



GOVERNMENTAL ETHICS COMMISSION

<https://ethics.kansas.gov>

Proponent Testimony for HB 2167
Tuesday, February 14, 2023
House Committee on Elections

Thank you for the opportunity to provide testimony in favor of HB 2167.

This legislation arises from a recommendation by the Governmental Ethics Commission. There are two parts to the bill: regulating 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 believes 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 unauditible – 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 and therefore HB 2167 sets the same \$100 contribution limits as cash.

This bill also includes other requirements to accept cryptocurrency contributions that should help resolve the largest concerns about this possible practice. HB 2167 would require converting cryptocurrency to US currency and prohibits holding cryptocurrency as a campaign asset. Contributions must include the contributor's name, address, and affirmations from the contributor that they are the owner of the donated amount and that they are not a foreign national. Finally, contributions can only be accepted through payment processors that use "know your customer" procedures that provide a layer of security that the contribution is indeed originating from the person as declared.

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 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 prohibition, affecting candidates, party committees, central committees, and PACs alike. The prohibition includes no exceptions, so currently a party committee or central committee could not legally use their state collected funds to buy signs supporting a federal candidate. Prohibiting party committees and PACs from supporting federal candidates does not appear to serve any particularized benefit to Kansans, and as a result, the Commission is asking for a carveout to allow party committees (which include central committees) and PACs to support federal candidates if they so choose.

TECHNICAL CORRECTION

HB 2167 as drafted includes both the original language of the federal support prohibition and the language that would allow party committees and PACs to engage in federal candidate support. On page 2, lines 17-19 should be deleted and renumbered accordingly. Without this correction, the bill does not actually create the intended exception for party committees and PACs to engage in federal candidate support.