

MAY 2 1975

Build-up read 1/14/76

HOUSE FILE 863

Place On Calendar

House File 863 5/23  
Labor and Industrial Relations  
Merritt, Chairman  
Nolting  
DeKoster

By COMMITTEE ON LABOR AND INDUSTRIAL RELATIONS

Passed House, Date 5-20-75 (1835) Passed Senate, Date 1-29-76 (173)

Vote: Ayes 78 Nays 16 Vote: Ayes 32 Nays 18

Approved 5-20-76

Failed to pass House as amended by Senate  
2-26-76 (p. 103)

Motion to reconsider filed 2/26 (706)  
" prevailed 4-28-76 (p. 2284)

# A BILL FOR

1 An Act relating to workmen's compensation laws.

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

Passed House as amended by Senate  
4-28-76 (page 2291)

72-18

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1 Section 1. Section eighty-five point one (85.1), Code  
2 1975, is amended by striking subsection three (3) and inserting  
3 in lieu thereof the following and subsection five (5) is  
4 amended to read as follows:

5 3. Persons engaged in agriculture, insofar as injuries  
6 incurred by employees while engaged in agricultural pursuits  
7 or any operations immediately connected therewith whether  
8 on or off the premises of the employer, except:

9 a. This chapter shall apply to such persons not  
10 specifically exempted by paragraph b of this subsection if  
11 at the time of injury such person is employed by an employer  
12 whose total cash payroll to one or more persons other than  
13 those exempted by paragraph b of this subsection amounted  
14 to one thousand dollars or more during the preceding calendar  
15 year.

16 b. The following persons or employees or groups of  
17 employees shall be specifically included within the terms  
18 of the exemption from coverage of this chapter provided by  
19 this subsection:

20 (1) The spouse of the employer and parents, brothers,  
21 sisters, children and stepchildren of either the employer  
22 or the spouse of the employer; and

23 (2) Any person engaged in agriculture as a farm operator  
24 or spouse of such farm operator or parents, brothers, sisters,  
25 children and stepchildren of either such farm operator or  
26 spouse while exchanging labor with another farm operator or  
27 spouse of such other farm operator or parents, brothers,  
28 sisters, children, and stepchildren of either such other farm  
29 operator or spouse for the mutual benefit of any or all such  
30 persons; and

31 (3) The president, vice president, secretary, treasurer,  
32 of a family farm corporation and their spouses and parents,  
33 brothers, sisters, children and stepchildren of such officers  
34 and their spouses who are employed by such corporation  
35 incorporated by law for the purpose of farming or ownership

1 of agricultural land.

2 5. Employers, including employers of ~~household-or-domes-~~  
3 ~~tie-servants~~ employees engaged in any type of service in or  
4 about a private dwelling, employers of persons whose employment  
5 is of a casual nature and not for the purpose of the employer's  
6 trade or business, and employers of persons engaged in  
7 agriculture, ~~and-employers-of-persons-not-in-the-course-of~~  
8 ~~the-employer's-business~~, may assume with respect to any such  
9 employee or person or classification of employees ~~not-within~~  
10 ~~the-coverage-of-this-chapter,-as-otherwise-provided-in~~ exempt  
11 by subsections 1, 2, paragraph a of 3 and subsection 4 of  
12 this section from coverage provided by this chapter, other  
13 than any such employee or classification of employees with  
14 respect to whom a rule of liability or a method of compensation  
15 has been or may be established by the Congress of the United  
16 States, a liability for compensation imposed upon employers  
17 by this chapter for the benefit of employees within the cover-  
18 age of this chapter. Employers of employees, persons or  
19 classifications of employees exempted by paragraph b of  
20 subsection three (3) of this section may also assume with  
21 respect to any such employee, person or classification of  
22 employees a liability for compensation imposed upon employers  
23 by this chapter by the purchase of valid workmen's compensation  
24 insurance specifically including separate classifications  
25 for (1) such persons who are the spouse and parents, brothers,  
26 sisters, children and stepchildren of either the employer  
27 or his spouse, (2) persons engaged in exchanging labor and  
28 (3) the president, vice president, treasurer and secretary  
29 of a family farm corporation, their spouses and parents,  
30 brothers, sisters, children or stepchildren of such officers  
31 and their spouses. The purchase of and acceptance by any  
32 such employer of valid workmen's compensation insurance  
33 applicable to such employee or person or classification of  
34 employees shall constitute as to such employer an assumption  
35 by such employer of such liability without any further act

1 on the part of such employer, but only with respect to such  
2 employee or person or such classification of employees as  
3 are within the coverage of the said workmen's compensation  
4 insurance contract. Whenever under the provisions of this  
5 subsection an employer voluntarily elects to assume the  
6 liability for the payment of compensation to such employees  
7 or persons or such classification of employees by the purchase  
8 of valid workmen's compensation insurance, the liability of  
9 such employer shall take effect and continue from the effec-  
10 tive date of such workmen's compensation insurance contract  
11 as long only as such insurance contract shall be in force.  
12 Upon such an election, such employee or person or classifi-  
13 cation of employees shall accept compensation in the manner  
14 provided by the chapter and the employer shall be relieved  
15 from any other liability for recovery of damage, or other  
16 compensation for such injury. ~~An employer, upon the elec-~~  
17 ~~tion to assume liability by the purchase of workmen's compen-~~  
18 ~~sation insurance under the provisions of this subsection,~~  
19 ~~shall give notice thereof to the industrial commissioner by~~  
20 ~~certified United States mail.~~

21 Sec. 2. Section eighty-five point twenty-three (85.23),  
22 Code 1975, is amended to read as follows:

23 85.23 NOTICE OF INJURY--FAILURE TO GIVE. Unless the  
24 employer or his representative shall have actual knowledge  
25 of the occurrence of an injury received within ninety days  
26 from the date of the occurrence of the injury, or unless the  
27 employee or someone on his behalf or ~~some of the dependents~~  
28 a dependent or someone on ~~their~~ his behalf shall give notice  
29 thereof to the employer within ~~fifteen~~ ninety days ~~after from~~  
30 the date of the occurrence of the injury, ~~then no compensation~~  
31 ~~shall be paid until and from the date such notice is given~~  
32 ~~or knowledge obtained, but if such notice is given or knowledge~~  
33 ~~obtained within thirty days from the occurrence of the injury,~~  
34 ~~no want, failure, or inaccuracy of a notice shall be a bar~~  
35 ~~to obtaining compensation, unless the employer shall show~~

1 ~~that he was prejudiced thereby, and then only to the extent~~  
2 ~~of such prejudice, but if the employee or beneficiary shall~~  
3 ~~show that his failure to give prior notice was due to mistake,~~  
4 ~~inadvertence, ignorance of fact or law, or inability, or to~~  
5 ~~the fraud, misrepresentation, or deceit of another, or to~~  
6 ~~any other reasonable cause or excuse, then compensation may~~  
7 ~~be allowed, unless and then to the extent only that the~~  
8 ~~employer shall show that he was prejudiced by failure to~~  
9 ~~receive such notice, but unless knowledge is obtained or~~  
10 ~~notice given within ninety days after the occurrence of the~~  
11 ~~injury, no compensation shall be allowed.~~

12 Sec. 3. Section eighty-five point twenty-seven (85.27),  
13 Code 1975, is amended to read as follows:

14 85.27 PROFESSIONAL AND HOSPITAL SERVICES--PROSTHETIC  
15 DEVICES. The employer, ~~with notice or knowledge of injury~~  
16 for all injuries compensable under this chapter or chapter  
17 eighty-five A (85A) of the Code, shall furnish reasonable  
18 surgical, medical, dental, osteopathic, chiropractic,  
19 podiatrical, physical rehabilitation, nursing, ambulance and  
20 hospital services and supplies therefor and shall allow  
21 reasonable transportation expenses incurred for such services.

22 The employer shall also furnish reasonable and necessary  
23 crutches, artificial members and appliances but shall not  
24 be required to furnish more than one permanent prosthetic  
25 device.

26 Any employee, employer or insurance carrier making or  
27 defending a claim for benefits agrees to the release of all  
28 information to which they have access concerning the employee's  
29 physical or mental condition relative to the claim and further  
30 waives any privilege for the release of such information.  
31 Such information shall be made available to any party or their  
32 attorney upon request. Any institution or person releasing  
33 such information to a party or their attorney shall not be  
34 liable criminally or for civil damages by reason of the release  
35 of such information. If release of information is refused

1 the party requesting such information may apply to the  
2 industrial commissioner for relief. The information requested  
3 shall be submitted to the industrial commissioner who shall  
4 determine the relevance and materiality of the information  
5 to the claim and enter an order accordingly.

6 Charges believed to be excessive or unnecessary may be  
7 referred to the industrial commissioner for determination,  
8 and the commissioner may, in connection therewith, utilize  
9 the procedures provided in sections 86.38 and 86.39 and conduct  
10 such inquiry as he shall deem necessary. Any institution  
11 or person rendering treatment to an employee whose injury  
12 is compensable under this section agrees to be bound by such  
13 charges as allowed by the industrial commissioner and shall  
14 not recover in law or equity any amount in excess of that  
15 set by the commissioner.

16 For purposes of this section, the employer is obliged to  
17 furnish reasonable services and supplies to treat an injured  
18 employee, and has the right to choose the care. The treatment  
19 must be offered promptly and be reasonably suited to treat  
20 the injury without undue inconvenience to the employee. If  
21 the employee has reason to be dissatisfied with the care  
22 offered, he should communicate the basis of such  
23 dissatisfaction to the employer in writing if requested,  
24 following which the employer and the employee may agree to  
25 alternate care reasonably suited to treat the injury. If  
26 the employer and employee cannot agree on such alternate care,  
27 the commissioner may, upon application and reasonable proofs  
28 of the necessity therefor, allow and order other care. In  
29 an emergency, the employee may choose his care at the  
30 employer's expense, provided the employer or his agent cannot  
31 be reached immediately.

32 Sec. 4. Section eighty-five point thirty (85.30), Code  
33 1975, is amended to read as follows:

34 85.30 MATURITY DATE AND INTEREST. Compensation payments  
35 shall be made each week beginning on the fifteenth eleventh

1 day after the injury, and each week thereafter during the  
2 period for which compensation is payable, and if not paid  
3 when due, there shall be added to such weekly compensation  
4 payments, interest at six percent from date of maturity.

5 Sec. 5. Section eighty-five point thirty-one (85.31),  
6 subsection one (1), unnumbered paragraph two (2), Code 1975,  
7 is amended to read as follows:

8 The weekly benefit amount shall not exceed a weekly benefit  
9 amount, rounded to the nearest dollar, equal to sixty-six  
10 and two-thirds percent of the state average weekly wage paid  
11 employees as determined by the Iowa employment security commis-  
12 sion under the provisions of section 96.3 and in effect at  
13 the time of the injury, provided, that as of July 1, 1975;  
14 July 1, 1977; July 1, 1979; and July 1, 1981, the maximum  
15 weekly benefit amount rounded to the nearest dollar shall  
16 be increased so that it shall equal one hundred percent, one  
17 hundred thirty-three and one-third percent, one hundred sixty-  
18 six and two-thirds percent and two hundred percent,  
19 respectively, of the state average weekly wage as determined  
20 above; provided further, that such weekly compensation shall  
21 not be less than eighteen thirty-six dollars per week, except  
22 if at the time of his injury his earnings are less than  
23 eighteen thirty-six dollars per week, then the weekly  
24 compensation shall be a sum equal to the full amount of his  
25 weekly earnings. Such compensation shall be in addition to  
26 the benefits provided by sections 85.27 and 85.28.

27 Sec. 6. Section eighty-five point thirty-two (85.32),  
28 Code 1975, is amended by striking the section and inserting  
29 in lieu thereof the following:

30 85.32 WHEN COMPENSATION BEGINS. Except as to injuries  
31 resulting in permanent partial disability, compensation shall  
32 begin on the fourth day of disability after the injury.

33 If the period of incapacity extends beyond the fourteenth  
34 day following the date of injury, then the compensation due  
35 during the third week shall be increased by adding thereto

1 an amount equal to three days of compensation.

2 Sec. 7. Section eighty-five point thirty-three (85.33),  
3 Code 1975, is amended to read as follows:

4 85.33 TEMPORARY DISABILITY. The employer shall pay to  
5 the employee for injury producing temporary disability and  
6 beginning upon the ~~eighth~~ fourth day thereof, weekly  
7 compensation benefit payments for the period of his disa-  
8 bility, including the ~~periodical~~ increase in cases to which  
9 section 85.32 applies.

10 Sec. 8. Section eighty-five point thirty-four (85.34),  
11 unnumbered paragraph one (1), Code 1975, is amended to read  
12 as follows:

13 Compensation for permanent disabilities and during a healing  
14 period for ~~scheduled~~ permanent partial disabilities shall  
15 be payable to an employee as provided in this section. In  
16 the event weekly compensation under section eighty-five point  
17 thirty-three (85.33) of the Code had been paid to any person  
18 ~~under any provision of this chapter or chapter 85A other than~~  
19 ~~is required by subsections 1 and 2 hereof,~~ for the same injury  
20 producing a permanent partial disability, any such amounts  
21 so paid shall be deducted from the ~~total~~ amount of compensation  
22 payable for ~~such permanent partial disability~~ the healing  
23 period.

24 Sec. 9. Section eighty-five point thirty-four (85.34),  
25 subsection two (2), unnumbered paragraph one (1), Code 1975,  
26 is amended to read as follows:

27 Compensation for permanent partial disability shall begin  
28 at the termination of the healing period provided in subsection  
29 1 hereof. Such compensation shall be in addition to the  
30 benefits provided by sections 85.27 and 85.28. Such  
31 compensation shall be based upon the extent of such disability  
32 and upon the basis of eighty percent per week of the employee's  
33 average weekly spendable earnings, but not more than a weekly  
34 benefit amount, rounded to the nearest dollar, equal to sixty-  
35 one and one-third percent of the state average weekly wage

1 paid employees as determined by the Iowa employment security  
2 commission under the provisions of section 96.3 and in effect  
3 at the time of the injury, provided that as of July 1, 1975;  
4 July 1, 1977; July 1, 1979; and July 1, 1981, the maximum  
5 weekly benefit amount rounded to the nearest dollar shall  
6 be increased so that it shall equal ninety-two percent, one  
7 hundred and twenty-two and two-thirds percent, one hundred  
8 fifty-three and one-third percent, and one hundred eighty-  
9 four percent, respectively, of the state average weekly wage  
10 as determined above; provided that no employee shall receive  
11 as compensation less than eighteen thirty-six dollars per  
12 week, except if at the time of his injury his earnings are  
13 less than eighteen thirty-six dollars per week, then the  
14 weekly compensation shall be a sum equal to the full amount  
15 of his weekly earnings; and for all cases of permanent partial  
16 disability such compensation shall be paid as follows:

17 Sec. 10. Section eighty-five point thirty-four (85.34),  
18 subsection two (2), paragraphs l, m, o, and p, Code 1975,  
19 are amended to read as follows:

20 l. For the loss of a hand, weekly compensation during  
21 one hundred seventy-five ninety weeks.

22 m. The loss of two-thirds of that part of an arm between  
23 the shoulder joint and the elbow joint shall equal the loss  
24 of an arm and the compensation therefor shall be weekly  
25 compensation during two hundred thirty fifty weeks.

26 o. The loss of two-thirds of that part of a leg between  
27 the hip joint and the knee joint shall equal the loss of a  
28 leg, and the compensation therefor shall be weekly compensation  
29 during two hundred twenty weeks.

30 p. For the loss of an eye, weekly compensation during  
31 one hundred twenty-five forty weeks.

32 Sec. 11. Section eighty-five point thirty-four (85.34),  
33 subsection three (3), unnumberd paragraph one (1), Code 1975,  
34 is amended to read as follows:

35 Compensation for an injury causing permanent total disa-

1 bility shall be upon the basis of eighty percent per week  
2 of the employee's average weekly spendable earnings, but not  
3 more than a weekly benefit amount, rounded to the nearest  
4 dollar, equal to sixty-six and two-thirds percent of the state  
5 average weekly wage paid employees as determined by the Iowa  
6 employment security commission under the provisions of section  
7 96.3 and in effect at the time of the injury provided that  
8 as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1,  
9 1981, the maximum weekly benefit amount rounded to the nearest  
10 dollar shall be increased so that it shall equal one hundred  
11 percent, one hundred thirty-three and one-third percent, one  
12 hundred sixty-six and two-thirds percent and two hundred  
13 percent, respectively, of the state average weekly wage as  
14 determined above. No employee shall receive as compensa-  
15 tion less than eighteen thirty-six dollars per week, except  
16 if at the time of his injury his earnings are less than  
17 eighteen thirty-six dollars per week, then the weekly  
18 compensation shall be a sum equal to the full amount of his  
19 weekly earnings; said weekly compensation shall be payable  
20 during the period of his disability.

21 Sec. 12. Section eighty-five point thirty-four (85.34),  
22 subsection two (2), Code 1975, is amended by striking the  
23 last two unnumbered paragraphs.

24 Sec. 13. Section eighty-five point thirty-five (85.35),  
25 subsection seven (7), Code 1975, is amended to read as follows:

26 7. This chapter or chapter 85A applies to the injured  
27 party making the claim.

28 Sec. 14. Section eighty-five point thirty-six (85.36),  
29 subsection 10, unnumbered paragraph one (1), Code 1975, is  
30 amended to read as follows:

31 In the case of an employee who earns either no wages or  
32 less than the usual weekly earnings of the regular full-time  
33 adult laborer in the line of industry in which he is injured  
34 in that locality, the weekly earnings shall be one-fiftieth  
35 of the total earnings which the employee has earned from all

1 employment during the twelve calendar months immediately  
2 preceding the injury but shall be not less than ~~forty-five~~  
3 ~~dollars-per-week~~ an amount equal to sixty percent of the  
4 minimum hourly wage, as established by the Fair Labor Standards  
5 Act as amended and in effect at the time of the injury, times  
6 forty.

7 Sec. 15. Section eighty-five point thirty-six (85.36),  
8 subsection ten (10), paragraph d, Code 1975, is amended to  
9 read as follows:

10 ~~d.~~ ---This Paragraph c of this subsection shall not apply  
11 to compensable injuries arising under the second injury  
12 compensation Act.

13 Sec. 16. Section eighty-five point thirty-seven (85.37),  
14 Code 1975, is amended to read as follows:

15 85.37 COMPENSATION SCHEDULE. In all cases where an  
16 employee receives a personal injury causing temporary  
17 disability, or causing a permanent partial disability for  
18 which compensation is payable during a healing period,  
19 compensation for such temporary disability or for such healing  
20 period shall be upon the basis provided herein. The weekly  
21 benefit amount payable to any employee for any one week shall  
22 be upon the basis of eighty percent of the employee's weekly  
23 spendable earnings, but shall not exceed an amount, rounded  
24 to the nearest dollar, equal to sixty-six and two-thirds  
25 percent of the state average weekly wage paid employees as  
26 determined by the Iowa employment security commission 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  
34 the state average weekly wage as determined above. Total  
35 weekly compensation for any employee shall not exceed eighty

1 percent per week of the employee's average weekly spendable  
2 earnings; provided further, that such compensation shall not  
3 be less than eighteen thirty-six dollars per week, except  
4 if at the time of his injury his earnings are less than  
5 eighteen thirty-six dollars per week, then he shall receive  
6 in weekly payments a sum equal to the full amount of his  
7 weekly earnings.

8 Such compensation shall be in addition to the benefits  
9 provided by sections 85.27 and 85.28.

10 Sec. 17. Section eighty-five point thirty-nine (85.39),  
11 Code 1975, is amended by adding the following new unlettered  
12 paragraph:

13 NEW UNLETTERED PARAGRAPH. Whenever an evaluation of  
14 permanent disability has been made by a physician retained  
15 by the employer, and the employee believes this evaluation  
16 to be too low, he shall, upon application to the commissioner  
17 and at the same time delivery of a copy to the employer and  
18 its insurance carrier, be reimbursed by the employer the  
19 reasonable fee for a subsequent examination by a physician  
20 of his own choice, and reasonable transportation expenses  
21 incurred for such examination. The physician chosen by the  
22 employee shall have the right to confer with and obtain from  
23 the employer-retained physician sufficient history of the  
24 injury to make a proper examination.

25 Sec. 18. Section eighty-five point forty-nine (85.49),  
26 Code 1975, is amended to read as follows:

27 85.49 TRUSTEES FOR INCOMPETENT. When a minor or mentally  
28 incompetent dependent, ~~or one mentally incompetent~~, is entitled  
29 to ~~compensation~~ weekly benefits under this chapter or chapter  
30 eighty-five A (85A) of the Code, payment shall be made to  
31 the clerk of the district court for the county in which the  
32 injury occurred, who shall act as trustee, and the money  
33 coming into his hands shall be expended for the use and benefit  
34 of the person entitled thereto under the direction and orders  
35 of a judge of the district court, in which such county is

1 located. The clerk of the district court, as such trustee,  
2 shall qualify and give bond in such amount as the judge may  
3 direct, which may be increased or diminished from time to  
4 time as the court may deem best. The cost of such bond shall  
5 be paid by the county as the court may direct by written order  
6 directed to the auditor of the county who shall issue a warrant  
7 therefor upon the treasurer of the county. If the domicile  
8 or residence of such minor or mentally incompetent dependent  
9 ~~or one mentally incompetent~~ be within the state but in a  
10 county other than that in which the injury to the employee  
11 occurred the industrial commissioner may order and direct  
12 that compensation weekly benefits to such minors or  
13 incompetents be paid to the clerk of the district court of  
14 the county wherein they shall be domiciled or reside.

15 If the domicile or residence of such minor or mentally  
16 incompetent dependent be outside the state of Iowa the  
17 industrial commissioner may order and direct that benefits  
18 to such minors or incompetents be paid to a guardian, conser-  
19 vator, or legal representative duly qualified under the laws  
20 of the jurisdiction wherein the minors or incompetents shall  
21 be domiciled or reside. Proof of the identity and  
22 qualification of such guardian, conservator, or other legal  
23 representative shall be furnished to the industrial  
24 commissioner.

25 Sec. 19. Section eighty-five point sixty-one (85.61),  
26 subsection ten (10), Code 1975, is amended to read as follows:

27 a. An amount equal to the amount which would be withheld  
28 pursuant to withholding tables in effect July first preceding  
29 the injury under the Internal Revenue Code of 1954, and regu-  
30 lations pursuant thereto, as amended to July 1, 1973 1975,  
31 as though the employee had elected to claim the maximum number  
32 of exemptions for actual dependency, blindness and old age  
33 to which the employee is entitled on the date on which he  
34 was injured, and

35 b. An amount equal to the amount which would be withheld

1 pursuant to withholding tables in effect July first preceding  
2 the injury under chapter 422, and any regulations rules  
3 pursuant thereto, as though the employee had elected to claim  
4 the maximum number of exemptions for actual dependency, blind-  
5 ness and old age to which the employee is entitled on the  
6 date on which he was injured; and

7 c. An amount equal to the amount required on July first  
8 preceding the injury by the Social Security Act of 1935 as  
9 amended to July 1, ~~1973~~ 1975, to be deducted or withheld from  
10 the amount of earnings of the employee at the time of the  
11 injury as if the earnings were earned at the beginning of  
12 the calendar year in which he was injured.

13 Sec. 20. Section eighty-six point eight (86.8), subsections  
14 one (1) and four (4), Code 1975, are amended to read as  
15 follows:

16 1. To establish and enforce all necessary rules not in  
17 conflict with the provisions of this chapter and chapters  
18 85, eighty-five A (85A) of the Code and 87 for carrying out  
19 the purposes thereof.

20 4. To keep records of all proceedings and decisions of  
21 such boards, issue subpoenas for witnesses, issue subpoenas  
22 duces tecum, administer oaths, examine books and records of  
23 parties subject to such provisions.

24 Sec. 21. Section eighty-six point ten (86.10), unnumbered  
25 paragraph three (3), Code 1975, is amended to read as follows:

26 A Upon a refusal on the part of the employer to submit  
27 his books, records, or payrolls for the inspection of the  
28 commissioner or his authorized representatives presenting  
29 written authority from the commissioner, ~~shall subject the~~  
30 ~~employer to a penalty of one hundred dollars for each such~~  
31 ~~offense, to be collected by civil action in the name of the~~  
32 ~~state, and paid into the state treasury~~ the commissioner may  
33 enter an order requiring the employer to do so.

34 Sec. 22. Section eighty-six point eleven (86.11), Code  
35 1975, is amended to read as follows:

1     86.11 REPORTS OF INJURIES. Every employer shall here-  
2 after keep a record of all injuries, fatal or otherwise,  
3 claimed to have been sustained by his employees in the course  
4 of their employment and resulting in incapacity for a longer  
5 period than one day. If the injury results only in temporary  
6 disability, causing incapacity for a longer period than seven  
7 three days except as provided in section thirty-three (33)  
8 of this Act, then within ~~forty-eight-hours~~ four days  
9 thereafter, not counting Sundays and legal holidays, the  
10 employer or insurance carrier having had notice or knowledge  
11 of the occurrence of such injury and resulting disability,  
12 ~~a-report shall file a written report with be-made-in-writing,~~  
13 ~~by-the-employer-to~~ the industrial commissioner on forms to  
14 be procured from the commissioner for that purpose. If such  
15 injury to the employee results in permanent total disability,  
16 permanent partial disability or death, then the employer,  
17 or insurance carrier upon notice or knowledge of the occurrence  
18 of the employment injury, shall file a report with the  
19 industrial commissioner within ~~forty-eight-hours~~ four days  
20 after having notice or knowledge of the permanent injury to  
21 the employee or his death. The report of injury to the  
22 industrial commissioner shall be without prejudice to the  
23 employer or insurance carrier and shall not be admitted in  
24 evidence or used in any trial or hearing before any court,  
25 the industrial commissioner or his deputy except as to the  
26 notice under section eighty-five point twenty-three (85.23)  
27 of the Code.

28     Sec. 23. Section eighty-six point twelve (86.12), Code  
29 1975, is amended by striking the section and inserting in  
30 lieu thereof the following:

31     86.12 FAILURE TO REPORT. Any employer who shall fail  
32 to supply the information required by section eighty-six point  
33 ten (86.10) of the Code or fail to file a report required  
34 by section eighty-six point eleven (86.11) of the Code within  
35 twenty days of written demand by the industrial commissioner

1 sent by certified mail to the employer's last known address  
2 be ordered to appear and show cause why he should not be  
3 subject to civil penalty of one hundred dollars for each  
4 occurrence. Upon such hearing if the facts justify it, the  
5 industrial commissioner shall enter an order requiring such  
6 penalty to be paid into the second injury fund created by  
7 sections eighty-five point sixty-three (85.63) through eighty-  
8 five point sixty-nine (85.69) of the Code. In the event the  
9 civil penalty assessed is not voluntarily paid the industrial  
10 commissioner may file a certified copy of such order with  
11 the clerk of the court for the district in which the employer  
12 maintains a place of business. If the employer maintains  
13 no place of business in this state service shall be made as  
14 provided in chapter eighty-five (85) of the Code for  
15 nonresident employers. In such case the order may be filed  
16 in any court of competent jurisdiction within this state.

17 The industrial commissioner may thereafter petition the  
18 court for entry of judgment upon such order, serving notice  
19 of such petition on the employer and any other person in  
20 default. If the court finds the order valid, the court shall  
21 enter judgment against the person or persons in default for  
22 the amount due under the order. No fees shall be required  
23 for the filing of the order or for the petition for judgment,  
24 or for the entry of judgment or for any enforcement procedure  
25 thereupon. No supersedeas shall be granted by any court to  
26 a judgment entered under this section.

27 When a report is required under section eighty-six point  
28 eleven (86.11) of the Code and that report has been submitted  
29 to the employer's insurance carrier and no report of injury  
30 has been filed with the industrial commissioner, the insurance  
31 carrier shall be responsible for filing the report of injury.  
32 Failure to file the report within twenty days of written  
33 demand by the industrial commissioner's office sent by  
34 certified mail shall result in the same civil penalty,  
35 recovered in the same manner as above.

1       Sec. 24. Section eighty-six point thirteen (86.13), Code  
2 1975, is amended by striking unnumbered paragraph two (2).

3       Sec. 25. Section eighty-six point fourteen (86.14), Code  
4 1975, is amended to read as follows:

5       86.14 FAILURE TO REACH AGREEMENT. If the employer and  
6 injured employee or his representatives or dependents fail  
7 to reach an agreement in regard to compensation, either party  
8 may file with the industrial commissioner a petition for  
9 arbitration together with two copies thereof, stating therein  
10 his or her claims in general terms. Thereupon the commissioner  
11 or one of the deputies shall in writing notify the parties  
12 that the ~~defendant~~ opposing party is given ~~at least ten~~ twenty  
13 ~~days in which to answer said petition or otherwise appear~~  
14 or plead. A defense other than a general denial of ~~claimant's~~  
15 the alleged facts must be pleaded as a special defense.

16       Sec. 26. Section eighty-six point seventeen (86.17), Code  
17 1975, is amended to read as follows:

18       86.17 HEARINGS. The deputy industrial commissioner or  
19 the board of arbitration shall make such inquiries and  
20 investigations as it shall deem necessary. The hearings of  
21 the deputy industrial commissioner or the board of arbitra-  
22 tion shall be in ~~the~~ a county in the judicial district where  
23 the injury occurred, but by written stipulation of the parties  
24 filed in the case it may be held at any other place in the  
25 state. If the injury occurred outside this state the hearings  
26 shall be held in ~~the~~ a county seat in the judicial district  
27 of this state which is nearest to the place where the injury  
28 occurred unless the ~~interested~~ parties and the industrial  
29 commissioner or one of his deputies ~~mutually~~ agree by written  
30 stipulation that the same may be held at some other place.

31       Sec. 27. Section eighty-six point twenty-four (86.24),  
32 Code 1975, is amended to read as follows:

33       86.24 REVIEW. Any party aggrieved by the decision or  
34 findings of a deputy industrial commissioner or board of  
35 arbitration may, within ~~ten~~ twenty days after such decision

1 is filed with the industrial commissioner, file in the office  
2 of the commissioner a petition for review, and the commissioner  
3 shall thereupon fix a time for the hearing on such petition  
4 and notify the parties.

5 At such hearing, the commissioner shall hear the parties,  
6 consider all evidence taken before the deputy industrial  
7 commissioner or board of arbitration ~~if-it-has-been~~  
8 ~~transcribed~~, and may hear any additional evidence, and he  
9 may affirm, modify, or reverse the decision of the deputy  
10 or the board, or may remand it to the deputy or the board  
11 for further findings of facts. The transcript of the  
12 arbitration proceedings shall be provided by the party  
13 requesting review at his cost and shall be filed with the  
14 industrial commissioner within thirty days of the filing of  
15 the petition for review.

16 Additional evidence ~~to~~ other than that presented and  
17 admitted in arbitration proceedings shall not be introduced  
18 by either party unless such party gives the opposite party,  
19 or his attorney, five days' notice ~~thereof~~ in writing, stating  
20 the particular phase of the controverted claim to which such  
21 additional evidence will apply.

22 Sec. 28. Section eighty-six point thirty-six (86.36),  
23 subsection two (2), paragraph b, Code 1975, is amended to  
24 read as follows:

25 b. By mailing to such employer within ten days after said  
26 filing with the secretary of state, by ~~restricted~~ certified  
27 mail addressed to the nonresident employer at his last known  
28 residence or place of abode, a copy of said notice on which  
29 shall be noted the date of filing of the copy with the  
30 secretary of state.

31 Sec. 29. Section eighty-six point thirty-six (86.36),  
32 subsection four (4), Code 1975, is amended to read as follows:

33 4. Proof of the filing of a copy of said notice with the  
34 secretary of state and proof of the mailing or personal  
35 delivery of the copy to said nonresident employer shall be

1 made by affidavit of the party doing said acts. All affidavits  
2 of service shall be endorsed upon or attached to the original  
3 of the papers to which they relate and all such proofs of  
4 service, including the ~~restricted~~ certified mail return receipt  
5 shall be forthwith filed with the original of the papers.

6 Sec. 30. Section eighty-six point thirty-seven (86.37),  
7 Code 1975, is amended to read as follows:

8 86.37 PLACE OF HEARING. All petitions for review of the  
9 decision and findings of a deputy industrial commissioner  
10 or board of arbitration shall be held at the seat of the gov-  
11 ernment, or such other location as the industrial commis-  
12 sioner shall designate, and all petitions for review of an  
13 award for payments or an agreement for settlements shall be  
14 heard in the county judicial district where the injury  
15 occurred, provided, however, with the approval of the  
16 industrial commissioner the parties ~~interested~~ may agree upon  
17 another place of hearing.

18 Sec. 31. Chapter eighty-six (86), Code 1975, is amended  
19 by adding the following new section:

20 NEW SECTION. To encourage payments to employees or  
21 dependents during the investigation of a claim for benefits  
22 nothing in this chapter shall prevent the employer or the  
23 insurance carrier from making voluntary payments prior to  
24 a determination as to liability under chapter eighty-five  
25 (85) or eighty-five A (85A) of the Code in an amount considered  
26 to be equal to the weekly compensation benefits to which the  
27 employee or his dependents would be entitled in the event  
28 the employer were determined to be liable under chapter eighty-  
29 five (85) or eighty-five A (85A) of the Code. Such payments  
30 shall not be construed as an agreement for the payment of  
31 weekly compensation; payment of weekly compensation; payment  
32 in lieu of compensation; or an admission of liability.

33 When voluntary payments are made they shall commence within  
34 fifteen days from the date the report of injury is filed pur-  
35 suant to section eighty-six point eleven (86.11) of the Code.

1 The employer or insurance carrier shall file within thirty  
2 days after the voluntary payments are begun a notice with  
3 the industrial commissioner on forms prescribed by the  
4 commissioner of the commencement, amount and duration of  
5 payments. The filing of notice shall be required for the  
6 payments to be deemed made pursuant to this section. Payments  
7 shall continue for ninety days or until the period of  
8 disability shall cease whichever shall occur first, unless  
9 prior to that time a memorandum of agreement or denial of  
10 liability is filed with the industrial commissioner. Upon  
11 application and for good cause shown, the period during which  
12 voluntary payments are made may be extended for an additional  
13 ninety days.

14 Within thirty days from the date of the last payment made  
15 under this section the employer or insurance carrier shall  
16 file with the industrial commissioner either a memorandum  
17 of agreement or a denial of liability stating the reasons  
18 therefor with a copy of the denial mailed to the employee  
19 or his dependents by certified mail at the last known address.

20 Any failure on the part of the employer or insurance car-  
21 rier to file a memorandum of agreement or denial of liability  
22 with the industrial commissioner within thirty days after  
23 the last payment made under this section shall stop the running  
24 of section eighty-five point twenty-six (85.26) of the Code  
25 as of the date of the last payment. When payments are made  
26 under this section and a denial of liability is filed, the  
27 time in which original proceedings for compensation shall  
28 be maintained shall be within two years from the date of the  
29 last payment.

30 If a memorandum of agreement is filed and approved pursuant  
31 to section eighty-six point thirteen (86.13) of the Code or  
32 an award for payments is granted pursuant to section eighty-  
33 six point twenty-three (86.23) of the Code the employer or  
34 insurance carrier shall be entitled to credit for amounts  
35 paid under this section.



H-5279

1 Amend the Senate amendment, H-5121, to House File  
 2 863 as amended and passed by the House, page 1, by  
 3 inserting after line 28 the following:  
 4 "\_\_\_ . Page 6, line 13, by striking the semicolon  
 5 and inserting "7".  
 6 \_\_\_ . Page 6, by striking line 14, and inserting  
 7 "~~July-17-1977; July-17-1979; and July-17-1981~~ the  
 8 maximum".  
 9 \_\_\_ . Page 6, by striking lines 16, 17, 18, and  
 10 19 and inserting "be increased so that it shall equal  
 11 one hundred percent~~, one hundred-thirty-three-and~~  
 12 ~~one-third-percent, one hundred-sixty-six-and-two-~~  
 13 ~~thirds-percent-and-two-hundred-percent, respectively,~~  
 14 of the state average weekly wage as determined".  
 15 \_\_\_ . Page 8, line 3, by striking the semicolon  
 16 and inserting "7".  
 17 \_\_\_ . Page 8, line 6, by striking ", one" and  
 18 inserting "7-one".  
 19 \_\_\_ . Page 8, by striking line 4, and inserting  
 20 in lieu thereof the words "~~July-17-1977; July-17-1979;~~  
 21 ~~and July-17-1981~~ the maximum".  
 22 \_\_\_ . Page 8, by striking lines 7, 8, and 9 and  
 23 inserting "hundred-and-twenty-two-and-two-thirds  
 24 percent~~, one hundred-fifty-three-and-one-third-percent,~~  
 25 ~~and one hundred-eighty-four-percent, respectively,~~  
 26 of the state average wage".  
 27 \_\_\_ . Page 9, by striking line 8 and inserting "as  
 28 of July 1, 1975~~; July-17-1977; July-17-1979; and July~~  
 29 ~~17~~".  
 30 \_\_\_ . Page 9, line 9, by striking the figure "1981"  
 31 and inserting "1984".  
 32 \_\_\_ . Page 9, by striking lines 11 and 12 and  
 33 inserting "percent~~, one hundred-thirty-three-and-one-~~  
 34 ~~third-percent, one hundred-sixty-six-and-two-thirds~~  
 35 ~~percent-and-two-hundred~~".  
 36 \_\_\_ . Page 9, line 13, by striking "percent,  
 37 respectively," and inserting "percent~~, respectively,~~".  
 38 \_\_\_ . Page 10, lines 28 and 29, by striking "July  
 39 1, 1977; July 1, 1979; and July 1, 1981," and inserting  
 40 "~~July-17-1977; July-17-1979; and July-17-1981,~~".  
 41 \_\_\_ . Page 10, by striking lines 31, 32, and 33  
 42 and inserting "that it shall equal one hundred percent~~,~~  
 43 ~~one hundred-thirty-three-and-one-third-percent, one~~  
 44 ~~hundred-sixty-six-and-two-thirds-percent, and two~~  
 45 ~~hundred-percent, respectively,~~ of".

H-5279 FILED - *Withdrawn* BY SCHROEDER of Pottawattamie  
 FEBRUARY 18, 1976 <sup>2/26</sup>(701)

H-5136

1 Amend the Senate amendment, H-5121, to House File  
2 863, as amended and passed by the House as follows:  
3 1. Page 1, by inserting after line 28 the  
4 following:  
5 " . Page 5, by striking lines 16 through 31,  
6 and inserting in lieu thereof the following:  
7 "For purposes of this section, the employer is  
8 obliged to furnish reasonable services and supplies  
9 to treat an injured employee. The employee has the  
10 right to choose the care. The employer's physician  
11 can require periodic observation to follow medical  
12 progress of the employee and correspond with the  
13 employee's designated practitioner in any area which  
14 could facilitate better treatment. If the employer's  
15 physician disagrees with the manner of treatment and  
16 progress of the employee, the employer may request  
17 alternate care. If the employer and employee cannot  
18 agree on such alternate care, the commissioner may,  
19 upon application and reasonable proof of the neces-  
20 sity therefore, allow and order other care."  
21 2. Renumber the sections and correct internal  
22 references as necessary in conformance with this  
23 amendment.

H-5136 FILED - *Ruled out* BY MILLER of Buchanan *Motion to reconsider filed 2/26 (706)*  
FEBRUARY 5, 1976 *of order 2/26 (p. 701) Rule suspended provided 4/28*  
*Adopted 2/26 59-31 - Lost 4/28 (p. 2286)*

HOUSE FILE 863

H-5221

1 Amend the Senate amendment H-5121 to House  
2 File 863, as passed by the House, as follows:  
3 1. Page 1, by inserting after line 2 the fol-  
4 lowing:  
5 "1. Page 1, line 14, by striking the word  
6 "one thousand" and inserting in lieu thereof the  
7 words "two thousand five hundred".  
8 2. By renumbering the amendments to con-  
9 form to this amendment.

H-5221 FILED - *Adopted 2/26* BY HUSAK of Tama *Motion to reconsider filed 2/26 (p. 706)*  
FEBRUARY 17, 1976 *56-31 (p. 700) PELLETT of Cass provided 4/28*  
*Lost 4-28 (2288)*

HOUSE FILE 863

H-5281

1 Amend the Senate amendment, H-5121, to House File  
2 863, as amended and passed by the House, page 6, by  
3 striking lines 1 through 4 and inserting in lieu  
4 thereof the following:  
5 "Sec. \_\_\_\_ . The Code editor is directed to strike  
6 the words "workman", "workmen" and "workmen's  
7 compensation" wherever they appear in chapters eighty-  
8 five (85), eighty-five A (85A), eighty-six (86), and  
9 eighty-seven (87) of the Code and insert in lieu  
10 thereof the words "worker", "workers" and "workers'  
11 compensation"."

H-5281 FILED - *Adopted 2/26* BY SCHROEDER of Pottawattamie *Motion to reconsider filed 2/26 (p. 706)*  
FEBRUARY 18, 1976 *(page 702) Rule suspended, reconsidered and Lost 4/28 (2290)*

H-5121

1 Amend House File 863, as amended and passed by  
2 the House, as follows:

3 1. Page 1, by striking line 35, and inserting  
4 in lieu thereof ", the primary purpose of which,  
5 although not necessarily the stated purpose, is farm-  
6 ing or ownership of agricultural land, and".

7 2. Page 2, by striking line 1 and inserting  
8 in lieu thereof the following: "while such officer  
9 or person related to the officer is engaged in agri-  
10 cultural pursuits or any operation immediately con-  
11 nected therewith whether on or off the premises of  
12 the employer."

13 3. Page 2, line 8, by striking the word  
14 "assume" and inserting in lieu thereof the word  
15 "assume".

16 4. Page 2, by striking line 11 and inserting  
17 in lieu thereof the following: "by subsections 1,  
18 2, 3 and 4 and subsection three (3), paragraph a  
19 of".

20 5. Page 2, line ~~16~~, by inserting after the word  
21 "States," the word "assume".

22 6. Page 2, line 20, by striking the word  
23 "assume".

24 7. Page 2, line 22, by inserting after the word  
25 "employees" the word "assume".

26 8. Page 4, line 21, by striking the word  
27 "reasonable" and inserting in lieu thereof the words  
28 "reasonably necessary".

29 9. Page 11, line 20, by striking the word  
30 "reasonable" and inserting in lieu thereof the words  
31 "reasonably necessary".

32 10. Page 12, line 30, by striking the figure  
33 "1975" and inserting in lieu thereof the figure  
34 "1976".

35 11. Page 13, line 9, by striking the figure  
36 "1975" and inserting in lieu thereof the figure  
37 "1976".

38 12. Page 14, by striking line 3 and insert-  
39 ing in lieu thereof the words "sustained-by-his  
40 employee-in-the-course alleged by an employee to  
41 have been sustained in the course".

42 13. Page 14, line 4, by striking the word  
43 "their" and inserting in lieu thereof the words  
44 "his or her".

45 14. Page 14, line 21, by striking the words  
46 "of injury".

47 15. Page 14, line 22, by inserting after the  
48 word "commissioner" the words "of injury".

49 16. Page 14, by striking lines 31 through  
50 35 and inserting in lieu thereof the following:

1 "86.12 FAILURE TO REPORT. The industrial com-  
2 mssioner may require any employer to supply the  
3 information required by section eighty-six point  
4 ten (86.10) of the Code or to file a report required  
5 by section eighty-six point eleven (86.11) of the  
6 Code, by written demand sent to the employer's last  
7 known address. Upon failure to supply such informa-  
8 tion or file such report within twenty days, the  
9 employer may".

10 17. Page 15, by striking line 1.

11 18. Page 15, line 4, by striking the words  
12 "if the facts justify it".

13 19. Page 15, line 5, by inserting after the  
14 word "enter" the words "a finding of fact and may  
15 enter".

16 20. Page 15, line 10, by inserting after the  
17 word "such" the words "finding and".

18 21. Page 15, line 15, by inserting after the  
19 word "the" the words "finding and".

20 22. Page 15, line 31, by inserting after the  
21 word "injury" the words "in the same manner and to  
22 the same extent as an employer under this section".

23 23. Page 15, by striking lines 32 through 35.

24 24. Page 16, after line 15, by inserting the  
25 following section:

26 "Sec. \_\_. Sections eighty-six point fifteen  
27 (86.15), and eighty-six point sixteen (86.16), Code  
28 1975, are repealed."

29 25. Page 16, line 18, by inserting after the  
30 figure "86.17" the word "ARBITRATION".

31 26. Page 16, line 18, by inserting after  
32 the word "HEARINGS" the words "Petitions for arbitra-  
33 tion shall be heard before a deputy industrial com-  
34 missioner. Such hearings shall be conducted pursuant  
35 to the provisions of chapter seventeen A (17A) of  
36 the Code for contested cases."

37 27. Page 16, lines 18 and 19 by striking  
38 the words "or the board of arbitration" and insert-  
39 ing in lieu thereof the words "~~or-the-board-of-arbi-~~  
40 ~~tration~~".

41 28. Page 16, lines 21 and 22 by striking the  
42 words "or the board of arbitration" and inserting  
43 in lieu thereof the words "~~or-the-board-of-arbitra-~~  
44 ~~tion~~".

45 29. Page 16, after line 30, by inserting the  
46 following sections:

47 "Sec. \_\_. Section eighty-six point eighteen  
48 (86.18), Code 1975, is amended to read as follows:

49 86.18 LIBERAL RULES OF EVIDENCE. ~~While-sitting~~  
50 ~~as-a-board-of-arbitration, or-when~~ When conducting

1 a hearing on review, or in making any investigation  
2 or inquiry, ~~neither-the-board-of-arbitration-nor~~  
3 the commissioner or his deputies shall not be bound  
4 by common law or statutory rules of evidence or by  
5 technical or formal rules of procedure; but they  
6 shall hold such arbitrations, or conduct such hear-  
7 ings and make such investigations and inquiries in  
8 such manner as is best suited to ascertain and con-  
9 serve the substantial rights of all parties thereto.  
10 Process and procedure under this chapter shall be  
11 as summary as reasonably may be.

12 Sec. \_\_. Section eighty-six point nineteen  
13 (86.19), Code 1975, is amended to read as follows:

14 86.19 APPOINTMENT OF REPORTER. The industrial  
15 commissioner, or one of his deputies, may appoint  
16 a shorthand reporter to report the proceedings of  
17 any hearing before the commissioner, or one of his  
18 deputies, ~~or-board-of-arbitration;~~ and fix the  
19 reasonable amount of compensation for such service,  
20 which amount shall be taxed as other costs. Any  
21 such reporter shall faithfully and accurately report  
22 any proceeding for which he or she shall be employed.

23 Sec. \_\_. Section eighty-six point twenty-one  
24 (86.21), unnumbered paragraph one (1), Code 1975,  
25 is amended to read as follows:

26 The deposition of any witness may be taken and  
27 used as evidence in any hearing pending before a  
28 ~~board-of-arbitration-or~~ the industrial commissioner  
29 or one of his deputies in compensation proceedings.

30 Sec. \_\_. Section eighty-six point twenty-three  
31 (86.23), Code 1975, is amended to read as follows:

32 86.23 FINDINGS OF ARBITRATION-BOARD-OR DEPUTY  
33 COMMISSIONER FILED. The decision of a deputy in-  
34 dustrial commissioner ~~or-board-of-arbitration;~~ to-  
35 gether with a statement or certificate of evidence  
36 submitted at the hearing, the findings of fact,  
37 rulings of law, and any other matters pertinent to  
38 questions arising at such hearing, shall be filed  
39 in the office of the industrial commissioner."

40 30. Page 16, lines 34 and 35, by striking  
41 the words "or board of arbitration" and inserting  
42 in lieu thereof the words "~~or-board-of-arbitration~~".

43 31. Page 17, line 7, by striking the words  
44 "or board of arbitration" and inserting in lieu  
45 thereof the words "~~or-board-of-arbitration~~".

46 32. Page 17, line 10, by striking line 10  
47 and inserting in lieu thereof the words "~~the-board,~~  
48 or may remand it to the board deputy".

49 33. Page 17, line 16, by striking the words  
50 "Additional evidence" and inserting in lieu there-

1 of the words "~~Additional-evidence~~ Evidence".

2 34. Page 17, line 27, by inserting after the  
3 word "mail" the words "with return receipt request-  
4 ed".

5 35. Page 18, line 10, by striking the words  
6 "or board of arbitration" and inserting in lieu  
7 thereof the words "~~er-beard-of-arbitration~~".

8 36. Page 18, after line 17, by inserting the  
9 following sections:

10 Sec. \_\_. Section eighty-six point thirty-eight  
11 (86.38), Code 1975, is amended to read as follows:

12 86.38 EXAMINATION BY PHYSICIAN--FEE. The  
13 industrial commissioner may appoint a duly quali-  
14 fied, impartial physician to examine the injured  
15 employee and make report. The fee for this service  
16 shall be five dollars, to be paid by the industrial  
17 commissioner, together with traveling expenses, but  
18 the commissioner may allow additional reasonable  
19 amounts in extraordinary cases. Any physician so  
20 examining any injured employee shall not be prohi-  
21 bited from testifying before the industrial com-  
22 missioner, ~~board-of-arbitration~~, or any other person,  
23 commission, or court, as to the results of his exam-  
24 ination or the condition of the injured employee.

25 Sec. \_\_. Section eighty-six point forty (86.40),  
26 Code 1975, is amended to read as follows:

27 86.40 ~~COMPENSATION-OF-ARBITRATORS-COSTS~~ COSTS.  
28 ~~The-arbitrators-except-the-commissioner-shall-each~~  
29 ~~recieve-five-dollars-as-a-fee-for-services,-but-the~~  
30 ~~industrial-commissioner-may-allow-additional-reason-~~  
31 ~~able-amounts-in-extraordinary-cases.--The-fees-shall~~  
32 ~~be-paid-by-the-employer,-who-may-deduct-an-amount~~  
33 ~~equal-to-one-half-the-sum-from-any-compensation~~  
34 ~~found-due-the-employee.~~ All other costs incurred  
35 in the hearing before ~~a-board-of-arbitration~~ or the  
36 commissioner shall be taxed in the discretion of  
37 ~~such-board-or~~ the commissioner ~~as-the-case-may-be-~~

38 Sec. \_\_. Section eighty-six point forty-one  
39 (86.41), Code 1975, is amended to read as follows:

40 86.41 WITNESS FEES. Witness fees and mileage  
41 on hearings before ~~an-arbitration-board~~ or the  
42 industrial commissioner shall be the same as in the  
43 district court.

44 Sec. \_\_. Section eighty-six point forty-two  
45 (86.42), Code 1975, is amended to read as follows:

46 86.42 JUDGEMENT BY DISTRICT COURT ON AWARD.  
47 Any party in interest may present a certified copy  
48 of an order or decision of the commissioner, ~~or-an~~  
49 ~~award-of-a-board-of-arbitration~~ from which no peti-  
50 tion for review has been filed within the time

- 1 allowed therefor, or a memorandum of agreement
- 2 approved by the commissioner, and all papers in
- 3 connection therewith, to the district court of the
- 4 county in which the injury occurred, whereupon said
- 5 court shall render a decree or judgment in accor-
- 6 dance therewith and cause the clerk to notify the
- 7 parties. Such decree or judgment, in the absence
- 8 of a petition for judicial review of the decision
- 9 of the industrial commissioner, shall have the same
- 10 effect and in all proceedings in relation thereto
- 11 shall thereafter be the same as though rendered in
- 12 a suit duly heard and determined by said court."
- 13 37. Page 19, by striking lines 1 and 2 and
- 14 inserting in lieu thereof "Within thirty days after
- 15 voluntary payments are begun, the employer or in-
- 16 surance carrier shall file a notice with".
- 17 38. Page 19, line 18, by striking the word
- 18 "with" and inserting in lieu thereof the word "and".
- 19 39. Page 19, line 18, by inserting after the
- 20 word "denial" the words "shall be".
- 21 40. Page 19, line 19, by inserting after the
- 22 word "mail" the words "with return receipt request-
- 23 ed".
- 24 41. Page 19, line 24, by striking the words
- 25 "of section" and inserting in lieu thereof the words
- 26 "of time allowed under section".
- 27 42. Page 19, line 27, by striking the word
- 28 "in" and inserting in lieu thereof the word "with-
- 29 in".
- 30 43. Page 19, line 27, by striking the word
- 31 "shall" and inserting in lieu thereof the word
- 32 "must".
- 33 44. Page 19, line 28, by striking the word
- 34 "within".
- 35 45. Page 19, line 30, by striking the word
- 36 "if" and inserting in lieu thereof the word "is".
- 37 46. Page 20, line 4, by striking the figure
- 38 "1976" and inserting in lieu thereof the figure
- 39 "1977".
- 40 47. Page 20, line 5, by striking the figure
- 41 "1976" and inserting in lieu thereof the figure
- 42 "1977".
- 43 48. Page 20, line 9, by striking the figure
- 44 "1976" and inserting in lieu thereof the figure
- 45 "1977".
- 46 49. Page 20, line 9, by striking the word
- 47 "such" and inserting in lieu thereof the word
- 48 "that".
- 49 50. Page 20, by inserting after line 10 the
- 50 following section:

H-5121-Page 6

- 1 "Sec. \_\_. The Code editor is directed to
- 2 strike the words "workmen's compensation" wherever
- 3 they appear in the Code and insert in lieu thereof
- 4 the words "workers' compensation".
- 5 51. Amend the title, line 1, by inserting
- 6 after the word "laws" the words "and providing a
- 7 civil penalty".
- 8 52. By redesignating sections as necessary.

H-5121 FILED *Have amended as concurred 2/26 74. 4 (702)*  
 RECEIVED FROM SENATE *Motion to reconsider filed (706) prevailed 4-28 (2284)*  
 FEBRUARY 3, 1976 *Have concurred 4/28*

H-3747

1 Amend House File 863, as follows:  
2 Page 5, by striking lines 16 through 31, and in-  
3 sserting in lieu thereof the following:  
4 "For purposes of this section, the employer is  
5 obliged to furnish reasonable services and supplies  
6 to treat an injured employee. The employee has  
7 the right to choose the care. The employer's  
8 physician can require periodic observation to  
9 follow medical progress of the employee and correspond  
10 with the employee's designated practitioner in any  
11 area which could facilitate better treatment. If the  
12 employer's physician disagrees with the manner of  
13 treatment and progress of the employee, the employer  
14 may request alternate care. If the employer and  
15 employee cannot agree on such alternate care, the  
16 commissioner may, upon application and reasonable  
17 proof of the necessity therefore, allow and order  
18 other care."

H-3747 FILED - *Post 5/20 (1835)*  
MAY 5, 1975

BY MILLER of Buchanan

H-3860

1 Amend House File 863 as follows:  
2 1. Page 5, line 23, by inserting after the  
3 word "employer" the following: ",".  
4 2. Page 10, by striking lines 3 through 6 and  
5 inserting in lieu thereof the following: "dollars  
6 per-week an amount equal to thirty-five percent of  
7 the state average weekly wage paid employees as  
8 determined by the Iowa employment security com-  
9 mission under the provisions of section ninety-six  
10 point three (96.3) of the Code, and in effect at  
11 the time of the injury."  
12 3. Page 12, by inserting after line 26 the  
13 following:  
14 "10. "Payroll taxes" means the following:"  
15 4. Page 12, line 28, by inserting after the  
16 word "effect" the word "on".  
17 5. Page 13, line 1, by inserting after the  
18 word "effect" the word "on".

H-3860 FILED - *Adopted 5/20 (1835)*  
MAY 14, 1975

BY JOCHUM of Dubuque  
BRANSTAD of Winnebago  
PAVICH of Pottawattamie  
CONNORS of Polk

1 Amend House File 863, as amended and passed by  
2 the House, as follows:

3 1. Page 1, by striking line 35.

4 2. Page 2, by striking line 1 and inserting in  
5 lieu thereof the following: "while such officer or  
6 person related to the officer is engaged in  
7 agricultural pursuits or any operation immediately  
8 connected therewith whether on or off the premises  
9 of the employer."

10 3. Page 2, line 8, by striking the word "assume"  
11 and inserting in lieu thereof the word "assumes".

12 4. Page 2, by striking line 11 and inserting in  
13 lieu thereof the following: "by subsections 1, 2,  
14 3 and 4 and subsection three (3), paragraph a of".

15 5. Page 2, line 16, by inserting after the word  
16 "States," the word "assumes".

17 6. Page 2, line 20, by striking the word "assume".

18 7. Page 2, line 22, by inserting after the word  
19 "employees" the word "assumes".

20 8. Page 4, line 21, by striking the word  
21 "reasonable" and inserting in lieu thereof the words  
22 "reasonably necessary".

23 9. Page 11, line 20, by striking the word  
24 "reasonable" and inserting in lieu thereof the words  
25 "reasonably necessary".

26 10. Page 12, line 30, by striking the figure  
27 "1975" and inserting in lieu thereof the figure "1976".

28 11. Page 13, line 9, by striking the figure "1975"  
29 and inserting in lieu thereof the figure "1976".

30 12. Page 14, by striking line 3 and inserting  
31 in lieu thereof the words "~~sustained-by-his-employee~~  
32 ~~in-the-course~~ alleged by an employee to have been  
33 sustained in the course".

34 13. Page 14, line 21, by striking the words "of  
35 injury".

36 14. Page 14, line 22, by inserting after the word  
37 "commissioner" the words "of injury".

38 15. Page 14, by striking lines 31 through 35 and  
39 inserting in lieu thereof the following:

40 "86.12 FAILURE TO REPORT. The industrial com-  
41 missioner may require any employer to supply the  
42 information required by section eighty-six point ten  
43 (86.10) of the Code or to file a report required by  
44 section eighty-six point eleven (86.11) of the Code,  
45 by written demand sent to the employer's last known  
46 address. Upon failure to supply such information  
47 or file such report, the employer may".

48 16. Page 15, by striking line 1.

49 17. Page 15, line 4, by striking the words "if  
50 the facts justify it".

A

B  
Adopted 1/29

A

- 1 18. Page 15, line 5, by inserting after the word
- 2 "enter" the words "a finding of fact and may enter".
- 3 19. Page 15, line 10, by inserting after the word
- 4 "such" the words "finding and".
- 5 20. Page 15, line 15, by inserting after the word
- 6 "the" the words "finding and".
- 7 21. Page 15, line 31, by inserting after the word
- 8 "injury" the words "in the same manner and to the
- 9 same extent as an employer under this section".
- 10 22. Page 15, by striking lines 32 through 35.
- 11 23. Page 17, line 16, by striking the words
- 12 "Additional evidence" and inserting in lieu thereof
- 13 the words "~~Additional evidence~~ Evidence".
- 14 24. Page 17, line 27, by inserting after the word
- 15 "mail" the words "with return receipt requested".
- 16 25. Page 19, by striking lines 1 and 2 and insert-
- 17 ing in lieu thereof "Within thirty days after voluntary
- 18 payments are begun, the employer or insurance carrier
- 19 shall file a notice with".
- 20 26. Page 19, line 18, by striking the word "with"
- 21 and inserting in lieu thereof the word "and".
- 22 27. Page 19, line 18, by inserting after the word
- 23 "denial" the words "shall be".
- 24 28. Page 19, line 19, by inserting after the word
- 25 "mail" the words "with return receipt requested".
- 26 29. Page 19, line 24, by striking the words "of
- 27 section" and inserting in lieu thereof the words "of
- 28 time allowed under section".
- 29 30. Page 19, line 27, by striking the word "in"
- 30 and inserting in lieu thereof the word "within".
- 31 31. Page 19, line 27, by striking the word "shall"
- 32 and inserting in lieu thereof the word "must".
- 33 32. Page 19, line 28, by striking the word
- 34 "within".
- 35 33. Page 19, line 30, by striking the word "if"
- 36 and inserting in lieu thereof the word "is".
- 37 34. Page 20, line 4, by striking the figure "1976"
- 38 and inserting in lieu thereof the figure "1977".
- 39 35. Page 20, line 5, by striking the figure "1976"
- 40 and inserting in lieu thereof the figure "1977".
- 41 36. Page 20, line 9, by striking the figure "1976"
- 42 and inserting in lieu thereof the figure "1977".
- 43 37. Page 20, line 9, by striking the word "such"
- 44 and inserting in lieu thereof the word "that".
- 45 38. Amend the title, line 1, by inserting after
- 46 the word "laws" the words "and providing a civil
- 47 penalty".

S-5005 FILED  
JANUARY 16, 1976

A- Adopted as amended 1/29  
B- Adopted 1/29

BY COMMITTEE ON LABOR AND INDUSTRIAL RELATIONS  
CLOYD E. ROBINSON, CHAIRPERSON

S-3978

- 1 Amend House File 863 as amended and passed by the  
 2 House as follows:
- 3 1. Page 6, line 13, by striking the semicolon  
 4 and inserting "7".
- 5 2. Page 6, by striking line 14, and inserting  
 6 "July-17-19777-July-17-19797-and-July-17-19817 the  
 7 maximum".
- 8 3. Page 6, by striking lines 16, 17, 18, and 19  
 9 and inserting "be increased so that it shall equal  
 10 one hundred percent7-one-hundred-thirty-three-and  
 11 one-third-percent7-one-hundred-sixty-six-and-two-  
 12 thirds-percent-and-two-hundred-percent7-respectively7  
 13 of the state average weekly wage as determined".
- 14 4. Page 8, line 3, by striking the semicolon and  
 15 inserting "7".
- 16 5. Page 8, line 6, by striking ", one" and  
 17 inserting "7-one".
- 18 6. Page 8, by striking lines 7, 8, and 9 and  
 19 inserting "hundred-and-twenty-two-and-two-thirds  
 20 percent7-one-hundred-fifty-three-and-one-third-percent7  
 21 and-one-hundred-eighty-four-percent7-respectively7  
 22 of the state average wage".
- 23 7. Page 9, by striking line 8 and inserting "as  
 24 of July 1, 19757-July-17-19777-July-17-19797-and-July  
 25 17".
- 26 8. Page 9, line 9, by striking the figure "1981"  
 27 and inserting "1984".
- 28 9. Page 9, by striking lines 11 and 12 and  
 29 inserting "percent7-one-hundred-thirty-three-and-one-  
 30 third-percent7-one-hundred-sixty-six-and-two-thirds  
 31 percent-and-two-hundred".
- 32 10. Page 9, line 13, by striking "percent,  
 33 respectively," and inserting "percent7-respectively7".
- 34 11. Page 10, lines 28 and 29, by striking "July  
 35 1, 1977; July 1, 1979; and July 1, 1981," and inserting  
 36 "July-17-19777-July-17-19797-and-July-17-19817".
- 37 12. Page 10, by striking lines 31, 32, and 33  
 38 and inserting "that it shall equal one hundred percent7  
 39 one-hundred-thirty-three-and-one-third-percent7-one  
 40 hundred-sixty-six-and-two-thirds-percent7-and-two  
 41 hundred-percent7-respectively7 of".

S-3978 FILED - *Lat 23-25 1/29* BY CALVIN O. HULTMAN  
 MAY 29, 1975

S-5008

- 1 Amend the Committee on Labor and Industrial Re-
- 2 lations amendment S-5005 to House File 863, as amended
- 3 and passed by the House, as follows:
- 4 1. Page 1, line 47, by inserting after the word
- 5 "report" the words "within twenty days".

S-5008 FILED - *adopted 1/29*  
JANUARY 20, 1976

BY LUCAS J. DeKOSTER  
CLOYD E. ROBINSON

S-5011

- 1 Amend House File 863, as amended and passed by the
- 2 House, as follows:
- 3 Page 14, line 4, by striking the word "their" and
- 4 inserting in lieu thereof the words "his or her".

S-5011 FILED - *adopted 1/29* BY CLOYD ROBINSON  
JANUARY 20, 1976

S-5030

- 1 Amend the Committee on Labor and Industrial
- 2 Relations amendment S-5005 to House File 863, as
- 3 amended and passed by the House, as follows:
- 4 1. Page 1, line 3, by adding after the words
- 5 "line 35", the words", and inserting in lieu thereof
- 6 ", the primary purpose of which, although not necess-
- 7 arily the stated purpose, is farming or ownership
- 8 of agricultural land, and"".

S-5030 - *adopted 1/29*  
FILED  
JANUARY 27, 1976

BY LUCAS J. DE KOSTER

S-5034

1 Amend House File 863, as amended and passed by  
2 the House, as follows:

3 1. Page 16, line 18, by inserting after the figure  
4 "86.17" the word "ARBITRATION".

5 2. Page 16, line 18, by inserting after the word  
6 "HEARINGS" the words "Petitions for arbitration shall  
7 be heard before a deputy industrial commissioner.  
8 Such hearings shall be conducted pursuant to the  
9 provisions of chapter seventeen A (17A) of the Code  
10 for contested cases."

11 3. Page 16, lines 18 and 19 by striking the words  
12 "or the board of arbitration" and inserting in lieu  
13 thereof the words "~~or-the-board-of-arbitration~~".

14 4. Page 16, lines 21 and 22 by striking the words  
15 "or the board of arbitration" and inserting in lieu  
16 thereof the words "~~or-the-board-of-arbitration~~".

17 5. Page 16, after line 30, by inserting the  
18 following sections:

19 "Sec. \_\_. Section eighty-six point eighteen  
20 (86.18), Code 1975, is amended to read as follows:

21 86.18 LIBERAL RULES OF EVIDENCE. ~~While-sitting~~  
22 ~~as-a-board-of-arbitration, or-when~~ When conducting  
23 a hearing on review, or in making any investigation  
24 or inquiry, ~~neither-the-board-of-arbitration-nor~~ the  
25 commissioner or his deputies shall not be bound by  
26 common law or statutory rules of evidence or by  
27 technical or formal rules of procedure; but they shall  
28 hold such arbitrations, or conduct such hearings and  
29 make such investigations and inquires in such manner  
30 as is best suited to ascertain and conserve the  
31 substantial rights of all parties thereto. Process  
32 and procedure under this chapter shall be as summary  
33 as reasonably may be.

34 Sec. \_\_. Section eighty-six point nineteen (86.19),  
35 Code 1975, is amended to read as follows:

36 86.19 APPOINTMENT OF REPORTER. The industrial  
37 commissioner, or one of his deputies, may appoint  
38 a shorthand reporter to report the proceedings of  
39 any hearing before the commissioner, or one of his  
40 deputies, ~~or-board-of-arbitration,~~ and fix the  
41 reasonable amount of compensation for such service,  
42 which amount shall be taxed as other costs. Any such  
43 reporter shall faithfully and accurately report any  
44 proceeding for which he or she shall be employed.

45 Sec. \_\_. Section eighty-six point twenty-one  
46 (86.21), unnumbered paragraph one (1), Code 1975,  
47 is amended to read as follows:

48 The deposition of any witness may be taken and  
49 used as evidence in any hearing pending before a ~~board~~  
50 ~~of-arbitration-or~~ the industrial commissioner or one

1 of his deputies in compensation proceedings.

2 Sec. \_\_. Section eighty-six point twenty-three  
3 (86.23), Code 1975, is amended to read as follows:

4 86.23 FINDINGS OF ARBITRATION-BOARD-OR DEPUTY  
5 COMMISSIONER FILED. The decision of a deputy  
6 industrial commissioner ~~or-board-of-arbitration,~~  
7 together with a statement or certificate of evidence  
8 submitted at the hearing, the findings of fact, rulings  
9 of law, and any other matters pertinent to questions  
10 arising at such hearing, shall be filed in the office  
11 of the industrial commissioner."

12 6. Page 16, lines 34 and 35, by striking the words  
13 "or board of arbitration" and inserting in lieu thereof  
14 the words "~~or-board-of-arbitration~~".

15 7. Page 17, line 7, by striking the words "or  
16 board of arbitration" and inserting in lieu thereof  
17 the words "~~or-board-of-arbitration~~".

18 8. Page 17, line 10, by striking line 10 and  
19 inserting in lieu thereof the words "~~the-board,~~~~or~~  
20 may remand it to the board deputy".

21 9. Page 18, line 10, by striking the words "or  
22 board of arbitration" and inserting in lieu thereof  
23 the words "~~or-board-of-arbitration~~".

24 10. Page 18, after line 17, by inserting the  
25 following sections:

26 "Sec. \_\_. Section eighty-six point thirty-eight  
27 (86.38), Code 1975, is amended to read as follows:

28 86.38 EXAMINATION BY PHYSICIAN--FEE. The  
29 industrial commissioner may appoint a duly qualified,  
30 impartial physician to examine the injured employee  
31 and make report. The fee for this service shall be  
32 five dollars, to be paid by the industrial  
33 commissioner, together with traveling expenses, but  
34 the commissioner may allow additional reasonable  
35 amounts in extraordinary cases. Any physician so  
36 examining any injured employee shall not be prohibited  
37 from testifying before the industrial commissioner,  
38 ~~board-of-arbitration,~~ or any other person, commission,  
39 or court, as to the results of his examination or  
40 the condition of the injured employee.

41 Sec. \_\_. Section eighty-six point forty (86.40),  
42 Code 1975, is amended to read as follows:

43 86.40 ~~COMPENSATION-OF-ARBITRATORS--COSTS~~ COSTS.  
44 ~~The-arbitrators-except-the-commissioner-shall-each~~  
45 ~~receive-five-dollars-as-a-fee-for-services,-but-the~~  
46 ~~industrial-commissioner-may-allow-additional-reasonable~~  
47 ~~amounts-in-extraordinary-cases.--The-fees-shall-be~~  
48 ~~paid-by-the-employer,-who-may-deduct-an-amount-equal~~  
49 ~~to-one-half-the-sum-from-any-compensation-found-due~~  
50 ~~the-employee.~~ All other costs incurred in the hearing

1 before a-board-of-arbitration-or the commissioner  
2 shall be taxed in the discretion of such-board-or  
3 the commissioner as-the-case-may-be.

4 Sec. \_\_\_\_ . Section eighty-six point forty-one  
5 (86.41), Code 1975, is amended to read as follows:  
6 86.41 WITNESS FEES. Witness fees and mileage  
7 on hearings before an-arbitration-board-or the  
8 industrial commissioner shall be the same as in the  
9 district court.

10 Sec. \_\_\_\_ . Section eighty-six point forty-two  
11 (86.42), Code 1975, is amended to read as follows:

12 86.42 JUDGMENT BY DISTRICT COURT ON AWARD. Any  
13 party in interest may present a certified copy of  
14 an order or decision of the commissioner, or-an-award  
15 of-a-board-of-arbitration from which no petition for  
16 review has been filed within the time allowed therefor,  
17 or a memorandum of agreement approved by the  
18 commissioner, and all papers in connection therewith,  
19 to the district court of the county in which the  
20 injury occurred, whereupon said court shall render  
21 a decree or judgment in accordance therewith and cause  
22 the clerk to notify the parties. Such decree or  
23 judgment, in the absence of a petition for judicial  
24 review of the decision of the industrial commissioner,  
25 shall have the same effect and in all proceedings  
26 in relation thereto shall thereafter be the same as  
27 though rendered in a suit duly heard and determined  
28 by said court."

29 11. Page 16, after line 15, by inserting the  
30 following section:

31 "Sec. \_\_\_\_ . Sections eighty-six point fifteen  
32 (86.15), and eighty-six point sixteen (86.16), Code  
33 1975, are repealed."

S-5034 FILED - *Adopted 1/29*  
JANUARY 28, 1976

BY JAMES M. REDMOND  
RICHARD RAMSEY

S-5040

1 Amend House File 863, as amended and passed by  
2 the House, as follows:

3 1. Page 20, by inserting after line 10 the follow-  
4 ing new section:

5 "Sec. \_\_\_\_ . Section two hundred seventy-nine point  
6 forty (279.40), Code 1975, is amended by adding the  
7 following new paragraph:

8 NEW PARAGRAPH. Any amounts due an employee under  
9 this section shall be reduced by benefits payable  
10 under chapter eighty-five (85), or eighty-five A  
11 (85A), of the Code."

S-5040 FILED & WITHDRAWN  
JANUARY 29, 1976

BY ELIZABETH R. MILLER

S-5041

- 1 Amend the Committee on Labor and Industrial
- 2 Relations Amendment, S-5005, to House File 863,
- 3 as amended and passed by the House, as follows:
- 4 1. Page 1, by striking lines 30 through 37
- 5 and inserting in lieu thereof the following:
- 6 "12. Page 13, by striking lines 34 through 35.
- 7 13. Page 14 by striking lines 1 through 27."
- 8 2. By renumbering the paragraphs to conform
- 9 with this amendment.

S-5041 FILED & WITHDRAWN  
JANUARY 29, 1976

BY W. R. RABEDEAUX

S-5042

- 1 Amend House File 863, as amended and passed by
- 2 the House as follows:
- 3 1. Page 20, by inserting after line 10 the follow-
- 4 ing section:
- 5 "Sec. \_\_\_\_ . The Code editor is directed to strike
- 6 the words "workmen's compensation" wherever they appear
- 7 in the Code and insert in lieu thereof the words
- 8 "workers' compensation"."
- 9 2. By redesignating sections as necessary.

S-5042 FILED & ADOPTED  
JANUARY 29, 1976

BY STEVE SOVERN

S-5033

- 1 Amend House File 863, as amended and passed by
- 2 the House, as follows:
- 3 1. Page 1, line 14, by striking the words "one
- 4 thousand" and inserting in lieu thereof the words *C - Last 23-27 1/29*
- 5 "two thousand five hundred".
- 6 2. Page 5, by striking lines 32 through 35. *B - Last 1/29*
- 7 3. Page 6, by striking lines 1 through 4.
- 8 4. Page 6, by striking lines 27 through 35.
- 9 5. Page 7, by striking lines 1 through 9.
- 10 6. Page 8, by striking lines 17 through 31.
- 11 7. Page 12, by striking lines 25 through 35. *a Last 16-33 1/29*
- 12 8. Page 13, by striking lines 1 through 12.
- 13 9. Renumber the sections and internal references *B*
- 14 as required by this amendment.

S-5033 FILED - Last 1/29  
JANUARY 28, 1976

BY CALVIN O. HULTMAN  
RAY TAYLOR  
WILLIAM P. WINKELMAN  
CLIFF BURROUGHS  
JAMES W. GRIFFIN, SR.  
IRVIN L. BERGMAN  
ELIZABETH R. MILLER  
CLIFTON C. LAMBORN  
ROGER J. SHAFF  
ELIZABETH SHAW  
WARREN E. CURTIS  
JAMES E. BRILES  
DALE L. TIEDEN  
W. R. RABEDEAUX  
FORREST V. SCHWENGELS

## HOUSE FILE 863

## AN ACT

RELATING TO WORKMEN'S COMPENSATION LAWS AND PROVIDING A  
CIVIL PENALTY.

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

Section 1. Section eighty-five point one (85.1), Code 1975, is amended by striking subsection three (3) and inserting in lieu thereof the following and subsection five (5) is amended to read as follows:

3. Persons engaged in agriculture, insofar as injuries incurred by employees while engaged in agricultural pursuits or any operations immediately connected therewith whether on or off the premises of the employer, except:

a. This chapter shall apply to such persons not specifically exempted by paragraph b of this subsection if at the time of injury such person is employed by an employer whose total cash payroll to one or more persons other than those exempted by paragraph b of this subsection amounted to one thousand dollars or more during the preceding calendar year.

b. The following persons or employees or groups of employees shall be specifically included within the terms of the exemption from coverage of this chapter provided by this subsection:

(1) The spouse of the employer and parents, brothers, sisters, children and stepchildren of either the employer or the spouse of the employer; and

(2) Any person engaged in agriculture as a farm operator or spouse of such farm operator or parents, brothers, sisters, children and stepchildren of either such farm operator or spouse while exchanging labor with another farm operator or spouse of such other farm operator or parents, brothers, sisters, children, and stepchildren of either such other farm operator or spouse for the mutual benefit of any or all such

persons; and

(3) The president, vice president, secretary, treasurer, of a family farm corporation and their spouses and parents, brothers, sisters, children and stepchildren of such officers and their spouses who are employed by such corporation, the primary purpose of which, although not necessarily the stated purpose, is farming or ownership of agricultural land, and while such officer or person related to the officer is engaged in agricultural pursuits or any operation immediately connected therewith whether on or off the premises of the employer.

5. Employers, including employers of ~~household-or-domestic-servants~~ employees engaged in any type of service in or about a private dwelling, employers of persons whose employment is of a casual nature and not for the purpose of the employer's trade or business, and employers of persons engaged in agriculture, ~~and-employers-of-persons-not-in-the-course-of-the-employer's-business~~, may assume with respect to any such employee or person or classification of employees not-within-the-coverage-of-this-chapter,-as-otherwise-provided-in exempt by subsections 1, 2, 3 and 4 and subsection three (3), paragraph a of this section from coverage provided by this chapter, other than any such employee or classification of employees with respect to whom a rule of liability or a method of compensation has been or may be established by the Congress of the United States, assume a liability for compensation imposed upon employers by this chapter for the benefit of employees within the coverage of this chapter. Employers of employees, persons or classifications of employees exempted by paragraph b of subsection three (3) of this section may also with respect to any such employee, person or classification of employees assume a liability for compensation imposed upon employers by this chapter by the purchase of valid workmen's compensation insurance specifically including separate classifications for (1) such persons who are the spouse and parents, brothers, sisters, children and stepchildren of either the employer or his spouse, (2) persons engaged in exchanging labor and (3) the president, vice

president, treasurer and secretary of a family farm corporation, their spouses and parents, brothers, sisters, children or stepchildren of such officers and their spouses. The purchase of and acceptance by any such employer of valid workmen's compensation insurance applicable to such employee or person or classification of employees shall constitute as to such employer an assumption by such employer of such liability without any further act on the part of such employer, but only with respect to such employee or person or such classification of employees as are within the coverage of the said workmen's compensation insurance contract. Whenever under the provisions of this subsection an employer voluntarily elects to assume the liability for the payment of compensation to such employees or persons or such classification of employees by the purchase of valid workmen's compensation insurance, the liability of such employer shall take effect and continue from the effective date of such workmen's compensation insurance contract as long only as such insurance contract shall be in force. Upon such an election, such employee or person or classification of employees shall accept compensation in the manner provided by the chapter and the employer shall be relieved from any other liability for recovery of damage, or other compensation for such injury. ~~An employer, upon the election to assume liability by the purchase of workmen's compensation insurance under the provisions of this subsection, shall give notice thereof to the industrial commissioner by certified United States mail.~~

Sec. 2. Section eighty-five point twenty-three (85.23), Code 1975, is amended to read as follows:

85.23 NOTICE OF INJURY--FAILURE TO GIVE. Unless the employer or his representative shall have actual knowledge of the occurrence of an injury received within ninety days from the date of the occurrence of the injury, or unless the employee or someone on his behalf or ~~some of the dependents~~ a dependent or someone on ~~their~~ his behalf shall give notice thereof to the employer within fifteen ninety days after from the date of the occurrence of the injury, ~~then no compensation~~

~~shall be paid until and from the date such notice is given or knowledge obtained, but if such notice is given or knowledge obtained within thirty days from the occurrence of the injury, no want, failure, or inaccuracy of a notice shall be a bar to obtaining compensation, unless the employer shall show that he was prejudiced thereby, and then only to the extent of such prejudice, but if the employee or beneficiary shall show that his failure to give prior notice was due to mistake, inadvertence, ignorance of fact or law, or inability, or to the fraud, misrepresentation, or deceit of another, or to any other reasonable cause or excuse, then compensation may be allowed, unless and then to the extent only that the employer shall show that he was prejudiced by failure to receive such notice, but unless knowledge is obtained or notice given within ninety days after the occurrence of the injury, no compensation shall be allowed.~~

Sec. 3. Section eighty-five point twenty-seven (85.27), Code 1975, is amended to read as follows:

85.27 PROFESSIONAL AND HOSPITAL SERVICES--PROSTHETIC DEVICES. The employer, with notice or knowledge of injury for all injuries compensable under this chapter or chapter eighty-five A (85A) of the Code, shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance and hospital services and supplies therefor and shall allow reasonably necessary transportation expenses incurred for such services. The employer shall also furnish reasonable and necessary crutches, artificial members and appliances but shall not be required to furnish more than one permanent prosthetic device.

Any employee, employer or insurance carrier making or defending a claim for benefits agrees to the release of all information to which they have access concerning the employee's physical or mental condition relative to the claim and further waives any privilege for the release of such information. Such information shall be made available to any party or their attorney upon request. Any institution or person releasing

such information to a party or their attorney shall not be liable criminally or for civil damages by reason of the release of such information. If release of information is refused the party requesting such information may apply to the industrial commissioner for relief. The information requested shall be submitted to the industrial commissioner who shall determine the relevance and materiality of the information to the claim and enter an order accordingly.

Charges believed to be excessive or unnecessary may be referred to the industrial commissioner for determination, and the commissioner may, in connection therewith, utilize the procedures provided in sections 86.38 and 86.39 and conduct such inquiry as he shall deem necessary. Any institution or person rendering treatment to an employee whose injury is compensable under this section agrees to be bound by such charges as allowed by the industrial commissioner and shall not recover in law or equity any amount in excess of that set by the commissioner.

For purposes of this section, the employer is obliged to furnish reasonable services and supplies to treat an injured employee, and has the right to choose the care. The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee. If the employee has reason to be dissatisfied with the care offered, he should communicate the basis of such dissatisfaction to the employer, in writing if requested, following which the employer and the employee may agree to alternate care reasonably suited to treat the injury. If the employer and employee cannot agree on such alternate care, the commissioner may, upon application and reasonable proofs of the necessity therefor, allow and order other care. In an emergency, the employee may choose his care at the employer's expense, provided the employer or his agent cannot be reached immediately.

Sec. 4. Section eighty-five point thirty (85.30), Code 1975, is amended to read as follows:

85.30 MATURITY DATE AND INTEREST. Compensation payments

shall be made each week beginning on the ~~fifteenth~~ eleventh day after the injury, and each week thereafter during the period for which compensation is payable, and if not paid when due, there shall be added to such weekly compensation payments, interest at six percent from date of maturity.

Sec. 5. Section eighty-five point thirty-one (85.31), subsection one (1), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

The weekly benefit amount shall not exceed a weekly benefit amount, rounded to the nearest dollar, equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the Iowa employment security commission under the provisions of section 96.3 and in effect at the time of the injury, provided, that as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it shall equal one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent and two hundred percent, respectively, of the state average weekly wage as determined above; provided further, that such weekly compensation shall not be less than ~~eighteen~~ thirty-six dollars per week, except if at the time of his injury his earnings are less than ~~eighteen~~ thirty-six dollars per week, then the weekly compensation shall be a sum equal to the full amount of his weekly earnings. Such compensation shall be in addition to the benefits provided by sections 85.27 and 85.28.

Sec. 6. Section eighty-five point thirty-two (85.32), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

85.32 WHEN COMPENSATION BEGINS. Except as to injuries resulting in permanent partial disability, compensation shall begin on the fourth day of disability after the injury.

If the period of incapacity extends beyond the fourteenth day following the date of injury, then the compensation due during the third week shall be increased by adding thereto an amount equal to three days of compensation.

Sec. 7. Section eighty-five point thirty-three (85.33), Code 1975, is amended to read as follows:

85.33 TEMPORARY DISABILITY. The employer shall pay to the employee for injury producing temporary disability and beginning upon the ~~eight~~ fourth day thereof, weekly compensation benefit payments for the period of his disability, including the ~~periodical~~ increase in cases to which section 85.32 applies.

Sec. 8. Section eighty-five point thirty-four (85.34), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Compensation for permanent disabilities and during a healing period for ~~scheduled~~ permanent partial disabilities shall be payable to an employee as provided in this section. In the event weekly compensation under section eighty-five point thirty-three (85.33) of the Code had been paid to any person ~~under any provision of this chapter or chapter 85A other than is required by subsections 4 and 2 hereof~~, for the same injury producing a permanent partial disability, any such amounts so paid shall be deducted from the ~~total~~ amount of compensation payable for ~~such permanent partial disability~~ the healing period.

Sec. 9. Section eighty-five point thirty-four (85.34), subsection two (2), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Compensation for permanent partial disability shall begin at the termination of the healing period provided in subsection 1 hereof. Such compensation shall be in addition to the benefits provided by sections 85.27 and 85.28. Such compensation shall be based upon the extent of such disability and upon the basis of eighty percent per week of the employee's average weekly spendable earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to sixty-one and one-third percent of the state average weekly wage paid employees as determined by the Iowa employment security commission under the provisions of section 96.3 and in effect at the time of the injury, provided that as of July 1, 1975;

July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it shall equal ninety-two percent, one hundred and twenty-two and two-thirds percent, one hundred fifty-three and one-third percent, and one hundred eighty-four percent, respectively, of the state average weekly wage as determined above; provided that no employee shall receive as compensation less than ~~eighteen~~ thirty-six dollars per week, except if at the time of his injury his earnings are less than ~~eighteen~~ thirty-six dollars per week, then the weekly compensation shall be a sum equal to the full amount of his weekly earnings; and for all cases of permanent partial disability such compensation shall be paid as follows:

Sec. 10. Section eighty-five point thirty-four (85.34), subsection two (2), paragraphs l, m, o, and p, Code 1975, are amended to read as follows:

l. For the loss of a hand, weekly compensation during one hundred ~~seventy-five~~ ninety weeks.

m. The loss of two-thirds of that part of an arm between the shoulder joint and the elbow joint shall equal the loss of an arm and the compensation therefor shall be weekly compensation during two hundred ~~thirty~~ fifty weeks.

o. The loss of two-thirds of that part of a leg between the hip joint and the knee joint shall equal the loss of a leg, and the compensation therefor shall be weekly compensation during two hundred ~~twenty~~ weeks.

p. For the loss of an eye, weekly compensation during one hundred ~~twenty-five~~ forty weeks.

Sec. 11. Section eighty-five point thirty-four (85.34), subsection three (3), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

Compensation for an injury causing permanent total disability shall be upon the basis of eighty percent per week of the employee's average weekly spendable earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the Iowa

employment security commission under the provisions of section 96.3 and in effect at the time of the injury provided that as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it shall equal one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent and two hundred percent, respectively, of the state average weekly wage as determined above. No employee shall receive as compensation less than eighteen thirty-six dollars per week, except if at the time of his injury his earnings are less than eighteen thirty-six dollars per week, then the weekly compensation shall be a sum equal to the full amount of his weekly earnings; said weekly compensation shall be payable during the period of his disability.

Sec. 12. Section eighty-five point thirty-four (85.34), subsection two (2), Code 1975, is amended by striking the last two unnumbered paragraphs.

Sec. 13. Section eighty-five point thirty-five (85.35), subsection seven (7), Code 1975, is amended to read as follows:

7. This chapter or chapter 85A applies to the injured party making the claim.

Sec. 14. Section eighty-five point thirty-six (85.36), subsection ten (10), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

In the case of an employee who earns either no wages or less than the usual weekly earnings of the regular full-time adult laborer in the line of industry in which he is injured in that locality, the weekly earnings shall be one-fiftieth of the total earnings which the employee has earned from all employment during the twelve calendar months immediately preceding the injury but shall be not less than forty-five dollars-per-week an amount equal to thirty-five percent of the state average weekly wage paid employees as determined by the Iowa employment security commission under the provisions of section ninety-six point three (96.3) of the Code, and in effect at the time of the injury.

Sec. 15. Section eighty-five point thirty-six (85.36), subsection ten (10), paragraph d, Code 1975, is amended to read as follows:

~~d---~~ This Paragraph c of this subsection shall not apply to compensable injuries arising under the second injury compensation Act.

Sec. 16. Section eighty-five point thirty-seven (85.37), Code 1975, is amended to read as follows:

85.37 COMPENSATION SCHEDULE. In all cases where an employee receives a personal injury causing temporary disability, or causing a permanent partial disability for which compensation is payable during a healing period, compensation for such temporary disability or for such healing period shall be upon the basis provided herein. The weekly benefit amount payable to any employee for any one week shall be upon the basis of eighty percent of the employee's weekly spendable earnings, but shall not exceed an amount, rounded to the nearest dollar, equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the Iowa employment security commission under the provisions of section 96.3 and in effect at the time of the injury provided that as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it shall equal one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent, and two hundred percent, respectively, of the state average weekly wage as determined above. Total weekly compensation for any employee shall not exceed eighty percent per week of the employee's average weekly spendable earnings; provided further, that such compensation shall not be less than eighteen thirty-six dollars per week, except if at the time of his injury his earnings are less than eighteen thirty-six dollars per week, then he shall receive in weekly payments a sum equal to the full amount of his weekly earnings.

Such compensation shall be in addition to the benefits

provided by sections 85.27 and 85.28.

Sec. 17. Section eighty-five point thirty-nine (85.39), Code 1975, is amended by adding the following new unlettered paragraph:

NEW UNLETTERED PARAGRAPH. Whenever an evaluation of permanent disability has been made by a physician retained by the employer, and the employee believes this evaluation to be too low, he shall, upon application to the commissioner and at the same time delivery of a copy to the employer and its insurance carrier, be reimbursed by the employer the reasonable fee for a subsequent examination by a physician of his own choice, and reasonably necessary transportation expenses incurred for such examination. The physician chosen by the employee shall have the right to confer with and obtain from the employer-retained physician sufficient history of the injury to make a proper examination.

Sec. 18. Section eighty-five point forty-nine (85.49), Code 1975, is amended to read as follows:

85.49 TRUSTEES FOR INCOMPETENT. When a minor or mentally incompetent dependent, ~~or one mentally incompetent~~, is entitled to compensation weekly benefits under this chapter or chapter eighty-five A (85A) of the Code, payment shall be made to the clerk of the district court for the county in which the injury occurred, who shall act as trustee, and the money coming into his hands shall be expended for the use and benefit of the person entitled thereto under the direction and orders of a judge of the district court, in which such county is located. The clerk of the district court, as such trustee, shall qualify and give bond in such amount as the judge may direct, which may be increased or diminished from time to time as the court may deem best. The cost of such bond shall be paid by the county as the court may direct by written order directed to the auditor of the county who shall issue a warrant therefor upon the treasurer of the county. If the domicile or residence of such minor or mentally incompetent dependent ~~or one mentally incompetent~~ be within the state but in a county other than that in which the injury to the employee

occurred the industrial commissioner may order and direct that compensation weekly benefits to such minors or incompetents be paid to the clerk of the district court of the county wherein they shall be domiciled or reside.

If the domicile or residence of such minor or mentally incompetent dependent be outside the state of Iowa the industrial commissioner may order and direct that benefits to such minors or incompetents be paid to a guardian, conservator, or legal representative duly qualified under the laws of the jurisdiction wherein the minors or incompetents shall be domiciled or reside. Proof of the identity and qualification of such guardian, conservator, or other legal representative shall be furnished to the industrial commissioner.

Sec. 19. Section eighty-five point sixty-one (85.61), subsection ten (10), Code 1975, is amended to read as follows:

10. "Payroll taxes" means the following:

a. An amount equal to the amount which would be withheld pursuant to withholding tables in effect on July first preceding the injury under the Internal Revenue Code of 1954, and regulations pursuant thereto, as amended to July 1, ~~1973~~ 1976, as though the employee had elected to claim the maximum number of exemptions for actual dependency, blindness and old age to which the employee is entitled on the date on which he was injured, and

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

c. An amount equal to the amount required on July first preceding the injury by the Social Security Act of 1935 as amended to July 1, ~~1973~~ 1976, to be deducted or withheld from the amount of earnings of the employee at the time of the injury as if the earnings were earned at the beginning of

the calendar year in which he was injured.

Sec. 20. Section eighty-six point eight (86.8), subsections one (1) and four (4), Code 1975, are amended to read as follows:

1. To establish and enforce all necessary rules not in conflict with the provisions of this chapter and chapters 85, eighty-five A (85A) of the Code and 87 for carrying out the purposes thereof.

4. To keep records of all proceedings and decisions of such boards, issue subpoenas for witnesses, issue subpoenas duces tecum, administer oaths, examine books and records of parties subject to such provisions.

Sec. 21. Section eighty-six point ten (86.10), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

A Upon a refusal on the part of the employer to submit his books, records, or payrolls for the inspection of the commissioner or his authorized representatives presenting written authority from the commissioner, shall subject the employer to a penalty of one hundred dollars for each such offense, to be collected by civil action in the name of the state, and paid into the state treasury the commissioner may enter an order requiring the employer to do so.

Sec. 22. Section eighty-six point eleven (86.11), Code 1975, is amended to read as follows:

86.11 REPORTS OF INJURIES. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, sustained by his employee in the course alleged by an employee to have been sustained in the course of their his or her employment and resulting in incapacity for a longer period than one day. If the injury results only in temporary disability, causing incapacity for a longer period than seven three days except as provided in section thirty-three (33) of this Act, then within forty-eight hours four days thereafter, not counting Sundays and legal holidays, the employer or insurance carrier having had notice or knowledge of the occurrence of such injury and resulting disability, a report shall file a written report with be made in writing,

~~by the employer to~~ the industrial commissioner on forms to be procured from the commissioner for that purpose. If such injury to the employee results in permanent total disability, permanent partial disability or death, then the employer, or insurance carrier upon notice or knowledge of the occurrence of the employment injury, shall file a report with the industrial commissioner within ~~forty-eight hours~~ four days after having notice or knowledge of the permanent injury to the employee or his death. The report to the industrial commissioner of injury shall be without prejudice to the employer or insurance carrier and shall not be admitted in evidence or used in any trial or hearing before any court, the industrial commissioner or his deputy except as to the notice under section eighty-five point twenty-three (85.23) of the Code.

Sec. 23. Section eighty-six point twelve (86.12), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

86.12 FAILURE TO REPORT. The industrial commissioner may require any employer to supply the information required by section eighty-six point ten (86.10) of the Code or to file a report required by section eighty-six point eleven (86.11) of the Code, by written demand sent to the employer's last known address. Upon failure to supply such information or file such report within twenty days, the employer may be ordered to appear and show cause why he should not be subject to civil penalty of one hundred dollars for each occurrence. Upon such hearing, the industrial commissioner shall enter a finding of fact and may enter an order requiring such penalty to be paid into the second injury fund created by sections eighty-five point sixty-three (85.63) through eighty-five point sixty-nine (85.69) of the Code. In the event the civil penalty assessed is not voluntarily paid the industrial commissioner may file a certified copy of such finding and order with the clerk of the court for the district in which the employer maintains a place of business. If the employer maintains no place of business in this state service shall be made as provided in chapter eighty-five (85) of the

Code for nonresident employers. In such case the finding and order may be filed in any court of competent jurisdiction within this state.

The industrial commissioner may thereafter petition the court for entry of judgment upon such order, serving notice of such petition on the employer and any other person in default. If the court finds the order valid, the court shall enter judgment against the person or persons in default for the amount due under the order. No fees shall be required for the filing of the order or for the petition for judgment, or for the entry of judgment or for any enforcement procedure thereupon. No supersedeas shall be granted by any court to a judgment entered under this section.

When a report is required under section eighty-six point eleven (86.11) of the Code and that report has been submitted to the employer's insurance carrier and no report of injury has been filed with the industrial commissioner, the insurance carrier shall be responsible for filing the report of injury in the same manner and to the same extent as an employer under this section.

Sec. 24. Section eighty-six point thirteen (86.13), Code 1975, is amended by striking unnumbered paragraph two (2).

Sec. 25. Section eighty-six point fourteen (86.14), Code 1975, is amended to read as follows:

86.14 FAILURE TO REACH AGREEMENT. If the employer and injured employee or his representatives or dependents fail to reach an agreement in regard to compensation, either party may file with the industrial commissioner a petition for arbitration together with two copies thereof, stating therein his or her claims in general terms. Thereupon the commissioner or one of the deputies shall in writing notify the parties that the defendant opposing party is given at least ten twenty days in which to answer said petition or otherwise appear or plead. A defense other than a general denial of claimant's the alleged facts must be pleaded as a special defense.

Sec. 26. Sections eighty-six point fifteen (86.15), and eighty-six point sixteen (86.16), Code 1975, are repealed.

Sec. 27. Section eighty-six point seventeen (86.17), Code 1975, is amended to read as follows:

86.17 ARBITRATION HEARINGS. Petitions for arbitration shall be heard before a deputy industrial commissioner. Such hearings shall be conducted pursuant to the provisions of chapter seventeen A (17A) of the Code for contested cases. The deputy industrial commissioner ~~er the board of arbitration~~ shall make such inquiries and investigations as it shall deem necessary. The hearings of the deputy industrial commissioner ~~er the board of arbitration~~ shall be in the a county in the judicial district where the injury occurred, but by written stipulation of the parties filed in the case it may be held at any other place in the state. If the injury occurred outside this state the hearings shall be held in the a county seat in the judicial district of this state which is nearest to the place where the injury occurred unless the ~~interested~~ parties and the industrial commissioner or one of his deputies ~~mutually~~ agree by written stipulation that the same may be held at some other place.

Sec. 28. Section eighty-six point eighteen (86.18), Code 1975, is amended to read as follows:

86.18 LIBERAL RULES OF EVIDENCE. ~~While sitting as a board of arbitration, or when~~ When conducting a hearing on review, or in making any investigation or inquiry, ~~neither the board of arbitration nor~~ the commissioner or his deputies shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure; but they shall hold such arbitrations, or conduct such hearings and make such investigations and inquiries in such manner as is best suited to ascertain and conserve the substantial rights of all parties thereto. Process and procedure under this chapter shall be as summary as reasonably may be.

Sec. 29. Section eighty-six point nineteen (86.19), Code 1975, is amended to read as follows:

86.19 APPOINTMENT OF REPORTER. The industrial commissioner, or one of his deputies, may appoint a shorthand reporter to report the proceedings of any hearing before the

commissioner, or one of his deputies, ~~or board of arbitration~~, and fix the reasonable amount of compensation for such service, which amount shall be taxed as other costs. Any such reporter shall faithfully and accurately report any proceeding for which he or she shall be employed.

Sec. 30. Section eighty-six point twenty-one (86.21), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

The deposition of any witness may be taken and used as evidence in any hearing pending before ~~a board of arbitration~~ or the industrial commissioner or one of his deputies in compensation proceedings.

Sec. 31. Section eighty-six point twenty-three (86.23), Code 1975, is amended to read as follows:

86.23 FINDINGS OF ~~ARBITRATION BOARD OR~~ DEPUTY COMMISSIONER FILED. The decision of a deputy industrial commissioner ~~or board of arbitration~~, together with a statement or certificate of evidence submitted at the hearing, the findings of fact, rulings of law, and any other matters pertinent to questions arising at such hearing, shall be filed in the office of the industrial commissioner.

Sec. 32. Section eighty-six point twenty-four (86.24), Code 1975, is amended to read as follows:

86.24 REVIEW. Any party aggrieved by the decision or findings of a deputy industrial commissioner ~~or board of arbitration~~ may, within ~~ten~~ twenty days after such decision is filed with the industrial commissioner, file in the office of the commissioner a petition for review, and the commissioner shall thereupon fix a time for the hearing on such petition and notify the parties.

At such hearing, the commissioner shall hear the parties, consider all evidence taken before the deputy industrial commissioner ~~or board of arbitration if it has been transcribed~~, and may hear any additional evidence, and he may affirm, modify, or reverse the decision of the deputy ~~the board~~, or may remand it to the board deputy for further findings of facts. The transcript of the arbitration

proceedings shall be provided by the party requesting review at his cost and shall be filed with the industrial commissioner within thirty days of the filing of the petition for review.

~~Additional evidence~~ Evidence to other than that presented and admitted in arbitration proceedings shall not be introduced by either party unless such party gives the opposite party, or his attorney, five days' notice ~~thereof~~ in writing, stating the particular phase of the controverted claim to which such additional evidence will apply.

Sec. 33. Section eighty-six point thirty-six (86.36), subsection two (2), paragraph b, Code 1975, is amended to read as follows:

b. By mailing to such employer within ten days after said filing with the secretary of state, by ~~restricted~~ certified mail with return receipt requested addressed to the nonresident employer at his last known residence or place of abode, a copy of said notice on which shall be noted the date of filing of the copy with the secretary of state.

Sec. 34. Section eighty-six point thirty-six (86.36), subsection four (4), Code 1975, is amended to read as follows:

4. Proof of the filing of a copy of said notice with the secretary of state and proof of the mailing or personal delivery of the copy to said nonresident employer shall be made by affidavit of the party doing said acts. All affidavits of service shall be endorsed upon or attached to the original of the papers to which they relate and all such proofs of service, including the ~~restricted~~ certified mail return receipt shall be forthwith filed with the original of the papers.

Sec. 35. Section eighty-six point thirty-seven (86.37), Code 1975, is amended to read as follows:

86.37 PLACE OF HEARING. All petitions for review of the decision and findings of a deputy industrial commissioner ~~or board of arbitration~~ shall be held at the seat of the government, or such other location as the industrial commissioner shall designate, and all petitions for review of an award for payments or an agreement for settlements shall be heard in the county judicial district where the injury

occurred, provided, however, with the approval of the industrial commissioner the parties interested may agree upon another place of hearing.

Sec. 36. Section eighty-six point thirty-eight (86.38), Code 1975, is amended to read as follows:

86.38 EXAMINATION BY PHYSICIAN--FEE. The industrial commissioner may appoint a duly qualified, impartial physician to examine the injured employee and make report. The fee for this service shall be five dollars, to be paid by the industrial commissioner, together with traveling expenses, but the commissioner may allow additional reasonable amounts in extraordinary cases. Any physician so examining any injured employee shall not be prohibited from testifying before the industrial commissioner, ~~board-of-arbitration~~, or any other person, commission, or court, as to the results of his examination or the condition of the injured employee.

Sec. 37. Section eighty-six point forty (86.40), Code 1975, is amended to read as follows:

86.40 ~~COMPENSATION-OF-ARBITRATORS--COSTS~~ COSTS. ~~The arbitrators-except-the-commissioner-shall-each-receive-five dollars-as-a-fee-for-services,-but-the-industrial-commissioner may-allow-additional-reasonable-amounts-in-extraordinary cases.--The-fees-shall-be-paid-by-the-employer,-who-may-deduct an-amount-equal-to-one-half-the-sum-from-any-compensation found-due-the-employee.~~ All other costs incurred in the hearing before a ~~board-of-arbitration-or~~ the commissioner shall be taxed in the discretion of ~~such-board-or~~ the commissioner ~~as-the-case-may-be~~.

Sec. 38. Section eighty-six point forty-one (86.41), Code 1975, is amended to read as follows:

86.41 WITNESS FEES. Witness fees and mileage on hearings before an ~~arbitration-board-or~~ the industrial commissioner shall be the same as in the district court.

Sec. 39. Section eighty-six point forty-two (86.42), Code 1975, is amended to read as follows:

86.42 JUDGMENT BY DISTRICT COURT ON AWARD. Any party in interest may present a certified copy of an order or

decision of the commissioner, ~~or-an-award-of-a-board-of arbitration~~ from which no petition for review has been filed within the time allowed therefor, or a memorandum of agreement approved by the commissioner, and all papers in connection therewith, to the district court of the county in which the injury occurred, whereupon said court shall render a decree or judgment in accordance therewith and cause the clerk to notify the parties. Such decree or judgment, in the absence of a petition for judicial review of the decision of the industrial commissioner, shall have the same effect and in all proceedings in relation thereto shall thereafter be the same as though rendered in a suit duly heard and determined by said court.

Sec. 40. Chapter eighty-six (86), Code 1975, is amended by adding the following new section:

NEW SECTION. To encourage payments to employees or dependents during the investigation of a claim for benefits nothing in this chapter shall prevent the employer or the insurance carrier from making voluntary payments prior to a determination as to liability under chapter eighty-five (85) or eighty-five A (85A) of the Code in an amount considered to be equal to the weekly compensation benefits to which the employee or his dependents would be entitled in the event the employer were determined to be liable under chapter eighty-five (85) or eighty-five A (85A) of the Code. Such payments shall not be construed as an agreement for the payment of weekly compensation; payment of weekly compensation; payment in lieu of compensation; or an admission of liability.

When voluntary payments are made they shall commence within fifteen days from the date the report of injury is filed pursuant to section eighty-six point eleven (86.11) of the Code. Within thirty days after voluntary payments are begun, the employer or insurance carrier shall file a notice with the industrial commissioner on forms prescribed by the commissioner of the commencement, amount and duration of payments. The filing of notice shall be required for the payments to be deemed made pursuant to this section. Payments shall continue

for ninety days or until the period of disability shall cease whichever shall occur first, unless prior to that time a memorandum of agreement or denial of liability is filed with the industrial commissioner. Upon application and for good cause shown, the period during which voluntary payments are made may be extended for an additional ninety days.

Within thirty days from the date of the last payment made under this section the employer or insurance carrier shall file with the industrial commissioner either a memorandum of agreement or a denial of liability stating the reasons therefor and a copy of the denial shall be mailed to the employee or his dependents by certified mail with return receipt requested at the last known address.

Any failure on the part of the employer or insurance carrier to file a memorandum of agreement or denial of liability with the industrial commissioner within thirty days after the last payment made under this section shall stop the running of time allowed under section eighty-five point twenty-six (85.26) of the Code as of the date of the last payment. When payments are made under this section and a denial of liability is filed, the time within which original proceedings for compensation must be maintained shall be two years from the date of the last payment.

If a memorandum of agreement is filed and approved pursuant to section eighty-six point thirteen (86.13) of the Code or an award for payments is granted pursuant to section eighty-six point twenty-three (86.23) of the Code the employer or insurance carrier shall be entitled to credit for amounts paid under this section.

Sec. 41. Section eighty-five point fifty-six (85.56), Code 1975, is repealed.

Sec. 42. Section one (1) of this Act, shall take effect January 1, 1977. Sections four (4), six (6), and seven (7), of this Act shall take effect on July 1, 1977.

The provisions of section twenty-two (22) of this Act, amending section eighty-six point eleven (86.11) of the Code and changing the incapacity period from seven to three days,

shall take effect July 1, 1977.

Until that time the incapacity period shall be seven days.

Sec. 43. The Code editor is directed to strike the words "workmen's compensation" wherever they appear in the Code and insert in lieu thereof the words "workers' compensation".

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DALE M. COCHRAN  
Speaker of the House

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ARTHUR A. NEU  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 863, Sixty-sixth General Assembly.

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DAVID L. WRAY  
Chief Clerk of the House

Approved 5/20, 1976

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ROBERT D. RAY  
Governor