

**Redistricting Models: A Comparative Analysis  
Prepared for the New Mexico Legislature**



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NATIONAL CONFERENCE OF STATE LEGISLATURES

**By Ben Williams and Wendy Underhill**



## Introduction

The preamble to the U.S. Constitution begins with the phrase “We the People.” Over the past 200-plus years, defining who “the people” are has been a central issue in American democracy. Over the decades, this definition has gradually expanded to include racial minorities, women, and Native Americans. But since the middle of the 20th Century, a new issue has emerged: how do “the people” make their voices heard? Increasingly, this centers on how the districts of the people’s representatives—state legislators, members of congress, and others—are drawn. Known as redistricting, the politically powerful process of crafting district boundaries has become a major topic of debate in American politics.

Every 10 years, following the census, states are required to redraw district lines. This involves two closely linked, but distinct, processes: **reapportionment** (the reallocation of congressional districts among states to account for population shifts between the states) and **redistricting** (the redrawing of district boundaries within a state to comply with the principle of “one person, one vote” by ensuring districts are of equal population). While reapportionment only applies to congressional districts, all representational bodies that use districts—including some judicial districts and local governments—are required by federal law to redraw their boundaries following the census. The process of reapportionment is conducted by the Census Bureau, as directed by Congress. The power to redraw state legislative and congressional districts, however, is expressly provided to the state legislatures by the U.S. Constitution.

Generally, the rules governing how states redraw their district lines fall into two categories: **process rules** and **criteria**. Process rules involve the rules surrounding *who* and *how* district boundaries are drawn. For example:

- Does the state legislature retain the power to draw district lines, or has this responsibility been shifted to a redistricting commission?
- Is there a mechanism for public input in the redistricting process? If so, is it mandatory or optional?
- How many votes are required to adopt new district maps? Is a simple majority enough, or is a supermajority, or some standard of participation by the minority party, required?
- How are challenges to a map handled by the courts? Must challenges to court maps be filed in a particular venue? Are adopted districts subject to immediate review by a state court?
- Does the state reallocate prisoners from where the census says they reside (the prison) to their last known address prior to incarceration?

Criteria, meanwhile, involve the requirements with which completed districts must comply. They can be divided into two categories:

- **Federal Criteria** are the requirements based in federal law and the U.S. Constitution. These include the **Equal Protection Clause of the 14th Amendment** and the **Voting Rights Act (VRA)**.<sup>1</sup> In general, the VRA prohibits any state or political subdivision therein from imposing any voting qualification, standard, practice or procedure that results in the denial or abridgment of any U.S. citizen’s right to vote on account of race, color or status as a member

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<sup>1</sup> Section 5 of the Voting Rights Act, which governed the “preclearance” regime in redistricting, was rendered inapplicable nationwide by the U.S. Supreme Court in 2013. In the upcoming redistricting cycle, the only section of the Voting Rights Act under which litigants will be able to challenge maps is Section 2.

of a language minority group. Pertinent to redistricting, Section 2 prohibits vote dilution, which is either when minority voters are dispersed or “cracked” among districts, so they are ineffective as a voting bloc, or are so concentrated or “packed” in a district as to constitute an excessive majority. While all states must comply with the VRA, some states have codified compliance with it in their own state laws.

- Traditional Criteria have been used by states for some time to draw district lines. These include:
  - **Compactness** (a measure of a district’s shape relative to some benchmark).
  - **Contiguity** (a requirement that all portions of a district be connected).
  - **Communities of interest** (while there is no standard definition of what, exactly, a “community of interest” is, some states do attempt to define the phrase in their constitutions or codes).
  - **Preservation of political subdivisions** (considered by some to be a more concrete version of communities of interest, this attempts to minimize the number of times cities, counties or townships are split between districts).
  - **Preserving the cores of prior districts** (this is to ensure continuity of representation for communities who have built relationships with particular representatives).
  - **Avoiding pairing incumbents** (to avoid using redistricting for political purposes).
- Emerging/New Criteria have been adopted by some states in recent years. These include:
  - **Prohibition on favoring an incumbent or party** (a hard-to-define rule that governs redistricting).
  - **Prohibition on using partisan data** (except where necessary to comply with federal law).
  - **Competitiveness** (different states use different definitions of how this is achieved, though it always requires the use of partisan data).
  - **Proportionality** (a requirement that the number of seats obtained by a party in a legislative body must be roughly equal to that party’s share of the statewide vote. Achieving this in a single-member-district system is complex).

States are the sole entities tasked with regulating their own elections—so long as those regulations do not run afoul of the U.S. Constitution. The Elections Clause of the Constitution (Art. I, Sec. 4) grants states the power to regulate the elections of their own representatives in the House of Representatives, though Congress may supersede those regulations with laws of its own. This was implicitly extended to the election of Senators by the 17th Amendment.

For the first 160-plus years of our nation’s history, all redistricting was performed by state legislatures, with little guidance on when or how to do it—or even if to do it. Indeed, some states went decades without changing district lines. In the mid-20th century, a series of court cases set the foundation for modern redistricting, requiring that districts be redrawn every decade to account for population shifts and to maintain one-person, one-vote.

Starting from this foundation, changing redistricting systems is a relatively new phenomenon in American democracy. While much attention is focused on who has responsibility for redistricting—the legislature, as is traditional, or some form of a commission—changes to other aspects of the redistricting process have been considered and adopted as well. This report presents legislators interested in the redistricting process with models used in other states to inform them of the range of possible policy options.

This report compares the rules that have governed New Mexico redistricting with those of several states: Texas, Utah, Colorado, Arizona, Washington, and Iowa. Each uses a different system for drawing legislative and congressional boundaries. Their varied experiences, and the lessons they can impart, may be useful for legislators in New Mexico as the next redistricting cycle draws close.

This information is also summarized in part in a one-page chart at the end of the report.

For questions or comments, please contact:

**Ben Williams**

Policy Specialist, Elections and Redistricting  
National Conference of State Legislatures  
Email: [ben.williams@ncsl.org](mailto:ben.williams@ncsl.org)  
Phone: 303-856-1648

**Wendy Underhill**

Director, Elections and Redistricting  
National Conference of State Legislatures  
Email: [wendy.underhill@ncsl.org](mailto:wendy.underhill@ncsl.org)  
Phone: 303-856-1379



## Your State: New Mexico

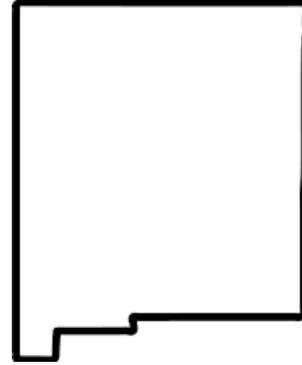
**Who draws state legislative lines:** State legislature

**Who draws congressional lines:** State legislature

**Redistricting deadline:** None required in statute

**Criteria used:**

- Compactness.
- Contiguity.
- Preservation of political subdivisions.
- Communities of interest.
- Preserving the cores of prior districts (permitted but not required).
- Avoid pairing incumbents (permitted but not required).



**Public access and input rules:**

- In 2011, the statutorily-established [Interim Redistricting Committee](#) traveled across the state to receive public comment.

**2010 cycle outcomes:**

- **Congressional:** State senate passed [S.B. 22](#), but the bill failed to pass the house. [Maps](#) were ultimately adopted by a [state district court](#).
- **State Senate:** Legislature passed [S.B. 33](#), which was vetoed by the governor. [Maps](#) were ultimately adopted by a [state district court](#).
- **State House:** Legislature passed [H.B. 39](#), which was vetoed by the governor. [Maps](#) were adopted by a [state district court](#), but the New Mexico Supreme Court [declared the maps invalid](#) for, among other reasons, emphasizing equal population over the state's traditional criteria. On remand, the [state district court](#) adopted new [maps](#).

**History of maps in effect:**

- Final maps adopted by the district courts have been in effect since their enactment.

**Prisoner Reallocation:** State does not reallocate prisoners.

Summary

As in the vast majority of states, the power to draw New Mexico's legislative and congressional districts rests with its state legislature. These districts are drawn by statute, meaning they can be vetoed by the governor. But for the second decade in a row, courts were forced to draw the state legislative and congressional district maps instead. Those maps have been in effect since 2012.

New Mexico uses some traditional redistricting criteria and has not adopted any emerging criteria (although legislation which would have done so [was introduced](#) in the 2019 legislative session). In [Maestas v. Hall, 274 P.3d 66 \(N.M. 2012\)](#), the New Mexico Supreme Court declared that all future judicially-drawn maps in the state must comply with the New Mexico Legislative Council's recommended redistricting criteria, which includes the bulleted rules above as well as (i) using single-member districts and (ii) not splitting voting precincts. The Court also declared that courts should not select a plan that seeks partisan advantage, but rather one that is partisan-neutral.



## An Independent Commission: Arizona

**Who draws state legislative lines:** Arizona Independent Redistricting Commission

**Who draws congressional lines:** Arizona Independent Redistricting Commission

**Redistricting deadline:** None

### Criteria used:

- Compactness.
- Contiguity.
- Preservation of political subdivisions.
- Communities of interest.
- Competitiveness.
- Prohibition on favoring or disfavoring an incumbent or candidate.
- Prohibition on using partisan data.

### Public access and input rules:

- The commission must release draft maps of state legislative and congressional districts to the public for comment. The comment period cannot be shorter than 30 days.
- During the public comment period, either or both chambers of the legislature may make recommendations to the commission for its consideration.
- The commission is subject to state open records and open meetings laws.

### 2010 cycle outcomes:

- **Congressional:** Final approved maps (see [here](#)).
- **State house and senate:** Final approved maps (see [here](#)).

### Commission composition:

- Partisan breakdown
  - No more than two nominees may be of the same party.
  - Since its adoption, every commission has consisted of two Democrats, two Republicans, and one person unaffiliated with either major party, who serves as the chair.
- Qualifications
  - Of the commissioners appointed by members of the legislature, no more than two may be residents of the same county (the chair is exempt from this rule).
  - Must be an Arizona voter.
  - For at least three years preceding appointment to the commission:
    - Must have been registered with the same political party or have been unaffiliated with either major party.
    - Must not have been elected to, appointed to, or been a candidate for any other office, including a precinct committeeman or committeewoman (but excluding school board member).
    - Must not have served as an officer of a political party, an officer of a candidate's campaign committee, or as a registered paid lobbyist.



- Selection of commissioners
  - State commission on appellate court appointments nominates 10 Republicans, 10 Democrats, and five individuals unaffiliated with either major party.
  - Majority and minority leaders in each legislative chamber choose one commissioner from this pool of 25 nominees. The four select a fifth tiebreaker who is not registered in the same party as any other commissioner.

**History of maps in effect:**

- Despite voluminous litigation against the commission and its adopted maps, all have been in effect since enacted.

**Prisoner reallocation:** State does not reallocate prisoners.

Summary

Arizona's Independent Redistricting Commission was adopted in 2000 by citizens' initiative. A simple majority is required for the commission to approve district maps, with no bipartisan vote requirement. Thus, the unaffiliated chairperson functions as a tiebreaker between the Republican-appointed and Democratic-appointed commissioners. In the 2010 cycle, the Commission's districts withstood all legal challenges. The congressional maps in the 2000 cycle were passed without incident, while legislative maps were ultimately approved in 2003.

Arizona requires that its districts comply with extensive lists of both traditional and emerging criteria. In the 2010 cycle, a controversy emerged over the proper interpretation of its competitiveness criterion. The Arizona Supreme Court upheld the commission's judgments on balancing the required criteria, as well as the conduct of the chairwoman in adopting district maps.

## A Citizens' Commission: Colorado

**Who draws state legislative lines:** Independent Legislative Redistricting Commission

**Who draws congressional lines:** Independent Congressional Redistricting Commission

### Redistricting deadline:

- Congressional commission
  - Commission must adopt district lines by Sept. 1, 2021. These maps are subject to automatic review by the Colorado Supreme Court. The Court must rule on the maps by Nov. 1, 2021. If it approves the maps, they become law; if the court holds the maps to be invalid in whole or in part, the maps are returned to the commission for revisions. The Colorado Supreme Court must approve revised maps by Dec. 15, 2021.
- Legislative commission
  - Commission must adopt district lines by Sept. 15, 2021. These maps are subject to automatic review by the Colorado Supreme Court. The court must rule on the maps by Nov. 15, 2021. If it approves the maps, they become law; if the court holds the maps to be invalid in whole or in part, the maps are returned to the commission for revisions. The Colorado Supreme Court must approve revised maps by Dec. 29, 2021.

### Criteria used<sup>2</sup>:

- Congressional commission
  - Communities of interest.
  - Preservation of political subdivisions.
  - Compactness.
  - Contiguity.
  - Prohibition on favoring an incumbent or party.
  - Competitiveness.
- Legislative commission
  - Same as congressional commission

### Public access and input rules:

- Congressional Commission.
  - Selection of commissioners.
    - Commissioner applications are public records and must be posted online on the Colorado legislature's website.
    - Nonpartisan staffers who review applications to the commission must publish their findings and conclusions about the qualifications of the applicants.
    - When the judicial panel that selects commissioners holds a meeting to reduce the number of qualified applicants, said meeting must be public.
  - Drawing of districts

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<sup>2</sup> For both congressional and state legislative districts, Colorado requires—in addition to the traditional and emerging criteria listed at the beginning of this report—that districts not be drawn for the purpose of, or having the effect of, denying or abridging the right of any citizen to vote, or diluting the impact of a racial or lingual minority group's influence.

- The commission must create and maintain a website (or like means of communication) through which the public may submit proposed maps or written comments for the commission's consideration.
- The commission may not adopt a district map until the following transparency rules are followed:
  - Holds three hearings in each congressional district. One of these must be west of the Continental Divide, one east of the Continental Divide, and one that is either (i) south of El Paso County's southern boundary or (ii) east of Arapahoe County's eastern boundary. Each of these hearings must be attended by at least ten (10) commissioners, either in person or electronically.
  - All public hearings must give the public the opportunity to provide comment and must be broadcast and archived online.
  - All written comments must be published on the commission's website.
  - Once a draft map is adopted, the commission must hold hearings in multiple regions of the state to receive feedback on the map.
- The commission must publish a report at the conclusion of its work, justifying its line-drawing decisions and explaining how its maps comply with legal requirements.
- The commissioners, commission staffers, and the commission itself are subject to open meeting and open records laws.
- Any person who is paid to provide comment to the commission itself or to an individual commissioner must disclose their lobbying status with the secretary of state. The secretary of state's office will publish on its website (i) the names of the lobbyists, (ii) the type and amount of compensation received, and (iii) the persons for whom they worked.
- Legislative commission
  - Same as congressional commission

### **Commission composition**

- Congressional commission
  - Partisan breakdown
    - 4 Democrats.
    - 4 Republicans.
    - 4 unaffiliated with either major party.
  - Qualifications
    - Must have been registered voter in previous two general elections.
    - Must have been affiliated with same political party, or with no political party, at least five years before appointment.
    - May not have been candidate for federal elected office within past five years.
    - May not be a member of the legislative commission.
    - May not within the last three years have been:
      - Compensated by a member of congress or a campaign committee advocating for the election of a candidate to congress.
      - An elected public official at the municipal, county, state, or federal level.

- An elected party official above the precinct level.
- An employee of a political party.
- A professional lobbyist registered at the municipal, state, or federal level.
- Selection of commissioners
  - Applicants must submit their applications to a panel of three retired Colorado Supreme Court or appellate court judges of different political parties.
  - Nonpartisan staff will review the applications to determine those satisfy the above qualifications.
  - From the pool of qualified applicants, the panel randomly selects 300 applications each from the Democratic and Republican pools, and 450 applications from the unaffiliated pool.
  - From each of these pools, the panel will choose 50 people who will be best suited to work together with other commissioners while representing the interests of different demographic, ethnic, or interest groups in the state.
  - From each of these pools of 50 people, the panel will randomly choose two people, which will comprise half of the commission, none of whom may reside in the same congressional district.
  - Next, the majority and minority leaders in each chamber of the Colorado legislature will select 10 total candidates from the 50-person pools and send those names to the panel of judges.
  - The panel will then choose one commissioner from each of the leaders' selected candidates, as well as two persons from the pool of 450 unaffiliated applicants, to round out the remainder of the commission. No more than two commissioners may be from the same congressional district.
- Legislative commission
  - Same as congressional commission, except may not be a member of the congressional commission.
  - Selection of commissioners
    - Same as congressional commission

#### **2010 cycle outcomes:**

- **Congressional:** Maps were adopted by a state court, which were affirmed by the state supreme court ([here](#))
- **State house and senate:** Commission adopted maps ([here](#))

#### **History of maps in effect:**

- Maps adopted by the Colorado Supreme Court and legislature have been in place since enactment.

**Prisoner reallocation:** State does not reallocate prisoners.

#### Summary

In 2018, Colorado voters approved two citizen initiative creating two new citizens' commissions: one for state legislative districts and one for congressional districts. Both commissions require eight votes to approve a map, including at least two commissioners who are unaffiliated with either major party. This changed the pre-existing system in which the state legislature passed congressional redistricting

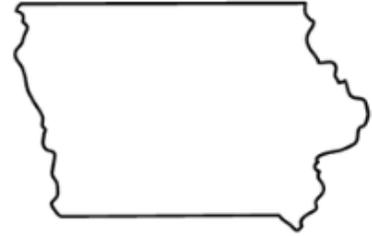
maps as ordinary statutes subject to the governor's veto, and state legislative districts were drawn by a commission appointed by legislative leaders, the governor, and the chief justice of the Colorado Supreme Court. In the 2010 cycle, a state court drew the congressional maps after the legislature failed to do so, while the politician commission adopted legislative district maps on its second attempt. This was an exact repeat of the 2000 cycle, when a court was forced to adopt congressional maps and the politician commission succeeded in adopting state legislative maps on its second attempt.

Beginning in the 2020 redistricting cycle, Colorado will use both traditional and emerging criteria. Notably, the Colorado Supreme Court historically has rigorously enforced the redistricting provisions of the Colorado Constitution, in particular the requirements of compactness, contiguity, and avoiding unnecessary political subdivision splits.

## A Nonpartisan Staff Model: Iowa

**Who draws state legislative lines:** Legislative Services Agency

**Who draws congressional lines:** Legislative Services Agency



**Redistricting deadline:** Multiple

- April 1, year ending in 1, or within 45 days of receiving census data (whichever is later): Legislative Services Agency (LSA) required to deliver redistricting map (“First Map”) in statutory format to the legislature for consideration
- If the First Map is rejected...
  - Within 35 days of legislative rejection of First Map: LSA required to deliver map which must address the reasons why the first map was rejected.
- If the Second Map is rejected...
  - Within 35 days of legislative rejection of First Map: LSA required to deliver map which must address the reasons why the first map was rejected.
- If by Sept. 1, year ending in 1, a map has not been approved by the legislature...
  - Iowa Supreme Court adopts a map for the legislature.

**Criteria used:**

- Compactness.
- Contiguity.
- Preservation of political subdivisions.
- Prohibition on favoring an incumbent or party.
- Prohibition on using partisan data.

**Public access and input rules:**

- The Temporary Redistricting Advisory Commission (TRAC) assisting the LSA must conduct at least three public hearings in different regions of the state, and drafts a report summarizing the public feedback for the legislature.
- TRAC must make public a copy of the redistricting map adopted by the LSA, as well as all its associated data.

**2010 cycle outcomes:**

- **Congressional:** First draft of proposed congressional districts were approved by legislature and signed into law by the governor (see [here](#)).
- **State house and senate:** First draft of proposed state house and senate districts were approved by the legislature and signed into law by the governor (see [here](#)).

**Commission composition:**

- Partisan breakdown
  - Majority and minority leaders each appoint one person to serve on the commission. Those four select a fifth commissioner to serve as the chair.
- Qualifications
  - Must be an eligible voter in Iowa at the time of selection.
  - Cannot hold either a partisan public office or a political party office.
  - Cannot be a relative of a member of the legislature or of Congress.
  - Cannot be an employee of a member of the legislature or of Congress.

- Cannot be employed directly by the legislature or of Congress.

**History of maps in effect:**

- Maps adopted by the legislature have been in place since enactment.

**Prisoner reallocation:** State does not reallocate prisoners.

Summary

Like the vast majority of states, Iowa's legislature has primary responsibility for adopting district maps. But unlike its peers, Iowa assigns the task of drawing the lines the legislature votes on to nonpartisan legislative staff. These staffers refer district maps to the state legislature, who then must give the maps an up-or-down vote. A simple majority of the legislature is required to adopt maps. In every decade since this system was adopted, the legislature has adopted state legislative and congressional maps drawn by the nonpartisan staffers.

Iowa requires its state legislative and congressional districts to comply with both traditional and emerging criteria. Unlike many other states, Iowa prohibits its nonpartisan staff from considering partisan data when drawing district maps, which encompasses the addresses of incumbent legislators and members of congress; the political affiliation of registered voters; previous election results; and demographic information apart from head counts (except where necessary to comply with the Voting Rights Act).

## A Traditional Approach: Texas

**Who draws state legislative lines:** State legislature

**Who draws congressional lines:** State legislature

**Redistricting deadline:** First legislative session following receipt of census data (functionally, the ongoing legislative session in years ending in 1)

**Criteria used:**

- Contiguity (legislative only).
- Preservation of political subdivisions (legislative only).

**Public access and input rules:**

- None required in statute.

**2010 cycle outcomes:**

- Initial Maps (2011)
  - **Congressional:** [SB 4](#) (preclearance denied).
  - **State house:** [HB 150](#) (preclearance denied).
  - **State senate:** [SB 31](#) (preclearance denied).
- Remedial Maps (2013)
  - **Congressional:** [SB 4](#) (in effect).
  - **State house:** [SB 3](#) (declared unconstitutional in part by *Abbott v. Perez*).
  - **State senate:** [SB 2](#) (in effect).

**History of maps in effect:**<sup>3</sup>

- In 2011, Texas was subject to Section 5 of the Voting Rights Act, which required the state to obtain “preclearance” from the Department of Justice or a federal court before it could implement new redistricting maps. After preclearance was initially denied, a federal court in Texas (considering a separate challenge to the 2011 maps under 14th Amendment and Voting Rights Act grounds) adopted maps for both legislative chambers and for congressional seats. The Texas legislature formally adopted those court-drawn maps via statute in 2013 (see Remedial Maps, above).
- The 2013 Remedial Maps were challenged in federal court under Section 2 of the Voting Rights Act and the Equal Protection Clause of the 14th Amendment. The trial court held the 2013 Remedial Maps to be in violation of both provisions. In 2018, the Supreme Court reversed, holding only one house district to be a racial gerrymander.

**Prisoner reallocation:** State does not reallocate prisoners.



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<sup>3</sup> Since 2011, Texas’s district maps have been subject to near-constant litigation. This section of the report only includes the lawsuits that impacted which maps were in effect. For information on the other challenges to Texas’s maps this decade, see NCSL’s webpage on this topic: <http://www.ncsl.org/research/redistricting/redistricting-case-summaries-2010-present.aspx>.

## Summary

As in the vast majority of states, the power to draw Texas's legislative and congressional districts rests with its state legislature. These districts are drawn by statute, meaning they can be vetoed by the governor. This veto can be overridden by a two-thirds majority vote in each chamber.

Courts were heavily involved in redistricting Texas in the 2000 and 2010 cycles. When the legislature did not pass any maps in its 2001 session, a federal court ultimately drew congressional maps for the 2002 elections. In 2003, the legislature passed new maps (after several attempts by some legislators to flee the state to deny the majority a quorum), which were adopted. They were subject to extensive litigation and were ultimately struck down by the U.S. Supreme Court as violations of the Voting Rights Act. The remedial maps adopted by the District Court in 2006 to remedy these violations were used for the remainder of the decade. As for state legislative districts, the failure to draw lines, the backup commission drew maps for both the state senate and state house. While the senate maps were adopted without incident, the state house maps were ultimately drawn by a federal court.

Texas has only two state law criteria for redistricting: that state legislative districts be contiguous and that county splits be minimized. However, nine bills have been introduced since 2018 which would have added additional criteria to the list.<sup>4</sup>

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<sup>4</sup> For more information on redistricting legislation in Texas and other states, please see NCSL's redistricting tracking webpage: <http://www.ncsl.org/research/redistricting/redistricting-legislation-database.aspx>.

## An Advisory Commission: Utah

**Who draws state legislative lines:** Utah Independent Redistricting Commission<sup>5</sup> prepares maps for the Legislature's consideration<sup>6</sup>

**Who draws congressional lines:** Utah Independent Redistricting Commission prepares maps for the Legislature's consideration

**Redistricting deadline:** A complex timeline with contingent dates\*

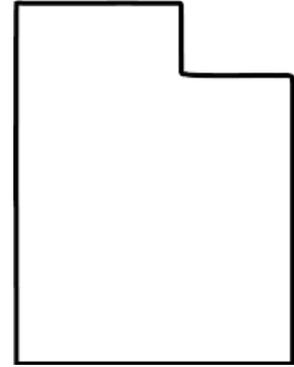
- X Date in 2021: Utah receives data from the Census Bureau to redistrict.
- 120 calendar days following X date, or August 31, 2021 (whichever is later): Advisory Commission must conduct its last public hearing.
- 30 calendar days following the last public hearing, or Aug. 31, 2021 (whichever is later): Advisory commission must adopt a map.
- No more than 10 days prior to a legislative vote on a redistricting map: The Advisory Commission must submit its adopted map for legislative consideration.
- \*Underlying these deadlines is the rule that a map must be enacted by the legislature during the first annual general legislative session after the legislature receives census data. Ten days must lapse between a map being recommended to the legislature and a vote in the legislature on that map.

**Criteria used:**

- Preservation of political subdivisions.
- Compactness (with caveat if following natural geographic boundaries).
- Contiguity.
- Communities of interest.
- Prohibition on favoring an incumbent or party.
- Prohibition on using partisan data.

**Public access and input rules:**

- Commission must hold seven public hearings in different regions of Utah and cannot hold more than two hearings in the same county unless the county has a population greater than 125,000.
- Commission must establish and maintain a website to share information about proposed redistricting maps, and to permit the public to view commission hearings live or in archived format.



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<sup>5</sup> For states in which an entity other than the legislature draws district maps, we have used that entity's proper name as codified in state law. These names do not always reflect its function, as is the case here. While Utah's advisory commission is titled "Independent," it is not independent of legislative influence or control and is more properly understood to be advisory.

<sup>6</sup> The Utah Constitution explicitly requires state legislative districts to be drawn by the state legislature: "[T]he Legislature shall divide the state into congressional, legislative, and other districts accordingly." UTAH CONST. art. IX, Sec. 1. Under Utah's statutorily-enacted commission system, the legislature is permitted to ignore the commission's advice and draw its own district lines. Nevertheless, the question of whether Utah's statutory scheme comports with Utah's constitution remains unresolved.

- Public must be able to submit redistricting maps for the commission’s consideration and comment on proposed redistricting maps through the commission’s website.

**Commission composition:**

- Partisan Breakdown:
  - 2 Democrats.
  - 2 Republicans.
  - 2 persons unaffiliated with either major party.
  - Governor appoints commission chair, who functions as tiebreaker. The other commissioners are appointed in the following manner:
    - One by the speaker of the house.
    - One by the largest minority party in the house.
    - One by the president of the senate.
    - One by the largest minority party in the senate.
    - One jointly by party leadership of the majority party in the senate and well as its party’s leaders in the house.
    - One jointly by party leadership of the minority party in the senate, as well as its party’s leaders in the house.
- Qualifications
  - To qualify as a commissioner, a nominee may not have been, for at least four years prior to their term, been:
    - Registered lobbyists.
    - Represented by a lobbyist.
    - Appointed by the governor or legislature to any public office.
    - Candidates for or holders of any political party office.
    - Compensated by a political party, party committee, individual campaign committee, or political action committee (PAC) affiliated with or controlled by an elected official or candidate.
    - Employed in a position reporting directly to an official holding elected office (local, state, or federal), even if the official was appointed to the elected office.
  - These prohibitions continue to apply to commissioners for four years following the conclusion of their service on the commission.
- Selection of commissioners
  - The two commissioners appointed by the leadership of each party in both chambers of the legislature are prohibited from having been affiliated with either of the major parties or voting in their primary elections.

**2010 cycle outcomes:**

- **Congressional:** [S.B. 3002](#)
- **State house:** [H.B. 3001](#)
- **State senate:** [S.B. 3001](#)

**History of maps in effect:**

- Maps adopted by the legislature have been in place since enactment.

**Prisoner reallocation:** State does not reallocate prisoners.

## Summary

In the 2010 redistricting cycle, Utah’s congressional and state legislative redistricting maps were adopted by the legislature as statutes and were signed into law by the governor.

In 2018, Utah voters approved a citizen initiative creating an advisory commission process to remove some—but not all—of the legislature’s role in redistricting. It will be used for the first time in 2021. For a map to be recommended to the legislature, it must receive the votes of at least five commissioners. The legislature is not permitted to alter the commission’s maps except where necessary to correct technical errors. However, the legislature is not required to accept a map from the advisory commission. If the legislature decides to adopt its own map in lieu of a commission-recommended map, it must publish a report explaining why it rejected the commission’s recommendations and why its map better satisfies the state’s redistricting criteria.

When Utah voters adopted the state’s advisory commission, it also adopted several new redistricting criteria, including emerging criteria. While the state legislature made moves to repeal the state’s new advisory commission process, it has not done so.



## A Bipartisan Commission: Washington

**Who draws state legislative lines:** Washington State Redistricting Commission

**Who draws congressional lines:** Washington State Redistricting Commission



**Redistricting deadline:** Nov. 15, year ending in 1. At that time, the legislature has 30 days in session to amend the map.

- If the commission fails to produce a map by Nov. 15, year ending in 1, the state Supreme Court produces a map by April 30, year ending in 2.

### Criteria used:

- Compactness.
- Contiguity.
- Preservation of political subdivisions.
- Communities of interest.
- Competitiveness.
- Prohibition on favoring an incumbent or party.

### Public access and input rules:

- All commission meetings are open to the public and are livestreamed. At the conclusion of its work, the commission publishes a report explaining the map.
- Members of the public may provide comment to the commission, including commenting on maps under consideration. And submitting full or partial third-party plans.
- The commission must publish a report with the plan, including population and percent deviations for each district, along with an explanation of the criteria used to make the plan with a justification of any deviation therein.

### 2010 cycle outcomes:

- **Congressional:** Legislature exercised right to tweak commission's maps by requisite 2/3 vote (see [here](#))
- **State house and senate:** Legislature exercised right to tweak commission's maps by requisite 2/3 vote (see [here](#))

### Commission composition

- Partisan breakdown
  - Not mandated legally; functionally:
    - 2 Democrats.
    - 2 Republicans.
    - 1 unaffiliated non-voting chair.
- Qualifications
  - Cannot have been, within two years of appointment to the commission:
    - An elected district, county, or state party officer.
    - An elected official.
  - Cannot have been, within one year of appointment to the commission:

- A registered lobbyist.<sup>7</sup>
  - While a commissioner, cannot:
    - Campaign for elective office
    - Participate in, or donate to, any political campaign for state or federal elective office.
  - For two year following service on the commission, cannot hold or campaign for congressional or state legislative office.
- Selection of commissioners
  - Majority and minority leaders in each chamber of legislature select one registered voter.
  - Those four select a fifth registered voter to serve as the non-voting chair.

**History of maps in effect:**

- Maps adopted by the commission, as amended by the legislature, have been in place since enactment.

**Prisoner reallocation:** State reallocates prisoners

- If the prisoner was an in-state resident prior to incarceration, reallocated to last known residence’s district population.
- If the prisoner was an out-of-state resident prior to incarceration, or residency status is unknown, the prisoner is excluded from all district populations.

Summary

Since the 1990 redistricting cycle, Washington’s state legislative and congressional districts have been drawn by a bipartisan commission. Composed of equal numbers of members appointed by Democrats and Republicans, its chair is unaffiliated with either major party and cannot vote on maps. A supermajority of three votes is required for the commission to adopt a district map. The legislature may amend the commission’s maps with a two-thirds vote. It exercised this power in both the 2010 and 2000 redistricting cycle by making changes to a small number of districts in both maps.

Washington requires that its district maps comply with both traditional and emerging criteria. In addition to criteria that apply solely to redistricting, Washington has also adopted a law requiring that incarcerated persons be reallocated to their last known place of residence, and to adjust race and ethnicity data accordingly. This can impact how Washington complies with the Voting Rights Act.

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<sup>7</sup> This requirement may be waived by the state legislature.

## Appendix: Chart of Redistricting Principles and Criteria

<i>Redistricting Principles</i>							
	New Mexico	Arizona	Colorado	Iowa	Texas	Utah	Washington
Leg. draws lines	x				x		
Comm. draws lines		x	x				x
Other entity draws lines for leg.				x		x	
Elected officials directly appoint commissioners?		x				x	x
Supermajority voting rules			x			x	x
Codified redistricting deadline			x	x	x	x	x
Codified public hearing procedures		x	x	x		x	x
Codified public comment procedures		x	x	x		x	x
Specified judicial review rules (e.g. venue)			x	x			
<i>Redistricting Criteria</i>							
	New Mexico	Arizona	Colorado	Iowa	Texas	Utah	Washington
Compactness	x	x	x	x		x	x
Contiguity	x	x	x	x	x**	x	x
Communities of interest	x	x	x	x		x	x
Preserve preexisting political subdivisions	x	x	x	x	x**	x	x
Preserve cores of prior districts	x*						
Avoid pairing incumbents	x*						
Prohibition on favoring an incumbent or party		x	x	x		x	x
Prohibition on using partisan data		x		x		x	
Competitiveness		x	x				x

\* = criterion expressly permitted in state law but is not required; \*\* = legislative districts only