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# Workers' Compensation Court 70<sup>th</sup> Annual Report

## Fiscal Year 2012:

July 1, 2011 through June 30, 2012



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**Nebraska Workers' Compensation Court**

# **70<sup>th</sup> Annual Report**

**Fiscal Year 2012:**

July 1, 2011 through June 30, 2012



**Laureen K. Van Norman,  
Presiding Judge**

**James R. Coe,  
Judge**

**Ronald L. Brown,  
Judge**

**J. Michael Fitzgerald,  
Judge**

**Michael K. High,  
Judge**

**John R. Hoffert,  
Judge**

**Thomas E. Stine,  
Judge**

**Glenn W. Morton,  
Court Administrator**

**Barbara A. Frank,  
Clerk of the Court**





# STATE OF NEBRASKA WORKERS' COMPENSATION COURT

STATE CAPITOL BUILDING • P.O. BOX 98908 • LINCOLN, NE 68509-8908 • (800) 599-5155 • (402) 471-6468 • <http://www.wcc.ne.gov/>

## Letter of Transmittal

Lincoln, Nebraska  
December 1, 2012

Honorable Michael Heavican  
Chief Justice of the Nebraska Supreme Court

Honorable Dave Heineman  
Governor of Nebraska

Honorable Mike Flood  
Speaker of the Nebraska Legislature

Dear Sirs:

We have the privilege of submitting herewith the Seventieth Annual Report of the Nebraska Workers' Compensation Court, prepared in accordance with the provisions and requirements of Section 48-166, Revised Statutes of Nebraska.

Very truly yours,

NEBRASKA WORKERS' COMPENSATION COURT

By

A handwritten signature in blue ink that reads "Lauren K. Van Norman".

Lauren K. Van Norman  
Presiding Judge



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# General Information

## History

The Nebraska Workers' Compensation Act was first passed in 1913 and was originally known as the Nebraska *Workmen's* Compensation Act. From then until 1917 the Act was administered by the several state district courts. In 1917, the Legislature created the Compensation Division in the Department of Labor and the commissioner of labor was designated compensation commissioner. The 1935 Legislature established the Workmen's Compensation Court and transferred Compensation Division functions to the court. In 1986, the name of the court was changed to the *Workers' Compensation Court*. By 1988, the workers' compensation bench had grown to seven judges who hear disputed cases throughout the state. The authority and responsibilities of the court are found in Chapter 48, Article 1, of the Revised Statutes of Nebraska.

## Mission

The mission of the Nebraska Workers' Compensation Court is to administer and enforce all provisions of the Nebraska Workers' Compensation Act, except those provisions that are committed to the courts of appellate jurisdiction or as otherwise provided by law.

## Organization

The Nebraska Workers' Compensation Court is composed of seven judges who are initially appointed by the governor and who then remain on the bench for successive six-year terms upon approval of the electorate. Every two years one of the judges is elected as presiding judge by the judges of the court, subject to approval of the Nebraska Supreme Court. Four judges are officed at 1010 Lincoln Mall in Lincoln, Nebraska and three judges are officed in the Hall of Justice in Omaha, Nebraska. A judge will travel to any county in the state where an accident occurred to hear a disputed case. A case is first heard by a single judge, whose decision may be appealed. The appeal procedure is governed by LB 151 from the 2011 session of the Nebraska Legislature. Under LB 151, some cases continue to be appealed to a three-judge review panel of the compensation court, with a possible further appeal to the Nebraska Court of Appeals. Other cases are appealed directly to the Nebraska Court of Appeals. Regardless of the initial appeal procedure, a case may ultimately go to the Nebraska Supreme Court. Appeal of a single-judge decision is based on the record created at the original hearing and no new evidence may be introduced on appeal.

For administrative purposes, the judges and staff of the court are organized into two operating divisions and seven operating sections. The adjudication division, under the direction of the presiding judge, includes the judges and the Office of the Clerk of the Court. The administration division, under the direction of the court administrator, includes the remaining six sections as identified below. The presiding judge is charged with overall responsibility for the functioning of the court, and the court administrator serves as the chief administrative officer for the court.

The *Office of the Clerk of the Court* receives and processes court filings, docket cases, issues summons, schedules trials and hearings on motions, corresponds with the parties, issues opinions of the court, and provides administrative and secretarial support for the judges of the court.

The *Business and Human Resources Section* is responsible for the business, financial, and personnel functions of the court, and also administers the second injury program which provides



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benefits to qualified employees who have suffered multiple injuries. Under a federal grant, the section conducts a survey of work-related injuries and illnesses and a data collection program for fatal injuries.

The ***Legal Section*** reviews settlement applications for adequacy and compliance with the law, conducts mediation conferences to facilitate informal resolution of disputes, informs injured workers, employers, and others of their rights and obligations under the law, provides legal advice to court staff, and monitors legislation for potential impact on the workers' compensation system.

The ***Coverage and Claims Section*** has responsibilities in three distinct areas. Compliance activities include enforcing insurance coverage requirements and enforcing the claims handling and reporting obligations of insurers and self-insured employers. Medical services activities include revising and maintaining schedules of medical and hospital fees, administering the independent medical examiner program, certifying and monitoring managed care plans, and responding to inquiries related to medical issues. Self-insurance activities include reviewing applications for self-insurance approval, monitoring the financial status and payroll records of self-insured employers, and collecting fees and assessments from self-insured employers.

The ***Vocational Rehabilitation Section*** is responsible for certifying vocational rehabilitation counselors and job placement specialists, appointing a vocational rehabilitation counselor if the parties cannot agree on the selection, and reviewing and approving proposed vocational rehabilitation plans. The progress of injured workers in an approved plan is monitored and all payments from the Workers' Compensation Trust Fund for plan expenses must be approved by the section.

The ***Public Information Section*** receives and processes all reports of injury and benefit payments, responds to requests for records and information, and manages the court's records retention schedule and business continuity program. The section also supports a toll-free information line, maintains the court's Internet web site, and prepares court publications.

The ***Information Technology Section*** is responsible for the computer network, programs, and databases of the court. The section develops and maintains the court's desktop and internet systems, develops computer programs and applications, coordinates information technology activities with vendors and other state agencies, and assists other court sections in meeting their goals through the use of technology.

## **Activities in Fiscal Year 2012**

### ***Legislation***

LB 151 from the 2011 session of the Nebraska Legislature altered the method of appeal from a decision of a single judge of the compensation court on original hearing. Most provisions of the bill became effective August 27, 2011. The review panel procedure before three judges of the court was eliminated for cases filed on or after August 27, 2011 and for cases pending before the court on that date in which a hearing on the merits had not been held. Appeal from a decision of a single judge in any such case will now go directly to the Nebraska Court of Appeals, in accordance with the procedures regulating appeals from the state district courts. Conversely, appeals from any case pending before the compensation court on August 27, 2011 in which a hearing on the merits had been held will continue to be in accordance with the three-judge review panel procedure. LB 151 also (1) expanded the compensation court's authority to modify or change its findings, order, award, or judgment, (2) allowed compensation court hearings to be

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held telephonically or by videoconferencing in all non-evidentiary hearings and in any evidentiary hearings approved by the court and by stipulation of the parties, (3) eliminated a requirement that judges of the court reside in Lancaster County unless otherwise permitted by a majority vote of the judges of the court, and (4) removed statutory references to the office of the court and clerk of the court being in the State Capitol.

LB 152, also from the 2011 legislative session, amended Section 48-120.04 to establish a Trauma Services Inpatient Hospital Fee Schedule. The schedule became effective for discharges on and after January 1, 2012, with adjustments to be made annually as provided in Section 48-120.04. The schedule is applicable to diagnostic related groups subject to the Diagnostic Related Group Inpatient Hospital Fee schedule, and to hospitals subject to that schedule. The Diagnostic Related Group Inpatient Hospital Fee schedule was established in 2007 by amendments to Section 48-120.04, and is also updated annually as provided in that section. Charges for services not subject to the diagnostic related group or trauma services inpatient hospital fee schedules, or not contracted for by the parties, are to be reimbursed under the schedules of fees adopted by the compensation court.

LB 738 from the 2012 legislative session amended Section 48-122 to increase the allowance for burial expenses from \$6,000 to \$10,000. The bill became effective July 19, 2012.

## ***Court Rules***

Several court rules were amended or repealed at a public meeting on August 10, 2011 in response to LB 151 from the 2011 session of the Nebraska Legislature. As noted above, LB 151 eliminated appeal to a three-judge review panel for cases filed with the court on or after August 27, 2011 and for cases pending before the court on that date in which a hearing on the merits had not been held. Consequently, those court rules relating to the review panel procedure were amended to provide that such rules are now applicable only to cases pending before the compensation court on August 27, 2011 in which a hearing on the merits had been held before that date. Miscellaneous adjustments to other court rules were also approved at the August 10, 2011 public meeting.

Changes to the court's Rule 26 were adopted at a public meeting on December 15, 2011 to determine the Medicare Diagnostic Related Groups (DRGs) to be included in the Diagnostic Related Group Inpatient Hospital Fee Schedule for calendar year 2012. Related changes to the court's Schedule of Fees for Hospitals and Ambulatory Surgical Centers and Schedule of Fees for Implantable Medical Devices were also adopted effective January 1, 2012. Rule 29 was amended at the same public meeting to revise the instructions on the NWCC Form 1 (First Report of Alleged Occupational Injury or Illness) to clarify the need for and use of social security numbers.

Rule 26 was further amended at a public meeting on May 9, 2012 to adopt a revised Schedule of Fees for Medical Services, effective June 1, 2012. Rule 65 was also amended at the May 9, 2012 public meeting to increase the fees for services provided by an independent medical examiner pursuant to Section 48-134.01 from \$200 per hour to \$400 per hour. This change was effective the date of the meeting.

## ***Adjudication***

In FY 2012, the Office of the Clerk of the Court continued to work closely with the Information Technology Section on the analysis and design for a system to allow for electronic filing and processing of pleadings and other litigation documents. This will permit attorneys for the parties to electronically draft, review, and file documents using a wizard-based tool and accessing

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information from the court's records to assist in preparation of the filing. An initial or pilot project will permit the filing of releases of liability for settlements that do not require court approval, with a projected availability of March 2013. Later efforts will focus on additional pleading types including petitions and motions. Use of the electronic filing system will be on a voluntary basis.

In conjunction with the move to the new adjudication facilities in Lincoln the court significantly upgraded the audio-visual equipment available for use in the courtrooms. Installation and testing proceeded in FY 2012 and the equipment is now available for use. Attorneys are encouraged to test their devices prior to a trial or hearing in order to ensure compatibility with the courtroom equipment. The court's web site provides information on the equipment available, including how to schedule testing and training on use of the equipment.

### ***Coverage and Claims***

The Coverage and Claims Section is charged with collecting data from claims payors and certain hospitals in order to develop the Diagnostic Related Group Inpatient Hospital Fee Schedule established in Section 48-120.04. In previous years, the data was collected through a file transfer process by which the data was submitted by reporters in a flat file format. In FY 2012, the section worked closely with the Information Technology Section to develop and implement a new system for receipt of the information. The court now collects the information through the use of a web-based data entry system that allows the reporters to directly enter the information through the court's web site.

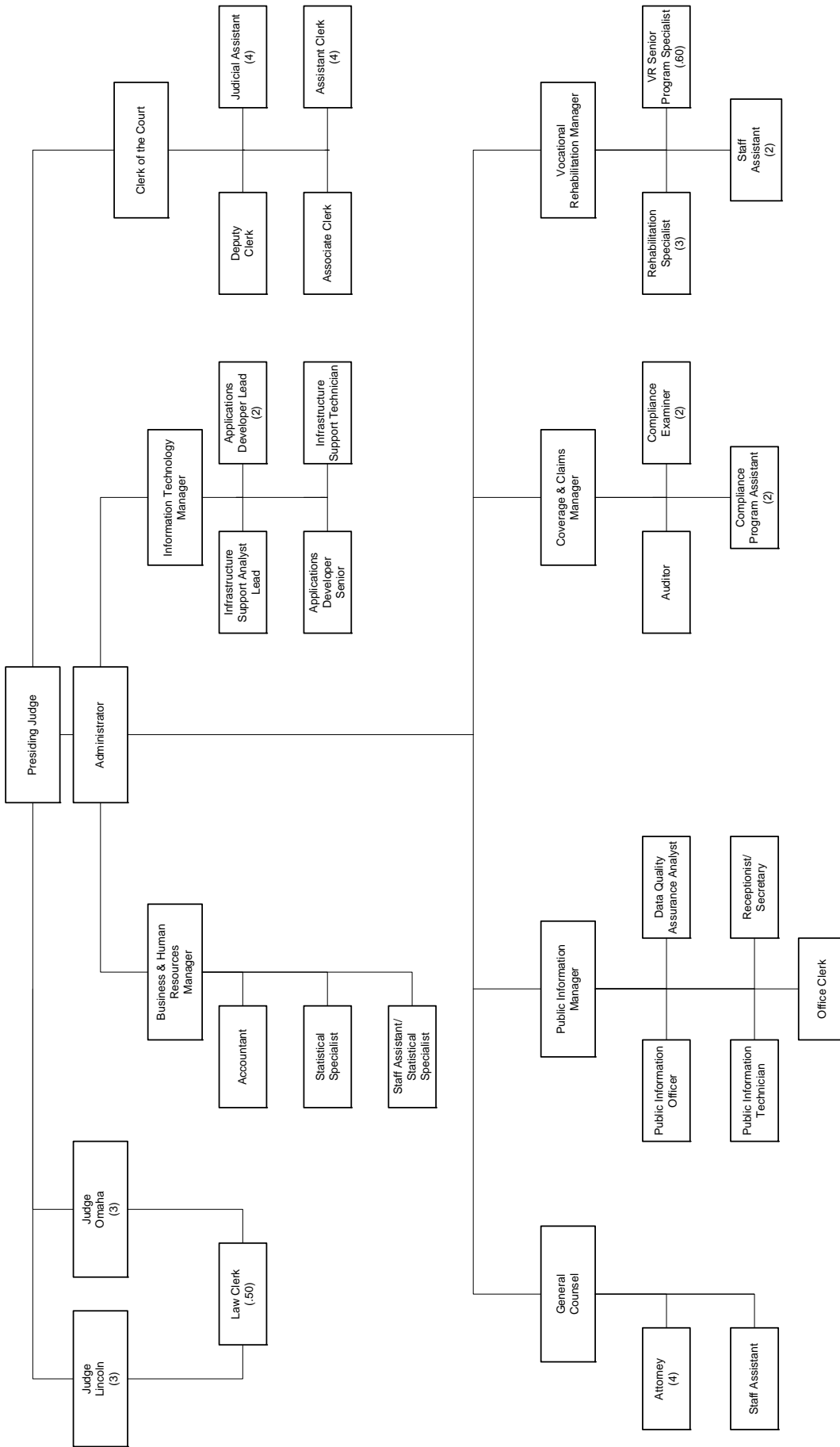
### ***Court Technology***

The Information Technology Section completed the process of upgrading the court's Oracle database systems from version 10g to 11g during FY 2012. During this process the court moved to virtualized servers hosted by the Office of the Chief Information Officer and the Linux operating system platform.

The court also continues to implement other infrastructure to improve internal business processes and to support future electronic filing and processing of pleadings and other litigation documents.

In addition to the specific activities listed for FY 2012, the court continues to perform other duties on a regular basis as noted above in the "Organization" section. The activities of the court in FY 2012 are described in greater detail in the following pages of this Annual Report, together with basic statistics regarding injuries reported in FY 2012. Additional injury statistics and statistics regarding benefit payments are available in a separate statistical report that can be accessed on the court's web site at <http://www.wcc.ne.gov/publications/statisticalreports.aspx>.

# NEBRASKA WORKERS' COMPENSATION COURT



REVISED  
June 2012

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# Judges



## **Lauren K. Van Norman, Presiding Judge**

**Office Address:** 1010 Lincoln Mall, Suite 100, Lincoln NE 68508, phone (402) 471-3924, (800) 599-5155.

**Date Appointed:** July 6, 1993.

**Biography:** Graduate of University of Nebraska—Lincoln (BA, social work); University of Nebraska College of Law (JD). Former Legal Counsel to the Nebraska Department of Labor. Nebraska State Bar Association: past Chair of Government Practice Committee; past member, Executive Board of Women and the Law Section; past member, Supreme Court Gender Bias Task Force; current member of the Judicial Branch Education Board and Curriculum Committee; the Supreme Court’s Committee on Self-represented Litigants; and the Supreme Court’s Technology Committee.

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# Judges



## **James R. Coe, Judge**

**Office Address:** Hall of Justice, 1701 Farnam, Omaha NE 68183-0001, phone (402) 595-3900, (800) 599-5155.

**Date Appointed:** October 7, 1988.

**Biography:** Graduate of University of Nebraska—Lincoln (BS in Business Administration); University of Nebraska College of Law (JD). Partner of Carpenter, Rowen, Fitzgerald, and Coe, 1974–1988. Member of West Omaha Neb. Rotary Club; president of Dora Bingel Foundation.



## **Ronald L. Brown, Judge**

**Office Address:** Hall of Justice, 1701 Farnam, Omaha NE 68183-0001, phone (402) 595-3900, (800) 599-5155.

**Date Appointed:** April 8, 1994.

**Biography:** Graduate of Dana College (BS, cum laude); Creighton University School of Law (JD). Former occupations: Douglas County Assistant Public Defender, 1977–1978; Brown Law Offices, P.C., 1979–1989; Brown and Tripp, P.C., 1989–1994. Member of Nebraska State Bar Association, Nebraska Association of Trial Attorneys, Association of Trial Lawyers of America.



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# Judges



## **J. Michael Fitzgerald, Judge**

**Office Address:** 1010 Lincoln Mall, Suite 100, Lincoln NE 68508, phone (402) 471-3924, (800) 599-5155.

**Date Appointed:** April 12, 1996.

**Biography:** Graduate of University of Notre Dame (BS, Business Administration); Georgetown University Law Center (JD); Creighton University (Certificate of Completion, Paramedic Training Program). Admitted to practice: Nebraska Supreme Court, United States District Court for the District of Nebraska, United States Court of Appeals for the Eighth Circuit, United States Tax Court. Employee-associate and stockholder partner: Matthews, Kelly, Cannon, and Carpenter, P.C., 1969–1977. Stockholder partner: Carpenter, Fitzgerald, and Coe, P.C., 1978–1983; Miller, Carpenter, Rowen, Fitzgerald, and Coe, P.C., 1983–1987; Carpenter, Rowen, Fitzgerald, and Coe, P.C., 1987–1988; Carpenter, Rowen, and Fitzgerald, P.C., 1988–1996. Member of Nebraska State Bar Association, American Bar Association, American Trial Lawyers Association, Nebraska Trial Lawyers Association, Omaha Bar Association.



## **Michael K. High, Judge**

**Office Address:** 1010 Lincoln Mall, Suite 100, Lincoln NE 68508, phone (402) 471-3923, (800) 599-5155.

**Date Appointed:** January 8, 1998.

**Biography:** Graduate of University of Nebraska—Lincoln (BS in Agricultural Economics, 1972); MA in Economics, 1986); University of Nebraska College of Law (JD, 1986). Formerly: farmer and rancher (1972–1982); elected commissioner—Gosper County, Nebraska, Board of Commissioners (1978–1982); private law practice (1986–1998).

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# Judges



## **John R. Hoffert, Judge**

**Office Address:** 1010 Lincoln Mall, Suite 100, Lincoln NE 68508, phone (402) 471-3923, (800) 599-5155.

**Date Appointed:** October 4, 2001

**Biography:** Graduate of Western Illinois University (BA, High Honors, Political Science); University of Nebraska College of Law (JD with Distinction). Associate/Partner: Knudsen, Berkheimer, Richardson & Endacott, LLP (1980–2001). United States Army (1970-1972). Past member: Legal Services of Southeast Nebraska, Board of Directors; Folsom Children’s Zoo and Botanical Gardens, Board of Directors; Nebraska Association of Trial Attorneys; American Judicature Society and American Trial Lawyers Association.



## **Thomas E. Stine, Judge**

**Office Address:** Hall of Justice, 1701 Farnam, Omaha NE 68183-0001, phone (402) 595-3900, (800) 599-5155.

**Date Appointed:** September 13, 2011.

**Biography:** Graduate of Wayne State College (BS, 1984); University of South Dakota School of Law (JD, 1987). Former occupations: Private Practice (1987 - 2000); Assistant Attorney General (2000 - 2011); Civil Litigation Bureau Chief, Nebraska Department of Justice, Office of the Attorney General (2005 - 2011). Member of Nebraska State Bar Association (since 1989), serving on their House of Delegates and Leadership Academy Steering Committee. Serves on the Board of Governors of the Lincoln Community Playhouse.



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# Compensation Court Cash Fund

## *Fiscal Year 2012 (July 1, 2011 to June 30, 2012)*

The Compensation Court Cash Fund provides for the expense of administering the Nebraska Workers' Compensation Act and for the payment of the salaries and expenses of the personnel of the Nebraska Workers' Compensation Court. The fund was established September 9, 1993 as part of LB 757 from the 1993 session of the Nebraska Legislature. The fund replaced the use of general funds, and is financed by assessments against workers' compensation insurers, risk management pools, and self-insured employers. Contributions to the fund abate for one year whenever the balance of the fund equals or exceeds three times the amount expended and encumbered in the fiscal year just ending. The Nebraska Legislature appropriates a specific sum each year for operations of the Nebraska Workers' Compensation Court, to be funded from the Compensation Court Cash Fund. The appropriation for fiscal year 2012 was \$5,993,246.

<b>Fund Balance on July 1, 2011:</b>		*\$6,761,707.52
<b>Revenue:</b>		
Assessments	4,435,756.25	
Interest	139,105.38	
Miscellaneous Income	209,532.99	
Sale of Surplus Property	1,902.56	
Total Revenue		<u>4,786,297.18</u>
<b>Expenditures:</b>		
Court Administration	5,009,359.40	
Federal Grant Administration	43,030.73	
Voc. Rehab. Administration	437,631.99	
Second Injury Administration	1,508.42	
Self-Insurance Administration	92,181.44	
Total Expenditures		<u>5,583,711.98</u>
<b>Fund Balance on June 30, 2012:</b>		<u><u>\$5,964,292.72</u></u>

\* This amount differs from the June 30, 2011 balance shown in the FY 2011 Annual Report due to a change from Cash Accounting to Accrual Accounting.

# Federal General Fund

## *Federal Fiscal Year 2012 (October 1, 2011 to September 30, 2012)*

The court conducts a survey of work-related injuries and illnesses and a data collection program for fatal injuries pursuant to a grant from the U.S. Department of Labor—Bureau of Labor Statistics (BLS). The Survey of Occupational Injuries and Illnesses is mandated by the Occupational Safety and Health Act of 1970 (P.L. 91-596), and the court was designated as the agency in Nebraska to conduct this work in a letter of March 25, 1971 from Governor J.J. Exon to Secretary of Labor, J.D. Hudgson. In 1991, the court contracted for the additional responsibilities of conducting the Census of Fatal Occupational Injuries as designated by BLS.

Expenses for administering these two federal grants are split 50/50 between the State of Nebraska and BLS. The state share of expenditures is charged against the Compensation Court Cash Fund, and the federal share is charged against the Federal General Fund. Federal monies are requested on a monthly basis and deposited into the Federal General Fund. The Nebraska Legislature appropriates a specific sum each year for expenditures from the Federal General Fund. This appropriation is based upon an estimated budgeted amount submitted by the court each biennium. The federal grant appropriation is increased or decreased administratively when the federal grant is actually awarded at the beginning of each federal fiscal year. In June of each year, federal funds may be deobligated and the amount to be deobligated is calculated and sent to the BLS as an adjustment to the original grant award. An administrative adjustment to the Nebraska legislative appropriation may also be made at that time.

<b>Fund Balance on October 1, 2011:</b>				\$0
<b>Revenue:</b>				
Intergovernmental Revenue			48,099	
Deobligation June 30, 2011			(2,550)	
Total Revenue			45,549	
<b>Expenditures:</b>				
	Legislative	Administrative	Not	Actual
	Appropriation	Adjustments	Expended	Expended
Federal Grant Admin.	48,684	3,135	0	45,549
Total Expenditures				45,549
<b>Fund Balance on September 30, 2012:</b>				\$0

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# Workers' Compensation Trust Fund

## *Fiscal Year 2012 (July 1, 2011 to June 30, 2012)*

The Workers' Compensation Trust Fund was established July 1, 2000 as part of LB 1221 from the 2000 session of the Nebraska Legislature. The purpose of the fund is to make second injury benefit payments in accordance with Section 48-128 and vocational rehabilitation benefit payments in accordance with Section 48-162.01. Prior to July 1, 2000 second injury benefits were paid from the Second Injury Fund and vocational rehabilitation benefits were paid from the Vocational Rehabilitation Fund. These two funds were eliminated with the creation of the Workers' Compensation Trust Fund on July 1, 2000. The Workers' Compensation Trust Fund is financed by assessments against workers' compensation insurers, risk management pools, and self-insured employers. Assessments are made whenever the fund is projected to go below the statutory minimum level.

<b>Fund Balance on July 01, 2011:</b>		*\$4,057,835.61
<b>Revenue:</b>		
Assessments	0	
Interest	97,139.29	
Miscellaneous Income	1.00	
Total Revenue		<u>97,140.29</u>
<b>Expenditures:</b>		
Second Injury Benefits	297,435.30	
Voc. Rehab. Benefits	806,583.67	
Total Expenditures		<u>1,104,018.97</u>
<b>Fund Balance on June 30, 2012:</b>		<u><u>\$3,050,956.93</u></u>

\* This amount differs from the June 30, 2011 balance shown in the FY 2011 Annual Report due to a change from Cash Accounting to Accrual Accounting.

**Workers' Compensation Trust Fund**  
**(Transfers and Assessments)**

<b>Fiscal Year Ending:</b>	
<b>Assessments:</b>	
June 30, 2012	\$0
June 30, 2011	\$0
June 30, 2010	\$0
June 30, 2009	**(\$762)
June 30, 2008	**\$1,187,171
June 30, 2007	*\$4,892,612
June 30, 2006	**\$57
June 30, 2005	**\$234,526
June 30, 2004	\$5,593,038
June 30, 2003	\$0
June 30, 2002	\$0
June 30, 2001	**\$26,965
<b>Transfers:</b>	
July 1, 2000	***\$6,200,991

\* Includes amounts received from assessments made in FY 2007 plus an adjustment of \$14,959 on assessments made in prior years.

\*\* Adjustment on assessments made in prior years.

\*\*\* Beginning balance — transfers from Second Injury and Vocational Rehabilitation Funds.

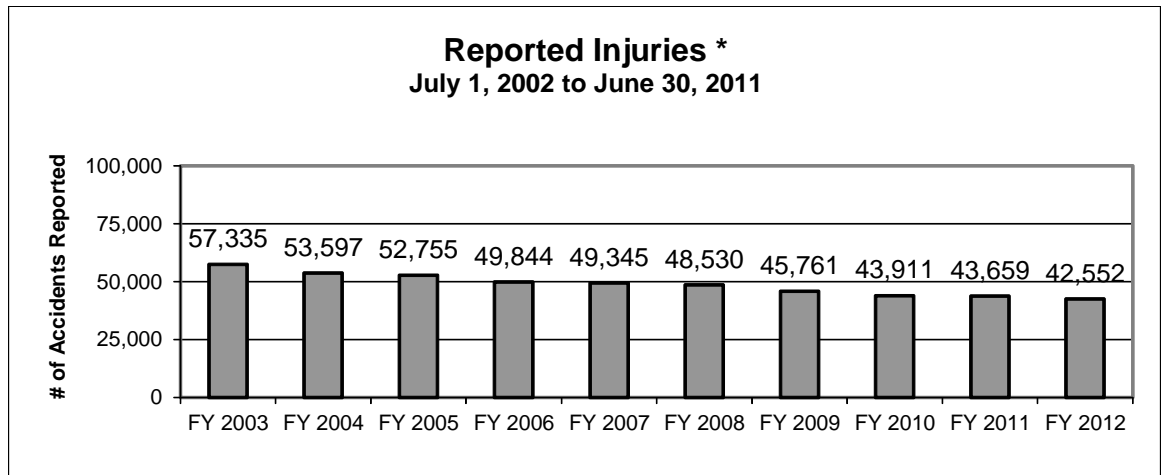
**Second Injury & Vocational Rehabilitation Expenditures**  
**(Benefit and Administrative Costs\*)**

<b>Fiscal Year Ending</b>	<b>Second Injury</b>	<b>Vocational Rehabilitation</b>	<b>Total Expenditures</b>
June 30, 2012	\$298,944	\$1,244,214	\$1,543,158
June 30, 2011	\$278,373	\$1,257,611	\$1,535,984
June 30, 2010	\$356,535	\$1,232,870	\$1,589,405
June 30, 2009	\$344,705	\$1,240,963	\$1,585,668
June 30, 2008	\$354,338	\$1,277,193	\$1,631,531
June 30, 2007	\$403,784	\$1,301,091	\$1,704,875
June 30, 2006	\$436,798	\$1,291,376	\$1,728,174
June 30, 2005	\$428,983	\$1,344,549	\$1,773,532
June 30, 2004	\$521,552	\$1,393,172	\$1,914,724
June 30, 2003	\$370,499	\$1,358,530	\$1,729,029

\* Benefit costs are paid from the Workers' Compensation Trust Fund. Administrative costs are paid from the Compensation Court Cash Fund.

## Reported Injuries\*

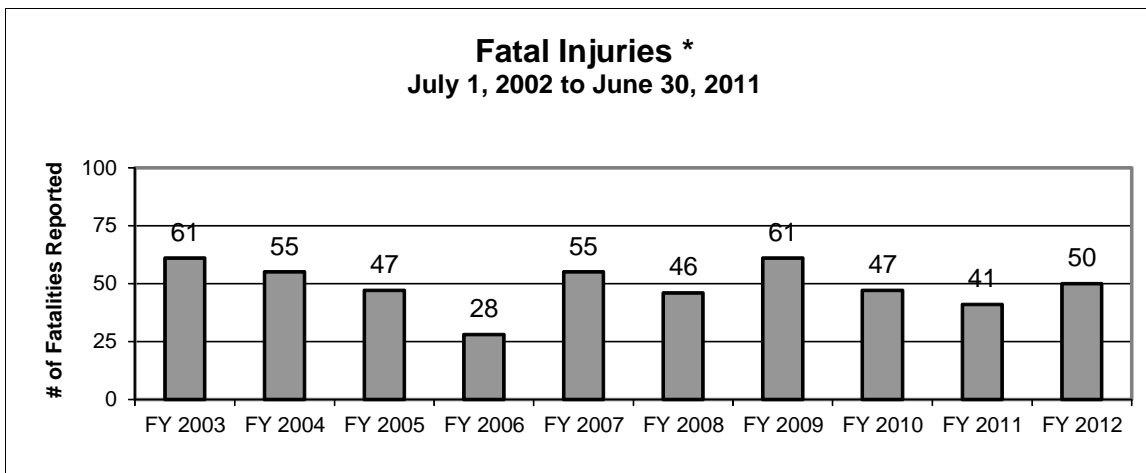
	Male	Female	Unknown	Total
July 1, 2011 to June 30, 2012	21,839	16,268	4,445	42,552
July 1, 2010 to June 30, 2011	22,774	16,711	4,174	43,659
July 1, 2009 to June 30, 2010	23,143	16,676	4,092	43,911
July 1, 2008 to June 30, 2009	24,705	16,712	4,344	45,761
July 1, 2007 to June 30, 2008	26,184	18,308	4,038	48,530
July 1, 2006 to June 30, 2007	27,175	18,813	3,357	49,345
July 1, 2005 to June 30, 2006	28,547	18,762	2,535	49,844
July 1, 2004 to June 30, 2005	31,027	20,468	1,260	52,755
July 1, 2003 to June 30, 2004	32,131	20,711	755	53,597
July 1, 2002 to June 30, 2003	32,400	21,312	3,623	57,335



\* Includes injuries reported in FY 2012 regardless of the year in which the injury occurred.  
Includes injuries resulting from occupational disease.

## Fatal Injuries \*

	Male	Female	Total
July 1, 2011 to June 30, 2012	46	4	50
July 1, 2010 to June 30, 2011	36	5	41
July 1, 2009 to June 30, 2010	42	5	47
July 1, 2008 to June 30, 2009	57	4	61
July 1, 2007 to June 30, 2008	38	8	46
July 1, 2006 to June 30, 2007	51	4	55
July 1, 2005 to June 30, 2006	24	4	28
July 1, 2004 to June 30, 2005	43	4	47
July 1, 2003 to June 30, 2004	48	7	55
July 1, 2002 to June 30, 2003	50	11	61



\* Includes fatal injuries reported in FY 2012 regardless of the year in which the injury or death occurred.  
Includes deaths resulting from occupational disease.

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## Weekly Income Benefits and Maximum Rates

Under the Nebraska Workers' Compensation Act the basic rule regarding weekly income benefits for total disability is that the employee is entitled to two-thirds of his or her average weekly wage, subject to maximum and minimum levels. Changes in the maximum or minimum rates apply to injuries occurring on or after the effective date, but not to injuries occurring before that date.

The maximum benefit level is set at 100 percent of the state average weekly wage, as determined by the administrator of the Nebraska Workers' Compensation Court. The calculation excludes federal employees and is made in accordance with Sections 48-121.01 and 48-121.02 of the Nebraska Revised Statutes. The administrator has determined that the state average weekly wage for calendar year 2013 will be \$728.00. This becomes the maximum weekly income benefit for injuries occurring in calendar year 2013. The minimum rate remains at \$49 as provided in section 48-121.01(2).

<b>Injury Occurring Between:</b>	<b>Maximum</b>	<b>Minimum</b>
01/01/2013 to 12/31/2014	\$728	\$49
01/01/2012 to 12/31/2012	\$710	\$49
01/01/2011 to 12/31/2011	\$698	\$49
01/01/2010 to 12/31/2010	\$691	\$49
01/01/2009 to 12/31/2009	\$671	\$49
01/01/2008 to 12/31/2008	\$644	\$49
01/01/2007 to 12/31/2007	\$617	\$49
01/01/2006 to 12/31/2006	\$600	\$49
01/01/2005 to 12/31/2005	\$579	\$49
01/01/2004 to 12/31/2004	\$562	\$49
01/01/2003 to 12/31/2003	\$542	\$49
01/01/2002 to 12/31/2002	\$528	\$49
01/01/2001 to 12/31/2001	\$508	\$49
01/01/2000 to 12/31/2000	\$487	\$49
01/01/1999 to 12/31/1999	\$468	\$49
01/01/1998 to 12/31/1998	\$444	\$49
01/01/1997 to 12/31/1997	\$427	\$49
01/01/1996 to 12/31/1996	\$409	\$49

# Litigated Case Summary<sup>1</sup>

Fiscal Year <sup>2</sup>	Original Hearing Level		Review Hearing Level		Supreme Court/ Court of Appeals Level	
	2012	* 2011	2012	* 2011	2012	* 2011
Cases Pending at Beginning of Fiscal Year	1,326	1,329	33	37	25	23
Petition or Appeal Filed in Fiscal Year <sup>5</sup>	1,166	1,312	26	84	71	27
Reopened Petitions Filed in Fiscal Year	231	217	N/A	N/A	N/A	N/A
Remands Filed in Fiscal Year	15	11	18	14	N/A	N/A
<b>Total Cases</b>	<b>2,738</b>	<b>2,869</b>	<b>77</b>	<b>135</b>	<b>96</b>	<b>50</b>
Court Disposition						
Decisions Issued	286	315	44	71	31	16
Court-Approved Settlements	252	323	1	2	7	3
Other Dispositions <sup>3</sup>	885	905	27	29	13	6
<b>Total Dispositions</b>	<b>1,423</b>	<b>1,543</b>	<b>72</b>	<b>102</b>	<b>51</b>	<b>25</b>
<b>Total Pending at End of Fiscal Year</b>	<b>1,315</b>	<b>1,326</b>	<b>5</b>	<b>33</b>	<b>45</b>	<b>25</b>

Fiscal Year <sup>2</sup>	2012	* 2011	* 2010	* 2009	* 2008
Number of Motions Filed	2,836	2,942	2,959 <sup>4</sup>	2,402	2,460
Number of Motion Dispositions	2,428	2,499	2,489	1,936	2,004
Number of Motion Hearings	665	782	943	985	947

\* Numbers may differ from those shown in the FY 2010 Annual Report due to corrections to data.

<sup>1</sup> Cases may appear more than once in any year if they are appealed.

<sup>2</sup> Fiscal Years run from July 1 through June 30.

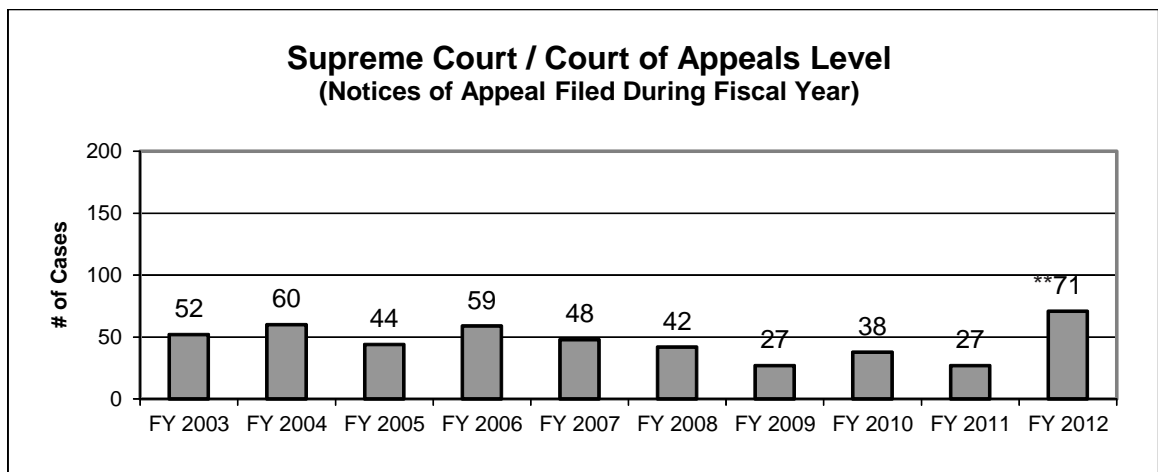
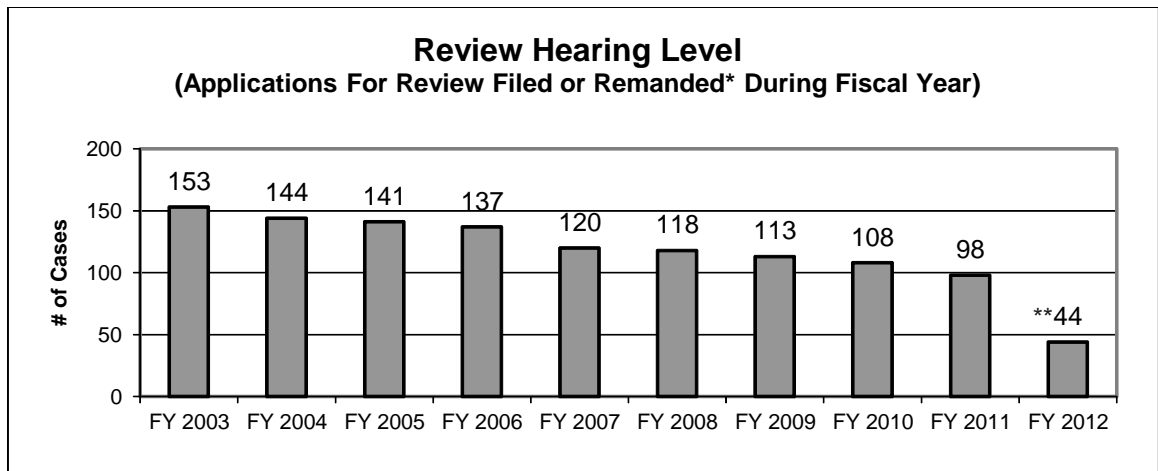
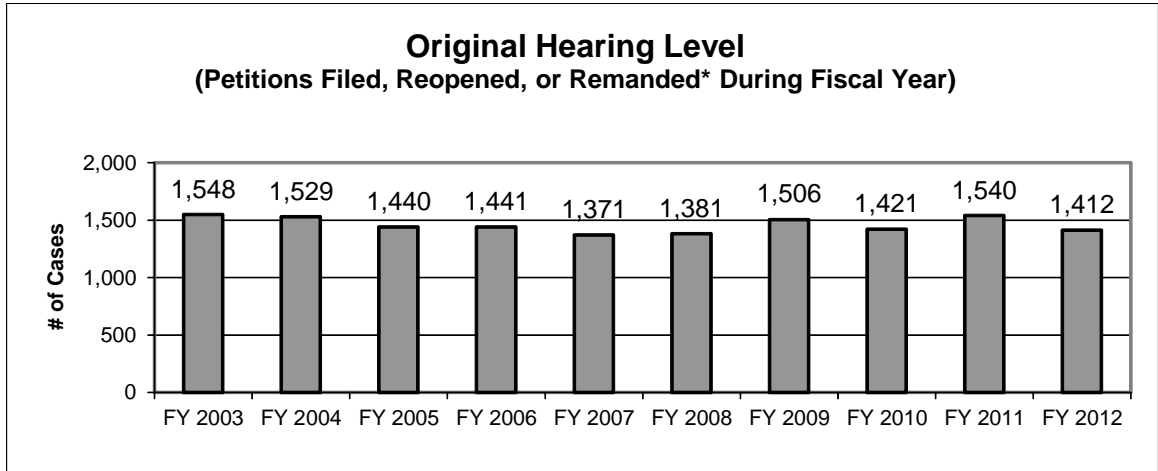
<sup>3</sup> Includes dismissals without hearings, remands without hearings, and cases closed by release of liability.

<sup>4</sup> LB 630, which became effective May 27, 2009, eliminated mandatory court approval of some settlement agreements, and required the filing of a release for those settlements no longer requiring court approval.

<sup>5</sup> The appeal procedure is governed by LB 151 from the 2011 session of the Nebraska Legislature. The review panel procedure has been eliminated for cases filed with the Compensation Court on or after August 27, 2011, and for cases pending before the Compensation Court on that date in which a hearing on the merits *has not* been held. Appeals from an order, award, or judgment of the Compensation Court in any such case shall be made in accordance with the procedures regulating appeals in actions at law from the district courts, except as otherwise provided in Sections 48-182 and 48-185. Conversely, appeals from any case pending before the Compensation Court on August 27, 2011 in which a hearing on the merits *has* been held will continue to be in accordance with the current three-judge review panel procedure.



# Litigated Case Levels



\* Remands included in totals beginning in FY 2008.

\*\* See Note 5, Page 17.

# Summary of Settlements

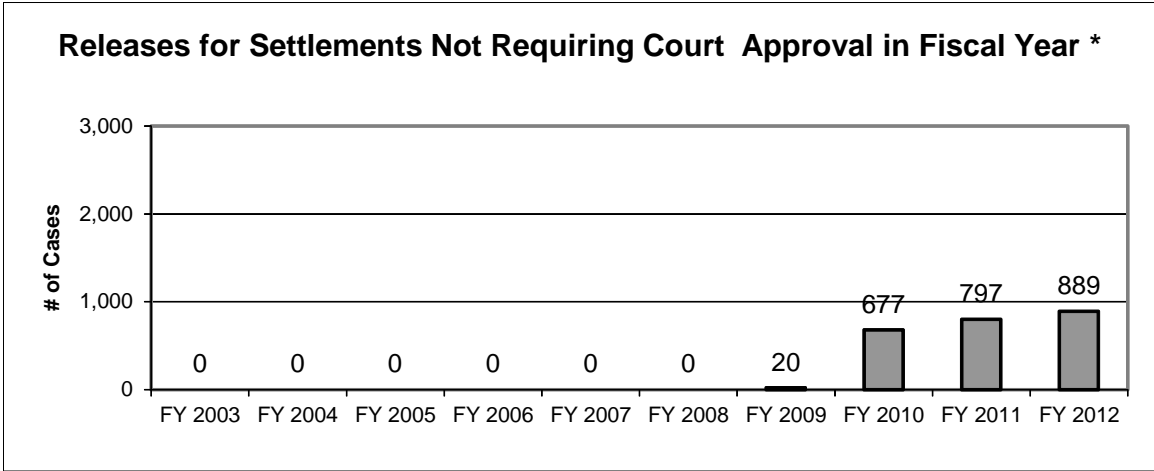
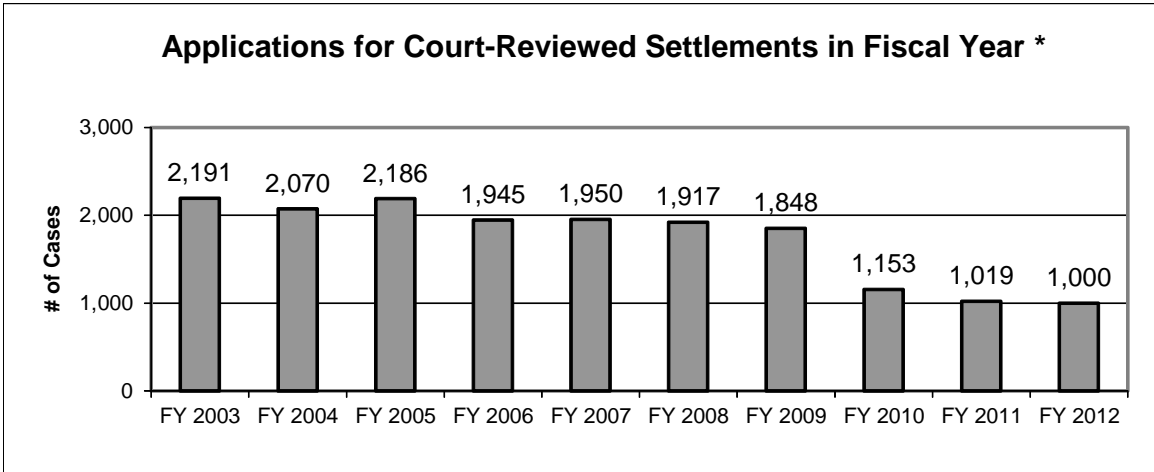
Fiscal Year <sup>1</sup>	2012	* 2011	2010	2009	2008
<b>Applications for Court-Reviewed Settlements <sup>2</sup></b>					
Applications Pending at Beginning of Fiscal Year	37	54	87	90	79
Applications Filed in Fiscal Year	1,000	1,019	1,153	1,848	1,917
<b>Total</b>	<b>1,037</b>	<b>1,073</b>	<b>1,240</b>	<b>1,938</b>	<b>1,996</b>
<b>Dispositions for Court-Reviewed Settlements</b>					
Applications Approved Without Litigation	694	684	766	1,048	1,109
Applications Approved at Original Hearing Level	252	323	386	759	745
Applications Approved at Review Hearing Level	1	2	10	14	10
Applications Approved at Sup. Ct./Crt. App. Level	7	3	2	2	1
Applications — Total Approved	954	1,012	1,164	1,823	1,865
Applications — Total Disapproved	36	24	22	28	41
<b>Total</b>	<b>990</b>	<b>1,036</b>	<b>1,186</b>	<b>1,851</b>	<b>1,906</b>
<b>Applications for Court-Reviewed Settlements Pending at End of Fiscal Year</b>					
Applications Pending at End of Fiscal Year	48	37	54	87	90
<b>Total</b>	<b>48</b>	<b>37</b>	<b>54</b>	<b>87</b>	<b>90</b>
<b>Releases for Settlements Not Requiring Court Approval <sup>2</sup></b>					
Fiscal Year <sup>1</sup>	2012	2011	2010	2009	2008
Releases Filed in Fiscal Year	889	797	677	20	N/A

\* Numbers may differ from those shown in the FY 2011 Annual Report due to corrections to data.

<sup>1</sup> Fiscal Years run from July 1 through June 30.

<sup>2</sup> LB 630, which became effective May 27, 2009, eliminated mandatory court approval of some settlement agreements, and required the filing of a release for those settlements no longer requiring court approval.

# Applications and Releases for Settlements



\* LB 630, which became effective May 27, 2009, eliminated mandatory court approval of some settlement agreements, and required the filing of a release for those settlements no longer requiring court approval.

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# Legal

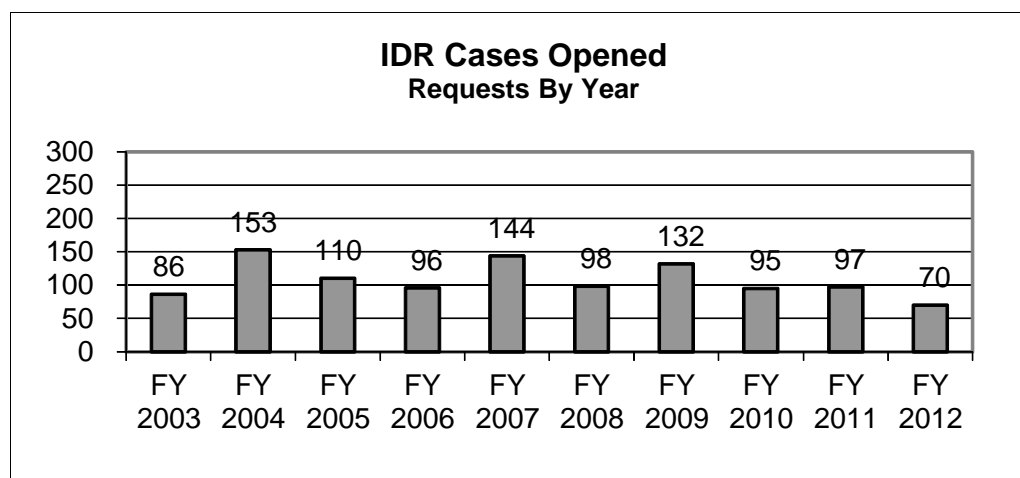
The Legal section of the Nebraska Workers' Compensation Court is responsible for reviewing lump sum settlements, facilitating informal dispute resolution, responding to inquiries from the public, providing legal advice to the court's administrative staff, and monitoring legislation for potential impact on the workers' compensation system. The section includes the court's general counsel, four staff attorneys, and a staff assistant.

Statistics for lump sum settlements processed in FY 2012 (July 1, 2011 through June 30, 2012) are provided on Pages 19 and 20. Summaries of the Nebraska Supreme Court and Court of Appeals decisions relating to workers' compensation may be found on the court's web site ([http://www.wcc.ne.gov/adjudication/decision\\_summaries.aspx](http://www.wcc.ne.gov/adjudication/decision_summaries.aspx)).

## Informal Dispute Resolution

Informal Dispute Resolution (IDR) is available to anyone with an interest in a workers' compensation dispute. The process is voluntary and the guidelines for IDR are found in Rule 48. It provides a dispute resolution mechanism for health care providers, vocational rehabilitation counselors, and others who would otherwise have no standing before the court. Attorneys may participate, but parties to the dispute do not have to be represented. Informal dispute resolution is attempted in all litigated cases in which a party is unrepresented. In addition, a judge may order the participants to participate in IDR.

The court's IDR process focuses on interest-based mediation. This means that one of the court's professionally trained attorney-mediators assists the parties in reaching a resolution of the dispute that satisfies the underlying interests of the parties. The mediator does not advocate or make decisions on behalf of either party. Mediation can be an empowering process because it allows the participants to decide the outcome rather than a judge. Many IDR inquiries can be resolved without the need for a mediation conference simply through information and education provided by the mediation coordinator.



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Mediation conferences are conducted by the section’s staff attorneys. All of the attorney-mediators are trained in the basic skills of mediation through a nationally recognized 30-hour training program through the Office of Dispute Resolution in Lincoln, Nebraska. Advancement of mediation skills is encouraged, and as opportunities arise the mediators receive additional training.

Mediation through the court is voluntary. In 47 cases, or 73.4 percent of all closed cases, at least one party declined to participate or did not respond to the request. Cases may be closed for a variety of other reasons as shown in the following table.

<b>IDR Cases Closed</b>	
Party(s) Did Not Consent	35
No Response by Party(s)	12
Withdrawn/Resolved by Parties	5
Full Agreement	4
No Agreement	4
Partial Agreement	2
Withdrawn/Plaintiff Represented	1
<u>Inappropriate for Mediation</u>	<u>1</u>
<b>Total Closed in FY 2012</b>	<b>64</b>

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# Coverage and Claims

This section includes a manager, a workers' compensation auditor, two compliance examiners, and two program assistants. Section responsibilities are divided into three categories: medical services, compliance, and self-insurance.

## Medical Services Activities

Section staff respond to inquiries from a variety of sources concerning the application and use of the various medical and hospital fee schedules, the Independent Medical Examiner (IME) program, managed care, the choice of physician rule, and other questions relating to medical, surgical, and hospital services under the Nebraska Workers' Compensation Act.

### *Fee Schedules*

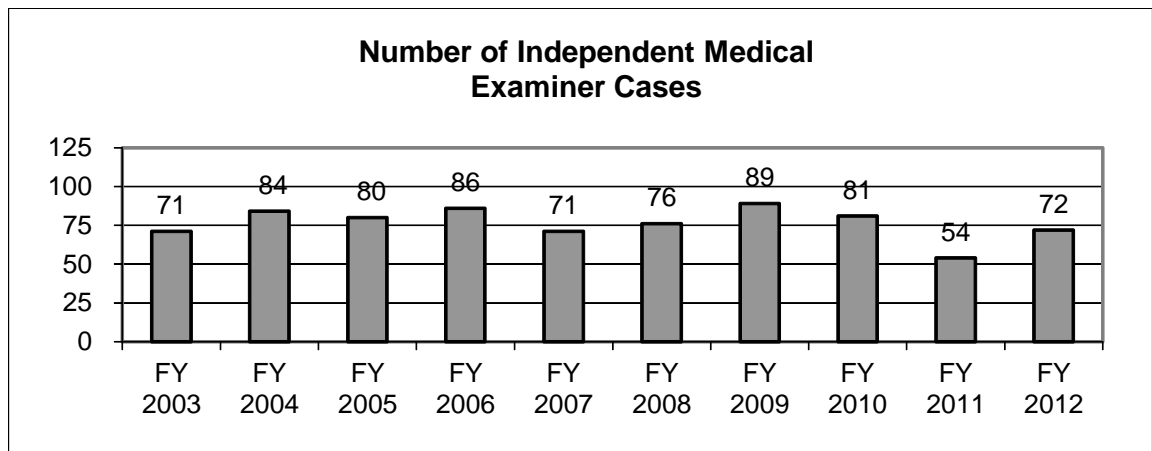
Section staff are charged with collecting data from payors and certain hospitals in order to develop the Diagnostic Related Group Inpatient Hospital Fee Schedule established in Section 48-120.04 of the Nebraska Workers' Compensation Act. In previous years, the data has been collected through a file transfer process whereby the data was submitted by reporters in a flat file format. This year, the Coverage and Claims section worked closely with the Information Technology section to develop and implement a new system for receipt of the information. As a result, the court is now collecting the information through the use of a web-based data entry system that allows the reporters to directly enter the information through the court's web site.

Section staff also collect data and make recommendations regarding the other fee schedules published by the court. That work includes updates to the Schedule of Fees for Medical Services, which was effective June 1, 2012.

### *Independent Medical Examiner (IME) System*

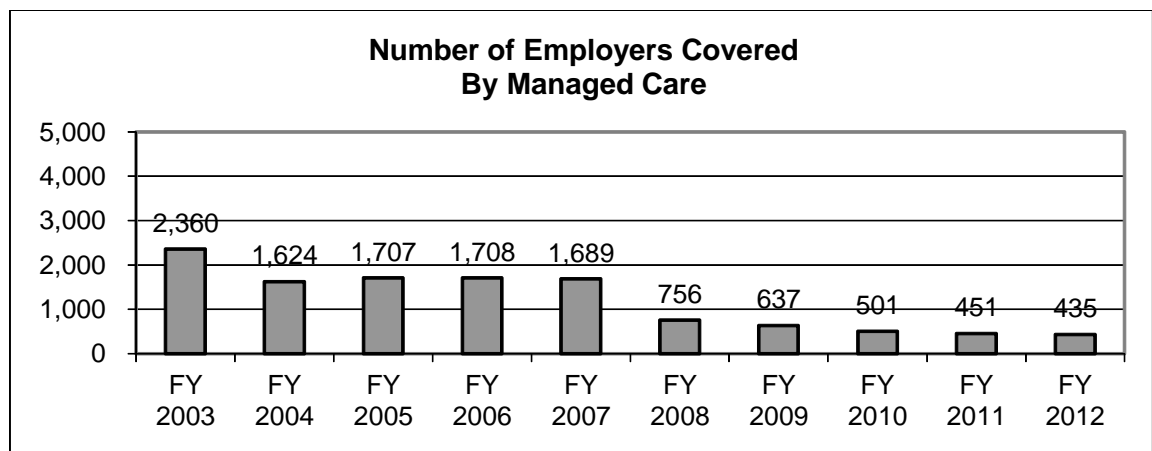
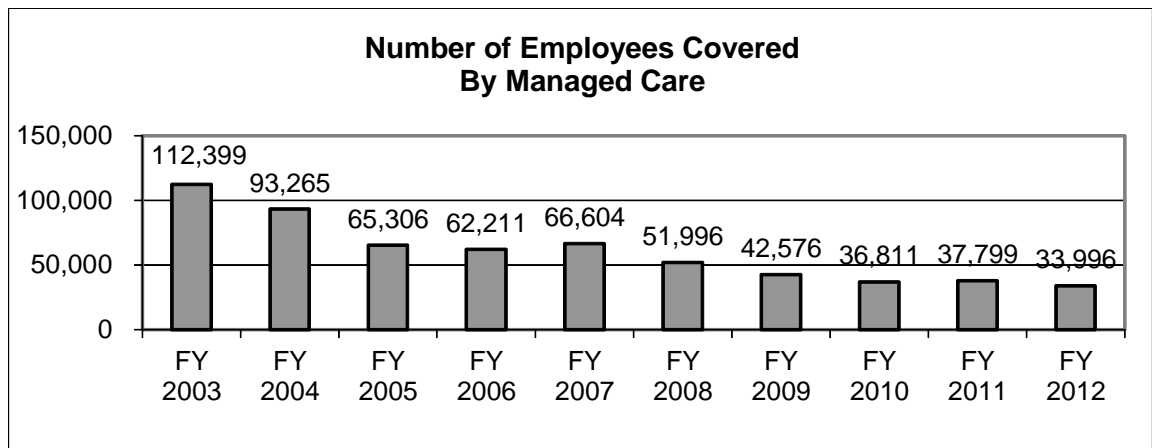
Once a dispute arises regarding the medical condition of the employee or related issues, either side may request a finding by an IME. The parties may agree on a physician to submit the finding or may request assignment of a court-approved IME. The IME system was designed to give the parties an additional means of resolving disputes outside the judicial process. To serve as an IME for the court, physicians must complete an application and be approved by the judges of the court. Currently there are 135 court-approved IMEs.

During FY 2012, 72 IME cases were opened. Two of the IME requests were conducted by a physician agreed upon by the parties. Forty-five requests for assignment of a court-approved IME were submitted by an attorney representing an injured employee, and 25 were submitted by a workers' compensation insurer or the insurer's attorney. One request was submitted by a claims adjuster and one request was submitted by an employee. The chart on the next page shows IME cases opened during the last 10 years.



### ***Managed Care Plans for Workers' Compensation***

A table showing current information about managed care plans certified by the court for workers' compensation purposes is available on the court's web site (<http://www.wcc.ne.gov/medical/mcp.pdf>). On June 30, 2012 there were 435 employers and 33,996 employees covered by the certified managed care plans. The following charts show the trend in covered employers and employees.



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## Compliance Activities

One of the primary enforcement activities of the section is to identify employers who do not have insurance coverage as required under the Nebraska Workers' Compensation Act. The section sent 3,105 informational letters to new corporations registering with the Secretary of State during FY 2012. The letters resulted in 104 employers obtaining the required coverage.

Section staff also monitor the court's electronic proof of coverage information for employers whose coverage has been cancelled or not renewed. If coverage is still required, compliance examiners first attempt to bring the employer into compliance. If the efforts of the staff do not result in compliance, the case is then referred to the Attorney General's office for further action. During FY 2012, letters were sent to 3,925 employers whose coverage had been cancelled or not renewed, and 323 employers were brought into compliance as a result of the effort.

Workers' compensation insurers, risk management pools, and self-insured employers are also required to comply with obligations under the Act, including the obligation to report injuries and benefit payments in accordance with the Act and the court's Rules of Procedure. Coverage and Claims staff enforce those reporting requirements, requesting missing injury reports and monitoring for their receipt, clarifying discrepancies on existing reports, and obtaining missing information.

Compliance examiners also respond to a large volume of phone inquiries from a variety of sources and on a variety of topics. Topics frequently addressed include: medical issues, insurer identification and contact information, benefit calculation, payment explanation, delay in receiving benefits, and general rights and obligations. The examiners recorded 669 calls during FY 2012. Often, callers identify situations in which employers are uninsured, injury reports are not being filed, and insurers, employers, or risk management pools are not complying with other obligations under the Act. Staff investigate the specific cases, encourage voluntary compliance, and request appropriate legal action when necessary.

A total of 182 case investigations were opened last fiscal year as a result of the above activities. Forty-three cases were referred to the Attorney General's office for further action.

## Self-Insurance Activities

The Coverage and Claims section is responsible for reviewing applications from individual employers to self-insure their workers' compensation liability, determining and collecting fees and assessments, and monitoring the employers' continued ability to meet their financial obligations under the Nebraska Workers' Compensation Act. Self-insurance privileges are subject to periodic review and renewal. The Coverage and Claims section conducts periodic on-site audits of payroll records.

At the beginning of each calendar year, the court calculates and collects from employers self-insured for the prior calendar year the necessary assessments for the state's General Fund, the Compensation Court Cash Fund, and the Workers' Compensation Trust Fund. The assessments are based on the number and classification of employees, payroll, and benefits paid during the previous calendar year. Additional assessments are made in support of the Nebraska Department of Insurance for carrying out the Insurance Fraud



Act. As of June 30, 2012, there were 42 employers approved for self-insurance. For calendar year 2012 assessment purposes, there were also 42 self-insurers (employers who were self-insured for all or part of calendar year 2011). The State of Nebraska is self-insured by statute and is not included in any of the statistics that follow.

### Self-Insured Status By Major Industrial Division As Of June 30, 2012

Manufacturing	10
Services	9
Transportation & Public Utilities	8
Government	6
Retail	5
Wholesale	2
Insurance	2
<b>Total Self-Insurers</b>	<b>42</b>

### Self-Insurance Status By Calendar Year

Calendar Year	# of Self-Insurers	# of Employees	Gross Payroll
2011	42	135,337	\$4,301,469,456
2010	43	139,766	\$4,348,470,514
2009	46	147,971	\$4,586,800,994
2008	50	161,078	\$4,759,616,035
2007	49	154,501	\$4,511,207,864
2006	52	135,084	\$4,356,488,485
2005	54	129,940	\$4,279,963,006
2004	51	124,762	\$4,038,916,419
2003	52	135,670	\$3,932,199,098
2002	58	135,904	\$3,961,076,218

**Note:** 2012 figures not available at time of publication.

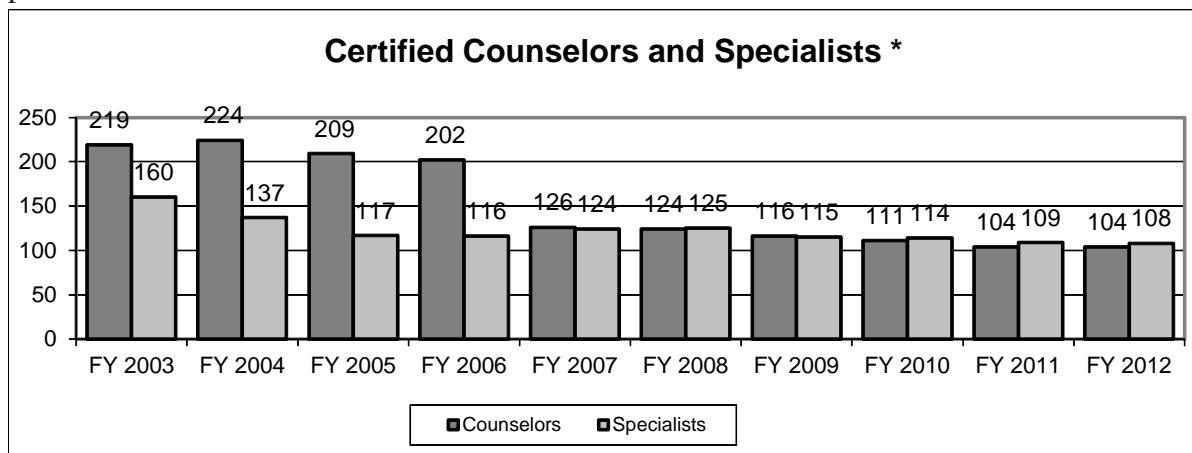
# Vocational Rehabilitation

A manager, three vocational rehabilitation specialists, one senior program specialist, and two support staff are responsible for duties associated with vocational rehabilitation services to which an employee may be entitled under the Nebraska Workers' Compensation Act. The goal of vocational rehabilitation is to return an injured worker to suitable, gainful employment after an injury covered under the Act. A wide variety of services is available under the Act, from coordinating return to the pre-injury job with the employer to a period of formal training.

The duties of the section can be divided into three broad categories: certifying vocational rehabilitation counselors and job placement specialists, appointing counselors when parties cannot agree, and reviewing, approving, and monitoring vocational rehabilitation plans.

## Certification of Counselors and Specialists

Vocational rehabilitation services under the Act can only be provided by individuals who have been certified by the court. Rules 39–41 contain the requirements for certification. At the end of FY 2012 (June 30, 2012), there were 104 private vocational rehabilitation counselors and 108 job placement specialists certified by the court. There are 38 certified private vocational rehabilitation counselors located in Nebraska.



\* Effective in FY 2007, vocational rehabilitation counselors employed by a state agency were no longer automatically certified as vocational rehabilitation counselors for purposes of providing services under the Act. Such counselors continue to be automatically certified as job placement specialists.

## Appointment of Counselors

When an injured worker claims entitlement to vocational rehabilitation services, the employee and the employer (or the employer's workers' compensation insurer) must try to agree on a vocational rehabilitation counselor to evaluate the employee and provide needed services. If they cannot agree, one of them can ask the court to appoint a counselor. If notice of agreement to a counselor or a request for appointment of a counselor is filed with the court, a vocational rehabilitation case is established. Of the 613 cases opened in FY 2012, the court appointed 213 counselors and the parties were able to agree upon a counselor in 366 cases. Thirty-four cases were opened in FY 2012 and closed before a counselor was agreed upon or appointed. There were no cases opened in FY 2012 without a counselor assigned.

At the end of FY 2012, there were 487 open vocational rehabilitation cases. A total of 710 cases were closed for a variety of reasons during FY 2012. The table below shows the reported closure totals.

**Cases Closed BEFORE Counselor Agreed to or Appointed**

Request For Appointment Denied	14
Request to Appoint Withdrawn	10
No Contact After Award	3
Employee Did Not Respond	2
Perm Total Too Severe For Rehabilitation	2

**Cases Closed AFTER Counselor Agreed To Or Appointed**

Closed Loss Of Earning Power Only	227
Release Of Liability Filed	79
Other- Unknown	59
Lump Sum Settlement Approved- Not Working	52
Lump Sum Settlement Pending- Not Working	50
Return To Work New Employer	47
Employee Not Interested	45
Completed Training, Not Working	25
Vocational Rehabilitation Not Awarded	17
Not Working	14
Employee Uncooperative	12
Permanent Total Disability	11
Closed At Insurer's Request	7
Deceased	6
Return To Work Same Employer- Modified Job	6
Plan Denied by Insurer	4
Return To Work Same Employer- Same job	4
Released To Work	3
Return To Work Same Employer- New Job	3
Self-Employment	3
Moved, Unable To Locate	2
Employee Did Not Report After Award	1
Lump Sum Settlement- Employment Unknown	1
Retired	1
<b>Total Cases Closed</b>	<b>710</b>

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## Vocational Rehabilitation Plans

An employee who claims entitlement to vocational rehabilitation services is evaluated by the agreed to or appointed counselor to determine whether it is necessary to develop a vocational rehabilitation plan. The level of services to be provided is based on a hierarchy outlined in Section 48-162.01 of the Nebraska Workers' Compensation Act. These services range from coordinating a return to the pre-injury job with the pre-injury employer to a plan of formal training. All vocational rehabilitation plans must also be evaluated by a specialist of the court and approved by such specialist or a judge of the court prior to implementation. A total of 272 plans were approved by the court in FY 2012 and four such plans were denied. A total of 272 court-approved vocational rehabilitation plans had start dates in FY 2012, and 304 plans were closed in FY 2012.

### Vocational plans closed in FY 2012

Job Placement	131
Associate Degree	83
Certificate/Other Training	38
English as Second Language (ESL)	20
General Education Diploma (GED)	18
Bachelor's of Other Advanced Degree	10
Seminar/Remedial	3
On-The-Job Training (OJT)	1
<b>Total</b>	<b>304</b>

A vocational rehabilitation plan of some type is involved in 141 of the 487 open vocational rehabilitation cases being monitored by the section at the end of FY 2012.

### Vocational plans monitored at end of FY 2012

Associate Degree	75
Job Placement	32
Bachelor's of Other Advanced Degree	17
Certificate/Other Training	9
General Education Diploma (GED)	7
English as Second Language (ESL)	1
<b>Total</b>	<b>141</b>

When an employee is in a court-approved vocational rehabilitation plan, the following costs are paid by the Workers' Compensation Trust Fund administered by the court: tuition, books, tools, other appropriate fees and costs, and board, lodging, and/or travel in some circumstances. Total disbursements from the trust and cash funds for vocational rehabilitation purposes are shown in Section 1, Pages 12 and 13 of this Annual Report.

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Vocational rehabilitation counselor fees for the evaluation of the employee, development and implementation of a vocational rehabilitation plan, and preparation of a loss of earning power evaluation are paid by the employer or workers' compensation insurer. This also includes charges by job placement specialists or interpreters, if necessary. The employer or insurer is also responsible for temporary disability benefits while the employee is engaged in an approved vocational rehabilitation plan.

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# Public Information

The court's Public Information section exists for three purposes.

- To educate the public regarding Nebraska workers' compensation law and procedural rules. Public Information staff respond to inquiries received on the court's toll-free information line and e-mail help desk, and also disseminate information by means of the court's web site, publications, workshops, and seminars. Injured employees are also notified upon the filing of a first report of injury of basic information regarding their rights and obligations under the workers' compensation system.
- To provide access to public records maintained by the court.
- To process and analyze injury and payment reports filed electronically and on paper by the court's trading partners, including insurers, risk management pools, and self insured employers.

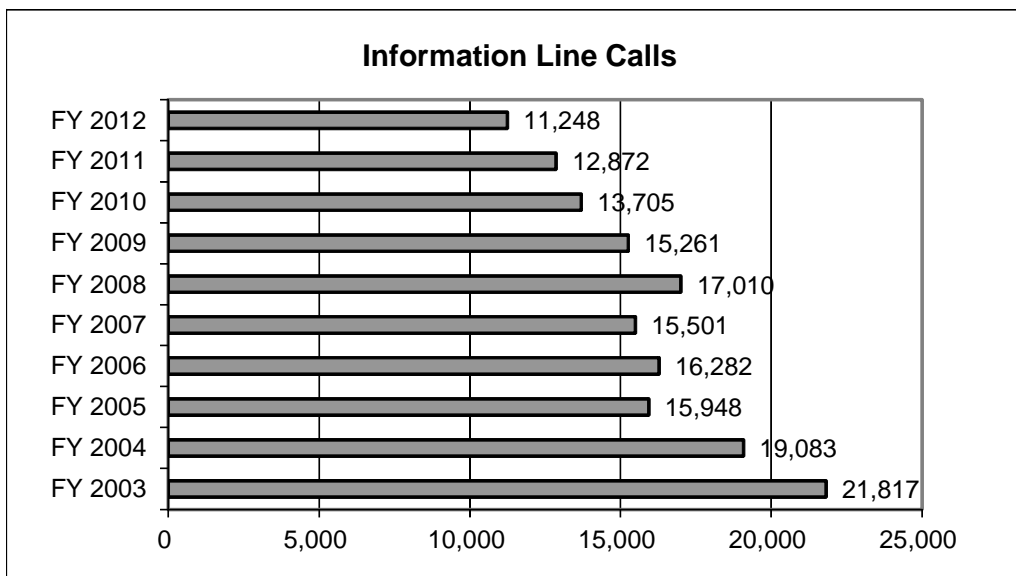
Providing these services requires six full-time staff members: a manager, a public information officer, a data quality assurance analyst, a public information technician, a receptionist/ secretary, and an office clerk.

## Education

### *Information Line*

The court's toll-free information line enables the court to serve the public more efficiently and saves the cost of long-distance calling. Public information staff assist callers from 8:00 a.m. to 5:00 p.m, Monday through Friday. After hours and during weekends and holidays, callers may leave a message and a staff member will return the call on the next working day. AT&T's Language Line provides language translation services as needed.

Section staff provide answers to commonly asked questions or research inquiries for a response, usually within 24 hours. Calls can also be transferred to other sections of the court for more information. Court staff do not provide opinions or legal advice.



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Information line calls come from employees, employers, attorneys, insurers, medical and vocational rehabilitation providers, and others in Nebraska and throughout the nation. In FY 2012, 422 information line calls came from employees who had been notified by the court's automated mailing service that their injury reports had been filed with the court.

The information line received a total of 11,248 calls in FY 2012, an average of 216.3 calls per week or 45.4 calls per working day. This is a 12.6 percent decrease from FY 2011.

### **Web site**

Public Information staff develop and maintain the court's web site (<http://www.wcc.ne.gov/>), which has been steadily upgraded since its inception in 1996 to better serve the public and make use of ever-improving technology:

- The web site uses Microsoft's ASP.NET framework to alleviate the overhead and redundancy usually associated with the development of dynamic web sites, applications and services. The court's entire web presence (the main web site and all related web applications) is maintained on the court's internal servers in one file format. This allows for more efficient records management, enforcement of better security practices, and web site maintenance cross-training.
- A number of useful web applications are available: a coverage look-up tool (which allows the public to search for workers' compensation insurance for a particular employer on a particular date), a records request form, a searchable database of court decisions and orders, benefit calculators, and a data entry system for reporting Diagnostic Related Group (DRG) claim counts.
- Court news is disseminated by means of an RSS (Really Simple Syndication) feed. The public may view the news feed directly on our web site, subscribe to receive news broadcasts into their RSS news readers (aggregators), or follow court news using Twitter, a web-based social networking tool ([http://twitter.com/NE\\_WCC](http://twitter.com/NE_WCC)).
- The court's publications and forms are available in portable document format (PDF) and may be downloaded at no charge from the web site. The PDF forms can be completed electronically, printed, then submitted to the court.
- The web site has been designed to maximize readability in any web browser, at any screen resolution (including internet-enabled handheld devices).
- The web site meets or exceeds all Section 508 Accessibility Guidelines.

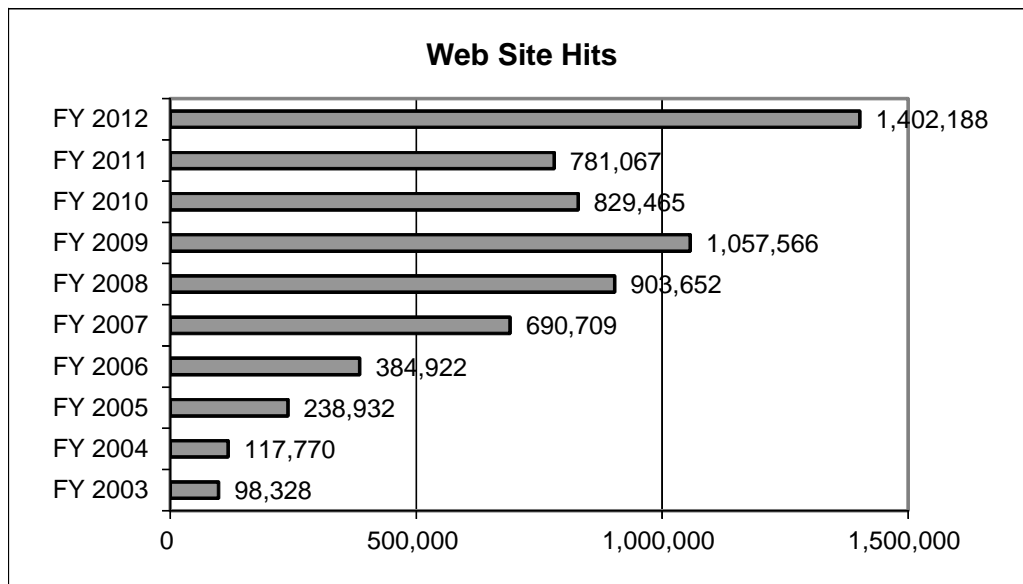
The web site received 1,402,188 hits in FY 2012, a 79.5 percent increase from FY 2011. The lower number of hits during FY 2010 and FY 2011 may have been due to a transition to the ASP.NET framework in May 2010. Such a transition will typically reduce the number of web site hits since the major search engines must re-index the entire web site and visitors must replace broken bookmarked links.

The public accessed the following areas of the web site most often in FY 2012:

1. The **Court News** section (RSS feed) had 508,228 hits (36.2 percent of all hits).
2. The **Legal** section had a combined total of 217,522 hits (15.5 percent of all hits). Of these, the Rules of Procedure had 132,224 hits (9.4 percent of all hits).

3. The **Medical** section had a combined total of 180,651 hits (12.9 percent of all hits). Of these, the various fee schedules had a combined total of 168,666 hits (12 percent of all hits).
4. The **Clerk's Office** section had a combined total of 69,264 hits (4.9 percent of all hits).
5. The **Vocational Rehabilitation** section, had a combined total of 64,518 hits (4.6 percent of all hits).

Other web site activity in FY 2012 included requests for information and services that were transmitted to the court's e-mail help desk from the site's secure electronic forms. Not including requests for records, which are addressed on the next page, Public Information staff responded to 2,422 such requests.



## ***Publications***

The Public Information section produces and maintains an inventory of court publications. Public Information staff work with other sections of the court to assist with issues of content, editing and style. After design and layout tasks are performed, Public Information staff deliver the finished documents for printing and publish them on the court web site.

The section also produces and maintains a number of forms used for insurance coverage, medical and vocational rehabilitation purposes, reporting workers' compensation injuries and payments, and requesting records.

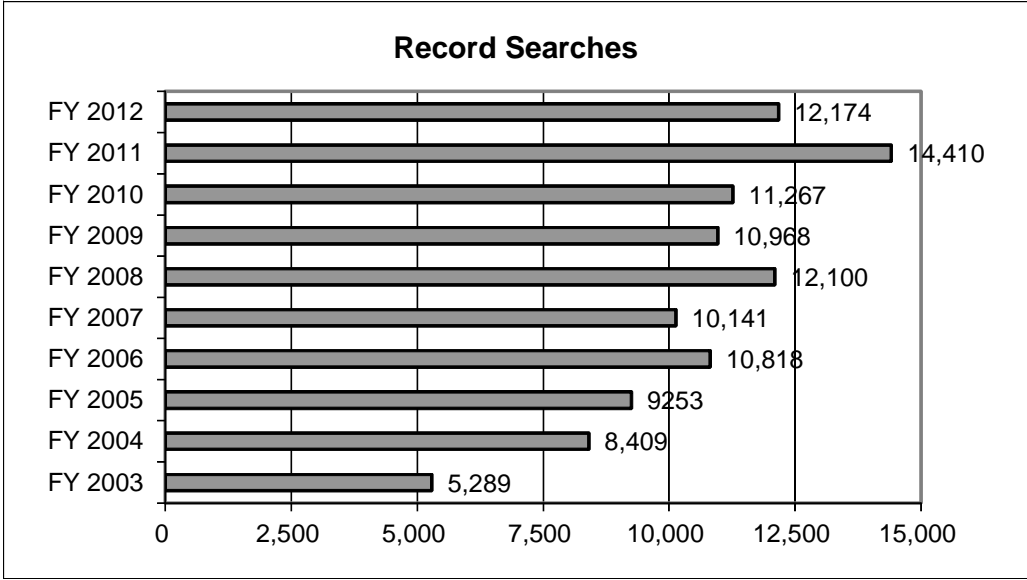
A complete listing of available publications and forms may be found on the court web site (<http://www.wcc.ne.gov/publications/publications.aspx>).

## **Record Searches**

One of the most common requests from the public are for record searches regarding injuries to an individual employee. Public Information staff fulfilled 12,174 requests for such records in FY 2012, a 15.5 percent decrease from FY 2011. In September 2010, the



records request processing function was augmented with Handysoft’s Bizflow, a workflow/ business process management tool. At the same time, the records request fulfillment function was augmented with Repliweb’s RMFT, a managed file transfer tool. Implementation of these tools has resulted in more efficient and secure processing and fulfillment of record requests from the public. Five-year searches of first and subsequent reports are fulfilled at no charge if sufficient information is provided to promptly identify the records. Public Information staff fulfill most record requests within four business days.



## Data Processing and Analysis

Public Information staff processed 52,911 first reports and 80,571 subsequent reports in FY 2012. At the time of publication, 99.9 percent of all first reports and subsequent reports are filed electronically using Electronic Data Interchange (EDI). Public Information staff process the electronic reports and also code and manually enter the remaining paper reports. Once processed, the data quality assurance analyst examines and maintains the data for statistical purposes. Section staff maintain a database of court-approved EDI trading partners to assist with data quality assurance duties.

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# Information Technology

The Information Technology (IT) section of the Nebraska Workers' Compensation Court is responsible for the administration and maintenance of the court's computer systems and network. This includes the court's databases relating to adjudication, reports of injury, benefit payments, and vocational rehabilitation, which are maintained in Oracle. The court also takes advantage of Internet access to Secretary of State information related to corporation and business records, and has implemented systems for exchanging information through Electronic Data Interchange (EDI). Providing these services requires a manager/database administrator, three full-time developers, and two full-time infrastructure staff members.

## Fiscal Year Activities

The court manages its data through desktop and internet ASP.NET systems, utilizing an Oracle database as its primary information repository. The database currently contains 16 full years' worth of information, going back to calendar year 1996 for reports of injury. Historical injury-related information is also maintained for purposes of performing cross-year statistical analysis. The IT section has developed and maintains more than 500 program units in Oracle Forms/Reports, Micro Focus Cobol, Embarcadero Delphi, HandySoft BizFlow, and Microsoft Visual Studio. The section also provides support for an Oracle ad hoc reporting tool used by court staff members for producing reports and data extracts from the database.

Electronic filing (e-filing) development continued during FY 2012 with the focus on the Release of Liability and other associated pleadings such as Addendum 3. The Information Technology section also participated in the preparation of rule changes to allow for e-filing in advance of a public hearing in August of 2012.

The court, in conjunction with the Department of Health and Human Services, will decommission its Lotus Notes-Domino environments by July 1, 2014. The court settled on the use of the DynamicPolicy product to replace policies and procedures documents maintained in Lotus Notes databases. Conversion of these documents is ongoing. Work was performed with the Office of the Chief Information Officer's (OCIO) and the court's Business section to replace the Lotus Notes Expense Reimbursement system with an OCIO-developed SharePoint system. Lotus Notes Mail-in Databases will be replaced with Microsoft Shared Mailboxes once the OCIO's upgrade to Microsoft Exchange is complete. The Information Technology section replaced its IT Turnover system with a workflow-enabled application based upon BizFlow, a workflow/business process management (BPM) system and ASP.NET technologies. These technologies along with the Oracle database will be used to continue to workflow-enable the court's re-engineered lines of business.

Utilizing the virtualized servers hosted on the court's blade servers and the OCIO's Storage Area Network (SAN) infrastructure, the court has been able to implement and manage more than 35 virtual servers. This environment has allowed the court to implement development, testing, and production environments without adding server hardware/software technology, therefore containing costs.

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The court completed the upgrade of its Oracle database systems from version 10g to 11g. The court has moved to OCIO hosted virtualized servers and the Linux operating system platform.

The court continues to provide technical support to the Supreme Court's Mandatory Continuing Legal Education (MCLE) Commission for the online MCLE system. The court provides Oracle system software, virtual servers, data storage, and information technology staff resources (internal and contracted) for hosting, upgrades, project management, implementation, and ongoing support of an Oracle-based MCLE system procured by the commission.

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# Nebraska Occupational Injury and Illness Survey — 2011

## Occupational Safety and Health Act

The Occupational Safety and Health Act of 1970 (OSHA) became an official part of the nation's labor laws in 1971. With its passage, Congress declared its intent “. . . to assure as far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources.”

Under this Act, employers are required to keep records of all work-related deaths, any diagnosed occupational illnesses and any occupational injuries which involve loss of consciousness, restriction of work or motion, transfer to another job, or requires medical treatment beyond first aid. Employers with more than 10 workers are required to maintain a log (OSHA No. 300), a summary of occupational injuries and illnesses (OSHA No. 300A), and a supplementary record (OSHA No. 301)<sup>1</sup> of each occurrence within the calendar year. These records are retained at the work site for five years and must be available for inspection by representatives of the U.S. Department of Labor and the U.S. Department of Health and Human Services. Employers with less than 11 employees and those employers who conduct business in one of the low hazard industries specified by OSHA are generally exempt from these recordkeeping requirements unless they are notified of the necessity to maintain these records for a given year for statistical purposes.

## 2011 Occupational Injury and Illness Survey

In order to measure and evaluate the efforts in reducing work-related injuries and illnesses, a standardized system to collect, compile and analyze the health and safety statistics was established and implemented. This standardized system enables data users to identify those industries that need improvement, furthers monitoring and education programs, and allows employers to compare their incidence rates with other employers in the same industry.

The Nebraska Workers' Compensation Court has cooperated with the U.S. Department of Labor and the Bureau of Labor Statistics since 1971 in conducting an annual survey of Nebraska employers, which has provided these essential work injury and illness statistics. Beginning with the 2008 survey, local and state government units in addition to private sector were surveyed. The 2011 sample surveyed 3,705 employing units in the state.

**Note on industry and occupation classifications:** Beginning with the 2003 reference year, the Occupational Injury and Illness Survey began using the 2002 North American Industry Classification System (NAICS) for industries and the Standard Occupational Classification (SOC) system for occupations. Prior to 2003, the program used the Standard Industrial Classification (SIC) system and the Bureau of the Census occupational classification system. Because of the substantial differences between the current and previous systems, the results by industry and occupation in 2003 constitute a break in series, and users are advised against making comparisons between the 2003 and later industry and occupation categories and the results for previous years.

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Information regarding the survey and the results of the Occupational Injury and Illness Survey for 2011 is available on the court's web site ([http://www.wcc.ne.gov/publications/osh\\_cfoi.aspx](http://www.wcc.ne.gov/publications/osh_cfoi.aspx)).

<sup>1</sup>In the State of Nebraska the Workers' Compensation Form 1 — First Report of Alleged Occupational Injury or Illness, may be used in place of the OSHA No. 301 form.

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# Census of Fatal Occupational Injuries (CFOI) — 2011

The Census of Fatal Occupational Injuries (CFOI) Program was developed by the U.S. Department of Labor, Bureau of Labor Statistics (BLS) to provide a timely and accessible census of work-related fatalities. The CFOI program is a federal/state cooperative program. In Nebraska, CFOI is conducted by the Nebraska Workers' Compensation Court. This is the 20<sup>th</sup> year that CFOI has been conducted in all 50 states and the District of Columbia.

## 2011 Census of Fatal Occupational Injuries

CFOI 2011 used multiple data sources including death certificates, workers' compensation reports, medical examiner reports, and other available federal and state administrative records, to compile a complete, verifiable count of Nebraska fatal workplace injuries. The census covers all traumatic occupational fatalities, including those resulting from injuries to the self-employed, laborers on small farms, government workers, and others too difficult to identify from a single data source.

Besides comprehensive counts of fatal work injuries, the 2011 census provides information on the demographic characteristics of the deceased workers (including age, gender, and race), the occupations and industries the decedents worked in and the circumstances of their tragedies. This wealth of information on hazards in Nebraska workplaces yields vital insights to aid in preventing future workplace fatalities. Safety and health researchers are able to study patterns of fatal work injuries, identify hazardous activities and equipment, and alert workers to these dangers.

## 2011 Census Results

The Nebraska Census of Fatal Occupational Injuries recorded 39 fatal workplace injuries during 2011, down from 54 the previous year. Other findings of the census include:

- The leading fatal event was transportation incidents, accounting for 25 (64 percent) of fatal occupational injuries in 2011. Contact with objects and equipment followed with five fatalities (13 percent). Falls, slips, and trips accounted for three fatalities (8 percent).
- Among industry groups, the largest number of fatal work injuries was in natural resources and mining with 19 (49 percent). Trade, transportation and utilities followed with five (13 percent). Construction had four (10 percent).
- Thirteen (33 percent) of those fatally injured were 55 to 64 years of age. Eight (21 percent) were 45 to 54 years of age. Another eight (21 percent) were 65 years and older.
- Thirty-four (87 percent) of those fatally injured were white, non-Hispanic.
- Thirty-two (82 percent) of those fatally injured were men.
- Twenty-six (67 percent) were wage and salary workers. The remainder of those fatally injured were self-employed.

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Information regarding the census and the results of the Census of Fatal Occupational Injuries 2011 is available on the court's web site ([http://www.wcc.ne.gov/publications/osh\\_cfoi.aspx](http://www.wcc.ne.gov/publications/osh_cfoi.aspx)).