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NEWS FOR IMMEDIATE RELEASE

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AG Schimel Urges Congress to Pass CLOUD Act

MADISON, Wis. – This week, Attorney General Brad Schimel, and a bipartisan coalition of 35 other states, urged Congress to pass the Clarify Lawful Overseas Use of Data (CLOUD) Act. The CLOUD Act would update and amend several provisions of the Stored Communications Act (SCA), giving law enforcement the ability to collect data that contains evidence of a crime from an individual’s email or other online account stored on a foreign server. Similar to the process that already exists in the United States, the collection of data stored on foreign servers is only allowed after probable cause has been established and a warrant has been signed by a judicial officer.

“Law enforcement must have the tools needed to investigate and stop criminal activity,” said Attorney General Schimel. “Our nation’s laws have not kept up with technological advances, so we must make accommodations that will clarify the law and provide certainty to internet providers and law enforcement alike.”

Once issued, an SCA warrant is served on a service provider who must then collect the requested data and provide it to law enforcement. State and local law enforcement agencies routinely use SCA warrants to investigate all manner of local crime, from drug trafficking to murder to child sexual exploitation. Recently, however, some service providers have argued that an SCA warrant cannot be enforced when the data being sought is stored on a foreign server, even if the provider and the customer who created the data are in the United States and that data can be accessed from the United States.

The letter signed by Attorney General Schimel urges Congress to pass the CLOUD Act as “an important step toward resolving this dispute.” The CLOUD Act “both confirms law enforcement’s ability to obtain probable-caused based warrants for

electronic communications stored abroad and creates a clear avenue for service providers to challenge an SCA warrant that targets a foreign person and which would require a provider to violate foreign law. The Act also creates incentives for our foreign partners to enter into bilateral agreements that will facilitate cross-border criminal investigations, while ensuring that privacy and civil liberties are respected.”

In addition to Wisconsin, attorneys general of the following states signed the CLOUD Act letter that has been sent to Congress: Alabama, Alaska, Colorado, Delaware, Florida, Hawaii, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Washington, and Wyoming.