



## GOVERNMENTAL ETHICS COMMISSION

<https://ethics.kansas.gov>

Proponent Testimony for HB 2171  
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Thank you for the opportunity to provide testimony in favor of HB 2171.

The Commission is a proponent of legislation that addresses a specific legislative recommendation from its Annual Report and is neutral to most other initiatives. This bill has two aims: updating a statute to be enforceable in light of current technology and removing the requirement for paid-for attribution to include a treasurer's name. The former aim is a recommendation by the Ethics Commission. The latter was not specifically recommended by the Commission; therefore, the Commission is neutral for that portion of the legislation but does not object to the change.

### **Electronic Paid-For Attribution**

Currently, an electronic communication by a candidate, candidate committee, PAC, or party committee that contains express advocacy must include a "paid-for" attribution at the end of the communication. This applies to websites, email, non-Twitter social media and other communications. Appending such attributions to e-mails is analogous to printed matter and compliance with the attribution requirement is simple and straight-forward. Compliance for some websites and some social media pages can be difficult or impossible. Facebook is a good example.

Facebook is a website that hosts internet communications in a rigidly structured manner. A typical Facebook page has a header but lacks a footer or other mechanism that may be utilized to append an attribution. Even if such a mechanism existed, pages have no end because of a reverse chronological news feed that scrolls. Required attributions may be added to the header, though technically this would not be in compliance with the statute as currently written.

The Commission believes that the rigid formats of certain websites or other internet communications make appending the required attributions problematic or impossible.

### **Clear and Obvious Standard**

The legislation would require that while the paid-for attribution may occur elsewhere on an electronic communication besides the end of the page, it must nonetheless be “clear and obvious.” This is substantively similar to the FEC’s requirement that disclaimers must be “clear and conspicuous,” which ensures that a disclaimer should not be difficult to read or easily overlooked.

Thanks in part to the significant amount of information regarding the definition of “clear and conspicuous” in federal elections, the Commission would not have difficulty in educating individuals and organizations about the requirements. In fact, the proposed change would simplify the current statute, likely reducing alleged violations.

### **Treasurer Disclosure**

With respect to the removal of the requirement to list a treasurer in paid-for attribution, the Commission has no position.