

December 05, 2023



Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Johnson, Minority Leader Jeffries, Chair Murray, Vice Chair Collins, Chairwoman Granger, and Ranking Member DeLauro:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 240 national organizations to promote and protect the rights of all persons in the United States, our Census Task Force co-chairs, Asian Americans Advancing Justice | AAJC and NALEO Educational Fund, and the 127 undersigned organizations, **we write to urge you to oppose the inclusion of section 559¹ of the House Fiscal Year 2024 Commerce, Justice, Science (CJS) Appropriations bill (H.R. 5893) in any final omnibus package, CJS bill, or Continuing Resolution.**

As a threshold matter, section 559 seeks to achieve a clearly unconstitutional purpose, according to both Republican and Democratic administrations and the Congressional Research Service.² It would require the U.S. Census Bureau to exclude undocumented immigrants from the congressional apportionment calculation after each census — an action that would clearly violate the plain meaning of the 14th Amendment to the U.S. Constitution to apportion seats based on “the whole number of *persons* in each State” (emphasis added). The 14th Amendment was enacted, in relevant part, to repeal the provision in Article I that counted slaves as only three-fifths of a person for apportionment purposes; section 559 evokes this shameful legacy by treating undocumented immigrants as less than a person.

Equally troubling, if enacted, this section would put the success of future censuses at risk.

1. **Section 559 would undermine 2030 Census accuracy in every state and every community by creating a climate of fear among all immigrants.** Asking about immigration status in the census is unnecessarily intrusive and will raise concerns among all respondents — both native-born and immigrant, citizens and noncitizens, and mixed-status households alike — about the confidentiality and privacy of information provided to the government. This will have a chilling effect and keep many households from responding. Further, because census data guide the allocation of \$2.8 trillion annually in federal assistance to states, localities, individuals, and families for a range of vital services, an inaccurate census will skew the fair and prudent distribution of federal resources for the next decade.
2. **The Census Bureau cannot reliably determine the number of residents with unlawful status in each state without destroying the chance for an accurate census in any and all states.** There is no precedent for trying to determine whether people are living in the United States unlawfully through a universal survey. The U.S. Constitution requires an “actual enumeration” to determine the number of people in each state for purposes of congressional apportionment.

¹ Sec. 559. 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.

² Lee, Margaret M. Lunder, Erika K. “Constitutionality of Excluding Aliens from the Census for Apportionment and Redistricting Purposes.” *Congressional Research Service*. January 1, 2010.

https://digital.library.unt.edu/ark:/67531/metadc627196/m1/1/high_res_d/R41048_2010Jan20.pdf; See also “Apportioning Seats in the U.S. House of Representatives Using the 2013 Estimated Citizen Population.” *Congressional Research Service*. October 30, 2015. <https://crsreports.congress.gov/product/pdf/R/R41636>.

Therefore, estimates of persons residing in each state in violation of a complex set of U.S. laws would not be a constitutionally permissible method for implementing section 559.

In short, the text of section 559 has no place in an appropriations bill; seeks to accomplish an unconstitutional goal; and would put the accuracy of the multi-billion dollar, constitutionally required decennial census at grave risk in every state and community. For these reasons, we strongly urge you to oppose the inclusion of section 559 in any omnibus package or alternative measure funding the Commerce Department for Fiscal Year 2024. Thank you for considering our views.

If you have any questions, please contact Meeta Anand, senior program director of census and data equity at The Leadership Conference on Civil and Human Rights, at anand@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights
Asian Americans Advancing Justice | AAJC
National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund

ACCESS REPRODUCTIVE JUSTICE

Act2Change
AHRI Center
America's Voice
American Federation of State County and Municipal Employees
American Federation of Teachers
Anti-Hunger & Nutrition Coalition
Arab American Institute (AAI)
Asian & Pacific Islander American Health Forum (APIAHF)
Asian American Advocacy Fund
Asian Americans Advancing Justice | Chicago
Asian Americans Advancing Justice | Atlanta
Asian and Pacific Islander American Vote (APIAVote)
Asian Pacific American Labor Alliance, AFL-CIO
Asian Resources, Inc.
Association of Asian Pacific Community Health Organizations (AAPCHO)
Association of Population Centers
Black Alliance for Just Immigration
Bridges Faith Initiative
Building Skills Partnership
California Association of Food Banks
California Black Power-Building Network
CASA
Catalyst California
Catalyst of San Diego & Imperial Counties
Center for Asian Americans in Action

Center for Gender & Refugee Studies
Center for Law and Social Justice at Medgar Evers College
Center for Law and Social Policy (CLASP)
Charlotte Center for Legal Advocacy
Children's HealthWatch
CHISPA NV
Church World Service
Civic Nebraska
Coalición de Derechos Humanos
Coalition for Humane Immigrant Rights (CHIRLA)
Coalition of Latino Leaders -CLILA-
Coalition on Human Needs
Common Cause
Community EsTr(EI/La)
Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces
Fair Count Inc,
First Focus Campaign for Children
Florida Philanthropic Network
Food Research & Action Center
Forefront (IL)
GALEO
GALEO Impact Fund
Georgia Equality
Georgia Redistricting Alliance (GRA)
Government Information Watch
Greater Augusta's Interfaith Coalition
Houston Immigration Legal Services Collaborative
Illinois Coalition for Immigrant and Refugee Rights
Immigration Center for Women and Children
Institute for a Progressive Nevada
JAMAAT (Jews and Muslims and Allies Acting Together)
Japanese American Citizens League
Latino Action Network Foundation
Latino Community Fund INC (LCF Georgia)
LatinoJustice PRLDEF
League of Women Voters of the United States
LULAC
Make the Road Nevada
Massachusetts Immigrant and Refugee Advocacy Coalition
Migrant Equity Southeast
Minnesota Council on Foundations
National Action Network
National Advocacy Center of the Sisters of the Good Shepherd

National Asian American Pacific Islander Mental Health Association
National Asian Pacific American Bar Association
National Asian Pacific American Women's Forum
National Coalition for Latinxs with Disabilities
National Community Action Partnership
National Council of Asian Pacific Americans (NCAPA)
National Education Association
National Federation of Filipino American Associations
National Immigration Law Center
National Partnership for New Americans
National Partnership for Women & Families
National Urban League
National Women's Law Center
NETWORK Lobby for Catholic Social Justice
Nevada Coalition to End Domestic and Sexual Violence
Nevada NOW
New Mexico Immigrant Law Center
Nonprofit Association of Washington
Northwest Harvest
Nourish California
OCA - Asian Pacific American Advocates
Pennsylvania Immigration and Citizenship Coalition
Pennsylvania Partnerships for Children
PFLAG National
Philanthropy California
Philanthropy Southeast
Poder Latinx
Population Association of America
Prison Policy Initiative
Progressive Leadership Alliance of Nevada
Project On Government Oversight
Public Advocacy for Kids (PAK)
SAGE (Advocacy and Services for LGBTQ+ Elders)
SEIU Local 1107
Ser Familia, Inc.
Sikh American Legal Defense and Education Fund (SALDEF)
Silver State Voices
Smart Growth California
Southeast Asia Resource Action Center (SEARAC)
The Coelho Center for Disability Law, Policy and Innovation
The Funders Network (TFN)
U-Lead Athens
UnidosUS



Unitarian Universalists for Social Justice
United Philanthropy Forum
United Way of Rhode Island
UUFNV
We Love Buford Highway
WestLA Democratic Club
Whitman-Walker Institute
William E. Morris Institute for Justice
Wind of the Spirit Immigrant Resource Center
Wisconsin Faith Voices for Justice
Witness at the Border
Women Watch Afrika, Inc.
ZERO TO THREE

cc: Members, Full House and Senate