Proponent Testimony for HB 2535
Thursday, February 15, 2024
House Committee on Elections

Thank you for the opportunity to provide testimony in favor of HB 2535.

This legislation arises from two recommendations by the Governmental Ethics Commission. There are two parts to the bill: banning campaign finance contributions in the form of cryptocurrency and creating an exception to a broader prohibition involving parties and PACs supporting federal candidates.

CRYPTOCURRENCY

Currently, campaigns may accept contributions of cryptocurrency up to contribution limits without regulation. Campaigns could even hold cryptocurrency as a campaign asset, provided that all benefits and loss are assigned to the campaign account. Of course, there are issues with cryptocurrency that require attention in the campaign finance realm.

Cryptocurrency contributions have been nonexistent in Kansas thus far but are becoming more common elsewhere and it would be appropriate to act proactively. Some believe that cryptocurrency has benefits for political participation while others believe the lack of transparency and volatility of cryptocurrency outweigh those possible benefits. The Commission takes no position on whether cryptocurrency has value in campaigns and only contends that if permitted, these sorts of contributions should have reasonable limits.

Campaigns and political committees cannot accept more than $100 in cash from any one person. The primary reason for this limitation is that cash is unauditable – while a treasurer should keep a receipt of the contribution, unlike other contributions, there is no audit trail that could eventually be followed to confirm who a donor is. Many of the concerns about cryptocurrency fall along the same lines – while the existence of the transaction is confirmable on the blockchain, the identity of the donor is not as ascertainable. However, cryptocurrency may currently be accepted by a campaign up to their contribution limit.

The Commission has previously recommended legislation to regulate cryptocurrency with a number of requirements, most notably by setting the limit equal to the cash contribution limit of $100 since cryptocurrency faces similar auditing issues as cash. In the alternative, banning cryptocurrency contributions would also address the issue, as this bill does.

Cryptocurrency campaign contributions may well be coming to Kansas, and it is important to ensure that our state is statutorily equipped to address any concerns.

FEDERAL SUPPORT PROHIBITION

A provision in the Campaign Finance Act currently prohibits any political funds collected under the Campaign Finance Act from being used "in or for" a federal candidate's campaign. This subsection is a broad embargo, affecting candidates, PACs, and party committees (including central committees) alike. The prohibition includes no exceptions, so a party committee or central committee cannot legally use their state collected funds to even buy signs supporting a federal candidate. Preventing party committees and PACs from supporting federal candidates does not appear to serve any particularized benefit to Kansans; PACs and party committees should be able to support their federal candidates. Candidates are still prohibited from using their campaign funds for a federal campaign because that isn't a permissible use of their campaign fund, so there are no concerns about removing the language entirely as HB 2535 does.

RECOMMENDED AMENDMENT

HB 2535 cleanly bans making or accepting cryptocurrency contributions. The Committee may want to also consider whether to ban holding campaign assets in cryptocurrency, e.g. as an investment. Campaign fund investment in cryptocurrency poses some of the same risks as contributions with respect to laundering illegal contributions and this amendment would ensure that enforcement of this prohibition would be very straightforward.