



GUIDE TO THE ISSUES

The 2020 Census and Alabama

Introduction

While Alabama's major metropolitan areas continue to experience healthy growth, the state's population is increasing at a rate that is less than half that of the U.S. as a whole. This poses a problem because the results of the 2020 Census will be used to determine not only a decades-worth of federal government revenue allocations but Alabama's representation in Congress and voice in the Electoral College as well. Assuming a full count, projections suggest that Alabama, along with New York, Illinois, Ohio, Michigan, West Virginia, Pennsylvania, and Rhode Island, will lose a congressional seat and a vote in the Electoral College to states with higher growth rates such as Texas, Florida, Oregon, and Montana (the potential impact of the citizenship question on seat allocation is discussed below).¹ If Alabama is to defy the odds and maintain its seven congressional districts, a full count of Alabama's residents will need to occur.

Principles

Although the Alabama Policy Institute is most focused on the policies of the state government, API is heavily concerned with the interests of Alabama on the national stage as well. An undercount of Alabama residents in the 2020 Census, it is clear, would be detrimental to federal funding rates, Alabama's representation in the U.S. House of Representatives, and the state's importance in future presidential elections. Any organization with an investment in Alabama's future, therefore, should have an interest in a full count of Alabama's residents during the 2020 Census.

The Citizenship Question

In a vacuum, the citizenship question's presence on the decennial survey should have no impact on the apportionment of congressional seats or federal funding to states. According to Section 2 of the 14th Amendment of the U.S. Constitution, representatives are allocated "according to their respective

ISSUE SNAPSHOT

- The results of the 2020 Census will determine Alabama's allocated federal funding and the apportionment of seats in the United States House of Representatives and votes in the Electoral College.
- Alabama's population is increasing at a rate lower than that of the United States as a whole.
- Alabama is predicted to lose a congressional district as a result of the 2020 Census.
- Full participation of Alabama's residents in the Census must occur if the state is to maintain its seven congressional districts.

numbers, counting the whole number of persons in each state".² All residents, including undocumented immigrants, are represented in Congress regardless of their permanent, citizenship, or legal status under the 14th Amendment. This will remain unchanged unless 1) a Supreme Court ruling determines the definition of "persons" to mean citizens alone or 2) a constitutional amendment with the same effect is approved. Scenario A is unlikely as the Supreme Court affirmed in 1964 in *Wesberry v. Sanders* this version of apportionment based on total population.³

Predicting an Undercount

The citizenship question, however, would not be asked in a vacuum. In fact, the Census Bureau has warned that including a citizenship question would likely result in an undercount of certain populations, especially of minorities.⁴ Many argue that fear of detention or deportation by illegal aliens and an antagonistic attitude towards the federal government could result in an undercount. Regardless, the Supreme Court has ruled against the Trump Administration's reasoning for a citizenship question and the Census Bureau has begun the process of printing the survey without the question.⁵ If there is a



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significant undercount, states like Alabama could retain a seat they would otherwise lose.⁶ That outcome, however, would not reflect the current understanding of representation in Congress as defined by the 14th Amendment and *Wesberry v. Sanders* and should not be pursued.

The Purpose of the Citizenship Question

As adding a citizenship question does not ensure apportionment based on the total number of citizens in a state, the true reasoning behind the question is slightly less obvious. Some argue that the Trump Administration is hoping to cause an undercount which would benefit the Republican Party even though it could cause serious problems with federal funding formulas which assume the accuracy of the Census.⁷

A more likely explanation is that the Trump Administration is seeking to allow state legislatures to allocate their seats based on eligible voters (citizens by default) and not the full population. State legislatures are not precluded from drawing their lines in this manner, and a Supreme Court decision in 2016 (*Evenwel v. Abbott*) specifically allowed states to align its districts by eligible voters (not simply registered voters).⁸ That data, however, has not been available to state legislatures as the citizenship question has not been asked on the standard census survey since 1950.⁹ This change in drawing the electoral map within states could benefit Republicans by eliminating non-citizens from representation. If President Trump's bureaucratic workaround of the citizenship question through the executive branch yields dependable citizenship data, states could soon draw districts based on eligible voters. This would be purely optional, however, and the state's chosen method of allocating seats is independent of the federal distribution of seats within the U.S. House of Representatives (which will remain based on total population).

The Current Status of the Census and Alabama

Alabama's Population

Between 2017 and 2018, 45 of Alabama's 67 counties lost population.¹⁰ While other counties are growing, most notably those suburban areas outside Birmingham, Mobile, and Huntsville, an aging population and relatively low migration

level drive Alabama's minimal annual population growth rate of .26% (from 4,875,120 to 4,887,871 between 2017 and 2018).¹¹ This is lower than that of neighboring states Tennessee, Georgia, and Florida, who are growing at rates of .91%, 1.02%, and 1.54%, respectively, and higher than Mississippi's growth rate of -.1%.¹²

How Representation in the House of Representatives and Electoral College is Determined

Since the 1940 Census, Congress has used the Method of Equal Proportions to ensure appropriate apportionment of the 435 seats of the House of Representatives.¹³ Per the U.S. Constitution, each state is permitted at least one Representative in the House. The remaining 385 seats are assigned to states based on the total population determined in the recently-conducted census through a decades-old, nonbiased formula. There are no politics involved in the seat apportionment, and this method ensures that there are roughly the same number of residents in each congressional district. After the seats are apportioned, it is (mostly) state legislatures which then decide how to draw the boundaries of the congressional districts.¹⁴

Conclusion

As a result of a slow growth rate, it is likely that Alabama will lose a seat in Congress and the Electoral College after the 2020 Census. Even so, full participation in the Yellowhammer State during the 2020 Census could stymie that change. API, therefore, supports Governor Ivey's "Alabama Counts" initiative and her desire to see every Alabamian counted.



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Endnotes

- 1 Election Data Services. “Arizona Gains Rhode Island’s Seat With New 2018 Census Estimates; But Greater Change Likely by 2020.” News release, December 19, 2018. Election Data Services. Accessed July 18, 2019. https://www.electiondataservices.com/wp-content/uploads/2018/12/NR_Appor18.pdf.
- 2 U.S. Const. Amend. XIV, Sec. 2.
- 3 *Wesberry v. Sanders*, 376 U.S.1 (1964).
- 4 U.S. Census Bureau. “Understanding the Quality of Alternative Citizenship Data Sources for the 2020 Census” August 2018.
- 5 Jacqueline Thompson, “Supreme Court rules against Trump on census citizenship question”. June 27th, 2019. *The Hill*.
- 6 Amelia Thompson-Devaux, “The Citizenship Question Could Cost California And Texas A Seat In Congress”. June 17th, 2019, 538.
- 7 Marlen Garcia, “Trump loses big on census, but the damage is done”, July 11th, 2019, *The Chicago Sun-Times*.
- 8 *Evenwel v. Abbott*, 578 U.S.1(2016)
- 9 Tamara Keith, “FACT CHECK: Has Citizenship Been A Standard Census Question?” March 27th, 2018, NPR.
- 10 Ramsey Archibald, “Census: Most of Alabama’s counties are losing people”. April 18th, 2019, AL.com.
- 11 “Table 1. Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2010 to July 1, 2018 (NST-EST2018-01),” December 2018, U.S. Census Bureau, Population Division.
- 12 Ibid.
- 13 “Computing Apportionment”. U.S. Census Bureau.
- 14 Who Draws the Maps? Legislative and Congressional Redistricting. January 2019, Brennan Center for Justice.