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STATE OF KANSAS

Testimony on HB2087 (Oral Proponent)

House Committee on Elections
Tuesday, February 7, 2023

Chairman Proctor and members of the Committee:

Thank you for the opportunity to provide comments in support of House Bill 2087. Our office introduced this legislation following the passage of the federal Electoral Count Act to ensure current statute reflects new federal law.

HB2087 updates Kansas statutes pertaining to presidential electors. The following provisions of the bill are required to ensure state law is consistent with the new federal Electoral Count Reform and Presidential Transition Improvement Act, signed into law in December 2022, to update the Electoral Count of 1887.

- Section 2: Addresses a change to the distribution of the Certificate of Ascertainment to the electors.
- Section 3: Moves the nationally uniform meeting day of the Electoral College from the first Monday to the first Tuesday after the second Wednesday in December.
- Section 5: Specifies how a Kansan may contest the election of an elector or electors by bringing legal action before a special three-judge federal court.

The following provisions provide general clean-up of current law – many of which are long overdue:

- Sections 1 and 4: Addresses two provisions directing political parties how to select the electors. In 1961, the legislature directed that a party convention select electors (K.S.A. 25-301). In 1981, the legislature directed that the state committee of a political party select electors (K.S.A. 25-804). A state party committee and a party convention are two materially different methods, and neither is defined in statute. A series of U.S. Supreme Court decisions in the 1980s and 1990s established that state governments have very limited authority to tell a political party how to conduct internal business. As a result, most Kansas laws regulating political parties were repealed in 1990, but these two provisions were overlooked.
- Section 4: Clarifies how political parties without a state party affiliate and independent candidates select their electors. It also establishes, for the first time, a deadline to notify the Secretary of State of the electors' names.
- Section 6: Repeals K.S.A. 25-803, which set compensation for electors at \$3 a day and 15 cents per mile. This amount was established in 1868 and has never changed. To our knowledge, compensation has never been requested by an elector.

These provisions are necessary to update statutes while remaining consistent with current state law. We respectfully request the committee's consideration and approval passage of HB2087.

Respectfully submitted,

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