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**Testimony Before the Senate Committee on Federal and State Affairs
In Support of HB 2054
Tuesday, March 11, 2025**

Chairman Thompson, Vice-Chairman Blew, Ranking Member Faust-Goudeau, and Committee:

I generally support HB 2054 as amended by the House because it would bring Kansas into constitutional compliance regarding minimums constitutional thresholds for candidate campaigns.

In October 2023, national experts, constitutional law practitioners, public interest groups, and I asked the 2023 Special Committee on Governmental Ethics Reform & Campaign Finance Law to recommend substantive reform to several unconstitutionally vague statutes. **The joint interim committee issued a bipartisan, unanimous report finding several laws vague and ambiguous**, including the PAC definition, coordination definition, and giving in the name of another statutes.

In addition, this bipartisan and bicameral interim committee recommended the legislature increase campaign contribution limits and address party committee limits, given that many contribution limits have not been increased in decades.

Ultimately, donations to campaign committees, party committees, and political committees are protected speech. The interim committee heard from several national constitutional experts regarding the need for the legislature to continuously review any limits placed on this type of “speech” to review for constitutional compliance with current case law.

Increase Candidate Contribution Limits (With Recommended Amendment)

Candidate contribution limits have not been updated in decades. These are the same limits that were placed on candidate committees for statewide, senate, house, district attorney, and local campaigns since 1990. Unconstitutionally low limits have been struck down in federal courts across the country.

SB 177 was heard by this committee last week. That bill adjusted campaign contribution limits automatically every two years for inflation and would prevent the legislature from getting “behind” on constitutionally minimum thresholds. This committee should consider adding this inflation adjustment into HB 2054.

Eliminating Party Committee Donation Limits, Adding Contribution Limits to Candidates

The interim committee heard expert constitutional testimony regarding the potentially constitutionally questionable nature of party committee limits. From a public policy standpoint, however, the question is why party committees (state, district, county GOP/Democrat/other party committees) have contribution limits while political committees (PACs) have no limits. If the legitimate public purpose of campaign finance laws under the First Amendment case law is to

prevent *quid pro quo* promises or corruption of elected officials, why are party committees limited and political committees not?

There are good arguments for the unequal treatment on capping *contributions to parties* in current law: 1) party committees can coordinate with candidates of the same party during a general election cycle while PACs cannot; 2) party committees can give unlimited amounts to candidates of the same party in a general election while PACs cannot. So the question remains: is it better to “throttle” donations at the front end and allow unlimited donations from parties to candidates during the general election, or is it better to allow parties to raise unlimited funds but then close the “loophole” that may allow unlimited donations flowing through the party to candidates? HB 2054 picked the latter—give parties more voice when spending on their own, but subject parties to the same contribution limits as others when giving to candidates.

Two Ways to Skin the Cat (or Cap)

House committee amendments on HB 2054 closed a loophole present in SB 177 and HB 2054 as introduced that would have allowed a donor to give \$1 million to a party committee one day and allow the party to turn around and give that \$1 million to a candidate the next day. The current law’s solution is to cap what can be given to the party committee in the first place, and allow that more limited pool of money to flow without restrictions to candidates during a general election or be used on party spending on behalf of candidates. But current law’s cap on party contributions

In any event, if the party can coordinate, it must be limited either on the front end (donation caps) or back end (parties treated same as PACs in contributing to candidates) to avoid inadvertently creating a “special” committee that can effectively move unlimited funds into candidate accounts. The two ways to ensure that party committees aren’t a “loophole” allowing unlimited donations to flow to candidate committees is to either:

- Reimpose caps on *contributions to parties* while perhaps increasing those limits (for reasons similar to the increase in candidate contribution limits stated above); or

- Adopt amendments similar to HB 2054 to subject parties to the same contribution limits as other committees and individuals but allow *unlimited contributions to parties*

Current law has adopted the first approach. HB 2054 adopts the second approach. Either way, the contribution cap / coordination / free speech balance must be struck in a way that refrains from imposing unnecessary limits on speech while not inadvertently creating loopholes that conflict with legislative intent in imposing candidate contribution limits. Otherwise, just get rid of the candidate contribution limits entirely.

In any event, it should be no surprise to anyone that Democrat party committees exist to get Democrats elected, and Republican party committees exist to get Republicans elected. Balancing the interplay between party committees and candidates as well as coordination prohibitions and candidate contribution limits on PACs demands bipartisan deliberation for accomplishing limited regulation to prevent government corruption while maximizing the free exchange of ideas when picking our government each election cycle. The important thing is to make the law work—to express clear legislative intent on how the various committees can raise and spend funds within the context of limitations placed on regulation by the First Amendment.

Conclusion

As this committee thinks about how “free speech” flows through the campaign finance system in the form of money and other contributions, it should focus its inquiries into what ultimate public policy goal is trying to be accomplished. If *quid pro quo* and corruption scenarios (government officials being “bought off”) are the fundamental reason that campaign finance laws exist, are the prohibitions and restrictions put on the flow of money through the political system in the 1970s still relevant in 2025? Courts have determined that “we don’t want candidate or committee X to be able to engage in too much speech” is not a constitutional public policy goal. Rather, “we want to prevent corruption in government” can be constitutional. To the extent there are valid public policy goals underlying contribution limits of various sorts, this committee should be very intentional about articulating what those limited public purposes are within the context of the First Amendment.