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APPROVED
DEC 23 1975

THE WHITE HOUSE

ACTION

WASHINGTON

Last Day: December 27

December 22, 1975

*Posted in
Colorado 12/23*

*To Archives
12/24*

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON

SUBJECT:

**Enrolled Bill H.R. 1753 - Census
Enumeration Plans**

Attached for your consideration is H.R. 1753, sponsored by Representatives White and Runnels, which would authorize State officials to submit to the Secretary of Commerce, not later than three years prior to the decennial census date, plans for identifying the geographic areas for which population tabulations are desired for legislative reapportionment and redistricting purposes.

A discussion of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 1753 at Tab B.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 22 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 1753 - Census Enumeration Plans
Sponsor - Rep. White (D) Texas and Rep. Runnels (D)
New Mexico

Last Day for Action

December 27, 1975 - Saturday

Purpose

To facilitate the use of Bureau of the Census data by the States for use in legislative redistricting and apportionment.

Agency Recommendations

Office of Management and Budget	Approval
Department of Commerce	Approval
Department of Justice	Defer to Commerce
Advisory Commission on Intergovernmental Relations	No comment

Discussion

H.R. 1753 would authorize State officials to submit to the Secretary of Commerce, not later than three years prior to the decennial census date, plans for identifying the geographic areas for which population tabulations are desired for legislative reapportionment and redistricting purposes. Apportionment is technically the allocation among States of 435 Representatives, while redistricting is the process of delineating election districts within States. The Secretary would establish criteria for these tabulation plans, including assurances that they have been developed in a nonpartisan manner. These criteria would be transmitted to States not later than April 1 of the fourth year preceding the census

date. Furthermore, in an attempt to ensure that current census data would be readily available for redistricting purposes, the Secretary would also be required to complete and transmit to States census tabulations within one year after the census date.

Population statistics collected by the Census Bureau have been the principal basis upon which legislative boundaries have been drawn. However, enumeration districts are often too large for the purposes of redistricting and lines of enumeration districts often cross the lines of election precincts, frustrating State efforts to equitably apportion the population. States have also found that census data have been available too late for use in planning new districts. H.R. 1753 would improve Census Bureau assistance to the States by giving them the opportunity to design the strategy to collect population data in their States and to use those data on a timely basis.

The Executive Branch has opposed similar legislation in the past three Congresses. However, in a December 5, 1975, letter to the Congress, the Commerce Department reported no objection to the legislation. Several amendments had been made to ameliorate Executive Branch problems. These amendments would:

- authorize the Secretary of Commerce to establish specific criteria for State population enumeration plans. The Senate Committee report states that this could include criteria to insure that State plans do not impose unreasonable costs or technical burdens on the Census Bureau;
- extend from two to three years the time in which the Secretary may review State enumeration plans. In April 1975, Robert Hagan, Deputy Director of the Census Bureau, testified that three years is a "reasonably acceptable time"; and
- increase from eight months to one year the time in which the Census Bureau must complete all tabulations requested by States for redistricting purposes.

In its views letter on the enrolled bill, Commerce states that it estimates the cost of implementing this legislation at \$5 to \$10 million over a period of several years.

James M. Frey
Assistant Director
for Legislative Reference

Enclosures



THE UNDER SECRETARY OF COMMERCE
Washington, D.C. 20230

DEC 19 1975

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning H.R. 1753, an enrolled enactment

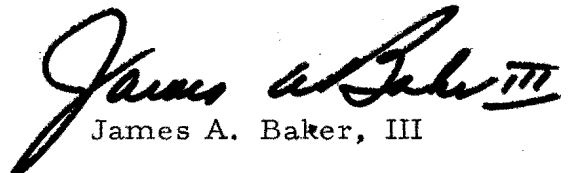
"To amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes."

The purpose of H. R. 1753 is to facilitate the use of Bureau of the Census data by the States in legislative redistricting and apportionment. The Bureau of the Census is already engaged in setting criteria and consulting with the States concerning their data needs for such purposes. Our action, together with H. R. 1753, should facilitate such use of census data by State and local governments.

This Department recommends approval by the President of H. R. 1753.

On the basis of present knowledge of State data needs, we estimate the cost of implementing the enrolled bill at \$5 to \$10 million or approximately 1 to 2 percent of the currently estimated cost of the 1980 census. These costs are expected to be included in the normal appropriation requests for the Bureau of the Census over a period of several years.

Sincerely,


James A. Baker, III

Department of Justice
Washington, D. C. 20530

December 18, 1975

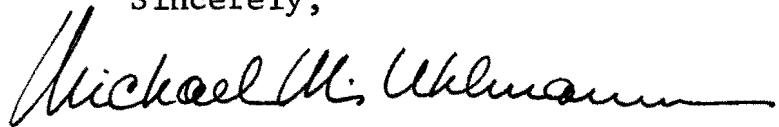
Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

In compliance with your request we have examined a facsimile of the enrolled bill, H.R. 1753, providing for the furnishing of census tabulations to certain public officials having reapportionment authority within the States.

The Department of Justice defers to the Department of Commerce with respect to whether the enrolled bill should receive Executive approval.

Sincerely,



Michael M. Uhlmann
Assistant Attorney General
Office of Legislative Affairs



ADVISORY
COMMISSION ON INTERGOVERNMENTAL RELATIONS
WASHINGTON, D.C. 20575

December 16, 1975

James M. Frey, Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, D.C.

Dear Mr. Frey:

This is in response to your request for the views of the Advisory Commission on Intergovernmental Relations on enrolled bill H.R. 1753. The Commission has not studied the issues raised in this legislation; hence, we have no formal position to advance regarding it. At the same time, staff wishes to offer the informal view that the measure potentially would help to eliminate one minor point of recurring tension within our Federal system.

We appreciate the opportunity to comment on this enrolled bill.

Sincerely,

David B. Walker
Assistant Director

DBW/lss

To -
J. Cooney
12-22-75
5:45 PM



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 22 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 1753 - Census Enumeration Plans
Sponsor - Rep. White (D) Texas and Rep. Runnels (D)
New Mexico

Last Day for Action

December 27, 1975 - Saturday

Purpose

To facilitate the use of Bureau of the Census data by the States for use in legislative redistricting and apportionment.

Agency Recommendations

Office of Management and Budget	Approval
Department of Commerce	Approval
Department of Justice	Defer to Commerce
Advisory Commission on Intergovernmental Relations	No comment

Discussion

H.R. 1753 would authorize State officials to submit to the Secretary of Commerce, not later than three years prior to the decennial census date, plans for identifying the geographic areas for which population tabulations are desired for legislative reapportionment and redistricting purposes. Apportionment is technically the allocation among States of 435 Representatives, while redistricting is the process of delineating election districts within States. The Secretary would establish criteria for these tabulation plans, including assurances that they have been developed in a nonpartisan manner. These criteria would be transmitted to States not later than April 1 of the fourth year preceding the census

TABULATIONS OF POPULATION FOR STATE LEGISLATIVE APPORTIONMENT OR DISTRICTING

SEPTEMBER 5, 1975.—Committed to the Committee of the Whole House, on the State of the Union and ordered to be printed

Ms. SCHROEDER, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 1753]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 1753) to amend section 141 of title 18, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

Page 2, line 5, strike out "two" and insert in lieu thereof "three".

Page 2, line 11, insert immediately after "census date." the following:

Such criteria shall include requirements which assure that such plan shall be developed in a nonpartisan manner and that such plan will result in an equitable method of legislation apportionment.

Page 2, line 14, strike out "closely" and insert in lieu thereof "to the extent necessary".

Page 2, line 17, strike out "thereon" and insert in lieu thereof "with respect to such plan".

Page 2, line 17, strike out "close".

Page 2, line 21, strike out "the plans" and insert in lieu thereof "any plan".

Page 2, beginning on line 24, strike out "the Governor of each State: Provided, however, That" and insert in lieu thereof the following:

the Governor of the State involved and the officers or public bodies having responsibility for legislative apportionment or districting of such State, except that.

Page 3, immediately after line 4, add the following new section:

SEC. 2. (a) The heading for section 141 of title 13, United States Code, is amended by adding at the end thereof the following: "; tabulation for legislative apportionment".

(b) The table of sections for chapter 5 of title 13, United States Code, is amended by striking out the item relating to section 141 and inserting in lieu thereof the following:

141. Population, unemployment, and housing; tabulation for legislative apportionment.

EXPLANATION OF AMENDMENTS

The committee has amended the bill to make technical changes and add substantive language which are explained in the text of this report.

PURPOSE

The purpose of H.R. 1753 is to facilitate the use of Bureau of the Census data by the States for use in legislative redistricting and apportionment.

COMMITTEE ACTION

H.R. 1753 was ordered reported by the committee on July 25, 1975, by a unanimous voice vote. Prior to that action, the Subcommittee on Census and Population held hearings on the bill on April 29, 1975; (No. 94-24), and reported the bill to the full committee on June 4, 1975, by a unanimous voice vote.

BACKGROUND

Boundary lines for State legislative districts are based on information obtained during each Federal decennial census. The redistricting procedure begins with the development of prospective districting plans using the building block approach. This approach entails dividing the State into areas of known population size and then aggregating these areas, or building blocks, to form one or more sets of prospective legislative districts. The building block approach yields prospective districts of known population size—a necessity since deviations in district population are a prime consideration in choosing one prospective plan over another.

Following the 1970 decennial census, nearly all States utilized census enumeration districts or combinations thereof as the building blocks in their redistricting efforts. Until block data for urbanized areas is available, sometimes a year or two after the taking of the census, enumeration districts are the only geographic areas for which the Bureau of the Census provides population counts.

In the past there have been problems in translating the Bureau of the Census units of measure—enumeration districts and census tracts—into the political units used by the states (such as precincts). Since enumeration districts are established to facilitate assignment of census enumerators to geographic areas, boundaries are determined with logistical, not redistricting, considerations in mind. In many instances, enumeration districts are too large to be suitable for redistricting purposes. This complicates the task of drawing legislative district lines to court-imposed standards of population equality.

Enumeration district boundary lines often cross the boundary lines of local election precincts, so it is difficult to design prospective districting plans that do not entail revision of precinct boundary lines—a result disruptive to the overall election process.

Other problems encountered by States have included poor census map quality, inaccurate and inconsistent data, and difficulty in obtaining census data in time to meet constitutionally imposed reapportionment deadlines.

STATEMENT

H.R. 1753 would improve Census Bureau support of legislative redistricting by giving States an opportunity to design their own building blocks for redistricting purposes, subject to technical constraints and criteria established by the Bureau of the Census.

The bill proposes the addition of a new subsection (c) to section 141 of title 13, United States Code. The new subsection authorizes State authorities to submit, not later than 2 years prior to the decennial census date, a plan identifying the geographic areas for which population tabulations are desired for legislative redistricting or reapportionment purposes. To assure that these plans do not impose impossible or unreasonable workloads on the Census Bureau from either a technical or a cost standpoint, the bill requires that they be designed in accordance with criteria set forth by the Secretary of Commerce and provided to the States by January 1 of the fourth year preceding the census. If a State submits a plan which does not conform to these criteria, the bill requires consultation to resolve the differences. The Secretary of Commerce may alter the plan to bring it into conformance with the established criteria.

The Secretary is required to produce population tabulations for the areas identified in approved State plans as expeditiously as possible, but not later than 1 year after the census date.

Authority to submit a State plan in accordance with the bill's provisions is vested in "the officers or public bodies having initial responsibility for the legislative apportionment or districting" of that State. For purposes of the bill, the committee deems this "initial responsibility" to rest with that authority which, under State law, must approve a legislative redistricting or reapportionment plan as the first step toward its eventual adoption. It is important that State officials or the public bodies responsible for legislative apportionment and redistricting understand the great amount of advance planning that goes into the preparation for a decennial census. For example, the Bureau begins to finalize enumeration districts two and one-half years before the decennial census is taken. The committee encourages such

authorities to submit their plans well in advance of the deadline imposed by the legislation so that the Bureau of the Census can integrate the plan into the census geographical system.

There are a few States which conduct their elections in odd numbered years. It is necessary for those States to receive information relating to legislative apportionment as soon as possible after the compilation of census data. In the past, the Bureau of the Census has cooperated with these States and has supplied this information to them on a priority basis. It is the committee's understanding that the Bureau will continue this policy.

The committee emphasizes that in recommending this legislation, it does not wish to discourage States from entering into other forms of lawful negotiations or agreements intended to improve Bureau of the Census support of the legislative redistricting efforts.

As introduced, H.R. 1753 required State governments to submit their plans to the Bureau of the Census at least 2 years prior to the decennial census. The committee adopted an administration-proposed amendment to extend this leadtime to 3 years so that the Bureau will have adequate time to adopt and assimilate all State plans into the census program.

The committee has also adopted an amendment to insure that the criteria established by the Bureau of the Census for adopting such plans and applying them to census activities will be conducted in a nonpartisan manner designed to achieve an equitable apportionment plan. Other technical changes in the wording of the bill as introduced have been made which do not make substantive changes in the bill.

SECTIONAL ANALYSIS

Section 1 authorizes officials of State governments having responsibility for the apportionment of the population of the State for the purpose of electing representatives to submit a plan to the Secretary of Commerce identifying geographic areas for which the State desires to have specific population tabulations. The plans shall be submitted to the Secretary 3 years prior to the decennial census.

The plans submitted by each State shall conform to criteria established by the Secretary, shall be developed in a nonpartisan manner, and designed to produce an equitable legislative apportionment. The Secretary shall have the authority to require changes in any plans he determines is not in compliance with the criteria. He shall have the final authority to revise such plans if the alterations developed by the State are unacceptable to him.

The Secretary shall complete and submit to the President of the United States the resulting tabulation of population for transmittal to the Governors and appropriate officials of the legislature of the States as soon as possible, but in any case, not later than 1 year after the census date.

The plan proposed by the bill would permit appropriate State officials to submit requests to the Secretary not later than April 1, 1977, requesting specific population tabulations for geographic areas within the State. Following the census of 1980, the Secretary would submit to the President and the President would transmit to the States the results of this particular aspect of the census not later than April 1, 1981. The

State legislature would, thereafter, utilize such population data in establishing the statutory plan of legislative apportionment.

Section 2 is a technical amendment adding a description of subsection (c) of section 141 of title 13, United States Code, as amended by section 1 of H.R. 1753, to the index provisions of title 13.

Costs

At this time it is not possible to provide a reliable estimate of the additional cost to the Government that would result from the enactment of H.R. 1753. The amount of the cost will depend on several factors which are unknown at this time—(1) what constraints the Secretary of Commerce will choose to impose in the initial criteria to be furnished to the States; (2) how many States will choose to submit tabulation plans, and (3) the nature of the submitted plans. It clearly is the intent of the Committee, however, that the Secretary of Commerce take such steps as are necessary, through issuance of criteria pursuant to authority granted him by the bill, to assure that the cost of the State plans remains reasonable.

The Committee wishes to stress that maps and other information provided by States in describing the boundary lines of areas for which they desire tabulations will likely be useful to the Census Bureau in specifying boundary lines for other required area tabulations. Also to be considered are savings that will accrue to the States, both in terms of dollars and convenience, as a result of having data more suitable for redistricting purposes.

COMPLIANCE WITH CLAUSE 2(1)(3) OF RULE XI

With respect to the requirement of clause 2(1)(3) of Rule XI of the Rules of the House of Representatives—

(1) the Subcommittee on Census and Population is vested under committee rules with legislative and oversight jurisdiction and responsibility over the subject matter of H.R. 1753 and made no specific findings and recommendations in connection with its oversight responsibilities during the hearings on the subject matter in H.R. 1753;

(2) the measure does not provide new budget authority or new or increased tax expenditures within the meaning of section 3 of the Congressional Budget Act of 1974, and thus a statement required by section 308(a) of that act is not necessary;

(3) no estimate and comparison of costs has been received by the committee from the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974; and

(4) the committee has received no report from the Committee on Government Operations of oversight findings and recommendations arrived at pursuant to clause 2(b)(2) of Rule X.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the committee has concluded that the enactment of H.R. 1753 will have an insignificant inflationary impact.

ADMINISTRATION VIEWS

Following are letters from the Office of Management and Budget and the Department of Commerce on H.R. 1753.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., March 27, 1975.

Hon. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Office of Management and Budget on H.R. 1753, a bill "To amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes."

For reasons expressed in the report of the Department of Commerce to your Committee, the Office of Management and Budget feels H.R. 1753 is unnecessary and would be opposed to its enactment.

Sincerely,

JAMES F. C. HYDE, JR.,
Acting Assistant Director for Legislative Reference.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., April 3, 1975.

Hon. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department on H.R. 1753, a bill "To amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes."

As you are aware, this bill is the same as H.R. 13340 which the House passed on November 18, 1974, but on which the Senate took no action. Our views on H.R. 13340 were expressed in the letter of May 16, 1974, to Chairman Dulski from Mr. Parrette, then Acting General Counsel (copy enclosed). Our views on H.R. 1753 are generally the same as those set out in the May 16, 1974, letter.

Since last May, we have continued to work closely with the Reapportionment Committee of the National Legislative Conference

(now the National Conference of State Legislatures) to jointly obtain a more comprehensive understanding of needs and problems. The Reapportionment Committee prepared a set of ten recommendations which was adopted by the Conference at its annual meeting in August 1974; a copy of these recommendations has, I understand, been transmitted to your Committee. After the Conference's approval of the recommendations, the Reapportionment Committee began to discuss matters of implementation and, at a meeting attended by Bureau of the Census personnel, plans were initiated, for example, to (1) undertake a program of meetings with the appropriate officials of each state to ascertain the particular state's needs and (2) develop model state legislation for the purpose of having each state designate one office responsible for providing the Census Bureau with the maps and related geographic information required for the enumeration and preparation of the state's reapportionment/redistricting population counts.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,
General Counsel.

DEPARTMENT OF COMMERCE,
Washington, D.C., May 16, 1974.

Hon. THADDEUS J. DULSKI,
Chairman, Committee on Post Offices and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department on H.R. 13340, a bill "To amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes."

As stated by Mr. Vincent P. Barabba, Director of the Bureau of the Census in the hearings before the Subcommittee on Census and Statistics in November 1973, the Department of Commerce does not believe that legislation is now necessary on the matter of providing decennial census population tabulations for the purpose of reapportioning/redistricting State legislative bodies. We recognize this purpose as one of the major uses of the census results and we are now working closely with the National Legislative Conference to ascertain the broad range of needs so that an optional program can be developed for the 1980 census. At this time, however, needs in terms of both content and timing are not fully clarified. Furthermore, the ongoing research efforts may disclose unanticipated needs and considerations which may be especially important in relation to the time deadlines stated in the bill.

There is one aspect of H.R. 13340 to which we must take strong exception; namely, the target date for submittal of the State plans to the Secretary (page 2, line 5). The date of "two years prior to the census date" is not satisfactory. This timing appeared in H.R. 9290, an earlier version of the present bill, and Mr. Barabba commented on it as follows, in the aforementioned Committee hearings (Hearings, page 22): "The geographic preparations for the decennial census proceed on a longer time schedule and especially because of the added work resulting from H.R. 9290, the 2-year period is clearly insufficient. The geographic preparation for a census is vital to its success and H.R. 9290, as presently constituted, would endanger those preparatory operations."

In a later version, H.R. 11869, the timing was changed to three years, a reasonably acceptable date. The move back to two years in the present bill reopens this extremely important issue. H.R. 13340 creates a very clear possibility that the Bureau can find itself, on April 1, 1978, seeing for the first time the detailed plans of a large number of States. These plans would have to be reviewed, departures from the criteria identified, and the necessary alterations worked out in "close" consultation (page 2, line 14) with the State officials. The time pressures would then be intense since, after a particular plan is finally approved, it has to be carefully integrated into the existing standard geographic system. For the Bureau, such time pressures can translate into the highly unsatisfactory situation of increased errors in the geographic system. For the States, such time pressures can translate into inadequate consideration by the Bureau of their individual needs because the Bureau will obviously have to curtail drastically the scope and timing of consultation.

However, even if the two-year timing in H.R. 13340 were changed back to the three years, we should like to emphasize our firm belief that legislation is premature now and may turn out to be unnecessary when the needs and possibilities are fully determined.

The cost of H.R. 13340 cannot be closely estimated at this time because the dimensions of the new data product will not be determined until later in the decade. For example, we do not yet know what population statistics all the States really need for legislative redistricting; what general criteria will be established to systematize the product among the various States, what output will finally be decided upon as feasible and useful for each State, and in what form(s) the data will be delivered.

Considering that an additional workload and product are likely for every one of the 50 States, even an incremental expense averaging just \$25,000 per State will mean a total cost of over one million dollars. It appears more likely that the total cost will be several million dollars or, in relative terms, an increase of perhaps one or two percent in the entire budget for the 1980 decennial census.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

BERNARD V. PARRETTE,
Acting General Counsel

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italics*; existing law in which no change is proposed is shown in roman):

TITLE 13, UNITED STATES CODE

* * * * *

Chapter 5.—Censuses

* * * * *

Subchapter II—Population, Housing, Agriculture, Irrigation, Drainage, and Unemployment

141. Population, unemployment, and housing; *tabulation for legislative apportionment.*

142. Agriculture, irrigation, drainage.

* * * * *

Subchapter II—Population, Housing, Agriculture, Irrigation, Drainage, and Unemployment

§ 141. Population, unemployment, and housing; *tabulation for legislative apportionment*

(a) The Secretary shall, in the year 1960 and every ten years thereafter, take a census of population, unemployment, and housing (including utilities and equipment) as of the first day of April, which shall be known as the census date.

(b) The tabulation of total population by States as required for the apportionment of Representatives shall be completed within eight months of the census date and reported by the Secretary to the President of the United States.

(c) *The officers or public bodies having initial responsibility for the legislative apportionment or districting of each State may, not later than three years prior to the census date, submit to the Secretary a plan identifying the geographic areas for which specific tabulations of population are desired. Each such plan shall be developed in accordance with criteria established by the Secretary, which he shall furnish to such officers or public bodies not later than January 1 of the fourth year preceding the census date. Such criteria shall include requirements which assure that such plan shall be developed in a nonpartisan manner and that such plan will result in an equitable method of legislative apportionment. Should the Secretary find that a plan submitted by such officers or public bodies does not meet the criteria established by him, he shall consult to the extent necessary with such officers or public bodies in order to achieve the alterations in such plan that he deems necessary to bring it into accord with such criteria. Any issues with respect to such plan remaining unresolved after such consulta-*

CONSIDERATION OF H.R. 1753

OCTOBER 21, 1975.—Referred to the House Calendar and ordered to be printed

Mr. MATSUNGA, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 796]

The Committee on Rules, having had under consideration House Resolution 796, by a nonrecord vote reports the same to the House with the recommendation that the resolution do pass.

○

TABULATIONS OF POPULATION FOR STATE LEGISLATIVE APPORTIONMENT OR DISTRICTING

DECEMBER 11, 1975.—Ordered to be printed

Mr. McGEE, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 1753]

The Committee on Post Office and Civil Service, to which was referred the bill (H.R. 1753) to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of H.R. 1753 is to direct the Secretary of Commerce to enter into agreements with the authorized officials or bodies of the several States responsible for legislative redistricting and apportionment, so as to ensure that the census data collected by the Bureau of the Census can be made readily available to those officials or bodies in a form that is useful in the execution of their responsibilities.

BACKGROUND

The Constitution of the United States is explicit in its requirement that the United States House of Representatives be apportioned upon the basis of a decennial enumeration. This scientific approach to Republican government was generally assumed to apply to the legislative bodies of the States as well, and indeed some States established their own censuses to assist them in the periodic reapportionment of their

legislatures. Yet in all too many cases, the extraordinary efforts involved in redistricting legislative boundaries caused them to be abandoned and the courts refused to act upon complaints of unfairness because they were apparently "nonjusticiable questions."

However, in 1962, the Supreme Court of the United States, by virtue of its ruling in the case of *Baker v. Carr*, reinterpreted the "political question" doctrine in considerable degree and opened the Federal Courts to voter complaints founded on unequally populated voting districts. Six decisions, ensuing from this reinterpretation, were handed down by the Court on June 15, 1964 requiring the alteration of the election district for virtually all the legislative bodies in the United States. In *Reynolds v. Sims*, the Court wrote:

We hold that, as a basic constitutional standard, the Equal Protection Clause (14th Amendment) requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis. Simply stated, an individual's right to vote for state legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with the votes of citizens living in other parts of the State.

The Court went on to require that each State,

* * * make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable. We realize that it is a practical impossibility to arrange legislative districts so that each one has an identical number of residents, or citizens, or voters. Mathematical exactness or precision is hardly a workable constitutional requirement.

Since the time of the Court decisions, countless hours have been spent by State legislatures and courts at both the State and Federal levels in an effort to fairly and properly devise legislative boundaries on the basis of population equity. Data collected by the Census Bureau has been the principal basis upon which these decisions have been made.

Yet, in numerous instances, the Census data has been ill-suited to the needs of those State bodies responsible for redefining political boundaries. A survey conducted by the National Legislative Conference's Reapportionment Committee revealed that nearly fifty percent of the respondents had major difficulties in attempting to resolve conflicts between census units and precinct boundaries during the 1970 reapportionment/redistricting cycle.

The principal census unit involved is the enumeration district which is employed by the Bureau of the Census to encompass an area sufficient to comprise approximately 1,000 persons. By this standard, the Bureau seeks to equalize the time and effort required by census enumerators to complete their task on the census date.

Because enumeration districts represent a population standard over an identifiable geographic area, most States have utilized these units in the course of redistricting by using or combining enumeration districts to form approximately equal election districts of known population size. But enumeration districts were originally intended to overcome logistical problems in the completion of the census and

assignment of enumerators, and have disregarded any ulterior use such as that intended by States.

Consequently, in many instances, enumeration districts were found to be too large for purposes of redistricting. Moreover, the boundary lines of the enumeration districts crossed the lines of local election precincts, frustrating efforts to redesign districts without also totally revising precinct boundaries. In some instances, enumeration districts are composed of two or more pieces of noncontiguous territory, an obvious nuisance to redistricting efforts which eighty-eight percent of the respondents to the National Legislative Conference's reapportionment survey agreed should be eliminated.

Other difficulties encountered by the States have included census data release dates too late for effective use in reapportionment (particularly with respect to the more detailed and invaluable block data), poor quality census maps, and sometimes inaccurate and inconsistent statistics.

STATEMENT

H.R. 1753 would improve Census Bureau assistance to the States by giving them an opportunity to participate in the designing of a strategy to collect population data within their own boundaries for redistricting purposes, subject to the technical restraints and criteria set forth by the Bureau of the Census.

To accomplish this, the bill proposes to add a new subsection (c) to section 141 of title 13, United States Code. The new subsection authorizes State authorities to submit, not later than three years prior to the decennial census date, a plan identifying the geographic areas for which population tabulations are desired for legislative reapportionment and redistricting purposes. In order to ensure that these plans do not impose an unreasonable or impossible burden upon the Census Bureau in terms of cost or technical ability, H.R. 1753 requires that the State plans be designed in accordance with criteria set forth by the Secretary of Commerce, such criteria to be provided to the States not later than April 1 of the fourth year preceding the census date. Any plan submitted by a State which does not conform to these criteria will be the subject of consultation between the Secretary and appropriate officers of public bodies in order to resolve the differences. In any event, the Secretary shall retain final authority in determining the geographic format of such a plan.

To ensure the timely delivery of census data for redistricting or reapportionment purposes, the bill requires the Secretary of Commerce to produce and deliver population tabulations collected in accordance with approved State plans as expeditiously as possible, but in any event, such data shall be completed and transmitted to each respective State within one year of the census date.

This committee wishes to reemphasize the request of the States made by the House Committee on Post Office and Civil Service, that those officers or bodies responsible for legislative reapportionment and redistricting appreciate the great amount of advance time needed in planning and preparing for the decennial census and that they submit their plans well in advance of the deadline of three years prior to the census date as required in this legislation. The States must recognize that the indeterminate cost of this bill lies in large part with them

and that such costs could be greatly increased were the Bureau forced to undergo extraordinary efforts in order to assimilate State plans in the closing days prior to the deadline. The committee is confident the States will dedicate in time and willing cooperation an effort equal to that required of the Bureau of the Census by this legislation.

SECTIONAL ANALYSIS

Section 1 authorizes those officers of public bodies having initial responsibility for the legislative apportionment or redistricting of each State to submit a plan to the Secretary of Commerce which identifies those geographic areas desired for specific population tabulation. For the purposes of this law, officials or bodies having "initial responsibility" for apportionment and districting should be understood to mean those upon whom State law places responsibility for approving a legislative redistricting or reapportionment plan as the first step in its eventual adoption.

Plans shall be submitted to the Secretary at least three years prior to the Census date. Such plans will be devised by the States in accordance with criteria established by the Secretary, to be provided to the States not later than April 1 of the fourth year preceding the census. It shall also be the Secretary's responsibility to ensure that the criteria he develops will contain requirements sufficient to preclude the development of plans in a partisan manner.

If the Secretary should receive any State plan which fails to meet the standards he has established, he shall consult with the responsible officials or bodies to the extent necessary in order to bring the plan into accordance with his criteria. The Secretary is empowered to resolve any issue concerning the plan which remains in dispute and shall have final authority to define the geographic format of the plan.

As quickly as possible, the Secretary of Commerce shall transmit the population data for those areas identified in the approved State plans to the Governor of the State involved as well as the officers or public bodies responsible for apportionment or districting. In any event, this data will be delivered within one year of the census.

Section 2 of H.R. 1753 is a technical amendment adding a description of subsection (c) to the heading and index referring to section 141 of title 13, United States Code, in order to account for those changes in law made by section 1 of this bill.

COSTS

In a letter dated May 16, 1974, to the then Chairman of the House Post Office and Civil Service Committee, Rep. Thaddeus J. Dulski, the acting General Counsel for the Department of Commerce, Bernard V. Pakkette, suggested that, "considering that an additional workload and product are likely for every one of the 50 States, even an incremental expense averaging just \$25,000 per State will mean a total cost of over one million dollars. It appears more likely that the total cost will be several million dollars of, in relative terms, an increase of perhaps one or two percent in the entire budget for the 1980 decennial census."

The committee wishes to point out, however, that the cost of this legislation remains undeterminable at this point. Several factors could

limit expenditures such as: (1) the criteria furnished by the Secretary of Commerce which could go far to limit the expenditures required in time and money of the Bureau of the Census; (2) the cooperation offered by the States in carrying out this legislation; (3) the nature of the plans offered by the States. Moreover, it is not evident how many States will participate in the program, inasmuch as some thirty percent of the responses received by the National Legislative Conference in its reapportionment survey indicated the data they received from the 1970 Census presented only minor problems in their work. This coupled with the likelihood that some States will simply fail to make the effort could reduce significantly participation.

The committee would also note that the development of an adequate census strategy for the collection of data is a constant requirement of the Census Bureau and believes that the plans developed in accordance with H.R. 1753 will be useful to the Bureau in specifying boundary lines for other required area tabulations. The committee would also suggest the Bureau consider preparing these tabulations for public distribution and use by political scientists and social researchers; it seeming that demographic data collected along political boundary lines could provide an unequalled basis for political analysis in the future, as well as a source of revenue to offset some of the costs of the bill.

COMMITTEE ACTION

On December 11, 1975, H.R. 1753 was ordered unanimously reported by the Committee without objection.

AGENCY VIEWS

While agency views were requested of the Department of Commerce, the Department of Justice and the Office of Management and Budget on November 12, 1975, no report or comment had been returned to the Committee by the date of the business session.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in italic):

TITLE 13, UNITED STATES CODE

* * * * *

Chapter 5.—Censuses

* * * * *

Subchapter II—Population, Housing, Agriculture, Irrigation, Drainage, and Unemployment

141. Population, unemployment, and housing; *tabulation for legislative apportionment.*
 142. Agriculture, irrigation, drainage.

* * * * *

SUBCHAPTER II—POPULATION, HOUSING, AGRICULTURE, IRRIGATION, DRAINAGE, AND UNEMPLOYMENT

§ 141. Population, unemployment, and housing; tabulation for legislative apportionment

(a) The Secretary shall, in the year 1960 and every ten years thereafter, take a census of population, unemployment, and housing (including utilities and equipment) as of the first day of April, which shall be known as the census date.

(b) The tabulation of total population by States as required for the apportionment of Representatives shall be completed within eight months of the census date and reported by the Secretary to the President of the United States.

(c) *The officers or public bodies having initial responsibility for the legislative apportionment or districting of each State may, not later than three years prior to the census date, submit to the Secretary a plan identifying the geographic areas for which specific tabulations of population are desired. Each such plan shall be developed in accordance with criteria established by the Secretary, which he shall furnish to such officers or public bodies not later than April 1 of the fourth year preceding the census date. Such criteria shall include requirements which assure that such plan shall be developed in a nonpartisan manner. Should the Secretary find that a plan submitted by such officers or public bodies does not meet the criteria established by him, he shall consult to the extent necessary with such officers or public bodies in order to achieve the alterations in such plan that he deems necessary to bring it into accord with such criteria. Any issues with respect to such plan remaining unresolved after such consultation shall be resolved by the Secretary, and in all cases he shall have final authority for determining the geographic format of such plan. Tabulations of population for the areas identified in any plan approved by the Secretary shall be completed by him as expeditiously as possible after the census date and reported to the Governor of the State involved and the officers or public bodies having responsibility for legislative apportionment or districting of such State, except that such tabulations of population of each State requesting a tabulation plan, and basic tabulations of population of each other State, shall, in any event, be completed, reported and transmitted to each respective State within one year after the census date.*

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

To amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 141 of title 13, United States Code, is amended by adding at the end thereof the following new subsection:

“(c) The officers or public bodies having initial responsibility for the legislative apportionment or districting of each State may, not later than three years prior to the census date, submit to the Secretary a plan identifying the geographic areas for which specific tabulations of population are desired. Each such plan shall be developed in accordance with criteria established by the Secretary, which he shall furnish to such officers or public bodies not later than April 1 of the fourth year preceding the census date. Such criteria shall include requirements which assure that such plan shall be developed in a nonpartisan manner. Should the Secretary find that a plan submitted by such officers or public bodies does not meet the criteria established by him, he shall consult to the extent necessary with such officers or public bodies in order to achieve the alterations in such plan that he deems necessary to bring it into accord with such criteria. Any issues with respect to such plan remaining unresolved after such consultation shall be resolved by the Secretary, and in all cases he shall have final authority for determining the geographic format of such plan. Tabulations of population for the areas identified in any plan approved by the Secretary shall be completed by him as expeditiously as possible after the census date and reported to the Governor of the State involved and the officers or public bodies having responsibility for legislative apportionment or districting of such State, except that such tabulations of population of each State requesting a tabulation plan, and basic tabulations of population of each other State, shall, in any event, be completed, reported and transmitted to each respective State within one year after the census date.”

H. R. 1753—2

SEC. 2. (a) The heading for section 141 of title 13, United States Code, is amended by adding at the end thereof the following: “; **tabulation for legislative apportionment**”.

(b) The table of sections for chapter 5 of title 13, United States Code, is amended by striking out the item relating to section 141 and inserting in lieu thereof the following:

“141. Population, unemployment, and housing; tabulation for legislative apportionment.”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

December 16, 1975

Dear Mr. Director:

The following bills were received at the White House on December 16th:

- ✓ S. 2757 ✓
- ✓ H.R. 1753 ✓
- ✓ H.R. 2110 ✓
- ✓ H.R. 4865 ✓
- ✓ H.R. 6642 ✓
- ✓ H.R. 7976 ✓
- ✓ H.R. 10647 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.