Increasing Your Catch: Expanding New Hire Reporting to Cover independent Contractors and Gig Workers

St. Paul, MN – September 11, 2025

Meet Your Speakers

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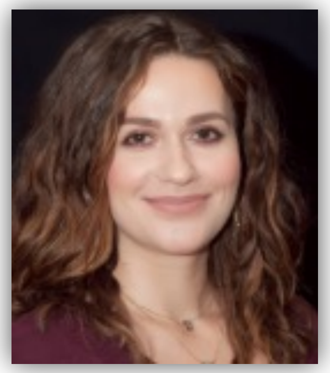

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Independent Contractor Reporting – Why Bother?

NCCSD Progress and Activities

- Created a Model Act through the NCCSD Employer Collaboration Committee
- Created a Fact Sheet to help explain and support enactment of the Model Act
- Hosted 2025 Employer Symposium

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Model Legislation on Independent Contractor Reporting – Explanatory Note (1 of 2)

This model act is designed to build on the success of federal and state laws requiring reporting of all newly hired employees and withholding of income pursuant to income withholding orders. Although income withholding orders can be issued to any payer of income, new hire reporting requirements in most states are limited to traditional employees and do not apply to independent contractors.

This act enhances new hire reporting requirements to include independent contractors. Reporting requirements under the act do not extend to individuals who are employees of the service recipient because those employees are already required to be reported under existing state law. The act also excludes the reporting of payments for personal services (e.g., to a childcare provider or house painter).

Model Legislation on Independent Contractor Reporting – Explanatory Note (2 of 2)

Reporting of independent contractors captures information about an untapped and significant segment of the workforce. Reporting of independent contractors increases the effectiveness of the State Director of New Hires, with the expectation of increased issuance of income withholding orders (IWOs) which would lead to increased support collections.

As a uniform act that should be adopted in all states, businesses which purchase services from independent contractors will benefit because this act requires the same type of information that the business is already required to obtain to complete an Internal Revenue Service (IRS) form for the service provider. Parents and states will benefit from the act through updated information regarding the address of a service provider, automatic wage withholding, increased collection of support, and increased consistency in receiving payments.

Section 1 - Definitions

As used in this act:

(1) "Service provider" means:

(a) An individual over 18 years of age, a corporation with a sole shareholder, or a limited liability company with a sole member;

(b) Who is not an employee of the service recipient; and

(c) (i) Who contracts or provides services for compensation to a service recipient doing business in this state in an amount equal or greater than $600 in the calendar year; or

(ii) Who logs in as a driver to the digital network of a transportation network company doing business in this state or a company operating a network in this state to facilitate delivery of food, goods or services to persons seeking those services.

Section 1 - Definitions

(2) “Service recipient” means:

(a) A person doing business in this state who enters into a contract for services with a service provider or receives services from a service provider, or

(b) A person doing business in this state as a company which maintains a digital network to facilitate services by transportation network company drivers or drivers delivering food, goods or services to a person seeking those services.

Section 2 – Reporting of Service Contracts

Each service recipient must report to the state directory of new hires, through a W-9 form or other format acceptable to the state, the following information regarding each service provider newly paid or contracted for services provided within this state:

1. Name
2. Address
3. Social security number, if provided to the service recipient by the service provider
4. Federal taxpayer identification number, if the social security number is not provided to the service recipient by the service provider, and
5. An indication that the service provider is being reported as a service provider and not as an employee.

Section 2 – Reporting of Service Contracts

The report also must include the service recipient's name, address, and social security number or federal taxpayer identification number. A report required under this section must be made no later than twenty days after the earlier of the date the service recipient pays remuneration of $600 or more to, or contracts for services of $600 or more from, a service provider in the calendar year. A service recipient may report under this section if the value of the services is less than $600 or is unknown.

Section 2 – Reporting of Service Contracts

A report is not required under this act if the service provider is providing the services to a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting with respect to the service provider could endanger the safety of the service provider or compromise an ongoing investigation or intelligence mission.

Section 6 – Choice of Law

The duties of service recipient under this act are governed by the laws of the state where the service recipient receives the services.

NCSEA Legislative Proposal

Amend 42 U.S.C. § 653a to require employers to report information, including names and social security numbers, to the State Directory of New Hires for newly hired individuals who meet the following definition of "independent contractor," namely:

- An individual, or an individual within a partnership, who receives $600 or more income during the tax year for work completed in the course of the individual's trade or business;
- who is not treated as an employee within the meaning of "employee" in chapter 24 of the Internal Revenue Code of 1986; and
- has completed and submitted a W-9 to the employer and is receiving income from the employer that is reportable on a 1099-NEC, 1099-K, or similar form.

OREGON

Oregon’s Independent Contractors New Hire Reporting Requirement

- Traditional employment is becoming less prevalent with today’s workforce.
- The pandemic had a significant impact on the job market.
- Gig work offers more flexibility (schedule, location, etc.).

➢ To expand the new hire reporting requirement to include independent contractors, a statutory change to ORS 25.790 was needed.

Senate Bill 184 (2023)

- The Oregon Child Support Program introduced a new bill in 2023 – Senate Bill 184.

  ✓ Created a definition of "independent contractor" for purposes of new hire reporting by employers

  ✓ Expanded the new hire reporting requirement to include independent contractors

    - Signed by the Governor on May 19, 2023
    - Went into effect on January 1, 2024

The Legislative Process: Before, During, and After

- Prep work – from legislative concept to draft bill
- Public testimony & pushback, which resulted in an amendment
- First draft of language:

(a)(A) "Employee" means an individual who performs work or provides services for compensation, as evidenced by the requirement that the individual complete a federal with holding form W-4 or a taxpayer identification number form W-9 under the Internal Revenue Code.
(B) "Employee" does not include an independent contractor.
(b) "Independent contractor" has the meaning given that term in ORS 670.600.

What the law says now

ORS 25.790

(4) As used in this section:

(a)“Employee” means an individual who must file a federal withholding form W-4 under the Internal Revenue Code.

(b)“Independent contractor” means an individual who must file a federal form W-9 under the Internal Revenue Code and who is anticipated to be performing services for more than 20 days.

(c) “Reengage” means to engage an independent contractor who previously performed services as an independent contractor for the employer but who has not performed services for the employer within the previous 60 days.

(d)“Rehire” means to re-employ any individual who was laid off, separated, furloughed, granted a leave without pay or terminated from employment for more than 60 days.

What Is Unique about Oregon's Independent Contractor New Hire Reporting Process?

- The law: We tied the reporting requirement to the submission of the federal withholding form W-9 instead of 1099.

- The process: We aren't automatically issuing income withholding orders when a paying parent is reported to work as an independent contractor.

Implementation

Soft Rollout:

- ❑ Updates to forms, procedures, training materials

- ❑ Outreach and education with employers
  - Sent an advanced communication December 13, 2023
  - Sent another one once implemented in April 2024
  - **2,849** letters & **16,461** emails sent each time

- ❑ System changes - Oregon Employer Services Portal

Lessons Learned

1. Need an impact analysis of the anticipated/desired system changes ahead of time to help gauge the implementation timeline of the overall process.
2. Begin the education and outreach with employers early on, if possible.
3. Consider the impact to state, county, and local government employers.
   - Are independent contractors tracked through a procurement or accounting system?
   - Can reporting be done through one of those systems?
   - Do some agencies arrange for payments by other methods that won’t be captured in those systems?

Stats on Collections

Between May 2024 and January 2025:

650 new independent contract employers entered for participants who are a paying parent.

Of those 650 new independent contract employers, 172 or 26% were sent an IWO.

Grand total collection on these cases: $725,304

Top 3 payment sources:

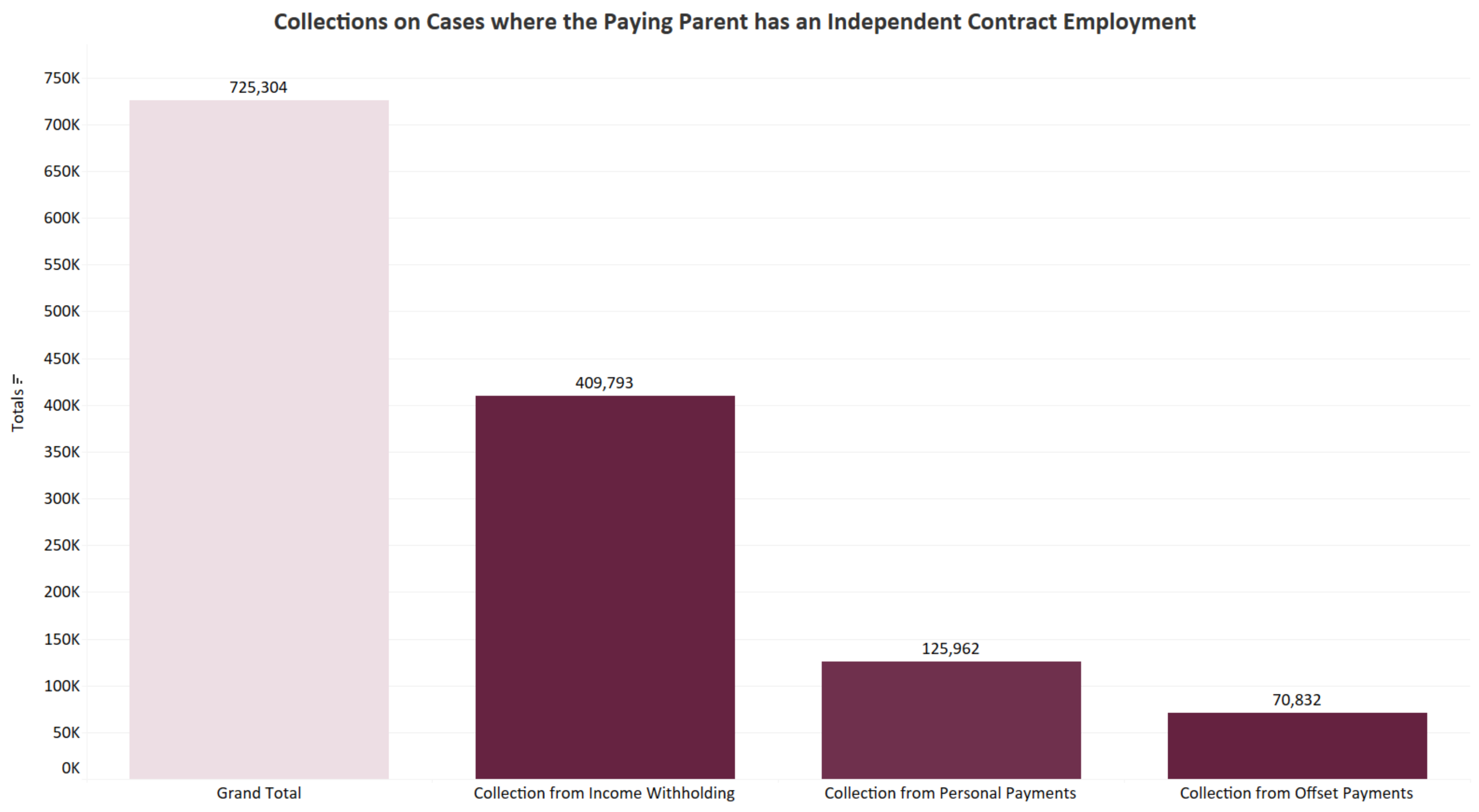
- $409,793 from income withholding
- $125,962 from personal payments
- $70,831.9 from offset payments

Stats on Collections

Between May 2024 and January 2025:

Looking into a smaller subsection: collection amounts from cases *where an IWO was sent to the independent contractor*

- **$351,388** was collected in total from cases where an IWO was sent to the independent contractor. This is 44% of the grand total collections.
- **$194,935.63** was collected in income withholding orders on cases where an IWO was sent to the independent contractor. This is 27% of the grand total collections and 55% of the total collections from cases that were sent an IWO.


Collections on Cases where the Paying Parent has an Independent Contract Employment
Totals
750K
700K
650K
600K
550K
500K
450K
400K
350K
300K
250K
200K
150K
100K
50K
0K
725,304
409,793
125,962
70,832
Grand Total
Collection from Income Withholding
Collection from Personal Payments
Collection from Offset Payments

Questions?

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THANK YOU!