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***Opposition Testimony of Senate Bill 394***

***Requiring The Use of Age-Verification Technology to Permit Access  
To Internet Websites Containing Material That is Harmful to Minors***

**Testimony by Brightspeed  
John Idoux, Kansas Governmental Affairs Director  
Before the Senate Judiciary Committee  
February 7, 2024**

Thank you Chairman Warren and members of the Committee. My name is John Idoux, and I am Brightspeed's Director of Governmental Affairs for Kansas. I appreciate this opportunity to express Brightspeed's opposition of Senate Bill 394 as it would require internet service providers to filter, censure and block internet content.

***Brightspeed Introduction***

While you may recognize my name and face, I suspect many of you may not have heard of Brightspeed. In simple terms, CenturyLink is now Brightspeed in Kansas. In October 2022, Apollo-managed funds (NYSE: APO) completed its acquisition of incumbent local exchange carrier (ILEC) assets and associated operations across 20 states, including Kansas, from CenturyLink/Lumen and formed Brightspeed. Brightspeed is now the nation's fifth largest ILEC, with a service territory encompassing more than 6.5 million locations in mainly rural and suburban communities across the Midwest, Southeast, and parts of Pennsylvania and New Jersey. Through its local fiber and copper networks, Brightspeed provides internet and voice offerings to residential and small business customers.

Specific to Kansas, Brightspeed has provided communications services in Kansas under various names since 1909 and today serves rural Kansans in 119 communities including Junction City, Fort Riley, Gardner, and 111 communities with fewer than 1000 residents. In addition to voice services, Brightspeed provides internet services in all 119 communities it serves.

***Brightspeed Fiber Investment Plans***

The company's buildout of its state-of-the-art fiber optics network is underway. Brightspeed's planned investment of at least \$2 billion in its fiber network transformation will bring faster and more reliable internet service to more than 3 million homes and businesses. In Kansas, Brightspeed is currently deploying fiber connections to 15 cities. In subsequent years, Brightspeed will add additional fiber-enabled locations for the communities it serves.

### **SB 394 Overview**

SB 394 requires any commercial entity that shares or distributes material that is deemed harmful to minors on a website to first verify that any person attempting to access such website is 18 years of age or older. Without age verification, commercial entities that share or distribute harmful materials to minors would be in violation of statute and subject to civil penalties.

### ***Internet Service Providers Should be Excluded Entirely from SB 394***

SB 394 would require internet providers to peer into the data stream and perform police-type functions. As an internet provider, Brightspeed would be defined as a “commercial entity” that “shares or distributes material” that originates from a website, and therefore, be required to perform age verification. *Internet providers do not currently have the technical capabilities to filter, censor and/or block internet traffic based on content and doing so would not be in the public interest.*

While the current version of SB 394 does exclude internet service providers when such harmful to minors material is hosted, it does not exclude internet service providers when same materials are shared or distributed. Internet providers should be excluded entirely from the provisions of SB 394.

Even if internet service providers were capable of enforcing SB 394, service providers do not know who within the household is accessing harmful material. Multiple individuals within a household use a single internet connection. Finally, regardless of what procedures are undertaken by internet providers or website owners, minors wishing to access harmful material can easily bypass age verification procedures by implementing a virtual private network, or VPN, in a matter of minutes.

### ***SB 394 is too Vague to be Enforceable***

SB 394 prohibits the sharing or distribution of material that is *harmful to minors* on a website from being accessed by anyone that is not 18 years of age or older. SB 394 uses the same definition of *harmful to minors* as K.S.A. 21-6402. However, given the real-time nature of the internet, the definition of *harmful to minors* cannot be implemented in any sort of automated manner.

Specifically, 61-6402 (d)(2) contemplates what an “average adult person applying contemporary community standards” would find harmful to minors, or what “a reasonable person would find that the material or performance lacks serious literary, scientific, educational, artistic or political value for minors”. These definitions may work in a court of law where a jury deliberates and determines what is harmful to minors after the fact, but this definition of *harmful to minors* is impossible to implement for internet service providers where real-time streaming and content posting occurs.

### **Conclusion**

Brightspeed appreciates the opportunity to offer its position on SB 394, and thanks the Committee for its consideration of an amendment to exclude internet providers from the provisions of SB 394.