

## Contents

<b>Tennessee’s Legislative Compensation is Similar to That in its Peer States.....</b>	<b>1</b>
Tennessee’s legislative compensation falls near middle of comparison states.....	2
District office allowance is another source of taxable income.....	3
Reimbursement for lodging and meals expenses, but not mileage, is tied to federal rate. ....	3
<b>The Role of State Legislatures .....</b>	<b>7</b>
How are states and their legislatures alike and different? .....	9
What are the responsibilities of a legislator? .....	11
Tennessee’s legislative compensation is rooted in its Constitution. ....	15
There have been few statutory changes to legislative compensation.....	16
Periodic adjustments based on state employee salary increases began in 2005.....	16
What constitutes compensation? .....	18
<b>References.....</b>	<b>43</b>
<b>Persons Contacted.....</b>	<b>45</b>
<b>Appendix A. Senate Joint Resolution 463 .....</b>	<b>47</b>
<b>Appendix B. Number of Cities and Counties per Tennessee Senator, 2016 .....</b>	<b>49</b>
<b>Appendix C. Number of Cities and Counties per Tennessee Representative, 2016 .....</b>	<b>51</b>
<b>Appendix D. Previous Legislation, 1995-2016 .....</b>	<b>53</b>
<b>Appendix E. National Conference of State Legislatures 50 State Survey: Questions, 2016...67</b>	<b>67</b>
<b>Appendix F. 2016 National Conference of State Legislatures Survey Results .....</b>	<b>69</b>
<b>Appendix G. Distance Tennessee General Assembly Members Report Living     from the Capitol.....</b>	<b>95</b>

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## Tennessee's Legislative Compensation is Similar to That in its Peer States

The late Alan Rosenthal, author of *Heavy Lifting: The Job of the American Legislature*, sorts legislative responsibilities into three overall categories: representing, lawmaking, and balancing executive power. To fulfill these three broad functions, legislators perform a myriad of tasks, including meeting regularly with constituents and interest groups, travelling back and forth to the capital city and around their districts, responding to correspondence, speaking to various organizations, drafting legislation, and studying and reacting to policy. Although elected to represent their districts, they must also learn many things about other parts of the state and consider what is best for all. Some legislators assume even more responsibility when they are chosen to serve as leaders or committee chairs within the General Assembly. Recognizing these efforts, most states compensate legislators with a salary plus reimbursement for expenses, such as lodging, meals, mileage, and sometimes for maintaining district offices. And legislators in many states can participate in state retirement and insurance programs.

Holding elected office is a voluntary act of public service, but salaries or other kinds of compensation should be sufficient to attract qualified candidates representing a variety of diverse backgrounds and experiences. Otherwise, only people who have significant income from other sources could afford to serve, thus eliminating many people from candidacy, and reducing the representativeness of the legislature.

From time to time, questions arise about the adequacy of Tennessee's legislative salaries. Since 1995, legislators introduced 72 bills seeking to adjust salary, expense allowances, benefits, or the methods of changing legislative compensation, but only seven bills were enacted into law. Three of those concerned retirement, one adjusted insurance eligibility in retirement for appointed members, and one dealt with office expense reimbursements for members receiving early retirement from social security. Another tied legislators' salary increases to that of state employees and raised their monthly district office expense allowance, and another created a 50-mile restriction on eligibility for lodging reimbursements. Most recently, the General Assembly passed Senate Joint Resolution 463 in 2016, calling for a comparison of Tennessee's legislative compensation to that of its contiguous states.

Determining whether Tennessee's legislative compensation is adequate or fair relative to other states is difficult because no two states are identical in their cultures, topography, or history, and while their legislatures are mostly similar in their structures, processes, composition, and

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According to NCSL, in general, full-time legislatures receive higher salaries and office allowances than do hybrid or part-time ones.

responsibilities, they do vary in a number of ways. The National Conference of State Legislatures (NCSL) assesses the state legislatures' similarities and differences and has grouped them into five categories according to staff size, compensation amounts, and time spent on legislative work, including time in session, constituent service, interim committee work, and election campaigns. NCSL considers California's, Pennsylvania's, and New York's legislatures to be full-time, much like Congress, while legislatures in Montana, New Hampshire, North Dakota, South Dakota, Utah, and Wyoming are considered mostly volunteer bodies in which members spend less time on legislative work than their counterparts in other states. Tennessee's General Assembly falls somewhere between these extremes, and is classified by NCSL as "hybrid." According to NCSL, in general, full-time legislatures receive higher salaries and office allowances than do hybrid or part-time ones.

Although no two states are exactly alike, Tennessee's eight contiguous states, along with Indiana and Louisiana, are sufficiently similar to Tennessee to use for comparison purposes. Eight of the ten states' legislatures are considered hybrids; Mississippi and Georgia are considered part-time. With a total of 132 members, Tennessee has the smallest legislature of the ten comparison states. Georgia has the largest at 236 members. Tennessee's General Assembly meets in session annually and is limited to 90 paid legislative days over a two-year period. North Carolina has no restrictions on the number of days that its legislature can meet, while all other contiguous and similar states limit the session length.

Comparisons of legislative compensation amounts for Tennessee and its contiguous and similar states should be made with caution because categories of compensation and reimbursement vary by state. Some states choose to pay higher salaries but provide less or no compensation in other categories, such as district office expenses, travel reimbursements, insurance or retirement benefits. Alabama, for example, recently increased its legislators' salary amount and tied it to that state's median household income but eliminated legislators' district office expense allowances. And some states reimburse only for documented expenses, while others including Tennessee, pay a standard amount.

### **Tennessee's legislative compensation falls near middle of comparison states.**

On most aspects of legislative compensation, Tennessee is similar to its comparison states and falls close to the middle. If Tennessee's 2016 salary and office expenses are combined and compared to that of its ten comparison states, four states—Alabama, Arkansas, Louisiana, and Missouri—are higher, five states—Georgia, Indiana, Kentucky, Mississippi,

North Carolina—are lower, and Virginia is about the same. Tennessee’s legislators in the 109<sup>th</sup> General Assembly received a \$20,884 annual salary, and speakers of the House and Senate received a salary that is three times that of the other members, or \$62,652. Salaries in the ten comparison states ranged from \$10,000 in Mississippi to \$42,830 in Alabama.

Tennessee and its contiguous and similar states are either hybrid or part-time, and the compensation for each state reflects that. In addition to whether the legislature is volunteer, full-time, or part-time, the other factors that appear to play a role in determining legislative compensation include whether the members are in a leadership position, how they are reimbursed for travel, and the distance they live from the Capitol.

Like Tennessee, all of the comparison states pay one or both presiding officers more than their rank-and-file members. In Tennessee, only the speakers receive additional salary or expense supplements, but five of Tennessee’s comparison states also pay additional amounts to the majority and minority leaders in one or both chambers, and three states pay supplements to committee chairs.

### **District office allowance is another source of taxable income.**

Tennessee’s legislators receive \$12,000 per year for district office expenses, which is taxable as income. In 2016, the speakers were authorized to receive an additional district office allowance supplement of \$5,700 to cover office expenses in their county of residence, in addition to the cost of operating offices in the Capitol. Of the comparison states, Louisiana’s and Virginia’s district office allowances are higher than Tennessee’s, at \$24,000 and \$15,000 per year for rank-and-file legislators; Virginia has a \$21,000 district office allowance for its speakers. Rank-and-file legislators in Alabama, Arkansas, and Indiana receive no allowance for district office expenses, but Arkansas’s committee officers receive an office supplement. **Tennessee could, as is done in Oregon, choose to recognize the additional expenses that can be incurred representing geographically large districts by paying legislators in those districts more.** Oregon’s office allowance includes additional amounts ranging from \$450 to \$750 per month depending on the district’s land area.

### **Reimbursement for lodging and meals expenses, but not mileage, is tied to federal rate.**

All Tennessee legislators receive reimbursement for meals and incidentals for each legislative day, defined by Tennessee Code Annotated, Section 3-1-106, as each day that the general assembly, or either house thereof,

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officially convenes for the transaction of business, or for each day in attendance at any such other approved meeting. General Assembly members are to be compensated for legislative sessions, committee meetings, and such other official endeavors as approved by the speakers, both in-state and out-of-state. Tennessee, like Arkansas, Indiana, Louisiana, Mississippi, and Missouri, ties the amount of payment for both lodging and meals to the expenditure reimbursement granted to federal employees visiting the state's capital city. During the 2015-16 General Assembly, the reimbursement rate per day for lodging in Nashville was \$145 and \$59 for meals and incidentals. Effective October 1, 2016, the federal lodging reimbursement rate for Nashville increased to \$161.

Tennessee's legislators are reimbursed for miles traveled to and from the Capitol at a rate established by the Commissioner of Finance and Administration and published in the *State of Tennessee Comprehensive Travel Regulations*, which is \$0.47 per mile in 2016. As in most other states, Tennessee legislators receive no compensation for intra-district mileage expenses. Most of the comparison states reimburse mileage to and from their Capitols at an amount equal to the federal rate—\$0.54 per mile in 2016—which is adjusted each year and maintained by the US General Services Administration. Of these states, only Missouri and North Carolina choose to reimburse mileage at rates set by their state governments, both of which are lower than the federal rate.

Even though state law requires that legislators be compensated, not all legislators choose to keep the compensation they receive for travel expenses. Some members choose to return their travel reimbursements to the state, but still must pay federal taxes on them. **Tennessee should consider, as is done in Colorado and Wyoming, allowing legislators to decline all or part of the travel expense reimbursement so that they do not incur tax liability for reimbursements they do not wish to receive.**

### The 50-mile limit

Most states reimburse all legislators for lodging and meals using a standard amount per day, regardless of where they live, but 14 states, including Tennessee, reimburse legislators differently for lodging and meals, depending on where they live. Since November 2014 in Tennessee, members living more than 50 miles from the Capitol receive reimbursement for lodging, while members living closer do not, although speakers can approve exceptions if members are unable to return home at the conclusion of a legislative day. All legislators receive the same amount for meals, but those who live within the 50-mile radius are required by the Internal Revenue Service to pay taxes on their meal reimbursements, while those living beyond 50 miles are not. Alabama, Arkansas, Colorado and Nebraska also use a 50-mile restriction for determining travel reimbursements.

Mileage reimbursements in Tennessee differ not only depending on the distance legislators live from the Capitol, but also depending on whether the legislature is in session. When in session, members who live more than 50 miles from the Capitol can be reimbursed for one round-trip per week; those who live 50 miles or less are entitled to a maximum of four round-trips per week. When the General Assembly is not in session, reimbursement for all representatives' trips is reduced to one round-trip per week while senators who live 50 miles or less from the Capitol continue to be reimbursed for up to four trips per week. There appears to be no reason to make this distinction.

In a hypothetical comparison, a legislator who lived 40 miles from the Capitol in 2016 would have received an estimated \$5,981 less than one who lived 60 miles away because legislators who live within 50 miles cannot receive lodging reimbursement and their meals are taxed, even though mileage reimbursement for more trips is permitted. During the 109<sup>th</sup> General Assembly, 35 legislators lived 50 miles or less from the Capitol. **Instead of using a 50-mile criterion, at least eight other states use the capital city's or county's boundary as the delineating factor for travel reimbursement. If Tennessee were to do likewise for lodging, the only legislators not eligible for lodging reimbursements would be the 15 who reside in Davidson County.**

Massachusetts uses yet a third method to address proximity to the capital city, providing lump sum amounts ranging from \$10 to \$100 per day for lodging, meals, and mileage, depending on the city where a legislator lives.

### Intra-district Travel

Although Tennessee's district office allowance may be generally sufficient to cover costs associated with intra-district travel, it may not be enough in large districts where a senator or representative has to drive long distances to meet with constituents and officials of several widely-dispersed local governments. **Tennessee could mitigate this effect by compensating legislators for intra-district travel expenses as is done in at least three states including comparison state Louisiana.** According to the NCSL, Louisiana provides all legislators with a \$1,500 supplement for "vouchered office expenses, rent, and travel mileage in district." Beyond the comparison states, Maryland offers a \$750 annual allowance to all members for in-district travel as taxable income, which members may decline, and Minnesota provides a capped intra-district travel supplement for all members plus additional reimbursements for those members whose districts exceed 1,000 square miles.

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### Compensation Commissions

To encourage participation in public office and provide an adequate level of compensation for the expenses incurred to serve in the state legislature, factors such as those discussed above—leadership positions, size of districts, distances from the Capitol, mileage reimbursement—and others, could be applied to determine whether compensation should be revised. This could be done by the legislature itself, or as in 21 states, including Arkansas and Missouri, by creating an independent legislative compensation commission that would recommend or determine fair and appropriate compensation. These commissions generally comprise unpaid private citizens appointed by the governor and speakers of the house and senate.

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## The Role of State Legislatures

State legislatures are a fundamental component of state government, designed to represent the citizens in the formulation of laws and provide a check on the executive and judicial branches. Alan Rosenthal, a legislative scholar, interviewed by Morgan Cullen for a 2011 article in *State Legislatures*, remarked, “Legislators essentially serve as boards of directors for multibillion dollar organizations that are our state governments. We owe it to ourselves to ensure they have the means to make responsible decisions with our money.”<sup>1</sup> Legislators write and amend laws that affect Tennessee’s citizens every day, whether through road quality, nursing home regulations, school funding, or tax policy.

What lawmakers are paid almost certainly affects who runs for the General Assembly. Although becoming a state legislator in Tennessee is considered part-time and an act of public service, if legislative compensation is too low, portions of the population may not be represented because only those with alternate sources of income can afford to run for a position that requires them to be away from home and other employment for significant periods of time. Cullen writes, “Salaries should be enough to attract highly qualified candidates with a variety of diverse backgrounds and experiences, while also ensuring that everyone—rich or poor—can afford to serve.”<sup>2</sup> In the same article, Cullen also quotes Peverill Squire of the University of Missouri, who has researched the demographic makeup of the nations’ legislatures: “It’s clear that with higher salaries you get a broader range of people serving in the legislature that more accurately reflects the population as a whole. Both Democrats and Republicans understand that, for people to run and be elected, they need to be fairly compensated. Salary increases also encourage people with higher educational attainment and professional expertise.”

Ideally, voters have choices when deciding who will represent them, but if salaries are too low, the pool of candidates is reduced. Morris Fiorina, cited by Gary Moncrief et al., writing in *Who Runs for the Legislature?* notes that “Salary is an especially important component that can alter the recruitment landscape.”<sup>3</sup> Moncrief notes further that campaigning for and serving in the state legislature requires commitment of time that not many Americans are willing to devote. He states, “. . . if the legislature does not provide an adequate salary (and most do not), many potential candidates simply cannot make the financial sacrifice to run and serve.” And although compensation is only one of several factors affecting competitiveness, the number of uncontested races for state legislative seats has been increasing.

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Alan Rosenthal, cited by Morgan Cullen, *State Legislatures*, “Pay Problem,” 2011

<sup>1</sup> Cullen 2011.

<sup>2</sup> Ibid.

<sup>3</sup> Moncrief et al. 2001.

Carl Klarner, writing for *Ballotpedia.org*, which analyzed voting trends from 1972 through 2014, notes that in 2014, “the percentage of people living in uncontested state house districts was higher than any other year, while that percentage in state senate districts came close.”<sup>4</sup>

Because questions arise from time to time about the adequacy and comparability of Tennessee’s legislative salaries, in 2016 the General Assembly passed Senate Joint Resolution 463 directing the Commission to survey Tennessee’s surrounding states and compare the 2015-16 legislative compensation to that of Tennessee’s General Assembly to determine whether Tennessee legislators are being adequately compensated and fully reimbursed for expenses. See appendix A.

Compensation for members of Tennessee’s General Assembly includes a salary and a district office expense allowance, both of which are fully taxable. In addition, members receive reimbursement for the expenses they incur to travel from their homes to Nashville, while the legislature is in session, and at other times as approved by the speakers. In addition to these amounts, the Speakers of the House and Senate receive a salary that is three times<sup>5</sup> that of the members, as well as a higher district office expense allowance.<sup>6</sup> Legislators have the option of participating in the state’s retirement and insurance plans. See table 1.

**Table 1. Tennessee General Assembly Compensation, Expense Reimbursement, and Benefits, 2016**

Type of Compensation	General Assembly Members	Speakers of the House and Senate
Salary	\$20,884 per year	\$62,652 per year*
District Office Expense Allowance	\$12,000 per year	\$17,700 per year**
Ex-officio Services Allowance	n/a	\$750 per year
<b>Total</b>	<b>\$32,884</b>	<b>\$81,102</b>
<b>Daily Expense Reimbursement</b>		
Lodging	\$145 per day (Only Available for Members living >50 Miles from the Capitol)	
Meals and Incidentals	\$59 per day***	
Mileage	\$0.47 per mile >50 miles One Round-trip per week ≤50 miles Up to 4 Round-trips per week****	Speakers assigned state trooper with a vehicle for security. Speakers do not receive mileage reimbursement.
<b>Benefits</b>		
Retirement	Eligible to participate in the Tennessee Consolidated Retirement System	
Insurance (Health, Dental, Vision, and Life)	Eligible to participate in the Tennessee State Insurance Plan	

Source: Tennessee Code Annotated Title 3, Chapter 1; Title 8, Chapters 27, 34, and 35; Public Acts of 2016, Chapter 758.

\*Speakers receive three times the salary of rank-and-file members.

\*\*In 2016, speakers received appropriations of \$5,700 for additional district office expenses and \$750 for ex officio duties.

\*\*\*Only members living 50 miles or less from the Capitol pay taxes on this amount.

\*\*\*\*During the interim, all House members are limited to one reimbursed round-trip per week.

<sup>4</sup> Klarner 2015.

<sup>5</sup> Tennessee Code Annotated, Section 3-1-107.

<sup>6</sup> Public Acts of 2016, Chapter 758.

## How are states and their legislatures alike and different?

Determining whether Tennessee’s legislative compensation is adequate or fair relative to other states is difficult because no two states are identical in their cultures, topography, or history, and their state legislatures are similarly varied. According to the National Conference of State Legislatures (NCSL), a few state legislatures are considered full-time, like Congress, while a few other states view their legislatures as mostly volunteer bodies. Tennessee’s General Assembly falls somewhere between these extremes.

Except for Nebraska,<sup>7</sup> which has only one chamber, state legislatures resemble the United States Congress, each having an upper and lower chamber. Within each chamber are rank-and-file members, committee chairs, and various leaders. Beyond that basic structure, however, the state legislatures differ in size, frequency and duration of sessions, as well as in the methods of compensating their members.

Comparing Tennessee’s legislative compensation to that of its contiguous states implies similarity but fails to consider that some contiguous states may be less like Tennessee than states that are located elsewhere. Consequently, commission staff compared all 50 states on the attributes of per capita income, geographic area per legislator, constituents per senator, constituents per house member, and average state government wage, to determine which states are similar to Tennessee and subsequently chose to add Indiana and Louisiana for purposes of this analysis.

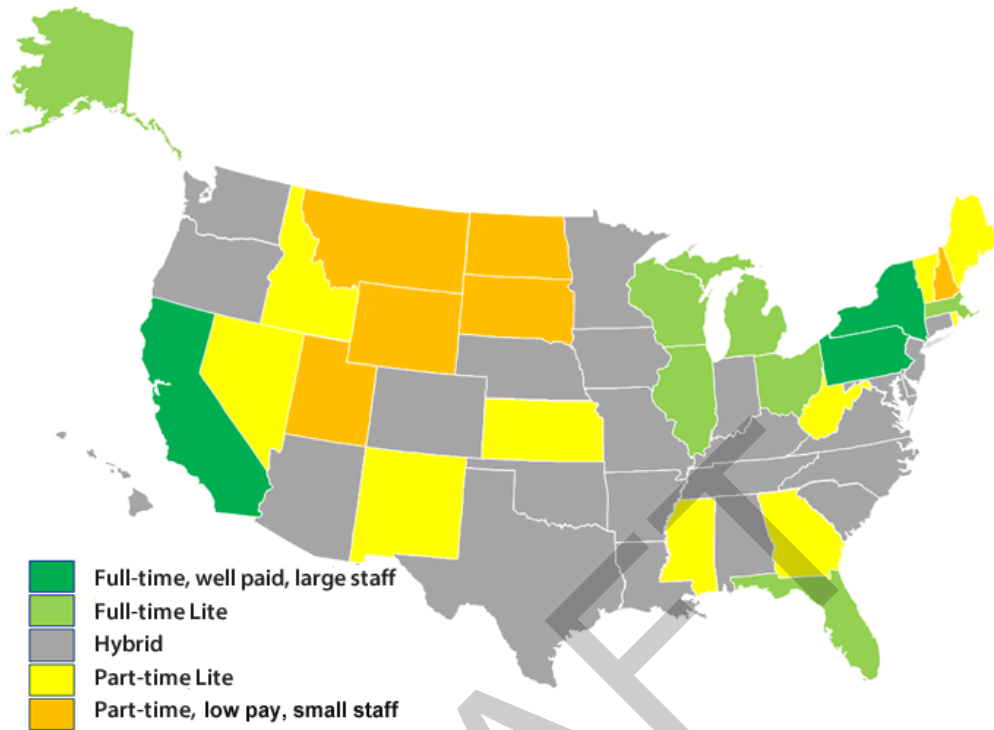
### Full-time/Part-time Legislatures

NCSL assesses the state legislatures’ similarities and differences and has grouped them into five categories according to staff size, compensation amounts, and time spent on legislative work, including time in session, constituent service, interim committee work, and election campaigns. See map 1. The categories are full-time, full-time lite, hybrid, part-time lite, and part-time. In general, full-time legislatures receive greater compensation than do hybrid or part-time ones. On one end of the spectrum, Montana, New Hampshire, North Dakota, South Dakota, Utah, and Wyoming, have legislatures that are considered mostly volunteer bodies; members spend less time on legislative work than their counterparts in other states. California, Pennsylvania, and New York each represent the other end of the spectrum with legislators who are essentially full-time and have large staffs. Tennessee falls between these two extremes and is considered a “hybrid” state. Legislators from hybrid states report spending about two-

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<sup>7</sup> Nebraska Legislature.

Map 1. Types of Legislatures



Source: National Conference of State Legislatures

thirds of their time on legislative work. Two of Tennessee’s comparison states—Mississippi and Georgia—are considered “part-time lite” but the remaining eight, including Indiana and Louisiana, are considered hybrid. None falls within the extreme ends of the spectrum, either full-time or part-time.<sup>8</sup>

### Size of Legislative Body

According to NCSL, state legislatures range in size from New Hampshire’s General Court with 424 members to Nebraska’s unicameral legislature with 49 members. Tennessee with 132 members is the smallest of its comparison state group; Georgia is the largest with 236 members.<sup>9</sup>

### Frequency and Duration of Sessions

Both the frequency and length of legislative sessions vary across the country. According to 2010 NCSL data, four state legislatures meet every other year and the rest meet annually. Only eleven states, including North Carolina, do

<sup>8</sup> <http://www.ncsl.org/research/about-state-legislatures/full-and-part-time-legislatures.aspx>

<sup>9</sup> <http://www.ncsl.org/research/about-state-legislatures/number-of-legislators-and-length-of-terms.aspx>

not restrict session length. The remaining states, including Tennessee and all of its other contiguous and similar states, have established some limits on session length.<sup>10</sup> Tennessee’s limit restricts expense reimbursement to a maximum of 90 days per legislative session. Tennessee’s constitution, Article II, Section 23 provides that “no member shall be paid expenses, nor travel allowances for more than ninety legislative days of a regular session,<sup>11</sup> excluding the organizational session, nor for more than thirty legislative days of any extraordinary session.”

## What are the responsibilities of a legislator?

Alan Rosenthal, in *Heavy Lifting: The Job of the American Legislature*, groups legislative responsibilities into three overall categories: representing, lawmaking, and balancing executive power.<sup>12</sup> Tennessee’s Constitution, Article II, spells out some of the General Assembly’s responsibilities in each of these areas: Sections 18 through 22 direct how laws are to be made, Section 24 addresses appropriation of funds, and Sections 28 and 29 address taxation and extension of taxing authority to local governments. Article XI, Section 12, charges the General Assembly with responsibility for public education. In addition, Article V addresses the General Assembly’s powers of impeachment against the governor or members of the judiciary.

Article II, Section 3 of Tennessee’s Constitution provides that members of the House of Representatives in Tennessee are elected for two-year terms, and Senators are elected for four years. Lawmakers are required to be present in Nashville whenever the General Assembly is called into session beginning in January of each year, and any other time that the governor or speakers of both Houses, at the written request of two-thirds of the members of each House, call a special legislative session.<sup>13</sup> The regular legislative session usually lasts until late April or May. During that time, members typically travel to the Capitol for three nights per week during January, February, March, and April. Legislators also meet with constituents and interest groups, as well as respond to correspondence, speak to various organizations, and study policy.

Tennessee’s constitution and laws do not specify how much time legislators must spend on legislative responsibilities. Within the representing, lawmaking, and balancing functions, individual legislators may choose to carry out their responsibilities in a variety of ways. Some are selected by their leadership or their peers to assume greater roles of responsibility

“Legislative responsibilities can be grouped into three overall categories: representing, lawmaking, and balancing executive power.”

Alan Rosenthal, *Heavy Lifting, the Job of the American Legislature*, 2004

<sup>10</sup> <http://www.ncsl.org/research/about-state-legislatures/legislative-session-length.aspx>

<sup>11</sup> Note that “session” in Tennessee is interpreted to be the two-year general assembly.

<sup>12</sup> Rosenthal 2004.

<sup>13</sup> Tennessee Constitution, Article II, Section 8.

Legislators are an important connector between the electorate and the state government.

within the legislature itself. And some may become interested in working with other states' legislators to address common problems.

## Representing

Many tasks of legislators are associated with representing their districts. Meeting with local officials, speaking at community events and communicating with their constituents are all necessary parts of a legislator's responsibilities. Rosenthal notes that "representation works at two levels: the individual level, in which legislators relate to the districts from which they are elected, and the collective level, in which the legislature itself serves and reflects statewide interests and preferences."<sup>14</sup> In the individual role, legislators might listen to concerns of their neighbors or city officials, but when they carry those concerns to meet with their counterparts from other areas of the state, they shift into the collective role of representation. Legislators are an important connector between the electorate and the state government.

All legislative districts in the US, however, are not the same. The number of citizens represented by each legislator and the geographic size of the districts varies widely across the fifty states. Some districts are densely populated, while others have wide expanses of land or water where few people live. Senators in California have the most populous senate districts nationwide with an average of 931,349 constituents, while North Dakota has the least populous districts averaging only 13,726. House districts also vary greatly. California has the most populous, averaging 465,674 constituents, and New Hampshire has the smallest at 3,291.<sup>15</sup>

Tennessee's Senate has 33 members with an average population of 192,306 per Senate district, and its House of Representatives has 99 members with an average population of 64,102 per House district.<sup>16</sup> Although the population represented in each Senate district is roughly equivalent, their geographic size ranges from 79 square miles in Senate District 30 to 4,185 square miles in Senate District 26. House districts overall are smaller than Senate districts, ranging from 15 square miles in House District 93 to 1,742 square miles in House District 71.<sup>17</sup> Maps 2 and 3 illustrate the geographic variation in district size.

Lawmakers living in large rural districts may have to drive long distances to meet with their constituents, sometimes on mountainous roads or avoiding topographical features such as lakes or national forests. Urban legislators,

<sup>14</sup> Rosenthal 2004.

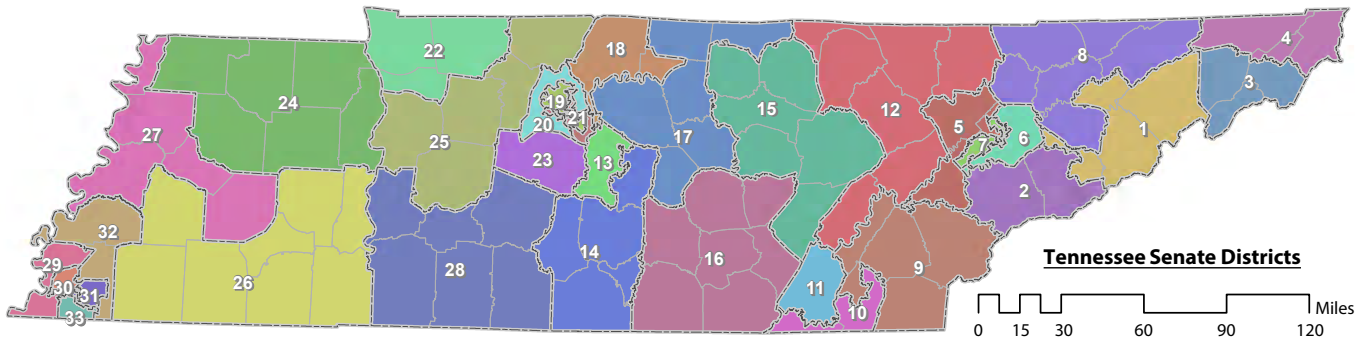
<sup>15</sup> <http://www.ncsl.org/research/about-state-legislatures/2010-constituents-per-state-legislative-district.aspx>

<sup>16</sup> Ibid.

<sup>17</sup> United States Census Bureau 2015.

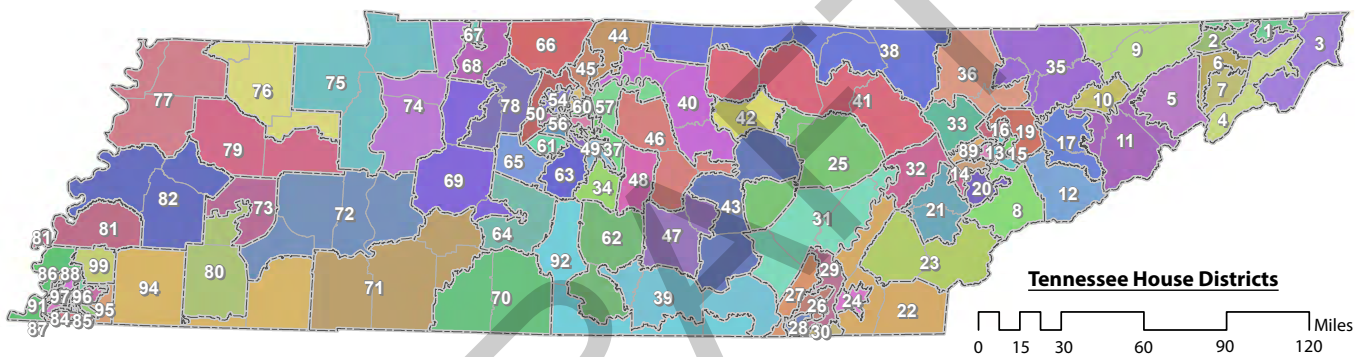


**Map 2. Tennessee Senate Districts**



Source: US Census Bureau 2015.

**Map 3. Tennessee House of Representatives Districts**



Source: US Census Bureau 2015.

although having shorter distances to travel than their rural counterparts, may face greater challenges from traffic and congestion. Legislators representing large rural districts may have many local governments to represent, whereas those in urban settings may have one or just a few. The large number of widely dispersed city and county governments means the legislators representing large rural districts have more local officials in their jurisdictions and must travel more miles to meet with them. One of Tennessee’s senators, for example, represents 41 municipalities and 8 counties. See appendixes B and C.

**Lawmaking**

Lawmaking is the most apparent activity of legislators. In order to make laws, members attend meetings in Nashville during regular legislative sessions, both standing and special committee meetings, and meetings of the General Assembly as a whole. To prepare for those meetings, legislators draft their own legislation and study legislation drafted by their colleagues.

Lawmakers living in large rural districts may have to drive long distances to meet with constituents, while urban legislators, although having shorter distances to travel, may face greater challenges from traffic and congestion.

The Tennessee General Assembly's website states:

In general, the functions of the Legislature are to enact, amend, and repeal the laws of Tennessee. Some of the specific powers granted to the General Assembly by the state Constitution include the appropriation of all money to be paid out of the state treasury, the levy and collection of taxes, and the right to authorize counties and incorporated towns to levy taxes.<sup>18</sup>

### **Balancing Executive Power**

Tennessee's government, like the US government, has three independent branches. Article II, Sections 1 and 2 of the state constitution describe this distribution of powers: "The powers of the government shall be divided into three distinct departments: legislative, executive, and judicial. No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases herein directed or permitted."

The General Assembly implements its role as a balance against the executive branch in a variety of ways, such as its authority to override a governor's veto and its authority to amend and approve the executive budget. The Senate also would sit as a court of impeachment for any proceedings against a governor or members of the judiciary. Throughout the year, Tennessee's General Assembly exercises its oversight of executive departments and programs through the audits and reviews conducted by the Comptroller of the Treasury, a constitutional officer elected by the legislature.

### **The Legislator as Candidate**

Sometimes the tasks associated with holding office, such as speaking engagements and meetings with constituents, may be difficult to separate from those of candidacy, since constituents frequently are also voters. State legislators are selected through popular election, and as such, they engage in campaign activities in addition to their official responsibilities, such as fundraising, public speaking, and general oversight of their election activities. State law, however, prohibits public funds from being spent for campaign activities, but legislators may spend campaign funds for duties related to office holding. Drew Rawlins, Executive Director of the Tennessee Bureau of Ethics and Campaign Finance, indicates that legislators frequently use campaign funds to handle costs of travel within their districts. Although this practice reduces concerns about spending taxpayer dollars for political activities, it may give legislators with large

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<sup>18</sup> Tennessee General Assembly 2016a.



campaign accounts extra resources to spend in other ways. Legislators with smaller campaign funds, perhaps because of closely-contested races, or representing less affluent districts, lack this additional resource.

## Tennessee's legislative compensation is rooted in its Constitution.

In the earliest days of Tennessee's statehood, the state constitution was the sole authority on lawmakers' pay, specifying both a daily amount of compensation and a separate one for travel. Tennessee's 1796 constitution stated simply, "No member of the legislature shall receive more than one dollar and seventy-five cents per day, nor more for every twenty-five miles he shall travel in going to and from the general assembly." Since then, both the methods of setting legislative compensation, and determining the amounts, have evolved into a system that derives from constitutional, statutory, and administrative directives.

The 1834 constitution, Article II, Section 23, raised legislators' compensation to "a sum of four dollars per day, and four dollars for every twenty-five miles travelling to and from the Seat of Government. . ." The constitution was further amended, though, to permit the compensation of succeeding legislatures to be changed by law, rather than changes in the constitution, provided that "no law increasing the compensation of the members shall take effect until the commencement of the next regular session after such law shall be enacted," a provision that survives today.

Although the 1834 Constitution authorized the General Assembly to pass laws to change members' compensation, they never exercised that option and in 1870 the constitution was amended to remove the language authorizing the legislature to make changes to its compensation. In its place were provisions continuing the amounts of \$4 per day, and \$4 for every 25 miles traveling to and from Nashville, but establishing a limit of 75 days for each regular session of the General Assembly and 20 days per special session for which legislators could be compensated for travel expenses. Payments were also prohibited for any days a legislator was absent from his seat, unless "physically unable to attend."

In 1953 the 1870 Constitution was amended to increase compensation to \$10 per day, and include a third amount of \$5 per day for expenses. The travel reimbursement of \$4 per day for every 25 miles travelled to and from the seat of government remained the same. Provisions were added allowing the General Assembly to reduce compensation and allowance for expenses in a regular session, and to increase them in two consecutive regular sessions.<sup>19</sup>

<sup>19</sup> Tennessee Constitution, Article II, Section 23 (1953).

In the earliest days of Tennessee's statehood, the state constitution was the sole authority on lawmakers' pay, specifying both a daily amount of compensation and a separate one for travel.

Since 1995, legislators introduced 72 bills seeking to adjust salary, expense allowances, benefits, or the methods of changing legislative compensation, but only seven bills were enacted.

In 1966 the 1870 Constitution was again amended to expand the General Assembly's authority to pass laws to increase or decrease its members' compensation and allowance for expenses by eliminating the requirement that increases must be passed in two consecutive regular sessions. The amendment also replaced the \$10 per day with an annual salary of \$1,800 per year payable in equal monthly installments, and "such other allowances for expenses in attending sessions or committee meetings as may be provided by law." In addition to these changes, the number of days for which legislators can be compensated for expenses or travel allowances was increased from 75 to 90 for regular sessions and from 20 to 30 for special sessions.<sup>20</sup>

Of Tennessee's contiguous and similar states, Arkansas and Alabama establish the method of compensating legislators in their constitutions, while the other eight states have statutory authority to change either the amount or the methods for determining compensation.<sup>21</sup>

### **There have been few statutory changes to legislative compensation.**

Although the state constitution has authorized Tennessee's General Assembly to pass laws affecting its compensation since 1953, members have not exercised that option often. Since 1995, legislators introduced 72 bills seeking to adjust salary, expense allowances, benefits, or the methods of changing legislative compensation, but only seven bills were enacted. See appendix D. Three of the bills addressed retirement; one bill addressed insurance eligibility in retirement for appointed members; one bill addressed office expense reimbursement for members receiving early retirement from social security; one tied legislators' salary increases to that of state employees and raised the monthly district office expense allowance; and one created a 50-mile restriction on eligibility for lodging reimbursements.

### **Periodic adjustments based on state employee salary increases began in 2005.**

In 2004, the General Assembly passed Public Chapter 955, codified as Tennessee Code Annotated, Section 3-1-107, authorizing periodic adjustments to legislative salaries, to begin in 2005. Tennessee Code Annotated, Section 3-1-107(c), requires that legislators' base salary be adjusted to reflect "the average percentage pay increase provided for state employees by the general appropriations act." Because of Article II, Section

<sup>20</sup> Tennessee Constitution, Article II, Section 23 (1966).

<sup>21</sup> TACIR staff review of state constitutions and statutes.

23 of the Tennessee Constitution, adjustments during a term of the general assembly cannot take effect until the following term. The Comptroller of the Treasury is required to certify the amount, although the Department of Finance and Administration, through its Division of Budget, actually calculates any increases.<sup>22</sup> This change in statute allows lawmakers to receive periodic incremental adjustments to their salaries without passing laws. Although this method helps keep legislators' salaries more up-to-date, it likely also lessens transparency and public awareness of changes in legislative pay.

Of Tennessee's contiguous and similar states, three<sup>23</sup> provide for automatic adjustments of legislators' salaries. Like Tennessee, adjustments to Georgia's<sup>24</sup> legislators' salaries are tied to increases given to state employees, albeit in the succeeding General Assembly to adhere to constitutional requirements that seek to prevent any given General Assembly from adjusting its own compensation. Alabama's legislative salaries are adjusted periodically to reflect the median household income of that state.<sup>25</sup>

Methods of changing legislative compensation are rooted in state constitutions and statutes. Legislative compensation, however, is often politically controversial, and a topic that legislators themselves hesitate to discuss. William Snodgrass, who served as Comptroller of the Treasury from 1955 to 1999, wrote

Obviously, the issue of public official compensation is a difficult one. There are strong differences of opinion among the public regarding governmental leaders and how they should be paid. Some believe that public service should be "contributed," while others believe that public sector decision makers should be compensated like their private sector counterparts. Most people's opinion, I think, would fall somewhere between these extremes. . .<sup>26</sup>

Several states have completely removed legislative involvement by transferring responsibility for legislative pay recommendations to independent bodies such as compensation commissions. According to information compiled by NCSL and commission staff, 21 states have amended their constitutions or passed laws designating an entity outside

Several states have completely removed legislative involvement by transferring responsibility for legislative pay recommendations to independent bodies such as compensation commissions.

<sup>22</sup> Interview with Connie Ridley, Director, Office of Legislative Administration, Tennessee General Assembly, May 9, 2016.

<sup>23</sup> Alabama, Georgia, and Indiana.

<sup>24</sup> Official Code of Georgia Annotated, Section 45-7-4.

<sup>25</sup> Constitution of Alabama, 1901. Amendment 871, ratified. <http://alisondb.legislature.state.al.us/alison/codeofalabama/constitution/1901/CA-2531339.htm>

<sup>26</sup> Snodgrass 1998, transmittal letter.

Tennessee considered legislation in 1997 to establish an independent advisory body to make recommendations about legislative compensation, but the legislation did not pass.

the legislature to review and make recommendations about legislative compensation. See table 2. In some states, these commissions address compensation for several state offices, while in others the purview is limited to legislative pay. In some states, the recommendation of the commission is advisory only and the legislature has to approve any changes. In other states, though, including Arkansas, the compensation commission's recommendations are final. In yet a fourth model, used in Missouri, the recommendation of the independent agency stands unless the legislature votes to disapprove it. Most states do not allow legislators or state employees to serve on the compensation commissions, and six states have provisions that require representation of certain interest groups or those with compensation or payroll experience. Tennessee considered legislation in 1997 to establish an independent advisory body to make recommendations about legislative compensation, but the legislation did not pass.<sup>27</sup>

### What constitutes compensation?

The Merriam-Webster Dictionary defines compensation as

- "something that is done or given to make up for damage, trouble, etc.
- something good that acts as a balance against something bad or undesirable, or
- payment given for doing a job."<sup>28</sup>

For many private market professions, adequacy of compensation is driven by market forces. With state legislatures, however, the pool of comparison is necessarily limited to the other states, and even those are not always similar. Morgan Cullen, writing in *State Legislatures*, notes:

One of the great challenges to setting legislator salaries is that there is no precise way of determining fair market value. In the private sector, employers can establish an adequate pay scale by comparing the salaries of similar positions. The way legislatures operate can differ greatly among states, each requiring varying degrees of experience, time commitment and professional expertise. This can make the process of setting reasonable legislative salaries extremely difficult.<sup>29</sup>

<sup>27</sup> House Bill 1193 by Kerr, Senate Bill 1277 by Koella (1997).

<sup>28</sup> <http://www.merriam-webster.com/dictionary/compensation>

<sup>29</sup> Cullen 2011.

Table 2. States with Legislative Compensation Commissions, 2016

State and Name of Commission	Source of Authority	Year Enacted	How Often are They Required to Meet?	Membership of Commissions			Recommendations	
				Who Appoints and How Many?	Certain Members Required?	Who Cannot Serve on the Commission?	Authority to Enact	Scope
<u>Alaska</u> State Officers Compensation Commission	Statute	2008	Every 2 years	<u>5 Members</u> Five - Governor One - Chosen from a list submitted by President of Senate One - Chosen from a list submitted by Speaker of the House	No	State Employees University of Alaska Employees State Board Members State or Local Office Holders	Recommendations become law unless rejected by General Assembly	Salary Per Diem Mileage Benefits
<u>Arizona</u> Commission on Salaries For Elective State Officers	Constitution	1970	Every 2 years	<u>5 Members</u> Two - Governor One - Pres. of Senate One - Speaker of House One - Chief Justice	No	n/a	Referendum Approval	Salary
<u>Arkansas</u> Independent Citizens Commission	Constitution	2014	Every year	<u>7 Members</u> Two - Governor Two - Pres. Pro Temp. of Senate Two - Speaker of House One - Chief Justice	No	State Employees State or Local Office Holders Lobbyists (or the immediate family member of any of the above)	Commission Recommendations Final	Salary Per Diem Mileage
<u>California</u> Citizens Compensation Commission	Constitution	1990	Every year	<u>7 Members</u> Seven - Governor	Yes <sup>a</sup>	State Employees (current or former) State or Local Office Holders (held or ran for in last 12 months) Lobbyists (prior 12 months)	Commission Recommendations Final	Salary Benefits

Table 2. States with Legislative Compensation Commissions, 2016

State and Name of Commission	Source of Authority	Year Enacted	How Often are They Required to Meet?	Membership of Commissions			Recommendations	
				Who Appoints and How Many?	Certain Members Required?	Who Cannot Serve on the Commission?	Authority to Enact	Scope
<u>Connecticut</u> Compensation Commission For Elected State Officers and General Assembly Members	Statute	1971	Every 2 years	<u>11 Members</u> Three - Governor Two - Pres. Pro Temp. of Senate Two - Speaker of House Two - Minority Leader of Senate Two - Minority Leader of House	No	State Employees State or Local Office Holders Employees of State Funded Agencies or Institutions (state funds comprising more than 10% of gross annual income)	General Assembly Approval	Salary Per Diem Mileage Benefits
<u>Delaware</u> Compensation Commission	Statute	1984	Every 4 Years	<u>6 Members</u> Two - Governor One - Pres. Pro Temp. of Senate One - Speaker of House One - President of Delaware Round Table <sup>b</sup>	No	State Employees State or Local Office Holders	Recommendations become law unless rejected by General Assembly	Salary Per Diem Mileage Benefits
<u>Hawaii</u> Commission on Salaries	Constitution	2006	Every 6 years	<u>7 Members</u> Two - Governor Two - Pres. Of Senate Two - Speaker of House One - Chief Justice	No	n/a	Recommendations become law unless rejected by General Assembly	Salary
<u>Idaho</u> Citizens' Committee on Legislative Compensation	Constitution	1976	Every 2 years	<u>6 Members</u> Three - Governor Three - Supreme Court	No	Anyone affected by recommendations	Recommendations become law unless rejected by General Assembly	Salary Per Diem Mileage Benefits

Table 2. States with Legislative Compensation Commissions, 2016

State and Name of Commission	Source of Authority	Year Enacted	How Often are They Required to Meet?	Membership of Commissions			Recommendations	
				Who Appoints and How Many?	Certain Members Required?	Who Cannot Serve on the Commission?	Authority to Enact	Scope
<u>Kansas</u> Compensation Commission	Statute	1998	Every 2 years	<u>7 Members</u> One - Governor One - Pres. of Senate One - Speaker of House One - Majority Leader of Senate One - Majority Leader of House One - Minority Leader of Senate One - Minority Leader of House	No	State Office Holders (or previous member within past two years) Lobbyists	General Assembly Approval	Salary Per Diem Mileage
<u>Maine</u> State Compensation Commission	Statute	1997	Every 2 years	<u>5 Members</u> Two - Pres. of Senate Two - Speaker of House One - Majority of Appointed Members (serves as chair)	No	State Office Holders	General Assembly Approval	Salary Per Diem Mileage
<u>Maryland</u> General Assembly Compensation Commission	Constitution	1970	Every 4 years	<u>9 Members</u> Five - Governor Two - Pres. of Senate Two - Speaker of House	No	State Employees State and Local Office Holders	Recommendations become law unless rejected by General Assembly	Salary Per Diem Mileage Benefits
<u>Michigan</u> State Officers Compensation Commission	Constitution	1968	Every 2 years	<u>7 Members</u> Seven - Governor	No	No employee or member of the legislative, judicial, or executive branch is eligible	General Assembly Approval	Salary Per Diem Mileage



Table 2. States with Legislative Compensation Commissions, 2016

State and Name of Commission	Source of Authority	Year Enacted	How Often are They Required to Meet?	Membership of Commissions			Recommendations	
				Who Appoints and How Many?	Certain Members Required?	Who Cannot Serve on the Commission?	Authority to Enact	Scope
<u>Missouri</u> Citizens Commission on Compensation for Elected Officials	Constitution	1994	Every 2 years	<p><u>21 Members</u>                      Twelve - Governor                      Eight - Secretary of State (one) from each Congressional District (Random Selection)                      One - Supreme Court (a retired judge is selected)</p>	Yes <sup>c</sup>	State or Local Employees State Board Members State and Local Office Holders Judges Lobbyists No immediate family member of the members mentioned above	Recommendations become law unless rejected by General Assembly	Salary Per Diem Mileage
<u>New Jersey</u> Public Officers Salary Review Commission	Statute	1999	Every 4 years	<p><u>7 Members</u>                      Two - Governor                      One - Pres. of Senate                      One - Minority Leader of Senate                      One - Speaker of the General Assembly                      One - Minority Leader of General Assembly                      One - Chief Justice</p>	No	Anyone whose salary is affected by recommendations	General Assembly Approval	Salary
<u>New York</u> Commission on Legislative, Judicial, & Executive Compensation	Statute	2015	Every 4 years	<p><u>7 Members</u>                      Three - Governor                      One - Pres. Pro Temp. of Senate                      One - Speaker of Assembly                      Two - Chief Judge</p>	Yes <sup>d</sup>	n/a	Commission Recommendations Final	Salary Per Diem Mileage Benefits



Table 2. States with Legislative Compensation Commissions, 2016

State and Name of Commission	Source of Authority	Year Enacted	How Often are They Required to Meet?	Membership of Commissions			Recommendations	
				Who Appoints and How Many?	Certain Members Required?	Who Cannot Serve on the Commission?	Authority to Enact	Scope
<u>Oklahoma</u> Board on Legislative Compensation	Constitution	1968	Every 2 years	<u>9 Members</u> Five - Governor Two - Pres. Pro Temp. of Senate Two - Speaker of House	Yes <sup>e</sup>	State Legislators	Commission Recommendations Final	Salary
<u>Oregon</u> Public Officials Compensation Commission	Statute	1983	Every 2 years	<u>11 Members</u> Two - Governor One - Chief Justice One - Pres. of Senate One - Speaker of House Six - Secretary of State (chosen at random)	No	Anyone whose salary is affected by recommendations (or their relatives or members of household)	General Assembly Approval	Salary
<u>Texas</u> Ethics Commission	Constitution	1991	n/a	<u>8 Members</u> Four - Governor (two each from list supplied by Senate and House) Two - Speaker of House (chosen from list provided by members of House) Two - Lieutenant Governor (chosen from list provided by members of House)	No	n/a	Referendum Approval	Salary Per Diem
<u>Utah</u> Legislative Compensation Commission	Constitution	1999	Every 2 years	<u>7 Members</u> Seven - Governor	Yes <sup>f</sup>	Any employee or member of the legislative, judicial, or executive branch	Recommendations become law unless rejected by General Assembly	Salary

Table 2. States with Legislative Compensation Commissions, 2016

State and Name of Commission	Source of Authority	Year Enacted	How Often They Required to Meet?	Membership of Commissions			Recommendations	
				Who Appoints and How Many?	Certain Members Required?	Who Cannot Serve on the Commission?	Authority to Enact	Scope
<u>Washington</u> Citizens' Commission on Salaries for Elected Officials	Constitution	1986	Every 2 years	16 Members Nine - Secretary of State (randomly selected from each congressional district) Seven - Speaker of House and Pres. of Senate, Jointly	Yes <sup>g</sup>	State Officials State Employees Lobbyists Immediate family members of the members mentioned above	Commission Recommendations Final	Salary
<u>West Virginia</u> Citizens' Legislative Compensation Commission	Constitution	1970	Every 4 years	7 Members Seven - Governor	No	State Legislators State and Local Employees and Officers	General Assembly Approval	Salary Per Diem Mileage Benefits

(a) California - Groups represented: expert in compensation, nonprofit organization, general public, corporate business, small business, and a labor organization.

(b) Delaware - The Director of the Office of Management and Budget of the State (an ex-officio member and nonvoting member).

(c) Missouri - Groups represented: expert in personnel management, organized labor, small business, chief executive officer of a large business, health care industry, agriculture, over the age of sixty years, and diverse county representation.

(d) New York - Groups represented: executive compensation, human resource administration, or financial management.

(e) Oklahoma - Groups represented: religious organizations, communications media, nonstate-supported educational institutions, labor organizations, retail business, agricultural, labor, and religious organizations, civic organizations, manufacturing, and professional fields not otherwise specified.

(f) Utah - Groups represented: major geographic areas of the state, occupational, professional, employee, and management interests.

(g) Washington - Groups represented: private institutions of higher education, business, personnel management, legal profession, and organized labor.

Source: TACIR staff review of state constitutions and statutes, August 2016.

The most comprehensive data available on legislative compensation is compiled every year by NCSL using a survey sent to each state's legislative branch. (See appendix E for survey questions and appendix F for the survey results.) With the exception of New Mexico, which does not pay a salary to its state legislators, all of the states use a combination of categories to compensate their lawmakers. These usually include a salary plus allowances or reimbursement for office and travel expenses. Many states also permit, and sometimes require, their legislators to participate in state-run health insurance plans and retirement systems. Although the categories of compensation themselves are similar among states, the amounts within them are not.

Tennessee is like most other states in using a combination of categories to compensate its legislators. Tennessee Code Annotated, Section 3-1-106, provides that members of the General Assembly are to be compensated for legislative sessions, committee meetings, and such other official endeavors as approved by the speakers, both in-state and out-of-state. Today's legislators receive a salary, a stipend for district office expenses, reimbursement for travel expenses, and may participate in the state's retirement and insurance plans. If Tennessee's 2016 salary and office expenses are combined (\$32,884) and compared to that of its ten comparison states, it is lower than Missouri (\$44,315), Alabama (\$42,830), Louisiana (\$40,800), and Arkansas (\$39,400). Tennessee's is higher than the combined amounts in Indiana (\$24,671), Kentucky (\$24,571<sup>30</sup>), Georgia (\$24,342), Mississippi (\$23,500), and North Carolina (\$20,659). Tennessee is about the same as Virginia, which pays Senate members \$33,000 and House members \$32,640. Tennessee provides extra compensation only to its speakers, while five of its peer states give supplements to majority or minority leaders;<sup>31</sup> three states pay one or more committee chairs an additional amount.<sup>32</sup>

Comparisons of legislative compensation amounts for Tennessee and its contiguous and similar states should be made with caution, however, because categories of compensation and reimbursement vary by state. Alabama, for example, recently increased its salary and tied it to that state's median household income, but eliminated a district office expense allowance.<sup>33</sup> Some states reimburse only for documented expenses, while others including Tennessee, pay a standard amount. And some states offer no retirement benefits, while others do. See table 3 for a comparison of Tennessee and its contiguous and similar states.

Tennessee legislators receive a salary, a stipend for district office expenses, and reimbursement for travel expenses, and may participate in the state's retirement and insurance plans.

<sup>30</sup> Salary for Kentucky is based on an average of two years.

<sup>31</sup> Georgia, Indiana, Kentucky, Missouri, and North Carolina.

<sup>32</sup> Kentucky, Indiana, and Louisiana.

<sup>33</sup> Constitution of Alabama 1901. Amendment 871, ratified.

Table 3. Contiguous and Similar States' Salary, Office and Daily Expense Reimbursement, 2016

State	Salary and Office Expense Allowance		Daily Expense Reimbursement		
	Salary a	Home Office Expense b	Total a+b	Lodging and Meals	Mileage
Contiguous States					
Alabama	\$42,830 (a)	None (c)	\$42,830	\$75*	\$0.54/mile
Arkansas	\$39,400	None (c)	\$39,400	\$150 (V)**	\$0.54/mile
Georgia	\$17,342	\$7,000 per year	\$24,342	\$173 (U)	\$0.54/mile
Kentucky	\$188.22 per day (maximum of \$5,646.60 in odd years and \$11,293 in even years)	\$1,789 per month while not in session	\$24,571***	\$154 (U)	\$0.54/mile
Mississippi	\$10,000	\$1,500 per month while not in session	\$23,500****	\$140 (U)	\$0.54/mile
Missouri	\$35,915	Up to \$700 per month (\$8,400 per year)	\$44,315	\$112 (U)	\$0.375/mile
North Carolina	\$13,951	\$559/month General Assembly (c) (\$6,708 per year)	\$20,659	\$104 (U)	\$0.29/mile
Tennessee	\$20,884	\$1,000 Per Month (\$12,000 per year) (c)	\$32,884	\$204 (U)**	\$0.47/mile
Virginia	\$18,000 - Senate; \$17,640 - House	\$56,100 a year staffing allowance, \$1,250 a month office expense allowance (\$15,000 per year) (c)	Senate - \$33,000 House - \$32,640	\$185 (U)	\$0.54/mile
Other Similar States					
Indiana	\$24,671 (b)	None	\$24,671	\$161 (U)	\$0.54/mile
Louisiana	\$16,800	\$500 per month (\$6,000 per year); \$1,500 a month (\$18,000 per year) supplemental allowance for vouchersed office expenses, rent and travel mileage in district. \$2,000-\$3,000 a month (\$24,000-\$36,000 per year) staff allowance.	\$40,800	\$157 (U)	\$0.54/mile

(a) Tied to State Median Household Income

(b) Salary is 18% of a judge's salary, which is adjusted.

(c) Certain leaders receive a higher amount

(V) Vouchered

(U) Unvouchered

\* State rate used and vouchered; Alabama Code 36-7-20; Alabama Legislative Tax Guide; only available when traveling further than 50 miles from home.

\*\* Legislators living 50 miles or less receive \$59 a day for meals, no lodging is provided.

\*\*\* Kentucky's legislature must conclude its session by April 15 in even years and March 30 in odd years. March 30 is used to determine the number of months considered interim.

\*\*\*\* Assumes that the Mississippi legislature is out of session for nine months per year.

Source: TACIR staff reviewed NCSL survey data from 2016, state constitutions, and statutes.

## Salary

Tennessee Code Annotated, Section 3-1-107, provides for a base annual salary to be paid to members of the General Assembly in twelve monthly installments. The law further provides that beginning in fiscal year 2005 and each subsequent fiscal year, the base salary shall be adjusted to reflect the average percentage pay increase provided for state employees by the general appropriations act. As of the 2015-16 General Assembly, Tennessee's members received \$20,844 per year in salary. The Speakers of the House and Senate each make three times the members' amount or \$62,652 in 2016. Speakers also receive an additional \$750 per year for ex officio duties, granted in the appropriations bill.<sup>34</sup>

According to NCSL data, of Tennessee's contiguous and similar states, Tennessee's salary for rank-and-file members falls close to the middle. Alabama has the highest salary of the comparison states at \$42,830. Tennessee's legislative salary is lower than those in Arkansas (\$39,400) Missouri (\$35,915) and Indiana (\$24,671), but higher than Virginia (\$18,000 for Senators and \$17,640 for Representatives), Georgia (\$17,342), Louisiana (\$16,800), North Carolina (\$13,951), Mississippi (\$10,000), and Kentucky<sup>35</sup> (maximum of \$5,647 in odd years and \$11,293 in even years).

## Leadership Salary and Expense Supplements

Legislative leadership positions may include offices such as speakers of the house and senate, speaker/president pro tempore, majority and minority leaders, and caucus chairs. Some states also pay standing committee chairs more than rank-and-file members. NCSL data indicates that in all states except Nebraska, New Mexico, South Dakota, and Texas, at least one speaker receives a higher salary than rank-and-file members. Twenty-five states pay other leaders a supplement and 17 states pay at least some committee chairs a higher amount. Table 4 shows additional salary for Tennessee and its contiguous and similar states.

**Speakers**—Tennessee, as well as all of its comparison states pay one or both presiding officers more than their rank-and-file members. (Note: Alabama, Arkansas, Georgia, Indiana, Mississippi, Missouri, North Carolina, and Virginia have publicly elected Lieutenant Governors who preside over the Senate but are not paid through the legislative branch.) Georgia's Speaker of the House has the highest annual compensation at \$99,074, while Indiana's House Speaker makes \$31,671. Tennessee Code

According to NCSL data, of Tennessee's contiguous and similar states, Tennessee's salary for rank-and-file members falls close to the middle.

<sup>34</sup> Public Chapter 758, Acts of 2016.

<sup>35</sup> Kentucky pays legislators by the day rather than the year. This amount has been estimated based on the daily amount of \$188.22 times the average days in session each year, which is 30 days in odd years and 60 days in even years.

Table 4. Additional Salary for Leadership Positions in Comparison States, as of 2016

State	Regular Members' Salary	Additional Salary												
		Speakers		Speaker or President Pro Tempore		Majority Leaders		Minority Leaders		Committee Chairs		Other		
		House	Senate	House	Senate	House	Senate	House	Senate	House	Senate	House	Senate	
Tennessee	\$20,884	\$41,768		None		None		None		None		None		
Alabama	\$42,830	\$18,000	None		None		None		None		None		None	
Arkansas	\$39,400	\$5,600	Lt. Gov. Holds Position		\$5,600		None		None		None		None	
Georgia	\$17,342	\$81,732	None		\$4,800		\$2,400		None		\$2,400 Administration Floor Leader; \$1,200 Assistant Administration Floor Leader		None	
Kentucky (a)	Maximum of \$5,646.60 in odd years and \$11,293 in even years	Maximum of \$1,421 in odd years and \$2,841 in even years	None		None		Maximum of \$1,122 in odd years and \$2,244 in even years		Maximum of \$561.3 in odd years and \$1,122.6 in even years		Maximum of \$859.8 in odd years and \$1,720 in even years Majority and Minority Caucus Chairs and Whips		None	
Mississippi	\$10,000	\$50,000	Lt. Gov. Holds Position		\$5,000		None		None		None		None	
Missouri	\$35,915	\$2,500	None		None		\$1,500		None		None		None	
North Carolina	\$13,951	\$24,200	None		\$7,788		\$3,097		\$17,048		\$3,097		\$17,048	
Virginia	\$18,000 - Senate; \$17,640 - House	\$18,681	None		None		None		None		None		\$21,739 for Deputy Pro Tempore	
<b>Other Similar States</b>														
Indiana	\$24,671	\$7,000	Lt. Gov. Holds Position		\$5,000		\$7,000		\$5,500		\$5,500		\$5,500 (b) \$1,500- \$5,500 (c)	
Louisiana	\$16,800	\$15,200	None		\$7,700		None		None		None		\$11,200	

(a) Kentucky pays by the day for the following positions: Regular Members \$188.22; Speakers \$47.35; Majority and Minority Leaders \$37.40; Committee Chairs \$18.71; Majority and Minority Caucus Chairs; and Majority and Minority Caucus Whips \$28.66.

(b) Indiana House: Leadership - Majority Caucus Chair \$5,500; Minority floor leader, Minority caucus chair \$4,500; Majority Whip \$4,000; Assistant Majority Floor Leaders \$3,500; Minority Whip \$3,000; Deputy Speaker Pro Tempore, Assistant Majority Caucus Chairs, and Assistant Majority Whips \$2,000; Assistant Minority Leader, Assistant Minority Floor Leader, Assistant Minority Caucus Chair, and Assistant Minority Whip \$1,500. Committee Chairs - Chair, Ways and Means \$5,500; Vice Chair, Ways and Means \$4,000; Ranking Minority Member, Ways and Means \$3,500. Subcommittee Chair, Ways and Means \$3,000; Subcommittee Chairs, Ways and Means K-12 and higher ed. \$1,500; and All other committee chairs \$1,000.

(c) Indiana Senate: Leadership - Majority Caucus Chair \$5,500; Minority Caucus Chair, Assistant Minority Floor Leader \$5,000; Majority Whip \$4,000; Assistant Majority Floor Leader \$3,500; Assistant President Pro Tempore \$3,000; Majority Floor Leader Emeritus \$2,500; Assistant Majority Whip, Minority Whips \$2,000; Minority Leader Emeritus, Assistant Majority Caucus Chairs \$1,500; Assistant Minority Whip \$1,000. Committee Chairs: Chair, Appropriation, Tax and Policy \$5,500; Appropriation Ranking Majority Member, Tax and Policy Ranking Majority Member, Appropriation Ranking Minority Member, Tax and Fiscal Policy Ranking Minority Member \$2,000; and All Other Committee Chairs \$1,000.

Source: National Conference of State Legislatures Survey Results from 2016. See also appendix F.

Annotated, Section 3-1-107(b) provides that both of Tennessee’s speakers make three times the members’ salary. In 2016 each speaker’s salary was \$62,652.

**Speaker/President Pro Tempore**—Arkansas, Georgia, Indiana, Louisiana, Mississippi, and North Carolina each pay an additional amount to the speaker/president pro tempore of both houses; Tennessee does not.

**Majority and Minority Leaders**—Twenty-five states pay majority or minority leaders a supplementary salary in one or both houses; Tennessee does not. Of Tennessee’s comparison states, Georgia, Indiana, Kentucky, and North Carolina give an additional supplement to the majority and minority leaders; Missouri provides a supplement to leaders in the House, but not the Senate.

**Committee Chairs**—Seventeen states pay committee chairs in one or both houses more than other members; Tennessee does not. Of its comparison states, Indiana and Kentucky pay all standing committee chairs a supplement. Louisiana pays the senate joint finance chair and vice-chair an additional amount.

### Home Office Expenses

Tennessee Code Annotated, Section 3-1-106(f), states that “Each member of the general assembly shall be paid a monthly expense allowance of one thousand dollars (\$1,000), to provide for expenses necessitated in connection with the member’s official duties when away from the seat of government including, but not limited to, telecommunications, office, secretarial and other assistance or incidental expenses.” The law provides an exception for members who are receiving early retirement benefits from social security, who may decline, in whole or in part, any such authorized expense and may instead apply to the appropriate speaker for reimbursement of actual monthly documented expenses.

The \$12,000 that legislators receive annually for district expenses is paid and taxed as income. Legislators are not required to document how the money is spent. Tennessee’s Speakers of the House and Senate receive an additional amount through each year’s appropriations bill to cover office expenses in their county of residence, in addition to the cost of operating offices in the Capitol. In 2016, that amount was \$5,700.<sup>36</sup>

<sup>36</sup> Public Chapter 758, Acts of 2016.



Forty-five states reimburse legislators for travel expenses, such as lodging, meals, and mileage.

Most states provide a district office allowance for all legislators<sup>37</sup> with seven states providing different amounts for senators and representatives.<sup>38</sup> Seventeen states do not provide an office allowance.

Of Tennessee’s contiguous and similar states, seven—Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, and Virginia—offer rank-and-file legislators an office allowance. Among these states, Louisiana has the highest at \$24,000 per year with an additional \$2,000 to \$3,000 a month staff allowance. Georgia has the lowest at \$7,000 per year. Kentucky and Mississippi offer the allowance only while the legislature is not in session. Georgia and Louisiana require receipts for reimbursement. Alabama, Arkansas, and Indiana do not offer a district office allowance to rank-and-file members, but an allowance may be provided to speakers in Alabama<sup>39</sup> and is provided to certain committee officers in Arkansas. Of those comparison states for which NCSL reports a separate speakers’ office expense allowance, Virginia has the highest at \$21,000 per year.

### Travel Expenses

Ideally, legislators should be reimbursed for reasonable expenses incurred in carrying out the responsibilities of their office. Forty-five states reimburse legislators for travel expenses, such as lodging, meals, and mileage. New Jersey does not pay travel expenses, while Connecticut, Delaware, New Hampshire, Ohio, and Rhode Island reimburse only mileage expenses.

The laws affecting travel reimbursement primarily focus on travel to and from Nashville during the legislative session. Because legislators receive no compensation for travel within their districts, however, those who represent districts with expansive land areas may have to absorb more local travel expense than their counterparts in more densely populated areas.

Tennessee state law requires legislators to be compensated for their travel expenses, which include lodging, meals, and incidentals while attending session in Nashville and mileage to and from their homes, as well as other trips with the approval of the speakers. Tennessee Code Annotated, Section 3-1-106(a), provides that

. . . each member of the general assembly shall be paid for the member’s expenses in attending legislative sessions and legislative committee meetings, and such conferences, symposiums, workshops, assemblages, gatherings and other official meetings and endeavors

<sup>37</sup> Note that some states may provide a staffing allowance in addition to a district office allowance.

<sup>38</sup> Alaska, Connecticut, Florida, Hawaii, Illinois, Michigan, and Wisconsin.

<sup>39</sup> Constitution of Alabama, Section 49.01(3)(b)(3).



concerning state business and the duties of a legislator, held within or without the state of Tennessee, as are attended by members of the general assembly with the approval or at the direction of the speaker of either house or both houses. . . .

Tennessee, like the contiguous and similar states of Arkansas, Indiana, Louisiana, Mississippi, and Missouri, ties the amount of lodging and meal reimbursement to the expenditure reimbursement granted to federal employees in the capital city. Legislators may receive these payments for each legislative day, defined as each day that the general assembly, or either house thereof, officially convenes for the transaction of business, or for each day in attendance at any such other approved meeting. Legislators traveling in Tennessee are not expected to produce receipts for their hotel stays or their meals. Legislators traveling out-of-state with speaker approval are reimbursed for the actual receipted hotel amount in addition to the regular travel expense reimbursement for meals and incidentals.<sup>40</sup> Some members choose to return their travel reimbursement to the state, but because statutes state that members “shall be paid” they cannot just decline it and still must pay federal taxes on it. The legislature’s website indicates that for the 109<sup>th</sup> General Assembly, six Tennessee legislators had returned their travel reimbursement to the state government; one had donated it to charitable organizations.<sup>41</sup> Some states have statutes that allow legislators to decline all or part of the expense reimbursement, which could simplify this process.<sup>42</sup>

### Lodging

During the 2015-2016 General Assembly, legislators living further than 50 miles from the capitol received reimbursement for lodging of \$145 per day when they traveled from their home to Nashville for official business,<sup>43</sup> an amount based on federal reimbursement rates. Effective October 1, 2016, the lodging amount increased to \$161 per day.<sup>44</sup> Since November 4, 2014, members whose principal residence is 50 miles from the capitol or less are not permitted to receive a lodging reimbursement, except if such member is unable to return home at the conclusion of a legislative day, and with the

Since 2014, members whose principal residence is 50 miles from the capitol or less are not permitted to receive a lodging reimbursement, except if such member is unable to return home at the conclusion of a legislative day, and with the express approval of the speaker of such member’s house.

<sup>40</sup> According to an interview with Connie Ridley, Director, Office of Legislative Administration, Tennessee General Assembly, May 9, 2016, in situations where legislators are reimbursed for the receipted lodging expense, the regular travel reimbursement is taxable.

<sup>41</sup> Tennessee General Assembly. 2016c.

<sup>42</sup> See, for example, Colorado Revised Statutes Section 2-2-317(1)(e) and Wyoming Legislative Handbook.

<sup>43</sup> Current as of August 2016. <http://www.gsa.gov/portal/category/100120?perdiemSearchVO.year=2016&perdiemSearchVO.city=Nashville&perdiemSearchVO.state=Tennessee&perdiemSearchVO.zip=&resultName=getPerdiemRatesBySearchVO&currentCategory.categoryId=100120&x=44&y=13>

<sup>44</sup> Effective as of October 1, 2016. <http://www.gsa.gov/portal/category/100120>

express approval of the speaker of such member's house. (Tennessee Code Annotated, Section 3-1-106(3)).

To compensate legislators for expenses incurred for travel during session, 32 states provide a single amount to cover lodging, meals, and incidentals; 10 of these require receipts or some other form of verification of expenditures. When receipts are not required, as in Tennessee, legislators collect the total payments regardless of the cost for lodging, whether they split the cost with other legislators, or do not stay in a hotel. The amount is often the same as the federal travel reimbursement rate for the capital city within a state and according to NCSL at least 11 states, including Tennessee, set their travel allowance to equal the federal rate.

Among Tennessee's contiguous and similar states, two—Georgia and North Carolina—offer less than the federal travel rate for their capital city and one state—Virginia—offers an amount equal to the federal amount. Five states—Arkansas, Indiana, Louisiana, Mississippi and Missouri—are tied to the federal per diem amount for their capital cities, and one state—Kentucky—sets its travel allowance to 110% of the federal amount.

NCSL reports that at least nine states provide a different lodging allowance depending on the distance a legislator lives from the capitol. Other sources identify five more states, including Tennessee. There are three basic models for such differentiation:

- Provide lodging only to members living more than 50 miles from the capitol or seat of government—Tennessee, Alabama, Arkansas, Colorado, and Nebraska.
- Provide no lodging reimbursement to members living in the capital city or county, or provide them a lesser amount—Alaska, Arizona, Hawaii, Idaho, Iowa, Wisconsin, West Virginia, and Wyoming.
- Provide a single allowance for travel, which includes lodging, meals, and mileage, based on legislator's city of residence—Massachusetts.<sup>45</sup>

Tennessee and two of its contiguous states, Alabama and Arkansas, are among the states that reimburse only legislators living further than 50 miles from the capitol for lodging. Unlike Tennessee, however, those two states also require vouchers in order to receive a reimbursement.

During the 2015-16 General Assembly the federal rate of \$145 per day used for legislators' lodging reimbursement may not have been adequate to cover actual expenses incurred by legislators to stay in downtown

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<sup>45</sup> \$10-\$100 a day depending on distance from the Capitol. (See Annotated Laws of Massachusetts, General Laws, Chapter 3, Section 9B.)

Nashville hotels. Lizzy Alfs, in a 2015 *Tennessean* article titled “Nashville Hotel Room Costs Grow at Fastest Rate in US,” notes that in 2014 Nashville ranked as the 14<sup>th</sup> most expensive place in the US to book a hotel. The article cites a Hotels.com survey indicating an average price of \$164 per night in Nashville. The article also cites Butch Spyridon, CEO of the Nashville Area Visitors’ Bureau, who said that Nashville had experienced 50 consecutive months in year-over-year growth in the number of hotel rooms sold. Tennessee’s state travel regulations for 2016 permit department heads and board members up to \$155 per night of lodging. The increased federal lodging rate of \$161 for Nashville, effective October 1, 2016, may help address the increasing costs of Nashville lodging.

### Meals and Incidentals

Tennessee provides all legislators reimbursement for meals and incidentals at the federally established reimbursement rate. As of July 1, 2016, this amount was \$59 per day—\$54 for meals and \$5 for incidentals.

Although some states—Connecticut, Delaware, New Hampshire, New Jersey, Ohio, and Rhode Island—do not offer a reimbursement for meals while the legislature is in session, most states do. Tennessee and Arkansas both provide a meal reimbursement to every member of the legislature but separate it from lodging for members living less than 50 miles from the capital. Another contiguous state, Alabama, does not provide a meal reimbursement for members living less than 50 miles from the capital. Legislators eligible for meal reimbursements in Alabama or Arkansas must submit a voucher or receipts, something the other contiguous and similar states do not require.

### Mileage

Since legislators come from all parts of their states and most drive to attend session, nearly every state provides a mileage reimbursement—New Jersey is the only exception. According to NCSL data, most states have an amount that is tied to or equal to the federal rate, which is adjusted each year and maintained by the US General Services Administration. Among Tennessee’s contiguous and similar states, reimbursements range from \$0.29 per mile in North Carolina to an amount equal to the federal rate of \$0.54 per mile in Alabama, Arkansas, Georgia, Indiana, Kentucky, Mississippi, Virginia, and Louisiana. Tennessee, Missouri, and North Carolina are the only states with reimbursements below the federal rate.

Tennessee uses the mileage reimbursement rate established by the *State of Tennessee Comprehensive Travel Regulations*, approved by the Commissioner

Tennessee provides all legislators reimbursement for meals and incidentals at the federally established reimbursement rate.

Most states, like Tennessee, reimburse legislators only for expenses they incur to drive to and from the capitol during session and not for any travel within their districts.

of Finance and Administration.<sup>46</sup> In 2016, this amount is \$0.47 per mile. Legislators who live outside the 50-mile radius of the capitol may claim one round-trip from their home to Nashville per week during session, while those living 50 miles or less from the capitol are allowed four round-trips each week (Monday through Thursday) during the legislative session. During the interim, reimbursement for all House members' trips is reduced to one round-trip per week<sup>47</sup> while senators continue to be reimbursed for up to four round-trips per week. In lieu of driving, legislators who reside more than 100 miles from Nashville may be reimbursed the cost of one-round-trip coach-class airline ticket per week during session, or for committee meetings, if approved by the speaker.<sup>48</sup>

Of Tennessee's comparison states, seven reimburse all members for only one round-trip per week while the legislature is in session. Similar to Tennessee, Arkansas reimburses members living 50 miles or less from the Capitol differently than those living greater than 50 miles, providing for 5 round-trips per week. Virginia reimburses only members living further than 50 miles from the seat of government. Two states, Alabama and Mississippi, do not reimburse mileage expenses to members whose districts lie within the capital city or county. During the interim, three states have the same mileage reimbursement policy as during session and the seven other comparison states reimburse by the day if the member is travelling for legislative business. See Table 5.

#### **Intra-district Travel**

Most states, like Tennessee, reimburse legislators only for expenses they incur to drive to and from the capitol during session and not for any travel within their districts. Of Tennessee's comparison states, only Louisiana addresses intra-district travel. That state allows legislators to claim vouchered travel mileage within their districts as part of a \$1,500 per month district office allowance. Two other states—Maryland and Minnesota—however, specifically address intra-district travel for all or some members. Maryland offers a \$750 annual lump sum to all members "intended to cover the costs of traveling to meetings with local government officials and constituents and other appropriate functions within a member's legislative district."<sup>49</sup> NCSL indicates that Maryland's in-district travel allowance is considered taxable income, which members may decline. Minnesota provides a capped intra-district travel supplement for all members plus additional reimbursements for those members whose districts exceed 1,000 square miles. According to Minnesota's 2015-16 House Rules:

<sup>46</sup> Tennessee Code Annotated, Section 3-1-106(c) and <https://www.tn.gov/assets/entities/finance/attachments/policy8.pdf>

<sup>47</sup> Tennessee Code Annotated, Section 3-1-106(g).

<sup>48</sup> Tennessee Code Annotated, Section 3-1-106(d).

<sup>49</sup> Maryland Legislator's Handbook 2014.

Table 5. Mileage Reimbursement Policy of Comparison States, 2016

State	Who Sets the Rate?	Rate	How Many Trips per Week Do Members Receive Reimbursement?		
			During Session	During Interim	
		Members living ≤50 miles from Capitol			Members living >50 miles from Capitol
<b>Contiguous</b>					
Alabama	State	\$0.54/mile	Up to 5 round-trips per week*		Same as during session
Arkansas	Federal	\$0.54/mile	Up to 5 round-trips per week	1 round-trip per week	Same as during session
Georgia	State	\$0.54/mile	1 round-trip per week		May be reimbursed for each day traveling for legislative business
Kentucky	Federal	\$0.54/mile	1 round-trip per week		May be reimbursed for each day traveling for legislative business
Mississippi	Federal	\$0.54/mile	1 round-trip per week*		Same as during session but with cap on total trips**
Missouri	State	\$0.375/mile	1 round-trip per week		May be reimbursed for each day traveling for legislative business
North Carolina	Federal	\$0.29/mile	1 round-trip per week		May be reimbursed for each day traveling for legislative business
Tennessee	State	\$0.47/mile	Up to 4 round-trips per week	1 round-trip per week	Senators - Same as during session; House - 1 round-trip per week
Virginia	State***	\$0.54/mile	No mileage reimbursement*	1 round-trip per week	May be reimbursed for each day traveling for legislative business
<b>Other Similar States</b>					
Indiana	Federal	\$0.54/mile	1 round-trip per week		May be reimbursed for each day traveling for legislative business
Louisiana	Federal	\$0.54/mile	1 round-trip per week		May be reimbursed for each day traveling for legislative business

\* Legislators with districts in the capital city or county do not receive a mileage reimbursement.

\*\* Up to 4, 5, or 6 round trips per year for committee meetings during interim depending on position.

\*\*\*Set in appropriations act. See Virginia Code Annotated, Section 2.2-2823.

Source: Correspondence with administrators in each comparison state. See Persons Contacted section. See also the following: Alabama Constitution Article IV, Section 49.01(b)(1); Official Code of Georgia Annotated, Section 28-1-8; Kentucky Revised Statutes, Section 6.190; North Carolina General Statutes, Section 120-3.1; Tennessee Code Annotated, Section 3-1-306; Burns Indiana Code Annotated, Section 2-3-1-4; Louisiana Revised Statutes, Section 24:31.1; Virginia Code Annotated, Sections 30-19.15, 2.2-2923, and 2.2-2825.

The passage of the 50-mile restriction that became effective in November 2014, may have unintentionally compounded the negative financial effect on legislators who live within the 50-mile radius, but represent large rural districts.

Each member of the House may receive, upon written request, travel reimbursement for constituent service travel within the member's legislative district, within any county that is in any part of the member's legislative district, up to a monthly maximum amount based upon the actual size of the district. The maximum reimbursement must be computed at the standard federal mileage rate per square mile per month, with minimum allowable amount of \$100 and a maximum allowable amount of \$850 per month. Members may receive an additional \$100 monthly travel reimbursement in excess of the maximum for each increment of 1,000 square miles for which their district size exceeds 1,000 square miles. Reimbursements must be for the actual miles travelled and at the federal mileage rate.<sup>50</sup>

Oregon also addresses travel expenses in legislative districts of different sizes, but in the district office expense allowance, rather than through travel reimbursements.<sup>51</sup> Oregon legislators receive additional lump sum compensation of \$450 to \$750 per month depending on district size; the additional amount is intended in part to reflect greater travel expenses associated with larger districts.<sup>52</sup>

#### Relation of Travel Reimbursement to Travel Expenses

The passage of the 50-mile restriction that became effective in November 2014, may have unintentionally compounded the negative financial effect on legislators who live within the 50-mile radius, but represent large rural districts. Recordings of the legislative committee discussions about the legislation indicate intent to reduce the burden on Tennessee's taxpayers for those legislators who can stay at home while the General Assembly is in session; the fiscal note for the legislation estimated a net reduction in state expenditures of \$253,616.<sup>53</sup> In addition, because the Internal Revenue Service requires that members in the 50-mile radius pay federal income taxes on lodging and meals,<sup>54</sup> but not mileage, the elimination of a lodging reimbursement, with the addition of a greater mileage reimbursement, was seen as a way to reduce the taxes paid by the members to the federal government. Legislators living beyond the 50-mile limit are not taxed for lodging and meal reimbursements. Based on the distances that legislators reported for mileage reimbursement on the General Assembly's website, the application of the "50-mile" rule affected 35 legislators in

<sup>50</sup> Minnesota House Committee on Rules and Legislative Administration.

<sup>51</sup> Oregon Revised Statutes, Section 171.072(8).

<sup>52</sup> Email from Shirley Alt, Employee Services and Payroll, Office of Legislative Administration, Oregon Legislative Assembly, August 12, 2016.

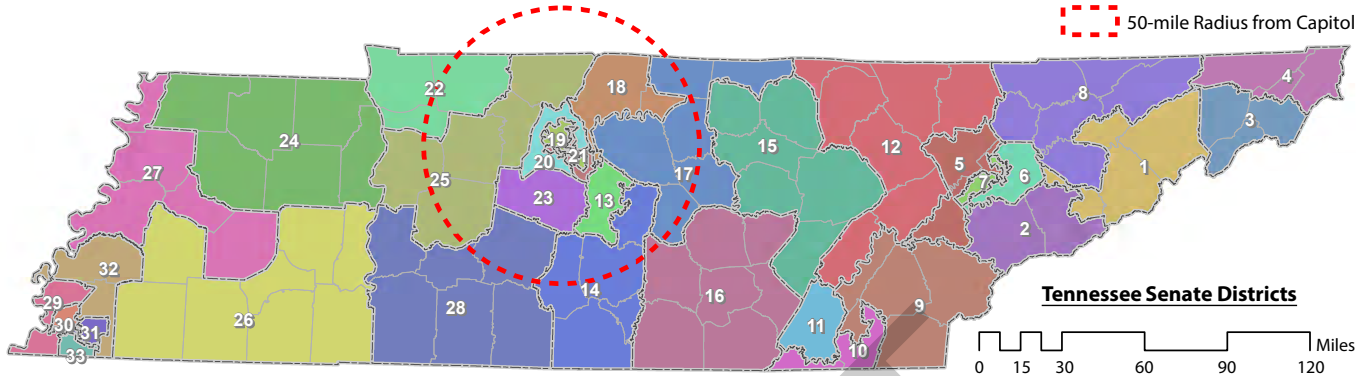
<sup>53</sup> Tennessee General Assembly 2016b. Fiscal Note for House Bill 80 and Senate Bill 107, 2013.

<sup>54</sup> 26 US Code, Section 162(h)



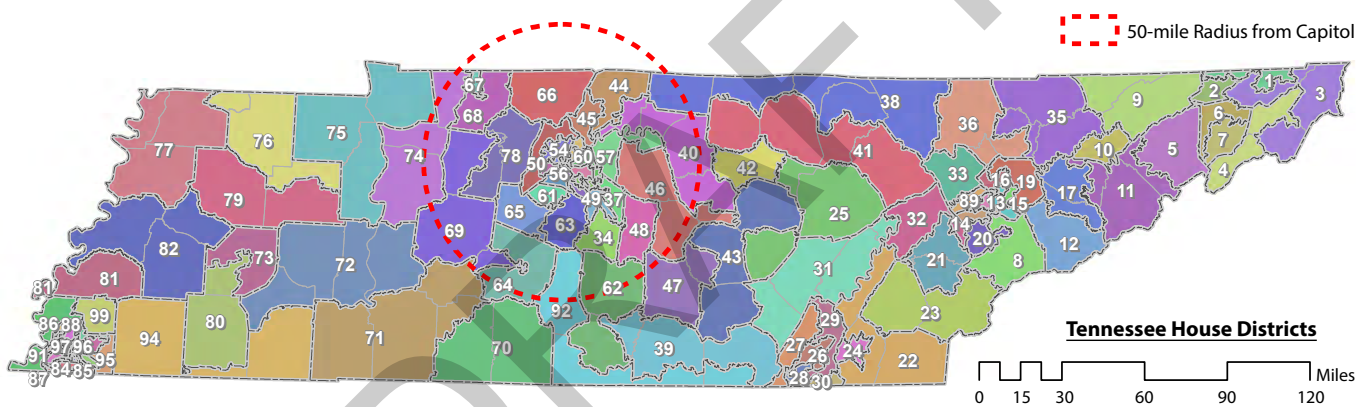
the 109<sup>th</sup> General Assembly. See appendix G. Maps 4 and 5 illustrate the approximate location of the 50-mile radius.

**Map 4. Area affected by 50-mile rule-Senate**



Source: US Census Bureau 2015.

**Map 5. Area affected by 50-mile rule-House of Representatives**



Source: US Census Bureau 2015.

Table 6 illustrates the financial effect that the change in law had on two hypothetical legislators, Legislator A, who lives 40 miles from the state capitol and Legislator B who lives 60 miles from the state capitol. Because legislators cannot be compensated for more than 90 days in each two-year term, the analysis assumes that the General Assembly meets 45 days per year. Assuming legislators spend three nights a week in Nashville during session, 45 days would be the equivalent of 15 weeks.

The analysis illustrates the extent to which members who live beyond 50 miles from Nashville receive greater total compensation. Legislator A receives a total of \$26,192 after taxes, while Legislator B receives \$32,173, a difference of \$5,981. All legislators must pay taxes on salary and office expenses, but Legislator A, who lives 40 miles from the Capitol, is required to pay \$867 in taxes on the \$2,655 meal reimbursement that Legislator B is not.

**Table 6. Effect of 50-Mile Rule on Tennessee Legislators' Compensation, 2016**

Legislator A lives 40 miles from the Capitol					
Type Compensation	Compensation Before Taxes	Taxes			Net Compensation
		FICA (7.65%)	WH (25%)	Total Taxes	
Salary	\$20,884	\$1,598	\$5,221	\$6,819	\$14,065
Office Expense	\$12,000	\$918	\$3,000	\$3,918	\$8,082
Lodging (\$145 per day for 45 days)	n/a	n/a	n/a	n/a	n/a
Meals (\$59 per day for 45 days)	\$2,655	\$203	\$664	\$867	\$1,788
Mileage (.47 per mile for four round-trips per week for 15 weeks)	\$2,256	n/a	n/a	n/a	\$2,256
<b>Total</b>	<b>\$37,795</b>	<b>\$2,719</b>	<b>\$8,885</b>	<b>\$11,603</b>	<b>\$26,192</b>

Legislator B lives 60 miles from the Capitol					
Type Compensation	Compensation Before Taxes	Taxes			Net Compensation
		FICA (7.65%)	WH (25%)	Total Taxes	
Salary	\$20,884	\$1,598	\$5,221	\$6,819	\$14,065
Office Expense	\$12,000	\$918	\$3,000	\$3,918	\$8,082
Lodging (\$145 per day for 45 days)	\$6,525	n/a	n/a	n/a	\$6,525
Meals (\$59 per day for 45 days)	\$2,655	n/a	n/a	n/a	\$2,655
Mileage (.47 per mile for one round-trip per week for 15 weeks)	\$846	n/a	n/a	n/a	\$846
<b>Total</b>	<b>\$42,910</b>	<b>\$2,516</b>	<b>\$8,221</b>	<b>\$10,737</b>	<b>\$32,173</b>

Note: FICA-Federal Insurance Contributions Act; WH-Federal Income Tax Withholding.

Source: Staff review of 2016 House and Senate Members Per Diem and Travel Reimbursements. Office of Legislative Administration. <http://www.capitol.tn.gov/joint/staff/administration/>; Tennessee Code Annotated, 3-1-106; and 3-1-107.

Current law addresses travel to the capitol during session, and travel to official meetings in the interim, but does not address other kinds of travel. The apparent intent of the 50-mile restriction was to eliminate lodging reimbursements to legislators who travel back home at night during the legislative session. However, using a legislator's house and its distance from Nashville as the only basis for all legislative travel reimbursement neglects other kinds of official travel expenses, which are likely greater for legislators who represent geographically large districts than for those with smaller more densely-populated districts. Legislators who have geographically large districts and live within the 50-mile limit are disadvantaged by having to drive greater unreimbursed distances, and by having to pay taxes that others do not. Although legislators who live close to Nashville can return home more easily during the legislative session, eliminating the lodging portion of their travel reimbursement, likely also reduced one financial resource for serving their districts.



Legislators who live long distances from Nashville need the lodging reimbursement to cover their expenses for overnight stays in the Nashville area, but those who live closer may not. Some reportedly have found other housing options in addition to hotels to reduce expenses, including rental accommodations shared with other members. Some who are entitled to and receive the lodging reimbursement still choose to drive home each night, thus incurring additional unreimbursed mileage expense, but eliminating costs of lodging. Providing a standard amount without receipts or vouchers gives members flexibility to address their own circumstances and preferences, but also makes it difficult to relate the reimbursement to actual expenses incurred. Because legislators are not required to spend the lodging reimbursement for lodging or the meals reimbursement for food, legislators who are able to reduce or eliminate their lodging and/or meal costs, can use those funds for other purposes, whether covering other kinds of expenses associated with their office or ones that are not.

## Insurance

Except for those legislators who have been appointed to fill a vacancy or unexpired term, Tennessee's legislators may participate in the state's group health insurance plan. The state pays 80% of the total premium and the member pays 20%.<sup>55</sup> For active members of the General Assembly, insurance benefits mirror those of state employees. Tennessee also pays for a basic life insurance plan, with additional amounts available at the legislator's expense. Legislators may participate in the state government's dental and vision plans at the member's expense.

Legislators elected on or after July 1, 2015, with no prior service, are not eligible to participate in the state's health insurance plan after they leave the General Assembly,<sup>56</sup> but those who were first elected before July 1, 2015, may continue in the state's plan for life with the state contributing premium support based on the member's years of service.<sup>57</sup> Tennessee Code Annotated, Section 8-27-208, however, provides that no member or former member of the general assembly may elect to retain health benefits pursuant to this section if that person is convicted in any state or federal court of a felony arising out of that person's official capacity as a member of the general assembly after November 2, 2010. In addition, unlike retired state employees who must go on Medicare when they become eligible, legislators can stay in the state's insurance plan as a secondary policy.<sup>58</sup>

<sup>55</sup> Tennessee Code Annotated, Section 8-27-203.

<sup>56</sup> Tennessee Code Annotated, Section 8-27-208(a)(2).

<sup>57</sup> Interview with Scott McAnally, Senior Manager of Policy and Research and Legislative Affairs, Office of Benefits Administration, Department of Finance and Administration, June 28, 2016, and Office of the Attorney General of Tennessee, Opinion No. 78-396.

<sup>58</sup> Interview with Scott McAnally, Senior Manager of Policy and Research and Legislative Affairs, Office of Benefits Administration, Department of Finance and Administration, June 28, 2016.

Except for those legislators who have been appointed to fill a vacancy or unexpired term, Tennessee's legislators may participate in the state's group health insurance plan.

Tennessee’s legislators may participate in the Tennessee Consolidated Retirement System (TCRS) described in Tennessee Code Annotated, Title 8, Chapters 34 through 37.

According to NCSL data, of Tennessee’s contiguous and similar states, all provide a health insurance option for legislators. Arkansas, Georgia, Kentucky, Indiana, Louisiana, Missouri, Tennessee, and Virginia, each provide health insurance with a combination of payments by the state and the legislator. In Mississippi and North Carolina the state pays 100% of legislators’ premiums, while in Alabama, legislators must pay 100% of the premium if they choose to participate in the state’s plan. See appendix F.

**Retirement**

Tennessee’s legislators may participate in the Tennessee Consolidated Retirement System (TCRS) described in Tennessee Code Annotated, Title 8, Chapters 34 through 37. Participation requirements and benefits for all state employees, including members of the General Assembly, changed in 2014, with the passage of Public Chapter 659. Legislators elected before July 1, 2014, are part of the state’s Legacy System, a non-contributory retirement plan, whereas those elected July 1, 2014, and after with no other state service, must participate in the Hybrid system. Table 7 compares the two plans.

**Table 7. Comparison of General Assembly Retirement Plans**

Legacy Plan	Hybrid Plan
<b>Defined Benefit</b>	
1.5% benefit formula	1.0% benefit formula
<b>Eligibility to Retire</b>	
55 years old and vested 4 year vesting (If term of office began prior to July 1, 1976, members are eligible to retire with less than 4 years of service.)	60 years old and vested 4 year vesting
<b>Employee Contributions</b>	
0%	5%
<b>Employer Contributions</b>	
Determined by actuary	4%
<b>Defined Contribution</b>	
Optional contributions	5% employer contribution made to an employee's account and not subject to any matching employee contribution
	2% employee contribution; automatically enrolled but may opt-out

Source: Email from Jill Bachus, Director, Tennessee Consolidated Retirement System, August 9, 2016, and Lillard and Bachus 2014.

Under either plan members are allowed to claim military service that interrupted state employment as creditable service toward retirement benefits, and have the same access to disability benefits and the same survivor benefits. Members of the General Assembly who had any prior service as a state employee or teacher in the Legacy system and did not lose membership would continue in the Legacy system. If, however, membership was lost, he/she would start in the Hybrid system. Membership could have been lost by leaving the system before vesting and being gone for seven or more years, or by leaving the system and taking a refund of contributions. This could affect only members employed by a member employer before 1981. If a legislator had prior service in a local government legacy system, that person would get credit for the service time, but would have to go in the Hybrid system.<sup>59</sup>

#### **Legacy System (members elected before 7-1-14)**

Legislators who are members of the Legacy System become vested (eligible to receive a retirement benefit) in the system at four years, which equates to two terms for a representative or one term for a senator. Legislators who are members of the Legacy system are eligible to retire at age 55. Any prior TCRS service is counted in vesting, service, or benefits. If a member participates in the retirement system based on two positions, earnings from both positions can be used to determine his/her benefit, although members cannot count more than 12 months service in 12 months.

#### **Hybrid System (members elected 7-1-14 and after)**

The Hybrid System has a defined benefit component and a defined contribution component. Legislators who choose to participate in the Hybrid System must contribute 5% of their salaries toward the defined benefit portion of the plan. They are also automatically enrolled to contribute 2% of their salaries to the defined contribution portion of the plan, but can opt out. The state contributes 4% of the member's compensation to the defined benefit portion of the plan and 5% of the member's compensation to the defined contribution component. Members of the Hybrid System become vested after 4 years.<sup>60, 61</sup>

Under the Hybrid system, legislators must be 60 years old to qualify for retirement benefits. As of July 1, 2016, the guaranteed monthly benefit is \$56.11 x years of service.<sup>62</sup> Tennessee Code Annotated, Section 8-35-124 provides that any legislator convicted of a felony arising out of that

<sup>59</sup> Email from Jill Bachus, Director, Tennessee Consolidated Retirement System, August 9, 2016.

<sup>60</sup> Hybrid Pension Plan for General Assembly Members, [http://www.treasury.state.tn.us/tcrs/PDFs/HybridBrochure\\_GA.pdf](http://www.treasury.state.tn.us/tcrs/PDFs/HybridBrochure_GA.pdf)

<sup>61</sup> Interview with Jill Bachus, Director of Tennessee Consolidated Retirement System, June 21, 2016.

<sup>62</sup> Ibid.

person's official capacity, constituting malfeasance of office, loses his/her retirement benefit; however, beneficiaries are still eligible.

Of the 50 states, ten including Alabama and Louisiana, currently offer no retirement system participation for their legislators. In the 40 states that offer a legislative retirement benefit, as of 2016, participation is optional in 23 states, and mandatory in 17 states. Most require that the member contribute some portion of salary to participate, although not all. Of Tennessee and its comparison states that offer a retirement benefit for legislators, participation is optional in Arkansas, Georgia, Kentucky, and Tennessee. Participation is mandatory in Indiana, Mississippi, Missouri, North Carolina, and Virginia.

DRAFT

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DRAFT

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