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IS THERE A PAC PLAGUE IN NEW JERSEY?



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Acknowledgment and Statement of Purpose

The Commission would like to take this opportunity to thank its staff members who produced this outstanding report. Deputy Director Jeffrey M. Brindle authored this study. As with his other fine work in this series, it reflects his thorough background and experience in the field of campaign financing

Senior Research Intern Steven B. Kimmelman provided necessary background research, while Summer Intern Andrew L. Roberts developed various statistical materials. Systems Administrator Anthony R. Chianese contributed essential computer assistance and Associate Director of Compliance and Information Virginia Wilkes did important work on numerous statistical applications. Legal Director Gregory E. Nagy contributed his excellent proofreading skills as did Director of Administration Barbra Fasanella. Wordprocessing was provided by Senior Secretarial Associate Josephine A. Hall and former employee Carol A. Killingsworth. The general editor was Executive Director Frederick M. Herrmann.

This paper is part of a series of analyses that the Commission is publishing on topics of interest in the field of public disclosure. These studies are based on staff research as well as work by outside persons such as university professors and graduate students. Analyses written by external sources are published with a disclaimer. It is ELEC's goal to contribute substantive research for the ongoing debate on improving the way our State regulates the impact of money on its political process. The Commission is not necessarily taking a formal position on any of the issues raised and is presenting this paper to promote formal discussion.

For further reading about PACs and their role in the political system, the Commission suggests referring to the "COGEL Campaign Financing and Lobbying Bibliography" compiled by ELEC's executive director.

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PREFACE

Political Action Committees (PACs) are corrupting the electoral system in New Jersey. They are driving up the cost of elections, causing candidates at all levels to spend outrageous sums on their campaigns, and contributing to the lack of voter confidence in elected officials. If a general sense of malaise exists among the voting public, it is the PACs that have caused it.

The PACs, icons of the special interests, have weakened the political parties, relegating them to a secondary role in the campaign process, and have appropriated unto themselves such unchallenged influence over elected officials as to weaken the integrity of the process of government. A basic tool of lobbyists, the PACs, through their large contributions, help these purveyors of parochial concerns stampede the State House and overwhelm officeholders in ways that can only be described as undermining the general welfare. The only way to cleanse the system of this unstoppable, ever-rising deluge of campaign cash, and rid the process of the disproportionate influence wielded by the special interests, is to abolish the PACs. Through this simple step, elections will become more competitive and elected officials more responsive to the broad interests of the public rather than the narrow concerns of the pressure groups.

These often repeated claims about the “PAC plague” in New Jersey may carry a certain appeal, but do they withstand analytical scrutiny? Can

the PACs justifiably be blamed for all of the problems, real or perceived, that are troubling the State's electoral system?

“The appearance of PACs on the political scene in New Jersey is virtually a development of the 1980's.”¹ It was largely during this decade that campaigns became candidate-centered, as opposed to party-centered, and money-intensive, as opposed to volunteer-intensive. In turn, it was during this period that campaign spending became an issue of consequence and the focus of much public and media attention.

In the first three years of the 1980's, the number of PACs operating in New Jersey barely reached 100.² By the end of the decade, in 1989, there were close to 300 PACs involved in Garden State politics.³

Naturally, as the number of PACs increased, so did their financial activity. Regarding contributions to candidates for the Legislature alone, this activity reached \$2.8 million dollars in the 1987 Senate and Assembly general elections, up from \$1.5 million in the 1983 contests.⁴ Total PAC contributions to all candidates, political parties, and committees from being minimal in the early 1980's climbed to \$4.4 million in 1987 and to \$7 million in 1989.⁵

Mirroring this increase in PAC activity was a similar increase in overall campaign financial activity during this period. Spending by legislative candidates jumped from \$8.3 million in the 1983 Senate and Assembly general elections to \$11.5 million in the 1987 contests.⁶ Overall,

campaign-related financial activity rose significantly during this period as well. For example, approximately \$30 million was spent by general election candidates at all levels in 1989 compared with \$18.5 million in 1985.⁷ Moreover, these figures do not include the increased activity by party committees or by the officeholder PACs and Legislative Party Committees, whose advent in the 1980's introduced further financial activity into the campaign process.

As noted above, campaign spending has become an issue of concern to New Jersey residents. A poll taken in 1988 indicated that the public was deeply concerned about spending in legislative elections, for instance. At that time, limits on contributions and spending had attracted the support of the electorate.⁸

Echoing this concern, many journalists have written about the topic, often pointing out the dangers to the system of unfettered growth in campaign spending. Moreover, numerous political experts and students of New Jersey elections have discussed the issue. And, numerous bills have been introduced into the Legislature which would, through a variety of approaches, work to curtail campaign spending. An Ad Hoc Commission was even established by legislative leaders in 1990 to study the issue and make recommendations for reforming the process.

Acknowledging that "the problem" exists at all levels, the (Trenton) Times, in a 1987 editorial focusing on spending at the Congressional level, said:

*Money is the mother's milk of politics, the old saying goes. But reformers put it differently: Money is the sour milk of politics. Increasingly, the need of candidates to raise huge sums in order to get themselves elected and re-elected is corrupting the process of representative government.*⁹

In attempting to provide a solution to the problem, at least on the federal level, the Times said in the same editorial, "What's the answer? The answer is to restrict PAC giving and offer public funding to congressional candidates who agree to limit overall campaign spending and use of their own personal fortunes."¹⁰

A more recent article published in the (Bergen) Record predicts:

*spending by Senate and Assembly candidates on television and radio advertising, direct mail, polls, and consultants could exceed \$20 million this year, according to experts - all to win seats that pay \$35,000.*¹¹

The article makes the further point:

*The continued escalation in spending on political campaigns by special interests has prompted sharp criticism from ethics experts and even some politicians, who say that the huge sums threaten to undermine public confidence in the system.*¹²

The Ad Hoc Commission on Legislative Ethics and Campaign Finance also recognized campaign spending as an issue. Though stating that the

increase in campaign costs was understandable, the Ad Hoc Commission nevertheless highlighted this development as one of the assumptions of its report. In the report, the Commission stated:

. . . that the most important reason for this increase [candidate financial activity] is the steadily rising cost of campaigning. Every year it becomes more expensive for a candidate to communicate his or her message . . . The Commission notes that the increasing competitiveness of campaigns in New Jersey has also helped to fuel the cost of campaigns.¹³

Acknowledging the fact that campaign spending is an issue, and even assuming, for the moment, that the high cost of campaigning is as harmful to the system in New Jersey as many experts contend (not everyone agrees), can this development be placed at the doorstep of the PACs?

As the Trends in Legislative Campaign Financing: 1977-1987 White Paper shows, PACs have been a major factor in fueling the spending on campaigns, especially as it relates to elections at the legislative level.¹⁴ But are the PACs in New Jersey the arch villains of the electoral process they are often perceived to be? Unlike federal law, New Jersey law does not prohibit corporations or unions from making contributions. Moreover, individual contributors have continued to be tapped for funds by candidates and parties. Finally, officeholder PACs have been shown to be emerging as a factor in electioneering. Thus, the question remains - What of the PACs, have they been fairly or unfairly blamed for the spending spree undertaken

by candidates for public office? Is there truly a “PAC plague” in New Jersey?

This paper, by focusing upon PAC activity in two elections, the 1985 and 1989 general elections for the General Assembly, will attempt to answer this important question, with the hope that its findings will contribute to reforming the campaign finance system in New Jersey in ways that will boost public confidence in the electoral process. Though admittedly this study only considers two election years, years when both the Governor and lower house were up for election, and does not delve deeply into activity at the local and county levels, this paper, whose findings greatly mirror findings in other ELEC publications regarding the PACs, should shed some light on the actual experience with PACs in the Garden State.

Many notable and respected individuals are certainly anxious about the role of political action committees in election campaigns. Edward McCool, Executive Director of New Jersey Common Cause, in calling for strict contribution limits for PACs, warned, in testimony before a Senate Committee, that “PAC spending has risen dramatically.”¹⁵ In this same testimony he added that in 1987 PACs started the year with \$3.1 million in their accounts and raised \$5.7 million. He said that, overall, PACs spent \$6 million in the 1987 elections. More recently, Rob Stuart, of the New Jersey Public Interest Research Group, warned that PACs are having an increased influence over the process and that “many special interest groups

have come to realize that concentrated effort in the Legislature can effectuate changes that are very profitable for their businesses.”¹⁶

While there certainly are many experts who decry the emergence of PACs, there are, on the other hand, many reputable people who do not hold such a dim view. Larry J. Sabato, for instance, a noted political science professor at the University of Virginia, wrote that PACs are “natural and inevitable in a free, pluralist democracy” and that “the vibrancy and health of a democracy depends in good part on the flourishing of interest groups and associations among its citizenry.”¹⁷ Closer to home, Assemblyman Robert Martin has said that “PACs are a form of collective democracy where the people combined have added weight.”¹⁸

Without a doubt, the activities of Political Action Committees have aroused the emotions of the politically interested in society. Well meaning and knowledgeable people have lined up on both sides of the issue, in some instances calling for the abolition of the PACs, in other instances calling for their severe restriction, and in still other instances hailing them as champions of the democratic process. Of the PACs, however, one thing can surely be said: they are as controversial an entity as ever entered upon the stage of New Jersey politics.

This paper will seek to look at both sides of the PAC issue as it relates to New Jersey and analyze the activities of these groups in that context. In the same spirit of the ancient Greek writer Aesop when he wrote, “Every truth has two sides; it is well to look at both before we

commit ourselves to either,”¹⁹ this paper will gauge the role of PACs in New Jersey from many angles of vision before drawing conclusions that will lead to recommendations for reform of New Jersey’s campaign finance system. The paper will analyze PAC activity in State-level elections in two election years and compare this activity with that of other players in the process. Moreover, it will undertake such a review in the context of the freedoms guaranteed to the people under a democratic form of government. In a word, this paper will seek to provide a proper perspective on the role of the PACs from which elected officials can draw when endeavoring to implement changes in the electoral system that make sense for New Jersey.

FOOTNOTES

1. New Jersey Election Law Enforcement Commission, White Paper Number Two; Trends in Legislative Campaign Financing: 1977-1987, May, 1989, p. 16.
2. Ibid., p. 17.
3. These statistics were derived from New Jersey Election Law Enforcement Commission data.
4. White Paper Number Two, p. 17.
5. New Jersey Election Law Enforcement Commission, Press Release, March 28, 1990.
6. White Paper Number Two. p. 5.
7. These statistics were derived from New Jersey Election Law Enforcement Commission summary data on 1989 general election candidates.
8. Eagleton/Star-Ledger Poll, June 19, 1988.
9. Editorial, (Trenton) Times, May 10, 1987, p. B-2.
10. Ibid.
11. Chris Mondics, "Election Year Anxieties Boost Fundraising Aims" (Bergen) Record, March 31, 1991, p. A-i.
12. Ibid.
13. The Ad Hoc Commission on Legislative Ethics and Campaign Finance, Findings and Recommendations of the Ad Hoc Commission on Legislative Ethics and Campaign Finance, October 22, 1990, p. 6.
14. White Paper Number Two, pp. 15-27.
15. Edward McCool, Testimony before the Senate State Government, Federal and Interstate Relations, and Veterans Affairs Committee, October 27, 1988.
16. Charles Jacobs, "PACs Attract Funds and New Attention", New York Times, April 21, 1991, Section 12, p. 1.
17. Larry J. Sabato, Paying for Elections: The Campaign Thicket, (New York: Priority Press, 1989), p. 4.
18. Assemblyman Robert Martin, Speaking at Assembly State Government Committee, October 20, 1988.
19. Aesop.

CHAPTER I

Regulated Industries Prohibited From Contributing

The chief executive officer of an insurance company cannot direct political contributions to be made from corporate funds. Neither can the president of a bank, for that matter. In fact, banks, insurance companies, utility companies, and the like; any number of regulated industries in New Jersey, are prohibited by law from making political donations.

Statutory law addresses specifically the question of political activity by insurance companies:

No insurance corporation or association doing business in this state shall, directly or indirectly, pay or use, or offer, consent or agree to pay or use, any money or property for or in aid of any political party, committee, organization or corporation, or for or in aid of any candidate for political office, or for any political purpose whatsoever .. .¹

It also addresses more broadly the prohibition against certain regulated corporations making campaign contributions:

No corporation carrying on the business of a bank, savings bank, cooperative bank, trust, trustee, savings indemnity, safe deposit, insurance, railroad, street railway, telephone, telegraph, gas, electric light, heat or power canal or aqueduct company . . . shall pay or contribute money or thing of value in order to aid or

*promote the nomination or election of any person, or in order to aid or promote the interest, success or defeat of any political party.*²

Prohibited Contributors Indirectly Participate in Financing Elections

In New Jersey, then, certain regulated corporations are banned from campaign activity. But are they really? By law, funds of these regulated corporations cannot be used politically to advance corporate aims. They cannot be utilized as contributions to candidates or political parties. Yet, this prohibition does not totally prevent an insurance company, bank, or utility company from being a player in the political arena. Though these corporate funds are off limits to political fundraisers, these regulated industries nevertheless have at their disposal several means by which to promote their private interests. Often these means are more indirect, subtle, and in some instances, less traceable to the corporation than would be the case if corporate funds were used directly.

For instance, the President of a bank can contribute an unlimited amount of his or her own money to the candidates and political parties. So can his or her family members. And under New Jersey law, because an individual contributor does not have to identify his or her employer, chances are the public will remain unaware of any connection with the corporate entity or his or her position in it. No doubt the public official will know but probably not the general public.

Moreover, other employees of that same corporation can contribute politically, as can members of their families. Again, since New Jersey law does not require contributors to identify their place of employment, it becomes very difficult for the public to discern that one of the regulated corporations is indirectly participating in the electoral process. In all probability, the candidates know the identity of certain contributors, but chances are the public does not.

Another, and even more direct way in which these regulated corporations can effectively participate in the campaign process and still conform to the law is through “bundling.” This practice occurs when an individual, perhaps at the workplace, or at a cocktail party in his or her home, collects a number of individual contributions and delivers them to a candidate. Naturally, these contributions are reportable as individual contributions, even though, as in the case of a corporation, they are made in a coordinated fashion by employees of the corporation and presented as such. The candidate understands where the money is coming from, but, again, because the contributions are reported as individual contributions, and the law does not require contributors to identify their employers, the public is essentially in the dark about the fact that the money is coming from individuals with the same economic interest. “Bundling” provides the opportunity for a regulated corporation, through its top executives and management staff, to participate in the campaign process and, as an economic entity, to legally promote its interests. As Fred Barnes wrote about a corporate bundler in the Los Angeles Times, “if he can bundle together scores of \$1,000 contributions he’s got clout.”³

Employees of Prohibited Contributor Corporations Form PACs

Finally, the most open way for one of these corporations to indirectly, but legitimately, involve itself in the campaign process is through the formation of an employee PAC. These political action committees, of course, must be formed by employees of the corporation. What is more, in New Jersey, the corporate funds of the regulated business cannot be used to establish, administer, or maintain the PAC. Obviously, such funds may not be given directly to the company PAC. In sum, unlike at the federal level, where all corporations and unions are banned from contributing but where corporate or union funds can be utilized to establish, administer, or maintain PACs, funds from this special class of corporations in New Jersey cannot, in any way, be utilized by the PAC. It must be supported by employees totally.

Despite the fact that funds from a regulated corporation's treasury are not allowed to be used by the PAC, these committees do afford the employees of these corporations, all of whom have the same economic interest, the opportunity to have a collective voice in the political process; and through various means, not the least of which is political donations, to gain important clout for themselves and their industry.

There are any number of these regulated corporations in New Jersey whose employees have formed PACs. Many bank PACs, for instance, have been formed in New Jersey. They include: Chemical Bank NJ PAC, First Fidelity Inc. PAC, Howard Savings Bank Citizens for Good Government PAC, Midlantic

State Bank PAC, and N.J. National Bank PAC, to name just a few. Bankers have also formed associational PACs. Altogether, banking and finance industry PACs spent over \$900,000 in New Jersey in 1989.

Insurance companies have also begun to involve themselves in the PAC game. Blue Cross/Blue Shield PAC, Mutual Benefit PAC, and Prudential N.J. PAC were all active in 1989. Among utility companies, AT&T PAC, N.J. Bell PAC, Atlantic City Electric PAC, South Jersey Gas Co. PAC and Rockland Electric Company PAC were active too.⁴

First Amendment Protection

As noted above, the establishment of a PAC by employees of regulated corporations prohibited from making political contributions in New Jersey is a legitimate enterprise. In fact, it is the most open and direct way for employees of these corporations to promote their private interest. It is also activity that in all likelihood is protected by the First Amendment.

The Buckley v. Valeo decision by the United State Supreme Court in 1976 (and other federal court decisions as well) would seem to validate the view that the Constitution protects the formation of these PACs.

With respect to limitations on giving and spending in the Federal Elections Campaign Act, it is written in Buckley v. Valeo: “[5] The First Amendment protects political association as well as political expression.”

The constitutional right of association explicated in NAACP v. Alabama stemmed from the Court's recognition in that case that "[e]ffective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association." Subsequent decisions have made clear that the First and Fourteenth Amendments guarantee "freedom to associate with others for the common advancement of political beliefs and ideas," a freedom that encompasses "[t]he right to associate with the political party of one's choice."⁵

Again, Buckley v. Valeo, in reference to other Supreme Court decisions, states:

*The court's decisions involving associational freedoms establish that the right of association is a 'basic constitutional freedom,' that is 'closely allied to freedom of speech and a right which, like free speech, lies at the foundation of a free society.' In view of the fundamental nature of the right to associate, governmental 'action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny.'*⁶

The court in Buckley v. Valeo did acknowledge that neither the right of association or political participation is "absolute"⁷ and that a "significant interference' with protected rights of political association" may be sustained if the state demonstrates a sufficiently important interest and employs means closely drawn to avoid unnecessary abridgment of associational freedoms."⁸ In the case of the formulation of employee PACs, however, even when they are formed by employees of a regulated corporation

prohibited from making contributions, it is relatively safe to assume that the right of these employees to associate and participate politically would be protected. Indeed, the Supreme Court was explicit in protecting the freedom of individuals to associate and spend as much money as desired for purposes related to political goals when, in discussing independent expenditures, it stated, “We find the governmental interest in preventing corruption and the appearance of corruption is inadequate to justify section 608(e)(1)’s ceiling on independent expenditures.”⁹ Thus, the freedom to associate to promote public and private interests through political expression is basic to the democratic process and most assuredly would be extended to all groups, whether or not the group is comprised of employees of a prohibited contributor. Indeed at the federal level, where all corporations and unions are banned from giving politically, there is no limitation on the rights of employees to associate and form political action committees. It is even permissible, as noted above, for corporate money to be used for administrative purposes. Thus, PACs in New Jersey, whether they are formed by employees of regulated industry, or by the employees or members of corporations or unions permitted by law to contribute, are a fixture in Garden State politics; existing because they have constitutional protections but also because they are a popular means by which people with similar Interests can associate together and participate politically.

PACs Are Formed By Interests Other Than Prohibited Contributor Corporations

This chapter has highlighted PACs formed by employees of corporations that are prohibited contributors to demonstrate that the

political action committee is a popular and effective vehicle for promoting the private, in many instances economic, interest of a corporate grouping prevented by law from participating directly in electoral activity. It is entirely legitimate, and arguably the most preferable way for these employees to pursue collectively political aims. Certainly the causes of disclosure are better served by political action committees reporting their activity in a systematic and organized fashion than individual contributors (not traceable to the same private interest) being reported by a candidate or candidates in an uncoordinated, unconnected way.

Obviously the regulated corporations discussed above are not the only entities whose interests are served by PACs. Many other corporations (and unions) have determined that PACs are both a convenient and effective tool for advancing their political aims. Even though these entities are not prohibited from participating directly in the political process, and using corporate funds to do so, they nevertheless are utilizing PACs to promote their interests. Indeed, there are many more PACs connected with corporations (and unions) that are permitted to participate than are connected with regulated industries. They are simply a solid way to advance a private interest.

In 1989, there were 297 PACs operating in New Jersey. This number had increased from 216 in 1985.¹⁰ As mentioned above, the majority of PACs are connected with corporations and unions that are not prohibited from making contributions from their treasuries. A small number are unconnected PACs that are ideological in nature. There are PACs representing the auto

industry, the engineering and architectural professions, and the health care professions. Architects, engineers, accountants, and lawyers all have formed PACs, as have builders, teachers, and realtors. The food industry has established PACs, as well as the pharmaceutical, fuel, and chemical industries. Plumbers, longshoremen, carpenters, and roofers, to name a few, have formed union PACs. Political action committees dealing with abortion, women's issues in general, gun control, taxation, and housing are among the groups operating in New Jersey whose orientation is ideological.¹¹

PACs in New Jersey “are oriented toward business, unions, professional and trade associations, and ideologies.”¹² They are “affiliated with either a corporation or business, a labor union, or trade association.”¹³ If they are ideological, they are not connected with one of these economic interests, but rather are “established to promote a specific issue or set of values.”¹⁴

A very popular and effective means by which corporations, unions, and a variety of other groups can advance their interests, PACs, as Professor Larry J. Sabato suggests, are the modern-day equivalent of “factions” described by James Madison in the Federalist.¹⁵ They are the product of a changing society and the natural tendency of individuals to group themselves with others having similar interests. Moreover, they are the product of a changing political system whose diminished political party structure has left a power vacuum that needs to be filled. In recent years, the political parties, because of inevitable developments in society and reforms to the political system, have been weakened. The PACs have filled

the void created by this situation, emerging as a competitor to the parties and responding to a period of candidate-centered campaigns as opposed to the more volunteer-oriented efforts of the past.

With the onset of these changes to the political system that ushered in a new era of candidate-centered campaigns, there arose the need for candidates to find alternative means, other than primarily through party channels, to reach voters and solicit votes. And the alternative to reaching voters through the efforts of party volunteers is reaching them through the use of mass media. Radio, network and cable television, and direct mail have been employed more and more by candidates to communicate with voters, all of which costs money.

Thus, the combination of the weakened party system and the need for candidates to raise large sums of money to pay for their candidate-centered campaigns fostered an environment that was conducive to an increase in PAC activity. Naturally, because of the demands placed upon candidates to raise funds, the PACs seized the initiative and placed great emphasis on raising money. This money could be contributed to candidates, committees, and political parties directly and/or spent on their behalf.

Because unions and most corporations in New Jersey are permitted to make political contributions, there has not been the same degree of PAC proliferation in the State as on the federal level. Nevertheless, PACs have made their presence felt. As noted earlier, PAC activity relative to

candidates was limited in the early 1980's, but climbed to \$4.4 million in 1987 and to \$7 million in 1989.¹⁶

PACs Provide Money But Also Encourage Citizen Participation

Clearly, PACs are engaging intensely in financial activity, using campaign contributions as an important tool in their efforts to influence the governmental process. As part of this effort, PACs often are utilized by lobbyists for the purpose of gaining access to public officials, thereby hoping to exert influence over the process. As noted in Lobbying Reform, ELEC's White Paper Number Five:

Even though no probable link between PAC contributions and voting by legislators has been shown, and even though other factors have been more readily shown to affect the voting decisions of the representatives, there is no question that lobbyists and their PACs use campaign contributions as a tool in their efforts to gain access and influence over the governmental process. Campaign contributions are a very important part of the special interest lobbyists strategy for success.¹⁷

While it certainly can be said that the primary function of political action committees is to spread money among participants in the campaign process, and through that function exert an influence over policy making, PACs do, nevertheless, serve other functions as well. Even in carrying out their fund raising endeavors, PACs arguably are encouraging participation in the political process and in some cases contributing to a

more informed electorate. Information, though clipped and one-sided, is provided to constituents through direct mail pieces. Personal contact and group seminars are often used, especially by corporations, to encourage participation and fund-raising. Rallies are a fund raising method of labor unions, where members are solicited for contributions but also provided with information concerning candidates and issue positions.¹⁸ In New Jersey, corporations are now able to raise money for their PACs through payroll deductions because legislation authorizing that activity has been signed by Governor Jim Florio. It certainly is conceivable that employees who opt for making contributions in this manner will be provided with added information about candidates and issues and thereby become more interested in the political process.

PACs can undertake further measures besides the ones enumerated above to encourage participation in the political process. These measures constitute functions that are either outside or part and parcel of their central function of raising money and distributing it to candidates. PACs can do polls on issues and officeholders and provide the findings to their members. PACs can research the voting records of elected officials, provide the results of this information to their members, and thereby help these voters to use this information as a yardstick for measuring the official performance of a candidate in office. Finally, PACs can conduct voter registration drives, a process that should always be welcomed as healthy for democracy.

Pro's And Con's of PACs

Political action committees represent as fertile a ground for controversy in New Jersey as they do in other states and on the federal level. Their fund-raising activity can be viewed as obnoxious to the process or good for the process. Through their participation in the campaign system in such ways as the dissemination of information and conduct of voter registration drives, for example, these PACs can be seen as competing with the political parties or helping them. According to Professor Sabato, "PACs tend to act narrowly, parties broadly,"¹⁹ because the latter represent broad coalition of interests. He further notes that 'parties can provide PACs with information on candidates and races as well as access that PACs want.'²⁰ PACs, in turn, can provide parties with "money for their organizations and candidates."²¹ Finally, through their collaboration with lobbyists who often use them as a tool in their efforts to gain access to public officials and influence over the process, PACs can be viewed as harmful to democracy because of the special interests they help to advance, or as a positive example of a working democracy, where an atmosphere of freedom gives expression to group political participation.

However PACs are viewed, one thing is evident: their presence is being felt in New Jersey. Whether that presence is overwhelming and dominant is a question that needs exploration. Whether they are the arch villains of the campaign system, spearheading a fund-raising arms race, demands attention. These and other issues will be addressed in the forthcoming chapters, which will analyze their financial activity on the

legislative level, providing a proper perspective upon which to view the role of the PACs.

FOOTNOTES

1. N.J.S.A. 19:34-32. Contributions by Insurance Corporations.
2. N.J.S.A. 19:34-45. Contributions by Certain Corporations.
3. Fred Barnes, “The Political Tinkerers Give Reform a Bad Name,” Los Angeles Times, June 19, 1988, p. 5.
4. This information is available through files retained by the New Jersey Election Law Enforcement Commission.
5. Buckley v. Valeo, 4244 U.S.1, (1976), p. 685.
6. Ibid., p. 691.
7. Ibid.
8. Ibid.
9. Ibid., p. 702.
10. New Jersey Election Law Enforcement Commission data.
11. This information is available in files retained by the New Jersey Election Law Enforcement Commission.
12. New Jersey Election Law Enforcement Commission, White Paper Number Two: Trends in Legislative Campaign Financing; 1977:1987, May, 1989, p. 15.
13. Ibid.
14. Ibid.
15. Larry J. Sabato, Paying For Elections: The Campaign Thicket, (New York: Priority Press, 1989) p. 15.
16. New Jersey Election Law Enforcement Commission Press Release, March 28, 1990.
17. New Jersey Election Law Enforcement Commission, White Paper Number Five: Lobbying Reform, May, 1990, pp. 35-36.
18. Larry J. Sabato, PAC Power: Inside the World of Political Action Committees (New York: W.W. Norton, 1984), p. 141.
19. Ibid., p. 142.
20. Ibid.
21. Ibid.

CHAPTER II

“PAC Plague” In Washington

The belief that there is a “PAC plague” inside the Washington Beltway is shared by elected officials on both sides of the aisle. In fact, nowhere has the anti-PAC sentiment been expressed more convincingly than in a recent Los Angeles Times article written by Oklahoma Senator David L. Boren. The Democratic Senator pointedly wrote:

The domination of the fund-raising scene by political action committees and other special-interest contributors further distances a lawmaker from his or her constituency. With virtually unlimited funding available from PACs in Washington, it’s hardly surprising that politicians concentrate fundraising efforts inside the Beltway rather than in their home states. Grassroots support for political candidates is in danger of becoming irrelevant.¹

Commenting upon this “crisis in our political system,”² Senator Boren added:

The spiraling financial demands of our campaign system don’t afford candidates many options. Soliciting small contributions from individual constituents when your opponent has filled his war chest at a few Washington PAC cocktail parties or big-dollar fundraisers in New York and Miami and Los Angeles simply isn’t competitive.³

As expected, proposals have been put forward by elected officials of both political parties to deal with the “PAC Plague” that purportedly is gripping the nation’s capital.

In the summer of 1989, President George Bush announced a plan for reforming the campaign finance laws that contained a recommendation for abolishing most PACs. ““We need reforms that curtail the role of the special interests, enhance the role of the individual, and strengthen the parties,’ Bush said. ‘So today, I propose just that: A sweeping system of reform for our system. Among the President’s proposals were: (1) banning corporate and union PACs but allowing ideological PACs; (2) limiting the franking privilege of congressional incumbents; and (3) preventing members of Congress from carrying excess campaign funds over from one election to the next.’⁵

More recently, in May of 1991, the United States Senate approved a campaign finance reform bill that included, as one of its main features, a provision to ban contributions from PACs to federal candidates. Senator Boren, the chief sponsor of the legislation, expressed optimism about the chances for reform and suggested that “what is really being said today by the American people through the Congress - is this money chase must stop.”⁶ In addition to the PAC ban, the bill seeks to hold down campaign expenditures through a provision that would provide reduced television rates for congressional candidates who voluntarily agree to abide by an expenditure limit. These candidates would get vouchers to purchase television advertising time and they would get reduced postal rates.

Finally, the legislation seeks to curb the use of soft money by political parties for purposes connected with federal election canipaigns.⁷

“PAC Plague” In New Jersey?

It is obvious that PACs are an issue on the federal level. There is a growing debate about the dominant financial role of the special interests and the actual influence they wage over the process as a result. Despite the dubious constitutionality of abolishing PACs, proposals emanating from both political parties contain recommendations to do just that. These recommendations are the primary symbols of their efforts to bring about campaign reform. To be sure, this concern about a “PAC plague” has spread from within the Beltway north to the Garden State. But with respect to the financial activity of PACs in New Jersey, is this anxiety justified?

Funding By PACs Grows

There were 297 political action committees reporting to the Election Law Enforcement Commission by the 1989 general election for the Assembly. Consistent with a decade long trend in New Jersey, this number represents an increase over previous years. Beginning with 1983, there were 109 PACs operating within the State during that year. In 1985, 216 PACs reported to ELEC and in 1987, that number had risen again to 238.⁸ As noted in the ELEC White Paper Trends In Legislative Campaign Financing: 1977-1987,

PACs emerged “as a force and an issue in the State”⁹ during the period 1983-87.

As the number of PACs reporting to the Commission grew, and, as money became more and more central to running effective campaigns for the Legislature, the funding levels of the political action committees in New Jersey obviously grew, particularly so during the PAC developmental decade of the 1980’s. For instance, in the 1989 general election, the later year focused upon in this study, PACs contributed \$2.3 million to candidates for the Assembly. Four years earlier, in 1985, the most recent year when only the Assembly was subject to election, general election Assembly candidates received \$1.3 million from the PACs. Thus, in these similar electoral years, PACs, as shown in Table 1, increased their contributions to candidates for the Assembly by 77 percent.

Table 1
Number of PACs and Amount Contributed
to Assembly General Election Candidates:
1985 and 1989

<u>Year</u>	<u>No.</u>	<u>Percentage of Increase</u>	<u>Percentage of Contributions*</u>	<u>Increase</u>
1985	216	-	\$1.3	-
1989	297	+38%	2.3	77%

* in millions of dollars

source: ELEC data

The pattern of PAC giving relative to candidates in the 1985 and 1989 general elections for Assembly is remarkably similar to the pattern displayed between the legislative general elections of 1983 and 1987, two

contests four years apart when both the Senate and Assembly were up for election. As shown in Table 2, in 1983, Senate and Assembly candidates together raised \$1.5 million from the PACs. In 1987 that number increased to \$2.8 million. What is particularly interesting is that PACs increased their financial activity between Senate and Assembly elections during this four-year period by 87 percent, a percentage increase that is in the same range as the percentage increase of 77 percent realized between the 1985 and 1989 general elections for only the Assembly.

Table 2
Number of PACs and Amount Contributed
to Senate and Assembly General Election Candidates: 1983 and 1987

<u>Year</u>	<u>No.</u>	<u>Percentage of Increase</u>	<u>Contributions*</u>	<u>Percentage of Increase</u>
1983	109	-	\$1.5	-
1987	238	118%	2.8	87%

* in millions of dollars
 source: ELEC data

Does “Process Impact” Strategy Account for PAC Spending Increases?

To be sure, the figures indicate that financial activity by the PACs rose significantly during the four-year period in question. But why? Did the financial activity by political action committees, both in terms of individual contribution levels and in terms of overall activity, increase solely on the basis of a strategy that by doing so the PACs would increase their influence over the process? Or do other factors account for at least part of the rise in PAC spending?

To answer these questions, it is helpful to look at the average and median contributions made by the special interests; determining, first, if a “process impact” strategy alone drove these levels up, and second, if these increased average and median contribution levels, in turn, were responsible for the overall increase in PAC activity. Certainly, if a “process impact” strategy is shown to be responsible for the increase in individual PAC contribution levels, and in turn, these higher amounts are shown to account for the overall increase in PAC financial activity, then this information could be used to substantiate the assertion that a “PAC plague” exists in the State. On the other hand, if other factors are also present in accounting for the increase in PAC contribution levels and overall activity, then this situation would seem to cast some doubt on that as a supposition.

During the period 1985 to 1989 the average PAC contribution rose by 46 percent and the median PAC contribution rose by 43 percent (See Table 3). In terms of these increased levels of individual PAC contributions, surely an effort by the PACs to enhance their “process impact” through intensified contributor activity played a part in increasing the average and median PAC contributions during this period. At the same time, however, other factors, such as inflation, and the corresponding pressure from candidates for more money, can assuredly be pointed to as helping to increase the average and median contribution levels. For example, between 1985 and 1989, the consumer price index rose by approximately 15 percent).¹⁰ During this same period, the media unit cost index, which includes unit costs for broadcast and print media advertising, areas which are critical to

modern political campaigns, increased by an estimated 24 percent.¹¹ It is estimated, therefore, that the cost of campaigns during this four-year period, after taking into account the administrative costs of campaigning as well as media costs, rose by about 20 percent; a factor that in all probability helped individual PAC contribution levels to rise.¹² The inflationary effect, combined with the pressure placed on PACs by candidates to give higher amounts, certainly played a role in increasing the level of individual PAC contributions. Thus, it would seem that inflation, and the pressure from candidates for contributions, as much as a “process impact” strategy, helped to make PAC contributions higher.

At the same time that a full causal relationship cannot be absolutely established between “process impact” and the increase in the average and median PAC contribution levels neither can a full causal relationship be found between these higher individual contribution levels and the overall rise in PAC financial activity. This fact is most evident when comparing the increase in the average and median contribution levels between 1985 and 1989, and the increase in overall activity by PACs between these years. As noted above, overall PAC contributions to Assembly candidates jumped by 77 percent between 1985 and 1989. During this same period, the average PAC contribution rose by 46 percent and the median PAC contribution by a similar 43 percent. Thus, percentage increases in the average and median PAC contributions fell short of the overall rate of increase in PAC financial activity between 1985 and 1989 (See Table 3).

Table 3
Increase in Average and Median
PAC Contribution vs. Increase in
Overall PAC Contributions: 1985 and 1989

<u>Year</u>	<u>Average</u>	<u>Increase</u>	<u>Median</u>	<u>Increase</u>	<u>Overall*</u>	<u>Increase</u>
1985	\$549	-	\$350	-	\$1.3	-
1989	804	46%	500	43%	2.3	77%

* in millions of dollars
source: ELEC data

In a word, these figures indicate that the overall increase in PAC financial activity vis-a-vis Assembly candidates was not due solely to an increase in the level of individual PAC donations. But, if the PACs giving larger contributions to candidates did not alone spur the increase in overall PAC activity, then what other factor or factors came into play?

While an increase in the average and median contributions between 1985 and 1989 provides a partial explanation for the 77 percent overall rise in PAC activity, the fact that the number of PACs functioning in New Jersey increased, giving rise to a 24 percent increase in the total number of PAC contributions to Assembly candidates in 1989 as compared with 1985, accounts for part of this increase as well. Moreover, the increasingly candidate-centered campaigns conducted during the period stimulated a need by more and more candidates for the Assembly to engage heavily in the fundraising game and thus intensify the pressure on the political action committees, as well as other types of contributors, to not only give larger contributions but to give them to more candidates. For example, in 1985 nine candidates for the Assembly raised \$100,000 or more, whereas in 1989, that number rose to 38. This factor contributed to the increase in total special interest PAC contributions.

In this study, there is no desire to discount the importance of the “process impact” factor in driving up the level of individual PAC contributions between 1985 and 1989. Concomitantly, there is no desire to underestimate the impact of the higher average and median PAC contribution levels on the PACs overall financial activity. Yet, as the above statistics demonstrate, it is equally important to not overstate the significance of these factors in attempts to explain the increase in FAG financial activity during the later part of the 1980’s. Other factors have been seen to have played a role in that increase, a fact that should not be overlooked in this process of putting a proper perspective on the role of the PACs in New Jersey as the study evolves toward answering the question: Does a “PAC plague” exist in the Garden State? The fact that a desire on the part of the PACs to influence the process has not been found to be the sole reason for the higher levels of PAC donations, and the fact that these higher levels are not the only reason for the increase in overall activity by the PACs, casts a shadow over the assumption that the PACs are undermining New Jersey’s political process and gives impetus to the need to explore this question further.

Non-PAC Contributors Increase Their Contributor Activity

In terms of exploring this question more thoroughly, and in the process placing a proper perspective on the role of PACs in New Jersey, it is helpful to profile the financial activity of some other types of contributors during this period to see how their activity compares with that

of the PACs. Have these other contributor types also increased their financial activity? Are the PACs leading a trend or following a trend?

Table 4 shows that the PACs were not the only contributors to increase their financial activity in the Assembly general election of 1989 compared with the same election in 1985.

Table 4
Change in Contributor Activity by
Contributor Type: 1985 and 1989

<u>Type</u>	<u>Amount*</u>		<u>Percentage</u> <u>Change</u>
	<u>1985</u>	<u>1989</u>	
PACs	\$1.3	\$2.3	+ 77%
Individual	.8	.9	+13
Business	.6	1.0	+ 67
Union	.1	.1	-
Officeholder	.2	.7	+250
Party	1.0	2.0	+100
Political committees	.8	2.1	+163
Other	<u>2.5</u>	<u>2.5</u>	-
Total	\$7.3	\$11.6	+58%

* in millions of dollars
source: ELEC data

While individual contributors increased their total amount in contributions by just 13 percent, or \$66,000, for the most part other contributor types increased their contributions at about the same rate as the PACs, or at a much higher rate.

Contributions from business increased by \$400,183, or approximately 67 percent. Contributions directly from union treasuries

remained about the same between these years, increasing by a mere \$12,423 during this period.

Officeholder PACs, though by far not the biggest contributor type, had the fastest-growing contribution activity between 1985 and 1989. These PACs contributed \$481,752 more in the Assembly general election of 1989 than in 1985, a 250 percent increase. Marked gains in contribution activity vis-a-vis Assembly general election candidates were also registered by the political parties and political committees. Campaign financial activity by these contributor types, fueled for the most part by the State party committees and the legislative party committees, truly played a substantial part in fomenting the overall increase in Assembly campaign spending between the general election of 1985 and 1989. The political parties raised their contribution levels by \$1 million, or 100 percent. Political committees recorded an even sharper rise in their contributor activity. Political committees increased their contributions to general election candidates by \$1.3 million between 1985 and 1989, for a 163 percent rise.

The statistics show that while special interest PACs certainly constituted a main contributor type in the 1985 and 1989 general elections for Assembly, and played an important part in fueling the increase in spending on these elections, other types of contributors recorded gains in their contributor activity as well. In a word, while the special interest PACs increased their contribution activity toward Assembly candidates between 1985 and 1989, so too did non-PAC contributors. The PACs certainly recorded a substantial increase in their campaign financial activity but at

rates below that of many non-PAC contributors. This fact casts doubt on the notion that the special interest PACs, though major players in the campaign finance game, are actually leading the trend toward increased contributor activity that inevitably leads to more campaign spending and suggests, instead, that the PACs, like other contributors, are actually following that trend.

PACs Make Largest Proportion of Assembly Contributions

Another way of substantiating this view, and in the process answering the “PAC plague” question, is to review the overall contributor activity of the special interest PACs and compare this activity to the activity of other contributor types.

Total contributions made directly to Assembly general election candidates, and reported by them, including contributions of \$100 or less, amounted to \$11.6 million in 1989. This total amount contributed directly to the Assembly candidates increased by 59 percent over 1985. In 1985, Assembly general election candidates reported receiving \$7.3 million in contributions.

As shown in Table 5, aside from the category other, which includes contributions of \$100 or less, prior election transfers, interest, and contributions from campaign funds of other candidates, the special interest PACs made the largest amount in direct contributions to Assembly candidates in both 1985 and 1989 of any contributor type.

Table 5
Contribution Totals and Proportions of
Totals Assembly Contributions by Contributor Type: 1985 and 1989

<u>Type</u>	<u>Year</u> <u>1985*</u>	<u>Proportion</u>	<u>Year</u> <u>1989</u>	<u>Proportion</u>
PACs	\$1.3	18%	\$2.3	20%
Individual	.8	11	.9	8
Business	.6	8	1.0	9
Union	.1	1	.1	-
Officeholder	.2	3	.7	6
Party	1.0	14	2.0	17
Political committee	.8	11	2.1	18
Other	<u>2.5</u>	<u>34</u>	<u>2.5</u>	<u>22</u>
Total	\$7.3	100%	\$11.6	100%

* in millions of dollars
source: ELEC data

In 1989, the PACs contributed approximately \$2.3 million to Assembly candidates, or about 20 percent of all contributions. That percentage was similar to the PACs percentage to the total in 1985, when 18 percent of all contributions were made by them. In 1985, the PACs contributed \$1.3 million.

By contrast, contributions from individuals, which at \$819,538 in 1985 amounted to 11 percent of all contributions, actually declined as a percentage to total contributions in 1989. In 1989, contributions from individuals to Assembly candidates in the general election totaled \$885,538, or only eight percent of all contributions.

Other contributor types increased their output, however. Contributions from business, reaching eight percent of total contributions in 1985 increased to nine percent in 1989. In 1985, these contributions

amounted to \$601,599 and in 1989 to \$1 million. Political parties, primarily the Democratic State Committee and the Republican State Committee, but not entirely (local parties also contributed) gave 14 percent of all contributions in 1985, or \$988,546. In 1989, the political parties contributed 17 percent of all contributions, or \$2 million. Political committee activity, comprised mainly of the contribution activity of the legislative party committees, jumped by a significant degree in 1989. Though at \$2.1 million that year, a sum that did not equal the contributor activity of the PACs, the political committees did make 18 percent of all contributions. In 1985, these political committees made 11 percent of contributions, at \$782,184. Unions made one percent of all contributions to Assembly candidates, or \$123,171, in 1985, but decreased to less than one percent in 1989, or \$135,594. Finally, officeholder PACs, which, in 1985 contributed \$219,904, or three percent of all contributions, contributed \$701,656, or six percent of all contributions in 1989. The remaining contributions were made up of those made by contributors in the category “other.”

These statistics indicate that the special interest PACs, at 18 percent in 1985 and 20 percent in 1989, made the largest proportion of contributions to Assembly candidates of any of the contributor types featured in this study. Without a doubt, this data is significant, and assuredly suggests that the special interest PACs are a major factor in funding legislative election campaigns in New Jersey. But do these statistics alone point to a “PAC plague” in the Garden State?

The PAC statistics cited above suggest a critical role for the PACs. However, they do not (just as the earlier statistics did not) substantiate the belief that there is a “PAC plague” in New Jersey that is driving up the cost of legislative elections and undermining the democratic electoral process. In fact, to the contrary, quite a different interpretation of the above data can be made. Though at 20 percent of total contributions in 1989, this PAC percentage to total changed little from 1985, when it stood at 18 percent. Contrast this minimal change to the increases recorded by the political parties, which raised their proportion of total contributions from 14 percent to 17 percent. to that of the officeholder PACs, which increased their proportion from three percent to six percent, and to that of the political committees, which increased their proportion of total contributions from 11 percent to 18 percent. When looking at the data from this perspective, and placing it in the context of all the contributor data presented thus far, it is difficult to arrive at the conclusion that there is a “PAC plague” in New Jersey that is dominating the electoral scene. To be sure, as some might suggest, the PACs do contribute to the political parties and the legislative parties, which, in turn, have taken on an important role in legislative elections. Yet, contrary to what might be believed, the role of the PACs in bank rolling these entities will be shown to be less than expected. In a word, while the PAC activity is significant, the data thus far does not justify the notion that a “PAC plague” exists in the State or that these entities are the villains that some might believe. As noted above, the PACs seem to be following a trend, not leading one.

PACs Lag Behind Other Contributor Types In Fueling Increase In Assembly Contributions

Before concluding that a “FAG plague” is more myth than reality, however, it is necessary to look at one more set of data. Between the Assembly general elections of 1985 and 1989 there was an increase in contributions to Assembly candidates of \$4.3 million. The special interest *PACs* accounted for 23 percent of that overall increase. Having contributed \$2.3 million directly to Assembly candidates in 1989, the *PACs* increased their contribution activity by \$1 million from \$1.3 million in 1985. It goes without saying that the contribution activity by the *PACs* represented a significant proportion of the overall increase in contributions to Assembly candidates.

Certain other contributors, however, the political committees and the political parties in particular, either bested or about equalled the *PACs* with respect to the proportion of overall contributions to Assembly candidates that could be attributed to them (Table 6). The political parties, having increased their contribution activity between 1985 and 1989 by \$1 million also accounted for 23 percent of the overall increase in contributions to the candidates for Assembly. As noted earlier, the political parties had made \$988,546 in contributions in 1985 and \$2 million in 1989. Political committees did even better. Their proportion of the overall increase in contributions to Assembly candidates was 30 percent. The political committees contributed \$1.3 million more in 1989 than they did in 1985. In 1985, they contributed \$782,184, and in 1989 they contributed

\$2.1 million. Contributions from unions, officeholder PACs, and businesses accounted for a proportion of the overall increase in contribution activity of less than one percent, 12 percent, and nine percent respectively. Unions, contributing \$123,171 in 1985 and \$135,594 in 1989, increased their contributions by only \$12,423. Officeholder PACs, at \$219,904 in 1985 and \$701,656 in 1989, increased their totals by \$481,752. And, businesses contributed \$601,599 in 1985 and \$1 million in 1989, for an increase of approximately \$400,000 during this four-year span. Finally, contributions by individuals accounted for only two percent of the overall increase in contributions to Assembly candidates between 1985 and 1989. In 1989, individual contributions amounted to \$885,538 compared with \$819,538 in 1985, for an increase of just \$66,000.

Table 6
Proportion of Increase in Contributions
by Contributor Type: 1985 and 1989

<u>Type</u>	<u>Percent</u>
PACs	23%
Individual	2
Business	9
Union	-
Officeholder	12
Party	23
Political committee	30
Other	-
Total	99%

source: ELEC data

In discussing this same statistical material relative to PAC activity in the 1983 and 1987 Senate and Assembly general elections in New Jersey, the Trends in Legislative Campaign Financing: 1977-1987 White Paper

concluded that “the PACs clearly were a driving force in the rise in legislative spending in 1987.” In that study, the proportion of the increase in receipts by legislative candidates attributable to the special interest PACs between 1983 and 1987 was 22 percent. Ironically, it was the contributions from individuals in 1987 that accounted for the largest proportion of the overall increase in receipts by legislative candidates of \$5.8 million. Constituting 24 percent of the overall increase in 1987 legislative receipts, individual contributions outdistanced the PACs.

PACs “a” Driving Force Not “the” Driving Force

The statistics showing the proportion of the overall increase in Assembly contributions in 1989 over 1985 that is attributed to each contributor type lead to the conclusion that the special interest PACs definitely played an important part in financing those elections. Just as suggested in the Trends in Legislative Campaign Financing: 1977-1987 White Paper, whose findings on PAC activity corroborates closely with the findings in this paper, the PACs were a driving force in fueling the increases in Assembly spending in 1989. Yet being “a” driving force is different than being “the” driving force. As the data demonstrated in the earlier White Paper published in 1987, and as it demonstrates again in this paper, other contributor types have also contributed significantly to the spending increases. Thus, it is not correct to suggest that in New Jersey the PACs are alone responsible for what many believe to be outrageous increases in campaign spending on legislative campaigns.

It is quite possible that in the future the PACs may be identified as the main force behind increased campaign spending, but as of the 1989 Assembly elections that conclusion cannot be made. A “PAC plague” may exist in Washington, D.C., and it may exist in other states throughout the nation, but in New Jersey the PACs, though absolutely a major part of the finance game, cannot be said to have polluted the campaign finance system. At this juncture, they are following a trend, not leading one.

FOOTNOTES

1. David L. Boren, "Perspective on Campaigns: A Way Off the Merry-Go-Round," k~. Angeles Times, March 24, 1991, Home Edition Section: Opinion, p. 5.
2. Ibid.
3. Ibid.
4. "Bush Drafts Voting Reforms to Outlaw PACs, Remap Districts," (Newark) Star-Ledger, June 30, 1989, p. 5.
5. "Bush Considers Curbs on Political Interests," Investors' Daily, June 29, 1989, p. 1.
6. Richard L. Berke, "Senate Approves Bill to Limit Campaign Spending," The New York Times, May 24, 1991, p. A18.
7. Ibid.
8. New Jersey Election Law Enforcement Commission Data.
9. New Jersey Election Law Enforcement Commission, White Paper Number Two; Trends in Legislative Campaign Financing: 1977-1987, May, 1989, p. 16.
10. Mark S. Hoffman, ed., The World Almanac and Book of Facts 1991. (New York: Pharos Books, 1990), p. 112.
11. Consulted the McCann/Ericson media cost index.
12. See New Jersey Election Law Enforcement Commission, Gubernatorial Cost Analysis Report, June, 1988, p. 23.

All of the statistical material relative to campaign financial information contained in this chapter is derived from New Jersey Election Law Enforcement Commission data.

CHAPTER III

The Flow Of PAC Money

There is little doubt that contributions are made by PACs to help special interest lobbyists working with them gain access to elected officials so that they, the lobbyists, can express their views on policy matters and in so doing influence the process. Whether a PAC is business, labor or ideological in orientation, its contributions must work toward opening doors to officials so that the interest represented by the PAC can be voiced, and, hopefully, from their point of view, advanced.

To that end, there would be a pattern to their giving that is discernable. Though some PACs may give to candidates that simply espouse their views, whether or not those candidates have a chance of winning, by and large the PACs dollar strategy is based upon practical politics. In other words, they fund candidates that in their estimation have the best chance of success.

The statistics relative to PAC spending patterns in the Assembly general elections of 1985 and 1989 bear this premise out. As will be shown, the PACs in New Jersey put their money where they thought it would do the most good. They provided the bulk of their funds to incumbents, for instance, who, incidentally, in most cases turned out to be the winners. In 1985, 81 percent of the incumbents were returned to office and in 1989, 96 percent were returned.¹ They also provided significant funding to

candidates in those districts which were targeted as competitive. In a word, the political action committees did not throw away their money, they invested it wisely. Verification of this fact can be seen in the way that the PACs overwhelmingly supported winners in these elections as opposed to losers.

As Table 7 indicates, the special interest political action committees were very skillful in doling out their money, providing most of it to those candidates that eventually won.

Table 7
PAC Contributions to Winners: 1985 and 1989

<u>Year</u>	<u>Contributions*</u>	<u>Percentage</u>
1985	\$.9	69%
1989	1.9	83

* in millions of dollars

source: ELEC data

The special interest PACs gave \$914,187 to winners of Assembly elections in 1985 and \$1.9 million to them in 1989. In other words, winners received 69 percent of the funds in 1985 and 83 percent of them in 1989. Losers, on the other hand, received only \$367,132 in 1985 and only \$450,805 in 1989.

These findings corroborate those relative to the Senate and Assembly elections of 1983 and 1987. In 1983, the winners of the Senate and Assembly contests received \$1.2 million from PACs, or 80 percent of the PAC contributions. In 1987, the PAC contributions to winners amounted to \$2.2

million, or 79 percent of their contributions. Losers received only \$273,487 from PACs in 1983 and only \$528,552 in 1987.

PACs Support Incumbents

The PACs were good at choosing the winners of the Assembly contests of 1985 and 1989. But how did they go about accomplishing this goal. First, as shown in Table 8, they had a very clear strategy of funding incumbents, who as noted above, had a very high winning percentage.

Table 8
PAC Contributions to Incumbents: 1985 and 1989

<u>Year</u>	<u>No.</u>	<u>Contributions*</u>	<u>Percentage of Contributions</u>
1985	78	\$1.1	85%
1989	75	1.8	78

* in millions of dollars

source: ELEC data

Incumbents received \$1.1 million from the special interest PACs in 1985, or 85 percent of all contributions made to general election candidates in that year. The 1985 challengers received only \$151,907. In 1989, while receiving 78 percent of all PAC contributions, incumbents raised \$1.8 million from the special interests. Challengers in 1989 received only \$534,515 from the PACs.

These findings parallel those recorded in the earlier study Trends in Legislative Campaign Financing: 1977-1987. In that study, it was found that incumbents candidates for Senate and Assembly in 1983 received \$1.2

million, or 80 percent of the contributions from special interest PACs. Later, in 1987, the PACs contributed \$2.0 million, or 71 percent of their funds to incumbents.²

More PAC Money To Candidates In Targeted Districts

Beyond giving to incumbents, the PAC strategy embraced funding those candidates, incumbent and challenger, who ran in targeted districts (see Table 9). In 1985, there were 18 targeted districts and in 1989 there were ten targeted ones. These districts were generally regarded as competitive and ones that were targeted either by the Republican or Democratic parties as districts where seats could be won, adding to the parties’ overall numbers. These districts were either open in terms of not having an incumbent running or simply considered competitive because of local factors making the incumbent vulnerable.

Table 9
PAC Contributions in Targeted Districts: 1985 and 1989

<u>Year</u>	<u>No. Districts</u>	<u>Amount*</u>	<u>Percentage of Contributions</u>
1985	18	\$.8	62%
1989	10	1.1	48

* in millions of dollars

source: ELEC data

In 1985, the PACs contributed \$800,178 to candidates in targeted districts. Thus, in the 18 districts marked for special attention, the PACs made 62 percent of their total contributions. Interestingly, challengers received a high proportion of their PAC contributions in these targeted

districts. At \$112,472, challengers in the targeted districts received 74 percent of challenger PAC funds. Challengers in the other 22 districts received only \$39,435, or 26 percent of PAC funds donated to challengers.

The same pattern emerged in 1989 as well. Candidates in the ten targeted districts received \$1.1 million, or 48 percent of the total PAC contributions made. Moreover, challengers received \$398,991 in the targeted districts, or 75 percent of all PAC funds they received. This figure compares quite favorably to the \$135,524 they received in the remaining 30 districts.

The statistics make it clear that the PACs strategize well in their attempts to utilize their money effectively. They fund incumbents and they spend in districts considered competitive. By supporting winners, they have achieved a very important goal: access to officeholders. From a practical standpoint, it would do little good for the PACs to support candidates who never make it to public office. Their access to key decision makers would be severely limited.

Despite what appears to be a clear “pick the winner” strategy by the PACs, is this approach materially different from that of other contributor types? Whether intentional or not, money from other contributor types seems to flow in the same direction as does the PAC’s money (see Table 10).

Table 10
Contributions to Winners by
Non-PAC Contributors: 1985 and 1989

<u>Type</u>	<u>Year</u> <u>1985</u>	<u>Percentage</u>	<u>Year</u> <u>1989</u>	<u>Percentage</u>
Individual	\$509,289	62%	\$ 589,356	67%
Business	370,281	62	719,333	72
Union	55,125	45	112,604	83
Officeholder*	N/A	N/A	575,369	82
Party	659,224	67	1,087,864	55
Political committee	516,241	66	1,307,114	62%
Other**	N/A	N/A	N/A	N/A

* this information not available for 1985

** cannot determine category "other" because contributions under \$100 have not been categorized
source: ELEC data

For example, 1985 winners received \$3.5 million, or 67 percent of the contributions made by contributors other than the PACs. This figure does not include contributions of under \$100. As Table 10 shows, winners received \$509,289 from individuals, \$370,281 from businesses, \$659,224 from political parties, \$516,241 from political committees, and \$55,125 from unions. Losers, on the other hand, received only \$1.8 million. They received \$310,422 from individuals, \$231,318 from businesses, \$329,322 from political parties, \$265,943 from political committees, and \$68,046 from unions. This information is not available for officeholder PACs in 1985.

In 1989, the same pattern existed. Overall winners received \$5.9 million, or 68 percent of all contributions made by contributors other than the PACs. Winners received \$589,356 from individuals, \$719,333 from businesses, \$1.1 million from political parties, \$1.3 million from political committees, \$575,369 from officeholder PACs, and \$112,604 from unions. Losers received only \$2.8 million. They received \$296,182 from individuals,

\$282,449 from businesses, \$890,070 from political parties, \$801,135 from political committees, \$126,287 from officeholders PACs, and \$22,990 from unions.

Non-PAC Contributors Support Incumbents

Other contributor types displayed the same pattern of giving as the special interest PACs when it came to funding incumbents. In 1985, incumbents received 64 percent of the contributions made by contributors other than the special interest PACs, or \$3.4 million. Again, this figure does not include contributions of under \$100. Table 11 indicates that incumbents received \$559,876 from individuals, \$416,324 from businesses, \$409,034 from political parties, \$469,310 from political committees, and \$110,335 from unions. Detailed information on officeholder PACs is not available for 1985. In that same general election of 1985, challengers received \$1.9 million. They received \$259,835 from individuals, \$185,275 from businesses, \$579,511 from political parties, \$312,874 from political committees, and \$12,836 from unions.

Table 11
Contributions to Incumbents by
Contributor Types Other Than PACs: 1985 and 1989

<u>Type</u>	<u>Year</u> <u>1985</u>	<u>Percentage</u>	<u>Year</u> <u>1989</u>	<u>Percentage</u>
Individual	\$559,876	68%	\$511,499	58%
Business	416,324	69	664,668	66
Union	110,335	90	107,079	79
Officeholder*	N/A	N/A	452,324	64
Party	409,034	41	929,628	47
Political committee	469,310	60	1,180,619	N/A
Other**	N/A	N/A		

* this information is not available for 1985

** cannot determine category "other" because contributions under not been categorized
source: ELEC data

In 1989, incumbent Assembly candidates also received a larger amount of money than challengers from contributors other than the PACs. Not including contributions of under \$100, incumbents received \$5.2 million, or 59 percent of all the contributions made by contributors other than the PACs. They received \$511,499 from individuals, \$664,668 from businesses, \$929,628 from political parties, \$1.2 million from political committees, \$452,324 from officeholder PACs, and \$107,079 from unions, Challengers received a total of only \$2.6 million from non-PAC contributors. They received \$374,038 from individuals, \$337,114 from businesses, \$1 million from political parties, \$927,630 from political committees, \$249,332 from officeholder PACs, and \$28,515 from unions.

Targeted Districts Receive More Funds From Non-PAC Contributions

Finally, as shown in Table 12, non-PAC contributors funded candidates in the targeted districts at a significant rate. In 1985, candidates in the 18 targeted districts received 72 percent of the non-PAC contributor donations, or \$3.8 million. In 1989, candidates in the ten targeted districts received 65 percent of the contributions made by non-PAC contributors, or \$5.1 million. Again, these figures do not include contributions of under \$100.

Table 12
Non-PAC Contributions in Targeted Districts:
1985 and 1989

<u>Year</u>	<u>No. Districts</u>	<u>Amount*</u>	<u>Percentage of Contributions</u>
1985	18	\$3.8	72%
1989	10	5.1	65

* in millions of dollars

source: ELEC data

Flow of Money Same For PACs And Non-PAC Contributors

The data relative to the dollar flow in the Assembly general elections of 1985 and 1989 demonstrate that there was little difference between the PACs and other contributor types in terms of funding winners, incumbents, and candidates in targeted districts. While a case may be made that the PACs undertook a clear-cut strategy in terms of funding those candidates expected to win, and that this strategy proved successful, it is equally important to note that the money from other contributor types flowed

in the same direction. Thus, the PACs are not distinguishable from other contributor types in this regard either, demonstrating that any overall strategy by the PACs to fund candidates with the best chance of winning would not necessarily result in their dominating the process of campaign finance and elections, and thereby the process of government.

FOOTNOTES

1. See statistics compiled by the New Jersey Division of Elections, Department of State.
2. New Jersey Election Law Enforcement Commission, White Paper Number Two: Trends in Legislative Campaign Financing: 1977-1987, May, 1989, pp. 17-18.

All of the statistical material contained in this chapter is derived from New Jersey Election Law Enforcement Commission data.

CHAPTER IV

Parties and Legislative Parties Financially Active

In Chapter Two, it was revealed that the political parties and the political committees played a significant part in increasing Assembly general election campaign spending between 1985 and 1989. The political party committees increased their contributions by \$1 million during this period, accounting for 23 percent of the overall increase in contributions to candidates for Assembly. The political committees, on the other hand, increased their contributor activity by \$1.3 million. They were responsible for 30 percent of the increase in Assembly contributions between 1985 and 1989. Moreover, this activity may actually be somewhat understated because the candidates may not always have assumed, for reporting purposes, contributions made to them by the political parties and political committees in the form of expenditures made on their behalf. In other words, the amounts reported by the parties and PACs as having been contributed to candidates - that is candidates at all electoral levels - seem to suggest more involvement in the financing of campaigns than might be suggested in the candidate's reports. It should be emphasized, however, that candidates are not necessarily required to report, as contributions, expenditures that the parties and committees purportedly spent on their behalf and are not in violation of the disclosure laws. At any rate, the statistics demonstrate that the political parties and political committees are very much involved in the campaign finance business. They show, moreover, that much benefit has been derived by candidates for the Legislature from this activity. Not

only have candidates benefitted directly front contributions to them, but also from spending by the entities for generic advertising, polls, and voter registration activity, etc.

Though not all, much of the financial activity undertaken by these entities, especially as it pertains to the Assembly elections of 1985 and 1989, can be attributed to the state party committees and the legislative party committees. The Trends In Legislative Campaign Financing; 1977-1987 White Paper, in discussing the role of the state political party committees in the Senate and Assembly elections of 1983 and 1985, states:

In recent years, there have been some very interesting developments taking place relative to the state's political party system; and these developments can most readily be observed in terms of campaigns for the Legislature There has been a shift in influence in these campaigns from the party organizations at the county level to the party organizations at the state level.

The overall financial activity of the Democratic and Republican State Committees in 1985 and 1989 corroborate the findings of the 1989 White Paper. Certainly, overall financial activity increased, with higher expenditure amounts recorded in 1989 over 1985 (see Table 13). These expenditures, whether to provide direct contributions to the candidates or to cover the costs of polling, voter registration, and get-out-the-vote efforts, etc., certainly benefitted Assembly candidates as well as other candidates.

Table 13
Financial Activity by State Party Committees: 1985 and 1989

	1985 <u>Receipts*</u>	<u>Exp.</u>	1989 <u>Receipts*</u>	<u>Exp.</u>
Democratic State Committee	\$.9	\$1.0	\$.9	\$.9
Republican State Committee	<u>4.0</u>	<u>4.4</u>	<u>4.7</u>	<u>4.8</u>
Total	\$4.9	\$5.4	\$5.6	\$5.7

* in millions of dollars
source: ELEC data

In 1989, total receipts reported by the Democratic State Committee and the Republican State Committee amounted to \$5.6 million, a 14 percent increase over 1985 when they equaled \$4.9 million. Expenditures rose by 6 percent, from \$5.4 million to \$5.7 million. Because the Democratic legislative party committee. Campaign '89, whose financial activity was enormous, was operated under the aegis of the Democratic State Committee, the financial activity of the Democratic State Committee per sé in 1989 proved to be considerably less than that of its counterpart, the Republican State Committee. Nevertheless, the Democratic State Committee still recorded \$903,830 in receipts and made \$887,046 in expenditures. In 1985, this committee reported \$926,406 in receipts and \$1 million in expenditures. The Republican State Committee in 1989 had receipts of \$4.7 million and expenditures of \$4.8 million. Republican party receipts in 1985 amounted to \$4 million and expenditures to \$4.4 million.

The legislative party committees, be they PACs or political committees formed basically by the party leadership in the Legislature, also

participated heavily in the 1985 and 1989 general elections for Assembly, impacting substantially the spending capability of the candidates.

As shown in Table 14, Campaign '89 and Assembly Republican Majority '89 reported receipts of \$10.9 million. This figure represents a 1,457 percent increase over 1985, when total receipts for their 1985 counterparts, the Democratic Legislative Campaign Committee and Republican Majority '85, reached \$695,935. Expenditures by the Legislative Party Committees in 1989 grew by 1,443 percent, from \$737,520 to \$10.8 million.

Table 14
Financial Activity by Legislative Party Committees: 1985 and 1989

	<u>1985</u> <u>Receipts*</u>	<u>Exp.</u>	<u>1989</u> <u>Receipts*</u>	<u>Exp.</u>
Democratic	\$.3	\$.3	\$ 9.6	\$ 9.5
Republican	.4	.4	<u>1.3</u>	<u>1.3</u>
Total	\$.7	\$.7	\$10.9	\$10.8

* in millions of dollars
source: ELEC Data

In 1989, Campaign '89 raised \$9.6 million and spent \$9.5 million compared with the 1985 Democratic Legislative Campaign Committee, which raised \$315,638 and spent \$344,385.

The Assembly Republican Majority '89 Committee raised \$1.3 million and spent \$1.3 million whereas Republican Majority '85 raised \$380,567 and spent \$393,135.

In 1985, and especially in 1989, the Democratic and Republican State Committees and the legislative party committees provided significant financial help to Assembly general election candidates. But who funded them? Was it the PACs? If a “PAC plague” truly exists in New Jersey, then surely much of the money raised by these party-oriented entities derived from the political action committees. But did it? The following pages will explore this question as part of the study’s effort to place the role of the special interest PACs in New Jersey in its proper perspective. Certainly part and parcel of a campaign finance system dominated by the PACs is the existence of large amounts of PAC contributions to the political parties and the legislative party committees. By funding these party players in a major way, the PACs would essentially be making indirect contributions to the candidates for the Assembly, who benefit substantially from the activities of the state committees and the legislative party committees.

PAC Contribution Amounts To Party Entities Vary

As will be shown, PAC financial activity relative to the groups in question varied. Moreover, in neither 1985 or 1989 can the special interest PACs be said to be the dominant force behind the funding of the state political parties or the legislative party committees. Only once did the proportion of all contributions made to any one of the party-oriented groups by the PACs exceed 30 percent. Mostly, the PAC proportion of total contributions hovered between 11 and 17 percent. Once, it even sunk as low as two percent. Table 15 profiles PAC activity relative to the state parties and the legislative party committees in both 1985 and 1989.

Table 15
Amount and Proportion of Contributions to State Party Committees and
Legislative Party Committees Made by PACs: 1985 and 1989

<u>Party</u>	<u>1985</u>		<u>1989</u>	
	<u>Amount</u>	<u>Percent</u>	<u>Amount</u>	<u>Percent</u>
Democratic	\$ 42,685	17%	\$ 19,600	2%
Republican	<u>82,850</u>	<u>2</u>	<u>254,700</u>	<u>11</u>
Total	\$125,535	3%	\$ 274,300	9%
 <u>Legislative Party</u>				
Democratic	\$ 79,500	33%	\$ 979,208	11%
Republican	<u>53,545</u>	<u>14</u>	<u>210,075</u>	<u>16</u>
Total	\$133,045	21%	\$1,189,283	11%

source: ELEC data

In 1985, the PACs gave \$125,535 to the state parties. This amount represented 3 percent of the total contributions made to the party committees. The Democratic State Committee raised \$42,685, or 17 percent of its total contributions from the special interest political action committees and the Republican State Committee raised \$82,850, or 2 percent of its contributions from the PACs.

The percentage of total contributions to the parties by the PACs remained low in 1989 as well. Overall, the PACs contributed \$274,300 to the state parties, or 9 percent of total contributions. The Democratic State Committee received \$19,600 from the PACs, or 2 percent of total contributions and the Republican State Committee received \$254,700, or 11 percent of total contributions, from the PACs.

In 1985, the legislative party committees raised \$133,045, or 21 percent of their total contributions from the PACs. The PACs contributed \$79,500 to the Democratic legislative campaign committee, or 33 percent of the contributions received by this committee. Republican Majority '85 received \$53,545 from the political action committees, or 14 percent of its total contributions.

Campaign '89, the Democratic legislative party committee in 1989, did receive \$979,208 from the PACs. However, this amount still only represents 11 percent of the contributions made to the committee. The PACs made 16 percent of the contributions to Assembly Republican Majority '89, but the total amount of \$210,075 was less than that collected by the Democratic legislative party committee. In total, the PACs contributed \$1.2 million to legislative party committees in 1989, or 11 percent of all contributions made to these committees.

The data cited above indicate that the special interest PACs, though contributing to the party entities, by no means constituted the dominant force behind the funding of the state committees and the legislative party committees in either 1985 or 1989. As shown earlier, their direct activity relative to candidates for the Assembly was much stronger than their activity relative to the party committees.

Looking at the financial activity of other types of contributors vis-a-vis the party entities will verify the fact that the PAC role in funding the state committees, and the legislative party committees, was not

the dominant one. In fact, this comparison will show other contributor types to be, at least in certain instances, much more central to the financing of the party entities than the PACs.

Non-PAC Contributions Often Exceed The PACs

When considering contribution activity toward the state committees in 1985 (see Table 16), the data show that other contributor types were much more significant than PACs in the financing of the state political party committees. For instance, businesses made 39 percent of all contributions, for a total of \$1.4 million. Individuals made 25 percent of the contributions, at \$924,286. Contributions from other party entities, be they national party organizations or local party organizations, made 13 percent of all contributions to the state committees, at \$492,062. The special interest PACs, as noted above, contributed 3 percent of the funds, or \$125,535. Unions contributed \$45,140, or one percent of the funds and officeholder PACs contributed \$8,305, or zero percent. All others, including contributors who made contributions of \$100 or less, contributed \$695,350, or 19 percent of all contributions.

Essentially, the same pattern emerged in 1989. Businesses made 49 percent of all contributions to the state party committees, or \$1.5 million. Individual contributors comprised 23 percent of all contributions, at \$728,661. Again, the PACs made nine percent of the contributions, at \$274,300. Other party sources gave \$214,541, or 7 percent of all contributions. Unions contributed \$17,200, or one percent of all funds, and

officeholder PACs contributed \$67,190, or two percent of all funds. All others contributed \$292,374, or nine percent of all funds.

Table 16
Proportion of Contributions to State Party Committees
by Contributor Type: 1985 and 1989

<u>Type</u>	Year	Year
	<u>1985</u>	<u>1989</u>
PAC	3%	9%
Individual	25	23
Business	39	49
Union	1	1
Party	13	7
Officeholder	-	2
Other	<u>19</u>	<u>9</u>
Total	100%	100%

source: ELEC Data

As shown in Table 17, the 1985 legislative party committees, the Democratic Legislative Campaign Committee, and Republican Majority '85, also witnessed non-PAC contributors making larger contribution amounts than the PACs.

Table 17
Proportion of Contributions to Legislative Party Committees
by Contributor Type: 1985 and 1989

<u>Type</u>	Year	Year
	<u>1985</u>	<u>1989</u>
PAC	21%	11%
Individual	29	24
Business	25	34
Union	2	2
Party	11	11
Officeholder	5	4
Other	<u>6</u>	<u>14</u>
Total	99%	100%

Source: ELEC Data

In 1985, individual contributors made the most contributions to the legislative party committees. Individual contributors made 29 percent of all contributions, or \$180,752. Businesses provided 25 percent of all contributions, or \$155,845. The PACs, as noted above, made 21 percent of all contributions, or \$133,045. Other party organizations provided 11 percent of the contributions, or \$70,673, and officeholder PACs five percent, or \$29,979. Unions contributed \$14,500, or two percent of the contributions. All other contributions, including those that were less than \$100, constituted the remaining contributions.

Finally, in 1989, other contributor types again outdistanced the PACs in terms of contributions made to the legislative party committees. Businesses, for instance, made 34 percent of all contributions to these entities in 1989, at \$3.6 million. Individual contributors provided 24 percent of the funds, or \$2.5 million. Other party organizations, at 11 percent, contributed \$1.2 million. Again, the PACs made 11 percent of the contributions, or \$1.2 million. Officeholder PACs made four percent of all contributions, or \$458,063, and unions made \$190,765, or two percent of all contributions. All others made \$1.4 million, or 14 percent of all contributions.

PACs Lag Behind Non-PAC Contributors In Fueling Increases In Contributions To Party Entities

The fact that the special interest PACs were no more the dominant contributor to the state party entities than they were to Assembly

candidates is essentially corroborated by analyzing the data dealing with the proportion of increase or decrease in total contributions to these entities represented by the PACs.

Total contributions to the state political party committees decreased by \$613,215 from 1985 to 1989. Indeed, the special interest PACs did not contribute to this decrease in total contributions; they actually increased their activity vis-a-vis the Democratic and Republican State Committees by \$148,765, the most of any contributor type. Businesses and officeholder PACs also increased their activity relative to these committees by \$83,197 and \$58,885 respectively. Other contributor types were responsible for the decline in total contributions made to the state committees in 1989. Contributors of \$100 or less accounted for 64 percent of the total decrease by contributing \$390,392 less than in 1985. Other party organizations, be they national or local in scope, by reducing their contributions by \$277,521, represented 45 percent of the decrease. Individuals, down by \$195,625, accounted for 32 percent of the decrease; unions, off by \$27,940, made up 5 percent of the decrease; and all other contributor types represented the remaining proportion of reduced contributor activity.

PAC contributions to the state party committees in 1989, even though they increased while contributions by most other contributor types declined, should not be viewed as significant and certainly should not be pointed to as evidence that the political action committees are becoming more of a factor in terms of providing soft money to candidates. It is true that they increased their contributions by 119 percent, to \$274,300 in 1989. Yet, this total amount is considerably less than the \$1.5 million contributed by businesses and the \$728,661 contributed by individuals. Thus, while the PACs did raise their contribution levels relative to the state parties in 1989 over 1985, this fact, when placed in the framework of their overall giving, cannot be used to suggest that the PACs are a dominant contributor to the state party committees, and through them, indirectly to the candidates.

An analysis of this data dealing with the proportion of increase or decrease in contributions to the legislative party committees which is attributable to each contributor type better illustrates the fact that the PACs were not the dominant factor in funding these party oriented entities, which, in turn, had so much involvement in the Assembly campaigns.

The legislative party committees in 1989 showed an enormous increase in financial activity over 1985. Contributions to these committees, due in large part to the intense activity of Campaign 89, increased by \$9.9 million. The proportion of the increase attributable to the PACs was 11 percent. In 1989, these entities contributed approximately \$1 million more to the legislative party committees than in 1985. This

proportion is equal to that of the parties, who increased their activity by \$1.1 million, but less than the proportion of the increase attributable to businesses and individuals. The increase in business contributions amounted to \$3.4 million, representing 35 percent of the increase in total contributions. The increase in individual contributions reached \$2.3 million, or 23 percent of the overall increase. Unions and officeholder PACs accounted for two and four percent of the total increase. Unions increased their activity by \$176,265 and officeholder PACs by \$428,084. Other contributors provided the remaining proportion. Thus, again, while the PACs certainly contributed a substantial amount to the legislative party committees, other contributor types contributed as much or substantially more to these entities and were responsible to a greater degree for the enormous increase in their activity than were the PACs (see Table 19).

Table 18
Proportion of Increase in Contributions to Legislative Party Committee
by Contributor Type: 1985 and 1989

<u>Type</u>	<u>Percent</u>
PAC	11%
Individual	23
Business	35
Union	2
Party	11
Officeholder	4
Under \$100	-
Other	<u>14</u>
Total	100%

source: ELEC Data

The PACs Are Not The Dominant Contributor To Party Entities

The Democratic and Republican state party committees, along with the party-oriented committees established by legislative leaders, were a vital part of the campaign process in the Assembly elections of 1985 and 1989. As shown in Trends in Legislative Campaign Financing: 1977-1987, they were an increasingly important factor in that period as well. For that reason, they are a vital part of this paper; an analysis of their sources of funding being important to the purpose of this study, which is to cast the proper perspective on the role of the PACs in order to contribute in a beneficial way to the efforts to bring about reasoned and effective campaign finance reform in New Jersey.

In terms of providing funding to the party entities, which in turn played key roles in the Assembly general elections of 1985, the special interest PACs were less of a factor than they were relative to providing

funds directly to the candidates. An important factor, though not the lone driving force behind the increase in the financial activity of Assembly candidates, the PACs certainly were not the dominant contributor to the party entities. Moreover, they cannot even be classified as a driving force behind the funding efforts of these entities. Thus, in searching for evidence of a “PAC plague” in New Jersey via the financial activity of the PACs toward the party entities, the data points to the opposite conclusion. In a word, the PACs have not been the chief financial backers of the state party committees or the legislative party committees. As shown in this chapter, other contributor types, including businesses, individuals, and national and local party organizations, have equalled and outpaced the PACs. Certainly the political action committees cannot be said to be the driving force behind the increase in legislative spending as a result of their secondary activity relative to the party entities. While the PACs have increased their contributions to the party entities, so too, in most instances, have other contributor types, often to a greater extent than the political action committees. Thus, the analysis of secondary PAC activity corroborates the earlier findings espoused in this paper - that a “PAC plague” has not been found to exist in New Jersey.

FOOTNOTES

1. New Jersey Election Law Enforcement Commission, White Paper Number Two: Trends in Legislative Campaign Financing; 1977-1987, May, 1989, P. 28.

The statistical information contained in this chapter was calculated manually from reports submitted to the New Jersey Election Law Enforcement Commission.

CHAPTER V

New Jersey Not Plagued By PACs

The statistics presented in previous chapters have led to the conclusion that there is not a “PAC plague” in New Jersey. Special interest political action committees have not been the dominant source of contributions to legislative candidates, either of Assembly candidates in 1985 and 1989, the focus of this paper, or of Senate and Assembly candidates in 1983 and 1987, the object of an earlier study. Neither can these groups be shown to be the chief financial backers of the state party committees or the legislative party committees, which, themselves, have significantly impacted the legislative campaign process. In a word, contrary, perhaps, to popular thought, the PACs have not been the driving force behind the continuing escalation in campaign costs associated with legislative elections. Certainly, as has been shown, they are “a” factor, but not “the” factor. There are other contributor types that clearly are as responsible, if not more responsible, for helping to perpetuate a trend in legislative campaign financing that has been continually upward.

These findings do not suggest, however, that reforms to the campaign finance system, especially as they would affect the political action committees, are unnecessary. Even though the PACs do not absolutely, and thoroughly, dominate the campaign finance scene, they became a major player in the 1980’s and will continue to be so in the future. As such, their role deserves attention in terms of the formulation of recommendations

that serve to keep the special interests they represent under control, thereby preventing undue influence by them from being exerted. At the same time, these recommendations must serve to protect the First Amendment right of people to join together and form committees to advance their political and economic interests. Moreover, in terms of campaign disclosure, it is important to design reforms that enhance, rather than inhibit the ability of citizens to know what interests are funding their elected officials; in other words, to better track the interest source of the contributions to candidates. Finally, in order to enforce this comprehensive disclosure approach, it is critical that the agency charged with the responsibility for enforcement be provided with adequate funding to do the job.

Abolishing PACs Neither Desirable Nor Constitutional

Obviously, from the conclusions drawn from this study, the paper does not share the view espoused by some that political action committees should be abolished. As noted above, proposals, at least on the federal level, do exist to do just that. It is the opinion of this paper that such a course of action would be unconstitutional. Moreover, it would be inimical to the electoral and democratic processes and it would hurt disclosure. People should have a right to organize themselves into groups for the purpose of advancing interests that are important to them. And, they should have a right to contribute money to candidates, political parties, etc., as part of that effort to voice their opinions and press their political and economic interests. As long as these efforts, in so far as they include financial activity, are fully and properly disclosed, as

well as limited in a reasonable manner, they only contribute to a desirable vitality in a democracy.

Rather than abolish political action committees, campaign reforms should be enacted that would actually result in more PACs being formed. Instead of enhancing the power and influence of certain special interests, reforms that encourage the formation of PACs would serve to dilute the power and influence of existing political action committees. This result would be so because a larger pool of these committees would hold in it more special interests competing with each other than is currently the case. Moreover, contrary to hurting disclosure, a further proliferation of PACs would actually aid it.

In ELEC White Paper Number One, Contributions Limits and Prohibited Contributions, the Commission called for a prohibition on contributions from all corporations and unions.¹ In other words, the ban on making contributions no longer would be limited to just the regulated industries as in existing law. No longer could corporate or union funds be used to support candidates and political parties. Federal law, which has been found to be constitutional, places a ban on corporate and union political contributions. This prohibition stems back to 1907, when certain corporations were subject to the prohibition, through 1971, when the “Federal Elections Campaign Act” prohibited all corporations and unions from making contributions to candidates.

Of course, employees of corporations and members of unions would be permitted to form voluntary funds, or PACs, for the purpose of advancing their economic and political interests. Under federal law, corporate and union funds are allowed to be used for administering PACs; in other words, to establish them and maintain them administratively. Under the provisions in New Jersey law that prohibit regulated industries from making contributions, the use of corporate funds for administrative purposes is disallowed. It is the preference of this paper that the federal system be followed because the Commission sees no benefit in restricting corporations and unions from creating PACs so long as the corporate and union Treasury money does not go directly to candidates. Yet, there are solid arguments on both sides of this issue and the Commission would not object strongly if these expenditures were not permitted under a new campaign finance scheme.

A ban on corporate and union contributions would encourage the formation of PACs by employees and members of corporations and unions that do not already have political action committees. At the same time that this prohibition would result in a proliferation of PACs, it would also result in better disclosure. Unlike corporations and unions, which do not have to file reports with the Commission, PACs are subject to a quarterly filing responsibility and are required to disclose all of their financial activity, including their receipts, expenditures, and direct contributions to candidates. These new PACs coming into the system as the result of a ban on corporate and union giving would be subject to these same filing requirements.

Naturally, much of the money now contributed to candidates and political party entities by businesses and unions would be rechanneled through the new political action committees. Overall financial activity by the PACs would therefore increase significantly. Yet, these additional PAC funds would be raised from individuals, not from corporate or union treasuries. Moreover, this special interest money would be more easily traceable. Indeed, the public would be better served because disclosure would be enhanced, the ability to analyze the source of special interest money increased, and the influence of certain special interests diminished because of competition from others. Finally, though bundling and other indirect means of corporate giving, etc., would not be eliminated by these reforms, as a practical matter, they would be lessened because employee and member political activity would be channeled through the PACs. In the final analysis, an increase in the number of PACs would actually broaden participation in the political process by the citizenry.

A PAC Registration Program For All Groups Should Be Established

Of course, any type of reform that actually encourages the formation of PACs must be accompanied by reforms that tighten the rules on those groups. Such reforms would include the establishment of a registration program for PACs and stronger rules that would heighten disclosure of their activity, protect against consumer fraud, and better regulate the use of their money. This registration program could simply be represented by an expansion of the current registration program. Currently, the law requires only those PACs that conduct employee payroll deduction

programs to participate in a registration program. Under the reforms envisioned in this paper, these registration requirements would be extended to sill PACs active in New Jersey.

The Commission, as well as the Ad Hoc Commission on Legislative Ethics and Campaign Finance, have both urged the establishment of a registration program for PACs that would require the groups to better identify the interest they represent. Under this program, a PAC would register with the Election Law Enforcement Commission. It would state its purpose, and list the names, addresses, occupations and employers of all of its officers. This information, in turn, would enable the public to have a better idea about the special interest being advanced by the political action committee in question. It would eliminate those instances when a PAC is formed, calls itself “Citizens for a Cleaner World,” and gives no indication to the public that the members of the PAC are employees of X and Y Waste Disposal International Corporation. As noted above, this type of registration program has been enacted for those groups conducting payroll deduction programs.²

The Rules Governing PAC Activity Should Be Tightened

Along with the registration program, PACs should be subject to tighter controls on their activity, including protections for contributors. First, strict statutory guidelines should be enacted which would limit the use of PAC funds to campaigns and election related activities. Personal use of PAC funds should be clearly and uncategorically prohibited. Second, just

like charities, PACs should be required to disclose the amount of money they spend on administration and show it as a percentage of their budget. This information should be provided to their contributors and should be done so at least on a yearly basis. Finally, PACs should be required to provide contributors a means of input into how the PAC money will be spent. Enhanced participation by contributors will help to avoid those situations whereby contributors believe their money will be spent on certain candidates and in certain ways, but in reality it is spent on wholly different purposes.³

The tightening of the rules on disclosure as well as the rules on financial accountability will strengthen the public¹'s trust in the process. It will allow for a better tracking of the sources of campaign money and provide for a more accurate and complete picture of the extent of special interest money in the process. It will ensure that contributors have a certain knowledge of how their money is being spent and will provide the public with the confidence that the activities of the PACs are clearly out in the open.

PACs Should Be Subject To Contribution Limits

In addition to tightening the rules that apply to the activities of the political action committees, it is also in the interest of the public to limit the ability of the PACs to influence the course of elections and government policy-making in so far as money can be said to be able to influence these processes. Obviously, the way to do this is to impose a system of contribution limits that would very definitely include the PACs.

In its first White Paper, the Election Law Enforcement Commission proposed that the Campaign Act be amended to impose a system of contribution limits. The Commission stipulated, however, that it was critical that reasonable contribution limits be imposed. The limits should “be low enough to prevent any appearance of impropriety yet high enough to withstand any constitutional challenge on the grounds that it did not permit candidates to raise adequate funds to get their message to the voters or contributors to exercise their First Amendment rights.”⁴

Later, the Ad Hoc Commission on Legislative Ethics and Campaign Finance, in its comprehensive 1990 report, recommended a system of contribution limits, an important part of which applied to the political action committees. In its report, the Ad Hoc Commission said of contribution limits:

*Although the Commission recognizes the merits of the argument made by several witnesses that contribution limits will not stop the flow of money into political campaigns, the Commission believes that such limits are essential and that they serve two purposes: (1) to limit the amount of money, and therefore, the potential influence, that any single, large contributor or group or contributors may have over a particular candidate; and, (2) to help alleviate public fears that large amounts of money are contributed by one person or group to the campaigns of public officials in order to influence their actions.*⁵

The PACs should be subject to contribution limits, as should every other type of contributor. While the PAC limit should not be set higher than the limit that political parties must adhere to, for instance, it should be set higher than the limit applicable to individual contributors. The limit on the PACs should be set lower than the parties because the parties represent a broad spectrum of interests as opposed to the narrow interest represented by the PACs. The limit on the PACs should be higher than for individual contributors because the PACs are comprised of many individual contributors who in turn make smaller donations to it.

This philosophy was followed by the Ad Hoc Commission when it proposed a very comprehensive system of contribution limits. In it the PACs would be subject to a \$5,000 contribution limit per election to individual candidates, a \$5,000 per year limit on contributions they can make to other committees, a \$25,000 per year limit on contributions to the state party committees, a \$10,000 per year limit on contributions to the county party committees, and a \$5,000 per year limit on contributions to municipal party committees. The Ad Hoc Commission would also place restrictions on contributions made by others to the PACs.⁶

In a word, reasonable contribution limits for the political action committees would go far toward limiting the influence the PACs may potentially have over the electoral system. They would also go far in the direction of boosting public confidence in the fact that the campaigns are not being unduly influenced by escalating amounts of special interest campaign dollars. Contribution limits are a constitutional means of

protecting the public interest from the potentially harmful effects of uncontrolled financial activity by the PACs (as well as other contributors) in legislative as well as other elections in New Jersey.

PACs Should Pay Filing Fees

All of the above proposals are meritorious and should be enacted. However, along with these reforms a filing fee on PACs should be enacted to help defray the costs of enforcing the PAC contribution limits and the tightened disclosure laws. Because these entities represent private, special interests and not the general public, it is justifiable to introduce a filing fee system that would offset the expenditure of taxpayer's money made for the purpose of enforcing the campaign financial disclosure laws. Under the proposed reforms, PACs would proliferate and certainly become the driving force behind campaign spending, generating even more work for the Commission than they do already. Moreover, these entities benefit from the services provided by ELEG as they are frequent users of the Commission's information system. As a result, it is reasonable to propose that they help pay for the cost of the administration of the reform proposals.

In ELEC White Paper Number Four: Ideas for an Alternate Funding Source, a fee program is discussed in detail. The proposal made in that paper should be seriously considered for incorporation in any reform program.⁷

In Conclusion, the special interest PACs are not plaguing the electoral landscape in New Jersey as some might think. However, while opposing their elimination, it is still nevertheless important that the rules governing their activities be tightened to bring about more complete disclosure and governance of their activities. Moreover, it is essential that contribution limits be imposed to reduce any real or potential undue influence over the process. Finally, it is important that the agency enforcing the reform proposals be able to charge PAC filing fees in order to be able to do its job. In these very specific, yet farsighted ways, public confidence in the electoral system can be enhanced while at the same time the constitutional right of citizens to band together to advance their economic or ideological cause can be protected.

FOOTNOTES

1. For a detailed discussion of this issue, see New Jersey Election Law Enforcement Commission, White Paper Number One: Contribution Limits and Prohibited Contributions, October, 1988, pp. 9-18.
2. S-895 (Cowan).
3. See Bill Schluter, “Commentary: Contributions Don’t Affect Votes? Don’t You Believe It!,” Governing, August, 1990, p. 98, and “Common Cause in New Jersey Strives to Reform Campaign Disclosure Laws,” Atlantic City Press, September 9, 1990, p. F4.
4. White Paper Number One, p. 8.
5. Ad Hoc Commission on Legislative Ethics and Campaign Finance, Findings And Recommendations of the Ad Hoc Commission on Legislative Ethics and Campaign Finance, October 22, 1990, p. 10.
6. Ibid., pp. 9-15.
7. See New Jersey Election Law Enforcement Commission, White Paper Number Four: Ideas For An Alternate Funding Source, December, 1989, specifically pp. 17-30.

CONCLUSION

Changing Nature Of Campaigns Is Impetus Behind Increased Campaign Spending

In terms of campaign financing in New Jersey, the decade of the 1980's may be remembered in two ways: it was the time during which campaign spending increased significantly and a time when the PACs matured into a political force. Spending by legislative candidates, for instance, went from \$8.3 million in the 1983 Senate and Assembly general elections to \$11.5 million in the 1987 elections. Relatively slight in the early 1980's, PAC financial activity rose to \$4.4 million in 1987, and even higher, to \$7 million, by the end of the decade.

The fact that these two developments occurred simultaneously might lead to the conclusion that higher campaign spending resulted from the increased activity by the PACs. In other words, the political action committees, through their support for the fundraising endeavors of candidates, caused the escalation in campaign spending. Indeed, as has been noted throughout this paper, some would believe that New Jersey's electoral process has been beset with a "PAC plague." Nothing could be further from the truth!

Campaign spending, especially as it pertains to legislative elections, increased rapidly because of the changing nature of campaigns, not because of political action committees. Campaigns became increasingly candidate-centered, as opposed to party-centered, as they used to be. As

campaigns became less reliant on volunteers to reach voters, and more reliant on mass communication techniques, money to pay for this new approach became more important than ever before. This phenomenon then, the changing nature of campaigns, less reliance on people, and more reliance on technology, is the real impetus behind the increase in campaign spending, not the PACs nor any other contributor type. To suggest otherwise is to put the “cart before the horse.” The need for money is paramount in campaigns because of the weakening of the party system and the greater dependency on mass media to run effective campaigns. In their desire to have the means to run effective campaigns, candidates have turned to the PACs, and other contributors - and they have obliged.

“PAC Plague”: More Myth Than Reality

The underpinning for this conclusion is found in the data presented in the report, which has focused upon the Assembly general elections of 1985 and 1989. Special interest political action committees gave \$1.3 million to Assembly candidates in 1985 and \$2.3 million to these candidates in 1989. This increase was mirrored by the increase in *PAC* contributions to Senate and Assembly candidates in the general elections of 1983 and 1987. In 1983, Senate and Assembly candidates received \$1.5 million from the PACs and in 1987 they received \$2.8 million.

While certainly these increases are significant, and indicate that the PACs played a strong role in the financing of the legislative elections, they do not suggest that the PACs have dominated the process.

Other

contributor types showed increases in contribution activity that equaled or surpassed that of the PACs. Whereas the PACs increased their activity by 77 percent, contributions from businesses increased by 67 percent, from officeholder PACs by 250 percent, from political parties by 100 percent, and from political committees by 163 percent. Both the political parties and the political committees increased their total contributions by over \$1 million, with the increase of \$1.3 million by the political committees the most of any contributor type. Union contributions remained about the same.

To be sure, the special interest PACs made the greatest proportion of total Assembly contributions of any contributor type in both 1985 and 1989. But, at 18 percent in 1985 and 20 percent in 1989, their proportion of total contributions did not change very much. Contrast these statistics with the political parties, which increased their proportionate share from 14 percent to 17 percent, and with the political committees, which increased their proportion from 11 percent to 18 percent, and it is again evident that the PACs, while without doubt a force in the financing of the Assembly elections, did not dominate the process.

A final set of data corroborates the conclusion that a “PAC plague~ is more myth than reality. In terms of the overall increase in campaign financial activity by general election Assembly candidates in 1989 over 1985, the PACs do not dwarf other contributors types. For instance, the political parties accounted for 23 percent of the overall increase in contributions to the candidates for Assembly, which equalled the proportion of the increase realized by the PACs. Political committees, moreover,

accounted for 30 percent of the increase, considerably more than did the PACs.

PACs Do Not Dominate Giving To Parties

To further explode the myth of a “PAC plague,” the paper looked at the relationship between the special interest PACs and the political parties and the legislative party committees. In other words, the paper analyzed the extent of PAC contributions to the party entities to determine the special interest’s impact on these groups, which were major players in funding Assembly elections. If the PACs were the dominant contributors to the party entities, which in turn contributed large sums to the candidates, then perhaps this fact would be “grist for the mill” in terms of the argument that the PACs were the driving force behind the increase in Assembly spending.

Indeed, the PACs were shown not to be the principal fundraising vehicle of the party entities. As a matter of fact, their activity relative to candidates directly exceeded their activity relative to the party entities. Moreover, businesses, individuals, and local and national political organizations more often than not exceeded the PACs in terms of contributions to the party entities. Once the PAC proportion of contributions to party entities rose beyond 30 percent, once it descended to as low as two percent, mostly it remained at between 11 and 16 percent.

PACs As Well As Non-PAC Contributors Fund Incumbents And Winners

The PACs did not display any pattern of giving that was much different from other contributor types. Most of their dollars went to incumbents and to those in targeted districts. They chose well, for the bulk of their money went to winners. Similarly, other contributor types displayed the same basic penchant for supporting incumbents (most of whom were winners) and candidates in targeted districts. Non-PAC contribution money flowed inevitably toward winners. Essentially, whether by design or not, the money flowed in ways that would do the most good for the interests of the contributor.

PAC Rules Should Be Strengthened

While the paper concludes that a “PAC plague” does not exist in New Jersey, and, like every other contributor type, the PACs are following a trend, not leading it, the study does not seek to trivialize their impact, nor suggest that nothing needs to be done to limit their role in the campaign process. Indeed, several suggestions are made which are designed to enhance disclosure and limit the influence of PAC money, thereby enhancing confidence in the system.

The recommendation is made that, instead of abolishing PACs, their establishment should be encouraged so as to enhance disclosure of campaign financial activity. A proliferation of the PACs could be brought about by the introduction of a ban on corporate and union contributions, which is

already done on the federal level and deemed to be constitutional. Such a development would actually have the effect of decreasing the influence of individual PACs because more PACs, many with a competing interest, would be established. Further, disclosure, which is truly in the public interest, would be improved because companies would be more inclined to have their employees form PACs, and disinclined to undertake indirect ways of funding candidates. Because of this, the special interest source of candidate contributions would be more apparent.

The enhanced disclosure aspect of the increase in the numbers of PACs would be assisted by the expansion of the PAC registration program recently passed by the Legislature and signed into law by Governor Jim Florio to include all PACs, not just ones that implement payroll deduction plans. This program would include consumer fraud protections and it would enhance disclosure by requiring all PACs to register with the Election Law Enforcement Commission, listing their purpose, and the names, addresses, occupations and employers of all of their officers.

Contribution Limits Needed

The financial activity of the PACs, and concomitantly their potential influence over the process, could be curtailed by the imposition of contribution limits that would affect their giving as well as their fundraising efforts. Along the lines of the recommendations made by the Ad Hoc Commission on Legislative Ethics and Campaign Finance, a system of contribution limits should be established which would include limits on the

contributions made by the PACs and limits on the contributions made by others to the PACs. Contribution limits, in combination with an increase in the number of PACs, which would bring more competition into the system, would effectively curtail the influence of any individual PAC. This approach, rather than one which would simply seek to abolish the PACs, an act which would be of dubious constitutionality at any rate, would greatly improve disclosure and instill more confidence in the electoral system.

Adequate Funding Needed

Finally, in order to implement the recommended changes effectively, adequate agency funding levels are of paramount importance. This goal could be met through a system of filing fees imposed on the PACs, which are designed to cover the cost of administering the reforms as well as to offset the cost to taxpayers of such an effort.

In conclusion, the political action committees cannot be said to be the reason that the cost of financing Assembly elections, indeed legislative elections in general, has gone up dramatically during the 1980's. Their financial activity, while robust, has not been different from other contributor types. They can be said to be following a trend, brought about by the changing nature of campaigns, rather than leading one. Clearly, as political financing expert Professor Herbert E. Alexander suggests, "there is room in the political system for ... PACs."¹

FOOTNOTES

1. Herbert E. Alexander, Financing Politics. Third Edition. (Washington, D.C.: Congressional Quarterly Press, 1984), p. 100.

All statistics cited in the conclusion were taken from the text. The statistics were derived from Election Law Enforcement Commission data.