

Opponent Written Testimony on Senate Bill 5

Senate Committee on Federal and State Affairs

Davis Hammet – Loud Light Civic Action

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Chair Thompson, Members of the Committee,

Non-Government Money is Prohibited from Aiding Election Administration as of 2021

In 2021, this committee heard SB293 the “transparency in revenues underwriting elections act to criminalize the receipt and expenditure of private moneys by election officials” which was then bundled into S Sub HB2183, vetoed, and overridden to become law. This law bans Kansas election offices from accepting any non-government aid to assist with conduct, facilitating, and administering elections.

SB5 Creates a De Facto Prohibition on Federal Election Aid

The state should ensure full and proper funding avenues for any services it delegates to the counties to perform. Already, the state legislature has prohibited non-government aid for elections. Now, the state legislature proposes a bill creating a de facto prohibition on federal aid for elections including for election security related to national security. This comes from the bill language of “acts of appropriation or as otherwise provided by state law” which appears to reference state appropriations given that later the bill mentions a distinctly different “act of congress appropriating”.

Federal Compliance Concerns

The federal government provides funding to Kansas to assist the state with federal election law compliance and to protect national security. As the fiscal note discussed, this bill could jeopardize millions of dollars in federal Help America Vote Act (HAVA) funding used to maintain the state’s voter database which is essential for federal compliance. This bill allows federal election aid to become a political football in the Kansas Legislature which raises the potential for dangerous and costly consequences such as lawsuits, federal intervention, the decaying of security infrastructure, and the inability to quickly address disaster scenarios such as a national emergency impacting election administration in Kansas. Further, there are a variety of compliance issues that demand a much deeper understanding of the scope of “directly or indirectly” in the bill and how it may impact existing practices.

The Kansas State Government Does Not Fund Elections

The Kansas Legislature does not provide funding to aid counties in facilitating, administering, or securing elections. This bill proposes to prohibit every avenue of election funding outside of the 105 different county commissions allocations to their counties elections office. If the state legislature was prepared to step up and appropriate the funds necessary for elections then perhaps this bill would be less concerning; however, aside from using tax dollars to subsidize political parties by funding the occasional special presidential primary, the state does not aid election administration.

Conclusion

This bill does not address a specific problem, has an unclear scope of reach, raises a variety of federal compliance concerns, is likely to have unintended consequences, and jeopardizes an existing funding avenue for elections without allocating any funding to offset the loss. Given all of this, we recommend this committee oppose SB5. Thank you for your consideration.