

**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. 3126

Thank you, Chairman Fahey 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 equal representation. 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. People incarcerated in the state's prisons come from all over Oregon but they are counted by the Census Bureau as if they were residents of just 15 Census blocks in the state.

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 a third of the population in Pendleton city council Ward 2. That means that the actual residents of Ward 2 enjoy more representation on the city council than residents 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 HB3216 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 more than a dozen other states that adjust their redistricting data to count incarcerated people at home. Roughly half of U.S. residents now live in a city, county, or state that has taken action to end prison gerrymandering; Oregon residents deserve the same access to equal representation.

Thank you for your time and consideration.


Aleks Kajstura
Legal Director