

2017

**Risk Management
Seminar**




Welcome

Things to Know

- Breaks
- Exits
- Restrooms
- No Beverages Allowed in Auditorium



Risk Management Fund



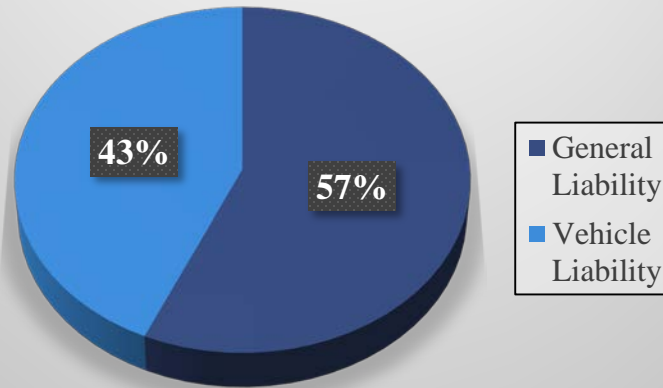
❖ Indemnity incurred:	\$8,803,756
❖ Expenses incurred:	<u>\$4,552,712</u>
❖ Total:	\$13,356,468

(Paid and Reserved)

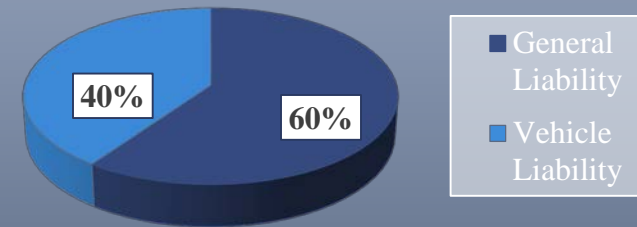
As of September 14, 2017

Risk Management Fund Status

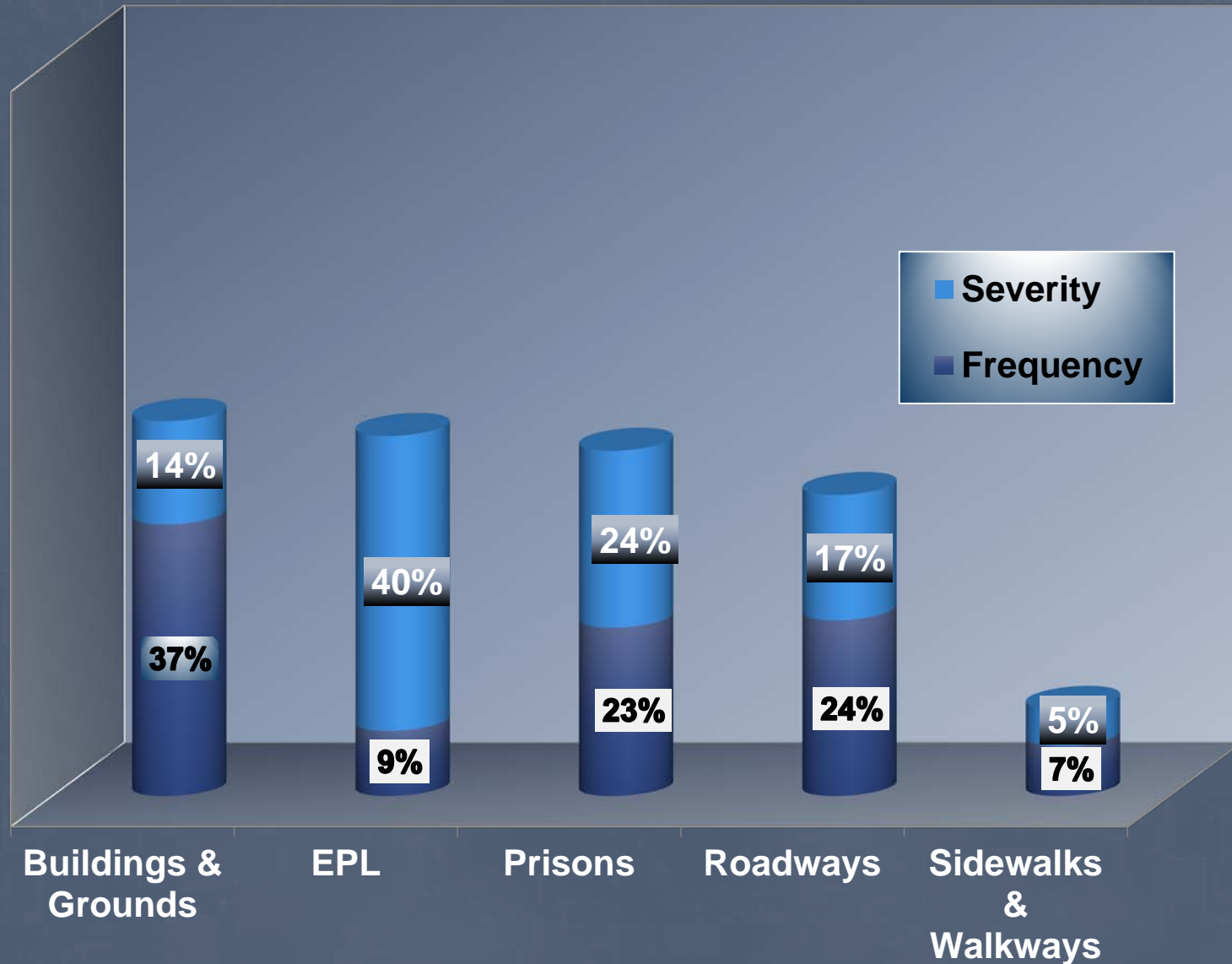
Number of Claims & Lawsuits



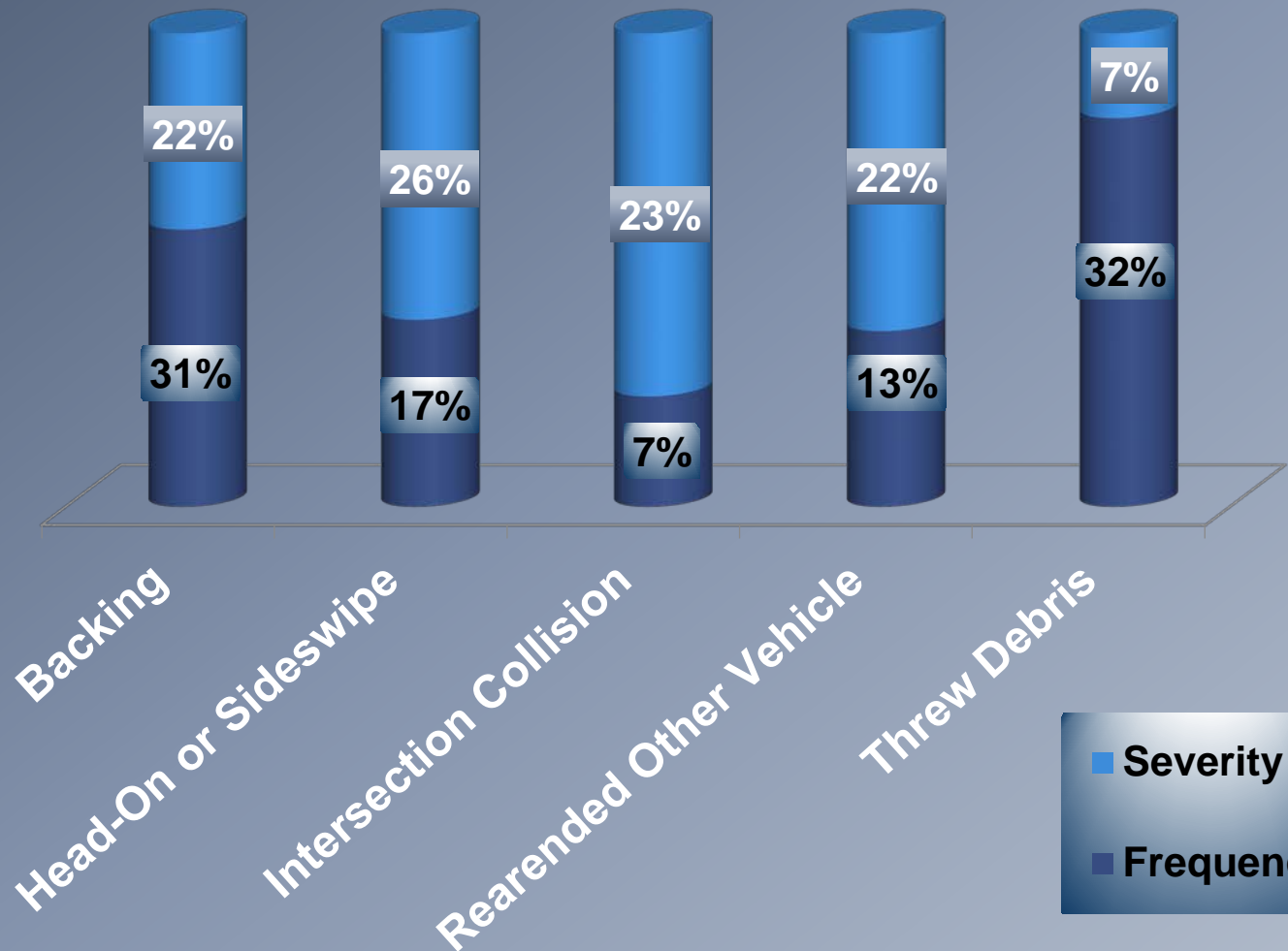
Cost of Claims & Lawsuits



Risk Management Fund Status



Risk Management Fund Status



2017

Legislation



LEGISLATION

➤ HB 1430 Distracted Driving

❖ 39-08-25. Failure to maintain control

- As used in this section, "operation of a motor vehicle while distracted" means the operation of a motor vehicle by an individual who, while operating the vehicle, is engaged in an activity that:
 - Is not necessary to the operation of the vehicle; and
 - Actually impairs, or would reasonably be expected to impair, the ability of the individual to safely operate the vehicle.


LEGISLATION

➤ HB 1430 Distracted Driving

- ❖ Agency Policies must prohibit distracted driving, not merely activities that would constitute a Traffic Violation.
- ❖ Clarification that use of “hands free” is not violation of provision that prohibits the sending of electronic messages does not mean “hands free” is not distracted driving.
- ❖ All cell phone use, including “hands free” is distracting and substantially increases the risk of an accident and should be prohibited except for limited emergency purposes.



LEGISLATION

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- **SB 2097 (section 2) Duties of NDHP**
 - ❖ Expanded authority of NDHP to ensure activities would be covered through RM Fund.
 - **HB 1156 WSI and Medical Marijuana**
 - ❖ Prohibits payment for “medical marijuana” and lost wages resulting from use.


LEGISLATION

➤ **HB 1088 Data Breach Response**


- ❖ 32-12.2-19. Data breach response and remediation costs.
- ❖ The director of the office of management and budget may pay from the risk management fund costs necessary for notification and remediation following a data breach involving a state entity. The director of the office of management and budget, in consultation with the information technology department and the state entity involved, shall determine what measures are to be taken under this section. Expenditures under this section are limited to two hundred fifty thousand dollars per incident and may be made only to the extent the risk management fund can continue to meet current and future liability obligations and the response and remediation costs are not covered through insurance. The director may purchase insurance and approve the purchase of insurance by state entities to cover data breach response and remediation costs. Each state entity shall contribute the appropriate share of its costs under this section as determined by the director.




LEGISLATION

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- **32-12.2-19. Data breach response and remediation costs**
 - ❖ Third-party liability resulting from an electronic data breach is and always has been covered under the RM Fund as a general liability claim.
 - ❖ First-party costs are those costs the agency would incur in fulfilling its notification obligations under NDCC Chapter 51-30 or other legally required notification.

LEGISLATION

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- **32-12.2-19. Data breach response and remediation costs**
 - ❖ Authority to pay for first-party costs is permissive not required.
 - ❖ OMB determines the manner in which notification will be addressed and if other remedial measures will be taken.

LEGISLATION

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- **32-12.2-19. Data breach response and remediation costs**
 - ❖ Provides authority to purchase insurance coverage and approve agency requests to purchase individual policies of insurance.
 - ❖ Provides authority to require contributions from agencies to pay for self-funded coverage and/or cost of insurance.

LEGISLATION

➤ 32-12.2-19. Data breach response and remediation costs

❖ Cyber Insurance - Challenges

- Underwriting Uncertainty
- Lack of Standard Language
- Cost - Benefit



LEGISLATION

➤ 32-12.2-19. Data breach response and remediation costs

❖ Self Funding - Challenges

- Establishing Limits
- Additional remedial measures (e.g. free credit monitoring)
- Continued availability of excess coverage for third-party liability



LEGISLATION

➤ 32-12.2-19. Data breach response and remediation costs

❖ Self Funding

- Actuarial review for 2019-2021 begins in December
- Additional required information – discrete records containing PPI or PHI; credit card transactions

Risk Management Discount Programs




Risk Management Fund Contribution Discount Program




- Approximately 57% of state agencies participate.
- Average contribution savings is 13%
- Total potential discount available is 17%


Risk Management Fund Contribution Discount Program

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- Primary reasons for NOT receiving full discount:
 - ❖ Discrimination policies fail to address reasonable accommodation requests (#3)
 - ❖ Agency specific identification of risks (#5)
 - ❖ Litigation Hold (#6)


Risk Management Fund Contribution Discount Program

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- Primary reasons for NOT receiving full discount:
 - ❖ Distracted driving policy does not prohibit cell phone use (#8)
 - ❖ Use of State cooperative contract when renting motor vehicles out of state and purchasing liability coverage (#9)

Risk Management Workers Compensation Program Premium Reduction Program

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- Agencies have ability to select beneficial programs
 - Program focus continues throughout the year
 - Similar to WSI Safety Action Menu Program

Risk Management Workers Compensation Program Premium Reduction Program

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- Current Discount Options
 - ❖ Ergonomics Program
 - ❖ Designated Medical Provider/Return to Work Program
 - ❖ Incident Investigation Program

Risk Management Workers Compensation Program Premium Reduction Program




➤ Current Discount Options

- ❖ Safe Lift Program
- ❖ Hazard Identification Program
- ❖ Slip, Trips and Fall Program

Risk Management Training



Risk Management Training

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- Risk Management can help facilitate agency training needs, including paying for a portion of the costs, when training:
 - ❖ Meets an identified need, and
 - ❖ Reduces third-party liability exposures.

Agency Contingency Planning Training

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- Training for Assurance CM (continuity manager) and Assurance NM (notification manager) is available upon request.
 - There is some training material available for Assurance CM and Assurance NM:
 - ❖ <https://www.nd.gov/omb/agency/agency-contingency-planning>