

Nebraska Workers' Compensation Court
76th Annual Report



Fiscal Year 2018

July 1, 2017 through June 30, 2018

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John R. Hoffert
Presiding Judge

James R. Coe
Judge

J. Michael Fitzgerald
Judge

Thomas E. Stine
Judge

Daniel R. Fridrich
Judge

Julie A. Martin
Judge

Dirk V. Block
Judge

Jill Gradwohl Schroeder
Court Administrator

Elizabeth A. Gianunzio
Clerk of the Court



STATE OF NEBRASKA
WORKERS' COMPENSATION COURT

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Letter of Transmittal

Lincoln, Nebraska
December 1, 2018

Honorable Michael G. Heavican
Chief Justice of the Nebraska Supreme Court

Honorable Pete Ricketts
Governor of Nebraska

Honorable Jim Scheer
Speaker of the Nebraska Legislature

Dear Chief Justice, Governor, and Speaker:

We have the privilege of submitting herewith the 76th Annual Report of the Nebraska Workers' Compensation Court, prepared in accordance with the provisions and requirements of § 48-166, Revised Statutes of Nebraska.

Yours respectfully,

NEBRASKA WORKERS' COMPENSATION COURT

By

John R. Hoffert
Presiding Judge

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General Information

History

The Nebraska Workers' Compensation Act was first enacted in 1913 and was originally titled 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 NEB. REV. STAT. § 48-152.

Organization

The Nebraska Workers' Compensation Court is composed of seven judges who are initially appointed by the governor. Judges are then subject to a retention vote by the electorate three years after appointment and every six years thereafter. 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. The court maintains offices in Lincoln and Omaha, although all court filings must be made in the Lincoln office. The judge assigned to each case will travel to the county in the state where the accident occurred to hear a dispute regarding workers' compensation benefits. The judge will then enter a written ruling stating his or her factual and legal conclusions. The judge's decision may be appealed to the Nebraska Court of Appeals. A limited number of appeals may also be heard by the Nebraska Supreme Court, either directly or upon further review of a decision by the Nebraska Court of Appeals.

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 summonses, schedules trials and motion hearings, corresponds with the litigants, issues opinions of the court, keeps full and true records of judicial proceedings, and provides administrative and secretarial support for the judges of the court. This section also evaluates procedures used by other state courts to ensure consistency and create efficiencies.

The ***Business and Human Resources section*** is responsible for the business, financial, and personnel functions of the court. The section administers the second injury program which provides workers' compensation benefits to qualified workers who have suffered multiple injuries. Under a federal grant, the section also conducts a survey of work-related injuries and illnesses and a data collection program as to fatal injuries sustained in the State of Nebraska.

The ***Legal section*** reviews settlement applications for adequacy and compliance with the Act; conducts mediation conferences to facilitate informal resolution of disputes; informs injured workers, employers, and others of their rights and obligations under the Act; performs research for the judges; provides legal advice to court staff; monitors legislation for potential impact on the workers' compensation system; and manages the court's records retention schedule.

The ***Regulatory Programs section*** has responsibilities in three distinct areas: Compliance; Medical Services; and Self-Insurance. Compliance activities include enforcing insurance coverage requirements, enforcing the claims handling and reporting obligations of insurers and self-insured employers, and receiving and processing reports of injury and benefit payments. 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. This section monitors the progress of injured workers in an approved plan and determines what plan expenses may be reimbursed by the Workers' Compensation Trust Fund.

The ***Public Information section*** responds to requests for records and information, supports a toll-free telephone information line (including language translation services, when needed), maintains the court's website, and prepares court publications. The section also manages the business continuity program for the court.

The ***Information Technology section*** is responsible for the security and maintenance of 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 the Supreme Court, state agencies, and vendors; and assists other court sections in performing their statutory responsibilities and creating efficiencies through the use of technology.

Activities in Fiscal Year 2018

Legislation

LB 953 — Settlements

Legislative Bill (LB) 953 amended NEB. REV. STAT. § 48-139 as to settlements involving unpaid and disputed medical bills. Two types of settlements are provided for in § 48-139: court-reviewed lump sum settlements; and settlement releases. Settlements may resolve on a final basis all issues and liability as to a workers' com-

pensation claim, or liability for only indemnity and vocational rehabilitation benefits while leaving medical liability open. Generally, a settlement must be submitted to the court for review and approval if: the claimant is not represented by legal counsel; Medicare has an interest in the settlement; Medicaid will not be reimbursed for medical bills it paid; medical expenses incurred for treatment of the claimed injury will not be fully paid; or benefits owed to a dependent in a death case are being paid on a commuted basis. As to settlements that do not involve these factors, settlement can be accomplished through a release that does not require court review or approval.

Section 48-139 requires that employees and employers submitting a lump sum settlement application to the court must provide “a description of the medical, surgical, or hospital expenses incurred for treatment of the injury that will remain unpaid as part of the settlement which are disputed and for which compensability has been denied by the employer.” As to medical, hospital, or surgical expenses, if medical causation is disputed and if any entity other than Medicaid is not reimbursed, LB 953 amended § 48-139 to provide that if the employee’s attorney elects to affirm and does affirm that the non-payment or non-reimbursement of such expenses is in conformity with the compensation schedule and for the best interests of the employee or his or her dependents, there is a conclusive presumption to that effect. LB 953 also amended § 48-139 to provide that, when the application includes the aforementioned affirmation by the plaintiff’s attorney, the court shall issue an order stating the employer is not liable for medical bills remaining unpaid, disputed, and denied as part of such a settlement.

Some health, accident, or other insurance policies exclude coverage if an employee is covered by workers’ compensation benefits. A further amendment to § 48-139 created by LB 953 provides that such an exclusion from coverage in any health, accident, or other insurance policy is void as to such employee if the employer is not liable for unpaid medical bills as described in the revised provisions to § 48-139.

Section 48-139 provides that individuals eligible for Medicare or who, within the next 30 months after the date the settlement is executed, have a reasonable expectation of becoming eligible for Medicare, shall settle cases using a lump sum settlement application submitted for court approval (as opposed to a settlement release). LB 953 added a requirement that such an application shall “include a statement that the parties have considered the interests of medicare and have taken reasonable steps to protect any interests of medicare.” LB 953 also included a provision that in such cases “if the employee’s attorney elects to affirm and does affirm in the application that the parties’ agreement relating to consideration of medicare’s interests set forth in such lump-sum settlement is in conformity with the compensation schedule and for the best interests of the employee or his or her dependents under all the circumstances, it shall be conclusively presumed that the parties’ agreement relating to consideration of medicare’s interests set forth in the application is in conformity with the compensation schedule and for the best interests of the employee or his or her dependents.”

Inserted into § 48-139 through LB 953, is a provision that the Nebraska Workers’ Compensation Court may on its own motion and “shall, on a motion by one of the parties” hold a hearing as to settlement applications.

As to settlement releases (as distinguished from the court-approved lump sum settlements described above), LB 953 clarified that upon entry of an order of dismissal

with prejudice, as to all rights waived in the release, the dismissal constitutes a full and complete discharge of the employer or insurer from further liability (unless the settlement was procured by fraud).

An additional provision included in LB 953 also amended NEB. REV. STAT. § 48-2907 to state that if a contractor has unpaid fines due to a violation of the Nebraska Employee Classification Act, such contractor is “barred from contracting with the state or any political subdivision until such fines are paid.”

These changes to NEB. REV. STAT. §§ 48-139 and 48-2907 became effective on July 19, 2018, after the end of fiscal year 2018.

LB 957 — Electronic Payment System

NEB. REV. STAT. § 48-125 provides that compensation payable under the Nebraska Workers’ Compensation Act “shall be payable periodically in accordance with the method of payment of wages of the employee at the time of the injury.” On April 19, 2018, Governor Pete Ricketts approved LB 957, which provides that an employee (or his/her legal representative) and an employer, insurer, or workers’ compensation risk management pool, may agree that workers’ compensation benefits can be paid via check, direct deposit, prepaid card, or a similar electronic payment system. The effective date of LB 957 was July 19, 2018, after the end of fiscal year 2018.

LB 957 provided that any fees or charges imposed by the employer, insurer, or risk management pool relating to payment via direct deposit, prepaid card, or other similar electronic means must be disclosed to the employee prior to any agreement as to the method of payment of workers’ compensation benefits. Information regarding the locations where a prepaid card may be used must be provided to the employee in advance of any such agreement. As to prepaid cards, the employee must have access to the funds without having to pay any fees.

As amended by LB 957, § 48-125 now provides that workers’ compensation benefits may be electronically deposited into the trust account of an attorney representing the employee. Such a payment must include information sufficient to identify the nature of the payment being made, including the names of the employer or insurer or risk management pool making the payment, and the employee to whom payment is being made.

Any agreement by an employee to receive payments via direct deposit, prepaid card, or a similar electronic payment system may be rescinded at any time by providing written or electronic notice of such rescission to the employer, insurer, or risk management pool, who must then change the method of payment as soon as practicable.

Payments made pursuant to § 48-125 (as revised) are not subject to attachment or garnishment, except as provided in NEB. REV. STAT. § 48-149. Section 48-149 allows for attachment or garnishment of workers’ compensation benefits for attorney’s liens or child support. LB 957 clarifies that if an amount is withheld from workers’ compensation benefits pursuant to § 48-149, the employee must be provided with notice and identifying information as to the claim or case prompting the withholding.

Employers, insurers, and risk management pools are prohibited from engaging in unfair, deceptive, or abusive practices as to the method of payment chosen by the

employee. An employee cannot be penalized, discharged, or discriminated against for declining to consent to direct deposit, electronic payments, or a prepaid card.

Court Rules

In December 2017, the Nebraska Workers' Compensation Court adopted the following revisions to its Rules of Procedure.

- Rule 15 confirmed procedures for checking out a Bill of Exceptions from the Clerk of the Nebraska Workers' Compensation Court in cases appealed to the Nebraska Court of Appeals or Supreme Court of Nebraska. A Bill of Exceptions includes a verbatim record of the verbal, written, and physical evidence offered at trial or during other evidentiary proceedings.
- Rule 26 affirmed the Schedule of Fees for Medical Services and established the Diagnostic Related Group (DRG) Codes that each became effective on January 1, 2018. The court is empowered by NEB. REV. STAT. § 48-120, to publish medical fee schedules setting forth the reimbursement rates for various medical services provided to injured workers.
- Rule 47 adopted the United States Life Table 2013, which is a more recent version of that table than previously was incorporated into the court's rules. The United States Life Table is used by the court as to life expectancy of injured workers or certain dependents when compensation may be owed to such individuals over the course of their lifetimes.

In addition to the specific activities listed for FY 2018, 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 2018 are described in greater detail in the following pages of this Annual Report. Injury statistics and statistics regarding benefit payments are available in our Statistical Reports, which may be accessed on our website (<https://www.wcc.ne.gov/information-for-the-public/court-forms-and-publications/statistical-reports>).

NEBRASKA WORKERS' COMPENSATION COURT



REVISED
March 2017

Judges



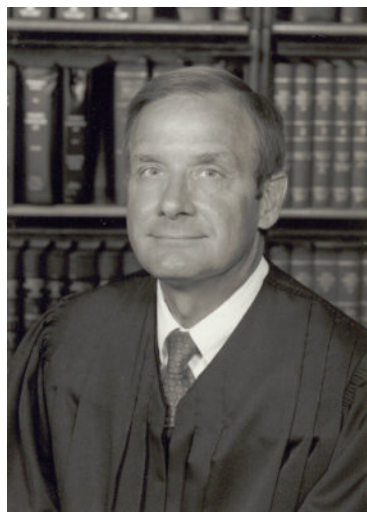
John R. Hoffert, Presiding Judge

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). Member: Judicial Branch Education Board and Curriculum Committee. Past member: Nebraska Supreme Court Interpreter Advisory Committee (2005–2015); 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.

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. Former Member of the Rotary Club of Omaha West; Past President of the Dora Bingel Foundation.



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.

Judges



Thomas E. Stine, Judge

Office Address: 1010 Lincoln Mall, Suite 100, Lincoln NE 68508, phone (402) 471-3923, (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 (1989–present), serving on the House of Delegates and Leadership Academy Steering Committee. Serves on the Nebraska Supreme Court Technology Committee. Formerly served on the Board of Directors of the Lincoln Community Playhouse.



Daniel R. Fridrich, Judge

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

Date Appointed: September 18, 2012.

Biography: Graduate of University of Nebraska – Lincoln (BS, 1992); University of Nebraska College of Law (JD, 1996). Former occupations: Served 10 years as Workers’ Compensation Senior Counsel with Werner Enterprises, Inc.; attorney with Liberty Mutual Insurance Company; associate attorney with Luebs, Leininger, Smith, Busick & Johnson. Member of the Nebraska State Bar Association.

Judges



Julie A. Martin, Judge

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

Date Appointed: December 23, 2014.

Biography: Graduate of University of Nebraska – Lincoln (BS *cum laude*, 1991); Creighton University School of Law (JD *cum laude*, 1994). Former occupations: attorney with Nolan, Olson & Stryker; attorney with Rehm, Bennett & Moore. Member of the State Bar Associations of Nebraska and Iowa, the United States District Court for the State of Nebraska, and Southern District of Iowa.



Dirk V. Block, Judge

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

Date Appointed: December 8, 2016.

Biography: Graduate of University of Nebraska – Omaha (BS, *cum laude*, Criminal Justice); Creighton University School of Law (JD). Former occupations: Marks Clare & Richards LLC (served as managing member, partner, and associate attorney); Knapp, Mues, Beavers, and Luther (served as associate attorney). Admitted to practice: Nebraska and the U.S. District Court for the District of Nebraska. Member: Nebraska State Bar Association. Recipient of the Martindale Hubbell “AV” peer review rating. Serves on the Board of Directors for CBMC, Inc. and as Master of Ceremonies for the Omaha Leadership Prayer Breakfast.

Federal General Fund

Federal Fiscal Year 2018 (October 1, 2017 to September 30, 2018)

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). 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 and continues to conduct that census each year.

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 to the court. 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.

Fund Balance on October 1, 2017:					\$0
Revenue:					
Intergovernmental Revenue				48,212	
Deobligation June 30, 2018				(1,725)	
Total Revenue					46,487
Expenditures:					
	Legislative	Administrative	Not	Actual	
	Appropriation	Adjustments	Expended	Expended	
Federal Grant Admin.	52,674	(6,187)	0	46,487	
Total Expenditures					46,487
Fund Balance on September 30, 2018:					\$0

Compensation Court Cash Fund

Fiscal Year 2018 (July 1, 2017 to June 30, 2018)

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 on September 9, 1993 as part of LB 757 from the 1993 session of the Nebraska Legislature (see NEB. REV. STAT. § 48-1,116). The fund replaced the use of general funds, and is financed by assessments against workers' compensation insurers, risk management pools, and self-insured employers (see NEB. REV. STAT. § 48-1,117). 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 2018 was \$6,221,973.

Fund Balance on July 1, 2017:		\$5,918,836.14
Revenue:		
Assessments	5,174,654.00	
Interest	94,546.22	
Miscellaneous Income	109,574.00	
Sale of Surplus Property	2,099.51	
Total Revenue		<u>5,380,873.73</u>
Expenditures:		
Court Administration (Includes Judges)	4,964,712.25	
Federal Grant Administration	48,960.87	
Voc. Rehab. Administration	330,056.82	
Second Injury Administration	654.04	
Self-Insurance Administration	89,908.68	
Total Expenditures		<u>5,434,292.66</u>
Fund Balance on June 30, 2018:		<u><u>\$5,865,417.21</u></u>

Workers' Compensation Trust Fund

Fiscal Year 2018 (July 1, 2017 to June 30, 2018)

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 NEB. REV. STAT. § 48-128 and vocational rehabilitation benefit payments in accordance with NEB. REV. STAT. § 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.

Fund Balance on July 01, 2017:		\$2,627,582.80
Revenue:		
Assessments	0	
Interest	51,910.33	
Miscellaneous Income	0	
Total Revenue		<u>51,910.33</u>
Expenditures:		
Second Injury Benefits	200,731.50	
Voc. Rehab. Benefits	349,931.02	
Total Expenditures		<u>550,662.52</u>
Fund Balance on June 30, 2018:		<u><u>\$2,128,830.61</u></u>

Workers' Compensation Trust Fund

(Transfers* and Assessments)

Fiscal Year Ending:			
Assessments:			
June 30, 2018	\$0	June 30, 2013	\$0
June 30, 2017	**\$16.00	June 30, 2012	\$0
June 30, 2016	**\$6060.00	June 30, 2011	\$0
June 30, 2015	**\$153.00	June 30, 2010	\$0
June 30, 2014	\$3,506,290.50	June 30, 2009	**(\$762)

* Beginning balance — transfers from Second Injury and Vocational Rehabilitation Funds totalling \$6,200,991.00 were made on July 1, 2000.

** Adjustment on assessments made in prior years.

Second Injury and Vocational Rehabilitation Expenditures

(Benefit and Administrative Costs*)

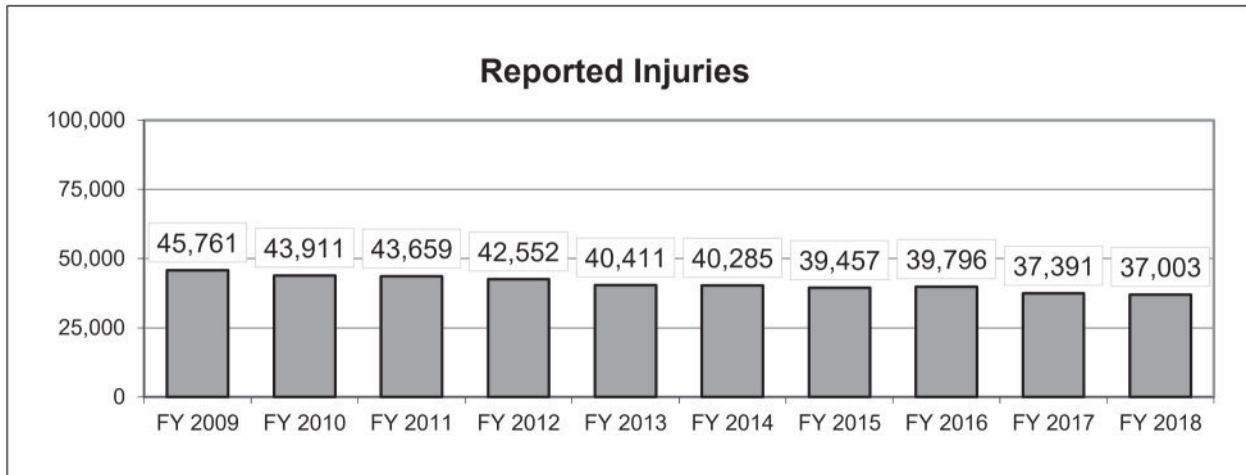
Fiscal Year Ending	Second Injury	Vocational Rehabilitation	Total Expenditures
June 30, 2018	\$201,386	\$679,988	\$881,374
June 30, 2017	\$205,527	\$834,346	\$1,039,873
June 30, 2016	\$224,931	\$923,827	\$1,148,758
June 30, 2015	\$247,312	\$1,065,985	\$1,313,297
June 30, 2014	\$250,770	\$1,163,460	\$1,414,230
June 30, 2013	\$280,010	\$1,244,052	\$1,524,062
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

* Benefit costs are paid from the Workers' Compensation Trust Fund (Page 13). Administrative costs are paid from the Compensation Court Cash Fund (Page 12).

Reported Injuries

The following chart shows injuries reported in recent fiscal years, which run from July 1 through June 30, regardless of the year in which the injury occurred. The chart includes injuries resulting from occupational disease.

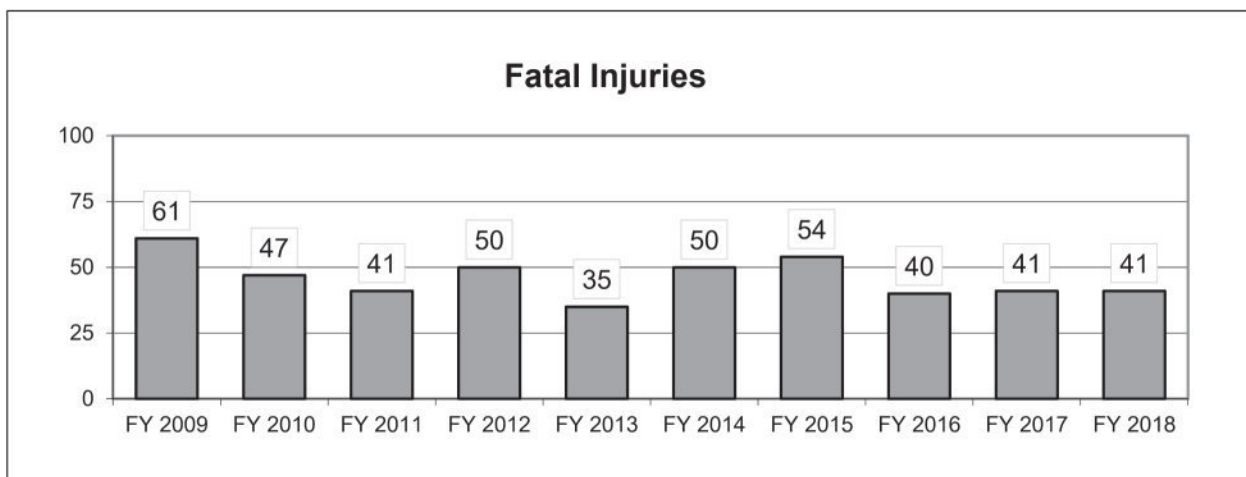
Please refer to our Statistical Reports for more detailed information regarding injury and benefit payments by calendar year (<https://www.wcc.ne.gov/information-for-the-public/court-forms-and-publications/statistical-reports>).



Fatal Injuries

The following chart shows fatal injuries reported in recent fiscal years, which run from July 1 through June 30, regardless of the year in which the injury or death occurred. The chart includes fatal injuries resulting from occupational disease.

Please refer to our Statistical Reports for more detailed information regarding injury and benefit payments by calendar year (<https://www.wcc.ne.gov/information-for-the-public/court-forms-and-publications/statistical-reports>).



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 NEB. REV. STAT. §§ 48-121.01 and 48-121.02. The administrator has determined that the state average weekly wage for calendar year 2019 will be \$855.00. This becomes the maximum weekly income benefit for injuries occurring in calendar year 2019. The minimum rate remains at \$49 as provided in NEB. REV. STAT. § 48-121.01(2).

Maximum / Minimum Compensation Benefits

Injury Occurring Between	Maximum	Minimum
01/01/2019 to 12/31/2019	\$855	\$49
01/01/2018 to 12/31/2018	\$831	\$49
01/01/2017 to 12/31/2017	\$817	\$49
01/01/2016 to 12/31/2016	\$785	\$49
01/01/2015 to 12/31/2015	\$761	\$49
01/01/2014 to 12/31/2014	\$747	\$49
01/01/2013 to 12/31/2013	\$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

Litigation Summary

Petitions in Fiscal Year ¹	2014*	2015*	2016*	2017*	2018
Petitions Pending at Beginning of Fiscal Year	1,351	1,364	1,331	1,370	1,357
Petitions Filed in Fiscal Year	1,151	1,085	1,103	1,053	1,013
Reopened Petitions Filed in Fiscal Year	171	139	146	121	131
Bifurcated Petitions ²	4	6	6	7	2
Total Petitions	2,677	2,594	2,586	2,551	2,503
Dispositions in Fiscal Year					
Decisions Issued	182	167	154	173	141
Stipulated Awards	30	34	31	24	30
Lump Sum Settlements Approved	258	210	173	185	189
Releases of Liability Filed	529	516	523	535	517
Voluntary or Summary Dismissals	314	336	335	277	270
Total Dispositions	1,313	1,263	1,216	1,194	1,147
Total Petitions Pending at End of Fiscal Year	1,364	1,331	1,370	1,357	1,356

Motions in Fiscal Year ¹	2014*	2015	2016*	2017*	2018
Motions Filed	3,031	3,376	3,578	3,601	3,664
Motion Dispositions	2,502	2,696	2,598	2,792	2,906
Motion Hearings	638	582	657	605	617

Appeals in Fiscal Year ^{1, 3}	2014	2015	2016	2017	2018
Appeals Pending at Beginning of Fiscal Year	38	32	27	16	22
Appeals Filed	54	46	34	37	33
Affirmances by Neb. Supreme Court / Court of Appeals	25	23	17	15	15
Summary Dismissals by Neb. Supreme Court / Court of Appeals	20	14	18	14	15
Other Opinions ⁴	15	14	10	2	6
Total Appeals Pending at End of Fiscal Year	32	27	16	22	19

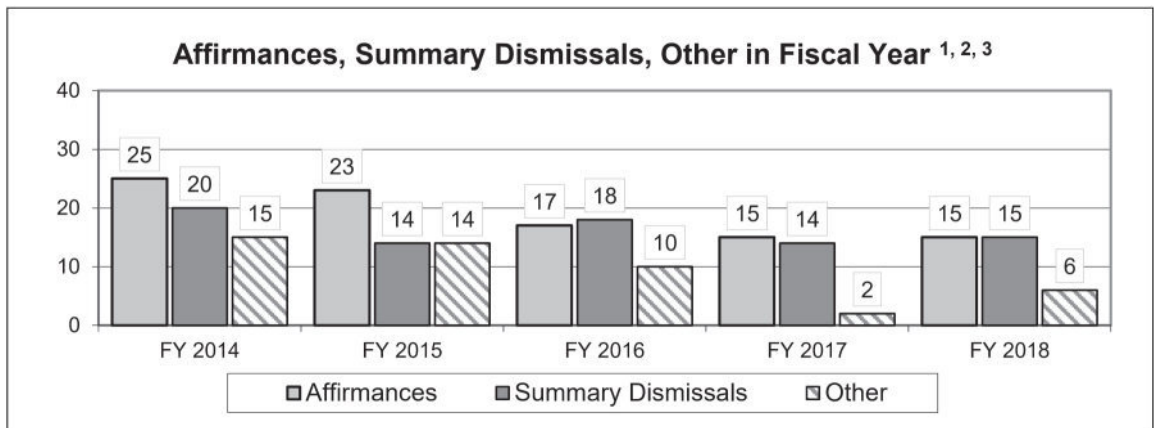
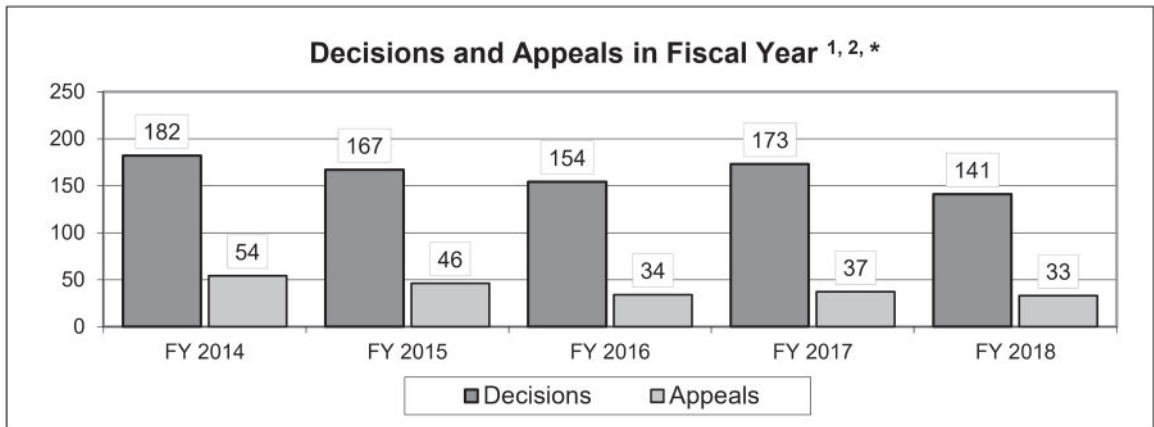
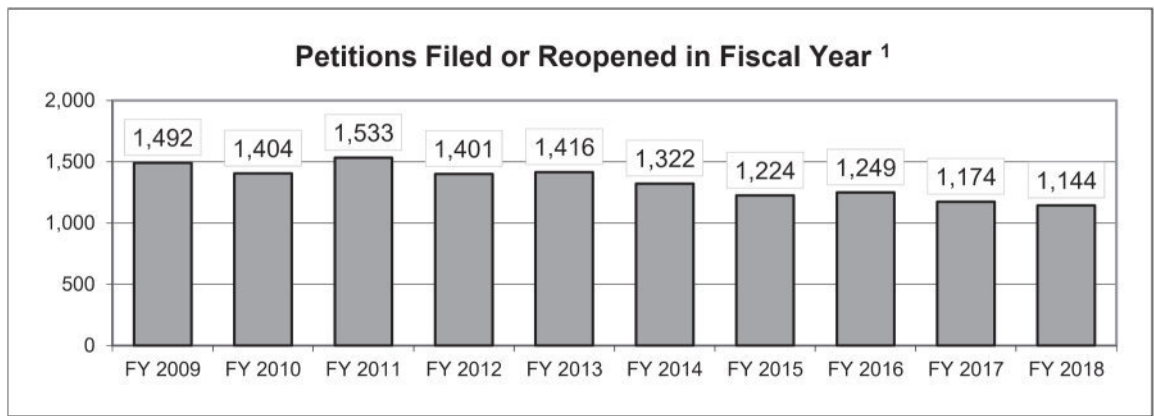
* Numbers may differ from those shown in the FY 2017 Annual Report due to adjustments to data.

¹ Fiscal years run July 1 through June 30.

² Allegations in an initial petition can be litigated separately upon entry of an order allowing such. This results in a further trial and disposition or settlement on the initial petition.

³ A decision of a judge of the Nebraska Workers' Compensation Court may be appealed to the Nebraska Court of Appeals. A limited number of appeals may also be heard by the Nebraska Supreme Court, either directly or by further review of a decision by the Nebraska Court of Appeals. Appeals from an order, award, or judgment of the compensation court in any such case are made in accordance with the procedures regulating appeals in actions at law from the district courts, except as otherwise provided in NEB. REV. STAT. §§ 48-182 and 48-185.

⁴ Other opinions from the Nebraska Supreme Court or Court of Appeals such as: reversed and remanded; reversed; affirmed in part, reversed in part, and in part remanded; affirmed in part, and in part reversed, and any other variations thereof.



* Numbers may differ from those shown in the FY 2017 Annual Report due to adjustments to data.

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² A decision of a judge of the Nebraska Workers' Compensation Court may be appealed to the Nebraska Court of Appeals. A limited number of appeals may also be heard by the Nebraska Supreme Court, either directly or by further review of a decision by the Nebraska Court of Appeals. Appeals from an order, award, or judgment of the compensation court in any such case are made in accordance with the procedures regulating appeals in actions at law from the district courts, except as otherwise provided in NEB. REV. STAT. §§ 48-182 and 48-185.

³ Other opinions from the Nebraska Supreme Court or Court of Appeals such as: reversed and remanded; reversed; affirmed in part, reversed in part, and in part remanded; affirmed in part, and in part reversed, and any other variations thereof.

Petitions and Applications to Modify Award by County

Generally, a petition or application to modify is heard in the county in which the accident occurred unless the litigants agree to a different location for the hearing (see NEB. REV. STAT. § 48-177). For that reason, the venue for workers' compensation cases could be in any county in Nebraska.

County	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Adams	29	28	32	23	28
Antelope	1	3	1	3	1
Arthur	0	0	0	0	0
Banner	0	0	1	2	0
Blaine	0	0	0	1	1
Boone	3	4	2	3	1
Box Butte	8	7	7	7	8
Boyd	1	0	0	1	0
Brown	1	1	2	1	2
Buffalo	22	33	44	30	25
Burt	1	0	1	1	4
Butler	2	7	6	2	1
Cass	8	10	5	8	9
Cedar	1	2	1	1	1
Chase	3	3	2	2	1
Cherry	4	4	1	2	0
Cheyenne	6	8	4	10	4
Clay	3	4	1	3	4
Colfax	8	12	10	6	11
Cumming	4	2	3	3	8
Custer	7	4	4	8	2
Dakota	12	7	8	12	7
Dawes	0	3	1	1	4
Dawson	26	20	22	35	28
Deuel	5	2	4	4	3
Dixon	2	0	3	0	2
Dodge	25	25	39	34	25
Douglas	362	359	352	351	340
Dundy	0	0	3	1	1
Fillmore	4	4	1	3	2
Franklin	4	3	1	1	1
Frontier	1	0	2	0	1
Furnas	5	5	3	4	1
Gage	17	10	19	15	23
Garden	1	0	0	1	3
Garfield	0	2	0	0	0
Gosper	1	0	0	0	0
Grant	0	0	0	0	1
Greeley	0	0	3	0	0
Hall	102	86	89	66	73
Hamilton	2	5	6	3	4
Harlan	1	2	0	0	0
Hayes	0	1	0	0	0
Hitchcock	3	0	3	0	4
Holt	6	1	4	3	5
Hooker	1	1	1	0	0
Howard	2	1	3	0	0
Jefferson	4	6	6	4	3
Johnson	2	2	1	4	5
Kearney	6	2	3	3	2

Petitions and Applications to Modify Award by County, Continued

County	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Keith	10	6	7	3	2
Keya Paha	0	0	0	2	0
Kimball	4	1	3	1	2
Knox	3	4	2	1	1
Lancaster	202	151	158	154	148
Lincoln	25	30	25	24	19
Logan	0	0	1	0	1
Loup	0	0	0	2	0
Madison	24	20	29	31	29
McPherson	0	0	0	0	0
Merrick	1	1	2	2	0
Morrill	4	1	1	4	4
Nance	0	3	1	2	0
Nemaha	2	5	2	3	1
Nuckolls	0	0	1	2	1
Otoe	9	16	11	7	16
Pawnee	1	1	1	1	2
Perkins	2	2	0	2	2
Phelps	3	5	12	9	8
Pierce	1	0	2	0	1
Platte	15	20	19	16	17
Polk	0	5	3	1	0
Red Willow	5	5	3	3	4
Richardson	3	5	4	1	0
Rock	0	0	0	0	0
Saline	17	9	9	15	12
Sarpy	29	43	39	49	44
Saunders	5	8	11	4	2
Scottsbluff	37	30	23	26	36
Seward	5	7	3	5	3
Sheridan	2	1	4	1	2
Sherman	3	1	0	1	1
Sioux	0	0	0	0	0
Stanton	1	3	0	1	0
Thayer	4	1	5	3	1
Thomas	0	0	0	1	0
Thurston	1	2	0	0	2
Valley	7	2	1	2	3
Washington	10	14	15	6	8
Wayne	3	3	2	7	6
Webster	2	1	3	0	0
Wheeler	0	0	0	0	1
York	14	6	7	7	8
Out of State	162	133	136	113	108
TOTAL	1,322	1,224	1,249	1,174	1,144

Settlement Summary

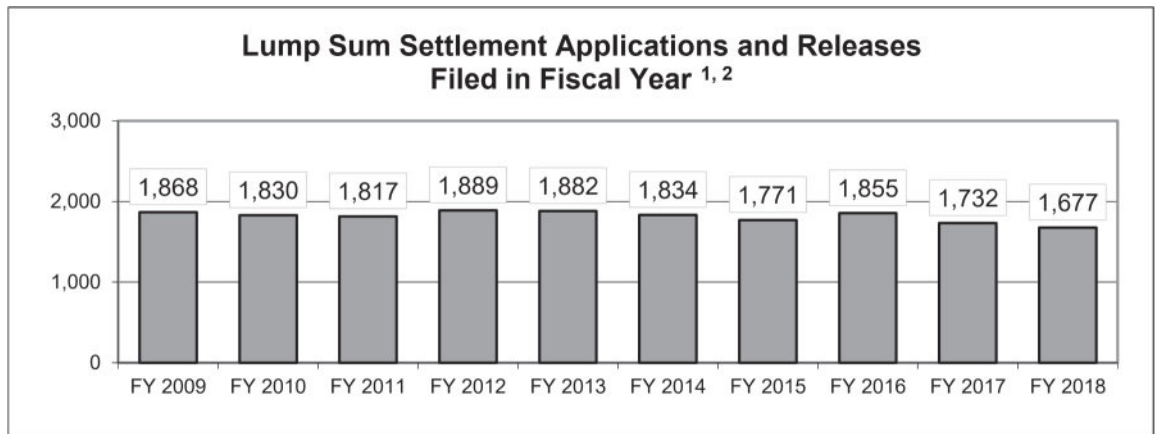
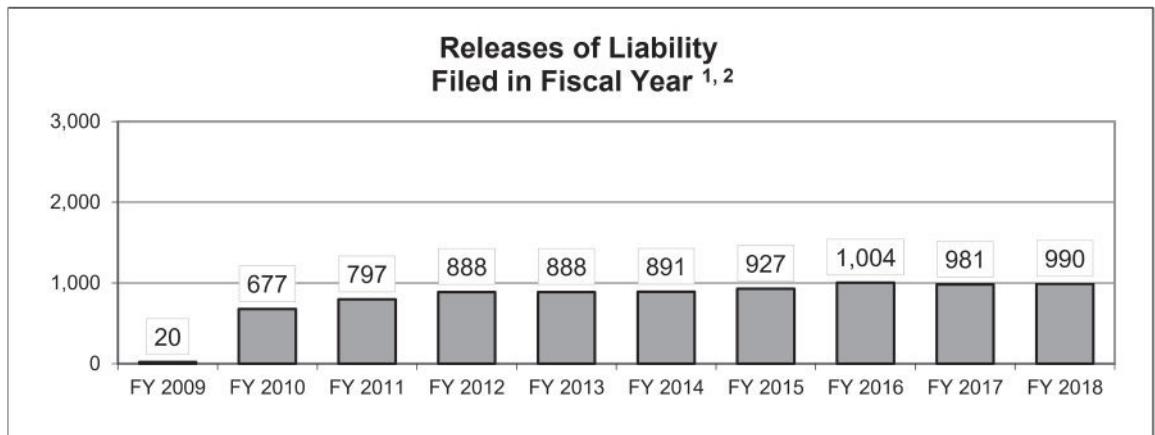
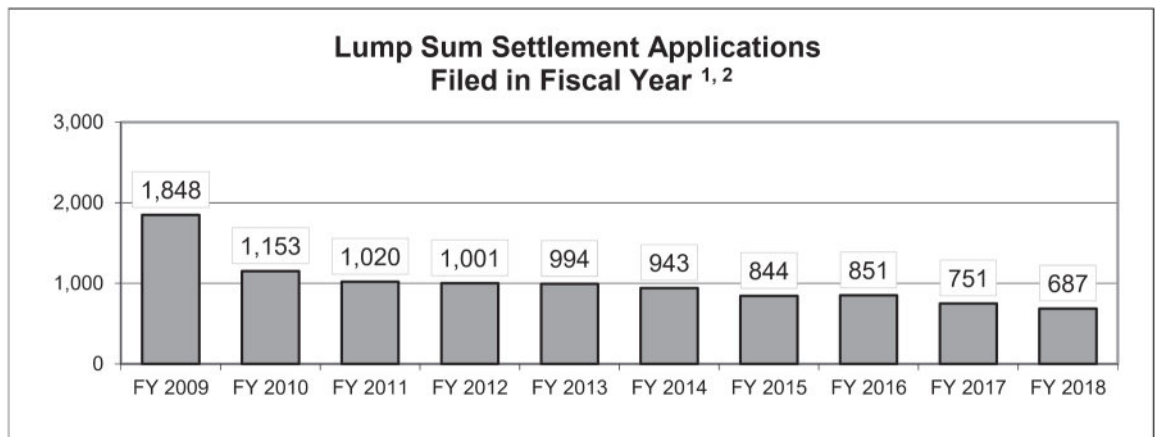
Applications for Lump Sum Settlement in Fiscal Year^{1, 2}	2014	2015*	2016*	2017*	2018
Applications Pending at Beginning of Fiscal Year	54	56	32	59	69
Applications Filed in Fiscal Year	943	844	851	751	687
Total Applications	997	900	883	810	756
Dispositions in Fiscal Year					
Applications Approved – No Litigation	534	529	539	459	429
Applications Approved – Litigation	368	308	254	253	254
Applications – Total Approved	902	837	793	712	683
Applications – Total Disapproved	39	31	31	29	29
Total Dispositions	941	868	824	741	712
Total Applications Pending at End of Fiscal Year	56	32	59	69	44

Releases of Liability in Fiscal Year^{1, 2}	2014	2015	2016	2017	2018
Releases Filed – No Litigation	261	285	333	350	383
Releases Filed – Litigation	630	642	671	631	607
Total Releases Filed	891	927	1,004	981	990

Lump Sum Settlements and Releases in Fiscal Year	2014	2015	2016	2017	2018
Lump Sum Settlement Applications	943	844	851	751	687
Releases of Liability	891	927	1,004	981	990
Total Lump Sum Settlements and Releases Filed	1,834	1,771	1,855	1,732	1,677

¹ Fiscal years run July 1 through June 30.

² LB 630, which became effective May 27, 2009, amended NEB. REV. STAT. § 48-139 to eliminate mandatory court approval of some settlement agreements and to require the filing of a release for those settlements no longer requiring court approval.



¹ Fiscal years run July 1 through June 30.

² LB 630, which became effective May 27, 2009, amended NEB. REV. STAT. § 48-139 to eliminate mandatory court approval of some settlement agreements and to require the filing of a release for those settlements no longer requiring court approval.

Office of the Clerk of the Court

The Office of the Clerk of the Court, together with the judges, make up the court's adjudicatory operating division. The Clerk's Office keeps a full and true record of the judicial proceedings of the court, issues all necessary notices and writs, receives and processes court filings, docket cases, issues summonses, schedules trials and motion hearings, corresponds with the parties, issues opinions of the court, provides administrative and secretarial support for the judges, and evaluates procedures used by other state courts to ensure consistency and create efficiencies. A summary of filing and litigation statistics is provided on Pages 17 through 20 of this Annual Report.

Records Retention Project

The Clerk's Office retains documents in accordance with Schedule 20, the court's records retention and disposition schedule. In order to comply with this schedule, the Clerk's Office previously outsourced the pleadings and exhibits on closed cases to the State Records Center to be scanned and added to microfilm. In December 2016, the Clerk's Office started a pilot project to digitize court records in-house for permanent retention. It quickly became apparent that the effort has enhanced the quality and durability of the retained documents, improved efficiencies within the office, and cut costs. As a result, the court's Schedule 20 was updated in May 2018 to adopt digitizing court records as the formal process for permanent retention of pleadings and exhibits.

Motions for an Order to Show Cause as to Workers' Compensation Insurance Coverage

Included in the motions heard by the judges of the Nebraska Workers' Compensation Court are Motions for an Order to Show Cause filed by the Attorney General pursuant to NEB. REV. STAT. § 48-145.01 when it is alleged an employer has willfully failed to secure the payment of workers' compensation as required by the Nebraska Workers' Compensation Act. These motions to show cause are assigned to the judges on a rotating basis and heard throughout the State depending upon where venue is appropriate. The motions and dispositions as to these cases are among those included in the "Motions in Fiscal Year" figures included on page 17 of this report.

NEB. REV. STAT. § 48-145.01 allows for the assessment of monetary penalties against employers who willfully fail to secure appropriate workers' compensation insurance coverage. Pursuant to that statute and Article VII, § 5 of the Constitution of Nebraska, any penalty collected in response to such a Motion for an Order to Show Cause is remitted to the State Treasurer to be appropriated to the use and support of schools.

Legal

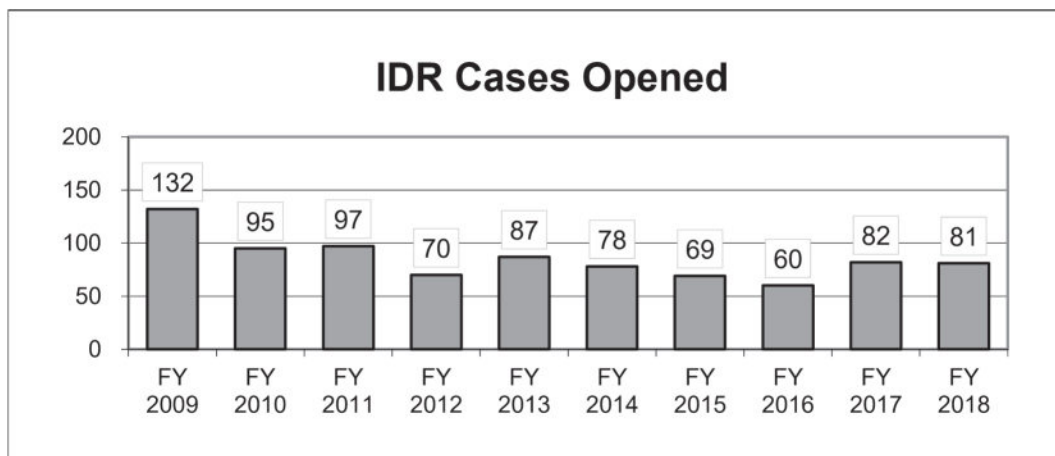
The Legal section of the Nebraska Workers' Compensation Court is responsible for reviewing lump sum settlements, facilitating informal dispute resolution, responding to inquiries from the public, performing research for the judges, providing legal advice to the court's administrative staff, monitoring legislation for potential impact on the workers' compensation system, and managing the court's records retention schedule.

Statistics for lump sum settlements processed in FY 2018 (July 1, 2017 through June 30, 2018) are provided on Pages 21 and 22 of this Annual Report. As a result of the court's review of lump sum settlement applications, the Legal section identified a total of \$174,490.17 in underpayments of indemnity benefits to or on behalf of injured employees in FY 2018. The section also identified \$80,102.61 in underpayments of medical benefits in the fiscal year. The underpayments involved 28 cases. It should be noted that in cases of underpayment, the court requires that the settlement be revised to provide additional compensation to or on behalf of the injured employee in order to ensure compliance with the Nebraska Workers' Compensation Act and that the settlement is in the best interests of the employee or his or her dependents.

The Legal section also prepares summaries of the Nebraska Supreme Court and Court of Appeals decisions relating to workers' compensation. These summaries may be accessed in the Appellate Court Decisions section of our website at (<https://www.wcc.ne.gov/legal-practice-statutes-and-rules/appellate-court-decisions>).

Informal Dispute Resolution

Informal Dispute Resolution (IDR) is available to the following individuals or entities with an interest in a workers' compensation dispute: any party to a workers' compensation dispute or controversy; a medical provider who provided medical, surgical, or hospital expenses to an employee involved in the dispute or controversy; or any certified vocational counselor providing services to such employee. The process is voluntary and the guidelines for IDR are found in the Rule 48 of the court's Rules of Procedure. 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 the



worker who claims injury is unrepresented. In addition, a judge may order the parties 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 be involved in the outcome of the dispute rather than face the risk and uncertainty of submitting issues to a judge for determination. Many IDR inquiries can be resolved without the need for a mediation conference simply through information and education provided by the mediation coordinator.

Mediation conferences are conducted by the section’s staff attorneys. All of the attorney-mediators are trained in the essential skills of mediation through a nationally recognized 30-hour training program through the Office of Dispute Resolution in Lincoln, Nebraska.

Mediation through the court is voluntary absent an order by a judge. In 66 cases, or 81.5 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.

IDR Cases Closed	
Party(s) Declined to Consent	43
No Response by Party(s)	23
No Agreement	6
Full Agreement	4
Partial Agreement	2
Withdrawn — Various Reasons	2
Petition Dismissed	1
Total Closed in FY 2018	81

Regulatory Programs

The responsibilities of the Regulatory Programs section 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 choice of physician rule, the application and use of the various medical and hospital fee schedules, the Independent Medical Examiner program, managed care, and other questions relating to medical, surgical, and hospital services under the Nebraska Workers' Compensation Act. In FY 2018, section staff developed a revised Form 50, Choice of Physician, with the assistance of the Legal Section.

Fee Schedules

Medical fee schedules establish the maximum fee a provider of medical services for a workers' compensation claim may collect from an employee or employer. Different fee schedules apply depending on the type and location of the medical service provided.

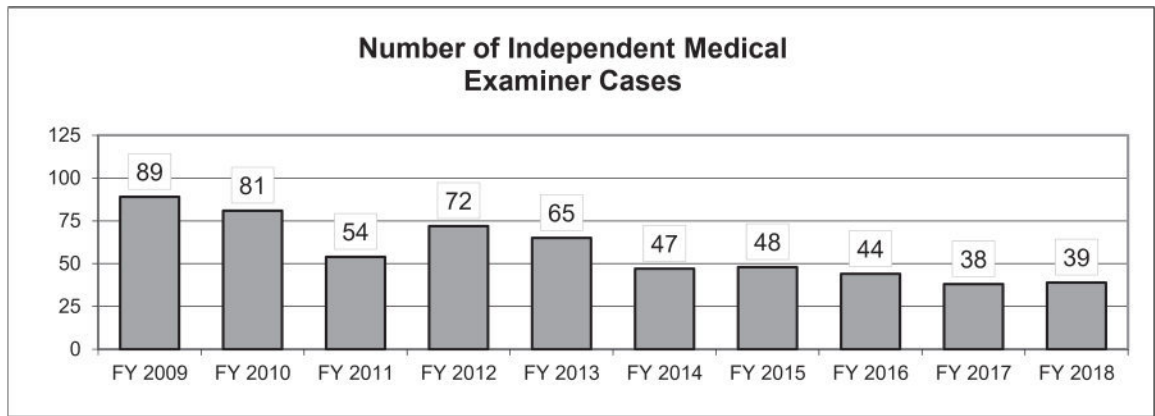
Section staff are charged with collecting data from payors and certain hospitals in order to develop the Diagnostic Related Group Inpatient Hospital Fee Schedule and the Trauma Services Inpatient Hospital Fee Schedule, both of which are established in NEB. REV. STAT. § 48-120.04. The data is collected through the use of a web-based data entry system that allows those reporting to directly enter the information through the court's website.

Regulatory Programs 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 applies to services by physicians and other licensed health care providers performing medical services within the scope of their respective practices. Rule 26 of the court's Rules of Procedure establishes the methodology for creating and updating this fee schedule.

Independent Medical Examiner System

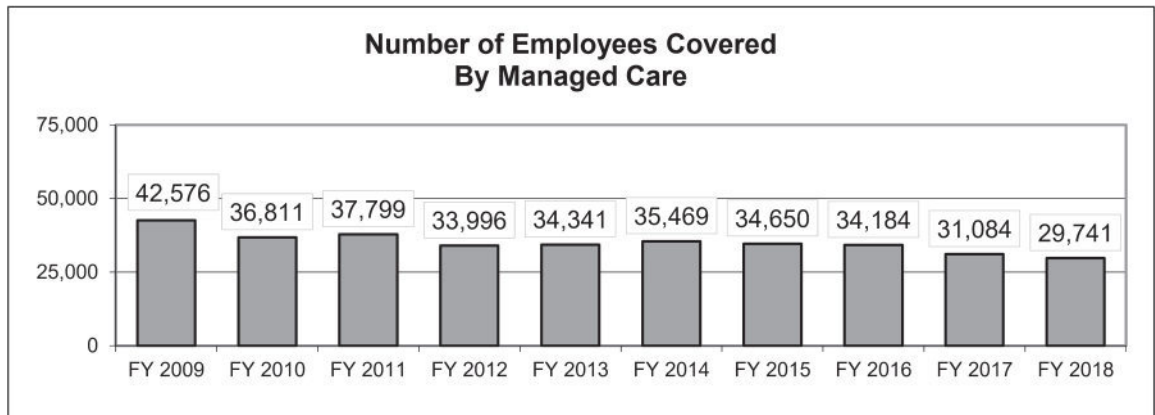
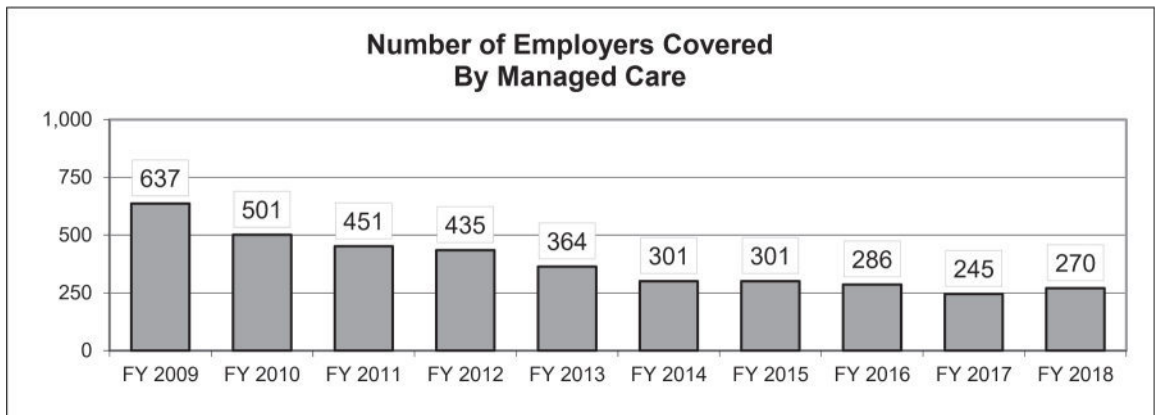
Once a dispute arises regarding the medical condition of the employee or related issues, either the employee or employer may request opinions from an Independent Medical Examiner (IME). The parties may agree on a physician to evaluate the medical disputes or may request assignment of a court-approved IME. The IME system was designed to give the employer and employee 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 121 court-approved IME who specialize in varying disciplines.

During FY 2018, 39 IME cases were opened. Twenty-eight requests for assignment of a court-approved IME were submitted by an attorney representing an injured employee and nine were submitted by a workers' compensation insurer or the insurer's attorney on behalf of the employer. There were two requests ordered by the court. 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 may be accessed in the Regulatory Programs section of our website at <http://www.wcc.ne.gov/>. On June 30, 2018 there were 270 employers and 29,741 employees covered by the certified managed care plans. The following charts show the trend in covered employers and employees.



Compliance Activities

One of the most important enforcement activities of the Regulatory Programs section is to identify employers who do not have insurance coverage as required by the Nebraska Workers' Compensation Act (the Act). One component of the court's compliance ef-

forts is to inform employers about statutory requirements that workers' compensation coverage must be in effect. Toward that end, the section sent 2,527 information letters to new corporations registering with the Secretary of State during FY 2018. The number of employers who were prompted by that letter to ensure workers' compensation coverage was obtained is unknown, but the court was notified about 39 employers who obtained the required coverage upon receipt of that letter.

Section staff also monitor the court's electronic proof of coverage information for employers whose coverage has been cancelled or not renewed to identify employers who may not have coverage in place. If the coverage was cancelled or not renewed because the business ceased operation or obtained a replacement workers' compensation policy, no action would be needed. If coverage is still required, compliance examiners notify and educate the employers to ensure they secure workers' compensation insurance. If the efforts of Regulatory Programs section staff do not result in compliance, the case is then referred to the Office of the Attorney General for further action. During FY 2018, letters were sent to 4,316 employers whose coverage had been cancelled or not renewed. New or alternative coverage had voluntarily been secured by most of them and was confirmed by the court. In response to follow up efforts by the section, 358 employers were brought into compliance with their statutory obligation to obtain workers' compensation coverage.

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. Section staff processed 51,573 first reports and 77,241 subsequent reports in FY 2018. At the end of the fiscal year, 99.9 percent of all first reports and 99.9 percent of all subsequent reports were being filed electronically using Electronic Data Interchange (EDI). Section staff process the electronic reports and also code and manually enter the remaining paper reports. Once processed, the data is examined and maintained for statistical purposes. The section maintains a database of court-approved EDI trading partners to assist with data quality assurance duties. Section staff also enforce those reporting requirements, request missing injury reports and monitor for their receipt, clarify discrepancies on existing reports, and obtain missing information from employers or insurers.

Compliance examiners additionally respond to a large volume of phone inquiries from a wide range 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. 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. Section staff investigate the specific cases, encourage voluntary compliance, and request appropriate legal action when necessary. A total of 102 case investigations were opened last fiscal year as a result of the above activities. Forty-one cases were referred to the Office of the Attorney General for further action.

Self-Insurance Activities

The Regulatory Programs 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 Regulatory Programs 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, 2018, there were 41 employers approved for self-insurance. For calendar year 2018 assessment purposes, there were 41 self-insurers (employers who were self-insured for all or part of calendar year 2017). In addition, 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, 2018

Manufacturing	11
Services	8
Transportation and Public Utilities	8
Government (not including the State of Nebraska)	6
Retail	4
Insurance	2
Wholesale	2
Total Self-Insurers	41

Self-Insurance Status by Calendar Year

Calendar Year	of Self-Insurers	of Employees	Gross Payroll
2017	41	120,473	\$4,880,752,328
2016	41	131,074	\$4,695,054,446
2015	41	131,053	\$4,288,208,704
2014	41	131,089	\$4,286,658,513
2013	41	134,209	\$4,116,260,050
2012	42	136,073	\$4,412,911,750
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

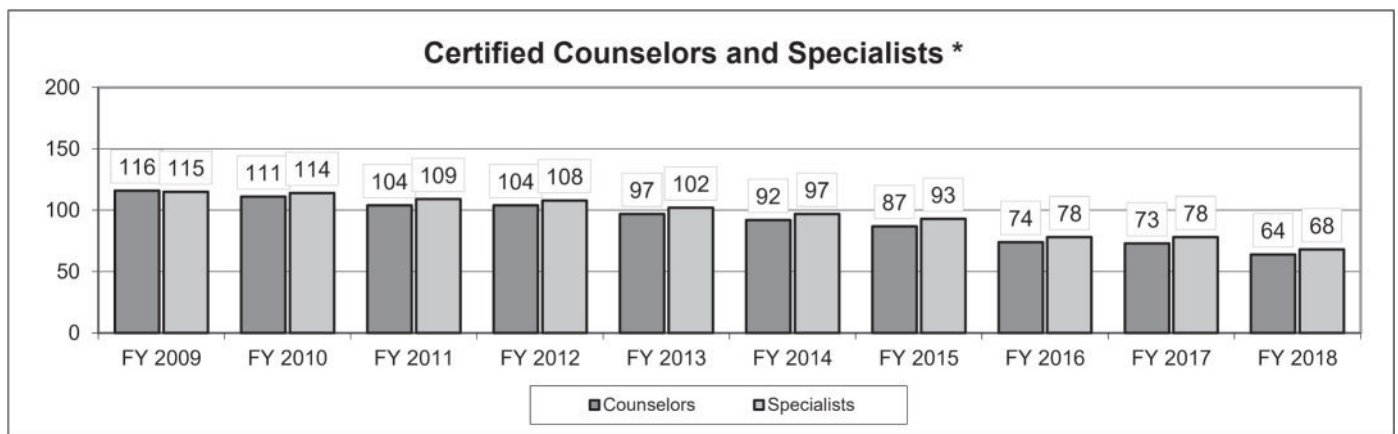
Note: 2018 figures are not available at time of publication

Vocational Rehabilitation

One of the primary purposes of the Nebraska Workers' Compensation Act (the Act) is restoration of the injured employee to gainful employment following an injury arising out of and in the course of employment. See NEB. REV. STAT. § 48-162.01. Toward that end, the Vocational Rehabilitation section of the court is charged with these duties: (1) certifying vocational rehabilitation counselors and job placement specialists; (2) when an employee and employer can't agree on a counselor, appointing a counselor for loss of earning capacity evaluations and/or assistance with return to employment; as well as (3) reviewing, approving, and monitoring vocational rehabilitation plans. A wide variety of vocational rehabilitation services are available under the Act, ranging from return to the pre-injury job with the same employer to a period of formal training.

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 to 41 of the court's Rules of Procedure contain the requirements for certification. At the end of FY 2018, there were 64 court-certified private vocational rehabilitation counselors, 29 who are based in Nebraska, and 68 court-certified job placement specialists, 31 who are based in Nebraska.

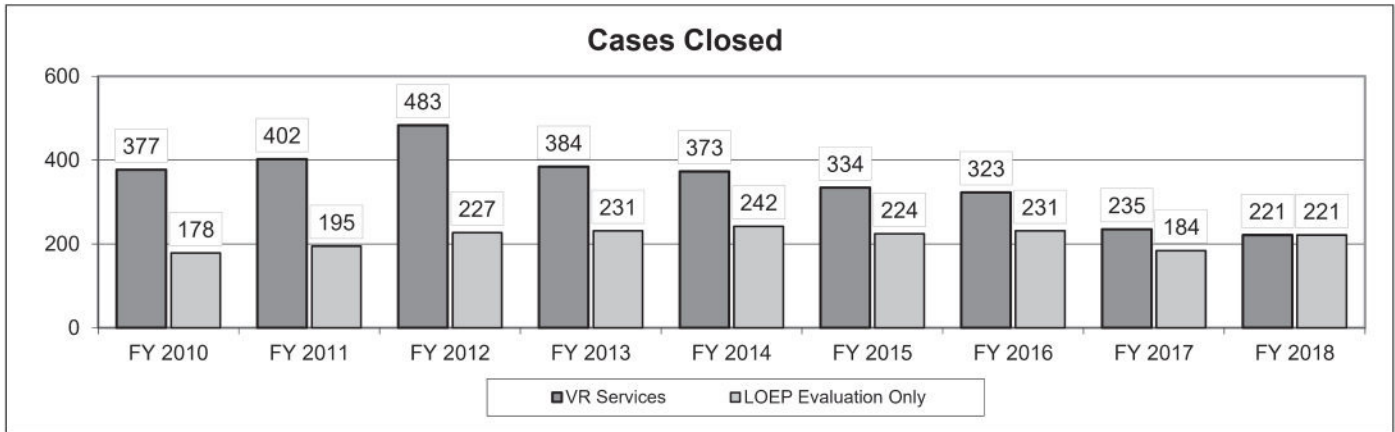


Appointment of Counselors

When an injured worker claims entitlement to vocational rehabilitation services or seeks a Loss of Earning Power (LOEP) evaluation, the worker and the employer (or the employer's workers' compensation insurer) must try to agree upon a vocational rehabilitation counselor to evaluate the worker and provide needed services. If they cannot agree, one of them can ask the court to appoint a counselor. Of the 463 cases opened in FY 2018, the court appointed 182 counselors and the parties were able to agree upon a counselor in 265 cases. Sixteen other cases were opened and closed before a counselor was agreed upon or appointed.

A case is opened by the Vocational Rehabilitation section when notice of agreement to a counselor or a request for appointment of a counselor is filed with the court, or if a judge of the court orders appointment of a counselor or vocational rehabilitation services. At the end of FY 2018 there were 210 open cases. A case may be closed for a

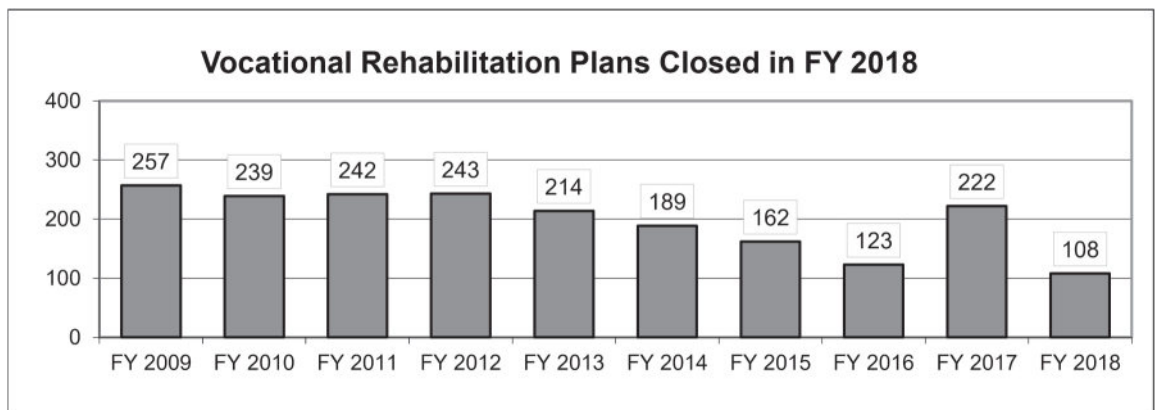
variety of reasons, including, but not limited to, lack of entitlement to vocational rehabilitation services, settlement of the case, return to employment, or completion of a vocational rehabilitation plan. A case will also be closed when a counselor is appointed to perform only an LOEP evaluation. A total of 442 cases were closed during FY 2018. Half of these were closed because the counselor was appointed to perform only an LOEP evaluation.



Vocational Rehabilitation Plans

An employee who claims entitlement to vocational rehabilitation services is evaluated by the agreed to or appointed counselor in order to determine whether it is necessary to develop a vocational rehabilitation plan to restore the employee to suitable employment following a work-related injury. If a plan is developed, the level of services to be provided is based on a hierarchy outlined in NEB. REV. STAT. § 48-162.01. Prior to implementation, all vocational rehabilitation plans must also be evaluated and approved by a specialist employed by the court or a judge of the court.

A total of 85 court-approved vocational rehabilitation plans had start dates in FY 2018 and 108 plans were closed in FY 2018.



Vocational rehabilitation plans generally include job placement or formal training. Such plans may also include additional vocational rehabilitation services such as general educational development, adult basic education, English language learning, computer training, or on-the-job training. Of the 40 job placement plans closed in FY

2018, eight of those plans included some such supportive services. Of the 68 formal training plans closed in FY 2018, two of those plans included supportive services.

Types of Vocational Rehabilitation Plans Closed in FY 2018	
Job Placement Plans	40
Formal Training Plans	68
Certificate / Other Training	34
Bachelors or Other Advanced Degree	22
Other Type of Formal Training Plan	6
Diploma	5
Associate Degree	1
Total Vocational Rehabilitation Plans Closed	108

A vocational rehabilitation plan of some type is involved in 51 of the 210 open cases being monitored by the section at the end of FY 2018. The remaining open cases are those in which vocational rehabilitation needs are being assessed, plans are in development, or files are held in abeyance for medical reasons or while claims are being litigated.

Vocational Rehabilitation Plans Monitored at End of FY 2018	
Associate Degree	27
Job Placement	10
Bachelors or Other Advanced Degree	9
Certificate / Other Training	5
Total Vocational Rehabilitation Plans Monitored	51

When an injured 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 Compensation Court Cash Fund and Workers' Compensation Trust Fund for vocational rehabilitation purposes are shown in Section 1 of this Annual Report on Pages 12–14.

Vocational rehabilitation counselor fees for the evaluation of the employee, development and implementation of a vocational rehabilitation plan, and preparation of an LOEP evaluation are paid by the employer or workers' compensation insurer. This 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 participating in a court-approved vocational rehabilitation plan.

Public Information

The court's Public Information section provides the following services.

1. Educating the public regarding Nebraska workers' compensation law and procedural rules.
 - The section responds to inquiries received on the court's information line (800-599-5155 or 402-471-6468) and email help desk (<https://www.wcc.ne.gov/home/contact-us>), and also disseminates information by means of the court's website and publications.
 - Employees are provided with a copy of their injury reports within 10 calendar days of injuries being reported, basic information regarding their rights and obligations under the Nebraska Workers' Compensation Act, and the court's contact information.
2. Maintaining an inventory of court records and providing access to public records maintained by the court.
3. Managing the court's business continuity program.

Education

Information Line

The court's information line (800-599-5155 or 402-471-6468) enables the court to serve the public efficiently and saves the cost of long-distance calling. Translation services for more than 150 languages are available for callers.

The section provides answers to commonly asked questions or researches 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.

Information line calls come from employees, employers, attorneys, insurers, medical providers, vocational rehabilitation providers, researchers, and others in Nebraska and throughout the nation.

The information line received 7,255 calls in FY 2018, an average of 139.5 calls per week or 29.3 calls per business day.

Website

The Public Information and Information Technology sections coordinate to develop and maintain the court's website (<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 court's entire web presence was redesigned for an FY 2019 re-launch using Google Sites for the web pages, Google Forms for the dynamic web forms, and Google Blogger for distributing court news.
- A number of useful web applications are available, including 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.

- The court's publications and forms are available in portable document format (PDF). PDF forms can be completed electronically.
- The website is designed to maximize readability in any web browser, at any screen resolution (including handheld devices such as tablets and cellphones).

In FY 2018, the court also implemented Google Analytics to track traffic on our website. The website received 304,083 views and downloads of individual web pages during the fiscal year. Also during this period, the court's email help desk, available on our website (<https://www.wcc.ne.gov/home/contact-us>), received 3,292 emails.

Publications

The section produces and maintains an inventory of court publications. Public Information staff work with other sections of the court to assist with design, content development, and editorial style. The section delivers finished documents to be printed and/or published on the court website.

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

A complete listing of available publications and forms, some of which are available in both English and Spanish, may be found on the court website (<https://www.wcc.ne.gov/information-for-the-public/court-forms-and-publications>).

Court Records

Records Inventory

As part of the Records Management team, the section supports the Records Officer and coordinates with the other sections of the court in maintaining an inventory of court records. The section also assists with the process of documenting record dispositions to be reported to the Secretary of State.

Record Searches

The section fulfills all requests for records submitted to the court, including workers' compensation injuries and payments, pleadings and exhibits entered into evidence, records of insurance coverage, workers' compensation-related statistics, and other records filed with and maintained by the court. The section fulfilled 13,556 requests for records in FY 2018. The section fulfills most requests within four business days.

Business Continuity Program

The purpose and objective of the business continuity program is to develop, exercise, and maintain plans that enable the court to respond to disruptive events in order to keep the court open and functioning, while minimizing downtime, personal injury, and loss of resources. The public information officer serves as the facilitator for this program.

The facilitator maintains and updates all program documentation, plans annual exercise sessions, coordinates with all program team members to assist them in meeting their mission essential functions, and notifies the court administrator of potentially disruptive events.

Information Technology

The Information Technology (IT) section of the Nebraska Workers' Compensation Court is responsible for the security, administration and maintenance of the court's computer systems and network. This includes the court's data relating to the adjudication process, reports of injury, settlements, and vocational rehabilitation maintained in an Oracle database. Through Electronic Data Interchange (EDI), software systems provide for processing of injury and payment reporting and proof of coverage reporting. Through Electronic Filing (eFiling), software systems provide for processing of judicial filings. IT continually works with the Office of the Chief Information Officer (OCIO) staff on hardware and software technology projects and hosting. IT also collaborates with the IT sections of the Supreme Court's Administrative Office of the Courts and Office of Probation Administration on joint projects and the sharing of technology. Additionally, the IT section assists other court sections in performing their statutory responsibilities and creating efficiencies through the use of technology.

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 more than 22 years' worth of information, going back to calendar year 1996 for reports of injury. The database also contains historical injury-related information for purposes of performing cross-year statistical analysis. The IT section has developed and maintains over 500 program units in MicroFocus COBOL, Embarcadero Delphi, and Microsoft Visual Studio. The section also provides support for ReportServer, a reporting system used by court staff for producing reports and data extracts from the database with minimal or no assistance from IT staff after initial training.

Supreme Court – Attorney Services / MCLE / Admissions Support

The court has continued to provide technical support to the Supreme Court's Mandatory Continuing Legal Education (MCLE) Commission for the online MCLE system. The online application is accessible 24 hours a day, seven days a week and provides two separate customer bases for users to access the system. The first customer base includes more than 8,000 registered Nebraska attorneys. The other customer base is for third-party sponsors to add their educational classes to the system. This Oracle and Java-based system has been expanded into attorney services. The Attorney Services system enables Nebraska registered attorneys to pay and renew their annual license fees online. The Nebraska State Bar Association previously performed this service. In FY 2017, MCLE systems also added a new web application called "Admissions." This new web application allows external users to sign in and follow the process for applying to take the Nebraska State Bar Exam.

Delphi Applications Conversion

The conversion of all legacy Delphi applications to Visual Studio continued in FY 2018. The conversion, begun in FY 2017, became necessary because Delphi no longer supports the version IT originally used to create those applications. Microsoft's Windows 10 "Software as a Service" (SaaS) release schedule puts Delphi at risk of being permanently unusable every six months. This can have a critical impact because the IT field no longer commonly uses the Delphi legacy-programming language, leading to

staffing and knowledge transfer concerns. This ongoing conversion project has an estimated three-year timeline.

Google Drive File Stream

Google recently released a product called Google Drive File Stream that is included as part of the court's Google G-Suite licensing agreement. It allows access to both Google Drive and Google Team Drives from the Windows File Explorer interface by automatically creating a "G" drive that looks and functions just like other current network drives. This new feature opens the doors for replacing traditional file server storage. For example, the court filing digitization project has benefited from the unlimited storage provided by Google Team Drive. The IT team migrated software directories containing digitized court filings from the traditional local file servers to a Google Team Drive, freeing up more than 90 GB of space from the local file servers.

Security Cameras

The IT section has taken over management of the security camera system at the 1010 Lincoln Mall location. Previously, this service was outsourced. The IT team utilized spare hardware for the server and video recordings. This also presented an opportunity to upgrade the system to the newest software version available. Having IT manage this system provides an annual cost savings of approximately 98 percent compared to the previous outsourced fees.

Oracle Discoverer Replacement

Oracle no longer supports its Discoverer database querying software. Microsoft's Windows 10 "Software as a Service" (SaaS) release schedule puts Discoverer at risk of being made permanently unusable every six months. The critical impact of this risk led to finding an alternative software called "ReportServer." Court staff use this reporting system for producing reports and data extracts from the Oracle database. After a demonstration of ReportServer by IT staff, the court's management team approved it as an acceptable solution to replace Discoverer. Because ReportServer is web-based, accessing the software requires only a web browser. This completely neutralizes the impact of any Windows 10 updates that might otherwise create software functionality problems. Another key feature of ReportServer is LDAP integration, meaning users will be able to log in with their current network credentials.

Visual Studio and Oracle Client Upgrades

In order to stay current with development tools and modern programming languages, the IT team upgraded all applications written in Visual Studio 2013 to Visual Studio 2017. This in turn led to IT upgrading all Oracle clients to version 12.2 to provide necessary compatibility for Visual Studio 2017 applications to integrate with the Oracle databases.

Network Upgrades

The OCIO is actively migrating each State of Nebraska agency to its "New World" network. The IT team completed this mandatory upgrade in January 2018. The upgrade allows the OCIO to have better control and monitoring over the state network and start with a clean slate of configurations. The project required coordination between the court's IT team and the OCIO to minimize downtime for users. The biggest change from this project was moving the entire user network subnet at the 1221 N Street loca-

tion to a new network subnet. The IT team needed to update several network routing and firewall configurations to accommodate every personal computer having a new network address. Because of these efforts, the IT team successfully migrated the entire court network to the OCIO “New World.”

DynamicPolicy Replacement

The IT section is continually trying to identify ways to improve efficiencies and find cost savings. The IT team identified replacement of the court’s DynamicPolicy system as a candidate for potential cost savings. This software served as the repository for all court procedures, policies, and acknowledgements of user agreements. The IT team replaced this entire software system using a combination of Google Docs, Google Forms, and Google Sheets. As each of these products is included in the court’s Google G-Suite licensing agreement, the replacement solution was cost-free. The court will also enjoy additional savings by not renewing the annual support agreement for DynamicPolicy. As a further benefit, court staff have gained a much simpler interface for accessing the court’s procedures and policies that now reside in Google Team Drives.

External Website Upgrade

Because Microsoft will no longer support the Windows Server 2008 Operating System beginning in 2020, the court needed to upgrade its external website prior to that date. This challenge presented an opportunity to improve all web service processes at the court. Rather than purchase new server hardware, licenses, and storage space, the IT team made a decision to host the court website using Google Sites. This software is included as part of the court’s Google G-Suite licensing agreement. The new website is now live and has the same internet address as the previous website (<https://www.wcc.ne.gov>). This solution will save time and money by not having to manage and replace server hardware moving forward.

Google Storage Defined as Durable Medium

The court reviewed Google Storage (a storage solution included in the court’s Google G-Suite licensing agreement) and determined that it qualifies as a “durable medium” as defined by Nebraska Secretary of State Regulations. The court worked with the Secretary of State’s Records Management Division to determine the required criteria that would qualify this storage solution as a durable medium. These communications resulted in the court issuing a memorandum that defines Google Storage as a durable process that meets all of the criteria required in the durable medium definition.

Nebraska Occupational Injury and Illness Survey – 2017

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 require 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)¹ 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 fewer 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.

2017 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 2017 sample surveyed 3,728 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.

Information regarding the survey and the results of the Occupational Injury and Illness Survey for 2017 may be accessed in the Bureau of Labor Statistics Reports section of our website (<https://www.wcc.ne.gov/information-for-the-public/court-forms-and-publications/bureau-of-labor-statistics-reports>).

¹In 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.

Census of Fatal Occupational Injuries (CFOI) – 2016

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 24th year that CFOI has been conducted in all 50 states and the District of Columbia.

2016 Census of Fatal Occupational Injuries

In 2016, CFOI 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. Please note that the types of workers included in these statistics may vary from those covered by the Nebraska Workers' Compensation Act.

Besides comprehensive counts of fatal work injuries, the 2016 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.

2016 Census Results

The Nebraska Census of Fatal Occupational Injuries recorded 60 fatal workplace injuries during 2016, up from 50 the previous year. Other findings of the census include:

- The leading fatal event was transportation incidents, accounting for 36 (60 percent) of fatal occupational injuries in 2016. Contact with objects and equipment followed with nine fatalities (15 percent). Falls, slips, and trips accounted for six fatalities (10 percent). Violence and other injuries by persons or animals accounted for four fatalities (7 percent).
- Among industry groups, the largest number of fatal work injuries was in natural resources and mining with 18 (30 percent). Trade, transportation and utilities followed with 15 (25 percent). Construction incidents for six (10 percent) fatal injuries.
- Seventeen (29 percent) of those fatally injured were 65 years and over. Fifteen (25 percent) were 55 to 64 years of age. Another nine (15 percent) were 25 to 34 years of age.
- Fifty-four (90 percent) of those fatally injured were white, non-Hispanic.
- Fifty-two (87 percent) of those fatally injured were men.

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- Forty-five (75 percent) were wage and salary workers. The remainder of those fatally injured were self-employed.

Information regarding the census and the results of the Census of Fatal Occupational Injuries 2016 may be accessed in the Bureau of Labor Statistics Reports section of our website (<https://www.wcc.ne.gov/information-for-the-public/court-forms-and-publications/bureau-of-labor-statistics-reports>).



**This publication has been prepared by the
Nebraska Workers' Compensation Court.
Please contact us with questions and
comments about this report, workers'
compensation in Nebraska, and any of our
programs, products, and services.**

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