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March 15, 2021

Honorable Chair Jerry Klein
North Dakota State Legislature
600 East Boulevard
Bismarck, ND 58505-0360

Re: TechNet Opposition to EHB 1144

Dear Chair Klein and Members of Senate Industry, Business, and Labor:

I write on behalf of TechNet respectfully **in opposition to Engrossed House Bill 1144**, which will subject North Dakota residents to more abhorrent and illegal content on the internet by creating frivolous liability risks for social media companies that remove objectionable content from their platforms.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents more than three and a half million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

Our members are committed to keeping their users safe online, which is why social media companies review millions of pieces of content every day in order to remove harmful content that conflicts with their policies. North Dakota should encourage these companies to have content policies, as they govern the removal of content showing the exploitation of children, bullying, harassment, gore, pornography, and spam. Instead, EHB 1144 perversely creates an incentive for companies to not prohibit and remove any objectionable content in order to avoid the frivolous lawsuits that this bill would create. The result would be the rapid spread of abhorrent and illegal content that will cause real-world harm in North Dakota communities and beyond.

Social media companies understand that they have an obligation to remove objectionable content, otherwise their users will be subjected to dangers like images of child endangerment, financial scams, spam, and other nefarious links. Companies take this responsibility seriously, removing harmful content in an unbiased manner while keeping their services open to a broad range of ideas. In the overwhelming number of cases, removal of offensive content is accomplished as intended. However, the sheer volume of content – hundreds of millions of posts per

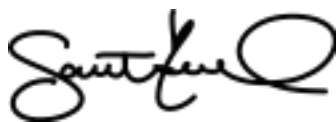
day – ensures that both artificial intelligence and human reviewers at companies cannot get it right 100 percent of the time. Billions of transactions, after all, will inevitably lead to errors. It would be fundamentally unfair to implement such a draconian penalty for instances where code misfired or a simple mistake was made.

Additionally, the bill runs counter to the American free speech law governing content liability on the internet, Section 230 of the federal Communications Decency Act. Since its enactment in 1996, Section 230's two key provisions have empowered online intermediaries to remove harmful content while providing them with the same "conduit immunity" that commonly exists in other real world offline contexts – for example, not holding a bookseller liable for libelous books, but rather the individual who committed the libel.

Due to Section 230, American companies have the right to curate information on their service to meet the needs and expectations of their customers. Section 230 has supported innovation across the internet while also encouraging companies to be "Good Samaritans" by allowing them to "to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected."

For these reasons, TechNet opposes EHB 1144. We thank you in advance for your consideration, and please do not hesitate to reach out with any questions.

Sincerely,



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