



# Nebraska Workers' Compensation Court **79<sup>th</sup> Annual Report**

## **Fiscal Year 2021**

July 1, 2020 through June 30, 2021

<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 79<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.

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Lincoln, NE 68509-8908  
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<http://www.wcc.ne.gov>

Visit our website (<http://www.wcc.ne.gov>) for more information about workers' compensation in 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 committed to the courts of appellate jurisdiction or as otherwise provided by NEB. REV. STAT. § 48-152.

# 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 Nebraska 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 to 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. 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."). Per NEB. REV. STAT. § 48-152, the court was created in recognition that:

- industrial relations between employers and employees within the State of Nebraska are affected with a vital public interest;
- an impartial and efficient administration of the Nebraska Workers' Compensation Act is essential to the prosperity and well-being of the state; and
- suitable laws should be enacted for establishing and preserving the administration of the Nebraska Workers' Compensation Act.

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.

## Organization

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

Activities historically conducted in person shifted to electronic methods in Fiscal Year (FY) 2020 due to the COVID-19 pandemic. During FY 2021, many of those operational changes were incorporated into the court's normal business processes. Continuing enhancements to court technology created efficiencies in internal procedures of the court; facilitated virtual meetings, hearings, and remote work; and increased accessibility of relevant information to those interested in workers' compensation in Nebraska. This progress was possible because mission-focused, dedicated court staff adjusted work processes as necessary in response to changes brought about by the pandemic.

Ongoing modernization of court processes and efficient exchanges of appropriate information remain priorities for the court. While carrying on the important work of the court described in the pages that follow, the court



also improved technology in its courtrooms, laid the foundation for aligning with the modernization initiatives of the Nebraska Judicial Branch, and prepared for future advancements in court operations over the long term.

## Changes to Court Rules

In **December 2020**, the Nebraska Workers' Compensation Court adopted the following revisions.

- **Rule 2** was amended to provide for the electronic transmission of notices, opinions, court entries, and other dispositional orders or information from the court to all users ("E-Notice"). Rule 2 also provides that documents under seal by court order may not be E-filed, and that failure to register for E-filing and maintain updated contact information for E-filing may be enforced by appropriate sanction of the trial court.
- **Rule 3** was amended as described below.

A moving party must obtain a hearing date prior to filing a motion. This amendment also provides for consistency in references to attorneys and distinctions between attorneys and self-represented litigants.

The procedure for consolidation of cases is confirmed in Rule 3. Consolidated cases are assigned to the judge with the oldest related case, unless justice requires a different assignment. Prior to the adoption of this amendment, at times litigants failed to notify judges in all related cases that consolidation was being requested. Rule 3 requires that litigants file the motion or stipulation to consolidate in each related docketed case.
- **Rule 11** was updated to provide that once E-Notice becomes available, the order, award, or judgment will be sent via E-Notice to any party or attorney who is registered for E-Notice. If email isn't available for E-Notice (such as self-represented litigants), they will continue to receive copies of the order, award, or judgment by regular mail.

*Fiscal Year Activities, continued to next page.*

## ***Fiscal Year Activities, continued from previous page.***

- **Rule 26** affirmed the Schedule of Fees for Medical Services and established the Diagnostic Related Group (DRG) Codes that became effective on January 1, 2021. 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.
- **Rule 37** was amended to provide that all loss of earning power reports must be submitted to all parties and the court. The vocational rehabilitation section has determined that receiving these reports will assist them in carrying out their authority to regulate vocational rehabilitation counselors and study problems with vocational rehabilitation in Nebraska.
- **Rule 42** was amended to shorten and clarify the timeframe for *appointment* from the list of vocational rehabilitation counselors from “15 working days” to “seven business days.”
- **Rule 43** similarly was amended to reduce and clarify the timeframe for an administrative decision in response to a request for *change* in vocational rehabilitation counselor from “15 working days” to “10 business days.”
- **Rule 47** was amended as described below.

The \$15.00 filing fee for lump sum settlements is required if an application is resubmitted after being dismissed.

Settling parties must state whether Medicaid has made any payments on behalf of the injured worker and include any such payments in the itemized list of medical expenses included in the settlement application.

In settlements involving life expectancies, the 2017 United States (U.S.) Life Table shall be used. The 2017 U.S. Life Table was incorporated into the Rules by updating Addendum 2. These changes to Rule 47 were *further amended* during a June 2021 Public Hearing / Public Meeting of the judges.

In **June 2021**, the court adopted the following revisions.

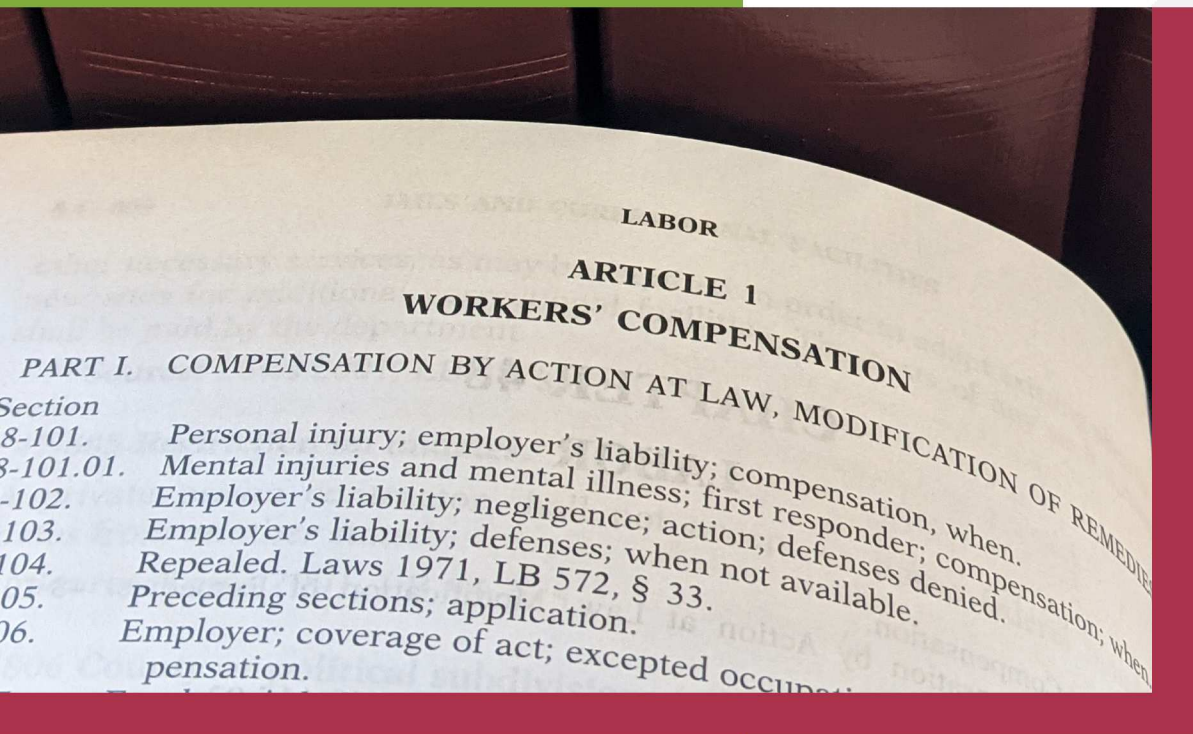
- **Rule 13** was added to provide for fax filings.
- **Rule 47** was again amended with respect to the life expectancy information used in certain settlements. Rule 47 now provides that the **2018** United States (U.S.) Life Table shall be used. The **2018** U.S. Life Table was incorporated into the Rules by updating Addendum 2.
- **Rule 64** now provides that requests for clarification of an independent medical examiner’s findings will be permitted only with the approval of an administrative staff member or judge of the court.
- **Rule 65** was amended to increase the rates allowable for independent medical examiners to \$500.00 per hour for a maximum of 10 hours of review time, and to increase the prepayment or cancellation fee to \$500.00. The distinction as to “complex” cases was eliminated. Additional changes to Rule 65 require an explanation by the examiner to justify the number of hours billed, and require the employer / insurer to pay the examiner’s bill within 30 days of receipt.

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

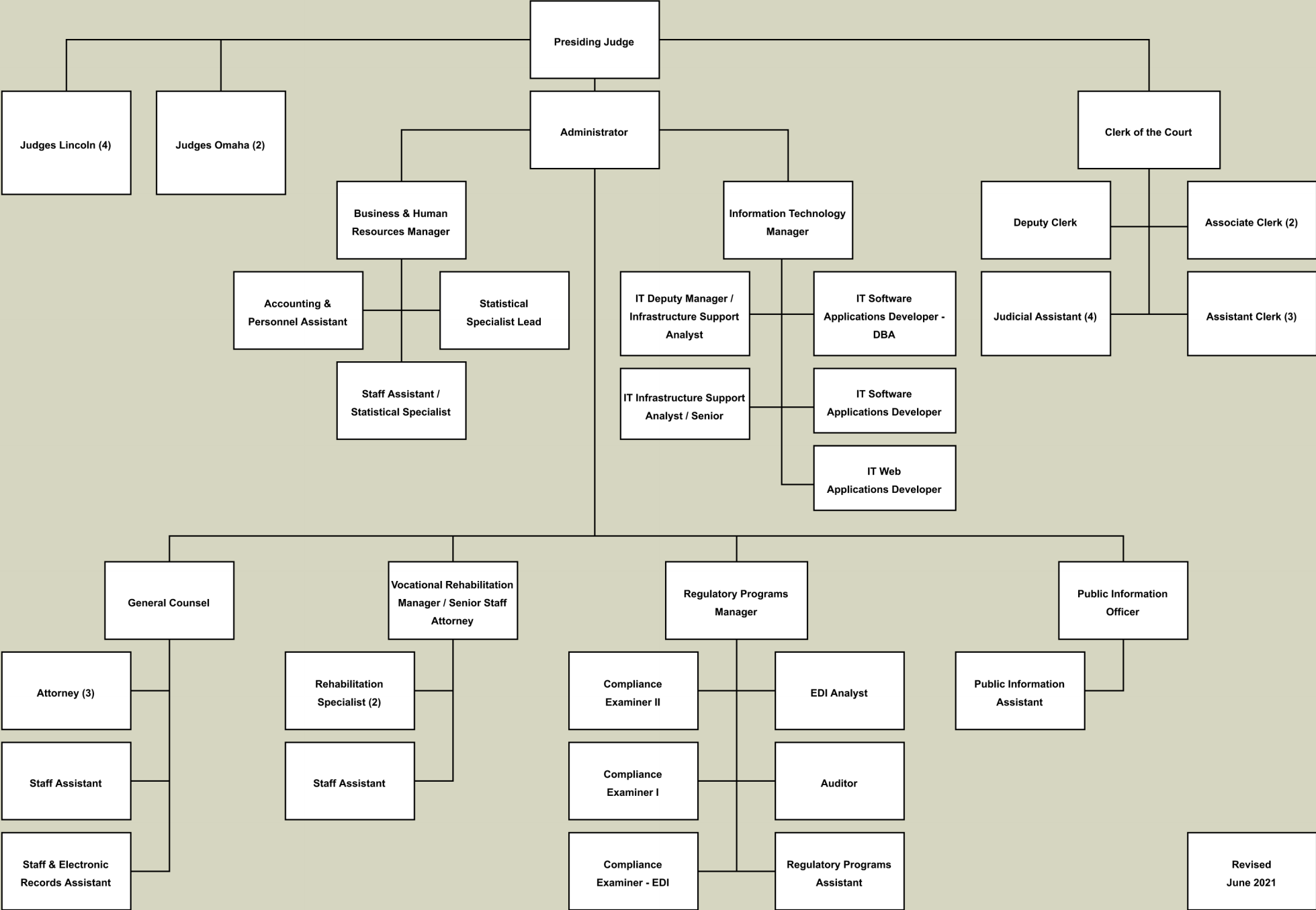
## Statutory Changes

- Legislative Bill (LB) 256 amended **NEB. REV. STAT. §§ 48-139(1)(a) (ii) and 48-139(3)(b)** concerning settlements of indemnity benefits when the medical component of the claim remains open. The statutory changes eliminated court approval for those settlements if, at the time of settlement, the employee is eligible for Medicare, is a Medicare beneficiary, or has a reasonable expectation of becoming eligible for Medicare AND Medicare hasn't paid medical expenses for which it claims entitlement or Medicare has been reimbursed for those expenses at the time the settlement is executed.

- LB 407 amended **NEB. REV. STAT. §§ 48-101.01(2) and 48-101.01(8)** to include certain county correctional officers in provisions governing mental injuries and mental illnesses under the Nebraska Workers' Compensation Act. County correctional officers employed by a high-population county whose position obligates the employee to maintain order and custody of inmates in a county jail and whose duties involve regular and direct interaction with high-risk individuals are now included in the types of employees to whom those provisions apply.

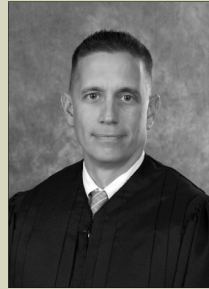


# Nebraska Workers' Compensation Court



Revised  
June 2021

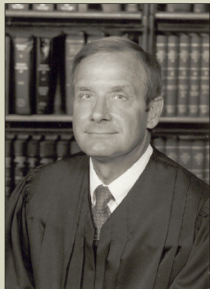
# Judges of the Nebraska Workers' Compensation Court



**Daniel R. Fridrich,  
Presiding Judge**

**Office:** Omaha, Neb.

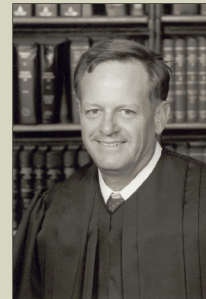
**Appointed:** September 18, 2012.



**James R. Coe,  
Judge**

**Office:** Omaha, Neb.

**Appointed:** October 7, 1988.



**J. Michael Fitzgerald,  
Judge**

**Office:** Lincoln, Neb.

**Appointed:** April 12, 1996.



**John R. Hoffert,  
Judge**

**Office:** Lincoln, Neb.

**Appointed:** October 4, 2001.



**Thomas E. Stine,  
Judge**

**Office:** Lincoln, Neb.

**Appointed:** September 13, 2011.



**Julie A. Martin,  
Judge**

**Office:** Omaha, Neb.

**Appointed:** December 23, 2014.



**Dirk V. Block,  
Judge**

**Office:** Lincoln, Neb.

**Appointed:** December 8, 2016.





# Judges of the Nebraska Workers' Compensation Court

Seven judges serve on the Nebraska Workers' Compensation Court. The judges 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 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.

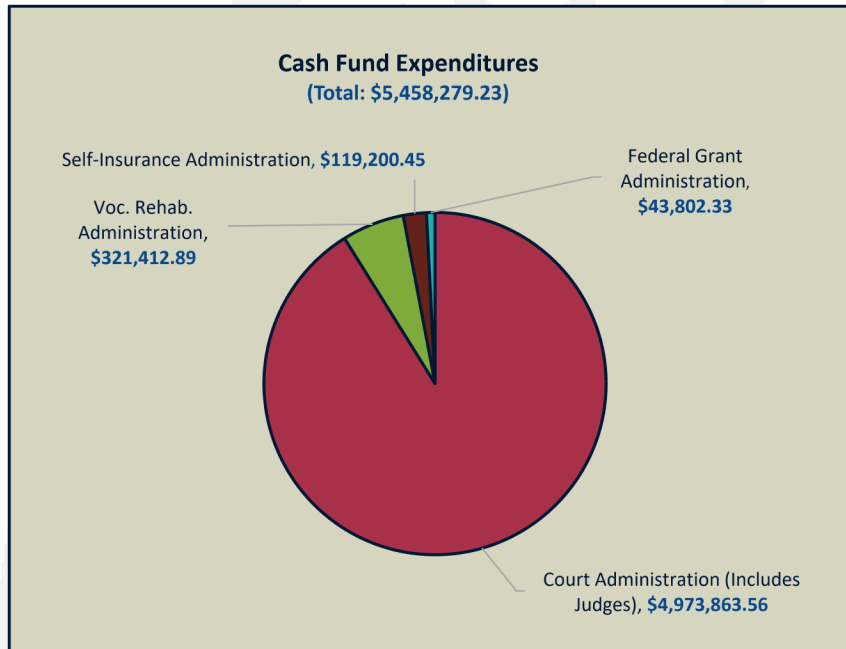
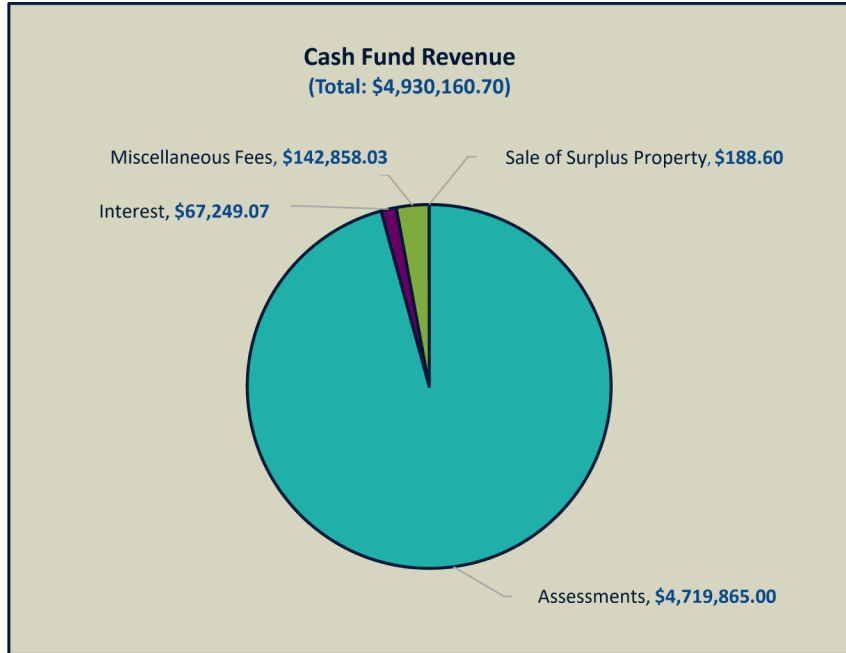
# Funding, Benefit Rates, and Injuries

## Compensation Court Cash Fund

### Fiscal Year 2021 (July 1, 2020 to June 30, 2021)

The Compensation Court Cash Fund (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, fees for self-insurance applications and copies of public records, as well as reimbursement under the Families First Coronavirus Response Act (FFCRA).

Contributions to the Cash Fund abate for one year whenever its balance 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 Cash Fund. The appropriation for fiscal year 2021 was \$6,534,331.



**Fund Balance**  
July 1, 2020:  
**\$5,771,563.61**

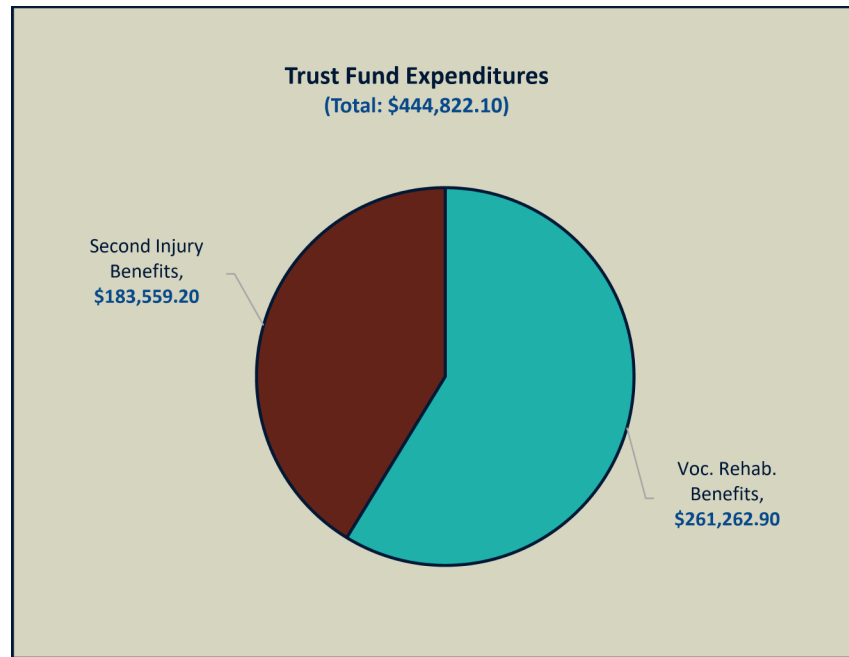
**Fund Balance**  
June 30, 2021:  
**\$5,243,445.08**

# Workers' Compensation Trust Fund

## Fiscal Year 2021 (July 1, 2020 to June 30, 2021)

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

Trust Fund revenue in FY 2021 consisted entirely of interest, in the amount of **\$106,042.99**. The court made no assessments and received no miscellaneous revenue during the fiscal year.



**Fund Balance**  
July 1, 2020:  
**\$7,044,051.24**

**Fund Balance**  
June 30, 2021:  
**\$6,705,272.13**

**Trust Fund Revenue:**  
**\$106,042.99**

# Federal Fund

## Federal Fiscal Year 2021 (October 1, 2020 to September 30, 2021)

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 Neb-

raska 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 bi-

ennium. 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, 2020:</b>					\$0
<b>Revenue:</b>					
Intergovernmental Revenue				46,112	
Deobligation June 30, 2020				(5,410)	
Total Revenue					<u>40,702</u>
<b>Expenditures:</b>					
	Legislative	Administrative	Not	Actual	
	Appropriation	Adjustments	Expended	Expended	
Federal Grant Admin.	<u>57,221</u>	<u>(16,519)</u>	0	40,702	
Total Expenditures					<u>40,702</u>
<b>Fund Balance on September 30, 2021:</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 2021 is \$914.00. The minimum rate remains at \$49.00 as provided in NEB. REV. STAT. § 48-121.01(2).

**Calendar Year 2021  
Maximum Benefit Rate:  
\$914.00**

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

## Injuries Reported in Fiscal Year

The Nebraska Workers' Compensation Court received reports of 36,955 injuries resulting from accidents and occupational diseases in fiscal year 2021.

The data collected during this fiscal year is not final as there may be late filings and corrections to data during the life of any workers' compensation claim. This means that some of the reports received may have had injury dates from prior fiscal years.

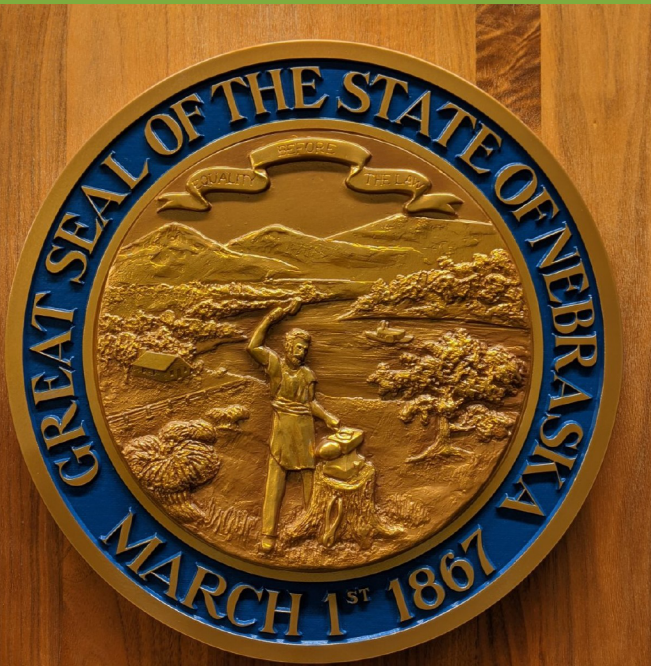
Our Statistical Reports provide more mature and more detailed information regarding injuries and benefit payments by calendar year (<https://www.wcc.ne.gov/resources/court-forms-and-publications/statistical-reports>).

**Total Injuries Reported  
in FY 2021:**

**36,955**

# 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.



## Continued COVID-19 Pandemic Response

The COVID-19 pandemic proved to be an ongoing issue during the past fiscal year. Nevertheless, the court remained open at all times, providing access to justice through telephonic hearings, video trials, and in-person trials. In spite of the pandemic, there were times when judges were able to safely travel to numerous counties throughout Nebraska to provide in-person trials for injured employees and employers. There were no undue delays in the court docket, and trials and hearings proceeded as scheduled in a normal and timely fashion.

To help guide its way through the pandemic, the Nebraska Workers' Compensation Court followed the administrative orders issued by the Nebraska Supreme Court. In November 2020, an administrative order was issued by Presiding Judge Fridrich providing that all trials would take place in person. Masks were required of all trial participants and spectators. Courtrooms were required to be cleaned before each trial and other protective equipment was available as needed. Video trials were permitted upon request of the parties and upon the approval of the trial judge.

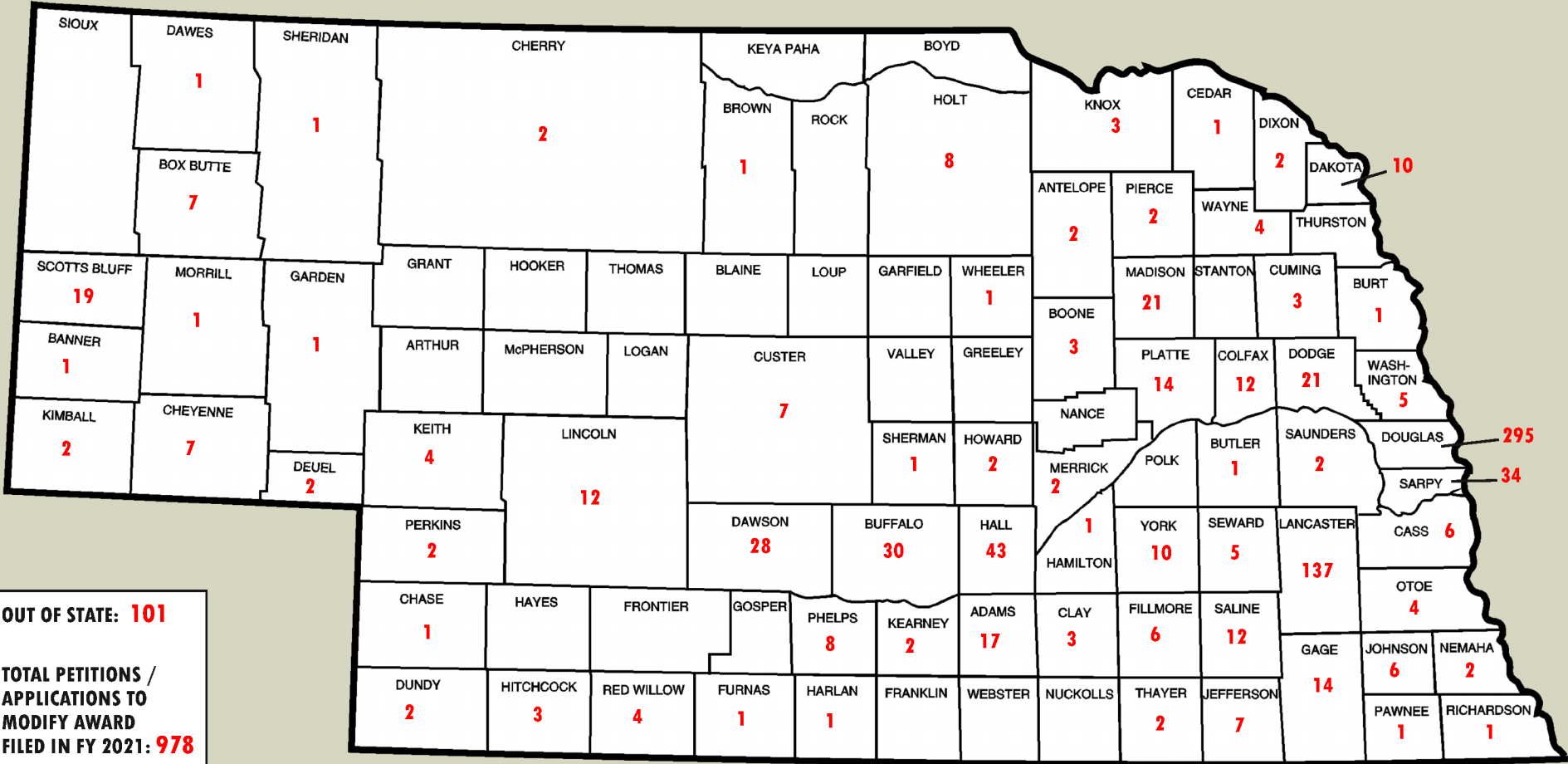
After vaccination rates rose in the state, Judge Fridrich issued an administrative order in May 2021 that allowed vaccinated trial participants to attend in-person trials without a mask. Unvaccinated trial participants were still asked to wear a mask while in the courtroom. Trials continued to take place in person, although parties were allowed to request video trials, as was the case prior to the pandemic.

During the past fiscal year, in-person trials served as the predominant method of resolving disputes between injured workers and their employers. Video trials, however, remained an effective and viable option for litigants. Through the tremendous support of our Clerk's Office staff, lawyers representing both employees and employers grew comfortable with the technology necessary to conduct video trials and the ease with which video trials could effectively be used to resolve disputes. Clerk's Office staff also spent considerable time with attorneys, self-represented litigants, and witnesses testing their computers and electronic devices to ensure their ability to participate in video trials.

# Petitions and Applications to Modify Award by County

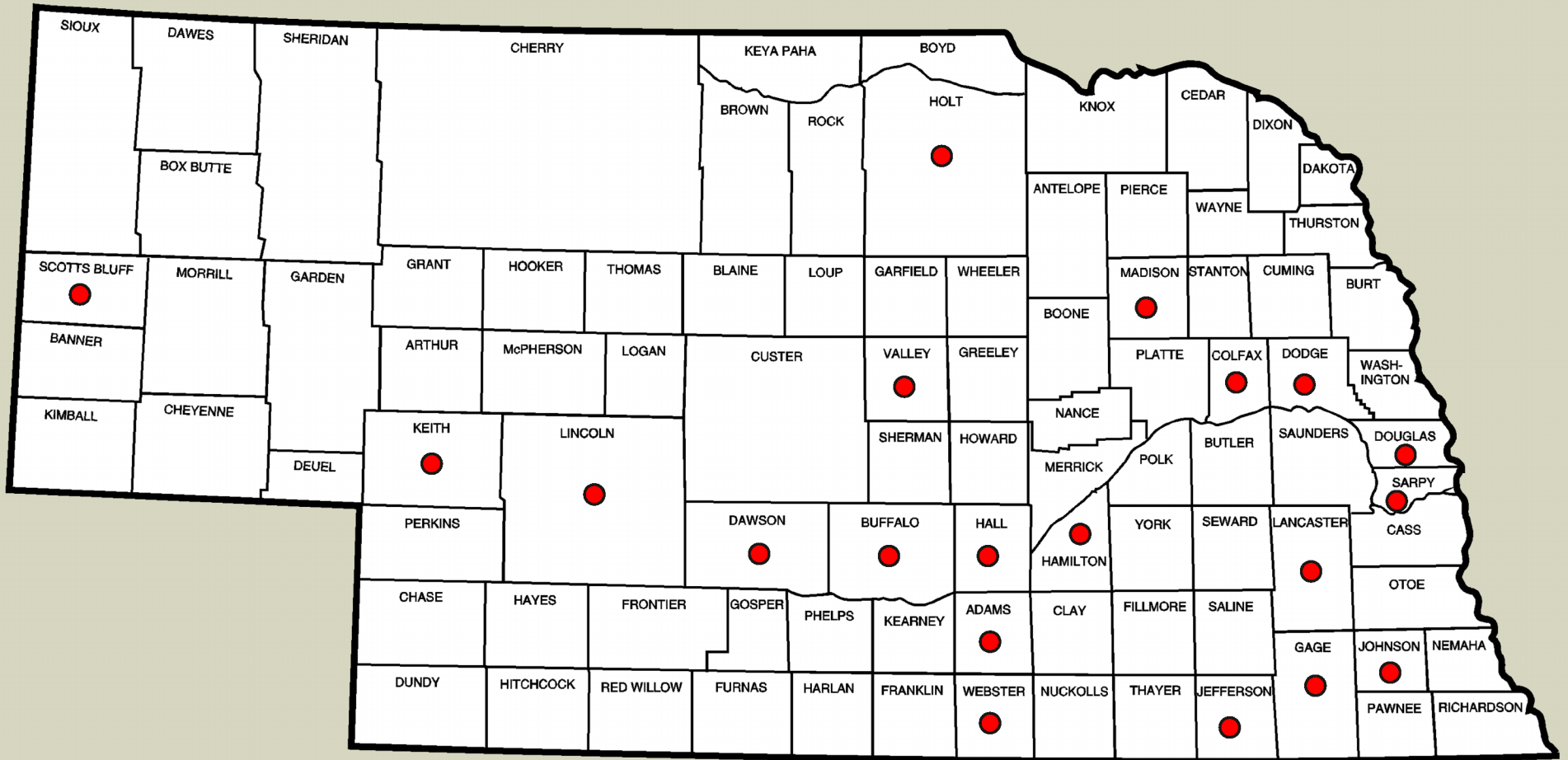
Below is a map showing the total number of Petitions and Applications to Modify Award filed with the court and allocating them to the counties where those Petitions allege the accidents occurred.

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 11 cases during fiscal year 2021.



# Trials and Evidentiary Hearings by County

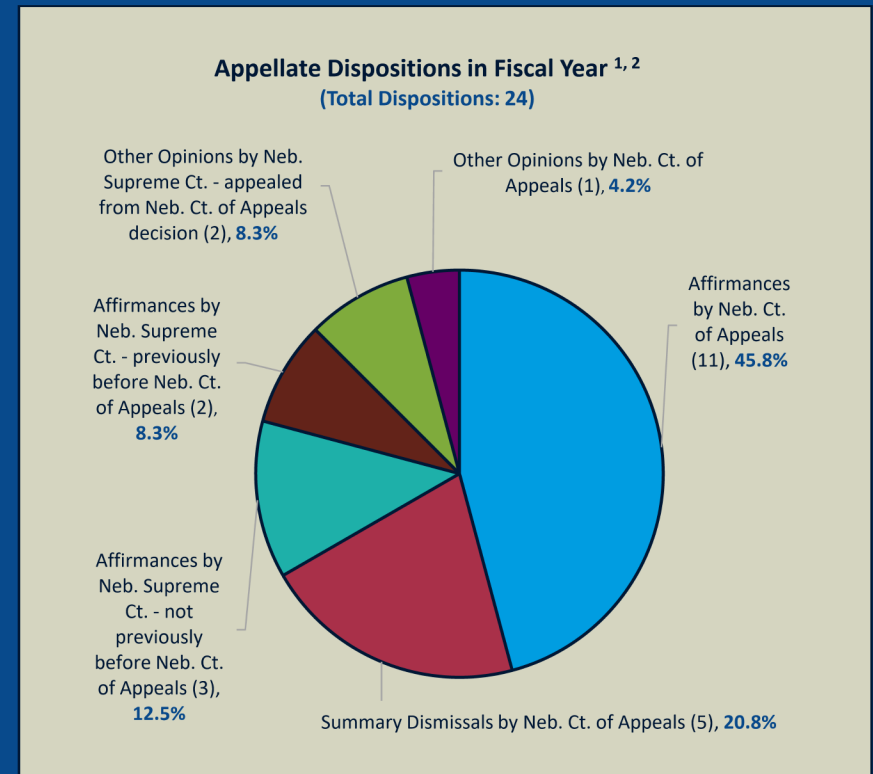
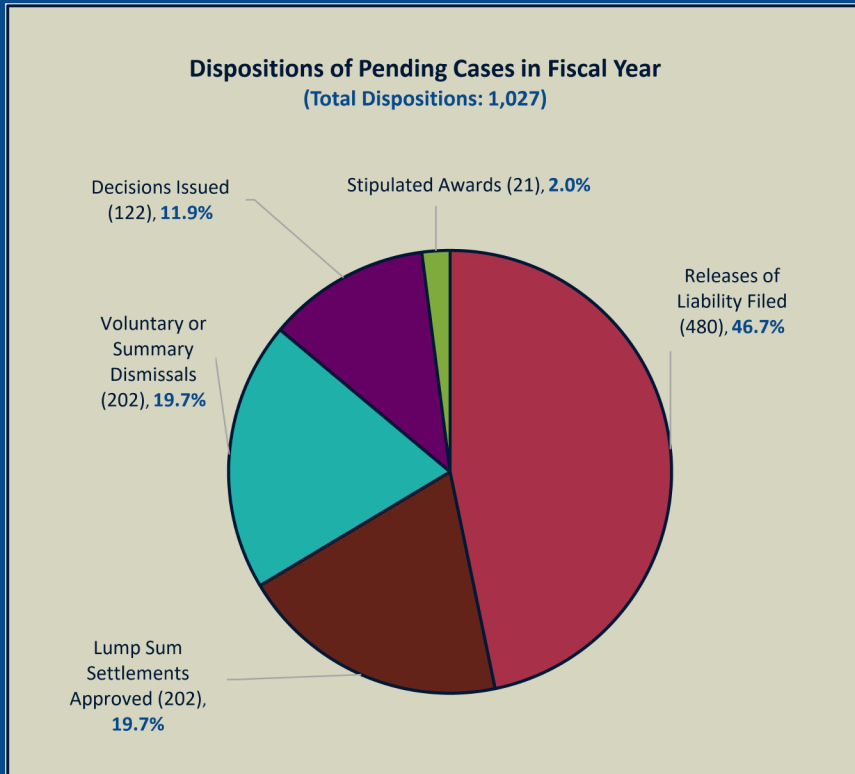
Generally, trials and evidentiary hearings are conducted in the county in which the accident occurred unless the litigants agree to a different location (see NEB. REV. STAT. § 48-177). For that reason, the venue for workers' compensation cases could be in any county in Nebraska. In fiscal year 2021, trials were conducted in the 20 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 2021. Twenty-three appeals were filed from decisions of the Nebraska Workers' Compensation Court during the fiscal year.



## Motions in FY 2021

**3,211**  
Filed

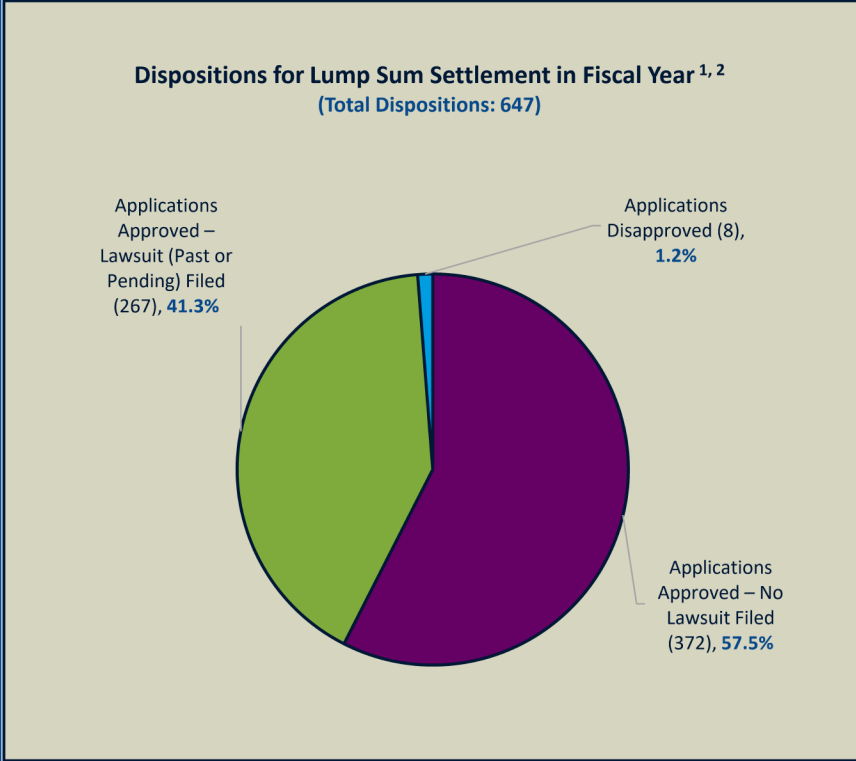
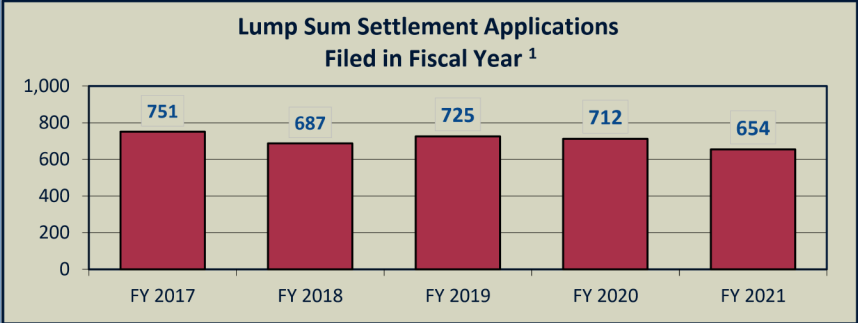
**482**  
Hearings

**2,516**  
Dispositions

- 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.
- 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 2021.

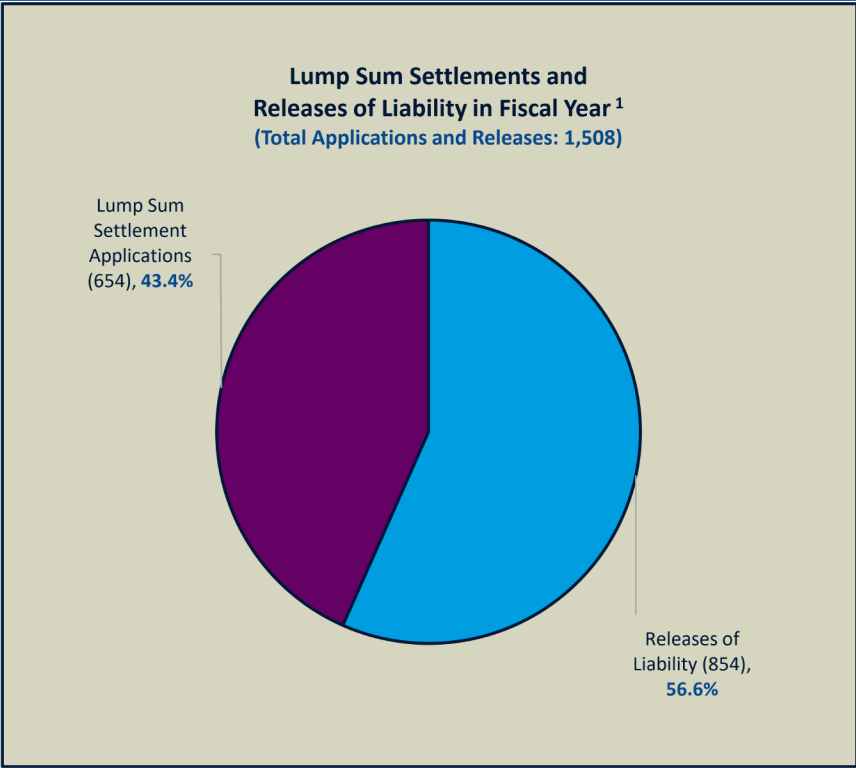
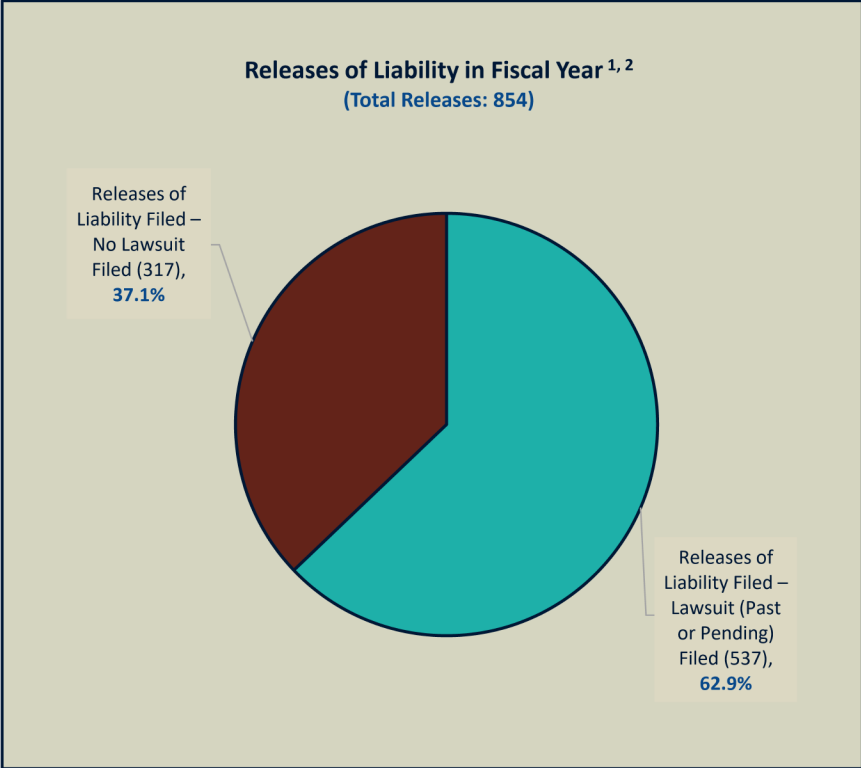


<sup>1</sup> Pursuant to NEB. REV. STAT. § 48-139, lump sum settlement agreements require court approval. In 2009, the Nebraska Legislature amended this statute to eliminate mandatory court approval of certain settlement agreements and to require the filing of a release of liability for those settlements 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 2021 and compare the number of Lump Sum Settlement applications with the number of Releases of Liability filed during fiscal year 2021.



<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 access to public records process and the 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>).

## 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>).

## \$369,947.98 in Lump Sum Settlement Application Underpayments Identified

In FY 2021, the Legal section identified underpayments in 58 lump sum settlement applications totalling \$369,947.98 in indemnity (wage loss) 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 2021 are provided in the "Office of the Clerk of the Court" section of this report.

## 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 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 2021, the court's attorney-mediators addressed issues in-

*Informal Dispute Resolution, continued to next page*

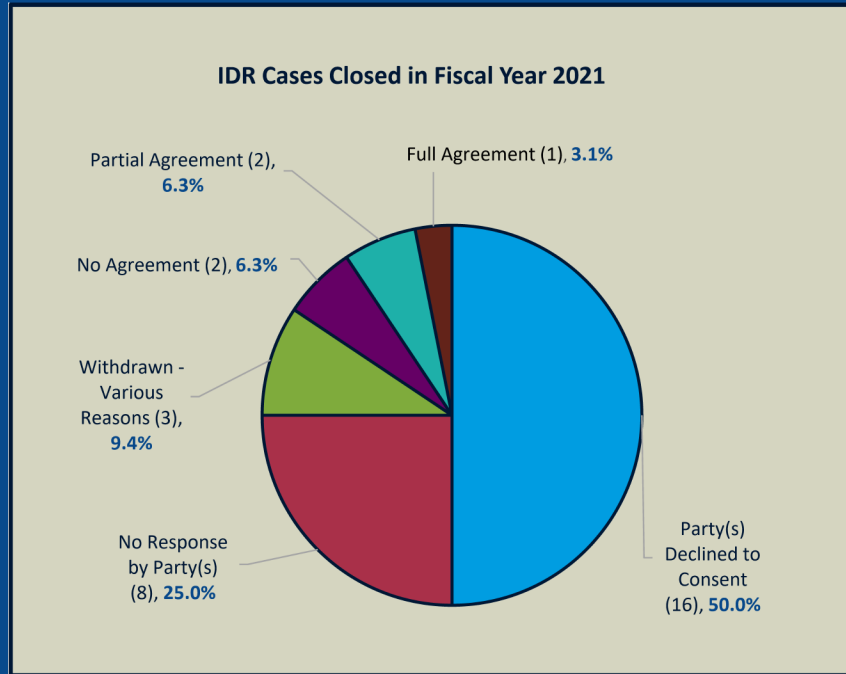
# 32

## Informal Dispute Resolution cases opened and closed in FY 2021

### Informal Dispute Resolution, continued from previous page.

volving compensability of a claim, payment of vocational rehabilitation services, payment of air ambulance services, indemnity benefits, loss of earning power, medical treatment, and medical expenses.

Mediation through the court is voluntary absent an order by a judge. In 24 cases, or 75 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.



# 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 2021, the court received reports of 36,955 workplace injuries or occupational diseases. Section staff, in conjunction with court's EDI contractor, processed 83,958 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 2021 section staff processed 104,754 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.

## Vaccination Codes Added to EDI

Vaccination-related data points incorporated into the IAIABC EDI Claims Release 3.1 standard were adopted by the court administrator effective March 8, 2021 to provide a method for employers and insurers to report injuries claimed to have occurred due to a vaccination process. The Nature of Injury Code list was expanded to include Code 38, which is defined as "Adverse reaction to a vaccination or inoculation." The Cause of Injury Code 82 definition, expanded to better define its "not otherwise classified" (NOC) section, now states in part, "... Applies only to non-impact cases in which the injury resulted from inhalation, absorption (skin contact), ingestion of harmful substances, or vaccinations."

# 4,135

## Letters Sent to Verify Coverage Status

# 501

## Employers Brought Into Compliance

# 130

## Non-Compliance Cases Referred for Legal Action

# \$100,785.69

## Collected in Penalties by the Attorney General

# 178

## Case Investigations Opened

## 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 is not in place, it takes steps to educate those employers or hold them 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 the Regulatory Programs section staff do not result in compliance, the case is then referred to the Attorney General for further action.

During FY 2021, 4,135 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, 501 employers were brought into compliance with their statutory obligation to obtain workers' compensation coverage. Additionally, 130 cases were referred to the Attorney General, who collected a total of \$100,785.69 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 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 178 case investigations were opened last fiscal year as a result of the above activities.

# 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>).

## 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 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

***Medical Services Activities, continued to next page.***



# 127

## IME Physicians

# 23

## IME Cases Opened

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

and be approved by the judges of the court. Currently there are 127 court-approved IME physicians who specialize in varying disciplines.

During FY 2021, 23 IME cases were opened. Twelve requests for assignment of a court-approved IME were submitted by an attorney representing an injured employee and eight were submitted by a workers' compensation insurer or the insurer's attorney on behalf of the employer, and one was submitted by a self-represented employee. Two independent medical exams were ordered by the court.

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

On June 30, 2021, there were 362 employers and 32,054 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.

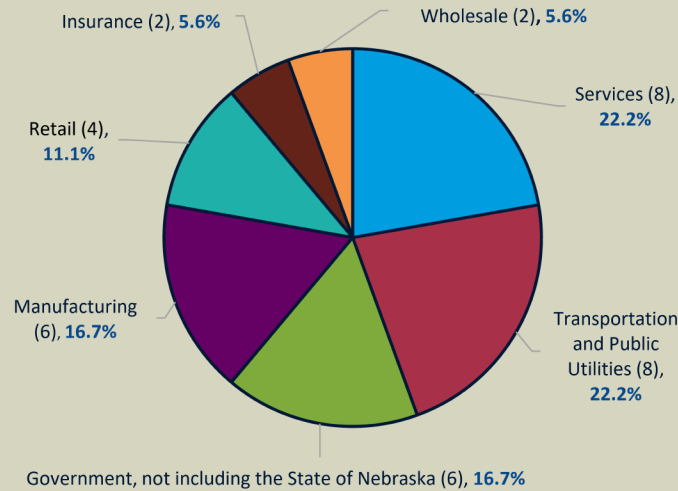
As of June 30, 2021, there were 36 employers approved for self-insurance. In addition, the State of Nebraska is self-insured by statute and is not included in any of these statistics.

## Assessments for Self-Insurers

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 2021 assessment purposes, there were 37 self-insurers (employers who were self-insured for all or part of calendar year 2020).

Self-Insurers by Major Industrial Division

[Total Self-Insurers as of June 30, 2021: 36]



## Self-Insurance

Calendar Year	Number of Self-Insurers	Number of Employees	Gross Payroll
2020	37	118,231	\$5,020,285,043

# 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, implementing, 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.

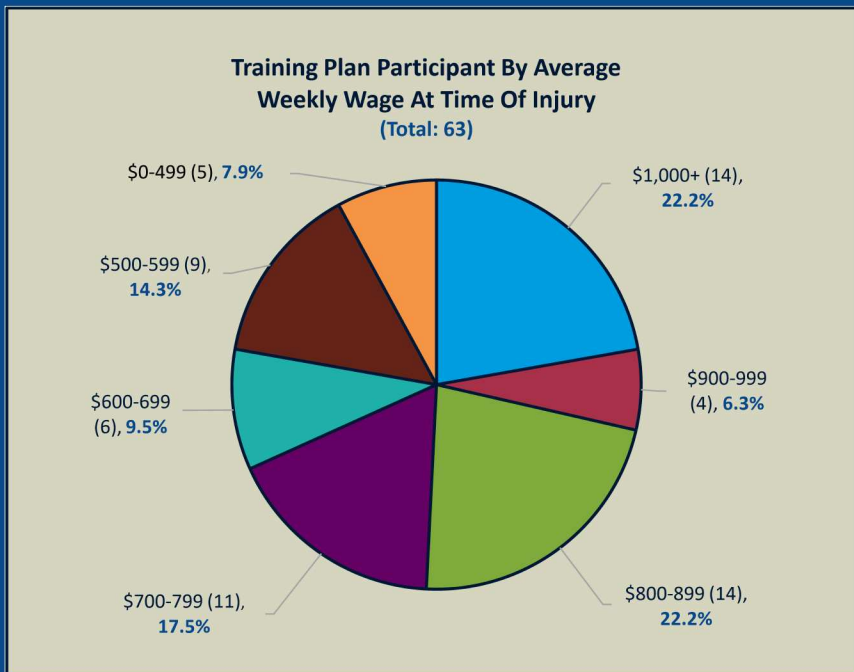
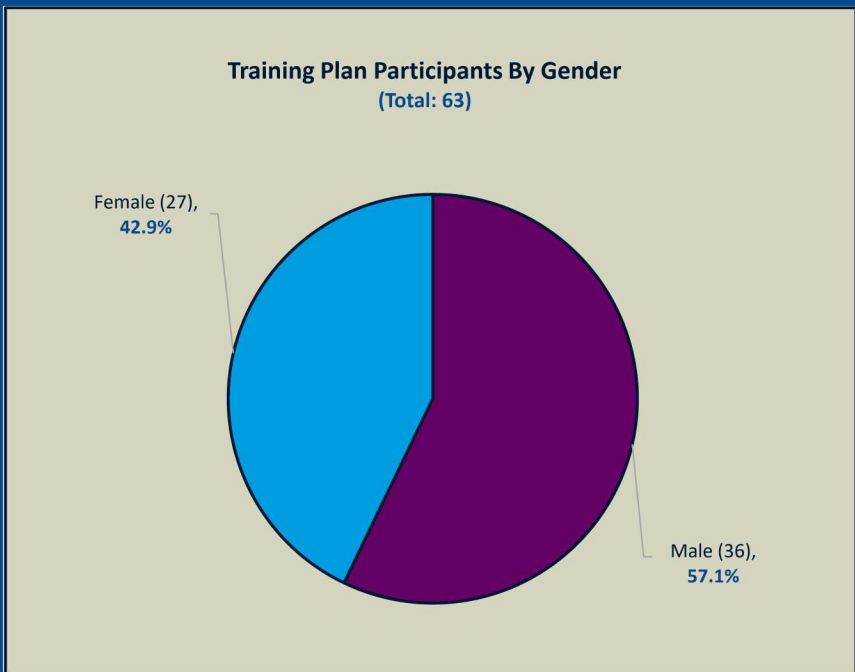
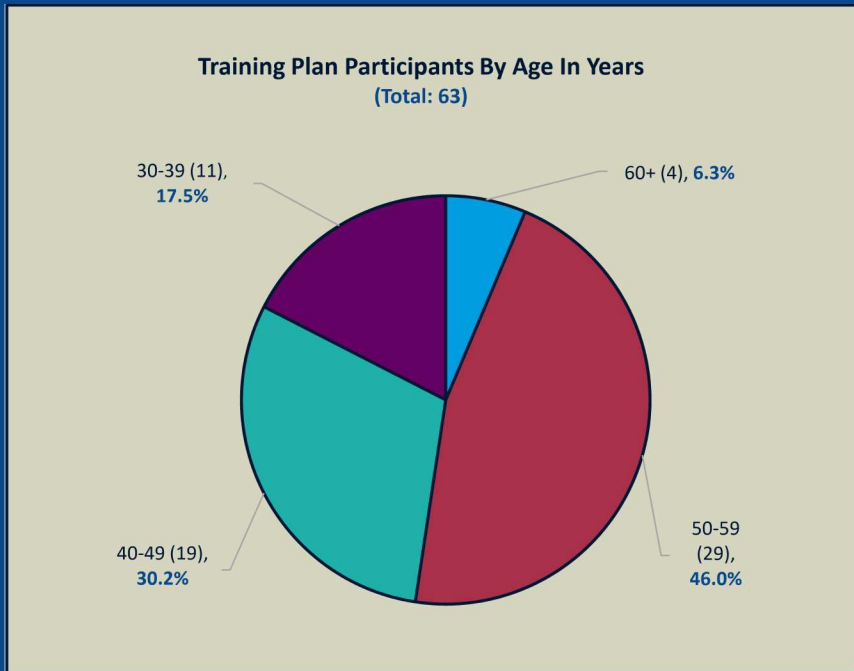
Prior to implementation, all vocational rehabilitation plans must also be evaluated and approved by a specialist employed by the court or a judge of the court.

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 115 court-approved plans involving 95 injured employees in FY 2021. This total represents 63 plans started during the fiscal year and 52 carryover plans. The court-approved plans included 52 job placement plans and 63 formal training plans. Additional plan information is provided on the next page.

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



## 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 2021, there were 53 court-certified vocational rehabilitation counselors, and 53 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 332 cases opened in FY 2021, the court appointed 104 counselors, the parties were able to agree on a counselor in 221 cases, and seven 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	43	27
Vocational Rehabilitation Services Only	21	36
Loss of Earning Power Evaluation Only	40	158
<b>Total</b>	<b>104</b>	<b>221</b>

During FY 2021, 523 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

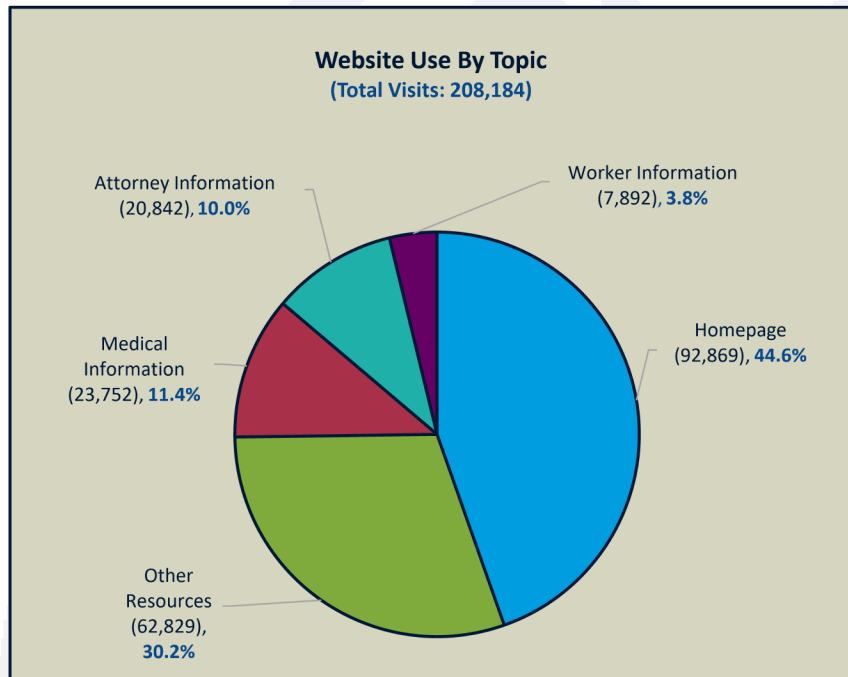
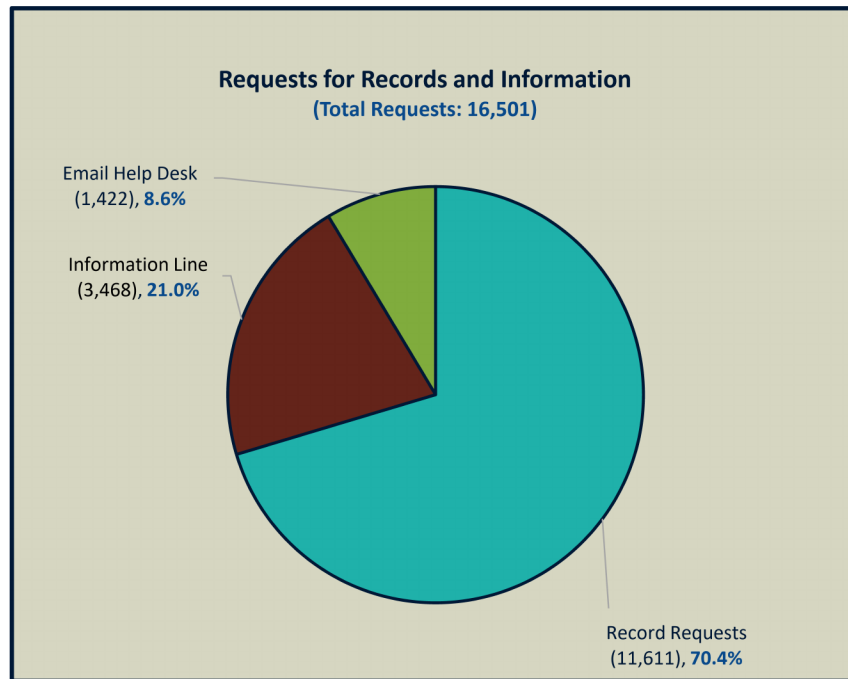
The **Public Information section** responds to requests for records and information, supports the court's toll-free telephone information line, maintains its website, prepares its publications and forms, and manages its business continuity program.

## 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>). Because the most frequently used areas of the primary website are available from its **homepage** for quick access, this web page received nearly half of all page views. The **other resources** category combines totals for all other major areas of our web presence, including information for employers, insurers, vocational rehabilitation providers, and a general resources directory.



## Frequent Information Line and Email Help Desk Request Topics:

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

## Information Line

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

**208,184**  
Web Page Visits

## Publications and Forms

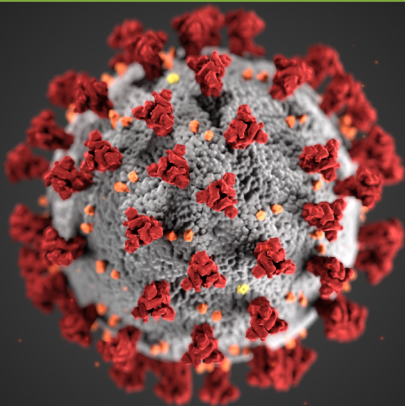
The section produces and maintains an inventory of court publications. Public Information staff work with other sections of the court to assist with design, content development, and editorial style.

The section 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.

Following approval of adopted amendments, new editions of the Rules of Procedure are published. Public hearings and public meetings were conducted for this purpose in December 2020 and June 2021.

When development of new or revised publications and forms is completed, the section publishes the final products on the court's website.



“... 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

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 the following activities.

- Successful completion of a civil disturbance COOP exercise scenario to test plan viability.
- An ongoing response to the COVID-19 pandemic, described below.

### COVID-19 Pandemic Response

The Nebraska Workers' Compensation Court (NWCC) continued its pandemic response in FY 2021.

- The COOP remained activated at the beginning of the fiscal year as COVID-19 infection rates increased, leading to more than 131 thousand deaths in the U.S. and nearly 558 thousand deaths worldwide.\*
- NWCC complied with all county, state, and national directed health measures during the fiscal year. NWCC also continued its implementation of remote work, adjustment of work schedules, and expansion of cloud-based computing. These solutions helped to preserve public safety while ensuring the continued execution of NWCC's mission essential functions.
- As part of the pandemic response effort, NWCC continued to issue administrative orders and news releases regarding court appearances. These communications provided masking and social distancing guidance, as well as video conferencing alternatives to in-person trials and hearings.
- COVID-19 infection rates decreased throughout the spring and summer months of 2021 as vaccination rates increased. The COOP was deactivated on June 21, 2021, ending all pandemic-related remote work. However, limited remote work continued for approved personnel as part of normal operations.
- By the end of the fiscal year, the pandemic had caused more than 600 thousand deaths in the U.S. and nearly 4 million deaths worldwide.\* In anticipation of increased infection rates with the arrival of the delta variant of the COVID-19 virus, NWCC continued to follow best practices for pandemic workplace safety.

\* *Cumulative COVID-19 fatality data provided by the World Health Organization (<https://www.who.int/>). This includes revisions to its data previously published in our FY 2020 Annual Report.*

# 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 Relational Database Service (RDS) database as its primary information repository. The database currently contains more than 25 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 both 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.

### Security

The past year has been filled with high profile cybersecurity attacks, breaches, and ransomware among some of the largest tech companies in the world. This has been a reminder to our IT team and court staff about the importance of cybersecurity. While we felt as if we already had excellent security in place, this encouraged us to implement additional steps to secure our data even further. We have implemented extra encryption protocols to our data transfers and added reCAPTCHA systems to weed out bots attempting to mine our data. We also continue to migrate as many of our systems as possible to secure platforms that have been proven to be more resilient against cyberattacks.

### Delphi Conversion

The conversion of all legacy Delphi applications to Visual Studio progressed in FY 2021. 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. The project is scheduled to be completed by the end of the calendar year.

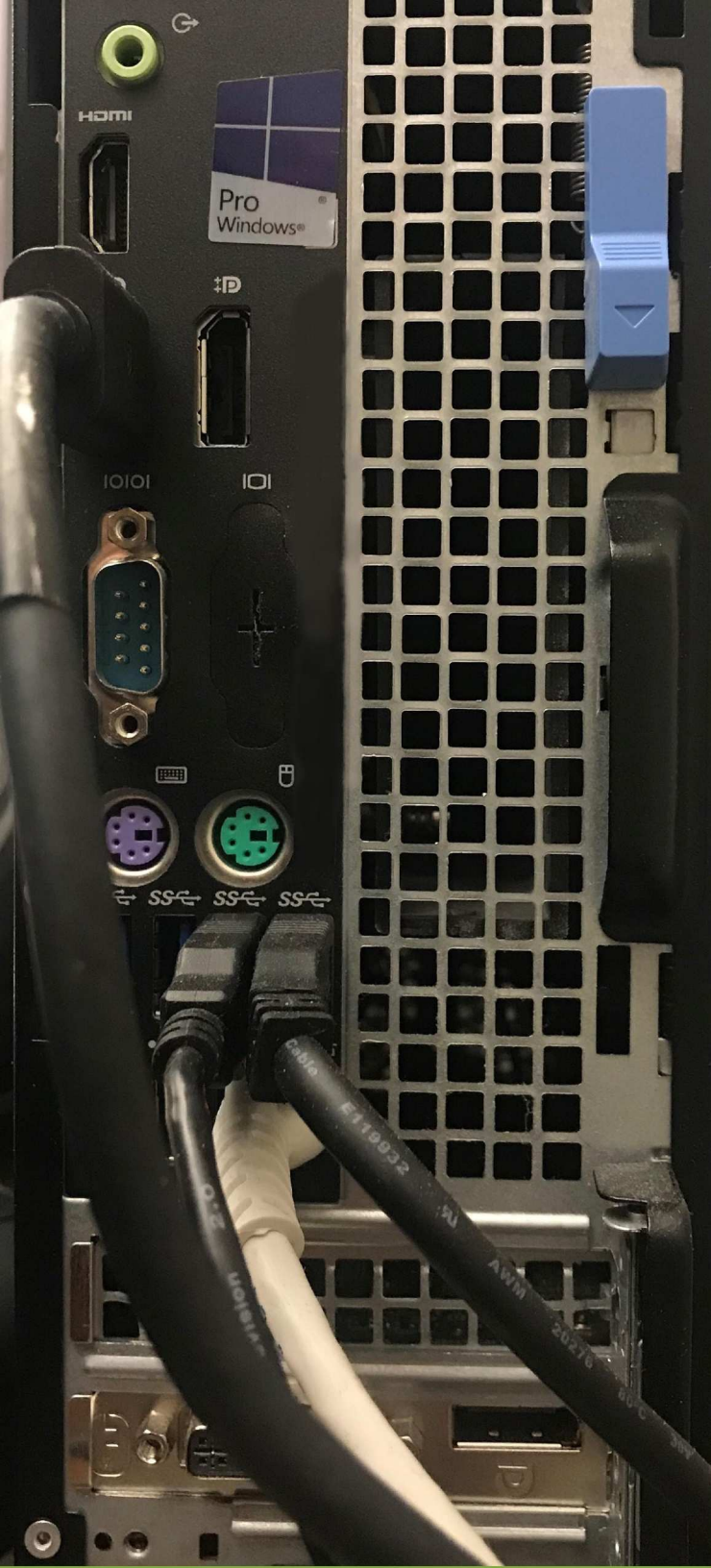
### Omaha Technology Update

We have started updating the overall technology at the court's Omaha location. The IT team added a backup internet service provider (ISP) for network redundancy and testing. Court-issued equipment now automatically connects to a secured network and visitors have access to a temporary guest network. The courtroom in Omaha has never had any form of videoconferencing system for remote trials.

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







## ***Fiscal Year Activities, continued from previous page.***

The court is procuring equipment that will be used to build an easy-to-use audiovisual system. This system will serve as a blueprint for future upgrades of the aging Lincoln courtroom audiovisual systems.

## **Project Management**

On average, the IT team balances more than 30 simultaneous projects at any given time. In order to organize and prioritize everything correctly, we have implemented the Asana project management system. It allows us to track, manage, assign, and set due dates across all sections of the court. Asana's integration with Google Workspace has enabled the court to make it available to all employees for individual section projects that extend outside of the IT department.

## **Chromebooks**

As remote access needs have increased during the past year, the court has standardized the use of Chromebooks for remote users. Each section manager identified which of their team members would benefit from having a Chromebook assigned to them. Due to the lower cost of Chromebooks, we were able to fulfill all section requests. Chromebooks provide the most secure platform for computing when compared to Windows and MacOS. The court's continued shift of applications to the web make the Chromebooks even more appealing as they provide fast performance and access to court systems. The court's implementation of Google Workspace provides for remote management of the Chromebooks from the IT section. This allows policy and software deployments, and the ability to remotely lock or wipe data if a device is lost or stolen.

## **Supreme Court Support**

The court's IT section continues to work daily with the Supreme Court IT team on current projects. The court's IT team has actively been assisting the Supreme Court with implementing Google Workspace. 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.

# 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 10 or fewer 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.

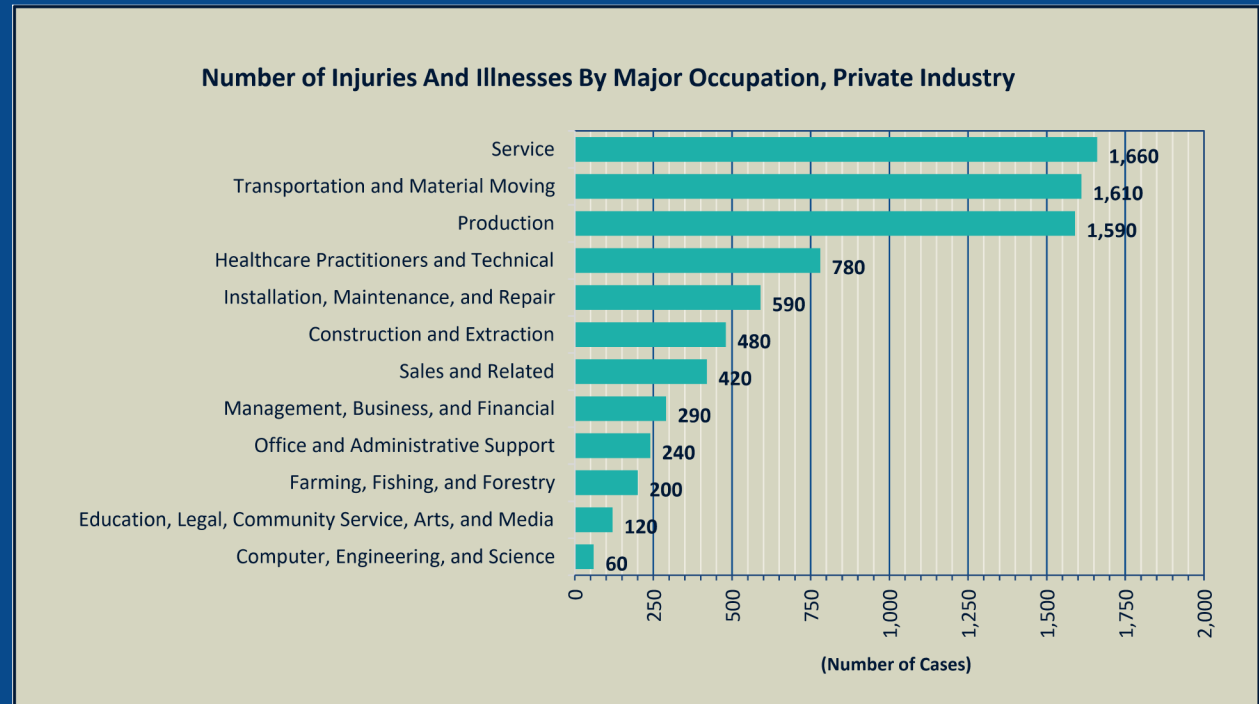
# Nebraska Occupational Injury and Illness Survey – 2020

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 the private sector have been surveyed.

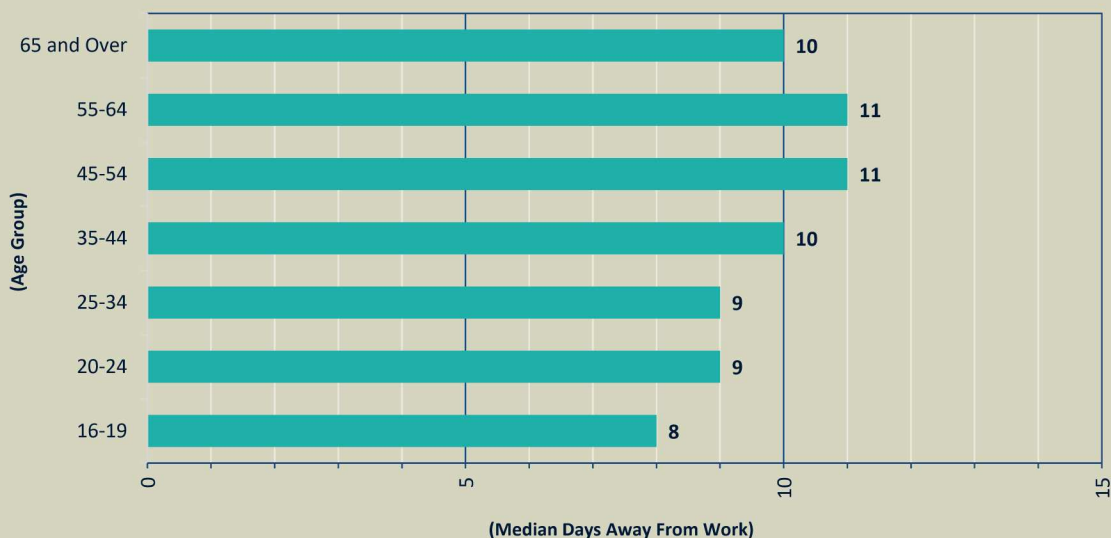
## Calendar Year 2020 Survey Results

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



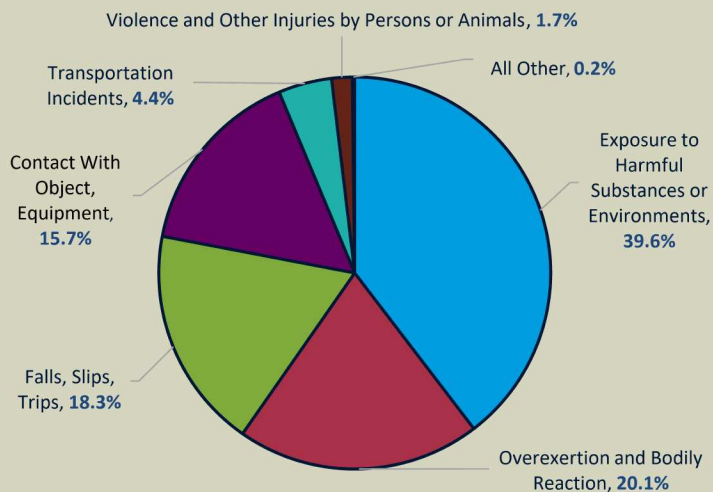
2020 Survey Results, continued to next page.

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

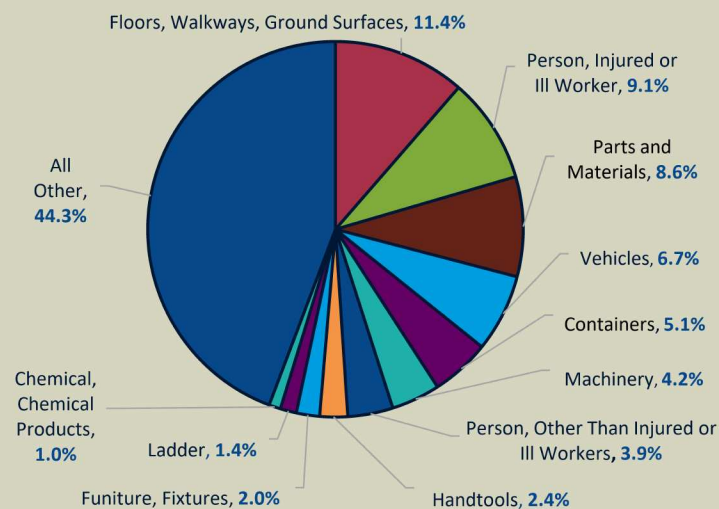


**Footnote:** With regard to these survey charts, the Bureau of Labor Statistics notes that, “because of rounding and data exclusion of nonclassifiable responses, data may not sum to the totals.”

**Distribution of Injuries And Illnesses By Event Or Exposure, Private Industry**  
(Total Cases: 8,040)



**Distribution of Injuries And Illnesses By Source, Private Industry**  
(Total Cases: 8,040)



# Census of Fatal Occupational Injuries (CFOI) – 2019

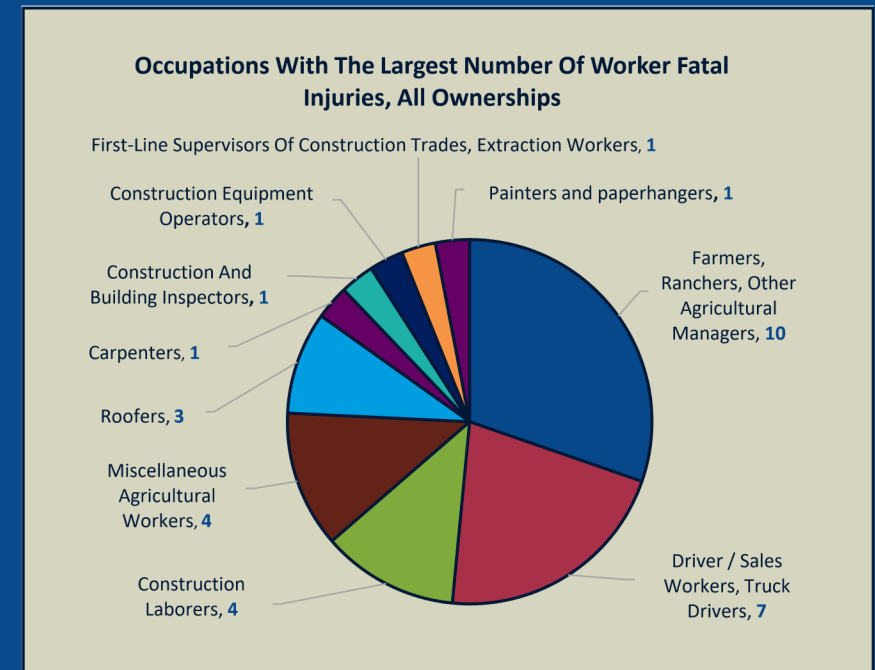
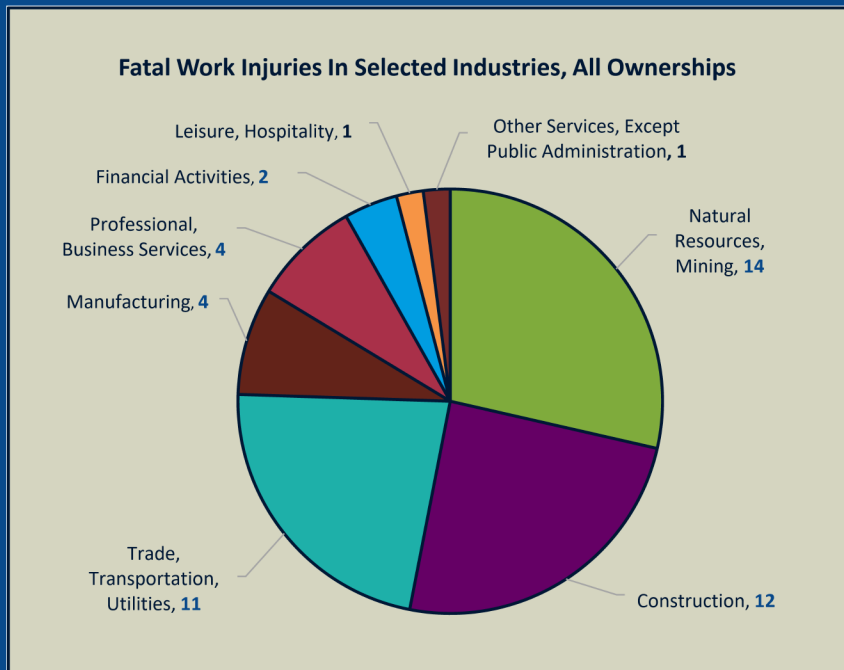
The Census of Fatal Occupational Injuries (CFOI) Program was developed by the U.S. Department of Labor, Bureau of Labor Statistics (BLS) to provide a timely and accessible census of work-related fatalities. The CFOI program is a federal / state cooperative program. In Nebraska, CFOI is conducted by the Nebraska Workers' Compensation Court. This is the 28th year that CFOI has been conducted in all 50 states and the District of Columbia.

In calendar year 2019, 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 2019 Census Results

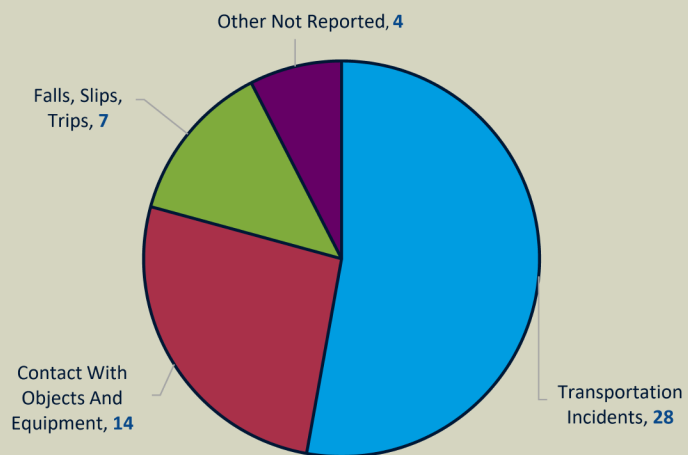
Results of the Nebraska Census of Fatal Occupational Injuries are available on the BLS website (<https://www.bls.gov/iif/oshstate.htm#NE>). The 2019 census recorded 53 fatal workplace injuries during 2019, up from 44 during the previous year.



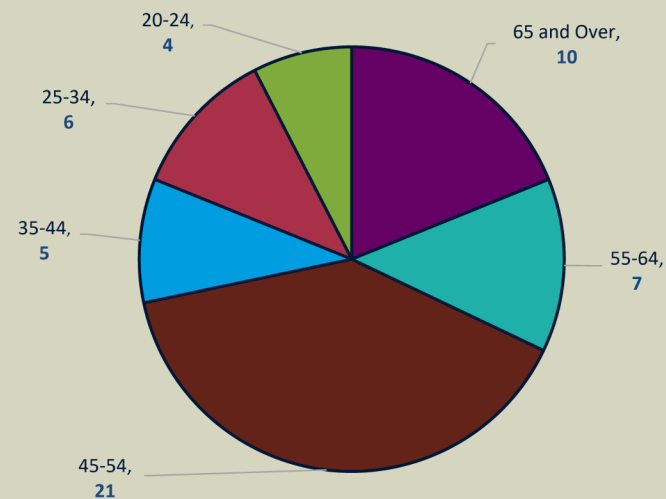
**Footnote:** Totals for major categories may include subcategories not shown separately. Categories with no data or data that do not meet publication criteria are not shown. CFOI counts exclude illness-related deaths unless precipitated by an injury event. "All Ownerships" include private industries as well as local, state, and federal governments.

**2019 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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