

Calendar No. 647

111TH CONGRESS }
2d Session }

SENATE

{ REPORT
111-351 }

CENSUS OVERSIGHT EFFICIENCY AND
MANAGEMENT REFORM ACT OF 2010

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

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



NOVEMBER 18, 2010.—Ordered to be printed

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CENSUS OVERSIGHT EFFICIENCY AND MANAGEMENT REFORM ACT OF 2010

NOVEMBER 18, 2010.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 3167]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (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, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

I. PURPOSE AND SUMMARY

Recent decennial censuses have been plagued by poor planning, poor management and poor implementation, problems due at least in part to the failure of the Commerce Department—the agency which houses the Census Bureau—to pay adequate attention to this critical and constitutionally mandated function. S. 3167 seeks to address these problems by bringing much needed stability of leadership and organizational reform to the Census Bureau. Specifically, S. 3167 would create a term appointment for the Director of the Census Bureau, authorize a structural reorganization that would grant the Director direct access to the Secretary of Commerce, and require the Census Bureau to share its budget request with Congress to ensure adequate financial support for the planning and preparation of the census.

II. BACKGROUND AND NEED FOR LEGISLATION

For the past 220 years, the Constitution has required the government to count our nation's population every ten years.¹ The responsibility for that endeavor—known as the decennial census—has long fallen to the Census Bureau (the Bureau), an agency housed in the Department of Commerce. Although the Constitution requires only a head count made for the purposes of apportioning seats in the House of Representatives, Congress over the years has added to both the decennial census and numerous other Bureau surveys a far broader range of statistic collecting responsibilities. The Bureau now gathers vital economic and demographic data that policy makers at all levels of government and private businesses rely on for a myriad of purposes, including distributing federal funding for a variety of civic programs and public works efforts; drawing federal, state, and local legislative districts; and enterprise planning and investment.

Collecting all of this information and ensuring its reliability is a critical, challenging and highly complicated task. It requires great focus and active and sustained management, especially when it comes to the decennial census, which has rightly earned the moniker of our nation's largest peacetime mobilization.

Despite its critical importance, poor planning and management have marked the decennial census, unnecessarily raising both the survey's costs and the risk that it will not accurately do what it is required to do. The Government Accountability Office (GAO), for one, has long labeled the decennial census "at risk," and concerns over the head count's accuracy have caused great controversy under Democratic and Republican administrations alike. Most recently, the 2010 Census encountered serious operational and management challenges that not only threatened to jeopardize its success, but also increased the total cost of the census to an estimated \$12.9 billion, making it the most expensive census in the nation's history.²

Planning for the decennial census takes years, and each planning cycle brings about its own set of challenges. The 1990 Census was the first census since 1940 that was less accurate than the one before it.³ Ten years later, the 2000 Census continued to yield a widespread undercount that disproportionately affected minorities and the poor.⁴

While previous decennial censuses relied on a paper-based operation, the Bureau planned to make greater use of automation in conducting the 2010 Census. GAO and the Department of Commerce's Office of Inspector General raised concerns early on about the Census Bureau's efforts to automate census operations and manage the contractors hired to perform the work, but the Census Bureau failed to take any meaningful action to address these con-

¹ U.S. Constitution, Article I, Sec. 2.

² The initial cost estimate of the 2010 Census was \$14.5 billion; however, the Census came in twenty-two percent under budget, resulting in a net savings of \$1.6 billion. U.S. Department of Commerce. "U.S. Commerce Secretary Gary Locke Announces \$1.6 Billion in 2010 Census Savings." August 10, 2010. <http://www.commerce.gov/news/press-releases/2010/08/10/us-commerce-secretary-secretary-gary-locke-announces-16-billion-2010>.

³ GAO, *2010 Census: Data Collection Is Under Way, but Reliability of Key Information Technology Systems Remains a Risk*, GAO-10-567T (Washington, D.C.: Mar. 2010).

⁴ GAO, *2010 Census: The Bureau's Plans for Reducing the Undercount Show Promise, but Key Uncertainties Remain*, GAO-08-1167T (Washington, D.C.: Sept. 2009).

cerns. In a 2004 audit, GAO found that management had failed to create a comprehensive project plan with information on operational milestones, measurable performance goals, and costs.⁵

Similarly, the Inspector General (IG) noted that the Census Bureau was not prepared to manage the major information technology contracts needed to automate the 2010 Census. The IG found weaknesses in the Bureau's ability to define complete and verifiable system requirements, prepare the solicitation, select a competent contractor, and oversee contractor performance to ensure systems were fully developed, tested, and finalized before operations began.⁶

In March 2006, the Bureau awarded a \$596 million contract to the Harris Corporation for the development of a Field Data Collection Automation (FDCA) system.⁷ The contract required Harris to provide automated resources for supporting field data collection, including the provision of handheld computers for two major decennial operations: (1) identifying and correcting addresses for all known living quarters⁸ (2) and collecting information from households that failed to return census questionnaires.⁹ The Bureau believed the handheld computers would reduce the amount of paper used, process data in real time, and improve the quality of the data while reducing the cost of the decennial census.

Problems with the FDCA contract arose shortly after it was executed. In October 2007, GAO reported that the Census Bureau had made several changes to the requirements of the contract that contributed to both cost increases and schedule delays of the FDCA program.¹⁰ Due to ongoing weaknesses in the Bureau's management of information technology (including the Bureau's failure to fully specify how it would measure the performance of the handheld devices), uncertainty of cost estimates, and the Bureau's decision to drop testing of several operations critical in conducting the 2010 Census, GAO designated the 2010 Census a high-risk area in March 2008.¹¹

In April 2008, the Department of Commerce and the Bureau announced that the FDCA contract was likely to incur significant cost overruns and schedule delays and the handheld computers were unlikely to be fully operational in time for use during the non-response follow up operation of the 2010 Census. Thus, the Bureau decided to redesign the FDCA program to use the handheld computers for address canvassing, but to revert to "pen and paper" methods for its non-respondent follow-up operation. These last minute design changes increased the total estimated cost of the 2010 Census from \$11.5 billion to approximately \$12.9 billion.¹²

⁵ GAO, *2010 Census: Cost and Design Issues Need to Be Addressed Soon*, GAO-04-37 (Washington, D.C.: Jan. 2004).

⁶ Department of Commerce, Office of Inspector General, *U.S. Census Bureau Improving our Measure of America: What the 2004 Census Test Can Teach Us in Planning for the 2010 Decennial Census* (Sept. 2004) (OIC-16949).

⁷ Harris Corporation. "Harris Corporation Selected for \$600 Million U.S. Census Bureau Field Data Collection Automation Program." (March 30, 2006) http://www.harris.com/view_pressrelease.asp?act=lookup&pr_id=1818.

⁸ This operation is known as address canvassing.

⁹ This operation is often referred to as non-response follow up or (NRFU).

¹⁰ GAO, *Information Technology: Census Bureau Needs to Improve Its Risk Management of Decennial Systems*, GAO-08-79 (Washington, D.C.: Oct. 2007).

¹¹ GAO, *Information Technology: Significant Problems of Critical Automation Program Contribute to Risks Facing 2010 Census*, GAO-08-550T (Washington, D.C.: Mar. 5, 2008).

¹² GAO, *2010 Census: Data Collection Is Under Way, but Reliability of Key Information Technology Systems Remains a Risk*, GAO-10-567T (Washington, D.C.: Mar. 2010).

These technological challenges were further exacerbated by the organizational difficulties confronting the Census Bureau. In addition to the demanding planning and implementation tasks that the Census Bureau routinely faces as it moves closer to enumeration, the Bureau's 2010 operations were further hampered by the disruptions associated with frequent changes in leadership over the decade.

Censuses by their nature cannot be fully designed and fully executed in a short period of time, but the 2010 Census experienced several changes in leadership and vast spans of time with acting or interim Directors which further put the operation at risk. In the 27 months leading up to Census Day (April 1, 2010), the Bureau had three different Senate-confirmed heads. The Bureau's latest Director, Dr. Robert Groves, was confirmed by the Senate on July 13, 2009, just seven months before the start of the 2010 Census. Moreover, the 2010 Census became the fifth of the last seventh censuses to be led by a director appointed just months before the event.

S. 3167 seeks to minimize the operational problems that the lack of steady leadership and management helped cause in prior decennials. The bill would make the Director of the Census Bureau a Presidential Term appointment of five years. Under current law, the Director has no fixed term, but serves at the pleasure of the President. This has been extremely problematic given that the Census Bureau operates on a 10-year cycle, split into two five-year phases—planning and operational—creating the need to ensure continuity across administrations.

Consequently, as the Bureau faces its largest project, the prior census is often conducted by a prior administration. The only institutional memory related to how to run a census rests in career employees at the Census Bureau. This cycle also means that every 20 years—as has occurred recently—the Director of the Census Bureau is a Presidential appointee of a President inaugurated in January of the year ending in '9.' That Director is not in office in time to have any role in the planning of the census he or she is charged to direct.

A fixed term would also signal that the Census Directorship is a scientific rather than political position, as is the case for the head of other statistical agencies such as the Bureau of Labor Statistics and the National Center for Education Statistics.¹³ These too are presidential appointments, but have fixed terms. In fact, among all high level presidential appointees with scientific responsibilities, the Census Bureau Director is unique in not having a fixed term.¹⁴

To further ensure the independence of the Census Bureau, the bill authorizes the Director to report directly to the Secretary of Commerce without being required to report through any other official at the Department. Under current law, the Census Bureau is housed within the Department of Commerce and is required to report to the head of the Economic and Statistics Administration (ESA), a subagency comprised of both Census and the Bureau of Economic Analysis (BEA).

¹³The Bureau of Labor Statistics and the National Center for Education Statistics have heads who are appointed and confirmed to fixed terms of 4 and 6 years, respectively (29 U.S.C. § 3 and 20 U.S.C. § 9517(b)).

¹⁴13 U.S.C. § 21.

The Commerce Department is responsible for many activities and several very large agencies. For the Commerce Department, the importance of the Census Bureau waxes and wanes, peaking as the Decennial approaches but then drifting down the Department's priority list.¹⁵ The Census Bureau, however, conducts extensive preparatory activities for the Decennial Census during the entire decade preceding it. Having direct access to the Secretary provides the Census Bureau with greater attention from departmental policy makers, as well as the opportunity to present the case for new statistical initiatives and budgetary resources to the secretary directly.

The other major provision of the bill requires the Bureau to share with Congress the budget request it submits to Commerce prior to the request's submission to the Office of Management and Budget (OMB). The Census budget is cyclical and must increase dramatically in the years preceding the census to pay for necessary preparations. These preparations include opening early local offices, hiring temporary headquarters and regional staff, printing hundreds of millions of forms, verifying local addresses across the country, and conducting promotional activities.

This provision enables the Bureau to better inform Congress of its budgetary needs early on while allowing Congress to gain a better assessment of the Bureau's needs as the final preparations for decennial operations begin. Further, it also provides Congress with prompt notification of operational problems, similar to those experienced with the handheld computers, which could result in significant emergency expenditures.¹⁶

The bill also grants the Census Director the authority to submit legislative recommendations, testimony, or comments to Congress without being subjected to prior review by Administration officials. As the nation's largest general-purpose statistical agency, a widely acknowledged position of independence is necessary for the Bureau to have credibility and to carry out its function to provide an unhindered flow of useful, high-quality information to its data users. Without the credibility that comes from a strong degree of independence, users may lose trust in the accuracy and objectivity of the agency's data, and data providers may become less willing to cooperate with agency requests. In essence, the Bureau must be insulated from those parts of the Department carrying out policy-making activities. It must be impartial and avoid even the appearance that its collection, analysis, and reporting processes might be manipulated for political purposes.

Lastly, the bill requires the Census Bureau to re-examine the use of the internet as a public response option for the 2020 Count. As part of its 2010 design, the Bureau originally included internet functionality as part of its Decennial Response Integration System (DRIS) contract, a system that was to collect data from all sources—census forms, telephone interviews, the internet and, at one time, handheld computers—and provide the information to other bureau systems for analysis and processing. In May 2006,

¹⁵ Senate Committee on Homeland Security and Governmental Affairs, Testimony of Dr. Barbara E. Bryant, *Lessons Learned: How the Administration Can Achieve an Accurate and Cost-Effective Census* (March 5, 2009).

¹⁶ Congress provided the Bureau with nearly \$7.1 billion in emergency spending for 2010 decennial census operations in the Legislative Branch Appropriations Act, 2010 (P.L. 111-68).

however, the bureau announced that the internet response option was no longer a requirement of DRIS contract, which was facing delays. The Bureau said it removed the internet requirement from the contract partly because of the potential risks associated with computer security attacks.

The Committee believes that the Bureau should develop plans for internet use early enough in the decade so that security risks can be effectively mitigated. Studies conducted by the National Academy of Sciences all conclude that the use of the internet for data collection in the decennial census presents important opportunities for cost reductions and improvements in data quality. These include cost savings through the reduction in the number of forms that have to be scanned or keyed for data entry, as well as savings in field work as a result of more prompt receipt of individual data.¹⁷

These reforms would, in sum, help ensure that the Census Bureau avoids the operational challenges experienced during past decennials while enjoying the independence of governance that will best enable it to perform its essential function of producing an accurate and cost-effective headcount.

III. LEGISLATIVE HISTORY

S. 3167 was introduced by Senator Carper and Senator Coburn on March 25, 2010, read twice, and then referred to the Committee on Homeland Security and Governmental Affairs. The Committee considered S. 3167 on April 28, 2010. The Committee ordered the bill reported favorably by voice vote, as amended by one amendment offered by Senator Coburn. The amendment states that the Census director must have demonstrated the ability to manage large organizations, and it lengthens the time period for submission of reasons for removal of a Census director by the president from thirty to sixty days prior to removal. Members present for votes on the bill and on the Coburn amendment were Senators Lieberman, Akaka, Carper, Pryor, Burriss, Kaufman, Collins, Coburn, McCain, and Graham.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section states that this measure may be cited as the “Census Oversight Efficiency and Management Reform Act of 2010.”

Section 2. Authorities and duties of the Director and Deputy Director of the Census

Section 2 of the bill amends 13 U.S.C. §21. The section references below are to that U.S. Code provision.

Section 21(a) strikes the current language in 13 U.S.C. §21 and inserts instead definitions for “Director,” “Deputy Director,” and “function.” Director is defined as Director of the Census; Deputy Director as Deputy Director of the Census; and function is specified

¹⁷National Research Council, *Experimentation and Evaluation Plans for the 2010 Census: Interim Report*. Panel on the Design of the 2010 Census Program of Evaluations and Experiments, Lawrence D. Brown, Michael L. Cohen, and Daniel L. Cork, editors. Committee on National Statistics, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press (2008).

to include any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

Section 21(b)(2) maintains the requirement that the Director be appointed by the President, subject to Senate confirmation, while adding a requirement that nominees possess demonstrated ability in management and experience in data collection, analysis, and use. The section authorizes the Director to report directly to the Secretary of Commerce and precludes any other officer or federal agency from requiring the Director to submit legislative recommendations, testimony, or comments for review before their submission to Congress if the material includes a statement indicating that it expresses the Bureau's views and not necessarily the President's.

Section 21(b)(3) creates a five-year term of office for the Director, beginning on January 5, 2012 and states that the Director may not serve more than two full terms. This section further provides that the tenure of anyone appointed to fill a vacancy in the middle of a term lasts only until the end of that term (subject to reappointment). The Director may continue to serve after his or her term has ended, until either he or she is reappointed or a successor is appointed, but in no event for more than one additional year. The President may remove the Director from office, but must communicate reasons for the removal to both House of Congress sixty days prior to doing so.

Section 21(b)(4) states that the Director shall be responsible for the exercise of all powers and the discharge of all duties of the Bureau. This section further provides that the Director has authority and control over all personnel and activities of the Bureau. This authority includes the power to appoint the Deputy Director (who, under Section 21(b)(10), must be a career employee). Currently, the Commerce Secretary, not the Director, appoints the Deputy Director.

Section 21(b)(5) specifies that the Director may establish, alter, consolidate, or discontinue organizational units or components within the Bureau as deemed necessary or appropriate, except those units or components established by law.

Section 21(b)(6) gives the Director the authority to establish advisory committees to provide advice about any of his or her functions. Advisory committee members would serve without pay, but, in accordance with 5 U.S.C. 5703, could have their transportation expenses covered and receive a per diem in lieu of subsistence.

Section 21(b)(7) authorizes the Director, in consultation with the Commerce Secretary, to prescribe such rules and regulations as the Director deems necessary or appropriate to carry out the functions of his or her directorship. This section is intended to allow the Director to issue rules and regulations in order to mitigate or resolve issues that may arise during the course of data collection. This authority is not intended to authorize the Director to waive any current law such as Title 13 or the Administrative Procedure Act (P.L. 79-404).

Section 21(b)(8) provides that the Director may assign duties, and delegate, or authorize successive redelegations of authority to act and render decisions to officers and employees of the Bureau. This section further states that within the limitations of such assignments, delegations, or re-delegations, all official acts and deci-

sions of such officers and employees shall have the same force and effect as though performed or rendered by the Director.

Section 21(b)(9) requires the Census Director to provide budget information to the appropriate Congressional Committees at the time the Director submits a budget request to the Commerce Secretary to be included in the President's budget request, but prior to the Commerce Department's budget request submission to OMB.

Section 21(b)(10) provides that there be a Deputy Director of the Census, who shall serve at the pleasure of the Director and perform such functions as the Director shall designate. The position of Deputy Director shall be a career reserved position. This section further outlines the transition rules for the appointment of the initial Census Director. The initial Director shall be appointed in accordance with the provisions in Section 21(b) of Title 13. However, if as of January 1, 2012, the initial Director has not taken office, the officer serving on December 31, 2011 shall remain in this position until the initial Director has taken office and report directly to the Secretary of Commerce.

Section 3. Internet response option

This section provides that, within 180 days after enactment of this Act, the Director is to give Congress a plan on how the Bureau will test, develop, and implement an option for internet responses to the 2020 census and the American Community Survey. The plan is to include a description of how and when the feasibility of internet responses will be tested, which stakeholders will be consulted, what data will be collected, when they will be collected, and how they will be protected.

Section 4. Annual reports

This section amends Subchapter 1 of chapter 1 of Title 13 of the U.S. Code by adding "annual reports" as a new section. It further provides that, no later than the date the President's budget request is submitted for a fiscal year under 31 U.S.C. 1105, the Director is to give the appropriate congressional committees a comprehensive status report on the next decennial census, beginning with the 2020 census. Each report is to include the following information: (1) a description of the Bureau's performance goals and performance measures for each significant decennial operation; (2) an assessment of the risks associated with each operation, including the interrelationships among the operations and mitigation plans; (3) detailed estimates of milestones for each operation, including estimated testing dates, and justification for any changes to the estimates; (4) updated life-cycle cost estimates for the decennial census, including sensitivity analysis and an explanation of significant changes in the assumptions underlying the estimates; (5) a detailed description of all contracts over \$50 million entered into for each significant decennial operation. In addition, this subsection specifies that the term 'significant decennial operation' includes any program or information technology related to: (1) developing an accurate address list; (2) data collection, processing, and dissemination; (3) recruiting and hiring temporary employees; (4) marketing, communications, and partnerships; and (5) coverage measurement.

V. REGULATORY IMPACT AND EVALUATION

Pursuant to the requirement of paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill. CBO states that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

JUNE 17, 2010.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3167, the Census Oversight Efficiency and Management Reform Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 3167—Census Oversight Efficiency and Management Reform Act of 2010

S. 3167 would amend current law to provide for a five-year term of office for the Director of the Census and to specify the authority and duties of both the Director and Deputy Director. The bill also would require the Bureau of the Census to plan for an Internet response option for the 2020 Census and for the American Community Survey. Finally, S. 3167 would require the bureau to prepare an annual report for the Congress on the status of the next decennial census.

Based on information from the Bureau of the Census, CBO estimates that implementing the provisions of S. 3167 would not significantly increase spending subject to appropriation because efforts to plan for an Internet response option are already underway. Enacting S. 3167 would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply.

S. 3167 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Susan Willie. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 3167 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in *roman*):

Title: 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.

TITLE 13—CENSUS

CHAPTER 1—ADMINISTRATION

Subchapter II—Officers and Employees

SEC. 21. DIRECTOR OF THE CENSUS; DEPUTY DIRECTOR OF THE CENSUS; AUTHORITY; AND DUTIES.

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

(1) ‘Director’ means the Director of the Census;

(2) ‘Deputy Director’ means the Deputy Director of the Census;
and

(3) ‘function’ includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(b) DIRECTOR OF THE CENSUS.—

(1) APPOINTMENT.—

(A) IN GENERAL.—The Bureau shall be headed by a Director of the Census, appointed by the President, by and with the advice and consent of the Senate. The Director shall perform such duties as may be imposed upon him by law, regulations, or orders of the Secretary.

(B) QUALIFICATIONS.—Such appointment shall be made from individuals who have a demonstrated ability in management and experience in the collection, analysis, and use of statistical data.

(2) GENERAL AUTHORITY AND DUTIES.—

(A) IN GENERAL.—The Director shall report directly to the Secretary without being required to report through any other official of the Department of Commerce.

(B) DUTIES.—The Director shall perform such duties as may be imposed upon the Director by law, regulations, or orders of the Secretary.

(C) INDEPENDENCE OF DIRECTOR.—No officer or agency of the United States shall have any authority to require the Director to submit legislative recommendations, or testimony, or comments for review prior to the submission of such recommendations, testimony, or comments to Congress if such recommendations, testimony, or comments to Congress include a statement indicating that the views expressed therein are those of the Bureau and do not necessarily represent the views of the President.

(3) TERM OF OFFICE.—

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

(B) VACANCIES.—Any individual appointed to fill a vacancy in such position, occurring before the expiration of the term for which such individual’s predecessor was appointed, shall be appointed for the remainder of that term. The Director may serve after the end of the Director’s term until reappointed or until a successor has been appointed,

but in no event longer than 1 year after the end of such term.

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

(4) *FUNCTIONS.*—The Director shall be responsible for the exercise of all powers and the discharge of all duties of the Bureau, and shall have authority and control over all personnel and activities thereof.

(5) *ORGANIZATION.*—The Director may establish, alter, consolidate, or discontinue such organizational units or components within the Bureau as the Director considers necessary or appropriate, except that this paragraph shall not apply with respect to any unit or component provided for by law.

(6) *ADVISORY COMMITTEES.*—The Director may establish advisory committees to provide advice with respect to any function of the Director. Members of any such committee shall serve without compensation, but shall be entitled to transportation expenses and per diem in lieu of subsistence in accordance with section 5703 of title 5.

(7) *REGULATIONS.*—The Director may, in consultation with the Secretary, prescribe such rules and regulations as the Director considers necessary or appropriate to carry out the functions of the Director.

(8) *DELEGATIONS, ETC.*—The Director may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Bureau as the Director may find necessary. Within the limitations of such assignments, delegations, or redelegations, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Director. An assignment, delegation, or redelegation under this paragraph may not take effect before the date on which notice of such assignment, delegation, or redelegation (as the case may be) is published in the Federal Register.

(9) *BUDGET REQUESTS.*—At the time the Director submits a budget request to the Secretary for inclusion in the President's budget request for a fiscal year submitted under section 1105 of title 31, and prior to the submission of the Department of Commerce budget to the Office of Management and Budget, the Director shall provide that budget information to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate, as well as the Committees on Appropriations of the House of Representatives and the Senate. All other budget requests from the Bureau to the Secretary shall be made available to the Committees on Appropriations of the House of Representatives and the Senate.

(10) *OTHER AUTHORITIES.*—

(A) *PERSONNEL.*—Subject to sections 23 and 24, but notwithstanding any other provision of law, the Director, in carrying out the functions of the Director or the Bureau, may use the services of officers and other personnel in other

Federal agencies, including personnel of the Armed Forces, with the consent of the head of the agency concerned.

(B) *VOLUNTARY SERVICES.*—*Notwithstanding section 1342 of title 31, or any other provision of law, the Director may accept and use voluntary and uncompensated services.*

(c) *DEPUTY DIRECTOR.*—

(1) *IN GENERAL.*—*There shall be in the Bureau a Deputy Director of the Census, who shall be appointed by and serve at the pleasure of the Director. The position of Deputy Director shall be a career reserved position within the meaning of section 3132(a)(8) of title 5.*

(2) *FUNCTIONS.*—*The Deputy Director shall perform such functions as the Director shall designate.*

(3) *TEMPORARY AUTHORITY TO PERFORM FUNCTIONS OF DIRECTOR.*—*The provisions of sections 3345 through 3349d of title 5 shall apply with respect to the office of Director. The first assistant to the office of Director is the Deputy Director for purposes of applying such provisions.*

(b) *TRANSITION RULES.*—

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

(2) *INTERIM ROLE OF CURRENT DIRECTOR OF THE CENSUS AFTER DATE OF ENACTMENT.*—*If, as of January 1, 2012, the initial Director of the Bureau of the Census has not taken office, the officer serving on December 31, 2011, as Director of the Census (or Acting Director of the Census, if applicable) in the Department of Commerce—*

(A) *shall serve as the Director of the Bureau of the Census;*

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

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

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

“21. Director of the Census; Deputy Director of the Census; authority and duties.”

(d) *TECHNICAL AND CONFORMING AMENDMENTS.*—*Not later than January 1, 2011, the Secretary of Commerce, in consultation with the Director of the Census, shall submit to each House of the Congress draft legislation containing any technical and conforming amendments to title 13, United States Code, and any other provisions which may be necessary to carry out the purposes of this Act.*

SEC. 3. INTERNET RESPONSE OPTION.

Not later than 180 days after the date of the enactment of this Act, the Director of the Census, shall provide a plan to Congress on how the Bureau of the Census will test, develop, and implement an Internet response option for the 2020 Census and the American Community Survey. The plan shall include a description of how and when feasibility will be tested, the stakeholders to be consulted, when and what data will be collected, and how data will be protected.

SEC. 4. ANNUAL REPORTS.

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

“SEC. 17. ANNUAL REPORTS.

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

“(1) A description of the Bureau’s performance goals for each significant decennial operation, including the performance measures for each operation.

“(2) An assessment of the risks associated with each significant decennial operation, including the interrelationships between the operations and a description of relevant mitigation plans.

“(3) Detailed milestone estimates for each significant decennial operation, including estimated testing dates, and justification for any changes to milestone estimates.

“(4) Updated cost estimates for the life cycle of the decennial census, including sensitivity analysis and an explanation of significant changes in the assumptions on which such cost estimates are based.

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

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

“(B) justification for the changes; and

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

“(b) For purposes of this section, the term ‘significant decennial operation’ includes any program or information technology related to—

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

“(2) data collection, processing, and dissemination;

“(3) recruiting and hiring of temporary employees;

“(4) marketing, communications, and partnerships; and

“(5) coverage measurement.”.

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

17. Annual reports.

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