



# Nebraska Workers' Compensation Court 78<sup>th</sup> Annual Report

## Fiscal Year 2020

July 1, 2019 through June 30, 2020

<b>Presiding Judge</b>	<b>Daniel R. Fridrich</b>
<b>Judge</b>	<b>James R. Coe</b>
<b>Judge</b>	<b>J. Michael Fitzgerald</b>
<b>Judge</b>	<b>John R. Hoffert</b>
<b>Judge</b>	<b>Thomas E. Stine</b>
<b>Judge</b>	<b>Julie A. Martin</b>
<b>Judge</b>	<b>Dirk V. Block</b>
<b>Clerk of the Court</b>	<b>Elizabeth A. Gianunzio</b>
<b>Court Administrator</b>	<b>Jill Gradwohl Schroeder</b>

# Report Transmittal

We have the privilege of submitting herewith to the Clerk of the Nebraska Legislature, Chief Justice of the Nebraska Supreme Court, Governor of Nebraska, and the Citizens of Nebraska, the 78<sup>th</sup> Annual Report of the Nebraska Workers' Compensation Court, prepared in accordance with the provisions and requirements of NEB. REV. STAT. § 48-166.

Nebraska Workers' Compensation Court  
By Daniel R. Fridrich, Presiding Judge

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

Nebraska Workers' Compensation Court  
P.O. Box 98908  
Lincoln, NE 68509-8908  
800-599-5155 or 402-471-6468  
<http://www.wcc.ne.gov>

# General Information

## History

Legislation establishing a system for resolving claims of workplace injuries was first enacted in Nebraska in 1913 with the adoption of the Nebraska *Workmen's* Compensation Act (the Act). From then until 1917, the Act was administered by the several state district courts. In 1917, the Legislature created the Compensation Division within the Department of Labor and the commissioner of labor was designated compensation commissioner. To assure stability through longer-tenured judges not subject to political changes and provide a degree of specialization and expertise in a technical area, the 1935 Legislature established the three-judge 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 described in Chapter 48, Article 1, of the Revised Statutes of Nebraska (cited as "NEB. REV. STAT.").

## Mission

The mission of the Nebraska Workers' Compensation Court is to administer and enforce all provisions of the Nebraska Workers' Compensation Act, except those 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 resolve disputes about injuries that are claimed to have been caused by workplace accidents or diseases. Judges of the court determine whether injuries or occupational diseases were caused by accidents or exposures at work, and if so, the types and amounts of benefits injured workers should receive.

The court maintains offices in Lincoln and Omaha, although all court filings must be made electronically to or physically in the Lincoln office. Cases are heard throughout Nebraska in the county where the injury is reported to have occurred. After each hearing, the judge enters a written decision stating his or her factual and legal conclusions. Decisions 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.

The judges 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 by the judges of the court to serve as presiding judge, subject to approval of the Nebraska Supreme Court.

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: Business and Human Resources; Legal; Regulatory Programs; Vocational Rehabilitation; Public Information; and Information Technology. The presiding judge is charged with overall responsibility for the functioning of the court, and the court administrator serves as its chief administrative officer.



# Fiscal Year Activities

Fiscal year (FY) 2020 was one of continued enhancements to court technology, which proved invaluable when, in March 2020, the World Health Organization (WHO) declared the novel coronavirus / COVID-19 disease outbreak to have reached a pandemic level. As described below in each court division's report, even with a global pandemic that required people to physically distance from each other and take other safety precautions, in many respects court operations continued without disruption. The three factors that positioned the court well to maintain operations without significant impact to its mission were:

- a well-established Continuity of Operations Plan (COOP) and facilitator;
- progress made by the court in recent years to update technology and devices; and
- dedicated and ingenious court staff and judges.

In FY 2020, judges and court staff were challenged to carry on with adjudicatory and administrative duties while, at times, combining limited in-office work with remote work tasks. The skill, adaptability, patience, creativity, and cooperation with which mission-focused court staff and judges approached their work made it possible for the court to successfully navigate the evolving circumstances presented by the pandemic. At the conclusion of the fiscal year, the threat of the pandemic to court operations not only remained, but was increasing.

## Changes to Court Rules

In December 2019, the Nebraska Workers' Compensation Court adopted the following revisions to its Rules of Procedure.

- Rule 2(C)(1) was amended to include employee passport number, employee green card number, and employee employment visa number in the types of Personally Identifiable Information (PII) that need to be kept confidential. The court also added these categories of information to the confidential Addendum 3 form required by Rule 2(C)(2).
- 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, 2020. The court is empowered by NEB. REV. STAT. §§ 48-120 and 48-120.04 to publish medical fee schedules setting forth the reimbursement rates for various medical services provided to injured workers.
- In response to the court's implementation of the International Association of Industrial Accident Boards and Commissions (IAIABC) Claims Release 3.1 standard for injury and payment data to be reported to the court, Rules 29 and 30 were amended to provide that all first reports of injury and subsequent reports of payments are to be reported electronically. Written submissions of those reports will be accepted only with approval from the administrator. With the implementation of EDI Claims Release 3.1, the paper format for those reports became obsolete and will no longer be used.
- Rule 47 was amended to state that in settlements involving life expectancies, the 2016 United States (U.S.) Life Table shall be used. The 2016 U.S. Life Table was incorporated into the Rules by updating Addendum 2.



# Statutory Changes

In most years, the annual session of the Nebraska Legislature concludes prior to the end of the Nebraska Workers' Compensation Court's fiscal year. However, the 60-day legislative session of calendar year 2020 was disrupted by the pandemic.

The first 43 days of the legislative session took place during the court's 2020 fiscal year. In March 2020, the Legislature adjourned until safety measures could be instituted and precautions put in place to allow the legislative session to continue. Although the last 17 days of the legislative session took place after the court's fiscal year ended, this summary includes all 2020 legislative updates that directly affected or will impact operations of the Nebraska Workers' Compensation Court and / or substantive issues litigated in the court, even though some of these changes were adopted after our fiscal year ended.

- **Mental Health Claims of First Responders.** Neb. Rev. Stat. § 48-101.01 was amended by Legislative Bill (LB) 963 to provide that first responders may establish prima facie evidence of a mental injury or mental illness if they present evidence that:
  - they underwent a mental health evaluation prior to the claimed mental injury or illness and that evaluation did not reveal the mental condition for which workers' compensation benefits are being sought;
  - a mental health professional states they suffer from a mental injury or illness caused by one or more events or series of events which cumulatively produced the mental injury or mental illness which brought about the need for medical attention and the interruption of employment;
  - such events or series of events arose out of and in the course of their employment; and

- prior to the employment conditions which caused the mental injury or mental illness they participated in resilience training and updated the training at least annually.

For purposes of § 48-101.01, "mental health professional" may include practicing physicians, psychologists, or independent mental health practitioners licensed in Nebraska. LB 963 requires that resilience training must meet guidelines established by the Nebraska Department of Health and Human Services (NDHHS) and "teach how to adapt to, manage, and recover from adversity, trauma, tragedy, threats, or significant sources of stress." NDHHS is required to reimburse the cost of resiliency training. LB 963 also amended NEB. REV. STAT. § 71-7104 to require the Critical Incident Stress Management Program to develop the guidelines for resilience training for first responders, set reimbursement rates for such training, and set an annual limit on resilience training hours. This legislation will become operative on July 1, 2021, and included a sunset provision effective as of January 1, 2028.

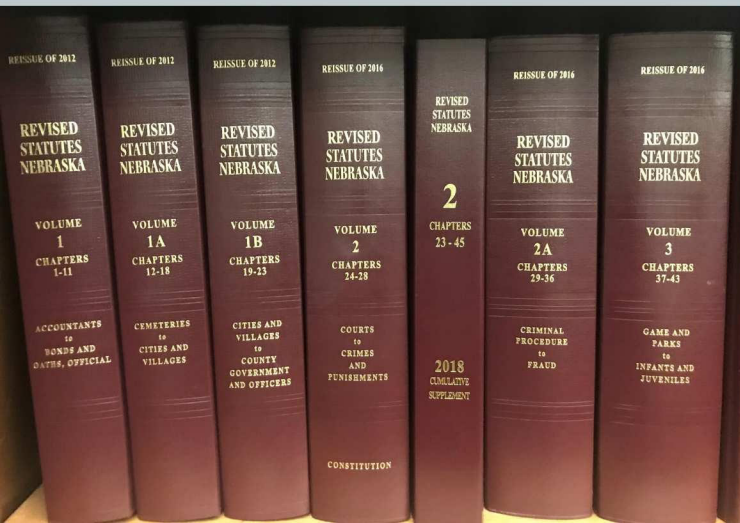
- **Burial Benefit.** LB 963 also amended NEB. REV. STAT. § 48-122(3) to increase the burial benefit in death cases from \$10,000 to \$11,000. This amendment requires that, beginning in 2023, the Nebraska Workers' Compensation Court shall annually adjust the dollar limitation of the burial benefit by the greater of one percent or the percentage change (for the preceding year) in the Consumer Price Index for All Urban Consumers, as prepared by the United States Department of Labor, Bureau of Labor Statistics. The adjustment made by the court shall not exceed 2.75 percent per year. If the amount so adjusted isn't a multiple of \$100, it shall be rounded to the nearest multiple of \$100. This statutory change becomes operative on July 1, 2021.

***Statutory Changes, continued to next page.***

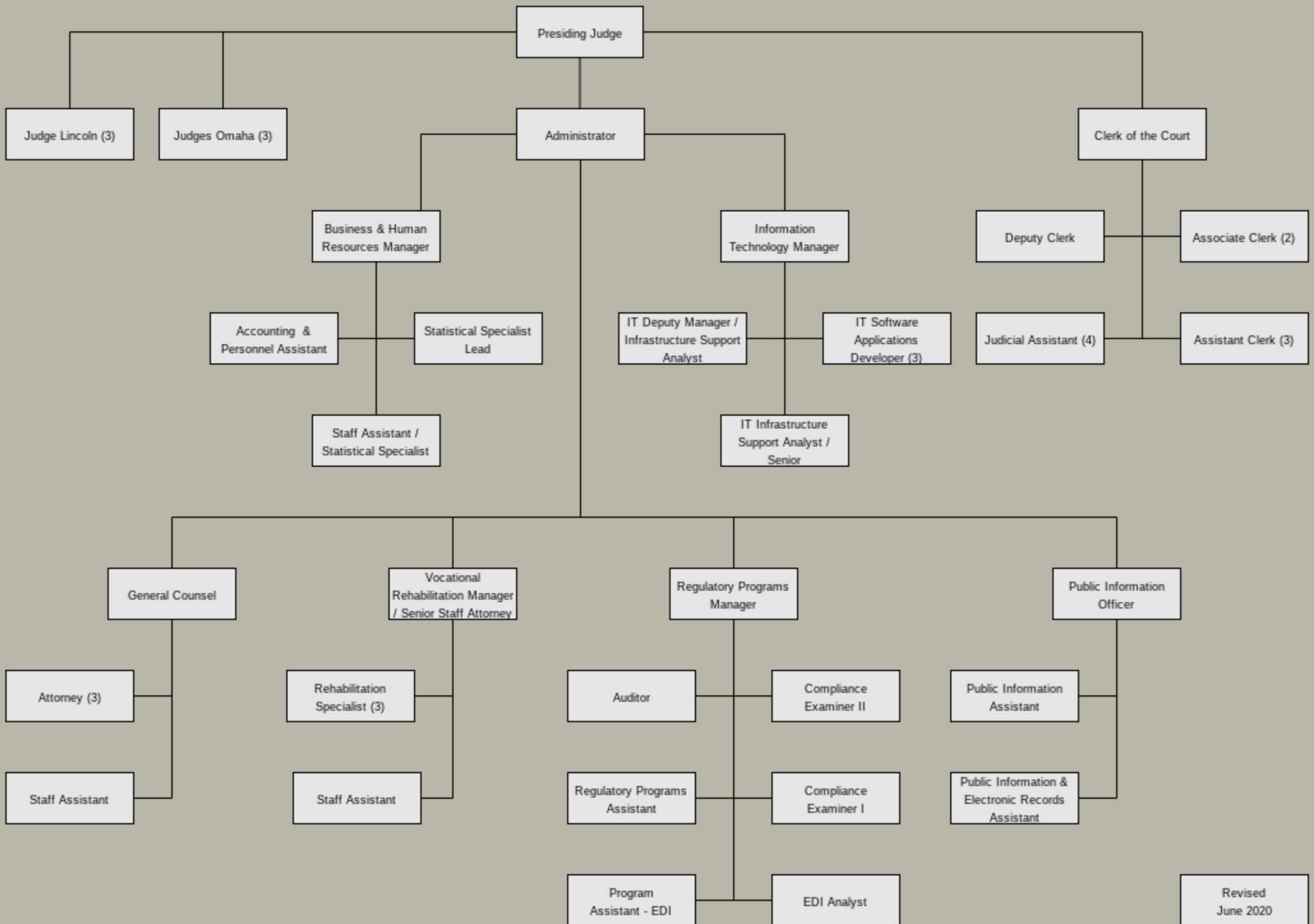
**Statutory Changes, continued from previous page.**

- **Injured School District Employees.** LB 1186 amended NEB. REV. STAT. § 79-8,106 to provide compensation to school district employees who are injured in the scope of employment by another individual who intentionally, knowingly, or recklessly causes bodily injury to the employee. Those school district employees may receive injury leave and be paid their usual salary in full for the time they are absent and unable to work as result of the injury, not to exceed seven calendar days. The employee

shall use workers' compensation benefits pursuant to the Nebraska Workers' Compensation Act after the seven calendar days and will not receive additional compensation for any day the employee has already been paid injury leave under NEB. REV. STAT. § 79-8,106. Injury leave under that section will not count against any other leave the employee accrues as a result of working for the school district. This legislation became effective on November 14, 2020.

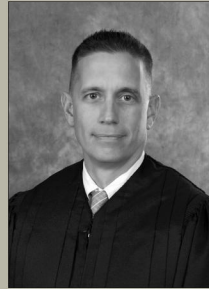


# Nebraska Workers' Compensation Court



Revised  
June 2020

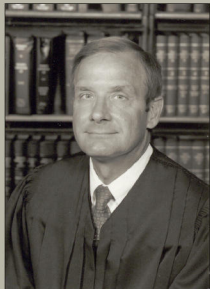
# Judges of the Nebraska Workers' Compensation Court



**Daniel R. Fridrich,  
Presiding Judge**

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

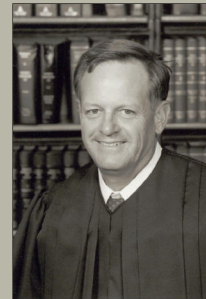
**Appointed:** September 18, 2012.



**James R. Coe,  
Judge**

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

**Appointed:** October 7, 1988.



**J. Michael Fitzgerald,  
Judge**

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

**Appointed:** April 12, 1996.



**John R. Hoffert,  
Judge**

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

**Appointed:** October 4, 2001.



**Thomas E. Stine,  
Judge**

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

**Appointed:** September 13, 2011.



**Julie A. Martin,  
Judge**

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

**Appointed:** December 23, 2014.



**Dirk V. Block,  
Judge**

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

**Appointed:** December 8, 2016.



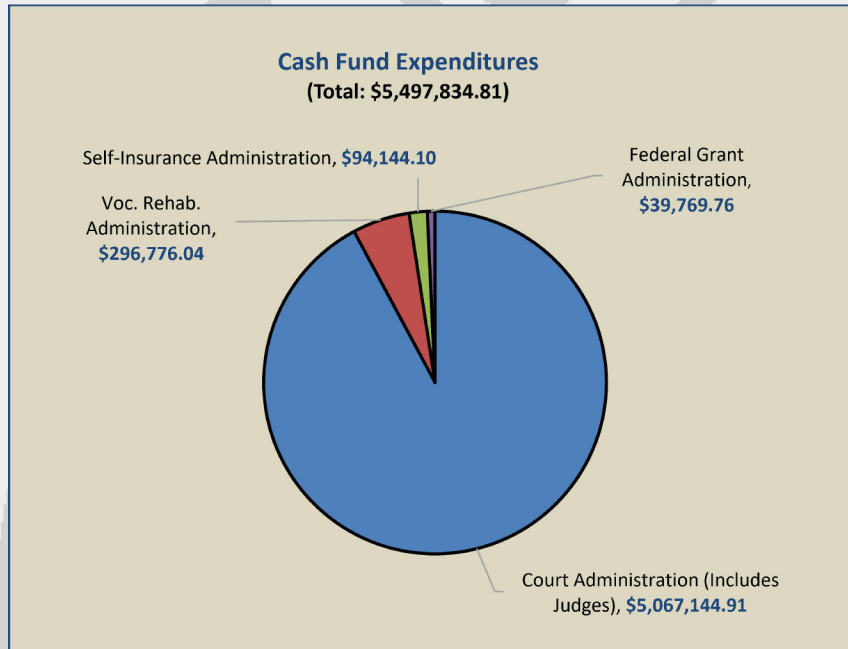
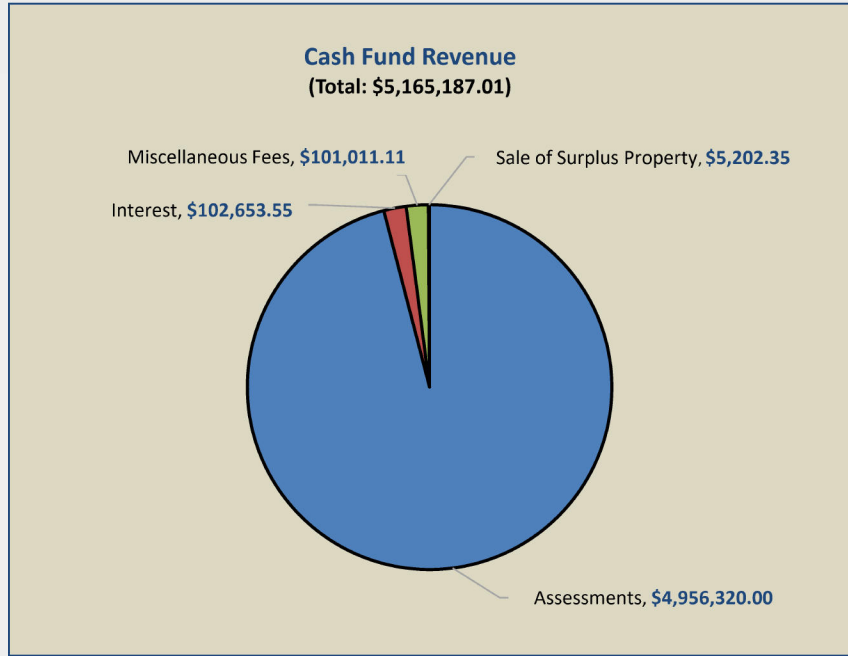
# Funding, Benefit Rates, and Injuries

## Compensation Court Cash Fund

**Fiscal Year 2020  
(July 1, 2019 to June 30, 2020)**

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 (see NEB. REV. STAT. § 48-1,116). The fund is financed by assessments against workers' compensation insurers, risk management pools, and self-insured employers (see NEB. REV. STAT. § 48-1,117). Miscellaneous fees referenced in the chart **Cash Fund Revenue** include filing fees for lump sum settlements and releases as well as fees for self-insurance applications and copies of public records.

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 2020 was \$6,417,172.



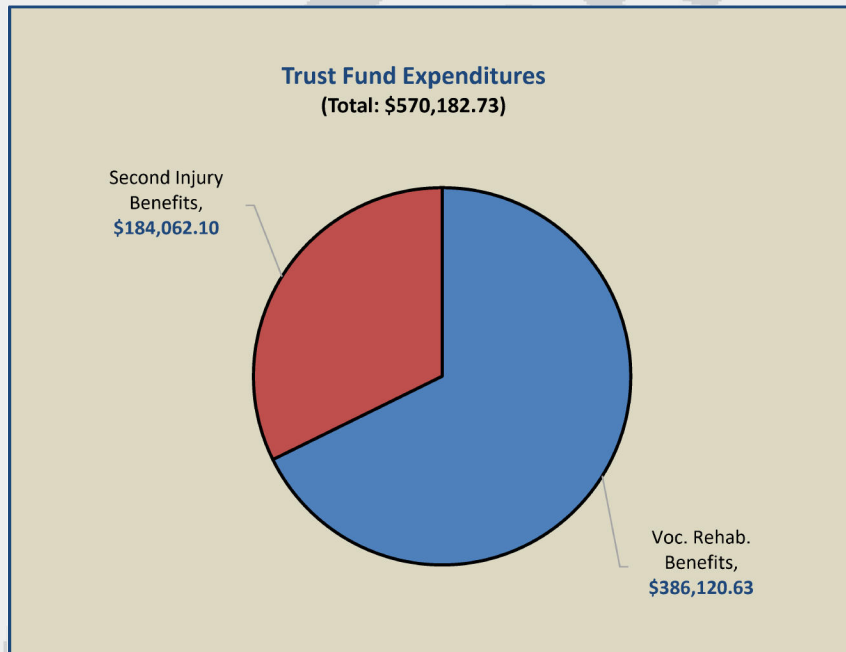
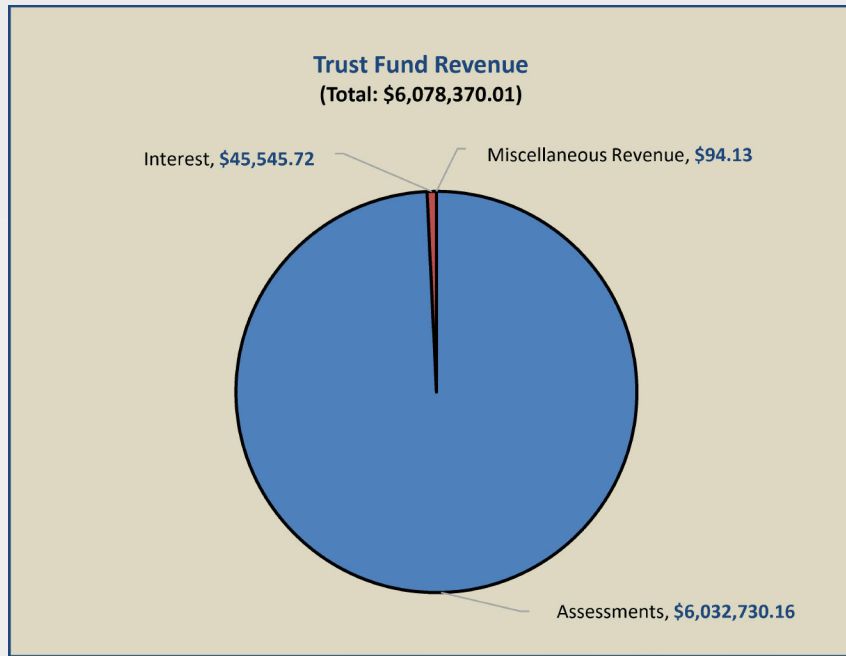
**Fund Balance  
July 1, 2019:  
\$6,104,211.41**

**Fund Balance  
June 30, 2020:  
\$5,771,563.61**

# Workers' Compensation Trust Fund

## Fiscal Year 2020 (July 1, 2019 to June 30, 2020)

The purpose of the Workers' Compensation Trust 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. The Workers' Compensation Trust Fund is financed by assessments against workers' compensation insurers, risk management pools, and self-insured employers. When the fund equals or exceeds \$2.3 million, no further contributions from employers, insurers, or risk management pools are required. Contributions to the fund resume when the administrator determines payments from the fund during the next year will reduce its balance below \$1.2 million.



**Fund Balance**  
July 1, 2019:  
**\$1,535,863.96**

**Fund Balance**  
June 30, 2020:  
**\$7,044,051.24**

# Federal Fund

## Federal Fiscal Year 2020 (October 1, 2019 to September 30, 2020)

The court is designated as the agency in Nebraska to conduct a survey of work-related injuries / illnesses and a data collection program as to fatal injuries pursuant to grants from the U.S. Department of Labor, Bureau of Labor Statistics (BLS). Additional information about these grants is available in the Federal Grant Program section of this report.

Expenses for administering these two federal grants are split evenly 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 Fund. Federal monies are requested on a monthly basis and deposited into the Federal Fund. The Nebraska Legislature appropriates a specific sum each year for expenditures from the Federal 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.

<b>Fund Balance on October 1, 2019:</b>					\$0
<b>Revenue:</b>					
Intergovernmental Revenue				46,112	
Deobligation June 30, 2019				(8,366)	
Total Revenue					<u>37,746</u>
<b>Expenditures:</b>					
	Legislative	Administrative	Not	Actual	
	Appropriation	Adjustments	Expended	Expended	
Federal Grant Admin.	<u>55,233</u>	<u>(17,487)</u>	<u>0</u>	<u>37,746</u>	
Total Expenditures					<u>37,746</u>
<b>Fund Balance on September 30, 2020:</b>					<u><u>\$0</u></u>

## 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. Based on the state average weekly wage determined by the administrator, the maximum weekly income benefit for injuries occurring in calendar year 2020 is \$882.00. The minimum rate remains at \$49.00 as provided in NEB. REV. STAT. § 48-121.01(2).

A table of maximum and minimum compensation benefits for previous years is available on our website (<http://www.wcc.ne.gov>).

**Calendar Year 2020  
Maximum Benefit Rate:  
\$882.00**

## Fiscal Year Injuries Reported

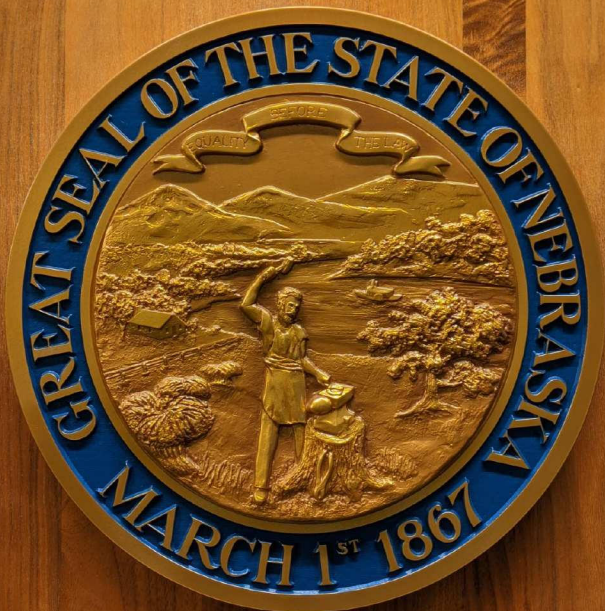
The Nebraska Workers' Compensation Court received reports of **34,385** injuries resulting from accidents and occupational diseases in fiscal year 2020. Of these reported injuries, **64** resulted in the death of the worker.

The data collected to date for this fiscal year is not final as there may be late filings and corrections to data during the life of each claim. Our Statistical Reports provide more mature and more detailed information regarding injury and benefit payments by calendar year (<https://www.wcc.ne.gov/resources/court-forms-and-publications/statistical-reports>).

**Total Injuries  
Reported in  
Fiscal Year:  
34,385**

# 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. Judges of the Nebraska Workers' Compensation Court resolve disputes concerning injuries that are claimed to have been caused by workplace injuries or diseases. The Clerk's Office receives and processes court filings, docket cases, issues summonses, corresponds with the parties, schedules trials and motion hearings, keeps a full and true record of the judicial proceedings of the court, issues all necessary notices and writs, 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.



## COVID-19 Pandemic Response

The COVID-19 pandemic provided for challenging times in the legal community. Following guidance in various administrative orders of the chief justice of the Nebraska Supreme Court, the Nebraska Workers' Compensation Court made multiple adjustments so the mission and functions of the court could be carried out in spite of those challenges.

The presiding judge of the court issued administrative orders that directed all trials and hearings to be held by video teleconference or telephone in April and May 2020, unless special permission was granted by the trial judge to appear in person. Since many attorneys and self-represented litigants hadn't previously participated in virtual court proceedings, the Clerk's Office educated them about best practices for conducting hearings and trials via videoconference. Clerk's Office staff worked with self-represented individuals, witnesses, litigants, and their attorneys to assess the devices they planned to use during such hearings and conduct practice sessions to ensure hearings would run as smoothly as possible. Many trials were conducted by video using the Google Meet platform. Holding virtual hearings enabled litigants and their attorneys to appear in court from home or other safe locations at times when, due to the pandemic, it was advisable to do so. Once litigants and attorneys gave virtual hearings a chance, the Clerk's office received an overwhelmingly positive response from those who participated in a video trial.

In person trials resumed in June 2020, with the aid of social distancing, Personal Protective Equipment (PPE), and extra sanitization measures. Video trials continue to be a reliable option when attorneys or litigants are unable to appear in person.

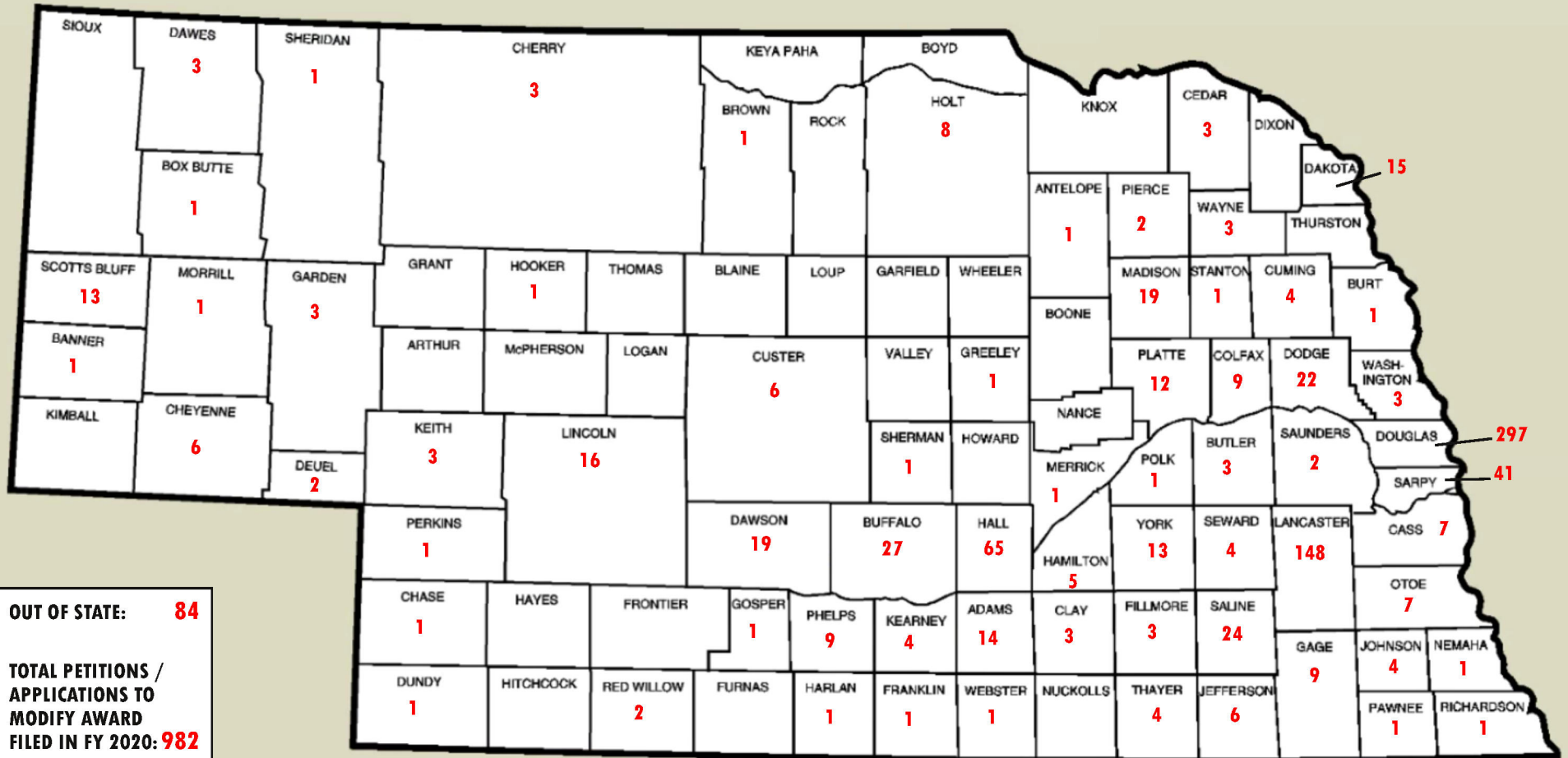
## Civil Unrest

The Clerk's Office sustained significant damage as a result of vandalism by a few people that followed large, peaceful community protests over justice system issues unrelated to workers' compensation. This occurred in downtown Lincoln on late Saturday, May 30, and early Sunday, May 31. Most of the court's windows were broken and other physical property was damaged. Court staff came together and cleaned up piles of glass and debris so the Clerk's Office could open the following Monday morning and staff could safely work at their desks. Trials and hearings were not delayed as a result of the damage.

# Petitions and Applications to Modify Award by County

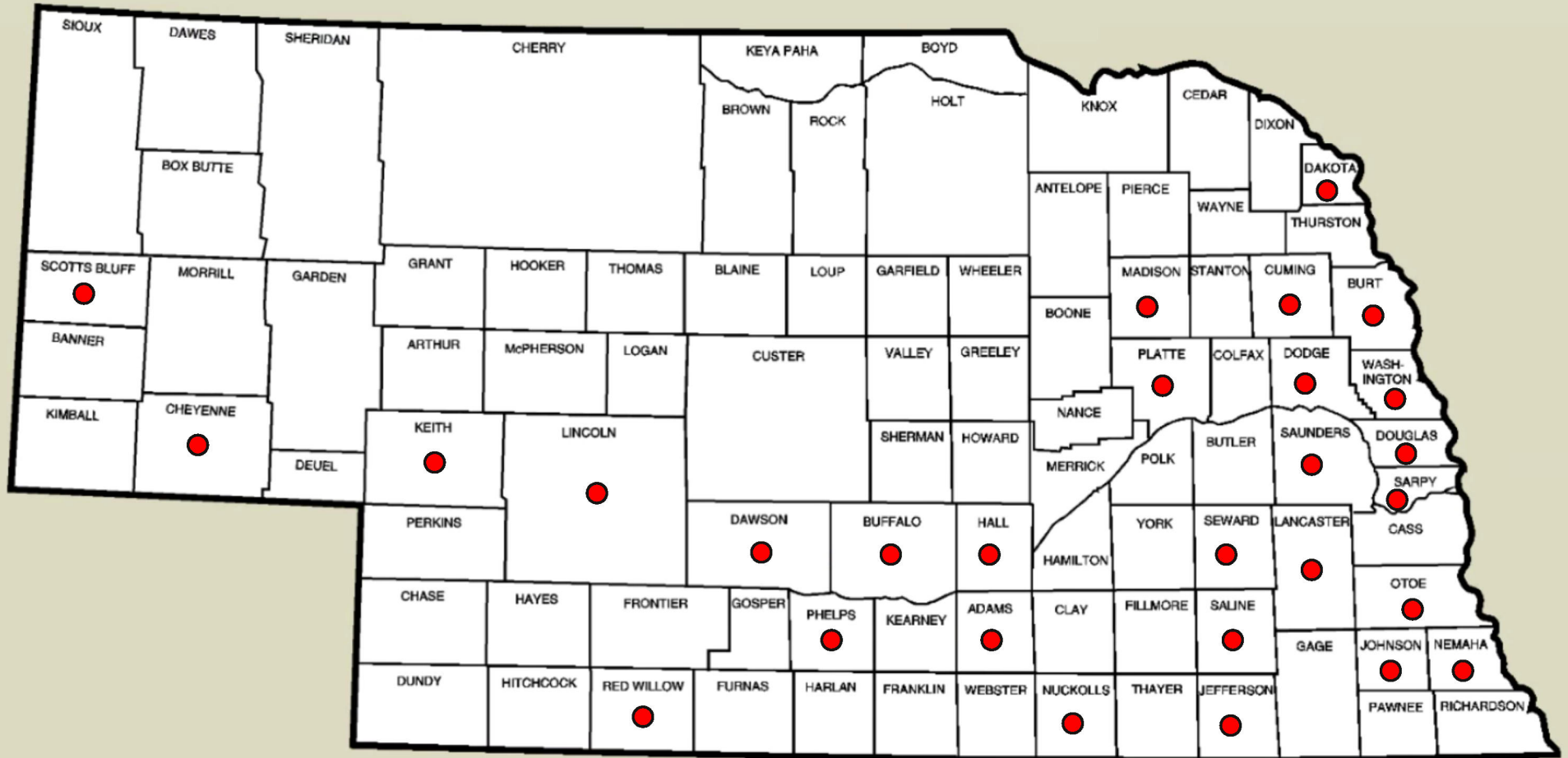
Below is a map showing the total number of Petitions and Applications to Modify Award filed with the court and allocating them to the counties where those Petitions allege the accidents occurred.

In addition to the cases shown below, allegations in an initial Petition can be litigated separately upon entry of an order allowing such. This happened in seven cases during fiscal year 2020.



# Trials and Evidentiary Hearings by County

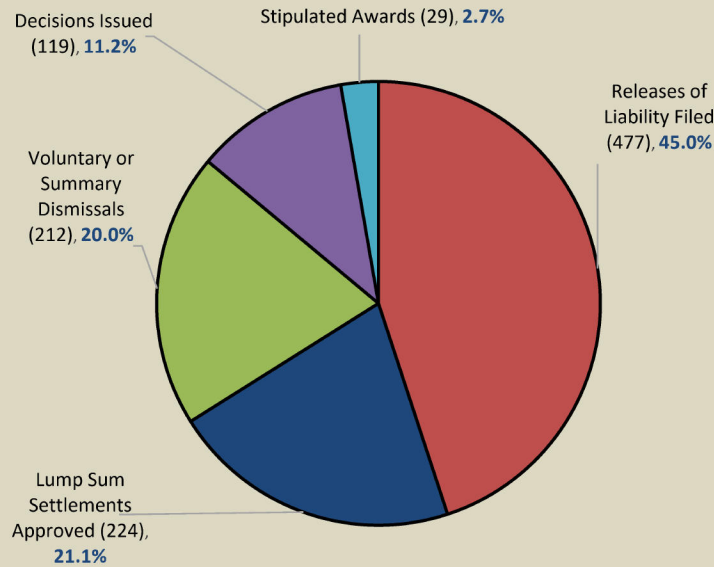
Generally, trials and evidentiary hearings are conducted in the county in which the accident occurred unless the litigants agree to a different location (see NEB. REV. STAT. § 48-177). For that reason, the venue for workers' compensation cases could be in any county in Nebraska. In fiscal year 2020, trials were conducted in the 28 Nebraska counties marked below.



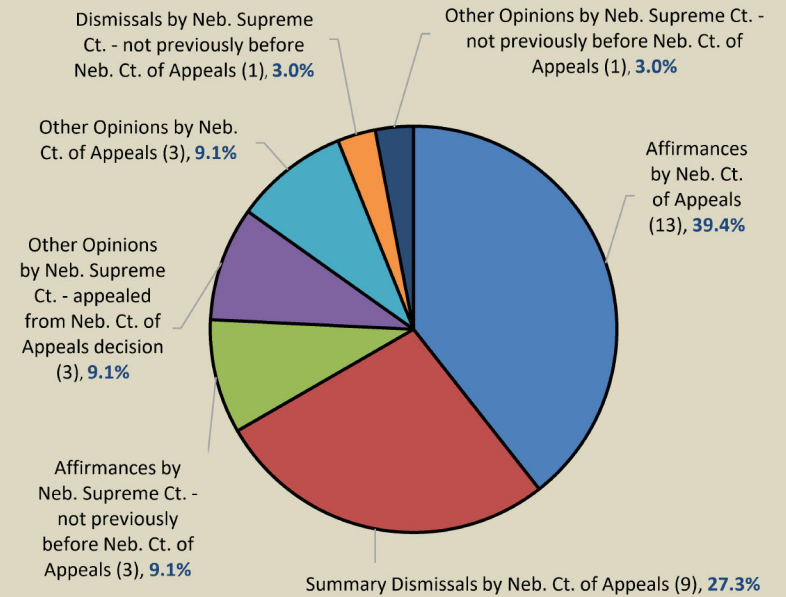
# Litigation Summary — Dispositions

The charts on this page summarize Nebraska Workers' Compensation Court and appellate court dispositions of workers' compensation cases during fiscal year 2020. Sixteen appeals were filed from decisions of the Nebraska Workers' Compensation Court during the fiscal year.

**Dispositions of Pending Cases in Fiscal Year**  
(Total Dispositions: 1,061)



**Appellate Dispositions in Fiscal Year<sup>1,2</sup>**  
(Total Dispositions: 33)



## Motions in FY 2020

**3,365**  
Filed

**636**  
Hearings

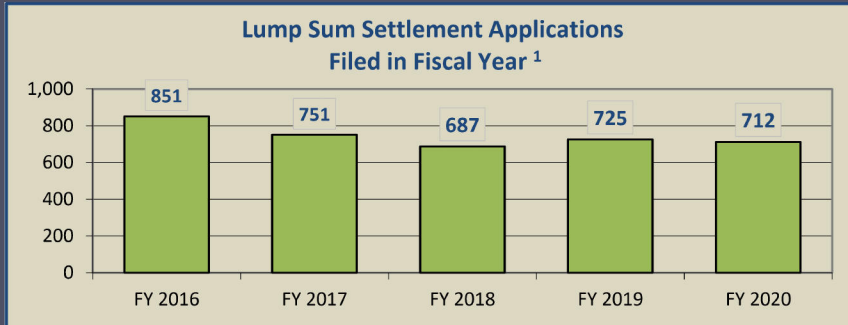
**2,665**  
Dispositions

- <sup>1</sup> Regarding appeals, 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.
- <sup>2</sup> Regarding "other opinions," these are 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.

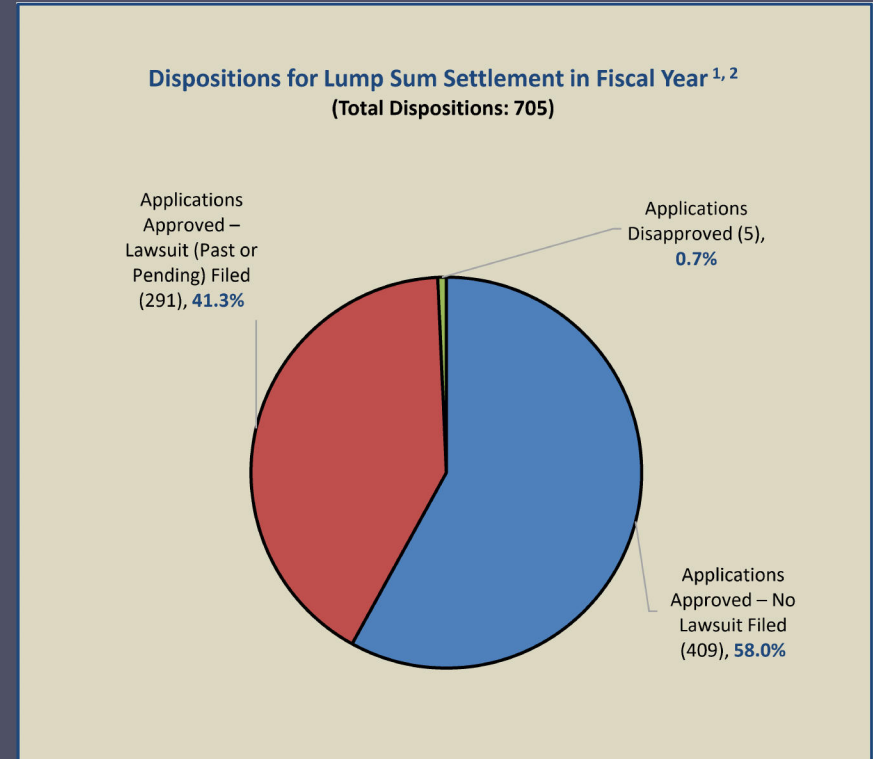


# Settlement Summary — Lump Sum Settlement Applications and Dispositions in Fiscal Year

The charts on this page summarize Lump Sum Settlement applications and dispositions made during fiscal year 2020.

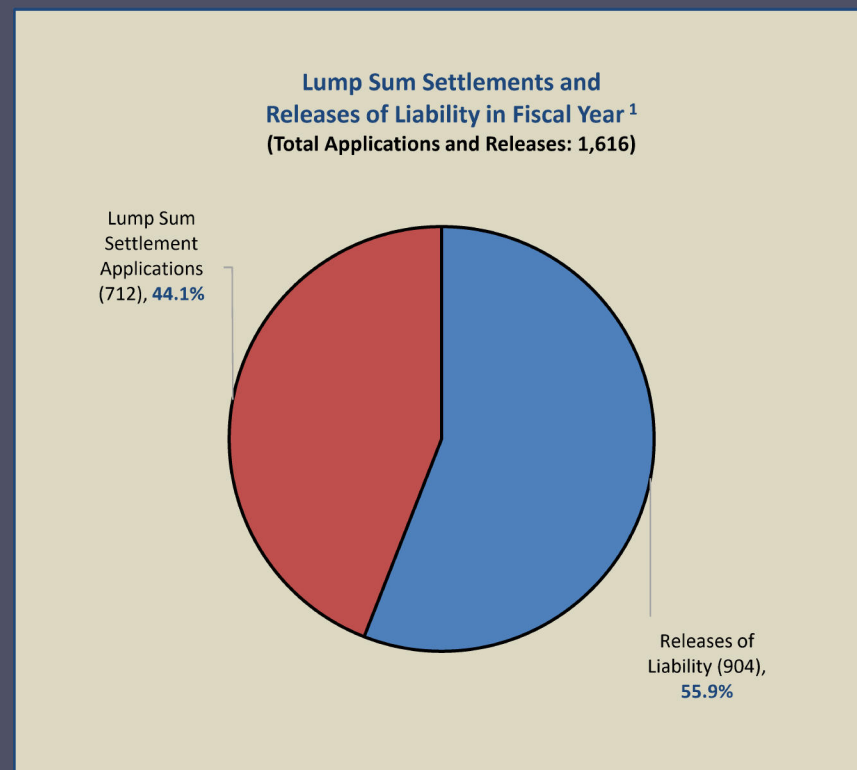
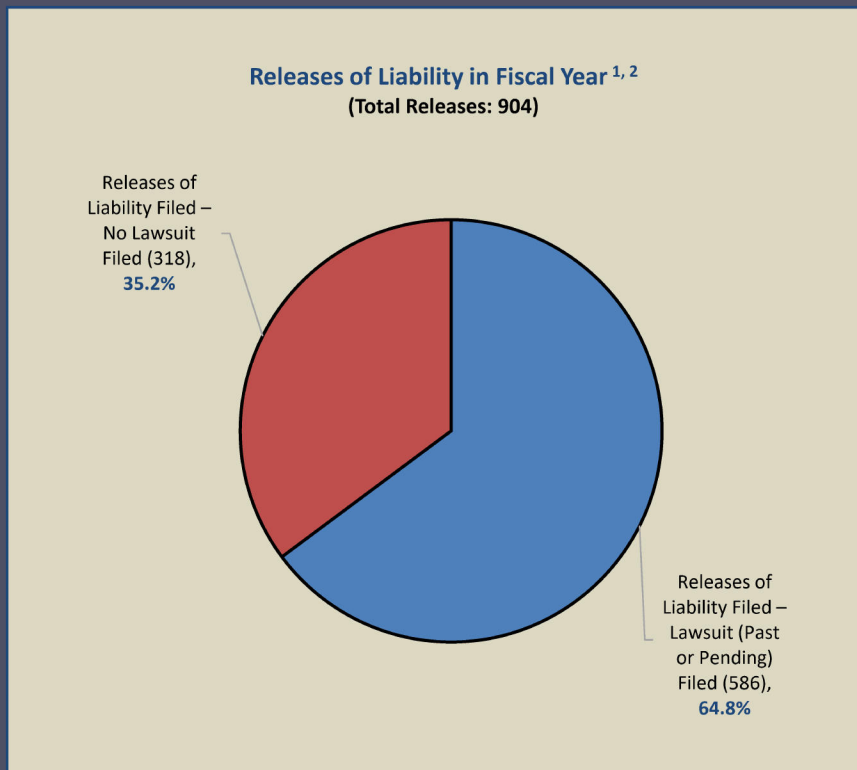


- <sup>1</sup> Pursuant to NEB. REV. STAT. § 48-139, lump sum settlement agreements require court approval. In 2009, the Nebraska Legislature amended this statute to eliminate mandatory court approval of certain settlement agreements and to require the filing of a release of liability for those settlements no longer requiring court approval.
- <sup>2</sup> “Applications Approved — Lawsuit (Past or Pending) Filed” includes Applications for Lump Sum Settlement accounted for in the “Litigation Summary” as to *pending* cases in addition to settlements in cases *previously* litigated.



# Settlement Summary — Releases of Liability Filed in Fiscal Year

The charts on this page summarize Releases of Liability filed during fiscal year 2020 and compare the number of Lump Sum Settlement applications with the number of Releases of Liability filed during fiscal year 2020.



- <sup>1</sup> Pursuant to NEB. REV. STAT. § 48-139, lump sum settlement agreements require court approval. In 2009, the Nebraska Legislature amended this statute to eliminate mandatory court approval of certain settlement agreements and to require the filing of a release of liability for those settlements no longer requiring court approval.
- <sup>2</sup> “Releases of Liability Filed — Lawsuit (Past or Pending) Filed” includes Releases of Liability accounted for in the “Litigation Summary” as to *pending* cases in addition to settlements in cases *previously* litigated.

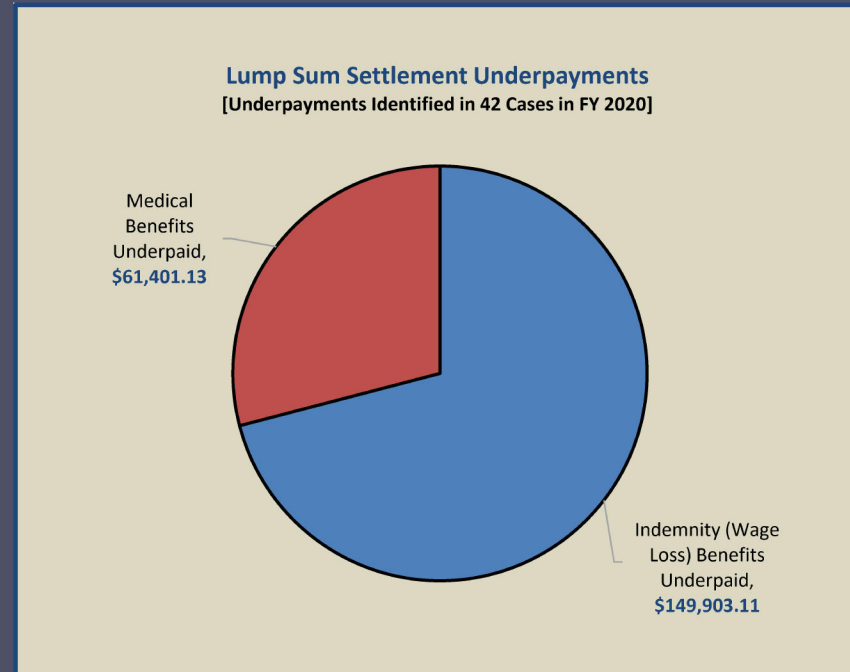
# Legal

The **Legal section** reviews settlement applications for adequacy and compliance with the Nebraska Workers' Compensation Act (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 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 (<https://www.wcc.ne.gov/service-providers/attorneys/appellate-court-decisions>).

## Underpayments Identified

In FY 2020, the Legal section identified underpayments in 42 lump sum settlement applications totalling \$149,903.11 in indemnity (wage loss) benefits and \$61,401.13 in medical benefits. In cases of underpayment, the court requires these settlements to be revised to provide additional compensation to or on behalf of the injured employee to ensure compliance with the Nebraska Workers' Compensation Act and that the settlement is in the best interest of the employee or his or her dependents. Statistics for lump sum settlements processed in FY 2020 are provided in the "Office of the Clerk of the Court" section of this report.



**\$211,304.24**  
**Total lump sum settlement underpayments identified**

## Lump Sum Settlements

Information about the requirements for Lump Sum Settlements can be found in NEB. REV. STAT. §§ 48-138 through 48-140, in the Nebraska Workers' Compensation Court's Rule 47, and on the court's website (<https://www.wcc.ne.gov/service-providers/attorneys/settlements>).

# Informal Dispute Resolution

Informal Dispute Resolution (IDR) is available to the following individuals or entities with an interest in a workers' compensation dispute:

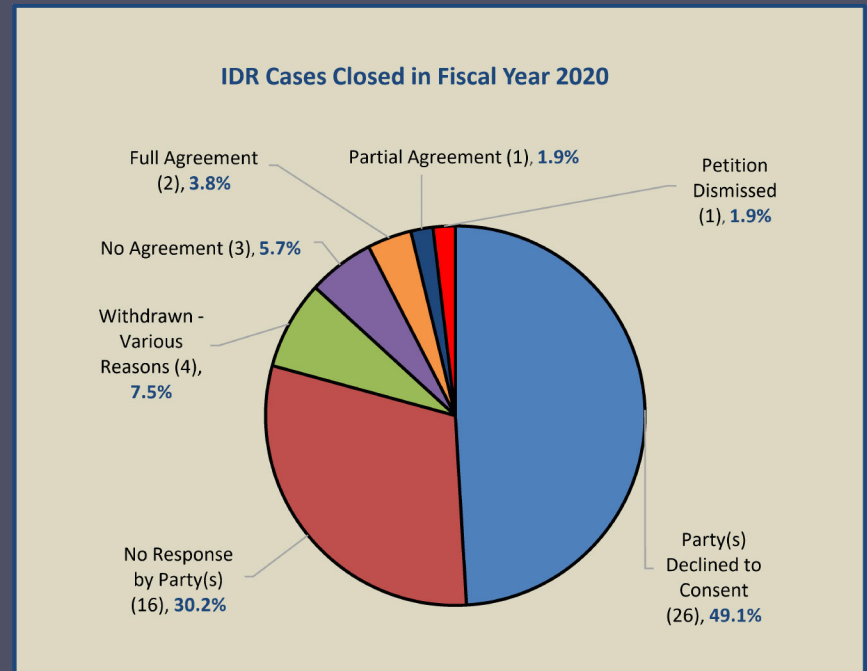
- any party to a workers' compensation dispute or controversy;
- a medical provider who provided medical, surgical, or hospital expenses to an employee involved in the dispute or controversy; or
- any certified vocational counselor providing services to such employee.

The guidelines for the IDR process are found in NEB. REV. STAT. § 48-168 and Rule 48 of the court's Rules of Procedure. 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 not represented by an attorney. In addition, a judge may order the parties to participate in IDR. IDR also provides a dispute resolution mechanism for health care providers, vocational rehabilitation counselors, and others who would otherwise have no standing before the court.

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, who address a variety of issues. Trained in the essential skills of mediation, these attorney-mediators do not advocate or make decisions on behalf of either party; rather, they facilitate discussions to assist litigants in identifying ways to resolve their disputes without the need for a trial. In FY 2020, the court's attorney-mediators addressed issues involving choice of physician, payment for vocational rehabilitation services, vocational rehabilitation counselor services and fees, indemnity benefits, loss of earning power, and medical expenses.

Mediation through the court is voluntary absent an order by a judge. In 26 cases, or 49 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 chart below.



# 53

## IDR cases opened and closed in FY 2020

# Regulatory Programs

The *Regulatory Programs section* has responsibilities in four distinct areas: Electronic Data Interchange (EDI); Compliance; Medical Services; and Self-Insurance. EDI is the process through which the court receives and processes reports of injuries and benefit payments. Compliance activities include enforcing insurance coverage requirements as well as 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.

## EDI Claims Release 3.1

The Nebraska Workers' Compensation Court mandates use of the International Association of Industrial Accident Boards and Commissions' (IAIABC) Electronic Data Interchange (EDI) Claims Release 3.1 for reporting of work injuries and payments related to such injuries. More information can be found on our EDI website (<https://nwccedi.info>).

# Electronic Data Interchange (EDI)

## Collection of Data

Workers' compensation insurers, risk management pools, and self-insured employers are required to report injuries and payments relating to injuries in accordance with the Nebraska Workers' Compensation Act (the Act) and the court's Rules of Procedure. These reports about injuries and payments made by employers, insurers, and risk management pools are transmitted electronically through the Electronic Data Interchange (EDI) system used by the court.

In FY 2020, the court received reports of 34,385 workplace injuries or occupational diseases. Section staff, in conjunction with court's EDI contractor, processed 94,094 reports relating to work-related injuries or occupational illnesses for the current and previous years. A work-related injury or occupational disease typically involves multiple reports that must be submitted during the normal course of each claim. These include the original injury and payment reports, transactions rejected due to incomplete data, as well as any applicable follow-up reports involving data changes / corrections, denials, cancellations, or other reports that may be periodically submitted during the course of a claim.

Additionally, together with the EDI contractor, in FY 2020 section staff processed 87,122 reports involving payments of compensation and expenses relating to work-related injuries or occupational illnesses for the current and previous years. Included in these reports were periodic updates to data, corrections, transactions rejected due to incomplete data, and other reports. Section staff process the electronic reports and also code and manually enter the few remaining paper reports the court receives.

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, respond to questions about EDI, and obtain missing information from employers or insurers.

## Pandemic Response

Two pandemic-related data points were added to the EDI system to provide a method for employers and insurers to report workplace injuries claimed to have been caused by COVID-19. The WCIO (Workers Compensation Insurance Organizations), an association that implements and maintains standards for electronic reporting of injuries, added a new Cause of Injury Code (83) for "Pandemic" as well as a new Nature of Injury Code (83) for "COVID-19." In turn, the International Association of Industrial Accident

*Electronic Data Interchange, continued to next page.*

**4,421**

**Letters Sent to Verify Coverage Status**

**454**

**Employers Brought Into Compliance**

**111**

**Non-Compliance Cases Referred for Legal Action**

**\$81,694.21**

**Collected in Penalties by the Attorney General**

***Electric Data Interchange, continued from previous page.***

Boards and Commissions (IAIABC) incorporated these changes into its Claims Standards used in United States jurisdictions. Effective April 1, 2020, the court administrator adopted those new codes for claims reported to our court.

In FY 2019, after years of planning and preparation, the court implemented upgrades in its EDI system to align with the current IAIABC Claims Release 3.1 standard. The efficiencies created by that transition proved to be invaluable during the last quarter of FY 2020 when pandemic precautions prompted the court to shift EDI section staff to remote work. The EDI upgrades made last fiscal year positioned the court well to continue timely processing data without a significant impact.

**Compliance Activities**

One of the most important enforcement activities of the Regulatory Programs section is to identify employers who don't have insurance coverage as required by the Act. Any employer of one or more people needs to ensure workers' compensation coverage is available to pay benefits in case a workplace injury occurs. If the court is informed that coverage isn't in place, it takes steps to hold those employers accountable and bring them into compliance with the Act.

Section staff 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 coverage is cancelled or not renewed because a business ceased operation or obtained a replacement workers' compensation policy, no action is needed. If coverage is still required, compliance examiners notify and educate 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 Attorney General for further action.

During FY 2020, 4,421 letters were sent to 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, 454 employers were brought into compliance with their statutory obligation to obtain workers' compensation coverage. Additionally, 111 cases were referred to the Attorney General, who collected a total of \$81,694.21 in penalties from employers who failed to obtain required workers' compensation coverage. The Nebraska State Constitution provides that the money collected for these fines is for the use and support of schools in Nebraska.

***Compliance Activities, continued to next page.***

# 201

## Case Investigations Opened

## Fee Schedules

The Regulatory Programs section develops and maintains the following fee schedules:

1. **Medical Services**
2. **Hospital and Ambulatory Surgical Centers**
3. **Implantable Medical Devices**
4. **Diagnostic Related Group Inpatient Hospital**
5. **Trauma Services Inpatient Hospital**

Information about the Fee Schedules can be found in the Fee Schedules section of our website (<https://www.wcc.ne.gov/service-providers/medical-providers/fee-schedules>).

## *Compliance Activities, continued from previous page.*

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; or insurers, employers, or risk management pools are not complying with other obligations under the Act. Section staff investigate those matters, encourage voluntary compliance, and request appropriate legal action when necessary. A total of 201 case investigations were opened last fiscal year as a result of the above activities.

## Medical Services Activities

Section staff are available to respond to medical services 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 plans, or other questions relating to medical, surgical, and hospital services under the Nebraska Workers' Compensation Act.

## 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. The section develops and maintains five fee schedules: Medical Services; Hospital and Ambulatory Surgical Centers; Implantable Medical Devices; DRG Inpatient Hospital; and Trauma Services Inpatient Hospital.

Section staff are charged with collecting data from payors and certain hospitals in order to develop and maintain the Diagnostic Related Group Inpatient Hospital Fee Schedule and the Trauma Services Inpatient Hospital Fee Schedule, both of which follow the methodology set forth in NEB. REV. STAT. § 48-120.04 and Rule 26 of the court's Rules of Procedure. 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.

In accordance with NEB. REV. STAT. § 48-120(1)(b) and Rule 26, Regulatory Programs staff also collect data and make recommendations regarding the other fee schedules published by the court: the Medical

*Medical Services Activities, continued to next page.*

131

IME Physicians

27

IME Cases Opened

### ***Medical Services Activities, continued from previous page.***

Services Fee Schedule; the Hospital and Ambulatory Surgical Centers Fee Schedule; and the Implantable Medical Devices Fee Schedule. That work includes updates to the Schedule of Fees for Medical Services that apply to services by physicians and other licensed health care providers performing medical services within the scope of their respective practices. Rule 26 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 a qualified IME, physicians must complete an application and be approved by the judges of the court. Currently there are 131 court-approved IME physicians who specialize in varying disciplines.

During FY 2020, 27 IME cases were opened. Nineteen requests for assignment of a court-approved IME were submitted by an attorney representing an injured employee and seven were submitted by a workers' compensation insurer or the insurer's attorney on behalf of the employer. One independent medical exam was ordered by the court.

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

On June 30, 2020, there were 281 employers and 33,365 employees covered by certified managed care plans in Nebraska. A table showing current information about managed care plans certified by the court for workers' compensation purposes may be accessed in the Managed Care Plans section of our website (<https://www.wcc.ne.gov/service-providers/medical-providers/managed-care-plans>).

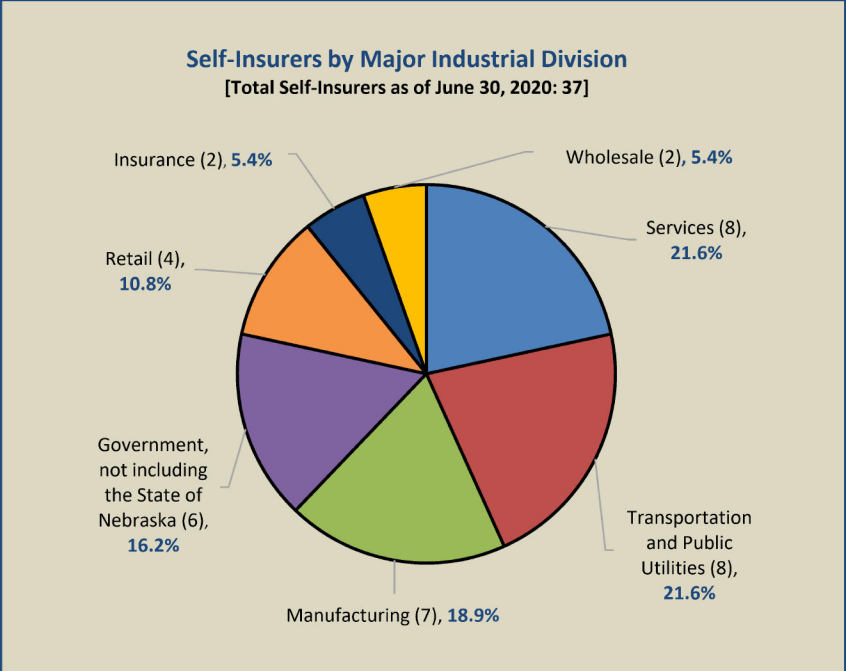


# Self-Insurance Activities

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.

As of June 30, 2020, there were 37 employers approved for self-insurance. In addition, the State of Nebraska is self-insured by statute and is not included in any of these statistics.

At the beginning of each calendar year, the court calculates and collects the necessary assessments for the state's General Fund, the Compensation Court Cash Fund, and the Workers' Compensation Trust Fund from employers self-insured for the prior calendar year. Additional assessments are made in support of the Nebraska Department of Insurance for carrying out the Insurance Fraud Act. The assessments are based on the number and classification of employees, payroll, and benefits paid during the previous calendar year. As reflected in the data at the right, for calendar year 2020 assessment purposes, there were 39 self-insurers (employers who were self-insured for all or part of calendar year 2019).



## Self-Insurance

Calendar Year	Number of Self-Insurers	Number of Employees	Gross Payroll
2019	39	125,977	\$5,291,997,569

# Vocational Rehabilitation

One of the primary purposes of the Nebraska Workers' Compensation Act is restoration of the injured employee to gainful employment following an injury arising out of and in the course of employment. Toward that end, the duties of the Vocational Rehabilitation section include:

- Reviewing, working with the counselor and parties to approve, and monitoring vocational rehabilitation plans;
- Appointing counselors to cases when the parties cannot agree;
- Recruiting, certifying, and maintaining a directory of vocational rehabilitation counselors and job placement specialists; and
- Monitoring expenditures from the Workers' Compensation Trust Fund.

**See NEB. REV. STAT. § 48-162.01 for a description of Vocational Rehabilitation in Nebraska.**

## *Getting Back To Work:*

# Vocational Rehabilitation Plans

An employee who claims entitlement to vocational rehabilitation services is evaluated by an 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. The level of services to be provided is based on the priorities outlined in NEB. REV. STAT. § 48-162.01 (listed from lower to higher priority):

- (a) Return to the previous job with the same employer;
- (b) Modification of the previous job with the same employer;
- (c) A new job with the same employer;
- (d) A job with a new employer; or
- (e) A period of formal training which is designed to lead to employment in another career field.

Starting with (a), each level of service must be eliminated as unlikely to result in suitable employment for the injured employee before considering the next level of service. For example, if (b) is likely to result in suitable employment, then (c), (d), or (e) would not be considered in deciding whether it is necessary to develop a vocational plan.

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 job placement plan must identify a specific employment objective based on the employee's vocational interests, abilities, and prior work history. The vocational rehabilitation counselor may provide job leads, develop or improve job seeking skills, answer questions, and provide guidance in order to return the employee to suitable employment. Job placement plans are generally 60 to 90 days in length, but can be extended in some circumstances.

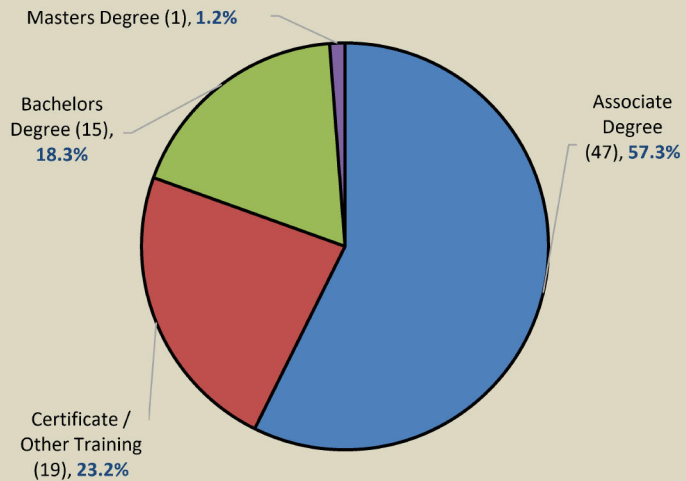
In a formal training plan, vocational goals are selected based on the employee's interests, experience and restrictions. During a training plan the vocational rehabilitation counselor will monitor progress in classes, assist with registration and maintaining the program, and help the employee submit requests for reimbursable expenses. Plans can range from short term (three-to-six-month) training periods to associate's or bachelor's degree programs.

Section staff monitored 120 court-approved plans involving 96 injured employees in FY 2020—38 job placement plans and 82 formal training plans. Information about these plans is provided on the following page.

***Vocational Rehabilitation Plans, continued to next page.***

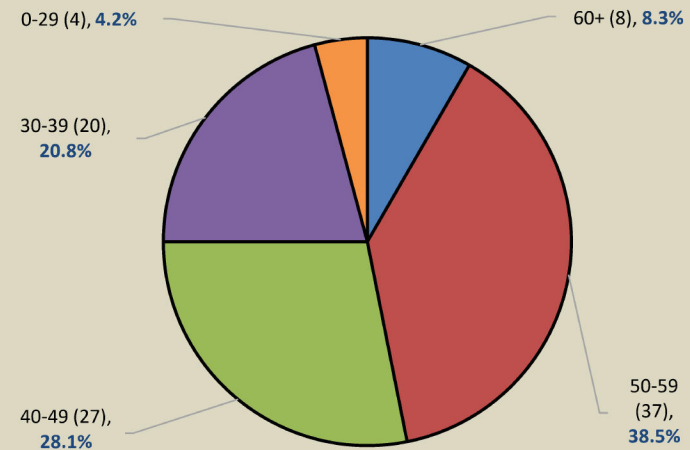
**Formal Training Plans**

(Total: 82)



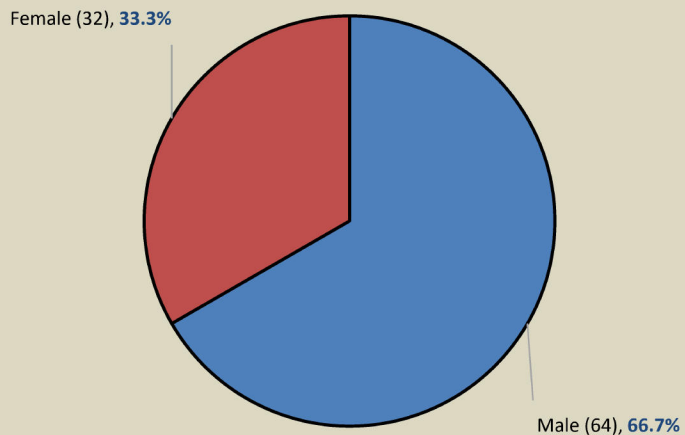
**Training Plan Participants By Age In Years**

(Total: 96)



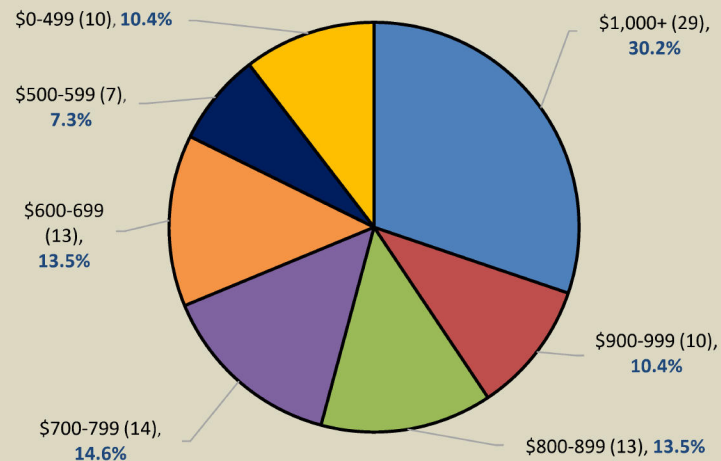
**Training Plan Participants By Gender**

(Total: 96)



**Training Plan Participant By Average Weekly Wage At Time Of Injury**

(Total: 96)



## Appointment of Vocational Rehabilitation Counselors

When an injured employee 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 the parties cannot agree, the court may then appoint a counselor to provide vocational rehabilitation services and / or a LOEP evaluation to an injured worker.

## Certification of Counselors and Job Placement Specialists

Vocational rehabilitation services under the Nebraska Workers' Compensation Act can only be provided by counselors who have been certified by the court. The vocational rehabilitation certification process is designed to ensure counselors working in this specialized area of rehabilitation have attained an acceptable level of education, knowledge, and experience necessary to provide vocational rehabilitation services to employees and return the employee to suitable employment. Rules 39 to 41 of the court's Rules of Procedure contain the requirements for certification.

At the end of FY 2020, there were 55 court-certified vocational rehabilitation counselors, and 56 court-certified job placement specialists.

## Vocational Rehabilitation Plans, continued from previous page.

A vocational rehabilitation counselor may also provide a Loss of Earning Power evaluation report. These reports evaluate an employee's ability to "procure employment generally, ability to hold a job obtained, and capacity to perform the tasks of the work, as well as the ability of the [worker] to earn wages in the employment..." see *Sidel v. Travelers Insurance Company*, 205 Neb. 541, 288 N.W.2d 482 (1980).

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 the "Funding, Benefit Rates, and Injuries" section of this report.

Vocational rehabilitation counselor fees are paid by the employer or workers' compensation insurer. This includes costs of job placement specialists or interpreters, if necessary. The employer or insurer is also responsible for payment of temporary disability benefits while the employee is participating in a court-approved vocational rehabilitation plan.

## Vocational Rehabilitation Cases

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 a judge of the court orders appointment of a counselor for vocational rehabilitation services. Of the 411 cases opened in FY 2020, the court appointed 133 counselors, the parties were able to agree on a counselor in 276 cases, and two cases were pending appointment at the end of the fiscal year.

Opened Cases	Appointed By The Court	Agreed To By The Parties
Vocational Rehabilitation Services and Loss of Earning Power Evaluation	67	32
Vocational Rehabilitation Services Only	18	45
Loss of Earning Power Evaluation Only	48	199
<b>Total</b>	<b>133</b>	<b>276</b>

During FY 2020, 628 cases required action by the vocational rehabilitation section. These actions involved reviewing and monitoring rehabilitation plans, monitoring loss of earning power cases, and reviewing and processing forms or requests for action received from parties or vocational rehabilitation counselors.

# Public Information

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

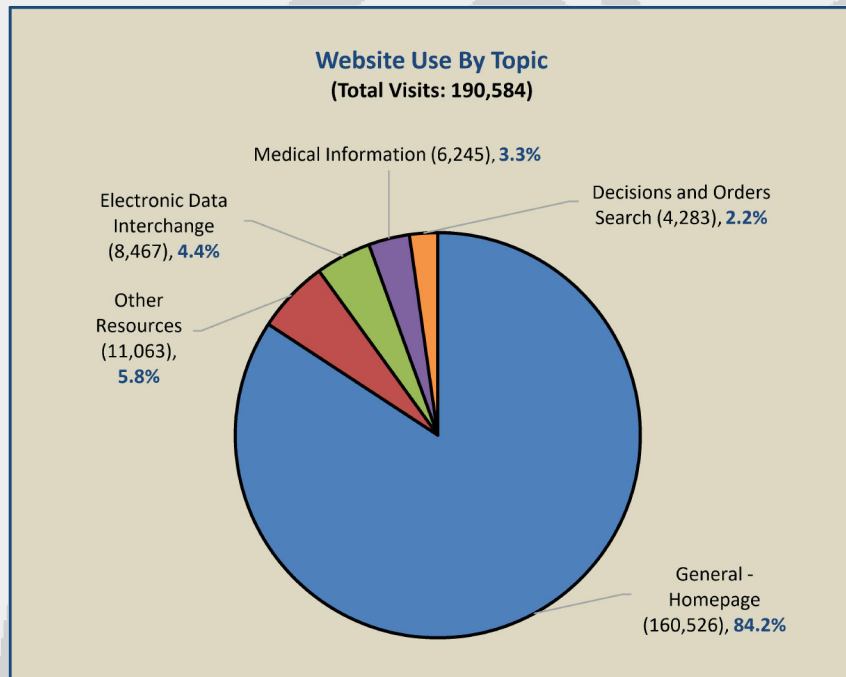
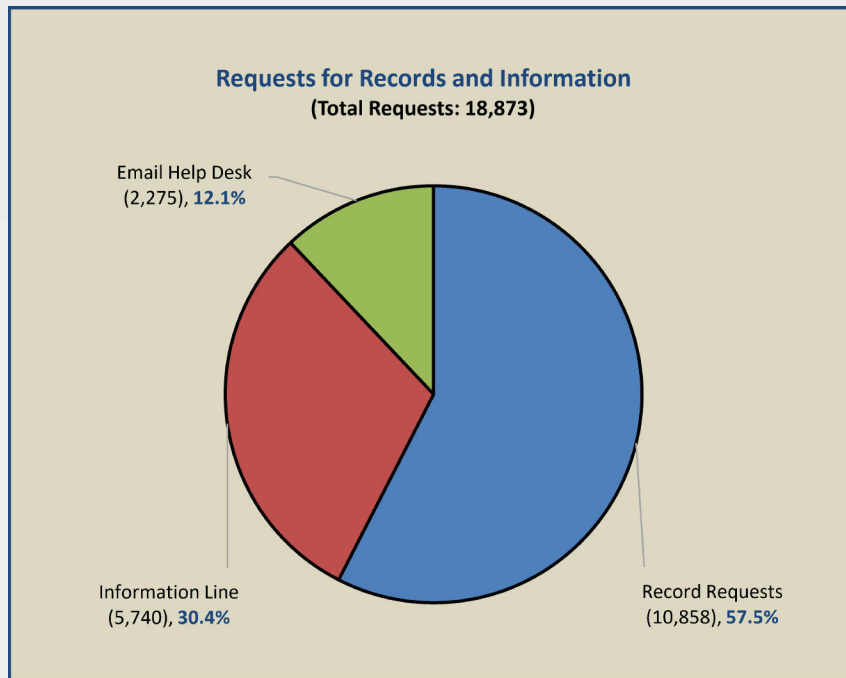
## Requests for Records and Information

The chart *Requests for Records and Information* shows the number of written requests for copies of court records fulfilled during the fiscal year as well as requests for other types of information received by phone or email. Requests for public records and information come from employees, employers, attorneys, insurers, medical providers, vocational rehabilitation providers, researchers, and others in Nebraska and throughout the nation. Most requests for records are fulfilled within four business days and most requests for information are fulfilled within 24 hours. Court staff do not provide opinions or legal advice.

## Website

The chart *Website Use By Topic* breaks out the top five areas of information accessed from our overall web presence during the fiscal year, including the primary website (<http://www.wcc.ne.gov>) and its associated web applications, as well as a separate Electronic Data Interchange (EDI) informational website. The number of EDI transactions, processed elsewhere, are not included in the chart. The vast majority of visits to our homepage was a result of a redesign of the primary website. Based on statistical data, the most popular areas of the website (including

*Website, continued to next page.*



### Frequent Requests:

1. Proof of Coverage
2. Filings
3. Settlements
4. Hearings / Decisions
5. Benefits / Compensability

### Information Line

- 800-599-5155
- 402-471-6468

**190,584**  
Web Page  
Visits

**Website**, continued from previous page.

court news with **16,695** visits) were made available from the homepage for quick access. As part of this effort, an audience-oriented navigation structure was implemented. The ultimate goal of the redesign was to increase accessibility and usability.

## 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.

As part of publication development, the section coordinates public hearings and public meetings for the purpose of amending the court's procedural rules. A revised edition of our Rule Book was published in January 2020.

## Business Continuity Program

The purpose and objective of the Business Continuity Program (BCP) is to develop, exercise, and maintain plans that enable the court to respond to disruptive events. Components of the program include facility-specific Emergency Procedures, a court-wide Continuity of Operations Plan (COOP), and an Information Technology Disaster Recovery Plan.

Fiscal year BCP activities included:

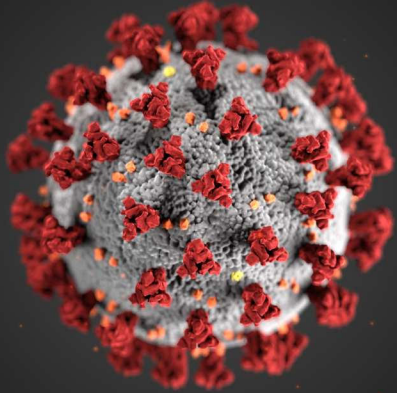
- Courtwide participation in a security training session hosted by the Nebraska State Patrol.
- Successful completion of the COOP team's second fully remote COOP exercise to test the viability of the plan.
- An ongoing response to the COVID-19 pandemic, described below.

### COVID-19 Pandemic Response

The Nebraska Workers' Compensation Court (NWCC) found itself in a unique position of preparedness for responding to the COVID-19 pandemic.

- Prior to this fiscal year, in March 2019, the COOP team conducted its first remote exercise of the COOP to test a pandemic scenario (pandemic influenza).
- In May 2019 the National Center for State Courts, University of Nebraska Medical Center (UNMC), Nebraska Judicial Branch, and State Justice Institute hosted a **National Pandemic Summit**. This event provided an opportunity for state court judges, administrators, and business continuity professionals to increase their knowledge about potential perils relating to pandemics as well as best practices for responding to them. Attending this event also provided the NWCC's COOP team with an opportunity to build on the experiences and lessons learned from its March remote exercise.
- Beginning in late December 2019, as news was arriving of the disease outbreak, preparations for the current fiscal year's COOP exercise were being made to re-test lessons learned from the 2019 exercise and the pandemic summit event. Also at this time, additional personal protective equipment was purchased and procedures were developed in preparation for peak flu season.

***Business Continuity Program***, continued to next page.



**“... an impartial and efficient administration of the Nebraska Workers’ Compensation Act is essential to the prosperity and well being of the state ... ,”**  
**NEB. REV. STAT. § 48-152. This is true even when a pandemic threatens court operations.**

### ***Business Continuity Program, continued from previous page.***

- On March 11, the World Health Organization declared the disease outbreak to be a pandemic. NWCC management decided on March 16 to reduce the number of people in the office to fewer than 10 and shift most staff members to remote work from home. Remote-work considerations begun in late February aided this transition.
- Additional contributions to the remote-work transition was NWCC’s recent move to cloud-based computing and the outsourcing of Electronic Data Interchange (EDI) data processing. With its Oracle database migrated to Amazon Web Services and much of its collection of electronic data files already migrated to the Google Cloud Platform, most of the court’s work continued seamlessly. As part of this platform, NWCC’s adoption of Google Suite’s online office tools allowed for legal proceedings to be conducted by videoconference as needed. Outsourcing the EDI program’s data processing tasks allowed NWCC to manage this program remotely.
- By the time this fiscal year’s annual COOP exercise took place on March 23, COVID-19 disease had caused more than 400 deaths in the U.S. and more than 14,500 deaths worldwide.\* This would be the second fully remote exercise of our COOP because most of the COOP team had already been working remotely for a week.
- For the remainder of the fiscal year, NWCC followed pandemic guidance for keeping the court open, as provided in administrative orders issued by the Nebraska Supreme Court. NWCC issued its own administrative orders and news releases to provide guidance to parties regarding in-person, telephonic, and videoconference legal proceedings. To ensure staff had a single source of information in the midst of evolving circumstances, NWCC established a staff resource intranet site.
- When the fiscal year came to a close on June 30, the COOP remained activated as the pandemic increased in force with more than 126,000 deaths in the U.S. and nearly 504,000 deaths worldwide.\*

*\* Cumulative COVID-19 fatality data provided by the World Health Organization (<https://www.who.int/>).*

# Information Technology

The **Information Technology (IT) 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.



## Fiscal Year Activities

The court manages its data through desktop programs and web applications, utilizing an Oracle RDS database as its primary information repository. The database currently contains more than 24 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 COBOL, Delphi, and 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.

### Remote Access

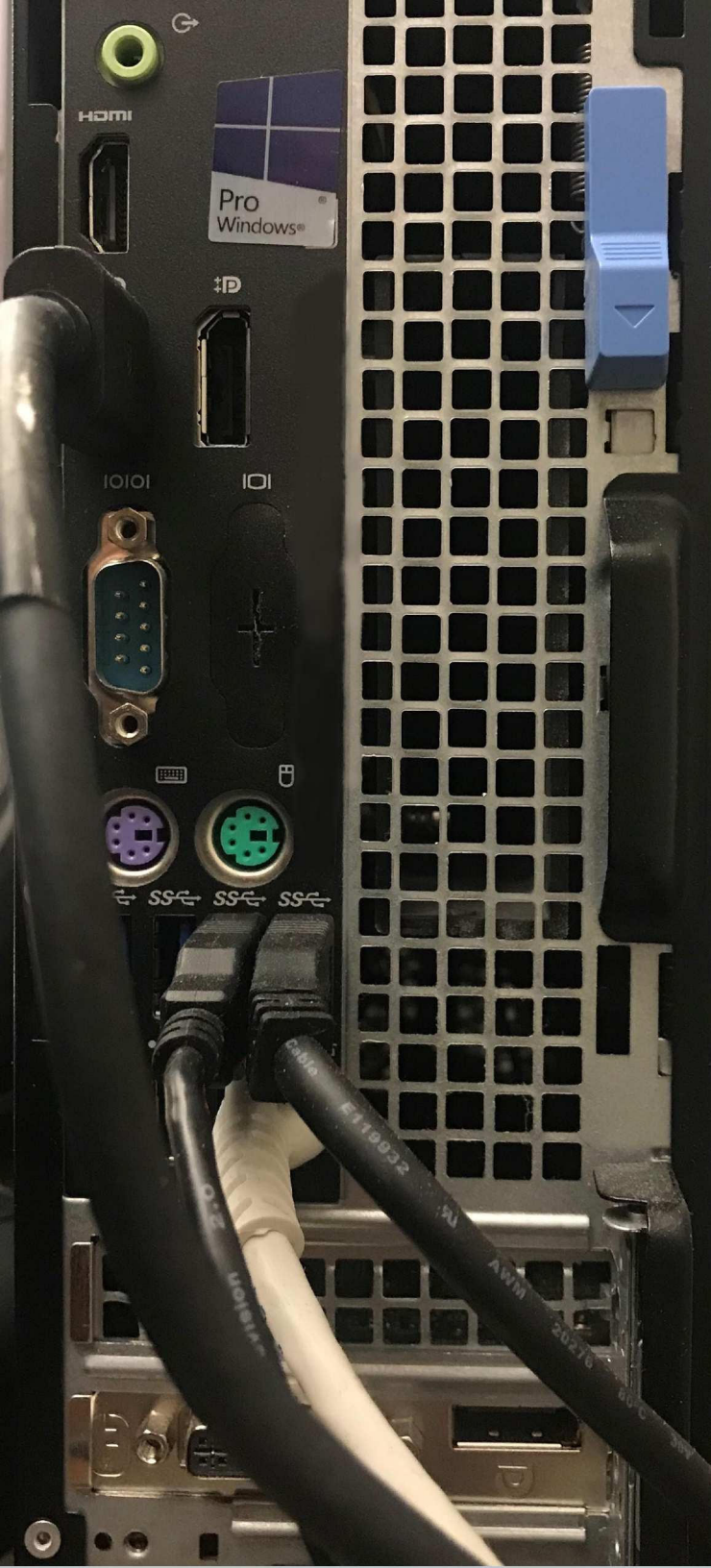
2020 has been the year of remote access. We have focused on remote access for all employees during the pandemic period. All court-issued laptops are now Chromebooks. This significantly increases our security level when having devices out in the field as Chromebooks are immune to viruses, get auto-updates, and are fully managed by IT. With several State of Nebraska agencies encouraging people to work from home, the state virtual private network (VPN) became overloaded making remote connectivity difficult when it was most needed. To ensure remote connectivity, we chose a secure alternate route of using Chrome Remote Desktop instead of VPN. This helped us avoid the overloaded VPN so our offsite personnel could have immediate remote access to our computer network. Our adoption of Google G Suite put the necessary tools in employees' hands immediately. Google Chat and Google Meet in particular have kept employees in contact through instant messaging and video conferencing.

### G Suite

With the significant number of employees working from home this year, we are extremely fortunate to be using Google G Suite. Users have access to the same tools (Gmail, Drive, Calendar, Groups, Chat, Meet, and more) as easily from home as in the office. The ease of use is enhanced by all data being securely encrypted and accessed only via multi-factor authentication. We also started testing Google Voice as a Voice over Internet Protocol (VoIP) solution. Because of the integration with G Suite, it allows for a true VoIP experience where the assigned number follows users anywhere they are logged in with their G Suite account. Calls can be made and received from a computer, cell phone, and desk phone all at once. This should provide the court with better preparation for future threats to court operations.

***Fiscal Year Activities, continued to next page.***





*Fiscal Year Activities, continued from previous page.*

## **Security**

The court now has all users set up and enabled with multi-factor authentication (MFA) on our Google accounts. We are using a variety of methods to accommodate all users. Some of the different MFA methods we are using include: Google prompts, authenticator apps, text messages, voice calls, and USB security keys. With the ability to authenticate into our Google accounts from anywhere in the world, it is important to have this extra step. In a joint effort with the Supreme Court, we have been conducting quarterly phishing campaigns to test the security awareness of the State of Nebraska judicial branch. Anyone who fails to protect their credentials is automatically enrolled in email security awareness training.

## **Video Trials**

This year the court was able to quickly adapt to conducting video trials. With the need to keep socially distant for safety, the two smaller Lincoln courtrooms were updated with new video conferencing technology to replace the aging system that was previously in place. A combination of Chromeboxes, Jabra webcams, Jabra speaker / microphones, and Google Meet comprise the core of the system. The idea is to use system-agnostic components, allowing flexibility to use other software in the future such as Zoom, Skype, or Webex. Security and ease of use are the top priorities. Google Meet allows participants to connect simply by clicking a link in an email, while all trial data is fully encrypted for security.

## **Supreme Court Support**

The court's IT section continues to work with the Supreme Court IT team daily on current projects. This year we assisted the Supreme Court with migrating their network to to the Office of the Chief Information Officer's "New World" network. This is a migration that our court completed in early 2018 so we were able to use our experience to help make the Supreme Court's migration go smoothly.

The IT team has also been assisting the Supreme Court with early testing and evaluation of Google G Suite. The IT teams of our court and the Supreme Court have been in constant contact with each other to provide guidance and assist with configurations.

*Fiscal Year Activities, continued to next page.*



*Fiscal Year Activities, continued from previous page.*

## Digital Signatures

With several employees working from home this year, a method to electronically sign documents was needed. The court adopted DocuSign as the solution for our court. DocuSign provides an easy way to digitally sign documents and save or route them to others within the court. We were able to automatically provision all of our G Suite accounts directly into DocuSign. This made access into DocuSign seamless for court users.

## Guest WiFi

Guest WiFi has been set up at both of the court's Lincoln locations. When guests connect to it, they are granted eight hours of access from a "guest portal." If more access is needed after eight hours, guests can just visit the "guest portal" again to get another eight-hour session. Access points have been distributed throughout both Lincoln court offices to provide full WiFi coverage.

## Chrome OS

In keeping court technology current, the IT section has continued its shift to utilizing more Chrome OS devices. Court conference rooms have been upgraded to Chromeboxes for video conferencing. All personnel needing remote access are now issued a Chromebook, which gives the court additional security peace of mind, while also providing a large cost savings.

## Delphi Conversion

The conversion of all legacy Delphi applications to Visual Studio progressed in FY 2020. The conversion, which began in FY 2017, became necessary because Delphi no longer supports the version IT originally used for application development. 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 is an ongoing project.

# Federal Grant Program

The federal 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 that 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) of each occurrence within the calendar year. The data reported to the Nebraska Workers' Compensation Court pursuant to NEB. REV. STAT. § 48-144.01 may be used in place of the OSHA No. 301 form to report Nebraska work-related injuries and illnesses.

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.

## Nebraska Occupational Injury and Illness Survey – 2019

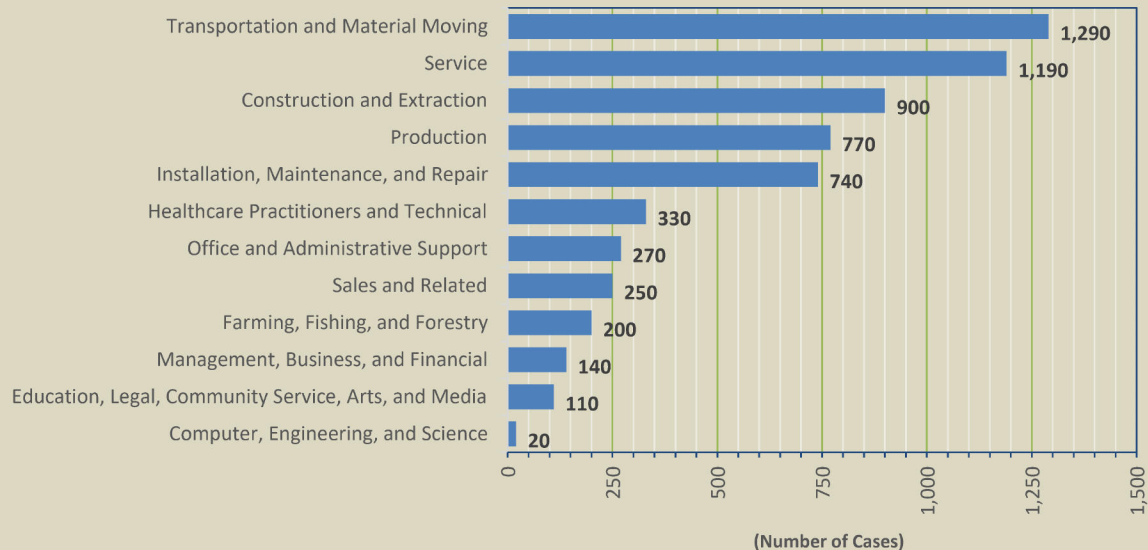
In order to measure and evaluate the efforts in reducing work-related injuries and illnesses, a standardized system to collect, compile and analyze the health and safety statistics was established and implemented. The Nebraska Workers' Compensation Court has cooperated with the U.S. Department of Labor, Bureau of Labor Statistics (BLS) since 1971 in conducting an annual survey of Nebraska employers, through which these essential work injury and illness statistics are gathered.

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. Beginning with the 2008 survey, local and state government units in addition to private sector have been surveyed.

### Calendar Year 2019 Survey Results

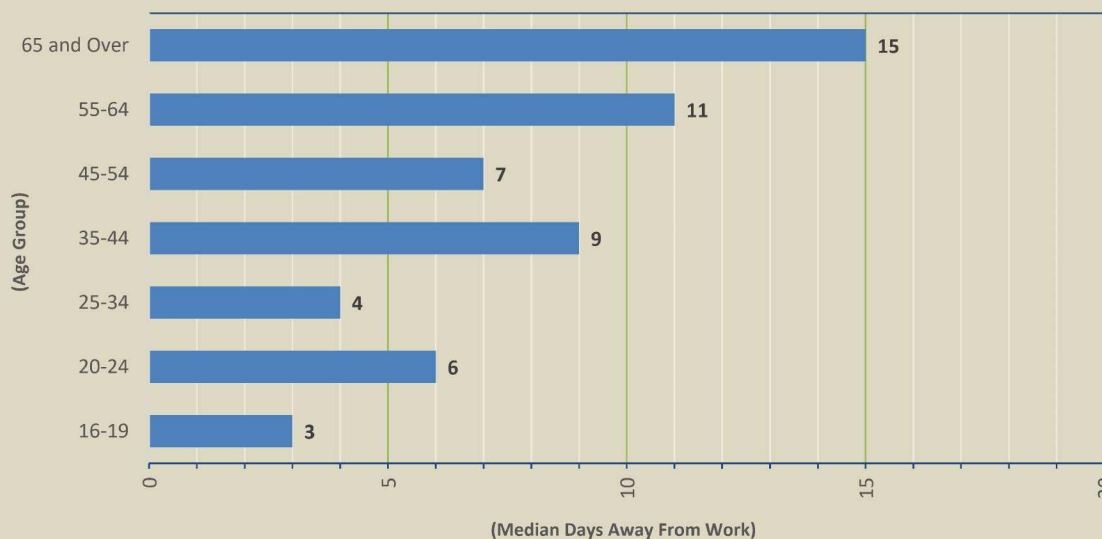
Results of the Nebraska Occupational Injury and Illness Survey are available on the BLS website (<https://www.bls.gov/iif/oshstate.htm#NE>).

Number of Injuries And Illnesses By Major Occupation, Private Industry

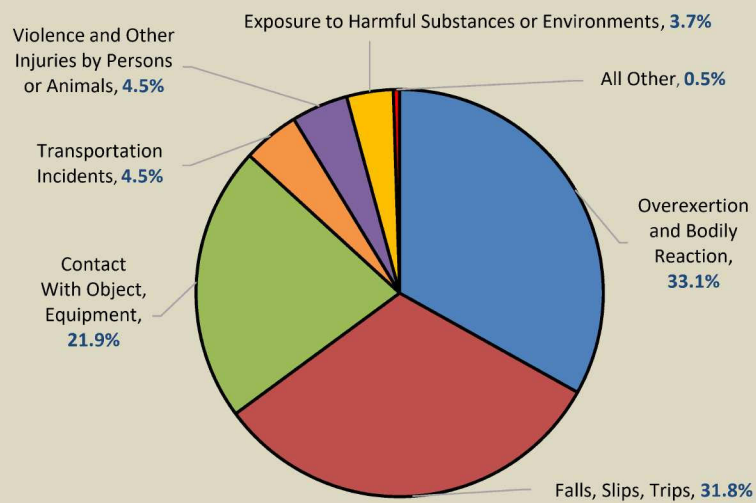


2019 Survey Results, continued to next page.

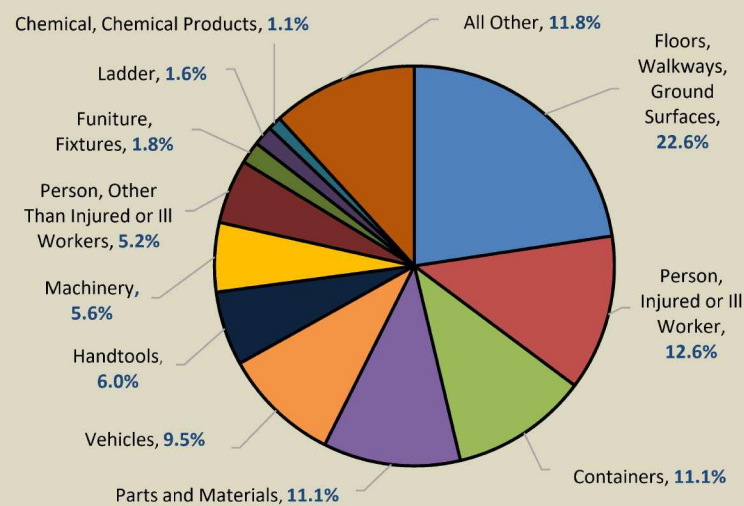
**Median Days Away From Work Due to Injuries And Illnesses, Private Industry**



**Distribution of Injuries And Illnesses By Event Or Exposure, Private Industry**  
(Total Cases: 6,200)



**Distribution of Injuries And Illnesses By Source, Private Industry**  
(Total Cases: 6,200)



# Census of Fatal Occupational Injuries (CFOI) – 2018

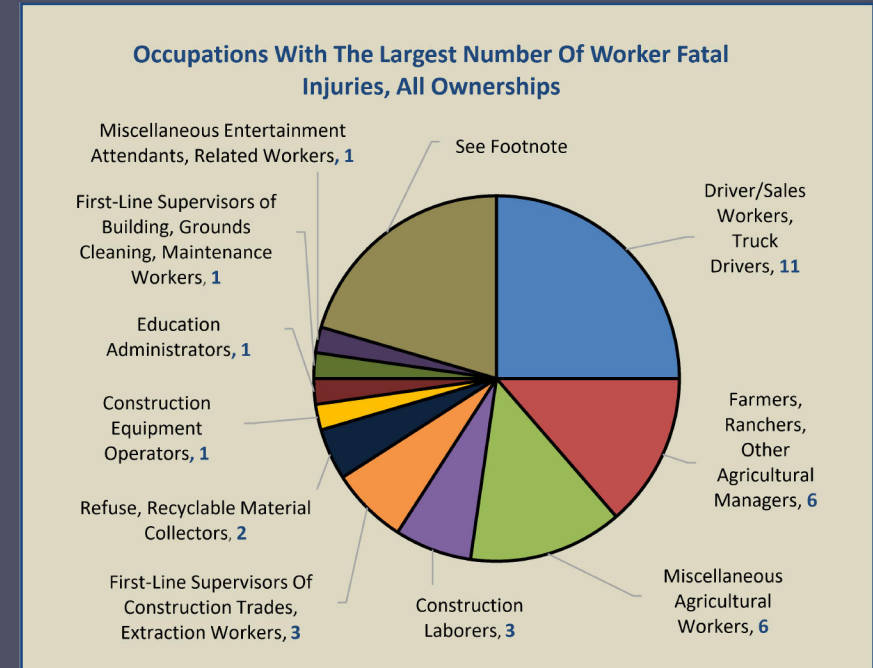
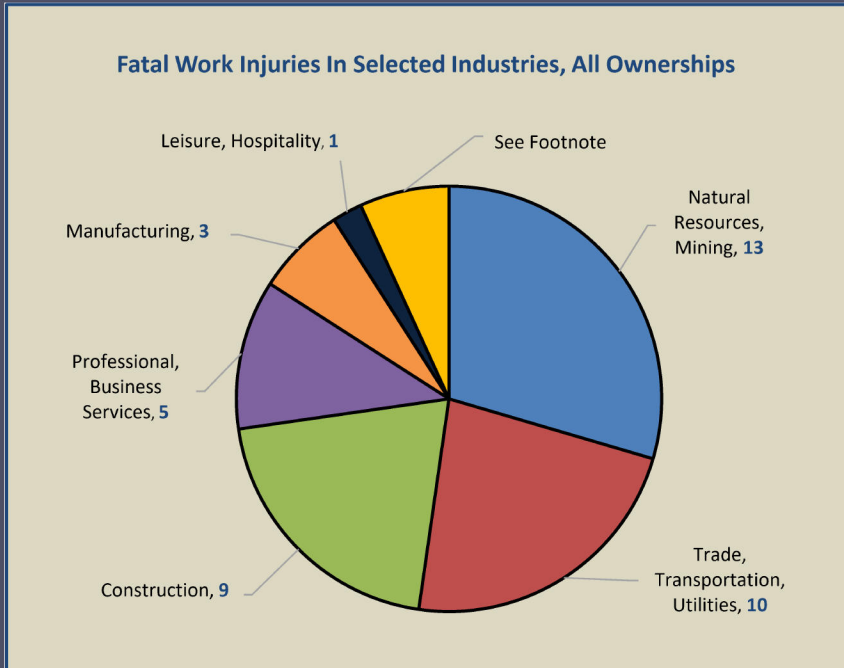
The Census of Fatal Occupational Injuries (CFOI) Program was developed by the U.S. Department of Labor, Bureau of Labor Statistics (BLS) to provide a timely and accessible census of work-related fatalities. The CFOI program is a federal / state cooperative program. In Nebraska, CFOI is conducted by the Nebraska Workers' Compensation Court. This is the 27th year that CFOI has been conducted in all 50 states and the District of Columbia.

In calendar year 2018, the most recent year for which data has been released, 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.

## Calendar Year 2018 Census Results

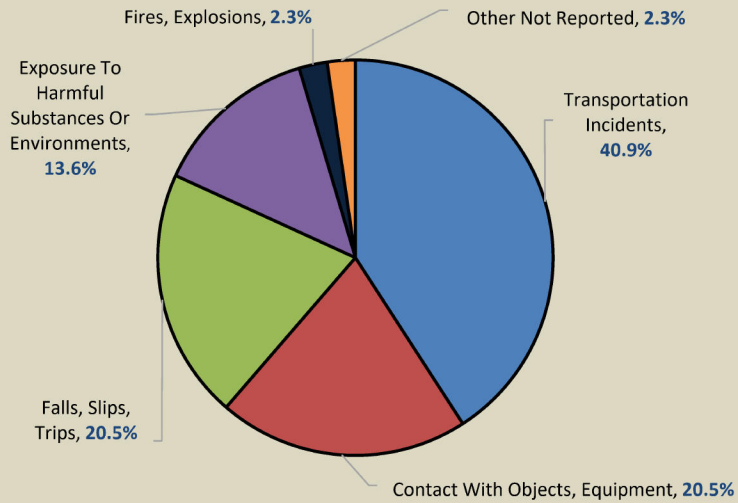
Results of the Nebraska Census of Fatal Occupational Injuries are available on the BLS website (<https://www.bls.gov/iif/oshstate.htm#NE>). The 2018 census recorded 44 fatal workplace injuries during 2018, up from 35 during the previous year.



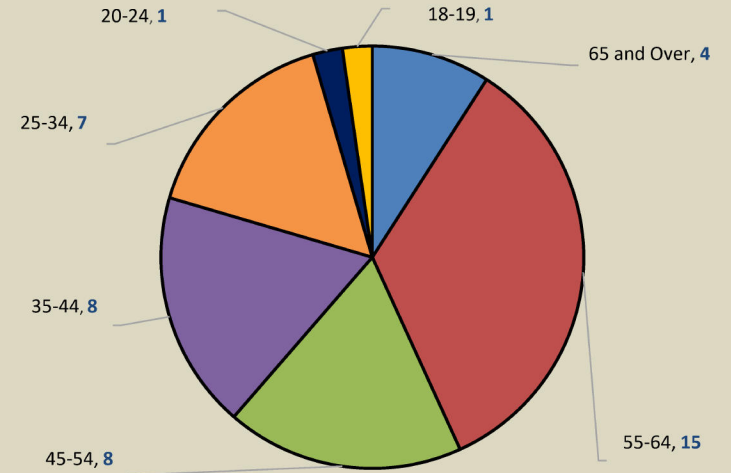
**Footnote:** Totals for major categories may include subcategories not shown separately. Blank cells indicate no data or data that do not meet publication criteria. CFOI counts exclude illness-related deaths unless precipitated by an injury event.

*2018 Census Results, continued to next page.*

Workplace Fatal Injuries By Event Or Exposure, All Ownerships



Workplace Fatal Work Injuries By Age In Years, All Ownerships



## Additional Information

Information regarding federal grant program survey and census results by calendar year may be accessed in the **Bureau of Labor Statistics Reports** section of our website (<https://www.wcc.ne.gov/resources/court-forms-and-publications/bureau-of-labor-statistics-reports>).

## Contact Us



Please contact us with questions or comments about this report, workers' compensation in Nebraska, or any of our programs and services.

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