

# Accountable Reimbursement Plan

Guidelines, Discussions  
and  
Addendum



Arkansas House of Representatives  
**89TH GENERAL ASSEMBLY**  
(10/1/12)

## TABLE OF CONTENTS

Guidelines for Legislative Expense Reimbursement .....	Page 1
Authorized Reimbursable Items of Expenses/Codes .....	Page 2
Glossary .....	Page 8
Items Not Reimbursable Under Current Law .....	Page 9
Documentation Requirements.....	Page 10
Conclusion .....	Page 13
Legislative Expense Reimbursement (sample form) .....	Page 14
Legislative Mileage and Expense Log (sample form) .....	Page 16
Legislative Services Contract (sample form) .....	Page 17
Equipment Lease Agreement (sample form) .....	Page 18
Computation of Office Expense for Legislative Use (sample form) .....	Page 19
Contract Labor Vs. Employee Determination - IRS guidelines ("20-point test").....	Page 20
Computation of Expenses Incurred in Member's Trade or Business .....	Page 23
Travel Expense Detail Form (TED) Explanation .....	Page 25
Travel Expense Detail Form (TED) (sample form) .....	Page 26



# GUIDELINES FOR LEGISLATIVE EXPENSE REIMBURSEMENT

IN GENERAL - Amendment 70 to the Arkansas Constitution entitles members of the General Assembly to seek reimbursement for documented expenditures within the limitations provided by law. Arkansas Code Annotated §10-2-212, §10-2-215, §10-2-217 recognizes and authorizes the Speaker of the House to establish the method of reimbursing members of the House for ordinary and necessary expenses incurred in the performance of their duties as members of the General Assembly. Each member is currently eligible to seek reimbursement for up to \$14,400.00 of such expenditures for each calendar year. Committee Chairmen and Subcommittee Chairmen 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 expense reimbursed by an employer in order to avoid the employee having to take such amounts into income on the employee's income tax return. To meet both the Constitutional standard and the federal income tax standard the Arkansas House of Representatives has 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 expenditures prior to seeking reimbursement. The substantiation must contain information sufficient enough for the payor, the House of Representatives, to determine the following:

1. The amount of each such expense,
2. The date, place and nature of each such expense,
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, members may retain actual documentary evidence (receipts, bills, canceled checks, etc.) and/or choose to maintain a diary, log (*see Page 14*) 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 Speaker of the House of Representatives withholding reimbursement for such expenses until such time as the member has submitted documentary evidence meeting the four requirements.

## AUTHORIZED REIMBURSABLE ITEMS OF EXPENSE

The Speaker of the House shall, within the limitations of the Arkansas Constitution and Internal Revenue Service guidelines, determine which expenditures constitute ordinary and necessary expenses. The following is a partial list of authorized reimbursable items of expense:

- 100    OFFICE RENTAL OR EXPENSES    A member may seek reimbursement for costs 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/her 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, desks, 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 member's 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 House of Representatives, due to the issues of State ownership. A member may seek reimbursement for the rental or lease of such equipment. *(See Page 14)*
- 120    FURNISHED UNDER WRITTEN AGREEMENT/OFFICE SPACE, ITEMS AND SERVICES FURNISHED AS A PORTION OF EXPENSES INCURRED IN A MEMBER'S REGULAR TRADE OR BUSINESS    If the member enters into a written agreement with his/her 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.

It is not necessary that the agreement be with a separate entity in the event that 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 businessmen 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/she 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. (See Page 17)

**The member should provide the following as support for a claim for reimbursement for legislative expenses:**

- (1) A copy of the rental or lease agreement, if you are a tenant of the premises; or, a statement showing the fair market value of the premises, if you are an owner of the premises, showing the total amount of rent paid for the office in your regular trade or business. (If you are the sole occupant of the office used in your regular trade or business, then 100% of the agreement is applicable. If you are not the sole occupant, then a statement should accompany the agreement attesting to the portion of the total rent allocable to your office.)
- (2) A good faith estimate of the time spent in the office on legislative business as a percentage of the total time spent in the office on your regular trade or business.
- (3) A W-2, 1099, check stub, or other similar documentation showing the salary paid for secretarial services and a statement as to the taxes, and benefits paid for secretarial services which are allocated to you for your regular trade or business. (If you are the sole user of secretarial services in your regular trade or business, then 100% of the secretarial services will be attributable to you. If you share secretarial services with others, then a certain portion of secretarial expenses should be allocated to you.)
- (4) A good faith estimate of cost of copies and facsimiles used in the member's legislative business.
- (5) A statement of total telephone costs for the month for legislative business, accompanied by the summary of the telephone bill provided by the telephone service provider.

**NOTE: See Computation Form Attached (See Page 14)**

- 130 USE OF PERSONAL RESIDENCE Reimbursement for expenses incurred for 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 for expenses connected to the use of a 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-legislative 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, and 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/her residence as an office for legislative business 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 a legislative 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 legislative business use to determine the depreciable basis of the home. For example, a \$75,000.00 residence that contains a home office representing twenty percent of the home, would yield a depreciation deduction of \$476.00 for the tax year ( $\$75,000 \times .20 \div 31.5$ ). Mortgage interest and utilities would likewise be pro rated based on the business use percentage.

#NOTE - See Computation Form Attached. (See Page 19)

Additionally, 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 costs 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 costs 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". (See Pages 20-22)

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 (regular and cellular), telegraph, beepers, 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 for legislative activities. **However, the business use of the telephone line must be documented as required by Section 120 and page 1 of these Guidelines. It is not required, however, that such documentation reveal calls that are not related to legislative business.** Separate lines listed in the name of the representative are fully reimbursable to the extent that the phone is used exclusively for legislative purposes. All



long distance charges and other direct communication costs for legislative purposes 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 (IN-STATE)    A member incurring travel expenses for a non-legislative day (including seminars and conferences) may seek reimbursement for the cost of such expenditures as a legislative expense. Travel expenses include lodging, meals and incidental expenses up to a maximum of \$34.00 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 lodging and incidental expenses must be accompanied by a lodging receipt. Any member submitting a lodging receipt may claim a meals and incidental expense allowance of \$34.00 per day without providing additional documentation. *(See Page 14)*
- 300    TRAVEL, MEALS AND LODGING EXPENSES (OUT-OF-STATE)    A member incurring out-of-state travel expenses which have not been authorized for payment by the Speaker of the House 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.
- 400    TRAVEL, MEALS AND EXPENSES (During Session and Interim)  
During the legislative session, qualified members are paid mileage and per diem weekly from their respective chamber. During the interim, qualified members are paid mileage and per diem for committee meetings, as authorized by the Speaker of the House or the President Pro Tempore of the Senate.

It is the policy of the Arkansas General Assembly, as a term-limited body, to encourage legislators to learn as much as possible by attending meetings of committees of which they are NOT a member. The payment of per diem and mileage, however, is NOT automatic, but is subject to the PRIOR approval of the Committee Chair.

Members of the Legislative Council and Audit Committees should check with their respective co-chairmen. The Speaker of the House authorizes all other travel that is to be reimbursed by the House.

Council and Audit members may turn in receipts to the Chief of Staff, or his/her designee, of the House of Representatives. Hotel, airfare, meals, taxi, registration fee and parking are allowable expenditures.

Dates for major annual meetings, such as NCSL, CSG, SLC and ALEC, can be obtained from the Chief of Staff, or his/her designee, of the House of Representatives. Also, meeting agendas and social function calendars will be available in advance of the meetings or at the meeting sites.

- 500 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. Gifts to any one person or entity may not exceed \$25.00 per calendar year.

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 purposes 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. *(See Pages 14-15)*

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 the member's personal tax return.**

- 600 MILEAGE REIMBURSEMENT The reimbursement for travel expenses incurred in the performance of legislative duties is determined by Arkansas Code Annotated §10-2-212, which is dictated by IRS Code 162(h) and GSA Federal Travel Regulations. No reimbursement for automobile expenses may be claimed in excess of the mileage allowance prescribed by law.

*#NOTE* - No reimbursement may be claimed for automobile lease payments, maintenance expenses or depreciation in excess of the maximum mileage rate prescribed by law. *(See Page 15)*

## 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 member was formally recorded at a 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 for 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 costs of such equipment.

Due to the State Ownership Issue, the rules of the House of Representatives 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, 1987-2 C.B. 296, used in determining employee's status. Outline included herein. *(See Pages 20-22)*
5. "Residence Computations" - (For Home office use of personal residence) - See attached sheet. *(See Page 19)*

## 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 limitation prescribed by law.

CERTAIN AUTOMOBILE EXPENSES - Automobile lease payments or actual expenses incurred in excess of the standard mileage rate in the operation of a 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 such 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, and 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.

**DOCUMENTATION NECESSARY FOR PROPER FILING  
OF LEGISLATIVE EXPENSE REIMBURSEMENT FORM**

100 OFFICE RENTAL OR EXPENSE

110 OFFICE EQUIPMENT RENTAL/LEASE

1. Signed copy of agreement on file
2. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file

120 OFFICE SPACE, ITEMS AND SERVICES FURNISHED PURSUANT TO WRITTEN AGREEMENT AND AS A PORTION OF EXPENSES INCURRED IN A MEMBER'S REGULAR TRADE OR BUSINESS

1. Contract on file
2. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file
3. Copy of Computation of Office Space, Items and Services as a Portion of Expenses Incurred in Member's Regular Trade or Business Expense

130 USE OF PERSONAL RESIDENCE

1. Computation of Home Office Expense for Legislative Use of Personal Residence sheet each time you file

140 CLERICAL ASSISTANTS

1. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file
2. Documents substantiating amount claimed

150 SUPPLIES

1. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file
2. Documents substantiating amount claimed

160 TELEPHONE

1. Copy of telephone bill substantiating amount claimed
2. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file

200 MEALS & LODGING EXPENSES (IN-STATE)

210 LODGING

1. Copy of paid hotel bill (The Mileage and Expense Log is used for documenting the proper information.)
2. Travel Expense Detail
3. Receipts
4. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file

220 MEALS

1. Copies of restaurant receipts or maximum of \$34.00 with each night's lodging receipt
2. Travel Expense Detail
3. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file

300 MEALS & LODGING EXPENSES (OUT-OF-STATE)

310 LODGING

1. Copy of paid hotel bill (The Mileage and Expense Log is used for documenting the proper information.)
2. Travel Expense Detail
3. Receipts
4. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file

320 MEALS

1. Copies of restaurant receipts or maximum of \$34.00 with each night's lodging receipt
2. Travel Expense Detail
3. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file

400 TRAVEL, MEALS AND EXPENSES (During Session and Interim)

410 LODGING

1. Copy of paid hotel bill (The Mileage and Expense Log is used for documenting the proper information.)
2. Travel Expense Detail
3. Receipts
4. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file

420 MEALS

1. Copies of restaurant receipts or maximum of \$34.00 with each night's lodging receipt
2. Travel Expense Detail
3. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file

500 OTHER LEGISLATIVE EXPENSES

510 ENTERTAINMENT

1. Proof of purpose and location; receipts (The Mileage and Expense Log is used for documenting.)
2. Documents substantiating amount claimed

3. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file

520 GIFTS

1. Documents substantiating amount claimed
2. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file

530 OTHER

1. Documents substantiating amount claimed
2. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file

540 REGISTRATION FEES

1. Documents substantiating amount claimed
2. Copy of paid receipt or canceled check (The Mileage and Expense Log is used for documenting.)

550 POSTAGE

1. Documents substantiating amount claimed
2. Copy of paid receipt or canceled check

560 DUES & CONTRIBUTIONS

1. Documents substantiating amount claimed
2. Proof of payment, i.e., copy of canceled check, receipt or statement each time you file

600 MILEAGE

610 IN-STATE

1. Legislative Mileage and Expense Log

620 OUT-OF-STATE

1. Legislative Mileage and Expense Log (All necessary information must be included.)

## **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 parameters of the reimbursement policy; and, focus 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.

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 expense.



**LEGISLATIVE EXPENSE REIMBURSEMENT FORM  
HOUSE OF REPRESENTATIVES**

**TO: Speaker of the House of Representatives**

**Arkansas House of Representatives  
350 State Capitol Building  
500 Woodlane Avenue  
Little Rock, Arkansas 72201-1089**

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

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

The following is a statement of expenses incurred by me as a member of the House of Representatives of the General Assembly 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 (Attach a signed copy of Rental/Lease Agreement and proof of payment.)	
120 Office Space, Items and Services Furnished Pursuant to Written Agreement and as a Portion of Expenses Incurred in a Member's Regular Trade or Business (Attach a copy of Computation of Office Space, Items and Services as a Portion of Expenses Incurred in Member's Regular Trade or Business Expense.)	
130 Use Of Personal Residence (Attach copy of Computation of Office Expense for Legislative Use.)	
140 Clerical Assistants (Attach documents substantiating amount claimed and proof of payment.)	
150 Supplies (Attach receipts substantiating amount claimed and proof of payment.)	
160 Telephone (Attach bill substantiating amount claimed and proof of payment.)	
<b>200 MEALS &amp; LODGING EXPENSES (IN-STATE)</b>	
210 Lodging (Attach Travel Expense Detail, receipts, and proof of payment.)	
220 Meals (Attach Travel Expense Detail, receipts, and proof of payment.)	
<b>300 MEALS &amp; LODGING EXPENSES (OUT-OF-STATE)</b>	
310 Lodging (Attach Travel Expense Detail, receipts, and proof of payment.)	
320 Meals (Attach Travel Expense Detail, receipts, and proof of payment.)	
<b>400 TRAVEL, MEALS AND EXPENSES (During Session and Interim)</b>	
410 Lodging (Attach Travel Expense Detail, receipts, and proof of payment.)	
420 Meals (Attach Travel Expense Detail, receipts, and proof of payment.)	
<b>500 OTHER LEGISLATIVE EXPENSES</b>	
510 Entertainment (Attach documents substantiating amount claimed and proof of payment.)	

520 Gifts (Attach documents substantiating amount claimed and proof of payment.)	
530 Other (Attach documents substantiating amount claimed and proof of payment.)	
540 Registration Fees (Attach documents substantiating amount claimed and proof of payment.)	
550 Postage (Attach documents substantiating amount claimed and proof of payment.)	
560 Dues & Contributions (Attach documents substantiating amount claimed and proof of payment.)	
<b>600 MILEAGE</b>	
610 In-State (Attach Legislative Mileage and Expense Log.)	
620 Out-Of-State (Attach Legislative Mileage and Expense Log.)	
(Less House Media Services Expenses Incurred)	
<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 House of Representatives. Documentation substantiating such expenses is attached.

---

**Signature of Representative**

(10/1/2012 revised)

## LEGISLATIVE SERVICES CONTRACT

For and in consideration of the sum of \$\_\_\_\_\_ per \_\_\_\_\_, less expenses incurred for House Media Services, \_\_\_\_\_ (Provider) hereby agrees to provide \_\_\_\_\_ (Legislator) 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 at any time by mutual consent, or may be terminated by either party with thirty (30) days written notice.

The parties have hereunto set their hands on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature of Provider)

\_\_\_\_\_  
(Signature of Representative)

## EQUIPMENT LEASE AGREEMENT

\_\_\_\_\_, (Hereinafter called "Owner"), hereby leases to \_\_\_\_\_ (Hereinafter 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 House of Representatives.

2. Term. The term of this Lease (the "Lease Term") shall begin on the 1st day of \_\_\_\_\_, 20\_\_\_\_, 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"

## COMPUTATION OF OFFICE EXPENSE FOR LEGISLATIVE USE

This form should be used to compute the amount of the items of expenditures for the legislative use of a member's personal residence or other office space 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 or other office space and that your use meets all of the tests required for reimbursement.

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

NAME: \_\_\_\_\_

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

### Computation of Business Use Percentage:

Square Footage of Home or Other Office Space ÷ Square Footage of Member's Residence or Other Office Space

\_\_\_\_\_ 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 and Amount of Item</u>		X	<u>Business Use Percentage</u>	=	<u>Reimbursable Amount</u>
Mortgage Interest	\$ _____	X	_____	=	\$ _____
Insurance	\$ _____	X	_____	=	\$ _____
Repairs and 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 or other office space. The member's cost basis in the residence or other office space 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 or other office away from the State Capitol.

*#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 or Other Office Space Cost ÷ 31.5 Years X Business Use Percentage = Depreciation

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

Annual Depreciation ÷ 12 = Monthly Amount

\$ \_\_\_\_\_ ÷ 12 = \$ \_\_\_\_\_

## CONTRACT LABOR VS. EMPLOYEE DETERMINATION

The Internal Revenue Service issued Revenue Ruling 87-41 that did not reach any conclusion concerning whether an employment relationship for federal tax purposes existed in the situations presented but did provide guidance concerning the factors that are used to determine whether an employment relationship exists. The following is an analysis of the ruling and an enumeration of the "20 point test" or factors used to determine employment status.

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, co-adventurer, 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 for 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. Often, because of the nature of an occupation, 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 value from an unrelated party), that 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 service 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 possessing 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.

# COMPUTATION OF OFFICE SPACE, ITEMS AND SERVICES AS A PORTION OF EXPENSES INCURRED IN MEMBER'S REGULAR TRADE OR BUSINESS EXPENSE

## STANDARD FORM FOR IDENTIFYING EXPENSES TO BE REIMBURSED

This form should be used to compute the amount of the items of expenditures for the legislative use of a portion of the member's expenses incurred in the member's regular trade or business 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 regular trade or business and that your use meets all of the tests required for reimbursement.

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

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

<u>Description &amp; Amount of Item</u>	<u>Legislative Business Use</u>	<u>Reimbursable Amount</u>
	X <u>Percentage</u>	X
OFFICE USE \$ _____	X _____	=\$ _____
SECRETARIAL \$ _____	X _____	=\$ _____
TELEPHONE \$ _____	X _____	=\$ _____
COPYING \$ _____	X _____	=\$ _____
Other Expenses \$ _____	X _____	=\$ _____
		=\$ _____
	TOTAL EXPENSES	\$ _____

### OFFICE SPACE COSTS:

**Step 1.** Determine the amount of rent that is allocable to your office for your regular trade or business. (See 120)

**Step 2.** Determine the amount of office time spent on legislative business, e.g. office conferences, telephone calls, etc.

**Step 3.** Determine the amount of office time spent on legislative business as a percentage of the total office time spent by you in your regular trade or business. This percentage determines the amount reimbursable for the use of office space. Ex: the amount of rent allocable to your office (Step 1) is \$1000; the time spent on legislative business as a percentage of total office time is 10%; 10% of \$1000 is \$100. This is the reimbursable amount. (Attach a copy of the rental or lease agreement or occupancy agreement if you are an owner of the premises you occupy.)

### SECRETARIAL COSTS:

**Step 1.** Determine the amount of time the secretary spends on your legislative business.

**Step 2.** Determine the amount of secretarial cost (salary, payroll taxes, and benefits) paid by your regular trade or business. (If you are the sole user of secretarial services, the amount will be the total amount paid. If you share secretarial services with others, the amount will be the amount allocated to you.) (Attach a copy of the W-2, 1099, check stub, or other similar documentation.)

**Step 3.** Determine the secretarial expense for legislative business by determining the time spent on legislative business as a percentage of the amount of secretarial cost paid by your regular trade or business. **Ex:** 5 hours of secretarial time attributable to legislative business of 20 hours per month allocated to your regular trade or business; 25% of the \$10,000 secretarial cost allocated to you for your regular trade or business equals \$2500 in reimbursable expense.

### TELEPHONE COSTS:

**Step 1.** Determine the cost of telephone calls related to legislative business. Submit the monthly summary of telephone service charges provided by your telephone service provider.

### COPY CHARGES:

**Step 1.** Determine the number of copies and the actual cost of such copies.

(TED)  
**TRAVEL EXPENSE DETAIL FORM**

The Travel Expense Detail Form (TED) 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 Speaker of the House of Representatives.

The form must be signed and accompanied by actual receipts for all expenses incurred.

## COST CENTER \_\_\_\_\_

NAME OF REPRESENTATIVE

[illegible]

(1) Postage (2) Parking Fee (3) Registration Fee (4) Emergency Car Repairs  
(5) Guide Service for the Blind (6) Minor Purchases (7) Meals for State Guests  
and Wardens of the State (8) Other (Explain)

JUSTIFICATION FOR EXCEEDING PER DIEM:

Approved _____	
	Travel Supervisor
	<div style="float: right; width: 80px;">SUBTOTAL</div> <div style="clear: both;"></div> <div style="float: right; width: 80px;">MILEAGE CLAIMED</div> <div style="clear: both;"></div> <div style="float: right; width: 80px;">TOTAL CLAIMED</div> <div style="clear: both;"></div> <div style="float: right; width: 80px;">Signature of Traveler</div> <div style="clear: both;"></div> <div style="float: right; width: 80px;">Title</div> <div style="clear: both;"></div> <div style="float: right; width: 80px;">(TED 4/5/2012)</div> <div style="clear: both;"></div>

## ACKNOWLEDGEMENT

I, hereby, acknowledge that I have read and understood the contents of the House of Representatives' Accountable Reimbursement Plan; and, I am aware of my individual responsibility to comply with the policies stated herein, Amendment 70, Arkansas Code Annotated §10-2-212 and the settlement agreement resulting from *Wells v. Taylor*, all of which have been supplied to me. I recognize that all of the information provided to me may not address individual circumstances or situations which may apply to me; and, therefore, is for my information only. Any professional advice or guidance needed to comply with the policies stated herein, will be my responsibility to secure independently of the House of Representatives.

---

Name of Representative (Printed)

---

Signature of Representative

---

Date

# Addendum

Amendment 70

A.C.A §10-2-212

Section 162(h)

*Wells v. Taylor* Settlement Agreement

---

**Amendment 70.**  
**Executive Department and General Assembly Salaries - Restrictions on**  
**Expense Reimbursements.**

Section:

1. Executive Department and General Assembly - Salaries - Restrictions on reimbursements.
2. Additional Constitutional amendments authorized.
3. Salary adjustments.
4. Effective date.
5. Repeal of Amendment 56, Sections 2 and 3.

**1. Executive Department and General Assembly - Salaries - Restrictions on reimbursements.**

(a) No official of the Executive Department shall be reimbursed by the State of Arkansas for any expenses except those reasonably connected to their official duties and only if such reimbursement is made for documented expenses actually incurred and from the regular budget appropriated for the official's office. Such restrictions on expense reimbursement are of a general application and also are intended specifically to prohibit the appropriation and use of public relations funds. The annual salaries of the Executive Department, which shall be paid in monthly installments, shall be as follows: the Governor, the sum of \$60,000; the Lieutenant Governor, the sum of \$29,000; the Secretary of State, the sum of \$37,500; the Treasurer of State, the sum of \$37,000; the Attorney General, the sum of \$50,000; the Commissioner of State Lands, the sum of \$37,500; and the Auditor of State, the sum of \$37,500. Except as provided herein, such officials of the Executive Department shall not receive any other income from the State of Arkansas, whether in the form of salaries or expenses.

(b) The members of the General Assembly shall receive as their annual salary the sum of \$12,500, except the President Pro Tempore of the Senate and the Speaker of the House of Representatives, who shall each receive the sum of \$14,000 annually, with such salaries to be payable in equal monthly installments. Except as provided herein, no member of the General Assembly shall receive any other income for service in the General Assembly, whether in the form of salaries or expenses, including, but not limited to, public relations funds. Provided further, that no member of the General Assembly shall be entitled to per diem unless authorized by law, or to reimbursement for expenses or mileage unless authorized by law, documented, and reasonably related to their official duties.

**2. Additional Constitutional amendments authorized.**

In addition to the three amendments to the Constitution allowed pursuant to Article 19, §22, either branch of the General Assembly at a regular session thereof may propose an amendment to the Constitution to change the salaries for the offices of Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer of State, Commissioner of State Lands, and Auditor of State and for members of the General Assembly. If the same be agreed to by a majority of all members elected to each house, such proposed amendment shall be entered on the journals with the yeas and



nays, and published in at least one newspaper in each county, where a newspaper is published, for six months immediately preceding the next general election for Senators and Representatives, at which time the same shall be submitted to the electors of the State for approval or rejection. If a majority of the electors voting at such election adopt the amendment the same shall become a part of this Constitution. Only one amendment to the Constitution may be referred pursuant to this section.

### **3. Salary adjustments.**

The salaries of the Executive Department officials and members of the General Assembly provided for in Section 1 or 2 of this amendment or adjusted pursuant to this section may be increased annually through subsequent appropriations by the General Assembly by an amount not to exceed the average percentage increase in the Consumer Price Index for All Urban Consumers or its successor, as published by the United States Department of Labor, for the two years immediately preceding the year of the salary appropriation.

### **4. Effective date.**

The provisions of this amendment shall be effective on January 1, 1993.

### **5. Repeal of Amendment 56, Sections 2 and 3.**

Section 2 and Section 3 of Amendment 56 to the Arkansas Constitution are hereby repealed.

---

*A.C.A. § 10-2-212*

Arkansas Code of 1987 Annotated Official Edition  
© 1987-2011 by the State of Arkansas  
All rights reserved.

\*\*\* Legislation is current through the 2011 Regular Session and updates \*\*\*  
\*\*\* received from the Arkansas Code Revision Commission through \*\*\*  
\*\*\*November 16, 2011.\*\*\*

Title 10 General Assembly  
Chapter 2 Legislative Proceedings  
Subchapter 2 -- Compensation and Expenses

A.C.A. § 10-2-212 (2011)

**10-2-212. Reimbursable expenses.**

(a)(1) A member of the Senate may seek reimbursement for legislative expenses incurred as authorized by law by filing a signed statement of expenses incurred during each calendar month. Claims for reimbursement for expenses incurred shall be filed with the Secretary of the Senate and shall be paid from the funds appropriated for such purposes for the use of the Senate.

(2) The Senate Efficiency Committee is hereby authorized to establish the method of reimbursing members of the Senate for ordinary and necessary expenses incurred in the performance of their duties as members of the General Assembly. The Senate Efficiency Committee shall determine, within the limitations of the Arkansas Constitution and Internal Revenue Service guidelines, which expenditures constitute ordinary and necessary expenses and the amount of per diem and mileage reimbursement to be paid from Senate appropriations.

(3) Subsection (a) of this section does not apply to per diem, mileage, and expense reimbursements paid from funds disbursed by the Legislative Auditor or the Director of the Bureau of Legislative Research.

(b)(1) A member of the House of Representatives may seek reimbursement for legislative expenses incurred as authorized by law by filing a signed statement of expenses incurred during each calendar month. Claims for reimbursement for expenses incurred shall be filed with the Coordinator of House Legislative Services and shall be paid from the funds appropriated for such purposes for the use of the House of Representatives.

(2)(A) The Speaker of the House of Representatives is hereby authorized to establish the method of reimbursing members of the House of Representatives for ordinary and necessary expenses incurred in the performance of their duties as members of the General Assembly. The Speaker of the House of Representatives shall determine, within the limitations of the Arkansas Constitution and Internal Revenue Service guidelines, which expenditures constitute ordinary and necessary expenses and the amount of per diem and mileage reimbursement to be paid from House of Representatives appropriations.

(B) The Speaker of the House of Representatives shall notify the House of Representatives disbursing officer regarding the actions of the Speaker of the House of Representatives under this subsection.

(3) Subsection (b) of this section does not apply to per diem, mileage, and expense reimbursements paid from funds disbursed by the Legislative Auditor or the Director of the Bureau of Legislative Research.

(c) Except as otherwise provided by law, the maximum amount of reimbursement for legislative expenses incurred by members of the General Assembly shall be, at the option of each member, either five thousand eight hundred twenty dollars (\$5,820) per year, six thousand five hundred forty dollars (\$6,540) per year, or fourteen thousand four hundred dollars (\$14,400) per year.

(d)(1) Any member of the General Assembly may elect not to receive per diem and mileage payments for attending legislative sessions and for attending legislative activities and in lieu thereof be reimbursed up to an additional ten thousand two hundred dollars (\$10,200) per year.

**\*\* (d)(1) SUSPENDED PURSUANT TO SETTLEMENT AGREEMENT ITEM 1(a). \*\***

(2) Such election shall be made in writing to the presiding officer of the legislative body to which the member is elected.

(3)(A) The election must occur prior to the fifth day of a regular session, and the election shall remain in effect until a subsequent election is made at the next regular session.

(B) However, if the maximum amount of reimbursement is altered by law, the member of the General Assembly shall make the election within thirty (30) days after the law becomes effective, and the election shall remain in effect until a subsequent election is made at the next regular session.

(e) No member of the General Assembly shall file with the House of Representatives or Senate claims for reimbursement for expenses in excess of the maximum amount prescribed by law.

**HISTORY:** Acts 1971, No. 274, § 2; 1975, No. 169, § 1; A.S.A. 1947, § 4-139; Acts 1991, No. 969, § 1; 1991, No. 1240, § 1; 1995, No. 1312, §§ 12, 22; 1997, No. 1285, §§ 14, 19; 2007, No. 288, § 1, 2.

**TITLE 26, Subtitle A, CHAPTER 1, Subchapter B, PART VI,**  
**Sec. 162.(h)**

**(h) State legislators' travel expenses away from home**

**(1) In general**

For purposes of subsection (a), in the case of any individual who is a State legislator at any time during the taxable year and who makes an election under this subsection for the taxable year -

(A) the place of residence of such individual within the legislative district which he represented shall be considered his home,

(B) he shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount equal to the sum of the amounts determined by multiplying each legislative day of such individual during the taxable year by the greater of -

(i) the amount generally allowable with respect to such day to employees of the State of which he is a legislator for per diem while away from home, to the extent such amount does not exceed 110 percent of the amount described in clause (ii) with respect to such day, or

(ii) the amount generally allowable with respect to such day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States, and

(C) he shall be deemed to be away from home in the pursuit of a trade or business on each legislative day.

**(2) Legislative days**

For purposes of paragraph (1), a legislative day during any taxable year for any individual shall be any day during such year on which -

(A) 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

(B) the legislature was not in session but the physical presence of the individual was formally recorded at a meeting of a committee of such legislature.

**(3) Election**

An election under this subsection for any taxable year shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

**(4) Section not to apply to legislators who reside near capitol**

For taxable years beginning after December 31, 1980, this subsection shall not apply to any legislator whose place of residence within the legislative district which he represents is 50 or fewer miles from the capitol building of the State.

[**(i)** Repealed. Pub. L. 101-239, title VI, Sec. 6202(b)(3)(A), Dec. 19, 1989, 103 Stat. 2233]

Source: <http://www.fourmilab.ch/uscode/26usc/www/sections.html>.



## SETTLEMENT AGREEMENT AND RELEASE

WHEREAS, an action is pending in the PULASKI COUNTY CIRCUIT COURT, styled *Wells, et al. v. Taylor, et al.* (Case No. 60CV-2011-4688) (hereinafter referred to as the "Action"), and

WHEREAS, while it is the intent of all parties that the defendants be in compliance with the provisions of Amendment 70 to the Arkansas Constitution, it is agreed that "income" is not defined therein;

WHEREAS, the provisions of this Settlement Agreement and Release ("the Agreement") are intended to insure compliance with the intent of Amendment 70, and;

WHEREAS, the plaintiffs in this action, Katherine Wells and Max Brantley, as the named plaintiffs on behalf of the class of all Arkansas taxpayers, and the defendants desire to compromise and settle the Action to avoid the costs and uncertainties of continued litigation;

NOW, THEREFORE, the plaintiffs and the defendants agree to the following terms as full and final satisfaction of any and all claims, including any and all claims for costs and attorneys' fees, which were raised by plaintiffs in the Action or could have been raised by plaintiffs in the Action.

1. ACTION TO BE TAKEN BY DEFENDANTS. No later than one month following entry of an Order dismissing the Action, the defendants shall pay a total of \$35,000 to the plaintiffs in costs and attorneys' fees in this action. In addition, the defendants agree to the following:

- a) Defendants Charlie Daniel, Martha Shoffner, Ann Cornwell, Angie Clingmon, and Buddy Johnson shall refrain from making any future payments to members of the Arkansas General Assembly pursuant to A.C.A. §10-2-212(d)(1).

- b) Members of the General Assembly shall follow each Chamber's Accountable Reimbursement plan (attached hereto as Exhibits "A" and "B"). Said plans may be amended upon written notice to the plaintiffs, through their counsel, whose current addresses are: Bettina E. Brownstein, Brownstein Law Firm, 904 West Second Street, Little Rock, AR 72201; John L. Burnett, Lavey and Burnett, 904 West Second Street, Little Rock, AR 72201. The obligation to provide notice shall expire three years from the date of dismissal of the Action.
- c) A certified public accountant ("CPA") retained or employed by each chamber of the General Assembly shall conduct an agreed upon procedure engagement encompassing an internal control and compliance assessment with respect to the Chamber's Accountable Reimbursement Plan at least every two years. Such assessment will include the Chamber's internal controls concerning its Accountable Reimbursement Plan and the Chamber's compliance with that plan. The CPA will determine the methodology used in conducting the engagement. The first such engagement shall be performed within one year following the Court's approval of this agreement and shall cover every member's reimbursed expenses for that time period. In subsequent engagements, the CPA will determine the appropriate number of disbursements to review.
- d) Defendants Cornwell, Clingman, and Johnson represent that in entering into this agreement they are acting on behalf of and on the authority of the Speaker of the House of Representatives and the President Pro Tempore of the Senate, as indicated by their respective signatures below.

2. ACTION TO BE TAKEN BY PLAINTIFFS. The plaintiffs, following final approval as required by paragraph 14, will move to dismiss the Action with prejudice.

3. COMPLETE RELEASE AND WAIVER. The plaintiffs, on behalf of themselves and the class of all Arkansas taxpayers, waive, release, relinquish and forever discharge the defendants, any current member of the General Assembly, and any other member who served prior to the time the Amended Complaint was filed from all claims, liens, or causes of action, known or unknown as of the date of this Agreement for damages, attorneys' fees, costs or recovery of any type against the defendants including any officers, officials, employees and agents of any defendant, in their official and individual capacities for the allegations contained in the complaint.

4. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties. The plaintiffs and defendants have not relied upon any promise or statement, oral or written that is not set forth in this Agreement.

5. MODIFICATION. The plaintiffs and defendants agree that this Agreement may not be modified, amended, or altered except by a written agreement executed by all parties.

6. VOLUNTARY AGREEMENT. The plaintiff and defendants acknowledge that each has read this Agreement, that each has had the opportunity to consult with legal counsel of their choosing concerning the advisability, meaning and effect of this Agreement, and that each has signed this Agreement voluntarily and without duress.

7. NO RESCISSION FOR MISTAKE. The plaintiffs and defendants acknowledge that each has had the opportunity to investigate the facts and law relating to the claims raised in the Action and any additionally waived and released claims to the extent each deems necessary and appropriate. The plaintiffs and the defendants assume the risk of any mistake of fact or law and agree that any mistake of fact or law shall not be grounds for rescission or modification of any part of this Agreement.

8. NO ADMISSION OF LIABILITY. The plaintiffs and defendants acknowledge that this Agreement is a compromise and is not an admission of liability or wrongdoing on



the part of the defendants, or any officer, employee or official of any defendant. The plaintiffs agree that the Agreement is not admissible in any court or administrative body except as necessary to enforce its terms or as otherwise required by law.

9. CHOICE OF LAW. This Agreement shall be governed by and construed in accordance with the substantive law of the State of Arkansas.

10. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon the plaintiffs and defendants and each of their respective heirs, descendants, successors and assigns.

11. OPPORTUNITY TO CURE. If the plaintiffs believe that the defendants or the House or Senate have violated any portion of this agreement, the plaintiffs - through their counsel identified above in paragraph 1(b) - shall provide written notice to the Speaker of the House of Representatives or the President Pro Tempore of the Senate, or both of them, of the violation(s) being alleged. A copy of said written notice shall also be provided to the Office of the Attorney General. Upon receipt of such notice, each defendant shall be afforded a time period of no less than 60 days to cure any violation being alleged by the plaintiffs prior to any further action by the plaintiffs. In the event that the named plaintiffs file suit to enforce the agreement after expiration of this 60-day period and within three years following the dismissal of this Action, the defendants will consent to the jurisdiction of the Circuit Court of Pulaski County, Arkansas, to hear such suit.

12. FAIRNESS HEARING. The plaintiffs and defendants will file a Joint Motion for a Fairness Hearing and for Approval of the Manner in Which Notice is to be Given to the Plaintiff Class. This joint motion shall be in substantially the same form as Exhibit C and shall ask the Pulaski County Circuit Court to: a) schedule a Fairness Hearing for the purpose of considering the parties' joint request to rule that the proposed Settlement Agreement and Release is fair to the Plaintiff Class and for any member of the Plaintiff Class to present any objections that he or she might have to the proposed Settlement Agreement and Release, and b)

approve the manner in which notice of the pendency of this class action, the rights of the Plaintiff Class, the Proposed Settlement, and the fairness hearing will be given to the Plaintiff Class.

13. NOTICE OF FAIRNESS HEARING AND PROPOSED SETTLEMENT. The plaintiffs and defendants shall cause Notice of Proposed Settlement and Fairness Hearing to be published in the manner approved by the Pulaski County Circuit Court.

14. EFFECTIVE DATE. The plaintiffs and defendants specifically acknowledge that as the plaintiffs have brought this action under Article 16, §13 of Arkansas' Constitution, that this Agreement shall not become effective until approved by an order of the Circuit Court of Pulaski County, Arkansas, after the fairness hearing described above in paragraph 12, and - if required - by the Director of the Department of Finance & Administration and any appropriate committee or committees of the House or Senate prior to the fairness hearing. The plaintiffs and the defendants shall cooperate in seeking final approval from the Circuit Court of Pulaski County, Arkansas.

15. COUNTERPARTS. This Agreement may be executed in counterparts and the counterparts taken together will have binding effect.

Dated this 9th day of March, 2012.

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
2nd DIVISION

KATHARINE WELLS, et al.

PLAINTIFFS

v.

No. 60CV-2011-4688

SENATOR JERRY TAYLOR, et al.

DEFENDANTS

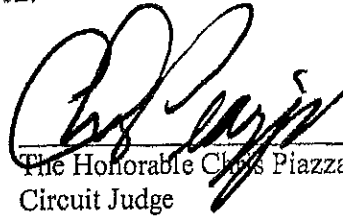
**ORDER APPROVING THE SETTLEMENT AGREEMENT  
AND DISMISSING THE ACTION WITH PREJUDICE**

The Court held a fairness hearing in this action on April 3, 2012. The Plaintiffs appeared by and through their attorneys, Bettina E. Brownstein, and John L. Burnett, and the Defendants appeared by and through their counsel, Assistant Attorney General C. Joseph Cordi, Jr. From the pleadings and other documents filed herein, the statements made to the Court during the fairness hearing, and all other things and matters properly before the Court, the Court makes the following findings:

1. Because this action was filed under Article 16, §13 of the Arkansas Constitution, it is a class action as matter of law.
2. The Plaintiff Class consists of all Arkansas taxpayers.
3. The Plaintiff Class had sufficient notice of the fairness hearing.
4. Objections to the Settlement Agreement and Release were heard and considered and are hereby overruled.
5. The Settlement Agreement and Release is a fair, reasonable, and adequate resolution of doubtful and disputed claims and is hereby approved by the Court.
6. The action should be dismissed with prejudice pursuant to the terms and conditions of the Settlement Agreement and Release.

IT IS ACCORDINGLY ORDERED AND DECREED that this action is hereby  
dismissed with prejudice.

It is so ordered, this 4<sup>th</sup> day of April, 2012.

  
\_\_\_\_\_  
The Honorable Chris Piazza  
Circuit Judge

Prepared by:  
C. Joseph Cordi, Jr.,  
Arkansas Bar No. 91225  
Assistant Attorney General  
Counsel for the Defendants

