



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

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May 7, 2025

TO: The Honorable Chair Ann Rest and Members of the Senate Tax Committee,

RE: TechNet opposition to the social media tax in SF 2374

On behalf of TechNet and its members, we must oppose the proposed new tax on social media platforms included in SF 2374.

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 over 4.5 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

The Internet Tax Freedom Act

TechNet is strongly opposed to creating a new tax on social media platforms. While we understand your need to address the state's projected budget deficit, enacting this new tax may not accomplish that goal. It will undoubtedly be challenged in court, take years to litigate, and may result in no new tax revenue for the state.

The Internet Tax Freedom Act (ITFA), enacted in 1998 and made permanent in 2016, prohibits state and local governments from imposing taxes on internet access and from applying multiple or discriminatory taxes on electronic commerce. Under the ITFA, a tax is considered discriminatory if it applies only to digital commerce, and does not apply to similar offline activity.¹

Since this new tax only applies to internet-based platforms, offline entities that collect the same consumer data are not subject to the tax. Thus, the tax creates a disparate tax burden on electronic commerce in violation of ITFA. The social media tax included in the Senate tax bill is likely to run into the same issues that arose under *Performance Marketing Ass'n, Inc. v. Hamer*, 998 N.E.2d 54 (Ill. 2013), in which Illinois' digital affiliate tax was struck down under ITFA as discriminatory. Like the *Hamer* decision, this proposed tax is likely preempted by federal law and is subject to facial invalidation as a discriminatory e-commerce tax.

¹ <https://www.congress.gov/crs-product/IF11947>

Similarly, ongoing litigation under Maryland's digital ads tax is taking years to resolve. Originally passed in February 2021, Maryland's tax on digital advertising services has faced several legal challenges. The legal disputes surrounding Maryland's digital ads tax are expected to continue, with no final resolution anticipated before late 2025.²

This social media tax could cost the state valuable resources due to a legal challenge resulting in lengthy litigation and may not produce needed funds for the state.

Forced collection of data

This proposal is premised on the collection of consumer data by social media platforms which would be required to collect *more* personal information on consumers to accurately determine the sourcing of this tax. Platforms would have to acquire data points to determine residency for their users such as precise geolocation data, IP addresses, or home address information; and, then use this information to verify their residency. This would occur for all Minnesota social media users, even minors. This conflicts with data privacy best practices like privacy by design and data minimization, creates new vectors for fraud, and eliminates anonymity online. Also, the information would need to be maintained because the burden is on the social media platform to determine residency for purposes of this tax.

This is further complicated because it is unclear how this would work if a Minnesota consumer were to exercise their deletion rights under the Minnesota Consumer Data Privacy Act (MCDPA). Under the MCDPA (which TechNet worked with lawmakers on for several years), Minnesota consumers have the right to request the deletion of their personal data held by a controller. If a consumer were to exercise this right, platforms may not have the relevant information needed to properly source this tax. It is also unclear how a platform would properly source the tax if a resident in the state utilizes a virtual private network (VPN). Since VPN's masks your actual location by making it appear you're browsing from the location of a VPN, accounting for Minnesota residents using a VPN would be difficult, if not impossible.

Impact on Small Businesses

It is also worth noting that social media platforms do not "sell" consumers' personal data directly to third parties. Platforms do not hand over user's name, phone number, or browsing history to marketers in exchange for payment. However, what social media platforms *do* provide are services that empower small businesses

² https://vatabout.com/maryland-digital-advertising-tax-faces-legal-challenges--what-taxpayers-need-to-know?utm_source=chatgpt.com

to reach new customers in a cost-effective manner, provide for direct customer engagement, and offer increased brand awareness. The result would likely be increased cost for small businesses to advertise on social media platforms in Minnesota, which would in turn be passed along to Minnesota consumers.

Conclusion

For the reasons stated within this letter, we urge you to not enact this new tax as it would be challenged under the federal ITFA, would result in the collection of more consumer data by social media platforms to comply with the law, and would negatively affect impact small businesses and Minnesotans.

Thank you for your consideration of TechNet member concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tyler Diers', written over the word 'Sincerely,'.

Tyler Diers
Executive Director, Midwest
TechNet