

Proposed Amendments to the Committee Substitute Version of SB15

The following mark-up was prepared by a coalition of redistricting reformers and reflects inputs from the New Mexico Redistricting Task Force, Fair Districts New Mexico, Common Cause New Mexico, League of Women Voters, New Mexico First, Navajo Human Rights Commission, NM Native Votes and the NM Foundation for Open Government. Additional information is available at www.redistrictNM.org

The coalition is grateful for the hard work of Senators Daniel Ivey-Soto, Jerry Ortiz y Pino, and Mark Moores to produce the Committee Substitute SB15. However, the current version of the legislation does not go far enough to protect New Mexico voters. **The group respectfully asks consideration of the redline changes in the following document, particularly those highlighted.**

Green = high priority – addresses important values of the work

Yellow = medium priority

No highlight = simple courtesy suggestions or regulatory items, some relating to consistency with SB4

Summary of Priority Amendments:

- **Overall Representation:**
 - **Section 3.B.7:** Seeks consideration in the appointment process of cultural and geographic diversity of the state.
 - **Public Process and Data Sources**
 - **Section 5.A.2-3:** Clarifies that public meetings shall be held throughout the state, at least one on tribal lands, and not by just Zoom unless public health demands it. Also clarifies that both sets of public meetings (the first set to gather initial public input and second set to share proposed maps) use the same regional structure.
 - **Section 7.A.3:** Allows for consideration of reliable data sources in addition to the census, given concerns about undercounts.
 - **Tribal Concerns:**
 - **Section 7.A.4:** Allows for split precincts if required to comply with federal law or to protect communities of interest, an item of high priority to Navajo communities that are sometimes divided between precincts.
 - **Section 7.A.9:** Adds tribal boundaries to the list of political and geographic boundaries to be considered when drawing maps.
 - Many of the other items on this list – including public process, representation, and fairness – are also tribal priorities.
 - **Choosing Fairness over Politics:**
 - **Section 7.A.11-13:** All the following would bring the proposed process into alignment with national best practices and the federal **HR1-For the People Act**.
 - **Section 7.A.11:** Prohibits designing maps to favor a political party.
 - **Section 7.A.12:** Prohibits the use of partisan data including political registration or voting histories.
 - **Section 7.A.13:** Prohibits the use of incumbents' or candidates' addresses.
 - **Legislature Accountability and Transparency:**
 - **Section 9.C:** Requires the legislature to follow the same process as the citizen commission in providing write-ups of the final maps, evaluating them against the stated criteria.
 - **Section 9.D:** Requires the legislature to meet the same standard as the citizen commission by holding discussions in open meetings.
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1 SENATE RULES COMMITTEE SUBSTITUTE FOR
2 SENATE BILLS 15 & 199

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4 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

5 AN ACT

6 RELATING TO REDISTRICTING; ENACTING THE REDISTRICTING ACT;
7 CREATING THE CITIZEN REDISTRICTING COMMITTEE; DIRECTING THE
8 COMMITTEE TO DEVELOP DISTRICT PLANS FOR APPROVAL BY THE
9 LEGISLATURE AND GOVERNOR; PROVIDING DUTIES; ESTABLISHING
10 REQUIREMENTS FOR CREATING DISTRICT PLANS AND PUBLIC
11 PARTICIPATION IN THE PROCESS; DECLARING AN EMERGENCY.

Commented [MOU]: NOTE: A previous draft of amendments suggested striking the emergency clause. We withdraw the request to strike it. We recommend retaining the emergency clause as currently drafted.

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

14 **SECTION 1.** [NEW MATERIAL] SHORT TITLE.--This act may be
15 cited as the "Redistricting Act".

16 **SECTION 2.** [NEW MATERIAL] DEFINITIONS.--As used in the
17 Redistricting Act:

18 A. "committee" means the citizen redistricting committee;

19 B. "community of interest" means a contiguous population
20 that shares common economic, social or cultural interests;

21 C. "district plan" means an entire plan of single-member
22 districts for electing members to the United States house of
23 representatives, the state house of representatives, the state
24 senate or other state offices requiring redistricting;

25 D. "lobbyist" means a person who is required to register as
26 a lobbyist pursuant to the provisions of the Lobbyist
27 Regulation Act;

1 E. "political party" means a political party that has been
2 qualified in accordance with the provisions of the Election
3 Code; and

4 F. "public official" means a person elected to an office of
5 the executive or legislative branch of the state.

6 **SECTION 3. [NEW MATERIAL] CITIZEN REDISTRICTING COMMITTEE**
7 **CREATED--MEMBERSHIP--TERMS.--**

8 A. The "citizen redistricting committee" is created.

9 B. The committee is composed of seven members, appointed as
10 follows:

11 (1) one member appointed by the speaker of the house of
12 representatives;

13 (2) one member appointed by the minority floor leader of
14 the house of representatives;

15 (3) one member appointed by the president pro tempore of
16 the senate;

17 (4) one member appointed by the minority floor leader of
18 the senate;

19 (5) two members appointed by the state ethics commission,
20 who shall not be members of the largest or second largest
21 political parties in the state;

22 (6) one member appointed by the state ethics commission,
23 who shall be a retired justice of the New Mexico supreme
24 court or a retired judge of the New Mexico court of
25 appeals, and who shall chair the committee; and

1 (7) the appointing authority shall give consideration to
2 the cultural diversity of the state, the existence of 23
3 sovereign nations, and to achieving geographical representation
4 in making appointments to the committee.

5 C. No more than three members of the committee shall be
6 members of the same political party. A member of the committee
7 shall not have changed party registration in the two last
8 years ~~next last~~ preceding the member's appointment in such a
9 manner that the member's prior party registration would cause
10 one political party to have more than three members. A member
11 of the committee shall not continue to serve on the committee
12 if the member changes party registration after the date of
13 appointment in such a manner as to cause one political party
14 to have more than three members.

15 D. Members shall be appointed not later than April 1, 2021,
16 or as soon thereafter as practicable, and August 1 of each
17 year ending in the number zero thereafter, and shall serve
18 until a district plan for each of New Mexico's congressional
19 districts, the state house of representatives, the state
20 senate and other state offices requiring redistricting is
21 submitted to the legislature.

22 E. When any member of the committee dies, resigns or no
23 longer has the qualifications required for the member's
24 original appointment, the member's position on the committee
25 becomes vacant and the chair shall notify the original

Commented [MOU2]: This courtesy language offered just in case the bill is not signed in time for this to happen or the emergency clause is rejected by the legislature.

1 appointing authority of the vacant position. The vacancy shall
2 be filled by appointment by the original appointing authority
3 no later than fifteen days following notification of the
4 vacancy, and must be based on the initial criteria for
5 commission selection.

6 F. The committee shall meet as necessary to carry out its
7 duties pursuant to the Redistricting Act.

8 G. Members are entitled to receive per diem and mileage as
9 provided in the Per Diem and Mileage Act and shall receive no
10 other compensation, perquisite or allowance.

11 **SECTION 4. [NEW MATERIAL] MEMBERS--QUALIFICATIONS-**
12 **LIMITATIONS.--**

13 A. To qualify for appointment to the committee, a person
14 shall:

15 (1) be a qualified elector of New Mexico and a voter;

16 and

17 (2) not be, or in the two years prior to appointment have
18 been, in New Mexico, any of the following:

19 (a) a public official;

20 (b) a candidate for public office;

21 (c) a lobbyist;

22 (d) an office holder in a political party at the state
23 or federal level;

1 (e) a relative in the first degree of consanguinity of
2 a member of congress, the state house of representatives,
3 the state senate or the public education commission; or

4 (f) an employee of congress, the legislative or
5 executive branch of government, or other state office
6 required to be redistricted by the committee.

7 B. Before entering upon the duties of the office of member,
8 a member shall review the Redistricting Act and take the oath
9 of office as provided by state law.

10 **SECTION 5.** [NEW MATERIAL] COMMITTEE-DUTIES.

11 A. Beginning April 1, 2021, and every August 1 of each year
12 ending in the number zero thereafter, the committee shall:

13 (1) no later than October 30, 2021, or as soon thereafter
14 as practicable, and September 1 of each year ending in the
15 number one thereafter, adopt three district plans each for:

- 16 (a) New Mexico's congressional districts;
- 17 (b) the state house of representatives;
- 18 (c) the state senate; and
- 19 (d) the other state offices required to be redistricted;

20 (2) hold no fewer than six public meetings in various regions
21 of the state, with at least one meeting on tribal lands, before
22 publishing the district plans for public comment; meetings shall
23 be held in person, unless virtual meetings are required by law,
24 and shall also be webcasted;

Commented [MOU3]: All the edits to subsections 2 and 3 aim to make sure:

- 1) The public meetings are spread throughout the state
- 2) The meetings don't revert to Zoom-only unless public health demands it
- 3) Both sets of public meetings deploy the same structure
- 4) At least one location in each series of meetings is held on tribal lands; please note that some Native American advocates recommended that as many as three of the meetings be held on tribal lands.

Commented [MOU4]: You'll see the edits in this paragraph mirror the ones above. Another way to handle this section would be to combine sections 2 and 3, so long as it remains clear that there are TWO sets of six public meetings each for different purposes.

1 (3) hold no fewer than six public meetings in various regions
2 of the state, with at least one meeting on tribal lands, either
3 ~~virtually or in various regions of the state,~~ for the purpose of
4 ~~adopting~~ proposing district plans; meetings shall be held in
5 person, unless virtual meetings are required by law, and shall
6 also be webcasted;

7 (4) conduct all meetings pursuant to the requirements of
8 the Open Meetings Act; and

9 (5) compile, index, maintain and provide public access to
10 the committee's record for each district plan it adopts.

11 B. Beginning ~~July~~ April 1, 2021, and August 1 of each year
12 ending in the number zero thereafter, the committee may:

13 (1) develop and adopt procedures for public hearings; and

14 (2) hire staff and enter into contracts and any
15 interagency agreements, including agreements to provide for
16 professional, technical or legal services, as necessary to
17 accomplish the duties set forth in this section.

18 **SECTION 6. [NEW MATERIAL] COMMITTEE MEETINGS BEFORE PROPOSING**
19 **DISTRICT PLANS.--**

20 A. Before the committee issues proposed district plans for
21 public comment, the committee shall hold no fewer than six
22 public meetings at which the committee shall receive testimony,
23 documents and information regarding the identification of
24 communities of interest and other testimony, documents and
25 information regarding the creation of district plans. The

1 committee shall provide the public with notice not later than
2 thirty days before these meetings and the notice shall include
3 information about how the public may participate and submit
4 testimony, documents and information. ~~The committee shall hold~~
5 ~~meetings either virtually or in various regions across the~~
6 ~~state, including in central New Mexico and in each of the four~~
7 ~~geographic quadrants of the state.~~

Commented [MOU5]: It appears this section can be struck since the public meeting structure is addressed previously in the bill. If this section IS retained, please ensure consistency with final language above.

8 B. The committee shall compile, index, maintain and provide
9 public access to all testimony, documents and information
10 received in the meetings conducted before issuing proposed
11 district plans for public comment.

12 C. The proposed district plans that the committee issues
13 for public comment shall be based, in part, on the testimony,
14 documents and information received.

15 **SECTION 7. [NEW MATERIAL] DISTRICT PLANS--REQUIREMENTS AND**
16 **PROHIBITIONS.--**

17 A. The committee shall develop district plans in accordance
18 with the following provisions:

19 (1) congressional districts shall be as equal in
20 population as practicable;

21 (2) state districts shall be substantially equal in
22 population; no plans for state office will be considered
23 that include any district with a total population that
24 deviates more than plus or minus five percent from the
25 ideal;

1 (3) the committee shall use the most recent federal
2 decennial census data generated by the United States census
3 bureau, **as well as other reliable sources of demographic**
4 **data, as determined by a majority of the committee;**

5 (4) proposed redistricting plans to be considered by the
6 legislature shall not be composed of districts that split
7 precincts **unless necessary to comply with federal law or to**
8 **protect communities of interest;**

9 (5) plans must comport with the provisions of the federal
10 Voting Rights Act of 1965, as amended, and federal
11 constitutional standards; plans that dilute a protected
12 minority's voting strength are unacceptable; race may be
13 considered in developing redistricting plans but shall not
14 be the predominant consideration; traditional race-neutral
15 districting principles shall not be subordinated to racial
16 considerations;

17 (6) all redistricting plans shall use only single-member
18 districts;

19 (7) districts shall be drawn consistent with traditional
20 districting principles;

21 (8) districts shall be composed of contiguous precincts
22 and shall be reasonably compact;

23 (9) to the extent feasible, districts shall be drawn in
24 an attempt to preserve communities of interest and shall

Commented [MOU6]: Concerns exist about under-counts in the decennial census and the introduction by the U.S. Census Bureau of “noise” into the final counts. This matter is of particular concern for the Native American community. For this reason, we recommend that the citizen commission have the ability to at least consult additional data. The technicians hired by the Committee should be able to guide the Committee with respect to what data is reliable.

Commented [MOU7]: Advocates for Native American concerns recommend that units smaller than precincts, such as census blocks, be allowed in certain cases, because precinct boundaries sometimes fail to keep tribal communities together. We recognize that splitting precincts creates complications for election officials, but we respectfully request your consideration of this concern. Or, we welcome an alternative suggestion to address this matter.

1 take into consideration political, tribal and geographic
2 boundaries;

3 (10) in addition, and to the extent feasible, the
4 committee may seek to preserve the core of existing
5 districts;

6 (11) the committee shall not propose district plans
7 designed to favor a political party;

8 (12) the committee shall not use, rely upon or reference
9 partisan data, such as voting history or party registration
10 of the population; and

11 (13) the committee shall not use, rely upon or reference
12 the residence of any incumbent or candidate;

13 B. The committee may incorporate suggested changes to its
14 proposed district plans in accordance with public comments and
15 testimony it receives, but shall not subordinate the
16 requirements of Paragraphs (1) through (9) of Subsection A of
17 this section in doing so.

18 **SECTION 8. [NEW MATERIAL] COMMITTEE ADOPTION OF DISTRICT**
19 **PLANS.**— The committee shall adopt three district plans for
20 each of New Mexico's congressional districts, the state house
21 of representatives, the state senate and other state offices
22 required to be redistricted at an open meeting. After the
23 committee adopts the district plans, the committee shall
24 provide written evaluations of each district plan that address
25 the satisfaction of the requirements set forth in the

Commented [MOU8]: Items 11-13 would bring NM's bill into alignment with the federal HR1-For the People Act as well as with national best practices designed to prevent partisan gerrymandering. These items are fundamental to a fair redistricting process and public trust in the work.

1 Redistricting Act, the ability of racial and language
2 minorities to elect candidates of their choice, a measure of
3 partisan fairness and the preservation of communities of
4 interest.

5 **SECTION 9. [NEW MATERIAL] LEGISLATIVE SELECTION OF DISTRICT**
6 **PLANS.--**

7 A. The committee shall deliver its adopted district plans
8 and accompanying written evaluations and all accompanying
9 concise explanatory statements to the legislature by October
10 30, 2021, or as soon thereafter as practicable, and September
11 1 of each year ending in the number one thereafter.

12 B. The legislature shall receive the adopted district plans
13 for consideration in the same manner as for legislation
14 recommended by interim legislative committees.

15 **C. Plans adopted by the legislature shall be forwarded to**
16 **the governor for approval with written evaluations that**
17 **address the satisfaction of the requirements set forth in the**
18 **Redistricting Act, the ability of racial and language**
19 **minorities to elect candidates of their choice, a measure of**
20 **partisan fairness, and the preservation of communities of**
21 **interest.**

22 **D. Legislative discussions about the redistricting plans**
23 **shall be conducted in open meetings.**

24 **SECTION 10. EMERGENCY.--**It is necessary for the public peace,
25 health and safety that this act take effect immediately.

Commented [MOU9]: This item is HIGHLY important to the coalition. It would hold the legislature accountable to the same standard as the citizen commission – requiring a written evaluation of how well the final maps adhere to the redistricting criteria.

Commented [MOU10]: This item addresses public perceptions (perhaps incorrect ones) that the maps are drawn in back rooms with a focus on partisan advantage. Holding the meetings in public would advance trust by the citizenry that this process was undertaken for the benefit of the voters, not the benefit of political parties or office-holders.