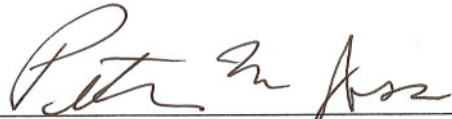


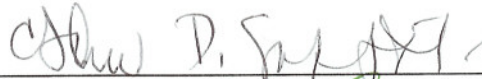
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2005

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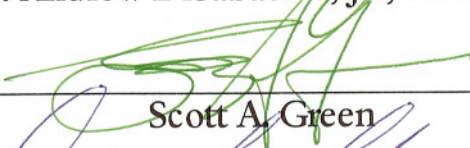
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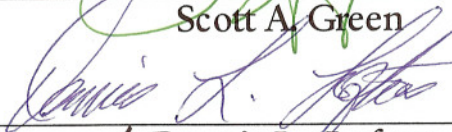
Peter M. Ross, Co-Chair



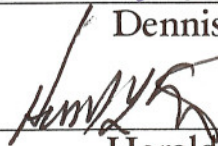
E. Andrew DiSabatino, Jr., Co-Chair



Scott A. Green



Dennis L. Loftus



Harold L. Slatcher



Dana Jefferson, Ph. D., Ex-Officio

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## **INTRODUCTION**

### **Creation of Commission**

In July 1984, Governor duPont approved a law (29 Del. C. Sections 3301- 3304) creating the Delaware Compensation Commission (hereinafter referred to as the "Commission").

In January 1985, the first Commission (hereinafter referred to as the "1985 Commission") submitted its recommendations as required under the statute, and the recommendations became effective on February 1, 1985. In December 1988, in accordance with the statute, the Commission hereinafter referred to as the "1989 Commission" submitted its report and recommendations, which became effective on February 1, 1989.

In January 1993, the "1993 Commission" submitted its report and recommendations. By joint resolution, the General Assembly rejected the report of the "1993 Commission." In April 1993, the General Assembly passed legislation adjusting salaries for members of the Judiciary, General Assembly, other elected officials, and the cabinet.

In January 1997, the "1997 Commission" submitted its report and recommendations, which became effective February 1, 1997. Likewise, in January 2001, the "2001 Commission" submitted its report and recommendations, which became effective February 1, 2001.

The report of this Commission, referred to as the "2005 Commission," has the force and effect of law as of the first day of February following submission (February 1, 2005) unless the General Assembly, by joint resolution, rejects the report in its entirety within 30 days following commencement of its 2005 session.

### **Members**

This Commission consisted of six members and was co-chaired by Peter Ross, Professor, University of Delaware, appointed by the Governor and Andrew Disabatino, Chair of the Delaware Business Roundtable and President of EDiS Company. Other members included Scott A. Green, Esq., Senior Executive Vice-President, MBNA, appointed by the Governor; Harold Slatcher, President, County Bank, appointed by the President Pro Tempore of the Senate; and, Dennis L. Loftus, Ph.D., University of Delaware, appointed by the Speaker of the House.

Dana Jefferson, Ph.D., Deputy State Personnel Director, served as an Ex-Officio and non-voting member.

### **Authorization**

Under its enabling statute, the Commission was authorized to study the "remuneration" of key office holders within the Executive, Judicial and Legislative branches of State government. It was also authorized to issue a report no later than January 11, 2005, establishing "remuneration" for these public officials.

### **Meetings and Hearings**

The Commission met on November 3, November 23, December 9, December 17, 2004, and on January 5, 2005. In addition, the Commission held a public hearing on December 9, 2004 in Dover, Delaware. The following individuals testified at the public hearing and/or submitted written comments: Brian Bartley, Assistant Public Defender, Office of the Public Defender; R. Franklin Bilotti, Co-Chair, Committee on Judicial Compensation, Delaware Bar Association; William B. Chandler III, Chancellor, Delaware Chancery Court; Kenneth S. Clark, Jr., Judge, Court of Common Pleas; Patricia W. Griffin, Chief Magistrate, Justice of the Peace Courts; David W. Jones, Commissioner, Family Court; Chandlee Johnson Kuhn, Chief Judge, Delaware Family Court; T. Massey, Correctional Corporal, Howard R. Young CL Facility; William Mounet, Correctional Officer, COAD, Vice-President, Baylor Correctional Facility; Thomas Nagle, Court Administrator, Justice of the Peace Court; Alex Smalls, Chief Judge, Delaware Court of Common Pleas; Myron Steele, Chief Justice, Delaware Supreme Court; and James Vaughn, Jr., President Judge, Superior Court.

The Office of State Personnel conducted surveys of the salaries of a number of states and county jurisdictions. Commission members were provided detailed descriptions of each position to be surveyed, as well as the most recent budget submissions for the departments controlled by those positions. In addition, members asked for and received additional salary information from entities such as New Castle County, DE, the University of Delaware and Delaware Technical and Community College. Further, the report of the 2001 Commission, and both verbal and written remarks received from the public hearing were reviewed and considered. Based on the information provided, the commission members' own deliberations and experience, the Commission submits unanimously the following findings and determinations.

## **Attracting and Retaining Talent**

The Commission, as was the case with the previous five Commissions, believes strongly that the quality of State government depends largely on its ability to attract and retain highly talented individuals to lead its various programs and activities. While no member of the Commission argued that government salaries should parallel those in the private sector, the Commission concluded that reasonable compensation, set by an impartial body such as the Commission would play an important role in attracting and retaining top talent.

This is particularly the case for Delaware government leadership positions since many services are offered statewide in Delaware that are either not offered by other government entities or that are offered in other states at a local level. We have a nationally respected, fair, high quality, and efficient court system, a responsive State legislature and a dedicated and effective Executive Branch of State government. The people who agree to represent the people in those positions deserve to earn a reasonable wage.

For some positions, the salary which this Commission thought was reasonable compensation exceeded the 20% increase cap allowed by law. As appropriate, the recommended salaries were reduced in order to maintain compliance and these instances are noted throughout this report.

## **Past Commissions' Recommendations**

It is believed that the determinations of the 1985, 1989, 1997, and 2001 Commissions, which were accepted by the State legislature, improved considerably the compensation for most of the positions that this report evaluates. Delaware is most fortunate to be able to continue to attract highly qualified individuals to the three branches of government. The Compensation Commission was created in 1984, in large part, to remove deliberations on executive level salaries from the political arena.

After rejecting the "1993 Commission" report, the General Assembly passed legislation providing 4% increases for members of the Judiciary, 3% for members of the General Assembly and other Elected Officials, and an average of 4.1% increases for members of the Cabinet. The legislation also increased legislative supplements for members of the General Assembly by 3%. All positions have received the interim general salary increases given to other State employees from

the period of 1992 through 2004. The exception to this rule is the Governor whose position is restricted, by law, from receiving these increases.

Through the work of the first five Commissions and the Legislature, much progress has been made in providing more appropriate compensation to those within the Commission's jurisdiction. This Commission is of the firm view that its role is and should be a periodic review to assure that the salaries of the affected positions are appropriate and competitive in view of events and developments over the previous four years. The Commission's role is to analyze the positions, not the people currently in those positions. Decisions on the appropriate level of remuneration for a position are a reflection of the Commission's view of the value and responsibility of that position, not a performance assessment of the individual currently serving in that position. In order to maintain further such an appropriate compensation, it is essential that regular general salary increases made for other State employees also continue to be extended to all of those covered by this report.

### **Compensation Comparisons with other States**

The 1989, 1993, and 1997 Commissions compared Delaware salaries for the offices under review with the neighboring states of New Jersey, Pennsylvania, Maryland, Virginia, New York, North Carolina, and Massachusetts. This was consistent with the State of Delaware's administration of the salaries of State employees; that is, the State of Delaware, in establishing salaries for State employees, among other things, compares with the seven comparison states. Although there is no requirement to do so, this Commission also decided to look at the seven state comparisons as one of our references. Because of its concern as to the significant demographic differences between some of the states in this comparative group of states, the 2001 Commission felt it appropriate to examine other states of comparable size. Consequently, the 2001 Commission identified and considered salary data from three states with similar budgets (Rhode Island, New Hampshire, and Vermont), as additional references. We want to emphasize, however, that throughout our deliberations and in this report we were not constrained by rigid comparisons as statewide comparisons can be difficult because of the numerous differences among the states.

## **Conceptual Framework for Analysis**

Before beginning its deliberations on specific salary recommendations, the Commission focused on the conceptual framework for state compensation and agreed upon the following principles:

1. The Governor should be the highest paid member of the Executive Branch.
2. Some members of the Judiciary may be paid more than the Governor.
3. The members of the Legislative Branch should be provided the same level of increase provided to the members of the Executive Branch.
4. Other elected officials should receive the same general increase given to the Executive Branch members.
5. The Compensation Commission members believe that the Office of the Lieutenant Governor has been compensated incorrectly in the mistaken belief that it is a part time position. The pay level should be corrected over time in accordance with that belief.
6. The concept of a supplement for administrative duties is valid for leadership positions within the Judiciary and Legislature.
7. The annual survey of state and local government wages performed by the University of Delaware Institute for Public Administration (released December 10, 2004) concluded that wages for State of Delaware employees are 9.2% lower than the average of the other nineteen governments surveyed.
8. The Secretary of Education should continue to receive a salary equivalent to the average of the three highest paid school district Superintendents in state. That would make the Secretary of Education's salary \$150,000. This represents a 9% salary adjustment.
9. The 9% salary increase (benchmarked by the Secretary of Education's increase) should be provided to the other Executive Branch members.
10. Correction in the salary of the Secretary of Labor should be made as part of our recommendations.



## **EXECUTIVE BRANCH**

The Commission concludes that the salaries for the Executive Branch should be as established in Table A. The recommended tiers for the various offices within the Executive Branch are a reflection of each office's level of responsibility and authority. The Commission also took into consideration the comparisons of Delaware salaries with comparable positions in other states and the general salary increases that have been provided to State officials.

### **Governor**

The Commission believes, as did prior Commissions, that the Governor, the highest executive officer in Delaware, should be the highest paid executive official in the State. This Commission further believes the Governor should be the highest paid elected official in the State. In order to maintain such, this Commission recommends as a matter of public policy it and future commissions should set the salary of future Governors at 10% above the highest base salary paid to an Executive Branch official.

The 2001 Commission, in its report of January 2001, proposed a salary of \$132,500, effective when the Governor takes office in 2005. That Commission also strongly suggested the General Assembly entertain, prior to January 16, 2001, legislation to increase the Governor's salary to \$122,500. This, in effect, raised the salary of the Governor to be the highest elected official at that time. As continues to be the case, under the Delaware Constitution, the Governor is prohibited from receiving any salary increase during an elected term. The Commission recommends that prior to January 18, 2005, the General Assembly entertain legislation to increase the salary of the incoming Governor to \$165,702 (10% above \$150,638; please see Table A).

This Commission is proposing a salary that is 10% above the highest base salary paid to an Executive Branch official when the next Governor takes office in the year 2009. The General Assembly can accomplish this when they pass the FY2009 budget. This increase will continue to ensure that the Governor is the highest paid Executive Branch official, and, in addition, will address the shortfall since the last adjustment.

## Cabinet

Cabinet Members currently receive salaries that fall into four tiers. The salaries were clustered into those four tiers by prior commissions based upon a combination of factors including the size of the agency as measured by budget and personnel employed, and the impact of the agency on the citizens and economy of the State. The Commission recognizes the advantages of such a tiered pay scale and believes that, in general, all Cabinet members should be placed in an appropriate tier.

After reviewing the size of the agencies as measured by budget and personnel employed, the impact of the agencies on the citizens and economy of the State, and the events of the last four years, the Commission recommends a base salary increase of 9% for the Cabinet members (See Table A), as well as the following changes:

- Place the Secretary of Education, and the Chief Information Officer of Technology and Information in their own tier by creating a new tier 1.

The Department of Education, previously the Department of Public Instruction, was established by the "Department of Education Act of 1997," placing the Department within the Executive Branch. Prior to 1997, the State Board of Education established the salary of the State Superintendent as the average of the salaries of the highest three local school district superintendents. Because it believes this measure to be an accurate reflection of the incremental salary growth in an extremely competitive position, the 2005 Commission considered these salaries when setting the salary of the Secretary of Education and recommends that future Commissions do the same. The increment between the current compensation of the Secretary of Education and the average of the three highest paid superintendents is 9%. It should be noted that the salaries for both the Secretary of Education and the Chief Information Officer of Technology and Information were established by the General Assembly since the last Commission's report. Recently, both of these positions received the normal raises that other Cabinet officials obtained.

- Create a new tier 2, to be composed of those officials (other than Education and Technology) formerly in tier 1. Provide a total increase of 18% (9% x 2) to the salaries in the new tier 2 to

begin to narrow the salary gap between the Secretary of Education and the Chief Information Officer of Technology and Information in comparison to their colleagues in new tier 2.

- In recognition of the added responsibilities (Motor Vehicle Division) and growth of the Department of Transportation over the last four years, provide a total increase of 18% (9% x 2) to the salary of the Secretary of Transportation.
- In consideration of the size and budget of the Department of Services for Children, Youth and Their Families, provide a total increase of 13.5% (9% x 1.5) to the salary of the Secretary of this department.
- In consideration of the size, budget, and current responsibilities of the Department of Safety and Homeland Security, provide a total increase of 13.5% (9% x 1.5) to the salary of the Secretary of this department.
- Given the increased role of the National Guard in the years following September 11, 2001, and the continuing federal mobilization of National Guard personnel, move the position of Adjutant General from former Tier 4 to new Tier 3.
- Equalize the salaries in new Tier 4 by raising them all to \$111,616. It is noted that the Secretary of Labor did not receive the proper salary, as set in the 2001 report. The Commission recommends that the Office of State Personnel conduct an audit of this salary and make such adjustments and reimbursements as are appropriate.
- The Commission believed that the current tier system created some unintended consequences. Despite changes in the level of experience or education, and despite changes to the responsibilities or circumstances surrounding a cabinet post, those salaries could only be reviewed every four years. The Commission believes it appropriate to establish cabinet salaries as ranges, not a fixed number. This is consistent with salaries for such positions in most of the private and public sector.
- The Commission believes that Governors should have a limited ability to set the salaries of cabinet officials to ensure the recruitment and retention of talented people. Therefore, the salaries established for the cabinet officials are to be considered recommended salaries.

Effective February 1, 2005, the Governor would be provided with the flexibility to pay cabinet officials the recommended salary or a salary that is within a range of 5% below to 5% above the recommended salary for the position, provided that the maximum of the range does not exceed the 20% cap required by law. Absent action by the Governor, the recommended salary shall be the salary for each position. Please see Table A for the pay ranges recommended by this Commission.

**EXECUTIVE BRANCH**  
**Table A**

<b>Tier 1</b>	<b>Line Item Salary</b>	<b>9% increase</b>	<b>Minimum Range</b>	<b>Maximum Range</b>	<b>Recommended Salary</b>
Secretary of Education	\$138,200	\$150,638	\$143,106	\$158,170	\$150,638
Chief Information Officer of Technology and Information	\$138,200	\$150,638	\$143,106	\$158,170	\$150,638
<b>Tier 2</b>	<b>Line Item Salary</b>	<b>18% increase</b>	<b>Minimum Range</b>	<b>Maximum Range</b>	<b>Recommended Salary</b>
Secretary of Finance	\$117,400	\$138,532	\$131,605	\$140,880*	\$138,532
Secretary of Health and Social Services**	\$117,400	\$138,532	\$131,605	\$140,880*	\$138,532
State Budget Director	\$117,400	\$138,532	\$131,605	\$140,880*	\$138,532
Commissioner of Correction	\$117,400	\$138,532	\$131,605	\$140,880*	\$138,532
<b>Tier 3</b>	<b>Line Item Salary</b>	<b>9% increase</b>	<b>Minimum Range</b>	<b>Maximum Range</b>	<b>Recommended Salary</b>
Secretary of State	\$109,800	\$119,682	\$113,698	\$125,666	\$119,682
Director, Delaware Development Office	\$109,800	\$119,682	\$113,698	\$125,666	\$119,682
Secretary of Natural Resources and Environmental Control	\$109,800	\$119,682	\$113,698	\$125,666	\$119,682
State Personnel Director	\$109,800	\$119,682	\$113,698	\$125,666	\$119,682
		<b>20% increase</b>			
Adjutant General***	\$95,200	\$114,240	\$108,528	\$114,240	\$114,240
		<b>13.5% increase</b>			
Secretary of Services for Children, Youth and their Families	\$109,800	\$124,623	\$118,392	\$130,854	\$124,623
Secretary of Safety and Homeland Security	\$109,800	\$124,623	\$118,392	\$130,854	\$124,623
		<b>18% increase</b>			
Secretary of Transportation	\$109,800	\$129,564	\$123,086	\$131,760*	\$129,564
<b>Tier 4</b>	<b>Line Item Salary</b>	<b>9% increase</b>	<b>Minimum Range</b>	<b>Maximum Range</b>	<b>Recommended Salary</b>
Director of Delaware State Housing Authority****	\$102,600	\$111,616	\$106,035	\$117,197	\$111,616
Secretary of Administrative Services	\$102,400	\$111,616	\$106,035	\$117,197	\$111,616
Secretary of Agriculture	\$102,400	\$111,616	\$106,035	\$117,197	\$111,616
Secretary of Labor	\$102,400	\$111,616	\$106,035	\$117,197	\$111,616

\*The maximum ranges were all to be increased 5% above the recommended salary; however, because of the 20% cap, the figures shown represent the 20% cap maximum.

\*\*If the Secretary of Health and Social Services holds a State Medical License, the salary listed in Section 10 (a) of the FY05 Budget Act shall be increased by \$12,000. Additionally, if the Secretary of Health and Social Services is a Board Certified Physician, a \$3,000 supplement shall be added to the annual salary listed in Section 10 (a) of the Budget Act.

\*\*\*Per Commission, moved Adjutant General to tier 3. Commission's recommendation was to move the Adjutant General's salary to \$119,682; however, due to the 20% cap, the recommended salary and maximum salary were set at \$114,240.

\*\*\*\*Per Commission, 2005 salary should be \$111,616 same as others in this tier.

## **Other Elected Officials**

The Commission recommends the same 9% base salary increase provided to the Executive Branch officials. The salaries are shown in Table B. Because the office has responsibility for both the civil and criminal legal work of the State, the 2005 Commission recommends that the salary of the Attorney General should be increased beyond the 9% base. As a matter of policy, the Commission believes the salary for the Attorney General should eventually equal that of the trial court judges. The Commission, therefore, recommends a salary of \$136,504 for the Attorney General towards that goal.

## **Lieutenant Governor**

Because the people expect the Lieutenant Governor to be ready to assume the post of Governor at any time, and because the demands on this office have increased over time, the Commission believes that the total salary for the office should eventually be made comparable to the elected row offices of State Auditor and the Insurance Commissioner. Towards this goal, the Commission recommends that the General Assembly review the responsibilities of the position of the Lieutenant Governor via a study to determine whether this position should become a full-time job and be compensated accordingly. Per the Delaware Constitution, the salary of the Lieutenant Governor is composed of two parts: for serving as President of the Senate, the Lieutenant Governor will be paid the same salary as the Speaker of the House, and in addition, the Lieutenant Governor will be compensated for serving on the Board of Pardons and other duties. Therefore, this Commission recommends a salary of \$73,027 for the Lieutenant Governor (\$59,678 for serving as President of the Senate and \$13,349 for other duties.) Lastly, this Commission also requests that it be determined whether that portion of the salary received for serving as President of the Senate should or should not include the legislative expense allowance. At the present time it appears that this allowance has not been included in the compensation for the Lieutenant Governor.

**ELECTED OFFICIALS**

**Table B**

	<b>Line Item Salary</b>	<b>9% increase</b>	<b>Recommended Salary</b>
Public Defender (Appointed)	\$120,800	\$131,672	\$131,672
State Treasurer	\$97,400	\$106,166	\$106,166
State Auditor	\$93,200	\$101,588	\$101,588
Insurance Commissioner	\$93,200	\$101,588	\$101,588
		<b>13 % increase</b>	
Attorney General	\$120,800	\$136,504	\$136,504
		<b>12.5% increase</b>	
Lieutenant Governor	\$64,900	\$73,027 (\$59,678 for serving as President of the Senate and \$13,349 for other duties)	\$73,027

## **JUDICIAL BRANCH**

The Commission concludes that the salaries of the Judicial Branch should be as listed in Table C.

### **Impact of the Judiciary on Delaware**

The Commission recognizes that Delaware has gained a national and increasingly international reputation for its outstanding courts and highly qualified Judiciary. The Delaware Judiciary adjudicates sensitive issues faced by Delaware citizens in their daily lives and renders decisions of major importance that affect the corporate governance, stockholders' rights, and the business marketplace in the United States and the world. The Division of Corporations generates over 33% of the State's budget and additionally, legal-related businesses bring in tens of millions of dollars in additional state and local taxes. Therefore, recruiting and retaining outstanding, high caliber judges is essential to the quality of life and economic well-being of the people of Delaware.

### **Judicial Salaries**

In addition to the stature and reputation of Delaware's Judiciary, the Commission considered the Delaware State Bar Association's Committee on Judicial Compensation report and recommends a 13% increase for the Judicial Branch per Table C. The Delaware State Bar Association Committee report compares Delaware to not only those states in geographic proximity to Delaware but also to those states that compete with Delaware as national and international business centers, namely New York, New Jersey, Illinois, California, Florida and Georgia. Please see the Executive Summary from the Delaware Bar Association Committee on Judicial Compensation report (Appendix 1).

The Commission recommends starting with a base salary for each of the tiers, applying a 13% increase and then adding an additional supplement for those judges with significant administrative responsibilities. The supplement shall be a percentage of the new salary and it shall be increased by one percent each year up to a certain cap. The Commission proposes supplements of 7% (recommended to increase 1% per year up to 10%) for the Chief Justice and the Chancellor and 5% (to increase 1% per year up to 8%) for the President Judge and



the Chief Judges. However, the 7% supplements exceed the 20% cap; therefore the recommended salaries in Table C have been adjusted accordingly. The percentage of the supplement was based on the administrative responsibilities of each judge.

The concept of an administrative supplement is an innovation of this Commission designed to create some order and rational basis for valuing the additional services of those positions in the judiciary and legislature that perform significant additional duties (the chief judges of the respective courts or the chairs of the major finance-related committees in the legislature, for example). The supplements were created by the Commission based upon an estimate of the additional time required to serve in those roles. The Commission expresses the hope that future commissions or legislative action will be based on this concept.

The 2001 Commission, while recommending a change in Family Court, did not recognize the same level of complexity in the Court of Common Pleas. The 2001 Commission recommended that future commissions be mindful of the differences and closely review that Court in the future. The 2005 Commission revisited the level of complexity of the Court of Common Pleas and determined that the salaries of the Chief Judge and Associate Judges of the Court of Common Pleas should be equal to the salaries of the President Judge and Associate Judges of Superior Court and Family Court.

At the same time, the Commission concluded that the responsibility, visibility and time-sensitive nature of the work of the Court of Chancery justified a salary for that court higher than the salaries of the other trial courts: Superior Court, Family Court and Court of Common Pleas.

**JUDICIAL BRANCH**  
**Table C**

	Line Item Salary	Base Salary	13% increase	Additional Supplement	Recommended Salary
				~5.3% supplement	
Chief Justice - Supreme Court	\$157,700	\$159,000	\$179,670	\$189,240*	\$189,240
Associate Justice - Supreme Court	\$152,000	\$159,000	\$179,670	-	\$179,670
				~6.19% supplement	
Chancellor - Court of Chancery	\$150,300	\$150,300	\$169,839	\$180,360*	\$180,360
				5% supplement	
President Judge - Superior Court	\$150,300	\$150,300	\$169,839	\$178,331	\$178,331
Chief Judge - Family Court	\$150,300	\$150,300	\$169,839	\$178,331	\$178,331
Chief Judge - Court of Common Pleas	\$148,700	\$150,300	\$169,839	\$178,331	\$178,331
Vice Chancellor - Court of Chancery	\$145,000	\$150,300	\$169,839	-	\$169,839
Associate Judge - Superior Court	\$145,000	\$145,000	\$163,850	-	\$163,850
Associate Judge - Family Court	\$145,000	\$145,000	\$163,850	-	\$163,850
Associate Judge - Court of Common Pleas	\$141,200	\$145,000	\$163,850	-	\$163,850
Chief Magistrate	\$104,100	\$104,100	\$117,633	-	\$117,633
Justice of the Peace - 1 <sup>st</sup> Term	\$59,900	\$59,900	\$67,687	-	\$67,687
Justice of the Peace - 2 <sup>nd</sup> Term	\$62,000	\$62,000	\$70,060	-	\$70,060
Justice of the Peace - 3 <sup>rd</sup> Term	\$64,000	\$64,000	\$72,320	-	\$72,320
Commissioner - Superior Court	\$88,900	\$88,900	\$100,457	-	\$100,457
Commissioner - Court of Common Pleas	\$88,900	\$88,900	\$100,457	-	\$100,457
Commissioner - Family Court	\$88,900	\$88,900	\$100,457	-	\$100,457

\*Amount represents 20% cap (see pages 16-17 for further explanation)

## **LEGISLATIVE BRANCH**

The 2005 Commission recommends that the salaries, supplements, and expense allowances of the Legislative Branch be as established in Table D.

The 2005 Commission recommends a 9% adjustment to the base salaries of State Representatives and State Senators, which would bring those salaries to \$39,785. In addition, the Commission recommends that the supplements for members of the General Assembly be based on a set percentage of base salaries as follows:

Speaker of the House and the President Pro Tempore of the Senate	50%
House/Senate Majority and Minority Leaders	40%
House/Senate Majority and Minority Whips	20%
Chair and Vice-Chair of the Joint Finance Committee	35%
Members of the Joint Finance Committee	25%
Chair and Vice Chair of the Capital Improvement Program Committee	17.5%
Members of the Capital Improvement Program Committee	12.5%
Chair and Vice Chair of the Joint Sunset Committee	12.5%
Members of the Joint Sunset Committee	10%

Where the above percentages exceed the 20% cap, the amounts recommended on Table D have been reduced to conform to the cap and the Commission recommends that the supplements should increase over time until they reach the percentage of base salary shown above. The increases in these supplements recognize the significant time spent performing these additional responsibilities. It is recommended that legislative salaries and supplements continue to be subject to the same general percentage pay increases that may be approved for State employees as a whole.

### **Expense Allowances**

The Commission recommends an increase in the Expense Allowances for the General Assembly from \$6,728 to \$7,334, a 9% increase, the same amount as the base salary increase.

**LEGISLATIVE BRANCH**

**Table D**

	<b>Line Item Salary</b>	<b>9% increase</b>	<b>Recommended Salary</b>
State Representative	\$36,500	\$39,785	\$39,785
State Senator	\$36,500	\$39,785	\$39,785
<b>Supplements:</b>			
		<b>50% of base</b>	
Speaker	\$17,271	\$19,893	\$19,893
President Pro Tem of the Senate	\$17,271	\$19,893	\$19,893
		<b>20% increase</b>	
House/Senate Majority Leader	\$10,313	\$12,376*	\$12,376
House/Senate Minority Leader	\$10,313	\$12,376*	\$12,376
		<b>20% increase</b>	
House/Senate Majority Whip	\$6,495	\$7,794*	\$7,794
House/Senate Minority Whip	\$6,495	\$7,794*	\$7,794
		<b>20% increase</b>	
Chair and Vice-Chair Joint Finance Committee	\$9,549	\$11,459*	\$11,459
Members of Joint Finance Committee	\$8,022	\$9,626*	\$9,626
		<b>20% increase</b>	
Chair and Vice Chair of Capital Improvement Program Committee	\$3,815	\$4,578*	\$4,578
Members of Capital Improvement Program Committee	\$3,210	\$3,852*	\$3,852
		<b>20% increase</b>	
Chair and Vice Chair of Joint Sunset Committee	\$3,815	\$4,578*	\$4,578
Members of Joint Sunset Committee	\$3,210	\$3,852*	\$3,852
<b>Expense Allowance:</b>			
	<b>Line Item Salary</b>	<b>9% increase</b>	<b>Recommended Salary</b>
Senate	\$6,728	\$7,334	\$7,334
House	\$6,728	\$7,334	\$7,334

\*Amount represents 20% cap (see page 19 for further explanation)

A member of the General Assembly shall be entitled to receive the higher of any one of the above stipends and receive one-half of the amount of a second stipend of an equal or lesser amount. Eligible recipients of a second stipend may choose not to accept such additional stipend.

## SUMMARY

The Commission recognizes that it is not feasible to compensate our public officials at levels commensurate with those paid to individuals of similar competence and ability in the private sector. To a great extent, people who choose public service typically do so for reasons other than the salary. No public official appearing before the Commission, commenting to the Commission, or writing to the Commission expressed a different view. However, as stated by the First Commission in 1985, "It is important, however, that compensation be provided to avoid unreasonable sacrifice by these public servants." The 2005 Commission feels strongly that the recommendations presented in this report reflect this tenet. If we are to recruit and retain top quality talent, especially for political positions that are often held for limited durations, we must maintain a fair system of compensation for those services.

While the Delaware Compensation Commission is charged by statute to examine and make salary recommendations on a quadrennial basis, the Commission also recognizes that market forces affect certain positions and the Governor and General Assembly should remain aware of the need to address these forces as appropriate.

Quality performance requires quality people with reasonable compensation. As a result of our fact-finding, analysis, deliberations, and judgment, the Commission is of the unanimous opinion that the remuneration and levels found in Tables A, B, C, and D of this report, and incorporated in this report by this reference, should take effect on February 1, 2005.

Furthermore, to maintain appropriate compensation, it is essential that regular general salary increases authorized for other State employees continue to be extended to all of those covered by this report.

The Commission is not recommending any changes in Pensions.

*If any provision of this Report or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Report which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.*

# APPENDIX 1

## REPORT TO THE DELAWARE COMPENSATION COMMISSION

Delaware State Bar Association  
Committee on Judicial Compensation

**R. Franklin Balotti, Esquire**

**Joshua W. Martin, III, Esquire**

**F. Michael Parkowski, Esquire**

*Co-chairmen*

**Michael W. Arrington, Esquire**

**Eugene H. Bayard, Esquire**

**William W. Bowser, Esquire**

**Robert J. Krapf, Esquire**

**William E. Manning, Esquire**

December 1, 2004

A. *Executive Summary*

The Delaware Compensation Commission (“Commission”) is charged by statute with the responsibility for recommending the level of compensation for various public officials in all three branches of State government on a quadrennial basis. The Report of the Compensation Commission becomes the basis for compensation unless rejected by the Legislature within thirty days following the commencement of the legislative session. Paraphrasing the statutory language, the function of the Commission is to assure that compensation levels are not inadequate in Delaware from a national, regional, local, and marketplace perspective. One of the driving forces supporting the importance of the Commission’s Report is the need to attract and retain highly qualified public officials. The Delaware Judiciary comprises approximately two-thirds of all persons affected by the Commission’s work. (cf. pp. 9-10).

The Judiciary in Delaware plays a unique role as a national and international entity. In the commercial world, major corporations rely on the quality, consistency and speed with which the Delaware Supreme Court, Court of Chancery and Superior Court render decisions that affect corporate governance, stockholders rights and the business marketplace in the United States and the world. In this capacity of domestic and international leadership, the Delaware Judiciary has been the keystone of corporate law in the last century and is widely recognized as the nation's preeminent forum for the determination of disputes involving the internal affairs of more than 610,000 Delaware corporations and other business entities through which a vast amount of the world's commercial affairs is conducted. The confidence of more than 50% of all U.S. publicly traded companies and 58% of the Fortune 500 companies is firmly rooted in the quality of the Delaware Judiciary. The growing strength of Delaware’s national reputation is evidenced in the fact that in the last two years, 72% of initial public offerings in the United States have incorporated in Delaware. The reward for the State of Delaware from the Court system is the annual taxes, fees and abandoned property from business entities registered in Delaware pay to the State. The annual taxes, net of refunds, in FY2004 totaled \$550.2 million and fees from corporate and UCC filings added an additional \$62.6 million, accounting for 22% of the State Operating Budget. Abandoned property of business entities registered in Delaware provided \$293.5 million to the Division of Revenue increasing an additional 11% the portion of the State Operating Budget

attributable to Delaware business entities. (cf. p.12). Additionally, the Delaware Court System makes significant annual contributions in excess of \$28,000,000 to the General Fund through filing fees, cost payments and assessments paid by litigants.

Of equal importance as courts of corporate and fiscal significance are the “people’s courts” of Delaware which render justice to the great majority of the citizens of the State. Currently the Family Court, Court of Common Pleas and Justice of the Peace Courts collectively handle 394,000 matters a year. This represents 94% of the total caseload of all of the Delaware Courts. The quality of the judges, commissioners and magistrates in these courts is of no less importance to the citizens of the State than to the “corporate courts” which serve the justice needs of the nation and the world. (cf. p.12). The personal health and welfare of Delaware’s citizens depend upon and deserve the high quality of justice administered by these critical courts and their judicial officers. The 2001 Compensation Commission recognized the importance and complexity of the work of the Family Court by raising the salaries of the Chief Judge and Associate Judges of the Family Court to the same level as the President Judge and Associate Judges of the Superior Court and the Chancellor and Vice Chancellors of Court of Chancery respectively.

The exemplary quality and national leadership of the Delaware Courts is recognized by the United States Chamber of Commerce and the Institute for Legal Reform. In their survey, recognized as the preeminent standard by which companies, policymakers and the media judge the legal fairness of states, Delaware’s Courts as a whole are ranked first in the nation.

The 2001 Compensation Commission in setting judicial compensation levels favorably received the Delaware State Bar Association’s recommended approach for evaluating the status of compensation to the Delaware judiciary. Given the commercial importance of the Delaware Court system, it is appropriate to compare Delaware to those states that attempt to compete with Delaware as national and international business centers, namely New York, New Jersey, Illinois, California, Florida and Georgia (“Commercial Jurisdictions”). (cf. p. 20). This approach served the Commission and Delaware well as Delaware not only maintained, but also further enhanced its recognition across the nation as a model judiciary. The Commercial Jurisdictions, in turn, have



looked to Delaware in their own process of evaluating the best means for obtaining, training, and retaining the highest quality of judges.

In evaluating the sufficiency of compensation of Delaware's Bench, it is important to recognize the continuing and steady increase in salaries of lawyers in the private sector. If Delaware is to continue to attract and retain quality lawyers to serve on the judiciary, it is essential that judicial compensation levels keep relative pace with the marketplace for legal talent. It is not uncommon in the Delaware legal market for associates with less than five years experience to earn more than the Chief Justice of the highest Delaware court.

The experience in Delaware is indicative of the national trend. First-year associates at major firms nationally now average \$125,000. The numbers are even more striking for senior associates regularly topping \$250,000 and partners receiving bonuses from \$350,000 to \$1,000,000 annually. The National Law Journal and other legal information services project the trend to continue in the coming years. These levels of compensation are continued warning signals for Delaware in its ability to continue to attract and retain the highest qualified lawyers and judges for service in the judiciary. (cf. p. 24).

The national trend of increases in private sector compensation for lawyers is directly reflected in the current judicial compensation levels for the Commercial Jurisdiction states. It is also important to note that compensation levels in the Commercial Jurisdiction states are competitive with compensation levels paid to the federal judiciary.

Comparison of salary figures alone, however, does not fully paint the picture. A recent study by the Nevada court system indicated that pensions, a key component in recruiting and retaining the finest judges, vary widely across the nation. A survey of the states in the study show the pension structure in other states allows judges to vest sooner, retire sooner, receive higher percentages of salary, and contribute less than the Delaware judicial pension structure. While pension recommendations are not the focus of this report, it is important to recognize that such important factors play a significant role in a full determination of adequacy of judicial compensation, especially over the four-year effective period of the Compensation Commission's impact

Delaware’s status as a national leader in all areas of the justice system should be reflected in the compensation awarded to its judges. Judicial compensation in Delaware needs to be adjusted to appropriately reflect the status and stature of the Delaware judicial system and to take into account the fact that the members of the Delaware Judiciary have sacrificed and continue to sacrifice the opportunity to pursue economically lucrative careers in the private sector. Using the average of the top two Commercial Jurisdictions as the benchmark for the Delaware Supreme Court, and applied similarly to its trial courts, would ensure that our justice system remains a leader across the nation.

The inherent difficulty in a quadrennial review is to find a common point for comparison as the States adjust salaries on different cycles. The most recent study of all States’ judicial salaries with a common base is April 2004 report from the National Center for State Courts (See Attachment B). Using this report as the baseline for comparison of the highest court in each State, and applying the percentage differential from the average of the top two Commercial Jurisdictions, Delaware can establish a reliable basis for equitable salary levels for all of its courts over the next four years. With the current adjustment for the differential of the Chief Justice, the salary levels recommended for the Supreme Court would be the average of the top two Commercial Jurisdictions:

**DELAWARE SUPREME COURT**

Chief Justice	\$ 177,841
Supreme Court Justices	\$ 172,141

Applying the current differential from the Supreme Court, the recommended salary levels would result:

**COURT OF CHANCERY/SUPERIOR COURT/FAMILY COURT**

Chancellor/Presiding Judge	\$ 170,641
Vice-Chancellors/Associate Judges	\$ 165,141

**COURT OF COMMON PLEAS**

Chief Judge	\$ 168,841
Associate Judge	\$ 163,341

The recommendations with respect to the Commissioners in all Courts is that salaries be adjusted by the same percentage as the trial court judges resulting as follows:

**COMMISSIONERS**

(Superior Court, Family Court, Court of Common Pleas)

Commissioners	\$ 100,724
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The Chief Magistrate of the Justice of the Peace Courts should maintain the current differential from the Presiding Judges and the Justices of the Peace should receive a salary increase comparable to the percentage increase of the trial court. Such an adjustment would yield the following:

**JUSTICES OF THE PEACE**

Chief Magistrate	\$117,945
Level I	\$67,130
Level II	\$69,340
Level III	\$71,549

Since the 1996 Commission Report, judges have received annual increases afforded all State employees. Such incremental increases have allowed Delaware to reduce the loss in salaries compared to other state jurisdictions over the four-year period. Continuation of the annual incremental increases is essential to the effectiveness of the present Commission's recommendations and future Commissions' reviews.

Ideally, the Compensation Commission should have to make minor adjustments at the end of each quadrennial cycle to realign Delaware with the other comparable jurisdictions. In order to make this possible, it is essential to maintain the annual incremental increases afforded to all State employees on an annual basis into the future so that the Delaware Judiciary does not experience slippage during the ensuing four years.

The standing of the Delaware Courts in the legal community, the percentage of revenues generated based on the Judiciary's stability, the steady increase in private sector salaries, and the significance of the courts to the citizens of Delaware argue strongly for the recommended increases in the compensation levels for the judges in all of the Courts. The Delaware State Bar Association Committee on Judicial Compensation recommends that the Compensation Commission ensure that the Delaware Courts maintain their

proper status and proposes salary levels commensurate with the national and international status of the Courts that ensure the personal, corporate, and financial health of Delaware will be maintained.