

**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)**



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Date Submitted: October 20, 2004

**REPORT TO THE LEGISLATURE ON ACT 796 OF 1993
THE STATE OF THE WORKERS' COMPENSATION MARKET
FOR YEAR ENDING 2003**

Previous reports to the Legislature have discussed in great 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 as a result of Act 796.

Arkansas continues to enjoy a competitive workers' compensation market with the lowest premium levels in decades.

In 2003, Arkansas had a combined loss ratio of ninety-six percent (96%) which is among the lowest of any state for which Arkansas's statistical agent, the National Council on Compensation Insurance ("NCCI"), compiles loss data. NCCI filed for small increases in both the voluntary market loss costs (0.5%) and assigned risk plan rates (5.1%). Due to several factors and trends in the industry, we expect to see continued hardening of the Arkansas market. These factors include 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 (10) 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 2000 saw our first increase in the assigned risk plan rates while experiencing a decrease in the voluntary market. In 2002, Arkansas had the lowest loss costs in the region (1.30) compared to the regional average loss of 2.14 and the countrywide average loss costs of 2.23. There are still positive effects from this Act that benefit Arkansas employers. However, some of the changes are showing diminishing restraint on rates as reflected in recent rate filings.

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%

PAYROLL AND EXPERIENCE MODIFIER

Reported payroll in Arkansas continues to increase while premiums for insureds continue to decrease. The average experience modifier has decreased minimally (0.94 to 0.90). This change in experience modifier could represent the continuing effectiveness of loss control measures and the impact of the Hazardous Employer Program operated by the Health and Safety

Division of the Workers' Compensation Commission. Please refer to Exhibit "A" for additional statistical information regarding premiums and modifiers.

ASSIGNED RISK PLAN

The assigned risk plan has seen a consistent history of decline in population since the passage of Act 796 until the last 2 years. Down from a record high of \$150,000,000 in 1993, to a low of \$6,566,275 in September 2000, the premium volume as of December 31, 2003 increased to \$ 24,301,041. This is a slight, but potentially important, increase. The increase in premium in the assigned risk plan is in part attributable to the failure of several insurers domiciled in California and other states. In addition, a portion of the increase may be attributable to an increase in plan population of small premium employers who have premiums too low to be attractive to the competitive market. In essence, their premiums are less than the minimum premium for which coverage is offered in the voluntary market. These companies may often get better rates through the plan; consequently small premium employers constitute approximately 50% of the plan premium volume. In addition, the insurance companies are tightening their underwriting decisions for employers with higher losses or higher risk class codes.

For those employers qualifying for voluntary coverage, cost savings have been substantial. According to the National Council on Compensation Insurance, price discounting by voluntary carriers reached record levels of 24% during 1999. Carriers pulled back on the discounting in 2000 to 14.7% and as anticipated, they were further reduced to -0.9% in 2002.

PLAN ADMINISTRATION/SERVICING CARRIERS

Prior reports have concluded that many of the Plan problems and agent/insurer complaints were the result of the failure of the Plan Administrator, the National Council on

Compensation Insurance (NCCI) to carefully monitor plan activity and promptly respond to requests for assistance by agents/insureds. The NCCI is an “Advisory Organization” licensed in Arkansas to assist its member insurers with respect to rate making and data collection activities. Currently, Arkansas is chairing a multi-state exam task force of NCCI which has completed oversight of the implementation of several reforms to improve service and data quality of the organization. The Department and the task force continue to work closely with NCCI to correct service related problems. The location of an office in Little Rock (mandated by 1993 legislation) resolved many of the service problems and has provided Arkansas agents and insureds easy, immediate access to responsive company personnel. The effectiveness of this office can be measured in the reduction of the number of complaints received by the Insurance Department and the reduced number of appeals which ultimately reach the Appeals Board. The one (1) full-time employee and the one (1) part-time employee of the office are knowledgeable and committed to providing excellent service.

Effective July 1, 2003, the Commissioner re-appointed NCCI as Administrator for the Arkansas assigned risk plan until at least July 1, 2006. Arkansas 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. 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. Overall, the examination found concerns about statistical reporting and error correction. While those concerns are being remedied, they were never significant enough to affect the overall reliability of the data reported by the NCCI.

Attached as Exhibit “B” is a report entitled *Arkansas Residual Market 1st Quarter 2004 Status Report* and Exhibit “C” entitled *Arkansas Residual Market Annual 2003 Status Report*

prepared by the NCCI setting out, among other things, detailed information on risk profiles such as average premium size, top ten (10) classifications by code and by premium, and a list of contacts within NCCI for specific areas of concern.

NCCI has also implemented a program which allows, at no charge to the agent, the option to submit assigned risk applications online. Upon successful submission, this allows the customer to immediately receive a confirmation code and application identification number for reference. There are significant savings to the plan when the applications can be processed electronically. Arkansas agents have been extremely responsive to this initiative.

The Annual Servicing Carrier Performance Review conducted by NCCI reveals either “Commendable” or “Satisfactory” scores for all areas for Arkansas’s servicing carriers. For the period commencing January 1, 2000, through December 31, 2003, the servicing carriers were Travelers Indemnity Company and Liberty Insurance Corporation. Due to the increased growth in the assigned risk plan, the number of carriers was increased to four (4). After evaluating the bids submitted as a result of a RFP, for the period January 1, 2004 through December 31, 2006 the servicing carriers selected were Travelers Indemnity Company and Liberty Insurance Corporation, Union Insurance Company and Companion Property and Casualty Company.

SUMMARY OF INSURANCE DEPARTMENT’S FRAUD INVESTIGATION UNIT

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 created the Workers’ Compensation Fraud Investigation Unit and made any type of fraud committed within the workers’ compensation system a Class D felony (maximum 6 years and/or \$10,000 fine).

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 in regard to the detection and prevention of workers' compensation fraud.

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.

Annual referrals to the Workers' Compensation Fraud Investigation Unit have been reduced significantly since its first year of operation. This reduction is attributed to increased enforcement efforts under the Act. The current number of referrals is slightly below the previously predicted per year range of approximately 100-115; however, worsening economic conditions justify continuing the predicted range. Any lessening of the Unit's diligent enforcement will likely result in a re-emergence of both frequency and severity of fraud committed by employees, employers, and healthcare providers.

Act 743 of 2001 significantly enhanced the efficiency and effectiveness of the Unit by granting its investigators certified law enforcement authority. The Unit can now execute arrest warrants and reduce the backlog of warrants that were awaiting service by local law enforcement agencies.

<u>Insurance Fraud Investigation Division</u>		<u>August 26, 2003</u>
Workers' Compensation Fraud Investigation Unit Activity Report		
		Unit Totals
	<u>9/1/2002-8/31/2003</u>	<u>(Since 10/93)</u>
Investigation Opened	77	1613
Employee	68	1225
Employer	8	319
Third Party	1	69
Case Referred for Prosecution By Legal Section	5	147
Employee	3	117
Employer	1	17
Third Party	1	13
Prosecutions Won	3	98
Employee	2	75
Employer	1	14
Third Party	0	9
Prosecutions Lost	0	3
Employee	0	3
Employer	0	0
Third Party	0	0
Fine/Cost	\$450.00	\$179,848.34
Restitution	\$13,405.70	\$420,940.38

2003 LEGISLATIVE ACTIVITY WITH REGARD TO WORKERS' COMPENSATION

The Legislature was in general session during 2003 and there was some legislation affecting workers' compensation insurance.

Act 468 allows a waiver of the requirement for Group Self insurers to maintain excess insurance under the workers' compensation law, and for other purposes.

Act 507 is an act to amend the Arkansas local police and fire retirement system to include workers' compensation benefits in final average pay for the purpose of calculating the amount of an annuity for disability retirement, and for other purposes.

Act 1237 amends Ark. Code Ann. § 11-9-102 to include an adverse reaction to smallpox vaccine in the definition of compensable injury, and for other purposes.

Act 1750 is an act to regulate professional employer organizations; to provide certain exemptions from registration requirements for these organizations; to require a professional *employer organization* to maintain certain financial standards for these organizations; to designate certain records as confidential; to allocate rights, duties and obligations under professional employer Agreements; to require workers' compensation coverage; and for other purposes.

Act 1790 is an act to require that notices concerning increases in premiums or deductibles, or notices of renewal or nonrenewal, be sent to agents and to insureds carrying certain property and casualty insurance policies before the renewal date; and for other purposes.

RECENT COURT DECISIONS

Arkansas Supreme Court

South Central Arkansas Elec. Co-op. v. Buck, 354 Ark. 11, 117 S.W.3d 591 (2003).

The Claimant, a utility lineman, sustained head and leg injuries on April 3, 1999, when a motor vehicle driven by a third-party struck him as he attempted to restore power to Nevada County residents following a thunderstorm. The Claimant thereafter filed suit against the 3rd party and a jury found that he had sustained damages in the amount of \$80,000.00, reduced to \$48,000.00 by an application of comparative fault. Following the trial, the Claimant's attorney initially indicated that he was going to pay the Respondents \$17,351.19 in satisfaction of their statutory

lien. However, the Claimant's attorney subsequently notified the Respondents that he would not be turning over any of the proceeds because his client had not been made whole as discussed in *General Accident Ins. Co. v. Jayes*, 343 Ark. 143, 33 S.W.3d 161 (2000). The Respondents thereafter filed a motion with the trial court seeking enforcement of their lien rights under Ark. Code Ann. § 11-9-410 (Repl. 2002). The court declined to enforce the Respondents' lien since it felt that the Claimant had not been "made whole" by the jury verdict. On appeal, the Respondents argued that the "made whole" doctrine as set out in *Jaynes* should not apply since that case involved an injury that occurred prior to July 1, 1993, and that its lien rights under Ark. Code Ann. § 11-9-410 were absolute in light of the strict construction mandate put into effect by Act 796 of 1993. Alternatively, the Respondents argued that the amount of money chosen and awarded by the jury did, in fact, make Buck whole. The Supreme Court did not agree with either of the Respondents' arguments, pointing out that it had relied on the 1996 version of Ark. Code Ann. § 11-9-410 when deciding the *Jaynes* case and noting that the General Assembly had not changed the statute since then. In sum, the Court re-affirmed *Jaynes*, holding that a workers' compensation carrier's lien under Ark. Code Ann. § 11-9-410 does not arise until and unless a claimant has been "made whole." The Court further determined that the Claimant only received \$48,000.00 of his \$80,000.00 in damages, of which he retained \$26,026.67 following deduction of attorney's fees and costs. Since this amount -- even when coupled with the compensation paid by the Respondents -- did not equal or exceed the Claimant's damages, the Court found that he had not been made whole and that the Respondents' lien interest had not arisen. Finally, the Court declined to hear the Respondents' argument regarding the Claimant's comparative fault since that issue had not been raised at the hearing.

Arkansas Court Of Appeals

(Date of Opinion, Docket Number, and Westlaw citation are provided where official Arkansas or Southwest Reporter citations are not yet available.)

Daniels v. Arkansas Waffles, Inc., 83 Ark. App. 106, 117 S.W.3d 653 (2003). In one of several published cases that addressed the issue during FY 2004, the Court of Appeals affirmed the Workers' Compensation Commission's finding that the Claimant had not been performing "employment services" at the time of an alleged work-related injury on September 28, 1999. In particular, the Court noted that both the Claimant's manager and the person in charge when the accident occurred, Ms. Haynes, had testified that the Claimant was not supposed to be working that day. Ms. Haynes further testified that she had told the Claimant she was not needed and could go home and that, when the Claimant returned a second time, she reminded the Claimant not to be on the floor when she was not working. Although the Claimant's own testimony conflicted with these accounts to some extent, the Court noted that it was the Commission's function to determine the weight and credibility of the evidence and did not disturb its findings.

Death & Permanent Disability Trust Fund v. Anderson, 83 Ark. App. 230, 125 S.W.3d 819 (2003). In this instance, the Arkansas Court of Appeals took up a question of interpretation surrounding the term "full-time student" as it pertained to dependency benefits under Ark. Code Ann. § 11-9-527(d)(2) (which pertains, in part, to full-time students between the ages of 18-24). The more particular question at issue was whether dependency payments for a "full-time student" should extend into the summer break period when the student was not attending classes or otherwise did not meet the educational facility's own handbook definition of a "full-time student." Noting that a "traditional approach to education consists of a school year that excludes summer attendance," and refusing to speculate that the General Assembly intended to restrict the term "full-time student" to each individual school's handbook definition, the Court agreed with

the Commission's conclusion that dependency benefits should extend into the summer break period when an otherwise full-time student was not attending classes on a full-time basis.

Burris v. L&B Moving Storage, 83 Ark. App. 290, 123 S.W.3d 123 (2003). The Claimant appealed the Commission's denial of his claim for permanent and total disability benefits and associated award of a 20% wage loss disability (in excess of his 5% permanent anatomical impairment rating). The Respondents cross-appealed, in part, on the basis of the parties' trial-level stipulation that the carrier had extended an offer of vocational rehabilitation. However, since there was no corresponding evidence offered to indicate that the Claimant had actually refused to participate in or had otherwise waived a program of vocational rehabilitation, the Court agreed with the Commission's conclusion that wage-loss disability was not barred by Ark. Code Ann. § 11-9-505(b)(3). In essence, the parties' stipulation did not purport to "cover all rights and liabilities of parties in total and complete agreement" and could not, standing alone, bar a claim for wage loss disability. The Court also declined to disturb the Commission's findings with regard to the extent of the Claimant's actual percentage of wage-loss disability.

Gafford v. Cox, ___ Ark. App. ___, 129 S.W.3d 296 (2003). In a negligence action, Cox moved for and received a summary judgment against co-employee Gafford, who appealed on the basis that the exclusive remedy provision of Ark. Code Ann. § 11-9-105 should not apply. On July 2, 1999, both individuals were in a company vehicle driving to a service call when Cox allegedly failed to yield, leading to an accident in which Gafford was injured. Gafford filed suit against Cox, who in turn successfully moved for summary judgment on the basis that, at the time of the accident, he was carrying out the employer's duty to provide a safe workplace such that workers' compensation was Gafford's exclusive remedy. Reviewing prior case law, the Court stated that "currently we recognize that... Ark. Code Ann. § 11-9-105 extends immunity to the

employer's workers' compensation carrier and to co-employees if at the time of the injury they were performing the employer's duty to provide a safe workplace." Since the evidence reflected that Cox was training Gafford at the time of the accident and was transporting him to and from a worksite, the Court found that Cox was engaged in carrying out his employer's duty to provide a safe workplace and was therefore immune from suit.

Heptinstall v. Asplundh Tree Expert Co., ___ Ark. App. ___, 137 S.W.3d 421 (2003).

The Claimant worked as a tree trimmer and testified (along with his supervisor) that he routinely received scratches on his arm in the course of his employment. On November 6, 1999, the Claimant allegedly began to experience pain affecting his left arm and noticed some redness around one of his left arm scratches. Ultimately, the Claimant underwent surgery to alleviate symptoms associated with Staph A, which his treating physician felt had entered the body through the scratches on the Claimant's left arm. The Commission denied benefits on the basis that the Claimant had failed to meet the requirements of proving an occupational disease pursuant to Ark. Code Ann. § 11-9-601 et seq. Pointing out that the Claimant did not argue that he had acquired an occupational illness, the Court reversed and remanded the matter to the Commission for further findings of fact on whether the Claimant had proven that he sustained a compensable accidental injury under Ark. Code Ann. § 11-9-102(4)(a). In essence, the Court's perception was that the scratches on the Claimant's arm were the primary injury while the Commission had focused its analysis principally on the Staph A. From there, the Court went on to note the long-standing principle that "when the primary injury is shown to have arisen out of and in the course of employment, the employer is responsible for any natural consequence that flows from that injury." It is also interesting to note that the Court took issue with the Commission's comment that "an opinion stated in the term of possibilities is not sufficient to

satisfy the requirement that medical opinions be stated within a reasonable degree of medical certainty.” Relying on pre-Act 796 case law, the Court stated that “a finding of causation...does not need to be expressed in terms of a reasonable medical certainty when there is supplemental evidence supporting the causal connection.” This would at least appear to be inconsistent with Ark. Code Ann. § 11-9-102(16)(B), which requires that “medical opinions addressing compensability and permanent impairment must be stated within a reasonable degree of medical certainty.”

Dooley v. Automated Conveyor Systems, Inc., (Ark. App. Jan. 28, 2004; CA03-459; 2004 WL 161335). In this case involving a back injury, the Respondents sought an offset for benefits paid by the Claimant’s group health plan, for which the Claimant’s employer was self-insured with both employer and employee contributing to the plan. The Commission ultimately found that the Respondents were entitled to an offset under Ark. Code Ann. § 11-9-411 and that the Claimant’s constitutional challenge to the offset provision was without merit. The Claimant principally argued that the only reasonable construction of §11-9-411(a) was that the group health plan in question must be funded solely by the employer before an offset can occur. The Court did not agree with this approach, noting that the clear legislative intent of the statute was that a dollar-for-dollar offset be allowed to the compensation carrier when the Claimant has previously received benefits for a work-related injury from another insurance plan (regardless of whether such benefits were paid to the employee or directly to a provider). The Claimant also argued that allowing the offset effectively required him to contribute to the cost of his workers’ compensation benefits in violation of Ark. Code Ann. § 11-9-109. The Court likewise declined to accept this reasoning, pointing out that there had been no indication of an agreement by the Claimant to pay a portion of his employer’s workers’ compensation premium, nor was any

money withheld from his pay for such a purpose. The Court also rejected the Claimant's argument that Ark. Code Ann. § 11-9-411 contained inherent inconsistencies which prohibited an offset and likewise declined to accept the Claimant's constitutional challenge to the statute.

McKinney v. Trane Co., (Ark. App. Jan. 28, 2004; CA03-742; 2004 WL 161333). The Commission denied benefits for the Claimant's left knee injury of December 14, 2001, on the basis that he had not been performing employment services at the time of the accident. Specifically, according to the Commission, the Claimant "chose to jump over the tube sheeting to retrieve his soda so that he could go on his smoke break. This jump and landing did not occur at a time when the Claimant was performing employment activities." On appeal, the Court distinguished these facts from earlier cases in which employees who were on a break were deemed to have been performing employment services by pointing out that the Claimant, "on his way to a smoke break, was involved in nothing generally required by his employer and was doing nothing to carry out the employer's purpose; thus, the employer gleaned no benefit from his activities on break." The Court also rejected the notion that the Claimant was advancing his employer's interests by carrying out his union-negotiated employment contract, which included paid breaks among its terms.

Smith v. City of Ft. Smith, (Ark. App. Jan. 28, 2004; CA03-530; 2004 WL 161336). Respondent Employer maintained a temporary refuse dump on its premises that was occasionally relocated to the city landfill – an effort that the Claimant was carrying out on May 2, 2000. At that time, Respondent Employer also allowed employees to remove and use the refuse for their own personal use. Near the end of his shift on the day in question, the Claimant loaded some old "waste" gravel into his dump truck to take home for use in his driveway. Upon seeing a concrete block that he did not want being loaded into the dump truck by another employee, the Claimant

attempted to retrieve and discard the concrete block and sustained injuries as a result. The Commission found that this activity did not constitute employment services. The Court agreed, noting that while the removal of the waste may have advanced the Respondents interests to some degree, the “removal of it for his own personal use was not inherently necessary to his job. He could have spent the time removing it in appellee’s truck as he had been doing all day, and would not have been climbing up the truck to remove any specific waste he did not want.” The Court further pointed out that, at the particular time of the accident, it was not necessary for the Claimant to be loading gravel for any purpose since it was near the end of his shift and no further loads were going to the city landfill – “it certainly was not a necessary function for appellant to be loading the gravel for his personal use.”

Swearengin v. Evergreen Lawns, (Ark. App. Feb. 11, 2004; CA03-343; 2004 WL 242880). In yet another employment services case, the Commission denied a claim for benefits where the Claimant had been injured in an automobile accident while on his way home after dropping off a fellow employee. The Court agreed that the claim was barred by the “going and coming” rule and noted that the accident occurred after the Claimant had already taken home his co-worker (as a favor only), was “finished for the day,” and was “done with all [his] work.” Although the Court noted that there were some exceptions to the “going and coming rule,” it did not disturb the Commission’s finding that Respondent Employer had furnished a company vehicle to the Claimant solely as a gratuity and that none of the exceptions applied.

Systems Contracting Corp. v. Reeves, (Ark. App. March 3, 2004; CA03-826; 2004 WL 389471). In this instance, the Commission found that the Claimant had rebutted the presumption that his otherwise work-related accident was “substantially occasioned” by the use of illegal drugs (then codified at Ark. Code Ann. § 11-9-102(5)(B)(iv)(b) (Repl. 1996), now codified at

Ark. Code Ann. § 11-9-102(4)(B)(iv)(b) (Supp. 2003)). The Claimant worked as a welder who would meet his co-workers at Respondent Employer's shop each morning for transport to the work-site at a nearby location on the Arkansas River. The employees were not, at that time, prohibited from riding in the truck beds and their equipment, such as oxygen tanks, acetylene tanks, cutting torches and hoses were transported in an unsecured manner. The trip to the worksite also involved travel up and down a steep levee. During such a trip on August 14, 2001, the brakes failed on the truck in which the Claimant was riding (in the bed). As the truck accelerated, the Claimant and two other employees jumped from the bed in order to avoid an impending collision with dangerous equipment on board. Following a post-accident drug screen, the Claimant tested positive for marijuana metabolites and admitted to smoking marijuana the previous night. This, in turn, gave rise to the statutory presumption that the injury was substantially occasioned by the use of illegal drugs. The Commission, however, found that the Claimant had rebutted the presumption and awarded benefits. The Court agreed and noted with approval several circumstances relied upon by the Commission. These included testimony that there was nothing peculiar about the Claimant's appearance on the day of the injury and the fact that his actions in jumping from the truck were consistent with the conduct of two other employees.

Caffey v. Sanyo Mfg. Corp., (Ark. App. March 10, 2004; CA03-943; 2004 WL 434024). Here, the Commission found that the Claimant was performing employment services at the time of her accident, but had failed to present medical evidence of her injuries and had likewise failed to satisfy the "objective findings" requirement. On appeal, the Claimant argued that the sole issue to be tried at the hearing was the question of employment services. The essential facts of the claim were that on December 14, 2001, the Claimant had slipped and fallen within five feet

of clocking-in after walking through two guard stations for required identification purposes. Because these were required activities that directly advanced the employer's interests, the Court agreed with the Commission's finding that the Claimant was performing employment services at the time of her injury. However, since the record indicated that the sole issue tried before the Commission was that of employment services, the Court pointed out that it was erroneous to base a denial of benefits on a finding that was "not an issue or developed by the evidence." Accordingly, the Court reversed the Commission's findings with regard to the lack of objective medical evidence.

Dixon v. the Salvation Army, (Ark. App. April 28, 2004; CA03-843; 2004 WL 896667). In this case the Court reversed the Commission by determining that an implied contract of hire existed between the Claimant and Respondent Employer. In particular, the Claimant had entered a sixteen-week residential alcoholic treatment program with Respondent Employer and, in so doing, had signed a "Beneficiary Enrollment Form." This document purported to reflect the Claimant's agreement that Respondent Employer owed him no obligation, that he was not an employee, and that he had waived his right to sue Respondent Employer for any injuries he sustained while enrolled. Under the program, the Claimant was required to live on-site, attend church and morning devotionals regularly, attend AA meetings, and perform jobs as assigned. The Claimant's job duties were characterized as "work therapy" and the Beneficiary Enrollment Form classified them as "volunteer." The Claimant received \$7 weekly in pay with a \$1 per week increase up to \$20. Respondent Employer offered testimony that this payment was intended as a gratuity rather than compensation. The Claimant was injured in a forklift accident on August 24, 2001. The Commission denied the claim on the basis that the Claimant was not under any express or implied contract of hire at the time of injury. The Court considered the

case to be one of first impression and noted differing results among other jurisdictions that had been called upon to address workers' compensation liability as it pertained to the Salvation Army. The Court ultimately determined that an implied contract of hire did exist between the parties, in that the Claimant provided a benefit to Respondent Employer, was required to work as a condition of the program, was supervised by and was under the direct control of the Salvation Army, and was, in fact, ousted from the program when rendered unable to work due to his accident. With regard to the Beneficiary Enrollment Form and the Claimant's potential waiver of his employment status, the Court noted that "the mere fact that Dixon signed such an agreement does not defeat the substance of the parties' relationship."

Michael v. Keep & Teach, Inc., (Ark. App. March 31, 2004; CA03-978; 2004 WL 628838 and Ark. App. June 16, 2004; CA03-978; 2004 WL 1344937). In a case that hinged to a large extent on terminology, the Court of Appeals reversed the Commission's decision that the Claimant was not entitled to a 9% permanent anatomical impairment rating for a back injury sustained on August 24, 2001. Specifically, the Court held that the Commission erred in "not rendering a conclusion of law on the only issue presented by the parties: whether appellant proved entitlement to the permanent partial impairment rating." Though the Administrative Law Judge had identified the impairment rating as an issue to be litigated, the Court noted that the Administrative Law Judge's conclusion of law (adopted by the Commission) "specifically states that appellant failed to prove entitlement to *permanent disability or the need for treatment* because she did not prove that the compensable injury was the major cause thereof." (Emphasis added). Evidently, by couching the conclusion of law in terms of permanent disability rather than permanent impairment, the Commission implanted a flaw in its decision that essentially rendered it a nullity. The Court concluded by pointing out that it could not properly review the

case until the issue raised and litigated had been answered by the Commission, and also noted that the Commission's error was "made more evident because a finding of entitlement to disability is premature without appellant first proving entitlement to some impairment rating."

Parker v. Atlantic Research Corp.; (Ark. App. June 30, 2004; CA03-1362; 2004 WL 1465747). The Claimant sought benefits for an alleged gradual onset neck injury caused by rapid, repetitive motion. The Commission reversed the Administrative Law Judge's award of benefits on the basis that the Claimant could not, as a matter of law, meet the "major cause" requirement (for gradual injuries) by demonstrating that her pre-existing disc abnormalities were asymptomatic until gradually aggravated to a symptomatic status by her work-related activities. However, the Commission did find that the Claimant had met her burden of proof regarding rapid, repetitive motion and had also met the "objective findings" requirement due to the presence of muscle spasms (the Court noted that the record also indicated that the Claimant experienced some swelling of her hand). The Court reversed the Commission and remanded the claim, principally because it did not agree with the Commission's conclusion that "the major cause...requirement categorically cannot be established by a showing that an asymptomatic pre-existing condition became symptomatic, and thus required treatment, due to the work-related aggravation of that condition." The Court further pointed out that, in the event of a gradual injury, a claimant is "required to prove that the work-related injury is the major cause of the disability or need for treatment. But for the work-related injury in this case, there would have been no disability or need for treatment." Additionally, the Court appears to have given significant weight to the fact that the Claimant had otherwise satisfied the "objective findings" requirement due to the presence of muscle spasms and swelling, and also observed that the Claimant's treating physician had essentially opined that her work-related aggravation was the

major cause of her disability and need for treatment. Finally, the Court clearly agreed that the Claimant's work assignment was rapid and repetitive, and noted that the onset of her symptoms occurred less than a month after she was transferred to such activities.

FUTURE PROJECTIONS

While Arkansas has seen slight increases in the average medical cost per lost time claim, and a slight hardening of the market in general, Arkansas's market remains strong and competitive. The attached state of the industry report (Exhibit "D") graphically depicts the sound condition of Arkansas's marketplace. Surrounding states have not been quite so fortunate.

NCCI has warned that workers' compensation results are deteriorating countrywide. The NCCI points to a number of factors that are having a negative impact on the market:

- Lower earnings relating to investments
- Assigned risk applications continue to increase
- 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 could create duplicate remedies
- Reform roll-back proposals in recent state legislative sessions
- Increasing costs of medical benefits
- Increasing utilization of certain prescription pain medications

NCCI did point out one favorable development among the negatives. The incidence of workplace injuries has fallen sharply for the last 10 years and continues to decline. This means

fewer injured workers – the most valuable outcome imaginable for workers and their families, as well as for employers.

CONCLUSION

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

Arkansas 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. There is no question that 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 truly injured within the course and scope of their employment have received timely medical treatment and the payment of workers' compensation indemnity benefits. As Arkansas focuses on economic issues and job creation, it would be counter-productive to allow special interests to put their agenda ahead of those injured workers and insurance consumers by eroding the positive changes incorporated into Act 796.

Prepared: October 20, 2004

cc: The Honorable Mike Huckabee, Governor
The Honorable Olan W. Reeves, Chairman, AWCC
The Honorable Karen H. McKinney, Commissioner, AWCC
The Honorable Shelby W. "Terry" Turner, Commissioner, AWCC
Ms. Julie Bowman, Chief Executive Officer, AWCC
Ms. Lenita Blasingame, Deputy Commissioner, AID
Mr. Nathan Culp, Public Employee Claims Division Director, AID
Mr. Marty Nevrla, Insurance Fraud Investigation Division Director, AID



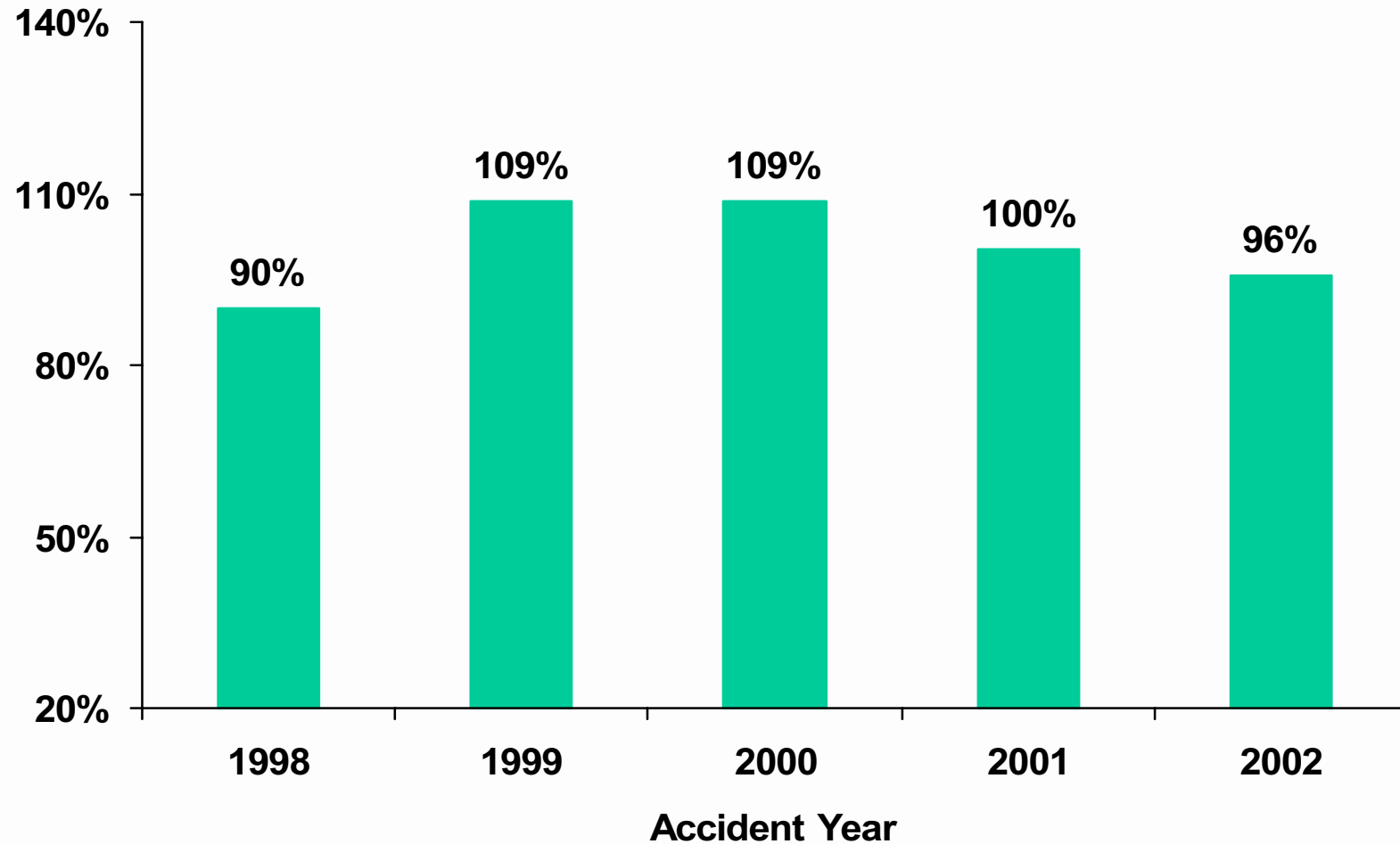
State of Arkansas



Arkansas Workers Compensation System— An Overview

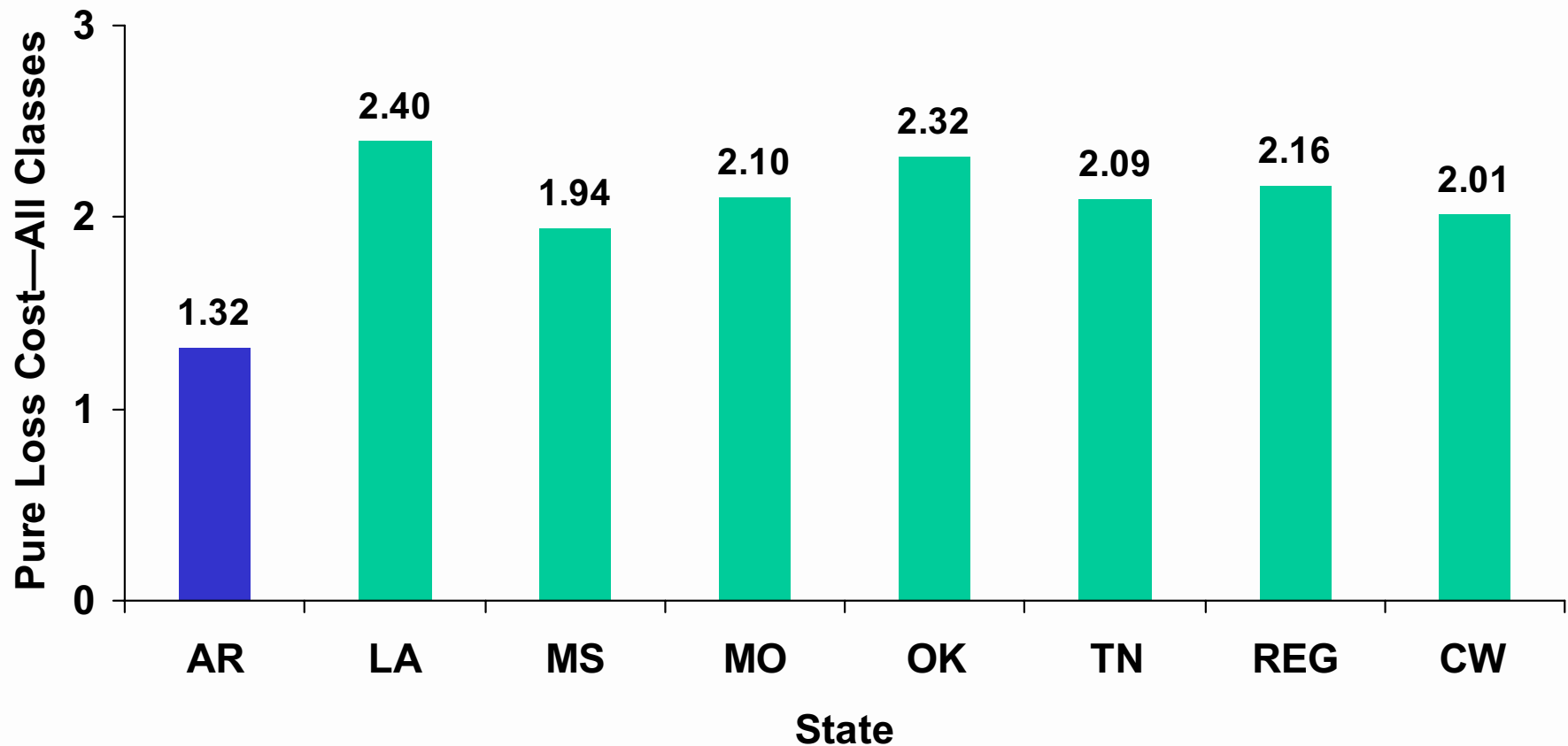
- One of the lowest combined ratios in the country
- Loss costs remain stable
- Lower than average indemnity claim costs
- Increasing medical costs
- Historically, less than average attorney involvement

Arkansas Accident Year Combined Ratios



Sources: NCCI financial data, NAIC Annual Statement data

Current Average Voluntary Pure Loss Costs Using Arkansas' Payroll Distribution



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



Arkansas' Top Five Class Codes Based on Statewide Payroll

1997

8810—Clerical (25.0%)

8742—Outside Sales (6.6%)

8832—Physician (4.9%)

8868—College (2.2%)

9082—Restaurant (2.0%)

2001

8810—Clerical (33.0%)

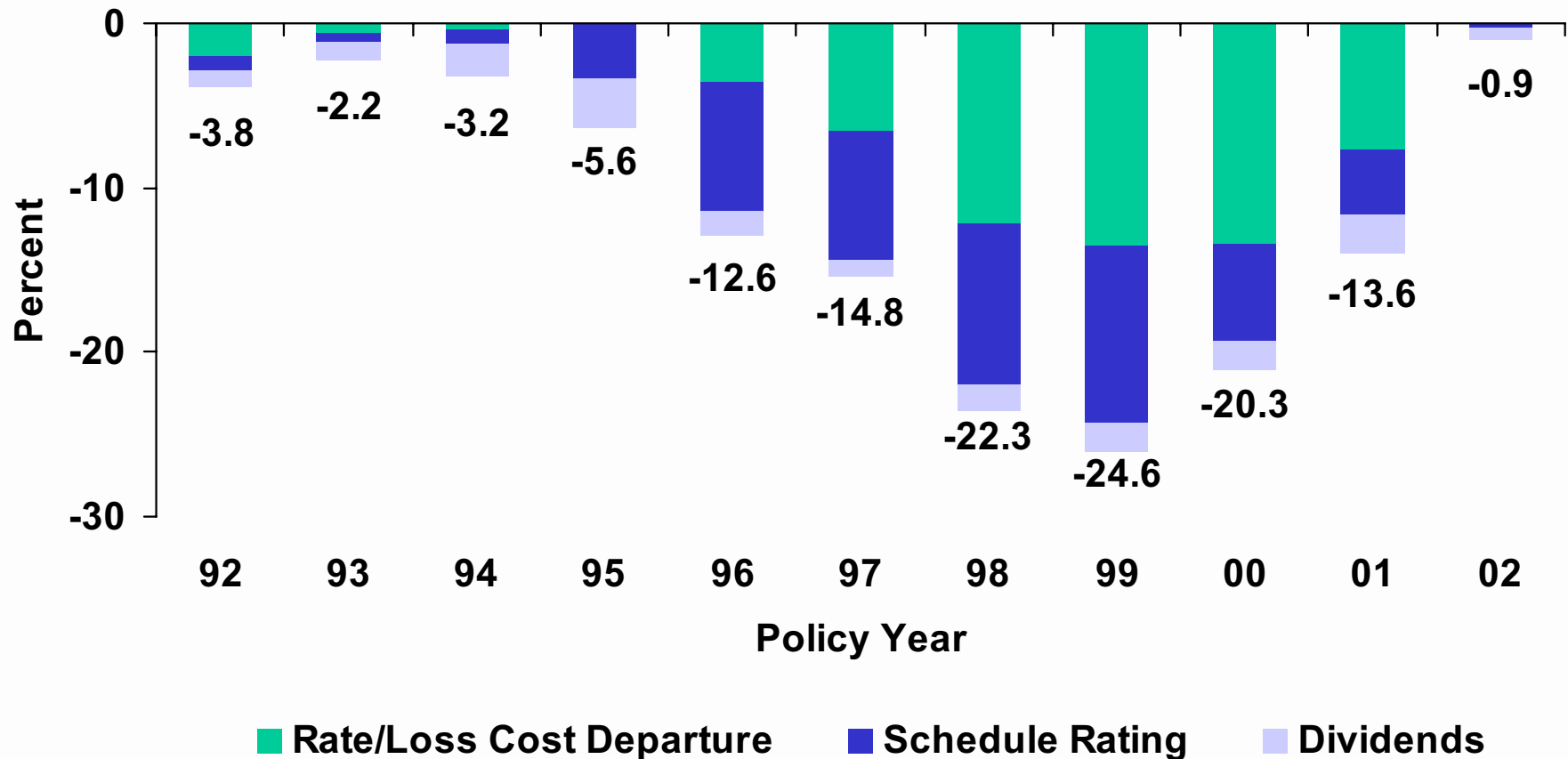
8742—Outside Sales (7.5%)

7229—Trucking (4.6%)

8833—Hospital (4.6%)

8832—Physician (3.4%)

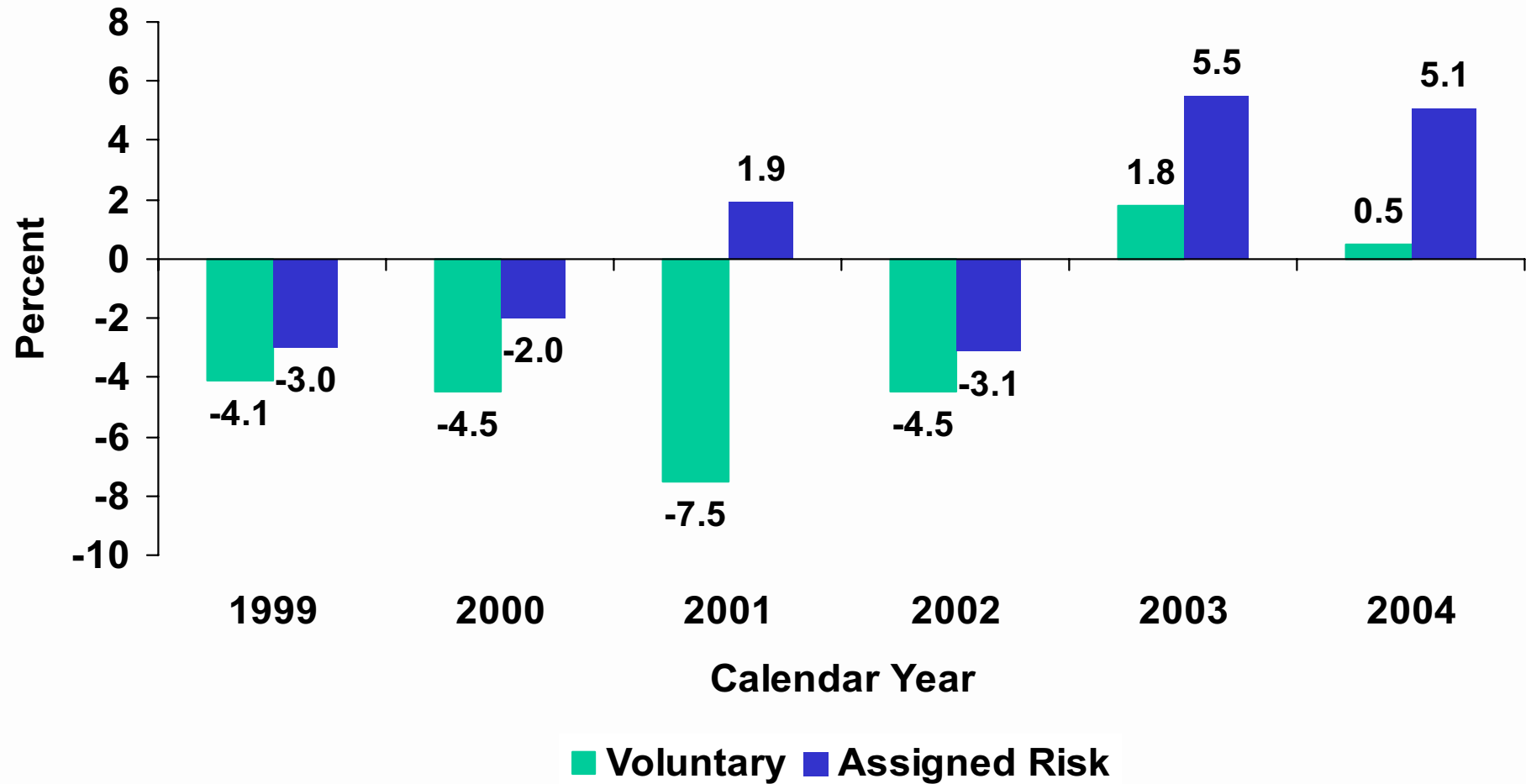
The Impact of Discounting on Premium in Arkansas



Based on data through 12/31/02.
 Dividend ratios are based on calendar year statistics.

Arkansas Filing Activity

Voluntary Loss Cost and Assigned Risk Rate Changes





Arkansas Loss Cost Filing July 1, 2004



Arkansas July 1, 2004 Loss Cost Filing

Overall Change in Loss Costs	+0.5%
------------------------------	-------

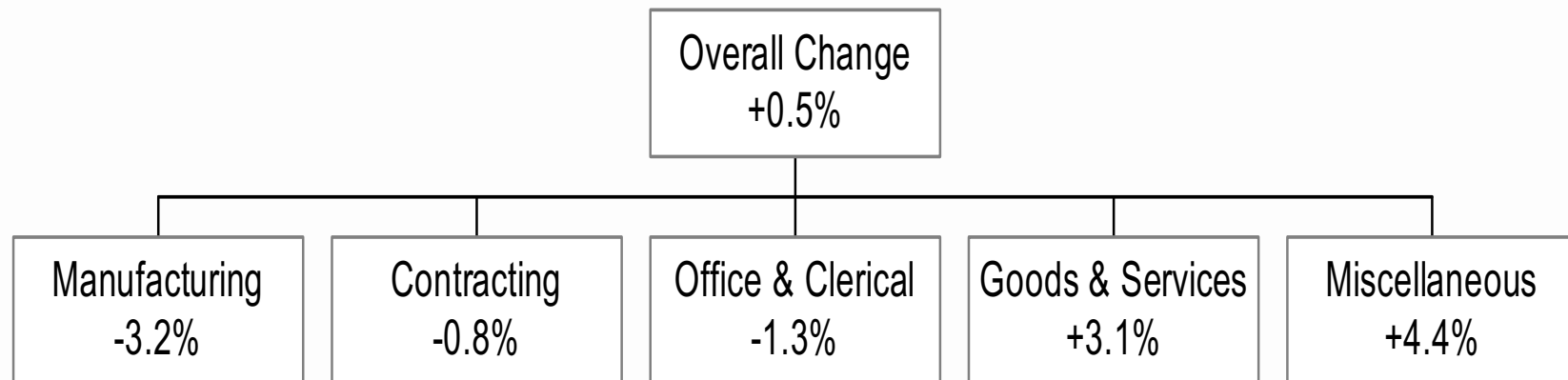
By Component

Change in Experience, Trend, and Benefit	+0.3%
--	-------

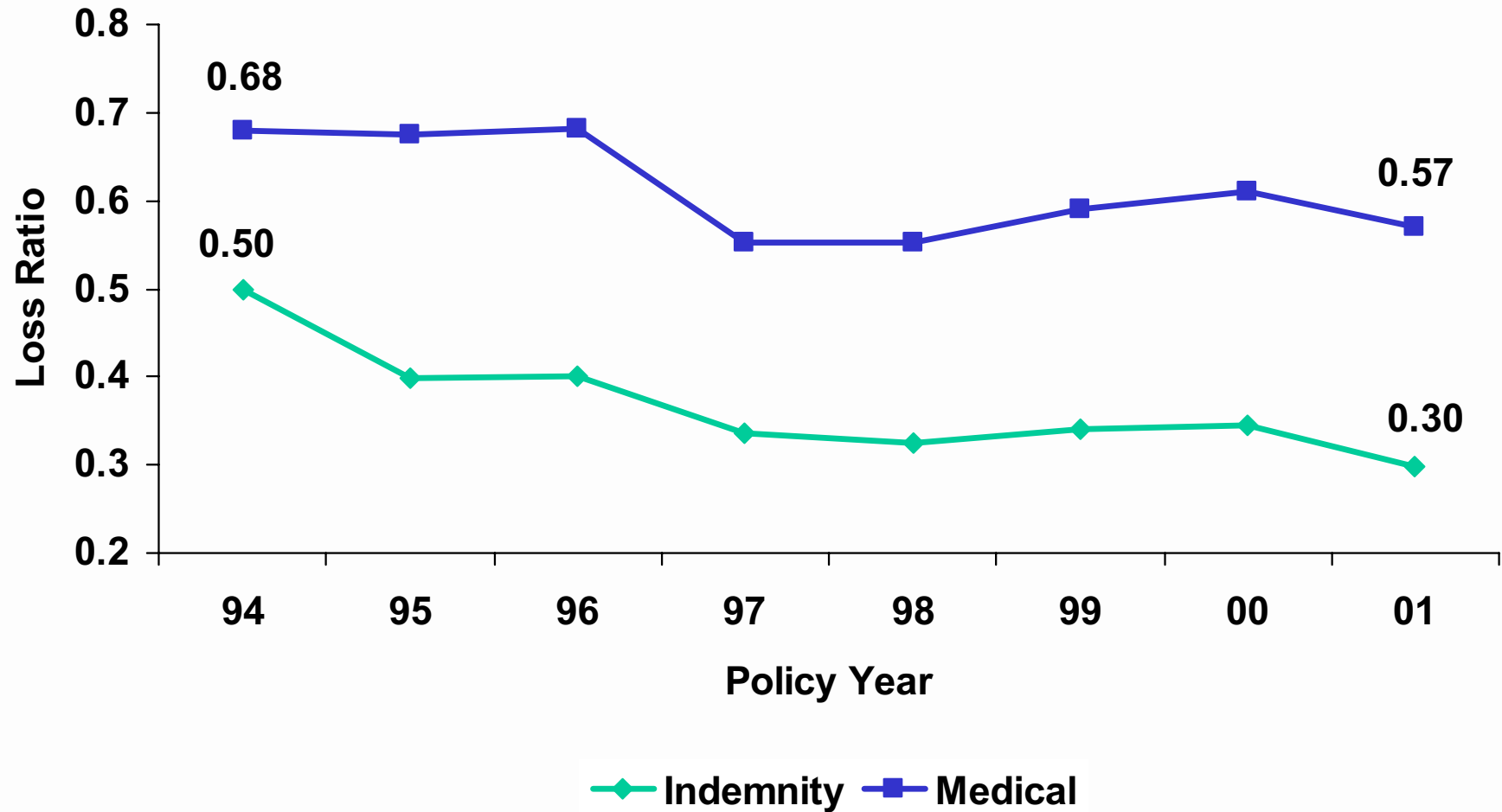
Change in Loss Adjustment Expense	+0.2%
-----------------------------------	-------

Arkansas July 1, 2004 Filing

Average Changes by Industry Group

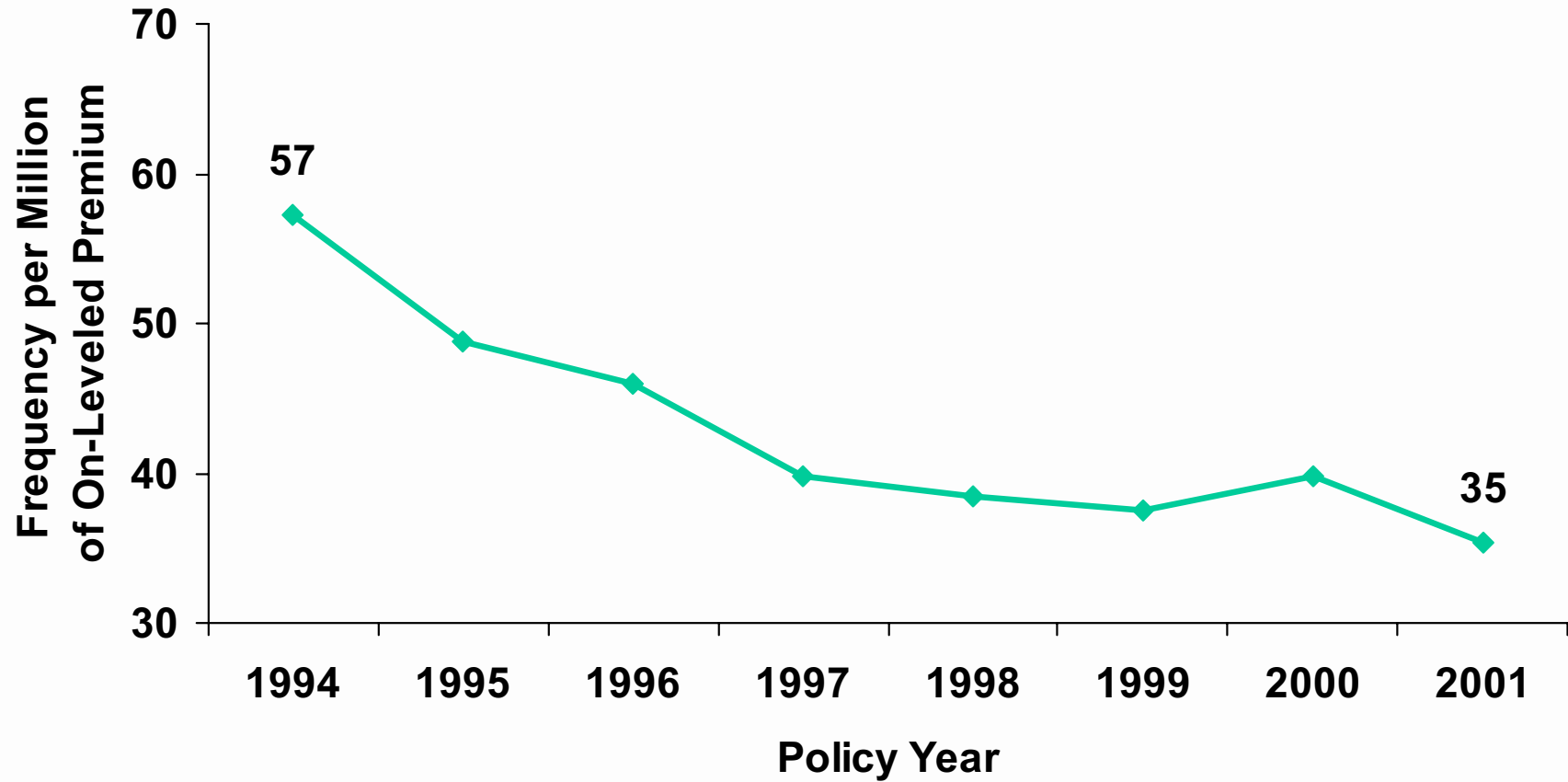


Arkansas' Indemnity and Medical Loss Ratios



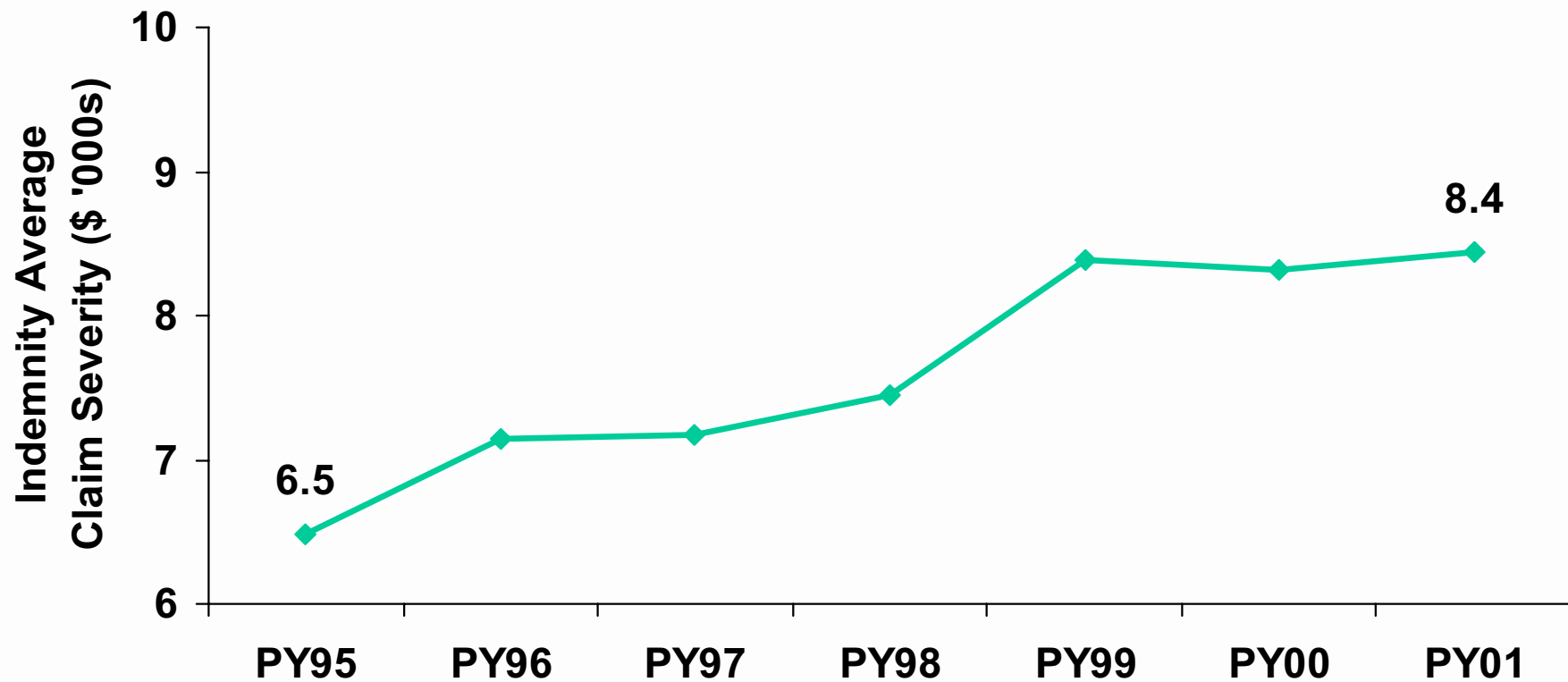
Based on NCCI's financial data.

Arkansas' Claim Frequency



Based on NCCI's financial data.
Frequency of lost-time claims.

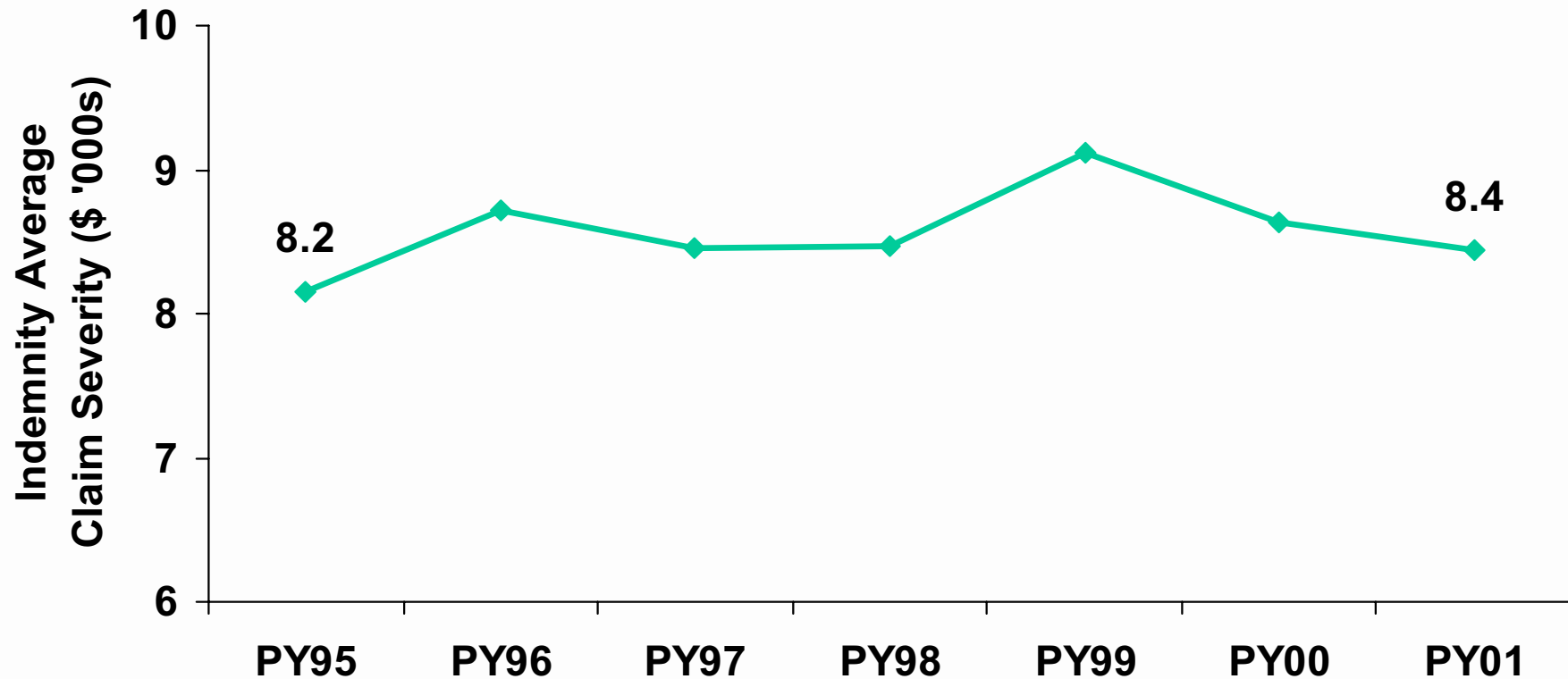
Arkansas' Average Indemnity Severity



Based on NCCI's financial data.

PY = Policy Year

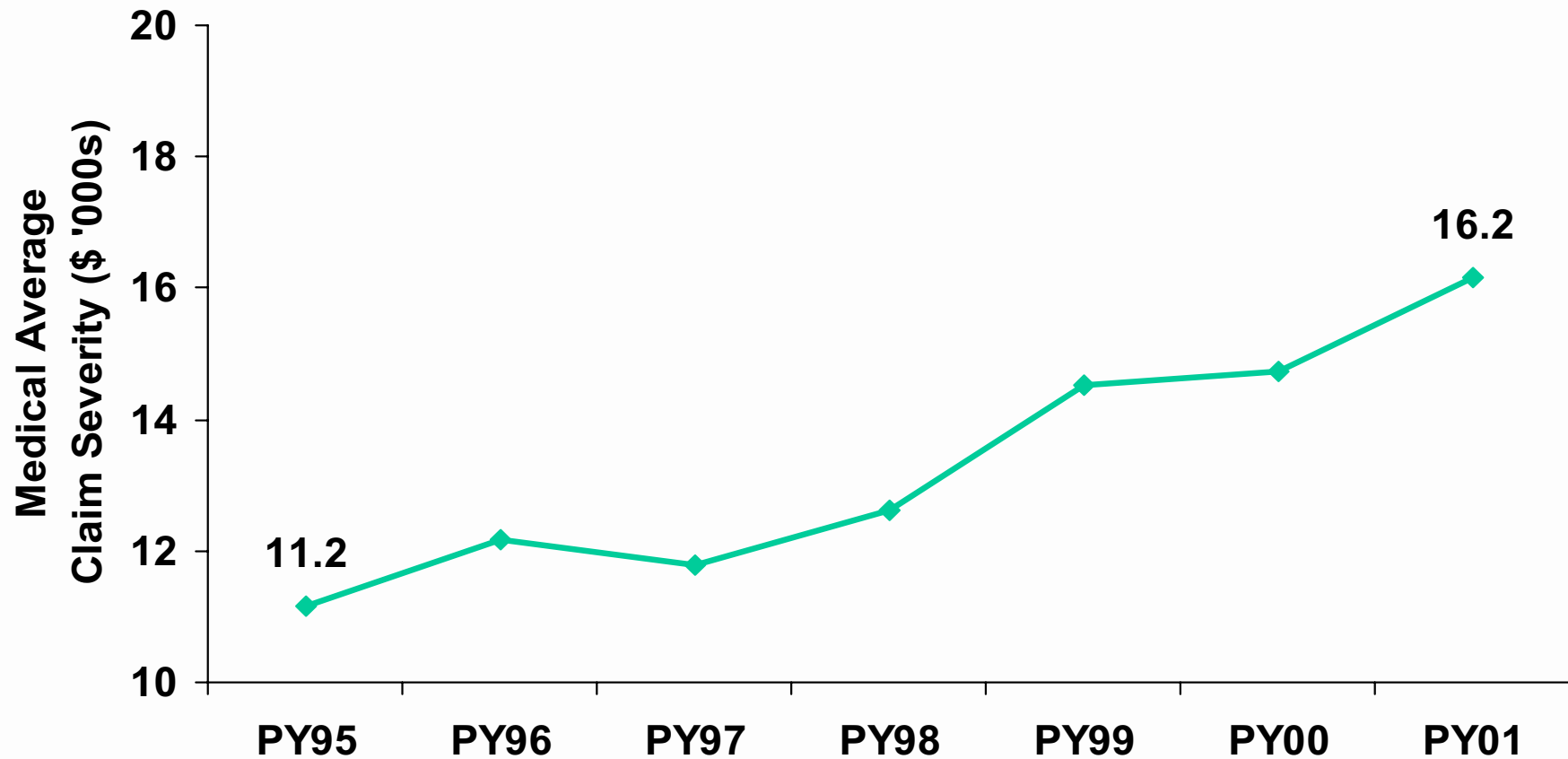
Arkansas' Average Indemnity Severity in Excess of Wage Growth



The severity figures shown are in excess of wage trend.
Based on NCCI's financial data.

PY = Policy Year

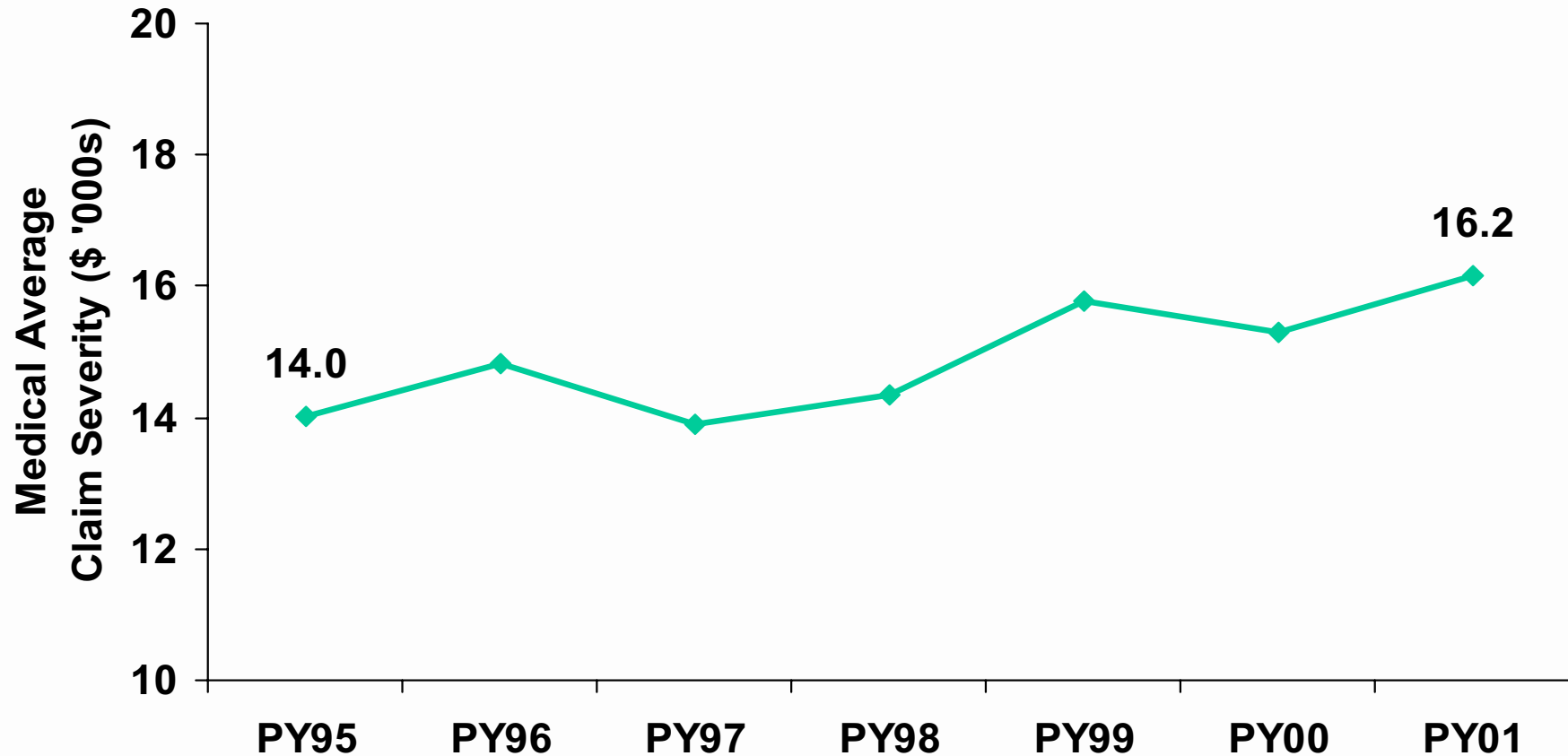
Arkansas' Average Medical Severity



Based on NCCI's financial data.

PY = Policy Year

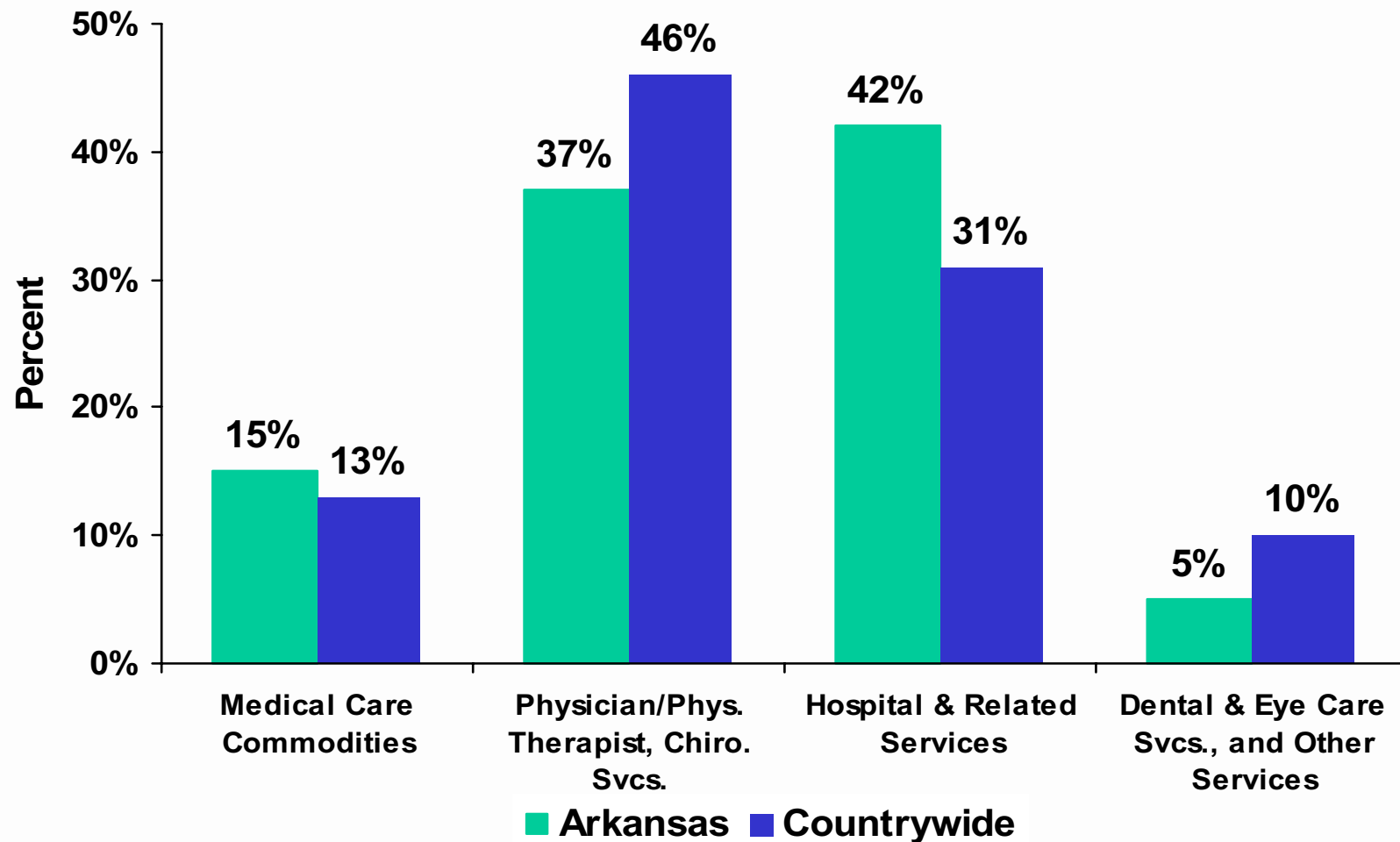
Arkansas' Average Medical Severity in Excess of Wage Growth



The severity figures shown are in excess of wage trend.
Based on NCCI's financial data.

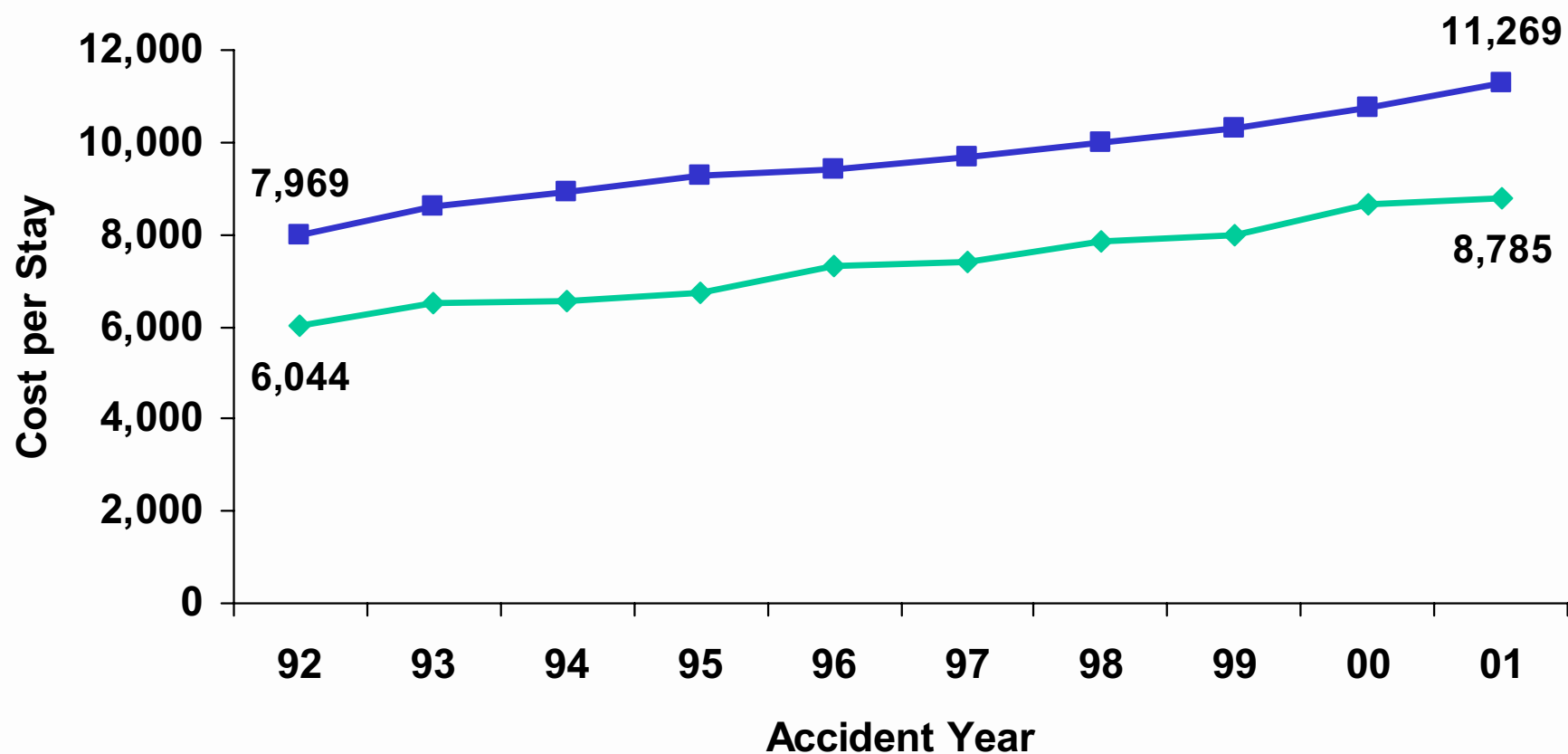
PY = Policy Year

Distribution of Medical Costs for Service Performed During 1999-2002



Source: NCCI's Study on Changes in Service-Provider Mix of WC Medical Claims

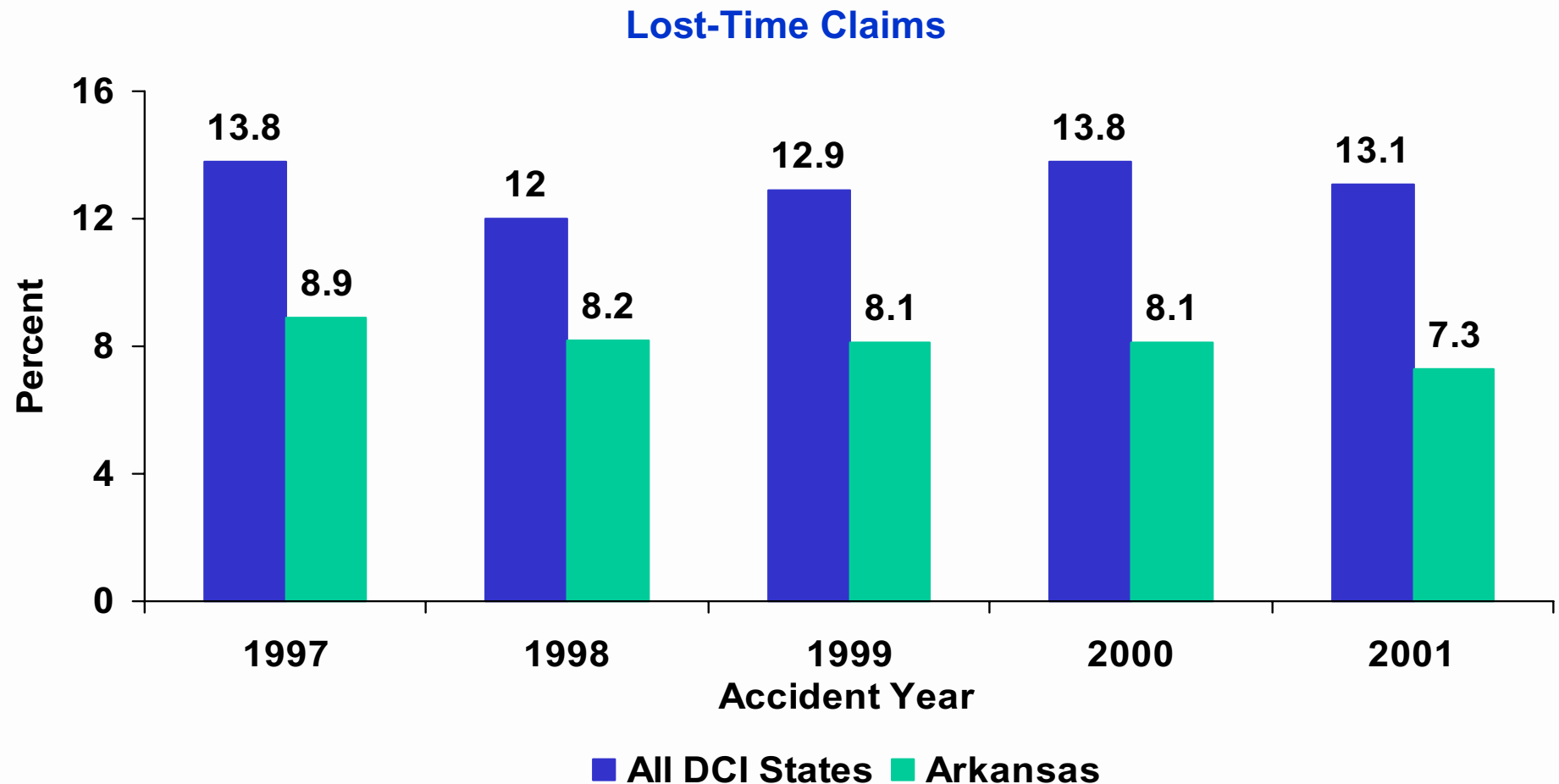
Hospital Cost per Stay



Source: American Hospital Association

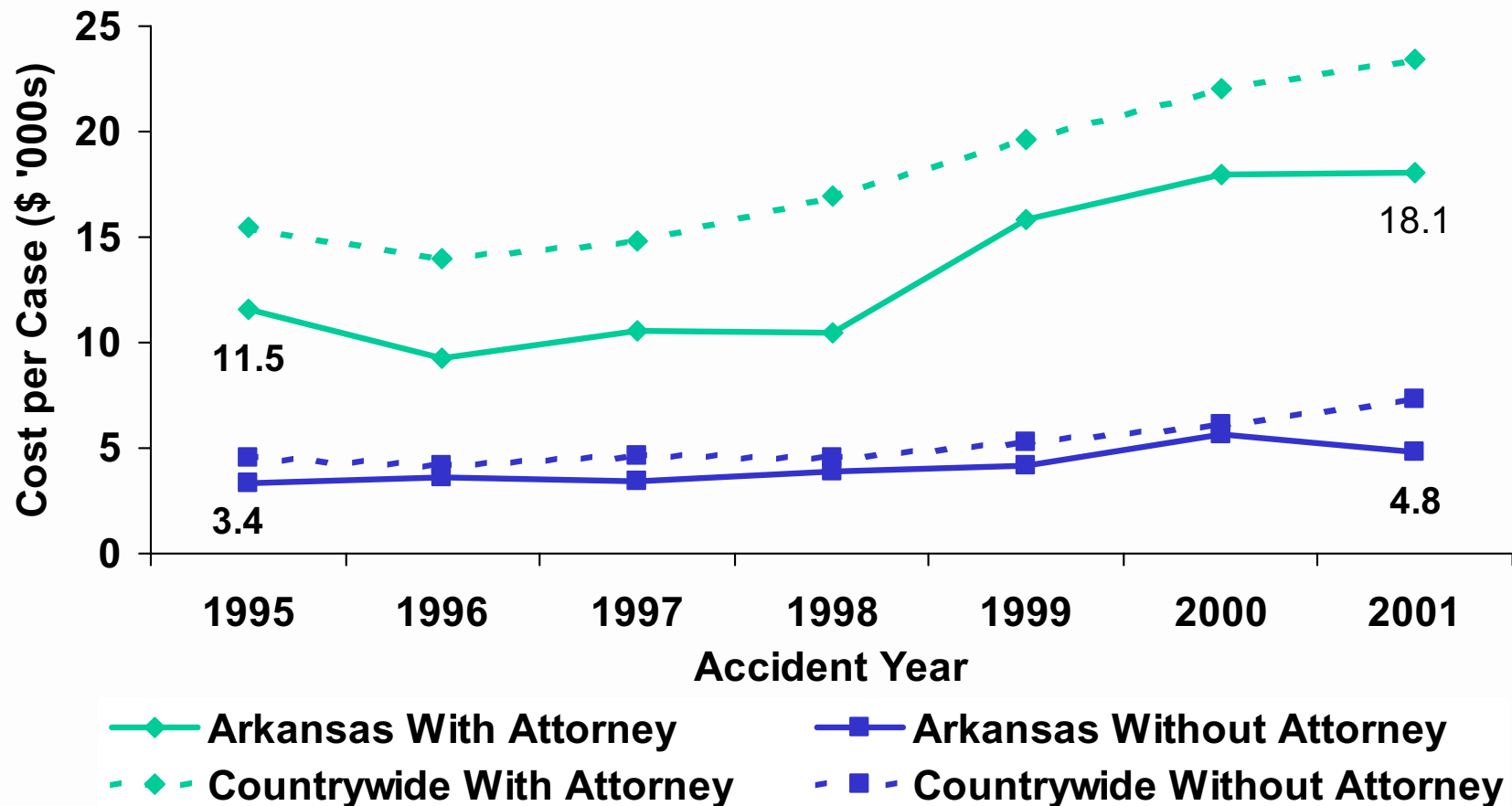
—◆— Arkansas —■— Countrywide

Attorney Involvement in Arkansas Has Been Less Than That Observed Countrywide



Accident Years 1996 to 2000 at 2nd report.
Based on NCCI's DCI data.

Arkansas' Indemnity Average Claim Costs When an Attorney Is Involved Have Been Lower Than That Observed Countrywide



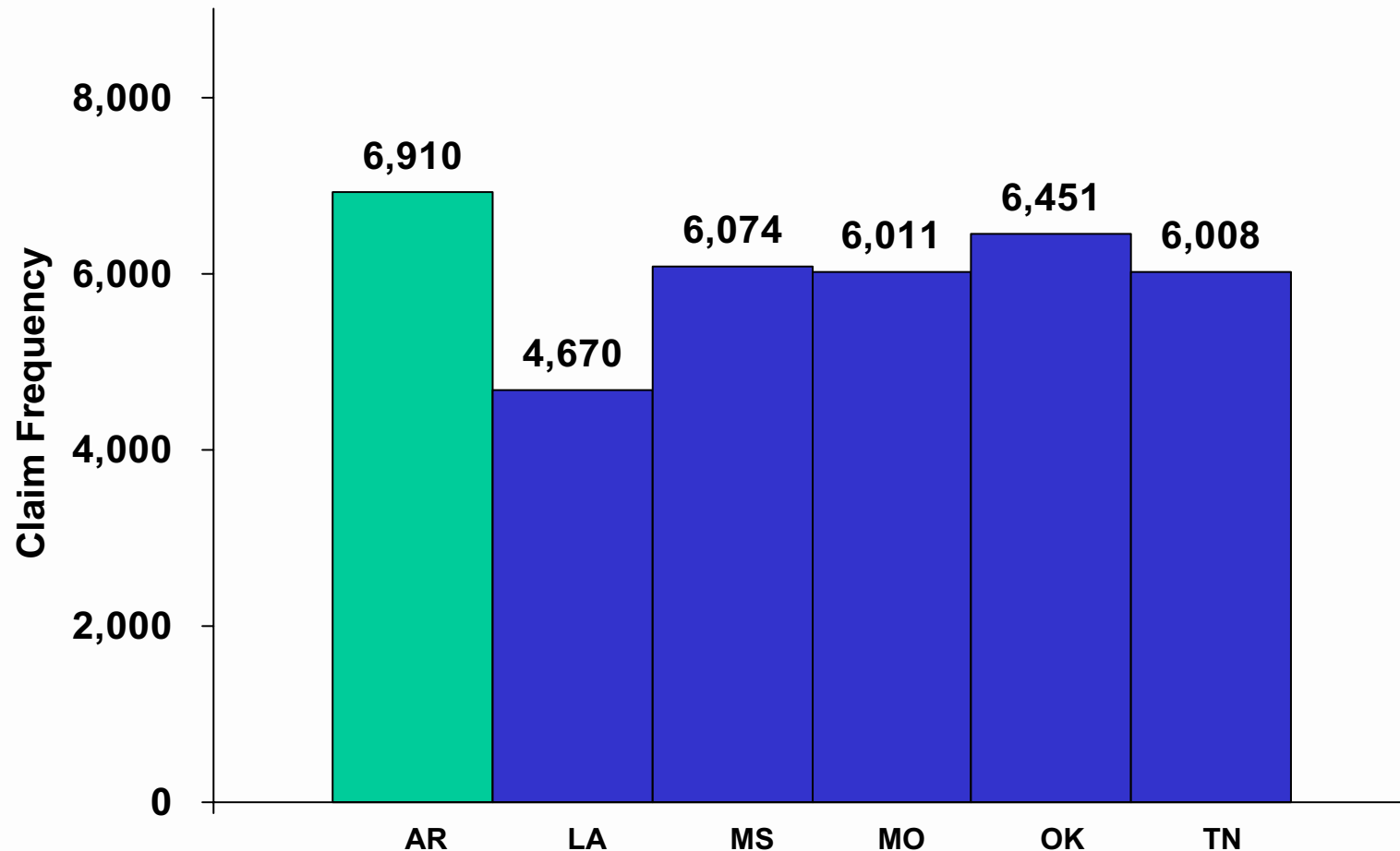
Based on NCCI's DCI data.



Frequency and Severity Developments in Arkansas

Arkansas' Average Claim Frequency Compared With Other States in the Region

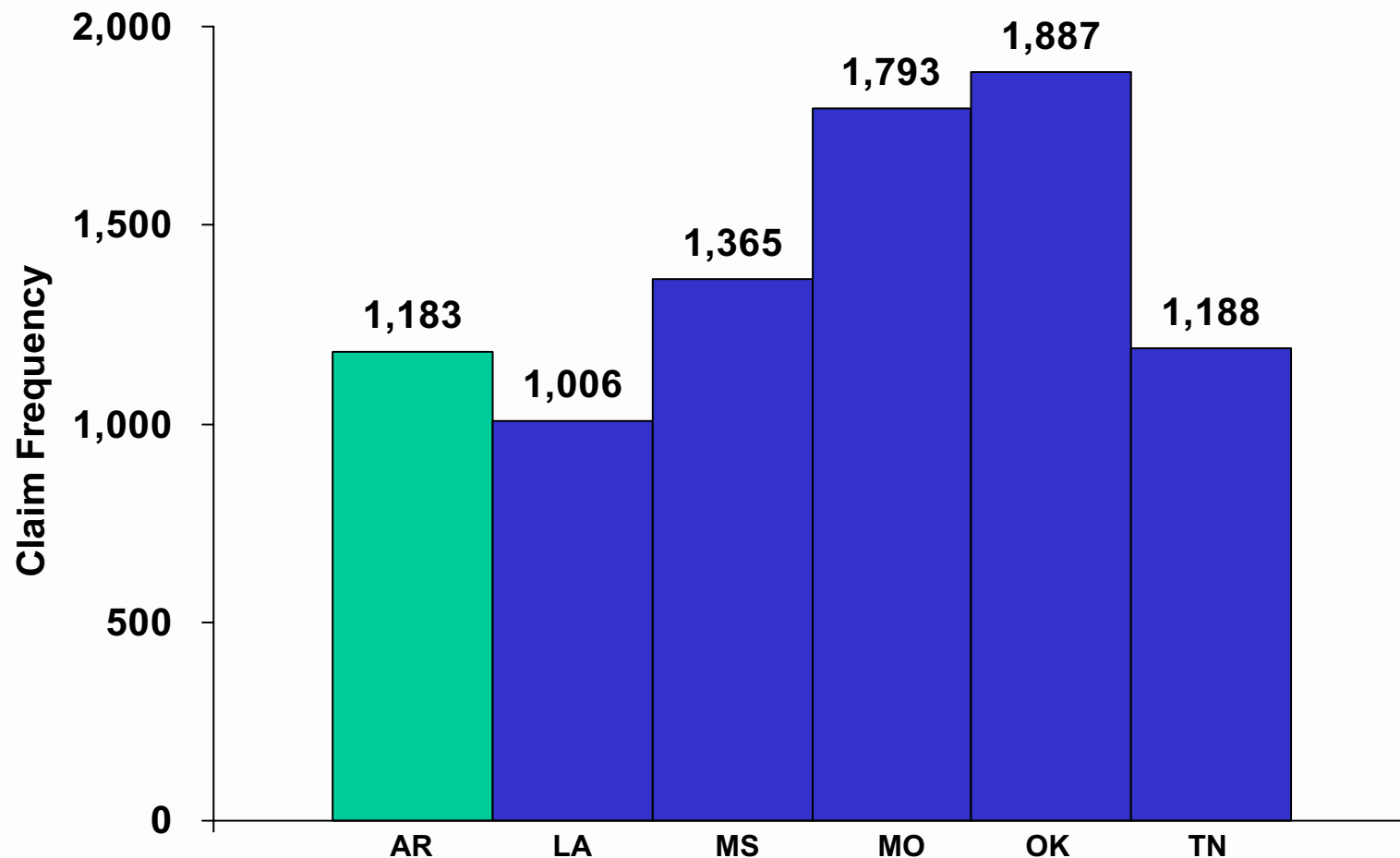
Frequency per 100,000 Workers—All Claims



Based on NCCI's WCSP data.

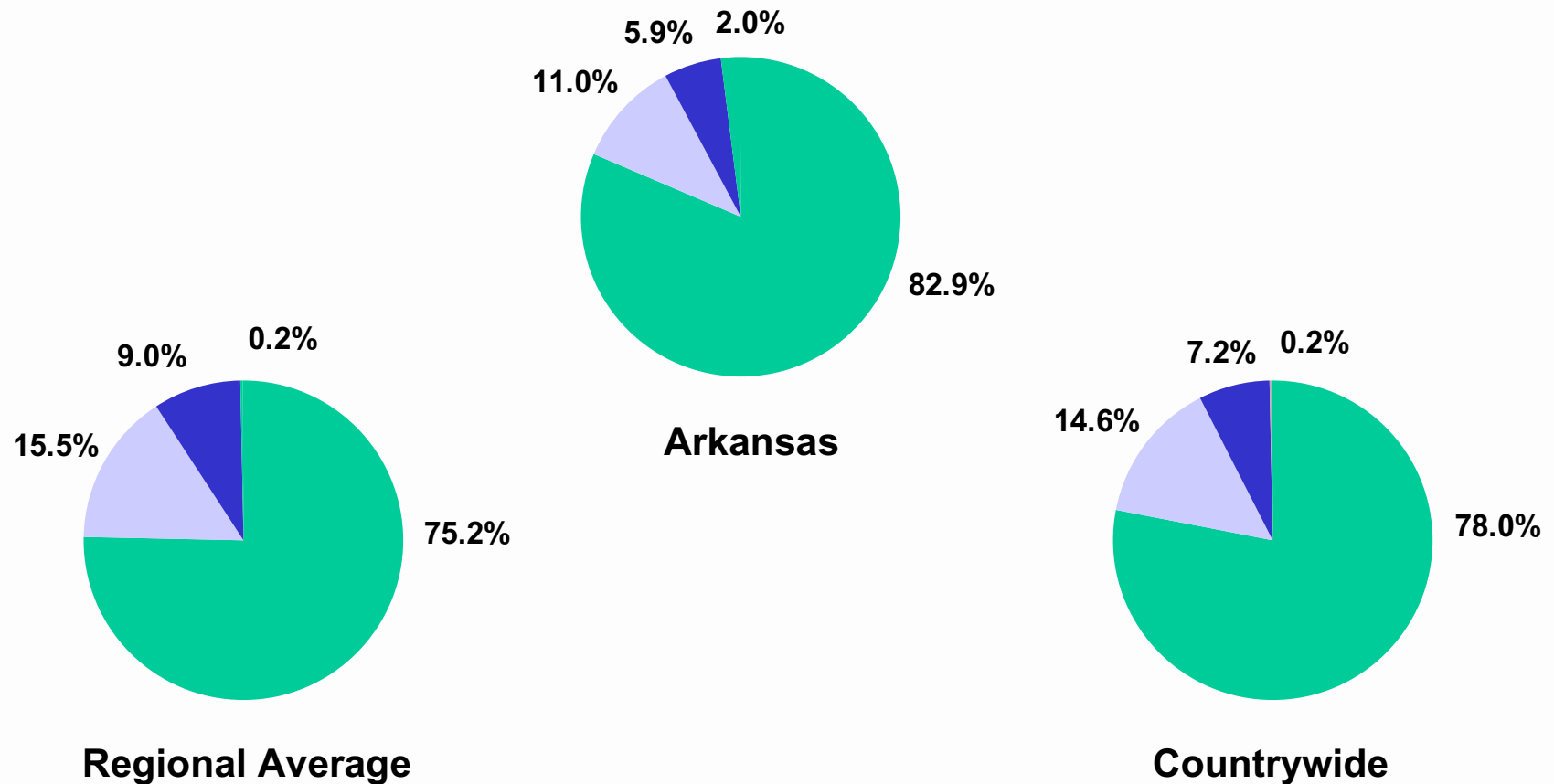
Arkansas' Average Lost-Time Claim Frequency Compared With Other States in the Region

Frequency per 100,000 Workers—Lost-Time Claims



Based on NCCI's WCSP data.

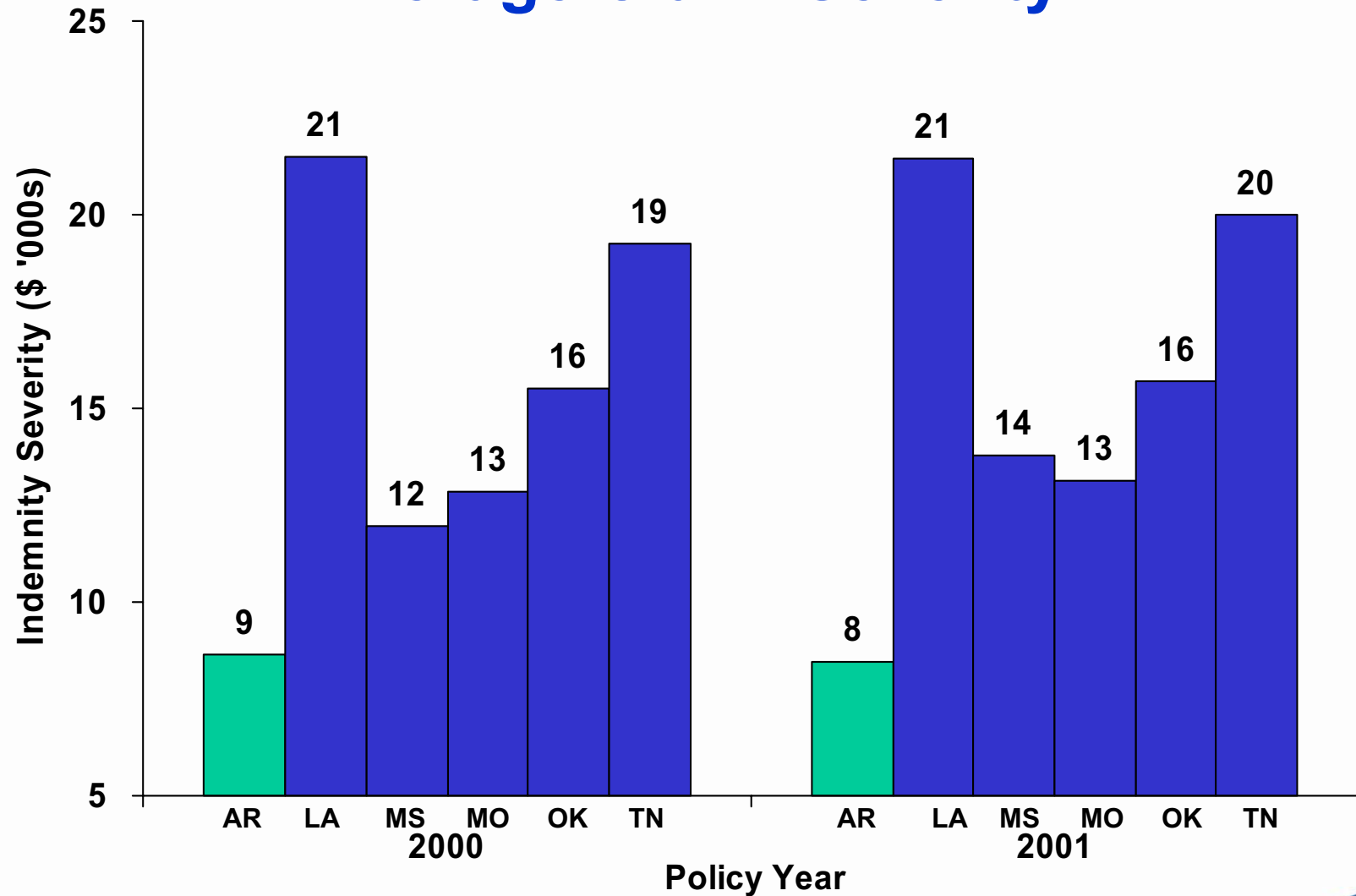
Arkansas' Distribution of Claims by Injury Type



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

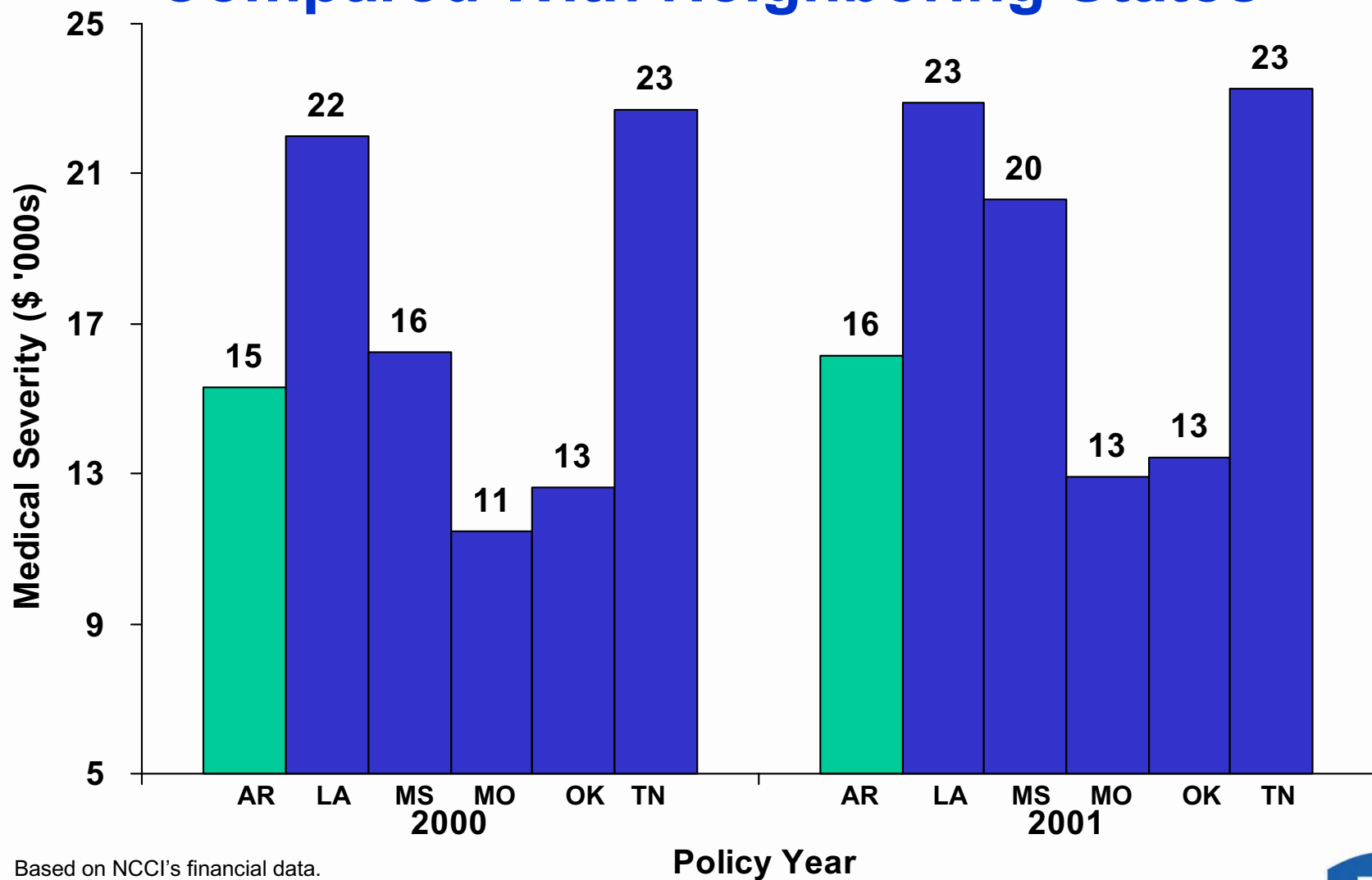
Regional states are Louisiana, Mississippi, Missouri, Oklahoma, and Tennessee.
Based on NCCI's WCSP data.

Arkansas' Indemnity Average Claim Severity



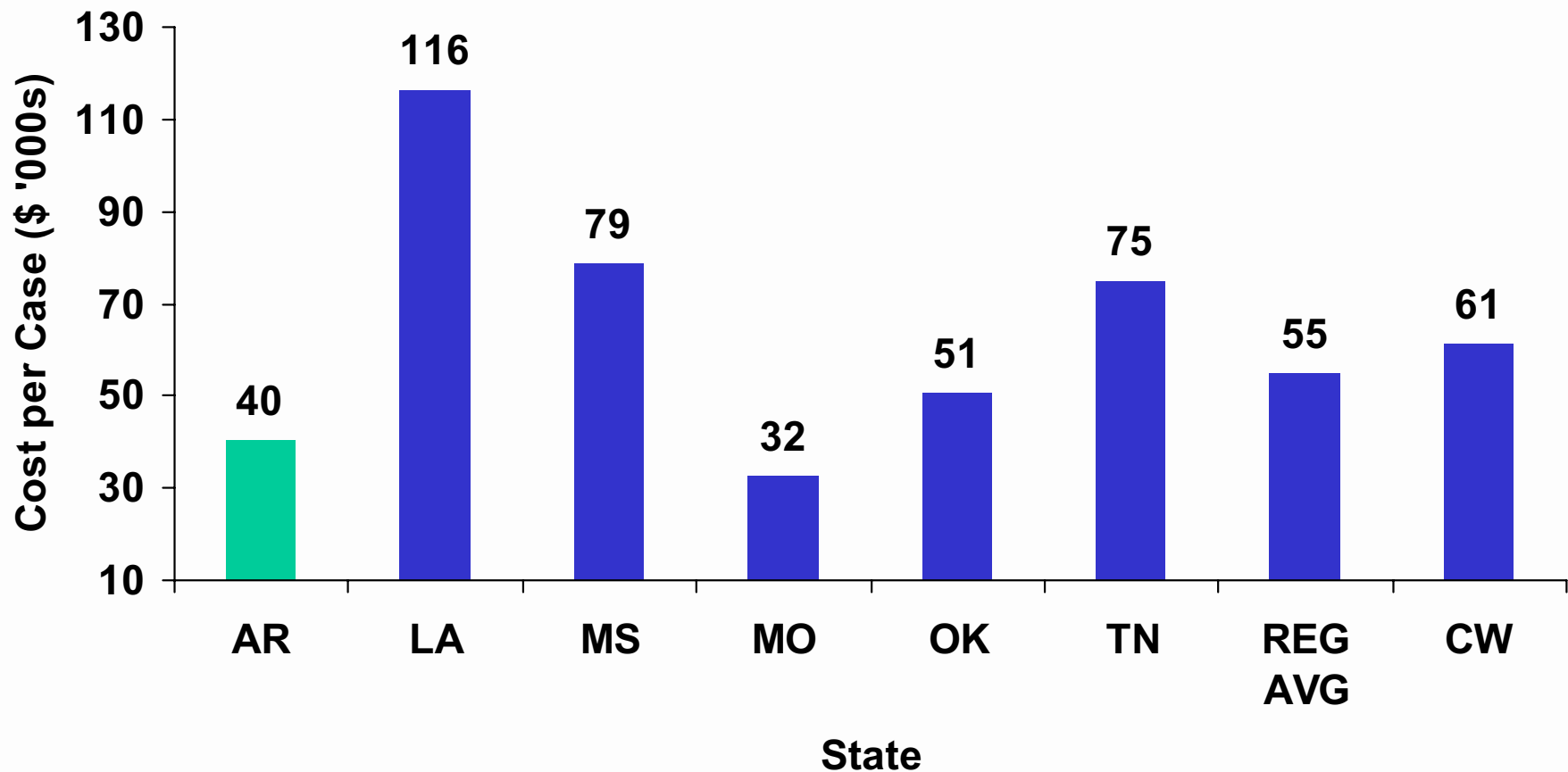
Based on NCCI's financial data.

Arkansas' Medical Average Claim Severity Compared With Neighboring States



Based on NCCI's financial data.


Arkansas' Permanent Partial Average Total Cost per Case Is Among the Lowest in the Region



Based on NCCI's WCSP data.



Economic Drivers of Frequency and Severity in Arkansas



Focus on Arkansas-Specific Economic Drivers of Frequency and Severity

Frequency

- Employment Growth
- Industry Mix

Indemnity Severity

- Wages
- Demographic Factors

Medical Severity

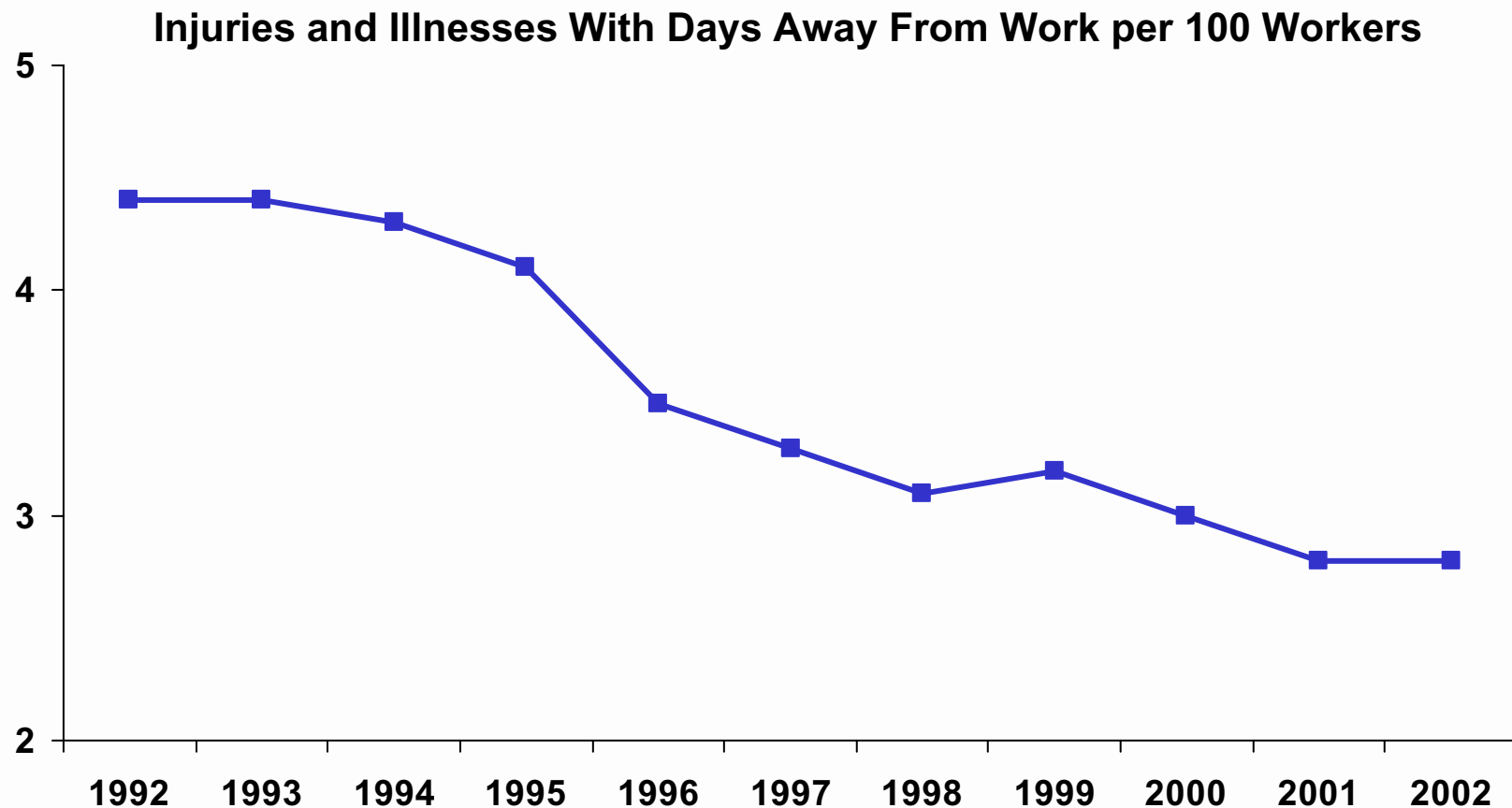
- Spending and Cost Trends in Workers Compensation
- Insights from Recent Research



Background—Economic Setting

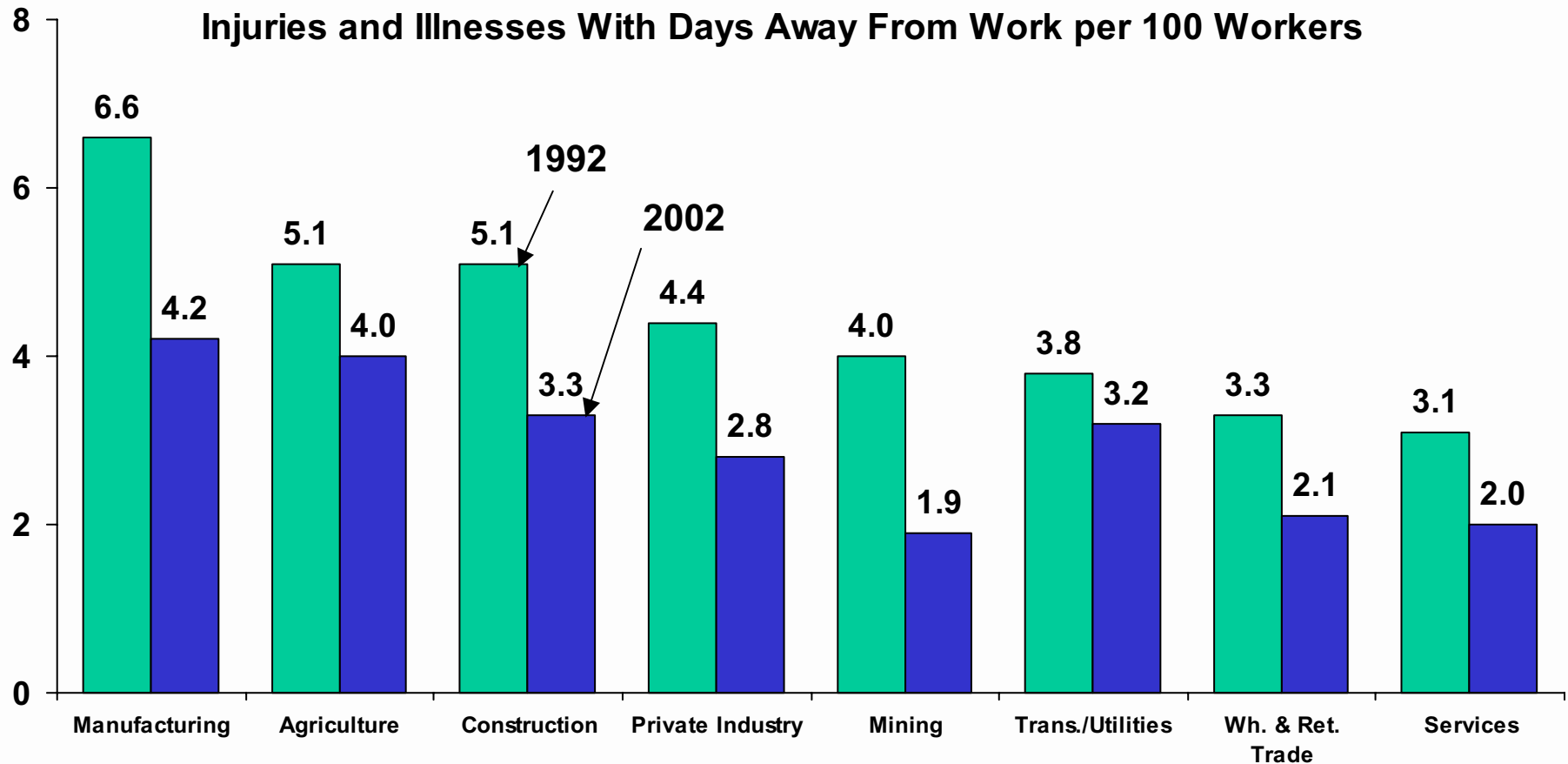
- Interested in how *prospective* economic conditions are likely to impact frequency and severity in Arkansas?
- NCCI does not prepare its own economic forecasts. We rely on consensus national and state forecasts from Economy.com.
- **National Economic Forecast:** ongoing economic expansion this year and next
- **Arkansas' Economic Forecast:** improving job gains consistent with national view. Industry forecasts are of special significance for workers compensation.

Incidence Rates for Cases With Days Away From Work Have Declined in Arkansas



Source: U.S. Department of Labor

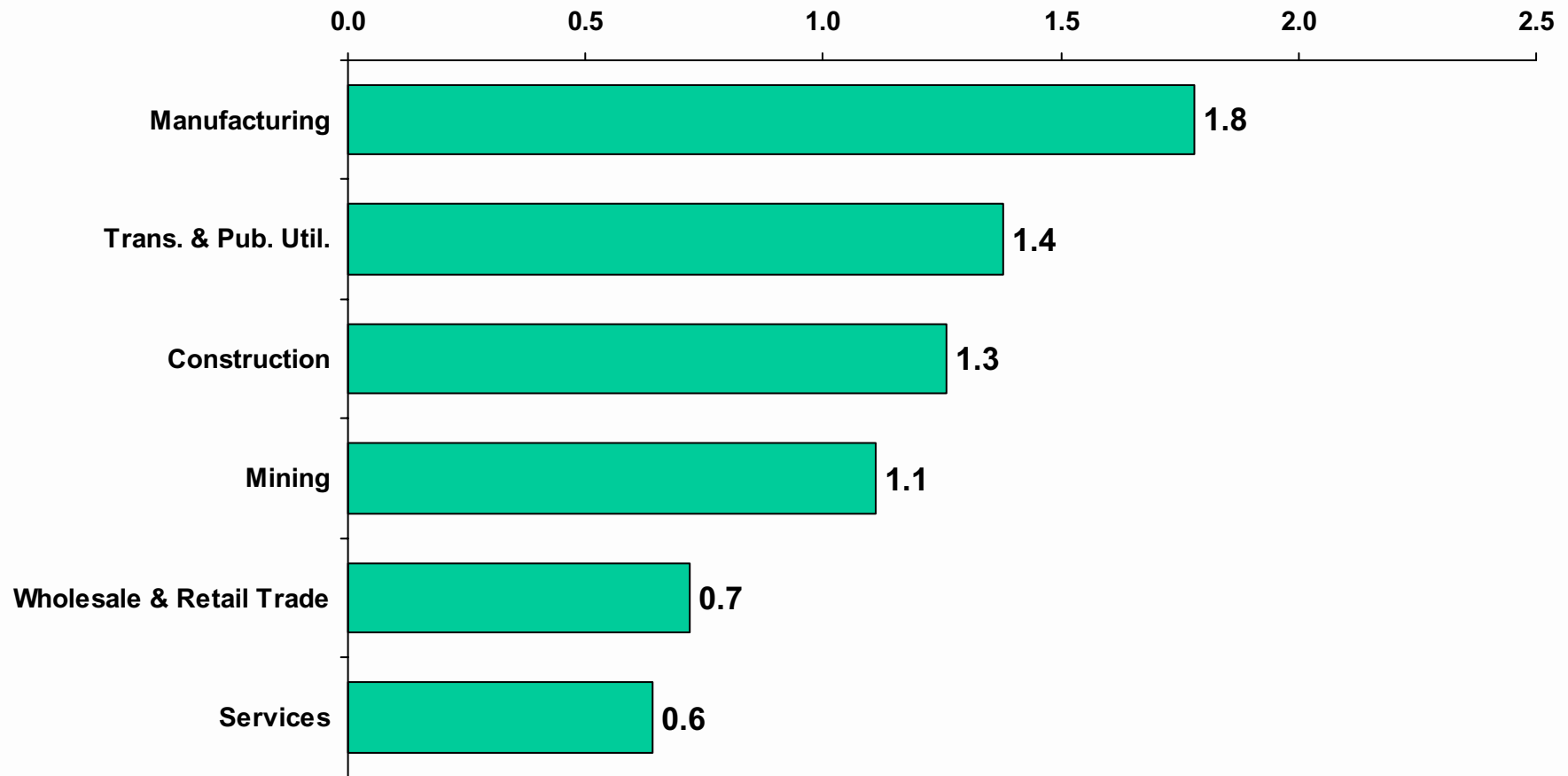
Major Industry Groups in Arkansas Posted Declines in Incidence Rates Between 1992 and 2002



Source: U.S. Department of Labor

Some Arkansas Industries Are Riskier Than Others

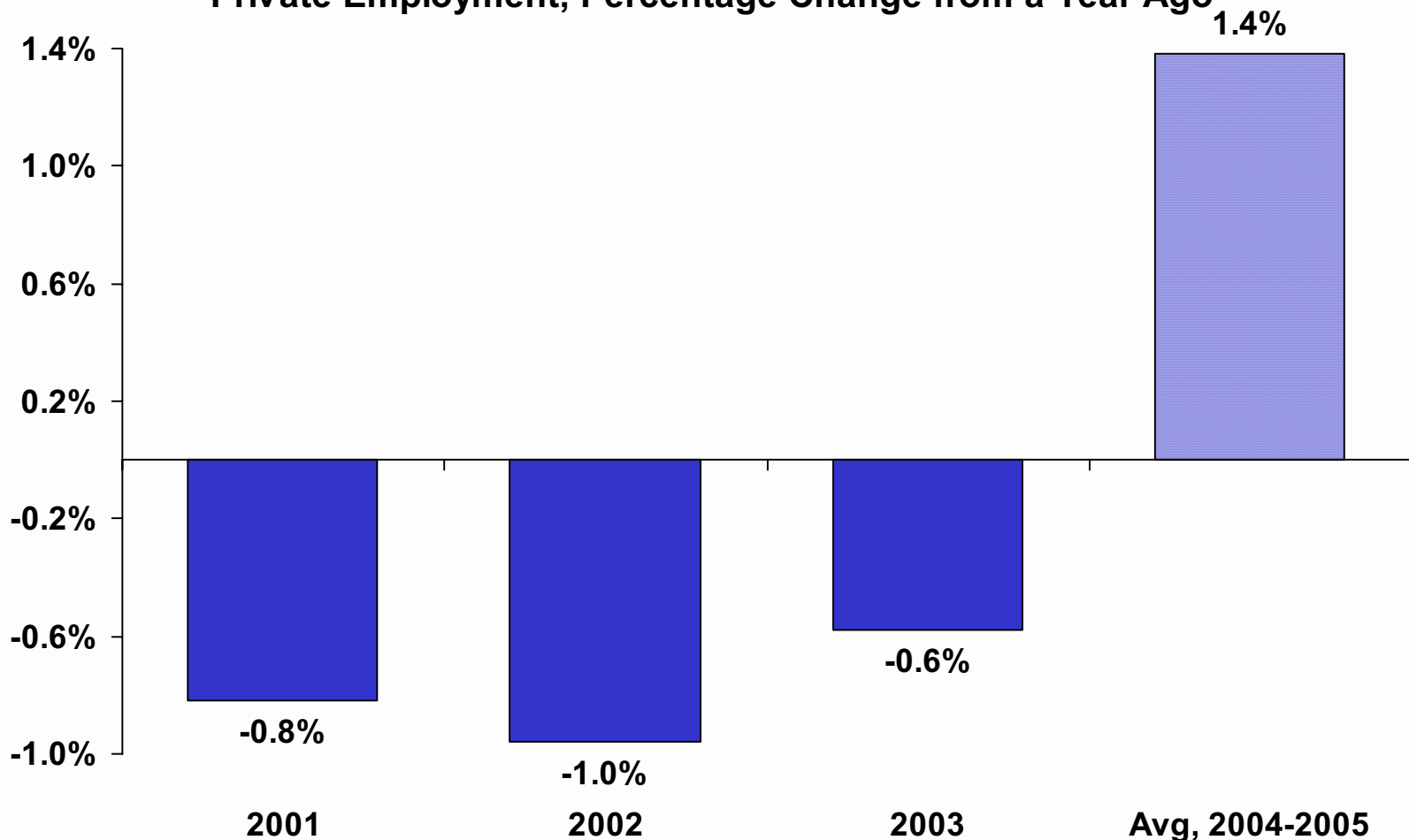
Ratio of Percentage of Lost Work Time Cases to Percentage of Private Employment, Arkansas, 2002



Source: U.S. Department of Labor

Job Growth in Arkansas: Projected Gains in 2004-2005

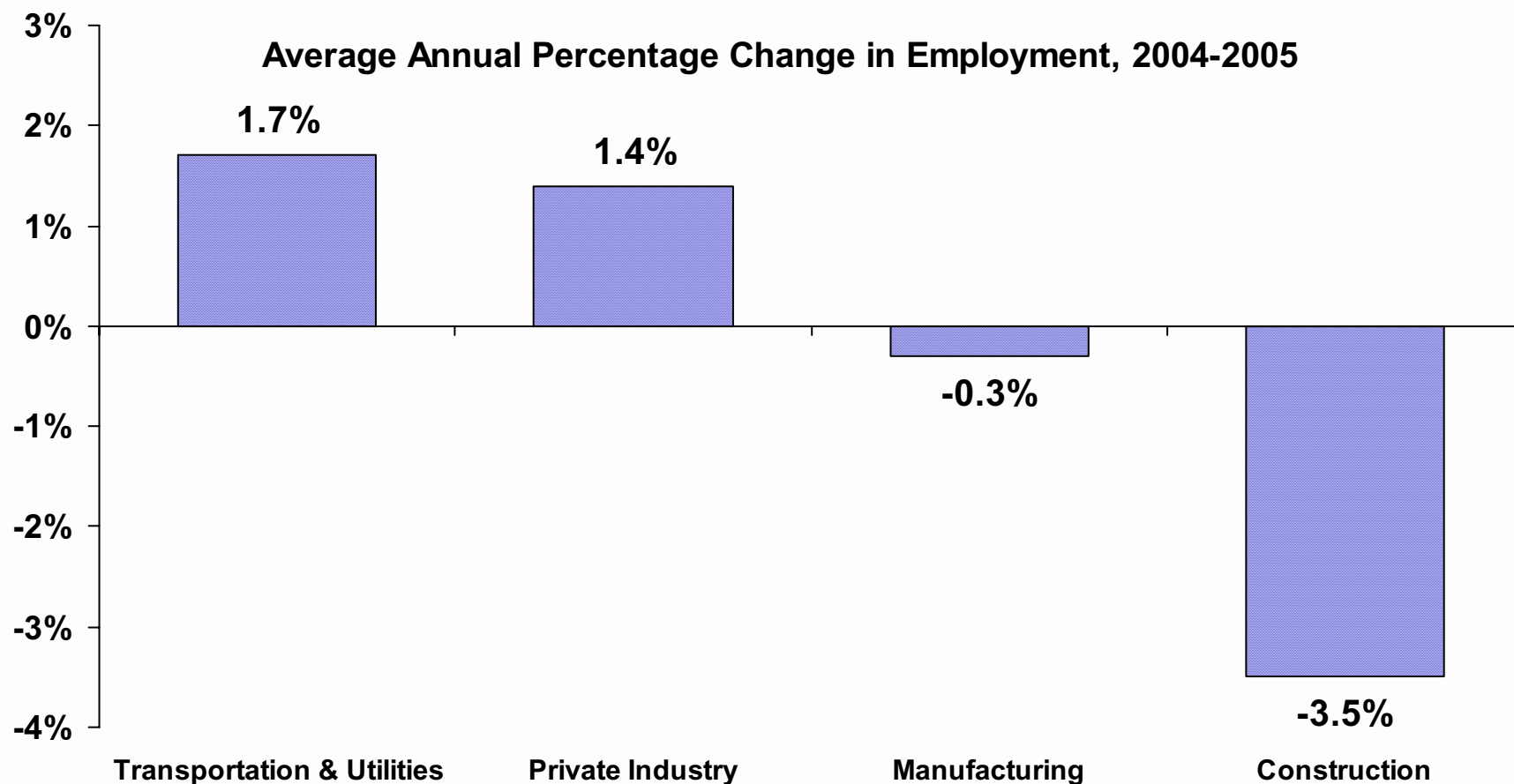
Private Employment, Percentage Change from a Year Ago



Sources: U.S. Department of Labor and Economy.com

© 2004 National Council on Compensation Insurance, Inc.

Higher-Incidence-Rate Industries in Arkansas Are Expected to Post Mixed Job Changes in 2004-2005



Source: Economy.com



Key Takeaways—Economic Drivers of Frequency in Arkansas

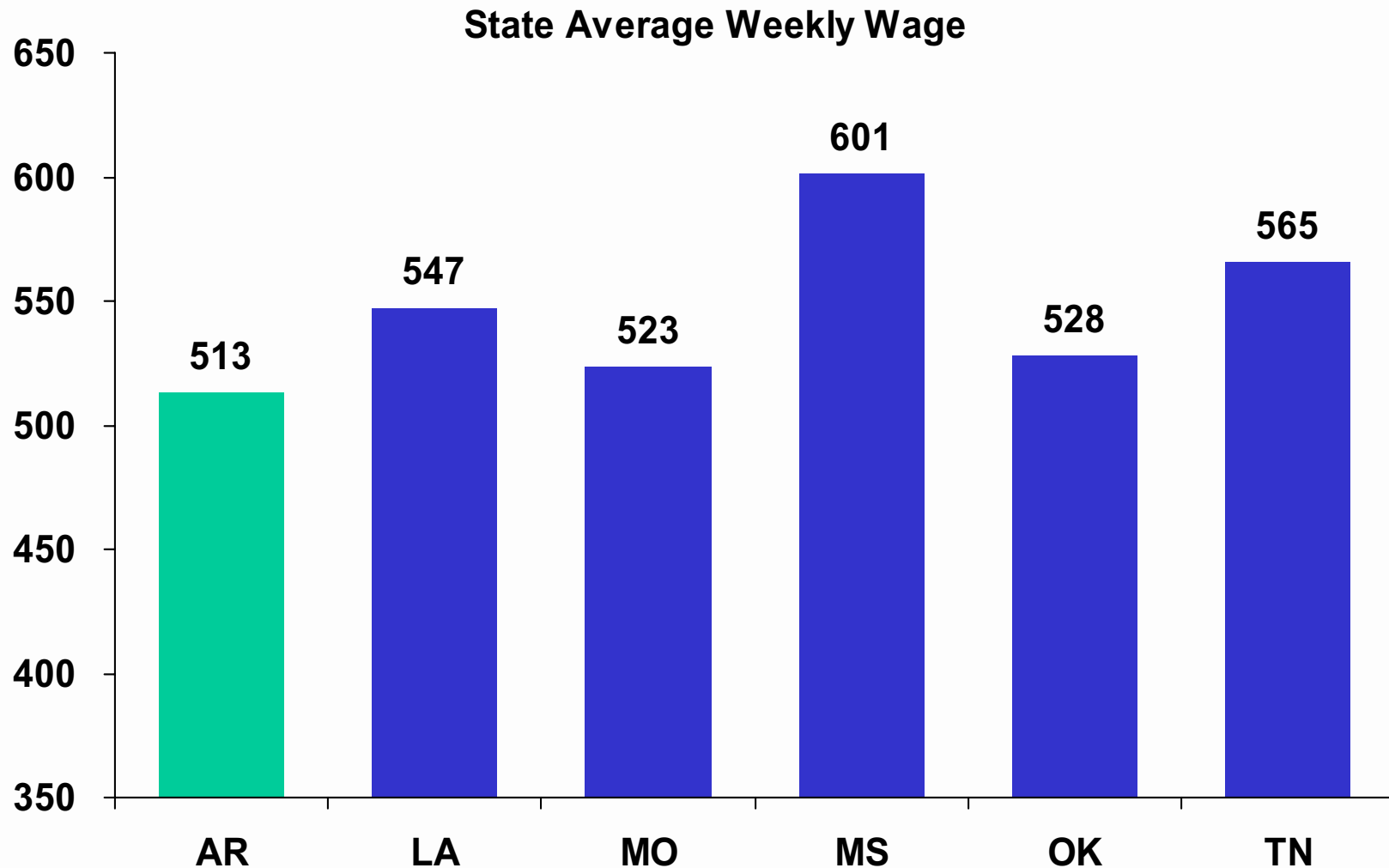
- Improving overall job growth suggests some upward pressure on frequency due to economic forces
- Some offsets may result from prospective job declines in the higher-risk manufacturing and construction industries
- Frequency trend will ultimately reflect a combination of system factors, impact of short-term business conditions, and ongoing changes that affect workplace safety



Economic Drivers of Indemnity Severity

- Wages
- Demographic Factors

The Average Weekly Wage in Arkansas is the Lowest in the Region



Based on NCCI's financial data.



Key Takeaways—Economic Drivers of Indemnity Severity in Arkansas

- Ongoing wage gains suggest upward pressure on indemnity severity
- Low wages in Arkansas contribute to the state's low indemnity severity—but system-related factors likely dominate regional differences



Economic Drivers of Medical Severity

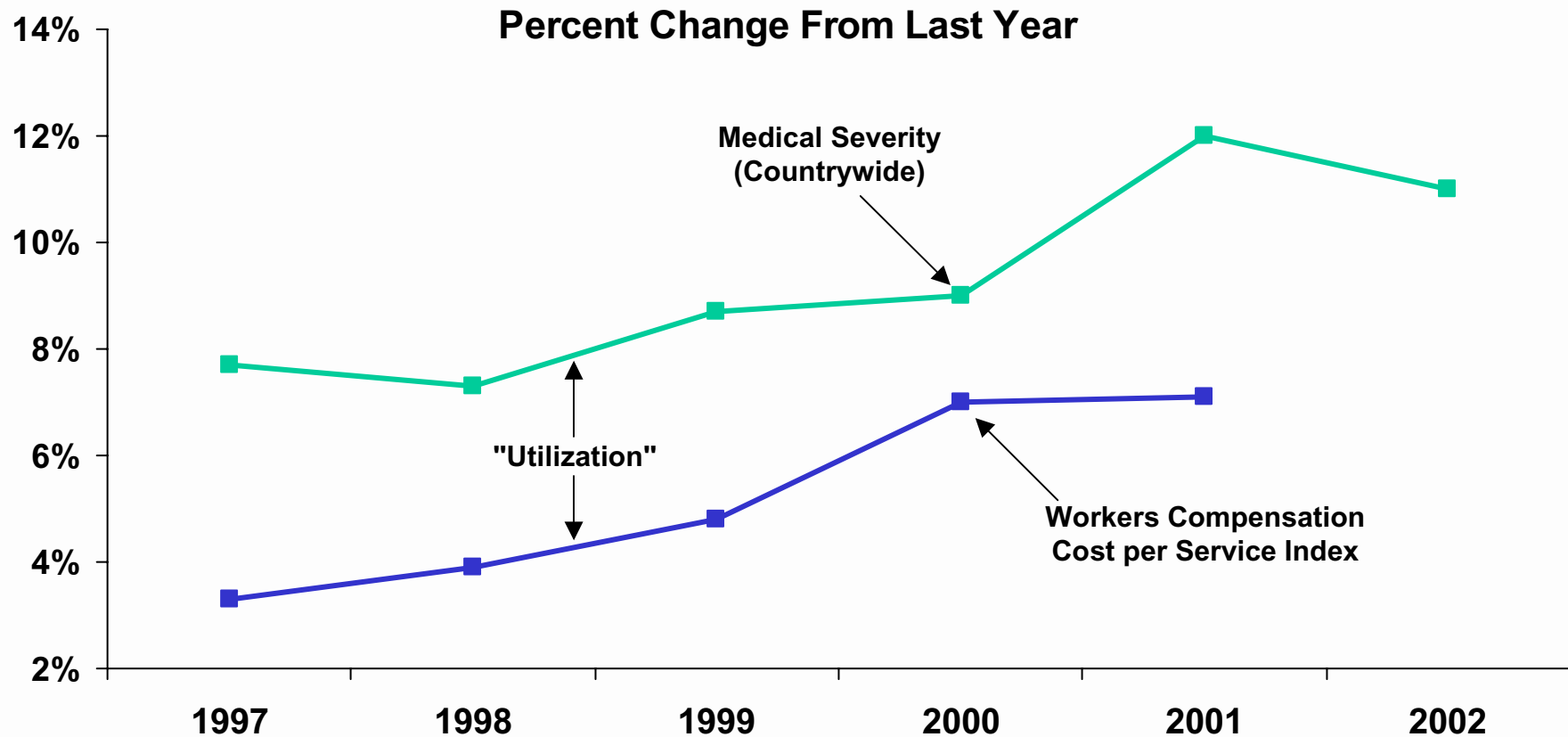
- Insights from NCCI Research on Medical Costs
- Implications of WCRI Research on Reducing Medical Severity
- Reaction of a Medical Care Provider to Price Changes



Key Insights From New NCCI-Developed Medical Cost Indexes

- Changes in spending reflect changes in cost per service and utilization (quantity adjusted for changes in mix)
- Utilization changes account for a substantial share of the rise in workers compensation medical outlays
- Increases in spending and cost per service are more rapid in workers compensation than for consumers in general

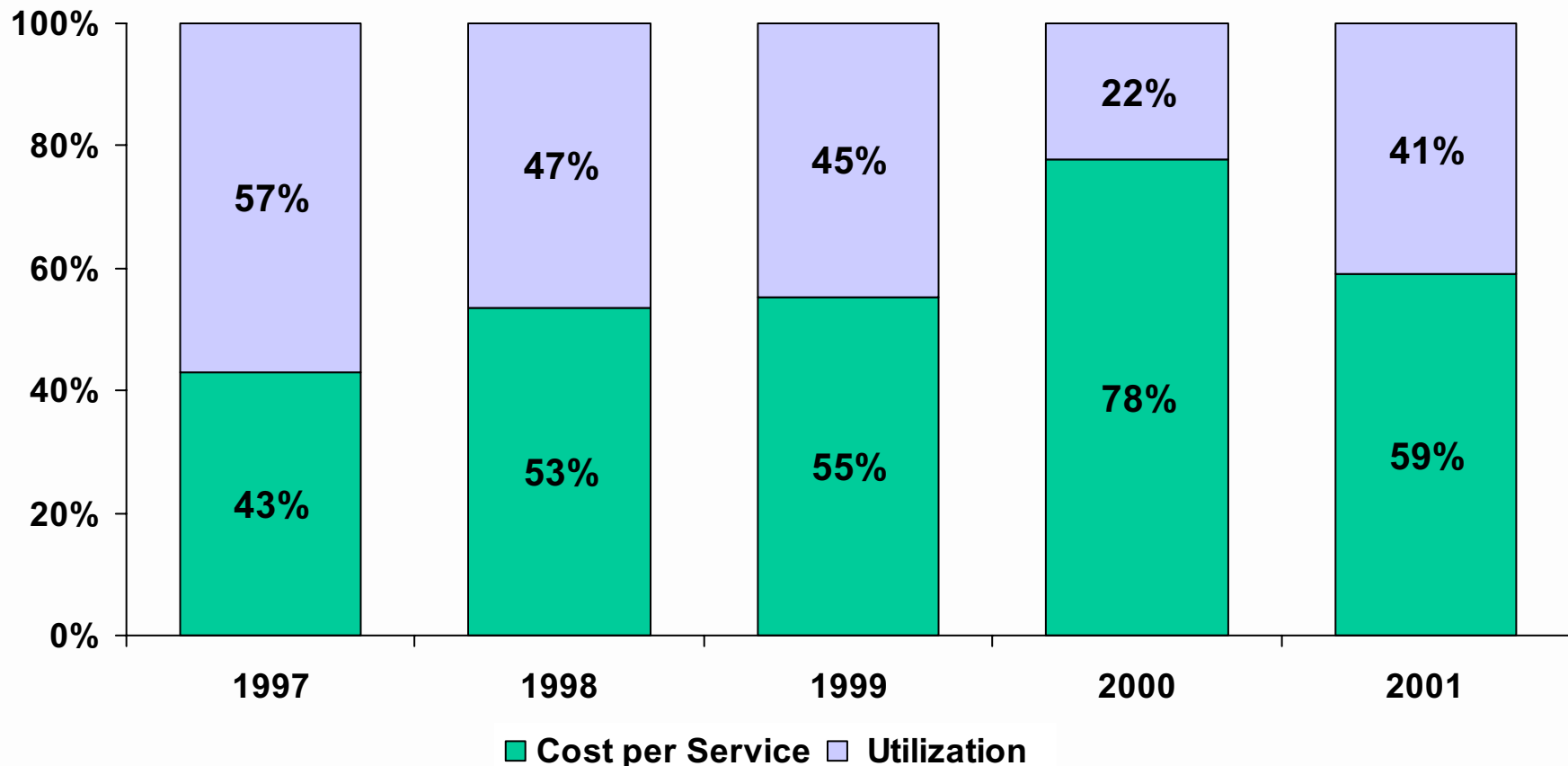
Rising Countrywide Medical Severity Reflects Increases in Cost per Service and "Utilization"



Source: NCCI

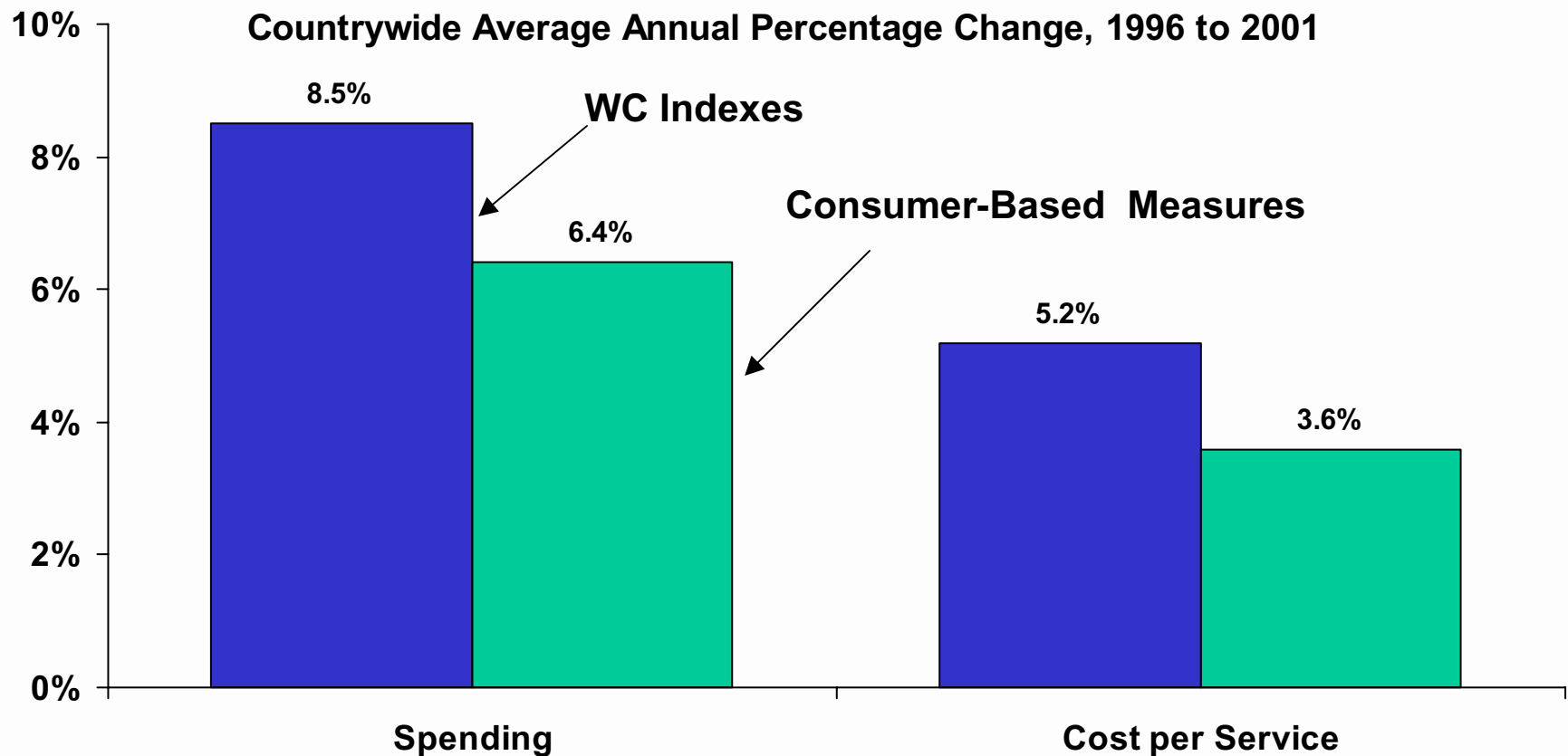
Changes in Countrywide Medical Severity Reflect Changes in Both Cost per Service and Utilization

Impact of Cost Per Service & Utilization on Growth in Med. Severity (%)



Source: NCCI

Workers Compensation-Related Increases in Key Medical Care Metrics Are Greater Than Those for Consumers in General



Sources: U.S. Departments of Commerce and Labor, NCCI

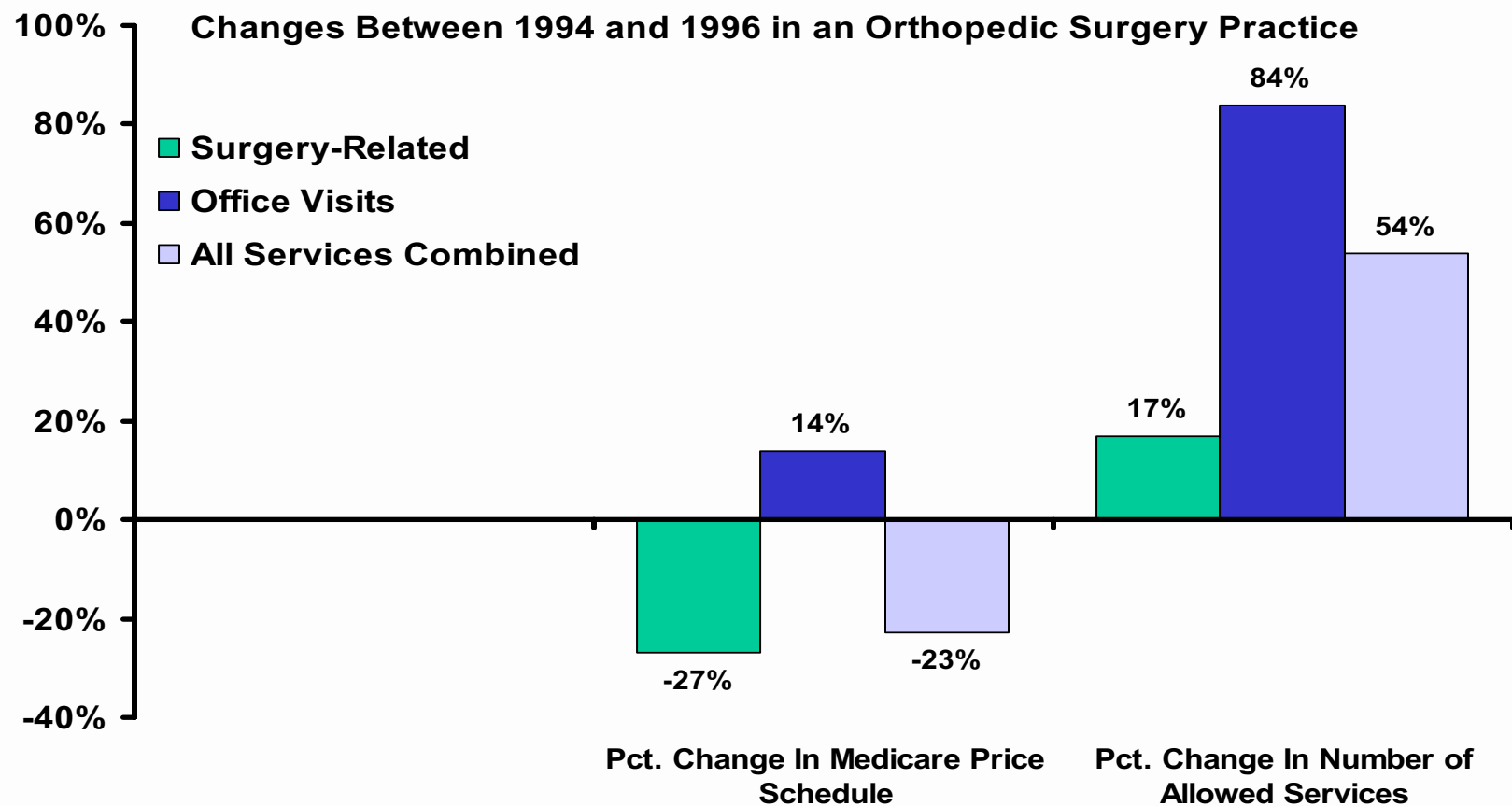


Use of Networks, Utilization Reviews, and Fee Schedules Help to Dampen Medical Price Inflation

Results of WCRI research covering 15 states:

- Large increases in network involvement reduce medical price inflation. As network penetration stabilizes, inflation tends to rise.
- Utilization reviews help to hold down price increases.
- States with fee schedules tend to have lower price inflation, with incremental jumps as schedules change.
- Changes in billing practices can impact price trends.

The Unintended Consequence of Tightened Fee Schedules: An Increase in Utilization of Physician Services



Source: "Physician Volume and Intensity Response," a Memorandum from the Office of the Actuary, HCFA



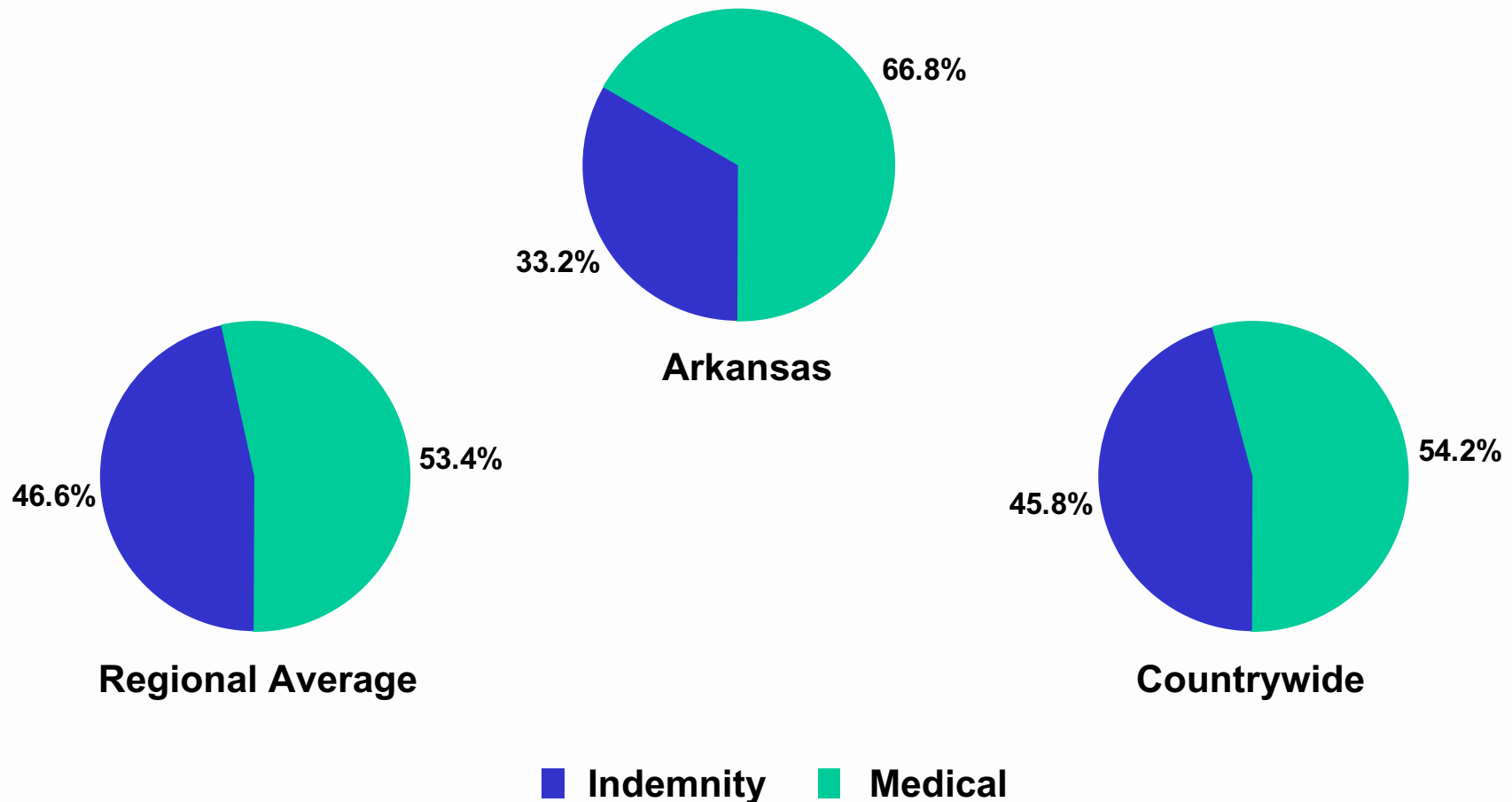
Key Takeaways—Economic Drivers of Medical Severity in Arkansas

- Increases in medical care severity reflect both changes in cost per service and changes in utilization.
- New NCCI indexes show that cost per service increases for workers compensation are greater than those for consumers in general.
- Adherence to medical fee schedules and substantive reforms can be effective in controlling medical cost increases. Monitoring is needed as well.



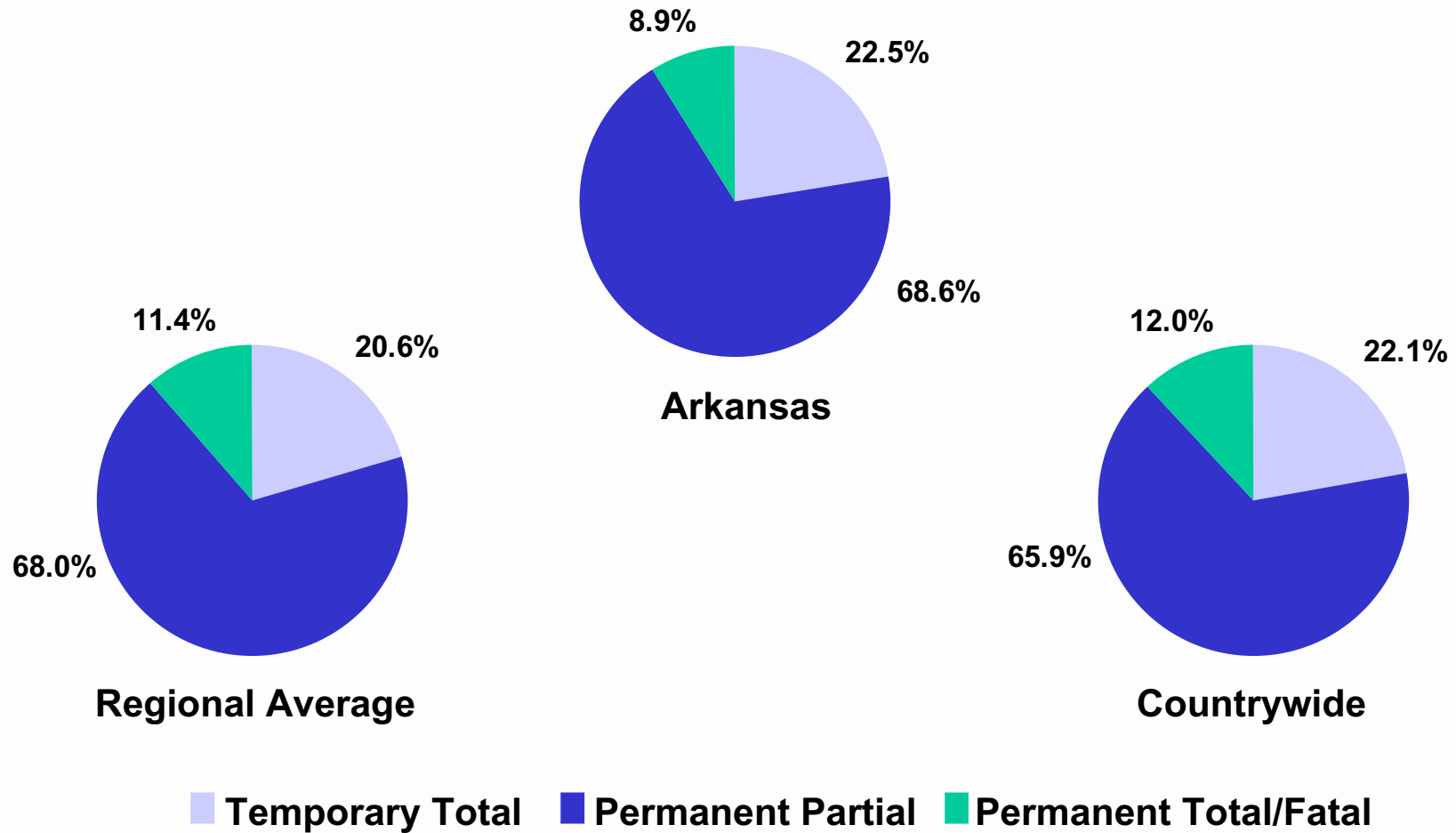
Indemnity and Medical Benefits in Arkansas

Medical Benefits Constitute the Majority of Total Benefit Costs in Arkansas



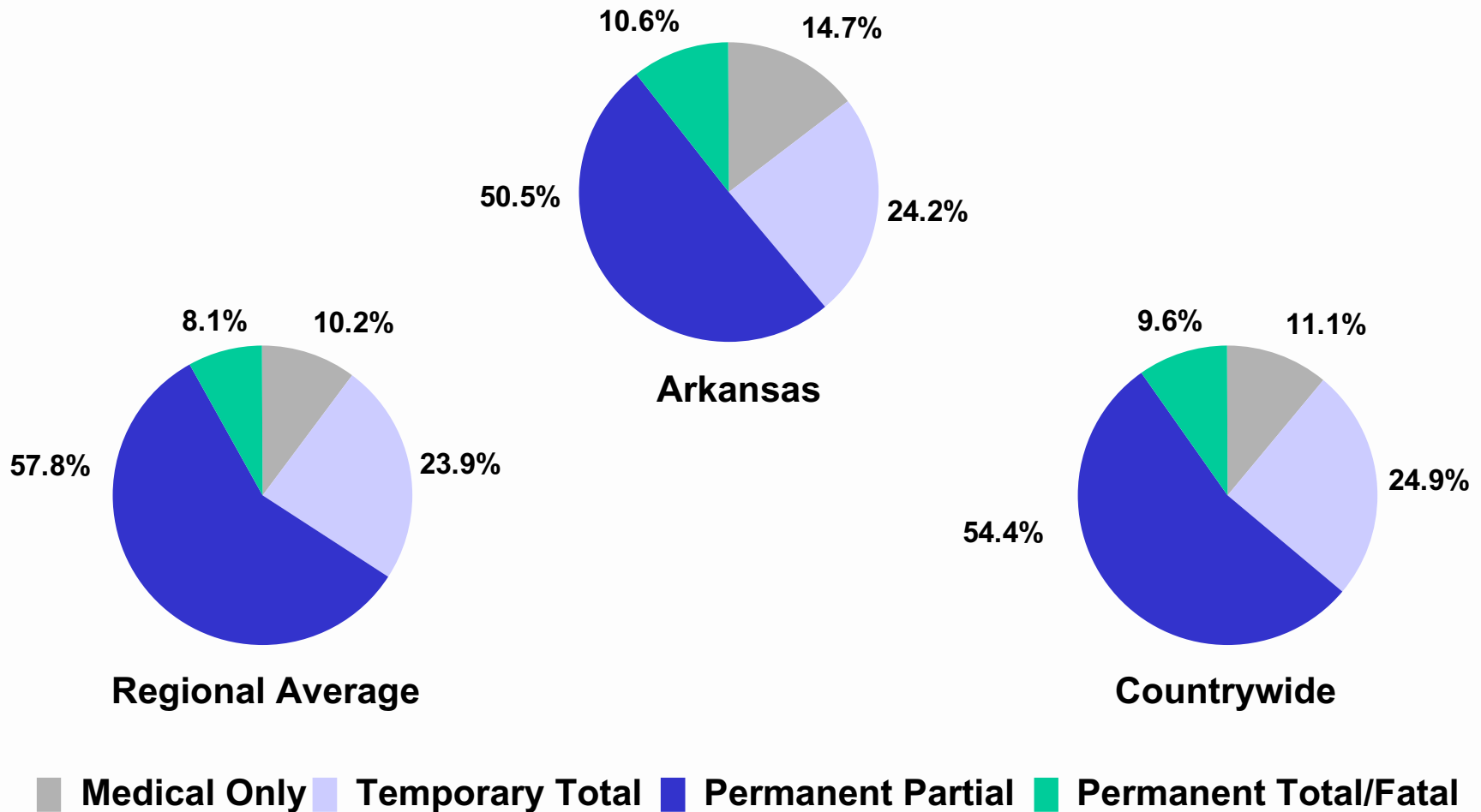
Regional states are Louisiana, Mississippi, Missouri, Oklahoma, and Tennessee.

Arkansas' Indemnity Loss Distribution by Injury Type



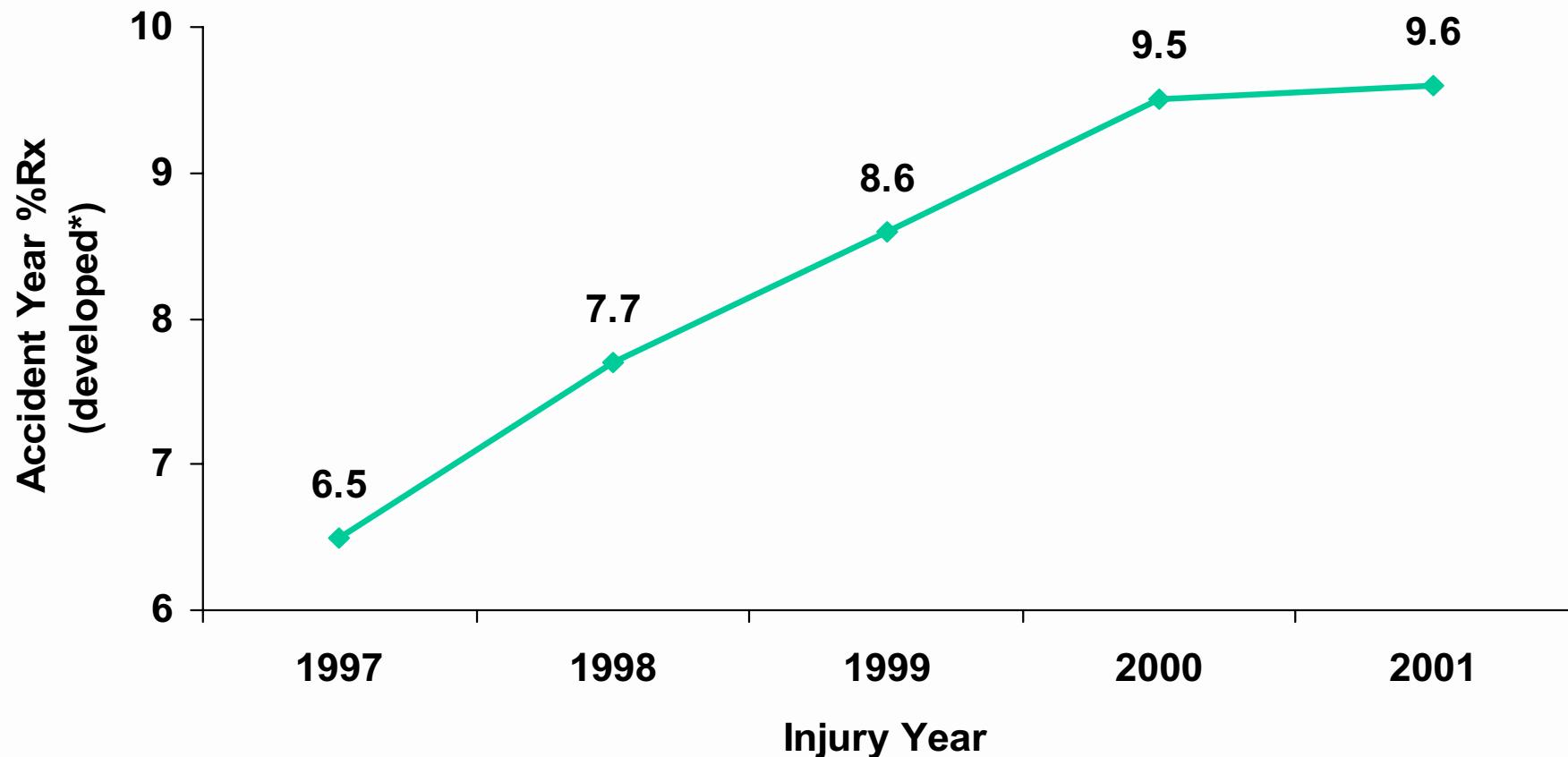
Regional states are Louisiana, Mississippi, Missouri, Oklahoma, and Tennessee.
Based on NCCI's WCSP data.

Arkansas' Medical Loss Distribution by Injury Type



Regional states are Louisiana, Mississippi, Missouri, Oklahoma, and Tennessee.
Based on NCCI's WCSP data.

Accident Year Drug Costs as a Percentage of Total Medical Costs



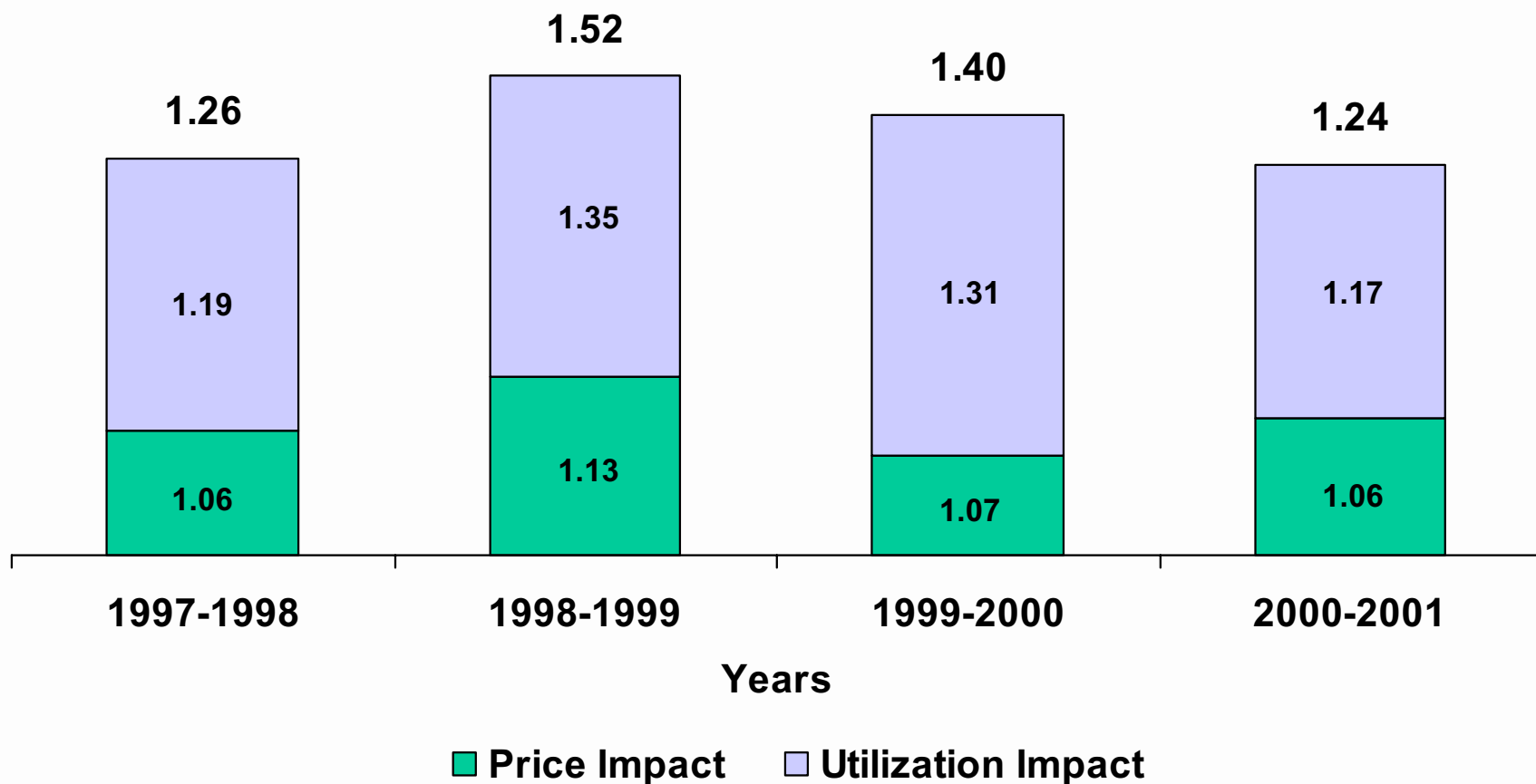
* Developed to an eighth report.



NCCI Prescription Drug Study

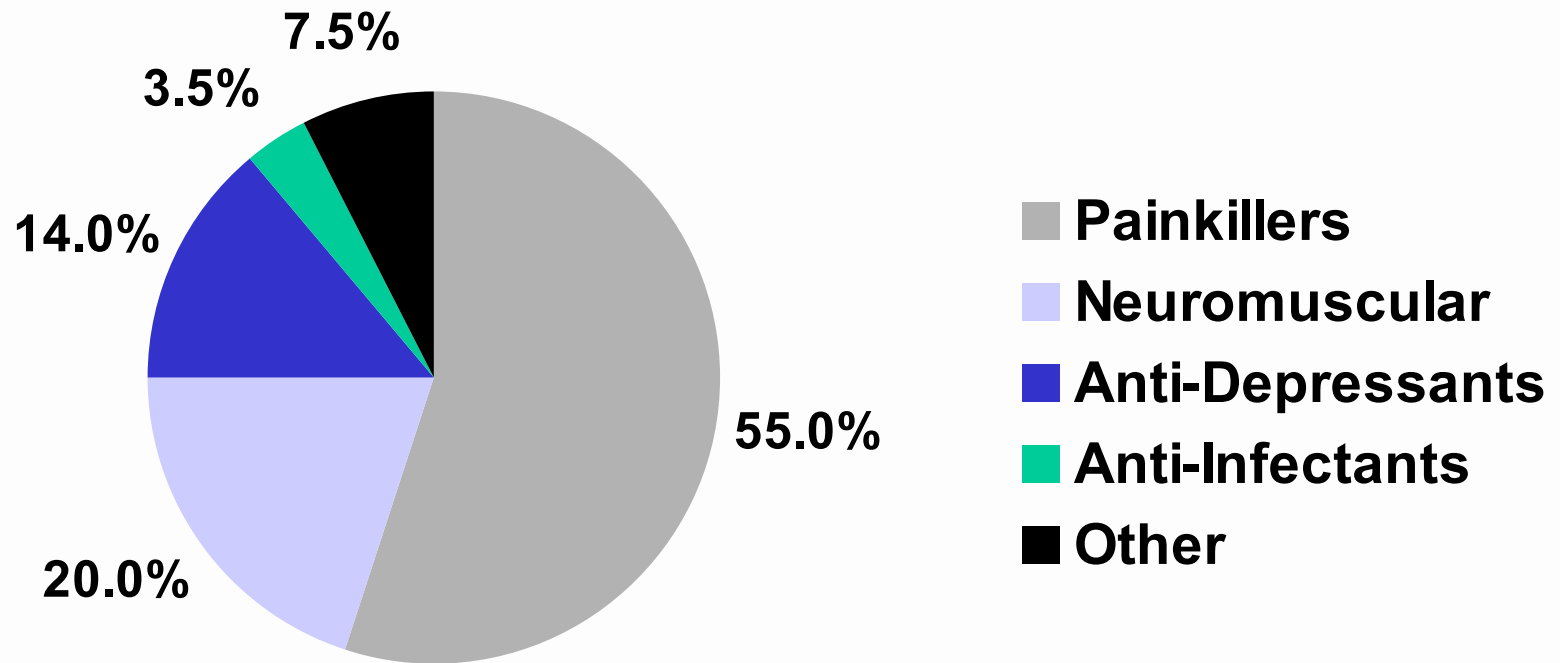
- In 2001, workers compensation insurers paid roughly 75% more than group health for the same drugs
- Prescription drug share of medical costs in workers compensation grew from 7% in Accident Year 1997 to approximately 10% in Accident Year 2001
- Utilization has a greater impact than price on workers compensation drug costs
- Savings opportunities from using generic equivalents are present for less than 10% of total drug costs

Factors Affecting the Change in Workers Compensation Drug Costs



NCCI Prescription Drug Study

Most Prescribed Drugs in Workers Compensation





Top 10 Prescribed Drugs by Total Paid in Workers Compensation

- 1) Celebrex—(anti-inflammatory) brand name, generic not available
- 2) OxyContin—(painkiller) brand name, generic not available
- 3) Vioxx—(anti-inflammatory) brand name, generic not available
- 4) Hydrocodone—(painkiller) generic
- 5) Neurontin—(painkiller) brand name, generic not available
- 6) Ultram—(painkiller) brand name, generic available
- 7) Carisoprodol—(muscle relaxant) generic (same as soma)
- 8) Cyclobenzaprine—(muscle relaxant) generic
- 9) Soma—(muscle relaxant) brand name, generic available (same as carisoprodol)
- 10) Ambien—(sedative) brand name, generic not available



OxyContin[®]: Prescribing Patterns in Workers Compensation

- Painkillers represent 55% of the cost of prescriptions in workers compensation
- OxyContin[®] ranked second in terms of total paid, representing 6% of total drug costs



OxyContin®: Prescribing Patterns in Workers Compensation

- Permanent partial disability claims represented almost 69% of all workers compensation claims with OxyContin® prescription(s).
- For the top 25 diagnoses involving OxyContin® prescription(s), back injuries represented over 49%.
- Clerical and professional occupations represented almost 14% of all workers compensation claims with OxyContin® prescription(s).
- Almost all (99.84%) OxyContin® prescriptions were for 100 tablets. This quantity represents a 50-day supply.



Workers Compensation Classification System



Classification System

- Foundation for workers compensation pricing
- Groups together employers with similar operations and common exposures to hazards
- Enables NCCI to adequately predict premiums and losses for ratemaking purposes



Classification Assurance

- Established in 2003
- Single purpose
- Review 20% of all classifications each year
- Full review completed every 5 years



Annual Research Plan

- Identify the codes to be reviewed in the upcoming year
- Prioritize the list
- Collaborate with stakeholders in the system on those codes
- Work to the plan



How We Determine “The List”

- Analyze NCCI data
 - Current codes
 - Minimal payroll
 - Countrywide basis
- Emerging industries
- Transitioning industries
- Mature industries
- Appeal board decision
- By request



Potential Sources of Information

- Regulators
- Carriers
- Independent Bureaus
- Employers
- Trade Associations
- Unions
- Auditors
- Agents



Result

- Eliminate codes
- Merge/split codes
- Establish new codes
- Expand codes
- Reduce the number of state special codes
- Clarify language of codes
- Publication of educational circulars, etc.



Current Proposed Changes

- Item B-1387—Revisions of ***Basic Manual*** Classifications
 - Charitable Welfare Organizations and Group Homes
 - Bottling Operations
- Proposed Effective Date—October 1, 2004



Class Review Schedule

- 2003
 - 15 industries reviewed
 - 2004
 - 82 industries will be reviewed
 - Quarterly updates to online schedule
 - Publish 2005 schedule by October 2004
-

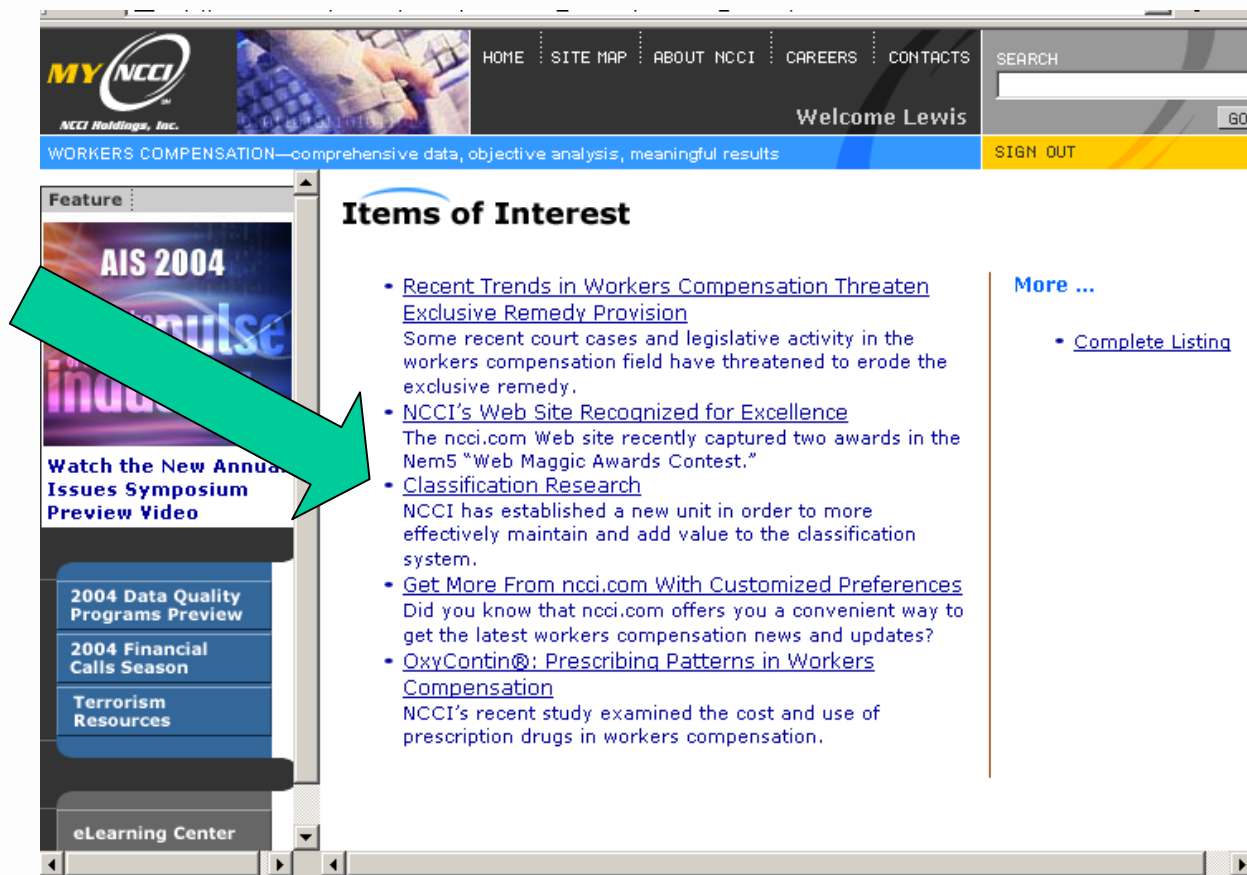
2004 Examples:

- | | |
|--------------------------------|-------------------------|
| • Heating and Air Conditioning | • Auto Repair/Body Shop |
| • Mailing Companies | • Executive Supervisors |
| • Amusement Devices | • Firefighters |
| • Auto Dismantling | |

Contact NCCI

On **ncci.com**:

- Select **Items of Interest**
- Select **Classification Research**





Contact NCCI

- Ron Darna, Department Manager, 561-893-3155
- Call: 800-**NCCI**-123
- Fax: 561-893-1191
- Mail:
901 Peninsula Corporate Circle
Boca Raton, FL 33487
- E-mail:
customer_service@ncci.com



Legislative Issues Nationwide and in Arkansas



Federal Legislative Issues

- Implementation issues associated with the Terrorism Risk Insurance Act of 2002
- Implementation of medical privacy regulations
- Optional federal chartering proposals

Arkansas Legislation

- **HB 2833**

- Establishes notification requirements
- Effective 7/1/03

“When an insurer ... revises its rates or rules and the revision results in a premium increase equal to or greater than 25% on any renewal policy ... the insurer shall mail or deliver to the insured’s agent not less than 60 days prior to the effective date of the renewal, and to the insured not less than 30 days prior to the effective date of the renewal, notice specifically stating the insurer’s intention to increase the premium by an amount greater than or equal to 25%.”



The Residual Market in Arkansas



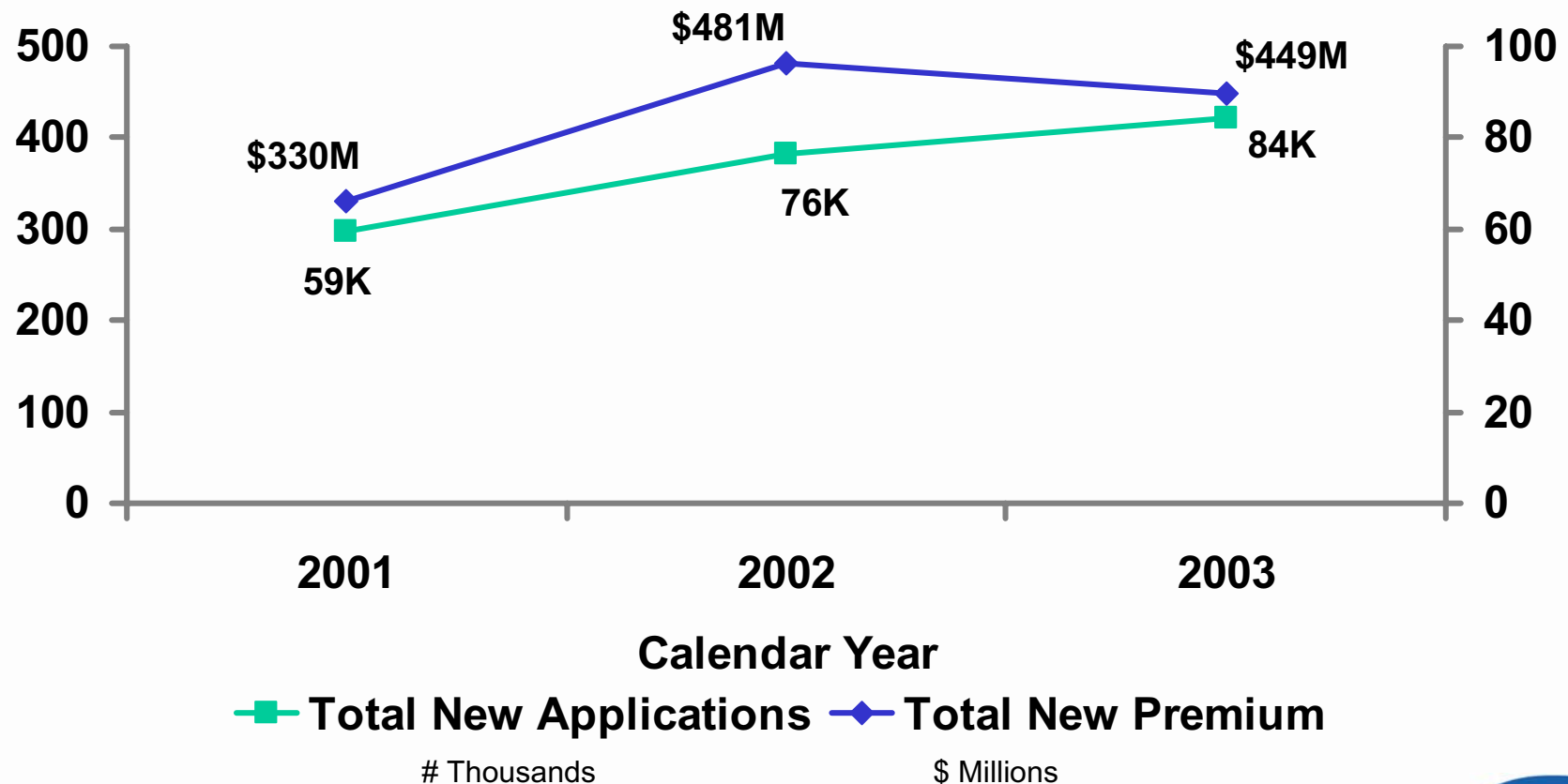
Change in Arkansas Servicing Carriers, Contract Effective 1/1/2004

- Companion Property and Casualty
- LM Insurance Corporation
- Travelers Indemnity Co.
- Union Standard Insurance

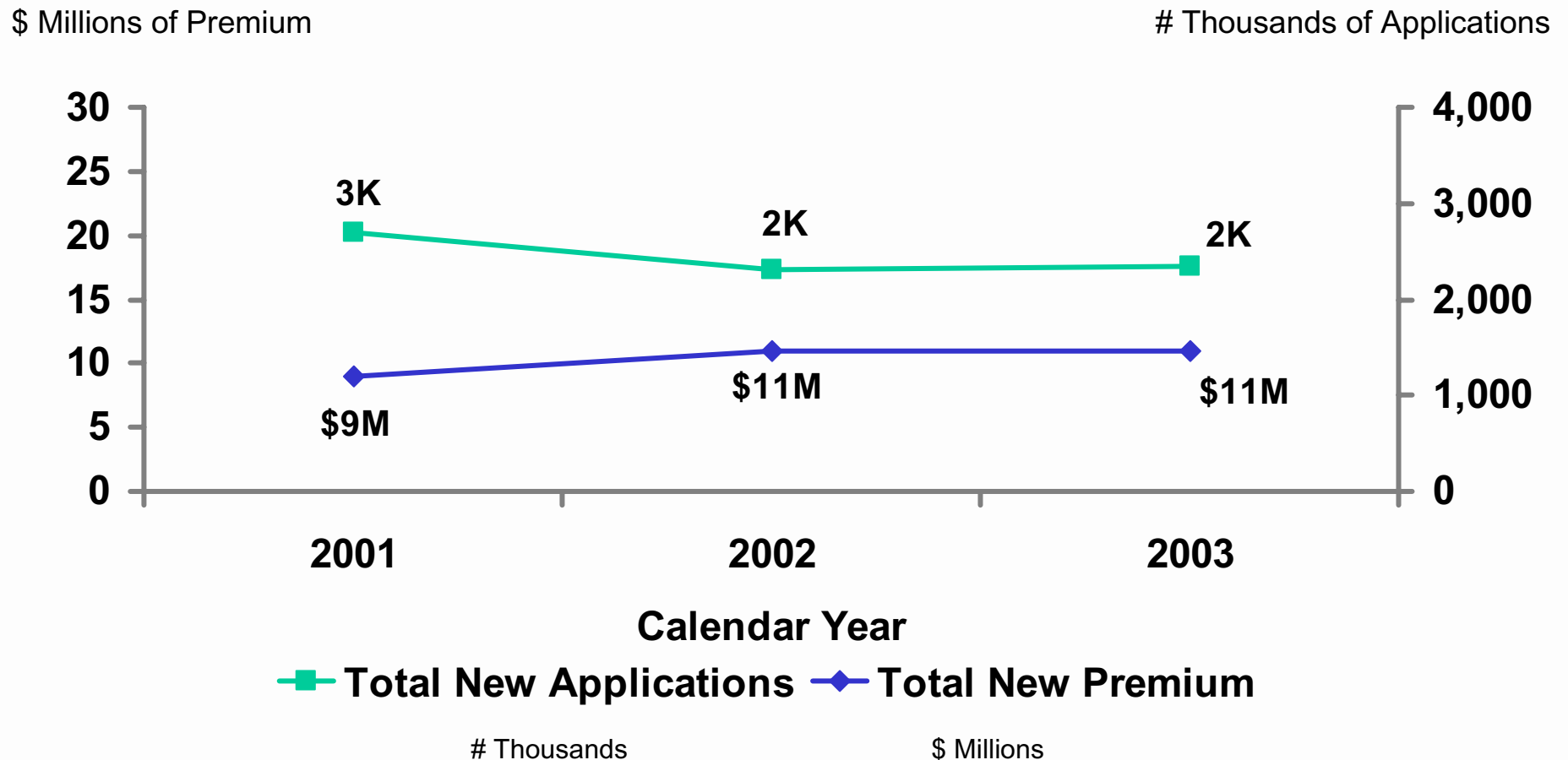
Total Residual Market New Applications and Premium Assigned in All Plan States

\$ Millions of Premium

Thousands of Applications



Total Residual Market New Applications and Premium Assigned in Arkansas



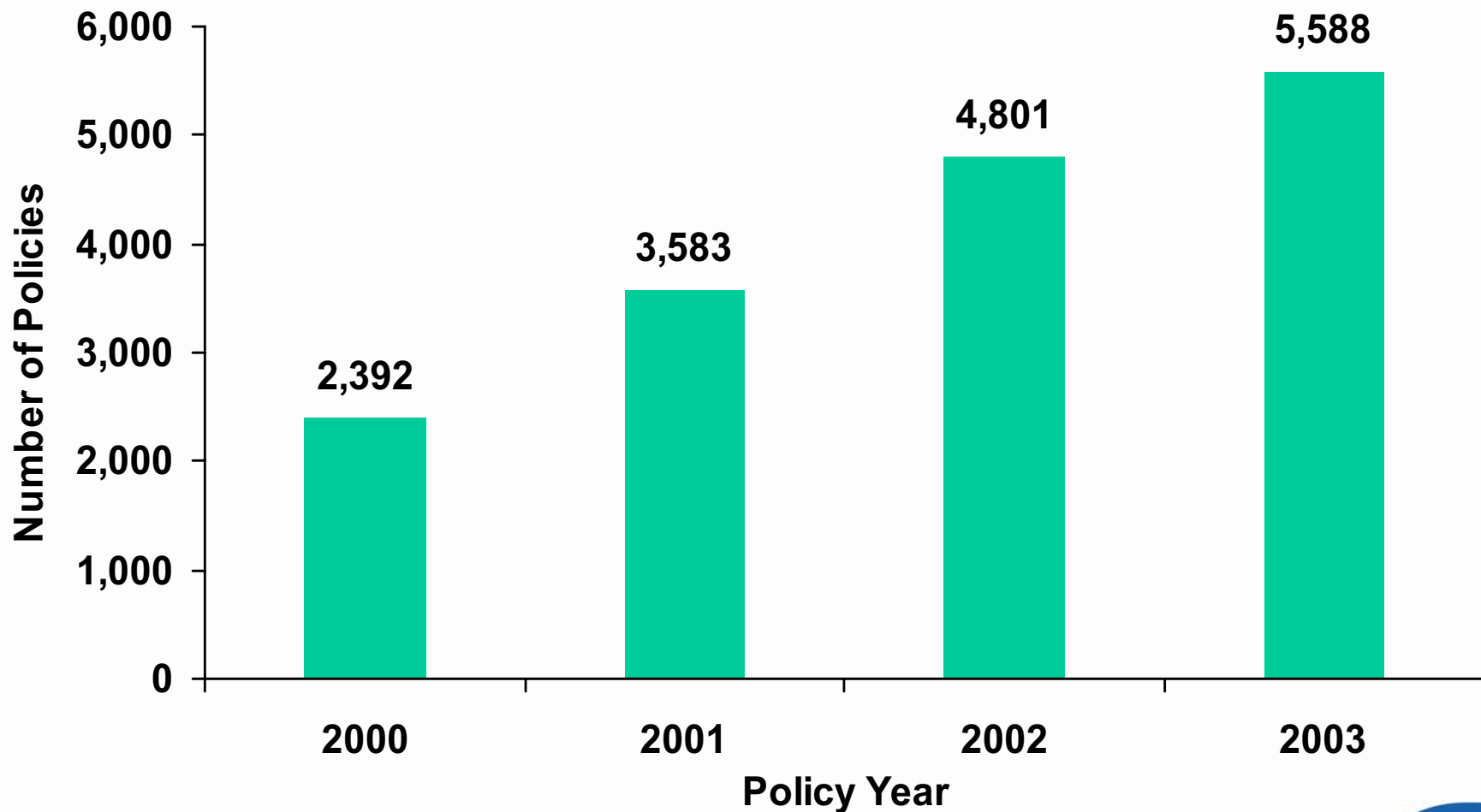


Growing Percentages of New Arkansas Residual Market Plan Applications Are Being Processed Online

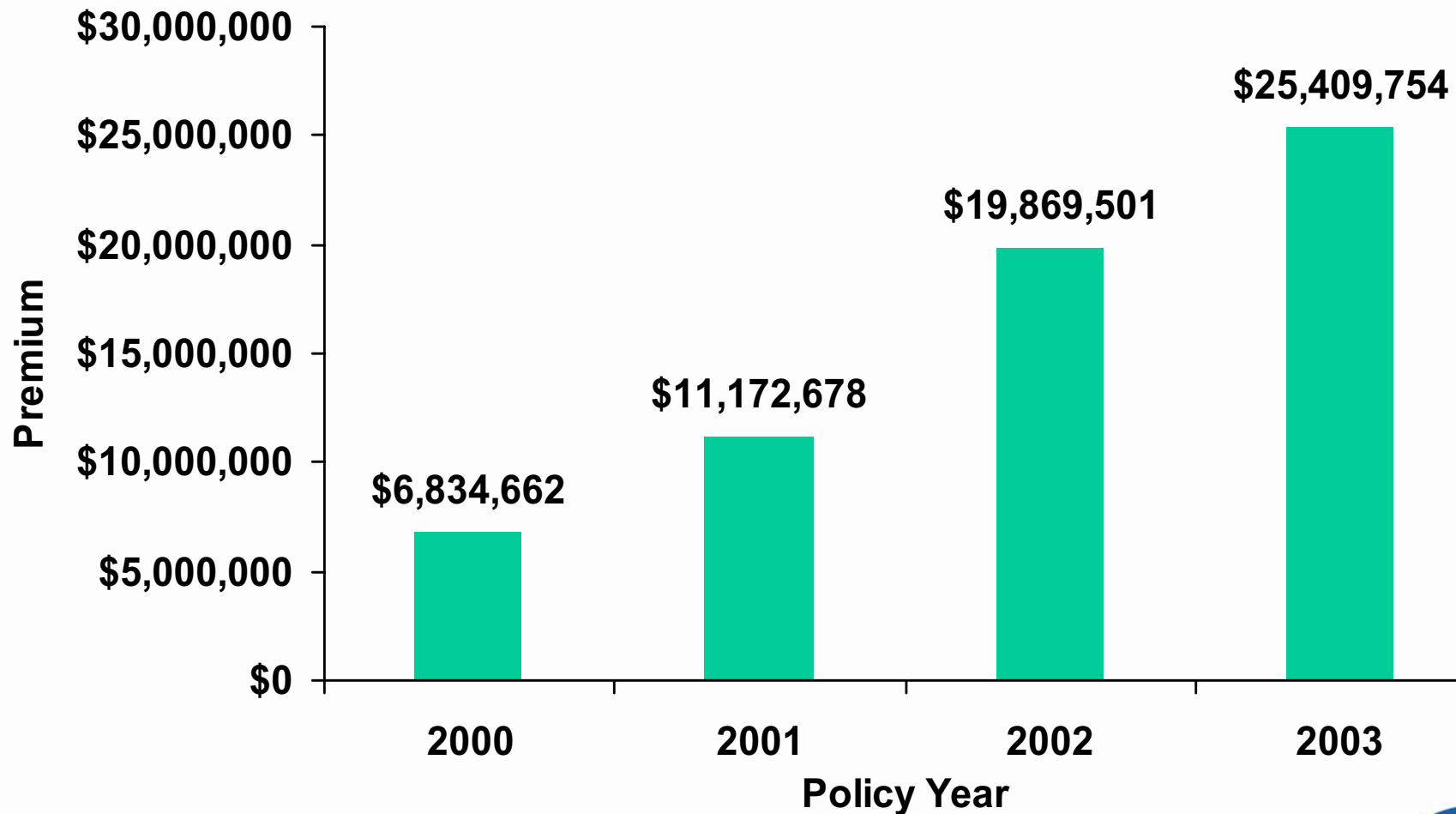
**Percentage of Arkansas' New Applications Received
via Electronic Transmission at Month's End**

	Arkansas	National Average
December 2001	30.7%	38.4%
December 2002	45.2%	52.5%
December 2003	53.5%	65.2%

Arkansas' Total Residual Market Plan Policy Count



Arkansas' Total Residual Market Plan Premium Volume

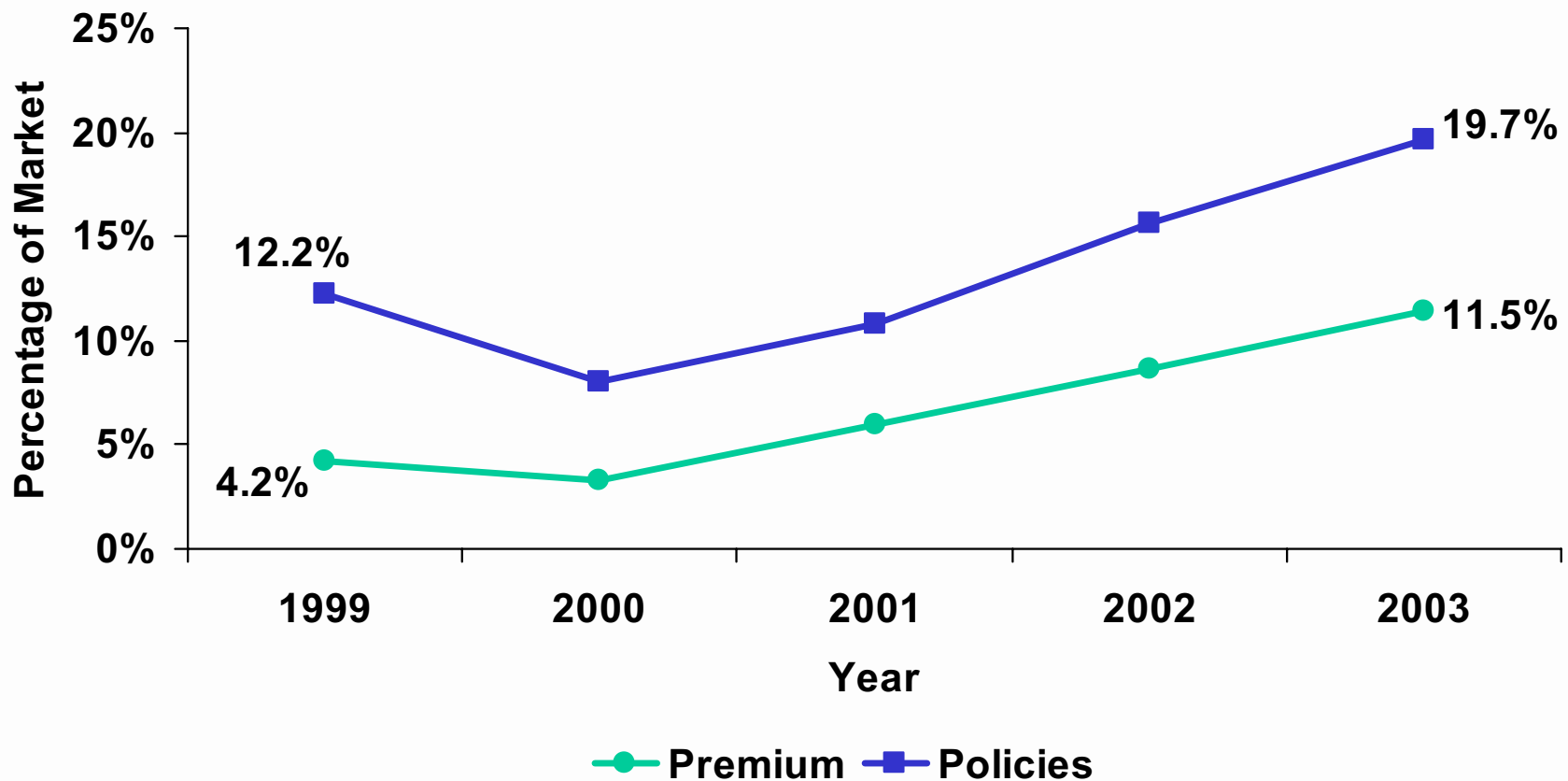


Arkansas' Residual Market Plan


2002 vs. 2003 Total Policy Size Comparison

Premium Size	2002		2003	
	# of Policies	Premium	# of Policies	Premium
\$0- \$2,499	3,285	\$2,683,644	3,755	\$3,219,599
\$2,500- \$4,999	673	\$2,023,807	808	\$2,477,563
\$5,000- \$9,999	414	\$2,419,810	485	\$2,986,383
\$10,000- \$19,999	248	\$2,988,509	275	\$3,208,246
\$20,000- \$49,999	119	\$3,211,371	167	\$4,503,365
\$50,000- \$99,999	37	\$2,272,670	67	\$3,722,839
\$100,000- \$199,999	19	\$2,337,932	23	\$2,514,710
\$200,000 and greater	6	\$1,931,758	8	\$2,777,049
TOTAL	4,801	\$19,869,501	5,588	\$25,409,754

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



Note: Market share as a percentage of residual market total estimated premium/policies in force.



Demographics:

Top 10 Zip Codes With the Largest Number of Arkansas Residual Market Policies

Zip Code	City	Policy Counts	% of Policies in Zip Code
71913	HOT SPRINGS	133	2.38%
71730	EL DORADO	102	1.83%
71901	HOT SPRINGS	96	1.72%
72712	BENTONVILLE	93	1.66%
72756	ROGERS	86	1.54%
72401	JONESBORO	77	1.38%
72653	MOUNTAIN HOME	74	1.32%
72701	FAYETTEVILLE	73	1.31%
72703	FAYETTEVILLE	67	1.20%
72764	SPRINGDALE	63	1.13%
		864	15.47%



Demographics:

Top 10 Zip Codes With the Largest Arkansas Residual Market Premium Volume

Zip Code	City	Premium in Zip Code	% of Premium in Zip Code	Avg Policy Size
71730	EL DORADO	\$1,189,960	4.68%	\$11,666
72303	WEST MEMPHIS	\$598,215	2.35%	\$37,388
72703	FAYETTEVILLE	\$462,686	1.82%	\$6,906
72015	BENTON	\$399,259	1.57%	\$7,259
72745	LOWELL	\$344,805	1.36%	\$14,992
71854	TEXARKANA	\$278,667	1.10%	\$4,976
72956	VAN BUREN	\$275,880	1.09%	\$5,870
71913	HOT SPRINGS	\$267,983	1.05%	\$2,015
72390	WEST HELENA	\$267,764	1.05%	\$20,597
		\$4,085,219	16.07%	



Demographics: Some Interesting Facts

New applications received by NCCI provide some interesting information, based on how the producers answer the questions, such as:

- Request USL&H coverage
 - 18 of 502 applications requesting USL&H coverage were from Arkansas (3.6%)
- Indicate that the risk was previously “Self-Insured”
 - 66 of 3,231 applications indicating previous self-insurance were from Arkansas (2.0%)

Note: “Self Insured” could also indicate small accounts that were formerly group self-insureds or PEOs.



Arkansas' Assigned Risk Plan Pricing Programs

- Merit Rating
- Differential/Surcharge
- Removal of Premium Discount
- Take-Out Credit Program
- Tabular Adjustment Program
- Alternative Preferred Plan
- Managed Care Credit Program



Q & A



Closing Remarks

Thank You!



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 one hundred 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 (i) loss ratio, (ii) expense ratio, and (iii) 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.



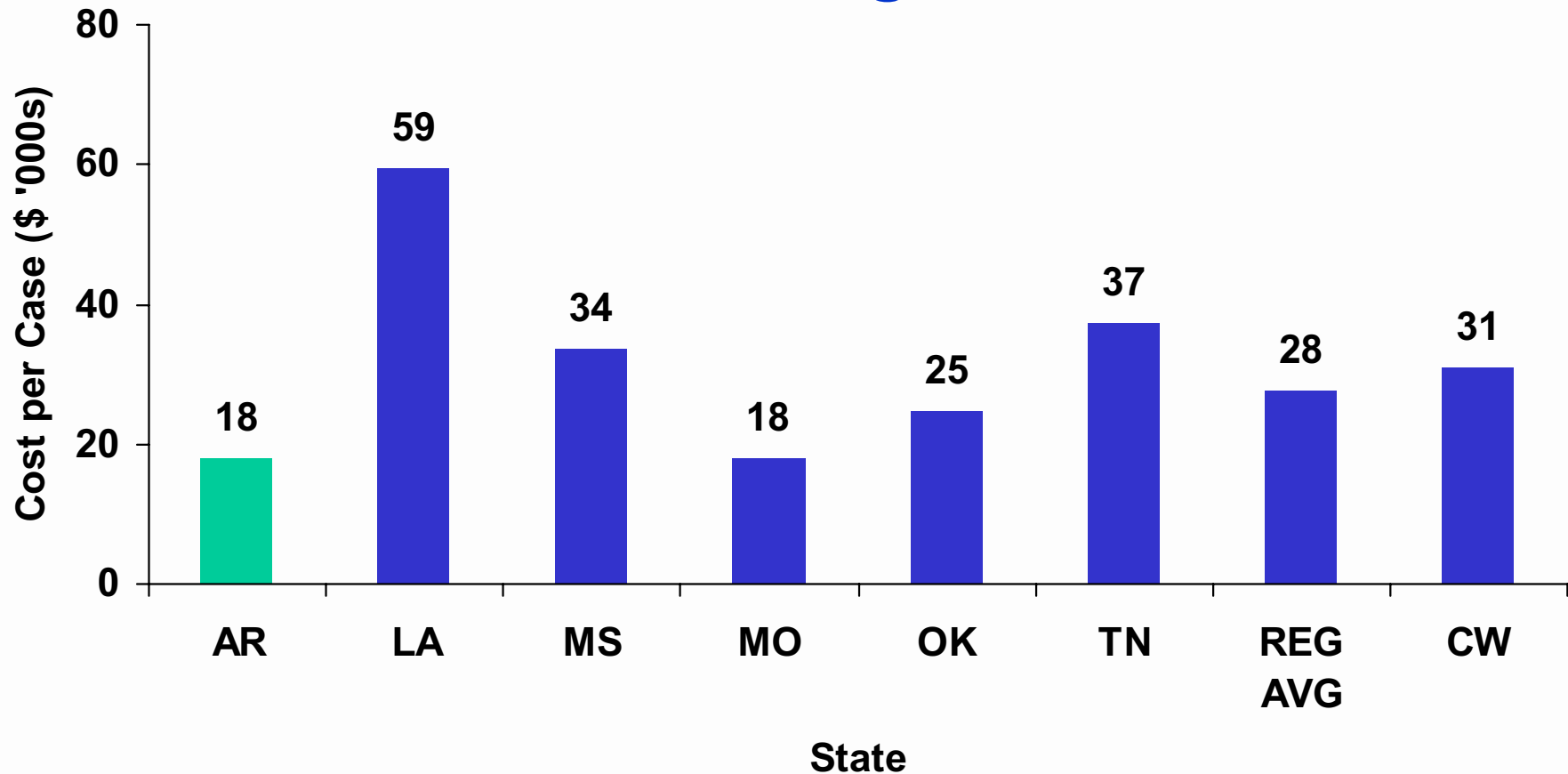
Glossary

- **Permanent Partial (PP)**—Disability that prevents the insured from working at their own (and sometimes any) occupation. A disability is considered to result in permanent, partial loss of earning power.
- **Policy Year (PY)**—Premium and loss data on business for a 12-month period for policies with inception dates within the 12-month 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.



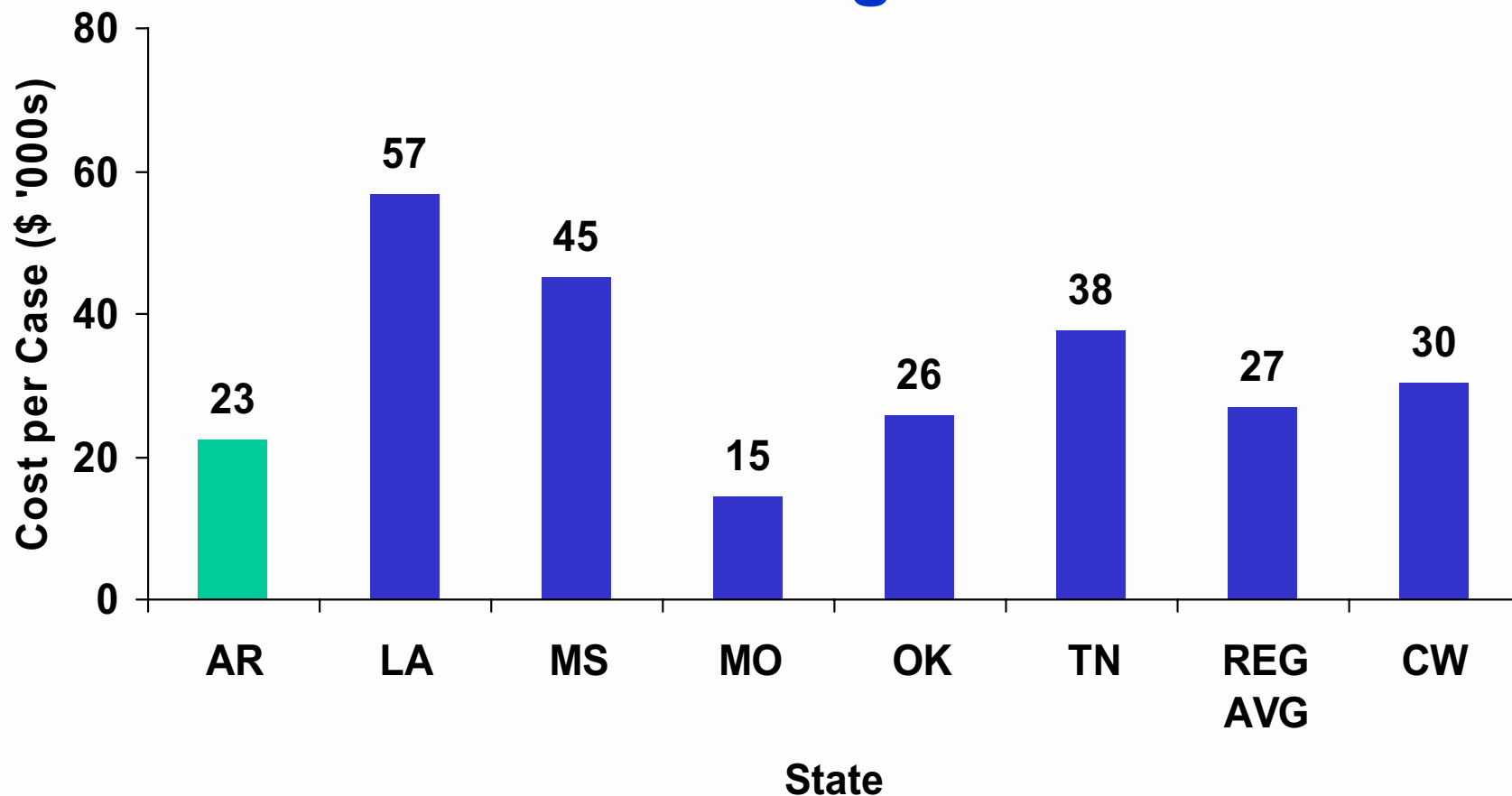
Appendix

Arkansas' Permanent Partial Indemnity Average Cost per Case Is Among the Lowest in the Region



Based on NCCI's WCSP data.

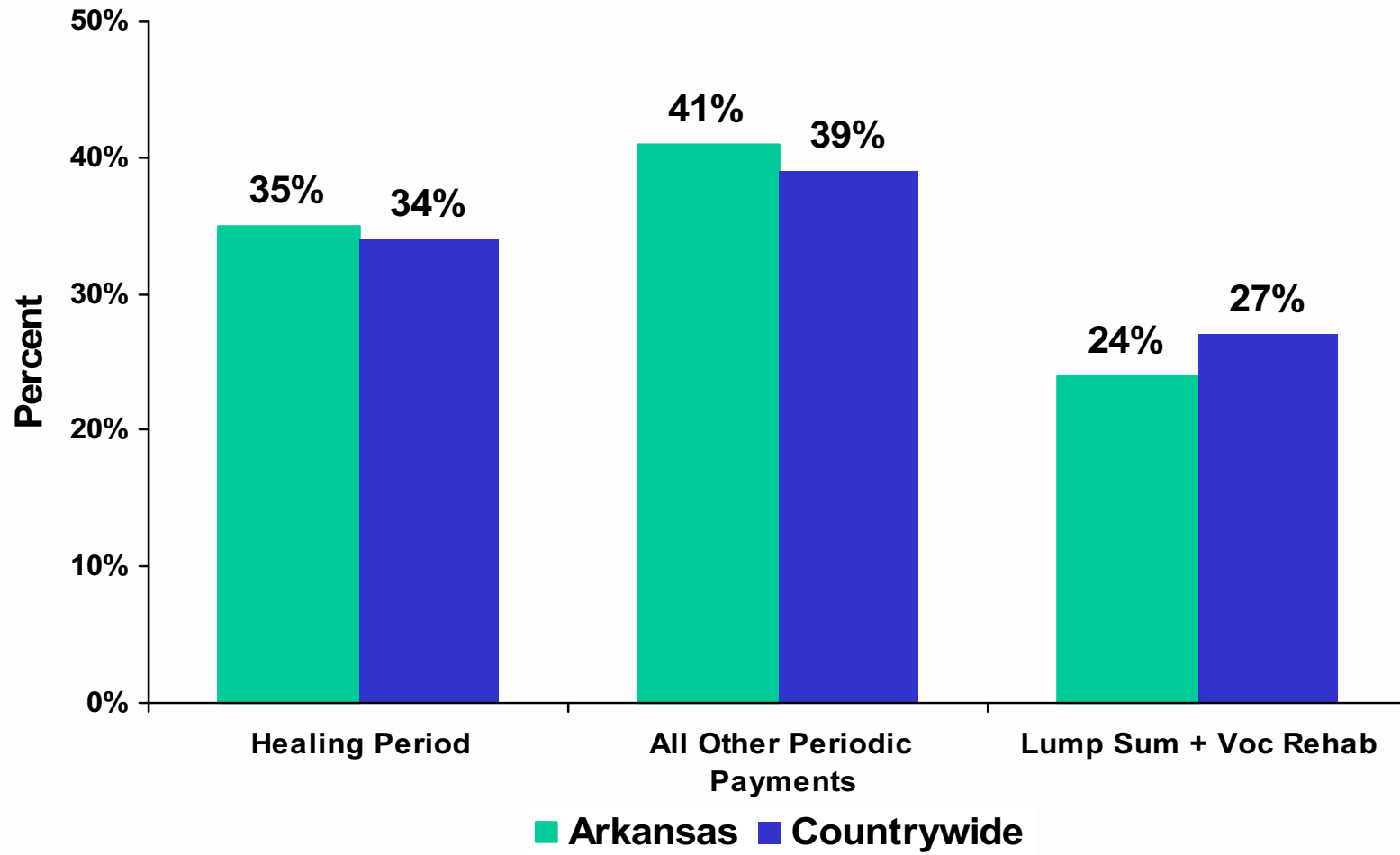
Arkansas' Permanent Partial Medical Average Cost per Case Is Among the Lowest in the Region



Based on NCCI's WCSP data.

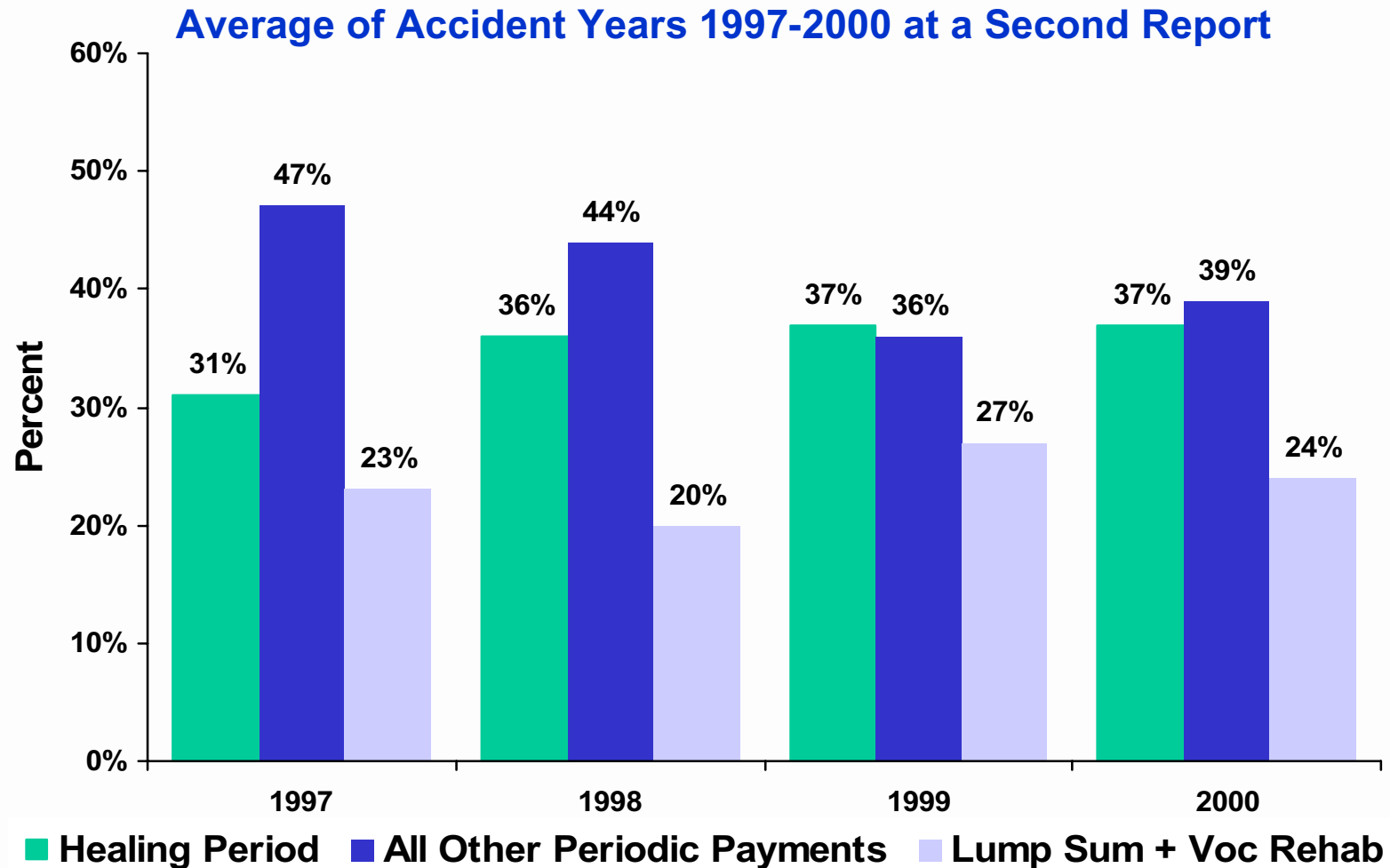
Breakdown of Permanent Partial Indemnity Awards

Average of Accident Years 1997-2000 at a Second Report



Source: NCCI Detailed Claim Information Database

Breakdown of Arkansas' Permanent Partial Indemnity Costs

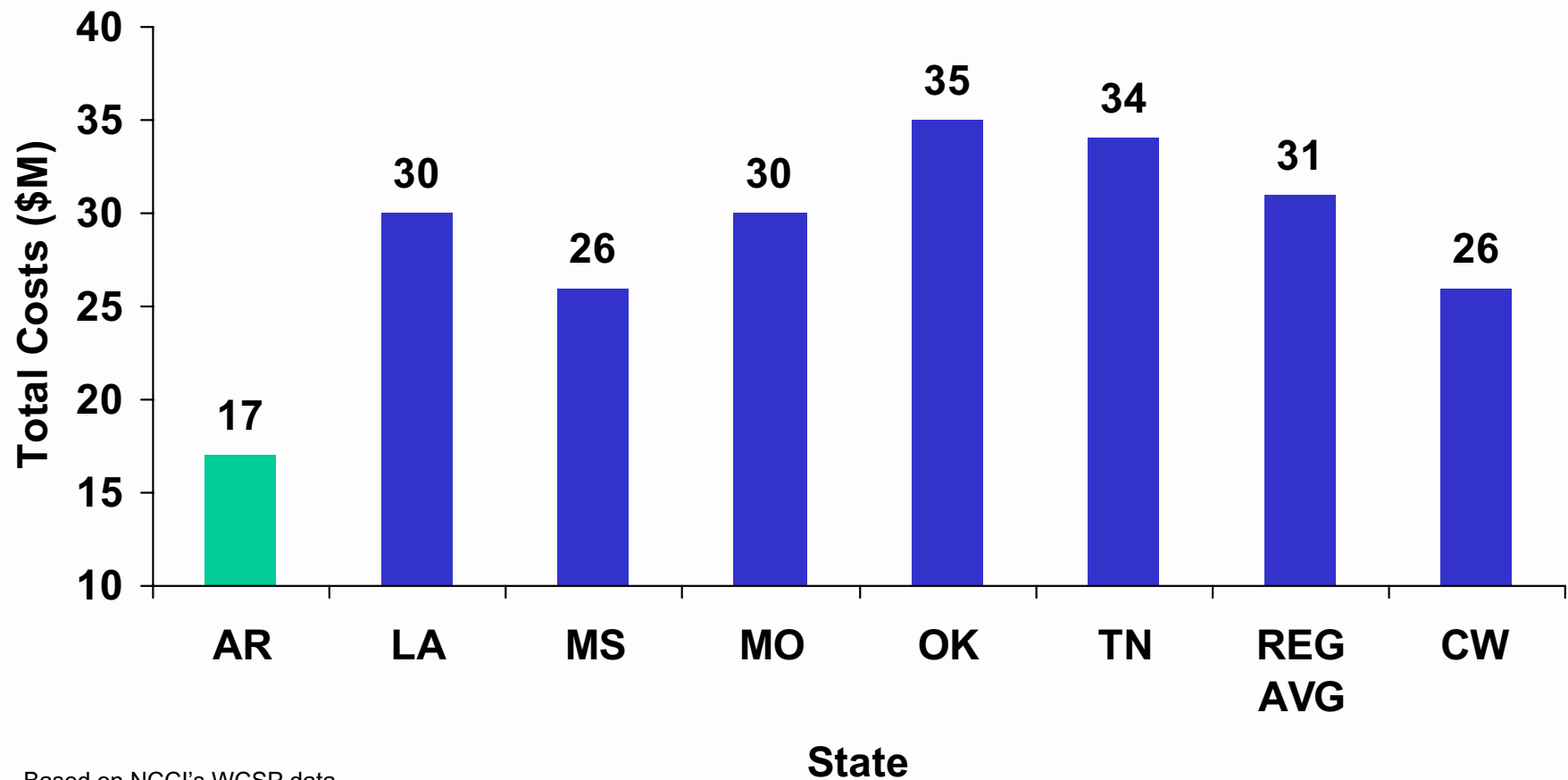


Source: NCCI Detailed Claim Information Database

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Arkansas' Permanent Partial Total Costs

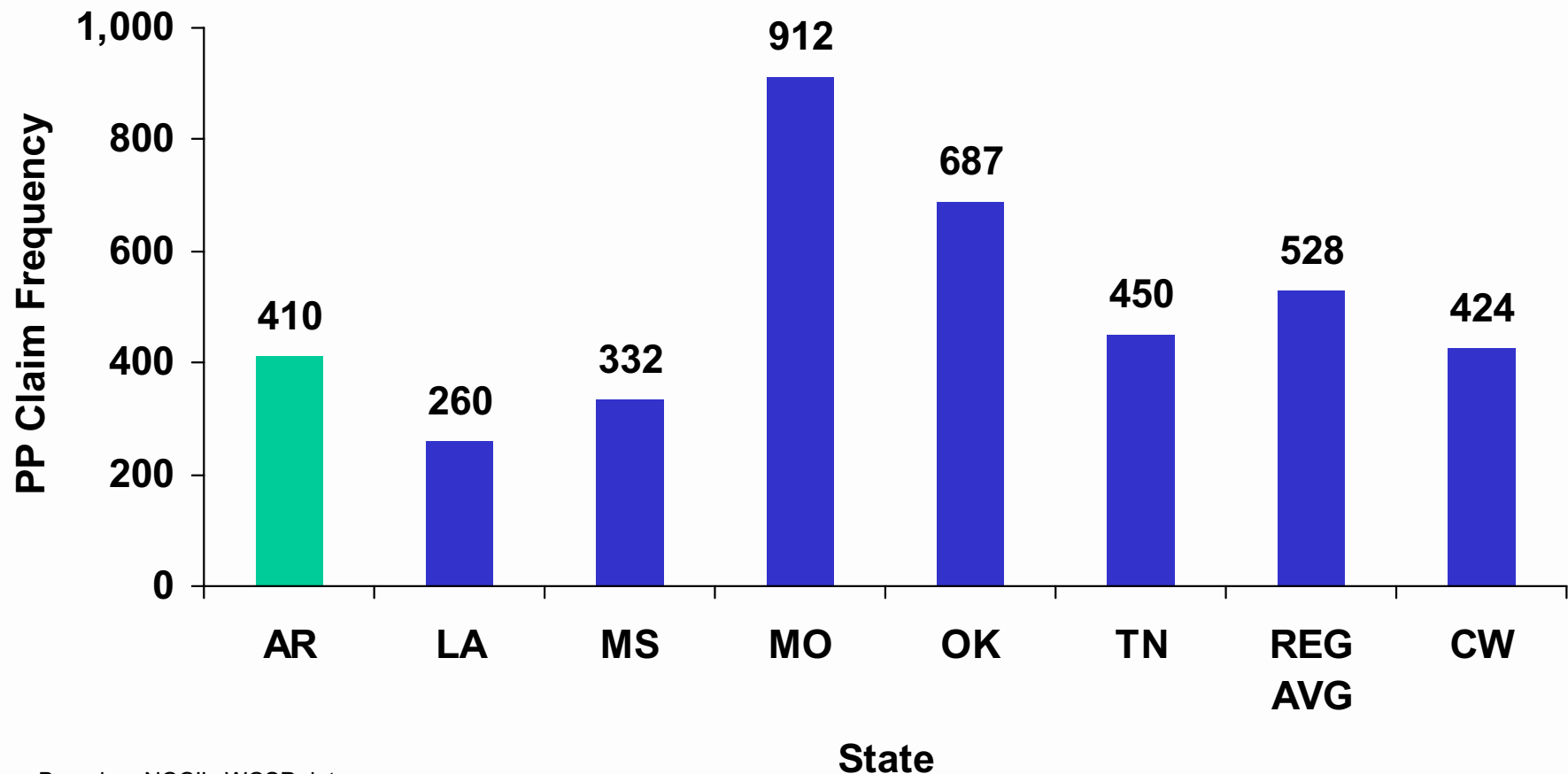
Permanent Partial Costs per 100,000 Workers



Based on NCCI's WCSP data.

Arkansas Has a Low Frequency of Permanent Partial Claims

Permanent Partial Frequency per 100,000 Workers



Based on NCCI's WCSP data.

Arkansas' New Residual Market Applications

Number and Types of New Assignments

Year	Assignments		Reassignments	Total Assigned
	No Previous Coverage	Previous Voluntary Coverage		
2000	333	139	412	884
2001	964	1,131	596	2,691
2002	1,258	899	152	2,309
2003	1,257	884	207	2,348

Note—Reassignments: Application has had previous residual market coverage.

Arkansas' New Residual Market Applications

Total New Assigned Premium

Year	Assignments		Reassignments	Total Assigned
	No Previous Coverage	Previous Voluntary Coverage		
2000	\$722,831	\$1,598,682	\$932,194	\$3,253,707
2001	\$1,969,581	\$5,783,386	\$1,474,040	\$9,227,007
2002	\$3,102,773	\$6,809,820	\$944,736	\$10,857,329
2003	\$2,851,330	\$7,683,330	\$912,560	\$11,447,220

Note—Reassignments: Application has had previous residual market coverage.



Arkansas' Top Five Class Codes Based on Residual Market Plan Total Policy Count

Nationally

8810—Clerical (6.3%)

5645—Carpentry (6.3%)

8742—Outside Sales (2.8%)

9014—Buildings, Operations
by Contractors (2.5%)

5474—Painting (2.4%)

Arkansas

8810—Clerical (8%)

5645—Carpentry (6%)

8832—Physician (4.4%)

8017—Retail Store (2.7%)

9082—Restaurant (2.6%)

Arkansas' Top Five Class Codes Based on Residual Market Plan Total Written Premium

Nationally

5645—Carpentry, Family Dwellings (4.5%)

8861—Charitable Organizations (3.3%)

7229—Trucking, Long Distance (2.8%)

5551—Roofing (2.3%)

7228—Trucking, Local (2.2%)

Arkansas

5645—Carpentry, Family Dwellings (3.9%)

7423—Aircraft or Helicopter Operations (3.6%)

8006—Retail Grocery Store (3.1%)

8861—Charitable Organization (2.9%)

7229—Trucking, Long Distance (2.9%)

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Executive Summary

NCCI, as Pool and Plan Administrator of the Arkansas Workers Compensation Insurance Plan, is pleased to provide the First Quarter 2004 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.

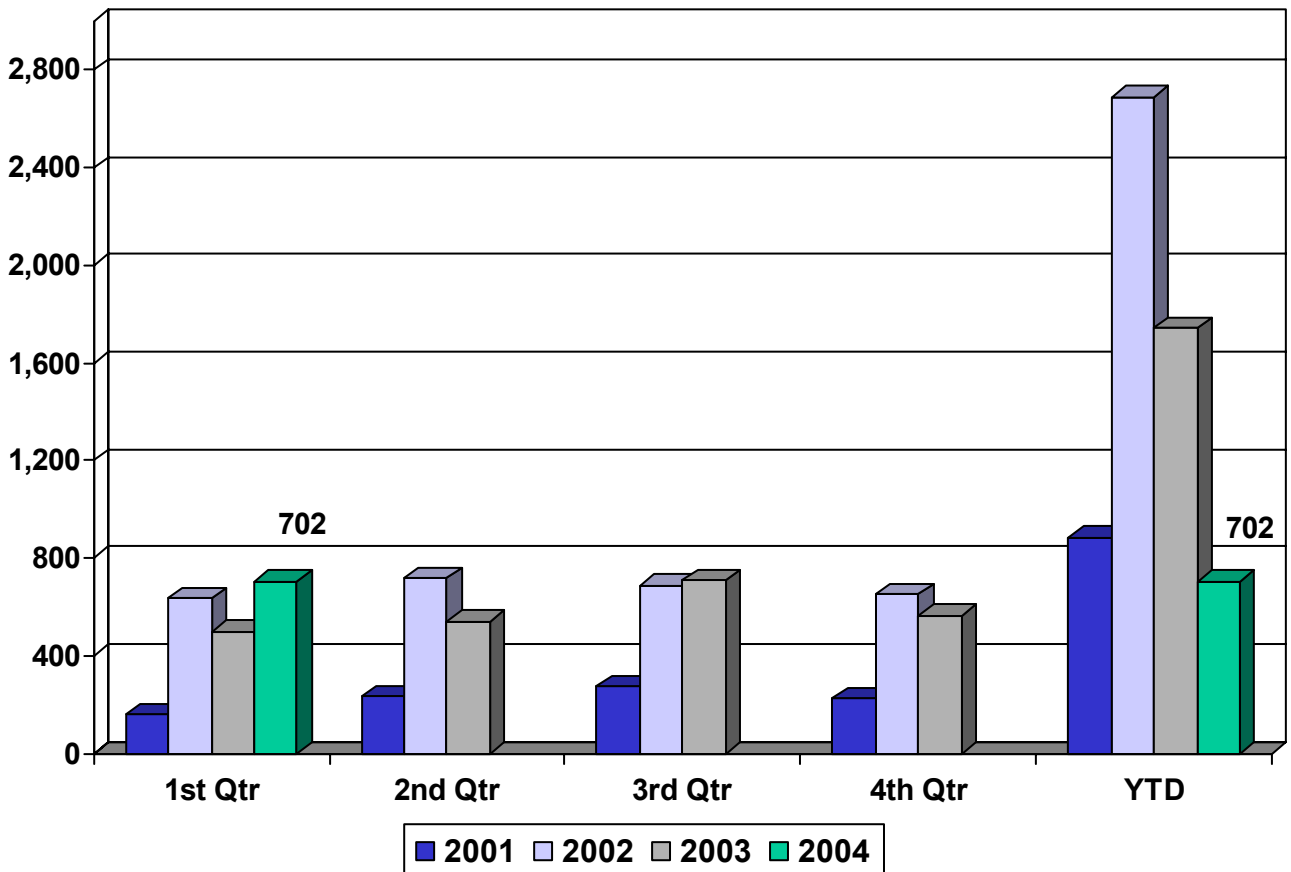
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Cathy Booth, State Relations Executive	(205) 655-2699
Lesley O'Brien, Underwriting Specialist	(561) 893-3186
Chantel Weishaar, Technical Specialist	(561) 893-3015

Residual Market Demographics

Arkansas Residual Market Total New Applications Bound 2001 vs. 2002 vs. 2003 vs. 2004

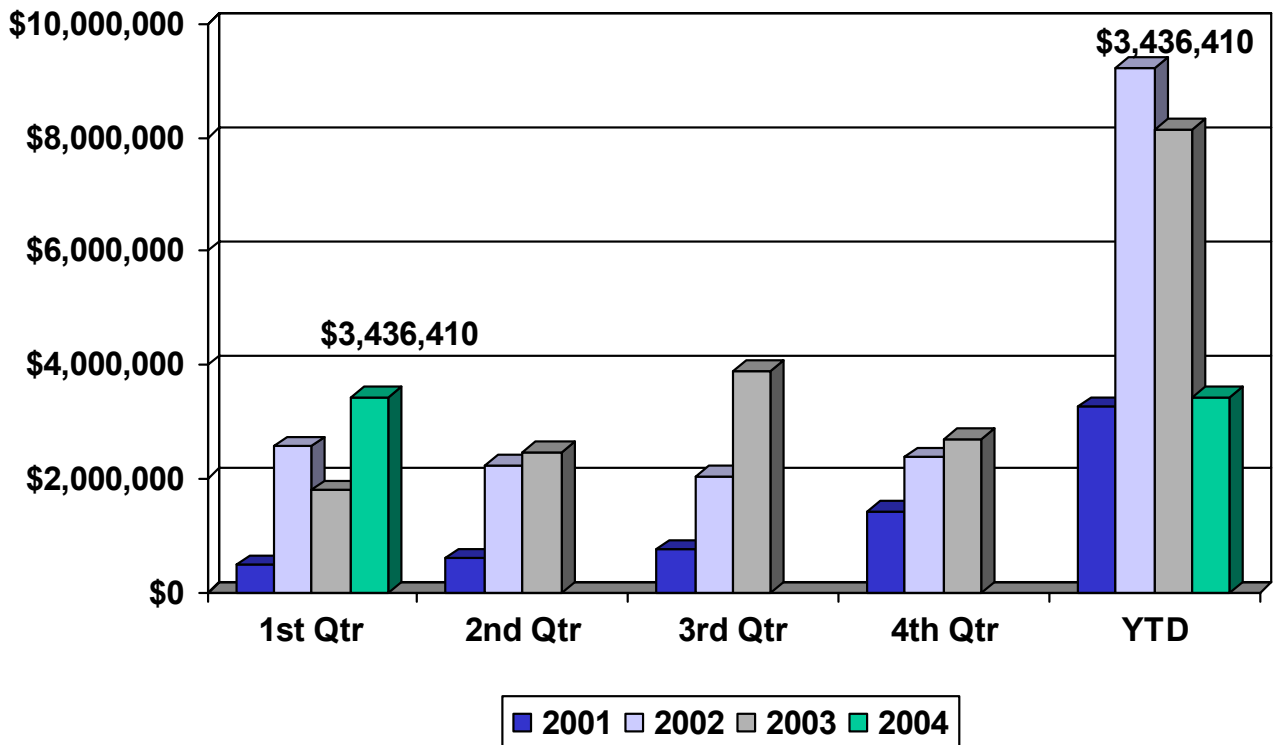
The number of new applications that are actually assigned to a Servicing Carrier or Direct Assignment Carrier (if applicable).



Residual Market Demographics

Arkansas Residual Market Total New Application Premium Bound 2001 vs. 2002 vs. 2003 vs. 2004

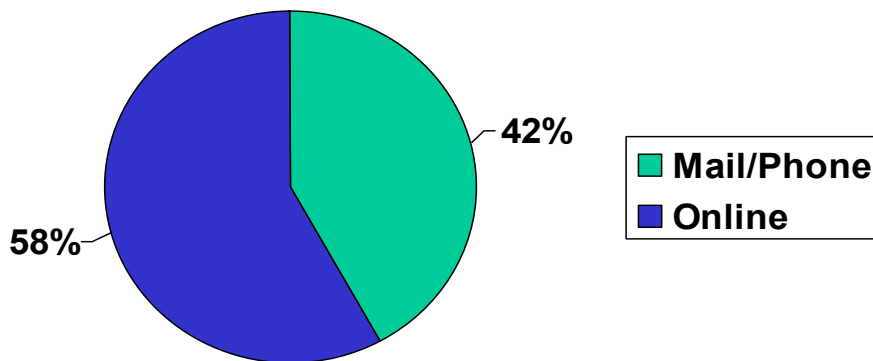
The total estimated First Quarter premium on bound new applications assigned to as Servicing Carrier or Direct Assignment Carrier (if applicable).



Residual Market Demographics

Percentage of New Applications Received by Submission Format Data through March 31, 2004

The total percentage of new applications received via online, phone or mail formats.

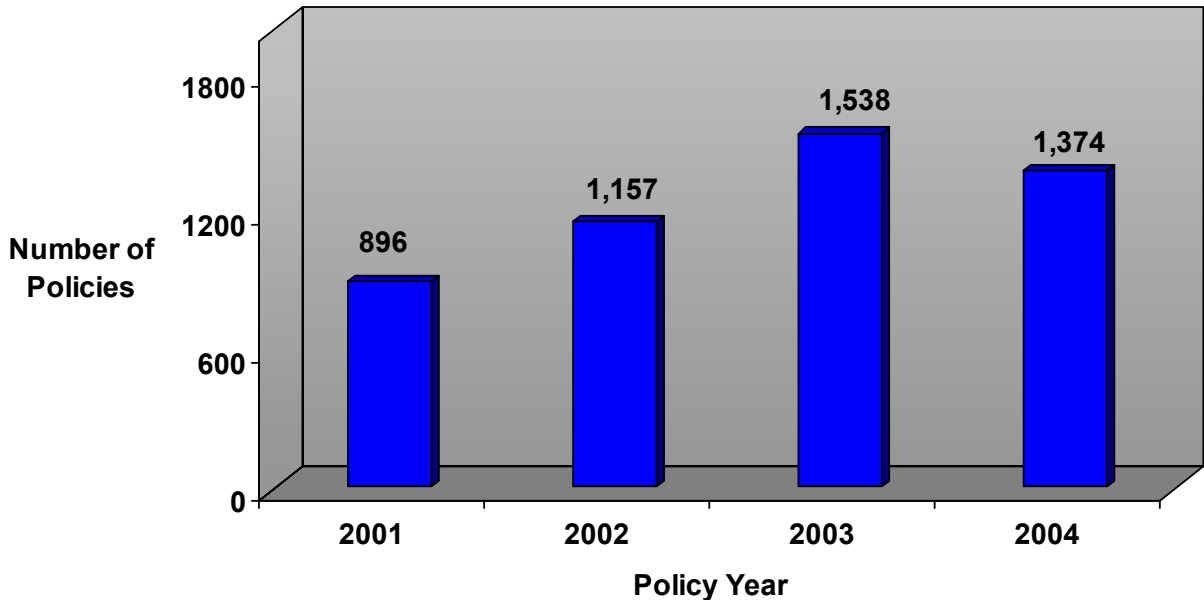


Residual Market Demographics

Residual Market Total Policy Counts

First Quarter 2004 Data for Policies Reported through March 31, 2004

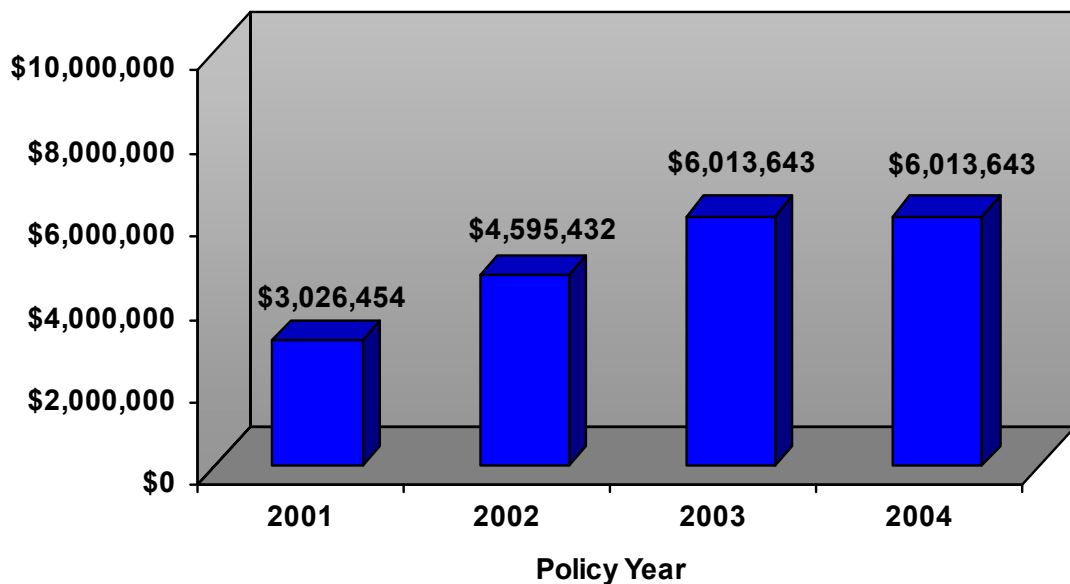
Total Number of all Assigned Risk Plan Policies effective during this quarter and reported as of the date listed above.



Residual Market Total Premium Volume

First Quarter 2004 Data Reported through March 31, 2004

Total Amount of All Assigned Risk Plan Premium effective during this quarter and reported as of the date listed above.



Residual Market Demographics

Residual Market First Quarter 2004 Total Premium Distribution by Size of Risk Data Reported through March 31, 2004

The total number of assigned risk plan policies reported to NCCI for the quarter 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	949	69.07%	\$822,874	13.68%	\$867
\$2500 - 4999	171	12.45%	\$584,833	9.73%	\$3,420
\$5000 - 9999	118	8.59%	\$788,867	13.12%	\$6,685
\$10000 - 19999	71	5.17%	\$961,296	15.99%	\$13,539
\$20000 - 49999	49	3.57%	\$1,426,561	23.72%	\$29,113
\$50000 - 99999	12	0.87%	\$910,194	15.14%	\$75,849
\$100000 - 199999	4	0.29%	\$519,018	8.63%	\$129,754
Total	1,374	100%	\$6,013,643	100%	\$4,377

Residual Market Total Premium Distribution by Size of Risk First Quarter 2003 Data for Comparison

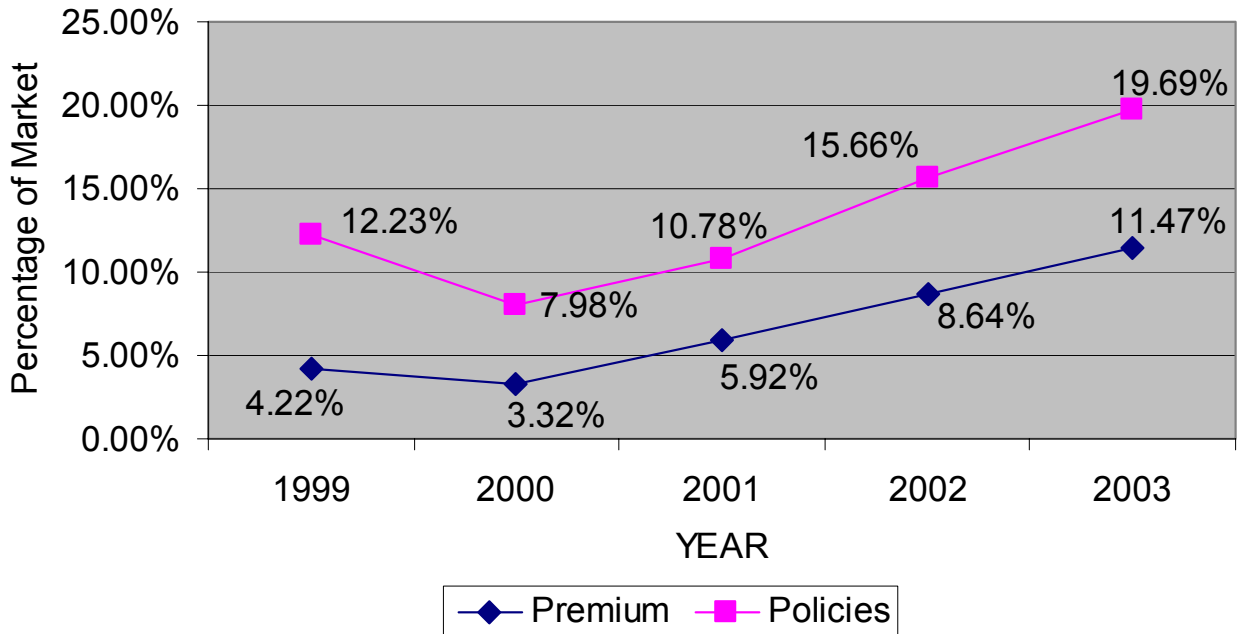
The total number of assigned risk plan policies reported to NCCI for the previous quarter by Direct Assignment and Servicing Carriers in a premium range.

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	1,028	66.84%	\$826,754	12.58%	\$804
\$2500 - 4999	225	14.63%	\$644,448	9.8%	\$2,864
\$5000 - 9999	140	9.1%	\$875,057	13.31%	\$6,250
\$10000 - 19999	67	4.36%	\$768,446	11.69%	\$11,469
\$20000 - 49999	52	3.38%	\$1,386,415	21.09%	\$26,661
\$50000 - 99999	17	1.11%	\$1,012,460	15.4%	\$59,556
\$100000 - 199999	8	0.52%	\$979,432	14.9%	\$122,429
\$200000 - Plus	1	0.07%	\$79,762	1.21%	\$79,762
Total	1,538	100%	\$6,572,774	100%	\$4,274

Residual Market Demographics

Total Arkansas Assigned Risk Plan Market Share

The percentage of total assigned risk plan policies and premium, as compared to the total estimated annual premium and policies for the voluntary market, as of December 31, 2003



Residual Market Demographics

Residual Market Top 10 Classification Codes by Policy Count Data Reported through March 31, 2004

The top ten 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	8810	Clerical	120	8.73%
2	5645	Carpentry-Detached One Or Two Family Dwellings	116	8.44%
3	8832	Physician	53	3.86%
4	8279	Stable Or Breeding Farm	48	3.49%
5	9082	Restaurant NOC	44	3.2%
6	8742	Outside Salespersons	36	2.62%
7	8017	Retail Store	34	2.47%
8	0037	Farm: Field Crops	29	2.11%
9	7423	Aircraft Or Helicopter Operation	27	1.97%
10	9015	Buildings-Operation By Owner	27	1.97%

Residual Market Top 10 Classification Codes by Premium Volume Data Reported through March 31, 2004

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-Detached One Or Two Family Dwellings	\$270,228	4.49%
2	7229	Trucking-Long Distance Hauling	\$270,205	4.49%
3	7228	Trucking-Local Hauling Only	\$260,487	4.33%
4	8868	College: Professional Employees	\$254,765	4.24%
5	2710	Sawmill	\$232,932	3.87%
6	5474	Painting Or Paperhanging NOC	\$203,947	3.39%
7	9082	Restaurant NOC	\$184,005	3.06%
8	8833	Hospital: Professional Employees	\$146,844	2.44%
9	8832	Physician & Clerical	\$139,293	2.32%
10	7423	Aircraft Or Helicopter Operation	\$135,160	2.25%

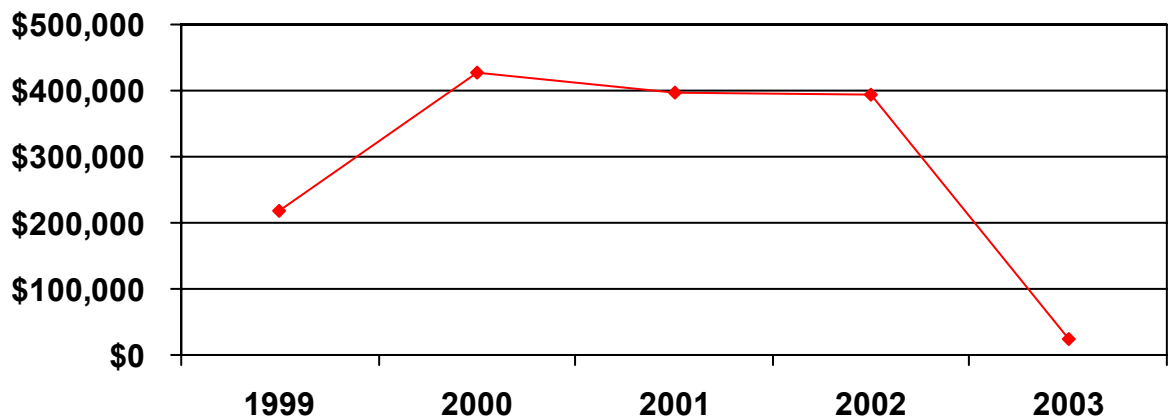
Residual Market Demographics

Collections/Indemnification

The following shows a comparison of gross written premium and uncollectible premium reported in Arkansas and the National Pool for Policy Years 1999-2003, obtained through NP-4 and NP-5 reports including traumatic and black lung claims, evaluated through Fourth Quarter 2003.

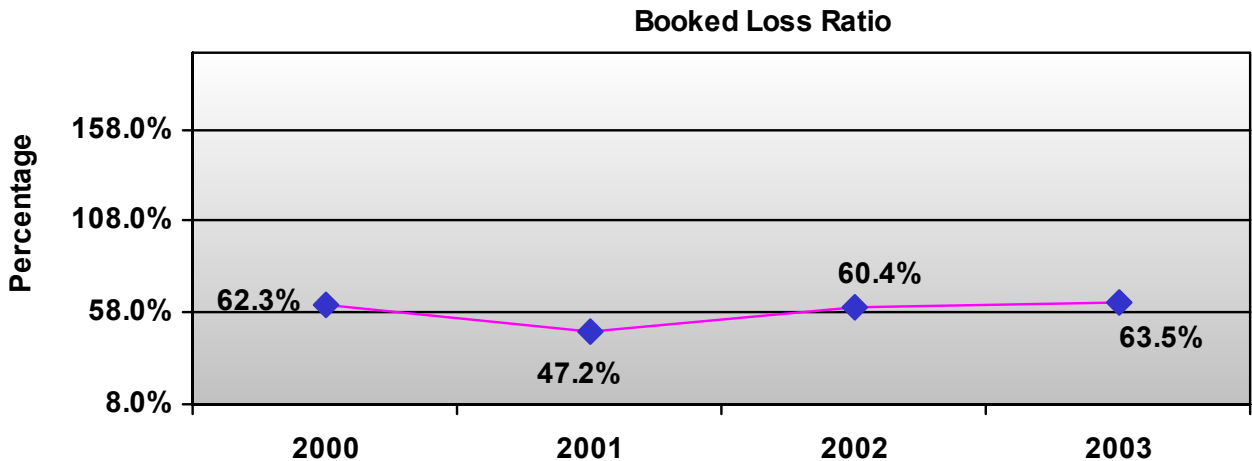
Alaska	Gross Written Premium	Uncollectible Premium	Percentage
1999	\$8,161,231	\$216,772	2.7%
2000	\$7,225,621	\$428,294	5.9%
2001	\$13,257,790	\$396,896	3.0%
2002	\$22,743,011	\$392,428	1.7%
2003	\$22,799,902	\$24,996	0.1%
National Pool 2003	\$923,853,720	\$796,986	0.1%

Arkansas Uncollectible Premium

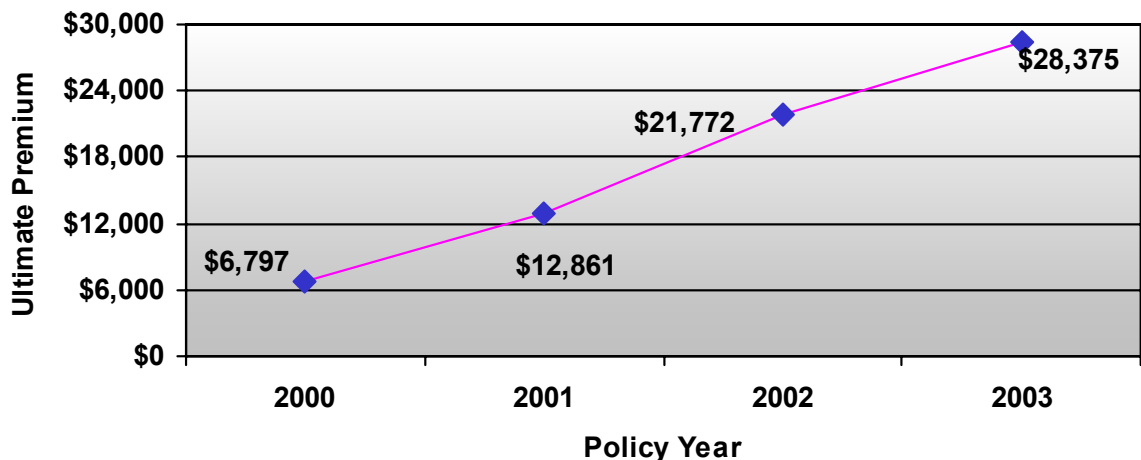


Residual Market Demographics

Arkansas Residual Market Reinsurance Pool Booked Loss Ratio
Policy Year Financial Results through 4th Quarter 2003 for 2003 and prior years*
The ratio of total incurred losses to total earned premiums in a given period, in this state, expressed as a percentage .



Arkansas Residual Market Reinsurance Pool Ultimate Net Written Premium
(Projected to Ultimate) (000's)
Policy Year Financial Results through 4th Quarter 2003 for 2003 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.

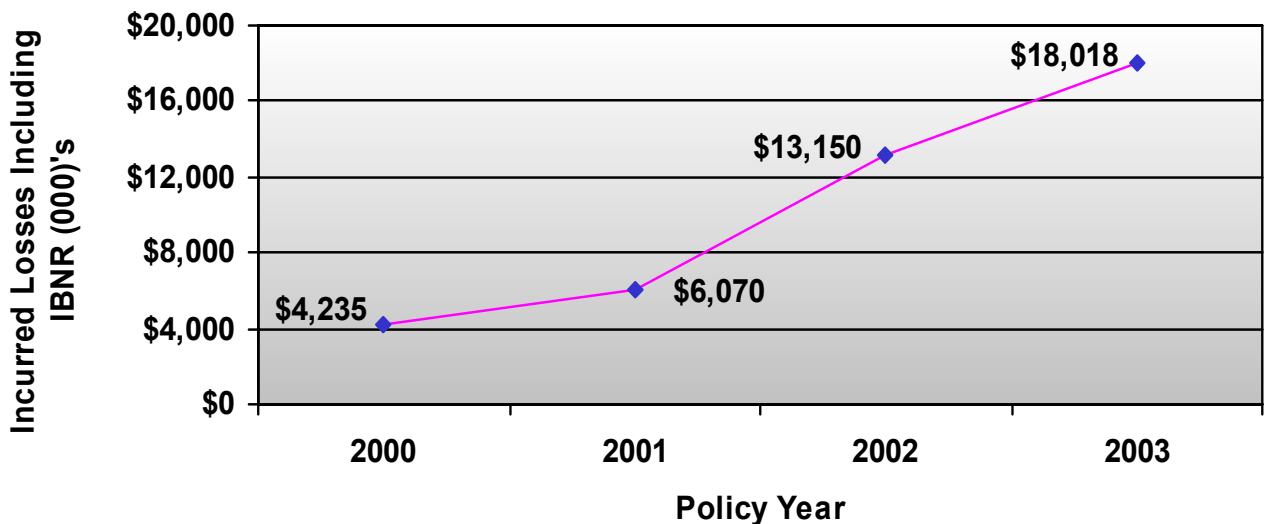


*-First Quarter 2004 Data will be available the end of July 2004 due to the timing of data reporting

Residual Market Demographics

Arkansas Residual Market Reinsurance Pool Net Operating Results (Projected to Ultimate) Incurred Losses Policy Year Financial Results through 4th Quarter 2003 for 2003 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.

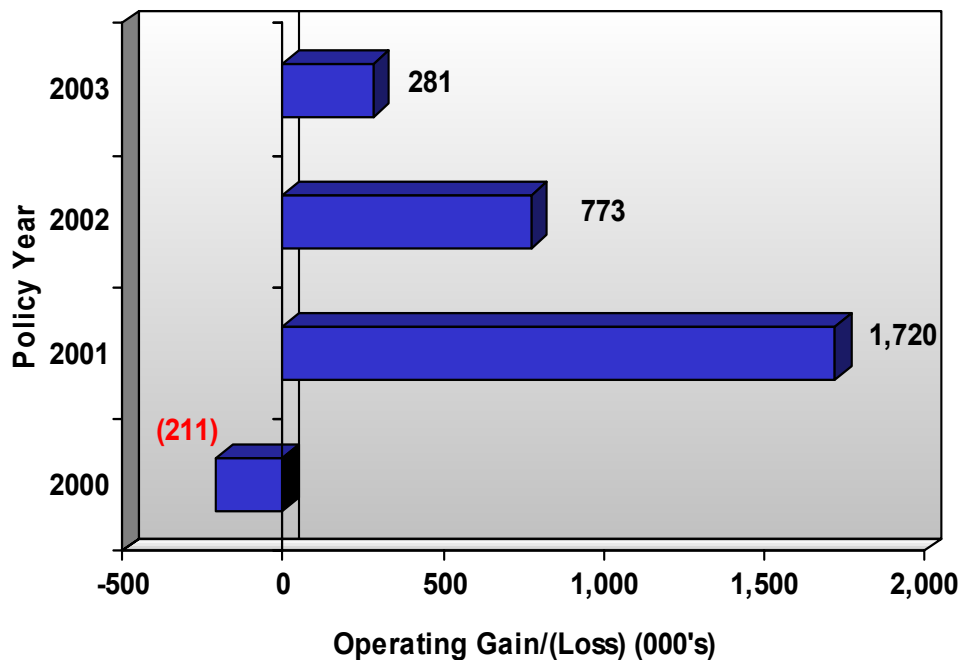


*-First Quarter 2004 Data will be available the end of July 2004 due to the timing of data reporting

Residual Market Demographics

Arkansas Residual Market Reinsurance Pool Net Operating Results (Projected to Ultimate) Estimated Net Operating Gain/(Loss) (000's) Policy Year Financial Results through 4th Quarter 2003 for 2003 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.



*-First Quarter 2004 Data will be available the end of July 2004 due to the timing of data reporting

Glossary of Terms

Combined Ratio-The combined loss ratio, expense ratio and dividend ratio, expressed as a sum for a given period. The formula for combined ratio is [(loss + loss adjustment expense)/earned premium] + [underwriting expenses/written premium].

EBNR (Earned But Not Reported) Premium Reserve-A projection of additional premium that is expected to be uncovered after auditing at the end of the policy.

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.

Incurred But Not Reported (IBNR)-Pertaining to losses where the events which 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.

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

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

Premium Bound-The total estimated annual premium on bound applications.

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Executive Summary

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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. The following items are new in this edition of the annual state activity report:

- Total Assigned Risk Market Share
- Residual Market Experience Rating Modification Information
- Residual Market Collections/Indemnifications
- Residual Market Uncollectible Premium

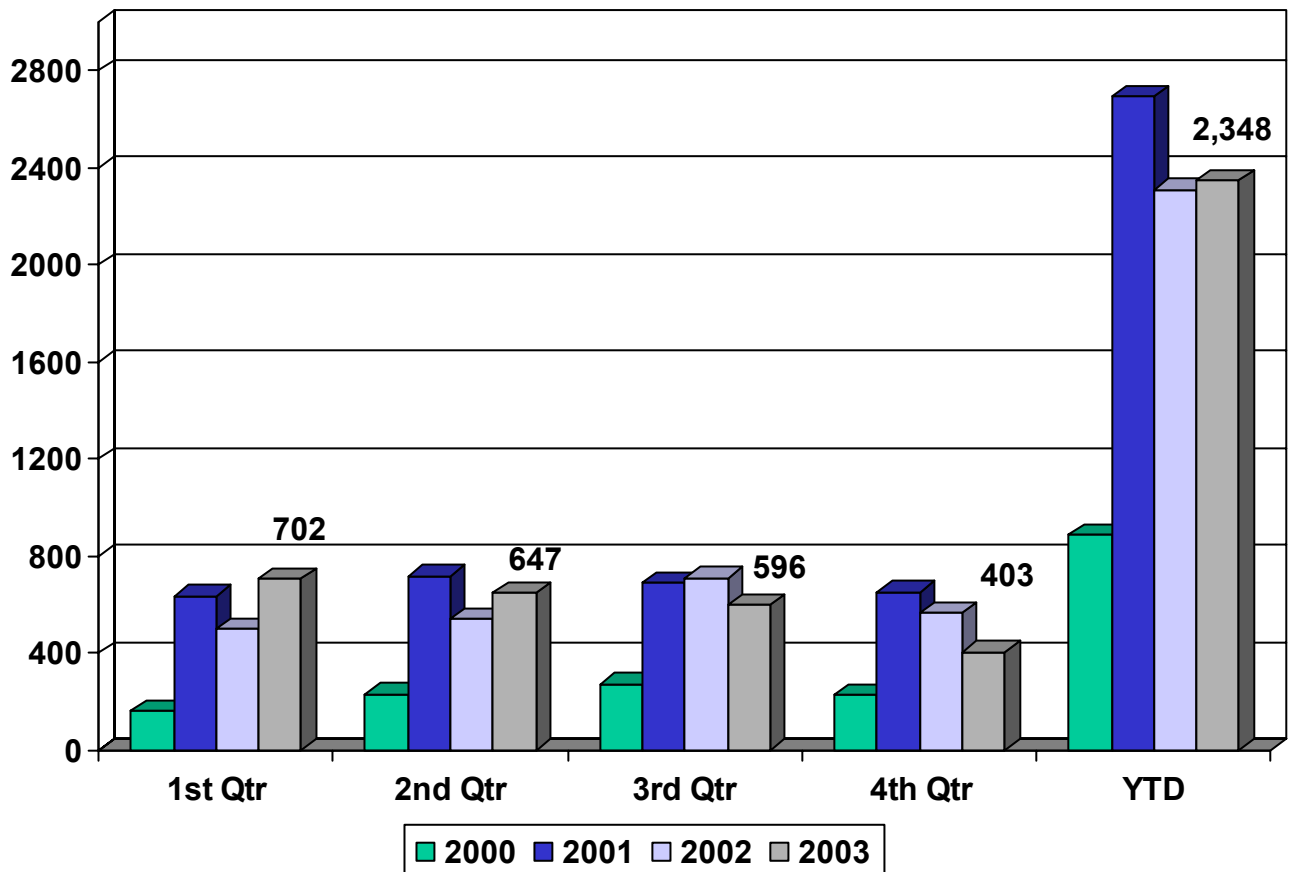
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Lesley O'Brien, Underwriting Specialist	(561) 893-3186
Chantel Weishaar, Technical Specialist	(561) 893-3015

Residual Market Demographics

Arkansas Residual Market Total New Applications Bound 2000 vs. 2001 vs. 2002 vs. 2003

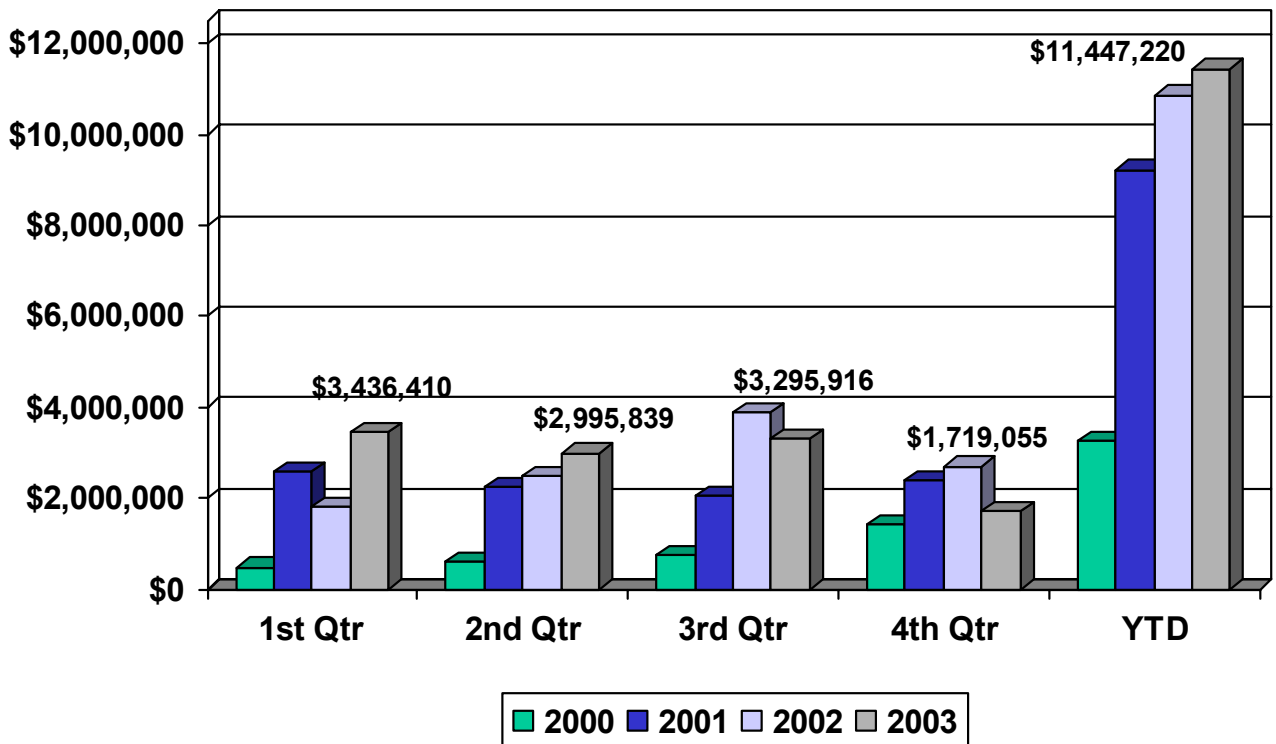
*The number of new applications that are actually assigned to a Servicing Carrier
or Direct Assignment Carrier (if applicable).*



Residual Market Demographics

Arkansas Residual Market Total New Application Premium Bound 2000 vs. 2001 vs. 2002 vs. 2003

The total estimated annual premium on bound new applications assigned to as Servicing Carrier or Direct Assignment Carrier (if applicable).

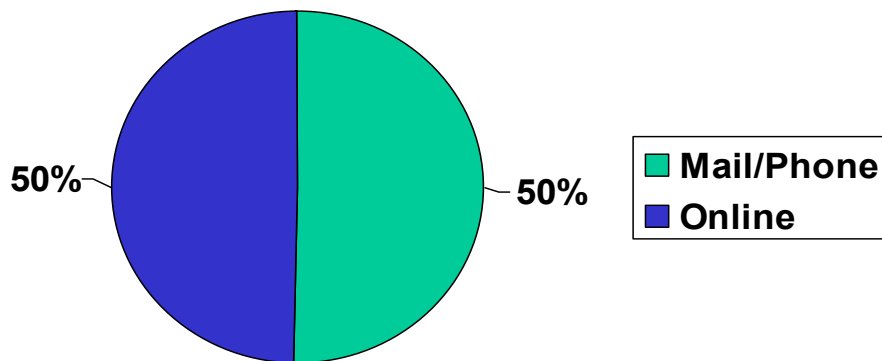


Residual Market Demographics

Percentage of New Applications Received by Submission Format

Data through December 31, 2003

The total percentage of new applications received via online, phone or mail formats.

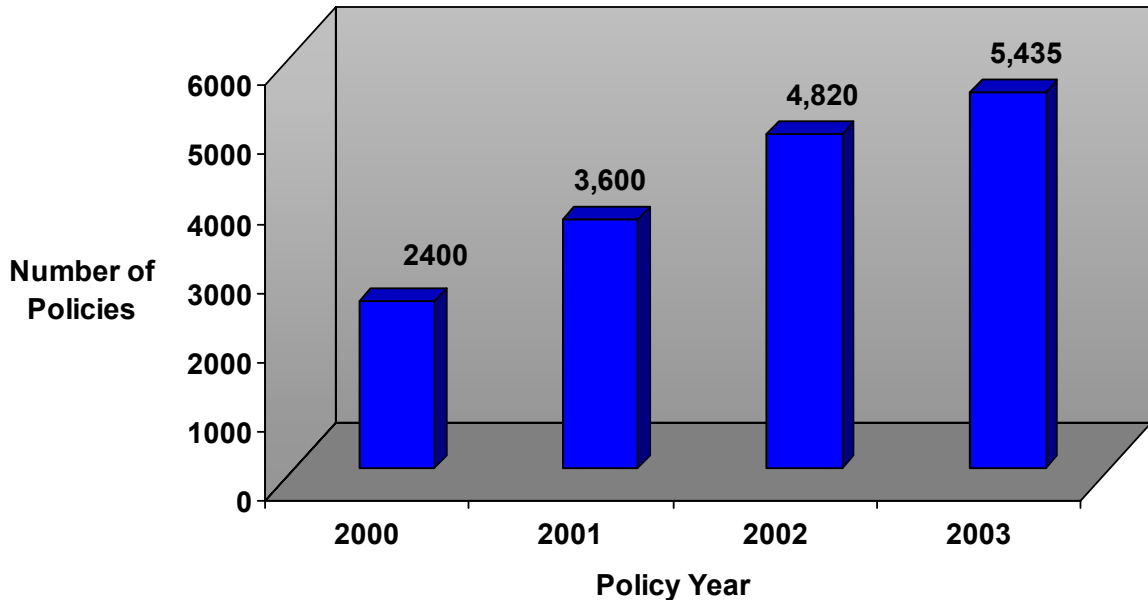


Residual Market Demographics

Residual Market Total Policy Counts

Annual 2003 Data for Policies Reported through December 31, 2003

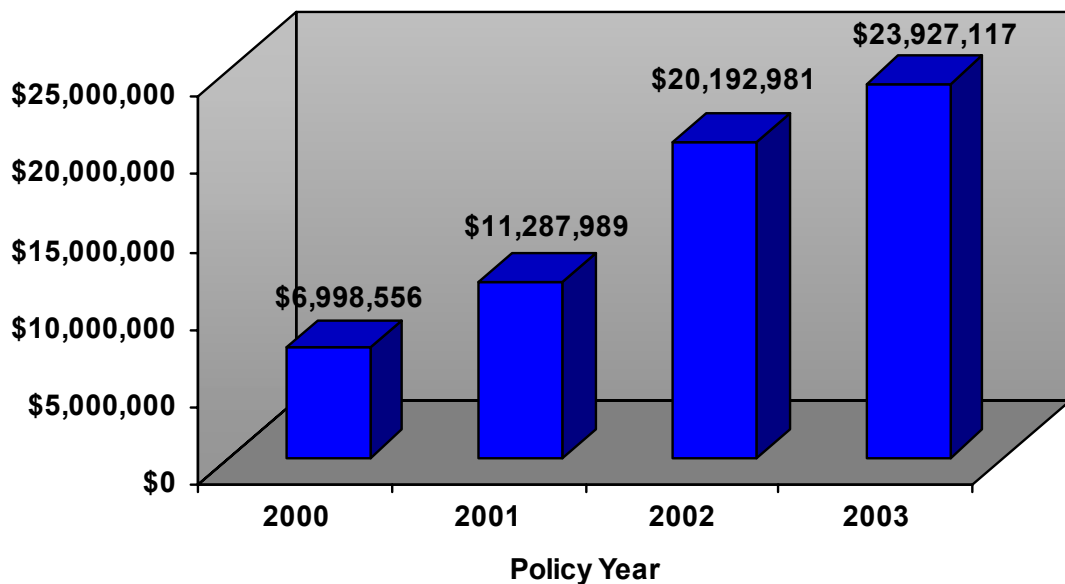
Total Number of all Assigned Risk Plan Policies in force for the year as of the date listed above.



Residual Market Total Premium Volume

Annual 2003 Data Reported through December 31, 2003

Total Amount of All Assigned Risk Plan Premium in force for the year as of the date listed above.



Residual Market Demographics

Residual Market 2003 Total Premium Distribution by Size of Risk Data Reported through December 31, 2003

The total number of assigned risk plan policies reported to NCCI for the year by Direct Assignment and Servicing Carriers in a premium range currently in force as of the date listed above.

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	3,862	71.1%	\$3,399,880	14.2%	\$880
\$2500 - 4999	686	12.6%	\$2,444,622	10.2%	\$3,564
\$5000 - 9999	427	7.9%	\$2,989,226	12.5%	\$7,001
\$10000 - 19999	242	4.5%	\$3,263,067	13.6%	\$13,484
\$20000 - 49999	146	2.7%	\$4,408,238	18.4%	\$30,193
\$50000 - 99999	47	0.9%	\$3,227,253	13.5%	\$68,665
\$100000 - 199999	21	0.4%	\$2,795,550	11.7%	\$133,121
\$200000 - Plus	4	0.1%	\$1,399,281	5.8%	\$349,820
Total	5,435	100%	\$23,927,117	100%	\$4,402

Residual Market Total Premium Distribution by Size of Risk Annual 2002 Data for Comparison

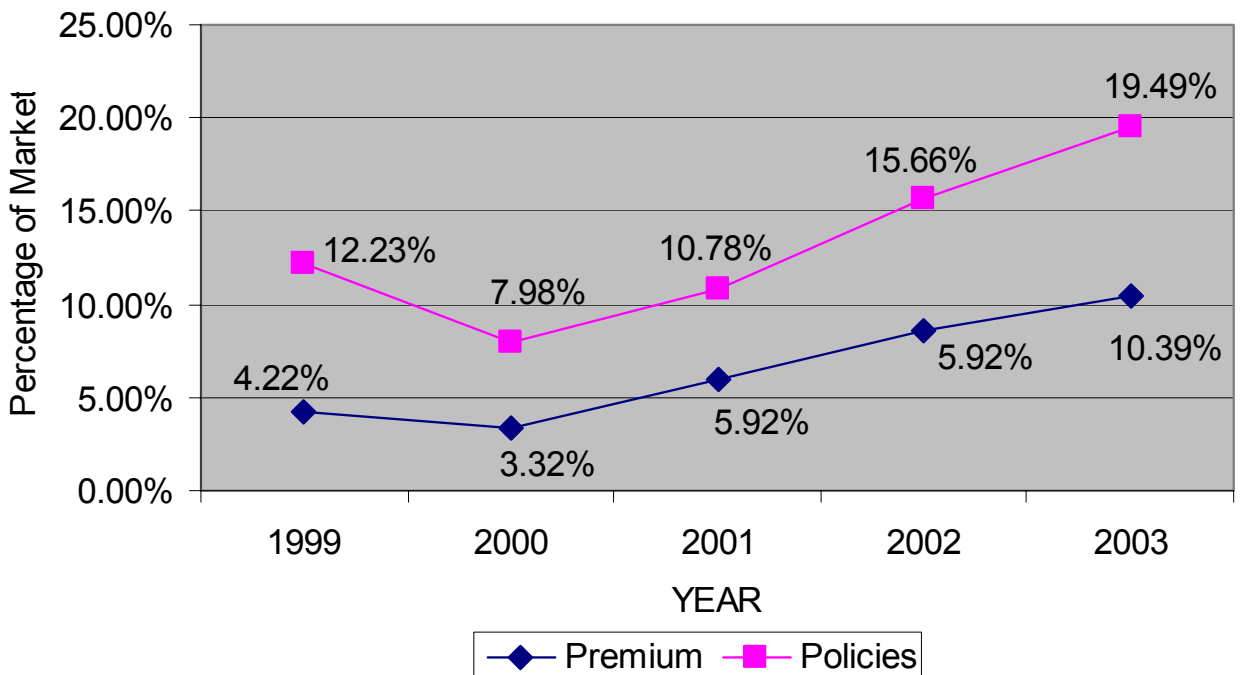
The total number of assigned risk plan policies reported to NCCI for the previous year by Direct Assignment and Servicing Carriers in a premium range.

Premium Interval	Policy Count	% of Total Policies	Total State Premium	% of Total Premium	Average Premium
\$0 - 2499	3,497	72.6%	\$2,955,983	14.6%	\$845
\$2500 - 4999	597	12.4%	\$2,090,554	10.4%	\$3,502
\$5000 - 9999	346	7.2%	\$2,431,368	12%	\$7,027
\$10000 - 19999	208	4.3%	\$2,851,363	14.1%	\$13,708
\$20000 - 49999	118	2.4%	\$3,513,295	17.4%	\$29,774
\$50000 - 99999	34	0.7%	\$2,275,292	11.3%	\$66,920
\$100000 - 199999	16	0.3%	\$2,211,674	11%	\$138,230
\$200000 - Plus	4	0.1%	\$1,863,452	9.2%	\$465,863
Total	4,820	100%	\$20,192,981	100%	\$4,189

Residual Market Demographics

Total Arkansas Assigned Risk Plan Market Share Data Reported through December 31, 2003

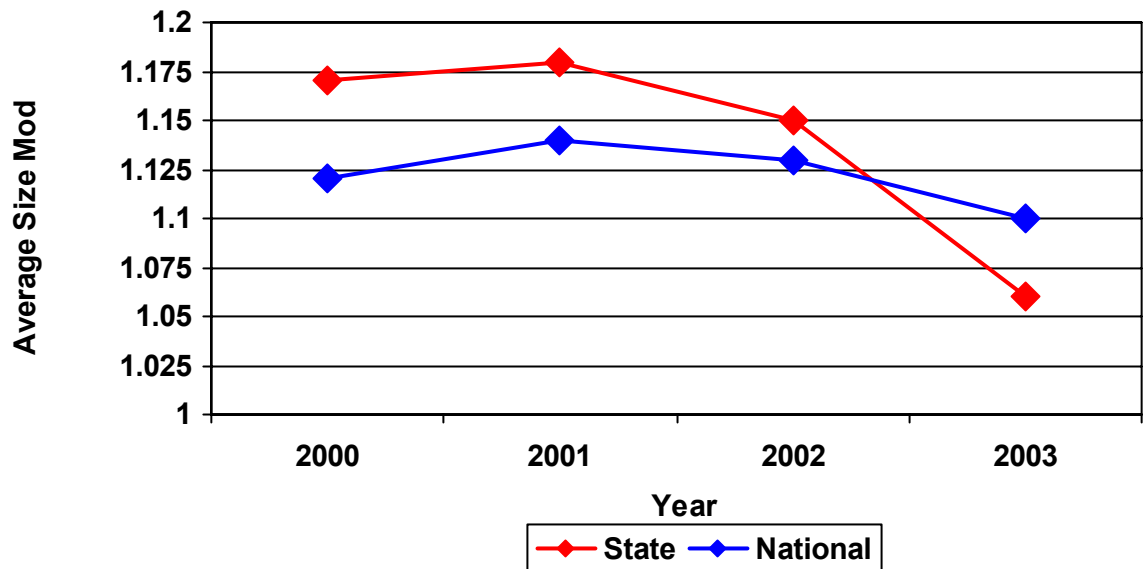
The percentage of total assigned risk plan policies and premium, as compared to the total written premium and policies for the voluntary and assigned risk market.



Residual Market Demographics

Residual Market Experience Rating Information – Average Mod Size on Assigned Risk Policies

The average modification for all rated Residual Market policies in this state compared to the National average.



Residual Market Demographics

Residual Market Top 10 Classification Codes by Policy Count Data Reported through December 31, 2003

The top ten governing class codes by total policy count - policies issued by Servicing Carriers and Direct Assignment Carriers in this state currently in force as of the date listed above.

Rank	Code	Description	Policy Count	% of Policies
1	8810	Clerical NOC	347	8%
2	5645	Carpentry	262	6%
3	8832	Physician & Clerical	192	4.4%
4	8017	Retail Store NOC	119	2.7%
5	9082	Restaurant NOC	113	2.6%
6	7423	Aircraft Or Helicopter Operation: All Other Employees	107	2.5%
7	9015	Buildings-Operation By Owner	98	2.3%
8	8742	Salespersons Outside	94	2.2%
9	6217	Excavation & Drivers	89	2%
10	8380	Automobile Service Or Repair Center	83	1.9%

Residual Market Top 10 Classification Codes by Premium Volume Data Reported through December 31, 2003

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

Rank	Code	Description	Premium	% of Premium
1	5645	Carpentry	\$848,019	3.9%
2	7423	Aircraft Or Helicopter Operation: All Other Employees	\$797,876	3.6%
3	8006	Grocery Store	\$674,473	3.1%
4	8861	Charitable Or Welfare - Professional Employees And Clerical	\$637,640	2.9%
5	7229	Trucking-Long Distance Hauling	\$636,998	2.9%
6	9403	Garbage Ashes Or Refuse Collection	\$511,843	2.3%
7	9012	Building Ops By Owner Lessee	\$462,059	2.1%
8	7228	Trucking-Local Hauling Only	\$461,134	2.1%
9	7720	Police Officers	\$414,134	1.9%
10	3724	Machinery Or Equipment Erection Or Repair NOC	\$373,034	1.7%

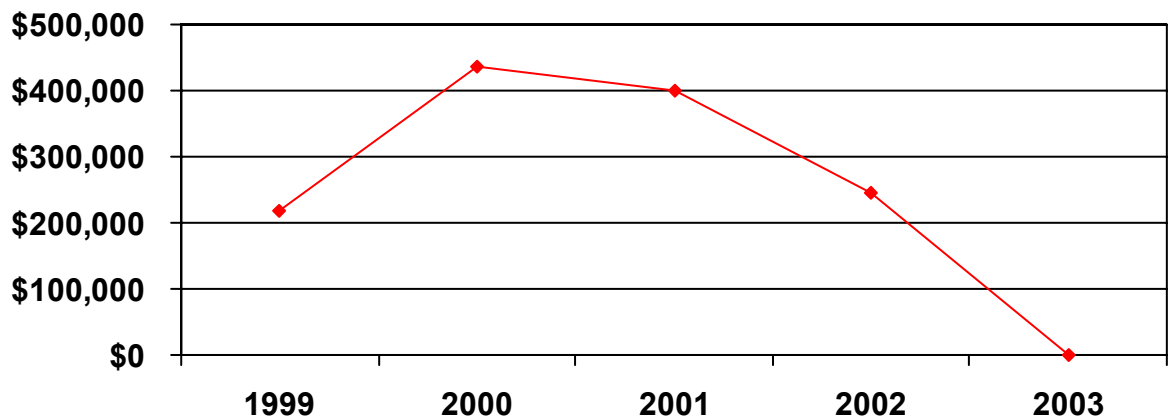
Residual Market Demographics

Collections/Indemnification

The following shows a comparison of gross written premium and uncollectible premium reported in Arkansas and the National Pool for Policy Years 1999-2003, obtained through NP-4 and NP-5 reports including traumatic and black lung claims, evaluated through Third Quarter 2003.

Arkansas	Gross Written Premium	Uncollectible Premium	Percentage
1999	\$8,161,800	\$217,572	2.7%
2000	\$7,225,621	\$435,239	6.0%
2001	\$13,157,856	\$400,911	3.0%
2002	\$22,405,247	\$246,684	1.1%
2003	\$16,003,023	\$0	0.0%
National Pool 2003	\$630,964,506	\$60,982	0.0%

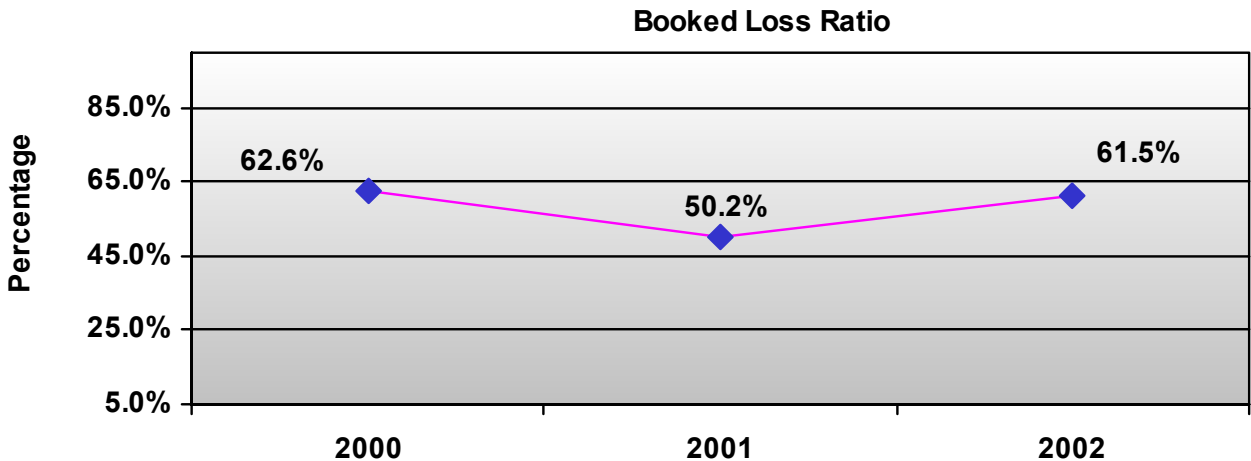
Arkansas Uncollectible Premium



Residual Market Demographics

Arkansas Residual Market Reinsurance Pool Booked Loss Ratio Policy Year Financial Results through 3rd Quarter 2003 for 2002 and prior years*

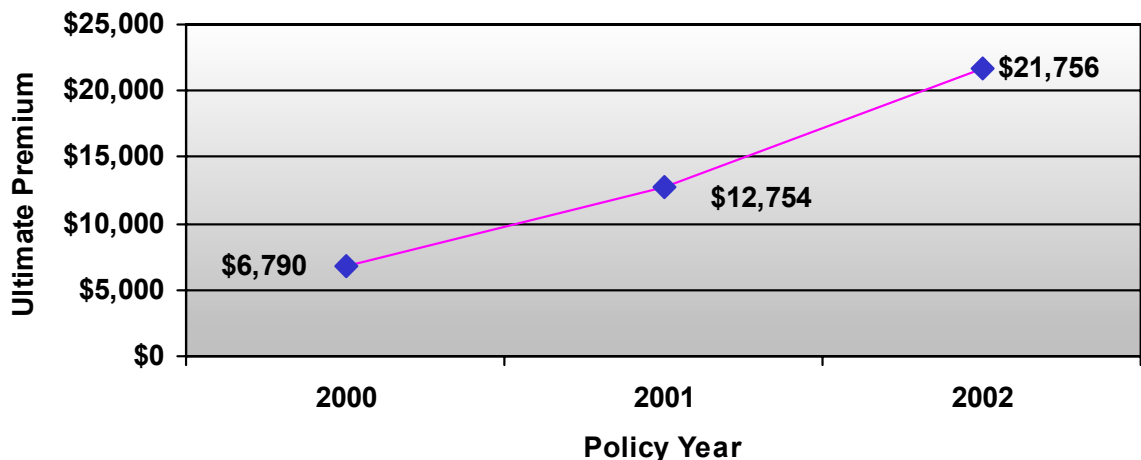
The ratio of total incurred losses to total earned premiums in a given period, in this state, expressed as a percentage .



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

Policy Year Financial Results through 3rd Quarter 2003 for 2002 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.

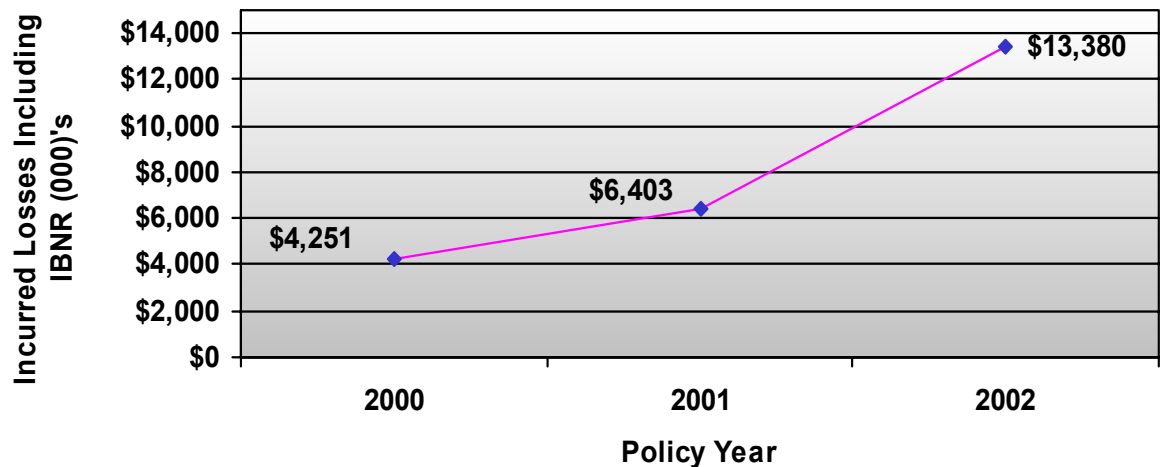


*-Fourth Quarter 2003 Data will be available the end of April 2004 due to the timing of data reporting

Residual Market Demographics

Arkansas Residual Market Reinsurance Pool Net Operating Results (Projected to Ultimate) Incurred Losses Policy Year Financial Results through 3rd Quarter 2003 for 2002 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.

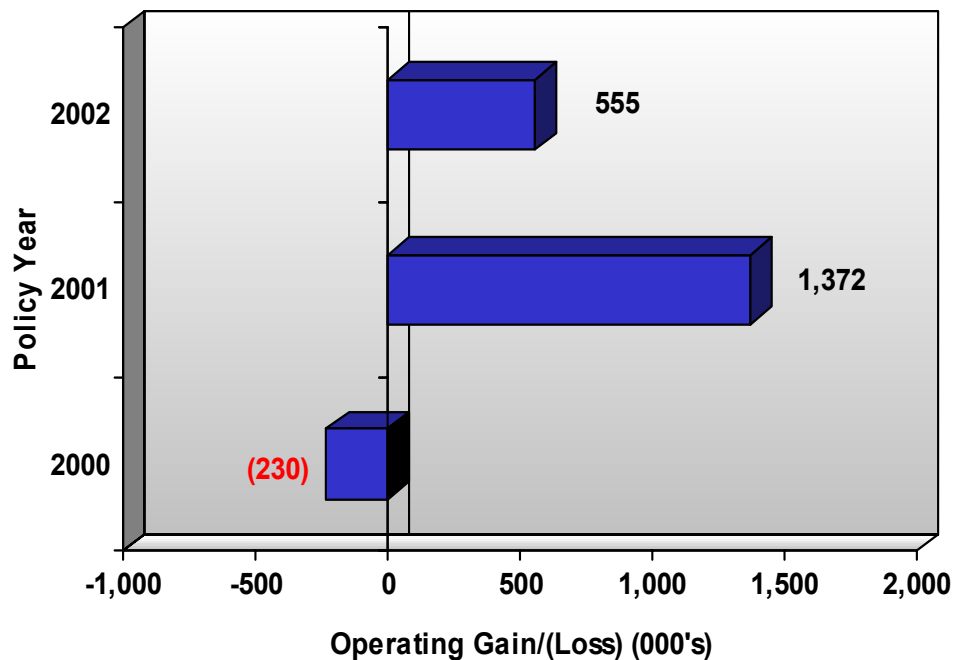


*-Fourth Quarter 2003 Data will be available the end of April 2004 due to the timing of data reporting

Residual Market Demographics

Arkansas Residual Market Reinsurance Pool Net Operating Results (Projected to Ultimate) Estimated Net Operating Gain/(Loss) (000's) Policy Year Financial Results through 3rd Quarter 2003 for 2002 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.



*-Fourth Quarter 2003 Data will be available the end of April 2004 due to the timing of data reporting

Glossary of Terms

Combined Ratio-The combined loss ratio, expense ratio and dividend ratio, expressed as a sum for a given period. The formula for combined ratio is [(loss + loss adjustment expense)/earned premium] + [underwriting expenses/written premium].

EBNR (Earned But Not Reported) Premium Reserve-A projection of additional premium that is expected to be uncovered after auditing at the end of the policy.

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.

Incurred But Not Reported (IBNR)-Pertaining to losses where the events which 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.

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

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

Premium Bound-The total estimated annual premium on bound applications.



State of the Industry

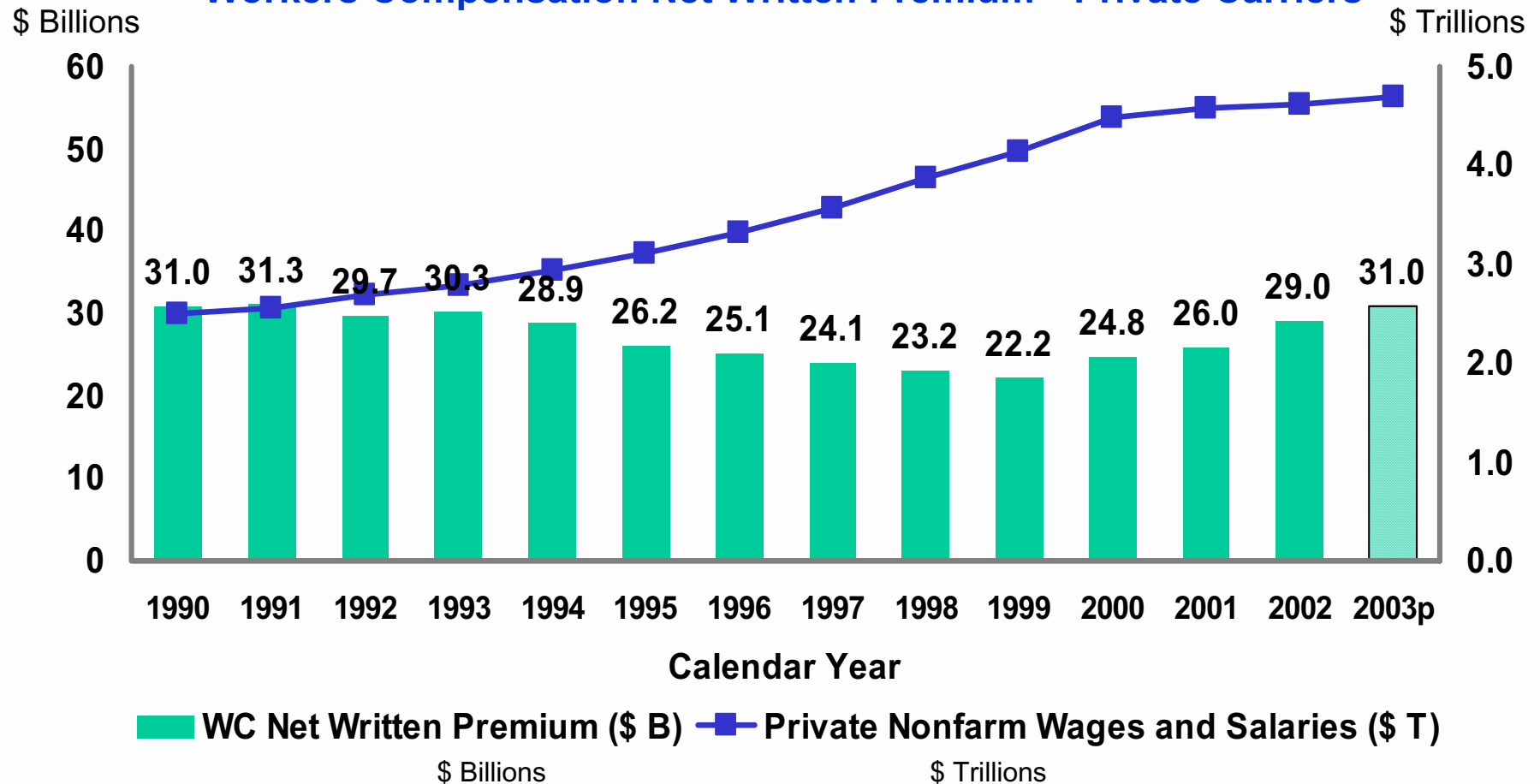


State of the Industry—An Overview

- Decrease in calendar year combined ratios
- Improvement in accident year combined ratios
- Continued overall system premium growth
- Impact of investment returns
- Continued indemnity and medical cost pressures

Workers Compensation Premium Volume: A Continued Period of Growth

Workers Compensation Net Written Premium—Private Carriers

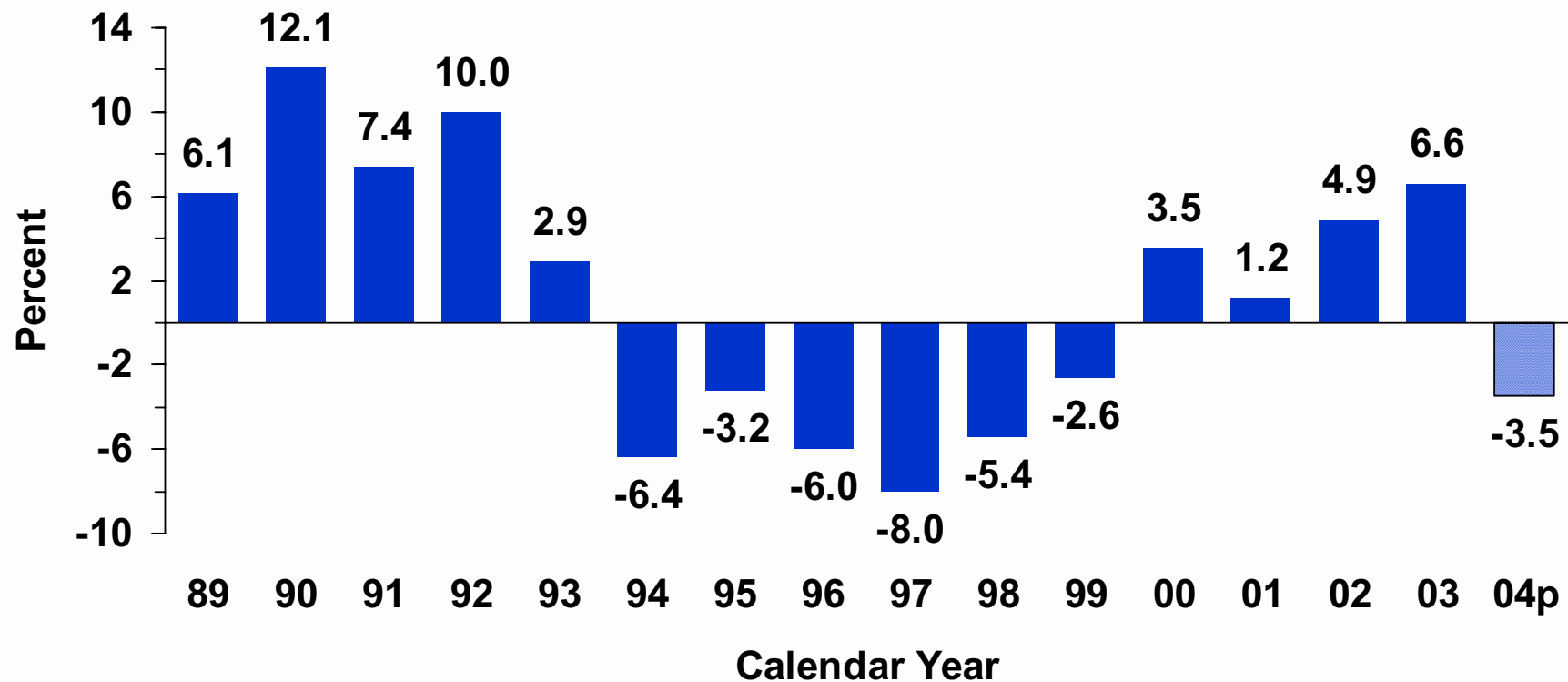


p Preliminary

Sources: 1990-2002, A.M. Best Aggregates & Averages; 2003p, NCCI and Economy.com

The Average Approved Bureau Rate/Loss Costs

History of Average Bureau Rate/Loss Cost Level Changes

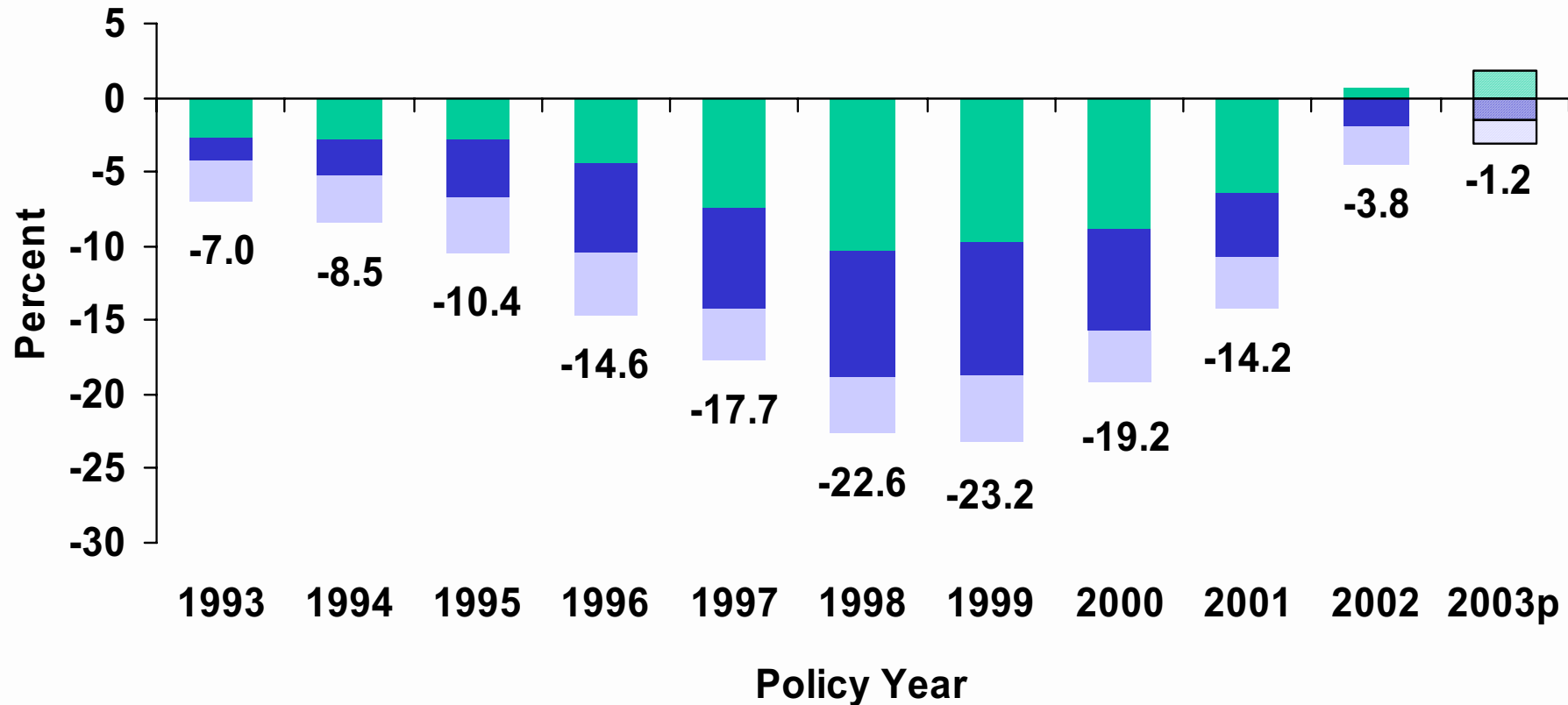


p Preliminary (states approved to date in 2004)

Countrywide approved changes in advisory rates, loss costs and assigned risk rates as filed by the applicable rating organization. The countrywide change is a weighted average of individual state changes based on state premium volumes and ignoring effective dates.

The Impact of Discounting on Premium

NCCI States—Private Carriers



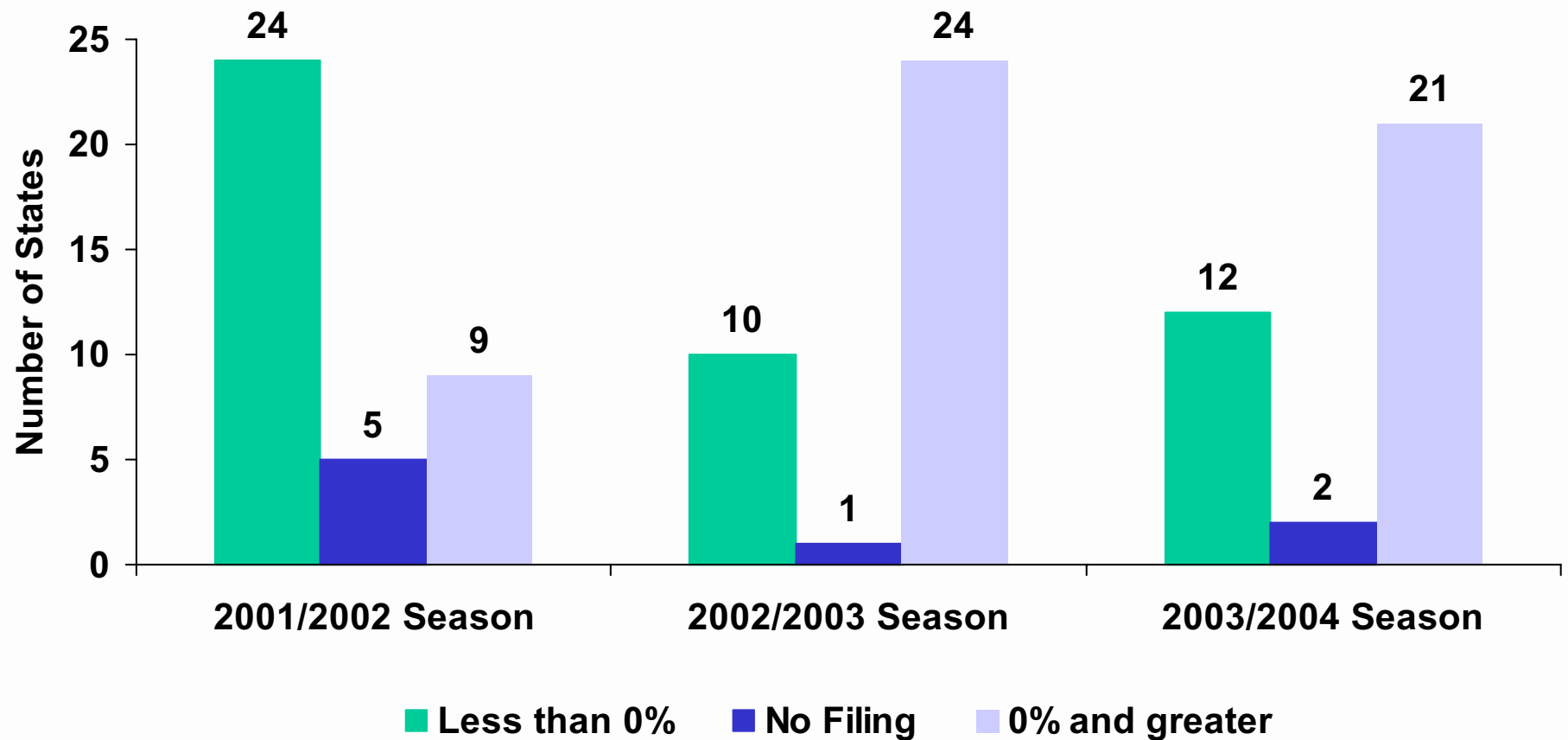
p Preliminary

Dividend ratios are based on calendar year statistics.

Based on data through 12/31/2003 for the states for which NCCI provides ratemaking services.

Status of NCCI Filing Activity

Voluntary Market Filings





2003/2004 Filing Cycle

NCCI Voluntary Market Filing Activity

- Data for 35 states has been reviewed
 - 21 states have filed increases
 - 12 states have filed decreases
 - 2 states will not have a filing
- Range of voluntary filings: –12.3% to +21.2%

Based on data evaluated as of 12/31/02.



State Voluntary Market Indications

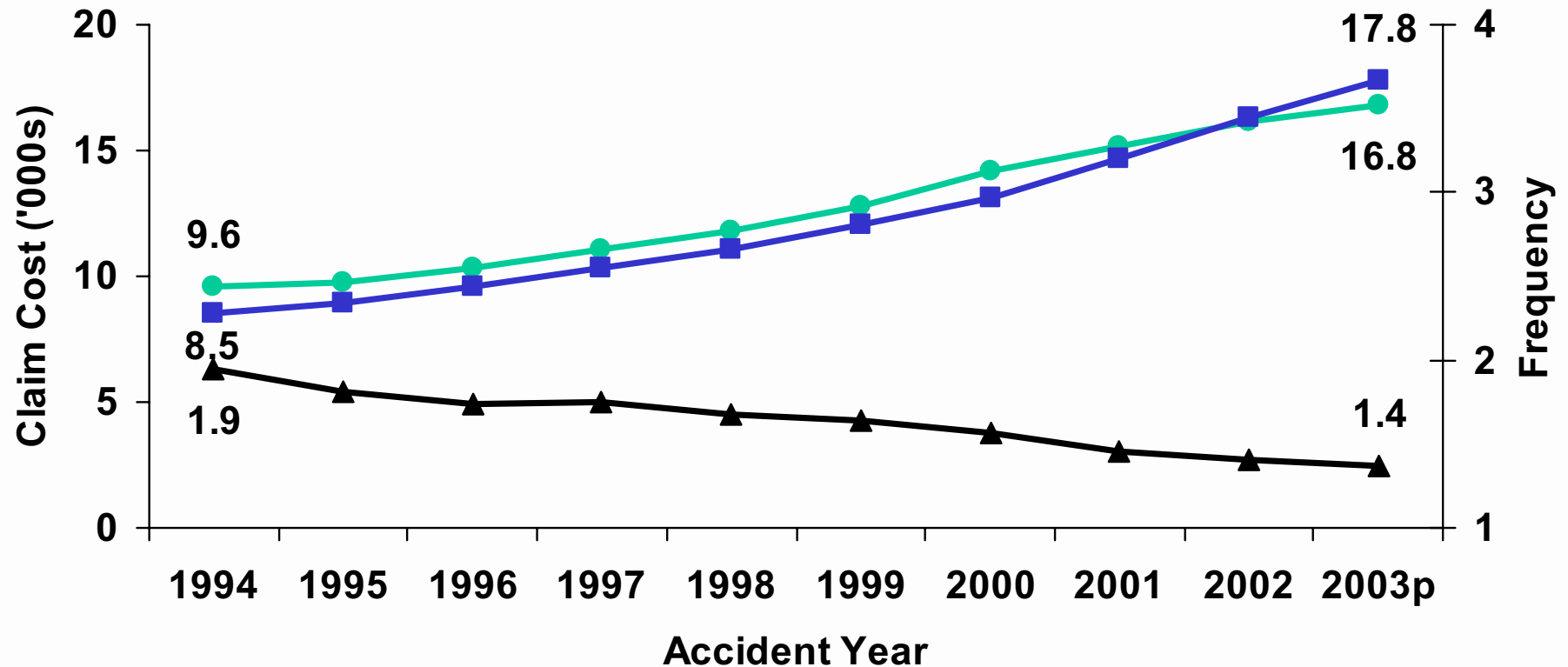
Arkansas	7/1/04	+0.5%
Louisiana	5/1/04	-1.9%
Mississippi	3/1/04	+7.2%
Missouri	1/1/04	-1.4%
Oklahoma	1/1/04	0.0%
Tennessee	3/1/04	+7.9%



Workers Compensation Claim Frequency and Severity

- For each of the last 5 years (and 10 of the last 12), on-the-job claim frequency for workers compensation injuries has declined from the previous year's level
- Medical and indemnity costs continue to rise—somewhat negating the good news regarding reduced claims

While Claim Costs Rise Steadily, Frequency Continues a Slight Decline



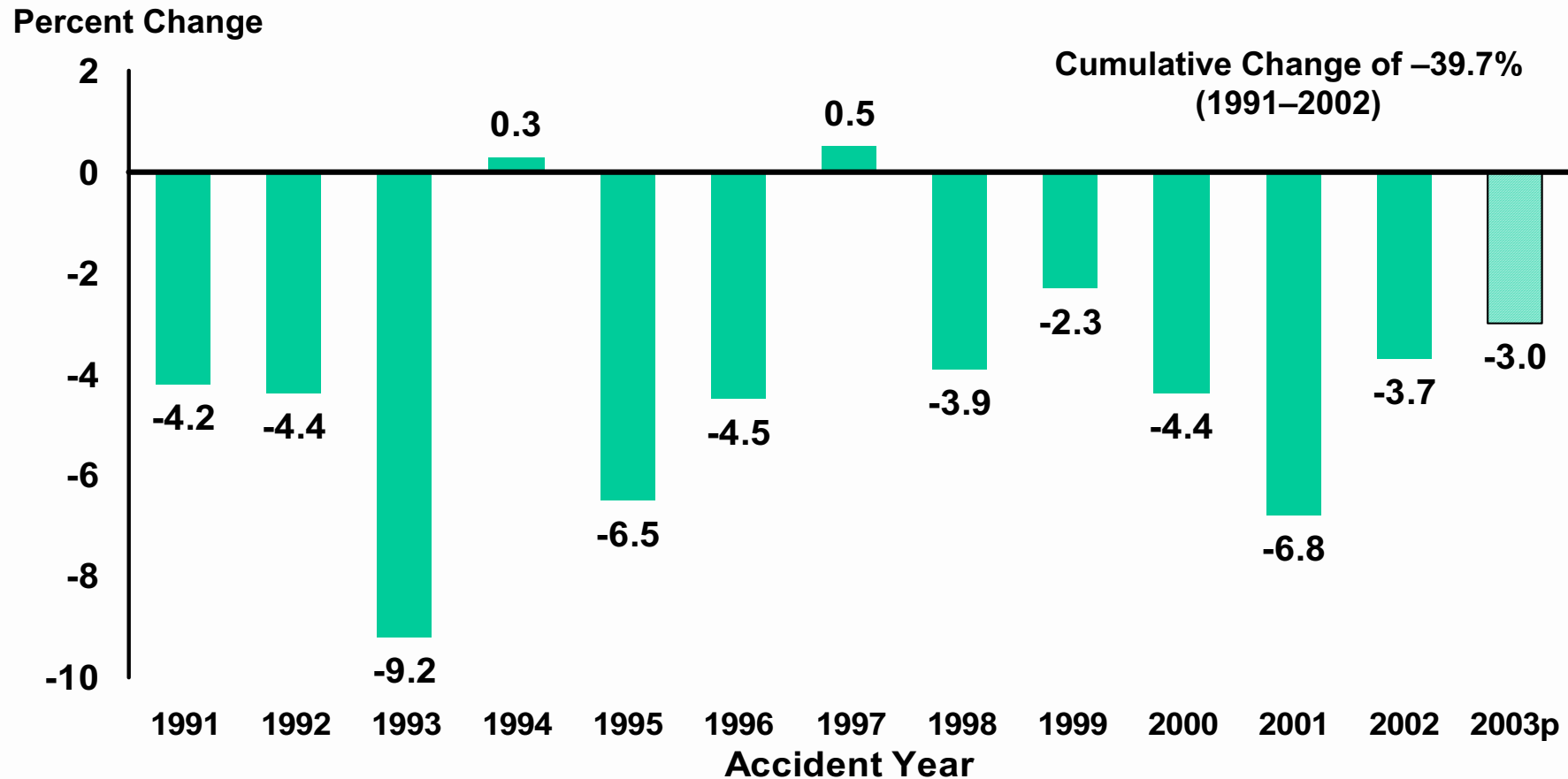
● Indem Claim Cost ■ Med Claim Cost ▲ Freq per 100 Workers

2003p: Preliminary based on data valued as of 12/31/2003

1991-2002: Based on data through 12/31/2002, developed to ultimate, based on the states where NCCI provides ratemaking services.

Excludes the effects of deductible policies.

The Frequency of Lost-Time Claims Has Continued to Fall Through 2003

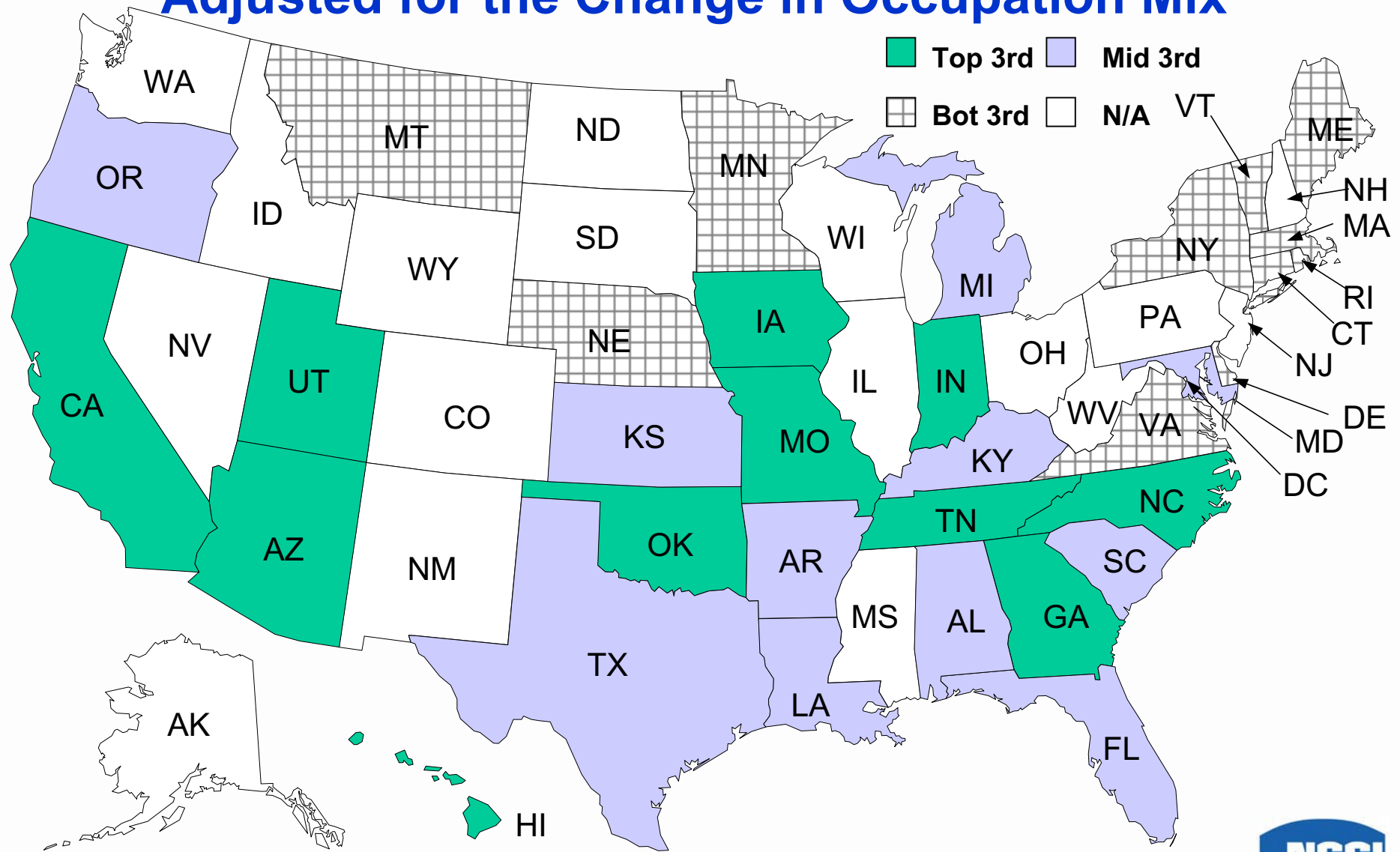


2003p: Preliminary based on data valued as of 12/31/2003

1991-2002: Based on data through 12/31/2002, developed to ultimate based on the states where NCCI provides ratemaking services.

Excludes the effects of deductible policies.

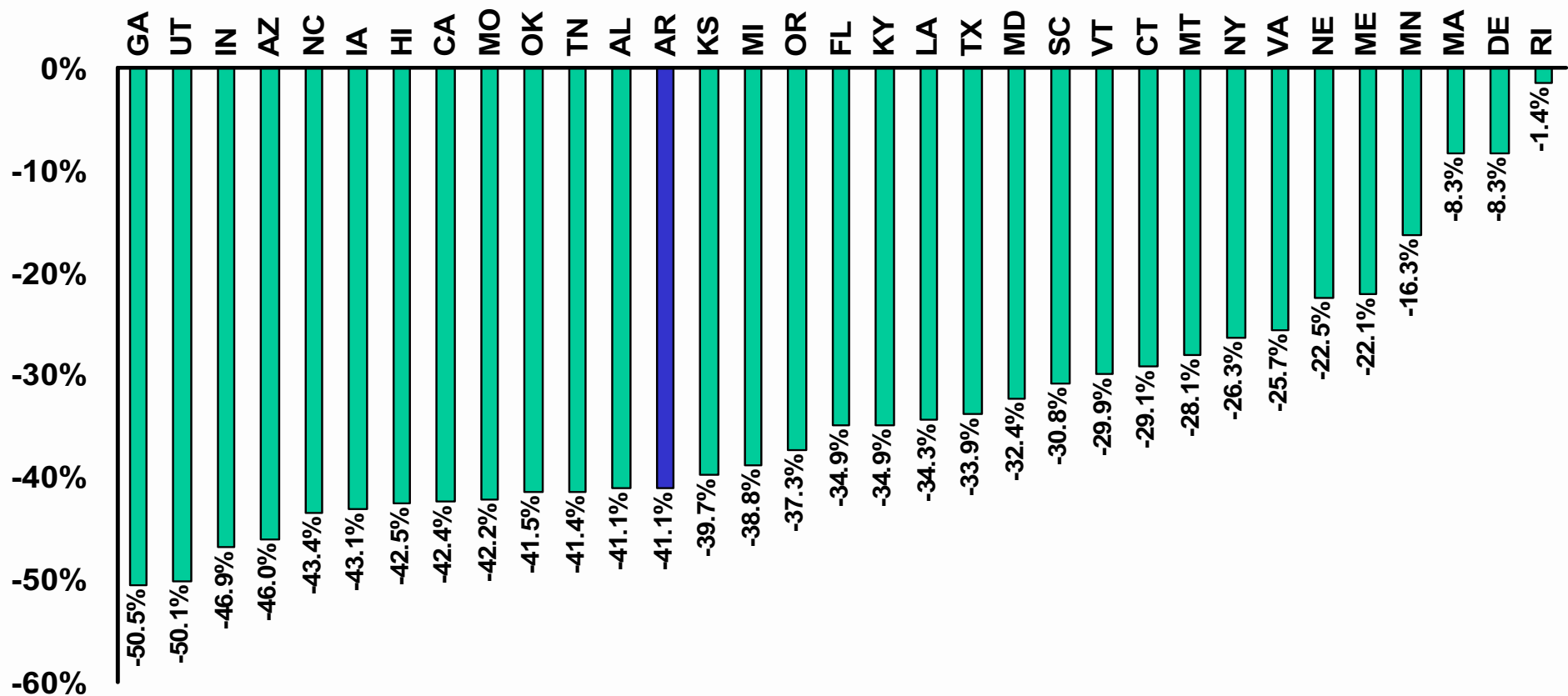
Declines in Frequency 1992–2000 Adjusted for the Change in Occupation Mix




Sources: Bureau of Labor Statistics, NCCI

© 2004 National Council on Compensation Insurance, Inc.

Change in Cases/Employment Controlling for the Change in Occupational Mix Using United States Mix 1992–2000

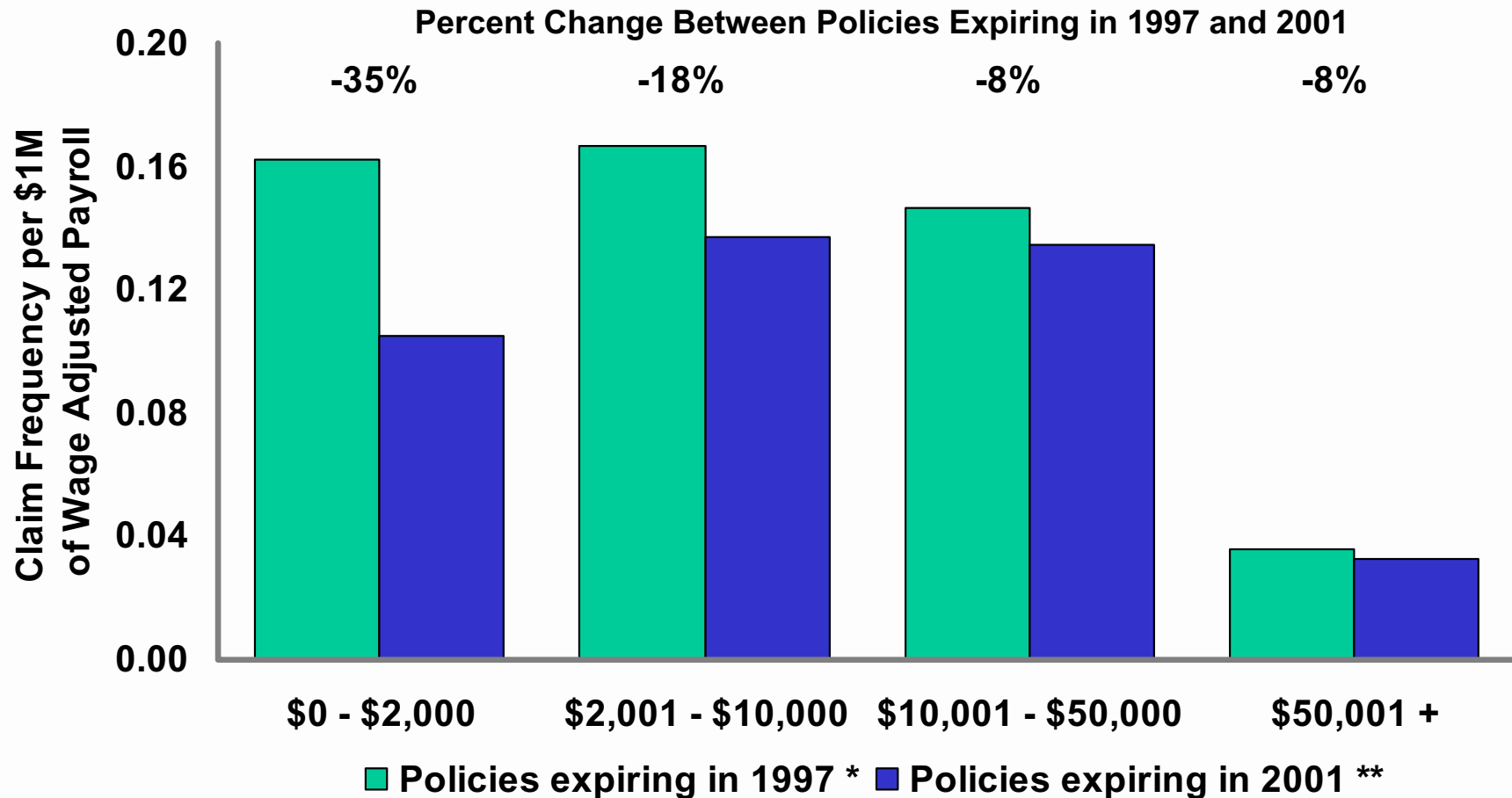




Claim Frequency Declines Have Been Widespread

- Every major industry had declines of at least 30%
- Every major occupation group had declines of at least 30%
- Every major age group had large declines, generally greater than 20%
- Both male and female workers exhibited declines in excess of 30%

Frequency of Lost-Time Claims by Loss Range With Inflation Adjustment



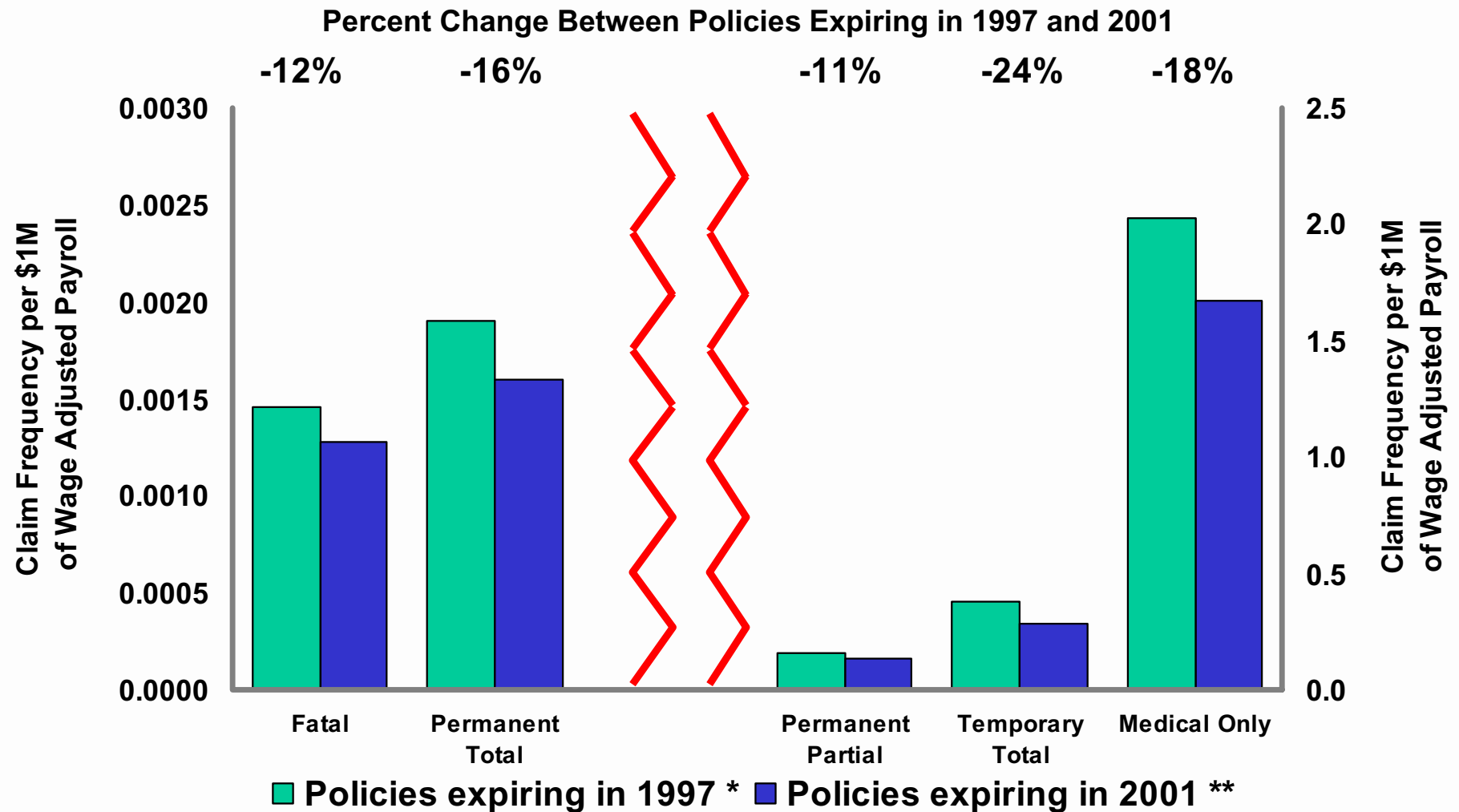
Source: NCCI's WCSP data

* Actual policy expiration between 9/30/96 and 8/31/97

** Actual policy expiration between 9/30/00 and 8/31/01

Loss ranges have been adjusted for indemnity (4%) and medical (3%) inflation.

Claim Frequencies by Injury Type



Source: NCCI's WCSP data

* Actual policy expiration between 9/30/96 and 8/31/97

** Actual policy expiration between 9/30/00 and 8/31/01

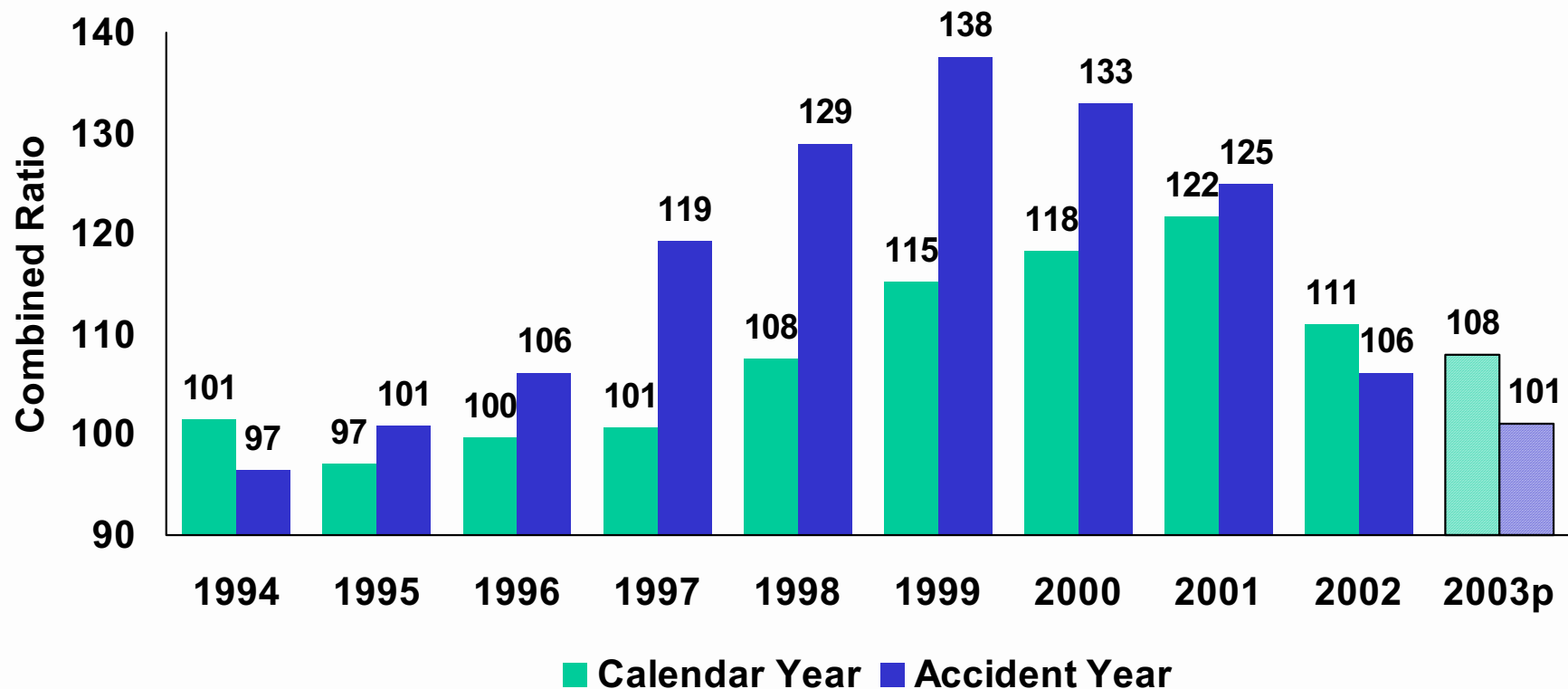


What's Driving the Claims Frequency Trend?

- Continued emphasis on workplace safety
- Increased use of robotics
- Modular design and construction techniques
- Power-assisted processes and cordless tools
- Advances in ergonomic design
- More and better job training
- Improved fraud deterrents

Accident Year 2003 Combined Ratio Continues to Improve

Workers Compensation Calendar Year and Ultimate Accident Year
Private Carriers



p Preliminary

Accident year data is evaluated as of 12/31/2003 and developed to ultimate.

Sources: Calendar Years 1994-2002, A.M. Best Aggregates & Averages; Calendar Year 2003p and Accident Years 1994-2003p, NCCI

Includes dividends to policyholders.

Results Vary From State to State

Accident Year 2002 Combined Ratios



Data is evaluated as of 12/31/02.