

MINUTES OF THE ETHICS AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Terrie Huntington at 9:30 a.m. on February 3, 2011, in Room 159-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Office of the Revisor of Statutes  
Jill Shelley, Kansas Legislative Research Department  
Ellen Martinez, Committee Assistant

Conferees appearing before the Committee:

Ray Merrick, Kansas Senator  
Rob Olson, Kansas Senator  
Carol Williams, Executive Director, Governmental Ethics Commission

Others attending:

See attached list.

The Chairman called the meeting to order and opened the hearing on **SB 43 - Campaign finance; transfer of campaign money to another candidacy.** Staff explained that this bill would amend the Campaign Finance Act to allow, under certain circumstances, transfer of funds to a bona fide successor campaign committee and to require disclosure of dates of certain lobbyist expenditures. The bill would allow a candidate who has established a bona fide successor committee and transferred all funds to it to accept contributions to the original candidacy sufficient to retire the debt of the original candidacy, subject to contributions limits for the original office. When contributions have been sufficient to retire the debt, the bill would require the original candidacy to be terminated.

Senator Ray Merrick testified in support of **SB 43**. He felt he was adversely affected by the current campaign finance laws regarding moving campaign funds from one account to another when he was elected to the Senate through the precinct election process. (Attachment 1)

Senator Rob Olson testified in support of **SB 43**; there was no written testimony. He felt that the money should follow the candidate.

Carol Williams, Executive Director, Governmental Ethics Commission, was neutral on **SB 43**. The bill was introduced to address a Kansas Supreme Court decision in *Cole v. Mayans and Kenton*, in which the Court said that transfer of funds from one campaign account to another is a contribution prohibited under the Campaign Finance Act. She answered questioned from the committee regarding certain circumstances that occurred during the past election cycle. (Attachment 2)

There being no further discussion, the hearing was closed.

The Chairman advised the committee that the next two weeks will be full as there are numerous bills to be heard. She thanked all those appearing before the Committee.

The next meeting is scheduled for February 9, 2011

The meeting was adjourned at 10:01 a.m.

## SENATE ETHICS AND ELECTIONS COMMITTEE GUEST LIST

**Date:** February 3, 2011

[illegible]

STATE OF KANSAS

RAY MERRICK  
STATE SENATOR, 37TH DISTRICT  
6874 W. 16TH TERRACE  
STILWELL, KANSAS 66085  
(913) 897-4014

STATE CAPITOL 225-E  
300 S.W. 10TH AVENUE  
TOPEKA, KANSAS 66612  
(785) 296-7383  
ray.merrick@senate.ks.gov



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS  
COMMERCE  
FINANCIAL INSTITUTIONS AND INSURANCE  
UTILITIES

Senate Elections Committee:

Thank you for allowing me to testify before the committee today.

Having recently being elected to the senate through the pre-cinct election process I and others are adversely affected by the current campaign finance laws regarding moving campaign funds from one account to another when you change positions.

Since there are legal ways around the current law, it seems ridiculous that you can give the money back and have a new check issued.

I have always felt it is the individual raising the money to run. As I was giving money back and people replaced it everyone said the same thing, how ridiculous is this.

The law as it currently exists is more about gotcha politics than good policy.

A handwritten signature in black ink, appearing to read 'Ray Merrick', with a stylized, cursive script.

Ray Merrick  
Senator 37<sup>th</sup> District

Ethics and Elections Committee  
Attachment 1  
Date 2-3-11

**GOVERNMENTAL ETHICS COMMISSION**

www.kansas.gov/ethics

**Testimony before Senate Elections Committee  
on Senate Bill 43****By Carol Williams, Executive Director****February 3, 2011**

On behalf of the Governmental Ethics Commission, I stand before you today as neither a proponent or opponent of Senate Bill 43. 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.

Senate Bill 43 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 is 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

Ethics and Elections Committee

Attachment 2Date 2-3-11

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.

Since 1976, the Commission has 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 has opined that it is permissible to make such a transfer and that these transfers do not constitute a contribution. A minimum of 60 candidates had made such transfers between 1976 and 2003.

Senate Bill 43 amends three provisions of the Campaign Finance Act. These amendments would permit a candidate for a state or local office to transfer all 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.

New Section 4 would permit a candidate who has debt remaining from his or her original campaign, to retire such debt by accepting contributions subject to the contribution limits for the original office sought. Once the debt is retired, the candidate would be required to terminate such candidacy.

New Section 5 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.