

**MR. POGREBA, PARKER SCHOOL**

# **UNIT 2: THE CONGRESS**

# JOIN YOUR HOUSES AND FIND THE ANSWERS TO THESE QUESTIONS

1. Who are the members of Congress from Hawaii? What party does each belong to and what year was each elected?
2. Why is Patsy Mink important?
3. How many Senators are there? How many members of the House of Representatives? When did those numbers last change?
4. Name one state that will gain representation in 2023 and one that will lose.
5. How old does one need to be to become a Senator? A Representative?
6. How much are members of Congress paid?
7. What is the current partisan breakdown of the House and Senate?
8. Who is the Speaker of the House?
9. Who is the President of the Senate?
10. Which body of Congress is responsible for initiating bills that raise and spend money?
11. Which body approves treaties?

# ANSWERS

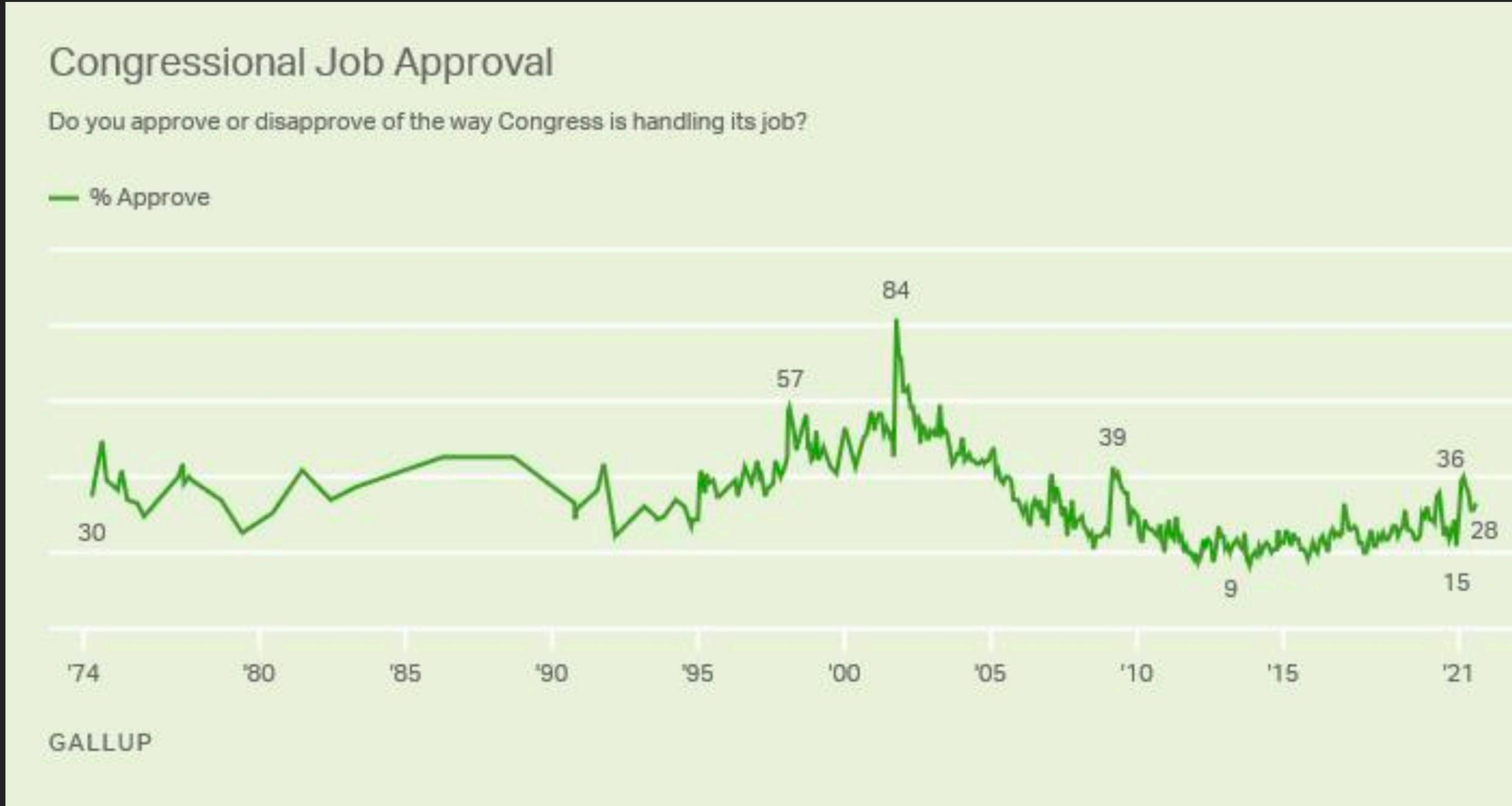
1. Mazie Hirono 2013 (D), Brian Schatz 2012 (D), Ed Case 2019(D), and Kai Kahele 2021 (D)
2. Patsy Mink was first woman of color to serve in the United States Congress from any state.
3. There are 100 Senators and 435 Representatives. The House has had 435 members since 1913. The Senate had 96 members until 1959.
4. Gain: TX, CO, FL, MT, NC, OR. Lose: CA, IL, MI, NY, OH, PA
5. To be elected Senator, one must be 30. To be elected a Representative, one must be 25.
6. \$174,000
7. In the House, it is 220 D, 212 R, 3 Vacant. In the Senate, it is 50 R, 48 D, 2 Independent.
8. The Speaker is Nancy Pelosi.
9. Vice President Kamala Harris
10. The House
11. The Senate

## NOT LIKE PARLIAMENT

- ▶ Members of Congress are individually much more powerful than members of a Parliament.
- ▶ Parliamentary systems rest on party loyalty. If the members of the governing party vote against a proposal from their **prime minister**, the government falls and new elections are held.
- ▶ Parliamentary systems are most often **unitary governments**.
- ▶ What would some of the benefits of a parliamentary system be?

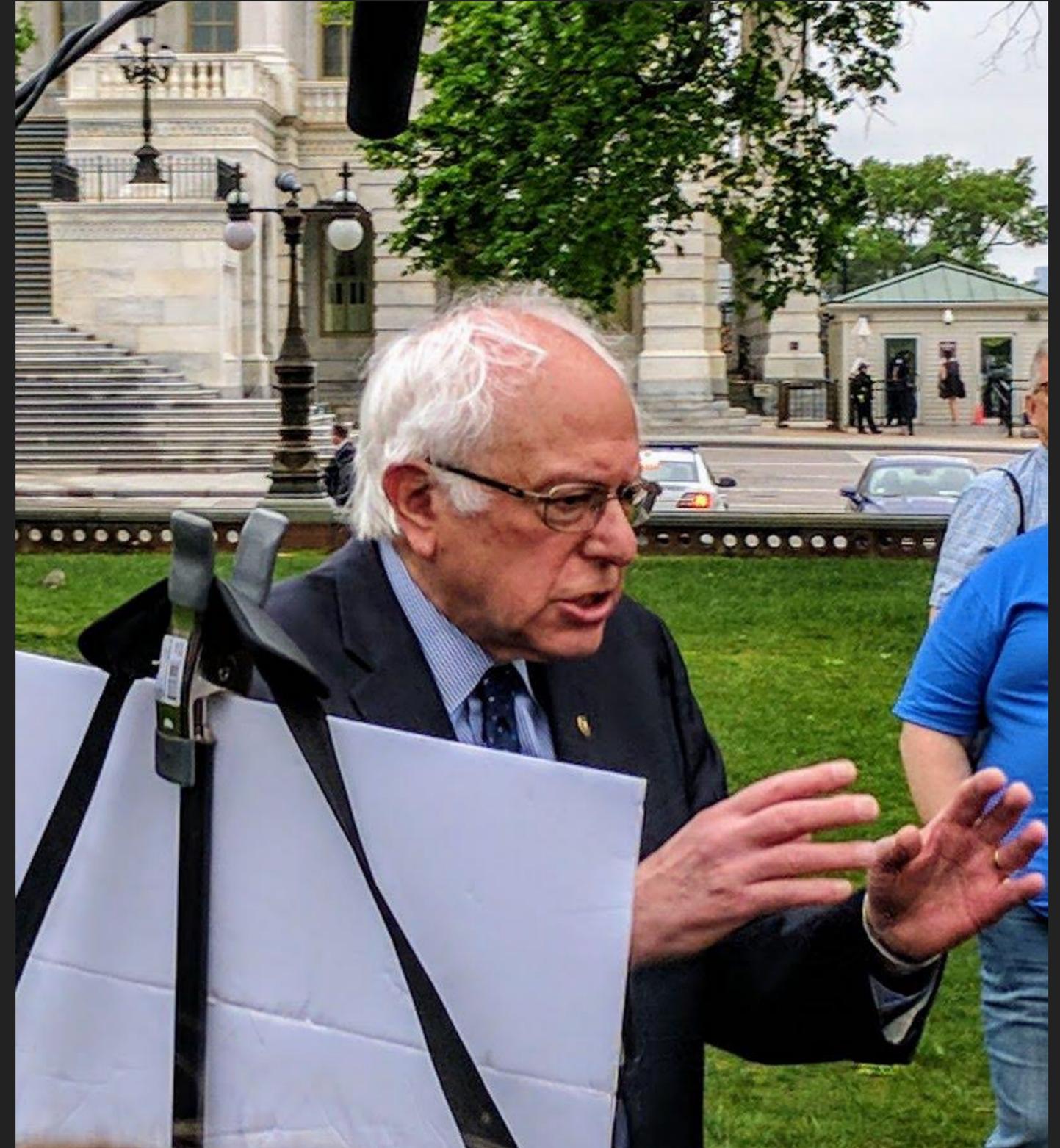


**One of the strangest questions in American politics is this: why do Americans, who routinely rate Congress with less approval than any other part of public life, send incumbents back to Washington almost 90% of the time?**



## THE BASIC STRUCTURE

- ▶ The founders considered the Congress the **first branch** of government, but today, many see it as the "**broken branch.**" Why might both be true?
- ▶ The Congress was designed as a **bicameral** institution with the **Senate** designed to be insulated from the public and the **House** designed to be more democratic. Washington compare the Senate to a saucer cooling coffee.
- ▶ Until 1913 (**17th Amendment**), Senators were elected by state legislators. Now, both houses are elected by the people.



<p>Qualifications</p>	<p>25+ years old Resident of their state Citizen for 7+ years</p>	<p>30+ years old Citizen for 9+ years Resident of state</p>
<p>Unique Powers</p>	<p>Originate revenue bills Initiates impeachment Breaks tie in Electoral College</p>	<p>"Advice and consent" on treaties and presidential appointees Handles impeachment trial</p>
<p>Members</p>	<p>435 members 2 year terms Unlimited terms</p>	<p>100 members 6 year terms, 1/3 elected every 2 yrs. Unlimited terms</p>
<p>Structures</p>	<p>Powerful speaker of the House Hierarchal Structure dominated by Rules Committee Limited debate time</p>	<p>Less centralized Looser debate that includes <b>filibuster</b> Leaders less powerful except for <b>majority leader</b></p>

**House**

**Senate**

## THE POWERS OF CONGRESS

- ▶ **The Power of the Purse:** Congress has the power to raise taxes, borrow money and spend it.
- ▶ **Regulating Commerce:** As we discussed in the last unit, Congress has broadly expanded its power to regulate **interstate and intrastate** commerce.
- ▶ **Foreign Affairs:** The Senate must confirm treaties, budget for foreign aid, and exercise oversight.
- ▶ **Military Affairs:** Only Congress can declare war, draft soldiers, and fund the military.



## CONGRESS AND WAR

- ▶ While Congress is given explicit authority to declare war, since WW2 that power has shifted to the President.
- ▶ The **War Powers Act (1973)** was an attempt to restrain the President's ability to conduct war. It required:
  - ▶ Congressional notification within 48 hours of troops in combat.
  - ▶ Congressional approval within 60 days to fund the force and approve its use.
- ▶ The 2001 **Authorization to Use Military Force**, however, gave the President a blank check to go after terrorist groups.



**OSAMA BIN LADEN**

## THE POWERS OF CONGRESS PART 2

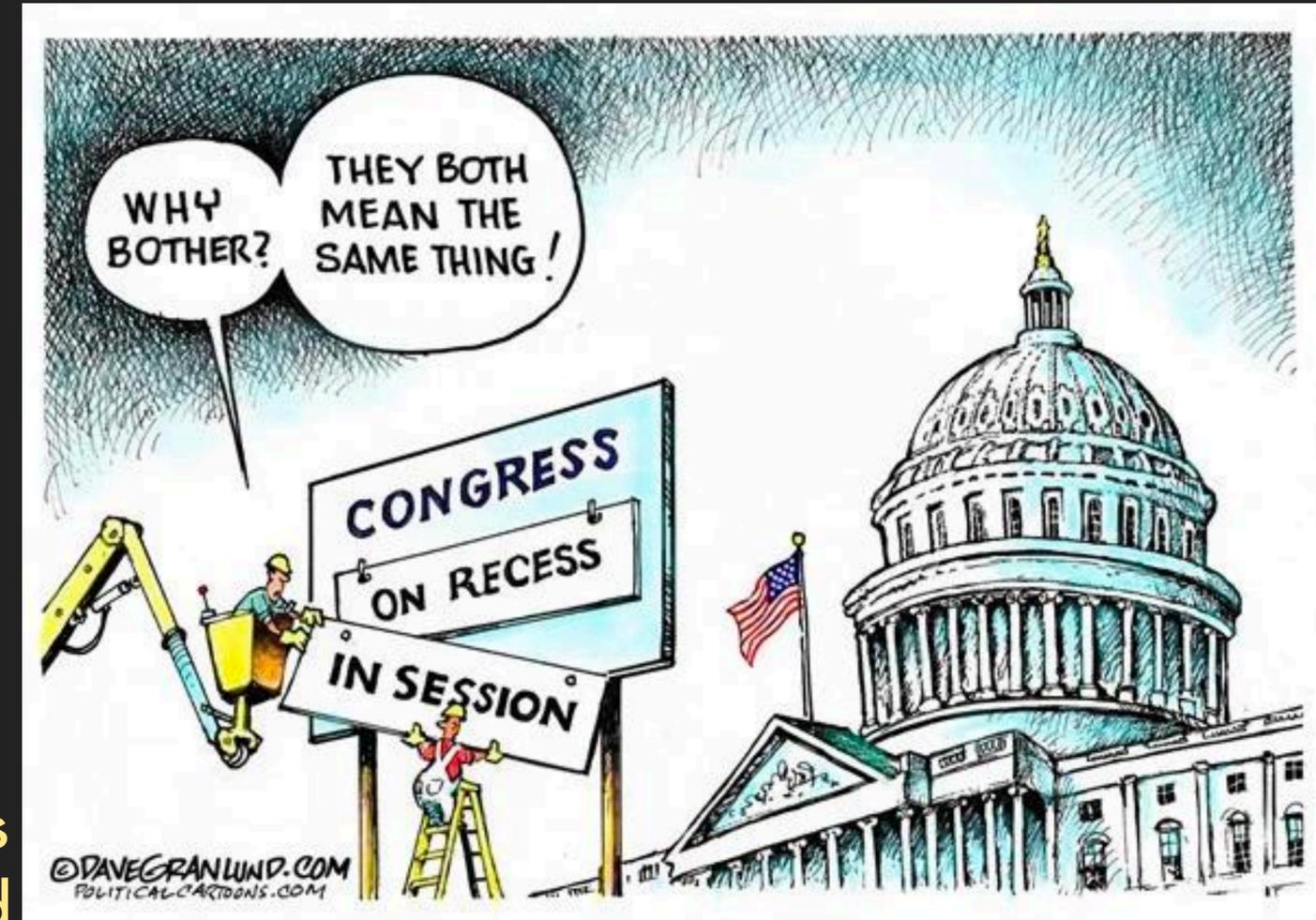
- ▶ Additional powers of Congress include: post offices, creation of Courts below the Supreme Court, fixing the standard of weights and measures, **rule over the District of Columbia, citizenship, and oversight of the President.**
- ▶ More important over time have been the growth of **implied powers**, extensions of the power of Congress to complete its **enumerated tasks.**
- ▶ **McCulloch v. Maryland (1819)** fixed this elasticity as a part of the **necessary and proper clause.**



**PROTEST IN D.C.**

## THREE VIEWS OF HOW CONGRESS FUNCTIONS

- ▶ The **representational view** suggests that members of Congress vote to get re-elected and do what public opinion tells them.
- ▶ The **organizational view** suggests that representatives vote in groups.
  - ▶ Party affiliation, caucuses
  - ▶ Interest Group Scorecards
- ▶ The **attitudinal view** suggests that members of Congress vote their political passions. They tend to be more involved and more partisan by far than the average American.
  - ▶ Many believe Congress is more **polarized** than it has been since the 1850s as a result.



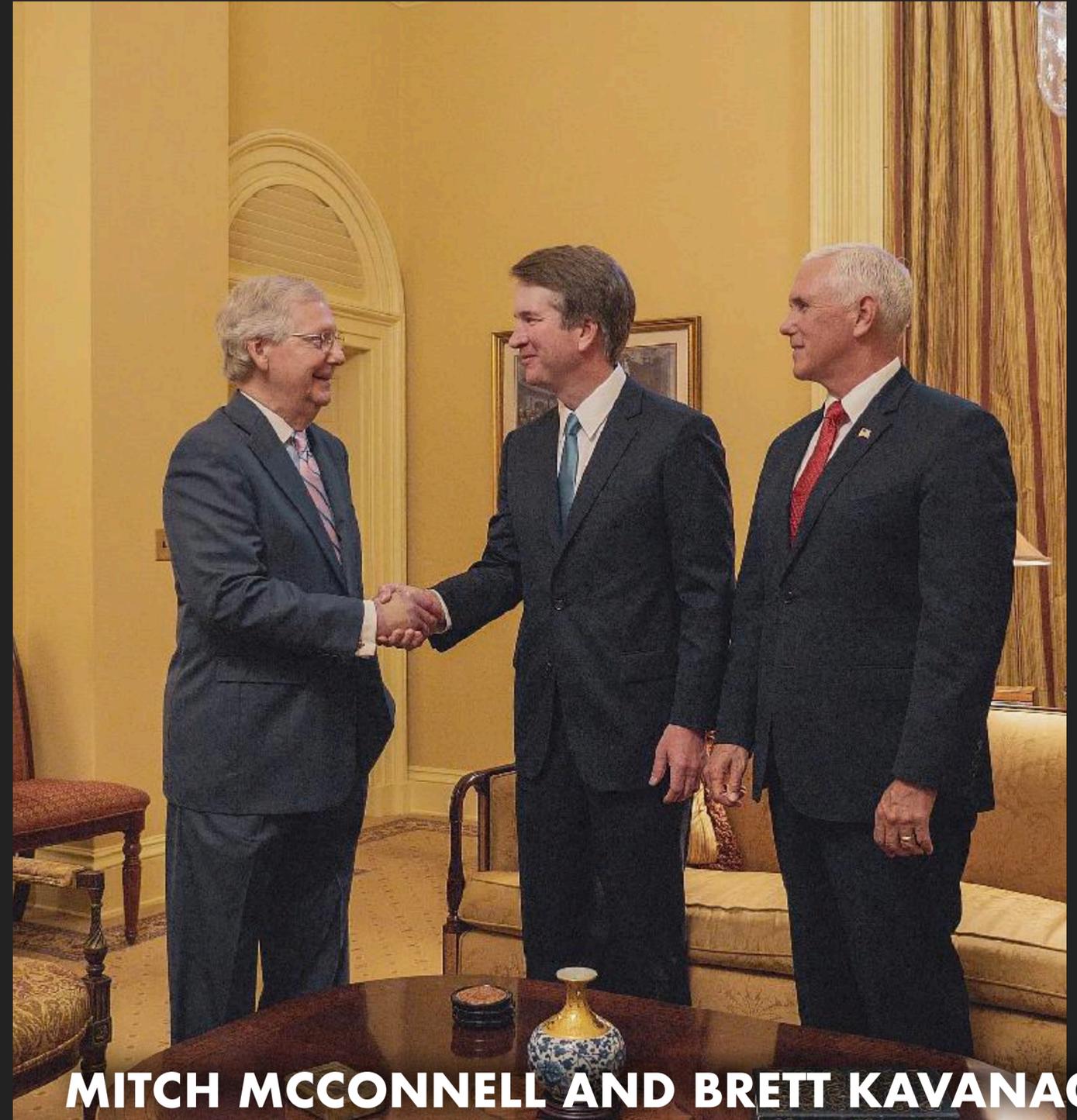
**CONGRESS**

“Unfortunately party-line voting has become the new normal. As recently as the early 1970s, party unity voting was around 60% but today it is closer to 90% in both the House and Senate.”

Forbes Magazine

## LEADERSHIP

- ▶ In the House, the leader is called the **Speaker of the House**. She is the most powerful person in the body, choosing who can speak and influencing which bills are debated.
- ▶ In the Senate, the real leadership is in the hands of the **majority leader**. He schedules bills, sets committees, and sets the tone. In recent years, Mitch McConnell (KY) has made the majority leader position one of the most powerful in the country.
- ▶ The Vice President serves as the **President of the Senate**, which is ceremonial unless a tie needs to be broken.
- ▶ Each party has **whips**, people who ensure vote counts and hold members accountable.



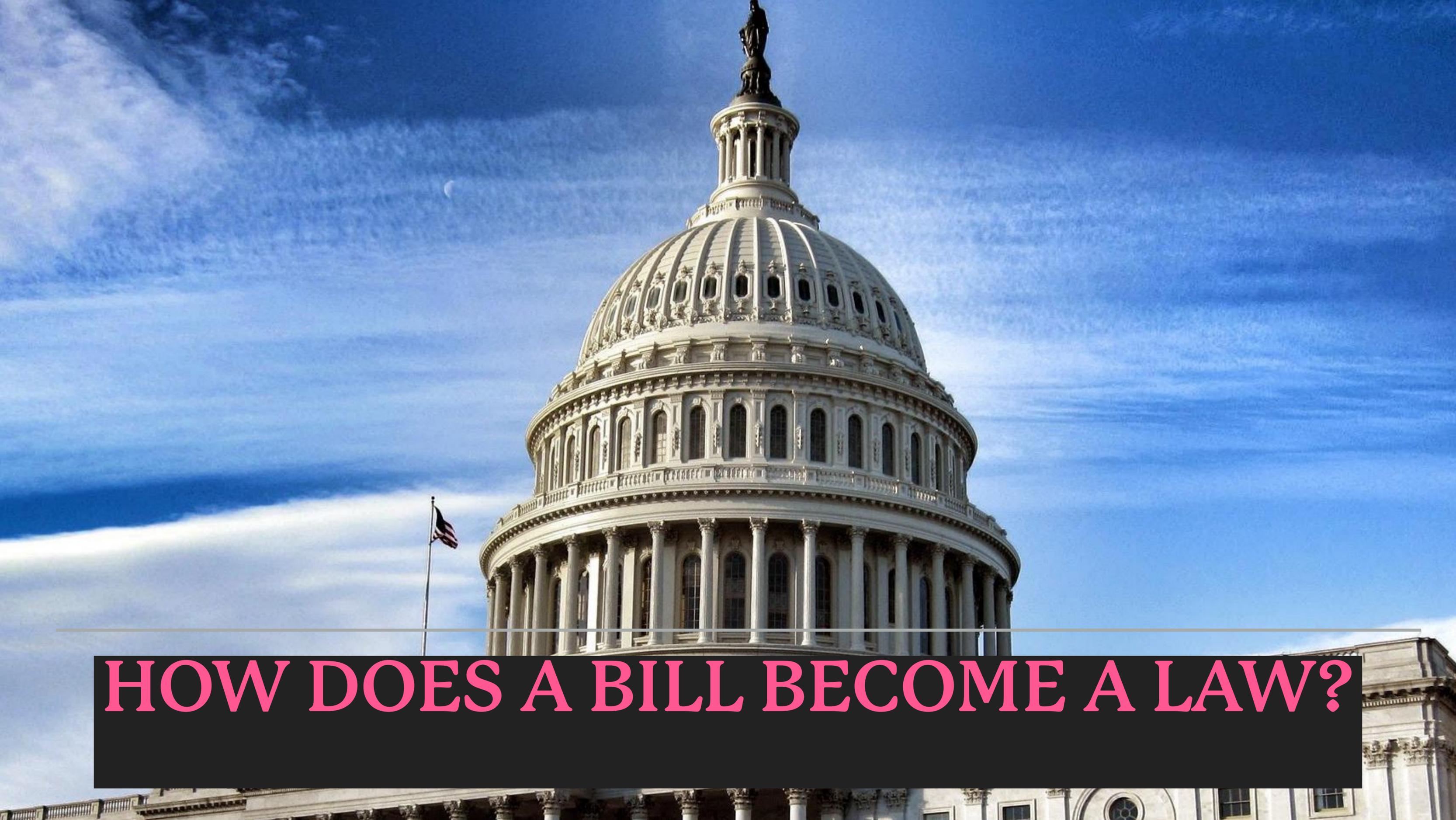
**MITCH MCCONNELL AND BRETT KAVANAGH**

## COMMITTEES

- ▶ Much of the real work of Congress is done in committees. There are three types:
  - ▶ **Standing committees:** permanent bodies that meet every Congress.
    - ▶ The most important are Appropriations, Ways and Means, and Foreign Relations
  - ▶ **Select committees:** short-term committees who meet for a specific purpose. The committee on Benghazi and HUAC were examples.
  - ▶ **Joint Committees:** committees that contain members of both houses. The most important are **conference committees**, which hash out the differences between House and Senate versions of bills.
- ▶ Much of the **real power of members of Congress** comes from committee assignments.



**BENGHAZI COMMITTEE**



**HOW DOES A BILL BECOME A LAW?**

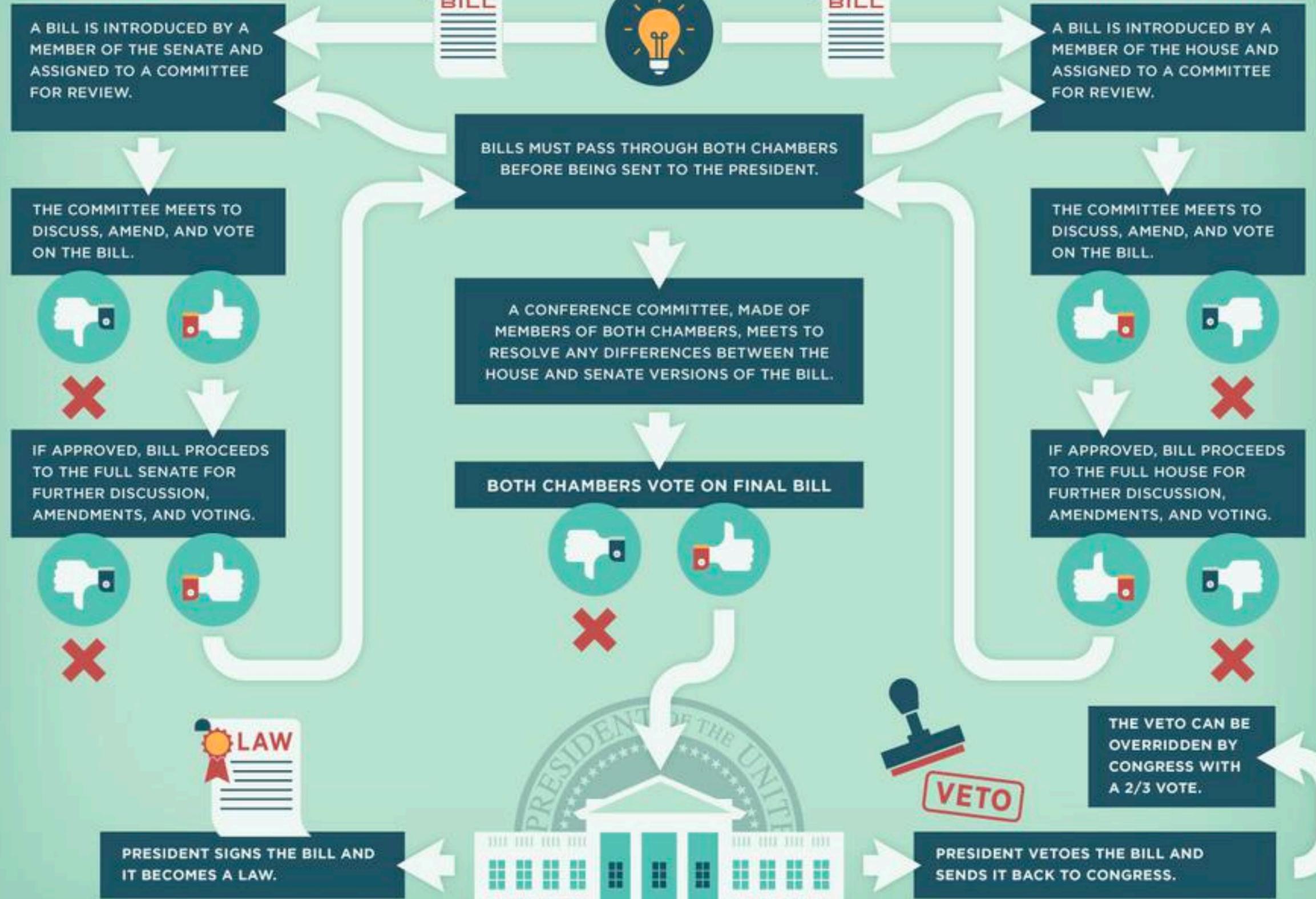


# HOW DOES A BILL BECOME A LAW?

## SENATE

## HOUSE OF REPRESENTATIVES

IT STARTS WITH AN IDEA...



1. Go to <https://www.congress.gov/>
2. Click on H.R.3684 [117th] Infrastructure Investment and Jobs Act
3. Click through Actions, Amendments, etc.
4. Repeat this process with H.Res.57 [117th] Impeaching Joseph R. Biden, President of the United States
5. We'll discuss



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# HOW CONGRESS GETS ELECTED

# REAPPORTIONMENT

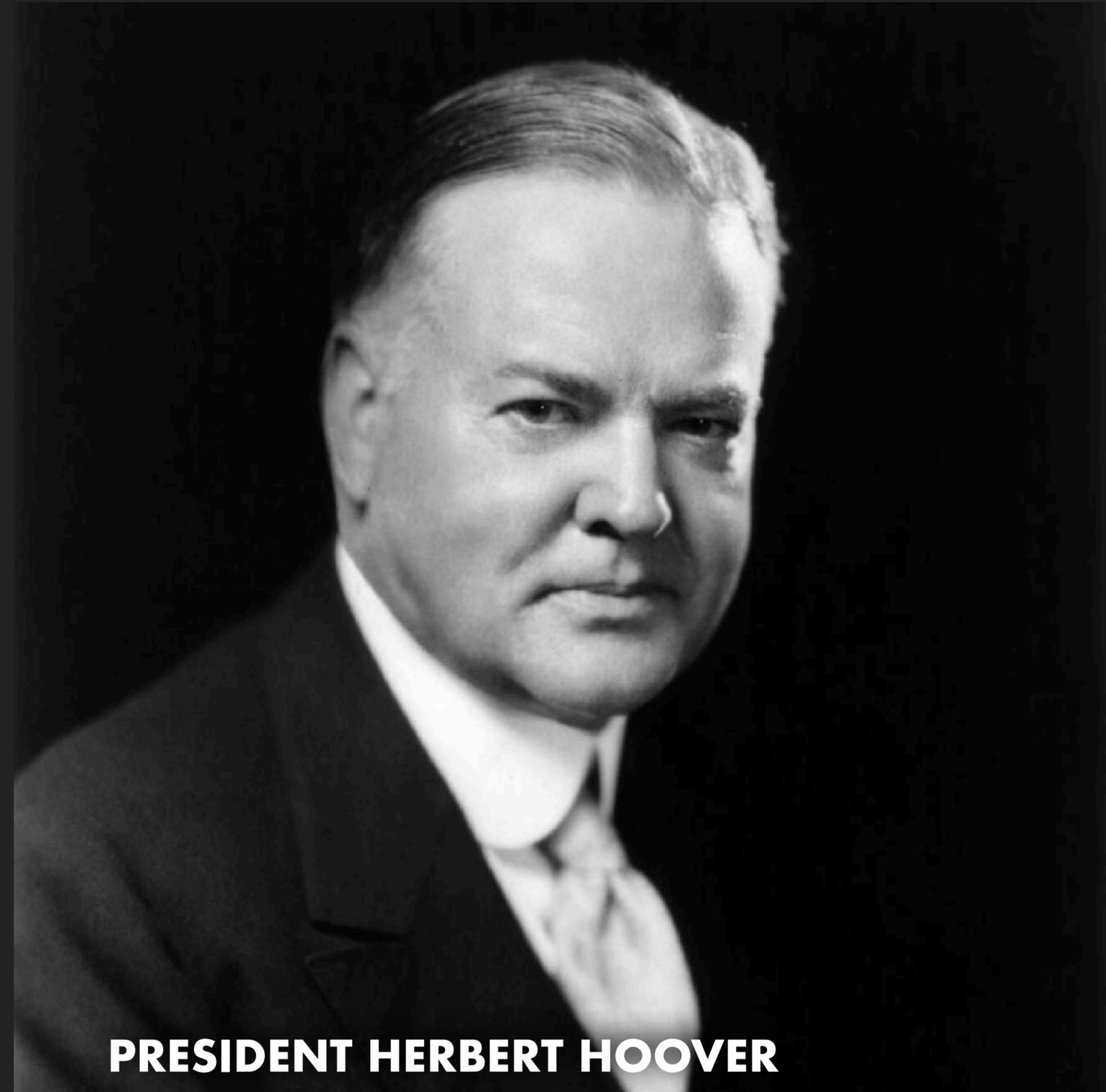
- ▶ **Reapportionment:** the practice of redistributing congressional seats.
  - ▶ Occurs every **10 years**
    - ▶ Based on the U.S. Census
    - ▶ Determines how many representatives each state will have
- ▶ Every state guaranteed one representative despite population size.



ROMAN DEPICTION OF CENSUS 2ND CENTURY B.C.

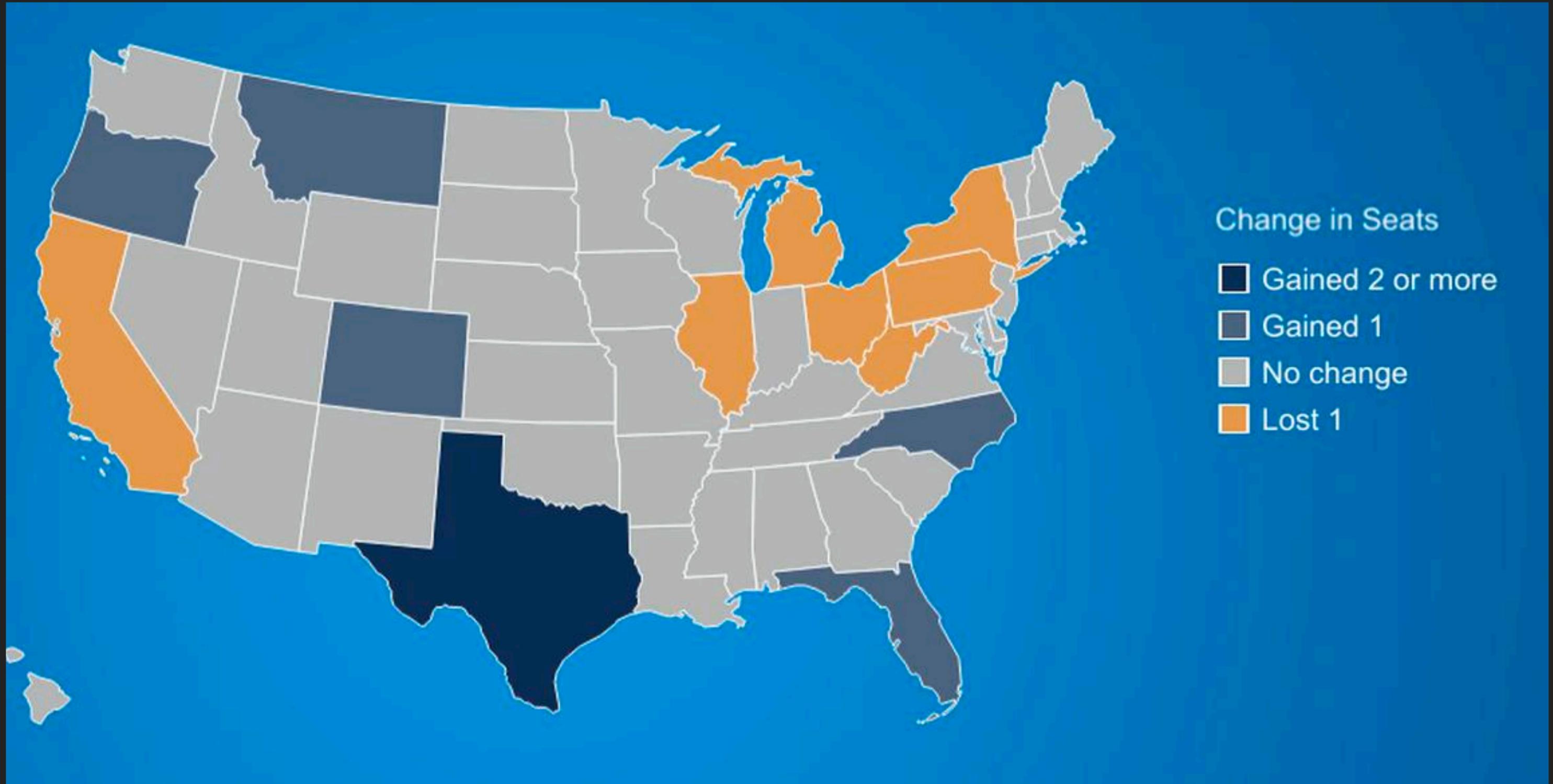
## REAPPORTIONMENT ACT OF 1929

- ▶ **Reapportionment Act of 1929:**
  - ▶ Limited the House of Representatives to **435 members**.
  - ▶ **Census Bureau** issues a report and both Congress and the President must approve the plan.
- ▶ As state populations shift, so do their seats.
- ▶ Many scholars have argued that we need to remove the cap of 435 members of the House. Why?
  - ▶ Madison wrote “representative ought to be acquainted with the interests and circumstances of his constituents.”
  - ▶ Today the average district size is close to **800,000** people. It was **30,000** when Constitution was written.



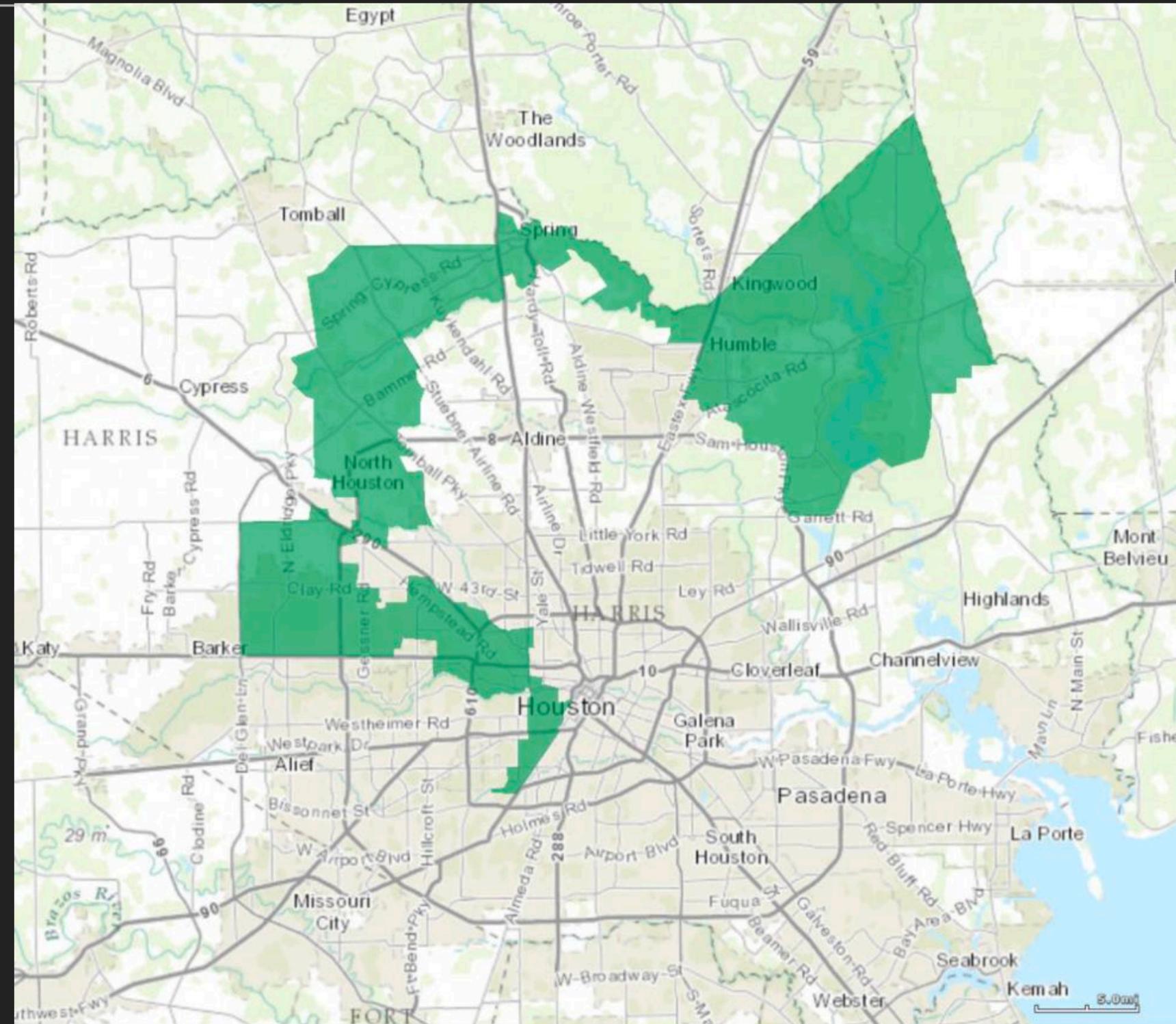
**PRESIDENT HERBERT HOOVER**

# REAPPORTIONMENT MAP 2020



## REDISTRICTING

- ▶ Once seats have been reapportioned, the districts lines must be redrawn, a process known as **redistricting**.
- ▶ This process happens inside the states, who use the Census data to shape both their Congressional and legislative districts.
- ▶ Districts must be roughly proportional- "**one person, one vote**"
- ▶ **Malapportionment** (or creating vastly unequal districts) is unconstitutional.
- ▶ Districts must be **contiguous** (must connect).
- ▶ Redistricting plans may not **discriminate on the basis of race**.



**TEXAS HOUSE DISTRICT 2**

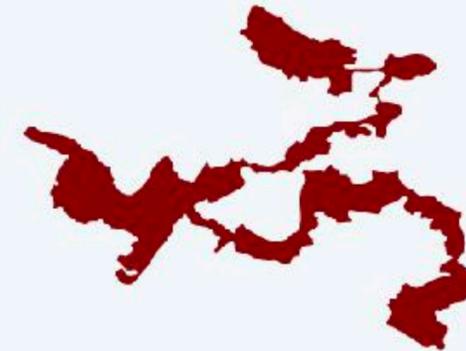
## GERRYMANDERING

- ▶ The process is often marred, however, by **gerrymandering**:
  - ▶ The practice of manipulating district boundary lines in an effort to secure an advantage for a political party.
- ▶ –Usually evident in oddly shaped districts.
- ▶ **Gerrymandering Tactics**:
  - ▶ **Packing**: Attempting to pack people of the opposing party into as few district as possible in order to swing the remaining districts in the majority party's favor.
  - ▶ **Cracking**: Attempting to divide a concentration of the opposing party in order to dilute their political power.

## America's Most Gerrymandered Districts

Most gerrymandered Congressional districts in the U.S. according to compactness index\*

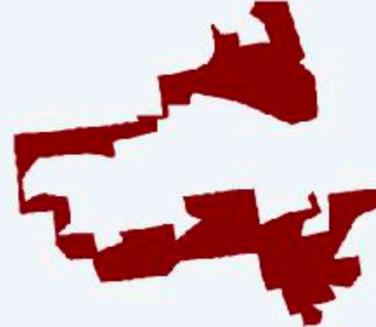
1. Maryland's 3rd district



2. Texas's 33rd district



3. Illinois's 4th district



4. Texas's 35th district



5. Louisiana's 2nd district

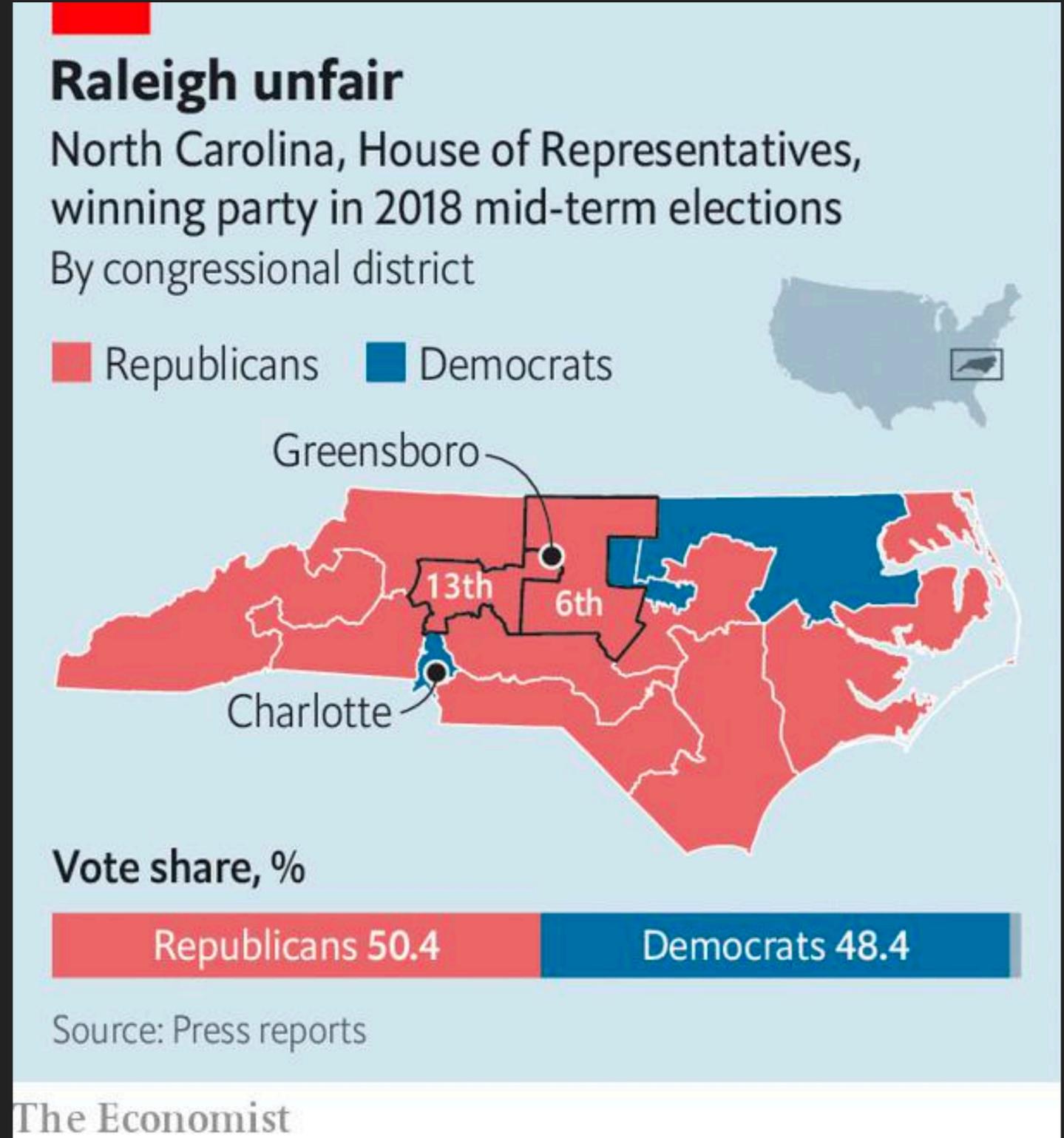


\* ratio of the area of the district to the area of a circle with the same perimeter  
Source: Washington Post



## CONSEQUENCES

- ▶ **Gerrymandering has had serious consequences in recent years:**
  - ▶ From 2012 to 2016, it shifted **59 seats per election**.
  - ▶ In 2019, North Carolina sent 7 Republicans to Congress and only 1 Democrat, even though their total votes were almost 50-50.
  - ▶ In 2012, Democrats running for the House received 2.5 million more votes than Republicans but lost the House 234-201.
- ▶ **Gerrymandering benefits Republicans most today but both parties have used and currently use it.**



## THE COURTS

- ▶ **Baker v. Carr (1961)**: Ruled the courts have jurisdiction over issues of legislative apportionment.
- ▶ **Wesberry v. Sanders (1964)**: Established the "one person, one vote" standard- no malapportionment.
- ▶ **Shaw v. Reno (1993)**: Ruled legislative redistricting must be conscious of race and ensure compliance with the Voting Rights Act of 1965.
- ▶ But in 2019, the Supreme Court ruled that **partisan gerrymandering** cannot be blocked by the courts.



## LET'S GO TO COLORADO

▶ [https://projects.fivethirtyeight.com/  
redistricting-2022-maps/colorado/  
preliminary/](https://projects.fivethirtyeight.com/redistricting-2022-maps/colorado/preliminary/)

## THE DISTRICTS IT CREATES

- ▶ Because of demographics and the practice of gerrymandering, many districts in the House do not have competitive races between the parties.
- ▶ In **marginal districts**, the winning candidate wins with no more than 55% of the vote.
- ▶ In **safe districts**, the winning candidate wins with more than 55%.
- ▶ In a typical year, only about 40-50 seats are considered competitive.



**REP. RICHIE TORRES REPRESENTS NY 15, THE MOST DEMOCRATIC DISTRICT**



# THE BUDGET

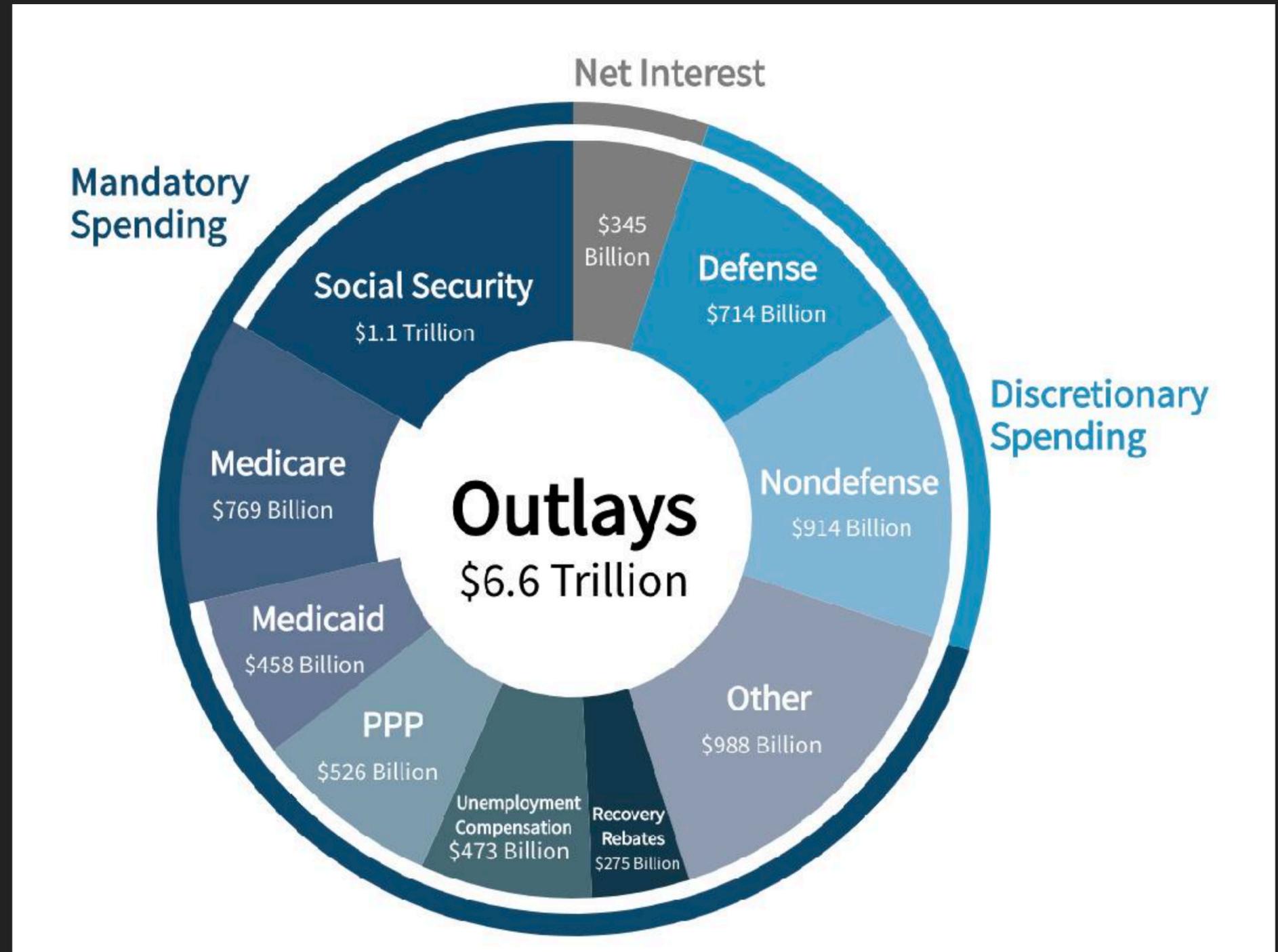
# THE BUDGET

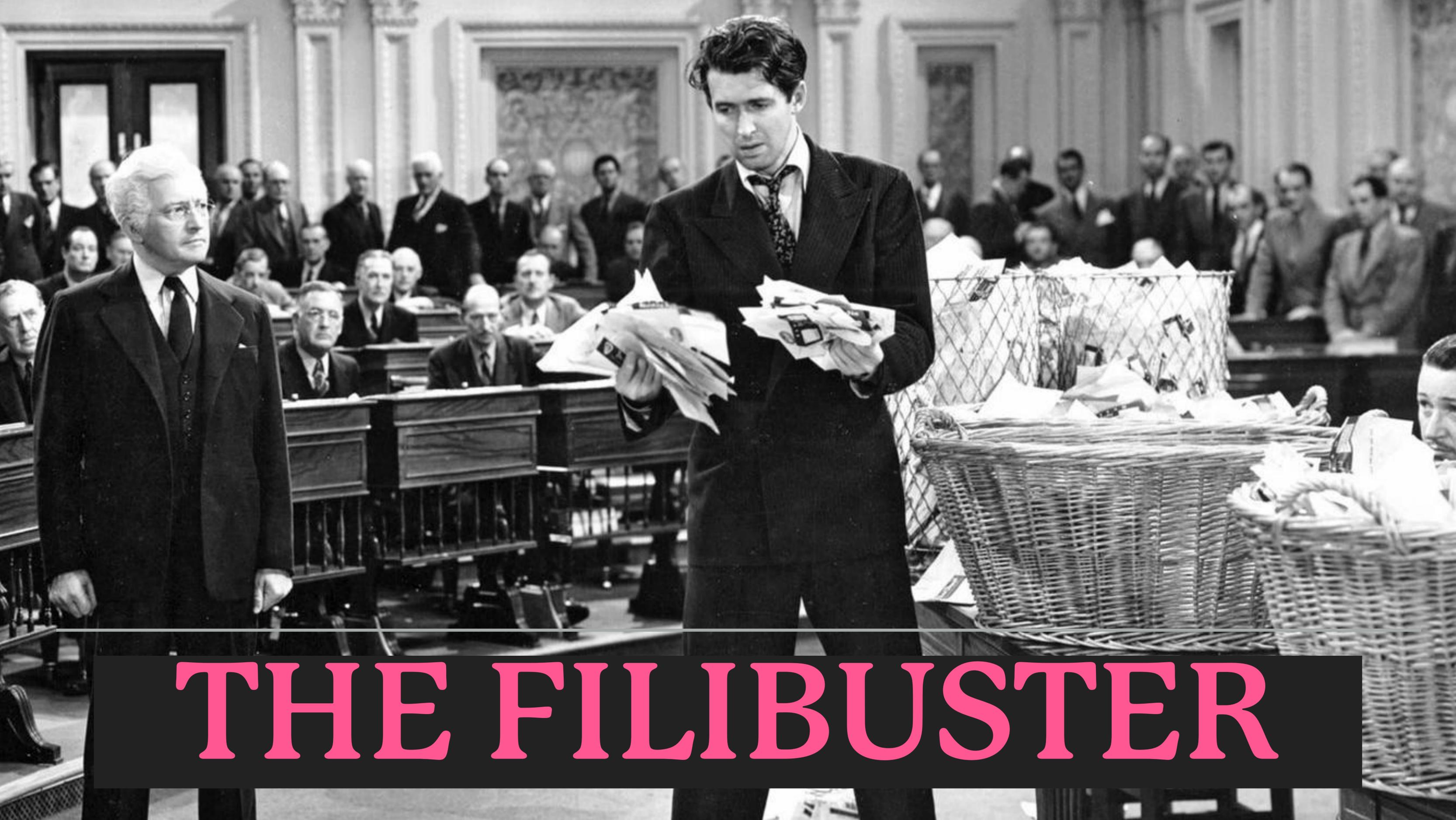
- ▶ Perhaps the most important function of Congress is setting the nation's budget.
- ▶ The budget is divided into two major categories:
  - ▶ **Mandatory spending** comprises over 60% of the federal budget and includes Social Security, **entitlement programs**, and **interest** on the debt.
  - ▶ **Discretionary spending** is where the fighting happens. It's everything else.
  - ▶ The **deficit** represents the annual difference between what the government takes in and what it spends. The deficit in 2020 was \$2.807 trillion.
  - ▶ The current U.S. **national debt** is 23,000,000,000,000.



# THE BUDGET

- ▶ Budgets are the combined effort of the President (who submits an annual budget) and the Congress (largely in committee).
- ▶ One of the most important agencies in Congress is the **Congressional Budget Office**, which scores the impact of budgetary decisions.
- ▶ **Riders** are amendments add to a bill that is so important it must pass.
- ▶ **Earmarks** are provisions to direct funding to specific organizations and projects.





# THE FILIBUSTER

# THE FILIBUSTER

- ▶ One of the most controversial practices in the U.S. Congress is the **filibuster**, a Senate rule not in the Constitution.
- ▶ While a vote only needs a majority to pass the Senate, it requires a **3/5 vote** to end debate and vote.
- ▶ Traditionally, the filibuster required a Senator to actually speak, but today the **silent filibuster** is the norm.
- ▶ In 1975, the **cloture rule** (which allowed a filibuster to be broken) was set at 60 votes. **This has effectively transformed the Senate into a body that requires 60 votes to pass a bill.**
- ▶ There have been 2,000 filibusters since 1917, with **half in the last 12 years.**



**SENATOR STROM THURMOND**

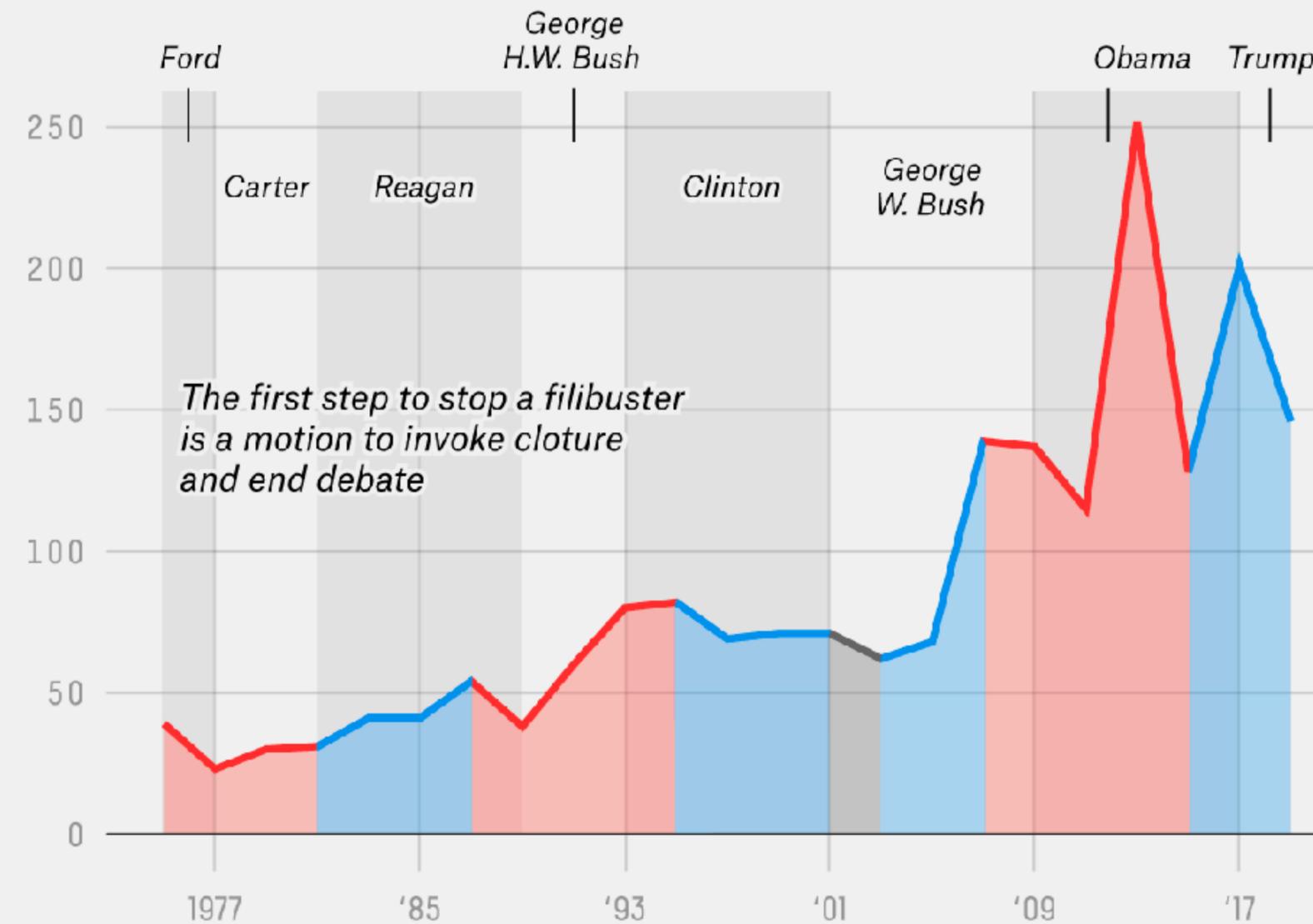
## PROBLEMS WITH THE FILIBUSTER

- ▶ In 2020, President Obama called the filibuster a **Jim Crow relic**, pointing to its use to block voting reforms and its historic use to block civil rights legislation.
- ▶ The filibuster discourages compromise.
- ▶ The filibuster **magnifies the disproportionate influence** of small population, predominantly rural, predominantly white states.
  - ▶ The **26 least populous states** are home to **just 17 percent of the U.S population**. This means that a group of senators representing a small minority of the country can use the filibuster to prevent the passage of bills with broad public support.
- ▶ It hurts **checks and balances** by diminishing the ability of Congress to pass legislation.

### The use of filibusters accelerated during Obama's terms

Number of motions filed to invoke cloture, by congressional session

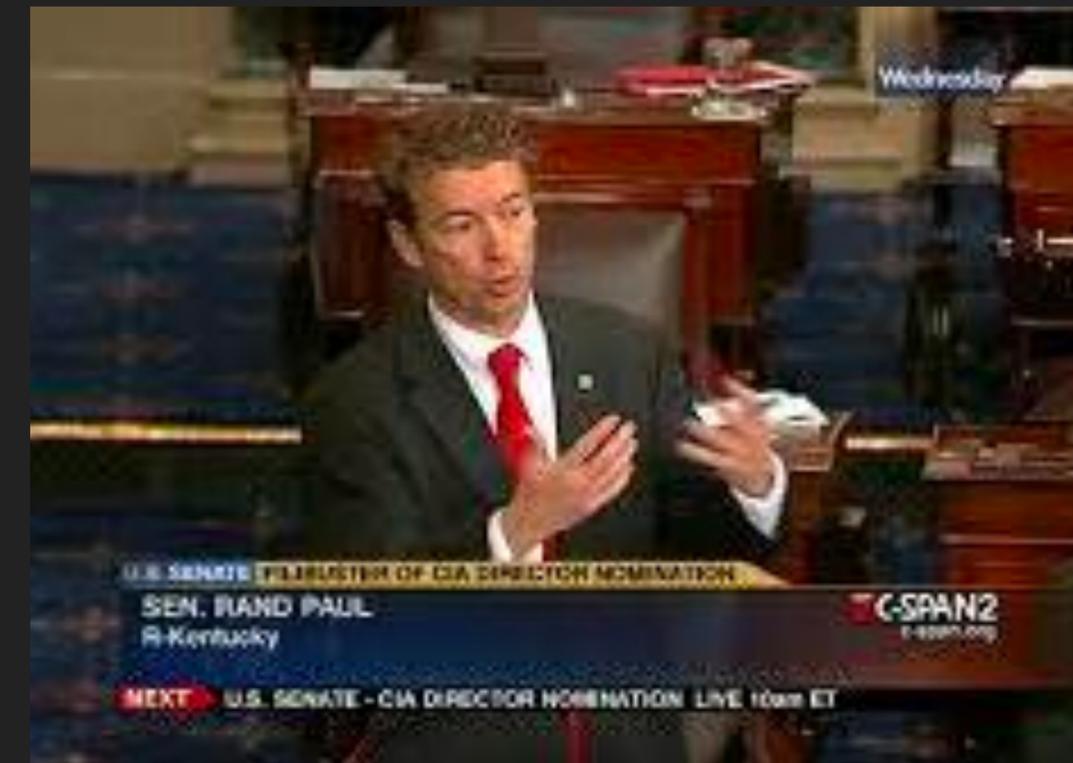
MINORITY PARTY: ■ DEMOCRATIC ■ REPUBLICAN ■ DIVIDED



Due to the nature of Senate procedure, the number of cloture motions doesn't correspond perfectly to the number of filibusters. The Senate was "divided" from 2001-03 because Republicans and Democrats both held the majority for some period of time.

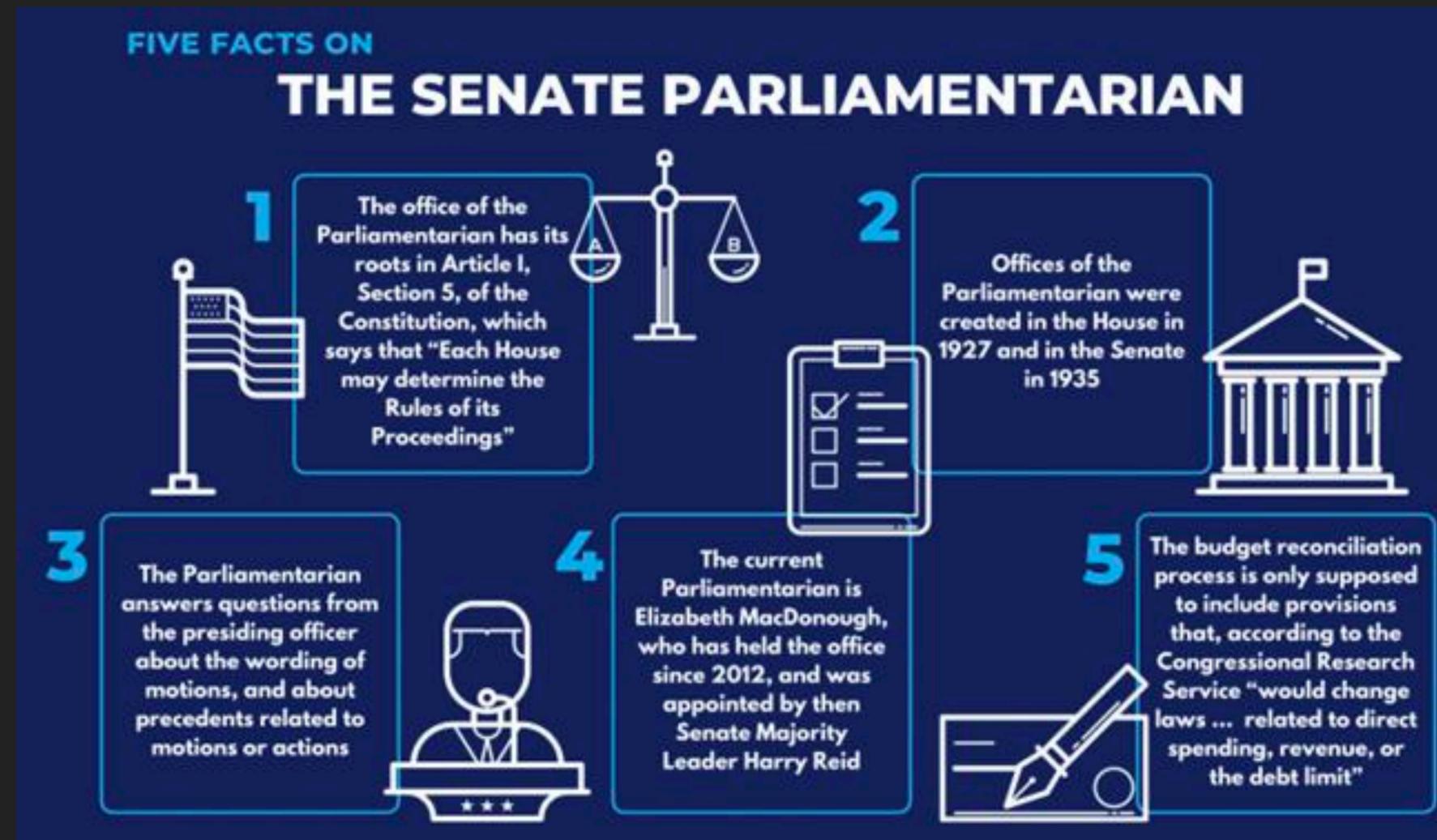
## DEFENSE OF THE FILIBUSTER

- ▶ Some argue that the filibuster actually **encourages compromise** by forcing the majority to listen to the minority.
  - ▶ As President Biden said when he was in the Senate, "At its core, the filibuster is not about stopping a nominee or a bill, it's about compromise and moderation."
- ▶ The filibuster prevents **wild swings in national policy**, especially in an era of large electoral swings.
- ▶ The filibuster rightly increases the power of the Senate.
- ▶ Criticism is just partisan gamesmanship.



## LIMITS TO THE FILIBUSTER

- ▶ One of the most important limits to the filibuster is **budget reconciliation**.
  - ▶ Budget bills can pass with a majority vote, but both parties now try to stack budgets with unrelated items.
- ▶ In 2013, Democrats in control of the Senate switched cabinet confirmation votes to majority vote.
- ▶ In 2017, Republicans made the switch for Supreme Court justices.
  - ▶ This became known as the **nuclear option**.



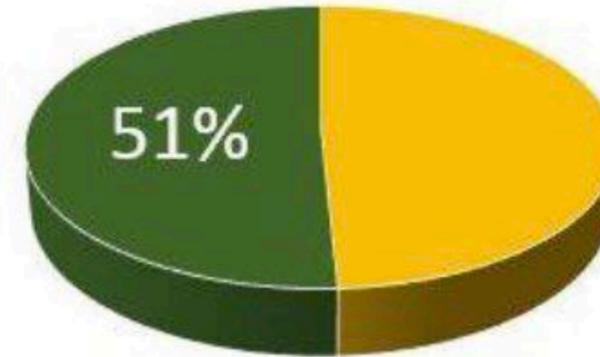


**WHO IS IN CONGRESS?**

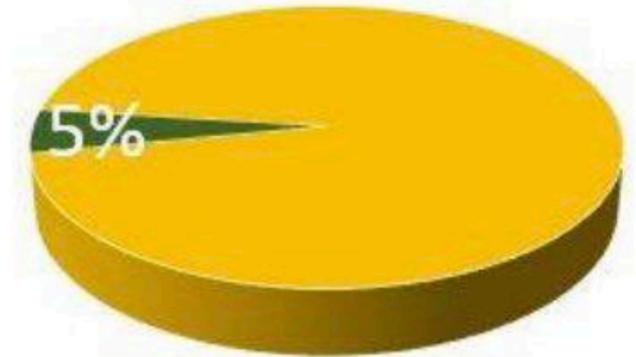
## WHO IS IN CONGRESS?

- ▶ Members of Congress are disproportionately older, whiter, richer, and more male than the US population.
  - ▶ 96% have a college education.
  - ▶ The average member of the House is 58, the average Senator 64.
- ▶ Many are **incumbents**. The re-election rate for House members is 93% and for Senate members 82%.
  - ▶ This has led for calls for **term limits**.

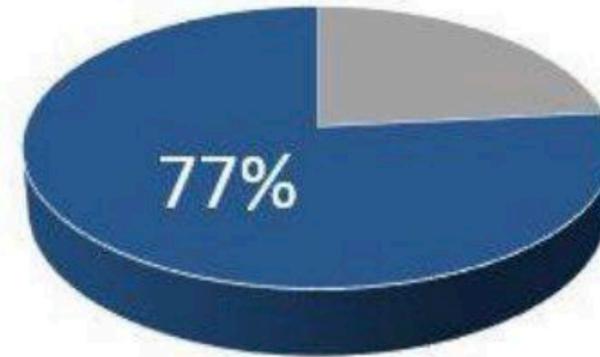
Millionaires in Congress



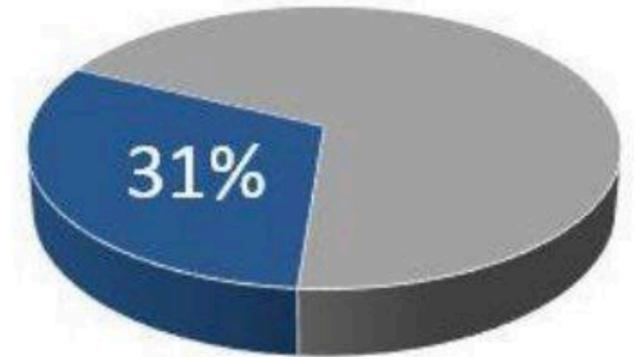
Millionaires in America



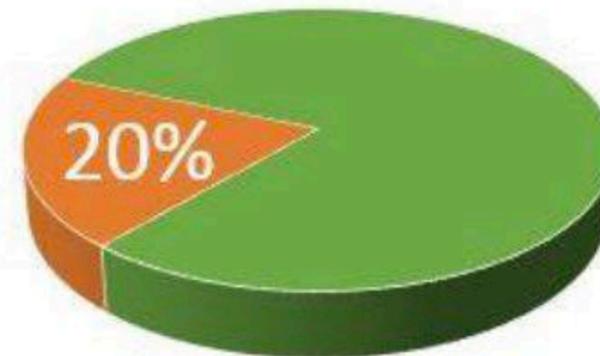
White Men in Congress



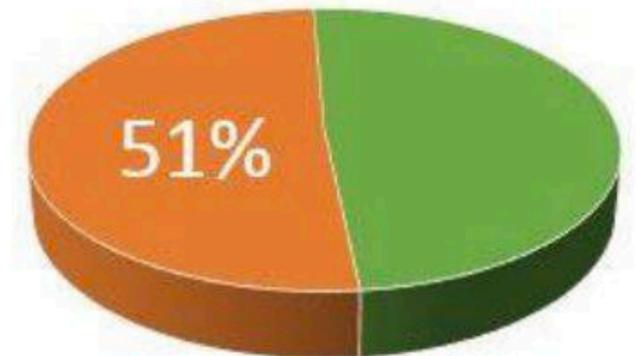
White Men in America



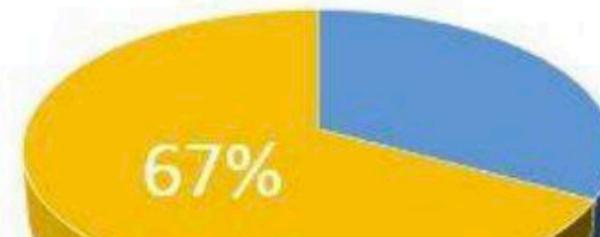
Women in Congress



Women in America



Over 55 in Congress



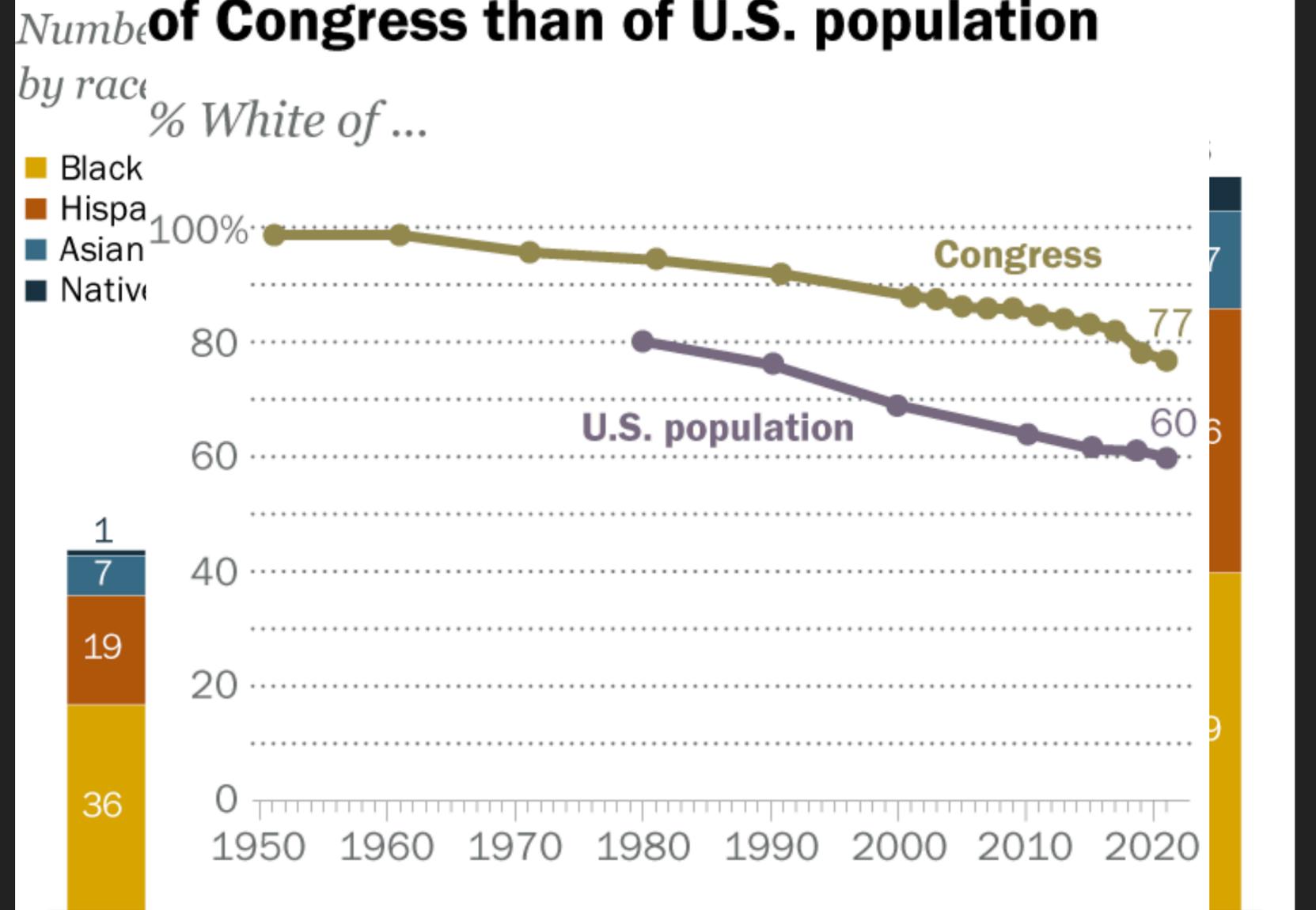
Over 55 in America



## WHO IS IN CONGRESS?

- ▶ The 2021 Congress is the most diverse in American history, with 23% of the House and Senate members coming from racial or ethnic minorities.
- ▶ 83% of these members are Democrats.
- ▶ White Americans still are overrepresented at the Congress.

### White Americans make up larger share of Congress than of U.S. population



Note: Nonvoting delegates and commissioners are excluded. Historical data on the makeup of Congress reflects composition on session's first day; for 2021, data reflects members of Congress seated as of Jan. 26, 2021. For 1980 and 1990 population figures, White Americans include only

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## WHY IS CONGRESS CHANGING?

- ▶ One of the reasons the Congress has become more diverse is the creation of **majority-minority districts**. There are 122 such districts.
  - ▶ Scholars call this **descriptive representation**.
    - ▶ The Voting Rights Act and lawsuits led to these.
    - ▶ Some argue these districts may inadvertently harm the interests of people of color. How?
    - ▶ They suggest the increase of **symbolic representation** comes at the expense of **substantive representation**.



## CALLS TO FIX CONGRESS

- ▶ There are periodic calls for **term limits** to restrict the number of terms a member can serve.
- ▶ Staffers and members of Congress are often accused of going through the **revolving door** between the halls of Congress and **lobbying** firms.
- ▶ Members of Congress are allowed—as long as they report—to trade stocks, leading to investigations into **insider trading**.
  - ▶ The Covid-19 example.

**FORMER SENATOR KELLY LOEFFLER**



## WEIRD CONGRESSIONAL VOCABULARY

- ▶ A **caucus** is a group of like-minded members. Examples: Black Congressional Caucus, Freedom Caucus.
- ▶ **Double tracking** is a process by which the Senate can move on to other business while a filibuster delays the body.
- ▶ **Franking** is the privilege members of Congress enjoy that lets them mail to their members.
- ▶ A **hold** is a measure that allows a single member of the Senate to stall debate on a bill.

