

111TH CONGRESS
1ST SESSION

H. R. 1254

To make the Census Bureau an independent establishment.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2009

Mrs. MALONEY (for herself, Mr. DENT, Mr. GONZALEZ, Mr. RUPPERSBERGER, and Mr. GERLACH) 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 2009”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is 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 functions of the office of Director.

16 (b) TERM OF OFFICE.—The term of office of the Di-
17 rector shall be 5 years. An individual serving in the office
18 of Director may be removed from office only pursuant to
19 a finding by the President of neglect of duty or malfea-
20 sance in office. The President shall communicate the rea-
21 sons for any such removal to each House of the Congress.
22 The term of the Director shall commence on January 1,
23 2012, and every 5 years thereafter.

24 (c) FUNCTIONS.—The Director shall be responsible
25 for the exercise of all powers and the discharge of all du-

1 ties of the Census Bureau, and shall have authority and
2 control over all personnel and activities thereof.

3 (d) ORGANIZATION.—The Director may establish,
4 alter, consolidate, or discontinue such organizational units
5 or components within the Census Bureau as the Director
6 considers necessary or appropriate, except that this sub-
7 section shall not apply with respect to any unit or compo-
8 nent provided for by law.

9 (e) ADVISORY COMMITTEES.—The Director may es-
10 tablish advisory committees to provide advice with respect
11 to any function of the Director. Members of any such com-
12 mittee shall serve without compensation, but shall be enti-
13 tled to transportation expenses and per diem in lieu of
14 subsistence in accordance with section 5703 of title 5,
15 United States Code.

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

19 (g) DELEGATIONS, ETC.—The Director may assign
20 duties, and delegate, or authorize successive redelegations
21 of, authority to act and to render decisions, to such offi-
22 cers and employees of the Census Bureau as the Director
23 may find necessary. Within the limitations of such assign-
24 ments, delegations, or redelegations, all official acts and
25 decisions of such officers and employees shall have the

1 same force and effect as though performed or rendered
2 by the Director. An assignment, delegation, or redelega-
3 tion under this subsection may not take effect before the
4 date on which notice of such assignment, delegation, or
5 redelegation (as the case may be) is published in the Fed-
6 eral Register.

7 (h) OTHER AUTHORITIES.—

8 (1) PERSONNEL.—Notwithstanding any other
9 provision of law, the Director, in carrying out the
10 functions of the Director or the Census Bureau, may
11 use the services of officers and other personnel in
12 other Federal agencies, including personnel of the
13 armed forces, with the consent of the head of the
14 agency concerned.

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

19 (i) COMPENSATION.—Level II of the Executive
20 Schedule under section 5313 of title 5, United States
21 Code, applies with respect to the office of Director.

22 **SEC. 6. DEPUTY DIRECTOR.**

23 (a) DEPUTY DIRECTOR.—

24 (1) IN GENERAL.—There shall be in the Census
25 Bureau a Deputy Director of the United States Cen-

1 sus Bureau, who shall be appointed by and serve at
2 the pleasure of the Director. The position of Deputy
3 Director shall be a career reserved position within
4 the meaning of section 3132(a)(8) of title 5, United
5 States Code.

6 (2) FUNCTIONS.—The Deputy Director shall
7 perform such functions as the Director shall des-
8 ignate.

9 (b) TEMPORARY AUTHORITY TO PERFORM FUNC-
10 TIONS OF DIRECTOR.—The provisions of sections 3345
11 through 3349d of title 5, United States Code, shall apply
12 with respect to the office of Director. The first assistant
13 to the office of Director is the Deputy Director for pur-
14 poses of applying such provisions.

15 **SEC. 7. TRANSFERS.**

16 (a) FUNCTIONS.—There shall be transferred to and
17 vested in the Director all functions that, as of December
18 31, 2011, were—

19 (1) vested in the Secretary of Commerce by title
20 13, United States Code, Executive order, or any
21 other provision of law; and

22 (2) delegated to the Director of the Census
23 within the Department of Commerce.

24 (b) PERSONNEL, ASSETS, ETC.—

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

4 (A) the personnel employed in connection
5 with the functions transferred by subsection
6 (a); and

7 (B) the assets, liabilities, contracts, prop-
8 erty, records, and unexpended balance of appro-
9 priations, authorizations, allocations, and other
10 funds employed, held, or used in connection
11 with such functions, arising from such func-
12 tions, or available, or to be made available, in
13 connection with such functions.

14 (2) UNEXPENDED FUNDS.—Unexpended funds
15 transferred pursuant to this subsection shall be used
16 only for the purposes for which the funds were origi-
17 nally appropriated.

18 (3) EMPLOYMENT PROTECTION.—During the 1-
19 year period beginning on January 1, 2012, the
20 transfer pursuant to this section of any full-time
21 personnel (except special Government employees)
22 and part-time personnel holding permanent positions
23 shall not cause any such personnel to be separated
24 or reduced in grade or compensation solely as a re-
25 sult of such transfer.

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

3 **SEC. 8. TRANSITION RULES.**

4 (a) RELATING TO OFFICERS.—

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

9 (2) INTERIM ROLE OF CURRENT DIRECTOR OF
10 THE CENSUS AFTER EFFECTIVE DATE OF NEW CEN-
11 SUS BUREAU.—If, as of January 1, 2012, the initial
12 Director of the United States Census Bureau has
13 not taken office, the officer serving on December 31,
14 2011, as Director of the Census (or Acting Director
15 of the Census, if applicable) in the Department of
16 Commerce shall serve as the Director of the United
17 States Census Bureau, and shall assume the powers
18 and duties of such Director, until the initial Director
19 has taken office.

20 (b) CONTINUATION OF ORDERS, DETERMINATIONS,
21 RULES, REGULATIONS, ETC.—All orders, determinations,
22 rules, regulations, permits, contracts, collective bargaining
23 agreements (and ongoing negotiations relating to such col-
24 lective bargaining agreements), recognitions of labor orga-
25 nizations, certificates, licenses, and privileges—

1 (1) which have been issued, made, promulgated,
2 granted, or allowed to become effective, in the exer-
3 cise of functions (A) which were exercised by the
4 Secretary of Commerce (or delegate thereof), and
5 (B) which relate to functions which, by reason of
6 this Act are vested in the Director of the United
7 States Census Bureau, and

8 (2) which are in effect as of December 31,
9 2011,

10 shall continue in effect according to their terms until
11 modified, terminated, suspended, set aside, or repealed by
12 the Director of the United States Census Bureau, except
13 that any collective bargaining agreement shall remain in
14 effect until the date of termination in accordance with
15 such agreement.

16 (c) CONTINUATION OF PROCEEDINGS.—The provi-
17 sions of this Act shall not affect any proceeding pending
18 before the Secretary of Commerce (or delegate thereof) as
19 of December 31, 2011, with respect to functions which
20 (by reason of this Act) are vested in the Director of the
21 United States Census Bureau, except that such pro-
22 ceedings, to the extent that such proceedings relate to
23 such functions, shall continue before such Director. Orders
24 shall be issued under any such proceeding, appeals taken
25 therefrom, and payments shall be made pursuant to such

1 orders, in like manner as if this Act had not been enacted,
2 and orders issued in any such proceeding shall continue
3 in effect until modified, terminated, superseded, or re-
4 pealed by such Director, by a court of competent jurisdic-
5 tion, or by operation of law.

6 (d) CONTINUATION OF SUITS.—Except as provided
7 in this subsection—

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

10 (2) in all such suits, proceedings shall be had,
11 appeals taken, and judgments rendered, in the same
12 manner and effect as if this Act had not been en-
13 acted.

14 No cause of action, and no suit, action, or other pro-
15 ceeding commenced by or against any officer in such offi-
16 cer's official capacity as an officer of the Department of
17 Commerce, shall abate by reason of the enactment of this
18 Act. In any suit, action, or other proceeding pending as
19 of December 31, 2011, the court or hearing officer may
20 at any time, on the motion of the court or hearing officer
21 or that of a party, enter an order which will give effect
22 to the provisions of this subsection (including, where ap-
23 propriate, an order for substitution of parties).

24 (e) CONTINUATION OF PENALTIES.—This Act shall
25 not have the effect of releasing or extinguishing any civil

1 or criminal prosecution, penalty, forfeiture, or liability in-
2 curred as a result of any function which (by reason of this
3 Act) is vested in the Director of the United States Census
4 Bureau.

5 (f) JUDICIAL REVIEW.—Orders and actions of the
6 Director of the United States Census Bureau in the exer-
7 cise of functions vested in such Director by reason of this
8 Act shall be subject to judicial review to the same extent
9 and in the same manner as if such orders had been made
10 and such actions had been taken by the Secretary of Com-
11 merce in the exercise of such functions immediately before
12 the transfer described in section 7(a). Any statutory re-
13 quirements relating to notice, hearings, action upon the
14 record, or administrative review that apply to any function
15 so vested in such Director shall continue to apply to the
16 exercise of such function by such Director.

17 (g) EXERCISE OF FUNCTIONS.—In the exercise of the
18 functions vested in the Director of the United States Cen-
19 sus Bureau under this Act, such Director shall have the
20 same authority as that vested in the Secretary of Com-
21 merce with respect to the exercise of such functions imme-
22 diately preceding the vesting of such functions in such Di-
23 rector, and actions of such Director shall have the same
24 force and effect as if exercised by such Secretary.

1 **SEC. 9. INSPECTOR GENERAL.**

2 (a) IN GENERAL.—Section 12 of the Inspector Gen-
3 eral Act of 1978 (5 U.S.C. App.) is amended—

4 (1) in paragraph (1), by striking “or the Fed-
5 eral Cochairpersons of the Commissions established
6 under section 15301 of title 40, United States
7 Code;” and inserting “the Federal Cochairpersons of
8 the Commissions established under section 15301 of
9 title 40, United States Code; or the Director of the
10 United States Census Bureau;”; and

11 (2) in paragraph (2), by striking “or the Com-
12 missions established under section 15301 of title 40,
13 United States Code,” and inserting “the Commis-
14 sions established under section 15301 of title 40,
15 United States Code, or the United States Census
16 Bureau,”.

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

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

20 Not later than January 1, 2011, the Director of the
21 Census shall submit to each House of the Congress draft
22 legislation containing any technical and conforming
23 amendments to title 13, United States Code, and any
24 other provisions which may be necessary to carry out the
25 purposes of this Act.

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