

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3167

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

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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,*

3       **SECTION 1. SHORT TITLE.**

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

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

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

5 **“§ 21. Director of the Census; Deputy Director of the**  
6 **Census; authority and duties**

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

8 “(1) ‘Director’ means the Director of the Cen-  
9 sus;

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

12 “(3) ‘function’ includes any duty, obligation,  
13 power, authority, responsibility, right, privilege, ac-  
14 tivity, or program.

15 “(b) DIRECTOR OF THE CENSUS.—

16 “(1) APPOINTMENT.—

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

21 “(B) QUALIFICATIONS.—Such appoint-  
22 ment shall be made from individuals who have  
23 a demonstrated ability in management and ex-  
24 perience in the collection, analysis, and use of  
25 statistical data.

26 “(2) GENERAL AUTHORITY AND DUTIES.—

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

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

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

21          “(3) TERM OF OFFICE.—

22                 “(A) IN GENERAL.—The term of office of  
23                 the Director shall be 5 years, and shall begin on  
24                 January 1, 2012, and every fifth year there-

1 after. An individual may not serve more than 2  
2 full terms as Director.

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

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

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

23 “(5) ORGANIZATION.—The Director may estab-  
24 lish, alter, consolidate, or discontinue such organiza-  
25 tional units or components within the Bureau as the

1 Director considers necessary or appropriate, except  
2 that this paragraph shall not apply with respect to  
3 any unit or component provided for by law.

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

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

16 “(8) DELEGATIONS, ETC.—The Director may  
17 assign duties, and delegate, or authorize successive  
18 redelegations of, authority to act and to render deci-  
19 sions, to such officers and employees of the Bureau  
20 as the Director may find necessary. Within the limi-  
21 tations of such assignments, delegations, or redele-  
22 gations, all official acts and decisions of such officers  
23 and employees shall have the same force and effect  
24 as though performed or rendered by the Director.  
25 An assignment, delegation, or redelegation under

1 this paragraph may not take effect before the date  
2 on which notice of such assignment, delegation, or  
3 redelegation (as the case may be) is published in the  
4 Federal Register.

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

21 “(10) OTHER AUTHORITIES.—

22 “(A) PERSONNEL.—Subject to sections 23  
23 and 24, but notwithstanding any other provi-  
24 sion of law, the Director, in carrying out the  
25 functions of the Director or the Bureau, may

1 use the services of officers and other personnel  
2 in other Federal agencies, including personnel  
3 of the Armed Forces, with the consent of the  
4 head of the agency concerned.

5 “(B) VOLUNTARY SERVICES.—Notwith-  
6 standing section 1342 of title 31, or any other  
7 provision of law, the Director may accept and  
8 use voluntary and uncompensated services.

9 “(c) DEPUTY DIRECTOR.—

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

16 “(2) FUNCTIONS.—The Deputy Director shall  
17 perform such functions as the Director shall des-  
18 ignate.

19 “(3) TEMPORARY AUTHORITY TO PERFORM  
20 FUNCTIONS OF DIRECTOR.—The provisions of sec-  
21 tions 3345 through 3349d of title 5 shall apply with  
22 respect to the office of Director. The first assistant  
23 to the office of Director is the Deputy Director for  
24 purposes of applying such provisions.”.

25 (b) TRANSITION RULES.—

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

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

13                   (A) shall serve as the Director of the Bu-  
 14                   reau of the Census;

15                   (B) shall assume the powers and duties of  
 16                   such Director, until the initial Director has  
 17                   taken office; and

18                   (C) shall report directly to the Secretary of  
 19                   Commerce.

20          (c) CLERICAL AMENDMENT.—The item relating to  
 21          section 21 in the table of sections for chapter 1 of title  
 22          13, United States Code, is amended to read as follows:

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

23          (d) TECHNICAL AND CONFORMING AMENDMENTS.—  
 24          Not later than January 1, 2011, the Secretary of Com-



1 merce, in consultation with the Director of the Census,  
2 shall submit to each House of the Congress draft legisla-  
3 tion containing any technical and conforming amendments  
4 to title 13, United States Code, and any other provisions  
5 which may be necessary to carry out the purposes of this  
6 Act.

7 **SEC. 3. INTERNET RESPONSE OPTION.**

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

17 **SEC. 4. ANNUAL REPORTS.**

18 (a) IN GENERAL.—Subchapter I of chapter 1 of title  
19 13, United States Code, is amended by adding at the end  
20 the following new section:

21 **“§ 17. Annual reports**

22 “(a) Not later than the date of the submission of the  
23 President’s budget request for a fiscal year under section  
24 1105 of title 31, the Director of the Census shall submit  
25 to the appropriate congressional committees a comprehen-

1 sive status report on the next decennial census, beginning  
2 with the 2020 decennial census. Each report shall include  
3 the following information:

4           “(1) A description of the Bureau’s performance  
5 goals for each significant decennial operation, in-  
6 cluding the performance measures for each oper-  
7 ation.

8           “(2) An assessment of the risks associated with  
9 each significant decennial operation, including the  
10 interrelationships between the operations and a de-  
11 scription of relevant mitigation plans.

12           “(3) Detailed milestone estimates for each sig-  
13 nificant decennial operation, including estimated  
14 testing dates, and justification for any changes to  
15 milestone estimates.

16           “(4) Updated cost estimates for the life cycle of  
17 the decennial census, including sensitivity analysis  
18 and an explanation of significant changes in the as-  
19 sumptions on which such cost estimates are based.

20           “(5) A detailed description of all contracts over  
21 \$50,000,000 entered into for each significant decen-  
22 nial operation, including—

23                   “(A) any changes made to the contracts  
24 from the previous fiscal year;

25                   “(B) justification for the changes; and

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

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

6                   “(1) the development of an accurate address  
7 list;

8                   “(2) data collection, processing, and dissemina-  
9 tion;

10                   “(3) recruiting and hiring of temporary employ-  
11 ees;

12                   “(4) marketing, communications, and partner-  
13 ships; and

14                   “(5) coverage measurement.”.

15           (b) CLERICAL AMENDMENT.—The table of sections  
16 for chapter 1 of title 13, United States Code, is amended  
17 by inserting after the item relating to section 16 the fol-  
18 lowing new item:

          “17. Annual reports.”.

19           (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to budget requests for fiscal years  
21 beginning after September 30, 2010.

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