

March 10, 1970
Passed on File

Reprinted 3/13
SENATE FILE 1281

By COMMITTEE ON HUMAN AND
INDUSTRIAL RELATIONS

Passed Senate, Date.....3-11-70..... Passed House, Date.....
Vote: Ayes.....56..... Nays.....0..... Vote: Ayes..... Nays.....
Approved.....

A BILL FOR

- 1 An Act relating to workmen's compensation.
- 2 *Be It Enacted by the General Assembly of the State of Iowa:*
- 3 Section 1. Section eighty-five point one (85.1), Code 1966,
- 4 is hereby amended by striking subsection two (2) and inserting
- 5 in lieu thereof the following:
 - 6 "Persons whose employment is purely casual and not for the
 - 7 purpose of the employer's trade or business."
- 8 Sec. 2. Section eighty-five point three (85.3), Code 1966,
- 9 is hereby amended as follows:
 - 10 1. Subsection one (1), by striking lines one (1) through
 - 11 three (3), inclusive, and inserting in lieu thereof the follow-
 - 12 ing:
 - 13 "Every employer, not specifically except by the provisions
 - 14 of this chapter, shall provide, secure, and pay".
 - 15 2. Subsection two (2), by striking line six (6) and lines
 - 16 one (1) and two (2) of paragraph a, and inserting in lieu
 - 17 thereof the words "subject to the jurisdiction of the".
 - 18 3. Subsection two (2), paragraph b, by striking line one
 - 19 (1) and inserting in lieu thereof the following:
 - 20 "Such employer shall be deemed to have appointed the sec-
 - 21 retary of state of this".
- 22 Sec. 3. Sections eighty-five point four (85.4) through
- 23 eighty-five point fifteen (85.15), inclusive, Code 1966, are
- 24 hereby repealed.
- 25 Sec. 4. Section eighty-five point sixteen (85.16), Code

1 1966, is hereby amended by adding thereto the following new sub-
2 section:

3 "By the willful act of a third party directed against the
4 employee for reasons personal to such employee."

5 Sec. 5. Sections eighty-five point seventeen (85.17) and
6 eighty-five point nineteen (85.19), Code 1966, are hereby re-
7 pealed.

8 Sec. 6. Section eighty-five point twenty (85.20), Code
9 1966, is hereby amended by striking the semicolon in line
10 seven (7), and by striking lines eight (8) through sixteen
11 (16), inclusive, and inserting in lieu thereof a period.

12 Sec. 7. Section eighty-five point twenty-one (85.21), Code
13 1966, is hereby repealed.

14 Sec. 8. Section eighty-five point twenty-seven (85.27),
15 Code 1966, is hereby amended by inserting in line twenty-two
16 (22) before the words "and hospital" the word ", nursing,".

17 Sec. 9. Section eighty-five point twenty-eight (85.28),
18 Code 1966, is hereby amended by striking from line four (4)
19 the words "five hundred" and inserting in lieu thereof the
20 words "one thousand".

21 Sec. 10. Section eighty-five point thirty-one (85.31), Code
22 1966, is hereby amended as follows:

23 1. Subsection on (1), by striking from lines ten (10) and
24 eleven (11), the words "a total of fourteen thousand two hun-
25 dred fifty dollars" and inserting in lieu thereof the words
26 "forty-six percent of the state average weekly wage paid em-
27 ployees as determined by the Iowa employment security commis-
28 sion under the provisions of section ninety-six point three
29 (96.3) of the Code and in effect at the time of the injury".

30 2. Subsection four (4), by striking from lines nine (9)
31 and ten (10) the words "a total of fourteen thousand two hun-
32 dred fifty dollars" and inserting in lieu thereof the words
33 "forty-six percent of the state average weekly wage paid em-
34 ployees as determined by the Iowa employment security commis-
35 sion under the provisions of section ninety-six point three

1 (96.3) of the Code and in effect at the time of the injury”.

2 Sec. 11. Section eighty-five point thirty-four (85.34),
3 subsection two (2), Code 1966, is hereby amended as follows:

4 1. By inserting in line ten (10) after the word “not” the
5 words “more than forty-six percent of the state average weekly
6 wage paid employees as determined by the Iowa employment
7 security commission under the provisions of section ninety-
8 six point three (96.3) of the Code and in effect at the time
9 of the injury, provided that no employee shall receive as
10 compensation”.

11 2. Paragraph a, by striking from line two (2), the words
12 “but not to exceed a” and by striking lines three (3) and four
13 (4) and inserting in lieu thereof a period.

14 3. Paragraph b, by striking from line three (3), the words
15 “but not to exceed a” and by striking lines four (4) and five
16 (5) and inserting in lieu thereof a period.

17 4. Paragraph c, by striking from line two (2) the words
18 “but not” and by striking lines three (3) and four (4) and in-
19 serting in lieu thereof a period.

20 5. Paragraph d, by striking from line two (2) the words
21 “but not to” and by striking lines three (3) and four (4), and
22 inserting in lieu thereof a period.

23 6. Paragraph e, by striking from line three (3) the words
24 “but not to exceed a total” and by striking line four (4) and
25 inserting in lieu thereof a period.

26 7. Paragraph h, by striking from line two (2) the words
27 “but not to exceed” and by striking line three (3) and insert-
28 ing in lieu thereof a period.

29 8. Paragraph i, by striking from line three (3) the words
30 “but not to exceed a total of seven” and by striking line four
31 (4) and inserting in lieu thereof a period.

32 9. Paragraph l, by striking lines three (3) and four (4)
33 and inserting in lieu thereof a period.

34 10. Paragraph m, by striking lines six (6) and seven (7)
35 and inserting in lieu thereof a period.

1 11. Paragraph n, by striking from line two (2) the words
2 "but not" and by striking lines three (3) and four (4) and in-
3 serting in lieu thereof a period.

4 12. Paragraph o, by striking from line five (5) the words
5 "but not to exceed" and by striking line six (6) and inserting
6 in lieu thereof a period.

7 13. Paragraph p, by striking lines three (3) and four (4)
8 and inserting in lieu thereof a period.

9 14. Paragraph q, by striking from line three (3) the words
10 "but not" and by striking lines four (4) and five (5) and in-
11 serting in lieu thereof a period.

12 15. Paragraph r, by striking from line two (2) the words
13 "but not to" and by striking lines three (3) through eight (8),
14 inclusive, and inserting in lieu thereof the following:

15 " , and for the loss of hearing in both ears, weekly compen-
16 sation during one hundred seventy-five weeks."

17 16. Paragraph s, by striking from line five (5) the words
18 "but not to exceed a" and by striking lines six (6) and seven
19 (7) and inserting in lieu thereof a period.

20 17. Paragraph t, by striking from line eight (8) the word
21 "and" and by striking lines nine (9) and ten (10) and inserting
22 in lieu thereof a period.

23 18. Paragraph u, by striking from line seven (7) the words
24 " , but not to" and by striking lines eight (8) through ten (10),
25 inclusive, and inserting in lieu thereof a period.

26 Sec. 12. Section eighty-five point thirty-four (85.34), sub-
27 section three (3), Code 1966, is hereby amended as follows:

28 1. By inserting in line five (5) after the word "not" the
29 words "more than forty-six percent of the state average weekly
30 wage paid employees as determined by the Iowa employment
31 security commission under the provisions of section ninety-
32 six point three (96.3) of the Code and in effect at the time
33 of the injury provided that no employee shall receive as
34 compensation".

35 2. By striking from line thirteen (13) the words " , but

1 in no event" and by striking all of lines fourteen (14) through
2 sixteen (16), inclusive, and inserting in lieu thereof a period.

3 Sec. 13. Section eighty-five point thirty-seven (85.37),
4 Code 1966, is hereby amended by striking lines seven (7) through
5 nineteen (19), inclusive, and inserting in lieu thereof the
6 following:

7 "such healing period shall be upon the basis provided herein.
8 The weekly benefit amount payable to any employee for any one
9 week shall be, but shall not exceed, fifty percent of the
10 state average weekly wage paid employees as determined by
11 the Iowa employment security commission under the provisions
12 of section ninety-six point three (96.3), subsection four (4)
13 of the Code, and in effect at the time of the injury. Total
14 weekly compensation for any employee".

15 Sec. 14. Section eighty-five point forty-five (85.45), Code
16 1966, as amended by chapter four hundred (400), section twelve
17 (12), Acts of the Sixty-second General Assembly, is hereby
18 further amended as follows:

19 1. By striking subsection two (2) of such section and re-
20 numbering as required.

21 2. Subsection three (3), by striking from line two (2),
22 the word "court" and inserting in lieu thereof the words
23 "industrial commissioner".

24 Sec. 15. Section eighty-five point forty-six (85.46), Code
25 1966, as amended by chapter four hundred (400), section thir-
26 teen (13), Acts of the Sixty-second General Assembly, is hereby
27 repealed and the following enacted in lieu thereof:

28 "A written petition for commutation may be made to the in-
29 dustrial commissioner. Notice of the filing or presentation
30 of such petition shall be served upon the opposite party or
31 parties as provided in section eighty-six point thirty-six
32 (86.36) of the Code."

33 Sec. 16. Section eighty-five point forty-seven (85.47),
34 Code 1966, is hereby amended by striking from line two (2)
35 the word "court" and inserting in lieu thereof the words "in-

1 industrial commissioner”.

2 Sec. 17. Section eighty-five point forty-eight (85.48),
3 Code 1966, is hereby amended by striking from line two (2)
4 the word “court” and inserting in lieu thereof the words “in-
5 dustrial commissioner”.

6 Sec. 18. Section eighty-five point sixty-one (85.61),
7 Code 1966, is amended by striking paragraph b of subsection
8 five (5), and relettering the remaining paragraphs.

9 Sec. 19. Section eighty-six point one (86.1), Code 1966,
10 is hereby amended by adding thereto the following:

11 “Any such appointee must be a lawyer admitted to practice
12 in this state.”

13 Sec. 20. Section eighty-six point two (86.2), Code 1966,
14 is hereby amended by inserting before the period in line
15 five (5) the following:

16 “, and all such deputies must be lawyers admitted to prac-
17 tice in this state”.

18 Sec. 21. Section eighty-six point thirteen (86.13), Code
19 1966, is hereby amended by adding thereto the following:

20 “If a compromise settlement is made by an employer and an
21 individual claiming benefits under this chapter, or his de-
22 pendants or legal representatives, the same shall be reduced
23 to writing and submitted to the industrial commissioner for
24 approval, together with such evidence as the commissioner may
25 require to establish that a bona fide dispute exists regarding
26 liability. Such evidence shall include evidence that the in-
27 dividual claiming benefits has been represented by counsel or
28 fully understands the terms of the settlement, including its
29 finality. If in the opinion of the industrial commissioner,
30 a hearing is required to establish any such evidence, he may
31 require such hearing. A compromise settlement approved by the
32 industrial commissioner shall be a complete final disposition
33 of the claim and shall not be subject to an arbitration under
34 sections eighty-six point fourteen (86.14) through eighty-six
35 point seventeen (86.17), inclusive, of the Code.”

1 Sec. 22. Section eighty-six point twenty (86.20), Code
2 1966, is hereby amended by striking from lines eight (8) and
3 nine (9) the words "the rate of not to exceed ten cents for
4 each one hundred words" and inserting in lieu thereof the
5 words "a reasonable rate to be determined by the commissioner".

6 Sec. 23. Section eighty-six point twenty-six (86.26), Code
7 1966, is hereby amended by striking from line seven (7) the
8 words "injury occurred" and inserting in lieu thereof the words
9 "hearing under section eighty-six point seventeen (86.17) of
10 the Code was held".

11 Sec. 24. Section eighty-six point thirty-three (86.33),
12 Code 1966, is hereby amended by striking lines four (4) through
13 seven (7), inclusive, and inserting in lieu thereof the word
14 "court."

15 Sec. 25. Section eighty-seven point one (87.1), Code 1966,
16 is hereby amended as follows:

17 1. By striking from line nine (9) the word "insurance" and
18 inserting in lieu thereof the word "industrial".

19 2. By striking from line fourteen (14) the words ", and in
20 the", and by striking lines fifteen (15) through eighteen (18),
21 inclusive, and inserting in lieu thereof a period.

22 Sec. 26. Section eighty-seven point twenty-one (87.21),
23 Code 1966, is hereby repealed and the following enacted in lieu
24 thereof:

25 "Any employer, except an employer exempt as provided in sec-
26 tion eighty-five point one (85.1) of the Code, who has failed
27 to insure the employer's liability in one of the ways provided
28 in this chapter, unless relieved from carrying such insurance
29 as provided in section eighty-seven point eleven (87.11) of the
30 Code, shall be liable to an employee for a personal injury in
31 the course of and arising out of such employment, and the em-
32 ployee may enforce such liability by an action at law for dam-
33 ages, or may collect compensation as provided in chapters
34 eighty-five (85) and eighty-six (86) of the Code. In actions
35 by the employee for damages under the terms of this section,

1 the following rules shall apply:

2 1. It shall be presumed:

3 a. That the injury to the employee was the direct result
4 and growing out of the negligence of the employer.

5 b. That such negligence was the proximate cause of the in-
6 jury.

7 2. The burden of proof shall rest upon the employer to
8 rebut the presumption of negligence, and the employer shall
9 not be permitted to plead or rely upon any defense of the com-
10 mon law, including the defenses of contributory negligence,
11 assumption of risk and the fellow servant rule.”

12 Sec. 27. Sections eighty-seven point twenty-two (87.22) and
13 eighty-seven point twenty-three (87.23), Code 1966, are hereby
14 repealed.

15 Sec. 28. Section eighty-seven point twenty-four (87.24),
16 Code 1966, is hereby amended as follows:

17 1. By striking from line four (4) the words and figures
18 “sections 87.21, 87.22, and 87.23” and inserting in lieu thereof
19 the words and figures “section eighty-seven point twenty-one
20 (87.21) of the Code as reenacted by this Act”.

21 2. By striking from line seventeen (17) the words and
22 figures “sections 87.21, 87.22 and 87.23” and inserting in
23 lieu thereof the words and figures “section eighty-seven point
24 twenty-one (87.21) of the Code as reenacted by this Act”.

25 Sec. 29. Section eighty-seven point twenty-six (87.26),
26 Code 1966, is hereby amended by striking from lines fifteen
27 (15) and sixteen (16) the words and figures “sections 87.21,
28 87.22, and 87.23” and inserting in lieu thereof the words and
29 figures “section eighty-seven point twenty-one (87.21) of the
30 Code as reenacted by this Act”.

31 Sec. 30. Chapter eighty-five (85), Code 1966, is hereby
32 amended by adding the following new section:

33 “An employee who has sustained an injury resulting in per-
34 manent partial or permanent total disability, for which com-
35 pensation is payable under this chapter, and who cannot return

1 to gainful employment because of such disability, shall upon
2 application to and approval by the industrial commissioner be
3 entitled to a twenty dollar weekly payment from the employer
4 in addition to any other benefit payments, during each full
5 week in which he is actively participating in a vocational
6 rehabilitation program recognized by the state board for voca-
7 tional education. The industrial commissioner's approval of
8 such application for payment may be given only after a careful
9 evaluation of available facts, and after consultation with the
10 employer or the employer's representative. An appeal of the
11 decision of the industrial commissioner may be taken to the
12 district court as prescribed in section eighty-six point twenty-
13 six (86.26) of the Code. Such additional benefit payment shall
14 be paid for a period not to exceed thirteen consecutive weeks
15 except that the industrial commissioner may extend the period
16 of payment not to exceed an additional thirteen weeks if the
17 circumstances indicate that a continuation of training will in
18 fact accomplish rehabilitation."

EXPLANATION

This bill makes the Workmen's Compensation Act compulsory, and will no longer allow covered employers and employees to reject the provisions of the Act, and also increases benefits. Benefits are based on a percentage of the average weekly wage as determined by the Employment Security Commission. The bill also amends chapter 86 to require the industrial commissioner and his deputies to be lawyers, gives him authority to approve compromise settlements and makes other changes with respect to the liability of employers who fail to insure their liability, or be relieved from the insurance requirement.

*adopted
3/12*

- 1 Amend Senate File 1281 as follows:
- 2 1. Page 2, lines 26 and 33, by inserting in each of said
- 3 lines before the word "forty-six" the following words: "a
- 4 weekly benefit amount, rounded to the nearest dollar, equal to".
- 5 2. Page 3, line 5, by inserting before the word "forty-six"
- 6 the following words:
- 7 "a weekly benefit amount, rounded to the nearest dollar,
- 8 equal to".
- 9 3. Page 4, line 29, by inserting before the word "forty-six"
- 10 the following words:
- 11 "a weekly benefit amount, rounded to the nearest dollar,
- 12 equal to".
- 13 4. Page 5, line 9, by striking the second comma and inserting
- 14 before the word "fifty" the following words:
- 15 "an amount, rounded to the nearest dollar, equal to".
- 16 5. Page 6, by striking all of lines 18 through 35, inclusive,
- 17 and renumbering the subsequent sections.

*adopted
3/12*

*adopted
3/12*

*adopted
3/12*

Filed and adopted
March 12, 1970

By DeKOSTER and GAUDINEER

March 13, 1970

SENATE FILE 1281

By COMMITTEE ON HUMAN AND
INDUSTRIAL RELATIONS
(AS PASSED BY THE SENATE)

Passed Senate, Date 3-12-70 Passed House, Date 3-30-70

Vote: Ayes 56 Nays 2 Vote: Ayes 110 Nays 2

Approved April 6, 1970

A BILL FOR

1 An Act relating to workmen's compensation.

2 *Be It Enacted by the General Assembly of the State of Iowa:*

3 Section 1. Section eighty-five point one (85.1), Code 1966,
4 is hereby amended by striking subsection two (2) and inserting
5 in lieu thereof the following:

6 "Persons whose employment is purely casual and not for the
7 purpose of the employer's trade or business."

8 Sec. 2. Section eighty-five point three (85.3), Code 1966,
9 is hereby amended as follows:

10 1. Subsection one (1), by striking lines one (1) through
11 three (3), inclusive, and inserting in lieu thereof the follow-
12 ing:

13 "Every employer, not specifically except by the provisions
14 of this chapter, shall provide, secure, and pay".

15 2. Subsection two (2), by striking line six (6) and lines
16 one (1) and two (2) of paragraph a, and inserting in lieu
17 thereof the words "subject to the jurisdiction of the".

18 3. Subsection two (2), paragraph b, by striking line one
19 (1) and inserting in lieu thereof the following:

20 "Such employer shall be deemed to have appointed the sec-
21 retary of state of this".

22 Sec. 3. Sections eighty-five point four (85.4) through
23 eighty-five point fifteen (85.15), inclusive, Code 1966, are
24 hereby repealed.

25 Sec. 4. Section eighty-five point sixteen (85.16), Code

1 1966, is hereby amended by adding thereto the following new sub-
2 section:

3 "By the willful act of a third party directed against the
4 employee for reasons personal to such employee."

5 Sec. 5. Sections eighty-five point seventeen (85.17) and
6 eighty-five point nineteen (85.19), Code 1966, are hereby re-
7 pealed.

8 Sec. 6. Section eighty-five point twenty (85.20), Code
9 1966, is hereby amended by striking the semicolon in line
10 seven (7), and by striking lines eight (8) through sixteen
11 (16), inclusive, and inserting in lieu thereof a period.

12 Sec. 7. Section eighty-five point twenty-one (85.21), Code
13 1966, is hereby repealed.

14 Sec. 8. Section eighty-five point twenty-seven (85.27),
15 Code 1966, is hereby amended by inserting in line twenty-two
16 (22) before the words "and hospital" the word ", nursing,".

17 Sec. 9. Section eighty-five point twenty-eight (85.28),
18 Code 1966, is hereby amended by striking from line four (4)
19 the words "five hundred" and inserting in lieu thereof the
20 words "one thousand".

21 Sec. 10. Section eighty-five point thirty-one (85.31), Code
22 1966, is hereby amended as follows:

23 1. Subsection on (1), by striking from lines ten (10) and
24 eleven (11), the words "a total of fourteen thousand two hun-
25 dred fifty dollars" and inserting in lieu thereof the words
26 "*a weekly benefit amount, rounded to the nearest dollar, equal to*
27 *forty-six percent of the state average weekly wage paid em-*
28 *ployees as determined by the Iowa employment security commis-*
29 *sion under the provisions of section ninety-six point three*
30 *(93.3) of the Code and in effect at the time of the injury".*

31 2. Subsection four (4), by striking from lines nine (9)
32 and ten (10); the words "a total of fourteen thousand two hun-
33 dred fifty dollars" and inserting in lieu thereof the words
34 "*a weekly benefit amount, rounded to the nearest dollar, equal to*
35 *forty-six percent of the state average weekly wage paid em-*

1 ployees as determined by the Iowa employment security commis-
2 sion under the provisions of section ninety-six point three
3 (96.3) of the Code and in effect at the time of the injury”.

4 Sec. 11. Section eighty-five point thirty-four (85.34),
5 subsection two (2), Code 1966, is hereby amended as follows:

6 1. By inserting in line ten (10) after the word “not” the
7 words “more than a weekly benefit amount, rounded to the nearest
8 dollar, equal to forty-six percent of the state average weekly
9 wage paid employees as determined by the Iowa employment
10 security commission under the provisions of section ninety-
11 six point three (96.3) of the Code and in effect at the time
12 of the injury, provided that no employee shall receive as
13 compensation”.

14 2. Paragraph a, by striking from line two (2), the words
15 “but not to exceed a” and by striking lines three (3) and four
16 (4) and inserting in lieu thereof a period.

17 3. Paragraph b, by striking from line three (3), the words
18 “but not to exceed a” and by striking lines four (4) and five
19 (5) and inserting in lieu thereof a period.

20 4. Paragraph c, by striking from line two (2) the words
21 “but not” and by striking lines three (3) and four (4) and in-
22 serting in lieu thereof a period.

23 5. Paragraph d, by striking from line two (2) the words
24 “but not to” and by striking lines three (3) and four (4), and
25 inserting in lieu thereof a period.

26 6. Paragraph e, by striking from line three (3) the words
27 “but not to exceed a total” and by striking line four (4) and
28 inserting in lieu thereof a period.

29 7. Paragraph h, by striking from line two (2) the words
30 “but not exceed” and by striking line three (3) and insert-
31 ing in lieu thereof a period.

32 8. Paragraph i, by striking from line three (3) the words
33 “but not to exceed a total of seven” and by striking line four
34 (4) and inserting in lieu thereof a period.

35 9. Paragraph 1, by striking lines three (3) and four (4)

1 and inserting in lieu thereof a period.

2 10. Paragraph m, by striking lines six (6) and seven (7)
3 and inserting in lieu thereof a period.

4 11. Paragraph n, by striking from line two (2) the words
5 "but not" and by striking lines three (3) and four (4) and in-
6 serting in lieu thereof a period.

7 12. Paragraph o, by striking from line five (5) the words
8 "but not to exceed" and by striking line six (6) and inserting
9 in lieu thereof a period.

10 13. Paragraph p, by striking lines three (3) and four (4)
11 and inserting in lieu thereof a period.

12 14. Paragraph q, by striking from line three (3) the words
13 "but not" and by striking lines four (4) and five (5) and in-
14 serting in lieu thereof a period.

15 15. Paragraph r, by striking from line two (2) the words
16 "but not to" and by striking lines three (3) through eight (8),
17 inclusive, and inserting in lieu thereof the following:

18 " , and for the loss of hearing in both ears, weekly compen-
19 sation during one hundred seventy-five weeks."

20 16. Paragraph s, by striking from line five (5) the words
21 "but not to exceed a" and by striking lines six (6) and seven
22 (7) and inserting in lieu thereof a period.

23 17. Paragraph t, by striking from line eight (8) the word
24 "and" and by striking lines nine (9) and ten (10) and inserting
25 in lieu thereof a period.

26 18. Paragraph u, by striking from line seven (7) the words
27 " , but not to" and by striking lines eight (8) through ten (10),
28 inclusive, and inserting in lieu thereof a period.

29 Sec. 12. Section eighty-five point thirty-four (85.34), sub-
30 section three (3), Code 1966, is hereby amended as follows:

31 1. By inserting in line five (5) after the word "not" the
32 words "*more than a weekly benefit amount, rounded to the nearest*
33 *dollar, equal to forty-six percent of the state average weekly*
34 *wage paid employees as determined by the Iowa employment*
35 *security commission under the provisions of section ninety-*

1 six point three (96.3) of the Code and in effect at the time
2 of the injury provided that no employee shall receive as
3 compensation”.

4 2. By striking from line thirteen (13) the words “, but
5 in no event” and by striking all of lines fourteen (14) through
6 sixteen (16), inclusive, and inserting in lieu thereof a period.

7 Sec. 13. Section eighty-five point thirty-seven (85.37),
8 Code 1966, is hereby amended by striking lines seven (7) through
9 nineteen (19), inclusive, and inserting in lieu thereof the
10 following:

11 “such healing period shall be upon the basis provided herein.
12 The weekly benefit amount payable to any employee for any one
13 week shall be, but shall not exceed *an amount, rounded to the*
14 *nearest dollar, equal to fifty percent of the*
15 *state average weekly wage paid employees as determined by*
16 *the Iowa employment security commission under the provisions*
17 *of section ninety-six point three (96.3), subsection four (4)*
18 *of the Code, and in effect at the time of the injury. Total*
19 *weekly compensation for any employee”.*

20 Sec. 14. Section eighty-five point forty-five (85.45), Code
21 1966, as amended by chapter four hundred (400), section twelve
22 (12), Acts of the Sixty-second General Assembly, is hereby
23 further amended as follows:

24 1. By striking subsection two (2) of such section and re-
25 numbering as required.

26 2. Subsection three (3), by striking from line two (2),
27 the word “court” and inserting in lieu thereof the words
28 “industrial commissioner”.

29 Sec. 15. Section eighty-five point forty-six (85.46), Code
30 1966, as amended by chapter four hundred (400), section thir-
31 teen (13), Acts of the Sixty-second General Assembly, is hereby
32 repealed and the following enacted in lieu thereof:

33 “A written petition for commutation may be made to the in-
34 dustrial commissioner. Notice of the filing or presentation
35 of such petition shall be served upon the opposite party or

1 parties as provided in section eighty-six point thirty-six
2 (86.36) of the Code.”

3 Sec. 16. Section eighty-five point forty-seven (85.47),
4 Code 1966, is hereby amended by striking from line two (2)
5 the word “court” and inserting in lieu thereof the words “in-
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7 Sec. 17. Section eighty-five point forty-eight (85.48),
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12 Code 1966, is amended by striking paragraph b of subsection
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15 is hereby amended by adding thereto the following:
16 “Any such appointee must be a lawyer admitted to practice
17 in this state.”

18 Sec. 20. Section eighty-six point two (86.2), Code 1966,
19 is hereby amended by inserting before the period in line
20 five (5) the following:
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22 tice in this state”.

23 Sec. 21. Section eighty-six point twenty (86.20), Code
24 1966, is hereby amended by striking from lines eight (8) and
25 nine (9) the words “the rate of not to exceed ten cents for
26 each one hundred words” and inserting in lieu thereof the
27 words “a reasonable rate to be determined by the commissioner”.

28 Sec. 22. Section eighty-six point twenty-six (86.26), Code
29 1966, is hereby amended by striking from line seven (7) the
30 words “injury occurred” and inserting in lieu thereof the words
31 “hearing under section eighty-six point seventeen (86.17) of
32 the Code was held”.

33 Sec. 23. Section eighty-six point thirty-three (86.33),
34 Code 1966, is hereby amended by striking lines four (4) through
35 seven (7), inclusive, and inserting in lieu thereof the word
36 “court.”

1 Sec. 24. Section eighty-seven point one (87.1), Code 1966,
2 is hereby amended as follows:

3 1. By striking from line nine (9) the word "insurance" and
4 inserting in lieu thereof the word "industrial".

5 2. By striking from line fourteen (14) the words ", and in
6 the", and by striking lines fifteen (15) through eighteen (18),
7 inclusive, and inserting in lieu thereof a period.

8 Sec. 25. Section eighty-seven point twenty-one (87.21),
9 Code 1966, is hereby repealed and the following enacted in lieu
10 thereof:

11 "Any employer, except an employer exempt as provided in sec-
12 tion eighty-five point one (85.1) of the Code, who has failed
13 to insure the employer's liability in one of the ways provided
14 in this chapter, unless relieved from carrying such insurance
15 as provided in section eighty-seven point eleven (87.11) of the
16 Code, shall be liable to an employee for a personal injury in
17 the course of and arising out of such employment, and the em-
18 ployee may enforce such liability by an action at law for dam-
19 ages, or may collect compensation as provided in chapters
20 eighty-five (85 and eighty-six (86) of the Code. In actions
21 by the employee for damages under the terms of this section,
22 the following rules shall apply:

23 1. It shall be presumed:

24 a. That the injury to the employee was the direct result
25 and growing out of the negligence of the employer.

26 b. That such negligence was the proximate cause of the in-
27 jury.

28 2. The burden of proof shall rest upon the employer to
29 rebut the presumption of negligence, and the employer shall
30 not be permitted to plead or rely upon any defense of the com-
31 mon law, including the defenses of contributory negligence,
32 assumption of risk and the fellow servant rule."

33 Sec. 26. Sections eighty-seven point twenty-two (87.22) and
34 eighty-seven point twenty-three (87.23), Code 1966, are hereby
35 repealed.

1 Sec. 27. Section eighty-seven point twenty-four (87.24),
2 Code 1966, is hereby amended as follows:

3 1. By striking from line four (4) the words and figures
4 “sections 87.21, 87.22, and 87.23” and inserting in lieu thereof
5 the words and figures “section eighty-seven point twenty-one
6 (87.21) of the Code as reenacted by this Act”.

7 2. By striking from line seventeen (17) the words and
8 figures “sections 87.21, 87.22 and 87.23” and inserting in
9 lieu thereof the words and figures “section eighty-seven point
10 twenty-one (87.21) of the Code as reenacted by this Act”.

11 Sec. 28. Section eighty-seven point twenty-six (87.26),
12 Code 1966, is hereby amended by striking from lines fifteen
13 (15) and sixteen (16) the words and figures “sections 87.21,
14 87.22, and 87.23” and inserting in lieu thereof the words and
15 figures “section eighty-seven point twenty-one (87.21) of the
16 Code as reenacted by this Act”.

17 Sec. 29. Chapter eighty-five (85), Code 1966, is hereby
18 amended by adding the following new section:

19 “An employee who has sustained an injury resulting in per-
20 manent partial or permanent total disability, for which com-
21 pensation is payable under this chapter, and who cannot return
22 to gainful employment because of such disability, shall upon
23 application to and approval by the industrial commissioner be
24 entitled to a twenty dollar weekly payment from the employer
25 in addition to any other benefit payments, during each full
26 week in which he is actively participating in a vocational
27 rehabilitation program recognized by the state board for voca-
28 tional education. The industrial commissioner’s approval of
29 such application for payment may be given only after a careful
30 evaluation of available facts, and after consultation with the
31 employer or the employer’s representative. An appeal of the
32 decision of the industrial commissioner may be taken to the
33 district court as prescribed in section eighty-six point twenty-
34 six (86.26) of the Code. Such additional benefit payment shall
35 be paid for a period not to exceed thirteen consecutive weeks

- 1 except that the industrial commissioner may extend the period
- 2 of payment not to exceed an additional thirteen weeks if the
- 3 circumstances indicate that a continuation of training will in
- 4 fact accomplish rehabilitation.

EXPLANATION

This bill makes the Workmen's Compensation Act compulsory, and will no longer allow covered employers and employees to reject the provisions of the Act, and also increases benefits. Benefits are based on a percentage of the average weekly wage as determined by the Employment Security Commission. The bill also amends chapter 86 to require the industrial commissioner and his deputies to be lawyers, gives him authority to approve compromise settlements and makes other changes with respect to the liability of employers who fail to insure their liability, or be relieved from the insurance requirement.