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January 2 Roundtable Update

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**WE ARE NEW YORK'S LAW SCHOOL****N.Y. CENSUS & REDISTRICTING ROUNDTABLE
UPDATE**

*This Week's Update Is Dedicated In Memory of Dr. John L. Flateau
(see remembrance below)*

REAPPORTIONMENT**New York Projected to Lose Three Congressional Districts
After 2030**

Based on new state population estimates released by the Census Bureau on December 19, New York is on the path to lose three congressional districts after the 2030 census is taken. Using the new estimates, a new congressional reapportionment this year would result in one additional district to Arizona, Florida, and Idaho. New York, Illinois, Minnesota would each lose an additional district and California would lose two more districts from what they lost when the official reapportionment was announced on April 26, 2021.

These new numbers reflect 2023 population estimates and are NOT projected forward to 2030.

New York would lose an additional district if the 2023 population estimates were used for the apportionment last year in 2022. New York lost only one district in the official reapportionment, going from 27 seats to 26 districts, losing that one district by just 89 people. The new population estimates drop the state to 25 seats, with the final district (#437) being missed by 118,581 people.

However, projects based on trends leading to 2030 indicate that New York is trending toward a three-district loss after 2030. In all, thirteen districts would change states by the end of the decade, with eight states gaining and seven states losing districts.

States gaining districts include: Arizona, Idaho, North Carolina, Tennessee, Utah (+1 each), Florida (+3), Texas (+4) and state losing districts include: California (-4), Illinois (-2), Minnesota, Oregon, Pennsylvania, and Rhode Island (-1 each), Illinois (-2), and New York (-3).

These estimates were prepared by Election Data Services, Inc. To read the full report, see: <https://bit.ly/3RA8mOG>

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New York last lost three districts after the 1990 census. In 2000 and 2010, New York last two districts each decade and only one district after 2020. After 1980, New York lost a national record of five districts. During the 1940s, the state had 45 districts. It is now down to the number of districts held during the 1920s at 26 districts.

Commentary by Jim Brennan: Democrats Can Avoid a Second Debacle and Win on the Existing Lines

From former Assemblyman Jim Brennan: “Changing the Congressional district lines again to gain partisan advantage might sound appealing, but the Democrats would be smart to just stand their ground and fight it out on the existing lines, rather than risk what happened in 2022 happening again.

“In fact, the Democrats have strong chances to win back these districts and avoid the political and legal thicket associated with the Legislature drawing lines to favor the Democrats, even if Congressional primaries get delayed until August. The Democrats could just decide to stand their ground on the existing Congressional lines and just go all out to win the districts. An analysis of the vote in the 2022 midterms in the competitive districts in New York...showed poor turnout among Democrats to be a major factor in their losses “

Read the entire column here: bit.ly/3vnOmYb

LITIGATION

N.Y. Early Voting Law Challenge: *Stefanik v. Hochul* – GOP Request for Preliminary Injunction Denied

In September 2023, a group of Republican plaintiffs (including organizations and elected officials) filed suit in Albany County State Supreme Court seeking to invalidate the New York Early Mail Voter Act (EMVA) as unconstitutional and seeking to block the implementation of the law.

On December 26, 2023, the court denied the plaintiffs’ request for a preliminary injunction, agreeing with the defendants and intervenors that the plaintiffs failed to establish the requisite irreparable harm and that the balance of the equities weigh in their favor.

The plaintiffs had asked the court to issue a preliminary injunction so that the EMVA would be temporarily prevented from being implemented until the court makes its final decision. As the court wrote in its December 26 decision, to secure a preliminary injunction, the plaintiffs must show “(1) a probability of success on the merits, (2) danger of irreparable injury in the absence of an

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injunction and (3) a balance of equities in [their] favor.” The court further explained that the second element is only established where plaintiffs successfully show a danger of “injury that is neither remote nor speculative, but actual and imminent.”

On the second element, irreparable harm, the plaintiffs argued “in conclusory fashion” that early voting by mail will result in more votes cast for the defendants than for the plaintiffs. The court held that this belief is insufficient to grant a preliminary injunction, and that the plaintiffs fail to establish this element because they cannot show that they will suffer electoral disadvantages based on the EMVA.

On element three, the court found that because the EMVA has yet to be declared unconstitutional, the balances do not tip in the plaintiffs’ favor as enjoining the EMVA at this point would harm NY voters.

The plaintiffs immediately appealed this decision to the Appellate Division, Third Judicial Department.

STATE ELECTION LAW**State Senators Ask State Elections Board to Ban Trump From Ballot**

A group of state senators recently asked the New York State Board of Elections to remove Donald Trump from the state’s primary ballot for the same reason he was removed in Colorado and Maine. [Click here to read the letter.](#)

Governor Approves Bill to Align Local Elections to Even Years

Governor Hochul approved legislation to move most local elections (outside New York City) from odd years to even years, aligning them with other federal and state election cycles. The legislation was enacted in an effort to increase voter turnout and to save taxpayer money. Local government groups opposed the measure, arguing that it would focus less attention on local issues. Republicans opposed the legislation because they saw it as an attempt to bolster Democratic candidates in even year elections when Democratic turnout is higher for Presidential and other major races. The Governor also indicated her support for a constitutional amendment to align all local elections to the even year cycle.

The new law does not apply to elections for mayor, district attorneys, judges, local school boards, and fire districts.

Governor Vetoes Campaign Finance Bill

Governor Hochul vetoed legislation that would have expanded campaign contributions that would be eligible for public matching funds beginning in the 2024 elections. The rejected legislation would have permitted the first \$250 of campaign contributions to be matched by the state. Current law only allows matching funds for donors who contributed no more than \$250 in any one election cycle. The legislation would have permitted larger contributions from wealthy donors.

CENSUS NEWS

Lawmakers Propose Commission to Study Population Migration Losses

In response to New York's population decline estimates two state legislators want the state to look into why the state is losing so many people. this trend. New York, among eight states experiencing a drop in population, lost over 101,000 residents, according to the U.S. Census Bureau.

Senator Jim Tedisco (R) and Assemblyman Angelo Santabarbara (D) are introducing legislation to create a state commission to look into the causes of out-migration. The proposed commission would include 13 members appointed by various state leaders and conduct public hearings across the state.

IN MEMORIAM

John Flateau: Election and Redistricting Pioneer Passes

New York and the nation lost a voting rights pioneer and leader last week. Dr. John L. Flatueau, a professor at CUNY's Medgar Evers College, passed away suddenly on December 30th. He had a long and distinguished career in New York's academic, government, and political worlds.

Dr. Flateau chaired CUNY's Medgar Evers College Public Administration department, directed the Dubois Bunche Center for Public Policy, and served for a period as dean of the college's School of Business and Office of External Relations

Perhaps most notably, Dr. Flateau was the lead plaintiff in a landmark 1982 federal court case that successfully challenged New York's delay in redistricting the state legislature. As a result of the 1980 Census, New York State had lost five congressional districts. In *Flateau v. Anderson*, John and a group of plaitiffs charged that the state legislative lines enacted in the 1970s needed to be redrawn before the 1982 elections (and not six years later, as the then Republican state senate leadership insisted was permissible under state law). In *Flateau*, the court ordered the state legislature to redraw both

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the state's congressional and state legislative district lines in a timely manner in 1982.

Dr. Flateau continued to provide key leadership on census and redistricting issues. He was a member of the New York City Districting Commission in 2002-2003 and then its Executive Director in 2022-2023. Most recently, Flateau was a member of New York State's Independent Redistricting Commission. He participated in a Commission meeting just last Thursday. Over his career, Dr. Flateau served in numerous other government positions. Among his roles, he was a member of the New York City Board of Elections, State Senate Deputy Secretary for Intergovernmental Relations, Chief of Staff to Mayor David N. Dinkins, Senior Vice President and Chief Diversity Officer for the NYS Empire State Development Corporation, and Executive Director of the NYS Black and Puerto Rican Legislative Caucus. He was active in local politics and managed several campaigns.

Dr. Flateau was a graduate of New York University (BA) and the CUNY Graduate Center (MA and Phd). John is survived by his wife Lorraine sons Marcus and Jonathan.

John Flateau was a prolific leader, mentor, and dedicated public servant. His mentorship of so many students and government workers became legend. Dedicated to a complete census count and fair redistricting, John's imprint on New York will endure. And he will be missed by so many. As a memorial notice by Medgar Evers College read, "May Dr. Flateau forever rest in power."

Funeral services will be held at 10:00 AM on Wednesday, January 10th at the Bridge St. AWME Church, 277 Stuyvesant Avenue in Brooklyn, NY.