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## July 8 Roundtable Update

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**WE ARE NEW YORK'S LAW SCHOOL****N.Y. ELECTIONS, CENSUS & REDISTRICTING UPDATE****VOTING RIGHTS****Attorney General To Intervene in Cheektowaga Voting Rights Act Challenge**

New York State Attorney General Letitia James has informed the Erie County State Supreme Court that her office will intervene in the state voting rights act challenge filed against the Town of Cheektowaga over town board vote dilution. In that case, the town is challenging the constitutionality of the New York State Voting Rights Act. The Attorney General plans to file a response to defendant town's cross-motion for summary judgment by August 23, 2024.

**CAMPAIGN FINANCE****State Issues New Rules for Campaign Contributions**

As reported in Newsday by Michael Gormley, the state has issued an emergency order to help verify campaign contributors before the state matches contributions under the state's new public financing program.

The New York State Public Campaign Finance Board will now require that "contribution cards" (already required for cash contributions) much now include phone numbers or email addresses to help verify the contributors. This change was sparked by the report that an Assembly candidate received nearly \$163,000 in state matching funds without being able to verify or contact the contributors.

**CENSUS****Why are New Yorkers Leaving at Such High Rates?**

On June 30, the Albany Times Union released an analysis on the trend of outmigration in New York State. The analysis included reports and comments from relevant figures, such as New York politicians and researchers.

More than 630,000 residents have left New York State since 2020. 80 percent of all localities decreased in population during that time. In the year between July 2022 and 2023, more than 100,000 residents left. During that year, New York led the U.S. in the highest net population decline (545,000+). In the Northeast, New York and Pennsylvania were the only states to have declining populations. As of 2023, South Carolina, Florida, Texas, and Idaho now lead the U.S. in population growth.

New Yorkers are migrating in the highest rates to Florida (91,000+ people). However, according to 2022 data from the U.S. Census Bureau, a substantial

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number of New Yorkers remained in the Northeast. Many people moved to New Jersey (75,000+), Connecticut (50,000+), and Pennsylvania (45,000+). Approximately 31,000 New Yorkers moved to both California and Texas. Researchers believe that this trend is likely to continue for a couple years or longer.

New York has the fourth-highest cost of living in the U.S. this year, according to Forbes Advisor, behind only Hawaii, Massachusetts, and California. New York residents spend roughly \$50,000 annually on food, health care, housing, taxes, and transportation. This expense plays a large role.

New York City experienced a 6% decrease (546,000+) in the population between 2020 and 2023. Buffalo, Hempstead, Rochester, Syracuse, and Yonkers also lost thousands of residents. Albany was the largest upstate city to avoid a decline, experiencing a 2% increase instead.

E.J. McMahon, founding senior fellow at Empire Center for Public Policy, said Albany's lack of decline can be partly attributed to office buildings being converted into residences. The census tract in downtown Albany increased by almost 36% between 2010 and 2020. Albany's cost of living is also lower than all other New York metro areas. According to the living wage calculator by Amy Glasmeier, a "full-time working single adult" only needs to make \$22.33 per hour to support themselves, in contrast to \$33.31 per hour in Manhattan.

Many areas in the Hudson Valley and the Catskills have gained population due to New York City residents moving upstate. Approximately 60,000 people moved into the Hudson Valley during the pandemic. According to a Hudson Valley Pattern for Progress report, individuals moving into Columbia County earned 240% more than the residents moving out. This pattern has accelerated "gentrification and housing market crises across the Hudson Valley." Additionally, cities and towns in Saratoga County have experienced population increases. Ballston saw an almost 7% increase between 2020 and 2023.

Families with young children are the largest subgroup of residents leaving New York. In New York City, the highest rate of turnover is adults between the ages of 18 and 25. The Fiscal Policy Institute found that housing costs are the largest factor in deciding to leave New York, including the "extraordinarily high" housing costs in New York City since the pandemic. Perry's report found that 36% of migrating New Yorkers named "more affordable housing" as the motivator. The report found "no evidence of significant tax-motivated migration" for working- and middle-class residents leaving New York. Additionally, New York City has one of the most expensive rates for childcare in the country.

The Fiscal Policy Institute report also found that the rate of outmigration for those 65 and over has increased significantly since 2020. As of 2023, more than 20% of public pension recipients in the New York State and Local Retirement System live outside of New York. Beth Finkel, state director of AARP New York, said that this should be a concern. Adults 50 and older comprise about 1/3 of the state's population and contribute more than 40% of New York's gross domestic product and of tax revenue.

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State Senator Jake Ashby states that New York State has already begun to see the consequences of the declining population via workforce shortages and increased costs for government services, such as education and healthcare.

**New Report Reveals Changes in Demographics of New York City Neighborhoods**

New data has been released from the U.S. Census Bureau and published by the Department of City Planning. This data provides updated economic and demographic information about New York City neighborhoods, including the common residencies of racial, ethnic, and age groups. For example, the youngest neighborhood is South Williamsburg with an average age of 19.5 years old. In contrast, the oldest neighborhood is Bay Terrace-Clearview with the average age of 51 years old.

The study found that Puerto Ricans are the largest Hispanic population in Brooklyn and Staten Island, Dominicans are the largest Hispanic population in the Bronx and Manhattan, and Ecuadorians are the largest Hispanic population in Queens. While more Dominicans live in Washington Heights than any other city neighborhood, Jackson Heights has the highest Hispanic population of any neighborhood (54,300).

Canarsie has the largest Black population of any neighborhood (71,500), while Staten Island's Tottenville-Charleston has the fewest Black residents (136). Out of the city's 10 neighborhoods with the most foreign-born residents, Queens harbors 9 of them. Flushing-Willets Point has the highest foreign-born population (74%), followed by Brighton Beach (70%).

In regard to income, 8 of the 10 neighborhoods with the highest median household income are located in Manhattan. The highest median household income is Tribeca-City Center (\$200,000), then Financial District-Battery Park City and Upper East Side-Carnegie Hill (roughly \$195,000). The 2 neighborhoods not located in Manhattan are Park Slope (\$192,000) and Brooklyn Heights (\$180,000). Melrose has the lowest median household income of any neighborhood (\$28,000). Out of the 10 neighborhoods with the lowest household income, 9 are located in the Bronx. The only other neighborhood is in Manhattan: Chinatown-Two Bridges.

In terms of density, the densest city neighborhood is Yorkville with 267 residents per acre. The median for city neighborhoods is 46 per acre. Tottenville-Charleston had the lowest density of any neighborhood with 6 people per acre. The neighborhood with the lowest rate of overcrowding was Upper East Side-Carnegie Hill (1.3%). In comparison, the 2 neighborhoods with the highest rate of overcrowding are North Corona (30%) and Borough Park (27.5%).

For more information, go to <https://www.nyc.gov/site/planning/planning-level/nyc-population/nyc-population-current-estimates.page>.

## Increase in Older Populations in Almost All Metro Areas Nationally

On July 1, the U.S. Census Bureau released population estimates for U.S. metro areas based on age and other demographics. The report found that the 65+ population of adults had increased in all but one (Eagle Pass, TX) of the U.S.'s 387 metro areas. In contrast, the population of children declined across many metro areas.

The data focused on populations between April 1, 2020, and July 1, 2023. The data was then separated into three categories for analysis: 0-14 ("children"), 15-64 ("working age"), and 65 and older ("older adults").

The population of children declined by 3.3% nationally and declined in approximately 80% (311) of metro areas. The child population increased in only one-fifth of metro areas. The 3 most populous metro areas—New York/Newark/Jersey City, Los Angeles/Long Beach/Anaheim, and Chicago/Naperville/Elgin—accounted for approximately 30% (614,000) of the total decline in the number of children. The 3 highest percentage losses of children were all in California: San Jose/Sunnyvale/Santa Clara (11.8%), Santa Cruz/Watsonville (11.1%), and Napa (10.7%). Florida's metro area Lakeland/Winter Haven had the highest numeric gain (14,600) in children. Furthermore, 4 of the 5 fastest-growing children populations are all in Florida metro areas.

In comparison, the working-age population (15-64) increased by 0.2% nationally and in about 52% of all metro areas. States like Florida, South Carolina, and Utah saw "double-digit growth." The 5 metro areas with the fastest-growing population (15-64) were: Wildwood/The Villages, FL (19.1%); St. George, UT (14.3%); Lakeland/Winter Haven, FL (14.3%); Provo/Orem/Lehi, UT (11.4%); and Myrtle Beach/Conway/North Myrtle Beach, SC (11.1%). These 5 metro areas also experienced growth in the other age categories. Regarding working-age residents, Dallas/Fort Worth and Houston experienced the highest increase.

Between 2020 and 2023, the population of 65+ adults increased by 9.4% (59.2 million) nationally. The population of older adults increased in 386 out of 387 metro areas. South Carolina's Myrtle Beach/Conway/North Myrtle Beach metro area had the country's fastest-growing 65+ population (23.1%, or 107,430).

### AROUND THE NATION

**NORTH CAROLINA:** A panel of 3 judges has rejected a legal challenge to North Carolina's congressional and legislative maps, which were enacted in 2023 by the state Legislature. In the lawsuit, North Carolina voters argued that the 6th, 13th, and 14th congressional districts unduly favor Republicans and contravene the right to "fair elections" under the state's constitution. The lawsuit also challenged the 7th State Senate district and the 105th State House district.

The 2023 redraw of the Legislature's maps ensued "on the heels" of a decision from the North Carolina Supreme Court, which foreclosed future redistricting challenges

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that alleged partisan gerrymandering claims. In the decision, the 3 state judges ruled that as a result of the state Supreme Court's prior decision, the voters could not succeed in a lawsuit which argued that the new maps violated the right to "fair" elections under North Carolina's Constitution.

The judges called these issues "nonjusticiable political questions" that were "not appropriate for redress by this Court." Despite this loss in state court, three other challenges to the 2023 maps remain ongoing in federal court.

**MICHIGAN:** The plaintiffs in *Agee v. Benson*, a group of Michigan voters, did not object to the new state Senate map adopted by the Michigan Independent Redistricting Commission this week. In March 2022, a group of voters filed a federal lawsuit against Michigan's Secretary of State, the Independent Citizens Redistricting Commission, and the Commission's members to challenge the legislative redistricting plans as unconstitutional gerrymanders. The voters alleged that the maps diluted Black voting power, which violated Section 2 of the VRA.

In December 2023, the district court struck down the redistricting plans as a racial gerrymander. In January, the court ordered the Commission to submit and adopt its remedial state House plan by March 1, 2024. The court also appointed special masters to review the submitted plan and draft their own plans if necessary. The deadline for final approval was March 29, 2024. The Commission adopted a new state House plan on time. The parties then met in April to determine a timeline for a remedial state Senate plan.

On Tuesday, the plaintiffs supported the adoption of the Final Senate Remedial Plan (Crane A1). In a statement to the court, the plaintiffs agreed that the plan complied with the court's previous orders. The plaintiffs also stated that the final remedial Senate plan "enhances minority voting opportunity, maintains an acceptable partisan balance, and does not evidence any impermissible reliance upon race."

**MISSISSIPPI:** In a unanimous ruling by a federal 3-judge panel, Mississippi's legislative maps were struck down on Tuesday for discriminating against Black voters in certain districts. The 2022 lawsuit was originally filed by the Mississippi State Conference of the NAACP and Black voters, who alleged that the state House and Senate maps unlawfully diluted Black voting power.

During the trial in February, the voters argued that Mississippi's 38% Black population could support 4+ additional majority-Black Senate districts and 3+ additional majority-Black House districts under the VRA. The panel found that 3 additional majority-Black districts (proposed by the plaintiffs) could be drawn under Section 2 of the VRA.

The panel also rejected an argument from the Mississippi Republican Party and state officials that private persons cannot sue under Section 2, pointing to the 5th U.S. Circuit Court of Appeals' decision that reaffirmed private enforcement of Section 2.

According to the court's 119-page order, the state Legislature will have an opportunity to redraw the three districts at issue and then special elections will be held. The panel stated that in the event that the Legislature fails to meet an eventual

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deadline for submitting new maps, the parties should be prepared to submit their own map proposals for review by the court. Mississippi officials have not commented on whether they intend to appeal the panel's ruling.

**OHIO:** The Citizens Not Politicians campaign has submitted more than 731,000 signatures to the Office of the Ohio Secretary of State, overcoming a significant obstacle in the campaign's plan to reform Ohio's redistricting process.

The campaign aims to replace the current 7-member Ohio Redistricting Commission, all of which are politicians, with the Ohio Citizens Redistricting Commission. This commission would have 15 members: 5 matching the governor's political party at the time, 5 from the party of the "gubernatorial candidate who received the second-most votes in the most recent election," and 5 unaffiliated members.

In order to get this new commission on the ballot—as it would require an amendment to the Ohio Constitution to be approved by voters—the campaign was required to obtain 413,487 signatures by July 3 for November's general election. This number accounts for 10% of all votes cast in the last gubernatorial election, which is a threshold that Ohio law requires for ballot initiatives.

The state also requires all petitions to receive a minimum of 5% of the vote in at least 44 counties. Citizens Not Politicians reports that it did so in 57 counties, but collected signatures in all 88 counties within Ohio. The signatures now must be verified by the Ohio Secretary of State's Office before a final count is released to the public. The campaign will now shift its focus to getting voters to the ballot in support of the amendment.

Additionally, the state congressional map passed by the Ohio Redistricting Commission was ruled as unconstitutional. However, the challengers have taken a step back from the legal battle in order to focus on this redistricting reform.

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