Congressional Representation

Inquire: How are Members of Congress Chosen?

Overview

When the framers were writing the Constitution, the perplexing question of representation was one of the major areas of disagreement. The states with small populations such as Delaware, New Jersey, New Hampshire, etc. wanted to keep the Articles of Confederation system of equal representation for every state, to keep the big states from controlling Congress. The states with big populations (Virginia and New York) wanted representation based on population, to allow the states with the large populations appropriate power in Congress. The Connecticut Compromise, also called the Great Compromise, solved this issue by creating a Congress with two houses. In the Senate, all states would be equal with two representatives. In the House of Representatives, membership would be based on population, with each state having their proportional share of representatives based on their proportional share of the population.

How are these members chosen? Who draws the districts? And, does it really matter anyway?

Big Question: What does “proportional representation” mean?

Watch: A Governor, a Lizard, and a Brand New Word

In 1812, the governor of Massachusetts, Elbridge Gerry, wanted to protect two Federalist Congressmen in their upcoming elections. To do so, he drew their districts in such a way that he hoped the Federalist voters would out-number the Jefferson/Madison Democratic-Republicans. He drew a strange district; on the Massachusetts map it looked like this:
A newspaper journalist named Elkanah Tisdale embellished the shape of the district with claws, a mouth, and a tail. Believing it looked like a salamander lizard, he called it “Gerry-Mander,” in reference to Elbridge Gerry.

The word “gerrymander” became synonymous for drawing Congressional District lines in order to benefit one party or the other. While it is illegal to gerrymander the districts in an effort to dilute the power of a minority, otherwise it is a common and legal practice. The districts are drawn by the party in power in the state governments, and both parties practice gerrymandering shamelessly. For example, here is the Illinois 4th District, as drawn by the Democrats in control of the Illinois state government. The two pieces of the district are connected only by a highway, but it allows a majority-minority district controlled by Hispanic voters who tend to vote Democrat.

The Republicans are just as guilty. Please note the Texas 33rd District:

The Texas 33rd encompasses Hispanic and African American neighborhoods in two different counties (Dallas and Tarrant Counties). This created a majority-minority district, but also made more Republican districts “safe” districts for their Republican Congressmen.

The more states a party controls, the more Congressional Districts the party can draw to protect its members. The more protected members a party has, the more likely a party could control Congress.

Obviously, in the states with only one representative, this is not an issue. But, in those states like California, Texas, New York, Florida and the others with multiple representatives, the fight over the district lines is a battle for control of the United States government.

And, in the American government of the 21st century, control of the government very often comes down to a governor, a lizard, and a brand new word: The Gerrymander!

GovTrack: Tracking the United States Congress; https://www.govtrack.us; Date Accessed: Wednesday, June 6, 2017

Read: Representation in Congress

Overview
How to allocate power between large and small states was the first major hurdle in the drafting of the new Constitution. As per the illustration below, the large states wanted the Virginia plan with representation based on population. The small states wanted the New Jersey plan, which called for equal representation for each state.
The Virginia or “large state” plan called for a two-chamber legislature, with representation by population in each chamber. The plan proposed by smaller states like New Jersey favored maintaining a one-house Congress in which all states were equally represented.

This dispute was eventually calmed by a third proposal. The Connecticut Compromise, also called the Great Compromise, proposed a bicameral congress with members apportioned differently in each house. The upper house, the Senate, was to have two members from each state. This soothed the fears of the small states. In the lower house, the House of Representatives, membership would be proportional to the population in each state. This measure protected the interests of the large states.

Although the basic design of the House and Senate resulted from a political deal between large and small states, the bicameral legislature established by the convention did not emerge from thin air. The concept had existed in Europe as far back as the medieval era. At that time, the two chambers of a legislature were divided based on class and designed to reflect different types of representation. The names of the two houses in the United Kingdom’s bicameral parliament still reflect this older distinction today: the House of Lords and the House of Commons.

Likewise, those at the Constitutional Convention purposely structured the U.S. Senate differently from the House of Representatives in the hopes of encouraging different representative memberships in the two houses. Initially, for example, the power to elect senators was given to the state legislatures instead of the voting public as it is now. The minimum age requirement is also lower for the House of Representatives. A person must be at least 25 years old to serve in the House, whereas one must be at least 30 to be a senator.

<table>
<thead>
<tr>
<th>The 114th Congress</th>
<th>House of Representatives</th>
<th>Senate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Number of Members</td>
<td>435</td>
<td>100</td>
</tr>
<tr>
<td>Number of Members per State</td>
<td>1 or more, based on population</td>
<td>2</td>
</tr>
<tr>
<td>Length of Term of Office</td>
<td>2 years</td>
<td>6 years</td>
</tr>
<tr>
<td>-------------------------</td>
<td>---------</td>
<td>---------</td>
</tr>
<tr>
<td>Minimum Age Requirement</td>
<td>25</td>
<td>30</td>
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</tbody>
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The bicameral system established at the Constitutional Convention and remaining today requires the two houses to pass identical **bills**, or proposed items of legislation. This ensures that after all amending and modifying has occurred, the two houses ultimately reach an agreement about the legislation they send to the president. Passing the same bill in both houses is no easy feat, and this is by design. The framers intended there to be a complex and difficult process for legislation to become law. This challenge serves a number of important and related functions. First, the difficulty of passing legislation through both houses makes it less likely, though hardly impossible, that the Congress will act on fleeting instincts or without the necessary deliberation. Second, the bicameral system ensures that large-scale dramatic reform is exceptionally difficult to pass and that the status quo is more likely to win the day. This maintains a level of conservatism in government, something the landed elite at the convention preferred. Third, the bicameral system makes it difficult for a single faction or interest group to enact laws and restrictions that would unfairly favor it.

**Senate Representation and House Apportionment**

The Constitution specifies that every state will have two senators who each serve a six-year term. Therefore, with 50 states in the Union, there are currently 100 seats in the U.S. Senate. Senators were originally appointed by state legislatures, but in 1913, the 17th Amendment was approved, which allowed for senators to be elected by popular vote in each state. Seats in the House of Representatives are distributed among the states based on each state’s population, and each member of the House is elected by voters in a specific congressional district. Each state is guaranteed at least one seat in the House.

Congressional **apportionment** today is achieved through the **equal proportions method**, which uses a mathematical formula to allocate seats based on U.S. Census Bureau population data, gathered every ten years as required by the Constitution. At the close of the first U.S. Congress in 1791, there were 65 representatives, each representing approximately 30,000 citizens. Then, as the territory of the United States expanded, sometimes by leaps and bounds, the population requirement for each new district increased as well. Adjustments were made, but the roster of the House of Representatives continued to grow until it reached 435 members after the 1910 census. Ten years later, following the 1920 census and with urbanization changing populations across the country, Congress failed to reapportion membership because it became deadlocked on the issue. In 1929, an agreement was reached to permanently cap the number of seats in the House at 435, in part because there was simply no more room for any additional desks.

Redistricting occurs every ten years, after the U.S. Census has established how many persons live in the United States and where. The boundaries of legislative districts are redrawn by the state legislatures as needed to maintain similar numbers of voters in each while still maintaining a total number of 435 districts. Because local areas can see their population grow as well as decline over time, these adjustments in district boundaries are typically needed after ten years have passed. Currently, there are seven states with only one representative (Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont, and Wyoming), whereas the most populous state, California, has a total of 53 congressional districts.
Although the total number of seats in the House of Representatives has been capped at 435, the apportionment of seats by state may change each decade following the official census. In this map, we see the changes in seat reapportionment that followed the 2010 Census.

Two remaining problems in the House are the size of each representative’s constituency — the body of voters who elect him or her — and the challenge of Washington D.C. First, the average number of citizens in a congressional district now tops 700,000. This is arguably too many for House members to remain very close to the people. George Washington advocated for 30,000 per elected member to retain effective representation in the House. The second problem is that the approximately 675,000 residents of the federal district of Washington (District of Columbia) do not have voting representation. Like those living in the U.S. territories, they merely have a non-voting delegate.

Reflect: The Qualifications for Congress

Poll: Are the qualifications for Congress sufficiently stringent? Is 25 old enough to be in the leadership of the United States? For each of the following, decide whether you believe the qualification is sufficient by choosing yes, meaning it is okay, or no, the qualification is too lax.

25 years old to be a member of the House of Representatives
- Yes
- No

30 years old to be a member of the Senate
- Yes
- No

You do not have to be a natural born citizen to be either a member of the House or a Senator
- Yes
- No
You have to have lived in the U.S. for seven years to be a member of the House of Representatives.

- Yes
- No

You have to have lived in the U.S. for nine years to be a member of the Senate.

- Yes
- No

Expand: Gerrymandering 2.0 - The Majority-Minority Districts

Discover

The stalemate in the 1920s wasn’t the first time reapportionment in the House resulted in controversy (or the last). The first incident took place before any apportionment had even occurred, while the process was being discussed at the Constitutional Convention. Representatives from large slave-owning states believed their slaves should be counted as part of the total population. States with few or no slaves predictably argued against this, reminding the slave holders that they did not consider their slaves as people, but only property. This issue was eventually resolved with the Three-fifths Compromise, which allowed for each slave (who could not vote) to count as three-fifths of a person for purposes of congressional representation.

Following the abolition of slavery and the end of Reconstruction, the former slave states in the South took a number of steps to prevent former slaves and their children from voting. Yet, because these former slaves were now free persons, they were counted fully toward the states’ congressional representation.

Attempts at African American disenfranchisement continued until the civil rights struggle of the 1960s finally brought about the Voting Rights Act of 1965. The act cleared several final hurdles to voter registration and voting for African Americans. Following its adoption, many Democrats led the charge to create congressional districts that would enhance the power of African American voters. The idea was to create majority-minority districts within states, districts in which African Americans became the majority and thus gained the electoral power to send representatives to Congress.

While the strangely drawn districts succeeded in their stated goals, nearly quintupling the number of African American representatives in Congress in just over two decades, they have frustrated others who claim they are merely a new form of an old practice: gerrymandering. Gerrymandering is the manipulation of legislative district boundaries as a way of favoring a particular candidate. The term combines the word salamander, a reference to the strange shape of these districts, with the name of Massachusetts governor Elbridge Gerry, who in 1812, signed a redistricting plan designed to benefit his party.

Despite the questionable ethics behind gerrymandering, the practice is legal, and both major parties have used it to their benefit. It is only when political redistricting appears to dilute the votes of racial minorities that gerrymandering efforts can be challenged under the Voting Rights Act. Other forms of gerrymandering are frequently employed in states where a dominant party seeks to maintain that domination. Gerrymandering can be a tactic to draw district lines in a way that creates “safe seats” for a particular political party. In states like Maryland, these are safe seats for Democrats. In states like Louisiana, they are safe seats for Republicans.
Racial Gerrymandering and the Paradox of Minority Representation

In Ohio, one district skirts the shoreline of Lake Erie like a snake. In Louisiana, one meanders across the southern part of the state from the eastern shore of Lake Pontchartrain, through much of New Orleans and north along the Mississippi River to Baton Rouge. And in Illinois, another wraps around the city of Chicago and its suburbs in a wandering line that, when seen on a map, looks like the mouth of a large, bearded alligator attempting to drink from Lake Michigan.

These aren’t geographical features or large infrastructure projects. Rather, they are racially gerrymandered congressional districts. Their strange shapes are the product of careful district restructuring organized around the goal of enhancing the votes of minority groups. The alligator-mouth District 4 in Illinois, for example, was drawn to bring a number of geographically autonomous Latino groups in Illinois together in the same congressional district.

While the strategy of creating majority-minority districts has been a success for minorities’ representation in Congress, its long-term effect has revealed a disturbing paradox. Congress as a whole has become less enthusiastic about minority-specific issues. How is this possible? The problem is that by creating districts with high percentages of minority constituents, strategists have made the other districts less diverse. The representatives in those districts are under very little pressure to consider the interests of minority groups. As a result, they typically do not.

Lesson Toolbox

Additional Resources and Readings

The Senate and the House of Representatives Explained (Congress - AP Government Review)
- A video explaining the powers of the distinctive characteristics of the two houses of the United States Congress
- https://www.youtube.com/watch?v=iu8xZiqW3yg&t=152s

The Senate and the United States Constitution
- An article from the United States Senate talking in depth about the Senate
- https://www.senate.gov/artandhistory/history/common/briefing/Constitution_Senate.htm

The House Explained
- An article from the United States House of Representatives providing an in-depth description of the House of Representatives
- https://www.house.gov/the-house-explained

Lesson Glossary

bills: proposed legislation under consideration by a legislature
Apportionment: the process by which seats in the House of Representatives are distributed among the 50 states
constituency: the body of voters, or constituents, represented by a particular politician
gerrymandering: the manipulation of legislative district boundaries as a way of favoring a particular candidate
Check Your Knowledge

1. True or False: Gerrymandering is a legal practice.
   A. True
   B. False

2. True or False: The strategy of creating majority-minority districts has been a success for minorities’ representation in Congress and has made Congress more enthusiastic about minority-specific issues.
   A. True
   B. False

3. True or False: In order to run for a seat in the House, a person must be 30 years in age, but to run for a seat in the Senate, a person can be as young as 25.
   A. True
   B. False

Answer Key:

Citations

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