

INSURANCE

Pete Ricketts

Governor

Bruce R. Rame

Director

A Message from the Director....

Electronic Delivery for Insurers Operative as of September 1



Bruce R. Rame
Director of Insurance

In March 2019, Nebraska Governor Pete Ricketts approved LB 116. This bill allows insurers to deliver certain insurance notices and documents by electronic means to Nebraska applicants, insureds and policyholders. With some exceptions, any notice to a party or any other document required in an insurance transaction or that is to serve as evidence of insurance coverage may be delivered by electronic means. Electronic delivery is applicable only to documents relating to life insurance policies, annuity contracts, and property and casualty insurance policies.

The provisions of LB 116 became operative as of September 1, 2019, and can be found at [Neb. Rev. Stat. §§ 44-315 and 44-316](#). Highlights of the bill are provided below, but insurers and other interested parties should review the entire statutory language if interested in implementing such a program.

Delivery via electronic means is defined as delivery to an email address or posting to an electronic network or site accessible via the Internet. In both cases, the recipient must consent to receive documents via electronic delivery. In addition, insurers are required to provide applicable parties with a statement informing the recipient of, among other items, their right to withdraw consent to electronic delivery at any time, the procedures to withdraw consent, and if the party so chooses, the right to have notices and other documents delivered in paper form. Insurers are also required to provide a statement of the hardware and software requirements for access to and retention of a notice or other document delivered by electronic means.

A withdrawal of consent does not affect the legal validity of a notice or document delivered by electronic means before the withdrawal of consent becomes effective. In addition, the legislation provides that an insurance producer will not be subject to civil liability occurring as a result of the recipient's election to

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receive documents via electronic delivery. An insurer shall not electronically deliver applicable documents if the insurer attempts delivery and has a reasonable basis to believe the documents were not received, or if the insurer becomes aware the recipient's email address is no longer valid.

The legislation also allows insurers to post life insurance policies, annuity contracts, and property and casualty insurance policies and endorsements on their website(s). If the insurer elects to post these documents online, the policyholder must have the ability to print and save the policy and endorsements using programs and applications widely available for free on the Internet. Further, the insured must provide the insured, at the time of initial policy issuance or any renewals, a description of the insured's right to receive, upon request and without charge, a paper copy of the policy and endorsements by mail.

The adoption of LB 116 provides Nebraska consumers with additional choices and convenience regarding their purchase and management of insurance products, as well as allowing insurance producers to better serve their valued customers in the modern electronic age.

Anyone with questions on this new framework should contact the Nebraska Department of Insurance at 402-471-2201.

PROPERTY & CASUALTY DIVISION

Form & Rate Filing Guidance

The division's quarterly guidance document, "**Farmowners Form and Rate Filing Guidance**" has been developed and posted to the Department's website. All of the division's quarterly guidance documents can be found at www.doi.nebraska.gov under "Insurers/Property and Casualty Information/Filing Guidance." Any questions regarding the guidance documents may be directed to Connie Van Slyke at connie.vanslyke@nebraska.gov.

No Change in Filing Requirements with Repeal of Chapters 74 and 75

The division has received questions regarding the repeal of Nebraska Administrative Code, Title 210, Chapters 74 and 75. These regulations were repealed not as part of a change in policy, but because the subject matter is addressed in statute and the regulations were determined unnecessary. The repeal of Chapter 74, the statute regarding premium adjustments, can be found at [Neb. Rev. Stat. § 44-7509](#) and allows +/- 40% subject to certain requirements. The provisions in Chapter 75 can be found at [Neb. Rev. Stat. § 44-7514](#).

To be clear, filing requirements **have not** changed. Nebraska still allows +/- 40% rating flexibility, does not recognize scheduled rating, and there are still policy form approval requirements that apply to qualifying multistate commercial policyholders.

LIFE & HEALTH DIVISION

Interest Rate on Death Proceeds

The interest rate to be paid on death proceeds not paid within 30 days of receipt of proof of death is 3.842%, effective October 17, 2019, and in effect on January 1, 2020. Pursuant to Neb. Rev. Stat. §44-3,143, interest shall accrue from the date of receipt of proof of death to the date of payment at the rate calculated pursuant to section 45-103 in effect on January 1 of the calendar year in which occurs the date of receipt of proof of death.

The court sets the rate, and the court may change the rate during the year, but the rate in effect on January 1 applies to death claims. The Court's website listing interest rates can be found at supremecourt.nebraska.gov/rules/administrative-policies-schedules/interest-rate.

The interest rate to be paid on death proceeds not paid within 30 days of receipt of proof of death is 3.842%, effective October 17, 2019, and in effect on January 1, 2020.

PRODUCER LICENSING DIVISION

Agency License Renewal Process

Agency licenses will expire on April 30, 2020. A notice will be received via the agency's email, so please make sure that the Department has an updated email address.

The fastest and easiest way to renew an agency license is online at www.nipr.com, or if preferred, the email notice can be printed and mailed in with the renewal fee. Please note that all agency renewals must be completed by April 30, 2020.

Agency licenses will expire on April 30, 2020.

The fastest way to renew an agency license, which must be completed by April 30, is online.

Agency Change of Address

If the agency address has changed, the address can be updated by sending in the new information with your renewal notice or by sending an email to doi.licensing@nebraska.gov.

Please note that all licensed producers who work for the agency are required to update their business addresses separately.

Licensed producers, who work for an agency with an updated address change, are also required to update their business addresses separately.

LEGAL DIVISION

Medical Malpractice Surcharge Set for 2020

A hearing was held before the Director of Insurance on September 11, 2019, as required by Neb. Rev. Stat. § 44-2830, to consider adjusting the amount of surcharge for 2020.

On the basis of the public hearing giving due regard to the size of the existing Fund, the number and size of potential claims against the Fund, the number of participating providers, change in the cost of living, and sound actuarial principles, the Director set the surcharge for the year 2020, effective January 1, 2020, at fifty percent (50%) for all health care providers.

Regulation Updates

Company Bulletins

Title 210 Neb. Admin. Code § 4, "Retirement Plans: Approval of Department; General Requirements," has been repealed. The repeal was filed with the Secretary of State on November 7, 2019, with implementation on November 12, 2019.

Title 210 Neb. Admin. Code § 8, "Reports of Directors, Officers, and Principal Stockholders," has been repealed. The repeal was filed with the Secretary of State on November 7, 2019, with implementation on November 12, 2019.

Title 210 Neb. Admin. Code § 74, "Withdrawal of Subjective Rating Plans and Rating Criteria," has been repealed. The repeal was filed with the Secretary of State on November 7, 2019, with implementation on November 12, 2019.

Title 210 Neb. Admin. Code § 75, "Applicability of Form Approval Provisions to Multi-State Property and Casualty Policyholders," has been repealed. The repeal was filed with the Secretary of State on November 7, 2019, with implementation on November 12, 2019.

Actions Taken Against Producers & Agencies

CAUSE NO.	ALLEGATION	DISPOSITION
A-2190 Jacinda Westfield Virginia Beach, VA NPN - 18626579	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(a), 44-4059(1)(b), 44-4059(l)(c), 44-4059(1)(f), 44-4059(1)(h), and 44-4059 (l)(o)</u> . Violated any insurance law; used fraudulent, coercive, or dishonest practices; False representation of a policy; Failure to maintain license in home state; convicted of a felony or misdemeanor.	Consent Order License Revoked 9/5/2019
A-2192 Carly Thomas Omaha, NE NPN - 6375301	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(e), 44-4059(1)(g), 44-4059(1)(h), and 44-1525(1)(a)</u> Violated any insurance law; intentional misrepresentation of an insurance contract; unfair trade practice; used fraudulent, coercive, or dishonest practices.	Consent Order \$2,500 fine 10/23/2019

Actions Taken Against Producers & Agencies (cont.)

CAUSE NO.	ALLEGATION	DISPOSITION
<p>A-2193 Tara Gerber Gilbert, AZ NPN - 7976371</p>	<p>Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(d), 44-4059(1)(h), 44-4059(l)(o)</u>. Violated any insurance law; misappropriated funds; used fraudulent, coercive, or dishonest practices; failed to maintain license in home state.</p>	<p>Consent Order License Revoked 11/26/2019</p>
<p>A-2194 Osmund Marcellin Charlotte, NC NPN - 8423820</p>	<p>Violated <u>Neb. Rev. Stat. §§ 44-4059(l)(b), 44-4059(l)(h), and 44-1525(11)</u>. Violated any insurance law; used fraudulent, coercive, or dishonest practices; failed to respond to Department inquiry.</p>	<p>Consent Order License Revoked 1/2/2020</p>
<p>A-2195 Amy Kampschnieder Omaha, NE NPN - 19079058</p>	<p>Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(a); 44-4059(1)(b); 44-4059(1)(f); 44-4059(1)(m)</u>. Violated any insurance law; misrepresented insurance contract; convicted of felony or misdemeanor; failed to comply with court-ordered child support.</p>	<p>Consent Order License Revoked 12/18/2019</p>
<p>A-2196 Jay Kuchta Omaha, NE NPN - 18571715</p>	<p>Violated <u>Neb. Rev. Stat. §§ 44-1525(2); 44-4059(1)(b); 44-4059(1)(g); and 44 4059(1)(h)</u>. Violated any insurance law; misrepresented public notices; unfair trade practices; used fraudulent, coercive, or dishonest practices.</p>	<p>Consent Order \$500 fine 12/13/2019</p>
<p>A-2197 Scott Gierhan Lincoln, NE NPN - 6895286</p>	<p>Violated <u>Neb. Rev. Stat. §§ 44-1525(11), 44-4059(1)(b) and 44-4059(1)(h)</u>. Violated any insurance law; used fraudulent, coercive, or dishonest practices; failed to respond to Department inquiry.</p>	<p>Consent Order \$1,000 fine 12/11/2019</p>
<p>A-2198 Sharon Hartshorn Utica, NE NPN - 8685534</p>	<p>Violated <u>Neb. Rev. Stat. §§ 44-1525(11), 44-4059(l)(b), 44-4059(l)(h), 44-4059</u>. Violated any insurance law; failed to respond to Department inquiry; used fraudulent, coercive, or dishonest practices.</p>	<p>Consent Order \$1,000 fine 1/7/2020</p>

Actions Taken Against Companies

CAUSE NO.	ALLEGATION	DISPOSITION
<p>C-2536 Elite Integrated Benefits Administrator, LLC Omaha, NE</p>	<p>Violated <u>Neb. Rev. Stat. §§ 44-5814(1), 44-5814(4)(b)(i), and 44-5814(4)(b)(ii)</u>. Annual report; filing; contents; fee; failure to file.</p>	<p>Consent Order; Suspended Certificate of Authority \$2,500 forfeiture fine; \$950 late filing fee 10/18/2019</p>

FRAUD DIVISION

2019 Insurance Fraud Statistics

The Insurance Fraud Prevention Division (IFPD) received 783 case referrals regarding potential violations of the Nebraska Insurance Fraud Act during 2019. Of the referrals received, 512 were submitted through the National Insurance Crime Bureau and 121 were submitted via the National Association of Insurance Commissioners' online fraud reporting system. The remainder were submitted by victims, concerned consumers, or law enforcement agencies. **Actual or potential** monetary losses, exceeding **\$13.4 million**, were reported during 2019.

Cases are evaluated based upon a number of criteria, including the statute of limitations, applicability of Nebraska statutes, and solvability factors. Upon completion of the case review, a status letter is sent advising the complainant of disposition. The following types of insurance fraud cases investigated by the IFPD during 2019 totaled: Property/Casualty = 608; Life/Health = 131; Agent or Internal Fraud = 30 Cases; Other Fraud = 14 Cases.

Upon completion of a case investigation, the IFPD makes a determination to close the case for one of the following reasons: unfounded allegations, insufficient evidence for prosecution, or sufficient evidence to forward the information to a prosecutor for consideration in filing a criminal violation of the Nebraska Insurance Fraud Act. Before sending a case for a prosecutor's review, the IFPD prepares an investigative summary report outlining the circumstances of the investigation.

2019 Cases Sent for Criminal Prosecution:

26 Cases / 16 Suspects

2019 Convictions:

44 Cases / 26 Suspects

2019 Restitution:

27 Cases / \$107,205.84

Cases referred to the IFPD for investigation had venue in 60 Nebraska counties. Douglas, Lancaster, and Sarpy Counties accounted for 569 (73%) of cases.

Court Actions

Custer County District Court, Case CR19-33

State v. Jane A. Chestnutt

Jane Chestnutt, owner of Jim's Bar in Arnold, Nebraska, discovered George Dickel grain alcohol will burn after igniting a bottle of the alcohol that had spilled. Although initially Ms. Chestnutt denied any knowledge, an investigation determined the business had intentionally been set on fire. Ms. Chestnutt was originally charged in Custer County District Court with criminal attempt, criminal mischief, and burning to defraud an insurer. Ms. Chestnutt entered a plea of guilty to amended felony charges and was sentenced to five years' probation, court costs, and restitution totaling \$5,681.07.

Douglas County Court, Case CR18-14805**State v. Brenda I. Lopez**

Brenda Lopez, a licensed insurance agent, was found guilty in Douglas County Court of theft by deception. Ms. Lopez's sentence included a fine plus court costs. Ms. Lopez was accused of diverting insurance premiums.

Douglas County Court, Case CR18-31140**State v. Natalie M. Hawkins**

Natalie Hawkins purchased a renter's policy shortly before reporting a burglary to the Omaha Police Department. As part of the claim process, Ms. Hawkins submitted a receipt representing a portion of her alleged property loss. The insurance company's special investigator believed the receipt was fraudulent and referred the claim to the Insurance Fraud Prevention Division (IFPD). The IFPD learned the receipt may have been issued to Ms. Hawkins, however, it had been altered. Ms. Hawkins was charged with one misdemeanor count of insurance fraud. After being found guilty, Ms. Hawkins was sentenced to one day in jail, court costs, and restitution for investigative costs totaling \$280.

Douglas County Court, Case CR19-8530**State v. Jamar D. Gunter**

Jamar Gunter's 2009 Chevrolet Impala was alleged to have sustained damage as the result of a minor rear-end collision. Mr. Gunter filed a claim with the other driver's insurance company as a result of the damage. During the claim process, it was discovered there was pre-existing damage to Mr. Gunter's vehicle. Mr. Gunter had no explanation for the duplicate damages. Mr. Gunter was charged with one misdemeanor count of insurance fraud. Mr. Gunter pled no contest. His sentence included a \$200 fine, court costs, and restitution for the IPFD's investigation costs.

Douglas County District Court, Case CR19-1624**State v. Louis V. Watkins**

Louis Watkins was charged in Douglas County District Court with insurance fraud after being involved in a motor vehicle accident. Mr. Watkins submitted fraudulent documents pertaining to injuries he allegedly sustained as a result of the accident. Pursuant to a plea agreement, Mr. Watkins' charge was amended to a Class I misdemeanor. He was fined \$1,000 and ordered to pay court costs.

Douglas County District Court, Case CR19-1936**State v. Enam K. Dosseh**

Enam Dosseh owned a rental property in Omaha, Nebraska that sustained damage as a result of a storm. After receiving the actual cash value for his loss, Mr. Dosseh fabricated an invoice in an attempt to receive replacement costs. After pleading no contest to an amended charge, Mr. Dosseh received 12 months' probation and related fees.

Lancaster County Court, Case CR19-508**State v. Ali T. Saad**

Ali Saad purchased a vehicle with existing damages. Soon thereafter, Mr. Saad reported his vehicle was struck and damaged by another vehicle while parked in a private lot. An alert property adjuster noted the damages did not appear to match the facts of loss as reported. The prior vehicle owner was contacted and indicated the vehicle damages were pre-existing. Mr. Saad was charged in Lancaster County with a felony count for a violation of Nebraska's Insurance Fraud Act. Mr. Saad pled no contest to an amended count, a Class I misdemeanor. He was fined \$750 plus court costs.

**Lancaster County Court, Case CR19-6442
State v. Benjamin D. Danch**

Benjamin Danch was charged in Lancaster County Court for insurance fraud as it pertained to a property loss. Mr. Danch pled no contest to an amended charge and was fined \$250 plus court costs for attempting to defraud his insurer.

**Lincoln County District Court, Case CR17-302
State v. Jobe A. Castor**

Jobe Castor was charged in Lincoln County District Court with insurance fraud after it was suspected that he had assisted another individual with staging an accident. Mr. Castor alleged his vehicle was damaged and that he sustained bodily injury as a result of the accident. Mr. Castor pled no contest and was sentenced to 12 months' probation and ordered to pay \$1,000 in restitution for investigative costs.

**Lincoln County Court, Case CR18 2554
State v. Mashell R. Anderson**

Myron Walker, father of Mashell Anderson, had a long-term policy in effect that allowed for in-home care, however, it excluded family members from being caregivers. Ms. Anderson admitted assisting her father in submitting fraudulent invoices resulting in over \$50,000 in undue benefits being paid. Ms. Anderson was charged with one felony count of insurance fraud that was subsequently amended to a Class I misdemeanor. Ms. Anderson was found guilty and ordered to pay a \$500 fine, court costs, and restitution totaling \$30,000.

**Polk District Court, Case CR18-17
State v. Michael E. Quilhot**

Michael Quilhot was a licensed insurance agent when he was accused of submitting fraudulent insurance applications that resulted in unwarranted new agent supplement and commission payments totaling \$8,235.31. Mr. Quilhot initially was charged with a felony count of insurance fraud. He pled no contest to a Class I misdemeanor. Mr. Quilhot's sentence included 24 months' probation, court costs, and an order of restitution.



2020 Annual Insurance Fraud Conference

Make plans to join the IFPD on **August 5, 2020**, for its 20th annual insurance fraud conference. This year's conference will be held at Mahoney State Park.

The IFPD is working diligently to develop an agenda that participants will find beneficial in their fraud fighting efforts. The conference provides general ethic continuing education credits for licensed Nebraska insurance producers and CLE hours for attorneys licensed by the Nebraska State Bar Association. The brochure with registration information is tentatively scheduled to be emailed in late May.

MARKET CONDUCT DIVISION

Market Conduct Examinations Performed During 2019

American Family Mutual Insurance Company
American General Life Insurance Company
Blue Cross and Blue Shield of Nebraska
Farmers Mutual Insurance Company of Nebraska
Lincoln Benefit Life Company
Oak River Insurance Company
Pacific Life Insurance Company
Redwood Fire & Casualty Insurance Company

EXAMINATION DIVISION

Staff Update

Ben Hostetler has accepted the position of International Insurance Analyst. Ben began working with the Department in the Financial Examination after graduating from the University of Nebraska-Lincoln in December 2018, with a major in finance. Prior to accepting the International Insurance Analyst position, Ben served as a Financial Analyst for the Department. Ben's primary role will be coordination of the Supervisory Colleges and monitoring the international insurance regulatory environment, including work on the NAIC Group Capital Calculation, implementation of ComFrame and various other international activities. Ben can be reached at ben.hostetler@nebraska.gov or by phone at 402-471-1434.

Premium Tax Information

The updated 2019 Premium Tax forms and instructions have been posted to the Department's website at doi.nebraska.gov/insurers/premium-tax-forms-annual-filing-checklist. Updates were made to accommodate the following changes:

- The new Affordable House Tax Credit effective with the 2019 filings
- Workers' Compensation Trust Fund Assessment for 2019

Please make sure to review the updated instructions and forms prior to filing.

The Department encourages all companies to file their 2019 Premium Tax Return electronically through OPTins. More information on using OPTins can be found at www.optins.org.

Questions may be directed to Kristy Hadden at kristy.hadden@nebraska.gov or 402-471-0373.

Pre-Need Annual Reports

The 2019 Pre-Need Annual Report and Instructions for Master Trust Accounts (MTAs) have been updated pursuant to changes in Neb. Rev. Stat. §12-1114 as a result of LB 239 that passed in 2017. The statutory revisions require all MTAs to calculate an amount of income that is required to be retained in the account utilizing the Consumer Price Index (CPI). The option of leaving income in the MTA in lieu of calculating the CPI is no longer allowed. The amount required to be retained then becomes a part of the principal balance. If the calculation to determine the amount of available income to be withdrawn results in a negative amount, that amount must be recouped in subsequent years prior to any income being withdrawn.

Please be sure to review the instructions when completing the updated form to ensure accuracy. If you have any questions, please contact Lisa Pape at lisa.pape@nebraska.gov, 402-471-4659, or Kristy Hadden at kristy.hadden@nebraska.gov, 402-471-0373.

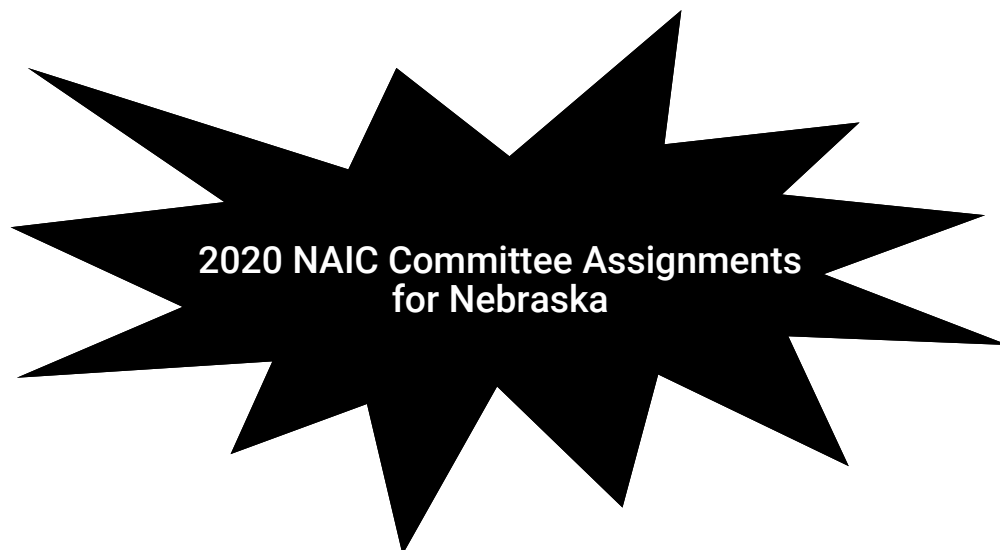
Pre-Need Examinations Completed During Fourth Quarter, 2019

Allnutt Funeral Homes, Inc.
 Brockhaus Funeral Home, Inc.
 Brockhaus-Thenhaus Funeral Home, Inc.
 Calvary Catholic Cemetery & Mausoleum
 Dugan Funeral Services, Inc.
 Govier Brothers Mortuary, Inc.
 Iverson Memorial Chapel
 Munderloh-Smith Funeral Home
 Nepture Cremation Services
 Rasmussen Funeral Home
 Trump Memorials, Inc.

Financial Examinations Completed During Fourth Quarter, 2019

Inland Insurance Company
 NASB All Lines Interlocal Cooperative Aggregate Pool
 Universal Surety Company
 York County Farmers Mutual Insurance Company

Financial examination reports become public documents once they have been placed on official file by the Department. The most current report of financial examination can now be found on the Department's website at doi.nebraska.gov. Copies can be obtained from the Department at a cost of \$.50 per page.



**2020 NAIC Committee Assignments
for Nebraska**

- ☆ Member Financial Stability (EX) Task Force
- ☆ Member Innovation and Technology (EX) Task Force
- ☆ Member Long-Term Care Insurance (EX) Task Force
- ☆ Member Audit Committee
- ☆ Member Life Insurance and Annuities (A) Committee
- ☆ Member Life Actuarial (A) Task Force
- ☆ Member Health Actuarial (B) Task Force
- ☆ Vice-Chair Regulatory Framework (B) Task Force
- ☆ Member Senior Issues (B) Task Force
- ☆ Member Title Insurance (C) Task Force
- ☆ Member Antifraud (D) Task Force
- ☆ Member Producer Licensing (D) Task Force
- ☆ Member Accounting Practices and Procedures (E) Task Force
- ☆ Member Capital Adequacy (E) Task Force
- ☆ Member Examination Oversight (E) Task Force
- ☆ Member Receivership and Insolvency (E) Task Force
- ☆ Member Reinsurance (E) Task Force
- ☆ Member Valuation of Securities (E) Task Force
- ☆ Member Financial Regulation Standards & Accreditation (F) Committee
- ☆ Vice-Chair International Insurance Relations (G) Committee
- ☆ Member NAIC/Consumer Liaison Committee



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Congratulations



NDOI Employees of the Quarter

- ☆ **Stefany Wix, Accounting Clerk**
- ☆ **Lisa Mariscal-Johnsen, Life/Health Insurance Analyst**
- ☆ **Hailey Gao, Financial Analyst**
- ☆ **Robert McCollough, Market Conduct Research Examiner**



Department Calendar

- Feb. 17: Department Closed – President’s Day
- April 24: Department Closed – Arbor Day Observed
- May 25: Department Closed – Memorial Day

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Website: doi.nebraska.gov ♦ Phone: 402-471-2201 ♦ Fax: 402-471-4610 ♦ Hours: 8:00–5:00, M-F