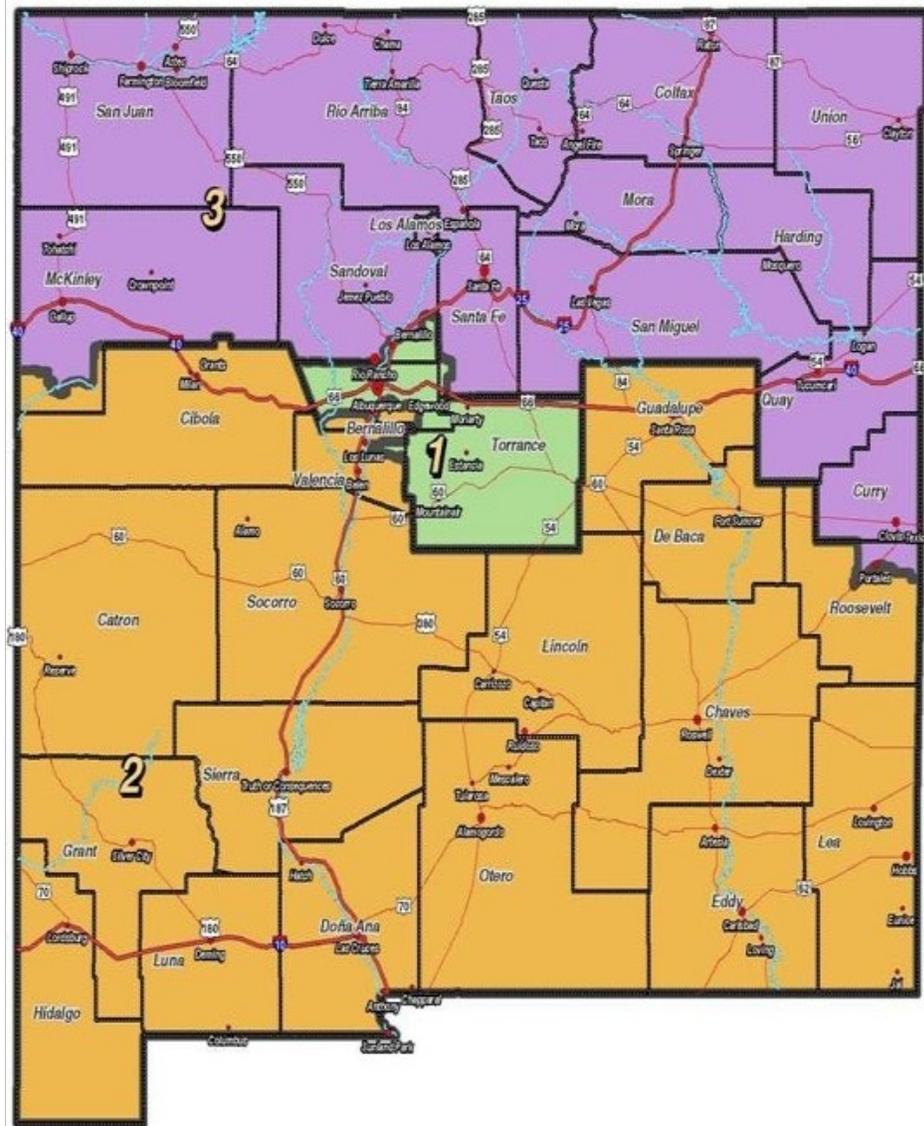




New Mexico Redistricting: Increasing Voters' Ability to Choose their Political Leaders Rather than Political Leaders Choosing their Voters

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Introduction

"Voters will be electing more than 5,000 state lawmakers in 35 states who will play a significant role in crafting or passing new maps for Congress or state House and Senate districts. Voters also will be electing governors in eight states who could enact or veto those maps."¹

What is redistricting? Redistricting is the way new district boundaries are decided for both congressional and state legislative districts. At its core, redistricting determines which politicians represent which communities. All United States Representatives and state legislators are elected from political divisions called districts. Districts are redrawn every 10 years following the United States Census which influences reapportionment.² Redistricting is meant to guarantee fair voter representation through equal, or equivalent, population counts. The federal government requires that districts have equal population counts and not discriminate based on race or ethnicity.³

Redistricting directly affects who holds and wields political power. It shapes which party controls the U.S. Congress as well as state and local governments across the country.⁴ Therefore, redistricting also determines what issues a legislature chooses to address and how they prioritize their work. What is best for the majority party is not necessarily what is best for the people. Current practices must change to do what is best for all people, not just those whose political ideologies align with the majority party. Furthermore, redistricting determines who sits on the Public Regulation Commission and the Public Education Commission.

Redistricting is enacted through the results of the U.S. Census, which influences reapportionment. Reapportionment is a process to allot seats in a legislative body based on population changes. If communities are not counted, they can experience a lack of fair political representation. A lack of representation can prevent communities from having a fair shot at electing candidates who represent their worldview, needs, and interests. In a functional representative democracy, constituents pick their legislators. However, as the system currently stands, elected officials have more power to pick their voters than voters to pick their elected officials. This threat compromises democratic ideals, governing systems, and the promise of sound public policy informed by the people.

Given the importance of redistricting and the significant political power that comes with it, there is potential for it to go very wrong. One such way is through political gerrymandering, which can lead to distrust by the public and poor relations between political parties- especially on the side of the party that believes they're under-represented.⁵ The example below shows that through rearranging and manipulating district lines, it is possible to get outcomes that are not representative of the communities in question.

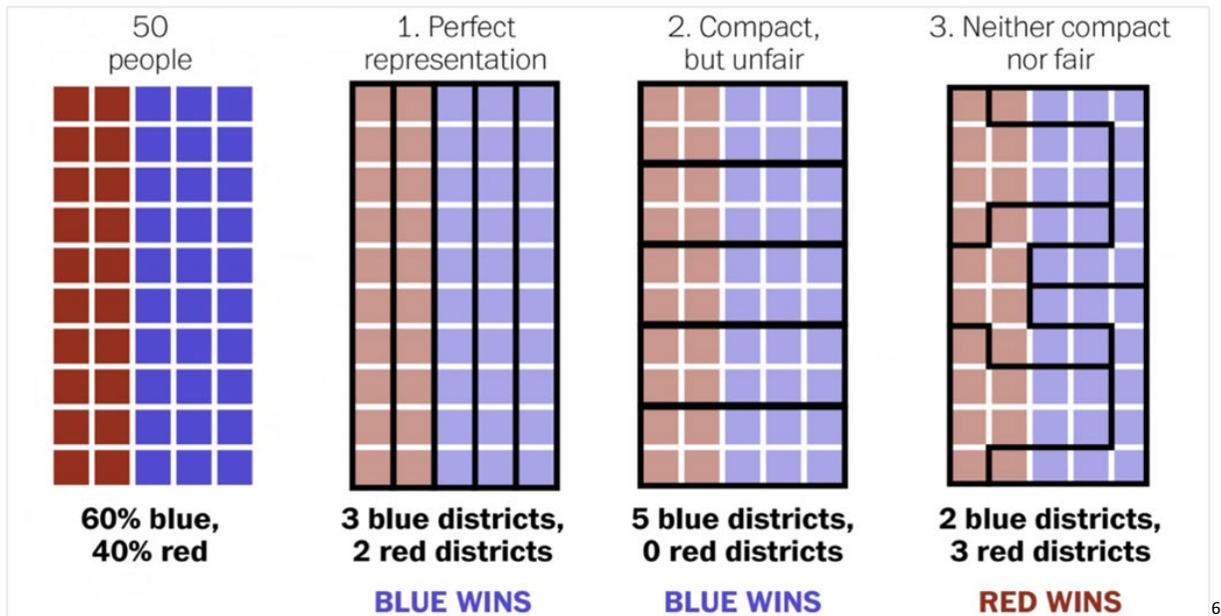
¹ (<https://www.usnews.com/>)

² (Brennan Center for Justice, 2017)

³ (Ballotpedia)

⁴ (Brennan Center for Justice, 2017)

⁵ (Doland & Depth, 2019)



There are four clear negative outcomes of bad redistricting that directly contradict a healthy democracy:

Less participation in elections	Why vote if you are already pretty sure who is going to get elected?
Less complete representation	Fewer people turning out means party stalwarts who vote in primaries are more influential than the general public.
Less accountability	If representatives are assured of an election, why bother listening to their constituents?
More partisanship	Politically gerrymandered districts lead to distrust by the public and a desire for revenge by the under-represented party.

Sound approaches to redistricting matter because when policymakers have more competitive districts, they are more likely to spend time getting to know their voters and letting voters get to know them.⁷ They are more likely to have an open debate about issues, ideas, and public policy. When legislators must engage more, it invites more robust engagement among voters. Greater engagement of voters and elected officials fosters mutual accountability. Meaningful public discourse and civic engagement in voting and public policy are tied to people's sense of efficacy. People are more likely to spend time in endeavors where they believe their participation matters, and where they can make a difference. If the

⁶ (Washington Post, 01 Mar. 2015)

⁷ (The Washington Post & Klaas)

prevailing public impression is that "the fix is in" and voting will not make a difference, they are less likely to engage in productive and impactful ways.

This report examines who is responsible for redistricting in New Mexico and across the nation, principles of effective redistricting, the role of communities in redistricting, and opportunities to use civic engagement to strengthen our democracy.

Note: This report was primarily prepared as background material for a statewide task force on redistricting, convened by New Mexico First. In the 2020 Regular Legislative Session of the New Mexico Legislature, House Memorial 8 would have convened a taskforce to develop recommendations to improve the state's redistricting process. When the memorial did not pass, New Mexico First stepped forward to organize the group. Potential reforms cited in the memorial included:

- Statutory standards for redistricting
- Guidelines for a future redistricting committee
- Strategies for authentic public engagement in redistricting decisions
- An independent redistricting commission
- A temporary advisory redistricting committee

Even with the progress achieved over time through Amendments to increase people's access to free and fair elections, the promises within our Constitution have not been fully realized. Key concepts related to greater openness, fairness, and transparency include avoiding “packing” and “cracking” on political and racial lines. This is the process by which politicians attempt to dilute the strength of racial and ethnic minorities by packing them into one district or cracking the communities into so many pieces that their votes do not carry as much weight as they would if they were in one district.¹¹

Political activists across partisan lines are aware of how much is at stake with political redistricting and the future of our country. In the June 2020 article co-authored by the Reverend Jesse Jackson and David Daley, they write, “When our system is working, Americans mainly express themselves at the polls...But today voting itself is broken. Our system has buckled under the weight of repressive voter ID laws, toxic partisan and racial gerrymandering, voter roll purges and precinct closures that disproportionately target minority voters.”¹² Social activists are not the only ones who call for fair redistricting. The Republican State Leadership Committee Right Lines 2020 initiative is partnering with the National Republican Trust to “secure fair, legal, and constitutional districts after the next Census.”¹³ While both perspectives advocate for fairness, what constitutes a fair process has a variety of interpretations.

According to the Brennan Center for Justice resource guide, *Who Draws the Maps? Legislative and Congressional Redistricting* published in January 2019:

- State legislatures are responsible for drawing congressional districts in 31 states and state legislative districts in 30.
- Four states use an advisory commission to draw congressional plans, and six states have an advisory commission to draw state legislative districts.
- Four states use an independent commission for both congressional and state legislative districts.
- Four states use a political appointee commission for congressional plans, and nine states use this type of commission for state legislative plans.
- One state, Arkansas, uses a politician commission for state legislative districts.
- Three states use a backup commission for congressional plans and five for state legislative plans.
- Seven states currently have only one congressional district.¹⁴

¹¹ (Anzel & Capitol News Illinois, 2020)

¹² (Jacks, Daley, & Time.com)

¹³ (Republican State Leadership Committee, May 2020)

¹⁴ (Brennan Center for Justice, February 2020)

Redistricting in New Mexico

Principles of Fair Maps

According to a New Mexico Human Services Department report published in April 2019, a US Census undercount of 1% would mean the loss of \$780 million in federal funds over the next 10 years. New Mexicans cannot afford the lack of political representation nor can the state afford to receive less than a fair share of federal resources. In New Mexico, where there is a history of significant undercounting of communities of color, rural, frontier communities, and Tribal/Pueblo Nations, the pattern contributes to underrepresentation in the drawing of political districts. However, the general public currently has only a minor role in the redistricting process. New Mexico has very few rules regarding redistricting compared to other states, and many of those rules are non-binding. This has resulted in highly contentious and expensive partisan battles throughout New Mexico's history. In the most recent redistricting process following the 2010 Census, \$6.5 million of taxpayers' money was spent in legal fees.¹⁵(see *Districting Principles* below).¹⁶

"New Mexico has slightly more rules than Nevada, which is the state with the fewest."- Justin Levitt, Loyola Law School Professor

Of the potential laws that other states follow, the New Mexico Legislature is only required to follow the *compact, contiguous, preserve political subdivisions, and preserve communities of interest* criteria. Legislative decision-makers are also allowed (although not required) to *preserve cores of prior districts* and *avoid pairing incumbents*. This leaves a lot of uncertainty around how redistricting is executed, and therein lies questions about openness, transparency, and fairness. The New Mexico Legislative Council developed seven guidelines to develop and evaluate redistricting plans.¹⁷

1. Congressional districts shall be as equal in population as practicable.
2. State districts shall be substantially equal in population; no plans for state office will be considered that include any district with a total population that deviates more than plus or minus five percent from the ideal.
3. The Legislature shall use 2010 federal decennial census data generated by the United States Bureau of the census.
4. Since the precinct is the basic building block of a voting district in New Mexico, proposed redistricting plans to be considered by the Legislature shall not be comprised of districts that split precincts.
5. Plans must comport with the Voting Rights Act of 1965, as amended, and federal constitutional standards. Plans that dilute a protected minority's voting strength are unacceptable. Race may be considered in developing redistricting plans but shall not be the predominant consideration.

¹⁵ (Doland & Depth, 2019)

¹⁶ (National Conference of State Legislatures)

¹⁷ (New Mexico Legislative Council)

Traditional race-neutral districting principles (as reflected in paragraph seven) must not be subordinated to racial considerations.

6. All redistricting plans shall use only single-member districts.
7. Districts shall be drawn consistent with traditional districting principles. Districts shall be composed of contiguous precincts and shall be reasonably compact. To the extent feasible, districts shall be drawn to preserve communities of interest and consider political and geographic boundaries. Also, and to the extent feasible, the Legislature may seek to preserve the core of existing districts and may consider the residence of incumbents.

New Mexico is not the only state grappling with how to improve legislative redistricting. The National Conference of State Legislatures has been in place since 1975. It works to help state legislatures advance effectiveness, independence, and integrity on a range of governance and policy issues. They have identified several principles as a resource to state legislatures about political districting, including traditional criteria, emerging criteria, and potential future criteria.¹⁸

The final maps will be drawn by the New Mexico’s House and Senate, and approved by the Governor. Unless the November 2020 election flips the state’s House or Senate, New Mexico’s 2021 redistricting process will be controlled by one party. Currently, the Democrats control the Legislature and Executive Branch. This cycle will be the first in decades without bipartisan leadership in the process.

The National Conference of State Legislatures Districting Principles¹⁹

<p>TRADITIONAL CRITERIA have been adopted by most states</p> <ul style="list-style-type: none"> • Compactness: Having the minimum distance between all the parts of a constituency (a circle, square, or a hexagon is the most compact district). • Contiguity: All parts of a district being connected at some point with the rest of the district. • Preservation of counties and other political subdivisions refers to not crossing county, city, or town boundaries when drawing districts. • Preservation of communities of interest: Geographical areas, such as neighborhoods of a city or regions of a state, where the residents have common political interests that do not necessarily coincide with the boundaries of a political subdivision, such as a city or county. • Preservation of cores of prior districts: This refers to maintaining districts as previously drawn, to the extent possible. • Avoiding pairing incumbents: This refers to avoiding districts that would create contests between incumbents. 	<p>EMERGING CRITERIA have been considered and adopted in some states since 2000</p> <ul style="list-style-type: none"> • Prohibition on favoring or disfavoring an incumbent, candidate, or party. The prohibition in each state may be broader, covering any person or group, or it may be limited to intentionally or unduly favoring a person or group. Details on these prohibitions are included in the state descriptions below. • Prohibition on using partisan data: Line drawers, whether they be commissioners (California and Montana), nonpartisan staff (Iowa), or legislators (Nebraska), are prohibited from using incumbent residences, election results, party registration, or other socio-economic data as an input when redrawing districts. • Competitiveness: Districts having relatively even partisan balance, making competition between the two major parties more intense. This criterion typically seeks to avoid the creation of "safe" districts for a particular party. 	<p>FUTURE CRITERION has been adopted by Ohio for legislative districts beginning in 2021</p> <ul style="list-style-type: none"> • Proportionality: The statewide proportion of districts whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party shall correspond closely to the statewide preferences of the voters.
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¹⁸ (National Conference of State Legislatures)

¹⁹ (National Conference of State Legislatures)

2010 Census and 2011 Redistricting

According to NCSI, “21 states explicitly require the use of census data for legislative, congressional or both redistricting. 17 states have an implied basis or in-practice reliance on using the census for legislative, congressional or both redistricting. 6 states permit the use of the census or other datasets for their redistricting, depending on circumstances.” New Mexico explicitly requires the use of Census data.²⁰ The history of redistricting in New Mexico is marked with judicial intervention, lack of agreement between legislators and the governor, and discriminatory boundaries.²¹

One of the most prominent criticisms of New Mexico's current redistricting process is the lack of government transparency. In previous redistricting cycles, lawmakers hired consultants to hold public hearings and collect input. Lawmakers then met in Santa Fe, mainly not in public sessions, to draw the final maps. Neither reporters nor the public were allowed in the closed redistricting hearings. The work was complicated and tedious, which is a reason some lawmakers might say that the meetings were held in private. However, since the meetings are off the record, it is exceedingly difficult to promote accountability.

The results of the last redistricting effort in New Mexico ended up being very expensive. When there is gerrymandering and other variations from redistricting best practices, people can sue due to unfair or discriminatory practices. For example, LULAC, Laguna Pueblo, the Navajo Nation and others were among the many parties that sued NM in 2011.²² These lawsuits can double the cost of redistricting; during New Mexico’s 2011 redistricting, millions were spent in lawsuits, and a judge ultimately decided the final maps.²³

As a state, New Mexico can learn other lessons from the 2011 process. To better understand redistricting in New Mexico, we recommend watching [a 14-minute video](#) with University of New Mexico professor Dr. Gwyneth Doland and interviewer Matt Grubbs. This segment gives a thoughtful overview of New Mexico's redistricting history and explores potential future directions.²⁴



²⁰ (National Conference of State Legislatures, 2020)

²¹ (Doland & Depth, 2019)

²² (The New Mexico Supreme Court)

²³ (The United States Supreme Court)

²⁴ (New Mexico In Focus)

Strategies for Civic Engagement:

Maps, Hearings, Contests and More

“Ordinary people with extraordinary vision can redeem the soul of America by getting in what I call good trouble, necessary trouble. Voting and participating in the democratic process are key. The vote is the most powerful nonviolent change agent you have in a democratic society. You must use it because it is not guaranteed. You can lose it.”

*Representative John Lewis
New York Times, Opinion
July 20, 2020
Published Postmortem*

Broad Community Mapping

Several states have engaged in community mapping projects that encourage individuals and groups to develop redistricting maps. The general public is given information about the legal considerations for redistricting and invited to develop and submit maps. In some instances, these maps are submitted for consideration by state legislatures. In other efforts, community mapping is used more as an educational strategy to raise awareness about redistricting rules, laws, and best practices. Maps allow people to present large amounts of information and proposals for political boundaries visually.²⁵

In Utah, the Legislature’s Joint Redistricting Committee made mapping software available to the public to create and submit maps. They used technology to demystify the mapping process and engage the community with the same tools the Legislature itself was using. Citizens could map out their redistricting solutions for congressional, legislative, and state school board districts. People could also work in groups to share and modify maps before their submission. A companion website was created to gather public comment, and 17 public meetings were held throughout the state. Jerry Howe, managing policy analyst for the Utah Legislature, explained, “If someone who created a plan came to a public hearing, we could bring it up, and they could discuss it and make arguments for it.”²⁶

Community mapping efforts have picked up momentum when sponsored by non-government organizations as well. For example, a redistricting contest launched by Draw the Lines PA in September 2018 became the largest known mapping competition in our country’s history. Not only was this process used as a civic education strategy, but it was also a nonpartisan mapping effort intended to push for greater transparency and accountability among decision-makers. Similarly, CHANGE – the Coalition for Honest and New Government Ethics – in Illinois helped develop an online application called Representable. According to the organization’s cofounder, Preet Iyer, “Residents can input information about their communities – geographic borders, historical information, cultural and ethnic members, and economic factors – to draw more *actionable* maps for use by lawmakers during redistricting.”

²⁵ (Draw the Lines PA - How to slay a gerrymander, May 2020)

²⁶ (National Conference of State Legislatures)

EXPERT-DEVELOPED MAPS WITH PUBLIC COMMENT

This approach most closely aligns with New Mexico's approach in 2011. An independent consultant was hired to develop redistricting maps for consideration by the State Legislature. Several community meetings were conducted to gather public input on the redistricting process. The decision was the responsibility of our State Legislature, according to the New Mexico Constitution. In 2011, the maps agreed to by the state legislature were seen by some people as unfair. This resulted in political acrimony and costly litigation.

STUDENT MAPPING CONTESTS

Students in at least Virginia, Pennsylvania, and California participated in student mapping contests. This hands-on approach to learning creates competitions for the fairest and most gerrymandered districts to serve as an educational exercise and a point of comparison with official mapping and redistricting efforts. The Draw the Lines Competition in Pennsylvania lets students compete and win cash prizes. Draw the Lines is a nonpartisan group working to end gerrymandering, and they're using a hands-on learning process as one of their strategies to achieve this goal. Over 9,400 maps have been worked on, and \$97k has been awarded to participants in this exercise.

TRIBAL/PUEBLO COUNCIL MAPPING

There is still significant work to redress past injustices and achieve equal voter enfranchisement among Native Americans, but progress is being made. It was found that Native Americans "won or settled 86 election-related lawsuits they've filed over the years — a success rate of more than 90%." The report highlighted some successes in New Mexico, where the secretary of state created a Native American task force to tackle inequities and to include Natives in making election-related decisions.²⁷

In 2020, reporting on findings from nine 2018 field hearings including one in New Mexico, unfair approaches to redistricting were identified as a barrier to participation. "Distances to voting locations, lack of Native poll workers, the absence of language assistance, racial bloc voting, intimidation, direct forms of voter suppression through mechanisms such as restrictive voter identification requirements, and discriminatory redistricting practices often marginalize Native voters."²⁸

One potential strategy for supporting the development of redistricting recommendations that better align with representation needs of Native Americans is not only to include Tribes and Pueblos in community input sessions but to actively engage Tribal and Pueblo leaders and community members in mapping processes to formulate recommendations for the state legislature. In the most recent redistricting efforts ten years ago, Tribal/Pueblo concerns were raised and forwarded in many ways. The Native American Redistricting Workgroup helped developed options that they endorsed during the Special Legislative Session for redistricting. Barry Massey of the Associate Press noted, "There are nine districts — six in the House and three in the Senate — in which Native Americans account for at least 65 percent of the population. The districts are in northwestern and north-central New Mexico."²⁹

²⁷ (<https://www.usnews.com/>)

²⁸ (Native American Rights Fund (NARF), 2020)

²⁹ (Massey & Associated Press, 2011)

PUBLIC HEARINGS REGARDING COMMUNITY OR EXPERT DRAWN MAPS

Texas, California, New York are a few of the states that hold public hearings to solicit feedback and input about redistricting. Loyola Law School suggests the following in Professor Justin Levitt's guide to drawing the political lines: "In many states, public hearings connected to the redistricting process are underway; cities and counties that will redraw their district lines will likely be holding hearings momentarily. Increasingly, jurisdictions with a redistricting website will list hearing schedules on that site (the [state pages](#) on this site lists each state's main website, and where possible, the schedule of state-level hearings). Many community organizations are coordinating attendance at these hearings to make sure members of the neighborhoods they serve are heard in the redistricting process. The more people who make their voices heard about the lines that would serve their needs, the more likely it is that districts eventually follow those lines.

EDUCATIONAL WEBINARS ABOUT REDISTRICTING

A range of free and paid educational opportunities are available related to legislative redistricting. The NCSL offers a combination of free and paid redistricting [webinars](#). The Fair Districts for New Mexico initiative, a project of the League of Woman Voters of New Mexico, created the following information in the [Retake Our Democracy Zoominar Series](#). The more people understand why redistricting matters, the better-prepared voters will be to engage and make informed choices.

REDISTRICTING COMMISSIONS

California has a 14-member citizens commission to draw its congressional and state legislative districts. The commission prohibits lawmakers, federal and state employees, political party officials, campaign staff members, lobbyists, and prominent political donors from serving on the commission. State legislative leaders vet and narrow the list of applicants before the members — five Republicans, five Democrats, and four independents — are randomly selected. A Michigan ballot measure that voters passed in 2018 created an independent redistricting similar to California's. Arizona, Colorado, Hawaii, Idaho, Montana, New Jersey, and Washington also have independent redistricting commissions. Missouri and Pennsylvania have independent commissions that are empowered to address state legislative districts only.³⁰

³⁰ (Lieb, 2020)

Conclusion

Best Practices in Redistricting

At New Mexico First, authentic civic engagement in good governance, public policy, and systems change is at the heart of our mission. The strength of civic engagement in a society is directly and critically linked to the health of its democracy. Redistricting is an instance in which it is possible to see a direct tie between civic engagement and the well-being of democracy. The founders of the United States fought the Revolutionary War in part because of unfair representation and taxation. Completing the U.S. Census to make sure communities are accounted for, and participating in restructuring the redistricting process, means that communities will be better and more accurately represented by elected officials and that New Mexicans are more likely to receive our fair share of resources from the federal government.

In her report on redistricting in New Mexico, Dr. Doland argues that establishing some sort of commission is the gold standard of redistricting reform; however, if that is not possible, the next best thing is to ban favoring a political party of a person which might be a particular incumbent or candidate.³¹ She also emphasizes the importance of rules that are fair for everyone, no matter who is in office.

With that in mind, future options (perhaps after this cycle is completed) could include the following:

1. Investing in redistricting efforts led by and with people from communities that have been disenfranchised
2. Establishing an Independent Redistricting Commission
3. Establishing a commission with a politically, ethnically, racially, linguistically, and geographically representative advisory board to assist the state legislature with drawing district lines
4. Adopting a structure with a commission that is used as a backup if the Legislature is not able to agree on a set of maps
5. Adopting a structure like Iowa's where nonpartisan staff draw the districts for legislative approval

³¹ (Doland & Depth, 2019)

Appendix A

Constitutional Amendments Regarding Voting

AMENDMENT XV - RIGHTS NOT TO BE DENIED ON ACCOUNT OF RACE (1870)

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XVII - ELECTION OF SENATORS (1913)

The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies: Provided, that the Legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the Legislature may direct.

This Amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

AMENDMENT XIX - WOMEN'S RIGHT TO VOTE (1920)

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXIII - PRESIDENTIAL VOTE IN DC (1961)

Section 1. The District constituting the seat of government of the United States shall appoint in such manner as the Congress may direct: A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a state, but in no event more than the least populous state; they shall be in addition to those appointed by the states, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a state; and they shall meet in the District and perform such duties as provided by the twelfth article of Amendment.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXIV - POLL TAX (1964)

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any state by reason of failure to pay any poll tax or other tax.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXVI - RIGHT TO VOTE AT AGE 18 (1971)

Section 1. The right of citizens of the United States, who are 18 years of age or older, to vote, shall not be denied or abridged by the United States or any state on account of age.

Section 2. The Congress shall have the power to enforce this article by appropriate legislation.

Appendix B

Case Law History³²

Redistricting is primarily guided through legislation and laws at the state level. Here is a collection of guiding documents and legal cases that have had the most impact on what redistricting looks like today.

HISTORICAL CASE LAW

In 1964, the case *Wesberry v Sanders* established that congressional districts must have equal populations when possible. In the same year, *Reynolds v Sims* applied the findings of *Wesberry v Sanders* to state legislative districts when possible. These two legal decisions were meant to establish that each person gets one vote, no more and no less. The *Voting Rights Act of 1965*, signed into law by President Lyndon B. Johnson, aimed to overcome legal barriers at the state and local levels that prevented African Americans from exercising their right to vote as guaranteed under the 15th Amendment US Constitution. The Voting Rights Act is considered one of the most far-reaching pieces of civil rights legislation in US history. In addition to the *Voting Rights Act* in 1965 and *Wesberry v Sanders* and *Reynolds v Sims* in 1964, there are also recent cases that address issues of redistricting. There are also recent cases that address issues of redistricting. The Supreme Court of the United States recently made a decision in *Shelby County, AL v. Holder* to limit protections afforded in the Voting Rights Act.³³

OTHER RECENT CASES

Gill v Whitford, 2018- A Supreme Court case in which two plaintiffs analyzed voting in Wisconsin as a whole and claimed that their votes were diluted, citing unfair and partisan political apportionment. However, the court concluded that because the plaintiffs failed to adequately prove how they were adversely affected by the districting at the time, their evidence was insufficient.

Cooper v Harris, 2017- A case in which the Supreme Court of the United States determined that North Carolina and its General Assembly utilized race too heavily in its redistricting efforts. Registered voters in North Carolina's District 1 and District 12 showed that the North Carolina General Assembly redistricted in order to split up areas that consistently elected candidates preferred by African American voters.

Evenwel v Abbott, 2016- A Supreme Court case that concerns how state legislative districts in Texas are apportioned in which two Texas voters claimed that the practice of drawing state legislative boundaries on the basis of total population instead of voting-eligible population was a direct violation of the Equal Protection clause of the Fourteenth Amendment. However, this would have diluted the voting power of communities of color, and as such, the Supreme Court ruled unanimously that states are able to draw state legislative boundaries based on total population.

Harris v Arizona, 2016- A Supreme Court case in which a group of Republican voters from Arizona claimed that there was partisan gerrymandering that resulted in systematic overpopulation of Republican districts and underpopulation of Democrat districts. The defendants (Arizona Redistricting Commission) countered by saying that any deviations were legally defensible via the Voting Rights Act. The Supreme Court ruled in favor of the defendants and stated that they were in compliance with the Voting Rights Act.

³² (National Conference of State Legislatures)

³³ (Campaign Legal Center)

Appendix C

Timeline for 2011-12 Redistricting in New Mexico

2011

March 17	Regular session of the Legislature passed a bill creating an 18 member Interim Redistricting Committee – 9 appointed by the House Speaker and 9 appointed by the Senate Committee on Committees.
May 9	The members were named
May – August	Public meetings were held throughout the state by the interim committee
September 6	Special Session of the Legislature meets
September 21	Senate Map passed along partisan lines
September 22	State House Map passed mainly along party lines
October 7	Republican Governor vetoed the NM State Senate & House maps. Legislature did not send a new Congressional Map to the Governor

A number of lawsuits followed and eventually a retired judge was appointed to review the maps: The retired judge handling the redistricting lawsuits in New Mexico, James Hall set the timeline for court hearings about the four disputed maps (Congressional, State Senate, State House, and Public Regulation Commission).

December 5-8	Congressional map
December 12-15	State House map
December 19-21	State House map
January 3-6	State Senate map
January 9-10	State Senate map
January 11-13	Public Regulation Commission map
December 29	Judge Hall adopts the Congressional Map – no lawsuits
January 3, 2012	Judge Hall adopts the State House map. Number of lawsuits filed in state & federal courts. Some of the scheduled hearings would result in maps not being settled before the deadline for candidate filing for House seats. Negotiations continued and eventually the final House map was accepted on Feb. 29, 2012
January 16, 2012	Judge accepts the State Senate map – no lawsuits

Total cost : On **July 30, 2012**, District Judge James Hall ruled that taxpayers would be responsible for paying attorneys' fees for those who represented Democratic, Republican, Native American and Hispanic voter interests in the redistricting trials - a sum that amounted to nearly \$3 million. Following this decision, an analysis by the Associated Press found the total cost to taxpayers for the redistricting process came to nearly \$8 million. This reignited the call by some for the creation of a nonpartisan commission to handle the once a decade process.³⁴

³⁴ (Ballotpedia)

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