



## MEMORANDUM

March 24, 2010

**To:** Honorable Carolyn Maloney  
Attention: Kristina Spiegel

**From:** Jennifer D. Williams, Specialist in American National Government, 7-8640

**Subject:** Section-by-Section Summary of a Draft Bill to Amend Title 13 U.S.C.

---

This memorandum responds to your request for a section-by-section summary of a draft bill to amend Title 13 of the *United States Code* to provide for a five-year term of office for the Census Bureau Director, provide for the Director's and Deputy Director's authority and duties, "and for other purposes." The bill's short title is the "Census Oversight Efficiency and Management Reform Act of 2010," which you referred to as the Carper, Maloney, Coburn, Dent bill for its House (Representatives Maloney and Dent) and Senate (Senators Carper and Coburn) sponsors.

In several noteworthy ways, the proposal is designed to make the Census Bureau Director, and the Bureau itself, somewhat more autonomous within the Commerce Department and more independent of the executive branch than is now the case, even though the Bureau would remain in Commerce.<sup>1</sup>

- The Director would continue to be a presidential appointee, confirmed by the Senate, but would have a fixed—rather than an indefinite—term of office.
- If the Director were to be removed from office, the President would have to give the House and Senate 30 days' advance notice of the removal, along with written reasons for it. This provision could lessen any likelihood of removal for arbitrary or political reasons.
- The Director, by being made to report directly to the Commerce Secretary instead of, as at present, the Under Secretary for Economic Affairs, might have greater access to the Secretary in advocating for the Bureau.
- If the Director intended to submit to Congress legislative recommendations, testimony, or comments that expressed the Bureau's perspective, not necessarily the President's, the Director could not be required to have this material reviewed first by another official.
- The Director could gain a degree of budgetary independence by being required, when submitting the Bureau's budget request for any fiscal year to the Secretary, to submit it also to the House and Senate committees that have oversight and appropriations responsibility for the Bureau. Congress, in other words, would see the request before its review and possible revision by the Commerce Department and the Office of

---

<sup>1</sup> H.R. 1254, which Representative Maloney introduced on March 3, 2009, would have made the Bureau an independent establishment.

Management and Budget. The Bureau's appropriations, however, would remain under the immediate purview of the Appropriations Committees' Commerce, Justice, Science, and Related Agencies Subcommittees, and would continue to be balanced against the funding needs of all these other agencies.

The summary you requested begins on the next page of this memorandum. I hope that it will be useful to your office. If you need further assistance with Census Bureau matters, please contact me at the telephone number above or by e-mail to [jwilliams@crs.loc.gov](mailto:jwilliams@crs.loc.gov).

## Section 1. Short Title.

This section states the bill’s short title, the “Census Oversight Efficiency and Management Reform Act of 2010.”

## Sec. 2. Authorities and Duties of the Director and Deputy Director of the Census.

(a) In General.—13 U.S.C. §21 is amended to read as follows:

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

“(a) Definitions.—As used in this section—

“(1) ‘Director’ means the Census Bureau’s Director;

“(2) ‘Deputy Director’ means the Bureau’s Deputy Director; 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 is to be headed by a Director, appointed by the President, by and with the advice and consent of the Senate.

“(B) Qualifications.—The appointee is to have demonstrated ability in management and experience in data collection, analysis, and use.

“(2) General Authority and Duties.—

“(A) In General.—The Director is to report directly to the Secretary of Commerce and is not required to report through any other Commerce Department official.

“(B) Duties.—The Director is to perform duties imposed on him or her by law, regulations, or orders of the Secretary.

“(C) Independence of Director.—No officer or agency of the United States is to have any authority to require the Director to submit legislative recommendations, testimony, or comments for review before their submission to Congress if they include a statement indicating that they express the Bureau’s views and not necessarily the President’s.

“(3) Term of Office.—

“(A) In General.—The Director’s term of office is to be five years, beginning on January 1, 2012 and every fifth year thereafter. He or she may not serve more than two full terms.

“(B) Vacancies.—If the Director vacates the position before his or her term has ended, anyone appointed to fill the vacancy is to be appointed for the rest of the term. The Director

may continue to serve after his or her term has ended until being reappointed or until a successor is appointed, but no longer than one year after the end of the term.

“(C) Removal.—The President may remove the Director from office. No later than 30 days before the removal, the President is to communicate in writing, to both houses of Congress, the reasons for it.

“(4) Functions.—The Director is to be responsible for exercising all powers and discharging all duties of the Bureau, and is to have authority and control over all its personnel and activities.

“(5) Organization.—The Director, as he or she considers necessary or appropriate, may establish, alter, consolidate, or discontinue components of the Bureau, unless they are provided for by law.

“(6) Advisory Committees.—The Director may establish advisory committees to provide advice about any of his or her functions. Advisory committee members are to serve without pay, but, in accordance with 5 U.S.C. §5703, may have their transportation expenses covered and receive per diem in lieu of subsistence.

“(7) Regulations.—The Director, in consultation with the Secretary, may prescribe rules and regulations that he or she considers necessary or appropriate to carry out his or her functions.

“(8) Delegations, etc.—The Director, as he or she finds necessary, may assign duties and delegate, or authorize successive redelegations of, authority to act and make decisions to other Bureau officers and employees. Within the limitations of such assignments, delegations, or redelegations, all these individuals’ official acts and decisions are to have the same force and effect as if they were the Director’s. An assignment, delegation, or redelegation may not take effect before notice of it appears in the *Federal Register*.

“(9) Budget Requests.—When the Director submits a budget request to the Secretary for inclusion in the President’s budget request for a fiscal year, under 31 U.S.C. §1105, and before the Commerce Department’s budget is submitted to the Office of Management and Budget, the Director is to provide the same budget information to the House Oversight and Government Reform Committee, the Senate Homeland Security and Governmental Affairs Committee, and the House and Senate Appropriations Committees. All other budget requests from the Bureau to the Secretary are to be made available to the Appropriations Committees.

“(10) Other Authorities.—

“(A) Personnel.—Subject to 13 U.S.C. §§ 23-24, but notwithstanding any other provision of law, the Director, in carrying out his or her or the Bureau’s functions, may use the services of officers and other personnel in other federal agencies, including Armed Forces personnel, with the agency head(s)’ consent.

“(B) Voluntary Services.—Notwithstanding 31 U.S.C. §1342 or any other provision of law, the Director may accept and use voluntary, uncompensated services.

“(c) Deputy Director.—

“(1) In General.—The Bureau is to have a Deputy Director appointed by, and serving at the pleasure of, the Director. The Deputy Director position is to be a career reserved position within the meaning of 5 U.S.C. §3132(a)(8).

---

“(2) Functions.—The Deputy Director is to perform functions that the Director designates.

“(3) Temporary Authority to Perform Functions of Director.—The provisions of 5 U.S.C. §§ 3345-3349(d) are to apply to the office of Director. The first assistant to this office is to be the Deputy Director for purposes of applying such provisions.”

(b) Transition Rules.—

(1) Appointment of Initial Director.—The initial Director is to be appointed in accordance with 13 U.S.C. §21(b), as amended by subsection (a).

(2) Interim Role of Current Director of the Census After Effective Date of New Bureau of the Census.—If the initial Bureau Director has not taken office by January 1, 2012, the officer who was serving on December 31, 2011 as Director (or Acting Director, if applicable)—

(A) is to serve as the Director;

(B) is to assume the Director’s powers and duties until the initial Director takes office;

(C) is to report directly to the Commerce Secretary.

(c) Clerical Amendment.—The item relating to §21 in the table of sections for chapter 1 of 13 U.S.C. is amended to read as follows:

(d) Technical and Conforming Amendments.—No later than January 1, 2011, the Commerce Secretary, in consultation with the Bureau Director, is to submit to each house of Congress draft legislation with any technical and conforming amendments to 13 U.S.C. and any other provisions that may be necessary to carry out this Act.

### **Sec. 3. Internet Response Option.**

No later than 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.

### **Sec. 4. Annual Reports.**

(a) In General.—Subchapter I of chapter 1 of 13 U.S.C. is amended by adding at the end the following new section:

#### **“§17. Annual reports**

“(a) 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, 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 contract costs.

“(b) For purposes of this section, 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.”.

(b) Clerical Amendment.—The table of sections for chapter 1 of 13 U.S.C. is amended by inserting after the item relating to §16 the following new item:

“17. Annual reports.”.

(c) Effective Date.—The amendments made by this section are to apply to budget requests for fiscal years beginning after September 30, 2010.