

**Written Testimony of Aleks Kajstura,
Legal Director, Prison Policy Initiative**

**House Committee On Rules
of the Oregon State Legislature**

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Support H.B. 2492

Thank you, Chairman Holvey and members of the Committee for providing the opportunity for me to provide written testimony. My name is Aleks Kajstura and I am an attorney and Legal Director of the Massachusetts-based non-profit, non-partisan Prison Policy Initiative.

This bill will bring Oregon one step closer to enacting the constitutional ideals of "one person, one vote" and ensuring fair and equal representation. Along with other election reform, this bill aligns the state's redistricting data with its residence laws, ensuring everyone is counted in the right district.

The Problem

Each decade, Oregon redraws its state and local legislative districts on the basis of population to ensure that each district contains the same population as other districts. In this way, the state attempts to give all residents the same access to representation and government.

But the Census Bureau's rule for counting prison populations is in conflict with the law of Oregon, which says that prison is not a residence. Incarcerated people come from all over Oregon but they are counted by the Census Bureau as if they were residents of 18 Census blocks that contain prisons.

The Oregon statute, however, is explicit:

“For the purpose of voting, no person shall be deemed to have gained, or lost a residence ... while confined in any public prison.”

(Ore. Const. Art IV § 4.)

This means that while incarcerated people are counted as if they resided in the district that contains a correctional facility, they are represented by legislators from their home communities. And even though the state deprives many incarcerated of their right to vote, the state is required to count them at redistricting time, just as it does with all other non-voting populations.

The clearest illustration of this comes from how persons are treated for voting purposes. In Oregon, some persons in correctional facilities retain the right to vote – for example, if they are awaiting trial or are serving time for misdemeanors. For voting purposes, they are not permitted to claim residence at the facility, but must vote absentee in their home communities. Yet when the state draws legislative districts, it credits the prison population to the prison community, in clear conflict with the treatment of incarcerated persons for voting.

For example, the Eastern Oregon Correctional Institution located in Umatilla County accounts for 28 percent of a Pendleton city council Ward 2. That means that just 4,000 residents of Ward 2 enjoy the same power on the city council as roughly 5,500 residents in each of the other two wards. A similar, although smaller, effect is also seen among state legislative districts.

No impact on federal or state aid formulas

Lastly, I want to address a common misconception I've seen come up with similar bills – correcting this redistricting data issue has no impact state or federal funding formulas.

Legislators are often concerned about the impact this type of bill might have on the distribution of government funds. Please note that HB2492 adjusts address data that is only used for redistricting purposes; the data is not reported back the Census Bureau and any agency that uses any population data will draw their figures directly from the Census Bureau's publications or their own special sources. Therefore this bill would not affect any federal or state aid or grants because there are no funding formulas that rely on redistricting data.

Conclusion

The basic principle of our democracy is that representation is distributed on the basis of population. Crediting incarcerated people to the wrong location has the unfortunate and undemocratic result of creating a system of representation without population.

By passing this bill, the state would be joining Maryland and New York, who have implemented a similar law last decade, as well as California and Delaware where these data adjustments go into effect for this upcoming redistricting cycle.

Thank you for your time and consideration.


Aleks Kajstura
Legal Director