

110TH CONGRESS
2D SESSION

H. R. 7069

To make the Census Bureau an independent establishment.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2008

Mrs. MALONEY of New York (for herself, Mr. GONZALEZ, Mr. CLAY, Mr. HONDA, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To make the Census Bureau an independent establishment.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Restoring the Integrity of American Statistics Act of
6 2008”.

7 (b) TABLE OF CONTENTS.—The table of contents is
8 as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. United States Census Bureau.
- Sec. 5. Director.
- Sec. 6. Deputy Director.

Sec. 7. Transfers.
Sec. 8. Transition rules.
Sec. 9. Inspector General.
Sec. 10. Technical and conforming amendments.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) It is the policy of the United States to pro-
4 vide statistics to the public and to the Government
5 that are accurate, timely, relevant to public pur-
6 poses, and credible in that they are collected impar-
7 tially and are available to all.

8 (2) Pursuant to section 2 of article I of the
9 Constitution, it is the obligation of the United States
10 to conduct a census of population every 10 years,
11 such census being necessary to the basic workings of
12 our representative democracy.

13 (3) Knowledge of who we are as a people is
14 basic to informed policymaking, public edification,
15 and scientific research, and, therefore, there should
16 be regularly conducted a census of the economy and
17 the collection of other relevant information on the
18 population and economy of the United States at ap-
19 propriate intervals between censuses.

20 (4) In all of the data collections envisioned in
21 title 13, United States Code, it is fundamentally im-
22 portant that data be collected in an impartial man-
23 ner, using modern statistical, computational, and

1 operational methods to the fullest extent possible,
2 consonant with applicable law.

3 (5) The credibility and impartiality of data
4 from a Federal statistical agency depends critically
5 on whether the agency operates from a strong posi-
6 tion of independence; therefore, the authority for
7 conducting the decennial census of population and
8 any economic or other censuses or surveys should be
9 vested in an agency with a clear and well-defined po-
10 sition of independence.

11 (6) In addition to a formal, strong position of
12 independence, the operating principles of the agency
13 (as described in paragraph (5)) should include—

14 (A) openness about the sources and limita-
15 tions of the data provided;

16 (B) dissemination of data as widely as pos-
17 sible, according to published schedules for re-
18 lease of key statistics;

19 (C) continual search for the development
20 of more useful data, in terms of cost-effective-
21 ness, accuracy, timeliness, and relevance to
22 public purposes;

23 (D) regular evaluation of major data col-
24 lection programs to identify ways to improve

1 their cost-effectiveness, accuracy, timeliness,
2 and relevance;

3 (E) commitment to quality and profes-
4 sional standards of practice as a statistical
5 agency;

6 (F) fair treatment of data providers, in-
7 cluding individuals and organizations, with re-
8 spect for privacy and the protection of confiden-
9 tial information;

10 (G) maintenance of an active research pro-
11 gram, not only in methodology and operations,
12 but also in using data for reporting of condi-
13 tions and trends; and

14 (H) cooperation and coordination with
15 other statistical agencies.

16 **SEC. 3. DEFINITIONS.**

17 For purposes of this Act—

18 (1) the term “Census Bureau” means the
19 United States Census Bureau;

20 (2) the term “Director” means the Director of
21 the United States Census Bureau;

22 (3) the term “Deputy Director” means the
23 Deputy Director of the United States Census Bu-
24 reau; and

1 (4) the term “function” includes any duty, obli-
2 gation, power, authority, responsibility, right, privi-
3 lege, activity, or program.

4 **SEC. 4. UNITED STATES CENSUS BUREAU.**

5 Effective January 1, 2012, there is established, as an
6 independent establishment in the executive branch of the
7 Government, the United States Census Bureau.

8 **SEC. 5. DIRECTOR.**

9 (a) IN GENERAL.—There shall be at the head of the
10 Census Bureau a Director of the United States Census
11 Bureau, who shall be appointed by the President, by and
12 with the advice and consent of the Senate. The Director
13 shall be appointed without regard to political affiliation
14 and solely on the basis of the professional qualifications
15 required to perform the duties and responsibilities of the
16 office of Director.

17 (b) TERM OF OFFICE.—The term of office of any in-
18 dividual appointed as Director shall be 5 years. In any
19 case in which a successor does not take office at the end
20 of a Director’s term, such Director may continue in office
21 until the entry upon office of such a successor, except that
22 such Director may not continue to serve for more than
23 1 year after the date on which the term of the Director
24 would otherwise expire, unless reappointed. A Director ap-
25 pointed to a term of office after the commencement of

1 such term may serve under such appointment only for the
2 remainder of such term. An individual serving in the office
3 of Director may be removed from office only pursuant to
4 a finding by the President of neglect of duty or malfea-
5 sance in office. The President shall communicate the rea-
6 sons for any such removal to each House of the Congress.

7 (c) FUNCTIONS.—The Director shall be responsible
8 for the exercise of all powers and the discharge of all du-
9 ties of the Census Bureau, and shall have authority and
10 control over all personnel and activities thereof.

11 (d) ORGANIZATION.—The Director may establish,
12 alter, consolidate, or discontinue such organizational units
13 or components within the Census Bureau as the Director
14 considers necessary or appropriate, except that this sub-
15 section shall not apply with respect to any unit or compo-
16 nent provided for by law.

17 (e) ADVISORY COMMITTEES.—The Director may es-
18 tablish advisory committees to provide advice with respect
19 to any function of the Director. Members of any such com-
20 mittee shall serve without compensation, but shall be enti-
21 tled to transportation expenses and per diem in lieu of
22 subsistence in accordance with section 5703 of title 5,
23 United States Code.

1 (f) REGULATIONS.—The Director may prescribe such
2 rules and regulations as the Director considers necessary
3 or appropriate to carry out the functions of the Director.

4 (g) DELEGATIONS ETC.—The Director may assign
5 duties, and delegate, or authorize successive redelegations
6 of, authority to act and to render decisions, to such offi-
7 cers and employees of the Census Bureau as the Director
8 may find necessary. Within the limitations of such assign-
9 ments, delegations, or redelegations, all official acts and
10 decisions of such officers and employees shall have the
11 same force and effect as though performed or rendered
12 by the Director. An assignment, delegation, or redelega-
13 tion under this subsection may not take effect before the
14 date on which notice of such assignment, delegation, or
15 redelegation (as the case may be) is published in the Fed-
16 eral Register.

17 (h) OTHER AUTHORITIES.—

18 (1) PERSONNEL.—Notwithstanding any other
19 provision of law, the Director, in carrying out the
20 functions of the Director or the Census Bureau, may
21 use the services of officers and other personnel in
22 other Federal agencies, including personnel of the
23 armed forces, with the consent of the head of the
24 agency concerned.

1 (2) VOLUNTARY SERVICES.—Notwithstanding
2 section 1342 of title 31, United States Code, or any
3 other provision of law, the Director may accept and
4 use voluntary and uncompensated services.

5 (i) COMPENSATION.—Level IV of the Executive
6 Schedule under section 5315 of title 5, United States
7 Code, applies with respect to the office of Director.

8 **SEC. 6. DEPUTY DIRECTOR.**

9 (a) IN GENERAL.—There shall be in the Census Bu-
10 reau a Deputy Director of the United States Census Bu-
11 reau, who shall be appointed by and serve at the pleasure
12 of the Director. The position of Deputy Director shall be
13 a career reserved position within the meaning of section
14 3132(a)(8) of title 5, United States Code.

15 (b) FUNCTIONS.—The Deputy Director shall perform
16 such functions as the Director shall designate. During any
17 absence or disability of the Director, the Deputy Director
18 shall act as Director. In the event of a vacancy in the of-
19 fice of Director, the Deputy Director shall act as Director
20 until a Director is appointed.

21 **SEC. 7. TRANSFERS.**

22 (a) FUNCTIONS.—There shall be transferred to and
23 vested in the Director all functions that, as of December
24 31, 2011, were—

1 (1) vested in the Secretary of Commerce by title
2 13, United States Code, Executive order, or any
3 other provision of law; and

4 (2) delegated to the Director of the Census
5 within the Department of Commerce.

6 (b) PERSONNEL, ASSETS, ETC.—

7 (1) IN GENERAL.—There shall be transferred
8 from the Department of Commerce to the Census
9 Bureau, for appropriate allocation by the Director—

10 (A) the personnel employed in connection
11 with the functions transferred by subsection
12 (a); and

13 (B) the assets, liabilities, contracts, prop-
14 erty, records, and unexpended balance of appro-
15 priations, authorizations, allocations, and other
16 funds employed, held, or used in connection
17 with such functions, arising from such func-
18 tions, or available, or to be made available, in
19 connection with such functions.

20 (2) UNEXPENDED FUNDS.—Unexpended funds
21 transferred pursuant to this subsection shall be used
22 only for the purposes for which the funds were origi-
23 nally appropriated.

24 (3) EMPLOYMENT PROTECTIONS.—During the
25 1-year period beginning on January 1, 2012—

1 (A) the transfer pursuant to this section of
2 any full-time personnel (except special Govern-
3 ment employees) and part-time personnel hold-
4 ing permanent positions shall not cause any
5 such personnel to be separated or reduced in
6 grade or compensation solely as a result of such
7 transfer; and

8 (B) any such personnel who were not em-
9 ployed in the Bureau of the Census in the De-
10 partment of Commerce as of December 31,
11 2011, shall not be subject to directed reassign-
12 ment to a duty station outside their commuting
13 area.

14 (c) EFFECTIVE DATE.—This section shall take effect
15 on January 1, 2012.

16 **SEC. 8. TRANSITION RULES.**

17 (a) RELATING TO OFFICERS.—

18 (1) APPOINTMENT OF INITIAL DIRECTOR.—The
19 initial Director of the United States Census Bureau
20 shall be appointed in accordance with the provisions
21 of section 5(a).

22 (2) INTERIM ROLE OF CURRENT DIRECTOR OF
23 THE CENSUS AFTER EFFECTIVE DATE OF NEW CEN-
24 SUS BUREAU.—If, as of January 1, 2012, the initial
25 Director of the United States Census Bureau has

1 not taken office, the officer serving on December 31,
2 2011, as Director of the Census (or Acting Director
3 of the Census, if applicable) in the Department of
4 Commerce shall serve as the Director of the United
5 States Census Bureau, and shall assume the powers
6 and duties of such Director, until the initial Director
7 has taken office.

8 (b) CONTINUATION OF ORDERS, DETERMINATIONS,
9 RULES, REGULATIONS, ETC.—All orders, determinations,
10 rules, regulations, permits, contracts, collective bargaining
11 agreements (and ongoing negotiations relating to such col-
12 lective bargaining agreements), recognitions of labor orga-
13 nizations, certificates, licenses, and privileges—

14 (1) which have been issued, made, promulgated,
15 granted, or allowed to become effective, in the exer-
16 cise of functions (A) which were exercised by the
17 Secretary of Commerce (or delegate thereof), and
18 (B) which relate to functions which, by reason of
19 this Act are vested in the Director of the United
20 States Census Bureau, and

21 (2) which are in effect as of December 31,
22 2011,
23 shall continue in effect according to their terms until
24 modified, terminated, suspended, set aside, or repealed by
25 the Director of the United States Census Bureau, except

1 that any collective bargaining agreement shall remain in
2 effect until the date of termination in accordance with
3 such agreement.

4 (c) CONTINUATION OF PROCEEDINGS.—The provi-
5 sions of this Act shall not affect any proceeding pending
6 before the Secretary of Commerce (or delegate thereof) as
7 of December 31, 2011, with respect to functions which
8 (by reason of this Act) are vested in the Director of the
9 United States Census Bureau, except that such pro-
10 ceedings, to the extent that such proceedings relate to
11 such functions, shall continue before such Director. Orders
12 shall be issued under any such proceeding, appeals taken
13 therefrom, and payments shall be made pursuant to such
14 orders, in like manner as if this Act had not been enacted,
15 and orders issued in any such proceeding shall continue
16 in effect until modified, terminated, superseded, or re-
17 pealed by such Director, by a court of competent jurisdic-
18 tion, or by operation of law.

19 (d) CONTINUATION OF SUITS.—Except as provided
20 in this subsection—

21 (1) the provisions of this Act shall not affect
22 suits commenced before January 1, 2012; and

23 (2) in all such suits, proceedings shall be had,
24 appeals taken, and judgments rendered, in the same

1 manner and effect as if this Act had not been en-
2 acted.

3 No cause of action, and no suit, action, or other pro-
4 ceeding commenced by or against any officer in such offi-
5 cer's official capacity as an officer of the Department of
6 Commerce, shall abate by reason of the enactment of this
7 Act. In any suit, action, or other proceeding pending as
8 of December 31, 2011, the court or hearing officer may
9 at any time, on the motion of the court or hearing officer
10 or that of a party, enter an order which will give effect
11 to the provisions of this subsection (including, where ap-
12 propriate, an order for substitution of parties).

13 (e) CONTINUATION OF PENALTIES.—This Act shall
14 not have the effect of releasing or extinguishing any civil
15 or criminal prosecution, penalty, forfeiture, or liability in-
16 curred as a result of any function which (by reason of this
17 Act) is vested in the Director of the United States Census
18 Bureau.

19 (f) JUDICIAL REVIEW.—Orders and actions of the
20 Director of the United States Census Bureau in the exer-
21 cise of functions vested in such Director by reason of this
22 Act shall be subject to judicial review to the same extent
23 and in the same manner as if such orders had been made
24 and such actions had been taken by the Secretary of Com-
25 merce in the exercise of such functions immediately before

1 the transfer described in section 7(a). Any statutory re-
2 quirements relating to notice, hearings, action upon the
3 record, or administrative review that apply to any function
4 so vested in such Director shall continue to apply to the
5 exercise of such function by such Director.

6 (g) EXERCISE OF FUNCTIONS.—In the exercise of the
7 functions vested in the Director of the United States Cen-
8 sus Bureau under this Act, such Director shall have the
9 same authority as that vested in the Secretary of Com-
10 merce with respect to the exercise of such functions imme-
11 diately preceding the vesting of such functions in such Di-
12 rector, and actions of such Director shall have the same
13 force and effect as if exercised by such Secretary.

14 **SEC. 9. INSPECTOR GENERAL.**

15 (a) IN GENERAL.—Section 11 of the Inspector Gen-
16 eral Act of 1978 (5 U.S.C. App.) is amended—

17 (1) in paragraph (1), by striking “or the Fed-
18 eral Cochairpersons of the Commissions established
19 under section 15301 of title 40, United States
20 Code;” and inserting “the Federal Cochairpersons of
21 the Commissions established under section 15301 of
22 title 40, United States Code; or the Director of the
23 United States Census Bureau;”; and

24 (2) in paragraph (2), by striking “or the Com-
25 missions established under section 15301 of title 40,

1 United States Code,” and inserting “the Commis-
2 sions established under section 15301 of title 40,
3 United States Code, or the United States Census
4 Bureau,”.

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 subsection (a) shall take effect on January 1, 2012.

7 **SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.**

8 Not later than January 1, 2011, the Director of the
9 Census shall submit to each House of the Congress draft
10 legislation containing any technical and conforming
11 amendments to title 13, United States Code, and any
12 other provisions which may be necessary to carry out the
13 purposes of this Act.

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