

## United States Senate

January 15, 2021

The Honorable Joseph R. Biden, Jr.  
President-elect of the United States  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230

Dear President-Elect Biden,

As you work to undo the damage done to nonpartisan governmental functions, I ask you to consider implementing reforms to prevent the politicization of future decennial censuses. The decennial census is a cornerstone of our constitutional system of government. For example, census data are used to apportion seats in the House of Representatives and the Electoral College. However, for years the Trump Administration interfered with the Census Bureau's work, jeopardizing both the agency's credibility and 2020 Census data.

From the delayed nomination of a qualified and experienced director of the Census Bureau, to the attempted citizenship question, to efforts to end 2020 Census field operations prematurely during the COVID-19 pandemic, the current administration has manipulated the decennial census for partisan purposes. In addition, with the president's executive order directing Commerce Secretary Wilbur Ross to collect citizenship information from federal and state administrative sources, coupled with his unconstitutional memorandum excluding undocumented people from apportionment, there are serious concerns about the fair and accurate distribution of congressional apportionment.

It is imperative that your administration prioritizes fixing the 2020 Census and preventing future politicization. Specifically, your administration should take immediate action to:

- 1) Enact one-time statutory deadline extensions for the delivery of apportionment and redistricting reports, which would give the Census Bureau adequate time to double check 2020 Census data—i.e. language in the bipartisan *2020 Census Deadline Extensions Act* ([S. 4571](#));
- 2) Rescind Executive Order 13880 of Jul 11, 2019: "Collecting Information About Citizenship Status in Connection With the Decennial Census";<sup>1</sup>
- 3) Rescind Memorandum of July 21, 2020: "Excluding Illegal Aliens From the Apportionment Base Following the 2020 Census";<sup>2</sup> and
- 4) Establish a nonpartisan commission to review apportionment data before it is delivered to the House of Representatives to ensure that the data is full, fair, and accurate.

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<sup>1</sup> "Collecting Information About Citizenship Status in Connection With the Decennial Census," EO 13880, 11 July 2019, 84 FR 33821, <https://www.federalregister.gov/documents/2019/07/16/2019-15222/collecting-information-about-citizenship-status-in-connection-with-the-decennial-census>.

<sup>2</sup> "Excluding Illegal Aliens From the Apportionment Base Following the 2020 Census," Memorandum, 85 FR 44679, 21 July 2020, <https://www.federalregister.gov/documents/2020/07/23/2020-16216/excluding-illegal-aliens-from-the-apportionment-base-following-the-2020-census>.

The Census Bureau, a normally nonpartisan agency, under the Trump Administration, faced unprecedented challenges. With the departure of then-Director John Thompson, the Census Bureau had a vacancy in leadership for a year and a half, until Director Steven Dillingham was confirmed.<sup>3</sup> Prior to selecting Director Dillingham, the administration considered a number of unqualified and partisan actors to lead the agency.<sup>4</sup>

At the same time, the Trump Administration attempted to upend decades of precedent and add a citizenship question to the decennial census, with the pretense that it would help with *Voting Rights Act* enforcement.<sup>5</sup> Secretary Ross sought to circumvent the Census Bureau's process of researching and reviewing potential questions to the decennial census—a process that typically takes years.<sup>6</sup>

The Supreme Court ultimately blocked the citizenship question, but the president then issued an executive order directing agencies to provide citizenship information to the Secretary Ross for use in connection with the decennial Census.<sup>7</sup> In a further attempt to politicize the 2020 Census, the president issued a memorandum excluding undocumented people from apportionment.<sup>8</sup> Moreover, the president installed a number of unqualified political appointees—without clear job descriptions—at the Census Bureau, raising further concerns about potential political interference.<sup>9</sup>

Facing the unprecedented confusion surrounding the 2020 Census caused by the Trump Administration's actions, I urged the major social media companies to proactively combat false information about the decennial census.<sup>10</sup> In addition, Senator Lisa Murkowski (R-AK) and I worked to pass a bipartisan resolution reaffirming the Congress's commitment to a full, fair, and accurate 2020 Census, especially for hard-to-count communities such as Native American populations.<sup>11</sup>

Then, the COVID-19 pandemic disrupted 2020 Census plans, forcing the Census Bureau to modify their “get out the count” efforts and postpone nonresponse follow-up operations. After

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<sup>3</sup> Tara Bahrapour, “Senate confirms new Census Bureau director as 2020 survey approaches,” *The Washington Post*, 3 Jan. 2019, [https://www.washingtonpost.com/local/social-issues/senate-confirms-new-census-bureau-director-as-2020-survey-approaches/2019/01/03/5599b2d2-0fa0-11e9-831f-3aa2c2be4cbd\\_story.html](https://www.washingtonpost.com/local/social-issues/senate-confirms-new-census-bureau-director-as-2020-survey-approaches/2019/01/03/5599b2d2-0fa0-11e9-831f-3aa2c2be4cbd_story.html).

<sup>4</sup> Ari Berman, “Trump's Controversial Pick to Run the 2020 Census Withdraws,” *Mother Jones*, 12 Feb. 2018, <https://www.motherjones.com/politics/2018/02/trumps-controversial-pick-to-run-the-2020-census-withdraws/>.

<sup>5</sup> Hansi Lo Wang, “How The 2020 Census Citizenship Question Ended Up In Court,” *NPR*, 4 Nov. 2018, <https://www.npr.org/2018/11/04/661932989/how-the-2020-census-citizenship-question-ended-up-in-court>.

<sup>6</sup> Tim Dickson, “Inside the Trump Administration's Census Scam,” *Rolling Stone*, 13 Dec. 2018, <https://www.rollingstone.com/politics/politics-features/2020-census-citizenship-question-wilbur-ross-767078/>.

<sup>7</sup> Allan Smith and Hallie Jackson, “Trump backs off census citizenship question, issues order to collect data in other ways,” *NBC News*, 11 July 2019, <https://www.nbcnews.com/politics/donald-trump/trump-expected-order-citizenship-question-added-census-n1028656>.

<sup>8</sup> Tara Bahrapour, “Trump administration seeks to bar undocumented immigrants from a portion of the 2020 Census,” *The Washington Post*, 21 July 2020, [https://www.washingtonpost.com/local/social-issues/trump-administration-seeks-to-bar-undocumented-immigrants-from-a-portion-of-the-2020-census/2020/07/21/9af682ee-c87f-11ea-a99f-3bbdff1af38\\_story.html](https://www.washingtonpost.com/local/social-issues/trump-administration-seeks-to-bar-undocumented-immigrants-from-a-portion-of-the-2020-census/2020/07/21/9af682ee-c87f-11ea-a99f-3bbdff1af38_story.html).

<sup>9</sup> Tara Bahrapour, “Lawmakers, inspector general demand answers on Census Bureau political appointees,” *The Washington Post*, 16 July 2020, [https://www.washingtonpost.com/local/social-issues/lawmakers-inspector-general-demand-answers-on-census-bureau-political-appointees/2020/07/16/6c355046-c656-11ea-8ffe-372be8d82298\\_story.html](https://www.washingtonpost.com/local/social-issues/lawmakers-inspector-general-demand-answers-on-census-bureau-political-appointees/2020/07/16/6c355046-c656-11ea-8ffe-372be8d82298_story.html).

<sup>10</sup> Ben Kessler, “Native Americans, the census' most undercounted racial group, fight for an accurate 2020 tally,” *NBC News*, 29 Dec. 2019, <https://www.politico.com/story/2019/08/25/silicon-valley-faces-2020-census-1673443>.

<sup>11</sup> <https://www.nbcnews.com/news/us-news/native-americans-census-most-undercounted-racial-group-fight-accurate-2020-n1105096>.

initially requesting an extension of statutory deadlines for the delivery of apportionment and redistricting data to the Congress, coupled with an extended field operations plan, the administration reversed course and sought to end the count early—during the worst public health crisis of our generation.<sup>12</sup> This risks the accuracy of census data and was a deliberate attempt to undercount communities of color, immigrants, Native Americans, and other hard-to-reach groups. While there has been a bipartisan effort to give the Census Bureau adequate time to do the necessary data quality checks following the enumeration period, those efforts have stalled.<sup>13</sup>

Beyond representation in Congress and state and local legislative bodies, decennial census data help guide the distribution of \$1.5 trillion in federal funding for healthcare, education, roads and bridges, first responders, rural businesses, and other vital services. As the country responds to and recovers from the COVID-19 pandemic, accurate census data is necessary to allocate these federal resources based on population. In addition, census data also allow the private sector to make sound investments by identifying unsaturated or merging growth markets and develop business plans and loan applications.

The Census Bureau faced a number of challenges with the 2020 Census. Some, like the pandemic, were beyond the agency's control. However, the Trump Administration actively interfered with the agency's operations. To prevent politicization of future decennial censuses, your administration should advocate for reforms such as the *Census IDEA Act* ([S. 358](#)), which would prevent last-minute operational changes that are not properly researched, studied, and tested at least three years prior to the next decennial census date. It would also prevent the inclusion of subjects, types of information, and questions that were not submitted to Congress according to existing law.

In addition, your administration should request adequate funding for the Census Bureau in the years leading up to the 2030 Census. These critical years will allow the Census Bureau to refine and reform their internal processes for data collection, processing, and publication. And it will give the agency time to undo the damaging politicization by this administration in preparation for the next decennial census.

Thank you for your attention to this issue. My team and I look forward to continued discussions as you and your team address the 2020 Census and future decennial censuses.

Sincerely,



Brian Schatz  
U.S. SENATOR

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<sup>12</sup> Fredrick Kunkle, "Census Bureau says counting will end a month earlier than planned," *The Washington Post*, 3 Aug. 2020, [https://www.washingtonpost.com/local/census-bureau-says-counting-will-end-a-month-earlier-than-planned/2020/08/03/16990c5e-d5fb-11ea-930e-d88518c57dcc\\_story.html](https://www.washingtonpost.com/local/census-bureau-says-counting-will-end-a-month-earlier-than-planned/2020/08/03/16990c5e-d5fb-11ea-930e-d88518c57dcc_story.html).

<sup>13</sup> Hansi Lo Wang, "Bipartisan Senate Push To Extend Census Begins Weeks Before Count Is Set To End," *NPR*, 15 Sept. 2020, <https://www.npr.org/2020/09/15/913163016/bipartisan-senate-push-to-extend-census-begins-weeks-before-count-is-set-to-end>.