

# CRS Report for Congress

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

Royce Crocker  
Specialist in American National Government  
Government and Finance Division

### 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.

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<br>change<br>from 1990 | 2003<br>average<br>CD pop. <sup>d</sup> |       |
|-------|--------------------------------------|-------|--------------------------------------|----------------------------------|------------------|---------|-----------------------------|---|-------|
|       | Apportion-<br>ment pop. <sup>a</sup> | Seats | Apportion-<br>ment pop. <sup>b</sup> | Overseas<br>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).