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## Opponents renew census challenge

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By The Washington Times

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A constitutional challenge to intrusive questions on the Census Bureau long form died a quiet death in the Supreme Court last week, but opponents don't expect to wait another decade to renew their fight.

Those who object to what one critic calls "curiosity questions" about a residence's bathrooms or how people travel to work could make the next move as early as Wednesday when Rep. Dan Miller, Florida Republican, plans to confront Commerce Secretary Donald L. Evans.

"It will be an issue. You'll hear about it again," said a congressional staff specialist on census issues who said the Census Bureau seeks to abandon the 53-question "long form" and instead survey 3 million homes a year.

"That question about voluntariness will be put to Mr. Evans, either in writing or at the hearing," the aide said of the Census Bureau's proposal. The aide said many members of Congress want any such program to be voluntary, not compulsory.

"We're going to be much more careful about the review and those questions that the Census Bureau submits to Congress," agreed Rep. Nick Smith, Michigan Republican, who said he avoids answering curiosity questions on his own long form by writing in "N/A" for not applicable.

"As we compromise some of our civil rights in our war against terrorism, it's reasonable to be even more cautious about including all the very personal information that some would like to include in the census data," Mr. Smith said in an interview.

He said Mr. Miller, who chaired the old House census subcommittee and now is vice chairman of the subcommittee on civil service and the census, told members that Census Bureau Director Kenneth Prewitt agreed to "review and restructure" the long form.

On Feb. 19 the Supreme Court refused to decide if the Constitution permits the government to ask everyone's race, or to quiz every sixth householder about such matters as plumbing arrangements, mental disability, how they travel to work, and the extent of homeowners insurance.

The long form currently is distributed with decennial census papers to 20 million households. Refusing to complete it carries a \$100 penalty. The Census Bureau now proposes to switch to short forms for everyone by 2010, obtaining other demographic data from a survey each year. While it would be more current it also would go into 50 percent more homes each decade.

The information sorted by census tract and ZIP code is used in many ways, including housing and job surveys by race, commercial marketing programs, and to target social assistance programs.

Five citizens who risked prosecution lost their civil case in federal courts. Four balked at the racial inquiry among the short form's seven questions. The fifth, William Jeffrey Van Fleet, objected to the entire long form. The Supreme Court petition was filed by their attorneys, Herbert W. Titus of Virginia Beach, William J. Olson and John Miles of McLean, and J. Mark Brewer of Houston.

"We gave our best shot at the one case that is around. The ball is now in the congressional court," Mr. Olson said Friday. "If they are going to certify Census Bureau questions, they can't just wash their hands and pass it to the courts."

The petition attacked what Mr. Olson called issues irrelevant to apportioning seats in the House of Representatives, the sole constitutional purpose for a census.

"Such a promiscuous view of the powers of the federal government does violence to the constitutional scheme of enumerated powers," the petition concluded.

The high court decision left standing a U.S. 5th Circuit Court of Appeals decision that governs courts in Louisiana, Mississippi and Texas. It would not bind federal judges elsewhere nor bar a contrary interpretation in any of 11 other circuits.