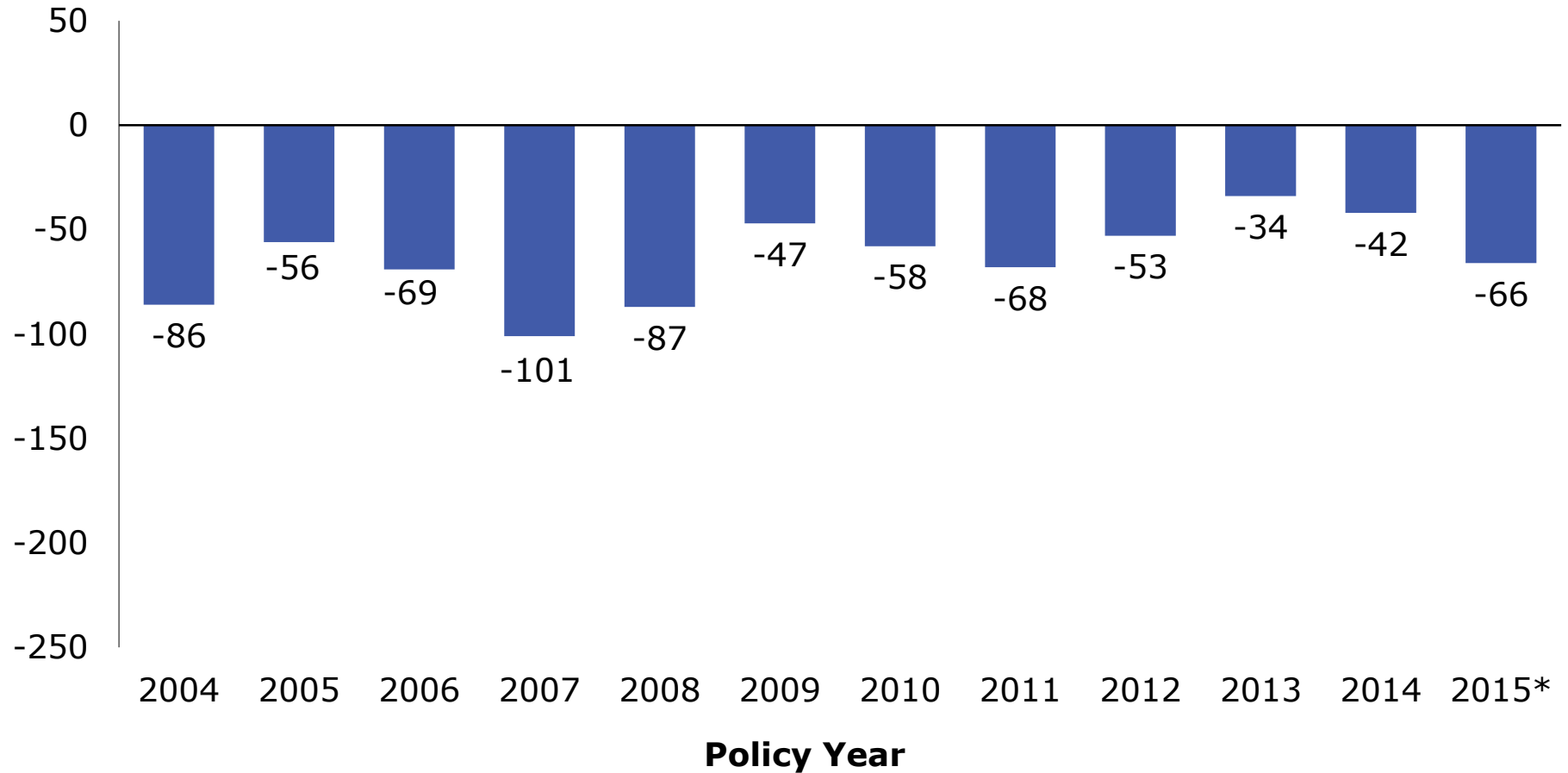


* Incomplete policy year projected to ultimate, preliminary

Residual Market Underwriting Results

All Pools Serviced by NCCI as of 12/31/2015

\$ Millions



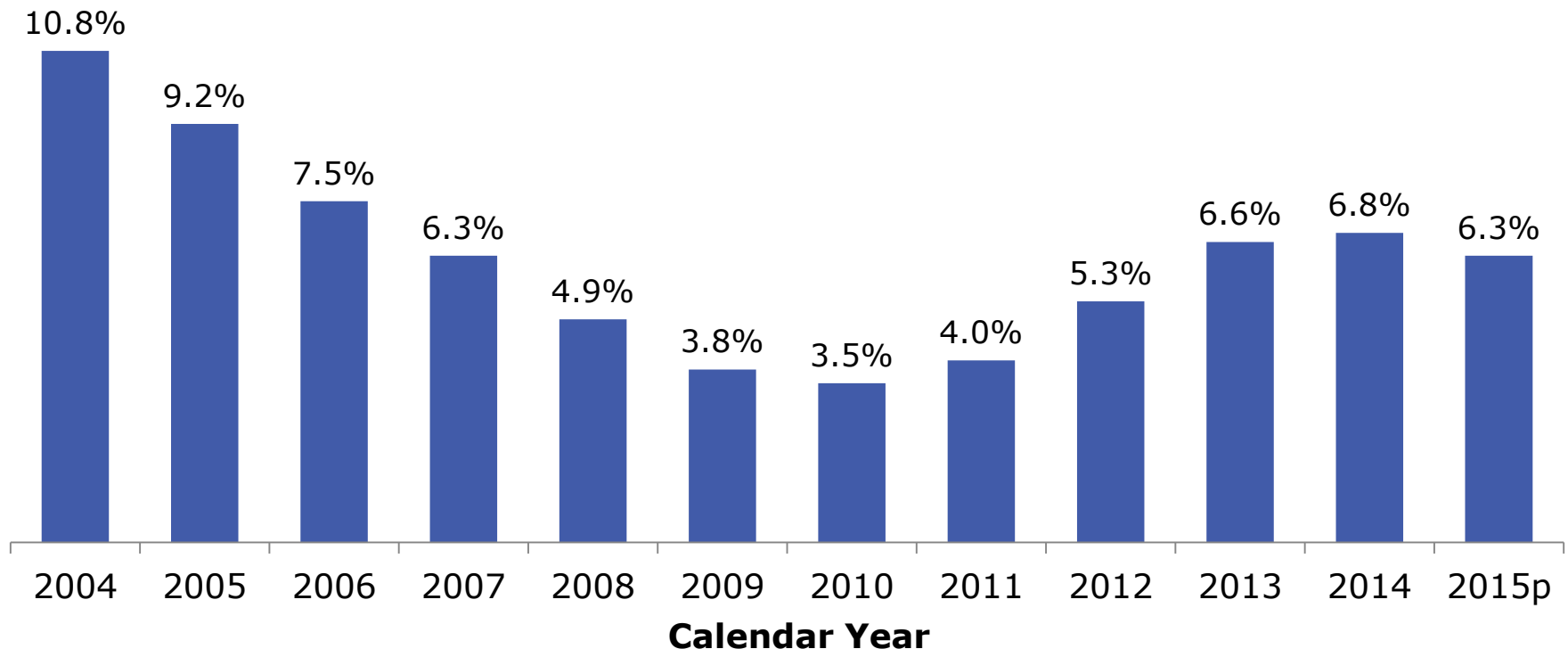
*Incomplete policy year projected to ultimate, preliminary



Residual Market Share NCCI Plan States

(Includes Direct Assignments)

Plan Premium as a Percentage of Direct Written Premium

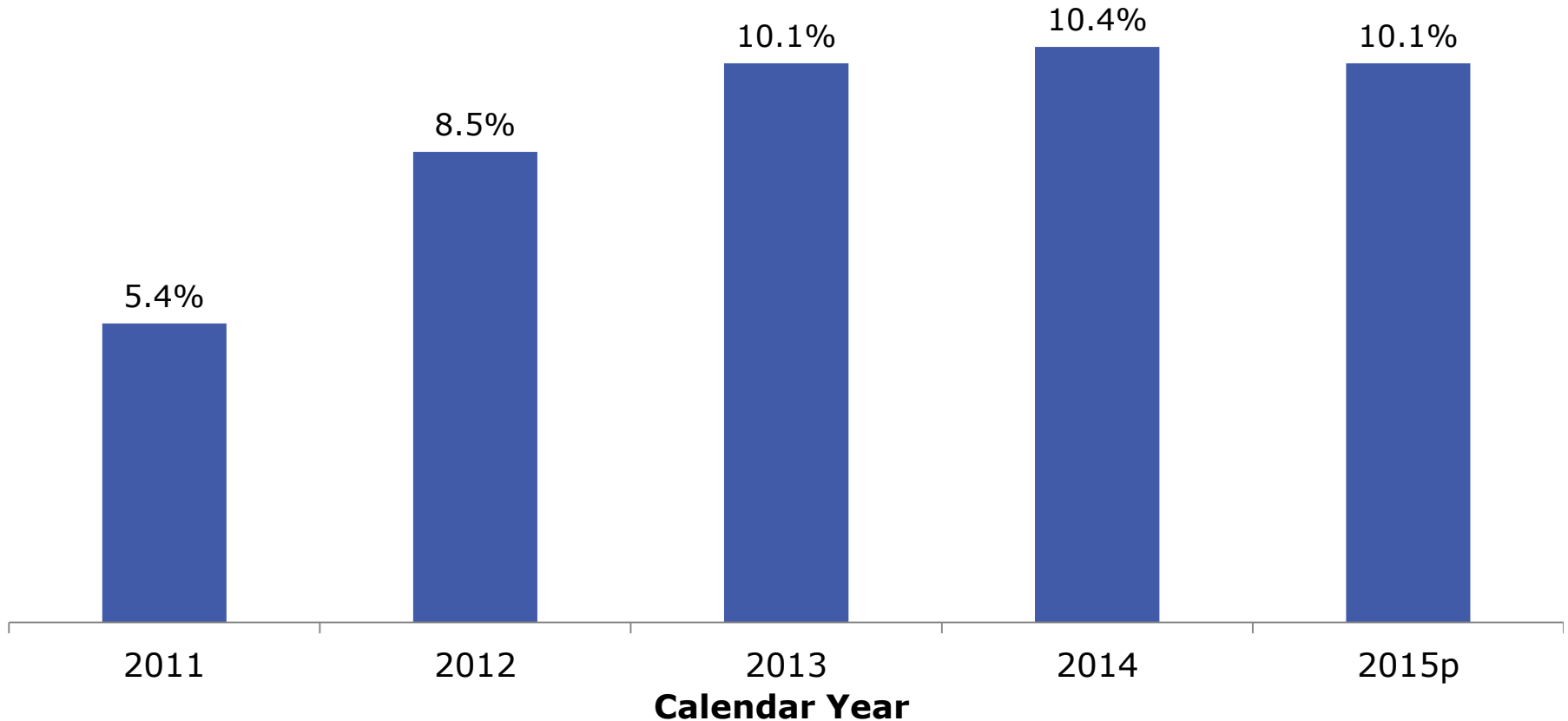


p Preliminary
For all NCCI Plan-administered states



Arkansas Residual Market Share

Plan Premium as a Percentage of Direct Written Premium

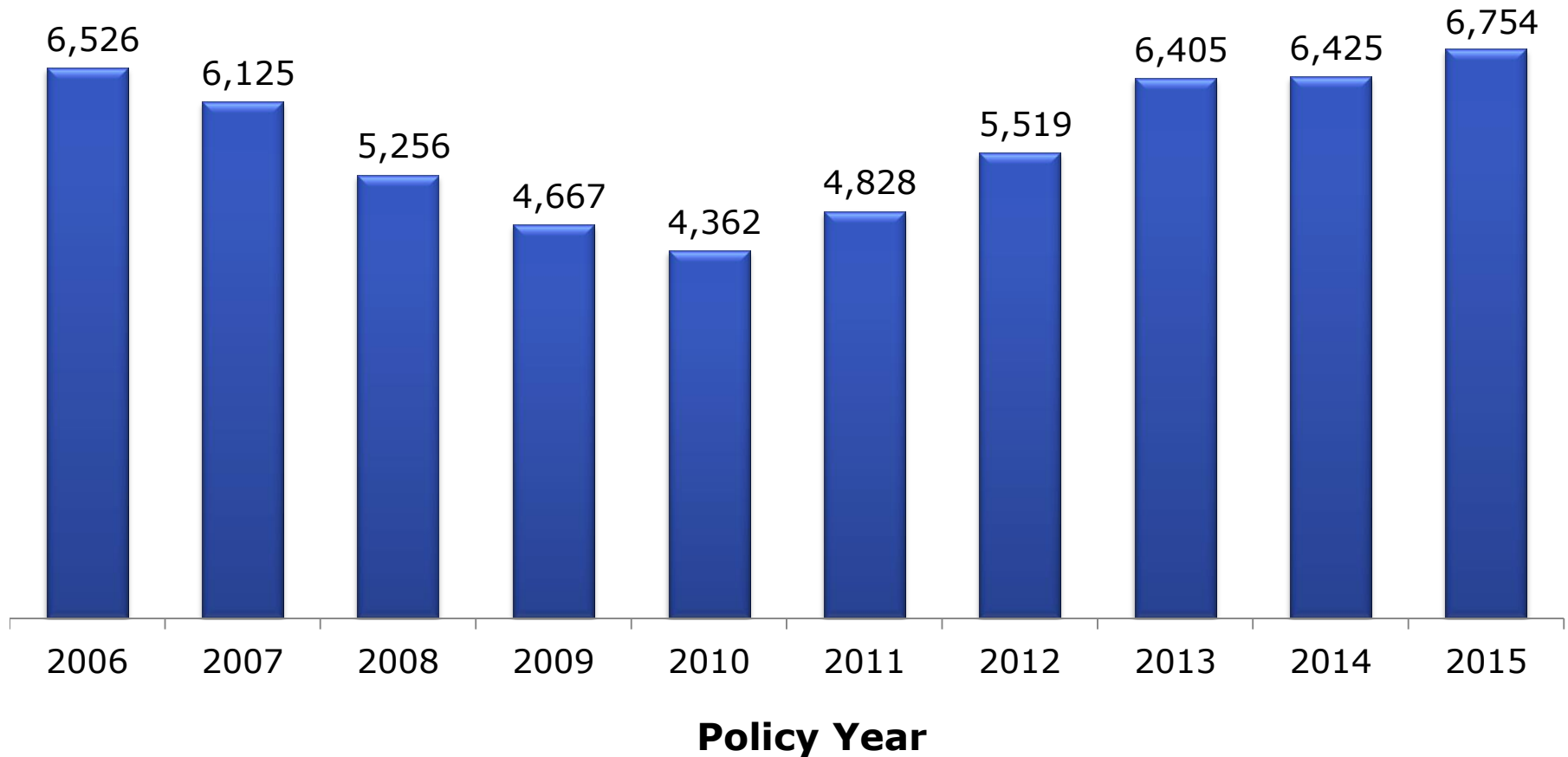


p Preliminary



Arkansas Total Residual Market Plan Policy Counts

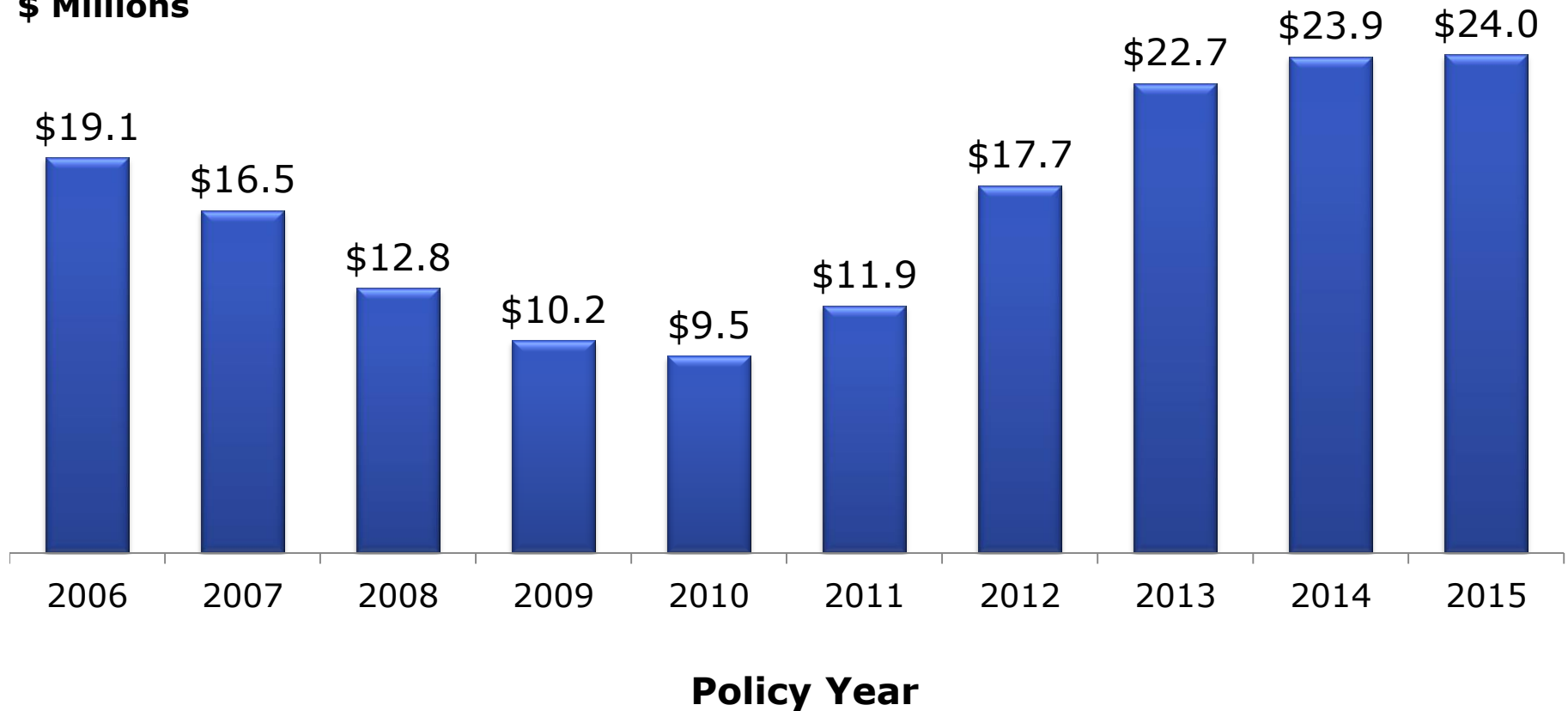
As of 12/31/15



Arkansas Total Residual Market Plan Estimated Premium Volume

Premium in \$ Millions as of 12/31/15

\$ Millions



Arkansas Residual Market Change in Total Estimated Annual Premium

As of 12/31/15

| Size of Risk | 2014 | 2015 | Change |
|--------------------|----------|----------|--------|
| \$0–\$2,499 | \$ 4.6 M | \$ 5.0 M | 9.1% |
| \$2,500–\$4,999 | 2.9 M | 3.2 M | 8.5% |
| \$5,000–\$9,999 | 3.5 M | 3.8 M | 7.9% |
| \$10,000–\$49,999 | 7.3 M | 7.7 M | 5.8% |
| \$50,000–\$99,999 | 2.6 M | 2.3 M | -10.2% |
| \$100,000 and over | 3.1 M | 2.1 M | -32.0% |
| Total | \$23.9 M | \$24.0 M | 0.4% |

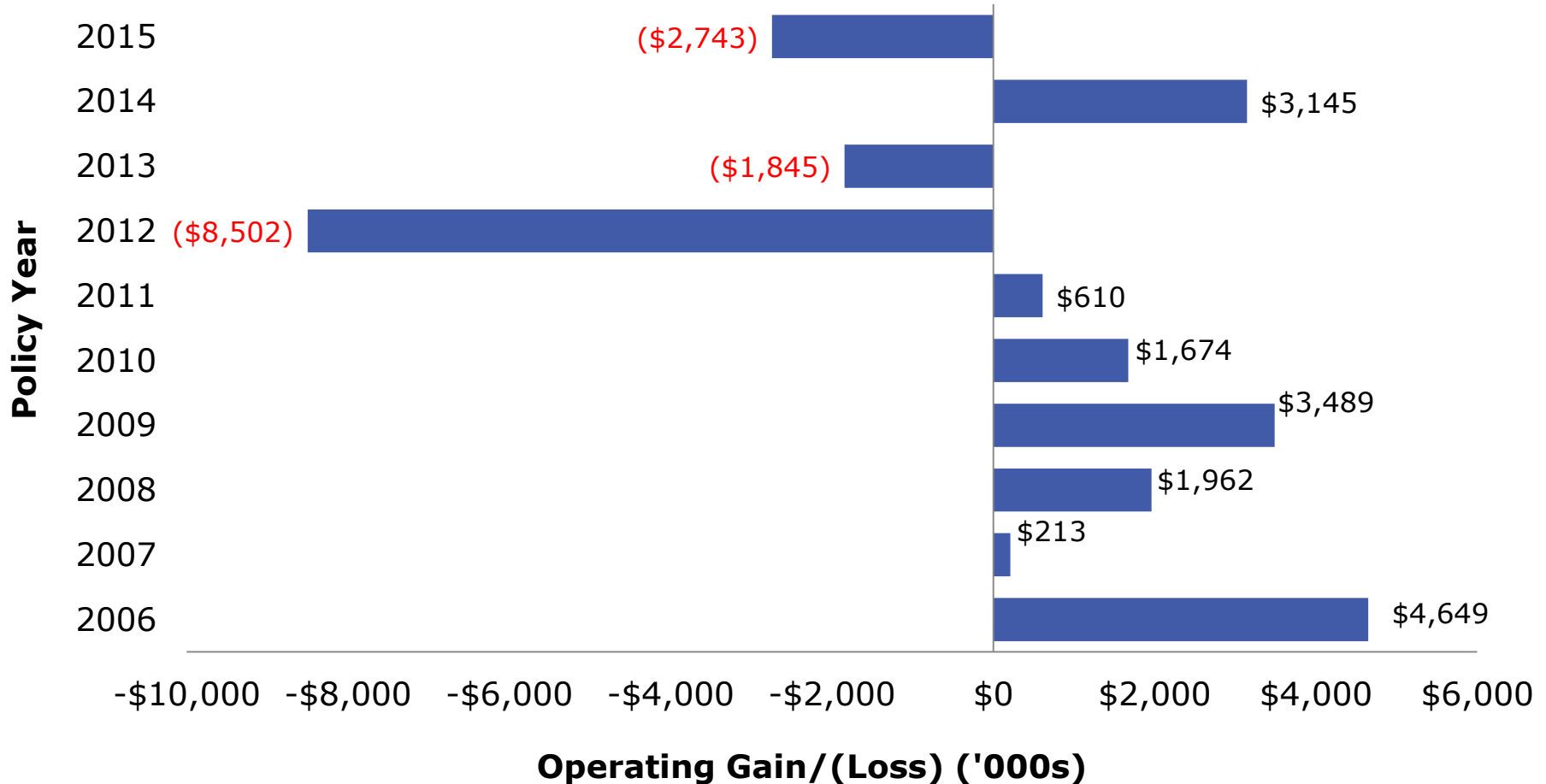
Arkansas Average Size Accounts for Residual Market Policies and Estimated Premium

As of 12/31/15

| Premium Range | Policy Count | % of Policies | Total Premium | % of Premium | Average Policy Size |
|---------------------|--------------|---------------|---------------|--------------|---------------------|
| \$0–\$2,499 | 4,866 | 72.1% | \$ 4,993,703 | 20.8% | \$ 1,026 |
| \$2,500–\$4,999 | 895 | 13.3% | 3,170,217 | 13.2% | 3,542 |
| \$5,000–\$9,999 | 542 | 8.0% | 3,764,471 | 15.7% | 6,945 |
| \$10,000–\$19,999 | 265 | 3.9% | 3,585,185 | 14.9% | 13,529 |
| \$20,000–\$49,999 | 138 | 2.0% | 4,105,530 | 17.1% | 29,750 |
| \$50,000–\$99,999 | 34 | 0.5% | 2,294,311 | 9.5% | 67,479 |
| \$100,000–\$199,999 | 12 | 0.2% | 1,530,866 | 6.4% | 127,572 |
| \$200,000+ | 2 | 0.0% | 596,624 | 2.5% | 298,312 |
| Total | 6,754 | 100.0% | \$24,040,907 | 100.0% | \$ 3,560 |

Arkansas Residual Market Reinsurance Pool Net Operating Results

Estimated Net Operating Gain/(Loss)
Projected to Ultimate as of 12/31/2015



Residual Market Summary

- National
 - Stable residual market share
 - Manageable operating results
 - Slow growth in 2014 and 2015
- State
 - Stable residual market share
 - Reduced average policy size
 - Little growth in premium volume from 2014 to 2015

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



State Advisory FORUMS 2016

Glossary



Glossary

- **Assigned Risk Adjustment Program (ARAP)**—An assigned risk market program that surcharges residual market risks based on the magnitude of their experience rating modification.
- **Calendar Year (CY)**—Experience of earned premium and loss transactions occurring within the calendar year beginning January 1, irrespective of the contractual dates of the policies to which the transactions relate and the dates of the accidents.
- **Calendar-Accident Year (AY)**—The accumulation of loss data on all accidents with the date of occurrence falling within a given calendar year. The premium figure is the same as that used in calendar year experience.
- **Claim Frequency**—The number of claims per unit of exposure; for example, the number of claims per million dollars of premium or per 100 workers.

Glossary

- **Claim Severity**—The average cost of a claim. Severity is calculated by dividing total losses by the total number of claims.
- **Combined Ratio**—The sum of the (1) loss ratio, (2) expense ratio, and (3) dividend ratio for a given time period.
- **Detailed Claim Information (DCI)**—An NCCI Call that collects detailed information on an individual workers compensation lost-time claim basis, such as type of injury, whether or not an attorney was involved, timing of the claim's report to the carrier, etc.
- **Direct Written Premium (DWP)**—The gross premium income adjusted for additional or return premiums, but excluding any reinsurance premiums.

Glossary

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

Glossary

- **Permanent Partial (PP)**—A disability that is permanent but does not involve a total inability to work. The specific definition and associated workers compensation benefits are defined by statute and vary by jurisdiction.
- **Policy Year (PY)**—The year of the effective date of the policy. Policy year financial results summarize experience for all policies with effective dates in a given calendar year period.
- **Schedule Rating**—A debit and credit plan that recognizes variations in the hazard-causing features of an individual risk.
- **Take-Out Credit Program**—An assigned risk program that encourages carriers to write current residual market risks in the competitive voluntary marketplace.
- **Temporary Total (TT)**—A disability that totally disables a worker for a temporary period of time.



State Advisory FORUMS 2016

Appendix



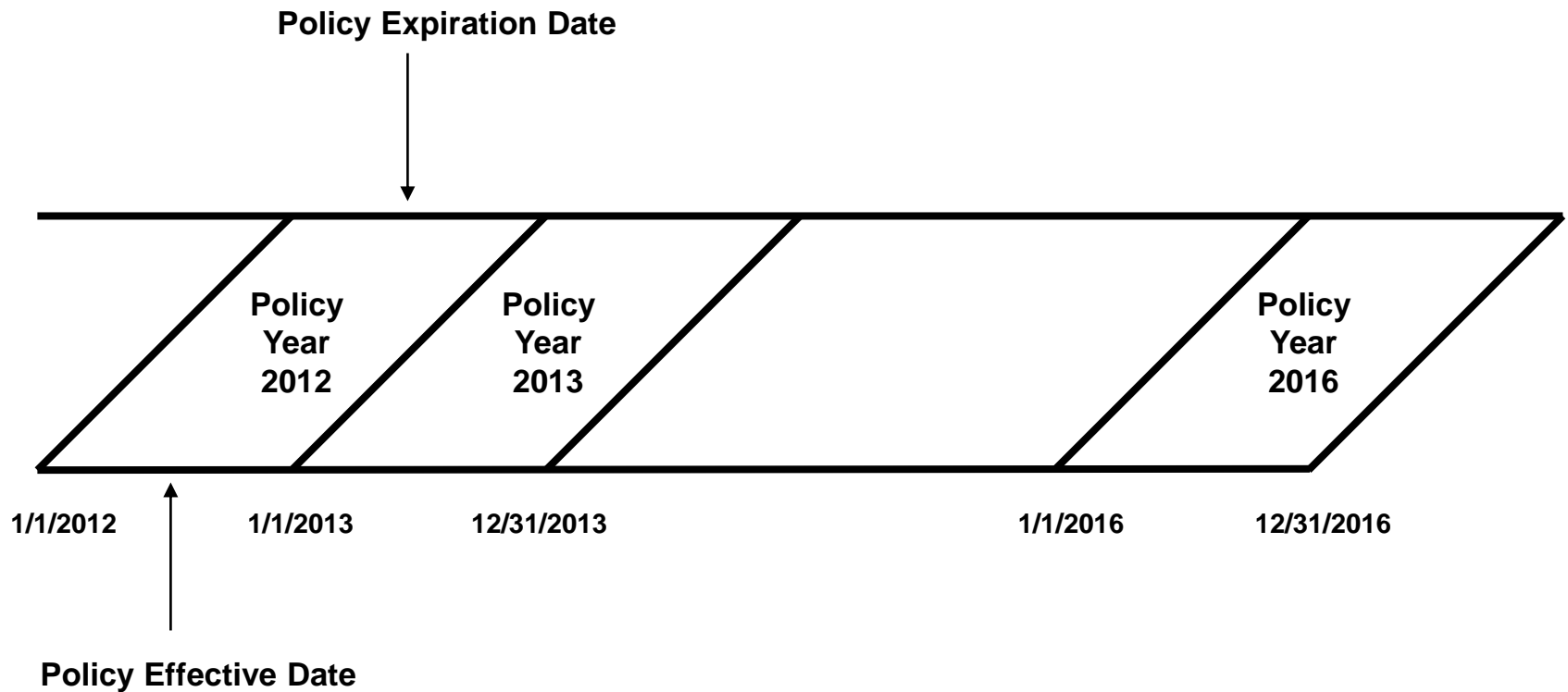
NCCI's Workers Compensation Resources

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

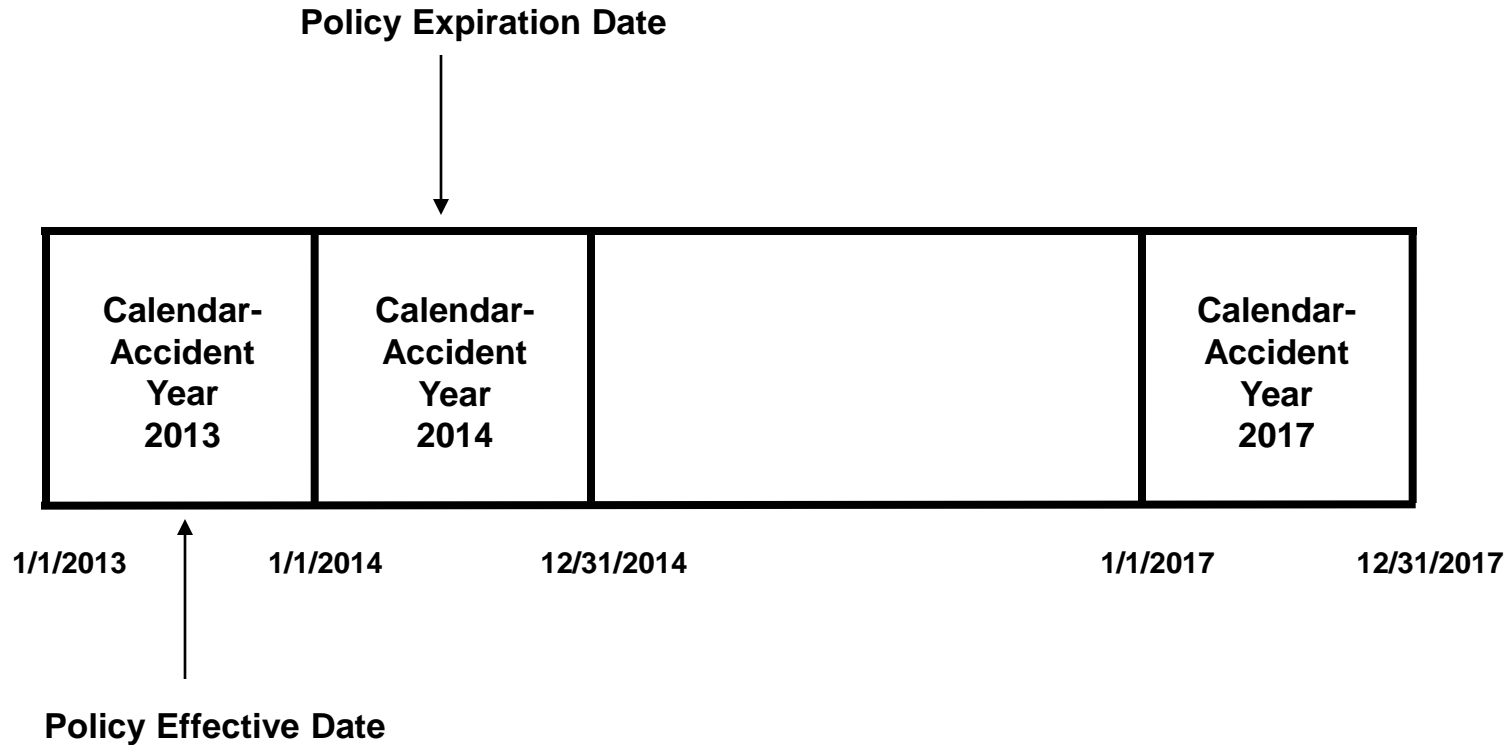
Financial Aggregate Calls

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

Policy Year Financial Aggregate Data



Calendar-Accident Year Financial Aggregate Data



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

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

Valuation of Statistical Plan Data

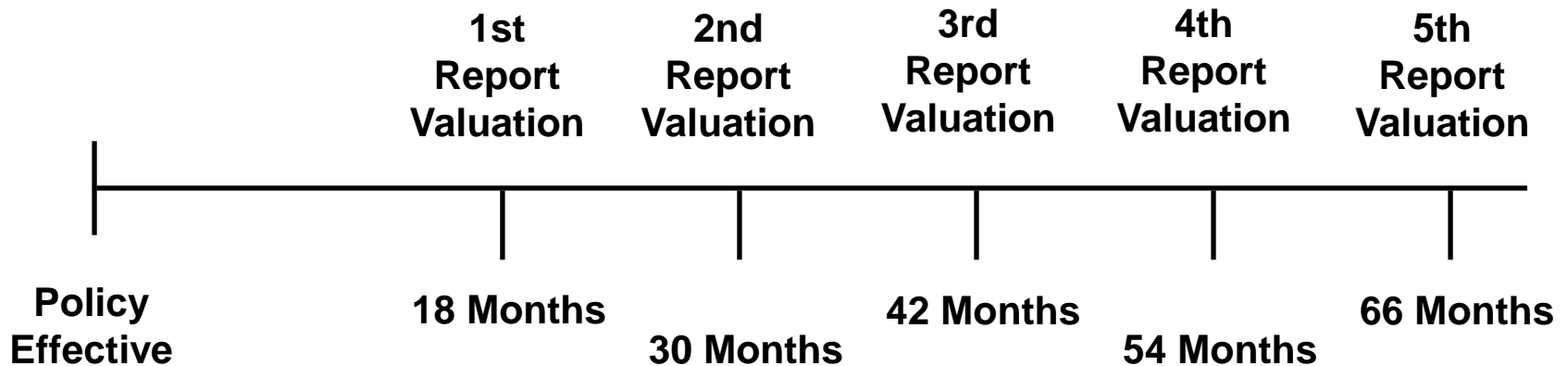


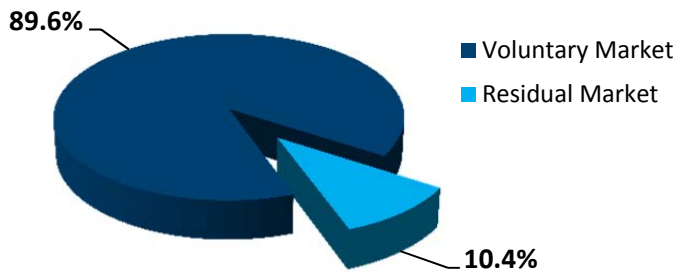


EXHIBIT "B"

Arkansas Residual Market State Activity Report

Second Quarter 2016

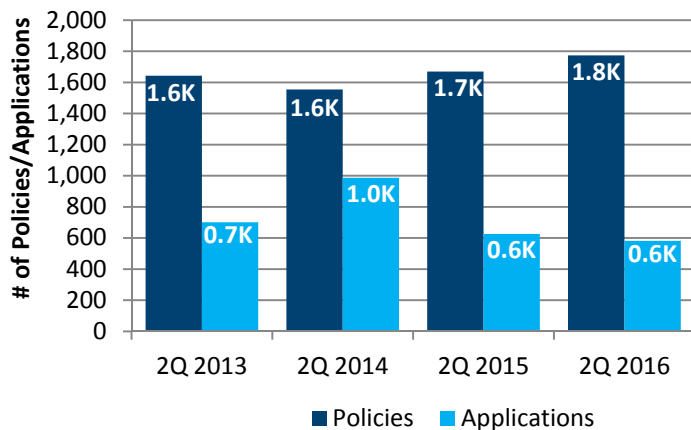
2Q Market Share



\$22.9 Million
Plan Premium in Force

7% ↓

Total Policy Count **2%** ↑



Top 5 Class Codes *

- 5645—Carpentry—Construction (17.8%)
- 5022—Masonry NOC (4.2%)
- 5551—Roofing—All Kinds (4.0%)
- 5474—Painting NOC (3.8%)
- 5437—Carpentry—Installation (3.1%)

**By policy count*

Average Policy Size

\$2,905 **7%** ↓

Second Quarter 2016 policy and estimated annual premium data, compared to Second Quarter 2015



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Arkansas Residual Market State Activity Report

Second Quarter 2016

Executive Summary

NCCI, as Pool and Plan Administrator of the Arkansas Workers Compensation Insurance Plan, is pleased to provide the Second Quarter 2016 *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:

- Market Share—Residual Market vs. Voluntary Market
- Total Assigned Risk Plan Policies and Premium in Force
- Residual Market Loss Ratio, Ultimate Net Written Premium, Incurred Losses, and Estimated Net Operating Gain/Loss information
- Comparison of reported gross written and uncollectible premium
- Volume of Assigned Risk applications redirected to the Voluntary Market through NCCI's **VCAP® Service**
- Total number of bound applications and the total estimated premium on bound applications
- Residual Market policy counts and premium volume comparison
- Assigned Risk Plan premium distribution by size of risk
- Top 10 classification codes by policy count and premium volume

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

Terri Robinson, State Relations Executive 501-333-2835

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



Residual Market Demographics

Residual Market Total Policies and Premium in Force

As of June 30, 2016—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.

| | 2016 | 2015 | 2016 vs. 2015 # | 2016 vs. 2015 % |
|-----------------------|--------------|--------------|--------------------|--------------------|
| Policy Count | 6,787 | 6,576 | 211 | 3.21% |
| Premium Volume | \$22,907,917 | \$24,745,590 | -1,837,673 | -7.43% |

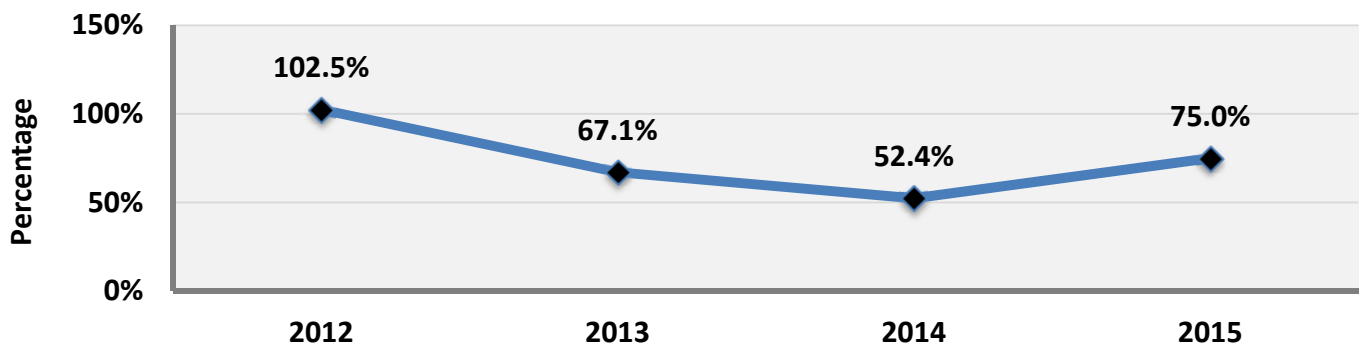


Residual Market Demographics

Arkansas Residual Market Reinsurance Pool Booked Loss Ratio Policy Year Financial Results through 1st Quarter 2016 for 2015 and prior years*

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

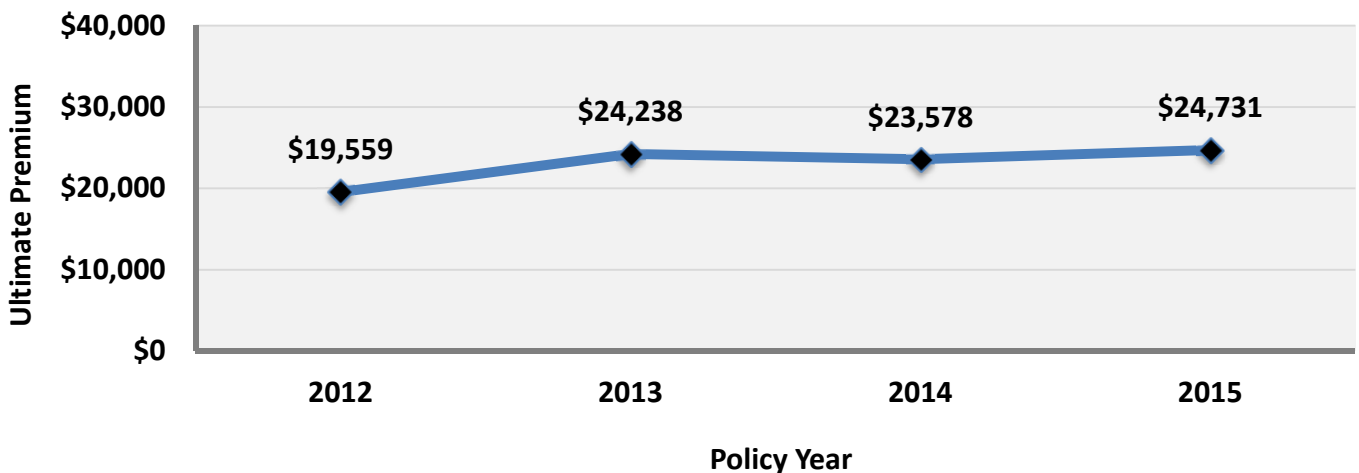
Booked Loss Ratio



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

Policy Year Financial Results through 1st Quarter 2016 for 2015 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 2016 data will be available the end of October 2016 due to the timing of data reporting

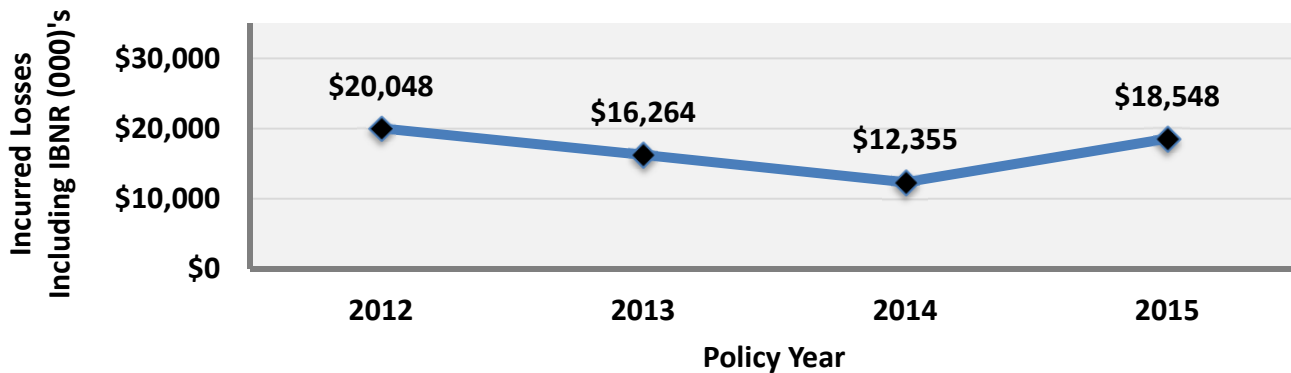


Residual Market Demographics

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

Policy Year Financial Results through 1st Quarter 2016 for 2015 and prior years*

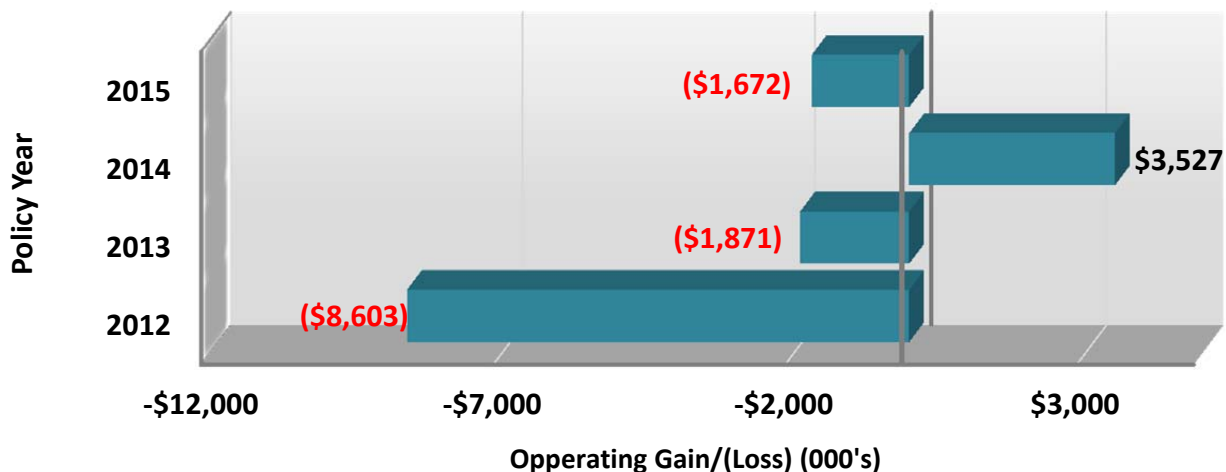
Policy year incurred losses reflect paid losses, case reserves and IBNR reserves for policies written in a particular policy year in that state.



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

Policy Year Financial Results through 1st Quarter 2016 for 2015 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 2016 data will be available the end of October 2016 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 2012-2016, obtained through NP-4 and NP-5 reports including traumatic and black lung claims, evaluated through First Quarter 2016.

| Policy Year | Gross Written Premium | Uncollectible Premium | Percentage |
|-------------|-----------------------|-----------------------|------------|
| 2012 | \$20,442,602 | \$883,759 | 4.3% |
| 2013 | \$25,091,678 | \$853,440 | 3.4% |
| 2014 | \$24,258,847 | \$378,036 | 1.6% |
| 2015 | \$25,359,093 | \$2,445 | 0.0% |
| 2016 | \$4,691,653 | * | 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, 2016

The volume of assigned risk applications redirected to the voluntary market through NCCI's **VCAP[®] Service**. The following shows the results **VCAP[®] Service** has provided during Second Quarter 2016.

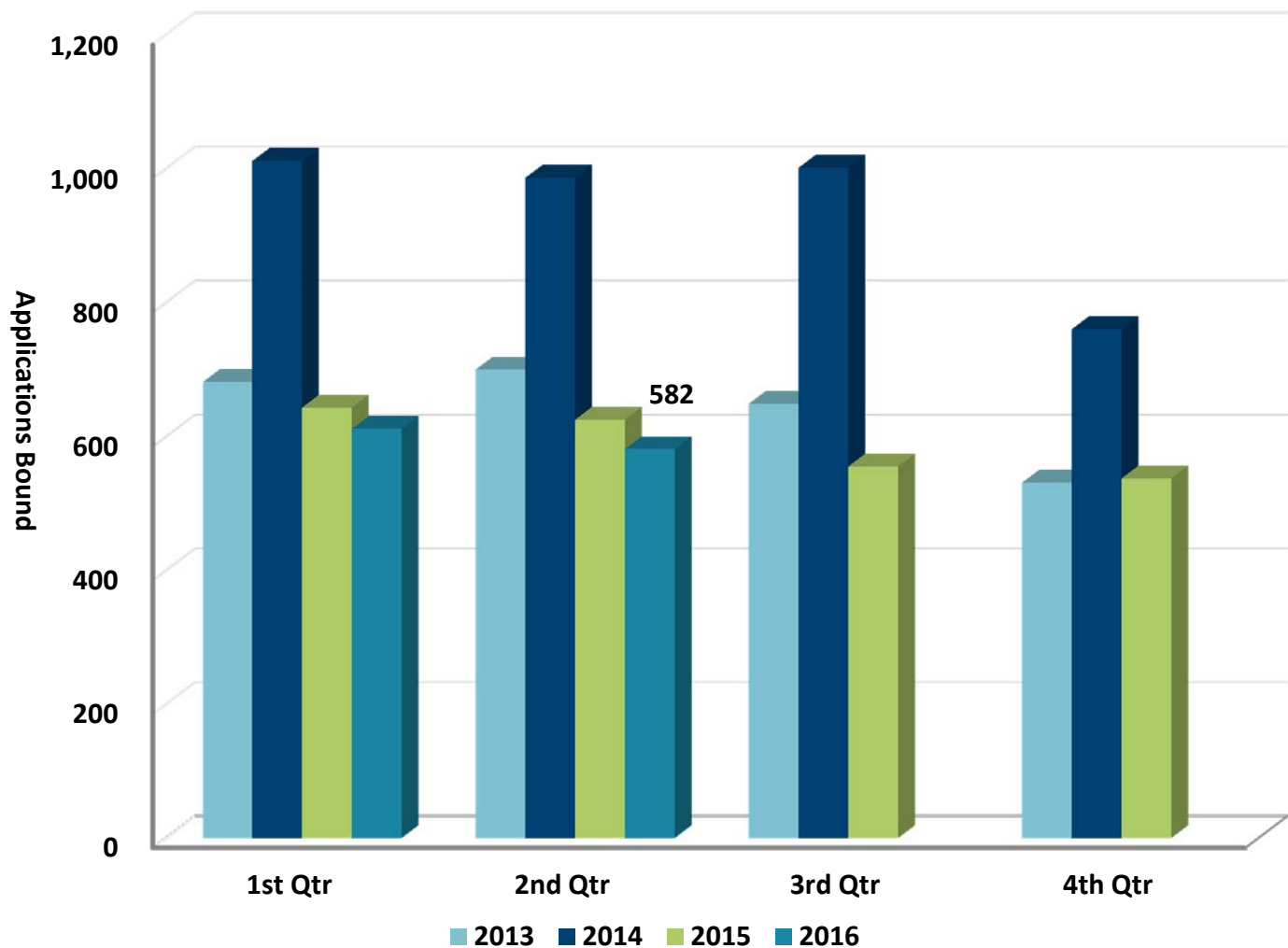
| | |
|--|--------|
| Number of Applications Reviewed by VCAP[®] Service | 599 |
| Number of VCAP[®] Service Matches | 453 |
| VCAP[®] Service Offers as a % of Matches | 4.42% |
| Number of Confirmed VCAP[®] Service Policies | 19 |
| Confirmed VCAP[®] Service Policies as a % of Applications Reviewed | 3.17% |
| Savings as a % of Redirected Assigned Risk Premium | 11.84% |



Residual Market Demographics

Total Applications Bound 2013 vs. 2014 vs. 2015 vs. 2016

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



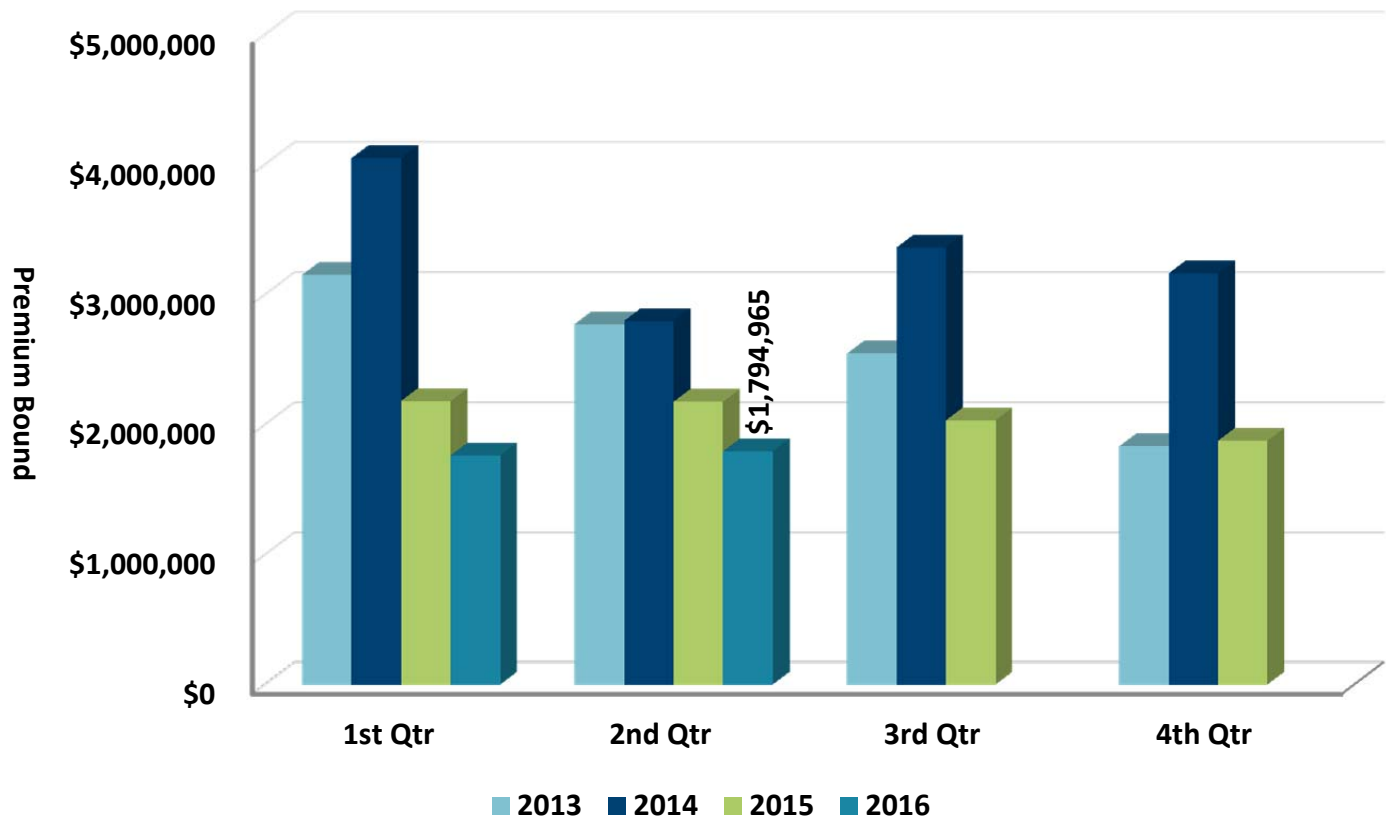


Residual Market Demographics

Total Application Premium Bound

2013 vs. 2014 vs. 2015 vs. 2016

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).



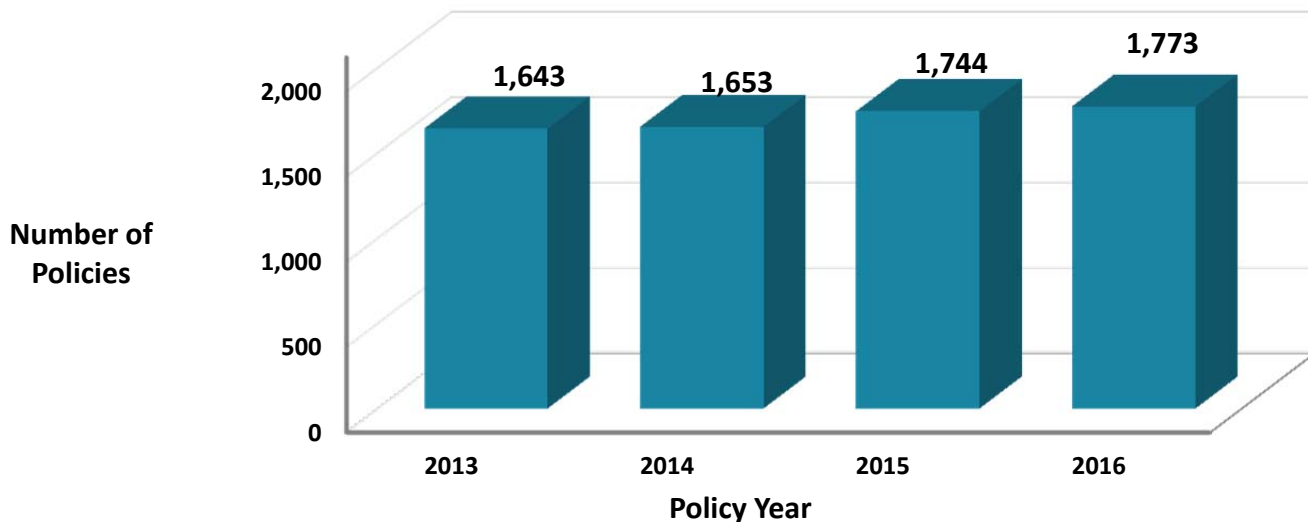


Residual Market Demographics

Residual Market Total Policy Counts

Second Quarter Data for Policies Reported through June 30, 2016

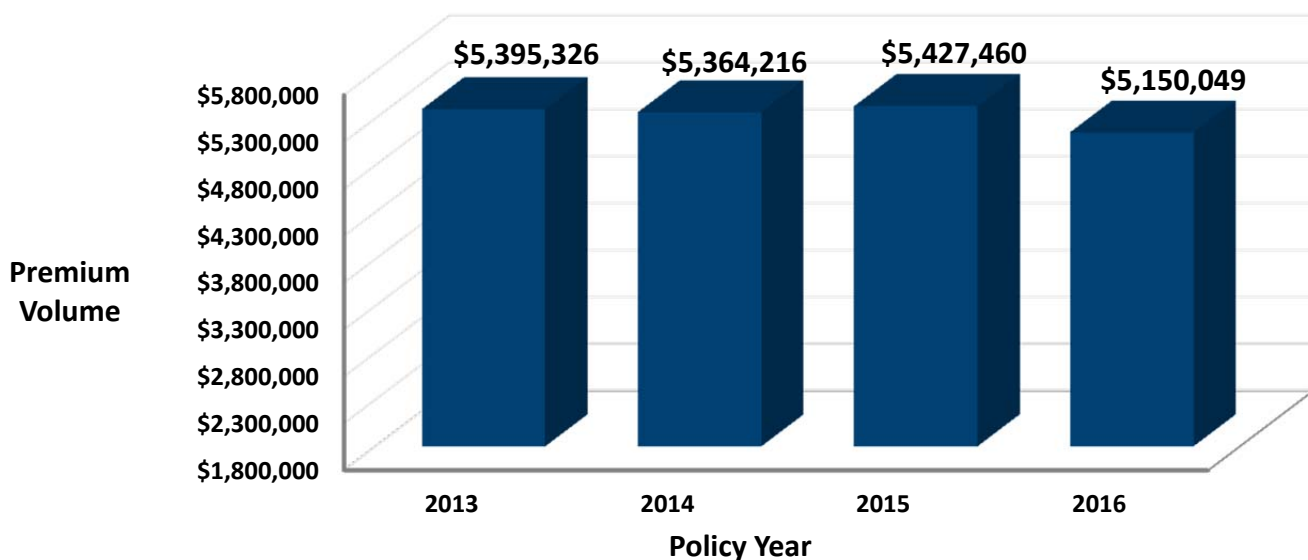
Total number of all Assigned Risk Plan policies with effective dates during the calendar period listed above.



Residual Market Total Premium Volume

Second Quarter Data Reported through June 30, 2016

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





Arkansas Residual Market State Activity Report

Second Quarter 2016

Residual Market Demographics

Total Premium Distribution by Size of Risk

Second Quarter Data Reported through June 30, 2016

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 | 1,285 | 72% | \$1,326,065 | 26% | \$1,031 |
| \$2500–4999 | 242 | 14% | \$859,060 | 17% | \$3,549 |
| \$5000–9999 | 141 | 8% | \$951,207 | 18% | \$6,746 |
| \$10000–19999 | 78 | 4% | \$1,049,283 | 20% | \$13,452 |
| \$20000–49999 | 22 | 1% | \$612,186 | 12% | \$27,826 |
| \$50000–99999 | 5 | 0% | \$352,248 | 7% | \$70,449 |
| \$100000–199999 | 0 | 0% | \$0 | 0% | \$0 |
| \$200000 + | 0 | 0% | \$0 | 0% | \$0 |
| Total | 1,773 | 100% | \$5,150,049 | 100% | \$2,905 |

Second Quarter 2015 Data for Comparison

| Premium Interval | Policy Count | % of Total Policies | Total State Premium | % of Total Premium | Average Premium |
|------------------|--------------|---------------------|---------------------|--------------------|-----------------|
| \$0–2499 | 1,267 | 73% | \$1,303,500 | 24% | \$1,028 |
| \$2500–4999 | 230 | 13% | \$821,552 | 15% | \$3,571 |
| \$5000–9999 | 137 | 8% | \$934,824 | 17% | \$6,823 |
| \$10000–19999 | 72 | 4% | \$978,075 | 18% | \$13,584 |
| \$20000–49999 | 32 | 2% | \$889,969 | 16% | \$27,811 |
| \$50000–99999 | 4 | 0% | \$241,505 | 4% | \$60,376 |
| \$100000–199999 | 2 | 0% | \$258,035 | 5% | \$129,017 |
| \$200000 + | 0 | 0% | \$0 | 0% | \$0 |
| Total | 1,744 | 100% | \$5,427,460 | 100% | \$3,112 |



Arkansas Residual Market State Activity Report

Second Quarter 2016

Residual Market Demographics

Residual Market Top 10 Classification Codes by Policy Count Second Quarter Data Reported through June 30, 2016

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 | 315 | 17.8% |
| 2 | 5022 | Masonry NOC | 74 | 4.2% |
| 3 | 5551 | Roofing-All Kinds & Drivers | 70 | 4.0% |
| 4 | 5474 | Painting NOC & Shop Operations Drivers | 68 | 3.8% |
| 5 | 5437 | Carpentry-Installation of Cabinet Work Or Interior Trim | 55 | 3.1% |
| 6 | 5403 | Carpentry NOC | 51 | 2.9% |
| 7 | 9014 | Janitorial Services By Contractors-No Window Cleaning Above Ground Level & Drivers | 50 | 2.8% |
| 8 | 7228 | Trucking-Local Hauling Only-& Drivers | 45 | 2.5% |
| 9 | 6217 | Excavation & Drivers | 40 | 2.3% |
| 10 | 5445 | Wallboard Sheetrock Drywall Plasterboard or Cement Board Installation Within Buildings | 38 | 2.1% |

Residual Market Top 10 Classification Codes by Premium Volume Second Quarter Data Reported through June 30, 2016

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 | \$591,858 | 11.50% |
| 2 | 7228 | Trucking-Local Hauling Only-& Drivers | \$293,621 | 5.70% |
| 3 | 5551 | Roofing-All Kinds & Drivers | \$193,817 | 3.80% |
| 4 | 0037 | Farm: Field Crops & Drivers | \$178,240 | 3.50% |
| 5 | 5022 | Masonry NOC | \$168,397 | 3.30% |
| 6 | 5535 | Sheet Metal Work-Installation & Drivers | \$154,099 | 3.00% |
| 7 | 5474 | Painting NOC & Shop Operations Drivers | \$141,577 | 2.80% |
| 8 | 6217 | Excavation & Drivers | \$132,778 | 2.60% |
| 9 | 5403 | Carpentry NOC | \$117,478 | 2.30% |
| 10 | 2719 | Logging or Tree Removal - Mechanized Harvesting Exclusively | \$115,445 | 2.20% |



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.

Residual Market Share—The ratio of assigned risk premium (pool plus direct assignment) to the total net direct written premium.

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

VCAP[®] 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[®] Service** redirects coverage opportunities for employers to voluntary market insurers, which generally provide coverage at a lower cost. **VCAP[®] Service** provides an additional source for producers and employers to secure voluntary workers compensation coverage prior to entering the residual market for coverage.



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State of the Line Report

Kathy Antonello, FCAS, FSA, MAAA
Chief Actuary
NCCI



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Property/Casualty (P/C) Results

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P/C Industry Net Written Premium All Major Lines Increased

Private Carriers

| Line of Business | 2014 (\$B) | 2015p (\$B) | % Change From 2014 |
|----------------------------------|--------------|--------------|--------------------|
| Personal Auto | 183.4 | 192.5 | 4.9 |
| Homeowners | 76.8 | 79.4 | 3.3 |
| Other Liability (Incl Prod Liab) | 47.8 | 49.3 | 3.1 |
| Workers Compensation | 38.5 | 39.7 | 2.9 |
| Commercial Multiple Peril | 34.3 | 34.6 | 1.0 |
| Fire & Allied Lines (Incl EQ) | 27.1 | 26.2 | -3.4 |
| Commercial Auto | 25.7 | 27.6 | 7.3 |
| All Other Lines | 63.7 | 64.6 | 1.6 |
| Total P/C Industry | 497.3 | 513.8 | 3.3 |

p Preliminary

Source: Annual Statement data for individual carriers prior to consolidation of affiliated carriers
Includes carrier data available as of 4/14/2016

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P/C Industry Net Combined Ratio Overall Underwriting Gain

Private Carriers

| Line of Business | 2014 (%) | 2015p (%) | Difference From 2014 |
|----------------------------------|------------|-----------|----------------------|
| Personal Auto | 103 | 105 | 2 |
| Homeowners | 93 | 92 | -1 |
| Other Liability (Incl Prod Liab) | 99 | 103 | 4 |
| Workers Compensation | 100 | 94 | -6 |
| Commercial Multiple Peril | 100 | 95 | -5 |
| Fire & Allied Lines (Incl EQ) | 88 | 86 | -2 |
| Commercial Auto | 104 | 109 | 5 |
| All Other Lines | 84 | 84 | 0 |
| Total P/C Industry | 97 | 98 | 1 |

p Preliminary

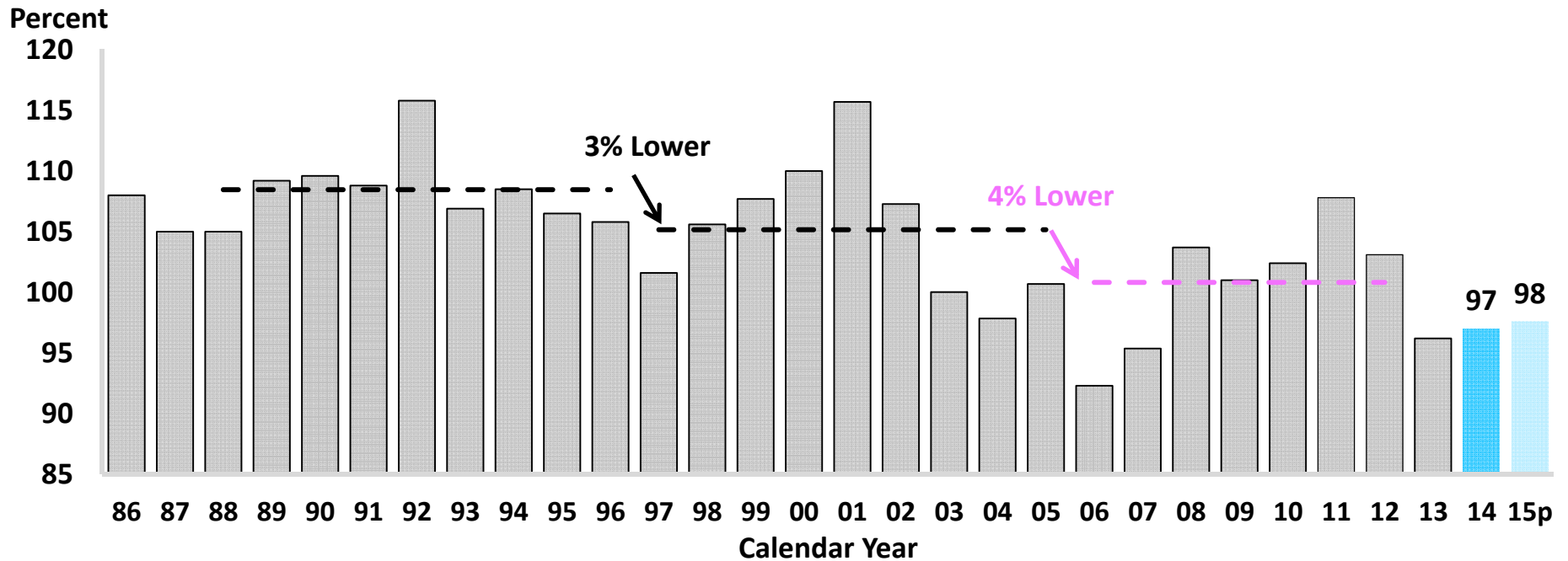
Source: Annual Statement data for individual carriers prior to consolidation of affiliated carriers
Includes carrier data available as of 4/14/2016

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P/C Industry Net Combined Ratios

Private Carriers



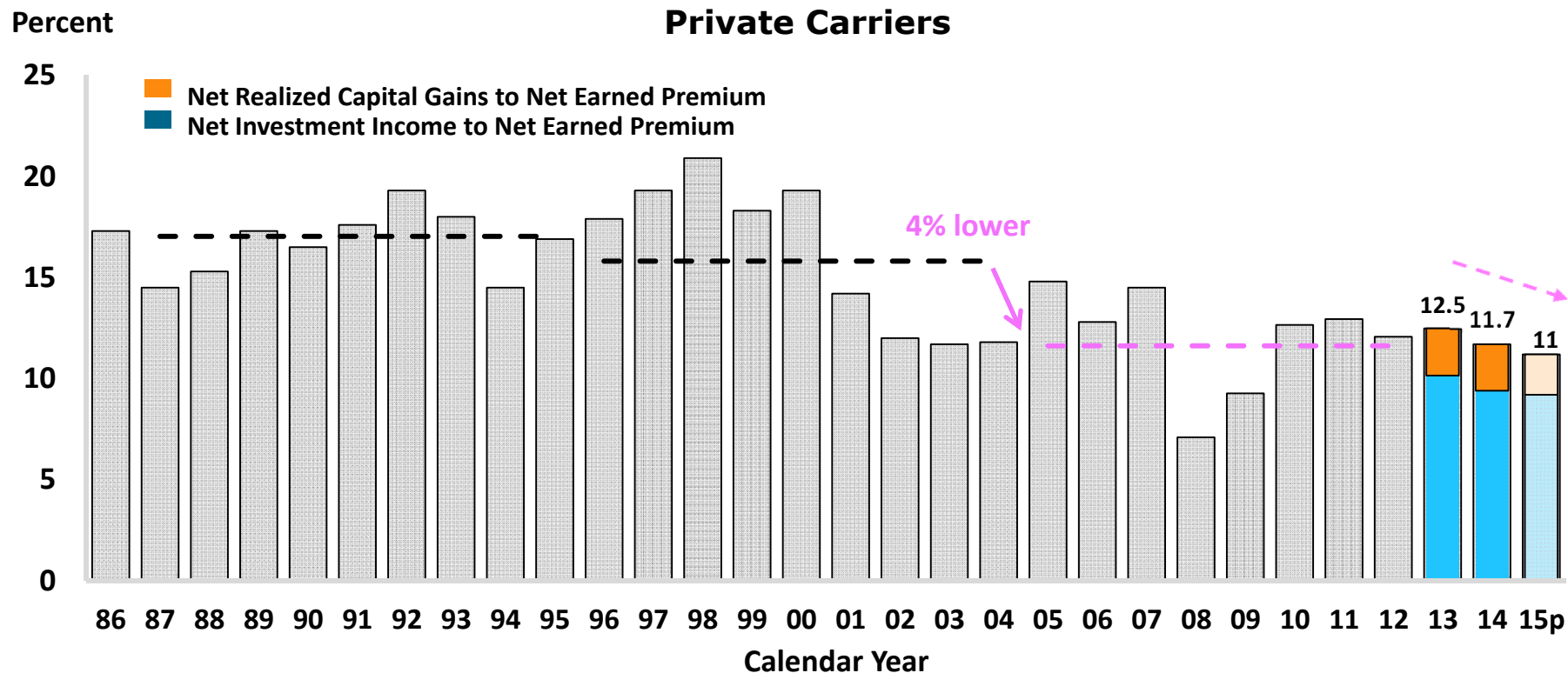
p Preliminary

Sources: 1986–2007 and 2012–2015p, Annual Statement data
2008–2011, ISO

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P/C Industry Investment Gain Ratio



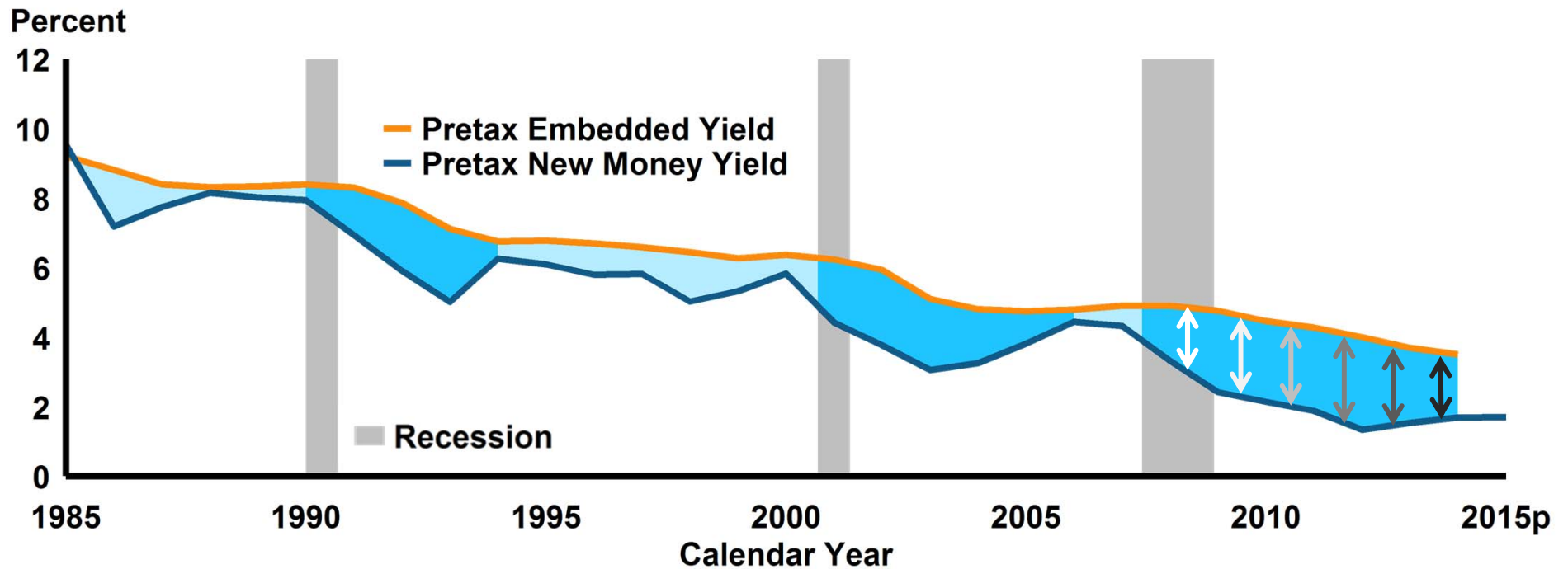
p Preliminary

Sources: 1986–2007, 2013–2015p, Annual Statement data
2008–2012, ISO

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P/C Industry Embedded Yield and New Money Yield



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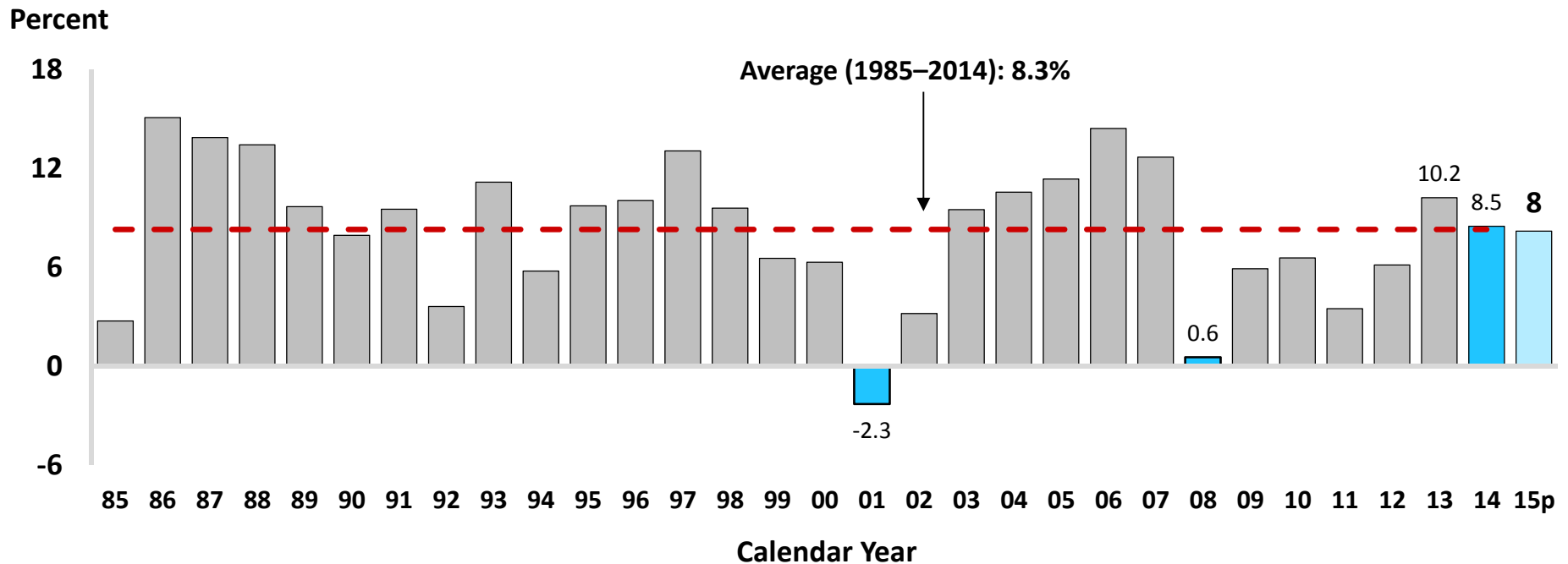
Sources: NCCI, *Best's Aggregates & Averages*, Federal Reserve Bank, Value Line, TreasuryDirect, Barron's, Bloomberg
 Embedded Yield is the reported investment income for bond instruments divided by the asset value of those instruments
 New Money Yield is the pretax yield on bonds

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P/C Industry After-Tax Return on Surplus

Private Carriers



p Preliminary

Sources: 1985–2007, 2013–2015p Annual Statement data
2008–2012, ISO

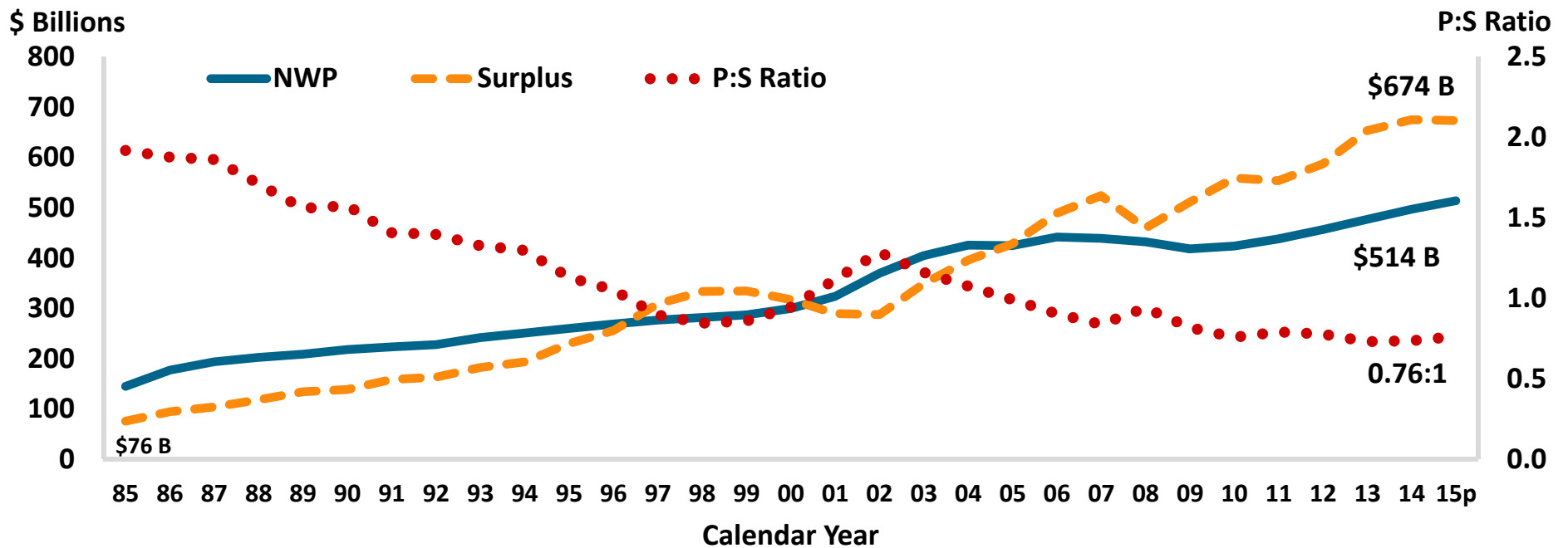
After-tax return on average surplus, excluding unrealized capital gains

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P/C Industry Premium-to-Surplus Ratio

Private Carriers



p Preliminary

Sources: 1985–2007, 2013–2015p Annual Statement data
2008–2012, ISO

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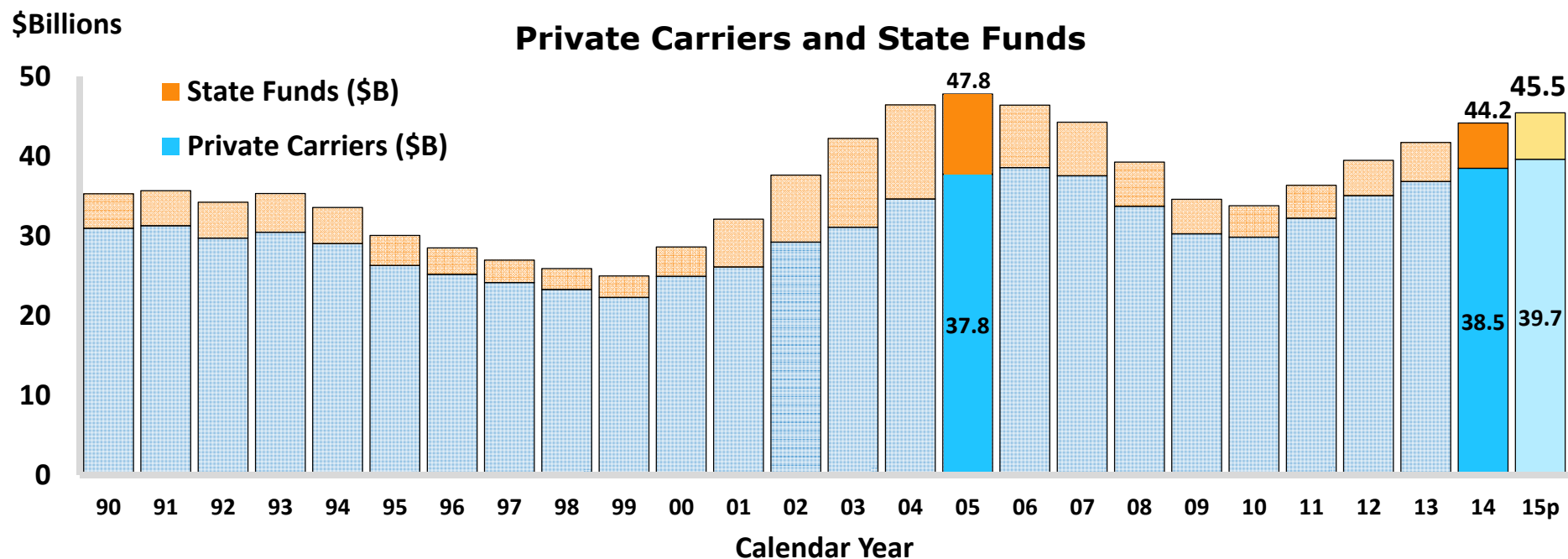
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Workers Compensation (WC) Premium

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WC Net Written Premium Growth Continued



p Preliminary

Source: 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

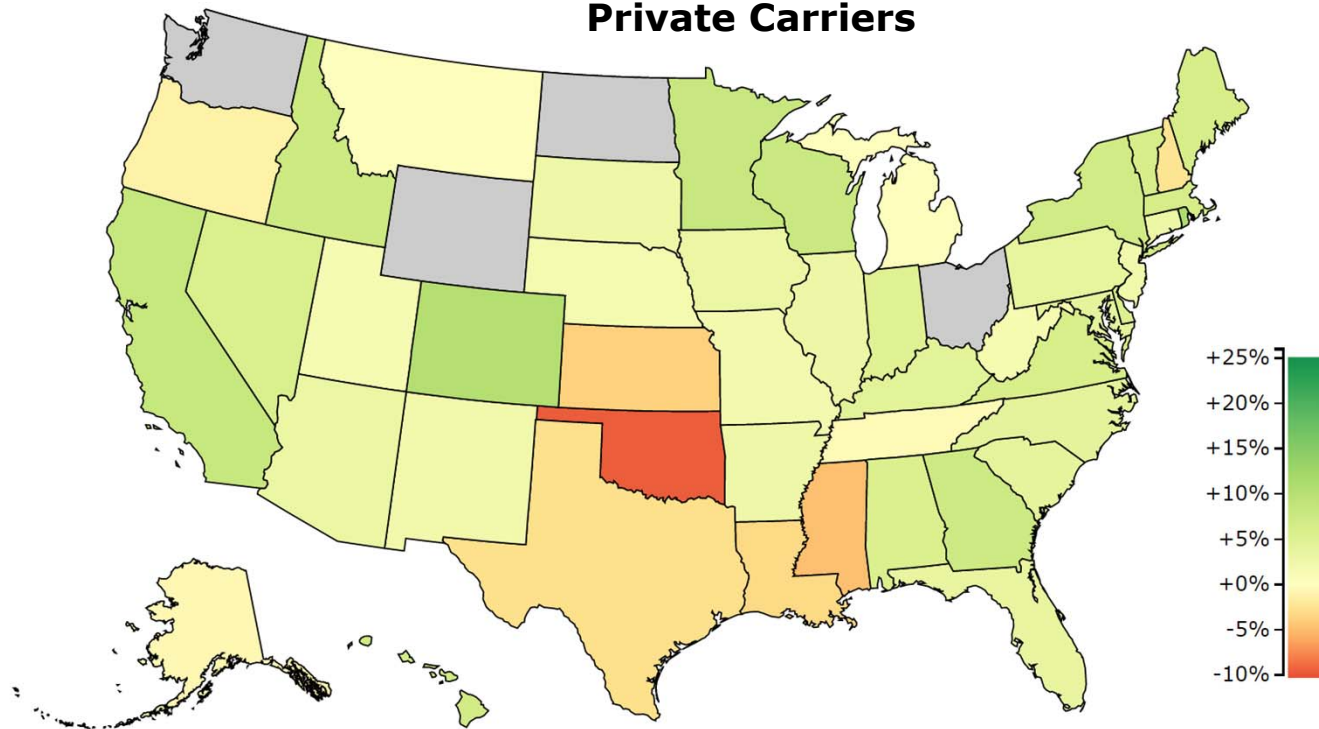
Each calendar year total for state funds includes all funds operating as a state fund in that year

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WC Direct Written Premium 2015 Growth

Private Carriers



Source: 2014 and 2015, Annual Statement Statutory Page 14

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WC Components of Written Premium Change

Private Carriers

Written Premium Change From 2014 to 2015

| | |
|--|--------------|
| Net Written Premium—Countrywide | +2.9% |
| Direct Written Premium (DWP)—Countrywide | +4.3% |
| Direct Written Premium (DWP)—NCCI States | +2.5% |
| Components of DWP Change for NCCI States: | |
| Change in Carrier Estimated Payroll | +4.8% |
| Change in Bureau Loss Costs and Mix | −4.0% |
| Change in Carrier Discounting | −0.3% |
| Change in Other Factors | +2.2% |

| | |
|-------------------------|--------------|
| Combined Effect: | +2.5% |
|-------------------------|--------------|

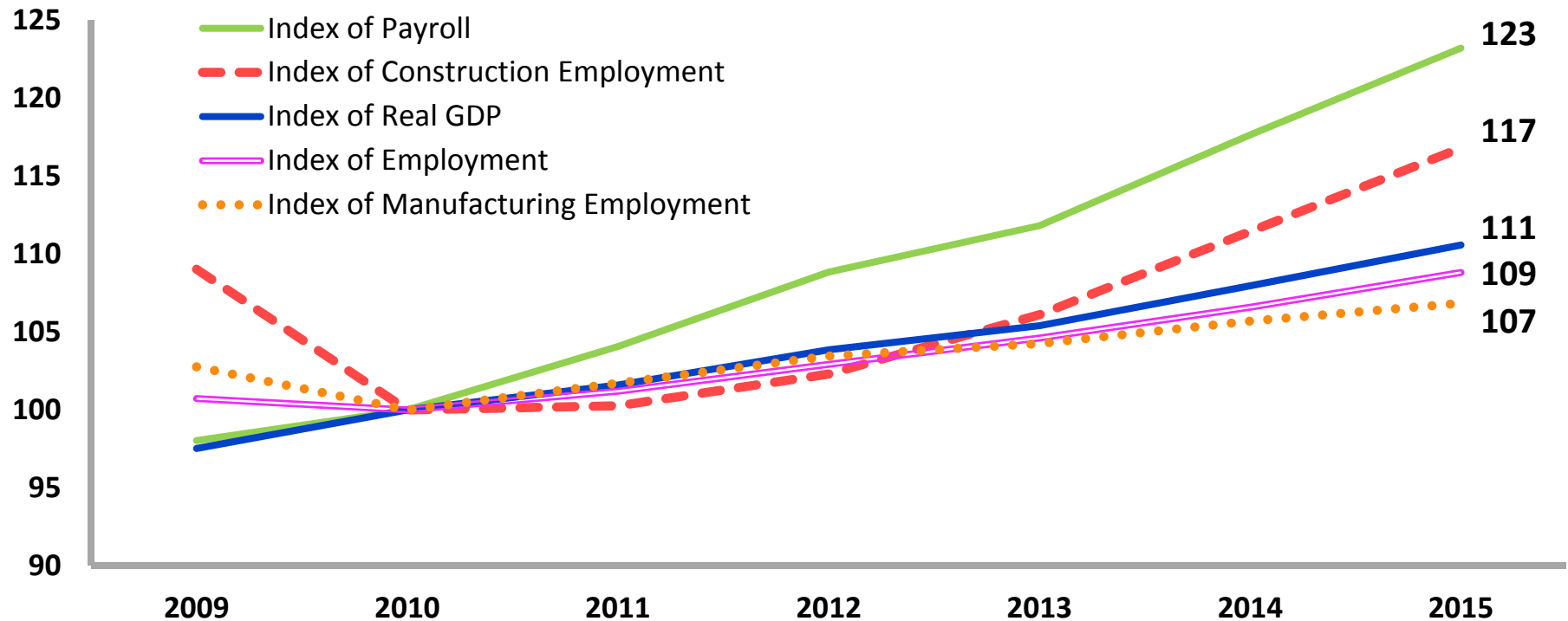
Sources: Countrywide: Annual Statement data
NCCI States: Annual Statement Statutory Page 14 for all states where NCCI provides ratemaking services
Components: NCCI Policy data

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US Employment Levels

Index: 2010 = 100



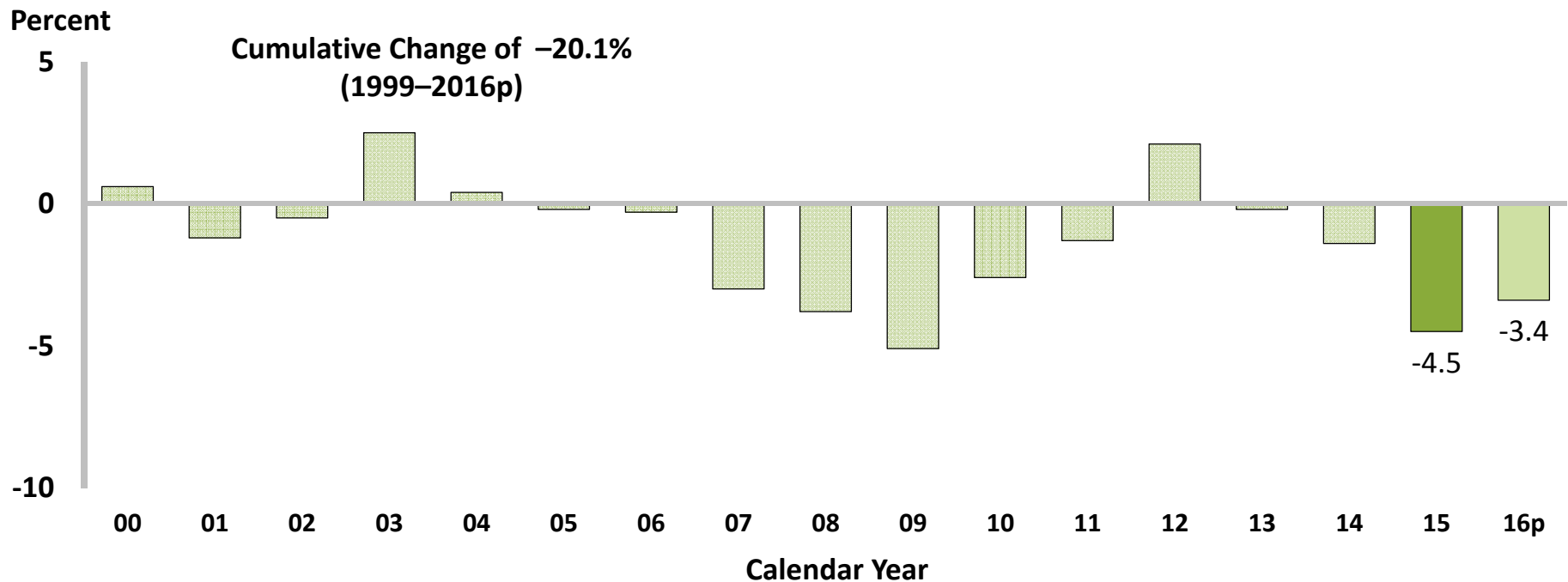
Sources: US Bureau of Labor Statistics and US Bureau of Economic Analysis

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WC Approved Changes in Bureau Premium Level

By Effective Year for NCCI States



p Preliminary

Bureau premium level changes reflect approved changes in advisory rates, loss costs, assigned risk rates, and rating values, as of 4/15/2016, relative to those previously approved in NCCI states only

IN and NC are filed in cooperation with state rating bureaus

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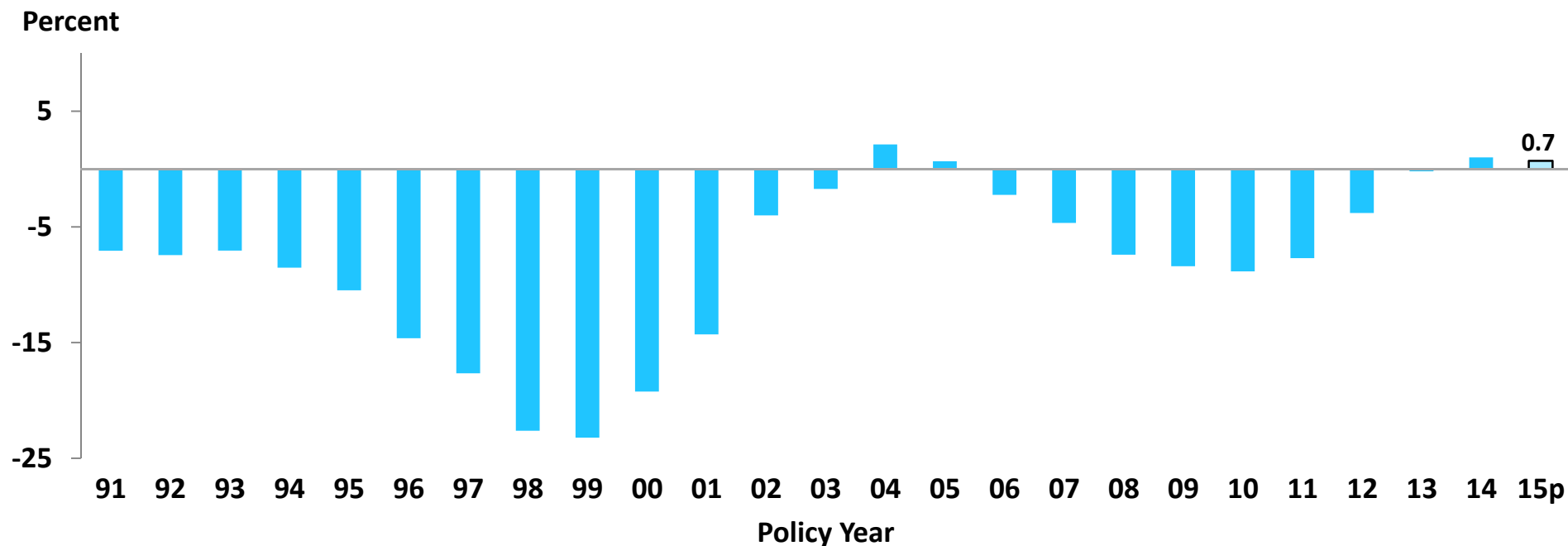
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IN and NC are filed in cooperation with state rating bureaus

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WC Impact of Discounting on Premium

Private Carriers – NCCI States



p Preliminary

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

NCCI benchmark level does not include a profit and contingency provision

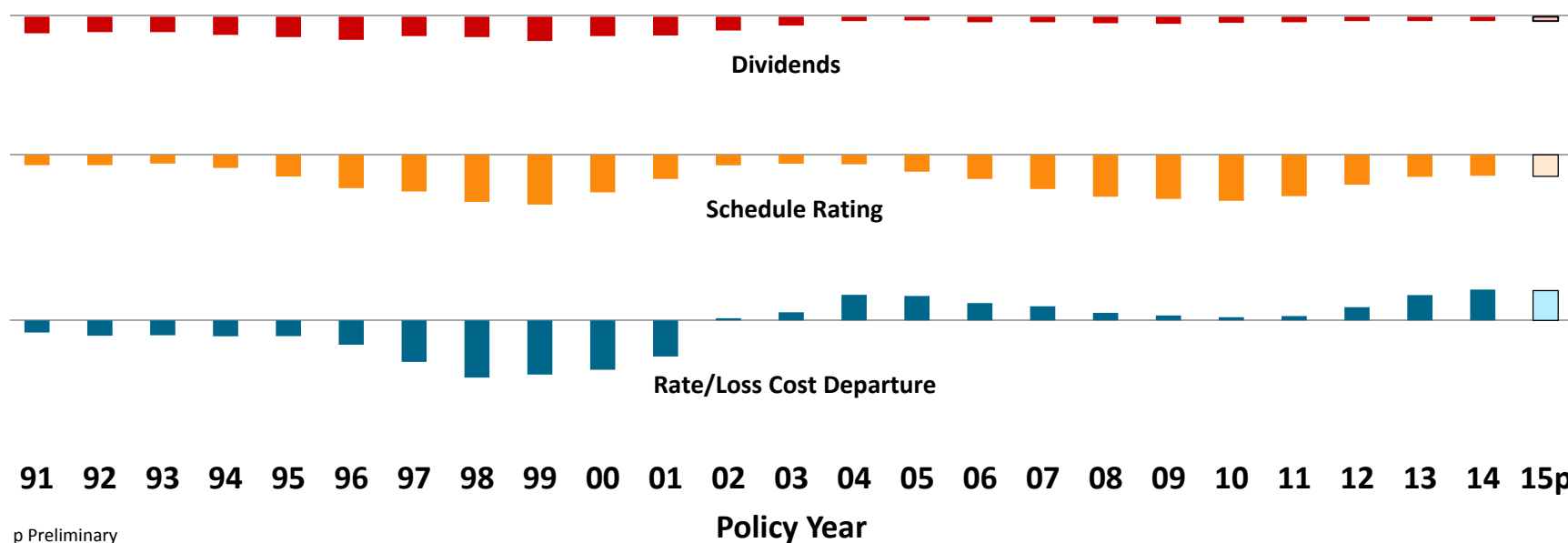
Based on data valued as of 12/31/2015 for all states where NCCI provides ratemaking services, excluding TX

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WC Impact of Discounting on Premium

Private Carriers – NCCI States



p Preliminary

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

Dividend ratios are based on calendar year statistics

NCCI benchmark level does not include a profit and contingency provision

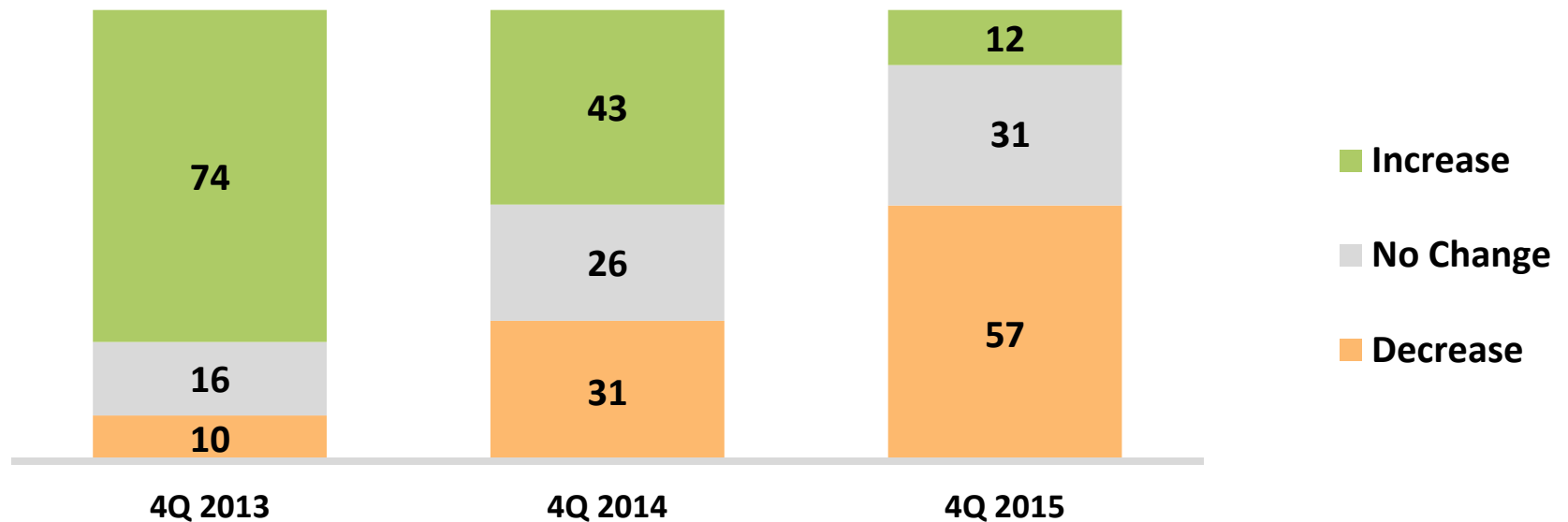
Based on data valued as of 12/31/2015 for all states where NCCI provides ratemaking services, excluding TX

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WC Pricing – Market Index Survey

Percentage of Respondents



Sources: The Council of Insurance Agents & Brokers, "Commercial P/C Pricing: Continued Decreases Across Most Lines (in Fourth Quarter of 2015)"
"Commercial P/C Pricing Lowered Slightly in Fourth Quarter of 2014"
"Commercial P/C Pricing Increases Slow in Fourth Quarter of 2013"
Results for "All Regions"

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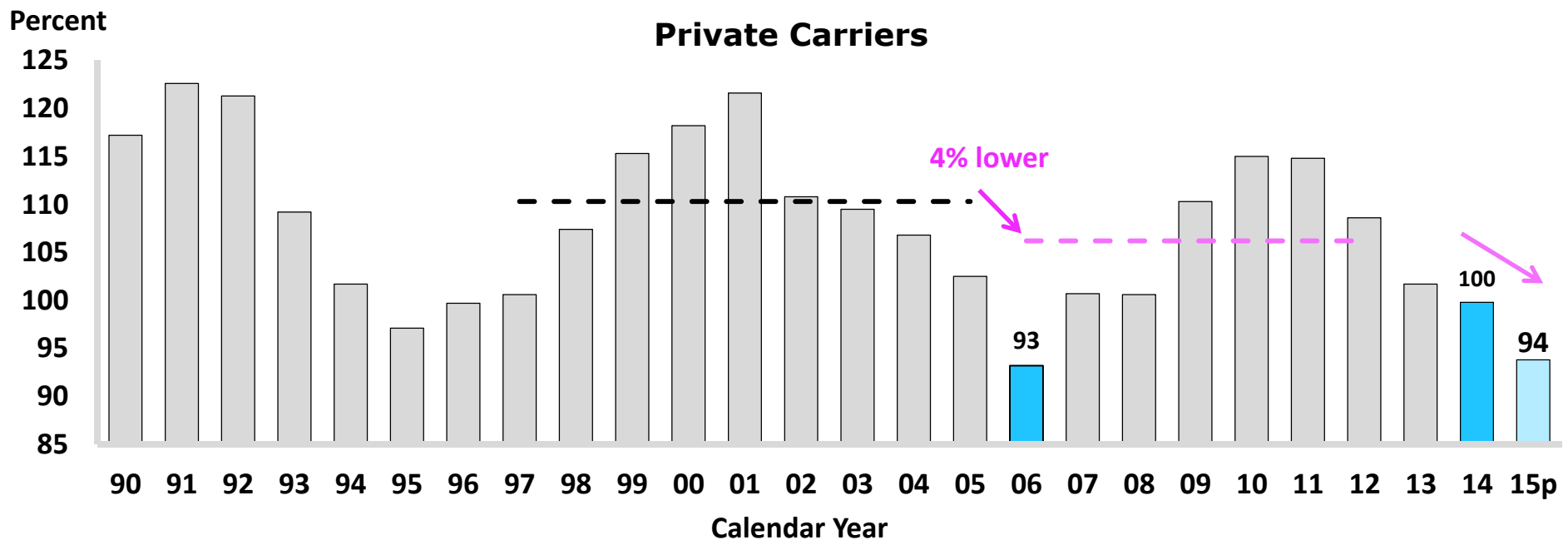
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Workers Compensation Results

WC Combined Ratio Underwriting Gain Achieved



p Preliminary

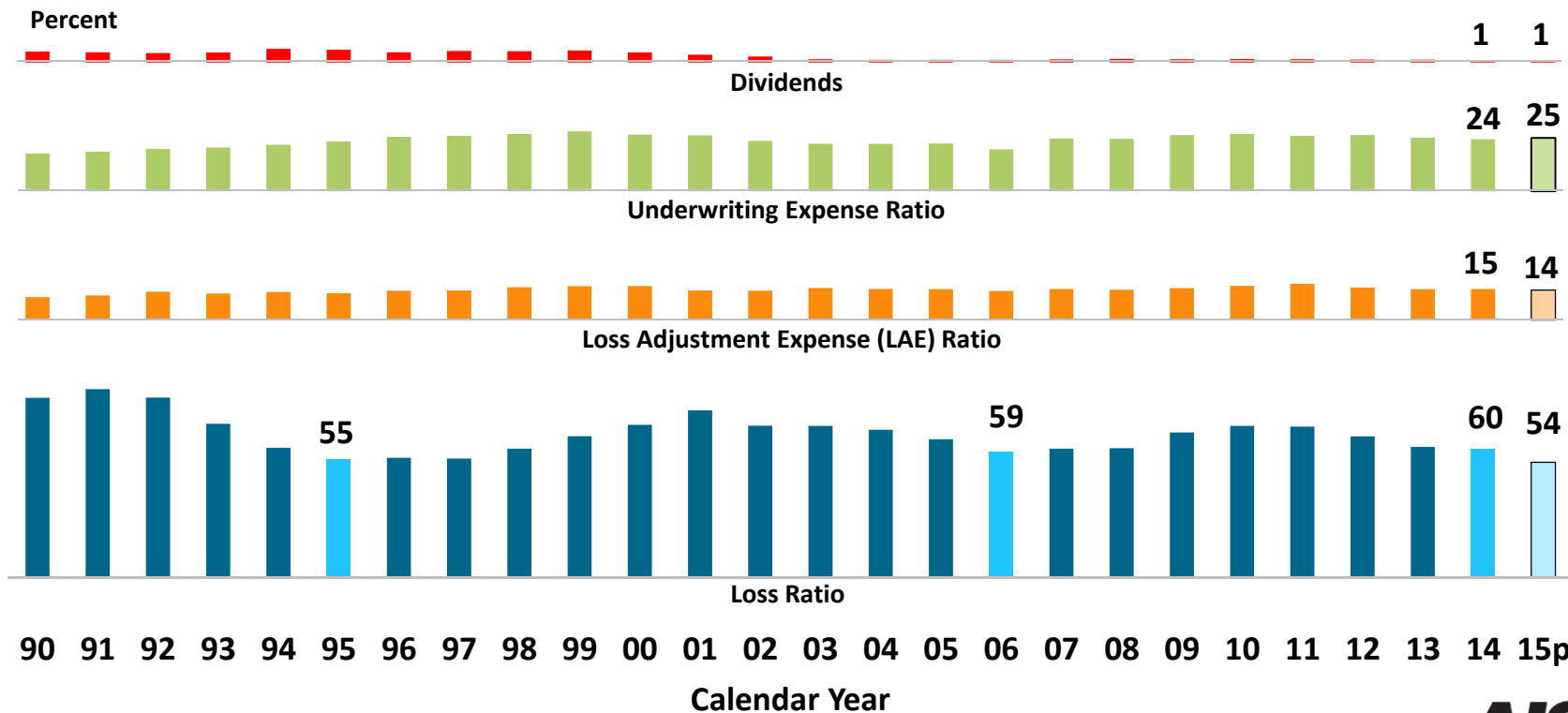
Source: Annual Statement data

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WC Combined Ratio Components

Private Carriers



p Preliminary

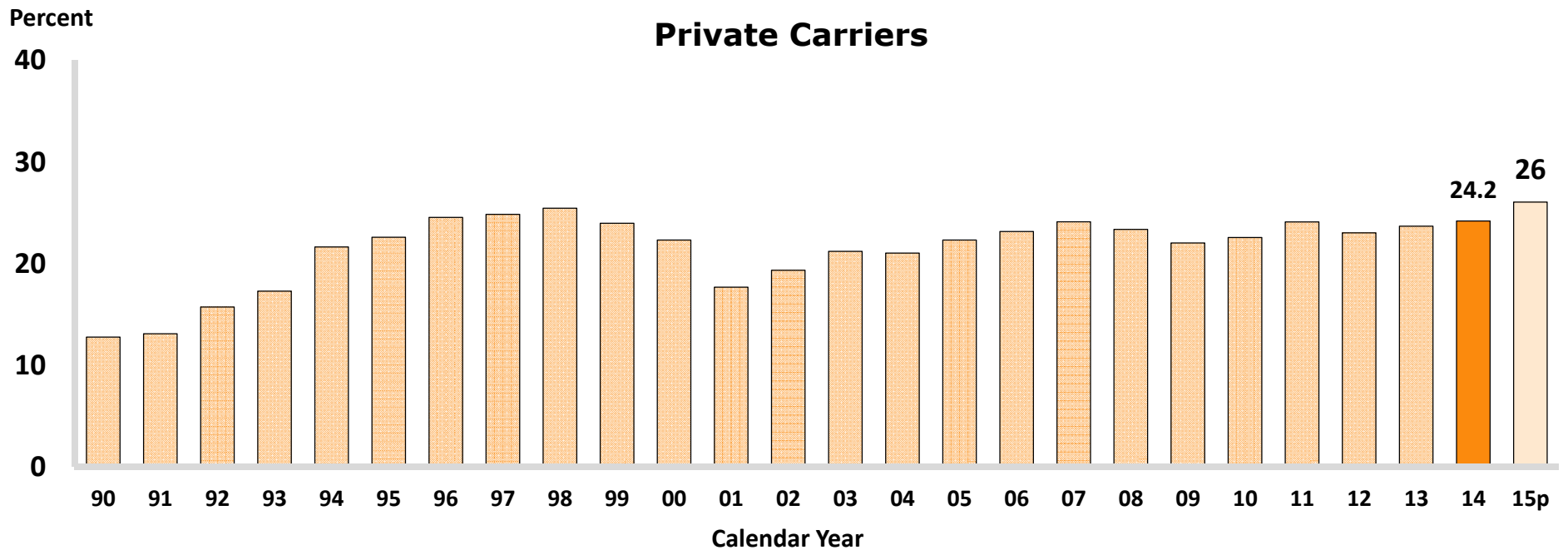
Source: Annual Statement data

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WC LAE to Loss Ratio Net Incurred LAE to Incurred Losses

Private Carriers



p Preliminary

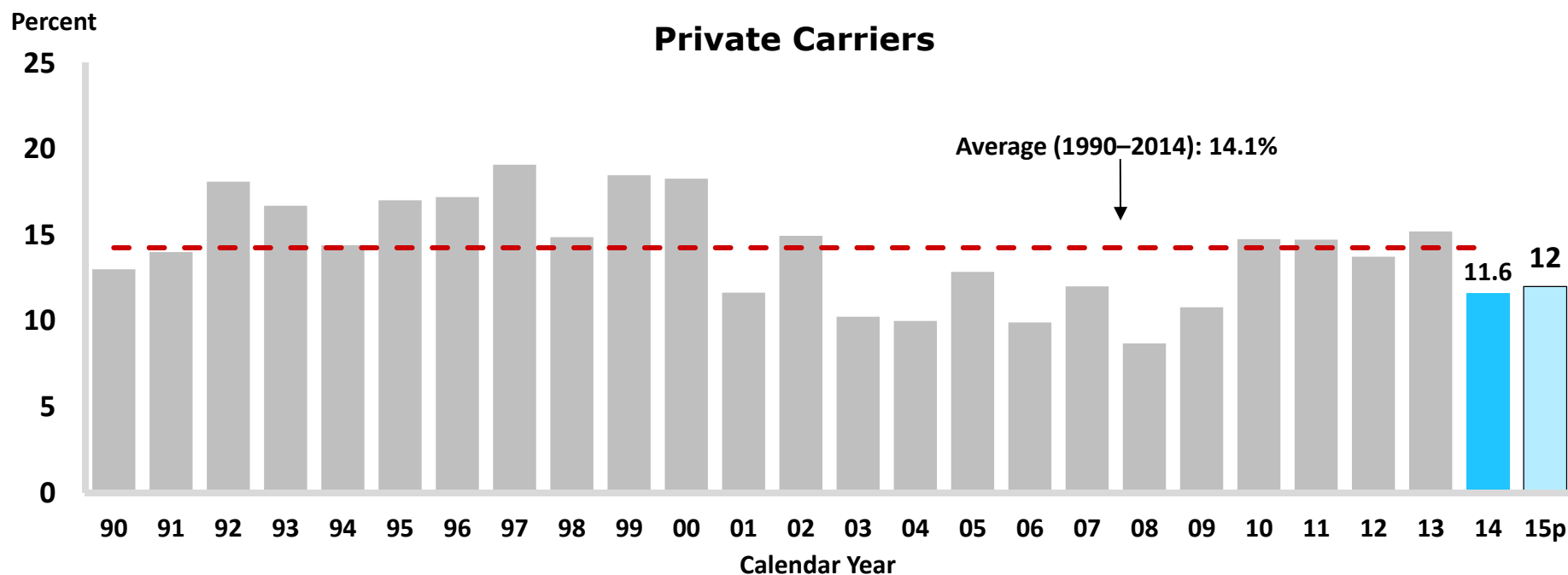
Source: Annual Statement data

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

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WC Investment Gain on Insurance Transactions Ratio to Net Earned Premium



p Preliminary

Source: Annual Statement data

Investment Gain on Insurance Transactions includes Other Income

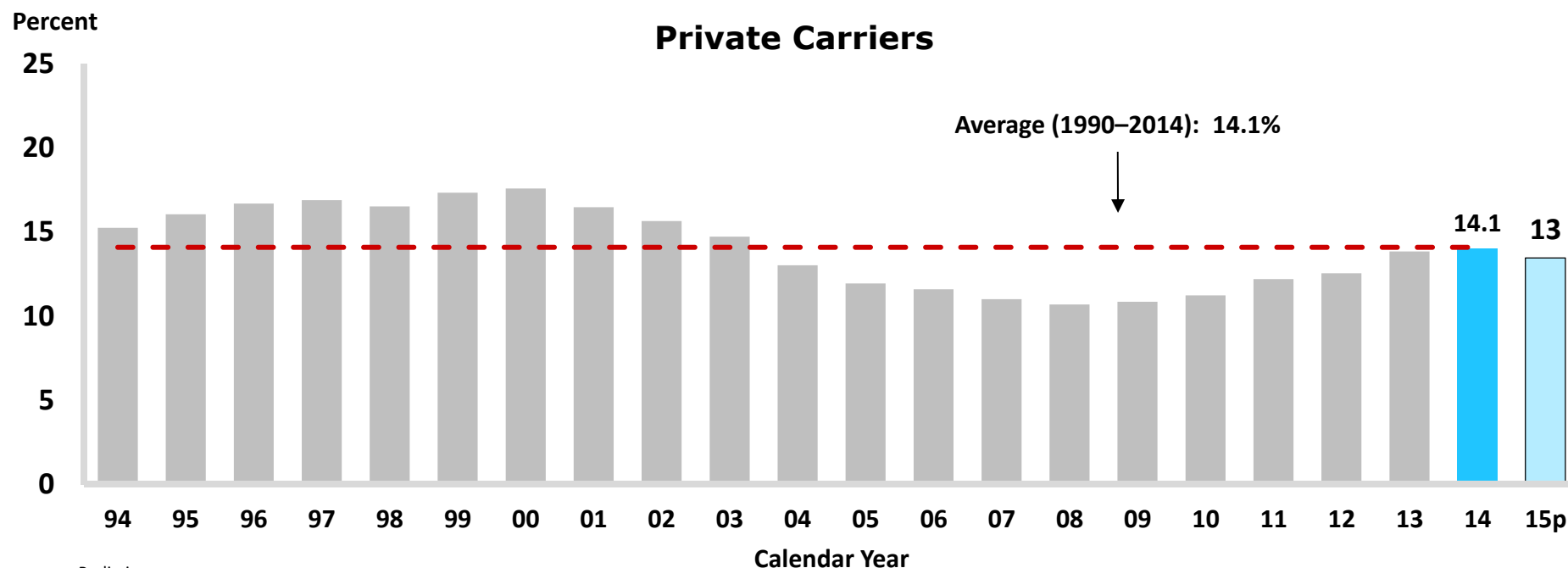
1990 and 1991 adjusted to include realized capital gains to be consistent with 1992 and subsequent

2013 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 Investment Gain on Insurance Transactions Five-Year Moving Average



p Preliminary

Source: Annual Statement data

Investment Gain on Insurance Transactions includes Other Income

Averages reflect the following adjustments:

1990 and 1991 adjusted to include realized capital gains to be consistent with 1992 and subsequent

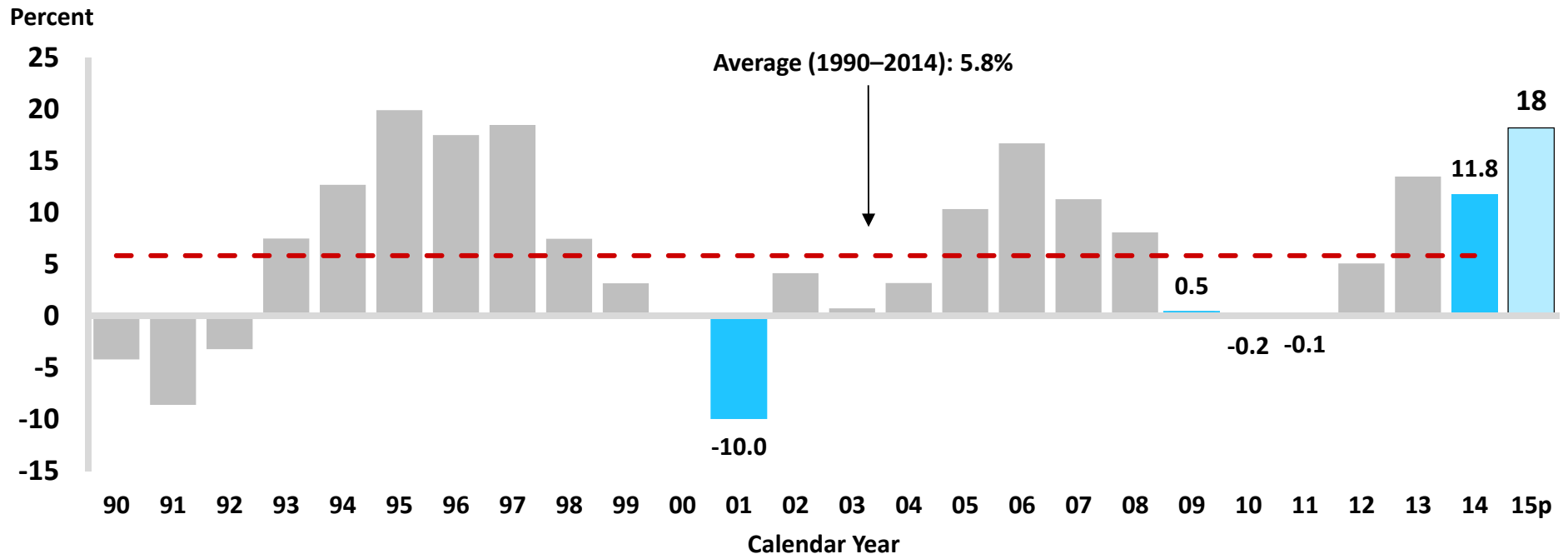
2013 adjusted to exclude a material realized gain resulting from a single company transaction that involved corporate restructuring

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WC Pretax Operating Gain

Private Carriers



p Preliminary

Source: Annual Statement data

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

1990 and 1991 adjusted to include realized capital gains to be consistent with 1992 and subsequent

2013 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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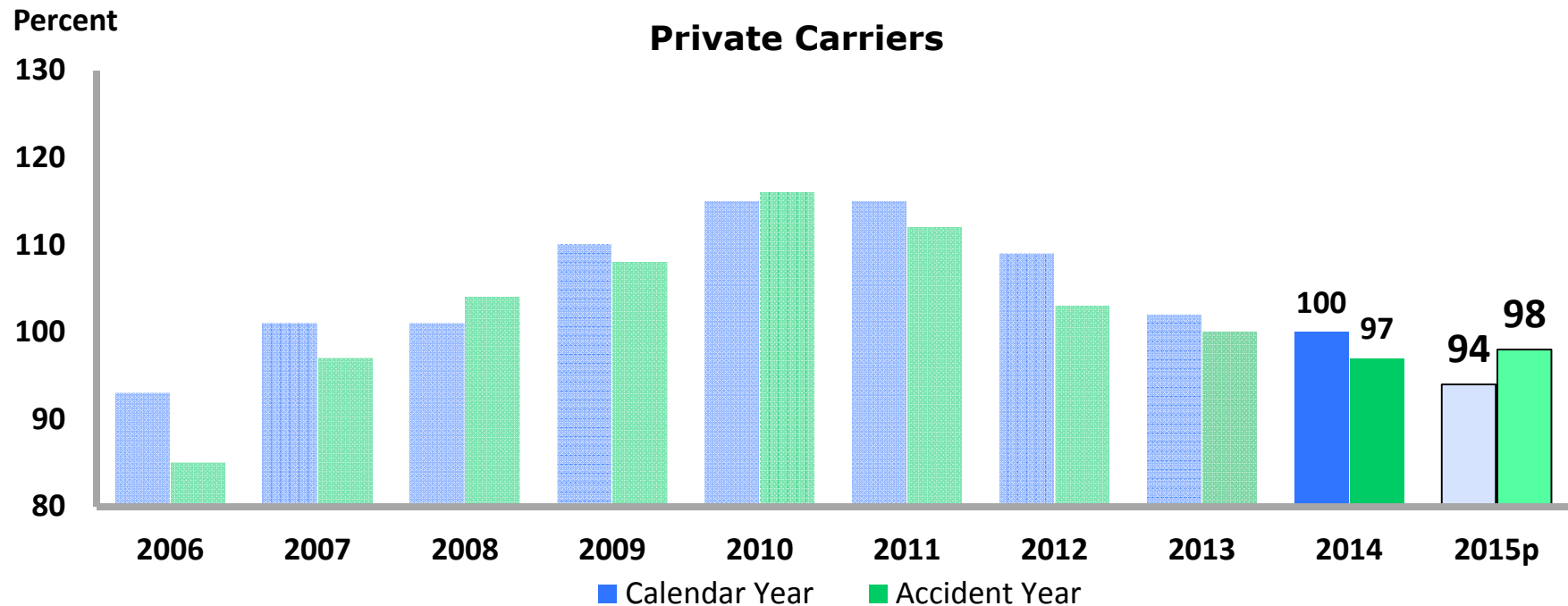
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Workers Compensation Accident Year Results and Reserve Estimates

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WC Net Combined Ratios Calendar Year vs. Accident Year as Reported



p Preliminary

Source: NCCI analysis based on Annual Statement data

Accident Year information is reported as of 12/31/2015

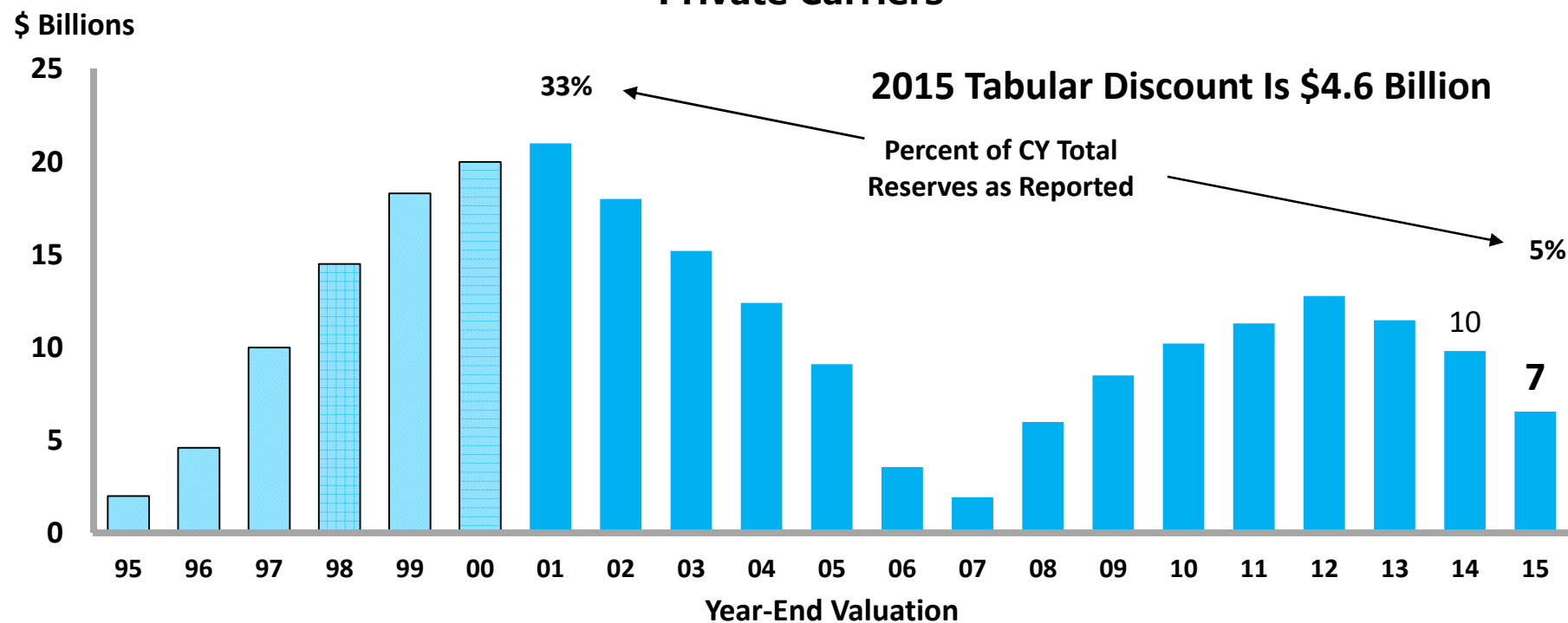
Includes dividends to policyholders

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WC Loss and LAE Net Reserve Deficiencies

Private Carriers

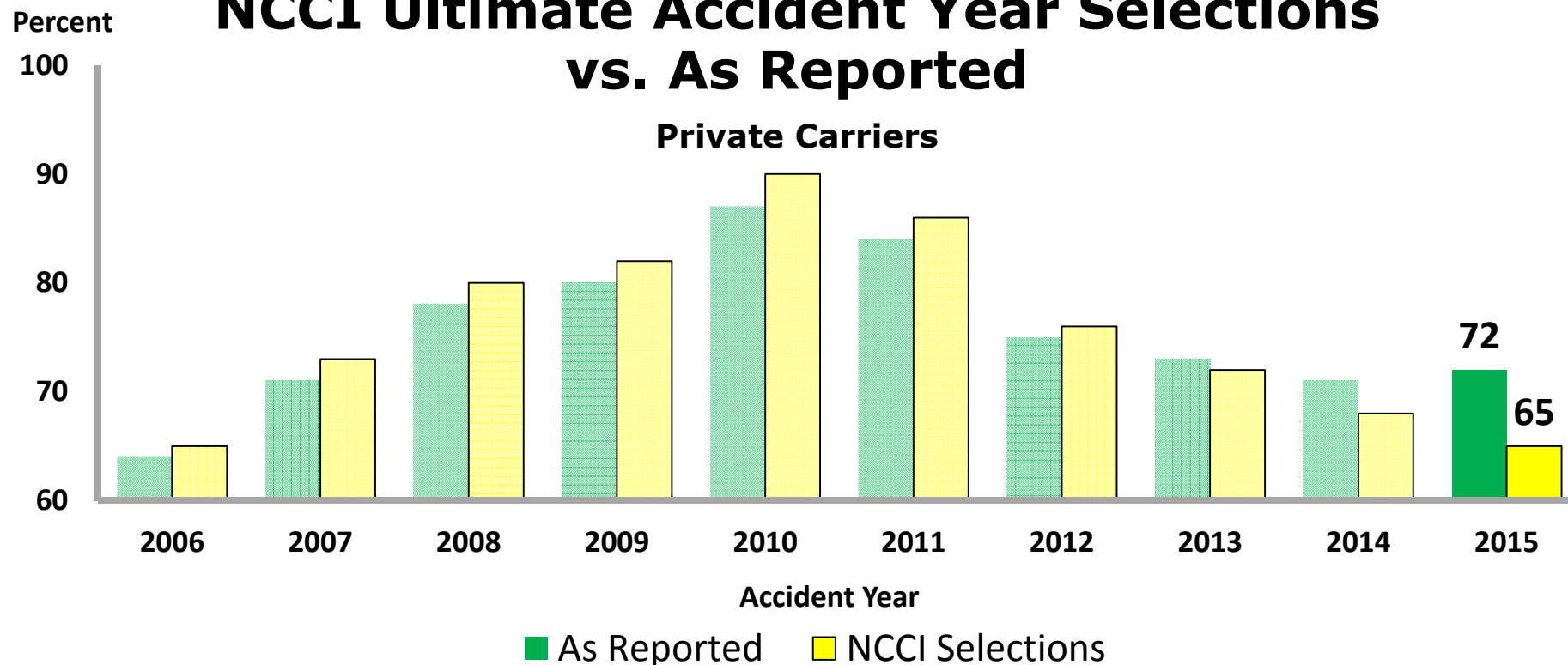


Source: NCCI analysis based on Annual Statement data
Considers all reserve discounts as deficiencies

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WC Net Loss and LAE Ratios NCCI Ultimate Accident Year Selections vs. As Reported



Sources: As Reported: Annual Statement Schedule P—Part 1D data as of 12/31/2015

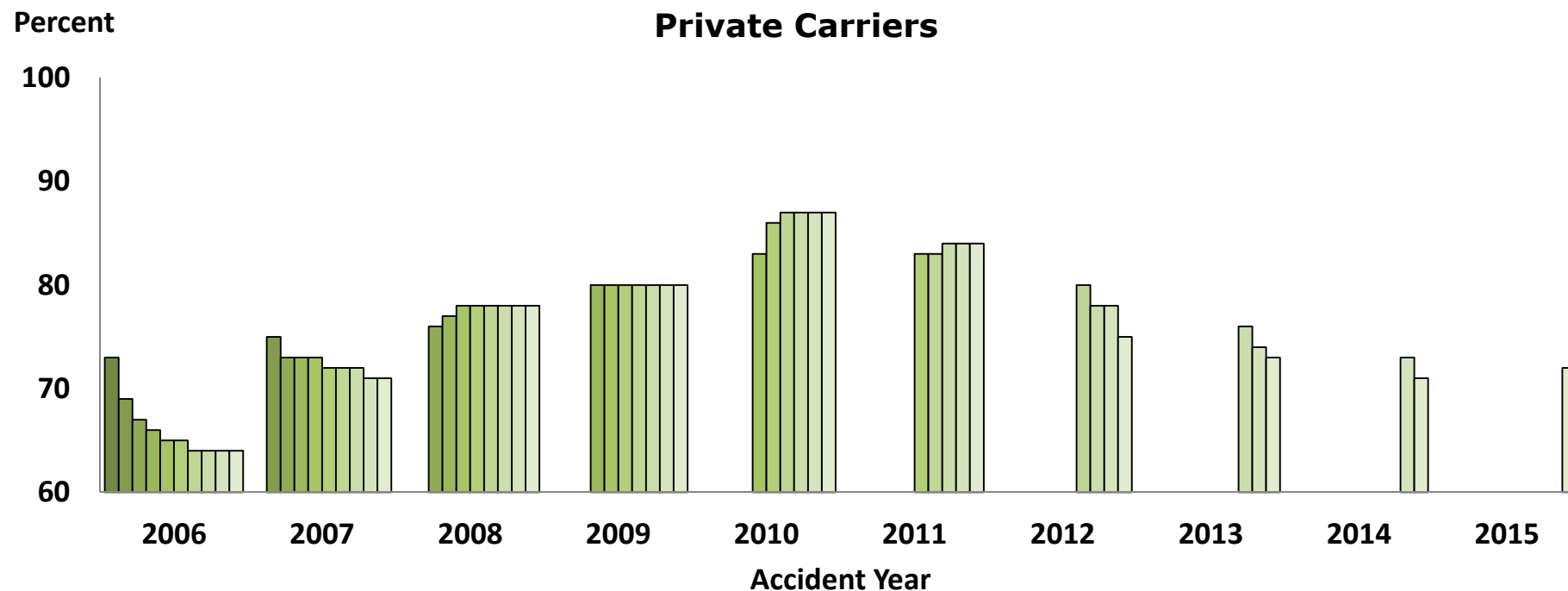
NCCI Selections: NCCI analysis based on Annual Statement data

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 Ratios Accident Year Emergence



Source: Annual Statement Schedule P—Part 1D data

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

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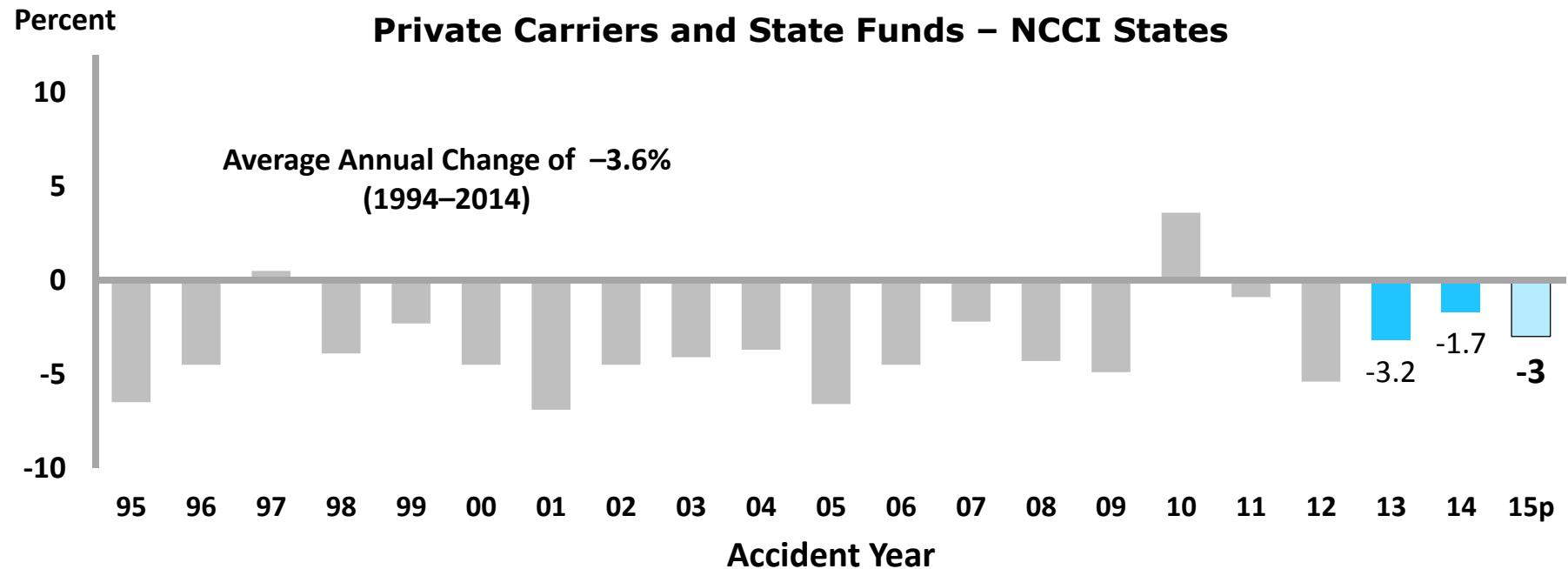
Workers Compensation Loss Drivers

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WC Lost-Time Claim Frequency

Change in Lost-Time Claims per \$1M Pure Premium



2010 and 2011 adjusted primarily for significant changes in audit activity

p Preliminary based on data valued as of 12/31/2015

Source: NCCI Financial Call data, developed to ultimate and adjusted to current wage and voluntary loss cost level, excludes high deductible policies;

1994–2014: Based on data through 12/31/2014

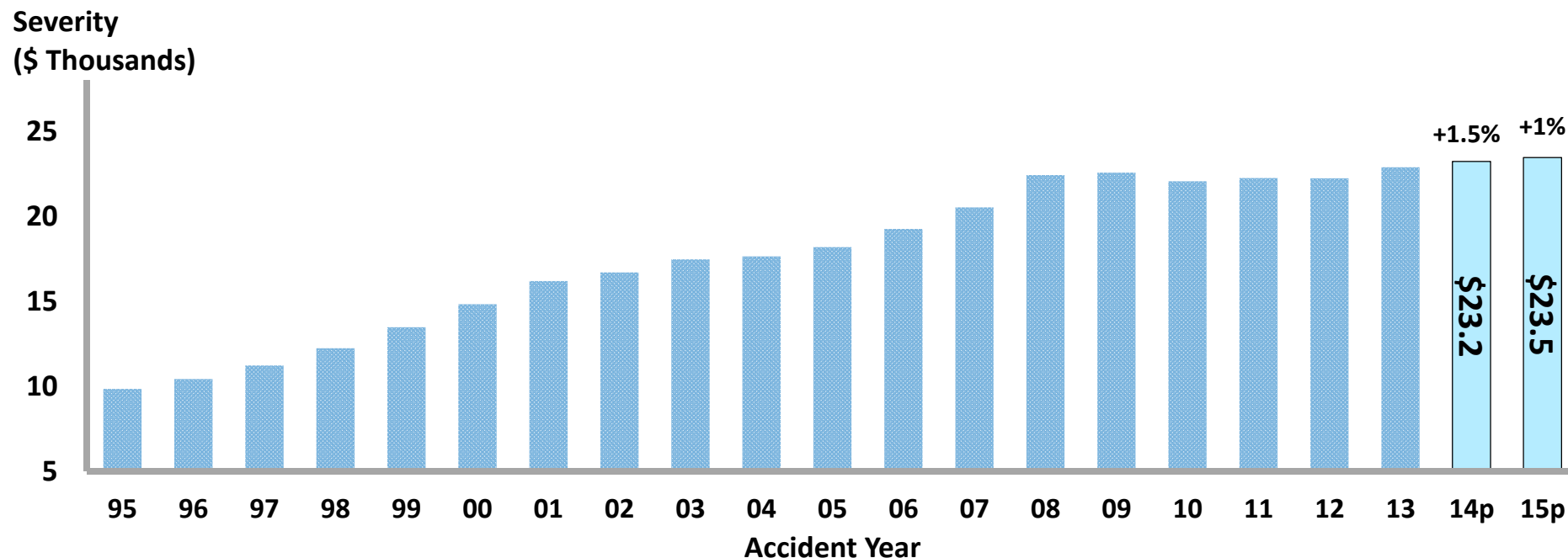
Includes all states where NCCI provides ratemaking services; WV is excluded through 2014, but included in 2015.

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WC Average Indemnity Cost per Lost-Time Claim

Private Carriers and State Funds – NCCI States



p Preliminary based on data valued as of 12/31/2015

Source: NCCI Financial Call data, developed to ultimate, excludes high deductible policies; 1994–2013: Based on data through 12/31/2014

Includes all states where NCCI provides ratemaking services; WV is included in 2014 and subsequent

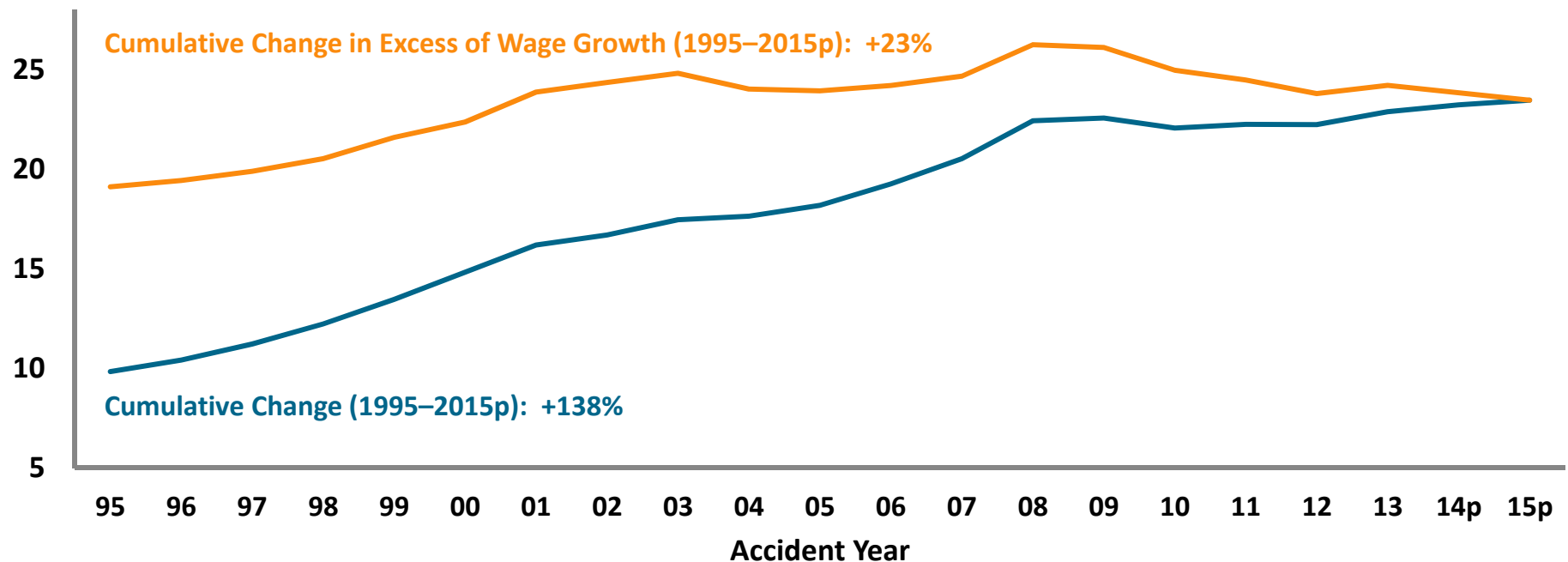
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WC Average Indemnity Cost per Lost-Time Claim

Severity
(\$ Thousands)

Private Carriers and State Funds – NCCI States



p Preliminary based on data valued as of 12/31/2015

Sources: Severity: NCCI Financial Call data, developed to ultimate, excludes high deductible policies; 1994–2013: Based on data through 12/31/2014

US Average Weekly Wage: 1994–2007 and 2012–2014, Quarterly Census of Employment and Wages; 2008–2011, NCCI; 2015p, NCCI and Moody's Economy.com

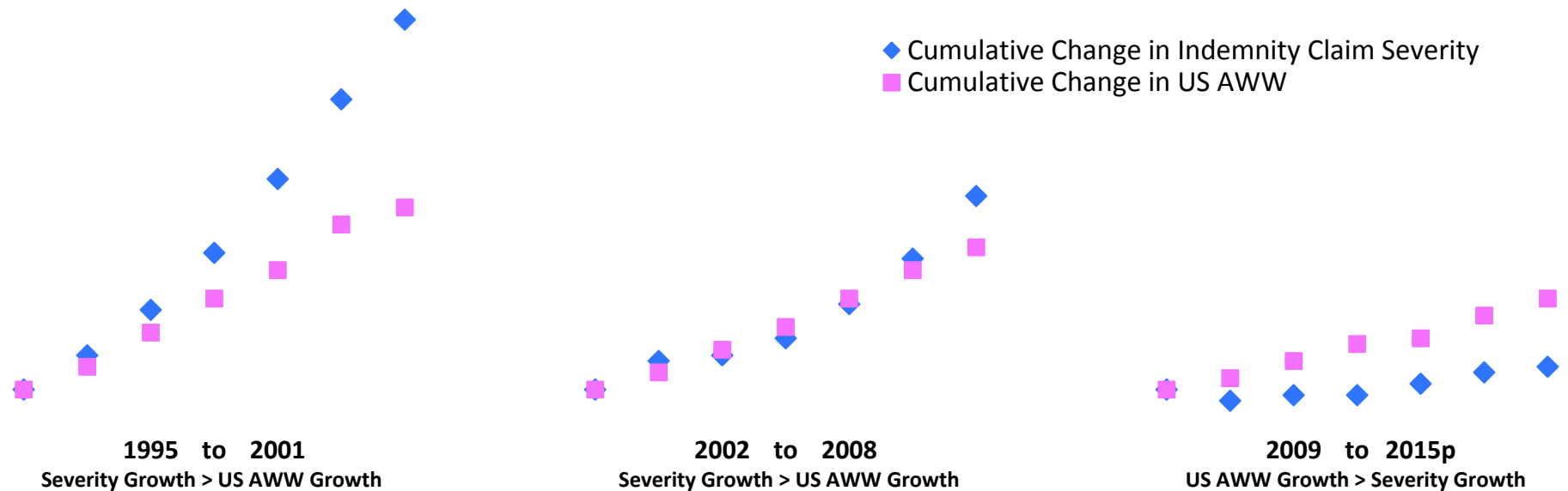
Includes all states where NCCI provides ratemaking services; WV is included in 2014 and subsequent

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Relative Growth Rates Indemnity Severity vs. Wage Inflation

Private Carriers and State Funds – NCCI States



p Preliminary based on data valued as of 12/31/2015

Sources: Severity: NCCI Financial Call data, developed to ultimate, excludes high deductible policies; 1994–2013: Based on data through 12/31/2014

US Average Weekly Wage: 1994–2007 and 2012–2014, Quarterly Census of Employment and Wages; 2008–2011, NCCI; 2015p, NCCI and Moody's Economy.com

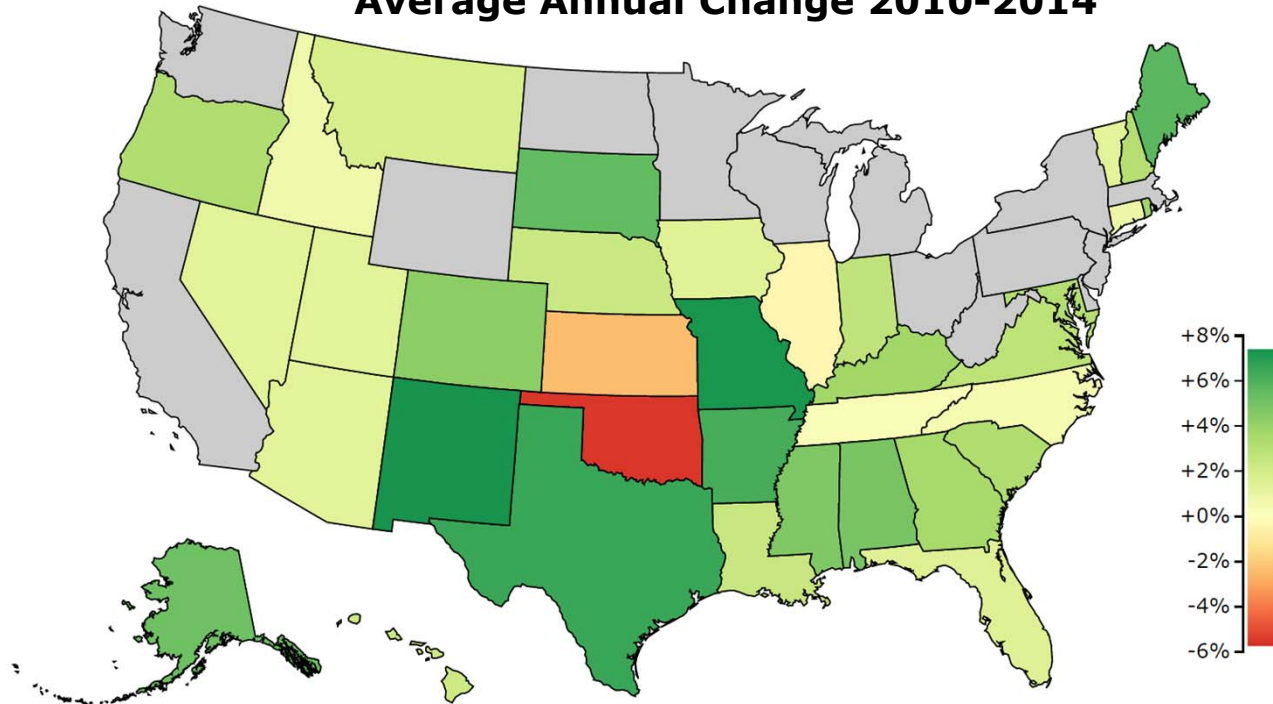
Includes all states where NCCI provides ratemaking services; WV is included in 2014 and subsequent

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WC Indemnity Claim Severity

Average Annual Change 2010-2014



Source: "NCCI Countrywide Frequency and Severity Analysis Using Data Valued as of 12/31/2014" on ncci.com
Values displayed reflect methodology and state data underlying the most recent rate/loss cost filing
Includes all states where NCCI provides ratemaking services, excluding WV

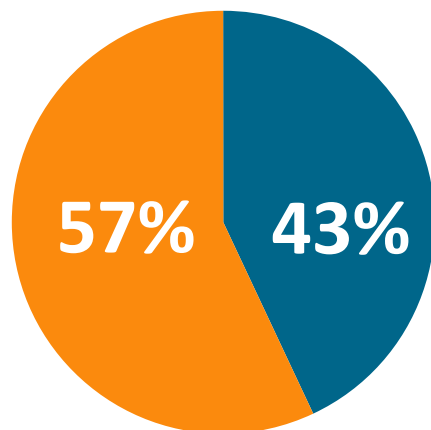
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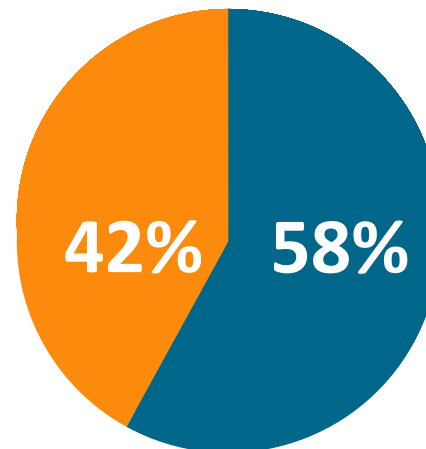
Indemnity/Medical Split Over Time

Private Carriers and State Funds – NCCI States

1981



2015p



Indemnity Medical

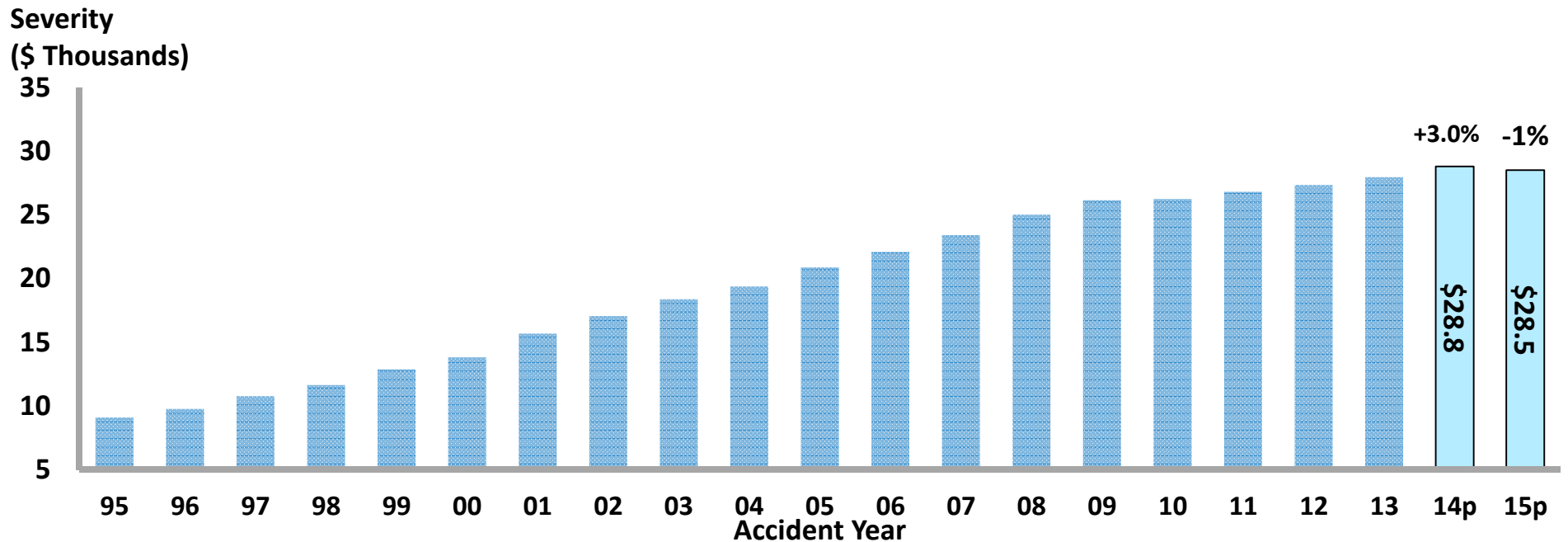
Source: NCCI Financial Call data, developed to ultimate, excludes high deductible policies

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WC Average Medical Cost per Lost-Time Claim

Private Carriers and State Funds – NCCI States



p Preliminary based on data valued as of 12/31/2015

Source: NCCI Financial Call data, developed to ultimate, excludes high deductible policies; 1994–2013: Based on data through 12/31/2014
Includes all states where NCCI provides ratemaking services; WV is included in 2014 and subsequent

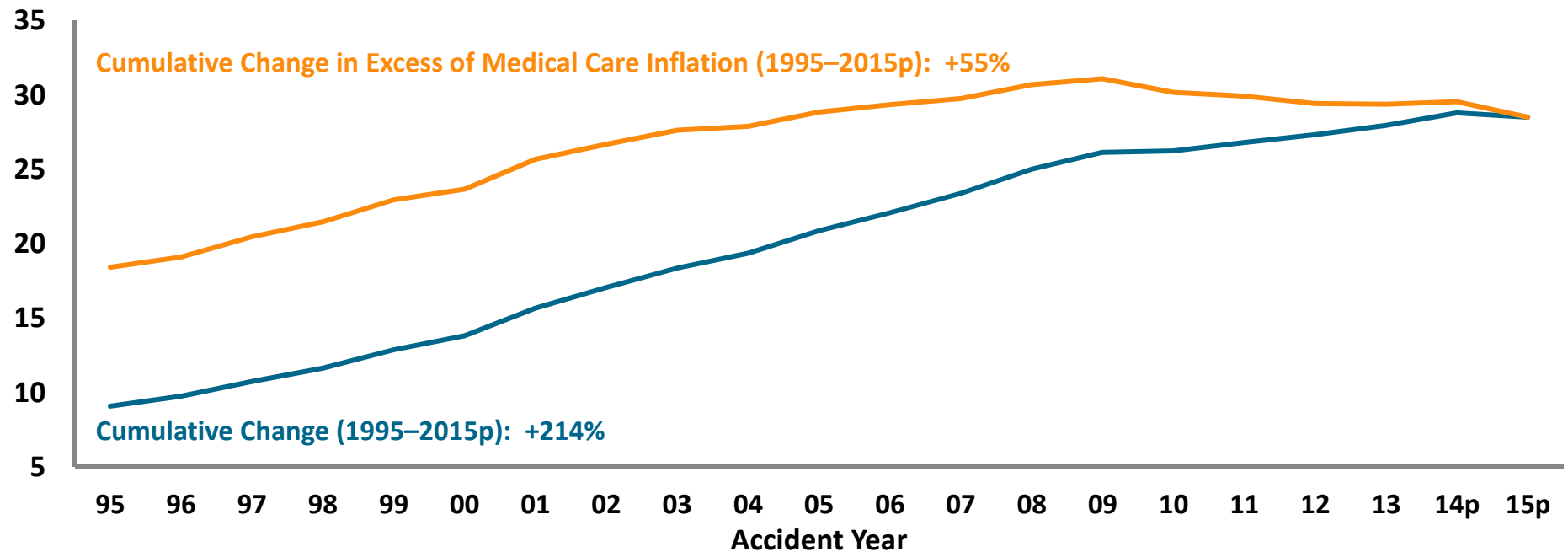
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WC Average Medical Cost per Lost-Time Claim

Severity
(\$ Thousands)

Private Carriers and State Funds – NCCI States



p Preliminary based on data valued as of 12/31/2015

Sources: Severity: NCCI Financial Call data, developed to ultimate, excludes high deductible policies; 1994–2013: Based on data through 12/31/2014

US Medical CPI: US Bureau of Labor Statistics

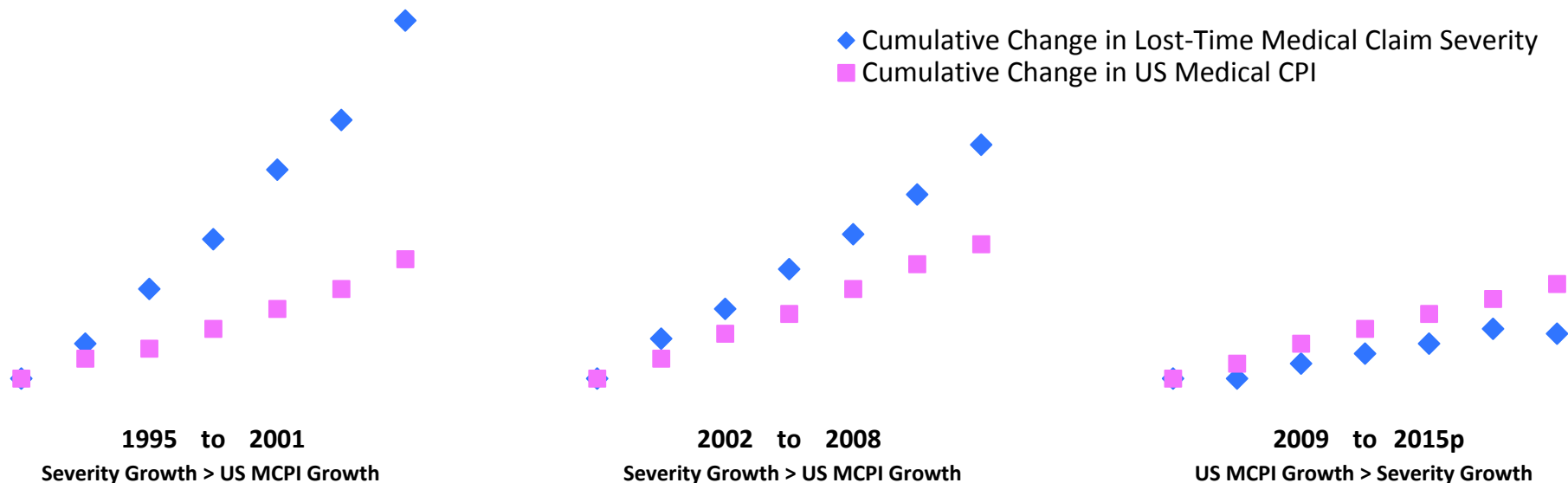
Includes all states where NCCI provides ratemaking services; WV is included in 2014 and subsequent

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Relative Growth Rates Medical Severity vs. Medical Care Inflation

Private Carriers and State Funds – NCCI States



p Preliminary based on data valued as of 12/31/2015

Sources: Severity: NCCI Financial Call data, developed to ultimate; excludes high deductible policies; 1994–2013: Based on data through 12/31/2014

US Medical CPI: US Bureau of Labor Statistics

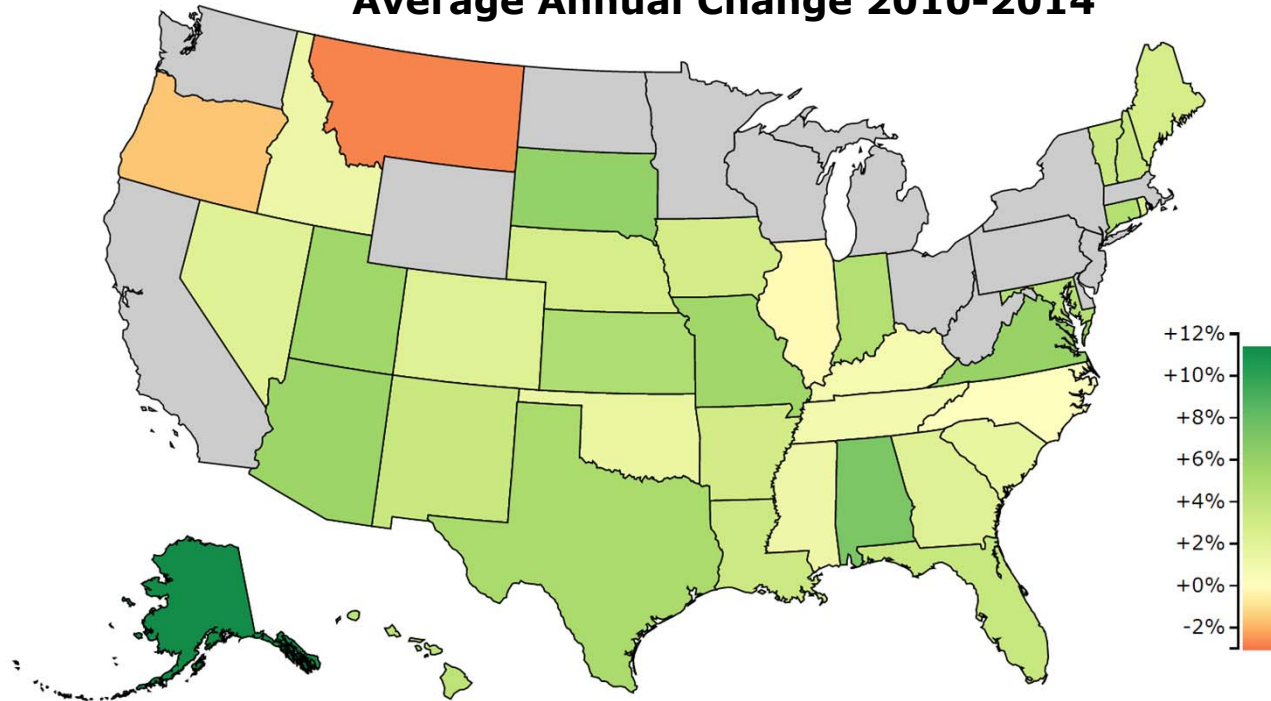
Includes all states where NCCI provides ratemaking services; WV is included in 2014 and subsequent

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WC Lost-Time Medical Claim Severity

Average Annual Change 2010-2014



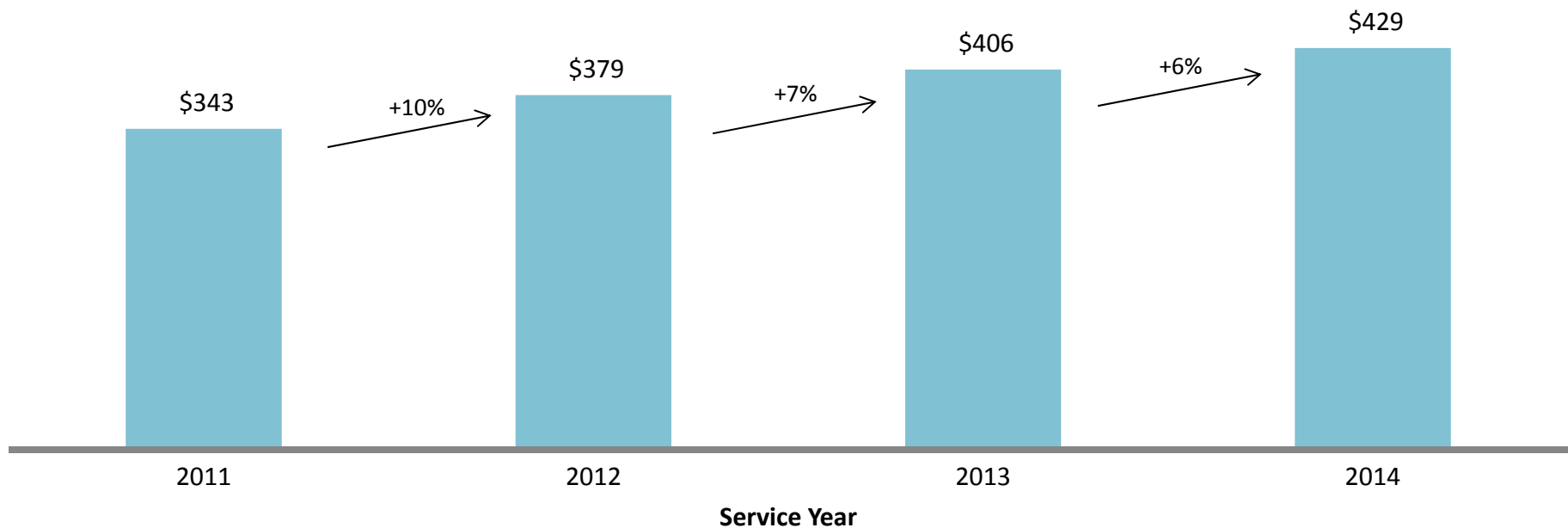
Source: "NCCI Countrywide Frequency and Severity Analysis Using Data Valued as of 12/31/2014" on ncci.com
Values displayed reflect methodology and state data underlying the most recent rate/loss cost filing
For all states where NCCI provides ratemaking services, excluding WV

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Rx Costs per Active Claim Continue to Grow

2011 to 2014 Cumulative Change Is 25%



NCCI analysis based on Medical Data Call, for prescription drugs with a National Drug Code provided in Service Years 2011 to 2014.
Active Claim is a claim with at least one medical service during the Service Year.

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NCCI's 2016 Annual Issues Symposium

Workers Compensation Residual Market

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Top Class Codes Based on Residual Market Plan Total Written Premium

| | |
|------|--|
| 5645 | • CARPENTRY—CONSTRUCTION OF RESIDENTIAL DWELLINGS NOT EXCEEDING THREE STORIES IN HEIGHT (7.2%) |
| 5551 | • ROOFING—ALL KINDS & DRIVERS (4.6%) |
| 7228 | • TRUCKING—LOCAL HAULING ONLY-ALL EMPLOYEES & DRIVERS (3.5%) |
| 7229 | • TRUCKING—LONG DISTANCE HAULING ONLY—ALL EMPLOYEES & DRIVERS (3.1%) |
| 5474 | • PAINTING NOC & SHOP OPERATIONS, DRIVERS (2.7%) |

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

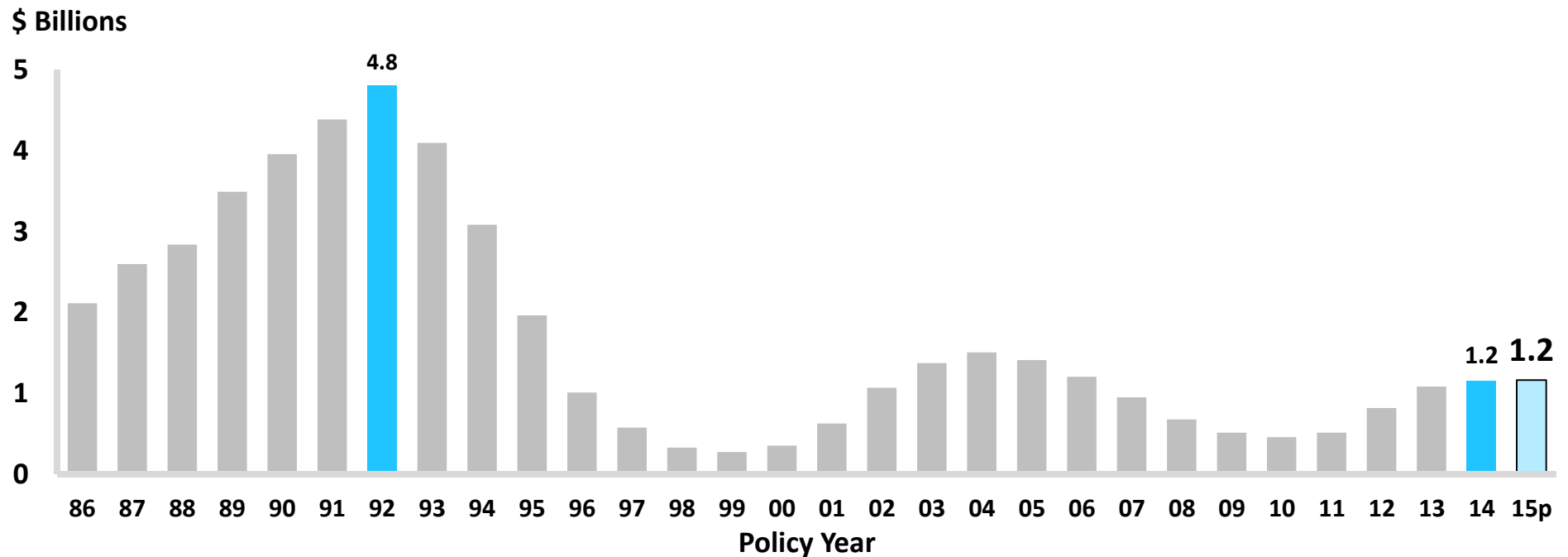
Source: NCCI Policy data

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WC Residual Market Premium

NCCI-Serviced WC Residual Market Pools



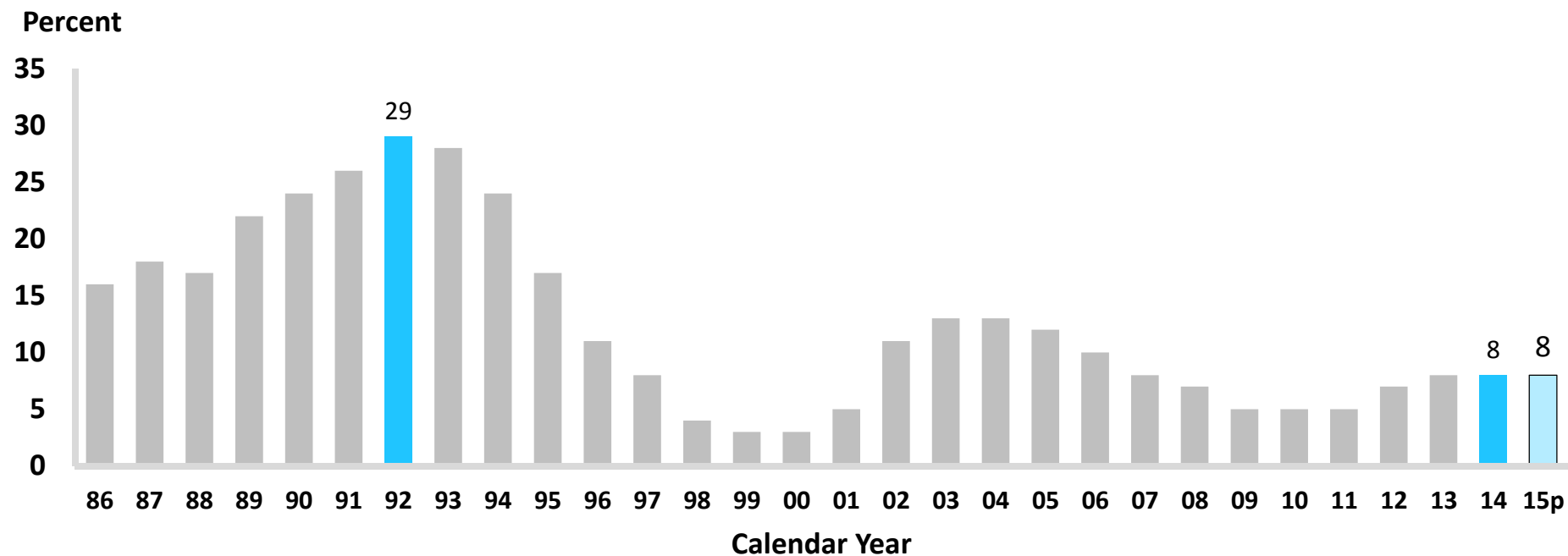
p Preliminary, incomplete policy year projected to ultimate
 Includes pool data for all NCCI-serviced WC residual market pool states valued as of 12/31/2015
 Tennessee Reinsurance Mechanism premium is not included
 Source: NCCI, *Residual Market Quarterly Results*

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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, *Residual Market Management Summary*

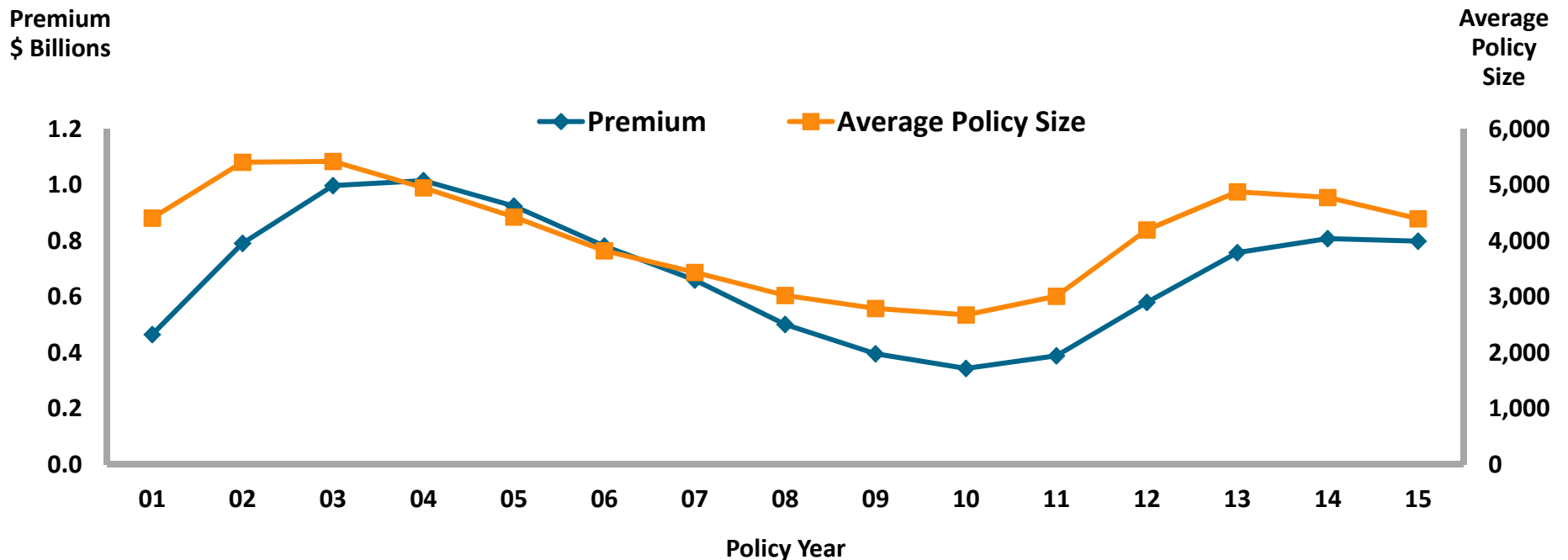
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WC Residual Market

Residual Market 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

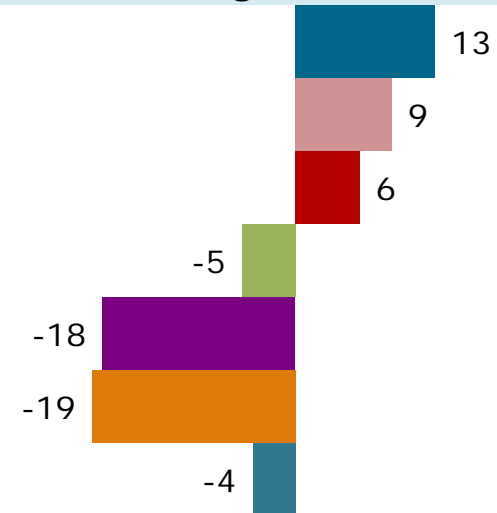
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WC Residual Market Growth at First Quarter

NCCI-Administered WC Residual Market Plan States

| | | | | Premium (\$ Millions) | | | |
|--------------|---------|-----|--------|-----------------------|--------------|--|--------------------|
| Size of Risk | | | | Q1 2015 | Q1 2016 | | % Change from 2015 |
| \$ | 0 | – | 2,499 | 30.1 | 34.1 | | 13 |
| \$ | 2,500 | – | 4,999 | 18.0 | 19.6 | | 9 |
| \$ | 5,000 | – | 9,999 | 25.4 | 26.9 | | 6 |
| \$ | 10,000 | – | 49,999 | 72.3 | 68.6 | | -5 |
| \$ | 50,000 | – | 99,999 | 28.6 | 23.5 | | -18 |
| \$ | 100,000 | and | Over | 41.1 | 33.3 | | -19 |
| Total | | | | 215.5 | 206.0 | | -4 |

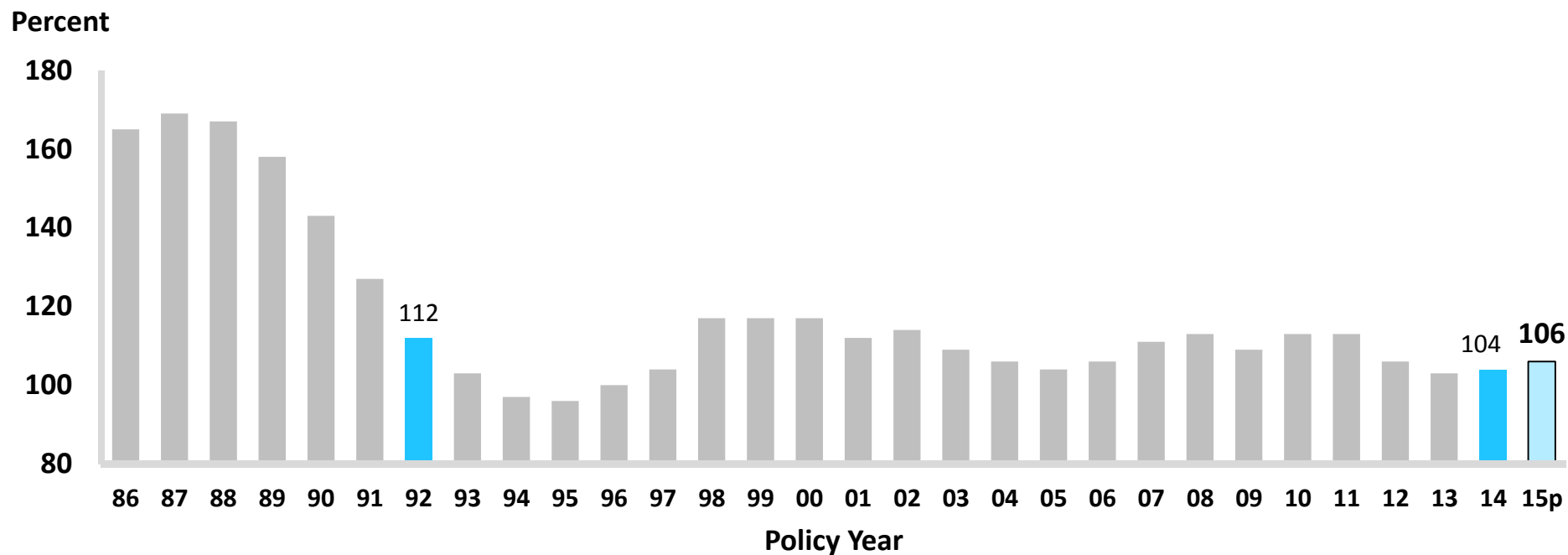


Total estimated annual premium
Includes Pool and direct assignment data for all NCCI-administered WC residual market plan states
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WC Residual Market Combined Ratio

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 12/31/2015

Tennessee Reinsurance Mechanism experience is not included in the combined ratios

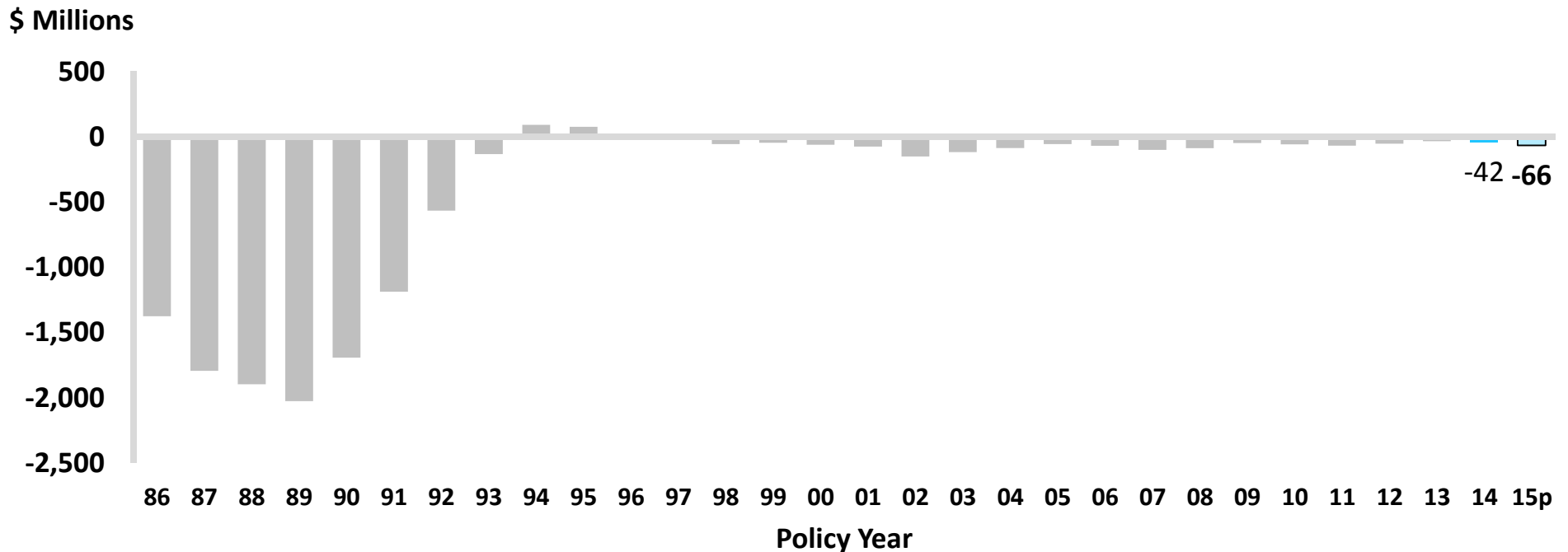
Source: NCCI, *Residual Market Quarterly Results*

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WC Residual Market Operating Results

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 12/31/2015

Tennessee Reinsurance Mechanism experience is not included in the operating results

Source: NCCI, *Residual Market Quarterly Results*

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Questions and More Information

Questions on the State of the Line presentation?

- State of the Line Guide on ncci.com
- For additional questions, email us at stateoftheline@ncci.com