



**UNITED STATES DEPARTMENT OF COMMERCE**  
**The Secretary of Commerce**  
Washington, D.C. 20230

December 13, 2010

The Honorable Nancy Pelosi  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Madam Speaker:

This letter provides the views of the Department of Commerce on the Senate-passed version of S. 3167, the "Census Oversight Efficiency and Management Reform Act of 2010." Your continued work on behalf of the Census Bureau is appreciated, and we look forward to working with you to make it an even better agency.

The Department of Commerce's goal is to ensure that the Census Bureau functions as a transparent, cost-effective, and competent organization that is successful in planning and implementing its programs, while maintaining its statistical integrity and freedom from political interference. Therefore, we consider it crucial that we convey the following assessment of several provisions of the legislation as passed by the Senate.

The Department supports the provision of the bill that would create a five-year fixed term for the Census Bureau Director beginning on January 1, 2012. A five-year term (limiting an individual to two full terms) for the Census Bureau Director helps avoid political interference by giving the Director more stability across election cycles. This stability conforms to well-accepted principles and practices of independence for federal statistical agencies and is the current status of the appointment of the Commissioner of the Bureau of Labor Statistics and of the National Center for Education Studies. It may mitigate the risk of having long periods after elections where there is no Senate-confirmed Director, particularly in those years leading up to a decennial census. At the close of the 2010 Census, five of the last seven decennial censuses will have been led by a Director appointed in the year ending in 9 or 0, leading to management uncertainty at critical times during the decennial census cycle.

However, the Department strongly opposes the provision of the bill that could be construed to enable the Census Bureau Director to submit legislative recommendations or testimony or comments to Congress without supervisory review, and has concerns about the provision of the bill that would require the Director of the Census Bureau to report directly to the Secretary of Commerce.

With respect to the proposal concerning the submission of the Census Bureau Director's views directly to Congress where the views include a statement indicating that they do not represent the views of the President, the Department of Justice advises us that in order to avoid infringing on the powers reserved to the President under the Recommendations Clause of the Constitution, the Executive Branch would construe the word "officer," in that provision, not to include the President, thereby allowing him to direct the review of the Director's legislative recommendations, testimony and comments prior to their submission to Congress. Even as so construed, however, the proposal would overreach into Executive Branch prerogatives by bypassing normal communication and decision-making channels within the Executive Branch, and therefore we oppose it. There are always a variety of data policy issues under discussion that are often the subject of testimony or that emerge as legislative recommendations out of a broader Executive Branch decision-making process. It is a prerogative of the Executive Branch to speak with one voice on such issues. The ability to speak with one voice on policy matters does not interfere with statistical agencies' ability to provide unfiltered statistical data. A key principle of government statistical agencies worldwide is that the credibility of the information they provide depends on the public perceiving these data as independent of political intervention.

In addition to this provision, we have concerns about the provision in the bill that would require the Director of the Census Bureau to report directly to the Secretary of Commerce. This provision unnecessarily limits the Secretary's discretion to establish an organizational structure that best suits the needs of the Department.

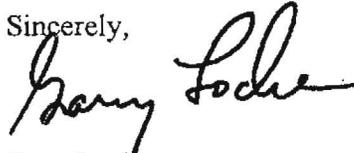
The Director of the Census Bureau has full access and accountability to the Secretary of Commerce. However, there are sound reasons for maintaining the current reporting relationship of the Census Bureau to the Economics and Statistics Administration (ESA). The Under Secretary for Economic Affairs, who heads ESA, serves as the principal adviser to the Secretary on economic issues and also oversees the activities of the Bureau of Economic Analysis (BEA). The Under Secretary is responsible for the analysis and development of policies on economic and statistical issues. One of ESA's primary roles is to interpret the mission of statistical agencies to senior officials within the Department, ensuring that the Office of Management and Budget directives of independence and freedom from political influences are maintained.

Like you, I believe that independence from partisan political interference and effective management oversight and accountability of the Census Bureau is a top priority. I encourage you to take into consideration our concerns and accept our recommendations on this important issue. We are always looking for ways to improve the Census Bureau and look forward to continuing to work with you on this and other important matters.

The Department appreciates the opportunity to present these views on the Senate-passed version of S. 3167. The Office of Management and Budget has advised that there is no objection to the transmittal of these views from the standpoint of the Administration's program.

If you have any questions, please contact me or April Boyd, Assistant Secretary for Legislative and Intergovernmental Affairs, at (202) 482-3663.

Sincerely,

A handwritten signature in black ink that reads "Gary Locke". The signature is written in a cursive style with a large, prominent "G" and "L".

Gary Locke

Identical Letters Sent to:

The Honorable Steny Hoyer  
House Majority Leader

The Honorable John A. Boehner  
House Republican Leader

The Honorable Edolphus Towns  
Chairman, Committee on Oversight and  
Government Reform

cc: The Honorable Darrell Issa  
Ranking Minority Member

The Honorable Wm. Lacy Clay  
Chairman, Subcommittee on Information Policy,  
Census, and National Archives  
Committee on Oversight and Government Reform  
U.S. House of Representatives

cc: The Honorable Patrick Henry  
Ranking Minority Member