

NATIONAL COUNCIL OF INSURANCE LEGISLATORS
WORKERS' COMPENSATION INSURANCE COMMITTEE
2025 NCOIL ANNUAL MEETING – ATLANTA, GEORGIA
NOVEMBER 13, 2025
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Workers' Compensation Insurance Committee met at the Whitley Hotel in Atlanta, Georgia on Thursday, November 13, 2025 at 2:15 p.m.

South Carolina Representative Carl Anderson, Chair of the Committee, presided.

Other members of the Committee present were:

Sen. Justin Boyd (AR)	Sen. Jerry Klein (ND)
Sen. Larry Walker (GA)	Rep. Brian Lampton (OH)
Rep. Matt Lehman (IN)	Sen. George Lang (OH)
Rep. Mike Clines (KY)	Rep. Mark Tedford (OK)
Del. Mike Rogers (MD)	Rep. Tom Oliverson, M.D. (TX)
Sen. Lana Theis (MI)	Del. Walter Hall (WV)
Sen. Paul Utke (MN)	

Other legislators present were:

Rep. Carolyn Hall (AK)	Sen. Tim McGough (NH)
Rep. Elizabeth Wilson (IA)	Asw. Catalina Cruz (NY)
Rep. Camille Lilly (IL)	Sen. Pam Helming (NY)
Rep. Daniel Grossberg (KY)	Rep. Ellyn Hefner (OK)
Rep. Shaun Mena (LA)	Rep. Greg Scott (PA)
Rep. Robert Foley (ME)	Rep. Matthew Morgan (TX)
Sen. Jeff Howe (MN)	Rep. Trey Wharton (TX)
Rep. Garland Pierce (NC)	Rep. Cal Roberts (UT)
Sen. Jeff Barta (ND)	Sen. Mary Felzkowski (WI)
Sen. Bill Gannon (NH)	Sen. Cale Case (WY)

Also in attendance were:

Will Melofchik, NCOIL CEO
Anne Kennedy, NCOIL General Counsel
Pat Gilbert, Director of Policy, Administration & Member Services, NCOIL Support Services, LLC

QUORUM

Upon a Motion made by Sen. Justin Boyd (AR) and seconded by Sen. Lana Theis (MI), the Committee voted without objection by way of a voice vote to waive the quorum requirement.

MINUTES

Upon a Motion made by Sen. George Lang (OH) and seconded by Del. Mike Rogers (MD), the Committee voted without objection by way of a voice vote to adopt the minutes of the Committee's July 18, 2025 meeting.

PRESENTATION FROM THE DISABILITY MANAGEMENT EMPLOYER COALITION (DMEC)

Dina Klimkina, on behalf of DMEC, thanked the Committee for the opportunity to speak and share a little bit about the national landscape of leave and absence management. Before I start, I'd like to share a little bit about DMEC. We're the only national organization that provides education resources and a professional community for those managing employee leave and accommodations as well as return-to-work programs. Our membership spans public and private sector employers, including state agencies and more than 20,000 practitioners across the U.S. and Canada. So, it's a large coalition of employers. If you don't know about DMEC already, we're excited to introduce ourselves because right now paid leave is rapidly evolving and we'd like to be here as a key resource for you and the policymakers in your states. Our offerings include expert guidance on complicated topics such as federal, state, and local leave laws, curated resources such as policy briefs, webinars, and legislative updates. We recently released a white paper on artificial intelligence as well as a policy guide, for example. We also have a community of practice where you can exchange information and share resources among states, as well as special events featuring legal experts and targeted trainings. So, now I'll dive more into the meat of the presentation to really clarify things about leave. Let's talk about the terms "leave" and "time off" since they are very different. Time off refers to planned or unplanned time away from work. These are generally short in duration, being 6 vacation or personal days, whereas in contrast, leave is an approved period of extended absence from work for a specific reason and these can be categorized into two different types, paid and unpaid leave. Paid leave ensures employees receive all or part of their wages during an absence, which can include the items on the left, such as paid medical leave, family leave, paid family and medical leave, and paid sick leave. And then unpaid leave provides job-protected wages, though some benefits such as insurance may still apply. And I'll catch this in the Family and Medical Leave Act (FMLA) which guarantees workers the right to take up to 12 weeks of job-protected, unpaid leave each year, and eligible employees may take up to 26 weeks of leave in a 12-month period.

All that to say, an estimated 40% of U.S. employees are currently not eligible for paid leave or unpaid leave due to employer size, tenure, or employment status. So, this is somebody who's in an organization of less than 15 individuals or maybe has not been with their employer for a year, things like that. And the structure and availability of leave can really influence work stability, employee well-being, employers' ability to attract and retain talent. Research suggests that paid family and medical leave may be associated with higher employment rates for new mothers and family caregivers, improved earnings for new parents, and improved health outcomes, which is relevant to the maternal mortality discussion you had this morning, and lower costs compared to other types of leave programs. To the national landscape, as of 2025, 13 states and the District of Columbia have their own paid family or medical leave systems, and these policies can really vary in specifics, such as statutory duration, benefit amount, and job protection. The vast majority of them offer a maximum of 12 weeks of paid leave, and this is the case in Colorado, Connecticut, Delaware. Starting in 2026, D.C., Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oregon, and Washington. And then 16 states plus D.C. have extended unpaid job-protected leave beyond the 12-week FMLA requirement. D.C. also offers up to 16 weeks of unpaid family leave. Massachusetts allows up to 26 weeks for parental or military leave. And 5 states California, Hawaii, New Jersey, New York, Rhode Island have mandatory statutory disability insurance (SDI). Additionally, about 10

states: Alabama, Arkansas, Florida, Kentucky, New Hampshire, Tennessee, Texas, Virginia, and Vermont have the legal provision to provide benefits via the private insurance market.

So, that was a lot of data that I just threw at you, but really what I want to emphasize is that the landscape of leave policies is complicated and dynamic. There are over 30 different configurations of leave that states can have. For us, we think it's essential that states work together and coordinate and collaborate so that there's a more even distribution and they have to abide by fewer regulations. Now I'd like to highlight some state leave trends that we've seen over the past year. Recent developments really reflect a shift toward broader coverage, improved benefit design, and expanded eligibility criteria. These trends include expansion of paid parental leave, leave for non-traditional events, benefits and wage replacements, and leave eligibility including defining family members. Over the past decade, state legislators have really significantly expanded their focus on paid family leave, and in fact, lawmakers in over 44 states have introduced more than 300 measures related to paid leave, reflecting the growing bipartisan recognition of its importance to workforce participation, economic stability, and employer competitiveness. Alabama, Arkansas, Colorado, Illinois, Iowa, Mississippi, and New Hampshire that I've highlighted on the screen have passed legislation expanding paid or unpaid parental leave this year. For example, Alabama enacted legislation providing paid parental leave for state employees and employees of education agencies, and since the slide was put together, my home state of Kentucky did so as well. Next, states are also implementing leave for non-traditional events, so it's been interesting to watch this expansion. Arkansas, Connecticut, Illinois, Oregon, Rhode Island, and Vermont have enacted or operationalized policy expanding leave for non-traditional events such as blood donation, caregiving, death of a family member or child, mental health, military funeral leave, reproductive health care decisions, safe leave, harassment, and domestic leave. A good example is Connecticut HB 5005, which expanded sick leave to cover bereavement, domestic violence, and caregiving.

Other states have advanced policies related to benefits and wage replacement, so for instance, California, Delaware, Missouri, New Jersey, New York, Rhode Island, and Washington have revised contribution rates, increased benefit caps, and introduced progressive wage replacement to better support low and middle-income workers. And lastly, many states are defining family in new ways. Connecticut, Montana, New Jersey, North Dakota, and Texas have all amended their state laws regarding leave eligibility, and some states have added leave benefits for employees holding public office or those who act as volunteer service providers, while others have expanded the definition of what a family member might be. For example, in Maryland, they expanded leave eligibility to include chosen family which covers non-biological care giving relationships. And then Texas established paid leave of absence for public employees classified as fire protection personnel, and Montana had similar legislation as well. So, what is next? As we look at the landscape of paid leave, there's a few emerging trends. We've been focused on developing a policy framework to help guide states in their efforts around expanding leave or really modifying or making it more suited to their state's needs. The large trends that we've seen are interstate leave coordination. As I mentioned, the patchwork approach is really robust, and we want to see states collaborating and coordinating with one another. The impacts of artificial intelligence in state leave, how are companies safely and effectively using new technology? Stay at work, return to work, which promotes policies that help employees stay connected to the workplace.

We know that an individual, if they're out for longer than 8 to 12 weeks, their likelihood of returning to work is reduced by 50%. So, we definitely want to make sure that there's policy options to help those people return to their job or to maybe an alternative work arrangement.

And mental health. So many states are strengthening coverage and workplace supports to address growing mental health needs. And this is in rural communities and urban communities and beyond, and ranges from expanding the behavioral health workforce to generally improving access. We have published a policy blueprint which offers practical employer field-tested insights that support collaboration between states, employers, and the broader workforce community. So, we'd like to share a few of our resources. We have a lot of paid leave resources, state and local leave law maps, paid sick leave updates, legislative updates. We have a lot of policy resources, and we are offering everyone here a free policymaker account to the DMEC resources. So, we'd love to talk to you and see how we can best support you. We just want to emphasize that DMEC is a resource, so we are happy to provide free information and technical assistance on anything and everything that we've discussed today. So please reach out. We'd love to support you in your work. Please feel free to contact partners@DMEC.org or contact our CEO, Bryon Bass, or feel free to speak to me, and I'll give you a card. We are looking forward to working with all of you.

Sen. George Lang (OH) asked who's going to pay for all these enhanced programs? Ms. Klimkina stated I believe that the states that are passing legislation have them in their budget. So, for the majority of states that have provided state leave, I think that's in their budget and it's really just providing them to their state employees. Sen. Lang stated so, in those states, it's the taxpayer? Ms. Klimkina responded yes.

Rep. Anderson thanked Ms. Klimkina and stated we really appreciate you being here and providing us with this information. We look forward to working with you and getting everything from you so that we can carry it back and deal with our various states.

CONTINUED DISCUSSION AND CONSIDERATION OF THE NCOIL EXPERIENCE RATING MODIFICATION MODEL ACT

Rep. Anderson stated we will next continue the discussion and consider the NCOIL Experience Rating Modification Model Act sponsored by Rep. Matt Lehman (IN).

Rep. Lehman stated we went into this I think with two goals. One was my concern that the insured who was part of a third party claim would be hit with an experience modification on their workers' comp that then once subrogation was completed it made the insurance company whole, but the insured was never made whole with their additional cost from that experience mod. My initial proposal was to put that into the system itself and have the carriers recalculate, etc. There are a few technicalities on that that could be problematic. I think the solution we came to finally was giving them access as part of the subrogation claim. So, if the carrier is going to subrogate for their loss, they can now include my additional cost as my premium as part of the subrogation. So, I think it gets to our desire to give them a path forward to at least have the chance to access that lost money. The second part of this that was important to me was the bidding. We were seeing some situations where entities would prohibit a bid, even to submit a bid, based on your modification. Well, my modification was based on a third-party claim. I had nothing to do with that. I was being adversely kept out of the process. So, what we did is we said you have to allow them to be a part of the process. You can take into consideration their modification when you award a bid, but you can't prohibit them from participating. So, that has basically stayed the same, and then we tweaked the first part of the Model to talking about the experience modification and recouping their lost premium, and I think through the subrogation process is a good compromise and a good path. So, the way the Model is with those changes, I'm very supportive.

Rep. Anderson thanked Rep. Lehman and stated that as a reminder, this Model was introduced at our Spring Meeting and we had a good further discussion at our Summer Meeting. Since then, as just noted by Rep. Lehman, he has made some changes to the Model in response to feedback, and I think it's in a good place to be voted on at this Meeting.

Paul Martin, Vice President of State Affairs at the National Association of Mutual Insurance Companies (NAMIC) thanked the Committee for the opportunity to speak and stated that Rep. Lehman asked me in Chicago if there was ever a Model that NAMIC would come to the table and say, "it's a great model, it's a perfect model, and you should all vote for it." And I'm going to say that today. It's a great model, it's a perfect model, and you should all vote for it. The changes that Rep. Lehman has accepted are, in fact, the current law in the state of Minnesota and have been the law for over 20 years. We think it strikes a really good balance between the needs of the insurers to pursue subrogation as well as to give the employer the ability to recoup that amount of money that they're having to pay as part of the modification. So, we think this addresses everyone's concerns. It's been tested. It works well in Minnesota. We have no reason to think it won't work well in your states too. Rep. Lehman, thank you for working with us and hearing us out, and we're very appreciative of the opportunity.

Joe Roth, Assistant Vice President of State Govt' Relations at the American Property & Casualty Insurance Association (APCIA), thanked the Committee for the opportunity to speak and stated I agree with Mr. Martin's comments. APCIA is pleased with this new approach and appreciative to Rep. Lehman for his continued work on finding solutions to the problems.

Rep. Mark Tedford (OK) stated it says in Section 3(A) that a party may not prohibit an employer from bidding on a contract solely on the basis of experience rating. So, you're saying this is current law in your state, and I'm curious how that's played out there. Mr. Martin stated I need to go back and look and see if it's worded exactly that way in Minnesota. The language we're talking about in Minnesota is really that language about giving the employer the ability to pursue the e-modification, whatever that delta is. In talking with our members, when I first read that provision, I thought this is problematic. But when we talk to our member companies who write the product, they say that's actually a good piece of the model to have. So, I think it addresses Rep. Lehman's concerns, and our members think that's a good piece of public policy as well.

Hearing no further questions or comments, upon a motion made by Rep. Brian Lampton (OH) and seconded by Rep. Tedford, the Committee voted without objection via a voice vote to adopt the Model. Rep. Anderson thanked everyone and stated that the Model will now be placed on the Executive Committee's agenda for final ratification.

PRESENTATION ON ARTIFICIAL INTELLIGENCE (AI) IN WORKERS' COMPENSATION: AN OVERVIEW OF PROMISES AND CHALLENGES

Sebastian Negrusa, Vice President of Research at the Workers' Compensation Research Institute (WCRI) thanked the Committee for the opportunity to speak and stated that WCRI is an independent research organization focusing on public policy issues that are of interest for the workers' compensation sphere. We provide research and analyses that are objective. We do not make recommendations. We do not take positions, and we benefit from a very diverse membership support, including government agencies, employers, insurers, labor advocates, and so on. Talking about AI, my brief presentation today will be a summary of a study that we published a few months ago at WCRI focused on exactly this topic, AI in workers' compensation. The way we approached this topic was in the form of stakeholder interviews. That was the centerpiece of this study. We had 34 semi-structured interviews with stakeholders

from workers' compensation including regulators, insurers, employers, labor advocates, and attorneys. The crucial questions that we asked were what type of AI are you using? Let's make sure we talk about the same thing. What is the benefit of the new AI tools you are using in your organization? What are the challenges? What are the risks? What are the threats that come with the adoption of new AI tools? And not least, what have been the best practices you already put in place or you follow, and what is the oversight that you have from regulatory bodies? So, starting with the first question, the answer is fairly simple. It's really generative AI. That's what our stakeholders told us. We're talking about tools like ChatGPT that came to the market in November 2022. That doesn't mean that the stakeholders that we talked to did not stop using analytic AI, which would be machine learning, predictive analytics, voice recognition, natural language processing. Those are still in place and being used but they are nothing compared to the large language models, LLMs, that are the basis of tools like ChatGPT. So, you see also what the future might hold. We're not there yet, the genetic AI and artificial general intelligence. We may or may not go there, but my presentation and the study from which this presentation comes from did not deal with those kind of future potential AI applications.

So, the next question, and perhaps one of the most important questions that we addressed in our interviews with our stakeholders was what is the value of these generative AI tools? And we received a lot of very nuanced, very refined, very detailed answers, and assessments and opinions, that we crystallized into these four categories. An optimization of the claims processing, an improvement in the medical treatment that is provided to injured workers - the ultimate beneficiary of the workers' comp systems - a better way to comply with the legal requirements of the workers' compensation systems, and not least, a better way to assess injury risk and prevent injuries at the workplace. So, let's dive a bit deeper into how exactly claims processing has been improved or will continue to be improved with the help of AI. Given that the large language models are very good at systematizing and summarizing structured but especially unstructured data, this was front and center as being one of the benefits and one of the uses of generative AI in the industry. Summarization of mountains of data that sometimes and often accompany workers' compensation claims. Then another way that led to and that can continue to lead to improvements in the processing of claims was through adopting AI in critical points in the workflow and you see here some examples that that have been told that our stakeholders have been telling us have been already applied and will continue to be adopted increasingly going forward.

Also, once systematization of the documentation, if summarization and workflow get to be streamlined, then that frees up some resources and our stakeholders told us that those additional resources have been used to further enhance communication with the injured worker and communications between the insurers and the employers. Not only was that communication enhanced, but communication, according to our stakeholders, was improved with the help of AI tools themselves. You see here some examples that AI tools increased the level of communication with the injured worker, including even language translation, and better summarizations of medical records, medical information, clinical data, and so on. Speaking about improvements in the way medical treatments are being delivered to injured workers, predicting recovery trajectory, that is one very beneficial use of AI that our stakeholders mentioned to us and given that the workers' comp system is not only about delivery of benefits, that, of course, is important, but it's a system that has a lot of regulations, and they vary from state to state. Our stakeholders mentioned to us that they have been using AI to make sure they are compliant with the regulations, and they keep track of various deadlines, notifications, and so on. State regulators mentioned to us that they use AI to better track trends and monitor compliance issues much better than in the past. And not least,

claimant attorneys did bring up to us that AI is a very useful tool for creating legal arguments and researching past cases.

And in terms of preventing and assessing risk and preventing injuries, this is something that employers and insurers in workers' compensation have been working on quite successfully in the last few years through wearable devices that would allow both an employer as well as an insurer, to monitor injury risks in real time. AI is taking everything to the next level. This kind of information is not only providing real-time monitoring but also is analyzed by AI and risks are assessed even better and even in the case of conditional on an injury occurring, the readiness of the return to work for the injured worker is better assessed with the help of AI tools. So, there are a lot of benefits but with benefits come challenges, threats and potential issues and here are a few and they are quite intuitive as everybody is talking about how AI in general can bring a lot of good but a lot of potentially problematic situations as well and they refer in essence to potential biases, discrimination, lack of data protection. You're dealing with a robot, ultimately, and from the perspective of the injured worker, there's a lack of empathy and that can, of course, be a problem for the recovery of the injured worker. And the garbage in, garbage out criterion applies in the case of generative AI as well. These tools are only as good as the input you're providing them with and sometimes even if the input is good, the output can still be bad if the algorithms are not accurate enough, or they're not precise, or good enough. You see here some ways in which the stakeholders we interviewed are dealing already with these kinds of situations, and they follow a number of principles that have already been established back in 2020 by the National Association of Insurance Commissioners (NAIC). What we also heard through our interviews was that some of the organizations that we interviewed already have internal committees making sure that when they adopt AI tools, they abide by these principles of safety, consumer-centric, making sure they don't hurt the injured worker, and so on. And they also have even third-party auditors to make sure that they do comply with these principles.

There's also an emerging body of legislation, and you see here some examples. These are not examples of legislation that applies specifically to AI and workers' compensation. It's regulations and standards and guardrails that apply to the use of AI in insurance in general. You can see that there's a lot of mention about claim denials, making sure they're not just done by a machine. A human always needs to be involved, like in the case of the Senate bill from Florida that's up on the slide. There also has been interest in making sure discrimination is reduced as much as possible. Various safeguards and whistleblower protections, and so on. So, there's a lot of interest and there's, of course, a lot of efforts that are now put into making sure there is proper AI oversight. But given that the evolution of AI tools, generative AI tools, is so fast, it is likely that legislators are going to continue to play catch up with AI-related legislation. So, what our stakeholders suggested to us was that going forward, it will be important to look at litigation cases around the use of AI as those cases might define the contour of AI use in the future. Challenges, of course, will be important to untangle and those challenges include the black box nature of some of these algorithms. It's hard to identify where things go wrong, where biases are generated, where inaccuracies occur, where malfunctions start, and so on. There continues to be a concern with respect to fairness and equity that sometimes these tools do not have, or they do not have it by default. So, this is really a highlight of our findings. There are a lot of beneficial uses of AI in the industry. We're talking about generative AI tools, and they have been already interspersed in all places of claims processing and delivery of medical care to injured workers but there are challenges in adopting AI tools within organizations and those pertain to organization specific challenges, change in management and technical solutions and so on. But there are also a lot of challenges with respect to the fairness of these models and for the legal and regulatory gap that might still exist.

Rep. Lehman stated I serve on our AI task force in Indiana and I kind of ask this of everyone. As more of this is falling to data collection and that kind of thing, I've always said when it becomes front-facing to where it's connecting with the people, should there be some disclosure that the information was AI-generated? Because they did a demonstration where the person was actually having a conversation with a person, and the person was an artificial human being, which doesn't exist. And they asked the question, are you a human being? And she laughed. You would never know without it being disclosed. So, should these things that are going to be used more and more, if they become front-facing to the client or to the patient or whoever in the work comp space, should that be disclosed prior to the information being provided? Mr. Negrusa stated I can speak from the perspective of our study. As an independent research organization, we do not make these kind of recommendations, but what we heard in these interviews was that definitely should be the case, that there should be an awareness and the transparency to the injured worker, to the ultimate beneficiary of the system, that some of these outputs, both in the conversation or in the care that's being delivered or in the communication to the injured worker, should be clarified as being coming from AI or with assistance of AI or without the assistance of AI. So, there's definitely this kind of concern that we perceived when we were conducting these interviews.

DISCUSSION ON DEVELOPMENTS IN THE GEORGIA WORK COMP MARKETPLACE

Ben Vinson, Chairman and Chief Appellate Judge of the Georgia State Board of Workers' Compensation, thanked the Committee for the opportunity to speak and stated that our main office is here in Atlanta, but we have 6 regional offices across the state. I'll give you a little overview of how it works, who we are, what we do, and then I might even talk about a couple of legislative issues. As Rep. Anderson said, I'm the Chairman and Chief Appellate Judge, and I sit on a three-judge panel. You're at the appellate level, so you go to our trial division first. We have 12 trial court judges, four judges that are also in our alternative dispute resolution (ADR) divisions. We have 16 first-level judges. Then we've got three second-level judges. We're all appointed by the Governor to 4 year terms. I was first appointed in 2017, then reappointed in 2021 and made the Chairman that year, and then reappointed this year in May. We not only administer the whole system, we're essentially a state agency and only have 120 employees, but we have this kind of regulatory operational side of our jobs, but then we also have the judicial side, so it's a really a good setup. Our goal is to keep the system stable and balanced in Georgia. We have a really good system, and my job is just to not mess it up, so here's essentially what we do. Every year, we have around 300,000 employers in Georgia, and about 5 million employees. We essentially help the administration of transferring about \$1.7 billion dollars a year from the employer insurer side over to the injured worker side so those are kind of the numbers that we're looking at here in Georgia that's what we do so the whole agency is set up to help that process to make it smooth and efficient as when you're an injured worker you need to get medical and then you need to get back to work. We help both sides and we do it equally and we try to be responsive to the employers and employees in Georgia.

A couple of trends that we're seeing lately, we are seeing an increase in settlements and an increase in mediations in all of our cases. Let me back up one second. Every year there's about 110,000 claims that are filed in Georgia. So, every 110,000 claims, we're whittling that down. Most of them are very simple and resolved between the parties, but the ones where there's friction and there's litigation, we are seeing a lot of those go to through mediation and we have our own mediation division. You can also use a private sector mediator, but we're seeing an increase that started about 3 years ago. We saw a spike go up in our settlements and it's corresponding. We're seeing a decrease in our hearings and a decrease in our appeals. We're staffing up on our mediations division. We're staffing up in our settlements division to kind of

react to what's going on in the sector. Every year, we promulgate our fee schedule. We put it out at the beginning of April. So, April 1st, we spend a lot of time working on that to make sure that we've got good doctors and good providers in the system but then we also don't have out-of-control cost. It's a balancing act. We take a lot of input on that every year and focus on it. That's a big part of what we do, kind of the administration side of the job. We also have the ability to promulgate rules and regulations. We have really an ongoing all-year process, but we try to get those rules out on July 1 every year. Real quick, to talk about our rules and medical and other things we do, I want to make sure you understand we have an advisory council in Georgia. It was created about 30 years ago. It was created because of a huge firefight that occurred at the Georgia Capitol between employers and injured workers and labor. It was a major disruption.

There were some leaders at the Capitol at the time who decided that it would be a better approach and a better system if the workers' comp stakeholders could just gather together every year and talk things out and then come back to the Capitol with consensus proposals and try to work out our own problems, basically. So, we are dedicated to doing that. It's about 90 members that are on the advisory council. I appoint them, and there are people that have been there forever and people that are new, and I rotate them out every year. We have seven different committees, so we just met in October and had our big advisory council meeting, but we meet with them and talk to them all year long. I think it's a great tool that we have and helpful to me in my job to help with policy. And then the legal issues that we're looking at. Just talking about that, one of the things that the advisory council does, they really help us vet legislative issues. I'm going to touch on two issues that have emerged recently in the last legislative session. One of them involves Professional Employer Organizations (PEOs), and I know that you have a Model Act on that and I think the issue's probably not new to many of you, but going back several years ago, I actually authored an opinion in a court case and we all held a PEO liable in a case where an injured worker essentially fell through the coverage crack. It was a pretty bad factual situation, and so we used a statutory employer scheme and held a PEO liable, where that PEO was trying to not be liable because of the terms of their agreement.

So, since then, there have been a couple different efforts at the Capitol by the PEOs to allow Georgia law to change so that they would be able to control their liability by contract. Essentially, the advisory council studied it. There's a bill that's pending in the Georgia Senate right now. It's House Bill 250. It passed from the House, went to the Senate. That bill was looked at by my advisory council, and of all the people that are involved in workers' comp, they evaluated it, and they suggested to me there are probably more concerns than benefits with that bill. There's a lot of it that would probably be a good thing no matter what, but there are a couple provisions that really penetrate that premise that you should have full and complete coverage in workers' comp. That's why the system works, is that you don't have people that fall through the coverage crack. Once you have full coverage and everybody knows what you're supposed to do, then the system should work efficiently and properly. I do think there are some systemic concerns, and I know that debate is going to continue as you go into the next legislative session.

And then there's another issue that's emerged that I find interesting and it involves longshoremen. As you may have read, the Georgia Ports Authority has been coming on strong the last several years, going back the last 10 to 20 years. As the port continues to grow, there are more longshoremen that are working on the Georgia coast, and there are more injuries that occur. So, Georgia is currently a concurrent jurisdiction state. An injured longshoreman can file a federal claim and a state claim at the same time and pursue both. Both systems have an offset, so you can't actually get double your temporary total disability (TTD) or double recovery

at the same time. One would be subtracted from the other one. But you can kind of use both systems simultaneously, and very good lawyers know how to do that. And so there is a bill pending in the House and in the Senate, that would move us from concurrent jurisdiction to exclusive federal jurisdiction. So, in that case, an injured longshoreman would only be able to file under the Federal Longshore Act. There are different ways to look at it. It's kind of a debate between the labor side and the employer side. In this case, it's a particular very large employer at the Georgia coast. But we studied it in advisory council and have a pretty good white paper to explain the issue. I think I'm just going to be able to respond to the members of the General Assembly. If they want to know more about it, I'll tell them all that I know and how it works, and then they will be able to make a policy call on that bill. But I think it's very interesting.

Finally, the mod factor discussion you had earlier - we have subrogation in Georgia and it's a consistent issue. We hear about it from the employer insurer side in particular. I've seen studies that show that Georgia is the most draconian state in the nation. It's kind of the toughest to use subrogation to recover once you've paid out on a workers' comp claim. So, there's always interest in Georgia about what can we do, and I have heard some discussions very recently about the mod factor and the experience rating and how you might be able to alter that. So, it's a very tough topic. I'm glad that I was here today to hear that and we are going to continue that discussion. Thank you so much for having me. We have a great system in Georgia. We have great people that work at the State Board, and I look forward to working with the members of the General Assembly going forward.

ADJOURNMENT

Hearing no further business, upon a motion made by Rep. Lehman and seconded by Del. Walter Hall (WV), the Committee adjourned at 3:30 p.m.