

Employee Classification Act

Annual Report | July 2024 – June 2025



NEBRASKA

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DEPARTMENT OF LABOR

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Background and Purpose

The Nebraska Department of Labor (NDOL) enforcement efforts uphold labor standards and deter violations arising from the misclassification of employees as independent contractors. Proper classification ensures that workers receive the protections of wage and hour laws, employment discrimination laws, and unemployment and workers' compensation insurance.

Misclassification Investigations

A misclassification investigation is initiated when workers, businesses, or government agencies provide tips, referrals, or leads through the online application on the website, the hotline, and as a result of general telephone or walk-in inquiries regarding the law. The agency also conducts employer and worker interviews during worksite visits. Educational information on the Employee Classification Act (ECA) and the penalty for violation to employers and workers is provided during worksite visits.

The employer ultimately receives a determination letter advising whether workers have been misclassified and whether any related penalties have been assessed.

Additionally, NDOL makes referrals and collaborates with the Nebraska Department of Revenue (NDOR) and Nebraska Workers Compensation Court (NWCC) to ensure the collection of required taxes, interest and penalties, and affords employees the protections of law under the ECA. Other enforcement actions may be taken to protect Nebraska workers and help businesses properly classify workers.

Contractor Registration Unit Activities

Website/Hotline

NDOL maintains a web page that provides narrative of the law, links to required postings (English and Spanish versions), and the ECA Report Form, allowing for the confidential reporting of suspected violations of employee classification. The web page features links to sources of information regarding worker misclassification, including contractor registration, the NWCC, NDOR, and the IRS (SS-8 Determination of Status Form).

The web page is located at dol.nebraska.gov/LaborStandards/Contractors/EmployeeClassificationAct

Employee Classification/Contractor Registration Unit Cases and Investigations

Initiated By	Cases	Citations Issued	# of Misclassified Workers	Cases w/ Fines Collected	Fines Collected	Cases Payment Pending	Fine Payment Pending	Cases w/ Unpaid Citations	Fine Amount Unpaid
CRA Investigation	1	0	0	0	\$0	0	\$0	0	\$0
Construction Site Visits	129	101	375	64	\$84,250	10	\$36,500	35	\$154,500
Hotline	0	0	0	0	\$0	0	\$0	0	\$0
Wage Claim	15	13	39	5	\$6,200	2	\$2,050	7	\$14,000
E-Mail	4	2	6	2	\$2,000	0	\$0	0	\$0
Website	8	3	4	1	\$500	0	\$0	2	\$1,500
Totals	157	119	424	72	\$92,950	12	\$38,550	44	\$170,000

For the reporting period of July 1, 2024, through June 30, 2025, the Employee Classification/Contractor Registration units opened 157 misclassification investigations. Investigations were initiated by wage claims filed with the Department, construction worksite visits, NDOL's website, emails, and the hotline. Of the 157 cases, 119 resulted in a determination of worker misclassification with a total of 424 violations. Cases worked during the reporting period yielded a collection of \$92,950 in fines for violations. A total of \$38,550 in fines are pending payment, while \$170,000 have not been paid. The Department shared 115 violations with the Department of Revenue, Worker's Compensation Court, and the NDOL Unemployment Insurance division for additional analysis and investigation. NDOL collected \$86,301.07 in combined tax and \$10,649.68 in interest and penalties during the reporting period. Additional collections are pending.

Outcome of NDOL Referrals

LB 563 from the 2010 session of the Nebraska Legislature provides that the Commissioner of Labor shall share any violations of the Employee Classification Act with the Nebraska Workers' Compensation Court. The Workers' Compensation Court shall then refer any such violation reasonably believed to be a violation of the Nebraska Workers' Compensation Act to the appropriate prosecuting authority for appropriate action. (See LB 563, Sec. 8, which is codified at Neb. Rev. Stat. §48-2908.)

The Department of Labor shall also provide an annual report to the Legislature regarding compliance with and enforcement of the Act, to include the number of referrals to the Workers' Compensation Court, and the appropriate prosecuting authority, and the outcome of such referrals. (See LB 563, Sec. 9, which is codified at Neb. Rev. Stat. §48-2909.)

Workers' Compensation Court

NDOL referred 115 cases to the Nebraska Workers' Compensation Court in fiscal year 2024-25.

Of the 115 cases:

- Forty-two employers were found to have had workers' compensation coverage at the time that they were cited by NDOL. These employers were found to be in compliance with the coverage requirements of the Nebraska Workers' Compensation Act.
- Fourteen employers were referred to the Nebraska Attorney General's Office. Thus far, nine of those employers have been brought into compliance and paid fines totaling \$7,500.00. The remaining five are still active referrals.
- Sixteen employers are under investigation by the NWCC at this time.

The court provided education regarding independent contractor issues to each employer who was contacted.

Nebraska Department of Revenue

For the reporting period of July 1, 2024 – June 30, 2025, NDOL received no updates regarding the 115 referrals to the Nebraska Department of Revenue.