

3. For the Additional Practice Riding Course, the sequence of units identified in Appendix C to this chapter, developed by the MSF as set forth in the [April 2005] **January 2018 MSF BRC Rider Coach Guide**, as amended and supplemented.

4. (No change.)

(c) (No change.)

(d) Except where this chapter indicates otherwise, classroom and range instruction in the MSE course and the facilities and equipment used to provide the course shall be provided in accordance with the standards and requirements established by the MSF for the presentation of the MSF BRC, BRC 2 Suite, and Additional Practice Riding Course units as set forth in the [April 2005] **January 2018 MSF BRC Rider Coach Guide**, as amended and supplemented, and in the May 2003 MSF BRC 2 Suite Rider Coach Range and Classroom Cards, as amended and supplemented.

#### SUBCHAPTER 5. MSE COURSES OFFERED BY PROVIDERS

##### 13:85-5.1 MSE course providers

(a)-(j) (No change.)

(k) The following concern range instructional materials, participant and range safety, and reimbursement requirements:

1.-7. (No change.)

8. All equipment and motorcycles purchased with funds that are reimbursed pursuant to the Motorcycle Safety Education Fund Reimbursement Program must be for safety, education, and training purposes only, as described below:

i.-iii. (No change.)

iv. All motorcycles purchased pursuant to this section must be properly registered and insured by the provider from the time of receipt until the motorcycle is returned **or surrendered** to the possession of the Commission, at a location designated by the Commission. Insurance certificates for motorcycles purchased pursuant to this section must include the Commission as an additional insured party. Every provider must provide the Commission with a copy of a valid declaration of insurance for each motorcycle purchased pursuant to this section, and shall provide the Commission, when any change is made, including renewals, a copy of the insurance declaration indicating such changes. The provider shall be responsible for any and all transportation costs relating to returning **or surrendering** any and all motorcycles; and

v. Should any of the following events occur:

(1)-(4) (No change.)

(5) Provider failing to maintain insurance on any motorcycles purchased or failing to include the Commission as an additional insured party on the insurance policy pursuant to the Motorcycle Safety Education Fund Reimbursement Program, all equipment and motorcycles purchased pursuant to the Motorcycle Safety Education Fund Reimbursement Program shall be returned **or surrendered** immediately to the Commission at a location designated by the Commission and legal title shall transfer to the Commission.

vi. If a provider is required to return **or surrender** all equipment and motorcycles to the Commission in accordance with (k)8v above, the provider shall be responsible for all transportation-related costs and for supplying the Commission with all title and registration documents for the motorcycles being returned **or surrendered** to the Commission. If a provider fails to return **or surrender** all motorcycles, equipment, and title and registration documents purchased pursuant to the Program, to the location designated by the Commission, then the Commission shall cause the motorcycles and equipment to be taken from the location or premises of the provider or the location where such motorcycles are stored or taken by the provider, in addition to any other available remedy. In such event, the provider shall be responsible for any and all transportation costs.

9.-11. (No change.)

## OTHER AGENCIES

(a)

### ELECTION LAW ENFORCEMENT COMMISSION Regulations of the Election Law Enforcement Commission

#### Electronic Filing and Campaign Cost Index Adjustments

**Proposed Repeals and New Rules: N.J.A.C. 19:25-3.1, 3.2, and 3.3**

**Proposed Repeals: N.J.A.C. 19:25-1.10, 20.9B, and 20.9C**

**Proposed Amendments: N.J.A.C. 19:25-1.7, 2.1, 4.4, 4.5, 4.7, 6.2, 8.1, 8.4, 8.6, 8.6A, 8.8, 8.9, 8.10, 8.12, 9.2, 9.3, 9.4, 9.4A, 9.6, 10.2A, 12.2, 12.7, 12.8A, 14.4, 17.3, 19.7, 21.2, 21.3, 21.4, 21.5, and 26.5**

**Proposed New Rule: N.J.A.C. 19:25-3.4**

Authorized By: Election Law Enforcement Commission, Jeffrey M. Brindle, Executive Director.

Authority: N.J.S.A. 19:44A-6.b.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2020-065.

The sitting New Jersey Election Law Enforcement Commission will conduct a **public hearing** concerning this notice of proposal on Tuesday, October 20, 2020, at 11:00 A.M. at:

Election Law Enforcement Commission  
25 South Stockton St., 5th floor  
Trenton, New Jersey 08608

Persons wishing to testify are requested to reserve time to speak by contacting Administrative Assistant Elbia L. Zeppetelli at (609) 292-8700 no later than Friday, October 16, 2020.

Submit written comments by October 21, 2020, to:

Benjamin Kachuriner, Esq., Assistant Legal Counsel  
Election Law Enforcement Commission  
PO Box 185  
Trenton, New Jersey 08625-0185  
Email: [elec.rulemaking@elec.nj.gov](mailto:elec.rulemaking@elec.nj.gov)

The agency proposal follows:

#### Summary

The New Jersey Election Law Enforcement Commission (Commission) proposes repeals, amendments, and new rules to require electronic filing for all individuals and/or entities that file with the Commission, effective January 1, 2021, and to implement campaign cost index adjustments.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Electronic Filing

The Uniform Electronic Transactions Act (UETA), N.J.S.A. 12A:12-17 and 12A:12-18, authorizes State agencies to accept electronically filed reports. In 2004 and 2005, the Commission adopted rules authorizing electronically filed reports for candidates and committees. The Commission then transitioned toward requiring electronic filing for many filers. In 2012, the Commission instituted a mandatory electronic filing program for governmental affairs agents and represented entities. Currently, certain candidates for Governor, Senate, and General Assembly and business entities filing a business entity disclosure statement are also required to file electronically.

As the trend to file electronically continued, the Commission also continued to update and upgrade its electronic filing capabilities. In 2018, the Commission implemented a new electronic filing system for all campaign finance and lobbying reports. By the end of 2020, any

individual or entity required to file will be able to use the Commission’s electronic filing system.

Based on the Commission’s experience with its electronic filing system, the increase in preparation of reports using computer software, and the trend towards requiring electronic filing, the Commission believes that it is reasonable to require electronic filing.

**Campaign Cost Index Adjustments**

Statutory changes to the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (Campaign Act) enacted in 1989 require that the New Jersey Election Law Enforcement Commission (Commission) “establish an index reflecting the changes occurring in the general level of prices of particular goods and services ... directly affecting the overall costs of election campaigning in this State.” N.J.S.A. 19:44A-7.1.b. The Commission must apply that index to adjust, on a quadrennial basis, various statutory components of the gubernatorial public financing program. See N.J.S.A. 19:44A-7.1.c.

In the 1993 amendments to the Campaign Act, the Governor and Legislature directed the Commission to adjust the limits and thresholds pertaining to non-gubernatorial candidates, committees, and political party entities for campaign cost inflation in the same manner as it adjusts the gubernatorial limits and thresholds. See P.L. 1993, c. 65 (N.J.S.A. 19:44A-7.2).

Legislation enacted in 2004 further amended the Campaign Act, leaving in place the automatic adjustment of thresholds and limits within the gubernatorial public financing program and the thresholds applicable to non-gubernatorial candidates and committees, but directing the Commission to recommend changes for the contribution limits relating to non-gubernatorial candidates, political committees, continuing political committees, political party committees, and legislative leadership committees to the Legislature via a quadrennial report. See P.L. 2004, c. 28 (N.J.S.A. 19:44A-7.3). The Commission’s recommendations can be found in the Commission’s 2021 Cost Index Report, issued June 2020.

At this time, the following adjustments, applicable to non-gubernatorial candidates, candidate committees, joint candidates committees, political committees, continuing political committees, political party committees, legislative leadership committees, and other entities, are required: the political committee reporting threshold, the continuing political committee reporting threshold, the joint candidates committee Sworn Statement (Form A-2) reporting thresholds, the candidate committee Sworn Statement (Form A-1) reporting threshold, thresholds for 48-hour notice reporting of contributions and expenditures, the threshold for reporting of independent expenditures, and the maximum penalty amounts which may be imposed by the Commission pursuant to N.J.S.A. 19:44A-20.1 and 22. See N.J.S.A. 19:44A-7.2.

Calculation of the Inflationary Adjustment

Applying the methodology first described in the Commission’s June 1988 “Gubernatorial Cost Analysis Report,” and employed in 1992, 1996, 2000, 2004, 2008, 2012, and 2016 for the gubernatorial public financing program, and in 1996, 2000, 2004, 2008, 2012, and 2016 for non-gubernatorial candidates and committees, the Commission has determined that costs relevant to campaigning in New Jersey have risen in the period following the 2017 gubernatorial general election and has applied an index of 1.128 percent to the various limits and thresholds required to be adjusted.

N.J.S.A. 19:44A-7.1.b requires that the index be weighted according to the impact in the preceding general election for the offices of Governor

Campaign Cost Index (NJCCI) Calculation

EXPENSE CATEGORY	% OF 2017 GENERAL ELECTION SPENDING	FOUR-YEAR INCREASE	COMPONENT OF CAMPAIGN INDEX*
Mass communication costs	70.96	14.7%	10.43%
Other campaign costs	29.04	8.3%	2.41%
Campaign Cost Increase			12.84%

and Lieutenant Governor of the various categories of campaign expenditures. Therefore, determination of the index for 2021 required analysis of the campaign expenditures of the 2017 gubernatorial general election campaigns. Using expenditure information reported by the 2017 gubernatorial general election campaigns, the Commission concluded that 70.96 percent of 2017 general election expenditures were associated with communication of the candidates’ messages to voters. The remaining 29.04 percent of 2017 general election expenditures were spent administering the campaigns, that is, on candidate travel, food and beverage, fundraising, election night activities, compliance, telephone, personnel, and other administrative costs.

As it did in its 1992, 1996, 2000, 2004, 2008, 2012, and 2016 calculation of campaign cost changes, the Commission relied on established indices to evaluate the change in costs during the period between the 2017 and 2021 elections in two expenditure categories: mass communication costs and other campaign costs/administration.

Mass Communication Costs

As in the 2016 cost adjustment, the Commission obtained data from Magna Global of New York City, a McCann affiliate. The percentage increase is derived from the cost-per-thousand indices. These indices measure the change in the cost of advertising targeted to reach 1,000 individuals in the New York and Philadelphia media markets. The index was projected to increase by 14.7 percent between base years 2016-2020. See Cost-Per-Thousand Mass Communication Percentage Increases, Table 10 (June 2020).

Other Campaign Costs/Administration

The change in “all other campaign costs” was calculated using United States Bureau of Labor Statistics (BLS) Consumer Price Index (CPI) data relevant to New Jersey. The Commission used CPI data from the base year 2016 through February 2020. Statistics from the BLS for the purposes of this analysis involve data compiled for two geographic regions: New York/New Jersey (NY/NJ) and Pennsylvania/New Jersey (PA/NJ). The 2016 through 2020 inflationary number is 8.66 percent for NY/NJ and 7.58 percent for PA/NJ. See Consumer Price Index for All Urban Consumers Monthly Index Number for December, Table 11 (June 2020), citing the BLS, Monthly Index Numbers - All Urban Consumers, through February 2020.

In order to determine the percentage increase in the CPI to be used in calculating the Campaign Cost Index for 2021, the percentage change in the two regional numbers was weighted at a ratio of two-to-one to reflect the larger population of the NY/NJ region compared to the PA/NJ region. Therefore, the 8.66 percent (NY/NJ) was doubled, to 17.32 percent. The weighted NY/NJ 17.32 percent was added to the unweighted PA/NJ’s 7.58 percent, totaling 24.90 percent. Finally, the 24.90 percent number was divided by three to yield a weighted CPI of 8.30 percent.

Calculation of the 2021 Campaign Cost Index

As indicated below, the 14.7 percent increase in communication costs was multiplied by the proportion of 2017 campaign expenditures for mass communications, or 70.96 percent, resulting in a communication component of 10.43 percent. The 8.30 percent increase in other campaign costs/administration was multiplied by the proportion of 2017 campaign expenditures on such items, or 29.04 percent, which resulted in a component of 2.41 percent. The 10.43 percent increase in communication costs was then combined with the 2.41 percent increase in other costs to yield a total New Jersey Campaign Cost Index (NJCCI) of 12.84 percent.

\*Percentage of 2017 general election spending multiplied by four-year change in costs.

Based upon the above calculations, the Commission has determined that the cost index multiplier for the limits and thresholds applicable to publicly financed gubernatorial campaigns is 1.128. As is mentioned above, the Legislature has directed the Commission to apply the cost index multiplier for the limits and threshold applicable to publicly financed gubernatorial campaigns to non-gubernatorial candidates, candidate committees, joint candidates committees, political committees, 2021 Adjustments for Non-gubernatorial Candidates and Committees

continuing political committees, political party committees, and legislative leadership committees as well. See N.J.S.A. 19:44A-7.2. The next step in the cost adjustment process is to multiply each specific limit or threshold by the 1.128 index. The resulting amounts are rounded, as statutorily mandated pursuant to N.J.S.A. 19:44A-7.1.b.

Based upon this analysis, the Commission proposes to amend its rules as follows:

Threshold	2017 Amount	Cost Index Multiplier	Unrounded	2021 Rounded Amount
Political Committee Reporting Threshold	\$2,800	1.128	\$3,158.40	\$3,200
Continuing Political Committee Reporting Threshold	\$6,300	1.128	\$7,106.40	\$7,200
48-Hour Notice Contribution Threshold	\$1,600	1.128	\$1,804.80	\$1,900
48-Hour Notice Expenditure Threshold	\$1,600	1.128	\$1,804.80	\$1,900
Joint Candidates Committee Thresholds—2 Candidates	\$9,700	1.128	\$10,941.60	\$11,000
Joint Candidates Committee Thresholds—3 or more Candidates	\$14,000	1.128	\$15,792.00	\$15,800
Form A-3 Threshold*	\$6,300	1.128	\$7,106.40	\$7,200
Form A-1 Threshold & School Board/Write-in Threshold	\$5,100	1.128	\$5,752.80	\$5,800
Independent Expenditure Threshold	\$1,600	1.128	\$1,804.80	\$1,900
Section 20.1 Penalties—First Time	\$8,600	1.128	\$9,700.80	\$9,800
Section 20.1 Penalties—Subsequent	\$17,200	1.128	\$19,401.60	\$19,500
Section 22 Penalties—First Time	\$8,600	1.128	\$9,700.80	\$9,800
Section 22 Penalties—Subsequent	\$17,200	1.128	\$19,401.60	\$19,500

\*See Form A-3 Proposal, below.

#### Form A-3 Proposal

In addition to the statutorily mandated cost index changes listed above, the Commission proposes, as it did in 1996, 2000, 2004, 2008, 2012, and 2017, application of the cost index to adjust the Form A-3 \$6,300 calendar year regulatory threshold. See N.J.A.C. 19:25-9.2, Certified Statement (Form A-3). This rule permits a continuing political committee, a political party committee, or a legislative leadership committee that does not expect to raise or spend in excess of the specified threshold amount to file a certified statement (Form A-3) in lieu of detailed quarterly reports. The purpose of the Form A-3 regulatory filing option is to relieve such a committee from the obligation to file detailed quarterly reports in any year in which its financial activity is minimal. The proposed \$7,200 Form A-3 threshold amount is based upon the statutorily mandated adjustment to \$7,200 as the threshold for quarterly reporting. Because that statutory amount is subject to the campaign cost adjustment process, the Commission proposes that the regulatory threshold amount be similarly adjusted.

#### 48-Hour Notice Threshold Proposal

In 2004, legislation extended 48-hour expenditure notice reporting to political party committees, legislative leadership committees, independent expenditure filers, and candidates, establishing a reporting threshold of \$800.00. See P.L. 2004, c. 33. N.J.S.A. 19:44A-7.2, the statute mandating

the cost-index adjustments, does not specifically include, and was not amended to include, the new 48-hour notice requirements. In adopting rules in 2005 to implement the new statutory requirements, however, the Commission adopted a filing threshold of \$1,000 for these new requirements to be consistent with the other 48-hour notice requirements, which had been adjusted effective January 1, 2005, pursuant to the statutorily mandated cost index adjustments. See 37 N.J.R. 2228(a). The Commission noted at that time that it believed it would be confusing for filing entities and the public to have one filing threshold for some 48-hour expenditure notices and a different threshold for other entities. See 37 N.J.R. 754(a); 2228(a). The Commission adjusted the threshold at N.J.A.C. 19:25-8.6A, 9.4A, and 12.8A in 2008, 2012, and 2016, to maintain a uniform threshold for all 48-hour notices filed with the Commission. For the same reasons, the Commission proposes to adjust this threshold once again.

#### Proposed Amendments

##### **Subchapter 1. General Provisions**

The Commission proposes to amend the following definitions at N.J.A.C. 19:25-1.7, Definitions: “continuing political committee” is proposed for amendment to reflect a reporting threshold increase from \$6,300 to \$7,200; “political committee” is proposed for amendment to reflect a reporting threshold increase from \$2,800 to \$3,200. In addition,

the Commission proposes to add definition for "ELEC eFile" and "electronic filing system" to be consistent with changes to electronic filing.

The Commission proposes to repeal N.J.A.C. 19:25-1.10, Preparation of reports, to be consistent with changes to electronic filing.

#### **Subchapter 2. Administrative**

The Commission proposes to amend N.J.A.C. 19:25-2.1, Office, to update the Commission's address.

#### **Subchapter 3. Electronic Filing**

The Commission proposes to repeal N.J.A.C. 19:25-3.1, 3.2, and 3.3 and proposes new N.J.A.C. 19:25-3.1, 3.2, 3.3, and 3.4 to be consistent with changes to electronic filing.

Proposed new N.J.A.C. 19:25-3.1, Electronically filing reports, requires electronic filing and details which individuals/entities must electronically file.

Proposed new N.J.A.C. 19:25-3.2, Signing electronically filed reports, describes the process to electronically file a report.

Proposed new N.J.A.C. 19:25-3.3, Registration and personal identification number, describes how to obtain a registration and personal identification number and who must obtain one.

Proposed new N.J.A.C. 19:25-3.4, Exemption, explains the process for requesting an exemption to electronic filing.

#### **Subchapter 4. Establishment of Reporting Committees**

The Commission proposes to amend N.J.A.C. 19:25-4.4(a) and (e), pertaining to the establishment of a political committee, to increase the reporting threshold for political committees from \$2,800 to \$3,200.

The Commission proposes to amend N.J.A.C. 19:25-4.5(a), pertaining to the establishment of a continuing political committee, to increase the reporting threshold for continuing political committees from \$6,300 to \$7,200.

The Commission proposes to amend N.J.A.C. 19:25-4.7(d), (f), and (g), pertaining to the establishment of a legislative leadership committee, to be consistent with changes to electronic filing.

#### **Subchapter 6. Receipt and Use of Funds**

The Commission proposes to amend N.J.A.C. 19:25-6.2(c), pertaining to the transfer of funds without deposit, to be consistent with changes to electronic filing.

#### **Subchapter 8. Candidate, Joint Candidates, and Political Committee Reporting**

The Commission proposes to delete N.J.A.C. 19:25-8.1(f), pertaining to the candidate or joint candidates committee election fund reports, as it is being addressed in new Subchapter 3.

The Commission proposes to amend N.J.A.C. 19:25-8.4(a), (b), (c), (e), and (f), pertaining to candidate certified statements (Form A-1 or A-2), to increase the reporting threshold for candidates and single candidate committees from \$5,100 to \$5,800 and for joint candidates committees from \$9,700 and \$14,000 to \$11,000 and \$15,800, respectively, and to be consistent with changes to electronic filing.

The Commission proposes to amend N.J.A.C. 19:25-8.6(a) and (b), pertaining to contributions received immediately before an election, to increase the 48-hour report threshold amount for contributions from \$1,600 to \$1,900 and to remove the provision that allows for 48-hour reports to be faxed.

The Commission proposes to amend N.J.A.C. 19:25-8.6A, Expenditure made immediately before an election, to increase the 48-hour report threshold amount for expenditures from \$1,600 to \$1,900 and to remove the provision that allows for 48-hour reports to be faxed.

The Commission proposes to amend N.J.A.C. 19:25-8.8(a), pertaining to political committee election fund reports, to increase the reporting threshold for political committees from \$2,800 to \$3,200.

The Commission proposes to amend N.J.A.C. 19:25-8.9(a) and (b), pertaining to political committee contributions received immediately before an election, to increase the 48-hour report threshold amount for contributions from \$1,600 to \$1,900 and to remove the provision that allows for 48-hour reports to be faxed.

The Commission proposes to amend N.J.A.C. 19:25-8.10(a) and (b), pertaining to political committee expenditures made immediately before an election, to increase the 48-hour report threshold amount for expenditures from \$1,600 to \$1,900 and to remove the provision that allows for 48-hour reports to be faxed.

The Commission proposes to amend N.J.A.C. 19:25-8.12, Time and place of filing reports, to be consistent with changes to electronic filing.

#### **Subchapter 9. Continuing Political Committee, Political Party Committee, and Legislative Leadership Committee Reporting**

The Commission proposes to amend N.J.A.C. 19:25-9.2, Certified statement (Form A-3), to increase the reporting threshold for continuing political committees from \$6,300 to \$7,200 and to be consistent with changes to electronic filing.

The Commission proposes to amend N.J.A.C. 19:25-9.3, Contributions received immediately before an election, to increase the 48-hour report threshold amount for contributions from \$1,600 to \$1,900 and to remove the provision that allows for 48-hour reports to be faxed.

The Commission proposes to amend N.J.A.C. 19:25-9.4(a) and (b), pertaining to continuing political committee expenditures made immediately before a primary or general election, to increase the 48-hour report threshold amount for expenditures from \$1,600 to \$1,900 and to be consistent with changes to electronic filing.

The Commission proposes to amend N.J.A.C. 19:25-9.4A(a) and (b), pertaining to political party committee and legislative leadership committee expenditures made immediately before a primary or general election, to increase the 48-hour report threshold amount for expenditures from \$1,600 to \$1,900 and to be consistent with changes to electronic filing.

The Commission proposes to amend N.J.A.C. 19:25-9.6(a), pertaining to time and place of filing reports, to be consistent with changes to electronic filing.

#### **Subchapter 10. Contribution Reporting**

The Commission proposes to amend N.J.A.C. 19:25-10.2A(b) and (c), pertaining to reporting of occupation and employer information, to include examples of descriptions in the ELEC eFile system.

#### **Subchapter 12. Reporting of Expenditures; Independent Expenditures**

The Commission proposes to amend N.J.A.C. 19:25-12.2(b), pertaining to expenditure reporting, to include examples of satisfactory descriptions in the ELEC eFile system.

The Commission proposes to amend N.J.A.C. 19:25-12.7(b), pertaining to independent expenditures defined, to increase the 48-hour report threshold from \$1,600 to \$1,900.

The Commission proposes to amend N.J.A.C. 19:25-12.8A(a) and (b), pertaining to independent expenditures made immediately before an election, to increase the 48-hour report threshold from \$1,600 to \$1,900 and remove the provision that allows for 48-hour reports to be faxed.

#### **Subchapter 14. Recall Elections**

The Commission proposes to amend N.J.A.C. 19:25-14.4(e), pertaining to recall committee depository and filing requirements, to increase the reporting threshold for recall committees from \$5,100 to \$5,800.

#### **Subchapter 17. Complaints and Other Proceedings; Violations**

The Commission proposes to amend N.J.A.C. 19:25-17.3(a), (b), and (c), pertaining to penalties, to increase the penalty for a violation of the Campaign Act for a first offense from \$8,600 to \$9,800, and for a second offense from \$17,200 to \$19,500.

#### **Subchapter 19. Personal Financial Disclosure Statements**

The Commission proposes to amend N.J.A.C. 19:25-19.7, Time and place of filing, to be consistent with changes to electronic filing and for the purpose of clarity. The Commission proposes to remove N.J.A.C. 19:25-19.7(f) because the electronic filing system will place the personal financial disclosure statement on the Commission's website.

#### **Subchapter 20. Represented Entities and Governmental Affairs Agents**

The Commission proposes to repeal N.J.A.C. 19:25-20.9B, Application for registration number and personal identification number,

because electronic filing is addressed at Subchapter 3 and this rule is no longer necessary.

The Commission proposes to repeal N.J.A.C. 19:25-20.9C, Mandatory electronic filing, because electronic filing is addressed at Subchapter 3 and this rule is no longer necessary.

#### **Subchapter 21. Professional Campaign Fund Raisers**

The Commission proposes to amend N.J.A.C. 19:25-21.2(b) and (c), pertaining to registration, to be consistent with changes to electronic filing.

The Commission proposes to amend N.J.A.C. 19:25-21.3(a), pertaining to quarterly reports, to be consistent with changes to electronic filing.

The Commission proposes to amend N.J.A.C. 19:25-21.4(a), pertaining to annual fee, for the purposes of clarity.

The Commission proposes to amend N.J.A.C. 19:25-21.5, Termination, to be consistent with changes to electronic filing.

#### **Subchapter 26. Contribution Disclosure by For-Profit Entities**

The Commission proposes to amend N.J.A.C. 19:25-26.5, Filing the business entity annual disclosure statement, to be consistent with changes to electronic filing.

### **Social Impact**

#### Electronic Filing

The Commission's proposed new rules requiring electronic filing will have a positive social impact on candidates, committees, and all other individuals and/or entities that file with the Commission. The Commission believes that its electronic filing system provides flexibility, enhances timely reporting, reduces reliance on hand-delivery or postal delivery of reports, and promotes accuracy and efficiency. Further, the use of the electronic filing system enhances disclosure because it specifically conforms to statutory and regulatory requirements. The Commission will continue to provide training sessions, support through a help desk, and maintain a user-friendly website, which will ease the transition for individuals and entities who are not currently filing electronically.

#### Campaign Cost Index Adjustments

The Commission's proposed amendments regarding the cost index adjustments will affect candidates, candidate committees, joint candidates committees, recall committees, political committees, continuing political committees, political party committees, legislative leadership committees, treasurers, and persons and entities making contributions to candidates and committees, and expenditures to support or defeat candidates, committees, and public questions. The proposed amendments will provide notice of the increased thresholds that trigger the obligation to report financial activity to the Commission. The adjusted limits are responsive to changes in the economy and will have a beneficial impact because they permit spending by New Jersey candidates and committees to keep pace with economic changes. The limits, which have been adjusted largely upward in response to inflation, continue to serve the important statutory public policies of eliminating undue influence upon candidates from unlimited contributions and requiring reporting of political contributions and expenditures.

The proposed amendment to adjust the threshold that permits a committee to file the Form A-3 is beneficial because it reduces the filing burden on those committees that have minimal financial activity. The Commission believes that the proposed amendments to maintain a uniform threshold for all 48-hour notices filed with the Commission will have a positive social impact by serving as a "gap filler" to notify the public of large contributions and expenditures that would otherwise not be reported until after an election.

### **Economic Impact**

#### Electronic Filing

The proposed new rules to electronic filing are not expected to impose any additional costs on individuals and/or entities who file with the Commission and may increase efficiency in the reporting process by requiring electronic filing. The electronic filing system is provided at no charge, and its required use is expected to reduce paperwork and to

simplify the reporting process. Any economic impact on the regulated community is outweighed by the considerable increase in the Commission's efficiency, by eliminating the need of staff to scan paper documents or input data manually for public disclosure on the Commission's website and computer analysis of reported information.

#### Campaign Cost Index Adjustments

The principal parties to be affected by the adjustments to the thresholds in the Campaign Act are persons making independent expenditures in elections, candidates, candidate committees, joint candidates committees, recall committees, political committees, continuing political committees, political party committees, legislative leadership committees, treasurers of these entities, and contributors to these entities.

By adjusting the reporting thresholds in the Campaign Act to account for inflation in the costs of campaigns, the Commission's amendments continue to relieve candidates and certain committees with low levels of financial activity of the requirements to file detailed disclosure reports.

The Commission does not anticipate that adjustments to the 48-hour notice threshold for political party committees, legislative leadership committees, independent expenditure filers, or candidates will have any additional economic impact upon these entities, as they have been required to file 48-hour notices since 2005.

### **Federal Standards Statement**

A Federal standards analysis is not required because the proposed amendments concern New Jersey individuals and/or entities that file with the Commission. The proposed amendments are not subject to any Federal requirements or standards.

### **Jobs Impact**

The proposed amendments are not expected to have an impact on the generation or loss of jobs.

### **Agriculture Industry Impact**

The proposed amendments are not expected to have any impact on the agriculture industry in the State of New Jersey.

### **Regulatory Flexibility Statement**

#### Electronic Filing

The proposed new rules to electronic filing impose reporting, recordkeeping, and other compliance requirements on individuals and/or entities that file with the Commission concerning the electronic filing of reports and certain other submissions. Some of those subject to the requirements may be small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The requirements are not expected to impose any additional costs. It is not anticipated that any professional services will have to be employed in order to comply with the requirements. As the requirements are intended to simplify the reporting process and reduce paperwork to the benefit of both the Commission and those reporting, no differing compliance requirements are provided based upon business size.

#### Campaign Cost Index Adjustments

The Commission's proposed amendments regarding cost index adjustments do not impose any recordkeeping, reporting, or compliance requirements on small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. While it is conceivable that small businesses may be employed to provide goods or services to persons making independent expenditures in elections, candidates, candidate committees, joint candidate committees, political committees, continuing political committees, political party committees, and legislative leadership committees, the reporting and recordkeeping requirements generated by the amendments are solely on the candidates or committees that are purchasing such goods and services.

### **Housing Affordability Impact Analysis**

The proposed amendments will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the proposed amendments to electronic filing and to campaign finance thresholds for non-gubernatorial candidates would evoke a change in the average costs associated with housing.

**Smart Growth Development Impact Analysis**

The proposed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments concern New Jersey candidates, committees, and all other individuals and/or entities that file with the Commission.

**Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Commission has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State.

**Full text** of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 19:25-1.10, 3.1, 3.2, 3.3, 20.9B, and 20.9C.

**Full text** of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## SUBCHAPTER 1. GENERAL PROVISIONS

## 19:25-1.7 Definitions

The following words and terms, when used in this chapter and in the interpretation of the Act, shall have the following meanings unless a different meaning clearly appears from the context.

...  
 “Continuing political committee” includes any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, including a political club, political action committee, civic association or other organization, which in any calendar year contributes, or expects to contribute, at least [\$6,300] **\$7,200** to aid or promote the candidacy of an individual, or the candidacies of individuals, for elective public office, or the passage or defeat of a public question or public questions, and which may be expected to make contributions toward such aid or promotion or passage or defeat during a subsequent election, provided that the group, corporation, partnership, association, or other organization has been determined by the Commission to be a continuing political committee in accordance with N.J.S.A. 19:44A-[8(b)]**8.b**. A continuing political committee does not include:

1.-2. (No change.)

...  
 “ELEC eFile” means the web-based system available on the Commission’s website used to file Forms R-1, R-3, G-1, P-1, and 48-HR.

...  
 “Electronic filing system” means all online systems available on the Commission’s website [www.elec.nj.gov](http://www.elec.nj.gov) for electronically filing or electronically submitting reports, notices, forms, applications, and other documents.

...  
 “Political committee” means any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, which is organized to, or does, aid or promote the nomination, election, or defeat of any candidate or candidates for public office, or which is organized to, or does aid or promote the passage or defeat of a public question in any election if the persons, corporation, partnership, or incorporated or unincorporated association raises or expends [\$2,800] **\$3,200** or more to so aid or promote the nomination, election, or defeat of a candidate or candidates or the passage or defeat of a public question. A group or association organized to promote the candidacy of one or more candidates or aid or defeat the passage of a public question, without a term of existence substantially longer than the campaign, is a political committee. Political committee does not include:

1.-5. (No change.)

...

## 19:25-1.10 (Reserved)

## SUBCHAPTER 2. ADMINISTRATIVE

## 19:25-2.1 Office

The office of the Election Law Enforcement Commission is located at [28 W. State Street] **25 South Stockton Street**, Trenton, New Jersey. All correspondence may be sent to the following address only: Election Law Enforcement Commission, PO Box 185, Trenton, New Jersey 08625-0185. The telephone number is: (609) 292-8700. The Commission maintains an Internet site at [www.elec.state.nj.us](http://www.elec.state.nj.us).

## SUBCHAPTER 3. ELECTRONIC FILING

## 19:25-3.1 Electronically filing reports

(a) As of January 1, 2021, and thereafter, all individuals and entities required to file reports with the Commission pursuant to the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq., the Uniform Recall Election Law, N.J.S.A. 19:27A-1 et seq., the Legislative and Governmental Process Activities Disclosure Act, N.J.S.A. 52:13C-18 et seq., and N.J.S.A. 19:44B-1 et seq., referred to as to the Gubernatorial Legislative Disclosure Statement Act, shall file all reports using the electronic filing system available on the Commission’s website.

(b) For the purposes of this subchapter, “report” means all reports, statements, certifications, forms, notices, applications, and other documents required to be filed pursuant to the statutes listed at (a) above and this chapter.

(c) Represented entities and governmental affairs agents shall continue to use the electronic filing system to file all reports required at N.J.A.C. 19:25-20.

(d) Candidates and treasurers for candidate committees, joint candidates committees, political committees, treasurers and chairpersons for continuing political committees, political party committees, and legislative leadership committees are not required to use the electronic filing system to file the quarterly report due January 15, 2021, reporting activity from October 1, 2020 through December 31, 2020.

## 19:25-3.2 Signing electronically filed reports

All reports filed or submitted using the electronic filing system that require a signature must be electronically signed or signed and certified by entering a registration number and personal identification number (PIN) obtained pursuant to N.J.A.C. 19:25-3.3.

## 19:25-3.3 Registration and personal identification number

(a) All registration numbers and personal identification numbers (PINs) must be obtained by completing the application form available on the Commission’s website and submitting the application using the electronic filing system.

(b) All candidates, treasurers, and chairpersons of candidate committees and joint candidates committees must each obtain a registration number and PIN.

(c) All treasurers and chairpersons of political committees, continuing political committees, political party committees, and legislative leadership committees must each obtain a registration number and PIN.

(d) Any deputy treasurer who intends to sign, or sign and certify, a report must obtain a registration number and PIN.

(e) All professional campaign fund raisers must obtain a registration number and PIN.

(f) All represented entities and governmental affairs agents must obtain a registration number and PIN.

(g) Any person or entity reporting independent expenditures pursuant to N.J.A.C. 19:25-12.8 and 12.8A must obtain a registration number and PIN.

## 19:25-3.4 Exemption

(a) An exemption from N.J.A.C. 19:25-3.1(a) may be requested, if filing electronically imposes an undue hardship. Such request shall be in writing and must include the following information:

1. The full name, mailing address, daytime telephone number, and email address (if possible) of the person requesting the exemption and whether that person is a candidate or reporting independent expenditures;

2. If the request is being made on behalf of a committee, provide the full name, mailing address, daytime telephone number, and email address (if possible) of the requestor and the full name and type of committee or entity; and

3. A full and complete statement of all pertinent facts relevant to the basis for requesting an exemption.

(b) The Executive Director of the Commission, or designee, will issue a response to the request within five business days after receipt. The Executive Director may request additional information from the individual or entity.

(c) The request will not be considered received until all information set forth at (a) above, and any additional information requested by the Executive Director, is provided.

(d) If an exemption is granted, that exemption applies only to the election or calendar year set forth in the Executive Director's response.

(e) Exemptions to electronic filing do not affect filing dates or reporting time frames; reports and notices must be filed on the dates established for filing pursuant to Commission rules.

#### SUBCHAPTER 4. ESTABLISHMENT OF REPORTING COMMITTEES

##### 19:25-4.4 Establishment of a political committee

(a) A political committee shall be established by appointing a treasurer and establishing a depository no later than the date on which the political committee first receives any contribution or makes or incurs any expenditure that, when combined with other contributions received in an election, or expenditures made or incurred in an election, totals [\$2,800] **\$3,200** or more.

(b)-(d) (No change.)

(e) A political committee shall file a registration statement and designation of campaign depository for each election in which it raises or expends [\$2,800] **\$3,200** or more to aid or promote the nomination, election, or defeat of a candidate or candidates, or the passage or defeat of a public question.

(f) (No change.)

##### 19:25-4.5 Establishment of a continuing political committee

(a) An organization shall become eligible to be certified by the Commission as a continuing political committee by appointing an organizational treasurer and organizational depository no later than the date on which the prospective continuing political committee first receives any contribution or makes or incurs any expenditure that when combined with other contributions received or expenditures made in a calendar year totals [\$6,300] **\$7,200** or more.

(b)-(e) (No change.)

##### 19:25-4.7 Establishment of a legislative leadership committee

(a)-(c) (No change.)

(d) No later than [ten] **10** days after a legislative leadership committee is established, the legislative leadership committee shall file a registration statement and designation of organizational depository (Form D-5) containing the following information for each organizational depository the legislative leadership committee has established:

1.-5. (No change.)

6. A copy of the bylaws adopted by the legislative leadership committee **should be sent to the Commission under separate cover**, or, if none have been adopted, a statement to that effect.

(e) (No change.)

(f) Within 30 days after a legislative leadership committee is established, the organizational treasurer shall file and certify as true and correct a [written] notice [(Form D-5N)] of the membership **(Form D-5N)** containing the names, mailing addresses, and telephone numbers of the chairperson, the vice-chairperson, and all other members of the committee.

(g) The legislative leadership committee, or its organizational treasurer, shall file an amendment to the registration statement and designation of organizational depository, or to the [written] notice of membership, within three days of the occurrence of any change in any of the information required [by] **at** (d) or (f) above.

#### SUBCHAPTER 6. RECEIPT AND USE OF FUNDS

##### 19:25-6.2 Transfer of funds without deposit

(a)-(b) (No change.)

(c) A campaign or organizational treasurer making any transfer pursuant to this section shall make a written record of all non-deposited funds so transferred, identifying those funds as to source and amount in the same manner as deposited funds, and a copy of that written record shall be **sent to the Commission under separate cover** [included in the next campaign or quarterly report filed by the entity that made the transfer].

#### SUBCHAPTER 8. CANDIDATE, JOINT CANDIDATES, AND POLITICAL COMMITTEE REPORTING

##### 19:25-8.1 Candidate or joint candidates committee election fund reports

(a)-(e) (No change.)

(f) A candidate for nomination for, or for election to, the office of Governor and for election to the office of Lieutenant Governor, the office of member of the Senate, or the office of member of the General Assembly shall, in the circumstances described in N.J.A.C. 19:25-3.3, be required to file election fund reports using electronic filing software supplied to the candidate by the Commission.]

##### 19:25-8.4 Candidate certified statements (Form A-1 or A-2)

(a) There shall be no obligation to file the election fund reports referred to [in] **at** N.J.A.C. 19:25-8.1 on behalf of any candidate committee of a candidate who files no later than five months after the date on which the committee is established, or no later than the 29th day before the election in which the candidate is seeking office, whichever is earlier, a certified statement (Form A-1) to the effect that the total amount expended or to be expended on behalf of his or her candidacy by the candidate committee, or by any candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or person shall not, in the aggregate, exceed [\$5,100] **\$5,800** in that election.

(b) There shall be no obligation to file the election fund reports referred to [in] **at** N.J.A.C. 19:25-8.1 on behalf of a joint candidates committee if the joint committee files no later than five months after the date on which the committee is established, or no later than the 29th day before the election in which the joint candidates are seeking office, whichever is earlier, a certified statement (Form A-2) to the effect that the total amount to be expended on behalf of the joint candidacies by the joint candidates committee or by any candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or person shall, not in the aggregate, exceed the following amounts:

1. In the case of a joint candidates committee consisting of two candidates, [\$9,700] **\$11,000** in the election; or

2. In the case of a joint candidates committee consisting of three or more candidates, [\$14,000] **\$15,800** in the election.

(c) If a candidate committee or joint candidates committee [which] **that** has filed a certified statement receives any contribution from any one source aggregating more than \$300.00, or receives a currency contribution in any amount, it shall file a report [which] **(Form C-1)** that shall provide the name and mailing address of the source, the date or dates received, and the aggregate total amount of contributions therefrom, and where the source is an individual, the occupation of the individual and the name and mailing address of the individual's employer. The report shall be signed by the **candidate or** campaign treasurer and filed no later than:

1.-4. (No change.)

(d) (No change.)

(e) A candidate shall not be eligible to file a sworn statement (Form A-1) in an election if that candidate controls or retains campaign funds from

any prior election for the same office in an amount that exceeds [\$5,100] **\$5,800**.

(f) A joint candidates committee consisting of two candidates shall not be eligible to file a sworn statement (Form A-2) in an election if the candidates comprising that joint candidates committee control or retain campaign funds from any prior election for the same offices in an amount that exceeds [\$9,700] **\$11,000**, or in the case of a joint candidates committee consisting of more than two candidates, if the candidates comprising the joint candidates committee retain funds from any prior election for the same offices in an amount that exceeds [\$14,000] **\$15,800**.

19:25-8.6 Contributions received immediately before an election

(a) A **candidate, or a** campaign treasurer of a candidate committee[,] or joint candidates committee, shall file a [report] **notice** (Form C-1 **or 48-HR**) [or other written notice] of any contribution in excess of [\$1,600] **\$1,900**, or any aggregate contributions from a contributor, which total in excess of [\$1,600] **\$1,900**, received on or after the 13th day preceding the date of an election in which the candidate, or joint candidates, is, or are, seeking election, and received up to and including the date of the election, which [report] **notice** shall contain:

1.-5. (No change.)

(b) The [report or written] notice described in (a) above shall be filed with the Commission within 48 hours of receipt of the contribution[,] and shall be signed by the campaign treasurer or a candidate. [Use of electronic facsimile transmission (that is, fax) to file the report or written notice is permitted.]

19:25-8.6A Expenditure made immediately before an election

(a) A **candidate, or a** campaign treasurer of a candidate committee[,] or joint candidates committee, shall file a [report] **notice** (Form E-1 **or 48-HR**) [or other written notice] with the Commission of an expenditure of money or other thing of value in excess of [\$1,600] **\$1,900**, or aggregate expenditures that total in excess of [\$1,600] **\$1,900**, made, incurred, or authorized by the candidate committee or joint candidates committee to support or defeat a candidate in an election, or to aid the passage or defeat of any public question, during the period of time between the 13th day prior to the election and the date of the election.

(b) The [report or written] notice described in (a) above shall be signed by the campaign treasurer **or the candidate** and filed with the Commission within 48 hours of the making, authorizing, or incurring of the expenditure, or aggregate expenditures, and shall include the following:

1.-3. (No change.)

[(c) Use of electronic facsimile transmission (that is, fax) to file the report or written notice described in (a) above is permitted.]

[(d)] (c) There shall be no obligation to file the [report or other written] notice in (a) above if an expenditure has been made by a candidate to support his or her own candidacy or by joint candidates to support their own candidacies, or to support or defeat a candidate for the same office in the same election. For the purposes of this subsection, the offices of member of the Senate and member of the General Assembly shall be deemed to be the same office in a legislative district; the offices of member of the board of chosen freeholders and county executive shall be deemed to be the same office in a county; and the offices of mayor and member of the municipal governing body shall be deemed to be the same office in a municipality.

19:25-8.8 Political committee election fund reports

(a) A political committee receiving or expending [\$2,800] **\$3,200** or more in an election shall file election fund reports of all contributions received, all expenditures made, and all other financial transactions of its election fund subject to reporting, and such reports shall be filed on the same dates and be pertinent to the same periods of time as set forth [in] **at** N.J.A.C. 19:25-8.1 for candidate committee reports.

(b) (No change.)

19:25-8.9 Political committee contributions received immediately before an election

(a) A campaign treasurer of a political committee shall file a [report] **notice** (Form C-1 **or 48-HR**) [or other written notice] of any contribution in excess of [\$1,600] **\$1,900**, or any aggregate contributions from a contributor, which total in excess of [\$1,600] **\$1,900**, received on or after

the 13th day preceding the date of the election and received up to and including the date of the election, which [report] **notice** shall contain:

1.-5. (No change.)

(b) The [report or written] notice described in (a) above shall be filed with the Commission within 48 hours of receipt of the contribution[,] and shall be signed by the campaign treasurer. [Use of electronic facsimile transmission (that is, fax) to file the report or written notice is permitted.]

19:25-8.10 Political committee expenditures made immediately before an election

(a) A campaign treasurer of a political committee shall file a [report] **notice** (Form E-1 **or 48-HR**) of any expenditure of money or other thing of value in excess of [\$1,600] **\$1,900** made, incurred, or authorized by the political committee to support or defeat a candidate in an election, or to aid the passage or defeat of a public question, which expenditure is made, incurred, or authorized on or after the 13th day preceding the date of the election and up to and including the date of the election. The [report] **notice** shall contain:

1.-3. (No change.)

(b) The [report or written] notice described in (a) above shall be filed with the Commission within 48 hours of the making of the expenditure[,] and shall be signed by the campaign treasurer. [Use of electronic facsimile transmission (that is, fax) to file the report or written notice is permitted.]

19:25-8.12 Time and place of filing reports

(a) All reports required to be filed must be received [at] **by** the Commission [offices] no later than 5:00 P.M. on the date the report is due for filing in order to be deemed timely filed. [An original and two copies of a paper report or one transmission of an electronically transmitted report is required. A report submitted by United States mail postmarked on or before a filing date but not received until after 5:00 P.M. of the date the report is due for filing will not be deemed timely filed. A report or written notice of contributions received immediately before an election made pursuant to N.J.A.C. 19:25-8.6 or 8.9, or a report or written notice of expenditures made immediately before an election pursuant to N.J.A.C. 19:25-8.10, may be filed by electronic facsimile transmission (that is, fax).]

[(b) No candidate for elective public office shall be required to file a duplicate copy of the campaign treasurer's report with the county clerk of the county in which the candidate resides.]

[(c)] (b) (No change in text.)

#### SUBCHAPTER 9. CONTINUING POLITICAL COMMITTEE, POLITICAL PARTY COMMITTEE, AND LEGISLATIVE LEADERSHIP COMMITTEE REPORTING

19:25-9.2 Certified statement (Form A-3)

(a) There shall be no obligation to file the quarterly reports referred to [in] **at** N.J.A.C. 19:25-9.1 on behalf of a continuing political committee, political party committee, or legislative leadership committee that files no later than January 15 of a calendar year a certified statement (Form A-3) to the effect that the total amount to be raised or expended in that calendar year shall not exceed [\$6,300] **\$7,200**. Such committee is required to file the certified statement (Form A-3) notwithstanding that the committee did not receive any contribution or make any expenditure in a calendar year.

(b) In the event **that** a continuing political committee, political party committee, or legislative leadership committee files a certified statement (Form A-3) pursuant to (a) above, and total expenditures exceed [\$6,300] **\$7,200** during the calendar year for which the statement was filed, the committee shall:

1. File a quarterly report pursuant to N.J.A.C. 19:25-9.1 on the date relevant to the calendar year quarter in which [\$6,300] **\$7,200** of expenditures was exceeded, and that quarterly report shall include all contributions received and all expenditures made from the beginning of the calendar year; and

2. (No change.)

(c) If a continuing political committee, political party committee, or legislative leadership committee, which has filed a certified statement for a calendar year pursuant to (a) above, receives during any calendar year quarter a contribution, or aggregate contributions from a contributor, that

exceeds the sum of \$300.00, or receives a currency contribution in any amount, that committee shall file on the dates provided [in] at N.J.A.C. 19:25-9.1 a report (**Form C-3**) containing the following information:

1.-4. (No change.)

19:25-9.3 Contributions received immediately before an election

(a) An organizational treasurer of a continuing political committee, a political party committee, or a legislative leadership committee shall file a [report or other written] notice (**Form C-3 or 48-HR**) with the Commission of any contribution in excess of [\$1,600] **\$1,900**, or any aggregate contributions from a contributor, which total in excess of [\$1,600] **\$1,900**, received after the closing date of its most recent quarterly report and on or before the date of an election in which the committee has made or intends to make any contribution or expenditure to aid or promote any candidate or the passage or defeat of any public question. The closing dates of quarterly reports are set forth [in] at N.J.A.C. 19:25-9.1(a).

(b) The [report or written] notice described in (a) above shall be filed with the Commission within 48 hours of receipt of a contribution in excess of [\$1,600] **\$1,900**, or within 48 hours of receipt of aggregate contributions from a contributor, which total in excess of [\$1,600] **\$1,900**, except that all such contributions or aggregate contributions received prior to the 13th day preceding the date of an election may be reported together on a [report or written] notice to be filed with the Commission no later than the 11th day before that election. A contribution or aggregate contributions from a contributor totaling in excess of [\$1,600] **\$1,900** received on or after the 13th day before the election must be reported within 48 hours of receipt.

(c) The [report or written] notice described in (a) above shall contain the following information:

1.-5. (No change.)

(d) The [report or written] notice described in (a) above shall be signed by the organizational treasurer. [Use of electronic facsimile transmission (that is, fax) to file the report or written notice is permitted.]

19:25-9.4 Continuing political committee expenditures made immediately before a primary or general election

(a) An organizational treasurer of a continuing political committee shall file a [report] notice (**Form E-3 or 48-HR**) of an expenditure of money or other thing of value in excess of [\$1,600] **\$1,900**, or aggregate expenditures that total in excess of [\$1,600] **\$1,900**, made, incurred, or authorized in a primary or general election by the continuing political committee to support or defeat a candidate, or to aid the passage or defeat of a public question, which expenditure is, or aggregate expenditures are, made, incurred, or authorized after March 31 and on or before the day of the primary election, or after September 30, and on or before the day of the general election. The [report] notice shall contain:

1.-3. (No change.)

(b) The [report or written] notice described in (a) above shall be signed by the organizational treasurer and filed with the Commission within 48 hours of the making, authorizing, or incurring of the expenditure, or aggregate expenditures, except that all expenditures or aggregate expenditures made, incurred, or authorized before the 13th day preceding the date of a primary or general election may be reported together on a [report or written] notice to be filed no later than the 11th day before that election. A [report] notice of an expenditure or aggregate expenditures in excess of [\$1,600] **\$1,900** made, incurred, or authorized on or after the 13th day preceding the date of a primary or general election shall be filed within 48 hours of receipt. [Use of electronic facsimile transmission (that is, fax) to file the report or written notice is permitted.]

19:25-9.4A Political party committee and legislative leadership committee expenditures made immediately before a primary or general election

(a) An organizational treasurer of a political party committee or an organizational treasurer of a legislative leadership committee shall file a [report] notice (**Form E-3 or 48-HR**) [or written notice] of an expenditure of money or other thing of value in excess of [\$1,600] **\$1,900**, or aggregate expenditures that total in excess of [\$1,600] **\$1,900**, made, incurred, or authorized in a primary or general election by the political party committee or legislative leadership committee to support or defeat a candidate, or to aid the passage or defeat of a public question, which

expenditure is, or aggregate expenditures are made, incurred, or authorized after March 31 and on or before the day of the primary election, or after September 30 and on or before the day of the general election. The [report] notice shall contain:

1.-3. (No change.)

(b) The [report or written] notice described in (a) above shall be signed by the organizational treasurer and filed with the Commission within 48 hours of the making, authorizing, or incurring of the expenditure, or aggregate expenditures, except that all expenditures or aggregate expenditures made, incurred, or authorized before the 13th day preceding the date of a primary or general election may be reported together on a [report or written] notice to be filed no later than the 11th day before that election. A [report] notice of an expenditure or aggregate expenditures in excess of [\$1,600] **\$1,900** made, incurred, or authorized on or after the 13th day preceding the date of a primary or general election shall be filed within 48 hours of receipt. [Use of electronic facsimile transmission (that is, fax) to file the report or written notice is permitted.]

19:25-9.6 Time and place of filing reports

(a) All reports required to be filed must be received [at] by the Commission [offices] no later than 5:00 P.M. on the date the report is due for filing in order to be deemed timely filed. [An original and two copies of a paper report or one transmission of an electronically transmitted report is required. A report submitted by United States mail postmarked on or before a filing date but not received until after 5:00 P.M. of the date the report is due for filing will not be deemed timely filed. A report or written notice pursuant to N.J.A.C. 19:25-9.3 of contributions received immediately before an election, or a report of written notice pursuant to N.J.A.C. 19:25-9.4 of expenditures made immediately before an election, may be made by electronic facsimile transmission (that is, fax).]

(b) (No change.)

## SUBCHAPTER 10. CONTRIBUTION REPORTING

19:25-10.2A Reporting of occupation and employer information

(a) (No change.)

(b) The following occupation information shall be reported for each contributor who is an individual:

1. For an individual who earns a source of livelihood, a description of the individual's source of livelihood shall be provided, such as "florist," "attorney," ["doctor,"] "**physician,**" "**business owner,**" "**law enforcement,**" "**hospitality,**" "custodian," or "electrician." Descriptions such as "self-employed," "owner," or "sole proprietor" are insufficient.

2. For an individual who does not have a source of livelihood, a description, such as "retired," "student," or ["none"] "**unemployed**" shall be reported, but in all cases [some written] a description shall be provided and the information shall not be left blank or empty.

(c) The following employer information shall be reported for each contributor who is an individual:

1. For an individual who earns a source of livelihood, the name of the employer shall include the legal or trade name under which the employer does business. In the event the individual contributor's source of income or his or her livelihood is derived from his or her own business or corporation, the name of the employer shall include, in addition to any description, such as "self-employed," "**business owner,**" or "sole proprietor," the legal or trade name under which the individual does business. The employer's mailing address shall include the address from which the business is operated whether or not it is the same as the address reported for the contributor.

2. For an individual who does not earn a source of livelihood and a description, such as "retired," "student," or ["none"] "**unemployed**" was supplied, employer information is not required.

## SUBCHAPTER 12. REPORTING OF EXPENDITURES; INDEPENDENT EXPENDITURES

19:25-12.2 Expenditure reporting

(a) (No change.)

(b) In describing the purpose of an expenditure pursuant to (a)3 above, the specific election-related reason for the expenditure shall be provided. Descriptions, such as "operations," "campaign expense," "petty cash," or

“reimbursement” do not satisfy the reporting requirement because they do not provide any specific election-related information. Examples of satisfactory descriptions include such information as “newspaper advertising,” “[telephone expense,]” “**telephone-cell phones,**” “postage,” “printing [of campaign flyers],” “[headquarter] **office rental,**” and similarly specific items.

(c) (No change.)

#### 19:25-12.7 Independent expenditures

(a) (No change.)

(b) An expenditure by a person from his, her, or its own funds of more than ~~[\$1,600]~~ **\$1,900** in an election to support or defeat a candidate, which expenditure is made without the cooperation or prior consent of, or without consultation with, or at the request or suggestion of, a candidate or any person or committee acting on behalf of the candidate, or an expenditure by a person from his, her, or its own funds of more than ~~[\$1,600]~~ **\$1,900** for a communication to aid the passage or defeat of a public question, which expenditure is made without consultation with or at the suggestion of any individual or committee supporting or opposing a public question, is an independent expenditure.

(c) (No change.)

#### 19:25-12.8A Independent expenditures made immediately before an election

(a) A person who makes an independent expenditure in an amount in excess of ~~[\$1,600]~~ **\$1,900**, as defined [in] **at** N.J.A.C. 19:25-12.7(b), from his, her, or its own funds during the period of time between the 13th day prior to an election and the date of the election, shall file a [written] notice (**Form IND, E-1 or 48-HR**) of the expenditure with the Commission, which notice shall include the following:

1.-3. (No change.)

(b) The [report or written] notice described in (a) above shall be filed with the Commission within 48 hours of the making, authorizing, or incurring of the independent expenditure. [Use of electronic facsimile transmission (that is, fax) to file the report or written notice is permitted.]

### SUBCHAPTER 14. RECALL ELECTIONS

#### 19:25-14.4 Recall committee depository and filing requirements

(a)-(d) (No change.)

(e) There shall be no obligation to file the election fund reports referred to in (c) and (d) above on behalf of any recall committee that files no later than on the first date established for candidate committee reports by N.J.A.C. 19:25-8.3(b) falling after the date of the establishment of the recall committee depository, or no later than the 29th day before the recall election, whichever is earlier, a certified statement to the effect that the total amount expended or to be expended on behalf of the recall committee in the recall election shall not in the aggregate exceed ~~[\$5,100]~~ **\$5,800**.

### SUBCHAPTER 17. COMPLAINTS AND OTHER PROCEEDINGS; VIOLATIONS

#### 19:25-17.3 Penalties

(a) Any person, including any candidate, treasurer, candidate committee or joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, charged with the responsibility under the terms of the Act, for the preparation, certification, filing, or retention of any reports, records, notices, or other documents, who fails, neglects, or omits to prepare, certify, file, or retain any such report, record, notice, or document at the time or during the time period, as the case may be, and in the manner prescribed by law, or who omits or incorrectly states or certifies any of the information required by law to be included in such report, record, notice, or document, any person who proposes to undertake or undertakes a public solicitation, testimonial affair, or other activity relating to contributions or expenditures in any way regulated by the provisions of the Act who fails to comply with those regulatory provisions, and any other person who in any way violates any of the provisions of the Act shall, in addition to any other penalty provided by law, be liable to a penalty of not more than ~~[\$8,600]~~ **\$9,800** for the first offense and not more than ~~[\$17,200]~~ **\$19,500** for the second and each subsequent offense.

(b) Any corporation or labor organization of any kind, which provides to any of its officers, directors, attorneys, agents, or other employees any additional increment of salary, bonus, or monetary remuneration of any kind, which, in whole or in part, is intended by that corporation or labor organization to be used for the express purpose of paying or making a contribution, either directly or indirectly, of money or other thing of value to any candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee shall, in addition to any other penalty provided by law, be liable to a penalty of not more than ~~[\$8,600]~~ **\$9,800** for the first offense and not more than ~~[\$17,200]~~ **\$19,500** for the second and each subsequent offense.

(c) A candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or person that makes, incurs, or authorizes an expenditure for the purpose of financing a communication aiding or promoting the nomination, election, or defeat of any candidate or aiding the passage or defeat of any public question, which is an expenditure that the candidate, committee, individual, or group is required to report pursuant to the Act, and that fails, neglects, or omits to include required political identification information in the manner prescribed by the Act or this chapter shall be liable to a penalty of not more than ~~[\$8,600]~~ **\$9,800** for the first offense and not more than ~~[\$17,200]~~ **\$19,500** for the second and each subsequent offense.

### SUBCHAPTER 19. PERSONAL FINANCIAL DISCLOSURE STATEMENTS

#### 19:25-19.7 Time and place for filing

(a)-(d) (No change.)

(e) The Personal Financial Disclosure Statement shall be received [at] **by** the Commission [offices] no later than 5:00 P.M. on the date the report is due for filing pursuant to (a), (b), [or] (c), **or (d)** above in order to be deemed timely filed. [A report submitted by United States mail postmarked on or before a filing date but not received until after 5:00 P.M. of the date the report is due for filing will not be deemed timely filed.]

(f) The Commission shall make available to the public the Personal Financial Disclosure Statement filed pursuant to (a), (b), and (c), above, by posting such statements on the Commission’s website within seven business days of receipt.]

### SUBCHAPTER 20. REPRESENTED ENTITIES AND GOVERNMENTAL AFFAIRS AGENTS

**19:25-20.9B (Reserved)**

**19:25-20.9C (Reserved)**

### SUBCHAPTER 21. PROFESSIONAL CAMPAIGN FUND RAISERS

#### 19:25-21.2 Registration

(a) (No change.)

(b) The professional campaign fund raiser shall register [on a form provided] by **filing Form FRR with** the Commission which shall include the following:

1.-5. (No change.)

(c) [A] **Upon registering**, a professional campaign fund raiser shall [upon filing the initial registration form in (b) above] pay a registration fee of \$1,000. The \$1,000 initial registration fee shall also be applicable to each individual employed by a professional campaign fund raiser who is employed, retained, or engaged for monetary compensation of at least \$5,000 per year in the aggregate to perform for any candidate or committee, or both, any service directly related to the solicitation of contributions for that candidate or committee, or both, and who meets either of the registration criteria [in] **at** (a) above.

(d) (No change.)

#### 19:25-21.3 Quarterly reports

(a) A **registered** professional campaign fund raiser [who has filed a registration form with the Commission pursuant to N.J.A.C. 19:25-21.2] shall file quarterly reports (**Form FRQ**) with the Commission, which shall include the following information:

- 1.-5. (No change.)  
 (b)-(d) (No change.)

19:25-21.4 Annual fee

(a) Each **registered** professional campaign fund raiser [who registers with the Commission] shall pay an annual fee of \$1,000, which shall be received by the Commission no later than January 31st for the calendar year which began on the preceding January 1st.

- (b) (No change.)

19:25-21.5 Termination

A fund raiser who chooses to terminate fund raising services in this State shall [notify] **file Form FRT with** the Commission [in writing] within 30 days after such termination of services.

SUBCHAPTER 26. CONTRIBUTION DISCLOSURE BY FOR-PROFIT ENTITIES

19:25-26.5 Filing the business entity annual disclosure statement

[(a) A business entity shall file the business entity annual disclosure statement with the Commission using the Commission's electronic form available at [www.elec.state.nj.us](http://www.elec.state.nj.us) and shall maintain as part of its records an exact copy of each business entity annual disclosure statement that has been filed electronically.]

[(b) A business entity, which has received \$50,000 or more in the aggregate through agreements or contracts with a public entity or public entities during a calendar year shall file the business entity annual disclosure statement (**Form BE**) with the Commission on or before March 30th immediately following the calendar year during which the business entity received \$50,000 or more in the aggregate through agreements or contracts with a public entity or public entities **using the electronic filing system.**

(a)

**ELECTION LAW ENFORCEMENT COMMISSION**

**Regulations of the Election Law Enforcement Commission**

**Electronic Filing and Campaign Cost Index Adjustments**

**Public Financing**

**General and Primary Elections for the Office of Governor and Lieutenant Governor**

**Proposed Repeals and New Rules: N.J.A.C. 19:25-15.17, 15.23, 15.49, 16.18, 16.23, and 16.38**

**Proposed Amendments: N.J.A.C. 19:25-15.3, 15.4, 15.6, 15.8, 15.10, 15.11, 15.12, 15.14, 15.15, 15.16, 15.18, 15.20, 15.21, 15.22, 15.24, 15.27, 15.29, 15.30, 15.31, 15.32, 15.35, 15.36, 15.37, 15.38, 15.39, 15.43, 15.44, 15.45, 15.47C, 16.3, 16.6, 16.8, 16.9, 16.10, 16.11, 16.13, 16.14, 16.16, 16.19, 16.20, 16.21, 16.22, 16.24, 16.25, 16.28, 16.30, 16.31, 16.33, 16.34B, and 16.35**

**Proposed Repeals: N.J.A.C. 19:25-15.48 and 16.37**

Authorized By: Election Law Enforcement Commission, Jeffrey M. Brindle, Executive Director.

Authority: N.J.S.A. 19:44A-6.b and 19:44A-38.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2020-066.

The sitting New Jersey Election Law Enforcement Commission will conduct a **public hearing** concerning this notice of proposal on Tuesday, October 20, 2020, at 11:00 A.M. at:

Election Law Enforcement Commission  
 25 South Stockton St., 5th floor

Trenton, New Jersey 08608

Persons wishing to testify are requested to reserve time to speak by contacting Administrative Assistant Elbia L. Zeppetelli at (609) 292-8700 no later than Friday, October 16, 2020.

Submit written comments by October 21, 2020, to:

Benjamin Kachuriner, Esq., Assistant Legal Counsel  
 Election Law Enforcement Commission  
 PO. Box 185  
 Trenton, New Jersey 08625-0185  
 Email: [elec.rulemaking@elec.nj.gov](mailto:elec.rulemaking@elec.nj.gov)

The agency proposal follows:

**Summary**

The New Jersey Election Law Enforcement Commission (Commission) proposes to repeal, amend, and implement new rules (1) to be consistent with the Commission's electronic filing system; (2) to clarify and reflect updates to procedures in the public financing program; and (3) to implement campaign cost index adjustments. The Commission has updated its electronic filing system for gubernatorial candidates. This rulemaking includes changes to Subchapters 15 and 16 of the rules to be consistent with the updated electronic filing system. Additional amendments are included, so that these subchapters are consistent with updated procedures in the public financing program and to provide clarification.

Cost Index Adjustment

Statutory changes to the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (Campaign Act) enacted in 1989 require that the Commission "establish an index reflecting the changes occurring in the general level of prices of particular goods and services ... directly affecting the overall costs of election campaigning in this State." See N.J.S.A. 19:44A-7.1.b. The Commission must apply that index to adjust on a quadrennial basis the following statutory components of the gubernatorial public financing program for the offices of Governor and of Lieutenant Governor: the gubernatorial contribution limit; the threshold for candidate qualification to receive public matching funds; the threshold amount of contributions for which no public matching funds are awarded; the gubernatorial expenditure limits; and the maximum public funds that may be given to a qualified gubernatorial primary or general election candidate. See N.J.S.A. 19:44A-7.1.c.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Calculation of the Inflationary Adjustment

Applying the methodology first described in the Commission's June 1988 "Gubernatorial Cost Analysis Report," and employed in 1992, 1996, 2000, 2004, 2008, 2012, and 2016 for the gubernatorial public financing program, and in 1996, 2000, 2004, 2008, 2012, and 2016 for non-gubernatorial candidates and committees, the Commission has determined that costs relevant to campaigning in New Jersey have risen in the period following the 2017 gubernatorial general election and has applied an index of 1.128 percent to the various limits and thresholds required to be adjusted.

N.J.S.A. 19:44A-7.1.b requires that the index be weighted according to the impact in the preceding general election for the offices of Governor and of Lieutenant Governor of the various categories of campaign expenditures. Therefore, determination of the index for 2021 required analysis of the campaign expenditures of the 2017 gubernatorial general election campaigns. Using expenditure information reported by the 2017 gubernatorial general election campaigns, the Commission concluded that 70.96 percent of the 2017 general election expenditures were associated with communication of the candidates' message to voters. The remaining 29.04 percent of the 2017 general election expenditures were spent administering the campaigns, that is, on candidate travel, food and beverage, fundraising, election night activities, compliance, telephone, personnel, and other administrative costs.

As it did in its 1992, 1996, 2000, 2004, 2008, 2012, and 2016 calculation of campaign cost changes, the Commission relied on established indices to evaluate the change in costs during the period