

Holding Power Accountable

Common Cause Urges “No” Vote on the “Equal Representation Act” Will “Score” Vote in our Next Democracy Scorecard

May 7, 2024

Dear Representative:

On behalf of Common Cause’s more than 1.5 million members, we write in strong opposition to the “Equal Representation Act” (H.R. 7109). **We urge a “no” vote on the bill and will score this legislation in our forthcoming [Democracy Scorecard](#) to be released late this summer.**

Article I, Section 2 of the Constitution clearly outlines that all U.S. residents must be counted in each decennial Census. The Fourteenth Amendment mandates that apportionment of the U.S. House of Representatives be based on “the whole number of persons in each State,” excluding only “Indians not taxed” — an express constitutional exception that no longer applies. Adherence to this practice has ensured that “the basis of representation in the House” is “every individual of the community at large.” In fact, the U.S. Supreme Court affirmed the Fourteenth Amendment’s mandate 60 years ago in the landmark case of *Wesberry v. Sanders* when it struck down congressional districts with large disparities in total population. The Court stated that the “Constitution’s plain objective” is to make “equal representation for equal numbers of people the fundamental goal for the House of Representatives.”

In addition, the Justice Department under both Republican and Democratic administrations has repeatedly confirmed that the Constitution requires an apportionment based on the number of persons living in each state. There is no hidden meaning behind the constitutional phrasing: “persons” means persons. President Trump’s Attorney General William Barr headed DOJ’s Office of Legal Counsel in 1989 when OLC confirmed this position in writing to Congress.

H.R. 7109 ignores the Constitution and the decision by the Supreme Court and tries to subvert the rule of law.

Democracy means everyone counts and has equal and fair representation. Every state and every community would be harmed by the passage of H.R. 7109, inevitably resulting in an inaccurate count that all Americans must live with for the next ten years. Adding a question on citizenship status to the census would hurt a diverse range of rural and urban communities, leaving them underrepresented in Congress and cutting their federal funding for Medicaid, economic development, childcare, schools, road and public transit improvements, home heating assistance for senior citizens, and many more vital services.

Attempts to not count all people in the U.S. census would undermine the Constitution and the Fourteenth Amendment’s promise of a representative democracy.

We therefore urge a “no” vote on H.R. 7109.

Sincerely,

Keshia Morris Desir
Justice and Democracy Manager
Common Cause

