

# 1989 ANNUAL REPORT

The N.J. Election Law Enforcement Commission



**TABLE OF CONTENTS**

**THE COMMISSION** ..... 1

**CHAIRMAN'S MESSAGE** ..... 5

**COMMISSION STAFF AND TABLE OF ORGANIZATION** ..... 9

**EXECUTIVE DIRECTOR'S REMARKS** ..... 11

**LEGISLATIVE REVIEW** ..... 14

**LEGAL SECTION** ..... 20

**REVIEW AND INVESTIGATION SECTION** ..... 27

**COMPLIANCE AND INFORMATION SECTION** ..... 30

**PUBLIC FINANCING SECTION** ..... 34

**COMPUTER SECTION** ..... 40

**ADMINISTRATION SECTION** ..... 43

**1989 AND 1990**  
**BUDGET OVERVIEW AND EVALUATION DATA** ..... 47

## **THE COMMISSION**

### **Owen V. McNany, III, Chairman**

*Owen V. McNany, III, is in his third term on the Commission. He is ELEC's most senior Commissioner. In February 1990, Governor James J. Florio named him as ELEC's fifth Chairman. Previously, he had served over two years as Vice Chairman and a total of five years on the Commission.*

*Chairman McNany is President and Director of Yorkwood Savings and Loan Association and President and Director of the Crestwood Service Corporation.*

*The Chairman of the Board of Trustees of the Hospital Center at Orange, he is the former State Director of the Institute of Financial Education of the U.S. League of Savings Associations.*

*Chairman McNany is married to the former Patricia Beury and resides in Maplewood. The couple has four children.*

### **Stanley G. Bedford, Commissioner**

*Stanley G. Bedford is serving his second term on the Commission. He served as Chairman of ELEC from 1987 to early 1990.*

*A former judge of the Essex County Court (1972-1976) and the State Superior Court (1976-1986), Commissioner Bedford is a member of the Essex County Bar Association and the New Jersey State Bar Association.*

*Married to the former Ruth Grey, and a resident of Nutley, he has served as Acting Surrogate in Essex County from August 1986 to January 1987 and as Deputy Surrogate from January 1987 to June 1987.*

*A graduate of Columbia University with a B.A. in 1941 and a J.D. in 1948, Commissioner Bedford is a member of Phi Delta Phi and was a Harlan*

*Fisk Stone Scholar while at Columbia University. He also serves as Chairman of the Alpha Chi Rho Educational Foundation.*

**David Linett, Commissioner**

*David Linett, in his first term on the Commission, is a principal in the Bridgewater law firm of Gindin and Linett. He is a former Somerset County prosecutor.*

*Commissioner Linett is a member of the New Jersey and District of Columbia Bars as well as a member of the American, New Jersey, and Somerset County Bar Associations. He is a former Chairman of the State Bar Association's Election Law Committee, Chairman of the Court's District XIII Ethics Committee, and member of the Supreme Court's Ethics Financial Committee.*

*A graduate of Yale University and Harvard Law School, Commissioner Linett served as a member of the New Jersey Supreme Court Committees on County District Courts and Speedy Trial and served as a panelist at the 1988 Conference on Governmental Ethics Laws (COGEL).*

*Numbered among Commissioner Linett's civic activities are: Past Chairman of the Board of Trustees of the Association for the Advancement of the Mentally Handicapped (AAMH), trustee of Proprietary House Association, past President of the Somerville Rotary Club, past member of the Democratic State Committee from Somerset County, and member of the Board of Directors of the Greater Somerset County Chamber of Commerce.*

*Selected as the Somerset County Chamber of Commerce "Citizen of the Year" in 1989, Commissioner Linett is also the father of three children.*

**S. Elliott Mayo, Commissioner**

*S. Elliott Mayo, appointed to replace former Commissioner Andrew C. Axtell, who resigned in June, is serving his first term on the Commission.*

*A resident of Metuchen, Commissioner Mayo has held numerous elected posts. He served as a Middlesex County freeholder and a Metuchen Councilman. At one time, he was Council President.*

*In addition to his activity as an elected official, Commissioner Mayo has held numerous civic positions. Presently Chairman of the Metuchen Planning Board, he is a member of the JFK Health Systems', Inc. Board of Trustees and the JFK Medical Center Executive Committee. He serves as Vice Chairman of the Metuchen Senior Citizen Housing Corporation.*

*Married to the former Barbara Monnoyer, he is the father of two sons and is a partner with Henry G. Richter Inc., in Mountainside.*

**Andrew C. Axtell, Former Commissioner**

*Andrew C. Axtell, a former Chairman of the Commission, had been serving an unprecedented fourth term on the Commission when he retired in June.*

*Former Commissioner Axtell, who now lives in Florida, made many important and lasting contributions during his tenure on the Commission. A long time active participant in politics and civic affairs, former Commissioner Axtell, a businessman, will be missed.*

**Frederick M. Herrmann, Ph.D., Executive Director**

*Frederick M. Herrmann is in his sixth year as Executive Director. Previously he worked for the New Jersey Legislature, where he specialized in election law.*

*Executive Director Herrmann holds a doctorate in American Political History; has taught at Rutgers University and Kean College; and is the author and co-author of numerous books, articles, and reviews in New Jersey history and government.*

*A former Chairperson of the Council on Governmental Ethics Laws (COGEL), a past member of the COGEL Steering Committee, and a former Chairperson of the Northeastern Regional Conference on Lobbying (NORCOL), Executive Director Herrmann is currently serving on the Council of State Governments (CSG) Organizational Planning and Coordinating Committee as COGEL's representative.*

**Edward J. Farrell, Counsel**

*Edward J. Farrell has been Counsel to the Commission since its inception in 1973. He is a partner in the Morristown law firm of Schenck, Price, Smith and King.*

**CHAIRMAN'S MESSAGE**  
**by Owen V. McNary, III**

*Despite intense pressure due to budgetary cutbacks, the Election Law Enforcement Commission nevertheless completed a very productive and successful year in 1989.*

*At the annual Council on Governmental Ethics Laws (COGEL) Conference, the Commission was roundly applauded for its leadership in the field of analytical research and for its continuing vigorous efforts in the area of enforcement.*

*Last year, the Commission produced three White Papers. The first, Trends in Legislative Campaign Financing: 1977-1987, traces the development of the campaign finance system in New Jersey over a ten-year period. The second, Legislative Public Financing, endorses the concept of public financing for legislative races. And the third, Alternate Funding Sources, provides ideas for funding the Commission by shifting this responsibility from the taxpayers to the PACs, the political parties, and the lobbyists.*

*In addition to these widely acclaimed papers, the Commission also produced numerous press releases; noteworthy among them were the preelection analyses of the gubernatorial and legislative races.*

*Enforcement activity was also brisk in 1989. Completed investigations numbered 104 and complaints issued amounted to 542. Moreover, the enforcement staff collected over \$40,000 in fines.*

*Enforcement activity was not limited, however, to issuing complaints and undertaking investigations. The Review and Investigation Section also built upon its staff training efforts by using its newly developed Investigative Manual and adding a three-day training session for its field investigator.*

*These and other accomplishments in 1989 did not come easily, however. A great deal of creative thinking as well as "down-to-earth" hard work on the part of staff enabled the Commission to continue its fine record of service and in some cases even surpass the achievements of the past.*

*The last year was an exceptionally busy one for the Commission. Not only were there the annual local elections with which to contend, but also Assembly and Gubernatorial elections as well. In total, the Compliance and Information Sections processed 18,000 reports, an increase of 3,000 reports over 1988.*

*Incredibly, in spite of the budget cuts and austerity measures, which resulted in critical staff shortages, and a demonstrable increase in requests for public information, up by 50 percent over the year before, the Commission was able to meet its demands in an exceptional fashion.*

*As noted above, it often had to employ creative techniques to meet the challenges, but meet them it did!*

*For example, instead of conducting off-site informational seminars, the Compliance and Information Section saved money and staff time by holding four on-site sessions.*

*Moreover, Compliance staff sent out candidate and committee manuals by request instead of via its usual mass mailing in February, conserving manuals for future use. Finally, staff resources were husbanded when county clerks were permitted to use express mail services to submit candidate lists.*

*The Commission's automation program continued at a brisk pace in 1989 as well, contributing to the overall efficiency of many of the Commission's operations. Upgraded in late 1988/early 1989, the computer contributed significantly to such projects as the preelection gubernatorial and*



*legislative press releases and the administration of the Gubernatorial Public Financing Program.*

*Speaking of the Gubernatorial Public Financing Program, its success in 1989 numbered among the Commission's proudest achievements. As the result of changes in the law, the Commission had to virtually administer an entirely new program. A record \$15.3 million was distributed to eight primary and two general election candidates. Needless to say, the public financing staff accomplished this task in a professional and highly efficient manner.*

*The Election Law Enforcement Commission retained its preeminent international standing among ethics agencies. In addition to its research and enforcement activities, the Commission aggressively spoke out for reform of the campaign finance and lobbying laws. Executive Director Herrmann, who himself has established an international reputation as an expert in the field of governmental ethics, testified numerous times before Senate and Assembly committees on the need to strengthen the campaign finance and lobbying statutes in New Jersey.*

*Obviously, I am very proud of the Commission's performance in 1989. Equally, I am very proud to serve on this bi-partisan board, whose members have continued to carry out their responsibilities with fairness and impartiality. In 1989, as in the past, there was always a spirit of nonpartisanship and each and every Commissioner and staff member rose to the challenge of serving the public good. An article in the New Jersey Reporter recognized ELEC for establishing "a reputation for competence and even-handedness."*

*Indeed, the Commission had an outstanding record in 1989 as it has had throughout its history. Yet, I would be remiss as the new Chairman if I did not express a certain amount of concern about the future if the Commission's budget is not increased and staff enlarged to meet the rapidly growing demands on the agency. Moreover, I urge the Governor and the Legislature to*

*review closely ELEC's list of suggested legislation found in this report. New Jersey's various ethics and disclosure laws are in critical need of reform.*

*It is with great pride that, on behalf of the members of the New Jersey Election Law Enforcement Commission, I present this report to the Legislature.*

COMMISSION STAFF

Executive

Frederick M. Herrmann, Ph.D.	Executive Director
Jeffrey M. Brindle, M.A.	Deputy Director
Gregory E. Nagy, Esq.	Legal Director
Carol A. Killingsworth	Executive Secretary
Josephine A. Hall	Executive Secretary

Administration

Richard J. Magee, M.B.A.	Director
Donna D. Margetts	Assistant Director for Personnel Administration
Elaine J. Salit	Fiscal Assistant
Kimberly A. Aamodt	Administrative Assistant
Debra A. Kostival	Senior Receptionist
Irene Comiso	Assistant Receptionist
Elizabeth A. Michael	Messenger

Compliance & Information

Evelyn Ford, Esq.	Director
Virginia Wilkes	Assistant Director
Carolyn Neiman	Assistant Compliance Officer
Barbara Counts	Secretarial Assistant
Monica T. Triplin	Clerk
Latray L. Jones	Messenger

Computer

Warren L. Heins	Associate Director of Systems
Shirley R. Thorpe	Associate Systems Administrator
Brenda A. Brickhouse	Associate Data Entry Operator
Nelly R. Rosario	Assistant Data Entry Operator

COMMISSION STAFF - (continued)

Legal

Lisa Fagan, Esq. Sandra L. Magee	Assistant Legal Director Senior Legal Secretary
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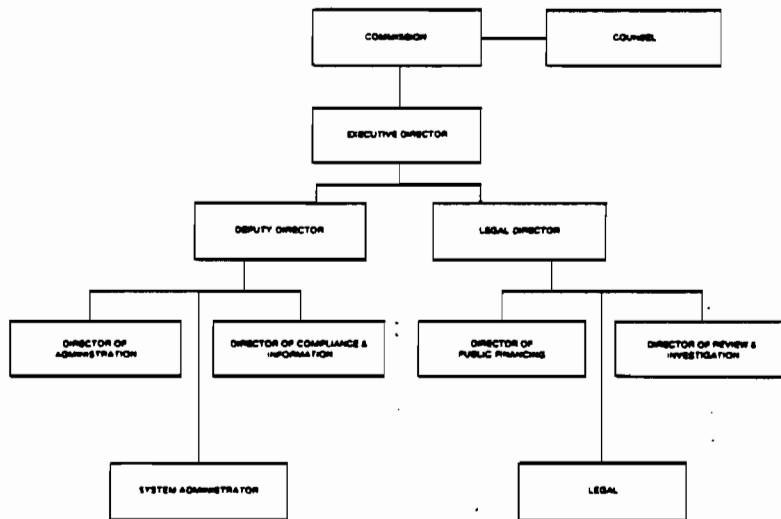
Review and Investigation

Judith S. Chamberlain, Esq. Shreve E. Marshall, Jr. Barbra A. Fasanella Kimberly A. Key M. Susan Carr Loree N. Segal	Director Assistant Director Assistant Examiner Assistant Examiner Assistant Examiner Secretarial Assistant
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Gubernatorial Public Financing

Nedda Gold Massar, Esq. Donna S. Saczynski Brett A. Mead Kap Chul Sin	Director Assistant Director Public Financing Analyst Public Financing Analyst
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New Jersey Election Law Enforcement Commission  
 Table of Organization



**Executive Director's Remarks**  
**by Frederick M. Herrmann, Ph.D.**

*The New Jersey Election Law Enforcement Commission (ELEC) has a national reputation for excellence in the field of governmental ethics as the Commission enters the new decade of the nineties. However, ELEC and its mission of protecting open and honest government in our State face two crucial challenges as the end of the century looms - a set of disclosure laws that is badly in need of reform and an eroding budgetary situation.*

*For years, the Commission has pushed an extensive reform agenda, which, to date, has not resulted in any statutory changes outside the public financing program since 1984. At the top of the list is the need for across-the-board contribution limits. Half of the states in the nation already have such limits, but New Jersey only has them in the setting of publicly funded gubernatorial elections. What is needed to protect the integrity of the political process are limits that are low enough to keep out undue influence by special interests but are high enough to allow candidates to run effective campaigns.*

*Sadly, political action committees (PACs) in New Jersey do not have to register with the Commission. Consequently, the public does not have a clear sense of which interests they represent. Moreover, unlike in many other states, corporations and unions in the Garden State may give directly to candidates and campaign contributors do not have to reveal their employers. Remarkably, the Campaign Act is entirely silent on the appropriate uses of leftover campaign funds.*

*The Lobbying Law and Personal Financial Disclosure Law are no better than the Campaign Act and may even be worse. New Jersey Lobbyists do not have to report benefit passing to public officials unless they "expressly" discuss specific legislation. Consequently, most lobbyist-financed trips and treats are never revealed to a public which has a right to know about*

them. Under the Personal Financial Disclosure Law, the reports filed with the Commission do not allow the public to distinguish between the gift of a Rolex watch or a Rolls Royce automobile because the value and description of a gift do not have to be recorded. Reporting requirements are so loose as to allow the non-disclosure of major sources of private income that could represent conflicts of interest.

ELEC's budget is also a major concern. The ability of the Commission to maintain its high level of services and national leadership prominence is being jeopardized by budget cuts and a burgeoning workload. According to ELEC's own statistics, each election cycle witnesses more and more money being raised and spent. It seems that the only campaign-related figure that has not increased dramatically is ELEC's budget. Indeed, due to State budgetary problems, the Commission's budget actually decreased by 13 percent for FY-90.

To help solve this problem, ELEC released a detailed study last year of alternate funding sources. The report explored the Commission raising its own finances by collecting filing fees from PACs, lobbyists, and political parties; raising and keeping fine monies; putting aside a percentage of gubernatorial public funds for administrative purposes; and amending the constitution or the statutory law to guarantee ELEC a base budget adjusted for inflation. Such ideas could provide ELEC with an adequate and autonomous source of funding while saving the taxpayer's money by requiring those being regulated to bear the burden of financing disclosure of their activities to the public.

Perhaps, the most unique aspect of the study is the discussion of ELEC being outside the traditional appropriations process. Although California uses such an approach, no other state does. Should an ethics agency that regulates the campaigns of officeholders be dependent on them for its funding?

*It may be time to review seriously how ethics agencies in New Jersey and across the nation fit into the structure of government. Such agencies are only about 15 years old and thinking about them is still in its early stages. Today's citizens would surely think it odd for the Legislature to elect the Governor annually or have the Supreme Court membership be comprised of the Governor and the members of the Senate. However, under New Jersey's first State constitution, these situations were embodied in the fundamental law. Citizens one hundred years from now may feel the same way about the current placement of ELEC in our political system.*

*Ethics as an issue in a democracy is paramount. Will we be able to solve the myriads of problems that face us if the basic structure of our government is not secure from undue influence from without? The ability of State political leaders to reach disinterested solutions in the public interest is closely related to the future of the New Jersey Election Law Enforcement Commission.*

### **LEGISLATIVE REVIEW**

A record number of bills affecting campaign and lobbying disclosure were introduced in the 203rd Legislature, which session drew to a close as 1990 began. However, despite this unprecedented legislative interest, the only new law enacted was in the area of gubernatorial public financing.

On January 20, 1989 the Governor signed into law amendments to New Jersey's gubernatorial public financing program which established a new requirement that gubernatorial candidates receiving public financial support must participate in debates. Thus, our State became the first in the country to mandate debate participation by the candidates. Also, the new public financing law contained automatic adjustments based on ELEC recommendations to the various thresholds and ceilings in the program, including contribution limits, expenditure limits, personal funds, loans and the qualification thresholds. Therefore, it will no longer be necessary to seek legislative change to accommodate inflationary trends.

A total of 46 bills was introduced in the Senate or Assembly, in the following subject areas:

- twenty-two bills proposed various amendments to the Campaign Reporting Act, most of which were based upon ELEC recommendations appearing in prior Annual Reports. These changes included regulation over the use of unexpended campaign funds, registration of PACs, prohibition of corporate and union contributions except through voluntary PACs, limits on the amounts that may be contributed, enhanced funding for ELEC operations, and numerous other changes.
- sixteen bills proposed variations on the gubernatorial public financing program, two of which were combined and resulted in the bill that ultimately was enacted in January, 1989.
- four bills proposed plans for public financing of legislative elections.
- three bills proposed comprehensive changes to lobbying disclosures, a subject area about which ELEC has been particularly concerned.



- one bill proposed changes to the personal financial disclosure statements legislative candidates must file.

Looking forward to the 204th Legislature, ELEC will continue to work closely with the Governor and both Houses in an effort to achieve sound legislation in the complex and critical areas of campaign and lobbying disclosure and regulation.

#### SUGGESTED LEGISLATION

The Commission recommends the following legislative objectives for 1990:

1. Establishment of filing fees for political action committees (PACs), political party committees, and lobbyists based on the amount of reported contributions, as reviewed in ELEC White Paper Number 4. Over the last several years, campaign financing activity has increased dramatically. During that time, however, no increases in funding for functions such as information assistance, report review, data compilation, investigations, or prosecutions occurred, and projections for future appropriations are not optimistic. Therefore, the most viable means of supporting meaningful campaign and lobbying disclosure would appear to be requiring filing entities to pay a user fee based on their gross receipts. Such a revenue source would insure funding for campaign disclosure during times of budgetary shortfalls, and would link the revenue of the Commission to the actual activity that generates its mission. Moreover, it would enhance ELEC's ability to do its job with little or no expense to the taxpayers of this State. To reform the law without adequately funding ELEC will be no reform at all.

2. Establishment beyond gubernatorial elections of contribution limits which are high enough to permit candidates to raise enough money to run effective campaigns but yet are low enough to provide sufficient safeguards against undue influence by any single contributor. In connection

with contribution limits, other restrictions such as a prohibition against contributions to candidates in non-election years should be considered.

3. Prohibition of campaign contributions from corporations and labor unions, except through their voluntary political action committees (PACs).

4. Adoption of comprehensive amendments to "The Campaign Contributions and Expenditures Reporting Act" that would:

- a) clarify the legitimate uses of surplus campaign funds, providing specific direction as to whether such funds may be used for supporting legislative district offices or other ordinary and necessary expenses of holding public office;
- b) establish civil jurisdiction in the Commission to enforce requirements that political advertising identify the person or entity that paid for it;
- c) require reporting by an individual contributor of his or her occupation and the name and mailing address of his or her employer, and requiring political action committees (PACs) and political committees to file registration statements identifying their type and all persons exercising control over their funds and the employers of those persons;
- d) change the threshold requiring identification of contributors in excess of \$100 to contributors in excess of \$200, and change the threshold from \$250 to \$500 for requiring 48-hour identification of contributors immediately before an election;
- e) raise from \$1,000 to \$2,000 of outstanding obligations the level at which ELEC can administratively terminate postelection reporting requirements of candidates and committees;
- f) mandate that active candidates and committees be required to file quarterly reports before and after the campaign cycle reporting currently required by law and delete the 60-day postelection campaign reports;
- g) lengthen the time for the Commission to respond to a request for an advisory opinion from 10 to 35 days;

- h) triple the maximum fines the Commission may impose for violations of the Act since there has been no change in these levels since the inception of ELEC in 1973, provide that when the identity of contributors is not disclosed that the fine can be three times the amount of the contributions, and permit the Commission to keep its fine collections for administrative purposes instead of turning them over to the State Treasury; and,
- i) exempt candidates for municipal charter study change commission or for special taxing districts from the reporting requirements.

5. Adoption of legislative recommendations made in the Presentment of the State Grand Jury, dated October 6, 1988, concerning the Reporting Act. These recommendations are:

- a) amend N.J.S.A. 19:44A-20 to prohibit any person from making loans to any other person for the purpose of inducing that person to make campaign contributions;
- b) limit loans (except through a licensed lending institution) to a gubernatorial candidate;
- c) regulate solicitation of contributions from employees and union members;
- d) establish as a crime of the third degree coercion of political contributions;
- e) require registration of political action committees (PACs) and political committees to reflect political interests or objectives, a previously proposed ELEC initiative; and,
- f) amend N.J.S.A. 19:44A-21 to provide for grading of criminal offenses so that more severe penalties can be imposed.

6. Comprehensive amendments to "The Legislative Activities Disclosure Act" that would require lobbyists to disclose expenditures for "goodwill lobbying" activity. Under current law, lobbyists and their agents are required to disclose expenditures for food, entertainment, and similar items only if specific communication concerning legislation occurs. The Commission also recommends streamlining and simplifying lobbying reporting. It also recommends that responsibility for monitoring lobbyists be placed

solely with the Commission, and not be shared with the Attorney General. Finally, ELEC recommends that the law be expanded to include the lobbying of legislative staff and administrative agencies.

7. Amendments to the personal financial disclosure law requiring disclosure by gubernatorial and legislative candidates of not only the sources of gifts, honoraria and reimbursements, but also the amount of funds given or paid, and lowering the reporting threshold of gifts from more than \$250 per year to more than \$100 per year, which is the same threshold that currently exists for honoraria and reimbursements. The contributors of benefits should be required to reveal their employers as well. Also, this law should be strengthened to disclose more clearly major sources of private income that could represent conflicts of interest.

8. Amendments to the statute governing the content of nominating petitions (i.e., N.J.S.A. 18A:14-10) of school board candidates requiring that such petitions give notice of filing requirements with ELEC.

9. Repeal of superfluous reporting obligations for some municipal candidates which obligations predate the establishment of the Reporting Act requirements; see N.J.S.A. 40:73-1.

10. Create a special fund for the escheat of: unexpended surplus campaign funds remaining at the death of a candidate or elected officeholder, unexpended surplus campaign funds of former candidates or elected officeholders who move out-of-State, and campaign funds that remain dormant in an account over a specified number of years.

11. Enhancing of commissioner compensation and lengthening of Commission terms. Commission members are currently compensated at \$250 per meeting, plus expenses. The ever-increasing complexity of campaign finance requires a more burdensome time commitment from the commissioners. Commission membership should always be open to persons without regard to personal wealth. Therefore, commissioners should be compensated on a

salaried basis, with State benefits, as are members of the State Commission of Investigation (SCI). Also, the existing three-year term of commissioners should be expanded to six years, which is the length of terms at the Federal Election Commission (FEC). The complexity of regulation in campaign finance demands an expertise that is not quickly acquired. Further, under the existing three-year term structure, the entire membership of the Commission could be without any personal experience in administering a publicly financed gubernatorial election, which occur every four years. Finally, lengthened terms will add an additional measure of autonomy to the Commission's structure.

The Commission will be making recommendations in the fall of 1990 to the Governor and the Legislature for the purpose of refining the Gubernatorial Public Financing Program. White Paper Number Three recommends the establishment of a similar program for legislative elections.

## LEGAL SECTION

A gubernatorial and legislative election year such as 1989 is especially demanding on the Legal Section, which is responsible for reviewing proposed legislation (see Legislation Section), preparing advisory opinions, promulgating regulations, prosecuting complaints concerning reporting violations and collecting fines. As noted in the Public Financing Section of this Annual Report, the Gubernatorial Public Financing Program required the Legal Section to draft emergency regulations in several areas, and to issue several important advisory opinions while maintaining ongoing gubernatorial activity.

### Complaints and Fines

The Commission is firmly committed to its civil prosecutorial responsibilities of enforcing the reporting requirements of the Act when candidates, political committees, continuing political committees, lobbyists or treasurers neglect to file necessary disclosure reports, or file such reports substantially late or inaccurately. Intentional and willful violations may be referred to the Attorney General for criminal prosecution.

The following table shows the number of civil complaint proceedings undertaken by the Legal Section and the amount of fines collected in the past five years.

<u>Year</u>	<u>Complaints</u>	<u>Fines Collected</u>
1989	542	\$ 40,605
1988	603	29,027
1987	518	26,848
1986	628	23,865
1985	396	21,130

Since almost 18,000 reports were filed with ELEC in 1989, the 542 complaints represent a very reasonable enforcement proportion. The great majority of the complaints undertaken by the Commission concerned late

filing of campaign reports, however some concerned major substantive disclosure such as failure to identify contributors, failure to identify the ultimate recipients of "street money," or failure to file reports at all. For example, a candidate for city council in a municipal campaign and his treasurer was fined \$1,500 in a seven-count complaint for failing to identify several contributors, failing to file notice within 48 hours of receipt of major contributions, failing to account for the remaining balance of campaign funds at the conclusion of the candidacy, failure to report several cash disbursements, and failure to maintain adequate records. In another case, a county political party committee received a fine of \$2,600 for filing three separate quarterly reports each over 500 days late, and entirely failing to file one quarterly report.

Rarely does a candidate fail to file any report whatsoever. Candidates are sent reminder notices and warning letters prior to their elections. If these fail to result in a response, the Commission institutes a non-filing complaint, which complaint will be served by a county sheriff if not voluntarily responded to within 20 days of mail receipt. Typically, in a calendar year, five or fewer candidates will persist in failing to file any campaign report with the Commission after service by the sheriff of the Commission's complaint. In such rare cases, the Commission imposes its maximum permissible civil fine of \$1,000 for a single violation, or \$2,000 in the case of a previous violator, and refers the candidate to the Attorney General for consideration of criminal prosecution as a willful and intentional violator of the Act.

Any person or entity charged in a Commission complaint has the right to a full hearing before an Administrative Law Judge. In 1989, 33 respondents requested such hearings, 18 of which were completed or otherwise settled during the year. In one significant written opinion, the Administrative Law Judge upheld regulations concerning the responsibilities of candidates to designate a joint political committee to meet the candidates' filing obligations; see ELEC v. Litvack, et al., OAL Dkt. Nos. ELE 2859-89 and ELE 2860-89.

Fortunately, the great majority of candidates and other entities that filed almost 18,000 reports with the Commission in 1989 took great pains to file thoroughly and promptly so that complaint action was unnecessary.

### Rulemaking Activity

The past year proved to be one of the most important and busiest for rulemaking in the Commission's history. As noted the Public Financing Section, the enactment of new legislation in mid-January coupled with the New Jersey Supreme Court decision in Friends of Governor Tom Kean v. ELEC in early February required emergency adoption of new regulations for the gubernatorial primary election. These regulations address such difficult areas as selection of sponsors for gubernatorial debates, mandatory candidate participation in debates, and enforced application of the expenditure limits in regard to expenditures by political party committees for advertising or other communications that made references to gubernatorial candidates (i.e., coordinated expenditures).

Besides rulemaking activity for the gubernatorial elections, other new rules that affected all candidates were undertaken in the following areas:

- Extensive changes to the reporting and record-keeping regulations were adopted early in the year. These included the elimination of campaign reporting by business or other entities which limit their activities to making of campaign contributions, and new rules concerning campaign purchases by credit card.
  
- Rules defining and regulating expenditures for political communications were adopted. Defining and regulating political communications has been one of the most difficult responsibilities of the Commission over the years, and has resulted in considerable litigation. The new rule sets forth the circumstances under which a communication that is circulated to voters will be regarded as political and



therefore subject to campaign reporting. For example, a government newsletter circulated fewer than 60 days before an election which contains a statement concerning the governmental or political objectives or achievements of any candidate will under this rule be regarded as a political communication even in the absence of a specific reference to an election campaign.

- Amendments were made concerning the reporting requirements of continuing political committees expending \$2500 or less in a calendar year. The filing date was changed from September 15 to January 15, and the period of time covered by the report was adjusted to conform with statutory requirements.
- Rules on fees were adjusted upward to reflect inflation, and the office hour regulation was deleted to provide flexibility in the event budget cuts necessitate a reduction in hours of operation.
- At the end of the year, the Commission approved a proposal for new regulations that will require all candidates and treasurers to file personal interest disclosure statements concerning any campaign expenditure in which they or any of their family members may have a financial interest. The statement will require disclosure of any payment directly to the candidate, treasurer, family member of a candidate or treasurer, or to a business owned by a candidate or treasurer, and will require specification of the rate of compensation, or cost per item of goods purchased. The regulation will be considered for adoption by the Commission in the spring of 1990 after the public has had an opportunity to submit comments.

Advisory Opinions

In 1989, the Commission received 29 requests for advisory opinions from candidates and other filing entities asking for interpretation or guidance concerning disclosure laws. Eight of these concerned public financing of the gubernatorial elections and are summarized in the Public Financing Section, and two others were withdrawn. The remaining 19 requests concerned the following topics:

- The Commission's new regulations concerning political communications generated three separate advisory opinions. The Commission ruled that a press release of an incumbent Assemblyman seeking reelection and the Assemblyman's selection as chairman of a legislative committee would be a political communication, and the costs associated with it would be subject to reporting (Advisory Opinion No. 22-1989). In another opinion, an article appearing in a county government newsletter was held not to be a political communication even though it mentioned the name of an incumbent freeholder seeking reelection because the article served the purpose of notifying the public of the existence of an upcoming referendum question and did not contain any reference to the election candidacy of the freeholder (Advisory Opinion No. 25-1989). Also, another candidate for reelection was advised that newspaper advertisements planned and paid for entirely independently of his campaign and without the candidate's control or consent were not subject to reporting by the candidate, but were subject to the reporting by the persons paying for the advertisements (Advisory Opinion No. 26-1989).
- The payment of legal expenses generated three requests. A municipal political party committee was advised that it was permissible to pay counsel fees pertinent to litigation to compel the holding of a special election (Advisory Opinion No. 6-1989). Another political party committee was advised that attorney expenses incurred for the purpose of opposing the

holding of a special primary election for a municipal seat were not subject to the prohibition against political party committee expenditures to aid or promote a primary election candidacy (Advisory Opinion No. 18-1989). Finally, an organization formed to promote the passage of a referendum to change the township form of government was required to include the amount of legal expenditures it made contesting a related municipal ordinance in determining whether or not the organization had exceeded the expenditure threshold for campaign reporting (Advisory Opinion No. 29-1989).

- The investment of political funds generated two inquiries. A continuing political committee of a candidate was advised that it could invest its funds in the purchase of a tax-free trust consisting of municipal bonds (Advisory Opinion No. 02-1989). However, a state senator was advised that campaign funds of his continuing political committee could not be invested as a loan to a corporation of which he was the vice president (Advisory Opinion 24-1989).
- The payment of salary or personal loans generated two requests. A freeholder candidate was advised that nothing in the disclosure laws precluded the candidate from employing and compensating himself as long as the disbursement was fully reported. However, the candidate was precluded from making a non-compensatory personal loan to himself from contributed funds (Advisory No. 09-1989). A campaign treasurer was advised that campaign funds could be used to pay a salary to the campaign executive director and to himself, subject to full reporting disclosure (Advisory Opinion No. 11-1989).
- The parameters of the prohibition against personal use of campaign funds was considered in two other advisory opinions. A freeholder was advised that funds under the control of a continuing political committee established in his name could not be used to purchase a membership in a private fraternal

association for him (Advisory Opinion No. 03-1989). Also, a mayor who had established a continuing political committee under his name was advised that he could not use the committee funds to purchase a car telephone in his personal vehicle (Advisory Opinion No. 15-1989).

- A political committee that was established for the purpose of conducting a fundraiser to benefit two separate continuing political committees, each controlled by a State Senator, was advised that in the absence of any existing or imminent candidacy of those Senators it did not have to allocate its disbursements to them (Advisory Opinion No. 28-1989).
  
- A State Assemblywoman was advised that rental income produced by property in which the Assemblywoman held an interest was subject to disclosure under the personal financial disclosure law, as was any capital gain that might be realized from the sale of real property (Advisory Opinion No. 08-1989).
  
- A political committee that had been advocating the adoption of a non-binding county referendum was required to file campaign reports notwithstanding the fact that the State Supreme Court ruled that the referendum could not ultimately be included on the general election ballot (Advisory Opinion No. 27-1989).
  
- Four advisory opinion requests concerning restrictions on corporate contributions contained in statutes outside of the jurisdiction of the Commission were referred to the Attorney General for response (Advisory Opinions Nos. 04-1989, 10-1989, 13-1989 and 16-1989).

## REVIEW AND INVESTIGATION SECTION

The past year proved to be a challenging one for the Review and Investigation Section, which performs two important functions. First, it reviews campaign and continuing political committee reports in order to ensure compliance with the Campaign Act. Secondly, it investigates possible violations of the Act. In 1989, the Section performed both functions in an exemplary manner under the leadership of its director, Elizabeth A. Ryan, Esq., who left in early 1990 to join the legal staff of Governor James J. Florio.

### ORGANIZATION OF STAFF

In 1985, the Review and Investigation Section was established as the result of an agency-wide reorganization. The Section is divided into two units: desk auditors (report review staff) and a field auditor (investigative staff). The report review staff reviews a large number of reports each year. When a potential violation of the Campaign Act is discovered, or a member of the public makes a specific complaint in writing, the investigative staff conducts a detailed investigation of the allegation. If necessary, the investigative staff conducts field investigations and reviews the financial records of the reporting entity to ensure that accurate financial disclosure has been made. The Section reports its findings directly to the Commission.

### INVESTIGATIONS

The investigative staff of the Review and Investigation Section conducts field investigations of allegations arising under the Campaign Contributions and Expenditures Reporting Act.

Investigations generated from public requests are initiated when a member of the public writes to the Commission and requests investigation of a specific entity regarding specific reporting requirements. Approximately 38 percent of investigations opened in 1989 were initiated by public

requests demonstrating the important role played by the public in the Commission's enforcement of the Campaign Act.

In terms of overall investigations, the Section was able to increase both the number of investigations opened and the number of investigations completed. This is the first year that the Section has been able to demonstrate an increase in both areas.

The following table provides a comparison of cases opened and investigated since 1983:

	<u>Opened</u>	<u>Completed</u>
1989	108	104
1988	106	97
1987	44	103
1986	95	128
1985	127	95
1984	129	66
1983	128	102

The above figures reveal a 7.2 percent increase in completed investigations and a 1.9 percent increase in opened investigation over 1988. These statistics emphasis the Section's remarkable success in the past year.

#### REPORT REVIEW

Each year the report review staff reviews and audits reports filed with the Commission. Contributor information obtained from reviewed reports is used for statistical analysis in press releases and white papers issued by the Commission. Additionally, report review enables staff to contact filing entities and assist them in correcting and/or clarifying discrepancies in the reports.

Report review not only involves the review of campaign reports filed in relation to the numerous elections held each year, but also reports filed by continuing political committees, lobbyists, legislative agents, and gubernatorial and legislative candidates disclosing personal finances. The

large number of investigations generated by report review in 1989 is an indication of the thorough job done by its staff.

#### PUBLIC ASSISTANCE

The Section also provides public assistance to candidates and treasurers with questions concerning the requirements of the Campaign Act. Throughout the business day staff is available to answer reporting questions over the telephone or in person in the Commission's offices. In 1989, the Section provided technical assistance to 4,178 reporting entities.

#### TRAINING

In addition to the increase in investigations opened and investigations completed, the Review and Investigation Section was able to add to its existing training program. Since 1985, newly hired desk auditors and field auditors complete a training program which provides them with basic information about the Commission. The program trains new hires, including new professionals hired by other sections of the agency, with specific skills necessary to conduct report review. In 1989, a second step in the training program was added for field auditors. Incorporating the newly drafted Investigative Manual, field auditors are now trained in investigative techniques over a three-day period. The manual is also utilized as a daily reference guide by staff and has been requested by many out-of-state sister agencies. The Commission believes that the training program and the manual contributed greatly to the increase in both investigations opened and investigations completed.

## COMPLIANCE AND INFORMATION SECTION

The Compliance and Information Section saw an explosion in its workload during 1989. In addition to the annual local elections (school board, municipal, runoff, primary and general), there were elections for the General Assembly and for two Senate seats, as well as a Gubernatorial race. Despite budget cuts and a critical staff shortage, the Compliance and Information Section was able to meet its goals in an exemplary fashion.

### Compliance

The Compliance and Information Section experienced a staff decrease, due to budget cuts, from eight members to six members in 1989. The decrease in staff occurred in the compliance clerks' section, which is responsible for processing reports, mass mailings of materials, and photocopying requests for reports. Approximately 18,000 reports were processed in 1989, up 3,000 from 1988. The trend of candidates and political committees to file lengthier and more detailed reports continued to be on the rise. The number of continuing political committees on file with the Commission rose overall with an average of 14 entities per month applying for certification.

The staff shortage and budget cuts created innovative methods of sharpening compliance with financial disclosure laws. In past years, the staff of the Commission went out to ten or more locations throughout the State to conduct informational seminars. To avoid the costs and overtime in 1989, staff conducted four seminars in-house at its Trenton location. Attendance was not as great because candidates and treasurers are often times unable to travel the distance to Trenton.

Also, a special seminar was held for the county and municipal clerks to review the clerks' duties under the election statutes. The seminar was held at a State facility in Princeton and was a great success. While the staff of the Compliance and Information Section continues to



provide assistance to political groups by telephone and by appointment at the agency, traveling to off-site locations to provide group assistance has been greatly curtailed. For example, the municipal clerks' certification program director asked for a staff lecture for both its two semesters. Commission priorities permitted the staff attendance during only one semester.

Numerous management initiatives were instituted to accommodate the fiscal and staff shortage crisis. Compliance manuals, which are normally automatically sent out each February, were sent out by specific request. This cost-saving measure assured that more manuals were conserved for future use. Also, staff resources were conserved when the Commission allowed county clerks to use federal express mail service to quickly send candidate names to Trenton. This efficient and time-saving method avoided the follow-up required to obtain candidate names from the 21 counties throughout the State. Certain new county clerks were sent personalized instructions to assist them with the complex interaction between the Commission and the clerks.

The staff shortage, particularly during the busy General, 1989 election cycle, forced new priorities upon the Compliance and Information staff. Temporary personnel were hired during this period and overtime became necessary. In its normal compliance effort, a total of five nonfiler/delinquent letters are sent. That number was reduced to four for both the primary and general elections. Candidates were prioritized by office sought, with the General Assembly candidates receiving a higher priority than local candidates. Predictably, there was a 92 percent and 96 percent compliance rate respectively for the primary and general elections among the highest priority group.

Two new compliance initiatives were effectuated in 1989. The first initiative created a finalization procedure for use by continuing political committees which no longer function. The second initiative

concerned the creation of a new Form A-3 to accommodate a change in the law. Also, a fresh approach toward A-3 instructional materials was instituted.

### Information

The Gubernatorial and General Assembly races in 1989 brought an increase in the amounts of interest in the reports filed with the Commission. Requests to receive photocopies of information continued to rise, with the months just prior to the primary and general elections (May and October) seeing the highest numbers. With Commission resources at reduced levels, the Compliance and Information staff was forced to limit requests for information to the current election. The limitation was a temporary measure and placed into effect as a last resort. Even with the limitation, an "all time" high of 266 requests for photocopies came in over the month of October.

In addition, an outside vendor under State contract was engaged to photocopy copies of Gubernatorial and General Assembly reports for public distribution. While this proved somewhat costly, it would have been impossible for the staff to have accomplished this task.

The staff of the Compliance & Information section processed approximately 4,000 reports during October, calling on the assistance of the staffs of other sections to assist them. This "filing" period not only required the participation of other staff members, but it also required the entire agency to work evenings and weekends to handle the heavy load. The use of a sister agency's photocopier was also required to meet our needs.

The Compliance and Information Section published 52 press releases during 1989 announcing upcoming Commission meetings and public disclosure dates, as well as analytical press releases on numerous topics.

In April of 1989, an analysis of spending by Lobbyists and Legislative agents was released. A release was done in the early summer on

the personal financial disclosure of Gubernatorial and General Assembly candidates. Three press releases were done on the fund-raising and spending by General Assembly candidates in the primary and general 1989 elections. These releases created an increased interest by television networks, radio stations, and journalists in reviewing campaign reports.

The ELEC newsletter, the "ELEC REPORT," continued to spread vital information about ELEC filing requirements, the Commission's work, and the need for ethics and disclosure reform. Published twice each year, the "ELEC REPORT" covered such topics as contribution limits, unspent campaign funds, trends in State party spending and lobbying expenditures. The layout and design of the newsletter saw change in 1989, further professionalizing its look.

The Compliance and Information staff is very proud of its performance in 1989. The staff was able to meet its statutorily mandated objectives only through thoughtful prioritizing, reducing nonessential services, and calling on other sections of the agency to provide assistance. A resumption of normal operating procedures will surely return if budget cuts and staff are once again restored.

## **PUBLIC FINANCING**

In 1989, New Jersey's gubernatorial public financing program operated in its fourth gubernatorial election cycle to distribute public funds to qualifying candidates. In fulfilling the statutory mandate of the public financing program, eight primary and two general election candidates received public funds promptly so that they could conduct their campaigns free from improper influence and so that candidates of limited financial means could seek election to the office of Governor.

Revisions to the gubernatorial public financing program contained in legislation enacted on January 21, 1989, resulted in a 1989 public financing program which was significantly different, both in magnitude and operation, from prior gubernatorial election cycles. The public fund maximum was raised to \$1.35 million in the 1989 primary election and \$3.3 million in the 1989 general election. As a result, the eight qualified primary election candidates received a total of \$8,658,782.60 in public matching funds and the two general election candidates received \$6,600,000. The public financing staff processed 49 primary election and eight general election submissions, resulting in distribution of a record public fund amount. The \$15.3 million total public matching funds awarded in 1989 was almost as great as the \$17 million combined total distributed in the three prior 1977, 1981, and 1985 public financing cycles.

Congressman James A. Courter, former Attorney General W. Cary Edwards, Congressman James J. Florio, State Senator William L. Gormley, and Assemblyman Chuck Hardwick each received the \$1.35 million maximum in primary election public funds. State Senator Gerald Cardinale received \$728,990.50, former Assemblyman Alan J. Karcher received \$759,334.38, and Princeton Mayor Barbara Sigmund received \$420,457.72. In the 1989 general election, candidates James A. Courter and James J. Florio each received the \$3.3 million maximum in public matching funds.

The 1989 amendments to the public financing law raised the expenditure limit for the 1989 gubernatorial primary election to \$2.2 million per candidate and for the 1989 general election to \$5 million per candidate. Total campaign spending in the 1989 primary election by publicly financed candidates was \$14.8 million. In the 1989 general election, the two publicly financed candidates spent a total of \$10.6 million.

The new law adopted recommendations made by the Commission in its Gubernatorial Cost Analysis Report (June, 1988), to establish a gubernatorial campaign cost index for each future gubernatorial election. Contribution, expenditure, and other relevant limits and thresholds contained in the public financing law are to be adjusted to reflect changes in the costs of campaigning. This automatic adjustment feature will operate in future election cycles to make the program responsive to inflationary pressures.

#### RESPONSE TO NEW LAW

Adjustment to the new statutory contribution, public funds, and expenditure limits and the debate requirement provision of the 1989 public financing amendments required emergency adoption of primary election regulations in March of 1989. It was necessary to review and update the entire text of the primary election regulations to comport with the new provisions of the law. The emergency regulations provided guidance and certainty in the operation of the primary election public financing program and in implementation of the new debate requirement. Similar review and adoption of general election regulations followed.

As a result of the January 1989 amendments, for the first time, candidates who wished to receive public funds were required as a condition of receipt of public money to participate in two debates. The debate requirement was a pioneering step in New Jersey, since no other jurisdiction had any similar requirement. Pursuant to the 1989 statutory changes, a publicly financed candidate's failure to participate in a required debate

without reasonable justification or excuse would result in termination of public fund payments and would create liability for return of all public monies previously received.

The Commission was charged with the responsibility of selecting sponsors for the required four primary election and two general election debates. Regulations were therefore adopted to govern the selection process. The Commission chose the League of Women Voters of New Jersey and WPVI-TV6 with WABC-TV7 to sponsor the primary election debates. The Asbury Park Press with WWOR-TV9 and WPVI-TV6 with WABC-TV7 were the selected sponsors of the general election debates. Regulations were also enacted to resolve allegations of a publicly financed candidate's failure to participate in the required debates.

Additional regulatory activity was required in response to the February 2, 1989 New Jersey Supreme Court decision in Friends of Governor Tom Kean vs. New Jersey Election Law Enforcement Commission, 114 N.J. 33 (1989). In that decision, the court invalidated prior Commission advisory opinions concerning allocation to a gubernatorial campaign of a portion of the cost of advertisements paid for by non-gubernatorial candidates. The direction in Friends of Tom Kean was necessary to begin discussion of the scope of regulations concerning coordinated expenditure activity for the 1989 campaign. The input of the Courter and Florio general election campaigns was sought and incorporated into an emergency regulation which became effective on August 3, 1989 and which was later adopted permanently by the Commission. The regulation defined activity by volunteers and political party committees which would not result in allocations against the expenditure limit of a gubernatorial candidate.

Commission staff therefore responded quickly to the new public financing law and the Friends of Tom Kean decision with regulations.

ADVISORY OPINIONS

Individuals and organizations employed the advisory opinion mechanism to request Commission guidance on issues surrounding public financing.

The Commission outlined the reporting requirements which attach when an individual "tests the waters" for a gubernatorial candidacy and later determines not to be a candidate. (Advisory Opinion No. 7-1989). The Commission clarified the right of a bona fide continuing committee and its contributors to make maximum contributions to a single gubernatorial candidate (Advisory Opinion No. 1-1989).

The scope of permissible state political party activity in a gubernatorial primary election was defined to include certain limited research activity when conducted on behalf of all the gubernatorial candidates of that party. The Commission determined that such state party activity would not result in an allocation against publicly financed candidates' expenditure limits (Advisory Opinion No. 5-1989). Similarly, the Commission advised that get-out-the-vote efforts by a county political committee were permissible without being charged against candidate expenditure limits (Advisory Opinion No. 12-1989).

Guidance was provided to a 1989 gubernatorial campaign to determine calculation of the cost to the campaign of use of film footage from a prior candidacy (Advisory Opinion 14-1989). The Commission analyzed the criteria identifying independent expenditures by a continuing political committee supporting a 1989 gubernatorial general election candidate, and affirmed that such activity undertaken without the candidate's consent, consultation, or coordination could not be allocated against the candidate's expenditure limit (Advisory Opinion No. 17-1989).

In advisory opinions issued during the 1989 general election to the Democratic and Republican State Committees, the Commission determined

that the costs of "generic" television advertisements to be aired by the State committees constituted party building activity and were not allocable against the gubernatorial candidates' expenditure limits (Advisory Opinion No. 19-1989 and Advisory Opinion No. 21-1989).

Staff expects that the advisory opinion mechanism will continue to clarify the intricacies of the public financing program in New Jersey.

#### COMPUTERIZATION

An often invisible but essential factor in the operation of the 1989 gubernatorial public financing program was the constant assistance and support of the ELEC computer staff. Existing software was enhanced and where possible functions were further computerized. The upgrade of the computer system made it possible to cope with the volume of financial activity generated by the eight primary and two general election campaigns. Specially conceived and designed software will make complete expenditure detail of the publicly financed campaigns available by computer for the first time.

It was a goal of the public financing staff to make information available to the public as quickly as possible. Almost 1,200 telephone calls and 250 requests for information were completed by the public financing staff. Press releases, including a series of analytical releases, provided a constant flow of data concerning contributions and expenditures during the gubernatorial campaign.

#### LOOKING FORWARD

The hectic pace maintained by the public financing section while distributing record public funds in the 1989 primary and general elections has given way to the methodical and detailed analysis of the 1989 experience. The 1989 campaigns require continued assistance as they close out their activity and complete their reporting obligations. Complete



review of all expenditure activity is now being undertaken. Staff will monitor the financial activity and provide information concerning Governor Florio's inaugural activities. A statistical examination of the 1989 program will be developed and a detailed report will be published in the fall of 1990. Commission regulations will be scrutinized to suggest improvement and clarification prior to the 1993 public financing cycle. Work will begin on the new statutorily required campaign cost index which must be provided to the Legislature by December 15, 1992, and careful scrutiny will be given to assure a proper accounting of the \$15.3 million in taxpayer dollars given to the candidates.

Although in the mind of the public the 1989 gubernatorial election cycle is complete, the work associated with the 1989 public financing program continues. With the ongoing analysis and evaluation of public financing in New Jersey, staff looks forward to providing assistance and insight to the New Jersey public, the Legislature, and the press.

## COMPUTER SECTION

The computer section is comprised of two elements: computer operations and data entry. Computer operations is responsible for keeping the computer running in an efficient manner. Data entry is responsible for entry and maintenance of all information to be keyed into the database. Using INFORMATION, a database management system, on a PRIME 4050, these two parts work together to provide the public with computer accessible information.

### Computer Operations

The computer upgrade which began in late 1988 is now complete. ELEC computer operations are now running at twice the speed as before and with twice the capacity for data. The computer operations staff perform backups of the database daily, weekly, and monthly to ensure the integrity of the information. The information may be obtained through requests for printouts, labels, and magnetic tapes. Specialized printouts as well as printouts for FEC information are available but take more time. The computer operations staff has been working at improving and adding to the existing modules. These modules include: Campaign Finance, Public Finance, Continuing Political Committees, Lobbyists, and Legal.

The Campaign Finance module is completely debugged. Only aesthetic modifications remain to be made. The Public Finance module underwent a major overhaul in the past year. The changes in the module reflected the changes in the Public Financing program itself. The module was in dire need of modification being riddled with bugs. With the hard work of the Public Financing and computer operations staffs the bugs were eliminated entirely. Although some new projects are still outstanding, we look forward to the next gubernatorial election with excellent working software. Much work has also been done on the upgrading of the continuing political committee and lobbyist modules. The Legal module, although for internal use only, has been developing at a gradual rate. This module will

be of tremendous assistance to the investigative and legal staffs with generating complaints and letters. Although enhancing and debugging existing modules is the computer operations biggest concern, new ideas are always being advanced to improve and enlarge the current database. Some of the new ideas include: Electronic Reporting by candidates filing reports via diskettes or direct input, Off-Site Access by persons calling and accessing ELEC's database using their own PCs and modems, and In-House Access by visitors using terminals in the public room. These new ideas would benefit the candidates and the public and with time and money will be put into place in the future.

#### Data Processing

Early in the year the data processing staff completed keying in filing status information, total receipts, and total expenditures from the 1988 elections' reports. Elections keyed include: Municipal, Runoff, School Board, Primary, General, and Special elections. Detailed contributor information has been keyed for the legislative candidates in the 1989 Primary election. This information is almost completely corrected and will hopefully be available sometime this spring. The data processing staff has also started entering the General 1989 election contributor information. This information, budget allowing, should be completed and available by the close of 1990. One goal of this Commission is to make available the contributor information of an election within one year of its conclusion.

The data processing staff is constantly testing the software modules to help correct and enhance performance. This staff aids the computer operations staff by making suggestions to improve the speed and ability of the computer modules. Data processing was instrumental in eliminating all the bugs from the Campaign Finance module. Ongoing revision is currently being performed on the CPC and Lobbyist modules as well.

In addition to their own responsibilities, the data processing staff has helped every other section in the agency. For instance, it has

assisted Compliance and Information with requests, filing, sorting, and coding; Public Finance with keying reports; Legal with entering complaint information; and Administration with mail and phones.

The computer operations and data entry staffs work together to provide the best computer services possible for the public, the candidates, and ELEC internal use. Always striving to improve and expand existing capabilities, the computer section looks forward to the coming year.

### **ADMINISTRATION**

During 1989, the Administration Section effectively met the increased fiscal and personnel demands of the Commission. An essential part of the agency, Administration provides all management services for the Commission.

Since ELEC is "in but not of" the Department of Law and Public Safety, the Department has no administrative responsibility or control over this Commission.

### **MANAGING THE BUDGET**

Looking forward to FY 1991, the Commission's operating budget for continuing operations is anticipated to be \$1,207,000. This amount provides funding for day-to-day operations and includes the two positions made permanent in FY 1990 to provide for the continued and essential review of the over \$15 million of taxpayer money spent on the Public Financing program. There will be no special purpose appropriations in FY 1991 for the Public Financing program or its administration because there will be no gubernatorial elections next year. However, the Commission has been successful in negotiating and concluding an agreement with the Office of Management and Budget which will include language in the FY 1991 recommended budget to allow the Commission to retain its fine collection revenues for its own account. Previously, fine collection dollars were turned over to the Treasury. This new arrangement, if approved by the Legislature, will enable the Commission to fill one professional position previously held vacant due to funding shortages.

### **ABSORBING BUDGET CUTS**

During FY 1990, the Commission has been operating on an appropriation which is \$221,000 less than the target originally approved by

the Office of Management and Budget. This effort has been accomplished whenever possible through not hiring into positions vacated by transfer or resignation, reductions in some internal functions, and omission of reimbursement payments to the county clerks for gubernatorial ballot statement printing expenses.

Also, as a result of the State's continuing revenue shortfall, in mid-year the Treasury placed in reserve or froze a total of \$63,000 from the Commission's original appropriation. ELEC has obtained the release of a portion of these funds in order to enable a full-scale audit of the records of the publicly funded gubernatorial candidates.

Campaign fund raising and expenditure activity has increased dramatically over recent years and is projected by the Commission to continue to do so. In an effort to cope with this ever growing workload, the Commission foresees the need for 15 additional employees over the next five years and has outlined these needs in its Long Range Plan. The Commission is very concerned about maintaining the high quality standard of service that it has provided in the past.

In addition, the Commission has been studying ways to pay for its growing operations without imposing additional burdens on the State's taxpayers. These ideas for coping with the explosive growth in campaign financing and Commission workload are contained in a recently published White Paper.

#### EXPANDING OFFICE SPACE

With the Public Financing program fully operational this past year and severely crowded conditions remaining from previous years, the need for additional office space was critical. The Administration section was moved and is currently in temporary quarters on the fifth floor of the National State Bank building. In addition to the twelfth floor space which the agency presently occupies, the Commission was also approved in FY 1990

for occupancy of most of the thirteenth floor. As the initial plans were being implemented for this move, the Commission was asked if it would agree to delay the move to permit use of the space by the new governor's transition team. The Commission quickly and graciously agreed to this arrangement as temporary office space in downtown Trenton is very scarce. Occupancy of the thirteenth floor is now anticipated in early spring.

#### OTHER ACTIVITIES

In early January 1989, the Commission upgraded its computer system to provide increased capacity. Shortly after installation of the new system, it was determined that the existing air conditioning system was inadequate. Therefore, to ensure maximum efficiency during this busy election year, a new temperature and humidity controlling unit was installed.

When Public Financing came on-line in 1989, the system was fully operational and throughout the year, all programs ran smoothly. This upgrade, with its expanded capacity, has effectively addressed the agency's computer needs.

Air conditioning also became a concern in the newly remodeled reception area. Since this was not previously a work area, it did not have adequate ventilation for the receptionists and the public whom they serve. Working closely with building management and Treasury Department personnel, the Administration staff successfully completed the air conditioning project for this area before the onset of the summer season.

#### HIGH MARKS FOR OPERATIONAL PERFORMANCE

ELEC was the subject of several audits during this past year. In October 1989, the Department of Personnel conducted an audit of personnel functions to determine compliance with the rules and regulations in effect for personnel transactions and notifications. ELEC was found in compliance

with all rules and no exceptions were noted. In November 1989, a team from the Office of the State Auditor performed an audit of the Public Financing program for FY 1989. This review included samples of worksheets, computer printouts, and fiscal documentation from the Public Financing and Administration sections. Here again, all records were in excellent shape and no exceptions were found.

Undoubtedly, the Administration Section, with its responsibility for purchase and contract negotiation, fiscal and personnel management, and the efficient functioning of the Commission's day-to-day operations, is a vital part of the Election Law Enforcement Commission. As it has always done during its four years in existence, the Administration Section will strive to improve efficiency in management and daily operations in the coming year.



1989 and 1990 Budget Overview

In FY 1990, the Commission sustained a \$221,000 budget cut from its original target, and no inflationary adjustments were received in the non-salary operating accounts. In addition, two lump sum appropriations were received for the Public Financing Program: \$6,600,000 for the funding of gubernatorial candidate campaigns in the general election, and \$300,000 for the administration of the program. In FY 1991, the Commission anticipates an appropriation without adjustment for inflation or priority requests.

COMPARISON OF FISCAL YEARS 1989 AND 1990 APPROPRIATIONS

	<u>FY 1989</u> <u>Appropriation</u>	<u>FY 1990</u> <u>Appropriation</u>
Personnel	\$ 851,000	\$ 946,000
Printing & Supplies	42,000	42,000
Travel	8,000	8,000
Telephone	17,000	17,000
Postage	19,000	19,000
Data Processing	93,000	63,000
Professional Services	40,000	37,000
Other Services	20,000	19,000
OTIS	12,000	12,000
Maintenance/Equipment	1,000	1,000
Central Motor Pool	4,000	4,000
Furniture/Equipment	15,000	3,000
Commissioner Per Diem	30,000	15,000
Public Financing Administration	<u>362,000</u>	<u>300,000</u>
Total Operational	\$ 1,514,000	\$1,486,000
Gubernatorial Public Financing	\$10,800,000*	\$6,600,000*

\* Includes supplemental

1989 Evaluation Data

Disclosure Reports (Total)	17,828
Campaign & Quarterly	17,115
Lobbyist	505
Personal Finance	208
Advisory Opinions	27
Investigations	104
Complaints	542
Public Assistance Requests	12,141
Fine Collection	\$40,605