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SENATE FILE 2068

By DRAKE and ROBINSON

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
 Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to workers' compensation by exempting certain  
 2 families of farm partnerships from coverage, recomputing  
 3 minimum benefits, creating benefits for temporary partial  
 4 disability, redefining the healing period, revising the  
 5 compensation rate for volunteer firemen, allowing compensable  
 6 medical care outside Iowa, increasing the rate of interest  
 7 to seven percent on certain payments, updating the definition  
 8 of payroll taxes, increasing the size of the second injury  
 9 fund, providing prompt payment of valid, but disputed-  
 10 liability, claims, and by changing all Code references to  
 11 worker or workers.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section eighty-five point one (85.1), subsection  
2 three (3), paragraph b, Code 1979, as the section is amended  
3 by Acts of the Sixty-eighth General Assembly, 1979 Session,  
4 chapter thirty (30), sections one (1) and two (2), is amended  
5 by adding the following new subparagraph:

6 NEW SUBPARAGRAPH. The spouse of a partner of a partnership  
7 and the parents, brothers, sisters, children and stepchildren  
8 of either a partner or the spouse of a partner, who are  
9 employed by the partnership and actually engaged in  
10 agricultural pursuits or operations immediately connected  
11 with the agricultural pursuits either on or off the premises  
12 of the partnership. For the purposes of this section,  
13 "partnership" includes partnerships, limited partnerships  
14 and joint ventures.

15 Sec. 2. Section eighty-five point one (85.1), subsection  
16 five (5), Code 1979, as the section is amended by Acts of  
17 the Sixty-eighth General Assembly, 1979 Session, chapter  
18 thirty (30), sections one (1) and two (2), is amended to read  
19 as follows:

20 5. Employers, including employers of employees engaged  
21 in any type of service in or about a private dwelling,  
22 employers of persons whose employment is of a casual nature  
23 and not for the purpose of the employer's trade or business,  
24 and employers of persons engaged in agriculture, may with  
25 respect to any such employee or person or classification of  
26 employees exempt by subsections 1, 2 and 4 and subsection  
27 3, paragraph "a" of this section from coverage provided by  
28 this chapter, other than any such employee or classification  
29 of employees with respect to whom a rule of liability or a  
30 method of compensation has been or may be established by the  
31 Congress of the United States, assume a liability for  
32 compensation imposed upon employers by this chapter for the  
33 benefit of employees within the coverage of this chapter.  
34 Employers of employees, persons or classifications of employees  
35 exempted by paragraph "b" of subsection 3 of this section

1 may also with respect to any such employee, person or  
2 classification of employees assume a liability for compensation  
3 imposed upon employers by this chapter by the purchase of  
4 valid workers' compensation insurance specifically including  
5 separate classifications for (a) such persons who are the  
6 spouse and parents, brothers, sisters, children and  
7 stepchildren of either the employer or his or her spouse,  
8 (b) persons engaged in exchanging labor and (c) the president,  
9 vice president, treasurer and secretary of a family farm  
10 corporation, their spouses and parents, brothers, sisters,  
11 children or stepchildren of such officers and their spouses  
12 and (d) the spouse of a partner of a partnership and the  
13 parents, brothers, sisters, children and stepchildren of  
14 either a partner or the spouse of a partner. The purchase  
15 of and acceptance by any such employer of valid workers'  
16 compensation insurance applicable to such employee or person  
17 or classification of employees shall constitute as to such  
18 employer an assumption by such employer of such liability  
19 without any further act on the part of such employer, but  
20 only with respect to such employee or person or such  
21 classification of employees as are within the coverage of  
22 the said workers' compensation insurance contract. Whenever  
23 under the provisions of this subsection an employer voluntarily  
24 elects to assume the liability for the payment of compensation  
25 to such employees or persons or such classification of  
26 employees by the purchase of valid workers' compensation  
27 insurance, the liability of such employer shall take effect  
28 and continue from the effective date of such workers'  
29 compensation insurance contract as long only as such insurance  
30 contract shall be in force. Upon such an election, such  
31 employee or person or classification of employees shall accept  
32 compensation in the manner provided by the chapter and the  
33 employer shall be relieved from any other liability for  
34 recovery of damage, or other compensation for such injury.

35 Sec. 3. Section eighty-five point thirty (85.30), Code

1 1979, is amended to read as follows:

2 85.30 MATURITY DATE AND INTEREST. Compensation payments  
3 shall be made each week beginning on the eleventh day after  
4 the injury, and each week thereafter during the period for  
5 which compensation is payable, and if not paid when due, there  
6 shall be added to such weekly compensation payments, interest  
7 at ~~six~~ seven percent from date of maturity.

8 Sec. 4. Section eighty-five point thirty-one (85.31),  
9 subsection one (1), unnumbered paragraph two (2), Code 1979,  
10 is amended to read as follows:

11 The weekly benefit amount shall not exceed a weekly benefit  
12 amount, rounded to the nearest dollar, equal to sixty-six  
13 and two-thirds percent of the ~~state~~ statewide average weekly  
14 wage paid employees as determined by the Iowa department of  
15 job service under the provisions of section 96.3 and in effect  
16 at the time of the injury, provided, that as of July 1, 1975;  
17 July 1, 1977; July 1, 1979; and July 1, 1981, the maximum  
18 weekly benefit amount rounded to the nearest dollar shall  
19 be increased so that it shall equal one hundred percent, one  
20 hundred thirty-three and one-third percent, one hundred sixty-  
21 six and two-thirds percent and two hundred percent,  
22 respectively, of the ~~state~~ statewide average weekly wage as  
23 determined above, ~~provided further, that such weekly~~  
24 ~~compensation shall not be less than thirty-six dollars per~~  
25 ~~week, except if at the time of his injury his earnings are~~  
26 ~~less than thirty-six dollars per week, then the weekly~~  
27 ~~compensation shall be a sum equal to the full amount of his~~  
28 ~~weekly earnings.~~ However, the minimum weekly benefit amount  
29 shall be equal to the weekly benefit amount of a person whose  
30 gross weekly earnings are thirty-five percent of the statewide  
31 average weekly wage, or to the spendable weekly earnings of  
32 the employee, whichever is less. Such compensation shall  
33 be in addition to the benefits provided by sections 85.27  
34 and 85.28.

35 Sec. 5. Section eighty-five point thirty-three (85.33),

1 Code 1979, is amended by striking the section and inserting  
2 in lieu thereof the following:

3 85.33 TEMPORARY TOTAL AND TEMPORARY PARTIAL DISABILITY.

4 1. Except as provided in subsection two (2) of this  
5 section, the employer shall pay to an employee for injury  
6 producing temporary total disability weekly compensation  
7 benefit payments, as provided in section eighty-five point  
8 thirty-two (85.32) of the Code, until the employee has returned  
9 to work or is medically capable of returning to employment  
10 substantially similar to the employment in which the employee  
11 was engaged at the time of injury, whichever occurs first.

12 2. "Temporary partial disability" or "temporarily,  
13 partially disabled" means the condition of an employee for  
14 whom it is medically indicated that the employee is not capable  
15 of returning to employment substantially similar to the  
16 employment in which the employee was engaged at the time of  
17 injury, but is able to perform other work consistent with  
18 the employee's disability. "Temporary partial benefits" means  
19 benefits payable, in lieu of temporary total disability and  
20 healing period benefits, to an employee because of the  
21 employee's temporary partial reduction in earning ability  
22 as a result of the employee's temporary partial disability.  
23 Temporary partial benefits shall not be considered benefits  
24 payable to an employee, upon termination of temporary partial  
25 or temporary total disability, the healing period, or permanent  
26 partial disability, because the employee is not able to secure  
27 work paying weekly earnings equal to the employee's weekly  
28 earnings at the time of injury.

29 3. If an employee is temporarily, partially disabled and  
30 the employer for whom the employee was working at the time  
31 of injury offers to the employee suitable work consistent  
32 with the employee's disability the employee shall accept the  
33 suitable work, and be compensated with temporary partial  
34 benefits. If the employee refuses to accept the suitable  
35 work the employee shall not be compensated with temporary

1 partial or temporary total benefits during the period of the  
2 refusal.

3 If an employee is temporarily, partially disabled and the  
4 employer for whom the employee was working at the time of  
5 injury does not offer to the employee suitable work consistent  
6 with the employee's temporary partial disability, the employee  
7 may, at the employee's election, accept suitable work from  
8 another employer. If the employee accepts the work the  
9 employee shall be compensated with temporary partial benefits.  
10 If the employee does not accept the work the employee shall  
11 be compensated with temporary total benefits.

12 4. If an employee is entitled to temporary partial benefits  
13 under subsection three (3) of this section, the employer for  
14 whom the employee was working at the time of injury shall  
15 pay to the employee weekly compensation benefit payments,  
16 as provided in section eighty-five point thirty-two (85.32)  
17 of the Code, for and during the period of temporary partial  
18 disability. The temporary partial benefit shall be sixty-  
19 six and two-thirds percent of the difference between the  
20 employee's weekly earnings at the time of injury, computed  
21 in compliance with section eighty-five point thirty-six (85.36)  
22 of the Code, and the employee's actual gross weekly income  
23 from employment during the period of temporary partial  
24 disability. If at the time of injury an employee is paid  
25 on the basis of the output of the employee, with a minimum  
26 guarantee pursuant to a written employment agreement, the  
27 minimum guarantee shall be used as the employee's weekly  
28 earnings at the time of injury. However, the weekly  
29 compensation benefit payments shall not exceed the payments  
30 to which the employee would be entitled under section eighty-  
31 five point thirty-six (85.36) or section eighty-five point  
32 thirty-seven (85.37) of the Code, or under subsection one  
33 (1) of this section.

34 Sec. 6. Section eighty-five point thirty-four (85.34),  
35 subsection one (1), Code 1979, is amended to read as follows:

1 1. HEALING PERIOD. If an employee has suffered a personal  
2 injury causing permanent partial disability for which  
3 compensation is payable as provided in subsection 2 of this  
4 section, the employer shall pay to the employee compensation  
5 for a healing period, as provided in section 85.37, beginning  
6 on the date of the injury, and until ~~he~~ the employee has  
7 returned to work or ~~competent-medical-evidence-indicates-that~~  
8 ~~recuperation-from-said-injury-has-been-accomplished,whichever~~  
9 ~~comes-first~~ it is medically indicated that significant  
10 improvement from the injury is not anticipated or until the  
11 employee is medically capable of returning to employment  
12 substantially similar to the employment in which the employee  
13 was engaged at the time of injury, whichever occurs first.

14 Sec. 7. Section eighty-five point thirty-four (85.34),  
15 subsection two (2), unnumbered paragraph one (1), is amended  
16 to read as follows:

17 Compensation for permanent partial disability shall begin  
18 at the termination of the healing period provided in subsection  
19 1 hereof. Such compensation shall be in addition to the  
20 benefits provided by sections 85.27 and 85.28. Such  
21 compensation shall be based upon the extent of such disability  
22 and upon the basis of eighty percent per week of the employee's  
23 average weekly spendable earnings, but not more than a weekly  
24 benefit amount, rounded to the nearest dollar, equal to sixty-  
25 one and one-third percent of the ~~state~~ statewide average  
26 weekly wage paid employees as determined by the Iowa department  
27 of job service under the provisions of section 96.3 and in  
28 effect at the time of the injury, provided that as of July  
29 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the  
30 maximum weekly benefit amount rounded to the nearest dollar  
31 shall be increased so that it shall equal ninety-two percent,  
32 one hundred twenty-two and two-thirds percent, one hundred  
33 fifty-three and one-third percent, and one hundred eighty-  
34 four percent, respectively, of the ~~state~~ statewide average  
35 weekly wage as determined above; ~~provided-that-no-employee~~

1 ~~shall receive as compensation less than thirty-six dollars~~  
2 ~~per week, except if at the time of his injury his earnings~~  
3 ~~are less than thirty-six dollars per week, then the weekly~~  
4 ~~compensation shall be a sum equal to the full amount of his~~  
5 ~~weekly earnings, and for.~~ However, the minimum weekly benefit  
6 amount shall be equal to the weekly benefit amount of a person  
7 whose gross weekly earnings are thirty-five percent of the  
8 statewide average weekly wage, or to the spendable weekly  
9 earnings of the employee, whichever is less. However, if  
10 the employee is a minor or a full-time student under the age  
11 of twenty-five in an accredited educational institution the  
12 minimum weekly benefit amount shall be equal to the weekly  
13 benefit amount of a person whose gross weekly earnings are  
14 thirty-five percent of the statewide average weekly wage.  
15 For all cases of permanent partial disability such compensation  
16 shall be paid as follows:

17     Sec. 8. Section eighty-five point thirty-four (85.34),  
18 subsection three (3), unnumbered paragraph one (1), Code 1979,  
19 is amended to read as follows:

20     Compensation for an injury causing permanent total  
21 disability shall be upon the basis of eighty percent per week  
22 of the employee's average weekly spendable earnings, but not  
23 more than a weekly benefit amount, rounded to the nearest  
24 dollar, equal to sixty-six and two-thirds percent of the ~~state~~  
25 statewide average weekly wage paid employees as determined  
26 by the director of the Iowa department of job service under  
27 the provisions of section 96.3 and in effect at the time of  
28 the injury provided that as of July 1, 1975; July 1, 1977;  
29 July 1, 1979; and July 1, 1981, the maximum weekly benefit  
30 amount rounded to the nearest dollar shall be increased so  
31 that it shall equal one hundred percent, one hundred thirty-  
32 three and one-third percent, one hundred sixty-six and two-  
33 thirds percent and two hundred percent, respectively, of the  
34 ~~state~~ statewide average weekly wage as determined above.  
35 ~~No employee shall receive as compensation less than thirty-~~

1 ~~six-dollars-per-week, except if at the time of the injury~~  
2 ~~the employee's earnings are less than thirty-six dollars per~~  
3 ~~week, then the weekly compensation shall be a sum equal to~~  
4 ~~the full amount of the employee's weekly earnings, said~~  
5 However, the minimum weekly benefit amount shall be equal  
6 to the weekly benefit amount of a person whose gross weekly  
7 earnings are thirty-five percent of the statewide average  
8 weekly wage, or to the spendable weekly earnings of the  
9 employee, whichever is less. However, if the employee is  
10 a minor or a full-time student under the age of twenty-five  
11 in an accredited educational institution the minimum weekly  
12 benefit amount shall be equal to the weekly benefit amount  
13 of a person whose gross weekly earnings are thirty-five percent  
14 of the statewide average weekly wage. The weekly compensation  
15 shall be payable during the period of the employee's  
16 disability.

17 Sec. 9. Section eighty-five point thirty-six (85.36),  
18 subsection ten (10), unnumbered paragraph one (1), Code 1979,  
19 is amended to read as follows:

20 10. In the case of an employee who earns either no wages  
21 or less than the usual weekly earnings of the regular full-  
22 time adult laborer in the line of industry in which the  
23 employee is injured in that locality, the weekly earnings  
24 shall be one-fiftieth of the total earnings which the employee  
25 has earned from all employment during the twelve calendar  
26 months immediately preceding the injury ~~but shall be not less~~  
27 ~~than an amount equal to thirty-five percent of the state~~  
28 ~~average weekly wage paid employees as determined by the Iowa~~  
29 ~~department of job service under the provisions of section~~  
30 ~~96-3, and in effect at the time of the injury.~~

31 Sec. 10. Section eighty-five point thirty-six (85.36),  
32 subsection ten (10), paragraph a, Code 1979, is amended to  
33 read as follows:

34 a. In computing the compensation to be allowed a volunteer  
35 fireman, ~~his~~ the volunteer fireman's earnings as a fireman

1 shall be disregarded and he the volunteer fireman shall be  
2 ~~paid the maximum compensation allowable under the workers'~~  
3 ~~compensation law~~ an amount equal to the compensation the  
4 volunteer fireman would be paid if injured in the normal  
5 course of the volunteer fireman's regular employment or an  
6 amount equal to the weekly benefit amount payable to a full-  
7 time fireman, with the same pay grade qualifications as the  
8 volunteer fireman, in the fire district which employs five  
9 or more full-time firemen and which has its boundary nearest  
10 to the principal office of the volunteer fire department,  
11 whichever amount is greater.

12 Sec. 11. Section eighty-five point thirty-seven (85.37),  
13 unnumbered paragraph one (1), Code 1979, is amended to read  
14 as follows:

15 In all cases where an employee receives a personal injury  
16 causing temporary total disability, or causing a permanent  
17 partial disability for which compensation is payable during  
18 a healing period, compensation for such temporary disability  
19 or for such healing period shall be upon the basis provided  
20 herein. The weekly benefit amount payable to any employee  
21 for any one week shall be upon the basis of eighty percent  
22 of the employee's weekly spendable earnings, but shall not  
23 exceed an amount, rounded to the nearest dollar, equal to  
24 sixty-six and two-thirds percent of the state statewide average  
25 weekly wage paid employees as determined by the Iowa department  
26 of job service under the provisions of section 96.3 and in  
27 effect at the time of the injury provided that as of July  
28 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the  
29 maximum weekly benefit amount rounded to the nearest dollar  
30 shall be increased so that it shall equal one hundred percent,  
31 one hundred thirty-three and one-third percent, one hundred  
32 sixty-six and two-thirds percent, and two hundred percent,  
33 respectively, of the state statewide average weekly wage as  
34 determined above. Total weekly compensation for any employee  
35 shall not exceed eighty percent per week of the employee's

1 weekly spendable earnings, ~~provided further, that such~~  
2 ~~compensation shall not be less than thirty-six dollars per~~  
3 ~~week, except if at the time of his injury his earnings are~~  
4 ~~less than thirty-six dollars per week, then he shall receive~~  
5 ~~in weekly payments a sum equal to the full amount of his~~  
6 ~~weekly earnings.~~ However, the minimum weekly benefit amount  
7 shall be equal to the weekly benefit amount of a person whose  
8 gross weekly earnings are thirty-five percent of the state  
9 average weekly wage, or to the spendable weekly earnings of  
10 the employee, whichever is less.

11 Sec. 12. Section eighty-five point thirty-nine (85.39),  
12 Code 1979, is amended to read as follows:

13 85.39 EXAMINATION OF INJURED EMPLOYEES. After an injury,  
14 the employee, if ~~so~~ requested by ~~his~~ the employer, shall  
15 submit ~~himself~~ for examination at some reasonable time and  
16 place ~~within the state~~ and as often as may be reasonably  
17 requested, to a physician or physicians authorized to practice  
18 under the laws of this state or another state, without cost  
19 to the employee; but if the employee requests, ~~he~~ the employee  
20 shall, at ~~his~~ the employee's own cost, be entitled to have  
21 a physician or physicians of ~~his~~ the employee's own selection  
22 present to participate in ~~such~~ the examination. ~~Whenever~~  
23 if an employee is required to leave ~~his~~ work for which he  
24 the employee is being paid wages to attend ~~upon such~~ the  
25 requested examination, ~~he~~ the employee shall be compensated  
26 at ~~his~~ the employee's regular rate for the time ~~he shall have~~  
27 ~~lost by reason thereof~~ the employee is required to leave work,  
28 and ~~he~~ the employee shall be furnished transportation to and  
29 from the place of examination, or the employer may elect to  
30 pay ~~him~~ the employee the reasonable cost of ~~such~~ the  
31 transportation. The refusal of the employee to submit to  
32 ~~such~~ the examination shall ~~deprive him of the~~ suspend the  
33 employee's right to any compensation for the period of ~~such~~  
34 the refusal. ~~When a right of compensation is thus suspended,~~  
35 ~~no compensation~~ Compensation shall not be payable for the

1 period of suspension.

2 ~~Whenever~~ If an evaluation of permanent disability has been  
3 made by a physician retained by the employer and the employee  
4 believes this evaluation to be too low, ~~he~~ the employee shall,  
5 upon application to the commissioner and ~~at-the-same-time~~  
6 upon delivery of a copy of the application to the employer  
7 and its insurance carrier, be reimbursed by the employer the  
8 reasonable fee for a subsequent examination by a physician  
9 of ~~his~~ the employee's own choice, and reasonably necessary  
10 transportation expenses incurred for ~~such~~ the examination.  
11 The physician chosen by the employee shall have the right  
12 to confer with and obtain from the employer-retained physician  
13 sufficient history of the injury to make a proper examination.

14 Sec. 13. Section eighty-five point forty-seven (85.47),  
15 Code 1979, is amended to read as follows:

16 85.47 BASIS OF COMMUTATION. When the commutation is  
17 ordered, the industrial commissioner shall fix the lump sum  
18 to be paid at an amount which will equal the total sum of  
19 the probable future payments capitalized at their present  
20 value and upon the basis of interest, calculated at ~~five~~ seven  
21 percent per annum. Upon the payment of such amount the  
22 employer shall be discharged from all further liability on  
23 account of such injury or death, and be entitled to a duly  
24 executed release, upon filing which the liability of such  
25 employer under any agreement, award, finding, or judgment  
26 shall be discharged of record.

27 Sec. 14. Section eighty-five point forty-eight (85.48),  
28 Code 1979, is amended to read as follows:

29 85.48 PARTIAL COMMUTATION. When partial commutation is  
30 ordered, the industrial commissioner shall fix the lump sum  
31 to be paid at an amount which will equal the future payments  
32 for the period commuted, capitalized at their present value  
33 upon the basis of interest calculated at ~~five~~ seven percent  
34 per annum, with provisions for the payment of weekly  
35 compensation not included in such commutation, subject to

1 any provisions of the law applicable to such unpaid weekly  
2 payments; all remaining payments, if any, to be paid at the  
3 same time as though such commutation had not been made.

4 Sec. 15. Section eighty-five point sixty-one (85.61),  
5 subsection two (2), unnumbered paragraph two (2), Code 1979,  
6 is amended to read as follows:

7 "~~Workman~~" "Worker" or "employee" shall include an inmate  
8 as defined in section 85.59.

9 Sec. 16. Section eighty-five point sixty-one (85.61),  
10 subsection ten (10), Code 1979, is amended to read as follows:

11 10. "Payroll taxes" means an amount, determined by tables  
12 promulgated by the industrial commissioner pursuant to chapter  
13 seventeen A (17A) of the Code, equal to the sum of the  
14 following:

15 a. An amount equal to the amount which would be withheld  
16 pursuant to withholding tables in effect on July 1 preceding  
17 the injury under the Internal Revenue Code of 1954, and  
18 regulations pursuant thereto, as amended ~~to July 1, 1976~~,  
19 as though the employee had elected to claim the maximum number  
20 of exemptions for actual dependency, blindness and old age  
21 to which the employee is entitled on the date on which he  
22 the employee was injured, ~~and~~.

23 b. An amount equal to the amount which would be withheld  
24 pursuant to withholding tables in effect on July 1 preceding  
25 the injury under chapter 422, and any rules pursuant thereto,  
26 as though the employee had elected to claim the maximum number  
27 of exemptions for actual dependency, blindness and old age  
28 to which the employee is entitled on the date on which he  
29 the employee was injured, ~~and~~.

30 c. An amount equal to the amount required on July 1  
31 preceding the injury by the Social Security Act of 1935 as  
32 amended ~~to July 1, 1976~~, to be deducted or withheld from the  
33 amount of earnings of the employee at the time of the injury  
34 as if the earnings were earned at the beginning of the calendar  
35 year in which he the employee was injured.

1     Sec. 17. Section eighty-five point sixty-six (85.66),  
2 unnumbered paragraph one (1), Code 1979, is amended to read  
3 as follows:

4     When the total amount of such payments provided for in  
5 the preceding section, together with accumulated interest  
6 thereon and earnings, equals or exceeds ~~one~~ three hundred  
7 thousand dollars no further contributions to said fund shall  
8 be required; but whenever, thereafter, the amount of such  
9 sum shall be reduced below ~~fifty~~ one hundred fifty thousand  
10 dollars by reason of payments made to employees pursuant to  
11 the provisions of this division, the said contributions shall  
12 be resumed forthwith and shall continue until such sum,  
13 together with accumulated interest and earnings, shall again  
14 amount to ~~one~~ three hundred thousand dollars. The industrial  
15 commissioner shall promulgate rules for the maintenance of  
16 the second injury fund and the making of contributions thereto,  
17 and shall determine when the contributions shall be made to  
18 said fund and when they shall be suspended; and ~~he-or-she~~  
19 the commissioner is hereby empowered and authorized to enforce  
20 said rules and the collection of said contributions.

21     Sec. 18. Chapter eighty-five (85), Code 1979, is amended  
22 by adding the following new section:

23     NEW SECTION. PAYMENTS CONCERNING LIABILITY DISPUTES.

24     1. The industrial commissioner may order any number or  
25 combination of alleged workers' compensation insurance carriers  
26 and alleged employers, which are parties to a contested case  
27 or to a dispute which could culminate in a contested case,  
28 to pay all or part of the benefits due to an employee or an  
29 employee's dependent or legal representative if any of the  
30 carriers or employers agree, or the commissioner determines  
31 after an evidentiary hearing, that one or more of the carriers  
32 or employers is liable to the employee or to the employee's  
33 dependent or legal representative for benefits under this  
34 chapter or under chapter eighty-five A (85A) of the Code,  
35 but the carriers or employers cannot agree, or the commissioner

1 has not determined, which carriers or employers are liable.  
2 2. Unless waived by the carriers or employers ordered  
3 to pay benefits, the industrial commissioner shall order an  
4 employer, which is not ordered to pay benefits and which does  
5 not have in force a policy of workers' compensation insurance  
6 issued by any carrier which is a party to the case or dispute  
7 and covering the claim made by the employee or the employee's  
8 dependent or legal representative, to post a bond or to de-  
9 posit cash with the commissioner equal to the benefits paid  
10 or to be paid by the carriers or employers ordered to pay  
11 benefits. If any employer is ordered by the commissioner  
12 to post bond or to deposit cash, the employers or carriers  
13 ordered to pay benefits shall not be obligated to pay benefits  
14 until the bond is posted or the cash is deposited. The  
15 commissioner may order the bond or cash deposit to be  
16 increased.

17 3. When liability is finally determined by the indus-  
18 trial commissioner, the commissioner shall order the carriers  
19 or employers liable to the employee or to the employee's  
20 dependent or legal representative to reimburse the carriers  
21 or employers which are not liable but were required to pay  
22 benefits. Benefits paid or reimbursed pursuant to an order  
23 authorized by this section do not require the filing of a  
24 memorandum of agreement. However, a contested case for bene-  
25 fits under this chapter or under chapter eighty-five A (85A)  
26 of the Code shall not be maintained against a party to a case  
27 or dispute resulting in an order authorized by this section  
28 unless the contested case is commenced within three years  
29 from the date of the last benefit payment under the order.  
30 The commissioner may determine liability for the payment  
31 of workers' compensation benefits under this section.

32 Sec. 19. Section two hundred thirty-nine A point two  
33 (239A.2), subsection three (3), paragraph c, Code 1979, is  
34 amended to read as follows:

35 c. The employees must be considered regular employees

1 of the unit of local government involved and must be entitled  
2 to participate in benefit programs of that unit of local  
3 government, including but not limited to ~~workmen's~~ workers'  
4 compensation, but shall not be entitled to qualify for  
5 unemployment compensation benefits on the basis of employment  
6 under the project.

7 Sec. 20. This Act is effective January first following  
8 its enactment.

9 EXPLANATION

10 Sections 1 and 2 of this bill exempt from workers' compensa-  
11 tion coverage the families of partners in a farm partnership  
12 as the families of individual farm operators and the families  
13 of officers of family farm corporations are already exempt  
14 under section 85.1 of the Code.

15 Sections 3, 13, and 14 change the rate of interest  
16 applicable to various workers' compensation provisions from  
17 five or six percent to seven percent.

18 Sections 4, 7, 8, 9 and 11 attempt to correct a conflict  
19 between various sections of the Code concerning computation  
20 of minimum workers' compensation benefits in order to prevent  
21 persons from receiving higher benefits while off work following  
22 injury than while working. However, the bill establishes  
23 separate minimum benefits for minors and full-time students  
24 under 25. If they are permanently partially disabled or  
25 permanently totally disabled the bill guarantees them minimum  
26 benefits equal to 35 percent of the statewide average weekly  
27 wage. If they are temporarily disabled or if their dependents  
28 are entitled to death benefits the bill establishes minimum  
29 benefits at 35 percent of the statewide average weekly wage  
30 or at their spendable weekly earnings, whichever is less.

31 Section 5 creates a rate of compensation for temporary  
32 partial disability and requires an injured worker to accept  
33 suitable work during his or her period of recovery if the  
34 work is offered by the employee's employer and the employee  
35 is able to perform the work even though temporarily, partially

1 disabled.

2 Section 6 conforms the language of section 85.34 of the  
3 Code to the language used in section 5 of the bill and codifies  
4 an existing rule of the industrial commissioner defining  
5 healing period.

6 Section 10 changes the rate of compensation applicable  
7 to volunteer firemen so that volunteer firemen will less  
8 frequently receive more workers' compensation benefits than  
9 wages in their regular employments.

10 Section 12 removes the provision restricting examinations  
11 of injured workers to medical facilities and practitioners  
12 within Iowa in order to utilize specialists and specialized  
13 facilities outside of Iowa.

14 Sections 15 and 19 change Code references from workman  
15 and workmen's to worker and workers'.

16 Section 16 allows the industrial commissioner to utilize  
17 the most recent federal income tax and social security  
18 withholding tables by adopting administrative rules updating  
19 the definition of payroll taxes.

20 Section 17 increases the size of the second injury fund  
21 from \$100,000 to \$300,000 to allow the fund to make lump sum  
22 settlements in disputed cases.

23 Section 18 provides a mechanism for prompt payment to in-  
24 jured employees with valid claims when a liability dispute  
25 exists between employers or insurance carriers concerning  
26 the employee's claim.

27 Under section 20 the bill would become law on January first  
28 following the bill's enactment.

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S-5019

1 Amend Senate File 2068 as follows:

2 1. By striking page 8, line 34 through page 9,  
3 line 11, and inserting in lieu thereof the following:

4 "a. In computing the compensation to be allowed  
5 a volunteer fireman firefighter, his the volunteer  
6 firefighter's earnings as a fireman firefighter shall  
7 be disregarded and he the volunteer firefighter shall  
8 be paid ~~the maximum compensation allowable under the~~  
9 ~~workers' compensation law~~ one hundred forty percent  
10 of the statewide average weekly wage as determined  
11 by the Iowa department of job service."

12 2. Title page, line 5, by striking the word  
13 "firemen" and inserting in lieu thereof the word  
14 "firefighters".

S-5019 FILED  
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BY RICHARD F. DRAKE  
CLOYD ROBINSON