

Guidance is not a rule relating to agency management or personnel. In that regard, our 2012 opinion regarding HHS's Information Memorandum is instructive. See B-323772, at 4. There, we found that the Information Memorandum did not relate to agency management or personnel since it applied to the states.

With respect to the final exception—for rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties—the Guidance issued by HHS and Treasury provides requirements that a state must meet for a waiver proposal to be approved. For that reason, these requirements affect the obligations of states, which are non-agency parties. Our 2012 opinion is again instructive. There, we determined that because the Information Memorandum set out the criteria by which states may apply for waivers from certain obligations of the states, the Information Memorandum affected the rights and obligations of third parties and therefore did not fall under CRA's third exception. We similarly find here that the 2018 Guidance does not fall under CRA's third exception.

We requested the views of the General Counsels of HHS and Treasury on whether the 2018 Guidance is a rule for purposes of CRA. Treasury deferred to HHS's response. HHS responded by letter dated March 22, 2019, stating that the 2018 Guidance is not a rule under CRA because it is not binding and if it were rescinded, it would not alter or affect the rights and obligations of any state or other stakeholder under PPACA. HHS also noted that it informally notified member offices, the Senate Health, Education, Labor, and Pensions and Senate Finance Committees, and the House Ways and Means and Education and Labor Committees of the 2018 Guidance. See HHS Letter at 1.

HHS provided a similar response when we requested its views on its Information Memorandum concerning the TANF program. See B-323772, at 5. As we noted in our 2012 opinion, the definition of rule is expansive and specifically includes documents that implement or interpret law or policy, whether or not the agency characterizes the document as non-binding. *Id.* (citing B-281575, January 20, 1999). Finally, as we have stated previously, informal notification does not meet the reporting requirements of CRA. 5 U.S.C. § 801 (a)(1); B-323772, at 5.

#### CONCLUSION

The 2018 Guidance sets forth what a state needs to provide to demonstrate that its proposal meets the four criteria for a waiver under section 1332 of PPACA and how the proposals will be evaluated. The 2018 Guidance meets the APA definition of a rule and does not fall under an exception as provided in CRA. Accordingly, given our conclusions above, and in accordance with the provisions of 5 U.S.C. § 801(a)(1), the 2018 Guidance is subject to the requirement that it be submitted to both Houses of Congress and the Comptroller General before it can take effect.

If you have any questions about this opinion, please contact Shirley A. Jones, Managing Associate General Counsel, or Janet Temko-Blinder, Assistant General Counsel.

Sincerely yours,

THOMAS H. ARMSTRONG,  
General Counsel.

#### HELPING ENTREPRENEURS AFFECT REGULATORY DECISIONS ACT

Ms. COLLINS. Mr. President, I rise to introduce legislation with my friend

and colleague from New Hampshire, Senator SHAHEEN. The Helping Entrepreneurs Affect Regulatory Decisions Act or the HEARD Act is a straightforward bill that would make our government agencies more accessible to our Nation's small business owners and improve participation in the regulatory process.

When Federal agencies, including the Environmental Protection Agency, the Occupational Safety and Health Administration, or Consumer Financial Protection Bureau, propose a new regulation with a potential large economic impact, these agencies must convene Small Business Advocacy Review panels. These panels allow for the views of small business owners to be heard. The small businesses provide input on how a particular regulation may affect their business and have a chance to work with the regulators to address challenges and concerns.

As it stands, these panels are open to invitees, but participating is often a challenge, especially when small businesses are often asked to go to these panels at their own expense. Small businesses owners in Maine and other parts of our country can little afford to shut down for the day or use their own money to travel to these panels. Business will not stop because of a meeting held hundreds of miles away. To address these barriers, the HEARD Act would allow a small business to participate remotely. Small businesses, which are the backbone of the American economy, deserve to be heard, especially when we ask for their input, and this bill would help facilitate that.

Small businesses and their advocates support this effort. In my State, the Maine Chamber of Commerce has endorsed this bill because it would allow Mainers to give their input on new regulations more easily. Nationally, the NFIB, which advocates for America's small businesses, supports this bill because it would ensure that Main Street has a voice in the regulatory process.

Our bipartisan legislation would allow small businesses to be a part of the process by providing input and recommendations on regulations that would affect them. I encourage my colleagues to support the HEARD Act to ensure that the Federal Government hears from our small businesses, the backbone of our economy.

#### SENATOR LEAHY'S 16,000TH VOTE

Mr. SANDERS. Mr. President, I congratulate my friend and the senior Senator from Vermont, PATRICK LEAHY, for casting his 16,000th vote in the U.S. Senate. Since he was first elected in 1974, Senator LEAHY has worked tirelessly for the people of Vermont, bringing to Washington, DC, Vermont values: a belief in justice, civic engagement, and the importance of community. Senator LEAHY has long been a champion of human rights, a steward of the environment, and his efforts have brought important Federal re-

sources to our State. I join with his wife Marcelle, his children and grandchildren, and Vermonters throughout our State in congratulating him on this milestone vote and thanking him for his 44 years of dedicated service. I look forward to continuing to work together to represent the people of Vermont.

#### WELCOMING PRESIDENT TSAI ING-WEN TO COLORADO

Mr. GARDNER. Mr. President, today I wish to welcome President Tsai Ing-wen of Taiwan to my home State of Colorado.

On Friday, July 19, President Tsai will land in Denver as she transits through the United States on to her way home from official visits with diplomatic allies in the Western Hemisphere.

President Tsai will be the first sitting Taiwan head of state to visit the beautiful State of Colorado. It will indeed be a historic occasion.

This visit to Colorado will highlight the special relationship that our State shares with Taiwan. Colorado exports \$222.7 million in goods to Taiwan, making it the 10th largest export market for the Centennial State, the sixth largest in Asia. It is estimated that over 2,400 jobs in Colorado support the export of services to Taiwan.

Our relationship extends well beyond trade ties. Denver recently became the new home for the Taipei Economic and Cultural Office in 2015. Colorado Springs and Kaohsiung City have been sister cities since 1983.

The shared values of freedom, democracy, and prosperity provide for the strong basis of the longstanding friendship between our two nations. Taiwan is a shining example to its neighbors. In 2019, Taiwan was ranked the second freest country in Asia by Freedom House. It was also ranked the 10th freest economy in the world by the Heritage Foundation.

The strength and vitality of Taiwan's democratic and economic system has made it a beacon of democracy in the Indo-Pacific and throughout the world. The relationship between our two countries is critical for the United States, as we continue to advance the goal of a free and open Indo-Pacific and to promote our shared values in that region.

This is why, during my time in the Senate, I have championed the ties between the United States and Taiwan. On December 31, 2018, President Trump signed into law the Asia Reassurance Initiative Act, which declares that it is the "policy of the United States to support the close economic, political, and security relationship between Taiwan and the United States" and requires regular U.S. arms sales and endorses high-level reciprocal visits between our nations.

President Tsai has graciously welcomed me to Taiwan on four occasions, including a memorable visit several

months ago, when she graciously took me on a tour of Taipei's iconic Dadaocheng neighborhood. It is now my pleasure to return the favor this weekend when she visits my home State.

Welcome, President Tsai, to the Centennial State, and may we continue to strengthen the bonds of friendship between our nations and our peoples.

#### TRIBUTE TO PHIL AND JODY SCHMIDT

Mr. BARRASSO. Mr. President, I rise today in celebration of Phil and Jody Schmidt, the Boys and Girls Club of Central Wyoming's 2019 honorees.

Since 1978, the Boys and Girls Club of Central Wyoming has committed itself to making a positive difference in the lives of children. Their mission is to inspire all youth, especially those who need them most. The goal is to help these children to reach their full potential as productive, responsible, and caring citizens. Their activities provide the children in our community a sense of dedication, purpose, and belonging.

The Boys and Girls Club will host its annual awards and recognition breakfast on August 28, 2019. This event celebrates the outstanding efforts by individuals who have made remarkable and significant contributions to the Boys and Girls Club mission and to the City of Casper.

Phil and Jody Schmidt will be honored at this year's breakfast. Their lifelong commitment toward bettering the lives of youth in the Casper community is remarkable. Their dedication to Wyoming's young people embodies the Boys and Girls Club of Central Wyoming's charge to better the lives of children in Casper.

Phil is a devoted family man, successful businessman, and selfless community member. After graduating from high school, Phil attended Black Hills State University, earning a bachelor's degree in business administration with an emphasis in accounting. Phil and Jody moved to Casper in 1982, immersing themselves in the community. Phil began his career as a CPA. In 1988, he became the president and owner of Greiner Motor Companies. Under his guidance, Greiner Motors grew from one dealership to three, employing almost 300 people. Phil received the Ford Motor Company's "Salute to Dealers" award in 2009. The award commends dealers "exhibiting unparalleled dedication to their communities." Phil was one of six recipients, selected from almost 6,000 dealers.

Remarkably, Phil's hard work and contributions to the Casper community extend far beyond his business successes. Phil and the employees of Greiner Motor Companies led a cleanup effort of Casper Skate Park in 2004. Phil recognized a clean, safe park would give Casper youth an area where they could safely socialize and develop athletic skills. Greiner Motor Companies also helped to host the "Fill-A-

Ford" food drive, parking Ford pickups at various bank branches to collect canned good and donations for food banks. They raised \$26,000 and collected enough canned goods to fill up three pickup trucks.

Phil also devotes much of his time and energy serving on the boards of many outstanding organizations. Any group lucky enough to have Phil on its board is destined for success. The Boys and Girls Club of Central Wyoming, Casper Family YMCA, Wyoming Medical Center, Wyoming Auto Dealers, the Natrona County Library Foundation, and the Wyoming Transportation Commission have all benefited from his servant leadership. Phil credits Jody for his great success. Her support and strength during times of both hardship and good fortune allowed Phil to thrive with his ventures.

Jody is a dedicated mother and caring wife. Raised in Fruitdale, SD, alongside five siblings, Jody learned the values of hard work and community involvement from her parents. They ran the family's beekeeping business, McIntire Honey. Her father, Russell, served on the board of directors for their local hospital, delivered Meals on Wheels to his neighbors in need, and served as a member and Grand Knight in their local council of the Knights of Columbus. Her mother, Betty, served in the local community club and was honored for her work as a hospital auxiliary volunteer. Their values of kindness and generosity were instilled in Jody, who then brought them to the Casper community.

Jody also supports their neighbors and community with volunteer work and service efforts. She serves on the boards of the National Alliance on Mental Issues and Interfaith of Natrona County. She volunteers at Holy Cross Center with the food bank ministry and helps St. Anthony Tri-Parish School in countless areas, including coordinating charity runs and auction galas. Like my wife Bobbi, Jody is a strong, resilient breast cancer survivor. She is a pillar of courage and perseverance.

Phil and Jody have been married 37 years and were blessed with six children: Allyson, Madelyn, Reid, Evan, James, and Nathan. The family persevered through tremendous pain; their sons Evan and Reid passed away at the ages of 11 and 29, respectively. In the wake of this tremendous personal challenge, Phil and Jody chose to continue their commitment to others. They looked past their pain, turning tough times into a means to assist and help care for those in need. They believe their difficult experiences give them the ability to come alongside others who face similar challenges. This mindset of perseverance demonstrates just how deserving they are of this award.

There is no doubt the work and endless hours given by Phil and Jody will continue to shape and improve countless lives for years to come. Together,

the couple represent Wyoming's characteristic strength, resilience and determination. Their generosity is exceptional. In the midst of enormous challenges the pair find the courage to not only push on, but to help others do the same.

It is with great honor that I recognize these exceptional members of our Wyoming community. My wife, Bobbi, joins me in extending our congratulations to Phil and Jody Schmidt for this special acknowledgement.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO MAJOR GENERAL MARK BERRY

• Mr. BOOZMAN. President, today I wish to pay tribute to MG Mark Berry for his exemplary dedication to duty and service as the adjutant general for the Arkansas National Guard. General Berry is retiring from his position on August 10, 2019.

A Texas native, General Berry enlisted in the Air Force in August 1974. He also furthered his education while serving, receiving a bachelor of aeronautics from Embry-Riddle Aeronautical University and earning a masters of public administration from Golden Gate University.

Major General Berry has served the United States in a broad capacity during his 45-year career with the Armed Forces. Upon completion of basic training, he began technical training as an air traffic controller. In 1985, he attended officer training school with follow-on training as an air traffic control officer. General Berry separated from his Active-Duty role in September 1992 to join the Arkansas Air National Guard as a public affairs officer.

During his time in the National Guard, he served as a communication flight commander, mission support group commander, and maintenance group commander. In the State of Arkansas, Berry served as the vice-chairman of the Air National Guard A-10 Aircraft Maintenance Council until receiving the honor of becoming the president of the National Guard Association of Arkansas. In 2015, General Berry was given his most distinguished assignment when he was appointed adjutant general for the Arkansas National Guard.

Throughout his time in Arkansas, I have worked closely with General Berry to ensure our National Guard not only meets but exceeds the standards needed to protect our State and country. During times of crisis or disaster in the State, General Berry made certain the National Guard was prepared and able to respond quickly and effectively. He has represented himself, the Arkansas Guard, and our Armed Forces with consistent professionalism, diligence, and commitment. I have nothing but respect and gratitude for the job he has done as the leader of our State's National Guard.