



The Winds of Change: Oklahoma and Its Option

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The Winds of Change

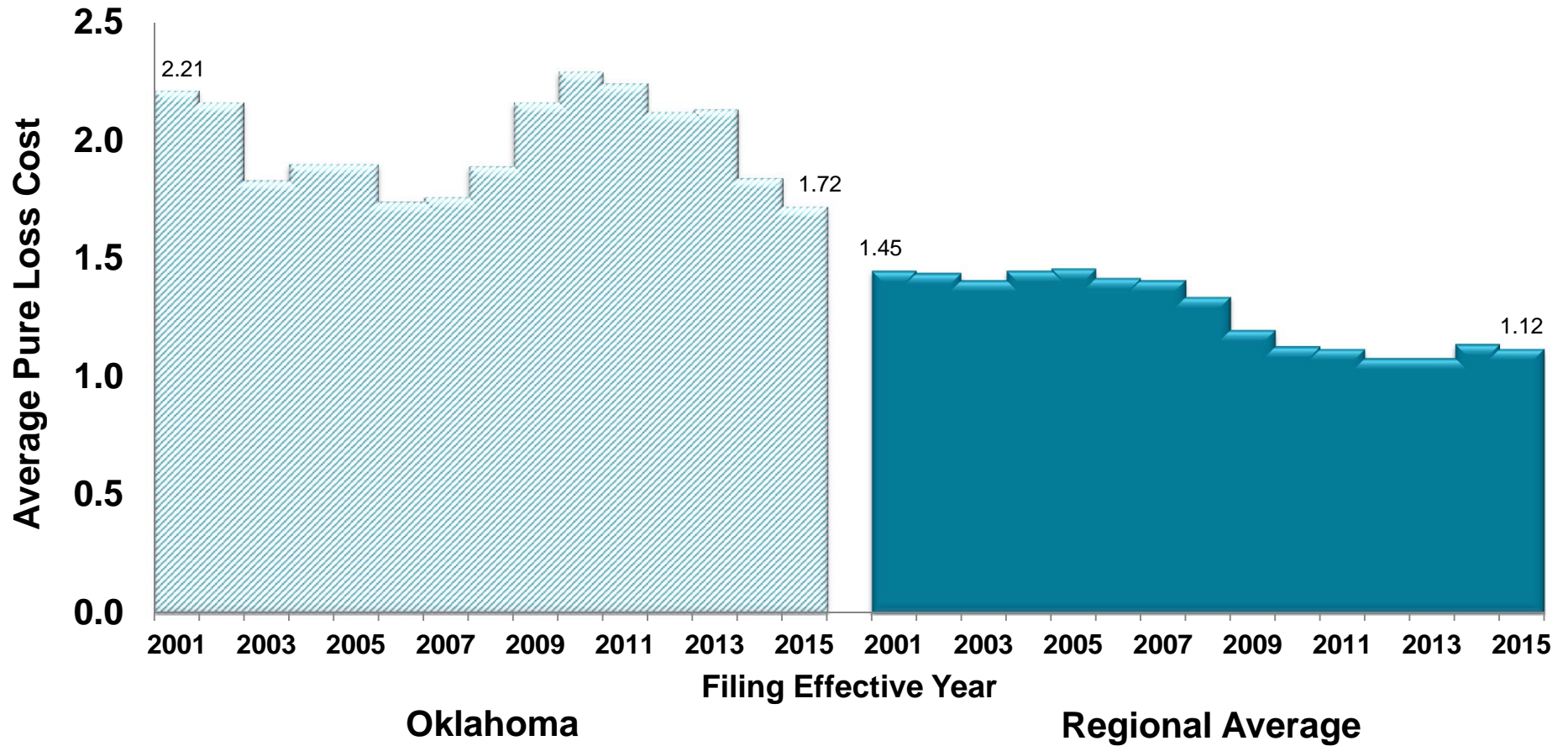


Oklahoma: Past and Present

- Why were reforms pursued
- Prior reforms
- Senate Bill (SB) 1062



Oklahoma Historical Average Overall Voluntary Pure Loss Costs

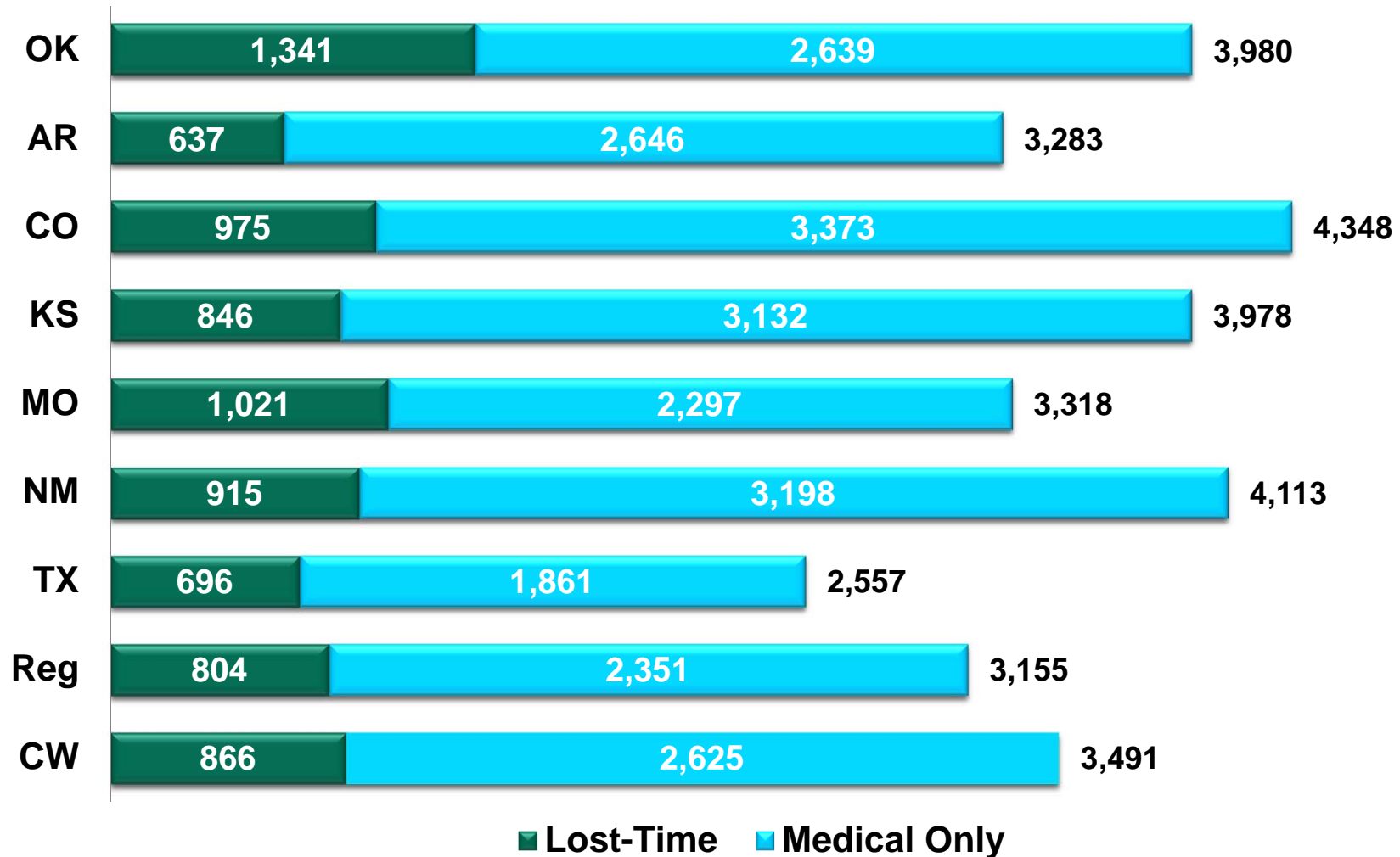


Payroll used in averaging the approved classification loss costs is based on estimates available at the time of the applicable filing for each state. Regional States include Arkansas, Colorado, Kansas, Missouri, and New Mexico.



Oklahoma's Average Claim Frequency

Frequency per 100,000 Workers—All Claims

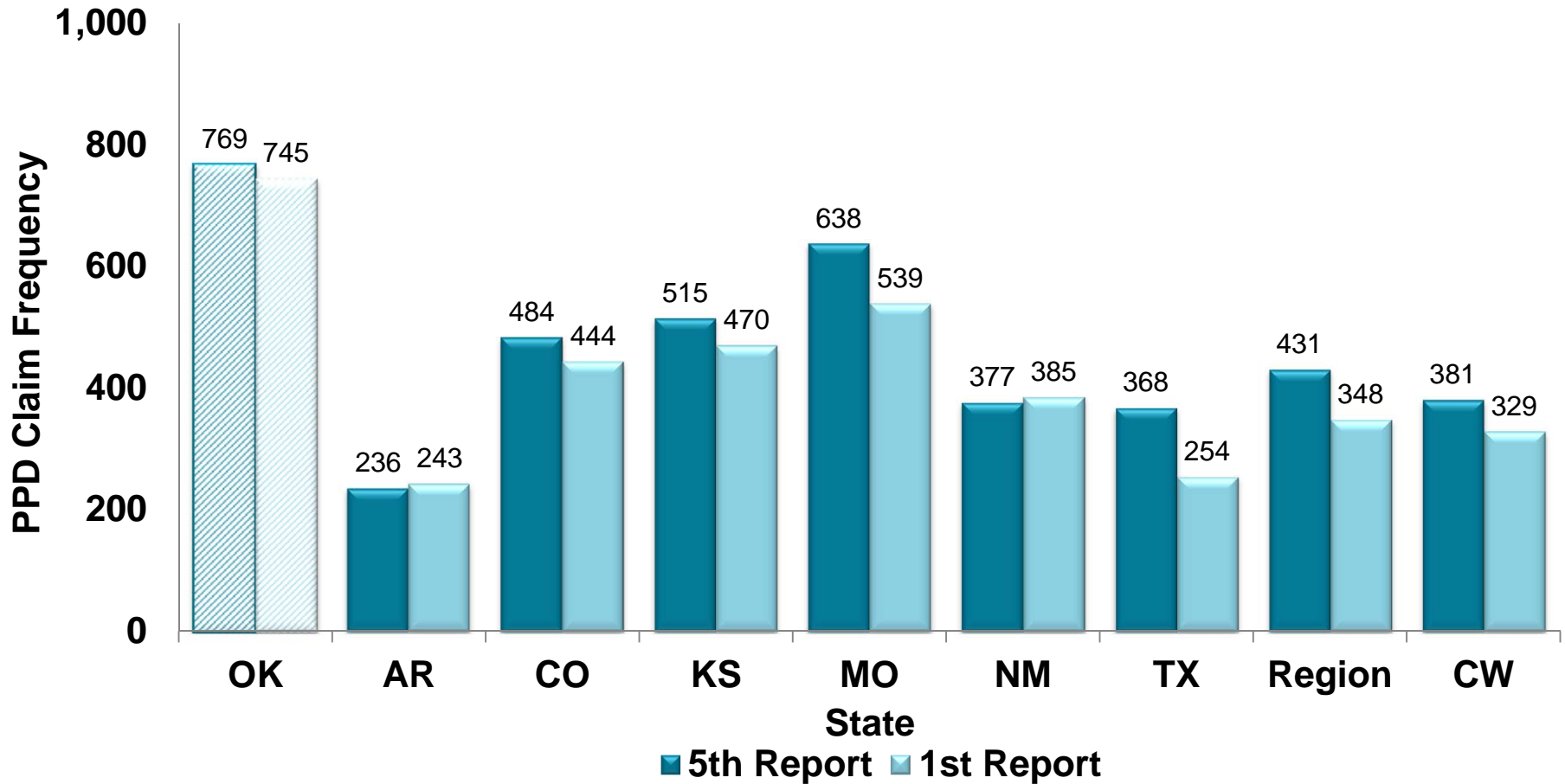


Based on NCCI's *Statistical Plan* data

Claim frequency for Oklahoma based on data from policies with effective dates between June 2010 and May 2011



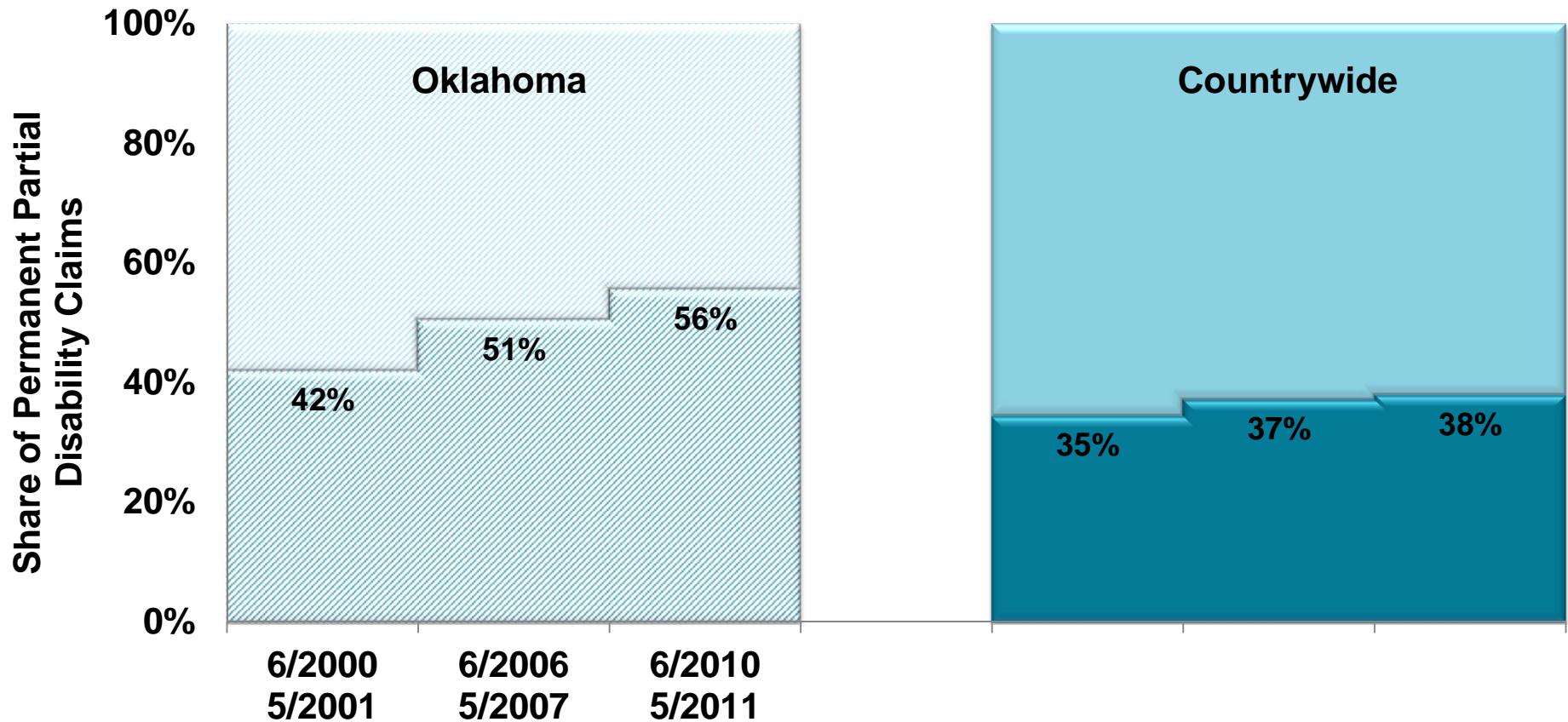
Oklahoma's Permanent Partial (PPD) Claim Frequency per 100,000 Workers



Based on NCCI's **Statistical Plan** data developed to ultimate;
 Permanent Partial as defined by NCCI's **Statistical Plan** manual
 Oklahoma 1st report data is for policies with effective dates between June 2010 and May 2011, whereas 5th report covers policies with effective dates between June 2006 and May 2007



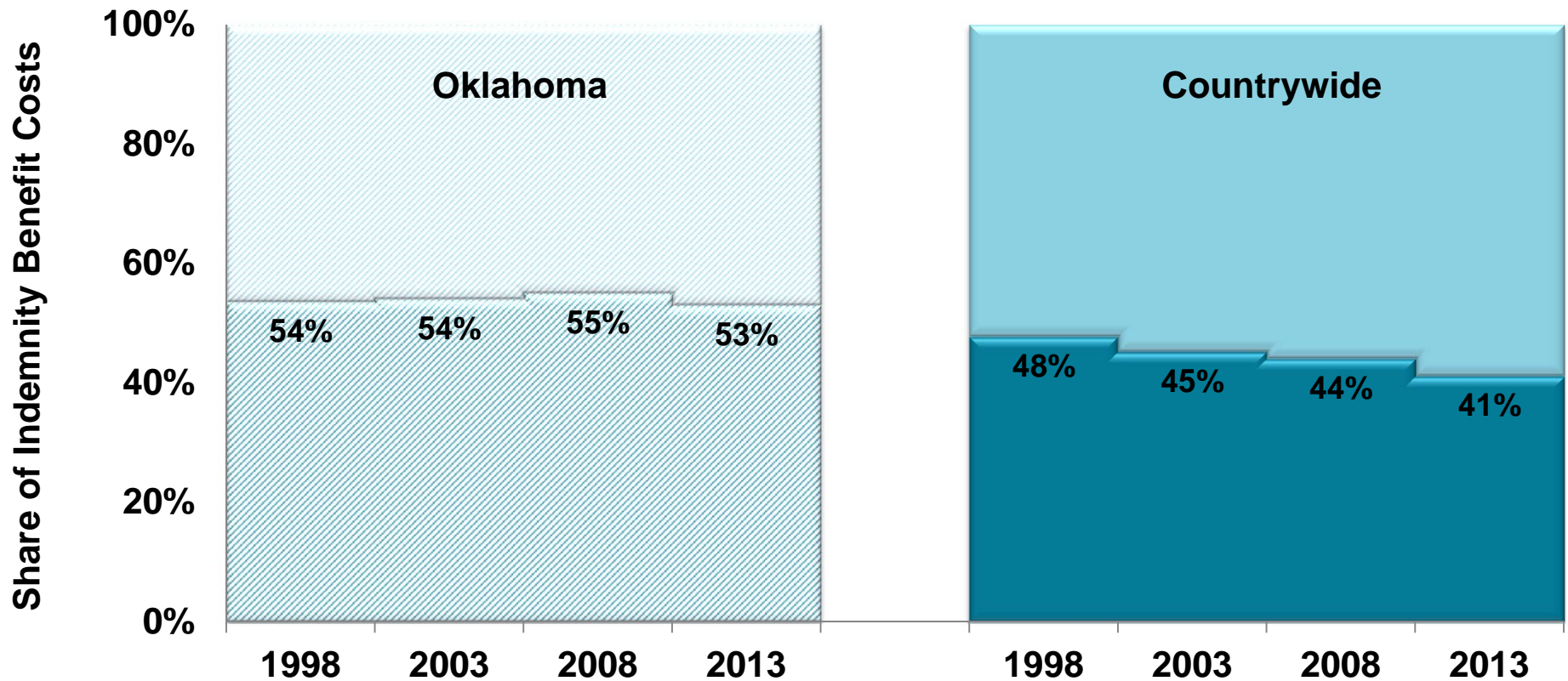
PPD Claims as a Percentage of All Lost-Time Claims



Based on NCCI's *Statistical Plan* data developed to ultimate Permanent Partial Disability as defined by NCCI's *Statistical Plan* manual. Policy periods will vary for Countrywide due to differences across states, but represents points in time fairly similar to Oklahoma's



Indemnity Share of Total Benefit Costs



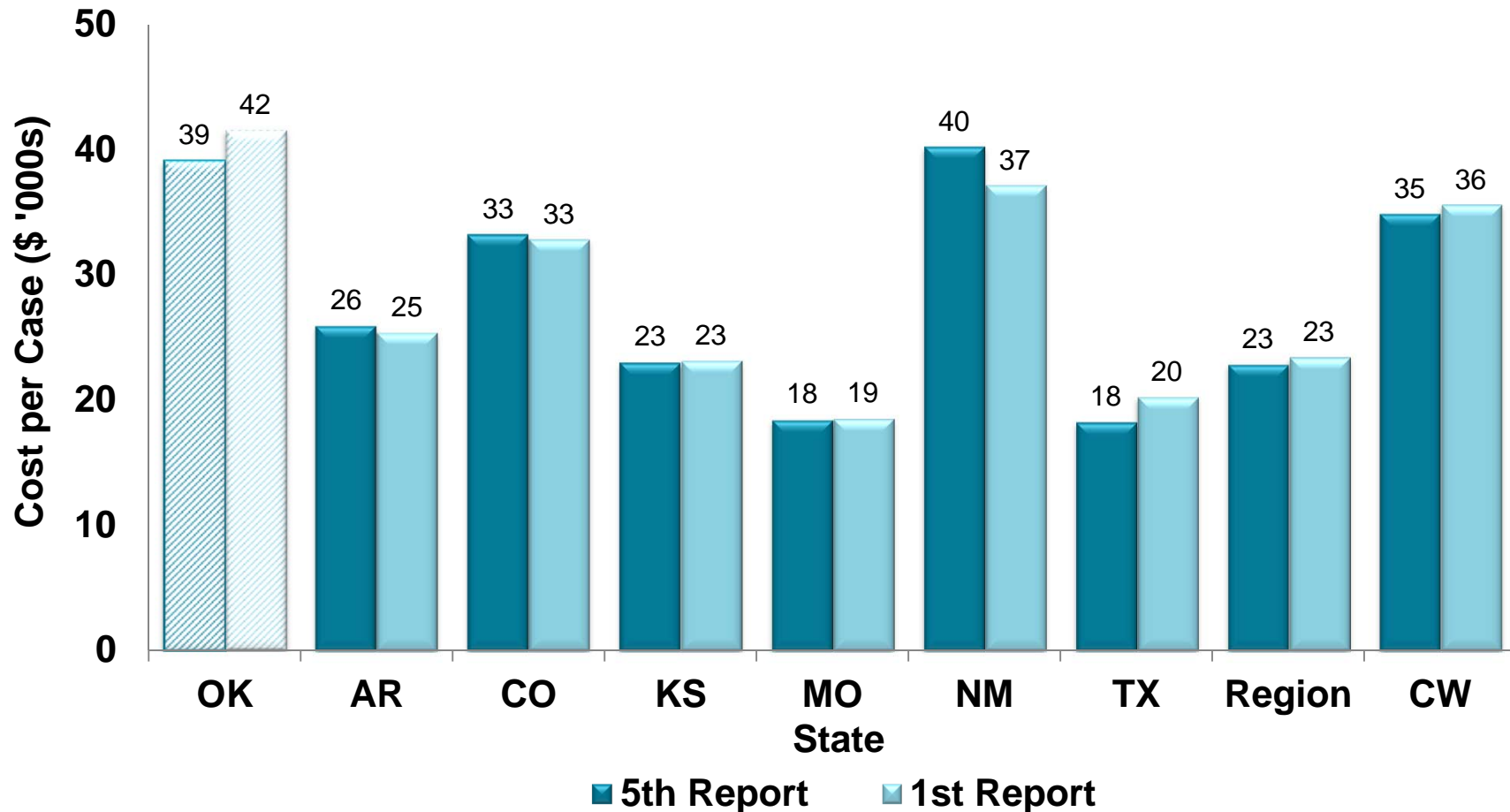
Source: NCCI's Analysis of Frequency and Severity of Claims Across the Country as of 12/31/2013 on ncci.com

Analysis is based on NCCI's financial data valued as of 12/31/2013, developed to ultimate; not on-leveled for benefit changes; excludes high deductible policies; includes state funds

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



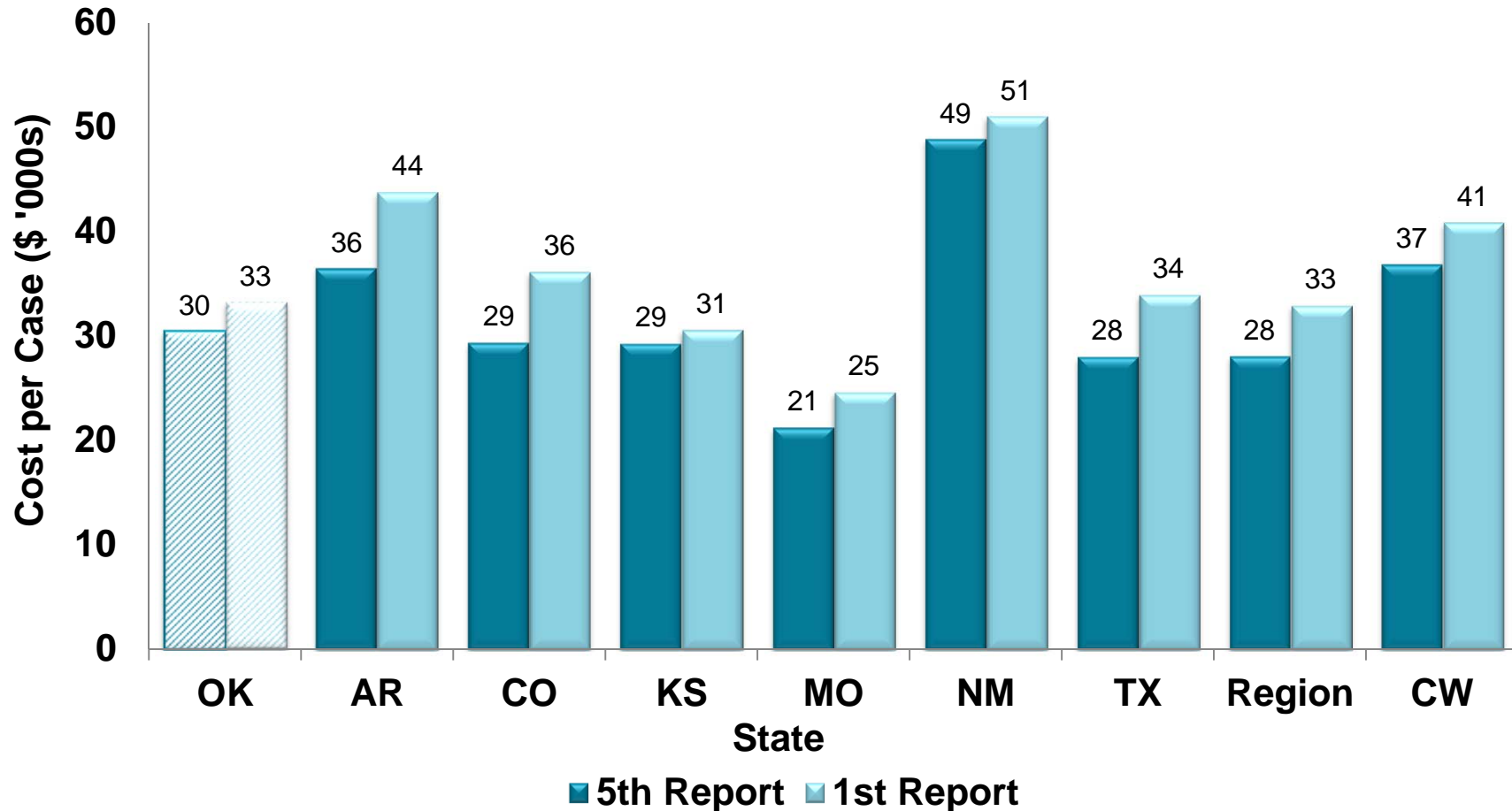
Oklahoma's Permanent Partial Indemnity Average Cost per Case



Based on NCCI's *Statistical Plan* data developed to ultimate; not on-leveled for benefit changes
 Permanent Partial as defined by NCCI's *Statistical Plan* manual
 Oklahoma 1st report data is for policies with effective dates between June 2010 and May 2011



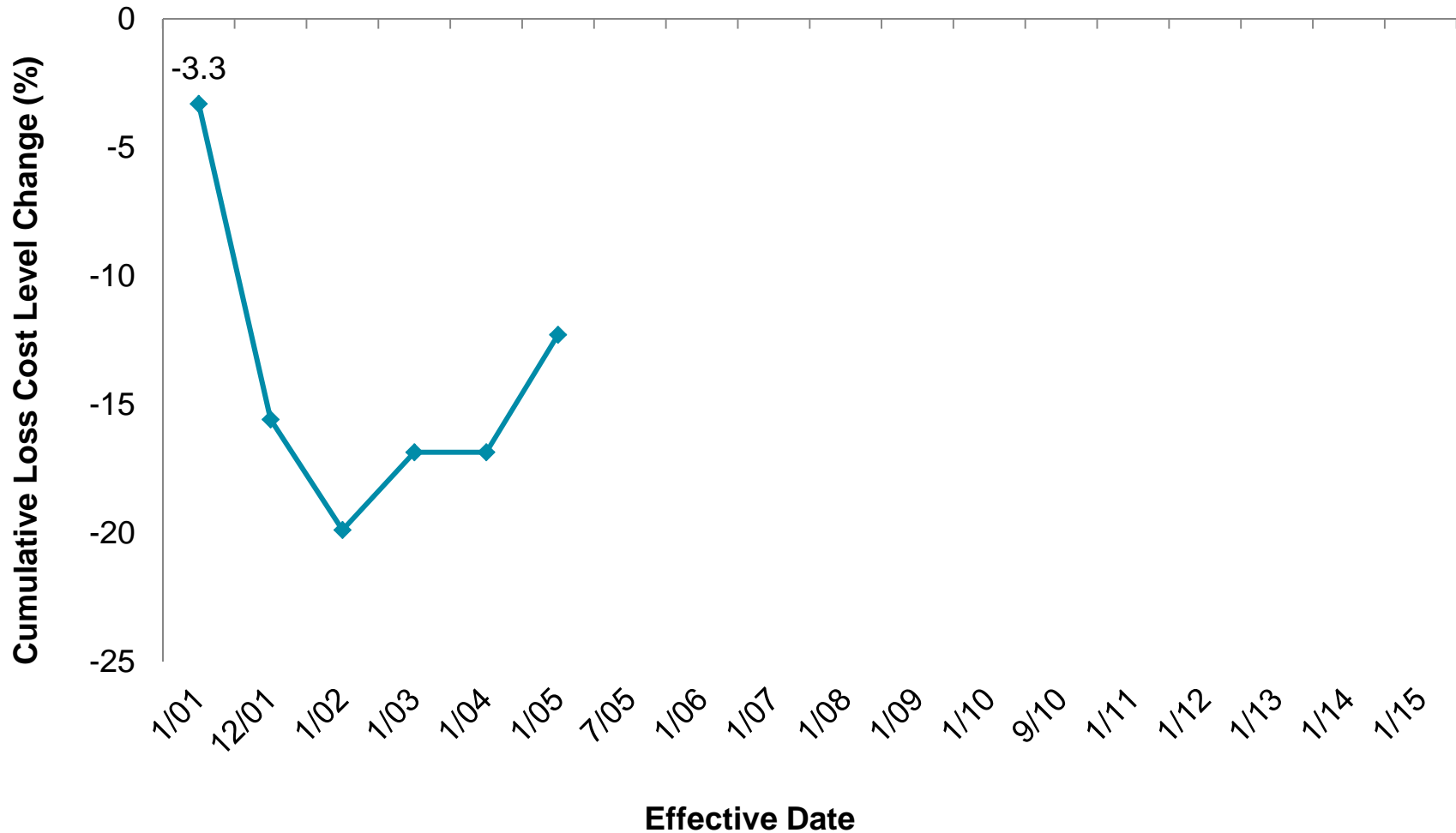
Oklahoma's Permanent Partial Medical Average Cost per Case



Based on NCCI's *Statistical Plan* data developed to ultimate; not on-leveled for benefit changes
 Permanent Partial as defined by NCCI's *Statistical Plan* manual
 Oklahoma 1st report data is for policies with effective dates between June 2010 and May 2011



Oklahoma's Cumulative Loss Cost Level Change

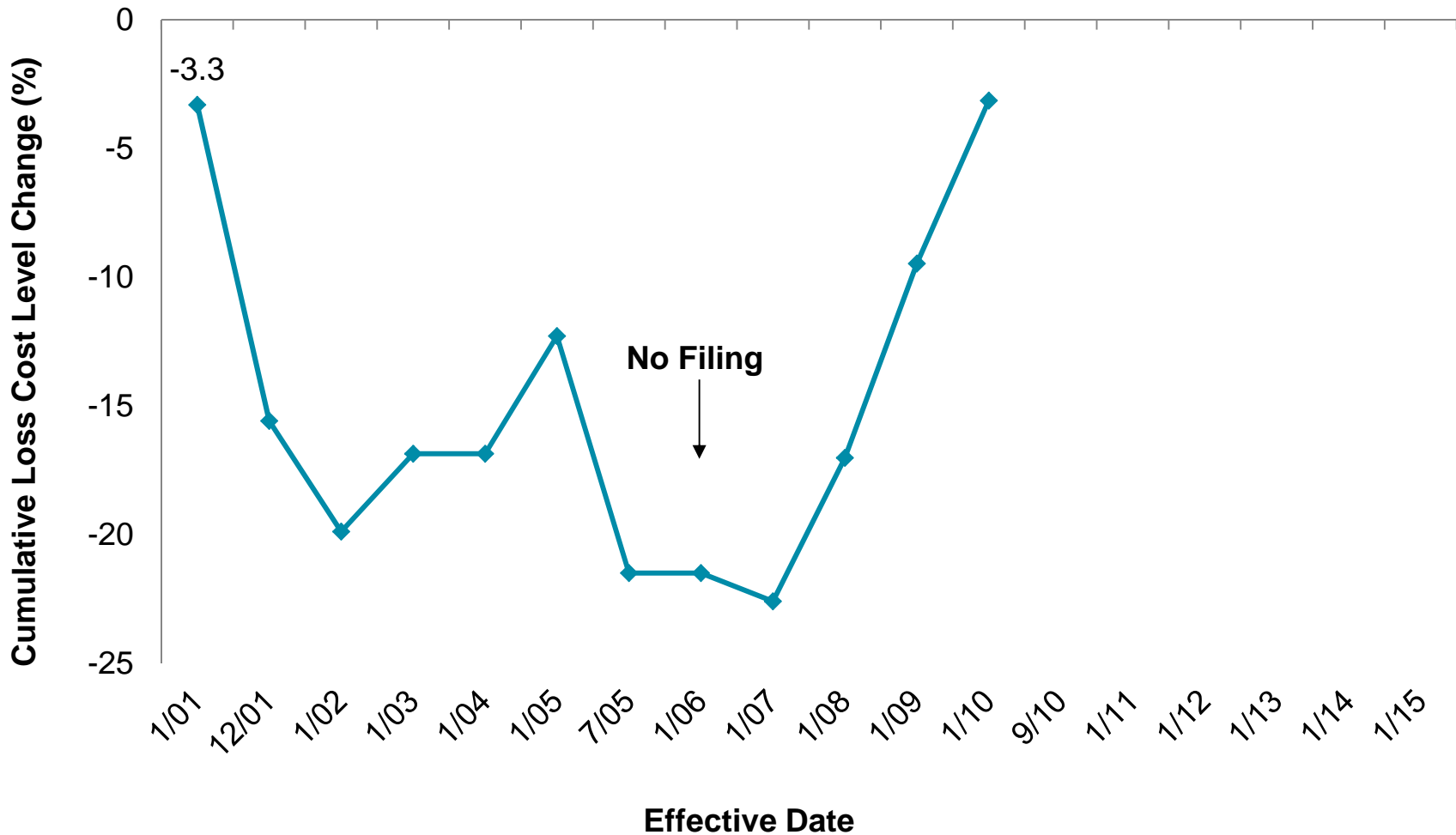


SB 1X (Eff. July 2005)

- Limited eligibility for permanent disability, as well as temporary total disability (TTD) compensation for soft tissue injuries
- Increased weight given to opinions of treating physician and independent medical examiner (IME)
- Prescription Drugs: Generics and Fee Schedule
- Limit attorney compensation in certain situations
- Other provisions, including injury must be major cause and statutes to be strictly construed
- Reopened Multiple Injury Trust Fund (11/1/2005)
- Modified Physician Fee Schedule (1/1/2006)



Oklahoma's Cumulative Loss Cost Level Change



Subsequent Oklahoma Court Decisions

- Conaghan v. Riverfield Country Day School (July 2007) — Supreme Court ruled that language requiring court to only consider an award within the range of opinions of the treating physician and IME violates the constitutional separation of powers provision
- Gee v. All 4 Kids (November 2006) — Court of Civil Appeals ruled that the 8-week limitation on TTD for non-surgical soft tissue claims is not enforceable due to conflicting language in statute
- Bed, Bath & Beyond v. Bonat (May 2008) – Although conflicting language was present, the Supreme Court opined that the legislative intent was to limit TTD for non-surgical soft tissue claims to 8-weeks



HB 2650 (Eff. August 2010)

- Terminated Permanent Total Disability indemnity benefits at latest of full Social Security retirement eligibility or 15 years
- Set the Scheduled Injury PPD indemnity maximum weekly compensation at \$323 for 5 years and established a fix minimum weekly benefit of \$150
- Amended/introduced definitions, including objective medical evidence, continuing medical maintenance, and surgery
- WC Court is bound by Physician Advisory Committee findings and recommendations with respect to most medical care



HB 2652 (Eff. November 2010)

- Changed the number of judges from 10 to 8
- Governor nominee requires confirmation by Senate
- New appointees must have 5 years of WC experience



SB 878 (Eff. August 2011)

- Complete rewrite of WC Act
- Decreased maximum duration for TTD benefits
- Set maximum weekly benefits for Non-Scheduled PPD injuries to be the same as Scheduled PPD injuries
- For nonsurgical soft tissue injuries, eight-week maximum to apply regardless of the number of parts of body injured
- Increased number of judges back to 10
- Other provisions, including changes to compensability definitions and claim resolution process
- Medical Fee Schedule changes, effective 1/1/2012
- Medical Treatment Guidelines, effective 3/1/2012



Senate Bill 1062 (Eff. February 2014)

- Another complete rewrite of statute
- Change in PPD durations (maximum of 350 weeks; previously 500 weeks) and reclassify partial loss of use as non-scheduled PPD benefit
- Reduction in TTD maximum weekly benefit (100% of SAWW to 70% of SAWW) and maximum number of weeks available (156 to 104)
- Deferral of PPD benefits when the employee returns to the pre-injury or equivalent job
- Reference to edition of the AMA Guides

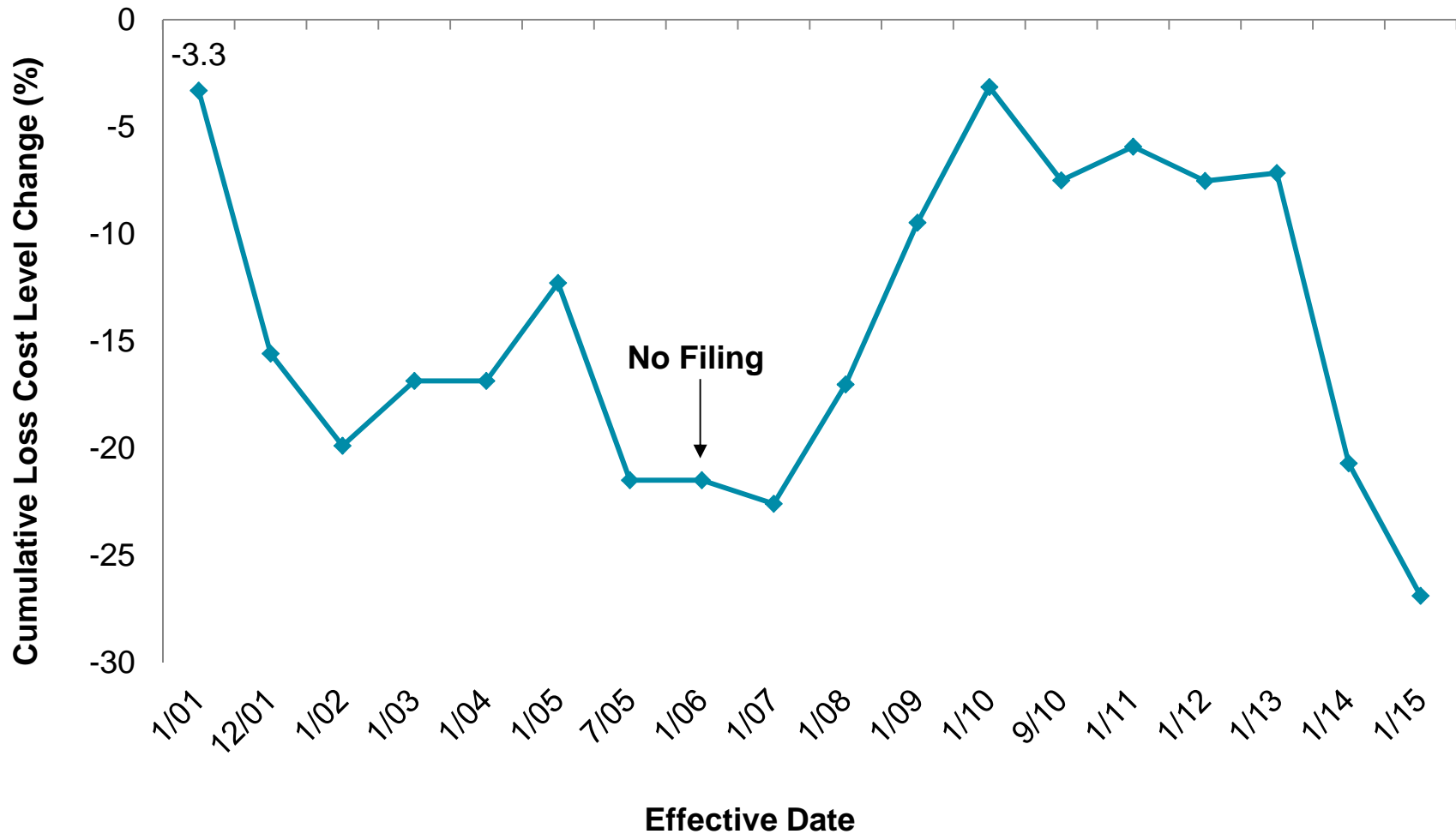


Senate Bill 1062 (cont'd)

- Change from a Court System to a Commission-based system
- Expanded employers' choice of treating physician rules, but removed mandatory use of treatment guidelines
- Creation of Oklahoma Employee Injury Benefit Act
- Other (e.g., compensability definition and determination of attorney fees)



Oklahoma's Cumulative Loss Cost Level Change



Recent Court Cases

- Coates, et al v. Fallin—Supreme Court ruled that SB 1062 was not unconstitutional based on the multiple subject rule; did not opine on other aspects
- Carlock v. Oklahoma Workers Compensation Commission—Supreme Court ruled that the appeals process for injuries occurring prior to February 1, 2014 are subject to the pre-SB 1062 WC Act
- Duck v. Morgan Tire—Trial court judge ruled that because the employee's work injuries were foreseeable, the WC Act does not apply and the claimant's tort suit is not barred

