

CHAPTER 279
SB 120-FN – FINAL VERSION

02/06/14 0425s
14May2014... 1654h

2014 SESSION

13-0260
03/05

SENATE BILL ***120-FN***

AN ACT relative to political contributions and expenditures and relative to reporting by political committees.

SPONSORS: Sen. Bradley, Dist 3; Sen. Carson, Dist 14; Sen. Odell, Dist 8; Rep. Jasper, Hills 37; Rep. G. Richardson, Merr 10

COMMITTEE: Public and Municipal Affairs

AMENDED ANALYSIS

This bill:

I. Modifies the definitions of “political committee,” “expenditure,” and “independent expenditure” and establishes a definition of “receipts.”

II. Modifies registration and reporting requirements for political committees.

III. Requires registration of and reporting by political advocacy organizations, as defined in the bill.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 279
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to political contributions and expenditures and relative to reporting by political committees.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 279:1 Definitions; Political Committee. RSA 664:2, III is repealed and reenacted to read as
2 follows:

3 III. “Political committee” means:

4 (a) Any organization of 2 or more persons that promotes the success or defeat of a
5 candidate or candidates or measure or measures, including the political committee of a political
6 party;

7 (b) Any segregated fund established by any organization the purpose of which is to
8 promote the success or defeat of a candidate or candidates or measure or measures;

9 (c) Any organization that has as its major purpose to promote the success or defeat of a
10 candidate or candidates or measure or measures and whose receipts or expenditures total \$2,500 or
11 more in a calendar year for that purpose;

12 (d) Any organization that does not have as its major purpose to promote the success or
13 defeat of a candidate or candidates or measure or measures but that makes expenditures that total
14 \$5,000 or more in a calendar year; or

15 (e) Any segregated fund that is voluntarily registered with the secretary of state for the
16 purpose of reporting its receipts and expenditures under this chapter or any organization that
17 voluntarily registers with the secretary of state, without regard to whether such segregated fund or
18 organization meets the receipt or expenditure thresholds described in this paragraph.

19 As used in this paragraph, “organization” includes, but is not limited to, one or more natural
20 persons; entities formed under state law, except those entities qualified under section 501(c)(3) of the
21 United States Internal Revenue Code of 1986; committees formed by a candidate, exploratory
22 campaign, or political party; and any other association of natural persons or entities formed under
23 state law that is not registered as a business entity.

24 279:2 Definitions; Expenditure. Amend RSA 664:2, IX to read as follows:

25 IX. “Expenditure” shall mean the disbursement of money or thing of value or the making of
26 a legally binding commitment to make such a disbursement in the future ***or the transfer of funds***
27 ***by a political committee to another political committee or to a candidate*** for the purpose of
28 ~~[influencing the nomination for election or election of any candidate]~~ ***promoting the success or***
29 ***defeat of a candidate or candidates or measure or measures. “Expenditures” includes***

CHAPTER 279
SB 120-FN – FINAL VERSION
- Page 2 -

1 *disbursements constituting independent expenditures, as defined in paragraph XI.* It does
2 not include:

3 (a) The candidate's filing fee or his *or her* expenses for personal travel and subsistence;

4 (b) *Activity designed to encourage individuals to register to vote or to vote, if*
5 *that activity or communication does not mention a clearly identified candidate;*

6 (c) *Any communication by any membership organization or corporation to its*
7 *members or stockholders, if the primary purpose of that membership organization or*
8 *corporation is not for the purpose of promoting the success or defeat of a candidate or*
9 *candidates and measure or measures; or*

10 (d) *Any communication by any political committee member that is not made for*
11 *the purpose of promoting the success or defeat of a candidate or candidates or measure or*
12 *measures.*

13 279:3 Definitions; Independent Expenditures. Amend RSA 664:2, XI to read as follows:

14 XI. "Independent expenditures" means expenditures ~~[by a person, political committee, or~~
15 ~~other entity]~~ *that pay for the development and distribution of a communication that*
16 *expressly [advocating] advocates the election or defeat of a clearly identified candidate or*
17 *candidates or the success or defeat of a measure or measures, which are made without*
18 *cooperation or consultation with any candidate, or any authorized committee or agent of such*
19 *candidate, and which are not made in concert with, or at the request or suggestion of, any candidate,*
20 *or any authorized committee or agent of such candidate. [As used in this paragraph, "clearly*
21 *identified" means that the name of the candidate involved appears; a photograph or drawing of the*
22 *candidate appears; or the identity of the candidate is apparent by unambiguous reference.]*

23 279:4 New Paragraphs; Definitions. Amend RSA 664:2 by inserting after paragraph XVII the
24 following new paragraphs:

25 XVIII. "Receipts" shall mean the receipt of money or thing of value or the receipt of a legally
26 binding commitment to receive money or thing of value in the future for the purpose of promoting
27 the success or defeat of a candidate or candidates or a measure or measures. Receipts shall not
28 include amounts received by a political committee in commercial transactions in the ordinary course
29 of any trade or business conducted by the political committee or in the form of investments in the
30 political committee or amounts received by the political committee from payors who, at the time of
31 payment, prohibited, in writing, the use of the payment as an expenditure.

32 XIX. "Segregated fund" shall mean a segregated account of money that consists of funds that
33 were paid directly to such account by persons other than the covered political committee that
34 controls the account from which only expenditures defined in paragraph IX are made.

35 XX. "Clearly identified candidate" means that the name of the candidate involved appears; a
36 photograph or drawing of the candidate appears; or the identity of the candidate is otherwise

CHAPTER 279
SB 120-FN – FINAL VERSION
- Page 3 -

1 apparent.

2 XXI. “Political advocacy organization” means any entity that spends \$5,000 or more in a
3 calendar year to pay for a communication that is functionally equivalent to express advocacy
4 because, when taken as a whole, such communication is likely to be interpreted by a reasonable
5 person only as advocating the election or defeat of a clearly identified candidate or candidates or the
6 success or defeat of a measure or measures, taking into account whether the communication involved
7 mentions a candidacy or a political party, or takes a position on a candidate’s character,
8 qualifications, or fitness for office.

9 279:5 Registration of Political Committees. Amend RSA 664:3, I to read as follows:

10 I. Any political committee, except the political committee of a political party, shall register
11 with the secretary of state as provided in this section. ***A political committee may register for an***
12 ***election cycle at any time after the final report is due following the then-most-recent***
13 ***general election.*** The ~~[committee shall register with]~~ ***committee’s registration shall be***
14 ***received by*** the secretary of state not later than ~~[24]~~ ***48*** hours after ~~[receiving any contribution in~~
15 ~~excess of \$500 or before making any expenditure in excess of \$500, but in no event later than 14 days~~
16 ~~after the formation of the committee]~~ ***the committee meets at least one of the criteria under***
17 ***RSA 664:2, III. The registration shall be accompanied by an itemized statement of the***
18 ***receipts and expenditures, if any, made by the political committee in the election cycle***
19 ***prior to registration. Such itemization shall be made pursuant to the manner set forth in***
20 ***RSA 664:6.*** The registration shall ***also*** be accompanied by a fee of \$50, which shall be deposited by
21 the secretary of state into the general fund; provided, however, that the political committee of a
22 candidate ~~[which]~~ ***that*** registers under this section shall not be required to pay the \$50 fee. Each
23 political committee shall designate a treasurer or agent who is a citizen of this state and who is
24 authorized to receive all process and other legal documents on behalf of the political committee, and
25 through whom may be obtained access to all books and records of the political committee. The
26 political committee shall file with the secretary of state a statement of the purpose of the committee
27 and shall indicate whether the committee will be making independent expenditures ~~[in support of or~~
28 ~~in opposition to any candidate including]~~. ***The registration shall also include*** a statement of the
29 name, address, occupation, and principal place of business of its chairperson and treasurer or agent,
30 and the names and addresses of other officers. The committee shall file an amendment to its
31 registration within 14 days of any change in the officers or purpose of the committee.

32 279:6 New Paragraph; Registration of Political Committees. Amend RSA 664:3 by inserting
33 after paragraph IV the following new paragraph:

34 V. Any political committee or political advocacy organization that is exempt from taxation
35 under sections 501(c)(4), 501(c)(5), or 501(c)(6) of the United States Internal Revenue Code of 1986
36 may disclose, but shall not be required to disclose in its itemized statement of receipts, the identity of

CHAPTER 279
SB 120-FN – FINAL VERSION
- Page 4 -

1 its donors.

2 279:7 Reporting by Political Committee. Amend RSA 664:6, I to read as follows:

3 I. Any political committee whose receipts or expenditures [~~in support of a candidate,~~
4 ~~measure, or political party~~] exceed \$500 except, for the purposes of this paragraph only, the political
5 committee of a political party or the political committee of a candidate, shall file with the secretary of
6 state an itemized statement ***in the form prescribed by the secretary of state***, signed by its
7 chairman and treasurer showing each of its receipts exceeding \$25 with the full name and [~~home~~
8 ~~post office~~] ***postal*** address of the contributor in alphabetical order and the amount of the
9 contribution, the date it was received, and the aggregate total for each election for each contributor
10 of over \$100. The statement shall be filed not later than the Wednesday 12 weeks immediately
11 preceding a primary election, before 5 o'clock in the afternoon, and shall cover the period from the
12 day of the committee registration up to and including the Monday before the statement is due. All
13 receipts of \$25 or under shall appear on the statements as unitemized receipts. Any listing [~~which~~
14 ***that*** exceeds an individual's aggregate total of \$100 for each election shall be accompanied by the
15 contributor's occupation including official job title, the name of the contributor's employer, and the
16 city or town of the contributor's principal place of business, if any. The statement shall also show
17 each committee expenditure ***exceeding \$25*** with the full name and [~~city or town of persons,~~
18 ~~corporations, committees, or to whomever paid or to be paid~~] ***postal address of the payee or***
19 ***promise of payment***, the date paid ***or obligated***, and the election for which the expenditure was
20 made, with the specific nature and amount of each expenditure since the date of the registration.

21 279:8 Reporting by Political Committee. Amend RSA 664:6, II-a to read as follows:

22 II-a. A political committee shall file a statement in the same form as in paragraph I with the
23 secretary of state not later than the Wednesday immediately preceding a primary and a general election,
24 before 5 o'clock in the afternoon. The statement shall summarize the statements under paragraphs I and
25 II if such statements are filed and itemize all receipts and expenditures since the cutoff of the statement
26 under paragraph II up until the Monday preceding the filing of the statement under this paragraph. In
27 addition to the reporting requirements contained in this section, the secretary of state shall be notified by
28 the fiscal agent within [~~24~~] **48** hours of any contribution exceeding \$500 [~~which~~] ***that*** is received after the
29 statement under this paragraph is filed and prior to the day of election.

30 279:9 Reporting by Political Committee. Amend RSA 664:6, IV-a to read as follows:

31 IV-a. Any political committee whose independent expenditures, in aggregate, exceed \$500
32 shall file an itemized statement with the secretary of state ***which shall be received by the***
33 ***secretary of state*** not later than [~~24~~] **48** hours after such expenditures are made, and thereafter
34 each time a further \$500 is expended. Such itemized statements shall cover the period during which
35 independent expenditures totaling \$500 were made. Each statement shall include a certification by
36 ***the chairman of*** the political committee that the independent expenditure meets the definition in

CHAPTER 279
SB 120-FN – FINAL VERSION
- Page 5 -

1 RSA 664:2, XI. Each statement shall contain the date of each independent expenditure; the name
2 and address of the person to whom the expenditure was made; the name of the candidate on whose
3 behalf or against whom each *independent* expenditure was made; the amount of each expenditure;
4 the purpose of each expenditure, and the aggregate amount of all previous independent
5 expenditures. If the independent expenditure is made in support of or [~~to oppose~~] *in opposition to*
6 more than one candidate, the statement made under this paragraph shall allocate the way in which
7 the expenditure was made among the candidates on a reasonable basis. For the purposes of this
8 paragraph, “reasonable basis” means a statement [~~which~~] *that* reflects the benefit or the burden
9 reasonably expected to be derived or suffered by each candidate. The filing requirements of this
10 paragraph shall be in addition to all other filing requirements under this section, and shall not be
11 limited to the filing periods during which expenditures must otherwise be reported.

12 279:10 New Paragraph; Reporting by Political Committee. Amend RSA 664:6 by inserting after
13 paragraph VIII the following new paragraph:

14 IX. Any political committee or political advocacy organization that is exempt from taxation
15 under sections 501(c)(4), 501(c)(5), or 501(c)(6) of the United States Internal Revenue Code of 1986
16 may disclose, but shall not be required to disclose in its itemized statement of receipts, the identity of
17 its donors.

18 279:11 New Paragraphs; Penalties. Amend RSA 664:21 by inserting after paragraph VI the
19 following new paragraphs:

20 VII.(a) A political committee other than a political committee of a candidate that fails to
21 register in accordance with RSA 664:3 shall be subject to a fine up to 25 percent of the total amount
22 of independent expenditures made during the period from the date the political committee was
23 required to register to the date the political committee registered.

24 (b) A political committee that fails to report independent expenditures in accordance
25 with RSA 664:6, IV-a shall be subject to a fine up to 25 percent of the total amount of independent
26 expenditures not reported or reported late.

27 VIII. Any person who willfully makes and subscribes to any statement filed under this
28 chapter that he or she does not believe to be true and correct as to every material matter shall be
29 guilty of false swearing under RSA 641:2.

30 279:12 New Section; Registration of Political Advocacy Organizations. Amend RSA 664 by
31 inserting after section 3 the following new section:

32 664:3-a Registration of Political Advocacy Organizations. Political advocacy organizations shall
33 register with the secretary of state under the same deadlines and in the same general form required
34 of political committees under RSA 664:3.

35 279:13 New Section; Reporting by Political Advocacy Organizations. Amend RSA 664 by
36 inserting after section 6 the following new section:

CHAPTER 279
SB 120-FN – FINAL VERSION
- Page 6 -

1 664:6-a Reporting by Political Advocacy Organizations. Political advocacy organizations shall
2 report with the secretary of state any funds received or expenses incurred in connection with
3 communications described in RSA 664:2, VII, under the same deadlines and in the same general
4 form required of political committees under RSA 664:6, IV-a.

5 279:14 Effective Date. This act shall take effect upon its passage.

6

7 Approved: July 28, 2014

8 Effective Date: July 28, 2014