

FEBRUARY 2024

# OUT OF STATE EMPLOYEE MANAGEMENT RESOURCES

DEPUTIES MEETING

**OFM**

OFFICE OF FINANCIAL MANAGEMENT



# PROBLEM STATEMENT

How can OFM strategically allocate its limited resources to provide value added support for agencies in effectively managing out-of-state (OOS) employees?

Current state:

- OOS Employee Payroll Tax Project Resources:
  - Contracted Staff – PM, BA, Developer, Special AAG
  - HRMS Functional IT Team
  - Statewide Accounting SMEs
  - State HR SMEs
  - OFM Legal Division SMEs
- Issues:
  - Majority of OFM resources needed for priority enterprise IT projects – One WA Phase 1a Financials, HRMS Remediation
  - Agency data integrity & compliance issues – reported OOS headcount does not support level of effort or costs
  - Availability of resources to keep work moving forward.
  - Dependencies on partner agencies SAO, Treasurer, AGO.

# OOS EMPLOYEE COUNT

## Current data for OOS employee's conflict:

- Eight states reported with 20+ Washington employees.
- Count of employees with an OOS Work Location Address (*new field implemented 5/2023*).
- Count of employees who have wage type with other state's withholding tax.
  - Number of employees having taxes withheld is significantly less than the number of employees with an OOS work address.
- Agency survey responses on OOS employee headcounts (4/2022).
- Anecdotally, agency staff report significantly larger counts. Over 600+ verbally reported from just three agencies.

States 20+ WA EE	EE OOS Address	EE OOS Wage Type	Agency OOS EE Survey*
Arizona	33	12	12
California	44	13	16
Colorado	21	5	7
Florida	36	0	8
Georgia	21	4	7
Idaho	154	121	186
Oregon	182	326	197
Texas	52	0	8
<b>Subtotal:</b>	543	481	441
<b>All OOS EE Counts</b>	770	570	518

\*29 agencies responded

# OOS EMPLOYMENT CONSIDERATIONS



Employers are responsible for ALL employees regardless of location.

*Knowing where employees are living and working.*

*Observing and complying with applicable state employment and tax laws.*



Employees working in another state trigger registration requirements, tax liabilities, and employment law compliance conflicts.

*This requires significant research and effort to ensure ongoing compliance.*

*Added complexity if employee teleworks in different states e.g. lives in Oregon and works from home two days a week then works in Washington three days a week.*



State laws change and must be monitored for future impacts.

*Some states waived their nexus test for employees working from home during COVID, but most of these provisions have ended.*

*Five states are implementing PFML in the next three years.*

*State minimum wage changes, new leave provisions, etc.*



Understanding and applying other states' employment and tax laws requires all stakeholders to communicate timely and coordinate actions - Supervisors, IT, HR and Payroll staff.

[Managing Out of State Employees – Primary Roles & Responsibilities](#)

# OVERALL WORKFORCE IMPACT

Significant administrative workload dedicated to a relatively small portion of the workforce:

- Current landscape of reported out-of-state workers is approximately 1% of the general government headcount, currently at 73,000.
- In November 2023 (post-COVID), there were 272 more employees who had out-of-state taxes withheld from their checks compared to July 2019 (pre-COVID).
  - Employees in Oregon and Idaho make up 80% of the increase.
  - The other 20% is spread across 20 other states, topping out with Arizona which accounted for 3.3% of the increase (*went from 3 employees to 12 employees*).



# NEXT STEPS



Finalize Oregon and Idaho payroll tax calculations in HRMS. This accounts for approximately 78% of the employees with an OOS wage type in HRMS.

*Data integrity issues do not allow for identification of other states where there is sufficient headcount to support the level of effort and cost to add more states information in HRMS.*



State HR to address HRMS data integrity issues in the Workday HCM Readiness work to be initiated in 2024.

*Workday payroll tax functionality will require employee OOS address and telework data to calculate payroll taxes.*

*Workday HCM data will be fully integrated with financials, procurement, budget, etc. Data integrity is critical.*



State HR to continue to look for enterprise resources to assist agencies.

*OFM identified and delivered T.R. Checkpoint as an enterprise subscription for payroll tax research for all 50 states and territories.*

*Researching similar option for employment law information.*

*Maintain online resources on OFM website and HRMS Support Hub.*

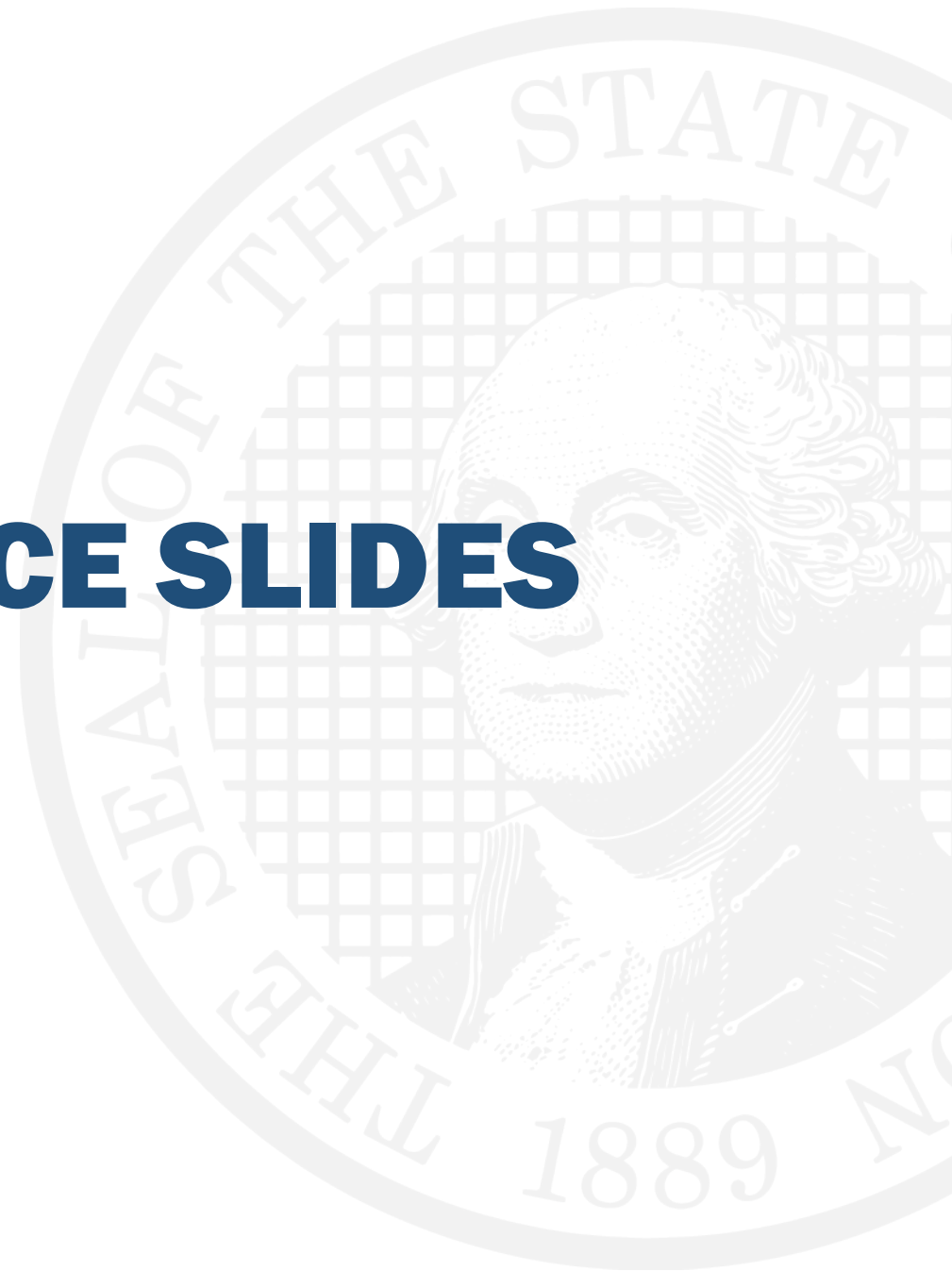


Recommend agencies conduct internal return on investment analysis to include all back-office functions and resources needed to support OOS employees

*Majority of work to manage OOS employee compliance is done outside of the HRMS. Payroll tax and employment law compliance is mainly manual work done by HR and Payroll professionals.*

*Additional cost to agency associated with managing OOS employees.*

# REFERENCE SLIDES



# OUT-OF-STATE WORKER GUIDANCE

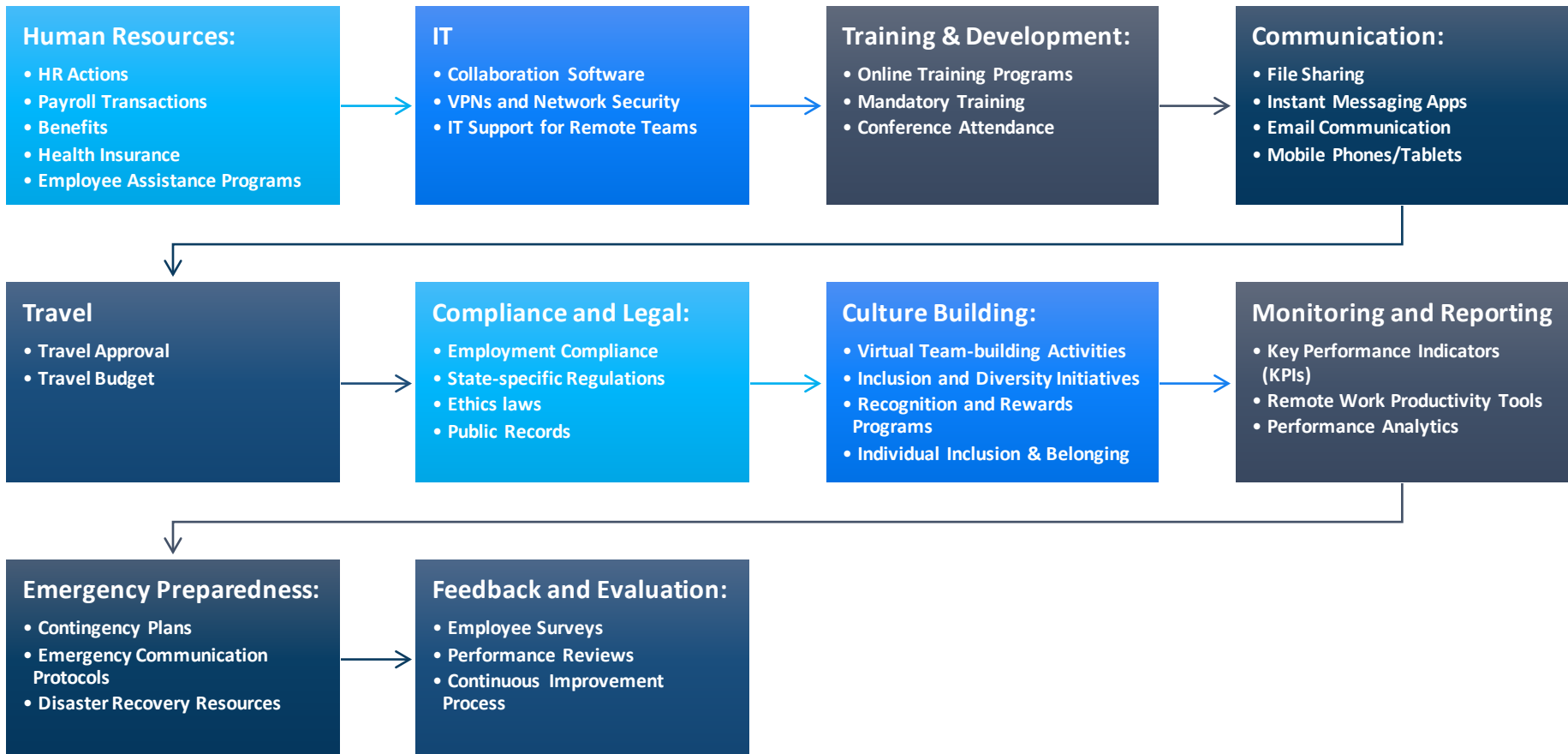
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State agencies and higher education institutions may, but are not required to, decide to support out-of-state remote work. Agencies may do so where it helps them meet a business need or where there is a supporting policy rationale. These situations include:

- Supporting military families
- Providing care for others
- Recruiting or retaining a rare skillset
- Supporting victims of violence or stalking
- Border state residents
- Positions that must perform work out-of-state
- Legacy agreements



# EMPLOYEE SUPPORT / RESOURCE FRAMEWORK



# OTHER STATE TAX LAW

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- Different types of state and local taxes
  - Income tax
  - Unemployment insurance
  - Workers' compensation
  - Paid leave or other public benefit programs
  - Transportation / transit
  - Housing authority
  - Pre-school or school district
  - Other local taxes
- Tax compliance
  - Resident vs non-resident
  - Employer facility vs work from home
  - Reciprocal agreements
  - Threshold for mandatory withholding / temporary presence
  - Registration requirements
  - Wages and hours subject to
  - Different tax treatment of employee benefits
  - Filing or reporting requirements

# OTHER STATE EMPLOYMENT LAW

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Examples of employment laws that can vary by state:

- Wage and hour
  - Minimum wage
  - Overtime
  - Pay equity and reporting requirements
- Meal and rest period
- PTO / leave benefits
- Anti-discrimination
- Required disclosures / postings / notifications
- Privacy / employee monitoring / background screening restrictions
- Licensing / certifications
- Garnishment restrictions or limits
- Allowed deductions
- Frequency of wage payments
- Post-separation payments
- Recordkeeping

# COMPLIANCE CONSIDERATIONS

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- Does the employer have the ability and authority to comply with other states' laws and requirements? For example:
  - If the other state requires more generous benefits?
  - If the other state requires more frequent wage payments?
  - If the other state requires additional recordkeeping?
  - Are there any labor law implications?
- Policy changes may be needed to allow for certain state requirements.
- Need to stay abreast of changes to other states' laws. For example:
  - Montana changing from day one (1) compliance to allowing for temporary work under thirty (30) days for non-residents.
  - Five states enacting new Paid Family Medical Leave laws in 2024-26.

# Beware Misleading Information

No state income tax and a 30-day threshold does mitigate workload, however other local or district taxes and employment laws may apply. Employees specific address in the state determines what applies and how complex the work may be.

## STATES SHOULD STRIVE FOR THRESHOLDS OF 30 DAYS OR MORE

A handful states have very friendly nonresident state income tax systems. For example, Arizona, Hawaii, Illinois, Indiana, Montana, and West Virginia all have thresholds of 30 days or more. Thresholds of 30 and 60 days are more fair for workers and employers, and ensure that those doing reasonable business within the state are contributing to state tax revenue. [Click here to read more about states with favorable tax environments for mobile workers and their employers.](#)

### Which states are the most friendly to mobile workers and their employers?

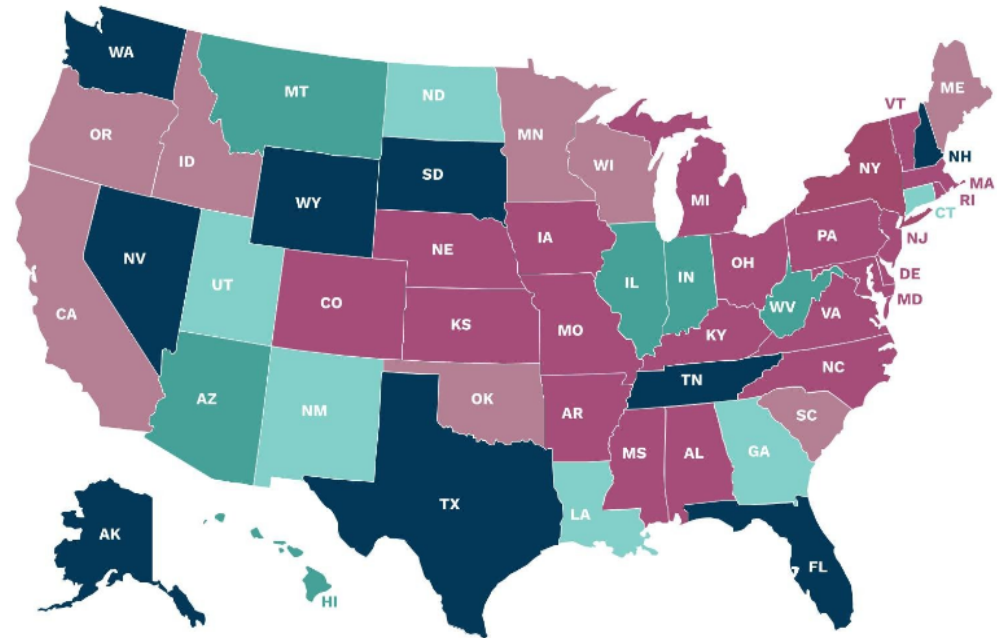
**Most Friendly.** State has no personal income tax.

**Very Friendly.** State allows employees to work within the state for 30 or more days before employer withholding is required (AZ, HI, IL, IN, MT, WV).

**Moderately Friendly.** State allows employees to work in the state between 15 and 29 days before employer withholding is required (CT, GA, LA, NM, ND, UT)).

**Unfriendly.** State only allows employees to work in state between 2 and 14 days before employer withholding is required (ME), or has a wage- based threshold (CA, ID, MN, OK, OR, SC, WI).

**Very Unfriendly.** State requires employer to withhold on first day an employee works within state the (21 states), or requires an individual to file on first day even if employer isn't required to withhold on the first day (NY).



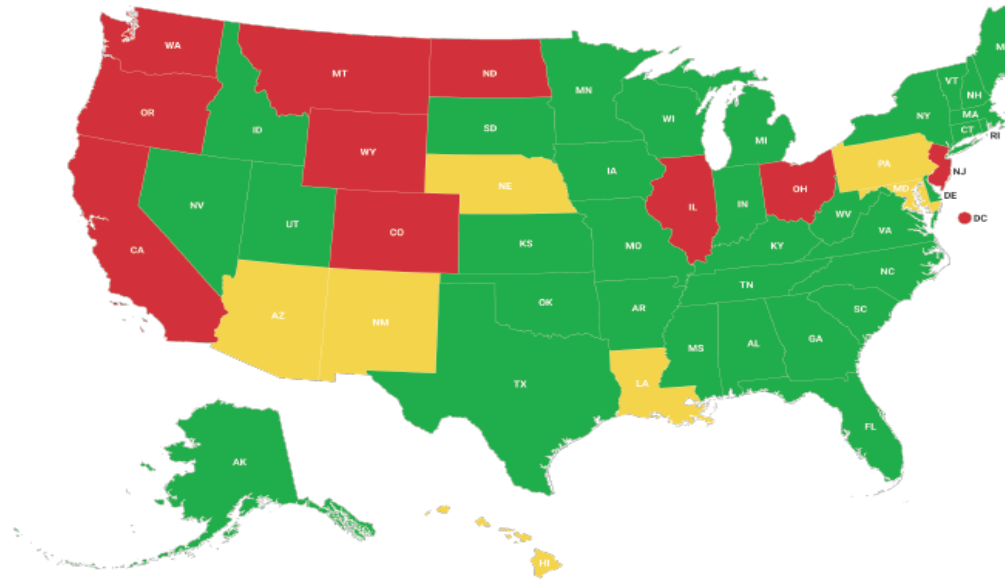
For more information, visit [mobileworkforcecoalition.org](https://mobileworkforcecoalition.org). Data as of May 2023.

# Understanding State Compliance Risk

- Understand all the employment tax and employment law risk factors.
- Washington is red because:
  - State high minimum wage
  - Premium taxes such as PFML and LTSS are difficult to manually calculate.
  - City, County and Local District taxes and employment law requirements e.g. Seattle, Tukwila, SeaTac.



USNH Work From Anywhere Heat Map | Summer 20



Low Risk States WFA allowed		Moderate Risk States WFA not recommended	High Risk States Strongly do not recommend WFA*
Alabama	Mississippi	Arizona (<10 employees)	California (<10 Employees)
Alaska	Missouri	Hawaii (<10 Employees)	Colorado (<10 Employees)
Arkansas	Nevada	Louisiana (<10 Employees)	District of Columbia (<10 Employees)
Connecticut	New York	Maryland (<10 Employees)	Illinois (<10 Employees)
Delaware	North Carolina	Nebraska (<10 Employees)	Montana (<10 Employees)
Florida	Oklahoma	New Mexico (<10 Employees)	New Jersey (<10 Employees)
Georgia	Rhode Island	Pennsylvania (<20 Employees)	North Dakota (0 Employees)
Idaho	South Carolina		Ohio (<10 Employees)
Indiana	South Dakota		Oregon (<10 Employees)
Iowa	Tennessee		Washington (<10 Employees)
Kansas	Texas		Wyoming (<10 Employees)
Kentucky	Utah		
Maine	Vermont		
Massachusetts	Virginia		
Michigan	West Virginia		
Minnesota	Wisconsin		

\* Campus Leadership approval required for High Risk State WFA employees

This USNH Heat Map is intended as guidance for campus leadership and HR in approving requests for Remote and Work-From-Anywhere (WFA). All WFA requests require balancing business needs against legal and compliance risks. This Heat Map is based on guidance from Ernst & Young and Jackson Lewis PC regarding audit and compliance risks.

# FOR MORE INFORMATION:

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