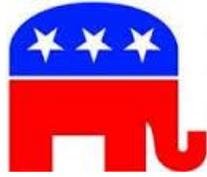


KANSAS REPUBLICAN PARTY



TESTIMONY IN SUPPORT OF HB2398

Amending KSA 25-4501 Presidential Preference Primary

Background:

A presidential preference primary is not like an August primary in which party members select the party's candidate for the general election. A preference primary is merely one step in a complex process to select, for Kansas Republicans, 37 delegates and 37 alternate delegates to the Republican Party national convention and, to a limited degree, bind delegates to particular candidates.

The presidential preferential primary law was passed in 1978. (The August primary law was passed in 1908). Before that, for 30 presidential cycles, every four years, state party organizations selected party delegates to the national party conventions through a process of precinct caucuses, followed by county, district and state conventions.

After the preference primary law was enacted, Kansas had one preference primary in 1980. Then the support for the idea faded. In 1992, at Senator Bob Dole's request, the state legislature funded the second and last preference primary ever held in Kansas. So, in the nine presidential cycles since the preference primary law was enacted, Kansas has held two preference primaries.

After the 1978 Kansas law was enacted, the US Supreme Court, in a case named Democratic Party of United States v. Wisconsin ex rel. La Follette, 450 U. S. 107 (1981) specifically held that a state cannot mandate or control the method used to "determine the allocation of votes cast by the State's delegates at the National Convention." Eight years later, the Supreme Court in Eu v. San Francisco County Democratic Central Comm., 489 U.S. 214 (1989) determined that states lack the power to regulate political parties, concluding that political parties have the "right to govern themselves as they think best."

As a result, the state party is the ultimate decision-maker on how its national convention delegates are selected. For instance, in 2012, Missouri ignored the state funded preference primary and held party caucuses to select and allocate its delegates.

For Kansas Republicans, the national party rules require that 25 delegates must be statewide delegates while 12 are congressional district delegates; that delegates may be awarded on a winner take all format or proportional to the vote depending on when the primary or caucus occurs; that state party rules dictate what happens when a candidate withdraws after the primary or caucus and whether a delegate is free to vote their personal preference after the first vote at the national convention or only if released by their designated candidate.

National Republican Party rules permit four states to hold their delegate selection process in February. States holding their delegate selection process between March 1 and March 14, 2016, must bind delegates proportionally to the vote, after that, states may award delegates on a winner-take-all basis. States must select their individual delegates by June 3. Any state going early or late will lose almost all its delegates and become irrelevant to the national selection process.

Reasons for Support of the Bill:

We support HB2398 and oppose the state funding a presidential preference primary in 2016 for the following reasons:

1. A preference primary represents a substantial investment of taxpayer funds that is not proportional to the benefit to the state, it can be better-used elsewhere.
2. In 1980, shortly after the vote and allocation of delegates to candidates, one candidate declared an independent candidacy which caused chaos in the delegate allocation process. This illustrates the problem of using a preference primary with the ever-changing nature of presidential campaign politics.
3. In 1999, the legislature had voted to fund a preference primary, but in early 2000 canceled it. The party had inadequate time to run a caucus so it was compelled to send all its delegates uncommitted to the national convention. This is why most party members have little faith the state will actually fund a preference primary even if it voted to do so. Party leaders, therefore, will insist the state committee vote to hold a caucus regardless of what the state does.
4. The party does not allow unaffiliated voters to affiliate with the Republican Party on the day of the presidential selection caucus or primary and will set a freeze date when new Republican voters will not be allowed to vote.
5. The current national Republican rules and timeline do not match the statute's 1978-based timeline. We need to have all our party rules and dates submitted to the national party by late summer 2015, so they can be approved by October 1. We cannot wait for the statute's November timeframe to pick a date for a preference primary.
6. The number of election-related acts required by a preference primary creates a substantial timing problem.
 - a. If the state were to hold a preference primary too early or too late, Kansas would lose many of its delegates.
 - b. If a preference primary is held with all the associated advance ballot and overseas ballot rules the process may start in December or January when the presidential candidate field is still in flux.

- c. Voter party affiliation changes are an open issue since the law that came into effect this year does not apply to preference primaries.
 - d. It is unclear how a candidate would get on the ballot. Using a small filing fee would allow many fringe individuals to get on the ballot, a problem many states have. The party has rules to allow only serious candidates on its ballot.
 - e. After the preference primary there will be Intermediate (county) and Final (state) canvasses to rule on provisional ballots and determine the official final results. Then there must also be enough time for the party to hold district conventions and then a state convention to pick the delegates. Before individuals will put their names forward as delegates, they will want to know which presidential candidates are receiving delegates.
7. The Kansas Republican Party is almost done with our planning process. Draft rules have been written, and we've publicly announced the Republican Caucus will occur Saturday, March 5.
8. Other states are planning to cancel their primary in favor of party caucus- Kentucky and Utah.
9. To the extent the legislature is interested in strengthening political parties with a goal of creating a more politically involved Kansas electorate and countering the strength of dark money organizations, a Presidential Caucus helps strengthen political parties in the following ways:
- a. Allows local party organizations to gather volunteers and run a local operation. This makes them more effective organizations and gives them public attention.
 - b. The party can gather e-mails and other contact information that is not gathered in a state-run election.
 - c. The Candidates pay for the privilege of being on the party ballot. Those funds not only pay for the caucus, but also are a source of federal funds for the party.
10. We understand that a preference primary, leveraging the associated government marketing and publicity, would probably get a higher voter turnout than a party caucus. We want high voter turnout – we increased our voter turnout 300% from 2008 to 2012 and aim to reach that goal again. It would help increase turnout if the government, without expending more than a de minimis amount of effort, would advertise the parties' caucuses by, for instance, by noting them on election web pages.



Kelly Arnold, Chair, Kansas Republican Party