

DRAFT AGENDA  
INDEPENDENT CITIZENS COMMISSION

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Wednesday January 14, 2015  
08:30 AM  
UALR BOWEN SCHOOL OF LAW  
Friday Courtroom

Commission Members

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Mr. Larry Ross, Chair	Mr. Stuart Hill
Mr. Chuck Banks, Vice Chair	Ms. Brenda James
Mr. Mitch Berry	Mr. Stephen Tipton
Ms. Barbara Graves	

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A. Call to Order

B. Approval of Minutes from January 7, 2014.

C. Presentations:

Mr. Richard Wilson Assistant Director, Bureau of Legislative Research  
Judge Shawn Womack, Arkansas Judicial Council  
Judge Mark Pate, Arkansas District Judges Council  
Mr. Brandon Sharp, State Budget Administrator, DFA  
Ms. Bettina Brownstein, Arkansas Public Law Center  
Representative Kim Hendren, Arkansas House of Representatives

D. Discussion by Commission

E. Other Business

F. Meeting Locations

G. Adjournment

**DRAFT MINUTES**  
**INDEPENDENT CITIZENS COMMISSION**

January 7, 2015

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The Independent Citizens Commission met Wednesday January 7, 2015, at 8:30 a.m., in Room 151, State Capitol, Little Rock, Arkansas.

Commission members present: Chair-Mr. Larry Ross, Vice Chair-Mr. Chuck Banks, Mr. Mitch Berry, Ms. Barbara Graves, Mr. Stuart Hill, Ms. Brenda James, and Mr. Stephen Tipton.

Chair Ross, called the meeting to order and acknowledged Commission members, Mr. Brandon Robinson, Office of the Attorney General, and Ms. Melanie Jenkins, Commission Staff.

**Consideration of Minutes from the December 30, 2015, Commission Meeting**

**Before the Minutes were approved Commissioner James recommended a few changes to the minutes, and those were given to Ms. Jenkins. A motion was made by Commissioner Tipton and seconded by Commissioner Graves to adopt the minutes as amended. The motion carried without objection.**

**Judge Brown-Arkansas Judicial Council: (Handout 1)**

Judge Brown gave his presentation on expenses (mileage and meals) that Judges would expect to incur. Salaries will be discussed at the January 14<sup>th</sup> meeting.

**Judge Pate Arkansas District Judges Council: (Handout 2)**

Judge Pate gave a presentation on the District Judge expenses (mileage and meals). Salaries will be discussed at the January 14<sup>th</sup> meeting.

**Richard Wilson-Assistant Director, Bureau of Legislative Research: (Handout 3)**

Mr. Wilson presented comparable information on salaries, expenses and benefits offered to the Legislative, Executive and Judicial branches for each of the 50 states.

**Megan Alexander- Auditor of State Office: (Handout 4)**

Ms. Alexander gave a presentation on expenses that have been paid in the past to the Executive and Judicial branches.

**Speaker Gilliam-Speaker of the House:**

Speaker Gilliam presented information to the commission regarding the job and what is required of each including time spent to fulfill members duties.

**Senator Dismang: President Pro Tempore: (Handout 4 &5)**

Senator Dismang gave a presentation on Per Diem, Mileage expenses along with member monthly expenses, along with a schedule of meetings from years 2013 and 2014.

**Brandon Sharp, State Budget Administrator:**

Gave clarity and answered questions on the Budget of the State of Arkansas and if the money is available for salary increases for Executive, Legislative and Judicial members. Chairman Bank requested that Mr. Sharp come back to present a report on January 14, 2015 meeting to provide additional information requested by the commission.

**Commission Discussion:**

Commissioner Graves and Tipton requested clarification from Mr. Robinson with the Attorney Generals office on the timeline given for their initial recommendations. Mr. Robinson stated it is his advice that any proposed adjustments, if there are any, be given by February 2<sup>nd</sup> for all positions being considered by the commission. Chairman Ross proposed increasing the amount of time the commission meets. The dates agreed upon are as follows January 14, 2015, January 16, 2015, January 26, 2015, January 27, 2015, January 28, 2015, January 29, 2015, January 30, 2015, February 2, 2015. Chairman Ross suggested the timeline of January 16 & 26 the commission concentrate on Arkansas General Assembly's salaries and expenses and make recommendations. January 27 and 28 will concentrate on Constitutional Offices, and January 29 and 30 will concentrate on Judicial positions. Commissioners discussed the criteria needed for making these decisions and request to compare the five states above us and 5 states below us similar in being a Hybrid State, Per Capita Income, and Population, Cost of Living, General Revenue and Expenditures. This data will be collected by the Bureau of Legislative Research.

**A motion was made by Commissioner Hill to look at the 21 states with the criteria of Hybrid Legislative body, and contiguous states Per Capita Income, Population, Cost of Living, General Revenue and Expenditures. And that Bureau Legislative Research has per diem, mileage, and salary comparisons of those states. Motion was seconded by Commissioner Berry. Motion carried without objection.**

**Consideration of the Agenda for January 14<sup>th</sup> meeting:**

**Vice Chair Banks recommended that we set the agenda for the January 14<sup>th</sup> meeting. The agenda was set as follows: Brandon Sharp with DFA, Judge Womack with Arkansas Judicial Council, Mr. Wilson with Bureau of Legislative Research and Mrs. Brownstein. A motion was made by Commissioner Berry and seconded by Commissioner Graves. The motion carried without objection.**

Chairman Ross stated that Ms. Jenkins is looking into Bowen School of Law as a possible location. Currently U of A Cammack Village is on hold for January 14<sup>th</sup> meeting. Commissioner James will also check on the availability of the Little Rock School District at 13<sup>th</sup> and Markham with possible Live Streaming as an option for a meeting place.

Upcoming meeting dates are as follows:

Wednesday, January 14, 2015 - Location TBD

Friday, January 16, 2015-Location TBD

Monday January 26, 2015- Location TBD  
Tuesday January 27, 2015- Location TBD  
Wednesday January 28, 2015- Location TBD  
Thursday, January 29, 2015 -Location TBD  
Friday, January 30, 2015- Location TBD  
Monday, February 2, 2015 -Location TBD

There being no further business, the meeting adjourned at 12:00 p.m.

This meeting can be watched in its entirety at <http://arkansashouse.org> or a copy of the recording can be provided by Melanie Jenkins.

DRAFT

	<b>Gray Hybrid States</b>	<b>Personal Income</b>	<b>Population</b>	<b>Per Capita Personal Income</b>	<b>Rank</b>	<b>Percent of National Average</b>	<b>Cost of Living</b>	<b>Net Revenues</b>	<b>Net Expenditures</b>
1	Alabama	176,340,520	4,833,722	36.481	44	81	92.4	7,408.50	7,204.70
2	Arizona	245,070,457	6,626,624	36.983	41	83	101.9	9,106.00	8,664.00
3	Arkansas	108,603,298	2,959,373	36.698	42	82	91.6	6,224.10	4,727.50
4	Colorado	247,068,771	5,268,367	46.897	17	105	99.5	8,554.80	7,845.70
5	Connecticut	218,131,742	3,596,080	60.658	1	136	132.6	19,405.00	19,025.70
6	Delaware	41,487,286	925,749	44.815	22	100	107.2	3,729.80	3,658.50
7	Hawaii	63,468,314	1,404,054	45.204	21	101	156.9	6,234.50	5,666.90
8	Indiana	253,779,172	6,570,902	38.622	39	86	90.6	14,789.80	15,349.60
9	Iowa	138,337,469	3,090,416	44.763	23	100	92.1	6,768.70	6,413.10
10	Kentucky	159,171,693	4,395,295	36.214	45	81	90.1	9,559.20	9,526.60
11	Louisiana	190,589,832	4,625,470	41.204	29	92	95.0	8,529.50	8,368.60
12	Maryland	319,125,495	5,928,814	53.826	5	120	119.9	14,591.00	14,674.60
13	Minnesota	257,465,551	5,420,380	47.500	13	106	101.9	18,656.50	18,739.50
14	Missouri	245,771,389	6,044,171	40.663	32	91	92.8	8,082.70	8,021.40
15	Nebraska	88,113,758	1,868,516	47.157	14	105	89.5	4,052.40	3,589.70
16	New Jersey	492,896,761	8,899,339	55.386	3	124	130.0	30,924.00	31,057.40
17	North Carolina	380,953,792	9,848,060	38.683	38	86	95.9	N/A	N/A
18	Oklahoma	161,187,913	3,850,568	41.861	27	94	90.4	5,604.10	5,305.20
19	Oregon	156,605,034	3,930,065	39.848	33	89	106.8	7,219.00	6,760.00
20	South Carolina	171,088,428	4,774,839	35.831	48	80	95.6	6,389.60	6,199.70
21	Tennessee	256,968,697	6,495,978	39.558	34	88	90.2	12,808.70	12,009.00
22	Texas	1,160,078,868	26,448,193	43.862	25	98	91.8	48,505.90	40,748.70
23	Virginia	403,424,740	8,260,405	48.838	10	109	96.2	16,684.60	17,136.00
24	Washington	332,654,857	6,971,406	47.717	12	107	102.6	16,009.30	15,725.70
	<b><u>Other Contiguous</u></b>								
25	Mississippi	101,441,549	2,991,207	33.913	50	76	89.1	5,118.60	4,694.60

\* all information from BEA.gov/regional/bearfacts except COL index supplied by MERIC and Net Revenues and Expenditures supplied by NCSL

*ADMINISTRATIVE OFFICE OF THE COURTS*  
*SUPREME COURT OF ARKANSAS*

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*"Supporting Courts,  
Ensuring Justice"*

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JUSTICE BUILDING  
625 MARSHALL STREET  
SUITE 1100  
LITTLE ROCK, AR 72201

J. D. GINGERICH, DIRECTOR

To: Members of the Independent Citizens Commission  
Mr. Larry Ross, Chairman  
Mr. Chuck Banks, Vice-Chairman  
Ms. Barbara Graves  
Mr. Stuart Hill  
Ms. Brenda James  
Mr. Stephen Tipton  
Mr. Mitch Berry

From: J. D. Gingerich, Director 

Re: Judicial Compensation Information

Date: January 12, 2015

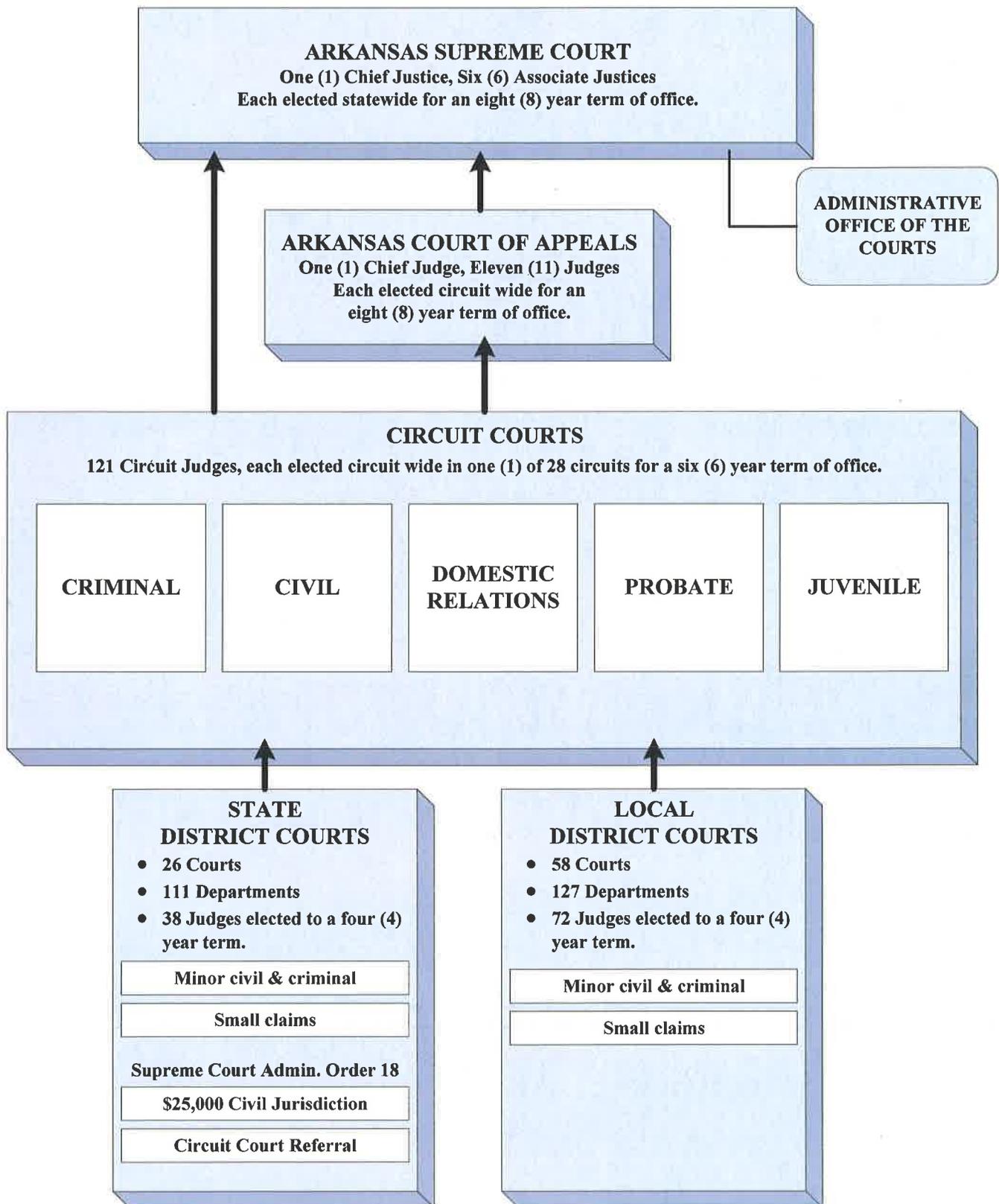
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Please find attached for your information and review several pieces of background information and comparative data which were requested in support of your evaluation of the compensation paid to members of the Arkansas judiciary.

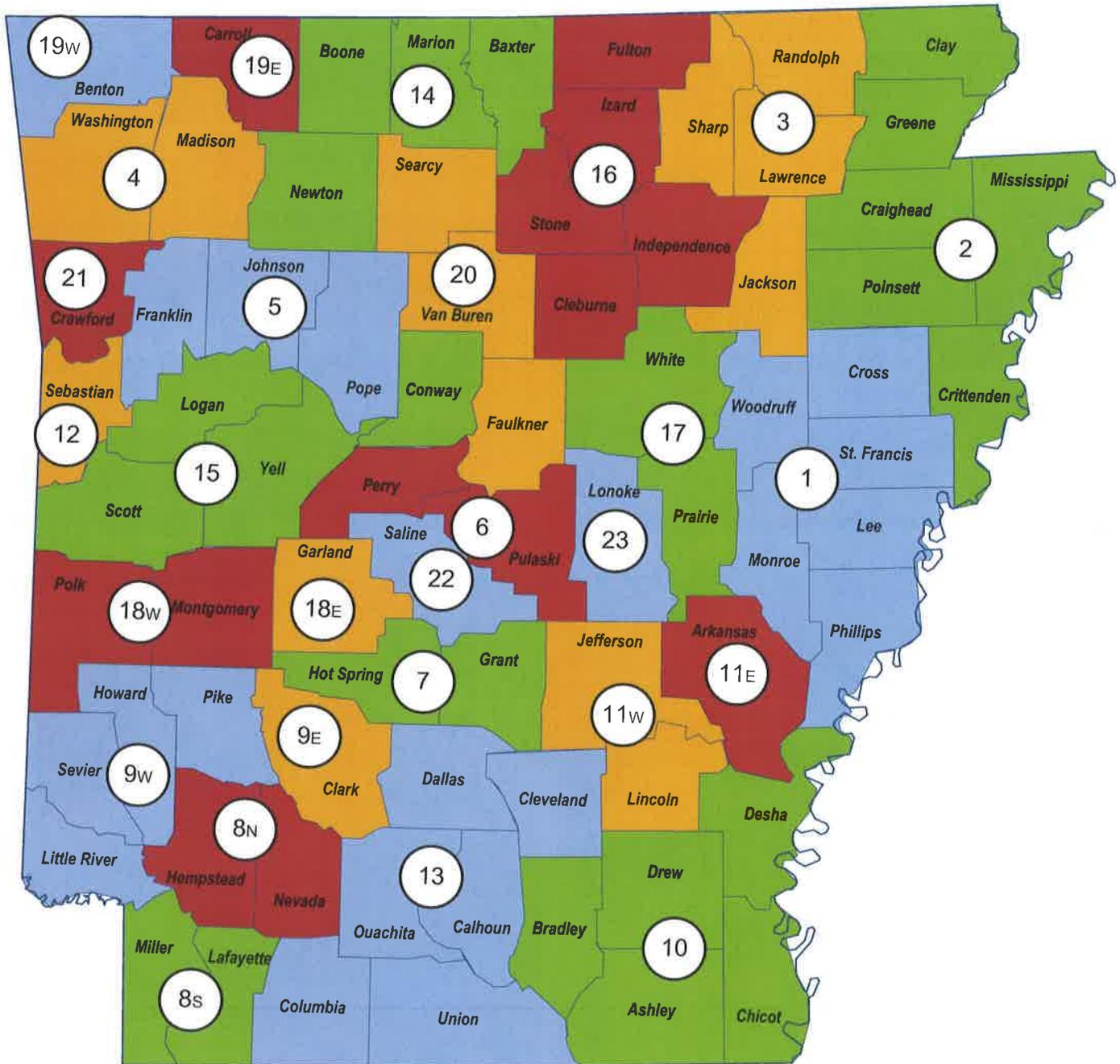
These materials will also be distributed and reviewed by Circuit Judge Shawn Womack during your next meeting on Wednesday, January 14, 2015. Judge Womack was invited by the Commission to appear on behalf of the Arkansas Judicial Council, the association comprised of all members of the Arkansas Supreme Court, Arkansas Court of Appeals, and the 121 circuit judges serving all areas of the State of Arkansas.

JDG/pks  
Attachment

# ARKANSAS COURT STRUCTURE



# ARKANSAS JUDICIAL CIRCUITS



28 JUDICIAL CIRCUITS  
75 COUNTIES  
121 CIRCUIT JUDGES

## **FACTORS TO CONSIDER WHEN ESTABLISHING JUDICIAL SALARIES**

### **QUALIFICATIONS:**

- At least 7 years of higher education with both a bachelor's degree and law degree (Juris Doctor)
- Passage of the Arkansas Bar Examination
- At least 6 years of the practice of law (Circuit Judges, Amendment 80)
- At least 8 years of the practice of law (Court of Appeals and Supreme Court, Amend. 80)
- Therefore, after high school, a judge has to have 13-15 years of required education and the practice of law before becoming eligible to serve as a circuit or appellate judge in Arkansas, plus the requirement of continuing legal education on an annual basis
- The qualifications to become a judge in Arkansas are comparable with the qualifications with medical professionals and teaching professors at UAMS, higher education, and with Arkansas' two law schools

### **JOB DUTIES:**

#### **Trial Judges**

- Holding court throughout a Judicial District (from one to six counties in each district)
- Making decisions on civil and criminal liability, criminal sentences, divorce, child custody, division of marital property and debt, compliance with contracts, termination of parental rights and many other serious issues. These decisions often deeply impact the freedom, family, and property of people who are in highly emotional situations and are occasionally dangerous individuals
- Ensuring the Constitution, state statutes, case law, and rules of procedure, evidence and orders of the Arkansas Supreme Court are followed by litigants and attorneys
- Conducting both jury and non-jury trials involving civil, domestic, criminal, juvenile and probate matters
- Administering oaths of office to elected officials and newly licensed attorneys
- Supervising employees and staff and working with clerks, prosecutors, public defenders, state agency attorneys, private attorneys and self-represented litigants, as well as with other branches of local government such as the County Judge and Quorum Courts.

- Preparing and/or reviewing administrative case assignment plans, courthouse security plans, case reports, and personnel evaluations and reports
- In addition to the basic duties of a trial judge, many circuit judges take on extra roles such as serving as Administrative Judges, or operating a Drug Court, Veteran's Court, or other specialty court; in addition, many judges serve on Arkansas Supreme Court committees, or volunteer to present continuing legal education to judges and attorneys, and make presentations to the public to better inform them of how the courts work and operate.

### **Appellate Judges**

- Reviewing rulings made in cases filed in circuit courts and administrative agencies including: cases that require an interpretation of the Arkansas Constitution; criminal cases in which the death penalty or life imprisonment was imposed; cases involving elections and election procedures; and cases involving decisions made by the Workers' Compensation Commission and the Public Service Commission.
- Considering original actions in which petitioners are requesting that extraordinary writs be issued.
- Answering questions certified to the Supreme Court from a United States Federal Court when the certified question involves an issue of Arkansas law for which no controlling precedent exists.
- Determining sufficiency of state initiative and referendum petitions and proposed constitutional amendments.
- Establishing and maintaining a committee system to promulgate, monitor, and amend all court rules and model jury instructions.
- Researching, drafting, and issuing published opinions in all cases. The opinions thereafter serve as a roadmap for judges, attorneys, and litigants who may face similar issues in later cases.
- Conducting weekly public oral arguments which permit litigants and their attorneys to discuss the issues in pending cases.
- Ensuring the Constitution, statutes, case law, and rules of procedure are followed by litigants and attorneys appearing before them.
- Regulating the practice of law and the licensure of attorneys.
- Deciding appeals involving the discipline and disability of judges, attorneys, and court reporters.

- Supreme Court exercises superintending authority over all courts and is responsible for the administration and operation of the state court system.
- Supervising employees and working with clerks, prosecutors, public defenders, state agency attorneys, private attorneys, self-represented litigants, members of the General Assembly, and representatives of the executive branch.
- Administering oaths of office to elected officials and newly licensed attorneys.
- Representing Arkansas in national organizations that work to improve all aspects of the judiciary.
- Reviewing trial courts' administrative case plans.

#### **SALARY HISTORY AND COMPARISONS:**

- In the last six years, judges have been held at a flat salary for 4 years and then received small COLAs of 2% and 1%. Prior to the last six years, there were many years when judges received the same COLAs as other state employees and several years where Judges received a COLA but it was either less than state employee pay increases because it was a smaller percentage or because other state employees were eligible for various bonuses and salary supplements that Judges were not eligible to receive.
- Prior to the passage of Amendment 94 in 2014, judicial salaries were set by statute and were not flexible, unlike in higher education where institutions have the ability to exceed salary line items and where significant raises and other incentives are the norm.
- When looking to other states and to federal courts, the trend in recent years has been to move toward significant salary increases. In the five year period ending in 2013, our surrounding states saw salary increases that outpaced Arkansas' increases by more than 3 to 1. In the past decade, our surrounding states saw salary increases that outpaced Arkansas by double digit percentage points and by more than \$10,000 per year extra. In 2014 alone, federal judges were given raises of over 14% and more than \$25,000. With Arkansas' judicial salaries lagging in recent years while judicial salaries in surrounding states and the federal judiciary are rising, the failure to address the trend now may result in a long-term effect on Arkansas' comparative status to those other states.

#### **OTHER FACTORS TO CONSIDER:**

- Judges do several things to save the state money. Among these things are alternative sentencing, not seeking new judicial positions for several years, supporting utilization of the State District Courts to reduce the need for new Circuit Judges, utilization of retired judges to cover conflicts, etc....
- Unlike most state employees, judges serve under ethical rules and Judicial Canons that place limits on their ability to earn outside income or engage in other business opportunities leaving the state salary as not only the primary income source, but in many cases the only available source of income.
- Just as the Governor and Attorney General supervise employees that make significantly more than they do, judges on a near daily basis are in a superior work relationship with attorneys that make far more than they do. The typical judge has been licensed to practice law for more than 25 years and when compared to the earning potential of a private practice attorney with similar experience there is a large disparity in favor of private practice that makes it difficult to attract and retain top candidates in the judiciary.
- An entry level judge in the federal system makes approximately \$50,000 more per year than an Arkansas Supreme Court Justice and approximately \$38,000 more than the Chief Justice of the Arkansas Supreme Court.

*The Arkansas Judicial Council wishes to thank the seven members of the Independent Citizens Commission for their willingness to serve the people of this state by taking on the substantial constitutional task of reviewing and establishing the salaries for Arkansas' elected officials. Your service to the state in this capacity will ensure that the people of Arkansas are able to compete for and obtain top level talent to make the critical decisions that will shape our future.*

### Comparison Between Judicial and Law-Related State Employee Salaries

Title	Institution	Salary
Law Dean	UAF	\$247,675.00
Law Dean	UALR	\$234,600.00
Law Professor	UAF	\$208,901.00
General Counsel	ASU	\$208,857.00
Vice President Legal Services	UA	\$205,050.00
Law Professor	UAF	\$199,275.00
Law Professor	UAF	\$195,386.00
Law Professor	UAF	\$188,993.00
Law Professor	UAF	\$188,650.00
General Counsel	UA	\$183,669.00
Government Relations	UAF	\$175,000.00
Law Professor	UAF	\$173,688.00
Law Professor	UAF	\$168,415.00
Legal Counsel	ATU	\$168,366.00
<b>Supreme Court Chief Justice</b>		<b>\$161,601.00</b>
Legal Services	UA	\$161,316.00
Law Professor (9 Months)	UALR	\$157,707.00
Law Professor	UAF	\$155,074.00
Law Professor (9 Months)	UALR	\$150,229.00
<b>Supreme Court Associate Justice</b>		<b>\$149,589.00</b>
Law Professor	UAF	\$148,985.00
Associate Law Professor	UAF	\$148,157.00
Law Professor	UAF	\$147,598.00
Law Professor (9 Months)	UALR	\$147,370.00
<b>Court of Appeals Chief Judge</b>		<b>\$147,286.00</b>
Law Professor (9 Months)	UALR	\$146,652.00
<b>Court of Appeals Judge</b>		<b>\$144,982.00</b>
Law Professor	UAF	\$142,500.00
Law Professor (9 Months)	UALR	\$142,318.00
<b>Circuit Judge</b>		<b>\$140,372.00</b>
Law Professor (9 Months)	UALR	\$139,457.00
Law Professor	UAF	\$136,043.00
Legal Services	UA	\$135,444.00
Law Professor (9 Months)	UALR	\$134,028.00
Law Professor (9 Months)	UALR	\$133,727.00

Regional Trends in Judicial Salaries

General Jurisdiction	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	10 Yr \$ Chan	10 Yr % Change	5 Yr \$ Chan	5 Yr % Change
Tennessee	115,428	119,546	140,000	144,480	148,668	154,320	154,320	156,792	161,808	165,204	48,776	43%	10,884	7%
Texas	108,158	125,000	132,500	132,500	132,500	132,500	132,500	132,500	132,500	148,000	38,842	36%	16,500	12%
Louisiana	105,780	110,964	118,289	124,085	130,156	138,544	137,744	137,744	137,744	143,253	37,473	35%	13,088	10%
Oklahoma	98,888	102,529	118,450	124,373	124,373	124,373	124,373	124,373	124,373	124,373	28,475	30%	-	0%
Missouri	108,000	108,000	108,000	116,975	120,484	120,484	120,484	120,484	127,020	127,020	19,020	18%	6,536	5%
Arkansas	120,652	123,351	126,111	128,633	131,206	138,257	138,257	138,257	138,982	138,982	18,300	15%	2,725	2%
Mississippi	104,170	104,170	104,170	104,170	104,170	104,170	104,170	104,170	112,128	112,128	7,958	8%	7,958	8%
Surrounding States Average	108,458	112,483	120,028	123,357	128,488	128,898	128,807	130,331	132,047	137,137	28,698.08	28%	8,242	6%

Intermediate Appellate Court	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	10 Yr \$ Chan	10 Yr % Change	5 Yr \$ Chan	5 Yr % Change
Texas	107,350	137,500	137,500	141,250	141,250	141,250	137,500	137,500	137,500	158,500	51,150	48%	21,000	15%
Tennessee	120,656	123,888	145,000	149,640	159,288	159,288	159,288	162,986	167,592	171,108	50,472	42%	11,288	9%
Louisiana	112,041	117,195	124,469	130,184	138,193	142,477	143,647	143,647	148,982	148,982	36,921	33%	12,779	7%
Oklahoma	101,714	108,336	124,200	124,200	130,410	130,410	130,410	130,410	130,410	130,410	28,696	28%	-	0%
Missouri	115,000	115,000	115,000	124,473	128,207	128,207	128,207	128,207	134,685	134,685	19,685	17%	6,478	5%
Arkansas	124,652	127,431	130,253	132,858	135,515	140,732	140,732	140,732	143,547	143,547	18,895	15%	2,815	2%
Mississippi	105,050	105,050	105,050	105,050	105,050	105,050	105,050	105,050	114,994	114,994	9,944	9%	9,944	9%
Surrounding States Average	112,348	119,464	124,985	128,849	132,087	133,988	134,888	135,420	138,509	143,172	30,823	27%	9,183	7%

Supreme Court Associate Judges	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	10 Yr \$ Chan	10 Yr % Change	5 Yr \$ Chan	5 Yr % Change
Texas	113,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	168,000	55,000	49%	18,000	12%
Tennessee	128,528	129,948	150,000	154,800	159,288	159,288	165,336	167,876	173,382	176,988	50,460	40%	11,652	7%
Louisiana	118,301	118,301	123,825	131,069	136,967	143,131	148,572	150,772	150,772	159,064	40,763	34%	15,833	11%
Oklahoma	106,716	113,531	131,100	131,100	137,655	137,655	137,655	137,655	137,655	137,655	30,939	29%	-	0%
Missouri	123,000	123,000	123,000	133,043	137,034	137,034	137,034	137,034	147,591	147,591	24,591	20%	10,557	8%
Arkansas	128,869	131,508	134,382	137,080	139,621	145,204	145,204	145,204	148,109	148,109	18,439	15%	2,804	2%
Mississippi	112,530	112,530	112,530	112,530	112,530	112,530	112,530	112,530	122,480	122,480	9,950	8%	9,950	9%
Surrounding States Average	118,382	125,546	132,082	135,680	138,002	141,599	142,478	143,024	146,719	151,409	33,017	28%	9,854	7%

Federal	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	10 Yr \$ Chan	10 Yr % Change	5 Yr \$ Chan	5 Yr % Change
Federal: District Judge (Gen. Jurisdiction)	162,100	165,200	165,200	169,300	174,000	174,000	174,000	174,000	174,000	189,100	37,000	23%	25,100	14%
Federal: Circuit Judge (Inter. App.)	171,800	175,100	175,100	179,600	184,500	184,500	184,500	184,500	184,500	211,200	38,400	23%	28,700	14%
A Assoc. Justice (U.S. Supreme Ct.)	199,200	203,000	203,000	206,100	213,900	213,900	213,900	213,900	213,900	244,400	45,200	23%	30,500	14%
Chief Justice (U.S. Supreme Ct.)	209,100	212,100	212,100	217,400	223,500	223,500	223,500	223,500	223,500	255,900	47,400	23%	32,000	14%

**General Jurisdiction**  
 Past Decade: Arkansas lags behind all neighboring states except Mississippi in salary increase  
 Past Decade: Arkansas is more than \$10,000 and 1% behind the average increase among surrounding states  
 Past 5 Years: Arkansas has averaged less than 1/3 of the increase of surrounding state

**Intermediate Appellate Court**  
 Past Decade: Arkansas lags behind all neighboring states except Mississippi in salary increase  
 Past Decade: Arkansas is approximately \$12,000 and 12% behind the average increase among surrounding states  
 Past 5 Years: Arkansas has averaged less than 1/3 of the increase of surrounding state

**Supreme Court Associate Judges**  
 Past Decade: Arkansas lags behind all neighboring states except Mississippi in salary increase  
 Past Decade: Arkansas is nearly \$4,000 and 13% behind the average increase among surrounding states  
 Past 5 Years: Arkansas has averaged less than 1/3 of the increase of surrounding state

**Federal**  
 Federal Judges have seen a salary increase of \$37,000-\$47,400 in last decade  
 Federal Judges received a salary increase of \$25,100-\$32,000 THIS YEAR after 5 years flat



National Trends Court of Appeals

Intermediate Appellate Court	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	10 Year \$ change	10 Year % change
Alabama	151,027	151,027	169,906	174,315	178,878	178,878	178,878	178,878	178,878	178,878	27,851	18%
Alaska	111,384	118,584	156,084	166,084	169,608	174,696	178,188	181,752	185,388	187,238	75,852	68%
Arizona	123,900	123,900	139,400	139,400	150,000	150,000	150,000	150,000	150,000	150,000	26,100	21%
Arkansas	124,652	127,431	130,253	132,868	135,515	140,732	140,732	140,732	140,732	143,547	18,895	15%
California	164,604	170,694	196,428	204,599	204,599	204,599	204,599	204,599	204,599	207,463	42,859	26%
Colorado	111,647	114,996	118,101	124,089	134,128	134,128	134,128	134,128	134,128	138,957	27,310	24%
Connecticut	129,988	144,680	152,637	152,637	152,637	152,637	152,637	152,637	152,637	160,727	30,739	24%
Delaware												
District of Columbia												
Florida	143,363	148,524	153,140	153,140	153,140	150,077	150,077	150,077	150,077	154,140	10,777	8%
Georgia	152,139	156,814	161,348	166,186	166,186	166,186	166,186	166,186	166,186	166,186	14,047	9%
Hawaii	110,618	125,000	129,375	142,308	147,288	139,924	139,924	139,924	139,924	190,908	80,290	73%
Idaho	103,168	103,168	109,500	115,025	118,506	118,506	118,506	120,900	120,900	120,900	17,732	17%
Illinois	163,070	166,658	171,991	178,011	184,775	189,949	194,888	197,032	198,805	200,992	37,922	23%
Indiana	110,000	129,800	134,968	142,467	147,103	147,103	147,103	152,293	152,293	157,014	47,014	43%
Iowa	117,850	123,120	134,060	136,739	147,900	147,900	147,900	147,900	147,900	154,556	36,706	31%
Kansas	114,118	116,971	121,310	128,310	131,518	131,518	131,518	131,518	131,518	131,518	17,400	15%
Kentucky	121,176	126,672	127,072	127,472	128,760	130,044	130,044	130,044	130,044	130,044	8,868	7%
Louisiana	112,041	112,041	117,195	124,469	130,194	136,183	142,477	143,647	143,647	148,962	36,921	33%
Maine												
Maryland	124,552	128,302	134,552	142,052	149,552	149,552	149,552	149,552	152,543	154,108	29,556	24%
Massachusetts	117,467	117,467	135,087	135,087	135,087	135,087	135,087	135,087	135,087	150,087	32,620	28%
Michigan	151,441	151,441	151,441	151,441	151,441	151,441	151,441	151,441	151,441	151,441	-	0%
Minnesota	125,852	127,740	129,656	133,546	137,552	137,552	137,552	137,552	137,552	143,054	17,202	14%
Mississippi	105,050	105,050	105,050	105,050	105,050	105,050	105,050	105,050	114,994	114,994	9,944	9%
Missouri	115,000	115,000	115,000	124,473	128,207	128,207	128,207	128,207	134,685	134,685	19,685	17%
Montana												
Nebraska	113,312	116,711	120,504	124,721	129,087	132,314	135,622	135,622	138,334	145,251	31,939	28%
Nevada												
New Hampshire												
New Jersey	150,000	150,000	150,000	167,023	175,534	175,534	175,534	175,534	175,534	175,534	25,534	17%
New Mexico	99,864	101,612	109,288	114,752	117,506	117,506	117,506	117,506	117,506	118,682	18,818	19%
New York	144,000	144,000	144,000	144,000	144,000	144,000	144,000	144,000	168,600	170,700	26,700	19%
North Carolina	113,293	115,559	121,915	128,011	131,531	131,531	131,531	131,531	133,109	133,109	19,816	17%
North Dakota												
Ohio	119,700	126,250	128,400	132,000	132,000	132,000	132,000	132,000	132,000	132,000	12,300	10%
Oklahoma	101,714	108,336	124,200	124,200	130,410	130,410	130,410	130,410	130,410	130,410	28,696	28%
Oregon	102,800	102,800	102,800	119,244	122,820	122,820	122,820	122,820	122,820	127,820	25,020	24%
Pennsylvania	138,459	150,903	165,342	171,131	175,923	175,923	178,914	184,282	188,337	188,903	50,444	36%
Rhode Island												
South Carolina	120,017	124,817	128,561	132,417	133,741	133,741	133,741	133,741	137,753	137,753	17,736	15%
Tennessee	120,636	123,888	145,000	149,640	153,984	159,840	159,840	162,396	167,592	171,108	50,472	42%
Texas	107,350	137,500	137,500	141,250	141,250	137,500	137,500	137,500	137,500	158,500	51,150	48%
Utah	110,000	116,600	120,100	132,150	138,750	138,750	138,750	138,750	140,100	141,550	31,550	29%
Vermont												
Virginia	128,730	141,248	146,898	158,650	168,322	168,322	168,322	168,322	168,322	173,177	44,447	35%
Washington	130,678	134,598	138,636	148,080	156,328	156,328	156,328	156,328	156,328	159,455	28,777	22%
West Virginia												
Wisconsin	116,865	119,205	126,782	132,229	133,552	136,316	136,316	136,316	136,316	137,681	20,816	18%
Wyoming												
United States Average	123,629	128,695	135,987	141,263	146,445	146,969	146,508	148,887	148,834	153,129	29,500	24%

National Trends Supreme Court

State	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	10 Year \$ change	10 Year % change	5 Year \$ change	5 Year % change
Supreme Court Associate Judges														
Alabama	152,027	152,027	171,031	175,440	180,005	180,005	180,005	180,005	180,005	180,005	27,978	18%	-	0%
Alaska	117,900	125,520	165,204	165,204	179,520	184,908	184,908	192,372	196,224	198,192	80,292	68%	13,284	7%
Arizona	126,525	126,525	142,300	142,300	155,000	155,000	155,000	155,000	155,000	155,000	28,475	23%	-	0%
Arkansas	128,669	134,392	137,080	139,821	145,204	145,204	145,204	145,204	148,108	148,108	19,439	15%	2,904	2%
California	151,575	182,071	208,521	218,237	218,237	218,237	218,237	218,237	221,292	221,292	45,717	28%	3,055	1%
Colorado	116,251	119,739	122,972	129,207	139,660	139,660	139,660	139,660	139,660	144,688	28,437	24%	5,028	4%
Connecticut	138,404	154,047	162,520	162,520	162,520	162,520	162,520	162,520	162,520	171,134	32,730	24%	8,614	5%
Delaware	153,000	184,300	185,050	185,050	185,050	185,050	185,050	185,050	190,639	191,980	39,860	26%	6,810	4%
District of Columbia	167,600	175,100	175,100	179,500	184,500	184,500	184,500	184,500	184,500	211,200	43,600	26%	26,700	14%
Florida	155,150	160,375	161,200	161,200	161,200	161,200	161,200	161,200	161,200	162,200	7,050	5%	4,224	3%
Georgia	153,066	155,547	155,000	153,925	153,696	159,072	151,118	151,118	151,118	151,118	14,124	9%	-	0%
Hawaii	104,168	104,168	110,500	116,025	119,506	119,506	119,506	119,506	121,900	121,900	17,732	17%	2,394	2%
Idaho	173,261	177,073	182,739	189,135	196,322	201,819	201,819	207,068	208,344	211,228	40,291	23%	11,733	6%
Illinois	115,500	133,800	138,844	146,562	151,328	151,328	151,328	151,328	156,667	161,524	46,524	40%	10,196	7%
Indiana	122,500	128,000	144,000	146,890	163,200	163,200	163,200	163,200	163,200	170,544	48,044	39%	7,344	5%
Iowa	118,212	121,167	123,590	132,590	135,905	135,905	135,905	135,905	135,905	135,905	17,693	15%	-	0%
Kansas	126,276	132,012	132,412	132,812	134,160	135,504	135,504	135,504	135,504	135,504	9,228	7%	-	0%
Kentucky	118,301	118,301	123,625	131,069	136,987	143,131	149,572	150,772	150,772	159,064	40,763	34%	-	0%
Louisiana	104,929	108,498	112,300	114,992	119,594	119,476	119,476	119,476	119,476	123,073	18,144	17%	3,597	3%
Maine	132,352	136,852	144,352	153,352	162,352	162,352	162,352	162,352	165,600	166,908	34,556	26%	4,556	3%
Massachusetts	126,943	126,943	145,984	145,984	145,984	145,984	145,984	145,984	145,984	160,984	34,041	27%	15,000	10%
Michigan	164,610	164,610	164,610	164,610	164,610	164,610	164,610	164,610	164,610	164,610	-	0%	-	0%
Minnesota	133,584	135,567	137,601	141,729	145,981	145,981	145,981	145,981	151,820	151,820	18,256	14%	5,839	4%
Mississippi	112,530	112,530	112,530	112,530	112,530	112,530	112,530	112,530	122,460	122,460	9,930	9%	9,930	9%
Missouri	123,000	123,000	123,000	133,043	137,034	137,034	137,034	137,034	147,591	147,591	24,591	20%	10,557	8%
Montana	95,493	100,884	100,884	106,185	113,964	113,964	113,964	113,964	121,434	124,949	29,456	31%	10,985	10%
Nebraska	119,276	128,854	128,854	131,285	135,881	139,278	142,760	145,615	152,895	152,895	33,619	28%	13,617	16%
Nevada	140,000	140,000	139,200	140,000	170,000	170,000	170,000	170,000	170,000	170,000	30,000	21%	2,204	2%
New Hampshire	113,266	128,000	133,554	139,258	146,917	146,917	146,917	146,917	146,917	149,121	36,855	32%	-	0%
New Jersey	158,500	158,500	158,500	176,488	185,482	185,482	185,482	185,482	185,482	185,482	26,982	17%	-	0%
New Mexico	105,120	106,960	115,040	120,792	123,691	123,691	123,691	123,691	123,691	124,928	19,808	19%	1,237	1%
New York	151,200	151,200	151,200	151,200	151,200	151,200	151,200	151,200	171,000	184,800	33,600	22%	35,600	22%
North Carolina	118,219	120,583	127,215	133,576	137,249	137,249	137,249	137,249	138,896	138,896	20,677	17%	1,647	1%
North Dakota	99,122	103,087	107,210	113,578	118,121	118,121	118,121	130,228	134,135	138,159	44,563	45%	25,564	22%
Ohio	128,400	135,450	137,750	141,600	141,600	141,600	141,600	141,600	141,600	141,600	13,200	10%	-	0%
Oklahoma	106,716	113,531	131,100	131,100	137,655	137,655	137,655	137,655	137,655	137,655	30,939	29%	-	0%
Oregon	105,200	105,199	105,200	122,028	125,688	125,688	125,688	125,688	125,688	130,688	25,488	24%	5,000	4%
Pennsylvania	142,936	155,783	175,236	181,371	186,450	186,450	186,450	186,450	195,309	199,606	57,269	40%	13,755	7%
Rhode Island	132,816	143,654	147,964	152,403	152,403	152,403	152,403	152,403	155,726	165,726	32,910	25%	13,323	9%
South Carolina	123,065	128,018	131,858	135,813	137,171	137,171	137,171	137,171	141,286	141,286	18,191	15%	4,115	3%
South Dakota	105,765	108,145	111,389	114,731	118,173	118,173	118,173	118,173	121,718	125,370	19,605	19%	7,197	6%
Tennessee	126,528	129,948	150,000	154,800	159,288	165,336	167,976	173,352	176,988	176,988	50,460	40%	11,652	7%
Texas	113,000	122,150	125,850	138,450	150,000	150,000	150,000	150,000	150,000	168,000	55,000	49%	18,000	12%
Utah	115,250	122,150	125,850	138,450	145,350	145,350	145,350	145,350	148,800	148,800	33,050	29%	2,950	2%
Vermont	114,689	119,254	124,000	129,245	129,245	129,245	129,245	129,245	132,928	137,842	23,153	20%	8,597	7%
Virginia	135,505	148,692	154,629	166,999	183,839	183,839	183,839	183,839	188,949	188,949	53,444	39%	5,110	3%
Washington	137,276	141,394	145,636	155,557	164,221	164,221	164,221	164,221	164,221	167,505	30,229	22%	3,284	2%
West Virginia	95,000	121,000	121,000	121,000	121,000	121,000	121,000	121,000	136,000	136,000	41,000	43%	15,000	12%
Wisconsin	123,876	126,358	134,389	140,163	141,500	144,495	144,495	144,495	144,942	145,942	22,066	18%	1,447	1%
Wyoming	105,000	111,400	115,300	119,300	126,500	131,500	131,500	131,500	131,500	131,500	60,000	57%	33,500	25%
Unweighted National States Average	127,169	133,602	140,150	145,194	150,042	150,780	150,780	150,780	155,143	159,893	32,523	28%	8,913	6%

Constitutional Officers Fund FY2010-2014					
Fiscal Year	*Beginning Year Balance	Revenues	Expenditures	Transfers To State Central Services	Ending Balance
2010	\$45,457,652	\$79,909,547	\$39,203,308	\$42,448,521	\$43,715,370
2011	\$43,715,370	\$82,071,876	\$40,784,252	\$40,661,626	\$44,341,368
2012	\$44,917,079	\$85,626,707	\$38,579,749	\$41,706,409	\$50,257,628
2013	\$50,267,576	\$91,322,955	\$42,157,123	\$49,375,902	\$50,057,507
2014	\$50,057,507	\$95,318,259	\$41,705,319	\$47,651,011	\$56,019,436

\*Beginning Year Balance reflects any end or year adjustments and reimbursements

**State Central Services Fund, Constitutional Officers Fund, and Total General Revenue Expenditures  
FY2006 - FY2014**

**STATE CENTRAL SERVICES FUND**

	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2014 vs. FY2006	% Increase
House of Representatives	1,518,293	1,967,312	1,760,395	2,052,150	3,360,184	2,716,746	1,849,848	2,200,105	2,157,897	639,604	42.1%
Arkansas Senate	1,053,464	1,456,312	26,641,979	1,117,995	1,168,086	1,376,719	1,633,782	1,324,576	1,485,139	431,675	41.0%
Division of Legislative Audit	22,175,344	23,029,269	25,622,336	25,919,384	27,998,183	28,647,086	30,519,667	29,860,162	31,973,561	9,798,217	44.2%
Bureau of Leg Research/Disbursing	8,609,648	9,825,437	10,402,387	10,966,734	11,291,272	12,225,378	13,188,662	12,889,889	12,696,315	4,086,667	47.5%
Court of Appeals	3,130,271	3,265,010	3,510,961	3,463,818	3,779,908	3,828,478	4,054,732	3,956,272	3,986,800	856,529	27.4%
Administrative Office of the Courts	8,733,963	9,456,753	10,392,218	11,090,210	11,655,327	11,747,109	12,382,992	12,398,378	12,756,813	4,022,850	46.1%
Office of Prosecutor Coordinator	792,011	809,065	862,603	899,516	938,853	915,090	992,050	896,599	917,150	125,139	15.8%
Supreme Court	3,366,523	3,277,149	3,577,562	3,575,842	3,699,136	3,910,454	4,156,681	4,155,643	4,346,073	979,549	29.1%
Office of the Governor	4,177,121	4,605,688	4,675,277	4,589,317	4,519,136	4,348,387	4,472,843	4,143,247	4,220,058	42,937	1.0%
Office of the Lieutenant Governor	199,916	268,978	245,576	355,095	301,739	372,842	312,770	354,434	324,430	124,514	62.3%
Office of the Attorney General	9,353,492	10,333,211	11,651,536	11,999,407	13,224,019	13,607,565	14,294,949	14,184,607	15,360,866	6,007,374	64.2%
Auditor of the State	19,052,218	19,801,248	21,524,283	22,166,350	24,054,600	25,198,520	26,696,985	27,940,336	27,708,734	8,656,516	45.4%
Commissioner of State Lands	2,642,499	2,671,107	2,449,193	2,457,922	2,559,172	2,516,755	2,812,978	2,924,254	2,820,879	178,380	6.8%
Secretary of State	11,439,728	13,297,965	13,207,820	16,546,301	15,733,563	14,994,606	14,925,849	16,630,446	17,756,356	6,316,628	55.2%
Office of the Treasurer	2,965,516	3,266,626	3,321,885	3,303,781	3,307,191	3,236,951	3,454,885	3,015,371	3,467,251	501,735	16.9%
Governor's Mansion	560,654	647,099	774,497	778,563	754,732	733,941	832,748	869,610	865,010	304,356	54.3%
Public Defender	16,184,148	17,043,598	19,124,091	19,841,274	20,934,028	21,495,996	23,372,085	23,229,018	23,604,127	7,419,979	45.8%
Arkansas State Claims Commission	498,380	498,748	511,899	510,084	545,965	544,028	571,791	572,759	576,858	78,478	15.7%
DFA	114,368,445	122,198,592	126,439,766	142,930,254	138,568,382	139,029,211	150,564,478	149,020,346	149,263,137	34,894,692	30.5%
<b>TOTAL</b>	<b>230,821,636</b>	<b>247,719,167</b>	<b>286,696,264</b>	<b>284,563,998</b>	<b>288,393,475</b>	<b>291,445,861</b>	<b>311,090,775</b>	<b>310,566,053</b>	<b>316,287,455</b>	<b>85,465,819</b>	<b>37.0%</b>
<b>ANNUAL % CHANGE</b>	<b>2.8%</b>	<b>7.3%</b>	<b>15.7%</b>	<b>-0.7%</b>	<b>1.3%</b>	<b>1.1%</b>	<b>6.7%</b>	<b>-0.2%</b>	<b>1.8%</b>		

**AVERAGE % INCREASE PER YEAR**

4.0%

**CONSTITUTIONAL OFFICERS FUND**

House of Representatives	1,713,531.08	3,349,651.01	4,498,031.93	3,965,643.73	3,276,348.99	3,938,122.36	2,208,870.10	3,937,751.49	2,238,455.38	524,924.30	30.6%
Arkansas Senate	526,322.11	1,283,366.59	791,869.98	1,527,638.15	841,879.94	1,472,435.22	799,157.10	1,482,720.78	793,092.11	266,770.00	50.7%
Office of the Governor	-	63,896.13	-	78,491.82	-	101,026.37	-	20,800.00	-	-	-
Auditor of the State*	27,443,102.36	28,015,148.66	30,230,741.93	32,378,609.95	35,085,078.83	35,272,667.56	35,571,721.83	36,715,850.33	38,673,771.84	11,230,669.48	40.9%
<b>TOTAL</b>	<b>29,682,956</b>	<b>32,712,062</b>	<b>35,520,644</b>	<b>37,950,384</b>	<b>39,203,308</b>	<b>40,784,252</b>	<b>38,579,749</b>	<b>42,157,123</b>	<b>41,705,319</b>	<b>12,022,364</b>	<b>40.5%</b>
<b>ANNUAL % CHANGE</b>	<b>-4.7%</b>	<b>10.2%</b>	<b>8.6%</b>	<b>6.8%</b>	<b>3.3%</b>	<b>4.0%</b>	<b>-5.4%</b>	<b>9.3%</b>	<b>-1.1%</b>		

**AVERAGE % INCREASE PER YEAR**

3.4%

**GENERAL REVENUE EXPENDITURES**

<b>TOTAL</b>	<b>3,780,488,801</b>	<b>4,026,004,295</b>	<b>4,274,633,557</b>	<b>4,380,335,240</b>	<b>4,220,785,365</b>	<b>4,439,996,998</b>	<b>4,568,076,775</b>	<b>4,709,665,486</b>	<b>4,897,396,220</b>	<b>1,116,907,419</b>	<b>29.5%</b>
<b>ANNUAL % CHANGE</b>	<b>5.3%</b>	<b>6.5%</b>	<b>6.2%</b>	<b>2.5%</b>	<b>-3.6%</b>	<b>5.2%</b>	<b>2.9%</b>	<b>3.1%</b>	<b>4.0%</b>		

**AVERAGE % INCREASE PER YEAR**

3.6%

**STATE CENTRAL SERVICES/CONSTITUTIONAL OFFICERS FUND DEDUCTION %**

3.4%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%**	3.3%	3.3%	3.3%
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\* - Auditor of State reflects the General Appropriation, an Act that provides for the salaries of elected Constitutional Officers. Thirteen (13) District Judges were added 1/1/2013, increasing Constitutional Officers Fund expenditures by \$1,006,744 in FY13 and \$2,056,819 in FY14. Percentages Increases without those additional judges would be 0.39% in FY13 and 2.54% in FY14.

\*\* - The Alternative Supplemental Financing Provision (§19-5-205(e)(3)(D)) was invoked in 2011, directing \$20M in general revenue for Category (C) State Central Services agencies and reduced budgets for the Category (D) State Central Services agencies by \$3.3M.

STATE CENTRAL SERVICES FUND  
PROJECTED REVENUES AND EXPENDITURES  
FOR THE FISCAL YEARS 2014-2015  
AND THE 2015-2017 BIENNIUM

	FY14 ACTUAL STATE CENTRAL SERVICES FUND (Gross GR 6,203.7) (Gross SR 1,971.8)	FY15 PROJECTED STATE CENTRAL SERVICES FUND (Gross GR 6,333.6) (Gross SR 1,979.8)	FY16 BUDGETED STATE CENTRAL SERVICES FUND (Gross GR 6,464.2) (Gross SR 1,879.7)	FY17 BUDGETED STATE CENTRAL SERVICES FUND (Gross GR 6,741.0) (Gross SR 1,940.3)
YEAR END BALANCES				
PY Adj / Outlawed Warrants	\$ 22,535,421	\$ 19,222,438	\$ 12,198,656	\$ 9,918,683
ADJUSTED BEGINNING BALANCE	\$ 611,130	\$ -	\$ -	\$ -
	\$ 23,146,551	\$ 19,222,438	\$ 12,198,656	\$ 9,918,683
General Revenues (2/3 of 3% of Gross GR)	\$ 124,770,651	\$ 126,500,000	\$ 129,200,000	\$ 134,600,000
General Revenues [add'l fee per ACA 19-5-202(b)(2)(B)(i)]	\$ 18,715,598	\$ 12,600,000	\$ 12,600,000	\$ 12,600,000
General Revenue Transfer [per ACA 19-5-205(e)(3)(A)]	\$ -	\$ -	\$ -	\$ -
TOTAL GENERAL REVENUES	\$ 143,486,249	\$ 139,100,000	\$ 141,800,000	\$ 147,200,000
Special Revenue Fees - (2/3 of 3%; FY14/15 include Highway 1/2 cent)	\$ 36,196,158	\$ 36,400,000	\$ 37,400,000	\$ 38,600,000
Special Revenue Fees - (2/3 of 1.5%)	\$ 1,861,265	\$ 1,900,000	\$ 1,900,000	\$ 1,900,000
Special Revenue Fees - [add'l fee per ACA 19-5-203(a)(2)(A)]	\$ 5,739,521	\$ 3,866,667	\$ 3,866,667	\$ 3,866,667
TOTAL SPECIAL REVENUE FEES	\$ 43,796,945	\$ 42,166,667	\$ 43,166,667	\$ 44,366,667
LOCAL SALES & USE TAX FEE - (2/3 of 3%)	\$ 21,863,467	\$ 21,900,000	\$ 21,900,000	\$ 21,900,000
Special Revenue - Specified (ACA 19-6-301)	\$ 17,946,429	\$ 18,800,000	\$ 18,800,000	\$ 18,800,000
\$1 Vehicle Fee (Act 974/97)	\$ 2,656,934	\$ 2,800,000	\$ 2,800,000	\$ 2,800,000
TOTAL SPECIAL REVENUE - SPECIFIED	\$ 20,603,363	\$ 21,600,000	\$ 21,600,000	\$ 21,600,000
FUND TRANSFERS IN				
Federal Indirect Cost Reimbursement	\$ 961,640	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000
Ad Valorem Tax (reduced in FY14 by Act 1165 of 2013)	\$ 12,635,683	\$ 16,936,845	\$ 16,936,845	\$ 16,936,845
MCF Balance Transfer (Act 945/87)	\$ 47,195,593	\$ 48,724,693	\$ 48,724,693	\$ 48,724,693
Service Charge on Cash Funds (Act 1230/93)	\$ 114,229	\$ 140,000	\$ 140,000	\$ 140,000
Public Defender (AOJ)	\$ 5,852,732	\$ 4,365,317	\$ 4,365,317	\$ 4,365,317
Public Defender (Attorney Fees/Bailbonds)	\$ 2,446,632	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000
Public Defender (DYS Transfer-Ombudsman)	\$ 90,244	\$ 90,244	\$ 90,244	\$ 90,244
AOC Dependency/Neglect (AOJ)	\$ 3,993,831	\$ 2,978,837	\$ 2,978,837	\$ 2,978,837
Deputy Prosecuting Attorneys	\$ 5,022,713	\$ 4,900,000	\$ 5,022,713	\$ 5,022,713
Merit Adjustment - Payplan Cost	\$ -	\$ -	\$ -	\$ -
Budget Stabilization Trust	\$ -	\$ -	\$ -	\$ -
Miscellaneous Transfers In (M&R, Motor Veh, Boating Safety)	\$ 2,233,393	\$ 3,500,000	\$ 3,500,000	\$ 3,500,000
Lottery Proceeds (For Legislative Audit Expenses)	\$ 1,150,840	\$ 1,100,000	\$ 1,100,000	\$ 1,100,000
Transfer from Unclaimed Property for Auditor software upgrades	\$ -	\$ -	\$ -	\$ -
Non-Revenue Receipts (Earnings & Other Income)	\$ 2,635,917	\$ 5,000,000	\$ 5,000,000	\$ 5,000,000
TOTAL FUND TRANSFERS/OTHER INCOME	\$ 84,333,449	\$ 91,235,936	\$ 91,358,649	\$ 91,358,649
<b>TOTAL</b>	<b>\$ 337,230,023</b>	<b>\$ 335,225,041</b>	<b>\$ 332,023,971</b>	<b>\$ 336,343,999</b>
FUND TRANSFERS OUT				
Justice Building				
UCC Filings to County Aid Fund				
Misc (inc. Surety Bonds, Workers Comp, Claims Cmsn)	\$ (1,670,261)	\$ (1,500,000)	\$ (1,500,000)	\$ (1,500,000)
TOTAL AVAILABLE FUNDING	\$ 335,559,762	\$ 333,725,041	\$ 332,023,971	\$ 336,343,999
FY13 & FY14 ACTUAL EXP, FY15, FY 16 & FY17 @ 88% EST	\$ (316,337,324)	\$ (321,526,385)	\$ (322,105,288)	\$ (321,802,851)
ENDING FUND BALANCE	\$ 19,222,438	\$ 12,198,656	\$ 9,918,683	\$ 14,541,148

**STATE OF ARKANSAS  
CLASSIFIED EMPLOYEE PAY INCREASES**

<b>Fiscal Year</b>	<b>COLA</b>	<b>CLIP/Merit</b>
1977	0.0%	5.5%
1978	8.0%	5.5%
1979	0.0%	5.5%
1980	5.5%	5.5%
1981	0.0%	5.5%
1982	10.0%	5.5%
1983	0.0%	5.5%
1984	4.9%	0.0%
1985	7.6 to 11.1%	5.5%
1986	0.0%	5.5%
1987	3.0%	0.0%
1988	0.0%	2.5%
1989	0.0%	2.5%
1990	7.0%	2.5%
1991	3.0%	2.5%
1992	2.5%	2.5%
1993	4.5%	2.5%
1994	2.0%	2.5%
1995	1.0%	2.5%
1996	4.8%	2-3.5%
1997	2.8%	2-3.5%
1998	2.8%	0.0%
1999	5.2%	0.0%
2000	2.8%	0.0%
2001	2.8%	5.0; 5.5%
2002	2.6%	4.0; 8.0%
2003	2.6%	0.0%
2004	2.7% graduated	2.0; 4.0%
2005	2.7% graduated	2.0; 4.0%
2006	3.0% graduated	3.0; 6.0%
2007	3.0% graduated	2.0; 4.0%
2008	2.0%	1.5; 3.0; 4.5%
2009	2.0%	1.5; 3.0; 4.5%
2010	1-5% Payplan	0.75; 1.5; 2.25%
2011	2.0%	0.75; 1.5; 2.25%
2012	0.0%	1.0; 2.0; 3.0%
2013	0.0%	1.5; 3.0; 4.5%
2014	2.0%	1.0; 2.0; 3.0%
2015	1.0%	TBD

**GUIDELINES AND DISCUSSIONS**

**FOR**

**AN ACCOUNTABLE REIMBURSEMENT PLAN**

**OF**

**LEGISLATIVE EXPENSES**

**ARKANSAS STATE SENATE**

**88th GENERAL ASSEMBLY**

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# **GUIDELINES FOR LEGISLATIVE EXPENSE REIMBURSEMENT**

## **IN GENERAL**

**Amendment 56 to the Arkansas Constitution entitles members of the General Assembly to seek reimbursement for documented expenditures within the limitations provided by law. Act 274 of 1971 as amended by Act 288 of 2007 recognized and authorized those items of expense eligible for reimbursement and each member is currently eligible to seek reimbursement for up to \$14,400.00 of such expenditures for each calendar year. Committee chairman are entitled to additional allowances for expenses attributable to the additional duties of a chairman. In addition to the Constitutional requirement that such expenditures be documented, the Internal Revenue Code requires an employee to account for items of expenses reimbursed by an employer in order to avoid the employee having to take such amounts into income on the employee's tax return. To meet both the Constitutional standard and the federal income tax standard the Arkansas Senate had adopted an accountable plan for the purpose of reimbursing its members for substantiated expenses incurred in the performance of duties and responsibilities connected with or incidental to the member's duty as a legislator.**

**An accountable plan requires each member to substantiate such expenditure prior to seeking reimbursement. The substantiation must contain information sufficient enough for the payor, the Arkansas Senate, to determine the following:**

- 1. The amount of such expenses;**
- 2. The date, place and nature of expenses;**
- 3. The business purpose of such expenses; and**
- 4. The business relationship of any persons entertained, including such person's identity, title or other information sufficient to establish such relationship.**

**While it is not necessary that the expense be paid by the member prior to the member seeking reimbursement, such expense must have been "incurred" by the member. "Incurred" means the expense is now due and owing or has been accrued but specifically does not include any advance payments. Prepayments and advance payments may be reimbursed ratably over the period for which such payment was made.**

**In order to document expenditures member's may retain actual documentary evidence (receipts, bills etc.) and/or choose to maintain a diary, log or other account listing such expenditures that are less than \$25.00. However, documentary evidence must be submitted for any lodging expense or for any expense in excess of \$25.00. A diary, log or account book must contain a detailed listing of each such expense sufficient to disclose the four elements listed above. Any documentation insufficient to establish the items set forth in the preceding paragraph will result in the Senate Efficiency Committee withholding reimbursement for such expenses until such time as the member has submitted documentary evidence meeting the four requirements.**

**AUTHORIZED REIMBURSABLE ITEMS OF EXPENSE**

Act 274 of 1971 as amended by Act 288 of 2007 specifically provides for the reimbursement of the following expenditures incurred by a member of the General Assembly:

**100 OFFICE RENTAL OR EXPENSES**

A member may seek reimbursement for the cost of office space and other expenses paid or incurred in connection with the member's duties as a legislator. This would include seeking reimbursement for a portion of the costs incurred by the member in the member's regular trade or business or for the use of a portion of his personal residence as an office, subject to restrictions described herein.

**110 OFFICE EQUIPMENT RENTAL OR EXPENSES**

The statute provides a listing of office equipment and furniture for which a member may seek reimbursement. Those items would include, but not be limited to, desk, file cabinets, typewriters, computers, copy machines, facsimile machines and other office equipment. The standard for seeking reimbursement for office equipment otherwise used in the member's regular trade or business would extend to the need for equipment over and above the normal demands of the regular business usage, necessitated by the members performance of his or her legislative duties. A member may not seek reimbursement for the cost of such equipment or an allowance for depreciation under the policy of the Arkansas Senate due to the issues of State ownership. A member may seek reimbursement of the rental or lease of such equipment.

**120 FURNISHED UNDER WRITTEN AGREEMENT**

If the member enters into a written agreement with his regular trade or business, an employer or third party whereby such business or person furnishes the member with any or all of the items reimbursable as a legislative expense, the member may seek reimbursement of the amount paid to the provider of such items or services to the extent such payment is reasonable and not in excess of the maximum amount reimbursable by law. Such an agreement must identify the provider of the items or services, what items and/or services are to be provided under the agreement, the amount to be paid for such items or services by the member, and the location in which such services are to be provided. To claim reimbursement for expenses paid or incurred under such an agreement, you must furnish a signed copy of the agreement to the Senate Fiscal Officer and submit documentary evidence that the amount for which you are seeking reimbursement has been paid or incurred.

It is not necessary that the agreement be with a separate entity in the event the member is self employed. Under such an agreement the member would be entitled to contract with his regular trade or business for such services. This would include self-employed business men as well as farmers. Even though the warrant for such reimbursement is payable to the member individually, any reimbursement payment under the arrangement should be paid to the member's regular business and be reported as income to such business. For example, assume that the member is a self-employed insurance salesman and the member reaches an agreement with that business for the provision of office equipment and secretarial assistance for \$250.00 per month. At the end of the year when the member is determining the gross receipts of the insurance business he must include the \$3,000.00 paid under the agreement as income. The insurance business would then deduct 100% of the expenses in providing both the insurance related expenses as well as those legislative expenses furnished under the contract. The same would be true if the member's regular trade or business was farming and the member's farm income was reported on Schedule F of his income tax return. To the extent a member contracts with his sole proprietorship or unincorporated business the amount paid or incurred for legislative expenses must be reported in the gross receipts of such trade or business if the business is deducting the full amount of expenses incurred in rendering both the expenses incurred in the normal course of their regular trade or business and those incurred in performing the legislative services required under the agreement.

#### 130 USE OF PERSONAL RESIDENCE

Reimbursement for expenses incurred in the use of a portion of the member's personal residence for legislative purposes are reimbursable if, and only if, such portion of the residence is exclusively used on a regular basis as the principal place of business for the member's activities as a legislator, as a place of business which is used by constituents in meeting or dealing with the member in the ordinary course of the member's legislative activities, and in the case of a separate structure not attached to the dwelling unit, used in connection with the member's legislative activities. The use must also be deemed for the convenience of the employer. The expenses covered by this test include only those items associated with the cost of providing the office space in the member's personal residence which would include depreciation, mortgage interest, insurance, repairs and maintenance and utilities. Other expenses for office furniture and equipment, extra lines for telephone service or other office supplies are fully reimbursable regardless of whether the member is eligible to claim reimbursement of expenses connected to the use of personal residence.

Each member's eligibility for reimbursement is considered in light of the application of the factors to the member's individual situation. The standard for exclusivity is defined for federal tax purposes as "no use of that portion of the unit at any time during the taxable year other than for business purpose." Prop. Treas. Reg. 1.280A-2 (g) (1). Thus, even minimal use of the portion of the home for non-business purposes will not qualify. Such disqualifying uses in the past have included writing personal checks in the room, watching television, use as a temporary bedroom, permitting social guests to use the room. As a general rule, if the room contains anything other than office equipment and office furniture the exclusivity test will not be met.

In addition to the exclusivity requirements the portion of the residence used for legislative activities must be separately identifiable. Although permanent partitions are not specifically required, the space should be identifiable by a logical or practical separation from the remainder of the residence if the member is going to claim reimbursement. The member's principal place of business is determined using the "focal point" test. The test examines the amount of time spent in the residence on legislative activities compared to the time spent away from the residence. The presumption would be that the State Capitol would be the principal place of business for the legislators, and any attempt to classify a portion of the member's residence as the principal place of business would have to rebut such presumption. Additionally, the member would have to establish that the use of his residence as an office was for the convenience of the General Assembly.

Practically speaking, home office expenses are computed based on the relative square footage of the portion of the residence used as an office compared to the total square footage of the residence as a whole. Depreciation is based on the straight-line method of depreciation over 31.5 years. The member's cost basis in such residence, not its fair market value, is multiplied times the fraction allocable to the residence's business use to determine the depreciable basis of home office. For example, a \$75,000 residence that contains a home office representing twenty percent of the home would yield a depreciation deduction of \$476.00 for the tax year  $(\$75,000 \times .20)/31.5$ . Mortgage interest and utilities would likewise be pro rated based on the business use percentage.

#NOTE - See Computation Form Attached - Page 11)

**NOTE:** As mentioned below, a member's claim for reimbursement for depreciation of a portion of the member's personal residence could give rise to a potential claim of state ownership upon the termination of such member's service as a legislator. Since the depreciation amount for which reimbursement can be sought is relatively small most members should desire to forego the burdensome substantiation requirements and ownership issue raised by making a claim for reimbursement. Mortgage interest and property taxes are deductible on the member's tax return without regard to the business use percentage, and to the extent any reimbursement is claimed for such items they will be nondeductible on such member's return.

#### **140 SALARIES OF CLERICAL ASSISTANTS**

A member may employ on a full or part time basis secretarial or clerical assistance necessitated by the performance of legislative activities. The member may seek reimbursement for the cost of such assistance including the amount of any salaries, payroll taxes, social security taxes or fringe benefits provided to the employee. To the extent allowed by law, the member may employ a spouse, child or other family member to provide such services and seek reimbursement for the cost of employing such person or persons.

**NOTE -** Employing a spouse will result in the spouse being required to report such compensation as income for federal and state income tax purposes and be subject to quarterly reports, if paid more than \$50.00 in any calendar quarter.

An assistant may or may not be treated as an independent contractor for tax purposes depending on the facts and circumstances surrounding the services rendered to the member. The determination is based on an examination of the relationship of the parties in conjunction with an examination of the factors listed by the IRS in determining employment status.

NOTE- See “20 Point Test”

Any member employing secretarial or clerical assistants should consult with his or her accountant or tax advisor concerning the employment of such persons.

**150 PURCHASE OF OFFICE SUPPLIES**

Office supplies, materials, stationery and postage expenses incurred in connection with performance of the legislative duties of the member are reimbursable.

**160 TELEPHONE EXPENSES**

Reimbursement for telephone, telegraph, facsimile or other communications charges and expenses are clearly authorized by law. Reimbursement for the basic service charges for such services may be sought on the basis of the business use percentage of such services during the period for which reimbursement is sought in the event a member does not maintain a separate telephone line legislative activities. Separate lines - listed in the name of the Senator are fully reimbursable to the extent that the phone is used exclusively for legislative purposes. All long distance charges and other direct communication costs are fully reimbursable regardless of the fact the member does not maintain a separate telephone line for legislative activities.

**200 TRAVEL, MEALS AND LODGING EXPENSES (Non-Legislative Days) In-State**

A member incurring travel expenses for a non-legislative day (including seminars and conference) may seek reimbursement for the cost of such expenditures as a legislative expense. Travel expenses include lodging, meals, incidental expenses per day, and mileage. In order to be eligible for reimbursement the expenses must be incurred while the member was “away from home”. Payment for meals and incidental expenses must be accompanied by a lodging receipt. Any member submitting a lodging receipt may claim meals and incidental expense allowance of \$34.00 per day without providing additional documentation.

**220 TRAVEL, MEALS AND LODGING EXPENSES (Non-Legislative Days) Out -of-State**

A member incurring travel expenses for out of state expenses which have not been authorized for payment by the President Pro Tempore of the Senate or any other entity may claim reimbursement for the cost of such expenditures as a legislative expense subject to the provisions of the in-state travel regulations enumerated in the preceding paragraph.

### **300 OTHER LEGISLATIVE EXPENSES**

Members may seek reimbursement for expenses other than those enumerated above. Such expenses must be necessary and incidental to the member's legislative activities and reasonable in amount. Such items would include gifts, constituent entertainment expenses, registration fees, and other ordinary and necessary expenditures incurred in connection with the member's activities as a legislator.

Entertainment expenses must be directly related to, or directly preceding or following a substantial and bona fide discussion relating to the member's legislative activities. Such business purpose may not be merely for generating or maintaining the goodwill of the member. In order for a member to seek reimbursement for meals, other than while traveling away from home, the member must provide substantiation indicating that the expense meets the requirements set forth in the preceding sentence. Actual receipts must be submitted for reimbursement of any entertainment expense in excess of \$25.00.

Sponsorship of local events, pageants or other activities within the member's district represent reimbursable expenses incurred by the member that are incidental to the member's legislative activities. However, to the extent any amount is paid to an individual the reimbursement limitation of \$25.00 per calendar year applicable to gifts will apply. Donations for charitable purposes are not reimbursable but may be deducted on personal returns.

### **400 MILEAGE REIMBURSEMENT**

The current statute permits reimbursement for travel expenses incurred in the performance of legislative duties at the mileage rate provided state employees for travel by personal automobile. No reimbursement for automobile expenses may be claimed in excess of the standard mileage allowance, currently \$.50 per mile.

**NOTE - No reimbursement may be claimed for automobile lease payments, maintenance expenses or depreciation in excess of the standard mileage rate.**

## **GLOSSARY:**

1. **“Non-Legislative Days” - Any day other than a day the legislature was in session (including any day in which the legislature was not in session for a period of 4 consecutive days or less) or any day the legislature was not in session but the physical presence of the individual was formally recorded at the committee meeting of such legislature.**
2. **“Away From Home” - A member is “away from home” only when the member cannot reasonably be expected to return home before obtaining substantial rest while performing legislative activities. Each member is responsible for making the determination of what is reasonable.**
3. **“Ownership Issue” - Seeking reimbursement for the cost of office equipment or seeking to recover an allowance for depreciation of such equipment gives rise to the argument that the State would have a vested ownership interest in such equipment by virtue of it having paid for cost of such equipment.**

**Due to the State Ownership issue the rules of the Arkansas State Senate provide that no claim for the actual cost of office equipment (or other capital type expenditure) or a depreciation allowance may be reimbursed. The ownership issue is completely avoided if the member leases or rents the equipment and seeks reimbursement for the use of such equipment by means of a reasonable rental or lease payment. Generally speaking, on commercial rentals a reasonable rate of return on the investment of the equipment would approximate 15% - 20%. The statute specifically provides for reimbursement for rental or lease payments in connection with acquiring office equipment used in legislative activities.**

4. **“20-Point Test” (Contract Labor Requirements) - Twenty factors enumerated by the Internal Revenue Service Ruling 87-41, 1987-2C.B. 296, used in determining employee’s status. Those factors include:**
  - (1) **degree of instruction over employee;**
  - (2) **training provided by employer;**
  - (3) **integration of worker’s services into member’s activities;**
  - (4) **personal nature of services;**
  - (5) **hiring, firing and supervising other assistants by worker;**
  - (6) **continuing relationship;**
  - (7) **set work hours;**
  - (8) **full time required to perform services;**
  - (9) **working on member’s premises;**
  - (10) **control over order in which work done;**
  - (11) **reporting requirements;**
  - (12) **method of payment (hourly, weekly, monthly);**
  - (13) **member paying worker’s business or travel expenses;**
  - (14) **worker furnishing own tools;**
  - (15) **worker’s investment in providing services;**

- (16) risk of loss or relationship of profit by worker other than that as an employee;
- (17) providing similar services for more than one member;
- (18) making services available to general public;
- (19) right to discharge; and
- (20) the right to discharge.

Each member must examine the application of all applicable factors to his or her situation and then decide if the worker is an employee of independent contractor.

5. *"Residence Computations"* - for Home Office - See attached sheet on Page 13.

**ITEMS NOT REIMBURSABLE UNDER CURRENT LAW:**

**CHARITABLE CONTRIBUTIONS** - No reimbursement for charitable contributions by a member is allowed as a legislative expense. However such contributions should be deductible by the member on his or her individual tax return within the limitations prescribed by law.

**AUTOMOBILE EXPENSES** - Automobile lease payments or actual expenses incurred in excess of the standard mileage rate in the operation of member's personal automobile for legislative purposes are not reimbursable expenditures.

**MEALS AND INCIDENTAL EXPENSES** - A member may only seek reimbursement for meals and incidental expenses when such member is "away from home". This includes only those meals consumed by the member when traveling and does not include meals that would otherwise be deductible as an entertainment expense. In order to seek reimbursement for meals and incidental expenses the member must attach a lodging receipt for each suit day a meal reimbursement is claimed. The meals and incidental reimbursement allowance of \$34.00 covers breakfast, lunch and dinner for each night's lodging.

Reimbursement covers a 24-hour period and cannot be claimed for partial days. for example, assume a member leaves his Fayetteville home at 1:00 p.m. to travel to Hot Springs to meet with and address a convention being held in the city, and such activity does not constitute a "legislative day". The member arrives at Hot Springs, checks into a hotel, eats dinner, breakfast and lunch at the convention and leaves Hot Springs to return to Fayetteville at 4:00 p.m. the following day. On the way home the member stops for dinner. The member may seek reimbursement for the dinner, breakfast and lunch in Hot Springs, but not the dinner purchased while returning home. Since the member was away from home for only one day, only one day's meals may be claimed, the remaining meal is a personal expense.

## **TIPS, ALCOHOL AND PERSONAL EXPENSES -**

State prohibits the reimbursement of a member for amounts paid as tips or gratuities, for alcohol, or for any other expense that is personal in nature.

## **PERSONAL LODGING EXPENSES WHEN NOT “AWAY FROM HOME”**

Expenses paid or incurred for personal lodging on non-legislative days when the member is not away from home are not reimbursable. For example, any member maintaining a place of lodging (an apartment) in Little Rock (or away from the member’s residence) during non-legislative days will only be eligible to seek reimbursement for a pro rata portion of the rental expense attributable to those days the member used the apartment for legislative business while away from home. Lodging, meals and incidental expenses incurred during non-legislative day are not eligible for per diem reimbursement and are reimbursable only to the extent of the actual amounts paid or incurred. If the member paid \$300.00 per month for the apartment and used it three days while “away from home” on legislative business, the member could seek reimbursement for lodging expenses at the rate of \$10.00 per day. Actual lodging receipts are required for reimbursement as a legislative expense. In the example above the member could provide a copy of the lease or rental agreement for the apartment. Unlike the per diem travel expenses for legislative days, there is no deemed substantiation of lodging expenses for non-legislative days.

## **CONCLUSION**

The guidelines and discussions provided herein are not all inclusive and do not contain an exhaustive list of the questions that may arise. However, the guidelines present an overall picture of the perimeters of the reimbursement policy and focuses on several of the items which are not reimbursable under current law. Specific questions concerning the member’s individual situation should be directed to the member’s tax advisor or accountant, or to the Chairman of the Efficiency Committee, who shall then direct such inquiry either to the Division of Legislative Audit or to Senate Legal Counsel.

Each member should bear in mind that it is the individual member’s duty to substantiate the expenses for which such member is claiming reimbursement in order to meet the constitutionally provided standards of the State of Arkansas and the applicable provisions of the federal and state income tax laws. Under the accountable plan certain restrictions are placed upon the employer before a reimbursement may be paid, and even though reimbursement is made to the member, in the event such reimbursement is challenged it is the responsibility of the individual member to substantiate such expenses.

**LEGISLATIVE EXPENSE REIMBURSEMENT FORM  
ARKANSAS SENATE**

**TO: Senate Fiscal Officer  
State Capitol, Room 320  
Little Rock, Arkansas 72201**

**DATE:** \_\_\_\_\_

**NAME:** \_\_\_\_\_ **SSN:** \_\_\_\_\_

The following is a statement of expenses incurred by me as a member of the Arkansas Senate of the General Assemble of the State of Arkansas for the period commencing \_\_\_\_\_ and ending \_\_\_\_\_, for items of expenditures for which reimbursement is authorized.

<b>100 OFFICE RENTAL OR EXPENSE</b>	
110 Office Equipment Rental/Lease	
120 Furnished Under Written Agreement	
130 Use Of Personal Residence	
140 Clerical Assistants	
150 Supplies	
160 Telephone	
<b>200 MEALS &amp; LODGING EXPENSES (IN-STATE)</b>	
211 Lodging	
212 Meals	
<b>220 MEALS &amp; LODGING EXPENSES (OUT-OF-STATE)</b>	
221 Lodging	
222 Meals	
<b>300 OTHER LEGISLATIVE EXPENSES (Newspaper Ad)</b>	
310 Entertainment	
320 Gifts	
330 Other	
331 Registration	
332 Postage	
333 Dues & Contributions	
<b>400 MILEAGE</b>	
410 In-State	
420 Out-Of-State	
<b>TOTAL LEGISLATIVE REIMBURSEMENT CLAIMED</b>	

I hereby certify that this statement of legislative expenses represents amount paid or incurred by me in connection with my duties as a member of the Senate. Documentation substantiating such expenses is attached.

\_\_\_\_\_ **SENATOR**

**LEGISLATIVE SERVICES CONTRACT**

For, and in consideration of the sum of \$\_\_\_\_\_ per month, or  
\$\_\_\_\_\_,per year \_\_\_\_\_ hereby  
agrees to provide **SENATOR** \_\_\_\_\_ legislative  
support services. Such support services include but are not limited to, office  
facilities, secretarial services, copying, office supplies, and other services which  
may be necessary or incidental to said legislator's duties or responsibilities as  
a public servant.

This contract may be amended or terminated upon mutual consent of the  
parties herein, or upon thirty (30) day written notice by either party.

The parties have hereunto set their hands on this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
**PROVIDER**

\_\_\_\_\_  
**LEGISLATOR**

**COMPUTATION OF HOME OFFICE EXPENSE  
FOR LEGISLATIVE USE OF PERSONAL RESIDENCE**

This form should be used to compute the amount of the items of expenditures for the legislative use of a member's personal residence for which reimbursement is authorized. By seeking reimbursement on this form you acknowledge that you have read the rules regarding the reimbursement of expenses incurred in the legislative use of a member's personal residence and that your use meets all of the tests required for reimbursement.

DATE: \_\_\_\_\_

NAME: \_\_\_\_\_ SS#: \_\_\_\_\_

**Computation of Business Use Percentage:**

Square Footage of Home Office/Square Footage of Member's Residence

\_\_\_\_\_ Square Feet / \_\_\_\_\_ Square Feet = \_\_\_\_\_ Percent

**Allocation of Expenses:**

Multiply monthly amount of expense (or if annual; expense 1/12th of such amount) times the business use \_\_\_\_\_ percentage to determine the reimbursable amount.

<u>Description &amp; Amount of Item</u>	X <u>Business Use Percentage</u>	X <u>Reimbursable Amount</u>
Mortgage Interest     \$ _____	X _____	=\$ _____
Insurance                 \$ _____	X _____	=\$ _____
Repairs & Maintenance \$ _____	X _____	=\$ _____
Utilities                    \$ _____	X _____	=\$ _____
Other Expenses            \$ _____	X _____	=\$ _____
Depreciation Allowance (See Below)		=\$ _____
	<b>TOTAL EXPENSES</b>	\$ _____

**Computation of Depreciation Allowance:**

An allowance for depreciation is computed on a straight line method of depreciation using a useful life of 31.5 years for a member's residence. The member's cost basis in the residence is divided by 31.5 years and multiplied times the business use percentage to determine the annual depreciation allowance. One-twelfth of such amount is reimbursable for each month of the member's use as a home office.

**#Note - "Ownership Issue"** - by claiming reimbursement for depreciation on this form you may be subjecting that portion of your residence to a claim of State ownership.

**Residence Cost/31.5 Years X Business Use Percentage = Depreciation**

\$ \_\_\_\_\_ /31.5 X \_\_\_\_\_ % = \$ \_\_\_\_\_ Annually

**Annual Depreciation /12 = Monthly Amount**

\$ \_\_\_\_\_ /12 = \$ \_\_\_\_\_

## EQUIPMENT LEASE AGREEMENT

\_\_\_\_\_, (Hereinafter called "Owner"), hereby leases to \_\_\_\_\_ (Hereafter called "Lessee"), and Lessee hereby agrees to lease from Owner, the equipment described herein, upon the terms and conditions hereinafter set forth.

**1. Equipment.** The equipment to be leased under this Lease Agreement (this "Lease") shall be the following: \_\_\_\_\_

\_\_\_\_\_  
(The "Equipment") for Lessee's use as a member of the Arkansas Senate.

**2. Term.** The term of this Lease ("the Lease Term") shall begin on the 1st day of \_\_\_\_\_, 19\_\_\_\_, and shall continue on a month to month basis until either party gives 30 days written notice to the other of an intent to terminate this Lease.

**3. Rental.** Lessee agrees to pay Owner as rental for the Equipment leased hereunder, the monthly sum of \$\_\_\_\_\_. The first monthly rental payment shall be due and payable on the first day of this Lease, and thereafter due and payable on the first day of each successive month thereafter throughout the term of this Lease.

**4. Lease.** It is mutually understood and agreed that this is a lease only and that it shall not be construed as a contract for sale, a conditional sale contract, an installment sale contract or the like. Lessee acknowledges and warrants that it has not acquired and shall not acquire, except as expressly stated herein, any right, title or interest to the Equipment which is and shall at all times remain the property of Owner.

**5. Risk of Loss and Condition of Equipment on Termination.** Lessee assumes the entire risk of loss or damage to the Equipment during the lease term. Lessee agrees to maintain the Equipment in good condition, to make any necessary repairs and to return it in good condition upon termination of this Lease, reasonable wear and tear excepted.

**6. Repairs, Maintenance and Alterations.** Lessee, at its own cost and expense, shall keep the Equipment in good repair, condition and working order.

**7. Entire Agreement.** This Lease constitutes the entire agreement between the parties and may not be changed except by an instrument in writing signed by all parties.

**IN WITNESS WHEREOF**, the parties have duly executed this Lease effective this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
"OWNER"

\_\_\_\_\_  
"LESSEE"

## INTERNAL REVENUE SERVICE GUIDELINES

### **Section 3121. Employment status under Section 530(d) of the Revenue Act of 1978.**

Guidelines are set forth for determining the employment status of a taxpayer (technical service specialist) affected by section 530(d) of the Revenue Act of 1978, as added by section 1706 of the Tax Reform Act of 1986. The specialists are to be classified as employees under generally applicable common law standards.

### **Rev. Rul. 87-41 ISSUE**

In the situations described below, are the individuals employees under the common law rules for purposes of the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and the Collection of Income Tax at Source on Wages (chapters 21, 23, and 24 respectively, subtitle C, Internal Revenue Code)? These situations illustrate the application of Section 530(d) of the Revenue Act of 1978, 1978-3 (Vol. 1) C.B. 119 (the 1978 Act), which was added by section 1706(a) of the Tax Reform Act of 1986, 1986-3 (Vol. 1) C.B. 698 (the 1986 Act) (generally effective for services performed and remuneration paid after December 31, 1986).

### **FACTS**

In each factual situation, an individual worker (Individual), pursuant to an arrangement between one person (Firm) and another person (Client), provides services for the Client as an engineer, designer, drafter, computer programmer, systems analyst, or other similarly skilled worker engaged in a similar line of work.

### **SITUATION ONE**

The firm is engaged in the business of providing temporary technical services to its clients. The Firm maintains a roster of workers who are available to provide technical services to prospective clients. The Firm does not train the workers but determines the services that the workers are qualified to perform based on information submitted by the workers.

The Firm has entered into a contract with the client. The contract states that the Firm is to provide the Client with workers to perform computer programming services meeting specified qualifications for a particular project. The individual, a computer programmer, enters into a contract with the Firm to perform services as a computer programmer for the Client's project, which is expected to last less than one year. The Individual is one of several programmers provided by the Firm to the Client. The Individual has not been an employee of or performed services for the Client (or any predecessor or affiliated corporation of the Client) at any time preceding the time at which the Individual begins performing services for the Client. Also, the Individual has not been an employee of or performed services for or on behalf of the Firm at any time preceding the time at which the Individual begins performing services for the Client. The Individual's contract with the firm states that the Individual is an independent contractor with respect to services performed on behalf of the Firm for the Client.

The Individual and the other programmers perform the services under the Firm's contract with the Client. During the time the Individual is performing services for the Client, even though the Individual retains the right to perform services for other persons, substantially all of the Individual's working time is devoted to performing services for the Client. A significant portion of the services are performed on the Client's premises. The Individual reports to the Firm by accounting for time worked and describing the progress of the work. The Firm pays

the Individual and regularly charges the Client for the services performed by the Individual. The Firm generally does not pay individuals who perform services for the Client unless the Firm provided such individuals to the Client.

The work of the Individual and other programmers is regularly reviewed by the Firm. The review is based primarily on reports by the Client about the performance of these workers. Under the contract between the Individual and the Firm, the Firm may terminate its relationship with the Individual if the review shows that he or she is failing to perform the services contracted for by the Client. Also, the Firm will replace the Individual with another worker if the Individual's services are unacceptable to the Client. In such a case, however, the Individual will nevertheless receive his or her hourly pay for the work completed.

Finally, under the contract between the Individual and the Firm, the Individual is prohibited from performing services directly for the Client and, under the contract between the Firm and the Client, the Client is prohibited from receiving services from the Individual for a period of three months following the termination of services by the Individual for the Client on behalf of the Firm.

### **SITUATION TWO**

The Firm is a technical services firm that supplies clients with technical personnel. The Client requires the services of a systems analyst to complete a project and contacts the Firm to obtain such an analyst. The Firm maintains a roster of analysts and refers such an analyst, the Individual, to the Client. The Individual is not restricted by the Client for the Firm from providing services to the general public while

performing services for the Client and in fact does perform substantial services for other persons during the period the Individual is working for the Client. Neither the Firm nor the Client has priority on the services of the Individual. The Individual does not report, directly or indirectly, to the Firm after the beginning of the assignment to the Client concerning (1) hours worked by the individual, (2) progress on the job, or (3) expenses incurred by the Individual in performing services for the Client. No reports (including reports of time worked or progress on the job) made by the Individual to the Client are provided by the Client to the Firm.

If the Individual ceases providing services for the Client prior to completion of the project or if the Individual's work product is otherwise unsatisfactory, the Client may seek damages from the Individual. However, in such circumstances, the Client may not seek damages from the Firm, and the Firm is not required to replace the Individual. The Firm may not terminate the services of the Individual while he or she is performing services for the Client and may not otherwise affect the relationship between the Client and the Individual. Neither the Individual nor the Client is prohibited for any period after termination of the Individual's services on this job from contracting directly with the other.

For referring the Individual to the Client, the Firm receives a flat fee that is fixed prior to the individual's commencement of services for the Client and is unrelated to the number of hours and quality of work performed by the Individual. The Individual is not paid by the Firm either directly or indirectly. No payment made by the Client to the Individual reduces the amount of the fee that the Client is otherwise required to pay the Firm. The individual is performing services that can be accomplished without the Individual's receiving

direction or control as to hours, place of work, sequence, or details of work.

### **SITUATION THREE**

The Firm, a company engaged in furnishing client firms with technical personnel, is contacted by the Client, who is in need of the services of a drafter for a particular project, which is expected to last less than one year. The Firm recruits the Individual to perform the drafting services for the Client. The Individual performs substantially all of the services for the Client at the office of the Client, using material and equipment of the Client. The services are performed under the supervision of employees of the Client. The Individual reports to the Client on a regular basis. The Individual is paid by the Firm based on the number of hours the Individual has worked for the Client, as reported to the Firm by the Client or as reported to the Firm by the Client. The firm has no obligation to pay the Individual if the Firm does not receive payment for the Individual's services from the Client.

For recruiting the Individual for the Client, the Firm receives a flat fee that is fixed prior to the Individual's commencement of services for the Client and is unrelated to the number of hours and quality of work performed by the Individual. However, the Firm does receive a reasonable fee for performing the payroll function. The Firm may not direct the work of the Individual and has no responsibility for the work performed by the individual. The Firm may not terminate the Services of the Individual. The Client may terminate the services of the Individual without liability to either the Individual or the Firm. The Individual is permitted to work for another firm while performing services for the Client, but does in fact work for the Client on a substantially full-time basis.

### **LAW AND ANALYSIS**

This ruling provides guidance concerning the factors that are used to determine whether an employment relationship exists between the Individual and the Firm for federal employment tax purposes and applies those factors to the given factual

situations to determine whether the Individual is an employee of the Firm for such purposes. The ruling does not reach any conclusions concerning whether an employment relationship for federal employment for federal employment tax purposes exist between the Individual and the Client in any of the factual situations.

Analysis of the preceding three fact situations require an examination of the common law rules for determining whether the Individual is an employee with respect to either the Firm or the Client, a determination of whether the Firm or the Client qualifies for employment tax relief under section 530(a) of the 1978 Act, and a determination of whether any such relief it denies the Firm under section 530(d) of the 1978 Act (added by section 1706 of the 1986 Act).

An individual is an employee for federal employment tax purposes if the individual has the status of an employee under the usual common law rules applicable in determining the employer-employee relationship. Guides for determining that status are found in the following three substantially similar sections of the Employment Tax Regulations: sections 31.3121(d)-1(c); 31.3306(i)-1; and 31.3401(c)-1.

These sections provide that generally the relationship of employer and employee exists when the person or persons for whom the services are performed have the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but as to how it shall be done. In this connection, it is not

necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if the employer has the right to do so.

Conversely, these sections provide, in part, that individuals (such as physicians, lawyers, dentists, contractors, and subcontractors) who follow an independent trade, business, or profession, in which they offer their services to the public, generally are not employees.

Finally, if the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such a relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, independent contractor, or the like.

As an aid to determining whether an individual is an employee under the common law rules, twenty factors or elements have been identified as indicating whether sufficient control is present to establish an employer-employee relationship. The twenty factors have been developed based on an examination of cases and rulings considering whether an individual is an employee. The degree of importance of each factor varies depending on the occupation and the factual context in which the services are performed. The twenty factors are designed only as guides for determining whether an individual is an employee; special scrutiny is required in applying the twenty factors to assure that formalistic aspects of an arrangement designed to achieve a particular status do not obscure the substance of the arrangement (that is, whether the person or persons for whom the services are performed exercise sufficient control over the individual to be classified as an employee). The twenty factors are described below:

1. **Instructions.** A worker who is required to comply with other persons' instructions about when, where, and how he or she is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions. See for example, Rev. Rul. 68-598, 1968-2 C.B. 464, and Rev. Rul. 66-381, 1966-2 C.B. 449.
2. **Training.** Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner. See Rev. Rul. 70-630, 1970-2 C.B. 229.
3. **Integration.** Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business. See UNITED STATES v. SILK, 331 U.S. 704 (1947), 1947-2 C.B. 167.
4. **Services Rendered Personally.** If the services must be rendered personally, presumably the person or persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results. See Rev. Rul. 55-695, 1955-2 C.B. 410.
5. **Hiring, Supervising, and Paying Assistants.** If the person or persons for whom the services are performed hire, supervise, and pay assistants, that factor generally shows control over the workers on the job. However, if one worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, this factor indicates an independent contractor status. Compare Rev. Rul. 63-115, 1963-1 C.B. 178, with Rev. Rul. 55-593, 1955-2 C.B. 610.
6. **Continuing Relationship.** A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals. See UNITED STATES v. SILK.
7. **Set Hours of Work.** The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control. See Rev. Rul. 73-591, 1973-2 C.B. 337.
8. **Full Time Required.** If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, such person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor, on the other hand, is free to work when and for whom he or she chooses. See Rev. Rul. 56-694, 1956-2 C.B. 694.
9. **Doing Work on Employer's Premises.** If the work is performed on the premises of the person or persons for whom the services are performed, that factor suggests control over the worker, especially if the work could be done elsewhere. Rev. Rul. 56-660, 1956-2 C.B. 693. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom

from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform such services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required. See Rev. Rul. 56-694.

10. **Order or Sequence Set.** If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, that factor shows that the worker is not free to follow the worker's own pattern of work but must follow the established routines and schedules of the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if such person or persons retain the right to do so. See Rev. Rul. 56-694.
11. **Oral or Written Reports.** A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control. See Rev. Rul. 70-309, 1970-1 C.B. 199, and Rev. Rul. 68-248, 1968-1 C.B. 431.
12. **Payment by Hour, Week, Month.** Payment by the hour, week, or month generally points to an employer-employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed upon as

the cost of a job. Payment made by the job or on a straight commission generally indicates that the worker is an independent contractor. See Rev. Rul. 74-389, 1974-2 C.B. 330.

13. **Payment of Business and/or Traveling Expenses.** If the person or persons for whom the services are performed ordinarily pay the worker's business and/or traveling expenses, the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities. See Rev. Rul. 55-144, 1955-1 C.B. 483.
14. **Furnishing of Tools and Materials.** The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship. See Rev. Rul. 71-524, 1971-2 C.B. 346.
15. **Significant Investment.** If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees (such as the maintenance of an office rented at fair market value from an unrelated party), the factor tends to indicate that the worker is an independent contractor. On the other hand, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for such facilities and, accordingly, the existence of employer-employee relationship. See Rev. Rul. 71-524. Special scrutiny is required with respect to certain types of facilities, such as home offices.
16. **Realization of profit or Loss.** A worker who can realize a profit or suffer a loss as a result of the worker's services (in addition to the profit or loss ordinarily realized by employees) is generally an independent contractor, but the worker who cannot is an employee. See Rev. Rul. 70-309. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated

employees, that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for his or her services, however, is common to both independent contractors and employees and thus does not constitute a sufficient economic risk to support treatment as an independent contractor.

17. **Working for More than One Firm at a Time.** If a worker performs more than de minimis services for a multiple of unrelated persons or firms at the same time that factor generally indicates that the worker is an independent contractor. See Rev. Rul. 70-572, 1970-2 C.B. 221. However, a worker who performs services for more than one person may be an employee of each of the persons, especially where such persons are part of the same services arrangement.
18. **Making Service Available to General Public.** The fact that a worker makes his or her services available to the general public on a regular and consistent basis indicates an independent contractor relationship. See Rev. Rul. 56-660.
19. **Right to Discharge.** The right to discharge a worker is a factor indicating that the worker is an employee and the person processing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor, on the other hand, cannot be fired so long as the independent contractor produces a result that meets the contract specifications. Rev. Rul. 75-41, 1975-1 C.B. 323.

20. **Right to Terminate.** If the worker has the right to end his or her relationship with the person for whom the services are performed at any time he or she wishes without incurring liability, that factor indicates an employer-employee relationship. See Rev. Rul. 70-309.

**Rev. Rul. 75-41** considers the employment tax status of individuals performing services for a physician's professional service corporation. The corporation is in the business of providing a variety of services to professional people and firms (subscribers), including the services of secretaries, nurses, dental hygienists, and other similarly trained personnel. The individuals who are to perform the services are recruited by the corporation, paid by the corporation, assigned to jobs, and provided with employee benefits by the corporation. Individuals who enter into contracts with the corporation agree they will not contract directly with any subscriber to which they are assigned for at least three months after cessation of their contracts with the corporation. The corporation assigns the individual to the subscriber to work on the subscriber's premises with the subscriber's equipment. Subscribers have the right to require that an individual furnished by the corporation cease providing services to them, and they have the further right to have such individual replaced by the corporation within a reasonable period of time, but the subscribers have no right to affect the contract between the individual and the corporation. The corporation retains the right to discharge the individuals at any time. Rev. Rul. 75-41 concludes that the individuals are employees of the corporation for federal employment tax purposes.

**Rev. Rul. 70-309** considers the employment tax status of certain individuals who perform services as oil well pumpers for a

corporation under contracts that characterize such individuals as independent contractors. Even though the pumpers perform their services away from the headquarters of the corporation and are not given day-to-day directions and instructions, the ruling concludes that the pumpers are employees of the corporation because the pumpers perform their services pursuant to an arrangement that gives the corporation the right to exercise whatever control is necessary to assure proper performance of the services; the pumpers' services are both necessary and incident to the business conducted by the corporation; and the pumpers are not engaged in an independent enterprise in which they assume the usual business risks, but rather work in the course of the corporation's trade or business. See also Rev. Rul. 70-630, 1970-2 C.B. 229, which considers the employment tax status of salesclerks furnished by an employee service company to a retail store to perform temporary services for the store.

**Section 530(a) of the 1978 Act, as amended by Section 269(c) of the Tax Equity and Fiscal Responsibility Act of 1982, 1982-2 C.B. 462, 536,** provides, for the purposes of the employment taxes under subtitle C of the Code, that if a taxpayer did not treat an individual as an employee for any period, then the individual shall be deemed not to be an employee, unless the taxpayer had no reasonable basis for not treating the individual as an employee. For any period after December 31, 1978, this relief applies only if both of the following consistency rules are satisfied: (1) all federal tax returns (including information returns) required to be filed by the taxpayer with respect to the individual for the period are filed on a basis consistent with the taxpayer's treatment of the individual as not being an employee ("reporting consistency rule"), and (2) the taxpayer (and any predecessor) has not treated any individual holding a substantially similar position as an employee for purposes of the employment taxes for periods beginning after December 31, 1977 ("substantive consistency rule").

The determination of whether any individual who is treated as an employee holds a position substantially similar to

the position held by an individual whom the taxpayer would otherwise be permitted to treat as other than an employee for employment tax purposes under section 530(a) of the 1978 Act requires an examination of all the facts and circumstances, including particularly the activities and functions performed by the individuals. Differences in the positions held by the respective individuals that result from the taxpayer's treatment of one individual as an employee and the other individual as other than an employee (for example, that the former individual is a participant in the taxpayer's qualified pension plan or health plan and the latter individual is not a participant in either) are to be disregarded in determining whether the individuals hold substantially similar positions.

**Section 1706(a) of the 1986 Act** added to section 530 of the 1978 Act a new subsection (d) which provides an exception with respect to the treatment of certain workers. Section 530(d) provides that section 530 shall not apply in the case of an individual who, pursuant to an arrangement between the taxpayer and another person, provides services for such other person as an engineer, designer, drafter, computer programmer, systems analyst, or other similarly skilled worker engaged in a similar line of work. Section 530(d) of the 1978 Act does not affect the determination of whether such workers are employees under the common law rules. Rather, it merely eliminates the employment tax relief under section 530(a) of the 1978 Act that would otherwise be available to a taxpayer with respect to those workers who are determined to be employees of the taxpayer under the usual common law rules. Section 530(d) applies to remuneration paid and services rendered after December 31, 1986.

The Conference Report on the 1986 Act discusses the effect of section 530(d) as follows:

The Senate amendment applies whether the services of (technical service workers) are provided by the firm to only one client during the year or to more than one client, and whether or not such individuals have been designated or treated by the technical services firm as independent contractors, sole proprietors, partners, or employees of a personal service corporation controlled by such individual. The effect of the provision cannot be avoided by claims that such technical service personnel are employees of personal service corporations controlled by such personnel. For example, an engineer retained by a technical services firm to provide services to a manufacturer cannot avoid the effect of this provision by organizing a corporation that he or she controls then claiming to provide services as an employee of that corporation. The provision does not apply with respect to individuals who are classified, under the generally applicable common law standards, as employees of a business that is a client of the technical services firm.

**2 H.R. Rep. No. 99-841 (conf. Rep.), 99<sup>th</sup> Cong., 2<sup>nd</sup> Sess. II-834 to 845 (1986).** Under the facts of Situation 1, the legal relationship is between the Firm and the Individual, and the Firm retains the right of control to insure that the services are performed in a satisfactory fashion. The fact that the Client may also exercise some degree of control over the Individual does not indicate that the individual is not an employee. Therefore, in Situation 1, the Individual is an employee of the Firm under the common law rules. The facts in Situation 1 involve an arrangement among the Individual, Firm, and Client, and the services provided by the Individual are technical services.

Accordingly, the Firm is denied section 530 relief under section 530(d) of the 1978 Act (as added by section 1706 of the 1986 Act), and no relief is available with respect to any employment tax liability incurred in Situation 1. The analysis would not differ if the facts of Situation 1 were changed to state that the Individual provided technical services through a personal service corporation owned by the Individual.

In Situation 2, the Firm does not retain any right to control the performance of the services by the Individual and thus, no employment relationship exists between the Individual and the Firm.

In Situation 3, the Firm does not control the performance of the services of the individual, and the Firm has no right to affect the relationship between the Client and the Individual. Consequently, no employment relationship exists between the Firm and the Individual.

## **HOLDINGS**

**Situation 1.** The Individual is an employee of the Firm under the common law rules. Relief under section 530 of the 1978 Act is not available to the Firm because of the provisions of section 530(d).

**Situation 2.** The Individual is not an employee of the Firm under the common law rules.

**Situation 3.** The Individual is not an employee of the Firm under the common law rules.

Because of the application of section 530(d) of the 1978 Act, no inference should be drawn with respect to whether the Individual in Situations 2 and 3 is an employee of the Client for federal tax purposes.

## TR-1

### TRAVEL REIMBURSEMENT FORM

The TR-1 form is used for reimbursement of expenses incurred for in-state or out-of-state travel as well as for attending committee meetings. These expenses must be pre-approved or authorized by the President Pro Tempore of the Senate

The form must be signed and accompanied by actual receipts for all expenses incurred. As it is used for actual reimbursement it is not necessary to list it on your tax return.



