

## CHAPTER 664

### POLITICAL EXPENDITURES AND CONTRIBUTIONS

**664:1 Applicability of Chapter.** The provisions of this chapter shall apply to all state primary, general, and special elections, but shall only apply to presidential preference primaries as provided in this section. The provisions relating to political advertising, push polling, and enforcement, RSA 664:14 through RSA 664:22, shall additionally apply to presidential primary, city, town, school district, and village district elections.

**664:2 Definitions.** As used in this chapter: I. "Election" means any general biennial or special election, political party primary, or presidential preference primary as provided in RSA 664:1.

II. "Candidate" means any person publicly declared as such and for whom votes are sought in an election.

III. "Political committee" means: (a) Any organization of 2 or more persons that promotes the success or defeat of a candidate or candidates or measure or measures, including the political committee of a political party;

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

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

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

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

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

IV. "Political party" or "party" means any political organization or number of persons which can nominate candidates in any manner prescribed by law and has done so for the current election. The definition of the word "party" contained in RSA 652:11 shall not apply to this chapter.

V. "Political committee of a political party" means a state, county, regional, city, ward, or town committee of a political party. A regional committee shall be composed only of members who are residents of towns or cities that form a contiguous land area, and shall have been created and approved by the state committee of the political party. To establish regional committees, a party shall amend its by-laws to authorize them in principle; a copy of the by-law authorization and evidence of the approval for each regional committee by the state committee shall be filed by the political party with the secretary of state before the first Wednesday in June of that year.

VI. "Political advertising" means any communication, including buttons or printed material attached to motor vehicles, which expressly or implicitly advocates the success or defeat of any party, measure or person at any election.

VII. "Communication" shall include, but not be limited to, publication in any newspaper or other periodical or on any Internet site, broadcasting on radio, television, or over any public address system, transmission by telephone or facsimile, placement on any billboards, outdoor facilities, window displays, posters, cards, pamphlets, leaflets, flyers, or other circulars, or in any direct mailing.

VIII. "Contribution" shall mean a payment, gift, subscription, assessment, contract, payment for services, dues advance, forbearance or loan to a candidate or political committee made for the purpose of influencing the nomination or election of any candidate. "Contributions" shall include the use of any thing of value but shall not include the services of volunteers who receive no pay therefor or the use of personal resources by a candidate on behalf of his candidacy.

IX. "Expenditure" shall mean the disbursement of money or thing of value or the making of a legally binding commitment to make such a disbursement in the future or the transfer of funds by a political committee to another political committee or to a candidate for the purpose of promoting the success or defeat of a candidate or candidates or measure or measures. "Expenditures" includes disbursements constituting independent expenditures, as defined in paragraph XI. It does not include:

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

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

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

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

X. "Measure" shall mean any constitutional amendment or question which is submitted or intended to be submitted to a popular vote at an election.

XI. "Independent expenditures" means expenditures that pay for the development and distribution of a communication that expressly advocates the election or defeat of a clearly identified candidate or candidates or the success or defeat of a measure or measures, which are made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which are not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

XII. "Full name" means an individual's full first name, middle name or initial, if any, and full legal last name, making the identity of the contributor apparent by unambiguous reference.

XIII. "Post office address" means an individual's principal place of residence and shall include a street and post office box, if any, city, state and zip code. "Post office address" shall not mean: (a) An individual's business address. (b) An individual's home address or rental property address when the home or rental property is owned, but not occupied by the contributor. (c) Any address not that of the contributor.

XIV. "Occupation" means an individual's official job title resulting from employment at or ownership of any agency or organization or other entity.

XV. "Principal place of business" means the primary organization or employer from which an individual derives his or her principal income and shall include the employer's official name and the employer's post office address.

XVI. "Business organization" means any enterprise, whether corporation, partnership, limited liability company, proprietorship, association, business trust, real estate trust or other form of organization, organized for gain or profit, and includes any enterprise which is expressly made exempt from income taxation under the United States Internal Revenue Code of 1986. It does not include a political committee as defined in RSA 664:2, III, or the political committee of a political party, as defined in RSA 664:2, V.

XVII. "Push-polling" means:

(a) Calling voters on behalf of, in support of, or in opposition to, any candidate for public office by telephone; and

(b) Asking questions relative to opposing candidates for public office which state, imply, or convey information about the candidates character, status, or political stance or record; and

(c) Conducting such calling in a manner which is likely to be construed by the voter to be a survey or poll to gather statistical data for entities or organizations which are acting independent of any particular political party, candidate, or interest group as part of a series of like telephone calls that consist of more than 2,000 connected calls that last less than 2 minutes in presidential, gubernatorial, United States senatorial, or United States congressional elections; or conducting such calling as part of a series of like telephone calls that consist of more than 500 connected calls that last less than 2 minutes in executive council, state senate, city, town, school district, or village district elections; or conducting such calling as part of a series of like telephone calls that consist of more than 200 connected calls that last less than 2 minutes in state representative elections; and

(d) Conducting such calling for purposes other than bona fide survey and opinion research.

XVIII. "Bona fide survey and opinion research" means the collection and analysis of data regarding opinions, needs, awareness, knowledge, views, experiences, and behaviors of a population, through the development and administration of surveys, interviews, focus groups, polls, observation, or other research methodologies, in which no sales, promotional, or marketing efforts are involved, and through which there is no attempt to influence a participant's attitudes or behavior. Bona fide survey and opinion research includes message testing, which is the study for research purposes of how randomly-selected individuals react to positive or negative information on a candidate, elected public official, or ballot question.

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

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

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

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

**664:3 Registration of Political Committees.** I. Any political committee, except the political committee of a political party, shall register with the secretary of state as provided in this section. A political committee may register for an election cycle at any time after the final report is due following the then-most-recent general election. The committee's registration shall be received by the secretary of state not later than 48 hours after the committee meets at least one of the criteria under RSA 664:2, III. The registration shall be accompanied by an itemized statement of the receipts and expenditures, if any, made by the political committee in the election cycle prior to registration. Such itemization shall be made pursuant to the manner set forth in RSA 664:6. The registration shall also be accompanied by a fee of \$50, which shall be deposited by the secretary of state into the general fund; provided, however, that the political committee of a candidate that registers under this section shall not be required to pay the \$50 fee. Each political committee shall designate a treasurer or agent who is a citizen of this state and who is authorized to receive all process and other legal documents on behalf of the political committee, and through whom may be obtained access to all books and records of the political committee. The political committee shall file with the secretary of state a statement of the purpose of the committee and shall indicate whether the committee will be making independent expenditures. The registration shall also include a statement of the name, address, occupation, and principal place of business of its chairperson and treasurer or agent, and the names and addresses of other officers. The committee shall file an amendment to its registration within 14 days of any change in the officers or purpose of the committee.

II. No member of a political committee which is required to register under RSA 664:3, I, except members of political committees of political parties, shall do any act directly or indirectly on behalf of the committee to promote the success or defeat of a political party, a measure or a candidate, unless the requirements of RSA 664:3, I are met.

III. Any political committee which is organized to support a candidate in any election shall secure the written consent of the candidate or his fiscal agent before it receives contributions or makes expenditures. Such written consent shall be filed with the secretary of state when the statements required by paragraph I are filed.

IV. All political committees' registrations under this chapter shall be valid from the date of registration until 10 days after the primary or general election, whichever is appropriate, unless terminated sooner, in writing, by the chairman and the treasurer of the committee. However, any committee which has a continuing obligation to report as required under RSA 664:6 shall continue to exist for the purpose of making such reports.

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

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

**664:4 Prohibited Political Contributions.** No contribution, whether tangible or intangible, shall be made to a candidate, a political committee, or political party, or in behalf of a candidate or political committee or political party, directly or indirectly, for the purpose of promoting the success or defeat of any candidate or political party at any state primary or general election:

I. Repealed Chapter 150; 2011.

II. By any partnership as such or by any partner acting in behalf of such partnership.

III. By any labor union or group of labor unions, or by any officer, director, executive, agent or employee acting in behalf of such union or group of unions; or by any organization representing or affiliated with any such union or group of unions, or by any officer, director, executive, agent or employee acting in behalf of such organization.

IV. Repealed by Chapter 415 Laws of 1983.

V. By any person (1) if in excess of \$5,000 in value, except for contributions made by a candidate in behalf of his own candidacy, or if in excess of \$1,000 in value by any person or by any political committee to a candidate or a political committee working on behalf of a candidate who does not voluntarily agree to limit his campaign expenditures and those expenditures made on his behalf as provided in RSA 664:5-a, (2) if made anonymously or under a name not that of the donor, (3) if made in the guise of a loan, (4) if in any other manner concealed, (5) if made without the knowledge and written consent of the candidate or his fiscal agent, a political committee or its treasurer, or not to any one of the same.

**664:4-a Prohibited Coercion of Political Contributions.** I. No person shall knowingly coerce, or attempt to coerce, any classified state employee to give or withhold a contribution to any political campaign or political committee, or to any candidate, party or cause, for the purpose of promoting the success or defeat of any candidate or political party.

II. No business organization, and no officer, director, executive, agent or employee acting in behalf of the business organization, and no enterprise representing or affiliated with one or more business organizations, and no officer, director, executive, agent or employee acting in behalf of such enterprise, shall knowingly coerce, or attempt to coerce, any employee of the business organization or of the enterprise, or any contractor or subcontractor or any employee of the contractor or subcontractor doing business with the business organization, to make a contribution to any political campaign or political committee, or to any candidate, party or cause, for the purpose of promoting the success or defeat of any candidate or political party:

(a) By means of the denial or deprivation, or the threat of the denial or deprivation, of any employment, position, or work in or for the business organization or enterprise.

(b) By means of the denial or deprivation, or threat of the denial or deprivation, of the loss of any compensation, payment, or benefit from such employment, position, or work.

(c) By means of the discharge, promotion, degradation, or change in any manner in the official rank or compensation of any employee, or by means of the promise or threat to do so, for giving or withholding a contribution.

**664:4-b Surplus Campaign Contributions.** Surplus campaign contributions may be used after a general or special election for fund raising activities and any other politically related activity sponsored by the candidate, or for donations to charitable organizations. Such surplus campaign contributions, however, shall not be used for personal purposes.

**664:5 Prohibited Political Expenditures.** No expenditure or use of a contribution, tangible or intangible, shall be made for the purpose of promoting the success or defeat of any political party, measure or candidate:

I. By a political committee, except the political committee of a political party, unless the political committee meets the requirements of RSA 664:3, I.

II. By a political committee which is organized to support a candidate in any election, or to such candidate or candidate's fiscal agent unless the committee secures and files the written consent of the candidate or the candidate's fiscal agent with the secretary of state in accordance with RSA 664:3, III.

III. By any person, candidate or political committee, for political advertising in a newspaper, periodical, or on a radio or television broadcast, or on a billboard, if at a rate more or less than the applicable rates to be filed with the secretary of state.

IV. Repealed by Ch. 351, Laws of 1997

V. Repealed by Ch. 351, Laws of 1997

**664:5-a Limitations on Political Expenditures.** I. Any candidate may voluntarily agree to limit his campaign expenditures and those of his committee or committees, his party, and his immediate family on his behalf by filing an affidavit with the secretary of state.

II. The affidavit shall state that the candidate knows the voluntary expenditure limitations as set out in RSA 664:5-b and that he is voluntarily agreeing to limit his expenditures and those made on his behalf by his committee or committees, his party, and his immediate family to the amount set by law. The affidavit shall further state that the candidate does not condone and shall not solicit any independent expenditures made on behalf of his candidacy. The affidavit shall be sworn and subscribed to by the candidate and notarized.

III. Affidavits in compliance with this section shall be filed within 3 days after the date on which a candidate files his declaration of candidacy or his declaration of intent, or is declared a write-in winner of a primary election.

**664:5-b Political Expenditure Limitation Amounts.**

Total expenditures by a candidate who voluntarily agrees to limit campaign expenditures as provided in RSA 664:5-a shall be as follows:

I. For governor:

(a) \$625,000 in a state primary election.

(b) \$625,000 in a state general election.

I-a. For United States Senator:

(a) \$625,000 in a state primary election.

(b) \$625,000 in a state general election.

II. For representative to Congress:

- (a) \$350,000 in a state primary election.
- (b) \$350,000 in a state general election.

III. For executive council:

- (a) \$50,000 in a state primary election.
- (b) \$50,000 in a state general election.

IV. For state senate:

- (a) \$20,000 in a state primary election.
- (b) \$20,000 in a state general election.

V. For representative to the general court and all county offices, based upon the latest figures filed with the secretary of state:

- (a) \$.50 per registered voter in the district or the county in a state primary election.
- (b) \$.50 per registered voter in the district or the county in a state general election.

VI. For the purposes of this section, RSA 664:5-a and the enforcement provisions of this chapter, "total expenditures" shall mean the sum of all expenditures made to influence either a state primary or a state general election made by a candidate and those made on the candidate's behalf by the candidate's committee or committees, the candidate's party, and the candidate's immediate family. For candidates for governor, United States senator, representative to Congress, state senate, state representative, and executive council, "total expenditures" shall include any such expenditures made after January 1 of the election year, regardless of when the person actually declares his or her candidacy. Each campaign expenditure limitation amount shall apply solely and independently to either the state primary election or the state general election.

**664:5-c Advisory Committee.** I. There is established a legislative advisory committee to monitor the application of federal and New Hampshire campaign financing statutes. The committee shall study inflationary, market, and other trends which may necessitate changes in state campaign financing law. The committee shall submit a report to the governor and to the general court in November of each odd-numbered year preceding a state general election.

II. The committee shall consist of the secretary of state and 5 other members: one person appointed by the house majority leader; one person appointed by the house minority leader; one person appointed by the senate majority leader; one person appointed by the senate minority leader; and one person appointed by the governor.

**664:6 Reporting by Political Committee** I. Any political committee whose receipts or expenditures exceed \$500 shall file with the secretary of state an itemized statement in the form prescribed by the secretary of state, signed by its chairman and treasurer showing each of its receipts exceeding \$25 with the full name and postal address of the contributor in alphabetical order and the amount of the contribution, the date it was received, and the aggregate total for each election for each contributor of over \$100. Statements shall be filed no later than the first Wednesday in June and December after the state general election and before the filing deadline established in RSA 655:14, after which statements shall be filed no later than the Wednesday 12 weeks immediately preceding a primary election, before 5 o'clock in the afternoon, and shall cover the period from the day of the committee registration up to and including the Monday before the statement is due. All receipts of \$25 or under shall appear on the statements as unitemized receipts. Any listing that exceeds an individual's aggregate total of \$100 for each election shall be accompanied by the contributor's occupation including official job title, the name of the contributor's employer, and the city or town of the contributor's principal place of business, if any. The statement shall also show each committee expenditure exceeding \$25 with the full name and postal address of the payee or promise of payment, the date paid or obligated, and the election for which the expenditure was made, with the specific nature and amount of each expenditure since the date of the registration

II. A political committee shall file an itemized statement in the same form as in paragraph I with the secretary of state not later than the Wednesday 3 weeks immediately preceding a primary and a general election, before 5 o'clock in the afternoon. The statement shall summarize the period under paragraph I if a statement is filed and shall itemize all receipts and expenditures since the cutoff of that statement up until the Monday preceding the filing of the statement under this paragraph.

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

III. A political committee shall file an itemized statement in the same form as in paragraph I summarizing the previous statements if such statements are filed and itemizing all receipts and expenditures since the cutoff of the previous report and ending on the day of the primary or the general election with the secretary of state not later than the second Wednesday after the election, before 5 o'clock in the afternoon.

IV. Any political committee whose receipts or expenditures do not exceed \$500 for a reporting period need not file. However, when a committee's accumulated receipts or expenditures for an election exceed \$500 the committee shall file a statement at the next reporting deadline, and shall continue to file at each reporting deadline.

IV-a. Any political committee whose independent expenditures, in aggregate, exceed \$500 shall file an itemized statement with the secretary of state which shall be received by the secretary of state not later than 48 hours after such expenditures are made, and thereafter each time a further \$500 is expended. Such itemized statements shall cover the period during which independent expenditures totaling \$500 were made. Each statement shall include a certification by the chairman of the political committee that the independent expenditure meets the definition in RSA 664:2, XI. Each statement shall contain the date of each independent expenditure; the name and address of the person to whom the expenditure was made; the name of the candidate on whose behalf or against whom each independent expenditure was made; the amount of each expenditure; the purpose of each expenditure, and the aggregate amount of all previous independent expenditures. If the independent expenditure is made in support of or in opposition to more than one candidate, the statement made under this paragraph shall allocate the way in which the expenditure was made among the candidates on a reasonable basis. For the purposes of this paragraph, "reasonable basis" means a statement that reflects the benefit or the burden reasonably expected to be derived or suffered by each candidate. The filing requirements of this paragraph shall be in addition to all other filing requirements under this section, and shall not be limited to the filing periods during which expenditures must otherwise be reported.

V. Any political committee which has any outstanding debt, obligation, or surplus following the election shall file reports at least once every 6 months thereafter in the same form as in paragraph I until the obligation or indebtedness is entirely satisfied or surplus deleted, at which time a final report shall be filed.

VI. Copies of the statements required by paragraphs II through V of the state committee of a political party shall be filed with the secretary of state in sufficient numbers so as to provide a copy for the state committee of each party on the ballot, which they may obtain by application to the secretary of state.

VII. Any national political party committee of a party as defined in RSA 652:11 may make contributions or expenditures on behalf of state candidates without complying with the requirements of paragraphs I through V, provided that the total contribution or expenditure made in behalf of a candidate or political committee in this state whether directly or indirectly does not exceed the limit for personal contributions in RSA 664:4.

VIII. The provisions of this paragraph shall apply only to a political committee for an individual candidate who is seeking a federal office whose holder is chosen by the voters of this state only. Such a committee which is required by federal law to file with the federal government reports relative to receipts and expenditures in support of such one candidate may choose, at the time of registering under RSA 664:3, I, to file with the secretary of state copies of reports made to the federal government in accordance with the timetable established by federal laws for such reports in lieu of complying with the other reporting requirements of this section.

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

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

**664:7 Reporting by Candidates.** Each candidate at the primary or general election for governor, councilor, state senator, representative to general court, or county officer, who has expenditures exceeding \$500, shall file statements before and after an election in like manner and detail as prescribed in RSA 664:6, II, II-a, III, IV, and V, excepting, however, the expenditures of political committees of the party to which the candidate belongs in elections other than primaries.

**664:7-a Statement Retention.** Statements or reports required to be filed under RSA 664:6 and 664:7 shall be held in original form for 6 years from the election for which they are filed, after which time they may be destroyed.

**664:7-b Reporting by Candidates for Speaker of the House of Representatives.** I. Each candidate seeking election to the office of speaker of the house of representatives shall:

(a) File statements before and after such election in like manner and detail prescribed in RSA 664:6, II, II-a, and III, except that the date of the respective election, rather than the date of the primary or general election, shall determine the dates of such statements; and

(b) Register as a political committee, pursuant to RSA 664:3, on the date that such person becomes a candidate for speaker of the house of representatives, notwithstanding the definition of the term "political committee" in RSA 664:2, III.

II. In this section, and notwithstanding RSA 664:2, II, the term "candidate" means a person who seeks nomination for election, or election, to the office of the speaker of the house of representatives, and for purposes of this section, a person shall be deemed to seek nomination for election, or election if such person:

(a) Has received gifts or contributions for such purposes; or

(b) Has given his or her consent to another person to receive gifts or contributions or make expenditures on behalf of such person and if such person has received such gifts or contributions for such purposes.

III. No candidate shall be entitled to the office of speaker of the house of representatives until the sworn itemized statements required to be filed by the candidate or on the candidate's behalf have been filed as required by this section.

**664:8** Repealed, 1981, Chapter 21.

**664:9 Prohibition.** No candidate shall be entitled to the nomination or election until the sworn itemized statements required to be filed by him or in his behalf have been filed as required by RSA 664:6 and 664:7.

**664:9-a Itemized Statements Filed by Facsimile Transmission.** The sworn itemized statements required to be filed by a political committee or a candidate or on the candidate's behalf as required by RSA 664:6, 664:7, and and 664:7-b may be filed by means of a facsimile transmission; provided, however, that a statement which is transmitted electronically or telephonically by a facsimile device shall also be filed by a political committee or a candidate or on the candidate's behalf not later than the last day of each filing period under RSA 664:6, 664:7, and 664:7-b if a facsimile transmission is used.

**664:9-b Reports of Receipts and Expenditures Filed Electronically.** A political committee of a candidate or a candidate may electronically report receipts and expenditures as required by RSA 664:6, 664:7, and 664:7-b, by uploading the report to the secretary of state's website. The report shall be publicly available on the website on or before the date that an itemized statement of receipts and expenditures is due. The committee or candidate may publicly release receipt and expenditure information under this section more frequently than is required by RSA 664:6, 664:7, and 664:7-b provided the receipt and expenditure report is up to date when due.

**664:10 Social Activities.** Outings, dinners and social affairs conducted by political committees, clubs and others at which each person attending pays a sum approximating closely the cost of his own food, sustenance or entertainment shall not, as to such payments and disbursements therefrom, be deemed reportable or limited receipts or expenditures under this chapter.

**664:11 Public Inspection.** All statements, assents, and registrations filed by state committees, candidates, and political committees shall be open to public inspection. The secretary of state shall publish on the Internet information on all contributions reported under this chapter, including the name of the contributor, the contributor's home state, and the date of the contribution.

### **Duties**

**664:12 Fiscal Agent.** As part of the declaration of candidacies filed by candidates for governor, councilor, state senator and county officer and other primary candidacies, every such candidate shall designate some person, who may be the candidate himself, as his financial agent for the purpose of the primary and general election campaign. If his candidacy for such office is established by a primary petition or nomination petitions, there shall be filed together with such petitions the name of the fiscal agent for such candidate. A candidate who is nominated by write-in vote at the primary shall, prior to making any campaign expenditures, file with the secretary of state the name of his fiscal agent. All sums expended or contracted for payment in the primary or general election campaign in behalf of such candidate shall be reported by the candidate or his political committee or both to his fiscal agent, and the candidate or his fiscal agent shall make or approve all disbursements in behalf of his candidate subsequent to his designation as fiscal agent and join with the candidate in making and filing the statements required by this chapter.

**664:13 Committee Treasurer.** If a political committee has no treasurer, or if the treasurer fails to make a report, it shall be the duty of each member of said committee who received or pays out any money in behalf of said committee to make such a report or to cause the same to be made. No member of such committee shall make or permit any unlawful expenditure or act by said committee, in whole or in part, or consent thereto, or aid, abet or conspire to make or permit the same.

#### **664:13-a Reports by Governor-Elect; Inaugural Treasurer; Reporting Requirement.**

I. Before receiving any contribution or making any expenditure for a gubernatorial inauguration, the governor-elect shall appoint an inaugural treasurer, who shall manage the funds of the inaugural committee. The name and address of such treasurer shall be reported to the secretary of state by the governor-elect not later than 2 days after the appointment.

II. No person shall make any expenditure or make or receive any contribution or receipt, in kind or otherwise, for a gubernatorial inauguration except by or through the inaugural treasurer.

III. The inaugural treasurer shall keep detailed accounts of all contributions and other receipts received, in kind or otherwise, and all expenditures made by, a gubernatorial inaugural committee. Reports of the treasurer may be inspected at the office of the secretary of state and shall be held in original form for 6 years from the inauguration for which they are filed, after which time they may be destroyed. No contribution or other receipt received by the inaugural treasurer shall be comingled with personal funds of the governor-elect or inaugural treasurer.

IV. The inaugural treasurer shall file an itemized statement of receipts and expenditures with the secretary of state in like manner and detail as prescribed in RSA 664:6 on March 10 and July 10 following the inauguration. The report filed on March 10 shall be for the period ending on February 28 and the report filed on July 10 shall be for the period beginning on March 1 and ending on June 30. After the July 10 filing, reports shall continue to be filed every 6 months under RSA 664:6, V on the same dates required for state elections until a zero balance is achieved. If a report is sent by certified mail on or before the day it is due, the mailing shall constitute receipt by the secretary of state.

### **Political Advertising**

**664:14 Signature, Identification, and Lack of Authorization.** I. All political advertising shall be signed at the beginning or the end with the names and addresses of the candidate, his fiscal agent, or the name and address of the chairman or the treasurer of a political committee, or the name and address of a natural person, according to whether a candidate, political committee, or natural person is responsible for it. Said signature shall clearly designate the name of the candidate, party or political committee by or on whose behalf the same is published or broadcast.

II. Political advertising to promote the success or defeat of a measure by a business organization, labor union, or other enterprise or organization shall be signed. The name of the enterprise or organization shall be indicated and the chairman or treasurer of the enterprise or organization shall sign his name and address. Nothing in this section shall be construed to permit contributions which are prohibited under RSA 664:4.

III. In the case of printed or written matter, the signature and address of signer shall be printed or written in a size of type or lettering large enough to be clearly legible.

IV. (a) In the case of political advertising broadcast on radio, television, or any public address system, the name and address of the signer shall be clearly identified.

(b) All political advertising broadcast on television shall identify the name of the candidate who pays for the advertisement or whose advertisement is paid for by a campaign committee. Such identification shall be made both aurally and visually. The visual presentation shall be clearly legible and shall use letters equal to or greater than 12 percent of the vertical picture height and shall air for not less than 4 seconds at the conclusion of the broadcast. For the purpose of this section, "campaign committee" means any committee established to elect a particular candidate to office, including raising funds for that purpose.

V. Notwithstanding any other provision of this section, buttons or any printed or written political advertising which is attached to or displayed on any motor vehicle need not be signed

VI. Notwithstanding any other provision of this section, any advertising in support of or in opposition to a candidate by a political committee shall comply with this paragraph. If the advertising is not authorized by the candidate or candidate committee, the advertising shall so state and shall identify the sponsor of the advertisement. All such political advertising shall include the statement: "This advertisement has been paid for by (name of sponsor) and has not been authorized by any candidate." Such statement shall be made both aurally and visually if broadcast on television. The visual presentation on television shall be clearly legible and shall use letters equal to or greater than 12 percent of the vertical picture height and shall be broadcast for not less than 4 seconds at the conclusion of the advertisement.

VII. Any advertising which is not political advertising because it does not advocate the success or defeat of a party, measure, or person, but which mentions or depicts a candidate, shall include the statement: "This advertisement has been paid for by (name of sponsor) and has not been authorized by any candidate."

VIII. Political advertising in the form of signs or placards may contain an Internet address in lieu of the signature and identification requirements of this section, if the Internet address is printed or written in a size of type or lettering large enough to be clearly legible and the website immediately and prominently displays all of the information required by this section through election day.

**RSA 664:14-a Prerecorded Political Messages.** I. In this section, "prerecorded political message" means a prerecorded audio message delivered by telephone by: (a) A candidate or political committee; or (b) Any person when the content of the message expressly or implicitly advocates the success or defeat of any party, measure, or person at any election, or contains information about any candidate or party.

II. No person shall deliver or knowingly cause to be delivered a prerecorded political message unless the message contains , or a live operator provides, within the first 30 seconds of the message, the following information:

(a) The name of the candidate or of any organization or organizations the person is calling on behalf of.

(b) The name of the person or organization paying for the delivery of the message and the name of the fiscal agent, if applicable.

III. No person shall deliver or knowingly cause to be delivered a prerecorded political message to any telephone number on any federal do not call list.

IV. (a) A violation of this section shall result in a civil penalty of \$5,000 per violation.

(b) Any person injured by another's violation of this section may bring an action for damages and for such equitable relief, including an injunction, as the court deems necessary and proper. If the court finds for the plaintiff, recovery shall be in the amount of actual damages or \$1,000, whichever is greater. If the court finds that the act or practice was a willful or knowing violation of this section, it shall award as much as 3 times, but not less than 2 times, such amount. In addition, a prevailing plaintiff shall be awarded the costs of the suit and reasonable attorney's fees, as determined by the court. Any attempted waiver of the right to the damages set forth in this paragraph shall be void and unenforceable. Injunctive relief shall be available to private individuals under this section without bond, subject to the discretion of the court. Upon commencement of any action brought under this section, the clerk of the court shall mail a copy of the complaint or other initial pleadings to the attorney general and, upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the attorney general.

**664:14-b Misrepresenting Origin of Campaign Call.** I. No person shall knowingly misrepresent the origin of a telephone call which expressly or implicitly advocates the success or defeat of any party, measure, or person at any election, or contains any information about any candidate or party. Such knowing misrepresentation shall include, but shall not be limited to, causing the displayed caller identification information, as defined in RSA 359-E:1, I-a, to indicate that a telephone call originates from a number, person, or organization other than the number, person, or organization originating the call, or making a call knowing that some other person has caused said misrepresentation, except if the displayed caller identification number is a number at which the person or organization responsible for sponsoring or making the call may directly receive a return call.

II. (a) A violation of this section shall result in a civil penalty of \$5,000 per violation.

(b) Any person injured by another's violation of this section may bring an action for damages and for such equitable relief, including an injunction, as the court deems necessary and proper. If the court finds for the plaintiff, recovery shall be in the amount of actual damages or \$1,000, whichever is greater. If the court finds that the act or practice was a willful or knowing violation of this section, it shall award as much as 3 times, but not less than 2 times, such amount. In addition, a prevailing plaintiff shall be awarded the costs of the suit and reasonable attorney's fees, as determined by the court. Any attempted waiver of the right to the damages as set forth in this paragraph shall be void and unenforceable. Injunctive relief shall be available to private individuals under this section without bond, subject to the discretion of the court. Upon commencement of any action brought under this section, the clerk of the court shall mail a copy of the complaint or other initial pleadings to the attorney general and, upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the attorney general.

**664:15 Approval of Candidate or Fiscal Agent.** A person or business organization publishing a newspaper or periodical or selling billboard space or operating a radio or television station or public address system shall not publish, print or broadcast any political advertising by or in behalf of a candidate in an election unless the same shall be signed by or authorized in writing by the candidate or his fiscal agent.

**664:16 Identification of Political Advertising.** Political advertising printed in newspapers, periodicals or billboards shall be marked at the beginning or at the end thereof "Political Advertising." Rates for advertising shall be filed, no later than 30 days prior to the deadline for filing for office for an election, with the secretary of state by each person or business organization publishing a newspaper or periodical, operating a radio or television station, or selling billboard space. Such schedule shall be open to public inspection, and such schedules may be amended. However, rates in such amendments shall not take effect until 5 days after they are filed with the secretary of state. No person or business organization publishing a newspaper or periodical, operating a radio or television station, or selling billboard space shall charge an advertising rate to any candidate, political committee, party or cause that is different from that charged to any other candidate, political committee, party or cause.

**664:16-a Push Polling; Identification.** I. Any person who engages in push-polling, as defined in RSA 664:2, XVII, shall, prior to asking any person contacted a question relating to a candidate:

(a) Inform the person that the telephone call is a "paid political advertisement;" and

(b) Identify the organization making the call and the organization paying for the call; and

(c) Provide a valid, current, publicly-listed telephone number for the organization making the call; and

(d) Identify that the telephone call is being made on behalf of, in support of, or in opposition to a particular candidate or candidates for public office and identify that candidate or candidates by name.

II. Any person or entity who violates paragraph I shall be subject to penalty under RSA 664:21, V and VI.

**664:17 Placement and Removal of Political Advertising.** No political advertising shall be placed on or affixed to any public property including highway rights-of-way or private property without the owner's consent. All political advertising shall be removed by the candidate no later than the second Friday following the election unless the election is a primary and the advertising concerns a candidate who is a winner in the primary. Signs shall not be placed on or affixed to utility poles or highway signs. Political advertising may be placed within state-owned rights-of-way as long as the advertising does not obstruct the safe flow of traffic and the advertising is placed with the consent of the owner of the land over which the right-of-way passes. No person shall remove, deface, or knowingly destroy any political advertising which is placed on or affixed to public property or any private property except for removal by the owner of the property, persons authorized by the owner of the property, or a law enforcement officer removing improper advertising. Political advertising placed on or affixed to any public property may be removed by state, city, or town maintenance or law enforcement personnel. Political advertising removed prior to election day by state, city, or town maintenance or law

enforcement personnel shall be kept until one week after the election at a place designated by the state, city or town so that the candidate may retrieve the items.

**664:17-a Advertising on Government and Law Enforcement Vehicles.** No printed or written political advertising shall be attached to or displayed on any motor vehicle:

I. Which is used by a police officer authorized to make arrests or serve process; or

II. Which displays government license plates and is registered in the name of the state or of a political subdivision of the state.

### **Enforcement**

**664:18 Complaints.** Any candidate or voter may make complaint in writing to the attorney general of any violation of any of the provisions of this chapter.

I. Upon receipt of such complaint, the attorney general or his designee shall review the complaint, and where sufficient evidence of a violation is presented, conduct investigations to determine whether a violation of this chapter has occurred.

II. Following investigation, the attorney general is empowered, if he determines that a provision of this chapter has been violated, to:

a) Issue an order requiring the violator to cease and desist from his or her violation. If the attorney general's order is not obeyed, the attorney general or designee may petition the superior court of the county in which the violation occurred for an order of enforcement.

(b) Prosecute to final judgment through his designee if sufficient cause for such prosecution is found.

III. If, in the opinion of any person making complaint, the family, business or political connection of the attorney general's designee is such as to make it unlikely that he will act diligently and earnestly in any proceeding therefor, the person complaining may state such facts to the attorney general.

IV. If the attorney general believes that his designee will be hampered by any existing facts or circumstances and in any manner prevented from vigorously proceeding against any respondent complained against for such violation, or that the service of more than one attorney in any proceeding would be in the interest of the state, he shall have authority to employ and assign additional attorneys, to conduct or assist in conducting such proceeding. Such attorneys shall be allowed reasonable compensation, to be approved by the governor and council and paid by the state out of funds not otherwise appropriated.

**664:19 Examination of Statements of Receipts and Expenditures.** It shall be the duty of the attorney general to examine the returns of election receipts and expenditures which are made to the secretary of state and to compel such returns be made to comply with the law.

**664:20 Subpoena Power.** In the exercise of his powers and duties under this chapter, the attorney general is authorized to require the appearance of individuals and to secure testimony and evidence by use of a subpoena duces tecum.

**664:21 Penalty.** I. Any candidate who voluntarily agrees to limit campaign expenditures as provided in RSA 664:5-a, and who exceeds the total political expenditure limitations as provided in RSA 664:5-a and 5-b in running for any office in either a state primary or state general election, or both, shall be subject to a fine schedule which is based on the percentage by which the candidate exceeds permitted campaign expenditures, so that the candidate shall pay a percentage of the excess campaign expenditures as follows:

(a) Candidates for United States Senate and governor:

under \$1,000 - one percent

\$1,000-\$5,000 - 10 percent

\$5,000-\$10,000 - 25 percent  
\$10,000-\$50,000 - 50 percent  
over \$50,000 - 100 percent

(b) Candidates for representative to Congress:

under \$1,000 - one percent  
\$1,000-\$5,000 - 10 percent  
\$5,000-\$10,000 - 25 percent  
\$10,000-\$25,000 - 50 percent  
over \$25,000 - 100 percent

(c) Candidates for executive council and county officers:

under \$500 - one percent  
\$500-\$1,000 - 10 percent  
\$1,000-\$5,000 - 25 percent  
\$5,000-\$10,000 - 50 percent  
over \$10,000 - 100 percent

(d) Candidates for state senate:

under \$100 - one percent  
\$100-\$500 - 10 percent  
\$500-\$1,000 - 25 percent  
\$1,000-\$5,000 - 50 percent  
over \$5,000 - 100 percent

(e) Candidates for the general court;

under \$100 - one percent  
\$100-\$250 - 10 percent  
\$250-\$500 - 25 percent  
\$500-\$1,000 - 50 percent  
over \$1,000 - 100 percent

II. Any fine assessed under the provision of this section shall be paid to the secretary of state for deposit into the general fund.

III. Nothing in this section shall be construed to limit the enforcement powers of the attorney general under RSA 664:18.

IV. In addition to the fines levied under paragraph I, any person who fails to file any report or statement on the date on which the report or statement is due under this chapter shall be subject to a daily fine of \$25 for every weekday for which the report or statement is late and until the report or statement is actually filed, except that candidates for the general court shall be subject to a daily fine of \$5 under this paragraph.

V. The provisions of this paragraph shall apply to violations of this chapter other than the violation of RSA 664:5-a and 5-b, and a person liable under the provisions of this paragraph shall not also be subject to the penalties imposed under paragraphs I, II and IV. Any person who otherwise violates any provision of this chapter shall be guilty of a misdemeanor if a natural person or shall be guilty of a felony if any other person.

VI. (a) Whoever violates any of the provisions of RSA 664:16-a or the provisions of RSA 664:17 relative to removing, defacing, or destroying political advertising on private property shall be subject to a civil penalty not to exceed \$1,000.

(b) The court, upon petition of the attorney general, may levy upon any person who violates the provisions of RSA 664:16-a or the provisions of RSA 664:17 relative to removing, defacing, or destroying political advertising on private property a civil penalty in an amount not to exceed \$1,000 per violation. All penalties assessed under this paragraph shall be paid to the secretary of state for deposit into the general fund.

(c) The attorney general shall have authority to notify suspected violators of RSA 664:16-a or the provisions of RSA 664:17 relative to removing, defacing, or destroying political advertising on private property of the

state's intention to seek a civil penalty, to negotiate, and to settle with such suspected violators without court action, provided any civil penalty paid as settlement shall be paid to the secretary of state for deposit into the general fund.

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

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

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

**664:22 Notice to Candidates.** The secretary of state shall give or send by mail a copy of this chapter to each person whose name will be printed on a state primary or general election ballot. Such notification shall be given or sent within 5 days of the close of the filing period.

**664:23 Severability.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect any other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.