

Legislative Salary Council
January 20, 2017

	Included in Retirement: Defined contribution (6% State, 5.5% member)
Salary \$31,140	Yes
Session per diem House \$66 Senate: \$86	Yes
Special session per diem House \$66 Senate: \$86	Yes
Interim per diem House \$66 Senate: \$86	No
Housing reimbursement \$1,800/mo, > 50 miles This payment is made directly to the landlord	No
Mileage reimbursement House: > 50 miles Senate: all mileage	No

- Approximately 2 dozen currently serving legislators, elected before July 1, 1997 participate in a defined benefit retirement plan. FICA is not withheld on their salaries or per diem. Otherwise, whenever income tax is withheld, Social Security is also withheld
- Legislators generally qualify for employee fringe benefits similar to other state employees (e.g., health and dental coverage, employer paid life insurance, and so forth)

Notes on tax treatment of legislative compensation:

1. Taxation of legislative compensation is generally subject to the same rules that apply to other employees. For example, the default rule is that per diem payments are taxable wages.
2. One exception applies. I.R.C. section 162(h) allows an electing legislator whose in-district home is more than 50 miles from the state capitol a flat per day business expense deduction for each legislative day. See the NCSL publication for more details.
3. An employer may treat expense payments (e.g., per diem and housing) to a member qualifying under section 162(h) under an accountable plan as a nontaxable employee fringe benefit, subject to the member's dollar limits under section 162(h). If the employer does not do so, the member will typically deduct the 162(h) amounts as a

miscellaneous itemized deduction for employee business expenses. To benefit, the member must itemize (have total itemized deductions greater than the standard deduction) and satisfy the 2 percent of adjusted gross income threshold that applies to the deduction for employee business expenses.