

HB 175 - AS INTRODUCED

2025 SESSION

25-0156
07/08

HOUSE BILL ***175***

AN ACT relative to defined coordinated expenditures.

SPONSORS: Rep. Muirhead, Graf. 12; Rep. Ankarberg, Straf. 7; Rep. Lane, Merr. 16; Rep. J. Sullivan, Graf. 2

COMMITTEE: Election Law

ANALYSIS

This bill:

- I. Creates and expands upon the definitions of coordinated and independent expenditures.
- II. Creates a new maximum expenditure limit for political advocacy committees.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to defined coordinated expenditures.

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

1 1 Political Expenditures and Contributions; Definitions; Contribution. Amend RSA 664:2, VIII
2 to read as follows:

3 VIII. "Contribution" means anything of value received or made for the purpose of promoting
4 the success or defeat of a candidate, candidates, measure, measures, or political party, including, but
5 not limited to a payment, gift, subscription, assessment, contract, payment for services, dues
6 advance, forbearance, loan to a candidate or political committee, ***coordinated expenditure***, or
7 personal or professional services for less than full consideration, or the use of anything of value.

8 2 Political Expenditures and Contributions; Definitions; Independent Expenditure. Amend RSA
9 664:2, XI to read as follows:

10 XI. "Independent expenditure" means the disbursement of funds for an expenditure made by
11 a political committee or person that promotes the success or defeat of any candidate or measure that
12 is made without cooperation or consultation with any candidate, political committee of a candidate,
13 or any authorized agent of such candidate, and which are not made in concert with, or at the request
14 or suggestion of any political party, candidate, political committee of a candidate, or any authorized
15 agent of such candidate. ***A coordinated expenditure is not an independent expenditure.***

16 3 New Paragraph; Coordinated Expenditure. Amend RSA 664:2 by inserting after paragraph
17 XXVII the following new paragraph:

18 XXVIII.(a) For the purpose of this paragraph, "firewall" means a written policy distributed
19 to all employees, consultants, and clients affected by the policy that prevents the flow of information
20 between:

21 (1) Employees or consultants providing service to the person paying for the
22 communication; and

23 (2) Anyone, including employees, consultants, and advisors, providing services to a
24 political party committee or to a candidate who is clearly identified in the communication or to the
25 campaign of the candidate opposing the candidate clearly identified in the communication.

26 (b) "Coordinated expenditure" means:

27 (1) The republication of a candidate's or political party's campaign materials, unless
28 such republication is used to oppose the candidate or party that created the materials;

29 (2) An expenditure, as described in subparagraph (e), regardless of whether it meets
30 a "conduct" standard as described in subparagraph (d), that is materially consistent with
31 instructions, directions, or suggestions from a candidate or political party regarding the making of

1 expenditures, regardless of whether the instructions, directions, or suggestions are publicly
2 available. The factors the attorney general shall consider in determining whether an expenditure is
3 consistent with instructions, directions, or suggestions from a candidate or party under this
4 paragraph include, but are not limited to:

5 (A) Noticeable placement of instructions, directions, or suggestions, such as on a
6 discrete webpage or portion of a webpage containing one or more other factors identified in this
7 paragraph;

8 (B) Whether the instructions, directions, or suggestions include language
9 indicating that information should be communicated to others, such as “voters need to know”;

10 (C) Whether the instructions, directions, or suggestions include targeted
11 audience information, such as specific demographics or the location of intended or suggested
12 recipients; and

13 (D) Whether the instructions, directions, or suggestions include suggested
14 methods of communication, such as indicating that recipients need to “see,” “hear,” or “see on the go”
15 information.

16 (3) An expenditure that meets at least one conduct standard as described in
17 subparagraph (d) and one content standard as described in subparagraph (e).

18 (c) “Coordinated expenditure” does not include:

19 (1) A communication that appears in a news story, commentary, or editorial; or

20 (2) An expenditure for a nonpartisan candidate debate or forum.

21 (d) For purposes of defining coordinated expenditures:

22 (1) “Candidate” includes any person who is a candidate at the time of the
23 expenditure, regardless of whether the person was a candidate at the time of the conduct
24 constituting coordination took place; and

25 (2) References to a candidate or party include the political committee of such
26 candidate or party and any agents, executives, or managers who worked for such person during the 2
27 years preceding the expenditure.

28 (e) Conduct constitutes coordination between a spender and a candidate or a political
29 party that benefits from the expenditure, whenever:

30 (1) An expenditure is not made totally independently of a candidate or party. An
31 expenditure is not made totally independently if it is made pursuant to any expressed or implied
32 agreement with, any general or particular understanding with, or pursuant to any request by or
33 communication with, the candidate or political party about the expenditure;

34 (2) During the 2 years preceding the expenditure, the candidate, immediate family
35 members, or party directly or indirectly established, maintained, controlled, or principally funded
36 the spender;

1 (3) During the 2 years preceding the expenditure, a candidate or party official
2 solicited funds for the spender, provided fundraising information to the spender, appeared as a
3 speaker at a fundraiser for the spender, or gave permission to be featured in the spender's
4 fundraising efforts;

5 (4) The expenditure is based on information about the candidate's or party's
6 campaign needs that the candidate or party provided to the spender; or

7 (5) During the 2 years preceding the expenditure, the spender employed the services
8 of a person who, during the same period, had executive or managerial authority for the candidate or
9 party, was authorized to raise or expend funds for the candidate or party, or provided the candidate
10 or party with professional services, other than accounting or legal services, related to campaign or
11 fundraising strategy.

12 (f) An expenditure, when coordinated, constitutes funds spent for the purpose of
13 promoting the success or defeat of a candidate whenever the expenditure is for:

14 (1) A communication that expressly advocates for or against the nomination or
15 election of a candidate; that promotes the success or defeat of a candidate or candidate's opponent; or
16 refers to a clearly identified candidate at any time from 120 days before a primary election through
17 the general election;

18 (2) An expenditure for partisan voter activity, such as voter registration, get out-the-
19 vote activity, phone banking, or generic campaign activity, in the jurisdiction where the candidate is
20 seeking election; or

21 (3) An expenditure for research, design or production costs, polling expenses, data
22 analytics, creating or purchasing mailing or social media lists, or other activities related to those
23 described in subparagraphs (f)(1) or (f)(2).

24 (g) An expenditure, when coordinated, constitutes funds spent for the purpose of
25 promoting the success or defeat of a party whenever the expenditure is for:

26 (1) A communication that expressly advocates for the election of a candidate of the
27 political party or against a candidate of an opposing political party; that promotes the success or
28 defeat of a candidate of the political party or an opponent of a candidate of the political party
29 (including generically advocating for the political party or against an opposing political party); or
30 refers to a clearly identified candidate or political party at any time from 120 days before a primary
31 election through the general election;

32 (2) An expenditure for partisan voter activity, such as voter registration, get out-the-
33 vote activity, phone banking, or generic campaign activity; or

34 (3) An expenditure for research, design or production costs, polling expenses, data
35 analytics, creating or purchasing mailing or social media lists, or other activities related to those
36 defined in subparagraphs (1) or (2).

(h) Notwithstanding subparagraph (d)(5), expenditures involving former employees or common agents of a candidate or party are not coordinated expenditures if the spender implements an effective firewall. A person who relies upon a firewall bears the burden of proof of showing that the firewall was effective. An effective firewall must:

(1) Separate staff who provide a service to the spender in relation to its expenditures from other staff who provide services to a candidate or party supported by the spender's expenditures;

(2) Forbid an organization's owners, executives, managers, and supervisors from simultaneously overseeing the work of staff separated by a firewall;

(3) Prohibit the flow of strategic non-public information between the spender and the candidate or party supported by the expenditures, and between specific staff who are separated by the firewall;

(4) Provide for physical and technological separation to ensure that strategic non-public information does not flow between the spender and the candidate or party, and between the specific staff separated by the firewall; and

(5) Be in writing and distributed to all relevant employees and consultants before any relevant work is performed regarding both the general firewall policy and any specific firewall created pursuant to such a policy, and provided to the attorney general upon request.

4 Prohibited Political Contributions. Amend RSA 664:4, III(d) to read as follows:

(d) In excess of the limits established in paragraph IV ~~or V~~.

5 Political Expenditures and Contributions; Prohibited Political Contributions. RSA 664:4, IV is repealed and reenacted to read as follows:

IV. By an individual, political committee, corporation, or any other person in excess of the following amounts per election cycle:

Contributed to:	Maximum amount of contribution:
Candidate or candidate committee	\$15,000
Political advocacy organization	\$30,000
Any other political committee or political party	\$30,000

6 Repeal. RSA 664:4, V, relative to political contributions by committees or organizations, is repealed.

7 Effective Date. This act shall take effect upon its passage.