

**OTHER AGENCIES**

**ELECTION LAW ENFORCEMENT COMMISSION**

**Campaign Cost Index Adjustments**

**Public Financing**

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

**Proposed Amendments: N.J.A.C. 19:25-15.3, 15.6, 15.10, 15.11, 15.12, 15.14, 15.16, 15.17, 15.21, 15.22, 15.30, 15.31, 15.32, 15.35, 15.45, 15.48, 15.49, 16.3, 16.6, 16.8, 16.9, 16.10, 16.11, 16.14, 16.18, 16.21, 16.22, 16.31, 16.33, 16.35, 16.37, and 16.38**

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

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

Calendar Reference: June 18, 2012 at 44 N.J.R. 1800(b).

Proposal Number: PRN 2012-113.

The sitting New Jersey Election Law Enforcement Commission (Commission) will conduct a **public hearing** concerning this proposal on Tuesday, September 11, 2012 at 11:15 A.M. at:

Election Law Enforcement Commission  
Edward J. Farrell Memorial Conference Room  
28 West State Street, 12th Floor  
Trenton, New Jersey

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 Tuesday, September 4, 2012.

Submit written comments by September 19, 2012 to:

Michelle R. Levy, Esq., Associate Legal Director

Election Law Enforcement Commission

P.O. Box 185

Trenton, New Jersey 08625-0185

The agency proposal follows:

### **Summary**

Statutory changes to the Campaign Reporting Act enacted in 1989 require that the Commission “establish an index reflecting the changes occurring in the general level of prices of particular good and services . . . directly affecting the overall costs of election campaigning in this State” see N.J.S.A. 19:44A-7.1b. The Commission must 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-7.1c.

### **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, and 2008 for

the gubernatorial public financing program, and in 1996, 2000, 2004, and 2008 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 2009 gubernatorial general election and has applied an index of 1.117 percent to the various limits and thresholds required to be adjusted.

Determination of the index for 2013 required analysis of the campaign expenditures of the 2009 gubernatorial general election campaigns as N.J.S.A. 19:44A-7.1b requires that the index be weighted according to the impact in the preceding general election for the office of Governor and Lieutenant Governor of the various categories of campaign expenditures. Using expenditure information reported by the 2009 gubernatorial general election campaigns, the Commission concluded that 80 percent of 2009 general election expenditures were associated with communication of the candidates' message to voters. The remaining 20 percent of 2009 general election expenditures was 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, and 2008 calculation of campaign cost changes, the Commission relied on established indices to evaluate the change in costs during the period between the 2009 and 2013 elections in two expenditure categories: mass communication costs and other campaign costs/administration.

### **Mass Communication Costs**

In the past, the Commission has relied upon media cost data compiled by Universal McCann, Inc., New York City. This year, the Commission obtained data from MagnaGlobal 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 is projected to increase by 12.37 percent between base years 2008-2012; see Cost-Per-Thousand Mass Communication Percentage Increases, Table 6, (July 2012).

### **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 2009 through December 2011, and mathematically projected inflationary increases for 2012 based upon the first four months of 2012. 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 2009 through 2012 inflationary number is 8.7 percent for NY/NJ and 9.4 percent for PA/NJ; see “Consumer Price Index for All Urban Consumers Monthly Index Number for December” (July, 2012), citing the United States Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers, Monthly Index Numbers through April 2012. In order to determine the percentage increase in the CPI to be used in calculating the Campaign Cost Index for 2013, the percentage change in the two regional numbers was then weighted at a ratio of two-to-one to reflect the larger population of the NY/NJ region, by doubling 8.7 percent (NY/NJ) to 17.3, which is then added to 9.4 percent (PA/NJ), which equals 26.7 percent. Finally, the 26.7 percent number was divided by three to yield a weighted CPI of 8.9 percent. Therefore, the consumer price increase for New Jersey to be used in calculating the Campaign Cost Index for 2013 is 8.9 percent.

### **Calculation of the 2013 Campaign Cost Index**

As indicated below, the 12.37 percent increase in communication costs was multiplied by the proportion of 2009 campaign expenditures for mass communications, or 80 percent, resulting in a communication component of 9.9 percent. The 8.9 percent increase in other campaign costs/administration was multiplied by the proportion of 2009 campaign expenditures on such items or 20 percent, which resulted in a component of 1.8 percent. The 9.9 percent increase in communication costs was then combined with the 1.8 percent increase in other costs to yield a total New Jersey Campaign Cost Index (NJCCI) of 11.7 percent.

### **2013 Campaign Cost Index (NJCCI) Calculation**

EXPENSE CATEGORY	% OF 2009 GENERAL ELECTION SPENDING	FOUR-YEAR CHANGE IN COSTS	COMPONENT OF CAMPAIGN INDEX*
Mass communication costs	80%	12.37	9.9
Other campaign costs	20%	8.9	1.8
Campaign Cost Increase			11.7

\*Percent of 2009 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 1.11677995516 (which, for brevity in the charts is listed as 1.117, although the unrounded number is used for calculations). The next step in the cost adjustment process is to multiply each

specific limit or threshold by the 1.117 (unrounded) index. The resulting amounts are rounded as statutorily mandated pursuant to N.J.S.A. 19:44A-7.1b.

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

**2013 Gubernatorial Cost Index Adjustments**

Limit/Threshold	2009 Amount	Cost Index Multiplier	Unrounded Sum	2013 Rounded Amount (pursuant to N.J.S.A. 19:44A-7.1b)
Contribution Limit	\$3,400	1.117	\$3,797	\$3,800
Qualification Threshold	\$340,000	1.117	\$379,705	\$380,000
Amount Not Matched	\$109,000	1.117	\$121,729	\$122,000
Primary Public Fund Cap	\$3.1 million	1.117	\$3,462,018	\$3.5 million
Primary Expenditure Limit	\$5 million	1.117	\$5,583,900	\$5.6 million
General Public Fund Cap	\$7.3 million	1.117	\$8,152,494	\$8.2 million

General Expenditure Limit	\$10.9 million	1.117	\$12,172,902	\$12.2 million
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Based upon the cost index analysis, the Commission proposes to amend references in the rules as follows:

1. References to the contribution limit applicable to gubernatorial primary and general election candidates contained in Subchapter 15 (Public Financing; General Elections for the Office of Governor) and in Subchapter 16 (Public Financing of Primary Election for Governor) have been amended to increase the limit on contributions from \$3,400 to the 2013 adjusted amount of \$3,800. These references include: N.J.A.C. 19:25-15.3 (Definitions); 15.6(a) and (b) (Contribution limits; applicability); 15.10(a) and (b) (Non-participating candidates); 15.11(a)4 (Limitations on participating candidates); 15.12(a), (b), and (d) (Who may or may not contribute); 15.14(b) and (c) (Contributions eligible for match); 15.16(a) and (b) (Limitation on contributions eligible for match); 15.17(c) (Matching of funds); 15.30 (Borrowing of funds; repayment); 15.31(a) (Computation of value of goods and services); 15.32(b) (Establishment of State committee account; contribution limit); 15.35(a)2 (Notice by State committee to contributor); 15.45(a) (Postelection contribution; postelection payment of expenses); 16.3 (Definitions); 16.6(a) (Contribution limits; applicability); 16.8(a) and (b) (Non-participating candidates); 16.9(a)4 (Limitations on participating candidates); 16.10(a), (b), and (d) (Who may or may not contribute); 16.11(b) and (c) (Contributions eligible for match); 16.14(a) and (b) (Limitations on contributions eligible for match); 16.18(c) (Matching of funds); 16.31

(Borrowing of funds; repayment); 16.33(a) (Postelection contributions; postelection payment of expenses); and 16.35(a) (Computation of value of goods and services).

2. References to the qualification threshold for gubernatorial primary and general election candidates applying to receive public matching funds have been amended to increase the qualification threshold to \$380,000. The Commission proposes that the following sections and subsections be amended to include the adjusted qualification threshold: N.J.A.C. 19:25-15.3 (Definitions); 15.17(c) and (g) (Matching of funds); 15.48(a) (Candidate statement of qualification before participation in public financing); 15.49(a) (Statement of candidates election to participate in debates); 16.3 (Definitions); 16.18(c) and (g) (Matching of funds); 16.37(a) (Candidate statement of qualification before participation in public financing); and 16.38(a) (Statement of candidates electing to participate in debates).

3. N.J.A.C. 19:25-15.11(a)3 (Limitations on participating candidates) has been amended to reflect that the 2013 gubernatorial general election expenditure limit for candidates receiving public matching funds has been adjusted and increased from \$10.9 million to \$12.2 million. N.J.A.C. 19:25-16.9(a) (Limitations on participating candidates) has been amended to reflect that the 2013 gubernatorial primary election expenditure limit for candidates receiving public matching funds has been adjusted and increased from \$5 million to \$5.6 million.

4. N.J.A.C. 19:25-15.21 (Receipt of public funds) and 16.21 (Receipt of public funds) have been amended to adjust and revise upward from \$109,000 to \$122,000 for the threshold amount in contributions for which 2013 gubernatorial candidates may not receive public matching funds in either the primary or general elections.

5. N.J.A.C. 19:25-15.22(b) (Receipt of public funds; limitation) has been amended to adjust upward the maximum amount of public matching funds which may be received by a 2013

gubernatorial general election candidate to \$8.2 million. N.J.A.C. 19:25-16.22(b) (Receipt of public funds, limitation) has been amended to adjust upward the maximum amount of public matching funds which may be received by a 2013 gubernatorial primary election candidate to \$3.5 million.

6. N.J.A.C. 19:25-15.31(a) (Computation of value of goods and services) and 16.35(a) (Computation of value of goods and services) have been amended to adjust upward the number of hours and the resulting contribution amounts in Example 1 concerning use of a helicopter obtained by a campaign from a contributor in the general election. Both the number of maximum hours and the number of excessive hours have been adjusted upward, as well as the two resulting contribution amounts.

### **Social Impact**

The Commission's proposed amendments will affect primarily publicly-financed gubernatorial primary and general election candidates and their treasurers who must comply with the statutory limits and thresholds contained within the gubernatorial public financing provisions of the Act. The amendments will implement the public policy of New Jersey's gubernatorial public financing program which aims to provide that such financing be adequate in amount so that candidates for election to the offices of Governor and of Lieutenant Governor may conduct their campaigns free from improper influence and so that persons of limited financial means may seek election to the State's highest office. (see N.J.S.A. 19:44A-27).

To ensure that candidates elect to participate in the gubernatorial public financing program and therefore to ensure that the two-fold statutory purpose of the program is met, the Commission has been statutorily mandated to adjust for inflation various statutory limits and thresholds contained within the law. The statutorily directed adjustments contained in the

Commission's notice of proposal for the 2013 primary and general elections make the New Jersey law responsive to changes in the economy during the past four years. Because the amendments adjust the key elements of the program to keep pace with changes in the economy, the Commission believes that the gubernatorial public financing program will remain a viable option for candidates, and therefore will have a positive social impact on candidates and the public.

### **Economic Impact**

The principal parties to be affected by the statutorily required adjustments to the limits and thresholds applicable to public financing of primary and general elections will be 2013 gubernatorial primary and general election candidates and their treasurers. The Commission anticipates that the Gubernatorial Public Financing Program will operate as it has in past elections, but with adjustments for inflation in the costs of campaigning contained in these amendments. The Commission believes that the proposed campaign cost adjustment amendments, by reflecting inflationary changes over the past four years, will have the desirable economic impact of permitting gubernatorial candidates to raise and spend the amount of funds necessary to reach New Jersey voters with their campaign messages.

### **Federal Standards Statement**

A Federal standards analysis is not required because the proposed amendments concern New Jersey gubernatorial primary and general election candidates and their qualification for and receipt of gubernatorial public matching funds. The amendments are not subject to any Federal requirements or standards.

### **Jobs Impact**

The proposed amendments are not expected to have any measurable impact upon the number of persons employed by gubernatorial candidates and their campaigns, or on vendors supplying services or materials to those campaigns. To the extent that the gubernatorial contribution limit has been raised to account for inflation in the costs of campaigns, gubernatorial candidates will have the ability to pay wages that keep pace with the economy.

### **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**

The Commission's proposed amendments do not impose any recordkeeping or reporting requirement 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 gubernatorial candidates, the reporting and recordkeeping requirements generated by the amendments are solely on the gubernatorial candidates and their treasurers.

While there are no compliance or other requirements imposed upon small businesses, a small business which has made a contribution to a gubernatorial candidate in the form of goods or services may be called upon to provide the gubernatorial campaign with a valuation of those goods or services for the purpose of compliance with the contribution limit and other reporting requirements.

### **Housing Affordability Impact Analysis**

The proposed amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the amendments to gubernatorial public financing rules 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 public matching funds for gubernatorial candidates.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### SUBCHAPTER 15. PUBLIC FINANCING; GENERAL ELECTIONS FOR THE OFFICE OF GOVERNOR

##### 19:25-15.3 Definitions for this subchapter

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

...

"Contribution eligible for match" means contributions from one contributor to be matched from public funds on a two-for-one basis. No contribution which must be or is intended by the contributor or the recipient to be refunded or repaid at any time, no loan obtained pursuant to

N.J.S.A. 19:44A-44, no amount of the candidate's own funds in the aggregate in excess of [\$3,400] **\$3,800**, no in-kind contribution and no other moneys received by the candidate, his or her campaign treasurer, or deputy campaign treasurer, except those contributions described in N.J.S.A. 19:44A-29(a) shall be deemed contributions eligible for match.

...

"Qualified candidate" means:

1. Any candidate for election to the office of Governor whose name appears on the general election ballot and who has deposited and expended [\$340,000] **\$380,000** pursuant to N.J.S.A. 19:44A-32; and who, not later than September 1 preceding a general election in which the office of Governor is to be filled, notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for general election campaign expenses pursuant to N.J.S.A. 19:44A-33, and signs a statement of agreement, in a form to be prescribed by the Commission, to participate in two interactive gubernatorial general election debates; or

2. Any candidate for election to the office of Governor whose name does not appear on the general election ballot, but who has deposited and expended [\$340,000] **\$380,000** pursuant to N.J.S.A. 19:44A-32 and who, not later than September 1 preceding a general election in which the office of Governor is to be filled, notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for general election campaign expenses pursuant to N.J.S.A. 19:44A-33, and signs a statement of agreement, in a form to be prescribed by the Commission, to participate in two interactive gubernatorial general election debates.

...

19:25-15.6 Contribution limits; applicability

(a) No candidate for the office of Governor, whether or not intending to participate in public funding, and no campaign treasurer or deputy campaign treasurer of such candidate shall knowingly accept from any person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee any contribution in aid of the candidacy of or in behalf of such candidate in the aggregate in excess of [\$3,400] **\$3,800** in any general election.

(b) No State committee, and no campaign treasurer or deputy campaign treasurer of such State committee, shall knowingly accept from any person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee any contribution in aid of the candidacy of or in behalf of any candidate for the office of Governor in the aggregate in excess of [\$3,400] **\$3,800** in any general election, whether or not such candidate intends to participate in public funding.

(c) (No change.)

19:25-15.10 Non-participating candidates

(a) A non-participating candidate is subject to the [\$3,400] **\$3,800** limitation on contributions from a person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee, pursuant to N.J.S.A. 19:44A-29.

(b) A non-participating candidate is subject to the [\$3,400] **\$3,800** limit on guarantors of bank loans, except if the guarantor is the non-participating candidate himself or herself.

(c) –(d) (No change.)

#### 19:25-15.11 Limitations on participating candidates

(a) Each candidate intending to participate in public funding, in addition to any other requirement imposed by the Act or this subchapter, is subject to the following limitations:

1. – 2. (No change.)

3. The amount which any qualified candidate may spend in aid of his or her candidacy shall not exceed [~~\$10.9 million~~] **\$12.2 million**, which amount shall include payments made solely for the purpose of determining whether to become a candidate. Such amount shall not include expenditures listed in N.J.A.C. 19:25-15.26.

4. Contributions by any candidate in excess of [~~\$3,400~~] **\$3,800** from his or her own funds in aid of his or her candidacy shall not be deposited in a matching fund account and shall not be calculated in determining if such candidate is a qualified candidate eligible for public matching funds.

#### 19:25-15.12 Who may or may not contribute

(a) No person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee, other than a candidate contributing his or her own funds to his or her campaign, shall make any contribution to any candidate, the candidate's campaign treasurer or deputy campaign treasurer, or to any other person or committee, in aid of the candidacy of or in behalf of a candidate, whether or not participating in public funding, for election to the office of Governor in a general election, in the aggregate in excess of [~~\$3,400~~] **\$3,800**. Any such contribution in excess of [~~\$3,400~~] **\$3,800** must be returned

to the contributor pursuant to the requirements of N.J.A.C. 19:25-11.8, and evidence of repayment shall be submitted to the Commission.

(b) A joint candidates committee established by candidates who have not established any candidate committees in an election may make a contribution to a candidate for election to the office of Governor in an amount not to exceed the sum of the number of candidates participating in the joint candidates committee multiplied by [\$3,400] **\$3,800**. If a candidate has established both a candidate committee and a joint candidates committee in an election, the total amount which may be contributed by that candidate's joint candidates committee and candidate committee to a candidate for election to the office of Governor may not exceed [\$3,400] **\$3,800** per candidate participating in the joint candidates committee.

(c) (No change.)

(d) A corporation, association, or labor organization or any subsidiary, affiliate, branch, division, department, or local unit of any such corporation, association, or labor organization shall not make any contribution to or on behalf of a candidate, which, when added to any other contribution by any related or affiliated corporation, association, or labor organization, exceeds [\$3,400] **\$3,800** in the aggregate. Whether such corporation, association, or labor organization is related or affiliated shall depend on the circumstances existing at the time of such contribution, including, but not by way of limitation, the degree of control or common ownership with related or affiliated corporations, associations, or labor organizations, the source and control of funds used for such contributions, and the degree to which the decisions whether to contribute, to what candidate, and in what amount are independent decisions.

(e) – (g) (No change.)

19:25-15.14 Contributions eligible for match

(a) (No change.)

(b) Only contributions in cash or by check, money order or negotiable instrument shall be contributions eligible for match. Loans shall not be eligible for match. In-kind contributions shall not be eligible for match, but will count toward the individual contribution limit of [\$3,400] **\$3,800** and the overall expenditure limit contained in N.J.S.A. 19:44A-7 except for expenses not subject to expenditure limits pursuant to N.J.A.C. 19:25-15.26. The total of all contributions eligible for match from any person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee shall not exceed [\$3,400] **\$3,800** in the aggregate.

(c) A maximum of [\$3,400] **\$3,800** in the aggregate of a candidate's own funds may be deposited in the matching fund account.

(d) – (e) (No change.)

19:25-15.16 Limitation on contributions eligible for match

(a) Any contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value (such as a watch) shall be eligible for match only to the extent the purchase price exceeds the fair market value of the item or benefit conferred on the contributor, and only the excess will be included in calculating the [\$3,400] **\$3,800** contribution limit.

(b) A contribution in the form of the purchase price paid for admission to a testimonial affair as defined in N.J.A.C. 19:25-1.7 shall be a contribution eligible for match and for purposes of the [\$3,400] **\$3,800** limitation.

(c) (No change.)

19:25-15.17 Matching of funds

(a) – (b) (No change.)

(c) A candidate seeking to become eligible to receive matching funds shall certify to the Commission in a written statement signed by the candidate that he or she is a candidate for Governor in a general election and that he or she has received and deposited into his or her matching fund account contributions eligible for match of at least [\$340,000] **\$380,000** from persons, candidate committee, joint candidates committees, political committees, continuing political committees, or legislative leadership committees each of whose contributions in the aggregate [does] **do** not exceed [\$3,400] **\$3,800**, and that at least [\$340,000] **\$380,000** of such contributions have been expended. "Expended" for this purpose shall mean disbursed or committed for expenditure in the campaign.

(d) – (f) (No change.)

(g) The initial certification shall include scanned images of checks as evidence of expenditures made from the depository or matching fund bank accounts, receipted bills, contracts or the like, sufficient to prove the expenditure or commitment to expend at least [\$340,000] **\$380,000** no later than the date of the general election.

(h) – (j) (No change.)

19:25-15.21 Receipt of public funds

(a) The campaign treasurer or deputy campaign treasurer of any qualified candidate for election to the office of Governor in a general election shall promptly receive in behalf of such qualified candidate public moneys in an amount equal to twice the amount of each contribution eligible for

match and deposited in such qualified candidate's matching fund account, described in N.J.S.A. 19:44A-32, except that no payment shall be made to any candidate from such fund for general election campaign purposes for the first [\$109,000] **\$122,000** deposited in such candidate's matching fund account.

(b) (No change.)

#### 19:25-15.22 Receipt of public funds; limitation

(a) (No change.)

(b) The maximum amount which any qualified candidate may receive from public funds shall not exceed [\$7.3 million] **\$8.2 million**.

#### 19:25-15.30 Borrowing of funds; repayment

Any candidate, the candidate's campaign treasurer or deputy campaign treasurer may borrow funds from any national or State bank, provided that no person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee other than the candidate or the State committee may in any way endorse or guarantee such loan in the aggregate in excess of the [\$3,400] **\$3,800** contribution limit. Except for a non-participating candidate guaranteeing a loan to his or her campaign, the amount so borrowed shall not at any one time in the aggregate exceed \$50,000 and must be repaid in full by such candidate or his or her campaign treasurer or deputy campaign treasurer from monies accepted or allocated pursuant to N.J.S.A. 19:44A-29 not later than 20 days prior to the general election. Certification of such repayment shall be made by the borrower to the Commission not later than 15 days prior to the date of the general election. In the event of the failure of the

borrower to repay timely the full amount of the loan or to certify properly such repayment to the Commission, all payment of public funds to such candidate shall promptly cease and the Commission shall take action as directed by the Act to prohibit the expenditure by the candidate of monies received from the fund and any other monies received by him or her in aid of his or her candidacy in such general election.

#### 19:25-15.31 Computation of value of goods and services

(a) Goods and services shall, for purposes of the reports required to be filed under the Act and for purposes of the expenditure limitation contained in N.J.S.A. 19:44A-7 where applicable, be valued by the reasonable commercial value of such goods and services to the candidate, whether or not the cost or value of such goods or services to the contributor or other provider of those services is higher or lower than such reasonable commercial value.

Example 1: Candidate Y, a candidate for the office of Governor who has chosen to accept public funding, obtains the use of a helicopter for travel of the candidate for campaign purposes. By agreement with the owner of the helicopter, the campaign committee for the candidate will pay \$900.00 per hour, which represents the cost to the owner of the maintenance and operation of the helicopter. The reasonable commercial value of the use of the helicopter is \$1,000 per hour. In this example, the amount of \$900.00 per hour paid by the campaign committee of the candidate to the owner for use of the helicopter is not includable as an expenditure for purposes of the expenditure limitations contained in N.J.S.A. 19:44A-7. The difference between the \$900.00 per hour actually paid for use of the helicopter and the reasonable commercial value normally charged by the owner for the use of the helicopter, represents a contribution from the owner of the helicopter to the candidate in the amount of

\$100.00 per hour. The candidate could obtain the use of the helicopter under this arrangement from a lawful contributor for campaign purposes for not more than [34] **38** hours. If the candidate obtained the use of the helicopter for [35] **39** hours under this arrangement, the owner of the helicopter would have made an unlawful contribution to the candidacy of the candidate, since the aggregate of the contributions [\$3,500] **of \$3,900** from that contributor in this instance would have exceeded [\$3,400] **\$3,800**.

Example 2: (No change.)

In Example 1 and Example 2, the total amounts of expenditures, including expenditures not subject to the expenditure limitation of N.J.S.A. 19:44A-7, must be reported in the preelection and postelection reports filed on behalf of the candidate.

(b) (No change.)

19:25-15.32 Establishment of State committee account; contribution limit

(a) (No change.)

(b) Upon or after establishment of a State committee account by a State committee, such State committee may allocate and deposit certain contributions received by it in such account. Only a contribution of up to [\$3,400] **\$3,800**, or up to [\$3,400] **\$3,800** of a contribution in excess of [\$3,400] **\$3,800** may be so deposited, and only if such deposit does not result in the contributor exceeding a contribution of [\$3,400] **\$3,800** in the aggregate to such or on behalf of such candidate.

(c) – (d) (No change.)

19:25-15.35 Notice by State committee to contributor

(a) The campaign treasurer or deputy campaign treasurer of any State committee depositing any contribution in a State committee account of such State committee must give written notice of such deposit to the contributor within 48 hours of such deposit, and such notice shall contain the following information:

1. (No change.)

2. The allocated contribution counts toward the [\$3,400] **\$3,800** the contributor may contribute to a candidate for the office of Governor;

3. (No change.)

4. The amount and date of the contribution to the State committee; **and**

5. (No change.)

#### 19:25-15.45 Postelection contribution; postelection payment of expenses

(a) Any person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee otherwise eligible to make political contributions to a candidate or a State committee may make a contribution in aid of the candidacy of a candidate after the date of such general election provided such person or committee does not exceed [\$3,400] **\$3,800** in the aggregate for such general election.

(b) – (d) (No change.)

#### 19:25-15.48 Candidate statement of qualification before participation in public financing

(a) A candidate who intends to apply to the Commission for public matching funds on a date later than September 1 preceding a general election for the office of Governor must on or before September 1 preceding the general election for Governor file:

1. A certified statement of qualification containing evidence that [\$340,000] **\$380,000** has been deposited and expended pursuant to N.J.S.A. 19:44A-32 for gubernatorial general election campaign expenses. Evidence that [\$340,000] **\$380,000** has been deposited and expended shall be filed with the Commission on September 1 preceding a general election for the office of Governor and in a form to be prescribed by the Commission.

2. Each contribution submitted in the report required by (a)1 above as evidence that [\$340,000] **\$380,000** in contributions has been deposited must be accompanied by a written statement, which shall identify the individual making the contribution by full name and full mailing address (number, street, city, state, zip code), the name of the candidate, the amount and date of receipt of the contribution, and shall bear the signature of the contributor. The requirement of such written statement will be deemed to be satisfied in the case where a contribution is made by means of a check, money order, or other negotiable instrument payable on demand and to the order for, or specially endorsed without qualification to, the candidate or to his **or her** campaign committee, if such check, money order or instrument contains all of the foregoing information.

3. Each disbursement submitted in the report required by (a)1 above as evidence that [\$340,000] **\$380,000** has been expended for general election expenses shall include two photocopies of checks, receipted bills, contracts, or similar documents as evidence of the expenditure of at least that [\$340,000] **\$380,000**.

4. (No change.)

(b) – (c) (No change.)

(a) A candidate who has not by September 1 preceding a general election applied to the Commission for public matching funds may elect to participate in the series of interactive gubernatorial general election debates by:

1. (No change.)

2. Filing a statement of qualification containing evidence that [\$340,000] **\$380,000** has been deposited and expended pursuant to N.J.S.A. 19:44A-32 for gubernatorial general election expenses. The statement of qualification shall contain the same information, as that required at N.J.A.C. 19:25-15.48(a).

(b) – (d) (No change.)

## SUBCHAPTER 16. PUBLIC FINANCING OF PRIMARY ELECTION FOR GOVERNOR

### 19:25-16.3 Definitions for this subchapter

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

...

"Contribution eligible for match" means contributions from one contributor to be matched from public funds on a two-for-one basis. No contribution, which must be or is intended by the contributor or the recipient to be refunded or repaid at any time, no loan obtained pursuant to N.J.S.A. 19:44A-44, no amount of the candidate's own funds in the aggregate in excess of [\$3,400] **\$3,800**, no in-kind contribution and no other monies received by the candidate, his or her campaign treasurer, or deputy campaign treasurer, except those contributions described in N.J.S.A. 19:44A-29(a), shall be deemed contributions eligible for match. Funds received by an

individual who is testing the waters may be matched when the individual becomes a candidate, if such contributions meet all the requirements of the regulation.

...

"Qualified candidate" means:

1. Any candidate for nomination for election to the office of Governor whose name appears on the primary election ballot and who has deposited and expended [\$340,000] **\$380,000** pursuant to N.J.S.A. 19:44A-32; and who, not later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for a general election in which the office of Governor is to be filled, notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for primary election campaign expenses pursuant to N.J.S.A. 19:44A-33, and signs a statement of agreement, in a form to be prescribed by the Commission, to participate in two interactive gubernatorial primary election debates; or

2. Any candidate for nomination for election to the office of Governor whose name does not appear on the primary election ballot, but who has deposited and expended [\$340,000] **\$380,000** pursuant to N.J.S.A. 19:44A-32 and who, not later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for a general election in which the office of Governor is to be filled, notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for primary election campaign expenses pursuant to N.J.S.A. 19:44A-33, and signs a statement of agreement, in a form to be prescribed by the Commission, to participate in two interactive gubernatorial primary election debates.

...

19:25-16.6 Contribution limits; applicability

(a) Each candidate, whether or not intending to participate in public funding, and each campaign treasurer or deputy campaign treasurer of such candidate shall not knowingly accept from any person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee any contribution in aid of the candidacy of or in behalf of such candidate in the aggregate in excess of [\$3,400] **\$3,800** in any primary election.

(b) (No change.)

19:25-16.8 Non-participating candidates

(a) A non-participating candidate is subject to the [\$3,400] **\$3,800** limitation on contributions from a person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee pursuant to N.J.S.A. 19:44A-29.

(b) A non-participating candidate is subject to the [\$3,400] **\$3,800** limit on guarantors of bank loans, except if the guarantor is the non-participating candidate himself or herself.

(c) -(d) (No change.)

19:25-16.9 Limitations on participating candidates

(a) Each candidate intending to participate in public funding, in addition to any other requirement imposed by the Act [(N.J.S.A. 19:44A-1 et seq.)] or this subchapter, is subject to the following limitations:

1. – 2. (No change.)

3. The amount which any qualified candidate may spend in aid of his or her candidacy shall not exceed [\$5] **\$5.6** million, which amount shall include payments made solely for the purpose of determining whether to become a candidate. Such amount shall not include expenditures listed in N.J.A.C. 19:25-16.27.

4. Contributions by any candidate in excess of [\$3,400] **\$3,800** from his or her own funds in aid of his or her candidacy shall not be deposited in a matching fund account and shall not be calculated in determining if such candidate is a qualified candidate eligible for public matching funds.

#### 19:25-16.10 Who may or may not contribute

(a) No person, other than a candidate contributing his or her own funds to his or her campaign, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee shall make any contribution to any candidate, the candidate's campaign treasurer or deputy campaign treasurer, or to any other person or committee, in aid of the candidacy of or in behalf of a candidate, whether or not participating in public funding, for nomination for election to the office of Governor in a primary election, in the aggregate in excess of [\$3,400] **\$3,800**. Any such contribution in excess of [\$3,400] **\$3,800** must be returned to the contributor pursuant to the requirements of N.J.A.C. 19:25-11.8, and evidence of the repayment shall be submitted to the Commission.

(b) A joint candidates committee established by candidates who [have] **has** not established any candidate committees in an election may make a contribution to a candidate for nomination for

election to the office of Governor in an amount not to exceed the sum of the number of candidates participating in the joint candidates committee multiplied by [~~\$3,400~~] **\$3,800**. If a candidate has established both a candidate committee and a joint candidates committee in an election, the total amount which may be contributed by that candidate's joint candidates committee and candidate committee to a candidate for nomination for election to the office of Governor may not exceed [~~\$3,400~~] **\$3,800** per candidate participating in the joint candidates committee.

(c) (No change.)

(d) A corporation, association or labor organization or any subsidiary, affiliate, branch, division, department or local unit of any such corporation, association or labor organization shall not make any contribution to or on behalf of a candidate which, when added to any other contribution by any related or affiliated corporation, association or labor organization, exceeds [~~\$3,400~~] **\$3,800** in the aggregate. Whether such corporation, association or labor organization is related or affiliated shall depend on the circumstances existing at the time of such contribution, including, but not by way of limitation, the degree of control or common ownership with related or affiliated corporations, associations or labor organizations, the source and control of funds used for such contribution and the degree to which the decisions whether to contribute, to what candidate, and in what amount are independent decisions.

(e) – (g) (No change.)

#### 19:25-16.11 Contributions eligible for match

(a) (No change.)

(b) Only contributions in cash or by check, money order or negotiable instruments shall be contributions eligible for match. Loans shall not be eligible for match. In-kind contributions shall not be eligible for match, but will count toward the individual contribution limit of [\$3,400] **\$3,800** and the overall expenditure limit contained in N.J.S.A. 19:44A-7 except for expenses not subject to expenditure limits pursuant to N.J.A.C. 19:25-16.27. The total of all contributions eligible for match from any person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee shall not exceed [\$3,400] **\$3,800** in the aggregate.

(c) A maximum of [\$3,400] **\$3,800** in the aggregate of a candidate's own funds may be deposited in the matching fund account.

(d) – (e) (No change.)

#### 19:25-16.14 Limitation on contributions eligible for match

(a) Any contribution in the form of the purchase price paid for an item with significant intrinsic and enduring value (such as a watch) shall be eligible for match only to the extent the purchase price exceeds the fair market value of the item or benefit conferred on the contributor, and only the excess will be included in calculating the [\$3,400] **\$3,800** contribution limit.

(b) A contribution in the form of the purchase price paid for admission to a dinner or testimonial affair as defined in N.J.A.C. 19:25-1.7 shall be a contribution eligible for match and for purposes of the [\$3,400] **\$3,800** limitation.

(c) (No change.)

#### 19:25-16.18 Matching of funds

(a) – (b) (No change.)

(c) A candidate seeking to become eligible to receive matching funds shall certify to the Commission in a written statement signed by the candidate that he or she is a candidate for Governor in a primary election and that he or she has received and deposited into his or her matching fund account contributions eligible for match of at least [\$340,000] **\$380,000** from persons or political committees each of whose contributions in the aggregate do not exceed [\$3,400] **\$3,800**, and that at least [\$340,000] **\$380,000** of such contributions has been expended. "Expended" for this purpose shall mean disbursed or committed for expenditure in the campaign.

(d) – (f) (No change.)

(g) The initial certification shall include scanned images of checks as evidence of expenditures made from the depository or matching fund bank accounts, receipted bills, contracts or the like, sufficient to prove the expenditure or commitment to expend at least [\$340,000] **\$380,000** no later than the date of the primary election.

(h) – (j) (No change.)

#### 19:25-16.21 Receipt of public funds

(a) The campaign treasurer or deputy campaign treasurer of any qualified candidate for election to the office of Governor in a primary election shall promptly receive in behalf of such qualified candidate from the funds for primary election campaign expenses monies in an amount equal to twice the amount of each contribution eligible for match and deposited in such qualified candidate's matching fund account, described in N.J.S.A. 19:44A-32 except that no payment shall be made to any candidate from such fund for primary election campaign purposes for the first [\$109,000] **\$122,000** deposited in such qualified candidate's matching fund account.

(b) (No change.)

19:25-16.22 Receipt of public funds; limitation

(a) (No change.)

(b) The maximum amount, which any qualified candidate may receive from public funds shall not exceed [~~\$3.1~~] **\$3.5** million.

19:25-16.31 Borrowing of funds; repayment

Any candidate, his or her campaign treasurer or deputy campaign treasurer may borrow funds from any national or State bank, provided that no person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, other than the candidate, may in any way endorse or guarantee such loan in the aggregate in excess of the [~~\$3,400~~] **\$3,800** contribution limit. Except for a non-participating candidate guaranteeing a loan to his or her campaign, the amount so borrowed shall not at any one time in the aggregate exceed \$50,000 and must be repaid in full by such candidate or his or her campaign treasurer or deputy campaign treasurer from monies accepted or allocated pursuant to N.J.S.A. 19:44A-29 not later than 20 days prior to the primary election. Certification of such repayment shall be made by the borrower to the Commission not later than 15 days prior to the date of primary election. In the event of the failure of the borrower to repay timely the full amount of the loan or to certify properly such repayment to the Commission, all payment of public funds to such candidate shall promptly cease and the Commission shall take action as directed by the Act to prohibit the expenditure by the candidate of monies received from the fund

and any other monies received by him or her in aid of his or her candidacy in such primary election.

19:25-16.33 Postelection contributions; postelection payment of expenses

(a) Any person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, otherwise eligible to make political contributions to a candidate may make a contribution in aid of the candidacy of such candidate after the date of such primary provided such person or political committee does not exceed [\$3,400] **\$3,800** in the aggregate for such primary.

(b) – (d) (No change.)

19:25-16.35 Computation of value of goods and services

(a) Goods and services shall, for purposes of the reports required to be filed under the Act and for purposes of the expenditure limitation contained in N.J.S.A. 19:44A-7 where applicable, be valued by the reasonable commercial value of such goods and services to the candidate, whether or not the cost or value of such goods or services to the contributor or other provider of those services is higher or lower than such reasonable commercial value.

Example 1: Candidate Y, a candidate for the office of Governor who has chosen to accept public funding, obtains the use of a helicopter for travel of the candidate for campaign purposes. By agreement with the owner of the helicopter, the campaign committee for the candidate will pay \$900.00 per hour, which represents the cost to the owner of the maintenance and operation of the helicopter. The reasonable commercial value of the use of the helicopter is \$1,000 per hour. In this example, the amount of \$900.00 per hour paid by the campaign

committee of the candidate to the owner for use of the helicopter is not includable as an expenditure for purposes of the expenditure limitations contained in N.J.S.A. 19:44A-7. The difference between the \$900.00 per hour actually paid for use of the helicopter and the reasonable commercial value normally charged by the owner for the use of the helicopter, represents a contribution from the owner of the helicopter to the candidate in the amount of \$100.00 per hour. The candidate could obtain the use of the helicopter under this arrangement from a lawful contributor for campaign purposes for not more than [34] **38** hours. If the candidate obtained the use of the helicopter for [35] **39** hours under this arrangement, the owner of the helicopter would have made an unlawful contribution to the candidacy of the candidate, since the aggregate of the contributions [\$3,400] **\$3,900** from that contributor in this instance would have exceeded [\$3,400] **of \$3,800**.

Example 2: (No change.)

In Example 1 and Example 2, the total amounts of expenditures, including expenditures not subject to the expenditure limitation of N.J.S.A. 19:44A-7, must be reported in the preelection and postelection report filed on behalf of the candidate.

(b) (No change.)

19:25-16.37 Candidate statement of qualification before participation in public financing

(a) A candidate who intends to apply to the Commission for public matching funds on a date later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for the office of Governor must on or before the last day for filing petitions to nominate candidates in a primary election for Governor file:

1. A certified statement of qualification containing evidence that [\$340,000] **\$380,000** has been deposited and expended pursuant to N.J.S.A. 19:44A-32 for gubernatorial primary election campaign expenses. Evidence that [\$340,000] **\$380,000** has been deposited and expended shall be filed with the Commission on the last day for filing petitions in the primary election to nominate candidates for the office of Governor and in a form to be prescribed by the Commission.

2. Each contribution submitted in the report required by (a)1 above as evidence that [\$340,000] **\$380,000** in contributions has been deposited must be accompanied by a written statement, which shall identify the individual making the contribution by full name and full mailing address (number, street, city, state, zip code), the name of the candidate, the amount and date of receipt of the contribution, and shall bear the signature of the contributor. The requirement of such written statement will be deemed to be satisfied in the case where a contribution is made by means of a check, money order or other negotiable instrument payable on demand and to the order for, or specially endorsed without qualification to, the candidate or to his or her campaign committee, if such check, money order or instrument contains all of the foregoing information.

3. Each disbursement submitted in the report required by (a)1 above as evidence that [\$340,000] **\$380,000** has been expended for primary election expenses shall include two photocopies of checks, receipted bills, contracts, or similar documents as evidence of the expenditure of at least [\$340,000] **\$380,000**.

4. (No change.)

(b) – (c) (No change.)

19:25-16.38 Statement of candidates electing to participate in debates

(a) A candidate who has not by the last day for filing petitions to nominate candidates to be voted upon in a primary election applied to the Commission for public matching funds may elect to participate in the series of interactive gubernatorial primary election debates by:

1. (No change.)

2. Filing a statement of qualification containing evidence that [\$340,000] **\$380,000** has been deposited and expended pursuant to N.J.S.A. 19:44A-32 for gubernatorial primary election expenses. The statement of qualification shall contain the same information as that required at N.J.A.C. 19:25- 16.37(a).

(b) – (d) (No change.)