

WHAT DETERMINES REPRESENTATION IN THE HOUSE?

THE CENSUS, REAPPORTIONMENT, AND REDISTRICTING

WATCH IT! – [The U.S. Census and Apportionment \(2:09\)](#)

WATCH IT! – [What is Reapportionment \(1:53\)](#)

Article I of the Constitution directs Congress to reapportion the seats in the House every ten years, after each census (Article I, Section 2, Clause 3). Until a first census could be taken, the Constitution set the size of the House at 65 seats. That many members served in the First and Second Congresses (1789–1793). The census of 1790 showed a national population of 3,929,214 persons; so in 1792, Congress increased the number of House seats by 41, to 106.

In a country as large as the United States, how is it possible to count each person in every state, city, county, prison cell, and hospital bed? Every 10 years, this is the daunting task assigned to the Commerce Department's Census Bureau. The census is mandated by the U.S. Constitution and goes all the way back to 1790, when less than 4 million people — not counting slaves or Native Americans — lived in the fledgling nation. In 2010, the census recorded 308.7 million people, a 9.7 percent population increase from 2000, or roughly 79 times as many residents as 1790. The main purpose of the census is to figure out how many seats each state receives in the House of Representatives.

During the writing of the Constitution in 1787, there was much discussion on representation in Congress. It was decided that the members of the Senate would represent the different states and members of the House of Representatives would represent people in those states. For the House, the Constitution's framers set up a system of apportionment whereby states would be divided into separate legislative districts based on the population of the state. Article 1, Section 2 of the Constitution requires a census be taken every 10 years to determine population for purposes of determining the number of people in each district for each state. Each district is to have roughly the same amount of people to ensure citizens are equally represented. Until a first census could be taken, the Constitution set the size of the House at 65 seats. That many members served in the First Congress (1789–1791). Every state would be guaranteed at least one representative even if the state's population was below 30,000. Every ten years the census would be taken and Congress would have to reapportion the House of Representatives to adjust to the increase in population and the demographic changes that occurred. The census of 1790 showed a national population of 3,929,214 persons; so in 1792, Congress increased the number of House seats by 41, to 106.

A Growing Nation

As the nation's population grew over the decades, and as the number of States also increased, so did the size of the House. It went to 142 seats after the census of 1800, to 182 seats 10 years later, and so on. By 1912, following the census of 1910 and the admission of Arizona and then New Mexico to the Union, the House had grown to 435 seats.

With the census of 1920, Congress found itself in a difficult political position. The House had long since grown too large for effective floor action. To reapportion without adding more seats, however, would mean that some States would have to lose seats.

Reapportionment Act of 1929

Faced with the 1930 census, Congress avoided repeating its earlier lapse by passing the Reapportionment Act of 1929. That law, still on the books, sets up what is often called an "automatic reapportionment." It provides:

- The "permanent" size of the House is 435 members. Of course, that figure is permanent only so long as Congress does not decide to change it. Congress did enlarge the House temporarily in 1959 when Alaska and then Hawaii became States. Today each of the 435 seats in the House represents an average of over 700,000 persons.
- Following each census, the Census Bureau is to determine the number of seats each State should have.

The plan set out in the 1929 law has worked quite well through eight reapportionments. The law leaves to Congress its constitutional responsibility to reapportion the House, but it gives to the Census Bureau the mechanical chores and the political "heat" that go with that task.

Reapportionment is the division of congressional districts among the 50 states of America. According to Federal statute (law), there are 435 congressional districts that comprise the U.S. House of Representatives. Following each decennial census, the total population of the United States is divided to determine the approximate number of people to be included in each congressional district. The 435 congressional districts of the U.S. House of Representatives are "apportioned" among the states under the U.S. Constitution and subsequent federal statutes. Each state is guaranteed at least one congressional district regardless of population and the remaining districts are allocated according to a complicated mathematical population formula that distributes the representation as evenly as possible among the states.

What is redistricting?

Members of Congress are elected by voters grouped into districts. At least once per decade, usually after a Census, district lines are redrawn, block by block. Populations change. Some districts gain residents, some lose them. District boundaries are redrawn to ensure each district has about the same number of people and to fulfill the constitutional guarantee that each voter has an equal say. Based on the 2010 census, each Congressional district has an average population of about 711,000, which is nearly a 10 percent increase from the 2000 census, when each district had an average of 647,000 people. In 2010, some states lost congressional seats and others gained them. For example, Texas gained four districts and New York lost two.

Once the U.S. Census Bureau releases new population figures for all 50 states (in every year ending in "1"), seats in the U.S. House are handed out accordingly. Some states gain seats, some states lose seats, and some keep the same number of seats. But regardless of whether or not your state gains or loses, new districts for congressional seats and state legislative seats must be drawn to create districts that are equal (or as close to possible) in population.

For example, the state of Nevada has seen explosive population growth in the Las Vegas area over the last decade, and because of this, it will be moving from its current three House seats to four in the 2012 election. Much of that growth occurred in freshman Rep. Joe Heck's (R-Nev.) Las Vegas-based 3rd district, which has grown from 666,000 residents after the 2000 Census to more than one million people today, and has more people than any other district in the country. His new district, therefore, needs to cut out about 350,000 of those people in order to make it equal with the state's other three congressional districts. Because of all these changes, the congressional map in Nevada will look significantly different for 2012 than it does now, and Heck and his Nevada colleagues will have significantly different districts to run in.

Redistricting refers to the actual division of congressional districts or the drawing of congressional district lines within a state into new districts after each state has been apportioned its number of districts following each decennial census. The laws governing redistricting include state constitutions and/or statutes as well as Federal and State court decisions. Changes in boundaries therefore, are correctly described as "redistricting" rather than "reapportionment."

Congressional Districts

The 435 members of the House are chosen by the voters in 435 separate congressional districts across the country. Recall that seven States each have only one seat in the House. There are, then, 428 congressional districts within the other 43 States.

The 1842 law gave each State legislature the responsibility for drawing congressional districts within its own State. It also required that each congressional district be made up of "contiguous territory." That is, it must be one piece, not several scattered pieces. In 1872, Congress added the command that the districts within each State have "as nearly as practicable an equal number of inhabitants." In 1901, it further directed that all the districts be of "compact territory"—in other words, a comparatively small area.

These requirements of contiguity, population equality, and compactness were often disregarded by State legislatures, and Congress made no real effort to enforce them. The requirements were left out of the Reapportionment Act of 1929.

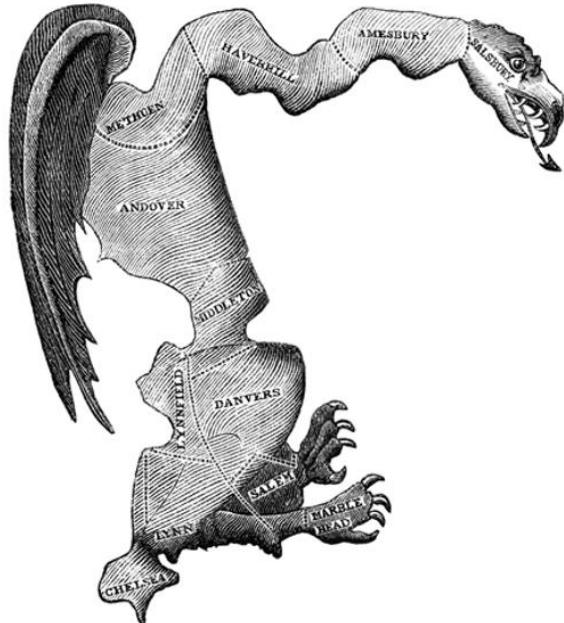
Gerrymandering

Gerrymandering is the practice of dividing election districts to give special advantages to one group and usually to give one political party an electoral majority in a large number of districts while concentrating the opposition's voting strength in the fewest districts possible. This is done by manipulating the geographic boundaries of electoral districts to create partisan, incumbent-protected districts.

Congressional district maps in several States show one and sometimes several districts of very odd shapes. Some look like the letters S or Y, some resemble a dumbbell or a squiggly piece of spaghetti, and some defy description. Those districts have usually been gerrymandered. That is, they have been drawn to the advantage of the political party that controls the State's legislature.

Most often gerrymandering takes one of two forms. The lines are drawn either (1) to concentrate the opposition's voters – packing – in one or a few districts, thus leaving the other districts comfortably safe for the dominant party; or (2) to spread the opposition as thinly as possible among several districts – cracking – limiting the opposition's ability to win anywhere in the region.

Gerrymandering's main goal is to create as many "safe" districts as possible – districts almost certain to be won by the party in control of the line-drawing process. And the computer-driven map-making techniques of today make the practice more effective than ever in its storied past.



The term **gerrymandering** came to be thanks to Elbridge Gerry, the governor of Massachusetts from 1810 to 1812. During his tenure, Governor Gerry signed a bill that redistricted his state to overwhelmingly benefit his party (the Republicans), much to the dismay of the opposition party (the Federalists). One of the congressional districts was said to be shaped like a salamander, to which one Federalist reportedly said: No, it's a gerrymander.

Gerrymandering is the principle reason why, presently, only a handful of seats in the House are actually at risk in an election. In most elections, no more than 40 members now represent districts that cannot be classified as more or less safe districts.

For decades, gerrymandering led to congressional districts that differed widely in the number of people they included. State legislatures were responsible for this situation, of course. A number of them regularly drew district lines on a partisan basis—with the Republicans gouging the Democrats in those States where the GOP controlled the legislature, and the Democrats doing the same thing to the Republicans where they held sway. In fact, that circumstance exists in several States today. Historically, most States were carved up on a rural versus urban basis as well as a partisan one—because, through much of history, the typical State legislature was dominated by the less-populated (and over-represented) rural areas of the State.

Wesberry v. Sanders, 1964

The long-standing pattern of congressional districts of widely varying populations and, as a result, the long-standing fact of rural overrepresentation in the House came to an abrupt end in the mid to late 1960s. That dramatic change was the product of an historic Supreme Court decision in 1964. In a case from Georgia, *Wesberry v. Sanders*, the Supreme Court held that the Constitution demands that the States draw congressional districts of substantially equal populations.

The Court's "one person, one vote" decision in *Wesberry* had an immediate and extraordinary impact on the makeup of the House, on the content of public policy, and on the shape of electoral politics in general. The nation's cities and suburbs now speak with a much louder voice in Congress than they did before that decision. But notice, it remains quite possible for States to draw their congressional (or any other) district lines in accord with the "one person, one vote" rule and, at the same time, gerrymander those districts.