

# **HEARING ON NO-FAULT AUTO INSURANCE FRAUD IN NEW YORK STATE**

**Testimony Delivered**

**by**

**Robert P. Hartwig, Ph.D., CPCU**

**President & Economist**

**Insurance Information Institute**

**New York, NY**

**New York State Senate Insurance Committee**

April 26, 2011

New York, NY



Thank you Chairman Seward, Senator Golden and members of the Committee.

Good afternoon. My name is Robert Hartwig and I am President and Economist for the Insurance Information Institute, a national property/casualty insurance trade association based in New York City.<sup>1</sup> I appreciate the opportunity to once again testify before this Committee on the important issue of New York's burgeoning no-fault fraud problem. During my 18 years in the property/casualty insurance and reinsurance industries I have worked on a wide variety of insurance issues—including New York's first no-fault automobile insurance crisis a decade ago.

In my testimony today I will address the problem of rapidly escalating no-fault auto insurance claim costs in New York State. In the context of this discussion I will focus on the following three issues:

- (i) The magnitude of New York's State's no-fault problem;
- (ii) Drivers of claim costs in New York's no-fault system; and
- (iii) History of no-fault fraud and abuse in New York

### **Scale and Scope of New York's No-Fault Fraud and Abuse Problem**

My fellow panelists have had and will continue to have much more to say regarding the precise nature of the fraud and abuse that is occurring in New York's no-fault system as well as about what can and should be done about it. But the bottom line is that no-fault fraud is the major driver of cost in New York's private passenger auto insurance system today. Indeed, New York may once again be on track to recapturing the dubious distinction as the nation's auto insurance fraud capital. Attacking the state's rampant no-fault fraud and abuse is the only way to meaningfully contain costs and reduce future pressure on auto insurance rates.

New York State's automobile insurance system—the fourth largest in the United States—is currently under siege. The attack originates with certain dishonest and unscrupulous medical service providers who file inflated, and often, bogus medical claims with the

---

<sup>1</sup> Contact information: Tel: (212) 346-5520; Email: [bobh@iii.org](mailto:bobh@iii.org).

state's auto insurers. These medical providers partner with equally unscrupulous lawyers who sue insurers that dare to challenge these bogus claims—choking New York's court system in the process. But there is no better way to describe the damage that the current epidemic of fraud and abuse is causing than by letting the numbers speak for themselves.

The scale of fraud and abuse in New York State's no-fault auto insurance system today is truly breathtaking. Consider the following:

- No-fault fraud and abuse in New York cost consumers and insurers approximately \$204 million in 2010, the second consecutive in which costs exceeded \$200 million (**Figure 1**).
- The cumulative cost of no-fault fraud and abuse in New York State since 2005 is (at least) \$813 million. (**Figure 2**).
- Cumulative no-fraud costs will almost certainly exceed \$1 billion by year-end 2011 in the absence of meaningful reforms.
- New York's no-fault "Fraud Tax" totaled an estimated \$1,311 or 15% of every no-fault claim in 2010 (i.e., the per claim cost of no-fault fraud and abuse) (**Figure 3**).
- The average cost of a no-fault auto insurance claim in New York State was \$8,664 in 2010, up \$2,791 or 47.5% from \$5,873 in 2004 (**Figure 4**).
- The average no-fault claim cost in 2010—at \$8,664—was near the highest in New York's history, just 0.3% short of its all-time record high of \$8,692 in 2009 (**Figure 4**). Costs in 2010 were even above the 2001 peak of \$8,578 set during New York's last no-fault crisis a decade ago.
- New York's no-fault average claim costs—at \$8,664 per claim—are the third highest in the US (as of the four quarters ending in Q4 2010), behind only two other deeply troubled no-fault states, Michigan and New Jersey (**Figure 6**) and are 57% higher than the US median of \$5,529.
- New York no-fault claim frequency jumped 21.7% between Q3 2008 to Q4 2010, potentially adding to overall system cost pressures in 2011 (**Figure 7**).

These sobering statistics leave little doubt that New York's no-fault fraud and abuse problem is serious. Crooked medical providers and their accomplices in the state are

literally picking the pockets of drivers and their insurers to the tune of hundreds of thousands of dollars each and every day—nearly \$558,000 *per day*, on average, in 2010, despite the best efforts of insurers and law enforcement agencies to thwart their activities.

### **An Analysis of Costs Drivers in New York’s No-Fault Auto Insurance System**

While the cost drivers influencing the price of auto insurance in New York are similar to those in other states in most respects, there is one glaring exception—its \$50,000 threshold for no-fault auto insurance claims is the highest dollar threshold in the United States. It should come as no surprise that the richest benefits in the country come with some of the highest costs. Consider the following facts about costs:

- Between 2004 and 2010, prices for all goods and services as measured by the Consumer Price Index rose by 15.5 percent;
- Medical costs in the U.S. rose by 25.3 percent between 2004 and 2010;
- The costs of the average No-Fault claim in New York State rose by *47.5 percent* during the same period of time.<sup>2</sup>

Moreover, New York’s no-fault system operates without several checks or balances found in other states. Consider, for example, that that in New York there are no medical treatment guidelines. Such safeguards against fraud and abuse exist in most other states and in other lines of insurance like workers compensation.

The inescapable conclusion: if nothing is done to contain runaway no-fault claim costs it is a virtual certainty that costs and premiums will continue to rise indefinitely and that someday New York could once again hold the dubious distinction as the state with the most expensive auto insurance in America. This is because New York’s highest-in-the-country \$50,000 threshold, absent certain standard cost control measures commonly used elsewhere, exposes the state’s drivers to the full force and fury of runaway healthcare costs. Quite literally, New York’s no-fault system is one of the last and greatest blank checks in the US healthcare system. As shown in Figure 8, medical costs have been rising at a much faster pace than overall inflation for 25 years with no end in sight. This

---

<sup>2</sup> Property Casualty Insurers Association of America *Fast Track* Monitoring data.

fact makes high threshold states vulnerable to medical cost inflation and more susceptible to medical fraud and abuse.

### **History of No-Fault Fraud in New York: Past Reforms Saved Money**

The recent rapid escalation in no-fault claim costs is not the first in New York's history. Between 1998 and early 2002, no-fault claim severity rose by 63 percent, peaking at \$9,235—still the current record but which could soon be eclipsed if present trends continue. The explosion in costs that began in the late 1990s precipitated a crisis in New York's auto insurance markets and contributed to sharp increases in auto insurance premiums—becoming front page news in the process (see **Figures 9-11**). The average expenditure on automobile insurance in New York State rose from \$930 in 1999 to \$1,172 in 2004—an increase of 26 percent.

New York's no fault crisis of a decade ago bears many similarities to the situation today. Only a vigorous and concerted effort by New York's auto insurers, the New York Insurance Department and its frauds bureau and district attorneys throughout the state helped bring the situation under control a decade ago.

New York drivers benefited tremendously as perpetrators of fraud and abuse were driven from the system. The average expenditure on auto insurance in the state *fell* from \$1,172 in 2004 to \$1,044 in 2008 (latest available)—a decline of 10.9 percent—much larger than the 6.4 percent decline experienced nationally over the same period (**Figure 12**).

### **Summary**

New York's large and competitive auto insurance market is threatened, as it was a decade ago, by rampant fraud and abuse. To date, no-fault fraud and abuse has cost New York's drivers and their insurers at least \$813 million since 2005.

Solutions for containing New York's emerging crisis must necessarily focus on cost drivers and you will hear about many of these solutions from the other panelists speaking here today. But because the state has the highest no-fault dollar threshold in the country,

it remains attractive to those who perpetrate fraud based on the perception that the insurers who pay the bills are a “deep pocket.”

Thank you for you for the opportunity to testify before the Committee today. I would be happy to respond to any questions you may have.



# **No-Fault Auto Insurance Fraud in New York State *Trends, Challenges & Costs***

**Hearing on No-Fault Auto Insurance  
New York State Senate Insurance Committee  
April 26, 2011**

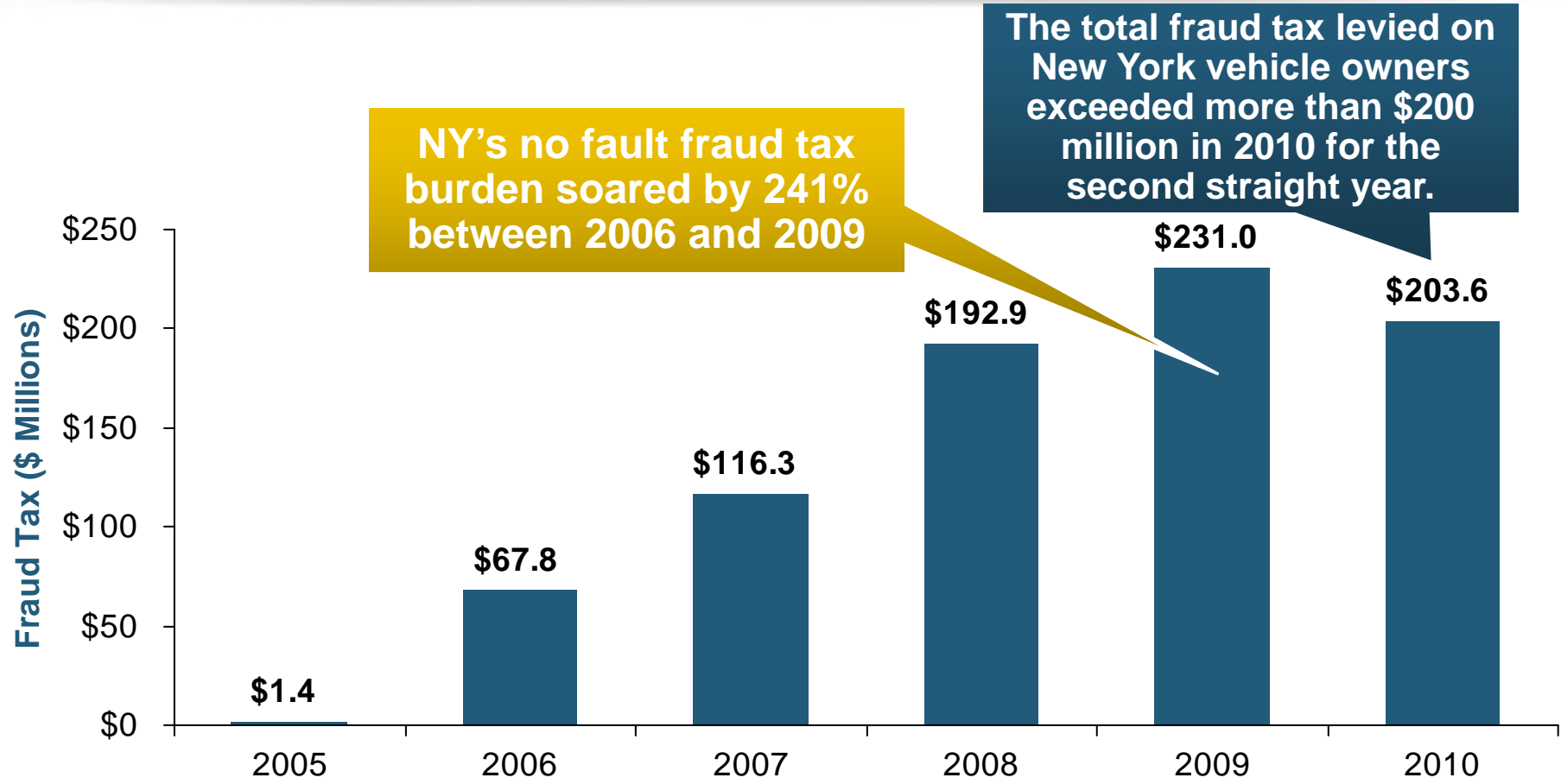
**Robert P. Hartwig, Ph.D., CPCU, President & Economist**

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

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

Figure 1.

# New York's No-Fault Fraud Tax: Estimated Aggregate Annual Cost, 2005-2010 (\$ Millions)



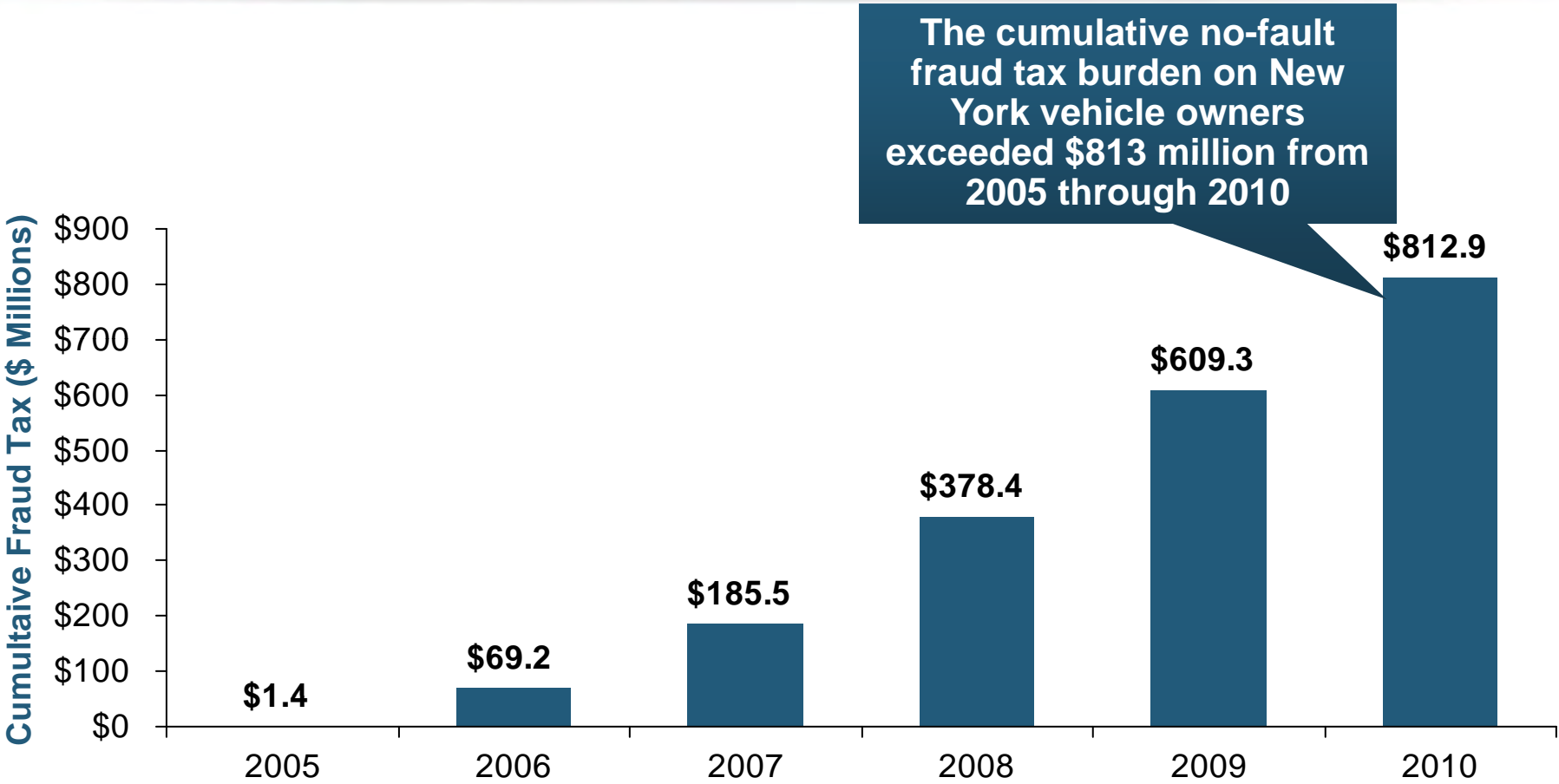
**No-Fault Fraud Is Costing Honest New York State Drivers Hundreds of Millions of Dollars**

\*2010 figure is based on data through Q4:2010.  
Source: Insurance Information Institute calculations and research from ISO/PCI data.



Figure 2.

# New York's No-Fault Fraud Tax: Estimated Cumulative Cost, 2005-2010 (\$ Millions)

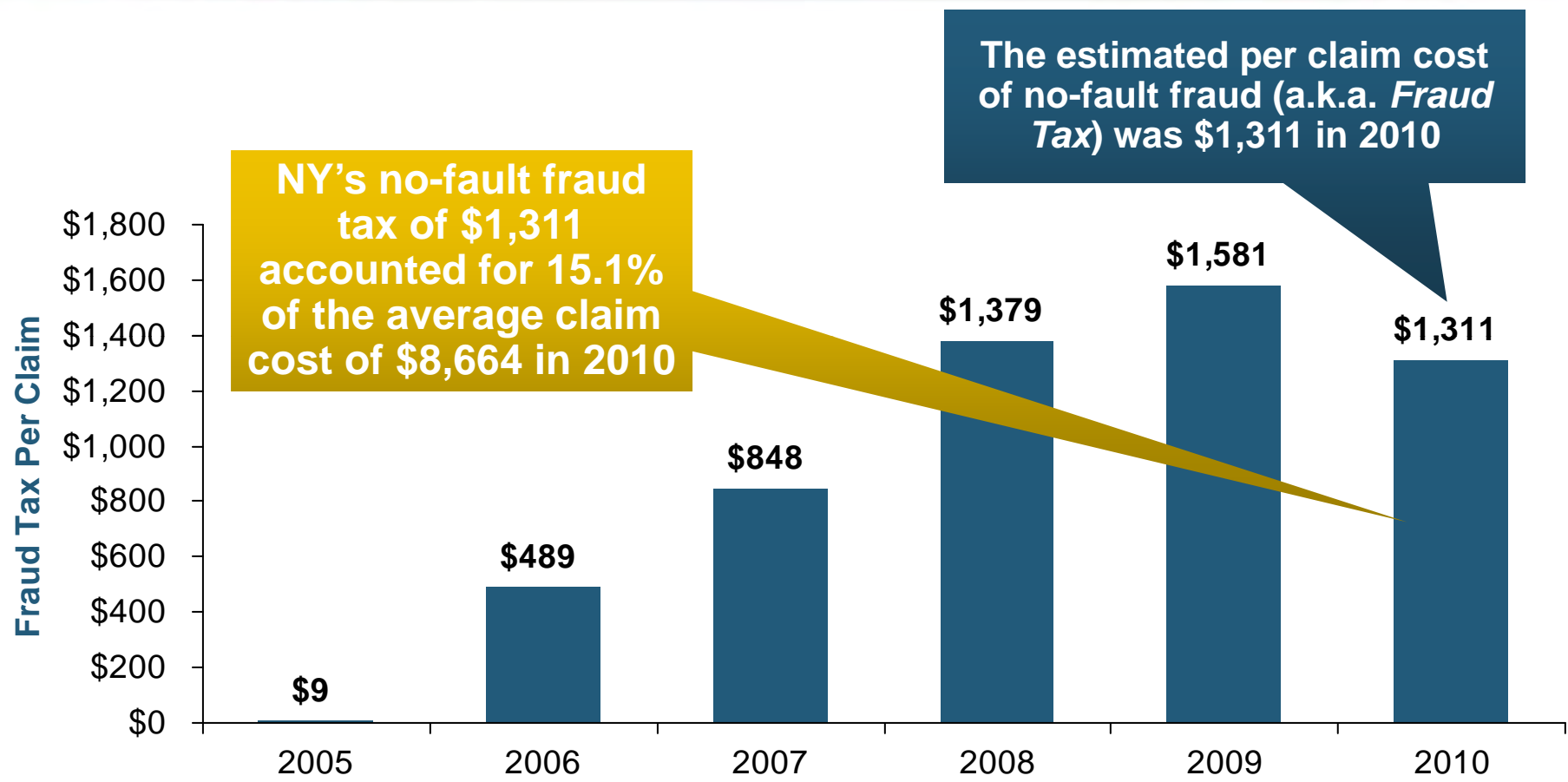


**No-Fault Fraud Is Costing Honest New York State Drivers  
Hundreds of Millions of Dollars**

\*2010 figure is based on data through Q4:2010  
Source: Insurance Information Institute calculations and research from ISO/PCI data.

Figure 3.

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

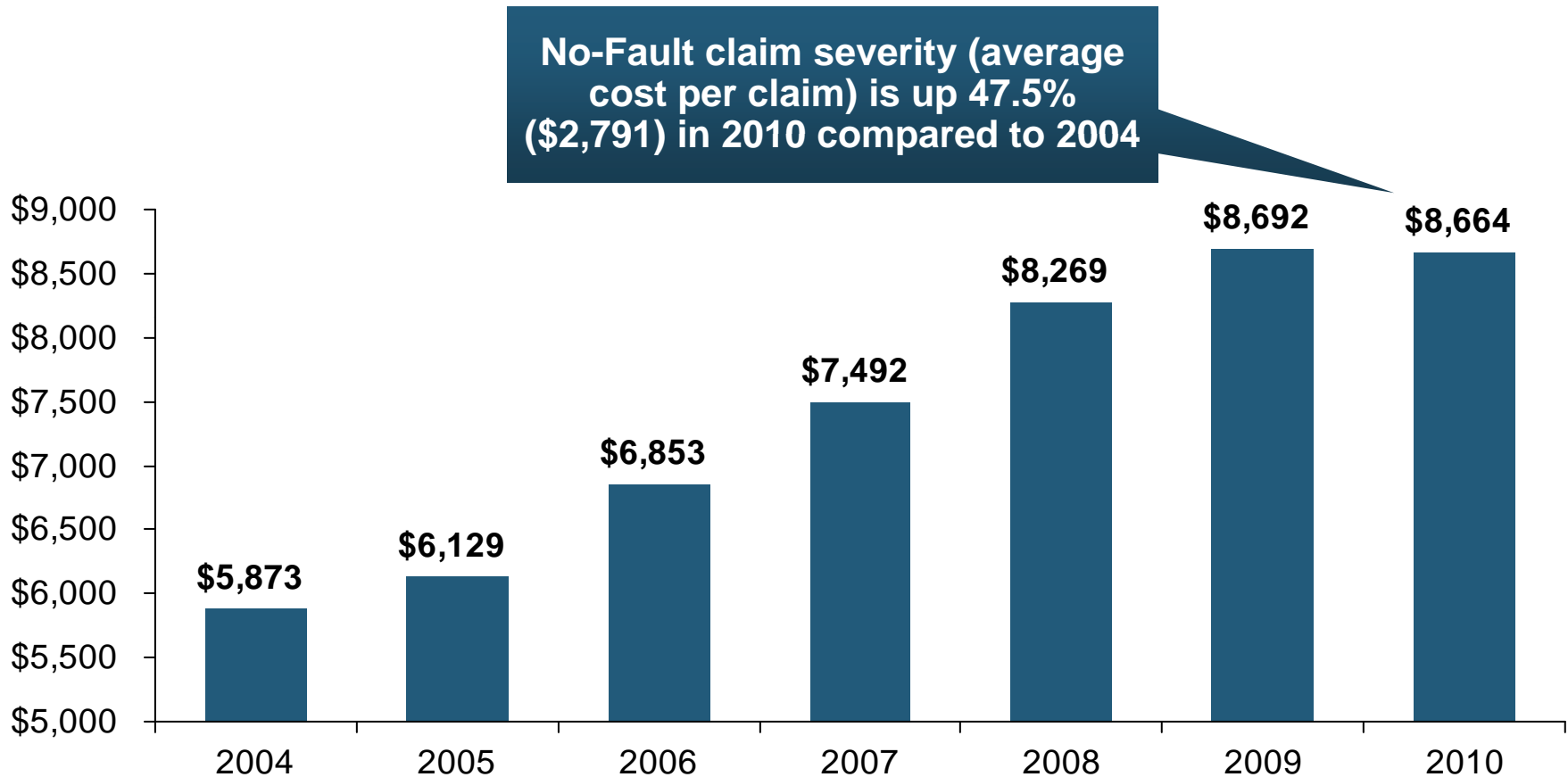


**Fraud and Abuse Are Raising the Costs of Insurance in New York State**

\*2010 figure is based on data through Q4:2010.  
Source: Insurance Information Institute calculations and research from ISO/PCI data.

Figure 4.

# NY No-Fault (PIP) Claim Severity Has Trended Up Sharply Upward, 2005-2010\*



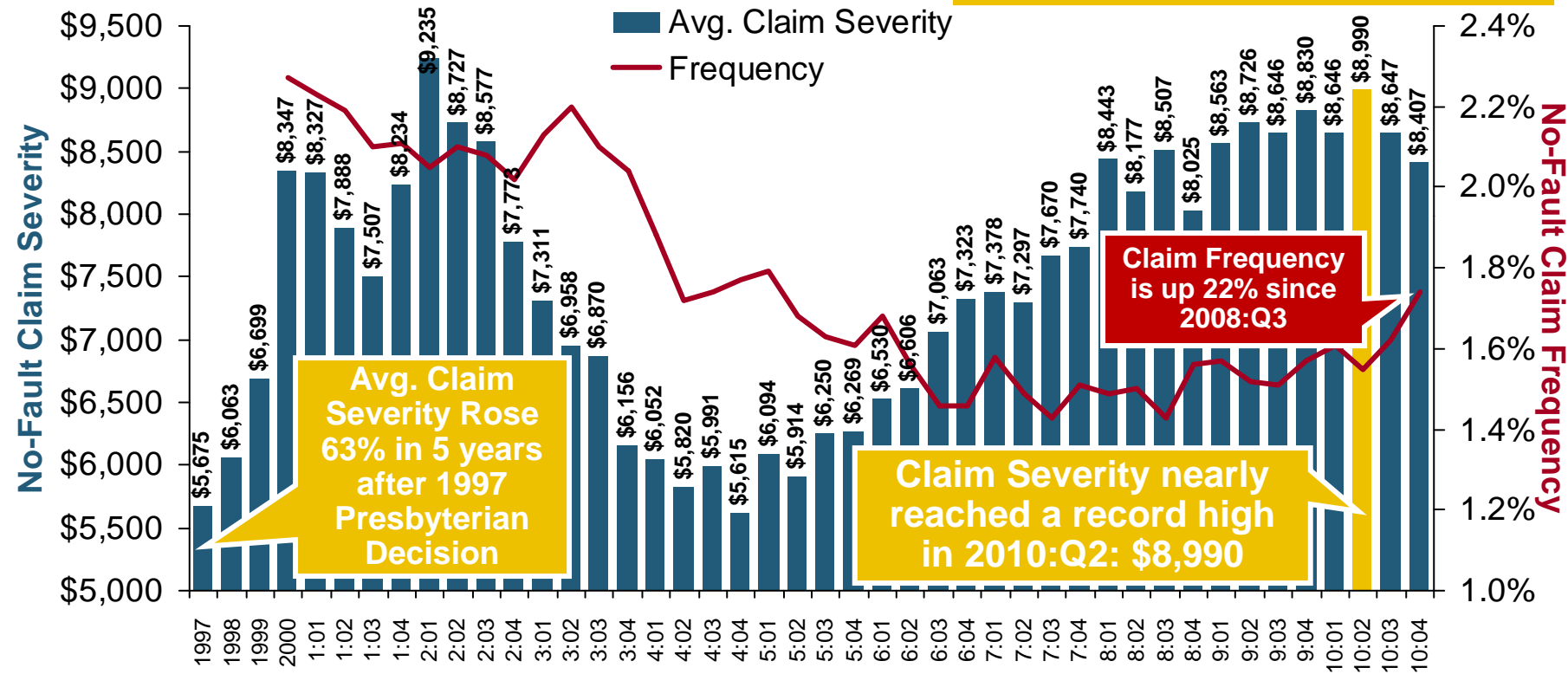
**The Average Cost of New York No-Fault Claims Rose Rapidly in Recent Years**

Figure 5.

# New York State No-Fault Claim Severity, 1997–2010:Q4



## No-Fault Claim Severity

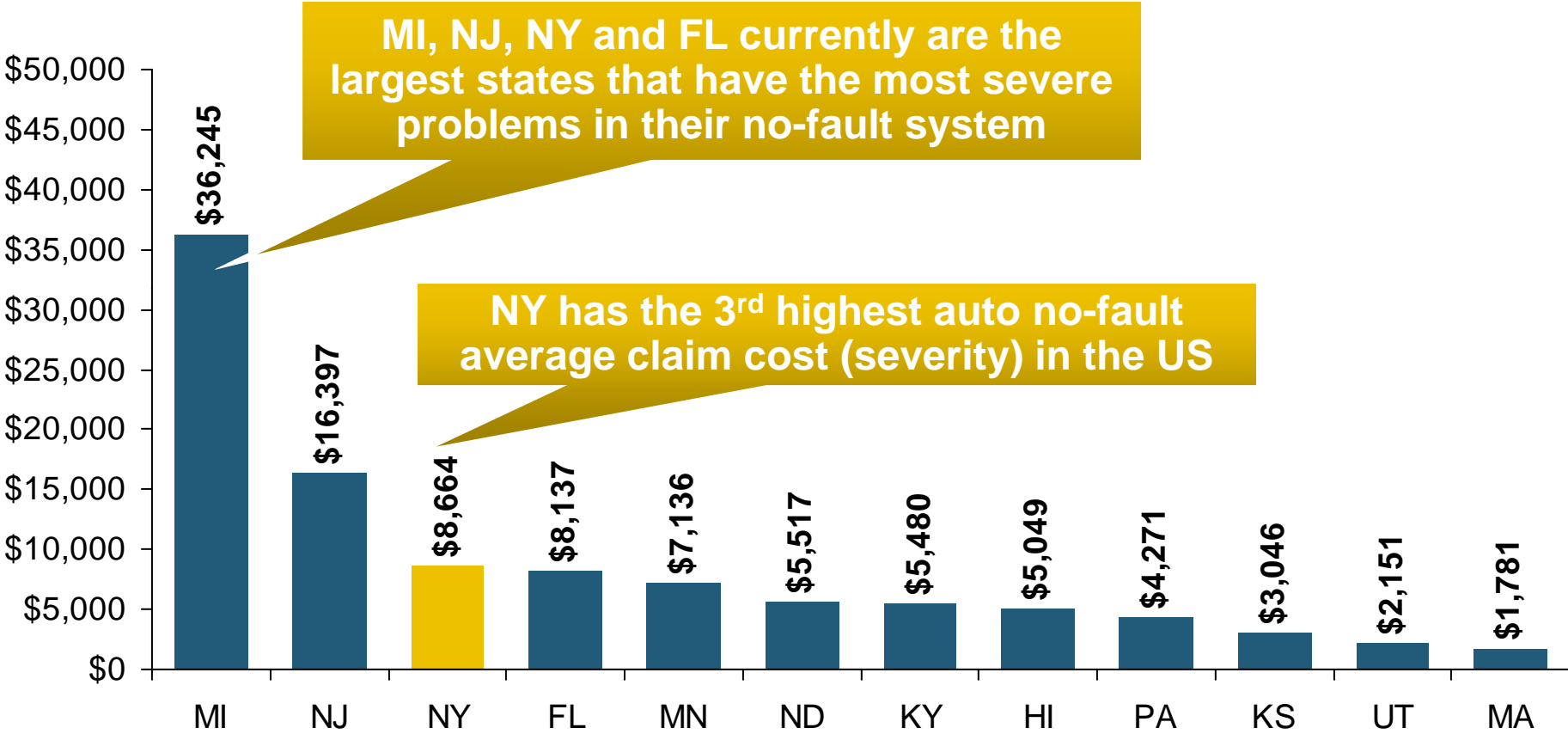


About 15% of No-Fault Claim Costs in 2010 Were Attributable to Fraud and Abuse

Sources: ISO/PCI Fast Track data; Insurance Information Institute.

Figure 6.

# Average No-Fault Claim Severity, 2010\*



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

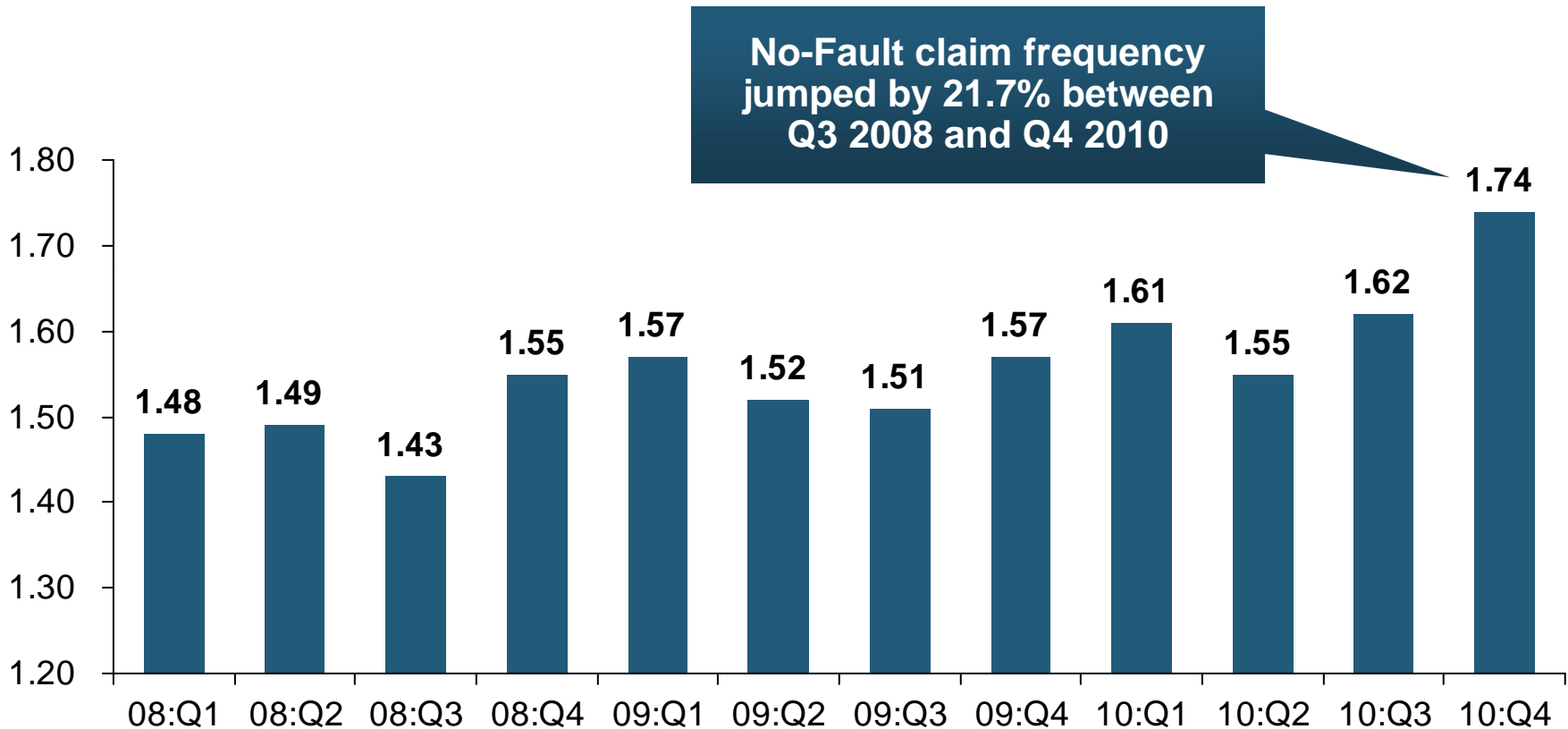
\*Average of the four quarters ending 2010:Q4.  
Source: ISO/PCI Fast Track data; Insurance Information Institute.

Figure 7.

# New York No-Fault (PIP) Claim Frequency Is Trending Sharply Upward\*



2008:Q1 through 2010:Q4



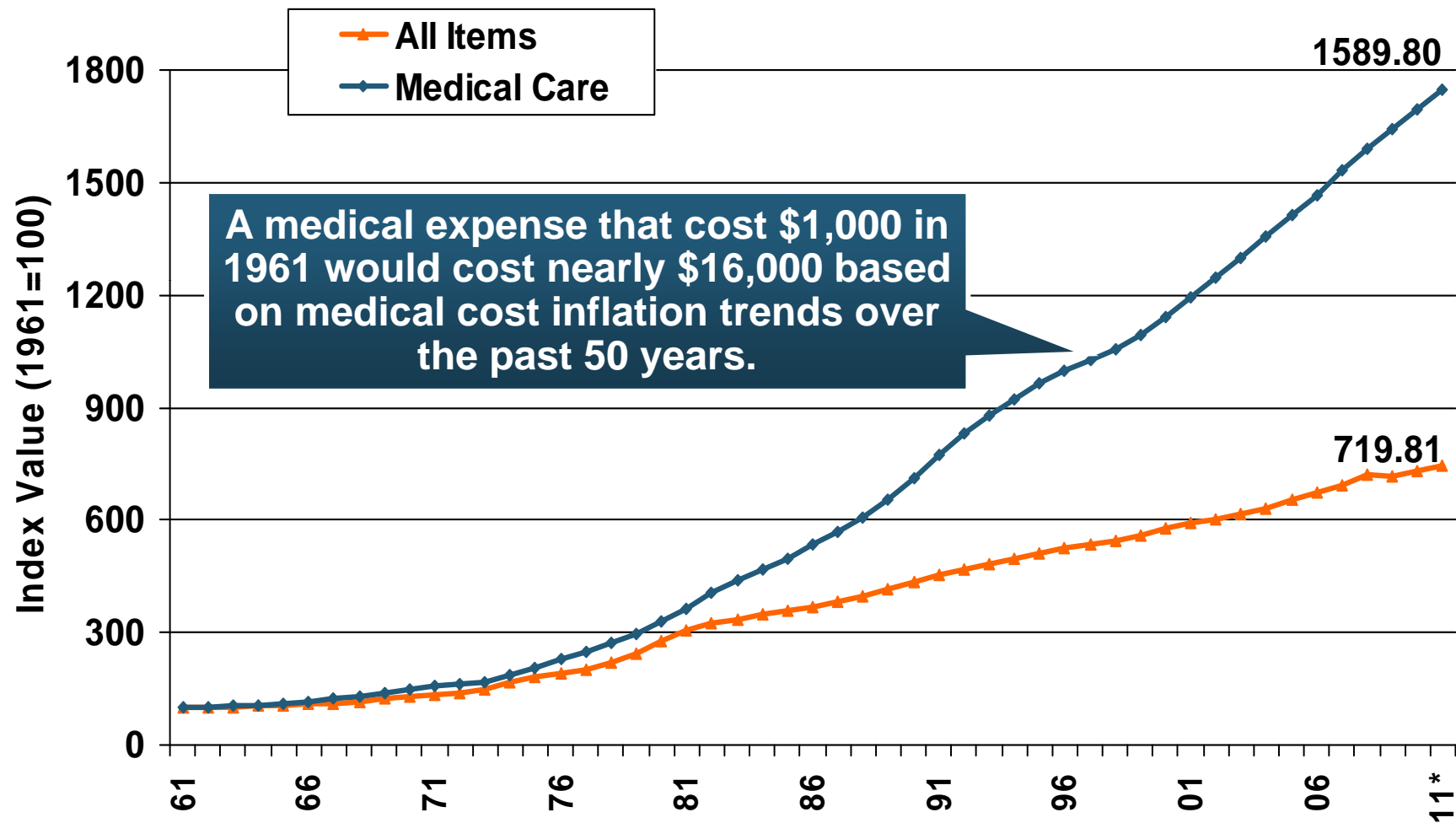
**The Number and Average Cost of NY No-Fault Claims Have Been Generally Rising Since 2004**

\*Claim frequency is defined as the number of claims per 100 earned car years.

Source: ISO/PCI *Fast Track* data; Insurance Information Institute

Figure 8.

# Medical Cost Inflation Has Outpaced Overall Inflation Over 50 Years



\*Based on change from Feb. 2010 to Feb. 2011.  
Source: Department of Labor (Bureau of Labor Statistics)



Figure 9.

# No-Fault Fraud Was Front Page News a Decade Ago in 2001



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

**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

**SPECIAL REPORT**

## FRAUD IS DRIVING AUTO INSURANCE SKY-HIGH

**Firms say medical scams squeeze city motorists**

By WILLIAM SHERMAN  
Daily News Staff Writer

**B**etter than a state lottery, insurance companies would make millions in the nation's capital by squeezing city motorists.

Insurers charge that doctors, psychologists and other medical professionals are overbilling for services, and that some are even fabricating injuries.

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 rates 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, billed a Manhattan doctor between \$75 and \$115 a year, according to Rob 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

And for two years was involved in three separate accidents with a dozen accident victims," said Tom Sullivan, chief of Grace'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

## Fraud soaking drivers

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

By WILLIAM SHERMAN  
Daily News Staff Writer

**DAILY NEWS**  
THURSDAY, MARCH 29, 2001  
PAGE 1 OF 2

**N.Y. INSURANCE FRAUD REPORTS**

Year	Rate per 100 cars
1995	4.30
96	4.37
97	4.42
98	4.47
99	4.52
00	4.57

**CLAIM FREQUENCIES**

City	Rate per 100 cars
Brooklyn	4.27
Bronx	4.03
Queens	3.95
Manhattan	2.88

**GROWTH IN CLAIMS COSTS\***

State	Rate
New York	12.25%
Florida	10.8%
Illinois	10.4%
California	10.4%
New Jersey	10.2%

\* Change in "pure premium"



Figure 10.

# Sparking Interest in 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  
PAGE 30

## 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 easily-changed 180 days.

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

Figure 11.

# ...And Urgent Calls for Reform

NEW YORK POST  
THURSDAY, FEBRUARY 28, 2001  
PAGE 31

## POSTOPINION

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

NEW 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 p

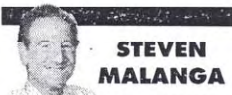
mium is already close to \$2,000 a year.

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  
PAGE 29  
PAGE 1 OF 2

## Albany's War on Drivers

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



**STEVEN  
MALANGA**

THANKS 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

is 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  
PAGE 14

## 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 in no-fault medical claims, up from \$1.6 billion in 1999, according to a data set to be released tomorrow by the Insurance Information Institute, a group.

That's 18 percent above the average nationally, said Kenneth Lovett, the institute's president.

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.

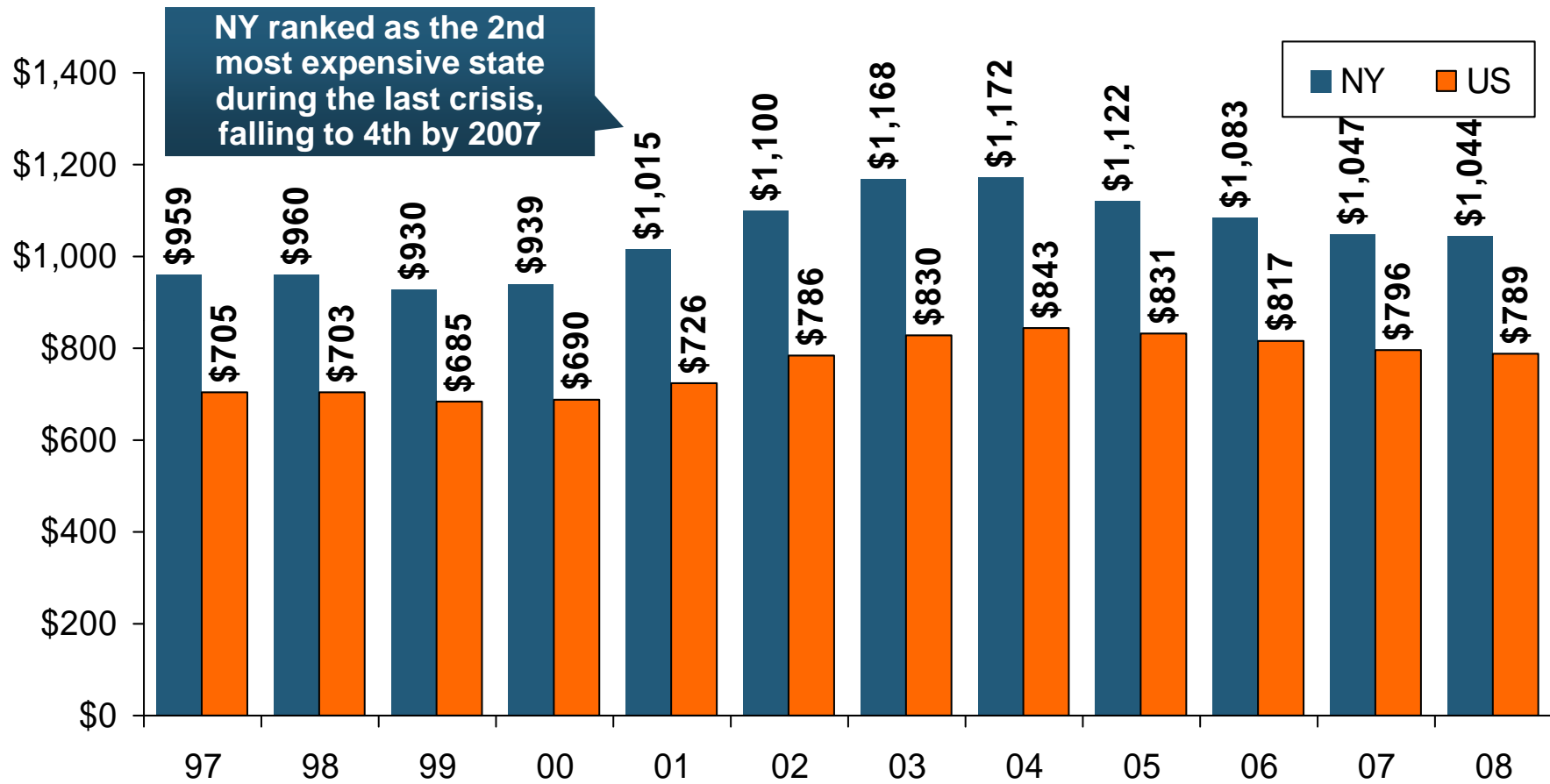
The frequency of claims and the number of no-fault fraud reports received by the state also were on the rise last year, according to the new numbers.

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.

Figure 12.

# Average Expenditure on Auto Insurance, NY State vs. US: 1997-2008\*



In the wake of NY's first no-fault crisis, the average expenditure on auto insurance in NY state fell by \$128 or 10.9% between 2004 and 2008, much more than the 6.4% drop in the US overall.

\*Latest available.  
Source: National Association of Insurance Commissioners.



Insurance Information Institute Online:

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

[www.INSURINGFLORIDA.org](http://www.INSURINGFLORIDA.org)

*Thank you for your time  
and your attention!*

**Twitter:** [twitter.com/bob\\_hartwig](https://twitter.com/bob_hartwig)