



# THE HEARTLAND INSTITUTE

FREEDOM RISING

## Testimony Before the North Dakota House Judiciary Committee on House Bill 1144 in Reference to Creating a Cause of Action for Censorship by Certain Technology Platforms

The Heartland Institute  
January 20, 2021

Chairman Klemin and Members of the Committee:

Thank you for holding a hearing on House Bill 1144, legislation that provides North Dakotans a private cause of action in court when they have been censored or “de-platformed” on the various social media platforms that have become ubiquitous and integral to contemporary political speech and expression.

My name is Cameron Sholty, and I am the Director of Government Relations at The Heartland Institute. The Heartland Institute is a 37-year-old independent, national, nonprofit organization whose mission is to discover, develop, and promote free-market solutions to social and economic problems. Heartland is headquartered in Illinois and focuses on providing national, state, and local elected officials with reliable and timely research and analysis on important policy issues.

In less than a generation, emerging technologies and mediums promised democratization of free speech and political activism in a way never dreamed of by either its creators or users. Free speech and political activism, once the realm of partisans and professional pundits, was accessible such that people who were once spectators were now engaged, sharing their ideas and seeing their opinions manifest as public policy, and were challenging orthodoxies of a political class that seemed untouchable.

Yet that democratization gave way to the powers and pillars of technology in the blink of an eye. The consolidation of that power into the hands of a few titans in the sector has now effectively erased the empowerment of millions of Americans and their newfound voices.

Simply, these new technologies have been a blessing and a curse for our political discourse. On that, I think we can all agree.

Where it has empowered voices and people across the political spectrum, it has also empowered the voices that seek to divide us, misinform us, and manipulate us. I would like to tell you that the very platforms on which those messages are spread have been fair and impartial, yet the truth is that they haven't been. In fact, their behavior in recent years certainly suggest it is not an indifferent actor on our national stage.

As partisans squabble and media apparatchiks chirp, the social media companies have ascended from mere stages where players perform to being the protagonists and villains rolled into one driving force of the storyline. The result has been near universal frustration with the behavior of what has become colloquially known as Big Tech.

As a free-market organization, The Heartland Institute continues to grapple with and delineate a comprehensive and deserving response to this ever-impinging force in our politics. Indeed, in a perfect world, I want to submit to you that legislation to rein in social media companies like Twitter or Facebook or technology giants like Amazon or Apple wouldn't be necessary. But that's not where we are today.

A consensus has yet to emerge on the best way to address Big Tech's censorship of voices on its platforms in a way that recognizes and reinforces America's treasured tradition of free speech - either ideologically or practically.

That is, though, ultimately, a generous and perhaps naive reading of the current landscape. Of course, you and I are free to use or not use the products offered by Facebook, Twitter, Amazon, or Apple and Google. Of that, there ought to be no question. However, to forego using products as ubiquitous and woven into the fabric of our modern daily life is to forego being engaged with family and friends or knowing in real time what our elected officials are doing (or not doing) on our behalf or to struggle to grow a small business and procure customers.

So here we are today, challenging the behavior of Big Tech, which has been less than transparent and lacks respect for the moral responsibilities that it has as a primary outlet for political discourse in our nation and the dissemination of information of public import.

Further, I remain skeptical that there is a single silver bullet and believe the solution likely lies in the congruence of federal legislation, state legislation, and judicial action.

House Bill 1144 is good, first-step legislation, which should also spur a state-based and national debate on the role of Big Tech in our civic conversations. It is perhaps the tool policymakers need to give to North Dakotans such that the message is clear that robust public debate is sacrosanct and any action or failure to act to ensure a robust debate will be met with hard questions, and if necessary, enabling policies.

Thank you for your time today.

**For more information about The Heartland Institute's work, please visit our websites at [www.heartland.org](http://www.heartland.org) or <http://news.heartland.org>, or call Cameron Sholty at 312/377-4000. You can reach Cameron Sholty by email at [csholty@heartland.org](mailto:csholty@heartland.org).**