



The Congressional-District Method of Awarding Electoral Votes

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Summary

- Under the congressional-district method of awarding electoral votes, one electoral vote is awarded to the presidential candidate who receives the most popular votes in each of a state's congressional districts.
- The congressional-district method could be implemented nationwide by means of a federal constitutional amendment, or individual states can unilaterally implement it (as Maine did in 1969 and as Nebraska did in 1992).
- The congressional-district method *would not* accurately reflect the nationwide popular vote if used nationwide. In three of the six presidential elections between 2000 and 2020, the winner of the most votes nationwide would not have won the Presidency if the congressional-district method had been applied to election returns.
- The congressional-district method *would not* make every voter in every state politically relevant. It would worsen the current situation in which three out of four states and most voters in the United States are ignored in the general-election campaign for President. Under the congressional-district method, campaigns would be focused only on the small number of congressional districts that are closely divided in the presidential race. The major-party presidential candidates were within eight percentage points of each other in only 17% of the nation's congressional districts (72 of 435) in 2020. In contrast, 31% of the U.S. population lived in the dozen closely divided battleground states where the candidates were within eight percentage points of each other in 2020.
- The congressional-district method *would not* make every vote equal. There are six sources of inequality in the congressional-district method. Each is substantial, and each is considerably larger than the inequalities that the courts have found to be constitutionally tolerable when reviewing the fairness of redistricting.
 - 3.81-to-one inequality because of the two senatorial electoral votes that each state receives above and beyond the number warranted by its population,
 - 1.72-to-1 inequality because of the roughness of the process of apportioning U.S. House seats among the states,
 - 3.76-to-1 inequality because of voter differences in turnout between districts across the country,
 - 1.67-to-1 inequality because of voter turnout differences at the state level,
 - 1.39-to-1 inequality because of population changes during the decade after each census,

- 7.1-to-1 differences, from district to district, in the number of votes that enable a candidate to win an electoral vote within a state.
- District allocation of electoral votes would magnify the effects of gerrymandering of congressional districts, and increase the incentive to gerrymander.
- Presidential campaigns would *not be attracted to a state* by the congressional-district method, but, instead, only to the relatively few closely divided districts, if any, in a given state. For example, recent presidential campaigns paid attention to Nebraska's closely divided 2nd congressional district (the Omaha area), while totally ignoring the politically non-competitive rural 1st and 3rd districts.
- The congressional-district method would be difficult to install on a state-by-state basis, because it imposes a substantial first-mover disadvantage on early adopters. A state reduces its own influence if it divides its electoral votes while other states continue to use winner-take-all. Moreover, each additional state that adopts the congressional-district method increases the influence of the remaining "hold-out" winner-take-all states.
- The congressional-district method of awarding electoral votes would make a bad system worse because it would not accurately reflect the nationwide popular vote, would not make every voter in every state politically relevant, and it would not make every vote equal.

Description and history of the congressional-district method

The congressional-district method can be implemented in two ways.

First, a federal constitutional amendment could be adopted to implement the congressional-district method on a nationwide basis.

Second, an individual state can decide to allocate the state's electoral votes by district (as Maine did in 1969, as Nebraska did in 1992, and various other states have done in the past).

Let's consider attempts to pass constitutional amendments first.

In the early years of the Republic, there was considerable support for a constitutional amendment to implement the congressional-district method of awarding electoral votes. In fact, one house of Congress approved a constitutional amendment to implement the district method on four separate occasions (1813, 1819, 1820, and 1822).¹

This flurry of activity in Congress coincided with the fact that an increasing number of states were adopting the winner-take-all method of awarding electoral votes at the time. Only two states used the winner-take-all method in the 1800 election; however, six states used it in 1804 and 1808, and five in 1812. The number increased to seven in 1816, eight in 1820. After the fourth failed vote in Congress in 1822, the number rose to 11 in 1824.

In 1969, Congress intensively debated several possible constitutional amendments concerning election of the President, including the congressional-district method, direct popular election, and the fractional proportional method.

¹ Keyssar, Alexander. 2020. *Why Do We Still Have the Electoral College?* Cambridge, MA: Harvard University Press. Page 62.

In 1969, Senator Karl Mundt (R–South Dakota) sponsored a federal constitutional amendment to implement the district approach (Senate Joint Resolution 12 of the 91st Congress).

“Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

‘Article—

‘SECTION 1. Each State shall choose a number of electors of President and Vice President equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States shall be chosen elector.

‘The electors assigned to each State with its Senators shall be elected by the people thereof. Each of the electors apportioned with its Representatives shall be elected by the people of a single-member electoral district formed by the legislature of the State.² Electoral districts within each State shall be of compact and contiguous territory containing substantially equal numbers of inhabitants, and shall not be altered until another census of the United States has been taken. Each candidate for the office of elector of President and Vice President shall file in writing under oath a declaration of the identity of the persons for whom he will vote for President and Vice President, which declaration shall be binding on any successor to his office. In choosing electors the voters in each State have the qualifications requisite for electors of the most numerous branch of the State legislature.

‘The electors shall meet in their respective States, fill any vacancies in their number as directed by the State legislature, and vote by signed ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the State with themselves....

“Any vote cast by an elector contrary to the declaration made by him shall be counted as a vote cast in accordance with his declaration.’”

² Although the 1969 Mundt amendment is generally viewed as being based on congressional districts, it did not specifically require that the presidential-electoral districts be the same as the state’s congressional districts. Instead, the amendment merely said that the districts would be “single-member electoral district[s] formed by the legislature of the State.”

The 1969 Mundt amendment was sponsored by a substantial number of Senators (18) when it was first introduced:

- Mundt (R–South Dakota),
- Boggs (R–Delaware),
- Byrd (D–West Virginia),
- Cotton (R–New Hampshire),
- Curtis (R–Nebraska),
- Dominick (R–Colorado),
- Fong (R–Hawaii),
- Goldwater (R–Arizona),
- Hansen (R–Wyoming),
- Hruska (R–Nebraska),
- Jordan (R–Idaho),
- Miller (R–Iowa),
- Sparkman (D–Alabama),
- Stennis (D–Mississippi),
- Thurmond (R–South Carolina),
- Tower (R–Texas),
- Williams (R–Delaware), and
- Young (R–North Dakota).

One of the features of the 1969 Mundt amendment was that it eliminated the possibility of faithless presidential electors, while retaining the position of presidential elector. The Mundt amendment provided that each candidate nominated for the position of presidential elector must take an oath promising to vote in the Electoral College for a particular candidate for President and Vice President. Then, regardless of how the presidential elector actually voted when the Electoral College met, the elector’s vote would “be counted as a vote cast in accordance with his declaration.”

Passing a constitutional amendment requires an enormous head of steam at the beginning of the process—specifically, getting a two-thirds vote in both houses of Congress. A constitutional amendment then requires ratification by three-fourths of the states. There have been only 17 amendments ratified since the Bill of Rights. The last time Congress approved a federal constitutional amendment that was later ratified by the states was in 1971 when Congress approved the 26th Amendment (voting by 18-year-olds).³

The district method of awarding electoral votes may be implemented without a constitutional amendment—that is, it can be implemented unilaterally by individual states, as discussed in the next section.

³The most recently approved constitutional amendment was the 27th Amendment which became part of the Constitution in 1992. That amendment was submitted to the states by Congress on September 25, 1789—203 years earlier.

Piecemeal implementation of the district method by individual states

Before discussing the history of the use of the congressional-district method of awarding electoral votes, we note that districts other than congressional districts were used on several occasions in the early years of the Republic.

- In the first three presidential elections (1789, 1792, and 1796), Virginia voters chose presidential electors from special single-member presidential-electoral districts. Special presidential-electoral districts were also used in North Carolina in 1796, 1800, 1804, and 1808.
- In the nation's first presidential election in 1789, Delaware had three electoral votes and three counties (as it still does today). In 1789, one presidential elector was elected from each of Delaware's three counties.⁴
- In 1792, Massachusetts voters chose presidential electors from four multi-member regional districts (with the legislature choosing the state's remaining two electors).

The congressional-district method is in use today in Maine (as a result of a 1969 state law) and Nebraska (under a 1992 state law). Both Maine and Nebraska award their state's two senatorial electoral votes to the candidate who receives the most popular votes statewide.

In the 13 presidential elections between 1972 and 2020 in which Maine used the congressional-district method, there have been only two occasions when the state's electoral votes were divided. In 2016 and 2020, Donald Trump carried Maine's 2nd congressional district (the northern part of the state), while the Democratic nominee carried the 1st district and the state as a whole. In all other years, the outcome in both congressional districts matched the statewide outcome.

Similarly, in Nebraska, in the eight presidential elections between 1992 and 2020 in which the state used the congressional-district method, there have been only two occasions when the state's electoral votes were divided. In 2008, Barack Obama carried Nebraska's 2nd congressional district (the Omaha area), and Joe Biden carried the 2nd district in 2020.

In the aftermath of the 1888 election in which incumbent President Grover Cleveland won the national popular vote, but lost the Electoral College, Michigan adopted a version of the congressional-district method for use in the 1892 election. Under Michigan's Miner Act, one presidential elector was chosen from each of the state's 12 congressional districts. Unlike the 1969 Maine law and the 1992 Nebraska law, Michigan's two senatorial electors were not awarded on a statewide basis. Instead, the Miner Act created an eastern and western super-district—each consisting of six congressional districts. One electoral vote was awarded to the candidate who received the most popular votes in each super-district. The result in 1892 was nine Republican presidential electors and five Democratic electors.

⁴ The U.S. Supreme Court decision in the 1892 case of *McPherson v. Blacker* contains an error concerning Delaware. In its historical review of the election laws of 1789, the U.S. Court (incorrectly) stated, "At the first presidential election, the appointment of electors was made by the legislatures of Connecticut, Delaware, Georgia, New Jersey, and South Carolina." 146 U.S. 1 at 29. This source of this incorrect statement appears to be page 19 of the plaintiff's brief in the 1892 case. *Brief of F.A. Baker for Plaintiffs in Error in McPherson v. Blacker*. 1892. In fact, Delaware's presidential electors were elected on a county basis, as provided by a law passed by the Delaware legislature on October 28, 1788. The candidate receiving the most votes in each county in Delaware was elected as presidential elector. The actual election returns are shown on page 83 of DenBoer, Gordon; Brown, Lucy Trumbull; and Hagermann, Charles D. (editors). 1984. *The Documentary History of the First Federal Elections 1788–1790*. Madison, WI: University of Wisconsin Press. Volume 2.

The U.S. Supreme Court upheld Michigan's use of the congressional-district method in the 1892 case of *McPherson v. Blacker*. The Miner Act was repealed by the Michigan legislature shortly after the 1892 election.

Prior to 1836, presidential electors were elected by congressional district in numerous elections in various states.

In the nation's first presidential election in 1789, Massachusetts voters voted on candidates for the position of presidential elector on a congressional-district basis.

Chief Justice Melville Fuller recounted the history of the congressional-district method between 1804 and 1828 in his opinion in *McPherson v. Blacker*:

“The district method obtained in Kentucky until 1824; in Tennessee and Maryland until 1832; in Indiana in 1824 and 1828; in Illinois in 1820 and 1824; and in Maine in 1820, 1824, and 1828. Massachusetts ... used the district system again in 1812 and 1820. ... In New York, the electors were elected in 1828 by districts, the district electors choosing the electors at large.”⁵

2011 congressional-district proposal in Pennsylvania

Just before and after the 2012 presidential election, the congressional district method was the subject of considerable debate in various states, including Pennsylvania in 2011.

The political context of this debate was that the Republicans won control of both houses of the Pennsylvania legislature and the Governor's office in the November 2010 mid-term elections. The Democratic nominee for President had won Pennsylvania in the five previous presidential elections. Moreover, in 2011, it was generally expected that President Obama would win Pennsylvania again in 2012 (as he, in fact, did). Also, at the time, it was widely anticipated that the Republican legislature and Republican governor would enact a congressional redistricting plan that would favor their own party (as they, in fact, did in 2012).

Thus, in September 2011, Pennsylvania Senate Majority Leader Dominic Pileggi (R) introduced a bill in the Pennsylvania legislature that would have replaced Pennsylvania's existing winner-take-all law (allocating all of the state's electoral votes to the candidate who receives the most popular votes statewide) with a law similar to that used by Maine and Nebraska. Under Pileggi's proposal, the candidate winning each of Pennsylvania's congressional districts would receive one electoral vote, and the candidate winning the state would receive the state's senatorial electoral votes.

Senator Pileggi's proposal was not enacted in time for the 2012 election.

2013 congressional-district proposals in Pennsylvania, Wisconsin, Michigan, Ohio, Virginia, and Florida

Pennsylvania was one of six closely divided battleground states in which the Republicans won control of both houses of the legislature and the Governor's office in the November 2010 mid-term elections. The others included Wisconsin, Michigan, Ohio, Virginia, and Florida.

In 2012, President Obama carried all six states (as he had in 2008), thus giving him a 106–0 margin over Governor Romney in the six states. This 106-vote margin was considerably larger than the 62-vote margin by which President Obama won the Electoral College in 2012.

⁵ *McPherson v. Blacker*. 146 U.S. 1 at 32. 1892.

Thus, the congressional-district method attracted increased attention among Republican state legislators in all six states after the 2012 elections.

The table below shows the effect of applying the congressional-district method to the actual 2012 election returns from these six states (Pennsylvania, Wisconsin, Michigan, Ohio, Virginia, and Florida).⁶ Columns 2 and 3 of the table show the statewide popular-vote results in each of the six states. Columns 4 and 5 show the number of congressional districts won by President Barack Obama and Governor Mitt Romney in each state. Columns 6 and 7 show the total number of electoral votes (including the two senatorial electoral votes) for Obama and Romney if the congressional-district method had been used in 2012.

Political effect of Senator Pileggi’s congressional-district method in six states

State	D	R	D districts	R districts	D-EV under CD	R-EV under CD
FL	50%	49%	11	16	13	16
MI	54%	45%	5	9	7	9
OH	51%	48%	4	12	6	12
PA	52%	47%	5	13	7	13
VA	51%	47%	4	7	6	7
WI	53%	46%	3	5	5	5
Total			32	62	44	62

Under the congressional-district method, President Obama would have received only 44 electoral votes to Governor Romney’s 62 electoral votes from the six states—even though Obama carried all six states. If the congressional-district method had been in place in 2012, President Obama would have ended up nationally with a razor-thin 270–268 win in the Electoral College.

2013 Congressional-district proposals in Pennsylvania

In the aftermath of the 2012 election, Pennsylvania state Representatives Robert Godshall (R) and Seth Grove (R) announced that they intended to introduce a bill in 2013 to implement the congressional-district method in Pennsylvania.

A *National Journal* article entitled “The GOP’s Electoral College Scheme” in December 2012 reported:

“Republicans alarmed at the apparent challenges they face in winning the White House are preparing an all-out assault on the Electoral College system in critical states, an initiative that would significantly ease the party’s path to the Oval Office.

“Senior Republicans say they will try to leverage their party’s majorities in Democratic-leaning states in an effort to end the winner-take-all system of awarding electoral votes. Instead, bills that will be introduced in several Democratic states would award electoral votes on a proportional basis....

“If more reliably blue states like Michigan, Pennsylvania, and Wisconsin were to award their electoral votes proportionally, Republicans would be able to eat into what has become a deep Democratic advantage.

“All three states have given the Democratic nominee their electoral votes in each of the last six presidential elections. Now, senior Republicans in Washington are overseeing legislation in all three states to end the winner-take-all system....

⁶ Richie, Rob. 2012. Electoral College chaos: How Republicans could put a lock on the presidency. December 13, 2012. <http://www.fairvote.org/electoral-college-chaos-how-republicans-could-put-a-lock-on-the-presidency> .

“The proposals, the senior GOP official said, are likely to come up in each state’s legislative session in 2013. Bills have been drafted, and legislators are talking to party bosses to craft strategy....

“In the long run, Republican operatives say they would like to pursue similar Electoral College reform in Florida, Ohio, and Virginia. Obama won all three states, but Romney won a majority of the congressional districts in each state.

“Rewriting the rules would dramatically shrink or eliminate the Democratic advantage, because of the way House districts are drawn....

“If Republicans go ahead with their plan, Democrats don’t have the option of pushing back.... Some consistently blue presidential states have Republican legislatures; the reverse is not true.”⁷ [Emphasis added]

PoliticsPA pointed out that Pennsylvania lost its battleground status in 2012:

“Once a reliable battleground state, Pennsylvania spent most of the 2012 presidential campaign on the sidelines.”⁸

Indeed, Pennsylvania received only five general-election campaign events in 2012 (out of 253 nationally), compared to the 40 that it received in 2008. Particularly galling to Pennsylvanians was the fact that neither President Obama nor Vice President Biden bothered to visit the state at all during the 2012 general-election campaign. Moreover, neighboring Ohio (with two fewer electoral votes than Pennsylvania) received 48 general-election campaign events (almost one-fifth of the national total of 253). In short, Pennsylvania was a “jilted battleground” state in the 2012 election.

The memo soliciting Pennsylvania legislators to co-sponsor the congressional-district bill said:

“I believe that the Congressional District Method will increase voter turnout and **encourage candidates to campaign in all states rather than just those that are competitive....** Most importantly, this method of selecting presidential electors will give a stronger voice to voters in **all regions** of our great Commonwealth.” [Emphasis added]

2013 congressional-district proposal in Michigan

Michigan was ignored in the 2012 general-election campaign for President to an even greater degree than Pennsylvania. President Obama, Governor Romney, and Vice President Biden never bothered to visit the state. Michigan’s sole general-election campaign event in 2012 was an appearance by Republican vice-presidential nominee Paul Ryan in Rochester, Michigan.

A December 18, 2012, article entitled “Shake up the Electoral College? GOP Proposal Would Have Helped Mitt Romney Win Michigan” reported that state Representative Pete Lund (R), Chair

⁷ Wilson, Reid. The GOP’s Electoral College scheme. *National Journal*. December 17, 2012. <http://www.nationaljournal.com/columns/on-the-trail/the-gop-s-electoral-college-scheme-20121217>.

⁸ Gibson, Keegan. House Republicans resurrect congressional-based Electoral College plan. *PoliticsPA*. December 20, 2012. <http://www.politicspa.com/house-rs-resurrect-congressional-based-electoral-college-plan/44960/>.

of the House Redistricting and Elections Committee, announced that he planned to introduce a bill in the legislature in 2013 to enact the congressional-district method.⁹

In another article, Representative Lund said the following about the congressional-district method:

“It’s more representative of the people.... A person doesn't win a state by 100 percent of the vote, so this is a better, more accurate way.... People would feel voting actually matters. It’s an idea I’ve had for several years.”¹⁰

An Associated Press story reported:

“Pete Lund, Michigan’s House Republican whip, said next year is an opportune time to renew the push for his bill to award two electoral votes to the statewide winner and allocate the rest based on results in each congressional district—the method used by Nebraska and Maine.

“The 2016 election ‘is still a few years away and no one knows who the candidates are going to be,’ said Lund.”¹¹

A December 20, 2012, article in the *Christian Post* entitled “GOP Operatives Eye Reversal of Democrats' Electoral College Edge” reported:

“The current method of calculating electoral college votes in most states gives Democrats an edge in presidential races. Republican operatives are working to undo that edge, not by supporting a popular vote, though, as most Americans would prefer, but by supporting changes that would give Republicans an edge.

“In all but two states, Maine and Nebraska, the candidate who wins the majority of votes in the state receives all the electors for that state. In Maine and Nebraska, electors are assigned by congressional district. A candidate gets one elector for each congressional district they win and two more electors if they win the popular vote in the state.

“Republican operatives are working to cherry pick a few select states to change the system to one like Maine and Nebraska in order to pick up a few more electors in the next presidential election.

“The states they are looking at are Michigan, Pennsylvania and Wisconsin. Obama won all three of those states in 2008 and 2012. Combined, those states netted 46 electors for President Barack Obama. If those states had assigned electors by congressional district, though, at least 26 electors would have likely gone to Republican presidential candidate Mitt Romney instead of Obama, according to calculations by Reid Wilson for *National Journal*. It would not have been enough for Romney to win, but would at least put future Republican candidates in a better position to win in future elections.

⁹ Oosting, Jonathan. Shake up the Electoral College? GOP proposal would have helped Mitt Romney win Michigan. *MLive*. December 18, 2012. http://www.mlive.com/politics/index.ssf/2012/12/shake_up_the_electoral_college.html.

¹⁰ Lund: Divide Electoral College votes by congressional district. *Michigan Information and Research Service*. December 17, 2012. www.mirsnews.com/alert.php?alert_id=1352.

¹¹ Associated Press. Changes advocated in Pennsylvania electoral vote counting. *PennLive*. December 22, 2012. http://www.pennlive.com/midstate/index.ssf/2012/12/changes_advocated_in_pennsylva.html.

“One aspect that all three of those states have in common is their state governments are controlled by Republicans, making the change possible. It also means that the 2010 redistricting in those states was controlled by the Republicans, thus giving them an advantage in drawing congressional district lines favorable to their party....

“The current plan pursued by some Republicans is not aimed at fixing perceived flaws in the system, though. Rather, it is aimed at simply helping Republicans win. (Notice they are not proposing the same system for states like Texas, which would help Democrats gain a few more electors.)”¹² [Emphasis added]

2013 congressional-district proposal in Virginia

In December 2012, Virginia state Senator Charles Carrico proposed that his state adopt a variation of the congressional-district method.¹³ Under Carrico’s proposal, Virginia’s two senatorial electoral votes would not go to the statewide winner (which had been Obama in 2008 and 2012). Instead, the candidate winning a majority of Virginia’s 11 districts (which were gerrymandered in 2011 to favor the Republican Party) would receive a bonus of two senatorial electoral votes. That is, Carrico’s bill would apply a winner-take-all rule on top of the results of the winner-take-all rule applied at the district level.

Because the Republican legislature and governor had created congressional districts highly favorable to their own party, President Obama won only four of Virginia’s 11 districts while carrying the state in November 2012 (and Governor Romney won seven).

If the congressional-district method used in Maine and Nebraska were applied to the 2012 election returns in Virginia, President Obama would have won six of the state’s 13 electoral votes to Governor Romney’s seven.

If Senator Carrico’s method were applied to the 2012 election returns in Virginia, Romney would have won the state’s two senatorial electoral votes and a total of nine of Virginia’s 13 electoral votes, while President Obama would have won only four electoral votes.

2013 congressional-district proposal in Wisconsin

A December 27, 2012, *Milwaukee Journal Sentinel* article reported that incoming Assembly Speaker Robin Vos had sponsored a bill (Assembly Bill 589) to divide Wisconsin’s electoral votes by congressional district in 2008.¹⁴

A *Milwaukee Journal Sentinel* article entitled “Walker Open to Changing state’s Electoral College Allocations” reported on December 22, 2012 that:

¹² Nazworth, Napp. GOP operatives eye reversal of Democrats’ Electoral College edge. *Christian Post*. December 20, 2012. <http://www.christianpost.com/news/gop-operatives-eye-reversal-of-democrats-electoral-college-edge-87014/>.

¹³ Lee, Tony. OH, VA Republicans Consider Changes to Electoral Vote System. *Breitbart*. December 10, 2012. <http://www.breitbart.com/Big-Government/2012/12/10/OH-VA-Republicans-Float-Idea-Of-Getting-Rid-Of-Winner-Take-All-System-Of-Awarding-Electoral-Votes>.

¹⁴ Marley, Patrick. Vos previously backed changing electoral vote rules. *Milwaukee Journal Sentinel*. December 27, 2012. <http://www.jsonline.com/news/statepolitics/vos-previously-backed-changing-electoral-vote-rules-jb865ct-184975431.html>.

“Gov. Scott Walker is open to having Wisconsin allocate its Electoral College votes based on results from each congressional district—a move that would offer Republicans a chance to score at least a partial victory in a state that has gone Democratic in the last seven presidential elections.

“The idea is being considered in other battleground states that have tipped toward Democrats as Republicans try to develop a national plan to capture the presidency in future years....

“In the weeks since Obama won re-election, Republicans are now eyeing splitting up electoral votes in other key battleground states, according to the *National Journal*. If Wisconsin, Michigan and Pennsylvania went to such a system, Republicans would have a chance to edge into the national Electoral College advantage that Democrats now enjoy.

“While those states lend an advantage to Democrats in presidential years, Republicans control all of state government in those three states after the GOP sweep of 2010....

“Republicans last year bolstered their chances in congressional races by redrawing district lines. Those boundaries have to be redrawn every decade to account for population changes, and Republicans were able to use that opportunity to their advantage since they controlled state government.”¹⁵

2021 district proposals in state legislatures

Interest in the district system of awarding electoral votes has decreased considerably since the intense flurry of activity in 2011–2013.

Nonetheless, such bills are introduced regularly in state legislatures.

The table below shows the 26 bills to implement a district system of awarding electoral votes that were introduced in state legislatures in the first five months of 2021. Bills were introduced in 12 states, with a total of 77 sponsors.

As can be seen from the table, 72 of the 77 sponsors in 2021 belong to the political party that did not carry their state in the 2020 presidential election. In particular, there were four Texas Republican state legislators who sponsored a district bill in 2021 even though their party’s nominee won their state in 2020.

¹⁵ Marley, Patrick. Walker open to changing state’s Electoral College allocations. *Milwaukee Journal Sentinel*. December 22, 2012. <http://www.jsonline.com/news/statepolitics/walker-open-to-changing-states-electoral-college-allocations-8884ck6-184566961.html> .

2021 state legislative bills for district allocation of electoral votes

State	Bill	Party that won state in 2020	Sponsor's party
Arizona	HB2426 ¹⁶	Democrat	3 Republicans
Connecticut	HB5012 ¹⁷	Democrat	2 Republicans
Connecticut	HB5322 ¹⁸	Democrat	1 Republican
Connecticut	HB5324 ¹⁹	Democrat	1 Democrat
Iowa	HF519 ²⁰	Republican	3 Democrats
Illinois	HB2611 ²¹	Democrat	2 Republicans
Illinois	HB2821 ²²	Democrat	1 Republican
Illinois	SB1762 ²³	Democrat	1 Republican
Illinois	SB54 ²⁴	Democrat	1 Republican
Massachusetts	HB785 ²⁵	Democrat	1 Republican
Massachusetts	HB799 ²⁶	Democrat	5 Republicans
Michigan	HB4319 ²⁷	Democrat	5 Republicans
Michigan	HB4320 ²⁸	Democrat	5 Republicans
Minnesota	HF453 ²⁹	Democrat	1 Republican

¹⁶ <https://apps.azleg.gov/BillStatus/BillOverview/74978>

¹⁷

https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=HB05012&which_year=2021

¹⁸

https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=HB05322&which_year=2021

¹⁹

https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=HB05324&which_year=2021

²⁰ <https://www.legis.iowa.gov/legislation/BillBook?ga=89&ba=HF519>

²¹

<https://www.ilga.gov/legislation/BillStatus.asp?DocNum=2611&GAID=16&DocTypeID=HB&SessionID=110&GA=102>

²²

<https://www.ilga.gov/legislation/BillStatus.asp?DocNum=2821&GAID=16&DocTypeID=HB&SessionID=110&GA=102>

²³

<https://www.ilga.gov/legislation/BillStatus.asp?DocNum=1762&GAID=16&DocTypeID=SB&SessionID=110&GA=102>

²⁴

<https://www.ilga.gov/legislation/BillStatus.asp?DocNum=54&GAID=16&DocTypeID=SB&SessionID=110&GA=102>

²⁵ <https://malegislature.gov/Bills/192/H785>

²⁶ <https://malegislature.gov/Bills/192/H799>

²⁷

[http://www.legislature.mi.gov/\(S\(asihliut5srpqo34h2qj4aem\)\)/mileg.aspx?page=GetObject&objectname=2021-HB-4319](http://www.legislature.mi.gov/(S(asihliut5srpqo34h2qj4aem))/mileg.aspx?page=GetObject&objectname=2021-HB-4319)

²⁸

[http://www.legislature.mi.gov/\(S\(asihliut5srpqo34h2qj4aem\)\)/mileg.aspx?page=GetObject&objectname=2021-HB-4320](http://www.legislature.mi.gov/(S(asihliut5srpqo34h2qj4aem))/mileg.aspx?page=GetObject&objectname=2021-HB-4320)

²⁹ <https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF453&ssn=0&y=2021>

Minnesota	HF2608 ³⁰	Democrat	5 Republicans
Minnesota	SF429 ³¹	Democrat	3 Republicans
New Hampshire	HB370 ³²	Democrat	4 Republicans
New York	AB4895 ³³	Democrat	2 Republicans
New York	AB5437 ³⁴	Democrat	6 Republicans
New York	SB1804 ³⁵	Democrat	1 Republican
New York	SB2552 ³⁶	Democrat	1 Republican
Texas	HB1375 ³⁷	Republican	1 Democrat
Texas	HB3868 ³⁸	Republican	4 Republicans and 1 Democrat
Virginia	SB1432 ³⁹	Democrat	1 Republican
Wisconsin	AB35 ⁴⁰	Democrat	8 Republicans
Wisconsin	SB61 ⁴¹	Democrat	8 Republicans

All of the bills in the table called for the allocation of electoral votes based on congressional districts, except for the New Hampshire bill.

The New Hampshire bill HB370 was based on the five districts in the state for electing the Governor’s Executive Council—a body with considerable power that harkens back to Pre-Independence America. All four of the state’s electoral votes would be awarded to the presidential candidate who receives the most votes in a majority of the five Executive Council districts. That is, like the Carrico bill in Virginia in 2013, this bill would apply a winner-take-all rule on top of the results of the winner-take-all rule applied at the district level.

We now analyze how the congressional-district method, if adopted nationwide, would perform in terms of the following three criteria:

- **Accuracy:** Would the method accurately reflect the national popular vote?
- **Making Every Vote Equal:** Would the method make every vote equal?
- **Making Every Voter in Every State Politically Relevant in Every Election:** Would the method improve upon the current situation in which three out of four states and three out of four voters in the United States are ignored in the general-election campaign for President?

³⁰ <https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF2608&ssn=0&y=2021>

³¹ <https://www.revisor.mn.gov/bills/bill.php?f=SF429&y=2021&ssn=0&b=senate>

³²

http://gencourt.state.nh.us/bill_status/bill_status.aspx?lsr=318&sy=2021&sortoption=&txtsessionyear=2021&txtbillnumber=HB370

³³ <https://www.nysenate.gov/legislation/bills/2021/A4895>

³⁴ <https://www.nysenate.gov/legislation/bills/2021/A5437>

³⁵ <https://www.nysenate.gov/legislation/bills/2021/s1804>

³⁶ <https://www.nysenate.gov/legislation/bills/2021/s2552>

³⁷ <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=HB1375>

³⁸ <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=HB3868>

³⁹ <https://lis.virginia.gov/cgi-bin/legp604.exe?211+sum+SB1432>

⁴⁰ <https://docs.legis.wisconsin.gov/2021/proposals/reg/asm/bill/ab35>

⁴¹ <https://docs.legis.wisconsin.gov/2021/proposals/reg/asm/bill/sb61>

The congressional-district method would not accurately reflect the national popular vote

Curtis Gans and Leslie Francis (opponents of a national popular vote for President) advocated the use of the congressional-district method of awarding electoral votes by saying:

“The lack of competition and campaigning in a majority of states owes itself not to the existence of the Electoral College’s indirect method of choosing presidents, but rather to the winner-take-all method of choosing electors in all but two states. If a party knows either that it can’t win a single elector in a state or has an easy road to winning all of them, it sends its resources to where it has a competitive chance.

“There are alternatives to winner-take-all that do not involve abandoning the positive aspects of the Electoral College. All states could adopt the system that now exists in Maine and Nebraska, where all but two electors are chosen by congressional district, and the other two go to the statewide winner. Or states might explore what was recently [in 2004] proposed in Colorado—that electors be allocated in proportion to each candidate’s share of the popular vote above a certain threshold. Either would provide a reason for both parties to compete in most states because there would be electors to win. Either would likely produce an electoral vote count closer to the popular vote.”⁴² [Emphasis added]

The claim by Curtis Gans and Leslie Francis that the congressional-district system would “likely produce an electoral vote count closer to the popular vote” is demonstrably false.

In three of the six elections between 2000 and 2016 (specifically, 2000, 2012, and 2016), the winner of the most votes nationwide would *not* have won the Presidency if the congressional-district method had been applied to the election returns.

In 2016, if the congressional-district method is applied to election returns, Donald Trump would have received a majority in the Electoral College despite the fact that Hillary Clinton received 2,868,518 more popular votes nationwide. Overall, Trump would have received 290 electoral votes in 2016, and Clinton would have received 248 electoral votes. Specifically:

- Trump carried 230 of the nation’s 435 congressional districts, whereas Clinton carried only 205 districts.
- Trump carried 30 states (having 60 senatorial electors), whereas Clinton carried only 20 states (having 40 senatorial electors).
- Clinton carried the District of Columbia with three electoral votes.

In 2012, if the congressional-district method is applied to the election returns, Mitt Romney would have received a majority in the Electoral College despite the fact that Barack Obama received 4,966,945 more popular votes nationwide. Romney would have received a total of 274 electoral votes, and Obama would have received 264 electoral votes.⁴³

⁴² Gans, Curtis and Francis, Leslie. Why National Popular Vote is a bad idea. *Huffington Post*. January 6, 2012.

⁴³ Daviss, Claire and Richie, Rob. 2015. *Fuzzy Math: Wrong Way Reforms for Allocating Electoral Votes (Problems with the Whole-number proportional and Congressional District Systems)*. FairVote report. <https://fairvote.app.box.com/v/fuzzy-math-wrong-way-reforms>

In 2000, if the congressional-district method is applied to the election returns,⁴⁴ George W. Bush would have received a majority in the Electoral College despite the fact that Al Gore received 537,179 more popular votes nationwide. Overall, in 2000, Bush would have received a total of 288 electoral votes, and Gore would have received 250 electoral votes.⁴⁵ Specifically:

- George W. Bush carried 228 of the 435 congressional districts, whereas Al Gore carried only 207 districts.
- Bush carried 30 states (having 60 senatorial electors), whereas Gore carried only 20 states (having 40 senatorial electors).
- Gore carried the District of Columbia, which has three electoral votes.

That is, the congressional-district method would have given Bush a 6.8% lead in electoral votes over Gore in 2000. However, Gore received 50,992,335 popular votes (50.2% of the two-party popular vote), whereas Bush received 50,455,156 (49.7% of the two-party popular vote). Under the existing statewide winner-take-all system, Bush received 271 electoral votes in 2000 (50.4% of the total number of electoral votes)—a 0.8% lead in electoral votes over Gore.

In three of the six elections between 2000 and 2020 (namely 2004, 2008, and 2020), the congressional-district method would have yielded the same winner as the current state-by-state winner-take-all method of awarding electoral votes; however, the winner would have received considerably more electoral votes than warranted by his margin of victory in the popular vote.

In 2004, George W. Bush carried 255 of the 435 congressional districts, whereas John Kerry carried 180. Bush carried 30 of the 50 states, and Kerry won the District of Columbia.⁴⁶ Bush would have won 59% of the electoral votes (315 of 538) under the congressional-district method in an election in which he received only 51% of the two-party national popular vote. Bush would have won 29 more electoral votes under the congressional-district method than the 286 electoral votes that he actually won under the current system.

In 2008, Obama would have won 64 fewer electoral votes under the congressional-district method than he won under the current state-by-state winner-take-all method of awarding electoral votes. Instead of winning by 365–173 electoral votes, Obama would have won by the much narrower margin of 301–237.

In 2020, Biden won 224 of the 435 congressional districts, while Trump won 211. Biden and Trump each won 25 states—that is, each won 50 senatorial electoral votes. Biden won the District of Columbia’s three electoral votes. If the congressional-district method had been applied to the 2020 election returns, Biden would have won the Electoral College by a slender margin of 277–261 electoral votes, instead of the 306–232 margin produced by the current system.

⁴⁴ In this book, all hypothetical analyses of an alternative electoral system are (necessarily) based on the election returns from the actual election conducted under the then-existing electoral system. The authors, of course, recognize that the campaigns would have been conducted differently if the alternative system had been in effect.

⁴⁵ Daviss, Claire and Richie, Rob. 2015. *Fuzzy Math: Wrong Way Reforms for Allocating Electoral Votes (Problems with the Whole-number proportional and Congressional District Systems)*. FairVote report. <https://fairvote.app.box.com/v/fuzzy-math-wrong-way-reforms>

⁴⁶ America’s choice in 2004: Votes by congressional district. *Cook Political Report*. 2005.

The table below shows the closest nine congressional districts that Biden won in 2020.

The nine closest congressional districts that Biden won in 2020

Percent margin	District	Biden	Trump	Total	Winner	Margin (D-R)
0.2%	NV-3	214,184	213,299	435,796	Biden	885
1.1%	VA-7	228,335	223,268	460,031	Biden	5,067
1.5%	NY-19	182,965	177,569	368,128	Biden	5,396
1.5%	CA-48	199,791	193,832	401,845	Biden	5,959
1.8%	AZ-1	187,182	180,673	374,808	Biden	6,509
1.9%	TX-15	119,784	115,315	237,719	Biden	4,469
2.5%	IL-14	203,741	193,889	407,226	Biden	9,852
2.8%	PA-17	221,555	209,683	438,251	Biden	11,872
3.0%	CA-10	154,990	146,084	309,075	Biden	8,906
	Total	1,712,527	1,653,612	3,432,879		58,915

If 29,458 voters in these nine congressional districts had changed their votes from Biden to Trump, Biden would have lost the election in the Electoral College by a 268–270 margin, despite leading in the national popular vote by 7,052,711 votes.⁴⁷

In summary, the congressional-district method would have been even less accurate than the current state-by-state winner-take-all method of awarding electoral votes in terms of reflecting the national popular vote.

One reason why the congressional-district method would not accurately reflect the nationwide popular vote is the widespread gerrymandering of congressional districts.

A more fundamental reason is that the congressional-district method is a combination of a “district-level winner-takes-one” system and a “statewide winner-takes-two” system. Whenever a single office is filled by an electoral process in which the winner-take-all rule is applied to districts that are smaller than the entire jurisdiction encompassed by the office, the candidate who received the most popular votes in the jurisdiction as a whole will, in many elections, be different from the candidate who received the most popular votes in a majority of the districts. That is, the application of the winner-take-all system rule to sub-jurisdictions will almost inevitably produce outcomes in which the candidate receiving the most votes in the entire jurisdiction loses the election.

⁴⁷ In fact, under the 12th Amendment, Biden would have lost the Presidency if only eight districts had switched, because there would have been a 269–269 tie in the Electoral College and the presidential election would have been thrown into the U.S. House of Representatives. In the contingent election in the House, each state casts one vote. The Republicans had a majority of the House delegations on January 6, 2021 (although not a majority of the members). Moreover, it is unclear who would have been elected Vice President in the contingent election in the U.S. Senate for two reasons. First, two Democrats were elected to the Senate on January 5, 2021, but had not yet taken their seats, so the Senate had a Republican majority on January 6. Second, if the Senate election had been conducted in an evenly tied Senate (after the two Democrats were seated), it is not clear that Vice President Pence would have been able to break a tie in a contingent election and cast the deciding vote for his own re-election.

The congressional-district method would not make every vote equal

Every vote would not be equal throughout the country if the congressional-district method of awarding electoral votes was used in all states.

There are six different sources of inequality inherent in the congressional-district method.

As will be shown below, each of these inequalities is substantial.

Each of these inequalities is, separately, larger than the inequalities that the courts have found to be constitutionally tolerable when reviewing the fairness of redistricting.

As will be shown below, depending on the state, these inequalities are up to

- 3.81-to-one inequality because of the two senatorial electoral votes that each state receives above and beyond the number warranted by its population,
- 1.72-to-1 inequality because of the roughness of the process of apportioning U.S. House seats among the states,
- 3.76-to-1 inequality because of voter differences in turnout between districts across the country,
- 1.67-to-1 inequality because of voter turnout differences at the state level,
- 1.39-to-1 inequality because of population changes during the decade after each census,
- 7.1-to-1 differences, from district to district, in the number of votes that enable a candidate to win an electoral vote within a state.

Inequalities because of the two senatorial electoral votes

First, under the congressional-district method, a vote cast in a large state has less weight than a vote cast in a small state because of the two senatorial electoral votes that each state receives above and beyond the number warranted by the state's population.

For example, Wyoming (with a population of 576,851 according to the 2020 census) has three electoral votes in the 2024 and 2028 presidential elections, whereas California (population 39,538,223) has 54 electoral votes.

In the table below:

- column 2 shows the population of each state (2020 census);
- column 3 shows the state's number of electoral votes in the 2024 and 2028 presidential elections;
- column 4 shows the number of persons per electoral vote for each state; and
- column 5 shows the ratio of the number of persons-per-electoral-vote for each state to the number of persons-per-electoral-vote for the nation's smallest state (Wyoming).

The table is sorted from the state with the highest ratio (California) down to the state with the lowest ratio (Wyoming).

Ratio of number of persons-per-electoral-vote compared to nation's smallest state

State	2020 population	Electoral votes 2024-2028	Persons per electoral vote	Comparison to smallest state
California	39,538,223	54	732,189	3.81
Texas	29,145,505	40	728,638	3.79
New York	20,201,249	28	721,473	3.75
Florida	21,538,187	30	717,940	3.73
Ohio	11,799,448	17	694,085	3.61
Pennsylvania	13,002,700	19	684,353	3.56
Illinois	12,812,508	19	674,343	3.51
Michigan	10,077,331	15	671,822	3.49
Georgia	10,711,908	16	669,494	3.48
Virginia	8,631,393	13	663,953	3.45
New Jersey	9,288,994	14	663,500	3.45
North Carolina	10,439,388	16	652,462	3.39
Arizona	7,151,502	11	650,137	3.38
Washington	7,705,281	12	642,107	3.34
Massachusetts	7,029,917	11	639,083	3.32
Tennessee	6,910,840	11	628,258	3.27
Maryland	6,177,224	10	617,722	3.21
Indiana	6,785,528	11	616,866	3.21
Missouri	6,154,913	10	615,491	3.20
Wisconsin	5,893,718	10	589,372	3.07
Louisiana	4,657,757	8	582,220	3.03
Colorado	5,773,714	10	577,371	3.00
Minnesota	5,706,494	10	570,649	2.97
South Carolina	5,118,425	9	568,714	2.96
Oklahoma	3,959,353	7	565,622	2.94
Kentucky	4,505,836	8	563,230	2.93
Alabama	5,024,279	9	558,253	2.90
Utah	3,271,616	6	545,269	2.84
Iowa	3,190,369	6	531,728	2.77
Oregon	4,237,256	8	529,657	2.75
Nevada	3,104,614	6	517,436	2.69
Connecticut	3,605,944	7	515,135	2.68
Arkansas	3,011,524	6	501,921	2.61
Mississippi	2,961,279	6	493,547	2.57
Kansas	2,937,880	6	489,647	2.55
Idaho	1,839,106	4	459,777	2.39
West Virginia	1,793,716	4	448,429	2.33
New Mexico	2,117,522	5	423,504	2.20
Nebraska	1,961,504	5	392,301	2.04
Hawaii	1,455,271	4	363,818	1.89
New Hampshire	1,377,529	4	344,382	1.79
Maine	1,362,359	4	340,590	1.77
Delaware	989,948	3	329,983	1.72
South Dakota	886,667	3	295,556	1.54
Rhode Island	1,097,379	4	274,345	1.43
Montana	1,084,225	4	271,056	1.41
North Dakota	779,094	3	259,698	1.35
Alaska	733,391	3	244,464	1.27
D.C.	689,545	3	229,848	1.20
Vermont	643,077	3	214,359	1.11
Wyoming	576,851	3	192,284	1.00
Total	331,449,281	538	518,982	2.70

As can be seen from the table, the ratio of the persons-per-electoral-vote for California to that of Wyoming is 3.81-to-1.

Inequalities because of the roughness of the process of apportioning U.S. House seats

Second, because of inequalities created by the roughness of the process of apportioning U.S. House seats among the states, a vote cast in many states can have considerably less weight under the congressional-district method than a vote cast in another state with the same number of electoral votes.

There are many combinations of states which illustrate this inequality.

Consider, for example, the group of six states and the District of Columbia with three electoral votes.

In the table below,

- column 2 shows the population of each state (2020 census);
- column 3 shows the state's number of electoral votes in the 2024 and 2028 presidential elections;
- column 4 shows the number of persons per electoral vote for each state; and
- column 5 shows the ratio of the number of persons-per-electoral-vote for each state to the number of persons-per-electoral-vote for the smallest state in this group with three electoral votes (Wyoming).

The table is sorted from the state with the highest ratio (Delaware) down to the state with the lowest ratio (Wyoming).

Comparison of weight of a popular vote cast in the seven jurisdictions with three electoral votes

State	2020 population	Electoral votes 2024-2028	Persons per electoral vote	Comparison to smallest state
Delaware	989,948	3	329,983	1.72
South Dakota	886,667	3	295,556	1.54
North Dakota	779,094	3	259,698	1.35
Alaska	733,391	3	244,464	1.27
D.C.	689,545	3	229,848	1.20
Vermont	643,077	3	214,359	1.11
Wyoming	576,851	3	192,284	1.00

As can be seen from the table, one electoral vote corresponds to 329,983 people in Delaware, but only 192,284 in Wyoming—a 1.72-to-1 variation in the value of a vote under the fractional proportional method.

There are lesser (but still considerable) disparities in the value of a vote for each of the other six states in the table.

Similar disparities exist among groups of states with more than three electoral votes.

Inequalities because of differences in voter turnout at the district level

Third, voter turnout varies considerably from district to district. Under the congressional-district system, a voter in a low-turnout district has greater voting power in choosing the President than a voter in a high-turnout district.

Texas's 33rd congressional district had the nation's lowest total vote for President in both 2020 and 2016. Only 160,828 votes were cast for President there in 2020.

In contrast, Montana's congressional district had the nation's highest total vote for President in both 2020 and 2016. A total of 603,674 votes were cast there in 2020.

That is, there was a 3.76-to-1 variation in the value of a vote between these two districts.

The example of Montana is hardly unique.

In fact, the value of a vote in 328 of the nation's 435 congressional districts would have been less than half of that of Texas's 33rd congressional district under the congressional-district method.

The table below shows the 10 congressional districts where the value of a vote would be less than a third of that of TX-33 under the congressional-district method of awarding electoral votes. The table is sorted according to the district's 2020 total vote (column 5).

Congressional districts where a vote's value is less than a third of that of Texas-33

Percent margin	District	Biden	Trump	Total	Winner	Margin (D-R)
52.0%	OR-3	356,714	112,509	483,462	Biden	244,205
31.9%	FL-11	164,285	318,054	486,702	Trump	-153,769
16.3%	CO-4	198,971	276,309	487,935	Trump	-77,338
8.1%	FL-16	223,366	262,840	491,810	Trump	-39,474
34.8%	NC-4	332,604	160,812	501,293	Biden	171,792
30.8%	NC-2	323,249	171,017	504,172	Biden	152,232
19.3%	DE-At-Large	296,268	200,603	504,346	Biden	95,665
21.3%	FL-4	198,414	305,934	512,062	Trump	-107,520
30.9%	CO-2	338,261	178,561	530,867	Biden	159,700
16.8%	MT-At-Large	244,786	343,602	603,674	Trump	-98,816

There are many reasons for this wide divergence in the value of a vote under the congressional-district method.

Consider, for example, Florida's 11th congressional district, which had the nation's ninth highest presidential vote (486,702).

Turnout is higher among older voters, and lower among younger voters. According to Census Bureau data, turnout in 2020 was

- 78% among those 65 or over,
- 75% for those 50-64,
- 68% for those 40-49,
- 63% for those 30-39, and
- 53% for those 18-29.⁴⁸

Among other things, Florida's 11th congressional district contains The Villages, a vast retirement community. Overall, a third of the population of FL-11 is 65 or older, while only 14% are age 18 to 34.⁴⁹ In contrast, only 8% of the people in TX-33 were 65 or over, and 27% were between 18 and 34.

Turnout among Latinos is considerably less than average. According to Census Bureau data, turnout in 2020 was

- 73% among whites,
- 66% among blacks,
- 62% among Asians,
- 53% among Hispanics, and
- 49% among American Indians.

TX-33 is 66% Latino, whereas FL-11 is only 10% Latino.

Consider another district in the table, namely North Carolina's 4th congressional district, home of the Research Triangle.

Turnout is generally higher among those with advanced education. According to Census Bureau data, turnout in 2020 was

⁴⁸ Clement, Scott and Santamariña, Daniela. 2021. What we know about the high, broad turnout in the 2020 election. *Washington Post*. May 13, 2021. <https://www.washingtonpost.com/politics/2021/05/13/what-we-know-about-high-broad-turnout-2020-election/>

⁴⁹ Cohen, Richard and Cook, Charlie. 2019. *The Almanac of American Politics*. Columbia Books and Information Services. Pages 448 and 1752.

- 90% for those with a post-graduate degree,
- 84% for those with a four-year college degree,
- 72% for those with some college,
- 54% for high-school graduates, and
- 36% for those with less than a high-school diploma.⁵⁰

In North Carolina's 4th congressional district, 22% have a post-graduate degree and an additional 31% have a four-year college degree. In contrast, only 3% of TX-33 have a post-graduate degree, and only 7% have a four-year college degree.⁵¹

Consider Colorado's 2nd congressional district, another district in the table.

Turnout is generally higher among those with higher income. The median income in CO-2 is \$75,021, whereas it is only \$39,089 in TX-33.⁵²

Inequalities because of differences in voter turnout at the state level

Fourth, a voter in a low-turnout state has greater voting power under the congressional-district method than a voter in a high-turnout state.

Differences in voter turnout at the state level create variations of up to 1.67-to-1 in the value of a vote in electing the state's senatorial electors under the congressional-district method.

Because of the current state-by-state winner-take-all method of awarding electoral votes, voter turnout in presidential election years varies significantly from state to state depending on whether a state is a closely divided battleground state. Therefore, we use data from a midterm election in order to compare voter turnout between states.

The table below shows the percent of the population of each state that voted in the November 2018 mid-term elections using data from the U.S. Census Bureau.⁵³ The table is sorted from the highest percentage (52%) to lowest percentage (31%). Column 5 is the ratio of each state's turnout to that of the lowest turnout state (Hawaii).

⁵⁰ Clement, Scott and Santamariña, Daniela. 2021. What we know about the high, broad turnout in the 2020 election. *Washington Post*. May 13, 2021. <https://www.washingtonpost.com/politics/2021/05/13/what-we-know-about-high-broad-turnout-2020-election/>

⁵¹ Cohen, Richard and Cook, Charlie. 2019. *The Almanac of American Politics*. Columbia Books and Information Services. Pages 448 and 1752.

⁵² Cohen, Richard and Cook, Charlie. 2019. *The Almanac of American Politics*. Columbia Books and Information Services. Pages 341 and 1752.

⁵³ U.S. Census Bureau. *Voting and Registration in the Election of November 2018*. April 2019. table 4a. <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-583.html> There are, of course, numerous different ways to compute voter turnout. The calculation in the table here is based on the state's population compared to the number of people who voted in that state. Alternatively, voter turnout can also be computed based on census data for voting-age population, estimates of citizens of voting age in each state, or the actual number of registered voters. The Census Bureau spreadsheet cited above contains data for computing turnout in these three other ways. Regardless of the method used, each of these alternative calculations demonstrates considerable variation in voter turnout from state to state.

Percent of population that voted in 2018

State	Population 2010	Total voters (thousands)	Percent of population that voted	Comparison to lowest turnout state
Montana	994,416	518	52%	1.67
D.C.	601,723	313	52%	1.67
Maine	1,333,074	693	52%	1.66
Oregon	3,848,606	1,918	50%	1.60
North Dakota	675,905	335	50%	1.59
Wisconsin	5,698,230	2,776	49%	1.56
Washington	6,753,369	3,234	48%	1.53
Minnesota	5,314,879	2,523	47%	1.52
Colorado	5,044,930	2,342	46%	1.49
Michigan	9,911,626	4,418	45%	1.43
Utah	2,770,765	1,214	44%	1.40
Iowa	3,053,787	1,335	44%	1.40
Arizona	6,412,700	2,800	44%	1.40
New Hampshire	1,321,445	576	44%	1.40
Vermont	630,337	273	43%	1.39
Georgia	9,727,566	4,084	42%	1.34
Florida	18,900,773	7,918	42%	1.34
Missouri	6,011,478	2,509	42%	1.34
Massachusetts	6,559,644	2,731	42%	1.33
Virginia	8,037,736	3,319	41%	1.32
Delaware	900,877	369	41%	1.31
North Carolina	9,565,781	3,899	41%	1.30
Pennsylvania	12,734,905	5,173	41%	1.30
South Dakota	819,761	331	40%	1.29
Kansas	2,863,813	1,152	40%	1.29
Kentucky	4,350,606	1,746	40%	1.28
Maryland	5,789,929	2,320	40%	1.28
Mississippi	2,978,240	1,180	40%	1.27
South Carolina	4,645,975	1,836	40%	1.27
Ohio	11,568,495	4,538	39%	1.26
Tennessee	6,375,431	2,487	39%	1.25
Wyoming	568,300	220	39%	1.24
New Jersey	8,807,501	3,384	38%	1.23
Connecticut	3,581,628	1,370	38%	1.22
Rhode Island	1,055,247	403	38%	1.22
Alabama	4,802,982	1,830	38%	1.22
Idaho	1,573,499	587	37%	1.19
Nevada	2,709,432	1,006	37%	1.19
Nebraska	1,831,825	676	37%	1.18
Illinois	12,864,380	4,740	37%	1.18
Alaska	721,523	263	36%	1.17
Louisiana	4,553,962	1,656	36%	1.16
Indiana	6,501,582	2,364	36%	1.16
Oklahoma	3,764,882	1,350	36%	1.15
California	37,341,989	13,240	35%	1.13
Texas	25,268,418	8,886	35%	1.13
New York	19,421,055	6,775	35%	1.12
New Mexico	2,067,273	715	35%	1.11
West Virginia	1,859,815	610	33%	1.05
Arkansas	2,926,229	919	31%	1.01
Hawaii	1,366,862	427	31%	1.00
Total	309,785,186	122,281	39%	

As can be seen from the table, the ratio of the highest to lowest percentage (that is, the ratio of 52% to 31%) is 1.67-to-1.

Inequalities because of population changes during the decade after each census

Fifth, another source of variation in the value of a vote from state to state arises from the fact that the population of a state changes from year-to-year during the decade after each census, and the rate of change varies considerably from state to state.

This inequality is generally relatively small for a presidential election held in the second year of a decade. It generally grows during the decade. This inequality can become especially large when a presidential election coincides with the end of a decade—such as 2000 and 2020. In such years, the presidential election is held using an allocation of electoral votes that is based on 10-year-old population data.

There are many states that illustrate this inequality.

Specifically, consider Utah, which grew by 30% in the decade between the 1990 and 2000; 24% between 2000 and 2010; and 18% between 2010 and 2020.

Utah was one of four states that had five electoral votes in the 1992, 1996, and 2000 presidential elections. These three elections were conducted under the apportionment based on the 1990 census.

The table below compares the value of a popular vote cast in 2000 in the four states with five electoral votes (Utah, Nebraska, West Virginia, and New Mexico).

- Column 2 shows the population of each state according to the 1990 census, and column 3 shows the population according to the 2000 census.⁵⁴
- Column 4 shows the number of popular votes cast in the 2000 presidential election in each state.
- Column 5 shows the number of popular votes corresponding to one electoral vote for each state.
- Column 6 shows, for each state, the ratio of the number of votes representing one electoral vote to that of the lowest in the table (New Mexico).

Comparison of value of a popular vote cast in 2000 in states in 2000 with five electoral votes

State	1990 population	2000 population	Votes cast in 2000 presidential election	Popular votes per electoral vote in 2000	Comparison to lowest
Utah	1,722,850	2,233,169	753,999	150,800	1.27
Nebraska	1,578,385	1,711,263	690,182	138,036	1.16
West Virginia	1,793,477	1,808,344	642,652	128,530	1.08
New Mexico	1,515,069	1,819,046	594,451	118,890	1.00

As can be seen from the table, one electoral vote in 2000 corresponded to 150,800 popular votes in Utah, but only 118,890 popular votes in New Mexico—a 1.27-to-1 variation.

In 2020, Utah was one of six states with six electoral votes. The table below compares the value of a popular vote cast in 2020 in the six states with six electoral votes.

Comparison of value of a popular vote cast in 2020 in states with six electoral votes

State	2010 population	2020 population	Votes cast in 2020 presidential election	Popular votes per electoral vote in 2020	Comparison to lowest
Iowa	3,046,355	3,190,369	1,690,871	281,812	1.39
Utah	2,763,885	3,271,616	1,505,931	250,989	1.24
Nevada	2,700,551	3,104,614	1,405,376	234,229	1.15
Kansas	2,853,118	2,937,880	1,377,484	229,581	1.13
Mississippi	2,967,297	2,961,279	1,314,475	219,079	1.08
Arkansas	2,915,918	3,011,524	1,219,069	203,178	1.00

⁵⁴ Note that the census count in the spring of 2000 closely approximates a state's population at the time of the election in November.

As can be seen from the table, one electoral vote in 2020 corresponded to 281,812 popular votes in Iowa, but only 203,178 popular votes in Arkansas—a 1.39-to-1 variation.

Inequalities because of differences in the number of votes needed to win an electoral vote from district to district in the same state

Sixth, the number of votes required to win one electoral vote varies widely from district to district in the same state.

For example, in Nebraska in 2020, a margin of 22,091 in the 2nd congressional district gave Joe Biden one electoral vote, while a margin of 156,325 in the 3rd district gave Donald Trump one electoral vote—a 7.1-to-1 difference in the value of a vote within Nebraska.⁵⁵

In Maine in 2020, a margin of 102,331 in the 1st congressional district gave Joe Biden one electoral vote, while a margin of 27,996 in the 2nd congressional district gave Donald Trump one electoral vote—a 3.6 -to-1 difference within Maine.⁵⁶

If the congressional-district method were used across the country, similar differences would exist in almost every state with more than one congressional district (and, of course, between districts in different states).

The congressional-district method does not make every voter in every state politically relevant

Because electoral votes are currently awarded on a winner-take-all basis, presidential candidates only campaign in places where voter sentiment is closely divided.

Candidates do not spend their time or money campaigning in places where they are hopelessly behind or safely ahead.

- In 2020, almost all (96%) of the general-election campaign events (204 of 212) occurred in 12 states where the Republican percentage of the two-party vote was in the narrow **eight-point range** between 46% and 54%.
- In 2016, almost all (94%) of the general-election campaign events (375 of 399) occurred in 12 states where the Republican percentage of the two-party vote was in the narrow **eight-point range** between 47% and 55%.
- In 2012, 100% of the 253 general-election campaign events occurred in 12 States where the Republican percentage of the two-party vote was in the narrow **six-point range** between 45% and 51%.
- In 2008, almost all (98%) of the general-election campaign events (293 of 300) occurred in 14 states where the Republican percentage of the two-party vote was in the narrow **eight-point range** between 42% and 50%.

In other words, under the current winner-take-all system, virtually all campaigning occurs in places where the top two candidates are within eight percentage points of one another.

For the same reason, if electoral votes were awarded by congressional district, virtually all campaigning would occur in districts where the top two candidates are similarly close.

Only 17% of the congressional districts (72 of 435) were within eight percentage points in 2020.

⁵⁵ State of Nebraska. 2020 Electoral College Certificate of Ascertainment. November 30, 2020. <https://www.archives.gov/files/electoral-college/2020/ascertainment-nebraska.pdf>

⁵⁶ State of Maine. Certificate of Ascertainment of Electors. November 23, 2020. <https://www.archives.gov/files/electoral-college/2020/ascertainment-maine.pdf>

The table below shows the 72 congressional districts (out of 435) where the 2020 presidential race was within eight percentage points. Column 1 shows the percentage margin by which Biden or Trump won the district, and column 7 shows the vote margin by which the Democratic vote exceeded the Republican vote in that district. For example, the closest congressional district in the country in the 2020 presidential race was Missouri's 2nd district (which Trump won by 115 votes). Column 5 shows the total presidential vote in the district (including votes for minor-party candidates).

The 72 congressional districts where the 2020 presidential race was within 8%

Percent margin	District	Biden	Trump	Total	Winner	Margin (D-R)
0.03%	MO-2	222,349	222,464	452,483	Trump	-115
0.1%	IA-3	224,159	224,726	458,496	Trump	-567
0.2%	NJ-3	217,223	218,016	443,175	Trump	-793
0.2%	NV-3	214,184	213,299	435,796	Biden	885
0.8%	MI-8	212,085	215,649	435,141	Trump	-3,564
0.9%	TX-22	206,114	210,011	421,647	Trump	-3,897
1.1%	TX-3	209,859	214,359	430,821	Trump	-4,500
1.1%	VA-7	228,335	223,268	460,031	Biden	5,067
1.3%	TX-2	170,430	174,980	350,554	Trump	-4,550
1.5%	NY-19	182,965	177,569	368,128	Biden	5,396
1.5%	CA-48	199,791	193,832	401,845	Biden	5,959
1.6%	IL-17	145,987	150,764	303,947	Trump	-4,777
1.6%	TX-10	203,975	210,770	421,398	Trump	-6,795
1.8%	AZ-1	187,182	180,673	374,808	Biden	6,509
1.8%	TX-23	146,559	151,964	302,498	Trump	-5,405
1.9%	TX-15	119,784	115,315	237,719	Biden	4,469
2.3%	IN-5	200,376	209,669	420,107	Trump	-9,293
2.5%	IL-14	203,741	193,889	407,226	Biden	9,852
2.7%	TX-21	220,572	232,949	460,886	Trump	-12,377
2.8%	PA-17	221,555	209,683	438,251	Biden	11,872
2.9%	TX-31	192,599	204,096	405,541	Trump	-11,497
2.9%	NJ-2	183,250	194,366	383,596	Trump	-11,116
3.0%	PA-10	189,804	201,367	398,383	Trump	-11,563
3.0%	CA-10	154,990	146,084	309,075	Biden	8,906
3.0%	TX-6	164,746	175,101	344,906	Trump	-10,355
3.2%	FL-27	178,643	167,420	348,765	Biden	11,223
3.2%	OH-1	185,947	198,433	390,655	Trump	-12,486
3.3%	MI-3	194,585	207,752	411,223	Trump	-13,167
3.4%	OH-13	171,221	159,955	336,690	Biden	11,266
3.5%	IA-1	199,259	213,601	421,596	Trump	-14,342
3.5%	IL-13	158,905	170,490	338,909	Trump	-11,585
3.9%	WA-3	198,429	214,391	426,189	Trump	-15,962
4.0%	NV-4	174,851	161,363	343,613	Biden	13,488
4.0%	TX-34	106,771	98,462	207,395	Biden	8,309
4.1%	IA-2	193,437	209,858	411,705	Trump	-16,421
4.1%	OR-4	238,619	219,851	474,234	Biden	18,768
4.1%	NY-2	168,779	183,204	356,856	Trump	-14,425
4.1%	FL-13	211,530	194,721	411,893	Biden	16,809
4.2%	AZ-6	204,365	222,166	433,904	Trump	-17,801
4.2%	NY-1	182,793	198,826	387,224	Trump	-16,033
4.4%	TX-28	125,755	115,160	243,915	Biden	10,595
4.4%	MI-5	189,245	173,179	368,480	Biden	16,066
4.4%	VA-1	213,535	233,398	455,418	Trump	-19,863
4.4%	PA-8	169,148	184,892	358,252	Trump	-15,744
4.5%	OH-10	172,479	188,657	368,121	Trump	-16,178
4.6%	MI-11	237,696	216,799	461,648	Biden	20,897
4.6%	MI-6	180,139	197,508	385,582	Trump	-17,369
4.7%	WI-3	184,306	202,659	394,654	Trump	-18,353
4.8%	VA-2	186,427	169,365	363,766	Biden	17,062
4.9%	PA-7	199,520	180,936	386,112	Biden	18,584
5.1%	NY-18	184,181	166,448	356,255	Biden	17,733
5.3%	NJ-5	224,937	202,421	435,160	Biden	22,516
5.5%	OK-5	140,370	156,645	305,082	Trump	-16,275
5.5%	CA-22	146,467	163,584	316,836	Trump	-17,117

5.5%	TX-24	180,609	161,671	347,875	Biden	18,938
5.6%	FL-26	164,356	184,019	351,018	Trump	-19,663
5.7%	CO-3	200,886	224,996	436,225	Trump	-24,110
5.9%	PA-1	233,462	207,442	446,826	Biden	26,020
6.1%	OH-12	206,168	232,995	447,243	Trump	-26,827
6.1%	NH-1	213,662	188,999	410,379	Biden	24,663
6.1%	SC-1	197,130	222,867	427,597	Trump	-25,737
6.5%	NC-8	177,876	202,785	386,816	Trump	-24,909
6.6%	GA-7	199,533	174,869	380,036	Biden	24,664
6.7%	NE-2	176,468	154,377	339,666	Biden	22,091
6.7%	WA-8	218,274	190,801	422,538	Biden	27,473
6.7%	NJ-11	237,986	208,018	454,000	Biden	29,968
7.0%	MN-2	226,589	197,005	434,216	Biden	29,584
7.0%	FL-9	232,318	201,924	439,502	Biden	30,394
7.5%	CA-42	170,481	198,259	376,001	Trump	-27,778
7.7%	ME-2	168,696	196,725	376,349	Trump	-28,029
7.9%	CA-50	166,841	195,430	370,905	Trump	-28,589
7.9%	NC-9	187,012	219,265	411,994	Trump	-32,253
	Total	13,703,300	13,799,454	28,025,776		-96,154

Similarly, only 14.4% (one seventh) of the congressional districts (63 of 435) were within eight percentage points in 2016. The table below shows the 63 congressional districts where the 2016 presidential race was within eight percentage points.

The 63 congressional districts where the 2016 presidential race was within 8%

Percent margin	District	Clinton	Trump	Total	Winner	Margin (D-R)
0.1%	OR-4	180,872	180,318	406,334	Clinton	554
0.2%	PA-8	185,685	186,607	388,182	Trump	-922
0.6%	PA-6	177,639	175,340	372,927	Clinton	2,299
0.7%	IL-17	133,999	136,017	290,469	Trump	-2,018
0.9%	NJ-11	182,334	185,696	384,811	Trump	-3,362
1.0%	NV-3	151,552	154,814	325,602	Trump	-3,262
1.0%	AZ-1	132,874	135,928	291,816	Trump	-3,054
1.1%	NJ-7	180,525	176,386	374,404	Clinton	4,139
1.1%	NJ-5	173,969	178,058	367,796	Trump	-4,089
1.2%	KS-3	161,479	157,304	349,308	Clinton	4,175
1.2%	MN-2	171,396	176,088	382,067	Trump	-4,692
1.4%	TX-7	124,722	121,204	258,953	Clinton	3,518
1.5%	GA-6	155,087	160,029	338,532	Trump	-4,942
1.6%	NH-1	173,344	179,259	377,574	Trump	-5,915
1.7%	CA-48	152,035	146,595	320,355	Clinton	5,440
1.7%	FL-25	126,668	131,320	266,103	Trump	-4,652
1.8%	TX-32	134,895	129,701	283,843	Clinton	5,194
1.9%	NY-18	146,188	152,142	313,121	Trump	-5,954
2.2%	NE-2	131,030	137,564	291,680	Trump	-6,534
2.3%	PA-7	190,599	181,455	389,508	Clinton	9,144
2.4%	NH-2	175,182	166,531	366,722	Clinton	8,651
2.9%	CT-2	165,799	155,975	341,409	Clinton	9,824
2.9%	CA-10	116,335	109,145	245,251	Clinton	7,190
2.9%	WA-8	153,167	143,403	332,795	Clinton	9,764
3.2%	FL-13	178,892	167,348	364,512	Clinton	11,544
3.3%	VA-2	147,217	158,067	326,515	Trump	-10,850
3.4%	TX-23	115,157	107,273	233,235	Clinton	7,884
3.5%	IA-3	178,937	192,960	402,164	Trump	-14,023
3.5%	IA-1	176,535	190,410	395,633	Trump	-13,875
3.6%	NY-24	151,021	139,763	310,431	Clinton	11,258
3.8%	IL-14	154,058	167,327	347,995	Trump	-13,269
4.1%	IA-2	170,796	186,384	384,495	Trump	-15,588
4.1%	OR-5	180,404	164,548	389,157	Clinton	15,856
4.1%	CT-5	161,142	147,901	323,202	Clinton	13,241
4.3%	MI-5	162,982	148,953	329,869	Clinton	14,029
4.3%	MI-11	177,143	194,245	394,639	Trump	-17,102
4.5%	WI-3	160,999	177,172	363,271	Trump	-16,173
4.6%	NJ-2	147,656	162,486	323,778	Trump	-14,830
4.8%	AZ-2	156,676	141,196	322,180	Clinton	15,480
4.9%	NV-4	137,070	123,380	276,932	Clinton	13,690
5.4%	IL-13	141,540	159,013	324,629	Trump	-17,473
5.4%	CA-45	162,449	144,713	329,076	Clinton	17,736
6.1%	NY-3	178,288	156,942	348,016	Clinton	21,346
6.1%	NJ-3	165,090	187,703	368,671	Trump	-22,613
6.2%	TX-24	122,872	140,128	279,514	Trump	-17,256
6.3%	GA-7	132,012	150,845	299,946	Trump	-18,833
6.5%	VA-7	172,544	198,032	394,604	Trump	-25,488
6.5%	OH-13	163,600	142,738	322,976	Clinton	20,862
6.6%	OH-1	160,988	185,025	363,580	Trump	-24,037
6.6%	CA-25	137,491	119,249	275,282	Clinton	18,242
6.6%	UT-4	89,796	108,421	280,350	Trump	-18,625
6.7%	PA-16	140,186	161,763	321,358	Trump	-21,577
6.7%	MI-8	164,436	189,891	378,440	Trump	-25,455
6.7%	NY-19	140,517	162,266	323,115	Trump	-21,749
6.8%	IL-6	177,549	152,935	360,943	Clinton	24,614
6.9%	RI-2	121,843	105,033	243,824	Clinton	16,810
7.1%	WA-3	134,009	157,359	327,002	Trump	-23,350
7.2%	OH-10	153,346	178,674	351,828	Trump	-25,328
7.2%	FL-7	186,658	160,178	367,614	Clinton	26,480

7.4%	CA-49	159,081	135,576	317,552	Clinton	23,505
7.5%	PA-15	148,078	173,596	338,011	Trump	-25,518
7.7%	MI-9	183,085	155,597	357,076	Clinton	27,488
7.8%	TX-22	135,525	159,717	308,653	Trump	-24,192
	Total	9,805,043	9,911,686	21,129,630		-106,643

Likewise, in 2012, the presidential race was within eight percentage points in only 17% of the districts (75 out of 435).

Moreover, the fraction of people living in presidentially close (i.e., battleground) congressional districts is an even smaller percentage of the population than those living in presidentially close states.

Under the current system, 31% of the U.S. population lived in the dozen closely divided battleground states where the candidates were within eight percentage points of each other in 2020.

In 2020, almost all (96%) of the general-election campaign events (204 of 212) occurred in 12 states where the Republican percentage of the two-party presidential vote was in the narrow range between 46% and 54%.

The table below shows that the 12 closely divided battleground states in 2020 together had 103,993,188 people—31% of the nation’s population of 331,449,281 (2020 census). Column 1 shows the Republican percentage of the two-party 2020 presidential vote. Column 2 shows each state’s number of general-election campaign events (out of a nationwide total of 204). Column 6 shows each state’s population (2020 census).

The battleground states of 2020 had 31% of the nation’s population

Trump %	Campaign events	State	Trump	Biden	Population
54%	5	Iowa	897,672	759,061	3,190,369
54%	13	Ohio	3,154,834	2,679,165	11,799,448
52%	31	Florida	5,668,731	5,297,045	21,538,187
51%	25	North Carolina	2,758,775	2,684,292	10,439,388
50%	7	Georgia	2,461,854	2,473,633	10,711,908
50%	13	Arizona	1,661,686	1,672,143	7,151,502
50%	18	Wisconsin	1,610,184	1,630,866	5,893,718
49%	47	Pennsylvania	3,377,674	3,458,229	13,002,700
49%	11	Nevada	669,890	703,486	3,104,614
49%	21	Michigan	2,649,852	2,804,040	10,077,331
46%	9	Minnesota	1,484,065	1,717,077	5,706,494
46%	4	New Hampshire	365,660	424,937	1,377,529
50%	204	Total	26,760,877	26,303,974	103,993,188

In 2016, almost all (94%) of the general-election campaign events (384 of 399) occurred in 12 states where the Republican percentage of the two-party presidential vote was in the narrow range between 47% and 55%.

The table below shows that the 12 closely divided battleground states in 2016 together had 94,959,840 people—30% of the nation’s population of 308,745,538 (2010 census).

The battleground states of 2016 had 30% of the nation’s population

Trump %	Campaign events	State	Trump	Clinton	Population
55%	21	Iowa	800,983	653,669	3,053,787
54%	48	Ohio	2,841,006	2,394,169	11,568,495
52%	55	North Carolina	2,362,631	2,189,316	9,565,781
52%	10	Arizona	1,252,401	1,161,167	6,412,700
51%	71	Florida	4,617,886	4,504,975	18,900,773
50%	14	Wisconsin	1,405,284	1,382,536	5,698,230
50%	54	Pennsylvania	2,970,733	2,926,441	12,734,905
50%	22	Michigan	2,279,543	2,268,839	9,911,626
49.8%	21	New Hampshire	345,790	348,526	1,321,445
49%	17	Nevada	512,058	539,260	2,709,432
47%	19	Colorado	1,202,484	1,338,870	5,044,930
47%	23	Virginia	1,769,443	1,981,473	8,037,736
51%	375	Total	22,360,242	21,689,241	94,959,840

If the congressional district method were used in presidential elections, the platforms of candidates and the actions of sitting presidents would emphasize federal policies of interest to a handful of local areas, namely the presidentially close districts. These policies might include specific local infrastructure improvements (bridges, roads, harbors, airports, waterways, etc.), location of governmental facilities employing large numbers of local people, and the awarding of governmental contracts creating large numbers of local jobs.

One reason why so few congressional districts are competitive in presidential races is that the dominant political party in a state's government often crafts districts for its advantage. This gerrymandering typically involves creating numerous non-competitive districts where the dominant party is safe, but not too safe (perhaps giving the dominant party a comfortable 55%–45% advantage), while simultaneously creating a significantly smaller number of non-competitive districts that are excessively safe for the opposing party (say, an advantage of 70%–30% or more).⁵⁷

If the presidential election were based on congressional districts, then the incentive for gerrymandering would be even greater than it is today.

Moreover, the effect of some efforts to reform the redistricting process can be to create even more noncompetitive districts. The reason is that many reform measures require districts to be geometrically compact, to disrupt as few local government boundaries as possible, and, in various ways, to create “communities with common interests.” Districts drawn in compliance with criteria such as these will frequently contain like-minded people—that is, they will be politically one-sided and non-competitive.⁵⁸ In many cases, the only way to achieve competitiveness (in the context of the single-member districts) is to allow the creation of irregularly shaped districts so that competitiveness can be *the* top priority (after population equality).⁵⁹

In summary, the congressional-district method

- *would not* accurately reflect the nationwide popular vote;
- *would worsen* the current situation in which three out of four states are ignored in the general-election campaign for President; and
- *would not* make every vote equal.

First-mover disadvantage for early adopters with the congressional-district method

Whatever the merits of the congressional-district method, there is a prohibitive practical impediment associated with the adoption of this approach on a unilateral basis by individual states.

In his January 12, 1800, letter to James Monroe, Thomas Jefferson argued that Virginia should switch from its then-existing district system to a statewide winner-take-all system because of the political disadvantage suffered by states (such as Virginia) that divided their electoral votes by districts in a political environment in which other states used the winner-take-all approach:

“All agree that an election by districts would be best, if it could be general; but while 10. states chuse either by their legislatures or by a general ticket, **it is folly**

⁵⁷ In states with divided government, gerrymandering is occasionally done to protect the congressional incumbents of both parties, thereby creating a great many non-competitive districts.

⁵⁸ Gimpel, James G. and Harbridge-Yong, Laurel. 2020, Conflicting Goals of Redistricting: Do Districts That Maximize Competition Reckon with Communities of Interest? *Election Law Journal: Rules, Politics, and Policy*. Volume 19, number 4. <https://www.liebertpub.com/doi/10.1089/elj.2019.0576>

⁵⁹ A federal law, not the U.S. Constitution, requires the use of single-member congressional districts. The use of multi-member congressional districts in conjunction with voting methods such as ranked-choice voting is one way by which congressional races could be made more competitive.

& worse than folly for the other 6. not to do it.”⁶⁰ [Emphasis added; spelling and punctuation as per original]

Indeed, the now-prevailing statewide winner-take-all method of awarding electoral votes became entrenched in the political landscape in the 1830s precisely because dividing a state’s electoral votes diminishes the state’s political influence relative to states employing the winner-take-all approach.

The Florida legislature considered adopting the congressional-district method in the early 1990s. The proposal failed there largely because of concern that it would reduce the state’s political importance in presidential elections. As it happened, George W. Bush carried 13 of Florida’s 23 congressional districts in the 2000 presidential election, and Gore carried 10. If the congressional-district method had been used in Florida in 2000, Gore would have received 10 of Florida’s 25 electoral votes (instead of zero) and would therefore have had a majority of the Electoral College and would therefore have become President.

There is another reason why it would be “folly” for states to unilaterally adopt the congressional-district method of awarding electoral votes.

Suppose that almost all of the 50 states awarded their electoral votes by district, but that a few big states continued to use the winner-take-all method of awarding electoral votes. The hold-out winner-take-all states would immediately become the only states that would matter in presidential politics

If states started adopting the congressional-district method on a unilateral basis, each additional state adopting the approach would increase the influence of the remaining states and thereby would increase the disincentive for the remaining states to adopt it. Thus, enactment of the congressional-district method on a state-by-state basis would penalize early adopters and become a self-arresting process, because each enactment at the state level would increase the influence of the remaining winner-take-all states. This problem is eliminated if the congressional-district method is adopted as a federal constitutional amendment (such as the 1969 Mundt amendment).

⁶⁰ Ford, Paul Leicester. 1905. *The Works of Thomas Jefferson*. New York, NY: G. P. Putnam’s Sons. 9:90.