

SESSION OF 2024

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 367**

As Amended by Senate Committee of the Whole

**Brief\***

SB 367, as amended, would amend the Transparency in Revenues Underwriting Elections Act regarding the acceptance and use of certain election-related funds.

***Definitions***

The bill would define terms:

- “Governmental agency” would mean the state, or any agency, political subdivision, or instrumentality thereof; and
- “Federal government” would mean any branch, agency, department, office, bureau, or instrumentality of the government of the United States.

***Expending of Funds***

Current law provides that no election official can knowingly accept or expend any moneys, directly or indirectly, from any person, except as provided in any acts of appropriation or as otherwise provided by law, for any expenditures related to conducting, funding, or otherwise facilitating the administration of a lawful election.

The bill would add that no governmental agency, including, but not limited to, any election official, could

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

knowingly accept or expend any moneys, directly or indirectly, from the federal government, except as provided in acts of appropriation or as otherwise provided by state law, and that those moneys could not be used for any election-related activities, including, but not limited to, voter registration and voter assistance, as well as not for any expenditures related to conducting, funding, or otherwise facilitating the administration of a lawful election.

The bill would also provide that, if these expenditures were authorized by acts of appropriation or state law, any moneys received from the federal government would only be expendable for purposes authorized by the act of Congress appropriating the funds.

## **Background**

The bill was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Thompson.

### ***Senate Committee on Federal and State Affairs***

In the Senate Committee hearing, **proponent** testimony was provided by a representative of Opportunity Solutions Project, who discussed presidential Executive Order 14019, issued in March 2021, which directs federal agencies to assist in voter registration efforts. The representative stated the bill would address concerns that taxpayer funds are being used to influence elections through targeted voter registration.

Written-only proponent testimony was provided by three private citizens.

Neutral testimony was provided by a representative of the Office of the Secretary of State, who expressed uncertainty about what funding the bill is addressing and what

it means to “indirectly” accept or expend federal funds. The representative stated the bill would have no effect on the current expenditures of federal funds for state elections, which are approved by Congress through the Help America Vote Act (HAVA), because these funds already go through the regular state legislative budgeting process. The representative also noted HAVA funds are distributed solely to state election officials and are not provided to any other federal or state agency for the purposes of funding election-related activity.

**Opponent** testimony was provided by a representative of Loud Light Civic Action, who stated that the state government generally does not fund elections in Kansas or provide aid to county clerks. The representative noted that, because Kansas election offices are already prohibited from accepting non-government aid to assist with the administration of elections (2021 Senate Sub. for HB 2183), the organization is concerned that the bill would further limit other potential funding avenues.

Written-only opponent testimony was provided by a representative of the League of Women Voters Kansas.

The Senate Committee amended the bill to:

- State that no agency would be designated as a voter registration agency except as provided by state law;
- Nullify any designation of a federal agency as a voter registration agency that was made prior to July 1, 2024;
- Specify that “federal agency” would mean any branch, department, bureau, office, or instrumentality of the federal government; and
- Provide that moneys received from the federal government could be expended only for the

purposes authorized by the appropriation made by Congress.

### ***Senate Committee of the Whole***

The Senate Committee of the Whole amended the bill to:

- Remove provisions concerning the designation of voter registration agencies;
- Remove the definition of the term “federal agency”;
- Add a definition of the term “governmental agency”;
- and
- Add that no governmental agency, including, but not limited to, any election official, would be permitted to knowingly accept or expend any moneys, directly or indirectly, from the federal government for elections, unless provided in any acts of appropriation or by state law.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Secretary of State noted federal law requires each state to have a statewide voter registration database. The federal government provides funding for this purpose under HAVA. If the agency is prohibited from using federal funds for security and administration of the statewide voter registration system, under the bill, funding for the database would need to come from another source, likely the State General Fund (SGF). The agency’s budget contains \$1.4 million from HAVA funds for maintenance of the database in FY 2025. Maintenance would continue in FY 2026. The agency estimates future procurement costs for a new database would be \$10.0 million beginning in FY 2026 from the SGF. Any fiscal effect

associated with enactment of the bill is not reflected in *The FY 2025 Governor's Budget Report*.

The Kansas Association of Counties indicates the bill could have a fiscal effect on the counties because counties could also not use federal funding without state approval.

Elections; Transparency in Revenues Underwriting Elections Act; voter registration; governmental agency