

To: House Rules Committee
From: Kate Titus, Common Cause
Re: HB 2492, Prison Gerrymandering
Date: April 17, 2019

I submit these comments on behalf of Common Cause.

Common Cause

Common Cause is a nonpartisan organization that works for open, honest, accountable government. We're more than one million Americans – including 25,000 Oregonians – working together to realize the unfinished promise of democracy.

Support for HB 2492

Common Cause supports HB 2492 to uphold the principle of one-person-one-vote by remedying distortions caused by how Oregon counts prison populations during redistricting.

The primary impact of this bill is to lessen the distorting impact that occurs by counting a large population of non-voters in a concentrated location. Since Oregonians are not allowed to vote while imprisoned but are still counted as residents of the state in the census and for the purpose of redistricting, concentrating prisoners in several political districts can have a skewing effect on the relative weight of voters. Prisoners become a significant population block of phantom voters, concentrated in one place somewhat artificially. It makes most sense to count them as they are naturally distributed across the state, in the communities where they are residents.

This current distortion impacts both the communities where prisons are located as well as the communities with high incarceration rates.

- **Communities with Prisons** – These distortions play out not only between the communities where prisons are located and the rest of the state, but also within the communities that have prisons. For instance, in Pendleton, the prison population at the Eastern Oregon Correctional Institution makes up roughly 28% of a single Pendleton city council district. So every 3 residents of that district have the political power of 4 residents in other parts of the city.
- **Communities with High Incarceration Rates** – The current practice also dilutes the relative voting strength of voters in communities with high rates of incarceration. For example, this impacts Oregon's Native American population. With incarceration rates at more than twice the rate of White Oregonians, Native Americans make up 1% of the total Oregon population, but more than 4% of the incarcerated population. And for the most part, the prisons are located outside of tribal areas so that the voting power of non-incarcerated Native Americans is diluted.

Additionally, it's worth considering that for the purpose of voting, the legal standard leans toward having people vote in their own communities, not where they are incarcerated.

- **In States Where Prisoners Vote** – Both Vermont and Maine allow people to vote while in prison, and in both cases, they vote with absentee ballots in their home community elections, not in the elections where the prisons are located.
- **Current Oregon Law** – Current practice is inconsistent with court decisions and state laws indicating that a person doesn't lose their residency status during a temporary absence. The Oregon State Constitution is clear that a prison is not a residence: “[f]or the purpose of voting, no person shall be deemed to have gained, or lost a residence... while confined in any public prison.” (Article II, Section 4).

In summary, Common Cause recommends that for the purpose of redistricting, the appropriate place to count prisoners is in the communities where they are residents, not where they are incarcerated. This is consistent with current law and is less likely to skew the relative voting strength within communities where prisons are located or between those communities and the rest of the state, and less likely to dilute the voting strength of communities with high incarceration rates. It better upholds the principle of one-person-one-vote.

Common Cause is appreciative of the House Rules Committee for considering HB 2492 and urges you to vote this bill out of committee for consideration by your colleagues.