

Control of Congress Starts with Control in Statehouses

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In 2012, Americans cast more votes for Democratic candidates for Congress than Republican candidates for Congress – [more than 1.5 million more votes for Democrats](#) – yet Republicans won a lot more seats in Congress – 234 Republican seats to 201 Democratic seats. This happened because Republicans, who control a majority of state legislatures, had a specific strategy called [REDMAP](#). The REDMAP strategy focused Republican efforts to win state legislatures specifically to control redistricting and ensure Republican control of Congress. Republicans have used their power over redistricting in their statehouses to ensure their party is over-represented in Congress.

Here in New Jersey we have an independent commission that determines new district maps after each national Census. But an independent commission like ours is actually quite rare. Most states pass new district maps through their state legislature as a law just like any other legislation. In these states the party that controls the legislature draws the new maps.

In a recent case about Wisconsin districts, a judge [wrote](#) that the map passed by the Republican Wisconsin legislature “was designed to make it more difficult for Democrats, compared to Republicans, to translate their votes into seats.”

A [recent study](#) from New York University School of Law looked at this issue using several measures including the 2016 election cycle and found that there are at least 16 to 17 extra Republican seats, and possibly as many as 29, in the current Congress due to the partisan bias of the Congressional maps drawn by state legislatures. That is quite significant considering that Democrats only need to win 24 seats to gain control of Congress. In fact they found that 7 to 10 of those extra Republican seats are due to just the three states of Pennsylvania, Michigan and North Carolina. Wendy Weiser, director of NYU’s Democracy Program which performed the study said “These extreme maps in only a handful of swing states completely warp the composition of Congress.”

These distorted maps giving extra Republican seats do not come from heavy Republican states but from swing states which have at least one Democratic state-wide official, either US Senator or Governor. **It is in these very swing states that Democratic leaders have allowed the state legislatures to become very Republican.** And Republicans have also drawn state district maps which ensure their state power and longevity.

For example, just across the river in Pennsylvania, where they have both a Democratic US Senator and Governor, only 32% of their State Senators are Democrats and less than 40% of their representatives in the lower chamber are Democrats. This Republican control of the statehouse has led to a Congressional delegation from Pennsylvania where in 2016 almost 46% of state wide votes were cast for a Democratic candidate for Congress, yet only 5 out of 18 seats are held by Democrats, or 28% of their delegation.

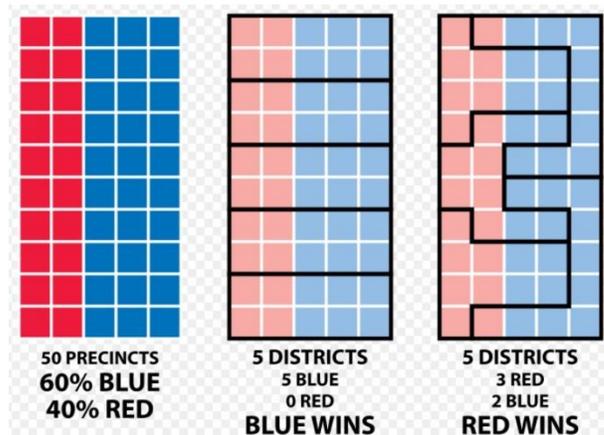


Figure 1 This is how districts can be drawn to over-represent either party. Source: [Public Domain](#)

There are several other examples such as Virginia which has a Democratic Governor and 2 Democratic US Senators and where Democratic candidates for Congress got more votes than Republican candidates in 2016, yet Republicans control the state legislature and have created a map where there are 4 Democrats and 7 Republicans in the Virginia Congressional delegation.

In North Carolina the state's [Joint Select Committee on Redistricting decided](#) that one of its criteria in drawing new maps would be to maintain the Republican party's 10 to 3 advantage in Congress. For comparison, nearly 47% of votes cast for Congress in North Carolina in 2016 were cast for a Democrat.

One way to understand how this works is to see that across the country Democrats win their Congressional seats by much bigger margins than Republicans. In 2016, Democrats in Congress won their elections with an average margin of 45% (or approximately 72.5% Democratic votes to 27.5% Republican votes) while Republicans won their elections by an average margin of 35% (or approximately 67.5% Republican votes to 32.5% Democratic votes).

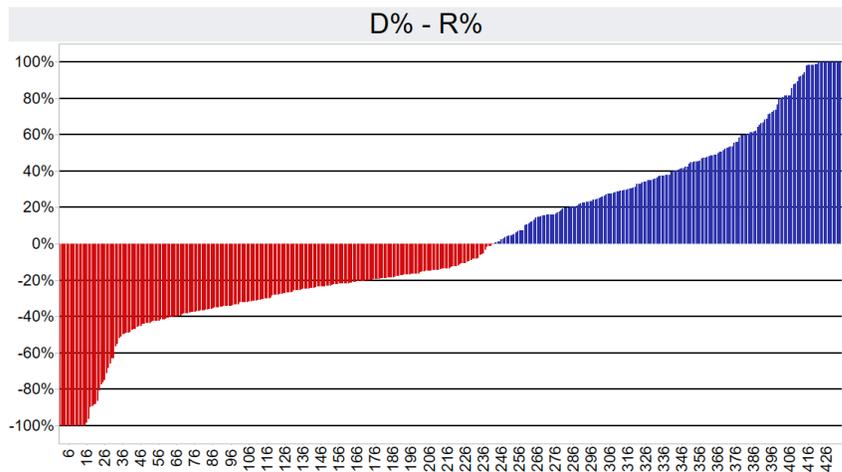


Figure 2 - 2016 Margin of win for all 435 seats in Congress. Source: [House of Rep](#)

Republicans have used this “packing” strategy to ensure that Democratic votes are concentrated in a few districts and Republican votes are spread out to capture more seats. We see this even in New Jersey where Representatives Don Payne Jr and Albio Sires win with over 85% and 77% of the vote respectively while our Republican member winning by the widest margin is Chris Smith with 63% of the vote. According to the study cited above, this has given New Jersey a 1 or 2 seat Republican advantage in its Congressional delegation.

With the current system, whichever party controls state legislatures can then control Congress. If Democrats ever hope to control the national agenda, they must take seriously the work of winning state legislatures.

Republicans have taken winning state legislatures seriously, and understood that it is a long term project. The roots of the GOP's redistricting strategy stretch back as far as the 1990s, when the GOP began investing time and money in school board races and other local elections. This focus on local government helped Republicans win over voters at the grassroots level while simultaneously building a bench of individuals who could run for higher office in the years to come.

In 2010, Republicans not only had a Tea Party wave election, they had also done the hard work earlier to take full advantage of it. The main force driving the party's impressive success that year was Karl Rove's Redistricting Majority Project, [REDMAP](#). This project scanned the country for states where Republicans

could seize control of one or both houses of the legislature and invested in those races. In 32 states the GOP now controls both houses of the legislature, 24 of those also have a Republican governor.

REDMAP's success meant Republican legislators had complete control over the 2011 round of redistricting in many states, and they used this power to maximize the number of majority-Republican districts. That is why Republicans have dominated the House of Representatives since 2010.

Democrats have three approaches to change the balance of power in redistricting. They can bring lawsuits in many states to challenge the districts drawn by the legislatures. They can try to change the rules of redistricting by the initiative and referendum process available in some states. And they can work at the grassroots level to win statehouse seats in elections.

Dozens of court cases have been filed since the 2011 redistricting process. This is necessary work and a few big cases before the US Supreme Court may start to shift the criteria used in drawing Congressional maps. However most of these cases were not successful and many successful ones had only limited effect. For example, in Virginia a court case that took years to resolve shifted the state's Congressional delegation from 8-3 in favor of Republicans to 7-4 in favor of the GOP. But this is still a distorted outcome considering the fact that Democrats won a majority of Congressional votes in the state.

It is possible in some states to bypass the legislature and put an initiative on the ballot for voters to change the process used for redistricting. Arizona created an independent redistricting commission in this way in 2000. While eventually effective, the maps that this commission drew were held up in the courts until 2015. Asking the voters to change the process can be done in a few states. But the strategy is inherently limited, because the states with some of the most egregious gerrymanders—North Carolina, Virginia, Texas, Wisconsin, and Pennsylvania—do not allow these ballot initiatives that bypass the state legislature.

In the end, lasting change only comes by winning state legislatures. The party that takes most seriously the challenge of winning state house seats will have the most success winning control of Congress.

If Democrats are ever to re-gain control of Congress and drive the national agenda then they need to take winning state legislatures seriously.

David Lewis, the Republican legislator leading redistricting in North Carolina, explained his committee's criteria "to create a map that is perhaps likely to elect ten Republicans and three Democrats" because "I do not believe it's possible to draw a map with 11 Republicans and two Democrats."

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