

NEW JERSEY PUBLIC FINANCING

1981 GUBERNATORIAL ELECTIONS

CONCLUSIONS AND RECOMMENDATIONS

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**New Jersey Election Law Enforcement Commission
June 1982**



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Dear Governor Kean and Members of the Legislature:

In 1977, New Jersey conducted its gubernatorial general election financed in substantial part with public funds. In 1981, the program was expanded to include the primary election. As the agency responsible for the administration and enforcement of the public financing statute, the Election Law Enforcement Commission has prepared this report of the Commission's evaluation of the program.

This report presents the Commission's analysis of the public financing program and its evaluation of the program's effectiveness in achieving the public policy articulated in the legislation. In addition, the Commission addresses specific proposals to modify the program and presents suggestions for improving the statute.

With the publication of this report, we gratefully acknowledge the invaluable contribution of former Chairman Sidney Goldmann and former Vice Chairwoman Josephine Margetts who retired from the Commission following the 1981 gubernatorial election. Their work during both the 1977 and 1981 elections contributed in large part to the success of New Jersey's public financing program.

It is our belief that New Jersey's public financing program has served as an important component of our State's electoral process. It remains our hope that the work of the Commission will contribute to further improvement in this process in New Jersey and elsewhere.

Andrew C. Axtell
ANDREW C. AXTELL, CHAIRMAN

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ACKNOWLEDGEMENT

The successful administration of New Jersey's public financing program, as well as the preparation of this report, represents the collective efforts of numerous individuals. Included among those is William Schmidt who, as the Commission's Assistant Executive Director, was responsible for the management of the 1981 public financing program during both the primary and general elections. Additionally, former Commission Chairman Sidney Goldmann, Dr. Herbert E. Alexander, and Neil Upmeyer, provided valuable insight and perspective during the analysis of the program by their participation as consultants to the Commission. Finally, any discussion of public financing in New Jersey would not be complete without acknowledging the contribution of Lewis B. Thurston, III who served as the Commission's Executive Director at the time of the program's implementation in the 1977 general election and through the completion of the 1981 gubernatorial primary. In recognition of the collective efforts of the Commission's staff, listed below are those individuals who, as present or former staff members, directly contributed to the success of the 1981 public financing program. S.A.W.

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In 1981, New Jersey elected its Governor through the State's second publicly funded general election and first publicly funded primary election. The State spent approximately \$8.7 million for both elections—\$6.3 million to aid 16 of the 22 candidates in the primary and \$2.4 million to aid 2 of the 13 candidates in the general election.

Public financing was enacted in 1974 to enable gubernatorial candidates to conduct their campaigns free from improper influence and to enable persons of limited financial means to seek election to the State's highest office.¹ After favorable experience with the public funding of the 1977 general election, the Legislature extended the concept to primary elections, reasoning that much of the desirable effect of publicly funding general elections would be diluted unless it were applied to the primary as well.²

Public funds were found to be a preferable alternative to large contributions and were seen as providing a floor of resources to assist candidates in conducting serious and competitive campaigns.³

Extension of the program to the 1981 gubernatorial primary, however, saw the expenditure of public funds increase fourfold, as 16 primary election candidates, in addition to the two major party general election candidates, qualified for public funds. This increased cost and the number of qualifying candidates caused the Election Law Enforcement Commission to review the public financing program including its goals, costs and impact, and ways in which the program might be modified.

1 L. 1974, c.26 (N.J.S.A. 19:44A-27 et seq.).

2 For a case study of the 1977 general election for Governor and Commission recommendations following, see New Jersey Election Law Enforcement Commission, *Public Financing in New Jersey*, August 1978, p. 30.

3 New Jersey Election Law Enforcement Commission, *Public Financing in New Jersey*, August 1978, p. 30.

The Commission started the review process shortly after the June 2, 1981 primary by inviting the primary candidates and their treasurers to comment on their experiences with public financing and its provisions.⁴ The review continued through the following winter and spring and included the preparation and distribution of nine Interim Reports (which are included as appendices to this report), public hearings, consultation with individuals knowledgeable in New Jersey's and the national public financing programs, and participation in seminars and discussions with candidates, campaign officials, legislative leaders and political scientists. The Commission's work has culminated in this report.

The Commission considered the distinction between the primary and general elections, including the following factors: the restriction on political party activity in primary elections; the nature of the primaries as a candidate selection process; and the potentially larger number of candidates who participate in a primary. Following this extensive review, the Commission reiterates the conclusion it reached following the 1977 election:

The rationale for public financing in the general election for Governor is applicable to the gubernatorial primary election as well. In fact, without application of similar provisions to the primary election, much of the desirable effect of the general election provisions is diluted.⁵

While distinctively different program models for the primary and general elections can be conceived, the Commission believes that the public financing program should remain as similar as possible for both the primary and general elections, thereby promoting the goals of simplicity and clarity. However, where distinctions are warranted or required, e.g. caps on the amount of public funds available to any candidate and political party participation, they are expressly noted and addressed in the report.

In its review of the public financing program, the Commission focused on the following provisions which apply to both the primary and the general elections, except as otherwise noted:

- the \$50,000 qualifying threshold. This is the amount, increased from \$40,000 in 1977, which a candidate to qualify for public funds must raise in matchable contributions. Only contributions above the qualifying threshold were matchable.

4 On July 9, 1981, the Commission mailed a questionnaire to the gubernatorial primary candidates, their treasurers, and various campaign officials soliciting their views on public financing. Selected responses are incorporated in the Appendix Interim Reports.

5 New Jersey Election Law Enforcement Commission, *Public Financing in New Jersey*, August 1978, p. 30.

- **the \$800 contribution limit.** Contributions from any contributor to any single gubernatorial candidate could not exceed \$800, an amount \$200 above the limit in 1977. The limit applies to all candidates whether or not they received public funds.
- **the two for one matching formula.** This ratio of two public dollars for every eligible private dollar was the same in 1977 and 1981.
- **limits on public funds.** The limit on public funds was introduced for the 1981 election. The limit in the primary election was 20¢ per voter in the 1980 presidential election, nearly \$600,000 for any one candidate. For the general election, the limit was 40¢ per voter, or nearly \$1.2 million dollars for any one candidate.⁶
- **expenditure limits.** The limit on the amount a publicly funded candidate could spend in the primary was nearly \$1,050,000, based on 35¢ per voter in the 1980 presidential election. For the general election, the expenditure limit was nearly \$2.1 million, based on 70¢ per voter in 1980.⁷ In 1977, the limit was over \$1.5 million, based on 50¢ per voter in the 1976 presidential election. The following costs are excluded from the expenditure limit: legal and accounting costs of complying with the law; the costs of food and beverage for fund raising events; travel costs of the candidate; and election night costs.

The Commission gave its greatest attention to these five provisions because they are the core of a public financing program. The Commission has concluded that they are, by their character, inextricably related. A change in any one of them affects the entire funding formula and can easily have unintended consequences if the other four provisions are not considered concurrently. For example, merely raising the contribution limit would make it easier for a candidate to reach the qualifying threshold, could result in the transfer of more public funds to that candidate, and increases the likelihood that the candidate will come closer to the expenditure limit.

6 The exact amounts were \$599,975.80 in the primary election and \$1,199,951.60 in the general election.

7 The exact figures were \$1,049,957.65 in the primary and \$2,099,915.30 in the general election.

The Commission also reviewed the following other provisions of the public financing program which apply to both the primary and general elections, unless otherwise noted:

- **the \$25,000 limit on a publicly financed candidate's own funds.** This limit did not apply in 1977. Also, the limit applies only to publicly funded candidates. The U.S. Supreme Court, in **Buckley v. Valeo**,⁸ held that a limit cannot be imposed on any candidate who does not take public funds.
- **the \$50,000 bank loan limit on publicly funded candidates.** This limit on bank loans applied in 1977 and 1981.
- **limits on purposes for which public funds may be spent.** A candidate may spend public funds only on communication with voters (i.e. radio and television time, newspaper advertisements, billboards, advertising production, and printing and mailing campaign literature); telephone deposits, installation charges, and monthly billings; and legal and accounting expenses of complying with the law. The latter two purposes were added for the 1981 election.
- **the \$250 contribution limit on inaugural fund raising events.** This limit went into effect for the 1981 election and was applied to the inaugural events held for Governor Kean in January 1982.
- **the \$100,000 limit statewide and the \$10,000 limit countywide on the amounts county and municipal political party committees may spend in aid of a gubernatorial general election candidate.** These limits on expenditures by county and municipal party committees in the general election applied in 1977 and 1981.
- **other housekeeping provisions.** The Commission reviewed all provisions of the public financing law to identify other desirable changes.

8 424 U.S. 1, 96 S.Ct. 612 (1976).

In this report, the Commission analyzes the events of 1981 and proposes changes for consideration by the Governor and the Legislature well in advance of the 1985 gubernatorial election. The discussion is divided into two parts. In Part I, Goals, Objectives and Public Policy, the Commission analyzes New Jersey's public financing program and evaluates the program's effectiveness in achieving the State's public policy. One of the most important tasks to be undertaken as part of the forthcoming legislative debate is the review, and perhaps restatement, of the State's policy concerning the method by which New Jersey's Governor is elected. Once policy is defined, specific provisions of the law requiring amendment will be readily identifiable.

In Part II, Conclusions and Recommendations, the Commission presents specific proposals for amendment of the public financing program. In formulating its recommendations, the Commission has avoided considering specific topics in isolation, but has sought to take account of the inter-relationships and inter-dependency of the components of the program.

As in most endeavors of this type, there is no single identifiable solution. Accordingly, in this report, the Commission discusses the alternatives which it considered but did not endorse. The Commission's decisions were based in part upon the extent to which a particular alternative advanced public policy and favorably interacted with other program components. Accordingly, a change in public policy or a selection of a different alternative in another area might have altered the Commission's recommendations.

In arriving at its recommendations, the Commission reviewed the explicit and implicit goals of public financing. The Legislature's declared intent, in enacting the public financing statute in 1974 was that:

...such financing be adequate in amount so that the candidates for election to the office of Governor may conduct their campaigns free from improper influence and so that persons of limited financial means may seek election to the State's highest office.¹

The experience in 1977, repeated in the 1981 primary and general elections, supports the conclusion that New Jersey's partial public financing program substantially achieved those goals.

Conducting campaigns "free from improper influence" is a goal which had its genesis in the political reform of the early 1970's. Among other objectives, those reforms sought to reduce, if not eliminate, large contributions by placing a limit on the amount each contributor may give. Thus, by inference, "improper influence" was defined as influence flowing from large contributions.

At the national level, the limit on contributions has been an important factor in the evolution and growth of political action committees (PACs) and multi-candidate committees, which aggregate small contributions. Under federal law, these entities are permitted to contribute more to a candidate for federal office than an individual may contribute. This is a significant difference from New Jersey law. In New Jersey, all contributors are treated alike and can contribute no more than \$800. Thus, New Jersey's contribution limit reduces, if not eliminates, the "improper influence" of large contributors. In the 1981 primary and general election experience, a majority, over 60 percent in the cases of most

1 N.J.S.A. 19:44A-27.

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candidates, of the privately raised funds came from individuals, rather than corporations, unions, PACs and political committees.²

Through an evolutionary process, candidates in New Jersey gubernatorial elections have increasingly come to rely on individuals and organizations which can generate contributions from a relatively large number of people. Consequently, although the influence of those who make large contributions has decreased, reliance on and the potential influence of the mass fund raiser has increased.

If, however, "improper influence" is defined as influence flowing from large contributions, then such influence has been diminished in New Jersey gubernatorial elections by a combination of the contribution limit and the partial public funding matching program. It should be recognized, in any event, that influence cannot be totally eliminated. An individual is permitted to make large contributions to the political party committees and those individuals who are able to generate many contributions continue to gain the potential to influence the candidate.

The goal of providing adequate funds to enable persons of limited financial means to seek the Governorship is more difficult to define programmatically. The public financing program prohibits publicly financed candidates from contributing more than \$25,000 to their own campaigns. A wealthy person who wants to use his or her own funds in excess of \$25,000 may do so, but only by foregoing public financing. Another way to view "limited means" is in the context of organizational support and ability to generate significant contributions at the onset of a campaign. A candidate for Governor may not be personally wealthy but may have access to wealth in the form of many contributors. With the limitation of \$25,000 for an individual candidate's contribution to his or her own campaign, the relatively low threshold of \$50,000, and a matching ratio of two public dollars for one private dollar, the current public financing program should have aided the campaigns of candidates with limited financial means, either personal or organizational.

On the question of overall adequacy of the public funds, no participant or observer argued for increasing the amount of public funds available to qualifying candidates by raising the cap on public funds, by increasing the matching ratio, by lowering the threshold, or by any other means that would result in more public funds. When someone argued that the contribution limit should be raised, the argument did not directly seek to increase the amount of public funds which would be available. However, neither did the presentations include the point that raising the contribution limit, without changing other provisions of the program, would increase the amount of public funds for a candidate who did not reach the public funds limit.

² See Appendix Table 1.5. "1981 Gubernatorial General Election Candidates Florio (D) and Kean (R): Amount and Number of Contributors by Type of Contributor as of May 18, 1982"; and Appendix Table 1.6. "1981 Gubernatorial Primary Election Candidates: Amount and Number of Contributors By Type of Contributors as of April 19, 1982."

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Perhaps every gubernatorial campaign could have used more money on behalf of its candidate. Nevertheless, Mayor Gibson, who came in a close third in the Democratic primary, spent only about 70 percent of the money spent by the candidates who placed first and second, Congressmen Florio and Roe, respectively. Furthermore, to date, eight campaigns have refunded nearly \$94,000 in surplus funds to the State.³

The Commission concludes, therefore, that the amount of public funds made available in the 1981 primary and general elections was adequate to enable candidates to conduct their campaigns.

In retrospect, it can be seen that the public financing program was too successful in achieving the goals of generating adequate public funds for the 1981 primary and general elections. If there was any consistent negative criticism of the public financing program for the 1981 primary, it was that it cost the taxpayers too much money and that too many candidates qualified for and continued to receive public funds. The Commission recognizes this criticism. In reviewing the entire public financing program, the Commission focused on ways to reduce total program expenditures, to scale down the generosity of the program, and to deter candidates from applying for or continuing to receive public funds when those candidates' chances of victory are slight.

These two new goals, i.e. conserving public funds and deterring candidates, who might be termed "marginal", from continuing to receive public funds, have the potential of conflicting with the two initial program goals set forth in the 1974 Act, i.e. adequate public funds to enable candidates to conduct their campaigns free from improper influence and to enable persons of limited financial means to seek election to the office of Governor. The concept of this potential conflict between the two sets of goals is summarized in the table below:

	<u>Statutory/Public Policy Goals:</u>	<u>Perceived New Goals</u>
<u>PROGRAM GOALS</u>	Adequate Funds to Free Campaigns from Improper Influence and Permit Persons of Limited Financial Means to Seek Governorship	Conserve Public Funds and Screen Publicly Funded Candidates
<u>PROGRAM CHOICES</u>	Lower the Contribution Limit Lower the Threshold Increase the Matching Ratio Increase the Cap on Public Funds	Increase the Contribution Limit Increase the Threshold Lower the Matching Ratio Lower the Cap on Public Funds

³ See Appendix Table 5.1. "Public Funds Refunded Remaining Cash on Hand and Outstanding Obligations - 1981 Gubernatorial Primary and General Election Candidates."

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In arriving at its recommendations for changing the key provisions of the public financing program, the Commission weighed these two sets of policies and goals and assessed the impact of making different levels of changes for each provision.⁴ The Commission also has considered the important roles of political parties and individuals in fund raising and in electing this State's Governor.

In formulating its recommendations, the Commission was convinced that the public financing statute and any changes thereto should be considered in light of how the law and changes would affect the role of political parties. Furthermore, the Commission was convinced that, at a minimum, no new barriers should be erected between the gubernatorial general election candidate and his or her political party and legislative and local running mates. As both the New Jersey and national public financing programs were developed for funding gubernatorial and presidential general election candidates, respectively, the programs focused on the candidates to the near, if not total, exclusion of the political parties. At the national level, the Congress has since changed the law to permit the national, state and local parties to raise and spend funds on behalf of their presidential and vice presidential candidates. The amounts are not large in relation to the amount of public funds granted directly to the presidential candidates, but the principle has now been established that the party's nominee and the party organization should not be artificially separated by a public policy of public financing.

In New Jersey, the Commission has observed the near total separation of the gubernatorial candidates' campaigns from the campaigns conducted by the candidates' legislative and local running mates. Because of the expenditure limit on the gubernatorial candidates, almost no joint advertising or similar endeavors were undertaken during the 1977 and 1981 general elections. The Commission concludes that this separation is not only artificial but is also detrimental to the political life of the State. Thus, at a minimum, the Commission, in arriving at its recommendations, has attempted to be sensitive not to add to this estrangement.

At the national level, the public financing and campaign contribution laws discourage individuals from playing a direct role in fund raising and campaign activity. Individuals may contribute only \$1,000 directly to a candidate for federal office but may contribute \$5,000 to a political action committee (PAC). The law also permits qualifying PACs and other multi-candidate committees to contribute \$5,000 directly to a candidate for federal office. The federal law also prohibits unions and corporations from making political contributions to federal office seekers. This latter prohibition, coupled with the low contribution limit placed on individuals, has contributed greatly to the rapid rise of union and corporate PACs.

⁴ See the Appendix for Interim Report No. 1, "The \$800 Contribution Limit"; Interim Report No. 2, "The \$50,000 Threshold"; and Interim Report No. 3, "Limit on Public Funds and Two for One Matching Formula."

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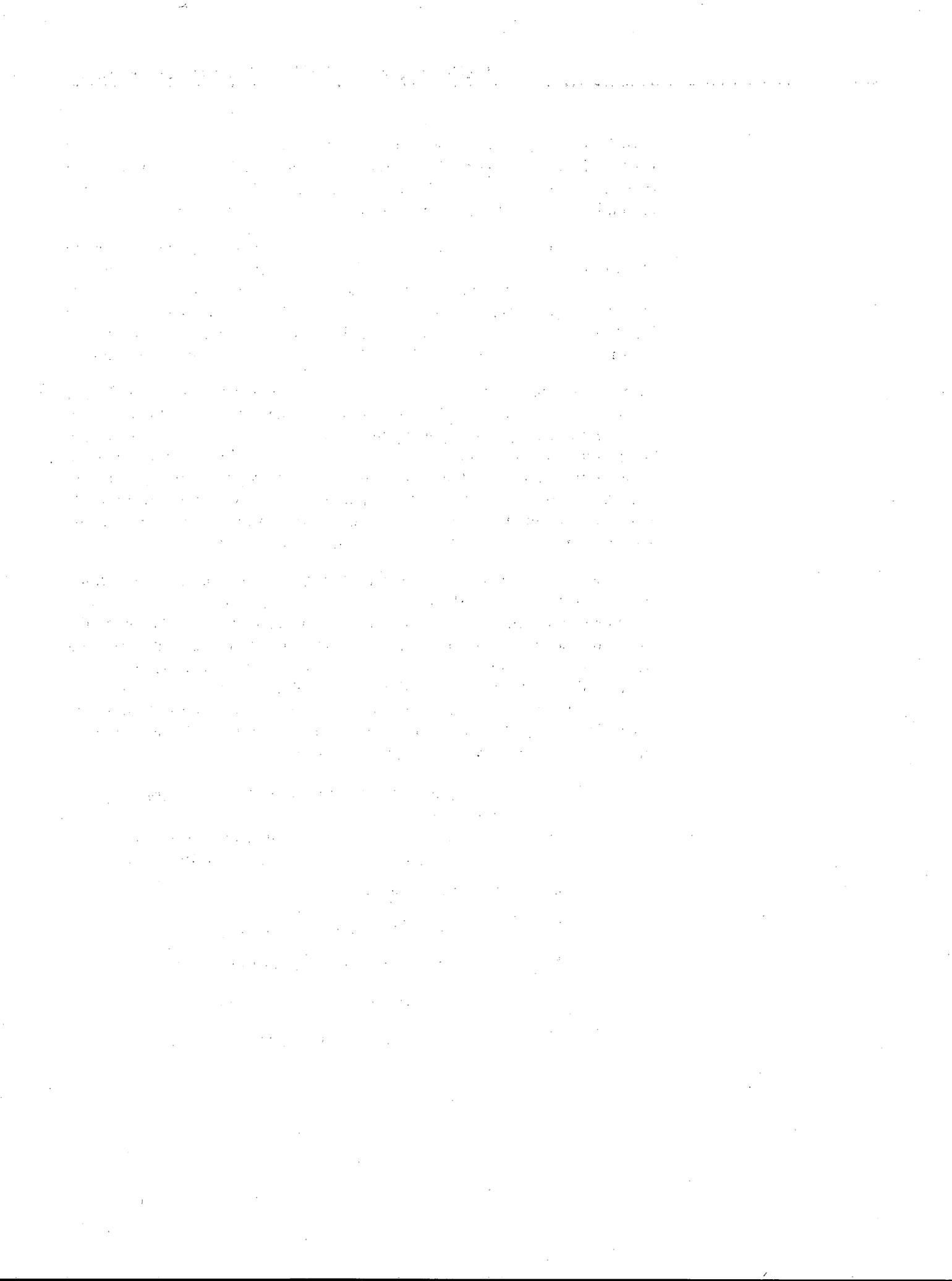
In New Jersey, the phenomenon has been much less, to a great extent because New Jersey permits union and corporate political contributions and treats all contributors alike, i.e. all contributors, whether individuals or groups, are limited to an \$800 contribution to a gubernatorial candidate.

For these reasons, the Commission is convinced that no change should be made in the public financing law which would inhibit or deter the individual citizen from participating in fund raising or campaigning for gubernatorial candidates. The bias against the individual contributor found in the federal law is not as great in the New Jersey law and the Commission concludes that it is desirable that New Jersey not diminish the role of the individual contributor.

In considering various proposals for change, the Commission also sought ways to avoid complicating the procedures for the gubernatorial campaigns. The record keeping and reporting requirements for public financing were a burden on the campaigns and added to campaign costs. The Commission gave great weight to proposals that would simplify, or at least would not complicate, these requirements. Furthermore, the Commission is sympathetic to proposals which would simplify record keeping and reporting requirements for gubernatorial campaign committees and intends to act on them.

In reaching its conclusions on recommended changes in the public financing law for consideration by the Governor and the Legislature, the Commission examined and weighed the State's potentially conflicting goals for public financing and considered how existing impediments to political party and individual participation in a gubernatorial campaign might be reduced and how procedural complications might be avoided. Seven themes were discussed explicitly during the Commission's deliberations and were part of the Commission's consideration of specific alternatives for changing the provisions of the public financing law. These themes were:

- freeing gubernatorial candidates from "improper influence";
- permitting persons of limited financial means (personal and organizational) to seek the Governorship;
- conserving public funds;
- screening candidates for public funding;
- encouraging political party participation;
- encouraging individual participation; and
- avoiding procedural complications.



RECOMMENDATION #1: THE CONTRIBUTION LIMIT SHOULD BE RAISED TO \$1,200.

The contribution limit is the key factor in reducing the potential for undue influence, in the electoral and governmental processes, of large contributors.¹ This was the reasoning underlying the 1974 statute imposing a contribution limit. The Legislature raised the original \$600 limit to \$800 for the 1981 election.

In the 1981 general election, neither major party candidate had difficulty in raising funds. By October, 1981, both had raised over 80 percent of their campaign funds and had received all of their public funds. Both campaigns, during the week immediately before the election, refunded contributions. The James Florio campaign refunded in excess of \$150,000 and the Thomas Kean campaign refunded over \$70,000. They did so because both were approaching the expenditure limit and simply could not spend the money. The number of contributions and the amount of the average contribution increased for both in comparison with their counterparts in 1977.² In sum, the contribution limit did not impede the ability of either major general election candidate to raise enough private funds. When matched with public funds, they provided the candidates with the funds adequate to conduct campaigns.

The 1981 primary experience varied. Four candidates, John Degnan and James Florio, among the Democrats, and Thomas Kean and Lawrence Kramer, among the Republicans, evidenced minimal, if any, problems in raising sufficient private funds. Congressman Florio and Governor Kean had the largest proportion of \$800 contributions in their respective fields of candidates.³ Although ten publicly funded primary election candidates did not receive the maximum in public funds, the \$800 contribution limit did not appear to be the inhibiting factor.

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- 1 See Appendix Interim Report No. 1. "\$800 Contribution Limit" for analysis of the contribution limit and data on contributions to the 1981 gubernatorial candidates.
 - 2 See Appendix Table 1.3. "Comparison of Contributions to 1981, 1977 and 1973 New Jersey Gubernatorial General Election Candidates by Contribution Amount."
 - 3 See Appendix Table 1.1. "Comparison of Amount of Contributions, of \$800 Contributions and Contributions of \$100 or Less by Candidate."

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There is no evidence that the contribution limit was too high, and no one during the Commission's review of the contribution limit proposed a lower limit.

The Commission considered limits higher than the \$1,200 amount recommended. The Commission is aware that costs for campaigning are increasing rapidly and faster than the Consumer Price Index, which would tend to argue for contribution limits of \$1,400 or as high as \$1,700, depending on estimates of future inflation.

A relatively low contribution limit requires campaigns to spend more time and money raising campaign funds than would be the case without the contribution limit. Additionally, too low a limit might cause campaigns to divert too much effort to fund raising to the detriment of campaigning and communicating with the voters.

Another potential danger of too low a limit is encouragement of independent expenditures. When faced with a low contribution limit, a contributor with greater resources could feel compelled to "contribute" to the campaign by making expenditures independent of the supported candidate. Such activity is further encouraged by the pressure of an expenditure limit upon candidates, because no limit applies to the expenditures which satisfy the test of independence.

Since, by definition, the use of "independent expenditures" must be without the consent or cooperation of or consultation with a gubernatorial candidate or his or her campaign, such activity tends to undercut the benefits of a coordinated and economical campaign.

New Jersey saw, in 1981, a corollary to independent expenditures in the growth of institutional advertising by the Democratic and Republican State Political Party Committees. This activity seeks to promote the "institution of the party" by advertising which does not "clearly identify" a gubernatorial candidate or the office of Governor.⁴ Funding for such activity is made possible, in part, by the absence of a contribution limit applicable to the state committees and by the fact that no part of such spending is applied against the expenditure limit of a gubernatorial candidate. However, the Commission agrees with those who view the growth of institutional advertising by New Jersey's political party committees as healthy.

In contrast, one difficulty with raising the contribution limit is the way in which the matching ratio interacts with the contribution limit.⁵ In 1981, an \$800 contribution was worth \$2,400 when matched with public funds. If the

4 See Appendix Interim Report No. 4, "The Expenditure Limit", for Advisory Opinion 33-81 which sets forth Commission policy on institutional advertising.

5 See Appendix Interim Report No. 3, "Limits on Public Funds and Two-for-One Matching Formula," for an analysis of and data on the matching ratio.

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limit were raised to \$1,200 and the match ratio left unchanged, a \$1,200 contribution would be worth \$3,600. On the other hand, raising the limit to \$1,200 but reducing the matching to one for one, results in the same \$2,400 applicable in 1981.

As can be seen, the selection of program goals and public policy can result in a choice among various options with similar costs. The Commission considered raising the limit to \$1,500 or \$2,000, but matching only the first \$500 or \$750. As discussed in Recommendation #2, below, such a matching system places a comparative premium on the smaller contributor while allowing a higher contribution limit. However, this requires a more complicated system of monitoring the contribution and matching limits for both the campaigns and the Commission. Moreover, the desired results are obtainable in a more direct way.⁶

The Commission also considered proposals that the total amount from a family be limited, e.g. \$1,200 per person but \$3,600 per family. The Commission concluded that no adult individual should be prohibited from making a contribution to a gubernatorial candidate simply because that individual is part of a family that, in total, contributes \$3,600 to that candidate. Neither should a minor be prohibited from contributing so long as several conditions are met. During the 1981 primary, the Commission reviewed cases of contributions from minor children, and, through regulations and policy decisions, the Commission established reasonable conditions on political contributions from minors, e.g. requiring certification that the funds belong to the child and were not a gift for the purpose of making a contribution, that the decision to contribute was made voluntarily, and that the child was of sufficient age and capable of knowing what he or she was doing.⁷ From a detailed review of the over 50,000 contributions made to gubernatorial candidates, there appeared to be very few cases of contributions from minor children. The final reason for not limiting contributions from a family is the difficulty of defining "family" and the incentive it would provide to circumvent the provision.

The Commission believes that a contribution limit up to \$1,500 could be justified; that figure in the Commission's judgment would still maintain the goal of keeping candidates reasonably insulated from undue influence. However, if the contribution limit were raised to \$1500 or higher, adjustments to the Commission's other recommendations would be in order.

⁶ See Appendix No. 10, "Analysis of Proposal to Match Only a Portion of a Contribution."

⁷ See Appendix Interim Report No. 1, "\$800 Contribution Limit" paragraph No. 12 for a summary of the standards applied to contributions from minors.

Accordingly, the Commission concludes that an increase of \$400 in the contribution limit to \$1,200 is reasonable and appropriate for 1985.⁸ It will help campaigns in raising additional funds, but, when matched with public funds on a one to one basis (see Recommendation # 3, below), it will be worth \$2,400, the same amount that an \$800 contribution was worth in 1981.

RECOMMENDATION #2: THE CONTRIBUTION AND EXPENDITURE QUALIFICATION THRESHOLD SHOULD BE RAISED TO \$100,000. IN ADDITION, A CONTINUING THRESHOLD SHOULD BE ADOPTED REQUIRING A CANDIDATE TO MAKE ADDITIONAL SUBMISSIONS FOR PUBLIC FUNDS ONLY IN UNITS NOT LESS THAN \$25,000 AFTER THE CANDIDATE HAS RECEIVED \$125,000 IN PUBLIC FUNDS.

In 1977, the contribution and expenditure threshold was \$40,000. The Legislature raised the threshold amount to \$50,000 for the 1981 elections. The Commission proposes a twofold increase in the threshold to \$100,000.⁹

The threshold is a means by which a candidate establishes his or her "viability". The threshold is solely a financial test reflecting a candidate's ability to raise a specified amount of money. It does not necessarily reflect potential strength at the polls. The threshold is also one means by which the State can conserve public funds by screening out and denying public funds to those candidates who are unable to raise the threshold amount. Thus, the threshold becomes a key test of the viability of a candidacy.

Nearly all observers urged that the threshold be raised, some suggesting amounts as high as \$200,000 and \$250,000 or even one-half the maximum expenditures for the primary, about \$525,000. However, too high a threshold runs counter to the goal of enabling persons of limited financial means, personal or organizational, to seek election to the Governorship. Whereas a threshold of \$100,000 would have eliminated one, and possibly two, of the 16 publicly funded candidates in the 1981 primary, a \$250,000 threshold would have eliminated at least six more.¹⁰

The Commission considered leaving the threshold unchanged. However, if the contribution limit is increased as recommended, candidates would find it easier than in 1981 to raise the threshold amount and they would not really be passing a "viability" test.

⁸ The Legislature has directed the Commission to monitor the general level of costs of election campaigning and to report its recommendations, if any, for altering limits on contributions and expenditures accordingly one year prior to the next gubernatorial primary election. N.J.S.A. 19:44A-7.1.

⁹ See Appendix Interim Report No. 2. "\$50,000 Threshold", for analysis of and data on the threshold.

¹⁰ See Appendix Table 2.4, "Amounts of Contributions (Net) Submitted for Public Matching Funds by Date of Submission-1981 Gubernatorial Primary."

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The Commission also considered a \$150,000 threshold and concluded that the figure was too high and would function as too great an obstacle for credible candidates seeking to enter the forum. The Commission concluded that a \$100,000 threshold was reasonable and appropriate together with a contribution limit of \$1,200.

The Commission considered proposals that the threshold amount be made up of only a portion of a person's contribution, i.e. \$100 or \$250.¹¹ This proposal was offered as a way to conserve public funds, to screen out "marginal" candidates and to encourage candidates to reach a larger constituency of contributors. Applying the suggested \$100 and \$250 amounts to the 1981 actual experience revealed that only one candidate, Ann Klein (D), would never have reached the \$50,000 threshold amount. This would have saved the State only \$52,800, although other candidates might have been dissuaded from staying in the race because of cash flow problems. The proposal would require candidates to seek out more contributors. However, looking toward the future, gubernatorial candidates will have to secure contributions from more contributors in any event, simply because of the anticipated increase in the cost of running for office. Finally, the proposal to count only a portion of a person's contribution toward the threshold would impose an additional record keeping burden on campaigns. In the Commission's judgment, the same purposes of conserving public funds, screening out marginal candidates, and encouraging candidates to reach a larger constituency of contributors, can generally be achieved through simpler means, such as raising the amount of the threshold.

The Commission also considered a recommendation to require candidates seeking to qualify for public funds to obtain a minimum number of petition signatures, in excess of the 1,000 signatures now required for ballot access, in addition to or in lieu of the monetary threshold. Such a requirement could broaden the test of "viability." However, the requirement that signatures be obtained, in addition to the financial qualification, would add little to the threshold requirements unless the required number of signatures was quite large. Also, requiring more signatures increases the costs and complexity of running for office. On the other hand, allowing a candidate to qualify merely on his or her ability to gather signatures, without a monetary threshold, would diminish the threshold as a test of "viability".

Accordingly, although the Commission believes that imposing a minimum number of signatures requirement, in addition to a monetary threshold, is worthy of serious consideration, the Commission does not find sufficient advantages in such a requirement to warrant recommending it.

¹¹ See Appendix No. 10. "Analysis of a Proposal to Match Only a Portion of a Contribution." for data on and an analysis of this proposal.

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In the 1981 primary election, some candidates who had no difficulty in raising more than \$50,000 threshold found their fund raising faltering even after receiving substantial infusions of public funds. All candidates, except those who had reached the maximum in public funds, continued to file submissions for matching funds frequently, sometimes weekly. Often these submissions were in amounts of less than \$10,000, sometimes as low as a few hundred or a few thousand dollars.¹² Only one candidate, Donald Lan (D), withdrew from the race. Others stayed in the contest and continued to draw public funds, even though, in retrospect, they no longer had a chance to win the election and, to many, had ceased being "viable" candidates.

In the Commission's judgment, continued fund raising ability is another appropriate test of "viability." For this reason, the Commission recommends that once a candidate has raised an initial total of \$175,000 in contributions and has thereby received \$125,000 in public funds,¹³ he or she must continue to pass additional thresholds in units of at least \$25,000 in order to receive more public funds. This would require campaigns to cease submitting contributions for matching public funds when the campaign is unable to raise matchable contributions totaling at least \$25,000. If this proposal had been in effect in 1981, some candidates might have developed sufficiently serious cash flow problems to cause them to drop out of the race or, at least, to stop receiving additional public funds for a faltering campaign. An added advantage of this proposal is that it would reduce the frequency and total volume of submissions, thus easing the administrative burden for the individual campaigns and the Commission.

Therefore, the Commission recommends that the contribution and expenditure qualification threshold be raised to \$100,000 and that candidates, having received \$125,000 in public funds, make additional submissions for public matching funds in units of at least \$25,000.

RECOMMENDATION #3: THE MATCHING RATIO SHOULD BE CHANGED FROM TWO FOR ONE TO ONE FOR ONE. THE DOLLAR AMOUNT OF CONTRIBUTIONS WHEN MATCHING BEGINS SHOULD BE \$50,000.

For both the 1977 and 1981 campaigns, the matching ratio was two for one. The full amount of each eligible contribution, \$600 in 1977 and \$800 in 1981, was matched and the matching of contributions began after the threshold was reached, \$40,000 in 1977 and \$50,000 in 1981.¹⁴

12 See Appendix Table 2.5, "Amounts of Contributions (Net) Submitted for Public Matching Funds by Date of Submission - 1981 Gubernatorial Primary."

13 Upon raising the initial \$100,000 to satisfy the threshold, the candidate would receive \$50,000. Additional contributions could be submitted in any amounts up to an aggregate of \$75,000.

14 See Appendix Interim Report No. 3, "Limit on Public Funds and Two For One Matching Formula." for data on and analysis of the matching ratio.

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The two for one matching with public funds of the entire contribution, up to \$600 or \$800 maximum, guaranteed that, in most cases, at least a majority of all funds available to a candidate would be public funds. In 1977, public funds represented slightly in excess of 63 percent of the total receipts for Governor Byrne and Senator Bateman. In 1981, that percentage dropped to slightly less than 51 percent for Congressman Florio and Governor Kean.¹⁵

In the 1981 primary, the percentage of total receipts represented by public funds ranged from a low of 34 percent to a high of 61 percent; the average for all candidates was 56 percent.¹⁶

The matching formula used in 1977 and 1981 also helped candidates who were successful at early fund raising to have substantial funds available at the outset of their campaigns. This benefit can be especially helpful to lesser known candidates who need to achieve name recognition and broader support for their candidacies.

Thus, the matching formula used in 1977 and 1981 insured that a substantial portion of campaign resources would be public funds and helped to insure an adequate floor for a meaningful campaign. However, it was this very benefit that led observers and the Commission to conclude that the matching formula was too generous and, consequently, too successful in generating adequate campaign funds. Therefore, the Commission closely examined alternatives for revising the matching formula in light of the perceived need to reduce total program expenditures and to further reduce the percentage of total receipts represented by public funds.

In arriving at its recommendations, the Commission considered the three key attributes of the matching formula, namely:

- the amount of a contribution to be matched;
- the dollar amount of contributions when matching begins; and
- the matching ratio of public dollars for private dollars.

The Commission recommends an increase in the contribution limit from \$800 to \$1,200 (see Recommendation #1, above). In reaching a conclusion of how much of the contribution should be matched with public funds, the Commission considered matching only a portion of each contribution such as the first \$250 or the first \$500.¹⁷ This type of adjustment to the matching formula would reduce the impact of large contributions and place a competitive premium on attracting smaller contributions.

¹⁵ Ibid. p.1.

¹⁶ See Appendix Table 3.3. "Public Funds as a Percentage of Total Receipts-1981 Gubernatorial Primary Candidates."

¹⁷ Refer to Appendix No. 10. "Analysis of a Proposal to Match Only a Portion of a Contribution."

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The Commission concluded, however, that reducing the matching ratio to one for one would not increase the importance of larger contributions while the program could keep the simpler, more direct method of matching an entire contribution. During the 1981 experience, most of the campaigns kept reasonably good records and did a reasonably good job of monitoring contributions. Nevertheless, they still encountered record keeping problems with multiple contributions from contributors. If a new dimension of matching only the first portion of a contributor's contribution were introduced, it would increase the administrative burden on both the campaigns and the Commission. While such a program certainly could be administered, the presence of other alternatives makes it less favorable. Therefore, the Commission opted for the simpler approach of matching the entire amount of contributor's contribution up to the recommended limit of \$1,200. If a proposal to increase the contribution limit above \$1,200 is advanced, the Commission would urge reconsideration of this recommendation.

The matching of contributions beginning after a candidate had reached the threshold of \$50,000 has been viewed by some observers and by the Commission as generous because it was easy for most candidates to collect \$50,000 in contributions. Thus, for the 1981 primary election, the \$50,000 threshold was not fully functioning as a screening device. The Commission has recommended (see Recommendation #2 above) an increase in the threshold from \$50,000 to \$100,000. The Commission then considered whether matching should begin at \$100,000 or at some other amount. The Commission weighed the merits of the perceived goal to reduce the cost of the public financing program with the statutory policy of enabling candidates with limited means to mount their campaigns for the Governorship.

One of the prime values of the New Jersey public financing program is that it has provided seed money to candidates during the early, crucial periods of campaigning and has insured an adequate floor for a significant campaign. In the 1977 Bateman (R) general election campaign and in the 1981 Gibson (D) and Wallwork (R) primary campaigns, this positive attribute of the public financing program was clearly shown. Therefore, the Commission concludes that the matching of contributions with public funds should start at the first dollar above \$50,000 in contributions. In operation, a candidate satisfying the \$100,000 threshold would obtain \$50,000 in matching funds.

The Commission further considered the matching ratio which was two for one in 1977 and 1981. Many observers and the Commission, after the primary experience, concluded that the two for one matching ratio was too generous and provided candidates with too high a percentage of public funds in relation to their total receipts. One of the results of the two for one match was that a majority of the total receipts of most campaigns came from public funds; while the public funds provided a floor for a significant campaign, that floor was more than adequate. Therefore, the Commission concluded it would be desirable and reasonable to reduce the matching ratio and to match contributions at a rate of one public dollar for one private dollar.

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The Commission emphasizes that it has selected components of this Recommendation in recognition of their relationship to each other and the relationship with the proposed public financing matching program in other Recommendations. Although other alternatives would further specific goals, the chosen proposal which would (1) match contributions in excess of \$50,000 after satisfaction of the \$100,000 threshold, (2) reduce the matching ratio from the current two for one ratio to a one for one match, and (3) continue matching the entire qualified contribution, was deemed by the Commission to be most reasonable and appropriate. Therefore, the Commission recommends it as a unit.

RECOMMENDATION #4: THE CAP ON PUBLIC FUNDS PER CANDIDATE SHOULD BE \$500,000 FOR THE PRIMARY AND \$1 MILLION FOR THE GENERAL ELECTION.

In the 1977 general election, there was no cap on public funds.¹⁸ Governor Byrne and Senator Bateman received a combined total of \$2,070,816. Both campaigns continued to receive public funds as long as the campaigns were able to generate private contributions eligible for match. Thus, the principal restraints on public funds in 1977 were the extent to which both campaigns were unable to generate contributions and unable to spend money because of the expenditure limit.

For the 1981 elections, the Legislature put a per candidate limit on public funds. The cap for the primary election was based on 20¢ per voter in the 1980 presidential general election or a total of \$599,975.80. For the general election, the limit was 40¢ per voter in the 1980 presidential election or a total of \$1,199,951.60.

Both Congressman Florio and Governor Kean in the 1981 general election received the maximum in public funds. Despite the cap on public funds, the 1981 candidates received in total nearly \$330,000 more than their 1977 counterparts. If there had been no cap on public funds, the total additional public funds would have exceeded \$2 million or nearly once again as much as was given in total to Congressman Florio and Governor Kean.¹⁹ Thus, the legislated limit on public funds per candidate served a major and important function of conserving tax dollars.

18 See Appendix Interim Report No. 3, "Limit on Public Funds and Two-For-One Matching Formula," for an analysis of and data on the cap on public funds.

19 See Appendix Table 3.1, "Estimate of 1981 Public Matching Funds Without a Cap on Public Funds - 1981 General Election."

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In the 1981 primary, six of the 16 publicly funded candidates received the maximum in public funds. Those six were: Democrats John Degnan, James Florio, Joseph Merlino and Thomas Smith, and Republicans Thomas Kean and Lawrence Kramer. If there had been no cap on public funds to a single candidate, those six candidates would have received more than \$1.5 million more in public funds.²⁰

Again, the Commission was faced with weighing the potentially conflicting goals for the public financing program. Whereas a principal value of public financing is to provide a financial "floor" to permit candidates to conduct a meaningful campaign, especially candidates with limited means, the absence of a cap on public funds could result in a vastly inflated cost to the State. Another goal the Commission has considered throughout its deliberations is that of limiting total public expenditures for this program.

The Commission reached the conclusion that the cap on public funds could be lowered without doing serious harm to the goal of giving candidates sufficient funds to conduct a meaningful campaign. Most of the Commission's other recommendations tend to penalize candidates who start out the campaign with relatively smaller political bases. The Commission's recommended reduction in the cap on public funds per candidate would more likely affect the broader based candidates. In the 1981 primary election experience, such candidates evidenced relatively less difficulty in raising private contributions to mount significant and, in the cases of Congressman Florio and Governor Kean, successful campaigns. Had this recommended level of \$500,000 for the primary and \$1 million for the general election been in effect in 1981, a total of nearly \$1 million in public funds would have been conserved.²¹

After the 1977 experience, the Commission first recommended public financing for the primary election. It also recommended a limit on public funds per candidate for the primary election that was lower than the limit on public funds for the general election candidates.²² The Commission's reasoning then was that the experience and tradition in New Jersey was of substantially lower spending campaigns by individual candidates in the primary. When the Legislature adopted public financing for the 1981 primary election, it was anticipated that more candidates would participate in the primary resulting in the need for larger amounts of public matching funds. Accordingly, a lower cap on public funds for the primary election was warranted. The recommendation at that time was that the limit on public funds for the primary be one-half of the general election limit. This Commission, in its proposal of \$500,000 and \$1 million for the primary and general elections, respectively, is recommending that the differential be maintained.

20 See Appendix Table 3.2, "Estimate of 1981 Public Matching Funds Without a Cap on Public Funds - 1981 Primary Election."

21 See Appendix Table 3.5, "Estimate of Decrease in Public Funds From Reducing the Cap on Public Funds - 1981 Primary Election" and Appendix Table 3.6, "Estimate of Decrease in Public Funds From Reducing the Cap on Public Funds - 1981 General Election."

22 For a discussion of the Commission's recommendation concerning the limit on public funds per candidate in the primary see *Public Financing in New Jersey*, August 1978, pp. 33-35.

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The Commission did not consider raising the limit on public funds per candidate. No critic of the program asserted that candidates did not receive enough public funds. In arriving at its recommended reduction in public funds for any one candidate, the Commission concluded that \$500,000 for primary election candidates and \$1 million for general election candidates were sufficient to enable candidates who receive those amounts, along with the necessary private contributions, to mount significant and potentially successful campaigns.

Finally, the Commission recommends that the formula for calculating the cap on public funds be unhinged from the vote in the preceding year's presidential election. By tying a cents per vote formula into the cap on public funds, the formula resulted in an odd dollar and cents amount that varied depending on voter turnout. The Commission believes a straightforward and reasonable even dollar limit is better and easier to work with for both the campaigns and the Commission.

RECOMMENDATION #5: THE EXPENDITURE LIMITATION SHOULD BE REPEALED.

The Commission concludes that so long as the publicly financed gubernatorial election process controls campaign receipts through limits on contributions, limits on loans, limits on a candidate's personal funds, and limits on the amount of public funds available to any single candidate, then expenditure limits are unnecessary and undesirable and the present expenditure limitations should be repealed.²³

The two principal arguments presented in support of expenditure limits are: (1) expenditure limits make the election more fair because no candidate can spend more than another candidate; and (2) the costs of campaigning are too high and need to be restrained by the State through expenditure limits.

The argument that imposing limits on expenditures equalizes competing candidates and is thus more fair focuses only on the monetary factor in judging equity and ignores other advantages a candidate may have in a campaign, advantages that are not measured in monetary terms. For example, an incumbent governor or other person with high public recognition, has substantial name recognition among the electorate garnered from previous elections and from his or her general newsworthiness. In this setting, it could be argued, a challenger needs more money to overcome the name recognition advantage of an incumbent. Another example is the candidate who can draw on substantial volunteer resources to staff telephone banks, canvass voters and stuff envelopes.

²³ See Appendix Interim Report No. 4. "The Expenditure Limit," for an analysis of and information on the expenditure limit.

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Certain organizations are better able than others to mobilize such volunteers without engendering costs that would be included within an expenditure limit. An opponent of candidates supported by such organizations, it is argued, may well need additional funds to meet or overcome the advantage provided by substantial volunteer efforts.

Fairness can be measured in many ways. One is to measure actual out-of-pocket expenditures and impose an expenditure limit. However, if other factors are considered, such as the usual advantages of incumbency, the advantages of support from large volunteer organizations, the coattail support from national or other state officials or candidates, and the organizational support from well organized political party committees in particular counties, then equity or fairness cannot be measured solely on the basis of expenditures made by the gubernatorial candidate's campaign committee. In this context, expenditure limits may themselves be unfair.

The second argument is that campaigns cost too much and that imposing an expenditure limit is one way to keep costs down. First, the expenditure limit has no impact whatsoever on the amount of public funds; they are limited by the matching formula and the cap on public funds to any one candidate. Concerning overall campaign costs, some observers counter by arguing that not enough money is spent on politics and on elections in the United States, especially when political advertisements must compete with commercial advertising. Furthermore, the argument that imposing an expenditure limit is a good way to keep campaign costs down is countered by the fact that, in the New Jersey system, there are already severe restraints on receipts going into a campaign. Specifically, the State imposes a contribution limit, which was \$600 in 1977, \$800 in 1981 and may be \$1,200 in 1985, if the Commission's recommendation is adopted. As some observers have pointed out, within the total universe of potential contributors, only a small percentage contribute at all and a much smaller percentage contribute the maximum. Other limitations on receipts to a public funded candidate include the \$25,000 limit on candidate's personal funds that he or she may contribute, a \$50,000 limit on bank loans and the requirement that the bank loan must be repaid 20 days before the election, and the limit on the amount of public funds to be given to any single candidate. Thus, the only way a candidate can increase his or her receipts is by convincing more contributors to contribute more money up to the permitted maximum. Without those increased receipts, a candidate simply cannot spend more money. A candidate's ability to generate more contributions, is, in the judgment of the Commission, one important reflection of the candidate's support among the electorate and the State should not discourage that type of participation in the electoral process by imposing an arbitrary expenditure limit. The experience in the 1981 general election is instructive: both major candidates, Congressman Florio and Governor Kean, refunded money to contributors the week before the election because the expenditure limit made it impossible to spend the money. While many of those funds may have found their way to the two state political party committees, the Commission finds that it is a questionable public policy which compels gubernatorial candidates to refund contributions to a contributor.

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The application of the expenditure limit in the 1977 general election led to controversies in October of that year over the issue of joint expenditures between the state political party committees and the gubernatorial campaigns. Both Governor Byrne and Senator Bateman were quickly approaching the expenditure limit at the time the controversies emerged. When the Commission allocated costs between the state political parties and the gubernatorial candidates, and the courts subsequently supported the Commission's decisions, both campaigns were compelled to reimburse their respective political party committees and were unable to make other planned expenditures during the week before the election. Between the two candidates, Governor Byrne and Senator Bateman, the latter was more seriously hurt by the reallocation because his campaign committee had to shift more than \$70,000 from planned expenditures to the Republican State Committee shortly before the election.

In 1977, as the public support for the candidates shifted toward Governor Byrne, Senator Bateman, solely because of the expenditure limit, was unable to react and mount an alternative campaign to counteract the growth of support for Governor Byrne. Even if Senator Bateman had been able to raise additional contributions, he could not have spent the money on new ads or other campaigning because of the restraint imposed by state law.

In the 1981 primary, no comparable problems developed. However, in the 1981 general election, similar problems did emerge, although they were not as serious as those in 1977. Issues of allocating costs between the state political party committees and the gubernatorial candidates were eased somewhat by the Commission's issuance, on July 23, 1981, of Advisory Opinion No. 33-81, which provided guidelines on potential allocation questions. Nevertheless, the Commission still had to deal with individual cases of allocation. For example, the Commission increased the allocation to Governor Kean's campaign of the costs associated with a visit to the state by Vice President George Bush and of the costs associated with fund raising letters signed by President Reagan and Vice President Bush. Both of these cases came up early enough in the campaign and the additional costs to the Kean campaign were not excessive and were easily absorbed. The Commission also had to decide what percentage of the costs for a flyer prepared by candidates for the Senate and Assembly would have to be allocated to the Democratic gubernatorial candidate, Congressman Florio, solely because his name was listed, along with three freeholder candidates and one sheriff candidate, on the back of the flyer. The Commission had to decide what percentage of the costs for a dinner and a rally, held by the Hudson County Democratic Dinner Committee for Hudson County candidates and for Congressman Florio, had to be allocated to the Congressman because he and a key campaign official attended. In another set of cases, the Commission, in response to a formal complaint filed by the Republican State Committee, reviewed all of the telephone bank expenditures made by the Democratic State Committee and the method by which a portion of those costs was allocated to Congressman Florio. The resolution of that case required two special meetings of the Commission the week before the election and diverted

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the attention of the finance directors and legal counsels for the Florio campaign and Democratic State Committee.

Potentially more serious were the cases of "independent expenditures" which came before the Commission immediately before and after the election. The Commission, through its review of reports filed by other entities and through other sources, such as newspaper articles, identified 18 cases where allocations were made or possibly should have been made to Congressman Florio or Governor Kean, but where those costs were not reflected in the gubernatorial candidates' reports. An "independent expenditure" is defined in the regulation as:

...an expenditure in aid of a candidate which is not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, the candidate or any person or committee acting on behalf of the candidate.²⁴

In all of these cases, the dollar amounts were not large; the largest was \$14,600 and most of the others were in the low hundreds or low thousands of dollars.

The significance of all these cases arises solely from the expenditure limit. The cases would have limited impact and limited importance if there were no expenditure limit. So long as an expenditure limit exists, there will be an illusion of a limit while "independent expenditures" grow to be a large factor outside that limit in future gubernatorial campaigns. This is exactly what has happened at the national level where the expenditures of the presidential candidates have been restrained on one hand, but committees organized independent of presidential candidates successfully raised relatively large sums to be spent on behalf of the presidential candidates. Thus, while the law dictates an expenditure limit, in reality the expenditure limit is illusory at the national level because of the growth of "independent expenditures." The Commission concludes that this problem can and should be forestalled, if not completely avoided, in New Jersey by repealing the expenditure limit provision entirely.

Another compelling reason for the elimination of the expenditure limit on gubernatorial candidates is that the expenditure limit causes the gubernatorial candidates to divorce their campaigns from their respective state committees and from their parties' legislative and local candidates. Local and legislative candidates are constrained from using the gubernatorial candidate's name or campaigning jointly. If they do so, a portion of the costs for advertising, billboards or other similar expenditures must be allocated to the gubernatorial candidate who may not be able to absorb the cost solely because of the expenditure limit. In the Commission's judgment, this leads to an unnecessary and undesirable separation between the gubernatorial candidate and his or her legislative and local running mates.

²⁴ N.J.A.C. 19:25-15.28.

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In conclusion, as it did in 1978, the Commission again finds expenditure limits to be unnecessary and undesirable so long as the gubernatorial election process includes limits on contributions, limits on loans, limits on a candidate's personal funds, and limits on the amount of public funds available to any candidate.²⁵

RECOMMENDATION #6: THE LIMITS ON THE USE OF PUBLIC FUNDS SHOULD NOT BE CHANGED.

The 1974 statute²⁶ restricted the use of public funds to purposes which are closely related to direct communication with the electorate, specifically:

- (1) purchase of time on radio and television stations;
- (2) purchase of rental space on outdoor signs or billboards;
- (3) purchase of advertising space in newspapers and regularly published magazines and periodicals;
- (4) payment of the cost of producing advertisements; and
- (5) payment of the cost of printing and mailing campaign literature.

The 1980 amendment²⁷ added two additional purposes for which public funds may be spent:

- (1) payment of the cost of legal and accounting expenses incurred in complying with the public financing regulations; and
- (2) payment of the cost of telephone deposits, installation charges and monthly billings in excess of deposits.

Some participants in the 1981 primary were critical of the statutory provisions as unduly restrictive and arbitrary. Some argued that public funds should be available for any legitimate campaign expenditure. Others argued that the list of permitted uses should be expanded to include polling costs, an important start-up cost, and the cost of personnel to staff telephone banks.

A frequent criticism of public financing during the primary and general elections was that public funds were compelling candidates to use the broadcast media as opposed to mounting campaigns with paid field staff. A review of the gubernatorial candidates' expenditures reveals that every campaign spent some

25 For an analysis of and information on the 1977 general election experience with expenditure limits and for a discussion of the Commission's recommendation following the 1977 election, see *Public Financing in New Jersey*, August 1978, pp. 33-35.

26 L.1974, c.26 §10. (N.J.S.A. 19:44A-35).

27 L. 1980, c.74 §10.

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privately raised money on communication.²⁸ In some cases, the amounts were substantial, for example over \$150,000 was spent by candidates Degnan (D), Merlino (D), Kean (R), Kramer (R), and Wallwork (R) in the primary and over \$500,000 by the two general election candidates, Congressman Florio and Governor Kean. Therefore, the Commission concludes that the limits placed on the use of public funds are not overly restrictive, since all 1981 campaigns chose to use some of their private moneys, in addition to their public funds, for communication expenditures. Furthermore, if the Commission's other recommendations are adopted, such as the lowered cap on public funds and the repeal of the expenditure limit, the proportion of total funds represented by public funds will most likely decrease in forthcoming gubernatorial elections to less than 50 percent. Accordingly, with private funds representing an increased proportion of total receipts, the campaigns will have relatively more flexibility in spending money during the campaign.

Furthermore, the Commission concludes that the concept of limiting the use of public funds to certain enumerated purposes is sound. If public financing of campaigns is to remain successful, it must have general acceptance by the public. A key element in such acceptance is the perception that taxpayers' funds used for campaigns are not "abused". If public funds were available for payment of certain legitimate and legal campaign expenditures, such as payment of campaign salaries, this might seriously undermine public acceptance of the program.

Therefore, the Commission concludes there is no need to alter the list of permitted uses for which public funds may be spent.

RECOMMENDATION #7: THE \$50,000 LIMIT ON BANK LOANS AND THE 20 DAY REPAYMENT REQUIREMENT SHOULD BE RETAINED. THE LIMIT ON INDIVIDUAL LOANS SHOULD BE RAISED TO \$1,200.

Since the inception of the public financing program, the statute has prohibited bank loans in excess of \$50,000 for each candidate who accepted public funds. For the 1977 general election, the law required repayment of bank loans within 30 days of the date of the election. This was amended to 20 days prior to the date of the election for the 1981 election.²⁹

During the 1981 primary election, candidates used the bank loan provision sparingly. Only three of the gubernatorial candidate campaign committees took out bank loans. In all cases, the loans were short duration and apparently served as "bridge loans" for cash flow purposes. For example, the loans enabled the

²⁸ See Appendix Interim Report No. 6, "Limits on Purposes for Which Public Funds May Be Spent", paragraph No. 9.

²⁹ See Appendix Interim Report No. 5, "\$50,000 Limit on Bank Loans", for data on and analysis of the bank loan limit.

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campaign committees to purchase media time with the borrowed funds; the committees repaid the loans when public funds were deposited in the campaigns' public funds accounts.

One of the principal reasons for imposing the limit on bank loans is to prevent gubernatorial candidates from ending their campaigns heavily in debt, as was the case prior to public financing. Most of the publicly funded candidates ended their campaigns with a small surplus or at a breakeven point.³⁰ Only two of the publicly funded candidates ended their campaigns in debt: primary candidate Thomas Smith (D) and general election candidate James Florio (D). In both cases, the debts are small, less than \$2,000. This experience of the publicly funded campaigns contrasts sharply with the campaigns of the non-publicly funded candidates, Congressman Robert Roe (D) and Joseph Sullivan (R). Congressman Roe borrowed a total of \$135,000, and, as of the latest post-election report, April 19, 1982, his campaign still owed three banks a total of \$88,000 and owed vendors \$61,435. Mr. Sullivan borrowed a total of \$50,000 from banks and \$1,817,000 from himself and ended his campaign with the latter amount still outstanding.

The Commission concluded that the bank loan repayment requirement has served a useful purpose in preventing gubernatorial candidates from ending their campaigns in debt. Despite the very limited use to which campaigns used bank loans, they served a useful purpose in enabling campaigns to overcome cash flow problems.

During the 1981 elections, no gubernatorial campaign committee received loans from an individual, other than the candidate. This was the case because such loans are defined in the law as constituting a contribution for so long as the loan is outstanding.

Since it may be desirable in future elections for a campaign to be able to secure loans or to secure co-signers for the campaign committee's bank loan, the Commission concludes that the individual loan provision should be retained, even though it was not used in 1981. Furthermore, the Commission recommends that the individual loan amount be increased from \$800 to \$1,200 in line with the Commission's recommendation to raise the contribution limit.

Therefore, the Commission concludes that gubernatorial candidates' campaign committees should continue to be allowed to take out bank loans, up to a maximum of \$50,000, subject to the loans being repaid 20 days before the date of the election.

³⁰ See Appendix Table 5.1. "Public Funds Refunded, Remaining Cash on Hand and Outstanding Obligations—1981 Gubernatorial Primary and General Election Candidates."

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RECOMMENDATION #8: THE LIMIT OF \$25,000 ON CONTRIBUTIONS BY PUBLICLY FUNDED GUBERNATORIAL CANDIDATES FOR THE PRIMARY ELECTION AND AN ADDITIONAL \$25,000 OF SUCH MONEYS FOR THE GENERAL ELECTION SHOULD BE RETAINED.

In 1977, there was no limit on the amount of a candidate's own funds. The 1980 amendment added this \$25,000 limitation for the 1981 election.³¹

One of the two policies of the public financing program is to permit persons of limited financial means to seek election to the Governorship. This goal can be achieved with regard to personal wealth only by restraining the amount the candidate can contribute to his or her own campaign.

Because of the U.S. Supreme Court decision in *Buckley v. Valeo*, the State cannot limit a candidate's own funds when the candidate does not participate in the public financing program. Thus, in the 1981 primary, Joseph Sullivan (R) was able to lend more than \$1.8 million to his own campaign, and Congressman Robert Roe (D) personally was able to borrow \$135,000 from banks.

In the 1981 primary, 16 of the 22 candidates contributed or lent money to their own campaigns, and, in the 1981 general election, Governor Kean lent \$25,000 to his own campaign.³²

The Commission considered changing the amount a candidate can donate or loan his own campaign. Clearly, with 11 of the 16 publicly funded candidates having contributed or loaned more than \$800 to help fund their own campaigns, this provision was useful to the campaigns in providing start-up money. Most of the contributions or loans were made early in the campaigns or, in two cases, very late in the campaign to provide, in effect, a bridge loan. Thus, the Commission concluded that the provision permitting candidates to contribute more than the contribution limit amount to their own campaign was helpful. The Commission also concluded that it was not necessary to raise the candidate's contribution or loan amount, in part because of the recommendation to raise the contribution amount from \$800 to \$1,200. The Commission concluded that the figure of \$25,000 remains reasonable and that limit should be retained in the law.

31 L. 1980, c.74, §5 (N.J.S.A. 19:44A-29).

32 See Appendix Interim Report No. 7, "The \$25,000 Limit on Candidate's Own Funds."

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RECOMMENDATION #9: THE AGGREGATE AMOUNT ANY PERSON CAN CONTRIBUTE TO GUBERNATORIAL INAUGURAL FUND RAISING EVENTS SHOULD BE INCREASED TO \$500.

In 1980, the Legislature imposed a limit on contributions to gubernatorial inaugural fund raising events in the amount of \$250.³³ There had been no such limit for the January 1978 inaugural festivities held on behalf of Governor Byrne.

Following the 1977 public financing experience, the Commission concluded that it was desirable to limit any person's contribution to gubernatorial inaugural fund raising events. The Commission reasoned that it was desirable to do so in view of the time—just before a term of office begins—at which such events are conducted and the nature of the solicitations for such affairs during the transition period when policy making is occurring and appointments are being considered.³⁴

Another reason for imposing a contribution limit on inaugural fund raising events is to prevent blatant circumvention of the contribution limit on the gubernatorial primary and general elections. The Legislature agreed by enacting the 1980 amendment which imposed the contribution limit of \$250.

The experience from the January 1982 gubernatorial fund raising events on behalf of Governor Kean illustrated that the Inaugural Committee was able to hold the related events with a reasonable degree of financial success. The committee showed a net profit and transferred \$55,000 to the Republican State Committee.

The Commission considered alternative proposals to change the contribution limit for inaugural fund raising events and concluded that an increase from \$250 to \$500 was reasonable. The Commission has proposed an increase in the contribution limit from \$800 to \$1,200 for the election campaign. Thus, a contributor who contributed the maximum \$1,050 for the general election and inaugural in 1981 would be able to contribute a combined maximum of \$1,700 in 1985, a \$650 increase.

33 L.1980, c.74 §17 (N.J.S.A. 19:44A-18.1).

34 N.J. Election Law Enforcement Commission: *Public Financing in New Jersey*, August 1978, p. 38.

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RECOMMENDATION #10: THE AMOUNT COUNTY COMMITTEES AND MUNICIPAL COMMITTEES OF ANY POLITICAL PARTY MAY SPEND IN AID OF A GUBERNATORIAL CANDIDATE IN A GENERAL ELECTION SHOULD REMAIN AT \$10,000 AND THE AGGREGATE OF ALL SUCH COMMITTEES SHOULD REMAIN AT \$100,000.

The 1974 statute included a provision³⁵ enabling municipal and county political party committees to spend a total of \$100,000 statewide on behalf of their gubernatorial nominee, with a limitation that the amount spent by such county and municipal committees in any single county not exceed \$10,000.

In 1977, no Republican county or municipal party committee spent any money on behalf of Senator Bateman. The amount spent by Democratic party committees on behalf of Governor Byrne was \$43,704. In 1981, the Democratic municipal and county committees spent nothing on behalf of Congressman Florio. The Republican party county committees spent only \$8,290.75 on behalf of Governor Kean. Thus, in neither general election did the gubernatorial nominees take full advantage of the provision permitting expenditures of up to a total of \$100,000 statewide. The reason they did not is that political party committee spending, even under this special provision in the law, is counted within the expenditure limit. Since the major party gubernatorial campaigns in both the 1977 and 1981 general elections expected to spend an amount very close to the expenditure limit, they restrained the spending by the local party committees. The law provides that the gubernatorial candidate or his campaign treasurer shall determine the exact amount that any county or municipal political party committee may contribute in aid of the gubernatorial nominee's candidacy and shall file a report of such determination with the Commission no later than seven days prior to the general election.

The effect of the restrictions on county and municipal political party spending on behalf of the 1977 and 1981 gubernatorial general election candidates was to reduce substantially, in the Byrne and Kean cases, and to reduce totally, in the Bateman and Florio cases, the amount spent by party committees in the gubernatorial general elections in comparison to previous gubernatorial elections.

The Commission believes that the repeal of the expenditure limit (see Recommendation #5, above) would encourage the gubernatorial candidates to take advantage of the permitted spending by municipal and county political party committees. The Commission further believes that this would have a positive benefit because it would encourage a closer campaigning relationship between the gubernatorial candidate and the local and county political party committees. The committees still could only spend the amount authorized by the gubernatorial candidate.

35 N.J.S.A. 19:44A-29(e).

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Furthermore, the Commission believes that the amount should be retained at a maximum of \$10,000 per county, with a \$100,000 statewide limit. This total amount would represent well less than 5 percent of the total campaign expenditures of a gubernatorial candidate in the next general election, 1985. The amount does represent "slippage" of the contribution limit for a gubernatorial candidate but there is the safety valve that the political party committees must report all contributions in excess of \$100. Additionally, consideration could be given to a requirement that the committees report all contributions deposited into a special gubernatorial account. The Commission, in weighing the benefits of encouraging closer campaigning activity by the candidate and the party committees against "slippage" of the contribution limit, believes that the benefits of greater intra-party cooperation in campaigning outweigh the potential, restricted breach in the contribution limit.

RECOMMENDATION #11: THE PROVISION PERMITTING THE STATE POLITICAL PARTY COMMITTEE TO SET UP A SPECIAL GUBERNATORIAL ACCOUNT SHOULD BE REPEALED.

The provision permitting the state political party committee to establish a gubernatorial account was added to the original bill during debate and was seen as a means of enabling the state political party committee to play a role in the publicly funded campaign of a gubernatorial candidate. The provision permits contributions up to the contribution limit amount: \$800 in 1981. However, these contributions cannot come from individuals who have already contributed the maximum to the gubernatorial candidate. Moreover, expenditures from that account are assessed against the candidate's expenditure limit.

In practice, this state political party committee gubernatorial account provision does not work; it was not used by either state political party committee in 1977 or 1981. Both state political committees in both general elections spent on behalf of local and legislative candidates and on behalf of the gubernatorial nominee, with the latter costs allocated to the gubernatorial candidates. In turn, the gubernatorial candidates reimbursed their state political party committees for their share of the expenditures. This was much easier for the candidates and party committees to administer and did not require the establishment of separate isolated bank accounts and multiple record keeping on and reporting of contributors. The Commission concludes that the provision in the law is not workable and that it is desirable to repeal it.

RECOMMENDATION #12: THE PERIOD AFTER AN ELECTION DURING WHICH A CANDIDATE MAY RETAIN PUBLIC FUNDS SHOULD BE INCREASED TO NINE MONTHS.

The statute calls for publicly funded candidates to return all public funds within six months after the date of the election if all obligations have been liquidated.³⁶ In 1981, only four of the 16 primary election campaigns and neither of the general election campaigns were able to close out all of their accounts within six months of the date of the election. In most of the primary election cases, the outstanding obligations involved federal and state tax liabilities that could not be resolved until the first of the year for the primary election candidates. Other campaigns were faced with checks which had not been cashed so that accounts could not be closed out. At least two campaigns faced special audits by their insurance companies which delayed the closing out of campaign bank accounts. Therefore, extending the period to nine months from the current requirement of six months would enable more publicly funded campaigns to have enough time to resolve outstanding obligations, close out their books and refund any surplus to the State of New Jersey.

RECOMMENDATION #13: THE LAW SHOULD BE AMENDED TO SPECIFY CLEARLY THAT ALL MONEYS, REGARDLESS OF SOURCE, REMAINING AVAILABLE TO A CANDIDATE WHO ACCEPTED PUBLIC FUNDS SHALL BE REPAYED TO THE NEW JERSEY GUBERNATORIAL ELECTION FUND.

The statute does not expressly require that surplus campaign funds, regardless of source, be repaid to the New Jersey Gubernatorial Election Fund after the election and after all outstanding obligations have been liquidated.³⁷ Clearly, any remaining public funds must be refunded and any contributions used to secure those public funds must be turned over to the State, up to the total amount of public funds the candidate received. In 1981, the Commission adopted the policy that any surplus funds arising from the sources—such as “public solicitations”, interest on invested contributions, the candidate’s own funds in excess of the contribution limit, and contributions not submitted for match—had to be returned to the State up to the amount of public funds received.³⁸

³⁶ N.J.S.A. 19:44A-35(c),

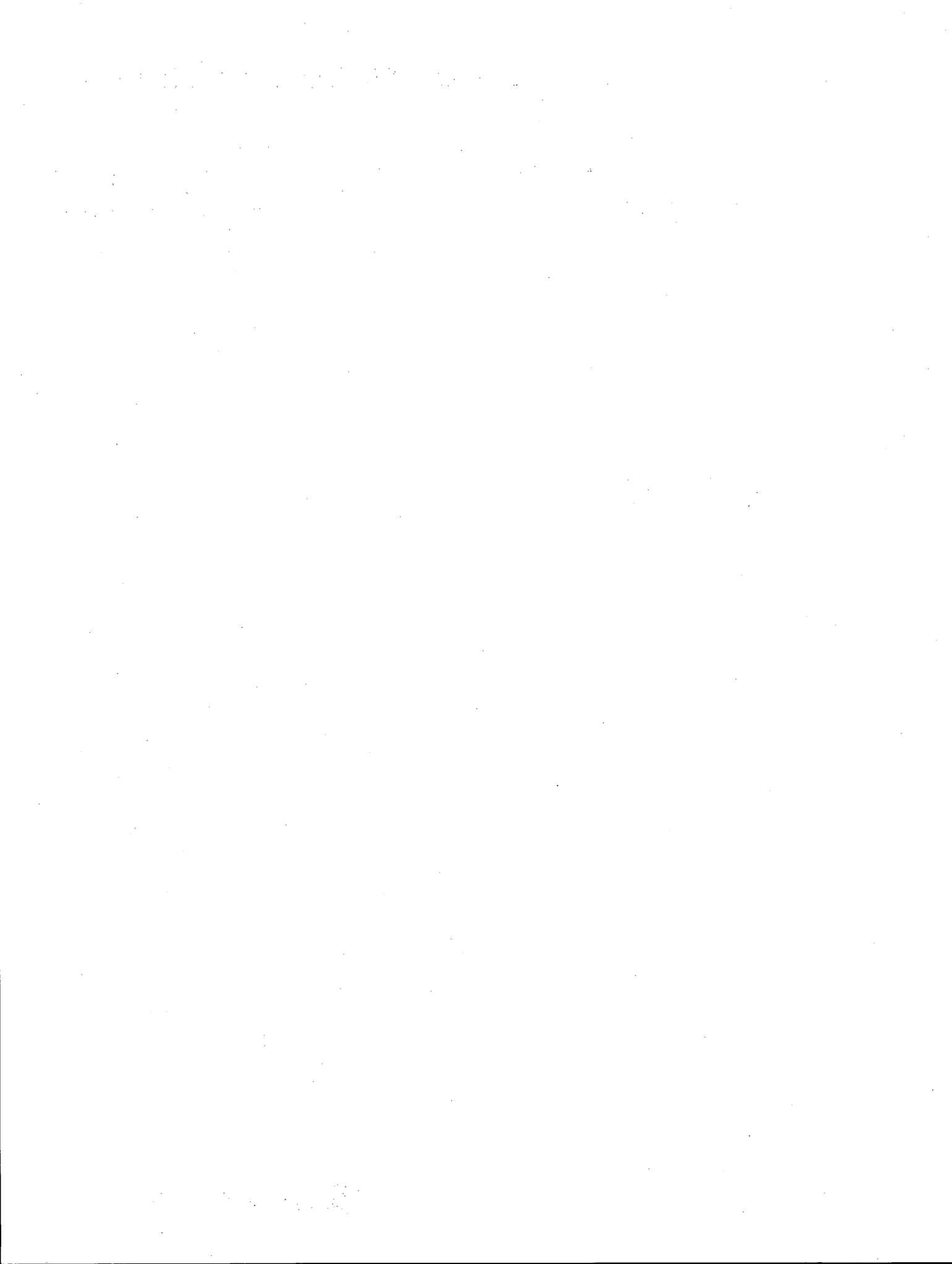
³⁷ N.J.S.A. 19:44A-35(c).

³⁸ Advisory Opinion No. 42-81, October 5, 1981.

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In requiring campaigns to refund all surplus campaign funds, regardless of source, the Commission reasoned that the State had provided substantial sums to each of the publicly aided campaigns and that the State should be first reimbursed after payment of campaign expenses. The Commission concluded, therefore, that it was not an unreasonable public policy for the State to lay claim to any surplus funds once the campaign was over and the campaign committee had liquidated all reasonable and legal outstanding obligations.

The Commission believes it is desirable that the Commission policy be incorporated in the statute.



INTRODUCTION AND SUMMARY

The Commission's recommendations, when applied to the 1981 experience of those candidates who applied for and accepted public funds, would result in a program costing approximately \$4.5 million in the primary election and \$2.0 million in the general election. This would be a reduction of approximately \$1.8 million in the primary and \$400,000 in the general election, or an overall reduction in public funds of 25 percent in comparison with the 1981 actual experience. (See accompanying Table A.) It is estimated that candidates' total receipts, public and private, would not decrease as much, only approximately 5 percent, because, in part, of the recommended increase in the contribution limit to \$1,200. General election candidates' total receipts would probably increase slightly. (See accompanying Table B.)

Thirdly, it is estimated that the percentage of candidates' total receipts represented by public funds would be approximately 43 percent as compared to 54.2 percent in 1981 and 63 percent in 1977. (See accompanying Table C.)

These estimates were developed by applying the Commission's recommendations to the 1981 experience, which was used as a model, and applying a set of assumptions described below. Changing any of the assumptions would change the estimates of costs and estimates of impact on individual candidacies. Furthermore, it is impossible to now predict the number of candidates who will apply for public funds in 1985 and how much they will raise in private funds to be matched with public funds.

KEY PROVISIONS

Of the Commission's recommendations concerning the public financing program, six would have an impact on total program costs and on candidate's campaign receipts. Those recommendations with a fiscal impact are:

1. Raising the contribution limit to \$1,200.
2. Raising the contribution and expenditure qualification threshold to \$100,000.

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3. Adopting a continuing threshold requiring candidates to make additional submissions for public funds only in units of \$25,000 once the candidates have received \$125,000 in public funds.
4. Starting the matching of contributions at \$50,000.
5. Changing the matching ratio from two for one to one for one.
6. Reducing the cap on public funds to \$500,000 per candidate for the primary election and \$1 million per candidate for the general election.

The other Commission recommendations would have very limited, if any, impact on program expenditures.

BASES FOR ESTIMATES

The 1981 gubernatorial primary and general elections were used as models for the estimates of the effects on public funds and on candidate's total receipts.

In the 1981 primary election, there were 21 candidates', plus one candidate, Donald Lan (D), who accepted public funds but withdrew his name from the ballot. Of these 22 candidates, 16 were eligible for and accepted public matching funds, including Mr. Lan. It is these 16 candidates who constitute the basis for the 1981 primary election model used for estimating.

In the 1981 general election, there were 13 candidates of whom two, Congressman Florio (D) and Governor Kean (R), were eligible for and accepted public matching funds. It is these two candidates who constitute the basis for the 1981 general election model used for estimating.

ASSUMPTIONS

Many variables come into play which affect the number and amount of contributions to gubernatorial candidates' campaigns and in turn affect the amount of public funds any one candidate receives and the total public funds. Furthermore, those variables interact with each other with the result that reaching an estimate of costs is difficult. Therefore, before setting forth the conclusions about the impact of the Commission's recommendations on public funds and on total receipts for gubernatorial candidates, the assumptions underlying the estimate are described in the following paragraphs.

Assumption #1:

It is assumed that only the variables affected by the Commission's recommendations would change. It is assumed that all other variables would remain constant.

Assumption #2:

It is assumed that candidates' decisions to apply or not apply for public funds would be the same. Thus, of the 22 candidates in the 1981 primary, it is assumed that the same 16 who took public funds would have done so under a

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program altered by the Commission's recommendations. Of the other six candidates, only two, Congressman Roe (D) and Joseph Sullivan (R), reached the proposed \$100,000 threshold in contributions but declined to accept public funds. Moreover, both disqualified themselves by contributing more than \$25,000 to their own campaigns and by not repaying loans 20 days prior to the date of election. Of the 13 candidates in the general election, it is assumed that the same two who took public funds would have done so under the provisions of the program as recommended by the Commission. None of the other 11 candidates in the general election were eligible for public funds.

Assumption #3:

It is assumed that candidates' decisions to stay in the contest and not drop out would be the same. Holding this variable constant probably tends to overstate public funds because some of the candidates may not have been able to stay in the contest or may have decided to drop out because of the higher threshold. Eight of the 1981 primary election candidates raised more than \$100,000 but received less than the maximum in public funds. Below is a comparison of the dates the eight candidates made their first submission for public matching funds and the dates by which the same candidates submitted a total of \$100,000 or more in contributions to be matched with public funds.

Candidate	Date of First Submission	Date on Which \$100,000 In Contributions Were Submitted For Match
Dodd (D)	March 23, 1981	April 6, 1981
Gibson (D)	March 9, 1981	April 28, 1981
Hamilton (D)	January 26, 1981	January 26, 1981
McConnell (D)	February 23, 1981	June 1, 1981
McGlynn (R)	January 5, 1981	March 23, 1981
Parker (R)	January 26, 1981	January 26, 1981
Rafferty (R)	March 23, 1981	March 23, 1981
Wallwork (R)	March 9, 1981	March 9, 1981

Possibly, if the Commission's recommendations had been in effect, one or more of these eight might have withdrawn from the June 2nd primary because of cash flow problems. On the other hand, if the Commission's recommendations were in effect, these candidates might have started fund raising earlier, thus overcoming the cash flow problem.

If it were to be assumed that one or more of these eight candidates would have withdrawn or never entered the contest, then the estimate of public matching funds costs would decrease. See Table A, "Estimated Effect on Public Funds, Total and By Candidate, Resulting from Applying Recommended Changes in Financing Formula", for the estimate of public funds for each candidate in the 1981 model under the provisions of the Commission's recommendations.

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Assumption #4:

It is assumed that no campaign would have continued to raise contributions in order to reach the maximum in public funds. In the 1981 experience, six primary election candidates, Degnan (D), Florio (D), Merlino (D), Smith (D), Kean (R), and Kramer (R), and the two general election candidates, Florio (D) and Kean (R), reached the maximum in public funds. Holding total contributions constant, with the exception of increasing \$800 contributions to \$1,200, and applying the Commission's recommendations results in two of these candidacies not reaching the maximum in public funds, Democrats Merlino and Smith. (See Table A.) However, either of these two candidates might have continued to raise contributions, thus increasing the amount of public funds. If this were the case, then the amounts in contributions and in public funds for each are as follows:

<u>CANDIDATE</u>	<u>ADDITIONAL CONTRIBUTIONS AND PUBLIC FUNDS</u>
Merlino (D)	\$ 95,768.50
Smith (D)	\$ 72,828.27

Assumption #5:

It is assumed that all \$800 contributions would have been \$1,200 with the increase in the contribution limit. The number of such contributions by candidate is as follows:

<u>Candidate</u>	<u>Number of \$800 Contributions</u>
<u>PRIMARY</u>	
Degnan (D)	342
Dodd (D)	90
Florio (D)	381
Gibson (D)	104
Hamilton (D)	73
Klein (D)	38
Lan (D)	27
McConnell (D)	34
Merlino (D)	143
Smith (D)	97
Democrat Subtotal	1,329

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Kean (R)	289
Kramer (R)	158
McGlynn (R)	62
Parker (R)	89
Rafferty (R)	45
Wallwork (R)	<u>137</u>
Republican Subtotal	<u>780</u>
PRIMARY TOTAL	<u>2,109</u>
 <u>GENERAL</u>	
Florio (D)	722
Kean (R)	<u>645</u>
GENERAL TOTAL	<u>1,367</u>
 GRAND TOTAL	 <u><u>3,476</u></u>

This assumption tends to overstate the public funds because there is no conclusive evidence that those who contributed \$800 would necessarily contribute \$1,200. However, this overstatement of public funds would be modified by contributors of less than \$800 increasing the amount of their contributions.

Assumption #6:

It is assumed that all contributions would have been adequately documented to permit matching with public funds. In the 1981 experience, no campaign adequately documented all contributions, for example, the signature of a contributor was not obtained; an address was incomplete; or the source document was unreadable. Thus, this assumption tends to overstate public funds.

Assumption #7:

It is assumed that candidates would raise the same amount in matchable contributions; this assumption tends to understate public funds because the Commission's recommendations would provide an incentive, greater than in 1981, for candidates to raise more money privately.

Assumption #8:

It is assumed, for this estimate, that the continuing threshold of units of \$25,000 in contributions would have no impact. This assumption is made solely because the impact of the continuing threshold recommendation cannot be estimated with certainty. This assumption tends to overstate public funds, particularly for the following primary candidates who did not reach maximum public funds in 1981 and whose fund raising slowed down toward the end of the campaign: Dodd, Hamilton, McConnell, McGlynn, Parker, and Rafferty.

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These are the candidates, if the continuing threshold had been in effect in 1981, who most likely might have ceased applying for public funds. The extent to which they might have ceased applying for public funds, which cannot be estimated, is the extent to which this assumption tends to overstate public funds.

Assumption #9:

It is assumed that the amount of "other receipts" would not change. ("Other receipts" includes: in-kind contributions; candidates own funds in excess of \$1,200; interest earned on invested contributions; public solicitations of contributions of \$10 or less pursuant to N.J.S.A. 19:44A-19; and, for general election candidates, in-kind contributions from county and municipal political party committees pursuant to N.J.S.A. 19:44A-29.) This assumption tends to understate total receipts because the Commission's recommendations would give candidates an incentive, greater than in 1981, to contribute to their own campaigns and to invest any idle receipts, thereby earning interest income.

CONCLUSION

Using the 1981 experience as a model, it is estimated that the cost of public financing the gubernatorial primary election with the Commission's recommendations would be approximately \$4.5 million or approximately \$1.8 million less than the expenditures for the 1981 gubernatorial primary election.

It is estimated that the cost of public financing the gubernatorial general election under the Commission's recommendations would be \$2.0 million or nearly \$400,000 less than the expenditures for the 1981 gubernatorial general election. (See Table A.)

The estimated overall reduction in public funds for the gubernatorial primary, using the 1981 experience as a model, would be 28.8 percent. However, the impact on individual candidacies of the reduction in public funds would vary from a range of 16.7 percent to 100 percent. Those candidates who would have received significantly less public funds ("significant" is defined as a decrease of 28.8 percent or more) are the following:

<u>Candidate</u>	<u>Percent of Reduction in Public Funds</u>
Klein (D)	100.0%
Dodd (D)	39.1%
Lan (D)	38.8%
Hamilton (D)	37.6%
Merlino (D)	32.6%
McConnell (D)	32.4%
Gibson (D)	31.2%
Smith (D)	28.8%

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Wallwork (R)	40.0%
McGlynn (R)	39.3%
Rafferty (R)	39.0%
Parker (R)	34.9%

Conversely, those candidates who would have experienced relatively less reduction in public funds ("relatively less" is defined as less than 28.8 percent) are as follows:

<u>Candidate</u>	<u>Percent in Reduction in Public Funds</u>
Degnan (D)	16.7%
Florio (D)	16.7%
Kean (R)	16.7%
Kramer (R)	16.7%

Thus, implementation of the Commission's recommendations would tend to reduce public funds more for those candidates who raised relatively less money and received relatively fewer votes and, conversely, would reduce public funds less for those candidates who raised relatively more money and received relatively more votes.

A second way to view the impact of the Commission's recommendations for changes in the public financing formula is to compare actual 1981 total receipts with an estimate of total receipts which would result from implementing the Commission's recommended changes. It is estimated that the effect on total gubernatorial candidates' campaign receipts would have been an 8.6 percent reduction in the primary, a 3.1 percent increase in the general election and a 5.2 percent reduction overall. However, the effect on individual candidacies from applying the Commission's recommended changes in the public financing formula would vary from a range of an increase of 5.5 percent to a decrease of 24.3 percent.

Those candidates who would have received significantly less in total receipts ("significant" is defined as 5.2 percent or more reduction) are the following:

<u>Candidate</u>	<u>Percent in Reduction in Total Receipts</u>
Klein (D)	24.3%
Lan (D)	18.9%
Hamilton (D)	16.6%
Dodd (D)	16.5%
Merlino (D)	13.9%

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Gibson (D)	12.2%
Smith (D)	12.2%
McConnell (D)	8.9%
Wallwork (R)	18.5%
Rafferty (R)	18.0%
McGlynn (R)	16.7%
Parker (R)	13.6%

Conversely, those candidates who would have experienced relatively less reduction in total receipts ("relatively less" is defined as no reduction or less than 5.2 percent reduction) are as follows:

Candidate	Percent Change In Total Receipts
<u>PRIMARY</u>	
Florio (D)	+ 5.3%
Degnan (D)	+ 3.3%
Kean (R)	+ 1.4%
Kramer (R)	- 3.2%
<u>GENERAL</u>	
Florio (D)	+ 3.7%
Kean (R)	+ 2.5%

Thus, adoption of the Commission's recommended changes in the public financing formula would tend to result in a relatively greater reduction in total receipts for those candidates who raised relatively less money and received relatively fewer votes and conversely would reduce total receipts relatively less or not at all for those candidates who raised relatively more money and received relatively more votes.

A third consideration is the percentage of total receipts represented by public funds. In the 1977 general election, public funds represented over 63 percent of the total receipts for Governor Byrne and Senator Bateman. In the 1981 primary, public funds represented 55.4 percent of the total receipts of the publicly funded candidates. In the 1981 general election, public funds represented slightly over 50 percent of the total receipts of Congressman Florio and Governor Kean and overall, for both the primary and general election, the percentage was 54.2. Applying the Commission's recommended changes in the financing formula, it is estimated that the public funds for the primary would represent 43.5 percent, for the general election, 40.8 percent, and overall, 42.6 percent. Thus, applying the Commission's recommendations would result in an

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estimated percentage point decrease of nearly 12 points in the percentage of total funds represented by public funds. Furthermore, public funds would no longer represent a majority of total receipts for any candidate in either the primary or the general election. (See Table C.)

TABLE A

**ESTIMATED EFFECT ON PUBLIC FUNDS, TOTAL AND BY CANDIDATE
RESULTING FROM APPLYING RECOMMENDED CHANGES IN FINANCING FORMULA**

<u>Candidate</u>	<u>Estimated Public Funds (1)</u>	<u>1981 Public Funds (Gross) (2)</u>	<u>Decrease In Public Funds</u>	
			<u>Amount</u>	<u>Percent</u>
PRIMARY				
Degnan (D)	500,000.00	599,975.80	99,975.80	16.7
Dodd (D)	199,450.44	327,543.77	128,093.33	39.1
Florio (D)	500,000.00	599,975.80	99,975.80	16.7
Gibson (D)	271,021.00	393,879.00	122,858.00	31.2
Hamilton (D)	193,055.90	309,678.76	116,622.86	37.6
Klein (D)	—	52,763.74	52,763.74	100.0
Lan (D)	153,754.00	249,919.69	96,165.69	38.5
McConnell (D)	64,882.44	95,916.72	31,034.28	32.4
Merlino (D)	404,231.50	599,975.80	195,744.30	32.6
Smith (D)	<u>427,171.73</u>	<u>599,949.90</u>	<u>172,778.17</u>	<u>28.8</u>
(D) Subtotal	<u>\$2,713,567.01</u>	<u>\$3,829,578.98</u>	<u>\$1,116,011.97</u>	<u>29.1</u>
Kean (R)	500,000.00	599,975.80	99,975.80	16.7
Kramer (R)	500,000.00	599,975.80	99,975.80	16.7
McGlynn (R)	141,893.37	233,916.74	92,023.37	39.3
Parker (R)	199,239.50	306,042.00	106,802.50	34.9
Rafferty (R)	150,450.66	246,575.22	96,124.56	39.0
Wallwork (R)	334,371.72	557,594.74	223,223.02	40.0
(R) Subtotal	<u>\$1,825,955.25</u>	<u>\$2,544,080.30</u>	<u>\$ 718,125.05</u>	<u>28.2</u>
PRIMARY TOTAL	<u><u>\$4,539,522.26</u></u>	<u><u>\$6,373,659.28</u></u>	<u><u>\$1,834,137.02</u></u>	<u><u>28.8</u></u>
GENERAL				
Florio (D)	\$1,000,000.00	\$1,199,951.60	\$ 199,951.60	16.7
Kean (R)	<u>1,000,000.00</u>	<u>1,199,951.60</u>	<u>199,951.60</u>	<u>16.7</u>
GENERAL TOTAL	<u><u>\$2,000,000.00</u></u>	<u><u>\$2,399,903.20</u></u>	<u><u>\$ 399,903.20</u></u>	<u><u>16.7</u></u>
GRAND TOTAL	<u><u>\$6,539,522.26</u></u>	<u><u>\$8,773,562.48</u></u>	<u><u>\$2,234,040.22</u></u>	<u><u>25.5</u></u>

Footnotes:

(1) The estimate of public funds is based on the following calculation: (a) 1981 matchable contributions consisting of cash or check contributions submitted for match, rejected for match and not submitted for match as reported through April 19, 1982; plus (b) an amount representing \$400 times the number of contributions of \$800 (Appendix Table 1.1) to account for the \$1,200 contribution limit, minus (c) a net \$50,000 threshold (\$100,000 threshold but begin matching at \$50,000) multiplied (d) by one up to a maximum of \$500,000, the cap on public funds for the primary, or \$1 million, the cap for the general election.

(2) Primary election candidates have refunded \$93,899.52 (see Appendix Table 5.1 "Public Funds Refunded, Remaining Cash on Hand and Outstanding Obligations - 1981 Gubernatorial Primary and General Election Candidates".) Thus, the amount of net public funds for the primary is \$6,279,770.03. For this analysis, gross, rather than net, public funds were used on the assumption that, under the recommended public financing formula, candidates would have a strong incentive to avoid ending the campaign with a sizable surplus to be refunded to the State.

Source: For "matchable contributions", Cumulative Contribution Listing - Public Financing (Program 6453), May 17, 1982, New Jersey Election Law Enforcement Commission.

Prepared by New Jersey Election Law Enforcement Commission - June 7, 1982.

TABLE B
ESTIMATED EFFECT ON CANDIDATE'S TOTAL RECEIPTS
RESULTING FROM APPLYING RECOMMENDED CHANGES IN PUBLIC FINANCING FORMULA

<u>Candidate</u>	<u>Estimated Total Receipts (1)</u>	<u>1981 Total Receipts (2)</u>	<u>Change</u>	
			<u>Amount</u>	<u>%</u>
PRIMARY				
Degnan (D)	\$1,142,553.88	\$1,105,729.68	\$+ 36,824.20	+ 3.3
Dodd (D)	465,194.16	557,287.49	- 92,093.33	-16.5
Florio (D)	1,170,836.80	1,112,412.60	+ 58,424.20	+ 5.3
Gibson (D)	592,942.00	675,100.00	- 82,158.00	-12.2
Hamilton (D)	437,029.89	524,066.85	- 87,036.96	-16.6
Klein (D)	117,141.48	154,705.22	- 37,563.74	-24.3
Lan (D)	365,774.07	451,139.76	- 85,365.69	-18.9
McConnell (D)	180,467.71	198,178.55	- 17,710.84	- 8.9
Merlino (D)	858,463.00	997,007.30	-138,544.30	-13.9
Smith (D)	966,508.49	1,100,486.66	-133,978.17	-12.2
(D) Subtotal	<u>\$6,296,911.48</u>	<u>\$6,876,114.11</u>	<u>\$-579,202.63</u>	<u>- 8.4</u>
Kean (R)	\$1,145,654.00	\$1,130,029.80	\$+ 15,624.20	+ 1.4
Kramer (R)	1,110,569.63	1,147,345.43	- 36,775.80	- 3.2
McGlynn (R)	334,161.74	401,385.11	- 67,223.37	-16.7
Parker (R)	451,081.21	522,283.71	- 71,202.50	-13.6
Rafferty (R)	355,690.32	433,814.88	- 78,124.56	-18.0
Wallwork (R)	742,743.44	911,166.46	-168,423.02	-18.5
(R) Subtotal	<u>\$4,139,900.34</u>	<u>\$4,546,025.39</u>	<u>\$-406,125.05</u>	<u>- 8.9</u>
PRIMARY TOTAL	<u>\$10,436,811.82</u>	<u>\$11,422,139.50</u>	<u>\$-985,327.68</u>	<u>- 8.6</u>
GENERAL				
Florio (D)	\$ 2,517,660.94	\$ 2,428,812.54	\$+ 88,848.40	+ 3.7
Kean (R)	2,387,894.47	2,329,846.07	+ 58,048.40	+ 2.5
GENERAL TOTAL	<u>\$ 4,905,555.41</u>	<u>\$ 4,758,658.61</u>	<u>+146,896.80</u>	<u>+ 3.1</u>
GRAND TOTAL	<u>\$15,342,367.23</u>	<u>\$16,180,798.11</u>	<u>\$-838,430.88</u>	<u>- 5.2</u>

Footnotes:

(1) Estimated total receipts were calculated as follows: (a) total matchable contributions (see footnote for Table A) plus (b) total other receipts composed of in-kind contributions, interest income, candidates' funds in excess of \$800, and public solicitations per N.J.S.A. 19:44A-19(a); plus (c) the estimated public funds from Table A.

(2) Total Receipts are composed of the following: (a) net private receipts; plus (b) gross public receipts. Primary candidates have refunded \$93,899.52; see Appendix Table 5.1, "Public Funds Refunded, Remaining Cash on Hand and Outstanding Obligations - 1981 Gubernatorial Primary and General Election Candidates."

Source: For 1981 Total Receipts: Cumulative Contribution Listing - Public Financing (Program 6453), May 17, 1982. New Jersey Election Law Enforcement Commission.

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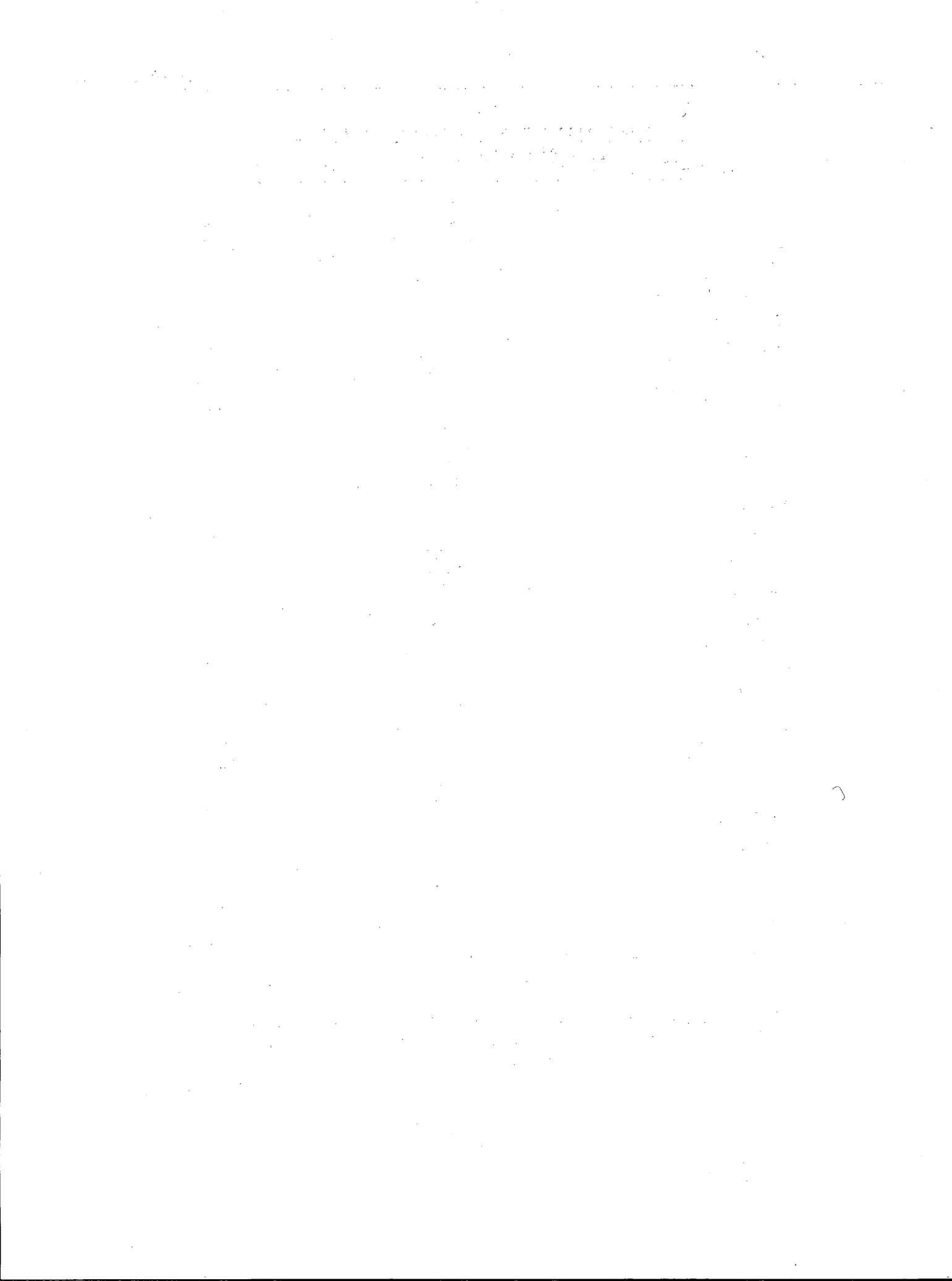
TABLE C
ESTIMATED EFFECT ON PERCENT OF TOTAL FUNDS
REPRESENTED BY PUBLIC FUNDS
FROM APPLYING RECOMMENDED CHANGES IN FINANCING FORMULA

<u>Candidate</u>	<u>1981 Actual Percent</u>	<u>Estimated Percent</u>
PRIMARY		
Degnan (D)	54.3	43.8
Dodd (D)	58.8	42.9
Florio (D)	54.0	42.7
Gibson (D)	58.3	45.7
Hamilton (D)	59.1	44.2
Klein (D)	34.1	—
Lan (D)	55.4	42.0
McConnell (D)	48.4	36.0
Merlino (D)	60.2	47.1
Smith (D)	54.5	44.2
(D) Subtotal	<u>55.7</u>	<u>43.1</u>
Kean (R)	53.1	43.6
Kramer (R)	52.3	45.0
McGlynn (R)	58.3	42.5
Parker (R)	58.6	44.2
Rafferty (R)	56.8	42.3
Wallwork (R)	61.2	45.0
(R) Subtotal	<u>56.0</u>	<u>44.1</u>
Total Primary	<u>55.8</u>	<u>43.5</u>
GENERAL		
Florio (D)	50.6	39.7 *
Kean (R)	50.7	41.9 *
Total General	<u>50.6</u>	<u>40.7 *</u>
TOTAL	<u>54.2</u>	<u>42.6</u>

Prepared by: New Jersey Election Law Enforcement Commission

June 7, 1982

* These percentages would have been less — Florio 37.5 percent, Kean 40.7 percent and total 39.0 percent — if the campaigns had not refunded contributions which the campaigns could not spend because of the expenditure limit.



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INTERIM REPORT NO. 1
\$800 CONTRIBUTION LIMIT

HOW MUCH, IF AT ALL, SHOULD THE \$800 CONTRIBUTION LIMIT BE RAISED?

FACTS AND ANALYSIS

1. The contribution limit was \$600 in the 1977 general election and \$800 in the 1981 primary and general elections. The limit applied to all candidates, both those accepting and those not accepting public funds.
2. Raising the limit for 1985 by the same percentage the limit was raised for 1981 (33 percent) would result in a limit of \$1,066.64, rounded to \$1,100.
3. Raising the limit for 1985 by various inflation factors, compounded, would have the following results:
 - 10 percent compounded: \$1,171.28 rounded to \$1,200
 - 15 percent compounded: \$1,399.21 rounded to \$1,400
 - 20 percent compounded: \$1,658.88 rounded to \$1,700

Increasing the limit by an inflation factor equal to or exceeding the Consumer Price Index (CPI) could be supported as reasonable because the costs of campaigning are reportedly rising faster than the CPI. The principal components of campaign costs are media production and air time, postage, printing, polling, travel, telephone, fund raising, staff salaries and taxes.

4. The candidates and treasurers who responded to the ELEC questionnaire on public financing differed in their views on the contribution limit. Senator Merlino and Secretary of State Lan supported the \$800 limit, as did Roger Lowenstein, treasurer for John Degnan. Mayor Kramer suggested a \$1,000 per person and \$3,000 per family limit, and his legal counsel, Henry Ramer, recommended \$1,000 to \$1,500. The Deputy Treasurer for the Rafferty campaign recommended \$2,000. No one suggested a lower contribution limit. Several respondents commented that the limit required their campaigns to spend more time and money to raise money.
5. 1981 gubernatorial primary candidates, on the average, received slightly over 35 percent of their funds in contributions of \$800. Congressman Florio had the highest percentage among the Democrats, 60.4 percent, and Thomas Kean, the highest among the Republicans, 45.7 percent. See Table 1.1, "Comparison of Amount of Contributions, of \$800 Contributions, and Contributions of \$100 or Less by Candidate - 1981 Gubernatorial Primary."

The 1981 primary election candidates, overall, received a large majority of their contributions, nearly 72 percent, from individuals, and individuals represented over 82 percent of the contributors. For the Republicans, the percentages were higher, nearly 75 percent and 84 percent respectively, while for the Democrats, the percentages were just over 70 percent and 81 percent, respectively.

Corporations were the other major source of contributions, nearly 25 percent of all contributions and 16 percent of all contributors. The candidates who received a larger than average percentage of their contributions from corporations were: Democrats Buehler (26 percent), Florio (35 percent), Lan (48 percent), and Roe (32 percent), and Republicans Imperiale (44 percent), Kramer (32 percent), Parker (44 percent) and Sullivan (27 percent). The percentage of contributions attributed to corporations may be overstated because "corporations" includes "professional corporations" of lawyers and physicians who, in earlier elections, would have contributed as individuals.

PACs played a small role as contributors providing 1.8 percent or \$107,000 out of \$6.1 million total in contributions. However, union PACs had the highest average contribution, \$401.04 and other PACs had the second highest average contribution, \$355.39. (See Table 1.6, "1981 Gubernatorial Primary

Election Candidates, Amount and Number of Contributors by Type of Contributors as of April 19, 1982").

6. Raising the contribution limit, without changing the matching ratio of 2 for 1 or reducing the cap on public funds per candidate, would have resulted in an increase in public funds for the 1981 primary. Using the 1981 experience as a model, a higher contribution limit would have had the results shown below, assuming that all of those who gave \$800 would have contributed the higher amount. Any one of these contribution limits would have resulted in total public funds exceeding the \$6.5 million appropriation in 1981.

<u>Contribution Limit</u>	<u>Additional Public Funds in 1981</u>
\$1,000	\$ 267,181
1,100	374,181
1,200	484,781
1,400	705,981
1,500	816,581
1,700	1,037,781

Source: Table 1.2, "Estimated Increases in Public Funds for 1981 Gubernatorial Primary Candidates Resulting from Increasing the Contribution Limit to \$1,000, \$1,100, \$1,200, \$1,400, \$1,500 and \$1,700"

Raising the contribution limit would have no impact on public funds for the general election so long as the cap on public funds per candidate is maintained. Both 1981 general election candidates, Florio and Kean, reached the maximum in public funds with ease and returned contributions toward the end of the campaign because of their inability to spend without exceeding the expenditure limit.

8. The average contribution for general election candidates has increased since 1973, despite the contribution limit and despite the 1981 candidates refunding contributions they could not use (with most of the refunded contributions being \$800), as follows:

<u>General Election Candidates Average Contribution</u>				
<u>1973, 1977 and 1981</u>				
<u>Democrat</u>				
<u>Year</u>	<u>Contr'n Limit</u>	<u>Candidate</u>	<u>Average Contribution</u>	<u>No. of Contributors / Contributions (A)</u>
1981	\$800	Florio	\$209.03	5871
1977	\$600	Byrne	\$156.92	3654
1973	no limit	Byrne	\$199.02	6201
<u>Republican</u>				
1981	\$800	Kean	\$273.03	4422
1977	\$600	Bateman	\$108.65	5854
1973	no limit	Sandman	\$148.40	3474

Source: Table 1.3 "Comparison of Contributions to 1981, 1977 and 1973 New Jersey Gubernatorial General Election Candidates by Contribution Amount"

* (A) Data for 1981 are for contributors; data for 1973 and 1977 are for contributions

9. For the general election candidates, the proportion of small contributions (\$100 or less) and the proportion of money raised through small contributions has gone down since 1973 with most of the increasing appearing in "large" contributions ("large" defined as \$600-\$800 in 1981; \$600 in 1977; and over \$600 in 1973) now limited to \$800, as follows:

	Contributions of \$100 or Less as a Percent of Total Contributions		Large Contributions as a Percent of Total Contributions	
	Amount	Contributions	Amount	Contributions
Democrats				
1981 Florio	12.2 %	61.8%	51.3% (A)	13.7% (A)
1977 Byrne	17.2	62.1	48.4	12.7
1973 Byrne	17.4	80.6	51.8	4.9
Republicans				
1981 Kean	10.2%	47.4%	52.5%(A)	17.3% (A)
1977 Bateman	28.7	79.3	40.4	7.3
1973 Sandman	18.6	80.2	49.4	3.3

Source: Table 1.3, "Comparison of Contributions to 1981, 1977 and 1973 New Jersey Gubernatorial Candidates by Contribution Amount"

(A) These percentages are understated because both the Florio and Kean campaigns refunded large contributions that the campaigns could not use because of the expenditure limit.

The reasons for the decrease in the proportion of money raised through small contributions and a corresponding increase in funds raised in "large" contributions probably include:

- inflation, resulting in contributors increasing their contributions;
- vastly improved fund raising capabilities of political campaigns, as evidenced by both 1981 general election candidates reaching the maximim in public funds by early October and subsequently refunding contributions that would not be used because of the expenditure limit; and
- the availability of the two-for-one public funding leverage for contributions provided a strong incentive for the campaign to seek out larger contributions and forego the effort of soliciting contributions from those likely to contribute small amounts.

10. An analysis of the contributions to the 1981 primary candidates leads to no conclusions concerning the contribution limit. In the 1981 primary, the two winners, Congressman James Florio and Thomas Kean, were the candidates with the largest proportion of their contributions in \$800 contributions, 60.4 percent and 45.7 percent, respectively. Furthermore, Congressman Florio's average contribution was the highest among the 13 Democratic candidates (\$242.24); Mr. Kean's was the third highest among the eight Republicans, (\$177.67), compared to Mr. Sullivan's (\$243.89) and Mayor Kramer's (\$185.50). (See Table 1.1 "Comparison of Amount of Contributions, etc." and Table 1.4 "New Jersey Gubernatorial Primary Contributions, etc.")

These candidates' raising relatively more contributions of \$800 probably reflects, among other factors, their campaigns' fund raising abilities, the candidates' name recognition, and the possible perception among contributors that these candidates were "winners". Furthermore, there is no readily apparent evidence that the outcome of the election would have been changed in either party if the limit had been higher.

11. The average contribution by contributors ranged among the Democrats from a low of \$78.42 for McConnell to a high of \$263.64 for Florio. Among the Republicans, the average ranged from a low of \$126.86 for Wallwork to a high of \$269.97 for Sullivan. The Democrats' overall average contribution by contributor was \$178.48 and the Republicans' overall average was \$182.70. However, the median contribution by contributors was \$100 for both the Democrats and the Republicans. Among the

Democrats, the median ranged from a low of \$25 for McConnell to a high of \$175 for Lan, who withdrew from the contest in late April and ceased fund raising. Among the Republicans, the median ranged from a low of \$65 for Rafferty to a high of \$200 for Sullivan. (See Table 1.4, "New Jersey 1981 Gubernatorial Primary Election Contributions: Amount Number and Average Contribution; Number of Contributors and Average Contribution; and Median Contribution by Candidate").

12. The chief purpose of a contribution limit is to reduce undue influence of contributors who are able and willing to make large contributions. Most questionnaire respondents agreed with the proposition that undue political influence by large contributors was reduced in the 1981 primary campaign compared to the 1977 primary campaign. However, former Attorney General John Degnan noted that "...a candidate continues to look to a relatively small number of people who are themselves charged with responsibility to raise those funds..." Senator Barry Parker said that undue influence had not been reduced because "...there are ways to get around the limit with multiple contributions from family members and multiple corporations and entities."

In the same vein, the Deputy Treasurer of the Rafferty campaign, John Ricci, noted that "...large contributors can still get money to candidates through relatives and friends." And a Deputy Treasurer of the Degnan campaign, Richard Goldman, stated "...I believe that undue political influence was reduced but clearly not eliminated by the \$800 limit... There are just too many loopholes in the law which allow special interest groups to exceed the limitation." Finally, Elton Conda, Treasurer of the Parker campaign, stated:

It has reached to the point where it is resentful to think that every citizen of the State of New Jersey is destined to dishonesty and law after law must be passed to make them honest... Who can possibly buy a Governor for \$800... Who can buy a Governor for \$10,000? If you can, then that candidate doesn't amount to much. Frankly, I don't think that \$800 is going to deter anyone. As treasurer, I have learned many ways that people can get around the \$800 limit legally and contribute considerably more to a candidate's campaign...

13. The Commission and its staff were well aware of the ways of contributing that might be perceived as ways of "getting around the \$800 limit legally." The Commission and its staff dealt directly with four of those ways as represented by the issues of the "independence" of contributions from minors, of multiple contributions from union locals, of multiple contributions from seemingly related corporations, and of contributions from companies that were not specifically identified as corporations.

- **Contributions from more than one family member, including minor children.** Contributions from the latter are partially covered in Commission regulations (N.J.A.C. 19:26-16.6 (c)) and were dealt with specifically in two cases brought to the Commission for resolution. The regulations require that contributions from minors must be from the minor's own funds, must be given voluntarily, and must not be the proceeds of a gift made for the purpose of the contribution. In the cases brought to the Commission, it decided that contributions from minors aged 14 and above were acceptable, with appropriate signed statements from the parents and the child; those from minors aged 10 and under were not acceptable regardless of any supporting facts; and those from minors whose ages were between 10 and 14 had to be supported with additional facts.
- **Multiple contributions from unions and their locals and affiliates.** Based on a 1977 Commission decision on contributions by local chapters of the Policemen's Benevolent Association (PBA) to the Byrne campaign, each multiple union contribution exceeding a total of \$800 has to be supported by statements signed by local union officials that the funds were locally generated and that the decision to contribute was made locally and independently. In the Degnan and Merlino 1981 primary election campaigns, the issue arose again, as it did with other unions in the Florio general election campaign.
- **Multiple contributions from seemingly related corporations.** The issue here is similar to the issue of multiple contributions from unions. The Commission resolved four cases in three primary campaigns (Florio's, Lan's, and Rafferty's) by determining that the contributions in question met an "independence" test, in part on the basis of statements signed by an official of the corporation that the

sources of funds were different and separate for each of the corporations involved, even though the corporations may have the same or similar boards of directors and officers. Similar cases were presented in both the Florio and Kean general election campaigns.

- Contributions from companies that were not specifically identified as corporations. Early in its review of submissions for public matching funds in the primary, the Commission decided that a contribution from a company not specifically identified as a corporation would not be matched with public funds until the campaign had verified that the company was a corporation and, if it were not, the campaign had to identify the individual who owned the company and thus was making the contribution. The campaigns and ELEC staff were helped greatly in this verification process by the Secretary of State's office which readily answered inquiries whether a company was a corporation. The impact of this endeavor was that the identity of the contributor was sometimes changed from a company to an individual who, in a few cases, had already contributed \$800. This resulted in a refund of the excess. An unusual example of this process came out of the Gibson campaign which was unable to identify the individual or individuals who had contributed \$2,400 in three \$800 contributions, initially attributed to three companies, all with the same address. The Gibson campaign resolved the issue by turning over the \$2,400 to the State of New Jersey as an "anonymous" contribution.
14. The principal safeguard of the integrity of the \$800 contribution limit is the public disclosure of contributors' names and the competitive environment of a gubernatorial election. The Commission periodically publicly released the names of contributors whose contributions had been submitted by gubernatorial candidates for public matching funds. In addition, the regular pre- and post-election reports filed by gubernatorial candidates were quickly made available for public and press review. Another important safeguard was the combination of the campaigns monitoring their contributions and the detailed review of all contributions by ELEC staff. To date, primary candidates have refunded \$118,531.45, most of it because contributions exceeded \$800.
 15. Both of the state and national political party committees spent in excess of \$2 million, much of it on institutional advertising that was not allocated to the gubernatorial candidates in line with Commission regulations and Advisory Opinions, particularly 33-81. These institutional advertising expenditures, however, probably benefitted the gubernatorial candidates. This could raise the concern that contributors of large sums, blocked from contributing more than \$800 to the gubernatorial candidates, were instead making large contributions to the state party committees. A review of the contributions to those committees revealed the following:

Contributions of \$1,000 or More to
Democratic and Republican State Party Committees - 1981

	No. of Contri- butions \$1000-\$5000	Total Amount \$1000-\$5000	% of Total Contri- butions	No. of Contri- butions \$5001 or More	Total Amount \$5001 or More	% of Total Contri- butions
Democrat	257	\$469,783	27.6	33	\$534,830	31.4
Republican	257	373,375	17.2	15	192,353	8.8
Total	514	\$843,158	21.7	48	\$727,183	18.6

Source: Pre- and Post-Election Reports filed by the Democratic and Republican State Party Committees through November 18, 1981

16. Both 1981 general election candidates had no difficulty raising enough money for their campaigns and both returned contributions shortly before the election because the money could not be spent. Florio returned \$152,400 and Kean returned \$61,100. By the first week in October, they both had received the maximum in public funds.

Furthermore, they both received a majority of their money from individuals; in Florio's case, 60 percent of the money came from individuals, and in Kean's nearly 71 percent. Corporate contributions provided 28 percent of Florio's private funds and 24.5 percent of Kean's. Unions which gave only \$200 to Kean, gave nearly \$71,000 to Florio, or 5.8 percent of his private money. Union PAC's gave Florio another \$30,620, or 2.5 percent of his private money. Corporate PAC's and trade associations provided Florio with 3.0 percent, or over \$36,000 of his contributions; for Kean, the amount was nearly \$39,000, or 3.5 percent. These data suggest that the \$800 contribution limit did not create a problem in raising sufficient funds, nor did it compel either campaign to rely excessively on PAC's, unions or corporations. (See Table 1.5, "1981 Gubernatorial General Election Candidates Florio (D) and Kean (R): Amount and Number of Contributions by Type of Contributor, as of May 19, 1982.")

ALTERNATIVES

In posing alternatives on the issue of raising the contribution limit, consideration was given to the suggestions made by the respondents to the gubernatorial public financing questionnaire, the changes made between 1977 and 1981, the reasonableness and possibility of enacting a change and the need to provide a reasonable range of choices.

Alternative #1: Make no change in the \$800 limit.

This would provide a strong incentive for campaigns in 1985 to raise more funds with more contributions than was the case in 1981 because of the need to raise more money to pay for a presumably more expensive campaign (because of inflation). It would tend to increase the amount of public funds per candidate if there were no changes in the matching ratio and the cap on public funds, because contributors would likely increase their contribution amount over that of 1981, again due to inflation. For example, in the general election, Florio's average contribution was 33 percent higher than Byrne's average in 1977; Kean's average was 151 percent higher than Bateman's in 1977.

Alternative #2: Raise the limit to \$1,100, representing a 33 percent increase.

This is the percentage increase effected for the 1981 election over the limit of \$600 for the 1977 election. It would represent a compounded inflation rate of slightly less than 8.5 percent annually over a four year period. This increase, without a change in the matching ratio and cap on public funds, would have increased the amount of public funds per candidate in the 1981 primary. Using the 1981 experience as a model and assuming that all those who gave \$800 would give the limit of \$1,100, this increased contribution limit would have cost an additional \$379,581 in public funds in the primary, but there would have been no additional cost for the general election.

Alternative #3: Raise the limit to \$1,400, representing a 75 percent increase.

This increase would reflect an inflation rate of 15 percent, compounded, not an unreasonable inflation rate for the next four years for the costs of campaigning that reportedly have gone up faster than the Consumer Price Index. This increase, without a change in the matching ratio and cap on public funds and threshold, would increase the amount of public funds per candidate in the 1985 primary. Using the 1981 experience as a model and assuming that those who gave \$800 would give the limit of \$1,400, the increased contribution limit would have cost an additional \$716,781 in public funds in the primary, but there would have been no additional cost for the general election.

Alternative #4: Impose a contribution limit on the state political party committees.

This would extend the public policy of limiting contributions, and the presumed undue influence of contributors of large amounts of money, to the state party committees, both of which spent in excess of \$2 million in the 1981 general election, much of it on "institutional advertising." Both committees showed their abilities to raise funds and 31 percent of the Democratic State Committee and nearly 9 percent of the Republican State Committee receipts were in contributions of \$5,000 or more. However, if the contribution limit were extended to the state committees, it would have to be imposed on county and municipal committees and on campaign committees on behalf of two or more candidates to avoid the development of quasi state committees exempt from the contribution limit. Furthermore, it would impose an additional administrative burden on committee treasurers and a major administrative burden on ELEC to monitor the contribution limit.

Interim Report # 1 Tables

- 1.1 Comparison of Amount of Contributions, of \$800 Contributions, and Contributions of \$100 or Less by Candidate - 1981 Gubernatorial Primary
- 1.2 Estimated Increases in Public Funds for 1981 Gubernatorial Primary Candidates Resulting from Increasing the Contribution Limit to \$1,000, \$1,100, \$1,200, \$1,400, \$1,500 and \$1,700
- 1.3 Comparison of Contributions to 1981, 1977 and 1973 New Jersey Gubernatorial Candidates by Contribution Amount
- 1.4 New Jersey Gubernatorial Primary Election Contributions: Amount, Number, and Average Contribution; Number of Contributors and Average Contribution and Median Contribution by Candidate
- 1.5 1981 Gubernatorial General Election Candidates Florio (D) and Kean (R) Amount and Number of Contributors by Type of Contributor as of May 19, 1982
- 1.6 1981 Gubernatorial Primary Election Candidates Amount Contributed and Number of Contributors by Type of Contributor as of April 19, 1982

TABLE 1.1
COMPARISON OF AMOUNT OF CONTRIBUTIONS,
OF \$800 CONTRIBUTIONS AND CONTRIBUTIONS OF
\$100 OR LESS BY CANDIDATE

1981 NEW JERSEY GUBERNATORIAL PRIMARY

CANDIDATES	TOTAL CONTRIBUTIONS			CONTRIBUTIONS OF \$800			CONTRIBUTIONS \$100.00 OR LESS		
	\$ (A)	\$	%	\$	%	\$	%		
DEMOCRATS									
Buehler	\$ 9,161.00	-0-	0	\$ 3,126.00				34.1	
Degnan	501,563.88	\$ 273,600	54.5	70,752.05 (B)				14.1	
Dodd	213,981.44	72,000	33.6	39,860.50				18.6	
Florio	504,604.50	304,800	60.4	59,639.51				11.8	
Gibson	280,321.00	83,200	29.7	74,882.50				26.7	
Hamilton	214,773.99	58,400	27.2	48,093.94				22.3	
Klein	77,741.48	30,400	39.1	18,807.00				24.2	
Lan	192,954.00	21,600	11.2	23,564.00				12.2	
McConnell	101,945.27	27,200	26.7	36,654.63 (C)				36.0	
Merlino	397,031.50	114,400	28.8	80,577.50				20.3	
Roe	925,528.23	366,400	39.6	131,868.50 (D)				14.2	
Smith	442,421.73	77,600	17.5	106,400.00				24.0	
Subtotal	<u>\$3,862,028.02</u>	<u>\$1,429,600</u>	<u>37.0</u>	<u>\$694,226.13</u>				<u>18.0</u>	
REPUBLICANS									
Imperiale	\$ 9,969.00	1,600	16.0	3,794.00				38.0	
Kean	505,829.00	231,200	45.7	72,028.25				14.2	
Kramer	544,822.63	126,400	23.2	49,049.50 (E)				9.0	
McGlynn	167,468.37	49,600	29.6	41,466.00				24.8	
Parker	213,962.97	71,200	33.3	38,749.50				18.1	
Rafferty	187,039.66	36,000	19.3	36,342.00				19.4	
Sullivan	325,850.00	133,600	41.0	21,255.00				6.5	
Wallwork	329,571.72	109,600	33.2	74,359.06				22.6	
Subtotal	<u>\$2,284,513.35</u>	<u>\$ 759,200</u>	<u>33.2</u>	<u>\$ 337,043.31</u>				<u>14.8</u>	
TOTAL	<u>\$6,146,541.37</u>	<u>\$2,188,800</u>	<u>35.6</u>	<u>\$1,031,269.44</u>				<u>16.8</u>	

Source: Cumulative Contribution Listing - Public Financing, May 15, 1982 computer printed reports (Job 6453 and 6454).

- Footnotes: (A) Includes contributions submitted for match, not submitted for match, and in kinds. Does not include other receipts of: (1) loans; (2) candidates' funds in excess of \$800; (3) interest on invested funds; and (4) proceeds from "public solicitations", per N.J.S.A. 19:44A-19 and 19:44A-3j, where cash contributions of \$10 or less are solicited.
- (B) Does not include \$190 in "public solicitations" of \$10 or less.
- (C) Does not include \$40 in "public solicitations" of \$10 or less.
- (D) Does not include \$2,713 in "public solicitations" of \$10 or less.
- (E) Does not include \$2,547 in "public solicitations" of \$10 or less.

TABLE 1.2
ESTIMATED INCREASES IN PUBLIC FUNDS FOR 1981 GUBERNATORIAL
PRIMARY CANDIDATES RESULTING FROM
INCREASING THE CONTRIBUTION LIMIT TO
\$1,000, \$1,100, \$1,200, \$1,400, \$1,500 and \$1,700

(Assumes that contributors of \$800 would contribute at increased level; assumes 2 for 1 match)

Candidates* Who Did Not Reach Maximum Public Funds	Col. 1 No. of \$800 Contri- butions	Col. 2. \$1,000 (Col. 1 x \$400)	Increase in Public Funds from Increasing Contribution Limit To				Col. 6 \$1,500 (Col. 1 x \$1,400)	Col. 6 7 \$1,700 (Col. 1 x \$1,800)
			Col. 3 \$1,100 (Col. 1 x \$600)	Col. 4 \$1,200 (Col. 1 x \$800)	Col. 5 \$1,400 (Col. 1 x \$1,200)	Col. 6 \$1,500 (Col. 1 x \$1,400)		
DEMOCRATS								
Dodd	90	\$ 36,000	\$ 54,000	\$ 72,000	\$108,000	\$126,000	\$162,000	
Gibson	104	41,600	62,400	83,200	124,800	145,600	187,200	
Hamilton	73	29,200	33,800	58,400	87,600	102,200	131,400	
Klein	38	15,200	22,800	30,400	45,600	53,200	68,400	
Lan	27	10,800	16,200	21,600	32,400	37,800	48,600	
McConnell	34	13,600	20,400	27,200	40,800	47,600	61,200	
Subtotal	<u>366</u>	<u>\$146,400</u>	<u>\$219,600</u>	<u>\$292,800</u>	<u>\$439,200</u>	<u>\$512,400</u>	<u>\$658,800</u>	
REPUBLICANS								
McGlynn	62	\$ 24,800	\$ 37,200	\$ 49,600	\$ 74,400	\$ 86,800	\$111,600	
Parker	89	35,600	53,400	71,200	106,800	124,600	160,200	
Rafferty	45	18,000	27,000	36,000	54,000	63,000	81,000	
Wallwork**	137	42,381	42,381	42,381	42,381	42,381	42,181	
Subtotal	<u>333</u>	<u>\$120,781</u>	<u>\$159,981</u>	<u>\$199,181</u>	<u>\$277,581</u>	<u>\$316,781</u>	<u>\$395,781</u>	
TOTAL	<u><u>699</u></u>	<u><u>\$267,181</u></u>	<u><u>\$379,581</u></u>	<u><u>\$491,981</u></u>	<u><u>\$716,781</u></u>	<u><u>\$829,181</u></u>	<u><u>\$1,053,981</u></u>	

* Candidates who reached the maximum were: Democrats Degnan, Florio, Merlino and Smith; Republicans Kean and Kramer

** This candidate received only \$42,381.06 less than the maximum in public funds representing \$21,190.53 in contributions. This would have required that only 105 of his 137 contributors of \$800 increase their contributions to the higher level of \$1,000.

TABLE 1.4

NEW JERSEY 1981 GUBERNATORIAL PRIMARY ELECTION CONTRIBUTIONS:
AMOUNT, NUMBER, AND AVERAGE CONTRIBUTION;
NUMBER OF CONTRIBUTORS AND AVERAGE CONTRIBUTION;
AND MEDIAN CONTRIBUTION BY CANDIDATE

<u>CANDIDATES</u>	<u>CONTRIBUTIONS</u>			<u>CONTRIBUTORS</u>		
	<u>AMOUNT (A)</u>	<u>NUMBER</u>	<u>AVERAGE</u>	<u>NUMBER</u>	<u>AVERAGE CONTRIBUTION</u>	<u>MEDIAN</u>
<u>DEMOCRATS</u>						
Buehler	\$ 9,161.00	113	\$ 81.07	105	\$ 87.25	\$ 60.00
Degnan	501,563.88 (B)	2,451	204.63	2,242	223.74	100.00
Dodd	213,981.44	1,527	140.13	1,145	186.88	100.00
Florio	504,604.50	2,083	242.24	1,914	263.64	100.00
Gibson	280,321.00	3,050	91.91	2,482	112.94	50.00
Hamilton	214,773.99	1,833	117.17	1,421	151.14	100.00
Klein	77,741.48	709	109.65	588	132.21	50.00
Lan	192,954.00	1,018	189.54	888	217.29	175.00
McConnell	101,945.27 (C)	1,687	60.43	1,300	78.42	25.00
Merlino	397,031.50	2,486	159.71	2,002	198.32	100.00
Roe	925,528.23 (D)	6,232	148.51	5,423	170.67	100.00
Smith	442,421.73	2,816	157.11	2,128	207.90	75.00
Subtotal	<u>\$3,862,028.02</u>	<u>26,005</u>	<u>\$148.52</u>	<u>21,638</u>	<u>\$178.48</u>	<u>\$100.00</u>

<u>CANDIDATES</u>	<u>CONTRIBUTIONS</u>			<u>CONTRIBUTORS</u>		
	<u>AMOUNT (A)</u>	<u>NUMBER</u>	<u>AVERAGE</u>	<u>NUMBER</u>	<u>AVERAGE CONTRIBUTION</u>	<u>MEDIAN</u>
<u>REPUBLICANS</u>						
Imperiale	\$ 9,969.00	82	\$121.57	80	\$124.61	\$100.00
Kean	505,829.00	2,847	177.67	2,425	208.59	100.00
Kramer	544,822.63 (E)	2,937	185.50	2,422	224.95	150.00
McGlynn	167,468.37	1,214	137.95	983	170.36	100.00
Parker	213,962.97	1,291	165.73	1,143	187.19	100.00
Rafferty	187,039.66	1,670	112.00	1,146	163.21	65.00
Sullivan	325,850.00	1,336	243.89	1,207	269.97	200.00
Wallwork	329,571.72	3,331	98.94	2,598	126.86	50.00
Subtotal	<u>\$2,284,513.35</u>	<u>14,708</u>	<u>\$155.32</u>	<u>12,004</u>	<u>\$190.31</u>	<u>\$100.00</u>
TOTAL	<u>\$6,146,541.37</u>	<u>40,713</u>	<u>\$150.97</u>	<u>33,642</u>	<u>\$182.70</u>	<u>\$100.00</u>

Source: Cumulative Contribution Listing - Public Financing (Program 6453).
N.J. Election Law Enforcement Commission, May 17, 1982
Includes: (1) submitted for match; (2) not submitted for match; (3) in-kind contributions.

- FOOT NOTES:
- (A) Includes: (1) submitted for match; (2) not submitted for match; (3) in-kind contributions. Does not include other receipts of: (1) proceeds of loans; (2) candidates' funds in excess of \$800; (3) interest earned on investment of funds; and (4) proceeds from "public solicitations" per N.J.S.A. 19:44A-19, and N.J.S.A. 19:44A-3j, where cash contributions of \$10 or less are solicited.
- (B) Does not include \$190.00 in "public solicitations" of \$10.00 or less. If these were counted as separate \$1.00 contributions, then candidate Degnan's number of contributors would be 2641 and the average contribution would be \$189.99.
- (C) Does not include \$40.00 in "public solicitations" of \$10.00 or less. If these were counted as separate \$1.00 contributions, then candidate McConnell's number of contributors would be 1727 and the average contribution would be \$59.05.
- (D) Does not include \$2,713.00 of "public solicitations" of \$10.00 or less, many of which were in \$1.00 amounts. If these were counted as separate contributions, then candidate Roe's number of contributors would be 8,945 and the average contribution would be \$103.77.
- (E) Does not include \$2,547.00 in "public solicitations" of \$10.00 or less. If these were counted as separate \$1.00 contributions, then candidate Kramer's number of contributors would be 5,484, and the average contribution would be \$99.81.

TABLE 1.5

1981 GUBERNATORIAL GENERAL ELECTION CANDIDATES FLORIO (D) AND KEAN (R)
 AMOUNT AND NUMBER OF CONTRIBUTORS
 BY TYPE OF CONTRIBUTOR AS OF MAY 19, 1982

TYPE OF CONTRIBUTOR	FLORIO (D)					KEAN (R)				
	\$	%	No.	%	AVERAGE	\$	%	No.	%	AVERAGE
Individual	\$ 736,033.10	60.0	4599	78.3	\$160.51	\$ 805,628.00	70.7	3310	81.2	\$235.91
Corporations (A)	344,309.50	28.0	963	16.4	357.54	269,965.00	24.5	714	16.7	378.92
Political Committees	8,345.65	.7	29	.5	287.78	(C) 14,357.44	1.3	23	.7	624.24
PAC's/Associations (B)	36,355.00	3.0	86	1.5	422.73	38,910.00	3.5	66	1.5	589.54
Union PAC's	30,620.00	5.8	50	.8	612.40	-0-	-0-	-0-	-0-	-0-
Unions	70,756.00	5.8	143	2.4	494.80	200.00	-0-	-0-	-0-	200.00
Other	800.00	-	1	-	800.00	-0-	-0-	-0-	-0-	-0-
	<u>\$1,227,219.25</u>	<u>100.0</u>	<u>5871</u>	<u>100.0</u>	<u>\$209.03 (E)</u>	<u>\$1,129,060.41</u>	<u>100.0</u>	<u>4114</u>	<u>100.0</u>	<u>\$268.57 (F)</u>

SOURCE: Cumulative Contribution Listing - Public Financing by Contributor Type (Program 5355) May 17, 1982 of contributors reported on pre and post-election reports through May 19, 1982.

- (A) Includes professional corporations
- (B) Does not include union PAC's
- (C) Kean includes 9 in-kind contributors totaling \$8,290.75 from County Republican Party committees in accordance with N.J.S.A. 19:44A-29
- (E) The Florio campaign refunded \$152,400; if it had kept the 247 contributions, the average contribution would have been \$225.50.
- (F) The Kean campaign refunded \$61,100; if it had kept the 81 contributions, the average contribution would have been \$283.71.

May 25, 1982

TABLE 1.6

1981 GUBERNATORIAL PRIMARY ELECTION CANDIDATES, AMOUNT AND NUMBER OF CONTRIBUTORS BY TYPE OF CONTRIBUTOR AS OF APRIL 19, 1982

TYPE OF CONTRIBUTOR	ALL PRIMARY CANDIDATES				
	AMOUNT	%	NUMBER	%	AVERAGE
Individuals	\$4,408,149.71	71.9	27,628	82.1	\$159.55
Corporation (A)	1,528,181.19	24.9	5,397	16.0	283.15
Political Committees	22,886.94	.4	93	.3	246.10
PAC's / Associations	97,022.00	1.6	273	.8	355.39
Union PAC's	9,625.00	.2	24	.1	401.04
Unions	59,456.50	1.0	237	.7	250.87
Other	1,670.00	--	10	--	167.00
Total	\$6,126,991.34	100.0	33,662	100.0	\$182.02

TYPE OF CONTRIBUTOR	ALL DEMOCRATIC PRIMARY CANDIDATES					ALL REPUBLICAN PRIMARY CANDIDATES				
	AMOUNT	%	NUMBER	%	AVERAGE	AMOUNT	%	NUMBER	%	AVERAGE
Individual	\$2,723,152.64	70.4	17,540	81.0	\$155.25	\$1,684,997.07	74.6	10,088	84.0	\$167.03
Corporation (A)	990,054.94	25.6	3,584	16.5	276.24	538,126.25	23.8	1,813	15.1	296.82
Political Committees	15,616.94	.4	73	.3	213.93	7,270.00	.3	20	.2	363.50
PAC's / Associations	71,107.00	1.8	204	.9	348.56	25,915.00	1.1	69	.8	375.58
Union PAC's	9,625.00	.2	24	.1	401.04	-0-	-0-	-0-	-0-	-0-
Unions	56,351.50	1.4	223	1.0	252.70	3,105.00	.1	14	.1	221.78
Other	1,570.00	-	9	-	174.44	100.00	-	1	-	100.00
Total	\$3,867,478.02	100.0	21,657	100.0	\$178.58	\$2,259,513.32	100.0	12,005	100.0	\$188.21

(A) Includes Professional Corporations

Source: Cumulative Contribution Listing - Public Financing by Type of Contributor (Program 6455A) May 17, 1982, New Jersey Election Law Enforcement Commission.

TABLE 1.6 (continued)

**1981 GUBERNATORIAL PRIMARY ELECTION CANDIDATES, AMOUNT AND
NUMBER OF CONTRIBUTORS BY TYPE OF CONTRIBUTOR AS OF APRIL 19, 1982**

TYPE OF CONTRIBUTOR	BUEHLER (D)					DEGNAN (D)				
	AMOUNT	%	NUMBER	%	AVERAGE	AMOUNT	%	NUMBER	%	AVERAGE
Individual	\$4,901.00	53.5	71	67.6	\$ 69.03	\$426,849.88	85.1	2,040	90.9	\$209.24
Corporations (A)	2,360.00	25.8	17	16.2	138.82	61,514.00	12.3	162	7.2	379.72
Political Committees	-0-	-	1	.9	-0-	-0-	-0-	-0-	-0-	-0-
PAC's / Associations	300.00	3.3	3	2.9	100.00	6,300.00	1.2	12	.5	525.00
Union PAC's	-0-	-	-0-	-	-0-	-0-	-0-	-0-	-0-	-0-
Unions	1,600.00	17.5	13	12.4	123.08	6,700.00	1.3	29	1.3	231.03
Other	-0-	-	-0-	-	-0-	-0-	-0-	-0-	-0-	-0-
Total	\$9,161.00	100.0	105	100.0	\$ 87.24	\$501,363.88	100.0	2,243	100.0	\$223.52

TYPE OF CONTRIBUTOR	DODD (D)					FLORIO (D)				
	AMOUNT	%	NUMBER	%	AVERAGE	AMOUNT	%	NUMBER	%	AVERAGE
Individual	\$155,216.50	72.5	899	78.5	\$172.65	\$302,479.51	59.9	1,401	73.1	\$215.90
Corporations (A)	51,074.94	23.9	216	18.9	236.46	177,074.99	35.1	461	24.0	384.11
Political Committees	400.00	.2	4	.3	100.00	600.00	.1	5	.3	120.00
PAC's / Associations	6,900.00	3.2	23	2.0	300.00	14,850.00	2.9	28	1.5	530.36
Union PAC's	-0-	-0-	-0-	-0-	-0-	4,600.00	.9	9	.5	511.11
Unions	390.00	.2	3	.3	130.00	5,000.00	1.0	13	.7	384.62
Other	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Total	\$213,981.44	100.0	1145	100.0	\$186.88	\$504,604.50	100.0	1,917	100.0	\$263.23

(A) Includes Professional Corporations

Source: Cumulative Contribution Listing - Public Financing by Type of Contributor (Program 6455A) May 17, 1982,
New Jersey Election Law Enforcement Commission

page 2 of 6 of Table 1.6

(more)

TABLE 1.6 (continued)
1981 GUBERNATORIAL PRIMARY ELECTION CANDIDATES, AMOUNT AND
NUMBER OF CONTRIBUTORS BY TYPE OF CONTRIBUTOR AS OF APRIL 19, 1982

TYPE OF CONTRIBUTOR	GIBSON (D)					HAMILTON (D)				
	AMOUNT	%	NUMBER	%	AVERAGE	AMOUNT	%	NUMBER	%	AVERAGE
Individual	\$218,095.00	77.8	2,167	87.1	\$100.64	\$161,146.49	75.0	1,126	79.2	\$143.11
Corporations (A)	52,374.00	18.7	269	10.8	194.70	44,695.00	20.8	261	18.4	171.24
Political Committees	965.00	.3	5	.2	193.00	1,045.00	.5	5	.4	209.00
PAC's / Associations	4,603.00	1.6	18	.7	255.72	6,350.00	3.0	21	1.5	302.38
Union PAC's	200.00	.1	1	-	200.00	200.00	-	1	.1	200.00
Unions	3,464.00	1.2	22	.9	157.45	1,337.50	.6	7	.5	191.07
Other	620.00	.2	6	.2	103.33	-0-	-0-	-0-	-0-	-0-
Total	\$280,321.00	100.01	2,488	100.0	\$112.67	\$214,773.99	100.0	1,421	100.0	\$151.14

1.15

TYPE OF CONTRIBUTOR	KLEIN (D)					LAN (D)				
	AMOUNT	%	NUMBER	%	AVERAGE	AMOUNT	%	NUMBER	%	AVERAGE
Individual	\$72,261.48	93.0	561	95.4	\$128.80	\$ 98,019.00	50.8	540	60.7	\$181.52
Corporations (A)	5,430.00	7.0	26	4.4	208.85	92,810.00	48.1	339	38.1	273.78
Political Committees	-0-	-0-	-0-	-0-	-0-	400.00	.2	4	.4	100.00
PAC's / Associations	50.00	-	1	.2	50.00	1,225.00	.6	4	.4	306.25
Union PAC's	-0-	-0-	-0-	-0-	-0-	250.00	.1	1	.1	250.00
Unions	-0-	-0-	-0-	-0-	-0-	250.00	.1	2	.2	125.00
Other	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Total	\$77,741.48	100.0	588	100.0	\$132.21	\$192,954.00	100.0	890	100.0	\$216.80

(A) Includes Professional Corporations

Source: Cumulative Contribution Listing - Public Financing by Type of Contributor (Program 6455A) May 17, 1982.
 New Jersey Election Law Enforcement Commission

(more)

TABLE 1.6 (continued)
1981 GUBERNATORIAL PRIMARY ELECTION CANDIDATES, AMOUNT AND
NUMBER OF CONTRIBUTORS BY TYPE OF CONTRIBUTOR AS OF APRIL 19, 1982

TYPE OF CONTRIBUTOR	McCONNELL (D)					MERLINO (D)				
	AMOUNT	%	NUMBER	%	AVERAGE	AMOUNT	%	NUMBER	%	AVERAGE
Individual	\$ 89,185.27	87.5	1,239	95.2	\$ 71.98	\$281,129.50	70.8	1,567	78.3	\$179.41
Corporations (A)	7,316.01	7.2	35	2.7	209.03	85,952.00	21.6	328	16.4	262.05
Political Committees	156.99	.2	2	.2	78.50	2,375.00	.6	12	.6	197.92
PAC's / Associations	4,054.00	4.0	15	1.2	270.27	12,725.00	3.2	31	1.5	410.48
Union PAC's	250.00	.2	1	.1	250.00	1,300.00	.3	5	.2	260.00
Unions	983.00	1.0	8	.6	122.88	13,550.00	3.4	59	2.9	229.66
Other	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Total	\$101,945.27	100.0	1,300	100.0	\$ 78.41	\$397,031.50	100.0	2,002	100.0	\$198.32

TYPE OF CONTRIBUTOR	ROE (D)					SMITH (D)				
	AMOUNT	%	NUMBER	%	AVERAGE	AMOUNT	%	NUMBER	%	AVERAGE
Individual	\$591,652.23	63.5	4,274	78.7	\$138.43	\$322,216.78	72.8	1,655	77.8	\$194.69
Corporations (A)	300,754.00	32.3	1,038	19.1	289.74	108,700.00	24.6	432	20.3	251.62
Political Committees	8,120.00	.9	31	.6	261.94	1,554.95	.4	4	.2	388.74
PAC's / Associations	11,150.00	1.2	32	.6	348.44	2,600.00	.6	16	.8	162.50
Union PAC's	2,025.00	.2	5	.1	405.00	800.00	.2	1	-	800.00
Unions	16,727.00	1.8	51	.9	327.98	6,350.00	1.4	16	.8	396.88
Other	750.00	.1	1	-	750.00	200.00	-	2	.1	100.00
Total	\$931,178.23	100.0	5,432	100.0	\$171.42	\$442,421.73	100.0	2,126	100.0	\$208.10

(A) Includes Professional Corporations

Source: Cumulative Contribution Listing - Public Financing by Type of Contributor (Program 6455A) May 17, 1982,
 New Jersey Election Law Enforcement Commission

(more)

TABLE 1.6 (continued)

1981 GUBERNATORIAL PRIMARY ELECTION CANDIDATES, AMOUNT AND NUMBER OF CONTRIBUTORS BY TYPE OF CONTRIBUTOR AS OF APRIL 19, 1982

TYPE OF CONTRIBUTOR	IMPERIALE (R)					KEAN (R)				
	AMOUNT	%	NUMBER	%	AVERAGE	AMOUNT	%	NUMBER	%	AVERAGE
Individual	\$ 4,669.00	46.8	51	63.8	\$ 91.55	\$424,174.00	83.9	2,206	90.9	\$192.28
Corporations (A)	4,400.00	44.1	27	33.8	162.96	75,880.00	15.0	208	8.6	364.81
Political Committees	-0-	-0-	-0-	-0-	-0-	200.00	-	2	-	100.00
PAC's / Associations	800.00	8.0	1	1.2	800.00	5,575.00	1.1	10	.4	557.50
Union PAC's	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Unions	100.00	1.0	1	1.2	100.00	-0-	-0-	-0-	-0-	-0-
Other	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Total	9,969.00	100.0	80	100.0	\$124.61	\$505,829.00	100.0	2,426	100.0	\$208.50

1.17

TYPE OF CONTRIBUTOR	KRAMER (R)					McGLYNN (R)				
	AMOUNT	%	NUMBER	%	AVERAGE	AMOUNT	%	NUMBER	%	AVERAGE
Individual	\$359,547.63	66.0	1,808	74.7	\$198.86	\$147,036.37	87.8	919	93.4	\$160.00
Corporations (A)	173,975.00	31.9	581	24.0	299.44	19,182.00	11.4	62	6.3	309.39
Political Committees	4,200.00	.8	10	.5	420.00	1,250.00	.7	3	.3	416.67
PAC's / Associations	5,850.00	1.1	18	.7	325.00	-0-	-0-	-0-	-0-	-0-
Union PAC's	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Unions	1,250.00	.2	3	.1	416.67	-0-	-0-	-0-	-0-	-0-
Other	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Total	\$544,822.63	100.0	2,420	100.0	225.13	\$167,468.37	100.0	984	100.0	\$170.19

(A) Includes Professional Corporations

Source: Cumulative Contribution Listing - Public Financing by Type of Contributor (Program 6455A) May 17, 1982.
New Jersey Election Law Enforcement Commission

(more)

TABLE 1.6 (continued)
1981 GUBERNATORIAL PRIMARY ELECTION CANDIDATES. AMOUNT AND
NUMBER OF CONTRIBUTORS BY TYPE OF CONTRIBUTOR AS OF APRIL 19, 1982

TYPE OF CONTRIBUTOR	PARKER (R)					RAFFERTY (R)				
	AMOUNT	%	NUMBER	%	AVERAGE	AMOUNT	%	NUMBER	%	AVERAGE
Individual	\$109,048.00	57.7	867	75.8	\$125.78	\$139,863.16	74.8	964	83.9	\$145.09
Corporations (A)	75,234.94	39.8	263	23.0	286.06	42,536.50	22.7	169	14.7	251.70
Political Committees	40.00	-	1	.1	40.00	1,480.00	.8	3	.3	493.33
PAC's / Associations	4,600.00	2.4	12	1.0	383.33	1,900.00	1.0	8	.7	237.50
Union PAC's	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Unions	40.00	-	1	.1	40.00	1,260.00	.7	5	.4	252.00
Other	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Total	\$188,962.94	100.0	1,144	100.0	\$165.18	\$187,039.66	100.0	1,149	100.0	\$162.78

TYPE OF CONTRIBUTOR	SULLIVAN (R)					WALLWORK (R)				
	AMOUNT	%	NUMBER	%	AVERAGE	AMOUNT	%	NUMBER	%	AVERAGE
Individual	\$235,405.00	72.2	920	76.2	\$255.88	\$265,253.91	80.5	2,353	90.7	\$112.73
Corporations (A)	88,445.00	27.1	283	23.4	312.53	58,472.81	17.7	220	8.5	265.78
Political Committees	-0-	-0-	-0-	-0-	-0-	100.00	-	1	-	100.00
PAC's / Associations	2,000.00	.6	5	.4	400.00	5,190.00	1.6	15	.6	346.00
Union PAC's	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Unions	-0-	-0-	-0-	-0-	-0-	455.00	.1	4	.2	113.75
Other	-0-	-0-	-0-	-0-	-0-	100.00	-	1	-	100.00
Total	\$325,850.00	100.00	1,208	100.0	\$269.74	\$329,571.72	100.0	2,594	100.0	\$127.05

(A) Includes Professional Corporations

Source: Cumulative Contribution Listing - Public Financing by Type of Contributor (Program 6455A) May 17, 1982.
 New Jersey Election Law Enforcement Commission

INTERIM REPORT NO. 2

\$50,000 THRESHOLD

HOW MUCH, IF AT ALL, SHOULD THE \$50,000 CONTRIBUTION AND EXPENDITURE THRESHOLD BE RAISED?

FACTS AND ANALYSIS

1. The threshold was \$40,000 in the 1977 general election and \$50,000 in the 1981 primary and general elections, a 25 percent increase.
2. Bills have been introduced in the 1982 Legislature (S-362, Stockman, and A-137, Weidel) that would increase the threshold from \$50,000 to \$100,000 or \$150,000.
3. Seven of the nine candidates and eight of the nine treasurers who responded to the questionnaire urged raising the threshold. John Degnan stated: "I believe that raising the threshold, perhaps to \$150,000, would have the desirable impact of tending to discourage marginal candidates from running." Mayor Kramer, who placed second in the Republican primary, said: "I object strenuously to the threshold of \$50,000. I feel that this is far too low and makes it too inviting for office-seekers to enter a race without major public support... I have suggested that one half of the maximum expenditure must first be raised by a candidate before he qualifies for public financing..."

Secretary of State Lan said: "...The low threshold increases...the incentive for candidates to enter the...primary. I think there is some advantage in restricting the field. However, to dramatically reduce the number of candidates also reduces the choice that the public enjoys. I think any responsible candidate ought to have the ability to raise \$100,000 - \$150,000..." Concurring was Senator Merlino who said: "The \$50,000 limit made participation in the fruits of public funding into instant gratification...I do support a \$150,000 threshold to make potential candidates recognize how hard it will be to raise the private money you need in order to receive needed public funding."

Another supporter of change was Senator Barry Parker who said: "Change contribution level...to \$150,000 and expend \$50,000; threshold is too easy to reach." Congressman Robert Roe, who placed second in the Democratic primary, said: "If there is public financing (of the primary), the...level should be raised to \$200,000 to help assure that candidates with statewide support would be eligible."

Joseph Sullivan, who spent more than \$1.8 million of his funds, said: "\$50,000 is too low...and too easy to attain, even with an \$800 limit per contribution. The threshold should be \$250,000, with matching funds retroactive to a base of \$100,000."

Among treasurers, Thomas Brown (Dodd) said: "...It (the threshold) did have an impact on the campaign in that it allowed candidates to qualify for public funds at an early stage. I believe a change should be made to increase the \$50,000...to a higher figure somewhere in the range of \$100,000 to \$150,000." Jane Cleeland (Wallwork) stated: "(The threshold is) too low; should be \$100,000. Will discourage less viable candidates..." Elton Conda (Parker) bluntly said: "This is ridiculous. Just about anybody in the State of New Jersey who has political aspirations can raise \$50,000..."

Roger Lowenstein (Degnan), on this issue said: "I would raise the limit to \$150,000 to prohibit or discourage entry of some minor candidates." Henry Ramer (Kramer) stated: "... (The threshold is) too low, inviting non-serious candidates. Raise it."

Fran Rein, campaign manager for Senator Merlino observed: "The change I recommend is raising \$150,000 eligible for match, but then go back and match 2 for 1 every dollar raised over \$50,000. I would leave alone the provision that calls for \$50,000 to be spent before match can start. This would have --in 1981--eliminated, as recipients of match, four Democratic candidates until as late as filing deadline."

Chances are they wouldn't have filed. If a candidate for Governor in 1981 could not raise \$150 - 200,000 by filing deadline, I don't believe they belonged in the race against those with demonstrated fund raising ability!" John Ricci (Rafferty) said: "A higher limit would reduce the number of candidates. Since an effective campaign cannot be run for less than \$500,000, perhaps a \$100,000 limit by a certain point in time, say February 1, would be effective."

The one treasurer who disagreed was Patricia Shillingburg, treasurer for Ann Klein who received the least amount of public funds. Mrs. Shillingburg said: "\$50,000 is just right. It allows for candidates who do not have a large political base in the beginning but might be able to expand. It is not expensive to the taxpayer if one looks at those who achieved little over \$50,000." Senator Wallwork noted that "raising the threshold would probably prevent some candidates from running because of 'cash-flow' problems or some candidates would start over a year in advance to raise funds."

- In January 1981, Governor Byrne proposed raising the threshold to \$150,000 and bills introduced in the Legislature in 1981 proposed the same figure or \$100,000. If, in 1981, a \$150,000 threshold was deemed "reasonable", it could be argued that the threshold for the 1985 election should be higher to reflect anticipated inflation over the next four years. Applying various inflation factors, compounded over four years, to the \$150,000 figure, results in the following:

<u>Inflation Factor</u> <u>Four Years Compounded</u>	<u>Resulting</u> <u>Amount</u>
5 Percent	\$182,325 rounded to \$180,000
10 Percent	\$219,615 rounded to \$220,000
15 Percent	\$262,351 rounded to \$260,000
20 Percent	\$311,000 rounded to \$310,000

- Raising the threshold to \$100,000 and starting the matching at that dollar amount would have resulted in spending about \$1 million less in the 1981 primary. Raising the threshold to \$150,000 and starting matching at that dollar amount would have resulted in spending about \$2 million less in the 1981 primary. Raising the threshold would have had no effect on the spending of public funds for the general election. These estimates use the 1981 experience as a model and assume that all other variables are held constant, i.e. matching ratio, cap on public funds, amount of contributions raised and percentage of contributions not matched. See Table 2.1, "Estimate of Reduction in Public Funds Resulting from Increasing Threshold to \$100,000 and \$150,000."
- Raising the threshold to either \$100,000 or \$150,000 but starting the matching at \$50,000 would have resulted in spending slightly less than \$150,000 in the 1981 primary. This represents the amounts Ann Klein and Assemblywoman Barbara McConnell received, \$52,763.74 and \$95,916.72, respectively, and assumes that all other variables are held constant.
- Raising the threshold for the 1981 primary might have caused one or more candidates to decide not to stay in the race. In the primary, there were seven candidates who raised more than \$150,000 but received less than the maximum in public funds. Below are the dates on which the seven candidates submitted a total of \$150,000 or more in contributions and the date on which each campaign reached a total of \$150,000 in expenditures. (Note that some portion of the expenditures represented the spending of public funds.)

<u>Candidate</u>	<u>Date</u> <u>\$150,000</u> <u>Contributions</u>	<u>Date</u> <u>\$150,000</u> <u>Expenditures</u>	<u>Total Gross</u> <u>Public Funds</u> <u>Received</u>
Dodd (D)	May 5	May 1	\$ 327,543.77
Gibson (D)	May 5	May 1	393,879.00
Hamilton (D)	April 6	April 10	309,678.76
McGlynn (R)	May 18	May 21	233,916.74
Parker (R)	May 5	April 3	306,042.00
Rafferty (R)	May 18	May 26	246,575.22
Wallwork (R)	April 21	April 15	557,594.74
TOTAL			\$2,375,230.23

Thus, if all seven of these candidates had decided to not enter or to drop out of the race because of their inability to raise the \$150,000 early enough, then \$2.4 million less would have been spent. The race on the Democratic side would have been among Degnan, Florio, Mann, Merlino, Monyek, Roe and Smith. The race on the Republican side would have been among Imperiale, Kean, Kramer and Sullivan. In the Democratic race, the candidate who came in third, Mayor Kenneth Gibson and, in the Republican campaign, the candidate who came in fourth, Senator James Wallwork, would not have been in the race. However, with a higher threshold requirement in place, any one of the seven candidates might have adopted a different fund raising strategy enabling his campaign to reach the threshold and enter or stay in the race.

8. Closely related to the threshold issue is the question of whether public funds were responsible for making it possible for some candidates to stay in the race when, without public financing, they would have withdrawn. Most respondents to the questionnaire agreed that public financing was responsible for keeping some candidates in the race. Former Attorney General Degnan, Secretary of State Lan, Senator Merlino, Senator Parker, Congressman Roe, Joseph Sullivan and Senator Wallwork all agreed some candidates stayed in the race because of public funds. On this point, Senator Parker was the most specific and said: "At least one-half would have withdrawn without public financing (McGlynn, Rafferty, myself, Hamilton, Dodd, possibly Smith, Klein and McConnell)."

Fran Rein, Senator Merlino's campaign manager, commented on the cash-flow aspect as follows: "I watched, closely, the weekly submission reports along with the spending reports of the other Democratic candidates. There were several times when at least four of them came within a few hundred dollars of simply running out of money. Because very few vendors and no media outlets will extend credit to a political campaign, in a non-publicly funded campaign, these candidates would have had no choice but to cease functioning as effective candidates, and therefore, drop out. The weekly two for one match must be considered a major factor, at least in these cases, in their remaining in the race."

9. In considering the issue of raising the threshold as a way of discouraging entry of "minor" or "less viable" candidates, analysis of the submissions for public funds suggests that if the threshold had been \$150,000 in 1981, particularly if the threshold had been raised to \$150,000 in January as proposed by Governor Byrne, then the two candidates who ended up high in their respective primaries, Mayor Gibson (third) and Senator Wallwork (fourth), might not have been able to enter or stay in the race for the very cash-flow problems referred to in paragraph #7 above.

Both Mayor Gibson and Senator Wallwork made their first submissions for public matching funds on March 9, but Senator Wallwork did not reach \$150,000 until April 15. Mayor Gibson did not reach \$150,000 until May 5, which was two months after his initial submission and less than a month before the election. Both of these candidates received the largest number of contributions received by publicly funded candidates (Gibson - 3,050 and Wallwork - 3,331) and only Congressman Roe, a non-publicly funded candidate, exceeded their totals with 6,232, to date. Both campaigns were funded with small contributions. Senator Wallwork had the lowest average contribution (\$98.94) of all eight Republican candidates. Mayor Gibson's average contribution of \$91.91 was the third lowest of all 12 Democratic candidates reporting contributions; only Assemblywoman McConnell's average contribution of \$60.43 and former Senator Buehler's average contribution of \$81.07 were lower.

Thus, the raising of the threshold to \$150,000 at the time it was proposed in January 1981, might well have kept two candidates who exemplified some of the basic purposes of public financing, i.e. raising many small contributions and using public funds to communicate and generate regularly increasing financial support, from mounting their races. Conversely, it can be argued that if the threshold had been higher from the start then both of these candidates might have started their fund raising earlier in order to reach the higher threshold in sufficient time to mount a successful campaign.

10. Raising the threshold might not have the desired effect of discouraging "minor" or "non-viable" candidates, however defined, but might result in the campaigns for Governor starting earlier with earlier fund raising. In 1981, two Democrats (Lan and Smith) used funds raised in 1978 and 1979 in their campaigns and

Democrat Merlino and Republican candidates Kramer, McGlynn, Parker, Rafferty and Wallwork used funds raised during the first six months of 1980.

11. One of the stated reasons for raising the threshold is that it is easy for potential gubernatorial candidates to raise the \$50,000 with only 63 contributions of \$800. Furthermore, if the contribution limit were raised, the minimum number of contributors needed would go down. This minimum-number-of-contributions relationship between contribution limits ranging from \$800 to \$2,000 and threshold limits ranging from \$50,000 to \$260,000 is shown on Table 2.2.

The 1981 primary election experience suggests that this concern is not well founded. The average contribution in the first submission of 16 public funds candidates was \$185.23 and ranged from a low of \$87.87 for Barbara McConnell (D) to a high of \$545.51 for John Degnan (D). Other than Mr. Degnan, no candidate's first submission had an average contribution of even \$400 which would have represented having achieved the threshold with only 126 contributions. However, the existence of a relationship between the contribution limit and threshold can be seen and would argue for raising both if either the contribution limit or the threshold were to be raised. See Table 2.3, "1981 Primary Candidates' First Submissions for Public Funds: Net Amount, Number of Contributions and Average Contribution."

A revision in ELEC's computer programs permitted an analysis of contributions by date of contribution. See Table 2.4, "1981 Primary Candidates' First \$50,000 in Contributions, Date, Number of Contributions and Average Contribution." The average contribution making up the first \$50,000 in contributions for the 16 publicly funded candidates was \$191.07 and ranged from a low of \$87.45 for McConnell (D) to a high of \$736.30 for Florio (D). The average contribution exceeded \$400 for only two other candidates, Degnan (D) - \$650.23, and Parker (R) - \$583.60. Viewed another way, only four candidates (Degnan, Florio, Hamilton and Parker) had fewer than 200 contributors whose contributions made up the candidates' \$50,000 thresholds.

Thus, this new analysis further supports a conclusion that it was not that easy for most candidates to raise the \$50,000 threshold amount even with an \$800 contribution limit.

12. The former ELEC Director of Public Financing, Neil Upmeyer, has recommended that a series of thresholds be imposed. For example, once a candidate submitted an initial \$100,000 or \$150,000 in contributions, he or she could not make another submission except in units of at least \$50,000. Mr. Upmeyer prepared an analysis, using ELEC data on submissions, showing the dates when the candidates reached a \$50,000 increment in contributions. See Table 2.5, "Amounts of Contributions (Net) Submitted for Public Matching Funds by Date of Submission - 1981 Gubernatorial Primary." That analysis shows that only candidates Degnan and Florio among the ten Democrats and Kean among the six Republicans would have experienced no slowing down of the flow of public funds if this incremental threshold system had been in place for the 1981 primary. Furthermore, this system might have dissuaded some candidates from continuing to apply for public funds.
13. A bill (S-362, Stockman) has been introduced in the 1982 Legislature to amend N.J.S.A. 19:23-8 to increase the number of signers of nominating petitions for gubernatorial candidates. S-362 would require signatures equal in number to at least one-tenth of one percent of all legally qualified voters in each county, e.g. in Mercer County, with 164,841 registered voters in 1980, a gubernatorial candidate would need 165 signatures. In the previous Legislature, Senator Feldman introduced S-3272 which would raise the number of signatures to 20,000. It is impossible to estimate the effect on public financing of increasing the required number of signers on nominating petitions. The following 1981 primary candidates, who accepted public financing, received less than 20,000 votes:

William Hamilton (D)	17,395
Ann Klein (D)	14,884
Barbara McConnell (D)	16,123
Richard McGlynn (R)	5,486
John K. Rafferty (R)	12,837

On the other hand, arguments have been advanced that access to the ballot should not be curtailed as a means of limiting the expenditure of public funds.

14. Questionnaire respondents were about evenly divided on changing the number of signers. John Degnan, Senator Merlino, Rose Monyek, Joseph Sullivan, Roger Lowenstein (Degnan), John Ricci (Rafferty) and Patricia Shillingburg (Klein) said no changes should be made. For example, Senator Merlino said, "It is a virtue of New Jersey democracy that any citizen can easily submit his name to his fellow citizens as a candidate...." Among those suggesting changes were: Mayor Kramer, Congressman Roe, Thomas Brown (Dodd), Elton Conda (Parker) (who recommended 49,000), Richard Goldman (Degnan) and Fran Rein (Merlino).

ALTERNATIVES

Below, six alternatives on the issue of raising the threshold are posed based on legislative proposals, the change made between 1977 and 1981, the suggestions made by the respondents to the gubernatorial public financing questionnaire, the reasonableness and feasibility of making a change, and the need to present a reasonable range of choices for decision.

Alternative #1: Make no change in the threshold of \$50,000 in contributions and expenditures.

This probably would tend to encourage "minor" or "non-serious" candidates (using a definition based on the ability to raise funds) to enter the gubernatorial primary and, once entered, to stay in the race. This would also tend to increase the amount of public funds per candidate in 1985, assuming no other changes in the law, if for no other reason than that it should be easier to raise \$50,000 in 1985 than it was in 1981 due to inflation and a likely improvement in fund raising capabilities.

Alternative #2: Increase the threshold of both contributions and expenditures to \$100,000 or \$150,000.

This probably would tend to discourage "minor" or "non-serious" candidates, but in 1985, with a longer lead time to raise funds and with an inflation-induced higher contribution level, the degree of discouragement might well be reduced. To the extent that raising the threshold to a higher figure would discourage candidacies, doing so should reduce the amount of total public funds relative to 1981.

Alternative #3: Increase the contribution threshold to \$100,000 or \$150,000 but start the matching at \$50,000 once the threshold has been reached.

This probably would tend somewhat to discourage "minor" or "non-serious" candidates, but less so than Alternative #2 with a longer lead time to raise contributions and with an inflation-induced higher contribution level, the extent of discouragement would probably be lessened, thus offsetting most, if not all, savings.

Alternative #4: Raise the threshold to \$220,000.

This amount would represent a 10 percent increase, compounded annually over four years, of \$150,000. It was this amount, \$150,000, that was proposed by Governor Byrne, members of the legislature and many of the participants in the 1981 primary campaign. If \$150,000 were reasonable and achievable in 1981 by any "serious" or "major" candidate, then by 1985 it could be too low to discourage the "non-serious" or "minor" candidates, thus arguing for the \$220,000 figure.

Alternative #5: Raise the threshold but also require a specific number of contributors.

One concern is that with a relatively low threshold the number of contributors, contributing the maximum needed to reach that threshold is too low to represent broad support by any reasonable definition. However, requiring a specific number of contributors, higher than the theoretical minimum and in addition to the dollar threshold, would aid in overcoming the concern. For example, in 1981 only 63 contributions of \$800 were needed to reach the \$50,000 threshold; 11 of the 16 primary candidates taking public funds had 63 such contributors. (The five who did not were: Klein-38, Lan-27, McConnell-34, McGlynn-62 and Rafferty-45.) If the number of contributors required had been 200, for example, (or an average contribution of \$250.00 to reach \$50,000) this would have shown broader support at the outset

than simply raising \$50,000. (See Table 2.2, "Minimum Number of Contributions Required to Reach Varied Thresholds by Varied Contribution Limits.")

Alternative #6: Establish a series of thresholds.

This is the proposal briefly described in paragraph 12; above. It would require a candidate, after his or her initial threshold submission, to raise increments of \$50,000 in contributions before receiving additional public funds. This would slow the public funds cash flow for some candidates and might result in their dropping out of the race, or at least not continuing to apply for more public funds, thus reducing total public funds spending.

Alternative #7: Count only a portion of each contribution, e.g. \$100 or \$250, toward the threshold.

(Refer to Appendix #10 for discussion of the proposal to match only a portion of each contributor's contribution.) This would tend to encourage candidates to reach out to a larger group of contributors in assembling the threshold and might discourage some candidates from applying for public funds, especially if the threshold is raised to a higher amount, e.g. \$100,000.

Interim Report #2 Tables:

- 2.1 Estimate of Reduction in Public Funds Resulting from Increasing Threshold to \$100,000 and \$150,000.
- 2.2 Minimum Number of Contributions Required to Reach Varied Thresholds by Varied Contribution Limits
- 2.3 1981 Primary Candidates' First Submissions of Contributions for Public Matching Funds: New Amount, Number of Contributions and Average Contribution
- 2.4 1981 Primary Candidates' First \$50,000 in Contributions, Date, Number of Contributions and Average Contribution
- 2.5 Amounts of Contributions (Net) Submitted for Public Matching Funds by Date of Submission - 1981 Gubernatorial Primary

TABLE 2.1
ESTIMATE OF REDUCTION IN PUBLIC FUNDS
RESULTING FROM INCREASING THRESHOLD
TO \$100,000 AND \$150,000

	Col. 1 Public Funds (Gross) Received With \$50,000 Threshold	Col. 2 Amount Received With \$100,000 Threshold	Col. 3 Reduction With \$100,000 Threshold Col. 1-Col. 2	Col. 4 Amount Received With \$150,000 Threshold	Col. 5 Reduction With \$150,000 Threshold Col. 1-Col. 4
PRIMARY DEMOCRATS					
Degnan	\$599,975.80	\$599,975.80	\$ -0-	\$599,975.80	-0-
Dodd	327,543.77	227,543.77	100,000.00	127,543.77	200,000.00
Florio	599,975.80	599,975.80	-0-	599,975.80	-0-
Gibson	393,879.00	332,432.00	61,447.00	232,432.00	161,447.00
Hamilton	309,678.76	209,678.76	100,000.00	109,678.76	200,000.00
Klein	52,763.74	-0-	52,763.74	-0-	52,763.74
Lan	249,919.69	149,919.69	100,000.00	49,919.69	200,000.00
McConnell	95,916.72	-0-	95,916.72	-0-	95,916.72
Merlino	599,975.80	575,623.00	24,352.80	475,623.00	124,352.80
Smith	<u>599,949.90</u>	<u>480,343.46</u>	<u>119,606.44</u>	<u>380,343.46</u>	<u>219,606.44</u>
SUBTOTAL	<u>\$3,829,578.98</u>	<u>\$3,175,492.28</u>	<u>\$ 654,086.70</u>	<u>\$2,575,492.28</u>	<u>\$1,254,086.70</u>
PRIMARY REPUBLICANS					
Kean	\$599,975.80	\$599,975.80	-0-	\$599,975.80	-0-
Kramer	599,975.80	599,975.80	-0-	599,975.80	-0-
McGlynn	233,916.74	133,916.74	100,000.00	33,916.74	200,000.00
Parker	306,042.00	206,042.00	100,000.00	106,042.00	200,000.00
Rafferty	246,575.22	146,575.22	100,000.00	46,575.22	200,000.00
Wallwork	<u>557,594.74</u>	<u>457,594.74</u>	<u>100,000.00</u>	<u>357,594.74</u>	<u>200,000.00</u>
SUBTOTAL	<u>\$2,544,080.30</u>	<u>\$2,144,080.30</u>	<u>\$400,000.00</u>	<u>\$1,744,080.30</u>	<u>\$800,000.00</u>
PRIMARY TOTAL	<u>\$6,373,659.28</u>	<u>\$5,319,572.58</u>	<u>\$1,054,086.70</u>	<u>\$4,319,572.58</u>	<u>\$2,054,086.70</u>
GENERAL					
Florio (D)	\$1,199,951.60	\$1,199,951.60	\$ -0-	\$1,199,951.60	-0-
Kean (R)	<u>1,199,951.60</u>	<u>1,199,951.60</u>	<u>-0-</u>	<u>1,199,951.60</u>	<u>-0-</u>
GENERAL TOTAL	<u>\$2,399,903.20</u>	<u>\$2,399,903.20</u>	<u>-0-</u>	<u>\$2,399,903.20</u>	<u>-0-</u>
GRAND TOTAL	<u>\$8,773,562.48</u>	<u>\$7,719,475.78</u>	<u>\$1,054,086.70</u>	<u>\$6,719,475.78</u>	<u>\$2,054,086.70</u>

February 5, 1982
 Revised May 21, 1982

TABLE 2.2
MINIMUM NUMBER OF CONTRIBUTIONS
REQUIRED TO REACH VARIED THRESHOLDS
BY VARIED CONTRIBUTION LIMITS

THRESHOLD LIMITS OF:

<u>Contri- bution Limit</u>	<u>\$50,000</u>	<u>\$100,000</u>	<u>\$150,000</u>	<u>\$200,000</u>	<u>\$220,000</u>	<u>\$250,000</u>	<u>\$260,000</u>
\$ 800	62.5	125.0	187.5	250.0	175.0	312.5	325.0
1000	50.0	100.0	150.0	200.0	220.0	250.0	260.0
1100	45.5	90.9	136.4	181.8	200.0	227.3	236.4
1200	41.7	83.3	125.0	166.7	183.3	208.3	216.7
1400	35.7	71.4	107.1	142.8	157.1	178.6	185.7
1500	33.3	66.7	100.0	133.3	146.7	167.7	173.3
1700	29.4	58.8	88.2	117.6	129.4	147.1	152.9
2000	25.0	50.0	75.0	100.0	110.0	125.0	130.0

TABLE 2.3

February 5, 1982

1981 PRIMARY CANDIDATES' FIRST SUBMISSIONS OF
CONTRIBUTIONS FOR PUBLIC MATCHING FUNDS:
NET AMOUNT, NUMBER OF CONTRIBUTIONS AND AVERAGE CONTRIBUTION

<u>Candidates</u>	<u>Net Amount</u>	<u>First Submission :</u>	
		<u>Number of Contributions</u>	<u>Average Contribution</u>
<u>Democrats</u>			
Degnan	\$ 106,375.00	195	\$545.51
Dodd	85,396.44	450	189.77
Florio	357,507.50	1,008	354.67
Gibson	51,033.00	450	113.41
Hamilton	104,222.81	535	194.81
Klein	58,802.00	407	144.48
Lan	163,823.00	850	192.73
McConnell	51,755.18	589	87.87
Merlino	181,438.00	984	184.39
Smith	<u>380,354.95</u>	<u>2,549</u>	<u>149.22</u>
Subtotal	<u>\$ 1,540,707.88</u>	<u>8,017</u>	<u>\$192.18</u>
<hr/>			
<u>Republicans</u>			
Kean	\$ 237,974.00	1,351	\$176.15
Kramer	174,685.00	737	237.02
McGlynn	51,800.87	404	128.22
Parker	136,590.00	477	286.35
Rafferty	105,850.50	1,008	105.01
Wallwork	<u>113,460.00</u>	<u>753</u>	<u>150.68</u>
Subtotal	<u>\$ 820,360.37</u>	<u>4,730</u>	<u>\$173.44</u>
<hr/>			
Total	<u>\$ 2,361,068.25</u>	<u>12,747</u>	<u>\$185.23</u>

Source: New Jersey Election Law Enforcement Commission, candidates' submissions for public matching funds.

TABLE 2.4

May 21, 1982

1981 PRIMARY CANDIDATES' FIRST \$50,000 IN CONTRIBUTIONS,
DATE, NUMBER OF CONTRIBUTIONS AND AVERAGE CONTRIBUTION

<u>Candidates</u>	<u>Net Amount</u>	<u>Date Reached</u>	<u>No. of Contributions</u>	<u>Average Contribution</u>
<u>Democrats</u>				
Degnan	\$ 69,575.00	03-12-81	107	\$650.23
Dodd	55,253.78	11-13-80	337	163.96
Florio	53,750.00	01-22-81	73	736.30
Gibson	51,132.00	03-05-81	453	112.87
Hamilton	50,300.08	11-12-80	181	277.90
Klein	52,997.00	03-23-81	355	149.29
Lan	55,585.00	12-17-79	218	254.98
McConnell	51,858.50	02-20-81	593	87.45
Merlino	52,058.00	07-14-80	413	126.05
Smith	78,800.00	09-15-78	405	194.57
Subtotal	<u>\$571,309.36</u>		<u>3,135</u>	<u>\$182.24</u>
<u>Republicans</u>				
Kean	\$ 50,452.00	02-03-81	235	\$214.69
Kramer	50,375.00	04-16-80	218	231.08
McGlynn	51,320.87	12-16-80	388	132.27
Parker	52,524.00	07-10-80	90	583.60
Rafferty	50,073.00	12-29-80	202	247.89
Wallwork	51,352.00	01-16-81	324	158.49
Subtotal	<u>\$306,096.87</u>		<u>1,457</u>	<u>\$210.09</u>
Total	<u>\$877,406.23</u>		<u>4,592</u>	<u>\$191.07</u>

Source: Cumulative Contribution Listing by Amount of Contribution (Program 6455A), April 29, 1982, N.J. Election Law Enforcement Commission

February 5, 1982

TABLE 2.5

**AMOUNT OF CONTRIBUTIONS (NET) SUBMITTED FOR PUBLIC MATCHING FUNDS
BY DATE OF SUBMISSION - 1981 GUBERNATORIAL PRIMARY**

Dates	SMITH	KRAMER	McGlynn	MERLINO	Hamilton	Parker	McConnell	Gibson	Wallwork	Dodd	Lan	Rafferty	DEGNAN	FLORIO	Klein	KEAN
1/05	\$380,355*	\$166,835*	\$ 52,771	-	-	-	-	-	-	-	-	-	-	-	-	-
1/26	-	79,490x	-	\$181,438*	\$104,922+	\$127,695+	-	-	-	-	-	-	-	-	-	-
2/09	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2/23	-	79,471x	-	-	-	-	\$ 52,105	-	-	-	-	-	-	-	-	-
3/09	-	-	36,200	69,294x	-	-	1,572	\$ 51,033	\$113,620+	-	-	-	-	-	-	-
3/23	-	-	11,617+	16,290	27,296	19,482*	7,456	3,795	12,946	\$ 85,396	\$166,423*	\$105,850+	-	-	-	-
4/06	1,625	16,385	9,425	12,376	19,574*	-	10,284	13,775	14,786	18,215+	-	14,110	\$110,675+	\$358,057*	-	-
4/14	-	-	4,840	10,933	5,097	-	3,396	-	9,901*	5,990	22,835	1,660	67,375*	-	\$ 59,227	-
4/21	-	-	4,197	13,235x	11,450	-	2,885	19,744	12,586	8,384	3,300	-	33,655x	-	-	\$237,974*
4/28	3,360	23,861x	3,951	17,265	11,140	-	1,232	24,991+	22,410	30,315*	2,975	6,936	97,340x	-	-	77,390x
5/04	-	11,415	8,983	19,145	11,698	16,922	1,978	52,359*	30,835x	12,965	-	8,281	51,892x	-	2,455	37,943x
5/11	2,600	20,880	9,948	22,375x	6,519	-	1,579	14,398	17,511	12,510	-	4,245	30,885	-	1,370	-
5/18	5,800	-	11,318*	13,805	2,809x	30,670	4,430	14,949	29,195x	17,775	-	8,750*	-	-	12,655	-
5/26	7,465x	-	8,784	-	7,860	8,859x	7,859	10,182x	28,435	11,672x	-	6,050	-	-	225	-
6/01	27,169	7,800x	-	19,957	2,696	10,808	5,003	60,192x	31,100x	4,338	-	11,708	-	-	-	-
Total	<u>\$428,374</u>	<u>\$406,137</u>	<u>\$162,034</u>	<u>\$396,113</u>	<u>\$211,061</u>	<u>\$214,436</u>	<u>\$99,779</u>	<u>\$265,418</u>	<u>\$323,325</u>	<u>\$207,560</u>	<u>\$195,533</u>	<u>\$167,590</u>	<u>\$391,822</u>	<u>\$358,057</u>	<u>\$ 75,932</u>	<u>\$353,307</u>

+ \$100,000 or more in contributions

* \$150,000 or more in contributions

x Additional \$50,000 increments

Candidates names in CAPS are those who received the maximum public funding of \$599,975.80.

Adopted from a table prepared by Neil Upmeyer, Director of Elections, N.J. Secretary of State, January 4, 1982.

Source: New Jersey Election Law Enforcement Commission reports on submissions for public matching funds.

**INTERIM REPORT NO. 3
LIMIT ON PUBLIC FUNDS
AND
TWO-FOR-ONE MATCHING FORMULA**

HOW MUCH, IF AT ALL, SHOULD THE LIMIT ON PUBLIC FUNDS PER CANDIDATE BE INCREASED OR DECREASED? HOW MUCH, IF AT ALL, SHOULD THE MATCHING FORMULA OF TWO PUBLIC DOLLARS FOR EVERY ELIGIBLE PRIVATELY CONTRIBUTED DOLLAR BE REDUCED?

INTRODUCTION

These two components of the public financing program - the cap on public funds and the two-for-one matching formula - are inextricably linked to the issue of limiting the total amount of public funds spent in a given gubernatorial election; for that reason, they are analyzed together.

FACTS AND ANALYSIS - LIMIT ON PUBLIC FUNDS

1. In 1977, there was no cap on public funds. In 1981, the cap on public funds in the primary was 20¢ per voter in 1980 presidential election or \$599,975.80; in the general election, the cap was 40¢ per 1980 voter, or \$1,199,951.60.
2. In the 1977 general election, with no cap on public funds, Governor Byrne and Senator Bateman received a total of \$2,070,816 in public funds. In 1981, both Congressman Florio and Governor-elect Kean received the maximum of \$1,199,951.60 for a total of \$2,399,903.20. Thus, the 1981 candidates received \$329,087.20 more than their 1977 counterparts, a 15.9 percent increase.

If there had been no cap on total public funds to a single candidate, Congressman Florio theoretically would have received \$2,357,721.88 and Governor Kean, \$2,133,461.00. The total additional public funds, if there had been no cap on public funds and no expenditure limit, would have been \$2,091,279.68, or nearly once again as much as was given to Florio and Kean. (See Table 3.1, "Estimate of 1981 Public Matching Funds without a Cap on Public Funds - 1981 General Election.") (Neither candidate would have applied for this full amount because of the expenditure limit of \$2.1 million.) Thus, if the expenditure limit is lifted, it is imperative that a cap on public funds be maintained to prevent unlimited public funds costs.

3. In the 1981 general election, the effect of the cap on public funds in conjunction with the expenditure limit was to reduce the proportion of total receipts represented by public funds from 63.1 percent in 1977 to 50.8 percent. If the Florio and Kean campaigns had not refunded over \$200,000 because the expenditure limit made the money useless, the proportion of total receipts that were represented by public funds would have dropped to 48.6 percent.
4. In the 1981 primary, five of the sixteen publicly funded candidates received the maximum in public funds, \$599,975.80 and one candidate received \$25.90 less than the maximum. In total they received \$3,599,838.90. Those six were: Democrats John Degan, James Florio, Joseph Merlino and Thomas Smith; and Republicans Thomas Kean and Lawrence Kramer. If there had been no cap on total public funds to a single candidate, then those six candidates would have received a total of \$1,561,465.24 more as follows:

	Candidate	Additional Public Funds
Democrats:	John Degan	\$ 301,107.20
	James Florio	309,233.20
	Joseph Merlino	94,087.20
	Thomas Smith	176,793.56

(more)

Republicans: Thomas Kean	309,640.20
Lawrence Kramer	<u>370,603.88</u>
TOTAL ADDITIONAL FUNDS	<u>\$1,561,465.24</u>

Source: Table 3.2, "Estimate of 1981 Public Matching Funds Without a Cap on Public Funds - 1981 Primary Election"

5. In the 1981 primary, the percentage of total receipts represented by public funds ranged from a low of 33.8 percent (Klein) to a high of 61.2 percent (Wallwork). (See Table 3.3, "Public Funds as a Percentage of Total Receipts - 1981 Gubernatorial Primary Candidates.") The factors that lower the proportion of total receipts represented by public funds are:
- (a) a higher amount of candidates' own funds in excess of \$800
 - (b) a higher amount of contributions exceeding the minimum (\$350,000) needed for maximum public funds
 - (c) a lower amount above the \$50,000 contribution threshold.

Thus, in the two extreme examples, Ms. Klein's low percentage reflects her own contribution of \$24,200 and her campaign receiving the smallest amount of contributions over \$50,000. Senator Wallwork's high percentage reflects his campaign's matchable contributions approaching but not exceeding \$350,000.

FACTS AND ANALYSIS - MATCHING RATIO

1. The two-for-one matching formula was the same in 1977 and 1981.
2. Bills were introduced in the 1981 Legislature and bills have been introduced in the 1982 Legislature to change the cap on public funds and to change the matching formula. S-3272 (Feldman), a bill introduced in the previous Legislature, would have reduced the matching ratio to one-for-one and would have reduced the cap on public funds from 20¢ (or \$599,975.80) to 16.5¢ (or \$494,980.00) for the primary. S-362 (Stockman) would also change the ratio to one-for-one. A-137 (Weidel) would reduce the matching ratio to one-and-one-half-for-one.

Making various changes in the \$2-for-\$1 matching ratio in the 1981 primary would have had the following results:

Matching Ratio	% Decrease	Decrease in Public Funds	
		\$	%
\$1.75 for \$1	12.5	\$ 198,749	3.1
\$1.50 for \$1	25.0	659,643	10.3
\$1.25 for \$1	37.5	1,266,161	19.9
\$1.00 for \$1	50.0	2,321,551	39.1*

* At this ratio, no 1981 primary candidate would have received the maximum; thus, these figures probably overstate the decrease.

Source: Table 3.4, "Estimate of Decrease In Public Funds from Reducing the \$2 for \$1 Match Ratio to \$1.75 for \$1; \$1.50 for \$1; \$1.25 for \$1 and \$1.00 for \$1."

3. Reducing the matching ratio and/or the cap on public funds, thus reducing the amount of public funds, would allow a greater percentage of campaign receipts to be spent without restriction. One of the concerns expressed about public funds is that they encourage the campaigns to spend on the media, especially television, and they discourage spending on staff and organization because public funds cannot be used for those purposes.

4. There appears to be a public perception that the 2-for-1 match is too generous, that it is a "give-away" of public funds. However, reducing the matching ratio could result in a conflict with the stated public purpose of public funds of providing sufficient campaign funds to permit candidates of limited means to mount a communication effort and gain support.
5. Among the respondents to the questionnaire, two candidates, Senator Merlino and Senator Parker, suggested that no change be made in the formula. Senator Merlino stated: "The two-for-one formula rightly emphasizes the public's leading role and constantly reminds every candidate that his primary audience is the public at large, not his contributors. No change." Senator Parker stated: "I don't believe two-for-one match is particularly bad. If you limit contributions to \$800, you will need two-for-one." Treasurers and campaign officials who supported retaining the two-for-one match included: Brown (Dodd); Lowenstein (Degnan); Rein (Merlino); Ricci (Rafferty); and Shillingburg (Klein).

On the other hand, three of the candidates who responded to the questionnaire suggested reducing the matching formula. John Degnan stated: "I agree that the match of two dollars in public funds for each one dollar raised privately is too generous. Accordingly, I would reduce the match to one dollar in public funds for each one dollar raised privately and would increase the contribution limit from \$800 to \$1,000." Mayor Lawrence Kramer stated: "...I, too, feel the formula for match is far too generous. I've suggested a match on an equal dollar of State money for every dollar raised privately. I've also suggested that the qualifying threshold be established at 50 percent of the total expenditure limit, thus requiring a candidate to raise all of his private funds prior to qualifying for a State match..." The third candidate, Secretary of State Donald Lan, stated "...a one-for-one match in the primary, starting with dollar number one after a candidate obtains \$100,000 - \$150,000 threshold, would seem to be an appropriate change. I think we should match all contributions, once the threshold is reached or exceeded while maintaining the \$800 contribution limit." Two of the treasurers and campaign officials also supported the proposal of one-for-one matching, namely: Cleeland (Wallwork) and Goldman (Degnan).

ALTERNATIVES

In proposing alternatives, consideration was given to legislative proposals, the expressed concerns about the total amount of public funds spent, especially in the primary, the imposition of the cap on public funds for 1981, the reasonableness of a change, and the need to provide a reasonable range of choices for decision.

Alternative #1: Make no change in the cap on public funds or in the matching ratio.

This would tend to result in an increase in total public funds in future years because those candidates who do not reach the maximum in public funds would probably raise more in contributions, due to inflation, than their 1981 counterparts did. This option would have no impact on those candidates who reach the maximum in public funds.

Alternative #2: Reduce the cap on public funds.

This would keep the 2-for-1 match, thus continuing to provide start-up funds during the early stages of a campaign. It would be the most direct way of reducing public funds for those who, in 1981, received the maximum public funds (Degnan, Florio, Merlino, Smith, Kean and Kramer). Reducing the cap on public funds in the primary from 20¢ to 17.5¢ would have resulted in spending \$450,000 less. Reducing the cap in the general election from 40¢ to 35¢ would have resulted in spending \$300,000 less. See Tables 3.5a and 3.5b, "Estimate of Decrease in Public Funds from Reducing the Caps on Public Funds - 1981 Primary and General Elections."

Alternative #3: Reduce the matching ratio from \$2 to \$1 to a lower ratio, e.g. \$1.50 for \$1.

This would more directly affect those who did not receive the maximum in public funds and would have had no effect on some of the candidates who did, namely Degnan, Florio, Kean and Kramer, and would have a limited effect on candidates Merlino and Smith, who also received the maximum. A ratio of \$1.50 for \$1 would have resulted in a reduction of \$659,000 from the \$6,373,000 actually spent in the primary. Reducing the match ratio has no effect in the general election.

Interim Report #3 Tables

- 3.1 Estimate of 1981 Public Matching Funds Without a Cap on Public Funds - 1981 General Election**
- 3.2 Estimate of 1981 Public Matching Funds Without a Cap on Public Funds - 1981 Primary Election**
- 3.3 Public Funds as a Percentage of Total Receipts - 1981 Gubernatorial Primary Candidates**
- 3.4 Estimate of Decrease in Public Funds from Reducing the \$2 for \$1 Match Ratio to \$1.75 for \$1; \$1.50 for \$1; \$1.25 for \$1 and \$1.00 for \$1**
- 3.5a Estimate of Decrease in Public Funds from Reducing the Cap on Public Funds - 1981 Primary Election**
- 3.5b Estimate of Decrease in Public Funds from Reducing the Cap on Public Funds - 1981 General Election**

May 22, 1982

TABLE 3.1

ESTIMATE OF 1981 PUBLIC MATCHING FUNDS
WITHOUT A CAP ON PUBLIC FUNDS
1981 GENERAL ELECTION CANDIDATES

	FLORIO	KEAN
1. Contributions Submitted for Match (Net)*	\$ 700,028.00	\$ 877,323.00
2. Contributions Rejected for Match *	64,585.00	27,312.00
3. Contributions Not Submitted for Match (Net)*	464,247.94	212,095.50
4. Net Contributions	\$ 1,228,860.94	\$ 1,116,730.50
5. Threshold	- 50,000.00	- 50,000.00
6. Contributions to be Matched	\$ 1,178,860.94	\$ 1,066,730.50
7. 2 for 1 Match Formula	x 2	x 2
8. Public Funds Without 40¢ Cap	2,357,721.88	2,133,461.00
9. Public Funds Received (Gross)	- 1,199,951.60	- 1,199,951.60
10. Additional Public Funds Without Cap	\$ 1,157,770.28	\$ 933,509.40

*Data incomplete; campaign accounts are still open

Source: Cumulative Contribution Listing - Public Financing, a computer prepared report (Job 6453), May 17, 1982.

May 21, 1982

TABLE 3.2
ESTIMATE OF 1981 PUBLIC MATCHING FUNDS WITHOUT A CAP ON PUBLIC FUNDS
1981 PRIMARY ELECTION

	DEGNAN (D)	FLORIO (D)	MERLINO (D)	SMITH(D)	KEAN(R)	KRAMER(R)	TOTAL
1) Contributions Submitted for Match (Net)	\$379,679.00	\$348,802.50	\$364,546.00	\$328,874.95	\$351,415.30	\$353,445.00	\$2,126,762.75
2) Contributions Rejected for Match	5,675.00	5,425.00	9,220.00	98,200.00	1,081.70	44,925.00	164,526.70
3) Contributions Not Submitted for Match (net)	115,187.50	150,377.00	23,265.50	11,296.78	152,311.00	136,919.84	589,357.62
4) Net Contributions	\$500,541.50	\$504,604.50	\$397,031.50	\$438,371.73	\$504,808.00	\$535,289.84	\$2,880,647.07
5) Threshold	- 50,000.00	- 50,000.00	- 50,000.00	- 50,000.00	- 50,000.00	- 50,000.00	- 300,000.00
6) Contributions to be Matched	\$450,541.50	\$454,604.50	\$347,031.50	\$388,371.73	\$454,808.00	\$485,289.84	\$2,580,647.07
7) \$2 for \$1 Match Formula	x 2	x 2	x 2	x 2	x 2	x 2	x 2
8) Public Funds Without 40% Cap	\$901,083.00	\$909,209.00	\$694,063.00	\$776,743.46	\$909,616.00	\$970,579.68	\$5,161,294.14
9) Public Funds Received (Gross)	599,975.80	599,975.80	599,975.80	599,949.90	599,975.80	599,975.80	3,599,828.90
10) Additional Public Funds Without Cap	\$301,107.20	\$309,233.20	\$ 94,087.20	\$176,793.56	\$309,640.20	\$370,603.88	\$1,561,465.24

*The 10 other candidates in the primary election received a cumulative total of \$2,773,830.38. Given that these 10 candidates would not have qualified for any further funding even in the absence of a cap on public funds, the Total Public Funds Without Cap (including the 10 other candidates) would be \$7,935,124.52

Source: Cumulative Contribution Listing - Public Financing, a computer prepared report
(Job 6453) May 17, 1982.

TABLE 3.3

**PUBLIC FUNDS AS A PERCENTAGE OF TOTAL RECEIPTS
1981 GUBERNATORIAL PRIMARY CANDIDATES**

<u>Candidates</u>	<u>Non-Public Funds (Net)</u>	<u>Public Funds (Net)</u>	<u>Public Funds As % of Total</u>	<u>Total Receipts</u>
DEMOCRATS				
Buehler	\$ 9,161.00	\$ -0-	-0-	\$ 9,161.00
Degnan (PF)	505,753.88	599,975.80	54.3	1,105,729.68
Dodd (PF)	229,743.72	327,493.69	58.8	557,237.41
Florio (PF)	512,436.80	599,975.80	53.9	1,112,412.60
Gibson (PF)	280,321.00	321,063.77	53.4	601,384.77
Hamilton (PF)	214,773.99	301,729.03	58.4	516,503.02
Klein (PF)	101,941.48	51,978.09	33.8	153,919.57
Lan (PF)	201,220.07	249,919.69	55.4	451,139.76
Mann*	-0-	-0-	-0-	-0-
McConnell (PF)	101,985.27	95,099.88	48.2	197,085.15
Merlino (PF)	397,031.50	599,975.80	60.2	997,007.30
Monyek*	250.00	-0-	-0-	250.00
Roe	1,021,241.23	-0-	-0-	1,021,241.23
Smith (PF)	<u>500,536.76</u>	<u>599,949.90</u>	<u>54.5</u>	<u>1,100,486.66</u>
Subtotal	\$4,076,396.70	\$3,747,161.45	47.9	\$7,823,558.15
Public Funds Candidates' Subtotal	<u>\$3,045,744.47</u>	<u>\$3,747,161.45</u>	<u>55.2</u>	<u>\$6,792,905.92</u>
REPUBLICANS				
Imperiale	\$ 18,301.00	\$ -0-	-0-	\$ 18,301.00
Kean (PF)	530,054.00	599,685.90	53.1	1,129,739.90
Kramer (PF)	547,369.54	599,975.80	52.3	1,147,345.34
McGlynn (PF)	167,468.37	233,916.74	58.3	401,385.11
Parker (PF)	216,241.71	294,895.70	57.7	511,137.41
Rafferty (PF)	187,239.66	246,575.22	56.8	433,814.88
Sullivan	2,167,050.00	-0-	-0-	2,167,050.00
Wallwork (PF)	<u>353,596.72</u>	<u>557,548.95</u>	<u>61.2</u>	<u>911,120.67</u>
Subtotal	<u>4,187,321.00</u>	<u>2,532,598.31</u>	<u>37.7</u>	<u>\$6,719,894.31</u>
Public Funds Candidates' Subtotal	\$2,001,970.00	\$2,532,598.31	55.8	\$4,534,543.31
GRAND TOTAL	<u>\$8,263,717.70</u>	<u>\$6,279,758.76</u>	<u>43.2</u>	<u>\$14,543,452.46</u>
PUBLIC FUNDS CANDIDATES' GRAND TOTAL	<u>\$5,047,714.47</u>	<u>\$6,279,758.76</u>	<u>55.4</u>	<u>\$11,327,449.23</u>

SOURCE: Cumulative Contribution Listing - Public Financing, a computer prepared report
(Job 6453), May 17, 1982

PF = Public Funds Candidate

* Candidates Mann and Monyek filed statements (Form A-1) that they did not raise or spend more than \$1,000 on their campaigns.

TABLE 3.4

ESTIMATE OF DECREASE IN PUBLIC FUNDS FROM REDUCING THE \$2 FOR \$1 MATCH RATIO TO:
 \$1.75 FOR \$1; \$1.50 FOR \$1; \$1.25 FOR \$1; AND \$1.00 FOR \$1

(Assumes cap on public funds is unchanged, i.e. 20¢ per voter in primary and 40¢ per voter in the general)

MATCHING RATIOS

Candidates	1981 Matchable Contributions (A)	\$2.00 for \$1	\$1.75 for \$1	\$1.50 for \$1	\$1.25 for \$1	\$1.00 for \$1
DEMOCRATS						
Buehler	\$ 9,161.00	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Degnan (PF)	500,541.50	599,975.80	599,975.80	599,975.80	563,176.80	450,541.50
Dodd (PF)	213,450.44	327,543.77	286,038.27	245,175.66	204,313.05	163,450.44
Florio (PF)	504,604.50	599,975.80	599,975.80	599,975.80	568,255.63	454,604.50
Gibson (PF)	279,421.00	393,879.00	401,486.75	344,131.50	286,776.25	229,421.00
Hamilton (PF)	213,855.90	309,678.76	286,747.82	245,783.85	204,819.88	163,855.90
Klein (PF)	77,741.48	52,763.74	48,547.59	41,612.22	34,676.85	27,741.48
Lan (PF)	192,954.00	249,919.69	250,169.50	214,431.00	178,692.50	142,954.00
Mann (B)	-0-	-0-	-0-	-0-	-0-	-0-
McConnell (PF)	101,282.44	95,916.72	89,744.27	76,923.66	64,103.05	51,282.44
Merlino (PF)	397,031.50	599,975.80	599,975.80	520,547.25	433,789.38	347,031.73
Monyek (B)	250.00	-0-	-0-	-0-	-0-	-0-
Roe	928,241.23	-0-	-0-	-0-	-0-	-0-
Smith (PF)	438,371.73	599,949.90	599,975.80	582,557.60	485,464.66	388,371.73
Subtotal	\$3,856,906.72	\$3,829,578.98	\$3,762,637.40	\$3,471,114.34	\$3,024,068.05	\$2,419,254.87
Decrease in Public Funds		NA	\$ 66,941.58	\$ 358,464.64	\$ 805,510.93	\$1,410,324.11
Decrease as a Percent		NA	1.7%	9.4%	21.0%	36.8%
REPUBLICANS						
Imperiale	\$ 9,969.00	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Kean (PF)	504,808.00	599,975.80	599,975.80	599,975.80	568,510.00	454,808.00
Kramer (PF)	535,289.84	599,975.80	599,975.80	599,975.80	599,975.80	485,289.84
McGlynn (PF)	\$ 167,093.37	233,916.74	204,913.40	175,640.06	146,366.71	117,093.37
Parker (PF)	213,639.50	306,042.00	286,369.13	245,459.25	204,549.38	163,639.50

(more)

REPUBLICANS (continued)

MATCHING RATIOS (continued)

Rafferty (PF)	\$ 182,450.66	\$ 246,575.22	\$ 231,788.66	\$ 198,675.99	\$ 165,563.33	\$ 132,450.66
Sullivan	328,055.00	-0-	-0-	-0-	-0-	-0-
Wallwork (PF)	<u>329,571.72</u>	<u>557,594.74</u>	<u>489,250.51</u>	<u>419,357.58</u>	<u>349,464.65</u>	<u>279,571.72</u>
Subtotal	<u>\$2,270,877.09</u>	<u>\$2,544,080.30</u>	<u>\$2,412,273.30</u>	<u>\$2,239,084.48</u>	<u>\$2,034,429.87</u>	<u>\$1,632,853.09</u>
Decrease in Public Funds		NA	\$ 131,807.00	\$ 304,995.82	\$ 509,650.43	\$ 911,227.21
Decrease as a Percent		NA	5.2%	12.0%	20.0%	35.8%
PRIMARY TOTAL	<u>\$6,127,783.81</u>	<u>\$6,373,659.28</u>	<u>\$6,174,910.70</u>	<u>\$5,710,198.82</u>	<u>\$5,058,497.92</u>	<u>\$4,052,107.96</u>
Decrease in Primary Public Funds		NA	\$ 198,748.58	\$ 663,460.46	\$ 1,315,161.36	\$ 2,321,551.32
Decrease as a Percent		NA	3.1%	10.4%	20.6%	36.4%

GENERAL ELECTION:

Florio (D) (PF)	\$1,228,860.94	\$1,199,951.60	\$1,199,951.60	\$1,199,951.60	\$1,199,951.60	\$1,199,951.60
Kean (R) (PF)	\$1,116,730.50	\$1,199,951.60	\$1,199,951.60	\$1,199,951.60	\$1,199,951.60	\$1,106,730.50
GENERAL TOTAL	<u>\$2,345,591.44</u>	<u>\$2,399,903.20</u>	<u>\$2,399,903.20</u>	<u>\$2,399,903.20</u>	<u>\$2,399,903.20</u>	<u>\$2,316,682.10</u>
Decrease in Public Funds		NA	none	none	none	\$ 83,221.10
Decrease as a Percent		NA				3.5%

Source: Cumulative Contribution Listing - Public Financing - a computer prepared report (JOB 6453), May 17, 1982

Footnote: (A) Includes submitted for match and not submitted for match. Does not include other receipts: candidates' funds in excess of \$800; bank loans; interest earned on invested contributions; and public solicitations.

(B) Candidates Mann and Monyek filed statements that they did not raise or spend more than \$1,000 on their campaigns.

NA - Not applicable

PF - Public Funds Candidate

TABLE 3.5a
ESTIMATE OF DECREASE IN PUBLIC FUNDS RESULTING
FROM REDUCING THE CAP ON PUBLIC FUNDS
1981 PRIMARY ELECTION
(Assumes the two for one matching ratio remains unchanged)

page 1 of 2

Cap on Public Funds
(Cents Per Voter in Presidential Election)
 (assumes 2,999,879 voters) *

Candidate	1981 Actual 20¢	19¢	18¢	17.5¢	17¢	16.5¢	16¢	15¢
Primary								
DEMOCRATS								
Degnan	\$ 599,975.80	\$ 569,977.01	\$ 539,978.22	\$ 524,978.83	\$ 509,979.43	\$ 494,980.04	\$ 479,980.64	\$ 449,981.85
Dodd	327,543.77	-----No Change-----						
Florio	599,975.80	569,977.01	539,978.22	524,978.83	509,979.43	\$ 494,980.04	479,980.64	449,981.85
Gibson	393,879.00	-----No Change-----						
Hamilton	309,678.76	-----No Change-----						
Klein	52,763.74	-----No Change-----						
Lan	249,919.69	-----No Change-----						
McConnell	95,916.72	-----No Change-----						
Merlino	599,975.80	569,977.01	539,978.22	524,978.83	509,979.43	494,980.04	479,980.64	449,981.85
Smith	599,949.90	569,977.01	539,978.22	524,978.83	509,979.43	494,980.04	479,980.64	449,981.85
Democrat Subtotal	\$3,829,578.98*	\$3,709,609.72	\$3,589,614.56	\$3,529,617.00	\$3,469,619.40	\$3,409,621.84	\$3,349,624.24	\$3,229,629.08
Reduction	NA	\$ 119,969.26	\$ 239,964.42	\$ 299,961.98	\$ 359,959.58	\$ 419,957.14	\$ 479,954.74	\$ 599,949.90
Reduction as a percent		3.1%	6.3%	7.8%	9.4%	11.0%	12.5%	15.7%

--more--

3.10

TABLE 3.5a (continued)

REPUBLICANS

Kean	\$ 599,975.80	\$ 569,977.01	\$ 539,978.22	\$ 524,978.83	\$ 509,979.43	\$ 494,980.04	\$ 479,980.64	\$ 449,981.85
Kramer	599,975.80	569,977.01	539,978.22	524,978.83	509,979.43	494,980.04	479,980.64	449,981.85
McGlynn	233,916.74				No Change			
Parker	306,042.00				No Change			
Rafferty	246,575.22				No Change			
Wallwork	557,594.74	557,594.74	539,978.22	524,978.83	509,979.43	494,980.04	479,980.64	449,981.85
Republican Subtotal	<u>\$2,544,080.30*</u>	\$2,484,082.82	\$2,406,468.62	\$2,361,470.45	\$2,316,472.25	\$2,271,474.08	\$2,226,475.88	\$2,136,479.51
Reduction	NA	\$ 59,997.58	\$ 137,611.68	\$ 182,609.85	\$ 227,608.05	\$ 272,606.22	\$ 317,604.42	\$ 407,600.79
Reduction as a percent		2.4%	5.4%	7.2%	8.9%	10.7%	12.5%	16.0%
TOTAL PRIMARY	<u>\$6,373,659.28*</u>	\$6,193,692.44	\$5,996,083.18	\$5,891,087.45	\$5,786,091.65	\$5,681,095.92	\$5,576,100.12	\$5,366,108.59
Reduction	NA	\$ 179,966.84	\$ 377,576.10	\$ 482,571.83	\$ 587,567.63	\$ 692,563.36	\$ 797,559.16	\$1,007,550.69
Reduction as a percent		2.8%	5.9%	7.6%	9.2%	10.9%	12.5%	15.8%

*1981 Actual Public Funds are gross funds; as of May 17, 1982, primary candidates have refunded \$93,899.52.

TABLE 3.5b

ESTIMATE OF DECREASE IN PUBLIC FUNDS
RESULTING FROM REDUCING THE CAP ON PUBLIC FUNDS
1981 GENERAL ELECTION

Cap on Public Funds	Per Candidate		Total		%
	Amount	Reduction	Amount	Reduction	
1981 <u>Actual</u>					
40 ¢	\$1,199,951.60	N/A	\$2,399,903.20	N/A	N/A
38 ¢	1,139,954.02	59,998.58	2,279,908.04	119,995.16	5.0
36 ¢	1,079,956.44	119,995.16	2,159,912.88	239,990.72	10.0
35 ¢	1,049,957.65	149,993.95	2,099,915.30	299,988.30	12.5
34 ¢	1,019,958.86	179,992.74	2,039,917.72	359,985.88	15.0
33 ¢	989,960.07	199,951.60	1,979,920.14	419,983.46	17.5
32 ¢	959,961.28	239,990.32	1,919,922.56	479,981.04	20.0
30 ¢	899,963.78	299,987.82	1,799,927.56	599,976.20	25.0

NOTE: Each 01¢ reduction in the cap on public funds results in lowering total public funds by \$59,997.58 or \$29,998.79 per candidate, based on 2,999,879 voters in 1980 and assuming only two candidates reaching maximum.

EXPENDITURE LIMIT

TO WHAT EXTENT, IF ANY, SHOULD EXPENDITURES OF PUBLICLY FUNDED GUBERNATORIAL CAMPAIGNS BE LIMITED?

FACTS AND ANALYSIS

1. The expenditure limit in the 1977 general election was 50¢ per voter in the 1976 Presidential election in which there were 3,037,151 voters. Thus, the expenditure limit in 1977 was \$1,518,575.50.
2. P.L. 1980, c. 74 raised the expenditure limit for the 1981 general election to 70¢ per voter; there were 2,999,989 voters in 1980 and, thus, the expenditure limit for the 1981 general election was \$2,099,915.30. The 20¢ increase from 50¢ to 70¢ represented a 28.6 percent increase. The same law imposed a limit of 35¢ per voter in the primary, or \$1,049,957.65.
3. In the 1977 and 1981 general elections, no candidate exceeded the spending limit. The amounts spent within the expenditure limit for the four candidates were as follows:

Comparison of Gubernatorial General Election Expenditures
Within Expenditure Limit 1977 and 1981

<u>Election Year</u>	<u>Democrats</u>	<u>Republicans</u>
1981		
Amount Spent	\$2,076,421.22 (Florio)	\$2,072,702.62 (Kean)
Amount Under Limit	\$ 23,494.08	\$ 27,212.68
1977		
Amount Spent	\$1,505,877.00 (Byrne)	\$1,496,188.00 (Bateman)
Amount Under Limit	\$ 12,698.50	\$ 22,387.50

Note: 1981 data are as of May 17, 1982 and are incomplete; neither campaign has closed out its accounts.

4. In the 1981 primary, five candidates received the maximum public funds of \$599,975.80 and raised enough in private contributions to have the potential to spend beyond the limit; Degan, Florio, and Smith, Democrats, and Kean and Kramer, Republicans. (Candidate Merlino, (D) received the maximum public funds but did not raise enough private contributions to go over the spending limit. Joseph Sullivan (R) spent well over the expenditure limit, \$2,167,050.00. He did not take public funds and, thus, was not bound by the expenditure limit.)

The amounts spent within the expenditure limit by the five 1981 primary candidates were:

<u>Candidate</u>	<u>Amount Spent</u> <u>Within Limit</u>	<u>Amount</u> <u>Under Limit</u>
Degan(D) *	\$1,048,187.83	\$ 1,769.82
Florio (D) *	1,040,979.75	8,977.90
Smith (D) *	1,033,394.30	16,563.35
Kean (R)	1,049,361.19	596.46
Kramer (R)	1,010,962.69	38,994.96

Source: Pre- and post-election reports through April 19, 1982.

* Data are not final; these campaigns have not submitted a final report.

Expenditures outside the expenditure limit are: candidate's travel; food and beverage for fund raising events; election night activities; and legal and accounting costs of complying with the public finance law.

5. In the 1981 primary, violations of the expenditure limit did not become an issue. The Commission did review one case on the expenditure limit. Following a review of the 25-day pre-election reports, the staff noted a wide range in amounts spent outside the limit by the six candidates with the resources to spend beyond the expenditure limit. The amounts spent outside the expenditure limit and the percentage of the total expenditures represented by those amounts are set forth below:

<u>Comparison of Amounts Spent</u>		
<u>Outside Expenditure and Percent of Total Expenditure</u>		
<u>1981 Gubernatorial Primary Candidates</u>		
<u>Candidate</u>	<u>Amount Outside Expenditure Limit</u>	<u>% of Total Expenditures</u>
Degnan (D)	\$ 6,261.79	1.14
Florio (D)	28,867.81	6.07
Merlino (D)	130,627.21	17.32
Smith (D)	42,950.09	5.05
Kean (R)	35,526.50	6.99
Kramer (R)	146,700.00	15.44

Source: Line 5, Table II 25-Day Pre-election Report, May 8, 1981

Because of this wide range of amounts spent not subject to the expenditure limit and the variation among the six candidacies, ELEC staff reviewed the Merlino report which had shown the largest percentage of total expenditures represented by expenditures outside the expenditure limit. The major components of the expenditures outside the limit for the Merlino campaign were staff costs reported as spent on compliance. However, on the ELEC staff representation that all of the persons, listed in the Merlino report as having worked on compliance, were known to ELEC through personal visits to ELEC offices or through telephonic communications, the Commission decided the amount spent on compliance appeared reasonable and no further action was taken by the Commission or by the staff. Furthermore, the Merlino issue became moot when his campaign failed to raise sufficient private funds to enable the campaign to exceed the spending limit.

The Degnan campaign presented a second case involving a gubernatorial primary campaign which came close to exceeding the expenditure limit. A representative of the Degnan campaign made an oral request to report all expenditures after the evening of the election as expenditures outside of the expenditure limit. The Commission decided that was not reasonable; for example, when renting campaign office space and equipment and retaining campaign staff to man the office, it would not be reasonable to close that office at 8 p.m. the night of the election. The Commission concluded that those expenditures for closing down an office are "campaign related" and thus within the expenditure limit.

The Degnan campaign also sought to make a loan to a county party committee and consider the loan outside the expenditure limit. The Commission determined that such an expenditure was not related to the primary election campaign and could not be made. (Advisory Opinion 42-81)

In general, the two expenditure limit issues raised during the 1981 primary had no significant impact on the election. The overall issue of expenditure limits and allocation of expenditures in the 1981 primary did not equal the serious issues that arose in the 1977 general election which are described below in paragraph 6.

6. During the 1977 general election campaign, the Commission faced and dealt with the issues of allocation of joint expenditures made by the state political party committees on behalf of the gubernatorial candidate and legislative candidates. The more serious issues involved the allocation of expenditures made by the

Republican State Committee on behalf of the candidacy of then State Senator Raymond Bateman, Republican candidate for Governor. In the closing days of the campaign, the Commission, on November 4, 1977, ordered the Republican State Committee and the Bateman-Governor/77 Committee to adjust their respective shares of the expenditures to reflect a higher allocation to Senator Bateman's campaign. The Commission's reallocation of shared expenses of six different items required the Bateman campaign to pay an additional \$76,337.00 over what it had considered its reasonable allocation.

In the same election, the Commission dealt with a case involving the Byrne for Governor Committee. In that case, the Commission reviewed the allocation of expenditures for radio commercials and decided that the two-thirds allocation for Governor Byrne was unreasonable and that 100 percent of the production and dissemination costs of the radio ads in question should be allocated to the Byrne for Governor Committee. That committee immediately appealed the determination and the earlier Commission determination regarding the allocation of expenses between the Bateman-Governor/77 Committee and the Republican State Committee. On November 4, 1977, the matter was argued and the Appellate Division decided to affirm both determinations by unanimous vote. This decision was appealed to the New Jersey Supreme Court which affirmed the Appellate Division opinion by a vote of 5-2 on Saturday, November 5, only three days before the election.

As summarized in the Commission's report on the 1977 Public Financing Program, both candidates were affected by decisions regarding the allocation of shared expenses, but the impact was greater on the Bateman campaign. The impact was greater on the Bateman campaign because the Commission's decision required the campaign to spend more than \$75,000 within a planned budget during the final days before the election, thus denying the Bateman campaign budgetary flexibility in the last days of the campaign. The Commission, in its report, noted that had the expenditure limit been nonexistent or at such a level that the campaigns would not feel it necessary to spend the maximum allowable, then budgetary shifts such as those required by the Commission in 1977 would have had little or no impact on the campaign.

7. In the 1981 general election, before the primary took place, representatives of the Republican State Committee met with the ELEC staff and raised the allocation issue, pointing out the difficulties that arose in 1977 and expressing the hope that the 1977 experience would not be repeated in 1981. Soon after the June 5th primary, representatives of the Florio campaign and the Democratic State Committee met with ELEC staff on the allocation issue. Subsequently, representatives of Mr. Kean and Congressman Florio and the Republican State Committee and the Democratic State Committee raised the allocation issue by means of requests for advisory opinions. The Commission merged those requests into one advisory opinion, 33-81 (copy of which is attached). That opinion, among other things, set forth the standard of 25 percent to be allocated to the gubernatorial candidate if the candidate's name or image or the office of Governor appeared in an advertisement. The opinion also set the standard that if one or more candidates, other than the gubernatorial candidate, were mentioned in the advertisement, then at least 10 percent would be allocated to those other candidates. Thus, in 1981, the range of risk was from 25 percent to 90 percent for a joint expenditure as compared to the range of risk in 1977 of 0 percent to 100 percent.
8. Despite the issuance of Advisory Opinion 33-81, the Commission still had to resolve individual cases brought to its attention by one of the campaigns or through other sources of information. Among the cases reviewed and decided by the Commission were the following:
 - (a) The Florio campaign in August asked the Commission to review a mock-up of a flyer prepared for the candidacies of Feldman (Senate) and Baer and Mazur (Assembly) in the 37th legislative district. In this case, the name of Mr. Florio was listed along with three freeholder candidates and one sheriff candidate in Bergen county on the back page of a six-page flyer. The Commission's decision was that the support given to Mr. Florio was minimal and that only 5 percent of the expenditure had to be allocated to the Florio campaign.
 - (b) Vice President George Bush visited New Jersey on behalf of legislative candidates and on behalf of Mr. Kean, Republican candidate for Governor. He attended two events held on the same day. The first event was a rally for legislative candidates and the second was a reception for Mr. Kean. Mr. Kean

attended both events. Although the proceeds from the rally for the legislative candidates went to the State Committee and the Legislative Campaign Account, the Commission determined that 25 percent of the costs associated with the Vice President's visit for the legislative event had to be allocated to the gubernatorial candidate, Mr. Kean.

- (c) It came to the Commission's attention that fund raising letters, signed by President Reagan and Vice President Bush, soliciting funds for the legislative campaign but mentioning the name of Mr. Kean, the gubernatorial candidate, had been mailed to residents of New Jersey. After reviewing the 25-day pre-election report submitted by the Republican State Committee and the Kean for Governor Committee and identifying expenditures for fund raising letters of which 10 percent of the costs were allocated to the gubernatorial candidate, the Commission decided that the percentage should have been 25 percent based in part on the text of the two letters which mentioned Mr. Kean.
- (d) About two weeks before the election, the Republican State Committee filed a formal complaint with ELEC alleging that expenditures were being made on behalf of the Democratic gubernatorial candidate, Mr. Florio, and that those expenditures did not appear in the Florio 25-day pre-election expenditure report. The complaint contained five counts and was accompanied by a motion for emergent relief seeking an immediate pre-election hearing. The Commission dismissed the motion, concluding that the issues presented did not warrant the extraordinary relief requested. This action was based on a determination that the issues alleged in the complaint were the type of matters which would and could be addressed by the Commission in its administration of the Campaign Contributions and Expenditures Reporting Act. Among those that have been decided was an allocation of the expenditures for posters and billboards on behalf of Senator Perskie and Mr. Florio, a portion of which had already been allocated by the Florio campaign, and the allocation of expenditures made by the Camden County Democratic Organization on behalf of freeholder and legislative candidates and on behalf of Mr. Florio. In the latter case, the Commission determined that the expenditures were not "independent" in accordance with N.J.A.C. 19:25-15.25(b) and that 50 percent of the expenditures had to be allocated to the gubernatorial candidate. The total amount involved was \$604.00 and the amount was subsequently reflected in the Florio report.
- (e) Commission staff, through its review of reports filed by other entities* and through other sources such as newspaper articles, identified three cases involving the Republican candidate and nine cases involving the Democratic candidate wherein allocations were made to Mr. Florio or Mr. Kean and those costs were not reflected in the gubernatorial candidates' reports. The investigations focused on the issues of "independence" and whether a violation of the statute or regulations occurred.

* The entities whose reports included expenditures on behalf of a gubernatorial candidate were: League of Conservation Voters; Environmental Campaign 81 Fund; Hudson County Dinner Committee; Tom Kean Open Golf Day; and Jersey City Democratic Committee.

(An "independent expenditure" is defined in N.J.A.C. 19:25-15.3 as "...an expenditure in aid of a candidate which is not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, the candidate or any person or committee acting on behalf of the candidate.")

In all of these cases, the dollar amounts are not large; the largest in any one case is \$14,600 and most of the others are in the hundreds or low thousands. Although both campaigns are close to the expenditure limit, they should be able to absorb whatever additional costs may be allocated to them through Commission decisions.

The significance of these cases arises from the expenditure limit; the cases would have almost no impact or importance if there were no expenditure limit. Both campaigns refunded contributions they could not use because of the expenditure limit and thus would have had sufficient funds to pay for these additional costs.

- 9. The U.S. Supreme Court decision in *Buckley v. Valeo* holds that state imposed limitations on the amount of money a candidate for public office may spend on behalf of his candidacy violates the First Amendment unless that candidate chooses to accept public funds.

10. After the 1977 gubernatorial election, Assembly Bill 1698 was introduced on October 5, 1978. The bill, supported by the Election Law Enforcement Commission, provided for the extension of public financing to the gubernatorial primary election and entirely eliminated any overall expenditure limit. This bill, after adoption by the Legislature, was pocket vetoed by Governor Byrne who filed a statement on the pocket veto on March 5, 1980. In response to that action, P.L. 1980, c.74 was approved on July 23, 1980, providing public financing for primary elections and including expenditure limits on both the primary and general election candidates who accepted public funds.
11. The arguments presented in favor of overall expenditure limits are: they prevent excessive campaign expenditures and public funds should not be provided to a candidate with access to sufficient private funds to run a campaign. These concerns were the focal point of the statement that Governor Byrne prepared on the occasion of his pocket veto of Assembly Bill 1698. In his message, Governor Byrne anticipated that approximately \$5 million in state funds would be spent in the primary election alone. Despite the expenditure limitation, the total expenditure of public funds to candidates exceeded \$6.3 million in the 1981 primary election. Furthermore, it is the cap on public funds and the matching ratio which restrain the total public funds, not the expenditure limit. Another argument raised in support of expenditure limits is that they increase competition and equalize a perceived advantage enjoyed by incumbent candidates. The argument is that if all the candidates who receive public financing are subject to a uniform limitation on spending, the inherent advantage that an incumbent enjoys will be substantially offset. A contrary argument is that candidates who oppose incumbents may need to spend more in order to have equal access to the public media and to reach the electorate. Furthermore, there was no incumbent candidate in the 1981 New Jersey gubernatorial primary. Finally, more than any other factor, advocates of contribution limits appear to be alarmed at the specter of a candidate receiving maximum public funds while at the same time successfully raising private contributions enabling expenditures far in excess of any other candidate. A related argument by the advocates of expenditure limits is that campaign costs are much too large and the imposition of an expenditure limit is one way to keep these costs down.
12. The principal arguments in favor of eliminating expenditure limits are as follows:
 - (a) If the election process includes limits on contributions, loans and a candidate's own personal funds, and a cap on the amount of public funds available to any candidate, then expenditure limits are unnecessary and undesirable. This was the Commission's position as stated in its report on the 1977 election, page 34.
 - (b) Expenditure limits do not serve the major purpose of campaign finance limitations, that is, to reduce the potential for undue influence by contributors of large sums of money.
 - (c) The imposition of expenditure limits on gubernatorial candidates compels those candidates to divorce themselves from their State Committees and from the legislative and local candidates in their parties. Local and legislative candidates are restrained from using the gubernatorial candidate's name. This separation is artificial and could be a hindrance for the successful candidate when he or she serves as Governor and must work with the legislature and with local officials.
 - (d) Expenditure limits unduly restrict and narrow campaign funding by cutting off all contributions in any amount at an arbitrary point.
 - (e) Limits unduly restrict the potential for communication by the candidates with the voters because of the arbitrary cutoff of resources.
 - (f) Limits may become, in the absence of adjustments for inflation, so low that public financing no longer becomes an attractive alternative.
 - (g) Observance and enforcement of the expenditure limit is very difficult and arbitrary. Where an expenditure is made on behalf of several candidates, one of whom is conducting a publicly financed campaign, there is a great deal of confusion and lack of standards in determining the appropriate percentage of such an expenditure to be attributed to that candidate.

14. The respondents to the Commission's questionnaire differed widely on the question of the expenditure limit in the primary. Former Attorney General John Degnan said: "I believe that the cap on expenditures is a healthy element of the law and ought to be retained. It obviously set a defined objective for fund raising, required critical decisions about the level of spending at any given point during the campaign and kept the overall spending somewhat in check." Secretary of State Donald Lan said that "... (the limit of a million dollars) is somewhat more than is necessary for a New Jersey gubernatorial primary campaign." And Senator Merlino said: "The spending ceiling allowed for a realistic budget planning right from the start. Every candidate had a target to shoot for, and knew what amount he could not exceed. While my campaign fell just a hair shy of the maximum, knowing it was there prevented desperation fund raising when rival candidates ran ahead." Congressman Roe said: "The limit of 35¢ per voter is adequate. The limit should be imposed on all candidates whether or not they accept public financing." (The latter is not possible because of the Supreme Court decision in Buckley v. Valeo.)

Thomas Brown (Dodd) said: "I do not believe that this limit had any impact on fund raising and I do not believe it should be changed, as the only impact it would have on the running of a campaign is to keep all candidates at approximately the same expenditure level and not allow someone to go out and buy the campaign by overspending in media or otherwise." Fran Rien, campaign manager for Senator Merlino, said: "the expenditure limit made frugality, long-range planning, budget and willpower not simply virtues but rather necessities! It helped fund raising because 'The end was always in sight.' It also helped to explain to contributors how their money was being spent. (After all, the budget was my Bible!). I guess I would like to see the expenditure limit raised, but \$1,000,000.00 is sort of obscene".

The Mayor of Paterson, Lawrence Kramer, said: "It is my feeling that \$1,049,957 is an unnecessarily high ceiling. A campaign can be mounted within the State of New Jersey for much less money... The type of analytical reporting normally undertaken by the press is far more informative to the public than constant 30- and 60-second TV commercials. The costs of these commercials is incredibly high, with listenership reaching throughout the metropolitan area. It seems rather foolish for the State to be forced to subsidize the proliferation of such pieces, which reach far more nonvoters than voters. It would seem to me that a ceiling somewhere in the area of \$750,000.00 would provide more than enough funding for any candidate to reach the voter and still insure a well informed electorate."

The only respondents who opposed the expenditure limit or suggested a higher limit were Roger Lowenstein (Degnan) who said: "It is more equitable, however, so long as there is an \$800 contribution limit, to reward the popular candidates by removing all expenditure limits. I recommend that." And Henry Ramer (Kramer) who said: "... (The expenditure limit) screwed up campaign, removed spontaneity, inhibited volunteerism. Either remove or raise limit or adopt a more lenient test for 'independent action'."

At the January 6, 1982, forum on public financing, held by New Jersey Common Cause, most participants in the panel agreed and urged that expenditure limits be eliminated. Among those so urging were: representatives of the Degnan, Kean primary and Roe campaigns; Richard McGlynn, Republican Candidate for Governor; and Common Cause.

15. Increasing the expenditure limit by various percentages reflecting inflation rates would have the following results:

Inflation Rate	Primary		General	
	Amount Per Voter (1)	Total Per Campaign (2)	Amount Per Voter (1)	Total Per Campaign (2)
1981 Actual	35¢	\$1,049,957.65	\$.70	\$2,099,915.30
10 percent	51	1,529,938.29	1.02	3,059,876.58
15 percent	61	1,829,926.19	1.22	3,659,852.38
20 percent	73	2,189,911.67	1.45	4,349,824.55

(1) per voter in the previous presidential election; assumes 2,999,879 voters

(2) total within expenditure limit; some costs such as compliance, candidate's travel and food and beverage for fund raising would remain outside the limit

ALTERNATIVES

In the paragraphs below, are posed alternatives on the issue of the expenditure limit after considering the Commission's position in favor of deleting the expenditure limit, the experience with expenditure limits in 1977 and 1981, the changes made in the expenditure limit between 1977 and 1981, and the reasonableness and feasibility of making a particular change.

Alternative #1: Eliminate the expenditure limit.

This would be consistent with the Commission's recommendation after the 1977 general election experience. In the Commission's judgment then, the combination of contribution limits, limits on bank loans and candidate's funds, and limits on the total public funds to any one candidate provide a sufficient restraint on expenditures by limiting total receipts. Eliminating the limit would remove the key reason for the artificial separation of the gubernatorial campaign and the campaigns for local and legislative office.

Alternative #2: Make no change in the expenditure limit of 35¢ and 70¢ for the primary and general elections, respectively.

Making no change might tend to hold down expenditures but would encourage campaigns to find means to effect "independent" expenditures not attributable or allocable to the gubernatorial candidates. Furthermore, it might tend to discourage candidates from taking public funds, as was the experience in Minnesota, because the expenditure limit is too low.

Alternative #3: Increase the limit by some percentage factor, e.g. 15 percent, to \$.60 in the primary and \$1.20 in the general election.

This change would keep the principle of an expenditure limit, but would acknowledge the likelihood of inflation over the next four years. Such a change would result in the following limits for 1985, assuming 3,000,000 voters in the 1984 presidential election: \$1,800,000 in the primary and \$3,600,000 in the general election.

Attachment: Advisory Opinion No. 33-81



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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July 23, 1981

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James J. Florio for Governor, Inc.

Mr. Roger Bodman
Campaign Director
Tom Kean '81 Governor

OPINION 33-1981

Gentlemen:

The Commission has been asked to respond to an inquiry regarding questions of allocation and to an inquiry regarding the status of national party committee and county political party committee expenditures with respect to the forthcoming gubernatorial general election. The response of the Commission follows.

Question 1. Whether the continuing expenses of a state political party committee, such as the salary of the executive director and staff, rent for headquarters and similar recurring costs, are required to be allocated to gubernatorial candidates.

The Commission recognizes that state political party committees incur certain continuing expenses, without respect to whether there will be a gubernatorial election in a given year. It is the view of the Commission that those ongoing expenditures are not allocable to the campaign of the gubernatorial candidate.

Accordingly, expenditures for rent, personnel, overhead, general administrative and other day-to-day costs of the state political party committee would not be allocable to the campaign of the gubernatorial candidate, except in the case in which those expenditures are made on behalf of a clearly defined candidate as described in the answer to Question 2 below.

Question 2. Whether institutional advertising by a state political party committee may properly be allocated entirely to non-gubernatorial candidates.

The Commission is of the view that television and radio advertisement, billboards, direct mail, bumper stickers and other communications, not paid for in any part by the gubernatorial campaign, could properly be allocated entirely to non-gubernatorial candidates so long as the expenditure could fairly be said not to have been made on behalf of the gubernatorial candidate.

Such an expenditure would be made, at least in part, on behalf of the gubernatorial candidate, and thereafter allocable to some extent to the gubernatorial candidate, if (1) either of the gubernatorial candidates is named or visually depicted or referred to; or (2) the office of Governor is named or referred to; or (3) the incumbent governor is named or visually depicted or referred to; or (4) the identity of the candidate, the opponent, or the incumbent governor is apparent by unambiguous reference.

Question 3. Whether advertising on behalf of a gubernatorial candidate could be allocated in some part to persons or organizations other than the gubernatorial candidate.

It is the view of the Commission that communications of the kind described in the preceding question in favor of a gubernatorial candidate or in opposition to the opponent of that gubernatorial candidate would be allocated 100% to the gubernatorial candidate. This would be true whether or not the entire cost of that advertising was paid by the state political party committee.

Question 4. How combined advertising, that is, advertising on behalf of the gubernatorial candidate and other candidates, would be allocated.

This question is necessarily complicated by the fact that a large number of variables can easily be imagined. The Commission is generally of the view that, in the absence of extraordinary circumstances, an ad of this combined type which named or pictured or otherwise clearly identified the gubernatorial candidate would be allocable in an amount not less than 25% to the gubernatorial candidate.

In the simplest case in which the gubernatorial candidate "A" were named together with, for example, "B" and "C" and "D" (a senatorial candidate and two assembly candidates), and equal prominence were given to each of the persons, an allocation of 25% to the gubernatorial candidate would be presumed to be proper in the absence of a substantial showing that some greater allocation to the gubernatorial campaign was called for.

A different question arises where the name of the gubernatorial candidate is linked with, for example, "candidates for senate and assembly" or a similar type of designation. In that case, the Commission is of the view that at least 10% of the cost could properly be allocated to each of those other offices. Whether a greater percentage could be allocated would be a question of fact and would have to depend on the other circumstances involved.

In the case involving one specific example, the mention of the gubernatorial candidate with candidates for 9 other offices (whether or not named) would not result in an allocation of one-tenth of the cost to the gubernatorial candidate. As described above, it would, in the absence of extraordinary circumstances, result in an allocation of at least 25% to the gubernatorial candidate. A piece in favor of "named gubernatorial candidate and the party slate" or "the (named gubernatorial candidate) team" would in all probability be regarded as requiring an allocation of nearly all of the expenditure to the gubernatorial candidate.

Question 5. The extent to which activities, generally known as "party building activities" would be subject to allocation.

(a) The expenses of voter registration would not be allocable in any part to the gubernatorial campaign.

(b) Expenses related to ballot security (as opposed to get-out-the-vote and other election day related activities) would be allocable equally to all candidates of the party appearing on the ballot.

(c) (1) Canvassing and phone banks. No portion of expenditures for the entire ticket or for any combination of non-gubernatorial candidates would be allocable in any part to the gubernatorial campaign, provided that the expenditure met the test described in the answer to Question 2 above.

(2) Voter canvassing, specifically designed to determine whether a voter would vote for the gubernatorial candidate, and the related election day turnout activities on behalf of that candidate, would be allocated 100% to the gubernatorial campaign.

(d) Issue research. The Commission has considered the question of the expense of issues research and has concluded that such expense would be allocable to the gubernatorial candidate to the extent that it could fairly be said to constitute a benefit to the gubernatorial candidate.

Question 6. Allocation of Polling and Survey Research.

Allocation of costs of polls on a question by question basis would be regarded by the Commission as an appropriate way of calculating allocation. With respect to particular kinds of questions, it is the view of the Commission that:

(1) Candidate related questions ("head to head questions") respecting the gubernatorial candidates would be allocated 100% to the gubernatorial campaign.

(2) Demographic questions could properly be allocated among all candidates to whom the poll is made immediately available.

(3) Issue questions relating to the gubernatorial candidate would, in the absence of extraordinary circumstances, be allocable at least 25% to the gubernatorial candidate and issue questions relating exclusively to the gubernatorial campaign would be allocated 100% to the gubernatorial candidate. Questions within those two limits would be allocated to the gubernatorial candidate to the extent that they were for the benefit of the gubernatorial candidate.

(4) Legislative District Polls. Polls commissioned for the benefit of legislative candidates and conducted strictly within a legislative district would not be allocable to the gubernatorial campaign, assuming that nothing in the poll or the use of the poll made it a fair conclusion that the poll was for the benefit of the clearly defined gubernatorial candidate as described in the answer to Question 2 above.

Question 7. The allocation of expense of fundraising appeals.

In general, the allocation of fundraising appeals would be made by charging the costs of such appeals in the same proportion as the funds derived from those appeals were used. There is a caveat here, however, that literature claiming to be fundraising appeals would be allocated to the gubernatorial campaign to the extent that it could reasonably be said to be in fact material benefitting the clearly defined gubernatorial candidate. Accordingly, the mention of the gubernatorial candidate or the signature of the gubernatorial candidate on the solicitation would not necessarily lead to a conclusion that such a piece was in fact a campaign piece, but those would be facts taken into account in evaluating that question.

Question 8. The status of National Political Party Committees.

The Commission has considered the question and its earlier opinion (0-24-77), and has concluded that, in the absence of a specific statutory provision authorizing involvement of the national political party committees in the election process, the Commission should view those committees as persons or political committees under the Act and Regulations, and that accordingly a national political party committee is limited to a contribution to the gubernatorial candidate not in excess of \$800.

Question 9. The Commission has reviewed the question whether the expenditures of county and municipal committees (the \$100,000 provision) are exempt from the expenditure limit imposed upon a candidate. We reaffirm the conclusion of the Commission with respect to the 1977 campaign that these expenditures are included within the expenditure limitations. Our judgment in this regard is buttressed by the fact that the statutory amendments in 1980 specifically changed the wording of the relevant section from "contributions" to "expenditures", so that whatever argument might previously have been made to the effect that what were in fact expenditures by the county organizations were "contributions" under the statute and therefore exempt, cannot now fairly be made as a matter of seeking to ascertain legislative intent.

Very truly yours,

/s/

Edward J. Farrell
Legal Counsel

INTERIM REPORT NO. 5

\$50,000 LIMIT ON BANK LOANS

HOW MUCH IF AT ALL, SHOULD THE \$50,000 LIMIT ON BANK LOANS BE CHANGED? SHOULD THE LIMIT ON BANK LOANS BE LIFTED ENTIRELY?

FACTS AND ANALYSIS

1. For the 1977 general election and the 1981 primary and general elections, the statute prohibited bank loans in excess of \$50,000 for each candidate who accepted public funds. There is no limit on those who do not take public funds. The law also required repayment of bank loans within 30 days of the date of the election in 1977 and within 20 days of the election dates in 1981.
2. In the 1977 general election, Governor Byrne had no bank loans, and Senator Bateman borrowed \$25,000, which was properly repaid. In the 1981 general election, neither Governor Kean nor Congressman Florio took out a bank loan.
3. In the 1981 primary election, only three candidates took out bank loans, as follows:

<u>Candidate</u>	<u>Amount</u>	<u>Date</u>	<u>Date Repaid</u>
Lan (D)	\$50,000.00	March 26, 1981	April 24, 1981
Gibson (D)	50,000.00	April 15, 1981	May 5, 1981
Wallwork (R)	49,214.46	March 5, 1981	March 27, 1981
	49,280.90	April 14, 1981	May 13, 1981

These loans, which could not be co-signed by the candidate in an amount in excess of \$25,000, were taken out by the campaign committees themselves. Presumably, with no collateral for the loans, the committees apparently borrowed on the expectation of receiving public funds. As can be seen in the above table, the loans were of short duration and served as "bridge loans" for cash flow purposes, enabling the campaign committees to purchase media time, for example, with the borrowed funds and then repaying the loan when public funds were deposited in the campaign's public funds account. All loans were repaid prior to the 20th day before the date of the election.

4. One of the principal reasons for imposing the limit on bank loans is to prevent gubernatorial candidates from ending their campaigns heavily in debt, as was the case prior to public financing, and then using their influential position as Governor to raise funds to pay off the debt.
5. Only one of the publicly funded candidates in the 1981 primary (as of April 19, 1982) ended his or her campaign in debt, and the debt is small: Thomas F. X. Smith - \$1,338.23. In the Smith case, most of the debt came about from an unanticipated large tax liability on the interest earned on invested contributions. Other committees ended the campaign with payroll tax liabilities higher than expected but not so high as to put the campaign in debt. (See Table 5.1 "Public Funds Refunded, Remaining Cash on Hand and Outstanding Obligations - 1981 Gubernatorial Primary and General Election Candidates".)
6. Of the other 15 publicly funded campaigns, three have closed out their accounts with no surplus - Merlino, Kramer, and Rafferty; another six have closed out their accounts and refunded monies to the New Jersey Gubernatorial Fund: Gibson, Hamilton, Klein, Kean, Parker and Wallwork. Four other campaigns, Degnan, Florio, Lan and McGlynn, have unresolved outstanding obligations which, when settled, may result in surplus funds being returned to the State. Two other campaigns, Dodd and McConnell, refunded some monies but still have unresolved outstanding obligations.

7. The experience of the publicly funded campaigns contrasts sharply with that of the non-publicly funded 1981 primary campaigns of Congressman Robert Roe (D) and Joseph Sullivan (R). Congressman Roe borrowed a total of \$135,000, and, as of the last post-election report, April 19, 1982, his campaign owed three banks a total of \$88,000. Mr Sullivan borrowed a total of \$50,000 from banks and \$1,817,000 from himself and ended his campaign with the latter amount still outstanding to himself.

In 1973, Governor Byrne ended his general election campaign \$132,000 in debt which was taken over by the Democratic State Committee in June 1974. Both Governor Byrne and Senator Bateman incurred large 1977 primary election debts. Governor Byrne was able to repay his debt of nearly \$200,000 during the general election campaign and through inaugural events. However, Senator Bateman owed \$210,000 on his primary election campaign at the end of 1977, and the debt was not repaid until August 16, 1978.

8. The Commission experienced no problems in enforcing the 30-day (1977) and 20-day (1981) pay-back provision of the \$50,000 bank loan clause.

9. Increasing the dollar amount of the bank loan limit by various percentages compounded to allow for inflation would have the following results:

10 percent compounded \$ 73,205 rounded to \$ 73,000
15 percent compounded \$ 87,450 rounded to \$ 87,000
20 percent compounded \$103,680 rounded to \$ 104,000

10. The respondents to the questionnaire disagreed on whether changes should be made in the bank loan provision. For example, Senator Merlino stated: "The limit on bank loans helps prevent deficit campaigns. We could live with it. In fact, I think the campaign was better off without desperate loan floating at the end." Mayor Lawrence Kramer stated "I find no difficulty with the bank loan requirements. However, I would suggest delaying repayment deadline to ten days before the end of the campaign. The period three weeks prior to the election day often is a very critical time for placing media and finalizing mail commitments. Since almost all political expenditures must be paid in advance, it could become critical at this period to float a loan in order to insure adequate media placement. A delay in repayment to ten or even five days prior to the election could prove very helpful." Secretary of State Lan and Senator Parker also supported the existing provision in the law as did the following treasurers and campaign officials as follows: Lowenstein (Degnan); Rein (Merlino); and Shillingburg (Klein).

On the other hand, candidate Joseph Sullivan stated: "(the loan limit should be raised to) \$100,000 to reflect reality that many campaign expenses are front end loaded campaigns. Repayment should be required subsequent to the election, so that the candidates do not have to diminish campaign funds at a critical time to pay back a loan." Thomas Brown, Senator Dodd's treasurer, stated: "I do believe that there should be limits on the amount of bank loans allowed to be made by a campaign, but I believe that \$50,000 is too low. I figure somewhere in the vicinity of \$100,000 would be more appropriate. I believe that the payback in 20 days prior to the election should be changed to allow the campaign to make the payback within 20 days after the election." John Ricci, Mayor Rafferty's deputy treasurer, concurred with Mr. Brown and stated: "The limit should be raised to \$100,000. The payment should be 20 days after election. These loans are primarily for cash flow. Banks won't lend the money to a campaign unless they are 100 percent certain of repayment."

ALTERNATIVES

Below are posed four alternatives for consideration. None of the bills introduced in the Legislature proposes any changes in the \$50,000 bank loan provision. The four alternatives are based on what changes might be reasonable and feasible of enactment.

Alternative #1: Make no change in the \$50,000 bank loan provision.

Although bank loans were not used at all in the general election and were used only four times by three

candidates in the primary, they did serve a useful purpose in providing funds to a campaign to "bridge" a cash flow problem until public funds were deposited and available. This might have been crucial to two of the campaigns which used bank loans, Gibson's and Wallwork's, both of which started slowly in their fund raising and, toward the end of the campaign, greatly accelerated their receipt of contributions.

Alternative #2: Prohibit bank loans entirely.

The bank loan limit provision entered the law, apparently, because of the large debts with which gubernatorial candidates ended their campaigns prior to public financing. Since only three 1981 campaigns used the bank loan provision, it could be argued that there is little need for campaigns to borrow from banks and they should be prohibited from doing so in the future. This would nearly eliminate the problem of seriously debt ridden campaigns that plagued gubernatorial campaigns prior to public financing.

Alternative #3. Increase the limit to reflect anticipated inflation, e.g. 15 percent which would result in a limit of \$87,000.

This change would keep the 1985 dollar amount of the limit on a par with the \$50,000 limit in 1981 while acknowledging that bank loans can serve a limited but important purpose in gubernatorial campaigns.

Alternative #4: Keep a dollar limit on bank loans but change the 20-day pay-back requirement to a date closer to the election, e.g. 15 days.

This would permit a campaign, which is showing acceleration in its fund raising and, presumably, in its support among the electorate, five more days to take advantage of the loan provision. The three to four weeks before an election are particularly critical, and the related cash flow is vitally important in making media buys because the stations must have the funds on hand before agreeing to air commercials. There is a built-in lag of a week or two weeks between the date a contribution is received and the matching public funds deposited and available. The change to 15 days could, in the suggested set of circumstances, be vitally important in enabling a campaign to take out a bank loan "bridging" that built-in lag during the third week before the election.

Interim Report #5 Table:

- 5.1 Public Funds Refunded, Remaining Cash on Hand and Outstanding Obligations - 1981 Gubernatorial Primary and General Election Candidates

TABLE 5.1

PUBLIC FUNDS REFUNDED, REMAINING CASH ON HAND
AND OUTSTANDING OBLIGATIONS - 1981 GUBERNATORIAL
PRIMARY AND GENERAL ELECTION CANDIDATES

<u>CANDIDATE</u>	<u>PUBLIC FUNDS REFUNDED</u>	<u>REMAINING CASH ON HAND</u>	<u>OUTSTANDING OBLIGATIONS</u>
<u>Primary</u>			
Degnan	\$ -0-	\$ 420.58	Insurance premium audit and related accounting costs
Dodd	50.08	694.37	Unresolved vendor payment
Florio	-0-	1,044.15	Federal taxes
Gibson	72,815.23	Closed	—
Hamilton	7,949.73	Closed	—
Klein	785.65	Closed	—
Lan	-0-	11,156.89	Worker's Compensation claim ; related legal and accounting costs
McConnell	816.84	438.12	Federal taxes
Merlino	-0-	Closed	—
Smith	-0-	9,661.77	Federal taxes - \$11,000 Estimated
Kean	289.90	Closed	—
Kramer	-0-	Closed	—
McGlynn	-0-	536.44	Accounting costs
Parker	11,146.30	Closed	—
Rafferty	-0-	Closed	—
Wallwork	45.79	Closed	—
Subtotal	<u>\$93,899.52</u>	<u>\$24,415.88</u>	
<u>General</u>			
Florio	-0-	\$ 5,911.85	\$6,000 to Democratic State Committee
Kean	-0-	482.66	None
Subtotal	<u>-0-</u>	<u>\$ 6,394.51</u>	
Total	<u>\$93,899.52</u>	<u>\$30,810.39</u>	

Source : Primary Election Candidates post-election reports through April 19, 1982;
General Election Candidates through May 18, 1982.

INTERIM REPORT NO.6

**LIMITS ON PURPOSES FOR WHICH
 PUBLIC FUNDS MAY BE SPENT**

**WHAT CHANGES, ADDITIONS OR DELETIONS SHOULD BE MADE IN THE STATED
 PURPOSES FOR WHICH PUBLIC FUNDS MAY BE SPENT?**

FACTS AND ANALYSIS

1. In the 1977 general election the purposes for which public funds could be spent were five, as follows:

1. purchase of radio and TV broadcast time;
2. billboard rental;
3. advertising in newspapers and other periodicals;
4. advertising production costs; and
5. costs of printing and mailing campaign literature.

P.L. 1980, c.74, added two additional purposes for which public funds could be spent in the 1981 elections, as follows:

1. payment of the cost of legal and accounting expenses incurred in complying with the public financing statute and Commission regulations regarding public financing; and
2. payment of the cost of telephone deposits and installation charges and monthly billings in excess of deposits.

The addition of the two additional purposes was proposed by the Commission as recommendation #8 in its report on the 1977 election.

2. In the 1977 general election, the two candidates spent their public funds as follows:

	Byrne (D)		Bateman (R)	
Radio and TV Broadcast time	\$ 805,094	76.6%	\$ 661,217	65.5%
Advertising production and consulting	180,000	17.1	96,021	9.5
Newspaper advertising	28,215	2.7	104,774	10.4
Billboards	-0-	-0-	66,973	6.6
Printing, mailing of campaign literature	37,260	3.6	80,735	8.0
Total Public Funds	\$1,050,569	100.0%	\$1,009,720	100.0

Source: Public Financing in New Jersey, N.J. Election Law Enforcement Commission August, 1978, page 22.

Neither Byrne nor Bateman spent any non-public funds on these communication purposes.

3. In the 1981 general election, Congressman Florio and Governor Kean spent almost all of their public funds on media time, advertising production and printing and mailing of campaign literature. Furthermore, both spent privately raised money on communication; Congressman Florio spent over \$604,000 in private money on communication, and Governor Kean, nearly \$580,000.

COMPARISON OF 1981 GENERAL ELECTION
EXPENDITURES OF PUBLIC FUNDS BY CANDIDATES
FLORIO (D) and KEAN (R)

Type of Expenditure	FLORIO (D)			KEAN (R)		
	Total \$	Public Funds \$	%	Total \$	Public Funds \$	%
<u>Communication:</u>						
Radio, TV broadcast time	\$1,347,316	\$1,109,952	92.5	\$1,401,399	\$1,051,426	87.6
Advertising production and consulting	\$ 100,547	90,000	7.5	116,106	60,000	5.0
Newspaper advertising	3,551	-0-		9,348	-0-	
Billboards	1,825	-0-		89	-0-	
Printing, mailing of campaign literature	351,113	-0-		252,904	88,526	7.4
Subtotal	\$1,804,352	\$1,199,952	100.0	\$1,779,846	\$1,199,952	100.0
Telephone*	*	-0-	-0-	*	-0-	-0-
Compliance	108,145	-0-	-0-	121,033	-0-	-0-
Other	458,313**	-0-	-0-	462,929	-0-	-0-
TOTAL	\$2,370,810	\$1,199,952	-0-	\$2,363,808	\$1,199,952	-0-

*telephone costs included with "Other" ** does not include \$50,000 transferred to "recount"

Public Funds as a Percent of Total: Florio: 50.6% Kean: 50.7%

Source: Pre- and Post-Election reports (Form G-1) filed by Florio and Kean campaigns through May 18, 1982.

- In its report on the 1977 election, the Commission concluded that the effect of providing public funding and imposing prescribed uses for those public funds was to increase the percentage of total campaign expenditures spent for communication purposes. In 1977, Governor Byrne spent 63 percent and Senator Bateman spent 61.5 percent of their total expenditures for communication; in 1973, the comparable percentages were 55 percent and 51 percent for Governor Byrne and former Congressman Sandman, respectively. In 1977, the campaigns spent only public funds on communication and did not supplement the public funds with private funds.

In 1981, both Congressman Florio and Governor Kean spent about \$600,000 in privately raised funds on communication. Thus, it can no longer be concluded that it is the public funds and the prescribed uses for those funds that are causing the increase in the percentage of total campaign expenditures being spent on communication purposes. More likely, it is the changed nature of campaigning, i.e. increased reliance on TV and radio advertising and direct mail, that had caused the increase in spending for communication and a corresponding 50 percent decrease in spending on "administration" which would include staff, polls and offices, the traditional organizational type of campaign. (See Table 6.1, "Comparison of Expenditures of 1981, 1977 and 1973 Gubernatorial Candidates"). Also refer to paragraph 9, below which discusses the spending of public funds by 1981 primary candidates.

5. According to the Commission's report on the 1977 election, staff of both the Bateman and Byrne campaigns were critical of the statutory provision as unduly restrictive and arbitrary. They argued that public funds should be available for any legitimate campaign expenditure or, at least, for other means of direct communication with voters such as telephone banks, polls and storefront headquarters.

The Commission countered as follows:

"While we believe that some additional flexibility in the use of public funds is desirable, we conclude that the concept of limiting their use to certain enumerated purposes is sound in the present context. If the experiment of public financing of election campaigns is to succeed, it must have general acceptance by the public. A key element in such acceptance is the fact and perception that taxpayers' funds used for this are not 'abused'. If public funds were available for payment of certain legal campaign expenditures, such as 'street money', and payment of campaign salaries to relatives of the candidate, for example, this might seriously undermine public acceptance." (Public Financing in New Jersey, pp. 37-38)

In considering whether to expand the list of permitted uses of public funds to provide campaigns with more flexibility, it should be kept in mind that the proportion of total funds represented by public funds will most likely go down in each forthcoming gubernatorial election, assuming that the expenditure limit will be raised or eliminated entirely and that the sole source of public funds will be the income tax check-off.

7. One of the criticisms of public financing is that too much public money was spent on TV and radio advertisements aired on New York and Philadelphia stations. The criticism was frequently phrased that New Jersey taxpayers' money was being used to subsidize New York City and Philadelphia stations. (In the 1981 Legislature, A-3471 was introduced by then Speaker Jackman to require that 70 percent of the public funds used for the media be used on New Jersey media.) Those who make this criticism propose that a specific amount or a percentage of the public funds given to any one candidate and spent on non-New Jersey media should be limited.

From the candidates' reports it is impossible to estimate how much of the public money was spent outside the State, but with New Jersey having no commercial TV station, it is likely that a large percentage of the money spent on TV advertisements was spent with New York and Philadelphia stations. Furthermore, many of the media consultants used by the candidates are based outside of New Jersey, and thus, some or all of the production costs are incurred outside New Jersey; for example: Kean-Bailey, Deardourff & Associates of McClean, Virginia; Florio-Cromer & Young Group, Inc., of Harrisburg, Pennsylvania; Degnan-Garth Group of New York City; Kramer-Larry Eastland Associates of West Hartford, Connecticut; and Smith-Barry Huey Advertising, Inc., of Birmingham, Alabama.

An argument against placing any limit on public monies spent on TV and radio stations outside New Jersey is that the public funds were intended to aid candidates to communicate with the electorate and current campaign techniques are focused on the use of TV and radio as an efficient and effective means of reaching most voters. This is the case even in New Jersey where a large portion of the audience for the ads are not New Jersey residents and voters because of the nature of the TV and radio markets.

8. During the primary, the Commission issued Advisory Opinions on the use of public funds, as follows:

AO 06-81 (April 14, 1981)

In this opinion, the Commission approved the use of public funds for: (a) computer services to store mailing lists and prepare mailing labels for campaign literature; (b) computer services to store statistical data and contributor records if related to accounting expenses; (c) computer services to synthesize and reorganize mailing lists, if related to accounting; (d) writing, layout and design costs of printing campaign literature; (e) private mail house services of printing and mailing campaign literature; and (f) campaign buttons and bumper stickers. The Commission also decided that public funds could not be used for: (a) computer services to store lists of telephone numbers for use in a telephone bank; (b) computer services for storing statistical data and contributor records not related to accounting; (c) computer services for synthesizing lists of telephone numbers; (d) campaign "give aways" and other paraphernalia; (e) wages to telephone operators and supervisors; and (f) private telephone service which would make calls to voters.

AO 08-81 (April 15, 1981)

In this opinion, the Commission approved the use of public funds for: (a) campaign stationery with logo; (b) photographs, film and development; (c) campaign flyers; (d) postage permits to the extent the expenditures are for the cost of mailing campaign literature and brochures; (e) newspaper advertisement; (f) rental of postage machine to the extent expenditures are for the cost of mailing campaign literature; and (g) Xerox machine to the extent expenditures are for production of campaign literature. The Commission also decided that public funds could not be used for: (a) telecopier for electronic transmission of documents unless it could be shown to be related to the preparation or distribution of campaign literature; and (b) potholders with campaign logo.

AO 13-81 (May 11, 1981)

In this opinion, the Commission approved the use of public funds for: (a) staff devoting entire time to press relations and media production; (b) properly allocated portion of the salary of staff devoting part of their time to press relations and media productions; and (c) tapes and lists from a direct mail agency in order to obtain names for mailing campaign literature. The Commission did not approve the use of public funds for a poll to develop in part target areas for press and media coverage.

9. In the 1981 primary the 16 publicly funded candidates spent their public funds as follows:

Amount and Percent of Public Funds Spent by
1981 Gubernatorial Primary Candidates by Type of Expenditure

<u>Expenditure Type</u>	<u>Amount</u>	<u>Percent of Total</u>
<u>Communication:</u>		
Radio/TV Time	\$4,327,143	68.3
Advertising Production	767,103	12.1
Newspaper Advertising	100,496	1.6
Billboards	29,568	.5
Printing/Mailing		
Campaign Literature	997,871	15.8
Subtotal	<u>\$6,222,181</u>	<u>98.2</u>
Telephone	\$ 90,943	1.4
Compliance	24,787	.4
Subtotal	<u>\$ 115,730</u>	<u>1.8</u>
 Total	 <u><u>\$6,337,911</u></u>	 <u><u>100.0</u></u>

Source: Table 6.2, "Comparison of 1981 Primary Election Candidates Expenditures of Public Funds"

In addition, 1981 primary candidates spent private funds on communication costs, eligible to be paid for with public funds, as follows:

COMMUNICATION COSTS PAID FOR WITH PRIVATE FUNDS

<u>Candidate</u>	<u>Amount</u>
<u>Democrats</u>	
Degnan	\$ 301,960
Dodd	98,341
Florio	135,933
Gibson	177,837
Hamilton	61,667

Klein	61,209
Lan	4,769
McConnell	21,009
Merlino	183,435
Smith	137,952
Subtotal	<u>\$1,184,112</u>

Republicans

Kean	\$ 250,310
Kramer	164,859
McGlynn	35,333
Parker	5,980
Rafferty	23,785
Wallwork	<u>311,627</u>
Subtotal	<u>\$ 791,894</u>

TOTAL \$1,976,006

Source: Pre- and Post-Election reports through April 19, 1982;
 See Table 6.2, "Comparison of 1981 Primary Election Candidates
 Expenditures of Public Funds", Table 6.3, "Comparison of 1981
 Gubernatorial Primary Candidates' Expenditures by Type of
 Expenditure"

Thus, the 1981 primary candidates, spent nearly \$2.0 million in privately raised funds, in addition to public funds, on communication, chiefly broadcast time, advertising production and direct mail. This further supports the conclusion in paragraph 4, above, that it is not the public funds that are causing the increase in the percentage of total campaign expenditures being spent on communication purposes, i.e. radio and TV and direct mail.

ALTERNATIVES

Below are posed three alternatives for consideration. The alternatives are based on suggestions raised by critics of the use of public funds, on the experience in the 1977 and 1981 elections, and on the reasonableness and feasibility of enacting the change.

Alternative #1: Make no change in the purposes for which public funds may be spent.

After the 1977 experience, the list of purposes was expanded by adding two purposes to the original five; no 1981 campaign experienced a major problem with the limits on the uses for which public funds could be spent; limiting the amount of public funds that could be spent on New York and Philadelphia stations simply ignores the reality of the TV markets affecting New Jersey. These are the principal arguments for making no changes in the limits on the purposes for which public funds may be spent.

Alternative #2: Change the provision in the law so it lists the purposes for which public funds cannot be spent, e.g. personal benefit of the candidate.

This approach would give the greatest flexibility to the publicly funded campaigns; they could spend the public funds for any legal purpose other than the purposes proscribed by the law. While giving much greater flexibility to campaigns, this alternative would have greater chance of creating more opportunities for criticism of how the monies were spent and of possible abuse by the campaigns; it would be difficult, if not impossible, for the Commission to anticipate all the possible uses of public funds campaigns might make under such a flexible system.

Alternative #3: Limit the amount of public funds that can be spent on non-New Jersey media, e.g. a maximum of 50 percent of the public funds received.

This alternative would address the criticism of too much New Jersey money being spent on New York and Philadelphia stations. It would limit the flexibility of campaigns and would require more detailed reporting by campaigns to enable the Commission's staff to monitor such a provision. Theoretically, this alternative would encourage running an "organizational" campaign instead of a "media" campaign. However, this would occur only if private funds were not diverted to out-of-state media. Such a result is likely only if the expenditure limit were lowered so that campaigns would have relatively less non-public funds to spend.

Interim Report #6 Tables

- 6.1 Comparison of Expenditures of 1981, 1977 and 1973 Gubernatorial Candidates James Florio (D) and Thomas Kean (R) as of May 18, 1982; Brendan Byrne (D) and Raymond Bateman (R) and Brendan Byrne (D) and Charles Sandman (R) - Final.
- 6.2 Comparison of 1981 Primary Election Candidates Expenditures of Public Funds by Type of Expenditure.
- 6.3a Comparison of Expenditures by All Democratic and All Republican 1981 Gubernatorial Primary Candidates by Type of Expenditure.
- 6.3b Comparison of Expenditures by All Publicly Funded and Non-publicly Funded Democratic and Republican 1981 Gubernatorial Primary Candidates by Type of Expenditure.
- 6.3c Comparison of Expenditures by Publicly Funded Democratic 1981 Gubernatorial Primary Candidates by Type of Expenditure.
- 6.3d Comparison of Expenditures by Publicly Funded Republican 1981 Gubernatorial Primary Candidates by Type of Expenditure.
- 6.3e Comparison of Expenditures by Non-publicly Funded Democratic and Republican 1981 Gubernatorial Primary Candidates by Type of Expenditure.

**COMPARISON OF EXPENDITURES
OF 1981, 1977 AND 1973 GUBERNATORIAL CANDIDATES
JAMES FLORIO (D) AND THOMAS KEAN (R) AS OF MAY 18, 1982
BRENDAN BYRNE (D) AND RAYMOND BATEMAN (R) AND
BRENDAN BYRNE (D) AND CHARLES SANDMAN (R) - FINAL**

TYPE OF EXPENDITURE	1981		1977		1973							
	FLORIO (D)	KEAN (R)	BYRNE (D)	BATEMAN (R)	BYRNE (D)	SANDMAN (R)						
EXEMPT FROM LIMIT	AMOUNT	%	AMOUNT	%	AMOUNT	%						
Candidate's Travel	\$ 73,157.96	3.1	\$ 42,394.79	1.8	\$ 49,906	3.0	\$ 54,350	3.3	\$ 19,233	1.3	\$ 42,209	5.9
Food and Beverage for Fund raising events	113,353.89	4.8	123,457.85	5.2	76,399	4.6	59,432	3.6	67,982	4.7	86,356	12.0
Election night activities	-0-	-0-	7,522.39	.3	2,702	.2	11,226	.7	-0-	-0-	-0-	-0-
Recount	***	***	-0-	-0-	-0-	-	-0-	-	-0-	-0-	-0-	-0-
Compliance	108,145.05	4.6	121,032.90	5.1	32,464	2.0	20,821	1.3	-0-	-0-	-0-	-0-
TOTAL EXEMPT	\$ 294,656.90	12.5	\$ 294,407.93	12.4	\$ 161,471	9.8	\$ 145,829	8.9	\$ 87,215	6.0	\$ 128,565	17.9
SUBJECT TO LIMIT**												
Administration (polls, office, salaries, etc.)	\$ 271,800.70	11.5	\$ 288,342.93	12.2	\$411,604	24.7	\$ 486,468	29.6	\$ 555,353	38.7	\$222,860	31.1
Communication:												
Media Time	\$1,347,315.60	56.8	\$1,401,398.80	59.1	\$ 805,094	48.3	\$ 661,217	40.3	\$ 353,906	24.7	NOT AVAILABLE	
Advertising Production	100,546.75	4.2	116,105.79	4.9	180,000	10.8	\$ 96,021	5.9	161,509	11.3		
Newspaper Ads	3,551.00	.1	9,347.50	.4	28,215	1.7	104,774	6.4	62,275	4.3		
Billboards	1,824.95	.1	89.25	*	-0-	-	66,973	4.1	67,530	4.7		
Printing, mailing of literature	351,112.80	14.8	252,905.24	10.7	37,260	2.2	80,735	4.9	145,991	10.2		
TOTAL COMMUNICATIONS	\$1,804,351.10	76.0	\$1,779,846.58	75.1	\$1,050,569	63.0	\$1,009,720	61.5	\$ 791,221	55.2	\$365,563	51.0
Expenditures by Party Committees	-0-	-0-	\$ 8,290.75	.3	\$ 43,704	2.6	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL SUBJECT TO LIMIT	\$2,076,151.80	87.5	\$2,076,480.26	87.6	\$1,505,877	90.3	\$1,496,188	91.1	\$1,346,564	93.9	\$588,423	82.1
TOTAL EXPENDITURES	\$2,370,808.70	100.0	\$2,370,888.19	100.0	\$1,667,348	100.0	\$1,642,017	100.0	\$1,433,799	100.0	\$716,988	100.0

* Less than .1 percent

** Limit in 1981 is \$2.1 million; Limit in 1977 was \$1.5 million; No limit in 1973

*** Florio campaign transferred \$50,000 to the recount account; amount not included in campaign total

NOTE: Percentages may not total 100.0 because of rounding

SOURCE: 1981 25-day and 7-day pre-election reports and 15-day and 60-day post-election reports through May 18, 1982. 1977 and 1973 Table I and Table II Public Financing in New Jersey, pp. 43 and 44.

TABLE 6.2

COMPARISON OF 1981 PRIMARY ELECTION CANDIDATES EXPENDITURES OF PUBLIC FUNDS BY TYPE OF EXPENDITURE

DEMOCRATS

	COMMUNICATION											
	Radio/TV Time		Advertising Production and Consulting		Newspaper Advertising		Billboards		Printing/Mailing of Campaign Lit.		Subtotal	
	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Degnan	\$ 599,935.80	99.9	\$ -0-	-	\$ -0-	-	\$ -0-	-	\$ -0-	-	\$ 599,935.80	99.0
Dodd	297,968.30	91.0	20,000.00	6.1	238.75	.1	-0-	-	6,970.06	2.1	325,177.11	99.3
Florio	512,534.56	85.0*	90,000.00	15.0	-0-	-	-0-	-	-0-	-	602,534.56	100.0*
Gibson	137,267.75	35.6	12,670.43	3.2	1,411.00	.4	29,043.00	7.5	193,499.60	50.1	373,891.78	96.8
Hamilton	241,220.15	78.1	35,000.00	11.3	5,711.20	1.8	-0-	-	22,081.49	7.2	304,012.84	98.5
Klein	26,766.75	51.0	-0-	-	25,696.92	49.0	-0-	-	-0-	-	52,463.67	100.0
Lan	-0-	**	144,591.00	58.6 **	50.00	.0	-0-	-	66,553.72	27.0	211,194.72	85.6
McConnell	28,487.09	29.3	26,438.73	27.2	441.18	.5	525.00	.5	34,285.38	35.3	90,177.38	92.8
Merlino	396,995.00	66.2	19,300.00	3.2	-0-	-	-0-	-	183,663.00	30.6	599,958.00	100.0
Smith	471,080.39	78.5	50,000.00	8.3	13,275.00	2.2	-0-	-	65,577.69	10.9	599,933.08	100.0
Subtotal	\$2,712,255.79	71.0	\$398,000.16	10.4	\$46,824.05	1.2	\$29,568.00	.8	\$572,630.94	15.0	\$3,759,278.94	98.4

OTHER THAN COMMUNICATION

	OTHER THAN COMMUNICATION						Grand Total	
	Telephone		Compliance		Subtotal		Amount	%
	Amount	%	Amount	%	Amount	%		
Degnan	\$ -0-	-	\$ 40.00	.1	\$ 40.00	.1	\$599,975.80	100.0
Dodd	2,000.00	.6	236.64	.1	2,236.64	.7	327,413.75	100.0
Florio	-0-	-	-0-	-	-0-	-	602,534.56	100.0
Gibson	12,154.01	3.2	84.67	.0	12,238.68	3.2	386,130.46	100.0
Hamilton	4,748.36	1.5	-0-	-	4,748.36	1.5	308,761.20	100.0
Klein	-0-	-	-0-	-	-0-	-	52,463.67	100.0
Lan	18,212.23	7.4	17,392.71	7.0	35,604.94	14.4	246,799.66	100.0
McConnell	5,726.14	5.9	1,287.60	1.3	7,013.74	7.2	97,191.12	100.0
Merlino	-0-	-	15.82	.0	15.82	.0	599,973.82	100.0
Smith	-0-	-	15.82	.0	15.82	.0	599,948.90	100.0
Subtotal	\$ 42,840.74	1.1	\$19,073.26	.5	\$61,914.00	1.6	\$3,821,192.94	100.0

* Includes \$2,558.75 in interest from invested public funds expended on media; thus, the total of "public funds" exceeds the maximum of \$599,975.80.

** Candidate Lan's expenditure reports did not differentiate between Radio/TV Time and Advertising Production and Consulting although some of the later costs of \$144,591 were for broadcast time.

(more)

TABLE 6.2 (continued)
COMPARISON OF 1981 PRIMARY ELECTION CANDIDATES EXPENDITURES OF PUBLIC FUNDS BY TYPE OF EXPENDITURE

COMMUNICATION

	<u>Radio/TV Time</u>		<u>Advertising Production and Consulting</u>		<u>Newspaper Advertising</u>		<u>Billboards</u>		<u>Printing/Mailing of Campaign Literature</u>		<u>Subtotal</u>	
	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>
REPUBLICANS												
Kean	\$ 428,000.00	71.3	\$ 46,000.00	7.7	\$ -0-	-	-0-	-	\$ 125,975.80	21.0	\$ 599,975.80	100.0
Kramer	391,439.76	65.2	100,000.00	16.7	-0-	-	-0-	-	78,500.00	13.1	569,939.76	95.0
McGlynn	113,649.97	48.8	23,871.91	10.2	44,802.19	19.2	-0-	-	38,507.94	16.5	220,832.01	94.7
Parker	219,155.93	73.1	20,645.79	6.9	2,566.30	.9	-0-	-	52,755.73	17.6	295,123.75	98.4
Rafferty	63,060.66	25.6	86,710.54	35.2	6,303.18	2.6	-0-	-	89,166.48	36.2	245,240.86	99.5
Wallwork	399,581.00	74.4	91,875.00	17.1	-0-	-	-0-	-	40,334.08	7.5	531,790.08	99.0
Subtotal	\$1,614,887.32	64.2	\$369,103.24	14.7	\$ 53,671.67	2.1	-0-	-	\$ 425,240.03	16.9	\$2,462,902.26	97.9
GRAND TOTAL	\$4,327,143.11	68.3	\$767,103.40	12.1	\$100,495.72	1.6	\$ 29,568.00	.5	\$ 997,870.97	15.7	\$6,222,181.20	98.2

OTHER THAN COMMUNICATION

	<u>Telephone</u>		<u>Compliance</u>		<u>Subtotal</u>		<u>Grand Total</u>	
	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>
Kean	-0-	-	-0-	-	-0-	-	\$ 599,975.80	100.0
Kramer	\$ 30,000.00	5.0	\$ 36.04	.0	\$ 30,036.04	5.0	599,975.80	100.0
McGlynn	8,617.77	3.7	3,631.05	1.6	12,248.82	5.3	233,080.83	100.0
Parker	3,807.47	1.3	861.00	.3	4,668.47	1.6	299,792.22	100.0
Rafferty	1,319.36	.5	-0-	-	1,319.36	.5	246,560.22	100.0
Wallwork	4,357.46	.8	1,185.95	.2	5,543.41	1.0	537,333.49	100.0
Subtotal	\$ 48,102.06	1.9	\$ 5,714.04	.2	\$ 53,816.10	2.1	\$2,516,718.36	100.0
GRAND TOTAL	\$ 90,942.80	1.4	\$ 24,787.30	.4	\$115,730.10	1.8	\$6,337,911.30	100.0

Source: Pre- and Post-Election Campaign Reports through April 19, 1982.

TABLE 6.3a

COMPARISON OF EXPENDITURES BY ALL DEMOCRATIC AND ALL REPUBLICAN
1981 GUBERNATORIAL PRIMARY CANDIDATES BY TYPE OF EXPENDITURE

TYPE OF EXPENDITURE EXEMPT FROM LIMIT:	ALL DEMOCRATS		ALL REPUBLICANS		GRAND TOTAL	
	AMOUNT	%	AMOUNT	%	AMOUNT	%
-Candidate's travel	\$ 59,653.55	.7	\$ 29,068.96	.4	\$ 88,722.51	.6
-Food and Beverage fund- raising events	326,265.12	3.9	268,669.12	4.0	594,394.24	4.0
-Election night activities	5,970.73	.1	12,931.24	.2	18,901.97	.1
-Compliance	85,460.45	1.1	54,723.98	.8	140,184.43	1.0
TOTAL EXEMPT	\$ 477,349.85	6.0	\$ 365,393.30	5.4	\$ 842,743.15	5.7
Subject to Limit:						
-Administration	\$2,118,249.86	26.5	\$1,616,637.22	24.1	\$ 3,734,887.08	25.4
-Communication:						
-Media Time	3,434,090.67	42.9	2,659,336.95	39.9	6,093,427.62	41.4
-Advertising Production	549,660.98	6.9	569,841.83	8.4	1,119,502.81	7.6
-Newspaper Ads	116,939.42	1.5	168,672.06	2.4	285,611.48	2.0
-Billboards	44,746.25	.5	15,600.00	.2	60,346.25	.4
-Printing/Mailing	1,257,395.45	15.7	1,327,542.58	19.6	2,584,938.03	17.5
Total Communications	\$5,402,832.77	67.5	\$4,740,993.42	70.5	\$10,143,826.19	68.9
TOTAL SUBJECT	\$7,521,082.63	94.0	\$6,357,630.64	94.6	\$13,878,713.27	94.3
TOTAL EXPENDITURES	\$7,998,432.48	100.0	\$6,723,023.94	100.0	\$14,721,456.42	100.0

Source: Pre- and Post-Election Reports through April 19, 1982.

TABLE 6.3b

**COMPARISON OF EXPENDITURES BY ALL PUBLICLY FUNDED AND NON-PUBLICLY FUNDED
DEMOCRATIC AND REPUBLICAN 1981 GUBERNATORIAL PRIMARY CANDIDATES
BY TYPE OF EXPENDITURE**

TYPE OF EXPENDITURE	PUBLICLY FUNDED DEMOCRATS		NON-PUBLICLY FUNDED DEMOCRATS		TOTAL DEMOCRATS		PUBLICLY FUNDED REPUBLICANS		NON-PUBLICLY FUNDED REPUBLICANS		TOTAL REPUBLICANS	
	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%
<u>Expenditures exempt from Limit:</u>												
-Candidate's travel	\$ 59,653.55	.9	\$.		\$ 59,653.55	.7	\$ 29,068.96	.6	\$.		\$ 29,068.96	.4
-Food and Beverage fund-raising events	190,451.21	2.7	13,581.31	13.6	326,265.12	4.1	249,897.27	5.5	18,771.85	.9	268,669.12	4.0
-Election night activities	5,970.73	.1			5,970.73	.1	2,802.18	.1	10,129.06	.5	12,931.24	.2
-Compliance	85,460.45	1.2			85,460.45	1.1	54,723.98	1.1			54,723.98	.8
<u>Total expenditures exempt from limitation</u>	<u>\$ 341,535.94</u>	<u>4.9</u>	<u>\$ 1,135,813.91</u>	<u>13.6</u>	<u>\$ 477,349.85</u>	<u>6.0</u>	<u>\$ 336,492.39</u>	<u>7.4</u>	<u>\$ 28,900.91</u>	<u>1.4</u>	<u>\$ 365,393.30</u>	<u>5.4</u>
<u>Expenditures subject to limit:</u>												
-Administration	\$1,714,183.96	24.5	\$ 404,065.90	40.4	\$2,118,249.86	26.5	\$ 950,874.57	20.9	\$ 665,762.65	30.5	\$1,616,637.22	24.1
-Communication:												
-Media Time	3,259,942.12	46.6	\$ 174,148.55	17.4	3,434,090.67	42.9	1,850,734.95	40.8	808,602.00	37.1	2,659,336.95	39.9
-Advertising Production	511,058.99	7.3	38,601.99	3.9	549,660.98	6.9	509,406.60	11.2	60,435.23	2.8	569,841.83	8.4
-Newspaper Ads	86,631.05	1.2	30,308.37	3.0	116,939.42	1.5	65,073.80	1.4	103,598.26	4.8	168,672.06	2.4
-Billboards	44,746.25	.6			44,746.25	.6	2,216.25	.1	13,383.75	.6	15,600.00	.2
-Printing/Mailing of campaign literature	1,041,010.40	14.9	216,385.05	21.7	1,257,395.45	15.7	827,363.66	18.2	500,178.92	22.9	1,327,542.58	19.6
<u>Total Communications</u>	<u>\$4,943,388.81</u>	<u>70.6</u>	<u>\$ 459,443.96</u>	<u>46.0</u>	<u>\$5,402,832.77</u>	<u>67.5</u>	<u>\$3,254,795.26</u>	<u>71.7</u>	<u>\$1,486,198.16</u>	<u>68.1</u>	<u>\$4,740,993.42</u>	<u>70.5</u>
<u>Total expenditures subject to limit</u>	<u>\$6,657,572.77</u>	<u>95.1</u>	<u>\$ 863,509.86</u>	<u>86.4</u>	<u>\$7,521,082.63</u>	<u>94.0</u>	<u>\$4,205,669.83</u>	<u>92.6</u>	<u>\$2,151,960.81</u>	<u>98.6</u>	<u>\$6,357,630.64</u>	<u>94.6</u>
<u>Total campaign expenditures</u>	<u>\$6,999,108.71</u>	<u>100.0</u>	<u>\$ 999,323.77</u>	<u>100.0</u>	<u>\$7,998,432.48</u>	<u>100.0</u>	<u>\$4,542,162.22</u>	<u>100.0</u>	<u>\$2,180,861.62</u>	<u>100.0</u>	<u>\$6,723,023.94</u>	<u>100.0</u>

(1) These amounts include public funds

Source: Pre-and-Post Election Reports through April 19, 1982.

TABLE 6.3c

COMPARISON OF EXPENDITURES BY PUBLICLY FUNDED DEMOCRATIC
1981 GUBERNATORIAL PRIMARY CANDIDATES BY TYPE OF EXPENDITURE

TYPE OF EXPENDITURE	DEGNAN		DODD		FLORIO		GIBSON		HAMILTON		KLEIN	
	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%
<u>Expenditures exempt from limit:</u>												
-Candidate's travel	\$ 8,226.44	.7	\$ 23,483.09	4.4	\$ 14,587.68	1.3	\$ 567.00	.1	—	—	—	—
-Food and Beverage fund-raising events	26,502.70	2.4	13,983.09	2.6	23,607.91	2.1	1,200.50	.2	—	—	\$ 509.77	.3
-Election night activities	3,371.22	.3	—	—	500.00	.0	—	—	—	—	1,573.44	.9
-Public financing statute compliance	17,285.49	1.6	2,336.64	.4	34,249.17	3.1	84.67	.0	\$ 3,369.28	.6	—	—
<u>Total expenditures exempt from limitation</u>	<u>\$ 55,385.85</u>	<u>5.0</u>	<u>\$ 39,802.82</u>	<u>7.4</u>	<u>\$ 72,944.76</u>	<u>6.5</u>	<u>\$ 1,852.17</u>	<u>.3</u>	<u>\$ 3,369.28</u>	<u>.6</u>	<u>\$ 2,083.21</u>	<u>1.2</u>
<u>Expenditures subject to limit:</u>												
-Administration (includes polls, office expenses, salary, telephones, etc.)	\$146,781.52	13.3	\$ 73,271.52	13.7	\$ 302,512.68	27.2	\$228,812.18	29.2	\$186,962.10	33.6	\$ 51,583.82	30.8
-Communication:												
-Media Time	824,971.00	74.7	340,134.90	63.4	554,015.80	49.7	223,397.75	28.6	279,302.15	50.2	60,774.83	36.3
-Advertising Production	27,718.43	2.5	47,181.47	8.8	85,871.00	7.7	16,655.33	2.1	37,086.47	6.7	10,587.38	6.3
-Newspaper Ads	2,664.07	.2	563.75	.1	647.00	.1	2,336.00	.3	7,087.15	1.3	25,786.92	15.4
-Billboards	—	—	750.00	.1	—	—	42,943.00	5.5	—	—	—	—
-Printing and Mailing of campaign literature	46,541.89	4.2	34,888.36	6.5	97,933.27	8.8	266,396.60	34.0	42,203.62	7.6	16,523.35	9.9
<u>Total Communication expenditures</u>	<u>\$901,895.39</u>	<u>81.6</u>	<u>\$423,518.48</u>	<u>78.9</u>	<u>\$ 738,467.07</u>	<u>66.3</u>	<u>\$551,728.68</u>	<u>70.5</u>	<u>\$365,679.39</u>	<u>65.8</u>	<u>\$113,672.48</u>	<u>67.9</u>
<u>Total expenditures subject to limit</u>	<u>\$1,048,676.91</u>	<u>95.0</u>	<u>\$496,790.00</u>	<u>92.6</u>	<u>\$1,040,979.75</u>	<u>93.5</u>	<u>\$780,540.86</u>	<u>99.7</u>	<u>\$552,641.49</u>	<u>99.4</u>	<u>\$165,256.30</u>	<u>98.8</u>
<u>Total campaign expenditures</u>	<u>\$1,104,062.76</u>	<u>100.0</u>	<u>\$536,592.82</u>	<u>100.0</u>	<u>\$1,113,924.51</u>	<u>100.0</u>	<u>\$782,393.03</u>	<u>100.0</u>	<u>\$556,010.77</u>	<u>100.0</u>	<u>\$167,339.51</u>	<u>100.0</u>

(more)

**COMPARISON OF EXPENDITURES BY PUBLICLY FUNDED DEMOCRATIC
1981 GUBERNATORIAL PRIMARY CANDIDATES BY TYPE OF EXPENDITURE (continued)**

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TYPE OF EXPENDITURE	<u>LAN</u>		<u>McCONNELL</u>		<u>MERLINO</u>		<u>SMITH</u>		<u>TOTAL</u>	
	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%
<u>Expenditures exempt from limit:</u>										
-Candidate's travel	\$ 5,512.41	1.2	\$ —	—	\$ 1,608.84	.2	\$ 5,668.09	.5	\$ 59,653.55	.9
-Food and Beverage fund-raising events	44,764.18	10.0	200.00	.1	33,771.06	3.4	45,912.00	4.2	190,451.21	2.7
-Election night activities	—	—	526.07	.3	—	—	—	—	5,970.73	.1
-Public financing statute compliance	17,392.71	3.9	1,287.60	.6	9,308.95	.9	145.94	.1	85,460.45	1.2
<u>Total expenditures exempt from limitation</u>	<u>\$ 67,669.30</u>	<u>15.1</u>	<u>\$ 2,013.67</u>	<u>1.0</u>	<u>\$ 44,688.85</u>	<u>4.5</u>	<u>\$ 51,726.03</u>	<u>4.8</u>	<u>\$ 341,535.94</u>	<u>4.9</u>
<u>Expenditures subject to Limit:</u>										
-Administration (includes polls, office expenses, salary, telephoned, etc.)	\$163,563.95	36.6	\$ 95,540.58	45.8	\$169,662.34	17.0	\$ 295,493.27	27.2	\$1,714,183.96	24.5
-Communication:										
-Media Time	—	—	32,545.90	15.6	473,719.40	47.5	471,080.39	43.4	3,259,942.12	46.6
-Advertising production and consulting	144,591.00	32.3	32,572.75	15.6	27,653.35	2.8	81,141.81	7.5	511,058.99	7.3
-Newspaper Advertising	150.00	.1	926.55	.4	2,304.96	.2	44,164.65	4.1	86,631.05	1.2
-Billboards	—	—	525.00	.3	528.25	.1	—	—	44,746.25	.6
-Printing and mailing of campaign literature	71,222.40	15.9	44,615.89	21.4	279,186.56	27.9	\$ 141,498.46	13.0	1,041,010.40	14.9
<u>Total communication expenditures</u>	<u>\$215,963.40</u>	<u>48.3</u>	<u>\$111,186.09</u>	<u>53.3</u>	<u>\$783,392.52</u>	<u>78.5</u>	<u>\$ 737,885.31</u>	<u>68.0</u>	<u>\$4,943,388.81</u>	<u>70.6</u>
<u>Total expenditures subject to limit</u>	<u>\$379,527.35</u>	<u>84.9</u>	<u>\$206,726.67</u>	<u>99.0</u>	<u>\$953,054.86</u>	<u>95.5</u>	<u>\$1,033,378.58</u>	<u>95.2</u>	<u>\$6,657,572.77</u>	<u>95.1</u>
<u>Total campaign expenditures</u>	<u>\$447,196.65</u>	<u>100.0</u>	<u>\$208,740.34</u>	<u>100.0</u>	<u>\$997,743.71</u>	<u>100.0</u>	<u>\$1,085,104.61</u>	<u>100.0</u>	<u>\$6,999,108.71</u>	<u>100.0</u>

TABLE 6.3d

COMPARISON OF EXPENDITURES BY PUBLICLY FUNDED REPUBLICAN
1981 GUBERNATORIAL PRIMARY CANDIDATES BY TYPE OF EXPENDITURE

TYPE OF EXPENDITURE	KEAN		KRAMER		McGLYNN		PARKER		RAFFERTY		WALLWORK		TOTAL	
	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%
<u>Expenditures exempt from limit:</u>														
-Candidates travel	\$ 2,363.70	.2	\$ 24,258.30	2.1	\$		\$ 79.35	.0	\$		\$ 2,367.61	.2	\$ 29,068.96	.6
-Food and Beverage fund-raising events	46,865.24	4.1	77,325.05	6.7	18,700.53	4.8	14,101.23	3.4	46,905.01	10.9	46,000.21	4.5	249,897.27	5.5
-Election night activities			2,210.71	.2	274.09	.1	250.00	.1			67.38	.0	2,802.18	.1
-Public financing statute compliance	32,719.38	2.9	15,007.24	1.3	3,631.05	.9	861.00	.2	1,319.36	.3	1,185.95	.1	54,723.98	1.2
<u>Total expenditures exempt from limitation</u>	<u>\$ 81,948.32</u>	<u>7.2</u>	<u>\$ 118,801.30</u>	<u>10.3</u>	<u>\$ 22,605.67</u>	<u>5.8</u>	<u>\$ 15,291.58</u>	<u>3.7</u>	<u>\$ 48,224.37</u>	<u>11.2</u>	<u>\$ 49,621.15</u>	<u>4.8</u>	<u>\$ 336,492.39</u>	<u>7.4</u>
<u>Expenditures subject to limit:</u>														
-Administration (includes polls, office expenses, salary, telephone, etc.)	\$ 199,075.84	17.6	\$ 296,655.99	25.8	\$109,459.91	28.1	\$ 99,261.77	23.9	\$113,684.12	26.4	\$ 132,736.94	13.0	\$ 950,874.57	20.9
-Communication:														
-Media Time	460,177.50	40.7	413,589.28	36.0	127,795.42	32.9	219,155.93	52.7	63,060.66	14.6	566,956.16	55.3	1,850,734.95	40.8
-Advertising production and consulting	78,515.20	6.9	153,036.07	13.3	34,120.96	8.8	20,665.79	5.0	96,430.76	22.4	126,637.82	12.3	509,406.60	11.2
-Newspaper advertising	1,123.42	.1	6,391.34	.6	44,890.25	11.6	2,933.56	.7	8,576.38	2.0	1,158.85	.1	65,073.80	1.4
-Billboards			400.00	.0	840.00	.2			976.25	.2			2,216.25	.1
-Printing and mailing of campaign literature	310,469.23	27.5	161,381.64	14.0	48,518.27	12.5	58,348.23	14.0	99,982.07	23.2	148,664.22	14.5	827,363.66	18.2
<u>Total communication expenditures</u>	<u>\$ 850,285.35</u>	<u>75.2</u>	<u>\$ 734,798.33</u>	<u>63.9</u>	<u>\$256,164.90</u>	<u>66.0</u>	<u>\$301,103.51</u>	<u>72.4</u>	<u>\$269,026.12</u>	<u>62.4</u>	<u>\$ 843,417.05</u>	<u>82.2</u>	<u>\$3,254,795.26</u>	<u>71.7</u>
<u>Total expenditures subject to limit</u>	<u>\$1,049,361.19</u>	<u>92.8</u>	<u>\$1,031,454.32</u>	<u>89.7</u>	<u>\$365,624.81</u>	<u>94.2</u>	<u>\$400,365.28</u>	<u>96.3</u>	<u>\$382,710.24</u>	<u>88.8</u>	<u>\$ 976,153.99</u>	<u>95.2</u>	<u>\$4,205,669.83</u>	<u>92.6</u>
<u>Total campaign expenditures</u>	<u>\$1,131,309.51</u>	<u>100.0</u>	<u>\$1,150,255.62</u>	<u>100.0</u>	<u>\$388,230.48</u>	<u>100.0</u>	<u>\$415,656.86</u>	<u>100.0</u>	<u>\$430,934.61</u>	<u>100.0</u>	<u>\$1,025,775.14</u>	<u>100.0</u>	<u>\$4,542,162.22</u>	<u>100.0</u>

TABLE 6.3e
COMPARISON OF EXPENDITURES BY NON-PUBLICLY FUNDED
DEMOCRATIC AND REPUBLICAN
1981 GUBERNATORIAL PRIMARY CANDIDATES BY TYPE OF EXPENDITURE

TYPE OF EXPENDITURE	BUEHLER (D)		ROE (D)		SUBTOTAL		IMPERIALE (R)		SULLIVAN (R)		SUBTOTAL	
	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%	AMOUNT	%
<u>Expenditures exempt from limit:</u>												
-Candidate's travel												
-Food and Beverage fund-raising events	\$2,607.13	28.6	\$133,206.78	13.5	\$135,813.91	13.6	\$ 2,048.85	11.6	\$ 16,723.00	.8	\$ 18,771.85	.9
-Election night activities									10,129.06	.5	10,129.06	.5
-Public financing statute compliance												
<u>Total expenditures exempt from limitation</u>	<u>\$2,607.13</u>	<u>28.6</u>	<u>\$133,206.78</u>	<u>13.5</u>	<u>\$135,813.91</u>	<u>13.6</u>	<u>\$ 2,048.85</u>	<u>11.6</u>	<u>\$ 26,852.06</u>	<u>1.3</u>	<u>\$ 28,900.91</u>	<u>1.4</u>
<u>Expenditures subject to Limit:</u>												
-Administration (includes polls, office expenses, salary, telephone, etc.)	\$3,740.86	40.9	\$400,325.00	40.4	\$404,065.90	40.4	44.71	.3	\$ 665,717.94	30.7	\$ 665,762.65	30.5
-Communication:												
-Radio and TV Broadcast time	\$		174,148.55	17.6	174,148.55	17.4	7,175.00	40.8	801,427.00	37.0	808,602.00	37.1
-Advertising production and consulting	150.00	1.6	38,541.99	3.9	38,601.99	3.9	126.00	.7	60,309.23	2.8	60,435.23	2.8
-Newspaper advertising	30.00	.3	30,278.37	3.0	30,308.37	3.0			103,598.26	4.8	103,598.26	4.8
-Billboards							925.00	5.3	12,458.75	.6	13,383.75	.6
-Printing and mailing of campaign literature	2,608.68	28.6	213,776.37	21.6	216,385.05	21.7	7,267.80	41.3	492,911.12	22.8	500,178.92	22.9
<u>Total communication expenditures</u>	<u>\$2,788.68</u>	<u>30.5</u>	<u>456,655.28</u>	<u>46.1</u>	<u>\$459,443.96</u>	<u>46.0</u>	<u>\$15,493.80</u>	<u>88.1</u>	<u>\$1,470,704.36</u>	<u>68.0</u>	<u>\$1,486,198.16</u>	<u>68.1</u>
<u>Total expenditures subject to limit:</u>	<u>\$6,529.54</u>	<u>71.4</u>	<u>\$856,980.32</u>	<u>86.5</u>	<u>\$863,509.86</u>	<u>86.4</u>	<u>\$15,538.51</u>	<u>88.4</u>	<u>\$2,136,422.30</u>	<u>99.3</u>	<u>\$2,151,960.81</u>	<u>98.6</u>
<u>Total campaign expenditures</u>	<u>\$9,136.67</u>	<u>100.0</u>	<u>\$990,187.10</u>	<u>100.0</u>	<u>\$999,323.77</u>	<u>100.0</u>	<u>\$17,587.36</u>	<u>100.0</u>	<u>\$2,163,274.36</u>	<u>100.0</u>	<u>\$2,180,861.72</u>	<u>100.0</u>

INTERIM REPORT NO. 7
\$25,000 LIMIT ON CANDIDATE'S OWN FUNDS

HOW MUCH, IF AT ALL, SHOULD THE \$25,000 LIMIT ON A CANDIDATE'S OWN FUNDS BE CHANGED?

FACTS AND ANALYSIS

1. In 1977, there was no limit on the amount of a candidate's own funds. The Commission, in its report on the 1977 election, recommended (#7 on page 37) that gubernatorial candidates receiving public funds be limited to contributions of no more than \$25,000 of their own funds. This recommended change was included in P.L. 1980, c. 74, establishing public financing for the gubernatorial primary.
2. In the 1977 general election, Senator Bateman loaned his campaign \$25,000 and that amount was repaid. Governor Byrne neither loaned nor donated to his own campaign.
3. In the 1981 primary, 16 of the 22 candidates contributed or loaned money to their own campaigns and 14 of whom did so in amounts exceeding \$800. The seven who contributed more than \$800 were:

<u>Democrats</u>	<u>Total Amount</u>	<u>Date(s)</u>
John Degan	\$ 5,000.00*	March 23, 1981
Frank Dodd	16,562.28*	February 5, 1981
		March 11, 1981
		March 12, 1981
Ann Klein	25,000.00*	February 10, 1981

<u>Republicans</u>	<u>Amount</u>	<u>Date(s)</u>
Thomas Kean	25,000.00*	April 24, 1981
John Rafferty	1,000.00*	March 23, 1981
Joseph Sullivan	25,000.00	November 28, 1981
James Wallwork	24,000.00*	January 12, 1981
		January 27, 1981

*Includes \$800 contribution matched with public funds

The seven who loaned more than \$800 to their own campaigns were:

<u>DEMOCRATS</u>	<u>AMOUNT</u>	<u>DATE MADE</u>	<u>DATE REPAID</u>
James Florio (PF)	\$ 6,000.00	01/05/81	03/11/81
William Hamilton (PF)	2,500.00	09/05/81	10/31/80 (\$1,500) 11/06/80 (\$1,000)
Barbara McConnell (PF)	4,000.00	03/01/81	03/27/81 (\$2,000) 04/16/81 (\$1,000) 05/11/81 (\$ 500) 06/05/81 (\$ 500)
Thomas F. X. Smith (PF)	25,000.00	05/07/81	05/13/81

<u>REPUBLICANS</u>	<u>AMOUNT</u>	<u>DATE MADE</u>	<u>DATE REPAID</u>
Anthony Imperiale	\$ 3,000.00	02/27/81	
	287.00	04/01/81	
	1,675.00	04/03/81	
	300.00	05/11/81	
	70.00	05/13/81	
	<u>3,000.00</u>	05/29/81	
Imperiale Total	\$ 8,332.00		Not Repaid
Barry Parker (PF)	25,000.00	05/22/82	06/23/81
Joseph Sullivan	\$ 150,000.00	02/19/81	
	200,000.00	03/09/81	
	100,000.00	03/20/81	
	180,000.00	04/06/81	
	200,000.00	04/21/81	
	150,000.00	05/04/81	
	350,000.00	05/08/81	
	50,000.00	05/21/81	
	50,000.00	05/22/81	
	20,000.00	05/29/81	
	350,000.00	06/23/81	
	<u>17,000.00</u>	09/21/81	
Sullivan Total	\$1,817,000.00		Not Repaid

Sources: Pre and Post Election Reports through April 19, 1982

PF = Public Funds Candidate

4. In the 1981 general election, Governor Kean loaned \$25,000 to his own campaign on August 28 and \$10,000 was repaid on September 17, and the remainder on October 2, 1981. Congressman Florio neither contributed to nor loaned his general election campaign any money.
5. Raising the \$25,000 limit by various percentages, compounded, would have the following results:
 - 10 percent compounded \$36,602.50 rounded to \$37,000
 - 15 percent compounded 45,725.16 rounded to 46,000
 - 20 percent compounded 51,840.00 rounded to 52,000
6. The principal purposes served by publicly funded candidates contributing or loaning money to their own campaigns were to aid in assembling seed money early in the campaign and to assist with cash flow problems—purposes that used to be served by taking out bank loans or loans from individuals.
7. In its report on the 1977 election, the Commission argued for limiting a candidate's use of his or her own funds as follows: "Limiting the amount of personal funds a candidate may use is not a matter of reducing undue influence, but it helps to reduce the disproportionate financial advantage enjoyed by wealthy candidates over opponents without access to similar resources."
8. Because of the Buckley v. Valeo decision, no limit on a candidate's own funds can be imposed on any candidate who does not take public funds. Thus, in the 1981 primary Joseph Sullivan (R) was able, under the law, to loan more than \$25,000 to his own campaign and Congressman Robert Roe (D) was able to personally borrow from banks more than \$25,000.

9. Most of the respondents to the questionnaire suggested no changes in the \$25,000 limit on a candidate's own funds. Those so responding included: John Degnan, Donald Lan, Joseph Merlino, Barry Parker, James Wallwork, Thomas Brown (Dodd), Jane Cleeland (Wallwork), Richard Goldman (Degnan), Roger Lowenstein (Degnan), Fran Rein (Merlino), and Patricia Shillingburg (Klein).

One Candidate, Mayor Kramer, believed the limit is too high and stated: "If the object of public financing is both to eliminate undue political influence from major contributors and also make it possible for all candidates to compete on a comparable financial base, then I feel the \$25,000 limit is much too high. I see no reason why a candidate should be permitted to contribute any more to his campaign than any other contributor, and would recommend he be limited to the established contribution ceiling." Contrary opinions were expressed by Congressman Roe and Joseph Sullivan, both of whom stated that the \$25,000 limit was too low and that a more appropriate figure is \$100,000.

ALTERNATIVES

Below are set forth alternatives for consideration. No bills have been introduced to change the limit on a candidate's own funds, but consideration has been given to the 1977 and 1981 experience with candidates' contributions and loans and the reasonableness and feasibility of enactment in developing the alternatives below.

Alternative #1: Make no change; leave the limit on a candidate's own funds at \$25,000.

The figure of \$25,000 was deemed reasonable by the Commission and by the Legislature for 1981 as helping to reduce any financial advantage enjoyed by wealthy candidates over opponents without similar resources.

Alternative #2: Reduce the limit to \$800, or the contribution limit decided on for 1985.

The chief argument for lowering the amount of a candidate's own funds to the contribution limit is that one of the two stated, basic purposes of the public financing law is "(to enable)...persons of limited financial means (to) seek election to the State's highest office." (emphasis added) It could be argued that anyone who can afford to give \$25,000 or who has the collateral to loan \$25,000 to his or her own campaign is not a person of "limited financial means" and permitting a candidate to contribute or loan an amount in excess of the contribution limit gives an advantage to those who do have substantial financial means over those who do not. It is noted that both primary winners took advantage of this provision of the law; Congressman Florio loaned his campaign \$6,000 and Governor Kean gave his primary campaign \$25,000 and loaned his general election campaign \$25,000.

Alternative #3: Raise the limit by some inflation factor, e.g. 15 percent compounded or a limit of \$46,000.

Raising the limit would acknowledge that if \$25,000 were reasonable in 1981, then the amount should be raised in recognition of anticipated inflation over the next four years in order to keep the 1985 candidates on a par with the 1981 candidates. Raising the limit would give an advantage to those candidates who have accumulated the capital and funds to enable them to afford to make such contribution to their own campaigns. However, the advantage in 1985 would be no greater relatively than the advantage in 1981.

INTERIM REPORT NO. 8

**REPAYMENT OF PUBLIC FUNDS
WHEN CANDIDATE FAILS TO
RECEIVE 5 PERCENT OF PARTY'S VOTE**

SHOULD A REPAYMENT OBLIGATION BE IMPOSED BY REQUIRING CANDIDATES TO REPAY ALL PUBLIC FUNDS WHEN THEY FAIL TO RECEIVE 5 PERCENT OF THE VOTES CAST IN THE CANDIDATE'S PARTY?

FACTS AND ANALYSIS

1. Bills introduced in the 1981 and the 1982 Legislatures would require a gubernatorial candidate receiving public funds to repay all public funds received in the event the candidate receives less than 5 percent of the total number of votes cast in the candidate's party in the gubernatorial primary election. Advocates of these proposals seek to discourage the "marginal" or "non-serious" candidate from entering the primary campaign. These proposals have been termed a "negative incentive" by proponents. Legislative initiatives to achieve this include a direct repayment obligation by the candidate (S-3269, Senators Perskie and Merlino, 1981) and a proposal requiring a primary candidate, applying for public funds, to post a bond guaranteeing, to the Commission, repayment of all public funds received (A-70, Hollenbeck and Flynn, 1982).
2. The imposition of a requirement to repay all public funds, based upon a candidate's performance in the primary, may go beyond discouraging "marginal" candidates and may, instead, have a severe chilling effect on candidate participation in a primary or participation in a publicly funded election. It is not difficult to imagine a candidate who, at the time of accepting public funds, appeared "viable" and certain to garner in excess of 5 percent of the vote. However, during the course of the campaign, the candidate's strength diminishes and, when the primary vote is cast, the candidate receives less than 5 percent of the vote. Consequently, despite a candidate's initial "viability" and despite a good faith, well run, earnest campaign, this hypothetical candidate, at the end of the campaign, would become personally obligated to a debt of up to \$600,000.
3. Basing the repayment obligation upon the consequences of future, unforeseeable events, injects an aspect of gambling, rather than disincentive, in a candidate's decision to apply for public funds. To the extent the repayment obligation is a disincentive, it may be too severe. Rather, it may be better to focus on the qualification threshold, now \$50,000, as the screening device. (See Interim Report #2, \$50,000 Threshold.)
4. The bond requirement of A-70 may deter all candidates from accepting public funds. Presumably, for this provision to be workable, all candidates for Governor would have to have the personal wealth to provide the collateral for the required bond in an amount equal to the maximum in public funds that could be received, i.e. \$599,975.80 in the 1981 primary. A candidate could not get co-signers on the bond in amounts in excess of the contribution limit (\$800 in 1981) without violating the contribution limit provision. (Furthermore, the provision in the law limiting a candidate to \$25,000 of his or her own funds would have to be amended to permit the candidate posting a bond in an amount in excess of \$25,000.)
5. It has been argued that the repayment concept is similar to the federal program of public funding that was applied to Presidential candidate John Anderson. However, the federal law does not require the return of public funds by a candidate based solely on election results. Instead, the Presidential Campaign Fund Act provides that a new party candidate may receive public funds after the election if his or her vote total exceeds 5 percent of the votes cast. It was this provision that was applied to John Anderson, the candidate of the Unity Party, a new party. As a result of this provision and the performance of the Anderson candidacy as

reflected in the percentage of the vote Mr. Anderson received, (6.61 percent) the Federal Election Commission authorized a payment of \$4.2 million to John Anderson after the election.

6. Assuming that all other factors are held constant, e.g. candidates' ability to raise contributions, ability to post the bond, number of votes received, and decision to enter the race, then the imposition of this requirement would have resulted in 1981 primary candidates refunding slightly over \$1.5 million in public funds, as follows:

PERCENT OF VOTE AND PUBLIC
FUNDS RECEIVED
1981 GUBERNATORIAL PRIMARY

<u>Candidate</u>	<u>Percent Of Vote</u>	<u>Public Funds Received (Gross)</u>
<u>Democrats</u>		
Dodd	3.8	\$ 327,543.77
Hamilton	2.7	309,678.76
McConnell	2.5	95,916.72
Klein	2.4	52,763.74
Lan	-0 *	249,919.69
SUBTOTAL		<u>\$ 1,035,822.68</u>
<u>Republicans</u>		
Rafferty	3.2	\$ 246,575.22
McGlynn	1.4	233,916.74
SUBTOTAL		<u>480,491.96</u>
TOTAL		<u>\$ 1,516,314.64</u>

*Candidate Lan withdrew his name from the ballot.

Source: Table 8.1 "1981 Gubernatorial Primary Candidates' Percentage of Votes Cast by Party and Public Funds Received".

It is conceivable that Donald Lan (D) would not have withdrawn from the race if the repayment obligation had been in effect for the 1981 primary. If he had not withdrawn, he would have received more public funds for which he was eligible but which the Commission did not certify. Had he then received 5 percent or more of the vote, the total amount refunded would have been at least \$250,000 less.

7. A major unknown is the ability of those candidates who do ultimately receive 5 percent or more of their party's vote to post the required bond. In the 1981 gubernatorial primary, the following public funds candidates did receive 5 percent or more of the vote cast in their party's primary: Democrats Florio, Gibson, Merlino, Degnan and Smith and Republicans Kean, Kramer, Wallwork and Parker. Congressman Roe (D) who received 15.6 percent of his party's vote and Joseph Sullivan (R) who received 17 percent of his party's vote did not take public funds.
8. Another repayment proposal, offered by Gina Glantz, campaign manager for John Degnan, is that any public dollars over \$100,000 be returned if a candidate receives less than 5 percent of the vote. Under this proposal, a candidate would have \$200,000 to test his or her viability. Ms. Glantz argued that "dropping out is a difficult choice, but one that is more likely to be faced under this rule. Of course, candidates could remain in and simply not apply for additional funds." She went on to argue that "we need to discourage candidates from staying in the race when there is no chance of success. Whether candidates remain out of

embarrassment, out of a commitment to keep faith with private contributors and public dollars or from a deal to keep the field big enough to benefit one particular candidate...public dollars should not continue to support failing campaigns.” (New York Times, New Jersey Section, January 31, 1982)

If this provision had been in effect in 1981 and assuming all other factors are held constant, then it would have resulted in 1981 primary candidates refunding \$867,634.18 in public funds, as follows:

<u>Candidate</u>	<u>Percent of Vote</u>	<u>Public Funds Received (Gross) Minus \$100,000</u>
<u>Democrats</u>		
Dodd	3.8	\$ 227,543.77
Hamilton	2.7	209,678.76
McConnell	2.5	-0-
Klein	2.4	-0-
Lan	- 0 - *	149,919.69
		<u>\$ 587,142.22</u>
<u>Republicans</u>		
Rafferty	3.2	\$ 146,575.22
McGlynn	1.4	133,916.74
		<u>\$ 280,491.96</u>
	TOTAL	<u><u>\$ 867,634.18</u></u>

*Candidate Lan withdrew his name from the ballot.

Source: Table 8-1, “1981 Gubernatorial Primary Candidates’ Percentage of Votes Cast by Party and Public Funds Received”

- The repayment proposal might create a loophole that a wealthy candidate could exploit. Under existing law, a candidate taking public funds can contribute up to \$25,000 of his or her own funds. Under the repayment proposal, a wealthy candidate could elect to receive public financing even in reasonable anticipation of receiving less than 5 percent of the vote. If the candidate receives less than 5 percent of the vote, he or she is then able to funnel personal funds into the campaign by returning the amount of public funds received to the State. Candidates of moderate means could only elect public financing if they were able to secure the required bond and were certain they would receive more than 5 percent of the vote or were prepared to risk personal bankruptcy.
- Another proposal, which in contrast does not impose repayment obligations, is to delay distributing public funds until a candidate has filed nomination petitions and until the deadline to withdraw, 40 days prior to the election, has passed. Funds raised prior to that time would be eligible for match. However, “exploratory” expenditures would have to be paid for entirely without public funds. Under present law, the Election Law Enforcement Commission is authorized to provide public matching funds after the first of the year. In the 1981 primary, all 16 publicly funded candidates had received at least some public funds before April 29, the last day for withdrawing from the ballot. However, this proposal runs counter to one of the basic purposes of the program, namely that of enabling a candidate of limited means to communicate his or her message to the public and gain support among the electorate, because withholding public funds until 40 days prior to the election would not give such a candidate enough time to communicate effectively and gain effective contributor support.

ALTERNATIVES

Below, four alternatives are posed on the issue of requiring the posting of a bond guaranteeing repayment of all public funds in case the candidate receives less than 5 per cent of the votes cast in his or her party. The alternatives are based on legislative and other proposals and the need to present a reasonable range of choices for decision.

Alternative #1: Make no change in the law and do not require the posting of the bond guaranteeing repayment of all public funds.

This would not provide the negative incentive sought by the proponents of requiring the repayment of public funds when a candidate fails to receive at least 5 percent of the party's vote in the gubernatorial primary. Thus, relatively, it would tend to encourage the entry of "minor" or "non-serious" candidates into the primary and their application for public funds, with "minor" or "non-serious" defined as those who fail to receive 5 percent of their party's vote in the primary election.

Alternative #2: Impose the requirement of posting a bond guaranteeing repayment of public funds in the event a candidate fails to receive at least 5 percent of his or her party's vote.

This would provide the negative incentive sought by the proponents of imposing the bond on candidates seeking public funds. If the requirement had been in place in 1981, slightly more than \$1.5 million in public funds would have been refunded by the five Democrats and two Republicans who did not receive 5 percent of the vote in their respective party's primary election. As discussed in paragraph 4, what is unknown is the ability of the other public funds candidates (five Democrats and four Republicans) to have posted the required bond if this provision had been in effect in 1981.

Alternative #3: Require a candidate to return public dollars over \$100,000 if he or she receives less than 5 percent of the party vote.

This is the proposal discussed in paragraph 8, above. It would permit a candidate to have \$200,000 to test his or her viability before deciding to drop out of the race or to not take any more public funds. If the requirement had been in place in 1981, nearly \$870,000 in public funds would have been refunded by the three Democrats and two Republicans who did not receive 5 percent of the vote in their respective party's primary election but did receive more than \$100,000 in public funds.

Alternative #4: Require a specific number of contributors from diverse geographic areas in addition to the contribution threshold requirement.

A candidate applying for public funds could be required not only to meet the total contribution threshold (\$50,000 in 1981) but also to meet criteria of (1) a specific number of contributions, higher than the theoretical minimum, and (2) a specific number of contributions from specified number of counties, e.g. 15 out of the 21 New Jersey counties. This proposal would tend to discourage "minor" and "non-serious" candidates by requiring a candidate to show a broader contribution and geographic base when applying for public funds than was the case in 1981. However, the proposal would not deal directly with those candidates who fail to receive at least 5 percent of the vote cast in their party's primary.

Interim Report #8 Table:

8.1 1981 Gubernatorial Primary Candidates' Percentage of Votes Cast by Party and Public Funds Received

TABLE 8.1
1981 GUBERNATORIAL PRIMARY CANDIDATES*
PERCENTAGE OF VOTES CAST BY PARTY
AND PUBLIC FUNDS RECEIVED

<u>CANDIDATE</u>	<u>VOTES</u>		<u>PUBLIC FUNDS (GROSS)</u>
	<u>NUMBER</u>	<u>PER CENT</u>	
<u>Democrats</u>			
Florio	164,179	25.9	\$ 599,975.80
Roe	98,660	15.6	-0-
Gibson	95,212	15.0	393,879.00
Merlino	70,910	11.2	599,975.80
Degnan	65,844	10.4	599,975.80
Smith	57,479	9.1	599,949.90
Dodd	23,866	3.8	327,543.77
Hamilton	17,395	2.7	309,678.76
McConnell	16,123	2.5	95,916.72
Klein	14,884	2.4	52,763.74
Buehler	4,266	.7	-0-
Mann	2,375	.4	-0-
Monyek	2,129	.3	-0-
Lan*	-0-	-0-	249,919.69
Subtotal	<u>633,322</u>	<u>100.0</u>	<u>\$3,829,578.98</u>
<u>Republicans</u>			
Kean	122,512	30.8	\$ 599,975.80
Kramer	83,565	21.0	599,975.80
Sullivan	67,651	17.0	-0-
Wallwork	61,826	15.5	557,594.74
Parker	26,040	6.5	306,042.00
Imperiale	18,452	4.6	-0-
Rafferty	12,837	3.2	246,575.22
McGlynn	5,486	1.4	233,916.74
Subtotal	<u>398,369</u>	<u>100.0</u>	<u>\$ 2,544,080.30</u>
TOTAL	<u>1,031,691</u>	<u>—</u>	<u>\$ 6,373,659.28</u>

*Candidate Lan withdrew his name from the ballot.

INTERIM REPORT NO. 9**FUNDING OF POLITICAL PARTIES****TO WHAT EXTENT, IF AT ALL, SHOULD PUBLIC FUNDS BE PROVIDED TO POLITICAL PARTIES IN ADDITION TO OR IN LIEU OF PUBLIC FUNDS TO GUBERNATORIAL CANDIDATES?****INTRODUCTION**

In considering possible modifications to New Jersey's Gubernatorial Public Financing Program, consideration must be given to the method used to disburse public funds to qualified candidates. Whatever method is used, it will unquestionably have an impact and an influence upon the political process and the relationship among political institutions in New Jersey. Presently, the New Jersey law provides for direct funding to qualifying gubernatorial candidates. One alternative is to provide funding to political party organizations in addition to, or in lieu of, the funding provided to qualifying candidates. Due to the statutory prohibition against political party organizations participating in primary elections, funding of political parties, for campaign related purposes, would have to be restricted to the general election.

Consideration of the feasibility and advisability of providing funding to state political party organizations is important at this time. There is a general acknowledgement, not only in New Jersey but throughout the country, that the role and importance of political parties in the electoral process are declining. Some have attributed this phenomenon to the fractionalization of American politics into specific issues. Others point to the growth of political action committees. Some observers even contend the presence of a public financing system both on the national and statewide levels accounts for the declining influence of parties. To attribute the present fortunes of political party organizations merely to the existence of a public financing program would be an oversimplification. However, the existence of public financing does have an impact upon the functioning of political parties. As part of the analysis of New Jersey's public financing program, the Election Law Enforcement Commission seeks at this time to introduce the subject of the role of the political party in our state's electoral process. The means of this introduction is consideration of the potential funding of political parties. The Commission recognizes that the underlying issue presents considerations much broader than those presented by this interim report. However, similar to the Commission's other interim reports, it is hoped that this paper will prompt public debate and consideration of the underlying issue.

FACTS AND ANALYSIS

1. New Jersey provided public funds to its gubernatorial candidates in the 1981 primary election and to gubernatorial candidates in the 1977 and 1981 general elections. New Jersey is one of 17 states with a public financing program. Six of those seventeen states provide monies directly to political parties: Iowa, Kentucky, Maine, North Carolina, Oregon and Utah. In addition, in three states a taxpayer may check off funds on his tax return for either a gubernatorial fund or for a political party; those states are: Idaho, Minnesota and Rhode Island.
2. The question of funding political parties in addition to, or in lieu of, funding gubernatorial candidates has come up for reasons that include the following:
 - (a) New Jersey's current system, particularly the expenditure limit, has resulted in an artificial divorce of a general election gubernatorial candidate's campaign from the campaigns run by the state political party and local affiliates on behalf of legislative and local candidates; this separation undercuts the party's responsibility and accountability in relation to the gubernatorial candidate and potential governor and may hinder the person elected governor in leading his or her party and in governing.
 - (b) The system of publicly funding the candidates, as used in New Jersey, encourages the trend of the candidate who is independent of the political party organization and operates to the detriment of the

political party; this criticism has been lodged against the system used at the national level in nominating and electing the President and that system is similar to New Jersey's. Some observers of politics in the United States are critical of this trend as undercutting the effectiveness of the political parties.

(c) It is widely held that the influence and effectiveness of political parties have declined and that some of the decline can be traced to the reforms instituted in the early 1970's following the 1968 and 1972 national elections and the Watergate scandal. To some observers, this decline has gone too far to the detriment of our political system and governance; one suggestion for reversing the decline is to extend the reform of public financing to include political parties.

3. One method of providing funding to political parties is through a check-off system. In those states (Idaho, Minnesota and Rhode Island) that allow a taxpayer to check off either a political party or a general campaign fund, more than 61 percent of all taxpayers who used the check-off option during a five year period made a partisan contribution in contrast to a contribution to a general campaign fund. Specifically, Minnesota taxpayers preferred the partisan option by a two-to-one margin in 1974 and 1975 and their preference increased to a margin of three-to-one for 1976-79. Conversely, Rhode Island taxpayers showed a preference for the general fund option from 1973 through 1977. In the third state, Idaho, taxpayers began by preferring partisan designations and then switched to a preference for campaign fund designations in the later 1970's.
4. Eight states allow political parties to dispense check-off monies, of which seven permit parties to use public funds for internal administrative purposes such as office supplies, staff salaries and mailings. These seven are: Kentucky, Maine, North Carolina, Oregon, Rhode Island, Utah and Oklahoma. However, in none of the seven states have taxpayers been heavily attracted to the income tax check-off system.
5. The proportion of dollars allocated to specific political parties varies by the method of allocating funds. The Democratic party collects the largest amount of money in states that allocate funds strictly on the basis of taxpayer party choices. Conversely, when taxpayers designate their check-off funds for a general fund, as is the case in New Jersey, the amount of public funds that goes to the majority party is less than the ratio of majority to minority members as identified through party registration or through voting in a primary. Thus, in a general fund check-off system, the minority party will tend to receive a greater proportion of public funds than its identification in the electorate.
6. Another method of providing funding to political party organizations is through the use of filing fees as a source of dedicated funds. Such a system is used in Florida where candidates are required to pay a filing fee of 3 percent of the salary of the office sought. Of the funds raised through the collection of filing fees, 85 percent is disbursed to the state's political party organizations. Concerns that the filing fee system could serve as an obstacle to candidates without organizational or personal financial resources are addressed by allowing candidates to avoid payment of the fee upon the filing of a statement of indigency. Thoughtful consideration of such a system would require greater analysis of the specifics of the program; however, it is interesting that such a system provides funding through and by those individuals who actively participate in the electoral process as candidates.
7. Another approach would be to maintain the New Jersey system of general income tax check-offs and individual candidate qualification, but provide the funding to state political party committees rather than directly to campaign committees of the qualifying candidates. Such an approach would be intended to provide a state political party committee with the resources and opportunity to play an integral role in the operation of a gubernatorial general election campaign. It might be argued that such a procedure is unnecessary in recognition of the fact that it is the party's gubernatorial candidate who handpicks the state chairman who is in office during the conduct of the gubernatorial general election. However, control and access to the funding for the campaign might inspire members of the state committee to seek a more active role in the conduct of a gubernatorial campaign or might encourage a more responsive and attentive posture by the state chairman.

Rather than promoting an independent role for state political party organizations, such a system could compel a party's gubernatorial nominee to be even more concerned about the selection of a state chairman.

Beyond picking a political ally, the gubernatorial candidate might well seek to pick his or her closest associate to insure control of campaign funds. Consideration to accommodate competing interests or groups within the party, by the selection of a chairman, might well be overbalanced by the nature of a funding system which provides control of campaign funds to the state committees. Of course, the existence of such a system of campaign financing for gubernatorial general elections might prompt the state committee to assert a more independent role in the selection of its chairman.

8. It can be asserted that the present New Jersey public financing system has contributed to, rather than undercut, the strength and influence of the state's political party organizations. The presence of a contribution limit for gubernatorial campaigns has assisted political party organizations in fund raising on a statewide basis. Moreover, the experience during the 1981 general election showed that the gubernatorial campaigns had to refund contributions and much of the refunded money was then contributed to the state committee. Additionally, the existence of an adequately funded gubernatorial campaign has allowed the state political party committees to focus their attention on legislative races, organizational and institutional activity and providing support and technical assistance to local political party organizations.
9. It is important to keep in mind that financial support for political party organizations may be structured to be general or restrictive. Limitations on the use of public funds could be imposed to limit publicly financed expenditures to voter registration, polling, or other institutional or organizational activities.
10. Neither of New Jersey's two major political party organizations experienced great difficulty in raising sizeable sums for the 1981 general election, although both parties ended the campaign in debt. Furthermore, the parties exhibited improved fund raising in 1981 and, as those skills are additionally improved, the parties should have a relatively sound financial footing. Thus, there does not appear to be a compelling reason for providing public funds for political parties in New Jersey for purely financial considerations.
11. Herbert Alexander in *Financing Politics* says that the funding of political parties would serve three significant ends:
 - (a) public funding would give candidates an alternative source of funding and allow them to refuse special interest or PAC gifts at their discretion;
 - (b) if the parties were allowed to use public funds to finance activities such as voter registration and voter turnout, the new funding would enable the parties to strengthen themselves and their relationships with their candidates; and
 - (c) public funding would provide incentives for parties to reform and to be more oriented toward significant issues.
12. Arguments against funding political parties include the following:
 - (a) the trend in the country of candidates being increasingly independent of their parties is good and, thus, public funds should be given directly to candidates and not the parties;
 - (b) extending public funding to parties would probably require a limit on the dollar amount of contributions to the parties; to close potential loopholes, it would be necessary then to extend the contribution limit to county and municipal party committees; this would increase the reporting requirements of party committees and the review workload of the Election Law Enforcement Commission;
 - (c) the artificial separation of the gubernatorial candidate and his or her political party arises from the expenditure limit on the gubernatorial candidate; if that limit were removed, then the artificial separation would decline or disappear, thus eliminating one of the reasons for funding political parties.

13. No bill has been introduced in the New Jersey Legislature to provide public funds to the political parties.
14. Concern for the role of political party organizations, particularly their role in the conduct of gubernatorial campaigns, is not limited to state committees. County committees as well as campaign committees for local candidates find an ever increasing estrangement from the gubernatorial candidate and his or her campaign committee. This fact is primarily the result of limitations upon overall campaign expenditures for gubernatorial candidates accepting public funds, since expenditures which benefit an identified gubernatorial candidate must be assumed at least in part by that candidate. Consequently, local and county campaigns are required to obtain the approval of the gubernatorial candidate's campaign committee before they may include the name of their party's standard bearer on their local literature. The impact upon county organizations is illustrated by a news article which appeared in The Record on October 16, 1981, a copy of which is attached.
15. Increasing the strength and influence of the state's political party organizations probably could be achieved in ways other than providing public funds to the party organizations. Among the ways of doing so include: restoring the closed primary and permitting municipal and county political party organizations to endorse and financially support candidates in the primary. These, and other alternatives not involving campaign financing, are beyond the Commission's area of consideration; but they should be considered in any full scaled analysis of New Jersey's electoral system.

ALTERNATIVES

Alternatives are posed below based on the models of public financing from other states, on the desire to present a range of choices, and on the reasonableness of the alternatives.

Alternative #1: Make no change in the public funding program of financing gubernatorial primary and general election candidates.

This alternative would maintain the program of funding only gubernatorial candidates. While possibly acknowledging the desirability of strengthening the political parties, choosing this alternative would suggest that the goal of strengthening political parties can be achieved without intervention of public financing and through other means. Such other means might include restoring the closed primary or permitting political party committees to endorse primary candidates, or eliminate the expenditure limit.

Alternative #2: Provide for a partisan check-off as well as for a gubernatorial election fund check-off and use the proceeds to fund political parties as well as funding gubernatorial candidates.

This alternative would add a new major purpose to the public financing program, that of strengthening the political parties in addition to the purposes of reducing the undue influence of large contributions and enabling gubernatorial candidates of limited means to run for the office of Governor. New Jersey has more registered Democrats, and, thus, it is likely that a partisan check-off would provide more funds to the Democratic Party than to the Republican Party, if the pattern found in other states with a partisan check-off were to hold in New Jersey.

Alternative #3: Provide for a partisan check-off only, using the proceeds to fund political parties, and eliminate the check-off for the gubernatorial election fund.

This would tend to favor the Democratic party, if New Jersey followed the pattern of other states. Similarly, the number of New Jersey taxpayers using the check-off might decline because states with a partisan check-off have fewer taxpayers who check off funds.

Alternative #4: Maintain the present check-off system but give the proceeds for the gubernatorial general election to the state committees instead of the candidates.

The purpose of making this change would be to provide the state political party committees with the resources and with the opportunity to have a key active role in the financial administration of the gubernatorial general election campaign. This alternative would necessarily create two separate gubernatorial public financing programs: one, a matching program for primary candidates; the second, a grant program to the state committees for the gubernatorial general election campaign.

County chairman left out of governor race

By Michele Fuetsch
Staff Writer

In 1973, Democratic Senate and Assembly candidates in Bergen County were distributing literature touting the "Byrne team," headed by the party's nominee for governor.

In the gubernatorial campaign four years later, voters in many New Jersey communities received election tabloids featuring plugs for each of the Republican candidates, from the gubernatorial nominee to the municipal council hopeful.

But county politics is different this year.

"On the tabloid we're doing, we can't put (James) Florio's name on it," said Eileen Feldner, executive director of the Bergen County Democratic organization.

In Northvale, where the borough's Republican club opened a headquarters for its county freeholder legislative, and municipal candidates. Republican Mayor John Rooney said, "you won't see anything about (Thomas) Kean."

Party slates, county campaign headquarters, and locally produced campaign literature belong to history in New Jersey's gubernatorial politics. And, the power of county party organizations and their chairmen has been dramatically reduced, although there are individuals who influence the candidates.

Television is blamed

Television - aided by the state's new law for public financing and campaign spending limits on gubernatorial campaigns - is to blame for the weakened condition of the traditional, county-based gubernatorial campaign, politicians say.

Even the bumper sticker is in danger of extinction at a time when television advertising is eating up well over 50 percent of the \$2.1-million campaign-spending limit imposed on gubernatorial candidates if they accept public funding.

"I think the only bumper sticker for Kean is on my car," said a veteran Bergen Republican, who, like many Democrats, bemoans the lack of visible campaign activity in the county.

"Unfortunately," said Democratic County Chairman Vincent Rigolosi, "we're getting away from all the hoopla which is a hell of a lot more fun for us fellows who don't watch television."

Before the public financing law and the dominance of television, county organizations supplemented a candidate's state budget by renting and staffing local headquarters or by printing and mailing literature. But this year, organizations are under orders from Republican Thomas Kean and Democrat James Florio not to spend money on their behalf, lest the spending which must legally be reported, put them over the \$2.1-million limit.

"If we had the campaigns the way we used to, before public funding, (money) would go into building a volunteer effort," said former Passaic County Assemblyman Michael M. Horn, the Wayne attorney heading Kean's campaign in Passaic.

Not much for volunteers to do

Horn says there isn't much for local volunteers to do. Kean's campaign doesn't have headquarters in Bergen or Passaic. Commitment '81, the well-funded arm of the National Republican Committee, is organizing one of the only large volunteer efforts, a literature drop for GOP candidates throughout the state Saturday. Commitment '81 was organized to funnel money to both Kean and GOP legislative candidates, but it circumvents the spending limits by not directly mentioning Kean's name.

Florio has headquarters in Passaic and in Hackensack, but they are largely store-front operations, with most of the phoning and mailing going on at central locations in other parts of the state.

County chairmen, once the people who had to be pleased or appeased if a candidate was to roll up a large margin in a county, are no longer kingpins in a gubernatorial campaign.

Sophisticated polling operations, not the chairmen, now provide state candidates with information about voter concerns in each county. Party workers who once rallied to the call of their charemen aren's necessary when there are no signs to tack up and no bumper stickers to distribute. And, in the Kean and Florio campaigns, paid telephone workers at central phone banks have replaced the volunteer party faithful who once went door to door with the partisan message.

Kean's Bergen organization, which one Republican calls "nonexistent," points up the decline in importance of the county party organization.

GOP County Chairman William McDowell hardly takes part in Kean's county campaign. McDowell is busy running for sheriff, leaving Kean's county steering committee to the same people who surrounded Kean in the primary. GOP Freeholder Charles Reid and Paramus attorney Gary Stein. They rely on Jerome White, a Tenafly real estate developer, to manage any day-to-day activity the Kean campaign requires.

His backers have done almost nothing to court Bergen supporters of losing GOP primary candidates, such as Totowa industrialist Joseph "Bo" Sullivan and Paterson Mayor Lawrence "Pat" Kramer.

"They didn't invite me in. I would have helped," said a former Kramer supporter who asked not to be identified.

He is bitter over not being asked to join the county steering committee and skeptical about Kean's prospects without a strong county organization, even though Kean often notes in speeches that he has the support of his primary opponents.

"They'll lay an egg. You can't operate Bergen County from Trenton," said the former Kramer supporter.

Reid said, "That's a good question," when asked why the steering committee has no local supporters of losing GOP gubernatorial candidates. "It's a state-wide campaign, let's face it," said Reid. "That's the media world we live in today."

On the Democratic side in Bergen, it's no secret among party members that chairman Rigolosi, who supported Rep. Robert A. Roe of Passaic County in the primary, feels slighted by Florio.

"Rigolosi's a very sensitive guy," said a Democratic officeholder who does not want his name used. Rigolosi believes he is not getting the respect due a county chairman, the politician says.

Publicly, Florio campaign operatives say their policy is not to rely on county chairmen to organize and run Florio operations. Privately, they confirm that Rigolosi is not their eyes and ears in Bergen and that he has complained about it to Florio. At least one private meeting between the candidate and the chairman was arranged in efforts to soothe Rigolosi's ego, but Florio's method of operation has not changed.

Though county chairmen and county organizations cannot influence gubernatorial candidates as they once did, there are North Jersey people with considerable influence on the candidates.

Bergen Republican Assemblyman W. Cary Edwards of Oakland headed issue development for Kean and practiced with the candidate before his two televised debates with Florio. Jon Hanson of Rockleigh, a real estate developer and head of the Bergen Pines County Hospital board of directors, is Kean's state finance chairman, and J. Fletcher Creamer, the Edgewater heavy construction company owner, is Kean's Bergen County fund-raiser.

Creamer has raised \$155,000 in Bergen and expects to surpass his goal of \$200,000 by election day, a success that has some party members complaining that money sources are dried up for county and legislative candidates.

In Passaic County, Kean's lieutenants are former Assemblymen Horn and Joseph Scancarella and Wayne insurance broker Charlie Steele, a longtime Kean supporter.

Former Bergen Freeholder-Director Jeremiah F. O'Connor is heading Florio's campaign in Bergen, which is geared largely to a heavy get-out-the vote operation on election day. Gabriel Ambrosio of Lyndhurst headed Florio's campaign in the primary, but he has joined his rival Rigolosi on the sidelines. Florio campaign sources say Ambrosio fell in esteem when Florio polled little more than 6,000 votes countywide in the primary.

O'Connor is a close friend of Florio's closest associate in Bergen, James Dugan, a former state Democratic chairman and Hudson County state senator who now lives in Saddle River.

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APPENDIX NO. 10*

ANALYSIS OF A PROPOSAL TO
MATCH ONLY A PORTION OF A CONTRIBUTION

FACTS AND ANALYSIS

1. Assemblyman Richard A. Zimmer requested the Election Law Enforcement Commission to analyze the consequences of counting only the first \$100 or \$250 of each campaign contribution toward the \$50,000 threshold and for purposes of matching. Assemblyman Zimmer said in his request that he found "...this approach appealing because it would conserve public funds, would deter marginal candidates, and would encourage candidates to reach a far larger constituency of contributors."
2. **Effect on reaching the threshold.** The analysis of the proposal to match only the first \$100 or \$250 of a contribution revealed that if that provision had been in effect for the 1981 elections, it would have eliminated only one, possibly two candidates in the 1981 primary, namely Klein (D) and possibly McConnell (D). All other candidates would have experienced some delays in their ability to make submissions for public matching funds; in no case would that delay have gone into the month of May for primary candidates. Furthermore, the general election candidacies of Congressman Florio and Governor Kean would not have been affected in terms of reaching a \$50,000 threshold.
3. **Impact on conserving public funds.** Matching only the first \$250 and the first \$100 of a contributor's contribution would have resulted in a reduction in public funds, an estimated \$1.9 million under the \$250 provision and an estimated \$5.4 million under the \$100 provision. (See Table 10.3, "Changes in the Amount of Public Funds From Matching \$250 and \$100"). Under the \$100 and \$250 provision, all campaigns would have received less public funds, except for the Florio general election campaign under the \$250 provision. Only Candidate Klein (D) would not have received any public funds under either the \$250 or \$100 provision. The impact on individual candidacies is shown on Table 10.1.
4. **Impact on deterring marginal candidates.** Table 10.4, "Total Funds Available to Public Funds Primary and General Election Gubernatorial Candidates", compares the actual total funds each of the 16 primary and two general election candidates had available for the 1981 elections and the total funds they would have had available under the \$250 provision and the \$100 provision. There is no agreed upon standard of the amount of campaign funds needed to define a "marginal" candidate from a "non-marginal" candidate. Therefore, it is impossible to arrive at a conclusion from the data on Table 10.4 about the extent to which "marginal" candidates would have been deterred by virtue of matching only the first \$250 or the first \$100 of a contributor's contribution.
5. **Impact on reaching more contributors.** A total of 26,827 contributors made contributions to the 16 gubernatorial publicly funded primary candidates. For these same 16 candidates to have not experienced the \$1.8 million reduction in public funds that would have resulted from matching only the first \$250 of a contributor's contribution, it would have been necessary for them to attract contributions from about 7,200 additional contributors making a contribution of at least \$250. This number would represent a 26 percent increase in the number of contributors to the gubernatorial primary campaigns of the publicly funded candidates.

For the same 16 candidates to have avoided the \$4.2 million reduction in public funds under the \$100 provision, it would have been necessary for them to attract 42,000 additional contributors making a contribution of at least \$100. This number is over one-and-one-half times the number of contributors, 26,827, who made contributions to the gubernatorial primary candidates.

*This Appendix is a summary of a staff report presented to the Election Law Enforcement Commission at its meeting of May 5, 1982.

There is no clear definition of what a "far larger constituency of contributors" means. Four Democratic candidates received contributions from over 2,000 contributors, namely: Gibson (2,482), Degnan (2,242), Smith (2,128) and Merlino (2,002). The winner of the Democratic primary, Congressman Florio, received contributions from 1,914 contributors. Among the Republicans, three received contributions from over 2,000 contributors, namely: Wallwork (2,598), Kramer (2,422) and Kean (2,425). For each of these campaigns to have increased the number of contributors by roughly 25 percent or between 500 to 700 contributors, might not have been that difficult but it is uncertain whether the increase of 500 to 700 additional contributors would meet a test of "far larger constituency of contributors." For the \$100 provision, the campaigns would have had to increase the number of contributors by one and a half times to not experience a reduction in public funds. That level of increase, from 27,000 to 69,000 contributors might meet a test of "far larger constituency of contributors" but it might well impose a fund raising burden on some or all of the campaigns that would be impossible for them to sustain.

A review of contributors and contribution amounts to publicly funded primary candidates showed that the overall median contribution was \$100, that is one half of the contributions were in amounts of \$100 or less. The only candidates whose median contribution exceeded \$100 were Donald Lan (D) at \$175 and Lawrence Kramer (R) at \$150. Six candidates had median contributions below \$100, namely Kenneth Gibson (D) at \$50, Ann Klein (D) at \$50, Barbara McConnell (D) at \$25, Thomas Smith (D) at \$75, John Rafferty (R) at \$65 and James Wallwork (R) at \$50. Thus, contributors of at least \$100 or less made up at least half of the contributors for all but two of the 16 publicly funded candidates in the 1981 primary. (See Appendix Table 1.4, "New Jersey 1981 Gubernatorial Primary Election Contributions: Amount, Number and Average Contribution; Number of Contributors and Average Contribution and Median Contribution by Candidate.").

6. A concern about the proposal is that it would increase the administrative burden of campaigns to monitor their contributions and in filing submissions for public matching funds. During the 1981 primary, all 16 primary campaigns erred in their record keeping with the result that they accepted some contributions which, in the aggregate, exceeded \$800 from a single contributor. This occurred despite the campaign treasurers and finance staff being fairly diligent in monitoring contributions. Complicating the matching program by matching only a portion of contributions from a single contributor would increase the chances for error. Furthermore, the proposal would require additional diligence and additional staff time by the Commission in monitoring contributions submitted for match.
7. Based on the Commission's other analyses of public financing issues, the State could achieve the objectives sought by other changes in the law that would have a more direct impact and be less burdensome administratively. Conserving public funds can be achieved relatively easily and more directly by reducing the matching formula from two-to-one to some lesser ratio, or by reducing the cap on public funds from 35¢ and 70¢ to a lower amount(s). If "marginal" candidates are defined in terms of the amount of money raised or in the number of votes received, a more easily administered screening device might be to increase the \$50,000 threshold. Encouraging the candidates to reach a larger constituency of contributors will be achieved, in part, through the increased cost of campaigning and the related increased need to raise more funds in future elections.

Appendix #10 Tables:

- 10.1 Comparison of Dates by Which 1981 Gubernatorial Campaigns Reached \$50,000 Threshold When Amount of Contributions Matched is \$800, \$250 and \$100
- 10.2 Estimate of Delays in Submitting for Public Matching Funds Resulting From Counting Only the First \$250 and the First \$100 of a Contribution Toward the \$50,000 Threshold
- 10.3 Changes in the Amount of Public Funds From Matching \$250 and \$100
- 10.4 Total Funds Available to Public Funds Primary and General Election Gubernatorial Candidates 1981 and With Matching \$250 and \$100

May 4, 1982

TABLE 10.1
 COMPARISON OF DATES
 BY WHICH 1981 GUBERNATORIAL
 CAMPAIGNS REACHED \$50,000
 THRESHOLD WHEN AMOUNT
 OF CONTRIBUTION MATCHED
 IS \$800, \$250 AND \$100

Candidate	Date of 1st Submission	Date \$50,000 Threshold Reached		
		\$800	\$250	\$100
<u>PRIMARY</u>				
<u>DEMOCRATS</u>				
Degnan	Apr. 06, 1981	Mar. 12, 1981	Mar. 30, 1981	Apr. 14, 1981
Dodd	Mar. 23, 1981	Nov. 13, 1980	Feb. 11, 1981	Apr. 01, 1981
Gibson	Mar. 09, 1981	Mar. 05, 1981	Apr. 01, 1981	Apr. 20, 1981
Hamilton	Jan. 26, 1981	Nov. 12, 1980	Dec. 08, 1980	Feb. 10, 1981
Florio	Apr. 06, 1981	Jan. 22, 1981	Feb. 10, 1981	Mar. 09, 1981
Klein	Apr. 14, 1981	Mar. 23, 1981	May 18, 1981	Not Reached
Lan	Mar. 23, 1981	Dec. 12, 1979	Jan. 21, 1980	Dec. 15, 1980
McConnell	Feb. 23, 1981	Feb. 20, 1981	Mar. 25, 1981	May 05, 1981
Merlino	Jan. 26, 1981	July 14, 1980	July 15, 1980	July 18, 1980
Smith	Jan. 05, 1981	Sept. 15, 1978	Sept. 15, 1978	Sept. 18, 1978
<u>REPUBLICANS</u>				
Kean	Apr. 21, 1981	Feb. 03, 1981	Feb. 13, 1981	Mar. 09, 1981
Kramer	Jan. 05, 1981	Apr. 16, 1980	Apr. 22, 1980	May 03, 1980
McGlynn	Jan. 05, 1981	Dec. 16, 1980	Feb. 06, 1981	Mar. 17, 1981
Parker	Jan. 26, 1981	July 10, 1980	Nov. 28, 1980	Feb. 25, 1981
Rafferty	Mar. 23, 1981	Dec. 29, 1980	Jan. 09, 1981	Jan. 29, 1981
Wallwork	Mar. 09, 1981	Jan. 16, 1981	Jan. 23, 1981	Feb. 26, 1981
<u>GENERAL</u>				
Florio (D)	Aug. 17, 1981	July 17, 1981	July 30, 1981	Aug. 17, 1981
Kean (R)	Sept. 21, 1981	July 06, 1981	July 09, 1981	Aug. 04, 1981

Source: Cumulative Contribution Listing by Date of Contribution (Program 6455A) April 27, 1982, New Jersey Election Law Enforcement Commission.

TABLE 10.2
ESTIMATE OF DELAYS IN SUBMITTING
FOR PUBLIC MATCHING FUNDS
RESULTING FROM COUNTING ONLY
THE FIRST \$250 AND FIRST \$100
OF A CONTRIBUTION TOWARD THE
\$50,000 THRESHOLD

<u>Candidate</u>	<u>Date of Submission</u>	<u>Delays in Weeks</u>	
		<u>\$250</u>	<u>\$100</u>
<u>PRIMARY</u>			
Degnan	Apr. 6, 1981	no delay	two weeks
Dodd	Mar. 23, 1981	no delay	one week
Gibson	Mar. 9, 1981	four weeks	seven weeks
Hamilton	Jan. 26, 1981	no delay	four weeks
Florio	Apr. 6, 1981	no delay	no delay
Klein	Apr. 14, 1981	six weeks	never reach
Lan	Mar. 23, 1981	no delay	no delay
McConnell	Feb. 23, 1981	five weeks	eleven weeks
Merlino	Jan. 26, 1981	no delay	no delay
Smith	Jan. 5, 1981	no delay	no delay
Kean	Apr. 21, 1981	no delay	no delay
Kramer	Jan. 5, 1981	no delay	no delay
McGlynn	Jan. 5, 1981	five weeks	eleven weeks
Parker	Jan. 26, 1981	no delay	six weeks
Rafferty	Mar. 23, 1981	no delay	no delay
Wallwork	Mar. 9, 1981	no delay	no delay
<u>GENERAL</u>			
Florio	Aug. 17, 1981	no delay	no delay
Kean	Sept. 21, 1981	no delay	no delay

TABLE 10.3
CHANGES IN THE AMOUNT OF PUBLIC FUNDS
FROM MATCHING \$250 AND \$100

Candidate	1981	\$250			\$100		
	Public Funds	Amount	Decrease	% of Decrease	Amount	Decrease	% of Decrease
PRIMARY							
DEMOCRATS							
Degnan	\$ 599,975.80	\$ 446,607.60	\$ 153,368.20	25.6%	\$ 219,013.00	\$ 380,962.80	63.5%
Dodd	327,543.77	178,535.88	149,007.89	45.5	70,901.00	256,642.77	78.4
Florio	599,975.80	424,779.02	175,196.78	29.2	216,071.02	383,904.78	64.0
Gibson	393,879.00	289,813.00	104,066.00	26.4	165,617.00	228,262.00	58.0
Hamilton	309,678.76	194,299.18	115,379.58	37.2	86,387.88	223,290.88	72.1
Klein	52,763.74	-	52,763.74	100.0	-	52,763.74	100.0
Lan	249,919.69	172,768.00	77,151.69	30.9	54,528.00	195,391.69	78.2
McConnell	95,916.72	55,138.26	40,778.46	42.5	5,102.26	90,814.46	94.7
Merlino	599,975.80	420,089.00	179,886.80	30.0	210,685.00	389,290.80	64.9
Smith	599,949.90	558,533.56	41,416.34	6.9	317,000.00	282,949.90	47.2
Subtotal	<u>\$3,829,578.98</u>	<u>\$2,740,563.50</u>	<u>\$ 1,089,024.48</u>	<u>28.4%</u>	<u>\$1,345,305.16</u>	<u>\$ 2,484,273.82</u>	<u>64.9%</u>
REPUBLICANS							
Kean	\$ 599,975.80	490,687.10	109,288.70	18.2%	\$ 239,756.50	\$ 360,219.30	60.0%
Kramer	599,975.80	591,932.40	8,043.40	1.3	285,699.00	314,276.80	52.4
McGlynn	233,916.74	132,219.74	101,697.00	43.5	49,932.00	183,984.74	78.6
Parker	306,042.00	152,649.00	153,393.00	50.1	65,299.00	240,743.00	78.7
Rafferty	246,575.22	143,499.00	103,076.22	41.8	49,000.00	197,575.22	80.1
Wallwork	557,594.74	329,160.76	228,433.98	41.0	174,542.12	383,052.62	68.7
Subtotal	<u>\$2,544,080.30</u>	<u>\$1,840,148.00</u>	<u>\$ 1,703,932.30</u>	<u>27.7%</u>	<u>\$ 864,228.62</u>	<u>\$ 1,679,851.68</u>	<u>66.0%</u>
Total Primary	<u>\$6,373,659.28</u>	<u>\$ 4,580,711.50</u>	<u>\$ 1,792,947.78</u>	<u>28.1%</u>	<u>\$2,209,533.78</u>	<u>\$ 4,164,125.50</u>	<u>65.3%</u>
GENERAL							
Florio (D)	\$1,199,951.60	\$1,199,951.60	\$ -	0%	\$ 646,322.50	\$ 553,629.10	46.1%
Kean (R)	\$1,199,951.60	\$1,117,289.00	82,662.60	6.9	559,903.00	\$ 640,048.60	57.3
Total General	<u>\$2,399,903.20</u>	<u>\$2,317,240.60</u>	<u>\$ 82,662.60</u>	<u>3.4%</u>	<u>\$1,206,225.50</u>	<u>\$ 1,193,677.70</u>	<u>49.7%</u>
TOTAL	<u>\$8,773,562.48</u>	<u>\$6,897,952.10</u>	<u>\$ 1,875,610.38</u>	<u>21.4%</u>	<u>\$3,415,759.28</u>	<u>\$ 5,357,803.20</u>	<u>61.1%</u>

Source: Cumulative Contribution Listing by Amount of Contribution (Program 6455A), April 29, 1982.

TABLE 10.4

May 4, 1982

TOTAL FUNDS AVAILABLE
TO PUBLIC FUNDS PRIMARY AND GENERAL ELECTION
GUBERNATORIAL CANDIDATES
1981 AND WITH MATCHING \$250 AND \$100

Candidate	1981			Total Funds @ \$250 Match	Total Funds @ \$100 Match	
	Total Receipts *	Public Funds				Total Funds '81
		Received	Refunded			
Degnan	\$ 505,753.88	\$ 599,975.80	\$ 0.00	\$1,105,729.68	\$ 952,361.48	\$ 724,766.88
Dodd	229,212.28	327,543.77	50.08	556,705.97	407,748.16	300,113.28
Florio	512,436.80	599,975.80	0.00	1,112,412.60	937,215.82	728,507.82
Gibson	280,422.00	393,879.00	72,815.23	601,485.77	570,235.00	446,039.00
Hamilton	214,773.89	309,678.76	7,949.73	516,502.92	409,073.07	301,161.77
Klein	101,941.48	52,763.74	785.65	153,919.57	101,941.48	101,941.48
Lan	201,220.07	249,919.69	0.00	451,139.76	373,988.07	255,748.07
McConnell	101,985.27	95,916.72	816.84	197,085.15	157,123.53	107,087.53
Merlino	397,031.50	599,975.80	0.00	997,007.30	817,120.50	607,716.50
Smith	500,536.76	599,949.90	0.00	1,100,486.66	1,059,070.32	817,536.76
Democrat Total	\$3,045,313.93	\$3,829,578.98	\$82,417.53	\$6,792,475.38	\$5,785,877.43	\$4,390,619.09
Kean	\$ 530,054.00	\$ 599,975.80	\$ 289.90	\$1,129,739.90	\$1,020,741.10	\$ 769,810.50
Kramer	552,230.35	599,975.80	0.00	1,152,206.15	1,144,162.75	837,929.35
McGlynn	167,468.37	233,916.74	0.00	401,385.11	299,688.11	217,400.37
Parker	216,241.71	306,042.00	11,146.30	511,137.41	368,890.71	281,540.71
Rafferty	187,239.66	246,575.22	0.00	433,814.88	330,738.66	236,239.66
Wallwork	353,571.72	557,594.74	45.79	911,120.67	682,732.48	528,113.84
Republican Total	\$2,006,805.81	\$2,544,080.30	\$11,481.99	\$4,539,404.12	\$3,846,953.81	\$2,871,034.43
Primary Total	\$5,052,119.74	\$6,373,659.28	\$93,899.52	\$11,331,879.50	\$9,632,831.24	\$7,261,653.52
Florio	\$1,228,860.94	\$1,199,951.60	\$ 0.00	\$2,428,812.54	\$2,428,812.54	\$1,875,183.44
Kean	1,129,794.70	1,199,951.60	0.00	2,329,746.30	2,247,083.70	1,689,697.70
General Total	\$2,358,655.64	\$2,399,903.20	\$ 0.00	\$ 4,758,558.84	\$4,675,896.24	\$3,564,881.14
TOTAL	\$7,410,775.38	\$8,773,562.48	\$93,899.52	\$16,090,438.34	\$14,308,727.48	\$10,826,534.66

*Total receipts include: individual contributions; in-kind contributions; interest; public solicitations; and candidates' own funds.

Source: Cumulative Contribution Listing (Program 6453) April 20, 1982 for "Total Receipts" and "Public Funds"; Table 10.3. for Public funds @ \$250 and \$100.

APPENDIX NO. 11

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