

# CRS Report for Congress

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## House Apportionment 2000: States Gaining, Losing, and on the Margin<sup>1</sup>

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### Summary

On December 28, 2000, the Commerce Department released 2000 Census population figures and the resulting reapportionment of seats in the House of Representatives. The apportionment population of the 50 states in 2000 is 281,424,177, a figure 13.4% greater than in 1990. Twelve seats will shift among 18 states in the 108<sup>th</sup> Congress as a result of the reapportionment. (In the 103<sup>rd</sup> Congress, 19 seats shifted among 21 states after the 1990 Census.) The next census data release will occur by April 1, 2001, when the Census Bureau will provide states the small area data necessary to re-draw congressional and state legislative districts in time for the 2002 election. This report will not be updated.

### Background

The Census Bureau's release of the first figures from the 2000 Census will shift 12 seats among 18 states for the 108<sup>th</sup> Congress (beginning in January 2003). Connecticut, Illinois, Indiana, Michigan, Mississippi, Ohio, Oklahoma, and Wisconsin will each lose one seat, and New York and Pennsylvania will each lose two seats. California, Colorado, Nevada, and North Carolina, will each gain one seat, and Arizona, Florida, Georgia, and Texas will each gain two seats.<sup>2</sup>

The reapportionment of House seats in 2000 is based on an *apportionment population* that is different from the actual *resident population* of each state. For apportionment purposes since 1970, (with the exception of 1980) the Census Bureau has added to each state's resident population the foreign-based military and other federal employees and their dependents who are from the state but not residing therein at the time

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<sup>1</sup> This report originally was authored by David C. Huckabee, who has retired from CRS.

<sup>2</sup> See **Table 1** for each state's data. These allocations are based on a 435 seat House of Representatives. The 435-seat House was established in 1929 by the Permanent Apportionment Act, (46 Stat. 21, 26-27) which ended the 19<sup>th</sup> century practice of increasing the House size after every census but one. There have been no permanent increases in the House size for most of the 20<sup>th</sup> century.

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of the census. In 2000, these additional persons increased the census count for the 50 states by 574,330. If the foreign-based military and federal employees had not been included in the counts, North Carolina would have not gained its 13<sup>th</sup> seat. Utah would have gained an additional seat instead.

## Tables

**Table 1** sets out the apportionment population as of April 1, 1990, April 1, 2000 and the resulting seat assignments of each of the 50 states. The table also illustrates the change from 1990 (shown by total and percent), the current House seat allocation, and what it will be at the beginning to the 108<sup>th</sup> Congress, and the average sized congressional district for each state. For the 108<sup>th</sup> Congress, the national average size congressional district will be 645,632, and districts will range in size from 493,782 (for Wyoming's single district) to a maximum of 902,195 (for Montana's single district).

**Table 1. Apportionment of Seats in the House of Representatives  
Based on the 2000 Census**

State	1990 Census		2000 Census				Seat change from 1990	2003 average CD pop. <sup>d</sup>	
	Apportion- ment pop. <sup>a</sup>	Seats	Apportion- ment pop. <sup>b</sup>	Overseas federal <sup>c</sup>	Change from 1990				Seats
					Total	Percent			
AL	4,040,587	7	4,461,130	14,030	420,543	10.41	7	635,300	
AK	550,043	1	628,933	2,001	78,890	14.34	1	626,932	
AZ	3,665,228	6	5,140,683	10,051	1,475,455	40.26	8	641,329	
AR	2,350,725	4	2,679,733	6,333	329,008	14.00	4	668,350	
CA	29,760,021	52	33,930,798	59,150	4,170,777	14.01	53	639,088	
CO	3,294,394	6	4,311,882	10,621	1,017,488	30.89	7	614,466	
CT	3,287,116	6	3,409,535	3,970	122,419	3.72	5	681,113	
DE	666,168	1	785,068	1,468	118,900	17.85	1	783,600	
FL	12,937,926	23	16,028,890	46,512	3,090,964	23.89	25	639,295	
GA	6,478,216	11	8,206,975	20,522	1,728,759	26.69	13	629,727	
HI	1,108,229	2	1,216,642	5,105	108,413	9.78	2	605,768	
ID	1,006,749	2	1,297,274	3,321	290,525	28.86	2	646,976	
IL	11,430,602	20	12,439,042	19,749	1,008,440	8.82	19	653,647	
IN	5,544,159	10	6,090,782	10,297	546,623	9.86	9	675,609	
IA	2,776,755	5	2,931,923	5,599	155,168	5.59	5	585,265	
KS	2,477,574	4	2,693,824	5,406	216,250	8.73	4	672,104	
KY	3,685,296	6	4,049,431	7,662	364,135	9.88	6	673,628	
LA	4,219,973	7	4,480,271	11,295	260,298	6.17	7	638,425	
ME	1,227,928	2	1,277,731	2,808	49,803	4.06	2	637,462	
MD	4,781,468	8	5,307,886	11,400	526,418	11.01	8	662,061	
MA	6,016,425	10	6,355,568	6,471	339,143	5.64	10	634,910	
MI	9,295,297	16	9,955,829	17,385	660,532	7.11	15	662,563	
MN	4,375,099	8	4,925,670	6,191	550,571	12.58	8	614,935	
MS	2,573,216	5	2,852,927	8,269	279,711	10.87	4	711,164	
MO	5,117,073	9	5,606,260	11,049	489,187	9.56	9	621,690	
MT	799,065	1	905,316	3,121	106,251	13.30	1	902,195	
NE	1,578,385	3	1,715,369	4,106	136,984	8.68	3	570,421	
NV	1,201,833	2	2,002,032	3,775	800,199	66.58	3	666,086	
NH	1,109,252	2	1,238,415	2,629	129,163	11.64	2	617,893	
NJ	7,730,188	13	8,424,354	10,004	694,166	8.98	13	647,258	
NM	1,515,069	3	1,823,821	4,775	308,752	20.38	3	606,349	
NY	17,990,455	31	19,004,973	28,516	1,014,518	5.64	29	654,361	
NC	6,628,637	12	8,067,673	18,360	1,439,036	21.71	13	619,178	

State	1990 Census		2000 Census					Seat change from 1990	2003 average CD pop. <sup>d</sup>
	Apportionment pop. <sup>a</sup>	Seats	Apportionment pop. <sup>b</sup>	Overseas federal <sup>c</sup>	Change from 1990		Seats		
					Total	Percent			
ND	638,800	1	643,756	1,556	4,956	0.78	1	642,200	
OH	10,847,115	19	11,374,540	21,400	527,425	4.86	18	630,730	
OK	3,145,585	6	3,458,819	8,165	313,234	9.96	5	690,131	
OR	2,842,321	5	3,428,543	7,144	586,222	20.62	5	684,280	
PA	11,881,643	21	12,300,670	19,616	419,027	3.53	19	646,371	
RI	1,003,464	2	1,049,662	1,343	46,198	4.60	2	524,160	
SC	3,486,703	6	4,025,061	13,049	538,358	15.44	6	668,669	
SD	696,004	1	756,874	2,030	60,870	8.75	1	754,844	
TN	4,877,185	9	5,700,037	10,754	822,852	16.87	9	632,143	
TX	16,986,510	30	20,903,994	52,174	3,917,484	23.06	32	651,619	
UT	1,722,850	3	2,236,714	3,545	513,864	29.83	3	744,390	
VT	562,758	1	609,890	1,063	47,132	8.38	1	608,827	
VA	6,187,358	11	7,100,702	22,187	913,344	14.76	11	643,501	
WA	4,866,692	9	5,908,684	14,563	1,041,992	21.41	9	654,902	
WV	1,793,477	3	1,813,077	4,733	19,600	1.09	3	602,781	
WI	4,891,769	9	5,371,210	7,535	479,441	9.80	8	670,459	
WY	453,588	1	495,304	1,522	41,716	9.20	1	493,782	
Total:	248,102,973	435	281,424,177	574,330	33,321,204	13.43	435	Nat. mean: 645,632	
								Minimum: 493,782	
House size: Const. minimum: <sup>e</sup>			50					Median: 642,850	
House size: Const. maximum: <sup>e</sup>			9,380					Maximum: 902,195	

<sup>a</sup> U.S. Congress, House, *Apportionment Population and State Representation*, H. Doc. 102-18, 102<sup>nd</sup> Cong., 1<sup>st</sup> sess., (Washington: GPO, 1991), pp. 3,4.

<sup>b</sup> U.S. Dept. of Commerce, Bureau of the Census, *Census 2000 Shows Resident Population of 281,421,906; Apportionment Counts Delivered to President*, Press Release CB00-CN..64 (Washington, Dec. 28, 2000), **Table 1**. (Please note that resident population total does not include the foreign-based military and other federal employees included in the apportionment population.)

<sup>c</sup> *Ibid.*, Derived from **Table 2**.

<sup>d</sup> The average size congressional district for each state is calculated on the *resident population* for each state (which is the apportionment population minus the overseas military (and other federal) employees.

<sup>e</sup> Article 1, Section 2 of the Constitution establishes the minimum size of the House (one Representative per state), and a maximum (one for every 30,000 persons).

## Priority Lists and Seat Assignments

The reapportionment process for the House relies on rounding principles, but the actual procedure involves computing a “priority list” of seat assignments for the states. The Constitution allocates the first 50 seats because each state must have at least one Representative. A priority list assigns the remaining 385 seats for a total of 435. **Table 2** displays the end of the “priority list” that will be used to allocate Representatives based on the 2000 Census apportionment population. The law only provides for 435 seats in the House, but the tables illustrate not only the last seats assigned by the apportionment formula (ending at 435), but the states that would just miss getting additional representation.<sup>3</sup>

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<sup>3</sup> The figures in **Table 2** for the “population needed to gain or lose a seat” are misleading because it is unlikely that one state’s population total would be adjusted without others changing as well. Since the method of equal proportions used to allocate seats in the House uses all state populations simultaneously, changes in several state populations may also result in changes to the “populations needed to gain or lose a seat.”

**Table 2. Population Needed to Gain or Lose a Seat Using the 2000 Census Apportionment Population**

Priority	State	Seat	2000 apportionment population	Priority value	Pop. needed to gain or lose seat
420	CA	51	33,930,798	671,929.90	-1,325,368
421	TN	9	5,700,037	671,755.50	-221,227
422	MA	10	6,355,568	669,935.36	-230,072
423	NY	29	19,004,973	666,943.75	-605,818
424	CO	7	4,311,882	665,337.67	-127,372
425	PA	19	12,300,670	665,144.05	-359,885
426	TX	32	20,903,994	663,702.45	-567,519
427	MO	9	5,606,260	660,703.78	-127,450
428	CA	52	33,930,798	658,881.42	-679,651
429	MN	8	4,925,670	658,220.10	-93,814
430	GA	13	8,206,975	657,083.72	-142,386
431	IA	5	2,931,923	655,597.81	-44,337
432	FL	25	16,028,890	654,376.65	-212,933
433	OH	18	11,374,540	650,239.14	-79,688
434	CA	53	33,930,798	646,330.20	-33,940
435	NC	13	8,067,673	645,930.64	-3,084
<i>Last seat assigned by law</i>					
436	UT	4	2,236,714	645,683.70	+855
437	NY	30	19,004,973	644,328.90	+47,245
438	TX	33	20,903,994	643,275.93	+86,268
439	MI	16	9,955,829	642,645.62	+50,891
440	IN	10	6,090,782	642,024.48	+37,057
441	MT	2	905,316	640,155.07	+8,168
442	IL	20	12,439,042	638,109.37	+152,465
443	MS	5	2,852,927	637,933.77	+35,763
444	CA	54	33,930,798	634,248.18	+624,984
445	WI	9	5,371,210	633,002.89	+109,696
446	OK	6	3,458,819	631,490.94	+79,090
447	PA	20	12,300,670	631,011.04	+290,837
448	FL	26	16,028,890	628,704.74	+439,176
449	OR	6	3,428,543	625,963.33	+109,365
450	MD	9	5,307,886	625,540.08	+173,020

**Source:** Computations of priority values and populations needed to gain or lose a seat by CRS. See CRS Report RL30711, *The House Apportionment Formula in Theory and Practice*, by Royce Crocker, for an explanation of formula for allocating House seats.

<sup>a</sup> Each state's claim to representation in the House is based on a "priority value" determined by the following formula:  $PV = P / [n(n - 1)]^{1/2}$ ; where PV = the state's priority value, P = the state's population, and n = the state's n<sup>th</sup> seat in the House. For example, the priority value of Wisconsin's 9<sup>th</sup> seat is:

$$\begin{aligned}
 PV_{WI9} &= 5,371,210 / [9(9 - 1)]^{1/2} \\
 &= 5,371,210 / [72]^{1/2} \\
 &= 5,371,210 / 8.485281374238570 \\
 &= 633,002.89
 \end{aligned}$$

The actual seat assignments are made by ranking all of the states' priority values from highest to lowest until 435 seats are allocated.

<sup>b</sup> These figures represent the population a state would either need to lose in order to drop below the 435th seat cutoff, or to gain to rise above the cutoff. If, in the case of Wisconsin, 109,696 more persons had been counted in the Census, the state's priority value would have been increased to 645,930.77 which would have resulted in a new sequence number of 435 because North Carolina's 13<sup>th</sup> seat would have occupied the 436th position in the priority list.

## Options for States Losing Seats

The apportionment counts transmitted by the Census Bureau to the President (who then sends them to Congress) are considered final. Thus, most states which will lose seats

in the 108<sup>th</sup> Congress, have only one possible option for retaining them: urge Congress to increase the size of the House. Any other option such as changing the formula used in the computations, or changing the components of the apportionment population (such as omitting the foreign-based military and federal civilian employees) will only affect a small number of states if the House stays at 435 seats.<sup>4</sup>

As noted above, the 435-seat limit was imposed in 1929 by 46 *Stat.* 21, 26-27. Altering the size of the House would require new law setting a different limit. Article 1, Section 2 of the Constitution establishes a minimum House size (one Representative for each state), and a maximum House size (one for every 30,000, or 9,380 based on the 2000 Census). In 2003, a House size of 473 would result in no states losing seats they held from the 103<sup>rd</sup> to the 107<sup>th</sup> Congresses, but, by retaining seats through an increase in the House size, other states would also have their delegations become larger. At a House size of 473, California's delegation size, for example, would be 57 instead of 53 seats.<sup>5</sup>

## The Redistricting Process

The apportionment figures released on December 28, 2000 are made up of three components: total resident population figures for the 50 states and the District of Columbia, the foreign-based military and other federal employees allocated to each state and DC, and sum of these numbers which become the apportionment population.

These numbers (minus DC) are all that is needed to reapportion the House, but the states need figures for very small geographic areas in order to draw new legislative and congressional districts. The Census Bureau must provide small-area population totals to the legislature and governor of each state by one year after the census (e.g., April 1, 2001).

The Census Bureau data to be delivered by April 1, 2001, is often referred to as the PL 94-171 program (89 Stat. 1023). This program provides to each state information from the questionnaires sent to 100% of the households in the nation. As such, the information is very limited — including age, race and Hispanic origin. No other demographic information that might be useful to redistrictors, such as income or employment status, are available in the 94-171 data.

Census data are usually reported by political jurisdictions (states, cities, counties, and towns), and within political jurisdictions by special census geography (such as census designated places, tracts, block numbering areas, and blocks). The PL 94-171 program allows states which participate in it (46 in 2000), to request census data by certain non-traditional census geography such as voting districts (precincts), and state legislative

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<sup>4</sup> After the 1990 Census Montana and Massachusetts challenged the apportionment formula, and the inclusion of the foreign-based military and civilians in the apportionment population. The Supreme Court affirmed the constitutionality of the equal proportions formula and the inclusion of the foreign-based military and civilians in the counts in two separate cases: *U.S. Dept. of Commerce v. Montana* 112 S.Ct. 1415 (1992) and *Franklin v. Massachusetts* 112 S.Ct. 2767 (1992).

<sup>5</sup> For a fuller discussion of this topic see CRS Report 95-791 GOV, *House of Representatives: Setting the Size at 435*, by David C. Huckabee.

districts.<sup>6</sup> These special political jurisdiction counts enable redistrictors to assess past voting behavior when redrawing congressional and state legislative districts.

In most states, redrawing congressional districts is the responsibility of the state legislature with the concurrence of the governor. In six states: Arizona, Hawaii, Idaho, Montana, New Jersey, and Washington, a non-partisan, or bi-partisan commission is responsible for drawing the plans.<sup>7</sup> Some states have explicit deadlines in law to complete their congressional districting. Most do not, so the effective deadline for the legislatures or commissions to complete their work will be whatever filing deadlines are established in the states for primaries for the 2002 elections.

Although many states have standards mandating equal populations, compactness, contiguousness, and other goals to not split counties, towns, and cities, federal law controls the redistricting process. Other than a requirement that multi-member states cannot elect Representatives at-large (2 U.S.C. 2c), no federal statutory law establishes explicit standards for redistricting. The principle laws that apply are the Supreme Court decisions mandating one person, one vote and the Voting Rights Act.

The fundamental federal rule governing redistricting congressional districts, one person, one vote, was promulgated by the Supreme Court in *Wesberry v. Sanders* (376 U.S. 7, 1964). The Court has refined that ruling in a series of cases culminating in *Karcher v. Daggett* (462 U.S. 725, 1983) that one person, one vote means that *any* population deviation among districts in a state must be justified, but the deviations from absolute equality may be permitted if the states strive to make districts more compact, respect municipal boundaries, preserve the cores of prior districts, or avoid contests between incumbents.

Section 2 of the Voting Rights Act (VRA) applies nationwide. It prohibits states or localities from imposing a “voting qualification or prerequisite to voting or standard, practice or procedure ... in a manner which results in the denial or abridgement of the right to vote on account of race or color.” Section 5 of the act applies only to certain jurisdictions which must have their redistricting plans pre-cleared by a court or the Justice Department before they become effective.<sup>8</sup> The Supreme Court interpreted the VRA’s application to redistricting in a series of cases responding, in part, to the extraordinarily complicated districts created by many states in the 1990s to maximize minority representation (beginning with *Shaw v. Reno*, 509 U.S. 630, 1993). The court ended the decade by establishing new principles concerning such practices: (1) race may be considered in districting to remedy past discrimination; (2) but, states must have a compelling state interest to ignore traditional redistricting principles and “gerrymander” to establish majority-minority districts; (3) courts will apply “strict scrutiny” to such assertions that racial “gerrymanders” are necessary to determine whether such plans are narrowly tailored to achieve the compelling state interest.

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<sup>6</sup> U.S. Dept. of Commerce, Bureau of the Census, *Strength in Numbers: Your Guide to Census 2000 Redistricting Data*, (Washington: July, 2000), p. 4.

<sup>7</sup> National Conference of State Legislatures, *Redistricting Law 2000*, (Washington: February, 1999), pp. 143-145. Arizona adopted a redistricting commission initiative in 2000 by 56% of the vote.

<sup>8</sup> Section 2: 42 U.S.C. Section 1973(a) (1996); Section 5: 42 U.S.C. Section 1973(c).

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