

United States Senate

WASHINGTON, DC 20510

July 2, 2018

The Honorable Wilbur L. Ross, Jr.
Secretary
U.S. Department of Commerce
101 Constitution Ave, NW
Washington, DC 20230

Dear Secretary Ross:

We are concerned by recent reports that your decision to include the last-minute, untested citizenship question was inconsistent with testimony, written responses, and informal conversations you have had with several Members of Congress explaining your decision. We request additional information and answers to ensure that political factors did not play a role in your decision regarding a constitutionally mandated activity that is traditionally nonpartisan.

The decennial census is required under Article I, Section 2 of the U.S. Constitution. It is also the largest peacetime mobilization by the federal government. We have one chance to get the count right. We are committed to a full, fair, and accurate 2020 Census, and we would like to ensure that you continue to share that commitment.

In testimony before Congress, you stated that the Department of Justice (DOJ) “initiated the request” for the citizenship question. In your June 21, 2018, supplemental memorandum, however, you stated that soon after your appointment as Secretary of Commerce, you began to consider “whether to reinstate a citizenship question, which other senior Administration officials had previously raised.” As part of your department’s consideration, you noted that you and your staff consulted with DOJ as to whether a citizenship question would be “consistent with and useful for the enforcement of the Voting Rights Act.”

This memorandum indicates that as early as March 2017, the Department was considering the inclusion of a last-minute, untested citizenship question in the decennial census, which was well before your required report to Congress of the subjects proposed to be included and the types of information to be compiled in the decennial census under 13 U.S.C. § 14(f)(1). In addition, the citizenship was considered well before the 2018 End-to-End test was finalized, which represented the last testing opportunity embedded in a field test for the 2020 Census.

Previous court filings reveal that former Kansas Secretary of State Kris Kobach, at the direction of former-White House Chief Strategist Steve Bannon, spoke to you about the citizenship question. In a follow-up email to you in July 2017, Kobach noted that the omission of the question of citizenship in the decennial census “leads to the problem that aliens who do not actually ‘reside’ in the United States are still counted for congressional apportionment purposes.” This view was rejected by the Supreme Court in *Evenwel v. Abbott*, which affirmed

that total population, not total number of U.S. citizens, is the constitutional basis for congressional apportionment.

In December 2017, you received DOJ's formal request for a citizenship question, which came from a career official and cited the need for citizenship data to enforce the Voting Rights Act. Emails obtained under the Freedom of Information Act show that a political appointee at DOJ drafted the request, which was then submitted by the career official.

In your announcement reinstating the citizenship question, and in testimony before Congress, you also claimed that you were "not able to determine definitively how inclusion of a citizenship question on the decennial census will impact responsiveness. In documents recently revealed, however, the Census Bureau's own chief scientist expressed concern in an internal memorandum on January 19, 2018 that a citizenship question is "very costly, harms the quality of the census count, and would use substantially less accurate citizenship status data than are available from administrative sources." He noted "Major potential quality and cost disruptions," and that the estimated 0.5 percent increase in nonresponse follow-up was a conservative estimate and would cost at least an additional \$27.5 million.

Taken together, these factors strongly indicate that politics, rather than a commitment to good governance, played a significant role in your decision to include the last-minute, untested citizenship question. To understand fully the scope of these political factors, we request all informal and formal documents related to the inclusion of the question. As both authorizers and appropriators, it is imperative that we conduct robust oversight over this constitutionally mandated activity to ensure that political factors are not used to manipulate this normally nonpartisan activity.

Thank you, and we look forward to your response.

Sincerely,



BRIAN SCHATZ
United States Senator



BILL NELSON
United States Senator



DIANNE FEINSTEIN
United States Senator



PATTY MURRAY
United States Senator



RICHARD J. DURBIN
United States Senator



JEANNE SHAHEEN
United States Senator



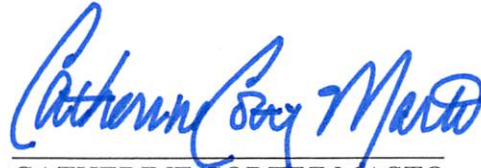
JACK REED
United States Senator



BENJAMIN L. CARDIN
United States Senator



MARGARET WOOD HASSAN
United States Senator



CATHERINE CORTEZ MASTO
United States Senator



CHRIS VAN HOLLEN
United States Senator



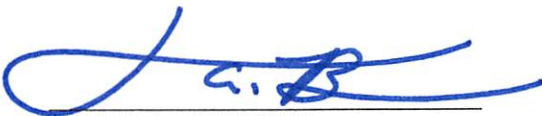
KAMALA D. HARRIS
United States Senator



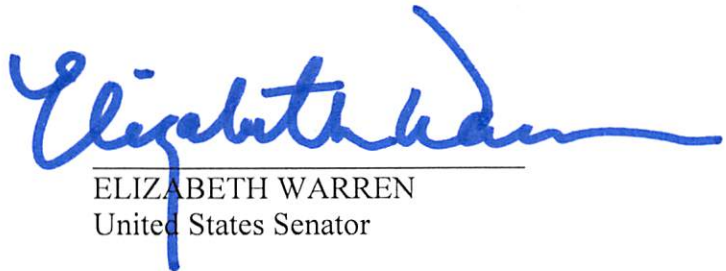
SHELDON WHITEHOUSE
United States Senator



RICHARD BLUMENTHAL
United States Senator



CORY A. BOOKER
United States Senator



ELIZABETH WARREN
United States Senator



KIRSTEN GILLIBRAND
United States Senator