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Newsletter

ELECtronic

AN ELECTION LAW ENFORCEMENT COMMISSION NEWSLETTER
“Furthering the Interest of an Informed Citizenry”

Comments from the Chairman

Eric H. Jaso

“I’m Eric Jaso, and I approved this message!”

New Jersey’s ad disclosure law requires that candidate committees, political committees, PACs, political parties, and legislative leadership committees disclose their identities on their advertising.

It’s a simple requirement, and one that we are all used to seeing and hearing: identification disclosures in political advertising.

Yet, it is a law that is sometimes overlooked or misunderstood.

The purpose of the law is to enable citizens to know who is paying for a particular political ad, whether on TV, radio, via direct mail, or other media such as print or digital.

The advertising disclaimer provides this valuable information to help voters

evaluate the message of the ad based on who is paying for the ad.

This helps voters better assess the candidate or issue, enabling them to make a more informed decision when they cast their ballot.

Whenever a political ad that is printed or aired promotes the nomination, election, or defeat of any candidate, the ad is required to state the name and business or residence address of the person or entity paying for the advertisement.

Likewise, whenever a political ad is financed to promote or defeat a public question, the ad is required to contain a disclaimer providing the name and business or residence address of the person or entity underwriting the ad.

Those subject to the disclaimer law are individuals or groups, candidate committees, joint candidate committees, continuing political committees (PACs), political party committees, political committees, and legislative leadership committees.

The law also applies to ads run in connection with school board elections and write-in candidates, even though such candidates are not required to file A-1 reports if they do not raise or spend \$5,800.

We have become so used to disclaimers in political ads that many candidates now use them to advance their message or even add a bit of humor, so the high level of compliance with this law comes as no surprise. Yet the Commission still encounters far too many entities that ignore the law or are unfamiliar with it.

ELEC staff offers personal consultations and training sessions to help ensure that candidates and organizations participating in the political and electoral processes through advertising clearly and properly identify themselves to the public.

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COMMISSIONERS

- Eric H. Jaso, Chairman
- Stephen M. Holden, Commissioner
- Marguerite T. Simon, Commissioner
- Edwin R. Matthews, Legal Counsel

Executive Director's Thoughts

Jeff Brindle

Federal Lawsuit Would Allow National Parties to Spend Unlimited Amounts Directly on Candidates

A new federal lawsuit is seeking to abolish limits on the amount national and state parties can spend directly on campaigns of House and Senate candidates.

Currently, under the Federal Election Campaign Act, national party committees and state party committees are permitted to work with and spend money in coordination with their House and Senate candidates.

Both can contribute up to \$5,000 per election to candidates under general contribution limits. In their special role as party committees, they can spend more dollars directly on behalf of the candidate up to certain caps.

In this year's election, for instance, a national party committee can give \$5,000 to a Senate candidate while, in conjunction with its Senatorial campaign committee, also can legally spend another \$51,200 to directly benefit the candidate.

The coordinated spending limits are based on the office sought and the pertinent voting age population. Further, these limits are required to be adjusted annually for inflation.

Even so, the National Republican Senatorial Committee (NRSC), National Republican Congressional Committee, James David Vance and Steven Joseph Chabot¹ jointly filed a lawsuit November 4, 2022 against the Federal Election Commission (FEC) arguing that the Act's ceilings on coordinated party expenditures violate the First Amendment.

According to the complaint, the plaintiffs maintain that the law infringes upon the First Amendment political free speech rights of party committees. They assert that the Act does so by restricting how much the parties can spend of their own money in coordinated efforts with their federal candidates.

They contend in their legal brief that the rules have contributed to the decline in the national and state parties.

"...this harm has only grown starker in recent years as the rise of spending by Super PACs and other outside groups- which, unlike party committees, can engage in unlimited fundraising to influence voters- has diminished the parties' role in the political landscape."

The plaintiffs assert that the government lacks an identifiable interest in limiting coordinated expenditures among the parties and their candidates.

Addressing fears that unlimited direct party spending on candidates might increase risk of corruption, the plaintiffs maintained that there are "more appropriately drawn or tailored alternatives to limits on coordinated party expenditures" for preventing "quid pro quo" corruption or its appearance.

The plaintiffs acknowledge that party committees can make independent expenditures on behalf of candidates. But they contend such indirect spending creates unnecessary expense, particularly the higher advertising rates such committees must pay compared to candidates as well as staff and office costs. Independent party spending also can cause "voter confusion," they added.

By challenging the law, the plaintiffs in National Republican Senatorial Committee et al v. FEC et al. (22-639), are seeking a declaratory judgment that limits on political party coordinated expenditures are unconstitutional and that the Court should enjoin the Federal Election Commission from enforcing the contribution limitations against the plaintiffs and their planned spending.

The case against the Federal Election Commission was filed with the United States District Court for the Southern District of Ohio.

Previous cases involving coordinated spending include Colorado Republican Federal Campaign Committee v. FEC in 1996 and Federal Election Commission v. Colorado Republican Federal Campaign Committee (Colorado II) in 2001. Both cases were decided by the U.S. Supreme Court.

In the 1996 case, the U.S. Supreme Court ruled that an FEC regulation that prohibited political parties from making independent expenditures was unconstitutional but declined to weigh whether coordinated expenditure limits were unconstitutional.

Five years later, in a 5-4 ruling in Colorado II, a U.S. Supreme Court majority upheld restrictions on party coordinated spending, stating party

¹ Vance was elected U.S. Senator in the November 8 election while incumbent Congressman Chabot was defeated.

coordinated spending is “the functional equivalent of contributions.” Limits were justified “on the theory that unlimited coordinated spending by a party raises the risk of corruption (and its appearance) through circumvention of valid contribution limits.”

While it is too early to tell whether the current case will work its way to the U.S. Supreme Court, an early guess says it will.

“Circumstances in the political ‘marketplace’ have changed considerably since Colorado II and the rationales underlying the majority’s reasoning have eroded,” states the plaintiffs.

“In particular, the idea that ‘unlimited coordinated spending is essential to the nature and functioning of parties’ that the *Colorado II* Court rejected...has become more evident following the rise of Super PACs, whose ability to fundraise without limit has diminished the parties’ dominance in the political landscape compared to 2001,” they added.

If the current composition of the high court remains intact and ultimately reviews the case, it is a good bet that the Court will find the current restrictions on coordinated expenditures to be in violation on the First Amendment Free Speech rights.

By allowing full coordination between political parties and their candidates, the Court would return common sense to the electoral process.

After all, the reason political parties exist is to support their candidates and to help them bring their views to the public and to support them in their quest for election.

Joint Statement by Members of the New Jersey Election Law Enforcement Commission

In 1973, the New Jersey Legislature enacted a pioneering and sweeping campaign finance law, which also established the Election Law Enforcement Commission, a bipartisan independent agency tasked with promoting transparency and accountability in the financing of our state and local elections.

Like our judicial system, fundamental to ELEC’s ability to perform its tasks effectively is its independence and separation from partisan politics.

Elimination of its independence is an open invitation to political meddling.

A provision added at the last minute to the pending “Election Transparency Act” would give the governor the power to appoint ELEC’s executive director, as well as the power to terminate that top official for any or no reason. This provision flies in the face of the original intent of the 1973 statute, which was for the agency to be independent and free from any perceived- or actual- interference of politics.

Regardless of which party controls the governor’s office, executive directors appointed by one party, or under the constant threat of termination, would be more susceptible to blocking investigations of their party’s candidates or committees while targeting those of the opposing party. And of equal concern, an ELEC run by a political appointee could not investigate or bring enforcement actions against campaigns conducted by the opposing party without suspicion of partisan motives.

ELEC must be fair and non-partisan in its actions. That is how it has always operated, and it must continue to do so.

Without the outrage ignited by political scandals in the early 1970s, state Sen. William Schluter’s reform bill creating ELEC most likely would have faced a quiet death in the legislative hopper.

Commenting on the new law, Herbert Alexander, one of the nation’s foremost experts on campaign finance issues, said: “In many respects, it is about the best state law in the country.” Donald Herzberg, then-director of the Eagleton Institute at Rutgers University, described it as the “toughest disclosure law in the United States.” The Star-Ledger called it “a national model.”

Just weeks away from its 50th anniversary, ELEC as an institution has survived with its integrity intact through the terms of ten governors- five Democrats and five Republicans.

The current Commission members- two Democrats and one Republican- strongly urge the Legislature and the Governor to maintain ELEC’s independence and insulation from partisan politics, and reject these ill-advised proposals.

Commission Chairman Eric H. Jaso, the honorable Stephen M. Holden and Honorable Marguerite T. Simon

With State Elections Looming, County Party Committees Have Extra Gas in Their Tanks

Democratic and Republican county party committees entered a state election year with above-average coffers, according to year-end reports filed with the New Jersey Election Law Enforcement Commission.

Democratic committees collectively reported cash reserves of \$2.5 million as of December 31, 2022. That is 26 percent more than the nearly \$2 million year-end average dating back to 2012.

Republicans as a group reported \$622,636. That represents 12 percent more than the \$555,822 average for the period.

Table 1
Year-End County Party Cash-On-Hand Totals 2012-2022

YEAR	BOTH PARTIES	DEMOCRATS	REPUBLICANS
2012	\$1,611,619	\$1,301,627	\$309,992
2013	\$1,448,541	\$ 960,624	\$487,917
2014	\$1,427,077	\$ 964,926	\$462,151
2015	\$1,724,814	\$1,134,676	\$590,138
2016	\$2,217,708	\$1,622,023	\$595,685
2017	\$3,132,815	\$2,529,074	\$603,741
2018	\$3,435,910	\$2,474,730	\$961,180
2019	\$2,504,889	\$2,018,930	\$485,959
2020	\$3,069,844	\$2,626,349	\$443,496
2021	\$4,170,046	\$3,618,903	\$551,143
2022	\$3,114,672	\$2,492,036	\$622,636
2012-2022 Average	\$2,532,540	\$1,976,718	\$555,822
2022 Versus Average	23%	26%	12%

“Cash in the bank is one key measure of political firepower,” said Jeff Brindle, ELEC’s Executive Director. “Both parties are starting the election year with solid reserves compared to past years.”

Along with many county and local elections, all 120 seats in the state Legislature are up for reelection in 2023. County parties perform many election-related tasks, including making contributions to candidates, voter turnout drives, polling and other functions.

The \$3.1 million in combined cash reserves at the end of 2022 was well below the \$4.2 million sum a year earlier. But it was 23 percent above the decade average of \$2.5 million. Plus, cash leftover in 2021 was a record high. It followed an unusually large influx of checks from outside New Jersey that especially swelled Democratic coffers and seemed geared to prime the party committees for 2022 federal elections.

During 2022, Democrats raised and spent more than Republicans and reported larger cash reserves.

Table 2
Year-End Snapshot of 2022 Campaign
Finance Activity by County Parties

PARTY	RAISED	SPENT	CASH-ON-HAND	NET WORTH
Democrats	\$5,403,837	\$6,458,533	\$2,492,036	\$2,347,591
Republicans	\$3,297,134	\$3,234,372	\$ 622,636	\$1,093,665
Combined	\$8,700,972	\$9,692,905	\$3,114,672	\$3,441,256

Federal election years feature regularly scheduled elections for president, U.S. Senate and/or the House of Representatives. State election years feature elections for governor and/or one or both state legislative houses. Some federal election years also include special state elections to fill vacancies and vice versa.

Last year was a federal election year with all 12 House seats up for reelection. County party committees typically raise and spend less money in federal years compared to state election years.

A comparison of 2022 campaign finance activity to the average for federal and state election years since 2012 bears this out. For instance, fundraising in 2022 was 29 percent below the average state election year since 2012 while spending was down 14 percent.

Compared to the average for all years, fundraising was 8 percent less though spending was 5 percent more.

Numbers were up compared to the average for federal years. Fundraising was 9 percent above average while spending was up 25 percent.

Table 3
2022 Campaign Finance Activity
Compared to Averages Since 2012

PERIOD- 2012-2022	RAISED	SPENT	CASH-ON-HAND
2022- (Federal Election Year)	\$ 8,700,972	\$ 9,692,905	\$3,114,672
Average Federal Election Year	\$ 7,953,016	\$ 7,743,272	\$2,479,472
Average State Election Year	\$11,224,722	\$11,024,671	\$2,596,221
Average All Years	\$ 9,440,155	\$ 9,234,817	\$2,532,540
2022 Versus Federal Election Year Average- %	9%	25%	26%
2022 Versus State Election Year Average- %	-29%	-14%	17%
2022 Versus All Years Average- %	-8%	5%	23%

Cash reserves at the end of 2022 topped all three averages.

Among Democratic county committees that have filed their quarterly reports, seven committees-Camden, Essex, Mercer, Middlesex, Passaic, Somerset, and Union - reported cash balances above \$100,000. Gloucester, Hudson and Warren committees reported negative balances adjusting for outstanding debts.

Table 4
Campaign Finance Activity of
Democratic County Party Committees
January 1 through December 31, 2022

COUNTY	RAISED	SPENT	CASH-ON-HAND	NET WORTH*
Atlantic	\$ 139,198	\$ 124,126	\$ 21,523	\$ 14,561
Bergen	\$1,023,053	\$1,150,426	\$ 18,869	\$ 18,869
Burlington	\$ 238,566	\$ 309,817	\$ 26,919	\$ 20,544
Camden	\$ 481,637	\$ 541,836	\$ 277,063	\$ 277,063
Cape May	\$ 28,475	\$ 22,279	\$ 7,251	\$ 7,251
Cumberland	\$ 98,287	\$ 42,595	\$ 58,814	\$ 51,814
Essex	\$ 468,989	\$ 463,574	\$ 358,089	\$ 358,089
Gloucester	\$ 427,239	\$ 670,382	\$ 9,140	\$ (15,674)
Hudson	\$ 108,007	\$ 208,460	\$ 26,182	\$ (82,593)
Hunterdon	\$ 70,051	\$ 102,545	\$ 19,594	\$ 19,594
Mercer	\$ 80,328	\$ 147,708	\$ 362,957	\$ 362,957
Middlesex	\$ 538,776	\$ 610,059	\$ 110,778	\$ 110,778
Monmouth	\$ 190,365	\$ 233,458	\$ 29,141	\$ 29,141
Morris	\$ 178,252	\$ 161,544	\$ 26,875	\$ 26,874
Ocean	\$ 70,212	\$ 144,680	\$ 20,962	\$ 37,128
Passaic	\$ 458,870	\$ 745,657	\$ 312,710	\$ 312,710
Salem**	\$ 20,612	\$ 31,562	\$ 78,249	\$ 77,450
Somerset	\$ 384,185	\$ 270,791	\$ 248,908	\$ 248,908
Sussex	\$ 40,332	\$ 47,381	\$ 12,182	\$ 12,182
Union	\$ 333,397	\$ 379,150	\$ 464,768	\$ 464,768
Warren	\$ 25,006	\$ 50,503	\$ 1,062	\$ (4,824)
Democrats-Total	\$5,403,837	\$6,458,533	\$2,492,036	\$2,347,591

*Net worth is cash-on-hand adjusted for debts owed to or by the committee.

**Through third quarter

As for Republican county committees, Cape May County committee reported a cash balance above \$100,000. Bergen, Camden and Morris committees reported negative balances adjusting for outstanding debts.

Table 5
Campaign Finance Activity of
Republican County Party Committees
January 1 through December 31, 2022

COUNTY	RAISED	SPENT	CASH-ON-HAND	NET WORTH*
Atlantic	\$ 171,951	\$ 165,863	\$ 37,925	\$ 37,925
Bergen	\$ 228,057	\$ 229,852	\$ 1,138	\$ (8,862)
Burlington	\$ 128,341	\$ 146,417	\$ 22,645	\$ 518,760
Camden	\$ 22,074	\$ 24,980	\$ (809)	\$ (809)
Cape May	\$ 182,879	\$ 123,347	\$191,119	\$ 191,119
Cumberland	\$ 140,215	\$ 138,812	\$ 3,271	\$ 3,271
Essex	\$ 60,800	\$ 51,098	\$ 27,681	\$ 27,681
Gloucester	\$ 137,264	\$ 149,738	\$ 3,187	\$ 3,187
Hudson	NA	NA	NA	NA
Hunterdon	\$ 246,500	\$ 242,915	\$ 24,138	\$ 24,138
Mercer	\$ 2,900	\$ 1,908	\$ 2,563	\$ 2,562
Middlesex	\$ 68,247	\$ 63,505	\$ 12,749	\$ 12,664
Monmouth	\$ 619,637	\$ 615,364	\$ 53,609	\$ 53,609
Morris	\$ 241,621	\$ 238,402	\$ 8,073	\$ (6,927)
Ocean	\$ 284,413	\$ 242,482	\$ 61,317	\$ 61,317
Passaic	\$ 415,907	\$ 437,765	\$ 3,199	\$ 3,199
Salem	\$ 23,853	\$ 18,594	\$ 29,538	\$ 29,538
Somerset***	NA	NA	NA	NA
Sussex	\$ 140,885	\$ 160,679	\$ 72,240	\$ 72,240
Union	\$ 65,433	\$ 83,943	\$ 38,016	\$ 38,016
Warren**	\$ 116,157	\$ 98,708	\$ 31,040	\$ 31,040
Republicans-Total	\$3,297,134	\$3,234,372	\$622,636	\$1,093,665

*Net worth is cash-on-hand adjusted for debts owed to or by the committee.

**Through third quarter

*** No reports filed in 2022

NA-not available

The numbers in this analysis are based on reports filed by noon February 3, 2023. They have yet to be verified by ELEC staff, and should be considered preliminary.

Individual reports can be reviewed on ELEC's website (www.elec.state.nj.us).

Training & Seminars • Webinars

PAY-TO-PLAY TRAINING FOR BUSINESS ENTITIES - WEBINARS

February 01, 2023 at 10:00 AM	March 08, 2023 at 10:00 AM
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PAC (CPC/PPC) WEBINARS

R-3 eFile ONLY Program Training	CPC/PPC Compliance Seminar AND eFile Training
January 24, 2023 at 10:00 AM	January 11, 2023 at 10:00 AM
February 14, 2023 at 10:00 AM	February 08, 2023 at 10:00 AM
March 22, 2023 at 10:00 AM	March 15, 2023 at 10:00 AM
April 13, 2023 at 10:00 AM	April 12, 2023 at 10:00 AM
May 18, 2023 at 10:00 AM	May 11, 2023 at 10:00 AM
July 20, 2023 at 10:00 AM	May 17, 2023 at 10:00 AM
September 12, 2023 at 10:00 AM	June 14, 2023 at 10:00 AM
October 12, 2023 at 10:00 AM	July 13, 2023 at 10:00 AM
	August 10, 2023 at 10:00 AM
	September 07, 2023 at 10:00 AM
	October 03, 2023 at 10:00 AM

CANDIDATE WEBINARS

R-1 eFile ONLY Program Training	Campaign Compliance Seminar AND eFile Training
January 12, 2023 at 10:00 AM	January 10, 2023 at 10:00 AM
February 15, 2023 at 10:00 AM	February 07, 2023 at 10:00 AM
March 23, 2023 at 10:00 AM	March 09, 2023 at 10:00 AM
April 04, 2023 at 10:00 AM	March 14, 2023 at 10:00 AM
April 11, 2023 at 10:00 AM	April 05, 2023 at 10:00 AM
May 03, 2023 at 10:00 AM	May 02, 2023 at 10:00 AM
June 22, 2023 at 10:00 AM	May 04, 2023 at 10:00 AM
July 26, 2023 at 10:00 AM	May 10, 2023 at 10:00 AM
September 28, 2023 at 10:00 AM	June 13, 2023 at 10:00 AM
October 05, 2023 at 10:00 AM	July 11, 2023 at 10:00 AM
October 24, 2023 at 10:00 AM	August 08, 2023 at 10:00 AM
	September 21, 2023 at 10:00 AM
	September 26, 2023 at 10:00 AM
	October 19, 2023 at 10:00 AM

If you have any questions concerning ELEC's training program, please contact the staff of the Compliance Division at (609) 292-8700.

*All webinars will run for approximately 2 hours.

Reporting Dates

	INCLUSION DATES	REPORT DUE DATE
FIRE COMMISSIONER – FEBRUARY 18, 2023		
29–day Preelection Reporting Date	Inception of campaign* – 1/17/2023	1/20/2023
11–day Preelection Reporting Date	1/18/2023 – 2/4/2023	2/7/2023
20–day Postelection Reporting Date	2/5/2023 – 3/7/2023	3/10/2023
48–Hour Notice Reporting Starts on 2/5/2023 through 2/18/2023		
APRIL SCHOOL BOARD – APRIL 25, 2023 – UPDATED PER CHANGE BY THE COMMISSIONER OF EDUCATION		
29–day Preelection Reporting Date	Inception of campaign* – 3/24/2023	3/27/2023
11–day Preelection Reporting Date	3/25/2023 – 4/11/2023	4/14/2023
20–Day Postelection Reporting Date	4/12/2023 – 5/12/2023	5/15/2023
48–Hour Notice Reporting Starts on 4/12/2023 through 4/25/2023		
MAY MUNICIPAL – MAY 9, 2023		
29–day Preelection Reporting Date	Inception of campaign* – 4/7/2023	4/10/2023
11–day Preelection Reporting Date	4/8/2023 – 4/25/2023	4/28/2023
20–Day Postelection Reporting Date	4/26/2023 – 5/26/2023	5/30/2023
48–Hour Notice Reporting Starts on 4/26/2023 through 5/9/2023		
RUNOFF (JUNE)** – JUNE 13, 2023		
29–day Preelection Reporting Date	No Report Required for this Period	
11–day Preelection Reporting Date	4/26/2023 – 5/30/2023	6/2/2023
20–Day Postelection Reporting Date	5/31/2023 – 6/30/2023	7/3/2023
48–Hour Notice Reporting Starts on 5/31/2023 through 6/13/2023		
PRIMARY (90 DAY START DATE: MARCH 8, 2023)*** - JUNE 6, 2023		
29–day Preelection Reporting Date	Inception of campaign* – 5/5/2023	5/8/2023
11–day Preelection Reporting Date	5/6/2023 -5/23/2023	5/26/2023
20–Day Postelection Reporting Date	5/24/2023 – 6/23/2023	6/26/2023
48–Hour Notice Reporting Starts on 5/24/2023 through 6/6/2023		
GENERAL (90 DAY START DATE: AUGUST 9, 2023)*** - NOVEMBER 7, 2023		
29–day Preelection Reporting Date	6/24/2023 – 10/6/2023	10/10/2023
11–day Preelection Reporting Date	10/7/2023 – 10/24/2023	10/27/2023
20–day Postelection Reporting Date	10/25/2023 -11/24/2023	11/27/2023
48–Hour Notice Reporting Starts on 10/25/2023 through 11/7/2023		
RUN–OFF (DECEMBER)** – DECEMBER 5, 2023		
29–day Preelection Reporting Date	No Report Required for this Period	
11–day Preelection Reporting Date	10/25/2023 – 11/21/2023	11/24/2023
20–day Postelection Reporting Date	11/22/2023 – 12/22/2023	12/26/2023
48 Hour Notice Reporting Starts on 11/22/2023 through 12/5/2023		

PACS, PCFRS & CAMPAIGN QUARTERLY FILERS

1 st Quarter	1/1/2023 – 3/31/2023	4/17/2023
2 nd Quarter	4/1/2023 – 6/30/2023	7/17/2023
3 rd Quarter	7/1/2023 – 9/30/2023	10/16/2023
4 th Quarter	10/1/2023 – 12/31/2023	1/16/2024

GOVERNMENTAL AFFAIRS AGENTS (Q-4)

1 st Quarter	1/1/2023 – 3/31/2023	4/10/2023
2 nd Quarter	4/1/2023 – 6/30/2023	7/10/2023
3 rd Quarter	7/1/2023 – 9/30/2023	10/10/2023
4 th Quarter	10/1/2023 – 12/31/2023	1/10/2024

*Inception Date of Campaign (first time filers) or from January 1, 2023 (Quarterly filers).

**A candidate committee or joint candidates committee that is filing in a 2023 Runoff election is not required to file a 20-day postelection report for the corresponding prior election (May Municipal or General).

***Form PFD-1 is due on April 6, 2023 for Primary Election Candidates and June 19, 2023 for Independent General Election Candidates.

Note: A fourth quarter 2022 filing is needed for Primary 2023 candidates if they started their campaign prior to December 8, 2022. A second quarter 2023 filing is needed by Independent/Non-Partisan General Election candidates if they started their campaign prior to May 10, 2023.

HOW TO CONTACT ELEC

www.elec.state.nj.us

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