MISSOURI HOUSE OF REPRESENTATIVES

WITNESS APPEARANCE FORM

BILL NUMBER: **HB 932**	DATE: **2/22/2021**
COMMITTEE: **General Laws**	

TESTIFYING: ☑ IN SUPPORT OF ☐ IN OPPOSITION TO ☐ FOR INFORMATIONAL PURPOSES

WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **ARNIE C. AC "HONEST-ABE" DIENOFF-STATE PUBLIC ADVO**	PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:	TITLE:	
ADDRESS:		
CITY:	STATE:	ZIP:

EMAIL: **arniedienoff@yahoo.com**	ATTENDANCE: **Written**	SUBMIT DATE: **2/22/2021 1:28 PM**

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I am in Support of this Bill. I highly belive in the First Amendment of both the United States Constitution and the Constitution of the State of Missouuri. There should NOT be Censorship.

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WITNESS NAME

INDIVIDUAL:

WITNESS NAME: **MATTHEW B. THOMPSON**	PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:	TITLE:	
ADDRESS:		
CITY:	STATE:	ZIP:

EMAIL: **mbtspeed@yahoo.com**	ATTENDANCE: **Written**	SUBMIT DATE: **2/14/2021 4:08 PM**

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These companies should not be honoring their terms of agreement. Ideas and thoughts that they disagree with should be able to be classified as hate speech, nudity, or violates guideline so they can get away with deleting content. All ideas should be available and if others don't want to read them; they can scroll on.

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WITNESS NAME

BUSINESS/ORGANIZATION:

WITNESS NAME: **CARL SZABO**		PHONE NUMBER: **2024207485**	
BUSINESS/ORGANIZATION NAME: **NETCHOICE**		TITLE: **VICE PRESIDENT**	
ADDRESS: **1401 K ST NW, SUITE 502**			
CITY: **WASHINGTON**		STATE: **DC**	ZIP: **20005**
EMAIL: **cszabo@netchoice.org**	ATTENDANCE: **In-Person**	SUBMIT DATE: **2/14/2021 12:40 PM**	

THE INFORMATION ON THIS FORM IS PUBLIC RECORD UNDER CHAPTER 610, RSMo.

Dear Chairman Trent and members of the committee:We respectfully ask that you not advance HB 932, because it:• Impedes the ability of platforms to remove objectionable content.• Makes it illegal for service providers to block SPAM and punishes platforms for removingterrorist speech and pornography.• Violates conservative principles of limited government and free markets.• Violates the First Amendment of the US Constitution.HB 932 Impedes the ability of websites and platforms to remove objectionable contentThe First Amendment protects a lot of content that we don't want on our websites or for our children to see. The First Amendment protects pornography. The First Amendment protects extremist recruitment speech. The First Amendment protects bullying and other forms of verbal abuse.Today, online websites and platforms take significant steps to remove this type of content from their sites. In just the six-months from July to December 2018, Facebook, Google, and Twitter took action on over 5 billion accounts and posts.1 This includes the removal of 57 million instances of pornography. 17 million instances of content related to child safety.Yet the removal of content related to terrorist recruitment, pornography, and child safety would be greatly impeded by HB 932. This is because it essentially penalizes platforms for removing this content, as it is "protected by the First Amendment." And the provision allowing removal of content "expressly stated" is no help, as even our US Supreme Court cannot expressly define something like obscenity.Imagine the Taliban making posts that read, "Join us to help America." Blocking or removing this statement would be illegal under HB 932, unless those specific terms are addressed in the terms of service.The end result is that websites and platforms will err on the side of leaving up lewd, lascivious, and terrorist speech and content, making the internet a much more objectionable place to be.HB 932 Makes it illegal for providers to block SPAM, and punishes platforms for removing terrorist speech and pornographyToday, platforms engage in robust content blocking of SPAM. But this blocking of not only unwanted but invasive content would be illegal under HB 932.For decades, service providers have fought bad actors to keep our services usable. Through blocking of IP and email addresses along with removing content with harmful keywords, our services are more useful and user friendly. But services couldn't engage in this type of blocking under HB 932.3The de facto requirement to make decisions crystal clear in HB 932 would make it easier for bad actors to circumvent protections, and a duty to explain why SPAM content was blocked would contradict Congress's intent to "remove disincentives for the development and utilization of blocking and filtering technologies."4It is certain that HB 932 will chill platforms from removing harmful or even dangerous content.HB 932 violates conservative values of limited government and free marketsIn 1987, President Ronald Reagan repealed the equivalent of HB 932, the infamous "Fairness Doctrine," a law requiring equal treatment of political parties by broadcasters. In his repeal, President Reagan said: "This type of content-based regulation by the federal government is ... antagonistic to the freedom of expression guaranteed by the First Amendment.In any other

medium besides broadcasting, such federal policing ... would be unthinkable."We face similarly unthinkable restrictions in HB 932 which forbids online platforms from moderating their services in ways that they see fit for their customer base.Today, conservative speech has never been stronger. No longer limited to a handful of newspapers or networks, conservative messages can now reach billions of people across thousands of websites and platforms.We've seen the rise of conservative voices without relying on a column from the Washington Post or New York Times, or a speaking slot on CNN. Social networks allow conservative voices to easily find conservative viewers.All of this was enabled at effectively no cost to conservatives. Think about conservatives like Ben Shapiro and Mark Stein, whose shows are available to anyone with an internet connection and on whose websites conservatives can discuss and debate articles via the comments section.Nonetheless, there are some who seek government engagement to regulate social networks' efforts to remove objectionable content. This forces us to return to an era under the "fairness doctrine" and create a new burden on conservative speech.HB 932 also violates the American Legislative Exchange Council (ALEC) Resolution Protecting Online Platforms and Services, which says:WHEREAS, online platforms are businesses that should be allowed to operate in ways that best serve their users — and the government should not interfere with these businesses in order to advance a particular belief or policy;WHEREAS, even if online platforms were to exhibit political bias in content display or moderation, the First Amendment protects this exercise of editorial discretion from government intervention;...THEREFORE LET IT BE FURTHER RESOLVED, ALEC finds that it is well settled that the First Amendment restricts the government from regulating speech or restricting the publishing rights of online platforms or services, including the right to curate content.As President Ronald Reagan said, "Government is not the solution to our problem; government is the problem." Government regulation of free speech online would not safeguard the future of conservative speech. It would endanger it.HB 932 violates the First Amendment of the US ConstitutionThe First Amendment makes clear that government may not regulate the speech of private individuals or businesses. This includes when the government essentially compels speech – i.e. forces a website or platform to allow content they don't want.Imagine a private Church Chat site being required by the government to allow atheists' comments about the Bible. That would violate the First Amendment. But that is also what HB 932 does.While there are some very limited, narrow exceptions, these types of actions are subject to what is called the "strict scrutiny" test. Under this test, the law must be:• justified by a compelling governmental interest;• narrowly tailored to achieve that goal or interest; and• the law or policy must typically be the least restrictive means for achieving that interest. On at least the last two prongs of this test, HB 932 is unconstitutional and will fail.Note that there are lower protections for "commercial speech." However, HB 932 is not limited to regulation of commercial speech since it covers all of "a user's speech."As NetChoice favors limited government, a free-market approach, and adherence to the United States' Constitution, we respectfully ask you to oppose HB 932.We appreciate your consideration of our views, and please let us know if we can provide further information.Sincerely,Carl SzaboVice President and General Counsel, NetChoiceNetChoice works to make the Internet safe for free enterprise and free expression. www.netchoice.org

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WITNESS NAME

REGISTERED LOBBYIST:

WITNESS NAME: **MO DEL VILLAR**		PHONE NUMBER: **816-929-6166**	
REPRESENTING: **AMERICAN CIVIL LIBERTIES UNION OF MISSOURI**		TITLE: **LEGISLATIVE ASSOCIATE**	
ADDRESS: **406 WEST 34TH STREET, SUITE 420**			
CITY: **KANSAS CITY**		STATE: **MO**	ZIP: **64111**
EMAIL: **mdelvillar@aclu-mo.org**	ATTENDANCE: **Written**	SUBMIT DATE: **2/22/2021 7:21 PM**	

THE INFORMATION ON THIS FORM IS PUBLIC RECORD UNDER CHAPTER 610, RSMo.

February 22, 2021House General Laws CommitteeChairman TrentHB 482, HB 783, and HB 932Dear Honorable Representatives:Thank you for allowing me to provide written testimony today. On behalf of the American Civil Liberties Union of Missouri and our approximately 15,000 supporters statewide, I would like to express our opposition to HB 482, HB 783, and HB 932. This slate of bills target perceived bias on social media and online business platforms and strips them of their statutory protections from liability. HB 482, HB 783, and HB 932 are riddled with procedural and constitutional flaws that will harm ordinary Missourians, leave the state ripe for legal challenges, and raise untold speech concerns. HB 482 HB 482 aims to make social media platforms liable for civil damages censoring a user's political or religious speech. First and foremost, the bill itself is deceiving. Censorship, in the legal sense, is when the government prohibits a citizen from sharing unpopular, but legal, thoughts. When a private entity sets rules for engagement on their own platform, agreed to by the users, and enforces those rules, it is not censorship.Further, this type of liability for social media and online business platforms is explicitly prohibited under Section 230 of the federal Communications Decency Act. That federal act supersedes state law in this arena and declares that "No provider or user of an interactive computer service shall be held liable on account of any action voluntarily taken in good faith 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." This legislation blatantly contradicts this federal law.By requiring that social media platforms publish certain speech or else be subject to civil sanctions, this bill unconstitutionally compels speech. . Compelling speech is an action that has routinely and consistently been struck down by the courts, all the way to the Supreme Court. This is a bad bill that violates federal statutes, encroaches on First Amendment rights, and creates more of a problem than it aims to fix.HB 932HB 932 is very similar to the above bills would allow users of platforms such as Facebook and Twitter to file a civil suit against the platform for alleged restriction, censorship, or suppression of content. This bill goes further by allowing both the poster of the content and "any person who reasonably otherwise would have received the content" to be owed damages. This is a dangerous precedent to set based on vague and broad terms. This creates a legal landscape full of such ambiguity that it will be extremely difficult for an online business to function. HB 783Much like the above bills, HB 783 aims to regulate private speech and subject online platforms to civil damages. This bill targets online businesses as well as social media companies that allow users to comment or post on their websites. According to this language, these companies would be required to host content at odds with their terms of service, thus compelling speech. Further, HB 783 enlists the authority of the attorney general to fine these online companies for damages of up to $1,500 for a third strike. This is an abuse of the state's power to censor and compel speech from private businesses and individuals.

Much the same as the above bill, HB 732 violates Section 230 of the federal Communications Decency Act, which states “No provider or user of an interactive computer service shall be held liable on account of any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers obscene...or otherwise objectionable.” This is directly contradictory to the protections provided in this federal statute and would create more problems than it is intending to solve.I strongly urge you to vote “no” on these bills and I look forward to your questions. Sincerely,Mo Del VillarLegislative Associate ACLU of Missouri

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WITNESS NAME

REGISTERED LOBBYIST:

WITNESS NAME: **RICHARD S. BROWNLEE III**		PHONE NUMBER: **573-616-1911**	
REPRESENTING: **GOOGLE**		TITLE:	
ADDRESS: **121 MADISON STREET**			
CITY: **JEFFERSON CITY**		STATE: **MO**	ZIP: **65101**
EMAIL: **rbrownlee@rsblobby.com**	ATTENDANCE: **In-Person**	SUBMIT DATE: **2/22/2021 2:07 PM**	

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Written legal testimony submitted to through NetChoice and the Internet Coalition to Chairman Curtis Trent via email.

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WITNESS NAME

BUSINESS/ORGANIZATION:

WITNESS NAME: **CAMERON SHOLTY**		PHONE NUMBER: **262-409-9816**	
BUSINESS/ORGANIZATION NAME: **THE HEARTLAND INSTITUTE**		TITLE: **DIRECTOR OF GOVERNMENT RELATIONS**	
ADDRESS: **3939 N. WILKE RD.**			
CITY: **ARLINGTON HEIGHTS**		STATE: **IL**	ZIP: **60002**
EMAIL: **csholty@heartland.org**	ATTENDANCE: **In-Person**	SUBMIT DATE: **2/22/2021 2:48 PM**	

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Chairman Trent and Members of the Committee:Thank you for holding a hearing on House Bills 932, 783, and 482, legislation that provides Missourians and their state government recourse 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.I also want to thank the primary sponsors of the bills, Chairman Trent, Representative Coleman, and Representative Billington for their work. 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 Bills 932, 783, and 482 are good, first-step bills, which should also spur a state-based and national debate on the role of Big Tech in our civic conversations. They are perhaps the tool policymakers need to give to Show-Me staters 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 or http:/news.heartland.org, or call Cameron Sholty at 312/377-4000. You can reach Cameron Sholty by email at csholty@heartland.org.