

**Calendar No. 647**111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 3167****[Report No. 111-351]**

To amend title 13 of the United States Code to provide for a 5-year term of office for the Director of the Census and to provide for the authority and duties of the Director and Deputy Director of the Census, and for other purposes.

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**IN THE SENATE OF THE UNITED STATES**

MARCH 25, 2010

Mr. CARPER (for himself and Mr. COBURN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

NOVEMBER 18, 2010

Reported by Mr. LIEBERMAN, with amendments

[Omit the part struck through and insert the part printed in *italic*]

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**A BILL**

To amend title 13 of the United States Code to provide for a 5-year term of office for the Director of the Census and to provide for the authority and duties of the Director and Deputy Director of the Census, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Census Oversight Effi-  
3 ciency and Management Reform Act of 2010”.

4 **SEC. 2. AUTHORITY AND DUTIES OF DIRECTOR AND DEP-  
5 UTY DIRECTOR OF THE CENSUS.**

6 (a) IN GENERAL.—Section 21 of the title 13, United  
7 States Code, is amended to read as follows:

8 **“§ 21. Director of the Census; Deputy Director of the  
9 Census; authority and duties**

10 “(a) DEFINITIONS.—As used in this section—

11 “(1) ‘Director’ means the Director of the Cen-  
12 sus;

13 “(2) ‘Deputy Director’ means the Deputy Di-  
14 rector of the Census; and

15 “(3) ‘function’ includes any duty, obligation,  
16 power, authority, responsibility, right, privilege, ac-  
17 tivity, or program.

18 “(b) DIRECTOR OF THE CENSUS.—

19 “(1) APPOINTMENT.—

20 “(A) IN GENERAL.—The Bureau shall be  
21 headed by a Director of the Census, appointed  
22 by the President, by and with the advice and  
23 consent of the Senate.

24 “(B) QUALIFICATIONS.—Such appoint-  
25 ment shall be made from individuals who have  
26 a demonstrated ability in ~~management~~ *managing*

1           *large organizations* and experience in the collec-  
2           tion, analysis, and use of statistical data.

3           “(2) GENERAL AUTHORITY AND DUTIES.—

4                   “(A) IN GENERAL.—The Director shall re-  
5           port directly to the Secretary without being re-  
6           quired to report through any other official of  
7           the Department of Commerce.

8                   “(B) DUTIES.—The Director shall perform  
9           such duties as may be imposed upon the Direc-  
10          tor by law, regulations, or orders of the Sec-  
11          retary.

12                   “(C) INDEPENDENCE OF DIRECTOR.—No  
13          officer or agency of the United States shall  
14          have any authority to require the Director to  
15          submit legislative recommendations, or testi-  
16          mony, or comments for review prior to the sub-  
17          mission of such recommendations, testimony, or  
18          comments to Congress if such recommenda-  
19          tions, testimony, or comments to Congress in-  
20          clude a statement indicating that the views ex-  
21          pressed therein are those of the Bureau and do  
22          not necessarily represent the views of the Presi-  
23          dent.

24           “(3) TERM OF OFFICE.—

1           “(A) IN GENERAL.—The term of office of  
2           the Director shall be 5 years, and shall begin on  
3           January 1, 2012, and every fifth year there-  
4           after. An individual may not serve more than 2  
5           full terms as Director.

6           “(B) VACANCIES.—Any individual ap-  
7           pointed to fill a vacancy in such position, occur-  
8           ring before the expiration of the term for which  
9           such individual’s predecessor was appointed,  
10          shall be appointed for the remainder of that  
11          term. The Director may serve after the end of  
12          the Director’s term until reappointed or until a  
13          successor has been appointed, but in no event  
14          longer than 1 year after the end of such term.

15          “(C) REMOVAL.—An individual serving as  
16          Director may be removed from office by the  
17          President. The President shall communicate in  
18          writing the reasons for any such removal to  
19          both Houses of Congress not later than ~~30~~  
20          ~~days~~ *60 days* before the removal.

21          “(4) FUNCTIONS.—The Director shall be re-  
22          sponsible for the exercise of all powers and the dis-  
23          charge of all duties of the Bureau, and shall have  
24          authority and control over all personnel and activi-  
25          ties thereof.

1           “(5) ORGANIZATION.—The Director may estab-  
2           lish, alter, consolidate, or discontinue such organiza-  
3           tional units or components within the Bureau as the  
4           Director considers necessary or appropriate, except  
5           that this paragraph shall not apply with respect to  
6           any unit or component provided for by law.

7           “(6) ADVISORY COMMITTEES.—The Director  
8           may establish advisory committees to provide advice  
9           with respect to any function of the Director. Mem-  
10          bers of any such committee shall serve without com-  
11          pensation, but shall be entitled to transportation ex-  
12          penses and per diem in lieu of subsistence in accord-  
13          ance with section 5703 of title 5.

14          “(7) REGULATIONS.—The Director may, in  
15          consultation with the Secretary, prescribe such rules  
16          and regulations as the Director considers necessary  
17          or appropriate to carry out the functions of the Di-  
18          rector.

19          “(8) DELEGATIONS, ETC.—The Director may  
20          assign duties, and delegate, or authorize successive  
21          redelegations of, authority to act and to render deci-  
22          sions, to such officers and employees of the Bureau  
23          as the Director may find necessary. Within the limi-  
24          tations of such assignments, delegations, or redele-  
25          gations, all official acts and decisions of such officers

1 and employees shall have the same force and effect  
2 as though performed or rendered by the Director.  
3 An assignment, delegation, or redelegation under  
4 this paragraph may not take effect before the date  
5 on which notice of such assignment, delegation, or  
6 redelegation (as the case may be) is published in the  
7 Federal Register.

8 “(9) BUDGET REQUESTS.—At the time the Di-  
9 rector submits a budget request to the Secretary for  
10 inclusion in the President’s budget request for a fis-  
11 cal year submitted under section 1105 of title 31,  
12 and prior to the submission of the Department of  
13 Commerce budget to the Office of Management and  
14 Budget, the Director shall provide that budget infor-  
15 mation to the Committee on Oversight and Govern-  
16 ment Reform of the House of Representatives and  
17 the Committee on Governmental Affairs of the Sen-  
18 ate, as well as the Committees on Appropriations of  
19 the House of Representatives and the Senate. All  
20 other budget requests from the Bureau to the Sec-  
21 retary shall be made available to the Committees on  
22 Appropriations of the House of Representatives and  
23 the Senate.

24 “(10) OTHER AUTHORITIES.—

1           “(A) PERSONNEL.—Subject to sections 23  
2           and 24, but notwithstanding any other provi-  
3           sion of law, the Director, in carrying out the  
4           functions of the Director or the Bureau, may  
5           use the services of officers and other personnel  
6           in other Federal agencies, including personnel  
7           of the Armed Forces, with the consent of the  
8           head of the agency concerned.

9           “(B) VOLUNTARY SERVICES.—Notwith-  
10          standing section 1342 of title 31, or any other  
11          provision of law, the Director may accept and  
12          use voluntary and uncompensated services.

13          “(c) DEPUTY DIRECTOR.—

14               “(1) IN GENERAL.—There shall be in the Bu-  
15          reau a Deputy Director of the Census, who shall be  
16          appointed by and serve at the pleasure of the Direc-  
17          tor. The position of Deputy Director shall be a ca-  
18          reer reserved position within the meaning of section  
19          3132(a)(8) of title 5.

20               “(2) FUNCTIONS.—The Deputy Director shall  
21          perform such functions as the Director shall des-  
22          ignate.

23               “(3) TEMPORARY AUTHORITY TO PERFORM  
24          FUNCTIONS OF DIRECTOR.—The provisions of sec-  
25          tions 3345 through 3349d of title 5 shall apply with

1 respect to the office of Director. The first assistant  
2 to the office of Director is the Deputy Director for  
3 purposes of applying such provisions.”.

4 (b) TRANSITION RULES.—

5 (1) APPOINTMENT OF INITIAL DIRECTOR.—The  
6 initial Director of the Bureau of the Census shall be  
7 appointed in accordance with the provisions of sec-  
8 tion 21(b) of title 13, United States Code, as  
9 amended by subsection (a).

10 (2) INTERIM ROLE OF CURRENT DIRECTOR OF  
11 THE CENSUS AFTER DATE OF ENACTMENT.—If, as  
12 of January 1, 2012, the initial Director of the Bu-  
13 reau of the Census has not taken office, the officer  
14 serving on December 31, 2011, as Director of the  
15 Census (or Acting Director of the Census, if applica-  
16 ble) in the Department of Commerce—

17 (A) shall serve as the Director of the Bu-  
18 reau of the Census;

19 (B) shall assume the powers and duties of  
20 such Director, until the initial Director has  
21 taken office; and

22 (C) shall report directly to the Secretary of  
23 Commerce.

1           (c) CLERICAL AMENDMENT.—The item relating to  
2 section 21 in the table of sections for chapter 1 of title  
3 13, United States Code, is amended to read as follows:

“21. Director of the Census; Deputy Director of the Census; authority and du-  
ties.”.

4           (d) TECHNICAL AND CONFORMING AMENDMENTS.—  
5 Not later than January 1, 2011, the Secretary of Com-  
6 merce, in consultation with the Director of the Census,  
7 shall submit to each House of the Congress draft legisla-  
8 tion containing any technical and conforming amendments  
9 to title 13, United States Code, and any other provisions  
10 which may be necessary to carry out the purposes of this  
11 Act.

12 **SEC. 3. INTERNET RESPONSE OPTION.**

13           Not later than 180 days after the date of the enact-  
14 ment of this Act, the Director of the Census, shall provide  
15 a plan to Congress on how the Bureau of the Census will  
16 test, develop, and implement an Internet response option  
17 for the 2020 Census and the American Community Sur-  
18 vey. The plan shall include a description of how and when  
19 feasibility will be tested, the stakeholders to be consulted,  
20 when and what data will be collected, and how data will  
21 be protected.

1 **SEC. 4. ANNUAL REPORTS.**

2 (a) IN GENERAL.—Subchapter I of chapter 1 of title  
3 13, United States Code, is amended by adding at the end  
4 the following new section:

5 **“§ 17. Annual reports**

6 “(a) Not later than the date of the submission of the  
7 President’s budget request for a fiscal year under section  
8 1105 of title 31, the Director of the Census shall submit  
9 to the appropriate congressional committees a comprehen-  
10 sive status report on the next decennial census, beginning  
11 with the 2020 decennial census. Each report shall include  
12 the following information:

13 “(1) A description of the Bureau’s performance  
14 goals for each significant decennial operation, in-  
15 cluding the performance measures for each oper-  
16 ation.

17 “(2) An assessment of the risks associated with  
18 each significant decennial operation, including the  
19 interrelationships between the operations and a de-  
20 scription of relevant mitigation plans.

21 “(3) Detailed milestone estimates for each sig-  
22 nificant decennial operation, including estimated  
23 testing dates, and justification for any changes to  
24 milestone estimates.

25 “(4) Updated cost estimates for the life cycle of  
26 the decennial census, including sensitivity analysis

1 and an explanation of significant changes in the as-  
2 sumptions on which such cost estimates are based.

3 “(5) A detailed description of all contracts over  
4 \$50,000,000 entered into for each significant decen-  
5 nial operation, including—

6 “(A) any changes made to the contracts  
7 from the previous fiscal year;

8 “(B) justification for the changes; and

9 “(C) actions planned or taken to control  
10 growth in such contract costs.

11 “(b) For purposes of this section, the term ‘signifi-  
12 cant decennial operation’ includes any program or infor-  
13 mation technology related to—

14 “(1) the development of an accurate address  
15 list;

16 “(2) data collection, processing, and dissemina-  
17 tion;

18 “(3) recruiting and hiring of temporary employ-  
19 ees;

20 “(4) marketing, communications, and partner-  
21 ships; and

22 “(5) coverage measurement.”

23 (b) CLERICAL AMENDMENT.—The table of sections  
24 for chapter 1 of title 13, United States Code, is amended

1 by inserting after the item relating to section 16 the fol-  
2 lowing new item:

“17. Annual reports.”.

3       (c) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to budget requests for fiscal years  
5 beginning after September 30, 2010.



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