

More Members, More Voices

Policies and Implications for Changing the Size of the US House



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More Members, More Voices

In this report, FairVote looks at issues with the current fixed size of the US House of Representatives, and examines several proposals for making the size of the House of Representatives more dynamic.

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FairVote is a non-partisan non-profit organization that seeks to make democracy fair, functional, and more representative. We research and propose common sense changes to strengthen American democracy and ensure all voices are heard and every vote counts in every election. Operating since 1992, FairVote works with scholars, civic leaders, policymakers, journalists and national, state and local reform partners to advance fairer elections.

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Introduction

“[N]o political problem is less susceptible of a precise solution than that which relates to the number most convenient for a representative body.” - James Madison, Federalist No. 55¹

The United States Constitution does not mandate that there be 435 representatives.² This number was merely the consequence of Congress freezing the size of the House in 1929 due to political concerns with enlarging it after each census. As Missouri Representative Ralph Lozier said in 1928 during the debates that preceded the passage of the act, “There is absolutely no philosophy, or common sense in arbitrarily fixing the membership of the House at 435 or any other number.” A House of 435 representatives does not yield equity or true representative democracy in an ever-growing country. In order to promote fair representation among the states and ensure that all voices are heard in Congress, we should return to a dynamic method of determining the size of the house, rather than a static number.

The first national census reported that 3,929,214 people lived in the U.S. in 1790.³ Based on this population, the 15 states in the Union elected a total of 105 congressmen to the House of Representatives in 1792.⁴ Each House member represented approximately 37,400 people.

Until the 1920s, Congress passed an Apportionment Act every 10 years following completion of the census. These Acts determined how many people per representative there would be, which in turn set the number of members in the House of Representatives. They also decided the method for apportioning those representatives among the states. But the 1920 census brought a political rift to the forefront. For the first time in history, a majority of the nation’s population lived in urban areas.⁵ If

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1. James Madison, The Federalist Papers: No. 55 in the Avalon Project, Yale Law School, last modified 2008, http://avalon.law.yale.edu/18th_century/fed55.asp.
 2. The entirety of the Constitution’s guidance on the number of Representatives reads as follows: “The number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative[.]” U.S. Const. Art. I, § 2. That simply means that the House cannot be larger than the apportionment population divided by 30,000, which after 2010 would have been over 10,000 Representatives). An amendment proposed by James Madison in 1789 would have ensured that at a minimum, the House would include one Representative for every 50,000 persons, which would be over 6,000 Representatives after 2010. The proposal passed both houses of Congress, but it narrowly failed to be ratified by enough states to be adopted.
 3. “Population, Housing Units, Area Measurements, and Density: 1790 to 1990,” United States Census Bureau, August 26, 1993, <https://www.census.gov/population/www/censusdata/files/table-2.pdf>.
 4. The 15 states were Connecticut, Delaware, Georgia, Kentucky, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, and Virginia.
 5. According to the 1920 Census, 54,304,603 people lived in urban areas and 51,406,017 lived in rural areas. Thus 51.37% of the population was living in urban areas by 1920. In 1910, 42,166,120 people lived in urban areas and 49,806,146 lived in rural areas. This meant that 45.85% of the population lived in urban areas in 1910.

Chart 1: Increase in Congressional Representatives since 1790

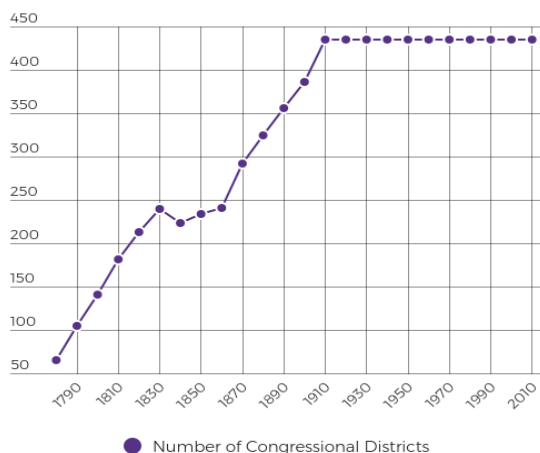
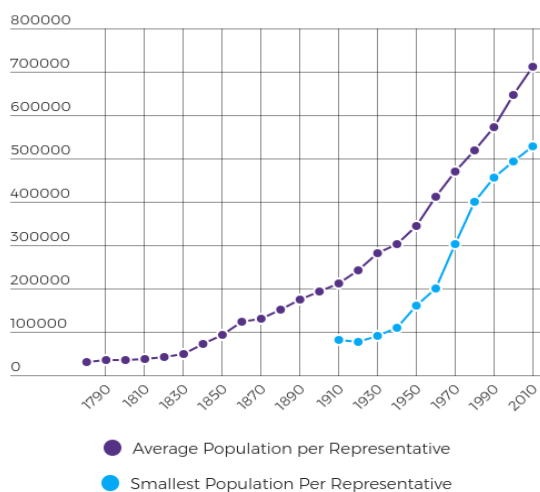


Chart 2: Increase in Population per Representative since 1790



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people from having meaningful communication with their state legislators. This, they argue, means that California does not have a truly republican form of government.¹⁰ In contrast, New Hampshire maintains a 400-member state House of Representatives, which is the third largest English-speaking legislative body in the world (after the United Kingdom House of Commons and the U.S. House of Representatives). In New Hampshire, there are approximately 3,300 people for each state representative. Most

the size of the House were to continue to increase alongside the American population, the thought was, then the more urban states would benefit, as they would gain more representatives than the more rural ones.⁶

A deadlock ensued. Even though the Constitution requires a new apportionment after each census,⁷ none took place after the 1920 census, leaving both congressional apportionment and the apportionment of electors governed by the 1910 census through the 1920s. Finally, Congress passed the Permanent Apportionment Act in 1929. This Act established that Congress would re-apportion representatives among the states automatically after every decennial census but that, no matter how much the population grew, the number of representatives would never grow.⁸ The 1911 Apportionment Act set the House size at 435, and so 435 it remained by default.

There is no tried-and-true method of selecting the number of representatives for any particular legislative body. The formulas and precise numbers chosen are arbitrary. As James Madison noted in 1788, the states took disparate approaches to the question when fashioning their own legislatures. At one extreme is California, whose legislature consists of 40 senators and 80 state representatives. On average, each state senator represents about 931,450 people and each state representative approximately 465,675 people. This has led recently to a lawsuit against the state, with the plaintiffs alleging that California is violating the U.S. Constitution by keeping ordinary

6. "Through the Decades: 1920," United States Census Bureau, last accessed September 22, 2017, https://www.census.gov/history/www/through_the_decades/overview/1920.html.
 7. U.S. Const., art. I, § 2.
 8. "Reapportionment Act of 1929," 2 U.S.C. § 2a (1929).
 9. "Apportionment Act of 1911," 2 U.S.C. § 2a (1911). The House did temporarily increase in size whenever a new state was admitted, but it always returned to 435 after the following census.
 10. "Lawsuit on Huge Population of California Legislative Districts is Moving Very Slowly," Ballot Access News, last accessed December 8, 2017, <http://ballot-access.org/2017/12/08/lawsuit-on-huge-population-of-california-legislative-districts-is-moving-very-slowly/>

states follow the model currently used by Congress of establishing a fixed number of representatives and maintaining that number regardless of population changes in the state, though some allow the legislature to adjust that number within a range. The size of the New York State Senate, for example, can change after the census, but there are no clear guidelines for how the new number is chosen; after 2010, New York chose the number that most approximates one state senator for every 300,000 residents.

The U.S. is an outlier in terms of the number of people per representative. Only India has a larger number of people per representative in the lower house, with each of its 535 Members of the House of the People (Lok Sabha) representing approximately 2,268,500 people. The U.S. far behind India, but American members of the U.S. House have the next largest constituencies at about 709,800 each. Pakistan and Indonesia are the only other countries with lower chambers of more than 400,000 people per representative. The size of the constituencies for U.S. House members stick out like a sore thumb when compared to that of other democracies. A previous FairVote report identified 33 robust democracies, and in these, the median number of people per representative is approximately 65,200.¹¹ Maintaining a proportion of that size would not be viable given the United States' large population, but this stark contrast does indicate that it would be appropriate to add members to the House.

Rather than simply abiding by the fixed number of 435, Congress should consider determining and apportioning the number of House members differently. This report calculates what effect the implementation of both the Wyoming Rule and the Cube Root method would have had in the past and may have if adopted in the future. It also analyzes the strengths and weaknesses of both approaches and elaborates on the ramifications each plan would have on the American political system. "It considers the implications for these rules on the proposed Fair Representation Act, HR 3057. Finally, the report offers recommendations on whether either of these two methods should be adopted in the future.

11. Rob Richie, "Proportional Representation in Most Robust Democracies," FairVote, March 7, 2016, http://www.fairvote.org/proportional_representation_in_most_robust_democracies.

Analysis

Problems with 435

James Madison was well aware of how difficult it was to determine what proportion of the population should serve in Congress. He authored two of the federalist papers on the topic: In Federalist 55 he argued the House should not be too small, while in Federalist 56 he argued it should not be too large. Both admitted that no clear answer to the best precise size was forthcoming. In 1911, when the House size was first fixed at 435, there were about 240,000 people per representative. The United States population has more than tripled since 1911, and each congressman now represents an average of almost 750,000 constituents. In the first election after the 2010 census, there were about 709,800 people per representative, 19 times as many as in in the late eighteenth century. Research conducted by Professor Brian Frederick of Bridgewater State College suggests that representatives with smaller constituencies tend to be more highly thought of than those in more populous districts. His surveys indicate that representatives with large constituencies are less strongly approved of, seen as less helpful to con-

“The truth is, that in all cases a certain number at least seems to be necessary to secure the benefits of free consultation and discussion, and to guard against too easy a combination for improper purposes; as, on the other hand, the number ought at most to be kept within a certain limit, in order to avoid the confusion and intemperance of a multitude. In all very numerous assemblies, of whatever character composed, passion never fails to wrest the scepter from reason.” - James Madison, Federalist No. 55¹³

stituents and more out of touch with voters. They are more likely to take political stances that deviate from those of their constituents than colleagues who represent smaller districts.¹²

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12. <http://press.uchicago.edu/ucp/books/book/chicago/S/bo3636044.html>, <https://www.amazon.com/Congressional-Representation-Constituents-Representatives-Controversies/dp/0415873460>
 13. James Madison, The Federalist Papers: No. 55 in the Avalon Project, Yale Law School, last modified 2008, http://avalon.law.yale.edu/18th_century/fed55.asp.

The ballooning number of people per representative has resulted in a Congress where members have fewer opportunities for direct contact with constituents. It has become much harder to draw districts in a way that allows for representation of minority groups, and running for a House seat now requires a huge expenditure of resources. It has become much more challenging for representatives to abide by James Madison's suggestion that, "It is a sound and important principle that the representative ought to be acquainted with the interests and circumstances of his constituents."¹⁴ Clearly, the American people do not believe these standards are being met. According to Gallup polls, Congress as a whole has an approval rating of 13 percent as of October 2017.¹⁵ In most polls, citizens agree that their representatives are not listening to them.

Because members of the 115th Congress must represent many more people than those of the 63rd Congress in 1913, it has become much more challenging for them to protect the interests of their constituents. Individual and group voices have been diluted to the point that it is impossible for many House members to recognize (let alone appease) all of the different segments of their constituencies.

The current size of Congress also allows for serious disparities in the number of people per representative between the smallest districts and the largest ones. Each of Rhode Island's two congressional districts house a population of under 528,000, a nationwide low. Meanwhile, Montana's at-large seat includes 994,416 people. The representative with the largest constituency represents 88.5 percent more people than the representative with the smallest constituency.

These disparities, of course, also carry over to the Electoral College, where the disparity is further exacerbated by the inclusion of two electoral votes for each state.¹⁶ Wyoming, the smallest state in the country, has an average of 189,433 people for each electoral vote. In contrast, California, the biggest state in the country, has an average of 678,945 people per electoral vote.

Adjusting the number and apportionment of members of Congress would lessen the proportion of votes in the Electoral College held by small states by doling out more representatives to bigger states. But as we will show, this will not have a meaningful impact on Electoral College results, at least if the past is any indication.

In an effort to address these problems, policy analysts and statisticians have formulated other methods to determine a new number of congressional districts.

14. James Madison, *The Federalist Papers*: No. 56 in the Avalon Project, Yale Law School, last modified 2008, http://avalon.law.yale.edu/18th_century/fed56.asp.

15. Justin McCarthy, "Congress Approval Lowest Since July 2016, at 13%, Gallup News, October 20, 2017," <http://news.gallup.com/poll/220718/congress-approval-lowest-july-2016.aspx>

16. This is expanded on in the next chapter, *Solutions*.

17. Steven L. Taylor, "Representation in the House: The Wyoming Rule," *Outside the Beltway*, December 14, 2010, <http://www.outsidethebeltway.com/representation-in-the-house-the-wyoming-rule>.

Alternatives to 435

The first apportionment method is known as the Wyoming Rule.¹⁷ This method was created with the intention of moving closer to the ideal of “one person, one vote” by attempting to make each district roughly the size of the smallest state. The approach takes the total apportionment population of the fifty states and divides it by the apportionment population of the smallest state, which is currently Wyoming.¹⁸ This amount is then rounded to the nearest whole number, which serves as the number of congressional seats to be apportioned. The seats are then apportioned to the fifty states based on the same formula currently used to apportion the 435 districts. The end result of this would be a manageable increase in the total number of seats and a much more equal apportionment.

The second approach is referred to as the Cube Root method.¹⁹ Under this rule, the size of the legislature would mirror the cube root of the population. This is based on an observation made by statisticians that many national legislatures have a number of members that approximates the cube root of their total populations. In the U.S., this rule could be applied either by setting the size of the House alone or at the cube root minus the number of senators, thus equating the overall number of congressmen (both representatives and senators) with the cube root of the total population. Because the House and Senate are equals when it comes to legislative power (unlike in many other countries), we use the latter value in this report. Those who disagree with that decision can simply add 100 to the resulting numbers to see the unmodified cube root of the total population.

After the number of seats is determined, a formula is used to apportion the seats proportionally among the states. This report is not an analysis of the various methods of apportioning seats among the states, and so it assumes that method will not change from what it is today.²⁰ The method used today is called the Method of Equal Proportions.

$$\text{Number of Seats} = \frac{\text{Total Population}}{\text{Smallest State Population}}$$

The goal of this method is to ensure that each state has as close to an equal number of persons per representative as each other state as mathematically possible given the total number of representatives. It was adopted by Congress in 1941 and has been used for every apportionment since. The formula applied to each state under this method is as follows:

In this formula, A_n is the score given to the state; it is essentially a measure of how much that state “deserves” another representative. P is the state population, and n is the current number of congressional seats apportioned to that state (each state begins with $n=1$). A seat is apportioned to the state with the highest A_n value, causing that state’s value to change. That process then repeats until all seats are apportioned.²¹ With the 435 cap, this

18. The apportionment population consists of both residents living in the state and other state residents living overseas (often as military personnel or other types of officials). The population of the District of Columbia, and US territories are not included in this population as those residents do not have congressional representation.

19. Erik Moberg, “A Theory of Democratic Politics,” last accessed September 22, 2017, <http://www.mobergpublications.se/theory/fifteen-1.htm>.

20. Michel L. Balinski and H. Peyton Young, *Fair Representation: Meeting the Ideal of One Man, One Vote*, second edition edition (Washington, D.C: Brookings Institution Press, 2001).

21. “Congressional Apportionment”, United States Census Bureau, last accessed September 22, 2017, <https://www.census.gov/population/apportionment/about/how.html>.

method is utilized until 435 seats are distributed. For either the Wyoming Rule or the Cube Root method, the designated number of seats would be given out using the same formula.

Determining the best approach to choosing the size of the House of Representatives requires a thorough study of how each approach would affect the number of seats. While the Wyoming or Cube Root rule might prove suitable following the 2010 or

$$A_n = P / (\text{Square Root}(n + 1)(n))$$

2020 census, either may still have caused difficulties in the past or may yet in the future. Thus, in order to test the reliability of each of these options, this report uses both to apportion the congressional seats after each census going from 1910 to 2010. The 1910 census is the starting point because 1913 was the first year with a House size of 435.²² Predictive models for 2020 and 2030 were used to determine how the two methods might be affected if implemented.

The number of congressional seats apportioned by the Wyoming Rule ranges from a minimum of 544 seats in 2010 to a maximum of 1,360 seats in 1920. As mentioned above, the reason for this large variation in the results is that the smallest states in the early 20th century were very, very small in terms of apportionment population. In 1920, Nevada consisted of only 0.0735 percent of the country’s population.²³ In 2010, 0.184 percent of the country lived in Wyoming, now the smallest state. The 2010 ratio is more reasonable, as it adds just 109 seats to the House of Representatives. While increasing the number of house seats by 25.1 percent would cause some level of initial consternation, it certainly would be a smoother transition than adding an additional 925 seats, which the Wyoming Rule would have called for in 1920. This wide range of possible allotments highlights the risk of implementing the Wyoming Rule on a permanent basis.

Table 1: State by State Comparisons of the Apportionment Methods Applied to the 2010 Census

State	Number of Seats	Electoral Votes	Wyoming Rule Number of Seats	Wyoming Electoral Votes	Cube Root Number of Seats	Cube Root Electoral Votes
Total	435	535	544	644	576	676
Alabama	7	9	8	10	9	11
Alaska	1	3	1	3	1	3
Arizona	9	11	11	13	12	14
Arkansas	4	6	5	7	5	7
California	53	55	66	68	69	71
Colorado	7	9	9	11	9	11

22. “Apportionment Act of 1911,” 2 U.S.C. § 2a (1911). While the later admissions of Alaska and Hawaii temporarily increased the number of congressional districts to 437, this was later decreased back to 435 in 1963.
 23. United States Census Bureau, “Statistical Abstract of the United States,” 1921, 38 - 39.

State	Number of Seats	Electoral Votes	Wyoming Rule Number of Seats	Wyoming Electoral Votes	Cube Root Number of Seats	Cube Root Electoral Votes
Total	435	535	544	644	576	676
Connecticut	5	7	6	8	7	9
Delaware	1	3	2	4	2	4
Florida	27	29	33	35	35	37
Georgia	14	16	17	19	18	20
Hawaii	2	4	2	4	3	5
Idaho	2	4	3	5	3	5
Illinois	18	20	23	25	24	26
Indiana	9	11	11	13	12	14
Iowa	4	6	5	7	6	8
Kansas	4	6	5	7	5	7
Kentucky	6	8	8	10	8	10
Louisiana	6	8	8	10	8	10
Maine	2	4	2	4	3	5
Maryland	8	10	10	12	11	13
Massachusetts	9	11	12	14	12	14
Michigan	14	16	18	20	18	20
Minnesota	8	10	9	11	10	12
Mississippi	4	6	5	7	6	8
Missouri	8	10	11	13	11	13
Montana	1	3	2	4	2	4
Nebraska	3	5	3	5	3	5
Nevada	4	6	5	7	5	7
New Hampshire	2	4	2	4	3	5
New Jersey	12	14	16	18	16	18
New Mexico	3	5	4	6	4	6
New York	27	29	34	36	36	38
North Carolina	13	15	17	19	18	20
North Dakota	1	3	1	3	1	3
Ohio	16	18	20	22	22	24
Oklahoma	5	7	7	9	7	9
Oregon	5	7	7	9	7	9
Pennsylvania	18	20	23	25	24	26
Rhode Island	2	4	2	4	2	4
South Carolina	7	9	8	10	9	11
South Dakota	1	3	1	3	2	4
Tennessee	9	11	11	13	12	14
Texas	36	38	45	47	47	49
Utah	4	6	5	7	5	7
Vermont	1	3	1	3	1	3
Virginia	11	13	14	16	15	17
Washington	10	12	12	14	13	15
West Virginia	3	5	3	5	3	5
Wisconsin	8	10	10	12	11	13
Wyoming	1	3	1	3	1	3

The majority of states would see their number of congressional representatives increase as a result of this rule, although some smaller states would not change. In 2010, the four smallest states -- Wyoming, Vermont, North Dakota, and Alaska -- would continue to have only one representative under the Wyoming Rule. And states with two representatives -- like

Rhode Island, New Hampshire, and Maine -- or three -- like Nebraska and West Virginia -- would also retain the same number of representatives after implementation. That is not just true in 2010, either, as similar results were found for each decennial apportionment.²⁴ Because the Wyoming Rule is designed specifically to address the problem of voters in smaller states having more power than those in larger states, it is unsurprising that small states would not be the direct beneficiaries of the larger House size.

Given that the Cube Root method depends solely on the total population of the United States, there is significantly less possibility for variance. As the U.S. population has steadily increased, so has the cube root of its population. Interestingly, applying the Cube Root method between 1910 and 1950 actually produces fewer than 435 seats, ranging from 351 seats in 1910 to 431 in 1950. But since 1960 the number of seats has continued to increase to the 2010 mark of 576 seats, which would be a more reasonable size of the House of Representatives compared to the legislative bodies of other democracies. Looking further ahead, the U.S. Census Bureau projects that the country will have roughly 398 million people in 2050. Using that number and the Cube Root method, the House would only increase by 60 seats in the 40-year period, a very reasonable number.

Like the Wyoming Rule, the Cube Root method would mitigate some of the advantages of smaller states. In 2010, Wyoming, Vermont, North Dakota, Alaska, Rhode Island, Nebraska, and West Virginia would all have been allocated an unchanged number of representatives. Prior to 1960, actually, the larger states would have suffered due to the decrease in the number of seats to be apportioned. For example, in 1950, when the Cube Root method would have recommended that the House consist of 431 congressional representatives, New York, Massachusetts, Arkansas, and Kansas would all have lost one congressional representative. This feature of the Cube Root approach certainly would have created additional problems if implemented during the first half of the 20th century. But the total number of seats would have cleared 435 long ago, and this is a non-issue moving forward, as the population of the U.S. is almost certain to continue to increase.

The addition of congressional seats to almost every state may not have any significant partisan implications. More House elections could conceivably yield even more heavily partisan redistricting. However, using the efficiency gap as our gerrymandering metric, it is currently the states with the fewest seats that are the most gerrymandered. Larger delegations would likely provide more leeway for minority populations and other communities of interest to bring VRA cases arguing they deserve at least one seat. Furthermore, the opening of more elected offices -- offices that would not have a male incumbent -- could lead to more women's representation.

The addition of 100 or so representatives to the House might also prove beneficial in terms of committee assignment. Instead of some members serving on two standing committees, there would be enough representatives to allow each to only serve on one. As a result, members would no longer need to divide their focus between two committees and could more

24. "In 2000, Wyoming, Vermont, Alaska, North Dakota, Rhode Island and Nebraska all retained the same number of representatives as they did prior to the Wyoming Rule. In 1990 the same occurred for Wyoming, Alaska, Vermont, North Dakota, Rhode Island, Idaho, New Hampshire, Hawaii, and New Mexico. In 2020, this is projected to happen to Wyoming, Vermont, Alaska, North Dakota, Maine, New Hampshire, and Nebraska. 2030 predictions suggest this will happen to Wyoming, Vermont, Alaska, Maine, New Hampshire, New Mexico, and Nebraska."

easily represent their constituencies while also doing the necessary committee work. Allowing each committee to be more focused on its specific responsibilities might prove beneficial to the implementation of positive policy programs.

In addition to examining the apportionment of congressional districts based on these two approaches, this report also applied these allotments to every presidential election since 1912 in order to simulate the potential impact on the Electoral College. While both the Wyoming Rule and the Cube Root Rule naturally changed the overall number of electoral votes

Year	Actual Number of House Seats	Wyoming Rule	Cube Root Rule
1910	435	1119	351
1920	435	1360	372
1930	435	1343	396
1940	435	1189	408
1950	435	936	431
1960	435	896	464
1970	435	669	488
1980	435	564	509
1990	435	546	529
2000	435	569	555
2010	435	544	576
2020	435	577	592
2030	435	579	607

each candidate received, at no point did the changes impact the outcome of the elections. No state or group of states gained enough of an advantage to alter the course of a presidential election.

Table 2: Decade by Decade Comparison of House Seats by Apportionment Methods

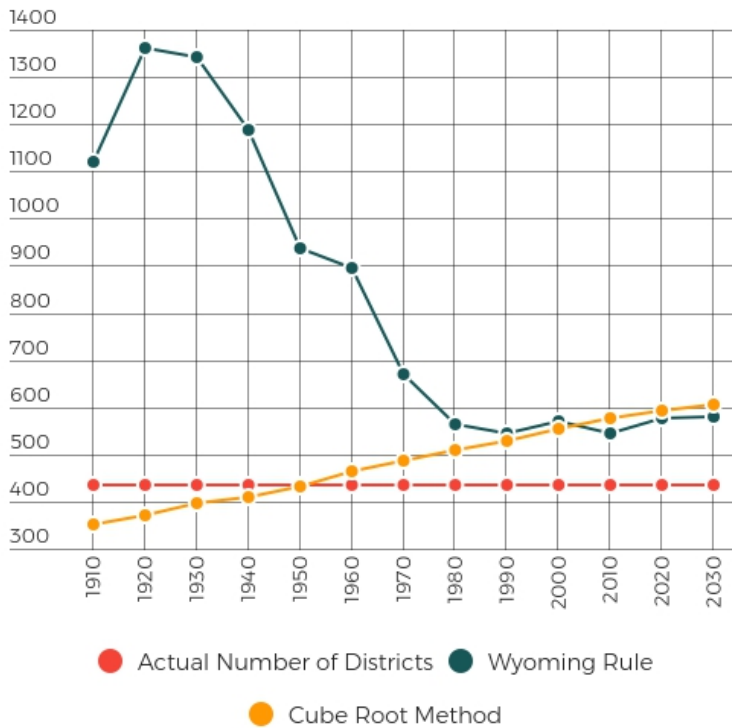
The closest exception is 2000, when the margins would have been even tighter than they already were but the result would not have changed. The Wyoming Rule would have cut George W. Bush’s victory over Al Gore from 272-266 to 325-324. The Cube Root method would have created a similarly close margin, with Bush winning just 317-315. Moving off of 435 representatives and changing the way representatives are apportioned would have an impact on the Electoral College, but that impact is so marginal that even the result of the closest election in recent history would have held up. This also shows that neither method is partisan in nature and neither serves as a way to ensure that the winner of the popular vote will win the Electoral College.

Criticisms of the Wyoming Rule and the Cube Root Method

Some critics will oppose an attempt to change the number of representatives for financial or efficiency reasons. Sources of costs include the salaries and benefits of representatives and

their staff, as well as supporting infrastructure costs. We estimate that the average marginal cost of a member of Congress is roughly 1.4 million dollars.²⁵ If we were to assume the largest increase in the House contemplated by this report (to 692 representatives after 2020 under the Cube Root Rule without subtracting the Senate seats), then the additional costs would total an increase of less than 0.01 percent of the federal government’s expected expenditures in 2017.²⁶ If this method does provide for greater representation in Congress, it will be a cost-effective means of doing so, and just a drop in the bucket for the federal government.

Chart 3: Comparison of Apportionment Methods (435 Cap, Wyoming Rule, and Cube Root)



Source: FairVote

Critics of these plans might also argue that an expansion of the House will lead inevitably to more gridlock, because adding additional voices to the House would make passing any legislation more challenging. On a state level, size of legislature is not correlated with efficiency of legislature. It is difficult to prove or disprove that a significant expansion of the size of the House would decrease its efficiency, simply because there are no examples of a similar growth of a similar legislature. But it seems unlikely that increasing the House by roughly 30 percent would have an adverse effect on the efficiency of a legislative body that already has expansive gridlock. On the contrary, adding more representatives would decrease the value of each individual vote, which would allow the leadership to pass legislation without being forced to buy single members’ votes with needless pork. This would also minimize the amount of leverage major lobbyists would have from having the ear of a few representatives.

Some opponents of these methods might contend that they do not go far enough. Some argue that the House of Representatives should include 1,000 or more representatives in order to more accurately reflect the will of the people. In fact, an amendment proposed by

Some opponents of these methods might contend that they do not go far enough. Some argue that the House of Representatives should include 1,000 or more representatives in order to more accurately reflect the will of the people. In fact, an amendment proposed by

25. Elizabeth Layne, “The Average Salary of a Newly Elected Congressman,” Chron, 2012, <http://work.chron.com/average-salary-newly-elected-congressman-7774.html>.
 26. The estimated increase from this amount would be \$257 million. The federal government is expected to spend approximately \$3.65 trillion in 2017.

James Madison early in the Republic would have fixed the maximum number of people per representative at 50,000. Before it was removed, this was set to be the first amendment. But today, such a proportion would yield a House of Representatives of over 6,000 members. And Madison also warned that the legislature should not become too large, “in order to avoid the confusion and intemperance of a multitude,” specifically citing “six or seven thousand” as a number clearly too large. The goal, then, is to find the ideal size. This report does not advocate for such a marked increase in the size of the House, at least not immediately. It posits that an addition of between 100 and 200 representatives to the House, as the Wyoming Rule and the Cube Root Method would entail, would significantly address the current problems without creating serious new ones.

But most critics who oppose any movement to expand the House of Representatives will be people who are in power under the current system. Lobbyists would oppose it because it would reduce their leverage on individual members of Congress. The leaders of both parties would oppose it for a number of reasons, chief among them that they would not want to risk losing control. The executive branch and the Senate would almost certainly oppose it, too, because they are also invested in and reliant on the status quo. This will all make it much more difficult to pass legislation that will expand the House of Representatives. With a groundswell of public support, though, that could change.

Conclusion

The Wyoming Rule carries with it a large number of advantages. Unlike the rather arbitrary cap of 435 congressional districts, the Wyoming Rule is easy to explain and justify to both policy experts and the average American citizen. The idea that every congressional district should roughly consist of the same population as that of the smallest state seems intuitive. This method most closely adheres to the principle of equal representation exemplified in the Supreme Court's "one person, one vote" cases from the 1960s. Additionally, increasing the number of congressional representatives could allow for more marginalized voices to be heard in the halls of power, whether that be minorities or the minority party in a highly partisan state. The more districts a state has, the better chance there is that the minority party in that state can win a seat or two. And providing more congressional districts to diverse states like Florida, Arizona, Texas, and California would allow for more minority-majority districts to be created. The increase in the number of congressional representatives could more closely follow the principles of good governance by allowing for more voices to be heard.

Despite these strengths, the Wyoming Rule certainly suffers from a major drawback. As the findings section showed, comparing the size of the smallest state with that of the country as a whole yields a lot of variance, which could thus destabilize Congress. It seems difficult to imagine putting faith in a system that could produce a huge change in the size of Congress if any given state experiences a large relative drop in population, which is conceivable. And the smaller states that would not receive additional seats almost certainly would oppose the Wyoming Rule. While the incumbent congressmen of states like Wyoming and Vermont would not be in any jeopardy of losing their offices, they would see their relative power decrease. The Wyoming Rule might make representation in the House more fair, but the smaller states that currently benefit from the status quo would not appreciate any such change. Indeed, even this increased equity would still allow for some disparities in population size of districts. While the Wyoming Rule certainly addresses problems of equity in voting, it could, if implemented, anger small states and destabilize the government.

In contrast to the Wyoming Rule, the Cube Root method is unlikely to cause the number of seats to fluctuate drastically. Instead, the number of congressional districts will slowly increase alongside the population of the country, thereby ensuring that each congressional district will remain roughly the same size. This method will allow for greater equity by more accurately reflecting the population distribution in the country. The Cube Root method also will ensure that new open seats will exist following each apportionment (assuming the population continues to climb), thus creating more opportunities for new voices. Again, these new seats might be filled by minority or marginalized groups.

Unfortunately, the formula designed to maintain this steady rise can seem somewhat arbitrary or confusing. Most people can recognize the logic behind the Wyoming Rule, and the status quo has the advantage of tradition, but the reasoning behind the Cube Root approach is not as intuitive. Justifying such a policy shift to both elected officials and the average citizen might prove difficult. Like with the Wyoming Rule, smaller states would likely oppose this proposal as enacting it would reduce their relative power. The Cube Root approach shares some of the Wyoming Rule's weaknesses but without the intuitively equitable approach to apportionment.

Both of these approaches would mesh quite well with other existing election policy proposals such as the Fair Representation Act (HR 3057). This bill would demand the implementation of multi-member districts and the establishment of rank choice voting throughout the country. Such requirements could ensure that the added seats would not be used to bolster one party over the other in any particular state. HR 3057 would allow for both majority and minority groups in every state to have their interests represented.

Previous reports have suggested that the passage of this bill would lead to more minority and women candidates winning congressional elections. It follows that providing more house seats under these proposed regulations would yield even more minorities and women in Congress. This bill, which calls for an independent redistricting commission, would ensure that the new seats are allocated fairly and in a way that reflects the voices of all voters. The addition of new seats to various states would push an additional three states under the Wyoming Rule and six under the Cube Root rule to multi-winner districts drawn by independent commissions, rather than at large elections, and would also move one state under the Wyoming rule and four states under the Cube Root rule over the threshold to use RCV (3 seats). This change would lead to some increased implementation costs under the bill, but this would be an acceptable price to pay for more accurate representation. In addition, these changes would blunt some criticisms of the FRA, by allowing the drawing of more, smaller districts, and allowing candidates to be elected with fewer votes. Though neither these apportionment methods nor the Fair Representation Act requires the passage of the other to improve the electoral system, combined they are greater than the sum of their parts.

Recommendation

The bottom line is that the U.S. House of Representatives does not currently have enough members to truly represent the people, which is what it was expressly created to do. As discussed, both of these proposals would address the problem of equity in the House and provide additional benefits. The two methods themselves determine the appropriate number of congressional districts in different ways, each of which produce somewhat mixed results. Yet despite the issues that would come with changing the format of apportionment from a 435 seat cap to either the Wyoming or Cube Root method, such a shift is ultimately necessary. The status quo provides a disproportionate voice to residents of states like Wyoming and Rhode Island in the House of Representatives. Meanwhile, states like California and Texas are not adequately reflected in the apportionment process. Adding seats to the House would shrink the gap between the biggest and smallest districts and also reduce the Elec-

toral College advantage small states have. Advocates from relatively sparsely populated states might frame this measure as an attack and an unjust marginalization. But the Constitution accounted for this complaint by establishing the United States Senate, in which each state has an equal voice. The House, on the other hand, was created to give proportional representation to each state, which it is not doing as currently constituted. It was also supposed to be the nuanced voice of the people, which becomes impossible when each member of the House represents upwards of 700,000 people. Increasing the size of the House of Representatives would cost money, receive criticism from officials on both sides of the political aisle, and might even add to the gridlock, although there is no evidence to suggest that it would. Nevertheless, in order to abide by the terms of equity, fairness, and the ideal of “one person, one vote,” the methods of apportioning congressional districts must change.

The Wyoming Rule and the Cube Root method would both successfully apportion the districts in a fair manner. We ultimately would recommend the Cube Root method over the Wyoming Rule. While the Wyoming Rule is more intuitive and politically justifiable, it carries with it the potential of extreme variation between censuses. According to estimates from political science Professor David Birdsell of Baruch College, 70 percent of Americans are predicted to live in the 15 largest states by 2040.²⁷ Based on this forecast, the ratio of the population of the country to that of the smallest state would likely grow larger, leading perhaps to vast spikes in numbers of representatives. Meanwhile, the Cube Root method is more stable, allowing the number of representatives to gradually grow alongside the nation. This approach is not perfect and would retain some disparities in terms of voters per representative and voting power in each state. Nevertheless, it offers the best immediate option for equality among the states within the House of Representatives. For these reasons, we would strongly recommend the use of the Cube Root method starting during the apportionment process of 2020.

27. Adam Wisnieski, “Next 100 Days: In the Era of Trump, NYS is Out of Step and In the Crosshairs,” City Limits, June 30, 2017, <https://citylimits.org/2017/06/30/next-100-days-in-the-era-of-trump-nys-is-out-of-step-and-in-the-crosshairs/>.

Appendix:

Table 3: Apportionment Method Effect on Presidential Elections since 1912

	Dem Actual	GOP Actual	Dem Wyoming	GOP Wyoming	Dem Cube Root	GOP Cube Root	Third Party Actual	Third Party Wyoming	Third Party Cube Root
1912 Election	435	8	990	13	367	7	88	212	73
1916 Election	277	254	621	594	237	210			
1920 Election	127	404	295	920	108	339			
1924 Election	136	382	373	1047	118	339	13	36	11
1928 Election	87	444	232	1224	77	394			
1932 Election	472	59	1262	177	437	55			
1936 Election	523	8	1422	17	487	8			
1940 Election	449	82	1229	210	414	78			
1944 Election	432	99	1052	233	408	96			
1948 Election	303	189	742	450	287	197	39	93	38
1952 Election	89	442	170	861	88	439			
1956 Election	73	457	142	888	70	456	1	1	1
1960 Election	303	219	605	406	301	217	15	28	15
1964 Election	486	52	905	94	514	53			
1968 Election	191	301	364	552	202	317	46	83	48
1972 Election	17	521	24	748	19	572			
1976 Election	297	241	434	338	326	265			
1980 Election	49	489	68	704	52	539			
1984 Election	13	525	15	651	14	600			
1988 Election	197	430	132	534	123	491			
1992 Election	368	170	445	204	434	198			
1996 Election	377	161	457	192	445	187			
2000 Election	266	272	324	325	315	317			
2004 Election	252	286	319	351	312	346			
2008 Election	365	173	456	214	447	211			
2012 Election	332	206	402	245	422	256			
2016 Election	232	306	280	367	294	384			

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