



February 7, 2013

Senator Floyd Prozanski  
Chairman  
Senate Judiciary Committee  
Oregon State Senate  
900 Court Street, NE  
Salem, OR 97301

RE: SB 54 (Decedent Digital Accounts and Digital Assets - *Oppose*)

Dear Chairman Prozanski:

TechNet, which represents the nation's leading technology companies in sectors such as Internet, e-commerce, applications, information technology, networking and venture capital ([www.technet.org](http://www.technet.org)) urges your opposition to SB 54, as currently drafted. We believe action on this issue is premature until the Uniform Law Commission has the opportunity to complete its review of this issue and develop recommendations, as further explained below.

SB 54 gives personal representatives of a decedent the ability to "access, take control of, possess, handle, conduct, continue, distribute, dispose of or terminate any digital assets and digital accounts of the decedent," unless a will or court order specifies that the personal representative should not have such authority. A custodian – a business that electronically stores a decedent's digital assets or digital accounts -- would be required to provide access to those assets and accounts or electronic copies to a decedent's personal representative upon written request within 30 days. It further imposes a burdensome requirement that the custodian maintain such records for as long as two years.

TechNet members already provide access to a decedent's digital assets with financial value. As to stored communications, TechNet believes it is important to respect the privacy preferences of our members' users. As a general rule, users' last expressed preferences – expressed either in a will or other express statement – should determine the disposition and management of the communications in their online accounts following their passing. Our member companies work to honor requests from the decedents' families to delete or memorialize a decedent's online account.

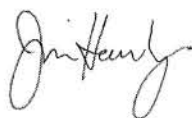
Access to communications in a decedent's online accounts differs from access to a decedent's papers, in that the former is a subject governed by federal law. TechNet is concerned that SB 54, by requiring a custodian to provide access to a decedent's account, including communications that a decedent may have wished to be kept private, may

conflict with the federal Stored Communications Act, 18 U.S.C. §2702 which permits providers of remote computing and electronic communication services to disclose the contents of user communications only under very specific circumstances (e.g. to law enforcement pursuant to a warrant or court order, with the user's consent, in an emergency involving danger of death or serious physical injury to any person or other very limited circumstances). Violations of ECPA can subject companies to criminal penalties and lawsuits.

The Uniform Law Commission is actively reviewing this issue with the intent of developing uniform model legislation. TechNet requests that the Commission be given time to complete its work and develop its recommendations, rather than moving legislation at this time.

We appreciate your attention to this issues.

Best regards,

A handwritten signature in black ink, appearing to read "Jim Hawley". The signature is fluid and cursive, with the first name "Jim" and last name "Hawley" clearly distinguishable.

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cc: Members of the Senate Judiciary Committee