



April 8th, 2025

Representative Greg Davids  
2nd Floor Centennial Office Building  
St. Paul, MN 55155

Representative Aisha Gomez  
5th Floor Centennial Office Building  
St. Paul, MN 55155

Chair Gomez, Chair Davids, and House Taxes Committee Members:

We Make Minnesota is a coalition of labor and community groups united in support of a fair tax code and a budget sufficient to meet the state's public investment needs. We are writing to state our support for HF 3117, which would establish a new excise tax on the data collection activities of social media platforms.

HF 3117 represents an important expansion of the Minnesota tax base to include extractive data collection practices that are common in many growing industries, but currently untaxed and largely unregulated. By expanding the tax base to include profitable data collection, HF 3117 will help meet growing public investment needs while also relieving upward pressure on tax rates in other areas. This will improve not just the sufficiency but the stability of our tax code, while ensuring that the largest and most profitable corporations pay their fair share.

The proposed per capita excise tax on data collection will raise revenue from companies that are often able to avoid taxation due to the intangible nature of their business. It will also ensure a public return on business models that are associated with a wide range of negative impacts, including invasive targeted marketing and declining mental health, especially among children.

Absent additional revenue, Minnesota will face untenable cuts to core programs that will hurt families, workers, and seniors in every community across the state. HF 3117 alone will not be sufficient to avoid the destructive cuts to basic services, but it represents an important step towards protecting Minnesotans and ensuring the state's long-term socioeconomic stability.

We thank you for this innovative proposal and hope you will include it in your omnibus tax bill.

Sincerely,

*Eric H Bernstein*

Eric Harris Bernstein, Coalition Director



April 7, 2025

**RE: Opposition to HF 3117**

Rep. Gomez and Members of the House Taxes Committee:

On behalf of the more than 150 technology-enabled companies that comprise the membership of the Minnesota Technology Association, I'm writing to respectfully voice our opposition to the proposed tax on social media platform companies. While we recognize and appreciate the desire to look at new forms of taxation to address Minnesota's looming budget deficit, this legislation, as drafted, raises serious legal, economic, and procedural concerns that warrant deeper consideration before moving forward.

HF 3117 is likely a violation of federal law. At the forefront is the Internet Tax Freedom Act (ITFA), a federal law that prohibits states from imposing discriminatory taxes on electronic commerce. The proposed tax does just that—it singles out social media companies *because* they operate online and monetize digital engagement. This kind of targeted taxation on internet-based businesses, especially when not equally applied to comparable offline industries, is exactly what the ITFA was enacted to prevent.

Further, by taxing businesses based on user data—which is inherently tied to internet access and usage—this proposal could be construed as a backdoor tax on internet services or digital content. Courts have consistently held that these types of taxes are prohibited. We believe this bill represents an unwise rush toward a policy that is likely to be challenged in court and have already seen this play out in other states. Maryland passed a digital advertising tax that is still tied up in litigation—and has been ruled unconstitutional by one court already. Minnesota should not follow the same costly and contentious path.

Excise taxes such as the one proposed are typically passed on to customers in the form of higher prices. For small businesses in Minnesota seeking to reach new customers, provide direct customer engagement, and elevate brand awareness, this becomes an additional financial cost directly caused by this new tax.

For the reasons highlighted above, we urge you not to enact this new tax policy.

Sincerely,



Joel Crandall  
President & CEO  
Minnesota Technology Association



**TECHNET**  
THE VOICE OF THE  
INNOVATION ECONOMY

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April 7, 2025

The Honorable Aisha Gomez  
5th Floor Centennial Office Building  
St. Paul, MN 55155

*Re: TechNet opposition to HF 3117*

Dear Representative Gomez,

On behalf of TechNet and its members, we must oppose HF 3117, a proposed new tax on social media 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 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 appreciate your need to address the state's projected budget deficit, enacting this new tax is ill-advised. It will likely be challenged in court, take years to litigate, and will result in no new tax revenue for the state for the foreseeable future fiscal years.

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.<sup>1</sup>

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. HF 3117 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

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

down under ITFA as discriminatory. Like the *Hamer* decision, HF 3117 is likely preempted by federal law and is subject to facial invalidation as a discriminatory e-commerce tax.

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.<sup>2</sup>

In the long run, HF 3117 would cost the state more money as it would have to spend resources on defending this new tax in court. We can assume that you would want to avoid balancing the state budget on revenues that will likely face lengthy litigation and may not produce needed funds for the state.

### **Forced collection of data**

This bill is premised on the collection of consumer data by social media platforms. Under this bill, social media platforms 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**

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<sup>2</sup> [https://vatabout.com/maryland-digital-advertising-tax-faces-legal-challenges--what-taxpayers-need-to-know?utm\\_source=chatgpt.com](https://vatabout.com/maryland-digital-advertising-tax-faces-legal-challenges--what-taxpayers-need-to-know?utm_source=chatgpt.com)

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

### **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 data by social media platforms to comply with the law, and would negatively affect impact small businesses. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tyler Diers', with a stylized, flowing script.

Tyler Diers  
Executive Director, Midwest  
TechNet



April 8, 2025

Members of the House Taxes Committee:

On behalf of our members and the undersigned organizations, we write to express our strong opposition to HF 3117. This misguided proposal threatens Minnesota's business community and would harm consumers across the state.

As written, HF 3117 would impose a tax on every single social media platform that has at least 100,000 active monthly users within the state. The repercussions of such a proposal would have far-reaching negative consequences for businesses, consumers, and the state's economy as a whole. Social media platforms have revolutionized the way that businesses of all sizes advertise and compete in the modern economy.

Businesses in Minnesota have seen this impact first hand, as America's economy has been transformed by advances in technology and nowhere has this transformation been more evident than in advertising and marketing. The ability of businesses of all sizes to access online social platforms and reach countless potential customers has leveled the playing field. Start-ups, local newspapers, retailers, and Minnesota farmers and livestock producers have been able to market their products and services to a larger consumer base, allowing their businesses to grow and succeed.

Advertising is a major driver of economic activity in Minnesota. According to an independent study commissioned by The Advertising Coalition, advertising expenditures generated over \$2 billion in economic activity, while supporting over 555,000 jobs in the state. This accounts for 18.4 percent of all jobs in Minnesota. Simply put, advertising is a critical industry for The North Star State and elected officials should be doing everything possible to protect it—not considering legislation that would endanger it.

This proposal would increase costs for local businesses that rely on advertising to reach their customers, resulting in higher prices on everyday goods and services for Minnesota families. We've seen with similar taxes on advertising that consumers are burdened the most, not a handful of large social media companies. A study commissioned by Deloitte found that France's digital advertising tax impacted consumers the most with 55 percent of the total tax burden passed on. For small businesses, these taxes lead to more challenging choices – significantly raising consumer prices, reducing services, laying off staff, or worse.

Minnesotans, like most Americans, are already navigating significant economic pressures including the lingering effects of runaway inflation and uncertainty surrounding tariff policies. Additional taxes would only compound these challenges, driving people and investments out of

the state. Minnesota business owners and entrepreneurs face extreme headwinds – the last thing they need is a tax on their efforts to tell consumers about the important goods and services they offer.

Furthermore, HF 3117 will invite legal challenges. The proposal raises serious questions about its compliance with the Permanent Internet Tax Freedom Act (PITFA) for imposing a discriminatory tax applied only to internet-based platforms. The proposal also raises Equal Protection and Due Process concerns under the 14th Amendment. Additionally, the bill assumes users are Minnesota residents based on IP or mailing data, placing the burden on platforms to prove otherwise - an impractical requirement that may be constitutionally flawed.

This should serve as caution for Minnesota legislators. Should this proposal pass, there is a likelihood that the law would be overturned by the courts, then an already challenging fiscal situation in the state would become even more daunting.

This legislative session provides yourself and your colleagues with an opportunity to deliver results for the people of Minnesota. Legislative discussions should center around ways to harness the state's positive attributes to build a more competitive business environment which would encourage innovation and grow the overall tax base.

# ADVERTISING



## Is Essential in Minnesota

The Association of National Advertisers (ANA) is America's oldest and largest advertising trade organization, comprised of more than 1,600 members – advertisers, nonprofits, media companies, and other marketing solutions providers – representing over 20,000 brands that collectively influence \$400 billion in marketing and advertising annually. Federal legislation must preserve the economic benefits of advertising and marketing by ensuring that responsible advertising continues to provide access to products and services and fuels the American economy.

**Advertising is the lifeblood of the modern American economy.** Every dollar spent on advertising has a cascading nationwide multi-sector effect, driving direct product sales, supplier purchasing, and generating buying power for consumers. Advertising supported nearly 22 percent of the U.S. Gross Domestic Product (GDP) in 2024, generating \$10.4 trillion in sales.

**Advertising supports American jobs.** The advertising industry directly employs a substantial workforce, and advertising creates jobs throughout the economy by generating sales and revenue for advertisers. The advertising industry supported 29 million American jobs in 2024, with every 1 advertising job supporting 49 jobs across other industries.

### **Advertising facilitates a competitive market.**

Advertising allows businesses of all sizes to access the marketplace and reach potential customers. Small businesses and Main Street businesses heavily rely on advertising to achieve competitive footing. Unreasonable resections on advertising harm small businesses while creating market concentration.

**Advertising spurs innovation.** Advertising allows the creators of the next great American product or service to connect with interested consumers about groundbreaking product designs, health benefits, and technological advances.

**Advertising lowers prices for consumers.** Restrictions on advertising reduce opportunities to discover new products and services, and raise prices, while vibrant advertising markets lower prices. Advertising the prices of products encourages competition, lowering prices for goods like retail gasoline and prescription drug prices thanks to increased price transparency.

**Advertising empowers consumer choice.** Advertising connects consumers to brands, products, and services that meet their needs and enables self-expression. Effective advertising increases consumer satisfaction by reducing repeat viewing of ads and promoting variety and relevance.

**\$2 Billion in economic activity**



Advertising helped generate \$2 billion in economic activity in Minnesota



Advertising helped support 555,000 or 18.4% of all jobs in Minnesota

**Every 1 advertising job supported**



**52 Minnesota Jobs**