The Honorable Howard Lutnick

Secretary

U.S. Department of Commerce

1401 Constitution Avenue, NW

Washington, DC 20230

To: U.S. Census Bureau

Re: Comment from The Honorable Donald Palmer in Support of the Census Bureau's Proposed Rule for Criteria in Counting for the 2030 Census, Proposed Residence Criteria, Proposed Regulations for Demographic Questions, and Request to Add a Citizenship Question to the Decennial Census (Docket No. 260903-0005)

Introduction

As the former Chairman and Commissioner of the United States Election Assistance Commission, and former senior election official in Florida and Virginia, I have dedicated much of my professional career to ensuring fair elections across this country.

I agree with the Bureau's proposed criteria used for identifying each person's "usual residence," to determine whether and where to count them in the Census of the population throughout the United States for apportionment purposes. I also agree with the Bureau's proposal to establish standards and restrictions for the inclusion of certain demographic questions on race or ethnicity on the decennial census short-form questionnaire and any other questionnaire used for the enumeration of the population. Finally, I support the inclusion of explicit questions on citizenship and legal status in the decennial Census.

The Constitution does not require a decennial Census as a mere academic exercise in data collection. Its central constitutional purpose is to allocate political power: seats in the House of Representatives—and, by extension, votes in the Electoral College—among the states. That power exists to give a proportional voice in Congress to those who exercise self-government on behalf of themselves and their children through the ballot. And in our constitutional system, those voters are adult citizens. Section 2 of the Fourteenth Amendment makes that connection unmistakable. Although it directs that representation

be apportioned according to "the whole number of persons," it also commands that a state's representation be reduced when it denies or abridges the right to vote of its adult citizens. The Amendment's framers did not attach that penalty to the disenfranchisement of residents, inhabitants, or persons generally. They attached it to citizens because they understood that representation—and the distribution of political power—rests ultimately on the citizen electorate.[1] Counting large numbers of individuals who have no lawful right to remain in this country for purposes of apportionment distorts that constitutional design. It rewards some states with additional House seats and electoral votes, deprives other states of their rightful representation, and dilutes the votes of American citizens.[2]

The U.S. illegal alien population has reached a new extraordinary peak of 15.8 million as of mid-2024.[3] As of 2023, roughly half of the nation's unauthorized immigrants lived in just four states (California, Texas, Florida and New York), the states with the largest illegal populations in the country.[4] The decennial Census is how political power gets divided in America. It determines how the 435 House seats are apportioned among the states, how many electoral votes each state gets, and the population baseline for drawing congressional and legislative districts.

The Heritage Foundation's Center for Data Analysis illustrates the potential apportionment effects: using 2023 state population estimates and the Migration Policy Institute's mid-2023 estimates of the illegal alien population, excluding that population would give Michigan, Minnesota, and Ohio one additional House seat each, while California, Rhode Island, and Texas would each receive one fewer seat. Using 2024 state population

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[1] *Evenwel v. Abbott*, 578 U.S. 54 (2016) (Alito, J., concurring in the judgment)
[2] *Reynolds v. Sims*, 377 U.S. 533 (1964), and *Wesberry v. Sanders*, 376 U.S. 1 (1964).
[3] Ariel G. Ruiz Soto, Julia Gelatt & Jennifer Van Hook, *Following Years of High Border Arrivals, the U.S. Unauthorized Immigrant Population Hits New Peak*, Migration Pol'y Inst. (July 29, 2026) (estimating 2.91 million unauthorized immigrants in California, 1.97 million in Texas, 1.22 million in Florida, and 836,000 in New York as of mid-2023). https://www.migrationpolicy.org/commentary/us-unauthorized-immigrant-population-new-peak(opens in new window)
[4] *See Jeffrey S. Passel & Jens Manuel Krogstad, U*.S. Unauthorized Immigrant Population Reached a Record 14 Million in 2023, Pew Rsch. Ctr. (Aug. 21, 2025), *https://www.pewresearch.org/race-and-ethnicity/2025/08/21/u-s-unauthorized-immigrant-population-reached-a-record-14-million-in-2023/(opens in new window); see also Unauthorized Immigrants by Country/Region of Birth, Top States and Counties of Residence, 2023, Migration Pol'y Inst., https://www.migrationpolicy.org/data-tool/unauthorized-immigrants-country-region(opens in new window) (last visited Oct. 10, 2026).*

estimates while holding the same mid-2023 exclusion estimates fixed, Minnesota, Ohio, Oregon, and Utah would each gain one seat, while California, Florida, Rhode Island, and Texas would each lose one. These illustrative results compare allocations using the same population baseline, with and without the exclusion, rather than current House delegations; they are not predictions of the official 2030 apportionment. See Appendix A: Heritage Foundation Center for Data Analysis, "Unauthorized Immigration and Congressional Apportionment: Predicting Effects of Excluding Illegal Aliens from Congressional Apportionment—An Illustrative State-Level Analysis," Executive Summary and Results.

The principle of "one person, one vote," set out in *Reynolds v. Sims* and *Wesberry v. Sanders*, requires districts of roughly equal population so that each citizen's vote carries about the same weight. That only works if the population count reflects the political community, and counting illegal aliens in apportionment undermines this. Because seats are a fixed total, states with large, illegal alien populations gain House seats and electoral votes at the expense of states that don't have them. Within states, districts with many non-citizens elect a representative with far fewer eligible voters than neighboring districts, so each citizen's vote in those districts counts for more. Those who comply with immigration law end up with less voice in their own government, and "sanctuary states" that encourage law breaking are rewarded with additional political power.

Criteria for Apportionment: Usual Residence

Since the First Census Act of 1790[5], the Census Bureau and its predecessor administrations have relied on the concept of "usual residence" to determine where a person should be counted for apportionment purposes. The Supreme Court has recognized "usual residence" as the Census Bureau's long-standing measure of an individual's affiliation with a particular place for purposes of enumeration and

[5] After the U.S. Constitution was ratified in 1788, Article I, Section 2 mandated that a population count, or census, needed to be conducted every ten years to determine representation in the House of Representatives and to allocate federal taxes among the states. To implement this requirement, the First Census Act was passed by Congress on March 1, 1790, and signed into law by President George Washington.

representation.[6] Although modern census practice has largely treated usual residence as a geographic concept, the historical understanding of representation also reflected a broader inquiry into whether an individual was a genuine member of the political community to be represented. Mere physical presence within the territorial boundaries of the United States should not automatically qualify an individual for inclusion in the apportionment base. Rather, the concept of "usual residence" should be interpreted to include consideration of an individual's permanence, legal status, and allegiance to the United States.[7]

I agree with the Bureau's assessment that such unauthorized aliens are “outside the community” and not true inhabitants, members of the body politic, or persons possessing a sufficient allegiance and permanent connection to the United States to constitute a "usual residence" for apportionment purposes.[8] The Census should not count illegal aliens as members of the body politic for the simple fact that, through its laws, the body politic has declared that they should not be here. Indeed, no one who can be apprehended at any moment and later deported should be awarded the title of “American resident” and additional representation in Congress.

Individuals present in the country unlawfully, as well as those admitted on temporary visas, are not members of the national political community in a formal or practical sense. Many have the right to vote in their country of origin and even exercise it from the United States. Some are subject to compelled service in their home country’s military. Most who do some work here send significant quantities of money and goods to family members they left behind and with whom they hope to reunite. Their presence is either illegal or expressly temporary, and they lack the enduring legal relationship with the United States that traditionally accompanies representation. Similarly, temporary visitors, including nonimmigrant visa holders, are admitted for a limited purpose and duration. Their legal presence is conditioned on maintaining that temporary status, and federal law presumes

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[6] See *Franklin v. Massachusetts*, 505 U.S. 788 (1992)

[7] *Id*.

[8] S*ee Cabell v. Chavez-Salido*, 454 U.S. 432, 439–40 (1982) (explaining that "aliens are, by definition, those outside of this community").

that they will depart the United States by a date certain unless extended. Neither temporary visitors nor illegal aliens possess the permanent domicile, formal legal bond, or settled expectation of continued residence that characterize lawful permanent residents. For these reasons, the apportionment population should exclude illegal aliens and transitory foreigners.

The question as to who should be included for apportionment, as opposed to excluded, is a closer question. Only citizens bear every constitutional responsibility, such as jury duty and government service. Only citizens are entitled to every constitutional right, including the preeminent one, the right to exercise American democracy. Citizens have a presumptive claim to residence above all others because they have the deepest ties, or put colloquially, the most skin in the game. For these reasons, only citizens should be counted for apportionment purposes.

Nevertheless, the Bureau's proposal to count both citizens and lawful permanent residents for apportionment purposes is also supported in tradition and case law. Large numbers of non-citizens have been present and counted for apportionment purposes from the founding, through ratification of the 14th Amendment, and up to the present day. The difference being now and 1868 is that we now have a formal process of visa, green cards, and border control that was unnecessary then, but absolutely vital now. America no longer has an open frontier. It now has an elaborate welfare state, the provision of a multitude of free public services (such as health care and education) and has become the geographically the safest place on the planet because of our unparalleled military might. These changes necessitated new distinctions between legal, illegal, visitors, or residents, and citizen and non-citizen.

As opposed to illegal aliens, Congress has granted lawful permanent residents the legal right to reside indefinitely in the United States upon good behavior and to establish their permanent homes here. Federal law distinguishes lawful permanent residents from temporary visitors by recognizing them as individuals who have been lawfully accorded the privilege of residing permanently in the United States. Their status reflects a continuing legal relationship with the Nation, including obligations under federal and state law,

taxation, military service eligibility in certain circumstances, and a defined pathway to citizenship. Federal immigration law likewise treats residence and domicile as hallmarks of lawful permanent residence and eventual naturalization.

However, the Bureau is within its authority to define persons to be counted for apportionment purposes as including only United States citizens and those persons that possess the permanence, legal authorization, and enduring connection to the United States necessary to establish a true "usual residence" within the meaning of persons under the Enumeration Clause and the 14th Amendment. Limiting the apportionment base in this manner would better align congressional representation with those individuals who have established a permanent and legally recognized membership in the American political community.

In sum, I agree that the Bureau should interpret "usual residence" for apportionment purposes to include United States citizens as the ideal but can also include lawful permanent residents in light of historical practices, while excluding those whose presence lacks the permanence and legal commitment traditionally associated with representation.

Re-Establish a Citizenship Question on the Census and Include Legal Status

I also support the Bureau's proposal to restore a citizenship question to the decennial Census but recommend it also include questions about legal status specifically.[9] The Supreme Court has explicitly recognized that the Enumeration Clause permits Congress, and by delegation the Secretary of Commerce, to inquire about citizenship on the Census questionnaire. Moreover, citizenship questions were a longstanding feature of the Census for most of the Nation's history, appearing in one form or another on decennial Census questionnaires from the nineteenth century until their removal from the 2010 Census.[10]

A citizenship question would provide policymakers, researchers, and election administrators with more accurate demographic information while more detailed sub

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[9] Hans A. von Spakovsky, *Citizenship Question Essential for Accurate U.S. Census*, Heritage Found. (Feb. 21, 2018), https://www.heritage.org/immigration/commentary/citizenship-question-essential-accurate-us-census.

[10] *See Department of Commerce v. New York*, 588 U.S. ___ (2019)

questions on legal status will assist efforts to distinguish between citizens, lawful permanent residents, visitors, and illegal aliens or individuals who lack a sufficient connection to the United States for apportionment purposes and for immigration policy purposes. Given the central constitutional function of the Census in allocating representation among the states, the collection of accurate citizenship data is both lawful and prudent. Accordingly, a citizenship question should be included in the 2030 Census.

Race and Ethnicity Questions

I support the Bureau's proposal to remove race and ethnicity questions from the decennial census questionnaire. The Constitution requires an "actual Enumeration" for purposes of apportioning representation among the states, not the collection of racial, ethnic, or sexual preference classifications. While demographic data may serve purposes in other federal surveys and statistical programs, questions regarding race, ethnicity, and sexual preferences, in addition to being highly contested questions definitionally, are not necessary to fulfill the Census's core constitutional function of determining the population used for congressional apportionment. The decennial Census should remain focused on producing the most accurate count of persons eligible for inclusion in the apportionment base.

To the extent the federal government seeks information regarding race, ethnicity, or ancestry for research, programmatic, or civil-rights enforcement purposes, those data can be collected through separate surveys and administrative sources rather than through the decennial Census. Limiting the decennial Census to information necessary for apportionment would promote public confidence, reduce respondent concerns regarding the use of personal information for potentially discriminatory purposes, and return the Census to its primary constitutional purpose of allocating representation among the states. The Bureau's current proposal recognizes this distinction by eliminating race, ethnicity and sexual orientation questions from the decennial Census while preserving the government's ability to collect such data through other statistical instruments.

The Bureau should not treat the decennial Census as a general social-science survey. Rather, it should prioritize the Constitution's singular objective of conducting an actual enumeration for apportionment and limit the questionnaire to information necessary to accomplish that purpose.

Conclusion

The decennial Census exists first and foremost to apportion representation among the states, and that representation belongs to core members of the American political community. For that reason, the Bureau should interpret 'usual residence' to include United States citizens only, while recognizing there is significant support in law and history to also include lawful permanent residents. But in any case, the count must exclude unauthorized aliens and temporary visa holders, who lack the permanence, legal status and enduring allegiance that representation has historically required. Restoring a citizenship question to the 2030 Census is lawful and necessary to make that distinction accurately, while removing race, ethnicity and sexual orientation questions keeps the enumeration focused on its constitutional purpose. Together, these reforms would keep citizens' votes from being diluted, honor the principle of one person, one vote, and return the Census to the 'actual Enumeration' the Constitution requires.

Appendix A

Predicting Effects of Excluding Illegal Aliens from Congressional Apportionment

An Illustrative State-Level Analysis
Heritage Foundation Center for Data Analysis

Executive Summary

We study how excluding an estimated illegal alien population from the population used for congressional apportionment could change the distribution of the 435 seats in the U.S. House of Representatives. The calculations apply selected population estimates and exclusion definitions to the method of equal proportions so that readers can see which states are near the final-seat cutoff and how the allocation changes under different assumptions.

The baseline specification combines July 1, 2023, Census state population estimates with the Migration Policy Institute's estimate of 13.738 million illegal aliens (MPI uses "unauthorized immigrants" as its preferred term) as of mid-2023 (Migration Policy Institute, 2025a). Excluding that illegal alien population from the census apportionment count would yield Michigan, Minnesota, and Ohio each receiving one additional seat, while California, Rhode Island, and Texas would each receive one fewer seat. A comparison using July 2024 state populations and the same MPI 2023 exclusion estimates produces a different set of marginal transfers: Minnesota, Ohio, Oregon, and Utah would gain one seat, while California, Florida, Rhode Island, and Texas lose one. Each result is measured against an allocation using the same state population baseline without the exclusion of the illegal alien population, not against the current House delegation.

These results should be read as illustrative calculations that depend on various assumptions, including: the population year, the Census estimate vintage, MPI's modeled state estimates, the definition of the excluded population, and the treatment of people with temporary or pending statuses. The analysis does not resolve those choices, but instead shows—under relatively reasonable assumptions—that an exclusion can change marginal

seats. Nevertheless, the affected states and the margins depend on the underlying data and definitions.

Results

Table 1 reports the change in each state's House seats after subtracting the specified MPI population estimate from the same-year Census population baseline and rerunning the method of equal proportions. The 2023 benchmark compares the adjusted July 1, 2023 population with an unadjusted July 1, 2023 allocation. The 2024 comparison repeats that exercise using July 1, 2024 state populations while subtracting the same mid-2023 MPI state counts. A value of +1 means that the state receives one more seat than under the corresponding unadjusted baseline; -1 means one fewer seat; and 0 means no change. Only states with a nonzero change in at least one specification between the two quantitative exercises are shown.

State	2023 MPI benchmark	2024 population comparison
California	-1	-1
Florida	0	-1
Michigan	+1	0
Minnesota	+1	+1
Ohio	+1	+1
Oregon	0	+1
Rhode Island	-1	-1
Texas	-1	-1
Utah	0	+1

Note: Blue shading denotes Democratic-leaning states, red shading denotes Republican-leaning states, and purple shading denotes a competitive state for presentation purposes. Political shading is descriptive and does not enter the apportionment calculation. Each scenario is compared with an unadjusted allocation using the same Census population baseline. The 2024 comparison uses 2024 Census population estimates and holds the mid-2023 MPI state counts fixed. Source: Authors' calculations using U.S. Census Bureau and Migration Policy Institute data.

Minnesota and Ohio gain one seat under both reported specifications, while California, Rhode Island, and Texas lose one seat under both. Michigan gains one seat only under the 2023 benchmark. Florida loses one seat, and Oregon and Utah each gain one, only in the 2024 population comparison. Of note, however, the presence of agreement across some deterministic calculations does not establish statistical confidence; confidence intervals are not included.

Seat Margins

The method of equal proportions ranks state priority values (U.S. Census Bureau, 2021a), so the final allocation can change when a state crosses the cutoff for seat 435. Under the 2023 MPI benchmark, Michigan receives seat 435 and New York is the first state denied another seat. Holding every other adjusted population fixed, New York would need approximately 82,239 additional people to reverse that allocation. Again, this is a scenario-specific threshold only. The New York figure overstates how settled the full result is. Under the same benchmark, Rhode Island would need only about 6,843 additional people to keep its second seat, roughly 12 percent of its MPI estimate of 59,000. MPI rounds its state estimates to the nearest thousand, and estimates for small states rest on comparatively few survey observations, so the Rhode Island result is the least stable of the reported changes.

Data and Timing

The main calculation uses July 1, 2023 Census population estimates because that reference date is close to MPI's mid-2023 estimates. The secondary calculation substitutes July 1, 2024 state populations but continues to subtract the same mid-2023 MPI state counts. It therefore holds the estimated excluded counts fixed, not their shares of state population, and is a population-baseline comparison rather than a temporally aligned estimate of the excluded population in 2024. Changes between the two calculations can reflect both state population growth and revisions across Census estimate vintages. The formal apportionment population differs from resident population because it also includes

certain overseas federal employees and their dependents allocated to states (U.S. Census Bureau, 2021b).

The analysis does not use 2020 population counts in any apportionment calculation. The 2020 census nevertheless remains relevant context because pandemic-related disruptions, differential nonresponse, imputation, and other operational challenges may have produced geographically uneven coverage errors, and may have propagated into 2023 and 2024 counts. Such errors could have increased or decreased state counts, but the available files do not identify an overcount attributable specifically to unauthorized residents. This memo therefore does not adjust the 2023 or 2024 estimates for alleged 2020 overcounts and does not treat concerns about the 2020 enumeration as evidence that any particular state received excess representation.

MPI's state estimates are modeled rather than directly enumerated. The American Community Survey does not ask whether a respondent is lawfully present. MPI assigns legal status to noncitizen respondents using pooled 2019–2023 ACS data and the Survey of Income and Program Participation, then weights the results to 2023 national estimates of the unauthorized population produced by Jennifer Van Hook of Pennsylvania State University (Migration Policy Institute, 2025c). Because the survey inputs span five years, the "mid-2023" reference reflects reweighting rather than observation on a single date. The resulting estimates are rounded and incorporate uncertainty from survey coverage, status classification, demographic assumptions, and model calibration. A conventional state-level margin of error would not capture all of those sources of uncertainty. This approach is related to the residual methods used by the Office of Homeland Security Statistics and Pew Research Center, although the organizations differ in their source data, status-assignment procedures, and adjustments (Baker and Warren, 2024; Van Hook, Ruiz Soto, and Gelatt, 2025; Passel and Krogstad, 2025).

Methodology

Population inputs. The baseline uses the Census Bureau's July 1, 2023, resident-population estimates for the 50 states and MPI's mid-2023 state estimates of the illegal

alien population (Migration Policy Institute, 2025b). The District of Columbia is excluded because it does not receive a voting seat in the House. For that reason, the 50 state estimates used here sum to 13.706 million rather than MPI's national total of 13.738 million, which includes about 31,000 people in the District. The 2024 comparison substitutes July 1, 2024, state populations while holding the MPI exclusion estimates fixed. It is therefore a population-baseline comparison, not an estimate of the illegal alien population in 2024.

Exclusion scenario. The benchmark subtracts each state's full published MPI mid-2023 estimate from that state's population. This is a transparent counterfactual using MPI's published category, not an estimate of the precise population that a final 2030 rule would exclude. Because the proposed rule would also exclude lawfully present temporary residents who fall outside MPI's category, the benchmark may understate the number of people the rule would remove.

Apportionment calculation. Each state receives one seat. The remaining 385 seats are assigned using the method of equal proportions. For a state with population P, the priority value for its nth seat is calculated as:

$$\text{Priority } n = P / \sqrt{[n(n-1)]}$$

where $n - 1$ is the number of seats the state already holds. The denominator is the geometric mean of the state's seat count before and after the seat in question, so the priority value is roughly the number of residents each representative would serve if the state received that seat. Each additional seat raises the denominator and lowers the state's claim on the next one. Because the denominator for a first seat is zero, every state's first seat has an unbounded priority value, consistent with the constitutional guarantee of one seat per state. For later seats, a state's population is divided by $\sqrt{2} \approx 1.414$ for its second seat, $\sqrt{6} \approx 2.449$ for its third, and $\sqrt{12} \approx 3.464$ for its fourth. Under the 2023 MPI benchmark, for example, Michigan's adjusted population of 9,957,261 yields a priority value for its 14th seat of $9{,}957{,}261 \div \sqrt{(14 \times 13)} = 9{,}957{,}261 \div 13.491 \approx 738{,}081$, the 435th-highest value. New York's adjusted population of 18,735,216 yields a priority value for its 26th seat of

$18{,}735{,}216 \div \sqrt{(26 \times 25)} = 18{,}735{,}216 \div 25.495 \approx 734{,}856$, just below the cutoff. Priority values are ranked from highest to lowest until all 435 seats are assigned (U.S. Census Bureau, 2021a). The analysis first calculates seats using the unadjusted population baseline, then repeats the calculation after subtracting the specified excluded population. Reported seat changes are differences between those two allocations.

Seat margins. For each scenario, the analysis identifies the state receiving seat 435 and the state with the highest priority value for the first denied seat. The population margin is the additional adjusted population the runner-up would need, holding every other state fixed, to equal the priority value of seat 435. These margins describe the arithmetic sensitivity of a particular scenario; they are not confidence intervals.

Interpretation. The calculations are counterfactual and illustrative; they do not reproduce a formal decennial apportionment because they use annual resident-population estimates rather than Census Day apportionment counts, do not add allocable overseas federal personnel, and rely on modeled estimates of a population that the ACS does not directly identify. The analysis also does not estimate the lawfully present temporary residents that the proposed rule would exclude in addition to MPI's category.

Relation to Prior Research

This analysis is closest to Warren and Warren (2025), who use annual state estimates of undocumented residents to construct historical counterfactual apportionments from 1980 onward. They find that excluding illegal alien residents would have shifted no more than two House seats and three Electoral College votes between political parties in any census year since 1980, without changing party control of the House or the outcome of a presidential election. The present memo asks a narrower question: how selected 2023 state estimates affect marginal seats under alternative exclusion assumptions. The results are also consistent with earlier work showing that apportionment effects depend on both the population definition and the states in which excluded groups reside (Poston, Bouvier, and Dan, 1999).

The legal and operational question is broader than the illegal alien-only benchmark. The proposed 2030 residence criteria under the Census Bureau's Proposed Rule (Docket No. 260903-0005; U.S. Census Bureau, 2026), would retain lawful permanent residents in the apportionment base but exclude people who are unlawfully present and people whose legal status is considered more transient or indefinite than lawful permanent residence. The Congressional Research Service notes that the proposal could therefore exclude some people who are lawfully present, including certain temporary-status populations that do not map cleanly onto MPI's "unauthorized" category (Knoedl, 2026).

Who Could Be Excluded?

The benchmark subtracts MPI's full "unauthorized" category. That category covers three groups: people who entered the country without authorization, people who overstayed a temporary visa, and people who hold a temporary or pending "liminal" status that shields them from deportation without conferring lawful permanent residence. MPI estimates that as many as 4 million people, or 29 percent of its mid-2023 total, held Temporary Protected Status or Deferred Action for Childhood Arrivals, had a pending asylum application, or had an active grant of humanitarian parole. Because some people hold more than one of these statuses, MPI treats the figure as a maximum; the unduplicated number is likely substantially lower (Van Hook et al., 2025).

The proposed rule draws the line in a different place. It would exclude from the apportionment count every foreign citizen who is not also a U.S. citizen or a lawful permanent resident (U.S. Census Bureau, 2026; Knoedl, 2026). Under that criterion, everyone in MPI's category would be excluded, including the liminal-status groups. So would lawfully present temporary residents, such as international students and temporary workers, who are not part of MPI's estimate at all. Subject to the accuracy of MPI's estimates, the benchmark is therefore a lower bound on the population the proposed rule would remove, not an overstatement of it. That does not mean the seat changes would necessarily be larger, because the effect on seats depends on where the additional groups live relative to the rest of the population.

Subtracting all noncitizens would err in the opposite direction. ACS citizenship data include lawful permanent residents, temporary visa holders, humanitarian entrants, and illegal alien residents, and citizenship alone cannot separate them. Because the proposed rule would keep lawful permanent residents in the apportionment base, an all-noncitizens subtraction would overstate the excluded population; isolating the excluded groups requires a legal-status assignment such as MPI's. Current Census residence rules count citizens and noncitizens at their usual residence, defined as where they live and sleep most of the time (U.S. Census Bureau, 2018, 2021b).

How to Interpret the Texas Result

Texas may gain representation between apportionment cycles because its total population has grown faster than that of many other states. That comparison concerns changes in population and representation over time. The exclusion calculation asks a different question: how many seats would Texas receive under the method of equal proportions if the specified population were removed from every state's apportionment base?

Texas contains a larger share of MPI's estimated unauthorized population than it does of the total U.S. resident population. Subtracting that estimate therefore reduces Texas's apportionment population proportionately more than it reduces the national population used in the calculation, lowering Texas's priority values relative to those of other states. Accordingly, the finding that Texas receives one fewer seat does not mean that Texas would necessarily have fewer seats than it has today. It means that, using the same population year and the same 435-seat House as the baseline, Texas receives one fewer seat in the exclusion counterfactual than it receives when all residents are included. Texas could therefore gain representation between apportionment cycles because of rapid population growth while still receiving fewer seats than it otherwise would under an apportionment calculation that includes all residents.

The result also should not be interpreted as a direct transfer of a Texas seat to a particular state. The method of equal proportions ranks priority values nationally, so changing one state's population can alter the cutoff and affect the allocation among several states. The

result is therefore a national reallocation relative to the specified baseline, not a one-to-one transfer between Texas and another state.

Assumptions and Limitations

The estimates in this memo are illustrative and depend on the following assumptions:

- The MPI state estimates are an appropriate proxy for the population that would be excluded under the rule, recognizing that the proposed rule would also exclude lawfully present temporary residents who are outside MPI's category.
- The MPI and Census state records are accurately matched and the corrected state values are used throughout the calculations.
- July 1, 2023 state population estimates provide a reasonable baseline for a mid-2023 analysis, even though the two sources do not refer to the same exact date.
- The 2024 comparison holds the MPI 2023 exclusion estimates fixed and therefore does not measure changes in the illegal alien population after mid-2023.
- MPI's rounded state estimates are sufficiently precise for an exercise in which some seats are decided by relatively small margins.
- The resident population estimates used here are an adequate illustration of the apportionment base; a formal decennial calculation may also include allocable overseas federal personnel.
- The classification of illegal alien and liminal-status populations is stable enough to support a state comparison, despite changes in status, interstate movement, emigration, mortality, and administrative-record timing.
- The deterministic scenarios describe what follows from the selected inputs. They do not provide probabilities, confidence intervals, or predictions of the official 2030 allocation.

These assumptions all matter, and they could also interact with one another. The results identify states whose final seats change under the selected inputs, but they should not be read as definitive estimates of the effects of a final rule.

Data Needed for a Complete Assessment

A full assessment would require the Census Bureau or another authoritative source to provide data that are not currently available in a consistent public state-level file:

- A common Census Day reference date for both the state population baseline and the population proposed for exclusion.
- A final operational definition of the excluded population, including the treatment of lawful permanent residents, parolees, TPS holders, DACA recipients, pending asylum applicants, refugees, students, temporary workers, and other nonimmigrants.
- Mutually exclusive state counts by legal-status category so that individuals are not counted more than once.
- Unrounded state estimates and measures of uncertainty that reflect sampling error, status classification, survey undercoverage, model calibration, and administrative-record error.
- Administrative-record coverage and linkage rates, including unmatched records, duplicate resolution, stale addresses, and the treatment of people whose status changes near Census Day.
- Information on interstate movement and the difference between an administrative address, an initial destination, and a person's usual residence.
- The actual apportionment population, including any overseas federal personnel allocated to states.
- A state-level impact table showing baseline seats, adjusted seats, priority values near the 435-seat cutoff, and sensitivity to alternative definitions and error assumptions.

Without these data, the analysis can show how selected assumptions affect apportionment, but it cannot determine the exact population that the Census Bureau would exclude or the official seat allocation that would result.

Sources

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