



House Apportionment 2010: States Gaining, Losing, and on the Margin

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Summary

On December 21, 2010, the Commerce Department released 2010 Census population figures and the resulting reapportionment of seats in the House of Representatives. The apportionment population of the 50 states in 2010 is 309,183,463, a figure 9.9% greater than in 2000. Just as in the 108th Congress, 12 seats will shift among 18 states in the 113th Congress as a result of the reapportionment. The next census data release will begin February 2011, when the Census Bureau will provide states the small-area data necessary to re-draw congressional and state legislative districts in time for the 2012 elections.

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Background

The Census Bureau's release of the first figures from the 2010 Census on December 21, 2010, will shift 12 seats among 18 states for the 113th Congress (beginning in January 2013). Illinois, Iowa, Louisiana, Massachusetts, Michigan, Missouri, New Jersey, and Pennsylvania will each lose one seat; New York and Ohio will each lose two seats. Arizona, Georgia, Nevada, South Carolina, Utah, and Washington will each gain one seat; Florida will gain two seats, and Texas will gain four seats.¹

The reapportionment of House seats in 2010 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, overseas military and federal employees and their dependents, who are from the state but not residing therein at the time of the census. In 2010, these additional persons increased the census count for the 50 states by 1,042,523, a little less than twice the number as in 2000. If the foreign-based military and federal employees had not been included in the counts, there would be no change in the apportionment of seats, although the order of seat assignment would change.

Tables

Table 1 sets out the apportionment population as of April 1, 2000, and April 1, 2010; it also provides the resulting seat assignments of each of the 50 states. The table also illustrates the population change from 2000 (shown by total and percent), the current House seat allocation, and what it will be at the beginning of the 113th Congress, and the average sized congressional district for each state in the 113th Congress. For the 113th Congress, the national average size congressional district will be 710,767, and districts will range in size from 527,624 (for Rhode Island's two congressional districts) to a maximum of 994,416 (for Montana's single district).

¹ 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 19th 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 20th century.

**Table I. Apportionment of Seats in the House of Representatives
Based on the 2010 Census**

State	2000 Apportionment Population ^a	Seats in 108 th Congress	2010 Apportionment Population ^b	2010 Overseas/ Federal ^c	Change from 2000 Total	Percentage Change from 2000	Seats in 113 th Congress	Seat Change from 2000	2010 Average CD Population ^d
AL	4,461,130	7	4,802,982	23,246	341,852	7.66%	7		682,819
AK	628,933	1	721,523	11,292	92,590	14.72%	1		710,231
AZ	5,140,683	8	6,412,700	20,683	1,272,017	24.74%	9	1	710,224
AR	2,679,733	4	2,926,229	10,311	246,496	9.20%	4		728,980
CA	33,930,798	53	37,341,989	88,033	3,411,191	10.05%	53		702,905
CO	4,311,882	7	5,044,930	15,734	733,048	17.00%	7		718,457
CT	3,409,535	5	3,581,628	7,531	172,093	5.05%	5		714,819
DE	785,068	1	900,877	2,943	115,809	14.75%	1		897,934
FL	16,028,890	25	18,900,773	99,463	2,871,883	17.92%	27	2	696,345
GA	8,206,975	13	9,727,566	39,913	1,520,591	18.53%	14	1	691,975
HI	1,216,642	2	1,366,862	6,561	150,220	12.35%	2		680,151
ID	1,297,274	2	1,573,499	5,917	276,225	21.29%	2		783,791
IL	12,439,042	19	12,864,380	33,748	425,338	3.42%	18	-1	712,813
IN	6,090,782	9	6,501,582	17,780	410,800	6.74%	9		720,422
IA	2,931,923	5	3,053,787	7,432	121,864	4.16%	4	-1	761,589
KS	2,693,824	4	2,863,813	10,695	169,989	6.31%	4		713,280
KY	4,049,431	6	4,350,606	11,239	301,175	7.44%	6		723,228
LA	4,480,271	7	4,553,962	20,590	73,691	1.64%	6	-1	755,562
ME	1,277,731	2	1,333,074	4,713	55,343	4.33%	2		664,181
MD	5,307,886	8	5,789,929	16,377	482,043	9.08%	8		721,694
MA	6,355,568	10	6,559,644	12,015	204,076	3.21%	9	-1	727,514
MI	9,955,829	15	9,911,626	27,986	-44,203	-0.44%	14	-1	705,974
MN	4,925,670	8	5,314,879	10,954	389,209	7.90%	8		662,991

State	2000 Apportionment Population ^a	Seats in 108 th Congress	2010 Apportionment Population ^b	2010 Overseas/Federal ^c	Change from 2000 Total	Percentage Change from 2000	Seats in 113 th Congress	Seat Change from 2000	2010 Average CD Population ^d
MS	2,852,927	4	2,978,240	10,943	125,313	4.39%	4		741,824
MO	5,606,260	9	6,011,478	22,551	405,218	7.23%	8	-1	748,616
MT	905,316	1	994,416	5,001	89,100	9.84%	1		989,415
NB	1,715,369	3	1,831,825	5,484	116,456	6.79%	3		608,780
NV	2,002,032	3	2,709,432	8,881	707,400	35.33%	4	1	675,138
NH	1,238,415	2	1,321,445	4,975	83,030	6.70%	2		658,235
NJ	8,424,354	13	8,807,501	15,607	383,147	4.55%	12	-1	732,658
NM	1,823,821	3	2,067,273	8,094	243,452	13.35%	3		686,393
NY	19,004,973	29	19,421,055	42,953	416,082	2.19%	27	-2	717,707
NC	8,067,673	13	9,565,781	30,298	1,498,108	18.57%	13		733,499
ND	643,756	1	675,905	3,314	32,149	4.99%	1		672,591
OH	11,374,540	18	11,568,495	31,991	193,955	1.71%	16	-2	721,032
OK	3,458,819	5	3,764,882	13,531	306,063	8.85%	5		750,270
OR	3,428,543	5	3,848,606	17,532	420,063	12.25%	5		766,215
PA	12,300,670	19	12,734,905	32,526	434,235	3.53%	18	-1	705,688
RI	1,049,662	2	1,055,247	2,680	5,585	0.53%	2		526,284
SC	4,025,061	6	4,645,975	20,611	620,914	15.43%	7	1	660,766
SD	756,874	1	819,761	5,581	62,887	8.31%	1		814,180
TN	5,700,037	9	6,375,431	29,326	675,394	11.85%	9		705,123
TX	20,903,994	32	25,268,418	122,857	4,364,424	20.88%	36	4	698,488
UT	2,236,714	3	2,770,765	6,880	534,051	23.88%	4	1	690,971
VT	609,890	1	630,337	4,596	20,447	3.35%	1		625,741
VA	7,100,702	11	8,037,736	36,712	937,034	13.20%	11		727,366
WA	5,908,684	9	6,753,369	28,829	844,685	14.30%	10	1	672,454
WV	1,813,077	3	1,859,815	6,821	46,738	2.58%	3		617,665

State	2000 Apportionment Population ^a	Seats in 108 th Congress	2010 Apportionment Population ^b	2010 Overseas/Federal ^c	Change from 2000 Total	Percentage Change from 2000	Seats in 113 th Congress	Seat Change from 2000	2010 Average CD Population ^d
WI	5,371,210	8	5,698,230	11,244	327,020	6.09%	8		710,873
WY	495,304	1	568,300	4,674	72,996	14.74%	1		563,626
Total	281,424,177	435	309,183,463	1,039,648	27,759,286	9.86%	435	Nat. mean:	708,377
								Minimum:	526,284
House size: Const, Minimum ^e :			50					Median:	710,552
House size: Const, Maximum ^e :			10,306					Maximum:	989,415

Notes:

- a. See, "2000 Apportionment Results," table I at http://www.census.gov/population/apportionment/data/2000_apportionment_results.html.
- b. See, "A New Portrait of America, First 2010 Census Results," table I at <http://2010.census.gov/news/press-kits/apportionment/apport.html>.
- c. See, "A New Portrait of America, First 2010 Census Results," table 3 at <http://2010.census.gov/news/press-kits/apportionment/apport.html>.
- d. 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.
- e. Article I, 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 2010 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.²

Table 2. Population Needed to Gain or Lose a Seat Using the 2010 Census Apportionment Population

Seat	Last Seat Allocated	State	2010 Apportionment Population	Priority Value ^a	Pop. Needed to Gain or Lose Seat ^b
420	26	FL	18,900,773	741,349.31	-823,146
421	7	AL	4,802,982	741,116.21	-207,729
422	51	CA	37,341,989	739,481.57	-1,536,070
423	18	IL	12,864,380	735,407.66	-460,846
424	14	MI	9,911,626	734,698.60	-345,845
425	27	NY	19,421,055	733,000.49	-634,234
426	35	TX	25,268,418	732,494.84	-808,318
427	18	PA	12,734,905	728,006.06	-331,371
428	52	CA	37,341,989	725,121.34	-826,973
429	14	GA	9,727,566	721,055.17	-161,785
430	7	SC	4,645,975	716,889.51	-50,722
431	27	FL	18,900,773	713,363.71	-113,952
432	10	WA	6,753,369	711,867.60	-26,608
433	36	TX	25,268,418	711,857.03	-99,183
434	53	CA	37,341,989	711,308.24	-117,877
435	8	MN	5,314,879	710,230.58	-8,738
<i>Last seat assignment by law</i>					
436	14	NC	9,565,781	709,062.86	15,753
437	9	MO	6,011,478	708,459.48	15,028

² The figures in **Table 2** for the “population needed to gain or lose a seat” are somewhat 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.”

Seat	Last Seat Allocated	State	2010 Apportionment Population	Priority Value ^a	Pop. Needed to Gain or Lose Seat ^b
438	28	NY	19,421,055	706,336.94	107,057
439	13	NJ	8,807,501	705,164.44	63,276
440	2	MT	994,416	703,158.30	10,002
441	7	LA	4,553,962	702,691.59	48,858
442	6	OR	3,848,606	702,656.11	41,487
443	17	OH	11,568,495	701,443.04	144,928
444	12	VA	8,037,736	699,595.12	122,192
445	54	CA	37,341,989	698,011.59	653,688
446	19	IL	12,864,380	695,626.00	270,086
447	37	TX	25,268,418	692,350.39	652,566
448	10	MA	6,559,644	691,447.19	178,195
449	19	PA	12,734,905	688,624.80	399,561
450	28	FL	18,900,773	687,414.47	627,339

Source: Computations of priority values and populations needed to gain or lose a seat by CRS. See CRS Report R41357, *The U.S. House of Representatives Apportionment Formula in Theory and Practice*, by Royce Crocker, for an explanation of formula for allocating House seats.

Notes:

- a. 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 seat in the House. For example, the priority value of Oregon’s 6th seat is:

$$\begin{aligned}
 PV_{OR6} &= 3,848,606 / [6(6 - 1)]^{1/2} \\
 &= 3,848,606 / [30]^{1/2} \\
 &= 3,848,606 / 5.477225575 \\
 &= 702,656.11
 \end{aligned}$$

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

- b. 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 Oregon, 41,487 more persons had been counted in the Census, the state’s priority value would have been increased to 710,230.56 which would have resulted in a new sequence number of 435 because Minnesota’s 8th 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 that will lose seats in the 113th 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) might only affect a small number of states if the House stays at 435 seats.³

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 a 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 Representative for every 30,000, or 10,306 based on the 2010 Census). In 2013, a House size of 468 would be necessary to prevent states from losing seats they held from the 108th to the 112th 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 468, California's delegation size, for example, would be 56 instead of 53 seats.

The Redistricting Process

The apportionment figures, released on December 21, 2010, 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 the sum of these numbers, which become the apportionment population.

These numbers (minus DC) are all that is needed to reapportion the House, but most states need figures for very small geographic areas in order to draw new legislative and congressional districts.⁴ 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, 2011).

The Census Bureau data to be delivered by April 1, 2011 (some states will start receiving the information in February 2011), are often referred to as the P.L. 94-171 program data (89 Stat. 1023). This program provides to each state information from the 2010 Census. As such, the information is very limited—including age, race, and Hispanic origin. No other demographic information that might be useful to the persons constructing political jurisdictions, such as income or employment status, are available in the P.L. 94-171 data. Such data, however, are available from the results of the American Community Survey for geographic areas with populations as small as 20,000 persons.⁵

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 P.L. 94-171 program allows states, which participate in it (49 in 2010), to request Census data by certain nontraditional Census geography

³ 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).

⁴ With respect to single-member states, this information would be used to draw state legislative and local political jurisdictions.

⁵ For information about the 2005-2009 American Community Survey data, see http://www.census.gov/acs/www/data_documentation/2009_release/. For information about the American Community Survey, see CRS Report R41532, *The American Community Survey: Development, Implementation, and Issues for Congress*, by Jennifer D. Williams.

such as voting districts (precincts) and state legislative districts.⁶ These special political jurisdiction counts enable the persons drawing the district lines 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 seven states, Arizona, California, Hawaii, Idaho, Montana, New Jersey, and Washington, a non-partisan or bi-partisan commission is responsible for drawing and approving the plans.⁷ 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 deadlines are established in the states for filing for primaries for the 2012 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) however, no federal statutory law establishes explicit standards for redistricting. The principal 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.⁸

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.⁹ 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

⁶ For a fuller discussion of this topic see the U.S. Census Bureau publication, *Strength in Numbers : Your Guide to Census 2010 Redistricting Data From the U.S. Census Bureau*, <http://www.census.gov/rdo/>.

⁷ National Conference of State Legislatures, *Redistricting Law 2010*, pp. 143-145. California adopted a redistricting commission initiative in 2008 for state legislative districts, and extended it to U.S. congressional districts in a 2010 initiative vote.

⁸ For a more thorough discussion of the legal issues, see CRS Report RS22479, *Congressional Redistricting: A Legal Analysis of the Supreme Court Ruling in League of United Latin American Citizens (LULAC) v. Perry*, by L. Paige Whitaker; CRS Report RS22628, *Congressional Redistricting: The Constitutionality of Creating an At-Large District*, by L. Paige Whitaker; CRS Report RL30870, *Census 2000: Legal Issues re: Data for Reapportionment and Redistricting*, by Margaret Mikyung Lee and; CRS Report RS21593, *Redistricting and the Voting Rights Act: A Legal Analysis of Georgia v. Ashcroft*, by L. Paige Whitaker.

⁹ Section 2: 42 U.S.C. Section 1973(a) (1996); Section 5: 42 U.S.C. Section 1973(c).

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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