WORKERS’ COMPENSATION REFORM

SCHELDROP BLADES
By: Sasha L. Monthei & Chris J. Scheldrup

I. INTOXICATION (§ ICA 85.16(2))

A. What was the problem the new or modified statute is intended to correct?
   - Currently, an employee cannot receive workers’ compensation benefits if the employee was intoxicated, unless considered in the course and scope of employment.
   - Burden is on the employer to prove the employee was intoxicated and the intoxication caused the injury.
   - Very difficult to prove the employee was actually intoxicated at the time of the incident and the intoxication caused the injury.
   - An employee is better situated to speak to the employee’s intoxication at the time of the accident.

B. What has changed with the new or modified statute?
   - The amendment creates a presumption of both intoxication and causal relationship to the injury if the employee has a positive test result for the presence of alcohol or drugs.
     - This includes prescription drugs not prescribed by a medical provider or not taken in accordance with the prescribed use.
   - Employee will be able to rebut the presumption with evidence that he/she was not intoxicated at the time of the accident, or that the accident was not a substantial factor in causing the injury.
   - If the presumption is not rebutted, the employee will not be entitled to benefits.

C. How will these changes affect claims handling?
   - Was the employee tested for drugs and alcohol following the incident?
   - If alcohol, did its use arise out of the course of employment?
     - Case: stripper encouraged to drink on the job = in the course of employment
   - If the test is positive, determine all facts relevant to the employee’s ingestion of alcohol or drugs.
     - For prescription drugs, will need toxicologist opinion that level in system exceeds prescribed use.
   - Best Practices: Determine whether there is a good faith basis to presume intoxication.
     - 0.01 alcohol versus 0.04

II. NO PRIVATE CAUSE OF ACTION (§ 85.18)

A. What was the problem the new or modified statute is intended to correct?
   - Section 85.18 provides no contract, rule or device shall operate to relieve an employer from its liability to pay workers’ compensation benefits except as provided for in the act.
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- Clever claimant’s attorneys trying to use this provision to sue employers in district court alleging employers’ rules or contracts violate this section, entitling employees to tort damages.
- Workers’ compensation act meant to be the exclusive remedy for employees with work injuries.

B. What has changed with the new or modified statute?
- The amended section specifically states it does not create a private cause of action.

C. How will this change affect claims handling?
- Any lawsuits filed under this section should be promptly dismissed by the courts.

III. NOTICE OF INJURY (§85.23)

A. What was the problem the new or modified statute is intended to correct?
- The current law requires an employee to give notice of the injury to the employer within 90 days of the date of the occurrence, unless the employer actually knows of the injury, or be barred from seeking workers’ compensation benefits for the injury.
- Because it is a defense, the employer has the burden of proving the employee did not provide proper notice.
- “Date of the occurrence of the injury” is not defined in the statute.
- Agency and case law has interpreted this phrase as the date the seriousness of the injury was realized by the employee (date of manifestation) which is next to impossible to prove.

B. What has changed with the new or modified statute?
- The amendment defines “date of occurrence of the injury” as the date the employee knew or should have known the injury was work-related.
- What this means is if the employee gets hurt at work, the work injury must be reported to the employer within 90 days unless already known by the employer, regardless of the seriousness of the injury.
- If the injury is not reported within 90 days of the employee knowing about it, the employer will not be liable for workers’ compensation benefits.

C. How will this change affect claims handling?
- You will now be able to deny a claim if notice is not given within 90 days from the date the employee knew of the injury.
  - Unless of course the employer already had actual knowledge of the injury.
  - This is true even if the employee believes they suffered only a minor strain that ultimately is determined to be a serious injury.
- Early investigations should focus on the initial symptoms, even if minor.

IV. STATUTE OF LIMITATIONS (§85.26)

A. What was the problem the new or modified statute is intended to correct?
- The current law requires an employee to file a claim for benefits within 2 years from the date of the occurrence, or be barred from seeking workers’ compensation benefits for the injury.
- Because it is a defense, the employer has the burden of proving the claim is barred by the statute of limitations.
- “Date of the occurrence of the injury” is not defined in the statute.
Agency and case law has similarly interpreted this phrase as the date the seriousness of the injury was realized by the employee (date of manifestation), which tolls the statute of limitations even if beyond two years from the initial incident.

B. What has changed with the new or modified statute?
- The amendment defines “date of occurrence of the injury” as the date the employee knew or should have known the injury was work-related.
- What this means is if the employee gets hurt at work, the claim for benefits must be filed within 2 years from the date the employee knew of the injury.
- If a claim is not brought within 2 years of the employee knowing about it, the employer will not be liable for workers’ compensation benefits.

C. How will this change affect claims handling?
- You will now be able to deny a claim if a claim is not filed within 2 years from the date the employee knew of the injury.
- This is true even if the employee believes they suffered only a minor strain that ultimately is determined to be a serious injury.
- Early investigations should focus on the initial symptoms, even if minor.

V. LIGHT DUTY (§85.33(3))

A. What was the problem the new or modified statute is intended to correct?
- Claimants challenging temporary work offered as not suitable because of geographic location alone, even though regularly travel for work.
- For traveling employees, like truck drivers, who regularly travel away from home as part of the job, it is reasonable to require a temporary relocation in the event of a work injury to the employer’s place of business or location of the employer where the employee has worked.
- Agency and courts have invalidated temporary work offers away from the employee’s home despite that regular duties require travel.
- This prevents an important sector of employers from utilizing the temporary work provisions.
- Also, claimants were rejecting temporary work offers with non-profit agencies where the employers could not accommodate light duty at their place of business.
- These employers were also disadvantaged by not being able to take advantage of the temporary work provision.
- Additionally, Claimants were rejecting temporary work offers for unexplained reasons then offering a variety of complaints at hearing with attorney assistance.
- This prevented the employer’s ability to modify the work offer to address the claimants’ complaints before hearing.

B. What has changed with the new or modified statute?
- The amendment strikes language requiring temporary work offered be “with the same” employer.
- Allows employers to utilize non-profit options
- The amendment adds language creating a presumption that temporary work offered at the employer’s place of business or established place of operation where the employee has previously worked is geographically suitable for employees who travel more than 50 percent.
Trucking companies can continue light duty programs for out of state truck drivers

- The amendment requires offers of temporary work to be detailed in writing, including notice that if refused, no benefits will be paid to the employee.
- If the employee refuses the offer of temporary work, the employee must communicate the reason for the refusal to the employer in writing at the time of the refusal.
- Failure of the employee to communicate the reason for the refusal in writing precludes the employee from raising suitability of the work as the reason for the refusal until the employee communicates the reason for the refusal in writing to the employer.

C. How will this change affect claims handling?

- All employers should be offering light duty with these changes
- Written notice with the specifics of the temporary work offer, including notice of forfeiture of benefits if refused, must be sent for each and every temporary work offer.
  - Ensure employee has reasonable time to accept
- If the employee indicates in writing why he/she deems the temporary work offer not suitable, employer should evaluate basis for refusal to determine whether offer should be modified.
  - Temporary work offer does not have to appease claimants’ wishes, just has to be within work restrictions and otherwise reasonable.

VI. START OF PPD (§85.34(2))

A. What was the problem the new or modified statute is intended to correct?

- Current statute: PPD benefits begin at the termination of the “healing period”, defined as the date the employee (1) returns to work, (2) reaches MMI; or (3) employee returns to work that is substantially similar to the employee’s original job.
- If the employee has returned to work but not reached MMI, the employer is required to evaluate permanent impairment and begin voluntary payments before a final medical opinion on impairment can be given.
- Employers are forced to guess permanent impairment and may overpay benefits on the claim.

B. What has changed with the new or modified statute?

- The amendment changes the start of PPD to the date the employee is at MMI, and the resulting impairment rate, if any, can be determined using the AMA Guides.

C. How will this change affect claims handling?

- No longer have to guess whether permanent impairment exists if employee returns to work but has not reached MMI.
- Cannot be ordered to pay penalty benefits if voluntary PPD payments are withheld until the claimant reaches MMI and impairment can be determined.
  - Must act diligently in obtaining impairment rating as soon as Claimant is placed at MMI.
  - If you know doctor will take time getting impairment rating, and it is likely permanent impairment exists, begin voluntary payment of benefits.
- Interest owed from date of MMI, not end of healing period benefits.

VII. SHOULDER SCHEDULE (§85.34(2))

A. What was the problem the new or modified statute is intended to correct?
Currently, shoulder injuries are the second most litigated. Awards sometimes bear no rational relationship to the severity of the injury. Shoulders claims drive up litigation and costs.

B. What has changed with the new or modified statute?
- The new legislation adds shoulder to the schedule as a separate body part.
- The maximum number of weeks for a shoulder is set at 400.

C. How will this change affect claims handling?
- Shoulders should now be evaluated as a scheduled injury.
- Note, shoulder was not added to subsections, stating:

The loss of both arms, or both hands, or both feet, or both legs, or both eyes, or any two thereof, caused by a single accident, shall equal 500 weeks and shall be compensated as such; however, if said employee is permanently and totally disabled the employee may be entitled to benefits under subsection 3.

- Since shoulder was not added, bilateral shoulder claim cannot be the basis of a permanent total disability award.
- Shoulder also not added to § 85.64, Second Injury Fund.
- Second Injury Fund provides additional compensation for employees who have an existing permanent impairment from a prior scheduled injury and suffer an additional permanent impairment from a scheduled injury.
- An amendment was introduced in the senate to add the shoulder to section 85.64, but it did not pass.
- The Second Injury Fund pays out more in benefits than it receives in funds, resulting in assessments against employers, last year in the realm of $10 million.

VIII. EVALUATING INDUSTRIAL DISABILITY (§ 85.34(2)(u))

A. What was the problem the new or modified statute is intended to correct?
- Agency practice does not take into consideration the number of working years an employee has left in evaluating industrial disability.
- Purpose of workers’ compensation is to provide a wage replacement to injured workers.
- Awards of industrial disability should not exceed the employee’s remaining years to work.
- Refusal to take into consideration number of working years remaining, PPD awards often provide windfalls to older workers who are near or at retirement age.

B. What has changed with the new or modified statute?
- The amendment requires any industrial disability analysis take into account the permanent partial disability of the employee and the number of years in the future it was reasonably anticipated the employee would work at the time of the injury.

C. How will this change affect claims handling?
- In evaluating claims, the likely number of working years remaining should be taken into consideration.
  - If the employee is older, the percentage of industrial disability should be lower than a younger employee in a similar occupation with a similar injury.
IX. FUNCTIONAL PAYMENT ONLY WITH EQUAL WAGES (§85.34)(2)(u)

A. What was the problem the new or modified statute is intended to correct?
   • Industrial disability awards not always consistent with employees’ demonstrated ability to earn wages.
     ▪ For example, an employer accommodated position at the same or higher wages as was earning at the time of the injury.
     ▪ History of large industrial disability awards (greater than 60 percent) despite return to work for same or higher wages.

B. What has changed with the new or modified statute?
   • The amended statute provides for non-scheduled injuries, if the employee returns to work or is offered work for which the employee receives or would receive the same or greater wages than the employee received at the time of the injury, the employee shall be compensated based only on the employee’s functional impairment resulting from the injury.
   • However, if an employee is thereafter terminated by the employer, an award or agreement for settlement can be reviewed by review-reopening to determine any reduction of earning capacity caused by the employee’s permanent partial disability.

C. How will this change affect claims handling?
   • Prior to payment of any permanent partial disability, determine whether the employer can accommodate the employee at the same or higher wages.
   • Advise the employer if the employee is terminated, additional benefits may be due if the employee files a review-reopening.
   • This section is intended to create an exception to the three year statute of limitation on review reopening proceedings and may result in reopening old files.
   • In some cases functional impairment may be greater than resulting industrial disability.

X. AMA GUIDES MANDATORY FOR FUNCTIONAL IMPAIRMENT (§85.34(2))

A. What was the problem the new or modified statute is intended to correct?
   • Until recent years, functional impairment was determined from expert medical opinions applying the AMA Guides.
   • The Agency began supplementing their “knowledge and experience” with claimants’ lay testimony to reach higher functional impairment ratings.
   • The result was arbitrary impairment awards not supported by medical evidence.

B. What has changed with the new or modified statute?
   • The new section provides when determining functional impairment, the percentage of impairment shall be determined solely by using the AMA Guides.
   • The new section explicitly prohibits consideration of lay testimony or agency expertise.

C. How will this change affect claims handling?
   • Easier to reserve files
   • Settlement opportunities increase with known parameters of possible awards
   • Claimants less likely to seek attorney representation if adequately understand basis of award
   • Claimant’s attorneys will be more inclined to identify a related nonscheduled injury to transform the claim into one for industrial disability.
XI. NO DOUBLE BENEFITS (§85.34(x))

A. What was the problem the new or modified statute is intended to correct?
   - The Act was interpreted by the Agency and affirmed by the Supreme Court as allowing simultaneous payment of PPD and PTD benefits in the event of multiple injuries.
     - This is true even if the second injury was a sequela of the first injury, and taken into consideration in determining the disability of the second injury in finding the employee permanently and totally disabled.
     - This resulted in a windfall to claimants by receiving duplicative benefits for the same resulting loss of earning capacity.

B. What has changed with the new or modified statute?
   - This new section specifically states PPD benefits shall end upon payment of PTD benefits.
   - It further prohibits an injured worker from receiving PPD benefits if the employee is receiving PTD benefits.

C. How will this change affect claims handling?
   - Easier to reserve claims when sequela injuries are involved and PTD is a possibility.
   - Reduces litigation related to claimants attempts to receive simultaneous PPD and PTD benefits.

XII. CREDIT FOR PPD TOWARDS PTD (§85.34(3)(b))

A. What was the problem the new or modified statute is intended to correct?
   - For successive injuries, PTD awards were deemed to start on a date certain, and no credit given employers for payments of PPD made during the same time period for prior injuries.
   - This resulted in employees receiving double benefits for a resulting total disability that factored in prior injuries.
   - Further, the current statute does not take into account prior determinations of loss of earning capacity or functional impairment, resulting in the employee receiving more than 100 percent loss of industrial disability upon a finding of permanent total disability.

B. What has changed with the new or modified statute?
   - The amendment provides if an employee has received PPD compensation, the compensation paid shall be deducted from the total amount of compensation payable for PTD.
   - The entitlement for a deduction is no longer limited to PPD paid for the same injury, but has been expanded to apply to PPD paid for any injury.

C. How will this change affect claims handling?
   - All prior payments of PPD benefits must be identified
   - For purposes of deducting prior PPD awards, the statute does not identify whether the deduction should be from the front end or back end.
   - Because PTD benefits are potentially for life, in order for this provision to have meaning, it is logical to assume benefits should be deducted from the front end.

XIII. OFFSETS TO PTD (§85.34(3)(c)(d))
A. What was the problem the new or modified statute is intended to correct?
   - Claimant obtains PTD award, goes back to work earning similar wages as he/she was at the time of the injury, receiving a windfall, and requiring the employer to file a review reopening petition to argue the claimant is not totally and permanently disabled.
     - Even then, no ability to recover overpayment of benefits.
   - Claimant’s PTD award backdated to include a period in which the claimant sought and received unemployment compensation, resulting in the employee receiving a windfall, and the employer paying twice.

B. What has changed with the new or modified statute?
   - New section provides an employee forfeits weekly compensation for PTD for any week in which the employee is receiving a payment greater or equal to 50% of the statewide average weekly wage from the following:
     - Gross earnings from any employer
     - Payment for current services from any source
   - The new section also provides an employee is not entitled to PTD benefits while the employee is receiving unemployment compensation.

C. How will this change affect claims handling?
   - Determine if the employee has received unemployment compensation during any period of time in which PTD benefits are owed.
   - Periodically check on employees awarded PTD benefits by requesting they respond to inquiry regarding earnings. If employee refuses to provide information requested, grounds to suspend weekly compensation benefits until information is produced.
   - If employee is working, obtain detailed weekly earnings information and determine whether the employee earned 50% or more of the average weekly wage.
   - If determined an employee has received earnings in excess of 50% of the average weekly wage, notify employee of forfeiture and resulting credit to be taken for any overpayment.

XIV. CREDIT FOR OVERPAYMENT (§85.34)(4)(5))

A. What was the problem the new or modified statute is intended to correct?
   - Under the current statute, employers only entitled to credit for excess TTD payments against PPD payments.
   - This prevented employers from receiving a credit against PTD benefits, or TTD benefits for a new injury.
   - Overpayments were another cost of the claim because no real recovery against the employee is allowed.

B. What has changed with the new or modified statute?
   - The amended statute provides for overpayment of TTD or TPD, the employer shall receive a credit against any future weekly benefits due for any injury to that employee.
   - The amendment also provides for any excess payment of weekly benefits, the employer is entitled to a credit against PPD liability for any current or subsequent injury.

C. How will this change affect claims handling?
   - Determine if an overpayment has been made. If so, notify the employee in writing of the overpayment and the reason(s) for the overpayment. Notify the employee in the same writing
that employer is entitled to a credit for the overpayment against future weekly benefits, if applicable.

XV. APPORTIONMENT (§ 85.34(7))

A. What was the problem the new or modified statute is intended to correct?
   - In 2008, the Iowa legislature attempted to change the apportionment rules, by requiring employers to be liable for only that portion of the employee’s disability.
   - However, subsequent agency and court interpretation of the amendments ignored the intent of the legislature.
   - As a result, employers are still responsible for fully compensating an employee for all resulting disability, according to the “fresh start rule” even if the employee has previously received compensation for the same injury.
   - Employers were reluctant to hire or continue employing workers with prior injuries as a result.

B. What has changed with the new or modified statute?
   - The amendment makes clear the employer is only liable for that portion of the employee’s disability that arises out of the employment with the employer and that relates to the injury that serves the basis for the claim.
   - By striking inconsistent language elsewhere in this section, the amendment also makes clear that an employer is not liable for compensating an employee’s preexisting disability from another employer or for causes unrelated to employment.
   - The amendments retire the “fresh start rule”

C. How will this affect claims handling.
   - Determine all pre-existing disabilities not related to the current injury
   - Ask the treating physician/IME physician to separate impairment for the injury versus prior disabilities
   - Ask the treating physician/IME physician to distinguish medical treatment needed for the current injury versus claimant’s pre-existing disabilities
   - Ask the treating physician to distinguish what permanent restrictions are required for the current injury versus claimant’s pre-existing disabilities

XVI. Forfeiture of Benefits for IME refusal (§85.39(1))

A. What was the problem the new or modified statute is intended to correct?
   - The current statute provides a claimant’s weekly benefits are suspended for the period of time he/she refuses to attend an IME at the employer’s request.
   - The statute has no “teeth” because once the employee attends the IME whether voluntarily or by agency order, the employee is entitled to receive payment for the suspended benefits.
   - Employers often lose out on pre-payment fees and costs in scheduling and rescheduling IME appointments.

B. What has been changed with the new or modified statute?
   - The amendment provides that the employee forfeits weekly compensation benefits during the period of refusing to attend an IME at the employer’s request.

C. How will this change affect claims handling?
Employers will not be required to compensate employees with weekly benefits during the period of refusing to attend an IME.
- Notification in writing of the appointment and the resulting forfeiture of benefits if he/she refuses to attend the IME appointment.

XVII. Reasonable IME Fees for compensable injuries (§85.39(2))

A. What was the problem the new or modified statute is intended to correct?
- Claimant’s attorneys routinely file meritless petitions, where either the claim is not compensable, or the employer has already paid out all benefits the employee is entitled.
- Claimant’s attorneys then try to settle cases for low value in lieu of getting the IME provided the claimant by statute.
- Claimant friendly IME doctors have significantly increased IME fees due to lack of agency oversight.
- The effect is to unnecessarily increase litigation and drive up the costs of litigation.

B. What has changed with the new or modified statute?
- The amendment provides an employer is only liable to reimburse an employee for an IME if the injury is determined to be compensable.
- The amendment further provides a determination of the reasonableness of a fee for an IME shall be based on the typical fee charged by a medical provider to perform an IME in the local area where the examination is conducted.

C. How will this affect claims handling?
- Payment for an IME for questionable claims is not required until the injury is deemed compensable.
- Pay only a reasonable fee to reimburse claimant’s IME provider equal to the typical fee charged in the geographical area it was performed.

XVIII. COMMUTATIONS (§85.45(1))

A. What was the problem the new or modified statute is intended to correct?
- The current law allows an employee to unilaterally request the commissioner to commute some or all benefits in a lump sum. The only requirement is the commissioner must determine commutation is in the best interest of the employee.
- In reality, awards are commuted routinely when they are not in the employee’s best interest.
- Further, consideration is not given to the hardship created for the employer in requiring the award to be paid in a lump sum.
- Also, there is no relief to the employer when an employee dies or re-emplyos following a commutation of benefits.

B. What has changed with the new or modified statute?
- The amendment specifically requires consent of all parties for any partial or full commutation.
- The amendment further allows the parties to agree that the employee is entitled to medical benefits under such terms and conditions as agreed to by the parties for a period of time after the commutation.

C. How will this change affect claims handling?
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- Employers can no longer be forced to commute benefits.
- For claims in which the employee may need additional medical care, commutation can be accomplished with terms providing additional medical care.

XIX. Vocational Rehabilitation for shoulders (§ 85.70(2))

This is a new provision providing vocational rehabilitation for employees who suffer shoulder injuries who cannot return to gainful employment.

- It requires the department of workforce development to evaluate the employee to determine career opportunities in specific fields listed and determine if the employee would benefit from such training through an area community college.
- If it is determined by the department that the employee is a candidate for the program, the department is to refer the employee to the nearest community college to the employee’s resident, or upon agreement between the department and employee, the community college that offers a program that best meets the employee’s needs.
- The program must offer an award of an associate decree or completion of a certificate program and will enable the employee to return to the workforce.
- Once the referral to a community college is made by the department, the employee has six months to enroll or is no longer eligible to participate.
- Employers/their insurers are required to provide financial support for the employee’s participation in the program in an amount not to exceed $15,000, to be used to pay tuition and purchase required supplies.
- The community college is directed to bill the employer/insurer for the employee’s tuition and fees each semester.
- The employer/insurer is also directed to pay for the purchase of supplies required by the program, upon receipt of documentation from the employee detailing the cost of the supplies and the necessity for them.
- The employer/insurer may request a period status report from the college documenting the employee’s attendance and participation in and completion of the program.
- If any employee does not maintain a passing grade in each course in which the employee is enrolled each semester, the employee is no longer eligible for the program.

XX. JURISDICTION (§85.71(1)(a))

A. What was the problem the new or modified statute is intended to correct?

- Under the current law, a person who regularly works in another state and is injured in another state can file a claim for Iowa workers’ compensation benefits if the employee lives in Iowa and the employer has a place of business in Iowa.
- Situation arises when employees and employers live on the border between two states.
- This allows employees to forum shop between states

B. What has changed with the new or modified statute?

- The statute eliminates jurisdiction over work injuries that occur outside the state but the employer has a place of business in this state and the employee is domiciled in this state.
- There are several grounds for jurisdiction over injuries occurring outside the state remaining in the statute. Injuries occurring inside the state are all covered by the statute.

C. How will this change affect claims handling?
Before paying benefits, determine whether Iowa has jurisdiction over the claim following the amendment. Determine employee’s residence, employer’s place of business the employee regularly worked, location of the accident, where the employment contract was entered, whether the employment contract says designates jurisdiction of a particular state for workers’ compensation claims.

XXI. BOND ON JUDICIAL REVIEW (§86.26(2))

A. What was the problem the new or modified statute is intended to correct?
- Under the current law, if the case is appealed from the commissioner to the district court for judicial review, there is no procedure in place to stay enforcement of the agency award.
- As a result, an employer can be forced to pay out an award, win on appeal, and have no ability to recover those payments made to the employee.

B. What has changed with the new or modified statute?
- The amendment provides filing of the petition for judicial review will stay enforcement of the agency action if the moving party posts a bond within 30 days of filing the petition.
- The amendment does not specify the amount of the bond, rather it states it shall be a reasonable amount as fixed and approved by the court.
- The amount fixed by the court for the bond shall be deemed reasonable and adequate unless a party objects to the amount within 20 days.
- If objected, the court may modify the amount of the bond, and if increased, the moving party has 20 days from the date of the order to post the additional amount.

C. How will this change affect claims handling?
- Bond posting for civil judgments is 110 percent, therefore it is likely the district court will set bond on a workers’ compensation appeal at a similar or higher percentage.

XXII. ATTORNEY FEES (§86.39)

A. What was the problem the new or modified statute is intended to correct?
- Currently, agency precedent provides it is unethical for an attorney to assert a fee against workers’ compensation benefits being voluntarily paid by the employer. There is no corresponding law codifying this principle.
- Without a statutory prohibition against taking a fee on amounts recovered through no effort of the attorney, the ethical principle is unenforceable.
- Attorneys take cases where no dispute exists and assert liens on moneys paid despite their ethical obligation.

B. What has changed with the new or modified statute?
- The new section codifies the ethical rule and provides that an attorney shall not recover fees for legal services based on the amount of compensation voluntarily paid or agreed to be paid to an employee.
- It further provides the attorney can only recover a fee on the amount of compensation that the attorney can demonstrate would not have been paid to the employee but for the efforts of the attorney.

C. How will this change affect claims handling?
This new section will afford the commissioner the ability to investigate claims of attorneys taking more fees than entitled.
- It should reduce litigation in those cases in which benefits are being voluntarily paid as provided by the Act.

XXIII. INTEREST (§535.3)(1))

A. What was the problem the new or modified statute is intended to correct?
- For workers’ compensation awards, the Code has provided interest due on workers’ compensation awards shall be 10 percent per year.
- There is nowhere in the market an employee could invest funds at a return rate of 10 percent.
- The 10 percent interest rate has resulted in a windfall to employees, especially in the most recent years.

B. What has changed with the new or modified statute?
- The statute now provides interest is due at an annual rate equal to the one-year treasury constant maturity published by the Federal Reserve in the most recent H15 report settled as of the date of the injury, plus 2 percent.

C. How will this change affect claims handling?
- As of July 1, interest rate calculations will become complicated for a period of time.
  - For payments due before July 1, the 10 percent interest rate should still be used.
  - For payments due after July 1, the new interest rate should be used.
  - Determine the US Treasury rate as of the date of the injury, and add 2 percent.
  - The interest table published by the agency will not work for the new interest calculations, because it is based on a 10 percent interest. The agency will need to create a new template to determine the interest multiplier since the interest is variable depending on the injury date.

XXIV. APPLICABILITY

- The law will take effect on July 1, 2017.
- For commutations, no petition for commutations can be filed as of July 1 unless all parties consent.
- The applicable interest rate changes as of July 1 for compensation payments owed on or after July 1.
- The remaining changes in the statute apply to injuries occurring on or after July 1.
March 30, 2017

The Honorable Paul Pate
Secretary of State of Iowa
State Capitol Building
LOCAL.

Dear Mr. Secretary:

I hereby transmit:

House File 518, an Act relating to workers’ compensation and including applicability provisions.

The above House File is hereby approved this date.

Sincerely,

Terry E. Branstad
Governor

cc: Secretary of the Senate
Clerk of the House
AN ACT

RELATING TO WORKERS' COMPENSATION AND INCLUDING APPLICABILITY PROVISIONS.

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

Section 1. Section 85.16, subsection 2, Code 2017, is amended to read as follows:

2. a. By the employee's intoxication, which did not arise out of and in the course of employment but which was due to the effects of alcohol or another narcotic, depressant, stimulant, hallucinogenic, or hypnotic drug not prescribed by an authorized medical practitioner, if the intoxication was a substantial factor in causing the injury.

b. For the purpose of disallowing compensation under this subsection, both of the following apply:
(1) If the employer shows that, at the time of the injury or immediately following the injury, the employee had positive test results reflecting the presence of alcohol, or another narcotic, depressant, stimulant, hallucinogenic, or hypnotic drug which drug either was not prescribed by an authorized medical practitioner or was not used in accordance with the prescribed use of the drug, it shall be presumed that the employee was intoxicated at the time of the injury and that intoxication was a substantial factor in causing the injury.

(2) Once the employer has made a showing as provided in subparagraph (1), the burden of proof shall be on the employee to overcome the presumption by establishing that the employee was not intoxicated at the time of the injury, or that intoxication was not a substantial factor in causing the injury.

Sec. 2. Section 85.18, Code 2017, is amended to read as follows:

85.18 Contract to relieve not operative.
No contract, rule, or device whatsoever shall operate to relieve the employer, in whole or in part, from any liability created by this chapter except as herein provided. This section does not create a private cause of action.

Sec. 3. Section 85.23, Code 2017, is amended to read as follows:

85.23 Notice of injury — failure to give.
Unless the employer or the employer's 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 the employee's behalf or a dependent or someone on the dependent's behalf shall give notice thereof to the employer within ninety days from the date of the occurrence of the injury, no compensation shall be allowed. For the purposes of this section, "date of the occurrence of the injury" means the date that the employee knew or should have known that the injury was work-related.

Sec. 4. Section 85.26, subsection 1, Code 2017, is amended to read as follows:

1. An original proceeding for benefits under this chapter or chapter 85A, 85B, or 86, shall not be maintained in any
contested case unless the proceeding is commenced within two years from the date of the occurrence of the injury for which benefits are claimed or, if weekly compensation benefits are paid under section 86.13, within three years from the date of the last payment of weekly compensation benefits. For the purposes of this section, "date of the occurrence of the injury" means the date that the employee knew or should have known that the injury was work-related.

Sec. 5. Section 85.33, subsection 3, Code 2017, is amended to read as follows:

3. a. If an employee is temporarily, partially disabled and the employer for whom the employee was working at the time of injury offers to the employee suitable work consistent with the employee's disability the employee shall accept the suitable work, and be compensated with temporary partial benefits. If the employer offers the employee suitable work and the employee refuses to accept the suitable work with the same offered by the employer, the employee shall not be compensated with temporary partial, temporary total, or healing period benefits during the period of the refusal. Work offered at the employer's principal place of business or established place of operation where the employee has previously worked is presumed to be geographically suitable for an employee whose duties involve travel away from the employer's principal place of business or established place of operation more than fifty percent of the time. If suitable work is not offered by the employer for whom the employee was working at the time of the injury and the employee who is temporarily partially disabled elects to perform work with a different employer, the employee shall be compensated with temporary partial benefits.

b. The employer shall communicate an offer of temporary work to the employee in writing, including details of lodging, meals, and transportation, and shall communicate to the employee that if the employee refuses the offer of temporary work, the employee shall communicate the refusal and the reason for the refusal to the employer in writing and that during the period of the refusal the employee will not be compensated with temporary partial, temporary total, or healing period benefits, unless the work refused is not suitable. If the employee
refuses the offer of temporary work on the grounds that the work is not suitable, the employee shall communicate the refusal, along with the reason for the refusal, to the employer in writing at the time the offer of work is refused. Failure to communicate the reason for the refusal in this manner precludes the employee from raising suitability of the work as the reason for the refusal until such time as the reason for the refusal is communicated in writing to the employer.

Sec. 6. Section 85.34, subsection 2, unnumbered paragraph 1, Code 2017, is amended to read as follows:

Compensation for permanent partial disability shall begin at the termination of the healing period provided in subsection 1 when it is medically indicated that maximum medical improvement from the injury has been reached and that the extent of loss or percentage of permanent impairment can be determined by use of the guides to the evaluation of permanent impairment, published by the American medical association, as adopted by the workers' compensation commissioner by rule pursuant to chapter 17A. The compensation shall be in addition to the benefits provided by sections 85.27 and 85.28. The compensation shall be based upon the extent of the disability and upon the basis of eighty percent per week of the employee's average spendable weekly earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to one hundred eighty-four percent of the statewide average weekly wage paid employees as determined by the department of workforce development under section 96.19, subsection 36, and in effect at the time of the injury. The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage. For all cases of permanent partial disability compensation shall be paid as follows:

Sec. 7. Section 85.34, subsection 2, Code 2017, is amended by adding the following new paragraph:

NEW PARAGRAPH. On. For the loss of a shoulder, weekly compensation during four hundred weeks.

Sec. 8. Section 85.34, subsection 2, paragraph u, Code 2017, is amended to read as follows:

u. In all cases of permanent partial disability other than
those hereinabove described or referred to in paragraphs "a" through "t" hereof, the compensation shall be paid during the number of weeks in relation to five hundred weeks as the reduction in the employee’s earning capacity caused by the disability bears in relation to the earning capacity that the employee possessed when the injury occurred. A determination of the reduction in the employee’s earning capacity caused by the disability shall take into account the permanent partial disability of the employee and the number of years in the future it was reasonably anticipated that the employee would work at the time of the injury. If an employee who is eligible for compensation under this paragraph returns to work or is offered work for which the employee receives or would receive the same or greater salary, wages, or earnings than the employee received at the time of the injury, the employee shall be compensated based only upon the employee’s functional impairment resulting from the injury, and not in relation to the employee’s earning capacity. Notwithstanding section 85.26, subsection 2, if an employee who is eligible for compensation under this paragraph returns to work with the same employer and is compensated based only upon the employee’s functional impairment resulting from the injury as provided in this paragraph and is terminated from employment by that employer, the award or agreement for settlement for benefits under this chapter shall be reviewed upon commencement of reopening proceedings by the employee for a determination of any reduction in the employee’s earning capacity caused by the employee’s permanent partial disability.

Sec. 9. Section 85.34, subsection 2, Code 2017, is amended by adding the following new paragraphs:

NEW PARAGRAPH. w. In all cases of permanent partial disability described in paragraphs "a" through "t", or paragraph "u" when determining functional disability and not loss of earning capacity, the extent of loss or percentage of permanent impairment shall be determined solely by utilizing the guides to the evaluation of permanent impairment, published by the American Medical Association, as adopted by the workers’ compensation commissioner by rule pursuant to chapter 17A. Lay testimony or agency expertise shall not be utilized in
determining loss or percentage of permanent impairment pursuant to paragraphs "a" through "t", or paragraph "u" when determining functional disability and not loss of earning capacity.

NEW PARAGRAPH. x. Compensation for permanent partial disability for an injury shall terminate on the date when compensation for permanent total disability for any injury begins. An employee shall not receive compensation for permanent partial disability if the employee is receiving compensation for permanent total disability.

Sec. 10. Section 85.34, subsection 3, Code 2017, is amended to read as follows:

3. Permanent total disability.
   a. Compensation for an injury causing permanent total disability shall be upon the basis of eighty percent per week of the employee’s average spendable weekly earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to two hundred percent of the statewide average weekly wage paid employees as determined by the department of workforce development under section 96.19, subsection 36, and in effect at the time of the injury. The minimum weekly benefit amount is equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage. The weekly compensation is payable during the period of the employee’s disability until the employee is no longer permanently and totally disabled.

   b. Such compensation shall be in addition to the benefits provided in sections 85.27 and 85.28. No compensation shall be payable under this subsection for any injury for which compensation is payable under subsection 2 of this section. In the event compensation has been paid to any person under any provision of this chapter, chapter 85A or chapter 85B for the same an injury producing a total permanent disability, any such amounts so paid shall be deducted from the total amount of compensation payable for such permanent total disability. An employee shall not receive compensation for permanent partial disability if the employee is receiving compensation for permanent total disability.

Sec. 11. Section 85.34, subsection 3, Code 2017, is amended by adding the following new paragraphs:
NEW PARAGRAPH.  c. An employee forfeits the employee’s weekly compensation for a permanent total disability under this subsection for a week in which the employee is receiving a payment equal to or greater than fifty percent of the statewide average weekly wage from any of the following sources:
   (1) Gross earnings from any employer.
   (2) Payment for current services from any source.

NEW PARAGRAPH.  d. An employee is not entitled to compensation for a permanent total disability under this subsection while the employee is receiving unemployment compensation under chapter 96.

Sec. 12. Section 85.34, subsections 4 and 5, Code 2017, are amended to read as follows:

4. Credits for excess payments. If an employee is paid weekly compensation benefits for temporary total disability under section 85.33, subsection 1, for a healing period under section 85.34, subsection 1, or for temporary partial disability under section 85.33, subsection 2, in excess of that required by this chapter and chapters 85A, 85B, and 86, the excess paid by the employer shall be credited against the liability of the employer for permanent partial disability under section 85.34, subsection 2 any future weekly benefits due for an injury to that employee, provided that the employer or the employer’s representative has acted in good faith in determining and notifying an employee when the temporary total disability, healing period, or temporary partial disability benefits are terminated.

5. Recovery of employee overpayment. If an employee is paid any weekly benefits in excess of that required by this chapter and chapters 85A, 85B, and 86, the excess paid by the employer shall be credited against the liability of the employer for any future weekly benefits due pursuant to subsection 2, for any current or subsequent injury to the same employee. An overpayment can be established only when the overpayment is recognized in a settlement agreement approved under section 86.13, pursuant to final agency action in a contested case which was commenced within three years from the date that weekly benefits were last paid for the claim for which the benefits were overpaid, or pursuant to final agency action
in a contested case for a prior injury to the same employee. The credit shall remain available for eight years after the date the overpayment was established. If an overpayment is established pursuant to this subsection, the employee and employer may enter into a written settlement agreement providing for the repayment by the employee of the overpayment. The agreement is subject to the approval of the workers’ compensation commissioner. The employer shall not take any adverse action against the employee for failing to agree to such a written settlement agreement.

Sec. 13. Section 85.34, subsection 7, paragraph a, Code 2017, is amended to read as follows:

a. An employer is fully liable for compensating all only that portion of an employee’s disability that arises out of and in the course of the employee’s employment with the employer and that relates to the injury that serves as the basis for the employee’s claim for compensation under this chapter, or chapter 85A, 85B, or 86. An employer is not liable for compensating an employee’s preexisting disability that arose out of and in the course of employment from a prior injury with the employer, to the extent that the employee’s preexisting disability has already been compensated under this chapter, or chapter 85A, 85B, or 86. An employer is not liable for compensating an employee’s preexisting disability that arose out of and in the course of employment with a different employer or from causes unrelated to employment.

Sec. 14. Section 85.34, subsection 7, paragraphs b and c, Code 2017, are amended by striking the paragraphs.

Sec. 15. Section 85.39, Code 2017, is amended to read as follows:

85.39 Examination of injured employees.

1. After an injury, the employee, if requested by the employer, shall submit for examination at some reasonable time and place and as often as reasonably requested, to a physician or physicians authorized to practice under the laws of this state or another state, without cost to the employee; but if the employee requests, the employee, at the employee’s own cost, is entitled to have a physician or physicians of the employee’s own selection present to participate in
the examination. If an employee is required to leave work for which the employee is being paid wages to attend the requested examination, the employee shall be compensated at the employee's regular rate for the time the employee is required to leave work, and the employee shall be furnished transportation to and from the place of examination, or the employer may elect to pay the employee the reasonable cost of the transportation. The refusal of the employee to submit to the examination shall suspend forfeit the employee's right to any compensation for the period of the refusal. Compensation shall not be payable for the period of suspension refusal.

2. If 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, the employee shall, upon application to the commissioner and upon delivery of a copy of the application to the employer and its insurance carrier, be reimbursed by the employer the reasonable fee for a subsequent examination by a physician of the employee's own choice, and reasonably necessary transportation expenses incurred for the examination. The physician chosen by the employee has the right to confer with and obtain from the employer-retained physician sufficient history of the injury to make a proper examination. An employer is only liable to reimburse an employee for the cost of an examination conducted pursuant to this subsection if the injury for which the employee is being examined is determined to be compensable under this chapter or chapter 85A or 85B. An employer is not liable for the cost of such an examination if the injury for which the employee is being examined is determined not to be a compensable injury. A determination of the reasonableness of a fee for an examination made pursuant to this subsection, shall be based on the typical fee charged by a medical provider to perform an impairment rating in the local area where the examination is conducted.

Sec. 16. Section 85.45, subsection 1, unnumbered paragraph 1, Code 2017, is amended to read as follows:

Future payments of compensation may be commuted to a present worth lump sum payment only upon application of a party to the commissioner and upon written consent of all parties to the proposed commutation or partial commutation, and on the
following conditions:

Sec. 17. Section 85.45, Code 2017, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The parties to any commutation or partial commutation of future payments agreed to and ordered pursuant to this section may agree that the employee has the right to benefits pursuant to section 85.27 under such terms and conditions as agreed to by the parties, for a specified period of time after the commutation or partial commutation agreement has been ordered by the workers' compensation commissioner. During that specified period of time, the commissioner shall have jurisdiction of the commutation or partial commutation agreement for the purpose of adjudicating the employee's entitlement to benefits provided for in section 85.27 as provided in the agreement.

Sec. 18. Section 85.70, Code 2017, is amended to read as follows:

85.70 Additional payment for attendance — rehabilitation and training — new career vocational training and education program.

1. An employee who has sustained an injury resulting in permanent partial or permanent total disability, for which compensation is payable under this chapter other than an injury to the shoulder compensable pursuant to section 85.34, subsection 2, paragraph "c", and who cannot return to gainful employment because of such disability, shall upon application to and approval by the workers' compensation commissioner be entitled to a one hundred dollar weekly payment from the employer in addition to any other benefit payments, during each full week in which the employee is actively participating in a vocational rehabilitation program recognized by the vocational rehabilitation services division of the department of education. The workers' compensation commissioner's approval of such application for payment may be given only after a careful evaluation of available facts, and after consultation with the employer or the employer's representative. Judicial review of the decision of the workers' compensation commissioner may be obtained in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, and in section 86.26. Such additional benefit payment shall be paid
for a period not to exceed thirteen consecutive weeks except that the workers' compensation commissioner may extend the period of payment not to exceed an additional thirteen weeks if the circumstances indicate that a continuation of training will in fact accomplish rehabilitation.

2. a. An employee who has sustained an injury to the shoulder resulting in permanent partial disability for which compensation is payable under section 85.34, subsection 2, paragraph "On", and who cannot return to gainful employment because of such disability, shall be evaluated by the department of workforce development regarding career opportunities in specific fields aligning with postsecondary career and technical education programs that provide instruction in the areas of agriculture, family and consumer sciences, health occupations, business, industrial technology, and marketing, that allow for accommodation of the employee's disability and to determine if the employee would benefit from participation in the new career vocational training and education program offered through an area community college, that will allow the employee to return to the workforce.

b. Upon completion of the evaluation and a determination by the department that the employee is a candidate for the new career vocational training and education program, the employee shall be referred by the department to the community college that is in the closest proximity to the employee's residence, or upon agreement of the department and the employee, to the community college that offers a vocational training and education program that best meets the employee's needs, for enrollment in the new career vocational training and education program at the community college for the purpose of providing the employee with occupational training that will result in, at a minimum, the awarding of an associate degree or completion of a certificate program and will enable the employee to return to the workforce. If an employee does not enroll in the new career vocational training and education program at the community college to which the employee has been referred by the department within six months after the referral, the employee is no longer eligible to participate in the program.

c. The employee shall be entitled to financial support from
the employer or the employer’s insurer for participation in
the new career vocational and education training program in
a total amount not to exceed fifteen thousand dollars to be
used for the payment of tuition and fees and the purchase of
required supplies. The community college in which an employee
is enrolled pursuant to the program shall bill the employer
or the employer’s insurer for the employee’s tuition and fees
each semester, or the equivalent, that the employee is enrolled
in the program. The employer or the employer’s insurer shall
also pay for the purchase of supplies required by the employee
to participate in the program, upon receipt of documentation
from the employee detailing the cost of the supplies and the
necessity for purchasing the supplies. Such documentation may
include written course requirements or other documentation from
the community college or the course instructor regarding the
necessity for the purchase of certain supplies.

d. The employer or the employer’s insurer may request a
periodic status report each semester from the community college
documenting the employee’s attendance and participation in
and completion of the education and training program. If an
employee does not meet the attendance requirements of the
community college at which the employee is enrolled or does not
maintain a passing grade in each course in which the employee
is enrolled each semester, or the equivalent, the employee’s
eligibility for continued participation in the program is
terminated.

e. The community college shall also provide the employer
or the employer’s insurer with documentation detailing that
the receipt of funds by the community college pursuant to this
subsection is for the payment of tuition and fees and the
purchase of required supplies.

f. Beginning on or before December 1, 2018, the department
of workforce development, in cooperation with the department
of education, the insurance division of the department of
commerce, and all community colleges that are participating
in the new career and vocational training and education
program, shall prepare an annual report for submission to the
general assembly that provides information about the status
of the program including but not limited to the utilization
of and participants in the program, program completion rates, employment rates after completion of the program and the types of employment obtained by the program participants, and the effects of the program on workers' compensation premium rates.

Sec. 19. Section 85.71, subsection 1, paragraph a, Code 2017, is amended to read as follows:

a. The employer has a place of business in this state and the employee regularly works at or from that place of business, or the employer has a place of business in this state and the employee is domiciled in this state.

Sec. 20. Section 86.26, Code 2017, is amended to read as follows:

86.26 Judicial review.

1. Judicial review of decisions or orders of the workers' compensation commissioner may be sought in accordance with chapter 17A. Notwithstanding chapter 17A, the Iowa administrative procedure Act, petitions for judicial review may be filed in the district court of the county in which the hearing under section 86.17 was held, the workers' compensation commissioner shall transmit to the reviewing court the original or a certified copy of the entire record of the contested case which is the subject of the petition within thirty days after receiving written notice from the party filing the petition that a petition for judicial review has been filed, and an application for stay of agency action during the pendency of judicial review shall not be filed in the division of workers' compensation of the department of workforce development but shall be filed with the district court. Such a review proceeding shall be accorded priority over other matters pending before the district court.

2. Notwithstanding section 17A.19, subsection 5, a timely petition for judicial review filed pursuant to this section shall stay execution or enforcement of a decision or order of the workers' compensation commissioner if the party seeking judicial review posts a bond securing any compensation awarded pursuant to the decision or order with the district court within thirty days of filing the petition, in a reasonable amount as fixed and approved by the court. Unless either the party posting the bond files an objection with the court,
within twenty days from the date that the bond is fixed and approved by the court, that the amount of the bond is not reasonable, or the party whose interests are protected by the bond files an objection with the court, within twenty days from the date that the amount of the bond is fixed and approved by the court, that the amount of the bond is not reasonable or adequate, the amount of the bond shall be deemed reasonable and adequate. If, upon objection, the district court orders the amount of the bond posted to be modified, the party seeking judicial review shall repost the bond in the amount ordered, within twenty days of the date of the order modifying the bond, in order to continue the stay of execution or enforcement of the decision or order of the workers' compensation commissioner.

Sec. 21. Section 86.39, Code 2017, is amended to read as follows:

86.39 Fees — approval.

1. All fees or claims for legal, medical, hospital, and burial services rendered under this chapter and chapters 85, 85A, 85B, and 87 are subject to the approval of the workers' compensation commissioner. For services rendered in the district court and appellate courts, the attorney fee is subject to the approval of a judge of the district court.

2. An attorney shall not recover fees for legal services based on the amount of compensation voluntarily paid or agreed to be paid to an employee for temporary or permanent disability under this chapter, or chapter 85, 85A, 85B, or 87. An attorney shall only recover a fee based on the amount of compensation that the attorney demonstrates would not have been paid to the employee but for the efforts of the attorney. Any disputes over the recovery of attorney fees under this subsection shall be resolved by the workers' compensation commissioner.

Sec. 22. Section 86.42, Code 2017, is amended to read as follows:

86.42 Judgment by district court on award.

Any party in interest may present a file-stamped copy of an order or decision of the commissioner, from which a timely petition for judicial review has not been filed or if
judicial review has been filed, which has not had execution or enforcement stayed as provided in section 17A.19, subsection 5, or section 86.26, subsection 2, or an order or decision of a deputy commissioner from which a timely appeal has not been taken within the agency and which has become final by the passage of time as provided by rule and section 17A.15, or an agreement for settlement approved by the commissioner, and all papers in connection therewith, to the district court where judicial review of the agency action may be commenced. The court shall render a decree or judgment and cause the clerk to notify the parties. The decree or judgment, in the absence of a petition for judicial review or if judicial review has been commenced, in the absence of a stay of execution or enforcement of the decision or order of the workers' compensation commissioner as provided in section 17A.19, subsection 5, or section 86.26, subsection 2, or in the absence of an act of any party which prevents a decision of a deputy workers' compensation commissioner from becoming final, has the same effect and in all proceedings in relation thereto is the same as though rendered in a suit duly heard and determined by the court.

Sec. 23. Section 535.3, subsection 1, Code 2017, is amended to read as follows:

1. a. Interest shall be allowed on all money due on judgments and decrees of courts at a rate calculated according to section 668.13, except for interest due pursuant to section 85.30 for which the rate shall be ten percent per year.

   b. Notwithstanding paragraph "a", interest due pursuant to section 85.30 shall accrue from the date each compensation payment is due at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent.

Sec. 24. APPLICABILITY.

1. The sections of this Act amending sections 85.16, 85.18, 85.23, 85.26, 85.33, 85.34, 85.39, 85.71, 86.26, 86.39, and 86.42 apply to injuries occurring on or after the effective date of this Act.

2. The sections of this Act amending section 85.45 apply to
commutations for which applications are filed on or after the effective date of this Act.

LINDA UPMeyer  
Speaker of the House

JACK WHITVER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 518, Eighty-seventh General Assembly.

CARMINE BOAL  
Chief Clerk of the House

Approved March 30, 2017

TERRY E. BRANSTAD  
Governor