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(Original Signature of Member)

111TH CONGRESS
1ST SESSION

H. R.

To make the Census Bureau an independent establishment.

IN THE HOUSE OF REPRESENTATIVES

Mrs. MALONEY introduced the following bill; which was referred to the
Committee on _____

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 is
8 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-

1 ner, using modern statistical, computational, and
2 operational methods to the fullest extent possible,
3 consonant with applicable law.

4 (5) The credibility and impartiality of data
5 from a Federal statistical agency depends critically
6 on whether the agency operates from a strong posi-
7 tion of independence; therefore, the authority for
8 conducting the decennial census of population and
9 any economic or other censuses or surveys should be
10 vested in an agency with a clear and well-defined po-
11 sition of independence.

12 (6) In addition to a formal, strong position of
13 independence, the operating principles of the agency
14 (as described in paragraph (5)) should include—

15 (A) openness about the sources and limita-
16 tions of the data provided;

17 (B) dissemination of data as widely as pos-
18 sible, according to published schedules for re-
19 lease of key statistics;

20 (C) continual search for the development
21 of more useful data, in terms of cost-effective-
22 ness, accuracy, timeliness, and relevance to
23 public purposes;

24 (D) regular evaluation of major data col-
25 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 duties and responsibilities of the
16 office of Director.

17 (b) TERM OF OFFICE.—The term of office of any in-
18 dividual appointed as Director shall be 5 years. In any
19 case in which a successor does not take office at the end
20 of a Director’s term, such Director may continue in office
21 until the entry upon office of such a successor, except that
22 such Director may not continue to serve for more than
23 1 year after the date on which the term of the Director
24 would otherwise expire, unless reappointed. A Director ap-
25 pointed to a term of office after the commencement of

1 such term may serve under such appointment only for the
2 remainder of such term, except that, in the circumstance
3 described in the preceding sentence, such Director may
4 continue to serve, after the date on which the term of the
5 Director would otherwise expire, to the extent allowable
6 under such sentence. An individual serving in the office
7 of Director may be removed from office only pursuant to
8 a finding by the President of neglect of duty or malfea-
9 sance in office. The President shall communicate the rea-
10 sons for any such removal to each House of the Congress.

11 (c) FUNCTIONS.—The Director shall be responsible
12 for the exercise of all powers and the discharge of all du-
13 ties of the Census Bureau, and shall have authority and
14 control over all personnel and activities thereof.

15 (d) ORGANIZATION.—The Director may establish,
16 alter, consolidate, or discontinue such organizational units
17 or components within the Census Bureau as the Director
18 considers necessary or appropriate, except that this sub-
19 section shall not apply with respect to any unit or compo-
20 nent provided for by law.

21 (e) ADVISORY COMMITTEES.—The Director may es-
22 tablish advisory committees to provide advice with respect
23 to any function of the Director. Members of any such com-
24 mittee shall serve without compensation, but shall be enti-
25 tled to transportation expenses and per diem in lieu of

1 subsistence in accordance with section 5703 of title 5,
2 United States Code.

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

6 (g) DELEGATIONS ETC.—The Director may assign
7 duties, and delegate, or authorize successive redelegations
8 of, authority to act and to render decisions, to such offi-
9 cers and employees of the Census Bureau as the Director
10 may find necessary. Within the limitations of such assign-
11 ments, delegations, or redelegations, all official acts and
12 decisions of such officers and employees shall have the
13 same force and effect as though performed or rendered
14 by the Director. An assignment, delegation, or redelega-
15 tion under this subsection may not take effect before the
16 date on which notice of such assignment, delegation, or
17 redelegation (as the case may be) is published in the Fed-
18 eral Register.

19 (h) OTHER AUTHORITIES.—

20 (1) PERSONNEL.—Notwithstanding any other
21 provision of law, the Director, in carrying out the
22 functions of the Director or the Census Bureau, may
23 use the services of officers and other personnel in
24 other Federal agencies, including personnel of the

1 armed forces, with the consent of the head of the
2 agency concerned.

3 (2) VOLUNTARY SERVICES.—Notwithstanding
4 section 1342 of title 31, United States Code, or any
5 other provision of law, the Director may accept and
6 use voluntary and uncompensated services.

7 (i) COMPENSATION.—Level IV of the Executive
8 Schedule under section 5315 of title 5, United States
9 Code, applies with respect to the office of Director.

10 **SEC. 6. DEPUTY DIRECTOR.**

11 (a) IN GENERAL.—There shall be in the Census Bu-
12 reau a Deputy Director of the United States Census Bu-
13 reau, who shall be appointed by and serve at the pleasure
14 of the Director. The position of Deputy Director shall be
15 a career reserved position within the meaning of section
16 3132(a)(8) of title 5, United States Code.

17 (b) FUNCTIONS.—The Deputy Director shall perform
18 such functions as the Director shall designate. During any
19 absence or disability of the Director, the Deputy Director
20 shall act as Director. In the event of a vacancy in the of-
21 fice of Director, the Deputy Director shall act as Director
22 until a Director is appointed.

1 **SEC. 7. TRANSFERS.**

2 (a) FUNCTIONS.—There shall be transferred to and
3 vested in the Director all functions that, as of December
4 31, 2011, were—

5 (1) vested in the Secretary of Commerce by title
6 13, United States Code, Executive order, or any
7 other provision of law; and

8 (2) delegated to the Director of the Census
9 within the Department of Commerce.

10 (b) PERSONNEL, ASSETS, ETC.—

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

14 (A) the personnel employed in connection
15 with the functions transferred by subsection
16 (a); and

17 (B) the assets, liabilities, contracts, prop-
18 erty, records, and unexpended balance of appro-
19 priations, authorizations, allocations, and other
20 funds employed, held, or used in connection
21 with such functions, arising from such func-
22 tions, or available, or to be made available, in
23 connection with such functions.

24 (2) UNEXPENDED FUNDS.—Unexpended funds
25 transferred pursuant to this subsection shall be used

1 only for the purposes for which the funds were origi-
2 nally appropriated.

3 (3) EMPLOYMENT PROTECTION.—During the 1-
4 year period beginning on January 1, 2012, the
5 transfer pursuant to this section of any full-time
6 personnel (except special Government employees)
7 and part-time personnel holding permanent positions
8 shall not cause any such personnel to be separated
9 or reduced in grade or compensation solely as a re-
10 sult of such transfer.

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

13 **SEC. 8. TRANSITION RULES.**

14 (a) RELATING TO OFFICERS.—

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

19 (2) INTERIM ROLE OF CURRENT DIRECTOR OF
20 THE CENSUS AFTER EFFECTIVE DATE OF NEW CEN-
21 SUS BUREAU.—If, as of January 1, 2012, the initial
22 Director of the United States Census Bureau has
23 not taken office, the officer serving on December 31,
24 2011, as Director of the Census (or Acting Director
25 of the Census, if applicable) in the Department of

1 Commerce shall serve as the Director of the United
2 States Census Bureau, and shall assume the powers
3 and duties of such Director, until the initial Director
4 has taken office.

5 (b) CONTINUATION OF ORDERS, DETERMINATIONS,
6 RULES, REGULATIONS, ETC.—All orders, determinations,
7 rules, regulations, permits, contracts, collective bargaining
8 agreements (and ongoing negotiations relating to such col-
9 lective bargaining agreements), recognitions of labor orga-
10 nizations, certificates, licenses, and privileges—

11 (1) which have been issued, made, promulgated,
12 granted, or allowed to become effective, in the exer-
13 cise of functions (A) which were exercised by the
14 Secretary of Commerce (or delegate thereof), and
15 (B) which relate to functions which, by reason of
16 this Act are vested in the Director of the United
17 States Census Bureau, and

18 (2) which are in effect as of December 31,
19 2011,
20 shall continue in effect according to their terms until
21 modified, terminated, suspended, set aside, or repealed by
22 the Director of the United States Census Bureau, except
23 that any collective bargaining agreement shall remain in
24 effect until the date of termination in accordance with
25 such agreement.

1 (c) CONTINUATION OF PROCEEDINGS.—The provi-
2 sions of this Act shall not affect any proceeding pending
3 before the Secretary of Commerce (or delegate thereof) as
4 of December 31, 2011, with respect to functions which
5 (by reason of this Act) are vested in the Director of the
6 United States Census Bureau, except that such pro-
7 ceedings, to the extent that such proceedings relate to
8 such functions, shall continue before such Director. Orders
9 shall be issued under any such proceeding, appeals taken
10 therefrom, and payments shall be made pursuant to such
11 orders, in like manner as if this Act had not been enacted,
12 and orders issued in any such proceeding shall continue
13 in effect until modified, terminated, superseded, or re-
14 pealed by such Director, by a court of competent jurisdic-
15 tion, or by operation of law.

16 (d) CONTINUATION OF SUITS.—Except as provided
17 in this subsection—

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

20 (2) in all such suits, proceedings shall be had,
21 appeals taken, and judgments rendered, in the same
22 manner and effect as if this Act had not been en-
23 acted.

24 No cause of action, and no suit, action, or other pro-
25 ceeding commenced by or against any officer in such offi-

1 cer's official capacity as an officer of the Department of
2 Commerce, shall abate by reason of the enactment of this
3 Act. In any suit, action, or other proceeding pending as
4 of December 31, 2011, the court or hearing officer may
5 at any time, on the motion of the court or hearing officer
6 or that of a party, enter an order which will give effect
7 to the provisions of this subsection (including, where ap-
8 propriate, an order for substitution of parties).

9 (e) CONTINUATION OF PENALTIES.—This Act shall
10 not have the effect of releasing or extinguishing any civil
11 or criminal prosecution, penalty, forfeiture, or liability in-
12 curred as a result of any function which (by reason of this
13 Act) is vested in the Director of the United States Census
14 Bureau.

15 (f) JUDICIAL REVIEW.—Orders and actions of the
16 Director of the United States Census Bureau in the exer-
17 cise of functions vested in such Director by reason of this
18 Act shall be subject to judicial review to the same extent
19 and in the same manner as if such orders had been made
20 and such actions had been taken by the Secretary of Com-
21 merce in the exercise of such functions immediately before
22 the transfer described in section 7(a). Any statutory re-
23 quirements relating to notice, hearings, action upon the
24 record, or administrative review that apply to any function

1 so vested in such Director shall continue to apply to the
2 exercise of such function by such Director.

3 (g) **EXERCISE OF FUNCTIONS.**—In the exercise of the
4 functions vested in the Director of the United States Cen-
5 sus Bureau under this Act, such Director shall have the
6 same authority as that vested in the Secretary of Com-
7 merce with respect to the exercise of such functions imme-
8 diately preceding the vesting of such functions in such Di-
9 rector, and actions of such Director shall have the same
10 force and effect as if exercised by such Secretary.

11 **SEC. 9. INSPECTOR GENERAL.**

12 (a) **IN GENERAL.**—Section 11 of the Inspector Gen-
13 eral Act of 1978 (5 U.S.C. App.) is amended—

14 (1) in paragraph (1), by striking “or the Fed-
15 eral Cochairpersons of the Commissions established
16 under section 15301 of title 40, United States
17 Code;” and inserting “the Federal Cochairpersons of
18 the Commissions established under section 15301 of
19 title 40, United States Code; or the Director of the
20 United States Census Bureau;”; and

21 (2) in paragraph (2), by striking “or the Com-
22 missions established under section 15301 of title 40,
23 United States Code,” and inserting “the Commis-
24 sions established under section 15301 of title 40,

1 United States Code, or the United States Census
2 Bureau,”.

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

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

6 Not later than January 1, 2011, the Director of the
7 Census shall submit to each House of the Congress draft
8 legislation containing any technical and conforming
9 amendments to title 13, United States Code, and any
10 other provisions which may be necessary to carry out the
11 purposes of this Act.