## RE: Oppose Censorship and Protect Free Speech by Voting "NO" on SB 419

Montana State Legislature State Capitol PO Box 201706 Helena, MT 59620-1706

Dear Members of the Montana House of Representatives:

We, the undersigned free-speech and civil-liberties organizations, strongly urge you to oppose SB 419, an Act Banning TikTok in Montana. This legislation would violate the First Amendment rights of hundreds of thousands of Montanans who use TikTok to communicate, receive information, and express themselves daily.

In a purported attempt to protect the data of Montana residents from Chinese government acquisition, this legislation would prohibit TikTok from operating in Montana. Passing this legislation would flout the First Amendment and would trample on Montanans' constitutional right to freedom of speech. TikTok is home to massive amounts of protected speech and association: it enables Montana residents to discuss their opinions, share their hobbies, make art, and access news from down the street and around the world. The government cannot impose a total ban on a communications platform like TikTok unless it is necessary to prevent extremely serious, immediate harm to national security. But there's no public evidence of harm that would meet the high bar set by the U.S. and Montana Constitutions, and a total ban would not be the only option for addressing such harm if it did exist.<sup>1</sup>

SB 419 is censorship—it would unjustly cut Montanans off from a platform where they speak out and exchange ideas everyday, and it would set an alarming precedent for excessive government control over how Montanans use the internet. Montana residents have a right to use TikTok and other platforms to exchange their thoughts, ideas, and opinions with millions of people around the state, country, and world. The undersigned groups strongly urge you to oppose the bill and support our constitutional right to express ourselves, to receive information, and to associate freely. Thank you for your attention to these concerns.

Sincerely,
American Civil Liberties Union
ACLU of Montana
Americans for Prosperity Montana
Center for Democracy and Technology
Electronic Frontier Foundation
The Foundation for Individual Rights and Expression
TechFreedom

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<sup>&</sup>lt;sup>1</sup> In 2020, former President Trump issued Executive Orders effectively banning TikTok and WeChat, another communications platform based in China. Three federal courts preliminarily enjoined the bans; one of these <u>decisions</u> was based on the plaintiffs' likelihood of success on their First Amendment claim. The court reasoned that the government had presented "scant little evidence," and that the ban "burden[ed] substantially more speech than is necessary." *U.S. WeChat Users Alliance v. Trump*, 488 F. Supp. 3d 912, 927–28 (N.D. Cal. 2020). For a more detailed legal analysis of these First Amendment issues, see the ACLU's <u>amicus brief</u> in *U.S. WeChat Users Alliance v. Trump*, No. 20-16908 (9th Cir. 2020) (ECF No. 52).