

**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

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REPORT TO THE LEGISLATURE ON ACT 796 OF 1993 THE STATE OF THE WORKERS' COMPENSATION MARKET FOR YEAR ENDING 2014

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

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

In the most recent data available, Arkansas' combined ratio decreased to 89% 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 2014, NCCI filed for decreases in both the voluntary market loss costs -1.4 and assigned risk plan rates -8.5. 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 2014, Arkansas had the lowest loss costs in the region per \$100 of payroll, \$0.76, compared to the regional average loss cost of \$1.47 and the countrywide average loss cost of \$1.40. The Arkansas average rates in 2014 were -62% from 1995 when the law changes went into effect. There are still positive effects from this Act that benefit Arkansas employers.

Year	Voluntary Market	Assigned Risk Plan
1993	0.0%	0.0%
1994	0.0%	0.0%
1995	-12.4%	-12.4%
1996	-8.0%	-3.7%
1997	-4.7%	-7.6%
1998	-9.1%	-8.2%

1999	-4.1%	-3.0%
2000	-4.5%	-2.0%
2001	-7.5%	-1.9%
2002	-4.5%	-1.9%
2003	1.8%	-5.5%
2004	0.5%	-5.1%
2005	-1.5%	-2.8%
2006	-0.5%	-2.0%
2007	-5.4%	-6.8%
2007 (effective 1/1/08)	2.7%	2.7%
2008 (effective 7/1/08)	-12.8%	-13.8%
2009	-7.0%	-6.4%
2010	1.9%	4.5%
2011	-5.8%	-9.7%
2012	-4.1%	-4.8%
2013	-7.4%	-6.7%
2014	-8.5%	-1.4%

PAYROLL AND EXPERIENCE MODIFIER

Reported payroll in Arkansas continues to increase while premiums for insureds continue to decrease. In 2013 and 2014 the average experience modifier has stayed consistent at 0.953. The 2014 countrywide average experience modifier is 0.972. 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, to a 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 2014 was \$24,517,070 as compared to \$22,650,710 for 2013. The assigned risk plan premium grew in 2014 due to the growth in new businesses. In 2014 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 \$24,517,070. 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 2014, small premium employers (less than \$2,500 in annual premium) constituted approximately 73% of the plan policy volume with an average of \$1,016 in premium per policy. Average plan premium per policy at the end of 2014 was \$3,037 for all 6,373 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, 2014, 220 employers were removed from the assigned risk plan with a premium of \$753,320. 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. Examinations find minor 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.

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 2013* and Exhibit "B" entitled *Arkansas Residual Market 2nd Quarter 2013 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 2014.

The Annual Servicing Carrier Performance Review conducted by NCCI reveals either

“Commendable” or “Satisfactory” scores for all areas for Arkansas’ servicing carriers. For the period commencing January 1, 2011, through December 31, 2013, 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 2014 reporting period, there were 70 workers compensation investigations opened. The Division received convictions on four cases. Two 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, 156 cases have been referred for prosecution, which resulted in 117 convictions. Out of these 156 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

Act 1241 TO CREATE THE SUCCESSOR CORPORATION ASBESTOS-RELATED LIABILITY FAIRNESS ACT

The Act provides that a corporation that has assumed or incurred asbestos-related liabilities, known as a "successor," is not liable for any asbestos claim when the successor's cumulative successor asbestos-related liabilities exceed the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation. The immunity does not extend to workers' compensation benefits, a claim that does not constitute a successor asbestos related liability, an obligation under the National Labor Relations Act, 29 U.S.C. § 151 et seq., or under any collective bargaining agreement, or if the successor, after a merger or consolidation, continued in the business of mining asbestos or in the business of selling or distributing asbestos fibers or in the business of manufacturing, distributing, removing, or installing asbestos containing products which were the same or substantially the same as those products previously manufactured, distributed, removed, or installed by the transferor. The Act goes on to explain how to calculate the fair market value of total gross assets and any adjustments.

SELECTED WORKERS' COMPENSATION DECISIONS **FISCAL YEAR 2014** **ARKANSAS SUPREME COURT**

Entergy Arkansas, Inc. v. Pope County Circuit Court and Susan Allen, 2014 Ark. 506.

Precision Surveillance Company provided civil engineering services and employees to Entergy Arkansas which operates the Arkansas Nuclear One (ANO) facility near Russellville. Wade Walters was an employee of Precision Surveillance Company and sustained multiple crushing injuries on March 31, 2013 when a steel beam fell from a collapsed crane. Mr. Walters died as a result of his injuries and eight other workers suffered injuries during the incident. Susan Allen served as the administratrix of Mr. Walter's estate and filed a personal injury action naming multiple defendants, including Entergy, and others.

Entergy filed a motion to dismiss for lack of subject matter jurisdiction and asserted immunity under the exclusive-remedy provision of the Workers' Compensation Act. Entergy specifically asserted that Walters was a statutory employee of Entergy at the time of his death and that the exclusive-remedy provisions of the Act applied.

On March 12, 2014, the circuit court entered an order denying Entergy's motions to dismiss, finding, inter alia, that the direct cause of Walters's death was the collapse of the crane structure; that Walters was an employee of PSC at the time of his death; that Entergy Arkansas owned ANO; that Entergy Operations operated ANO as an agent of Entergy Arkansas; that Walters was

covered by workers' compensation insurance provided by PSC as a named insured; that Jess Clayton and Ronnie Francis, Walters's co-workers, were also injured in the accident and were covered by similar workers' compensation insurance provided by PSC; and that Entergy and DP Engineering LTD. were not Walters's primary employers.

The circuit court also ruled on the following conclusions of law. With regard to Entergy's motion to dismiss, the circuit court ruled that Entergy did not satisfy the requirements of a statutory or special employer of Walters. Specifically, the circuit court found (1) that no contract for hire existed between Walters and Entergy; (2) that Walters performed work at ANO for PSC under the PSC-Entergy contract; and (3) that PSC, instead of Entergy, had the right to control Walters. With regard to DP's motion to dismiss, the circuit court ruled that Scroggins did not have a contract for hire with Entergy; that Scroggins performed work at ANO for DP under the Entergy Operations-DP contract; and that DP had the right to control Scroggins's work. Further, the circuit court ruled that the referral of Allen's claims against DP to the Commission would violate Walters's constitutional right to a jury trial pursuant to the Arkansas Constitution.

Generally, an employer who carries workers' compensation insurance is immune from liability for damages in a tort action brought by an injured employee. *Gourley v. Crossett Pub. Schs.*, 333 Ark. 178, 968, S.W.2d 56 (1998). This rule, known as the exclusivity doctrine, arises from Arkansas Code Annotated Section 11-9-105(a) (Repl. 2012), which provides that

[t]he rights and remedies granted to an employee subject to the provisions of this chapter, on account of injury or death, shall be exclusive of all other rights and remedies of the employee, his legal representative, dependents, next of kin, or anyone otherwise entitled to recover damages from the employer, or any principal, officer, director, stockholder, or partner acting in his or her capacity as an employer, or prime contractor of the employer, on account of the injury or death, and the negligent acts of a co-employee shall not be imputed to the employer. No role, capacity, or persona of any employer, principal, officer, director, or stockholder other than that existing in the role of employer of the employee shall be relevant for consideration for purposes of this chapter, and the remedies and rights provided by this chapter shall in fact be exclusive regardless of the multiple roles, capacities, or personas the employer may be deemed to have.

The Supreme Court found that the Circuit Court acted wholly without jurisdiction in deciding whether an employer-employee relationship existed between Walters, Entergy, and DP. The Court stated that these determinations "lie exclusively with the Commission", and issued writs of prohibition with leave for the parties to pursue a determination before the Arkansas workers' Compensation Commission.

ARKANSAS COURT OF APPEALS

Trezza v. USA Trucks, Inc., 2014 Ark. App. 555 (October 22, 2014).

Ralph Trezza was a truck driver for USA Truck. He testified at his workers' compensation hearing that he injured his right ankle on October 22, 2011 at USA Truck's West Memphis

terminal. He testified that he parked his truck at the terminal at about 9:45 a.m., made a change in his logbook from “driving” to “off-duty,” and got out to go to the bathroom. He said that he stumbled or stepped incorrectly, which caused his ankle to “bend over” and caused him to fall. Mr. Trezza eventually continued inside to the bathroom, and he then called a fellow truck driver and his dispatcher and told them about his injury.

He did not want to see a doctor at that point because he was hoping his ankle was merely sprained. Mr. Trezza said that he stayed with his truck all day at the terminal and spent the night in his truck. He said he was responsible for his truck at all times, but he was not required to sit with his truck. He was on a “thirty-four hour restart,” which meant he was restarting his clock for the number of hours he could drive in a week; thus, he was not going to perform any job functions for at least thirty-four hours after going off-duty at 9:45 the morning of his injury. He said that he stayed with his truck on October 23 and drove it to a Mexican restaurant next to the terminal that night. He said that his truck had already been disconnected from his trailer for work on a tire issue. Mr. Trezza said that if he wanted to he could stay in a hotel room, but he did not pay for one and slept in his truck.

The Administrative Law Judge found the injury to be compensable but the Full Commission reversed that decision and denied and dismissed the claim. On appeal to the Arkansas Court of Appeals, the issue concerned whether the claimant was performing “employment services” at the time of his alleged injury. A compensable injury does not include an injury which was inflicted upon the employee at a time when employment services were not being performed. Ark. Code Ann. §11-9-102(4)(B)(iii).

The Court upheld the Full Commission’s denial of benefits to the claimant and noted that “appellant’s work day had ended when he was injured because he had logged “off-duty” and did not intend to perform any further job functions for thirty-four hours. Appellant was not taking a necessary bathroom break so that he could return to his work duties; instead, he was off work and not required to do anything. Although he was responsible for his truck being secure, he was not required to sit with or sleep in his truck.” The Court concluded that the Appellant had failed to prove that he was injured in the course and scope of his employment

Jaramillo v. Systems Contracting, 2014 Ark. App. 552 (October 22, 2014).

This case involves the interpretation of Ark. Code. Ann. {11-9-523, the “hernia statute”.

Arkansas Code Annotated section 11-9-523(a) (Repl. 2002) provides:

- (a) In all cases of claims for hernia, it shall be shown to the satisfaction of the Workers’ Compensation Commission:
 - (1) That the occurrence of the hernia immediately followed as the result of sudden effort, severe strain, or the application of force directly to the abdominal wall;
 - (2) That there was severe pain in the hernial region;
 - (3) That the pain caused the employee to cease work immediately;
 - (4) That notice of the occurrence was given to the employer within forty-eight (48) hours thereafter; and,

(5) That the physical distress following the occurrence of the hernia was such as to require the attendance of a licensed physician within seventy-two (72) hours after the occurrence.

The claimant, Roberto Jaramillo, fell at work on September 7, 2008 when a forklift swung a heavy pipe into his feet, knocking him backwards. The claimant contended that he sustained various injuries as a result, including an umbilical hernia which he contended was a result of the incident. The evidence demonstrated that the claimant first sought medical treatment for his alleged injury on August 4, 2009.

An Administrative Law Judge found the umbilical hernia injury was a compensable consequence of the work-related incident of September 7, 2008. The Full Commission reversed the ALJ decision and found that the claimant failed to prove that his hernia resulted from the work-related incident.

The Court of Appeals affirmed the Full Commission's denial of benefits. The Court noted that "other than his own self-serving testimony, appellant provided no clear proof of the exact mechanics of his fall or the amount of force exerted when his shoulder connected with the floor. Moreover, appellant testified that he fell on his neck and shoulder—no reference was made regarding force applied directly to appellant's abdominal wall. Further, none of his treating physicians opined that the hernia was caused by an acute, work-related accident. It does not necessarily follow that a fall by someone obese automatically results in a hernia." Also, because appellant waited several months before seeking medical attention for his alleged, work-related injury, the record was devoid of credible, objective medical proof to substantiate that his hernia resulted from his fall at work on September 7, 2008.

Johnson County Regional Medical Center v. Lindsey, 2014 Ark. App. 586 (October 29, 2014).

The claimant, Freddie Dean Lindsey, worked as a paramedic for Johnson County Regional Medical Center and sustained a compensable back injury on May 20, 2007, as he was attempting to lift a large patient from her bed. He underwent lumbar surgery in July, 2007, and was found to be at Maximum Medical Improvement on May 14, 2008. A Functional Capacity Evaluation revealed that he could perform medium-duty work and the claimant's physician released him to return to medium duty work. The employer medical center offered him a position as a phlebotomist and the duties for that position consisted of continuous standing and walking, lifting and carrying up to thirty pounds, and occasional pushing/pulling up to forty pounds.

The claimant refused the position and claimed that he could not perform the duties necessary for the position. The medical center made no further offers of employment to the claimant and the claimant did not contact the medical center to inquire about any other available positions. The claimant subsequently underwent a second surgical procedure in May, 2009.

A hearing was held before an administrative law judge to determine the appellant's entitlement to additional disability benefits, including wage-loss disability benefits. Appellee testified that he was fifty-four years old, had a GED, and had completed the paramedic program at the University of Arkansas for Medical Sciences. He worked as a paramedic from 1984 until he was injured on May 20, 2007. He had not worked since his injury. He testified that he was offered a

phlebotomist position by the hospital, but maintained that he could not have performed that position because he could not have done the bending and stooping required for the position. The hospital had not offered him any other positions. He had not done anything to look for work. His back was still hurting as of the time of the hearing. He had also had three heart attacks and a quadruple-bypass surgery since his injury. Appellee testified that he was receiving approximately \$1,204.00 per month in social-security disability benefits and had been receiving the benefits for three years.

The ALJ issued an opinion in which she found, among other things, that appellee was not entitled to wage-loss disability benefits. Appeal was taken to the Commission, which reversed the decision of the ALJ and awarded appellee wage-loss disability benefits in the amount of thirty percent rated to the body as a whole.

According to Arkansas Code Annotated section 11-9-522(b)(2) (Repl. 2012),

[S]o long as an employee, subsequent to his or her injury, has returned to work, has obtained other employment, or has a bona fide and reasonably obtainable offer to be employed at wages equal to or greater than his or her average weekly wage at the time of the accident, he or she shall not be entitled to permanent partial disability benefits in excess of the percentage of permanent physical impairment established by a preponderance of the medical testimony and evidence.

The Court affirmed the Commission's award of thirty percent wage-loss disability benefits.

Estrada v. AERT, Inc., 2014 Ark. App. 652 (November 19, 2014).

The issue presented by this case was when did the two-year statute of limitations begin to run on the claimant's unscheduled, gradual-onset back injury. Estrada worked as an embosser at AERT, Inc., from 2005 to 2012. That job required her to lift and stack large pieces of wood for twelve hours at a stretch. According to Estrada, the job caused some back pain that she dealt with until it became too severe and required surgery. Estrada then made a medical-treatment claim and a temporary total-disability benefits claim.

During the hearing before the administrative law judge, Estrada testified that her pain worsened "little by little" the longer she worked at AERT. She said that she managed her pain with nonprescription medication and that many people at her work had back pain from the heavy lifting. In 2009, Estrada first reported mild back pain to her family physician, Dr. Schemel. In February 2012, Estrada missed work with AERT for the first time because of back pain.

The administrative law judge found in favor of Ms. Estrada's employer and the Full Commission affirmed the denial of benefits. The Full Commission found that the claim was barred by the statute of limitations. The Court of Appeals disagreed with the Full Commission and held that the claim was not barred by the statute of limitations.

The primary statute of limitations is Arkansas Code Annotated section 11-9-702(a)(1) (Repl. 2012), which states:

A claim for compensation for disability on account of an injury, other than an occupational disease and occupational infection, shall be barred unless filed with the Workers' Compensation Commission within two (2) years from the date of the compensable injury. . . . For purposes of this section, the date of the compensable injury shall be defined as the date an injury is caused by an accident as set forth in § 11-9-102(4).

The pertinent part of the cross-referenced statute, section 11-9-102(4), states:

“Compensable injury” means: (i) An accidental injury causing internal or external physical harm to the body or accidental injury to prosthetic appliances, including eyeglasses, contact lenses, or hearing aids, arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is “accidental” only if it is caused by a specific incident and is identifiable by time and place of occurrence[.]
Ark. Code Ann. § 11-9-102(4)(A)(i) (Repl. 2012).

The Court of Appeals reversed the Commission's finding and remanded the case back to the Commission for it to analyze the compensable injury issue in accord with prior decisions of the Court regarding the two-year statute of limitations. The Court also expressed no opinion as to whether Ms. Estrada timely provided the required notice to her employer.

Lewis v. Calfrac Well Services Corp., 2015 Ark. App. 141. (March 4, 2015).

This case involves the interpretation of Arkansas Code Annotated section 11-9-411 (Repl. 2012), the statute governing such setoffs. That statute provides in pertinent part as follows:

(a)(1) Any benefits payable to an injured worker under this chapter shall be reduced in an amount equal to, dollar-for-dollar, the amount of benefits the injured worker has previously received for the same medical services or period of disability, whether those benefits were paid under a group health care service plan of whatever form or nature, a group disability policy, a group loss of income policy, a group accident, health, or accident and health policy, a self-insured employee health or welfare benefit plan, or a group hospital or medical service contract.

(2) The reduction specified in subdivision (a)(1) of this section does not apply to any benefit received from a group policy for disability if the injured worker has paid for the policy.

(b) The claimant shall be required to disclose in a manner to be determined by the Workers' Compensation Commission the identity, address, or phone number of any person or entity which has paid benefits described in this section in connection with any claim under this chapter.

At a hearing before an administrative law judge the parties litigated the claimant's entitlement to wage-loss disability benefits, and also the issue of whether the employer should be allowed to take a credit or offset for disability benefits received by the claimant under a disability policy paid for by the employer. The ALJ determined that the claimant qualified for a twenty percent wage-loss award and that the employer was not entitled to the offset it sought. The Commission reversed and pointed out that, under both the plain language of the statute itself and the judicial opinions that have addressed it, the overriding purpose of section 11-9-411 is clearly to prevent a double recovery by a claimant for the same period of disability.

The Court of Appeals affirmed the Full Commission's finding that the employer should be allowed to take credit for the other disability benefits received by the claimant. The Court noted that:

“we conclude that the workers' compensation disability benefits payable to appellant under the order appealed from are plainly “benefits payable to” appellant for the “same . . . period of disability” for which he previously received benefits under the group policy issued by Sun Life. Since the Sun Life policy was provided by appellee, the Commission correctly determined that appellee was entitled to a setoff in an amount equal to those Sun Life benefits.”

NATIONAL MARKETS IN GENERAL

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

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

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

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

CONCLUSION

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

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

Prepared: September 1, 2015

cc: The Honorable Asa Hutchinson, Governor
The Honorable Dale Douthit, Chairman, AWCC
The Honorable Karen H. McKinney, Commissioner, AWCC
The Honorable Philip Alan Hood, Commissioner, AWCC
Barbara Webb, Chief Executive Officer, AWCC
Russ Galbraith, Insurance Chief Deputy Commissioner, AID
Nathan Culp, Public Employee Claims Division Director, AID
Greg Sink, Criminal Investigation Division Director, AID
Ryan James, Communications Director, AID



Exhibit A

STATE ADVISORY FORUM 2015



Arkansas

June 4, 2015

Terri Robinson@ncci.com	501-753-5180
Jay_Rosen@ncci.com	561-893-3062
Carla_Townsend@ncci.com	314-843-4001

Arkansas Workers Compensation State Advisory Forum

- State of the Industry
- Arkansas—Outlook and Observations
- Filing Activity
- Legislative and Regulatory Issues
- State of the Economy
- Claim Frequency and Severity
- Emerging Issues in Workers Compensation:
 - Ridesharing
 - Medical Marijuana
- Arkansas Residual Market
- Q & A—Closing Remarks



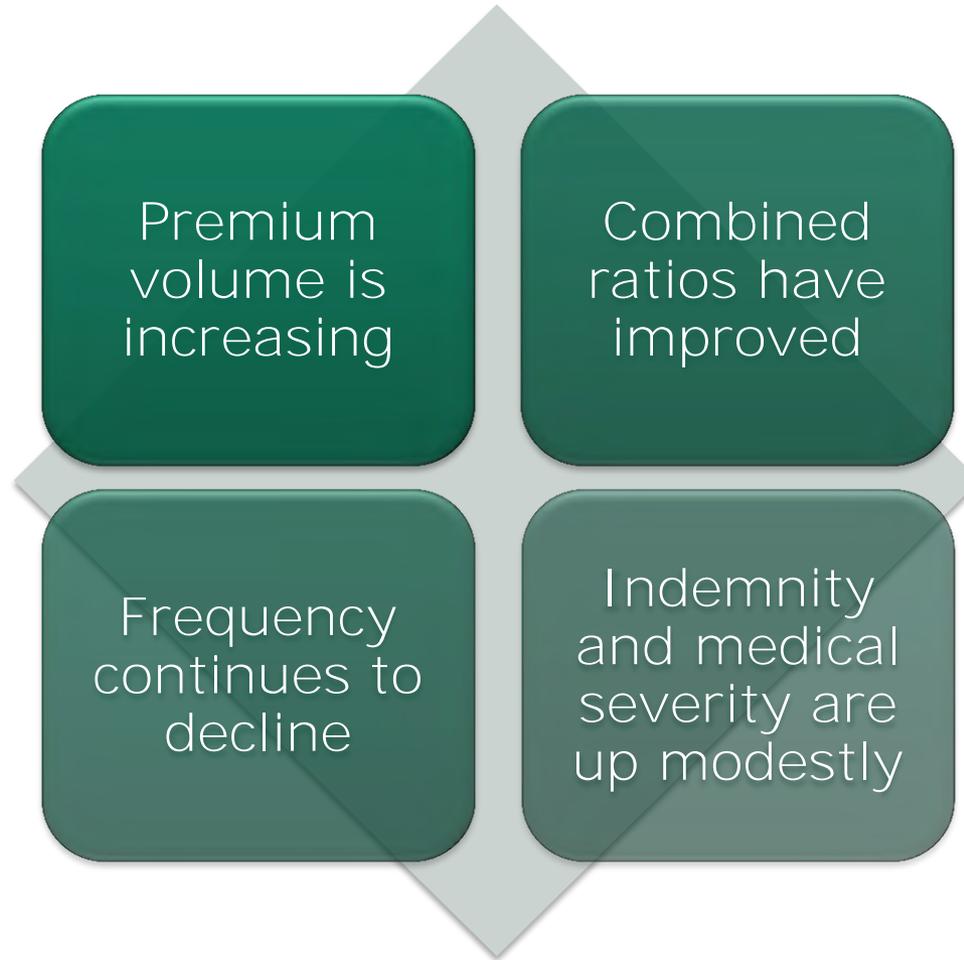


STATE ADVISORY FORUM 2015



State of the Industry

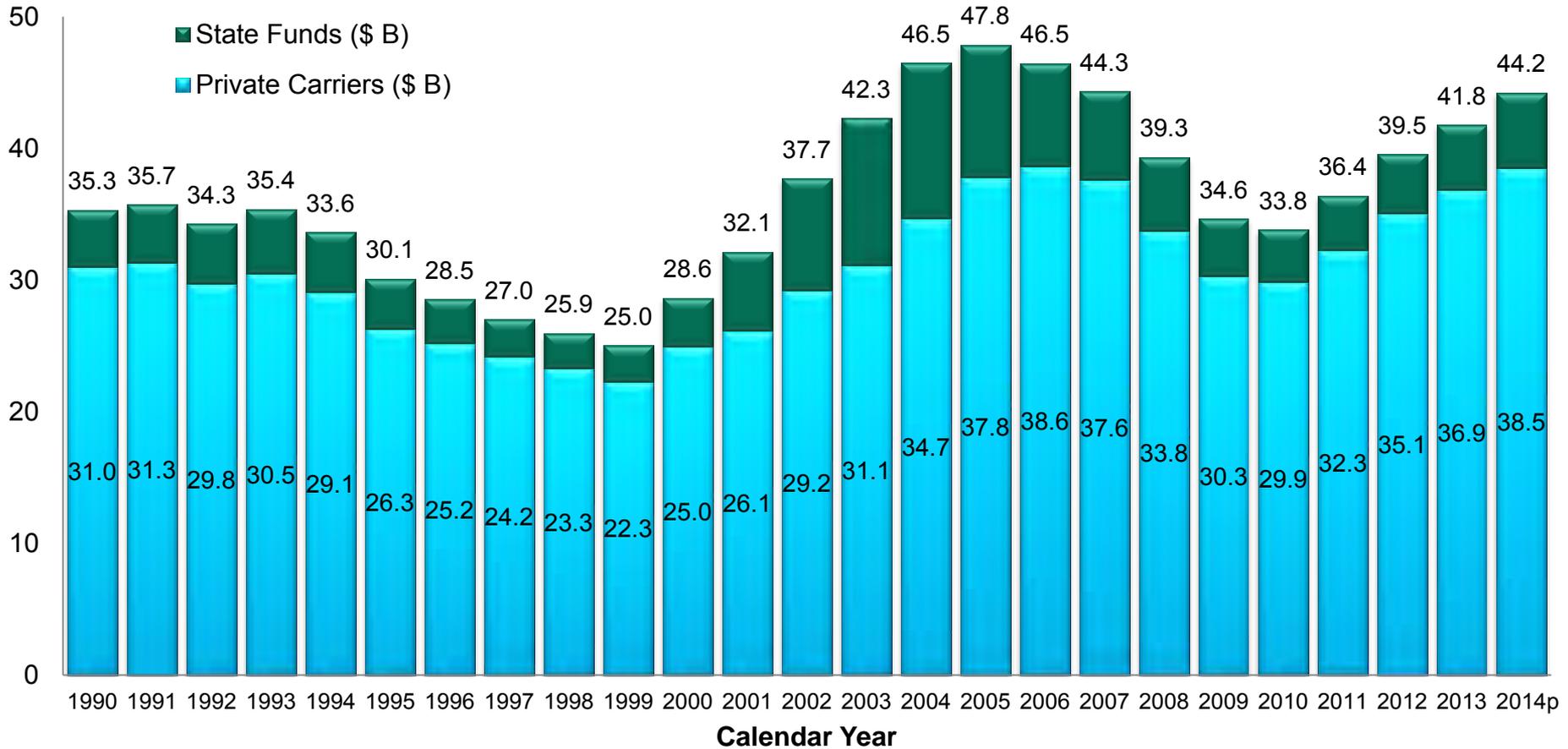
Countrywide Workers Compensation System— An Overview



Countrywide Workers Compensation Net Written Premium Growth Continued

\$ Billions

Private Carriers and State Funds



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

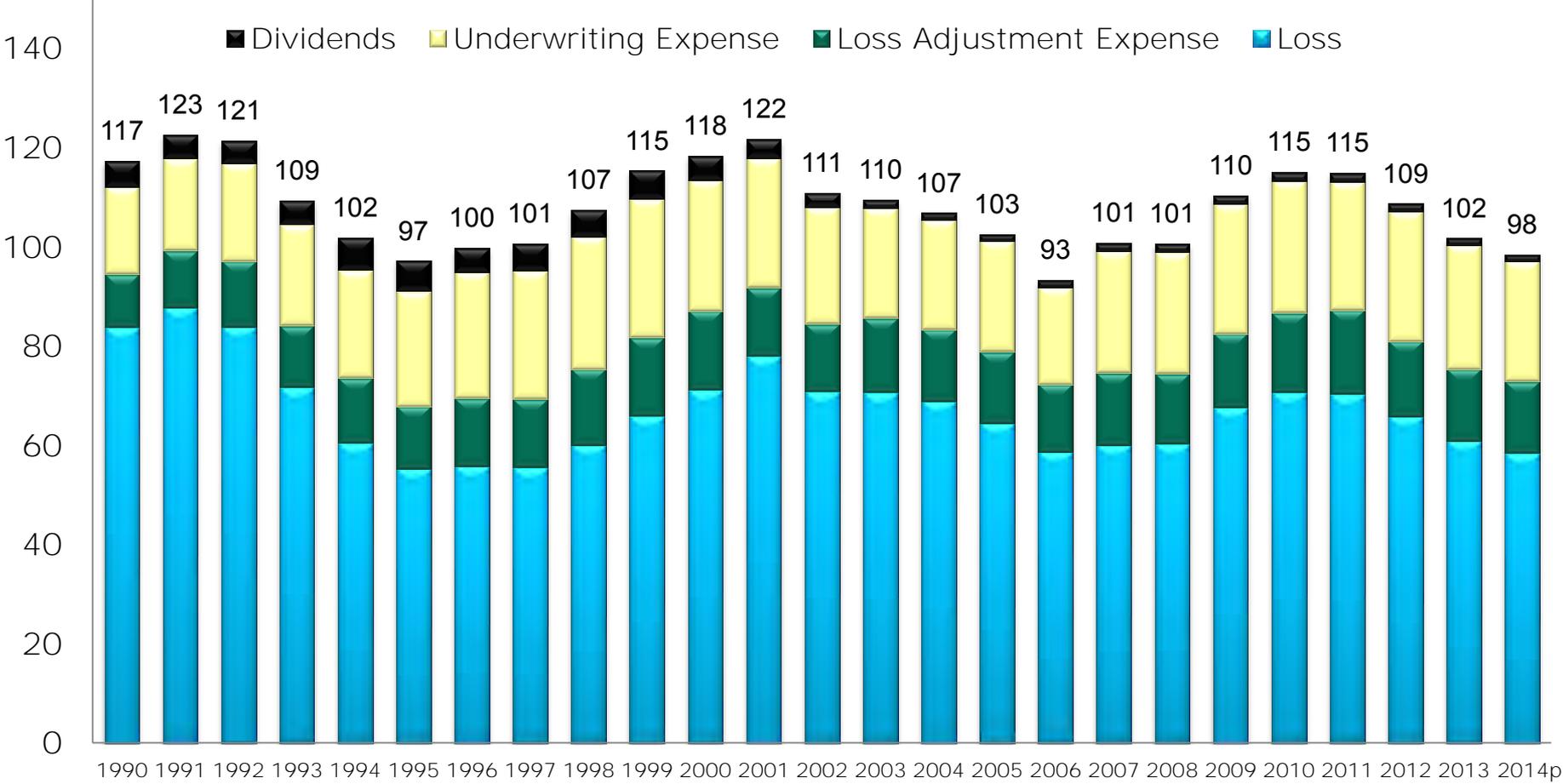
Each calendar year total for state funds includes all funds operating as a state fund in that year



Countrywide Workers Compensation Combined Ratio—Underwriting Gain Achieved

Percent

Private Carriers



Calendar Year

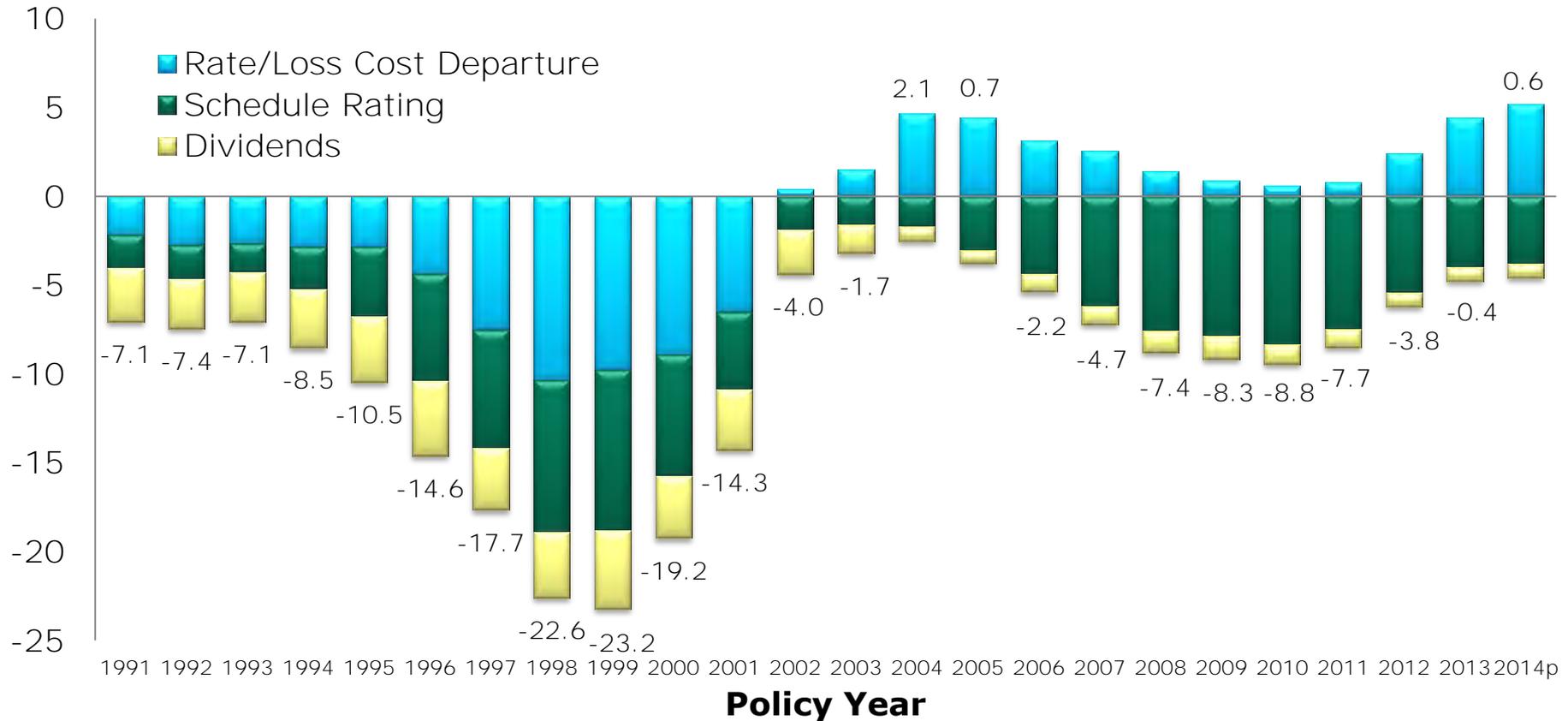
p Preliminary
Source: Annual Statement data



Countrywide Workers Compensation Impact of Discounting on Premium

Percent

NCCI States—Private Carriers



p Preliminary

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

Dividend ratios are based on calendar year statistics

NCCI benchmark level does not include an underwriting contingency provision

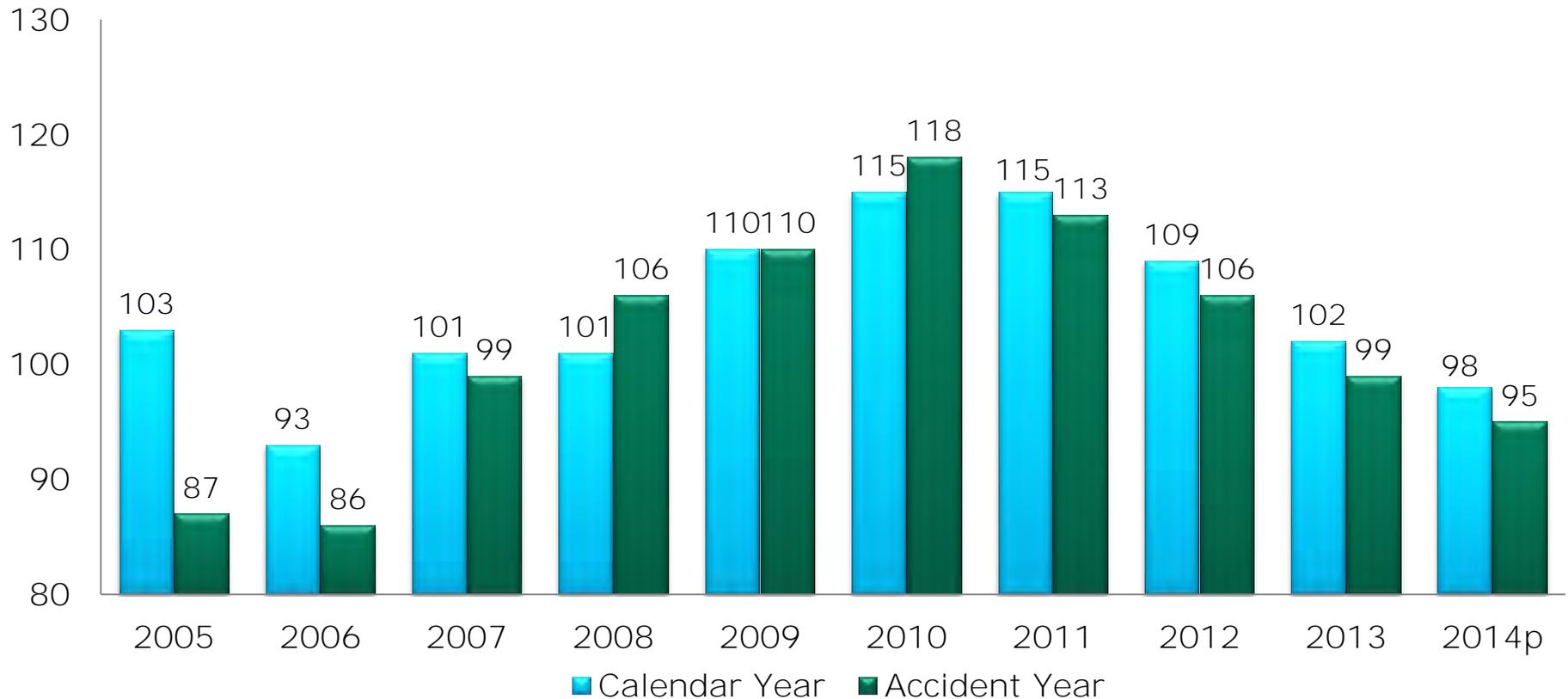
Based on data through 12/31/2014 for all states where NCCI provides ratemaking services, excluding TX



Countrywide Workers Compensation Net Combined Ratios

Calendar Year vs. Ultimate Accident Year—Private Carriers

Percent



p Preliminary

Source: NCCI analysis based on Annual Statement data

Accident year data is evaluated as of 12/31/2014 and developed to ultimate

Includes dividends to policyholders



Results Vary From State to State

Accident Year 2013 Combined Ratios



Data is evaluated as of 12/31/2013



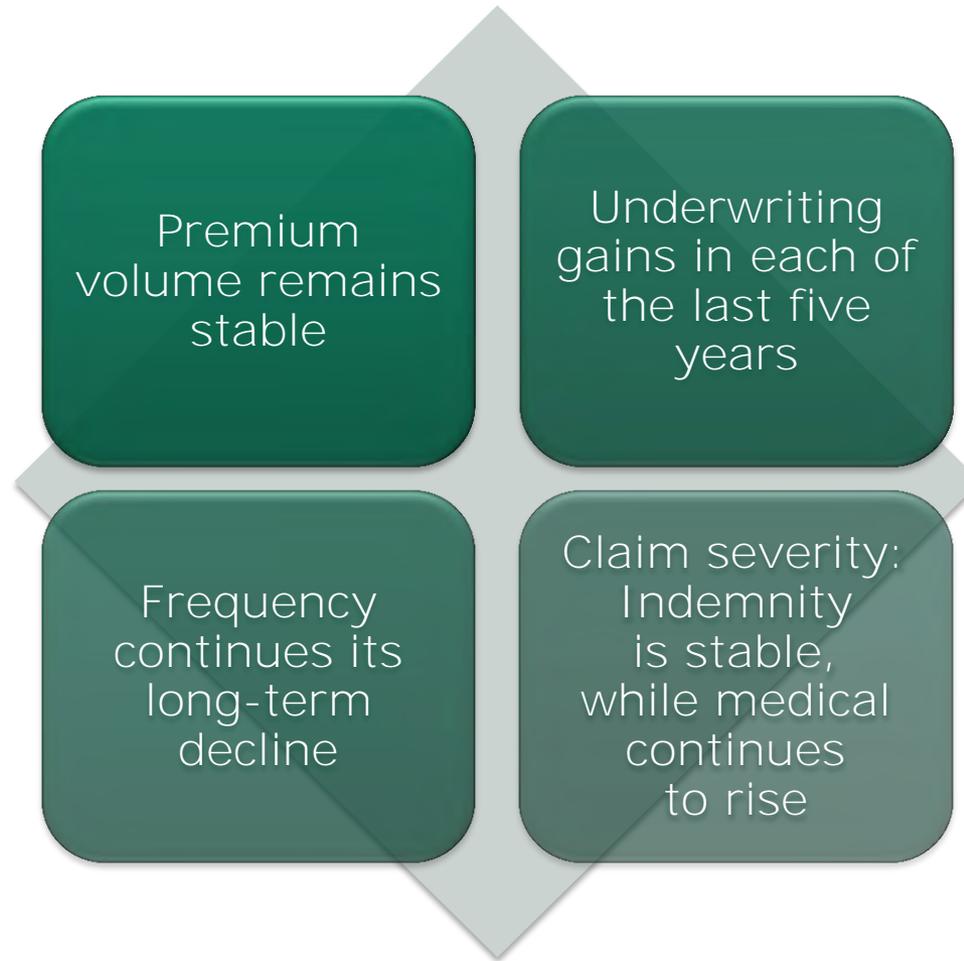


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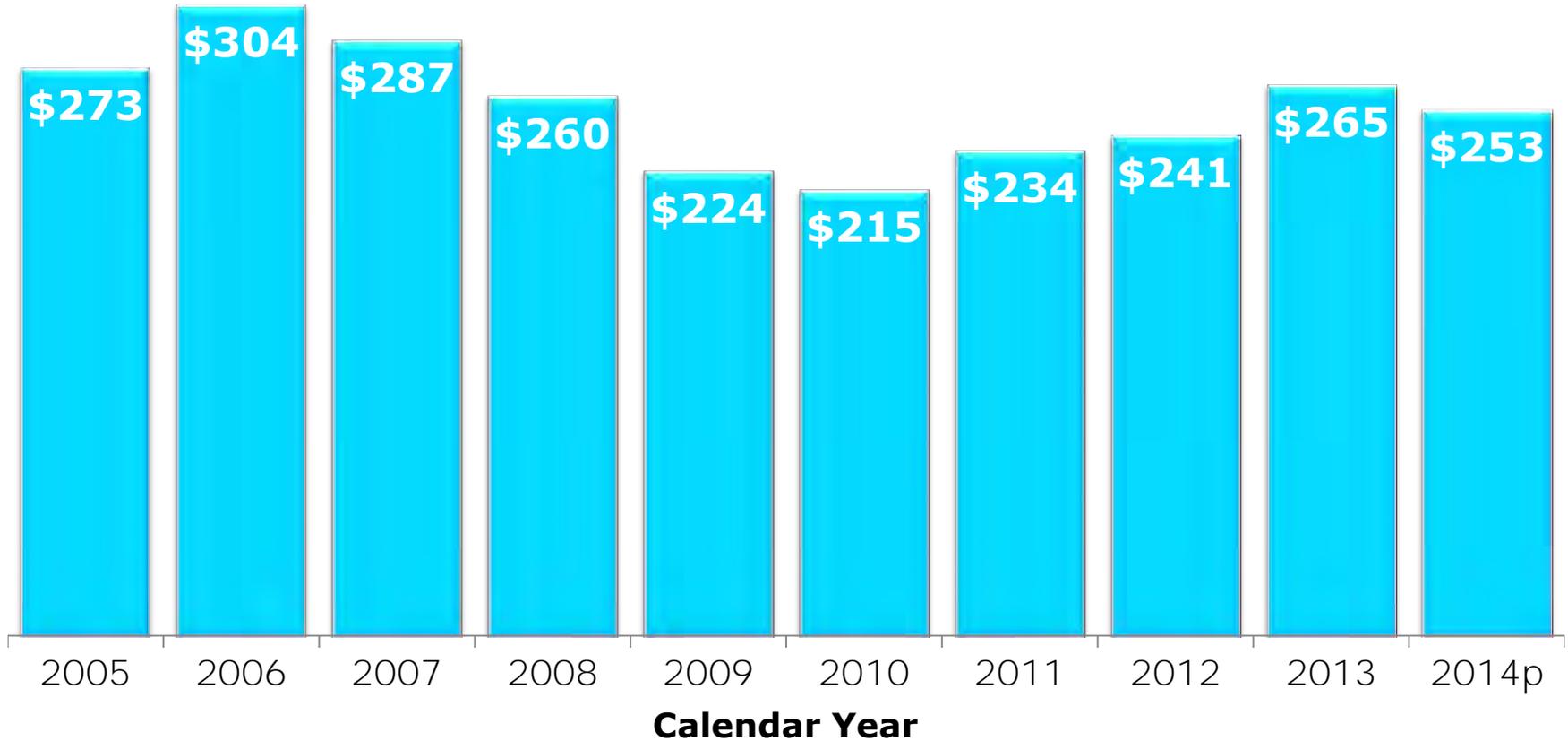
Arkansas— Outlook and Observations

Arkansas Workers Compensation System— An Overview



Arkansas Workers Compensation Premium Volume

Direct Written Premium in \$ Millions



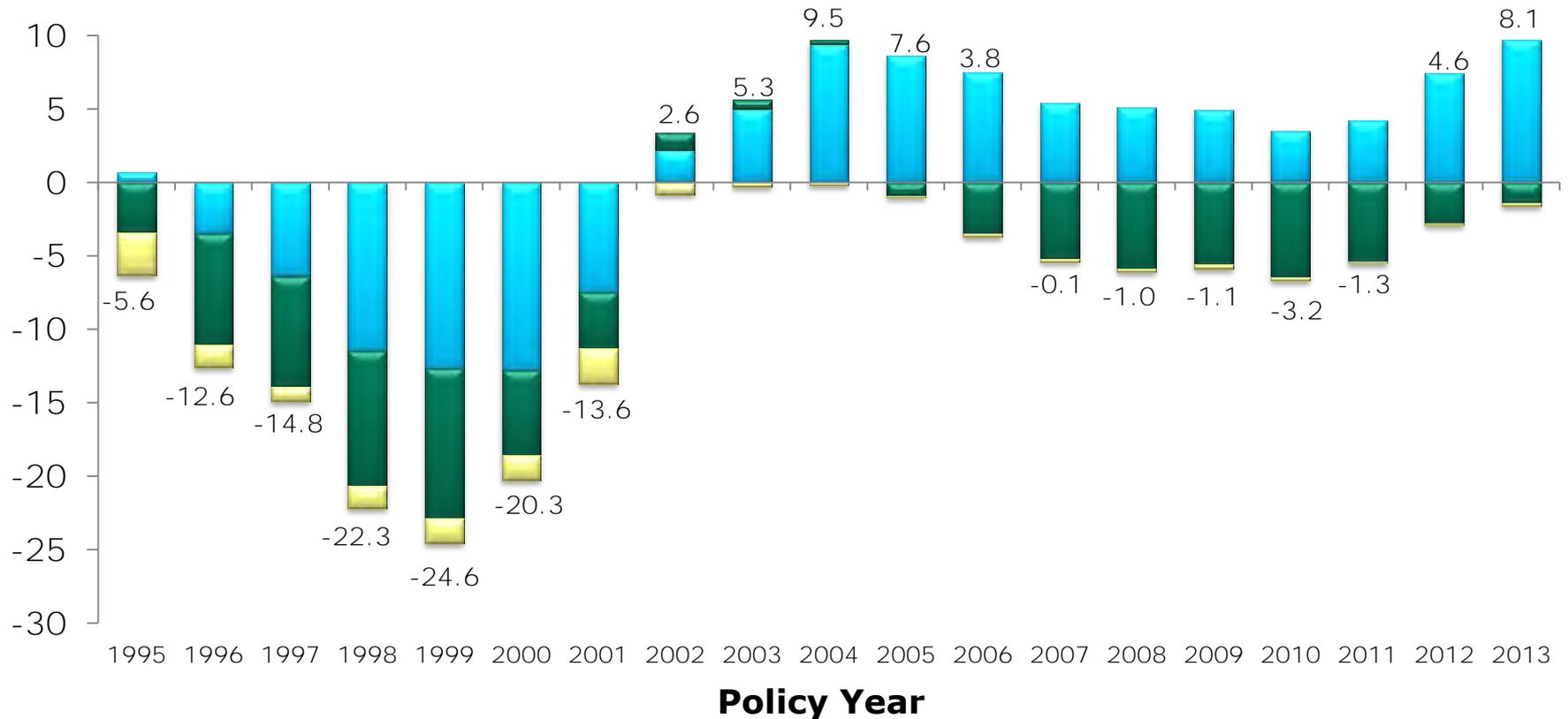
p Preliminary

Source: NAIC Annual Statement data



Impact of Discounting on Workers Compensation Premium in Arkansas

Percent



■ Rate/Loss Cost Departure

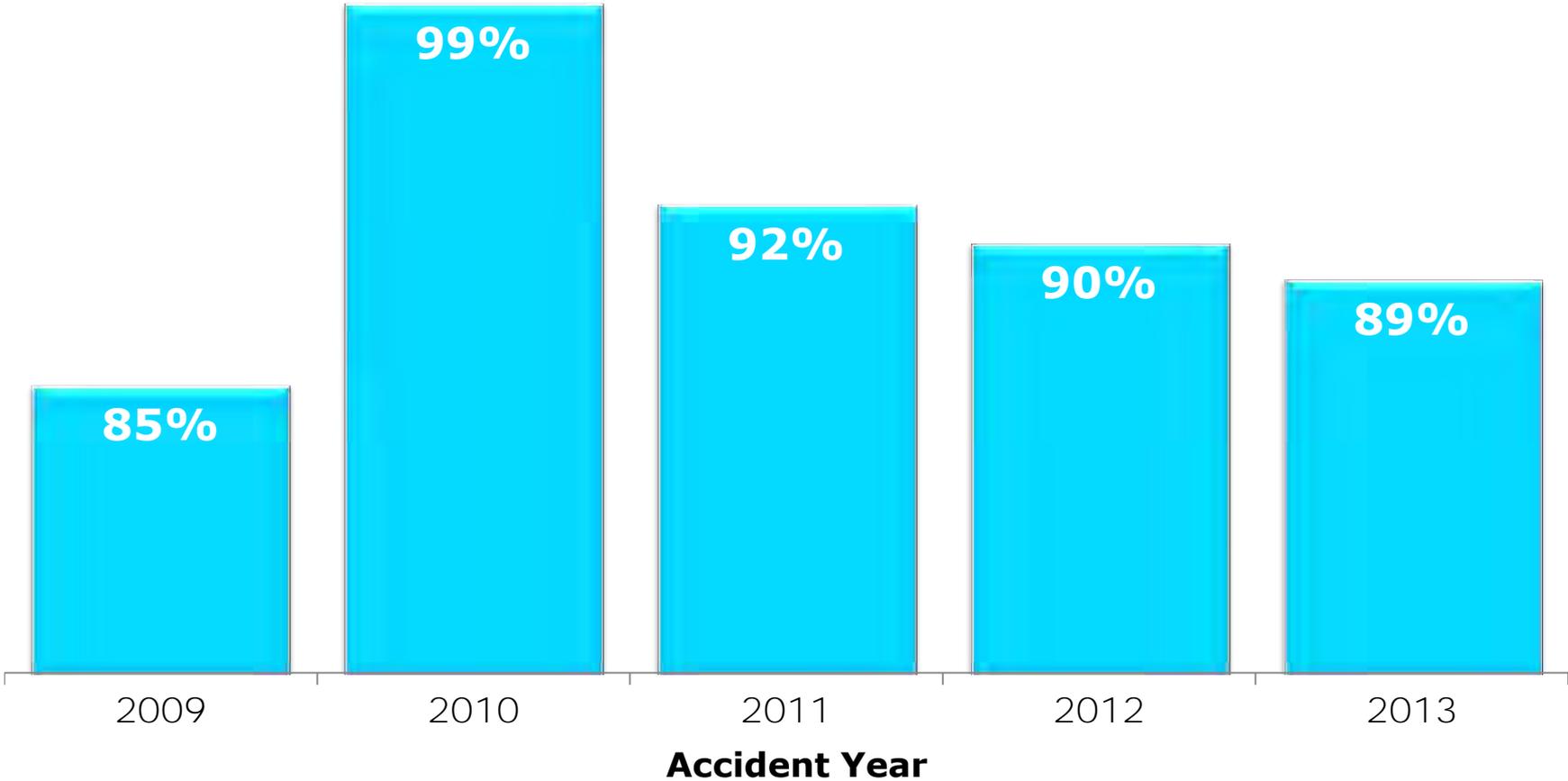
■ Schedule Rating

■ Dividends

Based on data through 12/31/2013
Dividend ratios are based on calendar year statistics



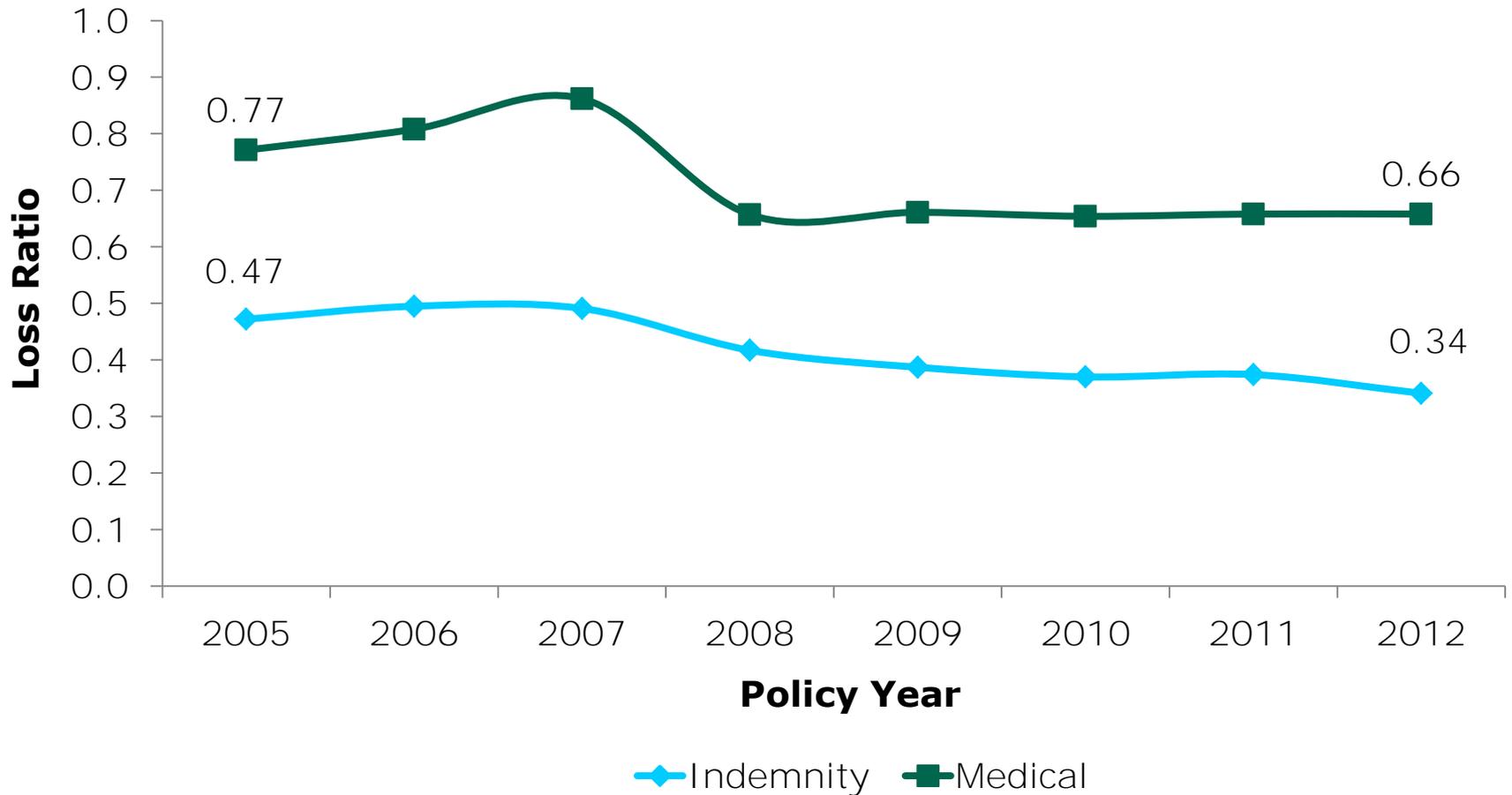
Arkansas Accident Year Combined Ratios



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



Arkansas Indemnity and Medical Loss Ratios



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

Medical Benefits Constitute the Majority of Total Benefit Costs in Arkansas

Arkansas



Region



Countrywide



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





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Filing Activity



STATE ADVISORY FORUM 2015

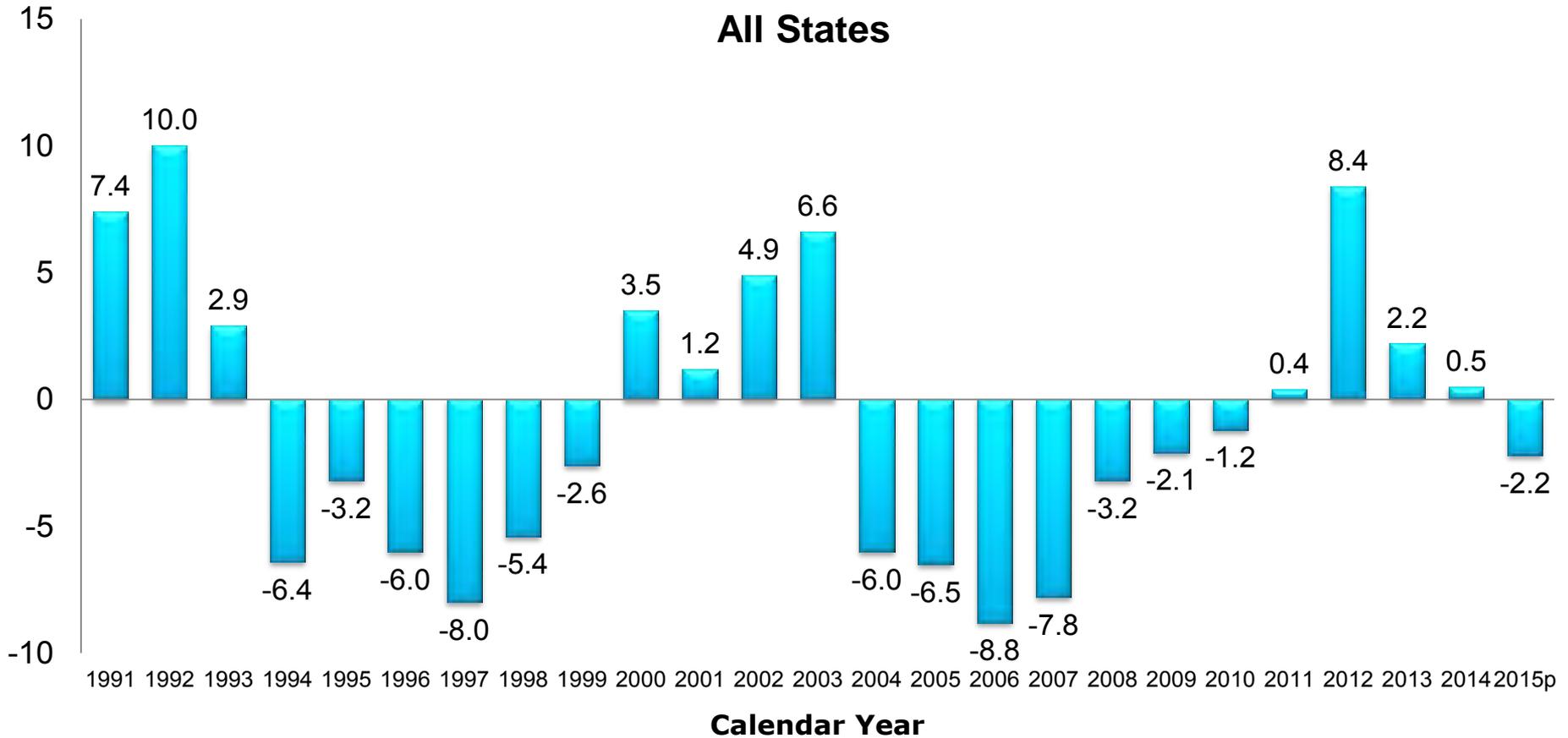
Workers Compensation Premium Drivers: State Results Vary

**Video Excerpt
Kirt Dooley, Director and
Actuary
Actuarial & Economic Services**

Countrywide Workers Compensation Approved Changes in Bureau Premium Level

Percent Change

By Effective Date for Total Market



p Preliminary

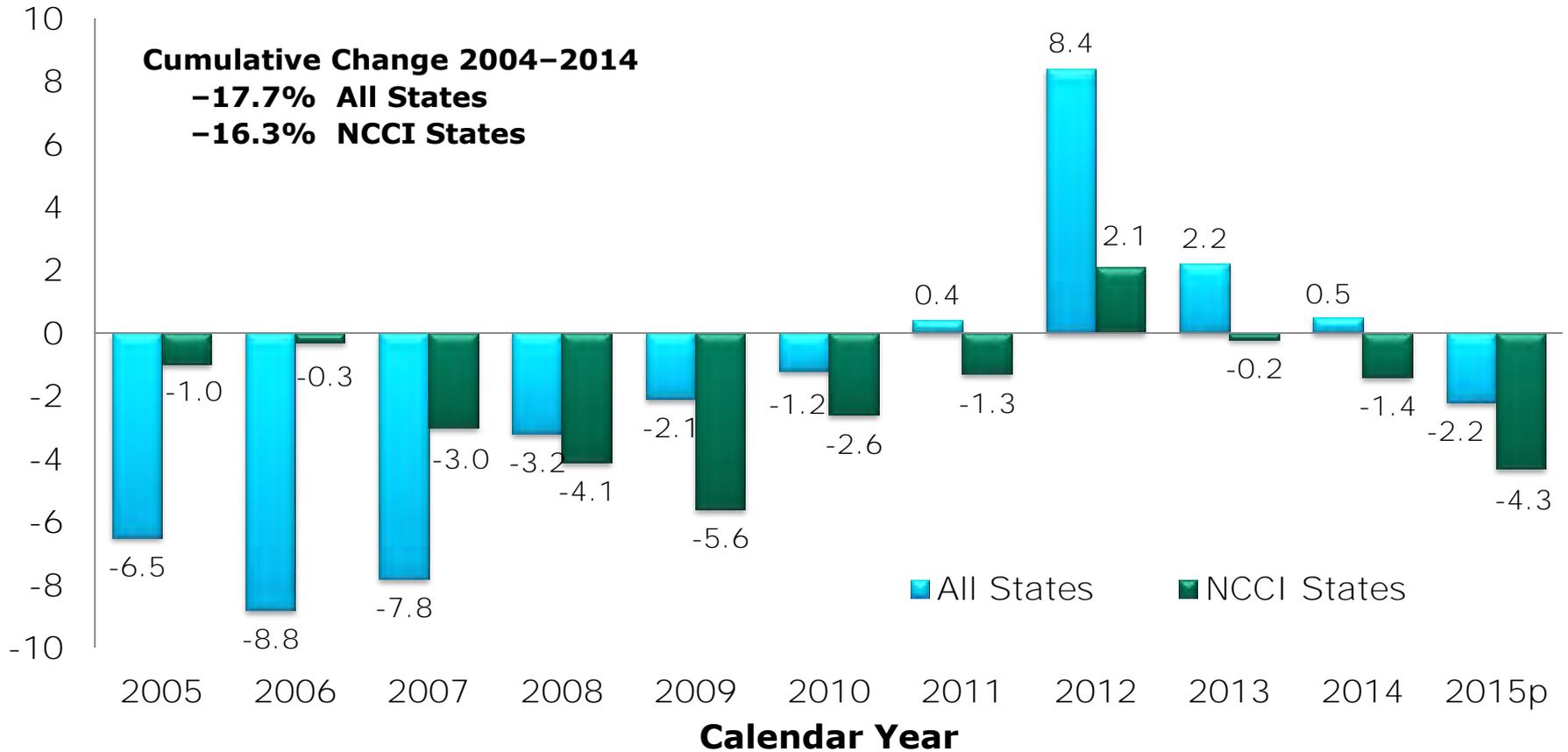
Bureau premium level changes are countrywide approved changes in advisory rates, loss costs, assigned risk rates, and rating values, as of 4/24/2015, as filed by the applicable rating organization, relative to those previously approved



Countrywide Workers Compensation Approved Changes in Bureau Premium Level

By Effective Date for Total Market

Percent
Change



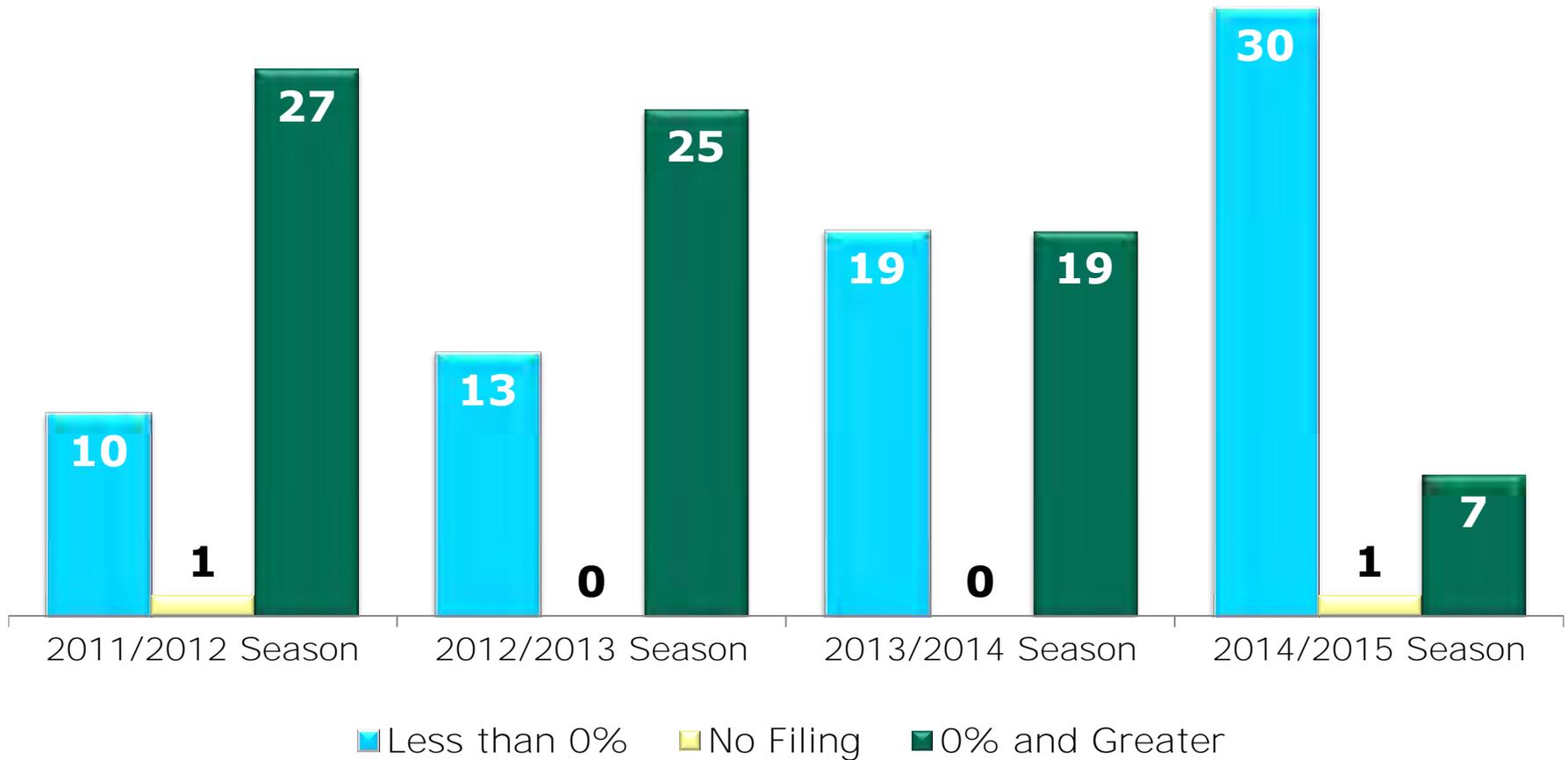
p Preliminary

Bureau premium level changes are countrywide approved changes in advisory rates, loss costs, assigned risk rates, and rating values, as of 4/24/2015, as filed by the applicable rating organization, relative to those previously approved



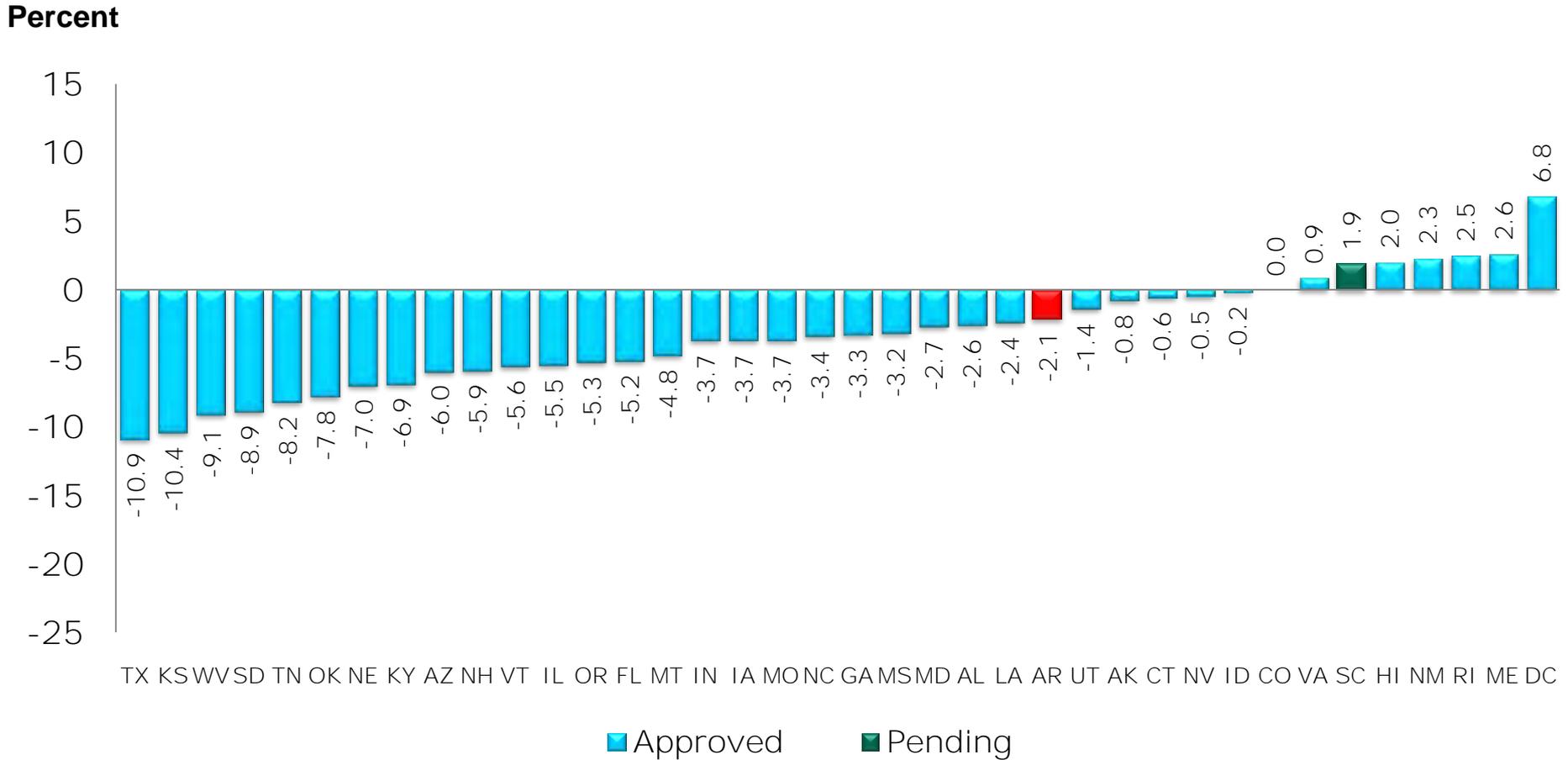
NCCI Voluntary Market Filing Activity

Number of State Loss Cost/Rate Filings by Filing Season



Current NCCI Voluntary Market Loss Cost/Rate Level Changes

Excludes Law-Only Filings



Reflects the most recent experience filing in each jurisdiction



Current Voluntary Market Loss Cost Level Changes in Nearby States

South Carolina*	9/1/15	+1.9%
Arkansas	7/1/15	-2.1%
Louisiana	5/1/15	-2.4%
Alabama	3/1/15	-2.6%
Mississippi	3/1/15	-3.2%
Missouri	1/1/15	-3.7%
Kentucky	10/1/14	-6.9%
Oklahoma	1/1/15	-7.8%
Tennessee	3/1/15	-8.2%
Texas	7/1/15	-10.9%

*Pending

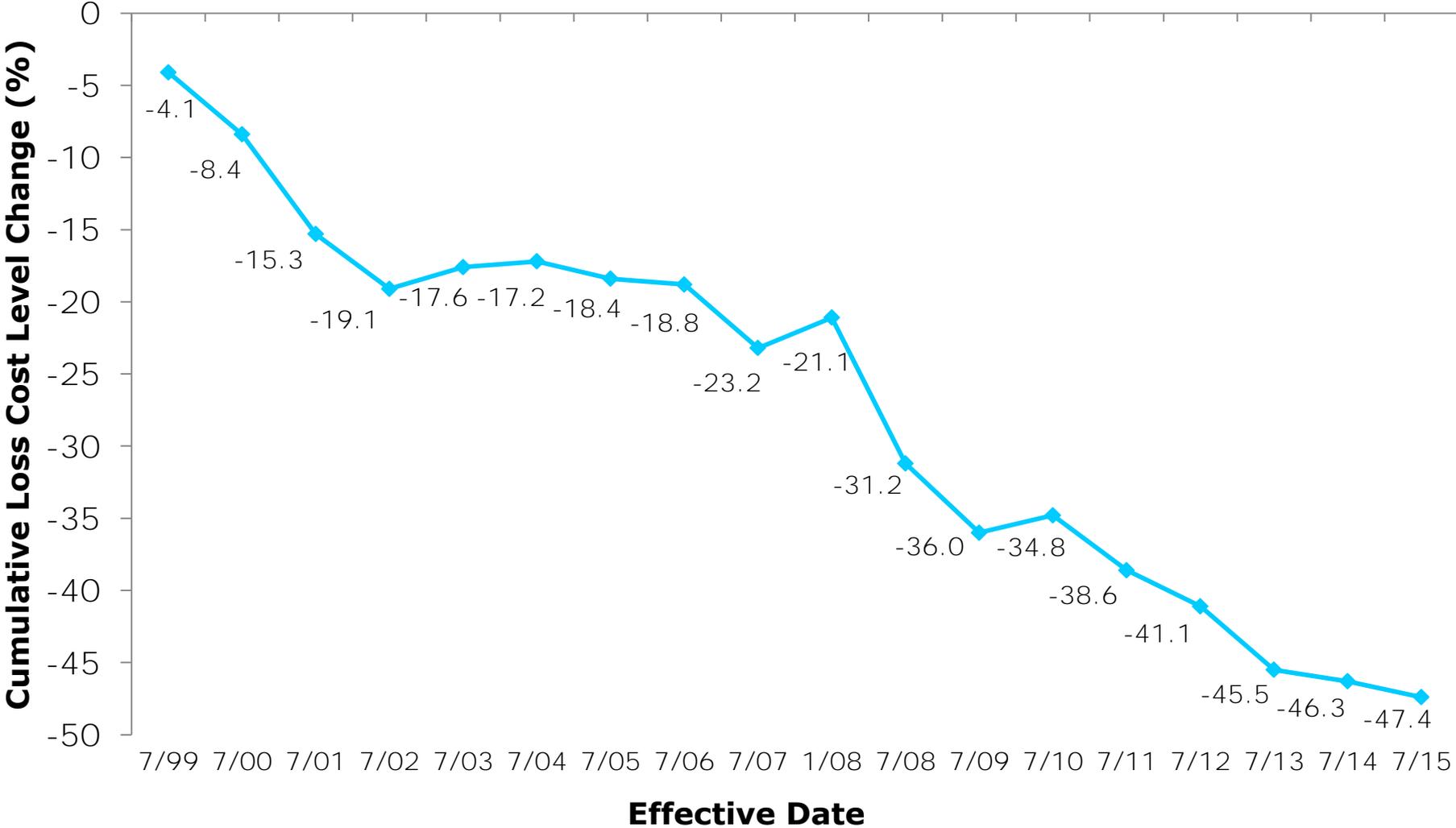


Arkansas Filing Activity

Approved Voluntary Loss Cost and Assigned Risk Rate Changes



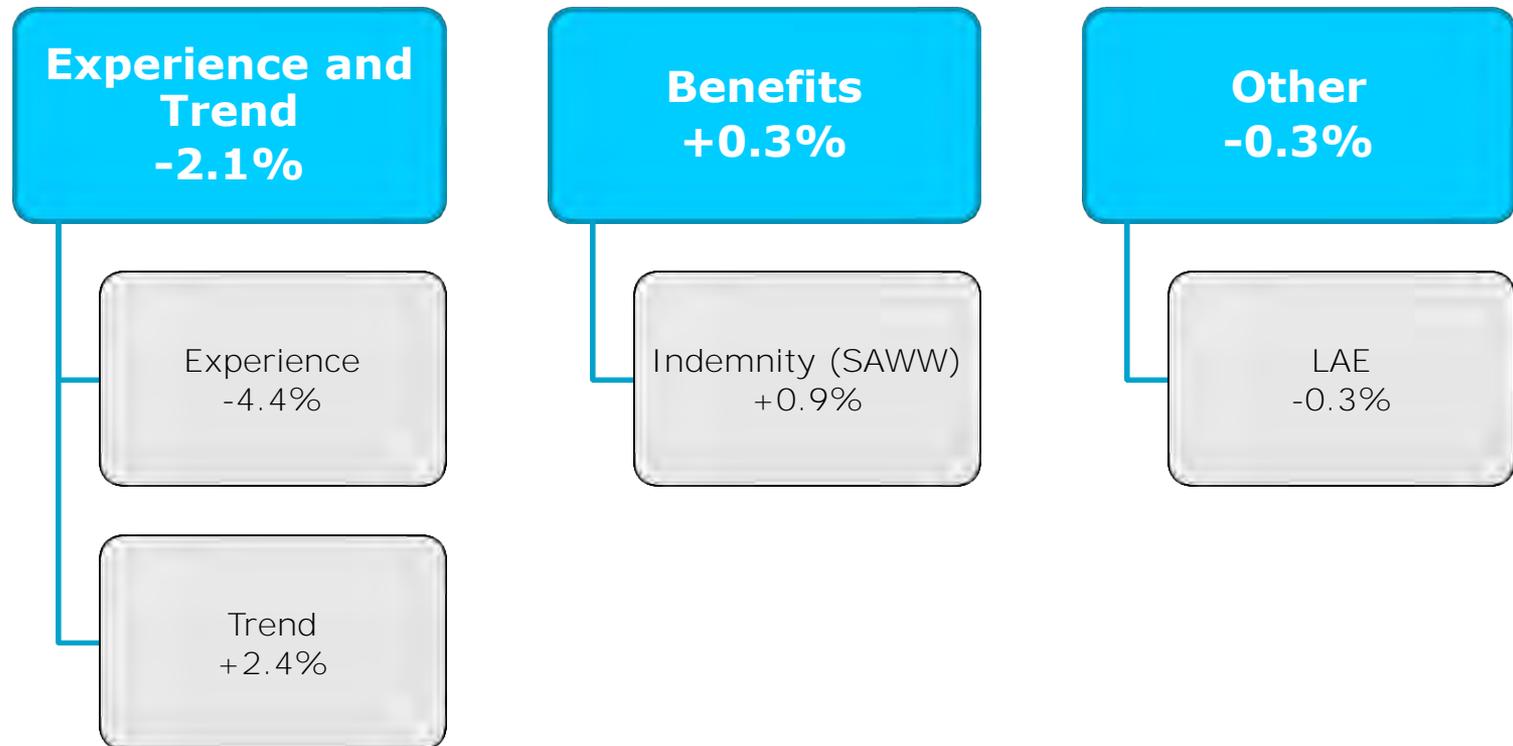
Arkansas Cumulative Approved Loss Cost Level Change



Arkansas July 1, 2015 Loss Cost Filing

Overall Loss Cost Level Change -2.1%

Changes due to:



Arkansas 7/1/2015 Filing— Average Changes by Industry Group



Manufacturing
-1.4%



Contracting
-5.8%



**Office and
Clerical**
-3.9%



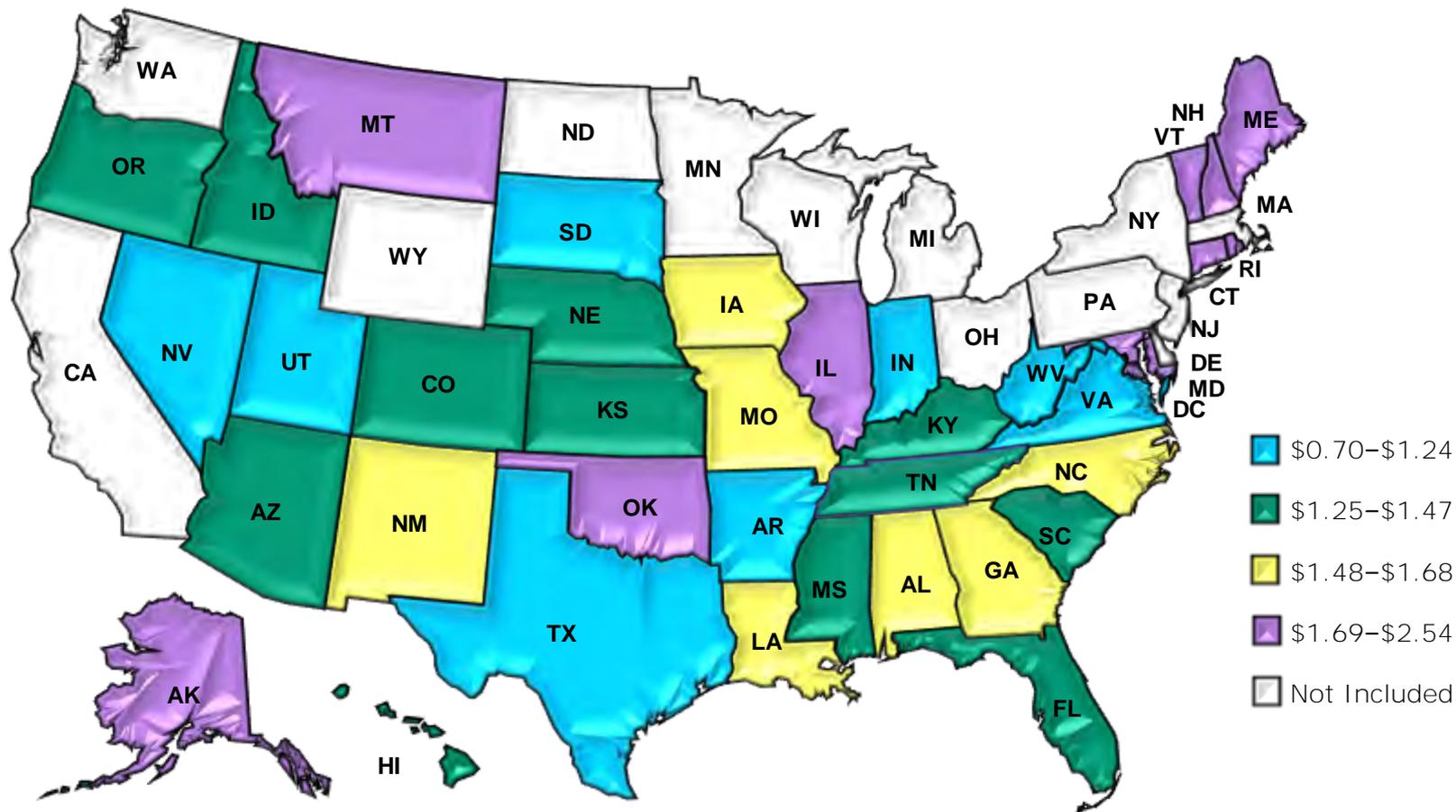
**Goods and
Services**
+0.1%



Miscellaneous
-0.3%

Overall -2.1%

Average Voluntary Pure Loss Costs Quartiles Using Arkansas Payroll Distribution



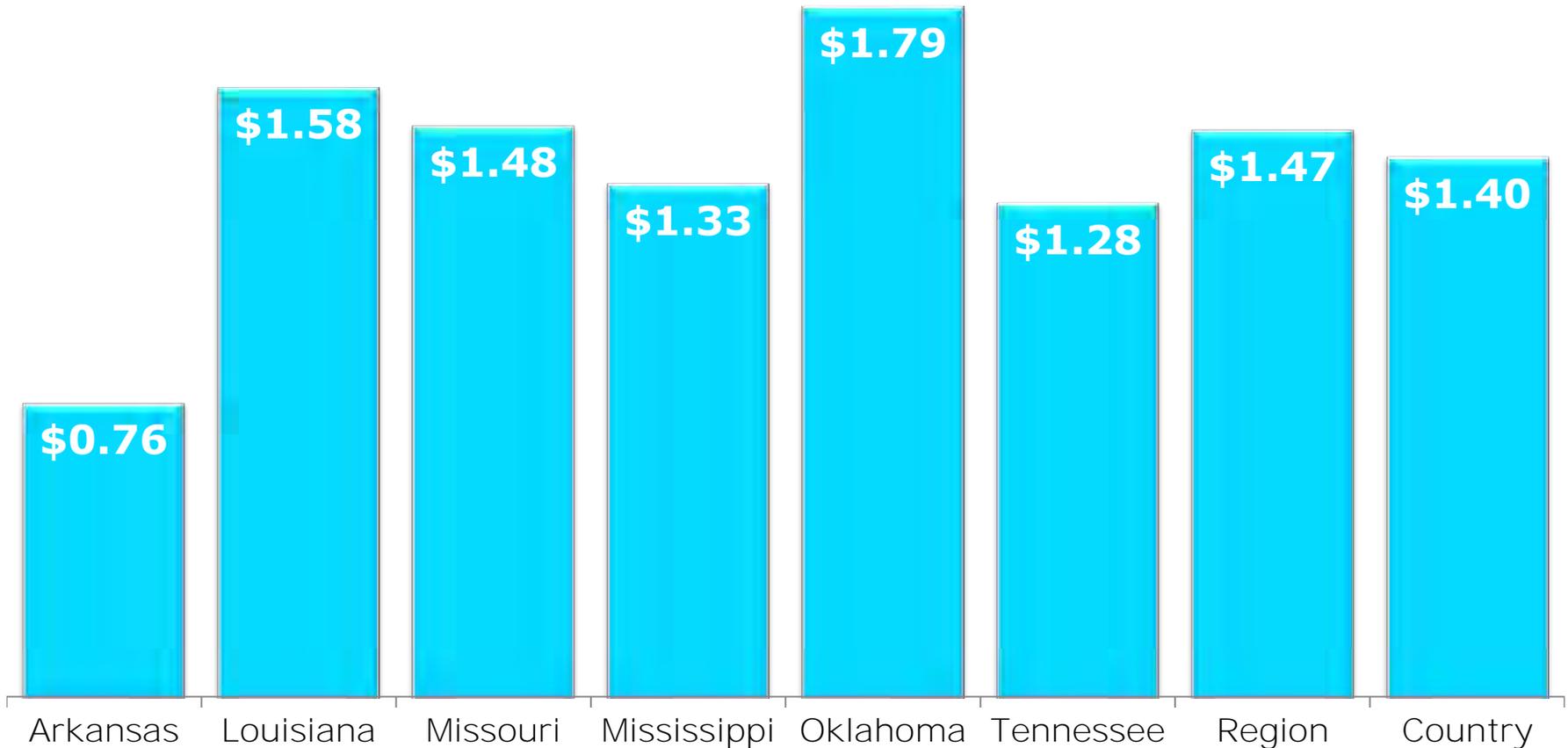
Arkansas = \$0.76

Countrywide = \$1.40

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

Current Average Voluntary Pure Loss Costs Using Arkansas Payroll Distribution

Pure Loss Cost—All Classes



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





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Legislative and Regulatory Issues

Countrywide Legislative Environment

- As a result of the 2014 midterm elections, Republicans increased their gubernatorial representation to 31. This may lead to more business-driven initiatives; however, no statewide system reforms are anticipated in 2015.
- Issues that may predominate in 2015:
 - Medical cost-containment initiatives, focusing on:
 - Physician and facility fee schedule updates
 - Physician-dispensed repackaged drugs
 - Controlling opioid drug abuse/drug formularies
 - Continued expansion of first responder/firefighter compensability, adding:
 - Mental injuries
 - Communicable diseases
 - Heart disease and hypertension
 - Additional job-related cancers



Countrywide Legislative Environment

- Misclassification of Employee/Independent Contractors
 - Study groups
 - Affidavits
- Opt-Out/Alternative Coverage Options
 - New trade association
 - Seeking states beyond Oklahoma
- Exclusive Remedy Challenges
 - Florida—*Florida Workers' Advocates (Padgett) v. State of Florida*
 - Oklahoma—*Duck v. Morgan Tire & Auto, LLC*
 - Nebraska—LB 556

Workers Compensation Federal Issues— Terrorism Risk Insurance Act (TRIA)

- Background of Program
 - Originally enacted to ensure the availability and affordability of terrorism risk insurance
 - Absent a federal backstop, there could be significant negative economic impacts as a result of a large-scale terrorist attack

- Extended three times
 - 2005
 - 2007
 - 2015



Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) of 2015

Extended TRIA for six years and increased industry exposure under the program by:

- Increasing program trigger
- Increasing carrier co-pay
- Increasing industry aggregate retention (i.e., mandatory recoupment of government expenditures)
- Requiring several terrorism risk-related studies

TRIPRA of 2015

- Effective Date 1/1/2015
 - Extension of the terrorism insurance program created under TRIA of 2002
- NCCI Activity
 - Updated endorsements filed and approved in all NCCI states
- US Department of the Treasury
 - Interim guidance—Issued February 4, 2015
 - Rule promulgation



Arkansas Legislation: HB 1768

- Would have eliminated new claims from going into the Workers' **Compensation Commission's** Death and Permanent Disability Trust Fund
- In addition, the bill sought to strengthen/restore the rights of the employer or insurer in subrogation proceedings related to workers compensation claims
- Died in Committee
- Likely to see a similar effort in the future



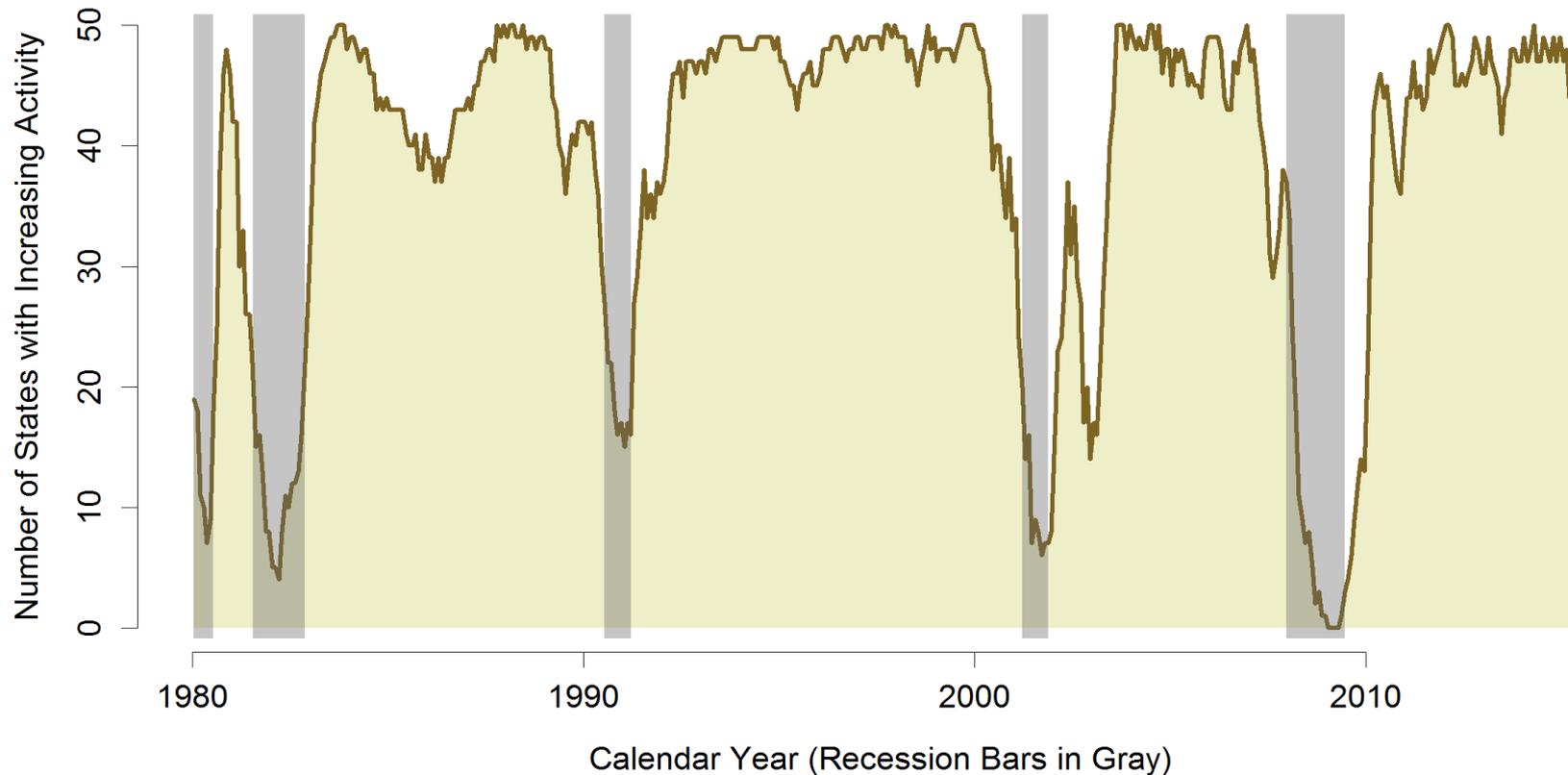
STATE ADVISORY FORUM 2015



The State of the Economy

The Recovery in the United States Is Broadly Based, and Most States Are in Expansion Mode

Comparison to Prior Month—Latest: March 2015



The chart shows the number of states for which the one-month change in the coincidence index of economic activity indicates an expansion

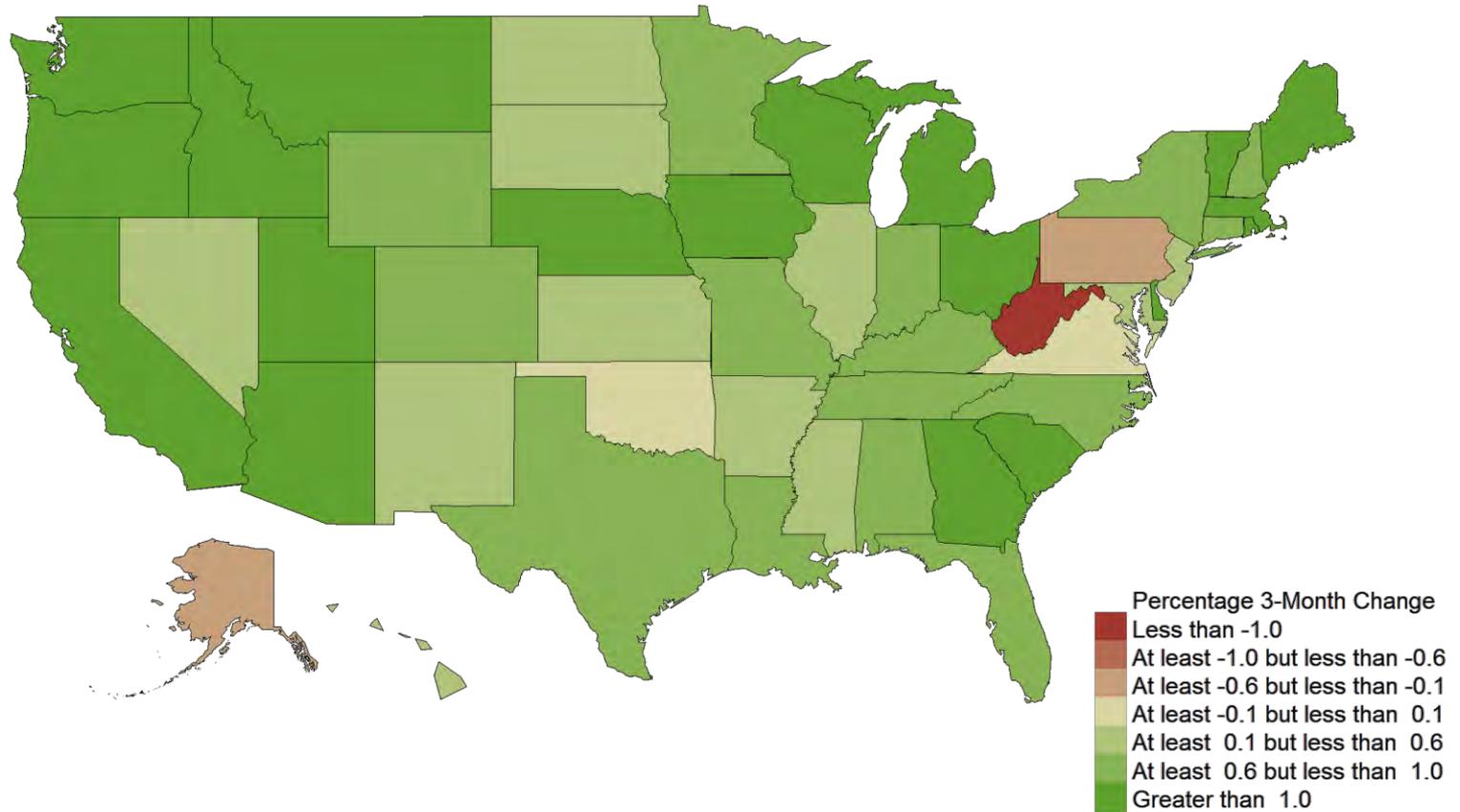
This index summarizes the state of the economy in a single statistic, using nonfarm payroll employment, average hours worked in manufacturing, the unemployment rate, and wage and salary disbursements deflated by the consumer price index (US city average)

Frequency of observation: monthly; latest observation: March 2015; does not include DC

Source: FRB of Philadelphia, www.philadelphiafed.org/research-and-data/regional-economy/indexes/coincident

A Modest Economic Expansion Is Seen Throughout the United States

March 2015 Is Compared to December 2014



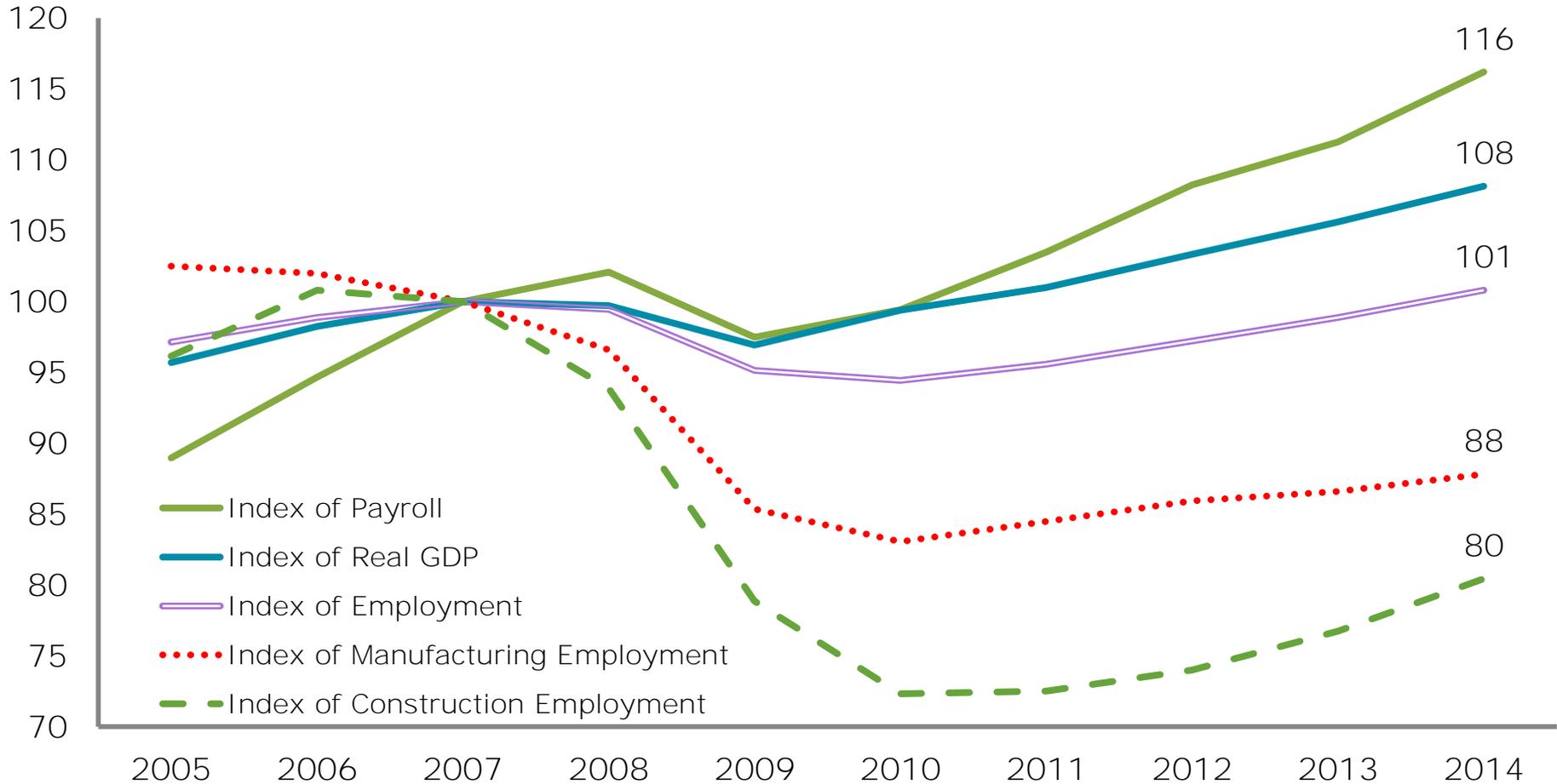
The map shows state coincidence indexes, which combine four state-level economic measures to summarize current economic conditions in a single statistic; the four data items are nonfarm payroll employment, average hours worked in manufacturing, the unemployment rate, and wage and salary disbursements deflated by the consumer price index (US city average)

Frequency of observation: monthly; latest observation: March 2015; DC is not shown on the map

Source: FRB of Philadelphia, www.philadelphiafed.org/research-and-data/regional-economy/indexes/coincident

United States Employment Levels

Index: 2007 = 100



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



The Industrial Structure Is Changing

Healthcare Employment Keeps Expanding Unabated



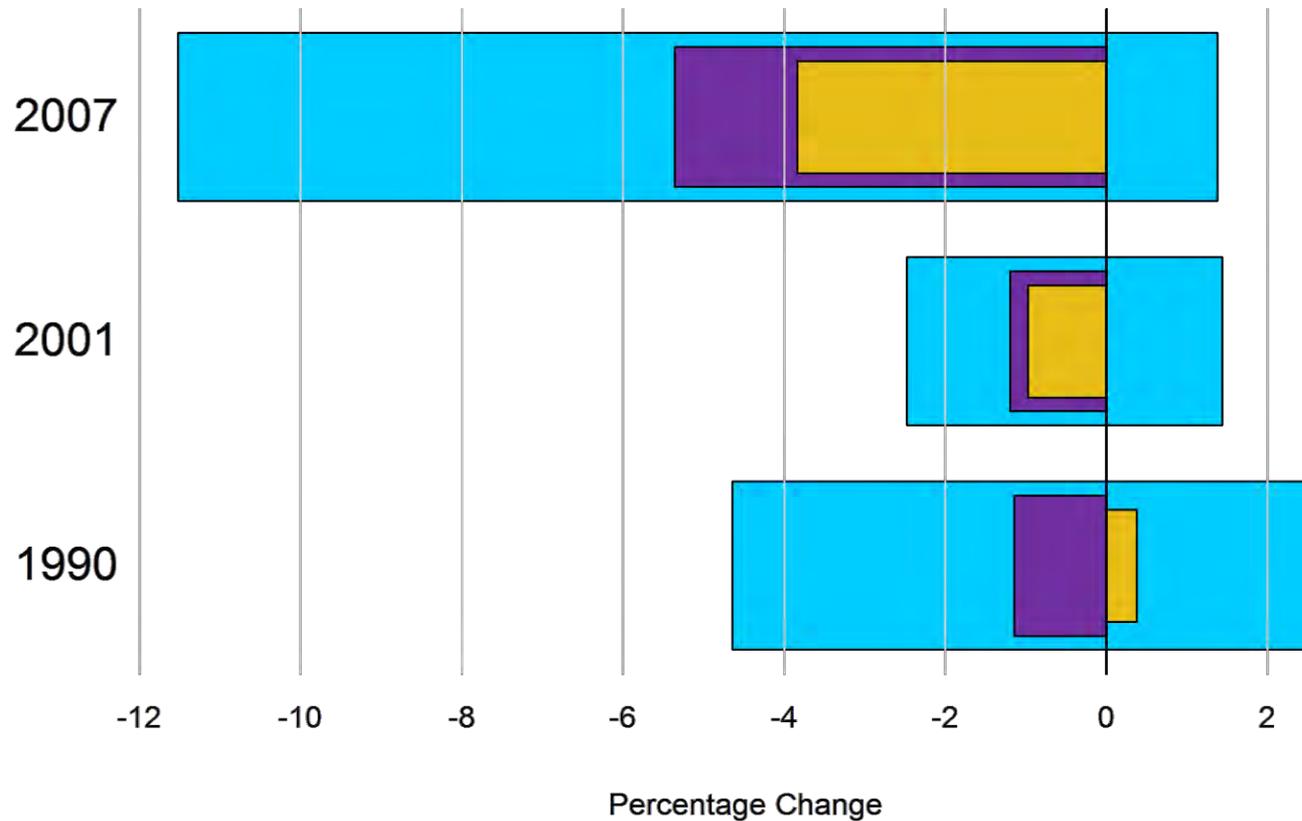
Nonfarm Employment, seasonally adjusted

Monthly employment shown for the period November 2001 through March 2015

Sources: FRED, research.stlouisfed.org/fred2; US Bureau of Labor Statistics (BLS), www.bls.gov

Arkansas

Job Losses in the Recent Recession Were Less Than the National Average

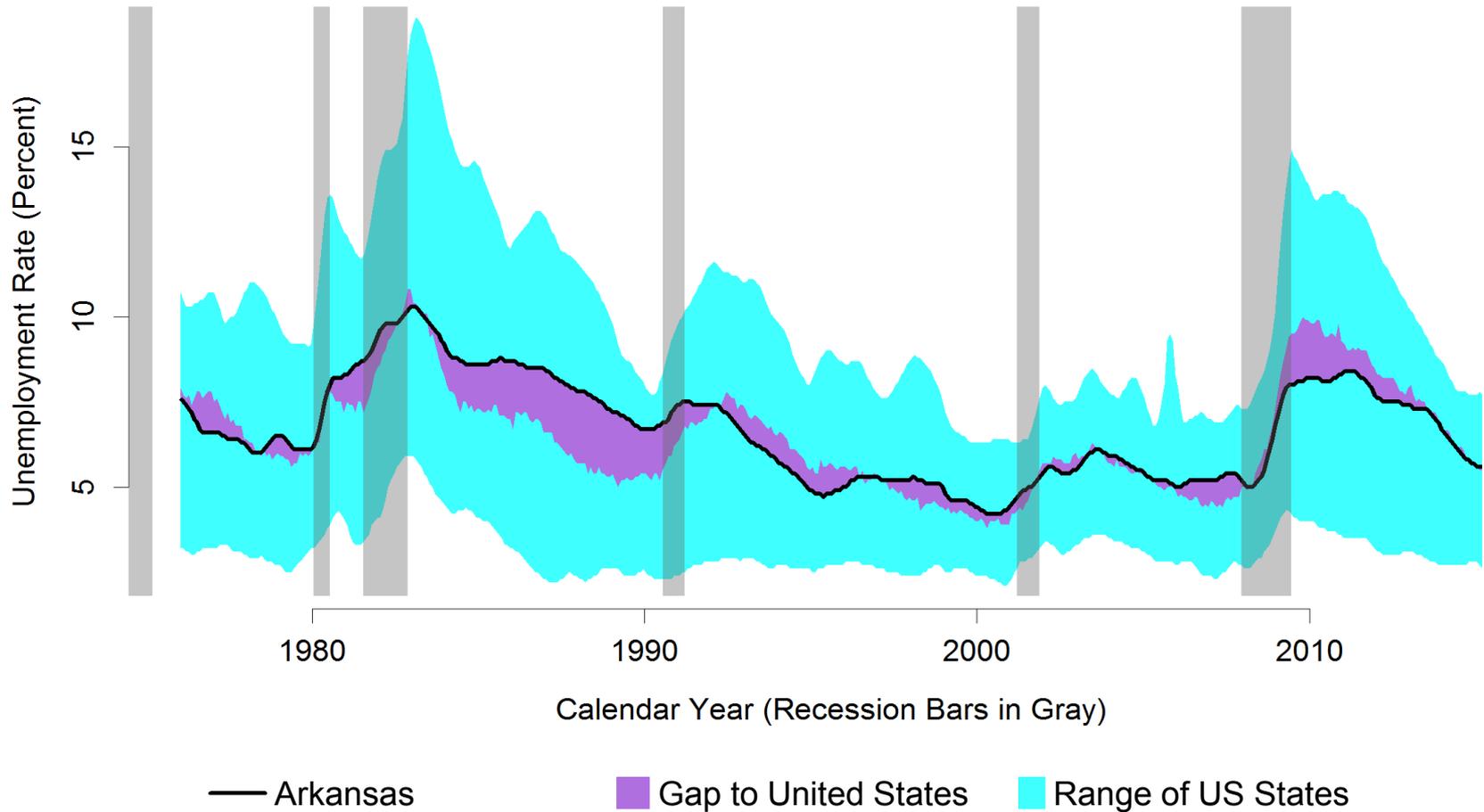


■ Range of US States ; ■ United States ■ Arkansas

Percentage change from the onset of the recession (peak of economic activity, as defined by the NBER) to the onset of the recovery (trough of economic activity); Current Employment Statistics Survey, seasonally adjusted
Frequency of observation: monthly; range of US states includes DC
Source: US Bureau of Labor Statistics (BLS), www.bls.gov/ces

Arkansas

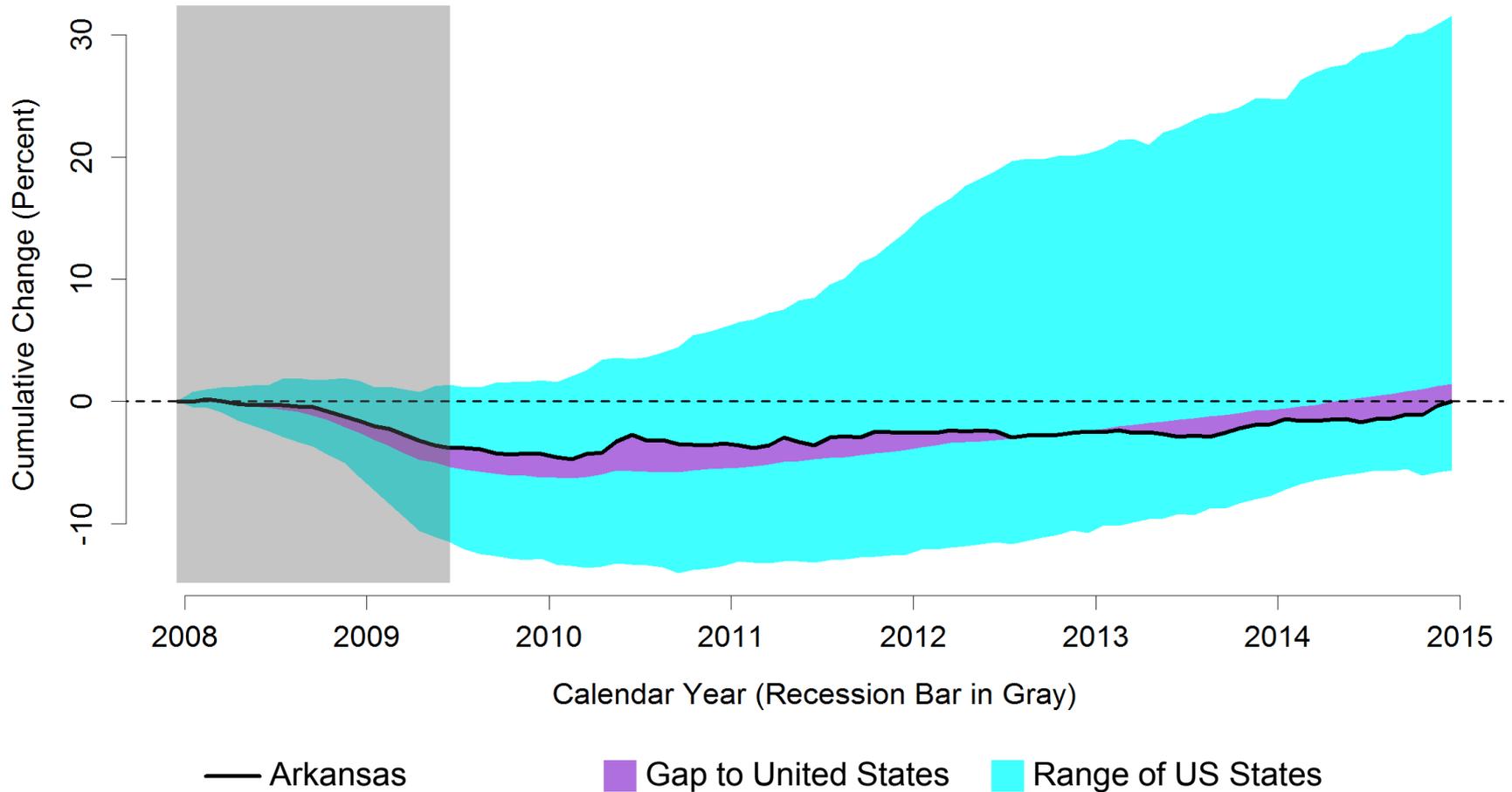
The Unemployment Rate Is About the Same As the National Average



Unemployment rate, seasonally adjusted; range of US states includes DC
Frequency of observation: monthly; latest available data point: March 2015
Source: US Bureau of Labor Statistics (BLS), www.bls.gov

Arkansas

Employment Is Near the Prerecession Level

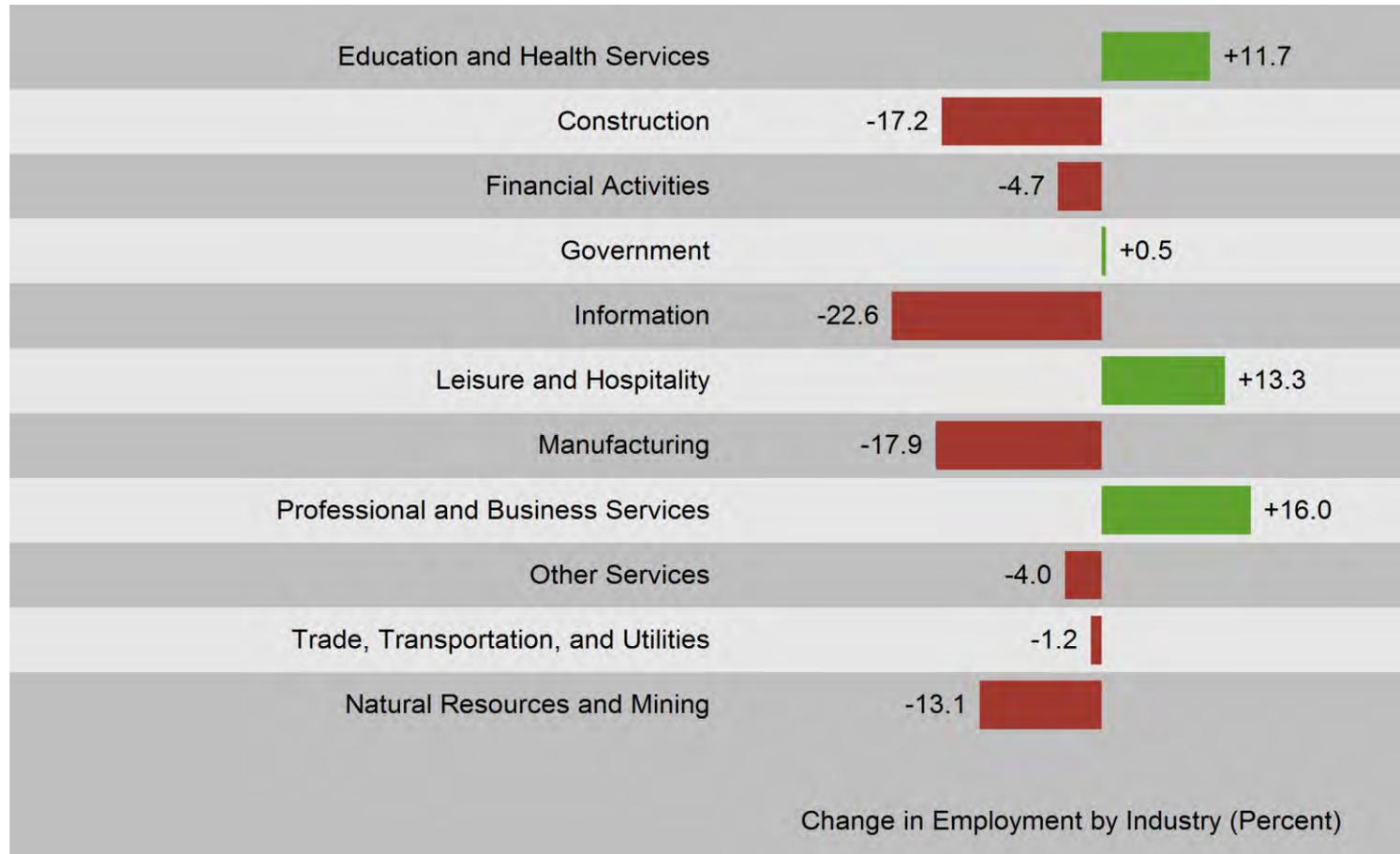


Nonfarm Employment, seasonally adjusted
Frequency of observation: monthly; latest available data point: March 2015
Range of US states includes DC; tick marks indicate beginning of year
Source: US Bureau of Labor Statistics (BLS), www.bls.gov



Arkansas

Employment Has Yet to Recover From the Recession in Most Industries



Percentage change since the onset of the recession (peak of economic activity, December 2007)

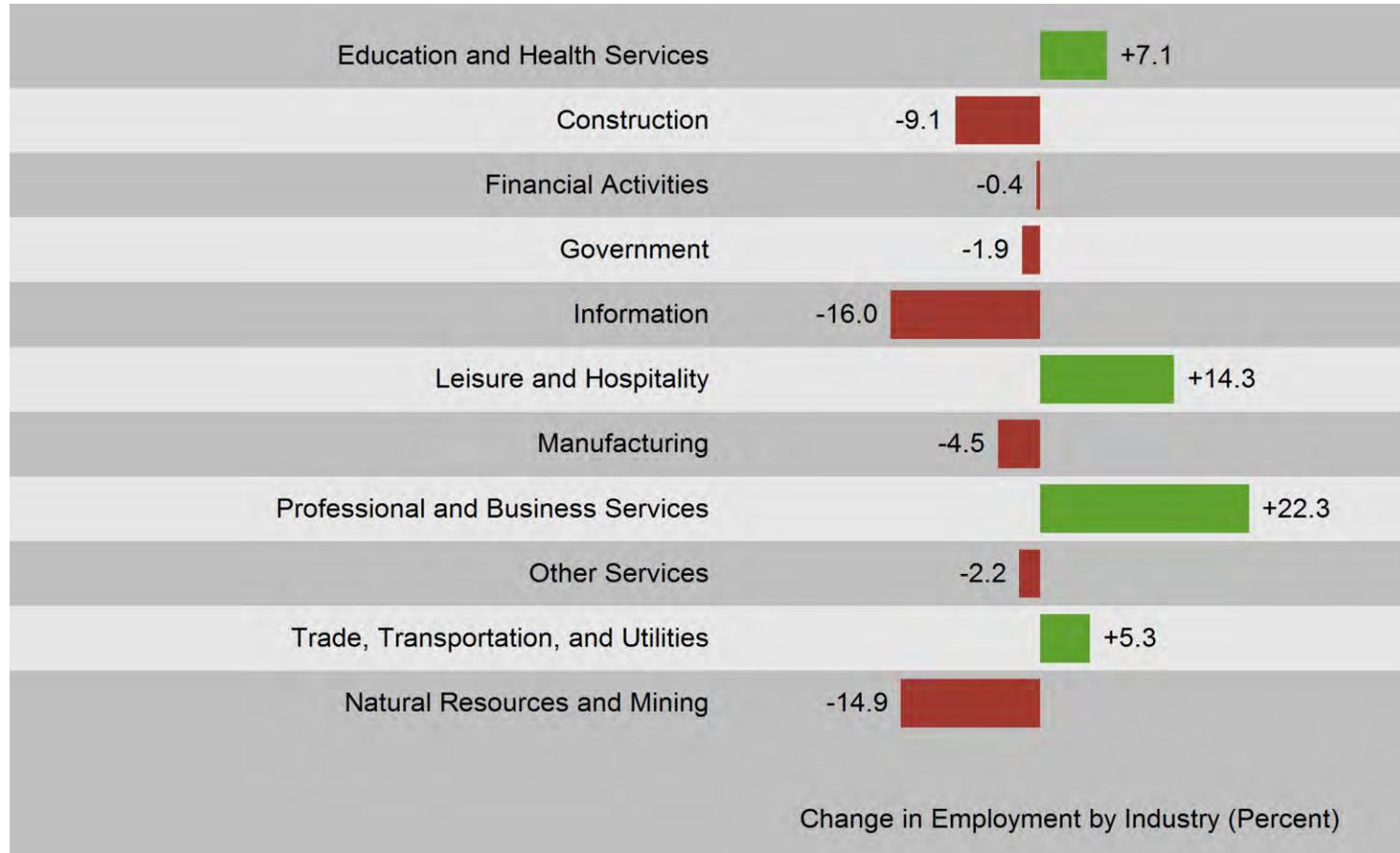
Current Employment Statistics Survey, seasonally adjusted

Frequency of observation: monthly; latest observed data point: March 2015

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

Arkansas

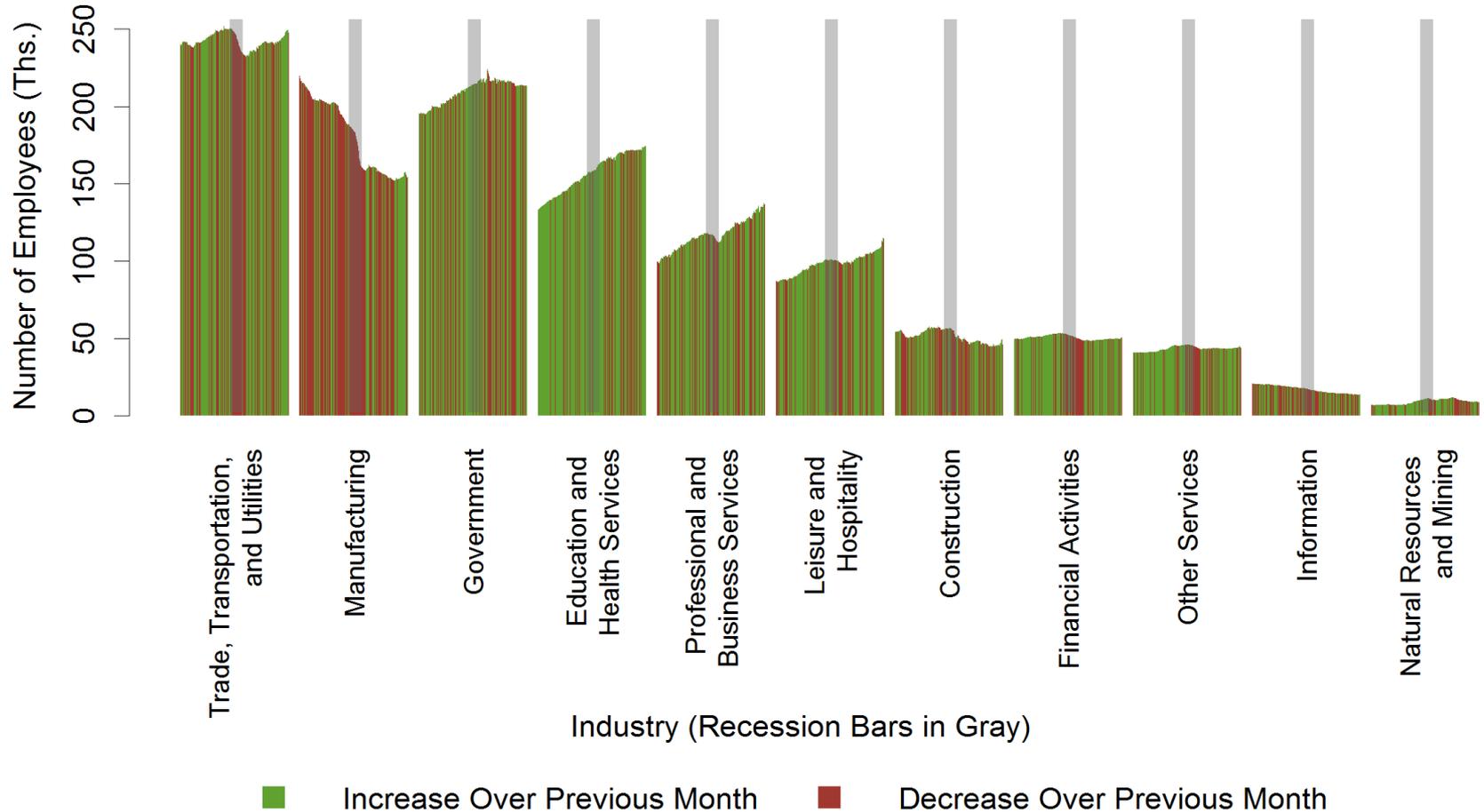
Some Sectors Have Added Jobs Since the Onset of the Recovery



Percentage change since the onset of the recovery (trough of economic activity, June 2009)
Current Employment Statistics Survey, seasonally adjusted
Frequency of observation: monthly; latest observed data point: March 2015
Source: US Bureau of Labor Statistics (BLS), www.bls.gov/ces

Arkansas

The Industrial Structure Is Changing



Nonfarm Employment, seasonally adjusted
 Monthly employment shown for the period November 2001 through March 2015
 Sources: US Bureau of Labor Statistics (BLS), www.bls.gov; Moody's Economy.com



Key Takeaways—The State of the Economy

- While the US economy is growing, the recovery is likely to remain modest for the next couple of years
- The US and Arkansas economies have been following similar paths
- Similar to nationwide, health services is an area of job creation in Arkansas
- The recovery in the workers compensation system will continue as employment and payrolls continue to grow

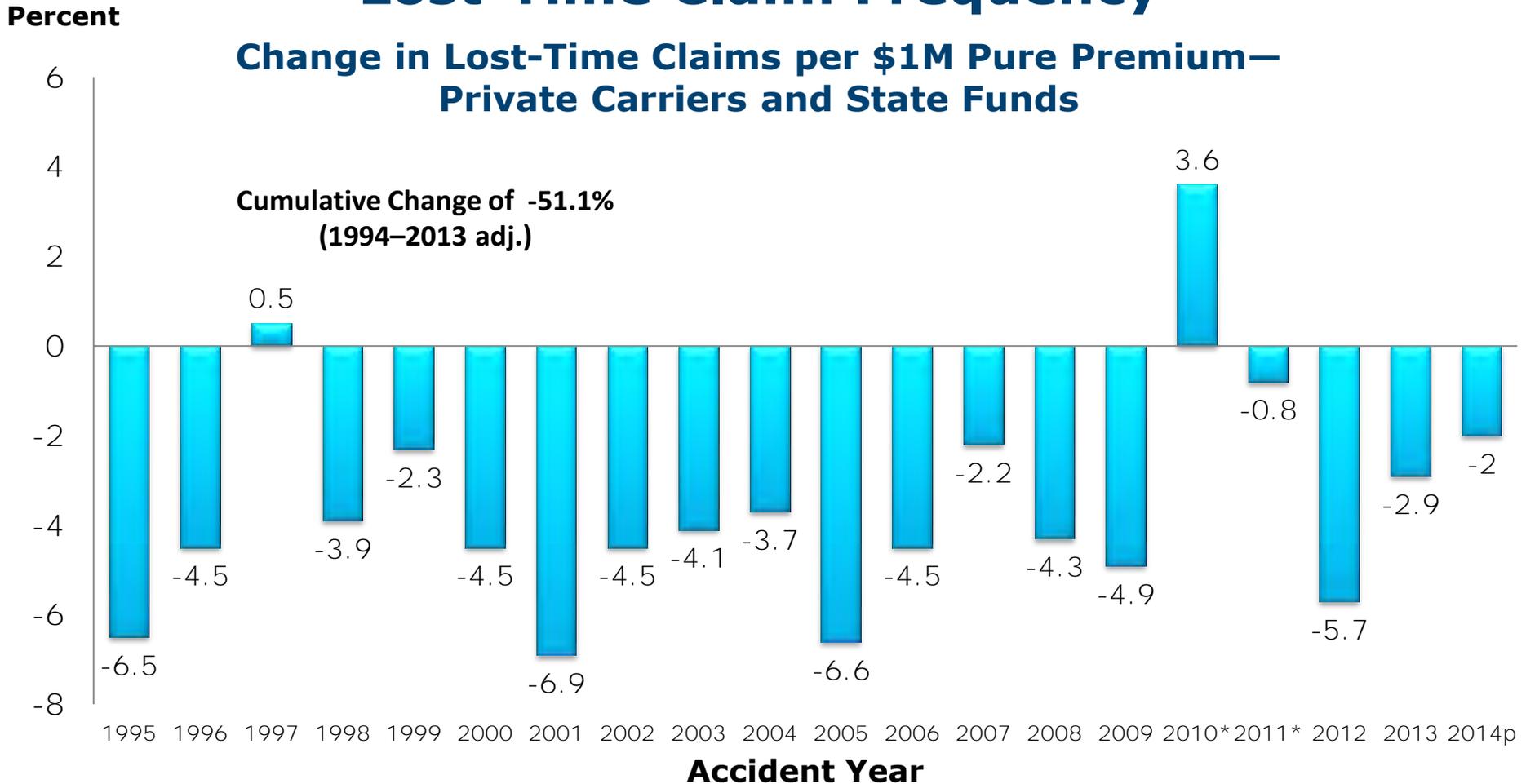


STATE ADVISORY FORUM 2015

Claim Frequency



Countrywide Workers Compensation Lost-Time Claim Frequency



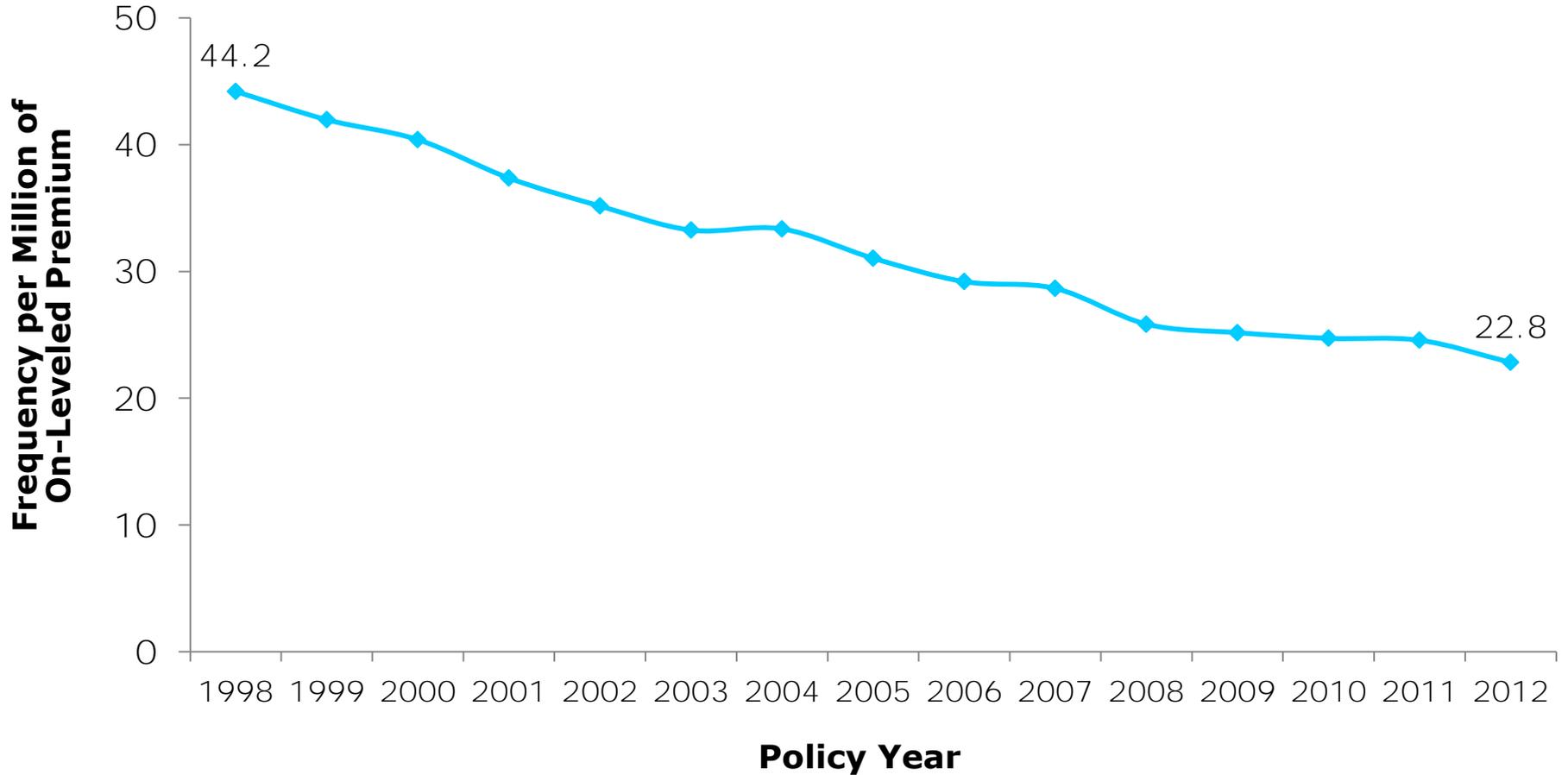
*Adjusted figure (primarily due to significant changes in audit activity); unadjusted values are 10.6 (AY 2010) and -3.8 (AY 2011)
p Preliminary based on data valued as of 12/31/2014

Source: NCCI's Financial Call data, developed to ultimate and adjusted to current wage and voluntary loss cost level; excludes high deductible policies; 1995–2013: based on data through 12/31/2013

For all states where NCCI provides ratemaking services, excluding WV



Arkansas Claim Frequency

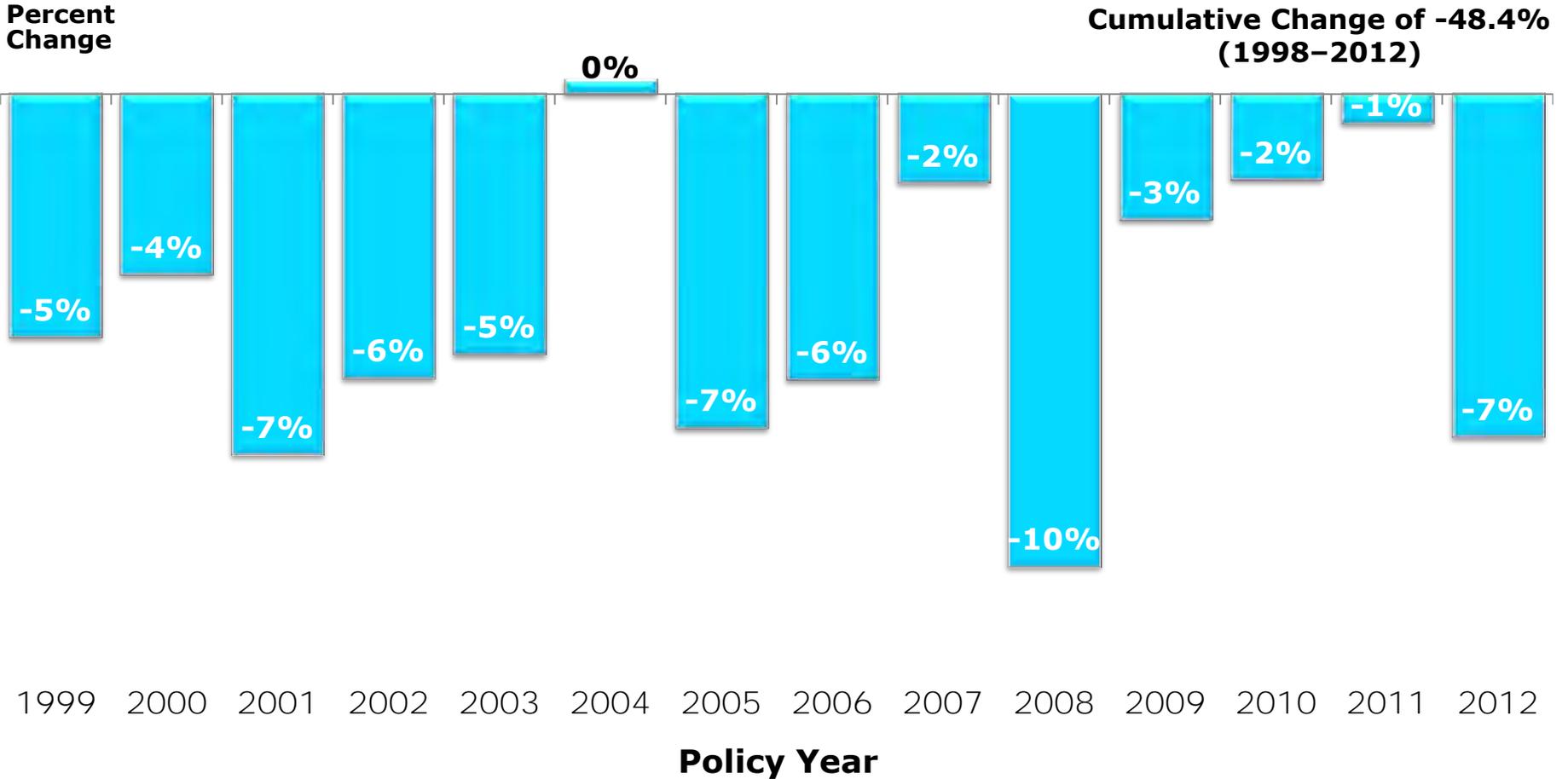


Based on NCCI's financial data
Frequency of lost-time claims adjusted to a common wage level



Arkansas Workers Compensation Lost-Time Claim Frequency

Lost-Time Claims

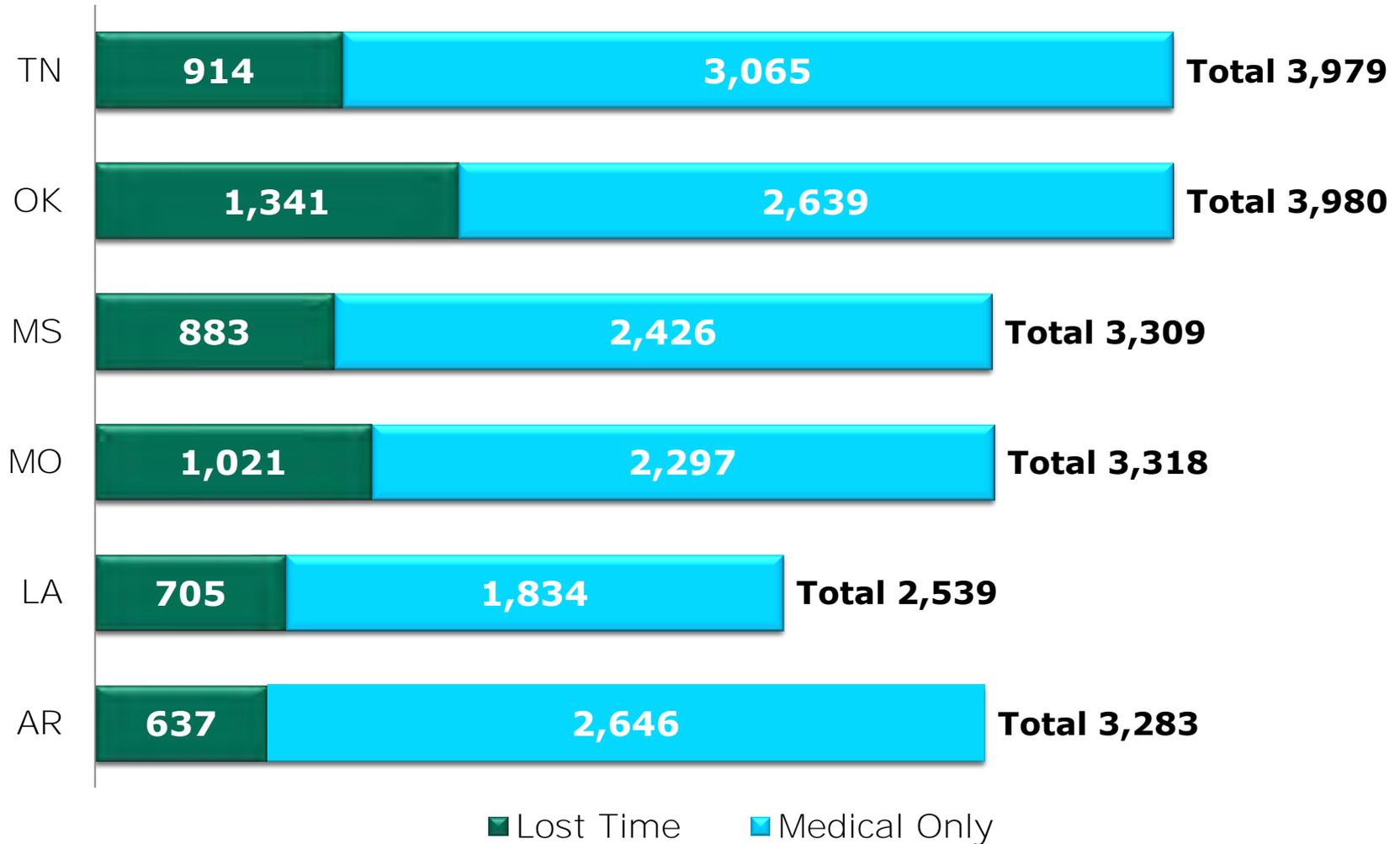


Based on data through 12/31/2013, developed to ultimate



Arkansas Average Claim Frequency

Frequency per 100,000 Workers—All Claims



Based on NCCI's *Statistical Plan* data



Arkansas Distribution of Claims by Injury Type

Arkansas



Region



Countrywide

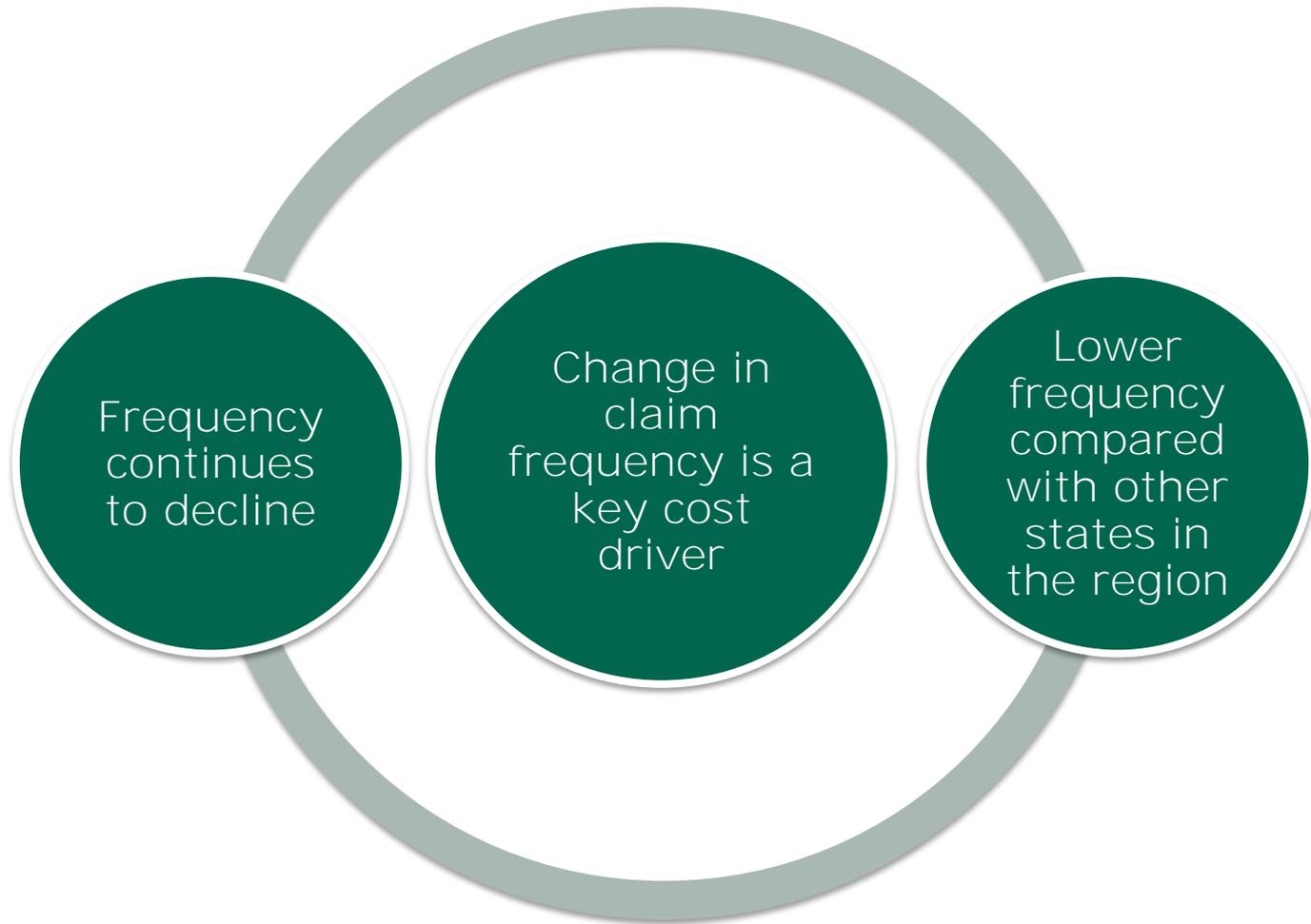


■ Medical Only
 ■ Temporary Total
 ■ Permanent Partial
 ■ Fatal and Permanent Total

Regional states are LA, MO, MS, OK, and TN
 Based on NCCI's *Statistical Plan* data



Key Takeaways—Claim Frequency



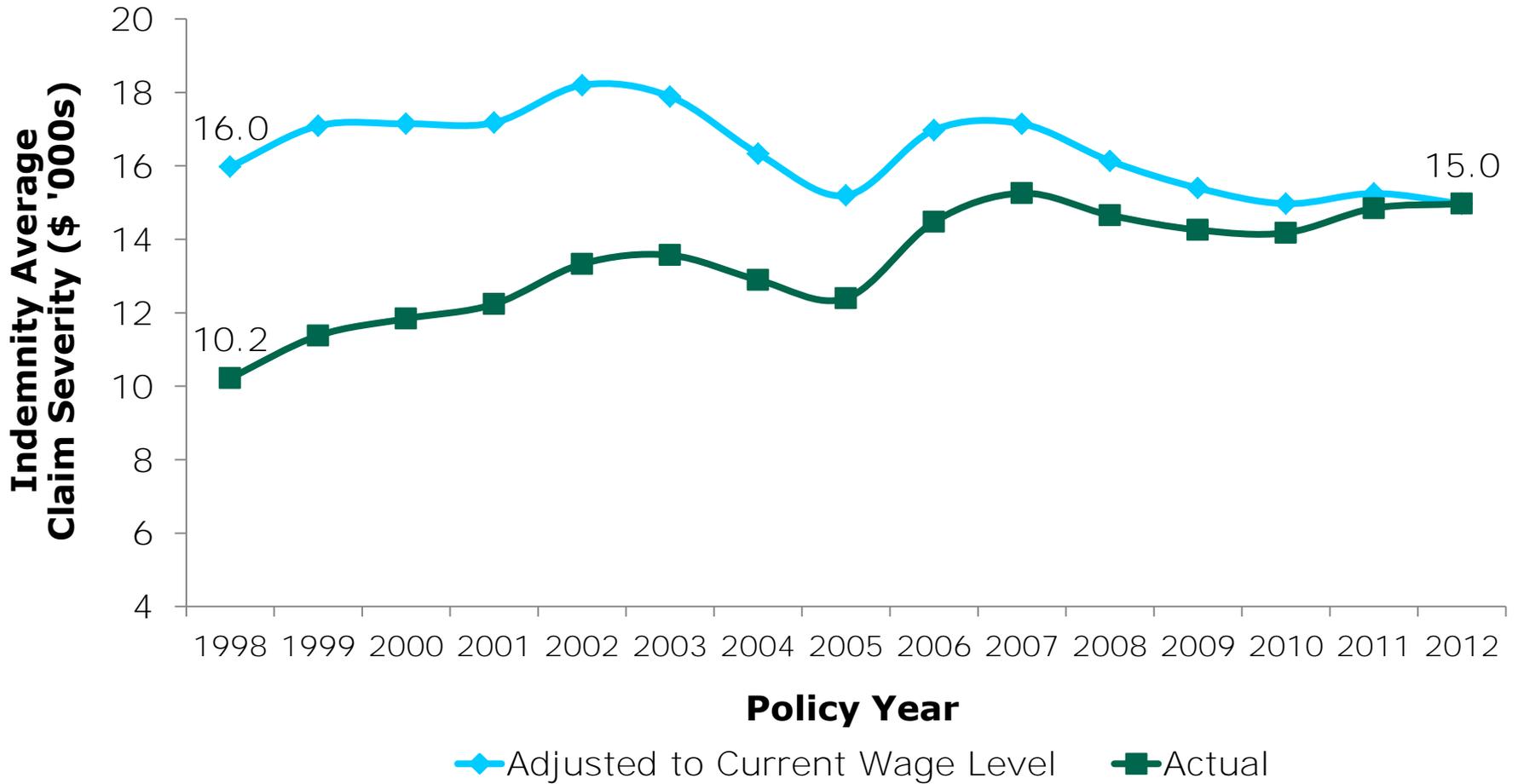


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Indemnity and Medical Severity

Arkansas Average Indemnity Severity

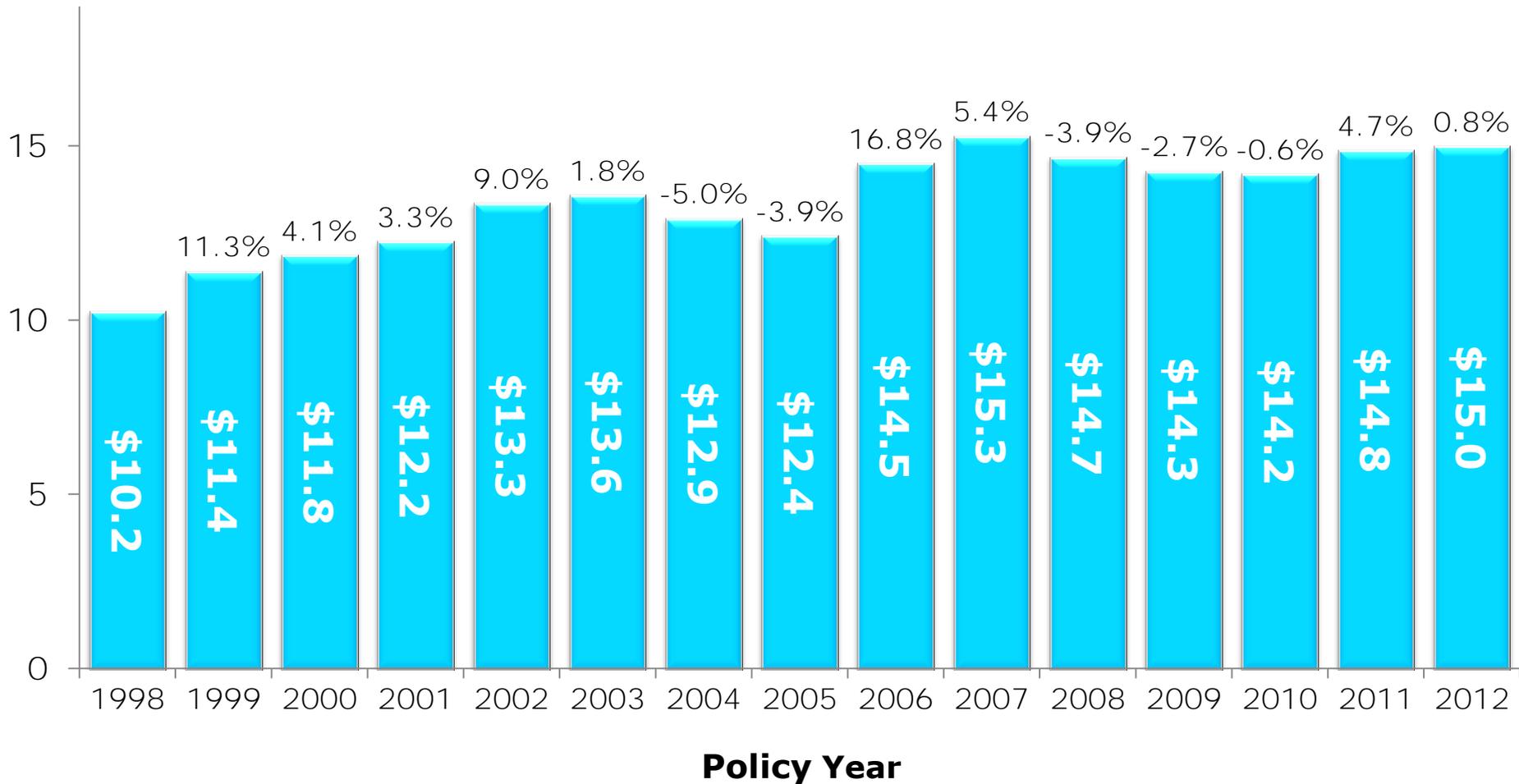


Based on NCCI's financial data for lost-time claims at current benefit level and developed to ultimate



Arkansas Average Indemnity Claim Severity

Lost-Time Claim Severity in \$ Thousands



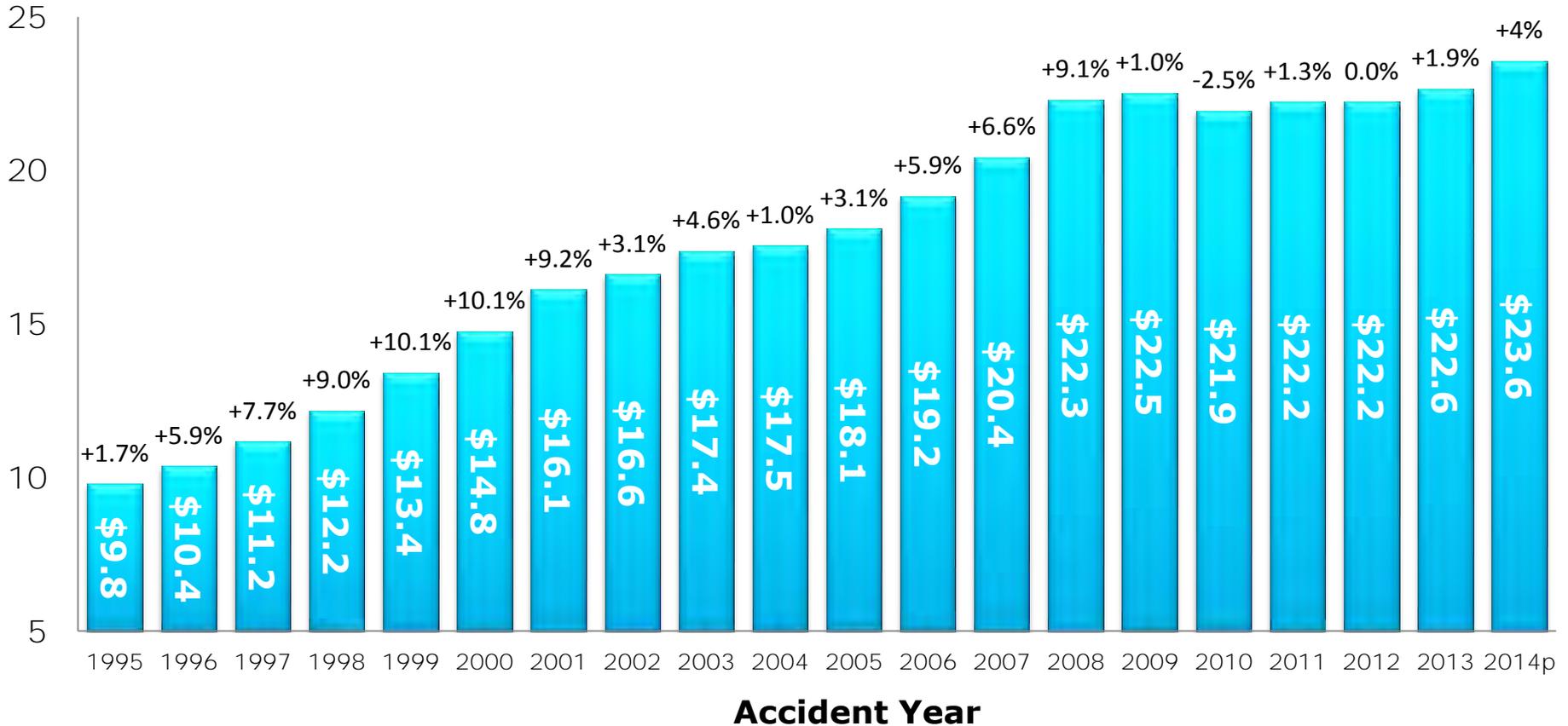
Based on data through 12/31/2013, on-leveled and developed to ultimate



Countrywide Workers Compensation Average Indemnity Cost per Lost-Time Claim

Private Carriers and State Funds

Severity
(\$ Thousands)



p Preliminary based on data valued as of 12/31/2014

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

1994-2013: Based on data through 12/31/2013

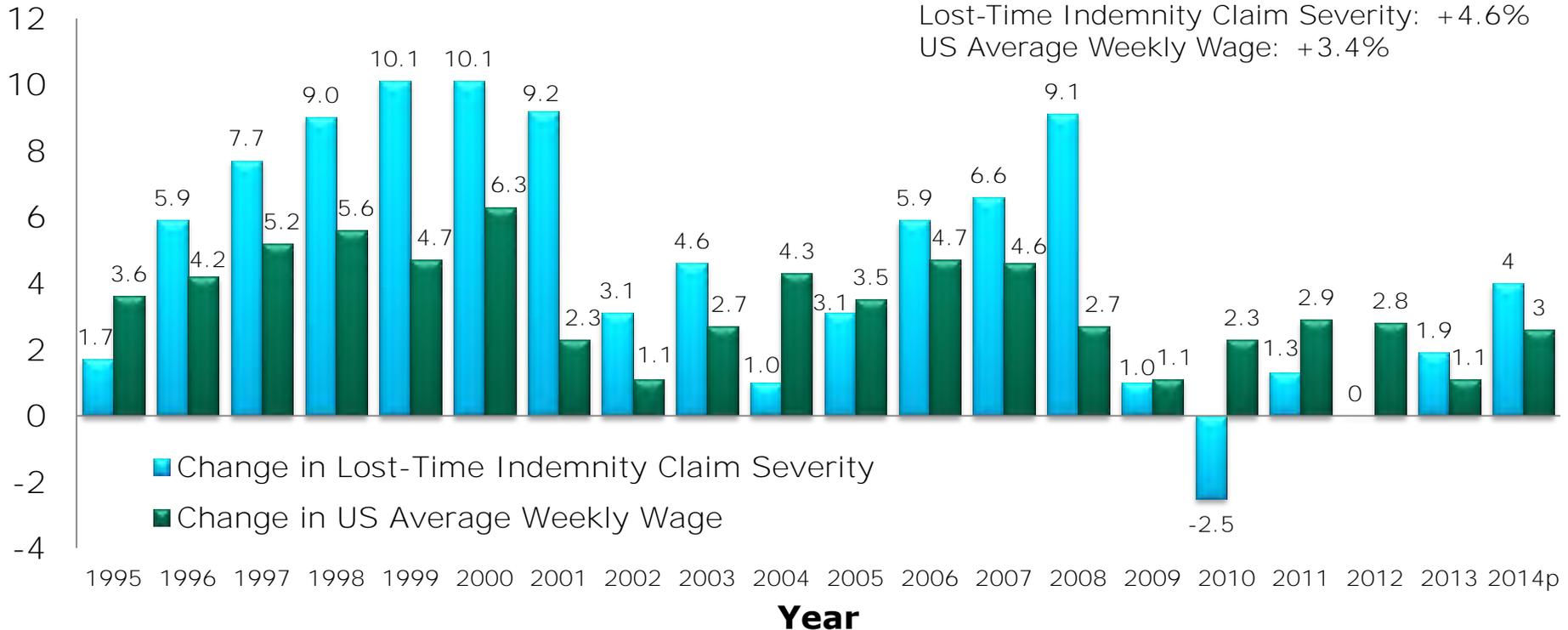
For all states where NCCI provides ratemaking services, excluding WV



Countrywide Workers Compensation— Change in Indemnity Claim Severity Compared With the Change in the Average Weekly Wage

Private Carriers and State Funds

Percent



p Preliminary based on data valued as of 12/31/2014

Sources: Severity: **NCCI's** Financial Call data, developed to ultimate; excludes high deductible policies

1994–2013: Based on data through 12/31/2013

US Average Weekly Wage: 1994–2007, 2012–2013, Quarterly Census of Employment and Wages, 2008–2011, NCCI; 2014p, NCCI,

Moody's Economy.com

Severity: For all states where NCCI provides ratemaking services, excluding WV



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

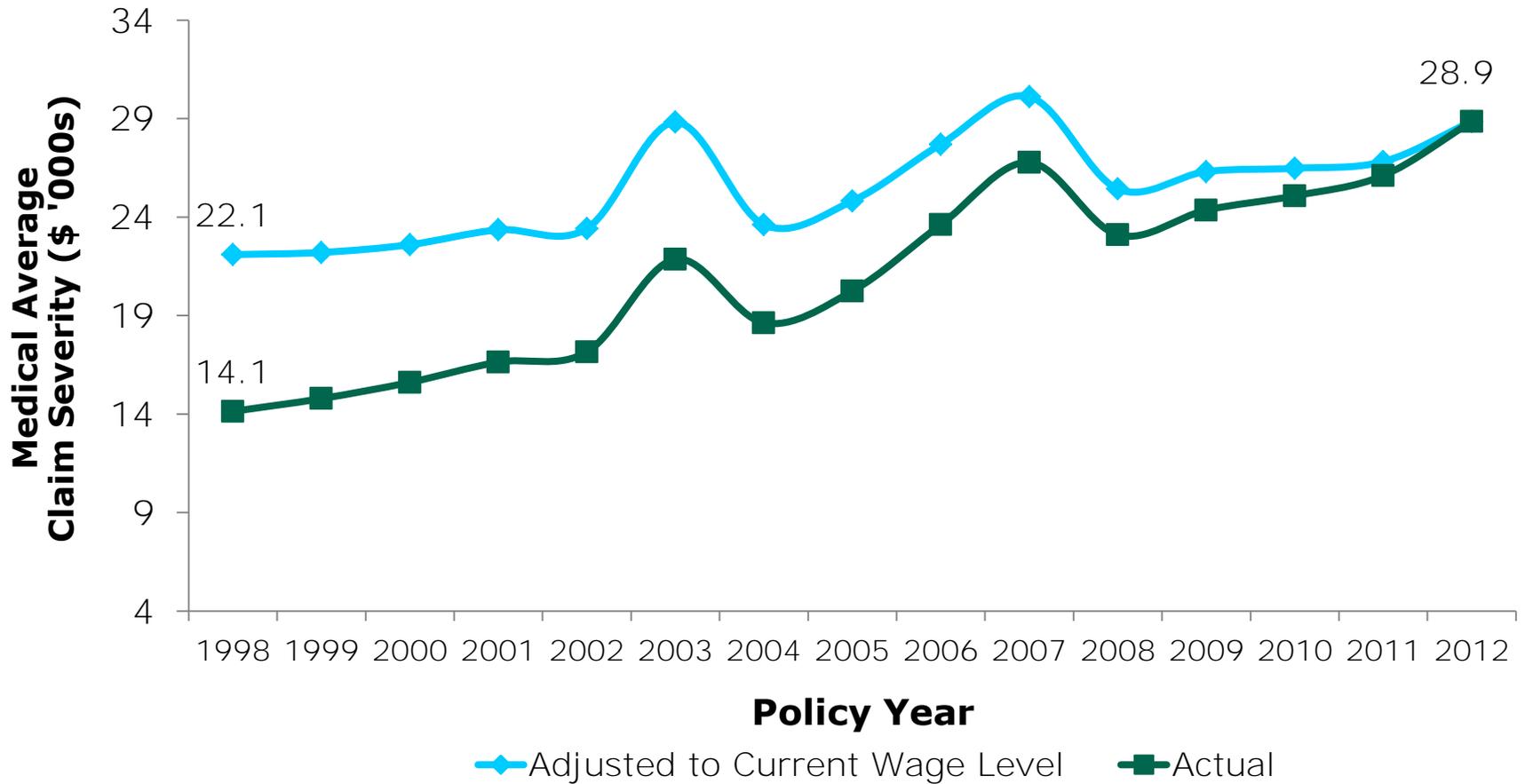


■ Temporary Total ■ Permanent Partial ■ Fatal and Permanent Total

Regional states are LA, MO, MS, OK, and TN
Based on NCCI's *Statistical Plan* data



Arkansas Average Medical Severity

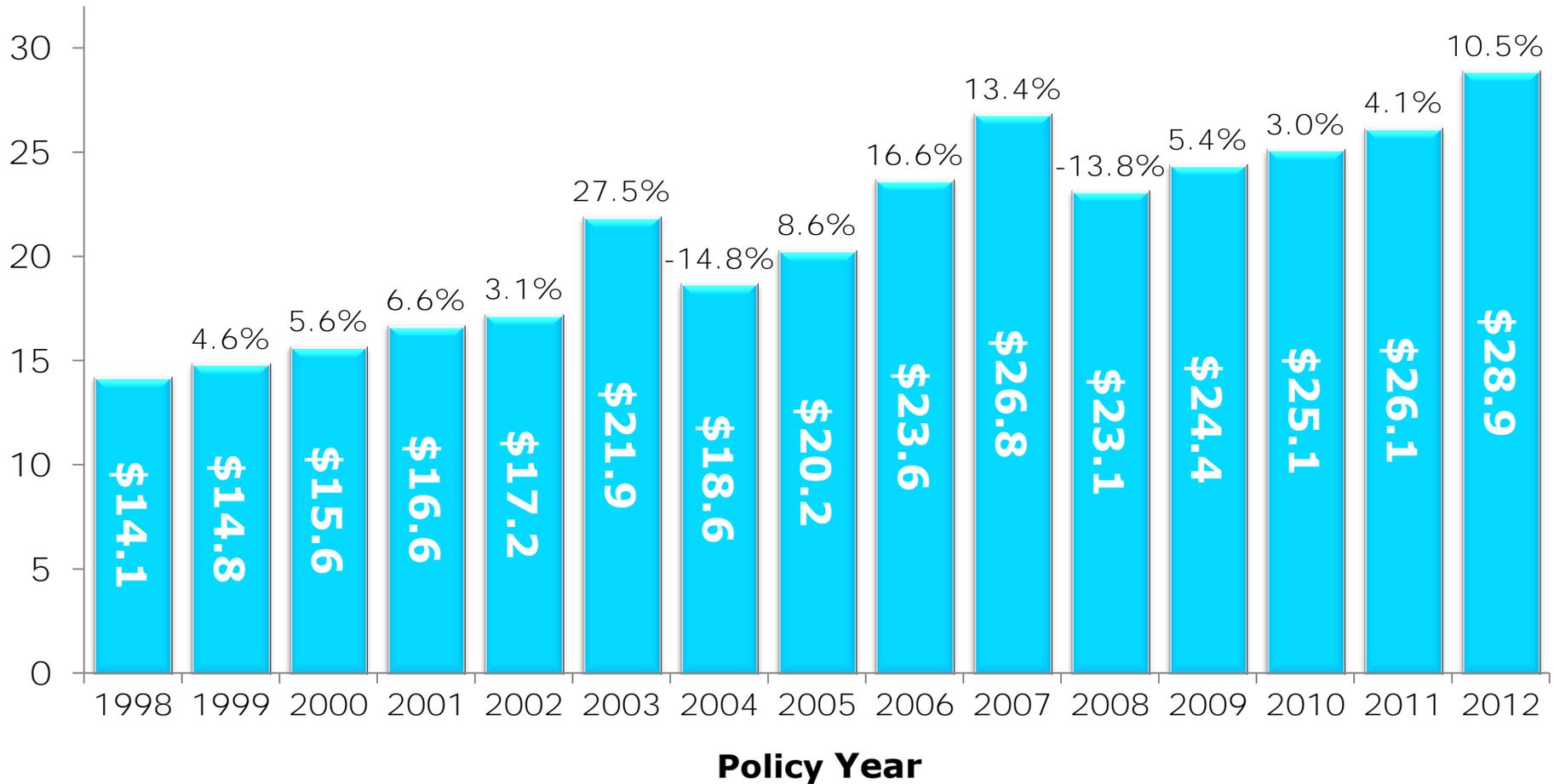


Based on NCCI's financial data for lost-time claims at current benefit level and developed to ultimate



Arkansas Average Medical Claim Severity

Lost-Time Claim Severity in \$ Thousands



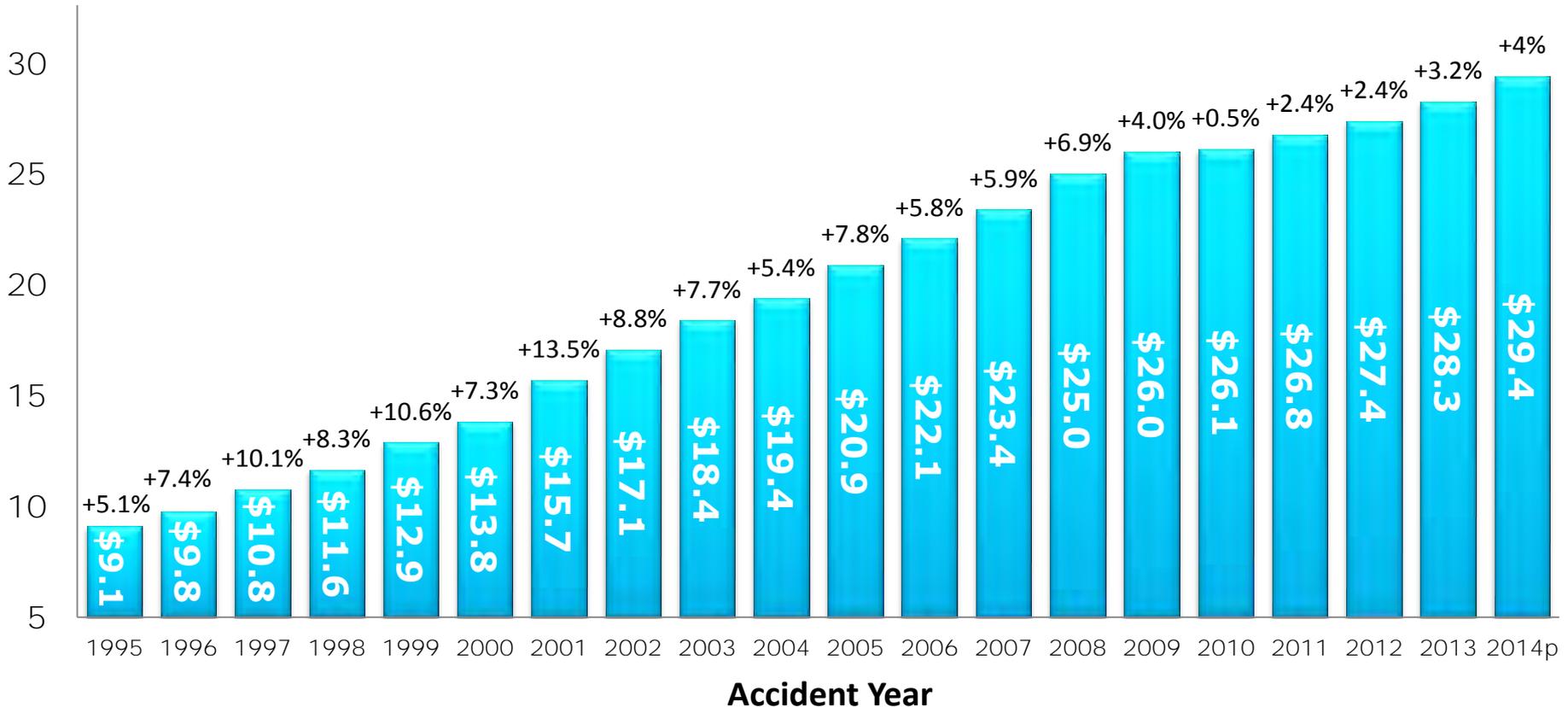
Based on data through 12/31/2013, on-leveled and developed to ultimate



Countrywide Workers Compensation Average Medical Cost per Lost-Time Claim

Private Carriers and State Funds

Severity
(\$ Thousands)



p Preliminary based on data valued as of 12/31/2014

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

1994-2013: Based on data through 12/31/2013

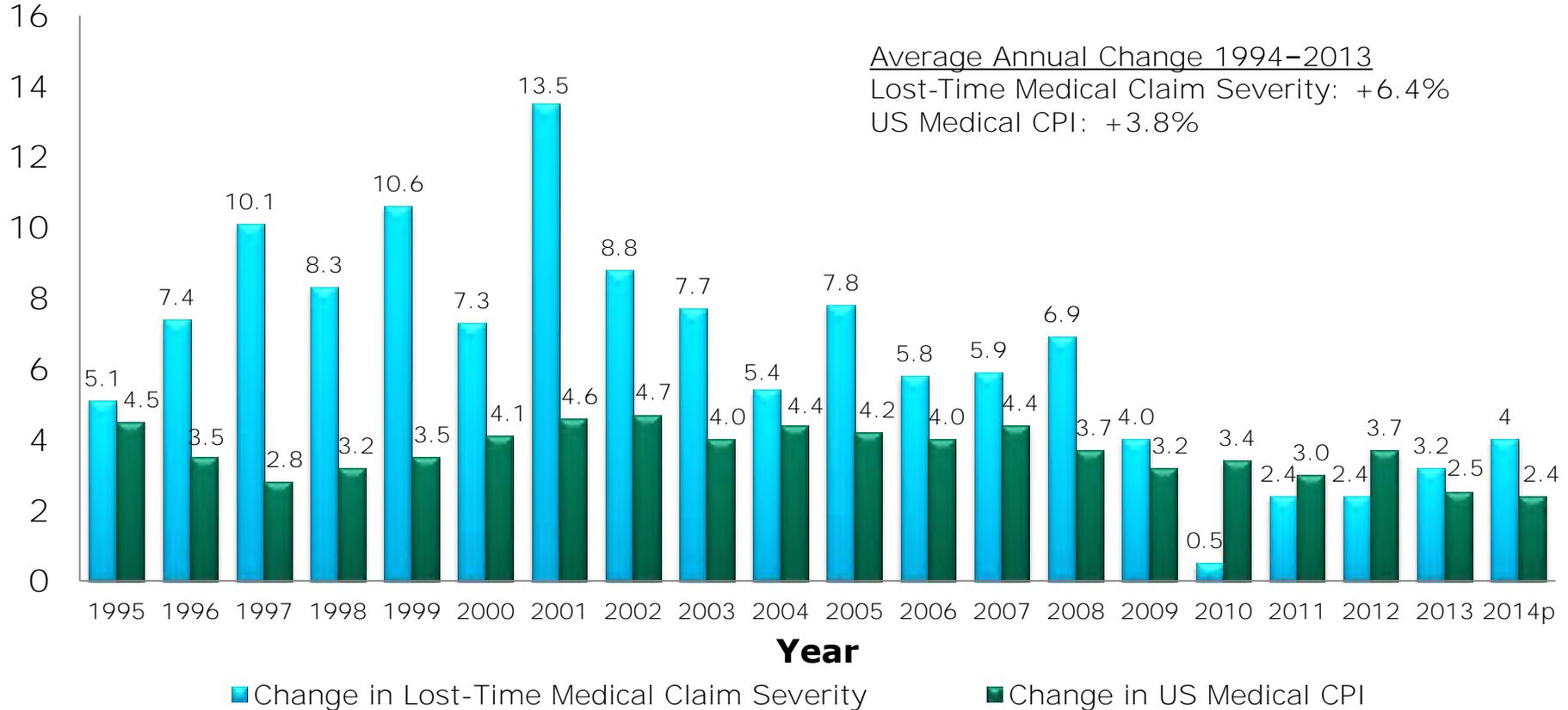
For all states where NCCI provides ratemaking services, excluding WV



Countrywide Workers Compensation Change in Medical Severity Compared With the Change in the Medical Consumer Price Index (CPI)

Percent

Private Carriers and State Funds



p Preliminary based on data valued as of 12/31/2014

Sources: **Severity:** NCCI's Financial Call data, developed to ultimate; excludes high deductible policies

1994-2013: Based on data through 12/31/2013

US Medical CPI: US Bureau of Labor Statistics

Severity: For all states where NCCI provides ratemaking services, excluding WV



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



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

Regional states are LA, MO, MS, OK, and TN
Based on NCCI's *Statistical Plan* data



Key Takeaways— Indemnity and Medical Severity

Medical benefits comprise almost 70% of overall benefits

Average indemnity severity remains relatively stable

The long-term upward trend in average medical severity continues



STATE ADVISORY FORUM 2015



Emerging Issues in Workers Compensation:

- Ridesharing**
- Medical Marijuana**

What Is Ridesharing?

- Also known as Transportation Network Companies (TNCs)
- Definition: A company that uses a digital network to connect riders to drivers
- Driver uses personal vehicle
- Driver and rider use app to arrange for rides

Pros and Cons of Ridesharing Services

Pros

- Efficiency—Drivers/passengers swiftly connected via mobile device
- Generally less expensive
- Nicer cars/different ride experience

Cons

- Ridesharing viewed as an unlicensed taxi service
- Driver-screening process challenged as not rigorous enough to protect consumers
- Insurance concerns/gaps



Uber December 2014 Analysis

Uber's findings and claims based on December 2014 Analysis:

- 162,037 **"active drivers"** completed at least four or more trips for the service
- On average, Uber drivers use the app more than five times per day on days that they're driving
- Uber drivers earn about \$6 an hour more than local taxi drivers and chauffeurs
- 25% of Uber drivers are over age 50
- Nearly half of the Uber drivers surveyed had at least a college degree compared with 19% for taxi drivers and chauffeurs, as reflected in government occupational data

Source: <http://www.businessinsider.com/uber-driver-data-report-2015-1>



Implications for Workers Compensation?

- Current laws do not address TNCs
- TNCs are generally not subject to the same licensing and insurance requirements as taxis and car services
- Potential insurance coverage gaps between automobile personal and commercial policies
- Many ridesharing drivers are simultaneously driving for car/limousine services
- Disagreement over whether drivers are employees or independent contractors



Ridesharing: Are Drivers Employees or Independent Contractors?

Employee

- Fares set
- Drivers screened
- Liability insurance
- Vehicle standards

Independent Contractor

- Technology company
- App matches drivers with potential customers
- Drivers hired as independent contractors

Employee vs. Independent Contractor

- Primary test is CONTROL—How much control do TNCs have over their drivers?
- Taxi drivers are generally determined to be employees when the taxi company provides the vehicle
- Some states specifically exclude taxi drivers from workers compensation law under certain conditions (AK, MA, VA)

Factors and TNCs

- TNC drivers use their own vehicles
- TNC drivers may work for multiple companies
- **TNC does not control drivers' hours**
- TNC enlists drivers
- TNC sets pricing

When Is a Driver on the Clock?

Three commonly recognized periods in the ridesharing model:

1. Your **app is on** and you're waiting for a passenger match
2. **You've** found a passenger match
3. The passenger is in your car

Other scenarios?

Driver takes passenger from home to dinner and agrees to return two hours later to transport them home.

What if TNC Drivers Are Considered Employees?

- Appropriate Classification Codes?
- How to determine payroll?
- What if driver works for multiple TNCs?



Ridesharing Court Cases

Several lawsuits are pending:

- California
 - *O'Connor v. Uber Technologies, Inc.*
 - *Cotter v. Lyft, Inc.*
 - *Ghazi v. Uber Technologies, Inc.*
 - *Loewen, et al., v. Lyft, Inc.*

- Massachusetts
 - *Yucesory v. Uber Technologies, Inc.*

Legislative and Regulatory Activity

- In 2014, Colorado and California passed ridesharing legislation
 - Most notably, both designate TNC commercial policy to provide primary coverage whenever driver is logged onto the TNC app
- Pending legislation:
 - Alaska (HB 120/SB 58)—Excludes TNCs from WC statute
- Local regulations and regulatory involvement
 - Local government regulations
 - Cease and desist orders
 - Insurance department advisories and guidance
- National Conference of Insurance Legislators (NCOIL)
 - Model law expected (focused on auto insurance)

National Association of Insurance Commissioners (NAIC) Activity

- Issued Consumer Alert
- Sponsoring continuing education sessions on TNCs
- Established Sharing Economy Working Group
- In 2015, the Working Group adopted a white paper titled **“Transportation Network Companies Insurance Principles for Legislators and Regulators,”** which focused almost exclusively on liability issues for TNCs

NCCI Activity

- At the **NAIC's Sharing Economy Working Group's** request, NCCI gave a presentation at the Spring NAIC meeting regarding workers compensation and TNCs
- NCCI will continue monitoring related legislative activity and court cases

Other On-Demand Services

- TaskRabbit.com—Small neighborhood jobs/tasks
- Handybook, Inc. (Handy.com)—Provides housecleaning and handyman services
- Amazon Mechanical Turk—Crowdsourcing Internet marketplace
- Munchery.com—Online food delivery
- Rover.com—Dog sitting
- Zirtual.com—Virtual executive assistants



STATE ADVISORY FORUM 2015



2015 Medical Marijuana Update

Medical Marijuana Update: State Regulatory Activity

- 23 states and the District of Columbia have legalized medical marijuana use
- 2015 has seen legislation or ballot measures to legalize medical marijuana in 18 additional states
- 11 states have legalized the limited use of low-THC forms of marijuana for medical use
- In 2014, Alaska, Oregon, and the District of Columbia joined Colorado, Washington, and the city of Portland, Maine, in voting to legalize the recreational use of marijuana

States With Legislation or Ballot Measures to Legalize Medical Marijuana

7

Pending Legislation in 2015

Alabama

Iowa

Missouri

Nebraska

Pennsylvania

South Carolina

Texas

11

Failed Legislation in 2015

Florida

Georgia

Indiana

Kansas

Kentucky

Mississippi

North Carolina

North Dakota

Tennessee

Utah

West Virginia

Pro-Medical Marijuana States That Would Not Necessarily Legalize Its Use

3

Passed Legislation in 2015

Georgia

Tennessee

Virginia

3

Pending Legislation in 2015

Louisiana

Ohio

Texas

3

Failed Legislation in 2015

Georgia

Idaho

Kansas

Current as of 5/27/15

Federal Regulatory Activity

Congress Temporarily Defunds US Department of Justice Medical Marijuana Prosecution

- A congressional spending bill, signed into law on December 16, 2014, includes provision prohibiting the US Department of Justice from using federal funds to prosecute users, growers, and distributors of medical marijuana in states that have enacted medical marijuana statutes.
- Several US Supreme Court decisions have upheld prosecution of medical marijuana growers and users under the federal Controlled Substances Act (CSA). Nevertheless, the Obama Administration, as a matter of policy, has directed the DOJ to take a relaxed approach to prosecution, and the DOJ has done so, except for use that impacts the DOJ's “enforcement priorities.” This new defunding measure now codifies that policy approach as law.
- The legislation, however, did **not** legalize medical marijuana. Rather, the federal ban on marijuana continues—both medical and recreational marijuana continue to be illegal under CSA Schedule I.
- Defunding may affect *enforcement* of criminal laws in states with medical marijuana statutes. It has no effect in states that have not legalized marijuana, **nor does it express any limitations on employer action on the basis of a positive marijuana test result administered under a workplace drug-testing policy.**
- The rider expires on September 30, 2015, and may or may not be renewed.

Source: “Congress Temporarily De-Funds US-DOJ Medical Marijuana Prosecution But Does Not Legalize Medical Marijuana,” Littler.com (12/30/2014).

Federal Regulatory Activity

- Legislation has been introduced to legalize marijuana at the federal level and provide regulatory guidelines for states legalizing marijuana use.
- H.R. 1013-- **“Regulate Marijuana Like Alcohol Act.”** The Act, in part:
 - directs the Attorney General to issue a final order that removes marijuana in any form from all schedules of controlled substances under the Controlled Substances Act
 - grants the Food and Drug Administration the same authorities with respect to marijuana as it has for alcohol
 - transfers functions of the Administrator of the Drug Enforcement Administration relating to marijuana enforcement to the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)
- H.R. 1014-- **“Marijuana Tax Revenue Act of 2015.”** The Act, in part, amends the Internal Revenue Code to impose an excise tax on: (1) the sale of marijuana by producers or importers, and (2) each person who is engaged in a marijuana enterprise.

Looking Ahead

- States are increasingly legalizing marijuana in some form for medical use
- Regulation of edible medical marijuana products is increasing
- 2016 election could shape federal tolerance **toward states' position**

Source: <http://medicalmarijuanaprocon.org>



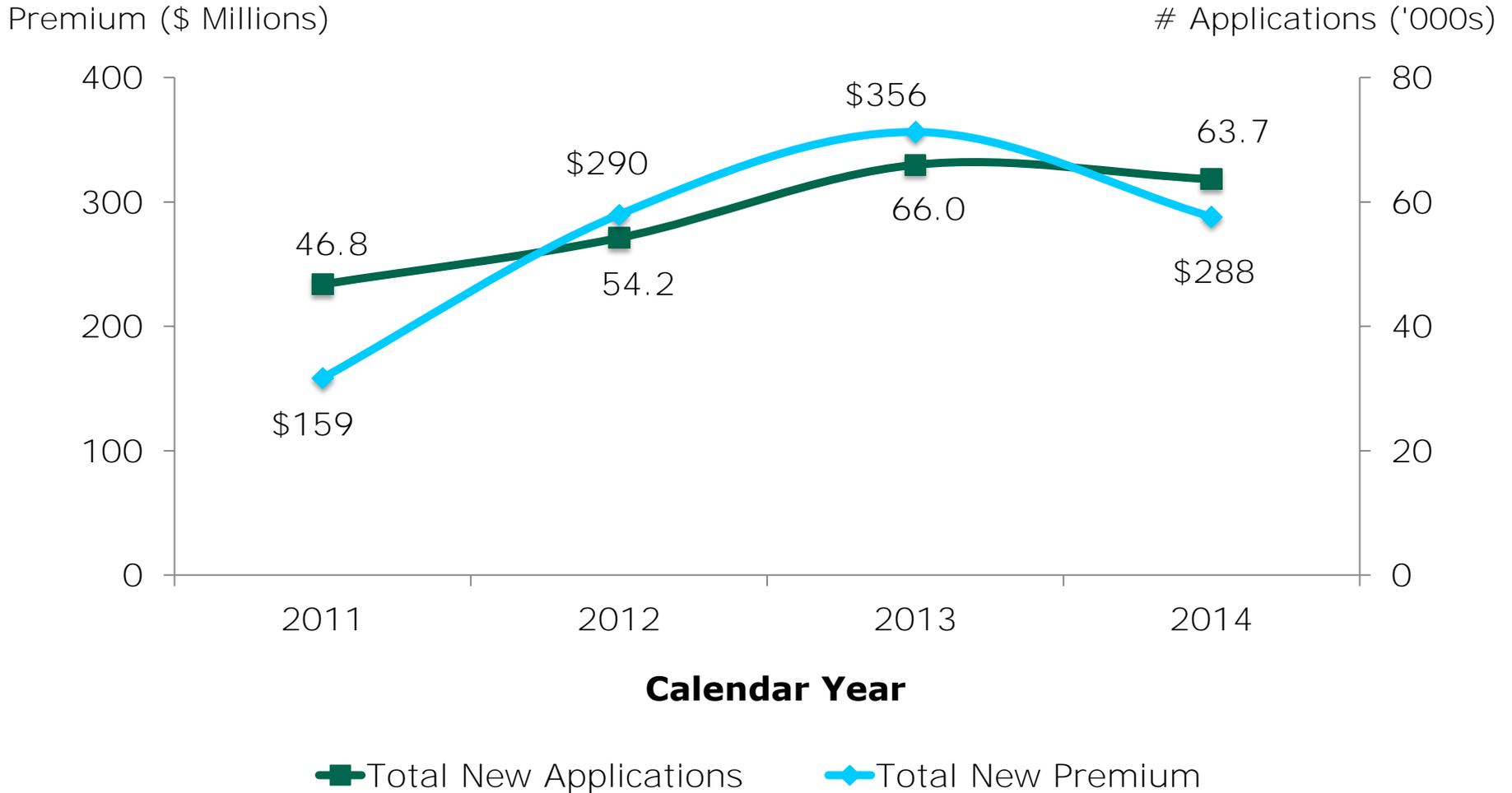


STATE ADVISORY FORUM 2015

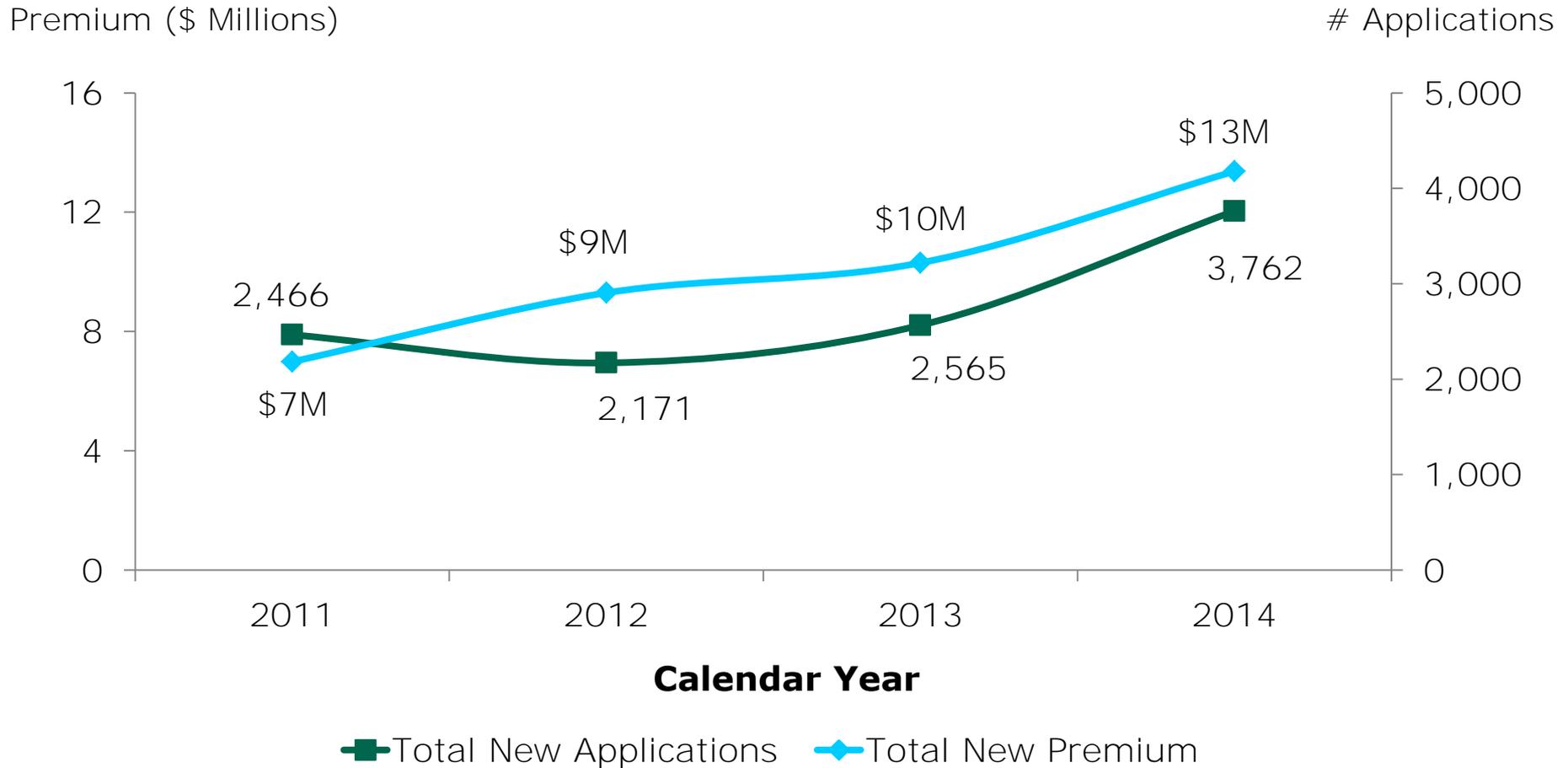


Arkansas Residual Market

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

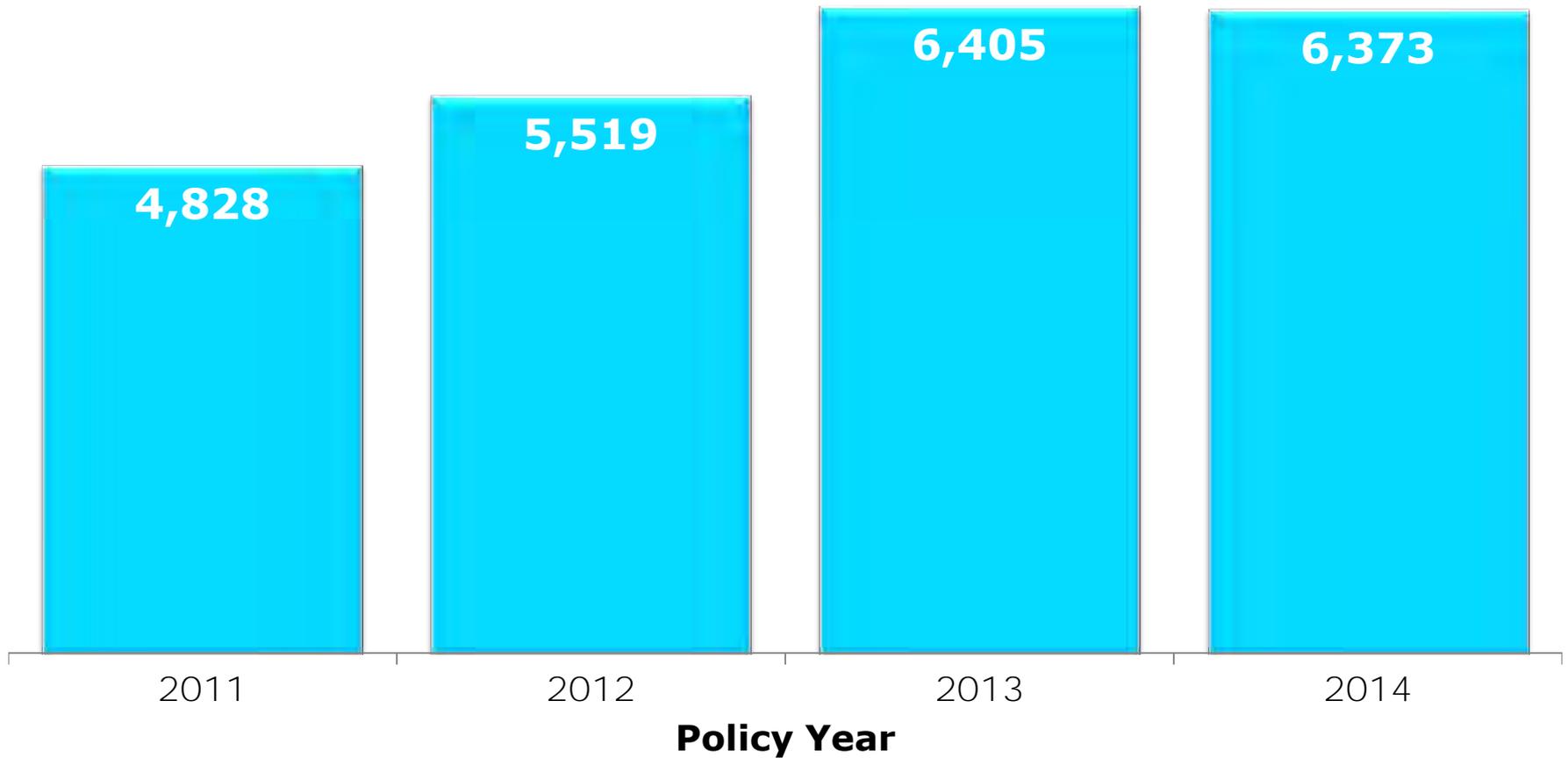


Total Residual Market New Applications and Premium Assigned in Arkansas



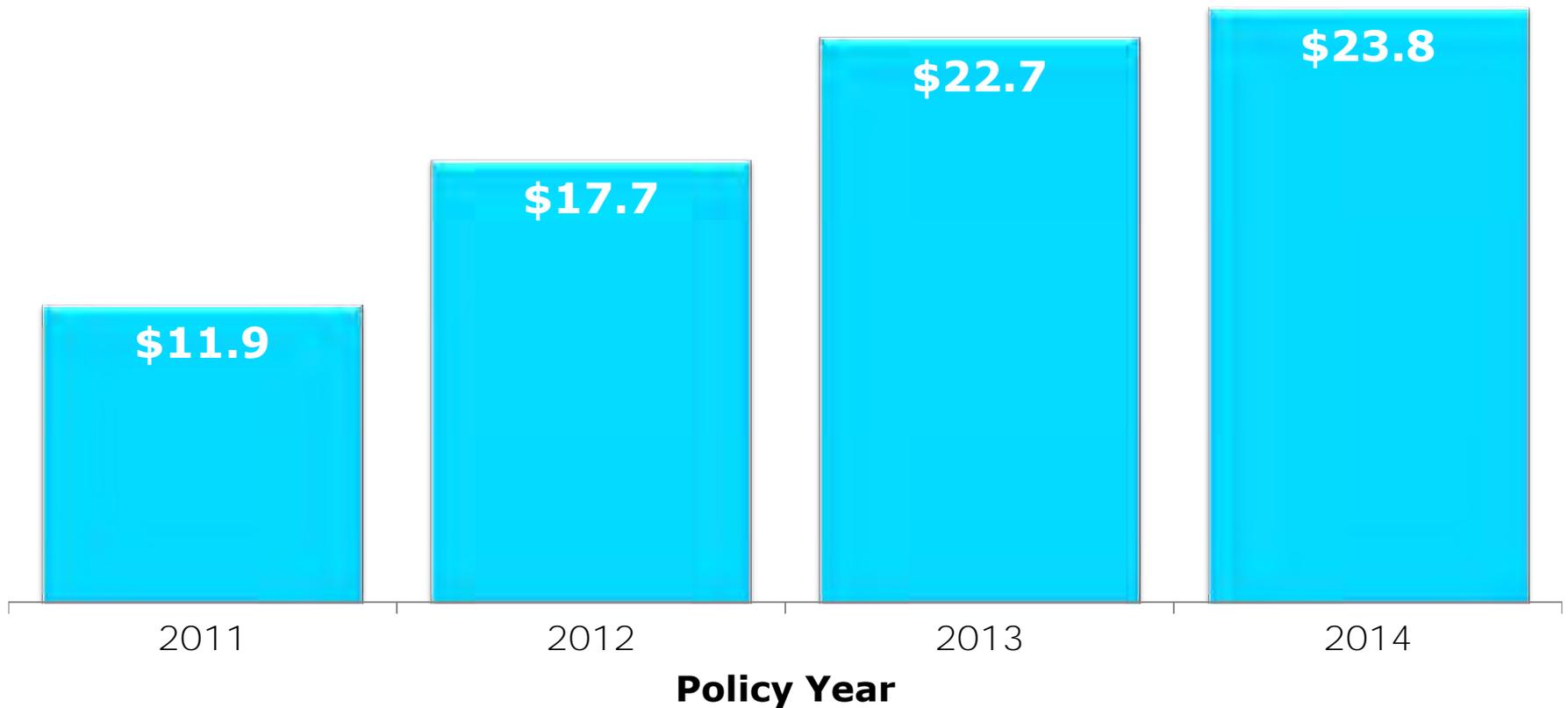
Arkansas Total Residual Market Plan Policy Count

Number of Policies



Arkansas Total Residual Market Plan Premium Volume

Premium in \$ Millions

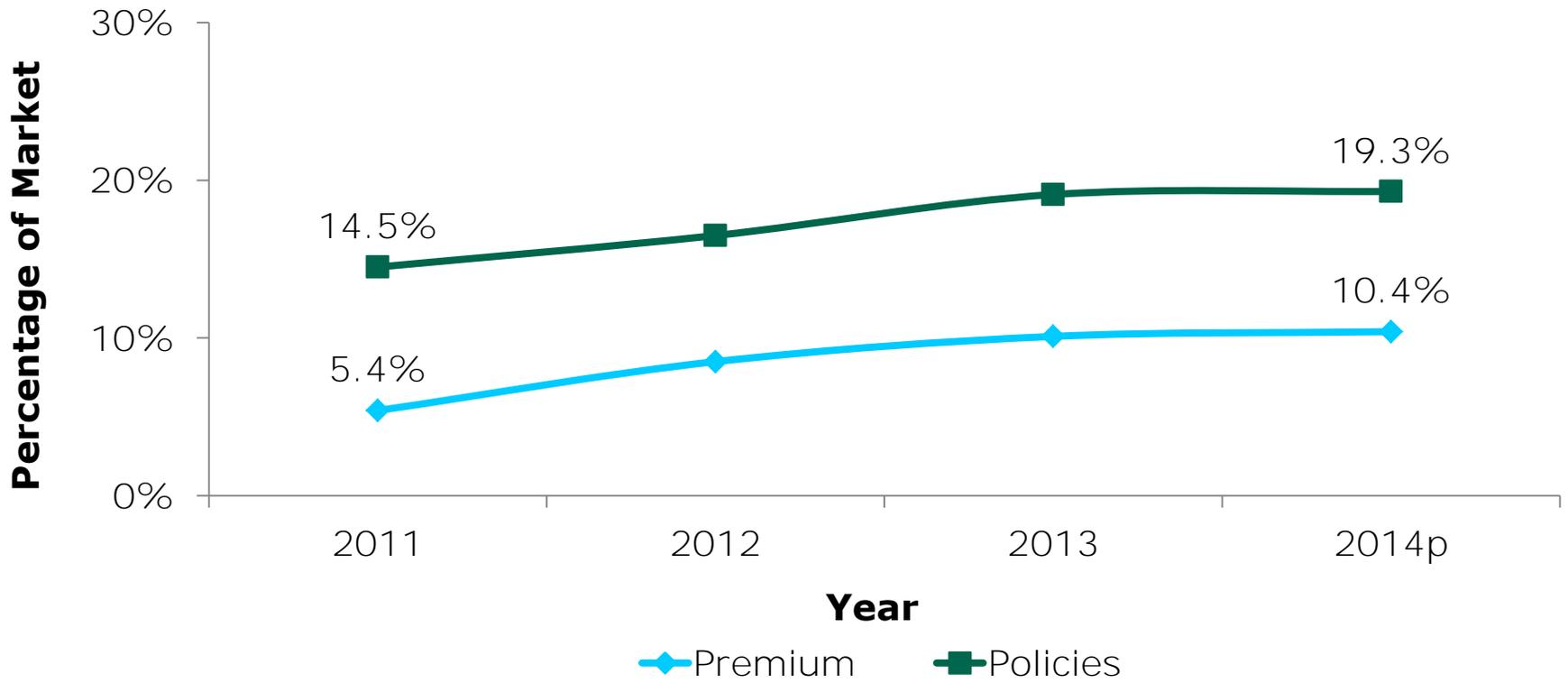


Arkansas Residual Market Plan 2014 vs. 2013 Total Policy Size Comparison

Premium Size	2014		2013	
	# of Policies	Premium	# of Policies	Premium
\$0–\$2,499	4,625	\$ 4,495,063	4,742	\$ 4,250,602
\$2,500–\$4,999	826	2,935,093	756	2,666,653
\$5,000–\$9,999	510	3,564,248	503	3,473,312
\$10,000–\$19,999	229	3,276,210	233	3,252,325
\$20,000–\$49,999	135	4,013,178	117	3,597,588
\$50,000–\$99,999	33	2,312,853	38	2,664,365
\$100,000–\$199,999	8	1,110,724	13	1,882,783
\$200,000 and Greater	7	2,141,577	3	863,082
TOTAL	6,373	\$23,848,946	6,405	\$22,650,710



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



p Preliminary
Market share as a percentage of residual market total written premium/policies in force



Arkansas Assigned Risk Programs

- Alternate Preferred Plan
- Tabular Adjustment Program (TAP)
- Alcohol- and Drug-Free Premium Credit
- Merit Rating
- Differential/Surcharge
- Removal of Premium Discounts
- Take-Out Credit (TOC) Program
- Voluntary Coverage Assistance Program (**VCAP[®] Service**)



VCAP[®] Service Report

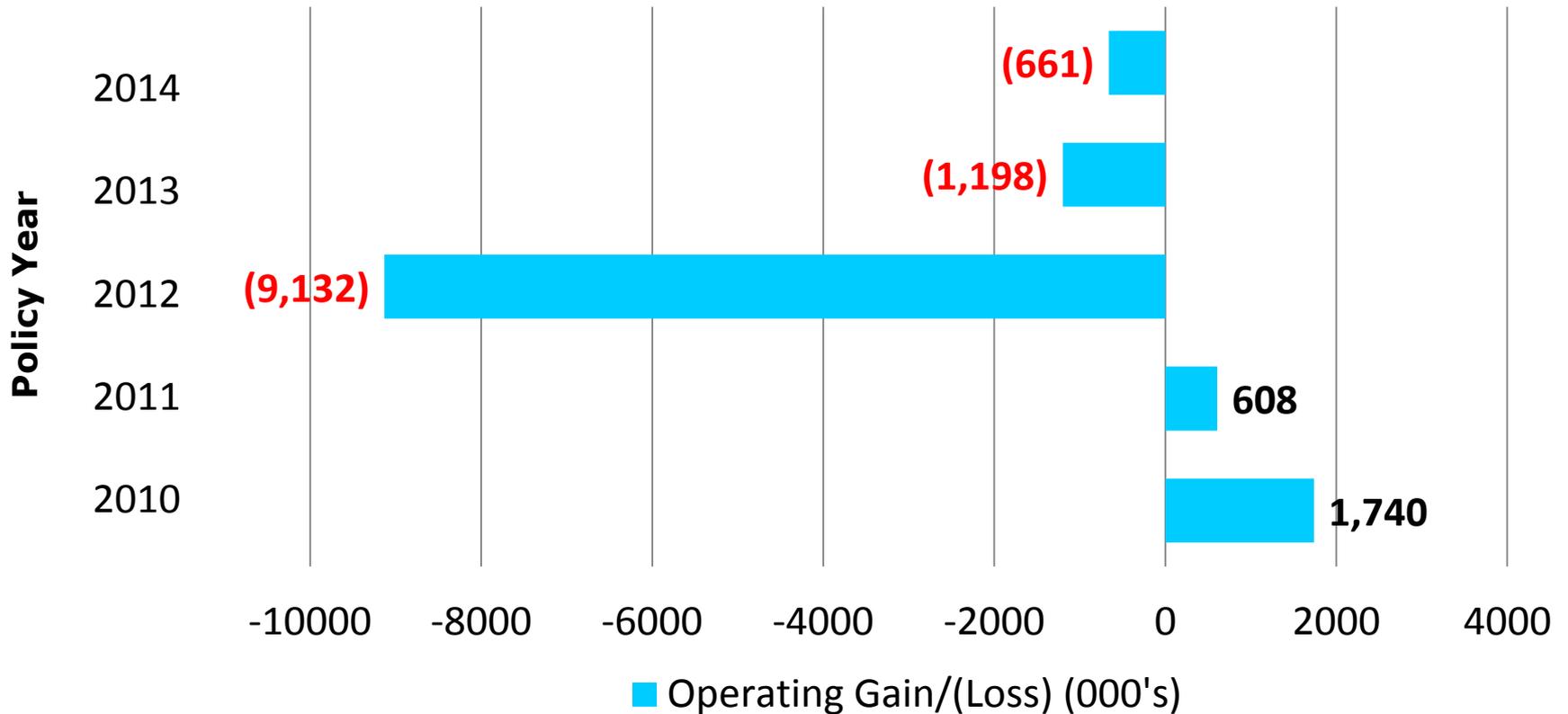
Number of Applications Reviewed in 2014:	3,797
Number of Matches:	793
Number of Offers:	33
Redirected Assigned Risk Premium:	\$182,687
Average Savings per Application:	\$912

Premium Size:

\$1,000 & Less	0
\$1,001–\$2,500	12
\$2,501–\$5,000	9
\$5,001–\$10,000	9
\$10,001–\$25,000	2
\$25,001–\$50,000	1
\$50,001–\$100,000	0
<u>\$100,001 & Greater</u>	<u>0</u>
Total	33



Arkansas Residual Market Reinsurance Pool Net Operating Results



(Projected to Ultimate) Estimated Operating Gain/(Loss)
Policy Year Financial Results as of 12/31/14



Residual Market Filings

District of Columbia	11/1/14	+7.8%
New Mexico	1/1/15	+3.3%
Georgia	3/1/15	0.0%
Connecticut	1/1/15	-0.5%
Mississippi	3/1/15	-1.6%
Alabama	3/1/15	-2.6%
South Carolina	9/1/14	-2.6%
Virginia	4/1/15	-2.9%
Arkansas	7/1/15	-3.0%
Oregon	1/1/15	-3.3%
Alaska	1/1/15	-3.4%
Indiana	1/1/15	-3.7%



Residual Market Filings

Iowa	1/1/15	-3.7%
North Carolina	4/1/15	-4.5%
Nevada	3/1/15	-5.0%
Vermont	4/1/15	-5.4%
Illinois	1/1/15	-5.5%
Arizona	1/1/15	-6.0%
Tennessee	3/1/13	-6.9%
New Hampshire	1/1/15	-7.0%
South Dakota	7/1/15	-8.4%
West Virginia	11/1/14	-10.1%
Kansas	1/1/15	-15.1%





STATE ADVISORY FORUM 2015

Closing Remarks:

Premium volume remains stable

Underwriting gains have occurred in each of the last five years

Frequency continues its long-term decline

Indemnity severity is stable, while medical severity continues to rise



STATE ADVISORY FORUM 2015

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 FORUM 2015

Appendix



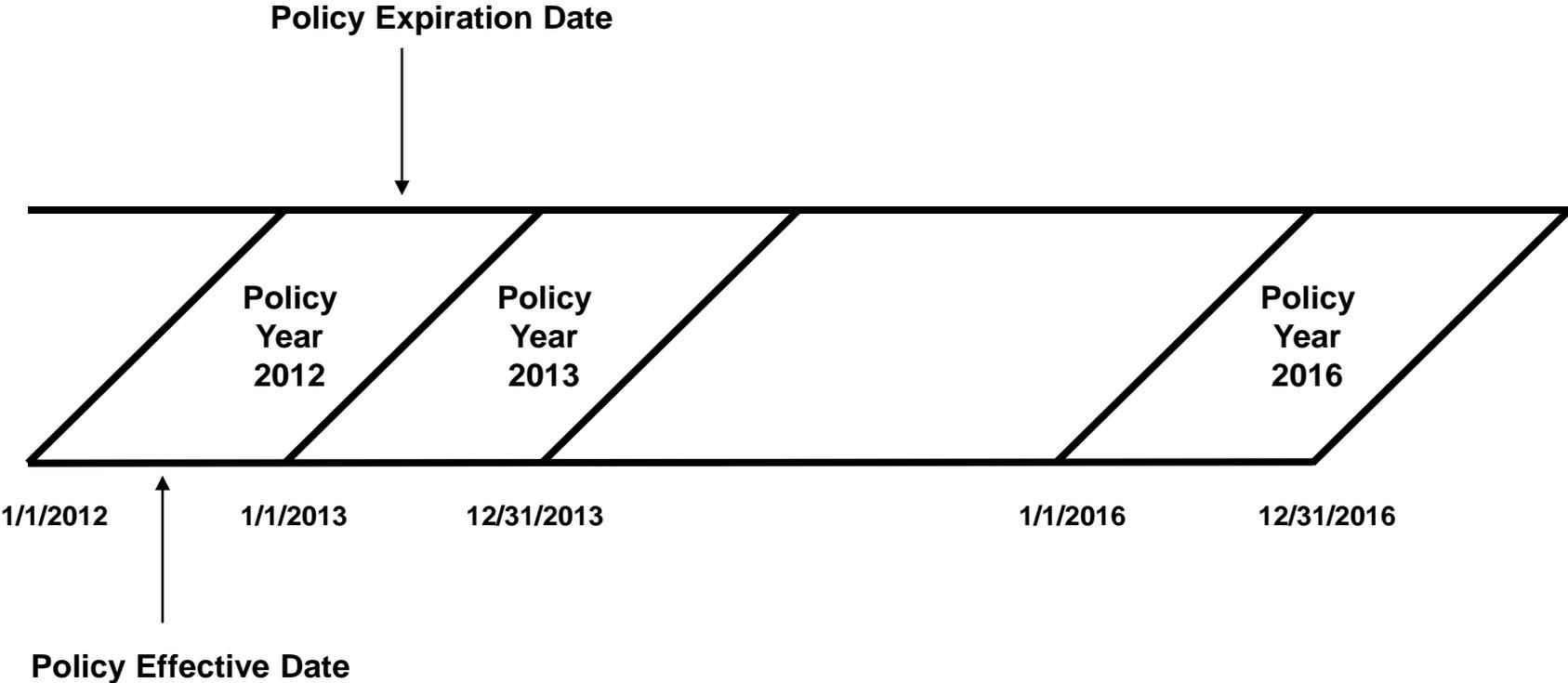
NCCI's Workers Compensation Resources

- 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

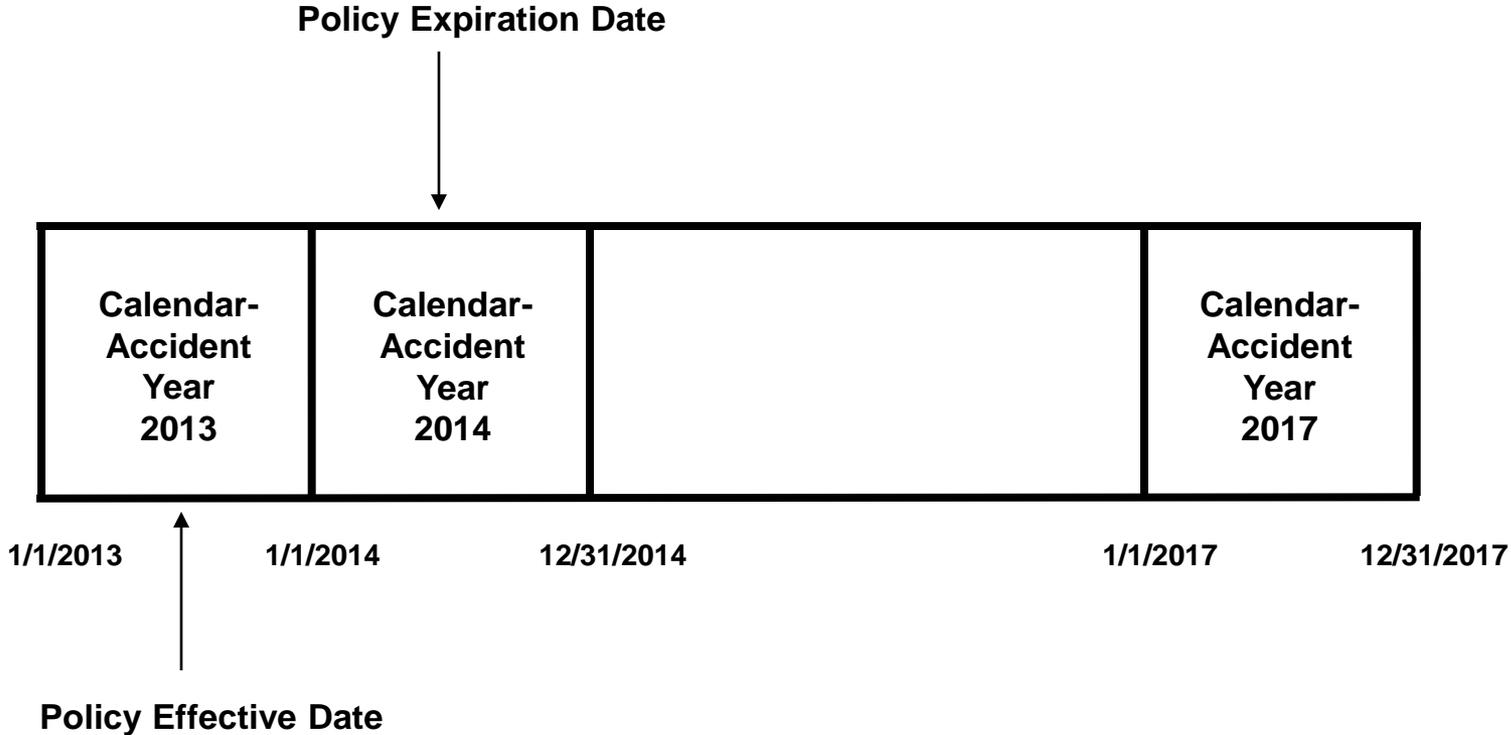
Financial Aggregate Calls

- 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

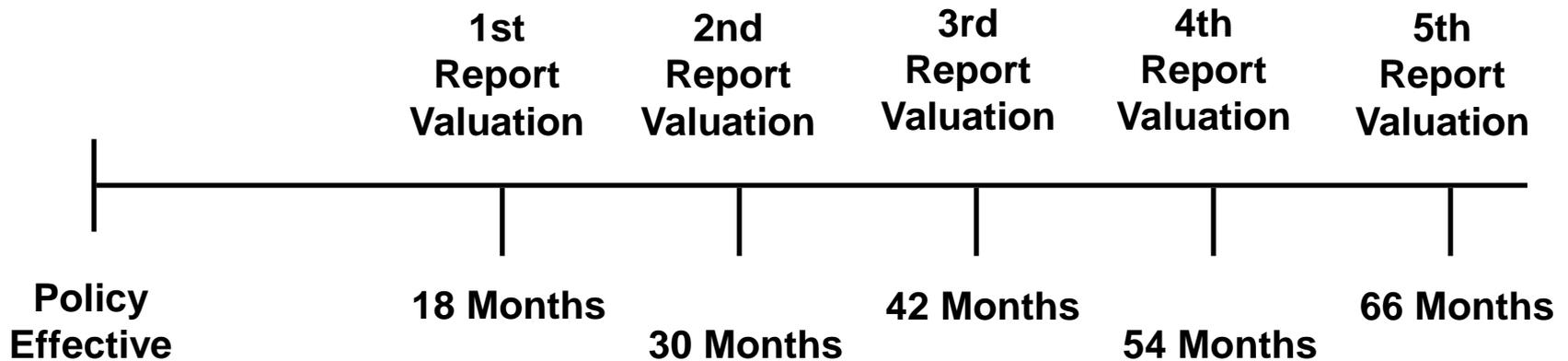




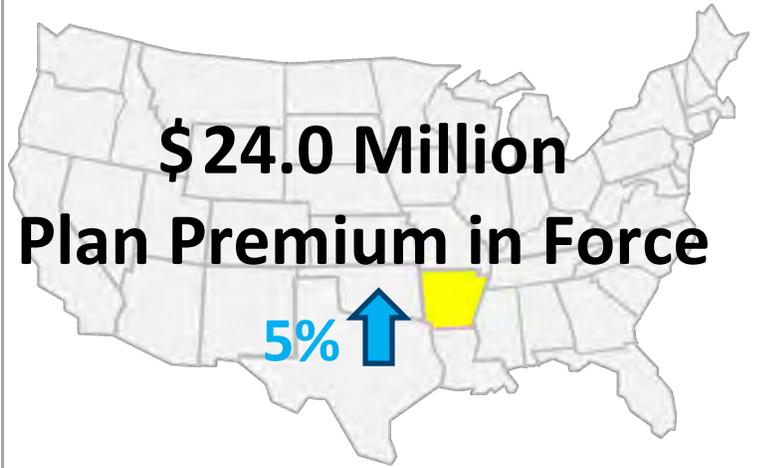
Exhibit B Arkansas Residual Market Performance Report

April 1, 2015 – June 30, 2015

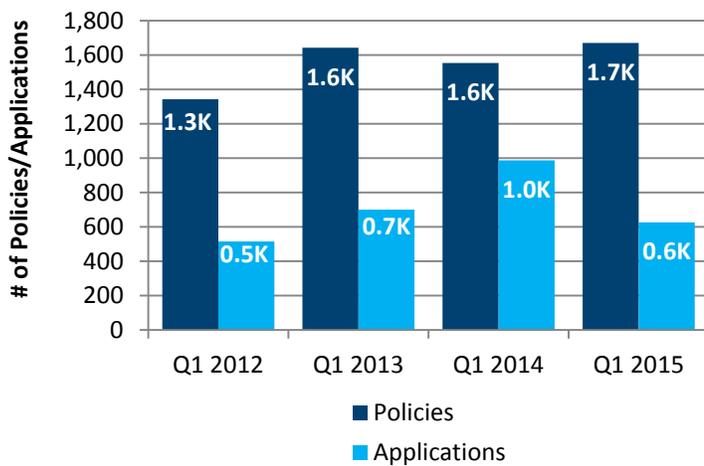
Top 5 Class Codes*

- 5645—Carpentry Construction (19.4%)
- 5551—Roofing-All Kinds (4.1%)
- 5022—Masonry NOC (3.5%)
- 5437—Carpentry-Installation (2.9%)
- 5474—Painting NOC (2.8%)

*By policy count



Total Policy Count **7%** ↑



**VCAP® Service
Redirected**

\$42K

Premium

**Savings from Redirected
Premium**

12.5%

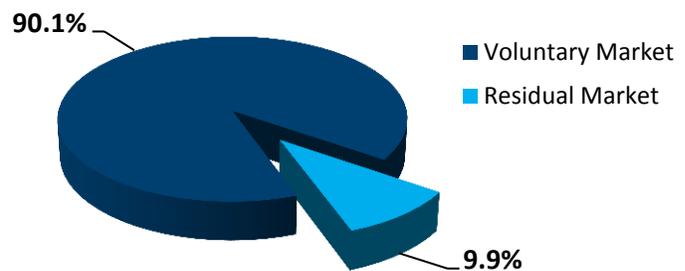
Avg Policy Size

\$3,037 5% ↓

Policies with Premium 100K+

\$229K 21% ↑

2Q Market Share



Second Quarter 2015 policy and estimated annual premium data, compared to Second Quarter 2014.



Arkansas Residual Market Performance Report

April 1, 2015 – June 30, 2015

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Arkansas Residual Market Performance Report

April 1, 2015 – June 30, 2015

Executive Summary

NCCI, as Pool and Plan Administrator of the Arkansas Workers Compensation Insurance Plan, is pleased to provide the Second Quarter 2015 Residual Market State Activity Report.

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

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

Terri Robinson, State Relations Executive (314) 843-4001

Chantel Weishaar, Sr. Technical Specialist (561) 893-3015



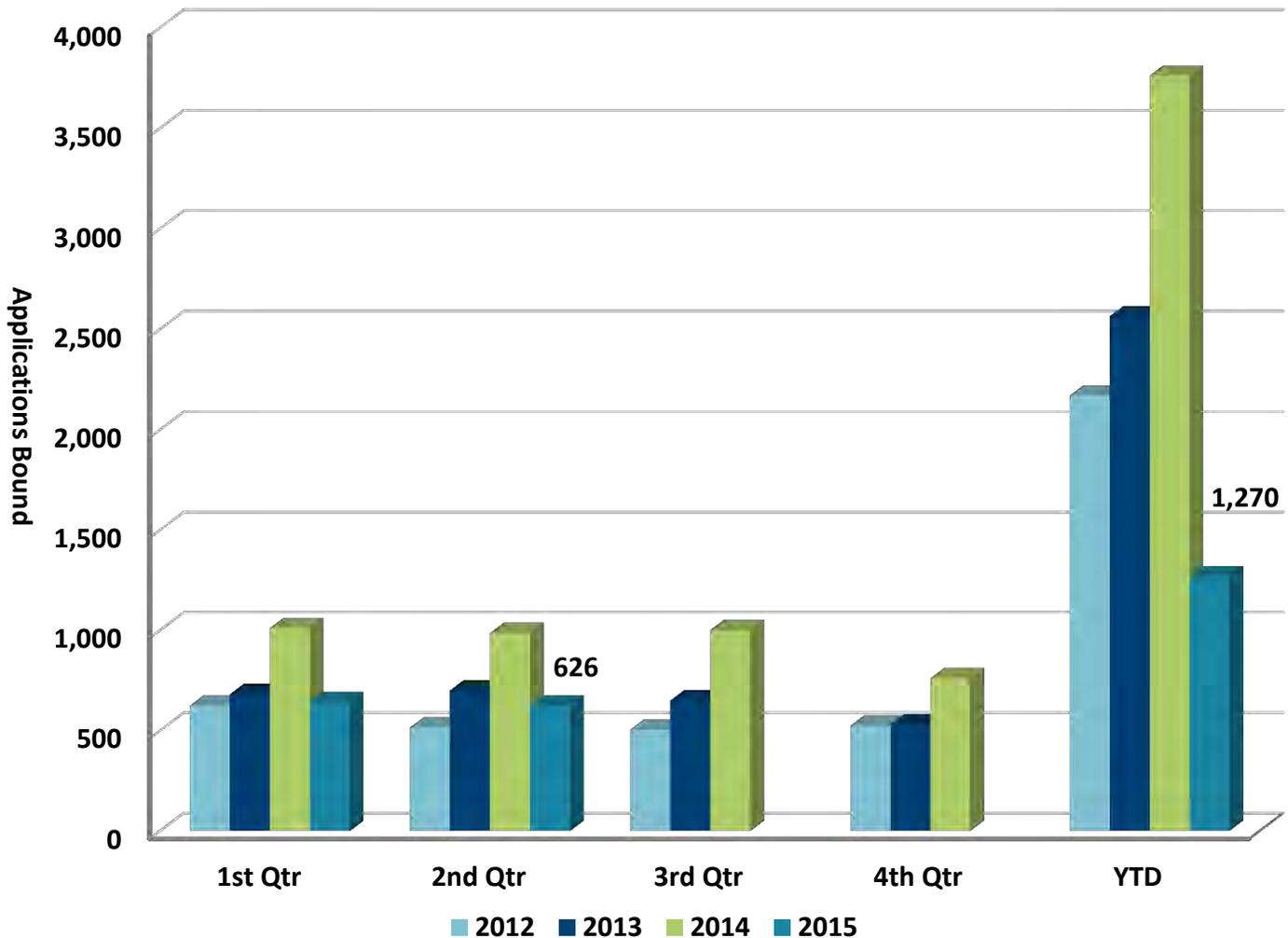
Arkansas Residual Market Performance Report

April 1, 2015 – June 30, 2015

Residual Market Demographics

Total Applications Bound 2012 vs. 2013 vs. 2014 vs. 2015

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





Arkansas Residual Market Performance Report

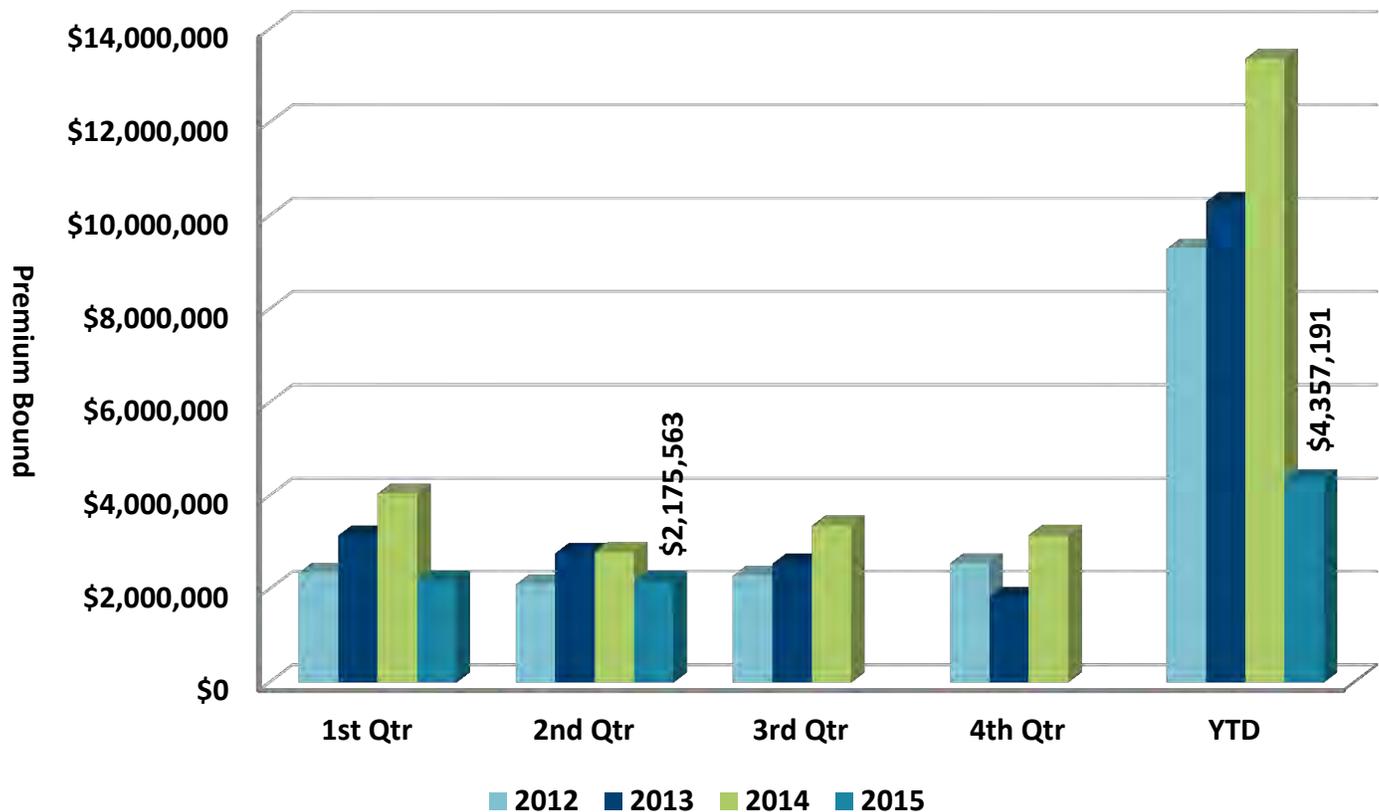
April 1, 2015 – June 30, 2015

Residual Market Demographics

Total Application Premium Bound

2012 vs. 2013 vs. 2014 vs. 2015

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).





Arkansas Residual Market Performance Report

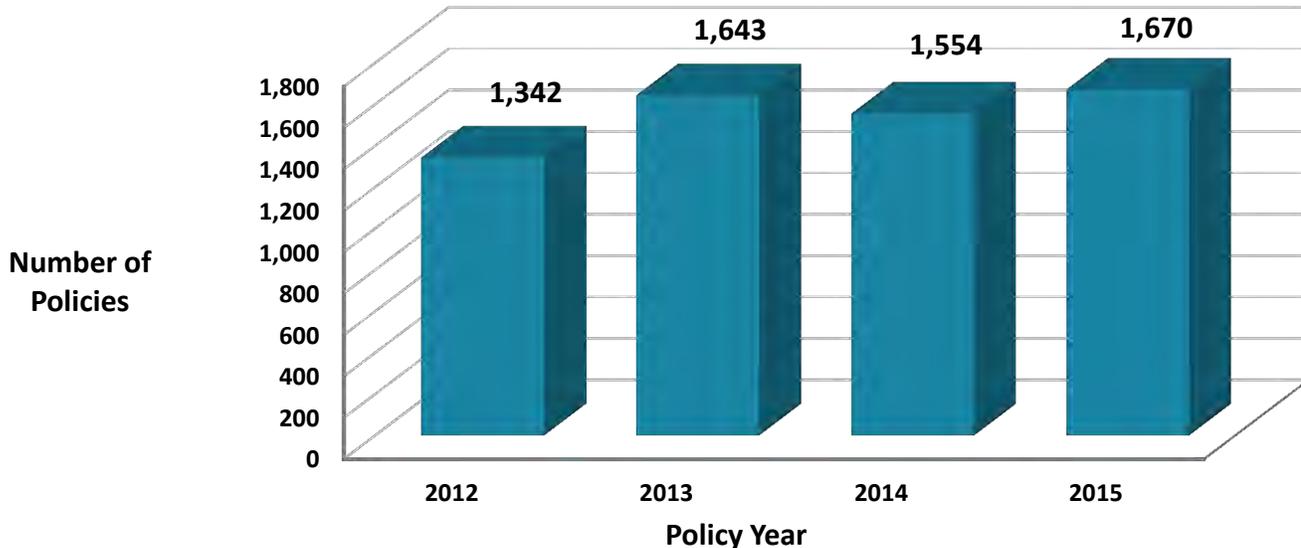
April 1, 2015 – June 30, 2015

Residual Market Demographics

Residual Market Total Policy Counts

Second Quarter Data for Policies Reported through June 30, 2015

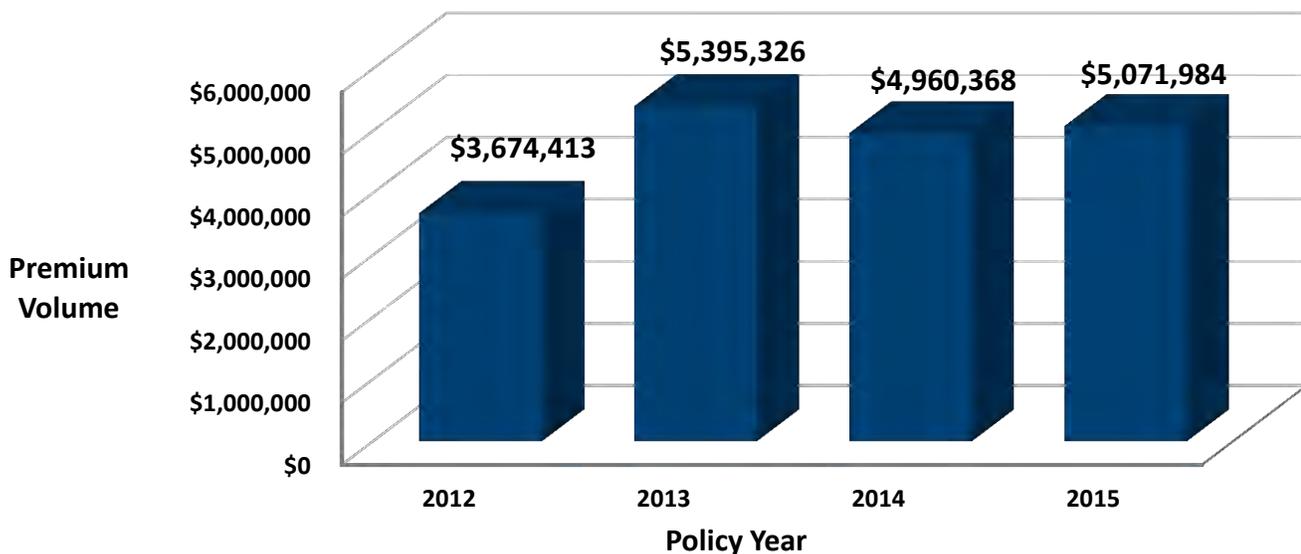
Total number of all Assigned Risk Plan policies with effective dates during the calendar period listed above.



Residual Market Total Premium Volume

Second Quarter Data Reported through June 30, 2015

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





Arkansas Residual Market Performance Report

April 1, 2015 – June 30, 2015

Residual Market Demographics

Residual Market Total Policies and Premium in Force

As of June 30, 2015—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.

	2014	2015	2014 vs. 2015 #	2014 vs. 2015 %
Policy Count	6,218	6,502	284	4.6%
Premium Volume	\$22,976,127	\$24,016,237	\$1,040,110	4.5%



Arkansas Residual Market Performance Report

April 1, 2015 – June 30, 2015

Residual Market Demographics

Total Premium Distribution by Size of Risk

Second Quarter Data Reported through June 30, 2015

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	1,216	73%	\$1,235,800	24%	\$1,016
\$2500–4999	207	12%	\$732,113	14%	\$3,536
\$5000–9999	148	9%	\$998,264	20%	\$6,745
\$10000–19999	69	4%	\$956,444	19%	\$13,861
\$20000–49999	26	2%	\$785,881	15%	\$30,226
\$50000–99999	2	0%	\$134,584	3%	\$67,292
\$100000–199999	2	0%	\$228,898	5%	\$114,449
\$200000 +	0	0%	\$0	0%	\$0
Total	1,670	100%	\$5,071,984	100%	\$3,037

Second Quarter 2014 Data for Comparison

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0–2499	1,210	73%	\$1,190,840	22%	\$984
\$2500–4999	209	13%	\$742,402	14%	\$3,552
\$5000–9999	123	7%	\$862,578	16%	\$7,012
\$10000–19999	66	4%	\$930,260	17%	\$14,094
\$20000–49999	39	2%	\$1,107,364	21%	\$28,393
\$50000–99999	5	0%	\$341,043	6%	\$68,208
\$100000–199999	1	0%	\$189,729	4%	\$189,729
\$200000 +	0	0%	\$0	0%	\$0
Total	1,653	100%	\$5,364,216	100%	\$3,245



Arkansas Residual Market Performance Report

April 1, 2015 – June 30, 2015

Residual Market Demographics

Residual Market Top 10 Classification Codes by Policy Count Second Quarter Data Reported through June 30, 2015

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	324	19.4%
2	5551	ROOFING-ALL KINDS & DRIVERS	68	4.1%
3	5022	MASONRY NOC	59	3.5%
4	5437	CARPENTRY-INSTALLATION OF CABINET WORK OR INTERIOR TRIM	49	2.9%
5	5474	PAINTING NOC & SHOP OPERATIONS DRIVERS	47	2.8%
6	5403	CARPENTRY NOC	42	2.5%
7	6217	EXCAVATION & DRIVERS	39	2.3%
8	9014	JANITORIAL SERVICES BY CONTRACTORS-NO WINDOW CLEANING ABOVE GROUND LEVEL & DRIVERS	37	2.2%
9	7228	TRUCKING-LOCAL HAULING ONLY-& DRIVERS	37	2.2%
10	5445	WALLBOARD SHEETROCK DRYWALL PLASTERBOARD OR CEMENT BOARD INSTALLATION WITHIN BUILDINGS	37	2.2%

Residual Market Top 10 Classification Codes by Premium Volume Second Quarter Data Reported through June 30, 2015

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

Rank	Code	Description	Premium	% of Premium
1	5645	CARPENTRY CONSTRUCTION OF RESIDENTIAL DWELLINGS NOT EXCEEDING THREE STORIES IN HEIGHT	\$643,658	12.70%
2	0037	FARM: FIELD CROPS & DRIVERS	\$209,034	4.10%
3	7228	TRUCKING-LOCAL HAULING ONLY-& DRIVERS	\$202,695	4.00%
4	5551	ROOFING-ALL KINDS & DRIVERS	\$190,354	3.80%
5	2719	LOGGING OR TREE REMOVAL - MECHANIZED HARVESTING EXCLUSIVELY	\$152,219	3.00%
6	7229	TRUCKING-LONG DISTANCE HAULING-& DRIVERS	\$133,202	2.60%
7	4243	BOX MFG.-FOLDING PAPER-NOC	\$128,550	2.50%
8	5403	CARPENTRY NOC	\$124,126	2.50%
9	5535	SHEET METAL WORK-INSTALLATION & DRIVERS	\$120,758	2.40%
10	6217	EXCAVATION & DRIVERS	\$111,601	2.20%

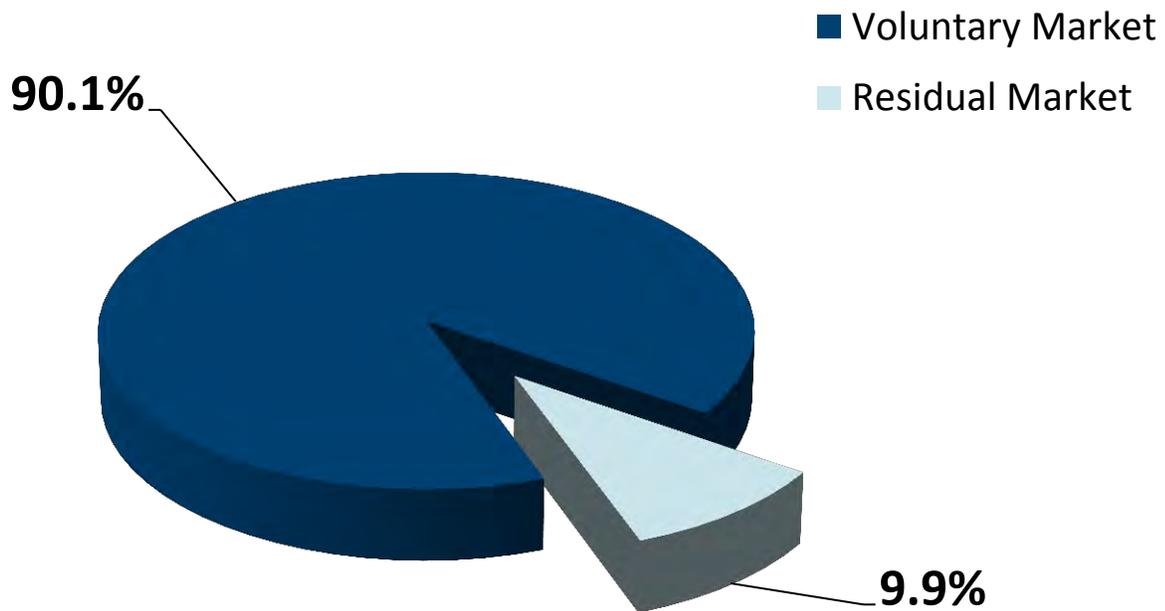


Residual Market Demographics

Residual Market Share

Second Quarter Data through June 30, 2015

States estimated residual market share compared to the voluntary market share by written premium.





Arkansas Residual Market Performance Report

April 1, 2015 – June 30, 2015

Residual Market Demographics

Voluntary Coverage Assistance Program

Second Quarter Data through June 30, 2015

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 2015.

Number of Applications Reviewed by VCAP[®] Service	637
Associated Premium for Applications Reviewed	\$2,212,730.81
Number of VCAP[®] Service Matches	157
VCAP[®] Service Matches as a % of Applications Reviewed	24.65%
Number of VCAP[®] Service Offers	11
VCAP[®] Service Offers as a % of Matches	7.01%
Number of Confirmed VCAP[®] Service Policies	10
Confirmed VCAP[®] Service Policies as a % of Applications Reviewed	1.57%
Redirected Assigned Risk Premium	\$41,620.24
Associated Voluntary Market Premium	\$36,436.00
Savings	\$5,184.24
Average Savings per Application	\$518.42
Savings as a % of Redirected Assigned Risk Premium	12.46%
Redirected Premium as a % of Associated Premium for Applications Reviewed by VCAP[®] Service	1.88%



Arkansas Residual Market Performance Report

April 1, 2015 – June 30, 2015

Residual Market Demographics

Collections/Indemnification

The following shows a comparison of gross written premium and uncollectible premium reported in Arkansas for Policy Years 2011-2015, obtained through NP-4 and NP-5 reports including traumatic and black lung claims, evaluated through First Quarter 2015.

Policy Year	Gross Written Premium	Uncollectible Premium	Percentage
2011	\$14,648,092	\$1,275,076	8.7%
2012	\$20,419,488	\$938,481	4.6%
2013	\$25,395,986	\$755,043	3.0%
2014	\$24,805,183	*	N/A
2015	\$5,054,954	*	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.



Arkansas Residual Market Performance Report

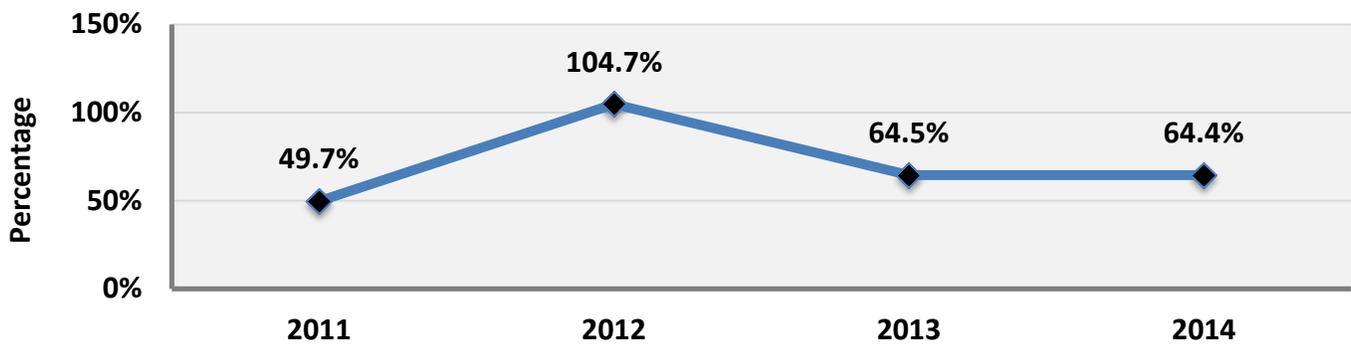
April 1, 2015 – June 30, 2015

Residual Market Demographics

Arkansas Residual Market Reinsurance Pool Booked Loss Ratio Policy Year Financial Results through 1st Quarter 2015 for 2014 and prior years*

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

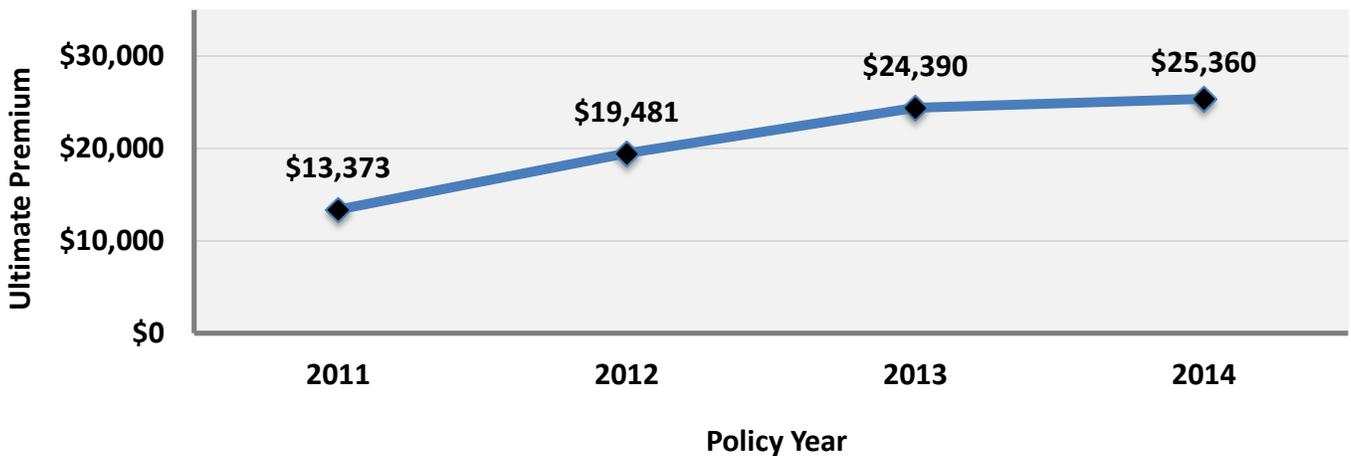
Booked Loss Ratio



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

Policy Year Financial Results through 1st Quarter 2015 for 2014 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 2015 data will be available the end of October 2015 due to the timing of data reporting



Arkansas Residual Market Performance Report

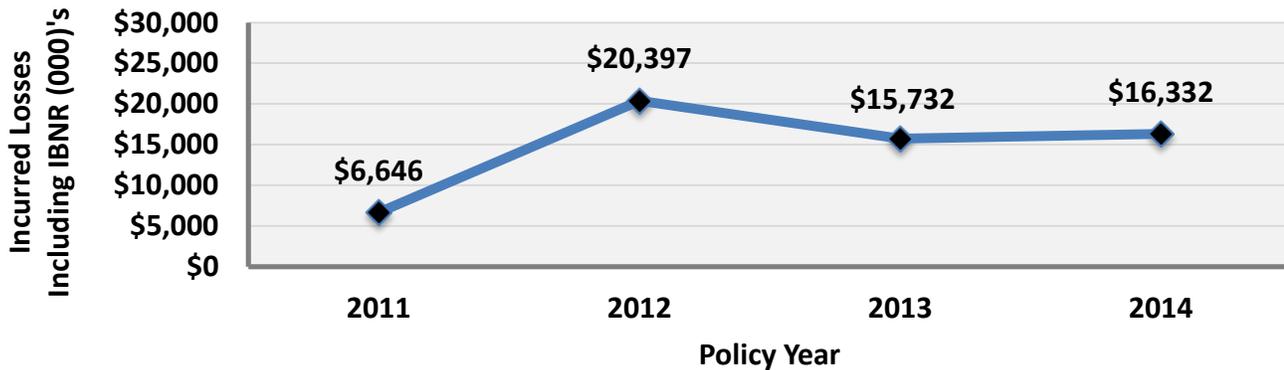
April 1, 2015 – June 30, 2015

Residual Market Demographics

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

Policy Year Financial Results through 1st Quarter 2015 for 2014 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 2015 for 2014 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 2015 data will be available the end of October 2015 due to the timing of data reporting



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.



NCCI's 2015 Annual Issues Symposium

State of the Line

Analysis of Workers Compensation Results

Kathy Antonello, FCAS, FSA, MAAA
NCCI Chief Actuary

FLASH FORWARD

A Glimpse into the Future of Workers Comp

AIS
Annual Issues Symposium
2015

Workers Compensation Outlook Recap

Evolving Workplace

Premium Growth in the Latest Year

Underwriting Results Improved Again

Frequency Continues to Decline

Economic Recovery

Property/Casualty (P/C) Results

P/C Industry Net Written Premium All Major Lines Increased

Private Carriers

Line of Business	Calendar Year (\$ Billions)			Change (%) 2013– 2014p
	2012	2013	2014p	
Personal Auto	\$ 168.0	\$ 174.9	\$ 183.2	4.7%
Homeowners	\$ 66.9	\$ 71.9	\$ 76.9	6.9%
Other Liability (Incl Prod Liab)	\$ 41.7	\$ 45.6	\$ 47.6	4.3%
Workers Compensation	\$ 35.1	\$ 36.9	\$ 38.5	4.6%
Commercial Multiple Peril	\$ 31.4	\$ 33.2	\$ 34.3	3.4%
Fire & Allied Lines (Incl EQ)	\$ 25.9	\$ 27.0	\$ 27.1	0.5%
Commercial Auto	\$ 22.1	\$ 23.9	\$ 25.6	7.1%
All Other Lines	\$ 65.8	\$ 63.9	\$ 63.6	-0.5%
Total P/C Industry	\$ 456.8	\$ 477.3	\$ 496.9	4.1%

p Preliminary

Source: Annual Statement data for individual carriers prior to consolidation of affiliated carriers
Includes carrier data available as of 4/16/2015

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P/C Industry Net Combined Ratio Overall Underwriting Gain

Private Carriers

Line of Business	Calendar Year		
	2012	2013	2014p
Personal Auto	102%	102%	102%
Homeowners	104%	90%	92%
Other Liability (Incl Prod Liab)	104%	100%	102%
Workers Compensation	109%	102%	98%
Commercial Multiple Peril	107%	98%	99%
Fire & Allied Lines (Incl EQ)	103%	84%	87%
Commercial Auto	107%	107%	103%
All Other Lines	98%	83%	84%
Total P/C Industry	103%	96%	97%

p Preliminary

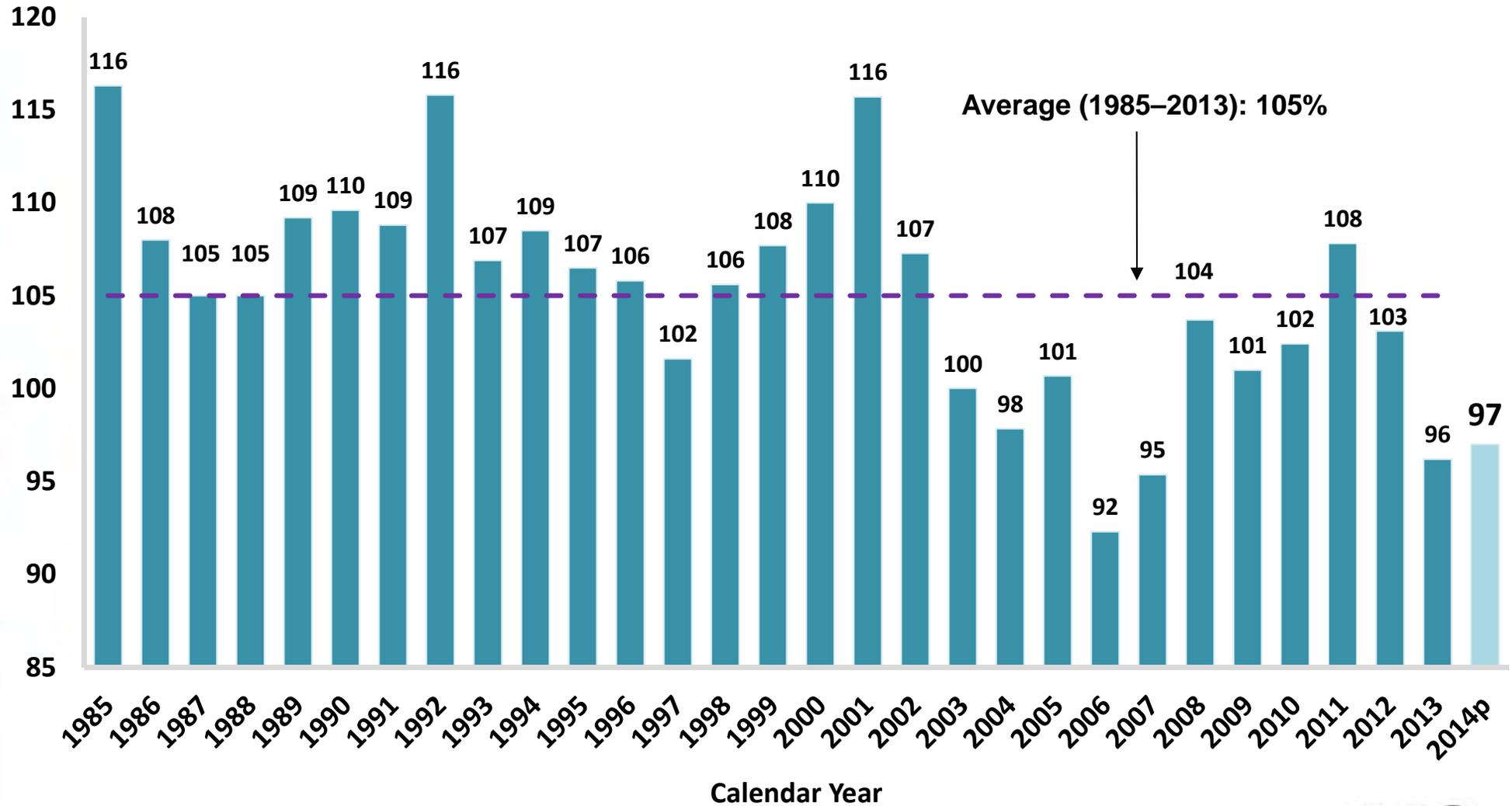
Source: Annual Statement data for individual carriers prior to consolidation of affiliated carriers
Includes carrier data available as of 4/16/2015

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P/C Industry Net Combined Ratios

Private Carriers

Percent



p Preliminary

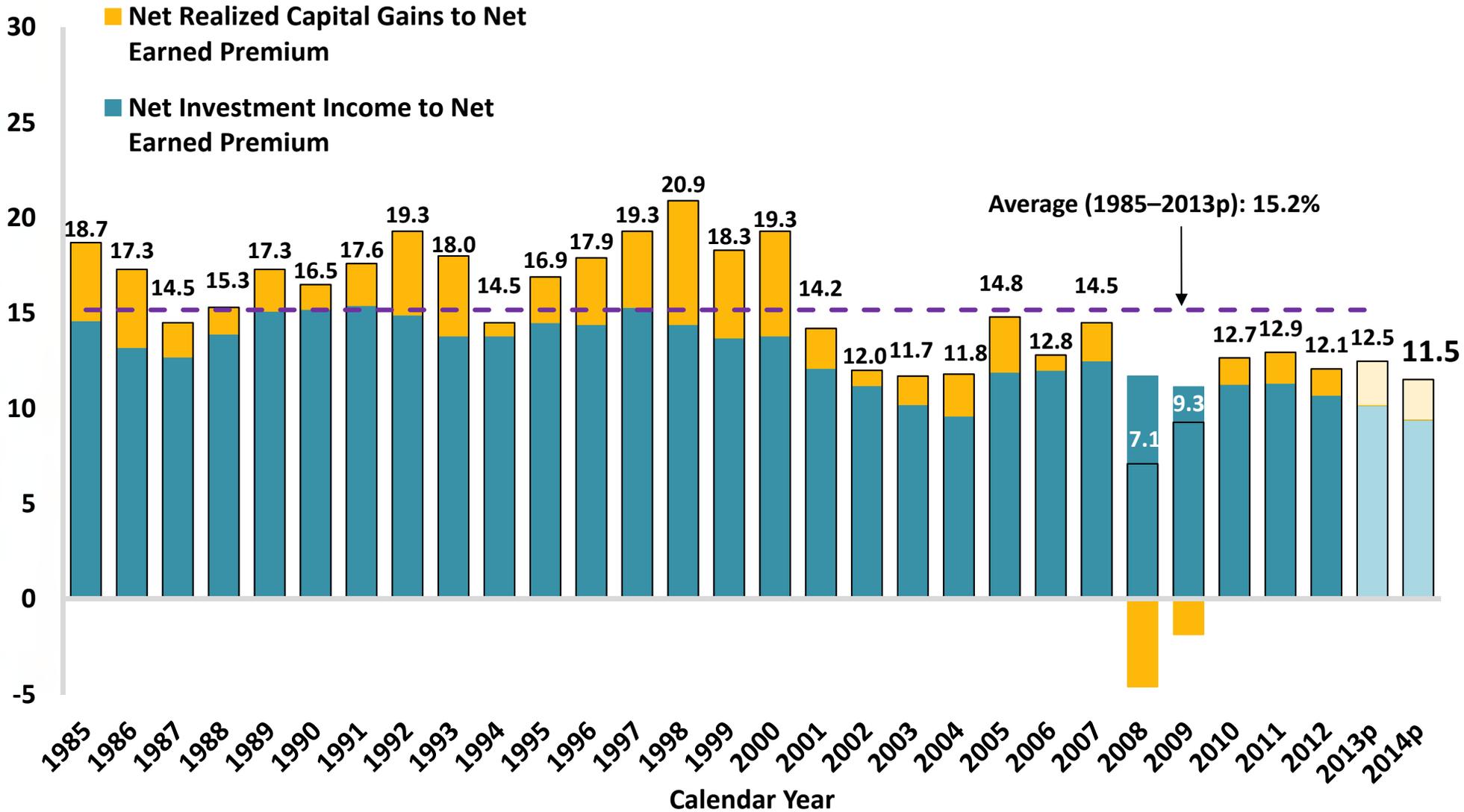
Sources: 1985–2007, 2012–2014p, Annual Statement data
2008–2011, ISO

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P/C Industry Investment Gain Ratio

Private Carriers

Percent



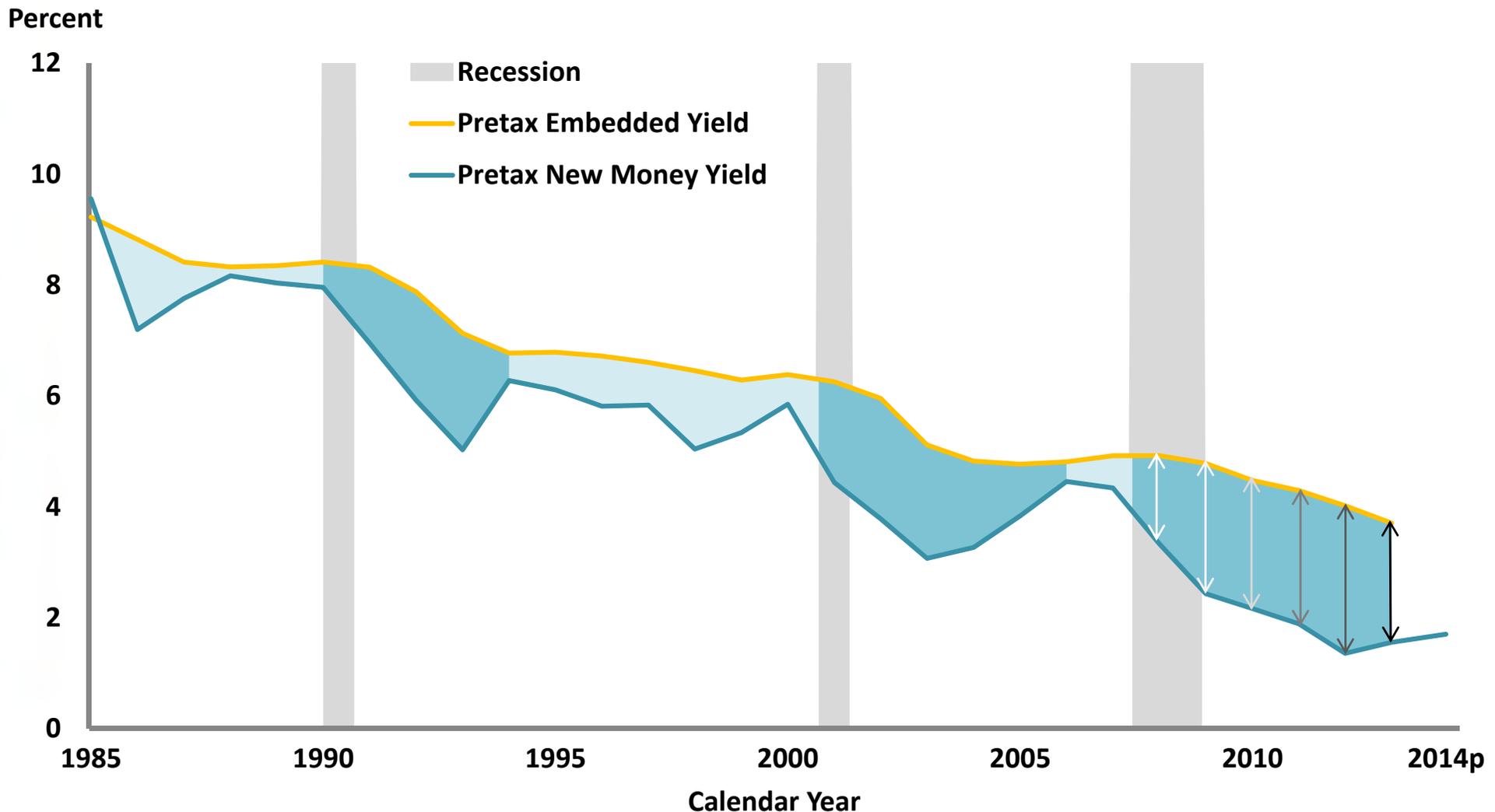
p Preliminary

Sources: 1985–2007, 2013p–2014p, Annual Statement data
2008–2012, ISO

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P/C Industry Embedded Yield Remains Higher Than New Money Yield



p Preliminary

Sources: NCCI, *Best's Aggregates & Averages*, Federal Reserve Bank, Value Line, TreasuryDirect, Barron's

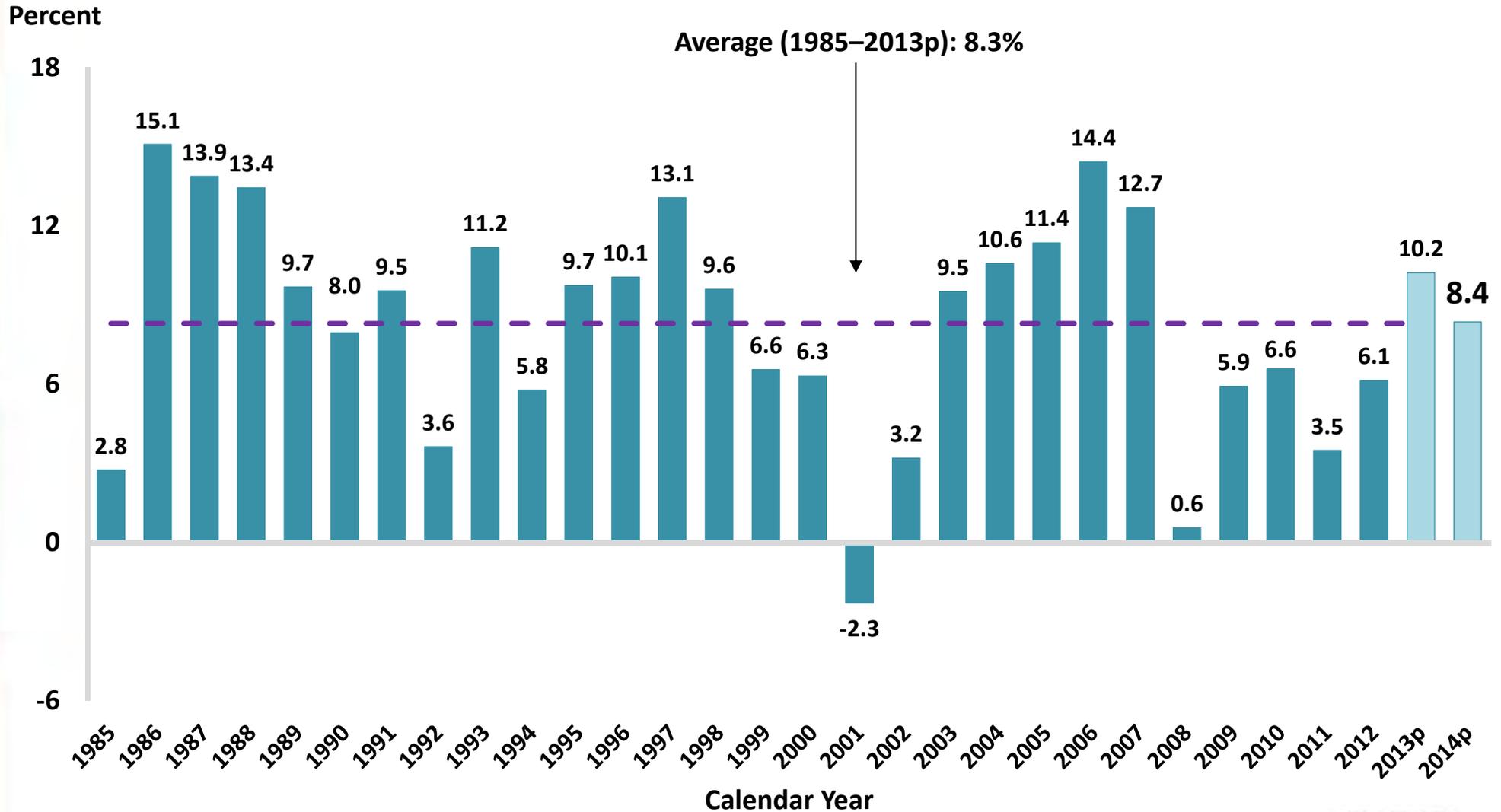
Embedded Yield is the reported investment income for bond instruments divided by the asset value of those instruments

New Money Yield is the pretax yield on bonds

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P/C Industry After-Tax Return on Surplus

Private Carriers



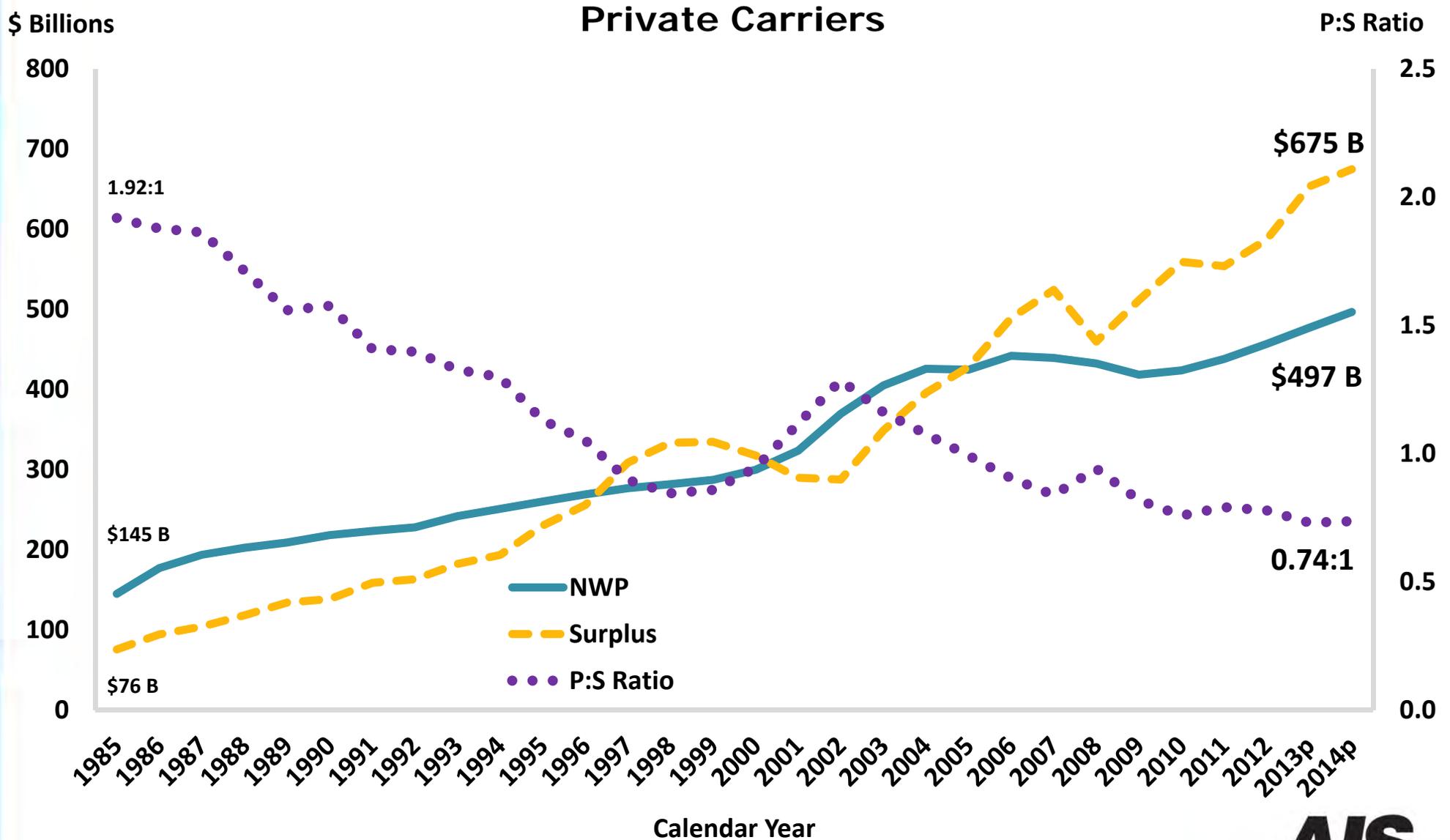
p Preliminary

Sources: 1985–2007, 2013p–2014p, 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 At Historic Low



p Preliminary

Sources: 1985–2007, 2013p–2014p, Annual Statement data
2008–2012, ISO

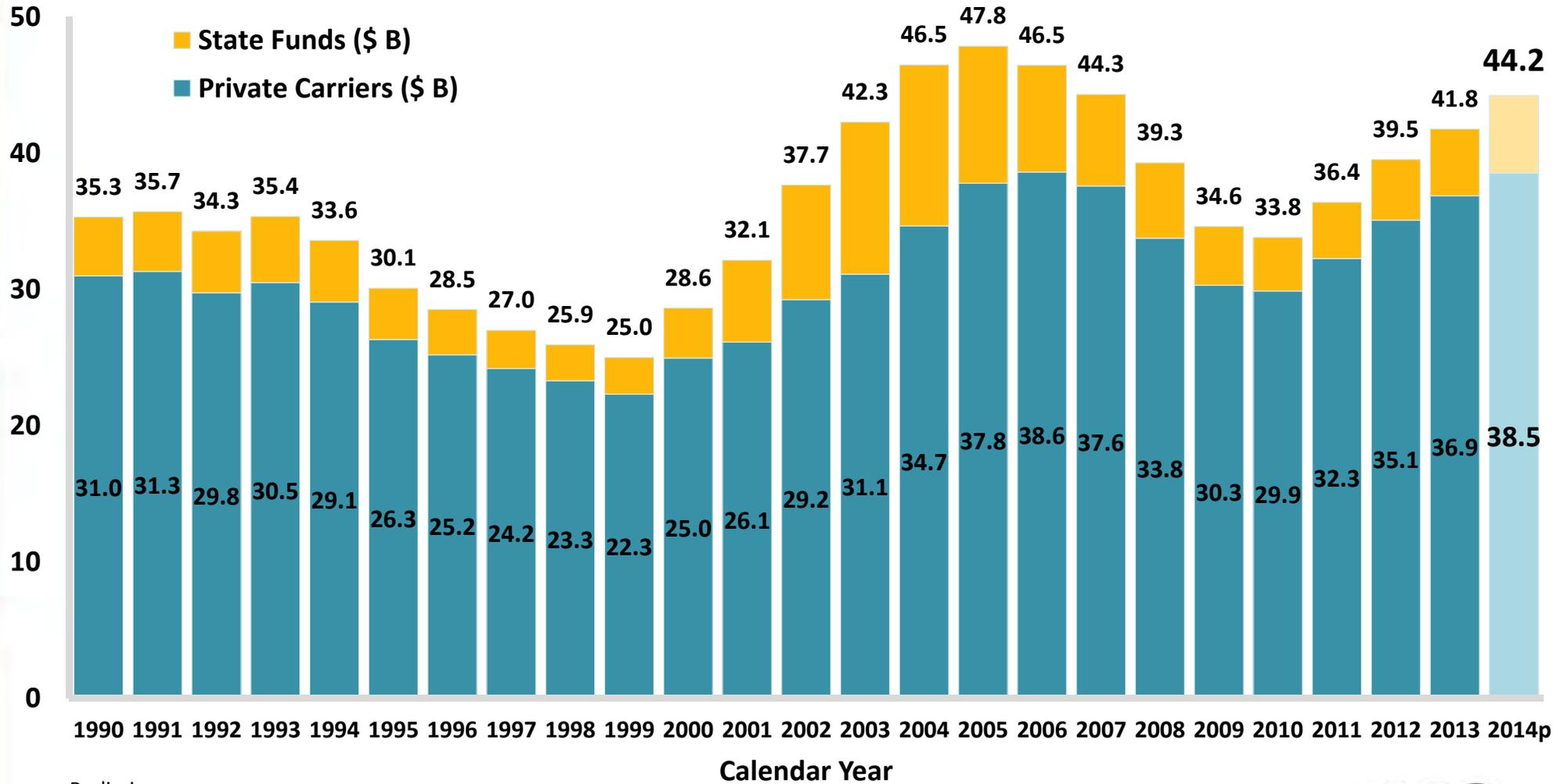
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Workers Compensation (WC) Results

WC Net Written Premium Growth Continued

Private Carriers and State Funds

\$ Billions



p Preliminary

Source: Annual Statement data

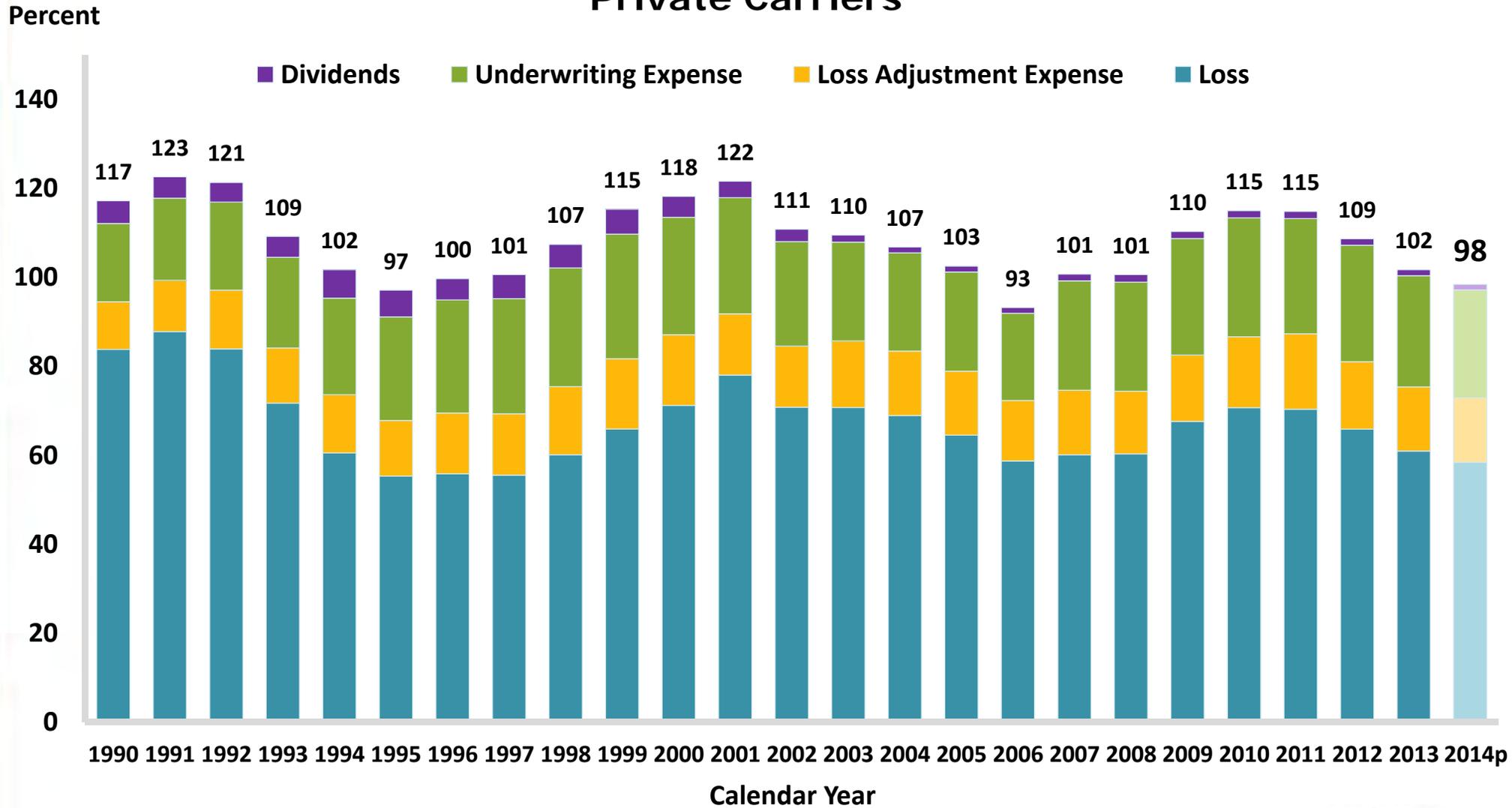
Includes state insurance fund data for the following states: AZ, CA, CO, HI, ID, KY, LA, MD, MO, MT, NM, OK, OR, RI, TX, and UT

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

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WC Combined Ratio Underwriting Gain Achieved

Private Carriers



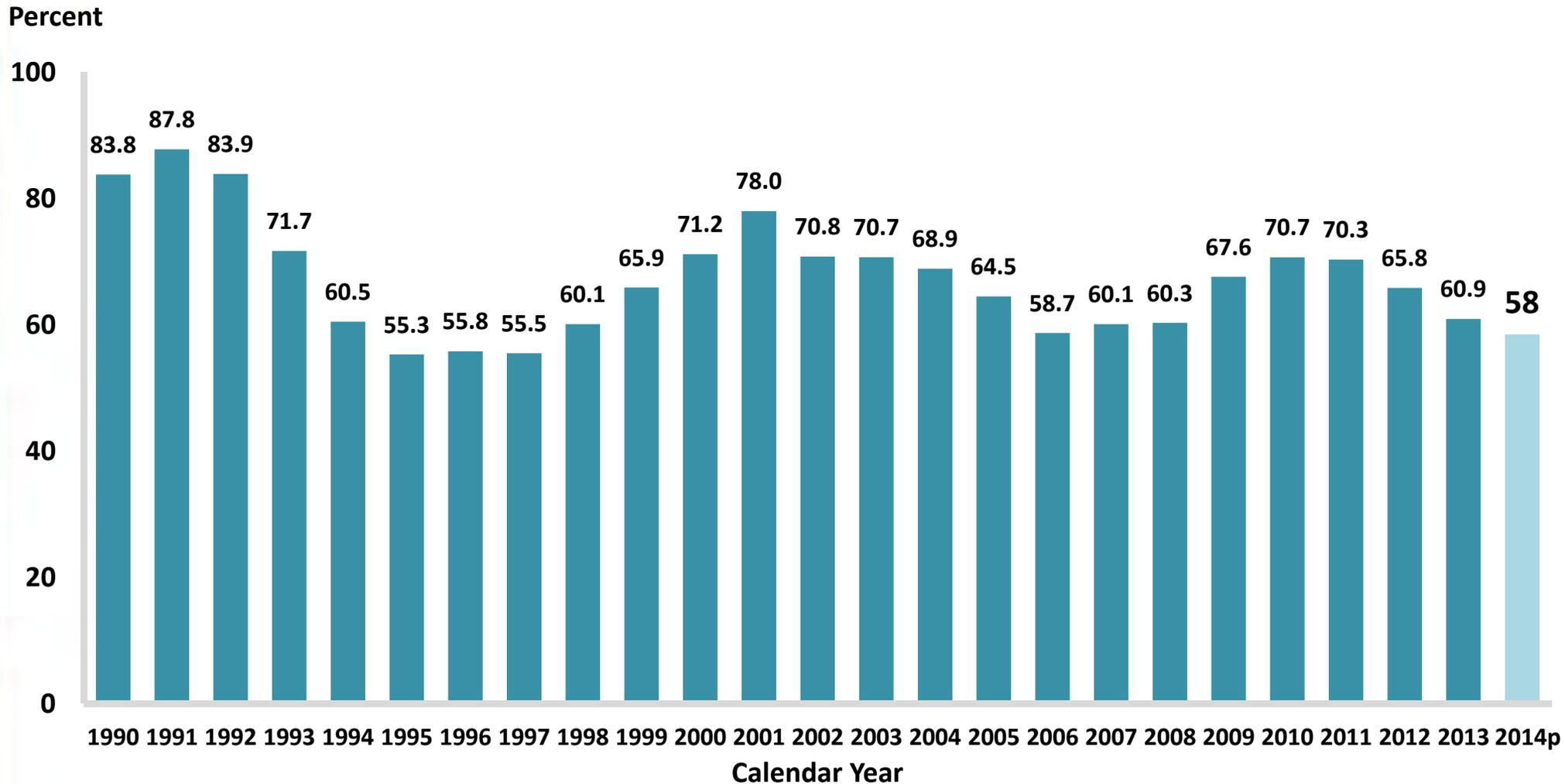
p Preliminary

Source: Annual Statement data

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WC Loss Ratio Net Incurred Losses to Earned Premium

Private Carriers



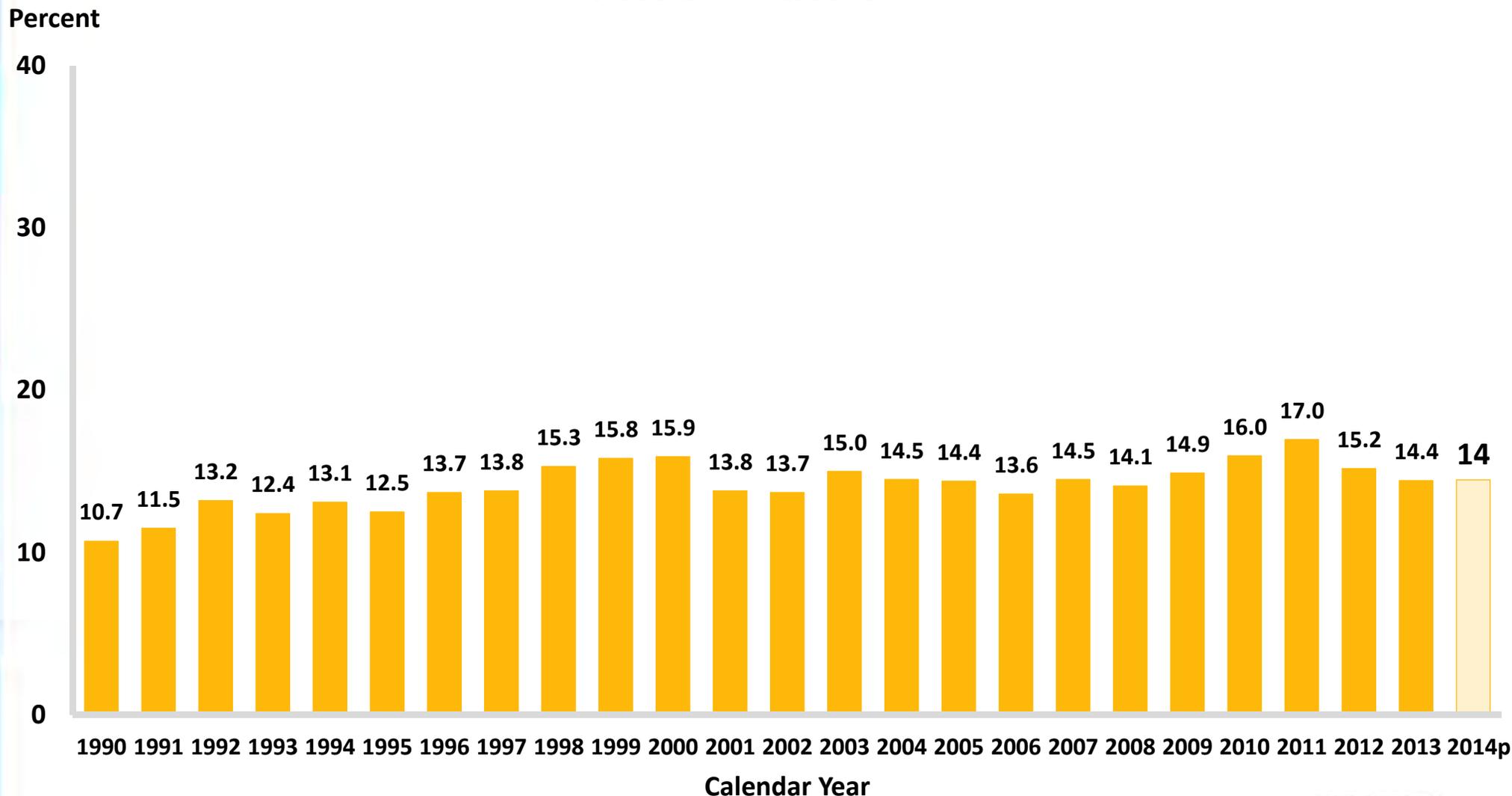
p Preliminary

Source: Annual Statement data

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WC Loss Adjustment Expense (LAE) Ratio Net Incurred LAE to Earned Premium

Private Carriers



p Preliminary

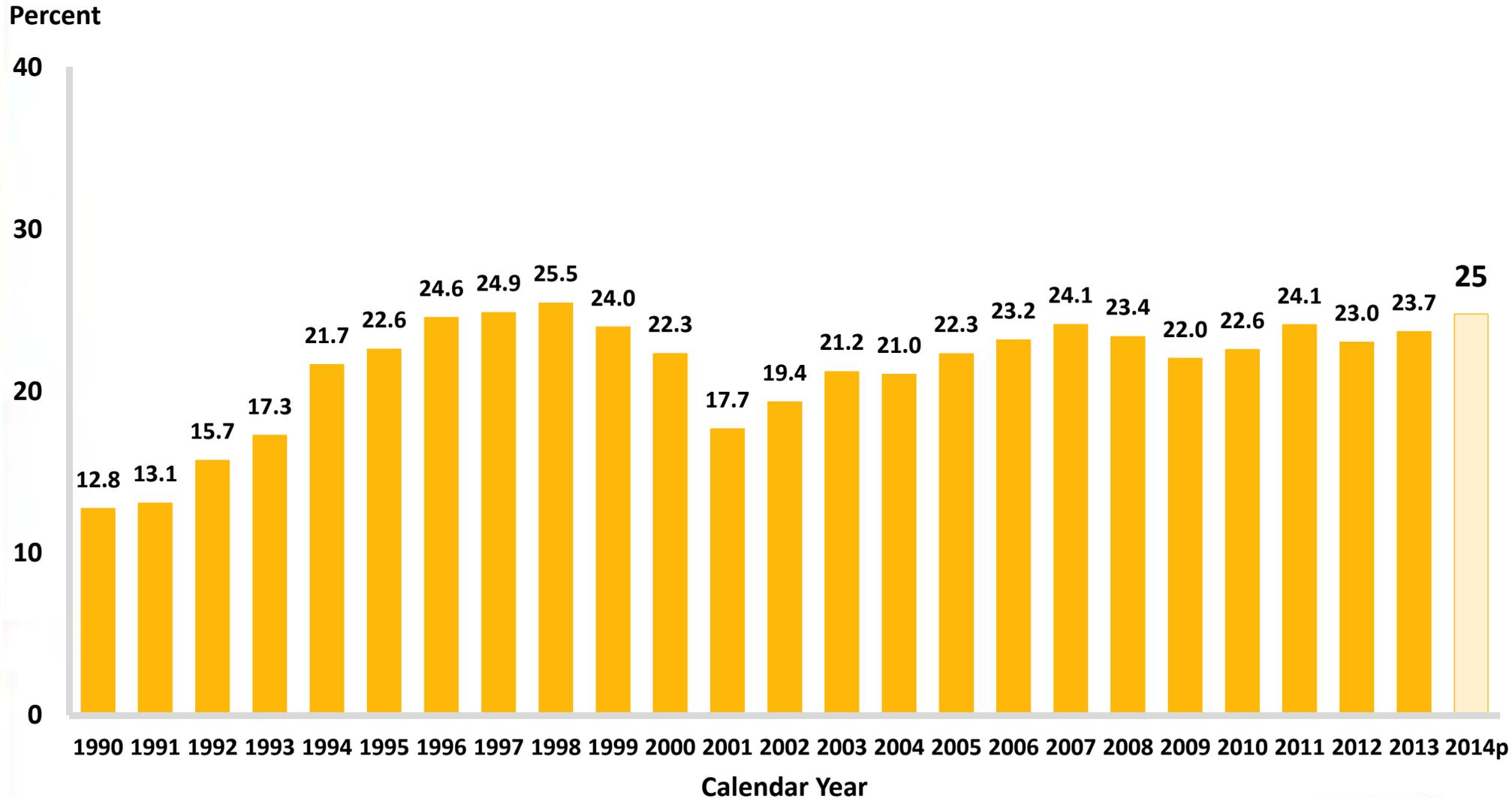
Source: Annual Statement data

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

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WC LAE to Loss Ratio Net Incurred LAE to Incurred Losses

Private Carriers



p Preliminary

Source: Annual Statement data

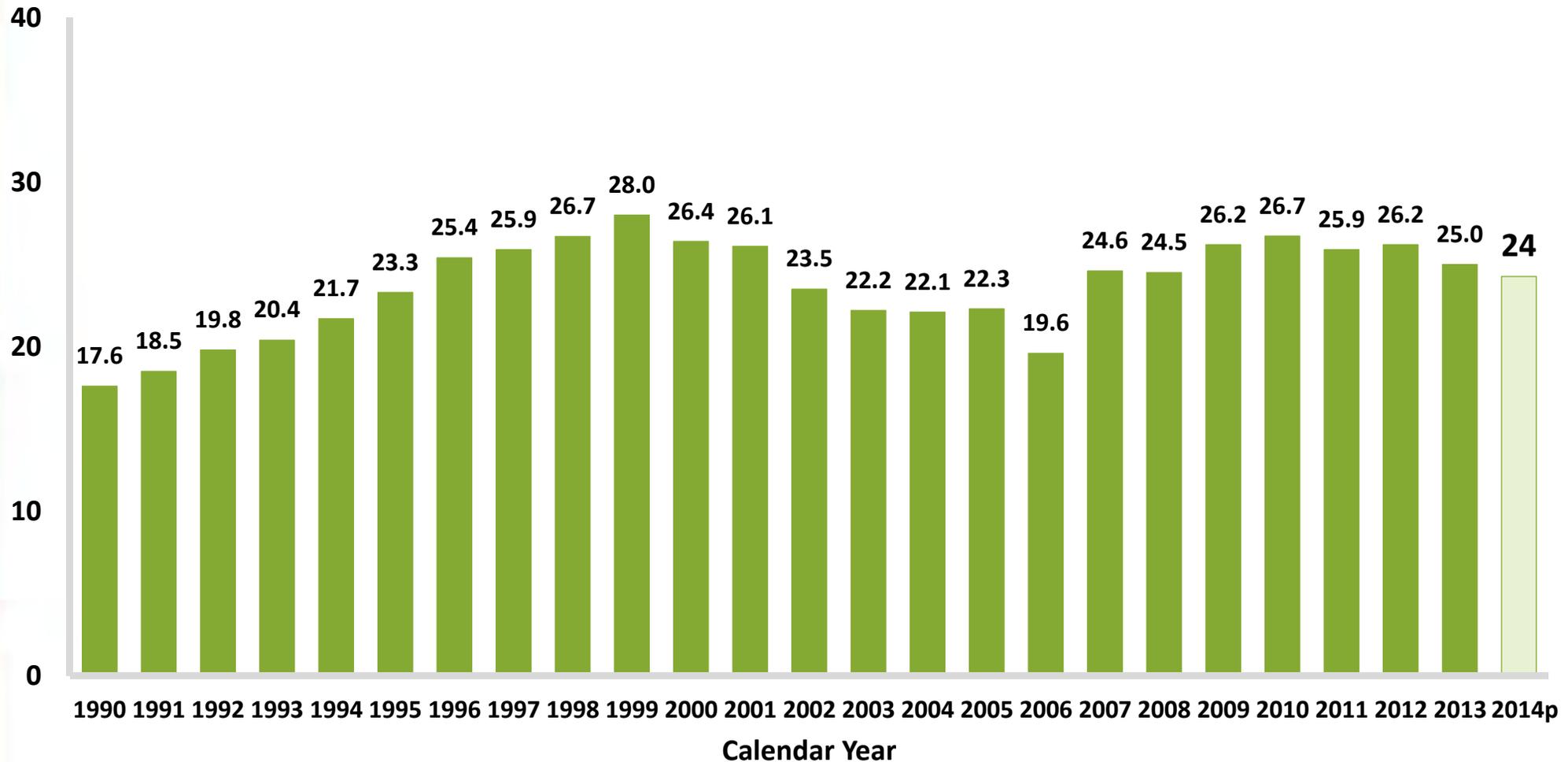
LAE includes Defense and Cost Containment Expense plus Adjusting and Other Expense

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WC Underwriting Expense Ratio Net Underwriting Expenses to Written Premium

Private Carriers

Percent



p Preliminary

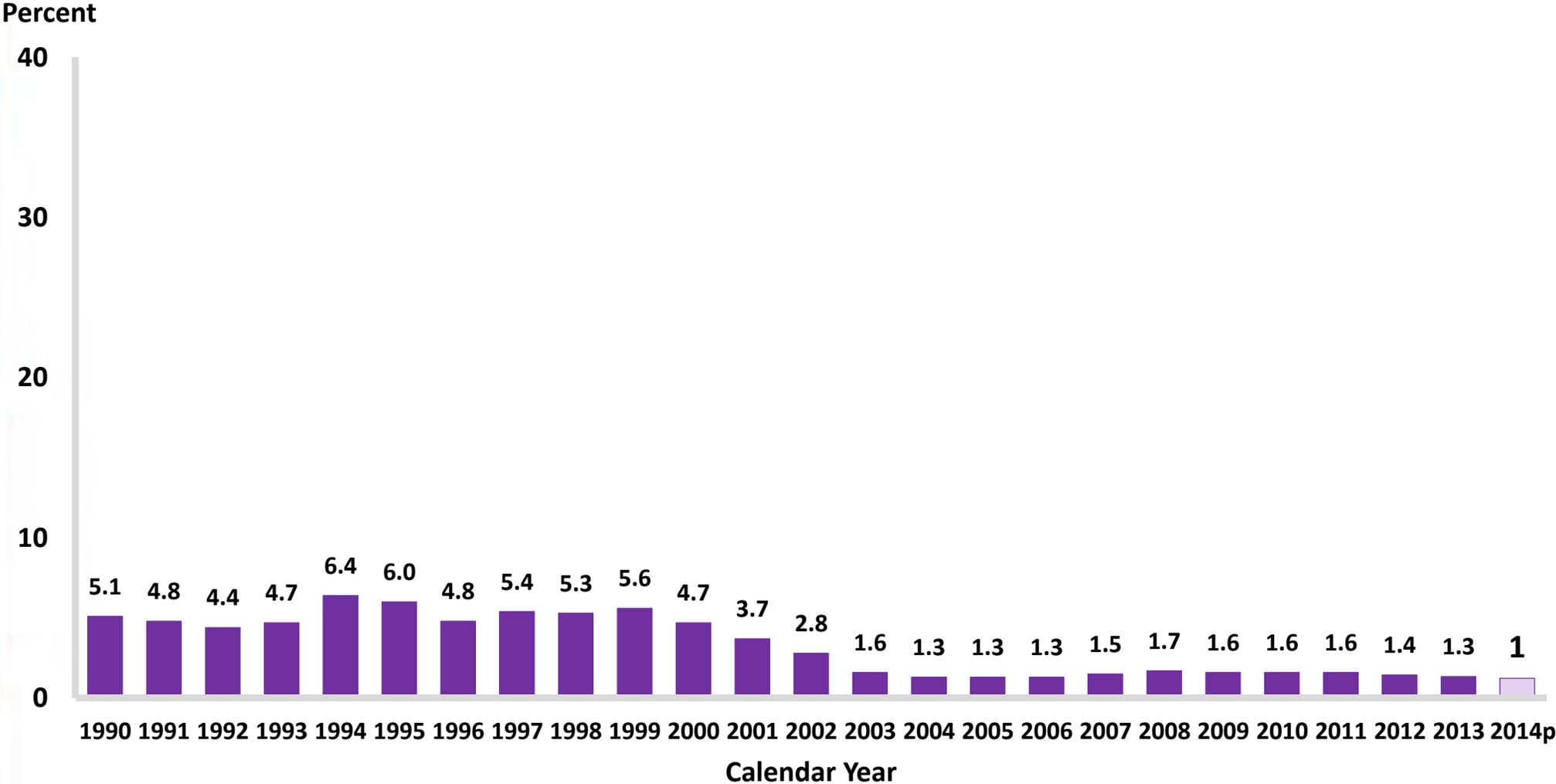
Source: Annual Statement data

Underwriting Expenses include Commission and Brokerage Expenses, Taxes, Licenses and Fees, Other Acquisition, and General Expenses Incurred

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WC Policyholder Dividend Ratio Policyholder Dividends to Earned Premium

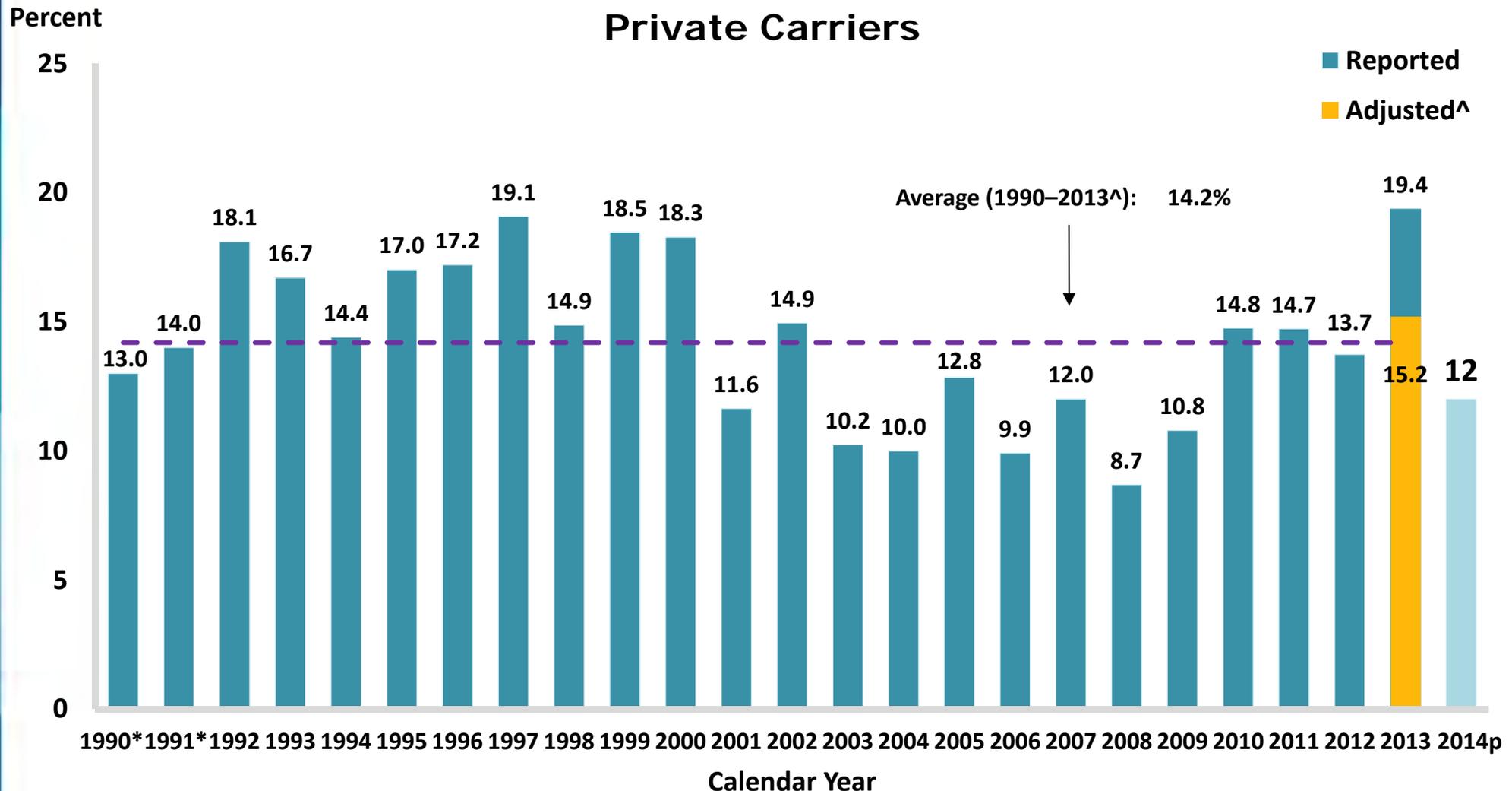
Private Carriers



p Preliminary
Source: Annual Statement data

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WC Investment Gain on Insurance Transactions Ratio to Net Earned Premium



p Preliminary

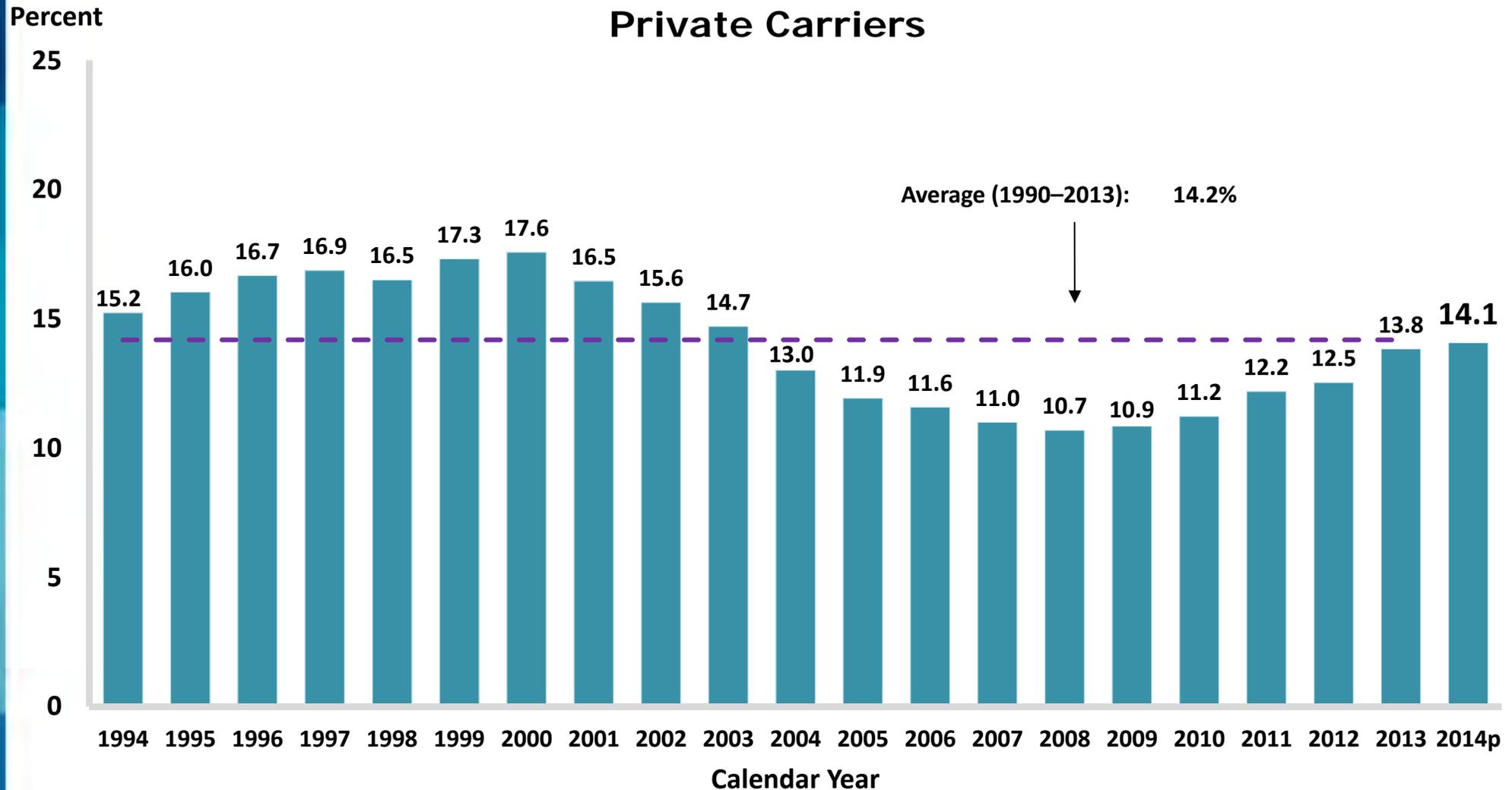
Source: Annual Statement data

Investment Gain on Insurance Transactions includes Other Income

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

^2013 adjusted value excludes a material realized gain resulting from a single company transaction that involved corporate restructuring

WC Investment Gain on Insurance Transactions Five-Year Moving Average



p Preliminary

Source: Annual Statement data

Investment Gain on Insurance Transactions includes Other Income

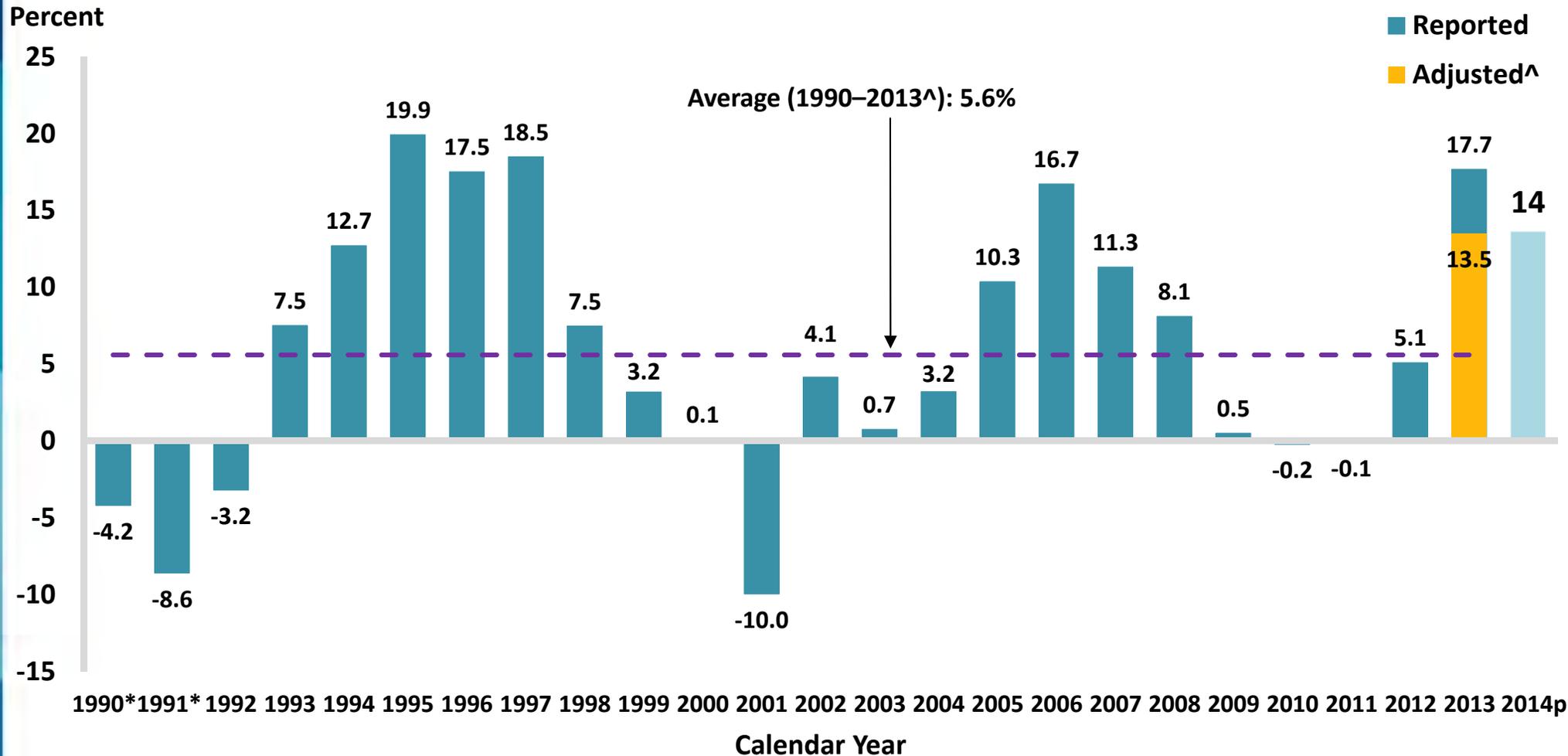
Averages reflect the following adjustments:

1990, 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

WC Pretax Operating Gain

Private Carriers



p Preliminary

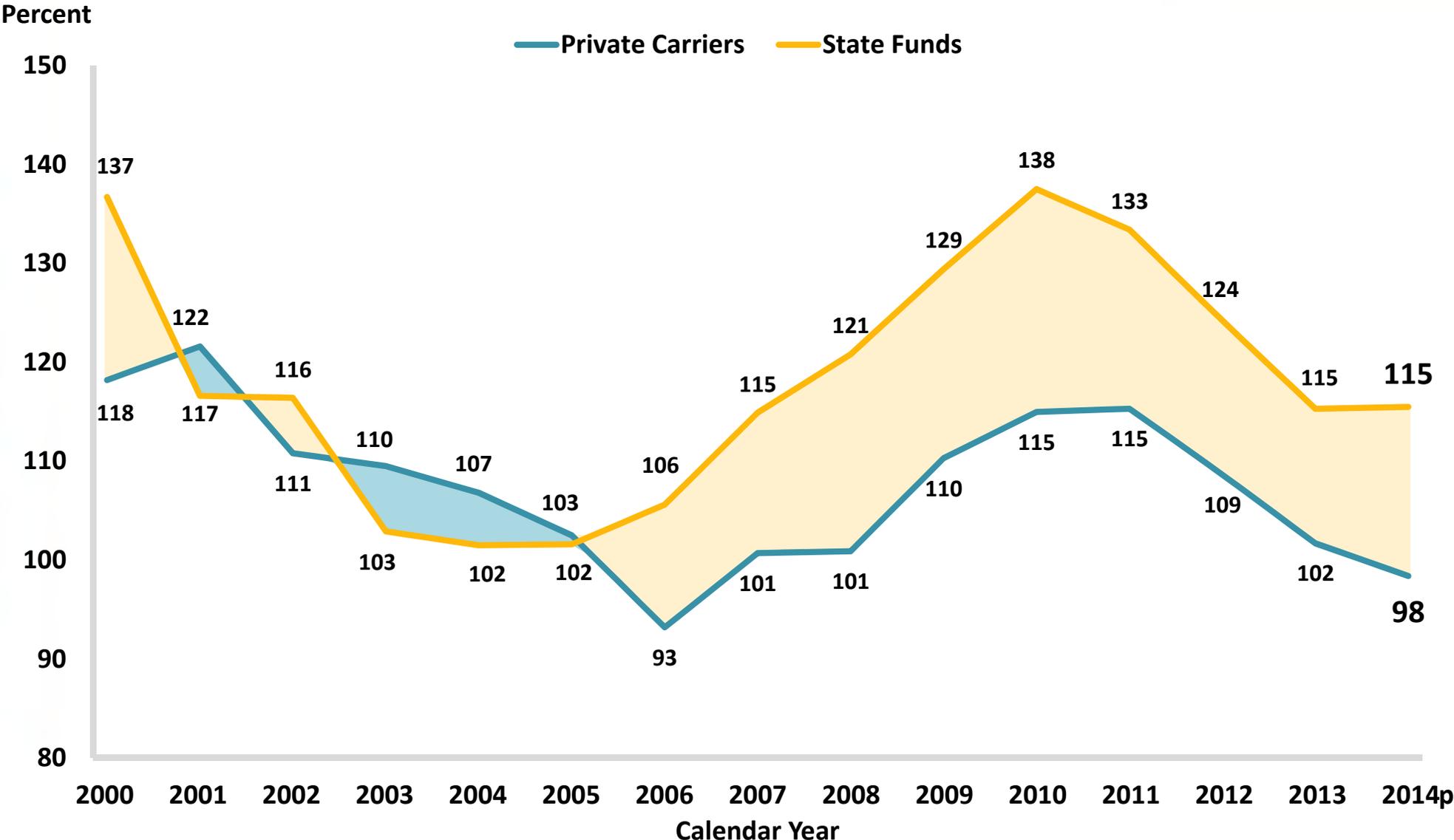
Source: Annual Statement data

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

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

[^]2013 adjusted value excludes a material realized gain resulting from a single company transaction that involved corporate restructuring

WC Net Combined Ratios



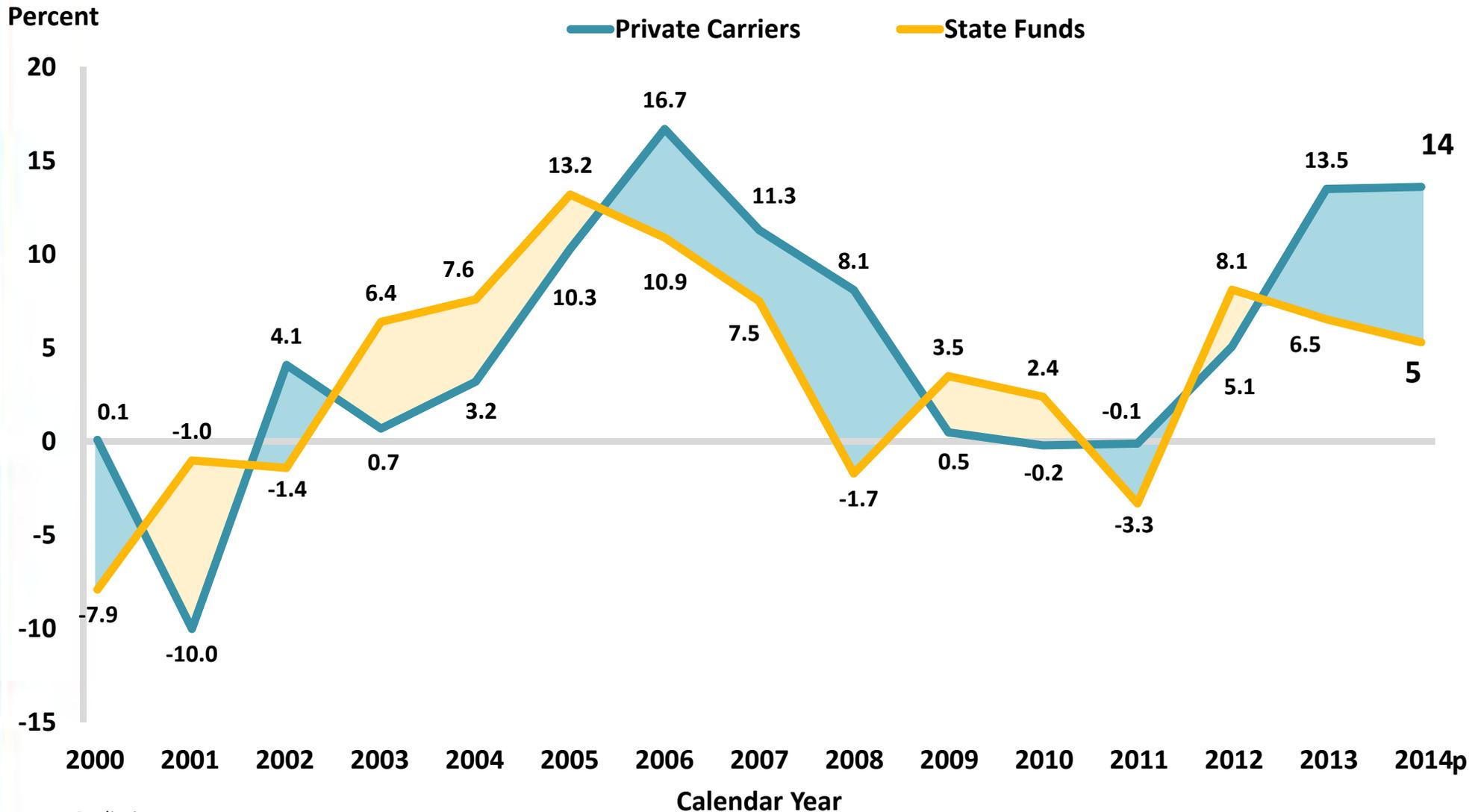
p Preliminary

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



WC Pretax Operating Gain Ratios



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

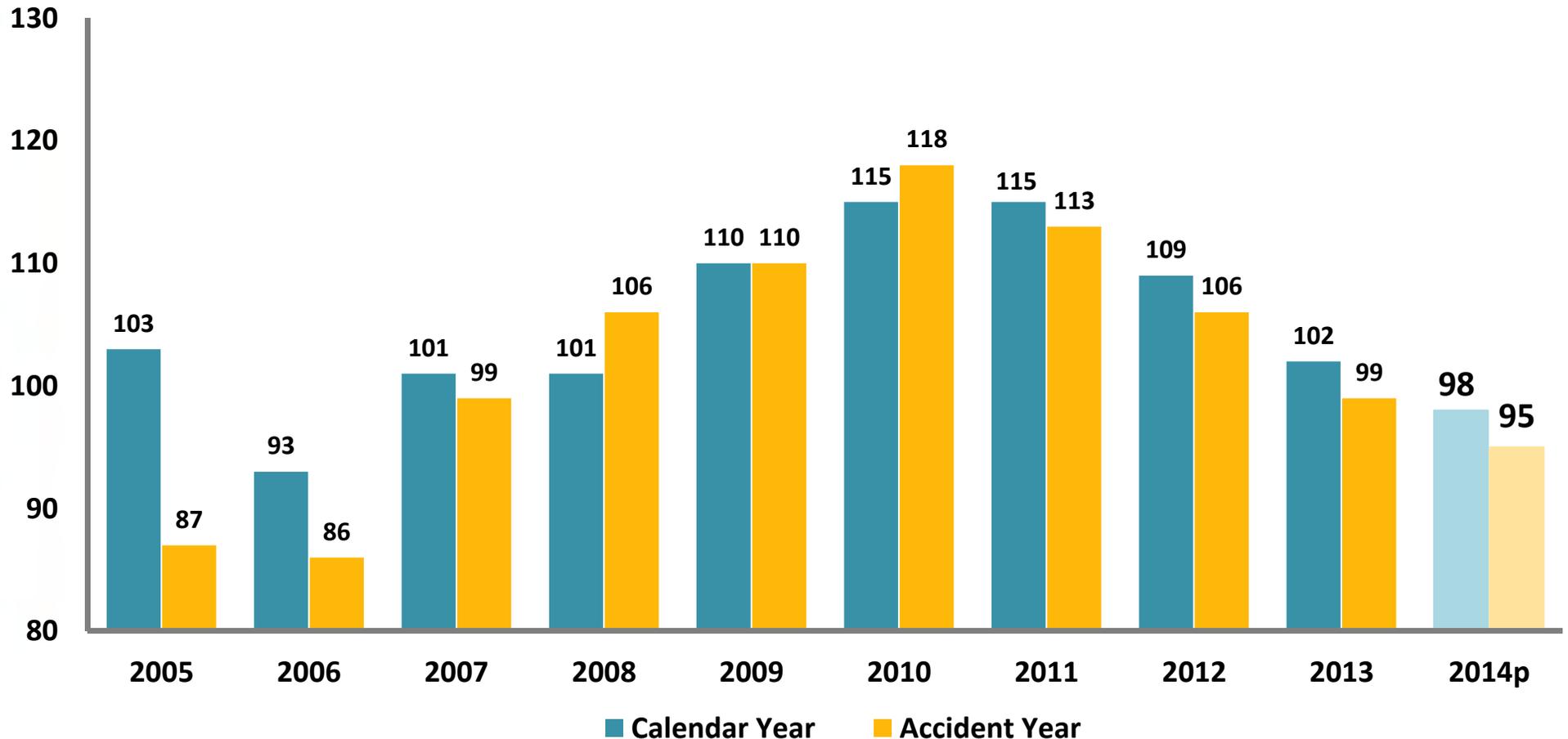
2013 private carrier value excludes a material realized gain resulting from a single company transaction that involved corporate restructuring

Workers Compensation Accident Year Results and Reserve Estimates

WC Net Combined Ratios Calendar Year vs. Ultimate Accident Year

Private Carriers

Percent



p Preliminary

Source: NCCI analysis based on Annual Statement data

Accident year data is evaluated as of 12/31/2014 and developed to ultimate

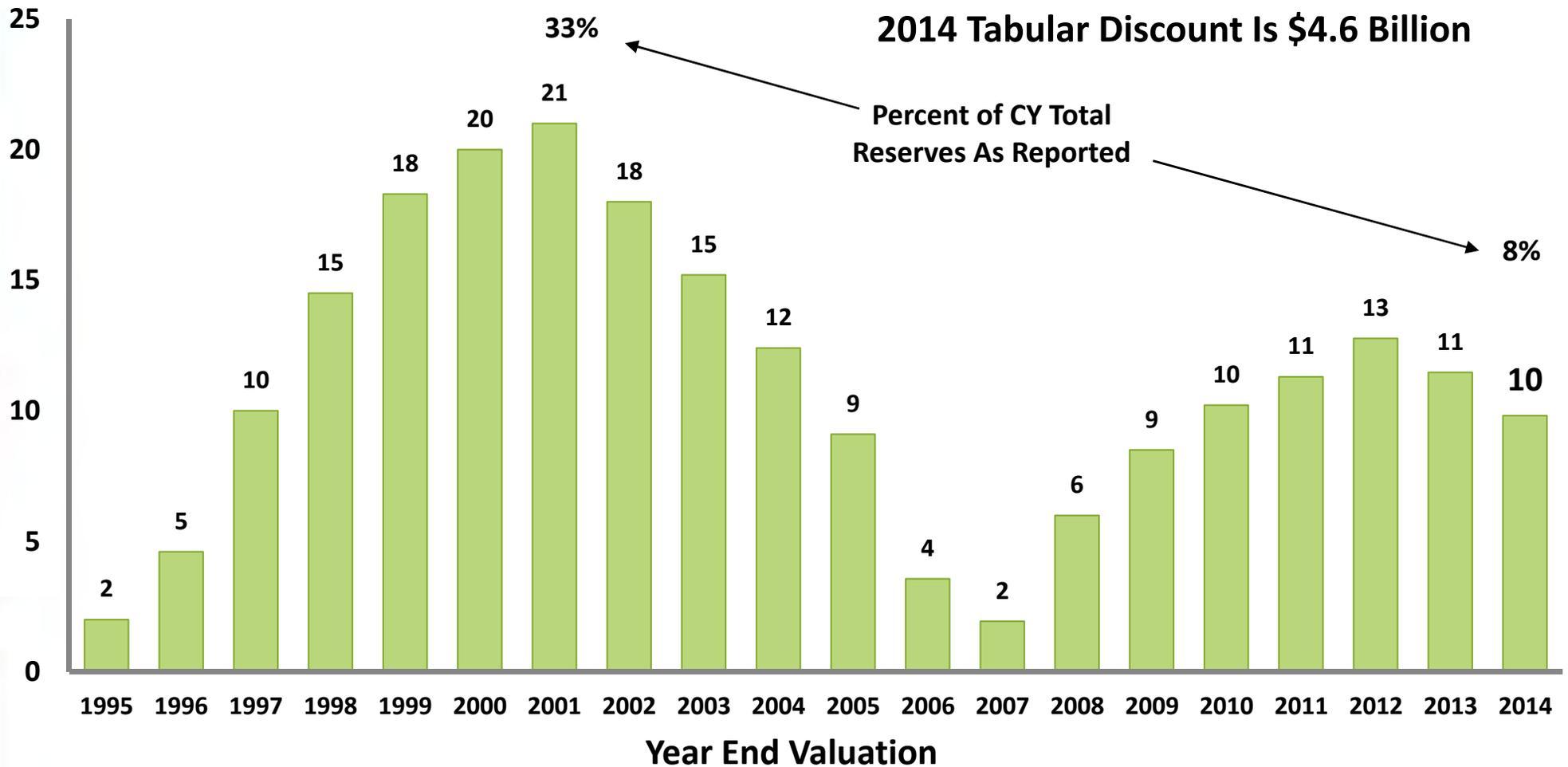
Includes dividends to policyholders

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WC Loss and LAE Net Reserve Deficiencies

Private Carriers

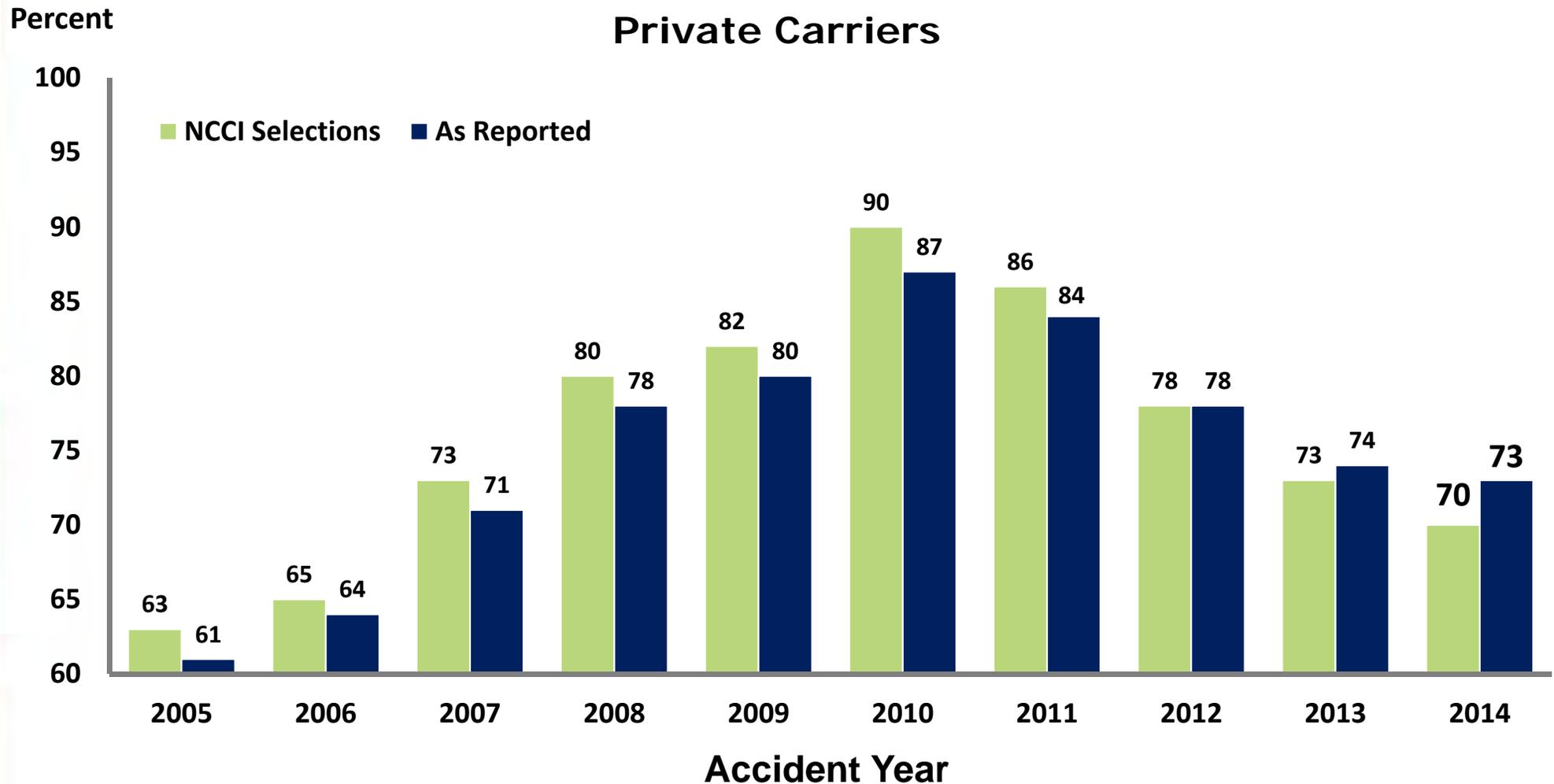
\$ Billions



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 12/31/2014

NCCI Selections: NCCI analysis based on Annual Statement data

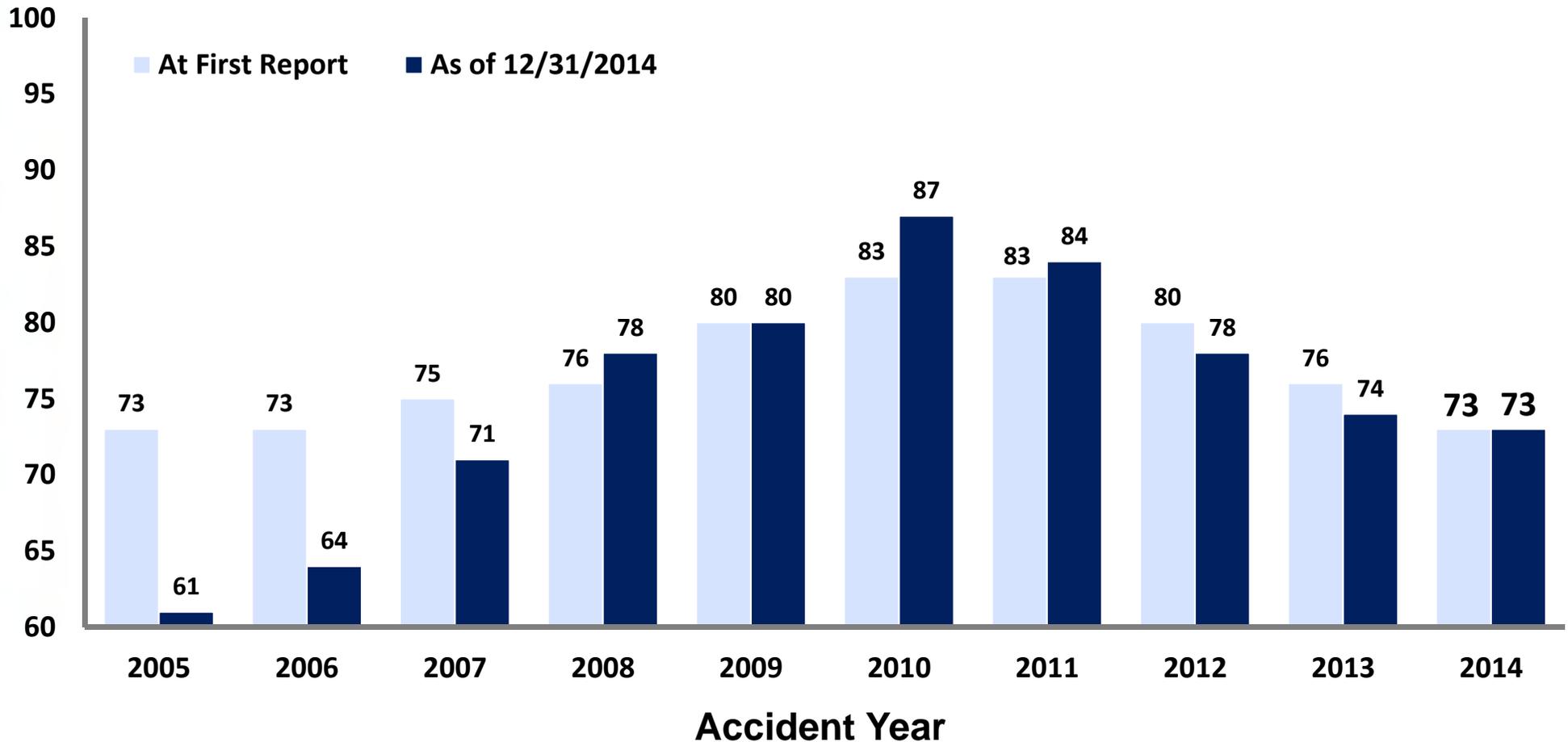
As Reported Loss and LAE ratios are net of tabular reserve discounts and gross of non-tabular reserve discounts

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WC Net Loss and LAE Ratios Accident Year As Reported

Private Carriers

Percent



Source: Annual Statement Schedule P Part 1D data

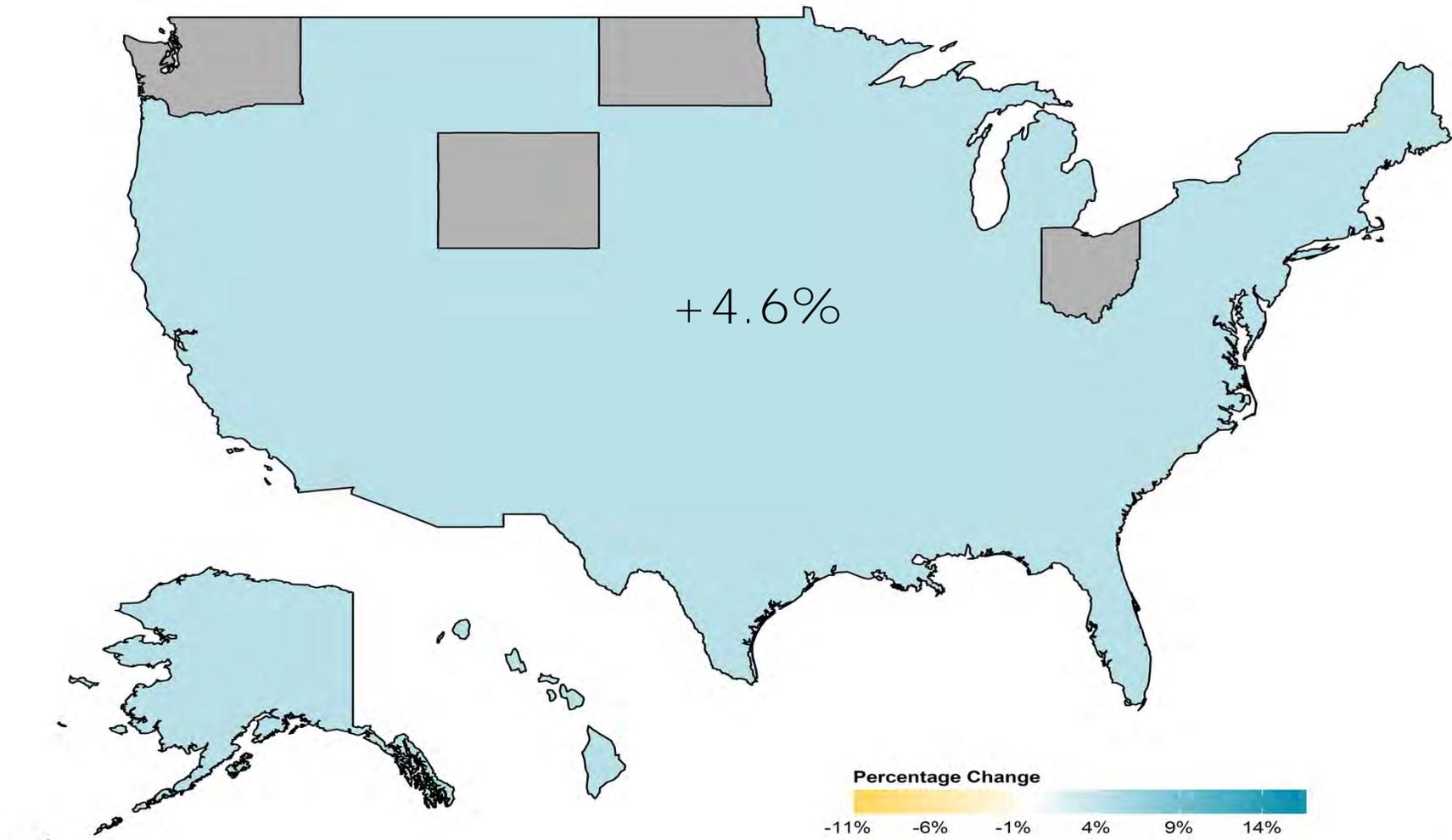
Loss and LAE ratios are net of tabular reserve discounts and gross of non-tabular reserve discounts

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Workers Compensation Premium Drivers

WC Direct Written Premium 2014 Countrywide Growth

Private Carriers

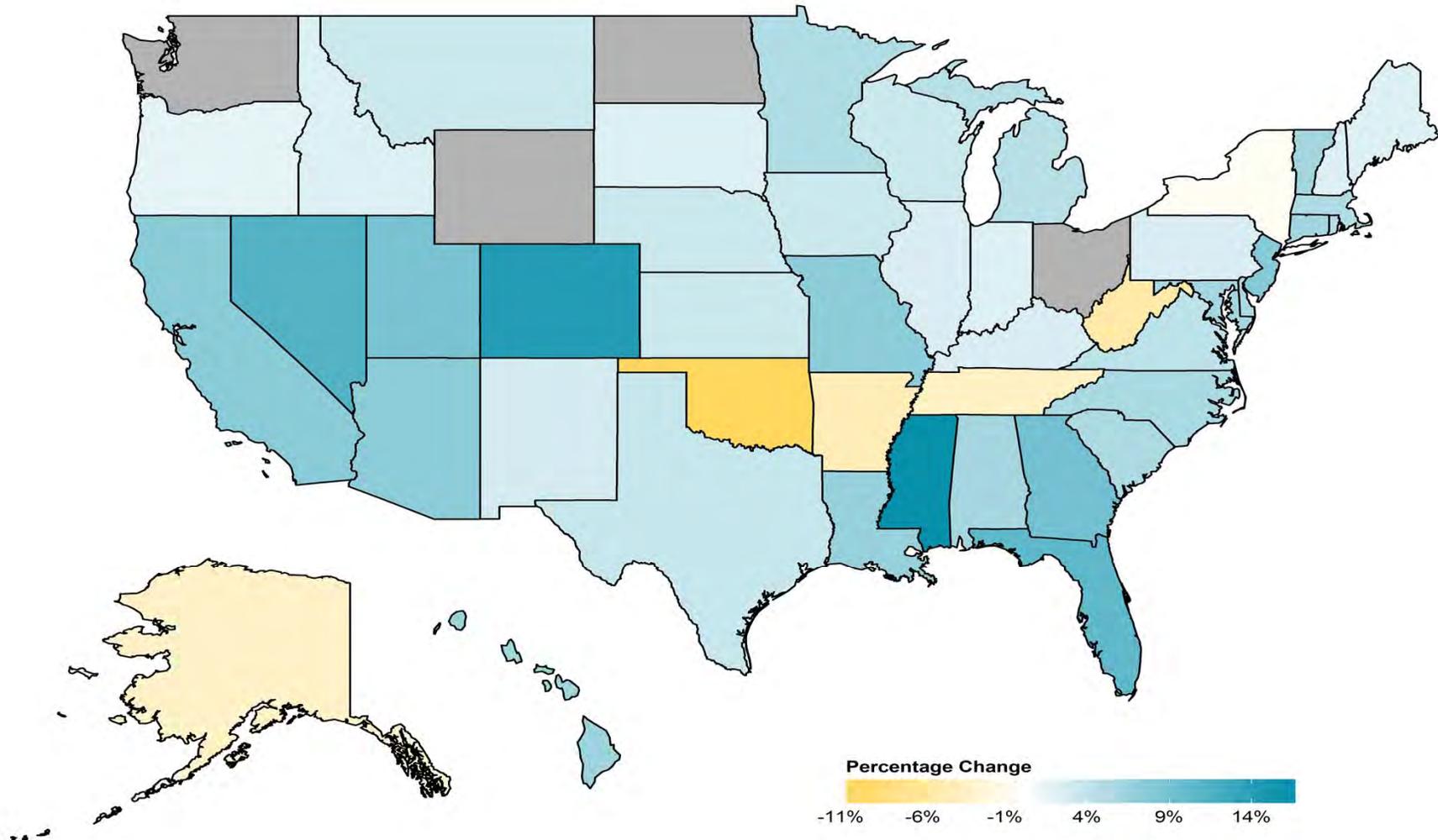


Source: 2014, 2013, Annual Statement Statutory Page 14

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WC Direct Written Premium 2014 Growth by State

Private Carriers



Source: 2014, 2013, Annual Statement Statutory Page 14

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WC

Components of Written Premium Change

Private Carriers

Written Premium Change From 2013 to 2014

Net Written Premium—Countrywide	+4.6%
Direct Written Premium (DWP)—Countrywide	+4.6%
Direct Written Premium (DWP)—NCCI States	+4.5%
Components of DWP Change for NCCI States:	
Change in Carrier Estimated Payroll	+4.7%
Change in Bureau Loss Costs and Mix	-1.4%
Change in Carrier Discounting	+0.4%
Change in Other Factors	+0.8%
Combined Effect:	+4.5%

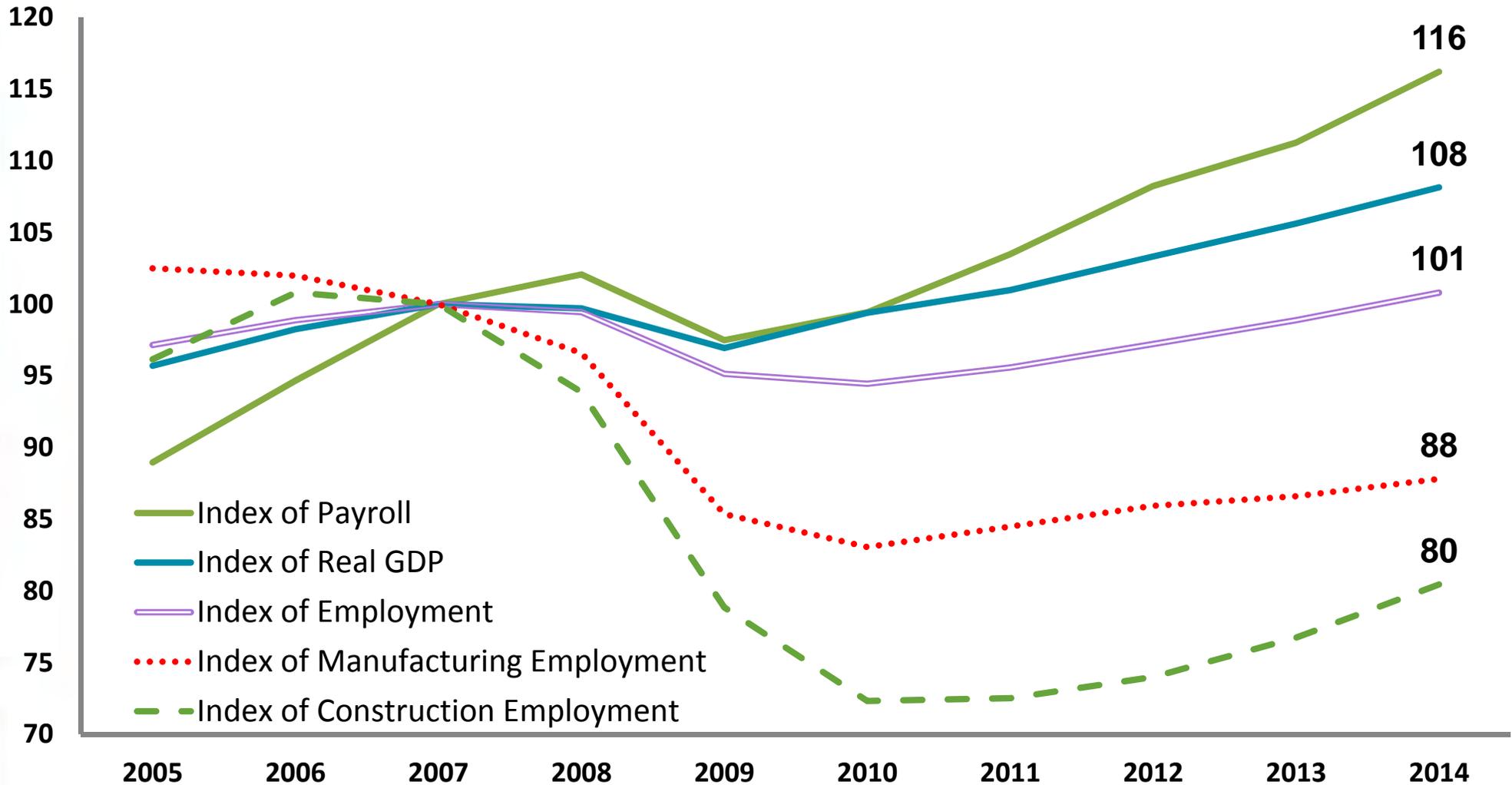
Sources: Countrywide: Annual Statement data

NCCI States: Annual Statement Statutory Page 14 for all states where NCCI provides ratemaking services

Components: NCCI Policy data

US Employment Levels

Index: 2007 = 100

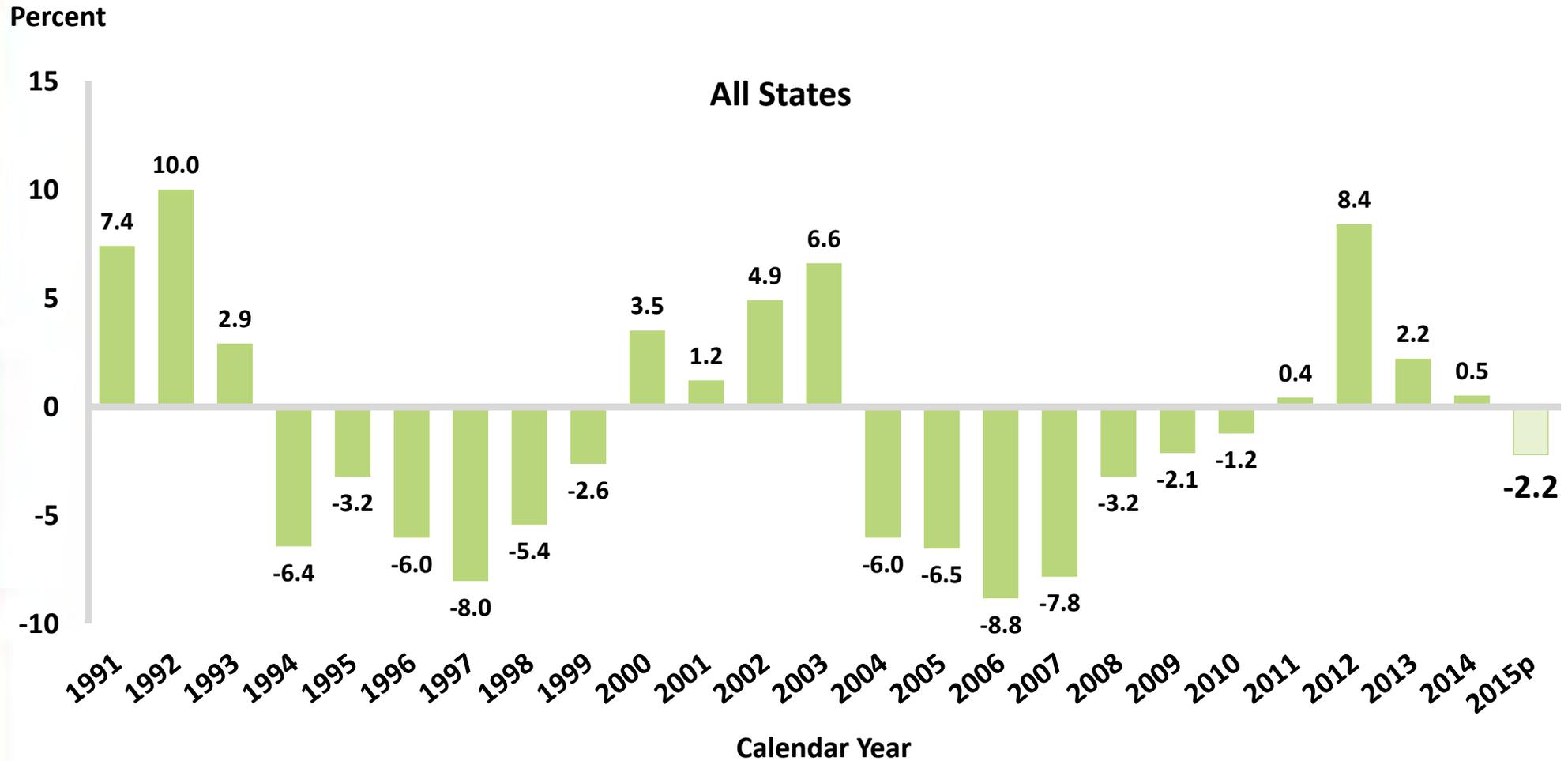


Sources: U.S. Bureau of Labor Statistics; U.S. Bureau of Economic Analysis

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WC Approved Changes in Bureau Premium Level

By Effective Date for Total Market

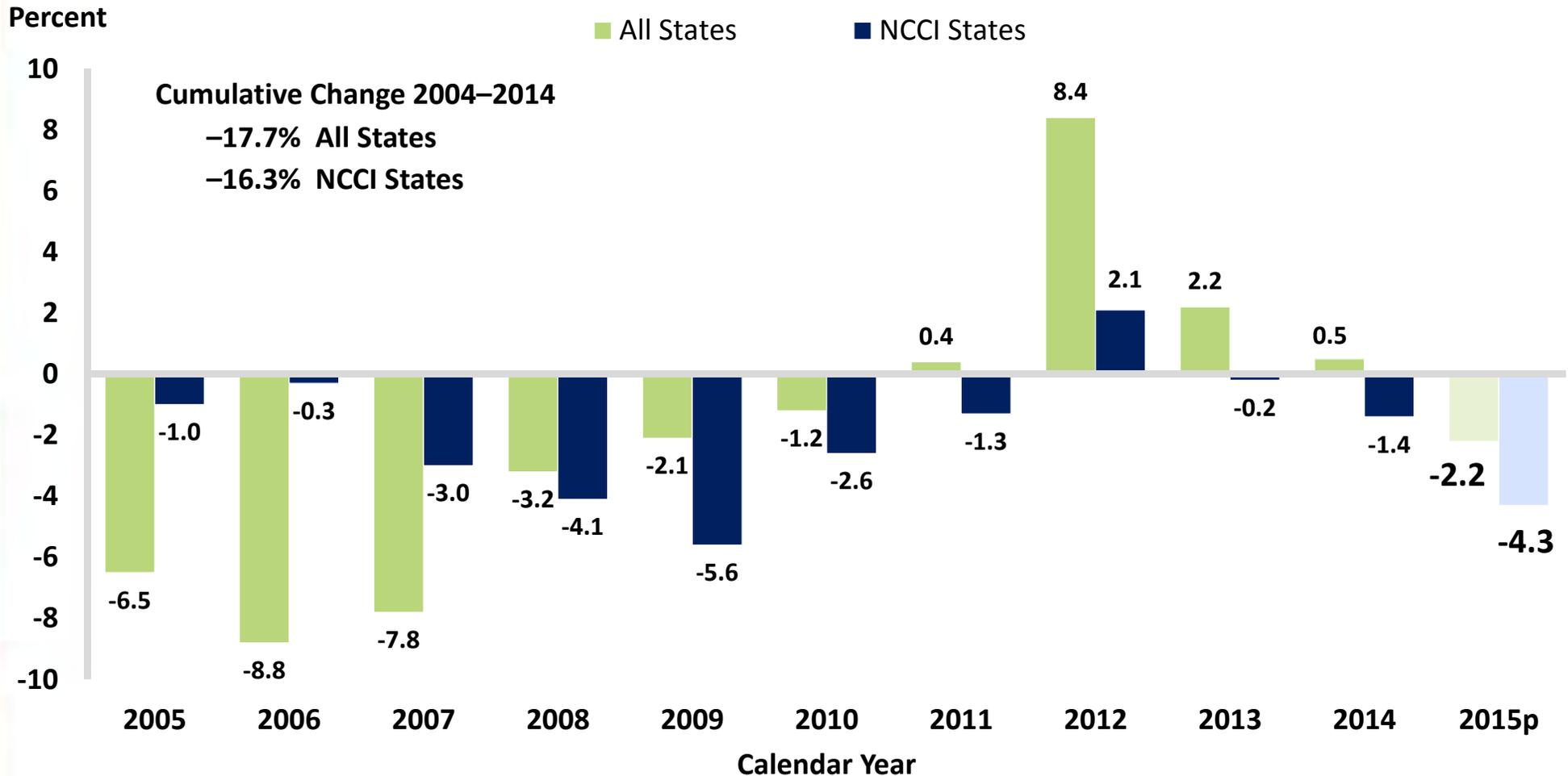


p Preliminary

Bureau premium level changes are countrywide approved changes in advisory rates, loss costs, assigned risk rates, and rating values, as of 4/24/2015, as filed by the applicable rating organization, relative to those previously approved

WC Approved Changes in Bureau Premium Level

By Effective Date for Total Market

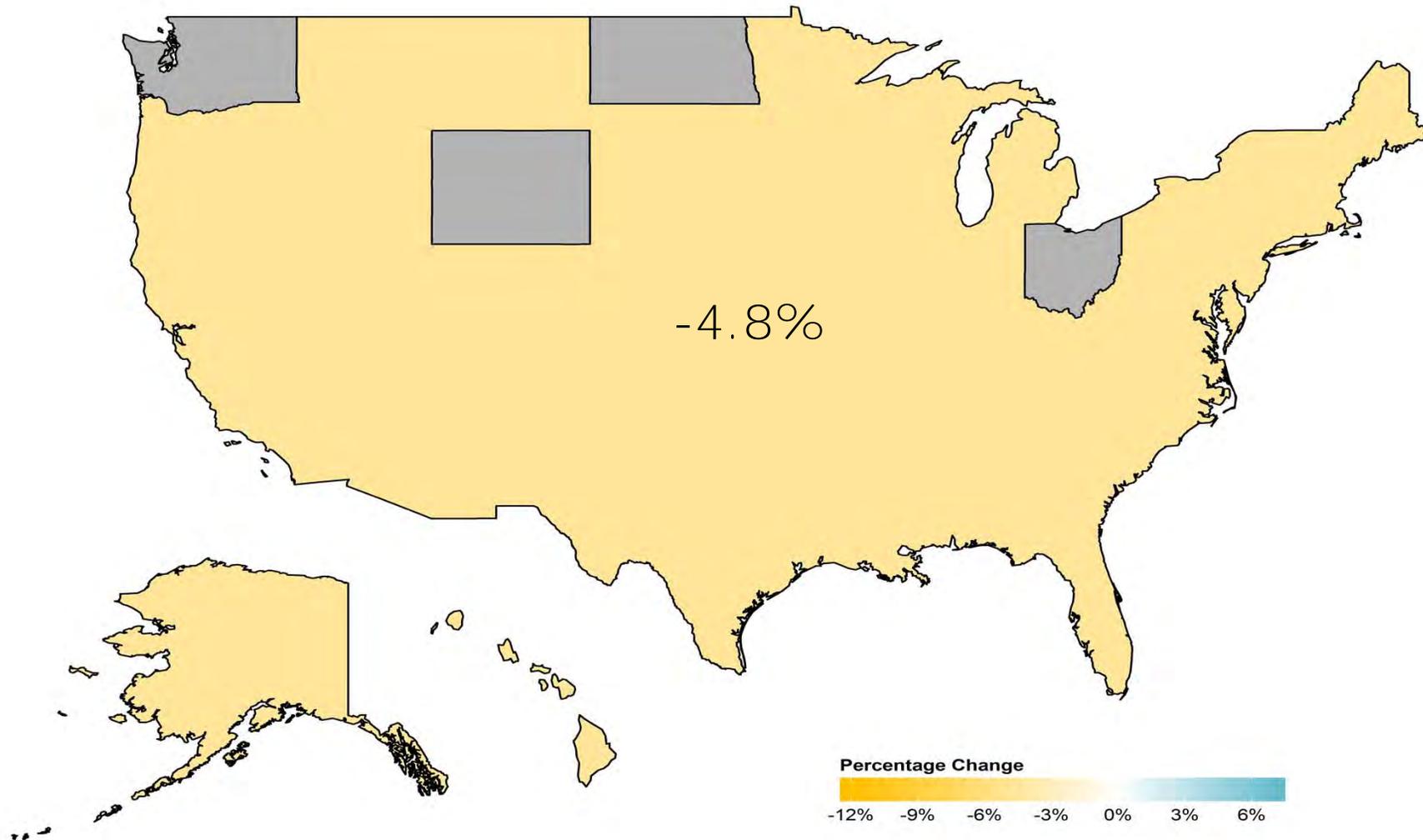


p Preliminary

Bureau premium level changes are countrywide approved changes in advisory rates, loss costs, assigned risk rates, and rating values, as of 4/24/2015, as filed by the applicable rating organization, relative to those previously approved

WC Approved or Filed and Pending Change in Bureau Premium Level

Latest Change for Voluntary Market

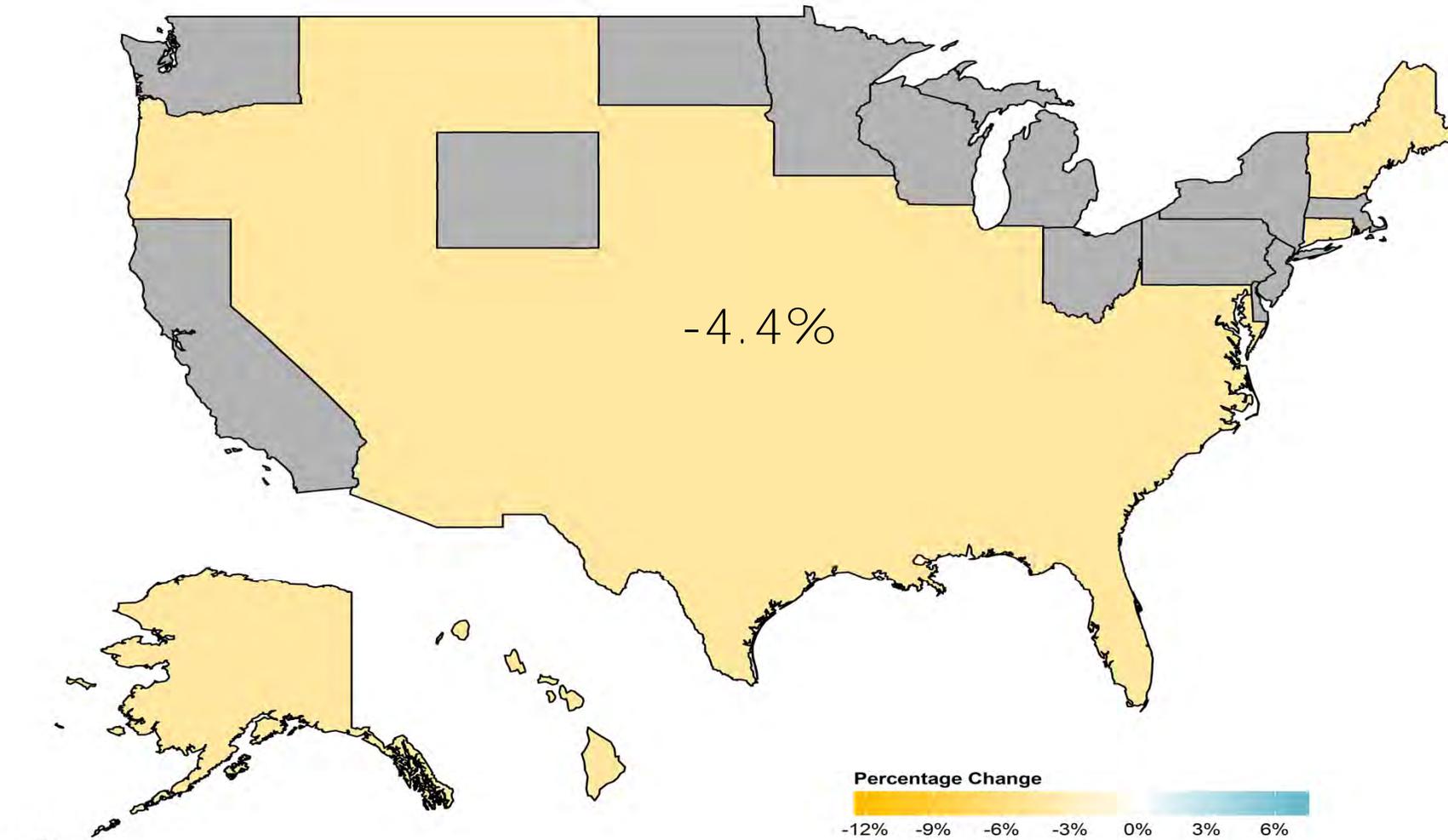


Premium level changes are approved or filed and pending changes in advisory rates, loss costs, and rating values, as of 4/24/2015, as filed by the applicable rating organization, relative to those previously approved

CA, SC are filed and pending

WC Approved or Filed and Pending Change in NCCI Premium Level

Latest Change for Voluntary Market



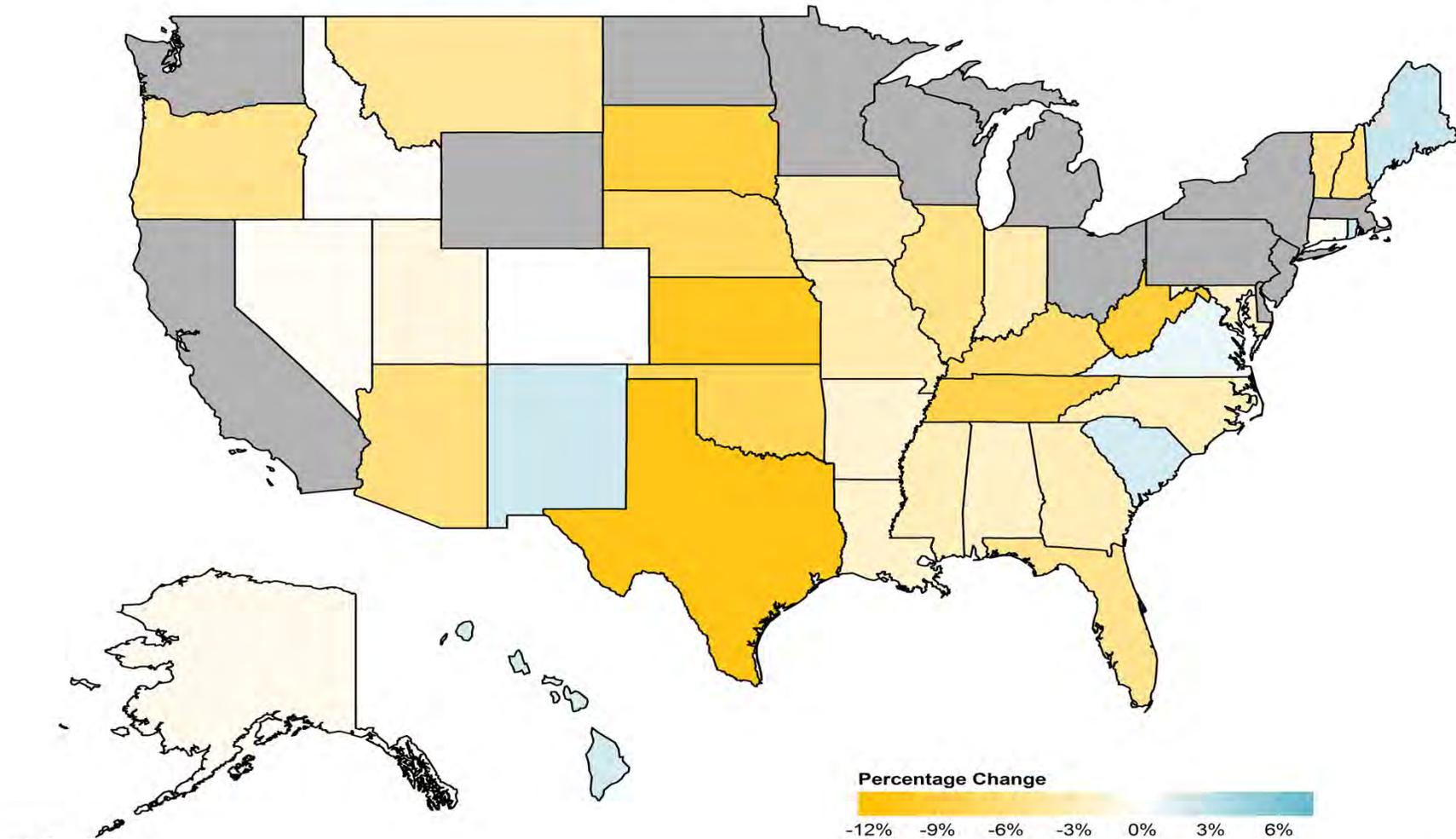
Premium level changes are approved or filed and pending changes in advisory rates, loss costs, and rating values, as of 4/24/2015, as filed by the applicable rating organization, relative to those previously approved

SC is filed and pending

IN and NC are filed in cooperation with state rating bureaus

WC Approved or Filed and Pending Change in NCCI Premium Level by State

Latest Change for Voluntary Market



Premium level changes are approved or filed and pending changes in advisory rates, loss costs, and rating values, as of 4/24/2015, as filed by the applicable rating organization, relative to those previously approved

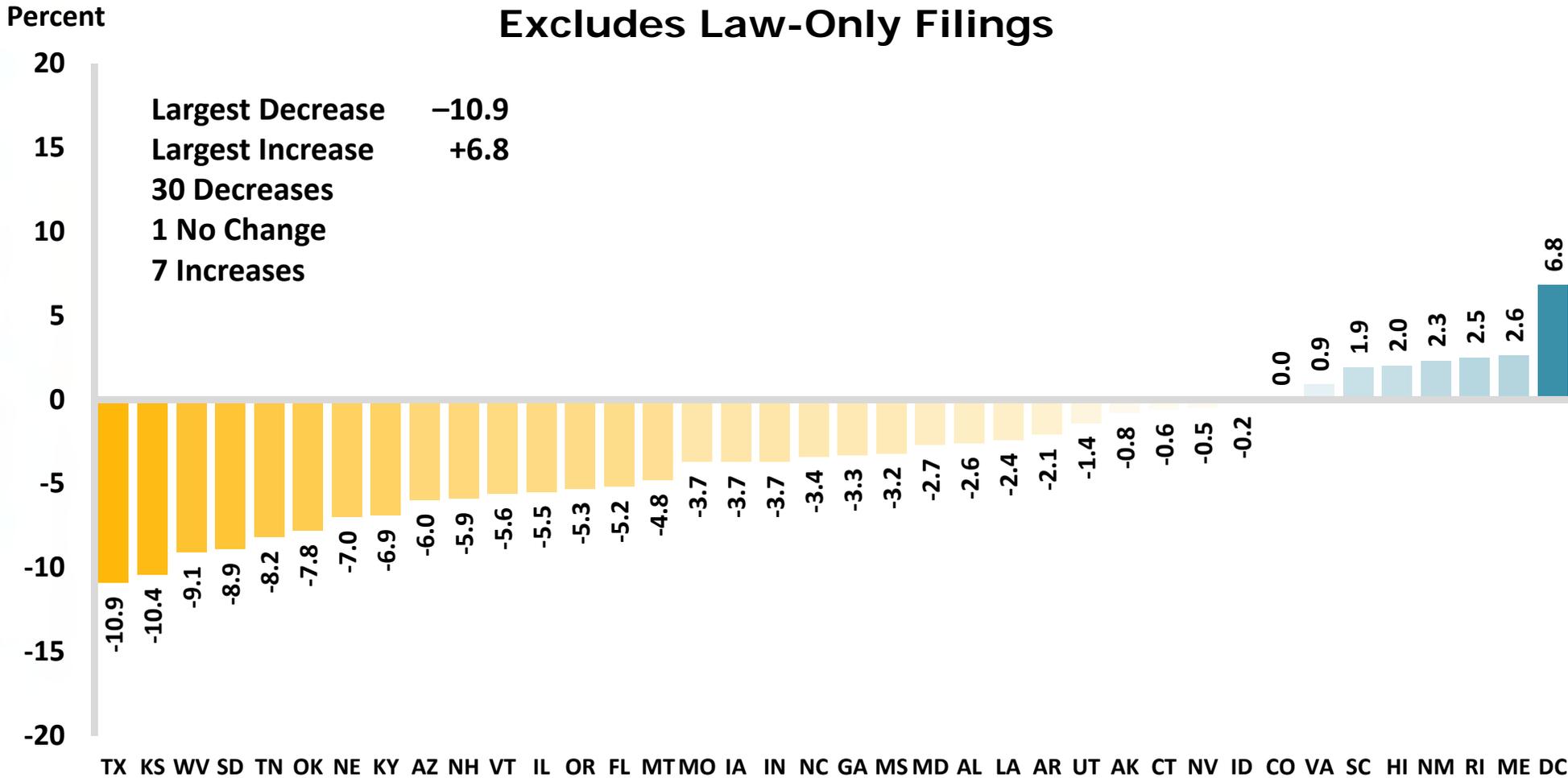
SC is filed and pending

IN and NC are filed in cooperation with state rating bureaus

WC Approved or Filed and Pending Change in NCCI Premium Level by State

Latest Change for Voluntary Market

Excludes Law-Only Filings



Premium level changes are approved or filed and pending changes in advisory rates, loss costs, and rating values, as of 4/24/2015, as filed by the applicable rating organization, relative to those previously approved

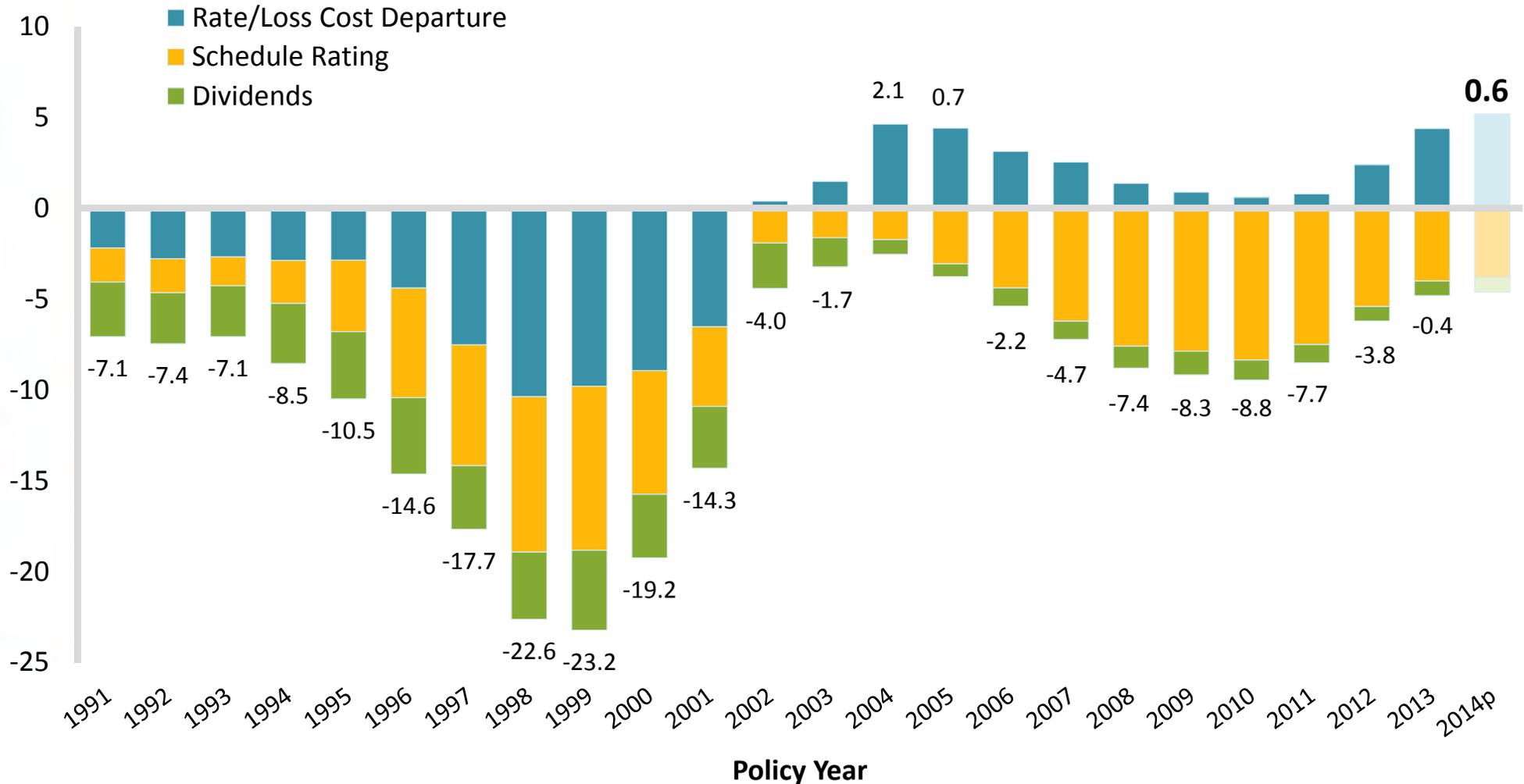
SC is filed and pending

IN and NC are filed in cooperation with state rating bureaus

WC Impact of Discounting on Premium NCCI States

Percent

Private Carriers



p Preliminary

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

Dividend ratios are based on calendar year statistics

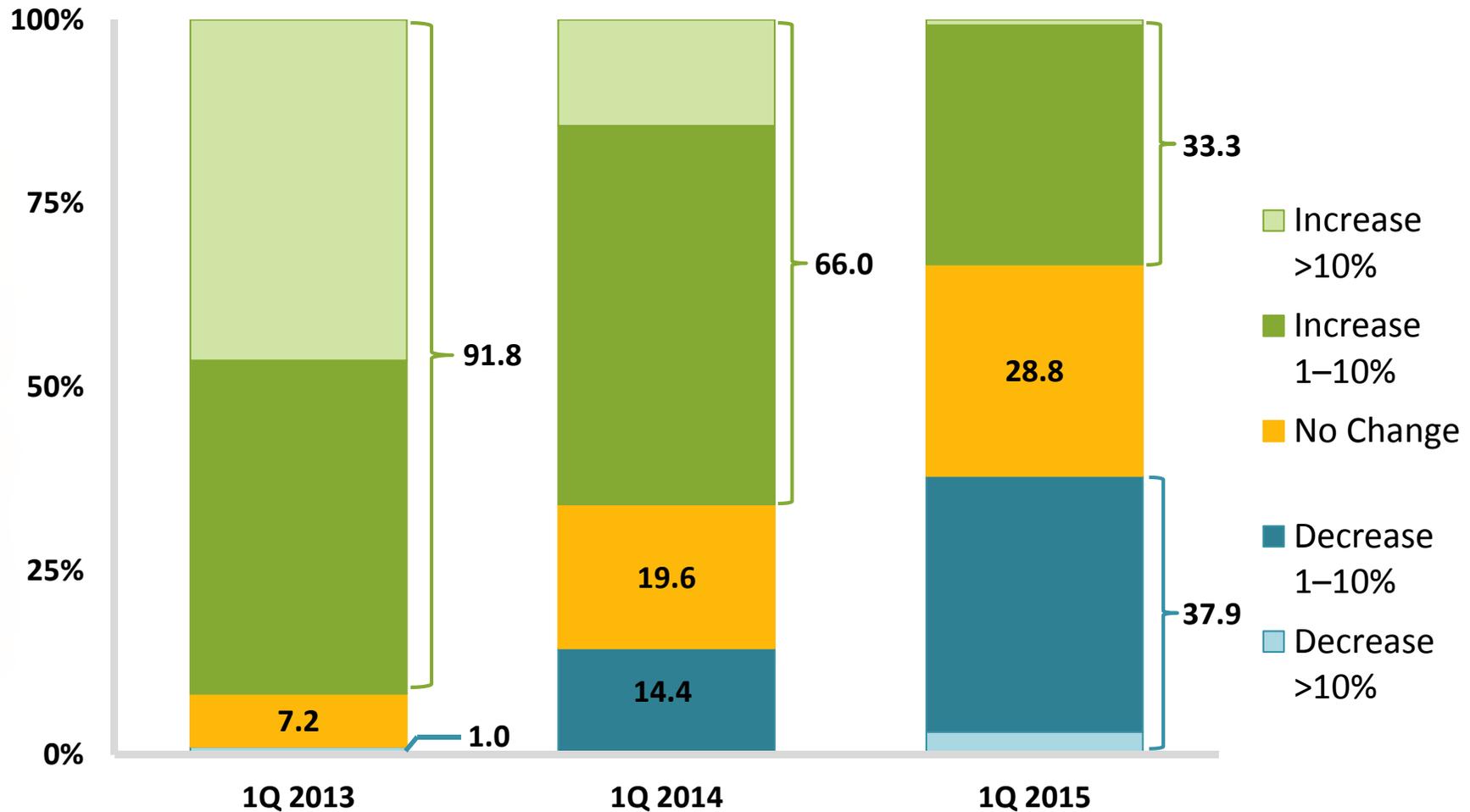
NCCI benchmark level does not include an underwriting contingency provision

Based on data through 12/31/2014 for all states where NCCI provides ratemaking services, excluding TX

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WC Price Increases Continue to Ease

Percentage of Respondents



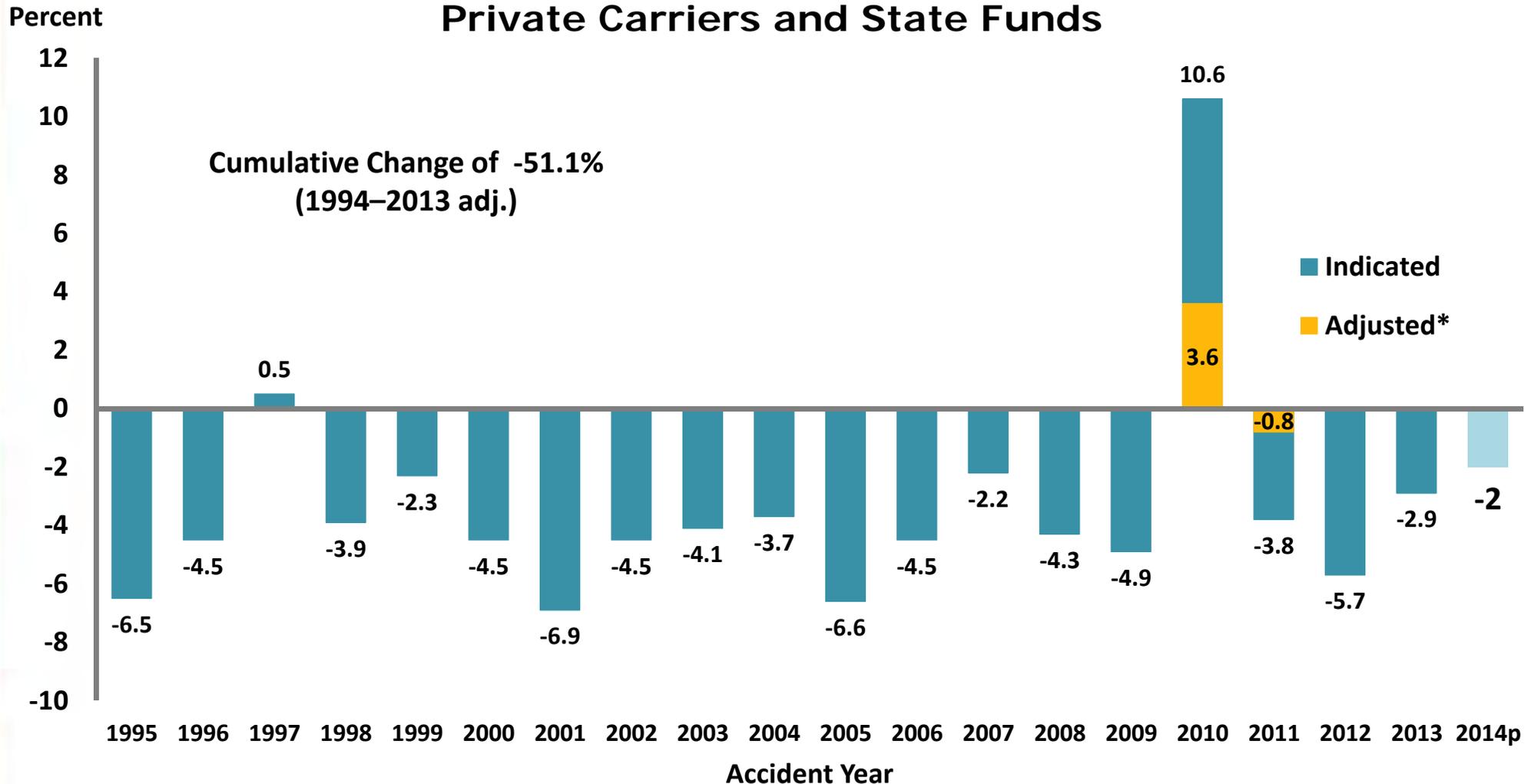
Sources: The Council of Insurance Agents & Brokers, "Commercial P/C Pricing Declined in First Quarter of 2015"
 "Commercial P/C Pricing Increases Continue Easing in First Quarter of 2014"
 "Commercial P/C Pricing Continued Upward Trend in First Quarter (of 2013)"
 Results for "All Regions"

Workers Compensation Loss Drivers

WC Lost-Time Claim Frequency

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

Private Carriers and State Funds



*Adjustments primarily due to significant changes in audit activity

p Preliminary based on data valued as of 12/31/2014

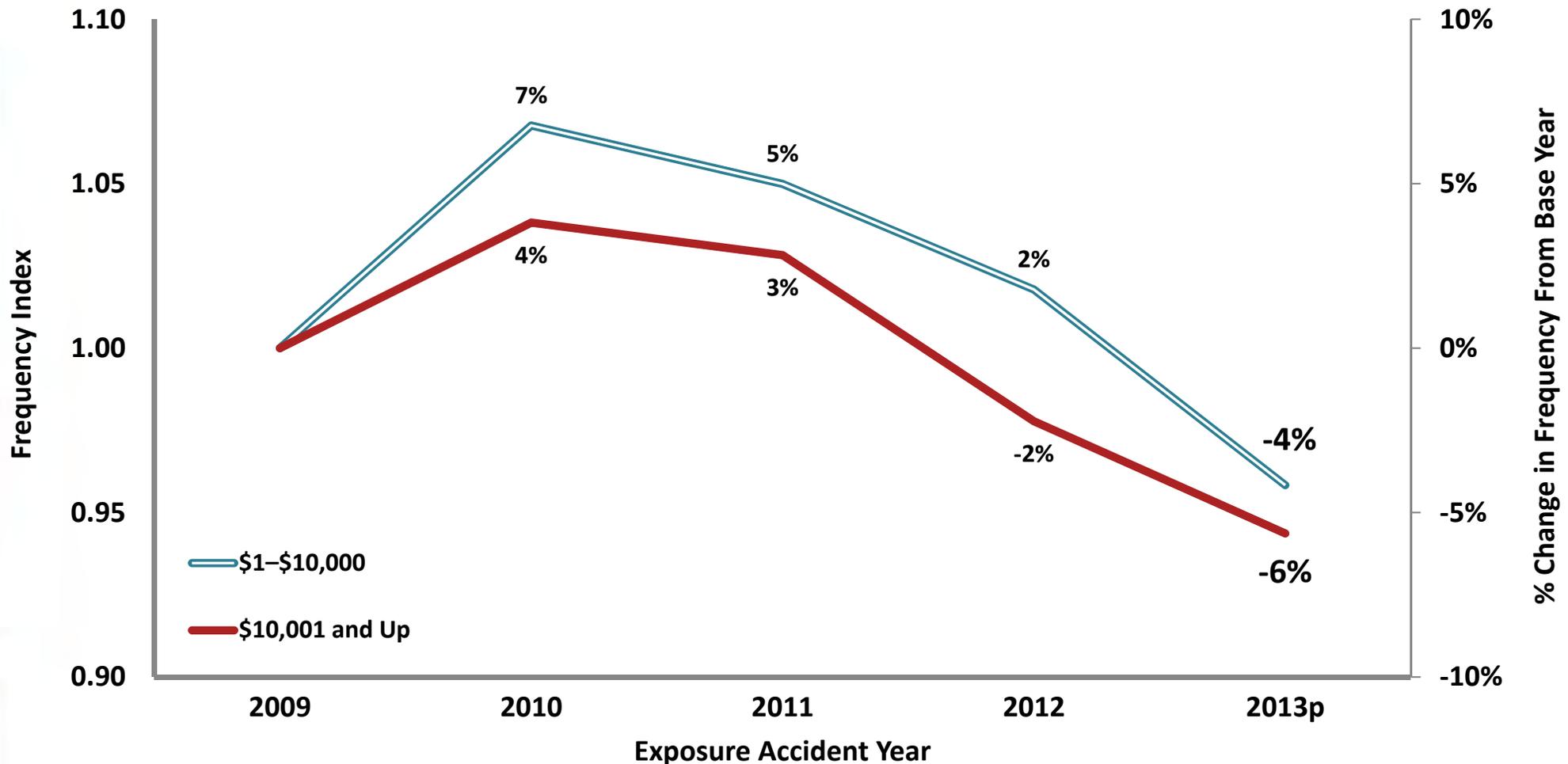
Source: NCCI Financial Call data, developed to ultimate and adjusted to current wage and voluntary loss cost level; excludes high deductible policies; 1994–2013: Based on data through 12/31/2013

For all states where NCCI provides ratemaking services, excluding WV

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WC Lost-Time Claim Frequency Changes by Total Size of Loss

Index: Exposure Accident Year 2009 = 1.00



p Preliminary

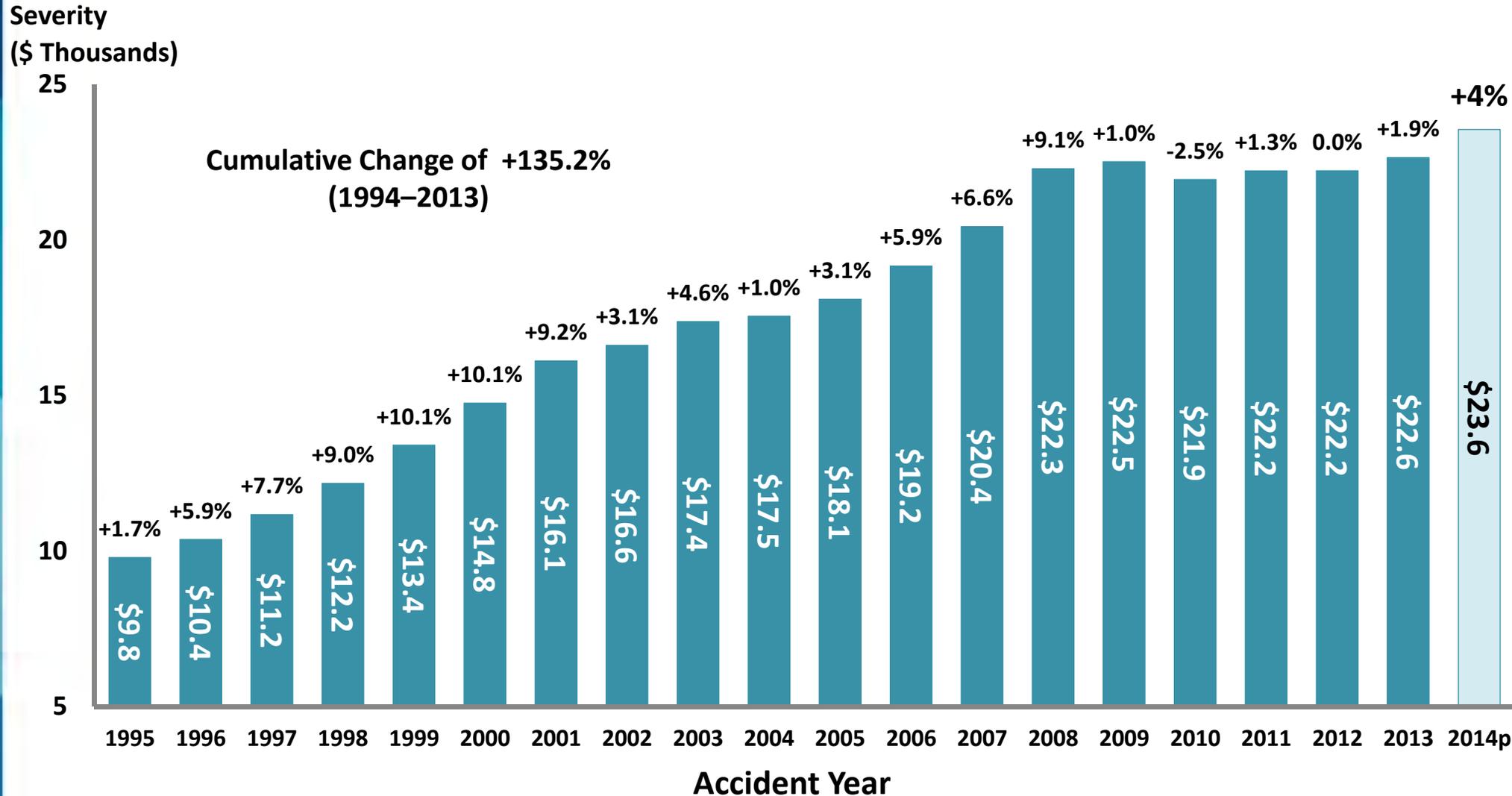
Source: NCCI Unit Statistical Plan data

Frequency is the number of lost-time claims at 1st report per \$1M premium at current wage and average carrier rate level
 Prior to assigning individual claims to size of loss groupings, reported loss amounts are adjusted for inflation through 2013
 For all states where NCCI provides ratemaking services

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WC Average Indemnity Cost per Lost-Time Claim

Private Carriers and State Funds



p Preliminary based on data valued as of 12/31/2014

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

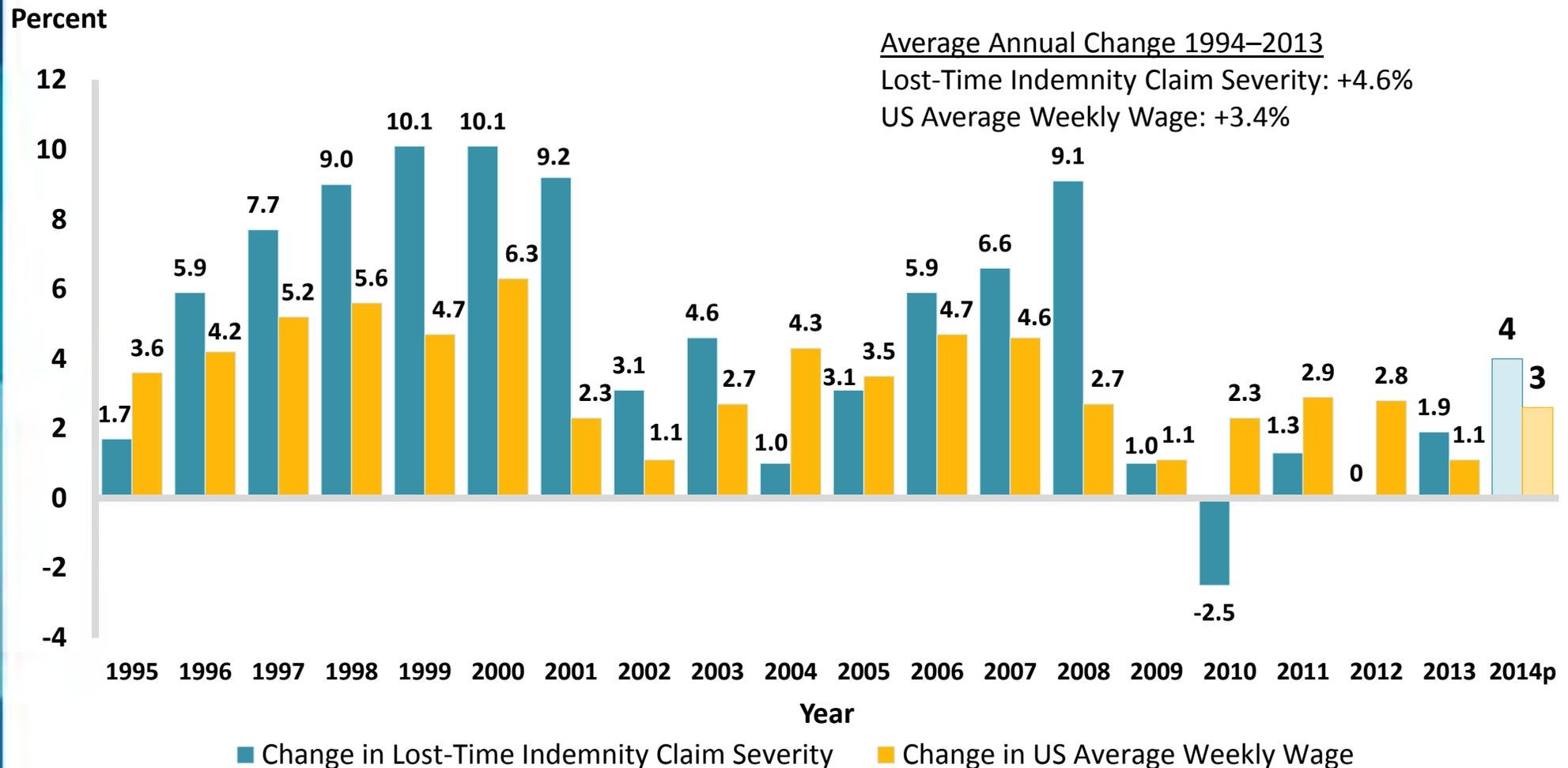
1994–2013: Based on data through 12/31/2013

For all states where NCCI provides ratemaking services, excluding WV

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WC Change in Indemnity Claim Severity Comparison to Change in Average Weekly Wage

Private Carriers and State Funds



p Preliminary based on data valued as of 12/31/2014

Sources: Severity: NCCI Financial Call data, developed to ultimate; excludes high deductible policies

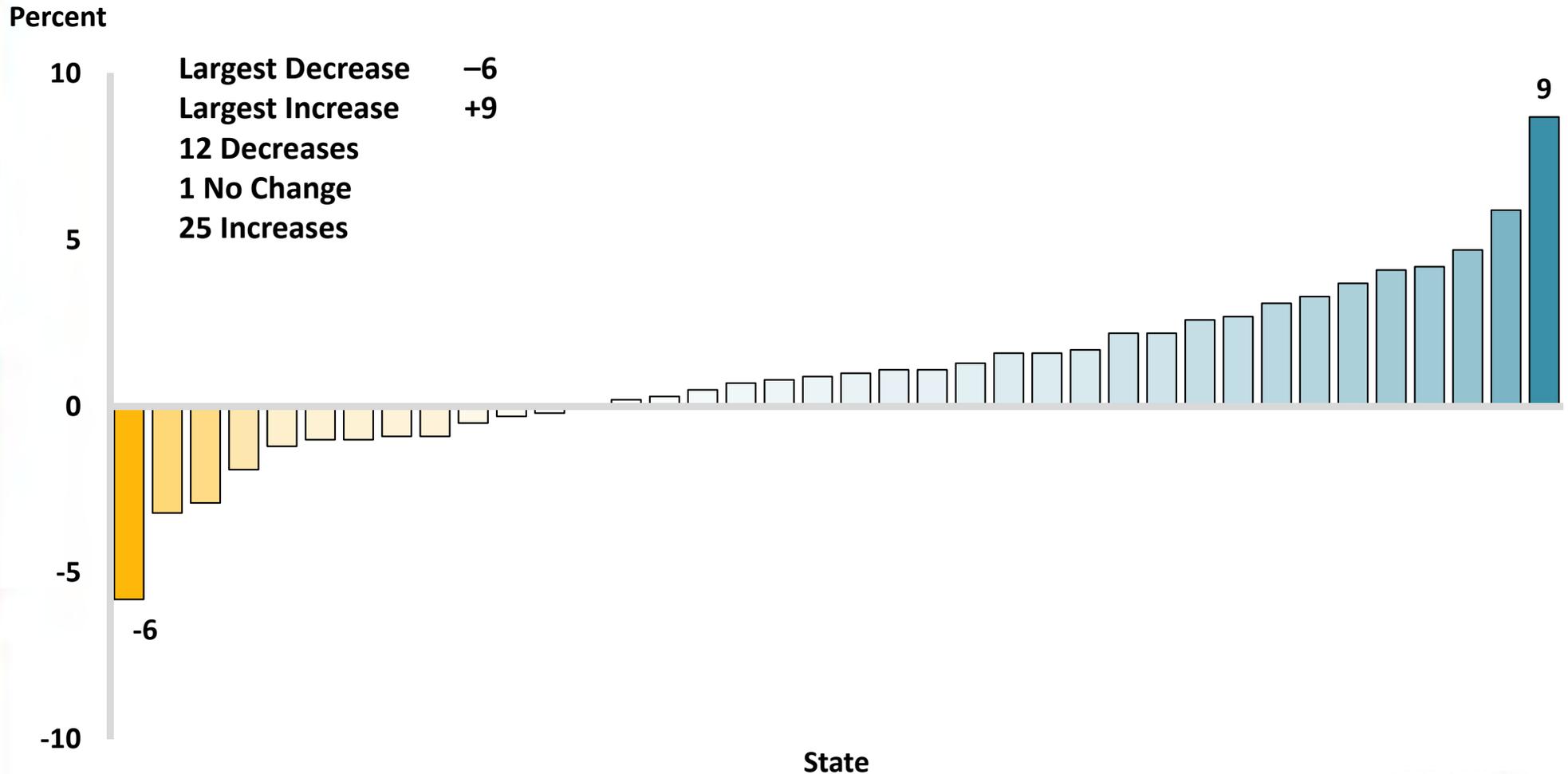
1994–2013: Based on data through 12/31/2013

US Average Weekly Wage: 1994–2007, 2012–2013, Quarterly Census of Employment and Wages

2008–2011, NCCI; 2014p, NCCI, Moody's Economy.com

Severity: For all states where NCCI provides ratemaking services, excluding WV

WC Change in Indemnity Claim Severity by State Average Annual Change 2009-2013

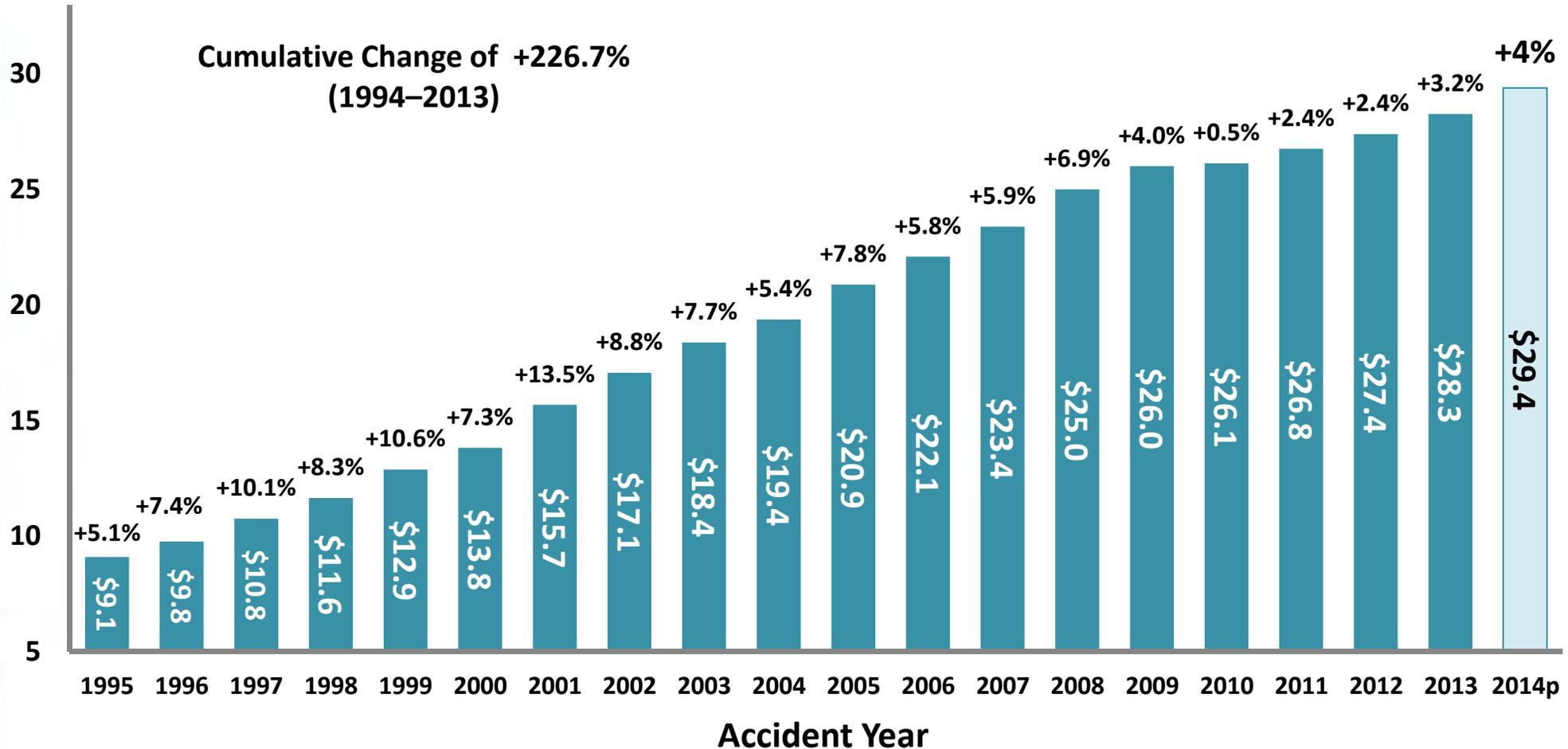


Source: NCCI's Analysis of Frequency and Severity of Claims Across the Country as of 12/31/2013 on ncci.com
 Values displayed reflect methodology and state data underlying the most recent rate/loss cost filing
 TX change includes 2010-2013

WC Average Medical Cost per Lost-Time Claim

Private Carriers and State Funds

Severity
(\$ Thousands)



p Preliminary based on data valued as of 12/31/2014

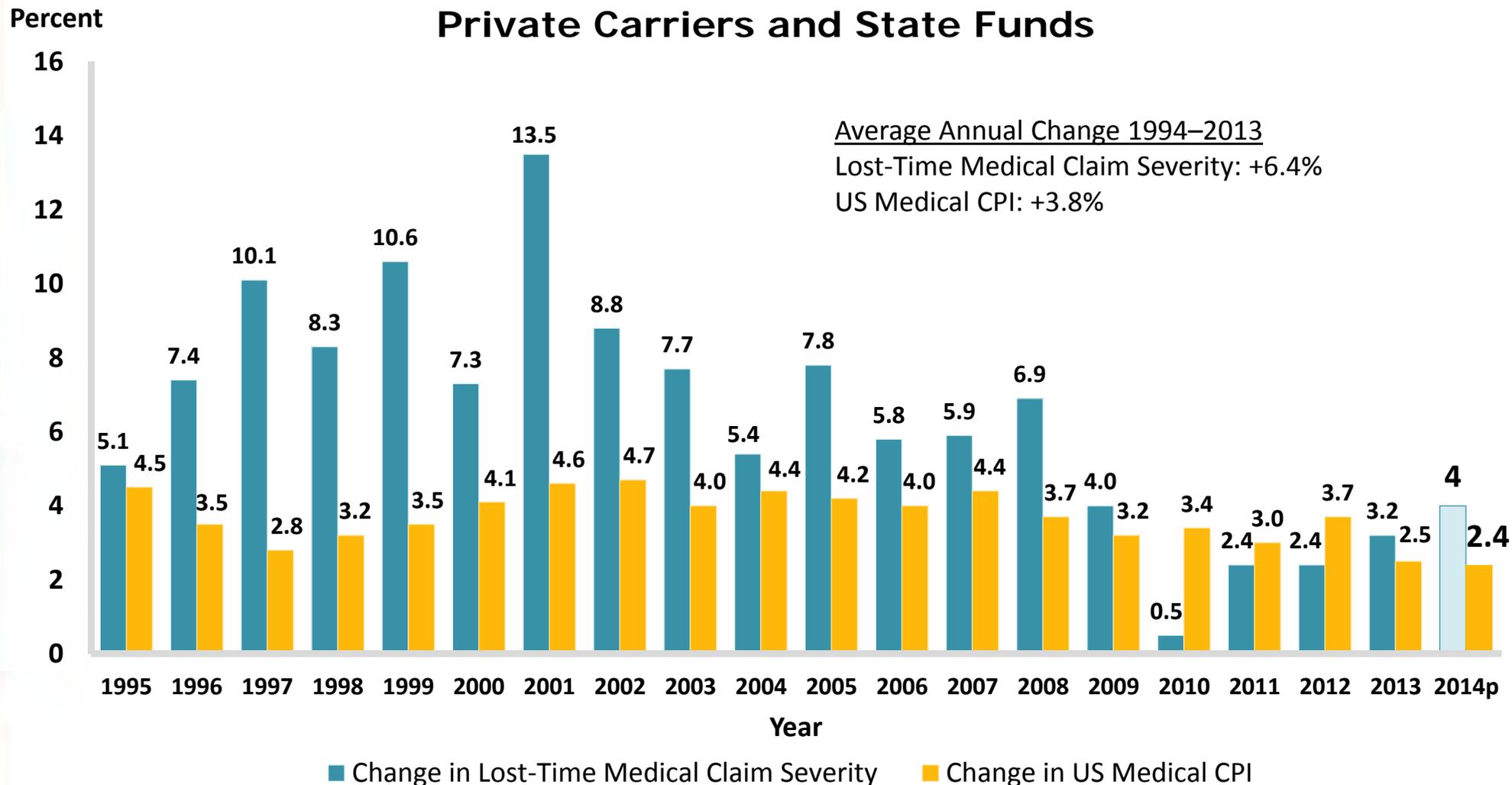
Source: NCCI Financial Call data, developed to ultimate; excludes high deductible policies

1994–2013: Based on data through 12/31/2013

For all states where NCCI provides ratemaking services, excluding WV

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WC Change in Medical Severity Comparison to Change in Medical Consumer Price Index (CPI)



p Preliminary based on data valued as of 12/31/2014

Sources: Severity: NCCI Financial Call data, developed to ultimate; excludes high deductible policies

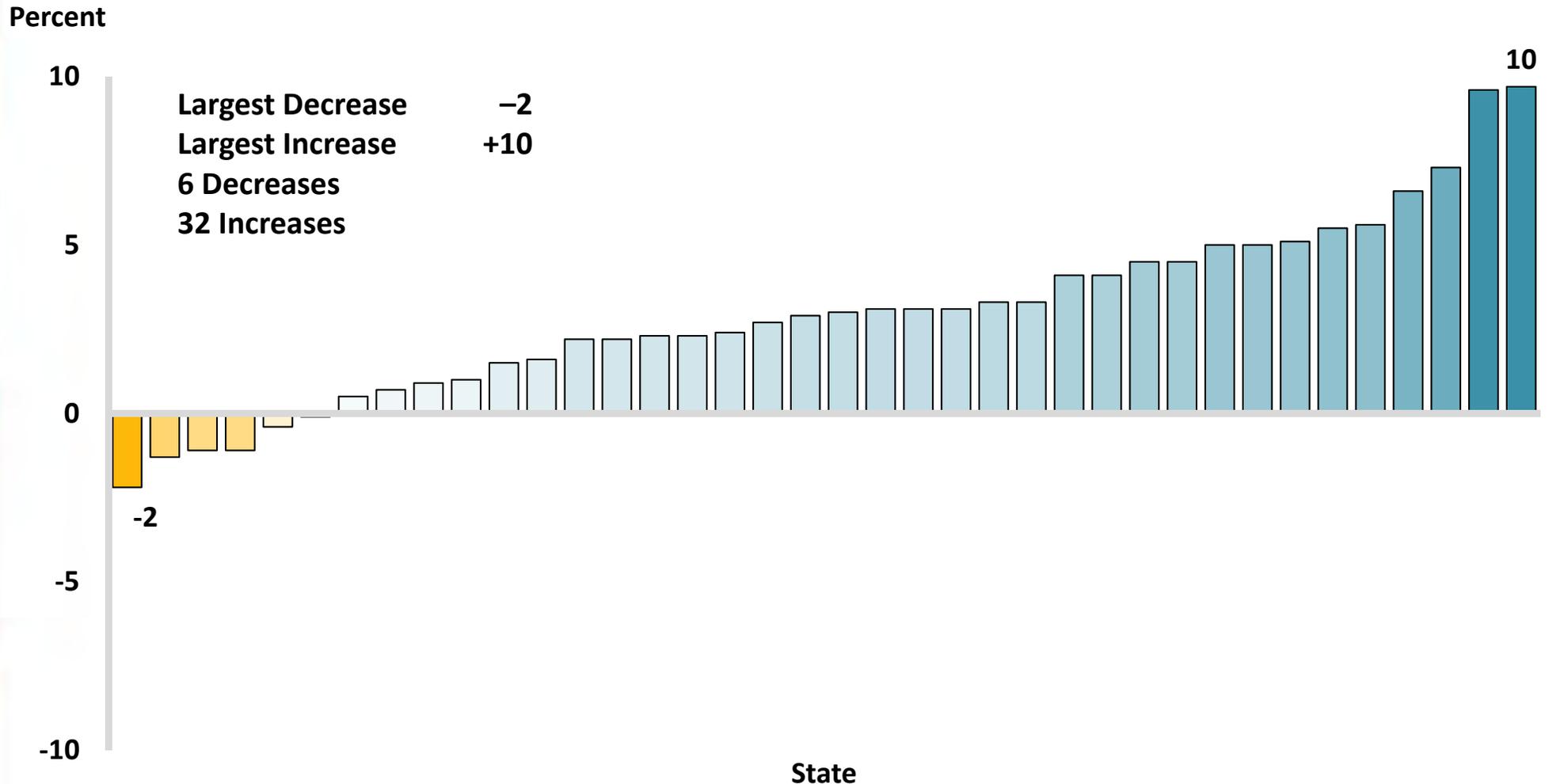
1994–2013: Based on data through 12/31/2013

US Medical CPI: US Bureau of Labor Statistics

Severity: For all states where NCCI provides ratemaking services, excluding WV

WC Change in Medical Claim Severity by State

Average Annual Change 2009-2013



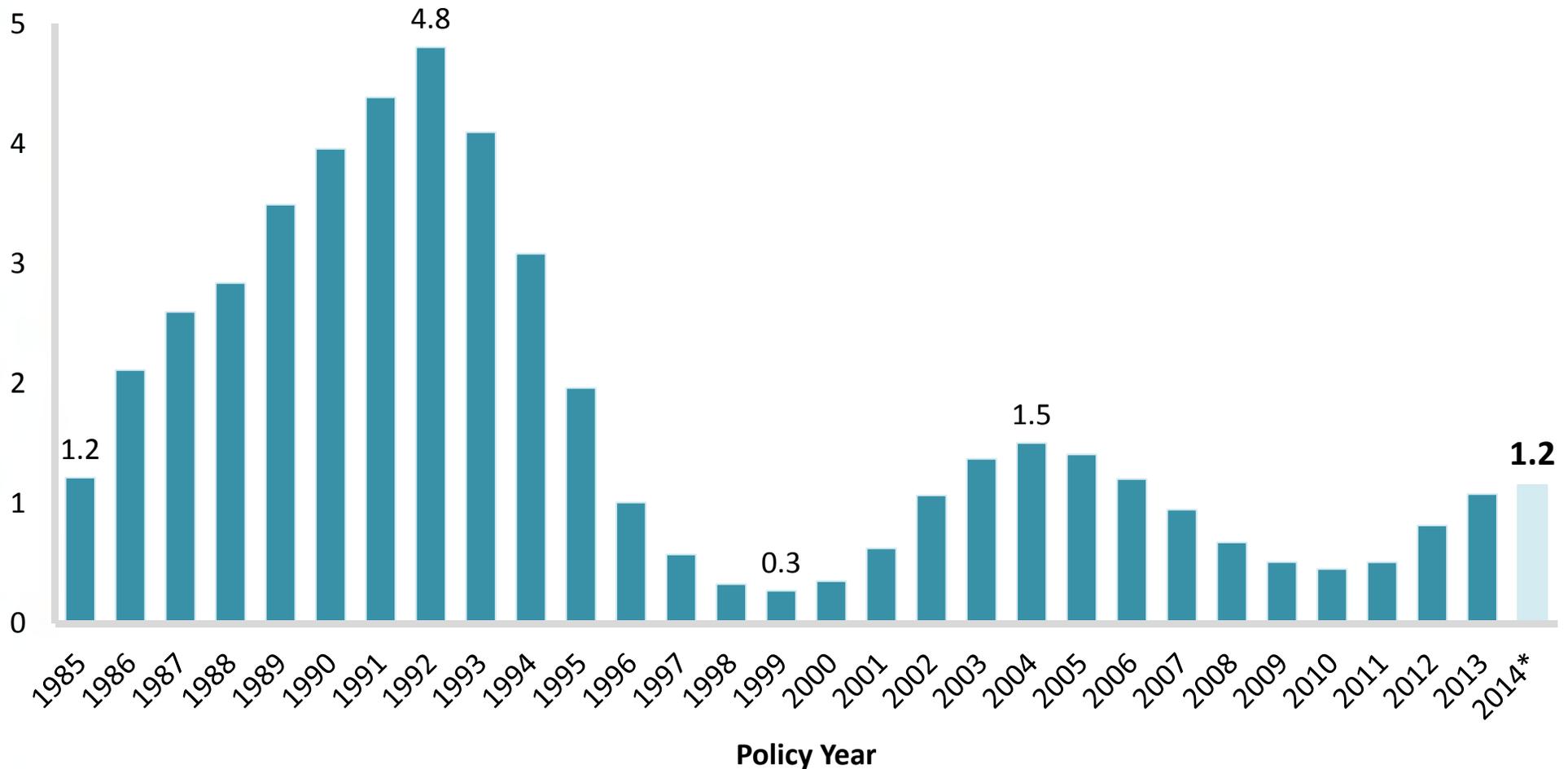
Source: NCCI's Analysis of Frequency and Severity of Claims Across the Country as of 12/31/2013 on ncci.com
 Values displayed reflect methodology and state data underlying the most recent rate/loss cost filing
 TX change includes 2010-2013

Workers Compensation Residual Market

WC Residual Market Premium

NCCI -Serviced WC Residual Market Pools

\$ Billions

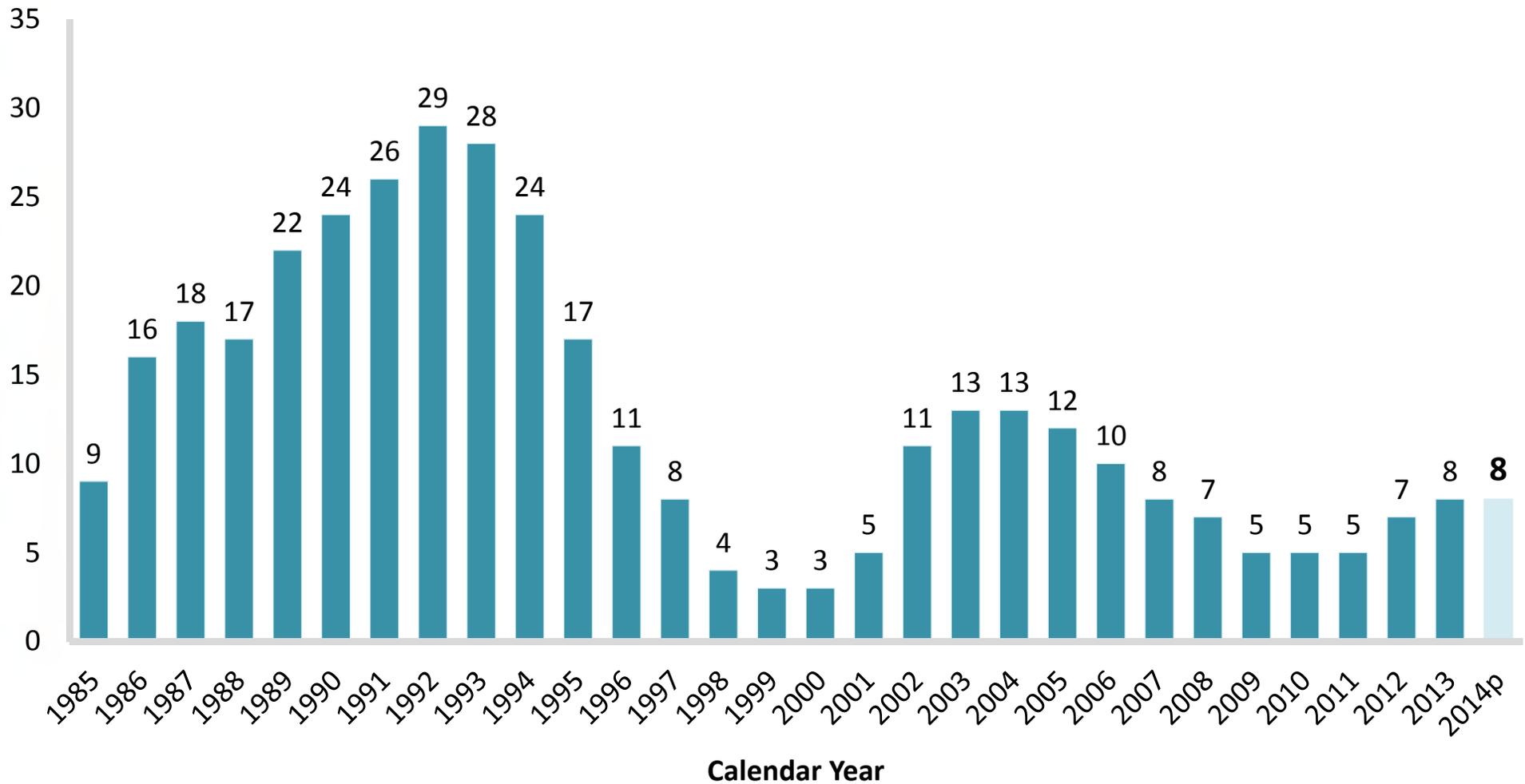


*Incomplete policy year projected to ultimate
 Includes pool data as of 12/31/2014 for all NCCI-serviced WC residual market pool states
 Source: NCCI, *Residual Market Quarterly Results*

WC Residual Market Share

NCCI -Serviced WC Residual Market Pools

Percent



p Preliminary

Includes pool and direct assignment data for all NCCI-serviced WC residual market pool states

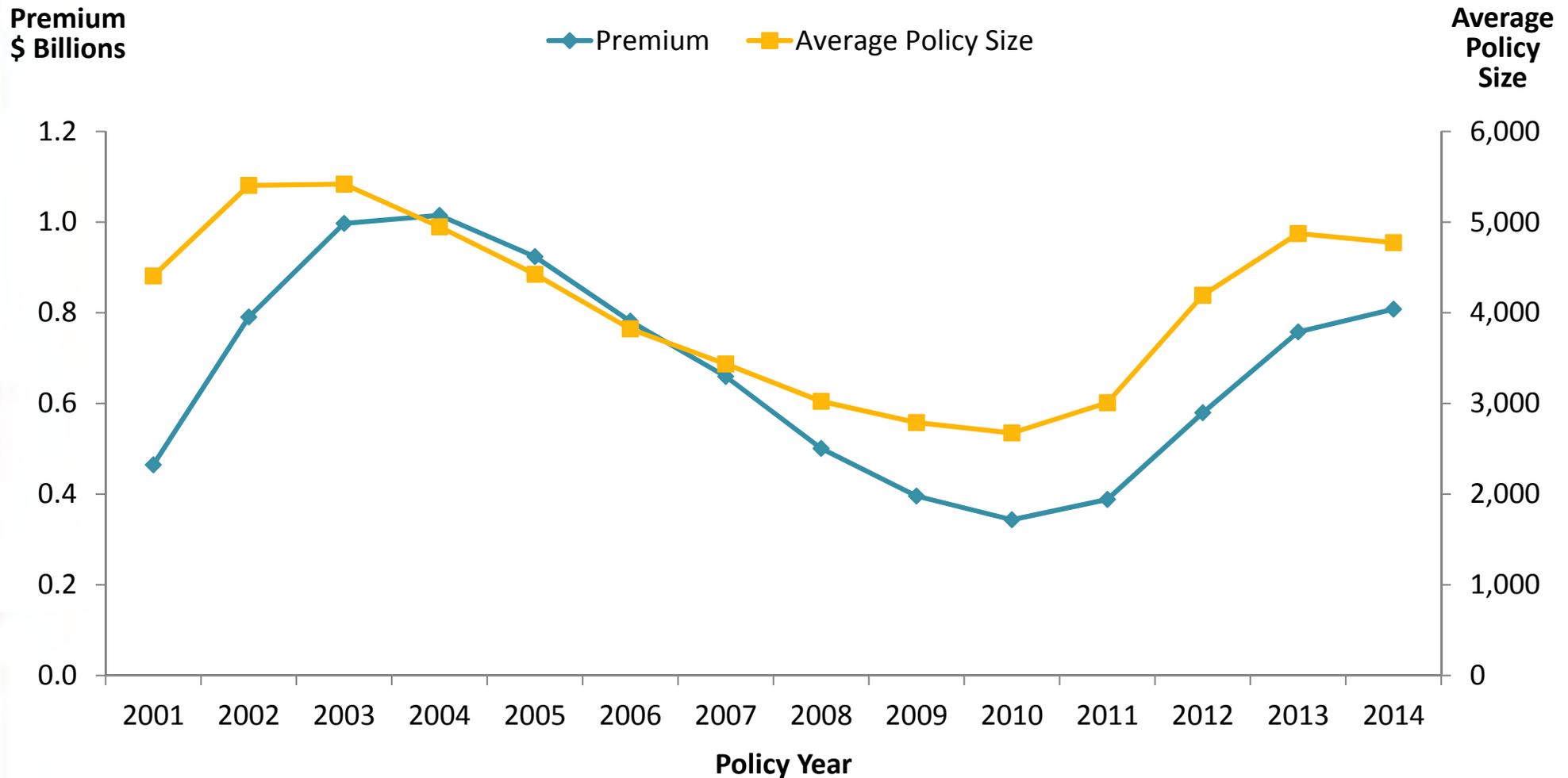
Source: NCCI, **Residual Market Management Summary**

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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

Size of Risk	Q1 2014	Q1 2015	Change
\$ 0 – \$ 2,499	\$ 28.5M	\$ 30.1M	6%
\$ 2,500 – \$ 4,999	\$ 16.6M	\$ 17.1M	3%
\$ 5,000 – \$ 9,999	\$ 24.0M	\$ 24.4M	2%
\$ 10,000 – \$ 49,999	\$ 73.5M	\$ 68.4M	-7%
\$ 50,000 – \$ 99,999	\$ 30.2M	\$ 28.6M	-6%
\$ 100,000 and Over	\$ 50.0M	\$ 38.4M	-23%
Total	\$ 222.9M	\$ 206.9M	-7%

Total estimated annual premium

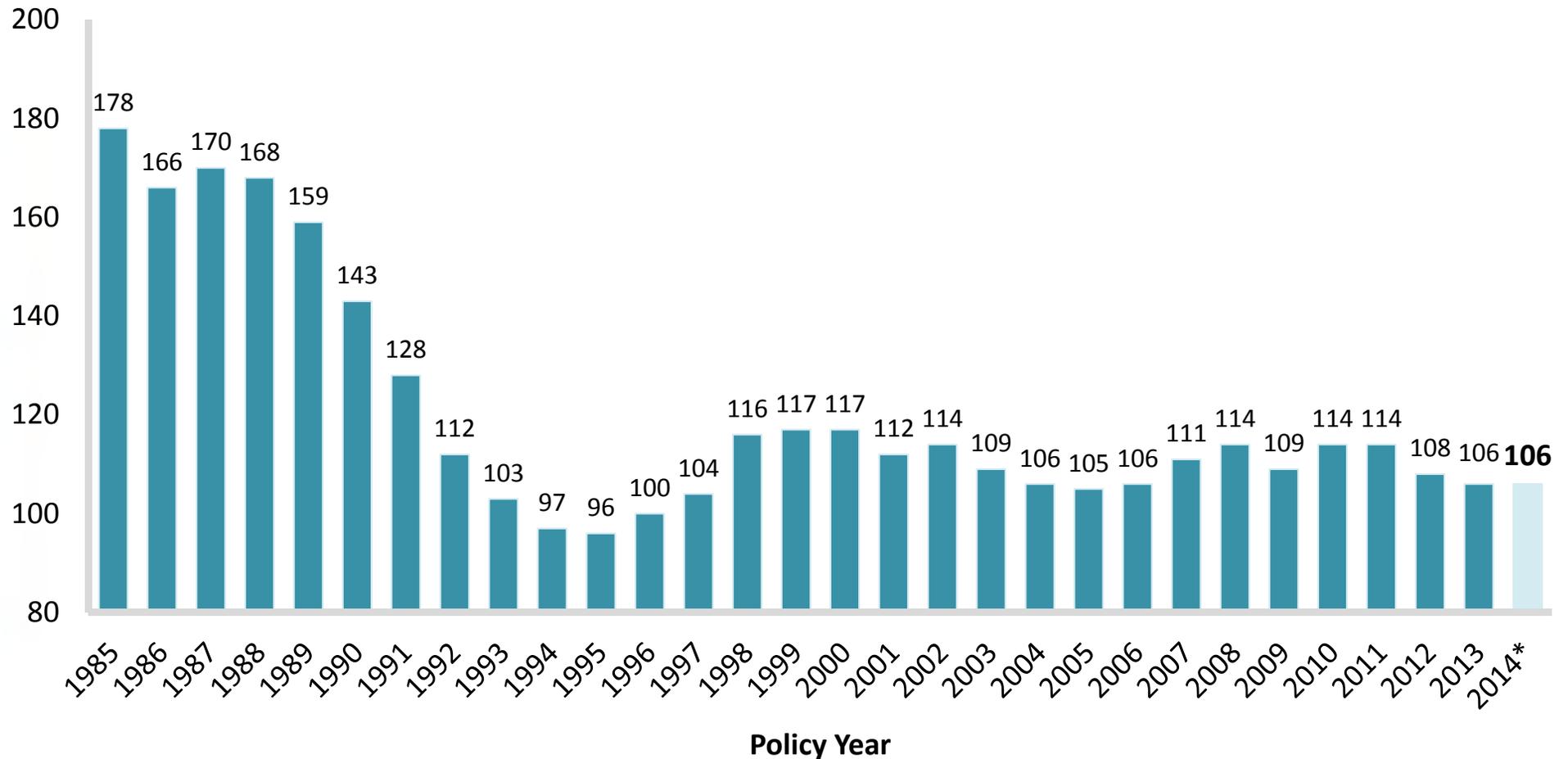
Includes pool and direct assignment data for all NCCI-administered WC residual market plan states

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WC Residual Market Combined Ratio

NCCI-Serviced WC Residual Market Pools

Percent

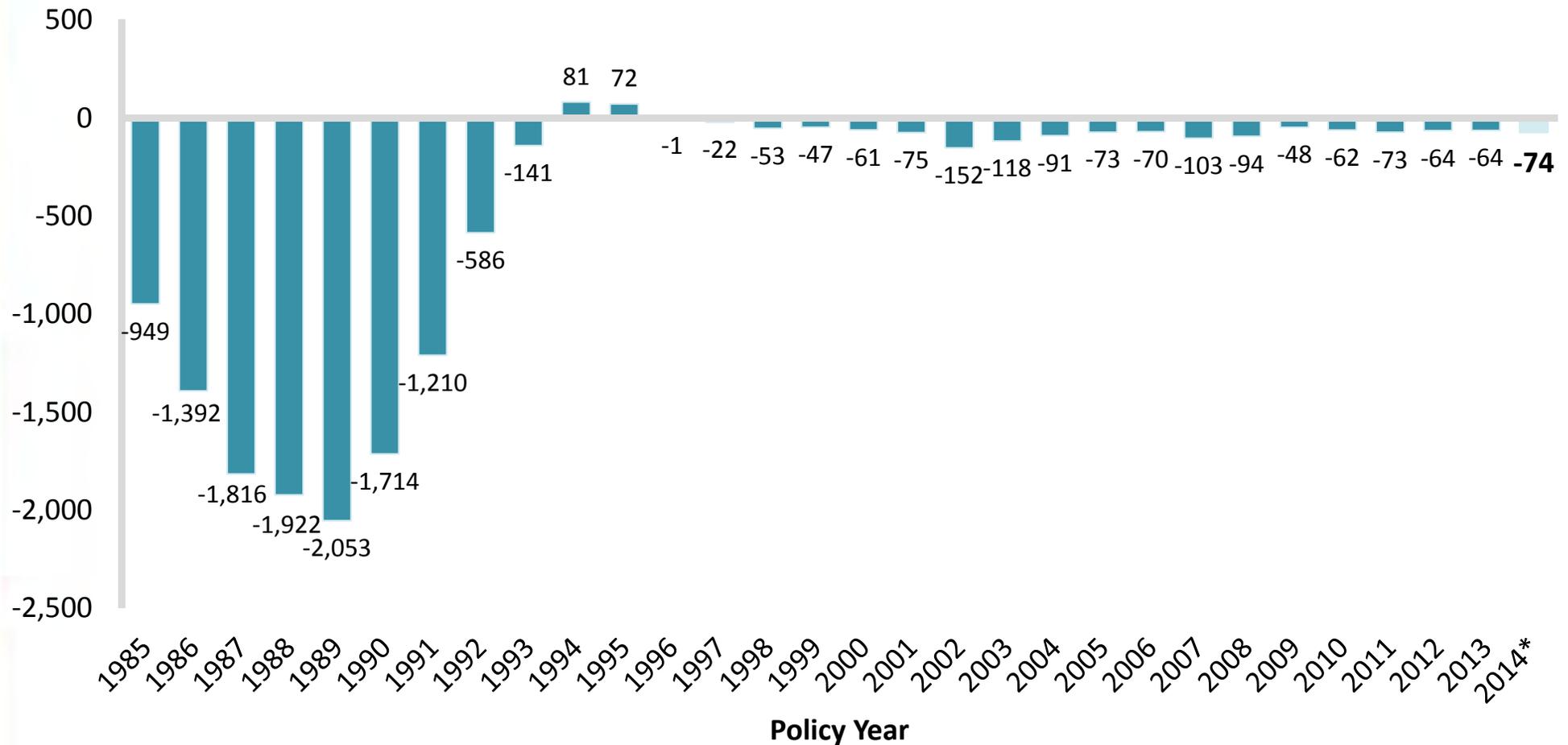


*Incomplete policy year projected to ultimate
 Includes pool data as of 12/31/2014 for all NCCI-serviced WC residual market pool states
 Source: NCCI, *Residual Market Quarterly Results*

WC Residual Market Underwriting Results

NCCI-Serviced WC Residual Market Pools

\$ Millions



*Incomplete policy year projected to ultimate
 Includes pool data as of 12/31/2014 for all NCCI-serviced WC residual market pool states
 Source: NCCI, *Residual Market Quarterly Results*

Concluding Remarks

NCCI Highlights

- Indexing the Experience Rating Premium Eligibility Thresholds
- The Impact of Claimant Age on Late-Term Medical Costs (*October 2014*)
- Medicare Set-Asides and Workers Compensation (*September 2014*)
- The Price Impact of Physician Fee Schedules (*April 2014*)

Preview—Today's Research Breakout

- State Differences in the Treatment of Joint Injuries
- The Impact of Workers Compensation Rx Fee Schedules
- Time From Injury to Treatment in Workers Compensation
- Reporting Lag and Claim Severity

Questions and More Information

Meet the Experts—Immediately following this session.

Questions on the State of the Line presentation?
Email us at stateoftheline@ncci.com.

Download the complete presentation materials and watch a video overview of the State of the Line at **ncci.com**.