

**Report of the Standing Committee on Constitution and Canons**  
March 12, 2004

**PART I. FINANCE CANONS**

In 2003 the Diocesan Convention adopted a resolution that, in part, directed the Standing Committee on Constitution and Canons to prepare “such canonical changes as are necessary to be consistent with the recommendations found on pages 10 through 12 of” the Report of the Task Force on Finances.

The Committee began by determining that Canons 14, 15, and 16 are the ones that need to be changed. Our first step was to review the present text of these canons for the purpose of bringing them up to date and eliminating obsolete material. Some editorial changes were made to improve clarity. The second step was to make the changes necessary to accommodate the recommendations of the Task Force. The result of our work is incorporated in three revised Canons (14, 15, and 16) and a new Canon 28.

Canon 28 deals with the section of the Task Force Report entitled, “Appeal Process.” Because the Report leaves some policy and procedural issues unaddressed, Canon 28 is proposed as a stopgap measure to provide temporary implementation. Two or three years from now, this canon should be reviewed, taking into account the working experiences of the committee and the advice of those diocesan bodies that make financial policy.

The Committee wishes to acknowledge with gratitude suggestions made by Bishop Councill, Ms. Wanda Greene, Chief Financial Officer of the Diocese; Peter Hausman, Treasurer of the Diocese; and Task Force member Charles Perfater --- all of which have helped us toward our goal of crafting canons that are simple, clear, and flexible.

The texts of the four proposed Canons appear below, printed in numerical order. You will probably find them easier to understand if you read Canon 16 first, followed by 14, 15, and 28.

**PROPOSED REVISED CANON 14**

Diocesan Budget

SECTION 1. There shall be a Budget for the Diocese for each calendar year. The purpose of the Budget is to enable the Diocese to: carry on ministries, provide support to the diocesan congregations, meet its obligation to the national Episcopal Church, and finance its administration.

SECTION 2. Each Diocesan Budget shall include anticipated income from Fair Share payments by each diocesan congregation and other sources as applied to line item appropriations, appropriations of money to be spent for a particular purpose or group of purposes identified as a line item, a comparison of the appropriation with actual prior year expenditures for that line item, a comparison of income items with actual income for the prior year, and an appropriate narrative explanation for each appropriation.

SECTION 3. Appropriations shall include but not be limited to: support for diocesan congregations, grants, employee compensation and benefits required by canon or otherwise, taxes, insurance, utilities, maintenance, the purchase or lease of equipment, the improvement of Diocesan House and other property owned or managed by the Diocese, and other necessary overhead expenditures. Appropriations not spent during the calendar year, or required as of the end of any year to be spent in the future for outstanding liabilities, shall not be carried over or considered authorized to be spent in a succeeding year, without specific approval of the Diocesan Council.

SECTION 4. At each annual meeting in March, the Convention shall adopt a Preliminary Diocesan Budget for the ensuing calendar year. In January of that ensuing year, the Diocesan Council may change the Preliminary Diocesan Budget and will adopt a Revised Preliminary Diocesan Budget. The Convention in March of that ensuing year may further modify the Revised Preliminary Diocesan Budget and shall adopt such Budget as the Affirmed Diocesan Budget for the current calendar year.

SECTION 5. The Diocesan Convention will assign a Fair Share as determined under Canon 16 to each diocesan congregation which, when combined with other sources of revenue, will fund the appropriations in the Preliminary Diocesan Budget.

SECTION 6. Each diocesan congregation's Fair Share shall be shown in and be a part of the Preliminary Diocesan Budget. Anticipated receipts from Fair Share payments shall be shown in and be a part of the Revised Preliminary Diocesan Budget. A projection of Fair Share payments shall be shown in and be a part of the Affirmed Diocesan Budget.

SECTION 7. As provided in Canon 15, Section 5, budgeted funds shall be expended through the Chief Financial Officer subject to the supervision of the Diocesan Council.

SECTION 8. In the materials provided to the members of Convention the Diocese shall include an unaudited balance sheet which shows the assets and liabilities of the Diocese as of both the beginning and the end of the most recent calendar year. The amount of cash and investment type assets shall be shown for the operating surplus of the Diocese and for the major trust funds, memorials or other categories of designated monies which have been established canonically or by practice. The fair market value of investments or reinvestments held by each fund, trust or account holding designated monies at year-end shall be disclosed.

SECTION 9. A copy of the Diocesan audited financial statements for the calendar year ended prior to the Convention and the related management letter prepared by the independent public accountant engaged by the Diocese shall be sent to any member of the Convention, when available subsequent to the Convention, upon that member's request.

SECTION 10. Each diocesan congregation shall identify its rector or vicar and the treasurer of that congregation ("Identified Representatives") to the Chief Financial Officer of the Diocese. Whenever required under the Canons, or by operating procedures, mailings shall be sent to each Identified Representative.

## **PROPOSED REVISED CANON 15**

### The Finance and Budget Committee and the Budget Process

SECTION 1. There shall be a Finance and Budget Committee of the Diocese consisting of the Treasurer elected by the Convention, two members appointed annually by the Diocesan Council, one of whom is a member of the Council, and nine members elected by Convention. The term of office for elected members of the Committee shall be three years. There shall be three classes in the nine elected members so that three members are elected in each year. Vacancies among the elected members may be filled by the Committee until the next annual meeting of the Convention when a member shall be elected by the Convention to fill the unexpired term. Vacancies among the appointed members may be filled by the Diocesan Council. The Chair of the Committee shall be the Treasurer. The Ecclesiastical Authority may designate members of the staff to assist the Committee who may speak at all Committee meetings but shall have no vote.

SECTION 2. The duty of the Finance and Budget Committee shall be to assist the Diocesan Council in all phases of the preparation of the Diocesan Budget. The Committee shall work in consultation with the Diocesan Council, the persons who carry on the ministries of the Diocese, the Bishop, the Chief Financial Officer of the Diocese and other members of the Bishop's staff. The Committee may also consult with the Audit Committee of the Diocese, the Trustees of the Diocesan Trust Funds, other committees of the Diocese, and such others as it deems appropriate.

The duty of the Finance and Budget Committee shall further be to maintain general supervision over the financial affairs of the Diocese in the following ways:

- (a) To designate the security to be given by the Chief Financial Officer of the Diocese, and the Treasurers of the Convention and of all Boards, Trusts, Funds and Committees over which the Convention has authority;
- (b) To designate or approve the depositories of the funds, securities, and valuable property in the custody of such Treasurers;
- (c) To secure simplicity, accuracy, and uniformity in the collection, distribution and accounting of all funds and accounts of any diocesan or congregational entities including discretionary accounts and funds;
- (d) To advise the Bishop, officers of the Diocese and the Diocesan Council in financial and business matters;
- (e) To designate the persons who are authorized to sign checks or otherwise make withdrawals from all diocesan accounts.

The Finance and Budget Committee shall at all times comply with the provisions of Title I, Canon 7, Sections 1 and 2 of the Canons of the Episcopal Church.

SECTION 3. The Preliminary Diocesan Budget for each year shall be established pursuant to the rules in subsections (a) through (f) below:

(a) On a date in January established by the Diocesan Council, the Finance and Budget Committee shall prepare and present to the Council a draft of the Preliminary Diocesan Budget for the ensuing year. The Preliminary Diocesan Budget shall include the Fair Share assignments for each Congregation established under Canon 16.

(b) By January 24 the Diocesan Council, taking into consideration all information then available, shall adopt a proposed Preliminary Diocesan Budget for the ensuing year in which the appropriations do not exceed the anticipated income from Fair Share payments and other sources of revenue which may be applied to appropriations.

(c) No later than January 31, the Diocesan Council shall mail a copy of the proposed Preliminary Diocesan Budget for the ensuing year to each member of the Convention. The Convention shall consider this Budget, make whatever changes it deems appropriate, and adopt a Preliminary Diocesan Budget for the ensuing year.

(d) No later than April 1, the Secretary of the Convention shall mail a copy of the Preliminary Diocesan Budget for the ensuing year adopted by the Convention to each Identified Representative. Included in the mailing shall be a communication by the Bishop to each Congregation in support of the Preliminary Diocesan Budget for the ensuing year.

(e) By September 1, the Chief Financial Officer of the Diocese shall mail to Identified Representatives a report on the Income Bases of all diocesan congregations compiled from annual Parochial Reports for the prior year. If any diocesan congregation believes that the amount of its Income Base has been listed incorrectly, it may appeal to the Board of Adjustment, which shall be composed of three persons appointed annually by the Ecclesiastical Authority. All appeals shall be filed by November 1. The Board of Adjustment shall hear all appeals promptly and report their findings in writing to the Chief Financial Officer of the Diocese and the officers of the appellant congregation. If the matter be not amicably resolved in this manner, the officers of the congregation may refer the matter to the Diocesan Council for review. The decision of the Diocesan Council shall be final and binding on all parties.

(f) No later than October 15, the Chief Financial Officer shall mail to each Identified Representative a list of the Fair Shares assigned to each diocesan congregation for the ensuing year, together with a form to be used in submitting the congregation's Fair Share commitment for the ensuing year. No later than December 1, each diocesan congregation shall advise both the Chief Financial Officer and the Stewardship Committee of the amount of its Fair Share commitment for the ensuing year.

(g) Each diocesan congregation shall remit its Fair Share payments in accordance with the billing procedure established by the Chief Financial Officer of the Diocese and approved by the Diocesan Council.

SECTION 4. The Affirmed Diocesan Budget for each year shall be established pursuant to the following rules and administered in accordance with Section 5 of this Canon 15:

(a) By December 31, the Chief Financial Officer of the Diocese shall provide the Finance and Budget Committee an accounting of the Fair Share payments which have been received from the diocesan congregations for the current year and the amount of income from Fair Share payments anticipated for the ensuing year. The Finance and Budget Committee will then project the amount of income from Fair Shares that it reasonably anticipates will be paid during the ensuing calendar year.

(b) On a date in January set by the Diocesan Council, after considering the amount of income anticipated from Fair Share payments for the current year, the Finance and Budget Committee shall prepare and present to the Council a draft Revised Preliminary Diocesan Budget for the current year. If the total amount of the anticipated income from Fair Share payments, together with other sources of revenue for the current year is less than the total amount of appropriations in the draft Revised Preliminary Diocesan Budget, the Diocesan Council shall reduce the appropriations until the total amount of the appropriations is equal to the total amount of anticipated revenue from all sources.

(c) On a date in January set by the Diocesan Council, the Diocesan Council shall adopt and promptly mail to each member of the Convention a Revised Preliminary Diocesan Budget for the current year.

(d) The March Convention shall consider the Revised Preliminary Diocesan Budget and make whatever changes it deems appropriate. The Revised Preliminary Diocesan Budget as adopted by Convention shall be the Affirmed Diocesan Budget for the current year.

(e) No later than April 1, the Secretary of the Convention shall mail a copy of the Affirmed Diocesan Budget for the current year to each Identified Representative.

SECTION 5. (a) The Diocesan Council shall direct the Chief Financial Officer of the Diocese to make necessary expenditures during the first quarter of each calendar year until the Diocesan Budget for that year has been affirmed. The rest of the year, funds appropriated in accordance with the Affirmed Diocesan Budget for that year shall be expended through the Chief Financial Officer subject to the

supervision of the Diocesan Council. The Diocesan Council shall monitor the finances of the Diocese throughout the course of the year to maintain a balanced budget. The total amount expended through the Affirmed Diocesan Budget in any year shall not exceed the total amount of the receipts, unless a deficit either has been approved by a majority vote of all members of the Diocesan Council to permit the Diocese to timely prepare its financial statements or has been authorized by the Convention.

(b) The Chief Financial Officer or the Treasurer shall have the authority to use funds appropriated for one purpose for another purpose specified in a different line item of the Diocesan Budget so long as the aggregate of all expenditures does not exceed the total expenditures provided in such Budget. The exercise of such authority shall be subject to the review and affirmation or disapproval of the Diocesan Council. This provision shall apply to all funds available for paying expenses contemplated in the Budget, including surplus funds, balances carried forward from previous years, reserves carried forward from previous years in support of line items, all funds received during the course of the year from sources enumerated in the Diocesan Budget and all funds received from other sources. The Diocesan Council by a majority vote of all members must approve in advance any expenditure of funds for new ventures or initiatives not contemplated in the Diocesan Budget construction and approval process.

## **PROPOSED REVISED CANON 16**

### Fair Shares

SECTION 1. The Diocesan Council shall propose to Convention a Formula of giving percentages to be used to calculate the Fair Share assigned to each diocesan congregation. After its initial approval by Convention, the Formula shall remain in effect until modified by the Convention.

SECTION 2. A Fair Share shall be assigned annually to each diocesan congregation. A congregation's Fair Share for any given calendar year shall be calculated by applying the Formula of giving percentages to the congregation's Income Base for the third previous calendar year.

SECTION 3. The Income Base shall include all normal operating income received by that congregation as shown on its annual parochial report form, except that amounts spent for principal and interest on obligations for real property held for non-investment purposes shall be deducted. If a congregation has not submitted its annual report, that congregation's Income Base shall be estimated by the Diocesan Council. The Income Base shall not include income received from the Diocese or non-operating revenues such as capital funds, gifts and additions, additions to endowment and other investment funds, contributions and grants for congregation-based outreach and mission programs, and funds for transmittal to other organizations.

SECTION 4. The Diocesan Council shall prepare annually for the Convention a list of the Fair Shares assigned to each diocesan congregation for the ensuing calendar year, which shall be part of the Proposed Preliminary Diocesan Budget for the ensuing calendar year.

SECTION 5. The Formula of giving percentages and the Fair Shares assigned to each congregation may be subdivided into such categories as the Convention deems appropriate. It shall include a tithe portion as the minimal giving standard.

SECTION 6. No individual or congregation of the Diocese shall be discriminated against or penalized in any way because a congregation fails to pay any part of a Fair Share assigned in accordance with this canon.

## **PROPOSED NEW CANON 28**

SECTION 1. The Bishop shall appoint a special committee whose duty shall be to meet with the clergy and officers of those churches that are unable to pay the tithe portion of their Fair Shares. Guidelines for the work of the committee shall be developed in a manner determined by the Bishop. The committee shall at all times conduct itself in accordance with procedures adopted with the approval of the Bishop.

SECTION 2. The committee shall include at least one member from each of the following entities: the Diocesan Council, the Finance and Budget Committee, the Stewardship Committee, the Audit Committee, the Board of Missions, and the Congregational Development Committee. Additional members may be appointed at the discretion of the Bishop. Members shall be appointed for one-year terms that begin on January 1, and may be reappointed. Vacancies shall be filled by the Bishop.

SECTION 3. The Bishop shall appoint a Chair and such other officers as are deemed necessary.

### **ADDITIONAL REFERENCE MATERIAL**

Copies of the original text of Canons 14, 15, and 16 may be found in the current book of the Constitution and Canons of the Diocese.

The Resolution adopted by the 2003 Convention approving the Report of the Task Force on Finances may be found in the 2003 Journal on page B-200.

The pertinent Recommendations of the Task Force on Finances may be found in the 2003 Journal on pages C-259 through C-262.

### **PART II. PROPOSED AMENDMENT OF CANON 21**

The Rev. Francis A. Hubbard, Chair of the Loan and Grant Committee, and a member of Diocesan Council has submitted a proposed amendment of Canon 21, Section 1. He requests that in the fourth paragraph of Section 1, the figure 5% be changed to 4%, so that it reads, “The rate of interest on any loan shall not exceed 12% per year nor be less than 4% per year unless otherwise specifically ordered by resolution of Convention.”

Father Hubbard’s statement of explanation appears below:

“Canon 21, Section 1, specifies the interest rate range permitted for Venture in Mission fund loans. (The interest rates for the other two loan funds are specified by Deed of Gift and are not subject to change.) Canon 21, Section 1 currently sets the minimum interest rate permitted for Venture in Mission loans at 5%. For years, the policy of the Loan and Grant Committee and Diocesan Council was to lend money at or below prime rate; under the canon as now written, that currently is impossible. This proposal simply would permit the V.I.M. loan rates to be lowered to 4% if requested by vote of the Loan and Grant Committee and approved by Diocesan Council. This proposal would permit the Diocese to lower V.I.M. interest rates in response to economic conditions such as currently exist. This proposal comes with the unanimous support of the Loan and Grant Committee and with the support of a resolution by Diocesan Council.”

The Committee finds this amendment to be in proper canonical form and is happy to endorse the request of the Loan and Grant Committee and Diocesan Council.

### **Part III. PROPOSED AMENDMENT OF CANON 75**

Paul Ambos has proposed an amendment of Canon 75. The text of the proposal appears below, followed in turn by Mr. Ambos's Statement of Explanation, and the Recommendation of the Committee on Constitution and Canons that it not be adopted.

### **PROPOSAL**

Canon 75 of the Canons of the Diocese of New Jersey is to be amended by adding a new Section 4 to read as follows: "SECTION 4. Following each meeting of the General Convention, the Standing Committee on Constitution and Canons must (a) review any changes to National Canons approved by such meeting and (b) propose to the next diocesan Convention amendments to Diocesan Canons so as to conform them to such changes in National Canons." Except for such addition, Canon 75 is to remain unchanged.

### **STATEMENT OF EXPLANATION BY THE PROPOSER**

Many diocesan canons are written to comply with those of the national church or be consistent with the National Canons. When amendments are made by General Convention, and local canons are not conformed to these changes, confusion in application of canonical provisions results. Such conflicts have been identified in current Canon 16, Section 4, and Canon 65, Section 8(b); others may exist as well. Under current practice of the Standing Committee on Constitution and Canons, such discrepancies are only discovered when local canons are sought to be amended for other reasons, or from serendipitous research. On the other hand, it is this Committee that has presumed canonical expertise within the diocese, such that all proposed amendments must be referred to it under Canon 75, Section 1. A record of the actions of General Convention are available through print media and the internet within weeks if not hours of their passage, well in advance of diocesan Convention the following year. Absent a duty on the Committee to review and report to Convention, unexamined errors in diocesan canons will only accumulate over time. This proposal creates such a duty.

### **RECOMMENDATION OF THE COMMITTEE**

The Committee on Constitution and Canons recommends that this proposed amendment not be adopted, for the following reasons:

(1) National canonical changes deal with substantive matters not necessarily within the expertise of the Standing Committee on Constitution and Canons. For example, the last General Convention made substantive changes to the ordination canons. Those bodies that have responsibility for such substantive matters should, in the first instance, make recommendation for changes. The Standing Committee on Constitution and Canons would be willing to assist in crafting proper canonical language but should not be engaged in policy decisions.

(2) It is more fitting for the Chancellor of the Diocese to give opinions on any discrepancies between diocesan and national canons. (See Constitution of the Diocese, Article VIII.)

(3) The Standing Committee on Constitution and Canons has a role to play in facilitating canonical changes, but this proposed amendment gives the Committee responsibilities that do not rightfully belong to them.

Respectfully submitted,  
The Rev. Alan C. French  
John Wood Goldsack, Esq.  
The Rev. Peter T. Manzo  
The Hon. Robert W. Scott  
The Rev. Elmer L. Sullivan, Chair