

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairperson Carolyn McGinn at 10:30 a.m. on March 28, 2011, in Room 548-S of the Capitol.

All members were present

Committee staff present:

Jill Wolters, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
David Wiese, Office of the Revisor of Statutes
Alan Conroy, Director, Legislative Research Department
J. G. Scott, Chief Fiscal Analyst, Legislative Research Department
Aaron Klaassen, Senior Fiscal Analyst, Legislative Research Department
Dorothy Hughes, Fiscal Analyst, Legislative Research Department
Amy Deckard, Senior Fiscal Analyst, Legislative Research Department
Estelle Montgomery, Fiscal Analyst, Legislative Research Department
Brea Short, Intern, Senator McGinn's Office
Jan Lunn, Committee Assistant
Josh Lewis, Chief of Staff

Others attending:

See attached list.

Conferees:

Robert Siedlecki, Jr., Acting Secretary of State
Carol Williams, Executive Director, Kansas Ethics Commission

Continuation of Robert Siedlecki Confirmation Hearing

Senator McGinn noted that many e-mails had been received indicating a perception of uncalled-for attacks on Mr. Siedlecki's nomination. Chairperson McGinn summarized the confirmation process and highlighted the following points:

- The basis of Senate confirmations is to provide a "check and balance" on the power of the Governor and who the Governor may appoint to key positions.
- This is one of the fundamental separations of power between the Executive and Legislative branches of government.
- Provisions of Senate Rule 56 (Rules of the Senate) and K.S.A. 75-4315b were discussed. These provide the statutory basis for confirmation hearings.
- The Legislature through the years has identified almost 200 key positions that require Senate confirmation.
- It is the Senate's responsibility to review and either approve or reject a gubernatorial appointment.

3/28/2011

Senator Francisco requested clarification related to the foster care contracts topic that was discussed on March 23, 2011. Specifically, her understanding of Mr. Siedlecki's previous comment was that he could open a foster care contract to change required payments but no other changes would be made. Acting Secretary Siedlecki clarified that contracts could be opened and modified (for payments) but not for renegotiations. He indicated his willingness to work with contractors based on the Legislature's direction.

Senator Francisco requested further expansion on the use of vouchers for providing social services. Acting Secretary Siedlecki indicated that voucher utilization could increase choice for the eligible beneficiary, include faith-based providers for providing services, and result in cost savings to the State. Senator Francisco distributed copies of a presentation Mr. Siedlecki had made entitled "Guidance for Partnering with Faith-Based and Community Organizations" (Attachment 1). She questioned Acting Secretary Siedlecki on constitutional restrictions for indirect funding (voucher) and direct payment (payment directly to person/group from the federal government, state/local government, or private entity). Mr. Siedlecki explained that if direct payment to a provider is involved, a beneficiary would seek services from a secular provider. If indirect voucher payment to a provider is involved, a beneficiary could voluntarily choose a faith-based provider or a secular provider. Senator Francisco expressed concern about protecting an

CONTINUATION SHEET

MINUTES OF THE WAYS AND MEANS COMMITTEE on March 28, 2011, 12:00 p.m. 548-S

individual from unsolicited religious-based activities in a therapeutic environment. Mr. Siedlecki clarified the presentation was intended to provide guidance concerning constitutional law.

Senator Francisco asked Acting Secretary Siedlecki to comment on the Teen Challenge program operated in Florida, including what problems or issues existed. Mr. Siedlecki indicated that the program was operated by the Department of Children and Families and that he had no interaction with the Teen Challenge Program in Florida.

Senator Kelly asked how the foster care rolls were reduced in Florida from 18,000 to 12,000. Acting Secretary Siedlecki responded new leadership within the agency used outreach to faith-based and community providers, diversion programs, and other innovative techniques to accomplish positive results from 2006 until January 2011.

Senator Kelly inquired about the proposed closure of Kansas Neurological Institute (KNI) and whether Acting Secretary Siedlecki's position had shifted. Mr. Siedlecki reported that he had toured KNI several times, met with parents, clergy, etc., and spoken to two community facilities to assess whether there was interest in privatizing KNI. Senator Kelly responded that many legislators support keeping KNI open and inquired concerning the funding for facility modification or transition. Discussion was heard related to Medicaid, the Money Follows the Person program, and other funding sources.

Senator Kelly referenced the Healthy Marriage, Healthy Father, and Healthy Adoption initiatives and encouraged Acting Secretary Siedlecki to evaluate the possibility of incorporating an initiative centered on out-of-wedlock births. She cited Shawnee County birth and divorce statistics, and the need for focusing on the continuum of issues resulting from these social issues. Senator Kelly requested Mr. Siedlecki to assess Kansas needs and not assume that they were the same as those in Florida.

Senator Kelly referenced comments from the March 23 meeting concerning staffing levels within the SRS agency. Acting Secretary Siedlecki confirmed that the two positions at the administrative level were to replace two existing unfilled positions to stay within the allocated salary budget of the previous administration.

Senator Vratil requested that more detail be provided on initiatives to reduce childhood poverty. Acting Secretary Siedlecki responded that his design would be to create stronger families in Kansas, involve more fathers in the care and support of their children, foster a healthy marriage initiative, establish a healthy adoption program, and evaluate other successful models used nationally or within the state.

Senators requested that Mr. Siedlecki:

- appear during the 2012 session to speak about the foundational centerpiece of his programs/initiatives,
- focus on higher education and/or job-training programs for single mothers,
- evaluate a program to support children when a mother or father is incarcerated, and
- evaluate methods to ensure successful reintegration of offenders into productive families and communities.

Senator Schodorf moved that the Senate Ways and Means Committee recommend confirmation of Robert Siedlecki, Jr., as Secretary of Social and Rehabilitation Services. Senator Emler seconded the motion, which carried on a voice vote.

SB 102 - Governmental ethics commission; candidate, lobbyist fee increases.

Senator Huntington noted that alternatives to the suggested increase in fees for certain candidates, political committees, and lobbyists were being considered. **HB 102** passed out of the Committee on Ethics and Elections and recently was referred to the Senate Ways and Means Committee. New recommendations were distributed (Attachment 2). Considerable discussion was heard concerning the remaining shortfall for FY 2012 and FY 2013, how funding can be sustained, and other issues surrounding **HB 102** in its revised form. Carol Williams, Executive Director of the Kansas Governmental Ethics Commission, described the funding situation and its impact on the Commission's operations (no written testimony).

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Senator Vratil moved to request the Senate President re-refer **SB 102** back to the Senate Committee on Ethics and Elections. Senator Teichman seconded the motion, which carried on a voice vote.

The meeting was adjourned at 1:10 p.m.

SENATE WAYS AND MEANS
GUEST LIST
March 28, 2011

NAME	AFFILIATION
Michelle Butler	Cap. Strategies
Melissa Ward	Rein Law Firm
Robin Chumts	DCCA INC
Ann Borchus	Gov. Office
Nancy Bryant	SOS
Scott [unclear]	DD Council
Carol Williams	Gov Ethics
Gary Handmark	SRS
Michelle Schroeder	SRS
Rob Siedkeker	SRS
Martin Hauer	Hawkeyes Capitol Renewal
Bill Miskell	SRS
Patti Ciani	SRS
Mike Hammond	Acme [unclear]
Colin Thomasset	Acme [unclear]
Jeff Colyer	LG
Jim [unclear]	SRS
Jan [unclear]	KDOA
Tracy Russell	Value Options
Tim Wood	DRC
Nick Wood	DRC
Tra Stamm	SATF
Thomson Jones	SICK
Heather Morgan	VMY
Steve Solomon	TFI Family Services
Trudy Recine	KCSL
Gina Meierstamm	KVE Health Systems Inc.
Susan Allen	Legis
Shanne Wike	KS Action for Children
Phillis Setchell	Self

**SENATE WAYS AND MEANS
GUEST LIST
March 28, 2011**

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GUIDANCE FOR PARTNERING WITH FAITH-BASED AND COMMUNITY ORGANIZATIONS

Presenter:
Robert Siedlecki, Jr.
Task Force for Faith-Based and
Community Initiatives,
Department of Justice

Guiding Principles

*This presentation is not legal advice
customized to your specific situation,
nor is it a comprehensive statement
of the law of church-state relations*

*You may wish to consult with a staff lawyer, the
agency that runs the relevant program, or
with our office*

Equal Treatment

- Compassionate care on the same footing as secular groups
 - A level playing field
 - Within Constitutional guidelines

Equal Treatment Regulations

*DOJ's Equal Treatment Regulations: 28 CFR
38.1 and 38.2*

*Apply to 1) the Federal government; and 2)
state and local governments and private
groups that administer Federal funds.*

Senate Ways and Means

Date:


03/28/11

Attachment:


1

Equal Treatment Regulations

If funds are commingled....


- If you give additional money to the activities funded under the Federal government program and you do not segregate your money, the Equal Treatment Regulations apply to **all** the funds, not just the Federal funds.
- 

Level Playing Field

- **No discrimination** for or against an organization on the basis of religious character or affiliation
 - **No disqualification** of an organization in programs because of religious motivations or religious character or affiliation
 - **No singling out** of faith-based groups for special monitoring or assurances
- 


Constitutional Restrictions:

Direct Funding

- **Direct Federal Funding:**
 - Person or group receives money **directly** from the federal government or from a state/local government/private entity that received the money **directly** from the federal government
 - Examples: **discretionary grants, formula and block grants to state/local governments, contracts and cooperative agreements, pass-throughs (sub-grants, sub-contracts, etc.)**
- 


Constitutional Restrictions

Direct Funding

- Direct federal funding **cannot** be used for “inherently religious” activities:
 - Religious worship
 - Prayer
 - Bible study
 - Evangelization
- 


Constitutional Restrictions

Direct Funding

- **However**, FBOs can still engage in inherently religious activities **if they are**:
 - Paid for with private funds; and
 - Separated in time or place from government-funded activities
- 


Constitutional Restrictions

Direct Funding

- **Time restriction**:
 - You can hold a bible study **in the exact same room** where you provide government-funded services—the activities just need to be held **at different times**.
 - **Place restriction**:
 - You can hold a worship service **at the exact same time** you provide government-funded services—the activities just need to be held **in different rooms**.
- 


Constitutional Restrictions

Direct Funding

- Program participants are permitted to be asked to join in inherently religious activities if:
 - Participation is truly **voluntary**; and
 - Participation or lack thereof will in **no way** **affect person's ability to receive the government services** being provided
- 

Constitutional Restrictions

Direct Funding


- **FBOs also may retain**:
 - ✓ Religious name
 - ✓ Board members selected on religious basis
 - ✓ Mission statement
 - ✓ Religious activities — so long as they are privately-funded, separated in time and place, and voluntary
 - ✓ Religious symbols, wording, icons, etc., in program facility
 - ✓ Ability to hire based on religious affiliation
- 

Frequently Asked Questions

Direct Funding

Q. *If someone asks me about my faith, can I share it with them?*

A. Yes, you may answer briefly, but a longer discussion either should be postponed or should occur in a different place than where the federally-funded service is being provided.




Frequently Asked Questions

Direct Funding

Q. *Can we use Federal funds to pay staff salaries?*

A. Yes, as long as the staff person spends his or her time on program activities – and not inherently religious activities. If a staffer splits time between program and church activities, keep careful daily timesheets.




Frequently Asked Questions

Direct Funding

Q. *If our organization receives a grant from the Federal government, can it choose to deny services to some people?*

A. No. If you take Federal money you must provide services to all who are eligible.




Frequently Asked Questions

Direct Funding

Q. *Can we buy religious materials with Federal funds?*

A. No. You may not use government funds to buy religious materials. This applies not only to Bibles, Torahs, and Korans, but also to materials used for religious activities.




Frequently Asked Questions

Direct Funding

Q. *Can we still get government funds if religion is integrated throughout our program and we don't want to separate it?*

A. In most cases, no, because inherently religious activities must be privately-funded, separate, and voluntary.




Constitutional Restrictions

Indirect Funding

- **Indirect Federal Funding:**


- Where the **beneficiaries** of a government program **themselves** choose where the money will be spent by choosing their service provider

- Example: **Vouchers**




Constitutional Restrictions

Indirect Funding

- If there is at least one (1) secular provider the client can choose from, an FBO may legally include inherently religious activities (i.e., worship, prayer, bible study, evangelization) in the program even though federal money is being used.
 - Thus, with vouchers/indirect funding inherently religious activities do not have to be separated by time or place.
- 

Religious Hiring

- FBOs may consider religion when hiring staff for a government-funded program (under Title VII of the Civil Rights Act of 1964) **unless** the statute creating the grant program contains a prohibition on doing so.
 - However, under the Religious Freedom Restoration Act of 1993, an FBO may (and must) be granted the right to consider religion in hiring if it is important to its religion.
- 

"To Accept or Not to Accept"

- **Pros:**

- Funding can be used to start-up a new service or ministry or to expand an existing one
- If vouchers (or another form of indirect funding) are used, you do not have to separate inherently religious activities from government-funded activities
- Even if direct funding is involved, you can still invite people to attend inherently religious activities
- You can continue to consider religion when hiring (either under Title VII or under a RFRA waiver)



"To Accept or Not to Accept"

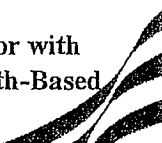
- **Cons:**

- Government money can become addictive; difficulties could arise if such money runs out
- If direct funding is involved, you may not engage in inherently religious activities—i.e., the activities that may make your program successful

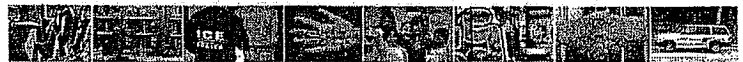


Other Questions?

- Take the Web-based tutorial on these rules located at:
http://www.usdoj.gov/fbci/for_state_admin.html
- Review *Guidance for Faith-Based and Community Organizations on Partnering with the Federal Government*
(<http://www.whitehouse.gov/government/fbci/guidance/index.html>)
- Follow up with the "Program Contact" or with the Dept. of Justice's Task Force for Faith-Based and Community Initiatives



For Assistance, contact:



**The Task Force on Faith-Based and
Community Initiatives
U.S. Department of Justice**

www.usdoj.gov/fbci

Robert.Siedlecki @ usdoj.gov
950 Pennsylvania Avenue NW, Rm. 4411
Washington, D.C. 20530
(202) 514-2987
Fax (202) 616-9627



Senate Ways and Means
Date:
Attachment:

Lobbyist Registration

FY 2012						FY 2013				
Estimate	Fee	New Fee	SWAM FEE	SWAM Total		Estimate	Fee	New Fee	SWAM FEE	SWAM Total
Expenditures of \$1000 or less	975	\$35	\$105	\$60	\$58,500	975	\$35	\$105	\$60	\$58,500
Expenditures over \$1000	140	300	900	400	56,000	140	300	900	400	56,000
Lobbying firm employee	20	360	1,080	450	9,000	20	360	1,080	450	9,000
Amendments*										
Lobbyist Total	1,135				\$123,500	1,135				\$123,500

Political Action Committees

FY 2012						FY 2013				
Estimate	Fee	New Fee	SWAM FEE	SWAM Total		Estimate	Fee	New Fee	SWAM FEE	SWAM Total
Contributions of \$500 or less	95	\$20	\$60	\$40	\$3,800	95	\$20	\$60	\$40	\$3,800
Contributions of \$501-\$2,500	75	35	105	70	5,250	75	35	105	70	5,250
Contributions of over \$2,501	100	240	720	450	45,000	100	240	720	450	45,000
Amendments*										
PAC Total	270				\$54,050	270				\$54,050

Candidates

FY 2012						FY 2013				
Estimate	Fee	New Fee	SWAM FEE	SWAM Total		Estimate	Fee	New Fee	SWAM FEE	SWAM Total
Statewide	0	\$480	\$500	\$750	\$0	0	\$0	\$500	\$750	\$0
State Senate	95	35	50	200	19,000	0	0	50	200	0
House of Reps	230	35	50	150	34,500	0	0	50	150	0

Bd of Education	12	35	50	100	1,200	0	0	50	100	0
Judicial	150	35	50	100	15,000	0	0	50	100	0
District Attorney	10	35	50	100	1,000	0	0	50	100	0
County Offices	600	35	50	100	60,000	600	35	50	100	60,000
City Offices	25	35	50	75	1,875	150	35	50	75	11,250
Board of Public Utilities of Kansas	0	0	50	75	0	8	35	50	75	600
School Board (Wichita)	0	0	50	75	0	8	35	50	75	600
Canidate Total	1,122				\$132,575	766				\$72,450

Ethics FY 12 total: \$391,650

Ethics FY 13 total: \$373,850

SWAM FY 12 total: \$310,125

SWAM FY 13 total: \$250,000

Ethics Need: \$765,500

Proposal Provides: \$560,125

Short: 2012 2011

\$81,525 \$123,850