



1997 COST INDEX REPORT

December, 1996



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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December, 1996

Dear Members of the Legislature:

This "1997 Cost Index Report" is presented to you in response to the Commission's statutory mandate. It is unique because, for the first time, the adjustments to the limits and thresholds in the New Jersey Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44-A-1, et seq.) based upon the statutory quadrennial campaign cost index include non-gubernatorial candidates and committees as well as gubernatorial candidates. The Commission therefore reports the changes applicable to all candidates and committees for the four-year period beginning in 1997.

The Commission believes that the quadrennial campaign cost adjustment process, first proposed as an improvement to New Jersey's innovative gubernatorial public financing program, remains essential as a tool to keep the Campaign Reporting Act responsive to economic change. Based upon its experience in administering the Act and the cost adjustment process, this report also presents for your consideration recommendations for further improvement.

The Commission is proud to offer this report in its continuous effort to serve the citizens of New Jersey.

Ralph V. Martin, Chair

David Linett, Vice Chair

Paula A. Franzese, Commissioner

ACKNOWLEDGEMENTS

The preparation of the second Cost Index Report rests upon past as well as current Commission efforts. The historical analysis by the Commission and the staff of the gubernatorial public financing program of gubernatorial elections from 1977 through 1993 was the necessary basis for this work. The Commission therefore wishes to acknowledge the efforts of all those staff members, past and present, whose work is reflected here.

Director of Public Financing and Deputy Legal Director Nedda Gold Massar authored this study. Her outstanding work administering the 1989 and 1993 programs as well as her efforts on this report and her analysis of the 1989 election previously published by the Commission are major contributions to the success of New Jersey's nationally acclaimed gubernatorial public financing law.

The Commission's 1988 "Gubernatorial Cost Analysis Report" prepared by Commission Deputy Director Jeffrey M. Brindle was the theoretical and analytical foundation for this document. His support and the review, editorial direction, and continuous guidance provided by Executive Director Frederick M. Herrmann and Legal Director Gregory E. Nagy made this report possible.

Economic data was graciously provided to the Commission by the staff of the Office of Economic Research of the New Jersey Department of Commerce and Economic Development. Valuable historical information and direction were again supplied by Rodney Nebocat of McCann-Erickson, Inc.

Without the talents of Administrative Assistant Elbia Zeppetelli, this text could never have been produced in its polished, professional fashion.

For further information about gubernatorial public financing in New Jersey and related campaign finance issues, the Commission recommends the "COGEL Campaign Financing and Lobbying Bibliography" compiled by Executive Director Herrmann.

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INTRODUCTION

The New Jersey Election Law Enforcement Commission (the Commission) has for the second time calculated the statutorily-required New Jersey Campaign Cost Index (NJCCI) which is used to adjust various limits and reporting thresholds contained in the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1, et seq., (the Act). The Commission is statutorily mandated to “establish an index reflecting the changes occurring in the general level of prices of particular goods and services ... directly affecting the overall costs of election campaigning in this State”; see N.J.S.A. 19:44A-7.1b. The Commission must use that index to adjust on a quadrennial basis various limits and thresholds which apply to publicly-financed gubernatorial elections; see N.J.S.A. 19:44A-7.1c. Amendments to the Act enacted in 1993 require that the same cost index calculated for the gubernatorial public financing program be applied also to limits and thresholds applicable to non-gubernatorial candidates, candidate committees, joint candidates committees, political committees, continuing political committees, political party committees, legislative leadership committees, and other entities; see N.J.S.A. 19:44A-7.2.

The Commission is required to determine the cost index and make necessary adjustments no later than December 1st of a year preceding a gubernatorial general election. The Commission is also directed to report its adjustments to the Legislature not later than December 15th of the year preceding a gubernatorial general election. To fulfill its statutory obligation, the Commission applied the 1997 NJCCI to the provisions

of the Act and proposed the adjustments as amendments to its regulations which were published in the New Jersey Register on October 7, 1996. The Commission conducted a public hearing on the Cost Index changes on October 22, 1996. This 1997 Cost Index Report will describe the derivation of the NJCCI and will also summarize public reaction to the 1997 NJCCI and offer the Commission's responses.

As reported in the "1993 Gubernatorial Cost Index Report" (December, 1992), the Commission first conducted the statutory quadrennial cost adjustment process in preparation for the 1993 gubernatorial primary and general elections. By increasing the gubernatorial limits and thresholds in response to inflation, the Commission noted that "[t]he automatic adjustment process introduces certainty and financial responsiveness into the gubernatorial public financing cycle."¹ The Commission believes that application of the cost adjustment process to non-gubernatorial candidates and committees, as required by the 1993 amendments to the Act, will similarly permit those entities to participate as consumers in a constantly changing economy with increasing technological and other costs.

Pursuant to its statutory mandate, and using the methodology described in the "Gubernatorial Cost Analysis Report" of June, 1988, and applied for the 1993 gubernatorial elections, the Commission has calculated the 1997 NJCCI and has determined that the campaign cost multiplier is **1.1612**.

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Applying the 1997 cost index to the various limits and thresholds in the Act and rounding the results as required by the law (N.J.S.A. 19:44A-7.1b) produces the following adjustments for the four-year period beginning in 1997:

ADJUSTMENTS FOR GUBERNATORIAL CANDIDATES		
THRESHOLD/LIMIT	1993 AMOUNT	1997 ADJUSTED AMOUNT
Contribution Limit	\$1,800	\$2,100
Qualification Threshold	\$177,000	\$210,000
Amount Not Matched	\$59,000	\$69,000
Primary Election Public Funds Cap	\$1,600,000	\$1,860,000
Primary Expenditure Limit	\$2,600,000	\$3,100,000
General Election Public Funds Cap	\$3,900,000	\$4,600,000
General Expenditure Limit	\$5,900,000	\$6,900,000

ADJUSTMENTS FOR NON-GUBERNATORIAL CANDIDATES AND COMMITTEES		
LIMIT/THRESHOLD	1993 AMOUNT	1997 ADJUSTED AMOUNT
Political Committee Reporting Threshold	\$1,000	\$1,200
Continuing Political Committee Reporting Threshold	\$2,500	\$3,000
Contribution Reporting Threshold	\$200	\$300
48-Hour Notice/Contribution Threshold	\$500	\$600
48-Hour Notice/Expenditure Threshold	\$500	\$600
Joint Candidates Committee Thresholds	\$4,000 \$6,000	\$4,700 \$7,000
Form A-3 Threshold	\$2,500	\$3,000
Form A-1 Threshold	\$2,000	\$2,400
School Board/Write-In Threshold	\$2,000	\$2,400
Independent Expenditure Threshold	\$500	\$600
Section 20.1 Penalties	\$3,000/6,000	\$3,500/7,000
Section 22 Penalties	\$3,000/6,000	\$3,500/7,000

**ADJUSTED
CONTRIBUTION LIMITS FOR NON-GUBERNATORIAL CANDIDATES AND COMMITTEES**

**Entities Making
Contributions**

Entities Receiving Contributions

	<u>Candidate Committee</u>	<u>Political Committee</u>	<u>Continuing Political Committee</u>	<u>Legislative Leadership Committee</u>	<u>State Political Party Committee</u>	<u>County Political Party Committee</u>	<u>Municipal Political Party Committee</u>
Individual to:	\$1,800 per election	No Limit	No Limit	\$30,000 per year	\$30,000 per year	\$30,000 per year	\$5,900 per year
Corporation or Union to:	\$1,800 per election	No Limit	No Limit	\$30,000 per year	\$30,000 per year	\$30,000 per year	\$5,900 per year
Association or Group to:	\$1,800 per election	No Limit	No Limit	\$30,000 per year	\$30,000 per year	\$30,000 per year	\$5,900 per year
Candidate Committee to:	\$5,900 per election	\$5,900 per election	\$5,900 per year	\$30,000 per year	\$30,000 per year	\$30,000 per year	\$5,900 per year
Political Committee to:	\$5,900 per election	\$5,900 per election	\$5,900 per year	\$30,000 per year	\$30,000 per year	\$30,000 per year	\$5,900 per year
Continuing Political Committee to:	\$5,900 per election	\$5,900 per election	\$5,900 per year	\$30,000 per year	\$30,000 per year	\$30,000 per year	\$5,900 per year
Legislative Leadership Committee to:	*	*	*	NO LIMITS	*	*	*
State Political Party Committee to:	*	*	*	NO LIMITS	*	*	*
County Political Party Committee to:	NO LIMITS, except those set forth in <u>N.J.A.C. 19:25-11.7.</u>						
Municipal Political Party Committee to:	*	*	*	NO LIMITS	*	*	*
National Political Party Committee to:	\$5,900 per election	\$5,900 per election	\$5,900 per year	\$30,000 per year	\$59,000 per year	\$30,000 per year	\$5,900 per year

COMPONENTS OF THE 1997 NEW JERSEY CAMPAIGN COST INDEX

The Commission based its calculation of the first NJCCI in 1993 upon the assumption that a gubernatorial campaign is a consumer of goods and services whose purchases can be studied and quantified. As a consumer, a campaign is subject to changes in the economy, including inflationary changes.

Expenditure data reported by gubernatorial campaigns since 1973 has enabled the Commission to examine spending patterns and to identify trends in the campaigns' behavior. Spending by the 1993 gubernatorial general election campaigns maintained the steady shift observed since 1973 to concentration of campaign spending on mass communications to voters and away from spending on administrative, travel, and fundraising goods and services (Table I below). Since 1985, the New Jersey gubernatorial campaign consumer has spent over 80 percent of its campaign dollars on efforts to communicate its message to voters. This trend continued for 1993 with the percentage of spending devoted to communication to voters remaining virtually level between 1989 and 1993 (Table I).

TABLE I						
Major Expenditure Components as a Percentage of Total Campaign Expenditures: 1973-1993 Gubernatorial General Elections						
	1973	1977	1981	1985	1989	1993
Mass communication Expenditures	53.1%	62.3%	76.0%	83.9%	81.9%	81.7%
Other Expenditures (Including Administration, Travel, and Fundraising)	46.9%	37.0%	24.3%	15.8%	18.0%	18.3%

NOTE: Percentages may not total 100.0 because of rounding.

SOURCE: New Jersey Election Law Enforcement Commission Data; New Jersey Election Law Enforcement Commission, "New Jersey Gubernatorial Public Financing Revised: 1989 and Beyond," Table X, p. 90; "New Jersey Public Financing: 1985 Gubernatorial Elections," Table K, p. 44; and "New Jersey Public Financing: 1981 Gubernatorial Elections," Table 6.1, p. 6.7.

Of the 81.7 percent spent on mass communication to voters, 1993 gubernatorial general election campaigns spent 66.6 percent of total campaign spending on the purchase of broadcast media time (Table II below). This 1993 level of spending on media purchases was down from 76.6 percent in the 1989 general election (Table II). However, the amounts spent by the 1993 campaigns on newspaper advertising and printing and mailing of campaign literature increased from 0.6 percent in 1989 to 4.6 percent in 1993. Voter communication again represented the lion's share of gubernatorial spending.

As Table II below demonstrates, the proportion of 1993 campaign dollars devoted to expenditures exempt from the expenditure limit (9.1 percent) and to administrative costs (9.2 percent) closely paralleled the amounts spent in 1989 (8.7 percent and 9.3 percent, respectively).

Expenditure data from the 1993 gubernatorial general election demonstrated the continued existence of the same two key campaign spending components identified in the earlier elections: mass communications and all other campaign costs. These components formed the basis of the campaign cost index weighted formula first proposed in the Commission's 1988 "Gubernatorial Cost Analysis Report,"² and therefore continue as the foundation of the 1997 cost index calculation.

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TABLE II				
Comparison of Expenditures by Type of Expenditure (Net)				
for 1989 and 1993 General Election Gubernatorial Publicly-Funded Candidates				
Type of Expenditure	1989 General - Total		1993 General - Total	
	Net	Net%	Net	Net%
Expenditures Exempt from Limit:				
Candidate Travel	\$194,323.38	1.8	\$144,266.23	1.1
Food and Beverage/Fundraising	163,626.93	1.5	172,714.46	1.4
Election Night Activities	95,502.34	0.9	130,668.27	1.0
Compliance-Legal/Accounting	503,687.20	4.5	720,408.33	5.6
Total Expenditures Exempt from Limit:	\$957,139.85	8.7	\$1,168,057.29	9.1
Expenditures Subject to Limit:				
Administration:				
Telephone	\$81,305.46	0.7	\$133,473.61	1.1
Personnel/Taxes	602,125.77	5.5	497,788.34	3.9
Other	333,868.29	3.1	557,010.22	4.4
Total Administration	\$1,017,299.52	9.3	\$1,188,272.17	9.2
Communication:				
Media Time	\$8,380,700.00	76.6	\$8,594,469.36	66.6
Advertising Production	520,354.79	4.8	1,351,584.96	10.5
Newspaper Advertising	12,627.99	0.1	43,168.88	0.3
Billboards	0.0	0.0	0.0	0.0
Printing Literature	33,777.11	0.3	125,907.84	1.0
Mailing Literature	16,641.90	0.2	426,550.37	3.3
Total Communication Expenditures	\$8,964,101.79	81.9	\$10,541,681.41	81.7
Total Expenditures by Others*	\$4,268.44	0.0	\$3,049.80	0.0
Total Expenditures Subject to Limit	\$9,985,669.75**	91.3	\$11,733,003.38***	90.9
Total Campaign Expenditures	\$10,942,809.60	100.0	\$12,901,060.67	100.0

SOURCE: New Jersey Election Law Enforcement Commission Data; New Jersey Election Law Enforcement commission, "New Jersey Gubernatorial Public Financing Revised: 1989 and Beyond," Table X, p. 90; and "New Jersey Public Financing: 1985 Gubernatorial Elections," Table K, p. 44.

* "In-kind" contributions

** The 1989 general election expenditure limit was \$5,000,000.00 per candidate

*** The 1993 general election expenditure limit was \$5,900,000.00 per candidate

Based upon the consistent spending behavior of the gubernatorial campaigns of 1985, 1989, and 1993, the Commission has assumed that the mix of mass communication and non-communication expenditures components for 1997 campaigns will be similar. The Commission has therefore used as its basis for calculation of the 1997 NJCCI the mix of communication and non-communication expenditures exhibited in 1993:

Mass communications expenditures:	81.7 percent
Other campaign expenditures:	<u>18.3</u> percent
	100.0 percent

Repeating its 1993 methodology, the Commission relied upon McCann-Erickson Media Cost Indexes and Consumer Price Index (CPI) data to measure the magnitude of the change in costs between the 1993 and 1997 elections in the two expenditure categories, communication costs and other campaign costs.

Measuring the Change in Communication Costs

Of the 81.7 percent of total 1993 campaign expenditures devoted to mass communication, television and radio advertising, and direct mail accounted for 81.4 percent of the communications component dollars spent by gubernatorial campaigns (Table II).

Therefore, in order to determine the magnitude of change since 1993 in costs associated with the mass communication component of the campaign cost index, the Commission again examined media cost data compiled by McCann-Erickson, Inc., New York City. McCann-Erickson has since 1945 maintained and indexed media advertising costs, including costs for television, radio, newspapers, magazines, outdoor media, and direct mail. McCann-Erickson data was used by the Commission in its 1984³ and 1988⁴ gubernatorial campaign cost analyses and in calculation of the 1993 NJCCI.

The McCann-Erickson Media Cost-Per-Thousand (CPM) Composite measures change in the cost to reach an audience of 1,000 individuals in nine media relevant to statewide campaigns in New Jersey.⁵ Further, its use is appropriate because it specifically includes data for the New York and Philadelphia media markets, the media markets in which New Jersey statewide candidates must make purchases of television and radio time.

The media cost-per-thousand composite for the period 1992 to 1996 rose by 17.4 percent, the same magnitude of change which occurred for the 1988 to 1992 four-year period (Table III below). This 17.4 percent increase in the CPM was used by the Commission as the measure of change in mass communication costs applicable to New Jersey gubernatorial campaigns during the four-year period preceding the 1997 gubernatorial election.

TABLE III Cost-Per-Thousand Mass Communication Percentage Increases		
Media Type	1988-1992 Percentage Increase	1992-1996 Percentage Increase
<u>Broadcast</u>		
Network TV	13.2	23.5
Spot TV	12.9	27.6
Network Radio	19.1	1.8
Spot Radio	12.1	12.1
Cable TV	N/A	17.4
<u>Print</u>		
Newspapers	19.3	12.1
Magazines	28.2	16.2
Outdoor	9.4	6.2
Direct Mail	20.0	22.8
<u>Composite</u>	17.4*	17.4**

* Based on national and local budgets in eight media

* * Based on national and local budgets in nine media, including cable TV

SOURCE: McCann-Erickson Cost Indexes (May, 1992), Table III, Media Cost-Per-Thousand Indexes and McCann-Erickson Cost Indexes (April, 1996), Table III, Media Cost-Per-Thousand Indexes

Measuring the Change in Other Campaign Costs

As it did in its prior analyses of gubernatorial campaign costs, the Commission relied upon the Consumer Price Indexes (CPI), maintained by the United States Bureau of Labor Statistics (BLS), to measure changes in gubernatorial campaigns' non-communication costs. As defined by the BLS, the CPI measures the average change in prices over time for a fixed "market basket" of goods and services purchased either by urban wage earners and clerical workers (CPI-W) or by all urban consumers (CPI-U). The CPI-U, which covers approximately 80 percent of the total population, is more representative of price changes in New Jersey than is the CPI-W which only covers data for 32 percent of the total population.

CPI data relevant to New Jersey are incorporated by the BLS into statistics for two geographic regions, New York - Northern New Jersey (NY/NJ) and Pennsylvania - New Jersey (PA/NJ). In this report the Commission has again relied upon CPI data for the NY/NJ and PA/NJ regions to measure the change in the campaign cost index component for campaign expenditures other than communications.⁶ The Commission used CPI data for the months of December 1992 through 1995 for the NY/NJ and PA/NJ regions and used mathematically projected index numbers for December of 1996 to determine the percent increase in consumer prices for the two regions which included New Jersey (Table IV below).

TABLE IV		
Consumer Price Index for All Urban Consumers:		
Monthly Index Number for December¹		
	New York/New Jersey²	Pennsylvania/New Jersey³
December, 1992	152.1	149.7
December, 1993	155.6	151.3
December, 1994	158.9	155.4
December, 1995	163.7	159.1
December, 1996 ⁴	168.2	164.8
Percentage Change: 1992 to 1996	10.6	10.1

1. United States Bureau of Labor Statistics, Monthly Index Numbers - All Urban Consumers, as maintained by New Jersey Department of Commerce, Office of Economic Research.
2. Includes 12 New Jersey counties: Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, and Union.
3. Includes 6 New Jersey counties: Burlington, Camden, Cumberland, Gloucester, Mercer, and Salem. Three counties are not included in any region: Atlantic, Cape May, and Warren.
4. Mathematical projection based upon average monthly increase for January through July, 1996.

The percentage change in the two regional numbers was then weighted at a ratio of two-to-one to reflect the larger population in the NY/NJ region. The 10.6 percent change in the Index Number for the period 1992 to 1996 for the New York/New Jersey region was multiplied by two and added to the 10.1 percent change in the Index Number for the same period in the Pennsylvania/New Jersey region. The result of 31.3 percent was divided by three (3) to yield the weighted CPI-U of 10.4 percent for all of New Jersey. The Commission therefore found that the resulting increase in the CPI-U in New Jersey for campaign costs other than mass communications was 10.4 percent.

CALCULATION OF THE 1997 CAMPAIGN COST INDEX

Using the indices described above to determine the magnitude of change in costs for the two components of gubernatorial campaign spending, the Commission calculated the 1997 campaign cost index by applying the formula reported in the "1993 Gubernatorial Cost Index Report" (December, 1992)⁷ and described in the June, 1988 "Gubernatorial Cost Analysis Report"⁸ as follows:

1. The 17.4 percent increase in media costs was applied to the proportion of all 1993 general election expenditures on mass communications, or 81.7 percent, to yield a Campaign Cost Index communication cost component of 14.22 ($.817 \times 17.4 = 14.22$).

2. The 10.4 percent increase in the CPI was applied to the proportion of all 1993 general election expenditures on other campaign items, or 18.3 percent, to yield a Campaign Cost Index component for other costs of 1.90 (.183 x 10.4 = 1.90).

3. The components for mass communications (Step 1) and other costs (Step 2) were combined as follows to indicate that campaign costs in New Jersey increased by 16.12 percent:

Expenditure Category	% of 1993 General Election Spending	Four-year change in costs	Component of Campaign Index
Mass communications	81.7%	17.4 =	14.22
Other campaign costs	18.3%	10.4 =	1.90
		Campaign Cost Increase	16.12

The Commission therefore reports that the cost index multiplier for the limits and thresholds applicable to both publicly-financed gubernatorial campaigns and non-gubernatorial candidates and committees in 1997 is 1.1612. Applying the 1.1612 index to the various gubernatorial public financing thresholds and caps and to the reporting thresholds and limits applicable to non-gubernatorial candidates and committees, and rounding off the results as required by the formula contained in the statute (N.J.S.A. 19:44A-7.1b), produces the following statutorily required adjustments for 1997:

GUBERNATORIAL ADJUSTMENTS

Limit/Threshold	1993 Amount	Cost Index Multiplier	Sum	1997 Rounded Amount
Contribution Limit	\$1,800	1.1612	\$2,090.16	\$ 2,100.00
Qualification Threshold	\$177,000	1.1612	\$205,532.40	\$210,000.00
Amount not Matched	\$59,000	1.1612	\$68,510.80	\$69,000.00
Primary Public Fund Cap	\$1,600,000	1.1612	\$1,857,920.00	\$1,860,000.00
Primary Expenditure Limit	\$2,600,000	1.1612	\$3,019,120.00	\$3,100,000.00
General Public Fund Cap	\$3,900,000	1.1612	\$4,528,680.00	\$4,600,000.00
General Expenditure Limit	\$5,900,000	1.1612	\$6,851,080.00	\$6,900,000.00

1997 ADJUSTMENTS FOR NON-GUBERNATORIAL CANDIDATES AND COMMITTEES				
Limit/Threshold	1993 Amount	Cost Index Multiplier	Sum	1997 Rounded Amount
Political Committee Reporting Threshold	\$1,000	1.1612	\$1,161.20	\$1,200
Continuing Political Committee Reporting Threshold	\$2,500	1.1612	\$2,903.00	\$3,000
Contribution Reporting Threshold	\$200	1.1612	\$232.24	\$300
48-Hour Notice/ Contribution Threshold	\$500	1.1612	\$580.60	\$600
48-Hour Notice/ Expenditure Threshold	\$500	1.1612	\$580.60	\$600
Joint Candidates Committee Thresholds	\$4,000 \$6,000	1.1612 1.1612	\$4,644.80 \$6,967.20	\$4,700 \$7,000
Form A-3 Threshold	\$2,500	1.1612	\$2,903.00	\$3,000
Form A-1 Threshold & School Board/Write-In Threshold	\$2,000	1.1612	\$2,322.40	\$2,400
Independent Expenditure Threshold	\$500	1.1612	\$580.60	\$600
Section 20.1 Penalties	\$3,000/6,000	1.1612	\$3,483.60/6,967.20	\$3,500/7,000
Section 22 Penalties	\$3,000/6,000	1.1612	\$3,483.60/6,967.20	\$3,500/7,000

NON-GUBERNATORIAL CONTRIBUTION LIMIT AMOUNT ADJUSTMENTS			
1993 CONTRIBUTION AMOUNT	COST INDEX MULTIPLIER	SUM	1997 ROUNDED AMOUNT
\$1,500	1.1612	\$1,741.80	\$1,800
\$5,000	1.1612	\$5,806.00	\$5,900
\$25,000	1.1612	\$29,030.00	\$30,000
\$50,000	1.1612	\$58,060.00	\$59,000

PUBLIC COMMENTS CONCERNING THE PROPOSED 1997 COST INDEX ADJUSTMENTS

The Commission proposed the 1997 adjustments to the limits and thresholds in the Act in the form of amendments to its regulations. The 1997 proposed amendments represent the first time that the cost index changes affect non-gubernatorial candidates and committees and the second adjustment of the gubernatorial limits.

As part of the adoption process for the proposed regulations, the Commission conducted a hearing on October 22, 1996, to provide an opportunity for public comment. The following five individuals presented oral and written testimony concerning the Commission's proposed regulations to implement the 1997 campaign cost adjustments: Dorothy Dunfee, Campaign Finance Reform Specialist, League of Women Voters of New Jersey; Honorable Reed Gusciora, Assemblyman, 15th Legislative District; Curtis Fisher, Program Director, New Jersey Public Interest Research Group; Dennis Jaffe, Executive Director, New Jersey Common Cause; and, Thomas Byrne, Chairman, New Jersey Democratic State Committee.

The five commenters were generally opposed to the adjustments and focused their attention on the increases in contribution limits. They expressed the common theme that there is already too much money in the political system and therefore the campaign cost index adjustments proposed by the Commission, including the increased contribution limits, are too high.

Ms. Dunfee noted the “escalating costs of campaigns,”⁹ and asked specifically that contribution limits to legislative leadership committees not be increased. Ms. Dunfee acknowledged that in its July, 1996 White Paper entitled “State Parties and Legislative Leadership Committees: An Analysis 1994-1995,” the Commission recommended that the contribution limit to legislative leadership committees be lowered from \$25,000 per year to \$10,000 per year.¹⁰ It should be noted that the same White Paper also recommended that the annual contribution limit to a state political party committee be lowered from \$25,000 to \$15,000.¹¹ Ms. Dunfee specifically urged the Commission to either eliminate the legislative leadership committees created by the Act N.J.S.A. 19:44A-3s and 10.1) or reduce fundraising by such committees.

Assemblyman Gusciora indicated that any increase in the contribution limits would “guarantee more expensive races in 1997.”¹² He advised the Commission that the Clean Elections Act of 1996, legislation he introduced with Assemblywoman Loretta Weinberg (37th Legislative District), would, among other changes, cap contributions at \$250 and eliminate legislative leadership committees.

Mr. Jaffe requested that the Commission move to eliminate the leadership committees, repeal the cost index adjustments, and characterized as “pernicious” the Commission’s proposed increased contribution limits to leadership committees and party committees.¹³ Mr. Jaffe also commented that the proposed adjustment from \$200 to \$300 of the threshold amount for reporting of contributions would have the undesirable effect of reducing disclosure of contribution information provided to the public on reports required to be filed with the Commission.

Mr. Fisher commented that the increased contribution reporting threshold would result in larger contributions to candidates and committees because contributors want to have their contributions publicly disclosed on reports. He commended the Commission for following the law requiring the cost index adjustments, and indicated his belief that the increased limits and thresholds would act as an incentive for citizens to become involved in changing the campaign financing system.¹⁴

Mr. Byrne suggested that the Commission not implement the cost adjustment process for 1997 and instead freeze the limits and thresholds at current levels because there is more money than necessary in campaign financing. He noted that political “soft money” is in need of reform and that independent expenditures are being abused in campaigns.¹⁵

COMMISSION RESPONSES TO THE PUBLIC COMMENTS

1. THE 1997 COST ADJUSTMENT PROCESS MUST BE IMPLEMENTED. At the time of the hearing, the Commission noted that the quadrennial campaign cost adjustment process is statutorily-mandated. N.J.S.A. 19:44A-7.1 and 7.2 require that the cost index be calculated by December 1st of each year preceding a gubernatorial election, that the limits and thresholds be rounded pursuant to the statutory formula, and that the results be reported to the Legislature by December 15th.

The Commission believes that to defy the specific statutory mandate and to refuse to implement or delay implementation of the cost adjustment process, as

suggested by several commenters, is contrary to its responsibilities as an agency of government. In addition, such an action would be perilous because the unadjusted limits and thresholds might become the subject of a legal challenge during the course of an election. The Commission must not expose candidates, treasurers, and committees to uncertain rules which may change in mid-election. Gubernatorial and non-gubernatorial participants in New Jersey elections must know in advance and with certainty the rules that govern their candidacies.

The purpose of the quadrennial inflationary cost adjustment process, as expressed by the Commission in urging its adoption, was to enable the gubernatorial public financing program to “keep pace with inflationary trends”¹⁶ and to introduce certainty into the gubernatorial election process because the Commission would be responsible for implementing the automatic adjustments. Candidates would no longer have to rely on the legislative process to adjust the gubernatorial limits and thresholds for inflation. This rationale now applies equally to non-gubernatorial candidates and committees which have since 1993 been subject to contribution limits and which must know in advance of an election the rules which they must observe.

The Commission strongly believes that it must obey the mandate of the Act and must implement the adjustment process for 1997. To do otherwise would introduce chaos into the 1997 elections and thwart the Commission’s express goal that New Jersey campaigns keep pace with the economic factors applicable specifically to candidates and committees. The Commission therefore recommends that any changes

which may be contemplated by the Legislature to the campaign cost adjustment process be studied and enacted during the next two years for application to elections in 2001. The Commission further recommends that the Legislature consider whether or not a different campaign cost index calculation, less reliant on media cost changes, is more appropriate for non-gubernatorial candidates and committees which spend less money on statewide media purchases.

2. REDUCE THE MAXIMUM CONTRIBUTION TO A LEGISLATIVE LEADERSHIP COMMITTEE. Several of the commenters recommended that legislative leadership committees be eliminated or that the contribution limit to them be reduced. The four legislative leadership committees are statutorily-created entities and are established by the Senate President and Senate Minority Leader and by the Speaker of the General Assembly and the Assembly Minority Leader. The contribution limit to a legislative leadership committee established in the 1993 amendments to the Act is \$25,000 per contributor per year. The 1997 adjustments increase that limit to \$30,000.

In its recently-issued White Paper, "State Parties and Legislative Leadership Committees: An Analysis 1994-1995," the Commission studied the receipt and expenditure activity of the leadership committees and the State political party committees. The study concluded that rather than abolishing the leadership committees, the law should be modified concerning contributions to them.¹⁷

The Commission recommended that:

The contribution limit vis-a-vis contributions to the legislative leadership committees be lowered to \$10,000 per year [from \$25,000 per year]. Because approximately 98 percent of all contributions to these committees were in amounts of \$10,000 or less, it appears that such a change would not hinder fundraising in the least thereby protecting free speech.¹⁸

The Commission therefore does not recommend elimination of the statutorily-created legislative leadership committees as suggested by the commenters. Rather it recommends that the Legislature consider lowering the maximum contribution permitted to the leadership committees to \$10,000, to be subject to the cost adjustment process in the future.

3. MODIFY THE ROUNDING OF LIMITS AND THRESHOLDS OF \$1,000 OR LESS. One commenter expressed his belief that adjustment of the contribution reporting threshold from \$200 to \$300 would reduce public disclosure of contributor information. The Commission notes that the first calculation of the NJCCI in 1993 applied only to the limits and thresholds for gubernatorial campaigns. The lowest amount adjusted in 1993 was the contribution limit to a gubernatorial candidate which increased from \$1,500 to \$1,800. The 1993 amendments to the Act established the first contribution limits to non-gubernatorial New Jersey candidates and committees. The amendments also required that in 1997 for the first time the limits and reporting

thresholds for non-gubernatorial candidates and committees be adjusted, including amounts as low as the \$200 contribution reporting threshold.

The statutory rounding provisions of the Act (N.J.S.A. 19:44A-7.1b) specify that if an adjusted amount is less than \$20,000 and not an exact multiple of \$100, the adjustment be rounded to the next higher exact multiple of \$100. The Commission believes that this mandated rounding process should be modified when applied to reporting thresholds in the Act of \$1,000 or less. The Commission recommends that where application of the NJCCI to a limit or threshold of \$1,000 or less produces an adjusted amount in an increment of \$50 or less, no upward adjustment should be made. For example, application of the 1997 NJCCI (1.1612) to the existing \$200 contribution reporting threshold results in a product of \$232.24 ($\200×1.1612). Under the current statutory rounding formula, the \$200 threshold is required to be adjusted to \$300, the next higher exact multiple of \$100. Use of the Commission's recommendation would result in no upward adjustment of the \$200 contribution reporting threshold for 1997 because the product of \$232.24 ($\200×1.1612) is an increment of \$50 or less.

The Commission believes, however, that there must be a mechanism to ensure that limits and thresholds in the Act of \$1,000 or less are not completely excluded from the adjustment process because a \$50 increment is never reached. It would take a quadrennial campaign cost inflation rate of approximately 25.1 percent in a single four-year period to require upward adjustment of the existing \$200 contribution reporting threshold ($\$200 \times 1.251 = \250.20). It is entirely possible that campaign inflation

in a four-year period will not exceed 25.1 percent, but that it will exceed that amount in an eight-year period. In fact, by the Commission's calculations, campaign costs rose by 17.91 percent from 1988 to 1992 and by 16.12 percent from 1992 to 1996, resulting in a combined rate of 34.03 percent.

Therefore, the Commission recommends that the next quadrennial adjustment of a limit which was not adjusted in the prior cycle use as its base the unadjusted product of the immediately preceding campaign cost index calculation. For example, assuming an identical campaign cost multiplier for the 2001 adjustment (1.1612), and calculating the adjustment from the unadjusted \$232.24 base established in 1997, the contribution reporting threshold would be adjusted to \$300 for 2001 because the product is greater than a \$50 increment ($\$232.24 \times 1.1612 = \269.68).

The Commission believes that this correction to the rounding process for amounts of \$1,000 or less will achieve the goal of keeping pace with inflationary changes in the economy without requiring disproportionate adjustments to the lower limits and thresholds in the Act. The Commission also recommends that the Legislature examine the impact of the rounding provisions in N.J.S.A. 19:44A-7.1b upon the limits and thresholds in the Act for non-gubernatorial candidates and committees to determine whether or not further modification of the rounding process is warranted.

4. THE ACT AND COMMISSION REGULATIONS ADDRESS "Soft Money" AND INDEPENDENT EXPENDITURES. One commenter called for reform of "soft money"

contributions and independent expenditures. "Soft money" generally refers to unlimited contributions to national political parties by entities which may be prohibited from contributing to candidates. These contributions are used by the national parties for party building activities which may benefit the parties' candidates. Independent expenditures are expenditures made by a person or entity to support or defeat a candidate which are made without the cooperation or prior consent of or without consultation with a candidate.

The Commission notes that New Jersey law already affords protection from the flow of unrestricted "soft money" to the State political party committees. All contributions from individuals, corporations, unions, associations, candidate committees, joint candidates committees, political committees, continuing political committees, and national party committees to the New Jersey Democratic and Republican State Committees are subject to statutory limits. Moreover, the Commission in its July, 1996 White Paper has recommended lowering these limits.

The Commission also notes that the amendments to its regulations adopted for application to the 1997 gubernatorial general election prohibit political party committees and legislative leadership committees from making independent expenditures to support or defeat a gubernatorial candidate. In proposing these amendments, the Commission reasoned that if independent expenditures by political party committees and legislative leadership committees were possible, the legislative objective of establishing uniform expenditure limits for all publicly-financed candidates in a gubernatorial general election might be circumvented.

CONCLUSION AND RECOMMENDATIONS

The Commission recommends implementation of the 1997 campaign cost adjustments described in this report because it perceives them as statutorily mandated. Further, the adjustments introduce “certainty and financial responsiveness” into the gubernatorial election process¹⁹ and now serve the same important goals for non-gubernatorial candidates and committees.

The Commission believes that it is too late at this date to attempt to amend the pertinent statutory provisions for the 1997 elections.

As a result of the public comments received and its experience in examining New Jersey elections and in administering the cost adjustment process, the Commission recommends consideration of the following:

1. Any changes to the NJCCI process for the 2001 elections should be implemented by the end of 1999 to provide adequate time for evaluation and public response. The Legislature may wish to determine whether or not a different campaign cost index calculation, less reliant on media costs, is more appropriate for application to non-gubernatorial candidates and committees.

2. The statutory rounding process as applied to limits and thresholds in the Act of \$1,000 or less should be modified to require adjustment only where the increment exceeds \$50. Review by the Legislature of the effect of the statutory rounding process

as applied to all the limits and thresholds for non-gubernatorial candidates and committees may be warranted.

3. As described in detail in the Commission's July, 1996 White Paper, the Legislature should consider reducing the maximum contribution permitted to the legislative leadership committees from \$25,000 to \$10,000 to be adjusted by the campaign cost index in the future, and should also consider adjustment of the limit to the State Party Committees from \$25,000 to \$15,000.

4. All the contribution limits currently in effect should be reviewed by the Legislature prior to the 1999 elections to determine whether or not the present limits could be lowered without harming the balance between protecting the government from the potential of corruption and maintaining First Amendment rights of free speech. Because of recent actions by the court system, it may be necessary to provide public financing to reduce significantly the current limits.

The campaign cost adjustment process was first proposed by the Commission as an improvement to New Jersey's nationally-recognized gubernatorial public financing program. Its expansion to non-gubernatorial candidates and committees has kept the New Jersey campaign finance system at the forefront of national campaign finance reform. The Commission again welcomes the opportunity to offer this report and to contribute to New Jersey's reputation for advances in election financing reform.

NOTES

1. ELEC, "1993 Gubernatorial Cost Index Report," (December, 1992) p. 3.
2. ELEC, "Gubernatorial Cost Analysis Report," (June, 1988) p. 23.
3. ELEC, "Analysis of Costs of Election Campaigning and Recommendations for Altering Contribution and Expenditure Limits for Gubernatorial Elections," (May, 1984) p. 7.
4. Op. cit., "Cost Analysis Report," p. 20.
5. McCann-Erickson Inc., New York City, New York, Media Cost-Per-Thousand Indexes, Table III, April, 1996.
6. United States Bureau of Labor Statistics Monthly Index Numbers - All Urban Consumers, as maintained by New Jersey Department of Commerce and Economic Development, Office of Economic Research, Trenton, New Jersey.
7. Op. cit., "1993 Report," pp. 12-13.
8. Op. cit., "Cost Analysis Report," p. 23.
9. Transcript of "Hearings Concerning Proposed Amendments to Commission Regulations to Implement Inflationary Campaign Cost Adjustments for Gubernatorial and Non-gubernatorial Candidates and Committees and Other Changes," October 22, 1993, p. 7.
10. ELEC White Paper, "State Parties and Legislative Leadership Committees: An Analysis 1994 - 1995," (July, 1996) p. 70.
11. Ibid., p. 73
12. Statement by Assemblyman Reed Gusciora to the Election Law Enforcement Commission, October 22, 1996, p.1.
13. Op. cit., Transcript, p. 26.

14. Ibid., pp. 17, 21.
15. Ibid., p. 31.
16. Op. cit., "Cost Analysis Report," p. 4.
17. Op. cit., "State Parties and Legislative Leadership Committees," p. 69.
18. Ibid., p. 70.
19. Op. cit., "1993 Report," p.14.