

**GOVERNMENTAL ETHICS COMMISSION**

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**Testimony before House Elections  
House Bill 2642 - Neutral  
By Mark Skoglund, Executive Director  
Kansas Governmental Ethics Commission  
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This testimony is provided for informational purposes. The Governmental Ethics Commission does not take a position on HB 2642. However, this legislation arises from a recommendation in the Commission's 2017 Annual Report to consider amending requirements to "paid for" attribution for social media.

House Bill 2642 amends the Campaign Finance Act requirements for "paid for" attribution as outlined in K.S.A. 25-4156 as it pertains to electronic communications, including social media. Communications that include express advocacy are generally required to have a disclosure indicating the candidate or organization who paid for the communication. Currently, social media and other electronic communications are required to include a "paid for" that complies with our regulatory requirement, which specifies language that can be utilized for that attribution. However, for some social media sites like Facebook, it is possible that attribution may technically comply with the requirements but still not be readily visible to an average user. For example, "paid for" attribution might occur a few clicks deep on a Facebook page, under an "impressum" page, rather than visible on the landing page.

This legislation would require attribution to appear in a clear and conspicuous manner and defines the specifics for video and audio communications.

Attribution violations are relatively common and are generally waived by the Commission if the occurrence was the individual's first offense. If not waived, violations are subject to the same penalties as other Campaign Finance Act violations, which may include significant fines.

The legislation as drafted does not contain a definition of "clear and conspicuous" as it relates to text communications. This drafting permits flexibility in enforcement across many platforms, but could avoid the landing page attribution requirement, so attribution might still be able to be buried on a social media site. It may be worth considering adding an inclusive definition for text communication that resolves the landing page concern.

Lastly, for audio communication, the legislation requires attribution at the beginning or end of the communication. Other audio communication such as robocalls currently require attribution at the beginning of the communication. It may be worth considering removing the words "or end" in the amended K.S.A. 25-4156(a)(E)(ii).

The legislation also continues the exemption for "paid for" attribution for Twitter in light of the website's recent expansion of the character limit.