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March 22, 2023

Senate Special Committee on Redistricting
C/O Mr. Sean Opperman, Committee Clerk
P.O. Box 12068
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Austin, TX 78711

BY EMAIL

Sean.Opperman@Senate.Texas.Gov

Re: MALDEF Comment on Senate Bill 375
(Redistricting Plan S2168)

Dear Chairwoman Huffman, Vice-Chair Hinojosa, and
Members of the Committee,

My name is Fátima Menéndez. I am the Interim Southwest Regional Counsel for MALDEF, the Mexican American Legal Defense and Educational Fund. MALDEF is a national civil rights organization that conducts community education, policy advocacy and, where necessary, litigation. MALDEF has a long history as a leader in redistricting, particularly in Texas. Beginning with the first Texas redistricting after MALDEF's founding in 1968, MALDEF has worked throughout the state to inform Latinos about the redistricting process, assist them in creating and advocating for fair maps, educate state and local officials about their legal obligations in redistricting, and represent Latinos in the litigation that has been a regular feature of redistricting in Texas.

MALDEF currently represents a broad coalition of Latino organizations, known as the LULAC Plaintiffs, in *LULAC v. Abbott*, the consolidated litigation challenging the Texas 2021 statewide redistricting plans and pending in the U.S. District Court for the Western District of Texas, El Paso Division. The LULAC Plaintiffs challenge Plan S2168 in the lawsuit.

My letter is intended to assist the committee in adopting a Senate redistricting map that complies with the federal Voting Rights Act and the U.S. Constitution.

The New Senate Redistricting Plan Should Fairly Reflect Latino Population and Growth

The recently released 2020 Census data reveals that Latinos were the engine of population growth in Texas. From 2010 to 2020, Texas population increased by close to 4 million people (3,999,994). About half of that increase (49.5%) was Latino. This demographic trend has been similar for the past three decades.

While the Latino population in Texas increased by almost 2 million (1,980,796) over the past decade, the Anglo population, which is the slowest growing demographic, increased by less than 200,000. The increase in Anglo population contributed to only 5% of Texas population growth.

State Demographer Lloyd Potter has repeatedly testified before this committee that the number of Latinos in Texas has now slightly exceeded that of White non-Hispanics. Texas trails only California in the number of residents who are Latino and Latinos are now the largest ethnic group in three of Texas's three most populous counties: Harris, Dallas and Bexar.

Latinos are also the most significant component of Texas's expanding electorate. Among those turning 18 in Texas in 2020, just under half were Latino. With respect to voter participation, Latinos again comprise a significant portion of new voters in Texas. In 2018, Texas Latinos increased their vote share by about five percentage points -- from 14.4% to 19.1% of all votes cast (compared to 2014 midterm election).

Plan S2168 Fails to Reflect Latino Population Growth

Plan S2168, which has been reintroduced by Chair Huffman as SB375, contains seven majority Hispanic CVAP districts. This plan simply maintains the same number of Senate districts that contain a majority Hispanic CVAP. However, the Latino population of Texas is sufficiently numerous and geographically compact to comprise the majority of the CVAP in at least nine Senate districts—or at least two additional Latino citizen voting age majority Senate districts compared to the map in place for the past 20 years.

Despite the dramatic growth of the Latino population in Texas since 2016, the failure of Plan S2168 to create two additional Latino citizen voting age majority Senate districts statewide discriminates against Latino voters. Plan S2168 also weakened Latino voting strength in Senate District 27 to make it harder for Latinos to elect their preferred candidate.

Plan S2177 Presents a Fairer Alternative to Plan S2168

The LULAC Plaintiffs put forward Plan S2177 in the consolidated litigation challenging the Texas 2021 statewide redistricting plans. Plan S2177 creates two additional Latino majority Senate districts.

First, in South/Central Texas, between San Antonio and Austin along the I-35 corridor—including the geographic area including portions of Bastrop, Bexar, Caldwell, Comal, Guadalupe, Hays, and Travis Counties—the Latino population is sufficiently numerous and geographically compact to constitute the majority of the CVAP in at least one additional Latino majority Senate district, in the area that includes portions of SD5, SD14, SD19, SD21, SD25 and SD26 (Plan S2168). The Latino citizen voting age population in this area is compact, living primarily in the I-35 corridor between San Antonio and Austin, but is fractured across the above-mentioned districts instead of being included in one district.

Second, in the Dallas/Fort Worth Metroplex, the Latino population is sufficiently numerous and geographically compact to constitute the majority of the CVAP in at least one additional Latino majority Senate district, in the area that includes portions of enacted SD9, SD10, SD12, SD16, SD22, and SD23 (Plan S2168). The Latino citizen voting age population in this area is compact, living in the neighborhoods and cities of Pleasant Grove, Oak Cliff, Cockrell Hill, Farmers Branch, and South Irving in Dallas County and the Northside and Poly neighborhoods in Fort Worth in Tarrant County. However, this Latino population is fractured across the above-mentioned districts in Plan S2168 instead of being included in one district.

Plan S2177 creates a stronger Senate District 27 that includes more Latino voters. SD27 is an existing Latino CVAP majority district but changes made by Plan S2168 reduced the percentage of Spanish-surname registered voters in the district and the share of votes cast by Latinos. The boundaries of SD27 in Plan S2168 also decrease the votes received by Latino preferred candidates in the district.

Latinos and Other People of Color Have led the Effort for Fair Redistricting Maps in Texas and Will Continue to do so in 2023

From MALDEF's first U.S. Supreme Court victory in Texas redistricting, in *White v. Regester* (1973), through our more recent U.S. Supreme Court victories in 2006 in *LULAC v. Perry* (2006) and 2018 in *Abbott v. Perez* (2018), MALDEF's litigation has increased Latino-majority electoral districts in cities, school districts and counties as well in statewide redistricting plans. We know Texas redistricting well and offer you a deep perspective on the mistakes of the past.

In every redistricting cycle since the 1970's Texas redistricting plans have been blocked as discriminatory against Latino voters either by a federal court or the U.S. Department of Justice, and sometimes both. In Texas, the addition of new Latino opportunity districts to statewide redistricting plans often happens as the result of litigation when it should happen during the legislative process.

In the 2011 redistricting cycle, MALDEF and the Texas Latino Redistricting Task Force, along with the Texas House Mexican American Legislative Caucus, secured federal court rulings that Texas intentionally discriminated against Latinos in state house and congressional redistricting. The court-ordered remedies for Texas's discrimination included the creation of two new Latino majority state house districts, repairs to two existing House districts that had been weakened, a new congressional district in the DFW Metroplex with 64% Latino voting age population, and repairs to Congressional District 23 in West Texas which had been weakened.

The 2011 redistricting litigation continues today, and the court has taken up the multi-million dollar petitions for attorney's fees and costs from the prevailing plaintiffs, including the Texas Latino Redistricting Task Force.

In order to avoid having redistricting plans struck down in court, and burdening Texas taxpayers with paying attorney's fees, this committee and the Legislature as a whole must perform a careful analysis of what the federal Voting Rights Act and the U.S. Constitution require. This is not difficult and we urge this committee not to repeat the mistakes of the past and to adopt Plan S2177.

Thank you for the opportunity to provide written comment.

Sincerely,



Fátima L. Menéndez
Interim Southwest Regional Counsel