



# **Fraud & the P/C Insurance Industry *Focus on No-Fault Auto Insurance***

**New York Insurance Fraud Summit  
New York, NY  
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**Robert P. Hartwig, Ph.D., CPCU, President & Economist**

**Insurance Information Institute ♦ 110 William Street ♦ New York, NY 10038**

**Tel: 212.346.5520 ♦ Cell: 917.453.1885 ♦ bobh@iii.org ♦ www.iii.org**

# Presentation Outline

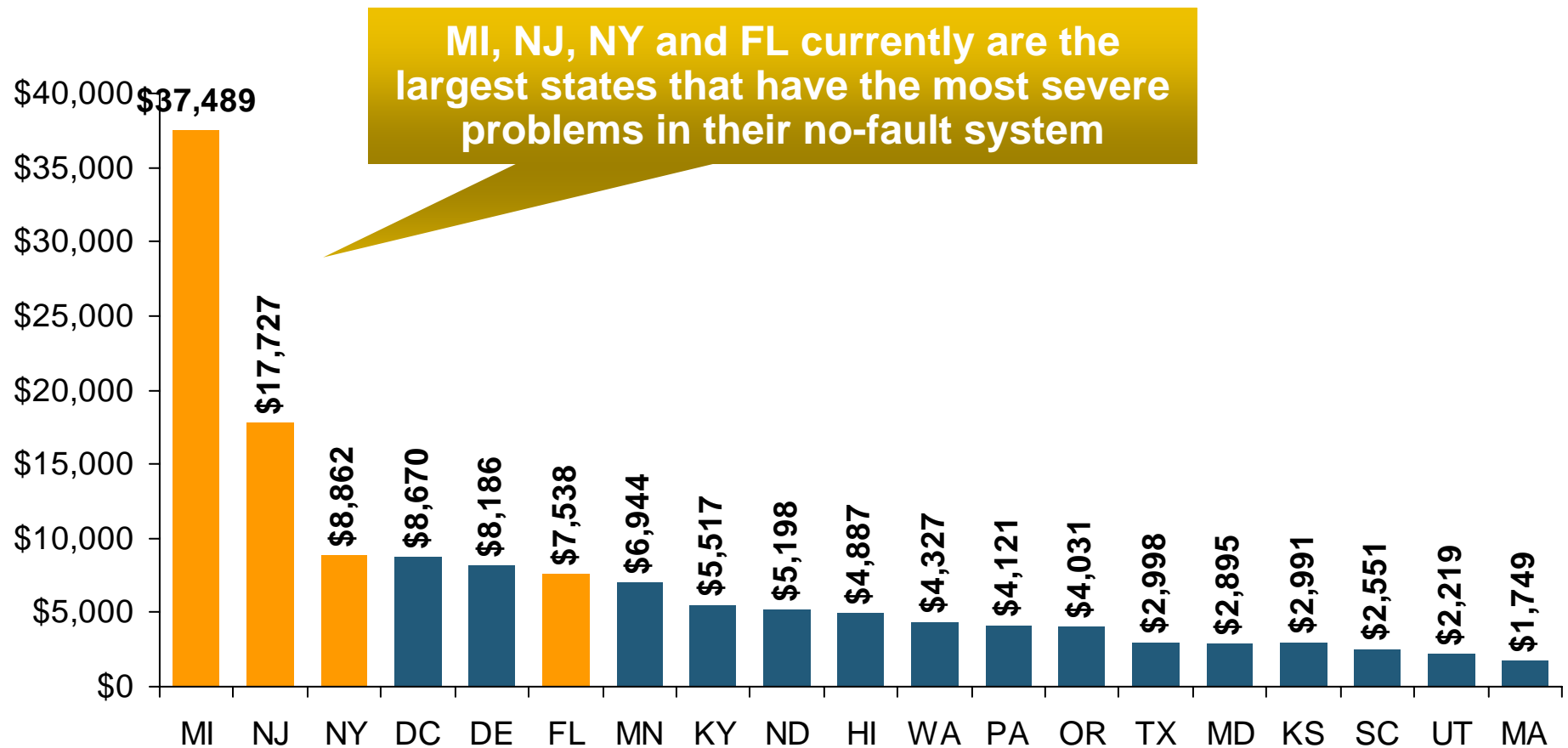
- **Survey of No-Fault Claim Costs in the U.S.**
- **New York State: The Return of a Crisis in No-Fault Fraud & Abuse?**
  - ◆ Costs are up 58% since 2004
  - ◆ Average no-fault claim severity is at its second highest level ever
- **The Costs of No-Fault Fraud and Abuse in NY State**
  - ◆ No-Fault fraud and abuse is costing insurers and drivers more than \$200 million per year
  - ◆ About 20% of the costs every no-fault claim in NY is attributable to fraud and abuse
- **Benefits of Reducing No-Fault Fraud and Abuse**
  - ◆ Drivers can save hundreds of millions of dollars
- **What Happened During New York's First No-Fault Crisis?**
  - ◆ Great success story
- **Q&A**



# **Survey of No-Fault Claim Costs Across the U.S.**

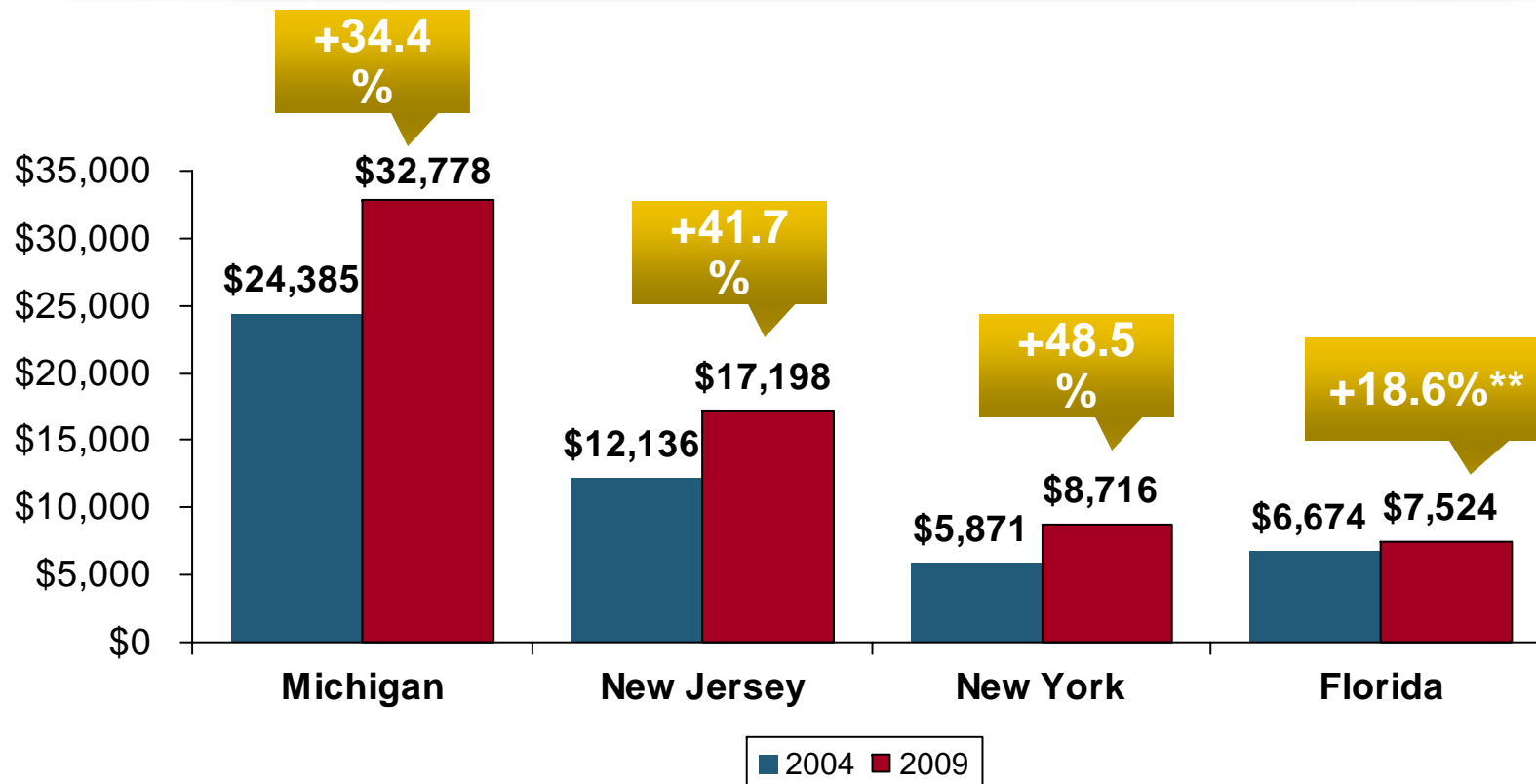
**Skyrocketing No-Fault (PIP) Claim  
Costs Are a Major Concern in  
Several States**

# Average No-Fault Claim Severity, 2009:Q4



**Several States Have Severe and Growing Problems With Rampant Fraud and Abuse in their No-Fault Systems. Claim Severities Are Up Sharply.**

# Increase in No-Fault Claim Severity: 2004-2009\*



**The no-fault systems in MI, NJ, NY and FL are under stress due to rising fraud and abuse which will ultimately lead to higher premiums for drivers**

\*2009 figure is for the 4 quarters ending 2009:Q4.

\*\*Since 2006 the increase in Florida was 17.3% (average severity that year was \$6,344).

Sources: Insurance Information Institute research from ISO/PCI *Fast Track* data.

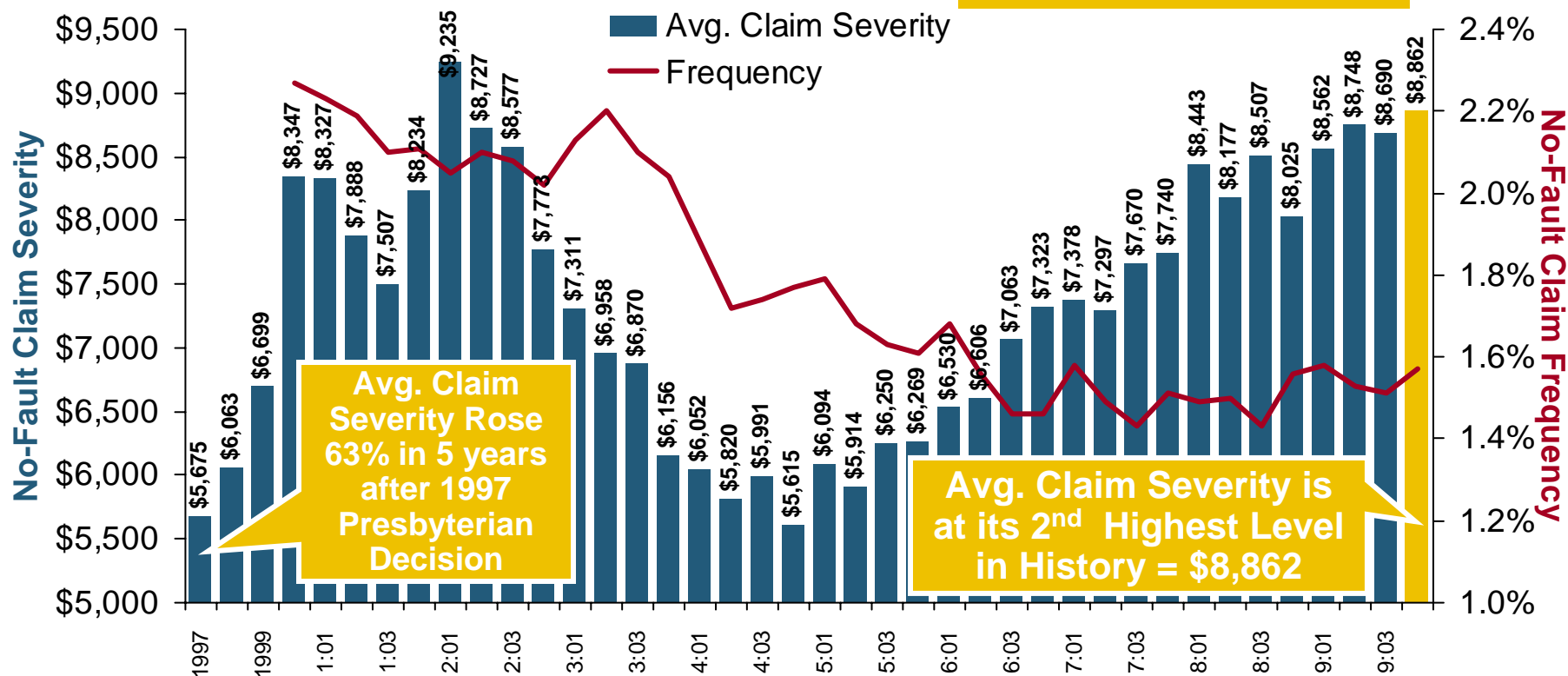
# **NY State No-Fault Costs & Evidence of Fraud**

**Skyrocketing No-Fault (PIP) Claim  
Costs Are a Major Concern in  
Several States**

# New York State No-Fault Claim Severity, 1997–2009:Q4

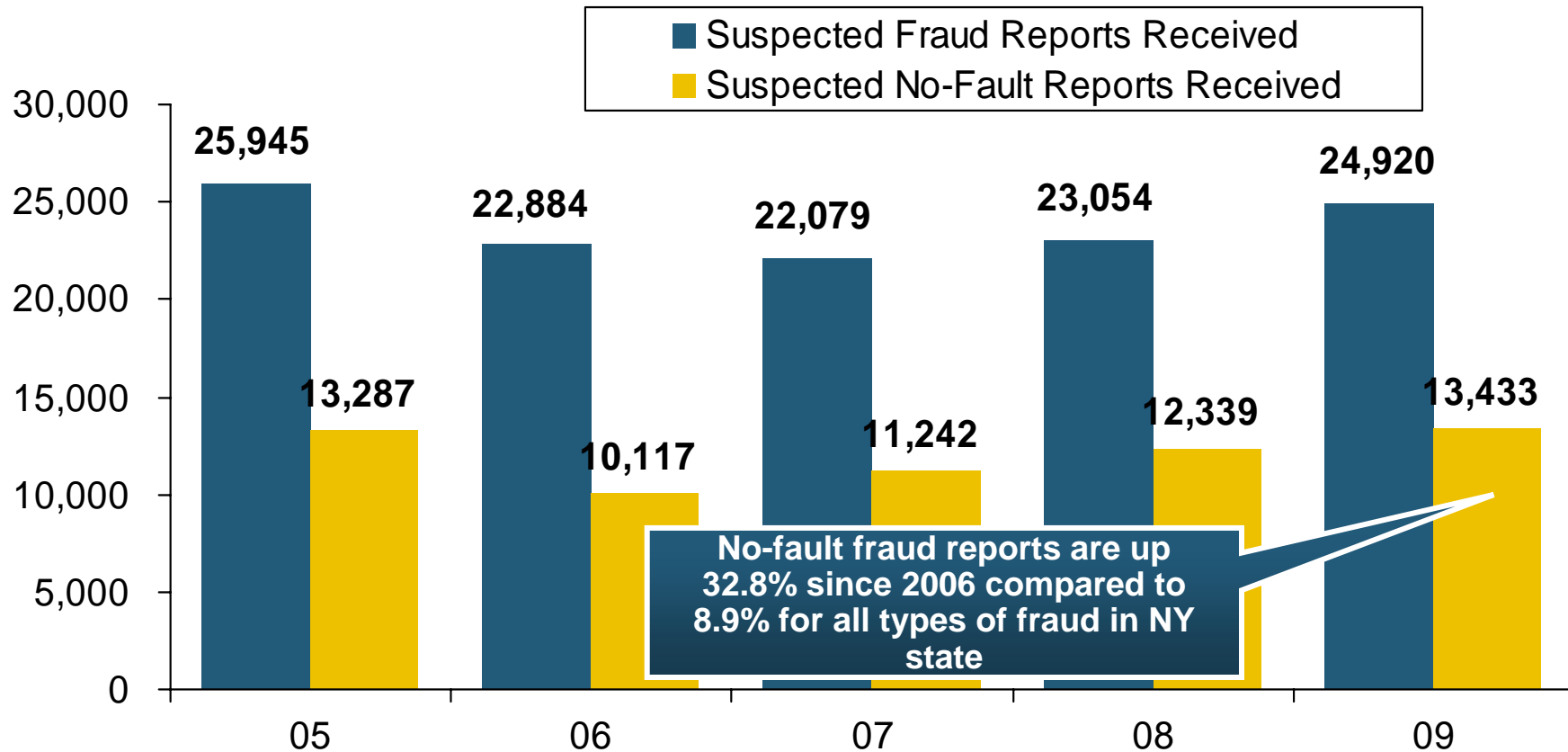


## No-Fault Claim Severity



**About 20% of No-Fault Claim Costs Are Attributable to Fraud and Abuse**

# Suspected No-Fault Fraud Reports vs. All Insurance Fraud Reports, 2005-2009

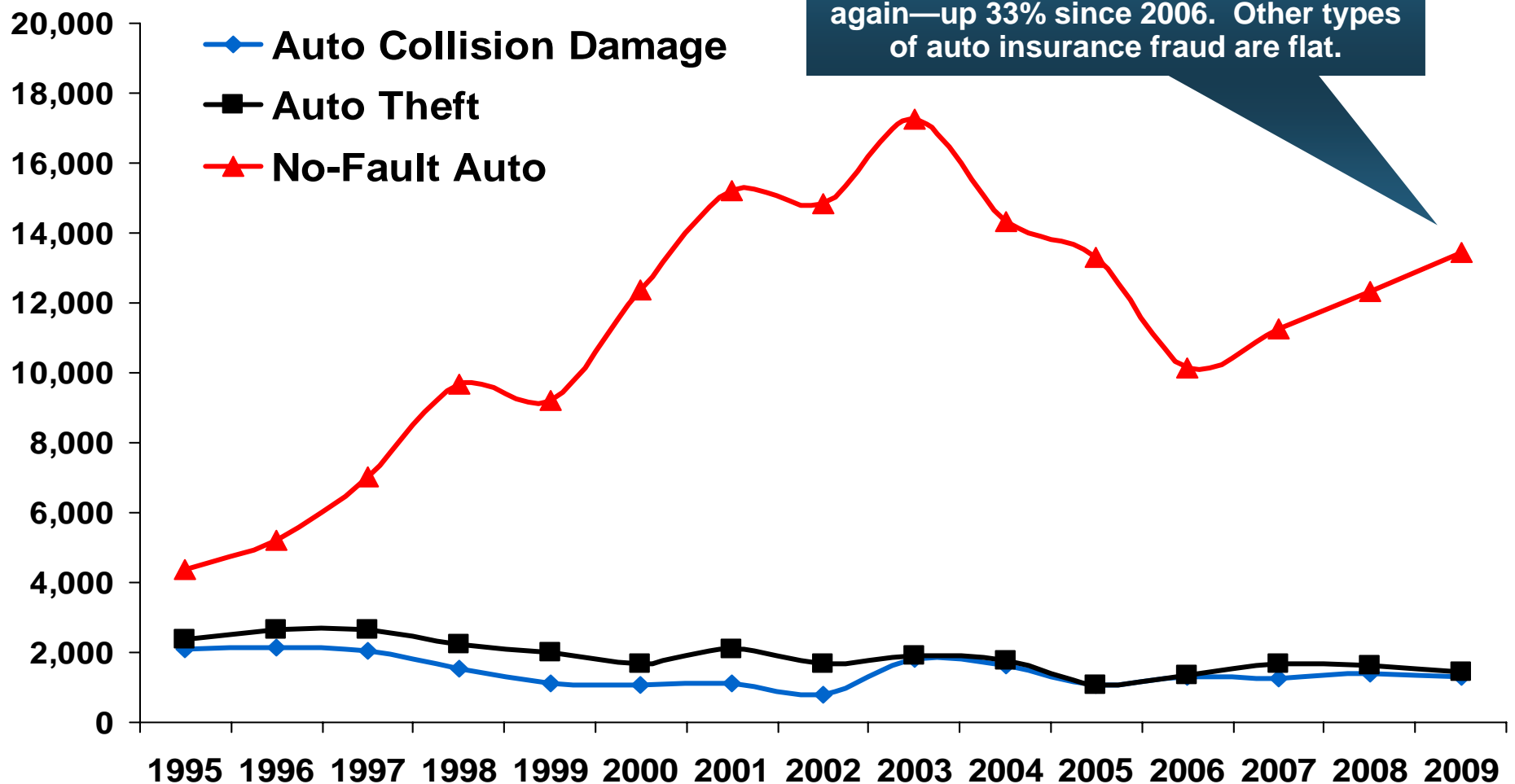


**The Total Number of Insurance Fraud Reports in NY State Would Have Plunged Nearly 15% Since 2006 Were It Not for the Return of No-Fault Fraud**

Source: New York State Insurance Department, Insurance Frauds Bureau 2009 Annual Report; Insurance Information Institute.



# New York Auto Insurance Fraud Reports, 1995 – 2008



Source: New York State Insurance Department, Insurance Frauds Bureau 2009 Annual Report; Insurance Information Institute.

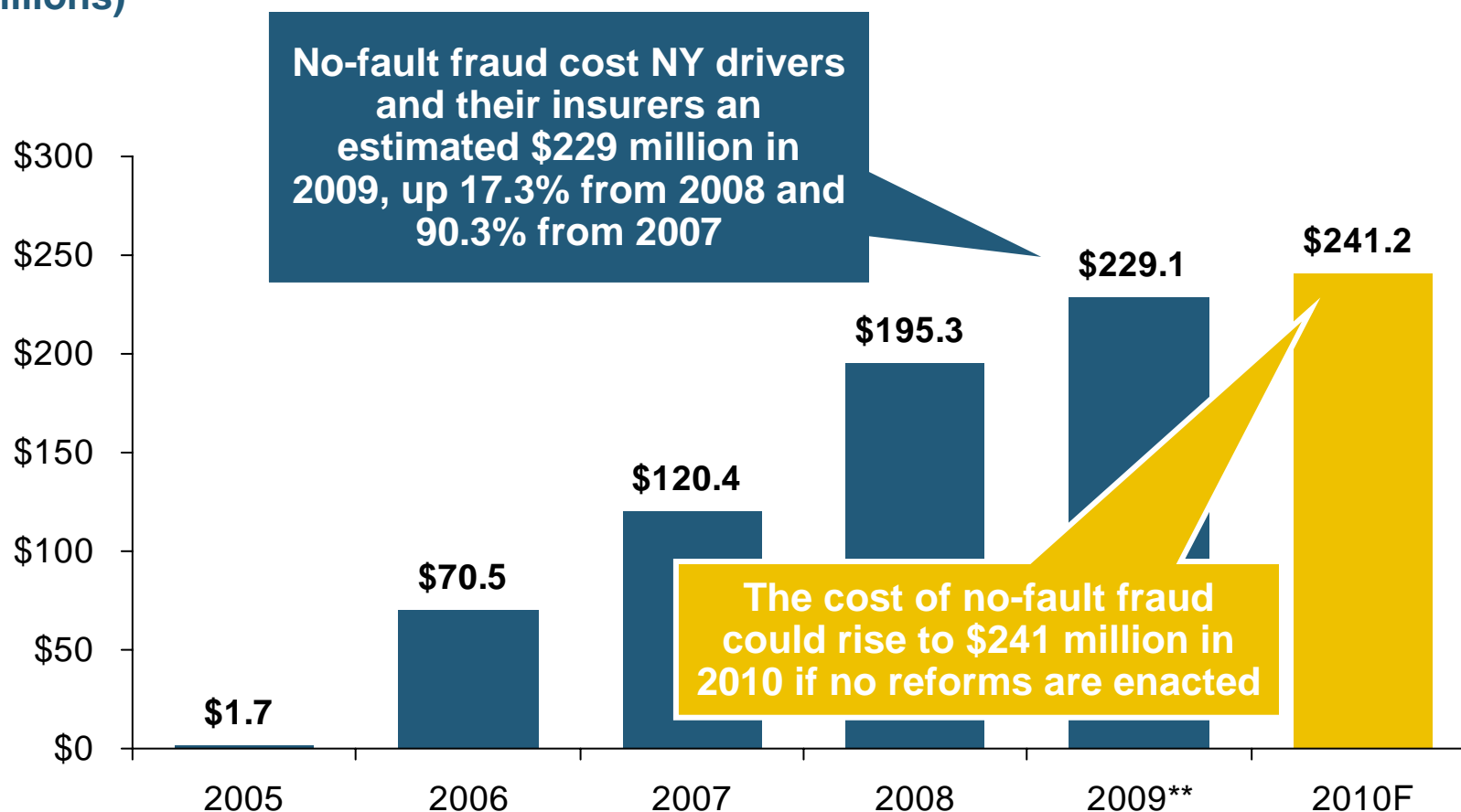


# The Cost of No-Fault Fraud in NY State

**No-Fault (PIP) Fraud is Costing  
Insurers and Drivers Billions**

# Estimated Cost of No-Fault Fraud in New York State, 2005-2009\*

(\$ Millions)



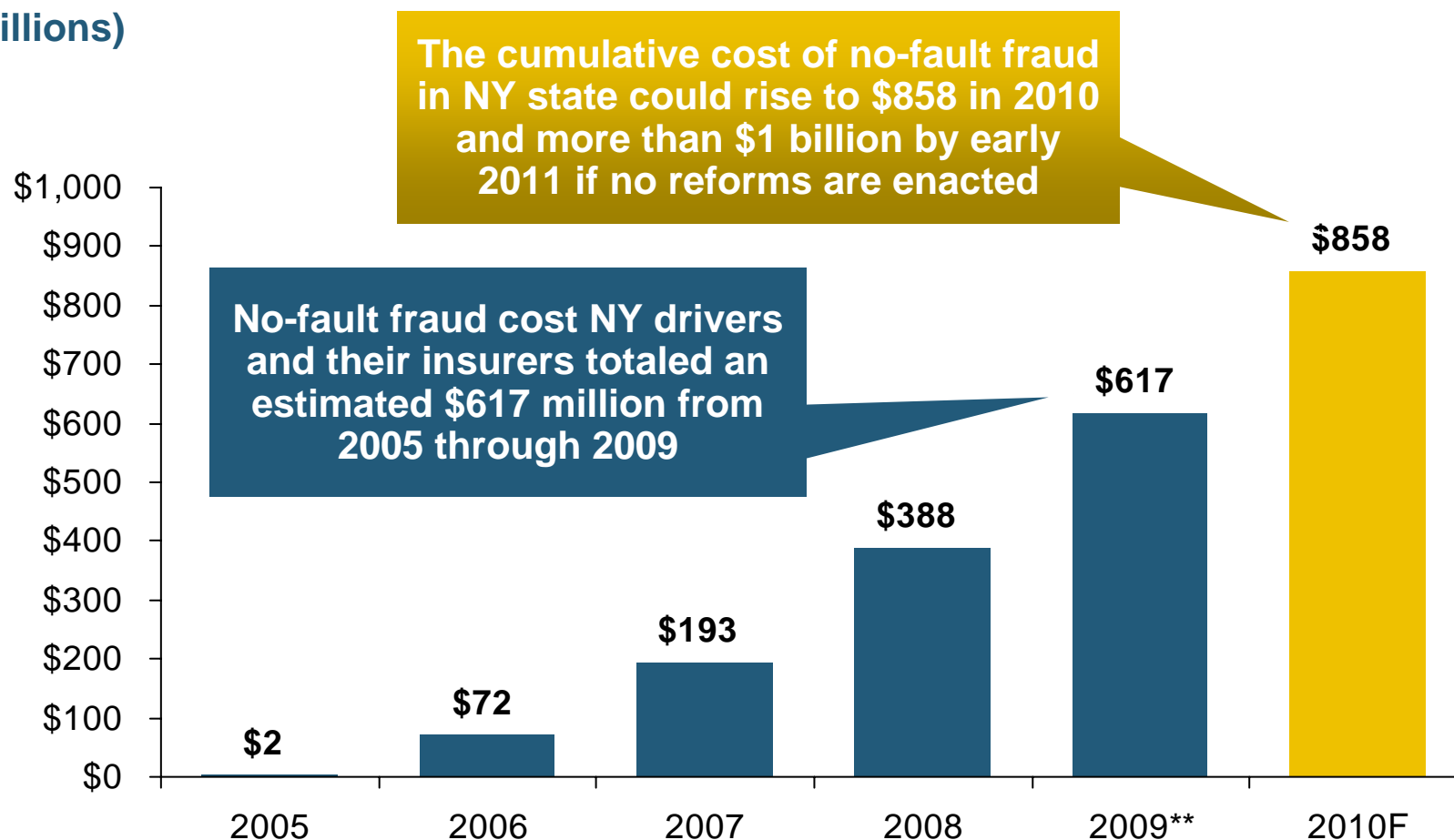
\*No-fault severity reached a post-reform low in 2004 before, hence selection of 2005 as the first year of analysis. Actual no-fault losses in 2005 and beyond are higher than estimates indicate due to base level of fraud imbedded in 2004 data.

\*\*2009 figure is estimated based on 4 quarters ending 2009:Q3 (latest available).

Source: Insurance Information Institute analysis and research.

# Estimated Cumulative Cost of No-Fault Fraud in New York State, 2005-2010F\*

(\$ Millions)

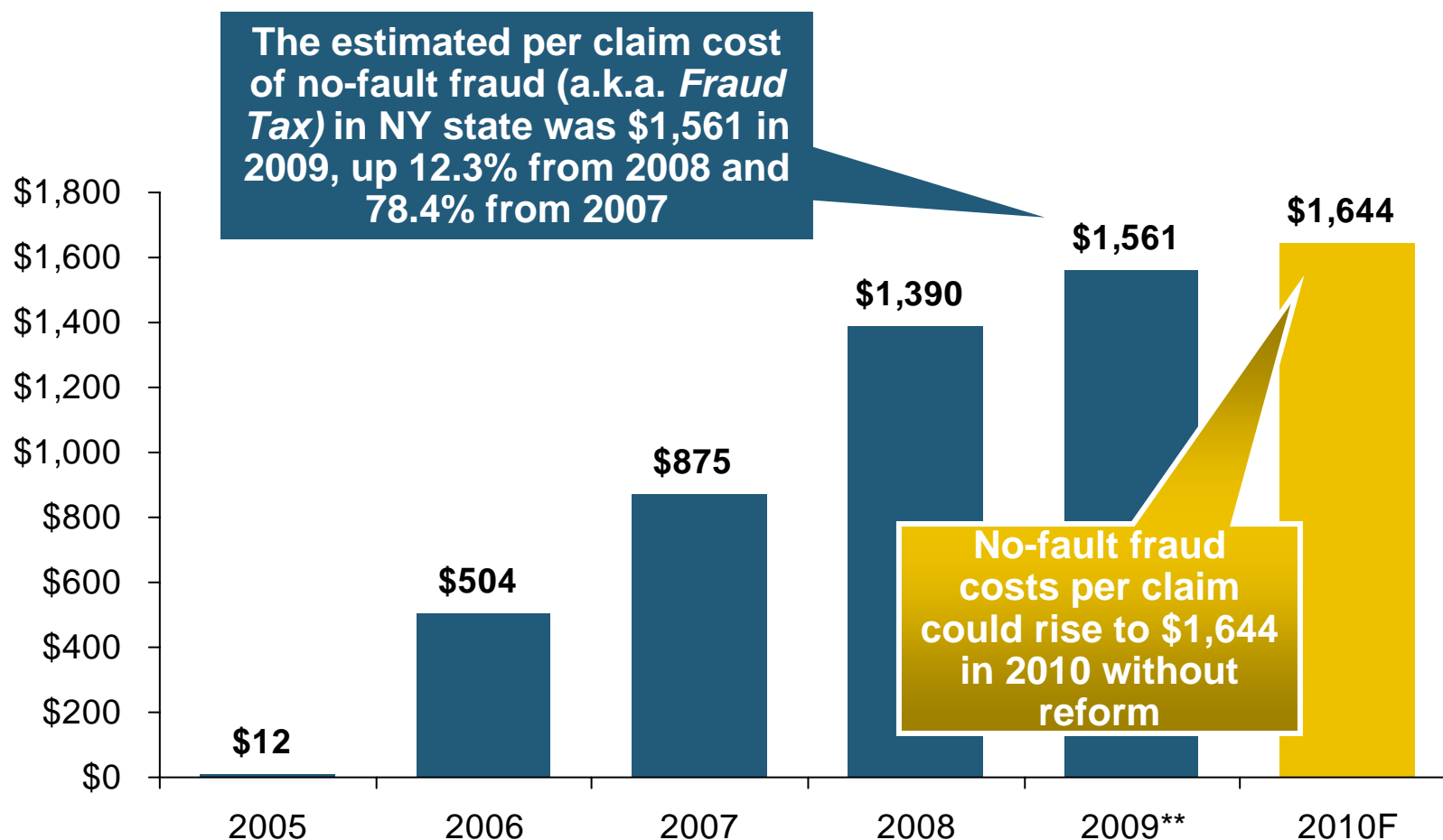


\*No-fault severity reached a post-reform low in 2004 before, hence selection of 2005 as the first year of analysis. Actual no-fault losses in 2005 and beyond are higher than estimates indicate due to base level of fraud imbedded in 2004 data.

\*\*2009 figure is estimated based on 4 quarters ending 2009:Q3 (latest available).

Source: Insurance Information Institute analysis and research.

# Estimated Per-Claim Cost of No-Fault Fraud in New York State, 2005-2010F\*



\*No-fault severity reached a post-reform low in 2004 before, hence selection of 2005 as the first year of analysis. Actual no-fault losses in 2005 and beyond are higher than estimates indicate due to base level of fraud imbedded in 2004 data.

\*\*2009 figure is estimated based on 4 quarters ending 2009:Q3 (latest available).

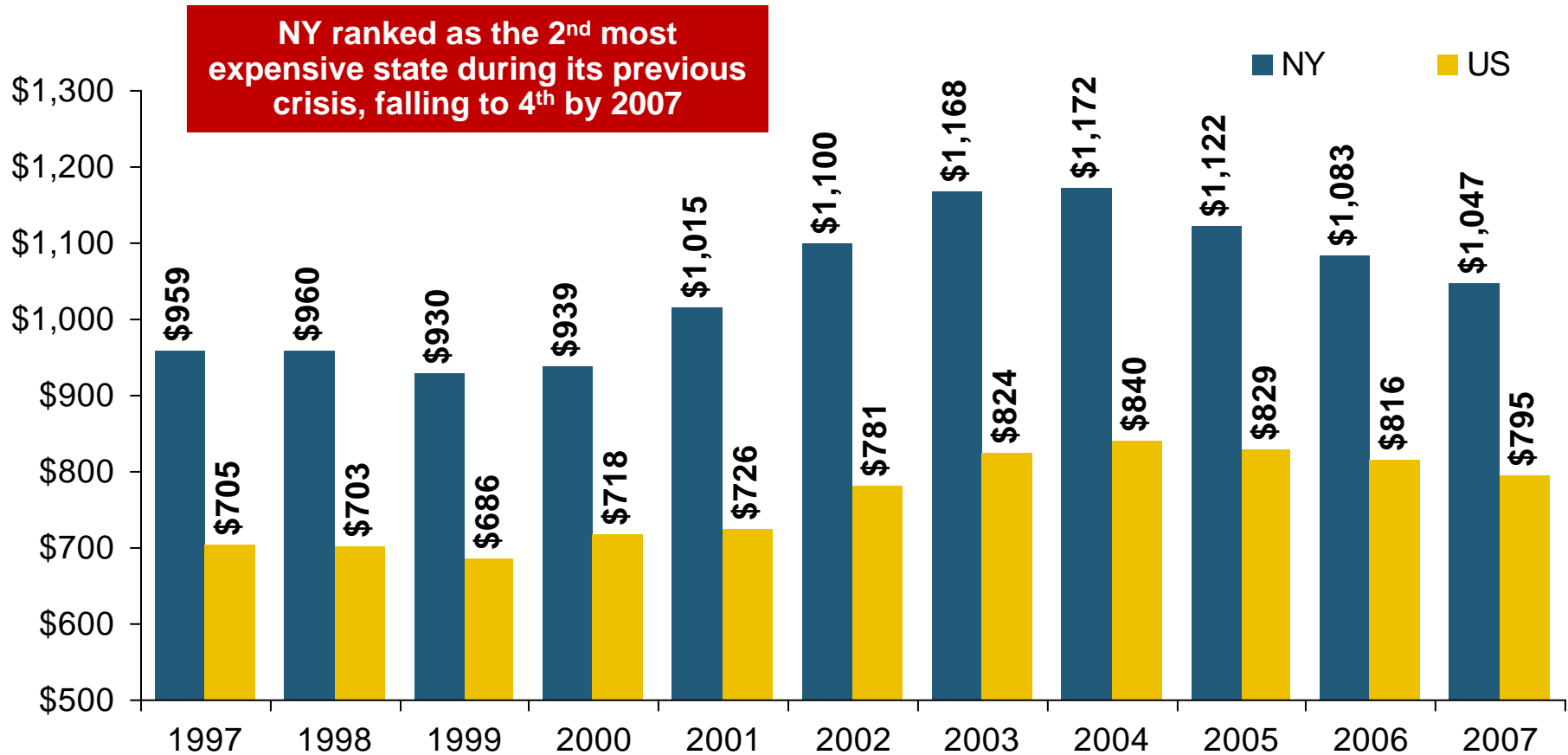
Source: Insurance Information Institute analysis and research.



# Benefits of Reducing Fraud and Abuse

**NY's Drivers Will Save a Great Deal  
of Money if the Battle Against  
Fraud and Abuse is Won**

# Average Expenditure on Auto Insurance In NY State, 1997-2007\*



**In the wake of NY's first no-fault crisis, the average expenditure on auto insurance fell by \$125 or 10.7% between 2004 and 2007, twice the 5.4% drop in the US overall**

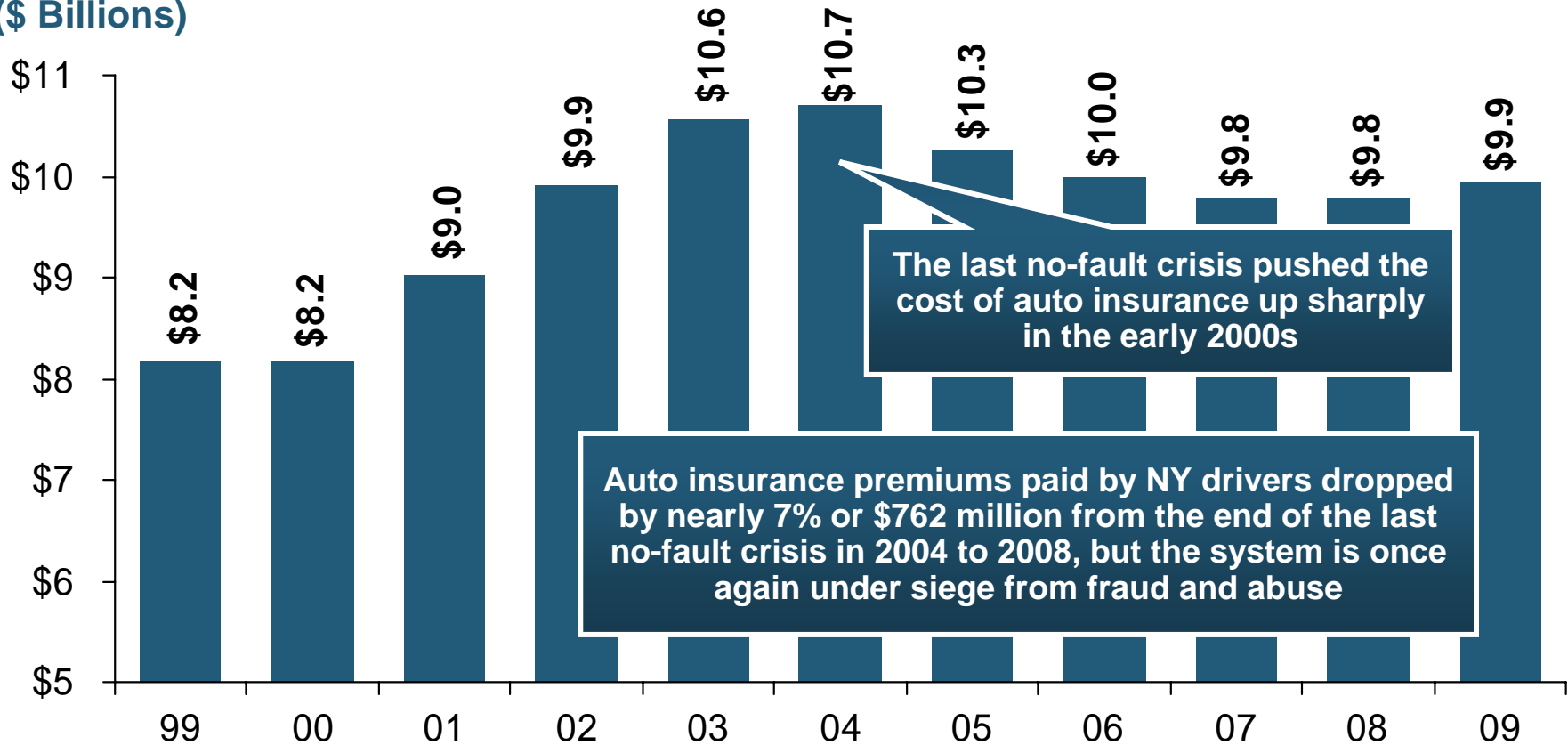
\*Latest available.

Sources: NAIC; Insurance Information Institute.

# NY State Direct Pvt. Passenger Auto Premiums Written, 1999-2009



(\$ Billions)



**Resurgent No-Fault Fraud in NY State Could Ultimately Cost Drivers Billions of Dollars**





# Today's PIP Problem in New York State is Not Its First

# No-Fault Fraud Was Front-Page News in 2001-2002




**DAILY NEWS**  
NEW YORK'S HOMETOWN NEWSPAPER  
Sunday, July 22, 2001  
\$1.00 www.nydailynews.com

**SPECIAL REPORT**

## HIGHWAY ROBBERY

**Increase in fraud is driving car insurance rates up dramatically**

**SEE STORIES PAGES 6-7**



Minor accidents like this one could wind up costing drivers a lot more.

MARC HERMANN

**DAILY NEWS**  
THURSDAY, MARCH 29, 2001  
PAGE 2 OF 2

## FRAUD IS DRIVING AUTO INSURANCE SKY-HIGH

**Firms say medical scams squeeze city motorists**

By WILLIAM SHERMAN  
DAILY NEWS STAFF WRITER

**Fraud soaking drivers**

Doc scams have state insurance rates on road to No. 1

By WILLIAM SHERMAN  
DAILY NEWS STAFF WRITER

Crooked doctors working through mob-backed medical mills are costing New York drivers \$1 billion a year in insurance premiums and spiking no-fault rates to the highest in the nation.

Consumer automobile insurance costs are soon expected to surpass New Jersey's, as accident scams and fraudulent medical bills deliver ever increasing payoffs, according to law en-

sions are among those treatments; the tests include everything from audiology to X-rays in abundance.

For example, one Brooklyn doctor, according to a state between \$75 and \$115 a year, according to Bob Hartwig, an economist for the Insurance Information Institute.

Brooklyn has the highest fraudulent claim rate, with the Bronx second, Queens third and Manhattan fourth, according to studies by the institute.

Because of the fraud, Brooklyn drivers pay the highest overall premiums in the city, according to Hartwig.

As of March 1, a "clean" adult just under the six-month time limit, said Greg Serio, deputy superintendent of the state Insurance Department. "How do you review and track hundreds of tests and treatments six months after the fact, and do it in 30 days?" he asked.

Under state law, physicians must prescribe tests and treatment and own the clinics. But medical mills involved in the scams are owned by criminals who pay off doctors for their

dead for two years was involved in three separate accidents with a dozen accident "victims," said Tom Sullivan, chief of Geico's special investigations unit. "In another case, we found a woman who had run up thousands of dollars of claims because of an accident, and she told us she was never in any accident and had never been to the clinic in question."

Once the policy numbers are

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THURSDAY, MARCH 29, 2001  
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**N.Y. INSURANCE FRAUD REPORTS**

Year	Rate per 100 cars
1995	4.50
1996	5.00
1997	5.50
1998	6.00
1999	6.50
2000	7.00
2001	12.372

**CLAIM FREQUENCIES**

Area	Rate per 100 cars
Brooklyn	6.27
Bronx	6.03
Queens	5.55
Manhattan	2.58

**GROWTH IN CLAIMS COSTS\***

Area	Rate per 100 cars
New York	12.372
Florida	15.0%
Delaware	14.9%
Illinois	10.4%
New Jersey	10.3%
New York	10.2%

\* Change in "share premium"

# The Publicity Sparked Calls for Action



DAILY NEWS  
FRIDAY, MARCH 30, 2001  
PAGE 46

## Slam brakes on auto scams

As reported yesterday in the Daily News' front-page story, "Highway Robbery," auto insurance scams are adding \$1 billion a year to drivers' premiums in New York. That's an extra \$75 to \$115 on every auto policy in the state — no matter how good, and honest, a motorist you are. Unless there is legislative reform, these bogus claims will drive rates even higher. The state Senate has acted. Now it's up to the Assembly.

Last year, New York's claim costs jumped by 32%. In New Jersey — long the butt of bad-driver jokes — they *dropped* by 12%, primarily because Trenton passed auto insurance reforms in 1998. Who's laughing now? While Jersey limits claims for certain exotic "medical" treatments, claimants in New York can milk insurance companies for such suspect treatments as aromatherapy and biofeedback. Because of this, the average bodily injury accident claim in New York is an astonishing 64% higher than in any other state.

The Brooklyn district attorney's office says Russian mobsters are behind many of the scams, setting up phony accidents and medical mills that rip off insurers. The gangs employ "runners" who recruit people to pose as crash "victims." Under a bill sponsored by state

NEW YORK POST  
THURSDAY, MARCH 29, 2001  
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## Driving NYers Mad

Auto insurance is about to drive New Yorkers crazy.

Or, maybe, out of state.

As The Post's Kenneth Lovett reported this week, New Yorkers are about to get socked with rate hikes as high as 26 percent.

Already, the Empire State boasts the second-highest rates in the nation. But Albany, it seems, won't be happy until New York is No. 1.

Why? Because lawmakers refuse to clamp down on the abuses that drive up rates in the first place.

As Manhattan Institute Senior Fellow Steve Malanga outlines in detail on the previous page, an entire industry of scam artists — con men, disreputable doctors, unscrupulous lawyers — thrives in New York, bilking insurance carriers with fraudulent claims.

Insurers who pay those claims pass their costs right back to — you guessed it — New York motorists.

Which sends premiums soaring.

And this kind of fraud is higher here

than in other states, thanks largely to New York's no-fault insurance laws.

And, of course, to lawmakers who prefer not to fix those laws, which would risk the loss of political donations from the doctors and lawyers who milk the system and would be put out of business were it fixed.

Indeed, reform would be a cinch, were lawmakers inclined to act.

For example:

■ They could reduce the number of days claimants have to file claims, which now stands at an astonishing 300.

THE ECONOMIST  
JANUARY 27th, 2001  
PAGE 73

## The scent of a scam

NEW YORK

DRIVING in New York is war, casualties frequent. What better recovery for a car accident's unfortunate victim than to lie in a darkened room, inhaling the sweet smells of pungent lotions? And what better still than to get somebody else to pay for it?

In recent months, the claims department at a large property-casualty company has been getting a growing stream of claims for these services, known as aromatherapy. "It is a new, creative out-

letedly those around the neck, are notoriously hard to diagnose and repair with any precision. With great gaps in knowledge still remaining, medicine remains part-art. Do insurance companies really know where to draw the line between scam and need?

Suffice to say that they would like to try. What angers the insurers about the legal status of treatment in New York is that many claims must be paid, no questions asked. Far from being pre-approved, bills



# More Editorials Urging Albany to Act



NEW YORK POST  
THURSDAY, FEBRUARY 28, 2001  
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## POSTOPINION

### Coming To N.Y.: America's Costliest Car Insurance

**N**EW York car owners are facing a stiff hike in insurance premiums because of soaring fraud and a surge in payments in accident cases. With other states enacting reforms to restrain the growth of lawsuits and cut down on insurance scams, New York drivers will almost certainly soon be paying the highest premiums in the country. And they've got lawyers, rip-off artists and legislators to thank for that.

Here's why. The state's no-fault law requires a driver's insurance company to pay the first \$50,000 in medical bills for an accident, regardless of who's at fault. But it's virtually impossible for insurers to investigate fraudulent claims — because the law lets drivers wait up to six months after an accident to file medical claims.

Scam artists are having a field day with fake accidents, and payments from accident claims are going through the roof in the state. Fake auto-insurance claims uncovered by regulators nearly tripled in New York to 12,372 last year, from 4,393

tute recently warned that New York is on the verge of surpassing New Jersey as the state with the nation's highest average auto-insurance premium. In 1998, the Garden State passed reforms that studies estimate have cut the average annual cost of a premium by more than \$200, to below \$1,000. New York's average rate, meanwhile, was about \$1,110 in 1999, the last full year for which data are available, but is now clearly heading upward.

In the Empire State, insurers can raise rates up to 7 percent without asking permission from the state Insurance Department, a that could mean increases of more than \$100 on premiums this year, especially in New York City, where the average premium is already close to \$2,000 a year.

The Insurance Department has tried to put the breaks on fraud by adopting regulations to shorten the time required to file a medical claim, but trial lawyers successfully defeated the measure in court. They

NEW YORK POST  
THURSDAY, MARCH 29, 2001  
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## Albany's War on Drivers

### Fraud's making car insurance soar — but the Legislature won't crack down



STEVEN  
MALANGA

**T**HANKS to an epidemic of fraud, auto-insurance prices are soaring statewide. Prosecutors, regulators and insurance investigators say they know how to stop this fraud — but they need the help of Albany legislators in the form of tougher laws. And Albany isn't

probably responsible for a tidal wave of personal-injury claims — especially in the five boroughs of New York City.

Nationally, personal-injury costs have risen 33 percent in five years — but in the Empire State costs rose by nearly double that rate.

When they have to pay out more in claims, insurers must raise premiums (or abandon the New York market altogether). Rates have been climbing for several years now, and will soar this year.

within 45 days of an accident that they have begun medical treatments and intend to seek reimbursement for the care.

Present law lets those making a claim wait 180 days, and many scam artists use the law to dump months of bills all at once on an insurer. Since the company must pay up within 30 days, that gives it little time to sort through and investigate a mountain of bills received all at once.

"If an insurance company can make a credible case that a claim is suspicious, then it should be

NEW YORK POST  
THURSDAY, MARCH 29, 2001  
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## No-fault drives up rates

By KENNETH LOVETT  
*Post Correspondent*

**ALBANY** — New York's no-fault insurance system — considered the state's major factor behind the state's saw payments for accidents jump a nation-leading 18 percent last year, the Post

companies paid out \$1.9 billion for no-fault medical claims, \$19 in 1999, according to data set to be released tomorrow by the Insurance Information Institute, a group.

That's 18 percent above the average for the rest of the nation, said the institute's latest survey.

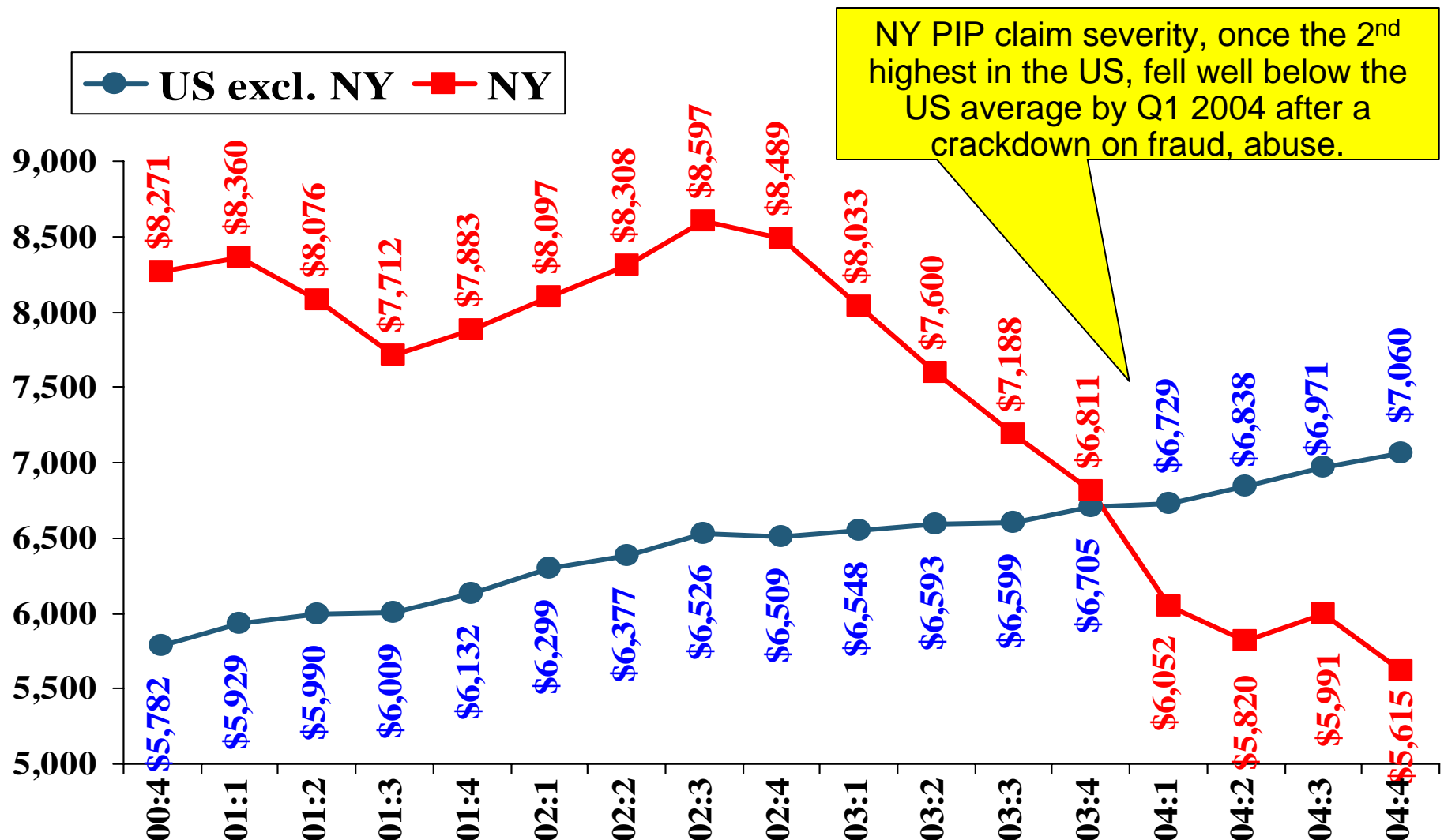
The state's no-fault system pays up to \$50,000 for medical bills and lost wages due to automobile accidents, regardless of who is at fault.

The frequency of claims and the number of no-fault fraud reports received by the state also were on the rise last year, according to the new numbers.

State officials and industry experts blame widespread and organized no-fault fraud and abuse as a major reason New York's overall auto insurance rates are the second highest in the nation, after New Jersey, and rising.

The Post reported earlier this week that rates for the 500,000 in the state assigned risk program are about to jump 18 percent.

# The Campaign Was a Success: PIP Average Claim Severity Plunged



\*ISO Fast Track PIP data as of 2004:Q4 include the following states: FL, HI, KY, KS, MA, MI, MN, NY, ND, SC and UT.  
Source: Insurance Information Institute calculations based on ISO/PCI Fast Track Data.

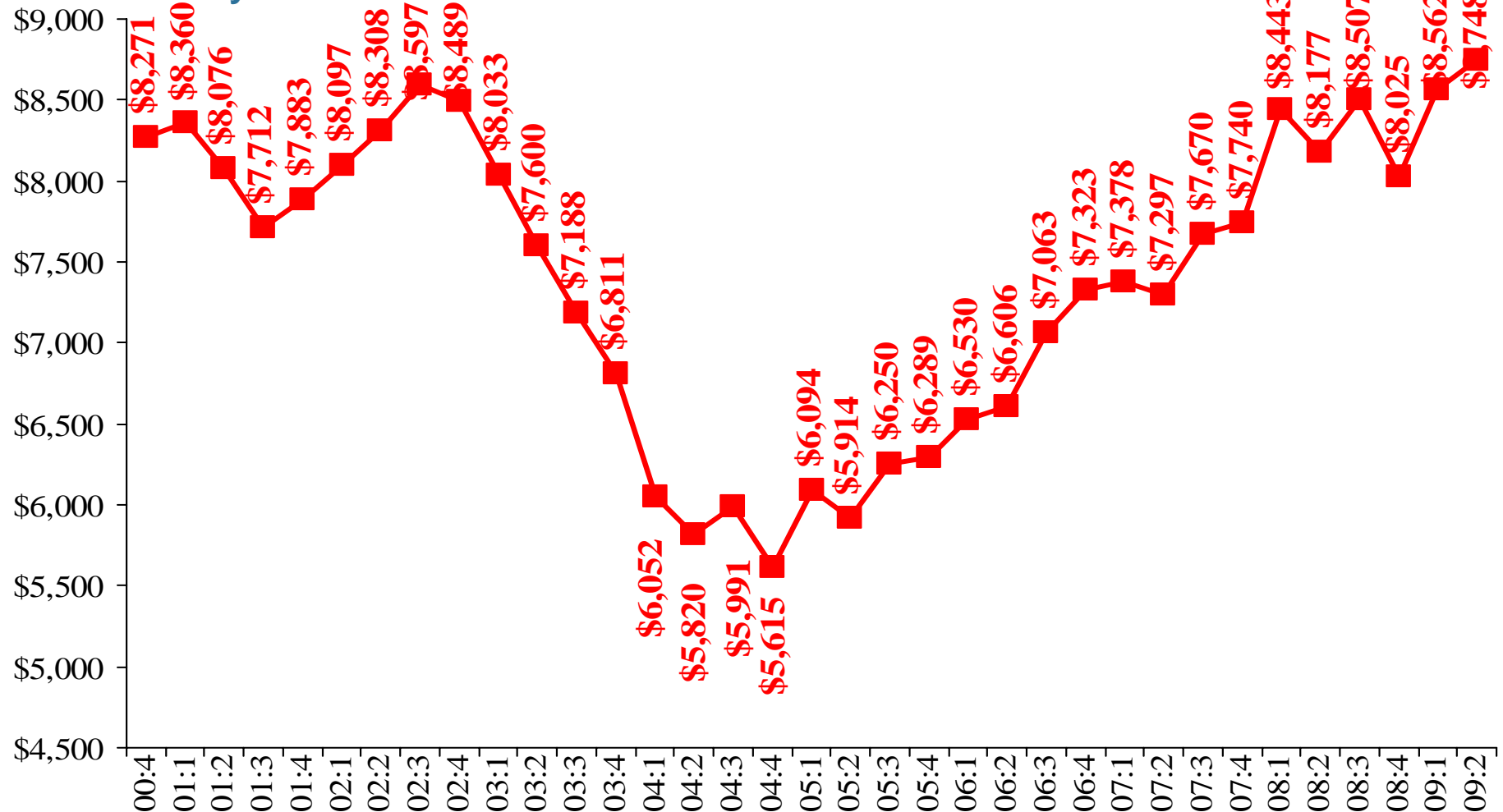


# **But No-Fault Auto in New York Is Out of Control—Again!**

# NY's No-Fault Fraud Problem Has Returned



Average PIP  
Claim Severity

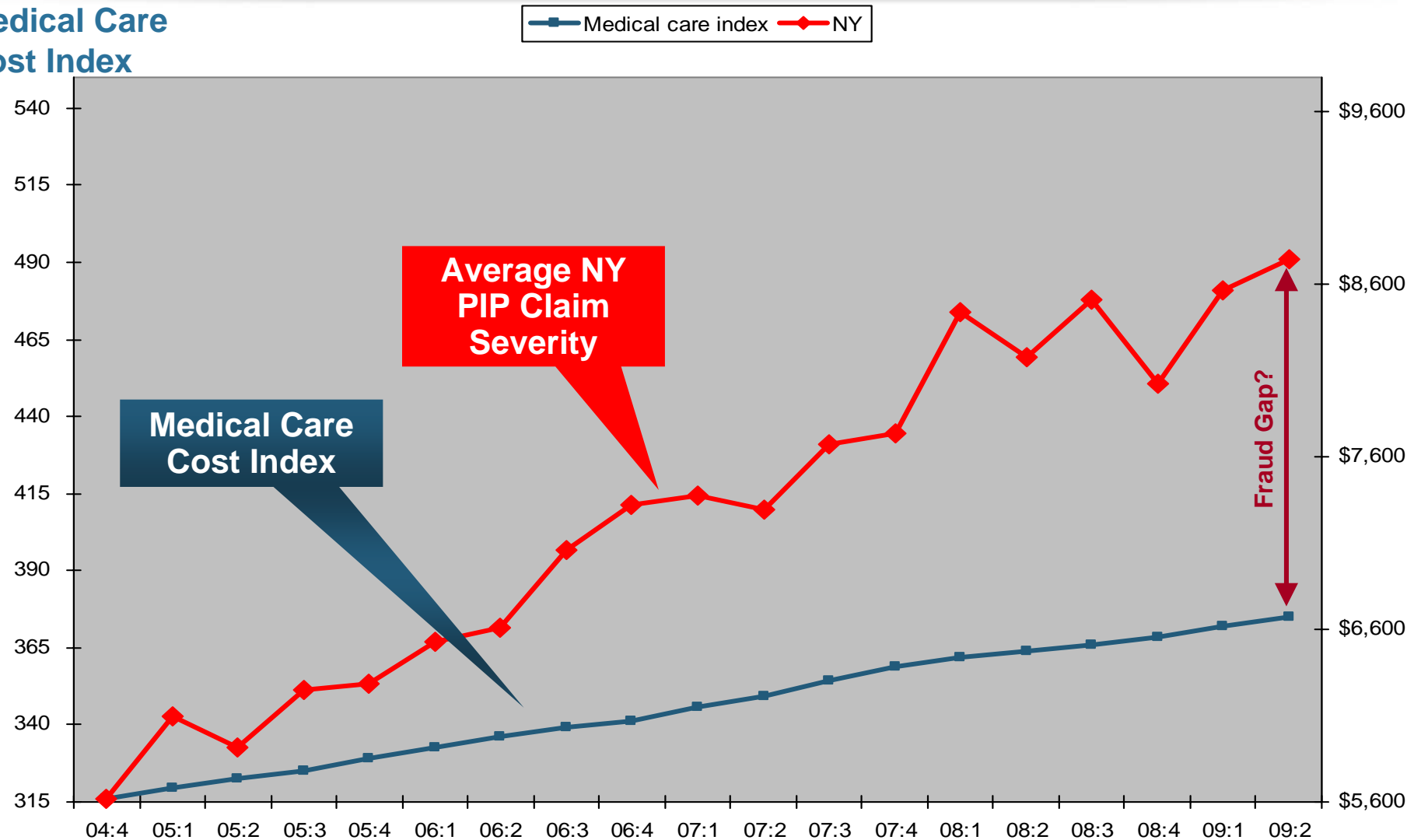


Sources: Insurance Information Institute calculations based on ISO/PCI *Fast Track* Data

# NY's No-Fault Fraud Problem Has Returned



## Medical Care Cost Index



Sources: Insurance Information Institute calculations based on ISO/PCI *Fast Track* Data



# New York State's Resurgent No-Fault Auto Insurance Problem



- The average no-fault (PIP) claim in New York soared 56% from \$5,615 at the end of 2004 to \$8,748 in the second quarter of 2009
  - This is a 48% growth rate
  - In that time span, the cost of medical care rose by 21%
- At the start of 2004, NY's average PIP claim was about equal to that of the rest of the U.S. Now, 5½ years later, the average cost per no-fault claim in New York is more than double (111%) that of the US median (\$4,152)



# First-Party “Bad Faith” Liability Laws: How to Make a Tough Environment Tougher

# The Courts & States Have Adopted 3 Procedures for Alleging “Bad Faith”



- Tort Action Based Solely on Bad Faith (a majority of states)
  - ◆ Can recover costs beyond policy benefits including punitive damages
  - ◆ 10 states use “negligence” standard; 15 states have “intentional tort” standard
- Contract Action (9 states)
  - ◆ Broad definition of damages, but not punitive damages
- Private Cause of Action Statute
  - ◆ Can recover costs beyond policy benefits including punitive damages

Source: Tennyson and Warfel, “First-Party Insurance Bad Faith Liability: Law, Theory, and Economic Consequences,” National Association of Mutual Insurance Companies, September 2008.

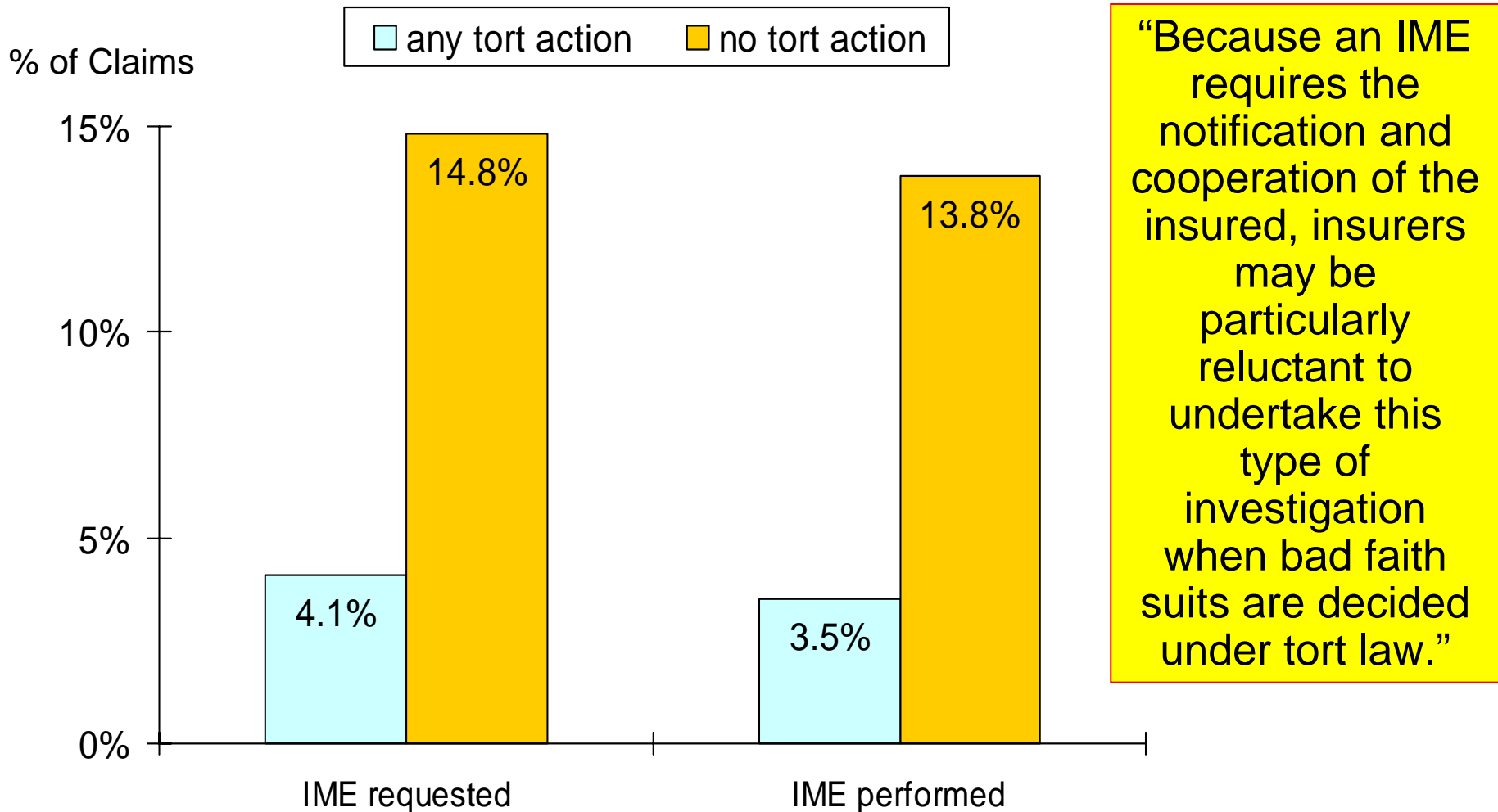
# Objective & Costs of “Bad Faith” Laws



- Objective: to deter insurers from denying or delaying payment on a valid claim
- Costs
  - ◆ Can deter insurers from screening claims for fraud and from challenging questionable claims, to avoid possibly greater costs under “bad faith” allegations
  - ◆ Can raise total claims payments (including LAE) and, ultimately, premiums—in effect, taxing honest policyholders to pay dishonest ones

Source: Tennyson and Warfel, “First-Party Insurance Bad Faith Liability: Law, Theory, and Economic Consequences,” National Association of Mutual Insurance Companies, September 2008.

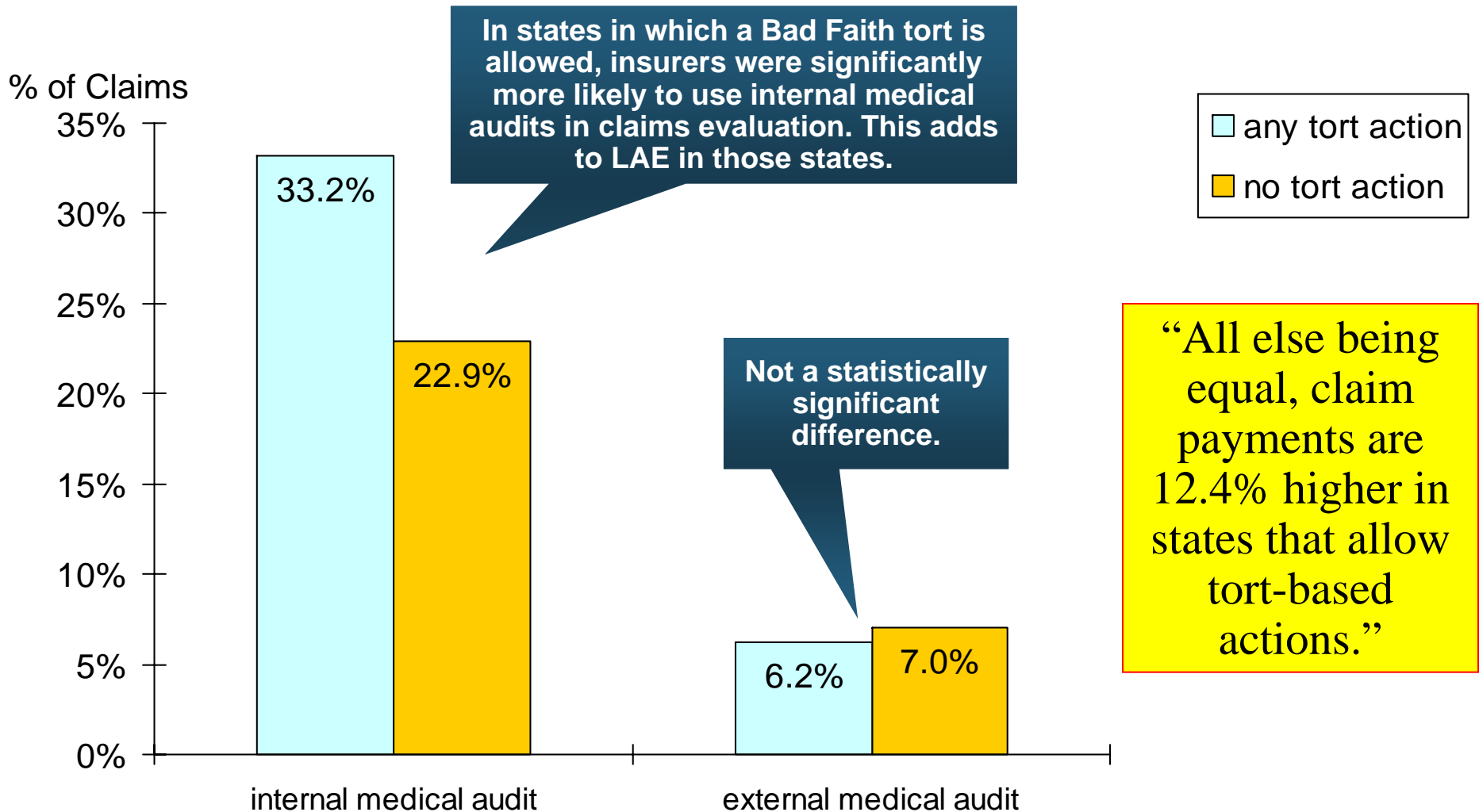
# Use of IMEs\* in States with Different “Bad Faith” Laws



\*Independent Medical Exam

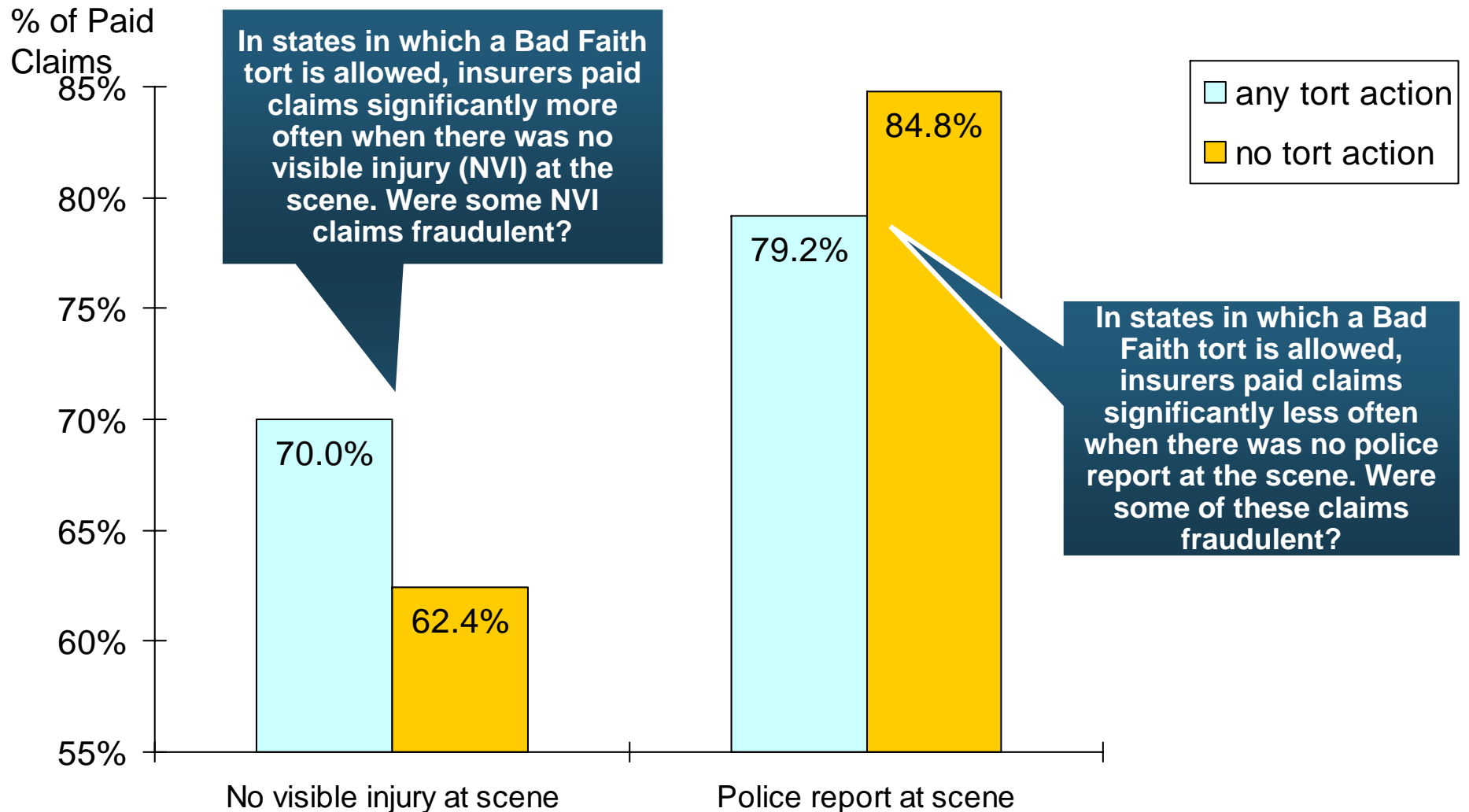
Source: Tennyson and Warfel, “First-Party Insurance Bad Faith Liability: Law, Theory, and Economic Consequences,” National Association of Mutual Insurance Companies, September 2008.

# Use of Medical Audits In States with Different “Bad Faith” Laws



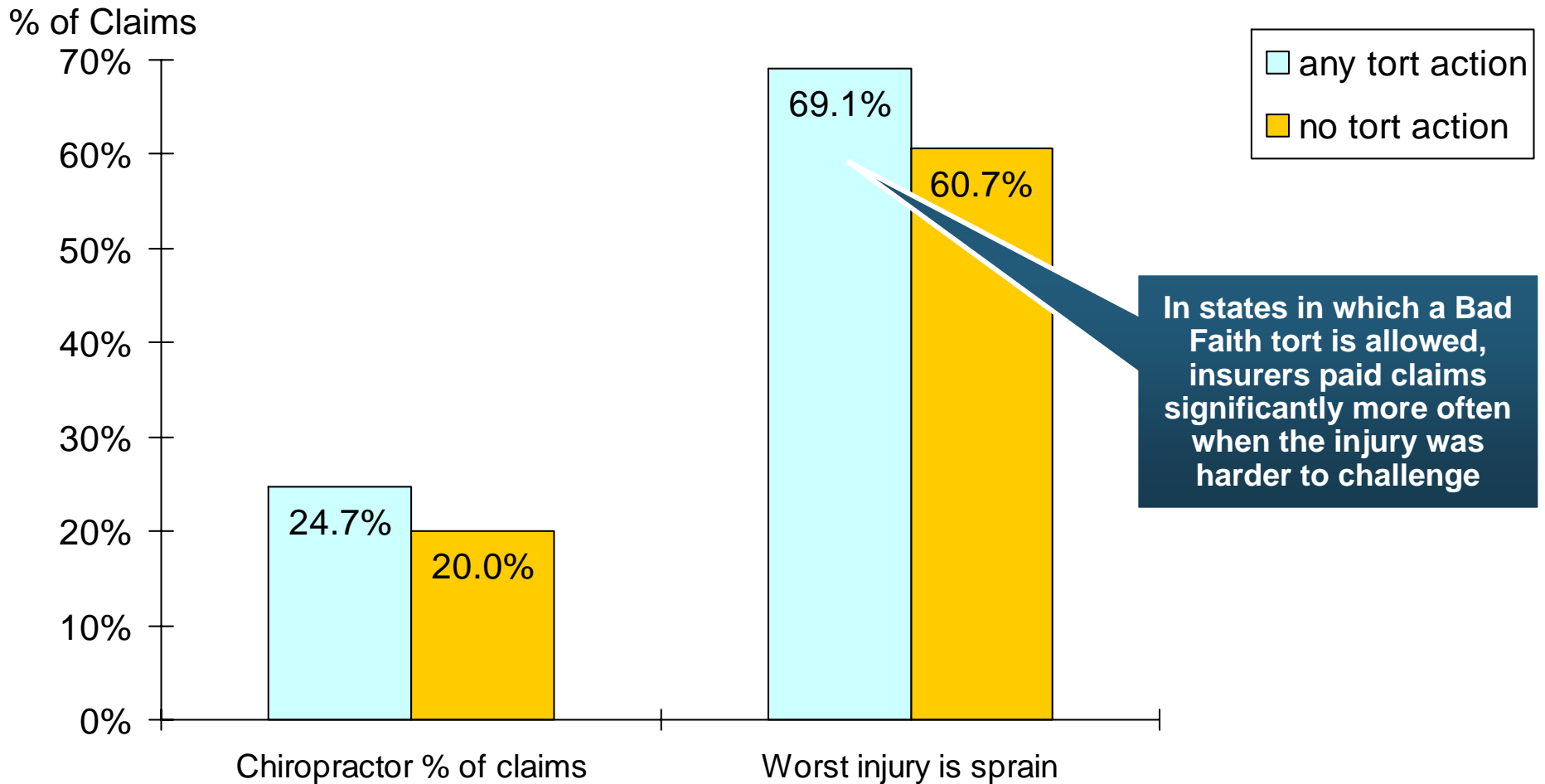
Source: Tennyson and Warfel, “First-Party Insurance Bad Faith Liability: Law, Theory, and Economic Consequences,” National Association of Mutual Insurance Companies, September 2008.

# Fraud “Suspicion Indicators” at Scene of Auto Accidents



Source: Tennyson and Warfel, “First-Party Insurance Bad Faith Liability: Law, Theory, and Economic Consequences,” National Association of Mutual Insurance Companies, September 2008.

# In “Bad Faith” States, Insurers Face/Pay More Questionable Claims



Source: Tennyson and Warfel, “First-Party Insurance Bad Faith Liability: Law, Theory, and Economic Consequences,” National Association of Mutual Insurance Companies, September 2008.



**Insurance Information Institute Online:**

**[www.iii.org](http://www.iii.org)**

***Thank you for your time  
and your attention!***

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