

**Testimony before House Elections Committee
on House Bill 2215
By Carol Williams, Executive Director
February 16, 2015**

On behalf of the Governmental Ethics Commission, I stand before you today as neither a proponent or opponent of House Bill 2215. The Governmental Ethics Commission does not take a position on this bill. This testimony is being provided as background information and to explain the amendments and new language being provided for K.S.A. 25-4142, K.S.A. 25-4143 and K.S.A. 25-4157a.

House Bill 2215 has been introduced to address the Kansas Supreme Court decision in *Joan Cole v Carlos Mayans and Winston Kenton* handed down in December of 2003. In its' decision, the Court ruled that Carlos Mayans, a candidate for Mayor in the city of Wichita, was prohibited from transferring funds from his legislative campaign account to his mayoral account. The Court ruled the transfer of funds from one campaign account to another campaign account was a contribution and that K.S.A. 25-4157a(c) prohibits contributions between candidacies.

As background, in July of 2002, Representative Mayans requested an advisory opinion from the Commission as to whether he could transfer his State Representative campaign funds to a campaign account to run as a candidate for Mayor in Wichita. In Opinion 2002-20, the Commission stated "Nothing in the Kansas Campaign Finance Act prohibits a state legislator from using his existing campaign funds to run for a city office". Acting upon Opinion 2002-20, Representative Mayans transferred funds from his State Representative campaign account to a new mayoral campaign account. In February 2003, Mr. Mayans' attorney requested another advisory opinion from the Commission. The Commission was asked if the Campaign Finance Act prohibits a former State legislator from transferring funds from his legislative campaign fund to his Mayoral campaign fund, whether Mayans' Mayoral campaign was a bona fide successor committee or candidacy, and whether the transfer of funds by a candidate from one candidacy to a bona fide successor candidacy constitutes a contribution. The Commission opined that as long as a candidate carries over the remaining balance of his first campaign fund to a bona fide successor campaign, the Act does not prohibit the transfer. In addition, since Mr. Mayans intended his mayoral campaign to be a successor campaign to his legislative campaign, the Commission considered the Mayoral campaign to be a bona fide successor candidacy, and that

carryover funds by a candidate to a bona fide successor candidacy does not constitute a contribution pursuant to K.A.R. 19-22-1.

Before 2003, the Commission had issued eight advisory opinions to legislators and other individuals inquiring whether a candidate could transfer excess campaign funds to a campaign account for another state or local office. In each opinion issued since 1976, the Commission had opined that it was permissible to make such a transfer and that these transfers did not constitute a contribution. A minimum of 60 candidates had made such transfers between 1976 and 2003.

House Bill 2215 amends three provisions of the Campaign Finance Act. These amendments would permit a candidate for a state or local office to transfer residual funds from his or her original campaign account to a new campaign account which is established by the candidate when he or she files for a different state or local office. All outstanding debts, liabilities and expenses must be satisfied before a transfer can be made.

New Section 4 provides that any candidate who transferred campaign funds to a bona fide successor candidacy commencing January 1, 1976 through the day preceding the effective date of this act, will have made such transfer in compliance with the provisions of the Campaign Finance Act.