Chapter 25 - Payroll

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25.10
About the Payroll Policies

25.10.10 Purpose of these policies

May 1, 1999

These payroll accounting policies and procedures serve as a basis for preparing, processing, and recording payrolls.

25.10.20 Authority for these policies

January 1, 2012

The Office of Financial Management (OFM) is responsible for establishing the necessary systems, policies, and procedures for payroll preparation and accounting (Chapter 42.16 RCW). Additionally, the provisions of Title 357 WAC and collective bargaining agreements administered by OFM State Human Resources supplement these instructions.

25.10.30 Applicability

January 1, 2019

This part applies to all agencies of the state of Washington unless otherwise exempted by statute or collective bargaining agreements and to all their payroll processing and payment systems used to pay employees' salaries, wages, and benefits. A variety of payroll systems are used by state agencies to pay their employees:

25.10.30.a General government agencies use a centralized payroll system maintained by the Office of Financial Management.

25.10.30.b The community and technical colleges use the Payroll Personnel Management System maintained by the State Board for Community and Technical Colleges, Information Technology Division.

25.10.30.c Each of the remaining universities uses its own payroll system.

25.10.40 Employee definitions

July 1, 2012

25.10.40.a **State Employee**

Generally, an individual is an employee when the employer has the legal right to direct when, where, and how the work is done. Section 75.70 of this manual provides a more detailed definition of Salaries and Wages (Object A). There is also information in Section 75.70 (Object C) covering those individuals paid by the state who are not employees.

Several definitions of "state employee" exist in statute for different purposes. However, the Office of Financial Management has historically used the following general definition:

A "state employee" means any individual who is appointed by an agency head or designee and serves under the supervision and authority of any agency carrying out the ongoing business of the agency, unless designated otherwise in statute.

For employment tax purposes, each federal and state agency that regulates employment has its own definition of "employee" based on what taxes that agency levies or collects. For example, the IRS collects federal income, Old Age and Survivors Insurance (OASI), and Medicare taxes. The Department of Labor and Industries, on the other hand, collects moneys for the worker's compensation program. An individual can be an employee by one agency's definition, but not by another's definition.

The following federal and state agencies publish regulations or WACs that define an "employee" from their perspective:

- The Internal Revenue Service (Revenue Ruling 87-41 and Publication 15 (Circular E)).
- The Washington State Department of Labor and Industries (Chapter 296 WAC).
- The Washington State Department of Retirement Systems (Chapter 41.47 RCW and the federal/state 218 agreement).
- The Washington State Department of Revenue (Chapter 458 WAC).

If you have questions about whether a specific tax applies, contact the appropriate agency and/or your agency's assistant attorney general. Also refer to applicable state statutes.

25.10.40.b **"Full Time Equivalent" (FTE)**

The term "full time equivalent" (FTE) is a budgeting term used to measure one full calendar year of paid employment, or the equivalent of 2,088 hours (the number of average available work hours in a year). A staff month is equivalent to 174 hours (the average available work hours in a month).

The hours used in FTE calculations are for hours worked by state employees. While the employing agency must always pay appropriate federal and state employment taxes, state statutes may exempt certain groups from the "state employee" definition for FTE computation purposes. The following displays the various types of payroll transactions and the related requirements for FTE reporting:

Payroll Transaction	Sub-object Coding	Required FTE Recognition	Additional Comments
Regular time worked	Object A series – AA – AR as appropriate	Yes	
Regular time worked pay cancellations	Object A series – AA-AR as appropriate	Yes, reduce FTEs by # of canceled pay hours	Record if same fiscal period still open where original pay was issued
Vacation leave buyout at termination	AT	Yes	Calculation on # of vacation leave hours bought out
Boards and Commissions compensation	AE	Yes	Each "day" of pay is considered = to 8 hours
Call-back (WAC 357-28-185 or collective bargaining agreements)	AU	Yes	2 hours per incident per WAC 357-28-185 or as allowed by collective bargaining agreements
Compensatory time payouts	AU	Yes	# of OT hours (actual time worked)
Overtime	AU	Yes	# of OT hours (actual time worked)
Sick leave buyouts	AS	Yes	# of hours bought out
Standby payments	HRMS Users: Code to Sub-object AA, Sub-subobject SW03 Non-HRMS Users: Code in Object A series where time worked	No	HRMS = Human Resources Management System AA SW03 = State Classified - Standby
State internship program* (Includes undergraduate and executive fellowship programs)	Code in Object A series where time worked	Yes, but not counted as budgeted FTEs	Use Program 690
State/federal work study program*	AL	Yes, but not counted as budgeted FTEs	Use Program 690
Special employment compensation situations	NW OFM approval required to use	No	Refer to Subsection 75.70.20 (NW) for approved programs

***Note:** Program 690 is established for the purpose of recording FTEs related to the state internship and state/federal work study programs. Expenditures related to these programs (wages, employee benefits, and FTEs) are to be charged to Program 690, "Non Budgeted FTEs," in the proper objects of expenditure. State/federal work study payments from the Student Achievement Council are to be coded as interagency reimbursements to sub-object SA, by the receiving agency in Program 690. Payments for the state internship program as well as the agency's share of salaries and benefits related to the state/federal work study program are to be transferred from Program 690 to the agency's appropriate budgeted program(s) using intra-agency reimbursement sub-object TA. **Total expenditures for Program 690 should be zero.** FTEs are to remain in Program 690 as originally expended and are not counted towards an agency's budgeted FTEs in the state's financial system.

25.20
Payroll Accounting Requirements

25.20.10 Payroll revolving account and other accounts used for payroll activities

January 1, 2019

Agencies use various systems to process payroll activities.

25.20.10.a **Human Resource Management System**

The State Payroll Revolving Account, Account 035, is used for payroll disbursements by agencies using the Human Resource Management System (HRMS) as maintained by the Office of Financial Management (OFM).

The following procedures are used for transfers and deposits of money to Account 035:

1. **Treasury/Treasury Trust Accounts**

   - Agencies authenticate payroll data in the HRMS system and certify payroll registers for dollar amounts.
   - OFM provides journal vouchers and warrant registers indicating the accounts properly chargeable with the payroll expenditures/expenses. OFM then certifies these amounts to the Office of the State Treasurer (OST).
   - OST transfers money from the appropriate agency treasury or treasury trust accounts to Account 035 for payroll disbursements chargeable to those accounts.

2. **Local Accounts**

   - Agencies paying employees chargeable to local accounts must use the local account expenditure coding in HRMS.
   - Agencies authenticate payroll data in the HRMS system and certify payroll registers for dollar amounts.
   - OFM provides journal vouchers and warrant registers indicating the accounts properly chargeable with the payroll expenditures/expenses. OFM then certifies these amounts to the OST.

- OST transfers money from the Suspense Account 01P to Account 035 for the total amount of payroll disbursements to be made from local accounts.
- Agencies deposit sufficient money in Account 01P to cover for payroll disbursements chargeable to local accounts.
- All transfers or deposits to Account 01P are due at least one day before the scheduled payroll disbursements.
- If agencies fail to transfer or deposit money on time, they will be required to deposit money in advance of payroll preparation.

25.20.10.b **Other Payroll Systems**

Accounts used by other payroll systems vary:

1. **Payroll Personnel Management System**

   Users of the Payroll Personnel Management System maintained by the State Board of Community and Technical Colleges use Account 790 for payroll disbursements.

2. **Other Higher Education Agencies with Unique Payroll Systems**

   Higher education agencies with their own payroll systems may utilize other accounts as either allowed by law or with approval by the Office of Financial Management.

25.20.10.c For treasury and treasury trust accounts, OST redeposits amounts for canceled warrants back to Account 035 where the original disbursements were made. Agencies must complete the disposition of these amounts. The returned amounts are either reissued from Account 035 or transferred back to the accounts originally charged with the payroll expenditures/expenses. Refer to Subsection 85.38.50 for procedures regarding warrants canceled by OST after being outstanding 180 days.

For local accounts, payroll checks that are returned should either be reissued or canceled as appropriate. Payroll checks are normally valid 180 days after issuance and should be canceled when they remain outstanding beyond such time.

For federal work study students, federal requirements may differ. Refer to the Code of Federal Regulations (CFR), Title 34, Section 668.164(h) at: www.ecfr.gov.

25.20.10.d **Reconciliations**

Agencies are to accurately record and reconcile all payroll activity, regardless of the account(s) used. Refer to Subsection 85.34.10 for accounting entries and reconciliation requirements.

25.20.20 Required payroll records and reports

June 1, 2006

The following list shows the records required for payroll accounting. (Equivalent records by another name are acceptable alternatives.) Refer to state and internal agency policies for applicable record retention requirements. The general record retention schedule for state agencies can be found at: http://www.sos.wa.gov/archives/recordsmanagement/default.aspx.

The IRS also has records and retention requirements. Refer to Publications 15 (Circular E, Employer's Tax Guide) and 15A (Employer's Supplemental Tax Guide) for the appropriate tax year on record keeping requirements.

NAME OR TYPE OF RECORD	PURPOSE OF RECORD	CONTENTS OF RECORD
PAYROLL REGISTER **(HRMS: Payroll Journal)**	A record produced each pay period showing all employees paid.	• Warrant or ACH (automated clearing house) number • Employee Names • Detail of Earnings • Deductions/Allowances/ Reimbursements • Net Pay
WARRANT REGISTER **(HRMS: Warrant/ACH Register Summary)**	A listing of employees and other payroll costs paid by warrant.	• Warrant number • Employee names • Vendor names • Net pay or vendor amount • Account Charged
DIRECT DEPOSIT RECORD (ACH REGISTER) **(HRMS: Warrant/ACH Register & Summary)**	A listing of employees and other payroll costs paid by direct deposit.	• ACH number/banking institution • Employee names • Vendor names • Net pay or vendor amount • Account Charged

NAME OR TYPE OF RECORD	PURPOSE OF RECORD	CONTENTS OF RECORD
REGISTERS INDICATING EMPLOYEE DEDUCTIONS AND EMPLOYER'S SHARE OF TAXES, INSURANCE, AND RETIREMENT **(HRMS: Accrued and Mandatory Payroll Deduction Report)**	Detailed records produced for each pay period for each employee deduction and state share cost.	• Federal Income tax (FIT) • OASI, Medicare, and Industrial Insurance • Retirement • Garnishments and other legally required deductions • Other Deductions • Employer portion of taxes, insurance, and retirement
CALENDAR YEAR-TO-DATE WAGE AND EMPLOYMENT TAX RECORDS TO SUPPORT FEDERAL REPORTING **(HRMS: Employee Year to Date (YTD) Payroll Register)**	Detailed record produced for each calendar year which includes: Current month, quarterly, and cumulative year-to-date data for filing quarterly Forms 941/941-X and annual FormsW-2/W-2c.	• Gross pay and reductions to gross pay • Gross pay subject to Federal Income Tax (FIT), OASI, and Medicare • Employee FIT, OASI, and Medicare taxes withheld • Employer OASI and Medicare taxes • Taxable Fringe Benefits
RETIREMENT WORKLISTS AND OTHER TRANSMITTAL ADVICES **(HRMS: Use DRS WBET System)**	Listings and advices to report detailed information on eligible employees to retirement systems.	• Employees eligible for each retirement plan • Employee retirement deductions • Employer contributions • Other service credit detail
DISTRIBUTION OF PAYROLL AND RELATED COSTS **(HRMS: Distribution of Payroll and Related Costs)**	A listing of each employee by funding source(s).	• Payroll and related costs distributed to one or more funding sources
DEDUCTION AUTHORIZATIONS	*Employee authorized* documents authorizing deductions or reductions from gross pay.	• W-4 showing the number of an employee's deductions for FIT • All other voluntary deductions requiring the employee's signature
LEAVE RECORDS **(HRMS: Attendance System Change Report)**	A record of employee leave earned, taken, and balances.	• By employee • By leave type • Cumulative leave balance data

25.20.30 Agency required payroll certifications

June 1, 2006

25.20.30.a Certification Requirements

RCW 41.06.270 specifies two conditions an agency must meet before paying an employee. The agency head (or authorized designee) must certify that the payroll meets these conditions using the following language:

> "I hereby certify that to the best of my knowledge amounts listed in this payroll are true and correct charges and that employees holding a position covered by Chapter 41.06 RCW or other applicable employment contract, have been employed in accordance with the rules, regulations, and orders issued thereunder."
>
> **BY**_____ _____
>
> **(NAME) (TITLE) (DATE)**

As an alternative, in instances where an agency is using the Human Resource Management System and the payroll includes a mid-period transfer and charges belonging to another agency, the following language may be used:

> "I hereby certify that to the best of my knowledge amounts listed in this payroll, associated with my agency, are true and correct charges and that employees holding a position covered by Chapter 41.06 RCW or other applicable employment contract, have been employed in accordance with the rules, regulations, and orders issued thereunder."
>
> **BY**_____ _____
>
> **(NAME) (TITLE) (DATE)**

25.20.30.b Agency Required Records to Support Payroll Certification

1. Agency records include the certification signed by the agency head (or authorized designee):

   - Directly on the payroll register, or
   - On a separate document if the payroll register is on microfiche.

2. A copy of all documents that reflect personnel actions for:

   - Appointment, transfer, promotion, demotion, and salary changes.
   - Any other temporary or permanent changes in employee status.

25.20.40 Payment and reconciliation of deductions and employer's costs

July 1, 2011

25.20.40.a Agencies are to design payroll procedures to produce accurate payment of payroll deductions and employer costs to vendors on a timely basis.

25.20.40.b Pay other state agencies by journal voucher or interagency payment whenever possible.

25.20.40.c Timely reconciliations are recommended for:

- **Year-to-date (YTD) data** to ensure information used for preparing federal employment tax payments and reports are correct. Avoid incurring IRS interest and penalty assessments by reconciling YTD wage and tax data to federal deposits, quarterly Forms 941/941-X, and annual Forms W-2/W-2c. Refer to IRS Publication 15 for information regarding resolution of discrepancies and suggestions to reduce errors.

- **Health insurance data** to ensure that the premiums collected from employees and amounts calculated as employer contributions are proper.

25.20.50 Employee transfers between agencies

January 1, 2012

When an employee accepts an appointment with a different employer, WAC 357-22-025 requires the most recent former employer to provide employee information to the new employer in a transmittal package developed by Office of Financial Management (OFM) State Human Resources.

Both the terminating and new employing state agencies should make a concerted effort to ensure the employee doesn’t suffer a lapse in wage when there is an immediate continuing employment transfer.

The terminating agency must transfer at a minimum, the following documents to the new agency’s designated office promptly:

25.20.50.a **Agency Termination Documentation**

The original document that terminates the employee from the transferring agency.

25.20.50.b **Employee Deduction Authorizations**

- Employee written requests authorizing both reductions from gross pay and other deductions.
- All original (past and current) medical, dental, life, long term disability, and any other insurance enrollment forms.

25.20.50.c **Leave Balances**

Employee leave records for vacation, personal holiday, sick, shared leave, and any other leave balances.

25.20.50.d **Interagency Transmittals**

Use the following OFM forms (or equivalent) to transmit employee records between state agencies:

- 12-011 Employee Payroll Records Transmittal
- 12-048 Employee Personnel Records Transmittal

25.30
Wage Computations

25.30.10 Pay periods
January 1, 2016

RCW 42.16.010 establishes pay periods for paying all state officers and employees.

Except as otherwise provided in RCW 42.16.010(5), pay periods are semi-monthly. The first pay period is from the first to the fifteenth of the month and the second pay period is from the sixteenth through the last calendar day of the month.

In accordance with RCW 42.16.010(5), institutions of higher education as defined in RCW 28B.10.016 may pay their employees biweekly, in pay periods consisting of two consecutive seven calendar-day weeks.

25.30.20 Paydates
January 1, 2016

25.30.20.a **Semi-monthly paydates**

Agencies shall pay the salaries of all state officers and employees on the semi-monthly paydates identified in WAC 82-50-021, except in instances where it would conflict with RCW 42.16.010(3), contractual rights or as otherwise approved by the Office of Financial Management (OFM).

For information on specific paydates and other key dates, as well as information on the Department of Treasury "One Day" Deposit Rules for payrolls over $100,000, refer to OFM's Payroll Resources website at: http://www.ofm.wa.gov/resources/payroll.asp.

Exceptions

In accordance with RCW 42.16.010(3), when a national or state guard member is called to participate in state active duty, the paydate for military department state active duty pay shall be no more than seven days following completion of duty or the end of the pay period, whichever is first. When the seventh day falls on Sunday, the paydate shall not be later than the following Monday.

In accordance with WAC 82-50-031, OFM may grant exceptions to the paydates established in 82-50-021 upon written request of an agency. However, the semi-monthly pay periods established by RCW 42.16.010(1) must remain in effect. WAC 82-50-32 addresses terminations of exceptions granted under WAC 82-50-031.

25.30.20.b **Bi-weekly paydates**

In accordance with RCW 42.16.010(5), for institutions of higher education adopting bi-weekly pay periods, actual paydates are lagged seven calendar days after the end of the pay period, except when the paydate falls on a holiday. In this case, the paydate shall not be later than the following Monday.

Each institution adopting a biweekly pay schedule must establish, publish, and notify the director of OFM of the official paydates six months before the beginning of each subsequent calendar year.

Note: As no institution of higher education has adopted bi-weekly paydates, Chapter 25 is written in terms of semi-monthly paydates.

25.30.20.c **RCW 42.16.010 permits agencies to pay overtime, penalty pay, and special pay on the next paydate if:**

1. The employee fails to make an accurate and timely report of the information needed to determine the payment; or,

2. The employer lacks reasonable opportunity to verify the claim.

25.30.30 Pay period, workdays, and rate computations

January 1, 2018

25.30.30.a **Full-Time Employees**

When employees work a full semi-monthly pay period (RCW 42.16.010 and WAC 82-50-021), their pay rate shall be one-half of the actual monthly gross pay. Time worked, for gross pay computations, includes paid leave and holidays.

Exceptions: Gross pay computations for full-time employees change when they work less than a full semi-monthly pay period, are on a leave-without-pay status, or their pay rate changes during the pay period.

25.30.30.a.(1) **Compute gross pay by:**

- Calculating the ratio of time worked in days or hours to the scheduled time available for work in days or hours for that pay period.
- Scheduled time available for work includes paid leave and holidays.
- In cases of promotion or demotion, two calculations are done--one for each salary level. Both calculations are based on the percentage of the days or hours worked to total days or hours available for the pay period at each salary level.
- In addition to basic salary, gross pay includes remuneration for all other compensable services and *available to employees on designated paydates* (RCW 42.16.010). Refer to Subsection 25.30.20a for a paydate exception provided by that statute. Other compensable services include overtime, assignment pay, call-back, standby, compensatory time, shift differential premium, performance pay, recognition payments, and other special pay provisions as provided for by law, civil service rules, agency policy or rule, or contract.

  Note: In the 2011-2013 biennium only, refer to WAC Chapter 357-28 or collective bargaining agreements (CBAs) to determine the appropriate base salary rate for paying overtime or cashing out compensatory time.

25.30.30.a.(2) **Use the following formula to compute pay for fractional semi-monthly pay periods:**

$$\frac{\text{Actual time (hours/days) worked in semi-monthly pay period}}{\text{Scheduled work time(hours/days) available in semi-monthly pay period}} \times \frac{\text{Monthly salary rate}}{2} = \text{Gross pay}$$

Example: If an employee with a monthly rate of $2,400 works 24 hours in a pay period containing 88 scheduled working hours, the pay would be computed as follows:

$$\frac{24}{88} \times \frac{\$2{,}400}{2} = \$327.27$$

In the case of a promotion from $2,400 to $2,800 a month, effective on the third work day in the pay period, two calculations are required using the appropriate actual hours and pay rates:

First Computation:

$$\frac{16}{88} \times \frac{\$2{,}400}{2} = \underline{\$218.18} \text{ (Payment for first two days of pay period)}$$

Second Computation:

$$\frac{72}{88} \times \frac{\$2{,}800}{2} = \underline{\$1{,}145.45} \text{ (Payment for remaining days in pay period)}$$

Total Gross:

$$\$218.18 + \$1{,}145.45 = \underline{\$1{,}363.63} \text{ (Total payment for pay period)}$$

25.30.30.a.(3) **Colleges and Universities**

With written approval by the Office of Financial Management (OFM), colleges and universities may use the employee's annualized straight time hourly pay rate for calculating leave-without-pay salary reductions. The annualized hourly rate is determined by dividing the monthly rate by 174, the average number of working hours during a month. If an institution of higher education historically has used an average number of monthly working hours rate other than 174, written OFM approval is required to continue using the other rate.

25.30.30.a.(4) **State Elected Officials**

Use calendar days, including all holidays or workdays, when computing a partial pay period for elected state officials.

$$\frac{\text{Calendar days to pay in semi-monthly pay period}}{\text{Calendar days in semi-monthly pay period}} \times \frac{\text{Monthly salary rate}}{2} = \text{Gross pay}$$

25.30.30.b **Employees Paid on an Hourly Basis**

Compute hourly employees' gross pay by multiplying the hours worked in the semi-monthly pay period times their hourly pay rate. The hourly rate includes shift premium and assignment pay. The gross pay computation includes paid leave, if eligible. Time worked, for gross pay computations, includes paid leave and holidays.

Actual hours worked	x	Hourly rate	=	Gross pay

Example:

25 hours worked	x	$14.00 hourly rate	=	$350.00

25.30.30.c **Holiday Calculation for Part-Time Employees**

Holidays for part-time employees are paid proportionate to the amount of time in pay status during the month to that required for full-time employment, excluding all holiday hours, if eligible (WAC 357-31-015, 020, 025 or CBAs).

$$\frac{\text{Total month's actual hours worked*}}{\text{Total month's work hours available*}} \times 8 \times \text{Hourly rate} = \text{Gross holiday pay}$$

* The calculation includes eligible paid leave, but excludes holidays. The calculation does not include overtime, standby, callback, or any other penalty pay.

Example: During the month of May 20xx, a part-time employee worked 90 hours and took one day each of vacation and sick leave. There are 176 work hours available in May (including the Memorial Day holiday). The hourly rate is $20.00.

90 actual hours worked + 8 hours vacation leave taken + 8 hours sick leave taken = 106.0 hours. Total month's work hours available: 176 hours – 8 hours (holiday) = 168 hours.

Regular pay	106.0 hours x $20.00		$ 2,120.00
Holiday pay	106.0/168 hours x 8 hours x $20.00	+	100.95
Total pay	(Regular pay + holiday pay)	=	$ 2,220.95

25.30.30.d **Payments to Commissioners and Board Members**

Commissioners and board members are classified in five groups.

25.30.30.d.(1) **Members of a Class 1 Group**

These members are generally volunteers and do not receive any compensation (refer to RCW 43.03.220). Contact the Department of Labor and Industries regarding the appropriateness of medical aid coverage for these volunteers. Refer to RCW 51.12.035.

25.30.30.d.(2) **Members of a Class 2, 3, 4, or 5 Group**

Consider members of a Class 2, 3, 4, or 5 groups as state employees and process their compensation through the payroll system. (Refer to RCW 43.03.230 through 43.03.265 for group definitions). For purposes of FTE computation, *each day of pay is considered equal to eight hours.*

25.30.30.d.(3) **Compensation**

Class 2, 3, 4, or 5 group members qualify for compensation for each calendar day they attend official group meetings and/or perform statutory duties approved by their chairperson. Maximum daily rates are defined in RCW 43.03.230 through 43.03.265. A calendar day of compensation includes all meetings or work performed on that day, regardless of how many hours worked or meetings attended. Compensation may only be paid to a member if it is authorized under the law dealing with the specific group to which a member belongs or dealing in particular with members of the specific group.

25.30.30.d.(4) **Exception**

If a member is employed full-time by the federal government, any Washington State agency, or local governments and receives any compensation from such government for working that day, the member is ineligible for compensation as a board or commission member.

Administering agencies of the Boards or Commissions are to require a written statement from the public employers that no compensation for work was paid for the same days a board or commission paid the member.

25.30.30.d.(5) **Expenditure Object Coding**

These payments are coded to Subobject AE - State Special.

25.30.30.d.(6) **The following deductions apply to the compensation paid to Class 2, 3, 4, and 5 group members:**

- Federal Withholding Tax.
- Old Age and Survivors Insurance (OASI) and Medicare -- Deduct the employee's portion of OASI and Medicare contributions.
- Labor and Industries -- Labor and Industry programs cover all compensated members of Class 2, 3, 4, and 5 groups.

For information regarding the appropriateness of retirement contributions, contact the Department of Retirement Systems at (360) 664-7000 or toll free at 1-800-547-6657.

25.30.40 Fringe benefits

July 1, 2019

25.30.40.a **Mobile devices**

Under certain conditions, agencies may authorize employees to use their personal mobile devices to conduct state business. Agencies may authorize a monthly stipend for employees who use a personal mobile device in lieu of a state-issued device. Authorization is allowed only when an employee is required to use a mobile device for the conduct of state business based on job requirements.

Payroll taxes will be withheld if required by law. However, the Office of Financial Management (OFM) has determined that payroll taxes will not need to be withheld on any stipend that complies with OCIO Policy 191 - Mobile Device Usage.

The maximum amount of the monthly stipend varies depending on the type of access authorized.

- Voice access - $10/month
- Data access - $30/month
- Voice and data access - $40/month

State agencies can elect to use the Cellular Device Authorization and Agreement Form.

25.30.40.b **Taxable Fringe Benefits**

Any property or service that an employee receives from an employer in place of or along with regular wages is a fringe benefit that may be subject

to federal employment taxes. If taxable, these benefits are included in gross income and subject to federal income, OASI, and Medicare taxes.

Refer to IRS regulations for the appropriate calendar year regarding specific taxation, valuation, and reporting information. IRS Publication 15-B "Employer's Guide to Taxable Fringe Benefits" provides detailed information on several types of benefits and is available at: http://www.irs.gov/pub/irs-pdf/p15b.pdf.

Fringe benefits that are taxable under certain circumstances include, but are not limited to:

- Gift certificates
- Awards and prizes
- Personal use of agency provided vehicles, such as commuting between official residence and official workstation
- Clothing allowances
- Moving expenses
- Educational assistance
- Lodging
- Meals
- Unspent, unreturned travel advances

To determine which, if any, fringe benefits are included in earnable compensation for retirement purposes, contact the Department of Retirement Systems at (360) 664-7000 or toll free at 1-800-547-6657.

25.30.50 Compensatory time - Cash-out payments

July 1, 2012

25.30.50.a General

Overtime-eligible state employees may be compensated in cash or in compensatory time. The Fair Labor Standards Act (FLSA), administered by the U.S. Department of Labor, sets standards regarding overtime pay. Rules and collective bargaining agreements (CBAs) for overtime and compensatory time are written based on this Act. For non-represented employees, refer to WAC 357-28-255 through 285. For represented employees, refer to the applicable CBA. Agencies are advised to review rules and contracts for more complete information.

Cash compensation for overtime is subject to federal employment taxes (income, Medicare, and OASI) and state retirement.

Most compensation for compensatory time cash-out payments are subject to state retirement. In limited circumstances, cash compensation for compensatory time cash-out payments are not subject to state retirement. For more information, contact the Department of Retirement Systems at (360) 664-7000 or toll free at 1-800-547-6657.

25.30.50.b **Calculating rate for compensatory time cash-out payments**

Note: In the 2011-2013 biennium only, refer to WAC Chapter 357-28 or CBAs to determine the appropriate base salary rate for paying overtime or cashing out compensatory time.

1. Except for terminating employees as noted in (2) below, compensatory time cash-out payments shall be paid at the FLSA regular rate earned by the employee for the pay period the employee receives such payment.

   Example: Employee A is receiving a compensatory time cash-out provided under agency policy or collective bargaining agreement. The employee is continuing employment. Pay compensatory time at the employee's current FLSA regular rate.

2. Upon termination of employment, compensatory time cash-out payments shall be paid at the higher of:

   a. The FLSA regular rate in effect for the employee in the pay period the employee receives such payment (or the final pay period, whichever is earlier), **or**

   b. The average FLSA regular rate received by the employee during the last three years of employment. If the employee has been employed continuously for less than three years, use the period of time subsequent to the last permanent break in service. The average FLSA regular rate shall be calculated by summing total regular pay (excluding overtime premium pay) earned in the periods observed and dividing by total hours worked in the periods observed.

   Example: Employee B is terminating October 25 and is receiving final pay for all wages owed and leave accrued, including compensatory time. The employee's FLSA regular rate ($20.15/hour) in the current period is lower than the average FLSA regular rate over the past three years of employment ($21.00/hour). Pay compensatory time at $21.00/hour.

25.30.50.c **Recording compensatory time payable**

Agencies are to record a liability for accumulated compensatory time not cashed out by the end of the fiscal year. Refer to Subsection 85.72.65 for instructions on how to estimate and record the compensatory time payable in both governmental and proprietary/trust type accounts.

25.30.60 Other compensation

January 1, 2018

25.30.60.a **Relocation compensation and moving expenses**

25.30.60.a.(1) **Relocation compensation**

If the employee receiving relocation compensation terminates or causes termination with the state within one year of the date of the appointment or transfer, that employee may be required to pay back the lump sum payment.

If the termination is a result of layoff, disability separation, or other good cause as determined by the agency head, the employee will not have to pay back the relocation compensation.

Refer to RCW 43.03.125, WAC 357-28-310 through 320, or individual CBAs.

Relocation compensation is subject to federal employment taxes and should be coded to sub-object BZ "Other Employee Benefits."

25.30.60.a.(2) **Moving expenses**

An agency may pay the moving costs of qualified or transferred employees subject to requirements and restrictions in Chapter 60.

Tax code change effective January 1, 2018:

> *All moving expenses, whether paid directly to the employee or to a vendor on behalf of the employee, are considered taxable income. Employees and agencies should consult Internal Revenue Service regulations for further guidance.*

25.30.60.b **Recruitment and retention premiums**

An employer may adjust an employee's base salary within the salary range to address issues that are related to recruitment, retention or other business

related reasons. Under certain conditions, an employer may authorize additional pay to support the recruitment or retention of the incumbent or candidate for a specific position. Refer to WAC 357-28-090 and 095.

Recruitment and retention premiums are coded to the sub-object used for the employee's normal salaries and wages.

25.30.70 Settlement payments

October 1, 2011

Sometimes an agency pays a settlement to a current or former employee that is attributable to wages. These settlements are negotiated through either the Department of Enterprise Services, Office of Risk Management or the Office of the Attorney General.

The person handling the settlement should conduct an analysis of the origin of the claim. If any portion is attributable to wages, that portion should be identified and processed through an agency's payroll system. Refer to Subsection 25.10.30.

If applicable, once the agency has approved the settlement, a request for reimbursement from the self insurance Liability Account (Account 547) should be forwarded by the agency to the Office of Risk Management.

For more information, refer to OFM's Payroll Resources website at: http://www.ofm.wa.gov/resources/payroll.asp.

25.40
Leave

25.40.10 Shared leave
March 17, 2020

25.40.10.a General guidelines

Per RCW 41.04.650 through 670, the state's shared leave program allows a state employee to come to the aid of another state employee who is likely to take leave without pay or terminate his or her employment because:

- The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;
- The employee has been called to service in the uniformed services;
- The employee is a current member of the uniformed services or is a veteran as defined under RCW 41.04.005, and is attending medical appointments or treatments for a service connected injury or disability;
- The employee is a spouse of a current member of the uniformed services or a veteran as defined under RCW 41.04.005, who is attending medical appointments or treatments for a service connected injury or disability and requires assistance while attending appointments or treatments;
- A state of emergency has been declared anywhere within the United States by the Federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and is volunteering with a governmental agency or a nonprofit organization to provide humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;
- The employee is a victim of domestic violence, sexual assault or stalking;
- The employee needs the time for parental leave; or
- The employee is sick or temporarily disabled because of pregnancy disability.

When taken, this leave is classified as Shared Leave and tracked separately over the state career of the recipient employee (donee).

WAC 357-31-380 through 455, or collective bargaining agreements (CBAs), establishes the definition and eligibility requirements for the state leave sharing program.

Until the expiration of Proclamation 20-05, issued February 29, 2020, by the Governor and declaring a state of emergency in the state of Washington, or any amendment thereto, whichever is later, an agency head may permit an employee to receive shared leave under RCW 41.04.665 if the employee, or a relative or household member, is isolated or quarantined as recommended, requested, or ordered by a public health official or health care provider as a result of suspected or confirmed infection with or exposure to the 2019 Novel Coronavirus (COVID-19). An agency head may permit use of shared leave under this subsection (1)(f) without considering the requirements of subsection (1)(a) through (1)(e) of RCW 41.04.665.

Within these rules, the head of each agency determines the agency's level of participation in the program.

The agency head may not prevent an employee from using shared leave intermittently or on nonconsecutive days so long as the leave has not been returned.

Agencies are strongly encouraged to establish policies that encompass these rules and that set internal procedures for managing the program.

25.40.10.b Definitions

Employee – Any employee entitled to accrue sick, vacation, or personal holiday leave and for whom an agency has maintained leave records.

Donor – The employee making the donation of leave.

Donee – The employee receiving the donation of leave (recipient).

Donated leave – The dollar value of the leave hours a donor donates through the Shared Leave Program.

Shared leave – The donated leave converted to hours by the receiving agency at the donee's rate of pay. This may be more or less than the literal hours donated, depending on the relative salary rates of the respective employees.

Shortly deplete – The employee will have 40 hours or less of the applicable leave types under Subsection (1)(d) of RCW 41.04.665. Refer to subsection 25.40.10.c.4.b.

25.40.10.c Shared leave program requirements and restrictions

1. Salaries and wages

Employees on shared leave continue to receive the same salary, wage, and employee benefits that they normally receive when using accrued leave. Refer to RCW 41.04.665(7).

2. Shared leave requester

a) An agency shall require the employee requesting shared leave to submit a medical statement supporting the request. A licensed physician (or health care practitioner) should:

- Verify the severity or extraordinary nature of the condition.
- Determine the expected duration of the condition.

The requirement for a medical statement may be waived in unusual circumstances where such a statement may not be available, such as a pandemic emergency.

In order for the requirement to be waived, an agency must establish a policy that, at a minimum, addresses the nature of the unusual circumstances under which a medical statement is not required; the limits, if any, imposed by the agency on the amount of shared leave that may be granted without a medical statement; and the agency official with authority to approve shared leave granted without a medical statement.

b) An agency shall require an employee called to service in the uniformed services who is requesting shared leave to submit a copy of the military orders verifying the employee's required absence.

c) An agency shall require an employee who is a victim of domestic violence, sexual assault or stalking to submit supporting documentation. WAC 357-31- 405 provides a listing of acceptable types of documentation.

d) An agency shall require an employee volunteering his or her services to either a governmental agency or a nonprofit organization to assist in disaster relief efforts in response to a declared federal or state emergency or its aftermath to submit proof of acceptance of the

employee's services by the government agency or nonprofit organization.

Refer to WAC 357-31-390 and 405, or CBAs for other acceptable uses and associated documentation requirements.

3. Types and limitations on leave donations

a) Vacation leave

Employees may donate vacation leave if this does not cause their vacation leave balance to fall below eighty hours after the transfer. For part-time employees, requirements for vacation leave balances are prorated. Additionally, certain CBAs specify that an employee may not donate excess vacation leave (hours in excess of 240) that the donor would not be able to take due to an approaching anniversary date. Prior to the donation, the donor's supervisor (or equivalent) determines how much of the excess leave the employee could use prior to the employee's anniversary date.

Because only approved usable excess leave can be donated, affected employees do not need a second approval to receive any remaining excess donated leave back should a reversion occur.

b) **Sick leave**

Employees may donate any amount of sick leave provided the donation does not cause their sick leave balance to fall below 176 hours after the transfer.

Note: RCW 41.04.665 allows employees of higher education institutions who do not accrue vacation leave but do accrue sick leave to donate sick leave. The donation cannot cause the employee's sick leave balance to fall below 22 days.

c) **Personal holiday**

An employee may donate all or part of a personal holiday. Any portion of the personal holiday that is not used shall be returned to the donating employee, and may be used by the donor if the returned donation occurs and is then used in the same calendar year that it was donated. For represented employees, check CBA for returns that cross calendar years.

4. **Limitations on receipt of shared leave**

a) **Maximum shared leave per person**

An employee may not receive more than 522 days of shared leave for the entire duration of state employment. For this purpose, eight hours shall constitute a day (RCW 49.28.010) unless otherwise required by statute, regulations, or employment contract.

An employer may authorize leave in excess of 522 days in extraordinary circumstances for an employee qualifying for shared leave because the employee is suffering from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature.

b) **When shared leave can be used**

WAC 357-31-435 or CBAs require employees to use all compensatory time, recognition leave, and personal holiday that they have accrued before using shared leave. Refer to these resources as well as RCW 41.04.665 for further guidance.

Additionally, before using shared leave for:

- Medical purposes, parental leave, or pregnancy disability – the employee is not required to deplete all of their accrued vacation leave and sick leave and can maintain up to 40 hours of each in reserve.
- Service in the uniformed services – the employee is not required to deplete all of their accrued vacation leave and paid military leave and can maintain up to 40 hours of each in reserve.
- A state of emergency, victim of domestic violence, sexual assault, or stalking – the employee is not required to deplete all of their accrued vacation leave and can maintain up to 40 hours in reserve.

For work related illness or injury, an employee receiving industrial insurance wage replacement benefits may not receive greater than 25 percent of his or her base salary from the receipt of shared leave.

Note: Once an employee uses authorized shared leave, the employee shall not be required to repay to the agency the value of the leave used.

5. **Transfer of shared leave**

Shared leave can transfer:

- Within a state agency and account,
- Between accounts or agencies, or
- Between agencies, educational service districts, and school districts.

Transfer of leave requires approval from the head or designee of both the donor and donee agencies, educational service districts, or school districts. It is recommended that an agency's shared leave policies include approval procedures and identify authorized designees.

If a shared leave account is closed and an employee later has a need to use shared leave due to the same condition listed in the closed account, the agency head must approve a new shared leave request for the employee.

25.40.10.d **Computation of leave transferred**

In transferring leave from the donor to the donee, it is the donor's dollar value of the leave that transfers and purchases shared leave for the donee at the donee's salary rate.

Calculate the **dollar value** of donated leave using the donor's total current salary rate times the hours donated.

For the donee, divide the **dollar value** received by the donee's total current salary rate to determine the leave hours to record.

Definition of Formula Elements for Calculating Shared Leave:

Regular salary rate = Current hourly rate OR $\frac{\text{Monthly rate}}{\text{174 (or monthly hours)}}$

*Fringe benefits rate = 46% x Regular salary rate

Total salary rate = Regular salary rate + Fringe benefits rate

*Formula for deriving the fringe benefit rate is in Subsection 25.40.10.j.

Donor Formula for Shared Leave Transfer Calculation:

Dollar value of donated leave = Donated leave hours x Donor's total salary rate

Reduce the donor's leave balance by the number of hours donated.

Donee Formula for Shared Leave Received:

$$\text{Shared leave hours credited to donee} = \frac{\text{Dollar value of donated leave received}}{\text{Donee's total salary rate}}$$

Record the donee's shared leave balance for the calculated shared leave hours received.

25.40.10.e Recording donated leave transfer(s) in accounting and payroll systems

- Transfer the dollar value of donated leave using a Journal Voucher (A7) for transfers between treasury and/or treasury trust accounts.
- Use a warrant or a check for transfers between treasury/treasury trust accounts and local accounts, educational service districts, and school districts.
- Attach documentation to the JV or warrant or check, showing the name(s) of the employee(s) receiving the shared leave.
- Record the transfer in the appropriate accounting and payroll systems. **It is recommended agencies record the shared leave transactions, at a minimum, on a quarterly basis**. Refer to Subsection 85.34.20 for related accounting entries.

25.40.10.f Shared leave records

The agency head or designee must maintain the following shared leave information at a minimum:

- Number of leave requests received.
- Number of leave requests granted.
- Nature of requests.
- Name and agency of donors.
- Amount of leave transferred in or out.
- Value of leave transferred in or out.
- Date leave was taken for each occurrence.

Record donated leave as shared leave in agency leave records and maintain it separately from all other leave balances.

25.40.10.g **Unused shared leave**

1. The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred or for any other qualifying condition. Unused shared leave may not be returned until one of the following occurs:

    - The agency head receives from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved.

    - The employee is released to full-time employment, has not received additional medical treatment for his or her current condition or any other qualifying condition for at least six months, and the employee's doctor has declined, in writing, the employee's request for a statement indicating the employee's condition has been resolved.

2. Upon reversion, the ***donee agency*** completes the following steps:

    - Determine the donee's shared leave hours remaining.

    - Calculate the dollar value using the *donee's original total salary rate* and return the dollars to the appropriate donor agency or account (if applicable). Refer to RCW 41.04.665(9). Any reversion *must* use the same total salary rate basis that was used to provide the shared leave hours to the donee. Otherwise, the dollar value per reverted hour returned to the donor agency or account will be more or less than received, depending on how a donee's current total salary rate may have changed. Refer to Subsection 85.34.20 for accounting entries, including the entries to return shared leave value within an account.

    - Reduce the donee's shared leave balance to zero. Also, restore the donor's applicable reverted leave hours if in the same agency.

Formula for calculating the return of shared leave to the donor:

Dollar value of reverting shared leave to *donor agency* and/or *account*	=	Shared leave hours remaining	x	Donee's o*riginal* total salary rate

Reduce the donee's available shared leave balance to zero and prepare transfer of the remaining dollar value of the leave back to the donor agency and/or account.

3. Upon reversion, the ***donor agency*** completes the following steps:

   - Receive the returned cash from another agency and/or account. If the donor was within the same agency and same account, then receive the dollar value only. Refer to Subsection 85.34.20.
   - Calculate the number of hours to restore to the donor using the *donor's current total salary rate*. In order to reflect the current cost of re-establishing leave hours, the donor's current salary rate is used.
   - Restore the calculated leave hours to the donor.

Formula for converting the dollar value of returned leave to one donor:

$$\text{Converting the dollar value of returned shared leave into } \textit{donor} \text{ hours} = \frac{\text{Dollar value of returned shared leave}}{\text{Donor's current total salary rate}}$$

Record the calculated hours returned to the donor's leave balance.

4. Calculating reverting shared leave hours from **multiple donors**

   Where more than one employee donated leave to an individual, calculate reverting leave on a prorated basis using either the shared leave hours provided or dollars received by the donee. The following example uses dollars received.

   This is a three-step process:

Step 1: Calculate this percentage for each donor:

$$\text{Percentage of residual shared leave returned to donor} = \frac{\text{Shared leave dollars received from Employee 1}}{\text{Total dollar value of shared leave received}}$$

Step 2: Calculate the dollar value of shared leave reverting back to the donor:

$$\text{Dollar value of shared leave reverting back to donors} = \text{\% calculated in Step 1} \times \text{Remaining shared leave hours} \times \text{Donee's original total salary rate}$$

Step 3: Calculate leave hours returned to the donor:

Converting the dollar value of returned shared leave into *donor* hours	=	Dollar value of reverting shared leave from Step 2 / Donor's current total salary rate

Note: A special reversion situation occurs when a donee depletes the initial shared leave hours received, and then receives additional donations. In this case, should there be a reversion of the additional leave received; do not include in the reversion proration *the **donors(s)** and the hours of the initial donation*. In effect, batches of donated shared leave are used on a first-in, first-out basis and reversion is limited to the remaining batch. Each batch (pool) is considered closed at the time its available shared leave balance reaches zero.

To comply with the cost containment provisions of RCW 41.04.670(3), accounting batches may be restricted to record only the amount of shared leave actually needed by donees on a payroll period by payroll period basis from a list of potential donors maintained on a first-in, first-out basis.

Agencies should communicate to potential donors the agency's shared leave policy in regard to how shared leave donations will be applied.

25.40.10.h Donation and reversion calculation examples

For a sample donation and reversion case, refer to OFM's Payroll Resources website at: http://www.ofm.wa.gov/resources/payroll.asp.

25.40.10.i Direct questions on shared leave calculations to OFM

Direct any questions arising due to the transfer of funds or the adjustment of appropriation authority with regard to the Shared Leave Program to the agency's assigned OFM financial consultant.

25.40.10.j Formula for fringe benefit rate

Formula for Deriving the Fringe Benefit Rate:

Benefits (Object B) as a percentage of salaries and wages	+	33.01%
Accrued holidays, sick leave, vacation leave		13.41% **
	Total	46.42% (Rounded to 46%)

**The additional 13.5% provides for holidays, sick leave, and vacation leave that an employee could potentially earn while on shared leave. The following formula is the method OFM has historically used to derive the percentage.

Holidays		11 days a year
Sick leave		12 days a year
Vacation leave		12 days a year
Total		35 days a year
	x	8 hours per day
Total		280 hours
		280 ÷ 2,088 = 13.41%

25.40.12 Uniformed service shared leave pool

January 1, 2012

Per RCW 41.04.685, the uniformed service shared leave pool (USSLP) allows general government and higher education employees to voluntarily donate leave to be used by any eligible employee who has been called to service in the uniform services. WAC 357-31-640 through 725 establishes the rules for the USSLP.

The Military Department, in consultation with the Office of Financial Management (OFM), administers the USSLP. Procedures can be found on OFM's Payroll Resources website at: https://www.ofm.wa.gov/accounting/administrative-accounting-resources/payroll.

In order to participate in the USSLP, employers must develop a written policy which, at a minimum, addresses:

1. Eligibility requirements for use of the USSLP.
2. Donation of leave to the pool.
3. Use of uniformed service shared leave.
4. Abuse of pool.

Higher education institutions shall adopt policies consistent with the needs of the employees under their respective jurisdictions.

An employer may limit the amount of leave an employee may donate to or receive from the pool only if it would result in the violation of rule or statute.

Leave that is donated or received is calculated consistent with the Washington State Leave Sharing Program. Refer to Subsection 25.40.10. However, shared leave received under the USSLP is not included in the 522 day total specified in RCW 41.04.665.

Refer to Subsections 85.42.50.f and g for illustrative entries.

25.40.13 Veterans' in-state service shared leave pool

July 23, 2017

Per RCW 41.04.672, the veterans' in-state service shared leave pool (VISSLP) allows general government and higher education employees to voluntarily donate leave to be used by any eligible employee who meets the following criteria:

- The employee is a current member of the uniformed services or is a veteran as defined under RCW 41.04.005, and is attending medical appointments or treatments for a service connected injury or disability; or
- The employee is a spouse of a current member of the uniformed services or a veteran as defined under RCW 41.04.005, who is attending medical appointments or treatments for a service connected injury or disability and requires assistance while attending appointments or treatments.

WAC 357-31-750 through 830 establishes the rules for the VISSLP.

The Department of Veterans' Affairs, in consultation with the Office of Financial Management (OFM), administers the VISSLP. Procedures can be found on OFM's Payroll Resources website at: https://www.ofm.wa.gov/accounting/administrative-accounting-resources/payroll.

In order to participate in the VISSLP, employers must develop a written policy which, at a minimum, addresses:

1. Eligibility requirements for use of the VISSLP.
2. Donation of leave to the pool.
3. Use of veterans' in-state service shared leave.
4. Abuse of pool.

Higher education institutions shall adopt policies consistent with the needs of the employees under their respective jurisdictions.

An employer may limit the amount of leave an employee may donate to or receive from the pool only if it would result in the violation of rule or statute.

Leave that is donated or received is calculated consistent with the Washington State Leave Sharing Program. Refer to Subsection 25.40.10. However, shared leave received under the VISSLP is not included in the 522 day total specified in RCW 41.04.665.

Refer to Subsections 85.42.50.f and g for illustrative entries.

25.40.14 Foster parent shared leave pool

July 28, 2019

Per RCW 41.04.674, the foster parent shared leave pool (FPSLP) allows employees as defined in RCW 41.04.655 to voluntarily donate leave to be used by any eligible employee who is a licensed foster parent pursuant to RCW 74.15.040 needing to care for or preparing to accept a foster child in their home.

WAC 357-31-835 through 920 establishes the rules for the FPSLP.

The Department of Children, Youth, and Families, in consultation with the Office of Financial Management (OFM), administers the FPSLP. Procedures can be found on OFM's Payroll Resources website at: https://www.ofm.wa.gov/accounting/administrative-accounting-resources/payroll.

In order to participate in the FPSLP, employers must develop a written policy which, at a minimum, addresses:

1. Amount of leave that may be withdrawn from the FPSLP.
2. Eligibility requirements for use of the FPSLP.
3. Donation of leave to the pool.
4. Use of foster parent shared leave.
5. Misuse of pool.

Higher education institutions shall adopt policies consistent with the needs of the employees under their respective jurisdictions.

An agency head or higher education president may limit the amount of leave an employee may donate to or receive from the pool.

Leave that is donated or received is calculated consistent with the Washington State Leave Sharing Program. Refer to Subsection 25.40.10. Shared leave received under the FPSLP is separate from and not included in the 522 day total specified in RCW 41.04.665. Refer to WAC 357-31-880.

- Refer to WAC 357-31-875 for the maximum number of hours the employee can receive from the FPSLP.
- Refer to WAC 357-31-895 for what types of leave must be used prior to using shared leave from the FPSLP.

Refer to Subsections 85.42.50.f and g for illustrative entries.

25.40.15 Sick leave pools

May 20, 2010

Per RCW 41.04.680, general government state employees may pool sick leave within an agency to be used by participating employees who have a personal illness, accident, or injury. WAC 357-31-570 through 635 establishes the rules for creating and administering a sick leave pool.

Prior to creating a sick leave pool, an agency must appoint an administrator and develop a written policy. For purposes of calculating maximum sick leave that may be donated or received by any one employee, pooled sick leave is counted and converted in the same manner as sick leave under the Washington state Leave Sharing Program.

A participating employee may not withdraw more than 522 days from a sick leave pool for the entire duration of state employment. The 522 days includes any days an employee has received under the Washington State Leave Sharing Program. Refer to Subsection 25.40.10.

This provision is for non-represented employees only.

25.40.20 Vacation leave buyout at termination

July 1, 2013

RCW 43.01.041 establishes the authority for vacation leave buyout upon termination of employment. WAC 357-31-225 or collective bargaining agreements (CBAs) provide additional rules and guidance.

Compute termination leave payments by multiplying an average hourly rate times the number of vacation leave hours accumulated. Determine the average hourly rate by multiplying .0063* times the monthly salary rate. The fraction of .0063 is based upon the number of work hours in an average month. Do not include premium pay such as standby, shift differential, and overtime in the monthly salary rate used as the basis for termination leave payment.

*The formula for deriving the .0063 factor follows.

Formula for Deriving the Vacation Leave Buyout Termination Factor:

$$\frac{8 \text{ hrs}}{1 \text{ day}} \times \frac{1}{\frac{(365 \text{ days} - 104 \text{ Saturdays and Sundays} - 11 \text{ holidays} - 12 \text{ days of vacation leave})}{12 \text{ months}}}$$

$$= \frac{1}{158.66}$$

$$= .0063$$

25.40.30 Accrued sick leave buyout

July 1, 2013

25.40.30.a **Authority**

In order to provide eligible state employees an attendance incentive program, RCW 41.04.340 establishes rules when monetary compensation may be paid for accrued sick leave. Compensation is permitted for only that portion of sick leave accumulated at a rate of one day (8 hours) per month.

WAC 357-31-150 or collective bargaining agreements (CBAs) provide additional rules and guidance.

25.40.30.b **Eligibility rules**

1. **Continuing employees**

   - In January of the year following any year in which a minimum of sixty days (480 hours) of sick leave is accrued, and at no other time, an eligible employee may elect to receive compensation for the unused sick leave *accumulated only in the previous year.*

   - Compensation is payable at 25% for any of the prior year's unused sick leave hours the employee elects to receive. However, no sick leave hours may be converted which would reduce the calendar year-end balance below 480 hours. Payment is based on the employee's current salary.

   - Sick leave for which compensation has been received is deducted from accrued sick leave at the rate of 4 days for every 1 day paid.

2. **Terminating employees**

   Eligible employees (or their estates) who separate from state service due to retirement or death may elect to receive compensation for unused sick leave at the rate of 25% of accumulated accrued sick leave. The compensation is based on the employee's salary at the time of separation.

25.40.30.c Medical expense plans

RCW 41.04.340 (7-9) authorizes retiring state employees to participate in medical expense plans, subject to conditions provided in statute, WAC 357-31-375, or CBAs. In lieu of remuneration for unused sick leave at retirement, agencies may, with equivalent funds, provide eligible employees with a benefit plan that provides for reimbursement for medical expenses.

25.40.30.d Determination of the current hourly rate

The appropriate current hourly rate for sick leave buyout compensation depends on how an eligible employee is paid. Most situations are addressed in the following examples.

- For an employee paid a monthly salary based upon an official Washington State Human Resource System Salary Schedule, divide the monthly salary rate by 174 (average number of hours in a month). The salary schedules can be found online at: http://hr.wa.gov/CompClass/Compensation/Pages/SalarySchedules.aspx.
- For an employee paid a salary based on a contract stating the number of contract days, divide the contracted salary by the number of contracted days to obtain a daily rate. Then divide the daily rate by the appropriate number of hours per day established for that contract to derive the hourly rate.
- For an employee paid a salary based on a *yearly* contract, divide the yearly salary by 12. The hourly rate is then calculated by dividing the computed monthly salary by 174 hours.
- If an employee is paid an hourly rate in accordance with an agreement negotiated between an employee organization and the state or based on an hourly rate from an official Washington State Human Resource System Salary Schedule, that hourly rate is the official rate for computing sick leave compensation. The salary schedules can be found online at: http://hr.wa.gov/CompClass/Compensation/Pages/SalarySchedules.aspx.

25.40.30.e Exemption from retirement credit

Do not take retirement contributions on payments for sick leave buyouts. Compensation for unused sick leave is not used in computing retirement allowances.

25.40.30.f **Buyout upon disability or death**

Per IRS Publication 15-A, sick leave buyouts made to employees who retire due to disability, or to deceased employees' survivors, are exempt from Old Age and Survivors Insurance (OASI) and Medicare taxes.

25.40.30.g **Buyout calculation**

Calculation for a Continuing Employee:

Sick Leave hours unused in previous year in excess of 480 hours elected for buyout x 25% x Employee's current hourly salary rate* = Buyout

Calculation for a Terminating Employee:

All unused Sick Leave hours remaining x 25% x Employee's current hourly salary rate* = Buyout

* Refer to Subsection 25.40.30.d for determination of the current hourly rate.

Example: An eligible employee has 650 hours of unused sick leave as of January 1, 20xx. The employee has 48 hours of unused prior year sick leave.

Calculation for a **Continuing** Employee: (25% x 48 hours) Pay 12 hours

Calculation for a **Terminating** Employee: (25% x 650 hours) Pay 162.5 hours

25.40.40 Workers' compensation time loss payments

October 1, 2013

25.40.40.a **Authority**

Under RCW 51.32.090, employees cannot receive time loss payments for any period in which they receive their regular salary or wages. For purposes of determining eligibility for time loss payments, regular salary or wages do not include holiday pay, vacation pay, sick leave, or similar paid leave. However, a collective bargaining agreement (CBA), a rule or an agency policy can require recovery of time loss payments under certain circumstances. **Be sure to consult these resources to determine whether time loss payments to an employee are subject to recovery.**

25.40.40.b **Agency procedures for time loss determinations**

1. **Department of Labor and Industries notification**

   The Department of Labor and Industries (L&I) notifies the agency of time loss payment amounts made to the agency's employees and the time periods covered.

2. **Agency receipt of notice**

   When an agency receives notice of time loss payments, the agency determines the nature of paid leave used by the employee, if any, during the disability period covered by workers' compensation.

3. **Employee options**

   Under WAC 357-31-235 or CBAs, employees can select from the following options:

   - Time loss compensation exclusively,
   - Accrued paid leave exclusively (excluding shared leave), or
   - A combination of time loss compensation and accrued paid leave.

4. **Eligibility for time loss payment is not affected by the use of these leave types:**

   - Vacation pay
   - Sick leave
   - Compensatory time
   - Exchange time
   - Holiday pay

5. **Shared leave**

   An employee who qualifies for time loss cannot use shared leave for the same time period. RCW 41.04.665(1)(f) requires an employee to have diligently pursued and been found to be ineligible for benefits under Chapter 51.32 RCW for a work related illness or injury in order to be eligible for the shared leave program for medical purposes.

   Note: If an employee inadvertently receives shared leave and is subsequently approved for benefits under Chapter 51.31 RCW, the employee shall not be required to repay to the agency the value of the shared leave used.

6. **Time loss recovery**

   CBAs, a rule or an agency policy may require an agency to recover time loss payments if an employee receives both sick leave and time loss payments during a disability period.

25.40.40.c **Time loss recovery procedures**

When time loss recovery is required by a CBA, a rule or an agency policy, upon notification by the Department of Labor and Industries (L&I) that an employee has received time loss payments, the agency is to determine if the employee received paid sick leave during the temporary disability period. If the employee received paid sick leave for a period covered by time loss payments, the agency is to recover the dollar value of the sick leave by having the employee select one of the following:

1. **The employee keeps the time loss payment but has a comparable salary reduction.**

   - Compute the employee's gross salary less the amount of the applicable time loss payment.
   - Compute federal income tax (FIT), OASI, and Medicare taxes on the employee's reduced gross salary. Time loss payments are not subject to these taxes.
   - For retirement contribution calculation and service credit, refer to Subsection 25.40.40.d.
   - Restore sick leave using the employee's hourly rate effective during the time loss period. Refer to Subsection 25.40.40.e.

2. **The employee reimburses the agency for the amount of the applicable time loss payment.**

   - Account for the reimbursement from the employee as a recovery of current period salary expenditures/expenses.
   - ***For payment purposes***, compute federal income tax withholding on the employee's gross salary without reduction for the time loss payment. However, OASI and Medicare taxes must be computed on the employee's gross salary after reduction for the time loss payment.
   - For retirement contribution calculation and service credit, refer to Subsection 25.40.40.d.

- The following ***year-to-date adjustments*** are required:
  - Reduce year-to-date earnings subject to federal income tax, OASI and Medicare by the amount of the time loss payment.
  - Adjust year-to-date OASI and Medicare taxes to reflect the OASI and Medicare adjustment made for reduction of the time loss payment. **Note**: Year-to-date adjustments may be accomplished automatically or manually, depending on the payroll system used. Refer to the applicable system documentation.
  - Restore sick leave using the employee's hourly rate effective during the time loss period. Refer to Subsection 25.40.40.e.

25.40.40.d **Retirement service credit – employees on unpaid leave**

Per the Department of Retirement Systems (DRS), employees who are in unpaid status while receiving time loss may elect to purchase service credit for up to a two year limit. Calculate retirement contributions based on one of the following two situations:

1. The employee elects to have full service credit for the duration of the claim up to the two year limit and the **agency chooses to assume liability for the employee and employer contributions:**
   - The agency must have an agreement with the employee. Calculate and report to DRS the *reportable compensation* the member would have received if the disability had not occurred.
   - Remit to DRS both the employer and employee retirement contributions that would have been made if the disability had not occurred. The employee contribution is deferred from Federal Income Tax (FIT).
2. The employee elects to have full service credit for the duration of the claim up to the two year limit and the **agency chooses <u>not</u> to assume liability for the employee contribution:**
   - At the end of the disability the employee has the option to purchase the lost service for each period of absence:
     - PERS, PSERS, TRS, and SERS: Up to 24 consecutive months for each duty disability.

- LEOFF Plan 2:
  - On or after July 1, 2002: Up to 24 consecutive months for each duty disability.
  - Prior to July 1, 2002: Up to six consecutive months for each duty disability.
- WSPRS: Up to six consecutive months for each duty disability.

Note: LEOFF Plan 1 administers temporary duty disabilities separately.

- Upon returning to work, the employee contacts DRS in order to purchase the desired amount of service credit.

- Upon receipt of payment for service credits by employee, DRS will invoice the employer for employer contributions, plus interest.

25.40.40.e **Formula to calculate sick leave to be restored**

$\frac{\text{Semi-monthly salary}}{\text{Hours available for pay period when time loss payment made}}$	=	Actual hourly rate
$\frac{\text{Time loss dollar value}}{\text{Actual hourly rate during payment period}}$	=	Amount of sick leave hours to be restored

Example: Time loss payment of $400 received or refunded to the agency. The employee's semi-monthly salary was $850 and the number of available hours in the 11 day pay period when the time loss payment was calculated was 88 (8 x 11).*

1. $\frac{\$850}{88}$ = $9.66 Actual hourly rate

2. $\frac{\$400}{\$9.66}$ = $41.40 Sick leave hours to restore

***Note:** Available hours are based on how many days are in a particular semi-monthly pay period and may vary depending on pay period.

25.40.40.f FTE adjustment for restored sick leave hours

When sick leave hours are restored in a sick leave recovery situation, a comparable FTE reduction is to be recorded when the sick leave is taken and recovered in the same fiscal period. The calculation for the monthly FTE adjustment, based on the example above is:

$$\frac{41.40 \text{ hrs}}{174} = .24 \text{ FTEs}$$

25.40.50 Recognition leave

January 1, 2009

WAC 357-31-565 and certain collective bargaining agreements authorize employers who have received performance management confirmation to grant employees up to five (5) days of paid leave within a twelve-month period to recognize outstanding accomplishments or the achievement of pre-defined work goals by individual employees or units.

Leave granted under this provision is not payable upon layoff, dismissal, separation, or resignation or transferable between employers. Accordingly, it need not be accrued at fiscal year end.

25.50
Payroll Deductions and Reductions

25.50.10 Introduction
May 1, 1999

Payroll deductions or reductions are amounts withheld from an employee's wages. Reductions affect gross income, deductions do not. Deductions are classified as mandatory or voluntary.

25.50.20 Mandatory (standard) deductions/reductions
January 1, 2019

25.50.20.a Mandatory Deductions from Gross Income

These must be deducted from employees' salaries and wages pursuant to federal or state law. Mandatory deductions include but are not limited to the following list:

Mandatory Deductions	*Description and Requirements*
Federal Income Tax	• Determine amount of withholding from employee signed federal W-4 form (Employee's Withholding Allowance Certificate). • Check IRS publication 15 (Circular E) for any additional rules.
Industrial Insurance (Medical Aid)	• State tax for industrial insurance benefits program. • Administered by the Department of Labor and Industries (L&I). • Premium for full-time employees is calculated using the standard monthly average of **160 hours** x L&I rate. • Premium for part-time employees is calculated using **actual hours**. • The L&I rate is based on the assigned risk classification(s). • Refer to RCW 51.12.035 and L&I regarding mandatory Medical Aid coverage for volunteers of state agencies who have registered and accepted the volunteer services. • Refer to L&I publications for coverage, employee/employer rates, and employer reporting requirements.
Old Age and Survivors Insurance (OASI) and Medicare	• OASI is a federal employment tax for retirement, survivors, and disability benefits. Matching contributions are required from both employees and employers. • The Medicare federal employment employee and employer matching tax supports federal health insurance. • The Department of Retirement Systems (DRS) administers our state's Section 218 agreement with the federal Social Security Administration. • Check with DRS for coverage requirements. • Refer to IRS Publication 15 (Circular E) for rates, deposit, and reporting regulations.
Paid Family and Medical Leave	• Premium for the paid family and medical leave insurance program. • Administered by the Employment Security Department (ESD).

Mandatory Deductions	*Description and Requirements*
	• Premium is based on gross wages. • Refer to RCW 50A.04 and ESD publications for coverage, rates, and employer reporting requirements.

25.50.20.b Mandatory Reductions to Gross Income

These reduce gross pay and are not subject to federal income tax. Deduct these amounts from gross income before calculating federal income tax for eligible employees.

Reductions to Gross Income	*Descriptions and Requirements*
State Retirement Systems	• This is the employee's paid share of the total retirement contribution.
Higher Education Retirement Plans	• This is the employee's paid share of the Higher Education Retirement Plan. Refer to RCW 28B.10 and rules developed by specific agency governing boards.

25.50.30 Voluntary deductions/reductions

January 1, 2018

These options are permitted by law but require an employee's written request to authorize the payroll deduction or salary reduction. Generally, agency heads have the discretion to approve or deny requests for these types of deductions. The maximum deductions or reductions per employee are limited to the number that payroll systems can accommodate.

25.50.30.a Voluntary Reductions from Gross Income

These amounts reduce gross pay and are not subject to income tax. Deduct these amounts from gross income before calculating federal income tax. Participation in this type of reduction is at the employee's written request.

Voluntary Reductions	*Descriptions and Requirements*
Deferred Compensation Plans and Tax Deferred Annuities	• These are salary reductions allowed under RCW 28B.10.480 and 41.04.020. • Either the agency head or the Department of Retirement Systems Deferred Compensation Program approves the employee's request for this type of deduction.
Dependent Care	• This program allows eligible employees to exclude dependent care costs (like child care) from their gross income. Reductions are not subject to OASI and Medicare. • Eligibility requirements are in WAC 182-12-116, 182-08-187, 197, and 199. • For program details, refer to http://www.hca.wa.gov/pebb/Pages/dcap.aspx.

Voluntary Reductions	*Descriptions and Requirements*
Flexible Spending Plan	• A medical flexible spending account allows employees to set aside pretax earnings to pay eligible medical expenses. • Not available to employees enrolled in a consumer-directed health plan. • Amounts contributed must be used each plan year. • For more information, refer to http://www.hca.wa.gov/pebb/Pages/fsa.aspx.
Health Savings Account	• A health savings account (HSA) is a tax-exempt account into which employees, employers, or anyone can deposit on the employees' behalf. • In order to be eligible for an HSA, employees must be enrolled in a consumer-directed health plan. • Amounts contributed must be used to pay for IRS qualified out-of-pocket medical expenses and can accumulate from year to year. • For more information, refer to http://www.hca.wa.gov/pebb/Pages/cdhp.aspx.
Medical Expense Plans (Voluntary Employee Benefit Associations - VEBAs)	• RCW 41.04.340 allows eligible retiring employees an option to use their accrued sick leave buyout at retirement to purchase a post-retirement medical expense reimbursement plan. • Also refer to WAC 357-31-375 or CBAs for program requirements.

25.50.30.b Voluntary Miscellaneous Deductions

These deductions reduce net pay, but do not affect gross income. Participation in these types of deductions is at the employee's written request. These deductions may also require a minimum level of participation.

Acceptable forms for employee written request include:

- Paper (original documentation with employee original signature or mark).
- A pdf copy of the original document.
- Facsimile copy of the original document.
- Email for certain changes (such as deduction amount) or stopping a deduction.
- Electronic documents using electronic signatures as defined under RCW 19.360.030(2) as, "An electronic sound, symbol, or process, attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the record."

Employee requests may be delivered in any manner reasonably available to the individual submitting the request including, but not limited to: personal delivery, US Mail, courier, electronic mail, facsimile or other reliable method.

The most common of these deductions follow:

Type of Deduction	*Description and Explanation*	*25/100 Rule **	*Agency Override on 25/100 Rule*	*Agency approval required*
Banks, Savings Banks, or Saving and Loan Associations	• These institutions must be authorized to do business in this state.	X	X	If < 25 in the agency X
Credit Unions		X	X	If < 25 in the agency X
Parking Fees and Transit Benefits	• Payments for parking furnished by the agency or by the Department of Enterprise Services. Deductions shall be pretax, to the extent possible, for qualified parking and transit benefits as allowed under the federal internal revenue code.			
US Savings Bonds	• Deductions at certain institutions of higher education for participation in the US Savings Bond program.			
Board, Lodging, Uniform Deductions	• Deductions for board, lodging, or uniforms furnished by the state.			
Tuition, Fees, or Scholarship Contributions	• Deductions for academic tuition, fees, or scholarship contributions payable to the employing institutions.			
Dues and Other Fees	• Membership dues for professional organizations formed primarily for public employees or college and university professors.	X		
Labor or Employee Organization Dues	• Per RCW 41.04.230, dues (including representation and other mandatory fees) authorized under a collective bargaining agreement if not already provided under the provisions of Chapters 41.76 or 41.80 RCW or other statutory authority. • Organizations of 500 or more may have payroll deduction for employee benefit programs.	X		
Funds, Committees, or Subsidiary Organizations Maintained by Labor or Employee Organizations	• Per RCW 41.04.230 (6), employees may voluntarily contribute. • Effective January 1, 2007.			
Health Care Authority Premiums	• Premiums for contracts authorized by the Washington State Health Care Authority (HCA) (Chapters 41.04 and 41.05 RCW). • Enrollment or assignment by the HCA to participate in a health care benefit plan, as required by RCW 41.05.065(8), shall authorize a payroll deduction of premium contributions without a written consent under the terms and conditions established by the public employees' benefits board. If an employee is overpaid due to an error related			

Type of Deduction	*Description and Explanation*	*25/100 Rule **	*Agency Override on 25/100 Rule*	*Agency approval required*
	to payroll deduction of premium contributions, refer to salary overpayment recoveries in Section 25.80. • Premiums are treated as pretax unless the employee elects to have the premium taxed. This election must be made during open enrollment.			
Charitable Contributions	• Contributions to the state employee combined fund drive (RCW 41.04.036).			
Other Deductions	**Per RCW 41.04.230:** • Other deductions may be authorized by the director of OFM for purposes clearly related to state employment or goals and objectives of the agency and for plans authorized by the state health care authority. **Per RCW 41.04.030:** • Other Health, Accident, Disability, and Life Insurance - Deductions for employee chosen insurance carriers.	X		X

*This means minimum participation of 25 or more employees in one agency or 100 employees statewide.

25.60
Garnishments and Wage Assignments

25.60.10 Garnishments and levies

July 28, 2019

All agencies of the state of Washington must comply with this policy, unless otherwise exempted by statute. RCW 43.88.020 defines the term "Agency" to mean and include "every state office, officer, each institution, whether educational, correctional or other, and every department division, board and commission, except as otherwise provided." Refer to Chapter 1 of this manual for further guidance.

The term garnishment or levy is often used to describe a number of different documents. A garnishment or levy is used to capture all or a portion of earnings or personal property owed by a state agency to an employee, vendor, or third party. Personal property can include, but is not limited to, wages, leave buyout, vendor payments, commissions, bonuses, or prize money. The documents used to capture such amounts include, but are not limited to, writs of garnishment, mandatory wage assignments, mandatory payroll deductions, court orders, tax levies, and other administrative orders. Before proceeding, determine the type of legal document served upon the agency. The legal document will determine the procedure to follow.

25.60.10.a Writs of garnishment - overview

The law provides for two types of writs. The first is titled a "writ of garnishment (continuing lien on earnings)." The second is titled a "writ of garnishment (non-continuing lien)" or a "writ of garnishment (debt other than earnings – after judgment)." A continuing lien writ captures a percentage of the employee's wages for a 60 calendar day period. The non-continuing lien writ captures any non-exempt personal property owed to the employee/vendor (defendant) on the date the writ is served on the Office of the Attorney General. The non-continuing writ is most commonly used to capture contractual payments owed to a business.

25.60.10.b Writ of garnishment - continuing lien on earnings

A writ of garnishment (continuing lien on earnings) is served to capture an employee's earnings. Earnings include wages, salary, and other compensation. If the writ does not have the caption "continuing lien on earnings," it captures only the assets being held by the agency on the day the writ was received by the Office of the Attorney General.

Service of a writ on the Office of the Attorney General is required pursuant to RCW 6.27.040 and RCW 4.92.020. If an agency receives a writ directly, without prior service on the Office of the Attorney General, return the writ to the creditor (plaintiff) noting that it was improperly served.

Superior court writs of garnishment are issued by the clerk of the superior court, a court commissioner, or judge. A creditor's attorney may, however, issue *district court* writs of garnishment. Although an attorney may issue the initial district court writ of garnishment, any request or demand to turn over earnings or assets held by an agency must be by service on the agency of a court document titled "Judgment and Order to Pay." Either a court commissioner or a judge must sign this document.

Proper service of the writ (continuing lien on earnings) creates a lien on the employee's earnings for 60 calendar days. It captures all non-exempt earnings payable to the employee from the date of service on the Office of the Attorney General to the last payroll period ending on or before 60 calendar days after service of the writ.

Once the writ is served on the Office of the Attorney General, by law, an agency is prohibited from paying any non-exempt earnings to the employee. If the writ is served on the Office of the Attorney General on or near the date the employee is to be paid, an agency must take reasonable steps to stop a payment to the employee and withhold the non-exempt earnings.

The amount withheld each pay period will generally be 25 percent of the employee's disposable earnings or a lesser amount as stated in the writ. The remaining 75 percent is exempt from garnishment. The agency must pay the employee only the amount exempt from garnishment.

25.60.10.c **First Answer**

Accompanying the writ should be an "Answer to Writ of Garnishment" form. This form is often called the "First Answer." The agency must complete the First Answer form and return it to the applicable court with a copy to the creditor (plaintiff) or the creditor's attorney, as well as a copy to the employee (defendant). The First Answer must be mailed to the court, the creditor, and the employee within 20 calendar days after receipt of the writ by the Office of the Attorney General. Failure to answer the writ timely can result in a judgment being taken against the agency for the entire amount of the writ as well as costs and attorney fees.

To complete the First Answer, the agency must answer the questions in Section I of the writ. Next, if the defendant is an employee of the agency, the agency must complete Section II related to gross earnings, deductions, disposable earnings, and exempt earnings. Use the garnishment worksheets

to perform the applicable calculations. These also provide backup documentation for the actual garnishment amount.

The first worksheet deals with the "First Answer" and the second worksheet deals with the "Second Answer" to the writ. The agency may attach a work sheet showing its calculations. Refer to Subsection 25.60.50 for garnishment worksheets.

25.60.10.d **Calculation of exempt earnings**

To calculate exempt earnings, subtract federal withholding taxes, social security (OASI), Medicare, L&I (medical aid), and retirement, and any other amounts required by law to be withheld from gross earnings. Any amounts the employee may deduct by law, such as health insurance, are not deducted from gross earnings. After deduction of the "amounts required by law to be withheld," the result is disposable earnings.

Exempt earnings are calculated differently based on the type of garnishment.

Consumer Debt

Eighty (80) percent of disposable earnings or thirty-five times the state minimum hourly wage, whichever is larger, is the exempt amount. This 80 percent (or thirty-five times) must be paid to the employee. The remaining 20 percent is subject to the writ of garnishment (continuing lien).

This garnishment is based on a judgement or order for consumer debt.

Child Support

If the writ of garnishment (continuing lien) is for child support, the only exemption is 50 percent of disposable earnings.

This garnishment is based on a judgement or order for child support.

Garnishments Not Labeled Consumer Debt or Child Support

Seventy-five (75) percent of disposable earnings or thirty-five times the federal minimum hourly wage, whichever is larger, is the exempt amount. This 75 percent (or thirty-five times) must be paid to the employee. The remaining 25 percent is subject to the writ of garnishment (continuing lien).

***Note**: Effective July 22, 2011, RCW 26.60.090 authorizes a legal union of two persons of the same sex that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under state law, to be recognized as a valid domestic partnership and treated the same as a domestic partnership registered in the state of Washington regardless of whether it bears the name domestic partnership. Whenever "domestic partner" is used in this section, refer to this note for clarification.*

To calculate the 60 calendar day effective period and the payroll periods subject to the writ, the agency counts the day the writ was served on the Office of the Attorney General as well as counting another 60 calendar days, beginning the day after service of the writ. The day that the writ was served on the Office of the Attorney General to the end of the 60 calendar days is the "effective period."

The writ captures earnings due during the effective period. The agency must first determine the pay periods affected by the writ and then calculate the percentage of non-exempt funds available to the creditor.

Note that in determining affected pay periods, the agency cannot withhold money from a pay period that ends AFTER the end of the 60 calendar day effective period. The 60 calendar day effective period must encompass the WHOLE pay period affected (i.e., effective period ends March 14, the agency CANNOT hold money from the March 1-15 payroll period).

For illustrative examples, refer to OFM's Payroll Resources website at: http://www.ofm.wa.gov/resources/payroll.asp.

Generally, a writ received between the 1st and 9th of the month as well as the 16th and 24th of the month will capture five pay periods. This rule only applies if the agency's pay period coincides with the state's general pay periods of the 1st to the 15th and the 16th to the end of the month.

25.60.10.e Deduction codes

Non-exempt earnings deducted on behalf of the creditor must be held in a payroll revolving or equivalent account in General Ledger code 5189 "Garnishments Payable" until a Judgment on the Answer is served on the agency. This accounting approach only requires one deduction code to deduct the non-exempt earnings and credit them to the General Ledger code 5189.

25.60.10.f Processing fees

The agency may deduct a fee of up to $20 on the First Answer and $10 for the Second Answer for a continuing writ on earnings. The fee may be

deducted from the employee's non-exempt earnings only. If the creditor's garnishment amount takes all non-exempt earnings (the entire 25 percent), no fee may be deducted. The processing fee may not be taken from an employee's exempt earnings.

For example, if the employee's disposable earnings for a 60-calendar day period are $5,000, a creditor may garnish up to 25 percent or $1,250. If the creditor garnishes $1,220, the agency should deduct the processing fee of $20/$10. If the amount garnished is $1,230, the agency may deduct only a $20 fee. If the amount garnished is $1,250 or more, no fee may be deducted.

Deposit processing fees in the operating account that supports the administrative workload used to process garnishments. Code fee receipts to General Ledger code 3210 "Cash Revenues," Revenue Source code 0499 "Other Revenue."

25.60.10.g **Second Answer**

Near the end of the 60 calendar day period, the creditor will send the agency a document titled Second Answer. The Second Answer tells the creditor what non-exempt earnings were captured during the 60 calendar days following the date of service of the writ on the Office of the Attorney General.

The agency must complete the Second Answer and mail it to the court, creditor, and employee within 20 calendar days of its receipt by the Office of the Attorney General in the envelopes provided by the creditor. Hold all non-exempt funds captured by the writ pending receipt of a document titled Judgment on Answer and Order to Pay (also called a Judgment on Answer).

25.60.10.h **Judgment on Answer and Order to Pay**

A Judgment on Answer and Order to Pay is a court order that requires the agency to pay the withheld earnings over to a specified party. It further binds the employee to pay the creditor's costs. No earnings withheld from an employee should be paid to the court or a creditor absent receipt of a Judgment on Answer and Order to Pay.

A Judgment on Answer and Order to Pay must be signed by a court commissioner or a judge. Follow the directions in the Judgment when determining where to send the withheld earnings. Under a writ issued by a district court, the earnings may be sent directly to the creditor, the creditor's attorney, or the court. A superior court writ requires that the earnings be sent to the court clerk unless otherwise stated in the writ.

Carefully note the judgment amount that the agency must remit. The judgment amount must be equal or less than the amount stated in the Second Answer. If the amount in the judgment is more than the amount stated in the Second Answer, it must be returned to the creditor for re-issuance in the correct amount. If the amount in the judgment is less than the amount stated in the Second Answer, issue the warrant/check in that amount and refund the remaining earnings withheld to the employee. The agency must issue this warrant/check against the account where previously deposited in General Ledger code 5189.

If the writ is paid through other sources or the writ is dismissed, the court or the attorney will send a notice of the satisfaction, release, or dismissal of the garnishment to the agency. Rescind the accrued miscellaneous deduction "payable to the court" and return the earnings withheld to the employee. **In no event is an agency to issue the warrant/check for the earnings withheld to the employee until the agency receives a release of the writ signed by the appropriate court officer or attorney.**

25.60.10.i **Stacking writs**

If the agency is withholding under one writ and the agency receives a second writ under a different court cause number, the second writ becomes effective upon expiration of the first writ. If the same creditor using the same court cause number as the first writ serves a second writ before the 60 calendar day period expires, refer the writ to the Office of the Attorney General. A creditor may not "stack" writs under the same court cause number.

For illustrative examples, refer to OFM's Payroll Resources website at: http://www.ofm.wa.gov/resources/payroll.asp.

25.60.10.j **Lien priority**

Lien priority is based on a number of factors. The time the document was served, the type of document, and the document's subject matter. As a general rule, non-child support garnishments and administrative orders (educational levy, notice to withhold and deliver, IRS tax levy) compete on a first-in-time, first-in-right basis.

A child support garnishment or administrative order takes precedence over all other types of garnishments, wage assignments and administrative orders except an IRS levy served on the employer prior to receipt of the child support order. Garnishments of any nature take precedence over a non-child support voluntary wage assignment. If the agency has questions regarding the priority of competing legal documents, contact the Assistant Attorney General assigned to garnishments.

For illustrative examples, refer to OFM's Payroll Resources website at: http://www.ofm.wa.gov/resources/payroll.asp.

25.60.10.k **Writ of garnishment (non-continuing lien)**

A writ of garnishment with the caption "non-continuing lien" captures payments, monies, or other assets (collectively referred to as payments) in the possession of the agency on the date the writ was received by the Office of the Attorney General. If the agency possesses any payment due on that date to the defendant, the agency is prohibited from transferring the payment. The agency must answer the writ within 20 days of service, identifying the payment amount in the agency's possession on the date of service.

If the payment is exempt from garnishment by state or federal law, the agency should answer the writ and cite the exemption statute. If no payments are owed to the defendant at the time the writ is received by the Office of the Attorney General, indicate in the writ that no monies were owed to the defendant on the date of service. If the agency fails to answer the writ, it can be held liable for the amount stated in the writ.

If payment is owed to the defendant, the agency must hold the payment until it receives a Judgment and Order to Pay. The agency should follow the directions in the Judgment when determining where to send the payments held.

Payments that become payable to the defendant after the date the original writ was served are not subject to the writ. A second writ must be served to capture additional payments.

For illustrative examples, refer to OFM's Payroll Resources website at: http://www.ofm.wa.gov/resources/payroll.asp.

25.60.10.l **Failure to answer or failure to remit funds**

If the agency fails to answer the writ or remit funds after a Judgment on Answer and Order to pay is received, the agency can be held liable for the full amount claimed by the creditor as well as interest, costs, and attorney fees. The creditor (plaintiff) must give the agency 10-calendar days notice that it will request the entry of a default judgment against the agency or serve the agency with a motion to show cause. If an agency receives such notice, contact the Assistant Attorney General assigned to garnishments immediately.

25.60.10.m **Release of writ**

If the creditor receives payment on its debt while the agency is holding withheld amounts from a garnishment, the creditor must obtain an order dismissing the garnishment signed by a court. The creditor may also provide the agency with a Release of Garnishment or Satisfaction of Judgment signed by the creditor's attorney. The release can be a partial release or full release. The agency should return amounts withheld that are released to the employee.

25.60.10.n **Failure of creditor to release writ or obtain judgment**

If the creditor fails to serve the agency with a Release of Garnishment or Judgment and Order to Pay, the agency must hold the amounts withheld for one year after the first answer was filed with the court. After one year, contact the Assistant Attorney General assigned to garnishments to seek release of the amounts withheld.

25.60.10.o **Direct questions to the Office of the Attorney General**

Direct all questions regarding garnishment procedures in this policy to the Assistant Attorney General assigned to garnishments.

25.60.20 Child support

June 7, 2012

25.60.20.a **Child support debt collection overview**

Child support can be enforced through payroll deduction notices, administrative orders (notice and order to withhold and deliver child support), mandatory wage assignment orders, writs of garnishment for child support, and out-of-state child support orders or notices (collectively referred to as child support levies). Unless issued as a writ of garnishment, a deduction taken pursuant to a child support levy continues beyond the 60 calendar day period of a writ of garnishment. A child support levy has priority over non-child support writs of garnishment, assignments, attachments, or other legal processes except an IRS levy served prior to receipt of the child support order.

25.60.20.b **Payroll deduction notice**

The Department of Social & Health Services (DSHS) may issue a payroll deduction notice to collect child support. The notice is effective immediately upon receipt by the agency. Service of the deduction notice on the Office of the Attorney General is not required.

An agency must answer the notice within 20 calendar days after receipt using the answer form provided. The agency must begin withholding funds immediately. The payroll deduction notice can capture up to 50 percent of the employee's disposable earnings. Any earnings withheld must be remitted to DSHS within 7 working days of the date the earnings are payable.

The agency may deduct a processing fee from the employee's wages. The processing fee is $10 for the first disbursement and $1 thereafter. The deduction notice remains in effect until released, until the employee is no longer employed, or until the agency no longer possesses any earnings.

25.60.20.c **Notice and order to withhold and deliver for child support**

A notice and order to withhold and deliver (order) is an administrative order to withhold earnings for child support. Similar to a payroll deduction notice, an order is effective immediately upon receipt by the agency. An agency must answer the notice within 20 calendar days after receipt using the answer form accompanying the order. The agency must begin withholding funds immediately.

The order can capture up to 50 percent of the employee's disposable earnings. Any earnings withheld must be remitted to DSHS within 7 working days of the date the earnings are payable. Upon withholding from the employee's paycheck, the agency may deduct a processing fee. The processing fee is $10 for the first disbursement and $1 thereafter.

The order remains in effect until released, until the employee is no longer employed, or until the agency no longer possesses any earnings.

25.60.20.d **Mandatory child support wage assignment order**

A court of law may issue a wage assignment to collect child support. Wage assignment orders are effective immediately upon service on the agency. An answer to a child support wage assignment order must be mailed no later than 20 calendar days after the day the order was received by the agency.

Withholding under such an order may not exceed 50 percent of the employee's disposable earnings. An agency must remit any earnings withheld within *five working days* of the date such earnings are payable. A $10 processing fee may be deducted by the agency for the first disbursement; and a $1 fee may be deducted for each disbursement thereafter.

A wage assignment order continues until paid, released, or the agency is no longer holding any earnings. An agency must promptly notify the addressee specified in the assignment when the employee is no longer employed.

Once employment is terminated, the agency must hold the wage assignment order for one year. The wage assignment order remains in effect for this one-year period. The one year period is calculated from the date of the employee's termination or the date the agency no longer possesses any earnings or other compensation, whichever is longer. The wage assignment order does not expire until one year has passed. If the former employee returns to service within the one-year period, the agency must immediately begin to withhold earnings as provided in the prior wage assignment order.

25.60.20.e Writ of garnishment for child support

Private parties may garnish wages for child support using a writ of garnishment under RCW 6.27. If the garnishment is a continuing lien on wages, it is only effective for a period of 60 days from the date of service. Withholding under a garnishment cannot exceed 50 percent of disposable wages.

25.60.20.f Out-of-state child support orders or notices

An agency must withhold earnings when it receives a document from an out-of-state entity requiring the withholding wages for child support. It may be served directly upon the agency and begins the day received. Follow the procedures provided in the notice. Contact DSHS, Division of Child Support, for assistance in processing out-of-state child support orders.

25.60.30 Wage assignments

March 1, 2010

25.60.30.a Wage assignments overview

There are generally two types of wage assignments – voluntary wage assignments and mandatory wage assignments. A voluntary wage assignment is an employee's written consent to transfer future wages to a third party (assignee). Wage assignments are generally only for a part of the employee's wages. A mandatory wage assignment is a similar transfer of earnings required by law or court order. The amount deducted under the wage assignment can exceed the 25 percent limit of a writ of garnishment.

25.60.30.b Voluntary wage assignment

Agencies may accept or decline to honor a voluntary wage assignment. However, honoring a voluntary wage assignment may forestall a garnishment, which results in significantly more work for an agency. An agency accepting a wage assignment should notify the employee and the assignee that the agency's acceptance is conditioned on (1) the agency not being liable for mistakes or omissions in honoring the assignment and (2) that enforced wage collections (e.g., garnishments) will take precedence over the assignment.

Before honoring such an assignment, the agency should obtain a copy of the assignment signed by the employee. If the employee is married or has a domestic partner registered in the state of Washington, written consent to the assignment by the employee's spouse or domestic partner is also necessary for non-child support debts.

25.60.30.c Mandatory wage assignments

A mandatory wage assignment most often requires the transfer of earnings based upon a court order or agency directive. The legislature provided for the mandatory assignment of wages for child support, criminal financial obligations and public assistance overpayments. A mandatory wage assignment should be processed in accordance with the terms of the assignment or court order. Continue to withhold earnings until the debt is paid in full unless the assignment states otherwise.

25.60.30.d Priority of wage assignments

A mandatory wage assignment, garnishment, or other legally established involuntary debt collection mechanism ordinarily takes precedence over a voluntary wage assignment. An agency should consult with its assigned Assistant Attorney General to resolve questions that may arise concerning these wage transfers.

25.60.40 Other debt collection procedures

June 7, 2018

25.60.40.a Bankruptcy

When notified of a bankruptcy filing by an employee, the agency should request that the employee provide written confirmation of the bankruptcy filing. This could include a letter from the employee's attorney with the bankruptcy court case number, a copy of the first page of the bankruptcy petition, or a copy of a bankruptcy filing receipt with the court's case number.

Once the agency has confirmation of the bankruptcy, the agency must stop deducting earnings under non-child support garnishment, administrative order, and/or wage assignment. However, child support withholding should continue unless instructed otherwise by the court.

If the agency withheld earnings *after* the bankruptcy was filed, return the post-bankruptcy earnings to the employee. As to earnings withheld *before* the bankruptcy was filed, send a letter to the creditor seeking guidance on distribution of any withheld earnings. If the creditor objects to distribution of the funds to the employee, hold the funds for one year. If the agency does not receive a Judgment on the Answer within one year of the Second Answer, contact the Assistant Attorney General assigned to garnishments for advice.

If the employee files a Chapter 13 bankruptcy, the Chapter 13 Trustee will forward a court order requiring the withholding of earnings. The agency must withhold and forward the earnings as indicated in the Order. Withholding under such an order can exceed 25 percent of disposable earnings. The Chapter 13 Trustee Office can answer any general questions regarding the bankruptcy order. Direct legal questions to the Assistant Attorney General assigned to garnishments.

25.60.40.b Tax collection

The IRS and state taxing agencies use tax levies to capture the earnings of an employee. The IRS uses a "Notice of Tax Levy." The Departments of Revenue, Labor & Industries, and Employment Security use a Notice and Order to Withhold and Deliver (NOWD). Tax levies may be served directly on an agency. Unless provided in the tax levy or NOWD, no processing fee may be collected.

Begin immediately withholding earnings in accordance with the tax levy or NOWD. An IRS tax levy and an NOWD are not subject to the 25 percent limit on withholding provided for writs of garnishment. A tax levy and NOWD are also continuing liens on earnings. Withholding should continue until paid in full, released, or earnings are no longer available to garnish. Check with the revenue agent of the applicable taxing authority if questions arise. If competing tax levies/NOWDs are served upon the agency and issues of lien priority arise, contact the Assistant Attorney General assigned to garnishments.

25.60.40.c **Educational loans**

A student loan debt can be garnished in one of two ways:

Federal law allows for the collection of federally guaranteed student loans through an administrative order. State law allows for the collection of private student loans through a continuing lien writ of garnishment.

Federally Guaranteed Student Loans

A federal administrative order may be served directly on an agency by mail. An agency must honor the withholding order as if issued by a court of this state. It captures earnings payable after the date it is received by the agency. The amount withheld, however, is subject to limits set by federal law. An agency generally may withhold only 15 percent of an employee's disposable earnings. An employee may, however, consent to a greater withholding amount by providing written consent to the U.S. Department of Justice. The withholding order will instruct the agency on the amount to be withheld. No processing fee may be deducted.

Disposable earnings are calculated similar to a writ of garnishment, except employee health insurance premiums are deducted from gross earnings when calculating disposable earnings. Withholding from disposable earnings continue until the amount is paid in full (including all interest), the order is released in writing, or the agency no longer holds any earnings payable to the individual. Amounts withheld must be forwarded to the student loan agency no less frequently than once a month. Amounts forwarded should identify the employee, the employee's social security number, and any student loan number.

Exempt earnings are calculated as eighty-five (85) percent of disposable earnings or thirty-five (35) times the federal minimum hourly wage, whichever is larger.

Private Student Loans

A Washington state writ of garnishment for a private student loan must be served on the Office of the Attorney General. It captures earnings payable after the date it is received by the agency. The amount withheld is subject to limits set by state law. An agency generally may withhold 15 percent of an employee's disposable earnings. The writ of garnishment will instruct the agency on the amount to be withheld. If funds are available, a processing fee may be deducted.

Disposable earnings are calculated similar to a writ of garnishment. Withholding from disposable earnings continues until the 60-day period is up, the amount is paid in full, the writ is released in writing, or the agency no longer holds any earnings payable to the individual. Amounts withheld must be forwarded to the plaintiff upon receiving a Judgment and Order to Pay that has been signed by a judge or court commissioner.

Exempt earnings are calculated as eighty-five (85) percent of disposable earnings or fifty (50) times the current highest Washington state minimum wage law, whichever is higher.

25.60.50 Worksheets for answers to writs of garnishment

June 7, 2012

Following are worksheets for the Calculations for First Answer to Writ of Garnishment, Continuing Lien, and Calculations for Second Answer to Writ of Garnishment, Continuing Lien.

Excel calculation worksheets for determining disposable earnings subject to garnishment, instructions for using the excel worksheets, and a sample First Answer worksheet is available on OFM's Payroll Resources website at: http://www.ofm.wa.gov/resources/payroll.asp.

Calculations for First Answer to Writ of Garnishment, Continuing Lien

Plaintiff: _____
Defendant: _____
Garnishee: _____
Court/Cause No: _____
Total Amount of Garnishment: $ _____
Date Served: _____ (effective date of writ) **Effective Date:** _____ (date served, plus 60 calendar days)

	1st Answer	Subject to 2nd Answer			
Payroll Period (dates): (not pay days)					
Gross Pay For Period:	$	$	$	$	$
Deductions:					
Withholding (Form W-4 Boxes 3 and 5 only)	$	$	$	$	$
OASI/Medicare	$	$	$	$	$
Retirement	$	$	$	$	$
Medical Aid	$	$	$	$	$
Paid Family and Medical Leave	$	$	$	$	$
Union Dues**	$	$	$	$	$
MEP/VEBA***	$	$	$	$	$
Total Deductions:	$	$	$	$	$
Disposable Earnings:	$	$	$	$	$
Exempt Earnings:					
$1,099.58 per month or $549.79 semi-monthly or $253.75 per week (Federal min. $7.25/hour)	$	$	$	$	$
OR 75% of Disposable Earnings	$	$	$	$	$
Larger of Above:	$	$	$	$	$

Note: If garnishment is for child support, the only exemption is 50% of disposable earnings. Refer to Subsection 25.60.20.e.

		Subject to 2nd Answer			
	$	$	$	$	$
Amount Subject to Garnishment: (disposable earnings less exempt earnings)	$ *	$	$	$	$

* Total amount withheld on first answer.
** Union dues are NOT deducted from gross income if paid under a contract or collective bargaining agreement. Includes representation and other mandatory fees.
*** Medical Expense Plan – Sick leave buyout is NOT garnishable if being paid to a Voluntary Employees' Beneficiary Association (VEBA) plan. If paid to an employee, do not deduct the amount from gross earnings.

Calculations for Second Answer to Writ of Garnishment, Continuing Lien

Plaintiff: _____
Defendant: _____
Garnishee: _____
Court/Cause No: _____
Total Amount of Garnishment: $ _____
Date Served: _____ (effective date of writ) **Effective Date:** _____ (date served, plus 60 calendar days)

	1st Answer	Subject to 2nd Answer			
Payroll Period (dates): (not pay days)					
Gross Pay For Period:	$	$	$	$	$
Deductions:					
Withholding (Form W-4 Boxes 3 and 5 only)	$	$	$	$	$
OASI/Medicare	$	$	$	$	$
Retirement	$	$	$	$	$
Medical Aid	$	$	$	$	$
Paid Family and Medical Leave	$	$	$	$	$
Union Dues**	$	$	$	$	$
MEP/VEBA***	$	$	$	$	$
Total Deductions:	$	$	$	$	$
Disposable Earnings:	$	$	$	$	$
Exempt Earnings:					
$1,099.58 per month or $549.79 semi-monthly or $253.75 per week (Federal min. $7.25/hour) OR 75% of Disposable Earnings	$	$	$	$	$
Larger of Above:	$	$	$	$	$

Note: If garnishment is for child support, the only exemption is 50% of disposable earnings. Refer to Subsection 25.60.20.e.

	$	$	$	$	$
Amount Subject to Garnishment:		Subject to 2nd Answer			
(disposable earnings less exempt earnings)	$ *	$	$	$	$

* Total amount withheld on first answer.
** Union dues are NOT deducted from gross income if paid under a contract or collective bargaining agreement. Includes representation and other mandatory fees.
*** Medical Expense Plan – Sick leave buyout is NOT garnishable if being paid to a Voluntary Employees' Beneficiary Association (VEBA) plan. If paid to an employee, do not deduct the amount from gross earnings.

25.70
Payment Methods

25.70.10 Employee payment options
June 7, 2012

There are three ways to pay employees:

- Direct deposit,
- Payroll card, and
- Warrant (check).

Per RCW 41.04.240, institutions of higher education as defined in RCW 28B.10.016, are authorized to require the following payment methods:

- For employees who have an account in a financial institution, payment to any financial institution for either:
    - Credit to the employees' accounts in such financial institution, or
    - Immediate transfer there from to the employees' accounts in any other financial institution.
- For employees who do not have an account in a financial institution, payment by alternate methods such as payroll cards.

Direct deposit by Automated Clearing House (ACH) into an employee's account is the preferred method for paying employees. This method is generally the least expensive method for disbursing funds electronically.

25.70.20 Direct deposit of employee's earnings
July 1, 2011

25.70.20.a **Employee requirements for direct deposit by ACH**

- The employee is paid through a payroll system participating in an approved program.
- The employee is paid on a regularly scheduled payroll.
- An employee signed authorization for direct deposit by ACH is on file at the agency. For a sample authorization form, refer to Office of Financial Management's Payroll Resources website at: http://www.ofm.wa.gov/resources/payroll.asp.

- The employee has an account in either a bank or credit union that has the ability to accept transfers of funds via electronic and other technological means.

25.70.20.b **Agency requirements for direct deposit of employee's net pay by ACH**

Agencies are to establish procedures that incorporate internal controls to safeguard funds against loss.

An agency's internal controls are to include a positive system of validating the amounts transferred and verifying that the amounts to be transferred to an employee are actually due for work performed or benefits due.

25.70.20.c **Payroll system requirements for direct deposit of employee's net pay by ACH**

Payroll systems must develop standard procedures that apply to agencies participating in the system. Standard procedures require that the employee receive a "Notice of Deposit" that contains the following information:

- The employee's name.
- The amount of the deposit.

25.70.20.d **Requirements for financial institutions used in direct deposit programs by ACH**

The bank or credit union is responsible for adherence to federal and state statutes and regulations related to the transfer of funds via electronic and other technological means.

25.70.25 Payroll cards for employee's earnings

July 1, 2011

25.70.25.a **Employee requirements for deposit of employee's net pay by a payroll card**

- The employee is paid through a payroll system participating in an approved program.

- The employee is paid on a regularly scheduled payroll.

- The practice is voluntary on the employee's part. An employee-signed authorization for deposit by payroll card must be on file at the agency. The employee must agree to pay any fees associated with the use of the payroll card. For a sample authorization form, refer to the Office of Financial Management's (OFM) Payroll Resources website at: http://www.ofm.wa.gov/resources/payroll.asp.

- In the case of loss or theft of the payroll card, the employee should immediately contact the financial institution that issued the card.

25.70.25.b **Agency requirements for deposit of employee's net pay by a payroll card**

- Unless specifically authorized by law, agencies wishing to disburse employee net pay via payroll cards **may require OFM approval prior to** implementation. If required, an Economic Feasibility Study must be submitted to OFM. Refer to Chapter 40 of this manual. Contact OST's Cash Management Division regarding available pay card contracts.

- Agencies are to establish procedures that incorporate internal controls to safeguard funds against loss.

- An agency's internal controls are to include a positive system of validating the amounts transferred and verifying that the amounts to be transferred to an employee are actually due for work performed or benefits due.

- The agency must provide the employee written notification that he/she is allowed to cancel the payroll card arrangement at any time with reasonable notice.

- The agency must give written notification of the mechanics of the payroll card plan, including any costs and restrictions before they are enrolled in a payroll card program.

25.70.25.c **Payroll system requirements for payment of employee's net pay by payroll card**

Payroll systems must develop standard procedures that apply to agencies participating in the system. Standard procedures require that the employee receive a "Notice of Deposit" that contains the following information:

- The employee's name.
- The amount deposited to the payroll card.

25.70.30 Amounts due to deceased employees

June 7, 2018

When an employee dies, promptly record all amounts owed to the employee in GL Code 5145 "Due to Deceased Employees' Estates." All compensation due to a deceased employee, no matter when earned, is to be held until the surviving spouse, domestic partner registered in the state of Washington or estate has met certain legal requirements. Refer to Subsection 85.34.30 for accounting procedures related to amounts due to deceased employees.

The term "amounts owed to the deceased" means amounts owed for labor or services performed by the deceased and/or expense reimbursements or allowances.

25.70.30.a Cases in which the court has appointed a personal representative

If the deceased employee's estate is in probate (a court action has been filed to distribute the deceased's estate), and the court has appointed a personal representative, then the entire amount owing to the deceased employee is to be paid to the personal representative (personal representatives may also be referred to as executors or administrators).

The agency is to require a copy of the court order appointing the personal representative before paying the amount due the deceased employee. Generally, orders appointing personal representatives will come from the state superior court. If a tribal court is involved in an inheritance case and an agency is presented with a tribal court order, contact your agency's OFM Accounting Consultant.

25.70.30.b Cases in which no personal representative has been appointed

If no personal representative has been appointed by a court on behalf of the deceased's estate, then certain relatives can claim the amount due to the deceased employee. The agency must require proof of the claimant's relationship to the deceased employee before distributing any of the amounts owed to the deceased to the claimant. This proof is accomplished when the claimant completes the ***Claim for Indebtedness of the State of Washington to Deceased Employee*** form. Using the declaration form is easiest for most claimants, particularly those residing out of state, because it does not require the document to be signed in front of a notary public.

The specific relatives who can file a claim for indebtedness are set forth in RCW 49.48.120. They are as follows in the order of priority: the surviving spouse or domestic partner registered in the state of Washington of the deceased; if there is no surviving spouse or domestic partner registered in the state of Washington of the deceased, then the deceased's surviving child or children; if the deceased had no surviving child or children, then the deceased's parent or parents.

Refer to Subsection 25.70.30.c for instructions involving surviving spouses or domestic partners registered in the state of Washington who have a community property agreement. If none of these relatives survives the deceased, then the state can release the amount owed to the deceased only to the personal representative of the deceased's estate unless the provisions of Subsection 25.70.30.d apply.

Note*: Effective July 22, 2011, RCW 26.60.090 authorizes a legal union of two persons of the same sex that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under state law, to be recognized as a valid domestic partnership and treated the same as a domestic partnership registered in the state of Washington regardless of whether it bears the name domestic partnership. Whenever "domestic partner" is used in this section, refer to this note for clarification.*

The state of Washington does not permit the creation of common law marriages. Couples must obtain a license and the ceremony must be solemnized in order for the marriage to be valid (refer to RCW 26.04.050).

However, a common law marriage created in another state will be recognized as valid in the state of Washington if the common law marriage was recognized as a valid marriage in the state where created (refer to RCW 26.04.020(3)). The following jurisdictions recognize common law marriages: Alabama; Colorado; District of Columbia; Georgia (if created before 1/1/1997); Idaho (if created before 1/1/1996); Iowa; Kansas; Montana; New Hampshire; Ohio (if created before 10/10/1991); Oklahoma (if created before 11/1/1998); Pennsylvania (if created before 1/1/2005); Rhode Island; South Carolina; Texas; and Utah.

If the deceased has multiple surviving children, then the agency can pay only the representative portion of the amount owed to the deceased to a child, absent an agreement signed by all of the deceased's children that the child signing the Claim Form may accept the amount owed to the deceased on behalf of all the deceased's surviving children. For example, if the deceased has three surviving children, and only one child filed a claim form, the agency could pay that child only one-third of the total amount the agency owed the deceased.

A child of the deceased employee who has been declared emancipated under Chapter 13.64 RCW may still file the claim form for the amounts due the deceased. While children who are minors (under 18) must have a guardian or other legal representative file the claim form on their behalf, an emancipated minor is considered an adult for these purposes.

If the deceased is survived by both parents who are divorced or the domestic partnership registered in the state of Washington has been dissolved – then each must file a claim form and the agency should pay each parent half of the total amount owed to the deceased. If the parents are still married or domestic partners registered in the state of Washington, then either may file the claim form and the agency should pay the entire amount.

CLAIM FOR INDEBTEDNESS OF STATE OF WASHINGTON TO DECEASED EMPLOYEE
RCW 49.48.120

(AFFIDAVIT FORM)

STATE OF WASHINGTON
_____COUNTY

Warrant/Check No(s) _____
_____
Fund _____

1. In the matter of the amounts due to the deceased employee_____ employed by
(Print legal name of deceased employee)
_____ of the state of Washington at the time of his/her death.
(Name of state agency)

2. I am (check one of the following):

   ☐ The legally married spouse or domestic partner registered in the state of Washington of the deceased;

   ☐ A child of the deceased (if multiple children of the deceased, each child must sign a claim form to obtain proportionate share of the amounts due to the deceased employee unless all children sign a separate form that states one child, on behalf of all children, can take entire portion owed to the deceased); or

   ☐ A parent of the deceased (if parents of the deceased are married or domestic partners registered in the state of Washington, only one parent need sign the claim form; if parents are divorced or their domestic partnership registered in the state of Washington has been dissolved, each must sign separate claim forms and each will receive half of what is owed to the deceased).

3. No personal representative, executor or administrator of the deceased employee's estate has been appointed.

4. Check one of the following:

   ☐ Claim is made for the amount due to the deceased employee for labor, services performed and/or expense reimbursements or allowances, or

   ☐ Claim is made for the full amount due to the deceased employee for labor, services performed or expense reimbursements or allowances which claim is allowed because the deceased employee and the claimant had entered into a community property agreement (CPA) (attach copy of the agreement), the CPA was executed in good faith, was not rescinded by the parties before the deceased employee's death, and upon the death of the deceased employee, the indebtedness owing to the employee became the sole property of the surviving spouse or domestic partner registered in the state of Washington.

_____
Signature of Claimant Date

Subscribed to and sworn before me this_____ day of _____, 20 _____ .

_____
Notary Public for the state of Washington, residing at

_____

OFM 06/2018

CLAIM FOR INDEBTEDNESS OF STATE OF WASHINGTON TO DECEASED EMPLOYEE
RCW 49.48.120

(DECLARATION FORM)

STATE OF WASHINGTON
_____COUNTY

Warrant/Check No(s) _____
_____
Fund _____

1. In the matter of the amounts due to the deceased employee _____ employed by
(Print legal name of deceased employee)
_____ of the state of Washington at the time of his/her death.
(Name of state agency)

2. _____ declares under penalty of perjury that he or she is:
(Name of Claimant)

   - ☐ The legally married spouse or domestic partner registered in the state of Washington of the deceased;
   - ☐ A child of the deceased (if multiple children of the deceased, each child must sign a claim form to obtain proportionate share of amounts due to the deceased unless all children sign a separate form that states one child, on behalf of all children, can take entire portion owed to the deceased); or
   - ☐ A parent of the deceased (if parents of the deceased are married or domestic partners registered in the state of Washington, only one parent need sign the claim form; if parents are divorced or their domestic partnership registered in the state of Washington has been dissolved, each must sign separate claim forms and each will receive half of what is owed to the deceased).

3. No personal representative, executor or administrator of the deceased employee's estate has been appointed.

4. Check one of the following:

   - ☐ Claim is made for the amount due to the deceased employee for labor, services performed and/or expense reimbursements or allowances, or
   - ☐ Claim is made for the full amount due to the deceased employee for labor, services performed or expense reimbursements or allowances which claim is allowed because the deceased employee and the claimant had entered into a community property agreement (CPA) (attach copy of the agreement), the CPA was executed in good faith, was not rescinded by the parties before the deceased employee's death, and upon the death of the deceased employee, the indebtedness owing to the employee became the sole property of the surviving spouse or domestic partner registered in the state of Washington.

_____
Signature of Claimant Date

OFM 06/2018

CLAIM FOR INDEBTEDNESS OF STATE OF WASHINGTON TO DECEASED EMPLOYEE MULTIPLE CHILDREN
RCW 49.48.120
(AFFIDAVIT FORM)

STATE OF WASHINGTON
_____COUNTY

Warrant/Check No(s) _____
_____
Fund _____

1. In the matter of the amounts due to the deceased employee _____ employed by
(Print legal name of deceased employee)
_____ of the state of Washington at the time of his/her death.
(Name of state agency)

2. We are the children of the deceased.

3. We, the undersigned, agree that our sibling _____ shall accept the entire amount due to the deceased
(Name of sibling)
on our behalf.

4. No personal representative, executor or administrator of the deceased employee's estate has been appointed.

5. Claim is made for the amount due to the deceased employee for labor, services performed and/or expense reimbursements or allowances.

_____
Signature of Claimant Date

Subscribed to and sworn before me this_____ day of _____, 20 _____ .

_____
Notary Public for the state of Washington, residing at

_____

_____
Signature of Claimant Date

Subscribed to and sworn before me this_____ day of _____, 20 _____ .

_____
Notary Public for the state of Washington, residing at

_____

OFM 06/2018

CLAIM FOR INDEBTEDNESS OF STATE OF WASHINGTON TO DECEASED EMPLOYEE MULTIPLE CHILDREN - continued

_____
Signature of Claimant Date

Subscribed to and sworn before me this_____ day of _____, 20 _____ .

_____
Notary Public for the state of Washington, residing at

_____

_____
Signature of Claimant Date

Subscribed to and sworn before me this_____ day of _____, 20 _____ .

_____
Notary Public for the state of Washington, residing at

_____

Note: Additional signature lines may be added as needed.

CLAIM FOR INDEBTEDNESS OF STATE OF WASHINGTON TO DECEASED EMPLOYEE MULTIPLE CHILDREN
RCW 49.48.120
(DECLARATION FORM)

STATE OF WASHINGTON
_____COUNTY

Warrant/Check No(s) _____
_____
Fund _____

1. In the matter of the amounts due to the deceased employee _____ employed by
   (Print legal name of deceased employee)
   _____ of the state of Washington at the time of his/her death.
   (Name of state agency)

2. The undersigned claimants declare under penalty of perjury that they are the children of the deceased.

3. We, the undersigned, agree that our sibling _____ shall accept the entire amount due to the deceased
   (Name of sibling)
   on our behalf.

4. No personal representative, executor or administrator of the deceased employee's estate has been appointed.

5. Claim is made for the amount due to the deceased employee for labor, services performed and/or expense reimbursements or allowances,.

_____
Signature of Claimant Date

_____
Signature of Claimant Date

_____
Signature of Claimant Date

_____
Signature of Claimant Date

Note: Additional signature lines may be added as needed.

OFM 06/2018

25.70.30.c **Cases involving a community property agreement (CPA)**

If the deceased and his or her surviving spouse or domestic partner registered in the state of Washington executed a community property agreement (CPA) and the agreement meets the requirements of RCW 26.16.120, then the right to the amount owed to the deceased becomes the property of the surviving spouse or domestic partner registered in the state of Washington as follows:

1. The agency that employed the deceased must pay the surviving spouse or domestic partner registered in the state of Washington either the total of the amount the state owes the deceased or that portion governed by the CPA.

2. RCW 49.48.120 requires the surviving spouse or domestic partner registered in the state of Washington to present a copy of the CPA along with a properly completed Claim Form (using either the affidavit or declaration form) when claiming the amount owed to the deceased. This claim form must state that the CPA was executed in good faith between the parties and had not been rescinded prior to the death of the deceased.

Note: The fact that Washington is a community property state is not sufficient. The spouse or domestic partner registered in the state of Washington must have a CPA to qualify for the above payment.

25.70.30.d **Cases in which the estate consists only of personal property and are handled through the affidavit method pursuant to chapter 11.62 RCW**

The agency may also pay the amount owed to the deceased if the claimant, as a successor to the deceased, presents an affidavit as provided for in RCW 11.62.010 and RCW 11.62.020.

The agency must pay the claiming successor the total amount owed to the deceased if the claiming successor presents a copy of the deceased's death certificate **and** an affidavit containing **all** of the following information:

- The name and address of the claiming successor, and that the claiming successor is a "successor" as defined in RCW 11.62.005;

- That deceased was a resident of the state of Washington at the time of death;

- That the value of deceased's property (NOT including the community property interest of the surviving spouse or domestic partner registered

in the state of Washington) is not more than $100,000 and includes only personal property;

- That 40 days have elapsed since the deceased's death;
- That no application or petition for the appointment of a personal representative is pending or has been granted;
- That all debts of the deceased including funeral and burial expenses have been paid or provided for;
- A description of the personal property claimed (here it would be the amount owed to the deceased) together with a statement that such personal property is subject to probate;
- That the claiming successor has notified all other successors of the deceased of his or her claim to the amount owed to the deceased and that 10 days has elapsed since the notice was either personally given or mailed to other successors; and
- That the claiming successor is personally entitled to full payment of the amount owed to the deceased or is entitled to full payment on behalf of and with the written authority of all other successors who have an interest in the amount owed to the deceased.

25.70.30.e **Missing employees that are presumed dead**

If it has come to the attention of an agency that an employee to whom amounts are owed is missing, and one of the persons listed in RCW 49.48.120 (spouse or domestic partner registered in the state of Washington, children, parent) is attempting to claim the amounts due to the employee, the agency cannot pay those amounts until it has a certified copy of a certificate of presumed death. Under RCW 70.58.390, a county coroner, medical examiner or prosecuting attorney may issue a certificate of presumed death under certain circumstances.

25.70.30.f **Processing and releasing payment to the claimant or successor**

Upon receipt of the documentation required in a, b, d or e above, a copy of the deceased employee's certified death certificate, or certificate of presumed death as required in f above, and an Internal Revenue Service Form W-9 "Request for Taxpayer Identification Number and Certification," the agency shall process the payment.

The agency shall make the warrant or check payable to the appropriate claimant or successor who signed the claim form and presented the required documentation.

25.70.30.g **Claimant must acknowledge payment receipt**

In all instances, the supporting documentation is to be retained by the agency as evidence for release of the warrant or check. In addition, agencies are to require claimants to acknowledge receipt of payment in writing. A sample receipt form can be found on OFM's Payroll Resources website at: http://www.ofm.wa.gov/resources/payroll.asp

25.70.30.h **Federal employment taxes withholding and reporting requirements**

The rules for withholding federal income, Old Age and Survivors Insurance (OASI), and Medicare employment taxes and reporting wages (including accumulated leave) paid after death depend on date of death, the type of compensation, and the payment date. Refer to the current Internal Revenue Service (IRS) Publications 15 and 15-A, as well as other regulations for withholding and Form W-2 reporting requirements regarding deceased employees' wages.

Also note, there are IRS Form 1099-MISC reporting requirements for payments to claimant estates or beneficiaries. Refer to the current IRS Publication Instructions for Forms 1099 at: https://www.irs.gov/pub/irs-pdf/i1099msc.pdf

25.70.30.i **Further guidance is available**

For guidelines and procedures on how to process claims of indebtedness of state of Washington to deceased employees, refer to OFM's Payroll Resources website at: http://www.ofm.wa.gov/resources/payroll.asp.

25.80
Salary Overpayment Recoveries

25.80.10 Definitions
July 1, 2012

Overpayment, as used in RCW 49.48.210, means a payment of wages for a pay period that is greater than the amount earned for a pay period.

Net overpayment, for the purposes of this section, means the amount of overpayment made to an employee, less the employee share of Social Security and Medicare payroll taxes.

Involuntary wage deduction means a wage deduction the agency imposes through the procedures detailed in Subsection 25.80.50.

25.80.15 Recovery methods
July 1, 2007

Debts due the state for overpayment of wages may be recovered by the agency in several ways:

1) The employee can agree to pay back the overpayment through a voluntary wage deduction (or, by cash or personal check);

2) The agency can assign the debt to a collection agency;

3) The agency can engage in an involuntary wage action; or

4) The agency can bring an action against the employee in court.

If the overpayment involves an employee covered by a collective bargaining agreement, the recovery methods in the collective bargaining agreement should be followed.

25.80.20 Preliminary overpayment procedures – represented employees

July 1, 2007

When an agency determines that an employee covered by a collective bargaining agreement has been overpaid wages, the agency is to provide written notice to the employee. The notice should include the amount of the overpayment, the basis for the claim, and the rights of the employee under the collective bargaining agreement.

For a sample notice, refer to the Office of Financial Management's Payroll Resources at website at: http://www.ofm.wa.gov/resources/payroll.asp.

Any dispute relating to the occurrence or amount of the overpayment shall be resolved using the procedures in the collective bargaining agreement.

25.80.25 Recouping an overpayment through a payroll deduction – represented employees

July 1, 2007

If the final result of an overpayment resolution process prescribed by a collective bargaining agreement is that an overpayment has occurred, the payroll deduction to repay the overpayment shall happen over the period prescribed in the collective bargaining agreement.

The agency and employee can agree to a term that is more or less than the term of the overpayment provided in the collective bargaining agreement; however, the agency cannot deduct more than the amount provided by the agreement in any pay period without prior consent of the employee. Deductions from wages shall continue until the entire overpayment debt is retired.

25.80.30 Preliminary overpayment procedures – non-represented employees

July 1, 2007

When the agency believes that a wage overpayment has occurred involving an employee not covered by a collective bargaining agreement, it should collect information and have a preliminary discussion with the employee about the overpayment. During this preliminary discussion, the agency should inform the employee about the availability of the administrative hearing process should the agency and employee be unable to agree that an overpayment has occurred.

If the agency and employee agree that an overpayment has occurred, the agency should attempt to reach agreement with the employee as to the amount of the overpayment, and how the employee will pay it back.

An agency and employee may agree to terms that are acceptable to both parties. If the employee agrees to reimburse the agency by payroll deduction, a signed written authorization must be obtained before commencing deductions from the employee's payroll. Or, an ex-employee and agency could agree that the ex-employee will reimburse the state for the overpayment by making a specific number of payments over a certain amount of time. Any repayment agreement should be memorialized in writing and signed by both parties with a copy provided to each.

If the agency and employee fail to come to an agreement or the employee begins a repayment process but does not complete it, the agency may then use a collection agency or involuntary wage deduction following the due process requirements in Subsections 25.80.40 or 25.80.50.

At this point, it is important that the agency consider the overpayment amount and estimated costs to obtain a recovery for each remedy option available. If the agency has any questions concerning legal rights and responsibilities, the questions should be directed to the agency's assigned Assistant Attorney General.

25.80.40 Use of collection agencies to recoup a wage overpayment – non-represented employees

July 1, 2007

RCW 19.16.500 allows state agencies to contract with licensed collection agencies to collect a public debt on behalf of the state. However, no wage overpayment recovery can be assigned to a collection agency except under the following circumstances:

- The agency was not successful in obtaining an agreement for the recovery of an overpayment during the preliminary actions described in Subsection 25.80.30 and the employee has failed to ask for additional review of the agency's decision.
- The agency has followed the due process procedures listed below:
    - The agency has attempted to notify the employee that a debt is owed. The best method by which an agency can do this is to personally hand the employee a letter detailing the overpayment that has occurred.

- The agency has notified the employee that the debt may be turned over to a collection agency for collection if the debt is not paid and no request for review or administrative hearing is made by the employee. This statement should probably be included in a letter that the agency gives the employee.

- Thirty (30) days have elapsed since the employee was notified of the debt or decision, whichever is later.

Refer to Subsection 85.54.50.d regarding use of collection agencies.

25.80.50 Overpayment recoveries – dispute resolution process – non-represented employees

July 1, 2007

This process should only be utilized when the agency has not been successful in obtaining recovery of an overpayment during the preliminary actions described in Subsection 25.80.30.

When an agency determines that an employee has been overpaid wages or salary, the agency must provide the employee with written notice that the overpayment occurred, the amount of the overpayment, and that the employee has twenty calendar days from the date he or she received the notice within which to repay the overpayment.

For a sample notice, refer to the Office of Financial Management's Payroll Resources website at: http://www.ofm.wa.gov/resources/payroll.asp.

25.80.50.a The notice can be served upon the employee in the manner in which a summons in a civil case is served (the notice is hand delivered to the employee) or it can be mailed to the employee by certified mail, return receipt requested, to his or her last known address.

Because the twenty calendar day time period does not start running until the employee "receives" the notice, even if the agency mails the notice, it is in the best interest of the agency to also hand deliver the notice to the employee. This would preclude the employee from not "receiving" the notice by not accepting delivery by mail. If the agency hands the notice to the employee, it should complete the Certificate of Service form and maintain it in the employee's file. If the matter goes to an adjudicative hearing (see later), the Certificate will be needed to prove the employee received proper notice.

25.80.50.b Within the twenty calendar day period following receipt of the notice, the employee may request that the agency review its finding that an overpayment has occurred. The employee can do this in person or through the submission of written documentation.

If the employee does not make the review request within the twenty calendar day period, the agency may begin to recoup the overpayment through involuntary deductions from the employee's wages. Refer to Subsection 25.80.55 for restrictions on amounts to be deducted.

25.80.50.c When the agency receives an employee's request for a review within the twenty calendar day period, it shall review the overpayment assessment as well as the reasons for the employee's challenge to the overpayment. Once the agency has completed its review, it shall notify the employee in writing of the agency's decision. There is no time limit on the agency's review of the request, but the longer it takes the agency to conduct the review, the longer it will be before the issue is resolved. The review decision must be sent to the employee by certified mail, return receipt requested. The agency should also personally hand the review decision to the employee.

For a sample agency review decision, refer to the Office of Financial Management's Payroll Resources website at: http://www.ofm.wa.gov/resources/payroll.asp.

25.80.50.d If the employee is dissatisfied with the agency's review decision, the employee may, as described in WAC 82-04, apply for an adjudicative proceeding under Chapter 34.05 RCW, the Administrative Procedures Act.

The application for the adjudicative proceeding must be served on and received by the agency within twenty-eight calendar days of the employee receiving the agency's review decision. The employee must serve the employer by certified mail, return receipt requested. If the employee does not apply for the adjudicative proceeding within the twenty-eight day period, the agency may begin involuntary deductions to recoup the overpayment.

If the agency determines that the cost to the agency of the adjudicative hearing exceeds the overpayment amount to be recouped, it can agree with the employee to "write off" the overpayment and, in so doing, extinguish the debt.

The agency should agree to do this only if the employee agrees to dismiss his or her request for an adjudicative hearing. If the agency reaches this agreement with the employee, it cannot then refer the debt to a collection agency.

Note: Once the adjudicatory process has begun, the agency cannot assign the debt to a collection agency unless the employee agrees. The agency cannot terminate the adjudicatory process short of "writing off" the debt.

25.80.50.e If the employee does request an adjudicative hearing after the agency review decision, the agency must wait for the ruling of the administrative law judge before proceeding with the recoupment process through involuntary deductions.

25.80.55 Recouping an overpayment through a payroll deduction – non-represented employees

July 1, 2007

If an adjudicative hearing is conducted and the administrative law judge finds that an overpayment has occurred, the payroll deduction to repay the overpayment shall not exceed 5% of the employee's disposable earnings in a pay period.

The agency and employee can agree to an amount that is more or less than the 5%; however, the agency cannot deduct more than 5% of the employee's disposable earnings each pay period without prior consent of the employee. Deductions from wages shall continue until the entire overpayment debt is retired.

Note: Calculate disposable earnings by using the same formula that is used to determine disposable earnings for garnishments. Refer to Subsection 25.60.50.

25.80.60 Recouping an overpayment through a lawsuit – non-represented employees

July 1, 2007

If the agency is unable to recoup the overpayment using the other methods listed above, the agency can sue the employee to recover the overpayment. Consult the agency's assistant attorney general if this appears to be the only option.

25.80.70 Employee transfers between state agencies – represented and non-represented employees

July 1, 2007

If an employee elects to leave employment with one state agency to accept employment with another state agency, the losing agency shall carry the balance of the overpayment receivable in the State Payroll Revolving Account, Account 035, Salaries and Fringe Benefits Receivable, General

Ledger code 1324. The losing agency shall provide notification to the employee of the current *net balance* of the overpayment, as defined in Subsection 25.80.10, and provide the employee the opportunity to renegotiate the repayment arrangement.

The gaining agency accepting a payroll deduction arrangement shall collect the overpayment as a net payroll deduction in accordance with the arrangement. There is no payroll tax effect in the gaining agency. The losing agency is responsible to file corrected payroll tax reports and recoup agency payroll tax costs.

25.80.80 Employee termination from state with balance owing – represented and non-represented employees

July 1, 2007

Per RCW 49.48.200, any overpayment amount still outstanding at termination shall be deducted from the earnings of the final pay period.

If the final earnings do not permit recovery of the total amount owed, the agency may follow the requirements of Subsection 25.80.40 and turn the debt over to a collection agency.

If overpayment is discovered after the employee leaves the state's employ, the agency that overpaid the employee may, following the due process procedures in Subsection 25.80.40, turn the debt over to a collection agency.

25.80.90 Interest on past due salary overpayment receivables – represented and non-represented employees

July 1, 2007

25.80.90.a For represented employees, a salary overpayment shall be considered past due on the later of:

- The date 30 calendar days after the end of the grievance period defined in the collective bargaining agreement which applies to the represented employee; or
- The date 30 calendar days after the employee fails to pay a scheduled payment as agreed by the employee and the agency in accordance with the collective bargaining agreement which applies to the represented employee, provided that the overpayment shall not be considered past due while a grievance is being resolved.

25.80.90.b For non-represented employees, a salary overpayment shall be considered past due on the later of:

- The date 30 calendar days after the employee fails to pay a scheduled payment as agreed in writing by the employee and the agency; or
- The date 30 calendar days after the end of the period allowed the employee in Subsection 25.80.50.d for adjudicative hearing request following an adverse agency review, provided that the overpayment shall not be considered past due while an adjudicative hearing is pending resolution.

25.80.90.c RCW 43.17.240 requires that interest of one percent per month be charged on past due receivables including receivables originating from uncollected salary overpayments. Exceptions are provided when one of the following conditions are met:

- Charging interest conflicts with the provisions of a contract, or with any other law.
- The debit is to be paid by other governmental units.
- The debt became due prior to July 28, 1991.
- The debt falls within one of the waiver exemption categories in WAC 82-06-010.

For purposes of determining when a salary overpayment is due, the debt is considered due when the employee is notified of the overpayment, notified of the agency review determination in accordance with RCW 49.48.210, or the determination by the administrative law judge in accordance with RCW 49.48.210, whichever event is later.

25.80.95 Agency internal control system to prevent overpayments – represented and non-represented employees

July 1, 2007

All agencies are to maintain an effective system of internal controls to prevent salary and wage overpayments as much as possible.

All employees and all agency staff who affect the pay process in an agency including those who approve payroll, enter time, work with personnel actions, calculate payroll, produce payroll, or distribute payroll are responsible to assist in achieving an overall effective system of control to produce accurate timely payrolls.