

**Testimony of Kent Blickensderfer, KPB Consulting, LLC  
Before the Senate Industry Business and Labor Committee  
Senator Jerry Klein, Chairman  
March 16, 2021**

Good morning Chairman Klein and committee members. My name is Kent Blickensderfer with KPB Consulting here in Bismarck. I'm here today representing TechNet in opposition to HB1144. TechNet is a national, bipartisan network of technology companies that promote the growth of the innovation economy nationwide.

TechNet's members are committed to keeping their users safe online. HB 1144 will subject residents to more abhorrent and illegal content on the internet by forcing private internet, communications and social media companies to keep objectionable material on their platforms. Our companies have an obligation to remove objectionable content to protect users from dangers like images of child endangerment, financial scams, spam, and other nefarious links. They take this responsibility seriously, removing harmful content in an unbiased manner while keeping their services open to a broad range of ideas.

This is not an uncommon practice. If an individual were yelling racist remarks or inciting violence in a restaurant, no one would dispute the fact that the restaurant has a right to remove that person from their establishment. Furthermore, Section 230 of the Federal Communications Decency Act grants companies the right to be able to draw boundaries and respond to market forces such as brand safety or consumer expectations. This bill runs counter to that federal policy. Also, by forcing private companies to house on their servers objectionable speech, inconsistent with terms of service and contrary to their brand, this bill will present significant legal challenges for the State of North Dakota

Despite the constant growth of these platforms, 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 can't get it right all the time. Billions of transactions eventually and inevitably lead to errors. It would be fundamentally unfair to implement a civil cause of action for instances where code misfired or a simple mistake was made.

HB1144 also violates the First Amendment of the US Constitution which makes clear the government may not regulate the speech of private individuals. Further it violates conservative principles of limited government and free markets. It also makes it more difficult for social media platforms to block SPAM and harmful and illicit content. Keep in mind that users agree to Terms of Service when they sign on to our platforms and the platforms have the right to enforce those terms.

For these reasons, we ask that you give HB1144 a DO NOT PASS recommendation. Thank you for your time and I will be happy to try to answer any questions you have.