



August 17, 2025

Sent via email

Senate Special Committee on Congressional Redistricting
Texas Senate
Sam Houston State Office Building, Room 445
201 E. 14th Street
Austin, Texas 79701

Re: Second Supplemental Testimony Strongly Opposing Mid-Decade Congressional Redistricting Under the Current Circumstances

Dear Chair King, Vice Chair Creighton, and Committee Members:

The Legal Defense Fund (“LDF”), Barbara Jordan Leadership Institute, Houston Area Urban League, Delta Sigma Theta Sorority, Incorporated, and Black Voters Matter write to supplement our July 24 and August 8 testimonies.¹ This additional supplemental testimony reflects some of our current thinking about the severely flawed mid-decade congressional redistricting process that remains underway and related maps that are being considered.² To be sure, the views expressed herein, as with our prior testimonies, are not the sum of our many concerns with redistricting happening under these extraordinary circumstances and iterations of a proposed map that threatens to further harm Black and other voters of color in Texas.

At the August 7 hearing, this Committee considered public testimony on Senate Bill 4 (“S.B. 4”) for the first time.³ S.B. 4 mirrors the map (C2308) that was introduced in the House during the first special legislative session, as House Bill 4 (“H.B. 4”) on July 30,

¹ *Opposition to Mid-Decade Congressional Redistricting That Further Harms Black and Other Voters of Color*, NAACP Legal Def. Fund (July 24, 2025), https://www.naacpldf.org/wp-content/uploads/2025.07.24-TX-Congressional-Redistricting-Letter_Senate-final.pdf [hereinafter LDF, et al. July 24 Testimony]; *LDF Submits Supplemental Testimony Urging Texas Legislators to Halt Mid-Decade Redistricting Plan*, NAACP Legal Def. Fund (Aug. 8, 2025), <https://www.naacpldf.org/news/ldf-submits-supplemental-testimony-urging-texas-legislators-to-halt-mid-decade-redistricting-plan/> [hereinafter LDF, et al. August 8 Testimony].

² For this second special legislative session, Representative Hunter appears to have publicly submitted a congressional map titled C2331. *See District Viewer, Introduced Bills*, 82(2), Tex. Legislative Council (Aug. 2025), <https://dvr.capitol.texas.gov/Congress/82/PLANC2331>. Based on our preliminary review, C2331 appears to be nearly identical to C2308 except for the movement of a single military base from one congressional district to another in C2331 compared to C2308.

³ *Schedule, Minutes, Witness List and Bills Referred to Committee*, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 6, 2025), [https://capitol.texas.gov/Committees/MeetingsByCmte.aspx?Leg=89&Chamber=S&CmteCode=C660;Notice of Public Hearing](https://capitol.texas.gov/Committees/MeetingsByCmte.aspx?Leg=89&Chamber=S&CmteCode=C660;Notice%20of%20Public%20Hearing), Tex. Senate Special Comm. on Cong. Redistricting (Aug. 2025), <https://capitol.texas.gov/tlodocs/89R/schedules/pdf/C6602025080614001.PDF>.

which was voted out of the House Select Committee on Congressional Redistricting (“House Redistricting Committee”) on August 2.⁴ This Committee subsequently voted S.B. 4 out of committee on August 7.⁵ The Texas Legislature, however, failed to pass any new congressional map at the end of the first special legislative session on August 15. Right after that session ended, the Governor called for a second special legislative session, which also commenced on August 15.⁶ This Committee also scheduled a hearing for Sunday, August 17 at 4:00 p.m. to consider public testimony on S.B. 4. That hearing will be only the second time that this Committee has held a hearing to consider a legislatively proposed congressional map, whereas most of this Committee’s previous hearings seeking public testimony proceeded without a map or bill being presented.⁷ This Committee scheduled a second hearing for Monday, August 18 for “pending business.”⁸

Considering the public hearings held during the first special legislative session, and our continuing analyses of the proposed map, C2308, that is reflected in S.B. 4,⁹ we remain strongly opposed to the Governor’s call to conduct mid-decade congressional redistricting and for this Committee to take any action on it under these extraordinary circumstances for at least four reasons.

First, this Committee has still not presented any clear justification to conduct mid-decade congressional redistricting under the current circumstances. On the one hand, during the first special legislative session, Chair King characterized the initial four regional hearings—in which no legislatively proposed map was available for the public’s consideration—as the “information-gathering” stage because “the Governor added the subject of congressional redistricting on the special session called.”¹⁰ As our July 24

⁴ *H.B. 4*, Tex. House of Representatives (Aug. 6, 2025), <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=891&Bill=HB00004>.

⁵ *Minutes of Public Hearing*, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 2025), <https://capitol.texas.gov/tlodocs/89R/minutes/pdf/C6602025080709001.PDF>.

⁶ Unlike the agenda for the first special legislative session, the Governor’s agenda item for this second session omits any reference to the constitutional concerns raised by the U.S. Department of Justice as a basis for this mid-decade congressional redistricting. *Compare, Press Release, Governor Abbott Announces Special Session Agenda*, Tex. Gov. (July 9, 2025) (taking up congressional redistricting in a special session based on “constitutional concerns raised by the U.S. Department of Justice”), <https://gov.texas.gov/news/post/governor-abbottannounces-special-session-agenda>, *with Press Release, Governor Abbott Announces Special Session #2*, Tex. Gov. (Aug. 15, 2025) (taking up congressional redistricting in a special session), <https://gov.texas.gov/news/post/governor-abbott-announces-special-session-2>.

⁷ *Notice of Public Hearing*, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 2025), <https://capitol.texas.gov/tlodocs/89R/schedules/pdf/C6602025081716001.PDF>.

⁸ *Notice of Public Hearing*, Tex. Senate Special Comm. on Cong. Redistricting (Aug. 2025), <https://capitol.texas.gov/tlodocs/89R/schedules/pdf/C6602025081813001.PDF>.

⁹ *District Viewer, Introduced Bills, 82(2)*, Tex. Legislative Council (Aug. 2025), <https://dvr.capitol.texas.gov/Congress/82/PLANC2308>.

¹⁰ *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting, 89th Tex. Leg.*, Senate Special Comm. on Cong. Redistricting (Tex. July 25, 2025) (statement of Chair King, at 8:26), <https://senate.texas.gov/videooplayer.php?vid=22395&lang=en> [hereinafter July 25 Senate Redistricting Committee Hearing]; *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting, 89th Tex. Leg.*, Tex.

testimony quoted, the Governor’s call to take up congressional redistricting was based expressly on “*constitutional concerns raised by the U.S. Department of Justice*.”¹¹ On the other hand, Chair King stated that he disagreed with the Department’s allegations that the current 2021 congressional map is discriminatory,¹² explaining that he previously voted for a “legal map” and that recent trial testimony, including from Senator Huffman, confirms it as such.¹³ Chair King’s statements echo those of Representative Todd Hunter, the sponsor of H.B. 4. When introducing H.B. 4 to the House Redistricting Committee, Representative Hunter disclaimed that H.B. 4 was developed because of the constitutional issues raised by the Department.¹⁴ Now, the Governor’s call for this session noticeably omits any reference to the Department’s concerns as a prompt for this redistricting.¹⁵

In our July 24 and August 8 testimonies, we explained that the Texas Legislature should not rely on the Department’s flawed legal theories to conduct mid-decade congressional redistricting.¹⁶ In particular, the Department flagged four districts, Congressional Districts 9, 18, 29, and 33—all of which are districts comprised of a majority of racial minority voters and represented by Black or Hispanic representatives—as illegal racial gerrymanders. Notably, the same proposed map in S.B. 4 make drastic changes to Congressional Districts 9, 18, 29, and 33, among many other districts.¹⁷ Given the public

Senate Special Comm. on Cong. Redistricting (July 26, 2025) (statement of Chair King, at 5:12), <https://senate.texas.gov/videoplayer.php?vid=22396&lang=>.

¹¹ See LDF, et al. July 24 Testimony, *supra* note 1, at 2, n.5 (emphasis added); see Letter from Harmeet Dhillon, Assistant Att’y Gen., U.S. DOJ C.R. Div., to Greg Abbott, Governor of Tex. and Ken Paxton, Att’y Gen. of Tex. (July 7, 2025) (notifying Texas officials of “serious concerns regarding the legality of four of Texas’s congressional districts”), *available at* <https://electionlawblog.org/wp-content/uploads/7-7-2025-DOJ-Letter-re-Unconstitutional-Race-Based-Congressional-District.pdf> [hereinafter DOJ July 7 Letter].

¹² DOJ July 7 Letter, *supra* note 11.

¹³ *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting*, 89th Tex. Leg., Tex. Senate Special Comm. on Cong. Redistricting (July 29, 2025) (statement of Chair King, at 33:40), <https://senate.texas.gov/videoplayer.php?vid=22414&lang=en> [hereinafter July 29 Senate Redistricting Committee Hearing].

¹⁴ See, e.g., *Hearing on Congressional Redistricting Before the House Select Committee on Congressional Redistricting*, 89th Tex. Leg., Tex. Senate Special Comm. on Cong. Redistricting (Aug. 2, 2025) (statement by Rep. Hunter, at 1:26:00), <https://house.texas.gov/videos/committees/89/1> [hereinafter August 2 House Redistricting Committee Meeting].

Indeed, if the Texas Legislature believed there were any legal defects with the current 2021 congressional plan, they could have addressed those in the current litigation or during previous legislative sessions. See Ailsa Chang, Jason Fuller & John Ketchum, *A Texas Republican State Lawmaker on the Fight for Redistricting*, NPR (Aug. 6, 2025).

¹⁵ See *supra* note 6.

¹⁶ LDF, et al. July 24 Testimony, *supra* note 1; LDF, et al. August 8 Testimony, *supra* note 1. This critique was echoed by other testimony. See, e.g., July 25 Senate Redistricting Committee Hearing, *supra* note 10, at statement of Ellen Katz, at 1:00:00.

¹⁷ *Compare District Viewer, Current Districts(1)*, Tex. Legislative Council (Aug. 6, 2025), <https://dvr.capitol.texas.gov/Congress/2/PLANC2193>, *with id.* <https://dvr.capitol.texas.gov/Congress/73/PLANC2308>.

record as of the date of this letter, the *only*—or at minimum predominant—basis the Department has raised for changing those districts is their racial makeup.¹⁸

Second, we reiterate our concern that the current consideration of whether to conduct mid-decade congressional redistricting lacks transparency and meaningful opportunities for public input. The public has nearly uniformly raised such concerns during the hearings held to date. The public continues to lack basic information about the complete redistricting criteria that is being used by this Committee or the full Senate to guide any mid-decade congressional redistricting and the configuration of specific districts. Nor does the public know how proposed maps, including the more than 100 proposed congressional maps submitted by the public during the first special legislative session, are being considered and assessed, if at all.¹⁹

The public still also lacks knowledge about how legislatively introduced maps are being developed, who takes part in developing them,²⁰ what demographic, electoral, or other information is being considered in their development,²¹ and additional such information that illuminates basic and reasonable guideposts about new congressional maps and specific district formations. As this Committee is aware, H.B. 4 was provided to the public less than 48 hours before the House Redistricting Committee held its only public hearing on it. That one hearing took place from 10:00 a.m. on Friday, August 1, to about 1:00 a.m. on Saturday, August 2. The public had less than two days to consider that map and when it was heard, it was done over 10 hours, overlapping with “normal” workday hours, in a rushed and non-transparent marathon of a hearing running into the early morning on a Saturday.

Just seven hours later, the House Redistricting Committee voted H.B. 4 out of committee shortly after commencing a new meeting at 9:00 a.m. on August 2. In introducing his bill, Representative Hunter invoked various privileges, refusing to publicly

¹⁸ Compare DOJ July 7 Letter, *supra* note 11, with, see generally Tex. Senate Special Comm. on Cong. Redistricting (providing links to the videos of the July 25, July 26, July 28, and July 29 regional hearings and August 6 and 7 additional hearings), <https://senate.texas.gov/cmte.php?c=660>.

¹⁹ See *District Viewer, Plans Submitted by Public*, 89(1), Tex. Legislative Council (Aug. 7, 2025), <https://dvr.capitol.texas.gov/Congress/72>.

²⁰ Representative Hunter disclosed that the law firm of Butler Snow developed C2308 and shared it with Representative Hunter to sponsor it. August 2 House Redistricting Committee Meeting, *supra* note 14, at statement by Rep. Hunter, at 1:29:50. In response to a question about what data and other information went into the development of C2308, as approximately 150 pages of data and other information accompanied H.B. 4, for example, Representative Hunter said that he “do[esn’t] have the specifics.” *Id.* at statement by Rep. Hunter, at 1:32:30. Since then, Chair King has suggested that the “Redistricting Trust,” perhaps a reference to the National Republican Redistricting Trust, has been involved in the development of at least C2308. *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting*, 89th Tex. Leg., Tex. Senate Special Comm. on Cong. Redistricting (Aug. 7, 2025) (statement of Chair King, at 1:42:00), <https://senate.texas.gov/videooplayer.php?vid=22443&lang=en> [hereinafter August 7 Senate Redistricting Committee Hearing].

²¹ Representative Hunter did not know who the law firm Butler Snow may have worked with in developing C2308, either in whole or in part. *Id.* at statement by Rep. Hunter, at 1:48:30; see generally August 7 Senate Redistricting Committee Hearing, *supra* note 20.

disclose what he asked the law firm hired to develop the map to do, what criteria the firm considered, what analyses the firm conducted and why any analyses were conducted, and what data was used to sort voters among specific redrawn districts, among many other basic questions.²² Consequently, neither Representative Hunter, let alone anyone who actually developed any legislatively-proposed map offered to date, has been able to fully explain any map and the specific districts within them, including the many districts undergoing major changes to their configurations. The Legislature has provided the public with nothing more than general responses and unsubstantiated justifications.

In cloning S.B. 4 after H.B. 4 and without introducing any further explanation for S.B. 4's development, including from legislator-bill sponsors or those working with them, this Committee thus far appears to similarly lack basic background information about who developed the map and what considerations went into it and the specific districts within the map.²³ During the August 7 hearing, for example, Chair King acknowledged that he had “no input” in the development of C2308.²⁴

Third, the overwhelming majority of public testimony submitted during the first special legislative session opposed any mid-decade congressional redistricting under the current circumstances.²⁵ Consistent with that public testimony, if the Texas Legislature wants to meaningfully address claims of racial discrimination, as we relayed it should be compelled to do in our July 24 and August 8 testimonies, the Legislature should convene a separate legislative session to address the harms documented with evidence in the consolidated case in the ongoing federal litigation challenging the 2021 congressional plan.²⁶ It should not be doing what occurred in the first special session and what is underway in this second session—forcing a map through the special 30-day legislative session with little to no knowledge about the who, what, when, where, why, and how it and the specific districts within it were developed. It also should not be doing so while people are working, recovering from disasters, and left with little to no time to absorb and understand how a map of such significance will impact their lives. Indeed, as our July 24 and August 8 testimonies warned, any revised congressional map must comply with the

²² *Id.* at statements by Rep. Hunter, 1:48:00 and 1:51:45.

²³ August 7 Senate Redistricting Committee Hearing, *supra* note 20, at statement of Chair King, at 16:20.

²⁴ *Id.* at statement of Chair King, at 1:42:00. Still, consistent with the generic and unsupported justifications for the map offered to date, Chair King provided two objectives for a congressional map—“electing more Republicans” and “more compact districts.” *Id.* at statement of Chair King, at 18:30.

²⁵ Tex. Senate Special Comm. on Cong. Redistricting (Aug. 2025) (providing links to the video of the July 25, July 26, July 28, and July 29 regional hearings, the August 6 and August 7 additional hearings, and public comments submitted to the Committee), <https://senate.texas.gov/cmte.php?c=660> [hereinafter Public Comments and Testimony Submitted to this Committee]; see also Committee on Congressional Redistricting, Select (Aug. 2025) (providing tab links to public hearings and public comments).

²⁶ *League of United Latin Am. Citizens v. Abbott*, Dkt. No. 3:21-cv-00259-DCG-JES-JVB (W.D. Tex. 2022).

U.S. Constitution and the Voting Rights Act and avoid further restricting access to electoral opportunity and representation for Black, Hispanic, and other racial minority voters.²⁷

Fourth, despite these concerns and warnings, S.B. 4 further weakens Black and Hispanic Texan voters' electoral opportunities and disrupts the ability of racial minority voters to access congressional representation in Houston, Dallas-Fort Worth, and other areas of the State. Consistent with other members of the public, our July 24 and August 8 testimonies detailed that the Legislature had no factual or legal basis to use mid-decade redistricting to significantly alter districts in any way that denies or dilutes Black and Hispanic voters of their electoral opportunities and influence.²⁸ We and other members of the public, for example, warned this Committee not to change Congressional Districts 9 and 18 in Harris County in any way that disturbs how those districts have each been functioning for Black voters to elect their preferred Black representatives in elections.²⁹ In addition, other public testimony also warned this Committee about the need for Hispanic voters also to have access to representation in Harris County and the Dallas-Fort Worth area, among other areas, based on the current demographics and electoral patterns.³⁰ These concerns and warnings were repeatedly reiterated during oral testimony presented to this Committee during the four regional hearings held during the first special session.³¹ Testimony, for example, reflected a recognition that it is possible to maintain electoral opportunity for both Black and Latino voters in Harris and Dallas-Fort Worth, while also establishing new opportunities for racial minority voters in the Harris and Dallas-Fort Worth areas.

Ours and other public testimony also stressed that the only basis offered, at least initially, to consider altering districts like 9, 18, 29, and 33—all currently serving racial minority Texan voters and electing Black or Hispanic representatives—was the Department's criticism of their racial makeup.³² To date, neither this Committee nor the Department has publicly pointed to any credible legal or factual analysis justifying such significant disruptions to those district configurations.³³ In fact, as noted above, Chair King publicly stated he disagreed with the Department's allegations about specific districts like 9, 18, 29, and 33, maintaining that the current 2021 congressional map is a legal map.³⁴

²⁷ LDF, et al. July 24 Testimony, *supra* note 1; LDF, et al. August 8 Testimony, *supra* note 1.

²⁸ *Id.*; Public Comments and Testimony Submitted to this Committee, *supra* note 25.

²⁹ See, e.g., July 24 LDF et al. Testimony, *supra* note 1; see generally *Hearing on Congressional Redistricting Before the Senate Special Committee on Congressional Redistricting*, 89th Tex. Leg., Tex. Senate Special Comm. on Cong. Redistricting (July 28, 2025) (statement by Judson Robinson on behalf of the Houston Area Urban League, at 1:28:20), <https://senate.texas.gov/videooplayer.php?vid=22397&lang=en>

³⁰ See, e.g., July 25 Senate Redistricting Committee Hearing, *supra* note 10, at statement of Rep. Sylvia Garcia, at 53:20.

³¹ Public Comments and Testimony Submitted to the Committee, *supra* note 25.

³² LDF et al. July 24 Testimony, *supra* note 1; see also Public Comments and Testimony Submitted to the Committee, *supra* note 25.

³³ DOJ July 7 Letter, *supra* note 11; see also Public Comments and Testimony Submitted to the Committee, *supra* note 25.

³⁴ July 29 Senate Redistricting Committee Hearing, *supra* note 13, (statement of Chair King, at 33:54); see also August 2 House Redistricting Committee Meeting, *supra* note 14 (statement by Rep.

Yet, those districts, among others, are proposed to undergo significant and harmful changes to Black and Hispanic voters, under *every* iteration of the legislatively proposed maps considered in these special sessions—that is, C2308, which is reflected in H.B. 4 and S.B. 4, and the nearly identical C2331.³⁵

As just one example of our concerns, S.B. 4 packs Black voters in Congressional District 18 at levels that are unnecessary to provide them with electoral opportunity,³⁶ while eliminating another effective opportunity for Black voters in Congressional District 9.³⁷ In so doing, the Committees that have considered and voted H.B. 4 and S.B. 4 out of committees admit that it is possible to develop a reasonably configured, majority Black-citizen-voting-age population (or another such form of an opportunity) district in Harris County in Congressional District 18. Similarly, the proposed map increases the Black-citizen-voting-age population to just above 50% in Congressional District 30³⁸ in the Dallas-Fort Worth area, despite the fact that the district has been performing for Black voters in recent elections when Black voters are below 50% of the district’s population.³⁹ But nothing

Hunter, at 1:44:30) (stating he was told by the law firm Butler Snow that he worked with to develop the 2021 congressional map that it is legally compliant). The public has no specific, documented information to discern how so. *See* Public Comments and Testimony Submitted to the Committee, *supra* note 25.

³⁵ *Supra* note 2.

³⁶ *Compare* American Community Survey Special Tabulation Using Census and American Community Survey Data, Congressional Districts – Plan C2193, Tex. Legislative Council (Feb. 19, 2025), https://data.capitol.texas.gov/dataset/b806b39a-4bab-4103-a66a-9c99bcaba490/resource/351077a4-ed22-4c33-bea5-8057e996622e/download/planc2193_r116_acs1923.pdf (reflecting that the Black citizen-voting-age population (“BCVAP”) in Congressional District 18 in the 2021 existing map is 34.4%) [hereinafter 2021 Plan CVAPs by Congressional Districts], *with* American Community Survey Special Tabulation Using Census and American Community Survey Data, Congressional Districts _Plan C2308 (July 30, 2025), <https://data.capitol.texas.gov/dataset/6c8aed8d-c0e7-4520-b917-b10dcee44f67/resource/3c370c70-8d44-445c-9d6d-e0933f2198c5/download/planc2308r116.pdf> (reflecting that the BCVAP in the proposed map is 50.8%) [hereinafter H.B. 4 CVAPs by Congressional Districts].

³⁷ *Compare* 2021 Plan CVAPs by Congressional Districts, *supra* note 36 (reflecting that the BCVAP in Congressional District 9 in the 2021 existing map is 38.6%), *with* H.B. 4 CVAPs by Congressional Districts, *supra* note 36 (reflecting that the BCVAP in Congressional District 9 in the proposed map is 12.1%).

³⁸ *Compare* 2021 Plan CVAPs by Congressional Districts, *supra* note 36 (reflecting that the BCVAP in Congressional District 30 in the 2021 existing map is 46%), *with* C2308 CVAPs by Congressional Districts, *supra* note 36 (reflecting that the BCVAP in Congressional District 30 in the proposed map is 50.2%).

³⁹ *See, e.g., Cooper v. Harris*, 581 U.S. 285, 302-04 (2017); *see also infra* notes 40-41. Texas officials have defended the 2021 enacted congressional map in federal litigation as being drawn blind to the race of voters. *See* LDF et al. July 24 Testimony, *supra* note 1, at 1-2. Chair King also insists that more recently proposed maps like C2308 are drawn “race blind”. August 7 Senate Redistricting Committee Hearing, *supra* note 20 (statement of Chair King, at 24:10). However, Congressional District 18 and Congressional District 30 increase the BCVAP to slightly over 50% at 50.8 and 50.2, respectively. *See supra* notes 36-38. While there is nothing infirm about race conscious decision-making, LDF et al. July 24 Testimony, *supra* note 1, at 3, n.19 (quoting *Allen v. Milligan*, 599 U.S. 1,

in the Voting Rights Act or other federal case law interpreting that statute requires that an illustrative district must meet the 50% plus one requirement for a single-racial group must also be the operative district.⁴⁰

To be clear, while Congressional District 18 in Harris County and Congressional District 30 in the Dallas-Fort Worth area each may be a district in which Black voters can comprise a majority of the voters, recent elections show that neither Congressional Districts 18 nor 30 need be a majority-Black district to provide Black voters with electoral opportunity in each district, as the Voting Rights Act and U.S. Constitution require.⁴¹

As we stated in our July 24 and August 8 testimonies, it is well known and well documented that Texas is home to the largest number of Black registered voters among all 50 states.⁴² Many of those Black voters live in Houston and Dallas-Fort Worth.⁴³ No legislatively-sponsored plan to date, including the plan currently before this Committee, reflects the electoral opportunities for racial minority voters in those areas.

We urge the Legislature to not adopt this map that runs afoul of fair processes, as well as the U.S. Constitution and Voting Rights Act. To reiterate, the public has a right to know the who, what, when, where, why, and how any legislatively proposed map and the specific districts within them have been developed. They have a right to the necessary time to understand the implications of a map on their lives in a meaningful and transparent process. Additionally, as explained above, among other harms, S.B. 4 eliminates effective opportunities for Black voters in areas of Texas like Harris County because of their racial makeup. As our July 24 and August 8 testimonies referenced, the Supreme Court explained

31 (2023)), the use of artificial racial population targets to minimize Black and Hispanic electoral opportunities can raise constitutional concerns, *see infra* notes 40-41.

⁴⁰ *Compare Thornburg v. Gingles*, 478 U.S. 30, 42-43 (1986) (identifying what is required to show Section 2 liability under prong one of a discriminatory results vote dilution analysis), *with Bartlett v. Strickland*, 556 U.S. 1, 24 (2009) (holding that while Section 2 does not *require* the creation of districts that are less than 50 percent minority voting-age population, it observed such districts are not *prohibited* by Section 2); *see also id.* at 24 (“States that wish to draw crossover districts are free to do so where no other prohibition exists.”). Indeed, “[t]he option to draw such [crossover] districts gives legislatures a choice that can lead to less racial isolation, not more.” *Id.* at 23. To be sure, “§ 2 allows States to choose their own method of complying with the Voting Rights Act, and we have said that may include drawing crossover districts.” *Id.*; *see also Cooper*, 581 U.S. at 302-04.

⁴¹ A rigid rule or interpretation of the Voting Rights Act requiring the creation of a majority-minority district whenever a Section 2 violation exists could violate *Shaw*’s directive that Section 2 remedies should be “narrowly tailored.” *Shaw v. Hunt*, 517 U.S. 899, 908 (1996). As the Supreme Court cautioned in *Bartlett*, Section 2 “should not be interpreted to entrench majority-minority districts by statutory command, for that ... could pose constitutional concerns,” 556 U.S. at 23-24, by increasing, rather than reducing, the degree of race-based decision-making involved in redistricting determinations; *see also Cooper*, 581 U.S. at 302-04.

⁴² LDF, et al. July 24 Testimony, *supra* note 1, at 5; LDF, et al. August 8 Testimony, *supra* note 1.

⁴³ *Black History Month: African Americans in Texas*, Tex. Demographic Ctr. (2022), https://demographics.texas.gov/Visualizations/2022/BlackHistoryMonth/2022_BlackHistoryMonthGraphic.pdf; Bethany Blankley, *Census: Texas, Harris County Have Largest Black Population in U.S.*, The Center Square (June 28, 2023), https://www.thecentersquare.com/texas/article_e9a1ce44-15ac-11ee-8ff3-3f10caf1ff51.html.

in *Bartlett v. Strickland*, 556 U.S. 1, 24 (2009), “if there were a showing that a State intentionally drew district lines in order to destroy otherwise effective crossover districts, that would raise serious questions under both the Fourteenth and Fifteenth Amendments” to the U.S. Constitution. S.B. 4 also strains the promises of the Voting Rights Act. It does so, as one example, by needlessly packing Black voters in districts in which they comprise the majority in Harris and Dallas-Fort Worth areas, where it has been shown to be unnecessary for Black voters to participate in elections in each of those areas effectively. *Id.* at 23-24. And, considering recent testimony and the significant changes proposed for congressional districts serving racial minority voters, S.B. 4 appears to harm Black voters as a means to increase political advantage, which is also prohibited by the U.S. Constitution.⁴⁴

As we continue to reiterate, at issue is the right to be a part of our shared democratic processes, including the right to urge representatives to act in service of all the rights that flow from political participation like funding for schools, environmental disaster relief, healthcare, and jobs that pay living wages.⁴⁵

For all these reasons, following the conclusion of this Committee’s public hearings during the second legislative special session, we continue to urge Texas’ Legislature to refrain from conducting mid-decade congressional redistricting under these circumstances. We further reiterate that the Legislature must not draw lines in any way that further harms Black Texan voters and other voters of color and risks greater damage to those communities. This Committee must reject S.B. 4.

⁴⁴ *Alexander v. South Carolina State Conf. of the NAACP*, 602 U.S. 1, 8, n.1 (2024); *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 440 (2006) (stating that taking away a political opportunity just as minority voters were about to exercise it “bears the mark of intentional discrimination”); *Hunter v. Underwood*, 471 U.S. 222, 233 (1985) (finding intentional discrimination where a state enacted a law to harm Black and poor white voters for partisan purposes); *Bartlett*, 556 U.S. at 24.

⁴⁵ *Cf. Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

Sincerely,



Demetria McCain (TX Bar No. 24060927)
Louis Bedford (TX Bar. No. 24109630)
NAACP Legal Defense Fund
700 14th St. NW, Suite 600
Washington, DC 20005

Khanay Turner, Executive Director
Barbara Jordan Leadership Institute
Khanay@bjli.org

Judson Robinson, President & CEO
Houston Area Urban League

Cliff Albright, Co-founder
April England-Albright, National Legal Director
Black Voters Matter

Leah C. Aden
John S. Cusick
NAACP Legal Defense Fund
40 Rector St., 5th Floor
New York, NY 10006
laden@naacpldf.org
jcusick@naacpldf.org

Cheryl W. Turner
International President & Chair, Board of Directors
Delta Sigma Theta Sorority, Incorporated

cc: The Honorable Greg Abbott
c/o Trevor Ezell and Robert Black
Office of the Governor
P.O. Box 12428
Austin, Texas 78711
Trevor.Ezell@gov.texas.gov
Robert.Black@gov.texas.gov

The Honorable Dustin Borrows
c/o Sarah Harrington
Office of the Speaker of the House
P.O. Box 12910
Austin, Texas 78711
sarah.harrington@speaker.texas.gov



The Honorable Dan Patrick
Office of the Lieutenant Governor
P.O. Box 12068
Austin, Texas 78711
dan.patrick@ltgov.texas.gov

The Honorable Ken Paxton
c/o Austin Kinghorn and Ryan Walters
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711
ken.paxton@oag.texas.gov
Austin.Kinghorn@oag.texas.gov
Ryan.Walters@oag.texas.gov

NAACP Legal Defense and Educational Fund, Inc. (“LDF”)

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in education, economic justice, political participation, and criminal justice. Throughout its history, LDF has worked to enforce and promote laws and policies that increase access to the electoral process and prohibit voter discrimination, intimidation, and suppression. LDF has been fully separate from the NAACP since 1957, though LDF was originally founded by the NAACP and shared its commitment to equal rights.

Barbara Jordan Leadership Institute

As a nonpartisan organization founded and led by Black women driven by our lived experiences, The Barbara Jordan Leadership Institute (BJLI) provides a comprehensive approach to community based leadership in action through voter education, advocacy, and leadership development. BJLI’s mission is to increase the diversity of leadership by training, mentoring, supporting, and uplifting Black communities throughout Texas.

Houston Area Urban League

The Houston Area Urban League (“HAUL”) is a nonpartisan, nonprofit organization with its principal office in Houston. HAUL’s mission is to enable Black people and other marginalized communities to secure economic self-reliance, parity, power, and civil rights.

Delta Sigma Theta Sorority, Incorporated

Delta Sigma Theta Sorority, Incorporated was founded on January 13, 1913, on the campus of Howard University to promote academic excellence; to provide scholarships; to provide support to the underserved; educate and stimulate participation in the establishment of positive public policy; and to highlight issues and provide solutions for problems in their communities. Since its founding, more than 350,000 women have joined the organization,

making it one of the largest predominantly Black women's organizations in the country. Delta Sigma Theta Sorority, Incorporated has over 1,000 collegiate and alumnae chapters worldwide, continuing to uplift Black communities globally through its unwavering mission and strategic action.

The Sorority's tradition of activism on the frontlines dates back to just weeks after its inception, when its Founders boldly marched in the 1913 Women's Suffrage Parade—the only Black women's organization to do so. In keeping with this tradition, members of Delta Sigma Theta conduct voter registration drives and host voter education programs on many topics, including redistricting. Delta Sigma Theta has 75 chapters, alumnae and collegiate, and approximately 20,445 members in Texas, most of whom are registered voters in Texas.

Black Voters Matter

Black Voters Matter is a fund that supports local organizations and leaders working for social justice and civic engagement in predominantly Black communities. BVM's goal is to increase power in marginalized, predominantly Black communities. BVM achieves this goal through voter registration/get-out-the-vote activities, policy advocacy, development and training, and electoral communications.