

CHAPTER 168

**MISCELLANEOUS SUPPLEMENTAL APPROPRIATIONS
AND EMPLOYMENT REGULATION**

S.F. 342

AN ACT relating to financial and regulatory matters by making and increasing appropriations for the fiscal year beginning July 1, 2004, making civil penalties applicable and providing effective and applicability date provisions.

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

**DIVISION I
EDUCATION**

Section 1. STATE BOARD OF REGENTS — GENERAL FUND ENDING BALANCE.

1. Prior to the appropriation of the surplus existing in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2004, pursuant to section 8.57, subsection 1, from appropriations that remain unencumbered or unobligated and would otherwise revert on August 31, 2005, pursuant to section 8.33, up to \$2,800,000 shall be transferred to the state board of regents.

2. The transfer made in subsection 1 shall be distributed to the state board of regents in the fiscal year beginning July 1, 2005, to be used as additional funding for the fiscal year beginning July 1, 2005, for the institutions under the state board of regents.

**DIVISION II
HEALTH AND HUMAN SERVICES
DEPARTMENT OF HUMAN SERVICES**

Sec. 2. 2004 Iowa Acts, chapter 1175, section 116, unnumbered paragraph 2, is amended to read as follows:

For medical assistance reimbursement and associated costs as specifically provided in the reimbursement methodologies in effect on June 30, 2004, except as otherwise expressly authorized by law, including reimbursement for abortion services, which shall be available under the medical assistance program only for those abortions which are medically necessary:

..... \$ 352,794,101
422,794,101

Sec. 3. 2004 Iowa Acts, chapter 1175, section 118, unnumbered paragraph 2, is amended to read as follows:

For medical contracts, including salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent position:

..... \$ 9,725,035
10,725,035
..... FTEs 1.00

Of the amount appropriated in this section, \$1,000,000 is allocated for implementation costs for the Iowa Medicaid enterprise initiative.

Sec. 4. 2004 Iowa Acts, chapter 1175, section 130, subsections 1 and 2, are amended to read as follows:

1. For the state resource center at Glenwood for salaries, support, maintenance, and miscellaneous purposes:

..... \$ 8,550,280
9,550,280

2. For the state resource center at Woodward for salaries, support, maintenance, and miscellaneous purposes:

.....	\$	4,520,459
		<u>5,520,459</u>

Sec. 5. 2004 Iowa Acts, chapter 1175, section 131, is amended to read as follows:

SEC. 131. MI/MR/DD STATE CASES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2004, and ending June 30, 2005, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purchase of local services for persons with mental illness, mental retardation, and developmental disabilities where the client has no established county of legal settlement:

.....	\$	11,014,619
		<u>11,264,619</u>

The general assembly encourages the department to continue discussions with the Iowa state association of counties and administrators of county central point of coordination offices regarding proposals for moving state cases to county budgets.

Sec. 6. 2004 Iowa Acts, chapter 1175, section 134, subsection 1, unnumbered paragraph 2, is amended to read as follows:

For costs associated with the commitment and treatment of sexually violent predators in the unit located at the state mental health institute at Cherokee, including costs of legal services and other associated costs, including salaries, support, maintenance, and miscellaneous purposes:

.....	\$	2,833,646
		<u>3,608,646</u>

Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

DIVISION III
JUSTICE SYSTEM

Sec. 7. INDIGENT DEFENSE CLAIMS — TRANSFERS. It is the intent of the general assembly that the director of the department of management, with the approval of the governor, shall utilize the transfer authority available under section 8.39 to provide the office of the state public defender of the department of inspections and appeals with sufficient funding to satisfy all valid indigent defense claims under section 232.141 and chapter 815 for the fiscal year beginning July 1, 2004, and ending June 30, 2005.

DIVISION IV
EMPLOYMENT

Sec. 8. Section 22.7, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 51. Confidential information, as defined in section 86.45, subsection 1, filed with the workers' compensation commissioner.

Sec. 9. Section 85.27, subsection 7, Code 2005, is amended to read as follows:
7. If, after the third day of incapacity to work following the date of sustaining a compensable injury which does not result in permanent partial disability, or if, at any time after sustaining a compensable injury which results in permanent partial disability, an employee, who is not receiving weekly benefits under section 85.33 or section 85.34, subsection 1, returns to work and is required to leave work for one full day or less to receive services pursuant to this section, the employee shall be paid an amount equivalent to the wages lost at the employee's regular

rate of pay for the time the employee is required to leave work. For the purposes of this subsection, "day of incapacity to work" means eight hours of accumulated absence from work due to incapacity to work or due to the receipt of services pursuant to this section. The employer shall make the payments under this subsection as wages to the employee after making such deductions from the amount as legally required or customarily made by the employer from wages. Payments made under this subsection shall be required to be reimbursed pursuant to any insurance policy covering workers' compensation. Payments under this subsection shall not be construed to be payment of weekly benefits.

Sec. 10. Section 85.35, Code 2005, is amended to read as follows:

85.35 SETTLEMENT IN CONTESTED CASE SETTLEMENTS.

1. The parties to a contested case or persons who are involved in a dispute which could culminate in a contested case may enter into a settlement of any claim arising under this chapter or chapter 85A, 85B, or 86, providing for final disposition of the claim, provided that no final disposition affecting rights to future benefits may be had when the only dispute is the degree of disability resulting from an injury for which an award for payments or agreement for settlement under section 86.13 has been made. The settlement shall be in writing on forms prescribed by the workers' compensation commissioner and submitted to the workers' compensation commissioner for approval.

2. The parties may enter into an agreement for settlement that establishes the employer's liability, fixes the nature and extent of the employee's current right to accrued benefits, and establishes the employee's right to statutory benefits that accrue in the future.

3. The parties may enter into a compromise settlement of the employee's claim to benefits as a full and final disposition of the claim.

4. The parties may enter into a settlement that is a combination of an agreement for settlement and a compromise settlement that establishes the employer's liability for part of a claim but makes a full and final disposition of other parts of a claim.

5. A contingent settlement may be made and approved, conditioned upon subsequent approval by a court or governmental agency, or upon any other subsequent event that is expected to occur within one year from the date of the settlement. If the subsequent approval or event does not occur, the contingent settlement and its approval may be vacated by order of the workers' compensation commissioner upon a petition for vacation filed by one of the parties or upon agreement by all parties. If a contingent settlement is vacated, the running of any period of limitation provided for in section 85.26 is tolled from the date the settlement was initially approved until the date that the settlement is vacated, and the claim is restored to the status that the claim held when the contingent settlement was initially approved. The contingency on a settlement lapses and the settlement becomes final and fully enforceable if an action to vacate the contingent settlement or to extend the period of time allowed for the subsequent approval or event to occur is not initiated within one year from the date that the contingent settlement was initially approved.

6. The parties may agree that settlement proceeds, which are paid in a lump sum, are intended to compensate the injured worker at a given monthly or weekly rate over the life expectancy of the injured worker. If such an agreement is reached, neither the weekly compensation rate which either has been paid, or should have been paid, throughout the case, nor the maximum statutory weekly rate applicable to the injury shall apply. Instead, the rate set forth in the settlement agreement shall be the rate for the case.

The settlement shall not be approved unless evidence of a bona fide dispute exists concerning any of the following:

1. The claimed injury arose out of or in the course of the employment.

2. The injured employee gave notice under section 85.23.

3. Whether or not the statutes of limitations as provided in section 85.26 have run. When the issue involved is whether or not the statute of limitations of section 85.26, subsection 2, has run, the final disposition shall pertain to the right to weekly compensation unless otherwise provided for in subsection 7 of this section.

4. ~~The injury was caused by the employee's willful intent to injure the employee's self or to willfully injure another.~~

5. ~~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, was a substantial factor in causing the employee's injury.~~

6. ~~The injury was caused by the willful act of a third party directed against the employee for reasons personal to such employee.~~

7. ~~This chapter or chapter 85A, 85B, 86 or 87 applies to the party making the claim.~~

8. ~~A substantial portion of the claimed disability is related to physical or mental conditions other than those caused by the injury.~~

7. A settlement shall be approved by the workers' compensation commissioner if the parties show all of the following:

a. Substantial evidence exists to support the terms of the settlement.

b. Waiver of the employee's right to a hearing, decision, and statutory benefits is made knowingly by the employee.

c. The settlement is a reasonable and informed compromise of the competing interests of the parties.

If an employee is represented by legal counsel, it is presumed that the required showing for approval of the settlement has been made.

~~8. Approval of a settlement by the workers' compensation commissioner shall be binding on the parties and shall not be construed as an original proceeding. Notwithstanding any provisions of this chapter and chapters 85A, 85B, 86 and 87, an approved compromise settlement shall constitute a final bar to any further rights arising under this chapter and chapters 85A, 85B, 86, and 87. Such regarding the subject matter of the compromise and a payment made pursuant to a compromise settlement agreement shall not be construed as the payment of weekly compensation.~~

Sec. 11. Section 85.38, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

If an employer denies liability under this chapter, chapter 85A, or chapter 85B, for payment for any medical services received or weekly compensation requested by an employee with a disability, and the employee is a beneficiary under either an individual or group plan for non-occupational illness, injury, or disability, the nonoccupational plan shall not deny payment for the medical services received or for benefits under the plan on the basis that the employer's liability for the medical services under this chapter, chapter 85A, or chapter 85B is unresolved.

Sec. 12. Section 85.71, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 5. The employer has a place of business in Iowa, and the employee is working under a contract of hire which provides that the employee's workers' compensation claims be governed by Iowa law.

Sec. 13. Section 86.24, subsection 4, Code 2005, is amended to read as follows:

4. A transcript of a contested case proceeding shall be provided to the workers' compensation commissioner by an appealing party at the party's cost ~~and an affidavit shall be filed by the appealing party or the party's attorney with the workers' compensation commissioner within ten days after the filing of the appeal to the workers' compensation commissioner stating that the transcript has been ordered and identifying the name and address of the reporter or reporting firm from which the transcript has been ordered.~~

Sec. 14. NEW SECTION. 86.45 CONFIDENTIAL INFORMATION.

1. "Confidential information", for the purposes of this section, means all information that is filed with the workers' compensation commissioner as a result of an employee's injury or death that would allow the identification of the employee or the employee's dependents. Confidential information includes first reports of injury and subsequent reports of claim activity.

Confidential information does not include pleadings, motions, decisions, opinions, or applications for settlement that are filed with the workers' compensation commissioner.

2. The workers' compensation commissioner shall not disclose confidential information except as follows:

a. Pursuant to the terms of a written waiver of confidentiality executed by the employee or the dependents of the employee whose information is filed with the workers' compensation commissioner.

b. To another governmental agency, or to an advisory, rating, or research organization, for the purpose of compiling statistical data, evaluating the state's workers' compensation system, or conducting scientific, medical, or public policy research, where such disclosure will not allow the identification of the employee or the employee's dependents.

c. To the employee or to the agent or attorney of the employee whose information is filed with the workers' compensation commissioner.

d. To the person or to the agent of the person who submitted the information to the workers' compensation commissioner.

e. To an agent, representative, attorney, investigator, consultant, or adjuster of an employer, or insurance carrier or third-party administrator of workers' compensation benefits, who is involved in administering a claim for such benefits related to the injury or death of the employee whose information is filed with the workers' compensation commissioner.

f. To all parties to a contested case proceeding before the workers' compensation commissioner in which the employee or a dependent of the employee, whose information is filed with the workers' compensation commissioner, is a party.

g. In compliance with a subpoena.

h. To an agent, representative, attorney, investigator, consultant, or adjuster of the employee, employer, or insurance carrier or third-party administrator of insurance benefits, who is involved in administering a claim for insurance benefits related to the injury or death of the employee whose information is filed with the workers' compensation commissioner.

i. To another governmental agency that is charged with the duty of enforcing liens or rights of subrogation or indemnity.

3. This section does not create a cause of action for a violation of its provisions against the workers' compensation commissioner or against the state or any governmental subdivision of the state.

Sec. 15. Section 87.11, unnumbered paragraph 1, Code 2005, is amended to read as follows:

When an employer coming under this chapter furnishes satisfactory proofs to the insurance commissioner of such employer's solvency and financial ability to pay the compensation and benefits as by law provided and to make such payments to the parties when entitled thereto, or when such employer deposits with the insurance commissioner security satisfactory to the insurance commissioner ~~and the workers' compensation commissioner~~ as guaranty for the payment of such compensation, such employer shall be relieved of the provisions of this chapter requiring insurance; but such employer shall, from time to time, furnish such additional proof of solvency and financial ability to pay as may be required by such insurance commissioner ~~or workers' compensation commissioner~~. Such security shall be held in trust for the sole purpose of paying compensation and benefits and is not subject to attachment, levy, execution, garnishment, liens, or any other form of encumbrance. However, the insurance commissioner shall be reimbursed from the security for all costs and fees incurred by the insurance commissioner in resolving disputes involving the security. A political subdivision, including a city, county, community college, or school corporation, that is self-insured for workers' compensation is not required to submit a plan or program to the insurance commissioner for review and approval.

Sec. 16. Section 87.14A, Code 2005, is amended to read as follows:

87.14A INSURANCE OR BOND REQUIRED.

An employer subject to this chapter and chapters 85, 85A, 85B, and 86 shall not engage in

business without first obtaining insurance covering compensation benefits or obtaining relief from insurance as provided in this chapter ~~or furnishing a bond pursuant to section 87.16~~. A person who willfully and knowingly violates this section is guilty of a class "D" felony.

Sec. 17. Section 87.19, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon the receipt of information by the workers' compensation commissioner of any employer failing to comply with ~~sections 87.16 and 87.17~~ section 87.14A, the commissioner shall at once notify such employer by certified mail that unless such employer comply with the requirements of law, legal proceedings will be instituted to enforce such compliance.

Sec. 18. Section 87.20, Code 2005, is amended to read as follows:

87.20 REVOCATION OF RELEASE FROM INSURANCE.

The insurance commissioner ~~with the concurrence of the workers' compensation commissioner~~ may, at any time, upon reasonable notice to such employer and upon hearing, revoke for cause any order theretofore made relieving any employer from carrying insurance as provided by this chapter.

Sec. 19. Section 91A.3, subsection 3, Code 2005, is amended to read as follows:

3. The wages paid under subsection 1 shall be sent to the employee by mail or be paid at the employee's normal place of employment during normal employment hours or at a place and hour mutually agreed upon by the employer and employee, ~~or the employee may elect to have the wages sent for direct deposit, on or by the regular payday of the employee, into a financial institution designated by the employee. An employer shall not require a current employee to participate in direct deposit. The employer may require, as a condition of hire, a new employee to sign up for direct deposit of the employee's wages in a financial institution of the employee's choice unless any of the following conditions exist:~~

a. The costs to the employee of establishing and maintaining an account for purposes of the direct deposit would effectively reduce the employee's wages to a level below the minimum wage provided under section 91D.1.

b. The employee would incur fees charged to the employee's account as a result of the direct deposit.

c. The provisions of a collective bargaining agreement mutually agreed upon by the employer and the employee organization prohibit the employer from requiring an employee to sign up for direct deposit as a condition of hire.

Sec. 20. Section 91A.6, subsection 3, Code 2005, is amended to read as follows:

3. Within ten working days of a request by an employee, an employer shall furnish to the employee a written, itemized statement ~~or access to a written, itemized statement as provided in subsection 4~~, listing the earnings and deductions made from the wages for each pay period in which the deductions were made together with an explanation of how the wages and deductions were computed. ~~An employer need honor only one such request in any calendar year unless the rate of earnings, hours or deductions are changed during the calendar year. Each change shall entitle an employee to a further request for an itemized statement.~~

Sec. 21. Section 91A.6, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. On each regular payday, the employer shall send to each employee by mail or shall provide at the employee's normal place of employment during normal employment hours a statement showing the hours the employee worked, the wages earned by the employee, and deductions made for the employee. An employer who provides each employee access to view an electronic statement of the employee's earnings and provides the employee free and unrestricted access to a printer to print the employee's statement of earnings, if the employee chooses, is in compliance with this subsection.

Sec. 22. Sections 87.16 and 87.17, Code 2005, are repealed.

Sec. 23. EFFECTIVE DATE. This division of this Act takes effect July 1, 2005.

DIVISION V

Sec. 24. EFFECTIVE DATE. Unless specifically provided otherwise, this Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 3, 2005

CHAPTER 169

APPROPRIATIONS — EDUCATION

H.F. 816

AN ACT relating to the funding of, the operation of, and appropriation of moneys to the college student aid commission, the department for the blind, the department of cultural affairs, the department of education, and the state board of regents and providing an effective date.

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

DEPARTMENT FOR THE BLIND

Section 1. ADMINISTRATION. There is appropriated from the general fund of the state to the department for the blind for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	\$	1,886,842
.....	FTEs	109.50

COLLEGE STUDENT AID COMMISSION

Sec. 2. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	349,494
.....	FTEs	4.30

2. STUDENT AID PROGRAMS

For payments to students for the Iowa grant program:

.....	\$	1,029,784
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3. DES MOINES UNIVERSITY — OSTEOPATHIC MEDICAL CENTER

a. For forgivable loans to Iowa students attending the Des Moines university — osteopathic medical center under the forgivable loan program pursuant to section 261.19:

.....	\$	50,000
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