

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: H3/13/25

A Bill

HOUSE BILL 1116

By: Representatives Ray, *R. Burkes, Eaton, Lundstrum, McClure, Rye*

By: Senator J. Dismang

For An Act To Be Entitled

AN ACT TO CREATE THE REMOTE AND MOBILE WORK
MODERNIZATION AND COMPETITIVENESS ACT; TO AMEND THE
INCOME TAX LAWS APPLICABLE TO NONRESIDENTS; TO AMEND
THE INCOME TAX AND INCOME TAX WITHHOLDING LAWS
APPLICABLE TO CERTAIN REMOTE AND MOBILE EMPLOYEES; TO
EXEMPT CERTAIN REMOTE AND MOBILE EMPLOYEES FROM THE
INCOME TAX LEVIED ON INDIVIDUALS; TO EXEMPT EMPLOYERS
FROM THE REQUIREMENT TO WITHHOLD INCOME TAX FROM THE
WAGES OF CERTAIN REMOTE AND MOBILE EMPLOYEES; TO
PROVIDE THAT EMPLOYERS ARE NOT LIABLE FOR FAILING TO
WITHHOLD INCOME TAX FROM THE WAGES OF CERTAIN REMOTE
AND MOBILE EMPLOYEES IN CERTAIN CIRCUMSTANCES; TO
AUTHORIZE THE DEPARTMENT OF FINANCE AND
ADMINISTRATION TO ENTER INTO RECIPROCITY AGREEMENTS
WITH OTHER STATES REGARDING THE IMPOSITION OF INCOME
TAX ON CERTAIN NONRESIDENT INDIVIDUALS; AND FOR OTHER
PURPOSES.

Subtitle

TO CREATE THE REMOTE AND MOBILE WORK
MODERNIZATION AND COMPETITIVENESS ACT;
AND TO PROVIDE INCOME TAX AND
WITHHOLDING EXEMPTIONS RELATED TO
CERTAIN REMOTE AND MOBILE EMPLOYEES AND
NONRESIDENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:



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SECTION 1. DO NOT CODIFY. Title.

This act shall be known and may be cited as the "Remote and Mobile Work Modernization and Competitiveness Act".

SECTION 2. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) Remote and hybrid work is a fast-growing trend in the United States;

(2) Surveys have found that thirteen percent (13%) of employees in the United States work from home, and twenty-eight percent (28%) work a hybrid model;

(3) Arkansas's tax code has been found to be ranked forty-fifth out of the fifty (50) states because of its complicated and burdensome filing and withholding requirements;

(4) Remote and mobile work can be an opportunity to states willing to make their tax codes hospitable and convenient to remote and mobile workers; and

(5) While the state has an understandable desire to collect taxes owed by individuals who spend significant time working in the state, there is no compelling reason to place an outsized burden on those briefly passing through the state, particularly those who have no income tax liability.

SECTION 3. Arkansas Code § 26-51-202, concerning the application of income tax laws to nonresidents, is amended to add an additional subsection to read as follows:

(f)(1) The Department of Finance and Administration may enter into a reciprocity agreement with another state to exempt residents of the other state who earn income in this state from the tax levied under this chapter if the other state has a provision in its tax laws that provides an income tax exemption to Arkansas residents.

(2) The department shall not enter into a reciprocity agreement under subdivision (f)(1) of this section unless the reciprocity agreement has been reviewed and approved by the Legislative Council.

SECTION 4. Arkansas Code Title 26, Chapter 51, Subchapter 3, is amended to add an additional section to read as follows:

26-51-317. Remote and mobile employees.

There is allowed an exemption from the income tax imposed by this chapter for income received by an individual as compensation for employment duties performed by the individual while he or she was present in the state if:

(1) The total aggregate amount of income received by the individual for employment duties performed while the individual was present in the state is two thousand five hundred dollars (\$2,500) or less for the tax year; and

(2) The individual performed employment duties for an employer in more than one (1) state during the tax year.

SECTION 5. Arkansas Code § 26-51-905 is amended to read as follows:

26-51-905. Withholding of tax.

(a)(1) ~~Every~~ Except as otherwise provided in this section, an employer making payments of wages to employees shall deduct and withhold from the employees' wages an amount determined from withholding tables promulgated by the Secretary of the Department of Finance and Administration and furnished to the employer.

(2) The full amount deducted and withheld from ~~any~~ an employee's wages during the income year shall be credited against the tax liability of the employee under the Income Tax Act of 1929, § 26-51-101 et seq., for that year.

(b)(1) Notwithstanding the provisions of subsection (a) of this section, ~~every~~ an employer who withholds less than one thousand dollars (\$1,000) for a full year's withholding shall report and remit annually on a date specified by the secretary any amounts so withheld by the employer.

(2) An employer shall be advised by the secretary of the employer's classification and shall report as classified until such time as the employer advises the secretary in writing that the employer no longer has employees or the employer is closing the business.

(3) However, it shall be the duty of the employer to report to the secretary at the end of each income year all wages paid to any such employees on the same forms provided in this subchapter for making employer

annual withholding statements in order that the secretary may determine the tax liability, if any, of those employees during that income year.

(c)(1) An employer is not required to deduct and withhold from an employee's wages the amount determined from the withholding tables promulgated by the secretary and furnished to the employer if:

(A) The employee performed employment duties while the employee was present in the state for fifteen (15) or fewer calendar days during the tax year;

(B) The employee performed employment duties for the employer in more than one (1) state during the tax year; and

(C) The employee is not being paid for employment duties performed in the employee's capacity as:

(i) An athlete who receives wages for performing services in a professional athletic event;

(ii) An entertainer who receives wages on a per-event basis for performing services in the professional performing arts; or

(iii) A public figure who receives wages on a per-event basis for performing services at discrete events, including without limitation speeches, public appearances, and similar events.

(2) If an employee performs employment duties for an employer while the employee was present in the state for more than fifteen (15) calendar days during the tax year, the employer shall withhold and remit taxes for every day the employee performed employment duties while present in this state during the tax year, including the first fifteen (15) days in which the employee performed employment duties in this state.

(3)(A) For purposes of this subsection, an employee is considered present and performing employment duties in this state for a day if the employee performs more of the employee's employment duties in this state than in any other state during that day.

(B) A portion of a day during which an employee is in transit shall not be considered in determining the location of the employee's performance of employment duties.

SECTION 6. Arkansas Code § 26-51-916 is amended to read as follows:

26-51-916. Employer liable for amounts required to be withheld –
Exceptions – Definition.

(a) As used in this section, "time and attendance system" means a system:

(1) Through which an employee is required to record the employee's work location for every day worked outside the state where the employee's employment duties are primarily performed; and

(2) That is designed to allow an employer to allocate an employee's wages for income tax purposes among all states in which the employee performs employment duties for the employer.

(b)(1) Every Except as otherwise provided in this section, an employer shall be liable for amounts required to be deducted and withheld by this subchapter regardless of whether or not the amounts were in fact deducted and withheld.

(2) However, if the employer fails to deduct and withhold the required amounts and if the tax against which the required amounts would have been credited is paid, the employer shall not be liable for those amounts not deducted and withheld if the failure was due to reasonable cause.

(c) An employer is not liable for any penalties or interest otherwise applicable for failing to deduct and withhold the amount required under this subchapter from the wages of an employee who performed employment duties for the employer in more than one (1) state if the employer:

(1) Maintains a time and attendance system specifically designed to allocate employee wages for income tax purposes among all taxing jurisdictions in which the employee performs employment duties for the employer and relies on data from the time and attendance system in making its determination regarding whether withholding is required; or

(2) Does not maintain a time and attendance system and relies on one (1) or more of the following in making its determination regarding whether withholding is required:

(A) The employer's own records, maintained in the regular course of business, concerning the employee's location while performing his or her employment duties;

(B) The employee's reasonable determination of the time the employee expected to spend performing employment duties in the state, if the employer did not:

(i) Have actual knowledge of fraud on the part of the employee in making the determination; or

(ii) Conspire with the employee to evade taxation in making the determination;

(C) Travel records;

(D) Travel expense reimbursement records; or

(E) A signed, written statement from the employee of the time spent performing employment duties for the employer in the state during the tax year.

SECTION 7. DO NOT CODIFY. Severability.

The provisions of this act are severable, and the invalidity of any provision of this act shall not affect other provisions of this act that can be given effect without the invalid provision.

SECTION 8. EFFECTIVE DATE. Sections 1-6 of this act are effective for tax years beginning on or after January 1, 2026.

/s/Ray