

# Congress of the United States

Washington, DC 20515

January 24, 2024

The Honorable Mike Johnson  
Speaker of the House  
United States House of Representatives  
H-232, The Capitol  
Washington, D.C. 20515

The Honorable Hakeem Jeffries  
Minority Leader  
United States House of Representatives  
2433 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Charles E. Schumer  
Majority Leader  
United States Senate  
322 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Mitchell McConnell  
Minority Leader  
United States Senate  
317 Russell Senate Office Building  
Washington, D.C. 20510

Dear Speaker Johnson, Minority Leader Jeffries, Majority Leader Schumer, and Minority Leader McConnell,

The U.S. decennial census is a cornerstone of our democracy. It tells us who we are and where we are going as a nation, informs the decisions of both the Executive and Legislative branches in determining how 10 years worth of federal funding are allocated, and dictates how our nation's voices are heard in the House of Representatives. The importance of a complete and accurate Census cannot be overstated. Therefore, we object to the inclusion of divisive and misguided language that will damage the accuracy of the decennial count.

There have been multiple attempts to exclude non-citizens from the Census or otherwise include a citizenship question to count the number of non-citizens in the country. In the 1979 case *Federation for American Immigration Reform vs. Klutznick*, the Federation for American Immigration Reform (FAIR) and four U.S. Representatives filed a lawsuit to add a citizenship question to the Census, with the intent of generating a count of non-citizens and their state locations. While the U.S. District Court for the District of Columbia dismissed the case for lack of jurisdiction, the court noted that the case was also weak on the merits, saying that “the language of the Constitution is not ambiguous.”<sup>1</sup> FAIR's second attempt challenged the Reagan Administration's plan for the 1990 census and was dismissed without trial.

In March 2018, the Trump administration approved plans to add the question “Is this person a citizen of the United States?,” but it ultimately did not appear on the 2020 census after the effort was blocked by the U.S. Supreme Court. During the count itself, President Trump released a memo to exclude unauthorized immigrants from the data used to apportion seats in Congress as a last-ditch effort to interfere with census efforts,<sup>2</sup> all the while eroding public trust at a time when fear and mistrust of the federal government was at a high.<sup>3</sup>

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<sup>1</sup> FEDERATION FOR AMERICAN IMMIGRATION REFORM (FAIR) et al., Plaintiffs, v. Philip M. KLUTZNICK, Secretary of Commerce et al., Defendants, 486 F. Supp. 564 (D.D.C. 1980).

<https://law.justia.com/cases/federal/district-courts/FSupp/486/564/1753930/>

<sup>2</sup> Lo Wang, Hansi. “With No Final Say, Trump Wants to Change Who Counts for Dividing Up Congress' Seats.” *National Public Radio*, 21 July 2020. <https://www.npr.org/2020/07/21/892340508/with-no-final-say-trump-wants-to-change-who-counts-for-dividing-up-congress-seat>

<sup>3</sup> Cea, Brianna and Percival, K. “Four Takeaways from the Supreme Court's Census Citizenship Question Ruling.” *Brennan Center for Justice*, 1 July 2019. <https://www.brennancenter.org/our-work/analysis-opinion/four-takeaways-supreme-courts-census-citizenship-question-ruling#:~:text=The%20citizenship%20question%20is%20blocked,federal%20court%20barring%20the%20question.>

As you begin the process to reconcile the House and Senate versions of the Fiscal Year (FY) 2024 Commerce, Justice, Science (CJS) Appropriations bills, we write to strongly urge you to strike Section 559 from the House CJS Appropriations bill, H.R. 5893, which states:

“None of the funds made available by this or any other Act may be used to allow the United States Census Bureau to include aliens who are unlawfully present in the United States in rendering apportionment determinations in subsequent decennial censuses.”

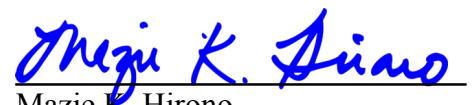
The Fourteenth Amendment, Section 3 of the U.S. Constitution enshrines that “Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State...” Put simply, the Census Bureau is charged with counting every person – not just citizens or persons with documented immigration status – living in the United States.

Constitutional infirmity aside, Section 559 of the House CJS Appropriations bill, if enacted, would be impossible to implement. It will effectively compel the Census Bureau to add a census question about immigration status, and relies on respondents to be truthful in their answers. When this issue has been proposed in the past, advocacy groups warned that attempts to count non-citizens would stoke concern on the basis of privacy. It would affirm the fears of undocumented immigrants and immigrants with legal status that registering with the government could lead to deportation. Citizens and non-citizens alike would avoid the Census entirely, undermining the accuracy of census numbers used for a myriad of important purposes in every state and community.

The consequences of census meddling both real and perceived are now becoming clear, with a new report from the National Academies of Sciences, Engineering, and Medicine that found a widening racial and ethnic gap in how accurately different populations are counted in the U.S. Census.<sup>4</sup> The estimated net undercount rate at which Latinos were left out of the 2020 census was more than three times the rate of the 2010 census, whereas the net overcount rate of non-Hispanic white Americans almost doubled.<sup>5</sup>

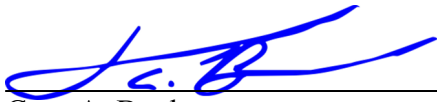
Section 559 of H.R. 5893 will further exacerbate these issues, leading to an unjust misallocation of federal funding and a House of Representatives that is less representative of our country. These continued high-profile failures to weaponize the Census against immigrant communities cannot go unanswered. We urge you to keep politics out of the vitally important decennial census by removing Section 559 of H.R. 5893 and empowering the Census Bureau to count *every* person living in the United States for all purposes, including congressional apportionment, as the U.S. Constitution clearly intends.

Sincerely,

  
Grace Meng  
Member of Congress  
Mazie K. Hirono  
United States Senator

<sup>4</sup> National Academies of Sciences, Engineering, and Medicine. “Assessing the 2020 Census: Final Report.” *Washington, DC: The National Academies Press*, 2023. <https://doi.org/10.17226/27150>.

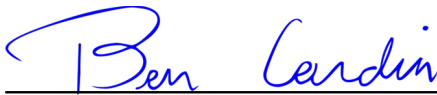
<sup>5</sup> Lo Wang, Hansi. “The growing racial gap in U.S. census results is raising an expert panel’s concerns.” *National Public Radio*, 3 October 2023. <https://www.npr.org/2023/10/03/1202678747/2020-census-national-academies-panel>




Cory A. Booker  
United States Senator



Raphael G. Butler  
United States Senator



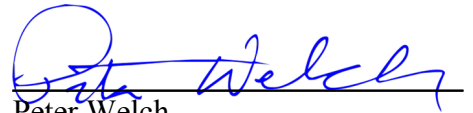
Benjamin L. Cardin  
United States Senator



Alex Padilla  
United States Senator



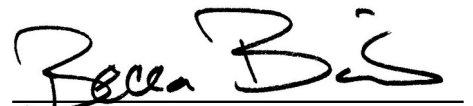
Elizabeth Warren  
United States Senator



Peter Welch  
United States Senator



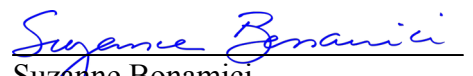
Sheldon Whitehouse  
United States Senator



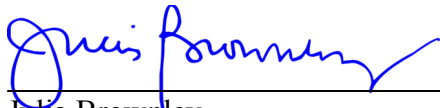
Becca Balint  
Member of Congress



Nanette Diaz Barragán  
Member of Congress



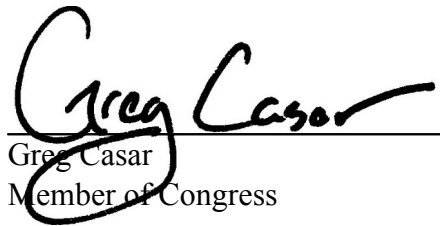
Suzanne Bonamici  
Member of Congress



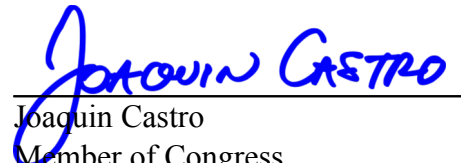
Julia Brownley  
Member of Congress



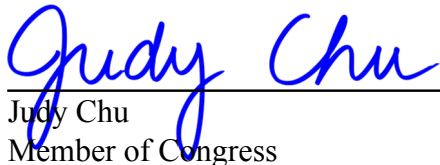
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Greg Casar  
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Joaquin Castro  
Member of Congress



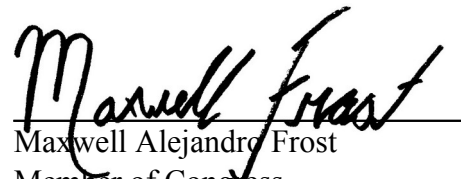
Judy Chu  
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Danny K. Davis  
Member of Congress



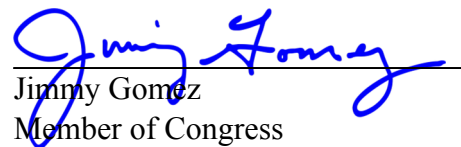
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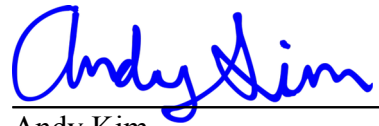
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Kevin Mullin  
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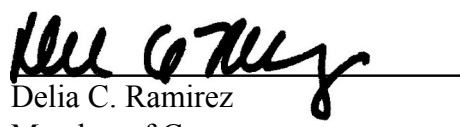
Jerrold Nadler  
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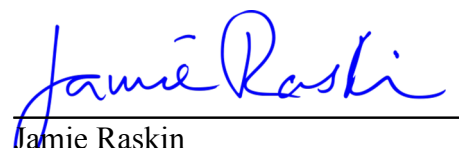
  
Grace F. Napolitano  
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Eleanor Holmes Norton  
Member of Congress

  
Alexandria Ocasio-Cortez  
Member of Congress

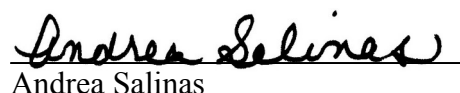
  
Katie Porter  
Member of Congress

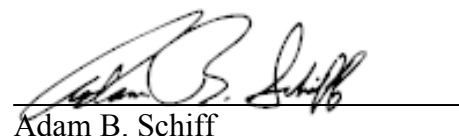
  
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Member of Congress

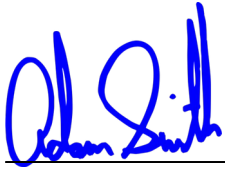
  
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Raul Ruiz, M.D.  
Member of Congress

  
C. A. Dutch Ruppersberger  
Member of Congress

  
Andrea Salinas  
Member of Congress

  
Adam B. Schiff  
Member of Congress



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Adam Smith  
Member of Congress



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Darren Soto  
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Shri Thanedar  
Member of Congress



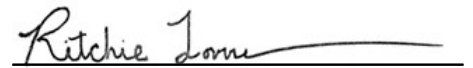
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Rashida Tlaib  
Member of Congress



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Jim Tokuda  
Member of Congress



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Ritchie Torres  
Member of Congress



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Nydia M. Velázquez  
Member of Congress



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Nikema Williams  
Member of Congress