



LEGISLATIVE ACTIVITY—LEGISLATIVE SESSION UPDATES

This report contains descriptions and/or excerpts of relevant bills that have passed the first chamber, passed the second chamber, or have been enacted during the specific periods. In addition, a recap of significant legislative and judicial activity impacting the workers compensation system will be included in the first report published each month. This report is issued on a weekly basis throughout the legislative season, and it provides updates on the content of these bills if and when they progress through the legislative process. This report includes bills from states where NCCI provides ratemaking services (see state list under Contact Information) and the US Congress.

BILLS ENACTED

District of Columbia*

B20-0750 was:

- Passed by the Council on June 24, 2014
- Included in NCCI's September 19, 2014 *Legislative Activity Report* (RLA-2014-34)
- Passed Congressional review period and was effective on February 26, 2015

B20-0750 amends various sections of the District of Columbia Official Code including, but not limited to, *chapter 6. Merit personnel system, subchapter XXIII. Public sector workers' compensation; sections 1-623.07. Compensation schedule and 1-623.33. Compensation in case of death* as follows:

§ 1-623.07. Compensation schedule

(a) If there is permanent disability involving the loss, or loss of use, of a member or function of the body or disfigurement, the employee is entitled to basic compensation for the disability, as provided by the schedule in subsection (c) of this section, at the rate of 66 2/3 percent of his or her monthly pay. The basic compensation shall be:

- (1) Payable regardless of whether the cause of the disability originates in a part of the body other than that member;
- (2) Payable regardless of whether the disability also involves another impairment of the body; and
- (3) In addition to compensation for temporary total or temporary partial disability.

(A) A claimant who has received compensation for temporary total or temporary partial disability under this title shall be eligible for compensation payable under this section only after compensation for the temporary total or temporary partial disability has ceased;

(B) A claimant shall not receive any further compensation for a single injury for temporary total or temporary partial disability after receiving compensation for the injury under this section; and

(C) A claimant shall not be entitled to receive multiple awards of compensation under this section for the same permanent disability, but shall only be entitled to receive one award of compensation payable under this section per permanent disability.

...

~~(b) With respect to any period after payments under subsection (a) of this section have ended, an employee is entitled to compensation as provided by the following:~~

- ~~(1) Section 1-623.05, if the disability is total; or~~
- ~~(2) Section 1-623.06, if the disability is partial.~~

...

§ 1-623.33. Compensation in case of death

(a) If death results from an injury sustained in the performance of duty, the District of Columbia government shall pay a monthly compensation equal to a percentage of the monthly pay of the deceased employee in accordance with the following schedule:

- (1) To the surviving spouse or domestic partner, if there is no child, 50 percent;
- (2) To the surviving spouse or domestic partner, if there is a child, 45 percent and in addition 15 percent for each child not to exceed a total of 75 percent for the surviving spouse or domestic partner and children;

- (3) To the children, if there is no surviving spouse or domestic partner, 40 percent for 1 child and 15 percent additional for each additional child not to exceed a total of 75 percent, divided among the children, share and share alike;
- (4) To the parents, if there is no surviving spouse or domestic partner, or child, as follows:
- (A) Twenty percent, if 1 parent was wholly dependent on the employee at the time of death and the other was not dependent to any extent;
- (B) Twenty percent to each, if both were wholly dependent; or
- (C) A proportionate amount in the discretion of the Mayor if one or both were partly dependent. If there is a surviving spouse or domestic partner, or child, so much of the percentages are payable as, when added to the total percentages payable to the surviving spouse or domestic partner, and children, will not exceed a total of 75 percent;
- (5) (A) To the brothers, sisters, grandparents, and grandchildren, if there is no surviving spouse or domestic partner, child, or dependent parent, as follows:
- (i) Twenty percent, if one was wholly dependent on the employee at the time of death;
- (ii) Thirty percent, if more than one were wholly dependent, divided among the dependents, share and share alike; or
- (iii) Ten percent, if no one is wholly dependent but one or more is partly dependent, divided among the dependents, share and share alike; or
- (B) If there is a surviving spouse or domestic partner, child, or dependent parent, so much of the percentages are payable as, when added to the total percentages payable to the surviving spouse or domestic partner, children, and dependent parents, will not exceed a total of 75 percent.
- (b) (1) The compensation payable under subsection (a) of this section is paid from the time of death until:
- (A) A surviving spouse or domestic partner dies, remarries, or enters into a domestic partnership ~~before reaching age 60;~~
- (B) A child, brother, sister, or grandchild dies, marries or enters into a domestic partnership, or becomes 18 years of age or, if over age 18 and incapable of self-support, becomes capable of self-support; or
- (C) A parent or grandparent dies, marries or enters into a domestic partnership, or ceases to be dependent.

In addition, **B20-0750** creates new *section 2306b. Report of earnings* to read as follows:

Sec. 2306b. Report of earnings.

- (a) The Mayor shall require each employee receiving benefits under this subtitle to report his or her earnings from employment or self-employment by affidavit, including by providing copies of tax returns and authorizing the Mayor to obtain copies of tax documents, within 30 days of a written request for a report of earnings.
- (b) An employee shall forfeit his or her right to workers' compensation with respect to any period for which the report of earnings was required if the employee:
- (1) Fails to file a complete report of earnings within 30 days of a written request for a report of earnings; or
- (2) Knowingly omits or understates any part of his or her earnings.
- (c) Workers' compensation forfeited under this section, if already paid, may be recovered by a deduction from future workers' compensation payments owed to the employee or otherwise recovered under section 2329.
- (d) The Mayor shall notify any employee receiving workers' compensation benefits, on forms prescribed by the Mayor, of that employee's affirmative duty to report earnings and shall specifically notify the employee that a failure to report earnings may subject him or her to termination from the program and civil or criminal liability. The notice by the Mayor may be satisfied by printing the notice on the employee payee statement portion of the indemnity check sent to the employee.
- (e) For the purposes of this section, the term "earnings" includes any cash, wages, or salary received from self-employment or from any other employment aside from the employment in which the worker was injured. The term "earnings" also includes commissions, bonuses, and the cash value of all payments and benefits received in any form other than cash. Commissions and bonuses earned before disability but received during the time the employee is receiving workers' compensation benefits do not constitute earnings that must be reported.

* Once District of Columbia (DC) bills are passed by the DC Council, they must be sent to Congress for a period of 30 days before becoming effective as law (or 60 days for certain criminal legislation).

Idaho

SB 1004 was:

- Passed by the first chamber on March 3, 2015
- Passed by the second chamber on March 13, 2015
- Enacted on March 25, 2015, with an expected effective date of July 1, 2015

SB 1004 amends *section 20-242A. Inmate incentive pay* of the Idaho Code as follows:

§ 20-242A. Inmate incentive pay. The board of correction is hereby authorized to institute an incentive pay program for those inmates performing ~~at a meritorious level but who are not privileged to participate in prison~~ work at the direction of the board of correction in jobs not associated with correctional industry employment.

Such ~~incentive pay compensation, if any,~~ shall be funded by the state penal betterment fund as provided in section 20-405 in accordance with a graduated schedule based on quantity and quality of work performed and skill required for its performance.

No such incentive pay shall be paid to any inmate who is receiving pay as provided by section 20-409. Such incentive pay shall not exceed that amount paid to inmates under the provisions of section 20-409.

Nothing in this section is intended to restore, in whole or in part, the civil rights of any inmate. No inmate compensated under this section shall be considered an employee of the state or the board of correction, nor shall any inmate be eligible for worker's compensation under title 72, Idaho Code, or be entitled to any benefits thereunder whether on behalf of himself or any other person.

Note: SB 1004 was not included in any previous version of NCCI's *Legislative Activity Report*.

SB 1075 was:

- Passed by the first chamber on March 6, 2015
- Included in NCCI's March 13, 2015 *Legislative Activity Report* (RLA-2015-10)
- Passed by the second chamber on March 17, 2015
- Included in NCCI's March 27, 2015 *Legislative Activity Report* (RLA-2015-12)
- Enacted on March 26, 2015, with an effective date of July 1, 2015

SB 1075 amends *section 20-412. Compensation—amount—crediting account of prisoner—civil rights—prisoners not employees* of the Idaho Code as follows:

§ 20-412. Compensation—amount—crediting account of prisoner—civil rights—prisoners not employees

~~Each prisoner, who is engaged in productive work in the institution under the jurisdiction of the board of correction as a part of the correctional industries work program as authorized by this chapter, may receive for his work such compensation as the board shall determine, to be paid out of any funds available in the correctional industries betterment account. Such compensation, if any, shall be in accordance with a graduated schedule based on quantity and quality of work performed and skill required for its performance. Compensation shall be credited to the account of the prisoner, and paid from the correctional industries betterment account. Nothing in this section or in this act is intended to restore, in whole or in part, the civil rights of any inmate. No inmate who is compensated under this act shall be considered to be an employee of or employed by the state or the board of correction, nor shall any or any private agricultural employer that is a party to a contract for inmate labor pursuant to section 20-413A, Idaho Code. No inmate come within any of the provisions of the workmen's engaged in productive work as authorized by this chapter shall be entitled to worker's compensation laws, or be entitled to any benefits thereunder or unemployment compensation under chapter 4 or chapter 13, title 72, Idaho Code, whether on behalf of himself or any other person.~~

Montana

HB 90 was:

- Passed by the first chamber on January 15, 2015
- Included in NCCI's January 23, 2015 *Legislative Activity Report* (RLA-2015-03)
- Passed by the second chamber on March 10, 2015
- Included in NCCI's March 20, 2015 *Legislative Activity Report* (RLA-2015-11)
- Enacted on March 27, 2015, with an effective date of July 1, 2015

HB 90 amends various sections of the Montana Code Annotated 2011 including, but not limited to, the following:

Section 39-71-107. Insurers to act promptly on claims—in-state claims examiners—third-party agents—penalties.

...

(6) An insurer shall provide to the claimant:

(a) a written statement of the reasons that a claim is being denied at the time of denial;

(b) whenever benefits are denied to a claimant, a written explanation of how the claimant may appeal an insurer's decision; and

(c) a written explanation of the amount of wage-loss benefits being paid to the claimant, along with an explanation of the calculation used to compute those benefits. The explanation must be sent within 7 days of the initial payment of the benefit.

(d) a written notice advising the claimant when a change is made to the claims examiner handling the claim, including the name and contact information of the new claims examiner. The notice must be sent within 14 days of the change in claims examiner.

...

Section 39-71-704. Payment of medical, hospital, and related services—fee schedules and hospital rates—fee limitation.

...

~~(2)(c) From July 1, 2011, through June 30, 2013, the fee schedules established in subsection (2)(b) must be based on the following standards as adopted by the centers for medicare and medicaid services and as adopted by the department on December 31, 2010, regardless of where services are provided:~~

~~(i) the American medical association current procedural terminology codes;~~

~~(ii) the healthcare common procedure coding system;~~

~~(iii) the medicare severity diagnosis related groups;~~

~~(iv) the ambulatory payment classifications;~~

~~(v) the ratio of costs to charges for each hospital;~~

~~(vi) the national correct coding initiative edits; and~~

~~(vii) the relative value units as adjusted annually using the most recently published resource-based relative value scale.~~

- ~~(d) (c) On or after July 1, 2013, the~~ The fee schedule rates established in subsection (2)(b), when adopted, must be based on the following standards as adopted by the centers for medicare and medicaid services, regardless of where services are provided:
- (i) the American medical association current procedural terminology codes, as those codes exist on ~~March 31~~ January 1 of each year;
 - (ii) the healthcare common procedure coding system, as those codes and their relative weights exist on ~~March 31~~ January 1 of each year;
 - (iii) the medicare severity diagnosis-related groups, as those codes and their relative weights exist on ~~October 1~~ January 1 of each year;
 - (iv) the ambulatory payment classifications, as those codes and their relative weights exist on ~~March 31~~ January 1 of each year;
 - (v) the ratio of costs to charges for each hospital, as those codes exist on ~~October 1~~ January 1 of each year;
 - (vi) the national correct coding initiative edits, as those codes exist on ~~March 31~~ January 1 of each year; and
 - (vii) the relative value units in the published resource-based relative value scale, as those codes exist on ~~March 31~~ January 1 of each year.
- ~~(e) (d)~~ The department may establish additional codes and coding standards for use by providers when billing for medical services under this section.
- ~~(f) The rates in effect through June 30, 2013, may not be less than the rates for medical services in effect as of December 31, 2010.~~
- ...

Section 39-71-736. Compensation—from what dates paid.

...

(4) Receipt of vacation leave or paid time off leave, other than sick leave, by a worker may not affect the worker’s eligibility for temporary total disability benefits.

Section 39-71-915. Assessment of insurer—employers—definition—collection.

...

(2) The fund must be maintained by assessing each plan No. 1 employer, each employer insured by a plan No. 2 insurer, plan No. 3, the state fund, with respect to claims arising before July 1, 1990, and each employer insured by plan No. 3, the state fund. The assessment amount is the total amount from April 1 of the previous year through March 31 of the current year paid by the fund ~~in the preceding fiscal year and~~ plus the expenses of administration less other realized income that is deposited in the fund. The total assessment amount to be collected must be allocated among plan No. 1 employers, plan No. 2 employers, plan No. 3, the state fund, and plan No. 3 employers, based on a proportionate share of paid losses for the calendar year preceding the year in which the assessment is collected. The board of investments shall invest the money of the fund, and the investment income must be deposited in the fund.

...

Utah

HB 395 Substitute was:

- Passed by the first chamber on March 5, 2015
- Passed by the second chamber on March 12, 2015
- Included in NCCI’s March 20, 2015 *Legislative Activity Report* (RLA-2015-11)
- Enacted on March 23, 2015, with an effective date of July 1, 2015

HB 395 Substitute amends several sections of the Controlled Substance Database Act in the Utah Code Annotated including, but not limited to, *section 58-37f-301. Access to database* to provide that a physician employed as a medical director for a licensed workers compensation insurer or an approved self-insured employer may have access to the database regarding requests for workers compensation.

Virginia

HB 1285 was:

- Passed by the first chamber on January 26, 2015
- Included in NCCI’s February 6, 2015 *Legislative Activity Report* (RLA-2015-05)
- Passed by the second chamber on February 19, 2015
- Included in NCCI’s February 27, 2015 *Legislative Activity Report* (RLA-2015-08)
- Enacted on March 23, 2015, with an effective date of July 1, 2015

HB 1285 amends *Section 65.2-101. Definitions.* of the Code of Virginia as follows:

Section 65.2-101. Definitions.

...

2. “Employee” shall not mean:

...

1. Except as otherwise provided in this title, noncompensated employees and noncompensated directors of (i) corporations exempt from taxation pursuant to Section 501(c)(3) of Title 26 of the United States Code (Internal Revenue Code of 1954) or (ii) property

owners' associations as defined in Section 55-509.

...

“Executive officer” means (i) the president, vice-president, secretary, treasurer or other officer, elected or appointed in accordance with the charter and bylaws of a corporation and (ii) the managers elected or appointed in accordance with the articles of organization or operating agreement of a limited liability company. However, ~~such term~~ “executive officer” does not include (a) noncompensated officers of corporations exempt from taxation pursuant to Section 501(c)(3) of Title 26 of the United States Code (Internal Revenue Code of 1954) or (b) noncompensated officers of a property owners' association as such term is defined in Section 55-509.

...

HB 1486 S1/SB 770 was

- Passed by the first chamber on February 10, 2015
- Included in NCCI's February 20, 2015 *Legislative Activity Report* (RLA-2015-07)
- Substituted and passed by the second chamber on February 24, 2015
- Included in NCCI's March 6, 2015 *Legislative Activity Report* (RLA-2015-09)
- Enacted on March 26, 2013, with an effective date of July 1, 2015

HB 1486 S1/SB 770 amends *section 65.2-307. Employee's rights under Act exclude all others* of the Code of Virginia as follows:
Section 65.2-307. Employee's rights under Act exclude all others; exception.

...

B. If a court of the Commonwealth makes a finding in a final unappealed order based on an evidentiary hearing or a factual stipulation of the parties and participants thereto that the cause of action relating to an accident, injury, disease, or death is barred by this section, that finding shall be res judicata between those same parties and estop them and any employer, uninsured employer's fund, guarantee fund, responsible entities or statutory employer from arguing before the Commission that the accident, injury, disease, or death did not arise out of and in the course of such employee's employment. If the Commission or a court on appeal from the Commission makes a finding in a final unappealed order based on an evidentiary hearing, hearing on the record, or a factual stipulation of the parties that the claims relating to an accident, injury, disease, or death did not arise out of or in the course of such employee's employment, then that finding shall be res judicata and estop those same parties from arguing before a court of the Commonwealth that the accident is barred by the exclusivity provisions of the Act. However, except in the case of a self-insured employer or business entity closely related to a party to the court proceeding, in order for the court finding to be res judicata as to a non-party, notice shall be provided in the same manner as allowed in subsection F of Section 38.2-2206 or Section 8.01-288 to any employer, uninsured employer's fund, guarantee fund, responsible entities or statutory employer sought to be bound. In addition, any such entities so notified shall be given the same opportunity to be heard in that court proceeding as a party to the same, but limited to the issue of whether the accident, injury, disease, or death arose out of and in the course of the employee's employment. Failure to provide notice to any party to the court proceeding shall not affect the rights, privileges, or obligations of said parties thereto but shall affect only the applicability of this subsection and only as stated herein. Furthermore, the findings by either the Commission or the court under this subsection shall not prevent the parties and participants to those proceedings from raising or relying upon any and all other available defenses.

C. Notwithstanding this exclusion, nothing in the Act shall bar an employer from voluntarily agreeing to pay an employee compensation above and beyond those benefits provided for in the Act. Nothing herein, however, shall be deemed to affect or alter any existing right or remedy of the employer or employee under the Act.

HB 1584 S1 was:

- Passed by the first chamber on January 27, 2015.
- Included in NCCI's February 6, 2015 *Legislative Activity Report* (RLA-2015-05).
- Substituted and passed by the second chamber on February 23, 2015.
- Included in NCCI's March 6, 2015 *Legislative Activity Report* (RLA-2015-09).
- Amended by conference committee and enacted on March 23, 2013. Sections 38.2-2201 and 38.2-2202 are effective on January 1, 2016. The remainder of the bill is effective on July 1, 2015.

HB 1584 S1 amends various sections of the Code of Virginia related to fire services and emergency medical services including, but not limited to:

Section 38.2-1904. Rate standards.

...

B. 1. In determining whether rates comply with the standards of subsection A of this section, separate consideration shall be given to (i) past and prospective loss experience within and outside this Commonwealth, (ii) conflagration or catastrophe hazards, (iii) a reasonable margin for underwriting profit and contingencies, (iv) dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, (v) past and prospective expenses both countrywide and those specifically applicable to this Commonwealth, (vi) the loss reserving practices, standards and procedures utilized by the insurer, (vii) investment income earned or realized by insurers from their unearned premium and loss reserve and the Commission may give separate consideration to investment income earned on surplus funds, and (viii) all other relevant factors within and outside this Commonwealth. When actual experience or data does not exist, the Commission may consider estimates.

...
3. In the case of workers' compensation insurance rates for volunteer firefighters or volunteer ~~lifesaving or volunteer rescue squad members~~ emergency medical services personnel, the rates shall be calculated based upon the combined experience of both volunteer firefighters or volunteer ~~lifesaving or volunteer rescue squad members~~ emergency medical services personnel and paid firefighters or paid ~~lifesaving or paid rescue squad members~~ emergency medical services personnel, so that the resulting rate is the same for both volunteer and paid members, but in no event shall resulting premiums be less than ~~forty dollars~~ \$40 per year for any volunteer firefighter or ~~rescue squad member~~ volunteer emergency medical services personnel.
...

Section 38.2-2005. Provisions governing making of rates.

...
3. [Repealed.]

In the case of workers' compensation insurance rates for volunteer firefighters or volunteer ~~lifesaving or volunteer rescue squad members~~ emergency medical services personnel written through the Virginia Worker's Compensation Insurance Plan, the rates shall be calculated based upon the combined experience of both volunteer firefighters or volunteer ~~lifesaving or volunteer rescue squad members~~ emergency medical services personnel and paid firefighters or paid ~~lifesaving or paid rescue squad members~~ emergency medical services personnel, so that the resulting rate is the same for both volunteer and paid members, but in no event shall resulting premiums be less than ~~forty dollars~~ \$40 per year for any volunteer firefighter or ~~rescue squad member~~ volunteer emergency medical services personnel.
...

Section 65.2-101. Definitions.

As used in this title:

"Average weekly wage" means:

...
3. Whenever volunteer firefighters, volunteer ~~lifesaving or volunteer rescue squad members~~ emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, ~~volunteer emergency medical technicians~~, members of volunteer search and rescue organizations, volunteer members of community emergency response teams, and volunteer members of medical reserve corps are deemed employees under this title, their average weekly wage shall be deemed sufficient to produce the minimum compensation provided by this title for injured workers or their dependents. For the purposes of workers' compensation insurance premium calculations, the monthly payroll for each volunteer firefighter or volunteer ~~lifesaving or volunteer rescue squad member~~ who is an individual who meets the definition of "emergency medical services personnel" in Section 32.1-111.1 shall be deemed to be \$300.
...

"Employee" means:

1. a. Every person, including aliens and minors, in the service of another under any contract of hire or apprenticeship, written or implied, whether lawfully or unlawfully employed, except (i) one whose employment is not in the usual course of the trade, business, occupation or profession of the employer or (ii) as otherwise provided in subdivision 2 of this definition.

...
1. Except as provided in subdivision 2 of this definition, volunteer firefighters, volunteer ~~lifesaving or rescue squad members~~ emergency medical services agency personnel, volunteer law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, ~~volunteer emergency medical technicians~~, members of volunteer search and rescue organizations, volunteer members of regional hazardous materials emergency response teams, volunteer members of community emergency response teams, and volunteer members of medical reserve corps, who shall be deemed employees of (i) the political subdivision or state institution of higher education in which the principal office of such volunteer fire company, volunteer ~~lifesaving or rescue squad~~ emergency medical services agency personnel, volunteer law-enforcement chaplains, auxiliary or reserve police force, auxiliary or reserve deputy sheriff force, ~~volunteer emergency medical technicians~~, volunteer search and rescue organization, regional hazardous materials emergency response team, community emergency response team, or medical reserve corps is located if the governing body of such political subdivision or state institution of higher education has adopted a resolution acknowledging those persons as employees for the purposes of this title or (ii) in the case of volunteer firefighters or volunteer ~~lifesaving or rescue squad members~~ emergency medical services personnel, the ~~fire companies or squads~~ emergency medical services agencies for which volunteer services are provided whenever such companies or squads elect to be included as an employer under this title.

m. (1) Volunteer firefighters, volunteer ~~lifesaving or rescue squad members~~ emergency medical services agency personnel, volunteer law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, ~~volunteer emergency medical technicians~~, members of volunteer search and rescue organizations and any other persons who respond to an incident upon request of the Department of Emergency Management, who shall be deemed employees of the Department of Emergency Management for the purposes of this title.
...

2. "Employee" shall not mean:

...
k. Except as provided in subdivision 1 of this definition, a member of a volunteer ~~fire fighting, lifesaving or rescue squad~~ fire

department or volunteer emergency medical services agency when engaged in activities related principally to participation as an individual who meets the definition of “emergency medical services personnel” in Section 32.1-111.1 or a member of such ~~squad~~ fire department whether or not the volunteer continues to receive compensation from his employer for time away from the job.

...
“Employer” includes (i) any person, the Commonwealth or any political subdivision thereof and any individual, firm, association or corporation, or the receiver or trustee of the same, or the legal representative of a deceased employer, using the service of another for pay and (ii) any volunteer fire company or volunteer ~~lifesaving or rescue squad~~ emergency medical services agency electing to be included and maintaining coverage as an employer under this title. If the employer is insured, it includes his insurer so far as applicable.

...
Section 65.2-102. Coverage of firefighters and law-enforcement officers in off-duty capacity.

...
B. For purposes of this section:

“Firefighter” means all (i) salaried firefighters, including special forest wardens designated pursuant to Section 10.1-1135, ~~emergency medical technicians, lifesaving and rescue squad members~~ services personnel, and arson investigators and (ii) volunteer firefighters and ~~lifesaving or rescue squad members~~ emergency medical services personnel, if the governing body of the political subdivision in which the principal office of such volunteer fire company or volunteer ~~lifesaving or rescue squad~~ emergency medical services agency is located has adopted a resolution acknowledging such volunteer fire company or volunteer ~~lifesaving and rescue squad~~ emergency medical services agency as employees for purposes of this title.

...
Section 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.

...
G. Volunteer ~~lifesaving and rescue squad members~~ emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

H. For purposes of this section, ~~the term “firefighter” shall include~~ includes special forest wardens designated pursuant to Section 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform firefighting services.

...
Section 65.2-402.1. Presumption as to death or disability from infectious disease.

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter, ~~paramedic or~~ salaried or volunteer emergency medical technician services personnel, (ii) member of the State Police Officers’ Retirement System, (iii) member of county, city, or town police departments, (iv) sheriff or deputy sheriff, (v) Department of Emergency Management hazardous materials officer, (vi) city sergeant or deputy city sergeant of the City of Richmond, (vii) Virginia Marine Police officer, (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries, (ix) Capitol Police officer, (x) special agent of the Department of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (Section 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in Section 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officer of the police force established and maintained by the Norfolk Airport Authority, (xiii) conservation officer of the Department of Conservation and Recreation commissioned pursuant to Section 10.1-115, (xiv) sworn officer of the police force established and maintained by the Virginia Port Authority, or (xv) any campus police officer appointed under Chapter 17 (Section 23-232 et seq.) of Title 23 and employed by any public institution of higher education, who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this section, an occupational exposure occurring on or after July 1, 2002, shall be deemed “documented” if the person covered under this section gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed “documented” without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer.

...
HB 1806 was:

- Passed by the first chamber on February 4, 2015
- Included in NCCI’s February 13, 2015 *Legislative Activity Report* (RLA-2015-06)
- Amended and passed by the second chamber on February 19, 2015
- Included in NCCI’s February 27, 2015 *Legislative Activity Report* (RLA-2015-08)
- Enacted on March 23, 2015, with an effective date of July 1, 2015

HB 1806 amends *section 65.2-101. Definitions and General Provisions* of the Code of Virginia as follows:

§ 65.2-101. Definitions

As used in this title:

...
“Employee” means:

...
2. “Employee” shall not mean:

...
o. An owner-operator of a motor vehicle that is leased with or to a common or contract carrier in the trucking industry if (i) the owner-operator performs services for the carrier pursuant to a contract that provides that the owner-operator is an independent contractor and shall not be treated as an employee for purposes of the Federal Insurance Contributions Act, 26 U.S.C. Section 3101 et seq., Social Security Act of 1935, P.L. 74-271, federal unemployment tax laws, and federal income tax laws and (ii) each of the following factors is present:

(1) The owner-operator is responsible for the maintenance of the vehicle;

(2) The owner-operator bears the principal burden of the vehicle’s operating costs;

(3) The owner-operator is the driver;

(4) The owner-operator’s compensation is based on factors related to the work performed and not on the basis of hours or time expended; and

(5) The owner-operator determines the method and means of performing the service.

...
HB 1820 S1 was:

- Passed by the first chamber on February 10, 2015
- Included in NCCI’s February 20, 2015 *Legislative Activity Report* (RLA-2015-07)
- Substituted and passed by the second chamber on February 25, 2015
- Included in NCCI’s March 27, 2015 *Legislative Activity Report* (RLA-2015-12)
- Enacted on March 23, 2015, with an effective date of July 1, 2015

HB 1820 S1 amends *section 65.2-605. Liability of employer for medical services ordered by Commission; malpractice; assistants-at-surgery; coding* of the Code of Virginia, in part, as follows:

Section 65.2-605. Liability of employer for medical services ordered by Commission; malpractice; assistants-at-surgery; coding.

A. The pecuniary liability of the employer for medical, surgical, and hospital service herein required when ordered by the Commission shall be limited to such charges as prevail in the same community for similar treatment when such treatment is paid for by the injured person and the employer shall not be liable in damages for malpractice by a physician or surgeon furnished by him pursuant to the provisions of Section 65.2-603, but the consequences of any such malpractice shall be deemed part of the injury resulting from the accident and shall be compensated for as such.

B. The Commission shall determine the number and geographic area of communities across the Commonwealth. In establishing the communities, the Commission shall consider the ability to obtain relevant charge data based on geographic area and such other criteria as are consistent with the purposes of this title.

C. The pecuniary liability of the employer for treatment pursuant to subsection A that is rendered on or after July 1, 2014, by:

1. A nurse practitioner or physician assistant serving as an assistant-at-surgery shall be limited to no more than 20 percent of the reimbursement due under subsection A to the physician performing the surgery; and

2. An assistant surgeon in the same specialty as the primary surgeon shall be limited to no more than 50 percent of the reimbursement due under subsection A to the primary physician performing the surgery.

~~C. D.~~ Multiple procedures completed on a single surgical site associated with medical, surgical, and hospital services pursuant to subsection A and rendered on or after July 1, 2014, shall be coded and billed with appropriate Current Procedural Terminology (CPT) modifiers and paid according to the National Correct Coding Initiative (NCCI) rules and the CPT as in effect at the time the health care was provided to the claimant. The CPT and NCCI, as in effect at the time such health care was provided to the claimant, shall serve as the basis for processing a health care provider’s billing form or itemization for such items as global and comprehensive billing and the unbundling of health care services. Hospital in-patient health care services shall be coded and billed through the International Statistical Classification of Diseases and Related Health Problems (ICD) as in effect at the time the health care was provided to the claimant.

...
HB 1820 S1 further states as follows:

2. That the Workers’ Compensation Commission shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment and shall provide an opportunity for public comment on the regulations prior to adoption.

3. That the Workers’ Compensation Commission shall convene a work group of stakeholder representatives of employers, health care service providers, claimants, and insurers to advise and assist the Commission in (i) reviewing, analyzing, and comparing information contained within and reports on all possible databases containing workers compensation or healthcare data for medical services rendered in Virginia, (ii) reviewing, analyzing, and comparing information contained within and reports on how similar databases are used for the establishment of the pecuniary liability of the employer in other states, and (iii) making findings or recommendations as to how the databases reviewed and the contents thereof may serve to enhance or replace Virginia’s current mechanisms for establishing the pecuniary liability of the employer. The Workers’ Compensation Commission shall report its

HB 1880 was:

- Passed by the first chamber on January 28, 2015
- Included in NCCI's February 6, 2015 *Legislative Activity Report* (RLA-2015-05)
- Passed by the second chamber on February 18, 2015
- Included in NCCI's February 27, 2015 *Legislative Activity Report* (RLA-2015-08)
- Enacted on March 23, 2015, with an effective date of July 1, 2015

HB 1880 extends the existing 0.5% maximum tax rate that may be assessed on uninsured or self-insured employers for the Uninsured Employer's Fund until July 1, 2018.

SB 938 H1 was:

- Passed by the first chamber on January 20, 2015.
- Included in NCCI's January 30, 2015 *Legislative Activity Report* (RLA-2015-04).
- Amended and passed by the second chamber on February 16, 2015.
- Included in NCCI's February 27, 2015 *Legislative Activity Report* (RLA-2015-08).
- Enacted on March 23, 2015. Sections 38.2-2201 and 38.2-2202 are effective on January 1, 2016. The remainder of the bill is effective on July 1, 2015.

SB 938 amends various sections of the Code of Virginia related to fire services and emergency medical services including, but not limited to:

Section 65.2-101. Definitions

"Average weekly wage" means:

...

3. Whenever volunteer firefighters, volunteer ~~lifesaving or volunteer rescue squad members~~ emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, ~~volunteer emergency medical technicians~~, members of volunteer search and rescue organizations, volunteer members of community emergency response teams, and volunteer members of medical reserve corps are deemed employees under this title, their average weekly wage shall be deemed sufficient to produce the minimum compensation provided by this title for injured workers or their dependents. For the purposes of workers' compensation insurance premium calculations, the monthly payroll for each volunteer firefighter or volunteer ~~lifesaving or volunteer rescue squad member~~ who is an individual who meets the definition of "emergency medical services personnel" in Section 32.1-111.1 shall be deemed to be \$300.

...

"Employee" means:

...

1. 1. Except as provided in subdivision 2 of this definition, volunteer firefighters, volunteer ~~lifesaving or rescue squad members~~ emergency medical services agency personnel, volunteer law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, ~~volunteer emergency medical technicians~~, members of volunteer search and rescue organizations, volunteer members of regional hazardous materials emergency response teams, volunteer members of community emergency response teams, and volunteer members of medical reserve corps, who shall be deemed employees of (i) the political subdivision or state institution of higher education in which the principal office of such volunteer fire company, volunteer ~~lifesaving or rescue squad~~ emergency medical services agency personnel, volunteer law-enforcement chaplains, auxiliary or reserve police force, auxiliary or reserve deputy sheriff force, ~~volunteer emergency medical technicians~~, volunteer search and rescue organization, regional hazardous materials emergency response team, community emergency response team, or medical reserve corps is located if the governing body of such political subdivision or state institution of higher education has adopted a resolution acknowledging those persons as employees for the purposes of this title or (ii) in the case of volunteer firefighters or volunteer ~~lifesaving or rescue squad members~~ emergency medical services personnel, the ~~fire companies or squads~~ emergency medical services agencies for which volunteer services are provided whenever such companies or squads elect to be included as an employer under this title.

1. m. (1) Volunteer firefighters, volunteer ~~lifesaving or rescue squad members~~ emergency medical services agency personnel, volunteer law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, ~~volunteer emergency medical technicians~~, members of volunteer search and rescue organizations and any other persons who respond to an incident upon request of the Department of Emergency Management, who shall be deemed employees of the Department of Emergency Management for the purposes of this title.

...

2. "Employee" shall not mean:

...

k. Except as provided in subdivision 1 of this definition, a member of a volunteer ~~fire fighting, lifesaving or rescue squad~~ fire department or volunteer emergency medical services agency when engaged in activities related principally to participation as an individual who meets the definition of "emergency medical services personnel" in Section 32.1-111.1 or a member of such ~~squad~~ fire department whether or not the volunteer continues to receive compensation from his employer for time away from the job.

...
“Employer” includes (i) any person, the Commonwealth or any political subdivision thereof and any individual, firm, association or corporation, or the receiver or trustee of the same, or the legal representative of a deceased employer, using the service of another for pay and (ii) any volunteer fire company or volunteer ~~lifesaving or rescue squad~~ emergency medical services agency electing to be included and maintaining coverage as an employer under this title. If the employer is insured, it includes his insurer so far as applicable.
...

Section 65.2-102. Coverage of firefighters and law-enforcement officers in off-duty capacity.

...
B. For purposes of this section:

“Firefighter” means all (i) salaried firefighters, including special forest wardens designated pursuant to Section 10.1-1135, emergency medical ~~technicians, lifesaving and rescue squad members~~ services personnel, and arson investigators and (ii) volunteer firefighters and ~~lifesaving or rescue squad members~~ emergency medical services personnel, if the governing body of the political subdivision in which the principal office of such volunteer fire company or volunteer ~~lifesaving or rescue squad~~ emergency medical services agency is located has adopted a resolution acknowledging such volunteer fire company or volunteer ~~lifesaving and rescue squad~~ emergency medical services agency as employees for purposes of this title.
...

Section 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.

...
G. Volunteer ~~lifesaving and rescue squad members~~ emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

H. For purposes of this section, ~~the term “firefighter” shall include~~ includes special forest wardens designated pursuant to Section 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform firefighting services.

Section 65.2-402.1. Presumption as to death or disability from infectious disease.

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter, ~~paramedic or~~ salaried or volunteer emergency medical technician services personnel, (ii) member of the State Police Officers’ Retirement System, (iii) member of county, city, or town police departments, (iv) sheriff or deputy sheriff, (v) Department of Emergency Management hazardous materials officer, (vi) city sergeant or deputy city sergeant of the City of Richmond, (vii) Virginia Marine Police officer, (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries, (ix) Capitol Police officer, (x) special agent of the Department of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (Section 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in Section 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officer of the police force established and maintained by the Norfolk Airport Authority, (xiii) conservation officer of the Department of Conservation and Recreation commissioned pursuant to Section 10.1-115, (xiv) sworn officer of the police force established and maintained by the Virginia Port Authority, or (xv) any campus police officer appointed under Chapter 17 (Section 23-232 et seq.) of Title 23 and employed by any public institution of higher education, who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this section, an occupational exposure occurring on or after July 1, 2002, shall be deemed “documented” if the person covered under this section gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed “documented” without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer.
...

West Virginia

SB 578 was:

- Passed by the first chamber on March 2, 2015
- Included in NCCI’s March 13, 2015 *Legislative Activity Report* (RLA-2015-10)
- Passed by the second chamber on March 10, 2015
- Included in NCCI’s March 20, 2015 *Legislative Activity Report* (RLA-2015-11)
- Enacted on March 24, 2015, with an effective date of June 8, 2015

SB 578 amends *sections 23-4-8d. Occupational pneumoconiosis claims never closed for medical benefits with exception of settled claims.* and *23-5-7. Compromise and settlement* of the Code of West Virginia as follows:

§23-4-8d. Occupational pneumoconiosis claims never closed for medical benefits with exception of settled claims.

Notwithstanding the provisions of subdivision (4), subsection (a), section sixteen of this article, with the exception of claims settled pursuant to article five, section seven of this chapter, a request for medical services, durable medical goods or other medical supplies

in an occupational pneumoconiosis claim may be made at any time.

§23-5-7. Compromise and settlement.

~~(a) With the exception of medical benefits for nonorthopedic occupational disease claims, the~~ The claimant, the employer and the Workers' Compensation Commission, the successor to the commission, other private insurance carriers and self-insured employers, whichever is applicable, may negotiate a final settlement of any and all issues in a claim wherever the claim is in the administrative or appellate processes: Provided, That in the settlement of medical benefits for nonorthopedic occupational disease claims, the claimant shall be represented by legal counsel. If the employer is not active in the claim, the commission, the successor to the commission, other private insurance carriers and self-insured employers, whichever is applicable, may negotiate a final settlement ~~of any and all issues in a claim except for medical benefits for nonorthopedic occupational disease claims~~ with the claimant and ~~said the~~ settlement shall be made a part of the claim record. Except in cases of fraud, no issue that is the subject of an approved settlement agreement may be reopened by any party, including the commission, the successor to the commission, other private insurance carriers and self-insured employers, whichever is applicable. Any settlement agreement may provide for a lump-sum payment or a structured payment plan, or any combination thereof, or any other basis as the parties may agree. If a self-insured employer later fails to make the agreed-upon payment, the commission shall assume the obligation to make the payments and shall recover the amounts paid or to be paid from the self-insurer employer and its sureties or guarantors or both as provided in sections five and five-a, article two of this chapter.

(b) Each settlement agreement shall provide the toll-free number of the West Virginia State Bar Association and shall provide the injured worker with five business days to revoke the executed agreement. The Insurance Commissioner may void settlement agreements entered into by an unrepresented injured worker which are determined to be unconscionable pursuant to criteria established by rule of the commissioner.

(c) The amendments to this section enacted during the regular session of the Legislature in the year ~~one thousand nine hundred ninety nine~~ ~~shall~~ 2015 apply to all settlement agreements executed after the effective date.

NCCI estimates that the impact of enacted SB 578 on workers compensation system costs in West Virginia is uncertain and will depend on the adequacy of negotiated settlement amounts relative to the cost of the future medical benefits that would have otherwise been paid in occupational disease claims. Any potential cost impacts will be reflected in subsequent NCCI loss cost filings in West Virginia.

BILLS PASSING SECOND CHAMBER

The following bills passed the second chamber within the one-week period ending March 27, 2015.

Arizona

HB 2331 was:

- Passed by the first chamber on February 17, 2015
- Included in NCCI's February 27, 2015 *Legislative Activity Report* (RLA-2015-08)
- Passed by the second chamber on March 24, 2015

HB 2331 amends *section 23-1028. False statements or representations to obtain compensation; forfeiture; classification; sworn statement; definition* of the Arizona Revised Statutes as follows:

§ 23-1028. False statements or representations to obtain compensation; forfeiture; classification; sworn statement; definition

A. If in order to obtain any compensation, benefit or payment under the provisions of this chapter, either for himself or for another, any person knowingly makes a false statement or representation, ~~such the~~ person is guilty of a class 6 felony, and, if the person is a claimant for compensation, ~~benefit or payment, he the claimant shall in addition also~~ forfeit all right to ~~such any future temporary or permanent disability compensation, benefit or payment for the claim on which the false statement or representation was made~~ after conviction of the offense. Forfeiture pursuant to this section does not terminate on any subsequent designation of the offense as a misdemeanor.

B. Notwithstanding section 13-801, a sentence to pay a fine for a violation of this section by a claimant or co-employee shall be a sentence to pay an amount fixed by the court of not more than fifty thousand dollars.

C. Any person who commits a violation under this section is also subject to the penalties prescribed in sections 20-466.02 and 20-466.04.

D. A claimant for compensation shall personally sign any monthly or annual income status report that requests the claimant to report employment status or earnings to the insurance carrier or self-insured employer, including the annual report of earnings pursuant to section 23-1047. The reporting document shall contain the following statement:

Any person who knowingly makes a false statement or representation to obtain any compensation, benefit or payment is guilty of a class 6 felony and is subject to up to one and one-half years in prison, a fifty thousand dollar fine and forfeiture of benefits. By my signature below, I am applying for all benefits to which I may be entitled and I swear that the statements made on this application are true, correct and complete to the best of my knowledge.

~~D. E.~~ For the purposes of this section, "statement" includes any notice, proof of injury, bill for services, payment for services, hospital or doctor records, x-rays, test reports, medical or legal expenses, or other evidence of loss or injury, or other expense or payment.

New Mexico

SB 233 was:

- Passed by the first chamber on March 20, 2015
- Included in NCCI's March 27, 2015 *Legislative Activity Report* (RLA-2015-12)
- Passed by the second chamber on March 21, 2015

SB 233 amends various sections of the New Mexico Statutes Annotated, in part, as follows:

52-1-41. Compensation Benefits—Total Disability.—

A. For total disability, the worker shall receive, during the period of that disability, sixty-six and two-thirds percent of ~~his~~ the worker's average weekly wage, and not to exceed a maximum compensation of eighty-five percent of the average weekly wage in the state, a week, effective July 1, 1987 through December 31, 1999, and thereafter not to exceed a maximum compensation of one hundred percent of the average weekly wage in the state, a week; and to be not less than a minimum compensation of thirty-six dollars (\$36.00) a week. ~~Except as provided in Subsections B and C of this section, the worker shall receive compensation benefits for the remainder of his life.~~

B. ~~For permanent total disability as set forth in Section 52-1-25 NMSA 1978, the worker shall receive compensation benefits for the remainder of the worker's life. For temporary disability as set forth in Section 52-1-25.1 NMSA 1978, the maximum period of compensation is subject to the maximum duration and limitation on compensation benefits set forth in Section 52-1-47 NMSA 1978.~~

C. For disability resulting from primary mental impairment, the maximum period of compensation is ~~one hundred weeks~~ the maximum period allowable for a physical injury, as set forth in Sections 52-1-26 and 52-1-42 NMSA 1978, and subject to the maximum duration and limitations on compensation benefits set forth in Section 52-1-47 NMSA 1978. For disability resulting in secondary mental impairment, the maximum period of compensation is the maximum period allowable for the disability produced by the physical impairment, ~~or one hundred weeks, whichever is greater.~~ C. as set forth in Section 52-1-26 or 52-1-43 NMSA 1978 and Section 52-1-42 NMSA 1978, and subject to the maximum duration and limitations on compensation benefits set forth in Section 52-1-47 NMSA 1978.

D. For the purpose of paying compensation benefits for death, pursuant to Section 52-1-46 NMSA 1978, the worker's maximum disability recovery shall be deemed to be seven hundred weeks.

~~D. E.~~ E. Where the worker's average weekly wage is less than thirty-six dollars (\$36.00) a week, the compensation to be paid the worker shall be ~~his~~ the worker's full weekly wage.

~~E. F.~~ F. For the purpose of the Workers' Compensation Act, the average weekly wage in the state shall be determined by the ~~employment security division of the labor~~ workforce solutions department on or before June 30 of each year and shall be computed from all wages reported to the ~~employment security division~~ workforce solutions department from employing units, including reimbursable employers, in accordance with the ~~regulations~~ rules of the ~~division~~ department for the preceding calendar year, divided by the total number of covered employees divided by fifty-two.

...

52-1-42. Compensation Benefits—Permanent Partial Disability—Maximum Duration Of Benefits.—

A. For permanent partial disability, the workers' compensation benefits not specifically provided for in Section 52-1-43 NMSA 1978 shall be a percentage of the weekly benefit payable for total disability as provided in Section 52-1-41 NMSA 1978. The percentage of permanent partial disability shall be determined pursuant to the provisions of Sections 52-1-26 through 52-1-26.4 NMSA 1978. The duration of partial disability benefits shall depend upon the extent and nature of the partial disability, subject to the following:

- (1) where the worker's percentage of disability is equal to or greater than eighty, the maximum period is seven hundred weeks;
- (2) where the worker's percentage of disability is less than eighty, the maximum period is five hundred weeks;
- (3) where the partial disability results from a primary mental impairment, the maximum period is ~~one hundred weeks~~ the maximum period allowable for a physical injury, as set forth in Section 52-1-26 NMSA 1978, and subject to the maximum duration and limitations on compensation benefits set forth in Section 52-1-47 NMSA 1978; and
- (4) where the partial disability results from a secondary mental impairment, the maximum period is the maximum period allowable for the disability produced by the physical impairment, ~~or one hundred weeks, whichever is greater~~ as set forth in Section 52-1-26 or 52-1-43 NMSA 1978, and subject to the maximum duration and limitations on compensation benefits set forth in Section 52-1-47 NMSA 1978.

B. If an injured worker receives temporary ~~total~~ disability benefits prior to an award of permanent partial disability benefits, the maximum period for permanent partial disability benefits shall be reduced by the number of weeks the worker actually receives temporary ~~total~~ disability benefits.

52-1-47. Limitations On Compensation Benefits.—

Subject to the limitation of compensation payable under Subsection G of Section 52-1-46 NMSA 1978 and except for provision of lifetime benefits for permanent total disability awarded pursuant to Section 52-1-41 NMSA 1978:

A. compensation benefits for any combination of disabilities, whether temporary or permanent, or any combination of disabilities and death shall not be payable for a period in excess of seven hundred weeks;

B. compensation benefits for any combination of disabilities or any combination of disabilities and death shall not exceed an amount equal to seven hundred multiplied by the maximum weekly compensation payable at the time of the accidental injury resulting in the disability or death under Section 52-1-41 NMSA 1978, exclusive of increased compensation that may be awarded under

Sections 52-1-10, 52-1-28.1 and 52-1-46 NMSA 1978 and exclusive of any attorney fees awarded under Section 52-1-54 NMSA 1978;

52-3-14. Compensation—Limitations.—

A. The compensation to which ~~an employee~~ a worker who has suffered disablement, or ~~his~~ the worker's dependents, shall be entitled under the New Mexico Occupational Disease Disablement Law is limited to the provisions of that law. No compensation shall be due or payable under the New Mexico Occupational Disease Disablement Law for any disablement ~~which that~~ does not result in either the temporary disablement of the ~~employee worker~~ lasting for more than seven days or in ~~his~~ the worker's permanent disablement as herein described or in death; provided, however, that if the period of temporary disablement of the ~~employee worker~~ lasts for more than four weeks from the date of the disablement, compensation under the New Mexico Occupational Disease Disablement Law shall be payable in addition to the amount hereinafter stated in a like amount for the first seven days after the date of disablement. But for any such disablement for which compensation is payable under the New Mexico Occupational Disease Disablement Law, the employer shall in all proper cases, as herein provided, pay to the disabled ~~employee worker~~ or to some person authorized by the director to receive the same, for the use and benefit of the beneficiaries entitled thereto, compensation at regular intervals of no more than sixteen days apart, in accordance with ~~the following~~ this section, less proper deductions on account of default in failure to give notice of such disablement as required in Section 52-3-19 NMSA 1978.

B. For total disablement, the ~~employee worker~~ shall receive sixty-six and two-thirds percent of ~~his~~ the worker's average weekly wage, not to exceed a maximum compensation of eighty-five percent of the average weekly wage in the state, a week, effective July 1, 1987, continuing through December 31, 1999, and thereafter not to exceed a maximum of one hundred percent of the average weekly wage in the state, a week, but not to be less than a minimum compensation of thirty-six dollars (\$36.00) a week, during the period of such disablement, but in no event to exceed a period of seven hundred weeks; provided, however, that ~~where his~~ when the worker's wages are less than thirty-six dollars (\$36.00) a week, then the compensation to be paid such ~~employee worker~~ shall be the full amount of such weekly wages; provided further that the benefits paid or payable during a ~~employee's worker's~~ entire period of disablement shall be based on and limited to the benefits in effect on the date of the occurrence of the disablement.

C. For partial disablement, the benefits shall be a percentage of the benefits payable for total disablement calculated under Subsection B of this section as that percentage is determined pursuant to the provisions of Section 52-3-4 NMSA 1978. In no event shall the duration of partial benefits extend longer than five hundred weeks.

D. In no event shall the duration of any combination of disablements, whether temporary or partial disablements, and death be payable for a period in excess of seven hundred weeks.

~~D. E.~~ For the purpose of the New Mexico Occupational Disease Disablement Law, the average weekly wage in the state shall be determined by the ~~employment security division of the labor workforce solutions~~ department on or before June 30 of each year and shall be computed from all wages reported to the ~~employment security division department~~ from employing units, including reimbursable employers, in accordance with the ~~regulations rules~~ of the ~~employment security division department~~ for the preceding calendar year, divided by the total number of covered employees divided by fifty-two. The first such determination by the employment security division of the average weekly wage in the state shall be made on or before June 30, 1975 from reported wages and covered employees for the calendar year ending December 31, 1974.

~~E. F.~~ The average weekly wage in the state, determined as provided in Subsection ~~D E~~ of this section, shall be applicable for the full period during which compensation is payable when the date of the occurrence of the disablement falls within the calendar year commencing January 1 following the June 30 determination.

~~F. G.~~ Unless the computation provided for in Subsection ~~D E~~ of this section results in an increase or decrease of two dollars (\$2.00) or more, raised to the next whole dollar, the statewide average weekly wage determination shall not be changed for any calendar year.

~~G. H.~~ In case death proximately results from the disablement within the period of two years, compensation benefits to be paid such ~~employee worker~~ shall be in the amounts and to the persons as follows:

(1) if there are no dependents, the compensation shall be limited to the funeral expenses not to exceed seven thousand five hundred dollars (\$7,500) and the expenses provided for medical and hospital services for the deceased, together with such other sums as the deceased may have been paid for disablement; or

(2) if there are dependents at the time of death, the payment shall consist of a sum not to exceed seven thousand five hundred dollars (\$7,500) for funeral expenses and expenses provided for medical and hospital services for the deceased, together with such other sums as the deceased may have been paid for disability, and a percentage specified in this paragraph for average weekly wages subject to the limitations of the New Mexico Occupational Disease Disablement Law to continue for the period of seven hundred weeks from the date of death of such ~~employee worker~~; provided that the total death compensation, unless otherwise specified, payable in any of the cases mentioned in this section shall not be less than the minimum weekly compensation provided in Subsection B of this section or more than the maximum weekly compensation provided in Subsection B of this section and shall be based on and limited to the benefits in effect on the date of the occurrence of the disablement. If there are dependents entitled thereto, compensation shall be paid to the dependents or to the person authorized by the director or the court to receive the same for the benefit of the dependents in such portions and amounts as the director or the court, bearing in mind the necessities of the case and the best interests of the dependents and of the public, may determine, to be computed on the following basis and distributed to the following persons:

(a) to the child or children, if there is no widow or widower entitled to compensation, sixty-six and two-thirds percent of the average weekly wage of the deceased;

- (b) to the widow or widower, if there are no children, sixty-six and two-thirds percent of the average weekly wage of the deceased, until remarriage;
- (c) to the widow or widower, if there is a child or children living with the widow or widower, forty-five percent of the ~~average weekly wage~~ compensation rate, as provided in Subsection B of this section, of the deceased, or forty percent, if such child is not or all such children are not living with a widow or widower, and in addition thereto, compensation benefits for the child or children, which shall make the total benefits for the widow or widower and child or children sixty-six and two-thirds percent of the average weekly wage of the deceased. When there are two or more children, the compensation benefits payable on account of such children shall be divided among such children, share and share alike;
- (d) two years' compensation benefits in one lump sum shall be payable to a widow or widower upon remarriage; however, the total benefits shall not exceed the maximum compensation benefits as provided in Paragraph (2) of this subsection;
- (e) if there is neither widow, widower nor children, then to the father and mother or the survivor of them if dependent to any extent upon the ~~employee worker~~ for support at the time of his the worker's death, twenty-five percent of the average weekly wage of the deceased; provided that if such father and mother, or the survivor of them, was totally dependent upon such ~~employee worker~~ for support at the time of his the worker's death, ~~he or~~ they shall be entitled to fifty percent of the average weekly wage of the deceased, subject to the maximum weekly compensation provided for in Subsection B of this section;
- (f) no disablement benefits payable by reason of ~~an employee's~~ a worker's death shall exceed the maximum weekly compensation provided for in Subsection B of this section, and no dependent or any class thereof other than a widow or widower or children shall in any event be paid total benefits in excess of seven thousand five hundred dollars (\$7,500) exclusive of funeral expenses and the expenses provided for medical and hospital services for the deceased paid for by the employer. If there is neither widow, widower nor children nor dependent parent, then to the brothers and sisters, if actually dependent to any extent upon the deceased for support at the time of ~~his the deceased's~~ death, thirty-five percent of the average weekly wage of the deceased, with fifteen percent additional for brothers or sisters in excess of two, with a maximum of sixty-six and two-thirds percent to be paid to their guardian; provided that the maximum compensation to partial dependents shall not exceed the respective amounts therefor contributed by the deceased employee or the maximum weekly compensation provided for in Subsection B of this section; and
- ...

BILLS PASSING FIRST CHAMBER

The following bills passed the first chamber within the one-week period ending March 27, 2015.

Idaho

SB 1168 amends *section 72-523. Source of fund—premium tax* of the Idaho Code as follows:

§72-523. Source of fund—premium tax. The state insurance fund, every authorized self-insurer and every surety authorized under the Idaho insurance code or by the director of the department of insurance to transact worker's compensation insurance in Idaho, in addition to all other payments required by statute, shall semiannually, within thirty (30) days after February 1 and July 1 of each year, pay into the state treasury to be deposited in the industrial administration fund a premium tax as follows:

- (1) Commencing ~~July 1, 1993~~ January 1, 2016, every surety, other than self-insurers authorized to transact worker's compensation insurance, a sum equal to two ~~and one-half~~ percent (2.5%) of the net premiums written by each respectively on worker's compensation insurance in this state during the preceding six (6) months' period, but in no case less than seventy-five dollars (\$75.00);
- (2) Each self-insurer, a sum equal to two ~~and one-half~~ percent (2.5%) of the amount of premium such employer who is a self-insurer would be required to pay as premium to the state insurance fund, but in no case less than seventy-five dollars (\$75.00);
- (3) Notwithstanding the provisions of subsections (1) and (2) of this section, for the period January 1, 2012, through December 31, 2015:
 - (a) Every surety, other than self-insurers authorized to transact worker's compensation insurance, a sum equal to two percent (2%) of the net premiums written by each respectively on worker's compensation insurance in this state during the preceding six (6) months' period, but in no case less than seventy-five dollars (\$75.00); and
 - (b) Each self-insurer, a sum equal to two percent (2%) of the amount of premium such employer who is a self-insurer would be required to pay as premium to the state insurance fund, but in no case less than seventy-five dollars (\$75.00) .
- (4) Any insurer making any payment into the industrial administration fund under the provisions of subsection (1) of this section or, during the period January 1, 2012, through December 31, 2015, any insurer making any payment into the industrial administration fund under the provisions of subsection (3) of this section, shall be entitled to deduct fifty percent (50%) of the premium tax paid pursuant to this section from any sum that it is required to pay into the department of insurance as a tax on worker's compensation premiums.
- (5) In arriving at net premiums written, dividends paid, declared or payable shall not be deducted.
- (6) For the purposes of this section and section 72-524, Idaho Code, net premiums written shall mean the amount of gross direct premiums written, less returned premiums and premiums on policies not taken.

Maryland

HB 468 amends various sections of the Insurance Code of the Annotated Code of Maryland, in part, to:

- Subject the Chesapeake Employers' Insurance Company (Chesapeake) to Title 11 of the Insurance Article, which requires workers compensation insurers in the state to join a rating organization
- Require the rating organization to:
 - Provide annual reports to specified committees of the General Assembly concerning the status of Chesapeake joining the rating organization
 - Create a classification code for governmental occupations that are not already included in police, firefighter, and clerical classifications
- Authorize Chesapeake to own a subsidiary under specified conditions
- Alter the selection process for Chesapeake board members

Note: **HB 468** is identical to **SB 465**, which passed the first chamber on March 17, 2015.

SB 331, in part, adds new *subsection 9-628(a)(9)* to the Labor and Employment Code of the Annotated Code of Maryland, related to permanent partial disability benefits, as follows:

§ 9-628. Compensation for less than 75 weeks.

(a) In this section, "public safety employee" means:

...

(9) a Baltimore County deputy sheriff, but only when the deputy sheriff sustains an accidental personal injury that arises out of and in the course and scope of performing duties directly related to:

(i) courthouse security;

(ii) prisoner transportation;

(iii) service of warrants;

(iv) personnel management; or

(v) other administrative duties.

...

Montana

SB 259 creates a new section and amends various sections of the Montana Code Annotated as follows:

Section 1.

39-71-201 Administration fund.

39-71-201. ~~Administration~~ Workers' compensation administration fund. (1) A workers' compensation administration fund is established out of which are to be paid upon lawful appropriation all costs of administering the Workers' Compensation Act ~~and the statutory occupational safety and health acts that the department is required to administer~~, with the exception of the certification of independent contractors provided for in Title 39, chapter 71, part 4, the subsequent injury fund provided for in 39-71-907, and the uninsured employers' fund provided for in 39-71-503. The department shall collect and deposit in the state treasury to the credit of the workers' compensation administration fund:

(a) all fees and penalties provided in 39-71-107, 39-71-205, 39-71-223, 39-71-304, 39-71-307, 39-71-315, 39-71-316, 39-71-401(6), 39-71-2204, 39-71-2205, and 39-71-2337;

~~(b) all penalties assessed under 50-71-119; and~~

~~(c)~~ **(b)** all fees paid by an assessment on paid losses, plus administrative fines and interest provided by this section.

...

(4) Each employer enrolled under compensation plan No. 1, compensation plan No. 2, or compensation plan No. 3, the state fund, shall pay its proportionate share determined by the paid losses in the preceding calendar year of all costs of administering and regulating the Workers' Compensation Act ~~and the statutory occupational safety acts that the department is required to administer~~, with the exception of the certification of independent contractors provided for in Title 39, chapter 71, part 4, the subsequent injury fund provided for in 39-71-907, and the uninsured employers' fund provided for in 39-71-503. In addition, compensation plan No. 3, the state fund, shall pay out of its surplus a proportionate share of these costs based upon paid losses for claims arising before July 1, 1990.

(5) (a) Each employer enrolled under compensation plan No. 1 shall pay an assessment to fund administrative and regulatory costs. The assessment may be up to ~~3%~~ 4% of the paid losses paid in the preceding calendar year by or on behalf of the plan No. 1 employer. Any entity, other than the department, that assumes the obligations of an employer enrolled under compensation plan No. 1 is considered to be the employer for the purposes of this section.

(b) An employer formerly enrolled under compensation plan No. 1 shall pay an assessment to fund administrative and regulatory costs. The assessment may be up to ~~3%~~ 4% of the paid losses paid in the preceding calendar year by or on behalf of the employer for claims arising out of the time when the employer was enrolled under compensation plan No. 1.

(c) By April 30 of each year, the department shall notify employers described in subsections (5)(a) and (5)(b) of the percentage of the assessment that comprises the compensation plan No. 1 proportionate share of administrative and regulatory costs. ~~Payment of the~~ The assessment provided for by this subsection (5) must be paid by the employer in:

...

(6) (a) Compensation plan No. 3, the state fund, shall pay out of its surplus an assessment to fund administrative and regulatory costs

attributable to claims arising before July 1, 1990. The assessment may be up to ~~3%~~ 4% of the paid losses paid in the preceding calendar year for claims arising before July 1, 1990. As required by 39-71-2352, the state fund may not pass along to insured employers the cost of the assessment for administrative and regulatory costs that is attributable to claims arising before July 1, 1990, except that money from interest earned on investments and money other than premiums may be used to pay the assessment out of its surplus before any dividends are paid.

(b) ~~Payment of the~~ The assessment must be paid in:

...

(7)(b) The amount to be funded by the premium surcharge may be up to ~~3%~~ 4% of the paid losses paid in the preceding calendar year by or on behalf of all plan No. 2 insurers and may be up to ~~3%~~ 4% of paid losses for claims arising on or after July 1, 1990, for plan No. 3, the state fund, plus or minus any adjustments as provided by subsection (7)(f). The amount to be funded must be divided by the total premium paid by all employers enrolled under compensation plan No. 2 or plan No. 3 during the preceding calendar year. A single premium surcharge rate, applicable to all employers enrolled in compensation plan No. 2 or plan No. 3, must be calculated annually by the department by not later than April 30. The resulting rate, expressed as a percentage, is levied against the premium paid by each employer enrolled under compensation plan No. 2 or plan No. 3 in the next fiscal year.

...

(8) By July 1, an insurer under compensation plan No. 2 that ~~pays~~ paid benefits in the preceding calendar year but that will not collect any premium for coverage in the following fiscal year shall pay an assessment of up to ~~3%~~ 4% of paid losses paid in the preceding calendar year. The department shall determine and notify the insurer by April 30 of each year of the amount that is due by July 1.

...

Section 2.

39-71-435. Workers' compensation and employers' liability insurance—optional deductibles.

...

(5) For purposes of 39-71-201, ~~and~~ 39-71-915, and [section 8], liability for assessments must be ascertained without regard to application of any deductible, whether the employer or the insurer pays the losses. For all other taxes and assessments based on premium, the amount of premium or assessment must be determined after application of the deductible.

Section 3.

39-71-1050. Assessment for stay-at-work/return-to-work assistance fund—definition.

...

(7)(b) If an employer fails to remit to an insurer the total amount due for the premium and assessment premium surcharge, the amount received by the insurer must be applied to the assessment premium surcharge described in 39-71-201 first, then to the assessment premium surcharge described in [section 8], then to the assessment premium surcharge in this section, and then to the surcharge in 39-71-915, with any remaining amount applied to the premium due.

...

Section 4.

50-71-113. Administrative authority—funding.

...

(4) The activities of the department under the provisions of this part are funded by the ~~workers' compensation~~ occupational safety and health administration fund provided for in ~~39-71-201~~ [section 8].

(5) The department may accept, receive, and administer gifts, grants, or other funds from public or private agencies and from the United States for the purpose of carrying out the provisions of this part. Funds received by the department under this subsection must be deposited into the fund provided for in ~~39-71-201~~ [section 8].

...

Section 5.

50-71-119. Report of inspection—violations—penalty—appeal process.

(1)(a) The department shall make a written report of each inspection ~~that it conducts~~ conducted under 50-71-118.

...

(3)(c) Monetary penalties collected pursuant to this subsection (3) must be deposited into the ~~workers' compensation~~ occupational safety and health administration fund provided for in ~~39-71-201~~ [section 8].

...

Section 6.

50-72-106. Safety and industrial health consultation services authorized—recovery of expenses.

...

(3) Expenses recovered pursuant to subsection (2) must be deposited into the occupational safety and health administration fund provided for in [section 8].

...

Section 7.

50-73-107. Safety and industrial health consultation services authorized—recovery of expenses.

...

(3) Expenses recovered pursuant to subsection (2) must be deposited into the occupational safety and health administration fund provided for in [section 8].

...

Section 8.

Occupational safety and health administration fund.

(1) (a) An occupational safety and health administration fund is established, out of which are to be paid upon lawful appropriation all costs incurred by the department on or after July 1, 2016, in administering Title 50, chapters 71, 72, and 73.

(b) The department shall collect and deposit in the state treasury to the credit of the occupational safety and health administration fund:

(i) all penalties assessed under 50-71-119;

(ii) all expenses recovered under 50-72-106 and 50-73-107;

(iii) all fees paid by an assessment on paid losses, plus administrative fines and interest provided by this section; and

(iv) any grants or funds from private entities or the federal government intended for use by the department in defraying occupational safety and health costs.

(2) For the purposes of this section, the term “paid losses” has the meaning provided in 39-71-201.

(3) Each plan No. 1 employer, plan No. 2 insurer subject to the provisions of this section, and plan No. 3, the state fund, shall file annually on March 1 in the form and containing the information required by the department a report of paid losses.

(4) Each employer enrolled under compensation plan No. 1, compensation plan No. 2, or compensation plan No. 3, the state fund, shall pay its proportionate share, as determined by the paid losses in the preceding calendar year, of all costs appropriated for the next fiscal year for the purposes of administering Title 50, chapters 71, 72, and 73.

(5) (a) Each employer enrolled under compensation plan No. 1 shall pay an assessment to fund administrative and regulatory costs. Any entity, other than the department, that assumes the obligations of an employer enrolled under compensation plan No. 1 is considered to be the employer for the purposes of this section.

(b) An employer formerly enrolled under compensation plan No. 1 shall pay an assessment to fund administrative and regulatory costs.

(c) By April 30 of each year, the department shall notify employers described in subsections (5)(a) and (5)(b) of the percentage of the assessment that comprises the compensation plan No. 1 proportionate share of administrative and regulatory costs. The assessment provided for by this subsection (5) must be paid by the employer in:

(i) one installment due on July 1; or

(ii) two equal installments due on July 1 and December 31 of each year.

(d) If an employer fails to timely pay to the department the assessment under this section, the department may impose on the employer an administrative fine of \$500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the occupational safety and health administration fund.

(6) (a) Each employer insured under compensation plan No. 2 or plan No. 3, the state fund, shall pay a premium surcharge to fund administrative and regulatory costs. The premium surcharge must be collected by each plan No. 2 insurer and by plan No. 3, the state fund, from each employer that it insures. The premium surcharge must be stated as a separate cost on an insured employer’s policy or on a separate document submitted to the insured employer and must be identified as “occupational safety and health regulatory assessment surcharge”. The premium surcharge must be excluded from the definition of premiums for all purposes, including computation of insurance producers’ commissions or premium taxes. However, an insurer may cancel a workers’ compensation policy for nonpayment of the premium surcharge. When collected, assessments may not constitute an element of loss for the purpose of establishing rates for workers’ compensation insurance but, for the purpose of collection, must be treated as a separate cost imposed on insured employers.

(b) The amount to be funded by the premium surcharge, plus or minus any adjustments as provided by subsection (6)(f), must be divided by the total premium paid by all employers enrolled under compensation plan No. 2 or plan No. 3 during the preceding calendar year. A single premium surcharge rate, applicable to all employers enrolled in compensation plan No. 2 or plan No. 3, must be calculated annually by the department by not later than April 30. The resulting rate, expressed as a percentage, is levied against the premium paid by each employer enrolled under compensation plan No. 2 or plan No. 3 in the next fiscal year.

(c) On or before April 30 of each year, the department, in consultation with the advisory organization designated pursuant to 33-16-1023, shall notify plan No. 2 insurers and plan No. 3, the state fund, of the premium surcharge percentage to be effective for policies written or renewed annually on and after July 1 of that year.

(d) The premium surcharge must be paid whenever the employer pays a premium to the insurer. Each insurer shall collect the premium surcharge levied against every employer that it insures. Each insurer shall pay to the department all money collected as a premium surcharge within 20 days of the end of the calendar quarter in which the money was collected. If an insurer fails to timely pay to the department the premium surcharge collected under this section, the department may impose on the insurer an administrative fine of \$500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the occupational safety and health administration fund.

(e) If an employer fails to remit to an insurer the total amount due for the premium and premium surcharge, the amount received by

the insurer must be applied to the premium surcharge first and the remaining amount applied to the premium due.

(f) The amount actually collected as a premium surcharge in a given year must be compared to the assessment on the paid losses paid in the preceding year. Any excess amount collected must be deducted from the amount to be collected as a premium surcharge in the following year. The amount collected that is less than the assessed amount must be added to the amount to be collected as a premium surcharge in the following year.

(7) By July 1, an insurer under compensation plan No. 2 that paid benefits in the preceding calendar year but that will not collect any premium for coverage in the following fiscal year shall pay an assessment. The department shall determine and notify the insurer by April 30 of each year of the amount that is due by July 1.

(8) The department shall deposit all funds received pursuant to this section in the state treasury, as provided in this section.

(9) The administration fund must be debited with expenses incurred by the department in the general administration of the provisions of Title 50, chapters 71, 72, and 73, including the salaries of its members, officers, and employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501 through 2-18-503, incurred while on the business of the department either within or without the state.

(10) Disbursements from the administration fund must be made after being approved by the department upon claim for disbursement.

(11) The department may assess and collect the occupational safety and health regulatory assessment surcharge from uninsured employers, as defined in 39-71-501, that fail to properly comply with the coverage requirements of the Workers' Compensation Act. Any amounts collected by the department pursuant to this subsection must be deposited in the occupational safety and health administration fund.

SB 259 also includes the following clauses:

Section 9.

Codification instruction. [Section 8] is intended to be codified as an integral part of Title 50, chapter 71, part 1, and the provisions of Title 50, chapter 71, part 1, apply to [section 8].

Section 10.

Transition—contingency provision. If [this act] is passed and approved on or after May 1, 2015, the department of labor and industry:

(1) shall as promptly as feasible prepare and send the billing statements for assessments due on July 1, 2015, according to the provisions of [this act]; and

(2) is exempt for the year 2015 from the April 30 deadline provided for assessments under 39-71-201(7)(c).

New Hampshire

SB 203 amends *section 281-A:48. Review of Eligibility for Compensation* of the New Hampshire Statutes as follows:

I. Any party at interest with regard to an injury occurring after July 1, 1965, may petition the commissioner pursuant to RSA 281-A:42-d to review a denial or an award of compensation made pursuant to RSA 281-A:40 by filing a petition with the commissioner not later than the fourth anniversary of the ~~date of such denial or the last payment of compensation under such award or pursuant to RSA 281-A:40, as the case may be~~ last date of medical treatment for that injury, upon the ground of a change in conditions, mistake as to the nature or extent of the injury or disability, fraud, undue influence, or coercion. This section shall not apply to requests for extensions of medical and hospital benefits, or other remedial care, which shall be governed solely by those sections of this chapter relating thereto. This section shall not apply to lump sum agreements, except upon the grounds of fraud, undue influence, or coercion.

...

Oregon

SB 371 amends *sections 656.268* and *656.218* of the Oregon Revised Statutes, in part, as follows:

656.268 Claim closure; termination of temporary total disability benefits; reconsideration of closure; medical arbiter to make findings of impairment for reconsideration; credit or offset for fraudulently obtained or overpaid benefits; rules.

...

(5)(b) The insurer or self-insured employer shall issue a notice of closure of ~~such a~~ the claim to the worker, to the worker's attorney if the worker is represented, and to the director. If the worker is deceased at the time the notice of closure is issued, the insurer or self-insured employer shall mail the worker's copy of the notice of closure, addressed to the estate of the worker, to the worker's last known address and may mail copies of the notice of closure to any known or potential beneficiaries to the estate of the deceased worker.

(c) The notice of closure must inform:

(A) The parties, in boldfaced type, of the proper manner in which to proceed if they are dissatisfied with the terms of the notice of closure;

(B) The worker of:

(i) The amount of any further compensation, including permanent disability compensation to be awarded;

(ii) ~~of~~ The duration of temporary total or temporary partial disability compensation;

(iii) ~~of~~ The right of the worker or beneficiaries of the worker who were mailed a copy of the notice of closure under paragraph (b) of this subsection to request reconsideration by the director under this section within 60 days of the date of the notice of ~~claim~~ closure;

(iv) The right of beneficiaries who were not mailed a copy of the notice of closure under paragraph (b) of this subsection to request

reconsideration by the director under this section within one year of the date the notice of closure was mailed to the estate of the worker under paragraph (b) of this subsection;

~~(v)~~ The right of the insurer or self-insured employer to request reconsideration by the director under this section within seven days of the date of the notice of ~~claim~~ closure;

~~(vi)~~ The aggravation rights; and

~~(vii)~~ ~~of such~~ Any other information as the director may require; and (C) Any beneficiaries of death benefits to which they may be entitled pursuant to ORS 656.204 and 656.208.

~~(b)~~ (d) If the insurer or self-insured employer has not issued a notice of closure, the worker may request closure. Within 10 days of receipt of a written request from the worker, the insurer or self-insured employer shall issue a notice of closure if the requirements of this section have been met or a notice of refusal to close if the requirements of this section have not been met. A notice of refusal to close shall advise the worker of:

(A) The decision not to close; ~~of~~

(B) The right of the worker to request a hearing pursuant to ORS 656.283 within 60 days of the date of the notice of refusal to close ~~the claim;~~

~~(C)~~ ~~of~~ The right to be represented by an attorney; and

~~(D)~~ ~~of such~~ Any other information as the director may require.

~~(e)~~ (e) If a worker, a worker's beneficiary, an insurer or a self-insured employer objects to the notice of closure, the objecting party first must request reconsideration by the director under this section. A worker's request for reconsideration must be made within 60 days of the date of the notice of closure. If the worker is deceased at the time the notice of closure is issued, a request for reconsideration by a beneficiary of the worker who was mailed a copy of the notice of closure under paragraph (b) of this subsection must be made within 60 days of the date of the notice of closure. A request for reconsideration by a beneficiary to the estate of a deceased worker who was not mailed a copy of the notice of closure under paragraph (b) of this subsection must be made within one year of the date the notice of closure was mailed to the estate of the worker under paragraph (b) of this subsection. A request for reconsideration by an insurer or self-insured employer may be based only on disagreement with the findings used to rate impairment and must be made within seven days of the date of the notice of closure.

...
(6)(a) Notwithstanding any other provision of law, only one reconsideration proceeding may be held on each notice of closure. At the reconsideration proceeding:

(A) A deposition arranged by the worker, limited to the testimony and cross-examination of the worker about the worker's condition at the time of claim closure, shall become part of the reconsideration record. The deposition must be conducted subject to the opportunity for cross-examination by the insurer or self-insured employer and in accordance with rules adopted by the director. The cost of the court reporter, interpreter services, if necessary, and one original of the transcript of the deposition for the Department of Consumer and Business Services and one copy of the transcript of the deposition for each party shall be paid by the insurer or self-insured employer. The reconsideration proceeding may not be postponed to receive a deposition taken under this subparagraph. A deposition taken in accordance with this subparagraph may be received as evidence at a hearing even if the deposition is not prepared in time for use in the reconsideration proceeding.

...
(e) The period for completing the reconsideration proceeding described in paragraph (d) of this subsection begins upon receipt by the director of a worker's or a beneficiary's request for reconsideration pursuant to subsection ~~(5)(e)~~ (5)(e) of this section. If the insurer or self-insured employer requests reconsideration, the period for reconsideration begins upon the earlier of the date of the request for reconsideration by the worker; or beneficiary, the date of receipt of a waiver from the worker or beneficiary of the right to request reconsideration or the date of expiration of the right of the worker or beneficiary to request reconsideration. If a party elects not to file a separate request for reconsideration, the party does not waive the right to fully participate in the reconsideration proceeding, including the right to proceed with the reconsideration if the initiating party withdraws the request for reconsideration.

...
656.218 Continuance of permanent partial disability payments to survivors; effect of death prior to final claim disposition.

...
(3) If the worker has filed a request for a hearing pursuant to ORS 656.283 or a request for reconsideration pursuant to ORS 656.268 and death occurs prior to the final disposition of the request, the persons described in subsection (5) of this section shall be entitled to pursue the matter to final determination of all issues presented by the request ~~for hearing.~~

(4) If the worker dies before filing a request for hearing or a request for reconsideration, the persons described in subsection (5) of this section shall be entitled to file a request for hearing or a request for reconsideration and to pursue the matter to final determination as to all issues presented by the request ~~for hearing.~~

...

The following section contains monthly updates on significant legislative activity, judicial decisions, and regulatory committee activity that may impact the workers compensation system and will be included in the report the first week of every month throughout the year:

FEDERAL ISSUES

Issue	Update
Congress	After returning from recess in early April, Congress will be in session until the Memorial Day holiday. Significant attention continues to be placed on the early stages of the appropriation process as well as issues related to national security.
USDOL Office of Workers' Compensation Programs	<p>Leonard J. Howie III has been named director for the Office of Workers' Compensation Programs (OWCP) within the United States Department of Labor.</p> <p>Before joining OWCP, Howie served as secretary of the Maryland Department of Labor, Licensing and Regulation (DLLR). In that role, he focused on DLLR's core programs such as wage and hour programs and those related to workforce development, unemployment insurance, occupational safety and health, and adult education. He previously served as deputy secretary for operations at the Maryland Department of Human Resources, and spent four and a half years as DLLR's deputy secretary after serving a brief tenure as its commissioner of the Division of Occupational and Professional Licensing.</p>
Social Security Disability Insurance Reform	<p>Discussions have begun in earnest on public policy approaches to ensuring the long-term solvency of the Social Security Disability Insurance (SSDI) trust funds. Slated to become insolvent in 2016, SSDI provides benefits to individuals who are unable to work due to illness or injury for more than a year, or because their condition is likely to result in death.</p> <p>A proposal that is gaining traction on Capitol Hill would allow for a portion of tax receipts from the Old-Age and Survivors Insurance Trust Fund (commonly referred to as OASI or Social Security) to be transferred to the SSDI Trust Fund. It is anticipated that such an approach would allow for the solvency of both trust funds for more than a decade.</p> <p>Leadership in the House has indicated that addressing the pending SSDI insolvency through a reallocation of taxes would not occur unless significant reforms to the program were included. Such program reforms could include introducing return-to-work requirements, improving physician selection, and curbing fraud within the SSDI program.</p> <p>There does not appear to be any momentum to remove the grandfathered status of the states that still have a reverse workers compensation offset as part of the reforms.</p>
Medicare	<p>Congress is close to an agreement that would provide a permanent solution to the reimbursement method for physicians providing care to Medicare beneficiaries. Since 1997, a process known as the Supplemental Growth Rate (SGR) formula has been utilized to determine physician reimbursement. This formula was intended to be a temporary approach, but Congress has enacted 14 short-term extensions over the last 17 years.</p> <p>The legislation, H.R. 2—the Medicare Access and CHIP Reauthorization Act—will impact the Medicare Fee Schedule and, as such, could have an impact on workers compensation reimbursements in states that have based fee schedules on Medicare.</p> <p>Additionally, the SGR legislation does not include a provision that would bring about long-sought reforms to the current Medicare set-aside (MSA) process. Policymakers indicated the issue would be more appropriately dealt with later in this Congressional session despite broad-based support for the MSA.</p>

The bills included in the following section have been filed, but have not yet passed the first chamber.

STATE LEGISLATIVE ACTIVITY

State	Update
Alaska	HB 114 increases the permanent partial impairment benefit from the current \$177,000 to \$255,854 and adds an estate benefit in the event of a work-related death where the decedent has no dependent survivors. <i>NCCI estimates that HB 114 would increase workers compensation system costs between +2.9% and +3.7%.</i>
Arkansas	HB 1768 restores subrogation rights for employers and their insurance carriers that have been eroded in case law. This measure also eliminates the Death and Permanent Total Disability (DPTP) Trust Fund liability for all claims occurring July 1, 2015, and subsequent. <i>NCCI estimates that HB 1768, if enacted, could increase Arkansas loss costs between 3.6% (\$10 million) and</i>

	<i>6.0% (\$16 million) in order to pre-fund for the portion of indemnity benefits that would no longer be the responsibility of the DPTD Trust Fund for injuries occurring on or after July 1, 2015.</i>
Connecticut	SB 1039 makes general contractors liable for their subcontractors' failure to pay wages or workers compensation benefits.
Illinois	<p>HB 2418 clarifies that an employee who is required to travel in connection with employment, and who suffers an injury while traveling, is eligible for workers compensation benefits only if the injury arises out of, and in the course of, employment while the employee is actively engaged in the duties of employment.</p> <p>HB 2419 provides for the computation of compensation when there are multiple employers and when there is less than full-time work.</p> <p>HB 2420 waives the requirement to pay temporary partial disability benefits to an employee who has been discharged for cause.</p> <p>HB 2421, HB 2748, and HB 2799 all deal with definition of the terms "accident" and "injury," providing that "injury" includes the aggravation of a pre-existing condition by an accident, but only for as long as the aggravation is the major contributing cause of injury.</p> <p>HB 2422 addresses computation of compensation when the employee had a previous injury that resulted in an award for partial disability. It permits the award for the current injury to the same portion of the body to be reduced by the amount of the previous award.</p> <p>HB 3467 permits, in the event of insolvency of the Injured Workers' Benefit Fund, an amount sufficient to make up the deficiency to be appropriated from the Workers' Compensation Commission Operations Fund, the Rate Adjustment Fund, the Settlement Fund, and the Second Injury Fund.</p> <p>HB 4099 provides for adjustment of the standard award formula for wage differential based on the type of employment, nature and extent of injuries, and age of the employee as it relates to the anticipated length of career in the usual and customary line of employment.</p> <p>SB 1283 establishes that injuries to the shoulder are deemed to be injuries to the arm, and injuries to the hip are deemed to be injuries to the leg.</p> <p>SB 1415 provides a rebuttable presumption of workers compensation coverage for firefighters, paramedics, and emergency medical technicians who develop Parkinson's disease.</p>
Missouri	<p>HB 145 deals with indemnity agreements for construction contracts and requires every party entering such contracts (as defined in the bill) to be responsible for any liability arising from the party's own negligence, wrongdoing, or recklessness. It prohibits the transfer, delegation or assigning of responsibility to another person. This would apply to contracts or agreements entered into after August 28, 2015.</p> <p>HB 1022/SB 470 allows casualty insurers to return or refund a portion of expense savings to an insured if the insured makes no reportable claim under specified coverages within a prescribed period of time.</p> <p>There are several bills under consideration that address operation and liabilities of transportation networking companies, including HB 781, HB 792, and SB 351.</p>
Nebraska	LB 133 amends the interest provisions on certain Workers Compensation Court awards.
Nevada	<p>SB 231 makes several changes to workers compensation law including:</p> <ul style="list-style-type: none"> • Limiting the amount charged for certain prescriptions • Revising the time allotted for making payment to medical providers • Denying benefits to an employee whose injury occurred while that employee was intoxicated or under the influence of a controlled or prohibited substance <p>SB 232 deals with subrogation rights for certain payments made for the treatment of an injured employee. It also provides an employee with one year to file to reopen a claim if benefits were not received for a temporary total or permanent partial disability, and prohibits compensation for any portion of an injury that is based on a combined permanent partial disability rating that exceeds 100%.</p>
Oregon	SB 649 aims to return to the historical definitions of compensable injury and pre-existing injury that were shaken up by recent court cases (<i>Schleiss v. SAIF</i> and <i>Brown v. SAIF</i>).
Texas	HB 3652 creates an additional \$100,000 death benefit to the beneficiary of a state militia member killed on duty or traveling to and from the duty location.

	<p>HB 4118 requires employers who choose not to purchase workers compensation insurance from a carrier to provide benefits through a “qualified benefit plan” with the same forms of benefits included in the Workers Compensation Act. The measure establishes that a violation of this requirement would be a criminal offense.</p> <p>SB 653 increases the benefit for burial from \$6,000 to \$10,000.</p>
Vermont	<p>HB 273 creates a program for employers to voluntarily adopt a drug-free workplace program that will entitle them to a 5% discount on workers compensation premiums.</p> <p>HB 331 provides that a person shall not be considered the employer (for workers compensation purposes) of a sole proprietor, partner owner of an unincorporated business, or an exempt officer of a corporation or limited liability company if that person contracts with the business.</p> <p>HB 332 gives the Department of Labor and its investigators the right to enter an employer’s premises for the purpose of investigating employee misclassification with respect to workers compensation. It also proposes a study on the effectiveness of the screening process for vocational rehabilitation benefits.</p>

OTHER ITEMS OF INTEREST

State	Update
Connecticut	In the case of <i>Caraballo v. Electric Boat Corp</i> , the state supreme court ruled that an employer’s liability for hospital services must be determined using the filed rates that a hospital is required to charge ‘any payer’ unless the employer has negotiated an agreement with the hospital for a reduced rate.
Oklahoma	The state supreme court has scheduled oral arguments for April 15, 2015, in the case of <i>Pilkington et al. v. State of Oklahoma et al.</i> , to hear a constitutional challenge to the opt-out provisions of the Employee Injury Benefit Act.

Contact Information

If you have any questions about the legislation or proposals mentioned, please contact the appropriate NCCI state relations executive (listed below) or a representative of your local insurance trade association.

State	State Relations Executive	Phone Number
CT, ME, NH, RI ,VT	Laura Backus Hall	802-454-1800
FL, IA	Chris Bailey	850-322-4047
AL, GA, KY, LA, MS	Cathy Booth	205-655-2699
AZ, CO, NM, NV, UT	Maggie Karpuk	818-707-8374
DC, MD, VA, WV	David Benedict	804-380-3005
AK, HI	Carolyn Pearl	808-524-6239
IN, NC, SC, TN	Amy Quinn	803-356-0851
AR, IL, KS, TX	Terri Robinson	501-333-2835
ID, MT, OR	Mike Taylor	503-892-1858
MO, NE, OK, SD	Carla Townsend	314-843-4001
Federal Issues	Tim Tucker	202-403-8526

This report is informational and is not intended to provide an interpretation of state and federal legislation.