

**Senate File 455 - Introduced**

SENATE FILE 455

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**A BILL FOR**

1 An Act requiring certain weekly workers' compensation benefits to  
2 be calculated by including an employee's overtime and premium  
3 pay, and to include an annual cost-of-living adjustment.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 85.36, Code 2025, is amended to read as  
2 follows:

3 **85.36 Basis of computation.**

4 1. The basis of compensation shall be the weekly earnings of  
5 the injured employee at the time of the injury. Weekly earnings  
6 means gross salary, wages, or earnings of an employee to which  
7 such employee would have been entitled had the employee worked  
8 the customary hours for the full pay period in which the employee  
9 was injured, as regularly required by the employee's employer  
10 for the work or employment for which the employee was employed,  
11 computed or determined as follows and then rounded to the nearest  
12 dollar:

13 ~~1.~~ a. In the case of an employee who is paid on a weekly pay  
14 period basis, the weekly gross earnings.

15 ~~2.~~ b. In the case of an employee who is paid on a biweekly  
16 pay period basis, one-half of the biweekly gross earnings.

17 ~~3.~~ c. In the case of an employee who is paid on a  
18 semimonthly pay period basis, the semimonthly gross earnings  
19 multiplied by twenty-four and subsequently divided by fifty-two.

20 ~~4.~~ d. In the case of an employee who is paid on a monthly  
21 pay period basis, the monthly gross earnings multiplied by twelve  
22 and subsequently divided by fifty-two.

23 ~~5.~~ e. In the case of an employee who is paid on a yearly pay  
24 period basis, the weekly earnings shall be the yearly earnings  
25 divided by fifty-two.

26 ~~6.~~ f. In the case of an employee who is paid on a daily  
27 or hourly basis, or by the output of the employee, the weekly  
28 earnings shall be computed by dividing by thirteen the earnings,  
29 including but not limited to overtime, shift differential ~~pay~~  
30 ~~but not including overtime or~~, and premium pay, of the employee  
31 earned in the employ of the employer in the last completed period  
32 of thirteen consecutive calendar weeks immediately preceding the  
33 injury. If the employee was absent from employment for reasons  
34 personal to the employee during part of the thirteen calendar  
35 weeks preceding the injury, the employee's weekly earnings shall

1 be the amount the employee would have earned had the employee  
2 worked when work was available to other employees of the employer  
3 in a similar occupation. A week ~~which~~ that does not fairly  
4 reflect the employee's customary earnings shall be replaced by  
5 the closest previous week with earnings that fairly represent the  
6 employee's customary earnings.

7 ~~7.~~ g. In the case of an employee who has been in the employ  
8 of the employer less than thirteen calendar weeks immediately  
9 preceding the injury, the employee's weekly earnings shall be  
10 computed under ~~subsection 6~~ paragraph "f", taking the earnings,  
11 including but not limited to overtime, shift differential pay ~~but~~  
12 ~~not including overtime or~~, and premium pay, for such purpose to  
13 be the amount the employee would have earned had the employee  
14 been so employed by the employer the full thirteen calendar weeks  
15 immediately preceding the injury and had worked, when work was  
16 available to other employees in a similar occupation. If the  
17 earnings of other employees cannot be determined, the employee's  
18 weekly earnings shall be the average computed for the number of  
19 weeks the employee has been in the employ of the employer.

20 h. In the case of an employee injured in the course of  
21 performing as a professional athlete, the basis of compensation  
22 for weekly earnings shall be one-fiftieth of total earnings that  
23 the employee has earned from all employment for the previous  
24 twelve months prior to the injury.

25 ~~8.~~ 2. If at the time of the injury the hourly earnings  
26 have not been fixed or cannot be ascertained, the earnings for  
27 the purpose of calculating compensation shall be taken to be the  
28 usual earnings for similar services ~~where~~ when such services are  
29 rendered by paid employees.

30 ~~9.~~ 3. a. If an employee earns either no wages or less than  
31 the usual weekly earnings of the regular full-time adult laborer  
32 in the line of industry in which the employee is injured in that  
33 locality, the weekly earnings shall be one-fiftieth of the total  
34 earnings ~~which~~ that the employee has earned from all employment  
35 during the twelve calendar months immediately preceding the

1 injury.

2     ~~a.~~ b. In computing the compensation to be allowed a  
3 volunteer fire fighter, emergency medical care provider, reserve  
4 peace officer, or volunteer ambulance driver, the earnings as  
5 a fire fighter, emergency medical care provider, reserve peace  
6 officer, or volunteer ambulance driver shall be disregarded and  
7 the volunteer fire fighter, emergency medical care provider,  
8 reserve peace officer, or volunteer ambulance driver shall be  
9 paid an amount equal to the compensation the volunteer fire  
10 fighter, emergency medical care provider, reserve peace officer,  
11 or volunteer ambulance driver would be paid if injured in the  
12 normal course of the volunteer fire fighter's, emergency medical  
13 care provider's, reserve peace officer's, or volunteer ambulance  
14 driver's regular employment or an amount equal to one hundred and  
15 forty percent of the statewide average weekly wage, whichever is  
16 greater.

17     ~~b.~~ c. If the employee was an apprentice or trainee when  
18 injured, and it is established under normal conditions the  
19 employee's earnings should be expected to increase during the  
20 period of disability, that fact may be considered in computing  
21 the employee's weekly earnings.

22     ~~c.~~ d. If the employee was an inmate as defined in section  
23 85.59, the inmate's actual earnings shall be disregarded, and the  
24 weekly compensation rate shall be as set forth in section 85.59.

25     ~~10.~~ 4. If a wage, or method of calculating a wage, is used  
26 for the basis of the payment of a workers' compensation insurance  
27 premium for a proprietor, partner, limited liability company  
28 member, limited liability partner, or officer of a corporation,  
29 the wage or the method of calculating the wage is determinative  
30 for purposes of computing the proprietor's, partner's, limited  
31 liability company member's, limited liability partner's, or  
32 officer's weekly workers' compensation benefit rate.

33     ~~11.~~ 5. In computing the compensation to be allowed an  
34 elected or appointed official, the official may choose either of  
35 the following payment options:

1 a. The official shall be paid an amount of compensation based  
2 on the official's weekly earnings as an elected or appointed  
3 official.

4 b. The earnings of the official as an elected or appointed  
5 official shall be disregarded and the official shall be paid  
6 an amount equal to one hundred forty percent of the statewide  
7 average weekly wage.

8 ~~12. In the case of an employee injured in the course of~~  
9 ~~performing as a professional athlete, the basis of compensation~~  
10 ~~for weekly earnings shall be one-fiftieth of total earnings which~~  
11 ~~the employee has earned from all employment for the previous~~  
12 ~~twelve months prior to the injury.~~

13 6. The basis of compensation for permanent total disability  
14 benefits or death benefits shall increase on January 1 of  
15 each year for compensation that becomes due that year by  
16 a percentage equal to the cost-of-living adjustment made to  
17 disability benefits payable by the United States social security  
18 administration in December of the immediately preceding year.

19 Sec. 2. Section 85.61, subsection 4, Code 2025, is amended to  
20 read as follows:

21 4. "Gross earnings" means recurring payments by the employer  
22 to the employee for employment, before any authorized or lawfully  
23 required deduction or withholding of funds by the employer,  
24 excluding irregular bonuses, retroactive pay, overtime, penalty  
25 pay, reimbursement of expenses, expense allowances, and the  
26 employer's contribution for welfare benefits.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with  
29 the explanation's substance by the members of the general assembly.

30 This bill requires certain weekly workers' compensation  
31 benefits to be calculated by including an employee's overtime and  
32 premium pay, and to include an annual cost-of-living adjustment.

33 The bill requires the calculation of the amount of weekly  
34 workers' compensation benefits to include, not exclude, an  
35 employee's earnings for overtime and premium pay.

1 The bill requires the basis of compensation for weekly  
2 workers' compensation benefits payable for permanent total  
3 disability benefits or death benefits to increase on January  
4 1 each year for compensation that becomes due that year, by  
5 a percentage equal to the cost-of-living adjustment made to  
6 disability benefits payable by the United States social security  
7 administration in December of the immediately preceding year.

8 Technical corrections are also made to remove an unnumbered  
9 paragraph and for purposes of clarity.

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