Professor Delony has earned worldwide acclaim. He is one of America's leading—if not America's leading—classical jazz crossover artists. Willis has also appeared—in addition to his teaching, Willis has appeared as a soloist, a guest pianist, an arranger, a conductor with orchestras throughout the United States, Canada, China, the former Soviet Union, all over the world, an immensely talented man.

Professor Delony, my friend of many years—as I said, I grew up with him—he was just named to the Steinway and Sons Music Teacher Hall of Fame. That is a big deal. It is a big, big deal, and I wanted to spend a few minutes calling out one of Louisiana's best and brightest: Professor Willis Delony, who grew up in little old Zachary, LA, for his remarkable—remarkable—achievement.

With that, I conclude my remarks, and I hope everyone has a merry Christmas and a happy Hanukkah, and I thank you for your time and attention. My work here is done.

Mr. President, I was going to suggest the absence of a quorum, but I see the Parliamentarian over there wants me to call on my good friend, the Senator from Vermont.

So I yield my time to the esteemed, legendary Senator from Vermont who is what cool looks like, Senator PETER WELCH.

The PRESIDING OFFICER. The Senator from Vermont.

VENEZUELA

Mr. WELCH. Mr. President, I thank my esteemed colleague from Louisiana.

The United States is on the brink of a war, a war of regime change in Venezuela. President Trump has amassed an armada of U.S. warships, fighter planes, and Special Forces off the coast of Venezuela.

Around 15,000 military personnel are in the region, and that includes Special Forces, marines, and specialized units. Reports indicate that 13 warships are operating in the Caribbean right now, and that includes the USS *Gerald Ford* carrier group and several amphibious assault ships. And more than 100 advanced aircraft have been deployed and are being deployed. That includes F–35s from the Vermont Air National Guard.

The President has also deployed combat rescue units, the types of specialists that can rescue pilots who are down in hostile territory. And the President himself has said that the attack could come very soon.

So the question is, Why are our warships, a carrier group, and support assets in the Caribbean? They are not there for drug interdiction. The reason they are there is obvious, and it is even acknowledged.

President Trump wants Maduro gone. He wants regime change. The President has said himself that Maduro's days ''are numbered.''

His Chief of Staff, Susie Wiles, said that the President ''wants to keep on blowing boats up until Maduro cries uncle, and people way smarter than me on that say that he will.''

When Secretary Rubio was asked a few weeks ago if the Venezuelan Government should be concerned about the massive military buildup in the Caribbean he said that ''they don't have a government. There's an illegitimate regime that's basically a narcotrafficking organization that's empowered itself.''

All of us revile Maduro. He is a tyrant. He has tortured and jailed political opponents. His policies have bankrupted his very wealthy country, driving millions of Venezuelans to flee their homes.

Yet we face two questions: First, should the United States go to war for the purpose of changing a regime we despise?

Second, can the President—any President—through his unilateral actions, plunge our country into a war for the purpose of changing regimes and do that without coming to this Congress for approval under the War Powers Act?

We have had experience with wars to change regimes we despise. The Iraq war was sold confidently by its promoters as a simple operation. Our troops would be welcomed as liberators. We remember that, and we know how that ended. True, it only took weeks for America's superior firepower to topple Saddam Hussein's regime.

But that was only the beginning. The war in Iraq unleashed decades of instability, ushering in revolutionary, violent, Islamic insurgencies across the region. And, of course, the war in Afghanistan took only a handful of Special Forces troops and targeted airstrikes to lead to the quick fall of the Taliban regime. But it also dragged our country and many of our allies into our longest war, fighting a 20-year insurgency.

In each case, it was easy to topple the regime, but what followed was tremendously terrible for our soldiers and our taxpayers. Those wars cost the United States and our allies the lives of 10,000 of our brave soldiers. It cost us trillions of dollars, and we are still paying for that.

The Executive has two obligations, and the Congress must demand compliance. First, the administration owes us transparency.

In the buildup of our military presence, the administration has ordered the extrajudicial killings of nearly 100 civilians in international waters. That they were alleged drug dealers or drug couriers does not give the President the authority to direct the military to attack.

The administration has provided absolutely no information to Congress about these attacks, who was killed, or the basis of the attacks; nor has it released the video of the recent attack in which survivors were killed in a second strike; nor has the administration made public the classified legal opinion upon which it relies to justify its actions.

Members of Congress, including me, have had an opportunity to read that opinion, which I found woefully unconvincing. But since it was classified, I can't discuss it. My view, release that opinion to the American people. My view, release that video to the American people.

Second, as the President masses our forces for a war, as he and his associates have explicitly stated, it is one in which their goal would be the elimination of the Maduro regime. The President refuses to come to Congress and seek congressional approval for a military action, as is required under the War Powers Act.

All of us—all of us as elected Members of the U.S. Senate—have vested in us under the Constitution, article I, the responsibility and exclusive authority to declare war. Let us all accept our duty and demand that the Executive be transparent, be accountable, and comply with the provisions of the War Powers Act and come to Congress for our approval of the military action that is clearly underway.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

MORNING BUSINESS

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE EXPLANATION

Mr. GRASSLEY. Mr. President, had I been present for the rollcall vote No. 648, on the motion to concur in the House amendment to S. 1071, the National Defense Authorization Act for Fiscal Year 2026, my vote would have been in the affirmative.

My absence is due to my attendance at the dignified transfer ceremony at Dover Air Force Base to receive the remains of the two Iowa National Guard servicemembers who were killed in Syria this past week. I appreciate the opportunity to record my position.

Had I been present for the rollcall vote No. 651, on the motion to invoke Cloture on the Nomination of Douglas Weaver, of Maryland, to be a member of the Nuclear Regulatory Commission, my vote would have been in the affirmative.

My absence is due to my attendance at the dignified transfer ceremony at Dover Air Force Base to receive the remains of the two Iowa National Guard servicemembers who were killed in Syria this past week. I appreciate the opportunity to record my position.

EXPLANATORY STATEMENT FOR THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2026

Mr. COTTON. Mr. President, this explanation reflects the status of negotiations and disposition of issues

reached between the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence for the Intelligence Authorization Act for Fiscal Year 2026.

The explanation shall have the same effect with respect to the implementation of this act as if it were a joint explanatory statement of a conference committee.

I ask unanimous consent that the Explanatory Statement for the Intelligence Authorization Act for Fiscal Year 2026 be printed into the record.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT ON THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2026

The following is the Explanatory Statement to accompany the Intelligence Authorization Act for Fiscal Year 2026 (''the Act''), which has been included as Division F of the National Defense Authorization Act for Fiscal Year 2026. The Explanatory Statement reflects the result of negotiations between the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence (together, ''the Committees''). The Explanatory Statement shall have the same effect with respect to the implementation of the Act as if it were a joint explanatory statement of a conference committee.

The classified nature of U.S. intelligence activities prevents the Committees from publicly disclosing many details concerning their final decisions regarding funding levels and policy direction. Therefore, the Committees have prepared a classified annex—referred to here and within the annex itself as ''the Agreement''—that contains a classified Schedule of Authorizations and describes in detail the scope and intent of the Committees' actions.

The Agreement authorizes the Intelligence Community to obligate and expend funds as requested in the President's budget and as modified by the classified Schedule of Authorizations, subject to applicable reprogramming procedures.

The classified Schedule of Authorizations is incorporated into the Act pursuant to Section 6102 of the Act. It has the status of law. The Agreement supplements and adds detail to clarify the authorization levels found in the Act and in the classified Schedule of Authorizations.

This Explanatory Statement incorporates by reference, and the Executive Branch shall comply with, all direction contained in the Senate Select Committee on Intelligence Report to accompany the Intelligence Authorization Act for Fiscal Year 2026 (S. Rept. 119–51) and in the House Permanent Select Committee on Intelligence Report to accompany the InteIligence Authorization Act for Fiscal Year 2026 (H. Rept. 119–389). The Agreement supersedes all classified direction in the classified annexes to accompany S. Rept. 119–51 and H. Rept. 119–389 related to programs and activities authorized by the Schedule of Authorizations.

The Executive Branch is further directed as follows:

COUNTERINTELLIGENCE SUPPORT FOR DEPARTMENT OF THE TREASURY NETWORKS AND SYSTEMS

The Committees direct that the head of the Office of Counterintelligence of the Office of Intelligence and Analysis of the Department of the Treasury shall implement policies and procedures that ensure counterintelligence support to all entities of the Department of the Treasury responsible for safeguarding networks and systems and for coordinating between counterintelligence threat mitigation activities and cyber network and system defense efforts. The Committees further direct that, not later than 270 days after the date of enactment of the Act, the head of the Office of Counterintelligence shall submit a report to the Committees on the status of the implementation of such policies.

REPORT ON DIRECTOR'S INITIATIVES GROUP

The Committees direct that, not later than 30 days after the date of enactment of the Act, the Director of National Intelligence shall provide to the Committees a briefing on personnel matters of the Director's Initiatives Group, which shall include: (1) a list of personnel of such group from the date of the creation of the group; and (2) funding sources for personnel of such group.

REPORT ON SECURE MOBILE COMMUNICATIONS SYSTEMS USED TO TRANSMIT CLASSIFIED INFORMATION

The Committees direct that, not later than 90 days after the date of enactment of the Acts each Intelligence Community program head shall submit to the Committees a report on the secure mobile communications systems used for transmission of classified information (excluding systems used for purposes of clandestine or covert communications) and available to employees and officers of the Intelligence Community. The report should include the following information: (1) the name, description, and date of purchase or development of each system; (2) the number of employees using each system; (3) the cost of development and operations of each system; (4) a list of the capabilities and the level of classification of each system; (5) identification of any existing service agreements with other elements of the Intelligence Community for use of a system; and (6) identification, description, and deployment timeline of any secure mobile communications systems that are in development. For purposes of this report, the term ''mobile communications systems'' means any portable wireless telecommunications equipment utilized for the transmission or reception of classified information.

UKRAINE LESSONS LEARNED WORKING GROUP

Section 6413 of the Fiscal Year 2025 Intelligence Authorization Act (P.L. 118–159) required the Director of National Intelligence and the Secretary of Defense to jointly establish a working group to identify and share lessons learned from the Ukraine conflict in order to strengthen United States national security. Despite the critical importance of this mandate, the Committees note with concern that the working group has not been established and that the Intelligence Community has been unresponsive to repeated congressional inquiries on this matter.

The Committees recognize that various efforts are underway across the Executive Branch that may support the objectives envisioned for the working group. However, the Committees underscore the importance of adhering to statutory requirements and ensuring that lessons from Russia's invasion of Ukraine are systematically identified, coordinated, and applied.

Accordingly, the Committees direct the Director of National Intelligence and the Secretary of Defense to stand up the Ukraine Lessons Learned Working Group, in compliance with the law, not later than 30 days after the date of enactment of the Act, and to provide a joint briefing to the Committees on the status, scope, and initial findings of the working group not later than 60 days after the date of enactment of the Act.

DEPARTMENT OF STATE INFORMATION TECHNOLOGY MANAGEMENT

The Committees continue to be concerned with the management of the Department of State's information technology networks and believe the existing management structure for the networks may no longer meet the requirements to support a global diplomatic presence. The Committees therefore direct the Assistant Secretary of State for Intelligence and Research, in coordination with any other bureau or office the Assistant Secretary determines appropriate, to explore optimized reorganization of management of the entirety of the Department's information technology networks and to provide a briefing to the Committees, not later than 180 days after the date of enactment of the Act, on potential concepts of realignment.

ARTIFICIAL INTELLIGENCE DEVELOPMENT AND USAGE BY INTELLIGENCE COMMUNITY

Section 6602 of the Act requires the Chief Information Officer of the Intelligence Community to identify commonly used artificial intelligence systems or functions that have the greatest potential for re-use without significant modification by Intelligence Community elements. The Committees direct that, in identifying such systems, the Chief Information Officer of the Intelligence Community shall, in addition to coordinating with the Chief Artificial Intelligence Officer of the Intelligence Community, coordinate with such officials of the Department of Defense, as identified by the Under Secretary of Defense for Intelligence and Security, for any systems used by an Intelligence Community element of the Department of Defense.

Section 6602 also requires the head of each Intelligence Community element to track and evaluate the performance of procured and element-developed artificial intelligence. The Committees are of the view that tracking and evaluating should at a minimum include—

1. Documenting, to the extent information is readily available, the provenance of data used to train, fine-tune, or operate the artificial intelligence system, such as included in industry-standard Model Cards to the extent practicable.

2. Conducting ongoing testing and evaluation on artificial intelligence system performance, the effectiveness of vendor artificial intelligence offerings, and associated risk management measures, including by testing in real-world conditions.

3. The stipulation of conditions for retraining or decommissioning artificial intelligence capabilities.

4. Requiring sufficient post-award monitoring and evaluation for effectiveness of the artificial intelligence system in achieving documented mission outcomes, where appropriate in the context of the product or service acquired.

STUDY ON THREATS POSED BY UNMANNED AERIAL SYSTEMS AT OR NEAR THE LAND AND MARITIME BORDERS OF THE UNITED STATES

The Committees are concerned that hundreds of encounters with unmanned aircraft systems (UAS) are annually recorded at or near the land and maritime borders of the United States, which present a vulnerability in national security. With the proliferation of affordable drones, a wide range of groups, including malign actors, have sought to make use of this capability. It is critical that the U.S. Government has full situational awareness of the threats these systems pose to U.S. military personnel, other Federal personnel, and civilians.

The Committees therefore direct that, not later than 180 days after the date of enactment of the Act, the Director of National Intelligence, in coordination with the Undersecretary for Intelligence and Analysis of the

Department of Homeland Security and the heads of any other elements of the Intelligence Community the Director considers appropriate, shall submit to the Committees a study on the threat posed by UAS at or near the land and maritime borders of the United States.

The study shall include the following:

1. An identification of the malign actors operating UAS at or near the borders, including malign actors who cross such borders.

2. The information collected by operators of UAS at or near the borders, and a description of how such data is used by malign actors.

3. The tactics, techniques, and procedures used by malign actors operating UAS at or near the borders, including how such actors acquire, modify, and utilize UAS to conduct malicious activities, including attacks, surveillance, conveyance of contraband, and other forms of threats.

4. A description of how a threat is identified and assessed at or near the borders, including a description of the capabilities of the United States Government to detect and identify UAS operated by, or on behalf of, malign actors.

5. The adequacy of United States technology used to detect, identify, track, monitor, and mitigate threats posed by UAS operated by malign actors at or near the borders.

6. The guidance, policies, and procedures that address the privacy, civil rights, and civil liberties of persons who lawfully operate UAS at or near the borders.

7. Current authorities of the United States Government to counter the use of UAS by malign actors at or near the borders, including an accounting of the delineated responsibilities of Federal agencies to counter, contain, trace, or defeat unmanned aircraft systems at or near the borders.

COUNTERINTELLIGENCE THREATS TO UNITED STATES CIVIL AND COMMERCIAL SPACE INTERESTS

The Committees are concerned with counterintelligence threats to the National Aeronautics and Space Administration (NASA) and commercial spaceports. Therefore, the Committees direct that, not later than 90 days after the date of enactment of the Act, the Director of National Intelligence, in consultation with the Director of the Federal Bureau of Investigation (FBI), shall submit to the Committees an assessment of the counterintelligence vulnerabilities of NASA, if any.

The assessment shall include the following:

1. An assessment of the vulnerability of the security practices and facilities of NASA to efforts by nation-state and non-nation-state actors to acquire United States space technology.

2. An assessment of the counterintelligence threat posed to NASA centers by nationals of the Russian Federation and the People's Republic of China.

3. Recommendations for how NASA can mitigate any counterintelligence gaps identified under paragraphs (1) and (2).

4. A description of efforts by NASA to respond to the efforts of nation-state and non-nation-state actors to illicitly acquire United States satellites and related items as described in reports submitted by the Director of National Intelligence pursuant to section 1261(e) of the National Defense Authorization Act for Fiscal Year 2013 (P.L. 112–239), along with an evaluation of the effectiveness of these efforts.

Further, the Committees direct that, not later than 60 days after the date of enactment of the Act, the head of the Counterintelligence Division of the FBI, in coordination with the head of the Office of Private Sector of the FBI, and in coordination with the Office of Commercial Space Transportation within the Department of Transportation, shall develop an assessment of the counterintelligence risks, if any, to commercial spaceports and distribute the assessment to each FBI field office in an area of responsibility which includes a federally-licensed commercial spaceport and the leadership of each federally-licensed commercial spaceport, in coordination with the Office of Commercial Space Transportation.

PROTECTION OF CLASSIFIED INFORMATION RELATED TO BUDGET FUNCTIONS

The Committees remain concerned with protecting classified information used in the Intelligence Community's budget-related activities. Therefore, the Committees direct that, not later than 180 days after the date of enactment of the Act, the Director of National Intelligence, in coordination with the Secretary of Defense, the Secretary of the Treasury, and the Director of the Office of Management and Budget, shall submit to the Committees a study, with a classified annex, outlining the feasibility of and cost associated with the department or agency of (1) the Secretary of Treasury; (2) the Director of the Office of Management and Budget; (3) each head of an element of the Intelligence Community; or (4) any other head of a department or agency of the Federal Government carrying out a function specified below, using secure systems that meet the requirements to protect classified information, including with respect to the location at which the system is located or accessed, to carry out any of the following activities:

1. Formulating, developing, and submitting the budget of the department or agency (including the budget justification materials submitted to Congress) under the National Intelligence Program;

2. Apportioning, allotting, and issuing warrants for the disbursement of, and obligating and expending funds under the National Intelligence Program; and

3. Carrying out Federal financial management service functions or related activities of the Intelligence Community.

EVALUATION OF TRAINING DATA PERTAINING TO ARTIFICIAL INTELLIGENCE SYSTEMS

It is the sense of the Committees that the Intelligence Community should seek to evaluate training data, methods of labeling data, and model weights pertaining to artificial intelligence systems being considered for use, procurement, or adoption by an element of the Intelligence Community to enable such element to make informed decisions regarding the fitness and reliability of the system and that each element of the Intelligence Community should, to the greatest extent practicable, avoid use of any publicly available artificial intelligence model found to contain information on United States persons that has been obtained unlawfully by the vendor of the model.

ANNUAL SURVEY OF ANALYTIC OBJECTIVITY AMONG OFFICERS AND EMPLOYEES OF ELEMENTS OF THE INTELLIGENCE COMMUNITY

Section 6305 requires the head of certain elements of the Intelligence Community to conduct a survey of analytic objectivity among officers and employees of such element who are involved in the production of intelligence products. The Committees direct the head of each element to submit to the Committees a report on the findings of the most recently completed survey.

PLAN TO ENHANCE INTELLIGENCE COMMUNITY COUNTERNARCOTICS COLLABORATION WITH MEXICO

Section 6717 requires each element of the Intelligence Community, not later than 60 days after the date of enactment of the Act, to submit to the Director of National Intelligence a report on that element's relationship with the Government of Mexico, if any, as it relates to counternarcotics collaboration, coordination, and cooperation, including a strategy to enhance such cooperation and recommendations regarding the resources required to effectively implement that strategy. The Committees direct each element head to simultaneously submit to the Committees the same report submitted to the Director, along with any recommendations or requests for changes in authorities or resources to effectuate the element's strategy.

EFFORTS BY DIRECTOR OF OFFICE OF INTELLIGENCE AND COUNTERINTELLIGENCE AT DEPARTMENT OF ENERGY TO MITIGATE COUNTERINTELLIGENCE RISKS

The Committees are concerned by the counterintelligence risks posed by Department of Energy employees' travel to certain countries. Therefore, the Committees direct the Director of the Office of Intelligence and Counterintelligence at the Department of Energy to develop and implement mechanisms for all personnel of the Department to (1) report to the Office any personal or official travel to a ''country of risk,'' as defined by section 6432 of the Intelligence Authorization Act for Fiscal Year 2025 (P.L. 118–159), or to any other country the Director considers appropriate prior to beginning such travel; (2) at the request of personnel of the Office, receive briefings with respect to travel to such country prior to beginning such travel; and (3) at the request of personnel of the Office, participate in debriefings after travel to such country.

NOTIFICATION OF MATERIAL CHANGES TO POLICIES OR PROCEDURES GOVERNING TERRORIST WATCHLIST AND TRANSNATIONAL ORGANIZED CRIME WATCHLIST

Section 6522 requires the Director of the Federal Bureau of Investigation to submit to the appropriate congressional committees notice of any material change to a policy or procedure relating to the terrorist watchlist or the transnational organized crime watchlist within 30 days of the date on which the material change takes effect. This section separately requires the Director, within 30 days of a request by an appropriate congressional committee, to submit to that committee all watchlisting guidance in effect as of the date of the request that applies to or governs the use of the terrorist watchlist or the transnational organized crime watchlist. The Committees emphasize that the term ''material change to a policy or procedure relating to the terrorist watchlist or the transnational organized crime watchlist'' includes any change to the watchlisting guidance itself.

NATIONAL SECURITY HARM PREVENTED BY PREPUBLICATION REVIEW

The Committees direct the Director of National Intelligence, the Director of the Central Intelligence Agency, the Director of the Defense Intelligence Agency, and the Assistant Secretary of State for Intelligence and Research to each submit to the Committees, not later than April 30, 2026, a report that describes the five items most harmful to United States national security identified within the last five years by such element during prepublication review, as determined by the head of such element or their designee.

REFORMS TO INACTIVE SECURITY CLEARANCES

Section 6310 of the Act directs the Director of National Intelligence to review and evaluate whether former Intelligence Community personnel who departed federal service within the past five years and previously held a

security clearance could retain access to classified information if they continue to meet applicable standards. The section also requires the Director to assess the feasibility and advisability of applying continuous vetting to inactive clearances and to report the findings to the appropriate congressional committees within 120 days of the date of enactment of the Act. Section 1626 of the Fiscal Year 2026 National Defense Authorization Act contains a similar requirement for the Under Secretary of Defense for Intelligence and Security, in coordination with the Director of National Intelligence, to review the feasibility and advisability of extending the period during which former Department of Defense personnel may maintain an inactive security clearance. The Committees strongly support these complementary efforts and direct the Director of National Intelligence and the Under Secretary of Defense for Intelligence and Security to closely coordinate their reviews to ensure consistency, share findings as appropriate, and avoid duplication.

U.S. GOVERNMENT ACCOUNTABILITY OFFICE OPINION LETTER

Mr. BENNET. Mr. President, I ask unanimous consent to have printed in the RECORD the GAO opinion letter dated December 16, 2025.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECISION

Matter of: U.S. Department of Commerce, National Telecommunications and Information Administration—Applicability of the Congressional Review Act to Broadband Equity, Access, and Deployment Program Restructuring Policy Notice

File: B–337604

Date: December 16, 2025

DIGEST

On June 6, 2025, the U.S. Department of Commerce, National Telecommunications and Information Administration published a notice entitled, Broadband Equity, Access, and Deployment (BEAD) Program: BEAD Restructuring Policy Notice (Policy Notice). The Policy Notice modifies and replaces certain requirements outlined in the May 12, 2022, Notice of Funding Opportunity for the BEAD Program—a grant program to provide high-speed broadband access throughout the United States and several territories.

The Congressional Review Act (CRA) requires that before a rule can take effect, an agency must submit the rule to both the House of Representatives and the Senate, as well as the Comptroller General. CRA adopts the definition of ''rule'' under the Administrative Procedure Act (APA) but excludes certain categories of rules from coverage. We conclude that the Policy Notice meets the APA definition of a rule, and no CRA exception applies. Therefore, the Policy Notice is a rule subject to CRA's submission requirements.

DECISION

On June 6, 2025, the U.S. Department of Commerce (Commerce), National Telecommunications and Information Administration (NTIA) published a notice entitled, Broadband Equity, Access, and Deployment (BEAD) Program: BEAD Restructuring Policy Notice (Policy Notice). The Policy Notice modifies and replaces certain requirements outlined in the May 12, 2022, Notice of Funding Opportunity (NOFO) for the BEAD Program—a grant program to provide high-speed broadband access throughout the United States and several territories. We received a request for a decision as to whether the Policy Notice is a rule for purposes of the Congressional Review Act (CRA). As discussed below, we conclude that the Policy Notice is a rule subject to CRA's submission requirements.

Our practice when rendering decisions is to contact the relevant agencies to obtain factual information and their legal views on the subject of the request. Accordingly, we reached out to Commerce on June 30, 2025. Although Commerce did not provide a substantive response with its legal views, we determined we have sufficient information to issue a decision on this matter.

BACKGROUND

Broadband Equity, Access, and Deployment (BEAD) Program

The Infrastructure, Investment, and Jobs Act (IIJA) established the BEAD Program, and appropriated $42.45 billion for it. The BEAD Program is a grant program administered by NTIA that funds high-speed broadband access initiatives, with particular focus on unserved and underserved locations. Funds for the BEAD Program are allocated by formulas in IIJA to Eligible Entities, which include all 50 states, the District of Columbia, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands. In advance of funds being distributed to Eligible Entities, the Assistant Secretary of Commerce for Communications and Information (Assistant Secretary) must approve each Eligible Entity's letter of intent, initial proposal, or final proposal.

IIJA required the Assistant Secretary to issue a NOFO for the BEAD Program within 180 days of IIJA's enactment. NTIA published the BEAD NOFO on May 12, 2022. The BEAD NOFO explains the BEAD Program structure; provides information on amounts made available to Eligible Entities under the program; describes the grant application and review process; and outlines the eligibility requirements for the program. The BEAD NOFO also imposes several obligations on Eligible Entities and subgrantees, such as coordinating with political subdivisions and Tribal governments; targeting engagement efforts at underrepresented communities; giving priority to projects based in part on a demonstrated record of and plans to be in compliance with federal labor and employment laws; and demonstrating that the Eligible Entities have sufficiently accounted for current and future weather- and climate-related risks to new infrastructure projects. Finally, the BEAD NOFO clarifies some technical aspects of the BEAD Program. For example, IIJA instructs that when awarding subgrants using BEAD Program funds, Eligible Entities shall prioritize funding for deployment of infrastructure for ''priority broadband projects,'' which the BEAD NOFO subsequently defines as ''those that use end-to-end fiber-optic architecture,'' rather than other technologies.

BEAD Restructuring Policy Notice

On June 6, 2025, NTIA published a Policy Notice that ''modifies and replaces certain requirements outlined in the BEAD [NOFO].'' The Policy Notice states that it ''eliminates burdensome and non-statutory requirements contained in the NOFO published on May 12, 2022'' and prohibits Eligible Entities ''from imposing any of the obligations removed by this Policy Notice on subgrantees as part of the BEAD Program.'' According to the Policy Notice, ''Each Eligible Entity must comply with this Policy Notice to gain approval of its Final Proposal from the Assistant Secretary.'' The Policy Notice also rescinded two previously issued Policy Notices for the BEAD Program.

The Policy Notice removed several requirements imposed on Eligible Entities and subgrantees in the BEAD NOFO, such as requirements related to labor, employment, and workforce development; climate change; open access and net neutrality; local coordination and stakeholder engagement; and low-cost service options. The Policy Notice also amended some of the technological requirements of the BEAD Program. For example, the Policy Notice ''eliminates the 'Fiber Preference' section of the BEAD NOFO and permits Eligible Entities to select from all qualifying technologies,'' rather than limiting priority broadband projects to those using end-to-end fiber.

Furthermore, the Policy Notice requires Eligible Entities to conduct an additional subgrantee selection round, which requires Eligible Entities to rescind all provisional subaward selections. The Policy Notice also revises the scoring rubric that Eligible Entities are to use to evaluate subgrantee applications, placing particular emphasis ''on minimizing the cost of deployment under the BEAD Program.'' Finally, the Policy Notice identifies other changes to the administration of the BEAD Program, including changes related to optimizing program locations, funding for allowable non-deployment purposes, and expedited permitting under the National Environmental Policy Act, 42 U.S.C. §§ 4321–4347.

The Congressional Review Act

CRA, enacted in 1996 to strengthen congressional oversight of agency rulemaking, requires federal agencies to submit a report on each new rule to both houses of Congress and to the Comptroller General for review before a rule can take effect. The report must contain a copy of the rule, ''a concise general statement relating to the rule,'' and the rule's proposed effective date. CRA allows Congress to review and disapprove of federal agency rules for a period of 60 days using special procedures. If a resolution of disapproval is enacted, then the new rule has no force or effect.

CRA adopts the definition of rule under the Administrative Procedure Act (APA), 5 U.S.C. §551(4), which states that a rule is ''the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency.'' However, CRA excludes three categories of rules from coverage: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

NTIA did not submit a CRA report to Congress or the Comptroller General on the BEAD Policy Notice.

DISCUSSION

At issue here is whether the Policy Notice meets CRA's definition of a rule, which adopts APA's definition of a rule, with three exceptions. As explained below, we conclude that it does. In addition, we conclude that the Policy Notice does not fall within any CRA exceptions. Therefore, the Policy Notice is a rule subject to CRA's submission requirements.

The Policy Notice is a Rule Under APA

Applying APA's definition of ''rule,'' the Policy Notice meets all of the required elements. First, the Policy Notice is an agency statement because it was issued by NTIA, a federal agency.