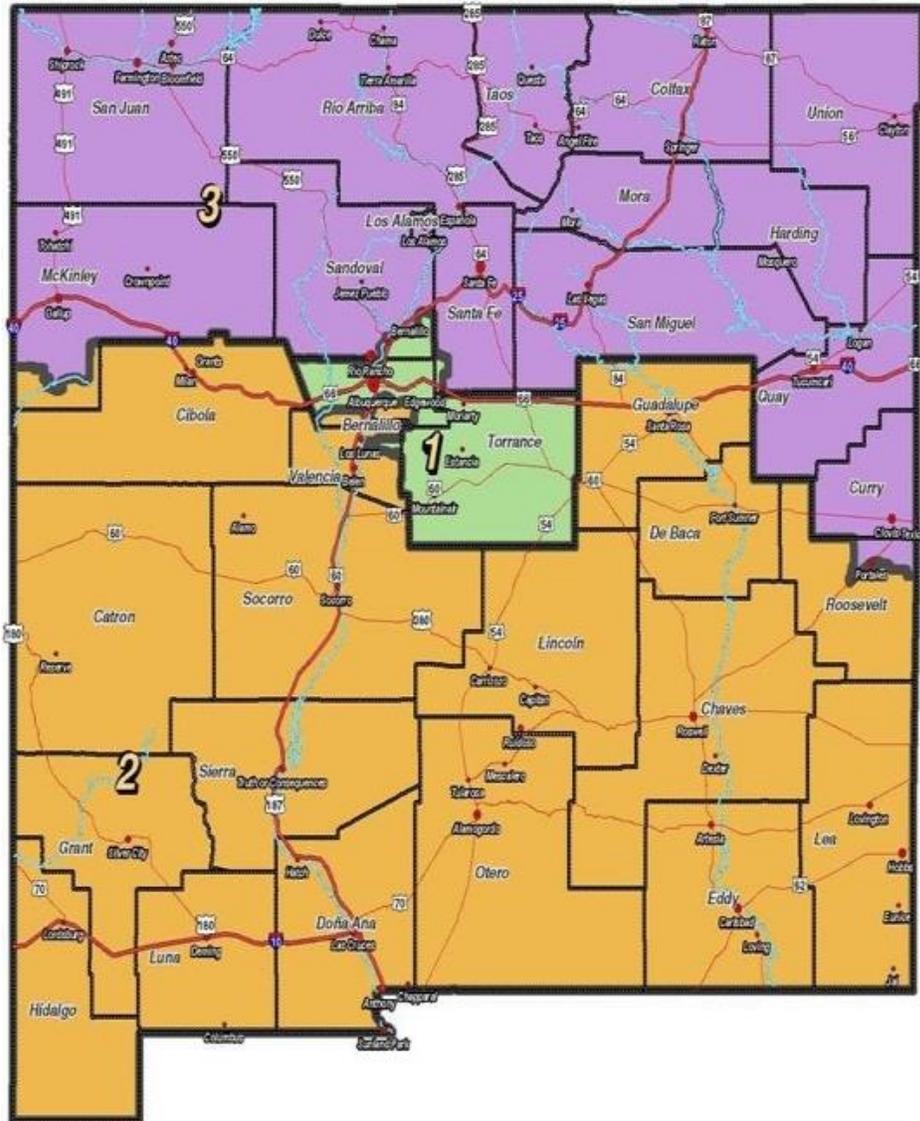




Redistricting Taskforce in New Mexico: Recommendations Developed by The New Mexico First Redistricting Taskforce 2020

RESEARCHER & CONVENER
New Mexico First

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Introduction

Overview

Every ten years, in conjunction with the decennial U.S. Census, the nation undertakes the redistricting process to establish voting boundaries for multiple elected offices. This process includes the U.S. Congress, the state legislature, and the Public Education Commission in New Mexico. In past cycles, New Mexico's redistricting process has encountered numerous hurdles and court challenges. To prevent those problems in 2021, New Mexico First – with funding from the nonpartisan Thornburg Foundation – convened a statewide task force to research redistricting practices and offer recommendations.

This report presents those recommendations and summarizes the process used to develop them.

The task force met from October through December 2020. It included 25 stakeholders, including retired members of the judiciary, state legislators from both chambers and major political parties, researchers, voting rights advocates, and good governance stakeholders. The task force's work was informed by multiple guest speakers and published resources, including a background report authored by New Mexico First about redistricting and the value of civic engagement in the process. The nonpartisan report also provides information about the importance of redistricting to achieve free and fair elections. The report was released in October 2020 to coincide with the launch of the task force.

Overarching Task Force Recommendation

The New Mexico First Redistricting Task force believes that the New Mexico State Legislature should adopt legislation to improve the openness, transparency, and fairness of political redistricting. The lack of firm legal criteria creates too much ambiguity and mistrust in the redistricting process and adds to the challenges that disenfranchised communities must navigate. The body of this report offers suggested components of the legislation.

Legislation is needed because, in past cycles, the New Mexico State Legislature followed non-statutory guidelines developed by lawmakers and the Legislative Council Service staff. These guidelines were suggestions and carried the weight of law only in so far as they were consistent with the United States Constitution, the Constitution of the State of New Mexico, and the Voting Rights Act. The last two redistricting cycles resulted in costly litigation, and complaints related to the Voting Rights Act were at the core of disputes. Greater clarity, alignment with federal laws, and good governance principles should be codified as New Mexico redistricting laws.

Task Force Selection Process

Statewide outreach and recruitment for the task force began in late August and continued for over a month. There was great intentionality about reaching out across New Mexico to recruit engaged and knowledgeable people with diverse ways of looking at and understanding political redistricting. Efforts involved statewide local media outlets, social media, listservs, and word of mouth recruitment.

The 25 Redistricting Task Force members were selected from over 140 nominees from across New Mexico by a cross-partisan selection committee made up of members of the New Mexico First Board of Directors, which included a former Lieutenant Governor of NM, the former Minority Leader, leaders in

news and media, and business leaders. There was also representation from the League of Women Voters, Common Cause New Mexico, a UNM Political Science Department, and Thornburg Foundation.

This committee was impressed by the excellent pool of applicants and worked to select a task force that included people from different political parties or affiliations and was racially, ethnically, and geographically diverse, including members from sovereign Pueblos and Tribes. Particular consideration was given to communities in which the Voting Rights Act violations occurred in the past.

Task Force Process

As previously noted, task force members were charged with developing recommendations to strengthen New Mexico's approach to redistricting. Together, task force members met virtually and reviewed existing laws and guidelines, considered information about the most pressing issues in political redistricting from state and national experts, considered public comment, worked in small groups, and developed consensus-backed recommendations for improving openness, transparency, and fairness in New Mexico's political redistricting process.

The process itself reflected transparency goals. The public was invited to observe the meetings via Zoom, and time was allotted for public comment. Additionally, videos from meetings were posted after each virtual meeting. Meeting notes and materials were also shared to provide learning, reflection, analysis, and input opportunities.

Final Platform of Recommendations

The task force drafted 21 recommendations. Eighteen of them achieved consensus support of at least 85% of the task force. The consensus recommendations and the rationale to support them are listed below. The other recommendations that were considered but did not achieve consensus appear in the "Additional Ideas" section of this report.

Participants

Task Force Members, Speakers, Special Guests Addressing Native American Concerns, Public Attendees, and Advisory Committee

Task Force Members

Co-Chairs

Edward Chávez, NM Supreme Court (retired)

Roderick Kennedy, New Mexico Court of Appeals (retired)

Members

Merritt Allen, Vox Optima, LLC (Tijeras)

David Buchholtz, Rodey Law Firm (Albuquerque)

Ahtza Chavez, NAVA Education Project (Albuquerque)

N.M State Representative Rebecca Dow, (T or C)

N.M. State Representative Kelly Fajardo (Los Lunas)

Jeremy Farris, NM Ethics Commission (Albuquerque)

N.M. State Representative Natalie Figueroa (Albuquerque)

Tom Garrity, The Garrity Group PR Firm, (Albuquerque)

Leonard Gorman, Navajo Nation Human Rights Commission (Navajo Nation)

Earl Greer, Bernalillo County Farm and Livestock Bureau (Elephant Butte)

Anita Hand, Catron County Commission (Datil)

Mario Jimenez III, Common Cause NM (Las Cruces)

Carmen Lopez, State Innovation Exchange (SiX) (Santa Fe)

Katon Luaces, Qworks (Albuquerque)

Dick Mason, League of Women Voters (Santa Fe)

N.M.State Senator Mark Moores (Albuquerque)

N.M State Senator Bill O'Neill (Albuquerque)

N.M. State Senator Gerald Ortiz y Pino (Albuquerque)

Cedric Page, Santa Fe Branch NAACP (Santa Fe)

N.M. State Senator Shannon Pinto (Tohatchi)

Maurreen Skowran, Geospatial and Population Studies University of New Mexico (Albuquerque)

Sandra Taylor-Sawyer, Dream Givers LLC (Clovis)

N.M. State Representative Jim Townsend (Artesia)

Nonvoting advisor: Heather Balas, Thornburg Foundation

Staff: Lilly Irvin-Vitela, MCR, President and Executive Director, New Mexico First

Staff: Melanie Sanchez Eastwood, MA, Deputy Director, New Mexico First

Speakers/Guest Experts

The following people delivered presentations and offered expert advice to the task force:

- Jaime Diaz, Bernalillo County, Deputy County Clerk (12/14/20)
- Gwyneth Doland, Journalist and University of New Mexico Professor and author of *Redistricting NM 2021: A troubled history and opportunities for change*. (10/5/20)
- Moon Duchin, Ph.D., Tufts University, Associate Professor of Mathematics and Director of Tufts' Science, Technology, and Society program and contributor to the development of DistrictR (10/26/20)
- Neal Fornaciari, California Citizens Redistricting Commission, Commissioner (11/9/20)
- Jerry Howe, Utah State Legislature, Office of Legislative Research and General Counsel (10/26/20)
- Fátima Menéndez, Mexican American Legal Defense and Educational Fund, MALDEF (11/30/20)
- Steven Ochoa, Mexican American Legal Defense and Educational Fund, (11/30/20)
- Nina Perales, Mexican American Legal Defense and Educational Fund, MALDEF, Vice President of Litigation (11/30/20)
- Gabriel R. Sanchez, Ph.D., University of New Mexico, Professor of Political Science and author *New Mexico Redistricting Survey 2020 Summary Report* (10/5/20)
- Ray Vargas, The Vargas Law Firm, Attorney, Voting Rights Act (VRA) and Redistricting (11/16/20)
- Ben Williams, National Conference of State Legislatures, Policy Specialist, Elections & Redistricting (10/19/20)
- Patricia G. Williams, Native American Redistricting Issues in N.M., Wiggins, Williams & Wiggins Law Firm (10/19/20)

Special Guests Addressing Native American Concerns

The following guests addressed unique issues facing Native American Tribes and Pueblos in the redistricting process.

- President Jonathan Nez, Navajo Nation
- Governor Ron Lovato, Ohkay Owingeh
- Naomi Droll, Navajo Nation Department of Justice
- Yvonne Kee-Billison, Navajo Nation, Executive Staff Assistant
- Representative Georgene Louis, New Mexico House District 26, and member of Acoma Pueblo
- Jordan Oglesby, Navajo Nation, Department of Justice
- Patricia G. Williams, Williams & Wiggins Law Firm

Public "Zoom Gallery" and/or Comments

The following people participated in the Zoom "gallery" and public comments at one or more of the NMF Redistricting Taskforce meetings:

- Kathleen Burke, League of Women Voters NM, Fair Districts for NM
- Shelly Chimoni, Executive Director, All Indian Pueblo Council

- Mike Daly
- Diane Denish, former N.M. Lieutenant Governor
- Heather Ferguson, Executive Director, Common Cause New Mexico
- Gilbert and Nancy, no last name provided
- Antonio Ibarra
- Franz Joachim, General Manager and CEO, New Mexico PBS
- John Jones, candidate for N.M. House District 30
- Tommy Lopez
- Patty Lundstrom, NM State Representative
- Rachel McHugh
- Allan Oliver, Executive Director, Thornburg Foundation
- Katie Roberts
- Reena Szczepanski, Chief of Staff for the Speaker of the House
- Benjamin Segovia, New Mexico Farm and Livestock Bureau
- Claudia Risner, former candidate for State Senate, Tijeras, NM
- Mary H. Smith, ABQ attorney, League of Women Voters of Central NM liaison to Fair Districts for NM
- Tom Taylor, retired N.M. House of Representatives/Former Minority Floor Leader, NMF Board Member
- Sydney Tellez, Associate Director, Common Cause New Mexico

Redistricting Advisory and Selection Committee

The following individuals offered overall council regarding the task force process and selected its members.

- Heather Balas, Good Government Reform Policy Officer, Thornburg Foundation
- Rob Black, President and CEO, New Mexico Chamber of Commerce formally NMACI, NMF Board Member
- Diane Denish, Building Bridges, Former NM Lieutenant Governor, Co-chair of Selection Committee, NMF Board Member
- Franz Joachim, General Manager and CEO, New Mexico PBS, NMF Board Member
- Richard, "Dick", Mason, League of Women Voters Advocacy Chair and Facilitator Fair Districts New Mexico
- Marcus Mims, Principal, Clifton Larson Allen, LLP, NMF Treasurer and Chair-Elect
- Gabriel R. Sanchez, Ph.D., Professor and researcher, UNM Center for Social Policy
- Tom Taylor, Retired NM House of Representatives/Former Minority Floor Leader, NMF Board Member
- Sydney Tellez, Associate Director, Common Cause New Mexico

Redistricting Task Force Guiding Values

Principles for Fairness

The redistricting process should maximize public trust and participation, allowing New Mexicans a maximum level of access and reasonable assurance of their right to have their voice heard through their vote-counting in equal measure to all other citizens. Fair criteria should govern the redistricting process. The process should acknowledge our state's ethnic, political, and geographic diversity and not be engineered to advance political motivations.

Toward that end, the process should:

1. Be fair throughout the process, without favoring anyone.
2. Be nonpartisan, not favoring parties or incumbents.
3. Be open, transparent, and hold all decision-makers accountable.
4. Avoid court intervention and minimize post-redistricting litigation costs.
5. Allow constituents to choose their representatives instead of the other way around.
6. Encourage inclusive participation by the broadest cross-section of the state population and communities as possible.
7. Protect marginalized groups, particularly those covered under the Voting Rights Act.
8. Keep like-minded communities together, prioritizing communities of interest.
9. Authentically consider input from community members.

Redistricting Task Force Recommendations

Consensus Recommendations

Major Reforms

The following recommendations for 2021, if adopted, would comprise major changes from the redistricting process used a decade ago. Many are entirely new activities.

RECOMMENDATION 1: ADVISORY BOARD

Establish a nonpartisan, independent advisory board to develop maps for the Legislature's selection.

- a) The board would approve and send to the Legislature up to five maps for each category. ("Category" refers to the type of office, such as Congress, Legislature, Public Education Commission.)
- b) Politically, the board would reflect a fair balance of members of major political parties, independents, and third parties.
- c) The Legislature would select among the board-submitted maps.
- d) Meetings would be held in public and announced in advance.
- e) Overall rules, selection strategies, and governing procedures would be developed using principles offered in model legislation by the [Brennan Center for Justice](#), posted at A Better Way to Draw Districts.
- f) The board's makeup could take one of two directions: either 15 citizens or three retired Supreme Court justices. Members could be selected by the N.M. State Ethics Commission or the N.M. Judicial Nominating Commission.
- g) The advisory board would oversee the public input process.

Rationale: This advisory board is suggested as a compromise reform. It adds a level of objectivity to the process while retaining lawmaker authority. It addresses the reality that lawmakers have a vested interest in the result of redistricting. Mandating that they choose from among maps approved by an independent board limits the potential for subversion for political gain. Yet this method still allows the Legislature to make the final choice of which map will go to the Governor for consideration. This compromise calls for legislators to give up some, but not all, of their power. According to the [Brennan Center for Justice](#), six states have an advisory commission to draw state legislative districts.

Consensus Percentage: 87%

RECOMMENDATION 2: PROHIBITION ON PARTISAN DATA

Partisan data such as voting history or party registration shall not be used to draw districts, provided that voting history in nonpartisan elections (such as ballot questions, bond elections) may be considered to achieve compliance with the Voting Rights Act.

- a) The group does not explicitly support banning the use of partisan data to evaluate a redistricting plan (after it is drawn) to see whether it favors any incumbent or political party.
- b) The group explicitly supports this solution (of banning partisan data) over any criterion calling for competitiveness.

Rationale: Allowing partisan data to be used has enabled biased redistricting and demonstrates the legislators picking their voters instead of the other way around. Prohibiting the use of partisan data reduces the opportunity for maps to be drawn that would favor any incumbent or political party. This recommendation would align New Mexico with other states that prohibit the use of partisan data in redistricting, including California, Montana, Iowa, and Nebraska.

Consensus Percentage: 100%

RECOMMENDATION 3: USE OF TRADITIONAL PRINCIPALS WITHOUT FAVORING PARTIES OR INCUMBENTS

Districts shall be drawn consistent with the traditional districting principles but must not be drawn to favor a political party or incumbent officeholder.

- a) The group places a high priority on this criterion. We rank it after criteria such as equal population and following the Voting Rights Act, but before criteria such as compactness, contiguity, and communities of interest, or possibly preserving cores of existing districts.
- b) Demonstration of following these criteria would do the most to ensure fairness and increase trust by the public.

Rationale: According to "[A History of Redistricting in New Mexico](#)," by Gwyneth Doland and commissioned by *New Mexico In Depth*, "Many observers describe New Mexico's process as one that effectively allows incumbents to tailor their districts to suit their political base." But the public wants voters to choose their legislators, instead of the other way around, as evidenced by comments collected in the 2020 New Mexico Redistricting Survey, conducted by the [UNM Center for Social Policy](#).

Consensus Percentage: 93%

RECOMMENDATION 4: RACIAL, ETHNIC, LINGUISTIC, AND CULTURAL DIVERSITY

Racial, ethnic, linguistic, and cultural diversity shall be assessed to prevent the dilution of representation from communities of interest. Protections available under the Voting Rights Act to reduce dilution of participation from racial, ethnic, and language minorities shall be reviewed with greater scrutiny when drawing districts.

- a) In NM, underserved areas or histories of racial gerrymandering shall be reviewed with more scrutiny when drawing districts.
- b) The extent to which race, ethnicity, and language group is frequently co-extensive with discernable geographical areas receiving different outcomes regarding the economic opportunity, health, and education that can constitute communities of interest must be thoroughly evaluated for compactness under the Voting Rights Act in the redistricting process.
- c) Since Voting Rights Act compliance is perennially at the root of all recent redistricting litigation, whoever re-draws districts shall have the racial balance of districts assayed by experienced advisors before a vote finalizing the districts.

Rationale: Current redistricting guidelines are more flexible than they should be, both in their allowing factors to be considered that are not defined by citizens' characteristics (e.g., allowing the consideration of incumbency in redistricting) and being mostly non-binding as not carrying statutory authority. Given the rich racial, ethnic, language, and cultural makeup of New Mexico, a more rich and dynamic understanding of race is necessary to give full voice to racial minority groups to give them equal access to competitive power for their votes. This understanding should be codified by statute and binding on all redistricting processes.

Consensus Percentage: 86%

RECOMMENDATION 5: SELECTING AMONG COMPETING MAPS

If competing maps, a) do not exceed justified population deviations, b) satisfy the Voting Rights Act, and c) preserve communities of interest, the map that satisfies compactness based on one of the following measuring approaches shall be adopted.

- a) Length-width compactness: The compactness of a district is greatest when the district's length and the width of the district are equal. The measure of a district's compactness is the absolute value of the difference between the district's length and width. In general, the length-width compactness of a district is calculated by measuring the distance from the northernmost point or portion of the boundary of a district to the southernmost point or portion of the boundary of the same district and the distance from the westernmost point or portion of the boundary of the district to the easternmost point or portion of the boundary of the same district. The absolute values computed for individual districts under this paragraph may be cumulated for all districts in a plan to compare the overall compactness of two or more alternative redistricting plans for the state or a portion of the state.

- b) Perimeter compactness: The compactness of a district is greatest when the distance needed to traverse the perimeter boundary of a district is as short as possible. The total perimeter distance computed for individual districts under this paragraph may be cumulated for all districts in a plan to compare the overall compactness of two or more alternative redistricting plans for the state or for a portion of the state.

Rationale: This language on compactness is almost verbatim from SB 416 of 2019. Many states require compact districts, although few define the term. Compact districts reduce travel for voters and elected officials and make it easier for voters to know what district they live in. Any limit on redistricting reduces the potential for biased plans, although a compact shape is no guarantee against gerrymandering. Although more than 30 types of measures are possible to evaluate districts' compactness, the measures recommended here have a couple of advantages: 1) They are understandable and roughly measurable by laypeople without special tools. 2) They cover two different kinds of compactness - dispersion and smoothness. But compactness is not a priority, according to the [Brennan Center for Justice](#).

Consensus Percentage: 92%

RECOMMENDATION 6: FUTURE CONSTITUTIONAL AMENDMENT

After the completion of this 2021 redistricting cycle, pursue a constitutional amendment to create a permanent redistricting process that is independent of the legislature.

- a) Options include, but are not limited to, an Independent Redistricting Commission (generally populated by appointees), a Citizen Redistricting Commission (generally populated by voters who apply to serve), or a structure based on the Iowa redistricting model (where it is done by staff).
- b) Use lessons learned from the 2021 process to inform the amendment.
- c) A separate task force could consider structural options in 2022 to amend the New Mexico Constitution to remove legislative authority over the redistricting process permanently.

Rationale: Greater independence from the legislature increases public confidence in a fair, open, and impartial process.

Consensus Percentage: 87%

Modest Reforms

The following recommendations for 2021, if adopted, would comprise modest changes to the redistricting process used a decade ago. These items offer adjustments to existing guidelines or practices used in 2011.

RECOMMENDATION 7: POPULATION FOR OTHER DISTRICTS

Legislative and Public Education Commission districts should be as close to equal population as possible. The Legislature shall justify any deviation from ideal population.

- a) Allowable justifications include Voting Rights Act considerations.
- b) Allowable justifications also include state policies taking into account indigenous sovereignty and populations, communities of interest, the integrity of governmental subdivisions, geographic barriers, and features, and preserving the cores of existing districts, as defined and prioritized by the Legislature.
- c) In no case shall deviations exceed plus or minus 5%.

Rationale: The primary goal should be as close to the ideal population as possible. In the interest of transparency, the legislature should explain to the people of New Mexico why it chose a population deviation.

Consensus Percentage: 100%

RECOMMENDATION 8: USE OF DATA

Congressional districts shall be drawn using the most recent federal decennial census data generated by the U.S. Bureau of the Census. Other districts will also be drawn using the most recent Census data, and that data may be complemented by other sources.

- a) Potential sources of complementary data may include [ESRI Business Analyst population forecast data](#) (based on the Census Bureau's American Community Survey) and small-area population estimates from Geospatial and Population Studies at the University of New Mexico. GPS houses the state demographer, and ESRI is a leading international software vendor for GIS or geographic information systems.
- b) Pending identification of other verifiable, reliable, replicable data sources that have been successfully used for other demographic purposes, those sources may be used to complement Census data in communities that have experienced a count below the reported 2010 Census Data. Any complementary data sources used must be accessible to governmental and non-governmental redistricting stakeholders and used to address limitations to Census data.

Rationale: The U.S. Constitution requires congressional seats to be based on the decennial census, and that data is also normally used for all other redistricting. But the accuracy of the 2020 Census is questionable for at least two reasons: 1) The coronavirus pandemic hurt survey collection. 2) To protect

the confidentiality, the Census Bureau is injecting "noise" (inaccuracy) into the data. This is called "differential privacy."

Consensus Percentage: 100%

RECOMMENDATION 9: CONTIGUOUS DISTRICTS

Districts shall be composed of contiguous territory. Areas that meet only at the points of adjoining corners are not contiguous.

- a) This recommendation defines what is *not* contiguous in an effort to ban creating districts that might follow the letter of a contiguity requirement without following the spirit.
- b) For example, by the definition proposed here, only two of the Four Corners states would be contiguous with New Mexico: Arizona and Colorado. Utah would not.

Rationale: Districts are required to be contiguous in all but a handful of states. Contiguous districts make travel across the district easier for elected officials and voters. Requiring contiguous districts respects communities of interest and limits the potential for biased districts.

Consensus Percentage: 93%

RECOMMENDATION 10: UNITS TO DRAW DISTRICTS

Districts may be drawn using precincts and smaller units.*

- a) Amend NM Statutes Section 1-1-11. We recommend a bill that makes the following amendment to Section 1-1-11: "As used in the Election Code, 'precinct' means a designated division of a county for election purposes."
- b) Other units that might be used instead of precincts are precinct parts and Census blocks.

Rationale: Smaller units allow state legislative districting plans that achieve smaller population difference margins across state legislative districts. On the Navajo Nation, for instance, precincts may overlap with the Navajo subdivisions of chapters. Thus, in the past, voters have been required to visit two different polling places to vote. The group thinks districts are generally best when the lines do not cross-governmental subdivision, tribal or otherwise.

*** NOTE:** While there was broad support for this recommendation, the task force received contradictory interpretations about the permissibility of using units of measurement such as precinct parts or Census blocks to build legislative districts. As used in the Election Code, "precinct" means a designated division of a county for election and redistricting purposes" according to the current New Mexico statute, NMSA 1978, Section 1-1-11. Precinct. (2019)

Consensus Percentage: 100%

RECOMMENDATION 11: COMMUNITIES OF INTEREST AND GOVERNMENT SUBDIVISIONS

Districts shall avoid splitting communities of interest, which are defined as contiguous populations that share common economic, social or cultural interests. In addition, when feasible, districts shall minimize the fragmentation of governmental subdivisions.

- a) Communities of interest often but not always correlate with governmental subdivisions. So those subdivisions should be considered, but with a lower priority than the actual community.
- b) Governmental subdivisions, as used here, also includes those of Native American nations.

Rationale: For an elected official to be effective, they should represent a district with a reasonable homogeneity of needs and interests. Otherwise, the policies the representative supports will not represent the preferences of most of his or her constituents. Preserving communities of interest also encourages more public input because this is a more-qualitative criterion and residents can give critical comments that officials might otherwise overlook.

Consensus Percentage: 93%

RECOMMENDATION 12: PUBLIC INPUT

Require the collection of public input through, at minimum, hearings and online comments.

- a) Regional hearings that abide by public health regulations should be held after the public mapping process has ended so that people can comment on the maps submitted by organizations, as well as those developed for the Legislature, and hearings should be conducted around the state in at least six locations including a mutually agreeable location for Tribes and Pueblos, the four quadrants, and central New Mexico.
- b) Public comments should also be accepted online about the process in general and about specific maps.
- c) Comments should be aggregated and summarized by a trusted, independent entity and released to the public.
- d) Lawmakers must give public comments honest consideration.

Rationale: In the past, some people believed that the public hearings were held, but the input received was subsequently ignored. The approach above would support the authenticity of voter input and increase the public's level of access. It would also address the reality that some New Mexicans do not have reliable internet, so they would need in-person hearings to share their ideas.

Consensus Percentage: 100%

RECOMMENDATION 13: OPEN MEETINGS

During the special legislative session on redistricting, hold all hearings and meetings in public.

- a) Lawmakers should adhere to the principles of the New Mexico [Open Meetings Act \(OMA\)](#) during their deliberations.
- b) Announce meeting times in advance on the redistricting website and other communication vehicles.

Rationale: Openness and transparency strengthen public confidence in the legitimacy of governance.

Consensus Percentage: 88%

RECOMMENDATION 14: WEBSITE AND MEDIA OUTREACH

Establish a website and media outreach strategy to keep the public well informed.

- a) A public website should announce all relevant information, including deadlines, criteria, public hearings, relevant committees, boards, etc., and would preferably stand-alone rather than nested on <https://www.nmlegis.gov/>.
- b) The redistricting process should include a strong outreach element, advancing the goals of public inclusion and transparency. Where possible, it could include media partners (such as local television and radio stations) that can tailor communication for their audiences or other regional entities with outreach capability (such as regional education co-ops or chambers of commerce).
- c) The media and public outreach should be disseminated by a neutral entity, rather than the Legislature or its staff.

Rationale: Communication with the public has, in previous redistricting cycles, seemed to many people to meet only minimum requirements (a "check the box" function). It was organized around the needs of the Legislature, its staff, or contractors. By contrast, this recommendation suggests that public communication should be organized around the public's needs, thus deploying an easy-to-use (and find) website, media partners in people's local communities, etc.

Consensus Percentage: 93%

RECOMMENDATION 15: FUNDING

Require public funding for redistricting efforts. The task force also encourages nonpartisan/private funding for additional activities to engage the public.

Examples of items that might require funding include, but are not limited to:

- a) Educational meetings around the state on how to draw maps, including tutorials on available software and criteria for doing so;

- b) Public mapping contests among students or members of the public; and
- c) Contracts not funded by the state, possibly including the map-scoring vendor described above, the public website, or the media outreach functions.

Rationale: Public and private investments in good governance efforts increase the capacity of all stakeholders to learn about and contribute to redistricting efforts. These efforts mitigate critiques and concerns that politicians choose their voters rather than voters choosing their policymakers.

Consensus Percentage: 100%

Status Quo

The task force recommends that the following guidelines, utilized in previous redistricting cycles, remain essentially the same.

RECOMMENDATION 16: POPULATION FOR CONGRESSIONAL DISTRICTS

Congressional districts shall be as equal in population as practicable.

Rationale: The [United States Supreme Court in Karcher v. Daggett, 462 U.S. 725, 732-33 \(1983\)](#) held that population equality is the paramount objective of apportionment for congressional districts. The court stated:

Precise mathematical equality, however, may be impossible to achieve in an imperfect world; therefore, the "equal representation" standard is enforced only to the extent of requiring that districts be apportioned to achieve population equality "as nearly as is practicable."

"[T]he 'as nearly as practicable' standard requires that the state make a good-faith effort to achieve precise mathematical equality. Unless population variances among congressional districts are shown to have resulted despite such effort, the state must justify each variance, no matter how small." (citations omitted).

Consensus Percentage: 95%

RECOMMENDATION 17: SINGLE-MEMBER DISTRICTS

All redistricting plans shall use only single-member districts.

Rationale: The New Mexico Constitution would have to be amended to allow for multiple-member districts. Article IV § 3B provides that the "Senate shall be composed of no more than 42 members elected from single-member districts." Article IV §3C provides that the "House of Representatives shall be composed of no more than 70 members elected from single-member districts." Single-member districts are largely the norm. There are only four states with multi-member house districts and one state with a senate multi-member district.

Consensus Percentage: 87%

RECOMMENDATION 18: PRESERVATION OF EXISTING DISTRICTS

Provided that previous redistricting criteria are followed, new districts shall preserve cores of existing districts.

1. This criterion is explicitly ranked lower than that of not favoring any political party or incumbent.

Rationale: Maintaining cores of existing districts promotes continuity of representation, which helps voters.

Consensus Percentage: 86%

Additional Ideas

Minority Positions

The following recommendations were drafted but did not reach the 85% threshold for consensus.

ADDITIONAL IDEA 1: PUBLIC MAPPING

Formally include, and authentically consider, redistricting maps submitted by the public using an online map-drawing tool.

- a) Accept only maps that are developed by coalitions and other organizations.
- b) Prioritize maps that represent multiple organizations or larger numbers of people.
- c) Require submitted maps to represent all districts throughout the state and adhere to state redistricting criteria; smaller "community of interest" maps could be submitted to coalitions for consideration.
- d) Require all maps to include a short write-up of the qualities of each map, explaining the main strengths or strategic decisions that were made during its development.
- e) Assign to an independent entity the role of evaluating the maps, using objective scoring methods.

Rationale: Online mapping tools make authentic public engagement more accessible than ever before. They can provide a clear and accurate role for voters in the redistricting process. However, if too many maps are submitted, they might not be given careful consideration because of volume. For this reason, the committee recommends limiting submitters of maps to be coalitions and other organizations (as is the policy in New York and California) and requiring statewide -- not partial -- maps (as is the policy in Utah). This approach would also support tribal coalitions joining together to develop maps.

Consensus Percentage: 60%

ADDITIONAL IDEA 2: COMPETITIVENESS

Only IF the Legislature continues to use partisan data in the redistricting process, competitive districts should be favored, where to do so would create no significant detriment to the other criteria.

- a) Competitiveness means districts have relatively even partisan balance among voters, including -- where appropriate to the population -- among independent and third-party voters.
- b) This criterion typically seeks to avoid the creation of "safe" districts for a particular party.

- c) This criterion would encourage more-moderate candidates and a greater diversity of candidates, thus giving more voice to the people.
- d) This criterion should be ranked below others, so that legal and equity issues like Voting Rights Act compliance, compactness, contiguousness, and protection of communities of interest take priority.

Rationale: According to the 2020 statewide survey conducted by the UNM Center for Social Policy, the public wants more political competitiveness. "The majority of New Mexicans polled prefer advancing political competitiveness in the creation of districts so that no single party has an advantage. In fact, nearly twice as many New Mexicans favor the use of objective criteria to draw new maps, even if that means some lawmakers might lose their seats or face greater competition." Additionally, roughly 24% of New Mexico voters are independent or members of a third party. Creating some competitive districts (in locations where it does not undermine other redistricting criteria), can increase the likelihood of independent voters and candidates having greater voice in the political process.

Consensus Percentage: 60%

ADDITIONAL IDEA 3: RANKING CRITERIA

All final redistricting criteria should be ranked.

This best practice advances clear guidance and decision-making transparency for situations when not all criteria can be met in a given area.

- a) Sample rankings are offered at A Better Way to Draw Districts by the [Brennan Center for Justice](#).
- b) Six states rank criteria, according to the 50 State Guide to Redistricting, also by the [Brennan Center for Justice](#).

Rationale: Clear ranking of criteria reduces the potential for manipulation. Trade-offs must be made during redistricting. A ranking allows greater understanding of why certain choices would be made. Structural options could be considered by a separate task force in 2022, with the aim of amending the New Mexico Constitution to permanently remove legislative authority over the redistricting process.

Consensus Percentage: 64%

Conclusion

Next Steps

The work of this task force is only the beginning. The members of this group worked diligently and ask that lawmakers and funders give authentic consideration to this report's recommendations.

Democracy only works if people trust it. As noted in the Guiding Values on p. 8, partisan gerrymandering, closed-door decision-making, or failures to protect marginalized groups should have no place in New Mexico's redistricting process. History cannot repeat itself in 2021. Instead, fairness and inclusivity must become the watchwords of this redistricting cycle.

In terms of immediate next steps, the task force identified the following activities:

- Taskforce members will act as ambassadors for the recommendations by sharing this report with their community, local media, and local policymakers.
- Merritt Allen, taskforce member, will develop a press kit for task force members.
- The task force members will support the advancement of legislation to adopt recommendations into law.
- The League of Women Voters, through their Fair Districts New Mexico efforts, have been funded to organize advocacy efforts.
- Senators Ortiz y Pino and Mark Moores will co-sponsor a bill to advance the task force's recommendations and seek their colleagues' support in the House of Representatives.
- Justice Chavez and Judge Kennedy, co-chairs of the task force, will work with legislative co-sponsors to develop a bill that reflects the task force recommendations.
- New Mexico First will release a press release and this report to the media, task force members, legislators, the executive branch, Pueblo and Tribal leaders, people who attended taskforce meetings as a guest, or who made public comment.
- New Mexico First will provide public education about the task force recommendations as part of its broader public policy and civic engagement priorities and share the full report with the legislative and executive branches of government and legislative staff.

The task force members hope these efforts will lead to lasting and trusted reform on New Mexico's redistricting process.

Appendix A

Meeting Videos, Presentations, and Resources

Meeting Videos

[Meeting Video 1: Orientation, October 5](#)

[Meeting Video 2: Redistricting Guidelines, October 19](#)

[Meeting Video 3: Mapping, October 26](#)

[Meeting Video 4: Public Engagement, November 9](#)

[Meeting Video 5: Voter Rights Act and Recommendations, November 16](#)

[Meeting Video 6: Redistricting in New Mexico, November 30](#)

[Meeting Video 7: Consensus Recommendations, December 7](#)

[Meeting Video 8: Consensus Recommendations, December 14](#)

Meeting Presentations Slides and Handouts

[N.M. Redistricting Presentation by Dr. Gabe Sanchez, October 5](#)

[Ben Williams, National Conference of State Legislatures-Guidelines, October 19](#)

[Patti Williams, Native American Redistricting Issues in New Mexico, October 19](#)

[Public Participation, Prepared by Jerry Howe, Utah State Legislature, October 26](#)

[Nina Perales, Vice President of Litigation, Mexican American Legal Defense, November 30](#)

Resources and Articles Members Were Encouraged to Read

[New Mexico Legislature Redistricting page](#)

[Obstacles at Every Turn, Barriers to Political Participation Faced By Native American Voters\(pages 19 and 155-125\)](#)

[Redistricting: A History of Redistricting in New Mexico-Executive Summary By Gwyneth Doland](#)

[Redistricting Law 2020-National Conference of State Legislatures](#)

[Redistricting Models-A Comparative Analysis Prepared for the New Mexico Legislature](#)

[All About Redistricting, Professor Justin Levitt's guide to drawing the electoral lines](#)

[Defining Communities of Interest in Redistricting Through Initiative Voting | Election Law Journal: Rules, Politics, and Policy](#)

[Redistricting: Differential privacy algorithm on census data-Native American and Hispanic Population](#)

[Redistricting: Problem with Census Data – Differential Privacy by Maureen Skowran](#)

Members were also asked to watch National Conference of State Legislatures Redistricting Videos on the following subjects.

- Redistricting Law Primer: Foundational Principles & Recent Developments
- Redistricting Criteria: Traditional and Emerging
- Developing a Dialogue: Public Input and Legislative Outreach
- Building in Bipartisanship into Redistricting
- Using Millions of Maps (and Statistical Tests) to Evaluate Plans