

# Redistricting NM 2021

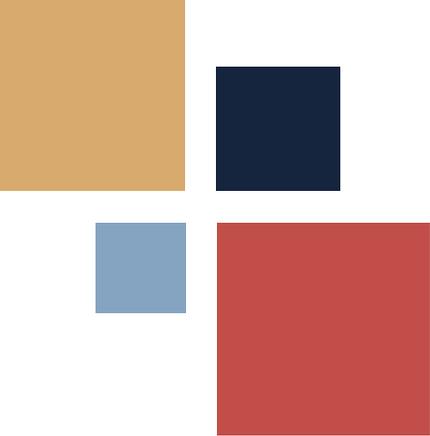
*A troubled history and  
opportunities for change.*

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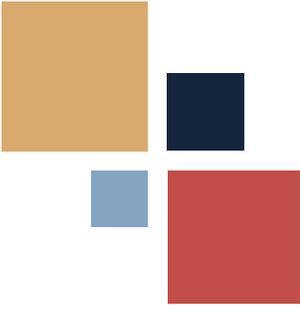
*Commissioned by New Mexico in Depth  
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## A Glossary of Terms

*Adapted and condensed from “A Guide to State and Congressional Redistricting in New Mexico 2011,” prepared by the Legislative Council Service*

**Apportionment:** The process of assigning the number of members of Congress that each state may elect following each census.

**At large:** When one or several candidates run for an office, and they are elected by the whole area of a local political subdivision, they are being elected at large.

**Census:** The enumeration or count of the population as mandated by the United States Constitution.

**Community of interest:** A community defined by actual shared interests, be they political, social or economic.

**Compactness:** Having the minimum distance between all the parts of a constituency (a circle is the most compact district). There are various methods of measuring compactness.

**Contiguity:** All parts of a district being connected at some point with the rest of the district and not divided into two or more discrete pieces.

**Deviation:** The degree by which a single district’s population varies from the “ideal” may be stated in terms of “absolute deviation” or “relative deviation.” Absolute deviation is equal to the difference between a district’s actual population and its ideal population, expressed as a plus (+) or minus (-) number indicating that the district’s population exceeds or falls short of that ideal. Relative deviation is the more commonly used measure and is attained by dividing the district’s absolute deviation by the ideal population.

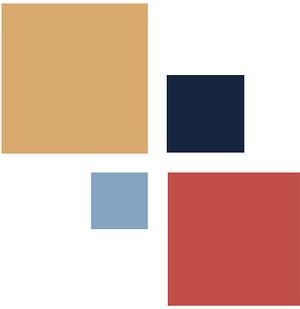
**Fracturing/fragmentation:** The splitting of an area where a minority group lives so that it cannot form an effective majority in a district; done for the purpose of minimizing the group’s voting strength.

**Gerrymander:** To draw districts in a way that gives one group or party an advantage over another.

**Homogenous district:** A voting district in which at least 90 percent of the population shares a common ethnic background.

**Ideal district population:** A population measure equal to the total state population divided by the total number of districts.

**Majority-minority districts:** A term used by the courts for seats where an



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ethnic minority constitutes a majority of the population.

**Method of equal proportions:** A mathematical formula provided by federal statute to reapportion congressional seats after each decennial census.

**Multi-member district:** A district that elects two or more members to a legislative body.

**Natural boundaries (visible boundaries):** District boundaries that are natural geographic features.

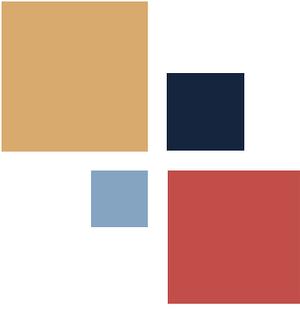
**One person, one vote:** The constitutional standard established by the Supreme Court mandating or directing that all legislative districts should be approximately equal in population.

**Packing:** A term used when one group is consolidated into a small number of districts in a districting plan. Drawing a minority-controlled district with an excessively high percentage of a minority population “wastes” the additional people who could increase the minority population of another district.

**Reapportionment:** The allocation of seats in a legislative body (such as Congress) among established districts (such as states) where the district boundaries do not change but the number of members per district does.

**Redistricting (districting):** The drawing of new political district boundaries.

**Voting Rights Act of 1965:** The federal law prohibiting discrimination in voting practices on the basis of race or language group.



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## Executive Summary

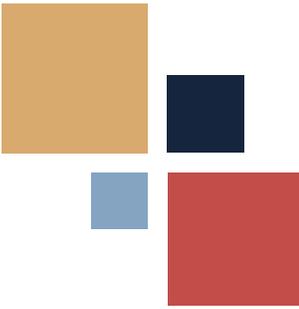
Adjusting district boundaries and reallocating representatives for them is a task performed by all democratic countries. Because of the conflicts of interest involved in having legislators do this job, [most democracies](#) have assigned it to independent, nonpartisan commissions. Not so in the United States, where states have been given much free rein to tackle redistricting as they see fit. Reform advocates argue that Congress should pass new rules that would apply to all states—[requiring transparency measures](#), instituting independent commissions or creating a new agency to provide oversight—but acknowledge that it's unlikely to happen.

Redistricting determines the future of New Mexicans and the 112 members of the Legislature, many of whom will be participating in the process for the first time. In New Mexico, state legislators are relatively unencumbered by rules concerning redistricting, and because of, or in spite of, that liberty, the state has rarely accomplished the task without struggle, chaos, litigation and great cost to taxpayers.

New Mexico's struggles are not uncommon, according to a 2012 [data-driven analysis](#) of all 50 states conducted by the Center for Public Integrity, which described redistricting as “notoriously opaque and politically-tainted in many states.” As far as the federal government is concerned, states can conduct redistricting however they like, as long as they abide by [two federal rules](#): districts have to be equal in population, and the process can't dilute the voting strength of ethnic and racial minorities by “packing” them all into one district or “cracking” their communities into so many pieces that their votes effectively don't carry as much weight as others'. Beyond that, each state creates a set of legal requirements it must follow when redrawing districts. New Mexico has relatively few.

This report asks how New Mexico might best prepare to undergo redistricting with integrity, looking back at history and forward at success stories from here and beyond. Commissioned by the nonprofit news organization New Mexico In Depth, and funded by the Thornburg Foundation, it is intended to help voters, journalists, students and elected officials prepare for the upcoming task. It was compiled using court records, news accounts, politicians' memoirs, academic papers, census data, legislative records and policy reports. That historical information was augmented by long-form interviews conducted with two dozen current and retired lawmakers, academics, demographers, attorneys, activists and public employees who have had firsthand experience with redistricting dating back more than 40 years.

The report shows that redistricting in New Mexico is marked by several factors:



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### **Decisions Made Behind Closed Doors**

In New Mexico, lawmakers don't have to explain their reasons for changing district lines, as lawmakers in California and Iowa must. And legislators here can make unlimited changes to maps, without any requirement that the maps be posted for the public to see before a vote. In contrast, five states have advisory commissions or nonpartisan staff draw publicly available maps and present them to lawmakers for approval, usually by an up-or-down vote. Utah requires that its advisory commission submit its maps 10 days before a legislative vote. New Mexico law does not require public access or input into the redistricting process, nor does it allow the public to submit maps for consideration, although in recent years the Legislature has posted much redistricting information online and held a series of public hearings around the state (not webcast). During the legislative session, there is very little public debate over maps before they are brought to final votes. Critics say the state's transparency efforts are well-intentioned but ineffective, because the bulk of the decision-making and debate over redistricting happens in caucus meetings, the closed-door gatherings of Democrats and Republicans during the legislative session.

### **Advantages for Incumbents**

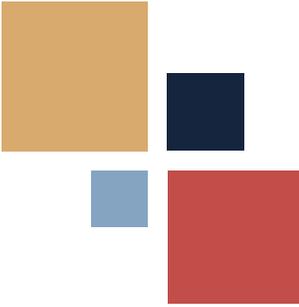
New Mexico's system privileges sitting lawmakers and limits competition by favoring incumbents in redistricting laws and guidelines, and by lacking structures or laws that would limit secrecy and politicization. Fifteen states have prohibited favoring incumbents in redistricting, but New Mexico law explicitly states that lawmakers can consider the location of an incumbent's house when drawing maps, and it is common practice for sitting lawmakers to make sure whatever happens, they're not drawn out of their districts. New Mexico is also one of a minority of states where lawmakers can draw maps based on the goal of not pitting one incumbent against another. Many observers describe New Mexico's process as one that effectively allows incumbents to tailor their districts to suit their political base.

### **Vulnerability to Partisan Manipulation**

Partisanship and incumbency are dueling forces in the redistricting process, but as maps move forward toward final passage and signing, the impact of politics increases as legislative leaders and the governor jockey for advantage. Outside pressure to achieve a political majority in the Legislature and gain advantage in congressional districts can be acute. Unlike 16 other states, New Mexico does not prohibit favoring one party in the process. Five states have banned using partisan data in redistricting, while New Mexico has not. The process can create districts that are progressively safer and safer for one party, disenfranchising voters who live in those districts but don't support that party.

### **A History of Racial and Ethnic Discrimination in Voting and Redistricting**

Hispanic and Native American voters have long faced legal, institutional and cultural barriers to the political process, and the state has repeatedly been

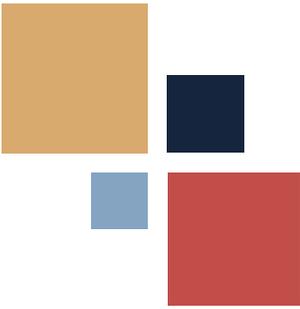


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sued for violating minority voting rights. In the 1990s the state was required to submit all redistricting plans to the federal Department of Justice. Despite that oversight, the DOJ still flagged evidence of potential “cracking” of Hispanic communities in southern New Mexico and forced the state to redraw several districts in 1991. In recent redistricting sessions, representatives of minority voters have been invited to give input into the process, and today New Mexico’s top elected officials are, as a group, among the most diverse in state history, but still more Anglo than the state. While New Mexico has made progress on equality in redistricting, courts have recognized that when lawmakers favor incumbents, [communities of color may pay the price](#).

### **Conclusions**

Political squabbling has derailed redistricting in New Mexico since territorial times, but in recent decades things have gotten worse. The state faces a more highly charged environment going into the next round of redistricting—which it will likely do with single-party rule for the first time in decades. Other states that have experienced similar negative consequences have made significant changes to the way they redistrict. The report does not recommend any specific policy proposals but does present evidence that it is possible to make changes to improve fairness, mitigate partisanship, improve competition and limit litigation.



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## Introduction

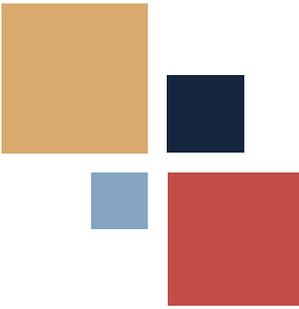
With the potential to dramatically shift power, the once-a-decade redistricting process puts a lot at stake for states, elected officials, political parties, communities and voters. Most states have lawmakers conduct the process, while a few, burned by past abuses, have established commissions or introduced checks on lawmakers' power, to ensure fairness. In New Mexico, state legislators are comparatively unencumbered by rules concerning redistricting, and because of, or in spite of, that liberty, the state has rarely accomplished the task without struggle, chaos, litigation and great cost to taxpayers.

New Mexico's struggles are not uncommon, according to a 2012 [data-driven analysis](#) of all 50 states conducted by the Center for Public Integrity, which described redistricting as "notoriously opaque and politically-tainted in many states." The process of redistricting can be used to make sure minority residents have virtually no ability to elect a candidate of their choice; to give one party vastly many more elected officials than the statewide vote would suggest; and to all but ensure the reelection of incumbents so that they become responsive only to the voters who already liked them. On the other hand, the process can create opportunities for underrepresented communities to elect diverse candidates, making elected bodies more diverse in terms of race, ethnicity, age, gender and party.

As far as the federal government is concerned, states can conduct redistricting however they like, as long as they abide by [two federal rules](#): districts have to be equal in population, and the process can't dilute the voting strength of ethnic and racial minorities by "packing" them all into one district or "cracking" their communities into so many pieces that their votes effectively don't carry as much weight as others'. Beyond that, each state creates a set of legal requirements it must follow when redrawing districts. New Mexico has relatively few.

The Land of Enchantment is among the 36 states in which legislators draw their own districts, and among the 41 in which they draw the lines for congressional districts. The governor usually calls a special session that lasts about a week in the fall of the year the census numbers are released. This presents lawmakers with a once-a-decade opportunity to strengthen their own political advantage—but it also poses serious risks. For example, take California history. After 50 years of outright warfare over redistricting, incumbents of both parties in the California Legislature decided in 2001 to cooperate. They cooperated so well that in the next election, every single incumbent was reelected by a nearly 20 percent margin. Voters [responded with a ballot initiative](#) that took redistricting power away from them and handed it to a tightly structured independent commission.

The 2021 redistricting cycle approaches as advances in technology have made it easier than ever to manipulate map-drawing in ways that are invisible to the average citizen. We know from decades of studies and lawsuits from coast to



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coast that self-interest prevails when there are no bulwarks—commissions, laws, guidelines, pre-clearance requirements—in place to prevent it.

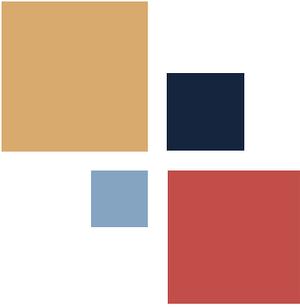
After the 2010 census, legislatures in seven states used extreme partisan gerrymandering to gain an advantage of at least 16–17 seats in Congress, according to a [2017 analysis by the Brennan Center](#) for Justice at the NYU School of Law. In those seven states, Republicans held single-party rule over the legislature and the governor’s office. Democrats also seized partisan advantage in smaller states with single-party rule, but with fewer seats at stake the gains were far fewer.

In October, the National Conference of State Legislatures presented a seven-state analysis of redistricting mechanisms to the New Mexico Legislature’s Interim Courts, Corrections and Justice Committee. It showed that, compared with Arizona, Colorado, Utah, Washington and Iowa, New Mexico has fewer guidelines and requirements built in. Nationwide, New Mexico is among a group of states that redistrict using a short list of simple criteria, while a growing list of states, responding to public outcry, have begun adopting “[emerging](#)” criteria. These include prohibitions on the use of partisan data or favoring an incumbent or party. Others require that districts be competitive or that the number of seats a party gets must correspond with that party’s share of the statewide vote.

“New Mexico has slightly more rules than Nevada, which is the state with the fewest,” says [Justin Levitt](#), a professor at Loyola Law School who has done extensive research on redistricting. Nevada, he says, is the only that that doesn’t require that districts be composed of land that is all connected, or contiguous. “So in Nevada, if you wanted to draw a district that looked like a smiley face, you absolutely could. New Mexico goes farther than that,” he says. But not much.

During the past two redistricting cycles, in the 2000s and 2010s, booming population growth demanded major changes to district boundaries in New Mexico—the state’s population [grew by nearly 40 percent](#) from 1990 to 2015. Each time, control of state government was split between a Democrat-controlled Legislature and a Republican governor, but Democrats’ intra-party tensions contributed to the friction. Both times, the Legislature failed to pass some plans, the governor vetoed most of the rest, the process ended up in court, judges picked the final maps and taxpayers paid millions of dollars in attorneys’ fees. Both times, editorial pages [criticized](#) the process as an expensive fiasco.

In 2021, New Mexico will likely conduct redistricting under single-party rule for the first time in 30 years. In 2018, Democrat Michelle Lujan Grisham was elected governor, and [Democrats concentrated their control](#) of the state Legislature, gaining a 46–24 edge in the House and a 25–16 advantage in the Senate. Experts say it’s unlikely the 2020 general election will flip control of either body. Though good-government groups and some lawmakers have tried for years to reform the process, legislation proposing changes has repeatedly failed, and those who have sponsored independent commission bills say this development will make their challenge more difficult.



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The potential impact of single-party rule on redistricting was strengthened in June 2019, when the [U.S. Supreme Court ruled](#) that drawing political districts for partisan advantage—gerrymandering—is outside the jurisdiction of federal courts. The decision comes at a time when [public trust in government](#) is at a historic low point, contributing to an environment in which a cynical, mistrusting public sees all politicians as corrupt, with little to stop them from ensuring their own success while marginalizing the public.

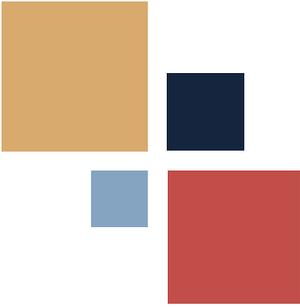
Nationally, Republicans largely dominated redistricting in 2011, solidifying control over state legislatures and increasing seats in Congress, but Democrats have announced their intentions to strike back in 2021. Obama administration Attorney General Eric Holder [formed the National Democratic Redistricting Committee](#), a well-financed group attempting to erase Republican control over redistricting state by state by pouring money into elections, and, in the absence of Supreme Court review, [taking the fight against gerrymandering to state courts](#), where the group has found early success.

In the past, the public may have paid some attention to the results of redistricting, but rarely to the process, which has heretofore enchanted only the most serious wonks, but the contentious 2016 election and recent Supreme Court decision succeeded in piquing public interest. That will be vital if the system's shortfalls are to be addressed.

There have been some signs of early interest. The state League of Women Voters began meetings about 2021 redistricting more than two years ahead. And community groups have begun to organize. “We view this as an opportunity to do things differently and bring transparency to the process,” says Oriana Sandoval, the CEO of the Center for Civic Policy in Albuquerque. She wants to engage the public in drafting a list of priorities for redistricting long before the lawmakers meet and vote on final plans. “We’re starting to organize now so we can learn the tools to draw our own maps and say to them, based on our principles, these are maps that we can get behind that build a fair, representative democracy.”

Redistricting will likely not be one of the issues that occupies cable news commentators or generates sensational headlines, but it is the string that ties each American directly to the people who have the power to shape their lives. We hope this report will feed the engine of public engagement and encourage New Mexicans to join in discussion over the issues it raises, become active in their communities and make informed decisions as we move forward.

“If people understood more about how much power and ultimately money this process is going to result in, they might get more interested,” says Jim Williams, an NMSU professor and contract demographer who worked on redistricting in the 1980s and 1990s.



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## Decisions Made Behind Closed Doors

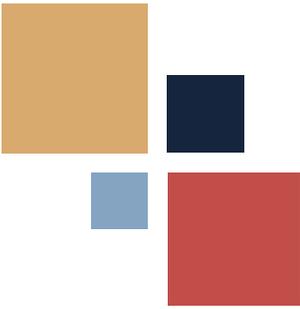
In 2012, New Mexico earned a respectable grade of B-minus on its redistricting process, according to a report by the [Center for Public Integrity](#), largely because of its efforts at openness through public hearings and access to information. The New Mexico Legislature is not required by law to hold public hearings specifically on redistricting plans, or to take public input on them, but during the past two cycles it has held more meetings than most states, in a geographically diverse set of locations. But public access at this level isn't a reliable measure of the integrity of the process. As the CPI report noted in 2012, several states had increased transparency and public access over the previous decade, "but even if the state goes through those motions, it does not guarantee the public commentary will be taken into account in the final map." Observers say that is what happens here.

In the spring and summer of 2001, the committee held 14 public meetings around the state, at which [a total of about 100 people testified](#). For a variety of reasons, the impact of the meetings is limited. Members of the Interim Redistricting Committee may be well-intentioned, they may listen attentively as members of the public give their feedback and they may advocate for changes that members of the public have suggested. "The problem is that when you get to the [redistricting] session, the public is closed out more than even in a regular session," says former state Sen. Dede Feldman. "There's less access, it's off-season, the press corps isn't as assembled as usual, the lobbyists aren't there, there are fewer eyes all around, and it's mainly hashed out in the caucuses, which aren't open anyway."

Though idealists may consider it a civic duty to participate in redistricting, in reality it can be hard to blame the public for not taking time off during a workday to drive down to the community center and talk about maps. "Yeah, hearings get conducted. It's a boring topic. Ten people show up," acknowledges Jim Williams, an NMSU professor and contract demographer who worked on redistricting in the 1980s and 1990s. It's also possible that the public has little faith that their participation could change anything.

*"We came in, the Democrats went into caucus for three or four days, then they came out and said, 'Here's our districts, everything left is yours.' [If the Republicans had been in power at the time,] we would have done the same thing." —Sen. Stuart Ingle*

Former state Sen. Rod Adair, a Roswell Republican and demographer who has participated closely in several redistricting sessions, described meetings of the interim committee as "a dog and pony show." (Three other sources described committee meetings using that exact same phrase.) "They don't mean anything," he says. "What means something is the battles they have in the House and Senate caucuses. That's where redistricting will be decided."



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Members of the public are generally unaware of caucus meetings, the closed-door gatherings of Democrats and Republicans during the legislative session, although they have been at the core of the legislative process for many decades. Members may prepare for all-out partisan war over maps in their own chamber, but the two halves of the Roundhouse have generally agreed to draw their own lines and leave it at that. “It was always legislative courtesy that once the House hashed it out, the Senate wouldn’t mess with it,” Feldman says.

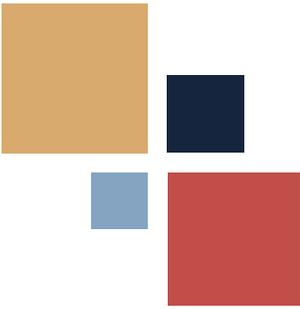
At the same time, the Legislature has made redistricting information more available online in recent years. In 2011, the Legislative Council Service created a [webpage](#) for redistricting information and posted the guidelines, some maps, committee reports and other resources. The “Do-It-Yourself Redistricting Files” gave the public access to data, although those with the expertise say the DIY files are, in practice, not accessible to the average person. But it can be done. [The Public Mapping Project](#), [Auto-Redistrict](#) and other websites already give regular folks the ability to draw their own districts. Missouri lawmakers voted this year to require that the state create an online portal where the public can access the maps, comment on them and even submit their own maps.

Other states have [pursued a variety of measures](#) that make public input more relevant. For example, eight states require that citizen-drawn maps be accepted and considered. And sometimes those maps are chosen. Lawmakers in Utah, which mandated an online submission portal, voted in 2010 to adopt a citizen-drawn plan for school board districts.

Although floor sessions and committee meetings are public, they are few and far between. In one redistricting session, Sen. Feldman recalls, “we would have very few floor sessions, and the only committee that ran was the Senate Rules Committee.” Committee and floor hearings are open to the public, but as of the early 2010s, the Legislature was not webcasting or archiving most of its meetings. Those meetings are now available online, but in 2019 interim committee meetings were still not uniformly webcast.

In order to increase public access to the proceedings, several states require public notice—from 24 hours to 20 days—before lawmakers vote on maps. That would be a major change in New Mexico, where there is no limit on the number of maps lawmakers can create. During the last days of the session, plans can be changed so frequently that lawmakers themselves lose track.

Allowing the public to challenge accepted plans without suing is another way to encourage integrity in the process. Twelve states allow citizens to ask the state Supreme Court to review plans, while others allow challenges through the referendum process. These reforms from other states provide plenty of models for potential changes to the broadly accepted status quo of leaving lawmakers alone to redraw district lines in private.



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Senate Minority Leader Stuart Ingle, now one of the longest-serving members of the Legislature, was new to the Roundhouse in the 1990s when he was introduced to how the process works: “We came in, the Democrats went into caucus for three or four days, then they came out and said, ‘Here’s our districts, everything left is yours,’” he recalls. If the Republicans had been in power at the time? “We would have done the same thing,” he says.

## Advantages for Incumbents

The odds are very good that a sitting member of the U.S. House of Representatives will be reelected; over the past half century, reelection rates have [rarely dipped below 90 percent](#). Lack of competition is a problem at the state level, too; [one-third of state legislators](#) faced no major-party competition in the 2018 elections. In the New Mexico House, [half of the candidates](#) had no major-party competition. Two years earlier, the New Mexico Legislature was rated one of the least competitive in the nation, according to an [analysis that rated](#) a combination of open seats, primary opposition and major-party competition. People who have participated in redistricting in New Mexico are clear about how it works: there are few restraints on an incumbent who chooses to put his or her interests above those of the voters.

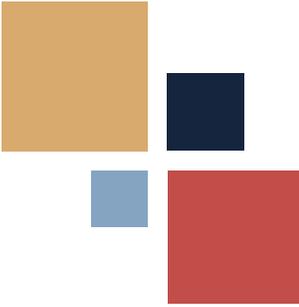
“The way New Mexico does redistricting is antiquated if not corrupt,” says Mark Moores, a Republican state senator from Albuquerque who served as chief of staff for Lt. Gov. Walter Bradley during redistricting in the early 2000s. “Once you’ve been there a couple decades, you get to pick your constituents, not the other way around,” he says. “If you don’t have to defend your votes in Santa Fe because you know you’re going to be reelected, then that’s not democracy.”

In New Mexico it’s possible that voters have developed relationships with their lawmakers and are happy to continue voting for them. It’s also possible that some of the lack of competitiveness in elections is intentional. In addition to following federal laws, New Mexico state legislators create specific criteria each time they

take on redistricting. In 2011, those [guidelines included](#) elements that have not always been achieved in the past but are now fairly standard: maintaining districts of equal population, not splitting precincts, preserving communities of interest, complying with the Voting Rights Act, using single-member districts and preserving the core of existing districts. The guidelines also allow legislators to intentionally avoid drawing districts

*“If you don’t have to defend your votes in Santa Fe because you know you’re going to be reelected, then that’s not democracy.” —Sen. Mark Moores*

that would pit one incumbent against another, and explicitly state that the Legislature “may consider the residence of incumbents” in drawing its districts.



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That’s important because “where the incumbent lives is a major factor in whether they’re going to vote for it [the plan],” Feldman says.

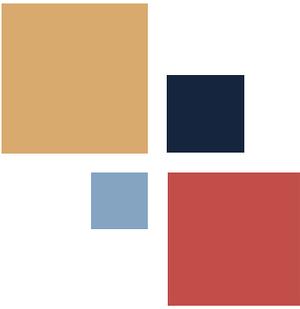
The appearance of a conflict of interest occurs even when lawmakers aren’t drawing their own districts. State legislators often face pressure to help their political allies by drawing favorable maps for congressional districts. For example, in 2011, then–New Mexico House Speaker Ben Luján presided over the redrawing of maps for the district held by his son U.S. Rep. Ben Ray Luján. (Similar situations also played out in Indiana and Michigan.) During the 2000s, the brother of a California congressman charged incumbent Democrats \$20,000 each for consulting services on their districts. As a result, not a single seat flipped parties, but California voters, fed up with what they saw as a system rife with corruption, responded by voting to turn over redistricting power to an independent commission.

New Mexico’s relatively few laws and criteria for redistricting represent a [traditional approach](#) to the task. In recent years 15 other states have noted the lack of competition in their elections and moved forward with new rules to prevent giving incumbents an unfair advantage through redistricting. Several prohibit favoring incumbents, while others go further and ban the use of partisan data—including a sitting lawmaker’s address.

“The Legislature has done many, many fine things. It has, in a bipartisan way, often set aside self-serving political interests to do something for the common weal. But when it comes to being reelected, that’s just human nature,” says attorney Joe Goldberg, who has represented minority voting rights in redistricting cases since the 1980s. Many people interviewed for this report described New Mexico’s redistricting method as an “incumbent protection plan,” but several also said it’s only natural that elected officials should want to stay in office.

Ironically, the Legislature can be extraordinarily bipartisan in times of divided government. “When Martinez was governor you had to have compromise and couldn’t have partisan overreach, so last time there was a real effort to strike a balance that both parties could agree on,” says Las Cruces Democratic Rep. Joseph Cervantes. “Behind the scenes there was an agreement of how many would be safe Democratic seats and safe Republican seats, and how many would be in play.” With Democrats in control of both houses in 2021, “there’s not going to be any effort to compromise with Republicans,” he predicts.

Incumbent protection has effectively meant protection of Democratic control of the Legislature, some Republicans argue, pointing to the fact that although New Mexico has elected plenty of Republicans to statewide office (Garrey Carruthers, Gary Johnson, Susana Martinez), the GOP has not held an outright majority in the Senate since 1932, and has held the House only twice since then, a [sore issue for some members](#).



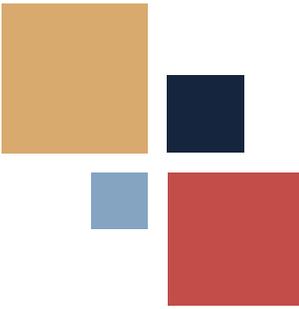
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Gerrymandering isn't the only negative outcome of redistricting; when lawmakers start with their own priorities, the bigger picture can get very complicated. For example, certain rural districts in the eastern part of New Mexico have been losing population for decades, but when redrawing boundaries, lawmakers must make sure all the districts have about the same number of residents. So if a significant number of people have moved out of one district, it will have to grow in geographic size in order to include the same number of residents. The official who represents it will need to take a bite out of his neighbor's district in order to maintain population. That's part of the story of [Senate District 39](#) as it was drawn in 2012, a topic that variously elicits eye rolls, grimaces or shrugs from those familiar with it.

In [2002](#), the district was an area covering heavily Hispanic northern mountain communities, moving east from the mountains of Taos, south through Mora to Apache Springs, east through Pecos and Galisteo, swinging through the south side of Santa Fe, then north to Los Alamos. Today it includes some of the same territory, but now the district includes the piñon-juniper rangeland of Torrance County and the tall pines of Lincoln County, plus housing developments near Belen, and one lone precinct in Bernalillo County. Former state Sen. Rod Adair, who used to represent part of Lincoln County, is intimately familiar with the demographics of the district. He describes it in positive terms as “almost semi-competitive” but argues that Democrats tacked on the southern, Republican-leaning parts to the Democratic northern districts in order to “neutralize Lincoln County.” It may not be gerrymandered, but it's certainly jerry-rigged, a patchwork quilt of six counties stitched together from other incumbents' scraps.

If criteria protecting incumbents are prioritized over others, it can tailor a district to the residents who already voted for the incumbent and are likely to do so again, and there may be other unintended consequences. In recent years lawmakers have tried to avoid infringing on the voting rights of ethnic and racial minorities, but the quest to preserve incumbency can disenfranchise communities of color. In an important 1990 redistricting case in California, a federal appeals court judge [described the dynamic](#):

*Protecting incumbency and safeguarding the voting rights of minorities are purposes often at war with each other. Ethnic and racial communities are natural breeding grounds for political challengers; incumbents greet the emergence of such power bases in their districts with all the hospitality corporate managers show hostile takeover bids. What happened here—the systematic splitting of the ethnic community into different districts—is the obvious, time-honored and most effective way of averting a potential challenge. Incumbency carries with it many other subtle and not-so-sub-*



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*the advantages ... and incumbents who take advantage of their status to assure themselves a secure seat at the expense of emerging minority candidates may well be violating the Voting Rights Act.*

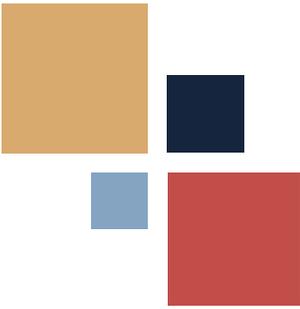
Major-party competition is often described as a goal of effective redistricting and an antidote to increasing political polarization. Candidates should have to work hard to listen to the people in their districts and be responsive to them, something they hypothetically don't have to do if their reelection is assured, reform advocates say. But competition can be difficult to achieve when pursuing other goals, including preserving communities of interest, creating compact districts and protecting minority voting rights.

States are increasingly trying to promote competition, but research is divided on whether shifting redistricting duties from lawmakers to commissions increases or decreases districts' competitiveness. While there is some evidence that incumbents strengthen their position during redistricting, other studies have shown that the process can hurt sitting lawmakers. In addition, there is doubt about how much reform could increase major-party competition, since Americans are increasingly [sorting themselves geographically](#) by choosing to live among like-minded people: liberals concentrate in cities and close suburbs, while conservatives gather in distant suburbs and rural areas. There may be one important factor at work: [researchers have noted](#) that incumbents' chances at reelection have decreased at the same time that the Voting Rights Act and other protections clamped down on gerrymandering.

## Vulnerability to Partisan Manipulation

The term "gerrymander," coined in 1812, reminds us that partisan interference in redistricting is nearly as old as the nation itself, but advances in technology have made manipulating the process now as easy as clicking a button. The vast amounts of data available to state lawmakers allow them to draw districts they can be virtually certain will deliver votes for them and their party. As former Sen. Dede Feldman says, "The whole process creates fewer and fewer swing districts, and the result is when you go into the session you have safe Democratic districts, and safe Republican districts, so what's the point of compromising?"

Among party leadership, the pressure to achieve a political majority in the Legislature and gain advantage in congressional districts can be fierce. State lawmakers feel acute pressure to limit the friction in their midst by continuing to ensure those majorities during redistricting. Legislators who are chosen by their peers for leadership positions are obligated to help reelect those peers and fight to hold or gain a majority. House and Senate leaders nominate members



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to the redistricting committee, mediate intra-party disputes over maps and negotiate with their counterparts. “The majority is more important than incumbents,” says Senate Minority Leader Stuart Ingle, R-Portales. No matter which party is in power, “they’ll certainly do the best job they can of redistricting for their majority, and that’s just the way it is.”

Although the governor technically doesn’t play a role in the legislators’ task, in practice, governors have a vested interest in increasing power for their party. Governors use the threat of a veto to exercise considerable influence. All these competing political obligations can make it impossible for lawmakers and the governor to agree. This is what happened during the last two redistricting cycles.

Historically, New Mexico has waged the most intense battles over redistricting during periods of divided government. Democrat Bruce King, who was governor during redistricting after the 1970, 1980 and 1990 censuses, courted the Democratic-controlled Legislature with a deferential approach. Remembered as a politician particularly interested in reaching compromise, he referred to state lawmakers as his board of directors. “Bruce King was a laissez-faire type of man,” the Legislature’s contract demographer, [Brian Sanderoff](#), told the Interim Redistricting Committee in 2001, warning them that things would almost certainly be different with Republican Gov. Gary Johnson, a political newcomer who vowed to shake things up in Santa Fe.

That year, a Johnson spokesman [was quoted as saying](#) that the governor would probably veto any congressional redistricting plan that threatened Republican Congresswoman Heather Wilson’s chances of reelection. A Washington, D.C., redistricting consultant had told the governor that control of the U.S. House could be determined by a handful of votes, including Wilson’s. After public opprobrium, Johnson [walked that back](#) and pledged to oversee a fair process.

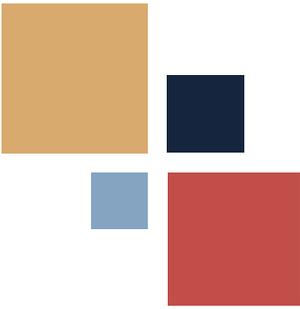
The political stakes for state lawmakers were particularly high during that cycle. The state’s population had [boomed by 20 percent](#) in the previous decade, [mostly around Albuquerque](#), while across a huge swath of the east side of the state, it shrank. In areas that didn’t experience an influx of people, districts would need to grow in order to contain the same population, meaning some

might be combined, pitting incumbents against each other and inevitably eliminating some. To complicate matters further, 2001 was the year that Democratic state Sen. Richard Romero allied with Republicans to unseat longtime power broker Manny Aragon as Senate president pro tem, breaking the Democratic caucus into bitter factions, as former state Sen. Dede Feldman has detailed in her memoir of the time.

Through the fall of 2001, Democrats and Republicans sparred fiercely over the maps for the

*“The whole process creates fewer and fewer swing districts, and the result is when you go into the session you have safe Democratic districts, and safe Republican districts, so what’s the point of compromising?”*

**—Sen. Dede Feldman**



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state's legislative and congressional districts. Several lawsuits were filed, and then consolidated into one. After the parties failed to come up with a compromise before a deadline set by District Court Judge James A. Hall, Gov. Johnson attempted to move one of the cases to federal court. A three-judge panel disagreed, and Johnson appealed to the U.S. Supreme Court but was denied, twice. Johnson then disqualified Judge Hall. The state Supreme Court assigned the case to state District Court Judge Frank H. Allen, Jr., and he presided over two trials, one right after the other. The final maps, approved in January 2002, made only minor changes to Democrats' plans, but the price tag for the drama was \$3.5 million.

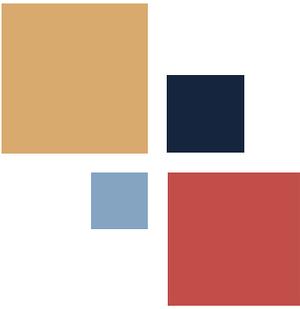
In 2011, Democrats held a narrow majority in the House and were riven by internal conflicts. The Legislature [failed to agree](#) on a congressional redistricting plan before the September special session ended. After extensive legal wrangling, the court adopted a compromise plan. Republican Gov. Susana Martinez, like Johnson, had taken [an aggressive approach](#) to the Legislature, vetoing plans for the state House and Senate, which she said unfairly benefited Democrats. The fight over the House map ended up in court, traveling all the way to the state Supreme Court.

There, the court found unacceptable partisan bias in the governor's plan. An order sending the case back to a lower court offered some comfort to those arguing for less politics in redistricting, [declaring](#) that "the goal of any plan should be to devise a plan that is partisan-neutral and fair to both sides" and directing the lower court to compromise on other factors to make it so. It also ordered, in cases where two districts needed to be consolidated, that the result should be "a district that provides an equal opportunity to either party." A plan was finally approved at the end of February 2012. The parties couldn't agree on a plan for the Senate, which was drawn by the judge.

Despite a court's demand for partisan-neutral redistricting in that case, politics is still a powerful driver of the process. House Speaker Brian Egolf puts it bluntly: "If my goal is to have clean air and clean water, increase education funding by 20 percent and protect a woman's right to choose, it's easier for me to do that when the Democrats are in the majority. So why would I make it harder for the Democrats to win? If I make it easier for Republicans to win, then I make it easier for them to ban abortion."

These concerns are echoed in Washington, where increased partisanship has slowed congressional activity to a crawl. "If your main goal is to get reelected, you don't have to compromise—just satisfy your base," Feldman says. "That's a recipe for gridlock, and that's what we've got. Policy-wise, we're just cutting off our nose to spite our face." Americans are acutely aware of this, [and surveys show they only expect it to get worse](#), deepening their dissatisfaction with government.

That said, there is evidence that reducing partisanship can make redistrict-



ing move more smoothly and be less likely to end up in court. In Colorado, a citizens' commission adopted plans for the state House and Senate, while the congressional plan was decided by the state Supreme Court. In Iowa, where nonpartisan staff draw the lines, lawmakers approved the first set of maps presented to them during the last cycle, and the governor signed them. In Washington, where a bipartisan commission crafts district lines, lawmakers made only minor changes to plans that were presented to them in 2000 and 2010.

During the next cycle, the public may gain more power to push back against partisanship as the [same data and tools](#) that allowed partisan gerrymandering now give the public the ability to evaluate lawmakers' maps—if they have time to look at them before the vote.

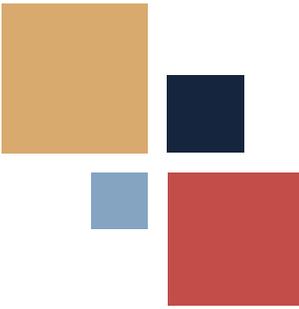
## A History of Racial Discrimination in Voting and Redistricting

New Mexico has long been a majority-minority state, but its top ranks of elected officials have never mirrored the population. In the 1960s, the state Legislature was more than three-quarters Anglo. Changes began in the 1960s and accelerated after the state was forced to address racial gerrymandering in the 1980s. Hispanic voters are increasingly engaged. Nearly half of the people who registered to vote for the first time in 2018 were Hispanic, [up 15 percent from 2014](#); and Hispanic voter turnout grew 45 percent from 2014 to 2018, outpacing growth by white voters. In 2018, New Mexico elected its second Latina governor. The Land of Enchantment is represented in the U.S. House by one Native American and two Hispanics, likely [the first-ever all-minority delegation](#) from a state its size. The state House has become [arguably the most diverse](#) it's ever been, with about half people of color (more than half women) and its

first Muslim representative, although the Legislature remains whiter than the state. Nevertheless, House Speaker Brian Egolf insists: "Racial gerrymandering does not exist in New Mexico."

*"We got maps that looked like what we wanted because they listened to us." — Teresa Leger de Fernandez*

During the 2011–2012 redistricting process, lawmakers took testimony from experts on how to avoid diluting minority voting rights and how to craft districts that would allow Hispanic and Native American voters, where possible, the ability to elect a candidate of their choice. A Native American Redistricting Workgroup representing the state's 19 pueblos, the Jicarilla Apache Nation and the Navajo Nation was invited to present recommendations to the Legislature. "Lawmakers seemed to have learned a lesson," says Teresa Leger de Fernandez, an attorney who represented several tribes and pueblos in redistricting and served on the board



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of the Mexican American Legal Defense Fund. It took some legal wrangling, but during the last redistricting, she says, “we got maps that looked like what we wanted because they listened to us.”

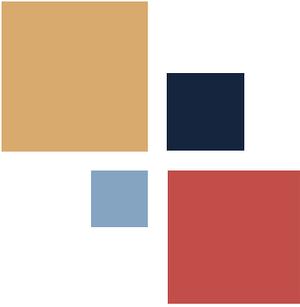
A review of New Mexico history shows that’s not how things have always been. Hispanic and Native American voters have long faced legal, institutional and cultural barriers to the political process, and the state has repeatedly been sued for violating the rights of both Native American voters in the northwest part of the state and Hispanic voters in southern New Mexico. The Department of Justice has [intervened many times](#) and required preclearance of redistricting plans.

Ineligible for citizenship and denied the right to vote, Native Americans were not counted in the [1850 census](#). The [1860 census](#) categorized more than 10,000 people as “Indians” living in the general population (but not on reservations), meaning at least 12 percent of New Mexicans had no official representation in the territorial government. In 1948, after being turned away from the polls, Isleta Pueblo member Miguel Trujillo Sr. [sued the state and won](#), seemingly securing voting rights for Native Americans in New Mexico. But obstacles to Native voting persisted, and it wasn’t until 1962 that another legal challenge prompted the state Supreme Court [to affirm](#) that Native Americans were in fact eligible to vote.

In 1965, in response to persistent, ever-evolving attempts by state and local government to disenfranchise voters of color, and by high-profile acts of violence against peaceful voting rights protesters, Congress passed the [Voting Rights Act](#). The law was intended to curb voter discrimination across the nation by ensuring enforcement of the Fourteenth and Fifteenth Amendments to the Constitution. The VRA banned literacy tests, initiated federal oversight of areas with a demonstrated history of discrimination and established that certain of these areas could not change any rules related to voting without “preclearance” from the U.S. Department of Justice or a federal court. From the state Legislature’s perspective, however, discrimination in redistricting was not a problem in New Mexico. According to a Legislative Council Service report from 1966:

*The job of allotting representation among the counties of the territory and the state has, at times, been circuitous and has, at times, been neglected. But viewed in the proper historical and social perspective, it was never flagrantly abused. It was never deliberately or systematically used, as in some states, as a weapon of discrimination against minority, racial or ethnic groups.*

It hasn’t always been obvious how much discrimination in redistricting was done on purpose and how much just happened to have that effect. “In some districts it’s been unintentional, or it happened because of any number of



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things,” says attorney Joe Goldberg, “but there were other districts where I didn’t have the slightest doubt that packing and cracking was on purpose.”

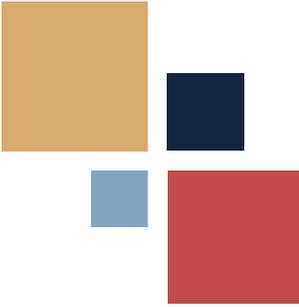
In the early days, redistricting in New Mexico was not precisely tied to census results, because the state and the Census Bureau used different types of maps. New Mexico precinct lines at the time were drawn along an untidy system of boundaries that were relevant to residents (such as highways, and section lines that mark square miles of land) but not to the Census Bureau, which required that precincts be drawn based on the formal and natural boundaries that delineate communities, such as city and county boundaries and mountain ranges. The Legislature tried several times to reconcile census population counts with voting precincts, but the boundaries didn’t match.

As a result of a lawsuit in the 1960s (*Cargo v. Campbell*) that struck down the state’s complicated weighted-voting plan, lawmakers had been allowed to count the number of votes cast in the last gubernatorial election and use that data to determine precinct populations. In Albuquerque, one area where they could verify the data, the “votes cast” method turned out to be relatively accurate. But as the Legislative Council Service noted in an official history of the events, lawmakers knew that in areas with low voter turnout, the method would likely be less accurate. And in 1982, a group of civil rights groups, including the ACLU, the All Indian Pueblo Council and the Southwest Voter Registration Education Project, sued, arguing that the method diluted minority voting strength.

Goldberg worked with the ACLU on the case. “Especially in a state like New Mexico, racial and ethnic minorities and other identifiable groups of people are systematically undercounted if you just look at the votes that are cast,” he says, referring to [data showing](#) that older, more educated, wealthier people vote most frequently. Nationally, white voter turnout is twice the Hispanic turnout. The court [agreed and ordered](#) the Legislature to use census figures, and in a special session that summer, they passed a new plan that satisfied the court’s requirements for population equality.

But the revised plan ran into trouble, too. Civil rights groups sued, arguing that the state had racially gerrymandered 19 of the 70 House districts and diluted minority voting strength. The plaintiffs didn’t have to prove that the state had done it intentionally, only that their plan had the effect of discriminating. A federal three-judge panel found (in an unpublished 1984 decision) evidence of racially motivated gerrymandering and ruled that most of the challenged districts were unconstitutionally discriminatory.

In a landmark decision in the early 1980s, a panel of judges wrote: “If one ... set out to construct a districting plan for Cibola, Sandoval, and McKinley Counties which effectively minimizes the impact of Indian votes, the plan which would result would probably look much like the plan passed by the Legislature in 1982.” At the time, census figures counted Native Americans as just over 8 percent of



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the population of New Mexico, but only one member of the state House identified as Native.

The court also found that the Legislature had unnecessarily “cracked” the Hispanic community in Clovis into three districts, which diluted the power of their votes and concentrated the power of white voters. “They had split the Mexican-American neighborhood in Clovis, when it would have been easy to put together a minority-effective precinct [with enough population] if you added Cannon Air Force Base to it,” Jim Williams says. “It was absolutely classic gerrymandering.”

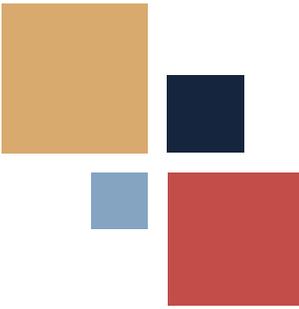
In Otero County, the court’s opinion was that minority voters in one district had been “rendered virtually insignificant” by the 1982 plan. Asserting that the Legislature was unresponsive to the requirements for redistricting, the court redrew the districts. The court ordered federal supervision over six counties for the next ten years, and that the state submit its redistricting plans to the U.S. Department of Justice for preclearance in the 1990s. The situation had painful consequences for the state when the June 1984 primary election was declared invalid and a do-over election held that September.

Knowing that the federal government would be going through each plan with a fine-toothed comb put acute pressure on lawmakers to play it by the book the next time around. During the 1990s, “the specter of pre-clearance was notable,” Williams says. “Literally I could work with a legislator in 1991, trying to craft a district and [after doing what he’d asked] I’d say, ‘Now, do you want that map going to the Justice Department?’ and they’d say, ‘Oh. ...Well, can we fix it a little?’”

That year, the DOJ flagged several districts in southeastern New Mexico for potential cracking of Hispanic communities, but in a second special session, lawmakers redrew the boundaries to include two districts with majority-minority populations. Preclearance was lifted and no lawsuits were filed.

In recent years, newly vexing issues have popped up, including how to account for people in prison. The census counts people in state and federal prisons and allocates them to the district in which the prison is located. Critics like the Prison Gerrymandering Project [argue that this method](#) of accounting artificially inflates the population of those districts, often in rural areas. Although there are facilities in Santa Fe and Las Cruces, many of [New Mexico’s correctional facilities](#) sit in less populated parts of the state, near Springer, Clayton, Chaparral and Grants, or several miles outside small cities like Santa Rosa, Hobbs and Roswell. Considering that most inmates aren’t allowed to vote, it’s unlikely that many elected officials consider inmates important constituents.

Yet New Mexico counts prisoners as residents of the district in which they are confined, with surprising results. After the 2000 redistricting cycle, 21 percent of the residents of District 5 were people incarcerated at the Lea County Correction-



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al Facility, in Hobbs. In New Mexico, Native American voters are incarcerated at twice the rate of Anglos, but they are counted in districts that are nearly all white and Hispanic. Nationwide, Hispanics and African Americans are three to seven times more likely to be in prison, and reformers say the policy effectively [dilutes the voting strength](#) of minority voters. Other states have attempted to rectify the issue. [Six states](#) have passed laws that direct inmates to be counted at their most recent address, although administrators admit it can be hard to determine that address. On the local level, cities including Aztec have rejected the census figures, which would have made one city district contain 35 percent inmates.

Even though the Legislature has been subjected to intense federal supervision, and despite moving public testimony from tribal leaders and assurances from leadership that protecting minority votes is a priority, New Mexico continues to see court challenges and decisions alleging discrimination in redistricting plans, indicating that other elements—including party and partisanship—continue to dominate the process at the expense of communities of color.

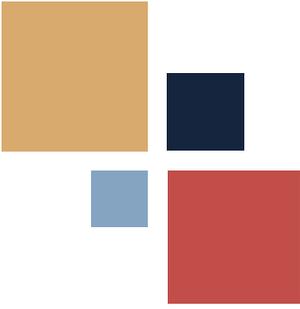
## An Evolving Process

The recent history of redistricting in New Mexico shows that courts have been repeatedly forced to intervene and draw districts because lawmakers and the governor failed to agree or because the maps they did agree on were found to be discriminatory. But New Mexico has 170 years of history during which reapportionment and redistricting have been marked by prolonged difficulties in accomplishing some of the most basic elements of the task, including getting accurate population counts, creating districts of equal population and complying with federal law and constitutional requirements.<sup>1</sup> Taking a broad view of this history reveals long-standing issues that put current problems in context.

One of the defining issues in redistricting lawsuits during the last two cycles has been the inability or unwillingness to draw districts that contained an equal number of residents. This problem is not new. In creating the New Mexico Territory with the [Compromise of 1850](#), Congress had specified that it would be governed by a legislative assembly consisting of a council of 13 members and a House of Representatives of 26, “giving to each section of the Territory representation in the ratio of its population (Indians excepted), as nearly as may be.” This goal remained out of reach. Based on population, each council member was supposed to represent 4,732 people, but in District 4 (Valencia and Socorro Counties), each of the three council members had more than 6,000 constituents. The figures in the House were disproportionate, too.

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1. A play-by-play account of this early history is contained in Folmar’s 185-page [Legislative Apportionment in New Mexico](#), 1844 to 1966, a photocopied Legislative Council Service report that until now has not been available online.



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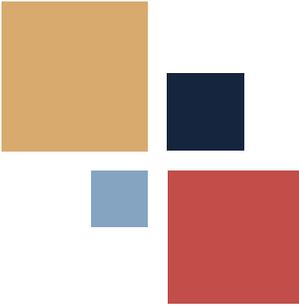
Despite an 1860 territorial law requiring reapportionment after each decennial census, the body failed to do it after the 1870 and 1890 counts; by law, the job fell to one man: the territorial governor. Over the next half century, the New Mexico territory grew from eight counties with 39 seats to 26 counties with 36 seats. But because the number of seats in the Assembly was fixed, some council districts had come to include more than 25,000 people. House districts went from fewer than 2,500 people to more than 13,000.

The [Constitution of 1911](#) created a Legislature with a House of 49 members and a Senate of 24, but to constituents the equation was much more complex. At the time, senators were elected from what were known as “shoestring” districts, in which some counties got their own senator, plus a share of another senator elected from two, three or even four counties. On paper, the number of residents and the number of elected officials worked out to be relatively proportionate. But in practice it wasn’t so elegant. “Equal representation for these counties depended ultimately on this senator’s personal qualities, ability and conscience (not to mention which county controlled the vote in the district),” wrote Richard Folmar, a former assistant director of the New Mexico Legislative Council Service.

Congress had laid out criteria for redistricting in 1911, requiring that districts be crafted from “contiguous and compact territory and containing as nearly as practicable an equal number of inhabitants.” But it dropped those criteria in the 1920s, and states were then free to redistrict any way they saw fit, which was rarely directly proportionate to population. At the same time, growth and migration were dramatically altering population centers across the country. During these years, many states fell down on the job of redistricting, including New Mexico. The state constitution adopted in January 1911 took a different approach, using the word “may” instead of “shall” to make the process effectively optional, and the Legislature simply did not take up reapportionment after the 1920, 1930 or 1940 censuses. As a result, legislative districts that had previously been slightly malapportioned grew dramatically more so.

The process of redistricting was complicated and painful, then as now, and many citizens across the country complained that they were disenfranchised when their states failed to redistrict after years of population growth and shifts. But they had little recourse. The U.S. Supreme Court had [in 1946](#) refused to get involved in such cases, saying, “Courts ought not to enter this political thicket.”

Meanwhile, New Mexico made a series of changes to the process (including two constitutional amendments) that intentionally favored rural areas and had the effect of increasing representation for parts of the state that were already shrinking. The changes shorted Bernalillo County especially. In 1955, just over a quarter of New Mexico voters had the power to elect half the membership of the state House of Representatives. Meanwhile, Harding County had one rep-



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representative for its 1,874 citizens, while each of the nine Bernalillo County House members represented nearly 30,000 people.

In the landmark case [Baker v. Carr](#), a group of Tennessee citizens argued that, by failing to successfully reapportion for decades, even as the population of the state grew and shifted, the state's General Assembly had violated the Equal Protection Clause of the Fourteenth Amendment "by virtue of the debasement of their votes." The legal landscape of redistricting changed in 1962 when the U.S. Supreme Court's decision in the case held for the first time that federal courts did have jurisdiction over constitutional challenges to state redistricting plans. The high court's decision opened the door to judicial review of the way legislatures had divided up their citizens into districts, and the court quickly issued more than a dozen decisions related to redistricting.

Adjusting to these changes meant that redistricting and reapportionment occupied the New Mexico Legislature and the courts for several years in the mid-1960s as lawmakers wrangled with imprecise population counts, tricky weighted-voting schemes and districts that were still based on county lines. It was difficult even with single-party rule: Democrats had massive advantages in the House and Senate, and Gov. Jack Campbell was a Democrat.

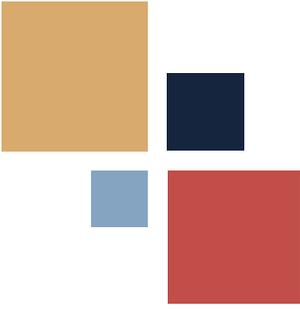
Seven months after the *Baker v. Carr* decision, David Cargo, then a Republican state representative from Bernalillo County, sued the state, arguing that by not assigning enough seats to his county, the 1955 apportionment had the effect of discriminating against its residents. A judge agreed that the system was, in his words, "invidiously discriminatory" and struck down constitutional provisions that awarded each county at least one representative regardless of their actual population, eliminated shoestring districts and forbade geographical districting within the counties that elected more than one member.<sup>2</sup>

In 1964, several other cases around the country changed the landscape of redistricting, including [Wesberry v. Sanders](#), which required that congressional districts must have roughly equal populations if possible, and [Reynolds v. Sims](#), which applied the constitutional equal protection requirement to state legislative districts, if possible. Taken together, this group of decisions established the concept of one man, one vote (today updated as one person, one vote).

In 1965, Congress passed the Voting Rights Act, and the state Legislature approved a proposed constitutional amendment that used a more precise method of weighted voting, but putting the issue to the voters aroused slightly more attention than the usual legislative maneuvers. Opponents argued that instead of "one person, one vote," dividing representation that way amounted to "one person, one-third of a vote" or "one person, one-fourth of a vote," and New Mexicans rejected the proposed amendment by a vote of more than two to one.

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2. Campbell and Cargo revisited these dramatic events at length in dueling autobiographies.



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In 1966, the Legislature passed a plan that created a 42-member state Senate with seven multi-county districts. A federal district court generally approved it, but redrew the lines a bit, creating instead 39 districts and several at-large seats, meaning voters in Chaves and Doña Ana Counties would vote for two senators and some would be represented by three. It was unpopular, but it was done. The Roundhouse was dedicated in December of that year and lawmakers would start the next session—and the modern era of redistricting—in the new building.

## Looking Forward

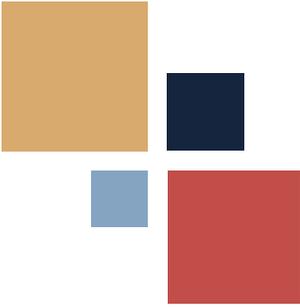
“Legislatures do redistricting in the majority of states and we’re no worse than the majority,” says Sen. Bill O’Neill, an Albuquerque Democrat who has sponsored independent redistricting commission proposals. Still, he says, the situation isn’t good. “These lines are so important, and they are at the height of our political disfunction and our partisan divide, and I defy anyone to tell me it isn’t so.”

As this report shows, other states have experienced similar negative consequences to uninhibited legislative redistricting, and have made significant changes to the way they navigate the process, from codifying more stringent criteria to having nonpartisan staff draw the maps to giving advisory or full control to various types of commissions.

Many states that have implemented reforms have experienced more timely passage of redistricting plans and less expensive litigation, the National Conference of State Legislatures analysis shows. During the last cycle in Iowa, where nonpartisan staff draw the lines, the first set of maps presented were passed by the legislator and signed by the governor. In Arizona, the commission’s 2011 maps were challenged in court, but none of the lawsuits was successful. In Washington State, which has had a bipartisan commission since the 1990s, lawmakers have twice voted with the required two-thirds supermajority to make slight adjustments to the commission’s maps, which were not overturned in court. New Mexico has never accomplished redistricting so successfully.

If New Mexicans do not demand better from the state, this decade may be another in which the public’s input is disregarded, maps are drawn in caucus meetings and leaders all from one party usher through plans without bipartisan support, only to be challenged in million-dollar lawsuits that drag on for months.

“What you can expect to happen is that the incumbents will do exactly what they told you they would do,” Levitt says. “They will push as hard as they possibly can, often but not always, for personal advantage or partisan advantage rather than looking for the public interest.” As others have noted, that would only be natural. “If you tell people you could have a job next year or not have a job next year, then that leads to natural conflicts that history has shown play out more often than not.”



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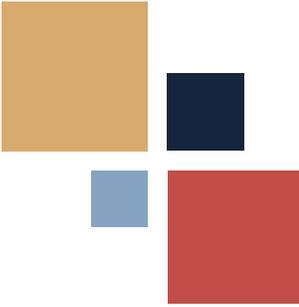
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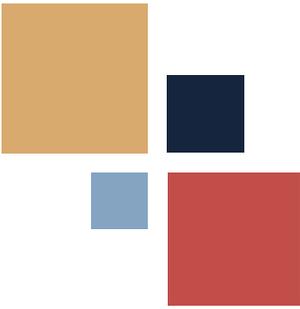
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Gwyneth Doland is a term faculty member in the Department of Communication and Journalism at the University of New Mexico, where she teaches media law and ethics, multimedia writing and editing, media management, interviewing and other courses. She has been a journalist since 1999 and has covered government and public affairs for New Mexico PBS, *The New Mexico Independent*, New Mexico In Depth and KUNM Radio News. In 2012 and 2015, she authored reports on government accountability for the Center for Public Integrity in Washington, D.C. The 2012 *State Integrity Report* was a finalist for the Goldsmith Prize for investigative reporting from Harvard’s Kennedy School of Government. Gwyneth’s work covering state government has also been honored with a First Amendment Award from the ACLU of New Mexico and a Golden Mike award from the New Mexico Broadcasters Association. Gwyneth was previously the executive director of the New Mexico Foundation for Open Government and has served as an officer on the boards of the Society of Professional Journalists Rio Grande Chapter and the Journalism and Women Symposium.

### About New Mexico in Depth

[New Mexico In Depth](#) is a member-supported, digital-first, nonpartisan news organization. We were founded in 2012 as a response to ongoing downsizing among traditional news organizations. Our mission is to produce investigative, data-rich stories with an eye on solutions that can be a catalyst for change. Through partnership with other news organizations, we expand the reach of our stories. And we invest in the young reporters of tomorrow through fellowships and internships.

### The Howling Coyote

The illustration on the cover is by artist Joel Humphrey. It’s a nod to [the original Gerymander](#) sketched by Elkanah Tisdale in 1812 to skewer Massachusetts’s then-governor, Ellbridge Gerry, who had signed a redistricting bill designed to strengthen his party’s grip in the state Senate. New Mexico’s Senate District 39 is a different kind of animal, a uniquely New Mexican creature born when politicians carve away their own territories, one by one, starting at the edges of the state.