

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE GEORGIA SENATE BILL 202

Master Case No.:  
1:21-MI-55555-JPB

SIXTH DISTRICT OF THE AFRICAN  
METHODIST EPISCOPAL CHURCH,  
*et al.*,

Civil Action No.:  
1:21-CV-01284-JPB

*Plaintiffs,*

v.

BRIAN KEMP, *et al.*,

*Defendants,*

REPUBLICAN NATIONAL  
COMMITTEE, *et al.*,

*Intervenor-Defendants.*

GEORGIA STATE CONF. OF THE  
NAACP, *et al.*,

*Plaintiffs,*

Civil Action No.:  
1:21-CV-01259-JPB

v.

BRAD RAFFENSPERGER, *et al.*,

*Defendants,*

REPUBLICAN NATIONAL  
COMMITTEE, *et al.*,

*Intervenor-Defendants.*

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THE CONCERNED BLACK CLERGY  
OF METROPOLITAN ATLANTA,  
INC., *et al.*,

*Plaintiffs,*

v.

BRAD RAFFENSPERGER, *et al.*,

*Defendants,*

REPUBLICAN NATIONAL  
COMMITTEE, *et al.*,

*Intervenor-Defendants.*

Civil Action No.:  
1:21-CV-01728-JPB

**STATE DEFENDANTS' RESPONSE IN OPPOSITION TO  
PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION  
REGARDING RUNOFF DATES**



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## INTRODUCTION

Plaintiffs' latest motion for a preliminary injunction seeks to alter Georgia's election schedule dramatically—by extending all runoffs for federal races back to nine weeks. In so doing, Plaintiffs continue their outlandish narrative that SB 202 was the result of the General Assembly viewing “growing Black political participation as a threat.” [Doc. 574-1, p. 8]. The relevant facts do not support this narrative or Plaintiffs' fanciful assertion that the Georgia General Assembly enacted the changes to the federal runoff schedule with “a purpose to discriminate against Black voters.”

Initially, Plaintiffs lack standing to assert their claims because they have not provided any evidence regarding their alleged injuries. Specifically, these organizations have not submitted sufficient evidence to support associational or diversion-of-resources claims about the runoff schedule.

But even if Plaintiffs have standing, they are not likely to prevail on the merits of their intent-only claim. The runoff provisions of SB 202 aligned the runoff schedule for *federal* offices to the *already-existing* four-week runoff schedule for state offices after adding ranked-choice voting for overseas voters. And the unified four-week runoff schedule was only adopted after the *first-ever* nine-week general-election federal runoff that the legislature determined was “exhausting” for all involved. Moreover, data show that voter participation in

the four-week general-election runoff in 2022 was improved from voter participation in the nine-week runoff in 2021, undermining Plaintiffs' primary claim. But Plaintiffs refuse to acknowledge those data or data from states that run shorter runoff elections.

The remaining factors for a preliminary injunction are not met because every Georgia voter is still able to vote in four-week federal runoffs—just as they always have for state runoffs. There is no irreparable harm, and the equities do not favor Plaintiffs because of the significant changes that are required to implement their proposed injunction.

This Court should deny Plaintiffs' requested injunction and allow Georgia to continue operating four-week runoffs for all elections.

## **FACTUAL BACKGROUND**

### **I. Georgia law on runoff elections.**

#### **A. Georgia runoffs before SB 202.**

Before 2013, Georgia held runoffs for all elected offices three weeks after a primary or four weeks after a general election when no candidate received a majority of the vote. O.C.G.A. § 21-2-501(a) (2012); *United States v. Georgia*, 952 F. Supp. 2d 1318, 1322 (N.D. Ga. 2013). Following 2013 litigation involving the Uniformed Overseas Citizens Absentee Voting Act (UOCAVA) and the Military and Overseas Voting Empowerment Act (MOVE Act), Georgia was

ordered to hold *federal* runoff elections at least 45 days after a primary or general election to allow time for military and overseas ballots under the MOVE Act. *Id.* at 1333–34. To comply, the legislature amended the statute in 2014 to use two different runoff schedules for general elections—a four-week schedule for non-federal runoffs and a nine-week schedule for federal runoffs. *See* O.C.G.A. § 21-2-501(a) (2017); *United States v. Georgia*, 778 F.3d 1202, 1204 (11th Cir. 2015) (discussing HB 310); 2014 Ga. Laws 343.

From 2014 through 2019, the only general-election runoffs that took place were in 2018 for the state offices of Secretary of State and Public Service Commissioner, so they were held four weeks after election day. Declaration of Ryan Germany, attached as Ex. A (“Germany Decl.”) ¶¶ 57–58. But in 2020, three statewide general-election races required runoffs: both U.S. Senate seats and a Public Service Commission seat. *Id.* at ¶ 59. After this first-ever nine-week general-election runoff, the legislature determined that the timeline that prolonged the election process through Thanksgiving, Chanukah, and Christmas was “exhausting for candidates, donors, and electors.” SB 202, Section 2, Paragraph 11.

### **B. Changes to runoff provisions in SB 202.**

In SB 202, the legislature undertook a comprehensive overhaul of the runoff process. SB 202 created the ranked-choice system for military and



overseas voters in Section 27.<sup>1</sup> O.C.G.A. § 21-2-384(e)(5), (6); SB 202, Section 2, Paragraph 11. By allowing military and overseas voters to vote in runoffs without requiring another round trip for an absentee ballot, the 45-day requirement of the MOVE Act no longer applied. *Id.*, see also 52 U.S.C. § 20302(a)(9) (written plan for runoff elections); Germany Decl. ¶ 62.

SB 202 created the ranked-choice system for overseas voters in Section 27 and established the process for the “special absentee run-off ballot.” O.C.G.A. § 21-2-384(e)(5), (6). It then updated the election timeline for advance voting in runoffs in Section 28, updated absentee-ballot processing rules (including early scanning) in Section 29, then revised the timeline to move all runoffs, both federal and non-federal, to match the non-federal runoff schedule in Section 42, returning to the pre-2014 runoff length in Georgia. Section 42 also made changes to requirements for municipal election runoffs, voter registration related to runoffs, and alignment of municipal special elections with runoffs.

## **II. Black voter participation in Georgia elections.**

In service of their racialized narrative surrounding the adoption of SB

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<sup>1</sup> Ranked-choice or instant runoff voting is also used by several other states to hold shorter runoffs when federal candidates are involved. *See, e.g.*, Ala. Code § 17-13-8.1; S.C. Code Ann. § 7-15-650; Germany Decl. ¶ 62.

202, Plaintiffs devote several pages of their brief to their one-sided version of Black voter participation in Georgia elections. [Doc. 574-1, pp. 10–11]. But almost all the facts they cite about increasing voter participation are not supported by their attached declarations. *See* [Doc. 574-7, ¶ 2] (Kelly Dec. only noting she has voted in elections since 1990s); [Doc. 574-8, ¶ 2] (Robinson Dec. only noting that she never misses an election); [Doc. 574-9, ¶ 5] (Dennis Dec. only noting that Common Cause “encourages voter participation in Georgia, including among Black voters”); [Doc. 574-10, ¶ 4] (Kinard Dec. only noting that she handed out food and water in 2014). And while Plaintiffs rely on Dr. Clark’s report for facts about the election of Sen. Warnock, they fail to note that the proportion of Georgia’s Black House members of Congress has exceeded the proportion of its Black population since 2019. [Doc. 574-11, p. 41 table 11].

Plaintiffs also spin a story that is not supported by the record. Plaintiffs insist that “Souls to the Polls” is of great importance to Black communities and churches, but the depositions they cite do not support the broad statements in the brief. *Compare* [Doc. 574-1, p. 13] (“weekend voting is of particular importance for Black communities”) *with* [Doc. 574-14 at 75:11–76:3] and [Doc. 574-15 at 101:9–102:5] (both just describing Souls to the Polls).

### III. Voter turnout in runoff elections has increased.

A review of the facts shows that voter participation in Georgia runoffs has been increasing, not decreasing, since SB 202. In the 2018 general election, 61.4% of registered voters voted (approximately 3.9 million votes). Germany Decl. ¶ 72. But in the 2018 runoff election, only 22.9% of voters voted (almost 1.5 million votes). *Id.* at ¶ 73. That changed in 2020, with 69.6% of active voters voting, or nearly 5 million votes cast, in the 2020 general election, and then 61% of active voter voting, or approximately 4.4 million votes cast, in the January 2021 runoff election. *Id.* at ¶ 74. The 2022 runoff showed a similar pattern, when 57.02% of voters voted, or 3.9 million votes cast, in the 2022 general election, and 50.58% of voters voted, or 3.5 million votes cast, in the December 2022 runoff election—even when control of the U.S. Senate was not on the line as it was in 2020. Germany Decl. ¶ 75. In other words, the December 2022 runoff resulted in a smaller decrease in turnout rate when compared with the general election than the January 2021 runoff even with the shorter timeline. Report of Justin Grimmer, attached as Ex. B (“Grimmer Report”) ¶ 30. In addition, more voters used weekend voting in the December 2022 runoff than in the January 2021 runoff, with a 58.6% increase in weekend voting in the four-week runoff over the nine-week runoff. *Id.* at ¶¶ 18, 184–185.

In fact, voter turnout in Georgia has been increasing for years, even in

midterm elections that usually have lower turnout than Presidential election years. *Id.* at ¶¶ 27–28. Turnout in both the 2022 general election and 2022 general runoff election was very high, with the turnout rate for the 2022 midterm approximately 81% higher than the turnout rate for the 2014 midterm, which is larger than the increase of the 2020 general election turnout rate over the 2016 general election turnout rate. *Id.* Further, Georgia voter turnout in mid-term elections remains higher than other comparable states after SB 202. *Id.* at ¶¶ 41–42, 44–45. And the decreases in Black voter turnout in Georgia from 2018 to 2022 that Plaintiffs point to are smaller than in other states that track similar data. *Id.* at ¶¶ 48–50.

In 2022, four-week runoffs were held in June for the May primary, then again in December after the November general election. Germany Decl. ¶ 63. Black candidates regularly were successful in those four-week runoffs in 2022, with Black candidates winning the Democratic nominations for Insurance Commissioner and Labor Commissioner in June and a Black candidate winning the U.S. Senate race in December 2022.<sup>2</sup> *Id.* at ¶ 64.

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<sup>2</sup> Regardless of the outcome of the December 2022 runoff, a Black candidate would represent Georgia in the U.S. Senate because both Republicans and Democrats had nominated Black candidates in their primary elections and those candidates progressed to the runoff election. Germany Decl. ¶ 65.

**IV. Plaintiffs' claims about the legislative process are baseless.**

**A. Dr. Anderson has no expertise in Georgia legislative processes.**

Plaintiffs rely on Dr. Anderson's report to assert that the legislative process was unusual or otherwise irregular. [Doc. 574-1, p. 14]. But Dr. Anderson has never studied the process of how a bill becomes a law in Georgia and does not consider herself an expert on the Georgia legislative process. Excerpts from the Deposition of Carol Anderson, attached as Ex. C ("Anderson Dep.") 203:20–204:1. While she relied on her review of hearings on SB 202 for her conclusion there was "chaos" in the process, she has never reviewed hearings of any other election legislation in any other years as a comparison. Anderson Dep. 204:18–205:1. In fact, Dr. Anderson relied solely on the public comments and the meeting notices for her conclusions. Anderson Dep. 247:14–248:16. Further, her conclusion that the process was rushed was based solely on individuals (many of whom were connected with organizations that later sued the State over SB 202) saying the process was rushed during the hearings, not as compared to any other bills considered by the General Assembly under normal processes. Anderson Dep. 248:17–249:5. Further, Ms. Bailey's deposition does not support Plaintiffs' statement that legislators and the public "struggled to keep up with the sheer volume of such [election] bills." *Compare*

[Doc. 574-1, p. 14] *with* [Doc. 574-17 at 62:11–63:2] (simply noting there were a lot of election-related bills).

Dr. Anderson agreed that the legislative process resulted in several changes she supported. For example, after Rev. Woodall testified about the impact of the photo ID requirements on pretrial detainees in jails, the legislation was amended to provide detainees with access to their photo IDs. Anderson Dep. 222:12–223:2. And Dr. Anderson agreed that the legislature maintained weekend voting in SB 202 and also maintained no-excuse absentee voting. Anderson Dep. 212:4–15, 225:16–20.

**B. Plaintiffs spin their legislative story out of context.**

Plaintiffs rely on hearsay statements regarding the legislative process [Doc. 574-1, pp. 8–9], from legislators who opposed SB 202 and who freely recognized that they were the minority party. [Doc. 574-18, ¶¶ 29–30] (Rep. Burnough acknowledging Democrats lacked the “votes” needed); [Doc. 574-18, ¶¶ 15–16] (Sen. Harrell quoting other legislators); [Doc. 574-21, ¶ 4] (Sen. H. Jones is “convinced that the underlying purpose for Senate Bill 202 . . . was to make voting more difficult for those that had supported Democratic candidates” and that supporters “failed to advance convincing purposes for the bill’s provisions”). Other legislative-process facts are spun out of context to tell a terrible tale—for example, Plaintiffs reference that “Black legislators

received the new version only one hour before the hearing” [Doc. 574-1, p. 15], but fail to note that March 17 was the first hearing of the substitute to SB 202, and there were two additional hearings before the bill passed out of committee on March 22.<sup>3</sup> Germany Decl. ¶ 45.

The General Assembly engaged in a deliberative process to update the election code in response to the 2018 and 2020 elections, and nothing about the process for adopting SB 202 was unusual, rushed, or irregular. *Id.* at ¶¶ 3–56.

#### **V. Policy disagreements about length of time.**

Plaintiffs cite several individuals who testified about varying runoff lengths. [Doc. 574-1, pp. 16–17]. But states use a variety of timelines for runoffs. Those dates range from two weeks (S.C. Code Ann. § 7-13-50) to three weeks (Miss. Code Ann. § 23-15-191), four weeks (Ala. Code § 17-13-3(a); Ark. Code Ann. § 7-5-106(a)(1); La. Rev. Stat. Ann. § 18:402 (jungle primary system)), or more than six weeks (Tex. Elec. Code § 41.007; N.C. Gen. Stat. § 163-111(e); S. D. Codified Laws § 12-6-51.1). After the experiences of runoffs in 2020 and 2021, the Georgia legislature decided nine weeks was too long and chose the four weeks used for state runoffs—and for federal runoffs until 2014.

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<sup>3</sup> Plaintiffs also do not rely on evidence for various statements in their brief, instead citing only to vote sheets that do not list partisan affiliation or race for the legislators. [Doc. 574-28] (no voting information); [Doc. 574-29] (no racial or partisan information); [Doc. 574-30] (no racial or partisan information).

## ARGUMENT AND CITATION OF AUTHORITIES

For a preliminary injunction, Plaintiffs must clearly establish: “(1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and (4) that granting the relief would not be adverse to the public interest.” *Four Seasons Hotels & Resorts, B.V. v. Consorcio Barr, S.A.*, 320 F.3d 1205, 1210 (11th Cir. 2003); *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000) (en banc). “The purpose of a preliminary injunction is to maintain the status quo until the court can enter a final decision on the merits of the case.” *Coyotl v. Kelly*, 261 F. Supp. 3d 1328, 1341 (N.D. Ga. 2017). A mandatory injunction, which Plaintiffs seek here, “goes well beyond simply maintaining the status quo” and “is particularly disfavored.” *Martinez v. Mathews*, 544 F.2d 1233, 1243 (5th Cir. 1976). Despite Plaintiffs’ invective against the General Assembly, they fail to satisfy each requirement for obtaining relief, especially when this Court reviews the “considerations specific to election cases.” *League of Women Voters of Fla., Inc. v. Fla. Sec’y of State*, 32 F.4th 1363, 1371 (11th Cir. 2022) (*LWV*) (quoting *Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006)).



**I. Plaintiffs do not have standing against State Defendants on their sole claim.**

“To have a case or controversy,” within the subject-matter jurisdiction of this Court, “a litigant must establish that he has standing.” *Jacobson v. Fla. Sec’y of State*, 974 F.3d 1236, 1245 (11th Cir. 2020). To show standing sufficient to obtain a preliminary injunction, Plaintiffs must show “(1) an injury in fact that (2) is fairly traceable to the challenged action of the defendant and (3) is likely to be redressed by a favorable decision.” *Id.* And a “plaintiff must demonstrate standing for each claim he seeks to press and for each form of relief that is sought.” *Town of Chester v. Laroe Estates, Inc.*, 581 U.S. 433, 439 (2017) (quoting *Davis v. FEC*, 554 U.S. 724, 734 (2008)). An injury cannot be speculative but must be “certainly impending.” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 409 (2013).

Here, Plaintiffs have presented no evidence of any injury or resource diversion related to the return to using four-week runoffs for federal as well as non-federal elections. While noting that Plaintiffs from three different cases join the motion, [Doc. 574-1, p. 8 n.1], Plaintiffs do not identify which of those Plaintiffs are claiming an injury. And in claiming irreparable harm, Plaintiffs cite only to the “Joint Brief” in support of the DOJ’s motion for any potential injury. [Doc. 574-1, pp. 29–30].

Plaintiffs’ attempt to incorporate the Joint Brief by reference there—and multiple other places, *see* [Doc. 574-1, pp. 14 (incorporating four pages), 22 (incorporating four pages), 25 (incorporating three pages), 27 (incorporating same four pages as p. 14), 29–30 (incorporating two pages)], would provide Plaintiffs an unpermitted additional 13 pages beyond their brief’s 25-page limit. But this Court does not permit incorporation by reference. *See Biedermann v. Ehrhart*, No. 1:20-cv-01388-JPB, 2021 WL 1061794, at \*1 (N.D. Ga. Mar. 19, 2021); *Aldridge v. Travelers Home & Marine Ins. Co.*, No. 1:16-CV-01247- SCJ, 2019 WL 8439150, at \*1 (N.D. Ga. Feb. 21, 2019) (noting that “incorporation by reference is impermissible”); *FNB Bank v. Park Nat’l Corp.*, No. CIV.A. 13-0064-WS-C, 2013 WL 6842778, at \*1, n.1 (S.D. Ala. Dec. 27, 2013). Thus, this Court should exclude not only the standing arguments, but also all arguments made by reference.

But the cited portions of the Joint Brief do not even purport to demonstrate injury to the Plaintiff organizations related to the return to a four-week period for federal runoff elections. Even digging through the exhibits accompanying Plaintiffs’ motion does not produce any evidence of an injury related to runoff elections. Common Cause claims it diverts resources related to engaging in handing out items to voters in line, but says nothing about runoffs. [Doc. 574-10, ¶ 4]. The Delta Sigma Theta Sorority 30(b)(6) designee

references runoffs only once, with no relationship to organizational or associational activity. [Doc. 574-14 at 115:3]. The Justice Initiative 30(b)(6) designee's only reference to runoffs is to how the "Souls to the Polls" program worked versus the organization's activities. [Doc. 574-15 at 101:9–102:5]. Plaintiffs thus provide no evidence whatsoever of any organizational injury or associational activities related to the runoff provisions they challenge. Without any evidence of any injury, this Court must deny Plaintiffs' motion because they have not provided evidence of this Court's jurisdiction.

**II. Even if Plaintiffs have standing, they are not likely to succeed on the merits of their sole claim.**

Even if Plaintiffs have standing, this Court still must deny their proposed mandatory injunction. Plaintiffs challenge to the runoff provisions of SB 202 only on the ground that they were adopted with a racially discriminatory purpose. But "determining the intent of the legislature is a problematic and near-impossible challenge." *Greater Birmingham Ministries v. Sec'y of State of Ala.*, 992 F.3d 1299, 1324 (11th Cir. 2021) (*GBM*). This is especially impossible for Plaintiffs here because this Court must presume that the legislature acted in good faith. *LWV*, 32 F.4th at 1373.

To overcome the presumption of good faith, Plaintiffs must "show that the State's 'decision or act had a discriminatory purpose and effect,'" *GBM*, 992

F.3d at 1321 (quoting *Burton v. City of Belle Glade*, 178 F.3d 1175, 1188-89 (11th Cir. 1999)). Only if Plaintiff make that showing does “the burden shift[] to the law’s defenders to demonstrate that the law would have been enacted without this [racial discrimination] factor.” *Id.* (quoting *Hunter v. Underwood*, 471 U.S. 222, 228 (1985); *Johnson v. Gov. of State of Fla.*, 405 F.3d 1214, 1223 (11th Cir. 2005)). To assess purpose and effect, courts use the *Arlington Heights* analysis, which the Eleventh Circuit summarized as “(1) the impact of the challenged law; (2) the historical background; (3) the specific sequence of events leading up to its passage; (4) procedural and substantive departures; and (5) the contemporary statements and actions of key legislators. And, because these factors are not exhaustive, the list has been supplemented: (6) the foreseeability of the disparate impact; (7) knowledge of that impact, and (8) the availability of less discriminatory alternatives.” *GBM*, 992 F.3d at 1322. Plaintiffs’ burden for a preliminary injunction tracks their burden at trial. *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 429 (2006). None of those factors support Plaintiffs’ claims about Georgia’s discriminatory intent, so this Court need not reach the second prong of the analysis.

**A. There is no discriminatory impact from a four-week runoff.**

Plaintiffs claim that four-week runoffs create a heavier burden for Black voters than nine-week runoffs, arguing that a shorter runoff period lessens the time available for early voting and gets rid of the option of registering to vote in the runoff after the general election. [Doc. 574-1, p. 20–21].

But the actual evidence of four-week runoffs shows no disparate impact. The December 2022 runoff resulted in *a smaller decrease* in turnout rate when compared with the general election than the January 2021 runoff even with the shorter timeline. Grimmer Report ¶ 30. And more voters—a 58.6% increase—used weekend voting in the December 2022 runoff than in the January 2021 runoff. Grimmer Report ¶¶ 18, 184–185. This is not evidence of any impact on Black voters, nor can Plaintiffs stack all provisions as a “compounding effect” for purposes of this motion.<sup>4</sup> [Doc. 574-1, p. 22]. Nor can

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<sup>4</sup> There are significant differences between the out-of-circuit case of *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016), and binding precedent. *McCrory* did not apply the presumption of good faith of the legislature that is required here. *Compare* 831 F.3d at 228 *with GBM*, 992 F.3d at 1326. *McCrory* relied on North Carolina’s history of race discrimination in ways not allowed in this Circuit. *Compare* 831 F.3d at 223–25 *with GBM*, 992 F.3d at 1325. And *McCrory* relied on socioeconomic disparities imported through historical accounts, which likewise is not permitted in this Circuit. *Compare* 831 F.3d at 232–33 *with LWV*, 66 F.4th at 923.

they show that four weeks is discriminatory while five or six weeks is not. [Doc. 574-1, pp. 26–27].

**B. The historical background of runoffs in Georgia does not support Plaintiffs’ claims.**

Plaintiffs do not discuss the history of *runoffs*, but rather discuss generally the history of voting discrimination in Georgia. [Doc. 574-1, pp. 28-29]. That approach is invalid for two reasons: (1) it is inconsistent with the required factor in *GBM*, 992 F.3d at 1322, which looks at the historical background of *the challenged practice, i.e.*, four-week runoffs; and (2) *GBM* also does not allow Plaintiffs attempt to import all of the long-past discrimination unrelated to runoffs into a new context. *GBM*, 992 F.3d at 1325.

**C. The sequence of events leading to the passage of SB 202 demonstrates a thoughtful process and engagement with interested parties.**

In reviewing the sequence of events that led to the passage of SB 202, Plaintiffs draw sweeping conclusions based solely on the bill’s passage in a session following record Black voter turnout. [Doc. 574-1, pp. 24-26]. In so doing, they ignore the thorough process the legislature engaged in while considering these provisions. *See* Section IV, above. And any Georgia voter—and any county election official—who was present in 2020 will understand the reference to the four-week runoff provisions as the “Save Christmas” portion

of the bill. Germany Decl. ¶ 30. Further, the fact that no Black legislators voted for SB 202 [Doc. 574-1, p. 28], cannot imply racial discrimination, especially because the vote was along party lines. *GBM*, 992 F.3d at 1326.

**D. There were no procedural and substantive departures in the legislative process.**

Comparing the 2019 and 2021 processes for adopting comprehensive election-law changes is instructive—they involved bills of similar length, similar time, similar issues, and similar thorough consideration. Germany Decl. ¶¶ 3–56. The evidence demonstrates the enactment of SB 202 followed the normal legislative process, including “full and open debate,” contrary to Plaintiffs’ claims. *Lee v. Va. State Bd. of Elections*, 843 F.3d 592, 604 (4th Cir. 2016). SB 202 was the product of the “hours of testimony,” finalized after “significant modifications through the legislative process,” that were the result of weighing “the various interests involved.” SB 202 at 6:139-143.

While Plaintiffs make much of receiving copies of bills at or near committee meetings, they ignore the detailed explanations of changes and question-and-answer sessions in those meetings. Germany Decl. ¶¶ 29, 44, 52. And the weeklong process was not “frantic,” as Plaintiffs claim—rather, it took place within the 40 legislative days of the session that required attention

to other priorities.<sup>5</sup> And even if the passage was relatively fast, quick implementation of a policy does not create an inference of discriminatory intent. *GBM*, 992 F.3d at 1326; *see also California v. United States Dep’t of Homeland Sec.*, 476 F. Supp. 3d 994, 1026 (N.D. Cal. 2020) (“allegations that the [challenged] Rule was fast tracked do not raise an inference of discriminatory intent” under *Arlington Heights*).

**E. Plaintiffs identify no concerning contemporary statements.**

Plaintiffs have identified no concerning contemporary statements or purportedly discriminatory statements or actions of key legislators. But even if they had, any such statements or actions would be of limited relevance given the number of legislators who voted on the bill. *GBM*, 992 F.3d at 1324–25.

**F. The disparate impact Plaintiffs claim exists was not foreseeable, nor were legislators aware of that impact.**

Plaintiffs’ primary argument about the foreseeability of a racial impact on changing runoff dates is that legislators knew that shorter runoff periods

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<sup>5</sup> Plaintiffs criticize the legislature for seeking legal advice by darkly noting that “sponsoring legislators coordinated closely with counsel,” [Doc. 574-1, p. 28]. Failing to do so would have been irresponsible; lawsuits were inevitable given that Georgia has been repeatedly sued about election administration over the past five years, often by these same Plaintiffs.



*might* result in counties choosing to have fewer early-voting sites for a runoff,<sup>6</sup> which *might* increase lines on Election Day and that those lines *might* happen in counties with significant Black populations. [Doc. 574-1, p. 23]. Or somehow alternatively, the high use of absentee ballots by Black voters in 2020 and 2021 meant that legislators knew that a shortened runoff would have a racial impact. [Doc. 574-1, p. 24]. But none of these guesses about what legislators *might* have been thinking establishes any knowledge of an *actual* disparate impact because they are merely guesses about what might have happened.

Further, Plaintiffs freely admit that they seek to impute knowledge to the legislators by presumption alone. See [Doc. 574-1, p. 24] (citing *Washington v. Davis*, 426 U.S. 229, 253 (1976) (Stevens, J., concurring)). Justice Stevens's solo concurrence is not binding and relies on the mind of "the actor." *Id.* But who is the actor here? The 236 members of the legislature. Despite having legislator declarations, Plaintiffs do not rely on any legislator statements, witness testimony, or any other communication to any legislators about a theoretical disparate impact. Even with that evidence, they could not establish this prong, *GBM*, 992 F.3d at 1324, but the lack of evidence is fatal.

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<sup>6</sup> Decisions about early voting sites, including how many to open and where to locate them, are solely decisions made by county election officials. See O.C.G.A. § 21-2-385(d); Germany Decl. ¶¶ 66–67.

Finally, the evidence demonstrates that there were legitimate reasons for the four-week runoff period, ranging from the impact on election officials and voters to the returning to the prior, uniform practice before the impact of federal litigation forced a change of course. Germany Decl. ¶¶ 30, 59–61, 68–71. Thus, this Court cannot “infer ‘foreknowledge’ of disparate impact” from Plaintiffs’ suppositions. *GBM*, 992 F.3d at 1327.

**G. What Plaintiffs claim is the availability of “less discriminatory alternatives” is actually just a showcase of alternative policy proposals.**

Plaintiffs cabin their discussion of less discriminatory alternatives to a discussion of “tenuous” policy justifications. [Doc. 574-1, pp. 26–27]. But all they show in that section is disagreement among various policy proposals about the proper length of a runoff. As noted above, many states with runoffs use periods of four weeks or less. Plaintiffs even claim that “a longer runoff lead time of even five or six weeks” would be a less discriminatory alternative. *Id.* It is simply not credible to claim that a one-week difference in runoff timelines is the dividing line between intentional racial discrimination and permissible state policy decisions—and one that would invalidate many other states’ runoffs laws. Indeed, given the shorter timelines in other states, it is curious why Plaintiffs have not sued those states.

And Georgia’s system works: with the shorter timeline, the December

2022 runoff election resulted in a smaller decrease in turnout rate when compared with the general election than the January 2021 runoff even with the shorter timeline. Grimmer Report ¶ 30; Germany Decl. ¶¶ 71–75.

**H. Even if the *Arlington Heights* factors supported Plaintiffs’ claims, the facts show SB 202 would have been enacted to support the State’s interests.**

Each of the *Arlington Heights* factors shows that SB 202 was completely consistent with prior efforts to modify election laws after a contentious election. Like HB 316 in 2019, SB 202 was passed after a full vetting, motivated by increasing voter confidence, reducing the burden on election officials, streamlining the process of elections, and promoting uniformity. SB 202 at 4:70-82; Germany Decl. ¶¶ 3–56. That was true of the runoff provisions, which fixed an “exhausting” system—by using ranked choice voting, the runoff period could be made more manageable for everyone involved by using the same schedule as for non-federal races. SB 202 at 5:119-6:122.

Plaintiffs have failed to show that the four-week runoff period is anything other than “a neutral, nondiscriminatory regulation of voting procedure” and that was not “passed with a racially discriminatory intent or purpose.” *GBM*, 992 F.3d at 1328. Thus, this Court should deny Plaintiffs’ motion because they are not likely to succeed in establishing the first element of a preliminary injunction.

### III. Plaintiffs have not adequately shown an irreparable harm.

Plaintiffs also cannot demonstrate any irreparable harm. First, Plaintiffs impermissibly rely exclusively on the Joint Brief for any explanation of harm. And this Court should disregard that incorporation by reference. See Section I, above. But in any event, the Joint Brief relies solely—and erroneously—on the idea that Black *voters*, not the Plaintiff organizations, will suffer harm. *Compare* [Doc. 574-1, p. 29] *with* [Doc. 566-1, pp. 69-70]. Plaintiffs further claim their injury is imminent “given the frequency of runoff elections.” But there has been only one nine-week general-election federal runoff and one four-week general-election federal runoff in the last ten years. The only federal offices that could possibly have runoffs in 2024 are congressional races, and Plaintiffs have pointed to no evidence on a district level—only to statewide runoffs. Without the possibility of federal statewide runoffs in 2024, Plaintiffs cannot point to any irreparable harm.

Moreover, Plaintiffs cannot demonstrate irreparable injury because they have waited for more than two years after filing this case to seek a preliminary injunction on what they argue as essentially a legal issue. *Wreal, LLC v. Amazon.com*, 840 F.3d 1244, 1248 (11th Cir. 2016). Indeed, such a delay runs counter to the purpose of such relief because “the very idea of a *preliminary* injunction is premised on the need for speedy and *urgent* action to protect a

plaintiff's rights before a case can be resolved on the merits." *Id.* (emphasis added). Thus, their failure to act with urgency "necessarily undermines a finding of irreparable harm." *Id.* (citations omitted).

SB 202 was enacted on March 25, 2021, and Plaintiffs filed their complaints within a month after that, making the same claims as in the currently pending motion. *Ga. NAACP* Case No. 1:21-cv-01259-JPB [Doc. 1] (March 28, 2021); *Sixth District AME* Case No. 1:21-cv-01284-JPB [Doc. 1] (March 29, 2021); *Concerned Black Clergy* Case No. 1:21-cv-01728-JPB [Doc. 1] (April 27, 2021). While Plaintiffs cite some evidence from experts, the declarations they rely on were almost all signed more than a year ago. *See* [Doc. 574-8, p. 5] (May 11, 2022); [Doc. 574-9, p. 5] (May 24, 2022); [Doc. 574-10, p. 6] (May 9, 2022); [Doc. 574-18, p. 22] (May 2, 2022); [Doc. 574-19, p. 10] (May 4, 2022); [Doc. 574-21, p. 16] (May 6, 2022).

By failing to act "with speed and urgency," even when they had their declarations in hand, Plaintiffs have not shown a likelihood of irreparable harm. *Wreal*, 840 F.3d at 1248. Further, Plaintiffs only proceeded after allowing an entire general-election cycle to utilize the provision they challenge, including a four-week runoff—a process that produced evidence that should extinguish Plaintiffs' claims. Plaintiffs have failed to demonstrate irreparable injury, which is sufficient to deny their motion. *Siegel*, 234 F.3d at 1176.

#### **IV. The equities and public interest do not favor an injunction.**

The Court should also deny Plaintiffs' motion because the harm it would cause the State and the public outweighs any harm Plaintiffs might face absent an injunction. First, a state is irreparably harmed when it is unable to enforce its statutes. *New Georgia Project v. Raffensperger*, 976 F.3d 1278, 1283 (11th Cir. 2020); *Planned Parenthood of Greater Tex. Surgical Health Servs. v. Abbott*, 734 F.3d 406, 419 (5th Cir. 2013).

Second, even if Plaintiffs have shown some harm, the impact on the public and the State is far greater. There are significant state interests in having the same runoff schedule for all elections, and those interests far outweigh any impact from voters having to vote within the four-week timeline, including timely seating of members of Congress and avoiding potential dual-track runoffs that occurred in 2020. Germany Decl. ¶¶ 59–61, 70, 76–82.

#### **CONCLUSION**

Plaintiffs provide no basis to determine that a four-week runoff for federal offices that matches the four-week runoff for state offices is racially discriminatory, much less that it is so discriminatory as to be unconstitutional. This Court should deny Plaintiffs' motion because they do not have standing, because they are not likely to succeed on the merits, and because they have not shown any irreparable harm or equities that favor granting an injunction.

Respectfully submitted this 10th day of August, 2023.

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### **CERTIFICATE OF COMPLIANCE**

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing brief was prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/Bryan P. Tyson  
Bryan P. Tyson

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# EXHIBIT A

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE GEORGIA SENATE BILL 202

Master Case No.:  
1:21-MI-55555-JPB

SIXTH DISTRICT OF THE AFRICAN  
METHODIST EPISCOPAL CHURCH,  
*et al.*,

Civil Action No.:  
1:21-CV-01284-JPB

*Plaintiffs,*

v.

BRIAN KEMP, *et al.*,

*Defendants,*

REPUBLICAN NATIONAL  
COMMITTEE, *et al.*,

*Intervenor-Defendants.*

GEORGIA STATE CONF. OF THE  
NAACP, *et al.*,

Civil Action No.:  
1:21-CV-01259-JPB

*Plaintiffs,*

v.

BRAD RAFFENSPERGER, *et al.*,

*Defendants,*

REPUBLICAN NATIONAL  
COMMITTEE, *et al.*,

*Intervenor-Defendants.*

THE CONCERNED BLACK CLERGY  
OF METROPOLITAN ATLANTA,  
INC., *et al.*,

*Plaintiffs,*

v.

BRAD RAFFENSPERGER, *et al.*,

*Defendants,*

REPUBLICAN NATIONAL  
COMMITTEE, *et al.*,

*Intervenor-Defendants.*

Civil Action No.:  
1:21-CV-01728-JPB

## DECLARATION OF C. RYAN GERMANY

I, C. Ryan Germany, declare under penalty of perjury that the following statements are true and accurate to the best of my knowledge.

### Background

1. When SB 202 was enacted, I was the General Counsel for the Office of the Georgia Secretary of State. I held that position from January 2014 until January 2023. My job responsibilities included providing legal advice and guidance to all divisions of the Secretary of State's Office, including the Elections Division. I also worked closely with the State Election Board. And I routinely interacted with county election officials.

2. In that role, I also worked with the Georgia General Assembly on election legislation. As discussed below, the General Assembly frequently enacts election-related legislation after an election. Through such legislation, the General Assembly ensures that the State applies lessons learned and responds to issues that arose from each election cycle, ensuring that the State's elections continue to be efficient, secure, accessible, and are conducted in a way that allows voters to have confidence in the election's results. This was true after both the 2018 and 2020 elections.

### **2018 Elections and Legislative Response**

3. In 2018, Georgia's gubernatorial election garnered significant attention statewide and nationally. The contest was close, with Governor Kemp winning the election by a margin of 50.22% to 48.83%. In terms of raw votes, Governor Kemp won a majority by 8,744 votes.

4. In the lead-up to and after the election, supporters of Stacey Abrams, the Democratic candidate, leveled a series of complaints about the election. For instance, they complained about how the State counted provisional and absentee ballots, how the state conducted list maintenance, that the Secretary could not certify the election, and that the voting machines "flipped votes" from Abrams to Kemp. And they lodged more generalized

allegations about the entire electoral system in Georgia, including that “voter suppression” was widespread and systematic in the state.

5. Following up on these complaints, these same supporters of Ms. Abrams filed multiple lawsuits after the 2018 election alleging, among other claims, that provisional ballots were not properly counted because of potential “widespread manipulation” of the voter registration system by cyberterrorists and that the State should delay certifying the election, *Common Cause Ga. v. Kemp*, 347 F. Supp. 3d 1270, 1275 (N.D. Ga. 2018), that absentee ballots were not properly counted, *Democratic Party of Ga., Inc. v. Crittenden*, 347 F. Supp. 3d 1324, 1331 (N.D. Ga. 2018), and that there were “serious and unconstitutional’ flaws in Georgia’s election process,” including that voting machines “flipped votes” from Kemp to Abrams. *Fair Fight Action, Inc. v. Raffensperger*, 413 F. Supp. 3d 1251, 1262 (N.D. Ga. 2019).

6. While true that elections commonly end with the losing candidate (or that candidate’s supporters) complaining to some degree about the election, the complaints about Georgia’s elections in the lead-up to and after the 2018 election received significant media attention that was unusual for typical election complaints. And, after the 2018 election, Ms. Abrams’ supporters were able to successfully bring their complaints to statewide and nationwide audiences.

7. Many, if not most, of the complaints about Georgia's elections processes raised in the lead-up to and following the 2018 election were based on inaccurate and misleading descriptions. However, those complaints received substantial media attention and many people seemed to believe the inaccurate and misleading descriptions. Therefore, the General Assembly needed to consider not just actual issues but also voter perception about the election when considering whether any legislative response was necessary to address those concerns.

8. In the legislative session following the 2018 election—there were at least 40 election-related bills introduced. And the relevant legislative committees held at least ten hearings on legislation related to elections.

9. This process ultimately led to the passage of HB 316, which was an omnibus election bill with 51 subparts that included changes to the process for absentee ballots, provisional ballots, voter-list maintenance, election equipment and many other aspects of Georgia's elections. These various provisions were originally included in other legislative proposals that had been introduced during the 2019 legislative session.

10. HB 316 was originally introduced on February 25, 2019, and was passed and sent to the Governor just 32 days later, on March 29, 2019.

## **2020 Elections and Legislative Response**

11. Although the circumstances differed, the 2020 elections were similar in many ways to the 2018 elections. In both instances, there was litigation around the election, where supporters of the losing candidate raised questions about how Georgia's elections had been conducted. In both instances, voter perceptions (largely those of supporters of the losing candidate) seemed to be heavily influenced by inaccurate and misleading information. And, like the response to the 2018 elections, the General Assembly considered these concerns and updated Georgia's electoral system accordingly through SB 202.

12. Of course, the complexities of the 2020 elections were unique. As the 2020 elections approached, Georgia, like all states, faced the prospect of conducting an election amid the COVID-19 pandemic. This required State and county officials to consider and implement a host of measures to ensure the public could vote safely.

13. For instance, Georgia delayed its 2020 primary to ensure there was adequate time to implement protective measures.

14. Additionally, after the Governor issued a state of emergency, the State Election Board promulgated an emergency rule authorizing counties to provide dropboxes at which voters could return absentee ballots without



encountering other voters or poll workers. The Board's emergency rule made dropboxes usage discretionary for counties and put in place security protocols like requiring dropboxes to be on government property, under 24/7 video surveillance, and subject to two-person ballot-handling teams. Before the promulgation of this emergency rule, I am not aware of any instance in which any Georgia county used a dropbox.

15. The State also sent absentee-ballot applications to all active voters for the June 2020 primary election, allowing all active voters a uniform option to request an absentee ballot to further decrease in-person interaction among voters and poll workers.

16. In the lead-up to the November 2020 elections, Georgia faced many lawsuits about how its election should be conducted. For the most part, these lawsuits filed before the 2020 general election were filed by left-leaning organizations. *See, e.g., Democratic Party of Georgia, Inc. v. Raffensperger*, Case No. 1:19-cv-05028-WMR (N.D. Ga.) (challenge to signature-match process and other absentee-ballot procedures); *Black Voters Matter Fund v. Raffensperger*, 478 F. Supp. 3d 1278 (N.D. Ga. 2020) (challenge to absentee-ballot processes); *New Ga. Project v. Raffensperger*, 484 F. Supp. 3d 1265 (N.D. Ga. 2020), *stayed by New Ga. Project v. Raffensperger*, 976 F.3d 1278 (11th Cir. 2020) (challenge to absentee ballot processes); *Anderson v. Raffensperger*,

497 F. Supp. 3d 1300 (N.D. Ga. 2020) (challenge to purported long voting lines); *Ga. Ass'n of Latino Elected Officials, Inc. v. Gwinnett Cty. Bd. of Reg. & Elections*, 499 F. Supp. 3d 1231 (N.D. Ga. 2020), *aff'd* 36 F.4th 1100 (11th Cir. 2022) (challenge to language access provisions related to voting); *S.P.S. ex rel. Short v. Raffensperger*, 479 F. Supp. 3d 1340, 1343 (N.D. Ga. 2020) (challenge to order of candidate names on ballot); *Curling v. Raffensperger*, 491 F. Supp. 3d 1289, 1293 (N.D. Ga. 2020) (long-running challenge to Georgia's use of electronic voting machines), *Coalition for Good Government v. Raffensperger*, No. 1:20-cv-1677-TCB, 2020 WL 2509092 (N.D. Ga. May 14, 2020) (challenge to use of voting machines and other processes in light of COVID-19 pandemic).

17. After the 2020 general election, complaints and lawsuits continued. By this point, however, the complaints were being lodged by supporters of the losing candidate for President. For instance, lawsuits were filed alleging improper counting of absentee ballots, *Wood v. Raffensperger*, 501 F. Supp. 3d 1310, 1317 (N.D. Ga. 2020), alleging hacked voting machines, *Pearson v. Kemp*, No. 1:20-cv-4809-TCB, 2020 U.S. Dist. LEXIS 226348, at \*2 (N.D. Ga. Nov. 29, 2020), alleging widespread voter fraud and ineligible voters voting, *Trump v. Raffensperger*, Super. Ct. of Fulton Cty., No. 2020CV343255 (Dec. 4, 2020), and seeking changes to the signature-verification process for

absentee ballots, *Ga. Republican Party v. Raffensperger*, Case No. 1:20-cv-05018-ELR (N.D. Ga. Dec. 12, 2020).

18. Just like after the 2018 election, the complaints about Georgia's elections following the 2020 election were numerous and based on inaccurate and misleading information, but they received substantial media coverage that seemed to heavily influence voter perception. And, just like in the 2019 legislative session following the 2018 election, the General Assembly needed to consider not just actual issues but also voter perception as it considered whether any legislative response was necessary to address those concerns.

19. Even prior to the 2020 general election, the House Government Affairs Committee held multiple hearings and issued a report on the pandemic's impact on the 2020 primary election.

20. Following the 2020 election, the House Government Affairs Committee and multiple other legislative committees held hearings about election-related matters. Further, as demonstrated below, the General Assembly considered many legislative proposals during this legislative session. Through this extensive legislative process, the General Assembly ultimately enacted SB 202, which consisted of provisions from many, but not all, of the legislative proposals introduced after the 2020 elections to

implement lessons learned from those elections and to respond to voter perceptions.

21. For instance, Chairman Barry Fleming, appointed to head the House Special Committee on Election Integrity, held the first committee meeting on February 4, 2021, adopting committee rules and amending the draft rules at the suggestion of a Democratic member. *See* Ex. 1 (SOS0003132:21-SOS0003135:12).

22. The Special Committee on Election Integrity was one of three special committees that were used in the House during the 2021-2022 regular session. The others were the Special Committee on Access to Quality Health Care and the Special Committee on Access to the Civil Justice System. *See* <https://www.legis.ga.gov/committees/house?session=1029>. Past legislative sessions also saw the use of special committees like the Special Committee on Economic Growth. *See* <https://www.legis.ga.gov/committees/house?session=27>. More than ten special committees and special working groups have been used in the House on particular topics since 2017.

23. The Special Committee on Election Integrity did not just meet in 2021, but also continued meeting during the 2022 legislative session. *See* Ex. 2 (LEGIS00001513-1520). During the 2021 session when SB 202 was

considered, four of the 14 members of the Special Committee on Election Integrity were Black representatives. *See* Ex. 3 (LEGIS00001640 (committee photographic roster)).

24. The first bill the committee considered in the 2021 legislative session was a set of election-administration changes suggested by the Association of County Commissioners of Georgia, including a bipartisan recommendation to limit the timeline for returning absentee ballot applications to 10 days before the election. *See* Ex. 1 (SOS0003135:13-SOS0003138:18).

25. During that meeting, committee members, including longtime Democratic Representative Calvin Smyre, explained that the committee was going to assess the various election proposals to reach the best possible final product. *See* Ex. 1 (SOS0003207:3-SOS0003210:4). The committee then made additional changes to that initial bill based on input from Democratic members, including the Minority Whip. *See* Ex. 4 (SOS0003113:1-24).

26. Rep. Smyre referred to the changes that were included from Democrats as part of a “good faith effort” to improve election administration in Georgia.<sup>1</sup> *See* Ex. 4 (SOS0003118:4-17).

27. Several weeks later, on February 18, 2021, Chairman Fleming introduced the first version of HB 531 and held a hearing to begin explaining the legislation. *See* Ex. 5 (SOS0003034:17-SOS0003035:7). As explained during that hearing, the goal of the legislation was to enhance voter confidence and recognize the impact of the 2018 election, 2020 election, and the COVID-19 pandemic. *See id.* (SOS0003035:8-SOS0003036:22).

28. Indeed, Chairman Fleming explained that this legislation would, among other things, improve voter confidence following the 2018 and 2020 elections and the difficulties of the COVID-19 pandemic:

If you have been following at all the issue of elections in the state of Georgia, you know that there has been controversy regarding our election system, and I believe the goal of our process here should be an attempt to restore the confidence of our public in our election system.

...

The election issues did not start in 2020, however. In 2018, we had another general election, the last one before this most recent one, and in that election, we saw a good bit of controversy about the

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<sup>1</sup> Rep. Smyre later commended Chairman Fleming for ensuring all of the various election-related proposals were in a single bill when HB 531 was introduced. *See* Ex. 5 (SOS0003082:22-SOS0003083:3).

election process and many questioning it. It just so happened that the questions at that time seemed to come from the left side of the aisle. ... When you fast forward to 2020, I guess you would say the shoe seemed to be on the other foot. There seemed to be many people from the right side of the aisle questioning our election system.

Ex. 5 (SOS0003035:8-SOS0003036:22).

29. The committee then reviewed each section of the initial draft bill, discussing provisions related to using identification numbers instead of signature matching for absentee ballots, harmonizing the schedules for state and federal runoffs so that they use the same four-week period, providing for dropbox availability and usage, updating rules for out-of-precinct provisional ballots, and changing the absentee-ballot request window. *See* Ex. 5 (SOS0003037:21-SOS0003063:12). Chairman Fleming also answered extensive questions from committee members about this legislation. *See id.* (SOS0003063:12-SOS0003094:14).

30. Chairman Fleming regularly referred to the provisions harmonizing the state and federal runoffs as the “Save Christmas” part of the bill because of the negative impact of the nine week runoff on election workers and voters over the holidays of 2020. It was widely reported at the time that

the massive amount of political ads intruding into Christmas and the holiday season were not popular with Georgia voters.<sup>2</sup>

31. The next day, the committee held a hearing to take public testimony on the bill. *See* Ex. 6 (AME\_000090:23-AME\_00091:13). At that hearing, Chairman Fleming explained that he had discussed the process with Rep. Smyre and granted his request for additional hearings. *See id.* (AME\_000090:23-AME\_00091:13).

32. Chairman Fleming explained that the process of working on such a large bill involved multiple versions that were updated along the way based on input. Those updates would be sent electronically to each committee member, mirroring a process that would continue through the consideration of the various bills related to elections during the session. *See id.* (AME\_000091:14-AME\_000092:5).

33. At the February 19 hearing, which had been arranged to ensure witnesses could testify by Zoom, the committee discussed several other election bills and changes that would be included in the upcoming legislation as the committee worked on it. *See id.* (AME\_000092:6-AME\_00097:22).

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<sup>2</sup> *See* Murphy, Patricia. “Georgians Get Scrooged by Campaign Ads: Even for Santa, there’s Nowhere to Hide,” *Atlanta Journal-Constitution*. Dec. 22, 2020, available at <https://www.ajc.com/politics/georgians-get-scrooged-by-campaign-ads/UGT6KM3MVVGNPBCL7IVCJURWGA/>.



34. The committee process continued, with the relevant House and Senate committees devoting more than 25 hours of committee time to bills related to elections over the next five weeks—not including floor debate and committee meetings that do not have a time indicator on them.

35. The following chart documents the committee meeting length with corresponding document.

<b>Committee Meeting</b>	<b>Venue</b>	<b>Time of Hearing</b>	<b>Document</b>
February 18, 2021	House	1:30	SOS0003092
February 19, 2021	House	6:37	AME_000089
February 22, 2021	House	2:41	AME_000304
February 23, 2021	House	1:14	AME_000433
February 24, 2021	House	0:16	AME_000592
March 17, 2021	House	0:49	AME_001452
March 18, 2021	House	2:51	AME_001492
March 22, 2021	House	0:51	AME_001698
February 18, 2021	Senate	1:23	AME_000022
February 25, 2021	Senate	0:42	AME_000608
February 25, 2021	Senate	0:18	AME_000657
March 3, 2021	Senate	1:11	AME_000814
March 15, 2021	Senate	1:12	AME_001275
March 16, 2021	Senate	1:28	AME_001349
March 17, 2021	Senate	0:38	AME_001419
March 22, 2021	Senate	1:05	AME_001640
March 23, 2021	Senate	0:29	AME_001738
<b>TOTAL</b>		<b>25:15</b>	

These times were calculated using the timer indicators on the transcripts Plaintiffs compiled and produced during discovery. *See* Ex. 7.

36. The House Committee alone held four hearings prior to passing HB 531 on February 24, 2021. Ex. 8 (LEGIS00001095-1100); Ex. 9 (LEGIS00001101-1107); Ex. 10 (LEGIS00001108-1115); Ex. 11 (LEGIS00001116-1122); Ex. 12 (LEGIS00001123-1129). In my experience, four hearings for a single bill is a significant amount of consideration by a legislative committee.

37. As HB 531 passed the House, the Senate was considering a series of individual election bills instead of an omnibus bill. Those bills included SB 40, which addressed early scanning of absentee ballots; SB 62, which required the name of precincts to appear on ballots; SB 202, which originally only limited sending duplicate absentee ballot applications to voters who had already requested one; and SB 253, which related to notice to voters when polling places were relocated. The Senate also considered SB 241, which was a comprehensive bill like HB 531.

38. The original version of SB 202 passed the Senate on March 8, 2021 and was sent to the House.

39. The Senate began consideration of its amended version of HB 531 on March 15, 2021. Ex. 13 (AME\_001275-AME\_001276:17).

40. After additional hearings on March 16 and 17, the Senate committee heard from a list of more than 60 witnesses. Ex. 14 (AME\_001350:15-AME\_001352:14).

41. Senator Max Burns, Chairman of the Senate Ethics Committee, explained that they were working to integrate various changes into a substitute bill that would be made available later in the day and that sufficient time would be allowed to fully vet the legislation. Ex. 15 (AME\_001449:8-AME\_001450:5).

42. By that point, the House and Senate had passed a variety of different election bills, but none of those bills had yet passed both legislative bodies. Ex. 16 (AME\_001455:7-12); Ex. 17 (LEGIS00001243) (noting that the only election bill that passed both chambers by the end of the 2021 session was SB 202).

43. Back in the House, in presenting the committee substitute to SB 202, Chairman Fleming explained which legislative provisions from other bills had been added to the omnibus legislation, including several Democratic proposals. Ex. 16 (AME\_001455:14-AME\_001468:16). Such incorporation of various legislative proposals into a single omnibus piece of legislation is

commonplace because in the Georgia General Assembly, bills generally only amend a single title of the Official Code of Georgia, meaning that any bill that amended Title 21 could be amended to make other changes to Title 21.

44. In response to questions from Rep. Smyre, Chairman Fleming promised additional time for individuals to comment and review the revised bill. Ex. 16 (AME\_01472:24-AME\_001474:20). By that point, however, time was growing short in the 2021 session, because March 17 was also day 35 of the 40-day legislative session. Ex. 18 (LEGIS00000486).

45. After a hearing on March 17, Ex. 19 (LEGIS00001133-1135), and March 18, Ex. 20 (LEGIS00001136-1138), the House committee further amended the draft SB 202 language on March 22 before passing it out of committee.<sup>3</sup> Ex. 21 (LEGIS00001139-1149).

46. Meanwhile, on March 22, 2021, as the Senate Ethics Committee continued its consideration of HB 531, it began considering amendments.<sup>4</sup>

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<sup>3</sup> The Senate was also aware of the amended version because, in the March 22, 2021 Senate Ethics Committee meeting, Chairman Burns directed a witness to the House substitute to SB 202 in discussing language being considered. Ex. 22 (AME\_001689:1-11).

<sup>4</sup> As shown on the transcript, this is the typical process used in the committee, even late in the legislative session, as the members discussed amendments to a different substitute bill prior to considering changes to HB 531. Ex. 22 (AME\_001642:9-AME\_001645:22).

First, the committee took up a substitute that made HB 531 more like SB 241, another omnibus election bill that passed the Senate earlier in the session. Ex. 22 (AME\_001649:19-AME\_001650:22). The committee then considered amendments to that substitute from Republican and Democratic members of the committee before taking additional public testimony. *Id.* (AME\_001658:5-23 (explaining process utilized); AME\_001660:21-AME\_001664:4 (Democratic amendment)).

47. Even as debate moved toward closure, opponents of the election reform legislation recognized the work of the proponents of election reform in looking at other states' election systems as part of the process. *See* Ex. 23 (AME\_001750:8-15) (Sen. Harrell acknowledging "that the majority leader did do substantial research on voting laws before bringing pieces of this bill and other bills forward.").

48. That amendment process continued in the Senate at the March 23, 2021 meeting. Ex. 23 (AME\_001739:13-AME\_001740:10; AME\_001747:10-AME\_001749:14). The revised substitute to HB 531 then passed out of the Senate committee at the March 23 meeting. *Id.* (AME\_001756:13-AME\_001757:3).

49. As March 23 was the 37th day of the 40-day session, there were only a handful of days left to pass any legislation. Ex. 24 (LEGIS00000670).

With the revised version of HB 531 passed out of the Senate Ethics Committee and the revised version of SB 202 passed out of the House Special Committee on Election Integrity, it was unclear which version would reach final passage first.

50. But the House Rules Committee placed the substitute to SB 202 on the calendar for the 38th legislative day, March 25, 2021, after discussion from members about a few final amendments. Ex. 25 (AME\_001779:2-AME\_001783:13); Ex. 26 (LEGIS00000500).

51. As Chairman Fleming explained, this substitute bill was “a combination of measures dealing with elections either already passed by the House or Senate, or measures already considered or passed by the two committees of each House dealing with, obviously, election matters.” Ex. 27 (AME\_001822:1-7).

52. Despite the various election bills introduced, considered, and debated, at the conclusion of the 2021 regular session, SB 202 was the only election bill to pass both houses of the General Assembly. Ex. 17 (LEGIS00001243) (noting only election bill that passed both chambers at end of session was SB 202). After nearly two hours of questions and debate, the House voted 100-74 to pass the revised version of SB 202. Ex. 27 (AME\_001914:17-22).

53. The revised version of SB 202 had 53 individual sections, which is only two more than the final version of HB 316 in 2019.

54. After a motion from Chairman Burns to agree to the House's changes, Ex. 28 (AME\_001815:14-20), the Senate agreed to the House's changes in a 34-20 vote and sent the final version of SB 202 to the Governor. Ex. 29 (USA-03969).

55. The Governor signed the legislation the same day. Ex. 30 (USA-03972).

56. In the end, the process for considering and passing HB 316 in 2019 was very similar to the process for considering and passing SB 202 in 2021:

<b>Bill #</b>	<b>Intro.</b>	<b>Final Passage</b>	<b># Comm. Meetings</b>	<b># Days of Consideration</b>
HB 316	Feb. 14, 2019	Mar. 29, 2019	At least 16	32 days
SB 202	Feb. 17, 2021	Mar. 25, 2021	At least 25	35 days

### **The Runoff Provisions of SB 202.**

57. From 2014 through 2019, the only general-election runoff that took place was in 2018 for the offices of Secretary of State and Public Service Commissioner.

58. Because those 2018 runoffs were for state offices only, they were held four weeks after election day.

59. Following the 2020 general election, three statewide general-election races required runoffs: both U.S. Senate seats and a Public Service Commission seat. Under then-existing law, the Public Service Commission runoff would occur four weeks after the general election while the U.S. Senate seats would occur nine weeks after the general election. This was the first time under since the 2014 change to the runoff schedule that would have actually resulted in different dates for federal and state general election runoffs from the same general election.

60. When Georgia counties were faced with actually administering these dual-track runoffs, especially with the unforeseen changes from litigation that required a re-opened voter-registration deadline for federal runoffs (but not state runoffs), the Secretary of State's office and county officials found that it was a technologically and logistically impossible to operate a dual track runoff schedule. For that reason, the Secretary of State's office had no choice but to hold all three runoffs on the same day in order to ensure that the elections actually occurred. Part of the impossibility of the task was due to the massive amount of "rollover" absentee ballots that would have had to have been sent out twice, but other parts included the difficulty in overlapping voter registration deadlines, absentee ballot periods, and other logistical difficulties.



61. Eliminating the dual-track general-election runoff schedule was one of the purposes of the reforms in SB 202 and moving back to a pre-SB 202 schedule would present those same and similar difficulties in election administration that the 2020 general election runoffs presented.

62. In order to comply with the MOVE Act's requirement that military and absentee voters who have requested them receive ballots 45 days before the election, SB 202 adopted ranked-choice voting to provide those voters with ballots for both the general election and any runoff at the same time.<sup>5</sup> While Georgia did not initially adopt ranked-choice voting in response to DOJ's contention that its runoff schedule violated the MOVE Act, I was aware in my position that subsequent states where DOJ brought lawsuits based on the runoff calendars resolved those claims by moving to ranked-choice runoff voting for military and overseas voters.

63. In 2022, four-week runoffs were held in June for the May primary, then again in December after the November general election.

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<sup>5</sup> The MOVE Act was passed by Congress and signed into law in 2009. It was not apparent to Georgia or other states that had runoffs that the MOVE Act required moving runoff dates until after DOJ filed lawsuits arguing that point. *See United States v. Georgia*, 952 F. Supp. 2d 1318 (N.D. Ga. 2013) (holding that Georgia's runoff calendar did not comply with UOCAVA), *judgment vacated, appeal dismissed due to change in state law*, 778 F.3d 1202 (11th Cir. 2015).

64. Black candidates regularly were successful in the four-week runoffs in 2022, with Black candidates winning the Democratic nominations for Insurance Commissioner and Labor Commissioner in June and a Black candidate winning the U.S. Senate race in December 2022.

65. Regardless of the outcome of the December 2022 runoff, a Black candidate was going to represent Georgia in the U.S. Senate because the two candidates who progressed to the runoff election, the Republican and Democratic nominees, were Black candidates who had been nominated in their respective primary elections.

66. County election officials are responsible for selecting the number and location of early-voting sites.

67. In the 2022 general election runoff, for example, Fulton County chose to open fewer early-voting sites during the runoff than for the general election. Decisions like that can result in longer lines when voter interest is largely the same for both elections.

68. There are significant state interests in having a four-week runoff.

69. Instead of two alternative periods for runoffs depending on the offices going to a runoff, as existed prior to SB 202, state and county officials now have a single period to prepare for and execute.

70. Four-week runoffs also ensure that runoff elections are complete by mid-December and ensure that federal officials are able to take office at the start of a congressional term. Prior to establishment of the four-week runoff for all offices, one of Georgia's Senate seats remained vacant for the first 17 days of the 117<sup>th</sup> Congress (which began on January 3, 2021) until the January 5, 2021 runoff could be held and the results could be certified.

71. Four-week runoffs also do not limit or prevent voter participation in runoffs. In fact, voter participation in Georgia runoffs has been increasing since the passage of SB 202.

72. In the 2018 general election, 61.4% of active voters voted or approximately 3.9 million votes.<sup>6</sup>

73. In the 2018 runoff election, only 22.9% of active voters voted or almost 1.5 million votes.<sup>7</sup>

74. In the 2020 general election, 69.6% of active voters voted, nearly 5 million votes,<sup>8</sup> and then, 61% of active voters voted, approximately 4.4 million votes, in the January 2021 runoff election.<sup>9</sup>

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<sup>6</sup> <https://results.enr.clarityelections.com/GA/91639/Web02-state.221451/#/>

<sup>7</sup> <https://results.enr.clarityelections.com/GA/93711/Web02-state.222648/#/>

<sup>8</sup> <https://results.enr.clarityelections.com/GA/105369/web.264614/#/summary>

<sup>9</sup> <https://results.enr.clarityelections.com/GA/107556/web.274956/#/summary>

75. The 2022 runoff showed a similar pattern to 2020 from a turnout perspective. 57.02% of active voters voted, or approximately 3.9 million votes cast, in the 2022 general election,<sup>10</sup> and 50.58% of active voters voted, or 3.5 million votes cast, in the December 2022 runoff election.<sup>11</sup>

### **Impact of Injunction**

76. Over the recent elections in Georgia, voters have experienced many different sets of rules governing voting. As noted earlier, it is common for the General Assembly to update election laws after major elections, and the 2018 and 2020 elections were no exception. However, voters have recently experienced a substantial increase in these changes because of the emergency rules put in place to address COVID-19. Thus, changing the rules again through a preliminary injunction would subject voters to another confusing set of changes, which would undoubtedly cause more confusion for county officials and at polling locations.

77. In the one nine-week runoff that the state has held (the January 2021 runoff), the Secretary of State's office received numerous complaints from

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<https://results.enr.clarityelections.com/GA/115465/web.307039/#/detail/10100>

11

<https://results.enr.clarityelections.com/GA/116564/web.307039/#/detail/10100>

election officials regarding the “endless election cycle,” the interruption to holiday plans, and the difficulty of finding staffing.

78. Indeed, voters have now had several years to adjust to SB 202’s provisions. And this has resulted in a substantial decrease in complaints about the issues addressed through SB 202.

79. To ensure that SB 202’s provisions were seamlessly applied, the State and counties have created and disseminated a host of training materials that address, among other things, the Runoff Provisions.

80. Additionally, county officials and volunteers have been trained on these provisions during the 2022 election cycle.

81. If the Court were to issue an injunction, the State and counties would be required to identify, rescind, and update all such materials quickly in advance of forthcoming elections. Similarly, the State would need to provide additional instruction to the public to explain that the rules will change again, albeit only temporarily.

82. Considering the complexity of conducting elections, such an injunction would carry a substantial risk of inserting confusion into the ongoing 2023 elections, and certainly into the upcoming 2024 primary and general primaries. Additionally, it will divert election officials away from their

tasks implementing the new voter registration system, which is a substantial task that serves an important role in conducting smooth elections.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

8/10/23  
Date

  
C. Ryan Germany

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**Exhibit 1**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

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IN RE GEORGIA SENATE BILL 202 | Master Case No.  
| 1:21-MI-55555-JPB  
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SPECIAL COMMITTEE ON ELECTION INTEGRITY  
2021 Full Committee Videos  
February 4, 2021

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1 REP. BARRY FLEMING: Members of the  
2 committee, I'm sure that some of the other  
3 colleagues will come on in. We have some  
4 preliminary matters to deal with before we hear  
5 House Bill 270 today. So, if you would, let's  
6 begin this meeting with a word of prayer. And  
7 I'm going to ask you if you would bow your heads  
8 with me.

9 Lord, we thank you for the ability to  
10 gather here today as a committee of this House of  
11 Representatives. Lord, we thank you for all the  
12 blessings that we do have even in this time of  
13 crisis in our country with this terrible virus.

14 Lord, we ask for your healing hand on  
15 all those who are suffering and particularly the  
16 caregivers. Lord, we do thank you for all the  
17 blessings that we have, and we ask for your  
18 wisdom to be in this room now for this committee  
19 as we attempt to do what's best for the people of  
20 this great state. Amen.

21 I want to welcome you to the first  
22 meeting of the Special Committee on Election  
23 Integrity for the Georgia House of  
24 Representatives. Before we get started, we do  
25 have a few housekeeping -- one housekeeping

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1 measure. Anyway, as you know, committees adopt  
2 rules that they intend to use for the session.  
3 The rules that you have posed in front of you are  
4 the same rules that I have used for years in the  
5 House Judiciary Committee. So, anybody who's  
6 ever been down there and wanted to see the rules,  
7 those are the same ones. They're fairly  
8 standard. But the Chair will, at this time,  
9 entertain any questions about the rules. And I  
10 see number 15, which is Ms. Smith --  
11 Representative Smith -- Chairman Smith?

12 REP. LYNN SMITH: I'm premature, Mr.  
13 Chairman. At the proper time, I'd like to make a  
14 motion.

15 REP. BARRY FLEMING: We'll go ahead and  
16 get a motion out there and then we'll debate it  
17 and see if we want to make any changes. The  
18 Chair will accept your motion.

19 REP. LYNN SMITH: Thank you. I move do  
20 pass for the 21-22 Special Committee on Election  
21 Integrity rules.

22 REP. BARRY FLEMING: Is there a second?

23 MAN 1: I second.

24 REP. BARRY FLEMING: There is a second.

25 Are there questions? Mr. Smyre? Chairman --

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1 Dean Smyre? You are number eight, Dean?

2 REP. CALVIN SMYRE: Five.

3 REP. BARRY FLEMING: You're number  
4 five?

5 REP. CALVIN SMYRE: (Inaudible)

6 REP. BARRY FLEMING: Yeah, you're pa-  
7 look at that laminated paper. That's the -

8 REP. CALVIN SMYRE: Oh, number eight.

9 REP. BARRY FLEMING: There we go. Go  
10 ahead, Dean.

11 REP. CALVIN SMYRE: Mr. Chairman, I've  
12 gone through the rules and looked at them. And I  
13 was hoping you would consider the number on the  
14 quorum and ask that you would increase that from  
15 five members to six members, increasing the  
16 number of members that were required to establish  
17 a quorum for the Committee.

18 REP. BARRY FLEMING: Well, these are  
19 the same rules that I -- like I said, that we use  
20 in the Judiciary Committee, but Chairman Smyre, I  
21 don't mind if that's what you'd like for us to  
22 do. If you want to make that a formal motion?\

23 REP. CALVIN SMYRE: I move that the  
24 Committee on -- the Select Committee on Election  
25 Integrity removes the adopted and the motion be

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1 amended that it would -- instead of reading "five  
2 members in the room" it will read "six members".

3 REP. BARRY FLEMING: The Chair will  
4 second the motion of Chairman Smyre. Is there  
5 any objection to the amendment? Hearing none, it  
6 is in. Now, on the final passage of the rules as  
7 amended by Chairman Smyre, all those in favor,  
8 indicate by saying "Aye".

9 MULTIPLE SPEAKERS: Aye

10 REP. BARRY FLEMING: Any opposed?  
11 Those will be our rules for this coming two-year  
12 session. All right. Ladies and gentlemen, you  
13 have in front of you House Bill 270. We will be  
14 working off of LC number 280106S. I'm going to  
15 say that again. LC280106S. This substitute was  
16 sent out to everybody on our list. There are  
17 copies here. Each member should have a copy.  
18 Does anyone not have LC280106S?

19 Members of the committee, let me  
20 explain to you the origin of this bill and then  
21 we have a few people signed up to testify. And  
22 of course, we'll take questions from the  
23 committee members.

24 The Association of County  
25 Commissioners, as you know, is a state-wide

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1 organization made up of all of the 159 counties  
2 in the state. As you also are very aware, it is  
3 the counties in our state that do most of the  
4 heavy lifting on the elections process which we  
5 use. I sometimes say that our elections process  
6 is a little bit like a three-legged stool. One  
7 leg of the stool is the Secretary of State's  
8 office, the other leg of the stool is the State  
9 Board of Elections who has oversight over  
10 elections. But of course, the largest segment of  
11 that is the 159 counties who, either through a  
12 probate judge or a board of elections, runs  
13 elections in the state of Georgia.

14 So, I take very seriously  
15 recommendations from the Association of County  
16 Commissioners because they work with, have to  
17 fund, deal with on a regular basis those board of  
18 election and probate judges. So, what you have  
19 in front of you is a recommendation from their  
20 policy council specially set up, made up of a  
21 bipartisan group. Specially set up and listening  
22 to their board of elections directors on  
23 something that would help us increase and better  
24 the process that we use in the state of Georgia  
25 for our elections.

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1           And here's simply what it does. Right  
2 now, in Georgia, when you want to apply for an  
3 absentee ballot, you can literally put an  
4 application to the Board of Elections for an  
5 absentee ballot the Friday before the Tuesday  
6 election. Now, anybody that thinks that through  
7 knows that if you wait until Friday --  
8 particularly if you drop it in the mail or even  
9 if you email it -- Monday morning is going to  
10 roll around. And that's when the board of  
11 elections opens back up and that's when they are  
12 going to be able to process that. It is  
13 virtually impossible, as you all might admit, for  
14 them to drop a -- get your absentee application  
15 on Monday -- even if they get it processed that  
16 day -- drop it in the mail and get it back to you  
17 in time for you to vote it and then get it back  
18 in.

19           So, two things are going on here.  
20 Number one, in my opinion, you are almost setting  
21 up someone to fail if we let them know they can  
22 wait until the Friday before the election to send  
23 in an application for the absentee ballot. The  
24 proposal, as I understand it after surveying the  
25 best practices in several other states, is to

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1 move that deadline from the Friday before the  
2 Tuesday election to the Friday before that. And  
3 that is really the summary of what the language  
4 in the bill does.

5 The reason it was a committee  
6 substitute is that we want to clarify that's  
7 strictly what it does. It does not affect your  
8 ability to come in and early vote, like we all  
9 are familiar with, that last week before the  
10 Tuesday election, whether it be a primary or a  
11 general election. That is basically what the  
12 bill does. And my intentions are now to answer  
13 any questions I could for you. And then, of  
14 course, as I mentioned, we have some witnesses  
15 that are signed up. Is there any questions right  
16 now from committee members as to what the LC  
17 number I read earlier of House Bill 270 in front  
18 of you does? Is that Ms. Alexander?  
19 Representative Alexander?

20 REP. KIMBERLY ALEXANDER: Thank you,  
21 Mr. Chairman. So, in essence, there's three  
22 weeks for early voting -

23 REP. BARRY FLEMING: Yes, ma'am.

24 REP. KIMBERLY ALEXANDER: As opposed to  
25 now, you're cutting it down to two weeks?

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1 REP. BARRY FLEMING: No, ma'am. Not at  
2 all. This bill does not change early voting.  
3 You will still be able to early vote three weeks.  
4 There's early voting where you actually vote in  
5 person is what we commonly refer to it as. And  
6 then there is absentee ballot by mail.

7 REP. KIMBERLY ALEXANDER: Correct.

8 REP. BARRY FLEMING: What this does and  
9 only what this does is right now, under our law,  
10 you can -- although your chances of success, I  
11 would say, are slim, you can actually send in the  
12 absentee ballot application to the county  
13 officials the Friday before the Tuesday primary  
14 or election. This moves it back to one Friday  
15 before that, so it has time to get in, has time  
16 to get processed.

17 And here's something I didn't mention  
18 that I think is also very important -- but your  
19 question spurs my thought process. I think we  
20 want our elections directors and their staff that  
21 last week of early voting to not only be able to  
22 focus on the rush that comes with that last week  
23 of early voting, but also begin to process the  
24 absentee ballots that are now pouring in and get  
25 ready for the big day Tuesday on Election Day.



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1 it back in? So, you're assured to count. Isn't  
2 that important to you?

3 CHRIS BRUCE: Absolutely. And that's  
4 why I'm saying the data is what's going to be  
5 very important. So, we can look at 159 counties  
6 and see what is the critical period where it will  
7 make the most amount of Georgians be able to  
8 vote. And if there is data out there that was  
9 discussed in this committee of saying, this is  
10 the time period we have the highest amount of  
11 voters or the lowest amount of voters or this is  
12 the critical period or date within it and that is  
13 10 days, we can discuss the data. But I haven't  
14 heard that discussion yet.

15 REP. CHUCK MARTIN: Is it not true that  
16 we do know that if we let them mail the ballots  
17 on the Friday before the election on Tuesday,  
18 more likely than not, that ballot is not going to  
19 get back on time? Did we not hear testimony of  
20 that today?

21 CHRIS BRUCE: I did hear testimony from  
22 the elections from Houston County.

23 REP. CHUCK MARTIN: Thank you.

24 REP. BARRY FLEMING: All right. This  
25 is our posture. The bill is before the

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1 committee. There is a motion to pass. It has  
2 been seconded. This is time for committee  
3 discussion on that motion. Chairman Smyre?

4 Yes, thank you for being here today.  
5 My apologies. Let him go out of order. And  
6 normally, I would say goodbye. But thank you for  
7 being here. We appreciate it. Yes, sir. My  
8 apologies. You are excused. Chairman Smyre, did  
9 you have a -?

10 REP. CALVIN SMYRE: Yes. Before we  
11 vote on the motion -- because I'm looking at Vice  
12 Chairman Powell and you, and both of you all -- I  
13 think the two of you are the most experienced  
14 chairmen in the house. And I was just thinking  
15 about the motion. And I was trying to reflect  
16 back to Representative Douglas' earlier point in  
17 the committee that his comments that he had  
18 referenced to these issues.

19 And I was thinking procedurally, when  
20 we think about -- I think we've got -- would you  
21 correct me, Mr. Chairman, how many bills we have?  
22 Because you and I have had a discussion, how many  
23 bills we possibly have in the committee?

24 REP. BARRY FLEMING: Good question,  
25 Dean Smyre. Ms. Aziz, you gave me that sheet the

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1 other day and the speaker put about 12 more in  
2 the other day. Any idea what we're up to now?  
3 She's going to tell us right now, Chairman Smyre.  
4 I call him Chairman Smyre. Sometimes I say,  
5 "Dean". But when I first got elected in '02, he  
6 was chairman of the rules committee. And then he  
7 was chairman of the democratic caucus. And for  
8 me, he's just been Chairman longer than he's been  
9 anything else. So, when I say that, I use it in  
10 the --

11 REP. CALVIN SMYRE: Yeah, I used to  
12 drive the car. Now, I'm just looking for a  
13 windshield wiper.

14 REP. BARRY FLEMING: How many?  
15 Including today's? So, I think we're somewhere in  
16 the 20 range is my guess.

17 REP. CALVIN SMYRE: And I think -- I  
18 can't speak for Representative Douglas, but I  
19 think he was talking about -- I mean, if we do  
20 every bill and go through it like we're going  
21 through this one because we just got through an  
22 election, and this is something that -- we're not  
23 going to have another election until 2022.

24 And I think that more thought and the  
25 more that we drill, I think the finish line that

## Georgia Senate Bill 202, In Re

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1 we get to is going to be a better document, I'm  
2 thinking. So, I was just throwing that out for  
3 consumption purposes. Because this is something  
4 -- and I'm just hearing from my county people  
5 today on the bill. And if we had just a little  
6 bit more time -- and I'm not going to say that's  
7 going to change my mind. But the more dialogue,  
8 the more we talk, the more we discuss, I think  
9 the better the product.

10 This is a fundamental issue of voting.  
11 And it's dear to everybody and to the state of  
12 Georgia to have a fair election. And I know  
13 there's different sides to this and different  
14 opinions, and I respect everybody's opinion. And  
15 so, I was just giving that for food for thought  
16 as we go about our business as a special  
17 committee on election integrity.

18 And I have immense respect for you and  
19 for Vice Chairman Powell. So, I was just  
20 throwing that out as we go forward looking at all  
21 of these that we be able to have the kind of  
22 dialogue we had today, Mr. Chairman.

23 And it's been very fruitful for me  
24 because I've got a lot to learn about all these  
25 elections as much as anyone else. So, I just

## Georgia Senate Bill 202, In Re

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1 want to throw that out as food for thought as we  
2 go forward.

3 REP. BARRY FLEMING: Thank you, Dean  
4 Smyre. Is that Representative Burnough?

5 REP. RHONDA BURNOUGH: Thank you, Mr.  
6 Chairman. I just have a question for our lead  
7 counsel, can we pass this out when it hasn't had  
8 a second read yet?

9 REP. BARRY FLEMING: It has been second  
10 read.

11 REP. RHONDA BURNOUGH: It has?

12 REP. BARRY FLEMING: Yes, ma'am.

13 REP. RHONDA BURNOUGH: Okay. Thank  
14 you. That's all I need to know. And also, I had  
15 this change. So, if we pass --

16 REP. BARRY FLEMING: Hold on one  
17 second. I want to make sure I understand your  
18 question. The bill was introduced yesterday. It  
19 was first read and assigned to the committee  
20 today. I believe under the rules of the house  
21 that we can. However, if the alleged counsel  
22 wants to comment, they're welcome to. I know  
23 that -- the committee -- the aide is saying yes,  
24 we can.

25 REP. RHONDA BURNOUGH: Okay. Thank

## Georgia Senate Bill 202, In Re

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1 you. And also, I had suggested a change for line  
2 33. So, if we pass it out, does that mean you  
3 will consider? You asked me to write it down for  
4 you.

5 REP. BARRY FLEMING: No, ma'am. The  
6 chair will always consider members' amendments  
7 that they want to make.

8 REP. RHONDA BURNOUGH: Okay. All  
9 right. Thank you.

10 REP. BARRY FLEMING: Okay. I see no  
11 other further comments at this time unless  
12 someone wants to push the button or raise their  
13 hand. If not, we do have in front of us a motion  
14 as do pass by committee substitute. Is there any  
15 further comment from -? Hearing none, all those  
16 in favor, please indicate by saying, "Aye."

17 MULTIPLE SPEAKERS: Aye.

18 REP. BARRY FLEMING: All those opposed?

19 MULTIPLE SPEAKERS: No.

20 REP. BARRY FLEMING: The bill carries.  
21 We will stand adjourned.

22  
23  
24  
25

**Exhibit 2**

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APPROPRIATIONS  
ECONOMIC DEVELOPMENT & TOURISM  
JUDICIARY – VICE CHAIRMAN

### MEETING NOTICE

#### **TO: Members of Special Committee on Election Integrity**

Rep. Alan Powell, Vice Chairman	Rep. Demetrius Douglas	Rep. Bonnie Rich
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Rep. Rhonda Burnough	Rep. Jan Jones	Rep. Rick Williams
Rep. Buddy DeLoach	Rep. Chuck Martin	

**FROM: Rep. Stan Gunter, Chairman**  
**DATE: Friday, April 1, 2022**  
**PLACE: 606 CLOB**  
**TIME: Adjournment for Dinner Break**

The Special Committee on Election Integrity will meet on Friday, April 1, 2022 upon adjournment for dinner in Room 606 CLOB.

#### **AGENDA**

**SB 89 – Senator Butch Miller**

**Agenda subject to change at the call of the Chair**

cc: Speaker's Office  
Clerk's Office  
Media Services  
Legislative Counsel  
Molly Aziz





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Rep. Rhonda Burnough	Rep. Jan Jones	Rep. Rick Williams
Rep. Buddy DeLoach	Rep. Chuck Martin	

**FROM: Rep. Stan Gunter, Chairman**

**DATE: Thursday, March 10, 2022**

**PLACE: 606 CLOB**

**TIME: 10:00AM – 12:00PM**

The Special Committee on Election Integrity will meet on Thursday, March 10, 2022 at 10:00AM in Room 606 CLOB.

### **AGENDA**

**HB 1464 Substitute - Burchett**

Agenda subject to change at call of the Chairman

cc: Speaker's Office  
Clerk's Office  
Media Services  
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Molly Aziz



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**FROM: Rep. Stan Gunter, Chairman**

**DATE: Thursday, March 10, 2022**

**PLACE: 606 CLOB**

**TIME: 10:00AM – 12:00PM**

The Special Committee on Election Integrity will meet on Thursday, March 10, 2022 at 10:00AM in Room 606 CLOB. Zoom information will be sent prior to the meeting.

### **AGENDA**

**HB 1464** Georgia Bureau of Investigation; original jurisdiction to investigate election fraud and elections crimes; provide

**Agenda subject to change at the call of the Chairman**

cc: Speaker's Office  
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### MEETING NOTICE

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Rep. Rhonda Burnough	Rep. Jan Jones	Rep. Rick Williams
Rep. Buddy DeLoach	Rep. Chuck Martin	

**FROM: Rep. Stan Gunter, Chairman**

**DATE: Wednesday, March 10, 2022**

**PLACE: 606 CLOB**

**TIME: 10:00AM – 12:00PM**

The Special Committee on Election Integrity will meet on Wednesday, March 9, 2022 at 3:00PM in Room 606 CLOB. Zoom information will be sent prior to the meeting.

#### **AGENDA**

**HB 1464** Georgia Bureau of Investigation; original jurisdiction to investigate election fraud and elections crimes; provide

**Agenda subject to change at the call of the Chairman**

cc: Speaker's Office  
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Rep. Rhonda Burnough	Rep. Jan Jones	Rep. Rick Williams
Rep. Buddy DeLoach	Rep. Chuck Martin	

**FROM: Rep. Stan Gunter, Chairman**

**DATE:** Monday, March 28, 2022

**PLACE:** 606 CLOB

**TIME:** 4:00PM – 5:00PM

The Special Committee on Election Integrity will meet on Monday, March 28, 2022 at 4:00PM in Room 606 CLOB. Zoom information will be sent prior to the meeting.

#### **AGENDA**

#### **HEARING ONLY**

**SR 623** – Election and Term of members; implementation of staggered terms of office for members of the Senate; provide – CA by Senator Lindsey Tippins

**Agenda subject to change at the call of the Chair**

cc: Speaker's Office  
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Rep. Rhonda Burnough	Rep. Jan Jones	Rep. Rick Williams
Rep. Buddy DeLoach	Rep. Chuck Martin	

**FROM: Rep. Stan Gunter, Chairman**

**DATE:** Thursday, March 3, 2022

**PLACE:** 606 CLOB

**TIME:** 3:00 – 5:00PM

The Special Committee on Election Integrity will meet on Thursday, March 3, 2022 at 3:00PM in Room 606 CLOB. Zoom information will be sent prior to the meeting.

**AGENDA TBD**

**Agenda subject to change at the call of the Chair**

cc: Speaker's Office  
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### MEETING NOTICE

#### **TO: Members of Special Committee on Election Integrity**

Rep. Alan Powell, Vice Chairman	Rep. Demetrius Douglas	Rep. Bonnie Rich
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Rep. Shaw Blackmon	Rep. Houston Gaines	Rep. Calvin Smyre
Rep. Rhonda Burnough	Rep. Jan Jones	Rep. Rick Williams
Rep. Buddy DeLoach	Rep. Chuck Martin	

**FROM: Rep. Stan Gunter, Chairman**

**DATE: Wednesday, March 9, 2022**

**PLACE: 606 CLOB**

**TIME: 3:00 – 5:00PM**

The Special Committee on Election Integrity will meet on Wednesday, March 9, 2022 at 3:00PM in Room 606 CLOB. Zoom information will be sent prior to the meeting.

#### **AGENDA**

**TBD**

**Agenda subject to change at the call of the Chairman**

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**MEETING NOTICE**

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Rep. Buddy DeLoach	Rep. Chuck Martin	

**FROM: Rep. Stan Gunter, Chairman**

**DATE: Wednesday, March 9, 2022**

**PLACE: 606 CLOB**

**TIME: 3:00 – 5:00PM**

The Special Committee on Election Integrity will meet on Wednesday, March 9, 2022 at 3:00PM in Room 606 CLOB. Zoom information will be sent prior to the meeting.

**AGENDA**

***HB 1464 LC 28 0489 (Representatives Burchett of the 176<sup>th</sup>, LaHood of the 175<sup>th</sup>, Smith of the 70<sup>th</sup>, Rich of the 97<sup>th</sup>, and Corbett of the 174<sup>th</sup>)***

Georgia Bureau of Investigation; original jurisdiction to investigate election fraud and elections crimes; provide

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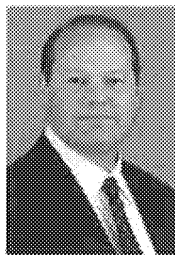
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**Exhibit 3**

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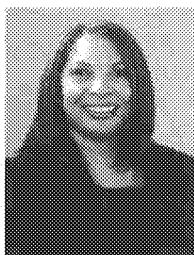
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**Special Committee on Election Integrity**  
2021-2022



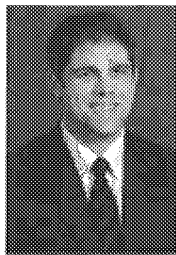
**Barry Fleming**  
**Chairman**



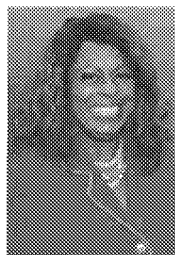
**Alan Powell**  
**Vice Chairman**



**Kimberly Alexander**  
**Member**



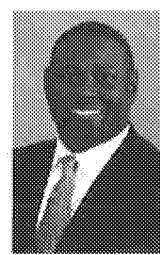
**Shaw Blackmon**  
**Member**



**Rhonda Burnough**  
**Member**



**Buddy DeLoach**  
**Member**



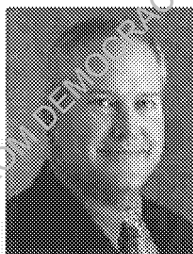
**Demetrius Douglas**  
**Member**



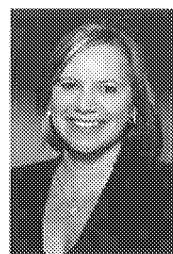
**Houston Gaines**  
**Member**



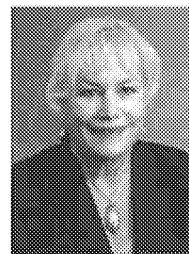
**Jan Jones**  
**Member**



**Chuck Martin**  
**Member**



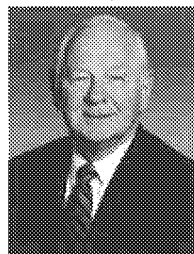
**Bonnie Rich**  
**Member**



**Lynn Smith**  
**Member**



**Calvin Smyre**  
**Member**



**Rick Williams**  
**Member**

**Exhibit 4**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

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IN RE GEORGIA SENATE BILL 202	Master Case No.
	1:21-MI-55555-JPB
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SPECIAL COMMITTEE ON ELECTION INTEGRITY  
2021 Full Committee Videos  
February 9, 2021

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## Georgia Senate Bill 202, In Re

Page 2

1 REP. BARRY FLEMING: Special Committee  
2 on Election Integrity. I appreciate everybody  
3 being here today. We have in front of us today,  
4 House Bill 270, which we heard for, I don't know,  
5 maybe three hours the other day. It was before  
6 us earlier, was that last Thursday. We passed  
7 the bill out; it was in rules. And the Minority  
8 Whip, Whip Wilkinson, came to myself and  
9 representative Chairman Shaw Blackmon, and asked  
10 us to make one change and that he could support  
11 the bill and would encourage the same. So, let  
12 me explain to you briefly what the bill  
13 originally did, then I'm going to ask Chairman  
14 Shaw to explain the one change that you have in  
15 front of you. We'll be working off of LC 28-  
16 0142S, LC 28-0142S. As you may recall, the bill  
17 simply was a recommendation by the Association of  
18 County Commissioners and a bipartisan working  
19 group that they put together to change the date  
20 by which we tell Georgians they need to have  
21 their absentee ballot application in, so that it  
22 was actually a date where one could really  
23 fulfill the order and get it back to them in time  
24 where they could vote. I think the way I put it  
25 was, it's almost misleading. The way our current

1 law works, you could request a ballot properly  
2 and there's no way it could get back to you in  
3 time for you to vote, as was testimony we heard  
4 on Thursday. That was the underlying bill that  
5 we passed just the other day. The change that  
6 was requested by Whip Wilkinson, I will recognize  
7 Chairman Shaw and ask him to explain that change,  
8 which the bill basically does the same thing,  
9 just makes a slight adjustment in how we do that.  
10 So, Chairman Shaw Blackmon, the floor is yours.

11 REP. SHAW BLACKMON: Thank you, Mr.  
12 Chairman. As we heard the other day that ACCG  
13 brought the original language forward, but I  
14 think they were comfortable with the suggested  
15 change. And as you mentioned, other members had  
16 brought it up either during committee or after  
17 that. And this was an agreed change that would  
18 adjust this from an application date deadline,  
19 which before, we had an issuance date deadline.  
20 And that application deadline would be that  
21 second Friday, which is the 10th day prior to the  
22 election. And then, it would codify the three  
23 day rule, such that three business days would be  
24 allowed for those applications to be mailed. And  
25 in short, Mr. Chairman, that's what it does. I

## Georgia Senate Bill 202, In Re

Page 6

1 REP. BARRY FLEMING: Election day. The  
2 registrar can still bring it to you in the  
3 hospital on election day.

4 REP. CALVIN SMYRE: So, therefore, if  
5 that amendments adopted, you could still be able  
6 to vote by absentee ballot if it's brought to  
7 you, is that correct?

8 REP. BARRY FLEMING: Yes, sir. They  
9 bring it to you. Wilkinson didn't even answer  
10 that, but y'all talked about it and we put it in  
11 there for you. I think it was Representative  
12 Burns that maybe mentioned that the most.

13 REP. CALVIN SMYRE: And one other  
14 thing, was there any discussion, because I'm not  
15 privy to all the discussions that been had. Was  
16 there anything in that dealing with the date  
17 certain, the date is certain, in terms of five,  
18 we had some concerns about the timing of it, and  
19 it was 10 days. And then, we talked about a date  
20 certain of five days, and then we talked about  
21 seven to ten days. So, what is it now, Mr.  
22 Chairman? In terms of the days that -

23 REP. BARRY FLEMING: Sure. The day you  
24 have to get your request in is the Friday, second  
25 Friday before the election. And then, this says

## Georgia Senate Bill 202, In Re

Page 7

1 they have to get it back to you within three  
2 business days, which would be the Wednesday  
3 before the election.

4 REP. CALVIN SMYRE: Okay. Those are  
5 the things that's still weighing on me and I know  
6 this is a good faith effort. And I believe we  
7 almost there. Really, I think we're much, much  
8 closer, so I want to say that in light of where  
9 we were early on and the feedback that I got back  
10 from my hometown and from others around the  
11 state. But we've come some ways and I think -  
12 because the only thing we're trying to do is to  
13 protect everyone and make sure that everybody has  
14 an opportunity. So, I just want to say publicly  
15 that we've come some ways, in terms of what we're  
16 trying to get to. So, I want to say that to the  
17 full community, US Chairman.

18 REP. BARRY FLEMING: Thank you, Mr.  
19 Chairman Symre. Other members. Is that you,  
20 Chairman Martin?

21 REP. CHUCK MARTIN: Mr. Chairman, this  
22 might go under discussion if we get a motion on  
23 the bill. Just, I had some -

24 REP. BARRY FLEMING: You can make one.

25 REP. CHUCK MARTIN: I'd move LC280142S

## Georgia Senate Bill 202, In Re

Page 8

1 due pass.

2 REP. BARRY FLEMING: Is there a second?  
3 There was a motion in the second, further  
4 discussion. Chairman Martin.

5 REP. CHUCK MARTIN: All right. Thank  
6 you. I was able to speak with an election board  
7 member this weekend. And one of the things I  
8 think we need to enumerate here or elaborate on  
9 is, this will allow our elections boards - not  
10 the boards, but the election directors and the  
11 staff of the lady from Houston County to  
12 concentrate that last week of the election at  
13 getting in and taking care of the ballots that  
14 have been submitted timely and still give  
15 everybody the opportunity to vote. This person  
16 articulated to me that when they were trying to -  
17 he called it a bit like a controlled chaos, of  
18 trying to get ballots out up till that Friday,  
19 while they're getting a lot of ballots in. So, I  
20 think this does a lot toward protecting the  
21 integrity of those that have voted by mail  
22 before, so that those ballots can be handled with  
23 a good chain of custody. And it really helps the  
24 people, all of the people that have prepared and  
25 done it a little bit sooner. And their ballot



## **Exhibit 5**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

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|  
IN RE GEORGIA SENATE BILL 202 | Master Case No.  
| 1:21-MI-55555-JPB  
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SPECIAL COMMITTEE ON ELECTION INTEGRITY  
2021 Full Committee Videos  
February 18, 2021

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1 REP. BARRY FLEMING: I want to welcome  
2 you to our meeting today of the House Special  
3 Committee on Election Integrity. If you would,  
4 as we always do, bow your heads with me, and  
5 we'll begin our meeting with a word of prayer.  
6 Lord, we thank You now for the opportunity to  
7 come together to this committee. We ask You to  
8 give us the wisdom in this room, as always, to do  
9 what is best for the people of our great state.  
10 Bless us and keep us as we move forward. We  
11 pause also, Lord, to remember all of those  
12 suffering from the effects of this pandemic. We  
13 ask that Your healing hands not only be upon  
14 them, but also with those who are ministering to  
15 them and caring for them. Bless us and keep us  
16 now as we move forward. Amen.

17 Ladies and gentlemen, I appreciate you  
18 being here today. There are a couple of bills on  
19 the agenda. The one I intend to focus on today  
20 is House Bill 531, which you should have a copy  
21 in front of you, and I'll read the LC number to  
22 make sure we're all working off the same one: LC  
23 28 0215, LC 28 0215. This will be the first of  
24 more than one hearing, I suspect, on this  
25 measure. Today, my goal was to talk to you about

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1 it and allow committee input and questions, and  
2 also, if time allows, maybe a few witnesses. You  
3 should be getting a notice that we will be  
4 scheduled to meet tomorrow. I think the starting  
5 time is 9:00 or 9:30. I'm not sure, but that  
6 should be coming to you, and we'll have more  
7 opportunity for discussion tomorrow as well.

8 But, as far as a way of introduction to  
9 the bill that you have in front of you, let me  
10 begin by talking just briefly about this whole  
11 process of our looking at the election laws in  
12 Georgia. If you have been following at all the  
13 issue of elections in the state of Georgia, you  
14 know that there has been controversy regarding  
15 our election system, and I believe the goal of  
16 our process here should be an attempt to restore  
17 the confidence of our public in our election  
18 system. There are obviously, I think, things  
19 that need to be done. We never designed an  
20 election system, I don't think, for a pandemic,  
21 but we certainly had to learn how to run one  
22 during that time period.

23 The election issues did not start in  
24 2020, however. In 2018, we had another general  
25 election, the last one before this most recent

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1 one, and in that election, we saw a good bit of  
2 controversy about the election process and many  
3 questioning it. It just so happened that the  
4 questions at that time seemed to come from the  
5 left side of the aisle. I think the candidate  
6 for governor who lost that race -- I'm not sure  
7 if that concession was ever made, and  
8 occasionally in the media, I heard that person  
9 referred to as governor, just highlighting the  
10 amount of doubt from certain segments of the  
11 public in our election system. When you fast  
12 forward to 2020, I guess you would say the shoe  
13 seemed to be on the other foot. There seemed to  
14 be many people from the right side of the aisle  
15 questioning our election system.

16 So, the goal of the bill that you have  
17 in front of you today that we will begin to  
18 discuss is to attempt, to the extent that we can,  
19 begin to try to remedy some of those problems and  
20 try to bring the left and the right back to a  
21 position where they have confidence overall in  
22 our election system. This last election -- and,  
23 a large part of this bill does focus on the  
24 absentee balloting process -- normally, in  
25 Georgia elections prior to this 2020 election,

1 probably less than five percent, maybe three  
2 percent, four percent, of our balloting was done  
3 through an absentee balloting process -- people  
4 voting that way. Most people voted in person,  
5 whether it be early or day-of voting, as we refer  
6 to it. This past election, depending on whether  
7 you looked at the primary, or the runoff, or the  
8 general, somewhere between one quarter and one  
9 third or more of our voters voted in the absentee  
10 balloting form. There was significant  
11 discussion, controversy, consternation with parts  
12 of that process, particularly the signature  
13 verification process, and one thing that you will  
14 see that this bill does is it attempts to move  
15 from what is a subjective process, that being  
16 signature, to an objective process of using a  
17 number, which most Georgians by and far have --  
18 97 percent, I think -- a driver's license number.  
19 Let that be the center of our verification  
20 process for absentee ballots.

21 Not only are there portions of this  
22 bill that deal with the absentee ballot, but also  
23 many other areas of the voting process. One  
24 thing we have to keep in mind for the people who  
25 actually run elections in Georgia -- we have to

1 make sure that our laws reflect a system that  
2 make it efficient for them to run the system.  
3 When you have a system, whatever kind it is, and  
4 you have counting of votes going on for days  
5 after the election, particularly in the wee hours  
6 of the morning sometimes -- your mother probably  
7 told you when you were a young kid there's not  
8 too much good that happens after midnight. And,  
9 the more we can make this process work for our  
10 election officials, get those tabulations done on  
11 election night and out to the voting public, I  
12 think the confidence will be built back into our  
13 system, and you will see there are portions of  
14 this bill that attempt to accomplish that.

15 So, what I would like to do as we start  
16 now is to take you through the different sections  
17 of the bill that deal with these different  
18 issues, point them out to you, and of course,  
19 after that process, I'd be happy for members of  
20 the committee to ask questions or make comments  
21 on any of those. I would ask you to keep your  
22 notes on any comments that you want to make about  
23 any particular section as we walk through it  
24 because I'll go through it once and then come  
25 back to you with any comments or questions that

1 you have, and then, time allowing, we will try  
2 to, if possible, hear from a few witnesses today.

3 So, as I mentioned to you, one of the  
4 main thrusts of the bill is to restore the  
5 efficiency and the confidence in our absentee  
6 balloting process. If you will look in these  
7 sections -- and, I'll name them for you -- we  
8 will have a discussion about -- I'll lead you  
9 through some of the portions that deal with the  
10 absentee balloting process. Most of the absentee  
11 ballot changes take place in Section 8, Section  
12 10, Section 11, and Section 13 of the bill.

13 If you look in Section 8 of the bill,  
14 that is where we begin to deal with the absentee  
15 ballot application process. One of the changes  
16 that we hope to effect in the bill is the  
17 envelope that is used for the absentee ballot  
18 process. That is in Section 10 of the bill.  
19 Section 11 of the bill addresses how the absentee  
20 ballot envelope is filled out and returned.  
21 Section 13 of the bill, if you flip over to that,  
22 deals with how the county deals with the return  
23 envelope, and also, if there is a problem, we  
24 address there the chance to resolve that problem,  
25 or sometimes refer to as the ability to cure the



1 absentee ballots.

2 One of the other things that we deal  
3 with in the bill is the timelines for the  
4 absentee ballot process, but before I get to  
5 that, I want to talk about how we change from a  
6 subjective system to what I would believe is an  
7 objective system. Probably the best way to talk  
8 about that is to look at a driver's license  
9 itself. If I were to ask one of you to open  
10 your wallet and pull out your driver's license,  
11 it would be very similar to the situation where  
12 you go to vote now in person. If you go to vote  
13 in person, you're going to show the election  
14 worker your driver's license. They're going to  
15 do a couple of things when you walk in. They're  
16 going to take your driver's license, they're  
17 going to look at the photo on your driver's  
18 license, and then they're going to look at you,  
19 and they're going to first check to see if the  
20 picture looks the same. Very understandable  
21 process. Then, they likely -- in many counties --  
22 - will take it and they'll scan your driver's  
23 license because it does have coded information on  
24 it, and the key to that is getting your driver's  
25 license number off of that. That's a process

1 that we're all very familiar with when you go in  
2 and you vote in person.

3 Now, if you think about the absentee  
4 ballot process, right now, when you send in an  
5 absentee ballot application -- a piece of paper -  
6 - as has been discussed, in some areas, if we  
7 required you to send a photocopy of your driver's  
8 license, then the piece of paper comes in, which  
9 is the photocopy, and the election worker opens  
10 it, and they look at your picture, but there's  
11 one component missing there. You're not there  
12 for them to compare that picture to. So, sending  
13 in a photocopy of your driver's license or state  
14 ID card for voting with your photo on it does not  
15 serve the same purpose as it would if you were  
16 voting in person. So, there is, though,  
17 something that would provide, I believe -- and,  
18 the bill goes in this direction -- a good, almost  
19 PIN number that is unique to you, and that is  
20 your driver's license number. If you go into a  
21 room of 100 folks and you ask those that know  
22 their driver's license number by heart to raise  
23 their hand, you'll probably find, in my  
24 experience, maybe two or three people will know  
25 that. Most people don't know their driver's

1 license number, unlike their Social Security  
2 number. They don't know their driver's license  
3 number because you never use your driver's  
4 license like you do other numbers. You never use  
5 your driver's license number like you do other  
6 numbers, like your Social Security number.

7 Because of that, you and I very seldom  
8 put our driver's license number down for  
9 anything, particularly on the internet. That  
10 means that for someone to steal your driver's  
11 license number -- in other words, this unique PIN  
12 number that identifies you -- they pretty much  
13 have to, in my case, get in your back pocket.  
14 They have to get into your billfold, where most  
15 people keep it. Now, if they're able to do that,  
16 not only could they steal your driver's license  
17 and your PIN number and possibly vote for you,  
18 but they're going to get your credit cards, and  
19 they're going to get your cash, and whatever else  
20 you have there. So, one of the most secure ways  
21 this bill anticipates to make sure you are who  
22 you say you are is to ask for a number which is  
23 very unique to you and also is likely not easily  
24 stolen by somebody else. Right now, in our  
25 elections process, the way we do that

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1 verification, as has been mentioned, is by  
2 signature. Replacing it with this driver's  
3 license number is, I believe -- and the bill  
4 follows this -- a step in the right direction to  
5 secure it with something that is very accessible  
6 by you, but not necessarily accessible by someone  
7 else. So, you will find as you work through the  
8 bill and we talk about the bill that that main  
9 component of it is very important.

10 Let me also mention that about 97  
11 percent of Georgians are identified in our voting  
12 records by either their driver's license or a  
13 state-issued identification card, so our system  
14 of county-by-county identification of who is  
15 registered properly and who is not is, in very  
16 many cases, tied to that number, which makes it  
17 another very good number for us to use.

18 Let me move on past that portion of the  
19 bill and talk about the issue I touched on a  
20 second ago, and that is the timelines for  
21 absentee ballots. There are pretty much three  
22 ways that the bill addresses this issue of  
23 absentee ballot timelines. The first one is  
24 setting the beginning time for when you can send  
25 in your absentee ballot application. One thing

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1 about our absentee ballot application laws is  
2 that they're almost six months now, long before  
3 the election is going to occur. For voter  
4 clarity and also for making the process simply  
5 work better for our people working, trying to  
6 issue absentee ballots, the bill moves that six-  
7 month deadline to 78 days so that the actual  
8 applications will be coming in closer to the  
9 election process. Also, as has been discussed in  
10 this committee previously in House Bill 270, a  
11 bill that has already passed out of this  
12 committee, in Section 8 of the bill, where we  
13 address the beginning of the application process,  
14 also, we address when absentee ballot  
15 applications can be turned in. Currently, as  
16 this committee is aware of in previous testimony,  
17 absentee ballot applications can be turned in as  
18 late as the Friday before the election, and as  
19 you heard in this room testimony from the House  
20 and County Elections Director, you probably have  
21 a very slim chance if you wait to that Friday and  
22 apply for an absentee ballot of getting it back  
23 in time. So, in Section 8 of the bill, we  
24 incorporate portions of language from House Bill  
25 270 which moves that to the second Friday before

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1 the election. Also in the bill is the guidelines  
2 that were put in in House Bill 270 whereby  
3 election directors have three days after that  
4 deadline to get your absentee ballot out and to  
5 you.

6 Also, in Section 10 of the bill, we  
7 change the time when absentee ballots themselves  
8 will be sent out to those requesting them.  
9 Currently, the law was between 49 and 45 days  
10 before the election that those absentee ballots  
11 will be sent out. This bill, in Section 10,  
12 changes that to 29 to 25 days before the election  
13 for those to be sent out. The idea here is that  
14 it probably makes more sense for us to have one  
15 voting period. This puts the mailing of the  
16 absentee ballots very close to the same period of  
17 voting as we have for early voting. That puts  
18 our public in the mindset that voting begins  
19 about this time, whether it be early or absentee  
20 ballot, however you choose, and then, of course,  
21 culminates on election day.

22 Now, I want to move away from absentee  
23 ballots to some other issues now that are  
24 addressed in the bill. If you look in Section 9  
25 of the bill, this is where we address the

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1 sometimes controversial issue of drop boxes.

2 House Bill 531 makes some changes to when and how  
3 drop boxes can be used. The bill requires that  
4 all drop boxes shall be located inside an early  
5 voting site, that the drop boxes will be open for  
6 people to deposit into them the same hours as the  
7 early voting site, also that it be monitored by  
8 election officials, and that it be emptied each  
9 night.

10 There are several reasons for this.  
11 Part of the perception in the public about the  
12 problems with drop boxes is that anything could  
13 be put in them at any time of the night. This  
14 changes that. I also have concerns in the future  
15 about drop boxes possibly -- if they're not in  
16 secure places -- becoming targets. We do know in  
17 this last election -- not in Georgia, but in  
18 other states -- there was a drop box whose  
19 contents were destroyed by fire. Another benefit  
20 of having set hours for these drop boxes is that  
21 one of the things we are trying to do in this  
22 bill is make this election process even more  
23 workable for our election workers to get ballots  
24 counted on time, to get them reported promptly.  
25 Having the drop boxes in early voting locations,

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1 and keeping the same hours, and having them  
2 emptied each night allows those absentee ballots  
3 to be gotten back to the election headquarters,  
4 where they can go ahead and be processed, and  
5 you'll see us addressing that in other portions  
6 of the bill.

7 Now, if you'll flip over to Section 12  
8 of the bill, this is where we address uniformity  
9 in voting times. I've heard people refer to  
10 conversations before whereas you may live in one  
11 county and work in another, and two folks start  
12 discussing when they're going to vote, and  
13 somebody says, "Well, I'm going to vote on this  
14 day," and they say, "You can't vote on that day,  
15 there's no early voting on that day," and all of  
16 a sudden, you've got confusion between two people  
17 about when they can or cannot vote because they  
18 live in two different counties. House Bill 531  
19 brings uniformity to the times for early voting.  
20 It does not change the fact that we have three  
21 weeks, but it does set, as the original intent of  
22 the legislation was, but it probably was not  
23 written best, and therefore there is ambiguity in  
24 it -- it does set that the day for weekend voting  
25 will be the second Saturday of early voting.



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1 That was the original intent of the law. And  
2 then, it says standardize hours, with some  
3 flexibility, for the times early voting precincts  
4 can be open. No less than 9:00 to 5:00 across  
5 the state, and no more than 7:00 to 7:00, so you  
6 have some consistency on the days where early  
7 voting will take place across the state.

8 Now, turning to the issue, in Section  
9 13 of the bill, of early scanning or early  
10 processing, most of you may remember that in this  
11 past election, because of the overwhelming crush  
12 of absentee ballots that were received, the State  
13 Board of Elections actually set out emergency  
14 rules regarding when votes had to be processed.  
15 This bill follows part of that logic and says  
16 that counties may -- by the second week in early  
17 voting, they're authorized to begin the  
18 processing of absentee ballots if they want to --  
19 in other words, not tabulating them, not counting  
20 them, but opening them, verifying the  
21 identification through the driver's license  
22 number, and also getting them ready to scan and  
23 scanning them. They can begin that by the second  
24 week of early voting; they have to begin that by  
25 the third week in early voting, mandated across

1 the state.

2 If you will now turn to Section 19 of  
3 the bill, this is where we deal an issue that got  
4 a lot of attention this past year, something  
5 that's referred to as the jungle primary. This  
6 bill would significantly curtail -- and eliminate  
7 in most instances -- this idea of having a jungle  
8 primary in Georgia, or primary where you have --  
9 and, I think in this last Senate race, wasn't it  
10 almost 20 names on the ballot? I know that I  
11 heard stories from some places, and I'm sure it  
12 happened more than we knew about. People knew  
13 that there were two Senators being elected, and  
14 they would sometimes vote for two people in that  
15 jungle primary list, which actually spoiled the  
16 ballot for that race, and their vote would not be  
17 counted.

18 What the bill does is it eliminates  
19 jungle primaries, except in the two situations  
20 where a seat could not be filled by appointment.  
21 Those two areas were the General Assembly and  
22 Congress. The law currently does not allow for  
23 the appointment of a Congressman or a member of  
24 the General Assembly. Now, the situation that  
25 we're trying to avoid there for the General

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1 Assembly is a good example. We're only in  
2 session 40 days, usually part of January, most of  
3 February, and most of March, and our session is  
4 over with, and if you look at current Georgia  
5 law, you will see that the governor almost has to  
6 call a snap election when we are in session or  
7 close to being in session so that a seat does not  
8 remain vacant during the General Assembly or, as  
9 much as possible, does not remain vacant. If  
10 it's outside of the General Assembly session,  
11 there is a longer period allowed for that seat to  
12 be filled. So, the only two places that we keep  
13 jungle primaries and don't go to the normal  
14 primary-and-runoff system that we have are for  
15 the General Assembly and for Congress because,  
16 under the law, there is no other way to fill  
17 those seats. Even if you go down to the county  
18 level, whether it be a constitutional officer  
19 like a sheriff or a probate judge, there are  
20 provisions in place to fill that seat until the  
21 next general election where that person will have  
22 to run or people can be qualified to be run, but  
23 that's not the case with the General Assembly and  
24 Congress.

25 If you now turn over to Section 10 of

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1 the bill, we'll discuss the runoff periods in  
2 Georgia. As most of you know, traditionally in  
3 Georgia, we had a four-week period for runoffs.  
4 The intention of the language in Section 10 is to  
5 return us back to that four-week period for  
6 runoffs, not the nine weeks that currently exist  
7 in Georgia. How we got from four weeks under  
8 Georgia law to a nine-week runoff instead deals  
9 with our ability to get our overseas military  
10 ballots back into Georgia because of our runoff  
11 system. A federal judge ruled that we had to  
12 stretch that out to nine weeks for a runoff in  
13 order to get those ballots back. There are three  
14 other states that I'm aware of that have runoffs  
15 also. They're Alabama, Mississippi, and South  
16 Carolina, and they use some form is what is  
17 commonly referred to as a ranked-choice voting  
18 system, and here's what that means. If you're  
19 overseas and you receive your ballot, you'll  
20 receive the same ballot that everybody else does  
21 back in the States, back home. You'll be able to  
22 vote for who you want to vote for.

23 But, if there is a possibility of a  
24 runoff in one of those races, you will receive a  
25 second ballot that I'll refer to as the ranked-

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1 choice voting ballot. You also fill that out --  
2 in other words, you get to pick your second,  
3 third, and possibly fourth choice, or however  
4 many there are in the race, of who you would vote  
5 for if a runoff occurred. Both of those ballots  
6 would then return, and instead of us having to  
7 send you a ballot for a runoff back overseas  
8 again, thus triggering that nine-week runoff  
9 period, we now go back to a four-week runoff  
10 period, and we already have your vote because of  
11 that second ballot that we sent you initially. I  
12 heard someone refer to this as the "giving people  
13 back their Christmas" portion of the bill because  
14 I don't think any of our citizens -- or at least,  
15 not too many of them -- like the fact that we  
16 just experienced elections during Christmastime,  
17 and if we can get this back to a four-week  
18 runoff, we can avoid that. As with any large  
19 bill, there is some clarifying language that  
20 we'll insert at a later time to accomplish what I  
21 said in Section 10, an addition that I called  
22 just a little bit earlier.

23 Now, I want to talk about the issue of  
24 the inspection of voting machines that we use in  
25 Georgia. If you'll go to Section 7 of your bill,

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1 we deal with there the issue of additional  
2 transparency for the inspection of the voting  
3 machines that we use in our state. Currently  
4 under Georgia law, there are provisions for the  
5 public, the parties, the press to be able to  
6 participate in that inspection process. However,  
7 Section 7 of the bill attempts to highlight that,  
8 magnify it, and increase the visibility of that  
9 process so members of the public, members of the  
10 press, members of the parties would know exactly  
11 when, where, and how they can participate in this  
12 all-important process of inspection, testing of  
13 the voting machines, before our elections occur.

14 If you'll now move over to Section 14  
15 of the bill, Section 14 of the bill deals with  
16 ensuring sufficient access to poll watchers in  
17 tabulation centers. One controversy that was  
18 discussed -- one point of contention that was  
19 discussed in this last election was whether or  
20 not poll watchers could actually watch the actual  
21 process of tabulation that was going on. Section  
22 14 of the bill attempts to clarify that and make  
23 sure that that sufficient access occurs. Along  
24 those lines, if you'll stay in Section 14 of the  
25 bill, for the first time in Georgia, we are going

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1 to require training for poll watchers. If you  
2 are a poll watcher but you've never had the  
3 ability to watch the elections process, you may  
4 not be quite as familiar with what you see. It  
5 would help, we believe, for there to be some  
6 training that takes place prior to that so that  
7 you will have better knowledge of what you're  
8 watching, possibly be able to ask better  
9 questions, be better assistants to the process.  
10 That's in Section 14 of the bill.

11 Another portion of the bill, if you'll  
12 turn now to Section 6 of the bill, this is  
13 another portion of the bill that tries to help  
14 our local officials run a more efficient and  
15 appropriate process for the elections. Right now  
16 in Georgia law, there is one voting machine  
17 required at a precinct per 250 voters. This  
18 provision does not change that for the large  
19 general elections that we have, but for other  
20 elections, particularly special elections, after  
21 an analysis, the superintendent may decide that  
22 because the turnout will be very low that they  
23 don't have to have that same number of machines  
24 per voter as they would have to in the general  
25 election. If you've ever watched the elections

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1 process, there's a significant amount of work,  
2 time, and effort that goes into it on behalf of  
3 the poll workers to unpack the machines -- they  
4 have to be properly stored - to test the  
5 machines, which we've already discussed, and  
6 then, afterwards, they have to be repacked and  
7 stored properly. There's a sufficient amount of  
8 wear and tear that goes into it every time that  
9 you have to do that, and a lot of time taken up  
10 by election workers. We want to make sure that  
11 if you unpack 10 machines, it's because an  
12 analysis has been done, particularly in a smaller  
13 special election, that that's how many will be  
14 needed, not that you unpacked 50 and you wasted a  
15 lot of time and put the machines through more  
16 wear and tear, so that section of the bill,  
17 Section 6, addresses the number of machines per  
18 precinct, but does not change it for general  
19 elections.

20 If you'll move to Section 4 of the  
21 bill, this is where we address the issue of long  
22 lines. The best method of voting, in my opinion,  
23 in Georgia -- and of course, the rest of the  
24 General Assembly and members of this committee  
25 will have their chance to give their opinion as



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1 well -- is in-person voting. When you are inside  
2 the confines of the voting precinct, the chances  
3 for any undue influence on you casting your  
4 ballot is pretty low. With that in mind, we need  
5 to make sure that if you go to vote in person  
6 that the lines are not unmanageable -- in other  
7 words, the lines aren't too long. Section 4 of  
8 the bill attempts to address that. It's what  
9 I'll call the "no long lines in general  
10 elections" portion, if you will. It basically  
11 says that if, after monitoring, which is required  
12 by the poll workers, lines are more than one hour  
13 for people to wait to get to vote, that there  
14 must be an analysis done by the election  
15 superintendent of doing something to decrease  
16 those long lines for the next election. Those  
17 are if you have over 2,000 voters, maybe you need  
18 to split that precinct, or maybe more machines  
19 need to be at that precinct the next time, or  
20 maybe the need is for more poll workers.  
21 Whatever the cause and whatever the cure for  
22 those long lines, that part of the bill begins to  
23 put in place a process to address that.

24 If you move to Section 16 of the bill,  
25 there's another portion of the bill which

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1 attempts to address this issue of potential long  
2 lines, and also the ability of the election  
3 officials to curtail problems and delays in our  
4 system. One of the problems that we have seen  
5 that has become more significant in recent  
6 elections is people not voting in the proper  
7 precinct. If you don't go to the proper precinct  
8 in Georgia and have to vote a provisional ballot,  
9 you do a couple of things. The first thing,  
10 that's most important to me -- if you're voting  
11 in the wrong precinct by provisional ballot, you  
12 may get to have your vote count at the top of the  
13 ticket, whether it be Governor, President,  
14 Senator, or maybe even Congressman, but you very  
15 likely may not have your vote count because  
16 you're at the wrong precinct because you're not  
17 in your county commission district, you're not in  
18 your state house or state senate district. So,  
19 having people vote out of precinct not only  
20 causes that problem, but it causes a second  
21 problem.

22 One of the things that is most time-  
23 consuming for our election officials is the  
24 processing of provisional ballots because when  
25 somebody votes a provisional ballot, it has to be

1 investigated to be sure that they indeed were a  
2 registered voter, there was a problem when you  
3 vote a provisional ballot. The votes also have  
4 to be literally transferred from it to another  
5 ballot that can actually be scanned. One of the  
6 things that is probably not comforting,  
7 particularly for citizens who see it on TV and  
8 don't understand that sometimes you have to do  
9 that, there's a lot of that going on. This  
10 transferring from provisional ballots to ballots  
11 that have to be scanned is something that should  
12 be avoided if we can, and Section 16 of the bill  
13 takes a step in that direction. I should also  
14 mention before we move onto the next portion --  
15 if you're in the line and you are in the wrong  
16 precinct, it causes probably a delay when you get  
17 up to the front. Now you've stood in line, and  
18 it takes time for the poll worker, who's trying  
19 to check other voters in, to stop and deal with  
20 you because you're in the wrong place, and also  
21 because they have to get you a provisional  
22 ballot.

23 If you will, now, move over to Section  
24 17 of the bill, this is a new addition to Georgia  
25 law that will deal with how duplication panels

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1 are made up. Although we would like to limit  
2 provisional ballots to as few as necessary, there  
3 are times when people have to vote provisional  
4 for one reason or another, and there is a process  
5 that I just referenced of duplicating that  
6 provisional ballot -- taking the votes on that  
7 provisional ballot, transferring them over to a  
8 normal ballot which can be scanned and counted  
9 through the system. Currently, that process --  
10 under Georgia law -- is done by two election  
11 officials. In Section 17 of the bill, we'll  
12 adopt something that I have heard referred to as  
13 the Texas model, where one appointee from the  
14 Democratic party, one appointee from the  
15 Republican party, and one election official will  
16 actually now carry out that process, so you've  
17 got more transparency in the process and more  
18 representation from the most likely interested  
19 parties, so the questioning of that process  
20 hopefully is decreased and the confidence is  
21 increased.

22 If you turn back to Section 1 of the  
23 bill, Section 1 deals with what has sometimes  
24 been referred to as private money, or sometimes  
25 dark money, in funding public elections. What

1 Section 1 does is it says that public money will  
2 be used to fund public elections, not private  
3 money, and it eliminates this private or dark  
4 money coming into the election superintendent to  
5 fund the election process.

6 If you now look over in Section 5 of  
7 the bill, this deals with the part of our law  
8 which deals with the emergency process for what  
9 do you do if a precinct is somehow disabled prior  
10 to the election. The thought process under the  
11 original portion of Georgia law that deals with  
12 this, I believe, went to the idea what if a  
13 tornado or hurricane hit in a particular area and  
14 you literally needed to bring in mobile units to  
15 have people vote. This makes it clear that if  
16 you have a mobile voting unit, like a bus or  
17 something along those lines, it will be because  
18 there's an emergency situation, not just that you  
19 are choosing to basically open a new voting  
20 precinct anywhere you want to in the county.  
21 There's a reason why we require voting precincts  
22 to be determined beforehand so people will know  
23 where they are so confidence is in the system of  
24 where those precincts exist.

25 If you now turn over to Section 18 of

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1 the bill, this is another adjustment that we are  
2 making to help with what I would refer to as our  
3 confidence in the system. An important part of  
4 this last election, in my opinion, was the audit  
5 that occurred. When the legislature gave  
6 permission for new voting machines to be bought  
7 in Georgia, we instituted for the first time a  
8 required audit -- in other words, a very close  
9 look and count of the ballots that were voted to  
10 make sure that they lined up with the actual  
11 results that were given to us by the scanning  
12 process of the voting machines. In order to have  
13 a viable and good audit to build that confidence  
14 in the results, you need to have time to do that.  
15 In an earlier version of changes to Georgia law,  
16 we actually moved the certification date for  
17 local officials back from the date that it was,  
18 and that was the Monday after the election. We  
19 moved it further out. What we have found now is  
20 that in order for you to have a good audit, a  
21 confidence-building audit for the public, you  
22 need to go ahead and get that certification done,  
23 see what the numbers are, and then begin the  
24 audit process. So, what Section 18 of the bill  
25 does is simply move the certification deadline

1 back to the Monday after the election, where it  
2 was for many years.

3 Section 2 of the bill allows for out-  
4 of-county poll workers. One thing that was told  
5 to us by some of our counties is that  
6 particularly during this pandemic, they had  
7 trouble getting enough workers for the polls.  
8 One of the solutions that was proposed is to  
9 adjust Georgia law so that you did not have to  
10 live in the county where you actually worked at  
11 the polls. A good example of how this makes  
12 sense is if you live and work in one county and  
13 go to church in another county. If you go to  
14 church in the county next door to you, that  
15 church may very well be a voting precinct, as  
16 we're quite well aware of. If you're familiar  
17 with there and you want to volunteer to work at  
18 that precinct -- your own church -- why shouldn't  
19 you be able to do that just because you don't  
20 live in the county where your church is? So,  
21 what this does is make an adjustment to Georgia  
22 law to begin to address that. If you live in an  
23 adjoining county, you would be allowed to work in  
24 the county next door as a poll worker, and we  
25 think that that will begin to address more

1 flexibility for our election officials as they  
2 move through the election process.

3 Members of the committee, what I wanted  
4 to do there is just give you a brief overview of  
5 the bill and walk through some of the thought  
6 processes behind the changes that are there. At  
7 this time, what I want to do is open it up to  
8 committee members. If they have any questions  
9 about any of the sections that we talked about or  
10 want to go back and discuss some of them further,  
11 the chair would entertain questions from any  
12 members of the committee. Representative  
13 Deloach, are you No. 15? Yes, sir.

14 REP. BUDDY DELOACH: My question is  
15 about what would appear to be an advantage by  
16 emptying those drop boxes at the end of every  
17 day. My understanding is when an absentee ballot  
18 comes in by mail, that is indicated on the  
19 secretary of state's website the very next day,  
20 so you can look on there, and tell your ballot  
21 has been received, and have confidence your  
22 ballot's going to get counted. I would assume if  
23 I empty these drop boxes every day, they could go  
24 through the same process, so you look on that  
25 website, and you know your ballot's there, and



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1 it's going to get counted. Is that correct?

2 REP. BARRY FLEMING: That's part of the  
3 thought process of improving that, yes. If  
4 they're emptied daily, if there are set hours of  
5 when they will be open, if the early voting  
6 precinct has closed, the workers will be exiting  
7 there anyway, part of their wrap-up duties, I  
8 guess you would say, would be to get those to the  
9 Board of Elections, where they could be properly  
10 processed and entered into the system that you  
11 just referenced, yes, sir. Other questions from  
12 members of the committee? Ms. Burnough, what  
13 number are you? You're No. 9? Right in front  
14 of you, press that one. Don't press it again.  
15 Now try. Running the mic? No? All right, press  
16 it one more time. Don't touch it, just pull the  
17 mic to you and see if it works. There you go.

18 REP. RHONDA BURNOUGH: All right, thank  
19 you. Thank you, Mr. Chairman, for that  
20 explanation of the bill that you and the other  
21 signers wrote. None of the Democrats had  
22 anything to say on it, and I just thought at that  
23 the beginning of this committee on special  
24 election integrity that we would have been  
25 involved in the process. This is a very large

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1 bill, 48 pages, that the public or people of  
2 color didn't have the opportunity to review or to  
3 give an opinion, and there's a lot of information  
4 in here that needs to be digested and looked at.  
5 But, one of the things that I learned is that I  
6 look at absentee ballot like I look at Zoom.  
7 Most of us didn't know how to use it during the  
8 pandemic, but once they were able to use both,  
9 they learned to appreciate the convenience. And  
10 so, I think that instead of us making it more  
11 difficult for the process for absentee ballots,  
12 and the drop boxes, and other methods of not  
13 allowing Sunday voting, when our secretary of  
14 state that there were no problems, I think if  
15 we're trying to really work towards restoring  
16 confidence that we should be working towards  
17 improving everything based on suggestions from  
18 the entire state of Georgia, not just us down  
19 here in the General Assembly, but actually going  
20 and talking to people because I don't know that  
21 you've talked to any other election officials in  
22 different counties except for the lady that was  
23 here a couple weeks ago. So, I was just  
24 wondering how this bill came about because  
25 there's a whole lot in there.

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1 REP. BARRY FLEMING: Well, thank you  
2 for those several questions, Representative  
3 Burnough. Let me see if I can address some of  
4 them. First of all, this is the first hearing on  
5 this bill. As you are familiar with because  
6 you've been down here a while, quite often, with  
7 large issues, we have several hearings. We will  
8 have more than one hearing on this bill, so any  
9 questions or comments or inputs that you want to  
10 make -- or amendments -- you're certainly welcome  
11 to do that through the process. I have spoken  
12 with other election officials besides those that  
13 testified in this hearing. I've actually been  
14 doing that for a couple of years now. I've also  
15 spoken with many of my constituents and other  
16 Georgians, taken numerous phone calls, read  
17 thousands, it seems, of emails, read other  
18 commentary on the elections process, so I didn't  
19 begin to think about this or work on this just in  
20 the past few weeks while we've been here in  
21 session. This has been a long time in the  
22 process. I did try to take all those things that  
23 I had learned and put them into a bill after I  
24 discussed with other members of the legislature,  
25 particularly -- did try to put into this bill

1 things that would help the election system work  
2 better and help build confidence in our system  
3 from where we've had, as I mentioned, two general  
4 elections in a row where first one side seemed to  
5 question the system greatly, and then the other.  
6 So, that would be the response I would give you  
7 to the things I can remember that you said.

8 REP. RHONDA BURNOUGH: Thank you.

9 REP. BARRY FLEMING: Now, if I didn't  
10 touch on something and you want me to repeat it,  
11 I'll give it a shot.

12 REP. RHONDA BURNOUGH: No, that's all  
13 for right now. Thank you.

14 REP. BARRY FLEMING: Okay, thank you,  
15 ma'am. Representative Alexander, did you want to  
16 speak?

17 REP. KIM ALEXANDER: For whatever  
18 reason, my light is not on.

19 REP. BARRY FLEMING: So, here's part of  
20 the confusion. As we have spaced out for social  
21 distancing, the number that appears on my screen  
22 here is the one that is on the plastic notice  
23 right there below all your paper, that's why  
24 you're not looking at it, but I've got you, and  
25 you go ahead.

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1           REP. KIM ALEXANDER: All right. Thank  
2 you, Mr. Chairman, and I will try not to repeat  
3 some of the things that the previous  
4 representative did. For me, it feels like it's a  
5 rush to push this through. I believe it was a  
6 first read, and couldn't find the bill online,  
7 finally did find it online. So, I guess voting  
8 for me is an interest to everyone, specifically  
9 in my district, like I know it is in the whole  
10 159 counties. It is very important. There is a  
11 lot to digest in this bill. It is huge. I am  
12 just now looking at it for the first time, so if  
13 I'm now looking at it for the first time, the  
14 concern is having the input from the people in  
15 the community, and I know you mentioned that you  
16 want to have another hearing in the morning. Is  
17 that going to be enough time for people? Why not  
18 Monday, considering the fact that we're just now  
19 receiving this bill? Or, would you consider  
20 Monday instead of -- you said tomorrow?

21           REP. BARRY FLEMING: Sure. What I  
22 think we'll do is we'll see how tomorrow's  
23 hearing goes, and then we'll make a decision  
24 about Monday tomorrow. Were there any other  
25 questions, Representative Alexander, that you

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1 had?

2 REP. KIM ALEXANDER: No.

3 REP. BARRY FLEMING: Okay. Other  
4 questions or comments from any members of the  
5 committee? Chairman Powell?

6 REP. ALAN POWELL: Thank you, Mr.  
7 Chairman. I'd like to make a comment as a member  
8 of this special committee. I know the  
9 legislative process, and I know what we've been  
10 going through. The protocol that we've dealt  
11 with during this session has been unusual, to say  
12 the very least. It is hard to get bills drafted  
13 because of the pressure and inundation of not  
14 having actual physical contact with our lay  
15 counsel, and I heard the questions that were  
16 answered, and I have my own concerns.

17 I have been on record as saying that  
18 I'll defend anybody's right to vote, whether  
19 they're for me or against me, but that being  
20 said, I'm also one that believes that we have a  
21 problem with our process. In 2018, voter  
22 suppression was the key word at that time, and I  
23 took offense to that because at that point, I saw  
24 some major problems that "voter suppression" was  
25 being used as a buzzword, but yet, local counties

1 were in charge of their own elections, and the  
2 problems that were spoke of at that time on voter  
3 suppression was really focused at the counties,  
4 where the party at that time had control of those  
5 counties.

6 So, I saw some of the problems with the  
7 process. We have an interesting system, to say  
8 the very least, about how the process works, and  
9 I understand what we've got in this document here  
10 today. These are comments that have come from  
11 constituents, they came from boards of elections,  
12 they've came from membership of the legislature.  
13 We have another body, the lower body, called the  
14 senate, and they're churning stuff out, and I'm  
15 not quite sure whether how much of that has been  
16 perfected over there or whatever it is that  
17 they're doing.

18 But, in this process, we're going to be  
19 going through this, as I presumed we generally do  
20 -- the committee. We'll be here tomorrow. I  
21 think that's going to be a long haul tomorrow,  
22 and I'm sure that we'll have other days because  
23 there's going to be things added into this bill.  
24 One of the requests that I'd like to make -- and,  
25 I knew that this was an interesting style of

1 going from section to section just to hit the  
2 high points for the benefit of the committee, but  
3 I would like for these other folks, whether it be  
4 boards of elections or the state elections folks,  
5 to be here tomorrow to give us a description.  
6 When we see the technical language, it looks to  
7 me like we're probably hit on 10 or 12 different  
8 minor points, and the death is in the details  
9 about how we perfect this legislation.

10 But, I'd like for them to be in  
11 attendance tomorrow to give us a walkthrough of  
12 how these are going to affect us. When we're  
13 talking about the local boards of election, how  
14 are we going to make it easier for them? How are  
15 we going to make it so that they can be  
16 absolutely sure that we're securing the vote?  
17 Nobody that I know of wants to suppress any vote  
18 or to disenfranchise anybody, but one of the  
19 other sides of that coin is that we want to be  
20 sure that we have a process that is absolutely  
21 working, that there's no collusion, there's  
22 nothing that's wrong.

23 We know that we have two different  
24 Georgias. We've got part of Georgia that's  
25 smaller, less population, they're easier to



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1 handle, and then we have the metro areas that are  
2 inundated with votes. We know that in rural  
3 Georgia that we get our cackles up sometimes  
4 whenever we perceive things that aren't being  
5 done right, like when a judge can order that a  
6 metro precinct can run to 10:00 at night, but  
7 yet, we're shutting down at 7:00 because somebody  
8 forgot to bring a power cord. That's not our  
9 fault in rural Georgia, and I've talked about  
10 uniformity, and that's something that I would  
11 truly like to see so that we have no questions  
12 about the process itself.

13 But tomorrow, I'd like to see possibly  
14 a walkthrough. How will these absentees be  
15 processed? Clearly, what are we going to do?  
16 The buses -- one of the things that was  
17 absolutely dismaying to me because I had told  
18 folks that voting by roving buses was not legal  
19 because in my 32 years here, I've always  
20 understood that polling places were supposed to  
21 be locked to where they were, and then we find  
22 out that there was a little hole that was used by  
23 the folks in the metro area.

24 A lot of us had concerns about money  
25 being donated or given in the form of grants to

1 some counties so that they could buy this  
2 equipment or that equipment. Well, there's  
3 something that didn't seem quite right to me in  
4 that. What makes one county more important than  
5 my home counties, where the taxpayers cover that  
6 cost? And, I saw where that's covered in here.  
7 But, there's so many miniscule details that we  
8 need to go through this to be sure, and the two  
9 most important things is that while we work on  
10 the process to make this process easier to  
11 operate for the benefit of those election boards,  
12 we also need to work to be sure in this document  
13 -- or whatever document comes out -- that there's  
14 a couple issues that's dealt with.

15 One was the issues of the absentees, to  
16 be sure that there's honesty and validity to that  
17 to solve anybody's question, and second, to the  
18 machines themselves, to be sure that if we're  
19 going to continue to use \$100 million investment  
20 that these machines are very valid, and to show  
21 through the auditing process and things. So,  
22 that being said, if these folks could be here  
23 tomorrow to talk to us and to address this issue  
24 so that we can carry this on through, and  
25 hopefully, maybe we can find a common ground

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1 across the board because what's in the benefit of  
2 one political party should be in the benefit of  
3 the other.

4 REP. BARRY FLEMING: Thank you, Mr.  
5 Chairman. Along those lines of, as I discussed  
6 and I think you referenced, trying to build  
7 confidence in the system and end problems, there  
8 are many details in the bill, more of which we  
9 will discuss. For example, in Section 15 of the  
10 bill, we deal with the issue of making sure that  
11 everybody inside the boundaries of the voting  
12 precinct are there to vote. We know that you're  
13 not supposed to campaign inside those boundaries,  
14 but you also shouldn't be there if you're passing  
15 out items or doing other things. Of course, what  
16 you do away from the polling precinct, whether it  
17 be campaigning or passing out items, is fine, but  
18 our attempt is when you get close to the polls  
19 that it be a secure area where just voting is  
20 going on. Let's see. We do have some other  
21 comments. No. 7 is Representative Douglas.

22 REP. DEMETRIUS DOUGLAS: Thank you,  
23 Chairman. It's a whole lot to put down and chew  
24 on, but as I look at the bill and I see the names  
25 across the front of the bill, I see no Democratic

1 names on here, so, one of my questions I'm going  
2 to start off by saying was was there any  
3 Democratic input into these pieces of a bill?

4 REP. BARRY FLEMING: Yes.

5 REP. DEMETRIUS DOUGLAS: There was some  
6 Democratic input? Okay. I see that you did take  
7 my suggestion of trying to put everything in one  
8 bill.

9 REP. BARRY FLEMING: You did ask that  
10 that be done, and I took it seriously.

11 REP. DEMETRIUS DOUGLAS: I love that  
12 part. But, I was trying to locate it so I can do  
13 my research, and wasn't able to find it, and to  
14 some of the comments that was made while we're  
15 here, to bring people in to give each side of the  
16 story because, like they always say, you have one  
17 side of the story, you have the other side, and  
18 somewhere in the middle, there's the truth. And  
19 so, since everything is packed in here so tight  
20 and it wasn't verbatim where you went from 1 all  
21 the way to 18, 19, or 20 -- whatever it is --  
22 sections, we had to jump over and over, back and  
23 forth, and so, it couldn't really stay on point  
24 with those things that were added, and I need a  
25 little bit more time to dig into it.

1           But, we must keep in mind -- and, I'm  
2 going to say this, and understand my heart and  
3 where I'm coming from -- and, I heard the  
4 comments about the election before, but that was  
5 more of an integrity standpoint than anything  
6 else, where you can hold a position in one area  
7 that oversees the area in which you're trying to  
8 run, so that was more about integrity than  
9 anything else. This last election was  
10 unprecedented. Nobody expected us to be in a  
11 pandemic, and so, there are some changes that  
12 need to be made, but we also have to consider  
13 that it has to be monetary changes to go along  
14 with that. And so, if you're going to change  
15 everything and don't add the money to add those  
16 resources, we still shortchange the whole process  
17 because if we're going to change everything in  
18 our election system like is packed in this bill,  
19 there has to be some type of monetary  
20 compensation so each county, big or small, can be  
21 able to run efficiently on the resources that it  
22 has or needs at that particular time.

23           And so, there were several comments  
24 made from our leadership in our state which were  
25 saying that it was the most secure ran election

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1 system -- of course, we're going to have some  
2 hiccups every now and then. It was a new system,  
3 so we were going to have hiccups getting through  
4 that new system, but just don't tear down  
5 everything that went well trying to add something  
6 that we don't know that's going to work at all.  
7 And, I'm interested to see where this bill comes  
8 from here. I would like to have time, because  
9 it's a very packed bill, to get all of our ducks  
10 in a row and call parties on both sides of the  
11 aisle so both sides can make their adequate  
12 entities toward perfecting a decent bill to get  
13 out in front of the people so we can be  
14 efficient, and it's not a waste of people time,  
15 and in that way, on one side heavy, on the other  
16 side heavy. It can be right there in that sweet  
17 spot in the middle. So, those are my concerns  
18 going forward, but thank you for allowing me to  
19 speak.

20 REP. BARRY FLEMING: Yes sir,  
21 Representative. Thank you. Mic 21? I think  
22 she's 9. Anybody over here? Okay,  
23 Representative Williams.

24 REP. RICK WILLIAMS: Thank you, Mr.  
25 Chairman. I think it was 1999 I got a call from

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1 a chief judge asking me to be a chief registrar  
2 in Baldwin County, and I barely didn't even  
3 really know what a registrar was, much less the  
4 chief registrar, but I got the election code  
5 book, and for 16 years, I served in that  
6 capacity, and meeting election officials all over  
7 Georgia, and registrars and election officials --  
8 they're a dedicated group of people, and this is  
9 going to take a little time to digest, I  
10 understand, and we won't be voting on it  
11 tomorrow, I know that. It's going to take some  
12 hearing and studying.

13 The election code is complex. The  
14 little bible that you get when you become an  
15 election official -- it takes a while to digest  
16 it, to learn it. I guess probably, one of the  
17 things I witnessed several years ago was a  
18 confusion over provisional ballots. There in  
19 Baldwin County, we have three colleges, and a lot  
20 of out-of-town students come to Milledgeville to  
21 college, and they all came in wanting to vote a  
22 provisional ballot. Well, we would find that  
23 they were registered in Cobb County or Gwinnett  
24 County, but they were not registered in Baldwin  
25 County, but they could not understand why they

1 could not vote a provisional ballot in Baldwin  
2 County. I even had a political party person call  
3 me and threaten to sue me because I wouldn't let  
4 Gwinnett County students vote in Baldwin County.  
5 Well, it was 2:00 in the afternoon. They had  
6 time to go to Gwinnett County and vote.

7 So, there's confusion, and I hope and I  
8 feel like this is a step in the right direction  
9 to get all the counties and all the parties to  
10 understand and realize what elections are, how  
11 they are to be run, and rules, and that everyone  
12 follows the rules, and they're black and white.  
13 I appreciate the opportunity to serve on this  
14 committee, and I think we can all come together  
15 and realize that there's been some confusion  
16 perceived as some it real, some of it not, and  
17 we've got to work to get integrity and trust back  
18 into our election system, and I thank you for the  
19 opportunity to let me say a little from my heart.  
20 I know that a lot of hard work has gone into this  
21 draft, and we've got to move and we've got to do  
22 something, and I think it's a move in the right  
23 direction, so I thank you very much for the  
24 opportunity, Mr. Chairman.

25 REP. BARRY FLEMING: Thank you,



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1 Representative. Chairman Smyre?

2 REP. CALVIN SMYRE: Mr. Chairman and  
3 members of the committee, I wanted to follow up  
4 with Representative Douglas. When we first  
5 started, we talked about it like an ombudsman  
6 bill, and one that would be inclusive, and this  
7 does have everything in it, but my experience  
8 tells me that when you have a preamble of almost  
9 a full page that alludes itself to runoffs,  
10 jungle elections, fill-in vacancies, private  
11 funding, size of precincts, allocation of voting  
12 equipment, poll watcher training, provisional  
13 ballots, absentee ballots -- it's a very  
14 comprehensive bill, but there's nothing more  
15 important, fundamentally, than a person's right  
16 and privilege of voting, and I think something of  
17 this magnitude requires a lot of vetting.

18 Our next election is in November of  
19 '22, which is almost 19 months from now, and I'm  
20 just trying to get the feel for the urgency of  
21 the matter. I know that we all hear from our  
22 constituents, and I appreciate that. That's one  
23 thing about me, I'm tolerant, and have tolerance  
24 for others' opinions, and listen to all the  
25 members of this committee. They're listening to

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1 their constituents, as I'm listening to mine, so  
2 I'm just asking for some time for us to be able  
3 to look at this, digest it, and I'm just asking  
4 for a sense of fairness. That's all. I'm not  
5 asking anyone to agree with me from any  
6 perspective or anything that's in this bill.  
7 We're going to differ, probably, but  
8 fundamentally, the right to vote is very, very  
9 precious, and from a historical perspective,  
10 we've climbed a mighty mountain, a mighty hill to  
11 get the right to vote, and I just cannot regress  
12 or abdicate that.

13 I have to stand firm, and this is one  
14 area where I think we ought to really have some  
15 serious, serious discussions and look over,  
16 beyond the political mountain, and look at the  
17 fundamental rights that every citizen has of the  
18 fairness and the right to vote, and do it in an  
19 environment that is fair to all. I don't think  
20 we ought to have anything that is an advantage as  
21 it relates to voting, but I think all the  
22 applications and everything that deals with  
23 voting ought to be applied equally, and to  
24 everyone, and so, that's how I feel about this.  
25 I saw this today.

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1 But, in terms of the process, as  
2 Representative Douglas alluded to earlier, this  
3 comes up under the aspect of looking at something  
4 that's very comprehensive in an ombudsman way and  
5 looking at everything from a higher altitude. I  
6 like to fly high. I don't like to fly at 10,000  
7 feet. You might hit something, and you can't see  
8 everything. So, when I think and when I look at  
9 an issue like this, I like to get at 55,000 feet  
10 so I can see it, so I can see the whole area of  
11 view comprehensively, and that's what voting is  
12 to me. I've been in office 47 years, and I stand  
13 on the shoulders of people who gave their life  
14 for the right to vote, and I know history. I  
15 know history, and I'm just pleading that the  
16 final product, as we go through this process --  
17 there may be differences, and I can live with  
18 that, but all I want is a fair fight. That's  
19 all. I just want to be able to look at it,  
20 digest it, and have good, logical debate, and  
21 then go from there.

22 But, I think something like this is  
23 what I think you were asking for earlier, so I  
24 want to commend you for at least going to that  
25 process so that we can all see it in one bill,

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1 and this hits a lot of areas, and so, that's my  
2 little food for thought, but I thank you for  
3 giving me the time.

4 REP. BARRY FLEMING: Thank you, Mr.  
5 Chairman. Representative Burnough?

6 REP. RHONDA BURNOUGH: Thank you, Mr.  
7 Chairman. I do agree that we should bring the  
8 election work supervisors down, but I don't think  
9 they'll be able to come tomorrow, so could we  
10 schedule them to maybe come on Monday? That  
11 gives us enough time to invite them. And then,  
12 the other comment I had is I've been on this  
13 committee since I've been here, when it was  
14 Governmental Affairs and I was on elections, and  
15 there's a lot of complaints about Fulton County,  
16 but Fulton County got themselves together, they  
17 came up with a bus, and now it's a problem. But,  
18 they were creative, so their numbers came in on  
19 time, so if a county is improving, then let's at  
20 least congratulate them for that, but not to get  
21 mad because they thought of something that maybe  
22 somebody else didn't.

23 My goal here is that Georgia will  
24 become a leader in elections and that we're not  
25 going backwards, where every time you turn on the

1 national news, they're talking about Georgia and  
2 our elections. Georgia is better than that. If  
3 we want to be the No. 1 state to do business, we  
4 can be the No. 1 state, and we should be forward  
5 thinking and trying to make sure that everybody  
6 here can vote, and to make sure that we are  
7 treating all Georgians the same way, and that's  
8 my goal. I want us to have fair elections and  
9 everybody to have opportunity to vote. Thank  
10 you.

11 REP. BARRY FLEMING: Thank you,  
12 Representative Burnough. Any other comments or  
13 questions? No. 12? Chairman Martin.

14 REP. CHUCK MARTIN: Mr. Chairman, I  
15 thank you, and I won't belabor the points getting  
16 laid out. I do look forward to hearing from  
17 people, whether it be Friday, Monday, Tuesday,  
18 whatever it takes. I did want to answer the  
19 lady's questions. I am a person that represents  
20 Fulton County, and they did have the mobile units  
21 in Fulton County. Here's the issue with that.  
22 They came into my area; they were in other areas  
23 of the county. The issue was that if you were on  
24 an email list, you knew where they were going to  
25 be. If you weren't, you didn't know. I made

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1 every effort, whether they were in areas that I  
2 represent in my district, I made efforts to  
3 promote that on social media, but the issue is  
4 one of uniformity with those mobile sites. Not  
5 every county can afford to have those out.  
6 Again, they came into my district, and people  
7 voted there. Some may have voted for me, some  
8 may have voted against, but people voted. But  
9 statewide, it's a uniformity issue, and not every  
10 place can afford them, and even in Fulton County,  
11 not everyone had equal access, so I think that's  
12 the reason we have to look at keeping things  
13 level and keeping uniform relative to the mobile  
14 sites. I just wanted to bring that point, being  
15 someone that was familiar with what happened in  
16 Fulton. Thank you, Mr. Chairman.

17 REP. BARRY FLEMING: Thank you,  
18 Chairman Martin. Other comments from any members  
19 of the committee, or any questions?  
20 Representative Alexander? Try again, go now.

21 REP. KIM ALEXANDER: Thank you, Mr.  
22 Chairman. With this bill as huge as it is, is  
23 there a fiscal note with it, or will there be a  
24 fiscal note with this?

25 REP. BARRY FLEMING: No, ma'am. The

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1 size of the pages doesn't indicate whether it  
2 needs a fiscal notice. It's expenditure of state  
3 funds.

4 REP. KIM ALEXANDER: Thank you, Mr.  
5 Chairman, but you mentioned about training.

6 REP. BARRY FLEMING: Yes.

7 REP. KIM ALEXANDER: Right. So, the  
8 counties are going to have to pay for that, I'm  
9 assuming.

10 REP. BARRY FLEMING: Since I've been  
11 knowledgeable of state election law, it is a  
12 shared process between the state and the  
13 counties. However, as some of the committee  
14 members probably know, it seems to be in Georgia  
15 -- to me, anyway -- the counties actually play a  
16 bigger role in our elections process than I think  
17 they do in some other states. Some other states  
18 do have much more of a top-down system. So, the  
19 cost of elections in Georgia has always been  
20 borne mostly by the counties. There are  
21 significant state expenditures. We have an  
22 election division in our executive branch of  
23 government that deals with many election issues,  
24 does provide significant training. In Georgia  
25 history, whenever we have purchased voting

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1 machines, the state has always stepped up and  
2 took care of that for the counties. However,  
3 after that initial purchase has taken place in  
4 the past, the counties themselves then --  
5 particularly the growing ones -- fund their  
6 election system by addition of new machines and  
7 whatnot.

8 My county, Columbia County, just 20  
9 years ago, when I was chairman of the county  
10 commission, we were less than 100,000 people, I  
11 think. The guesstimates are after the next  
12 session, we'll be 170,000 people. We were one of  
13 the counties that had to buy a lot of the old  
14 voting machines from different places. The  
15 general idea is that most of the day-to-day  
16 activities, including training, is borne a good  
17 bit by the counties, but the state also plays  
18 some role in that, and of course, just like we  
19 have this process we're going through to change  
20 Georgia elections law, we have an appropriations  
21 process, and suggestions can be made, and  
22 amendments can be proposed from anybody who  
23 serves on the appropriations committee for  
24 changes they would like to see, and as you know,  
25 quite often, the counties do come to us and ask



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1 for money for different things because elections  
2 is not the only thing that we have a joint  
3 process that we fund together with the counties.  
4 So, there's not a fiscal note on this because it  
5 doesn't involve a significant expenditure of  
6 state funds, but as you mentioned, changes do  
7 affect the counties, and there will be county  
8 expenditures.

9 Now, we'll say this to you: Several of  
10 the changes in this bill are meant to streamline,  
11 make more efficient the county election process  
12 of handling what they do, so, on the one hand,  
13 we're trying to make it transparent, secure, and  
14 fair, but we're also trying to streamline it, and  
15 that efficiency, I believe, will also help the  
16 counties and their pocketbooks. Thank you for  
17 your comment. Mr. Chairman, did you have another  
18 comment?

19 REP. CALVIN SMYRE: (Inaudible)

20 REP. BARRY FLEMING: Sure. Chairman  
21 Smyre has asked me to speak about the portion of  
22 the bill that deals with what is commonly  
23 referred to as "jungle primaries." In Georgia  
24 right now, when we have a special election,  
25 generally speaking, we do not go through the

1 primary and the runoff process. Many states do  
2 not have jungle primaries. South Carolina is  
3 right next door to me because I live in the  
4 Augusta area, and we get a lot of South Carolina  
5 news, and whenever they have a vacancy, they do  
6 go through a primary process and a special  
7 election, and a runoff if need be, and so, you  
8 narrow down the people on the ballot, and in the  
9 final vote, there's usually not 18 folks, or even  
10 seven folks, depending on what kind of race it  
11 is.

12 So, what this bill does is it does  
13 eliminate that jungle or multiple candidates in a  
14 special election by reverting to a primary  
15 process. The only exceptions are the General  
16 Assembly and Congress -- not the Senate, but, of  
17 course, the House. The reason this bill makes  
18 those two exceptions -- they are the two offices  
19 which cannot be filled by appointment. Now, why  
20 is that important? If, right now, your probate  
21 judge passes away or your sheriff resigns, there  
22 is a process in place for their office not to be  
23 vacant, for the people to be served by someone  
24 putting in there. It varies, but sometimes the  
25 superior court judges replace the magistrate

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1 judge, for example, if that person is gone.  
2 Let's say at the state level, you have one of our  
3 constitutional, statewide officers. We have seen  
4 in the past where the secretary of state has  
5 resigned, or the other insurance commissioner, or  
6 some other office has resigned. We have in place  
7 a process to fill that seat until the next  
8 election. That is a gubernatorial appointment.  
9 Same way with judges, for the most part --  
10 superior court, appellate court, superior court.  
11 The two places where our laws do not allow for an  
12 appointment to fill a seat is the General  
13 Assembly and Congress. We know recently here in  
14 Atlanta, when Congressman Lewis passed away, the  
15 person who won his seat really only filled a  
16 month or two, I believe, after it was all said  
17 and done, but the reason we require that election  
18 is because nobody can appoint anybody to hold  
19 that seat for even a couple months.

20 Because of that need to get those seats  
21 filled -- and the jungle primary process does  
22 move faster -- we left that in place for those  
23 two areas. That's somewhat, in my mind, in  
24 keeping with current Georgia law, as you know  
25 from your experience here and you've seen it

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1 happen many times. If a vacancy in the General  
2 Assembly occurs close to session or during  
3 session, the governor has to almost call what  
4 amounts to a snap election -- 30 days. You have  
5 to have an election and have somebody there to  
6 fill that seat, the idea being we don't want it  
7 to be vacant. So, that's why the bill gets rid  
8 of jungle primaries everywhere but those two  
9 places, where they can't otherwise be filled --  
10 Congress and the General Assembly. Hold on one  
11 second. Go ahead now.

12 REP. CALVIN SMYRE: I appreciate that  
13 explanation because that's one of the issues I've  
14 had a lot of comment about as relates to a lot of  
15 people going in -- do you vote twice? How do you  
16 go forward doing that? Now, look, there's some  
17 other stakes, and we had 20 running at one time,  
18 so to speak, so I thank you for your explanation.

19 REP. BARRY FLEMING: Absolutely, and  
20 you just touched on something that I also  
21 referenced earlier. You said people were  
22 wondering how many times do they vote. You and I  
23 both know in city council races, for example,  
24 sometimes you can vote for more than one person -  
25 -

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1 REP. CALVIN SMYRE: That is correct.

2 REP. BARRY FLEMING: -- and so, when  
3 citizens go in and see that rare jungle primary,  
4 and in this past case, there were almost 20 folks  
5 running, I have heard of occasions where people  
6 voted for more than one person because they heard  
7 two Senators were up. Well, there were, but you  
8 didn't get to vote twice in that race. So, it  
9 also, in my opinion, eliminates some confusion  
10 and makes the process work a little better.

11 REP. CALVIN SMYRE: Thank you.

12 REP. BARRY FLEMING: Yes sir, you're  
13 very welcome. Okay, any additional comments,  
14 questions, or input from members of the  
15 committee? All right, if there is none, we've  
16 been at it for almost an hour and a half now. We  
17 do not have anyone that has signed up for this  
18 bill, do we? Okay. So, the intent of the chair  
19 is -- I believe the notice is going out that we  
20 will meet at 9:30. Is that right? 9:30 in the  
21 morning, and we'll be in 406 or 606? I think  
22 it's 406 tomorrow. Tomorrow morning at 9:30, we  
23 will meet, and we will spend a great deal of time  
24 discussing this and allowing witnesses to  
25 testify. If you have -- members of the committee

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1 -- someone that you would like to testify, be  
2 sure and reach out to them. The notice went out  
3 to -- golly, it must be -- I don't know if it's a  
4 couple hundred, but it seems like a couple  
5 hundred people have asked to be notified of the  
6 meetings of this hearing, so that notice has gone  
7 out to dozens and dozens and dozens of folks.

8 So, unless there's any further comments or  
9 questions from members of the committee --  
10 Representative Burnough, did you have one?

11 REP. RHONDA BURNOUGH: Yes. If we are  
12 going to have a lot of people speaking tomorrow,  
13 will the state police be up here?

14 REP. BARRY FLEMING: I will make that  
15 request for you.

16 REP. RHONDA BURNOUGH: Thank you. Mr.  
17 Chairman?

18 REP. CALVIN SMYRE: And, will that be a  
19 hearing, Mr. Chairman -- tomorrow?

20 REP. BARRY FLEMING: It will certainly  
21 be a hearing. Whether or not somebody makes a  
22 motion, we'll see how tomorrow goes.

23 REP. CALVIN SMYRE: Okay. I'm trying  
24 to get a good night's rest. I'm trying to sleep  
25 good so we can not have a motion be made. Let's

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1 get a good night's sleep. So, I'll just say that  
2 for food for thought. Let's listen to the people  
3 tomorrow, get a good night's sleep, let us go  
4 home over the weekend, watch a little TV, come  
5 back, and then get into legislative business on  
6 Monday. That's what I'm hoping the committee  
7 would do.

8 REP. BARRY FLEMING: Mr. Chairman, I've  
9 always taken your advice and really thought about  
10 it hard, and because you have asked for that, I  
11 will seriously consider it. Thank you. Any  
12 other questions or comments from members of the  
13 committee before we wrap it up? We will stand  
14 adjourned.

## **Exhibit 6**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.

vs.

Brian Kemp et al.

February 19, 2021\_HB 531\_HOUSE\_SPECIAL COMMITTEE ON ELECTION INTEGRITY

AUDIO RUN TIME: 0:00:08 - 6:37:46

RETRIEVED FROM DEMOCRACYPOCKET.COM

1 P R O C E E D I N G S

2 THE CHAIRMAN: Good morning. Appreciate you all  
3 coming today. We'll go ahead and get this meeting of  
4 the special committee on election integrity started.  
5 We will be reviewing House Bill 531 today, as we  
6 discussed it yesterday. As we always do, let's begin  
7 our meeting with a word of prayer. And I'm going ask  
8 Representative Burnough if she will lead us this  
9 morning. Press your button there. Go ahead.

10 REPRESENTATIVE BURNOUGH: Thank you,  
11 Mr. Chairman. We all bow our head. Dear Heavenly  
12 Father, thank you for bringing us here today safely.  
13 And as we go through this day, I pray that we will do  
14 your work and your will, will be done and that at the  
15 end of the day, that all of our people will -- needs  
16 will be done also. We also ask that you pray for  
17 those people that have been struck by COVID or have  
18 not received their unemployment checks, that they will  
19 be able to find a way that they will be able to make  
20 it each day. We also pray for the State of Georgia,  
21 that the State of Georgia will become a state that  
22 leads in voting and in other ways. Thank you, amen.

23 THE CHAIRMAN: Amen. Thank you, ma'am. All  
24 right. Just a -- kind of a preview of the day.  
25 Representative Smyre and I, the ranking member of the

1 committee have had some discussions. It is the  
2 Chair's inclination that we follow a schedule of  
3 today. We'll hear some witnesses this morning. We'll  
4 take a break for lunch when the time seems  
5 appropriate. And then we'll hear some witnesses this  
6 is afternoon.

7 Chairman Smyre did request today that we also  
8 have hearings on Monday. That is the Chair's  
9 inclination, to honor that request. And that is the  
10 plan right now. Of course with all legislative  
11 matters, as we know, because we have such a short  
12 session, plans do change sometimes. But that is the  
13 Chair's inclination at this moment.

14 So let me go ahead and mention to you as you know  
15 with any large bill that we are working on, as the  
16 committee process works, there are changes that we'll  
17 make. We will be taking testimony today and quite  
18 often even, whether we agree or disagree with portions  
19 of legislation, there are what I refer to as technical  
20 changes, comments here, wrong citing of code in  
21 different places. I want to mention to you some of  
22 those that we have already identified.

23 The Chair would anticipate that today legislative  
24 counsel will be working on a committee substitute that  
25 I would hope to get to the committee later, hopefully

1 by around 5:00, close of business. We will send that  
2 to all the committee members electronically so you'll  
3 have time to look at that as well. Here are some of  
4 the -- that I want to go ahead and tell you about them  
5 and so you can -- you can expect them.

6 We have received a request from the Georgia  
7 Municipal Association that I intend to add into the  
8 bill, through a committee substitute. We're all aware  
9 that we're in a census year. The census will report  
10 this year. We're all also aware that the census  
11 numbers are coming later than normal this year. Well,  
12 we also know that this is an odd numbered year. So  
13 our cities have municipal elections coming up. There  
14 is Georgia Law which requires, understandably, that  
15 when you have elections, you use the latest census  
16 numbers.

17 I'll say the GMA has brought to our attention  
18 that giving the -- now at the point anticipated  
19 timing, they could be called in what I will call a no  
20 man's land. The numbers could come out after or near  
21 the time that they have to have qualifying, but not  
22 allowing enough time for new districts to be redrawn.  
23 So they have asked for basically a one-year grace  
24 period during this year that if they get caught in  
25 that situation and need to have people qualifying for

1 elections, they can indeed run from the districts that  
2 they currently have.

3 I think that's a common sense request from the  
4 Georgia Municipal Association. But I wanted to go  
5 ahead and bring that to your attention so you can be  
6 thinking about it. And I anticipate that language  
7 being in our new -- in a committee substitute.

8 There are other states that I have heard that are  
9 having this problem, too. Ohio, I know is trying to  
10 make adjustments to their law to accommodate for a  
11 later than normal reporting census period. There is a  
12 bill which Chairwoman Rich has held subcommittee  
13 hearings on by Representative Eddie Lumsden. That is  
14 a -- it's dealing with House Bill 136.

15 That deals with a situation that he ran into  
16 regarding the COVID virus. He represents a county  
17 that has a probate judge that runs elections. We  
18 still have 30 or more counties in Georgia that instead  
19 of having a board of elections, and an election  
20 superintendent, they actually have a probate judge  
21 that still runs elections.

22 He had a situation last year where his probate  
23 judge caught the COVID virus. And was pretty much out  
24 of commission during the November election period.

25 Well, as all of you know, whether it be the board of

1 elections or whether it be the probate judge, those  
2 election results have to be certified for those  
3 county's votes to count.

4           They ran into a situation where it didn't look  
5 like the probate judge was going to be able to do  
6 that. And the bill that he brought would simply allow  
7 a superior court judge to appoint another person to  
8 certify the elections if there were basically an  
9 emergency situation. And -- and that couldn't be done  
10 otherwise.

11           Chairwoman Rich, did I describe that pretty well  
12 from the bill? I did? Okay. Good. Thank you,  
13 ma'am. By the way, that mask that you have on with  
14 the G for Georgia, looks great.

15           REPRESENTATIVE RICH: I -- because of my attire I  
16 didn't want there to be (inaudible) so I intentionally  
17 wore it --

18           THE CHAIRMAN: Red and black. Understood. She  
19 gets a star by her name today for her attire.

20           Also, there was another House bill that this  
21 committee is -- subcommittee of this committee has  
22 also heard, House Bill 64, by a Representative Houston  
23 Gaines out of Athens. And I'll refer to that as the  
24 dead man can't win bill. They actually had a  
25 situation over in Athens where a dead person was

1 elected county commissioner.

2 Now you may ask, how can that happen. Well, the  
3 poor soul passed away before the election and the  
4 people still voted him in. Now that's an odd  
5 situation. I'm not sure I would want to be the  
6 challenger in that situation. But that's what  
7 happened. And under Georgia Law, the person who lost  
8 got to take office. It's my understanding that we  
9 have the minority rule on that in Georgia. The  
10 majority of states do not follow that.

11 The majority of states, if a person who had won  
12 had passed away, they actually would have another  
13 election to fill that seat. We have provisions in  
14 Georgia that address that, but not in a nonpartisan,  
15 consolidated government situations. So this is  
16 Representative Houston's bill, House Bill 64, that  
17 would address that.

18 There was another House bill, House Bill 250 by  
19 Representative Ginny Ehrhart. House Bill 250  
20 addresses a situation that occurred in Cobb County.  
21 Apparently, for many years in Cobb County, they had  
22 had an early voting location that had been used and  
23 the community was very familiar with that. There was  
24 a decision made, just days before the early voting  
25 began, not to have that facility there.

1 Just like we have rules against closing or  
2 changing precincts within so many days of the election  
3 to allow people to know where their precincts are and  
4 have ample time to learn a new location, her bill  
5 basically begins to apply one of those same guidelines  
6 to early voting precincts.

7 Of course, if you have an emergency situation, if  
8 a building is damaged, whether it be by tornado or  
9 fire, you could certainly move it. But other than  
10 that, you need to set where those locations are going  
11 to be, within a reasonable period of time, and not  
12 change them at what I would call late in the game of  
13 last minute. That is House Bill 250.

14 There of course, as I mentioned before, there are  
15 some cites to code sections that need to be corrected,  
16 what I call technical changes. There will be some of  
17 those in there. And we'll of course point those out.  
18 But other ones that I would call are a little more  
19 substantive.

20 Right now, in Georgia Law, we require  
21 governments, whether they be school boards, cities or  
22 counties, to cooperate with the board of elections to  
23 allow government buildings if needed to be used as  
24 precincts. It does not -- it's not a complete mandate  
25 in that there is no choice. But as long as using the



1 facility for a voting precinct will not interfere with  
2 the normal operations of a building.

3 Let's say it's a school. If it won't work to  
4 hold school and use part of the building, well, then  
5 you can't be required to do it. But beyond that, we  
6 do require, because voting is so important, local  
7 governments to allow that. We don't have that same  
8 rule applying to early voting locations.

9 And as you know, early voting is becoming a much  
10 larger part of the voting process in Georgia. So  
11 there has been a request from the elections  
12 superintendents for us to assume -- consider that.  
13 And -- and that is one addition that I would like for  
14 us to consider in the substitute.

15 Those are the matters that I wanted to bring to  
16 your attention. As I mentioned, committee members  
17 will be getting that to you as Ledge Counsel gets it  
18 ready. Any questions from the committee members,  
19 though, about what I just mentioned, I'll be happy to  
20 try to clarify. The Chair receives no questions.  
21 Okay. All right. We have some people who have signed  
22 up to testify regarding the bill.

23 At this point, I would ask Cindy Battles if you  
24 would please come forward to the podium. Ms. Battles,  
25 welcome. Good to have you today. When the speaker

1 allows us, when we're addressing, if we want to take  
2 our mask off, you can. That would be your choice. So  
3 good to have you. And we'd be happy to hear from you.  
4 Tell us your name, where you're from and who you're  
5 with.

6 CINDY BATTLES: Thank you, Chairman. My name is  
7 Cindy Battles and I appreciate all of you all being  
8 here this morning at what was kind of a hastily called  
9 meeting. I got to watch my son get married from my  
10 Lyft via FaceTime this morning to be here. My name is  
11 Cindy Battles and I am the policy and engagement  
12 director for Georgia Coalition for the People's  
13 Agenda. I have submitted a written --

14 THE CHAIRMAN: Cindy, I'll just tell you that if  
15 would have told us, we would have let you testify this  
16 afternoon.

17 CINDY BATTLES: Well, yes, I know, but --

18 THE CHAIRMAN: Go ahead.

19 CINDY BATTLES: Voting is a sacred privilege and  
20 we do what we can to protect it, sir. My name is  
21 Cindy Battles. I am the policy and engagement  
22 director for Georgia Coalition for the People's  
23 Agenda. Georgia coalition for the People's Agenda was  
24 convened by Dr. Joseph Lowery, who as many of you  
25 know, is a Dean of the Civil Rights Movement.

## **Exhibit 7**

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Georgia Senate Bill 202, In Re

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

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IN RE GEORGIA SENATE BILL 202	Master Case No.
	1:21-MI-55555-JPB
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SPECIAL COMMITTEE ON ELECTION INTEGRITY  
2021 Full Committee Videos  
February 18, 2021

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## Georgia Senate Bill 202, In Re

Page 60

1 REP. CALVIN SMYRE: That is correct.

2 REP. BARRY FLEMING: -- and so, when  
3 citizens go in and see that rare jungle primary,  
4 and in this past case, there were almost 20 folks  
5 running, I have heard of occasions where people  
6 voted for more than one person because they heard  
7 two Senators were up. Well, there were, but you  
8 didn't get to vote twice in that race. So, it  
9 also, in my opinion, eliminates some confusion  
10 and makes the process work a little better.

11 REP. CALVIN SMYRE: Thank you.

12 REP. BARRY FLEMING: Yes sir, you're  
13 very welcome. Okay, any additional comments,  
14 questions, or input from members of the  
15 committee? All right, if there is none, we've  
16 been at it for almost an hour and a half now. We  
17 do not have anyone that has signed up for this  
18 bill, do we? Okay. So, the intent of the chair  
19 is -- I believe the notice is going out that we  
20 will meet at 9:30. Is that right? 9:30 in the  
21 morning, and we'll be in 406 or 606? I think  
22 it's 406 tomorrow. Tomorrow morning at 9:30, we  
23 will meet, and we will spend a great deal of time  
24 discussing this and allowing witnesses to  
25 testify. If you have -- members of the committee

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.  
vs.  
Brian Kemp et al.

February 19, 2021\_HB 531\_HOUSE\_SPECIAL COMMITTEE ON ELECTION INTEGRITY  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.  
vs.  
Brian Kemp et al.

Transcription of Audio File  
2/22/2021\_HB 531\_House Special Committee on Election  
Integrity

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2 IN THE UNITED STATES DISTRICT COURT

3 FOR THE NORTHERN DISTRICT OF GEORGIA

4 ATLANTA DIVISION

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7 Sixth District of the African Methodist Episcopal Church et al.

8 vs.

9 Brian Kemp et al.

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14 February 23, 2021\_HB 531\_House Special Committee on  
Election Integrity

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.  
vs.  
Brian Kemp et al.

February 24, 2021\_HB 531\_House Special Committee on  
Election Integrity

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.  
vs.  
Brian Kemp et al.

Transcription of Audio File  
03-17-21 SB 202 House Special Committee on Election  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.

vs.

Brian Kemp et al.

Transcription of Audio File

03-18-21\_SB 202\_House\_Special Committee on Election

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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF GEORGIA

ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.

vs.

Brian Kemp et al.

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03-22-21\_SB 202\_House\_Special Committee on Election

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.

vs.

Brian Kemp et al.

February 18, 2021\_MultiSB\_Senate\_Ethics

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.  
vs.

Brian Kemp et al.

February 25, 2021\_SR62\_SB241\_Senate\_Ethics

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.  
vs.  
Brian Kemp et al.

Transcription of Audio File

2/26/2021 SR 69, SB 71, 72, 74, 178, 253 Senate

Ethics

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.  
vs.  
Brian Kemp et al.

March 3, 2021\_SB 241\_SENATE\_ETHICS

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.  
vs.  
Brian Kemp et al.

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03-15-21\_HB 531\_Senate\_Ethics

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.

vs.

Brian Kemp et al.

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03-16-21\_HB 531\_Senate Ethics

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.

vs.

Brian Kemp et al.

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03-17-21\_HB 531\_Senate\_Ethics

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.  
vs.  
Brian Kemp et al.

Transcription of Audio File  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.

vs.

Brian Kemp et al.

Transcription of Audio File

03-23-21\_HB 531\_Senate\_Ethics

Audio Runtime: 29:27

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## **Exhibit 8**

RETRIEVED FROM DEMOCRACYDOCKET.COM

## House Special Committee on Election Integrity

Chairman, Rep. Barry Fleming

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### MEMBERS

Rep. Alan Powell, Vice Chair  
Rep. Kimberly Alexander  
Rep. Shaw Blackmon  
Rep. Rhonda Burnough  
Rep. Buddy DeLoach  
Rep. Demetrius Douglas  
Rep. Houston Gaines

Rep. Jan Jones  
Rep. Chuck Martin  
Rep. Bonnie Rich  
Rep. Lynn Smith  
Rep. Calvin Smyre  
Rep. Rick Williams

(Attendees in bold)

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### MEETING MINUTES

Thursday, February 18, 2021

3:00 p.m. – 606 CLOB

The House Special Committee on Election Integrity was called to order by Chairman Fleming. The following bill was on the Agenda:

- **HB 531 by Rep. Barry Fleming (121<sup>st</sup>) –**

- The bill was presented by Rep. Fleming
- Version of the bill presented: LC 28 0215
- Bill Summary

Section 1:

Prohibits election superintendents from accepting any funds from any source other than a county, municipal, state, or federal governing authority.

Section 2:

Permits a poll officer to serve in a county that adjoins the county of their residence, when specified conditions are met.

Section 3:

Prohibits boards of registrars from accepting any funds from any source other than a county, municipal, state, or federal governing authority.

Section 4:

For a precinct with more than 2,000 electors, if the voting wait time was more than one hour for the previous general election, the superintendent

must either reduce the size of the precinct to less than 2,000 electors or provide additional poll workers or equipment, or both, before the next general election.

Section 5:

Specifies that buses and readily-movable facilities, used to supplement polling place capacity, shall only be used in emergency situations.

Section 6:

Clarifies that in any election other than a general election, the election superintendent may provide more or less voting booths per precinct than the general election standard of one voting booth per every 250 electors, depending on relevant factors.

Section 7:

Provides requirements for the public notice of the time and place of voting equipment testing.

Section 8:

Allows an elector to apply for an absentee ballot beginning 78 days prior to the election until 11 days prior to the election. Requires absentee ballot applications to be received by the board of registrars or an absentee ballot clerk no later than 11 days prior to the election.

Requires the submission of identifying information, including a driver's license or identification card number, when applying for an absentee ballot. If the applicant does not have a driver's license or identification card, a photocopy of an approved form of identification must be submitted with the application. The absentee ballot application must also include an oath for the elector or relative submitting the application to sign.

Prohibits the secretary of state, election superintendents, boards of registrars, or other governmental entities from sending unsolicited absentee ballot applications to electors. The bill prohibits any unauthorized person from sending an absentee ballot application with prefilled personal information to an elector. Other than specified exceptions, no person may handle or return an elector's completed absentee ballot application. Handling of a completed absentee ballot application by an unauthorized person is a misdemeanor.

If an absentee ballot application is sent to an elector by a nongovernmental person or entity, the following guidelines must be followed: the application must be the same form as the one made available by the secretary of state; the name of the person or entity sending the application must be clearly disclosed on the face of the application; and a disclaimer that the person or



entity is not a governmental entity, the application is not a ballot, and that completion of the application is not required to vote.

In instances where the identifying information submitted with the absentee ballot application does not match the elector's identifying information on file with the board of registrars, a provisional absentee ballot will be sent to the applicant, along with information on how to cure the discrepancy. If the application is incomplete or the oath is unsigned, the registrar or clerk must promptly contact the applicant in writing to request the additional information or the signed oath.

Section 9:

Allows for the establishment of secure absentee ballot drop boxes inside advance voting locations. The drop boxes will be available for ballot drop-off during the hours of advanced voting. The bill provides guidelines for the security, construction, and ballot collection process of the drop boxes.

Section 10:

Requires boards of registrars or absentee ballot clerks to mail or issue official absentee ballots to all eligible applicants between 29 days and 25 days prior to a non-municipal election. Official absentee ballots must be issued to electors entitled to vote absentee under the federal Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA) between 49 days and 45 days prior to a federal primary or election.

During the advance voting period, boards of registrars or absentee ballot clerks must issue an absentee ballot, provisional absentee ballot, or notice of rejection within three days of receipt of the absentee ballot application. An elector confined to a hospital may apply for an absentee ballot on the day of the primary or election or during the ten-day period prior to the primary or election. These applications must be immediately processed and, if approved, the ballot must be delivered to the elector.

The envelope that an elector uses to return a completed absentee ballot must include the following: the elector's name and signature; the elector's driver's license or identification card number; a space for the elector to mark if they do not have a driver's license or identification card; the elector's date of birth; and the last four digits of the elector's social security number, if the elector does not include the driver's license or identification card number. These identifying pieces of information should be concealed when the envelope is correctly sealed. Any unauthorized person who knowingly unseals an absentee ballot envelope shall be guilty of a felony.

A special absentee run-off ballot must be included with each general primary or general election absentee ballot that is sent to UOCAVA voters. The special absentee run-off ballot will allow the UOCAVA elector to cast

their vote for a runoff by indicating their order of preference for each candidate in each race. The elector will rank each candidate beginning with "1," then "2," and so forth until the elector has ranked each candidate that he or she chooses to rank.

Section 11:

Requires the outer oath envelope of the absentee ballot to include a space for the elector to provide his or her driver's license or identification card number and his or her date of birth. If the elector does not have a driver's license or identification card, the elector must provide the last four digits of his or her social security number. If none of the above can be provided, the elector must include a copy of an approved form of identification.

Section 12:

Advance voting hours must begin at 9:00 a.m. and end at 5:00 p.m. on weekdays and, when applicable, Saturdays. Counties and municipalities may extend the early voting hours to permit voting from 7:00 a.m. until 7:00 p.m. Advance voting is only permitted to occur on the days specified in Code, and cannot be conducted on any other days.

Section 13:

Upon receipt of an absentee ballot, the registrar or clerk must compare the identifying information provided by the elector with the same information contained in the elector's voter registration records and verify that the elector's oath has been signed. If the elector did not sign the oath or their provided identifying information does not match the information in the elector's voter registration records, the ballot will be rejected and the elector will be given the opportunity to cure the problem that resulted in the rejection.

The election superintendent is authorized to process and scan verified and accepted absentee ballots beginning at 8:00 a.m. on the third Monday prior to and no later than the second Monday prior to the day of the primary, election, or runoff. It is prohibited, unless otherwise provided in Code, to tabulate or tally in any way the absentee ballot votes until the closing of the polls on the day of the election. At least seven days prior to processing and scanning the absentee ballots, the superintendent must provide written notice to the secretary of state as well as post the notice in the superintendent's office and on the county election superintendent's website. The secretary of state must post the provided notice on the secretary of state's website as well.

The processing and scanning of absentee ballots must be open to the view of the public, but only the superintendent or their employee or designee is authorized to touch the ballots or ballot container. Anyone involved in

processing or scanning absentee ballots must swear an oath before beginning the process.

Political parties have the right to designate persons to act as monitors to observe the absentee ballot processing and scanning. Such monitors are prohibited from the following: interfering with the process in any way; using or bringing into the room any type of recording device; engaging in campaigning; endangering the secrecy and security of the ballots; touching the ballots or ballot container; in any way tabulating the votes cast on the absentee ballots; communicating observed information about any ballot, vote, or selection to anyone other than an election official.

When requested by the superintendent, but not earlier than the third Monday prior to the election, a registrar or absentee ballot clerk must deliver the absentee ballots, rejected ballots, ballot applications, and the list of certified and rejected ballots to a designated location. At that location, the superintendent must ensure that the ballots are opened and tabulated.

The superintendent is required to ensure that absentee ballot returns are reported to the public as soon as possible following the closing of the polls on election day.

Section 14:

Requires poll watchers to complete training provided by the political party or body which they are representing.

Section 15:

Prohibits giving money or gifts, including food and drinks, to an elector within 150 feet of a polling place, within a polling place, or within 25 feet of a voter standing in line to vote.

Section 16:

Removes a provision allowing an elector to cast a provisional ballot in a precinct other than their own. If a provisional ballot is cast by an elector in the wrong precinct, the ballot will not be counted.

Section 17:

Establishes the creation of duplication panels to prepare duplicate copies of ballots when necessary. The duplication panel must consist of an election superintendent, or their designee, and two other members, as specified based on the type of election.

Section 18:

Election returns must be certified by the superintendent by 5:00 p.m. on the Monday following election day.

Section 19:

Special primaries and special elections held at the same time as a general primary must be conducted using the same machines and facilities as the general primary, when possible. If a vacancy occurs in an office to which the governor is authorized to appoint an individual to serve until the next general election, a special primary must precede the special election. The names of candidates on the ballot in a special primary must be listed alphabetically.

Section 20:

When applicable, the candidates and questions on the ballot for a special primary or special election must be included on the ballot for a general primary or general election, if the registration deadlines are the same for both elections.

Section 21:

In order to fill a vacancy for an unexpired term of a United States Senator a special primary must be held at the same time as the general primary, followed by a special election held at the same time as the general election.

Section 22:

Specifies that a person shall be guilty of a felony if they knowingly induce, or attempt to induce, an elector to reveal how he or she has marked their ballot or observes, or attempts to observe, how an elector marks his or her ballot.

- Discussion followed.
- COMMITTEE ACTION: HEARING ONLY

## **Exhibit 9**

RETRIEVED FROM DEMOCRACYDOCKET.COM

## House Special Committee on Election Integrity

Chairman, Rep. Barry Fleming

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### MEMBERS

Rep. Alan Powell, Vice Chair  
Rep. Kimberly Alexander  
Rep. Shaw Blackmon  
Rep. Rhonda Burnough  
Rep. Buddy DeLoach  
Rep. Demetrius Douglas  
Rep. Houston Gaines

Rep. Jan Jones  
Rep. Chuck Martin  
Rep. Bonnie Rich  
Rep. Lynn Smith  
Rep. Calvin Smyre  
Rep. Rick Williams

(Attendees in bold)

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### MEETING MINUTES

Friday, February 19, 2021

9:30 a.m. – 406 CLOB

The House Special Committee on Election Integrity was called to order by Chairman Fleming. The following bill was on the Agenda:

- **HB 531 by Rep. Barry Fleming (121<sup>st</sup>) –**

- The bill was presented by Rep. Fleming
- Version of the bill presented: LC 28 0215
- Bill Summary

Section 1:

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Section 4:

For a precinct with more than 2,000 electors, if the voting wait time was more than one hour for the previous general election, the superintendent

must either reduce the size of the precinct to less than 2,000 electors or provide additional poll workers or equipment, or both, before the next general election.

Section 5:

Specifies that buses and readily-movable facilities, used to supplement polling place capacity, shall only be used in emergency situations.

Section 6:

Clarifies that in any election other than a general election, the election superintendent may provide more or less voting booths per precinct than the general election standard of one voting booth per every 250 electors, depending on relevant factors.

Section 7:

Provides requirements for the public notice of the time and place of voting equipment testing.

Section 8:

Allows an elector to apply for an absentee ballot beginning 78 days prior to the election until 11 days prior to the election. Requires absentee ballot applications to be received by the board of registrars or an absentee ballot clerk no later than 11 days prior to the election.

Requires the submission of identifying information, including a driver's license or identification card number, when applying for an absentee ballot. If the applicant does not have a driver's license or identification card, a photocopy of an approved form of identification must be submitted with the application. The absentee ballot application must also include an oath for the elector or relative submitting the application to sign.

Prohibits the secretary of state, election superintendents, boards of registrars, or other governmental entities from sending unsolicited absentee ballot applications to electors. The bill prohibits any unauthorized person from sending an absentee ballot application with prefilled personal information to an elector. Other than specified exceptions, no person may handle or return an elector's completed absentee ballot application. Handling of a completed absentee ballot application by an unauthorized person is a misdemeanor.

If an absentee ballot application is sent to an elector by a nongovernmental person or entity, the following guidelines must be followed: the application must be the same form as the one made available by the secretary of state; the name of the person or entity sending the application must be clearly disclosed on the face of the application; and a disclaimer that the person or



entity is not a governmental entity, the application is not a ballot, and that completion of the application is not required to vote.

In instances where the identifying information submitted with the absentee ballot application does not match the elector's identifying information on file with the board of registrars, a provisional absentee ballot will be sent to the applicant, along with information on how to cure the discrepancy. If the application is incomplete or the oath is unsigned, the registrar or clerk must promptly contact the applicant in writing to request the additional information or the signed oath.

Section 9:

Allows for the establishment of secure absentee ballot drop boxes inside advance voting locations. The drop boxes will be available for ballot drop-off during the hours of advanced voting. The bill provides guidelines for the security, construction, and ballot collection process of the drop boxes.

Section 10:

Requires boards of registrars or absentee ballot clerks to mail or issue official absentee ballots to all eligible applicants between 29 days and 25 days prior to a non-municipal election. Official absentee ballots must be issued to electors entitled to vote absentee under the federal Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA) between 49 days and 45 days prior to a federal primary or election.

During the advance voting period, boards of registrars or absentee ballot clerks must issue an absentee ballot, provisional absentee ballot, or notice of rejection within three days of receipt of the absentee ballot application. An elector confined to a hospital may apply for an absentee ballot on the day of the primary or election or during the ten-day period prior to the primary or election. These applications must be immediately processed and, if approved, the ballot must be delivered to the elector.

The envelope that an elector uses to return a completed absentee ballot must include the following: the elector's name and signature; the elector's driver's license or identification card number; a space for the elector to mark if they do not have a driver's license or identification card; the elector's date of birth; and the last four digits of the elector's social security number, if the elector does not include the driver's license or identification card number. These identifying pieces of information should be concealed when the envelope is correctly sealed. Any unauthorized person who knowingly unseals an absentee ballot envelope shall be guilty of a felony.

A special absentee run-off ballot must be included with each general primary or general election absentee ballot that is sent to UOCAVA voters. The special absentee run-off ballot will allow the UOCAVA elector to cast



their vote for a runoff by indicating their order of preference for each candidate in each race. The elector will rank each candidate beginning with "1," then "2," and so forth until the elector has ranked each candidate that he or she chooses to rank.

Section 11:

Requires the outer oath envelope of the absentee ballot to include a space for the elector to provide his or her driver's license or identification card number and his or her date of birth. If the elector does not have a driver's license or identification card, the elector must provide the last four digits of his or her social security number. If none of the above can be provided, the elector must include a copy of an approved form of identification.

Section 12:

Advance voting hours must begin at 9:00 a.m. and end at 5:00 p.m. on weekdays and, when applicable, Saturdays. Counties and municipalities may extend the early voting hours to permit voting from 7:00 a.m. until 7:00 p.m. Advance voting is only permitted to occur on the days specified in Code, and cannot be conducted on any other days.

Section 13:

Upon receipt of an absentee ballot, the registrar or clerk must compare the identifying information provided by the elector with the same information contained in the elector's voter registration records and verify that the elector's oath has been signed. If the elector did not sign the oath or their provided identifying information does not match the information in the elector's voter registration records, the ballot will be rejected and the elector will be given the opportunity to cure the problem that resulted in the rejection.

The election superintendent is authorized to process and scan verified and accepted absentee ballots beginning at 8:00 a.m. on the third Monday prior to and no later than the second Monday prior to the day of the primary, election, or runoff. It is prohibited, unless otherwise provided in Code, to tabulate or tally in any way the absentee ballot votes until the closing of the polls on the day of the election. At least seven days prior to processing and scanning the absentee ballots, the superintendent must provide written notice to the secretary of state as well as post the notice in the superintendent's office and on the county election superintendent's website. The secretary of state must post the provided notice on the secretary of state's website as well.

The processing and scanning of absentee ballots must be open to the view of the public, but only the superintendent or their employee or designee is authorized to touch the ballots or ballot container. Anyone involved in

processing or scanning absentee ballots must swear an oath before beginning the process.

Political parties have the right to designate persons to act as monitors to observe the absentee ballot processing and scanning. Such monitors are prohibited from the following: interfering with the process in any way; using or bringing into the room any type of recording device; engaging in campaigning; endangering the secrecy and security of the ballots; touching the ballots or ballot container; in any way tabulating the votes cast on the absentee ballots; communicating observed information about any ballot, vote, or selection to anyone other than an election official.

When requested by the superintendent, but not earlier than the third Monday prior to the election, a registrar or absentee ballot clerk must deliver the absentee ballots, rejected ballots, ballot applications, and the list of certified and rejected ballots to a designated location. At that location, the superintendent must ensure that the ballots are opened and tabulated.

The superintendent is required to ensure that absentee ballot returns are reported to the public as soon as possible following the closing of the polls on election day.

Section 14:

Requires poll watchers to complete training provided by the political party or body which they are representing.

Section 15:

Prohibits giving money or gifts, including food and drinks, to an elector within 150 feet of a polling place, within a polling place, or within 25 feet of a voter standing in line to vote.

Section 16:

Removes a provision allowing an elector to cast a provisional ballot in a precinct other than their own. If a provisional ballot is cast by an elector in the wrong precinct, the ballot will not be counted.

Section 17:

Establishes the creation of duplication panels to prepare duplicate copies of ballots when necessary. The duplication panel must consist of an election superintendent, or their designee, and two other members, as specified based on the type of election.

Section 18:

Election returns must be certified by the superintendent by 5:00 p.m. on the Monday following election day.

Section 19:

Special primaries and special elections held at the same time as a general primary must be conducted using the same machines and facilities as the general primary, when possible. If a vacancy occurs in an office to which the governor is authorized to appoint an individual to serve until the next general election, a special primary must precede the special election. The names of candidates on the ballot in a special primary must be listed alphabetically.

Section 20:

When applicable, the candidates and questions on the ballot for a special primary or special election must be included on the ballot for a general primary or general election, if the registration deadlines are the same for both elections.

Section 21:

In order to fill a vacancy for an unexpired term of a United States Senator a special primary must be held at the same time as the general primary, followed by a special election held at the same time as the general election.

Section 22:

Specifies that a person shall be guilty of a felony if they knowingly induce, or attempt to induce, an elector to reveal how he or she has marked their ballot or observes, or attempts to observe, how an elector marks his or her ballot.

- Testimony and discussion followed.
- The following individuals offered testimony on the bill:
  - Cindy Batties, Policy and Engagement Director for Georgia Coalition for the People's Agenda
  - Pichata Pay Winichakul, Attorney, SPLC Action Fund, LDF
  - Kevin Shanker Sinha, Community Organizer, Civic Georgia
  - Richard Rose, President, NAACP Atlanta
  - Joe Sapp, citizen
  - Amber McReynolds, CEO, Vote At Home
  - Lynn Bailey, Elections Director, Augusta-Richmond County
  - Janine Eveler, Elections Director, Cobb County
  - Deb Cox, Elections Supervisor, Lowndes County
  - Tonnie Adams, Elections Supervisor, Heard County
  - Nancy Johnson, President, Urban League of Greater Atlanta
  - Annette Davis Jackson, Advocates for Election Integrity
  - Blake Judkins, Chief of Staff, Office of Representative Jasmine Clark
  - Ryan Germany, Legal Counsel, Secretary of State's Office
  - Seddega Gibson, citizen

- COMMITTEE ACTION: HEARING ONLY

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## **Exhibit 10**

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## House Special Committee on Election Integrity

Chairman, Rep. Barry Fleming

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### MEMBERS

Rep. Alan Powell, Vice Chair  
Rep. Kimberly Alexander  
Rep. Shaw Blackmon  
Rep. Rhonda Burnough  
Rep. Buddy DeLoach  
Rep. Demetrius Douglas  
Rep. Houston Gaines

Rep. Jan Jones  
Rep. Chuck Martin  
Rep. Bonnie Rich  
Rep. Lynn Smith  
Rep. Calvin Smyre  
Rep. Rick Williams

(Attendees in bold)

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### MEETING MINUTES

**Monday, February 22, 2021**

3:00 p.m. – 406 CLOB

The House Special Committee on Election Integrity was called to order by Chairman Fleming. The following bill was on the Agenda:

- **HB 531 by Rep. Barry Fleming (121<sup>st</sup>)** –
  - The bill was presented by Rep. Fleming
  - Version of the bill presented: LC 28 0227S
  - Bill Summary

Section 1:

Prohibits election superintendents from accepting any funds from any source other than a county, municipal, state, or federal governing authority.

Section 2:

Provides for the appointment of an acting election superintendent, in counties without a board of elections, when there is a vacancy or incapacitation in the office of judge of the probate court.

Section 3:

Permits a poll officer to serve in a county that adjoins the county of their residence, when specified conditions are met.

Section 4:

Provides guidelines in the event of the death of a candidate on the ballot in a nonpartisan election.

Section 5:

Prohibits boards of registrars from accepting any funds from any source other than a county, municipal, state, or federal governing authority.

Section 6:

For a precinct with more than 2,000 electors, if the voting wait time was more than one hour for the previous general election, the superintendent must either reduce the size of the precinct to less than 2,000 electors or provide additional poll workers or equipment, or both, before the next general election.

Section 7:

Specifies that buses and readily-movable facilities, used to supplement polling place capacity, shall only be used in emergency situations.

Section 8:

Clarifies when a candidate in a nonpartisan election is duly elected.

Section 9:

Clarifies that in any election other than a general election, the election superintendent may provide more or less voting booths per precinct than the general election standard of one voting booth per every 250 electors, depending on relevant factors.

Section 10:

Provides requirements for the public notice of the time and place of voting equipment testing.

Section 11:

Allows an elector to apply for an absentee ballot beginning 78 days prior to the election until 11 days prior to the election. Requires absentee ballot applications to be received by the board of registrars or an absentee ballot clerk no later than 11 days prior to the election.

Requires the submission of identifying information, including a driver's license or identification card number, when applying for an absentee ballot. If the applicant does not have a driver's license or identification card, a photocopy of an approved form of identification must be submitted with the application. The absentee ballot application must also include an oath for the elector or relative submitting the application to sign.



Prohibits the secretary of state, election superintendents, boards of registrars, or other governmental entities from sending unsolicited absentee ballot applications to electors. The bill prohibits any unauthorized person from sending an absentee ballot application with prefilled personal information to an elector. Other than specified exceptions, no person may handle or return an elector's completed absentee ballot application. Handling of a completed absentee ballot application by an unauthorized person is a misdemeanor.

If an absentee ballot application is sent to an elector by a nongovernmental person or entity, the following guidelines must be followed: the application must be the same form as the one made available by the secretary of state; the name of the person or entity sending the application must be clearly disclosed on the face of the application; and a disclaimer that the person or entity is not a governmental entity, the application is not a ballot, and that completion of the application is not required to vote.

In instances where the identifying information submitted with the absentee ballot application does not match the elector's identifying information on file with the board of registrars, a provisional absentee ballot will be sent to the applicant, along with information on how to cure the discrepancy. If the application is incomplete or the oath is unsigned, the registrar or clerk must promptly contact the applicant in writing to request the additional information or the signed oath.

Section 12:

Allows for the establishment of secure absentee ballot drop boxes inside advance voting locations. The drop boxes will be available for ballot drop-off during the hours of advanced voting. The bill provides guidelines for the security, construction, and ballot collection process of the drop boxes.

Section 13:

Requires boards of registrars or absentee ballot clerks to mail or issue official absentee ballots to all eligible applicants between 29 days and 25 days prior to a non-municipal election. Official absentee ballots must be issued to electors entitled to vote absentee under the federal Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA) between 49 days and 45 days prior to a federal primary or election.

During the advance voting period, boards of registrars or absentee ballot clerks must issue an absentee ballot, provisional absentee ballot, or notice of rejection within three days of receipt of the absentee ballot application. An elector confined to a hospital may apply for an absentee ballot on the day of the primary or election or during the ten-day period



prior to the primary or election. These applications must be immediately processed and, if approved, the ballot must be delivered to the elector.

The envelope that an elector uses to return a completed absentee ballot must include the following: the elector's name and signature; the elector's driver's license or identification card number; a space for the elector to mark if they do not have a driver's license or identification card; the elector's date of birth; and the last four digits of the elector's social security number, if the elector does not include the driver's license or identification card number. These identifying pieces of information should be concealed when the envelope is correctly sealed. Any unauthorized person who knowingly unseals an absentee ballot envelope shall be guilty of a felony.

A special absentee run-off ballot must be included with each general primary or general election absentee ballot that is sent to UOCAVA voters. The special absentee run-off ballot will allow the UOCAVA elector to cast their vote for a runoff by indicating their order of preference for each candidate in each race. The elector will rank each candidate beginning with "1," then "2," and so forth until the elector has ranked each candidate that he or she chooses to rank.

#### Section 14:

Requires the outer oath envelope of the absentee ballot to include a space for the elector to provide his or her driver's license or identification card number and his or her date of birth. If the elector does not have a driver's license or identification card, the elector must provide the last four digits of his or her social security number. If none of the above can be provided, the elector must include a copy of an approved form of identification.

#### Section 15:

The advance voting period must begin on the fourth Monday immediately prior to each primary or election and as soon as possible prior to a runoff. Advance voting hours must begin at 9:00 a.m. and end at 5:00 p.m. on weekdays and, when applicable, Saturdays. Registrars may extend the early voting hours to permit voting from 7:00 a.m. until 7:00 p.m. Advance voting is only permitted to occur on the days specified in Code, and cannot be conducted on any other days.

Prohibits an advance voting location from changing during the advance voting period or the 60 day period prior to the advance voting period, unless an emergency occurs which requires a location change. When an advance voting location is changed, notice of the proposed change must be published once a week for two weeks in the appropriate legal organ. Additionally, notice of the change must be posted at the previous

advance voting location during the first advance voting period following the change.

Section 16:

Upon receipt of an absentee ballot, the registrar or clerk must compare the identifying information provided by the elector with the same information contained in the elector's voter registration records and verify that the elector's oath has been signed. If the elector did not sign the oath or their provided identifying information does not match the information in the elector's voter registration records, the ballot will be rejected and the elector will be given the opportunity to cure the problem that resulted in the rejection.

The election superintendent is authorized to process and scan verified and accepted absentee ballots beginning at 8:00 a.m. on the third Monday prior to and no later than the second Monday prior to the day of the primary, election, or runoff. It is prohibited, unless otherwise provided in Code, to tabulate or tally in any way the absentee ballot votes until the closing of the polls on the day of the election. At least seven days prior to processing and scanning the absentee ballots, the superintendent must provide written notice to the secretary of state as well as post the notice in the superintendent's office and on the county election superintendent's website. The secretary of state must post the provided notice on the secretary of state's website as well.

The processing and scanning of absentee ballots must be open to the view of the public, but only the superintendent or their employee or designee is authorized to touch the ballots or ballot container. Anyone involved in processing or scanning absentee ballots must swear an oath before beginning the process.

Political parties have the right to designate persons to act as monitors to observe the absentee ballot processing and scanning. Such monitors are prohibited from the following: interfering with the process in any way; using or bringing into the room any type of recording device; engaging in campaigning; endangering the secrecy and security of the ballots; touching the ballots or ballot container; in any way tabulating the votes cast on the absentee ballots; communicating observed information about any ballot, vote, or selection to anyone other than an election official.

When requested by the superintendent, but not earlier than the third Monday prior to the election, a registrar or absentee ballot clerk must deliver the absentee ballots, rejected ballots, ballot applications, and the list of certified and rejected ballots to a designated location. At that

location, the superintendent must ensure that the ballots are opened and tabulated.

The superintendent is required to ensure that absentee ballot returns are reported to the public as soon as possible following the closing of the polls on election day.

Section 17:

Requires poll watchers to complete training provided by the political party or body which they are representing.

Section 18:

Prohibits giving money or gifts, including food and drinks, to an elector within 150 feet of a polling place, within a polling place, or within 25 feet of a voter standing in line to vote.

Section 19:

Removes a provision allowing an elector to cast a provisional ballot in a precinct other than their own. If a provisional ballot is cast by an elector in the wrong precinct, the ballot will not be counted.

Section 20:

Clarifies when votes for candidates who have died or been disqualified will or will not be counted.

Section 21:

Clarifies when votes for candidates who have died or been disqualified will or will not be counted.

Section 22:

Establishes the creation of duplication panels to prepare duplicate copies of ballots when necessary. The duplication panel must consist of an election superintendent, or their designee, and two other members, as specified based on the type of election.

Section 23:

Election returns must be certified by the superintendent by 5:00 p.m. on the Monday following election day.

Section 24:

When a runoff is necessary, it must be held on the 28th day after the general or special primary or general or special election.

Section 25:

Special primaries and special elections held at the same time as a general primary must be conducted using the same machines and

facilities as the general primary, when possible. If a vacancy occurs in a partisan office to which the governor is authorized to appoint an individual to serve until the next general election, a special primary must precede the special election. The names of candidates on the ballot in a special primary must be listed alphabetically.

Section 26:

When applicable, the candidates and questions on the ballot for a special primary or special election must be included on the ballot for a general primary or general election, if the registration deadlines are the same for both elections.

Section 27:

In order to fill a vacancy for an unexpired term of a United States Senator a special primary must be held at the same time as the general primary, followed by a special election held at the same time as the general election.

Section 28:

Specifies that a person shall be guilty of a felony if they knowingly induce, or attempt to induce, an elector to reveal how he or she has marked their ballot or observes, or attempts to observe, how an elector marks his or her ballot.

Section 29:

If the decennial census results are published within 120 days of the next general or special municipal election, the reapportionment of municipal election districts shall be effective for any subsequent special or general municipal election.

- Testimony and discussion followed.
- The following individuals offered testimony on the bill:
  - Liz Throop, Election integrity advocate
  - Gayla Tillman, Civic Engagement Organizer, Georgia Conservation Voters
  - Sylvia Lewis, citizen
  - James Woodall, State President, Georgia NAACP
  - Chris Bruce, Political Director, ACLU of Georgia
  - Brad Carver, Election Law Attorney; Chair, Election Confidence Task Force
  - Joseph Kirk, Election Supervisor, Bartow County
  - Elizabeth Tannis, Litigation Counsel, Fair Fight Action
  - Joel Natt, Forsyth County Election Board
  - Kay Reiboldt, citizen
  - Ginger Bradshaw, citizen
  - Barbara Hartman, citizen

- Adam Sweat, ProGeorgia
- Sara Tindall Ghazal, citizen
- Suzi Voyles, citizen
- David Walbert, citizen
- Dana Lloyd, Georgia Advocacy Office
- Maureen Giannone, citizen
- Alicia Stallworth, Planned Parenthood Southeast Advocates
- David Cross, citizen
- Misty Hampton, Election Supervisor, Coffee County

- COMMITTEE ACTION: HEARING ONLY

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## **Exhibit 11**

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## House Special Committee on Election Integrity

Chairman, Rep. Barry Fleming

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### MEMBERS

Rep. Alan Powell, Vice Chair  
Rep. Kimberly Alexander  
Rep. Shaw Blackmon  
Rep. Rhonda Burnough  
Rep. Buddy DeLoach  
Rep. Demetrius Douglas  
Rep. Houston Gaines

Rep. Jan Jones  
Rep. Chuck Martin  
Rep. Bonnie Rich  
Rep. Lynn Smith  
Rep. Calvin Smyre  
Rep. Rick Williams

(Attendees in bold)

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### MEETING MINUTES

**Wednesday, February 23, 2021**

3:00 p.m. – 506 CLOB

The House Special Committee on Election Integrity was called to order by Chairman Fleming. The following bill was on the Agenda:

- **HB 531 by Rep. Barry Fleming (121<sup>st</sup>)** –
  - The bill was presented by Rep. Barry Fleming
  - Version of the bill presented: LC 28 0242S
  - Bill Summary

Section 1:

Prohibits election superintendents from accepting any funds from any source other than a county, municipal, state, or federal governing authority.

Section 2:

Provides for the appointment of an acting election superintendent, in counties without a board of elections, when there is a vacancy or incapacitation in the office of judge of the probate court.

Section 3:

Permits a poll officer to serve in a county that adjoins the county of their residence, when specified conditions are met.

Section 4:

Provides guidelines in the event of the death of a candidate on the ballot in a nonpartisan election.

Section 5:

Prohibits boards of registrars from accepting any funds from any source other than a county, municipal, state, or federal governing authority.

Section 6:

For a precinct with more than 2,000 electors, if the voting wait time was more than one hour for the previous general election, the superintendent must either reduce the size of the precinct to less than 2,000 electors or provide additional poll workers or equipment, or both, before the next general election.

Section 7:

Specifies that buses and readily-movable facilities, used to supplement polling place capacity, shall only be used in governor-declared emergency situations.

Section 8:

Clarifies when a candidate in a nonpartisan election is duly elected.

Section 9:

Clarifies that in any election other than a statewide general election, the election superintendent may provide more or less voting booths per precinct than the general election standard of one voting booth per every 250 electors, depending on relevant factors.

Section 10: Requires ballots to be printed on security paper.

Section 11:

Provides requirements for the public notice of the time and place of voting equipment testing.

Section 12:

Allows an elector to apply for an absentee ballot beginning 78 days prior to the election until 11 days prior to the election. Requires absentee ballot applications to be received by the board of registrars or an absentee ballot clerk no later than 11 days prior to the election.

Requires the submission of identifying information, including a driver's license or identification card number, when applying for an absentee ballot. If the applicant does not have a driver's license or identification card, a photocopy of an approved form of identification must be submitted with the application. The absentee ballot application must also include an oath for the elector or relative submitting the application to sign.



Prohibits the secretary of state, election superintendents, boards of registrars, or other governmental entities from sending unsolicited absentee ballot applications to electors. The bill prohibits any unauthorized person from sending an absentee ballot application with prefilled personal information to an elector. Other than specified exceptions, no person may handle or return an elector's completed absentee ballot application. Handling of a completed absentee ballot application by an unauthorized person is a misdemeanor.

If an absentee ballot application is sent to an elector by a nongovernmental person or entity, the following guidelines must be followed: the application must be the same form as the one made available by the secretary of state; the name of the person or entity sending the application must be clearly disclosed on the face of the application; and a disclaimer that the person or entity is not a governmental entity, the application is not a ballot, and that completion of the application is not required to vote.

In instances where the identifying information submitted with the absentee ballot application does not match the elector's identifying information on file with the board of registrars, a provisional absentee ballot will be sent to the applicant, along with information on how to cure the discrepancy. If the application is incomplete or the oath is unsigned, the registrar or clerk must promptly contact the applicant in writing to request the additional information or the signed oath.

Section 13:

Allows for the establishment of secure absentee ballot drop boxes inside advance voting locations. The drop boxes will be available for ballot drop-off during the hours of advanced voting. The bill provides guidelines for the security, construction, and ballot collection process of the drop boxes.

Section 14:

Requires boards of registrars or absentee ballot clerks to mail or issue official absentee ballots to all eligible applicants between 29 days and 25 days prior to a non-municipal election. Official absentee ballots must be issued to electors entitled to vote absentee under the federal Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA) between 49 days and 45 days prior to a federal primary or election.

During the advance voting period, boards of registrars or absentee ballot clerks must issue an absentee ballot, provisional absentee ballot, or notice of rejection within three days of receipt of the absentee ballot application. An elector confined to a hospital may apply for an absentee ballot on the day of the primary or election or during the ten-day period prior to the

primary or election. These applications must be immediately processed and, if approved, the ballot must be delivered to the elector.

The envelope that an elector uses to return a completed absentee ballot must include the following: the elector's name and signature; the elector's driver's license or identification card number; a space for the elector to mark if they do not have a driver's license or identification card; the elector's date of birth; and the last four digits of the elector's social security number, if the elector does not include the driver's license or identification card number. These identifying pieces of information should be concealed when the envelope is correctly sealed. Any unauthorized person who knowingly unseals an absentee ballot envelope shall be guilty of a felony.

A special absentee run-off ballot must be included with each general primary or general election absentee ballot that is sent to UOCAVA voters. The special absentee run-off ballot will allow the UOCAVA elector to cast their vote for a runoff by indicating their order of preference for each candidate in each race. The elector will rank each candidate beginning with "1," then "2," and so forth until the elector has ranked each candidate that he or she chooses to rank.

#### Section 15:

Requires the outer oath envelope of the absentee ballot to include a space for the elector to provide his or her driver's license or identification card number and his or her date of birth. If the elector does not have a driver's license or identification card, the elector must provide the last four digits of his or her social security number. If none of the above can be provided, the elector must include a copy of an approved form of identification.

#### Section 16:

The advance voting period must begin on the fourth Monday immediately prior to each primary or election and as soon as possible prior to a runoff. Advance voting hours must begin at 9:00 a.m. and end at 5:00 p.m. on weekdays and, when applicable, Saturdays. Registrars may extend the early voting hours to permit voting from 7:00 a.m. until 7:00 p.m. Advance voting is only permitted to occur on the days specified in Code, and cannot be conducted on any other days.

The board of registrars must publish the dates, times, and locations of advance voting at least 14 days prior to the advance voting period for a primary or election and at least seven days prior to the advance voting period for a runoff. Once published, the board of registrars are prohibited from removing an advance voting location unless an emergency occurs.

#### Section 17:

Upon receipt of an absentee ballot, the registrar or clerk must compare the identifying information provided by the elector with the same information contained in the elector's voter registration records and verify that the elector's oath has been signed. If the elector did not sign the oath or their provided identifying information does not match the information in the elector's voter registration records, the ballot will be rejected and the elector will be given the opportunity to cure the problem that resulted in the rejection.

The election superintendent is authorized to process and scan verified and accepted absentee ballots beginning at 8:00 a.m. on the third Monday prior to and no later than the second Monday prior to the day of the primary, election, or runoff. It is prohibited, unless otherwise provided in Code, to tabulate or tally in any way the absentee ballot votes until the closing of the polls on the day of the election. At least seven days prior to processing and scanning the absentee ballots, the superintendent must provide written notice to the secretary of state as well as post the notice in the superintendent's office and on the county election superintendent's website. The secretary of state must post the provided notice on the secretary of state's website as well.

The processing and scanning of absentee ballots must be open to the view of the public, but only the superintendent or their employee or designee is authorized to touch the ballots or ballot container. Anyone involved in processing or scanning absentee ballots must swear an oath before beginning the process.

Political parties have the right to designate persons to act as monitors to observe the absentee ballot processing and scanning. Such monitors are prohibited from the following: interfering with the process in any way; using or bringing into the room any type of recording device; engaging in campaigning; endangering the secrecy and security of the ballots; touching the ballots or ballot container; in any way tabulating the votes cast on the absentee ballots; communicating observed information about any ballot, vote, or selection to anyone other than an election official.

When requested by the superintendent, but not earlier than the third Monday prior to the election, a registrar or absentee ballot clerk must deliver the absentee ballots, rejected ballots, ballot applications, and the list of certified and rejected ballots to a designated location. At that location, the superintendent must ensure that the ballots are opened and tabulated.

The superintendent is required to ensure that absentee ballot returns are reported to the public as soon as possible following the closing of the polls on election day.

Section 18:

Requires poll watchers to complete training provided by the political party or body which they are representing.

Section 19:

Prohibits giving money or gifts, including food and drinks, to an elector within 150 feet of a polling place, within a polling place, or within 25 feet of a voter standing in line to vote.

Section 20:

Removes a provision allowing an elector to cast a provisional ballot in a precinct other than their own. If a provisional ballot is cast by an elector in the wrong precinct, the ballot will not be counted.

Section 21:

Clarifies when votes for candidates who have died or been disqualified will or will not be counted.

Section 22:

Clarifies when votes for candidates who have died or been disqualified will or will not be counted.

Section 23:

Establishes the creation of duplication panels to prepare duplicate copies of ballots when necessary. The duplication panel must consist of an election superintendent, or their designee, and two other members, as specified based on the type of election.

Section 24:

Election returns must be certified by the superintendent by 5:00 p.m. on the Monday following election day.

Section 25:

When a runoff is necessary, it must be held on the 28th day after the general or special primary or general or special election.

Section 26:

Special primaries and special elections held at the same time as a general primary must be conducted using the same machines and facilities as the general primary, when possible. If a vacancy occurs in a partisan office to which the governor is authorized to appoint an individual to serve until the next general election, a special primary must precede the special election. The names of candidates on the ballot in a special primary must be listed alphabetically.

Section 27:

When applicable, the candidates and questions on the ballot for a special primary or special election must be included on the ballot for a general primary or general election, if the registration deadlines are the same for both elections.

Section 28:

In order to fill a vacancy for an unexpired term of a United States Senator a special primary must be held at the same time as the general primary, followed by a special election held at the same time as the general election.

Section 29:

Specifies that a person shall be guilty of a felony if they knowingly induce, or attempt to induce, an elector to reveal how he or she has marked their ballot or observes, or attempts to observe, how an elector marks his or her ballot.

Section 30:

If the decennial census results are published within 120 days of the next general or special municipal election, the reapportionment of municipal election districts shall be effective for any subsequent special or general municipal election.

- Testimony and discussion followed.
- The following individuals provided testimony on the bill:
  - April Albright, Black Voters Matter Fund
  - Phi Nguyen, Legal Director, Asian Americans Advancing Justice
  - Aunna Dennis, Executive Director, Common Cause Georgia
  - Linda Rigby-Bridges, League of Women Voters of Georgia
  - Laura Walker, citizen
  - Marilyn Marks, Executive Director, Coalition for Good Governance
- COMMITTEE ACTION: DO PASS

## **Exhibit 12**

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## House Special Committee on Election Integrity

Chairman, Rep. Barry Fleming

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### MEMBERS

Rep. Alan Powell, Vice Chair  
Rep. Kimberly Alexander  
Rep. Shaw Blackmon  
Rep. Rhonda Burnough  
Rep. Buddy DeLoach  
Rep. Demetrius Douglas  
Rep. Houston Gaines

Rep. Jan Jones  
Rep. Chuck Martin  
Rep. Bonnie Rich  
Rep. Lynn Smith  
Rep. Calvin Smyre  
Rep. Rick Williams

(Attendees in bold)

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### MEETING MINUTES

**Wednesday, February 24, 2021**

3:00 p.m. – 606 CLOB

The House Special Committee on Election Integrity was called to order by Chairman Fleming. The following bill was on the Agenda:

- **HB 531 by Rep. Barry Fleming (121<sup>st</sup>)** –
  - The bill was presented by Rep. Barry Fleming
  - Version of the bill presented: LC 28 0264S
  - Bill Summary

Section 1 of the bill establishes that the nonpartisan chairperson of the State Election Board is to be elected by the General Assembly through a joint resolution. The secretary of state shall be an ex-officio non-voting member of the State Election Board.

Section 2 requires the secretary of state to provide necessary support and assistance at the request of the State Election Board.

Section 3 permits the State Election Board to adopt emergency rules only in circumstances of imminent peril to public health, safety, or welfare and subject to specified notice requirements.

Section 4 prohibits election superintendents from accepting funds from any source other than a county, municipal, state, or federal governing authority.



Section 5 provides for the appointment of an acting election superintendent, in counties without a board of elections, when there is a vacancy or incapacitation in the office of judge of the probate court.

Section 6 permits a poll officer to serve in a county that adjoins the county of their residence, when specified conditions are met.

Section 7 provides guidelines in the event of the death of a candidate on the ballot in a nonpartisan election.

Section 8 prohibits boards of registrars from accepting funds from any source other than a county, municipal, state, or federal governing authority.

Section 9 provides that in a precinct with more than 2,000 electors, if the voting wait time was more than one hour for the previous general election, the superintendent must either reduce the size of the precinct to less than 2,000 electors or provide additional poll workers or equipment, or both, before the next general election.

Section 10 specifies that buses and readily-movable facilities, used to supplement polling place capacity, shall only be used in governor-declared emergency situations.

Section 11 clarifies when a candidate in a nonpartisan election is duly elected.

Section 12 clarifies that in any election other than a statewide general election, the election superintendent may provide more or less voting booths per precinct than the general election standard of one voting booth per every 250 electors, depending on relevant factors.

Section 13 requires ballots to be printed on security paper.

Section 14 provides requirements for the public notice of the time and place of voting equipment testing.

Section 15 allows an elector to apply for an absentee ballot beginning 78 days prior to the election until 11 days prior to the election and requires absentee ballot applications to be received by the board of registrars or an absentee ballot clerk no later than 11 days prior to the election.

The bill requires the submission of identifying information, including a driver's license or identification card number, when applying for an absentee ballot. If the applicant does not have a driver's license or identification card, a photocopy of an approved form of identification must be submitted with



the application. The absentee ballot application must also include an oath for the elector or relative submitting the application to sign.

The secretary of state, election superintendents, boards of registrars, or other governmental entities are prohibited from sending unsolicited absentee ballot applications to electors. The bill prohibits any unauthorized person from sending an absentee ballot application with prefilled personal information to an elector. Other than specified exceptions, no person may handle or return an elector's completed absentee ballot application. Handling of a completed absentee ballot application by an unauthorized person is a misdemeanor.

If an absentee ballot application is sent to an elector by a nongovernmental person or entity, the following guidelines must be followed: the application must be the same form as the one made available by the secretary of state; the name of the person or entity sending the application must be clearly disclosed on the face of the application; and a disclaimer that the person or entity is not a governmental entity, the application is not a ballot, and that completion of the application is not required to vote.

In instances where the identifying information submitted with the absentee ballot application does not match the elector's identifying information on file with the board of registrars, a provisional absentee ballot will be sent to the applicant, along with information on how to cure the discrepancy. If the application is incomplete or the oath is unsigned, the registrar or clerk must promptly contact the applicant in writing to request the additional information or the signed oath.

Section 16 requires boards of registrars and absentee ballot clerks to establish at least one secure absentee ballot drop box. Additional drop boxes are permitted, subject to limitations, and must be evenly geographically distributed throughout the county. Absentee ballot drop boxes must be located at the office of the board of registrars or absentee ballot clerk or inside advance voting locations. The drop boxes will be available for ballot drop-off during the hours of advanced voting. The bill provides guidelines for the security, construction, and ballot collection process of the drop boxes.

Section 17 requires boards of registrars or absentee ballot clerks to mail or issue official absentee ballots to all eligible applicants between 29 days and 25 days prior to a non-municipal election. Official absentee ballots must be issued to electors entitled to vote absentee under the federal Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA) between 49 days and 45 days prior to a federal primary or election.

During the advance voting period, boards of registrars or absentee ballot clerks must issue an absentee ballot, provisional absentee ballot, or notice of rejection within three days of receipt of the absentee ballot application. An elector confined to a hospital may apply for an absentee ballot on the day of the primary or election or during the ten-day period prior to the primary or election. These applications must be immediately processed and, if approved, the ballot must be delivered to the elector.

The envelope that an elector uses to return a completed absentee ballot must include the following: the elector's name and signature; the elector's driver's license or identification card number; a space for the elector to mark if they do not have a driver's license or identification card; the elector's date of birth; and the last four digits of the elector's social security number, if the elector does not include the driver's license or identification card number. These identifying pieces of information should be concealed when the envelope is correctly sealed. Any unauthorized person who knowingly unseals an absentee ballot envelope shall be guilty of a felony.

The uniform instructions provided with the absentee ballot must include the following: specific instructions that the elector must mark the ballot in private and will not allow any unauthorized person to deliver or return the ballot on their behalf as well as an oath, under penalty of false swearing, affirming such; a list of persons authorized to return a completed ballot to the board of registrars on behalf of the elector; and the contact information of the State Election Board.

A special absentee run-off ballot must be included with each general primary or general election absentee ballot that is sent to UOCAVA voters. The special absentee run-off ballot will allow the UOCAVA elector to cast their vote for a runoff by indicating their order of preference for each candidate in each race. The elector will rank each candidate beginning with "1," then "2," and so forth until the elector has ranked each candidate that he or she chooses to rank.

Section 18 requires the outer oath envelope of the absentee ballot to include a space for the elector to provide his or her driver's license or identification card number and his or her date of birth. If the elector does not have a driver's license or identification card, the elector must provide the last four digits of his or her social security number. If none of the above can be provided, the elector must include a copy of an approved form of identification.

The advance voting period must begin on the fourth Monday immediately prior to each primary or election and as soon as possible prior to a runoff. Advance voting hours must begin at 9:00 a.m. and end at 5:00 p.m. on weekdays and, when applicable, Saturdays or Sundays. The registrar shall

choose to hold advance voting on either the third Saturday or third Sunday prior to a primary or election. Registrars may extend the early voting hours to permit voting from 7:00 a.m. until 7:00 p.m. Advance voting is only permitted to occur on the days specified in Code, and cannot be conducted on any other days.

The board of registrars must publish the dates, times, and locations of advance voting at least 14 days prior to the advance voting period for a primary or election and at least seven days prior to the advance voting period for a runoff. Once published, the board of registrars are prohibited from removing an advance voting location unless an emergency occurs.

Section 19 provides that upon receipt of an absentee ballot, the registrar or clerk must compare the identifying information provided by the elector with the same information contained in the elector's voter registration records and verify that the elector's oath has been signed. If the elector did not sign the oath or their provided identifying information does not match the information in the elector's voter registration records, the ballot will be rejected and the elector will be given the opportunity to cure the problem that resulted in the rejection.

The election superintendent is authorized to process and scan verified and accepted absentee ballots beginning at 8:00 a.m. on the third Monday prior to and no later than the second Monday prior to the day of the primary, election, or runoff. It is prohibited, unless otherwise provided in Code, to tabulate or tally in any way the absentee ballot votes until the closing of the polls on the day of the election. At least seven days prior to processing and scanning the absentee ballots, the superintendent must provide written notice to the secretary of state as well as post the notice in the superintendent's office and on the county election superintendent's website. The secretary of state must post the provided notice on the secretary of state's website as well.

The processing and scanning of absentee ballots must be open to the view of the public, but only the superintendent or their employee or designee is authorized to touch the ballots or ballot container. Anyone involved in processing or scanning absentee ballots must swear an oath before beginning the process.

Political parties have the right to designate persons to act as monitors to observe the absentee ballot processing and scanning. Such monitors are prohibited from the following: interfering with the process in any way; using or bringing into the room any type of recording device; engaging in campaigning; endangering the secrecy and security of the ballots; touching the ballots or ballot container; in any way tabulating the votes cast on the

absentee ballots; communicating observed information about any ballot, vote, or selection to anyone other than an election official.

When requested by the superintendent, but not earlier than the third Monday prior to the election, a registrar or absentee ballot clerk must deliver the absentee ballots, rejected ballots, ballot applications, and the list of certified and rejected ballots to a designated location. At that location, the superintendent must ensure that the ballots are opened and tabulated.

The superintendent is required to ensure that absentee ballot returns are reported to the public as soon as possible following the closing of the polls on election day.

Section 20 requires poll watchers to complete training provided by the political party or body which they are representing.

Section 21 prohibits giving money or gifts, including food and drinks, to an elector within 150 feet of a polling place, within a polling place, or within 25 feet of a voter standing in line to vote.

Section 22 removes a provision allowing an elector to cast a provisional ballot in a precinct other than their own. If a provisional ballot is cast by an elector in the wrong precinct, the ballot will not be counted.

Section 23 clarifies when votes for candidates who have died or been disqualified will or will not be counted.

Section 24 clarifies when votes for candidates who have died or been disqualified will or will not be counted.

Section 25 establishes the creation of duplication panels to prepare duplicate copies of ballots when necessary. The duplication panel must consist of an election superintendent, or their designee, and two other members, as specified based on the type of election.

Section 26 provides that election returns must be certified by the superintendent by 5:00 p.m. on the Monday following election day.

Section 27 provides that when a runoff is necessary, it must be held on the 28th day after the general or special primary, or general or special election.

Section 28 provides that special primaries and special elections held at the same time as a general primary must be conducted using the same machines and facilities as the general primary, when possible. If a vacancy occurs in a partisan office to which the governor is authorized to appoint an individual to serve until the next general election, a special primary must

precede the special election. The names of candidates on the ballot in a special primary must be listed alphabetically.

Section 29 provides that, when applicable, the candidates and questions on the ballot for a special primary or special election must be included on the ballot for a general primary or general election, if the registration deadlines are the same for both elections.

Section 30 provides that in order to fill a vacancy for an unexpired term of a United States Senator, a special primary must be held at the same time as the general primary, followed by a special election held at the same time as the general election.

Section 31 specifies that a person shall be guilty of a felony if they, without proper authorization, accept an absentee ballot from an elector for delivery or return to the board of registrars.

Section 32 provides that if the decennial census results are published within 120 days of the next general or special municipal election, the reapportionment of municipal election districts shall be effective for any subsequent special or general municipal election.

- Testimony and discussion followed.
- Motion by: Rep. Lynn Smith
- Second by: Rep. Rick Williams
- COMMITTEE ACTION: DO PASS BY COMMITTEE SUBSTITUTE

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## **Exhibit 13**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.

vs.

Brian Kemp et al.

Transcription of Audio File

03-15-21\_HB 531\_Senate\_Ethics

Audio Runtime: 1:12:13

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1 (Begin 35:50)

2 CHAIRMAN BURNS: We'll be happy to begin  
3 discussions for House Bill 531. We're going to check  
4 the corridors and encourage our members to join us.

5 UNKNOWN: Coroners? The coroners or?

6 CHAIRMAN BURNS: The corridors, not the coroners.

7 UNKNOWN: Yeah, because they're not qualified  
8 (inaudible).

9 CHAIRMAN BURNS: No, no. All right. Thank you  
10 all for joining us this afternoon. We're now ready to  
11 consider House Bill 531. This will be a hearing only  
12 as well. It's a substantial piece of legislation that  
13 the House Special Committee on Election Integrity has  
14 been working on for weeks and months. We're happy to  
15 welcome Chairman Barry Fleming with us and I'll ask  
16 Chairman Fleming if he will walk the committee through  
17 his legislation.

18 CHAIRMAN FLEMING: Mr. Chairman, members of the  
19 committee I appreciate you all letting me come speak  
20 with you today about House Bill 531. It's designed to  
21 bring back the confidence of our voters into our  
22 election system. The main component of that effort is  
23 by enhancing the several -- enacting rather, several  
24 revisions, which will make the administration of  
25 elections easier for our local elected official. The



1 bill addresses several areas. It addresses absentee  
2 voting.

3 CHAIRMAN BURNS: Mr. Chairman, just for point of  
4 clarification, I want to make sure everyone  
5 understands, we're dealing with House Bill 531. There  
6 is no substitute. It is LC, actually, there is an S  
7 number, isn't it?

8 CHAIRMAN FLEMING: Yes, sir.

9 CHAIRMAN BURNS: It is LC280264S. This is a  
10 House substitute. This is not a Senate substitute.  
11 Is that clear? So, we're dealing with the base bill  
12 that was provided to the Senate by the House. Is that  
13 correct, Mr. Chairman?

14 CHAIRMAN FLEMING: Yes.

15 CHAIRMAN BURNS: Thank you very much. Please  
16 continue.

17 CHAIRMAN FLEMING: Mr. Chairman and members, the  
18 addresses several different areas -- absentee voting,  
19 improvements to in-person voting. It addresses the  
20 testing of voting equipment and prepares for better  
21 auditing of election results. It improves aspects of  
22 the timing of our elections process. And it addresses  
23 the roles of and the actions of election officials.

24 First of all, regarding absentee voting, it  
25 replaces the controversial signature matching with

## **Exhibit 14**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.

vs.

Brian Kemp et al.

Transcription of Audio File

03-16-21\_HB 531\_Senate Ethics

Audio Runtime: 1:28:34

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1 (Begin 20:40)

2 CHAIRMAN BURNS: -- the 16th. Chairs note that  
3 we have a quorum. And I'd like to call on Senator  
4 Jason Anavitarte if he will open us with an  
5 invocation.

6 SENATOR ANAVITARTE: Dear Lord, just thank you  
7 for being with us today, this afternoon, to have a  
8 discussion about issues that matter to a lot of people  
9 across Georgia. Watch over our deliberations, our  
10 hearts, our minds, and what comes out of our mouth.  
11 In the Lord's name, Amen.

12 CHAIRMAN BURNS: Amen, thank you.

13 This afternoon, we had two agenda items. We will  
14 defer consideration of HB 333 so that we can devote  
15 all of our attention to HB 531, which is on the table.  
16 I need a motion to take it off the table.

17 MALE VOICE: (Inaudible.)

18 CHAIRMAN BURNS: So, moved. Leader second from -  
19 - Senator Hatchet. Without objection, Senate Bill 433  
20 is -- excuse me, 531 is off the table for  
21 consideration. This is LC280264S, it's the substitute  
22 House Bill HB 531.

23 This afternoon, we are happy to take input and  
24 testimony from citizens and from organizations across  
25 our state on this important legislation. We have a

1 sign-up sheet and unless some senator would like to  
2 make an opening comment or has a question, we will  
3 proceed straight to witness testimony. Any senator  
4 wish to address HB 531? I'm just asking. Okay.

5 Very good. All right without further ado, we  
6 will call on Reverend James Woodall. A couple of  
7 quick ground rules. Because of the number of  
8 individuals who wish to speak to this measure, we will  
9 limit input to two minutes. If you would like to  
10 provide additional testimony, you're welcome to do  
11 that in written form. So, the first opportunity we  
12 have to hear from witnesses is Reverend James Woodall.  
13 Reverend Woodall. Just hold on a second, Mr. Woodall.  
14 The chair recognizes the Minority Leader for a  
15 question.

16 FEMALE VOICE: Where am I talking?

17 CHAIRMAN BURNS: The number two. Thank you.

18 FEMALE VOICE: Is it possible we could have three  
19 minutes?

20 CHAIRMAN BURNS: We have --

21 FEMALE VOICE: How many people?

22 FEMALE VOICE: Close to 60.

23 CHAIRMAN BURNS: Close to 60.

24 FEMALE VOICE: Oh.

25 CHAIRMAN BURNS: Close to 60 witnesses today for

1 information purposes, we will meet in this room in the  
2 morning at 8:00 a.m. and continue --

3 FEMALE VOICE: Oh.

4 CHAIRMAN BURNS: -- to take input.

5 FEMALE VOICE: Whew.

6 CHAIRMAN BURNS: So, if anyone wishes to join us  
7 in the morning at 8:00, we'll be glad to accommodate  
8 that and put you in early on the list, okay. Early on  
9 the list. Right now, we have only two individuals for  
10 in the morning at 8:00 and I'm -- my guess is -- but  
11 right now, because of the numbers of individuals we  
12 need to hear from, I regret that we're going to have  
13 to try to stay with two minutes. But we're happy to  
14 receive in written form.

15 Reverend Woodall, if you would please state your  
16 name and your organization and share with us your  
17 input.

18 REVEREND WOODALL: Yes, thank you, Mr. Chairman  
19 and to the members of this distinguished body. My  
20 name is Reverend James Major Woodall, and I'm the  
21 State President for the Georgia NAACP that represents  
22 over 10,000 Georgians spanning over 130 counties.

23 I come today, and I don't anticipate that I'll  
24 take the full balance of my time, but I come today to  
25 lift up very specific concerns about this legislation.

1 One preface to these comments is that we fully in  
2 opposition to this legislation for a number of reason.

3 One is in Section 15, Lines 776 through 79  
4 through -- as well as Line 791 through 93. The  
5 sponsor of this legislation yesterday stood before  
6 this committee and mentioned that this would, in fact,  
7 add to the early voting hours that counties have.  
8 That was a -- quite honestly that was a lie as the  
9 language itself is limiting the ability for counties,  
10 particularly that make up a majority African American  
11 and people of color composition within their county.  
12 The Center for New Data suggested in their research  
13 that ten percent of all Georgia's voters, which was  
14 over seven million, might I add, utilized weekend  
15 voting. Of that ten percent in a hundred and seven  
16 counties, we have a hundred fifty-nine counties here  
17 in this state. A hundred and seven of those counties  
18 saw African Americans vote at higher rates than self-  
19 identified White voters in the same county. And for  
20 comparison, about 34 percent of those persons who  
21 voted early, were African Americans and so I want that  
22 to be clear for the record, that again a hundred and  
23 seven out of a hundred and fifty-nine counties saw  
24 African Americans voting in higher rates during  
25 weekend voting.

## **Exhibit 15**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.

vs.

Brian Kemp et al.

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Transcription of Audio File

03-17-21\_HB 531\_Senate\_Ethics

Audio Runtime: 38:59

1 My hope today is that you all will think about  
2 the Georgians and the variety of situations that  
3 people may be in that could hinder their ability to  
4 vote. For some people, it's a disability. For some  
5 people, it's a lack of access to the papers that  
6 you're requiring because they're poor, they're  
7 homeless, or they're dealing with the exact match law  
8 that most -- that most targets people of color.

9 And then thinking of these situations, I hope  
10 that you will not put your party affiliation first but  
11 your commitment to the citizens of Georgia to ensure  
12 that each and every eligible voter has free and fair  
13 access to their ballot. Thank you.

14 CHAIRMAN BURNS: Thank you for your input. Any  
15 questions? Seeing none, we appreciate -- this  
16 concludes the witness testimony for this morning. You  
17 do not -- you're not on the list and you cannot be  
18 recognized at this time. I'm sorry. Representative,  
19 you do not have a standing in this committee. You did  
20 not request to speak. We welcome your written  
21 testimony, and I'm happy to chat with you after the  
22 meeting. Thank you.

23 We appreciate your time. We appreciate your  
24 interest and passion for this issue. We recognize it  
25 as a very challenging and sensitive issue and we're

1 going to deal with this deliberately and as  
2 effectively as we can. This concludes testimony on  
3 531. I need a -- HB 531. I need a motion to put it  
4 back on the table and I have a motion from Senator  
5 Hatchett. I need a second. Second from Senator  
6 Robertson. Without objection, 531 is placed on the  
7 table.

8 Just as a -- a point of information for the  
9 committee, we are working to provide the input that  
10 we've heard to make some adjustments to HB 531. We  
11 are developing a substitute that would address some of  
12 the issues and some of the challenges that we have  
13 with 531. We're working to integrate some of the  
14 legislation that this committee has heard in the past  
15 to bring to the committee an opportunity to discuss a  
16 revised bill, a substitute bill. We hope that that  
17 bill will be available to the committee late today.  
18 And if so I'll -- I'll disperse it and distribute it  
19 publicly.

20 If it's available, we will have our -- our  
21 regularly scheduled meeting in the morning at 8  
22 o'clock for a hearing only on any potential  
23 substitute. We will take no action today. We'll take  
24 no action and anticipate no action tomorrow. And so  
25 we will have an opportunity and certainly over the

1 next 48 to 72 hours to fully vet the legislation that  
2 might be under consideration. Are there any questions  
3 from the committee? Hearing none, I have a motion to  
4 adjourn. Motion adjourn, second. Without objection,  
5 the committee is adjourned.

6 (End of audio recording.)

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## **Exhibit 16**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.  
vs.  
Brian Kemp et al.

Transcription of Audio File  
03-17-21 SB 202 House Special Committee on Election  
Integrity

Audio Runtime: 49:53

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1 someone has already either voted, already turned in an  
2 application, or already received an absentee ballot  
3 that we don't want to continue sending them absentee  
4 ballot applications. Probably that could save  
5 somebody some money on postage with sending things  
6 out.

7 That is the original Senate Bill 202. It falls  
8 in line with some earlier things that we did in our  
9 legislation which is also in this bill and that is  
10 making sure that absentee ballot applications are  
11 clearly marked as such with prominent language  
12 notifying who it came from and what it was.

13 And requiring obviously a standard form so it  
14 would not be confusing any more so than need be. If  
15 you now turn to some sections which I'm going to  
16 identify for you, I'll start with some things that we  
17 talked about on the House side, but I don't believe  
18 was passed maybe held some hearings on it.

19 If you look at Section 8 of your bill you will  
20 see there regarding the public funding of public  
21 elections a study that we're going to ask the State  
22 Board of Elections to create and report back to the  
23 legislature as to a possible program so that the State  
24 Board of Elections could receive any sorts of  
25 donations somebody would like to make to help out

1 elections in Georgia.

2 And they could create an equitable distribution  
3 plan around the State as needed not totally different  
4 from other State agents we have such as Department of  
5 Community Affairs that doles out various kinds of  
6 grants to help with issues in our State.

7 And if you would just make a note of any  
8 questions you have and then when we go through it once  
9 I'll be happy to come back and try to answer any for  
10 members of the committee. The next section I would  
11 direct you to as far as something new as far as on the  
12 House side of anything that we passed out, go to  
13 Section 32 of the bill.

14 We had a lot of discussion about giving things of  
15 value to voters once they get within that 150-foot  
16 area. What we've added in there is an option that  
17 water can be made available in that area. We had some  
18 testimony from some of our election directors that  
19 talked about elections being held in the summer and  
20 liking to be able to do that.

21 This allows you to do that in Section 32 of the  
22 bill. If you would now look right there where you  
23 already are Section 33 of the bill, we also had a good  
24 bit of discussion about the problem that we have in  
25 Georgia with people voting out of precinct.



1           They have to vote a provisional ballot which  
2 slows down the process for voting and causes a lot of  
3 work on election officials not only to administer it  
4 when they get there and then throwing on the line, but  
5 also later transferring that to a ballot that can be  
6 scanned for counting.

7           And we had discussions about someone not being  
8 able to get to their regular precinct on time. So  
9 what you will see there before 5:00 p.m. you will be  
10 directed to go to your correct precinct so you can  
11 vote.

12           After 5:00 p.m. if you sign a statement saying  
13 that you cannot make it to your precinct, you would be  
14 allowed to vote. And once again you're still going to  
15 be disenfranchising half your ballot because generally  
16 if you vote out of precinct you don't vote for the  
17 local races and maybe even your State rep or your  
18 State senator.

19           But the up ballot races you would be able to.  
20 That's Section 33. If you now turn to Section 50 of  
21 the bill I will describe what is another House add.  
22 Representative Shea Roberts had a bill, House Bill 659  
23 that we have, I would say begin to incorporate into  
24 what you have here.

25           Representative Roberts' bill was going to require

1 that our images -- our ballot images be made publicly  
2 available. I think that's a good idea. It is going  
3 to take some time to figure that out. Currently it  
4 takes a judge to order someone to be able to view the  
5 actual ballot images himself because for the longest  
6 time in Georgia, that rule dates back to probably when  
7 you had paper ballots and they had to be held securely  
8 in case there was a recount or other things.

9 Now because of our system we actually scan the  
10 images. And we have the original paper but we also  
11 have the image. And that situation we now --  
12 technology we believe can make available. If you want  
13 to go to pick your county, Meriwether County and you  
14 want to count the ballots yourself to see how many  
15 your county commissioner District 5 got, you could  
16 actually look at those and count them yourself.

17 We know it's going to take some time to get to  
18 that point technology-wise; we've got to figure out  
19 how the counties would do it, we got to figure out  
20 server space, figure out exactly how it works. So  
21 we've done two things to take a step towards  
22 Representative Roberts' idea and her bill.

23 Number one, we've asked the Secretary of State to  
24 create a pilot program to see how this would work and  
25 try it out in some places. And secondly, we have made

1 available now those ballot images to an open record  
2 request.

3 Here before like I said it took a judge to do  
4 that, but going forward it would be available under an  
5 open record request. So a step toward the idea of  
6 having those online where anybody can view them and  
7 count them.

8 Now what I'm going to turn to is the things that  
9 we did not pass out of this committee but the Senate  
10 passed out several of the bills they sent to us that  
11 we have incorporated into Senate Bill 202.

12 Once again I'll try to go section by section and  
13 if you have any questions just make a note of it and  
14 I'll come back and be happy to try to answer anything  
15 that you may have.

16 One, the Senate sent us two different versions of  
17 something I call county accountability. In other  
18 words, we know that unfortunately we have some  
19 counties that have regular problems administering  
20 their elections.

21 We had hearings in the House in subcommittee on  
22 this issue. The Senate sent us a bill by the  
23 President Pro Tem there addressing this issue and they  
24 also put a version of addressing this issue in Senate  
25 Bill 241 that they sent to us.

1           What you will find in four sections of the bill  
2 is an implementation of that piece of county  
3 accountability. Such that if you had somebody who  
4 regularly could not run their elections well after a  
5 due process with hearings and findings, that the State  
6 Elections Board could step in to remedy those  
7 situations.

8           Those were Sections 2 in the bill, Section 5 in  
9 the bill, Section 6 in the bill, and Section 11 in the  
10 bill. And basically here is how the format would  
11 work. And we based this very much on in part a  
12 suggestion by the Association of County Commissioners  
13 how they might like to see it work.

14           And also we based it upon another area of the law  
15 where we do something somewhat similar to this. Most  
16 of you are familiar because we talked about it in  
17 here, that in the area of school boards that are in  
18 trouble maybe they're about to lose their  
19 accreditation, there is a procedure under Georgia law  
20 where after a due process set of hearings and findings  
21 that the governor can step in and do something about  
22 the problems with a local school board and we've seen  
23 that happen a few times.

24           And quite often I believe at least I know in my  
25 area that school system gets back on their feet and

1 does a better job. So the review could be triggered  
2 three different ways; it could be because the state of  
3 elections board decides to do it themselves and they  
4 are the ones that hear problems regularly with  
5 counties so you would think they would be familiar  
6 with that.

7 It could be from a county commissioner from a  
8 county in question and it also could be by members of  
9 the legislature. If you are in a small or average  
10 sized county it take a House member and it take a  
11 Senate member to trigger the beginning of that  
12 investigatory process.

13 If you are a larger county we would say two House  
14 members and two senators. Those details are right  
15 there in the bill. The next area that I'll bring your  
16 attention to -- and everything I'm talking about now  
17 are things that came to us from the Senate and the  
18 various bills that they sent us, is Section 7 of the  
19 bill.

20 In Section 7 of the bill we have incorporated a  
21 portion of Senate Bill 241 that is whereby any  
22 settlement entered into by the State of Georgia  
23 regarding elections, there would need to be notice  
24 given to the judiciary committees of the House and the  
25 Senate five days before that is entered into.

1 As you all are I'm sure aware the attorney  
2 general in Georgia represents the State, has the  
3 authority under our constitution and law to settle a  
4 lawsuit. And what we will be doing is obviously we  
5 cannot take that away, but we would now be having  
6 notice made to the legislative committees which would  
7 appropriately handle similar matters.

8 And as you all know, those of you that have  
9 served as committee chairs or do, you get quite often  
10 notices from various agencies notifying the committee  
11 and legislative leaders about various matters that  
12 happen in the State of Georgia.

13 If you now move on to Section 14 of the bill.  
14 Section 14. When we had the unique situation in  
15 Georgia with a January the 5th runoff and it being a  
16 nine-week runoff, there was a possibility for people  
17 to register to vote before -- after the November  
18 election and before the runoff.

19 As we have had in existing Georgia law for as  
20 long as I can remember, if you think someone  
21 registered to vote, but they were not properly  
22 registered in the State of Georgia or should not be,  
23 there is a method whereby that could be challenged.

24 That happened fairly seldom. It happened a lot  
25 more in the last election and what Section 14 does is

1 clarify how that process works; sets time limits, sets  
2 the number of people that could possibly have  
3 questions drawn about their registration and how many  
4 one could question and also puts in the ability for  
5 the State Board of Elections to step in with clear  
6 authority to adjudicate problems if that is not done  
7 properly.

8 That is Section 14 of the bill. Section 16 of  
9 the bill. That is another Senate provision out of the  
10 bill that they sent to us. And most of this is from  
11 Senate Bill 241 that I will mention. Right now our  
12 Secretary of State's office does belong to an entity  
13 and the acronym is ERIC.

14 And they are a method whereby several States come  
15 together and if I move from Georgia to South Carolina  
16 and registered to vote there, South Carolina notifies  
17 Georgia that I no longer should be on the rolls in the  
18 State of Georgia, because I've registered in another  
19 State.

20 This simply says that not only do we know that's  
21 going on currently but in the future we will belong to  
22 such organizations. That's Section 16 of the bill.  
23 Section 18 of the bill is a bill passed by Senator  
24 Merritt in the Senate that deals with Senate Bill 253  
25 that was sent to us that we have incorporated into

1 this version of the bill requiring the posting of  
2 notices when precincts are moved.

3 A real good common sense idea that goes on I  
4 think should go on, but this will make it law that  
5 those postings must be required. And that's Senator  
6 Merritt's Senate Bill 253.

7 Next, if you would turn over in the Section 24  
8 actually. It will still be, you know, go to Section  
9 24 of the bill. There was talk and questions in this  
10 committee and the Senate put it in the bill that they  
11 sent over to us whereby if a person were in jail but  
12 awaiting trial, how would they possibly deal with  
13 identification for the purposes of voting.

14 I checked with my sheriff there is a process in  
15 place there. But what we do in Section 24 Page 37 is  
16 actually put that into law. That if you're in that  
17 situation you will have access to any personal effects  
18 including identification you need to allow for voting.

19 If you now turn to Section 25 of the bill. This  
20 deals with secure containers sometimes referred to as  
21 drop boxes. Here in the bill we simply clarify  
22 language that was already in the House bill as far as  
23 where these containers need to be located.

24 There is a typo in that area. The House language  
25 that we passed whereby every county would be required



1 to have one and larger counties would have multiples  
2 of that depending on how large they were. That will  
3 be included back in the version of the bill that you  
4 will see when we meet later on this Senate Bill 202.

5 If you now turn over to Section 27 of the bill.  
6 Section 27. This is another add from Senate provision  
7 sent to us. It would require the posting of absentee  
8 ballots and advanced voting numbers each day for -- or  
9 for early voting.

10 This would not be a change in practice. It was  
11 something that is being done already, but now we would  
12 actually require that as mandatory in our code rather  
13 than just being the standard operating procedure.  
14 Also now if you look on Section 29 of the bill.

15 Section 29. There was a good bit of discussion  
16 about the Secretary of State's ability to audit  
17 absentee ballot applications and the envelopes they  
18 came in. There were some discussions that the  
19 Secretary of State could, there were some discussion  
20 that they would have to have a complaint before they  
21 could do that.

22 From a Senate Bill passed to us the add in  
23 Section 29 would clearly state that the Secretary of  
24 State does have the ability to audit absentee ballot  
25 applications and envelopes for two years after an

1 election.

2 Next another Senate add because that's what we're  
3 going through now. Section 30 of the bill. Section  
4 30 of the bill deals with judge's orders regarding  
5 elections. Judges have always had the ability if  
6 needed to order the polling locations stay open later.

7 This simply puts some guidelines in there for  
8 that action. It says that there needs to be a good  
9 cause evidentiary standard that the polling location  
10 would be left open for the amount of hours that it was  
11 actually closed for whatever reason earlier in the  
12 morning, usually that it would not be open past 9:00  
13 p.m. unless the Superior Court judge enter specific  
14 findings of why it is necessary to accommodate that  
15 location by staying open past 9:00 p.m.

16 If you next look at Section 35 of the bill.  
17 Section 35. One of the bills that was introduced on  
18 the House side and I believe also on the Senate side  
19 was a bill dealing with what I calmly refer to as the  
20 denominator number when we're talking about how many  
21 people voting.

22 And that is a requirement that we be told on a  
23 county by county basis; how many people voted by 10:00  
24 p.m. not who they voted for. That's actually  
25 tabulation of who got how many votes, but the

1 denominator of how many people actually voted.

2 That was something that was in the Senate Bill  
3 sent over to us 241 and also there was a House Bill by  
4 Representative Jones I believe worked on language for  
5 that. That is there in Section 35. If you look at  
6 Section 36.

7 And also similar language to accomplish what I'm  
8 about to explain to you will be in Section 39 and 40.  
9 This is language requiring the continuous counting of  
10 votes until they're finished. We all know that Fulton  
11 County had an issue with the stopping and starting of  
12 counting votes.

13 Part of that problem we hope we've already  
14 resolved in the legislation that we've already passed  
15 and hopefully will become law, whereby we do things  
16 early tabulation and getting early processing going of  
17 those absentee ballots. That was contained both  
18 Democrat and Republican bills in the House and Senate  
19 and came over to us.

20 This simply says hopefully now that we have  
21 resolved needing to go 2:00 in the morning to count  
22 votes, once you start we're going to ask you to  
23 continue counting until you're finished. That is  
24 Section 36, 39, and 40 in the bill in front of you.

25 Now I'll move to Section 47 in the bill. This is

1 another -- of course as we were discussing now --  
2 Senate legislation that came over to us that they  
3 passed.

4 You can -- this clarifies that you can take a  
5 person to assist you into the polls to help you or  
6 your children they can go with you. But other than  
7 that no one else is to intentionally try to see how  
8 you vote in the process and it makes that a crime if  
9 that is done.

10 Ladies and gentlemen, those are what I have given  
11 to you the new provisions that are in addition to the  
12 bill that we passed out of the House and where they  
13 came from and background on it.

14 I'll be happy now if anybody on the committee has  
15 any questions about the different areas that I have  
16 discussed to try to answer some questions for you.  
17 Representative Burnough.

18 REPRESENTATIVE BURNOUGH: Thank you Mr. Chairman  
19 and thank you for the explanation. However, I just  
20 have a little bit of concern because when we were  
21 presenting House Bill 531, Chairman Powell made the  
22 comment that we should have been trying to work  
23 together, now see how we are.

24 Because last Thursday we received an email from a  
25 Dekalb superintendent and it was a substitute for 241

1 and HB 531. And she made comments on everything. And  
2 then when I asked my whip about it, he didn't know any  
3 bad thing about it and so we wouldn't have known that  
4 this even existed if she had made any comment.

5 And so I'm just trying to understand the process  
6 here of how we're doing things. Because maybe I just  
7 don't remember, but I know I was in a subcommittee  
8 when Todd Jones presented his bill and I asked him  
9 some questions. But I don't ever remember us voting  
10 on that bill.

11 So are we just like taking bills -- and the same  
12 thing with Representative Roberts. So are we just  
13 taking bills piece by piece and just kind of putting  
14 them in when we want to? I just want to know the  
15 process so I can understand. Thank you.

16 CHAIRMAN FLEMING: First of all, we won't do  
17 anything until the committee votes on it, which you  
18 have in front you as a proposed substitute. And  
19 that's why we're here to discuss and ask questions so  
20 the committee will make the ultimate decision about  
21 what we do or don't do.

22 Now you mentioned several things in there. One  
23 of them was Todd Jones' bill. I'm not positive if it  
24 was passed out of subcommittee or not, but there were  
25 bills passed to us out of the Senate that dealt with

1 Now one thing that you know Representative,  
2 because you've been in these hearings when we've done  
3 it often, is that we have invited election directors  
4 to review what we are doing, give us comments. And  
5 many of the changes that we have made in our making  
6 are because they have told us if they would work  
7 better.

8 So I'm welcoming of the fact that somebody sent a  
9 draft of something to an election director and sought  
10 their comments on it. So that is what I think  
11 probably happened.

12 I think DeKalb Election Director was probably  
13 even one of the election directors that came and  
14 testified to our committee about things that they  
15 wanted and things that would help many of which as  
16 I've said many times are incorporated into what we  
17 pass in the House and also to some of the work they  
18 did on the Senate side. So your question had multiple  
19 parts to it and my answer also had multiple parts to  
20 it, but I tried to address everything that you  
21 mentioned.

22 REPRESENTATIVE BURNOUGH: Thank you.

23 CHAIRMAN FLEMING: Yes, ma'am. Other questions  
24 or comments from any members of the committee? All  
25 right. The Chair didn't see any now. We will have

1 another -- Representative Smyre, I'm sorry, sir. Did  
2 you want to -- press your button one more time. All  
3 right. Quit pressing. Now go.

4 REPRESENTATIVE SMYRE: Okay. Mr. Chairman I was  
5 just -- I was trying to -- I got this today and I was  
6 trying to go through it. Do you have for our disposal  
7 the difference between the original SB202 and what has  
8 been posed in here as the committee sub?

9 CHAIRMAN FLEMING: Yes, sir. Unfortunately, I  
10 was late today myself. I went over that when we  
11 started, but I could tell you exactly where it is.  
12 When you look in Section 24 of the bill on Page 38 and  
13 39, the original portion of the 202 was about  
14 organizations sending absentee ballot applications to  
15 people who had already voted or already applied.

16 And it says that you have to check basically to  
17 make sure that the public offered information that  
18 they have not already applied or already voted. If so  
19 you should not send them an absentee ballot  
20 application.

21 REPRESENTATIVE SMYRE: Okay.

22 CHAIRMAN FLEMING: That's Section 24 of the bill  
23 Pages 38 and 39.

24 REPRESENTATIVE SMYRE: Okay. One other thing.  
25 In terms of, you know, how we go from here is -- will

1 the public and others have an opportunity the election  
2 director I know we've been in contact with him. But  
3 will there be any kind of public testimony, any Zoom  
4 testimony on this bill as we have it today as a  
5 committee sub, do you anticipate that?

6 CHAIRMAN FLEMING: Yes, Mr. Smyre, absolutely.  
7 In fact, we have four that have signed up today that I  
8 intend to hear. We also will have a hearing tomorrow  
9 very likely I think in the 2:00, that's when we have  
10 the room. We'll have a hearing tomorrow which we'll  
11 also take testimony.

12 And as I have done in the past is any committee  
13 member has something that they want to testify via  
14 Zoom if you just give me their name we'll make sure  
15 that we have them.

16 REPRESENTATIVE SMYRE: You've got into the meat  
17 of what I was getting to. Then 202 we're going to  
18 just hear today and maybe come back tomorrow and have  
19 additional testimony?

20 CHAIRMAN FLEMING: Yes sir, that's correct. Yes  
21 sir. And if you have somebody you definitely want us  
22 to get to if you give me their name we'll make sure we  
23 do that.

24 REPRESENTATIVE SMYRE: Okay.

25 CHAIRMAN FLEMING: You or any other members of



1 the committee.

2 REPRESENTATIVE SMYRE: Can I get them in April?

3 CHAIRMAN FLEMING: In April? Yeah, you can bring  
4 them right here in April. Now I'm not sure who will  
5 be here with you, but you can bring them here right in  
6 April.

7 REPRESENTATIVE SMYRE: You got that.

8 CHAIRMAN FLEMING: Okay. Representative  
9 Burnough, did you have another question, ma'am? Press  
10 your button and then take your finger away.

11 REPRESENTATIVE BURNOUGH: Thank you Mr. Chairman.  
12 Can I add someone to the list today?

13 CHAIRMAN FLEMING: Yes ma'am.

14 REPRESENTATIVE BURNOUGH: Okay. Do you want me  
15 to give you their name now?

16 CHAIRMAN FLEMING: If you can write it on a piece  
17 of paper and pass it to the attorney right behind you.

18 REPRESENTATIVE BURNOUGH: Okay.

19 CHAIRMAN FLEMING: Any other questions from any  
20 members of the committee? All right. We do have some  
21 folks signed up. Kevin Joachin. And pronounce your  
22 last name for me, I apologize. I'll do the best I  
23 can.

24 KEVIN JOACHIN: Yes, Mr. Chairman. My name is  
25 Kevin Joachin pronounced like H-W-A, Hwachin.

1 CHAIRMAN FLEMING: Good to have you. Tell us who  
2 you're with and we'd be happy to hear from you.

3 KEVIN JOACHIN: I'm a community organizer from  
4 the Georgia Latino Alliance for Human Rights Action  
5 Network. I'm from Tifton, Georgia. And today I was  
6 prepared to talk about SP241 we were following the  
7 different legislative changes announced on the General  
8 Assembly website throughout the day and come to find  
9 out that the broadcast in the Senate went from two  
10 pages to a substitute that is a proposal of 93 pages  
11 for SB 202.

12 So I'm not going to be speaking about SB 241  
13 anymore because I think it's only important to talk  
14 about how we need to provide space and time for  
15 organizations and community members to investigate  
16 this substitute and see how it impacts communities of  
17 color, voters of color.

18 I already see Section 32 that -- I'm just sitting  
19 here on my seat -- I already see on Section 32 that  
20 non-profit organizations aren't some of those groups  
21 or bodies that are included in the training process  
22 who are allowed to train people for poll monitoring.

23 I think that that's something really important to  
24 talk about, because during the last elections we have  
25 seen that non-profit organizations take their members

## **Exhibit 17**

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## *House Budget and Research Office*

COVERDELL LEGISLATIVE OFFICE BUILDING, ROOM 412  
ATLANTA, GEORGIA 30334  
404-656-5050

MARTHA R. WIGTON  
DIRECTOR

### **2021 SESSION: ELECTIONS HIGHLIGHTS**

Following the June 2020 primary and November 2020 general election, voting and elections were at the forefront of the 2021 Legislative Session. Ninety election bills were filed in 2021, 49 of which originated in the House of Representatives, but only one bill attained final passage through both chambers: Senate Bill 202.

Senate Bill 202 creates the 'Election Integrity Act of 2021.' The 98-page bill impacts nearly every aspect of elections and voting in Georgia. The following is an outline of the predominant changes; for a complete, section-by-section breakdown of the bill, click [HERE](#) or visit the House Budget and Research Office [website](#).

#### **Advance Voting**

- The advance voting period must begin on the fourth Monday immediately prior to each primary or election and as soon as possible prior to a runoff. Advance voting hours must begin at 9:00 a.m. and end at 5:00 p.m. on weekdays and, when applicable, Saturdays. Advance voting must be conducted on the second and third Saturdays of the advance voting period. Registrars may extend advance voting hours to permit voting from 7:00 a.m. until 7:00 p.m. The registrar or absentee ballot clerk may choose to hold advance voting on the second or third Sunday, or both the second and third Sunday, prior to a primary or election. The Sunday advance voting hours are determined by the registrar or absentee ballot clerk, but no longer than 7:00 a.m. through 7:00 p.m. Advance voting is only permitted to occur on the days specified in Code, and cannot be conducted on any other days.

#### **Absentee by Mail Voting**

- Senate Bill 202 allows an elector to submit an application for an absentee ballot beginning 78 days prior to an election. Applications must be received no later than 11 days prior to the election.

## **Exhibit 18**

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Georgia

HOUSE OF REPRESENTATIVES

Wednesday  
March 17,  
2021

# DAILY REPORT

34th  
Legislative  
Day

House Budget & Research Office  
(404) 656-5050

- The House will reconvene for its 35th Legislative Day on Thursday, March 18 at 10:00 a.m.
- The Rules Committee will meet at 9:00 a.m.
- Nine bills / resolutions are expected to be debated on the floor.

## Today on the Floor

### Rules Calendar

#### HB 703 **Bleckley County; probate judge; provide nonpartisan elections**

Bill Summary: House Bill 703 provides for non-partisan elections for the Bleckley County probate judge.

<b>Authored By:</b>	Rep. Danny Mathis (144th)	<b>Rule Applied:</b>	Structured
<b>House Committee:</b>	Intragovernmental Coordination	<b>Committee Action:</b>	03-10-2021 Do Pass
<b>Floor Vote:</b>	Yeas: 105 Nays: 64	<b>Amendments:</b>	

#### HB 704 **Bleckley County; Magistrate Court chief judge; provide nonpartisan elections**

Bill Summary: House Bill 704 provides for non-partisan elections for the Bleckley County chief magistrate judge.

<b>Authored By:</b>	Rep. Danny Mathis (144th)	<b>Rule Applied:</b>	Structured
<b>House Committee:</b>	Intragovernmental Coordination	<b>Committee Action:</b>	03-10-2021 Do Pass
<b>Floor Vote:</b>	Yeas: 103 Nays: 68	<b>Amendments:</b>	

#### SB 43 **"Noncovered Eye Care Services Act"; enact**

Bill Summary: Senate Bill 43 is the 'Non-Covered Eye Care Services Act.' This bill prohibits insurers from requiring an ophthalmologist or optometrist to accept as payment an amount set by the insurer for services that are not covered eye care services under the covered person's eye care benefit plan as a condition to join or participate in its provider network.

Additionally, no insurer will draft, publish, disseminate, or circulate any explanations of benefit forms that include language that directly or indirectly states or implies that an ophthalmologist or optometrist should extend discounts to patients for non-covered eye care services.

<b>Authored By:</b>	Sen. Matt Brass (28th)	<b>Rule Applied:</b>	Modified-Structured
<b>House Committee:</b>	Insurance	<b>Committee Action:</b>	03-10-2021 Do Pass by Committee Substitute
<b>Floor Vote:</b>	Yeas: 152 Nays: 17	<b>Amendments:</b>	

#### SB 88 **Education; Georgia Teacher of the Year shall be invited to serve as advisor ex officio to the State Board of Education; provide**

Bill Summary: Senate Bill 88 amends O.C.G.A. 20-2-212.1 to allow the Georgia teacher of the year to serve as advisor ex-officio to the State Board of Education. Under the provision of this bill, local

## **Exhibit 19**

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## House Special Committee on Election Integrity

Chairman, Rep. Barry Fleming

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### MEMBERS

Rep. Alan Powell, Vice Chair  
Rep. Kimberly Alexander  
Rep. Shaw Blackmon  
Rep. Rhonda Burnough  
Rep. Buddy DeLoach  
Rep. Demetrius Douglas  
Rep. Houston Gaines

Rep. Jan Jones  
Rep. Chuck Martin  
Rep. Bonnie Rich  
Rep. Lynn Smith  
Rep. Calvin Smyre  
Rep. Rick Williams

(Attendees in bold)

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### MEETING MINUTES

**Wednesday, March 17, 2021**

3:00 p.m. – 606 CLOB

The House Special Committee on Election Integrity was called to order by Chairman Fleming. The following bill was on the Agenda:

- **SB 202 by Sen. Max Burns (23<sup>rd</sup>)** –
  - The bill was presented by Rep. Barry Fleming
  - Version of the bill presented: LC 28 0325S
  - Bill Summary

To comprehensively revise elections and voting; to amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries generally, so as to revise a definition; to provide for the establishment of a voter intimidation and illegal election activities hotline; to limit the ability of the State Election Board and the Secretary of State to enter into certain consent agreements, settlements, and consent orders; to provide that the Secretary of State shall be a nonvoting ex officio member of the State Election Board; to provide for the appointment, confirmation, term, and removal of the chairperson of the State Election Board; to revise provisions relating to a quorum of such board; to require the Secretary of State to support and assist the State Election Board; to provide for the appointment of temporary and permanent replacement superintendents; to provide for procedures; to provide for performance reviews of local election officials requested by the State Election Board or local governing authorities; to provide for a



definition; to provide for appointment and duties of performance review boards; to provide for reports of performance review boards; to provide for promulgation of rules and regulations; to provide additional requirements on the State Election Board's power to adopt emergency rules and regulations; to provide that no election superintendents or boards of registrars shall accept private funding; to provide that the State Election Board shall develop methods for distribution of donations; to provide that certain persons may serve as poll workers in other than the county of their residence; to provide for the appointment of acting election superintendents in the event of a vacancy or incapacitation in the office of judge of the probate court of counties without a board of elections; to provide for resumption of the duties of election superintendent upon the filling of such vacancy; to provide for the compensation of such acting election superintendents; to provide for the reduction in size of certain precincts under certain circumstances; to provide for notice when polling places are relocated; to provide for certain reports; to provide limitations on the use of buses and other moveable facilities; to provide for allocation of voting equipment by counties and municipalities; to provide for the manner of handling the death of a candidate prior to a nonpartisan election; to provide that no candidate shall take or be sworn into any elected public office unless such candidate has received a majority of the votes cast for such office except as otherwise provided by law; to provide for participation in a multistate voter registration system; to revise procedures and standards for challenging electors; to provide for the printing of ballots on safety paper; to provide for the time and manner for applying for absentee ballots; to provide for certain limitations and sanctions on the distribution of absentee ballot applications; to provide for the manner of processing of absentee ballot applications; to provide for absentee ballot secure receptacles and the requirements therefor; to provide for the time and manner of issuing absentee ballots; to provide for the manner of voting and returning absentee ballots; to revise the times for advance voting; to limit changes to advance voting locations in the period prior to an election; to provide notice requirements for changes of advance voting locations; to provide for the processing and tabulation of absentee ballots; to provide sanctions for improperly opening an absentee ballot; to provide for certain elector identification for absentee balloting; to provide for monitors and observers; to provide for poll watcher training; to provide for restrictions on the distribution of certain items within close proximity to the polls on election days; to provide for the voting and processing of provisional ballots; to provide for duplication panels for defective ballots that cannot be processed by tabulating machines; to provide for ranked choice voting for military and overseas voters; to revise the time for runoffs; to revise eligibility to vote in runoffs; to provide for the deadline for election certification; to provide for a pilot program for the scanning and publishing of ballots; to provide for the inspection

and copying of original ballots by certain persons following the completion of a recount; to provide for special primaries and special elections to fill vacancies in certain offices; to provide for public notice and observation of preparation of voting equipment; to provide for observation of elections and ballot processing and counting; to provide for the filling of vacancies in certain offices; to prohibit observing or attempting to observe how a voter marks or has marked his or her ballot or inducing a voter to do so; to prohibit the acceptance of a ballot for return without authorization; to amend Chapter 35 of Title 36 of the Official Code of Georgia Annotated, relating to home rule powers, so as to provide for the delay of reapportionment of municipal corporation election districts when census numbers are delayed; to amend Title 50 of the Official Code of Georgia Annotated, relating to general provisions regarding state government, so as to provide for the submission and suspension of emergency rules by the State Election Board; to provide that scanned ballot images are public records; to provide for legislative findings; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

- Testimony and discussion followed.
- This bill was opposed by:
  - Kevin Joachin, GLAHR Action Network
  - James Woodall, Georgia NAACP
  - James Williams, Labor Council
  - Cindy Battle, The People's Agenda
- COMMITTEE ACTION: HEARING ONLY

\*House Sponsor: Rep. Barry Fleming (121<sup>st</sup>)

## **Exhibit 20**

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## House Special Committee on Election Integrity

Chairman, Rep. Barry Fleming

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### MEMBERS

Rep. Alan Powell, Vice Chair  
Rep. Kimberly Alexander  
Rep. Shaw Blackmon  
Rep. Rhonda Burnough  
Rep. Buddy DeLoach  
Rep. Demetrius Douglas  
Rep. Houston Gaines

Rep. Jan Jones  
Rep. Chuck Martin  
Rep. Bonnie Rich  
Rep. Lynn Smith  
Rep. Calvin Smyre  
Rep. Rick Williams

(Attendees in bold)

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### MEETING MINUTES

Thursday, March 18, 2021

2:00 p.m. – 406 CLOB

The House Special Committee on Election Integrity was called to order by Chairman Fleming. The following bill was on the Agenda:

- **SB 202** by **Sen. Max Burns (23<sup>rd</sup>)** –
  - The bill was presented by Rep. Barry Fleming
  - Version of the bill presented: LC 28 0326S
  - Bill Summary

To comprehensively revise elections and voting; to amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries generally, so as to revise a definition; to provide for the establishment of a voter intimidation and illegal election activities hotline; to limit the ability of the State Election Board and the Secretary of State to enter into certain consent agreements, settlements, and consent orders; to provide that the Secretary of State shall be a nonvoting ex officio member of the State Election Board; to provide for the appointment, confirmation, term, and removal of the chairperson of the State Election Board; to revise provisions relating to a quorum of such board; to require the Secretary of State to support and assist the State Election Board; to provide for the appointment of temporary and permanent replacement superintendents; to provide for procedures; to provide for performance reviews of local election officials requested by the State Election Board or local governing authorities; to provide for a definition; to provide for appointment and duties

of performance review boards; to provide for reports of performance review boards; to provide for promulgation of rules and regulations; to provide additional requirements on the State Election Board's power to adopt emergency rules and regulations; to provide that no election superintendents or boards of registrars shall accept private funding; to provide that the State Election Board shall develop methods for distribution of donations; to provide that certain persons may serve as poll workers in other than the county of their residence; to provide for the appointment of acting election superintendents in the event of a vacancy or incapacitation in the office of judge of the probate court of counties without a board of elections; to provide for resumption of the duties of election superintendent upon the filling of such vacancy; to provide for the compensation of such acting election superintendents; to provide for the reduction in size of certain precincts under certain circumstances; to provide for notice when polling places are relocated; to provide for certain reports; to provide limitations on the use of buses and other moveable facilities; to provide for allocation of voting equipment by counties and municipalities; to provide for the manner of handling the death of a candidate prior to a nonpartisan election; to provide that no candidate shall take or be sworn into any elected public office unless such candidate has received a majority of the votes cast for such office except as otherwise provided by law; to provide for participation in a multistate voter registration system; to revise procedures and standards for challenging electors; to provide for the printing of ballots on safety paper; to provide for the time and manner for applying for absentee ballots; to provide for certain limitations and sanctions on the distribution of absentee ballot applications; to provide for the manner of processing of absentee ballot applications; to provide for absentee ballot secure receptacles and the requirements therefor; to provide for the time and manner of issuing absentee ballots; to provide for the manner of voting and returning absentee ballots; to revise the times for advance voting; to limit changes to advance voting locations in the period prior to an election; to provide notice requirements for changes of advance voting locations; to provide for the processing and tabulation of absentee ballots; to provide sanctions for improperly opening an absentee ballot; to provide for certain elector identification for absentee balloting; to provide for monitors and observers; to provide for poll watcher training; to provide for restrictions on the distribution of certain items within close proximity to the polls on election days; to provide for the voting and processing of provisional ballots; to provide for duplication panels for defective ballots that cannot be processed by tabulating machines; to provide for ranked choice voting for military and overseas voters; to revise the time for runoffs; to revise eligibility to vote in runoffs; to provide for the deadline for election certification; to provide for a pilot program for the scanning and publishing of ballots; to provide for the inspection and copying of original ballots by certain persons following the completion of a recount; to provide for special primaries and special elections to fill vacancies in certain offices; to provide for public notice and

observation of preparation of voting equipment; to provide for observation of elections and ballot processing and counting; to provide for the filling of vacancies in certain offices; to prohibit observing or attempting to observe how a voter marks or has marked his or her ballot or inducing a voter to do so; to prohibit the acceptance of a ballot for return without authorization; to amend Chapter 35 of Title 36 of the Official Code of Georgia Annotated, relating to home rule powers, so as to provide for the delay of reapportionment of municipal corporation election districts when census numbers are delayed; to amend Title 50 of the Official Code of Georgia Annotated, relating to general provisions regarding state government, so as to provide for the submission and suspension of emergency rules by the State Election Board; to provide that scanned ballot images are public records; to provide for legislative findings; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

- Testimony and discussion followed.
- Testimony was offered by the following individuals:
  - Carolyn Garcia, Sentinel, Heritage Action For America
  - Aunna Dennis, Executive Director, Common Cause Georgia
  - Geovani Serrano, Georgia Latino Alliance for Human Rights
  - Pichaya Poy Winichakal, SPLC Action Fund
  - Jody Diodati, Fight to Make It Right
  - Sara Tindall Ghazal, Attorney, Cobb County
  - Marci McCarthy, DeKalb County GOP
  - Todd Edwards, ACCG
  - Marilyn Marks, Coalition for Good Governance
  - Mark Amick, Fulton County GOP
  - Clare Schexnyder, Voter
  - David Walbert, Voting rights attorney
  - John Cusick, NAACP LDF
  - Tonnie Adams, Election Supervisor, Heard County, Georgia
  - Rev. James Woodall, Georgia NAACP
- COMMITTEE ACTION: HEARING ONLY

\*House Sponsor: Rep. Barry Fleming (121<sup>st</sup>)

## **Exhibit 21**

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## House Special Committee on Election Integrity

Chairman, Rep. Barry Fleming

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### MEMBERS

Rep. Alan Powell, Vice Chair  
Rep. Kimberly Alexander  
Rep. Shaw Blackmon  
Rep. Rhonda Burnough  
Rep. Buddy DeLoach  
Rep. Demetrius Douglas  
Rep. Houston Gaines

Rep. Jan Jones  
Rep. Chuck Martin  
Rep. Bonnie Rich  
Rep. Lynn Smith  
Rep. Calvin Smyre  
Rep. Rick Williams

(Attendees in bold)

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### MEETING MINUTES

**Monday, March 22, 2021**

Upon Adjournment of House Session (3:30 p.m.) – 606 CLOB

The House Special Committee on Election Integrity was called to order by Chairman Fleming. The following bill was on the Agenda:

- **SB 202** by **Sen. Max Burns (23<sup>rd</sup>)** –
  - The bill was presented by Rep. Barry Fleming
  - Version of the bill presented: LC 28 0338S
  - Bill Summary

Section 1:

Establishes the legislation as the “Election Integrity Act of 2021.”

Section 2:

Provides an overview of the General Assembly’s reasoning and intent regarding election legislation.

Section 3:

Revises the definition of “superintendent” as it relates to the State Election Board.

Section 4:

Authorizes the attorney general to establish a telephone hotline for electors to submit complaints and allegations of voter intimidation and illegal election



activities. The attorney general must review each complaint and allegation as expeditiously as possible to determine if further action is needed.

Section 5:

Establishes that the nonpartisan chairperson of the State Election Board is to be elected by the General Assembly through a joint resolution. The secretary of state shall be an ex-officio nonvoting member of the State Election Board.

Section 6:

Authorizes the State Election Board to suspend a county or municipal election superintendent and appoint a temporary replacement. No more than four county or municipal superintendents can be suspended at the same time.

Requires the secretary of state to provide necessary support and assistance at the request of the State Election Board.

Section 7:

Establishes the process required for the State Election Board, on its own motion or upon petition by the governing authority of a county or municipality, to suspend, replace, or reinstate county or municipal election superintendents.

Section 8:

Permits the State Election Board to adopt emergency rules only in circumstances of imminent peril to public health, safety, or welfare and subject to specified notice requirements.

Requires the State Election Board, the secretary of state, or their designees to notify the General Assembly's Committees on Judiciary prior to entering into any relevant consent agreements, settlements, or consent orders.

Section 9:

Prohibits election superintendents from accepting any funds from any source other than a county, municipal, state, or federal governing authority.

Requires the State Election Board, by October 1, 2021, to submit a report to the General Assembly on a proposed method for accepting and distributing donations statewide.

Section 10:

Provides for the appointment of an acting election superintendent, in counties without a board of elections, when there is a vacancy or incapacitation in the office of judge of the probate court.

Section 11:

Permits a poll officer to serve in a county that adjoins the county of their residence, when specified conditions are met.

Section 12:

Permits a local governing authority or the applicable members of the General Assembly to request a performance review of local election officials to be conducted by an independent performance review board at the direction of the secretary of state.

Section 13:

Provides guidelines in the event of the death of a candidate on the ballot in a nonpartisan election.

Section 14:

Prohibits boards of registrars from accepting any funds from any source other than a county, municipal, state, or federal governing authority.

Sections 15 and 16:

Establishes that there is not a limit on the number of persons whose qualifications an elector can challenge, as it relates to persons registering to vote, electors on the list of electors, and electors voting in an election.

Section 17:

Authorizes the secretary of state to obtain voter information from a specified nongovernmental entity on a regular basis in order to conduct list maintenance of the eligible elector list.

Section 18:

For a precinct with more than 2,000 electors, if the voting wait time was more than one hour for the previous general election, the superintendent must either reduce the size of the precinct to less than 2,000 electors or provide additional poll workers or equipment, or both, before the next general election.

Section 19:

Requires notice to be posted during the seven days before and on the day of the first election following a change to a polling location.

Section 20:

Specifies that buses and readily-movable facilities, used to supplement polling place capacity, shall only be used in governor-declared emergency situations.

Section 21:

Clarifies when a candidate in a nonpartisan election is duly elected.

Section 22:

Clarifies that in any election other than a statewide general election, the election superintendent may provide more or less voting booths per precinct than the general election standard of one voting booth per every 250 electors, depending on relevant factors.

Section 23:

Requires ballots, with exceptions, to be printed on security paper.

Section 24:

Provides requirements for the public notice of the time and place of voting equipment testing.

Section 25:

Allows an elector to apply for an absentee ballot beginning 78 days prior to the election until 11 days prior to the election. Requires absentee ballot applications to be received by the board of registrars or an absentee ballot clerk no later than 11 days prior to the election.

Requires the submission of identifying information, including a driver's license or identification card number, when applying for an absentee ballot. If the applicant does not have a driver's license or identification card, a photocopy of an approved form of identification must be submitted with the application. The absentee ballot application must also include an oath for the elector or relative submitting the application to sign.

Prohibits the secretary of state, election superintendents, boards of registrars, or other governmental entities from sending unsolicited absentee ballot applications to electors. The bill prohibits any unauthorized person from sending an absentee ballot application with prefilled personal information to an elector. Other than specified exceptions, no person may handle or return an elector's completed absentee ballot application. Handling of a completed absentee ballot application by an unauthorized person is a misdemeanor.

If an absentee ballot application is sent to an elector by a nongovernmental person or entity, the following guidelines must be followed: the application must be the same form as the one made available by the secretary of state; the name of the person or entity sending the application must be clearly disclosed on the face of the application; and a disclaimer that the person or entity is not a governmental entity and the application is not a ballot.

Electors in jails or detention centers who are eligible to vote must be granted access to any pertinent personal effects needed to apply for and vote an absentee ballot.

Prohibits nongovernmental entities from sending absentee ballot applications to individuals who have already requested, received, or voted via an absentee ballot. A person or entity who violates this prohibition will be subject to sanctions by the State Election Board.

In instances where the identifying information submitted with the absentee ballot application does not match the elector's identifying information on file with the board of registrars, a provisional absentee ballot will be sent to the applicant, along with information on how to cure the discrepancy. If the application is incomplete or the oath is unsigned, the registrar or clerk must promptly contact the applicant in writing to request the additional information or the signed oath.

Section 26:

Requires that additional registrar's offices or places of registration to receive absentee ballots or conduct advance voting must be located in a building.

Requires boards of registrars and absentee ballot clerks to establish at least one absentee ballot drop box. Additional drop boxes are permitted, subject to limitations, and must be evenly geographically distributed by population in the county. Absentee ballot drop boxes must be located at the office of the board of registrars or absentee ballot clerk or inside advance voting locations. The drop boxes may be located outside such locations during a governor-declared emergency under specified circumstances. The drop boxes will be available for ballot drop-off during the hours of advanced voting. The bill provides guidelines for the security, construction, and ballot collection process for the drop boxes.

Section 27:

Requires boards of registrars or absentee ballot clerks to mail or issue official absentee ballots to all eligible applicants between 29 days and 25 days prior to a non-municipal election. Official absentee ballots must be issued to electors entitled to vote absentee under the federal Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA) between 49 days and 45 days prior to a federal primary or election.

During the advance voting period, boards of registrars or absentee ballot clerks must issue an absentee ballot, provisional absentee ballot, or notice of rejection within three days of receipt of the absentee ballot application. An elector confined to a hospital may apply for an absentee ballot on the day of the primary or election or during the ten-day period prior to the primary or election. These applications must be immediately processed and, if approved, the ballot must be delivered to the elector.

The envelope that an elector uses to return a completed absentee ballot must include the following: the elector's name and signature; the elector's

driver's license or identification card number; a space for the elector to mark if they do not have a driver's license or identification card; the elector's date of birth; and the last four digits of the elector's social security number, if the elector does not include the driver's license or identification card number. These identifying pieces of information should be concealed when the envelope is correctly sealed. Any unauthorized person who knowingly unseals an absentee ballot envelope shall be guilty of a felony.

The uniform instructions provided with the absentee ballot must include the following: specific instructions that the elector must mark the ballot in private and will not allow any unauthorized person to deliver or return the ballot on their behalf as well as an oath, under penalty of false swearing, affirming such; a list of persons authorized to return a completed ballot to the board of registrars on behalf of the elector; and the contact information of the State Election Board.

Absentee electors on the master list of electors who have been sent absentee ballots may be challenged by any elector prior to 5:00 p.m. on the day before election officials begin scanning and tabulating absentee ballots.

A special absentee run-off ballot must be included with each general primary or general election absentee ballot that is sent to UOCAVA voters. The special absentee run-off ballot will allow the UOCAVA elector to cast their vote for a runoff by indicating their order of preference for each candidate in each race. The elector will rank each candidate beginning with "1," then "2," and so forth until the elector has ranked each candidate that he or she chooses to rank.

Section 28:

Requires the outer oath envelope of the absentee ballot to include a space for the elector to provide his or her driver's license or identification card number and his or her date of birth. If the elector does not have a driver's license or identification card, the elector must provide the last four digits of his or her social security number. If none of the above can be provided, the elector must include a copy of an approved form of identification.

The advance voting period must begin on the fourth Monday immediately prior to each primary or election and as soon as possible prior to a runoff. Advance voting hours must begin at 9:00 a.m. and end at 5:00 p.m. on weekdays and, when applicable, Saturdays. Advance voting must be conducted on the second and third Saturdays of the advance voting period. The registrar or absentee ballot clerk may choose to hold advance voting on the second or third Sunday, or both the second and third Sunday, prior to a primary or election. The Sunday advance voting hours are determined by the registrar or absentee ballot clerk, but no longer than 7:00 a.m. through 7:00 p.m. Registrars may extend the early voting hours to permit



voting from 7:00 a.m. until 7:00 p.m. Advance voting is only permitted to occur on the days specified in Code, and cannot be conducted on any other days.

The board of registrars must publish the dates, times, and locations of advance voting at least 14 days prior to the advance voting period for a primary or election and at least seven days prior to the advance voting period for a runoff. Once published, the board of registrars are prohibited from removing an advance voting location unless an emergency occurs.

On each business day of the absentee voting period, the county board of registrars or absentee ballot clerk must report to the secretary of state and post on the county or municipal website the following information: the numbers of absentee ballots that have been issued, returned, and rejected.

On each business day of the advance voting period, the county board of registrars or absentee ballot clerk must report to the secretary of state and post on the county or municipal website the following information: the number of persons who have voted at advance voting sites in the county or municipality.

On each business day of the absentee voting period and for a period of three days following the election, the county board of registrars or absentee ballot clerk must report to the secretary of state and post on the county or municipal website the following information: the numbers of provisional ballots that have been voted, verified, cured and accepted for counting, and rejected.

#### Section 29:

Upon receipt of an absentee ballot, the registrar or clerk must compare the identifying information provided by the elector with the same information contained in the elector's voter registration records and verify that the elector's oath has been signed. If the elector did not sign the oath or their provided identifying information does not match the information in the elector's voter registration records, the ballot will be rejected and the elector will be given the opportunity to cure the problem that resulted in the rejection.

The election superintendent is authorized to process and scan verified and accepted absentee ballots beginning at 8:00 a.m. on the third Monday prior to the day of the primary, election, or runoff. It is prohibited, unless otherwise provided in Code, to tabulate or tally in any way the absentee ballot votes until the closing of the polls on the day of the election. At least seven days prior to processing and scanning the absentee ballots, the superintendent must provide written notice to the secretary of state as well as post the notice in the superintendent's office and on the county election

superintendent's website. The secretary of state must post the provided notice on the secretary of state's website as well.

The processing and scanning of absentee ballots must be open to the view of the public, but only the superintendent or their employee or designee is authorized to touch the ballots or ballot container. Anyone involved in processing or scanning absentee ballots must swear an oath before beginning the process.

Political parties have the right to designate persons to act as monitors to observe the absentee ballot processing and scanning. Such monitors are prohibited from the following: interfering with the process in any way; using or bringing into the room any type of recording device; engaging in campaigning; endangering the secrecy and security of the ballots; touching the ballots or ballot container; in any way tabulating the votes cast on the absentee ballots; communicating observed information about any ballot, vote, or selection to anyone other than an election official.

When requested by the superintendent, but not earlier than the third Monday prior to the election, a registrar or absentee ballot clerk must deliver the absentee ballots, rejected ballots, ballot applications, and the list of certified and rejected ballots to a designated location. At that location, the superintendent must ensure that the ballots are opened and tabulated.

The superintendent is required to ensure that absentee ballot returns are reported to the public as soon as possible following the closing of the polls on election day. Failure to do so subjects the superintendent to sanctions by the State Election Board and, under certain circumstances, review by an independent performance review board.

Section 30:

Authorizes the secretary of state to inspect and audit absentee ballot applications or envelopes at any time during the 24-month retention period.

Section 31:

Provides that poll hours at a precinct may only be extended by order of a superior court judge.

Section 32:

Requires poll watchers to complete training provided by the political party or body which they are representing.

Section 33:

Prohibits giving money or gifts, including food and drinks, to an elector within 150 feet of a polling place, within a polling place, or within 25 feet of a voter standing in line to vote. Permits poll officers to make available

unattended, self-service water receptacles for electors standing in line to vote.

Sections 34 and 35:

The provisional ballot of an elector voting in the wrong precinct will only be counted if the ballot was cast after 5:00 p.m. and the elector signed a sworn statement.

Section 36:

After polls have closed on election day, poll officials must report the following information to the election superintendent: the total number of ballots cast at the precinct and the total number of provisional ballots cast at the precinct. The chief manager and at least one assistance manager must immediately deliver ballots and election materials to the election superintendent or the counting and tabulating center. The election superintendent must ensure that all ballots are processed, counted, and tabulated as soon as possible and such counting and tabulation must not be stopped until all votes are counted. The superintendent must post the reported information publicly.

Requires the election superintendent, before 10:00 p.m. on election day, to report to the secretary of state, and post in a prominent location, specified information regarding the number of ballots cast on election day, the number of ballots cast during advance voting, and the number of returned absentee ballots. Once all votes have been counted, the previously reported totals must be compared with the total number of ballots cast and reported to the secretary of state.

Section 37:

Removes a provision allowing poll officers to stop canvassing the votes in order to resume the following day. Clarifies when votes for candidates who have died or been disqualified will or will not be counted.

Section 38:

Clarifies when votes for candidates who have died or been disqualified will or will not be counted.

Section 39:

Establishes the creation of duplication panels to prepare duplicate copies of ballots when necessary. The duplication panel must consist of an election superintendent, or their designee, and two other members, as specified based on the type of election.

Section 40:

Computation and canvassing of votes must take place following the close of the polls on election day.



Section 41:

The superintendent must publicly commence the computation and canvassing of returns after the close of the polls on election day and continue until all absentee ballots received by the close of the polls have been counted and tabulated.

Requires the secretary of state to create a pilot program for posting the digital images of scanned paper ballots.

Election returns must be certified by the superintendent by 5:00 p.m. on the Monday following election day.

Section 42:

When a runoff is necessary, it must be held on the 28th day after the general or special primary or general or special election.

Section 43:

Special primaries and special elections held at the same time as a general primary must be conducted using the same machines and facilities as the general primary, when possible. If a vacancy occurs in a partisan office to which the governor is authorized to appoint an individual to serve until the next general election, a special primary must precede the special election. The names of candidates on the ballot in a special primary must be listed alphabetically.

Section 44:

When applicable, the candidates and questions on the ballot for a special primary or special election must be included on the ballot for a general primary or general election, if the registration deadlines are the same for both elections.

Section 45:

In order to fill a vacancy for an unexpired term of a United States Senator a special primary must be held at the same time as the general primary, followed by a special election held at the same time as the general election.

Section 46:

A vacancy in the office of specified judges must be filled by the governor's appointment until a successor is duly elected.

Section 47:

Specifies that a person shall be guilty of a felony if they, without proper authorization, accept an absentee ballot from an elector for delivery or return to the board of registrars.

Section 48:

Makes it a felony for an unauthorized person to intentionally observe an elector while casting a ballot in order to see how the elector voted.

Makes it a misdemeanor to photograph or record a voted ballot.

Section 49:

If the decennial census results are published within 120 days of the next general or special municipal election, the reapportionment of municipal election districts shall be effective for any subsequent special or general municipal election.

Section 50:

When the State Election Board adopts an emergency rule relative to a state of emergency, the rule must be submitted to the General Assembly no later than 20 days prior to the rule taking effect. Any emergency rule adopted by the State Election Board may be suspended upon the majority vote of the Judiciary committees of the House of Representatives or Senate.

Section 51:

Requires scanned ballot images created by a voting system to be public records that are subject to disclosure.

- Discussion followed.
- The following amendments were offered:
  - AM 28 1848 by Chairman Barry Fleming
    - Adopted
  - AM 28 1847 by Chairman Barry Fleming
    - Adopted
  - AM 28 1853 by Representative Jan Jones
    - Adopted
  - AM 28 1855 by Representative Shaw Blackmon
    - Adopted
- Motion by: Rep. Buddy DeLoach
- Second by: Rep. Chuck Martin
  
- COMMITTEE ACTION: DO PASS BY COMMITTEE SUBSTITUTE

\*House Sponsor: Rep. Barry Fleming (121<sup>st</sup>)

## **Exhibit 22**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.  
vs.  
Brian Kemp et al.

Transcription of Audio File  
03-22-21\_HB 531\_Senate\_Ethics  
Audio Runtime: 1:05:48

RETRIEVED FROM DEMOCRACYDOCKET.COM

1 (Begin 14:32)

2 CHAIRMAN BURNS: Ethics Committee meeting this  
3 morning. It is March the 22nd if you would please  
4 join me for the invocation.

5 Well, this is going to be a stressful week and we  
6 need your guidance and your patience, and your wisdom  
7 as we deal with the challenges of important matters of  
8 our state and legislation, give us your -- your grace  
9 and your mercy in Christ's name, Amen.

10 Welcome. The Chairman notes the presence of a  
11 quorum. Grateful for our Senators who can be here  
12 this morning. We have a brief but very important  
13 agenda. We will begin this morning by addressing HB  
14 333. This is Chairman Estration's bill. He has  
15 already been kind enough to present the bill to the  
16 committee. We have taken public testimony. I need a  
17 motion to take HB 333 off the table.

18 SENATOR MILLER: So moved.

19 CHAIRMAN BURNS: Movement by Senator Miller.  
20 Second? Second, Senator Hatchett. Without objection,  
21 HB 333 is off the table. Does any Senator wish to  
22 speak to HB 333? Chair recognizes the Whip.

23 SENATOR GOOCH: At the appropriate time, I would  
24 like to make an amendment to HB 333.

25 CHAIRMAN BURNS: I see no objection to that. All

1 right. Any other discussion before we consider the  
2 amendment? Thank you. The Chair recognizes Majority  
3 Leader --

4 MALE VOICE: 533.

5 CHAIRMAN BURNS: Or excuse me, the President Pro  
6 Tem.

7 MALE VOICE: Or 333.

8 CHAIRMAN BURNS: My mic is --

9 MALE VOICE: The sponsor moved this so, on the  
10 amendment. I got a copy of this amendment.

11 SENATOR MILLER: And it's considered a friendly  
12 amendment.

13 SENATOR GOOCH: I don't -- I don't have a chance  
14 to run it through my channels yet. But I understand  
15 this is a late session. I understand it's the rule of  
16 the committee and so, I don't have any --

17 SENATOR MILLER: Mr. Whip, is this -- is this a  
18 friendly amendment. That's -- that's my bottom line  
19 here.

20 SENATOR GOOCH: I think it's friendly for the  
21 Georgian taxpayers, yes.

22 SENATOR MILLER: Okay.

23 SENATOR GOOCH: It's in the best but you would  
24 have to --

25 SENATOR MILLER: I'm anxious to hear it.

1 SENATOR GOOCH: All right. Thank you. Thank  
2 you.

3 SENATOR MILLER: I like my -- I like my sponsor  
4 and my amendment sponsor, so.

5 SENATOR GOOCH: You'll like it. There is --  
6 there is an amendment in your folder but it was an  
7 amendment to the -- to a substitute to HB 333. So I'm  
8 going to ask that we make three changes to the  
9 amendment that you have before you. They're very --

10 CHAIRMAN BURNS: All right. Is it correct? But  
11 we have HB 333 LC413111S that is the underlining bill,  
12 is that correct?

13 SENATOR GOOCH: Yes.

14 CHAIRMAN BURNS: Yes, and the substitute?

15 SENATOR GOOCH: The substitute is not a  
16 substitute.

17 CHAIRMAN BURNS: It's an amendment.

18 SENATOR GOOCH: It's an amendment.

19 CHAIRMAN BURNS: Amendment, excuse me.

20 SENATOR GOOCH: It's an amendment to HB 333 but  
21 you see it in your binder and that's where I'll go  
22 over with you at the present time.

23 CHAIRMAN BURNS: It is -- it is amendment number  
24 281836, is that correct?

25 SENATOR GOOCH: That's -- that is correct.

1 CHAIRMAN BURNS: Okay. It is a -- the Chair will  
2 entertain a motion for an amendment.

3 SENATOR GOOCH: Mr. Chairman, I move that we  
4 amend House Bill 333 with amendment AM281836.

5 CHAIRMAN BURNS: I need a second.

6 SENATOR ANAVITARTE: Second.

7 CHAIRMAN BURNS: Second from Senator Anavitarte.

8 We're now --

9 MALE VOICE: Is this for discussion?

10 CHAIRMAN BURNS: Yeah. No. We will have  
11 discussion now and then consider action.

12 SENATOR GOOCH: And I would like to make a couple  
13 of scrivener's changes if I could, corrections.

14 CHAIRMAN BURNS: Continue that -- yeah.

15 SENATOR GOOCH: Can I do that before we entertain  
16 the --

17 CHAIRMAN BURNS: Continue Mr. Whip.

18 SENATOR GOOCH: So on line one where it says  
19 amend the substitute, I would like to strike  
20 substitute, actually amend, you would strike the to,  
21 the substitute to so you would strike those three  
22 words. And then on down line one in lieu of account,  
23 strike accounts and write in complaints. And then on  
24 line 4 instead of line 7, everybody clear on line one,  
25 we're good there.



1 MALE VOICE: After line 1, we're already -- I'm  
2 sorry.

3 SENATOR GOOCH: After line 1, we're going to skip  
4 down the line 6 and we're going to replace line 218  
5 with line 209.

6 CHAIRMAN BURNS: Just -- let's -- for  
7 clarification, on line 1, it would -- it would read --

8 SENATOR GOOCH: Go ahead. You've got it.

9 CHAIR BURNS. -- amend HB 333 LC413111S by  
10 inserting after complaints in quotation marks on line  
11 4, is that correct?

12 SENATOR GOOCH: That is correct.

13 CHAIRMAN BURNS: All right. And now continue,  
14 please.

15 SENATOR GOOCH: And then on line 6, it would read  
16 action committee during a legislative session and  
17 inserting after line 201 the following. And then the  
18 language from lines 8 through 19 should remain the  
19 same.

20 CHAIRMAN BURNS: All right. Thank you.

21 SENATOR GOOCH: And if you want me to explain  
22 this, I'll be happy to.

23 CHAIRMAN BURNS: I would like for you to address  
24 the amendment.

25 SENATOR GOOCH: Sure.

1 CHAIRMAN BURNS: And then allow discussion from  
2 the committee and we'll certainly ask --

3 SENATOR GOOCH: So I think this -- this language  
4 simply closes some loopholes and it blocks any  
5 campaign contributions from being pledged or solicited  
6 while we are in legislative session. This would not  
7 allow any elected official whether they're statewide  
8 or in the general assembly from accepting  
9 contributions while we're in session through their  
10 campaign accounts which is already currently  
11 prohibited but any other PACs or affiliated  
12 organizations that they are affiliated with.

13 CHAIRMAN BURNS: Any questions for Senator  
14 Gooch's amendment? I'll recognize the author  
15 initially to respond if you choose to.

16 SENATOR STRICKLAND: Yeah. I don't -- I don't  
17 have any further response other than I think the  
18 Whip's goals and objectives here are, you know, it  
19 appears to be good policy, and so I don't have any  
20 objections as I stand here now.

21 As I said, the campaign finance laws are very  
22 technical. And so I just haven't vetted with the  
23 experts and the -- and the Georgia Ethics Commission  
24 whose bill lost carrying and this, you know, who's --  
25 who's asked me to carry the legislation that I brought

1 here. But I don't have any objection as I stand here  
2 now, Mr. Chairman.

3 CHAIRMAN BURNS: Thank you, Mr. Chairman. Chair  
4 recognizes the Minority Leader for a question.

5 SENATOR BUTLER: Thank you, Mr. Chairman. I just  
6 want to ask Senator Gooch, isn't this your Section  
7 9(a).

8 SENATOR GOOCH: Yes.

9 SENATOR BUTLER: Isn't that already in the law?  
10 What's different about this amendment?

11 SENATOR GOOCH: So if you look at the language in  
12 15, no political action committee which is affiliated  
13 with or which coordinates with a member of the general  
14 assembly or such members campaign committee or is  
15 affiliated with or coordinates with the public officer  
16 elected statewide, or such public officers campaign  
17 committee shall seek or accept the contribution or a  
18 pledge of a contribution to such political action  
19 committee during a legislative session.

20 So I do not believe that current law would do  
21 what this provision will do. I believe there are not  
22 necessarily unintentional consequences, but I believe  
23 under current law, there are PACs that exist that can  
24 accept contributions by members who are already in  
25 public office today.

1 SENATOR BUTLER: Okay. I just thought that was  
2 already --

3 SENATOR GOOCH: No ma'am. I think you'll find  
4 that this closes that loop -- that loophole that we've  
5 discussed in the past.

6 CHAIRMAN BURNS: Other questions or discussion?

7 SENATOR GOOCH: Chairman Burns may I offer a --  
8 to the Chairman behind me --

9 CHAIRMAN BURNS: Certainly.

10 SENATOR GOOCH: -- that we will work with him  
11 when it gets back over to the House, they'll have to  
12 either agree or amend the bill. So if he finds that  
13 there is a problem with what our ledge counsel has  
14 drafted here then they will have an opportunity to  
15 correct it even further, so. I'd be open for  
16 questions.

17 CHAIRMAN BURNS: Thank you. Thank you for your  
18 willingness to work with the -- our friends from the  
19 House --

20 SENATOR GOOCH: Yes, sir. I appreciate him.

21 CHAIRMAN BURNS: -- judiciary committee. Other  
22 comments? Hearing none, the Chair will entertain a  
23 motion to recommend do-pass by substitute by Senate --  
24 Committee Substitute as amended.

25 SENATOR ROBERTSON: May I have that motion, Mr.

1 Chair.

2 CHAIRMAN BURNS: Senator Robertson makes the  
3 motion. Is there a second? Senator Anavitarte.  
4 Those in favor of the motion recommend HB 333 do pass  
5 by substitute indicate with the uplifted hand. Those  
6 opposed similar, one -- one. Thank you very much.  
7 Thank you, Chairman Efstration. We appreciate your  
8 help. We look forward to continuing our work  
9 together.

10 Okay, very good. We're -- we're now ready to  
11 consider HB 531 which is the House proposed  
12 legislation that was on the table from last week. I  
13 need a motion to remove HB 531 from the table.

14 SENATOR MILLER: So moved.

15 CHAIRMAN BURNS: So moved from the President Pro  
16 Tem. Second.

17 SENATOR ANAVITARTE: Second.

18 CHAIRMAN BURNS: Second, Senator Anavitarte.  
19 Without objection, 531 is now on the table. The Chair  
20 will now entertain the member for a potential  
21 substitute.

22 SENATOR DUGAN: Thank you, Mr. Chair. You may  
23 notice I'm looking at LC2803310 is --

24 CHAIRMAN BURNS: Let me see that. Just make sure  
25 everyone has the exact correct substitute for House

1 Bill 531.

2 SENATOR DUGAN: The white copy.

3 CHAIRMAN BURNS: It's the white copy. It should  
4 be behind your -- the pink copy which was LC280264S.  
5 So that's correct.

6 So we are now considering from the Majority  
7 Leader LC280331S.

8 SENATOR DUGAN: Thank you, Mr. Chair. You may  
9 notice there are a significant changes between --

10 CHAIRMAN BURNS: We have motion to submit the  
11 substitute for -- so move.

12 SENATOR DUGAN: Second.

13 CHAIRMAN BURNS: Second without objection. Now  
14 we just got that housekeeping cleaned up. We're  
15 ready.

16 SENATOR DUGAN: Okay. There are significant  
17 changes between 531 and the substitute you see in  
18 front of you. To give you the short version of it,  
19 this 531 now looks a lot like SB241 without the excuse  
20 provisions in the mail and absentees in there that  
21 seemed to cause consternation as 241 was moving  
22 through.

23 There are some other slight change and I would  
24 like to recommend further changes if possible on Line  
25 21 or page 21. I'm looking at Line 530. The way that

1 technically reads as you have two options and I would  
2 like first to at least consider or have the  
3 conversation at -- beginning at if looking at no later  
4 than 9:00 a.m. and ending no earlier than 5:00 and  
5 then down further with the advance voting on 533  
6 change from no earlier than 7:00 a.m. until no later  
7 than 7:00 p.m. That gives the counties some  
8 flexibility -- that window of time in there to get  
9 this started.

10 I could argue that both ways. It could be  
11 confusing to the voters if they do not have a -- a  
12 previously established time or it gives the county  
13 some flexibility to work. Let's -- let's say they  
14 wanted to go 8:00 to 5:00 instead of 9:00 to 5:00.  
15 But I'm open to -- I'm throwing that out to the body  
16 here to see what the thoughts are from the committee.

17 CHAIRMAN BURNS: So with your adjust --

18 SENATOR DUGAN: 530 and 533.

19 CHAIRMAN BURNS: 530 and 533, it would read --  
20 530 read Saturday prior to primary or election no  
21 later.

22 SENATOR DUGAN: Than 9:00 a.m. and --

23 CHAIRMAN BURNS: So that 9:00 a.m.

24 SENATOR DUGAN: And ending no earlier than 5:00.

25 And then down at 533, no earlier than 7:00 a.m. and no

1 and, they're locked in there for two Saturdays.

2 SENATOR ROBERTSON: And this, they're drawing  
3 funds from other parts of their municipal budget to  
4 pay for this, so that's my concern, yes.

5 SENATOR DUGAN: That's correct. Um-hum.

6 CHAIRMAN BURNS: The Chair recognizes Minority  
7 Leader.

8 SENATOR BUTLER: So if I'm not further confused,  
9 Counties like the DeKalb and Gwyneth wished they had  
10 that kind of problem where people are just sitting  
11 around doing nothing. So I think that if you -- if  
12 you do the 12 hours and that the counties to that  
13 would be a better option for -- as the Chairman  
14 suggestion.

15 CHAIRMAN BURNS: Other comments on Senate  
16 Substitute to House Bill 531. Any other questions or  
17 comments for the Majority Leader? This is a -- sorry.  
18 Sorry. Chair recognizes Senator Burke.

19 SENATOR BURKE: Thank you, Mr. Chairman. I'm  
20 just curious as to the posturing. I mean I'd be glad  
21 to either second Leader Dugan's amendment there or  
22 make it myself. But I wasn't sure if we were doing  
23 that at this point or not so.

24 CHAIRMAN BURNS: And thank you. There's a --  
25 there was an amendment to his substitute and Leader



1 Dugan, do you make that a form of an amendment?

2 SENATOR DUGAN: I do.

3 CHAIRMAN BURNS: Thank you and then as a -- a  
4 second from Senator Burke. A question from --

5 SENATOR BUTLER: So we're not amending this bill  
6 today. He's just asking for suggestions. Is that --

7 CHAIRMAN BURNS: We're just amending the  
8 substitute but we're not taking action on the  
9 underlining substitute. No, ma'am.

10 SENATOR BUTLER: Okay.

11 CHAIRMAN BURNS: So we're trying to clarify this,  
12 a limited language, I believe it's in 5 -- 530, 533,  
13 517, 522, is that -- is that correct? So we're  
14 replacing just the -- the language with -- from  
15 removing beginning and putting in no later than and  
16 removing ending and putting in no earlier than.

17 SENATOR DUGAN: That's -- that's --

18 CHAIRMAN BURNS: Is that's correct? Sorry.

19 SENATOR DUGAN: That's correct.

20 CHAIRMAN BURNS: So and it occurs and from -- so  
21 what we're doing now is just adjusting this  
22 substitute. We're not acting on the substitute.  
23 We're just amending the substitute.

24 SENATOR DUGAN: Well, we come time to vote on  
25 this what I'd rather is have had the discussion here

1 in the committee and talk this all the way through.

2 CHAIRMAN BURNS: Yes. Good.

3 SENATOR DUGAN: Before that -- so everybody knows  
4 completely what we're talking about and how we got to  
5 where we are.

6 CHAIRMAN BURNS: I appreciate the leader's  
7 flexibility. We were having a discussion this  
8 morning. And the input and discussion, I'd ask the  
9 leader to take it back and make appropriate  
10 adjustments. And then perhaps we can make -- bring it  
11 up again in the morning at 8 o'clock with any  
12 adjustments that were made. So these were friendly  
13 discussions, is that fair, Mr. Leader?

14 SENATOR DUGAN: So far.

15 CHAIRMAN BURNS: And let's -- let's continue to  
16 that. So we won't take -- let's -- if it's okay,  
17 we'll table a formal amendment to this. We'll let you  
18 continue to take input and make adjustments.

19 SENATOR DUGAN: Okay. I got it. And the only  
20 other difference in this one that -- that I would like  
21 to point out, it's in Section 29 which is on Page 37.  
22 That's -- the serial number addition on the ballot.  
23 What I have noticed is there is one other state that I  
24 know of right now that has the serial number on the  
25 ballots, it's California.

1 CHAIRMAN BURNS: California. That's interesting.

2 So there is a -- this bill would allow for the  
3 serialization, the original ballot, is that correct?

4 SENATOR DUGAN: That's correct.

5 CHAIRMAN BURNS: But it would not tie the ballot  
6 to the vote.

7 SENATOR DUGAN: It does not tie the ballot to the  
8 voter.

9 CHAIRMAN BURNS: Thank you.

10 SENATOR DUGAN: And they've been using it, I  
11 think now for over 10 years.

12 CHAIRMAN BURNS: Very good. Other comments or  
13 questions? Okay. Hearing none, we will -- we will  
14 accept public input on House Bill 531 to substitute  
15 LC28331.

16 SENATOR DUGAN: Mr. Chair.

17 CHAIRMAN BURNS: Yes, I'm sorry.

18 SENATOR DUGAN: The Minority Leader.

19 CHAIRMAN BURNS: Minority Leader. The Chair  
20 recognizes Minority Leader.

21 SENATOR BUTLER: Mr. Chairman, I actually have an  
22 amendment.

23 CHAIRMAN BURNS: Okay.

24 SENATOR BUTLER: To the -- it's -- let me find  
25 this page and section. I can't find it. It's on a

1 page -- I can't find it yet, 19 --

2 MALE VOICE: What's the section? I can help you.

3 SENATOR BUTLER: 19.

4 MALE VOICE: 19?

5 SENATOR BUTLER: Um-hum. From page 16 and 17.

6 It's going to be a minute. If you move section or add  
7 a Section 19(a), it would remove Line 386 through 416,  
8 on drop boxes.

9 MALE VOICE: I'm sorry. Where are we at?

10 CHAIRMAN BURNS: We are looking at page 16 --

11 SENATOR BUTLER: On page 16, page 16, and 17. It  
12 would take us back to the original way we handle the  
13 drop boxes which worked well for the voters.

14 CHAIRMAN BURNS: Do you -- do you have that in a  
15 form?

16 SENATOR BUTLER: I do.

17 CHAIRMAN BURNS: Good. If you would distribute  
18 that so we can all have the same information.

19 SENATOR BUTLER: Oh, wait a minute. The top --  
20 the original, one, two. You'll find them, one and two  
21 on top, the top two, okay.

22 MALE VOICE: Will you distribute this.

23 CHAIRMAN BURNS: Thank you.

24 MALE VOICE: Thank you, sir.

25 CHAIRMAN BURNS: All right. We have an

1 amendment. Now, this is a substantial adjustment.  
2 But I believe I have a motion from the Minority  
3 Leader. I need a second for discussion. I have a  
4 second to the amendment. I have a second from Senator  
5 Harrell. Thank you.

6 The Chair -- Chair recognizes the Majority  
7 Leader.

8 SENATOR DUGAN: Thank you, Mr. Chair. I'm  
9 assuming that the Minority Leader knows that since  
10 that was the drop boxes in the last election cycle  
11 were put in by emergency order and they are not  
12 codified under law that 120 days after the emergency  
13 order is done, there is no provision for drop boxes in  
14 Georgia Code and they would all be removed.

15 SENATOR BUTLER: And that's why I'm offering the  
16 amendment to go in -- in the law. I know that it was  
17 an emergency.

18 SENATOR DUGAN: But by striking the language  
19 that's in here which does codify their use, you would  
20 kill them.

21 SENATOR BUTLER: This adds the language that's in  
22 -- not the language that's in the bill but it -- it  
23 substitutes the language.

24 SENATOR DUGAN: So you're looking for drop boxes  
25 everywhere? Okay.

1 CHAIRMAN BURNS: Further discussion on Minority  
2 Leader's amendment AM281841. Further discussion.

3 SENATOR ROBERTSON: Mr. Chair.

4 CHAIRMAN BURNS: The Chair recognizes the senator  
5 from 29.

6 SENATOR ROBERTSON: I guess to -- to ask the same  
7 question that the Majority Leader -- Minority Leader,  
8 I -- on -- on Line 7 is, your intention is they can,  
9 one or as many as they want as a means for absentee  
10 mail elector's to deliver their ballots to registrars,  
11 is that correct?

12 SENATOR BUTLER: I'm sure that the counties would  
13 have as many drop boxes as they can afford to have  
14 them.

15 SENATOR ROBERTSON: Absolutely.

16 SENATOR BUTLER: I know they wouldn't have from  
17 one to ten but they would have --

18 SENATOR ROBERTSON: Yes ma'am.

19 SENATOR BUTLER: They would have drop boxes that  
20 they can afford to have.

21 SENATOR ROBERTSON: And that would be entirely up  
22 to the registrar to do that. Thank you, ma'am.

23 SENATOR BUTLER: Okay.

24 CHAIRMAN BURNS: Other -- other questions,  
25 comments? Hearing none, I'll call the question.

1 Those who are in favor of Amendment 281841 indicate  
2 with the uplifted hand. Those opposed by same sign,  
3 two for, four against. The amendment fails for -- for  
4 this request. Are there other comments or questions  
5 before we accept witness input? Hearing none, we'll  
6 move to accepting input from various organizations.

7 If you would please limit your comments to three  
8 minutes, we -- we got a fairly shortlist this morning.  
9 If you would identify yourself and your organization  
10 and indicate whether you are in favor or opposed to  
11 this legislation. The Chair recognizes Todd Edwards,  
12 Mr. Edwards.

13 MR. EDWARDS: Thank you, Mr. Chairman, Members of  
14 the Committee. I'm Todd Edwards. I'm with the  
15 Association County Commissioners of Georgia. In the  
16 interest of keeping it within three minutes, I'm going  
17 to go relatively quickly through these concerns.  
18 We're neither for nor against. There are some  
19 provisions we'd like your consideration and further  
20 enhancing.

21 A couple of things that this bill does remove  
22 from the original legislation is establishing a  
23 deadline by which absentee ballot applications can be  
24 received currently as the Friday before the election.  
25 The legislation had 11 days before the election, this

1 strikes that out.

2 Second, the bill originally had authorized  
3 counties to reduce the 1 for 250 ratio. That's one  
4 machine per 250 electors during non-general elections.  
5 That would have save counties a lot of time in the  
6 administration. That we would like to see that  
7 reinstated in the bill, please. And then other -- or  
8 otherwise the -- the old bill authorized county  
9 election workers or poll workers to serve outside of a  
10 county in which they live or work. We do appreciate  
11 that. That was one of our agenda items that was also  
12 removed from the bill.

13 The language on under -- going through the bill  
14 now, Section 3, underperforming elections  
15 superintendents, the removal, that language has gotten  
16 much better. Obviously, depending on what version  
17 ends up on signing that or the last day, we're  
18 concerned about what it might cost the county if we  
19 have to pay two superintendents at once. Again, this  
20 language is better than what we're originally seeing,  
21 and also legal fees in case they hire an attorney.

22 The way I still read this bill in Section 6, it  
23 requires the counties to have mobile voting units  
24 because you remove the language at the discretion.  
25 The way I and our attorneys read it is they have to



1 have them. And then if needed is when they have to  
2 deploy them. We'd like to see that language change  
3 please to not require this, particularly for the  
4 smaller counties.

5 Any time that -- so under Section 13, the  
6 encrypted ballot paper, we haven't -- don't have the  
7 exact cost but currently, counties pay 13 cents for a  
8 piece of paper for ballots. We have reason to  
9 believe, and I think it was given in testimony by the  
10 sponsor of the original bill, this would more than  
11 double that cost. It would have a large impact on our  
12 smaller counties.

13 We feel that if the state feels that these  
14 measures are necessary, we'd very much appreciate the  
15 state paying for this paper.

16 On absentee ballot drop boxes, ACCG does support  
17 them. Currently, in this bill, it leaves it to  
18 counties as an option. We appreciate that. If it  
19 were up to the will of this committee and the general  
20 assembly to allow greater flexibility to place some of  
21 them outside, we would certainly appreciate your  
22 consideration in that regard.

23 This bill does add an additional in Section 21  
24 early voting Saturday and not only does that adds an  
25 additional day for early voting for Georgia's counties

1 to pay for, it takes away the language in the bill  
2 that set -- that required only the Saturday voting for  
3 state and federal elections. So this would be all  
4 elections including a special election for a primary.  
5 As you know, it -- it -- all elections in  
6 municipalities, I don't -- I'm not sure if they're  
7 aware of this language. But I believe they would be  
8 concerned as well.

9 We'd appreciate not adding the second Saturday.  
10 And if you do, then removing that it doesn't have to  
11 be for all elections but only pertain to Federal and  
12 State elections. There's various provisions  
13 throughout that bill and I'm about to sum it up, Mr.  
14 Chairman.

15 In Section 21, that requires notifications,  
16 timely notifications be published on a county website.  
17 Our smaller counties, many of them don't have  
18 websites, and if they do, they're static. They may be  
19 run through the local Chamber Of Commerce. We would -  
20 - someone might say, well let's go to the legal organ.  
21 Well, oftentimes they're biweekly and you can't get  
22 anything timely. They're unreliable and that adds  
23 additional cost.

24 We respectfully suggest that counties that don't  
25 have websites have the option to provide it to the

1 CHAIRMAN BURNS: If we can get a good reference  
2 on this section. Mr. Leader, do you have a --

3 SENATOR DUGAN: I don't have anything like that  
4 on the bill.

5 SENATOR BUTLER: Section 19.

6 CHAIRMAN BURNS: Section 19. Just look carefully  
7 at Section 19 and see if address -- anything is  
8 addressed there.

9 MALE VOICE: Page 15.

10 CHAIRMAN BURNS: Page 15, Section 19.

11 MR. JOACHIN: If not I can -- I can still  
12 continue with --

13 CHAIRMAN BURNS: Thank you.

14 MR. JOACHIN: Okay.

15 CHAIRMAN BURNS: Continue with your input and  
16 we'll -- we'll try to identify the correct area within  
17 the legislation.

18 MR. JOACHIN: Okay.

19 SENATOR DUGAN: It's not in there.

20 CHAIRMAN BURNS: Not in there? Thank you.

21 MR. JOACHIN: So it says that the determinant for  
22 the amount of drop box location is the lesser either  
23 100,000 voters per county. Cobb County active voters  
24 were almost 400,000 voters. So that -- is that's for  
25 drop box locations. The other -- the other option of

1 -- the other determinant is the amount of advance  
2 polling locations. Cobb County had nine. So does  
3 that mean that there will be only four drop boxes in  
4 the entire county because that's the lesser -- that  
5 the lesser determinant to figure out how many drop  
6 boxes there will be in the county? I think that the  
7 pandemic allowed us to see what community members  
8 needed, what working-class voters needed, and I just  
9 think that this is a bad idea. And I just ask that  
10 you vote no on HB 531.

11 CHAIRMAN BURNS: Okay. Just a point of  
12 clarification. Mr. Leader.

13 SENATOR DUGAN: Mr. Chair, I agree with him too  
14 that I think it's not a good idea that's why it's not  
15 in here. But I would be willing to look at if the  
16 pandemic has continued or the State of Emergency is --  
17 is still going, the emergency order would still apply  
18 and the drop boxes could be external to the bill. Mr.  
19 Chair, I hate to do this. You're about to lose a  
20 quorum.

21 CHAIRMAN BURNS: You're correct. You're very  
22 correct. We have one more witness. We have one more  
23 witness. We can continue accepting testimony without  
24 a quorum because we'll be taking no action on this  
25 bill. It's one of those challenging days.

1 I would say that I would -- I would direct your  
2 attention to the House substitute to SB 202 because I  
3 think you all find some language in their bill that  
4 might -- might correspond where you are.

5 MR. JOACHIN: Where can the substitutes be found  
6 for the public?

7 CHAIRMAN BURNS: If they -- if -- we have the  
8 substitutes here. If they have not been acted on, you  
9 will need to contact the Chair of that committee and  
10 we'll happy to provide you an electronic copy or a  
11 physical copy.

12 MR. JOACHIN: Thank you.

13 CHAIRMAN BURNS: I do understand the number of  
14 meetings or -- or proceeding. We have one more  
15 witness that I'd like to accept. Thank you.

16 MR. JOACHIN: Thank you --

17 SENATOR DUGAN: Thank you.

18 CHAIRMAN BURNS: -- Mr. Joachin. Joachin, am I  
19 getting closer?

20 MR. JOACHIN: Yes.

21 CHAIRMAN BURNS: Thank you. I'm getting closer.  
22 Joachin. Ms. Battles, Cindy Battles, we look forward  
23 to your input. Thank you. And the leader has left --  
24 has left the room. That gives us an opportunity to  
25 discuss -- discuss this more, you know. No, no, no.

## **Exhibit 23**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.

vs.

Brian Kemp et al.

Transcription of Audio File

03-23-21\_HB 531\_Senate\_Ethics

Audio Runtime: 29:27

RETRIEVED FROM DEMOCRACYDOCKET.COM

1 (Begin 32:55)

2 CHAIRMAN BURNS: It is Tuesday, February 23rd,  
3 and this is the Senate Committee on Ethics. The  
4 Chairman notes the presence of a quorum. I'd like to  
5 ask Senator Hatchett to open us with an invocation.

6 SENATOR HATCHETT: Thank you, Mr. Chairman. Let  
7 us pray. Heavenly Father, we thank you for waking us  
8 up once again and -- and bringing us to this place  
9 where we can do your work. Please continue to lead us  
10 and give us wisdom and please watch over our families  
11 and our constituents back home. In Jesus' name, I  
12 pray, Amen.

13 CHAIRMAN BURNS: Amen. Thank you. We have one  
14 agenda item this morning. It is HB 531 substitute. I  
15 need a motion to take it off the table.

16 MALE VOICE: Motion.

17 CHAIRMAN BURNS: I have a motion, a second.

18 MALE VOICE: Second.

19 CHAIRMAN BURNS: Without objection HB 531  
20 substitute. This is LC280331S. We have already heard  
21 from the author. We have taken a number of questions  
22 from the committee and we have received input from  
23 multiple constituent groups and witnesses.

24 So this morning, we want to open it up for our  
25 further discussion and action by the committee. Does



1 any committee member wish to speak to HB 531? The  
2 Chair recognizes the senator from the 50th.

3 SENATOR HATCHETT: Mr. Chairman, I propose to  
4 make an amendment to LC280331S and I ask and I've  
5 provided that amendment. And when everyone gets the  
6 copies, I'm happy to speak to the amendment if it  
7 pleases the Chair.

8 CHAIRMAN BURNS: We'll wait for the distribution  
9 and we'll ask you to proceed with your amendment.  
10 Thank you. Senator Hatchett?

11 SENATOR HATCHETT: Thank you, Mr. Chairman. This  
12 amendment will allow counties who no longer wish to  
13 use a state-provided voting system to buy -- purchase  
14 their own voting machine systems, so long as they meet  
15 a certain minimum requirements which are set by the  
16 State Election Board and certified by the Secretary of  
17 State. And if there are any questions, I'm happy to  
18 entertain.

19 Oh, additionally, it requires that any voting  
20 system that is certified by the Secretary of State has  
21 a verifiable paper trail, meaning a paper ballot that  
22 is printed after completion on an elect -- electronic  
23 machine.

24 CHAIRMAN BURNS: I'll allow the committee a few  
25 minutes to review the amendment before we entertain

1 questions.

2 Are there questions from the committee? The Chair  
3 recognizes the senator from the 29th.

4 SENATOR ROBERTSON: Thank you, Mr. Chairman. I'd  
5 like to ask the floor leader if on line 101 --

6 CHAIRMAN BURNS: Point of order -- excuse just a  
7 second. You made an amendment, is that correct,  
8 Senator Hatchett?

9 SENATOR HATCHETT: That was a motion.

10 CHAIRMAN BURNS: I need -- was that a motion?

11 MALE VOICE: I move to amend.

12 CHAIRMAN BURNS: To amend, I need a second.

13 Second from Senator Robertson, for clarification. Now  
14 for discussion, yes. Thank you.

15 SENATOR ROBERTSON: Thank you, Mr. Chair.

16 Senator, on line 101. See, it says voting machines of  
17 different kinds may be used for different precincts in  
18 the same municipality, the way this is a -- way this  
19 is here, I'm making an assumption. This is current  
20 Georgia Law.

21 SENATOR HATCHETT: Yes.

22 SENATOR ROBERTSON: Do we have any examples or  
23 are you aware of any examples where municipalities are  
24 using different kinds of machines at different  
25 precincts?

1 municipalities to proceed with their elections if the  
2 census is delayed. Any further discussion?

3 MALE VOICE: Mr. Chair.

4 CHAIRMAN BURNS: The Chair recognizes the Senator  
5 from 29th.

6 SENATOR ROBERTSON: Is this -- is this correct  
7 format forthcoming?

8 MALE VOICE: Yes.

9 CHAIRMAN BURNS: Yes.

10 SENATOR ROBERTSON: Within the next few minutes?

11 CHAIRMAN BURNS: That is our intent.

12 SENATOR ROBERTSON: Okay. I would -- I would ask  
13 that we -- to do this right, that we wait until that's  
14 here for us to look at it and for anybody that may  
15 have any issues or concerns about formatting of  
16 placing it in there before we move forward on this.

17 CHAIRMAN BURNS: Without objection, we'll --  
18 we'll just stand at ease for five minutes.

19 SENATOR ROBERTSON: Thank you, sir.

20 CHAIRMAN BURNS: Go get that.

21 (BREAK)

22 CHAIRMAN BURNS: You now have in front of you a  
23 proposed Amendment 281864. Motion by the leader,  
24 second by Pro Tem. Is there a further discussion on  
25 this amendment? Hearing no further questions, the

1 Chair calls for vote. Those in favor of Amendment  
2 281864 in the case with the uplifted hand.

3 MALE VOICE: 1, 2, 3, 4, 5, 6, 7, 8, 9, Nine.

4 CHAIRMAN BURNS: Nine. And those opposed, same  
5 sign?

6 MALE VOICE: Zero.

7 CHAIRMAN BURNS: Zero. Thank you. Oh, sorry.  
8 One.

9 MALE VOICE: One.

10 CHAIRMAN BURNS: One. Thank you. Motion  
11 carries. The Chair recognizes the minority leader for  
12 a question.

13 FEMALE VOICE: Mr. Chairman, are we adding these  
14 amendments to the -- this copy in -- in the book, 531?

15 MALE VOICE: The committee substitute.

16 CHAIRMAN BURNS: The committee substitute for  
17 House Bill 531, that's LC280331S.

18 MALE VOICE: Yeah.

19 FEMALE VOICE: And so we don't have a new sub  
20 though?

21 CHAIRMAN BURNS: Not -- not at this time. The  
22 committee -- the committee has now adopted two  
23 amendments. We will encapsulate those amendments into  
24 this document and provide a committee substitute if  
25 it's the will of the committee. Any further

1 questions? The -- the Chair recognizes the leader.

2 SENATOR DUGAN: Thank you, Mr. Chair. If we can  
3 go to page 5 Section 6, line 98 and 99. Although I  
4 disagree in principle with our friends from ACCG, I  
5 have no problem with reinserting the struck language  
6 on 98 and 99 and striking being responsible for  
7 procuring and providing. Just take it back to what it  
8 was before because we covered in the rest of the -- we  
9 covered that process in the rest of the -- of the  
10 bill. But if that's --

11 CHAIRMAN BURNS: Sure. Your recommendation is  
12 that on line 98, it would now read the superintendent  
13 of a county or the governing authority of the  
14 municipality shall have the discretion to procure and  
15 provide; is that correct?

16 SENATOR DUGAN: Right. And then strike the  
17 underlining section right there.

18 CHAIRMAN BURNS: Yeah. To be responsible for  
19 procedure and procuring. That's a form of a motion,  
20 Mr. Leader?

21 SENATOR DUGAN: It is.

22 CHAIRMAN BURNS: I need a second. Second from  
23 Senator Robertson. Is there a discussion on the  
24 proposed amendment? Hearing none. Those in favor of  
25 changing lines 98 and 99 as specified indicate with

1 the uplifted hand. Seven.

2 MALE VOICE: 1, 2, 3, 4, 5, 6, 7.

3 CHAIRMAN BURNS: Seven and those opposed, please?

4 Same sign.

5 MALE VOICE: Three.

6 CHAIRMAN BURNS: Thank you. The amendment is

7 agreed to.

8 MALE VOICE: From what the law is right now. You

9 just voted against the law right now.

10 CHAIRMAN BURNS: Are there further comments or

11 discussions on HB 531? Senator Harrell?

12 SENATOR HARRELL: Yes. Thank you, Mr. Chairman.

13 I would like to make a kind of a closing statement

14 about the bill.

15 CHAIRMAN BURNS: Certainly.

16 SENATOR HARRELL: Because it is my opinion that

17 the bill, the committee is voting on this morning is

18 not yet ready to move forward. Due to the pandemic,

19 it really hasn't been well vetted by the community

20 because there are a lot of people who would have

21 commented about this bill who couldn't come and

22 comment.

23 In my opinion, it's a reactionary piece of

24 legislation because many people across Georgia were

25 actually shocked by November's election outcome. But

1 UGA Professor Charles Bullock has been telling us as  
2 legislators for the last several years at our biannual  
3 training that Georgia's electorate has gradually been  
4 voting more and more for democratic candidates. So  
5 last November's election fit perfectly on the slope of  
6 -- of the line presented in Dr. Bullock's graphs. So  
7 it really shouldn't have been a surprise to us.

8 I'd like to acknowledge that the majority leader  
9 did do substantial research on national voting laws  
10 before bringing pieces of this bill and other bills  
11 forward. But it's -- the hard part of that is forcing  
12 all these national laws from all over the country to  
13 fit Georgia's unique election system made up of so  
14 many counties. Some of them very small and rural, and  
15 some huge and urban.

16 So the bill we have -- we have before us today,  
17 in my opinion, isn't even close to finished yet. As  
18 it is rolled out for the November 2021 elections, I  
19 fear that it will bring with it unintended  
20 consequences and undue expenses for local governments.  
21 For instance, this bill requires that all 159  
22 counties, large and small, purchase a mobile polling  
23 unit. Ballots must be printed on pricy security paper  
24 that must be compatible with our recently purchased  
25 scanners.

1           The AJ -- the AG's office must deploy and staff a  
2 fraud hotline and we haven't heard from anybody from  
3 the AG's office yet. There are many mandates being  
4 put on local election offices regarding counting,  
5 storing, and reporting numbers by certain deadlines,  
6 and we've only heard from a few of these election  
7 officers and supervisors to find out if these  
8 deadlines are feasible.

9           And as the new election law rolls out, the  
10 legislation criminalizes simple mistakes that can be  
11 made by election staff and anyone who help someone  
12 fill out a ballot, with felony convictions that can  
13 ruin somebody's life for good.

14           Finally, as most of the voting bills this session  
15 have done, elements of the bill before us do make  
16 voting harder. Requiring a photo ID for voters who  
17 don't have a driver's license is akin, really to me,  
18 to a poll test for many who will be a challenge to  
19 find access to a camera or photocopier and challenged  
20 to figure out digital downloads and uploads.

21           The authors of this bill have forgotten the  
22 purpose of showing a photo ID while voting in person.  
23 It is so the poll worker can look at the photo on the  
24 ID then look at the real person standing in front of  
25 them to make sure the two match. This cannot be done



1 position that the ballot marking devices were not the  
2 reason that the election results were the way they  
3 were in November nor in the runoffs. I explained to  
4 him my reasoning as to why I felt the party that won,  
5 won and the party that lost, lost.

6 I based everything on motive, means, and  
7 opportunity and I based everything on the real  
8 evidence into a certain degree circumstantial  
9 evidence.

10 I thank myself in seeing the example of Senator  
11 Dugan, our leader, in the forum that he and I were in  
12 where we were in a room at the beginning. I would --  
13 I would say they were not necessarily friendly. But  
14 by the end of the hour and a half long discussion,  
15 with sensible people using respectful and honest  
16 language, we were able to -- to get our point across  
17 and convince the vast majority of them that -- that  
18 what we said was actually the truth.

19 The rhetoric that continues to be spoken is done  
20 for no other reason but to send the false narrative  
21 out into the community. We have been completely  
22 honest and forthright through this entire process.  
23 And by those of us who have stood up and spoke the  
24 truth and showing that our only intent, and if you  
25 look at this legislation as to what it corrects and to

1 what those in the media and those who hope to gain  
2 soapbox status, try to get by claiming it's something  
3 else to use the leader's word is unfortunate.

4 I want to thank everybody on this committee,  
5 Democrats and Republicans alike for being able to sit  
6 here, have honest conversations, and put an effort  
7 into finding something that every Georgian, when they  
8 go and vote will feel comfortable with knowing that  
9 the process is transparent, honest, and fair, and  
10 thank you, Mr. Chair for your hard work, for keeping  
11 us on track, for being professional, and for setting  
12 the example. Thank you.

13 CHAIRMAN BURNS: Are there other comments from  
14 the committee? Hearing none, I call the question on  
15 LC280331S, that's the Senate Substitute to House Bill  
16 531 as amended by Amendment 281856 and Amendment  
17 281864, and changes to lines 98 and 99. Those in  
18 favor of adopting -- recommending do-pass but  
19 committee substitute LC280331S indicate with the  
20 uplifted hand. Hold them for a second, please?

21 MALE VOICE: Seven.

22 CHAIRMAN BURNS: Those opposed, similar sign.

23 MALE VOICE: Four.

24 CHAIRMAN BURNS: The motion carries. The  
25 committee is recommended do-pass on LC280331S as

1 amended. Thank you, ladies and gentlemen. This  
2 concludes our meeting for this morning. Meeting is  
3 adjourned.

4 (End of audio recording.)

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## **Exhibit 24**

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Georgia

HOUSE OF REPRESENTATIVES

Monday  
March 22,  
2021

# DAILY REPORT

36th  
Legislative  
Day

House Budget & Research Office  
(404) 656-5050

- The House will reconvene for its 37th Legislative Day on Tuesday, March 23 at 10:00 a.m.
- The Rules Committee will meet at 9:00 a.m.
- Eight bills / resolutions are expected to be debated on the floor.

## Today on the Floor

### Rules Calendar

#### **HB 745 Washington County; Board of Education; provide nonpartisan elections for members**

**Bill Summary:** House Bill 745 provides for non-partisan elections for the Washington County Board of Education.

<b>Authored By:</b>	Rep. Mack Jackson (128th)	<b>Rule Applied:</b>	Structured
<b>House Committee:</b>	Intragovernmental Coordination	<b>Committee Action:</b>	03-16-2021 Do Pass
<b>Floor Vote:</b>	Yeas: 149 Nays: 9	<b>Amendments:</b>	

#### **SB 9 Courts; the Columbia Judicial Circuit and to be composed of Columbia County; create a new judicial circuit for the State of Georgia**

**Bill Summary:** Senate Bill 9 creates the Columbia Judicial Circuit, a single-county circuit consisting of Columbia County, through a revision of the existing Augusta Judicial Circuit. The three judges of the Augusta Circuit currently residing in Columbia County shall be the three judges of the Columbia Circuit. The governor shall appoint a district attorney for a term beginning July 1, 2021.

All proceedings and litigation currently pending in the Superior Court of Columbia County shall transfer to the Columbia Circuit. The judges of both the Columbia Circuit and Augusta Circuit shall continue to receive county salary supplements equal to the aggregate county salary supplements currently received by the judges of the Augusta Circuit.

The Augusta Circuit will transfer to the Columbia Circuit 25 percent of the amount it held as of January 1, 2021, for costs collected relating to court connected alternative resolution programs. The district attorney of the Augusta Circuit shall transfer to the district attorney of the Columbia Circuit the amount held as of January 1, 2021, that was secured pursuant to condemnation of forfeiture actions.

The bill specifies that the four remaining judges of the Augusta Judicial Circuit, as well as the current district attorney, shall remain as the judges and district attorney of the Augusta Circuit. The judgeship that is currently vacant shall also remain with the Augusta Circuit.

The county salary supplements of the judges and district attorney of the Augusta Circuit, as well as the court-wide expenditures of the Augusta Circuit, shall be paid by Richmond County and Burke County in a ratio equal to their current proportional responsibility, less the contributions to the Augusta Circuit previously paid for by Columbia County.

Senior or retired judges of the Augusta Circuit who currently receive a retirement supplement from the three counties of the current Augusta Circuit shall continue to receive such supplement from all

## **Exhibit 25**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.

vs.

Brian Kemp et al.

Transcription of Audio File

03-25-21 SB 202\_Amendments\_House\_Rules

Audio Runtime: 4:28

RETRIEVED FROM DEMOCRACYDOCKET.COM

1 (Beginning of audio recording.)

2 CHAIRMAN SMITH: All right, the next amendment  
3 is 281870, 281870. Also relating to Senate Bill  
4 202.

5 CHAIRMAN FLEMING:

6 Thank you, Mr. Chairman. This amendment deals  
7 with also a very minor issue but I think will be  
8 easy to understand. It deals with the printing  
9 of the precinct name on the absentee ballot.  
10 When you go in to vote in person now and you  
11 print your ballot, at the top of the ballot will  
12 be named the precinct, number and name, where you  
13 vote.

14 For example, in my area, there's a United  
15 Methodist Church is one of the precincts. It  
16 would be at the top of the ballot as well as the  
17 number that identifies it. That's already when  
18 you go into vote.

19 One place that it is not on is the absentee.  
20 On the absentee ballot, you do find the number of  
21 the precinct, whether it's 0 -- 002, but you  
22 don't have the name. All this amendment in front  
23 of you does is say that the absentee ballot will  
24 have the name of the precinct, just like it does  
25 when you go vote in person. That's all it does,



1 Mr. Chairman.

2 CHAIRMAN SMITH: Okay. Anyone have a question  
3 for the -- Mr. Wilkerson?

4 MR. WILKERSON: Thank you, Mr. Chairman. When  
5 you say the name and designation of the precinct,  
6 so would it be, like, if it's Burney (phonetic)  
7 01 and then the name of the church or are you  
8 just saying the actual precinct name?

9 CHAIRMAN FLEMING: Sometimes they're the same.  
10 The example I just gave you is United Methodist  
11 Church is one of the precincts in my county. So  
12 there's a number that identifies that. Let's  
13 just say 002 is the number of that precinct. The  
14 absentee ballot already has on it when you voted  
15 002. This would simply place United Methodist  
16 Church next to that number. And that's the way  
17 it already is when you go vote in person. Does  
18 that answer your question, Representative?

19 MR. WILKERSON: Actually, one additional  
20 question. So what happens if the polling  
21 location changes at the last minute? Like we've  
22 had that because of an emergency. So it moves  
23 from a middle school to a church. Will the --  
24 which name -- does it matter if the name is not  
25 correct?

1 CHAIRMAN FLEMING: The name on the ballot,  
2 then, will be the name of the new precinct. Now,  
3 if the absentee ballot were sent out beforehand,  
4 it would say something different. But, no, it  
5 would not matter.

6 MR. WILKERSON: And last question, is there any  
7 penalty for it if it does not match?

8 CHAIRMAN FLEMING: If a county does not follow  
9 state law, they can be fined by the State Board  
10 of Elections through a hearing process, which is  
11 already in place and has been going on for  
12 decades. So, yes, there could potentially be a  
13 county -- my suspicion is the way this would  
14 work, the first thing they would ask, if there  
15 was a complaint filed, is why didn't you do it.  
16 And if there was a good reason, they would  
17 probably instruct them to correct it the next  
18 time. If it was intentional that they do it,  
19 they could levy a fine. That would be my  
20 suspicion of how it would be handled.

21 CHAIRMAN SMITH: Okay, Mr. Williamson.

22 MR. WILLIAMSON: Chairman Fleming, thank you  
23 for your work on this bill but I need a little  
24 point of clarity on this issue as well. For  
25 example, I vote in South Monroe Precinct. That

1 name doesn't change. But occasionally, the  
2 voting location does. Currently, we're voting at  
3 the First Baptist Church. Just following on  
4 Representative Wilkerson's question, will it say  
5 South Monroe Precinct at the Baptist Church or  
6 it'll just say --

7 CHAIRMAN FLEMING: Tell me what your Board of  
8 Election names that precinct.

9 MR. WILLIAMSON: South Monroe Precinct.

10 CHAIRMAN FLEMING: That's what will be on the  
11 ballot.

12 MR. WILLIAMSON: Okay, thank you.

13 CHAIRMAN FLEMING: The name of the precinct.

14 MR. WILLIAMSON: Thank you.

15 CHAIRMAN FLEMING: Yes, sir.

16 CHAIRMAN SMITH: I mean, Leader Beverly.

17 MINORITY LEADER BEVERLY: Thank you very much,  
18 Mr. Chairman. Just a follow-up with the Whip's  
19 point. In the event that the precinct name is  
20 different, you get an absentee ballot, the  
21 precinct changes, the precinct name is different  
22 than what the person anticipates it becoming by  
23 the time they vote, will that person be  
24 disqualified because at this particular point,  
25 that precinct -- you won't have a provisional

1 opportunity because you're in a specific  
2 precinct, but the precinct changed. How do you  
3 anticipate a name change or precinct change  
4 affecting that potential vote?

5 CHAIRMAN FLEMING: No effect.

6 MINORITY LEADER BEVERLY: Okay, thank you.

7 CHAIRMAN SMITH: Okay, that looks like all the  
8 questions. Okay, so we have Committee on Rules  
9 Amendment 281870. Do I hear a move?

10 MULTIPLE VOICES: Move.

11 CHAIRMAN SMITH: It's on. It'll be on the  
12 House floor today for a separate vote as it  
13 relates to Senate Bill 202.

14 (End of audio recording.)

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CERTIFICATE

I, Wendy Sawyer, do hereby certify that I was authorized to and transcribed the foregoing recorded proceedings and that the transcript is a true record, to the best of my ability.

DATED this 19th day of April, 2021.



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WENDY SAWYER, CDLT

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## **Exhibit 26**

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Georgia

HOUSE OF REPRESENTATIVES

Tuesday  
March 23,  
2021

# DAILY REPORT

37th  
Legislative  
Day

House Budget & Research Office  
(404) 656-5050

- The House will reconvene for its 38th Legislative Day on Thursday, March 25 at 10:00 a.m.
- The Rules Committee will meet at 9:00 a.m.
- Nine bills / resolutions are expected to be debated on the floor.

## Today on the Floor

### Motions to Insist

#### HB 81 General appropriations; State Fiscal Year July 1, 2021 - June 30, 2022

Bill Summary: House Bill 81, the FY 2022 budget, is based on a revenue estimate of \$27.2 billion, an increase of \$1.3 billion, or 5.2%, over original FY 2021 budget.

The bill and tracking sheet may be found on the House Budget and Research Office website:  
<https://www.legis.ga.gov/house/budget-research-office>

**Authored By:** Rep. David Ralston (7th) **Rule Applied:** Modified-Open  
**Motions to Insist:** *(A motion to insist sends the bill back to the Senate for consideration.)*

### Motions to Disagree

#### HB 81 General appropriations; State Fiscal Year July 1, 2021 - June 30, 2022

Bill Summary: House Bill 81, the FY 2022 budget, is based on a revenue estimate of \$27.2 billion, an increase of \$1.3 billion, or 5.2%, over original FY 2021 budget.

The bill and tracking sheet may be found on the House Budget and Research Office website:  
<https://www.legis.ga.gov/house/budget-research-office>

**Authored By:** Rep. David Ralston (7th) **Rule Applied:** Modified-Open  
**Motions to Disagree:** *(A motion to disagree sends the bill back to the Senate for consideration.)*

### Rules Calendar

#### SB 33 Torts; cause of action against perpetrators for victims of human trafficking; provide

Bill Summary: Senate Bill 33 establishes a civil cause of action for victims of human trafficking against their perpetrators. "Perpetrator" is defined as any person or entity that knowingly benefited from participation in a venture or scheme that they knew, or should have known, was in violation of the human trafficking statute.

Any civil action filed pursuant to this provision shall be stayed during the pendency of any criminal action relating to the victim. Victims may bring a civil action within 10 years after the cause of action arose or within 10 years after the victim reaches the age of 18, if the victim was a minor at the time of the alleged violation.

The attorney general shall have a cause of action against a perpetrator on behalf of the state whenever he or she has reasonable cause to believe that an interest of the citizens of the state has been

## **Exhibit 27**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.

vs.

Brian Kemp et al.

Transcription of Audio File

03-25-21\_SB\_202\_House\_Floor

Audio Runtime: 1:50:50

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1 (Begin 52:25)

2 THE SPEAKER: We're now going onto the Rules  
3 Calendar. Going onto the Rules Calendar. The clerk  
4 will read the caption to Senate Bill 202.

5 THE CLERK: Senate Bill 202 by Senator Burns, the  
6 23rd, Miller of the 49th, Dugan of the 30th, Ginn of  
7 the 47th, Anderson the 24th and others being titled an  
8 act to amend Chapter 2 of Title 21 of the Official  
9 Code of Georgia Annotated, relating to elections and  
10 primaries generally, so as to provide that persons or  
11 entities that mail absentee ballot applications shall  
12 mail such applications only to eligible, registered  
13 electors who have not only requested. This bill then  
14 referred to the Special Committee on Election  
15 Integrity. That Committee recommends that this bill  
16 do pass by Rules Committee Substitute.

17 THE SPEAKER: Before I recognize Chairman  
18 Fleming, I want to make an announcement that there are  
19 two Rules Committee amendments to this bill and before  
20 you start saying you don't have it, you don't have it,  
21 because they're outside the chamber on the tables.  
22 So, at some point, you may want to pick those up. The  
23 Rules Committee Amendments to Senate Bill 202.

24 Chair recognizes Chairman Fleming to present the  
25 bill.

1 CHAIRMAN FLEMING: Thank you, Mr. Speaker.  
2 Ladies and gentlemen, I bring to you today Senate Bill  
3 202 which is a combination of measures dealing with  
4 elections either already passed by the House or  
5 Senate, or measures already considered or passed by  
6 the two committees of each House dealing with,  
7 obviously, election matters. This House has already  
8 debated and passed the majority of the provision and  
9 the contents of Senate Bill 202, so I will focus  
10 during my time on the matters which are new.

11 First of all, I would bring to your attention two  
12 provisions in the bill that I refer to as county  
13 accountability. The Senate sent over to us two  
14 different bills -- different versions of the ability  
15 for our State Board of Elections to have some  
16 oversight, if necessary, of counties who continuously  
17 have problems with their elections. And in this  
18 legislation in front of you is a combination of those  
19 providing basically two types of remedies.

20 The first one is one that was requested by the  
21 Association of the County Commissioners, and that  
22 deals with the ability for a review panel to be put  
23 together. Election workers from other counties and  
24 state elections officials to come in and study what  
25 may or may not be going wrong in a particular county

1 with the Board of Elections in making recommendations  
2 for changes.

3 If that doesn't work, there is another provision  
4 in the bill whereby the State Board of Elections,  
5 after findings, and due process, and hearings, can  
6 actually step in and make changes themselves to the  
7 problematic county board of elections that is at  
8 issue.

9 This follows the constitutional path which has  
10 been laid out in prior legislation regarding school  
11 systems. As many of you know and has been discussed  
12 in our committees quite often in Georgia, if there is  
13 a school system, for example, that is about to lose  
14 their accreditation, and their kids can't even get  
15 into college with the diplomas from that school  
16 system, there are provisions in our law where after  
17 due process and certain hearings, changes can be made  
18 to help those school systems get back on track. It is  
19 a temporary fix, so to speak, that ends, and the  
20 control is turned back over to the locals after the  
21 problems are resolved.

22 Another new provision in the bill regard the  
23 prominent posting of changes to precincts when there  
24 has been an old precinct that has to be closed and a  
25 new precinct is opened somewhere else. The

1 THE SPEAKER: State your inquiry.

2 REPRESENTATIVE NGUYEN: Isn't it true that the  
3 former one-term President's attorney, Sidney Powell,  
4 is currently being sued for defamation in the court of  
5 law for spreading lies and conspiracy theories. And  
6 isn't it further true that her defense is that no  
7 reasonable person should have believed those lies,  
8 because facts were not being presented. And isn't it  
9 further true that Republicans in this chamber and all  
10 across our country have peddled these lies and  
11 conspiracy theories. And isn't it further true that  
12 this bill is a response to those lies and is nothing  
13 but Jim Crow but 2.0 and will impact Black and Brown  
14 voters across this chamber, which is why every single  
15 Black member in this body is voting no.

16 THE SPEAKER: This is not a pep rally. This is a  
17 legislative body. Members will conduct themselves in  
18 proper decorum.

19 There was a lot in your parliamentary inquiry, so  
20 I'll make that observation.

21 What purpose does Representative Camp rise?

22 REPRESENTATIVE CAMP: Parliamentary inquiry.

23 THE SPEAKER: State your inquiry.

24 REPRESENTATIVE CAMP: Isn't it not true that the  
25 reason some members repeatedly use the words voter

1 suppression is because it is a poll tested phrase  
2 utilized by Democratic fund-raising entities to that  
3 end even when there's no factual basis in Senate Bill  
4 202?

5 THE SPEAKER: I'm sure the lady believes that to  
6 be true.

7 All right, one more parliamentary inquiry.

8 What purpose does Representative Bazemore arise?

9 REPRESENTATIVE BAZEMORE: Parliamentary inquiry.

10 THE SPEAKER: State your inquiry.

11 REPRESENTATIVE BAZEMORE: Mr. Speaker, isn't it  
12 not true that not one Democrat was invited to that  
13 June discussion with regards to planning for this  
14 bill?

15 THE SPEAKER: A June -- I don't know about a June  
16 discussion.

17 All right, if all members voted -- have all  
18 members voted? If so, the clerk will lock the machine  
19 on the passage of Senate Bill 202.

20 The Ayes are 100. The Nays are 75. This bill  
21 having received the requisite constitutional majority  
22 is therefore passed.

23 Chair recognizes -- for what purpose does  
24 Chairman Fleming arise?

25 CHAIRMAN FLEMING: Make a motion.

1 THE SPEAKER: State your motion.

2 CHAIRMAN FLEMING: That this bill be immediately  
3 transmitted to the Senate.

4 THE SPEAKER: Chairman Fleming has moved that  
5 this bill be immediately transmitted to the Senate.  
6 Is there any objection?

7 There is objection.

8 All those in favor of an immediate transmittal  
9 will vote Aye. Those opposed will vote No. And the  
10 clerk will unlock the machines. Have all members  
11 voted? Have all members voted? If so, the clerk will  
12 lock the machine on the passage of -- or on the  
13 gentleman's motion.

14 The Ayes are 100. The Nays are 74. And this  
15 bill is on its way to the Georgia State Senate.

16 Chair recognizes for an announcement,  
17 Representative McClain. Representative McClain, do  
18 you have an announcement?

19 REPRESENTATIVE MCCLAN: (Inaudible.)

20 THE SPEAKER: I think we can hear you up there.

21 REPRESENTATIVE MCCLAN: (Inaudible.)

22 THE SPEAKER: Working Family Caucus luncheon,  
23 Room 310? Three-ten, okay.

24 Chair recognizes the Chairman of the Minority  
25 Caucus, Chairman Mitchell, for an announcement.

## **Exhibit 28**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Sixth District of the African Methodist Episcopal Church et al.  
vs.

Brian Kemp et al.

Transcription of Audio File  
03-25-21 SB 202\_Senate Floor  
Audio Runtime: 1:31:04

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1 Does any other senator wish to speak for or against  
2 the measure? The Chair hears none. The question --  
3 parliamentary inquiry. Well, state your inquiry,  
4 Senator.

5 SENATOR: Is it not true that he late-arriving  
6 amendment is for a different bill and the HB 611 is  
7 engrossed?

8 CHAIRMAN MILLER: The Senator knows of what he  
9 speaks. The question is on adoption of the committee  
10 substitute. Is there objection to adoption of  
11 committee substitute? Hearing none, the committee  
12 substitute is adopted. There is -- is there object to  
13 agreeing to the report of committee, which is favor of  
14 the passage of the bill. The Chair hears none. The  
15 report of the committee is agreed to. Is there  
16 objection to the main question now being ordered? The  
17 Chain hears none.

18 The main question is ordered. The question on  
19 the adoption of the bill by substitute. All those in  
20 favor vote yea. Those opposed vote nay. Mr.  
21 Secretary, if you'll unlock the machines. Have all  
22 senators voted? Have all senators voted? Mr. Sec --  
23 have all senators voted? The hallway is clear. Mr.  
24 Secretary, if you'll close the machines. On the  
25 passage of the bill, the Yeas are 49. The Nays are 0.

1 This bill having received the requisite constitutional  
2 majority is therefore passed. Ladies and gentlemen of  
3 the Senate, we have 28 bills. We're about number 14.  
4 Something around -- right around those numbers. A lot  
5 of us have had lunch. A lot of us have not had lunch.  
6 We're going to stand at ease for 30 minutes or so. Do  
7 not venture far. Do not venture far. We will try to  
8 give you a 10-minute warning when we are coming back.  
9 How about that? That's nice? Thank you. Let's hear  
10 it. We stand at ease for 30 minutes.

11 (Stand at Ease)

12 (End 4:32:25)

13 (Begin 5:44:25)

14 CHAIRMAN MILLER: Chair recognize the Senator  
15 from the 23rd for a motion.

16 SENATOR BURNS: Thank you, Mr. President. I move  
17 that the Senate accept -- I move that the Senate agree  
18 to house substitute to Senate Bill 202.

19 CHAIRMAN MILLER: Mr. Secretary, can you please  
20 read the caption.

21 MR. SECRETARY: Senate Bill 202 by Senators Burns  
22 of the 23rd and others. A bill to be entitled an Act  
23 to amend Chapter 2 of Title 21 of the OCGA, relating  
24 to elections and primaries generally, so as to provide  
25 that persons or entities that mail absentee ballot

1 applications shall mail such applications only to  
2 eligible registered electors who have not already been  
3 -- have not already requested, been issued, or voted  
4 an absentee ballot; to require certain comparisons to  
5 remove improper names from mail distribution lists; to  
6 provide for sanctions for violations; and for other  
7 purposes.

8         The House offers the following substitute to  
9 Senate Bill 202. A bill to be entitled an Act to  
10 comprehensively revise elections and voting; to amend  
11 Chapter 2 of Title 21 of the OCGA, relating to  
12 elections and primaries generally, so as to revise a  
13 definition; to provide for the establishment of a  
14 voter intimidation and illegal election activities  
15 hotline; to limit the ability of the State Election  
16 Board and the Secretary of State to enter into certain  
17 consent agreements, settlements, and consent orders;  
18 to provide that the Secretary of State shall be a  
19 nonvoting ex officio member of the State Election  
20 Board; to provide for the appointment, confirmation,  
21 term, and removal of the Chairperson of the State  
22 Election Board; to revise provisions relating to a  
23 quorum of such board; to require the state --  
24 Secretary of State to support and assist the State  
25 Election Board; to provide for the appointment of

## **Exhibit 29**

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## AGREE TO HOUSE SUBSTITUTE

SB 202

Yea  : 34Nay  : 20Not Voting  : 0Excused  : 2

<input checked="" type="checkbox"/> ALBERS, 56TH	<input type="checkbox"/> JAMES, 35TH
<input checked="" type="checkbox"/> ANAVITARTE, 31ST	<input type="checkbox"/> JONES, 10TH
<input checked="" type="checkbox"/> ANDERSON, 24TH	<input checked="" type="checkbox"/> JONES, 25TH
<input type="checkbox"/> ANDERSON, 43RD	<input type="checkbox"/> JONES II, 22ND
<input type="checkbox"/> AU, 48TH	<input type="checkbox"/> JORDAN, 6TH
<input checked="" type="checkbox"/> BEACH, 21ST	<input checked="" type="checkbox"/> KENNEDY, 18TH
<input checked="" type="checkbox"/> BRASS, 28TH	<input checked="" type="checkbox"/> KIRKPATRICK, 32ND
<input checked="" type="checkbox"/> BURKE, 11TH	<input type="checkbox"/> LUCAS, 26TH
<input checked="" type="checkbox"/> BURNS, 23RD	<input checked="" type="checkbox"/> MCNEILL, 3RD
<input type="checkbox"/> BUTLER, 55TH	<input type="checkbox"/> MERRITT, 9TH
<input checked="" type="checkbox"/> COWSERT, 46TH	<input checked="" type="checkbox"/> MILLER, 49TH
<input type="checkbox"/> DAVENPORT, 44TH	<input checked="" type="checkbox"/> MULLIS, 53RD
<input checked="" type="checkbox"/> DIXON, 45TH	<input type="checkbox"/> ORROCK, 36TH
<input checked="" type="checkbox"/> DOLEZAL, 27TH	<input type="checkbox"/> PARENT, 42ND
<input checked="" type="checkbox"/> DUGAN, 30TH	<input checked="" type="checkbox"/> PAYNE, 54TH
<input checked="" type="checkbox"/> GINN, 47TH	<input type="checkbox"/> RAHMAN, 5TH
<input checked="" type="checkbox"/> GOOCH, 51ST	<input type="checkbox"/> RHETT, 33RD
<input checked="" type="checkbox"/> GOODMAN, 8TH	<input checked="" type="checkbox"/> ROBERTSON, 29TH
<input type="checkbox"/> HALPERN, 39TH	<input type="checkbox"/> SEAY, 34TH
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<input type="checkbox"/> HARBISON, 15TH	<input checked="" type="checkbox"/> STRICKLAND, 17TH
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<input type="checkbox"/> HARRELL, 40TH	<input type="checkbox"/> TATE, 38TH
<input checked="" type="checkbox"/> HATCHETT, 50TH	<input checked="" type="checkbox"/> THOMPSON, 14TH
<input checked="" type="checkbox"/> HICKMAN, 4TH	<input checked="" type="checkbox"/> TILLERY, 19TH
<input checked="" type="checkbox"/> HUFSTETLER, 52ND	<input checked="" type="checkbox"/> TIPPINS, 37TH
<input type="checkbox"/> JACKSON, 2ND	<input checked="" type="checkbox"/> WALKER, III, 20TH
<input type="checkbox"/> JACKSON, 41ST	<input checked="" type="checkbox"/> WATSON, 1ST

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## **Exhibit 30**

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## SB 202

**Elections and Primaries; persons or entities that mail absentee ballot applications shall mail such applications only to eligible registered electors; provide**

[Current Version](#)
[Past Versions](#)

## Sponsors

No.	Name	District
1.	<a href="#">Burns, Max</a>	23rd
2.	<a href="#">Miller, Butch</a>	49th
3.	<a href="#">Dugan, Mike</a>	30th
4.	<a href="#">Ginn, Frank</a>	47th
5.	<a href="#">Anderson, Lee</a>	24th
6.	<a href="#">Robertson, Randy</a>	29th
7.	<a href="#">Mullis, Jeff</a>	53rd
8.	<a href="#">Albers, John</a>	56th
9.	<a href="#">Walker, III, Larry</a>	20th
10.	<a href="#">Brass, Matt</a>	28th
11.	<a href="#">Anavitarte, Jason</a>	31st
12.	<a href="#">Harbin, Marty</a>	16th
13.	<a href="#">Hickman, Billy</a>	4th
14.	<a href="#">Burke, Dean</a>	11th
15.	<a href="#">McNeill, Sheila</a>	3rd
16.	<a href="#">Beach, Brandon</a>	21st
17.	<a href="#">Thompson, Bruce</a>	14th
18.	<a href="#">Harper, Tyler</a>	7th
19.	<a href="#">Summers, Carden</a>	13th
20.	<a href="#">Payne, Chuck</a>	54th
21.	<a href="#">Hufstetler, Chuck</a>	52nd
22.	<a href="#">Tillery, Blake</a>	19th
23.	<a href="#">Kennedy, John</a>	18th

**Sponsored In House By:**
[Fleming, Barry](#)

## Committees

House Committee:

[Special Committee on Election Integrity](#)

Senate Committee:

[Ethics](#)

## First Reader Summary

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries generally, so as to provide that persons or entities that mail absentee ballot applications shall mail such applications only to eligible registered electors who have not already requested, been issued, or voted an absentee ballot; to require certain



## Status History

Date	Status
03/25/2021	Effective Date
03/25/2021	Act 9
03/25/2021	Senate Date Signed by Governor
03/25/2021	Senate Sent to Governor
03/25/2021	Senate Agreed House Amend or Sub
03/25/2021	House Immediately Transmitted to Senate
03/25/2021	House Passed/Adopted By Substitute
03/25/2021	House Third Readers
03/22/2021	House Committee Favorably Reported By Substitute
03/10/2021	House Second Readers
03/09/2021	House First Readers
03/08/2021	Senate Passed/Adopted By Substitute
03/08/2021	Senate Third Read
03/08/2021	Senate Taken from Table
03/08/2021	Senate Tabled
03/08/2021	Senate Engrossed
03/05/2021	Senate Read Second Time
03/03/2021	Senate Committee Favorably Reported By Substitute
02/18/2021	Senate Read and Referred
02/17/2021	Senate Hopper

## Footnotes

3/8/2021 Engrossed on 3rd reading in Senate; 3/8/2021 Tabled in Senate; 3/8/2021 Taken from Table in Senate; 03/25/2021 Passed House by Rules Committee Substitute as Amended; 03/25/2021 Modified Structured Rule; 3/25/2021 Senate Agreed to House Substitute

## Votes

Date	Vote No.	Yea	Nay	NV	Exc
03/08/2021	<a href="#">Senate Vote #156</a>	34	19	0	3
03/08/2021	<a href="#">Senate Vote #189</a>	32	20	1	3
03/25/2021	<a href="#">House Vote #296</a>	100	75	1	4
03/25/2021	<a href="#">House Vote #297</a>	100	74	2	4
03/25/2021	<a href="#">Senate Vote #283</a>	34	20	0	2

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Georgia Department of Revenue

Georgia Department of Labor

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# EXHIBIT B

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202

Master Case No.  
1:21-MI-55555-JPB

**EXPERT REPORT OF JUSTIN GRIMMER, PH.D.**

I, Dr. Justin Grimmer, am an adult of sound mind and make this statement voluntarily, based on my own personal knowledge, education, and experience.

**I. PURPOSE AND TERMS, INCLUDING COMPENSATION,  
OF ENGAGEMENT**

1. I have been engaged by the State Defendants to review and respond, as relevant, to the many expert reports submitted in this case. I have reviewed each of these reports. In this report, I provide my own analysis of the challenged provisions of SB 202. If my report does not respond to a particular expert by name, my independent analysis of the challenged provisions serves as a rebuttal. Similarly, my silence on a particular point raised by any of plaintiffs' experts is not an indication of agreement with that point—particularly if my own analysis contradicts that point.

2. I base the opinions in this report on my own knowledge, research, experience, and publications, and the work of other academics and writers. I also base this report on my review of the case materials, which include:

- The complaints filed by the various plaintiff groups;
- Plaintiffs' interrogatory responses;
- Data on voter demographics, absentee voting rates, drop box use, and other information obtained in discovery;
- The report of Dr. Carol Anderson;
- The report of Dr. Barry Burden;
- The report of Dr. Orvill Burton;
- The report of Dr. Derek Chang;
- The report of Dr. Daniel Chatman;
- The report of Dr. Christopher Clark;
- The report of Dr. James Cobb;
- The report of Dr. Bernard Fraga;
- The report of Kevin Kennedy;
- The report of Dr. Bridget King;
- The report of Dr. Taeku Lee;
- The report of Dr. Allan Lichtman;
- The report of Dr. Marc Meredith;
- The report of Dr. Lorraine Minnite;
- The report of Dr. Maxwell Palmer;
- The report of Dr. Stephen Pettigrew;
- The report of Dr. Lisa Schur; and
- The report of Dr. Andrés Tijerina.

3. The materials I have used to research and write this report are the standard sources used by other experts in my field. I am receiving \$400 per hour for my time spent preparing this report and any time testifying, including at a deposition. I will receive the same amount regardless of the outcome of this litigation or the substance of my opinions.

## **II. CREDENTIALS AND HISTORY OF EXPERT TESTIMONY**

4. I am a Professor of Political Science at Stanford University in Stanford, California. I also hold the titles of Senior Fellow at the Hoover Institution and Co-Director of the Democracy and Polarization Lab. I first joined the Stanford faculty in 2010 as an Assistant Professor. I was promoted to Associate Professor in 2014, and I held a courtesy appointment in the Department of Computer Science from 2016-2017. From 2017-2018, I was an Associate Professor in the Department of Political Science and the College at the University of Chicago. I received my Ph.D. in Political Science from Harvard University in 2010. I received my AB from Wabash College in Mathematics and Political Science in 2005.

5. In my scholarly research, I develop and apply new statistical methods to study US elections, political communication, the US Congress, and social media. I have taught courses for graduate students on fundamentals for statistical analysis, a “Math Camp” introducing graduate students to basic

mathematics they need for graduate school, a graduate course on applying machine learning methods to social science problems in “Model Based Inference,” a course on the quantitative analysis of text data in “Text as Data”, and a course on making causal inferences called “Causal Inference.” At the undergraduate level, I have taught “Introduction to Machine Learning” and our department’s introductory course “The Science of Politics.” My research and writing on quantitative methods have been published in *Political Analysis*, the *Journal of the American Statistical Association*, *Proceedings of the National Academy of Science*, the *Proceedings of the Annual Meeting of the Association for Computational Linguistics*, and numerous other journals. I previously served as an Associate Editor at *Political Analysis*. I have published papers on election administration, evaluating claims of voter fraud, and statistical methods for surveys, and I have presented my research to professional meetings of election administrators.

6. A current copy of my curriculum vitae is attached to this report as Exhibit A.

7. In the last four years, I testified at the preliminary-injunction hearing in *VoteAmerica v. Raffensperger*, No. 1:21-CV-1390-JPB (N.D. Ga.) and I was deposed for that case. I was also deposed for *Gilbert v. Lombardo*, No.

22-OC-000851B (1st Jud. Dist. Ct. Nev.), and I testified in *Washington County v. Sippel*, No. 22-CV-07782 (Wa. Cnty. Cir. Ct.).

### III. SUMMARY OF FINDINGS

8. In the first statewide election after the passage of SB 202, the 2022 midterm election, overall turnout was higher than in the 2014 midterm election. Turnout declined, however, from the most recent midterm election in 2018, but no expert has shown that SB 202 caused this decline. To place these two elections into the historical context, using the voting eligible population (“VEP”), the 2018 midterm election in Georgia had the highest turnout rate of any midterm election in the state since at least 1980, and the 2022 midterm election had the second highest midterm turnout rate since at least 1980. Voters also continued their shift towards using early in-person voting (“early voting”) and mail-in absentee ballots (“absentee voting”), though the rate of mail-in absentee voting declined from 2020—which occurred during the recent pandemic. In the 2022 general election, 57.9% of votes were cast using early in-person voting, the highest share of votes cast using early voting since at least 2014. Further, 6.2% of votes were cast using mail-in absentee voting, the highest share of any election I analyze other than the 2020 general election and the 2021 runoff election. Every racial group had increased turnout in 2022



relative to 2014, but turnout rates for some groups declined relative to 2018. Here again, no expert has shown that SB 202 caused this decline.

9. Georgia's turnout rate in 2022 remained high relative to the turnout rate in other states. This is true both overall and broken down by self-identified racial group. Overall, I find that Georgia's 2022 election had higher turnout than the average turnout rate in other states and had higher turnout than a statistical projection made using Georgia's past voter turnout rates and the turnout rates in other states with similar recent turnout histories, as determined by a machine-learning procedure. I also examined turnout rates by self-identified racial group in North Carolina, South Carolina, and Louisiana, states where the turnout rate by self-identified racial group was available when I wrote this report. I find that Black turnout in these states lags behind the turnout rate in Georgia in the 2022 election and that, in some instances, Black turnout in these states has declined relative to 2014. Other expert reports only examine changes within Georgia or selectively compare Georgia to other states. This necessarily conflates common nationwide changes in the turnout rate with any Georgia specific changes.

10. SB 202 changed the application window to apply for a mail-in absentee ballot, reducing the application window to between 78 and 11 days prior to the election. I find that before SB 202 was implemented most mail-in

absentee ballot applications were already complying with the new application window under SB 202. Further, SB 202 continues to allow disabled voters and voters over 65 to apply for a mail-in absentee ballot once and then receive their ballots for the other elections in the cycle. Across elections prior to the passage of SB 202, I find no consistent differences in when different racial groups applied for mail-in absentee ballots. Further, mail-in ballot applications in previous elections that arrived outside the SB 202 application window were less likely to be successfully voted than mail-in ballot applications that arrived within the SB 202 application window.

11. Prior to SB 202, particularly in the 2020 election, a large number of mail-in absentee ballots were canceled and then voted in person. In the 2020 election, over 289,000 mail-in absentee ballots were canceled with voters subsequently voting early in person or on Election Day. In the 2022 election, the number of mail-in absentee ballots that were canceled and subsequently voted on Election Day dropped to lower levels than in 2018 and 2020 and the share of mail-in absentee ballots that were canceled and subsequently voted on Election Day dropped to lower levels than in 2016, 2018, and 2020. In the 2022 election, the number and share of mail-in absentee ballots that were canceled and subsequently voted early in person dropped below the 2018 and 2020 levels.

12. Prior to SB 202, the vast majority of mail-in absentee ballots were returned well before Election Day. There are also no consistent differences in the propensity of voters from different self-identified racial groups to return mail-in absentee ballots earlier or later across elections. In the 2022 election, the share of mail-in absentee ballots rejected for arriving after the deadline was lower in than in 2018, but higher than in 2020. No expert has shown that SB 202 caused the increase relative to 2020.

13. Turning to other substantive changes that SB 202 made to Georgia election law, SB 202 legally established drop boxes in Georgia and provided regulations on where those drop boxes could be located. I examined other experts' claims about drop box use in the 2020 election and provided my own analysis. I show that Dr. Burden's analysis of drop box ballots from the 2020 general election has consequential errors, including a nearly 100% overestimate of the number of ballots returned via drop box in the four days immediately before the election and on Election Day. Using an alternative data source on drop box returns, I calculated that drop box ballots tended to be returned well before the last days of the election cycle.

14. Using data from the 2020 election, I demonstrate that drop box use is concentrated on a small number of drop boxes: voters tend to return their ballots to a few drop boxes within each county, while many other drop boxes

receive a smaller share of ballots returned via drop box. The extent of this concentration varies by county. In DeKalb County, for example, a single drop box received 42.3% of the mail-in absentee ballots in the county returned by drop box; in Gwinnett County, a single drop box received 30.9% of the mail-in absentee ballots in the county returned by drop box; in Cobb County, one drop box received 25.4% of mail-in absentee ballots in the county returned by drop box; and, in Fulton County, the most used drop box received 9.5% of the mail-in absentee ballots in the county returned by drop box. In Douglas County, I find that a single drop box received 70% of the ballots returned via drop box in the county, and I show that both Black and white voters concentrated their mail-in absentee ballot returns via drop box at this single location.

15. Plaintiffs' experts Dr. Chatman and Dr. Fraga analyzed the effect of SB 202 on the costs voters incur when returning mail-in absentee ballots via drop box. Neither Dr. Chatman nor Dr. Fraga have data on where voters return their ballots and instead assume voters will use the closest drop box to their residence. They then equate the effect of SB 202 with a measure of how Georgia residents' average distance to the nearest drop box changed from 2020 to 2022. But there is no reason voters will find only the closest drop box to their residence the most convenient drop box to use. In fact, I present a variety of evidence that, in the 2020 election, many Georgia voters did not return their

ballot to the nearest drop box, instead choosing a drop box location closer to work, school, or for other reasons. Because many voters do not return their ballot to the nearest drop box, Dr. Chatman's and Dr. Fraga's estimates of SB 202's effect on the cost of returning a ballot via drop box will be biased in an unknown direction and with unknown size. In place of Dr. Chatman's and Dr. Fraga's biased estimates, I use data on voters' actual behavior in Douglas County to calculate one estimate of the effect of SB 202 on the cost incurred to return a ballot via drop box. With this particular data set and quantity of interest, I find that, on average, SB 202 has the largest effect on the distance traveled by white and American Indian voters who returned their mail-in absentee ballot via drop box in 2020.

16. Another change that SB 202 implemented was the creation of a new procedure to verify mail-in absentee ballots. SB 202 requires mail-in absentee voters to provide information from official identification, relying on either a driver's license, a state voter-identification card, or other forms of identification. I find that the rate at which mail-in absentee ballots were rejected in the 2022 general election and 2022 general election runoff for improper identification was lower than the rate ballots were rejected for missing oath information or signature mismatch in 2018, but higher than in 2020. Again, none of the Plaintiffs' experts have shown that SB 202 is the cause

of this election-to-election change in the mail-in absentee ballot rejection rate. Further, I find that the Black-white gap in rejection rates for signature mismatch or incomplete information on ballots in 2018 was larger than the Black-white gap in rejection rates for improper identification when returning a voted mail-in absentee ballot in the 2022 general election and the 2022 runoff election. The non-partisan Carter Center argued that the identification requirements in SB 202 made mail-in absentee voting more efficient.

17. Another change to Georgia election law is that SB 202 prohibits organizations from sending absentee ballot applications to voters who have already applied for a mail-in absentee ballot, with a 5 business-day grace period. While the experiments were not conducted in Georgia, I describe experimental evidence from the literature that implies that postcards mailed to voters are approximately as effective as either blank or pre-filled mail-in absentee ballot applications at encouraging voting by mail-in absentee ballot. Further, prior experimental work has failed to detect a difference in the effect of sending voters blank or pre-filled mail-in absentee ballot applications on either the turnout rate or the rate voters use mail-in absentee ballots to cast their vote. I find that the share of mail-in ballot applications rejected because they were duplicate was lower in the 2022 election than in the 2020 election.

18. SB 202 also altered the requirements for early voting hours. Overall, I find that the 2022 general election and the 2022 runoff election saw the highest rate of weekend votes cast of any midterm election, and the second highest share of weekend votes cast in a general election, other than the 2020 general election. I find that the share of weekend votes cast in the December 2022 runoff election was higher than the share of weekend votes cast in the January 2021 runoff election. 9.2% of early in person votes in the 2022 runoff were cast on the weekend, up from 5.8% of early in person votes cast on the weekend in the January 2021 runoff election. This is a 58.6% increase in the share of votes cast on the weekend in the runoff.

19. Dr. Pettigrew asserts that “SB202 will cause lines to be longer for Georgians than they otherwise would have been, particularly among people of color.” Pettigrew Rep. 29. I show that his evidence for this claim departs from the standard evidence in my field. Dr. Pettigrew uses a simulation as evidence SB 202 will cause an increase in wait time. But simulations only can reflect their underlying assumptions, rather than an estimated causal effect of a policy change. As a result, Dr. Pettigrew’s simulation can only establish the logical possibility that wait times at polling places could increase if there were more in person voters. Dr. Pettigrew also describes a procedure to extract wait times from survey data, making a series of assertions about the “likely” bias of

that procedure. I show, both theoretically and empirically, his claims about bias are incorrect. Theoretically, I show that the bias from his procedure can cause estimates of the differences in wait times across groups to be too big or too small. Empirically, I use behavioral data from wait times at Election Day voting precincts extracted from cell phone location data to show that Dr. Pettigrew's procedure to calculate wait times from survey data overstates the wait times for groups in this data and sometimes overestimates and sometimes underestimates differences across groups. Because of these issues, I conclude Dr. Pettigrew's method for calculating wait times from survey data is biased, and the direction of the bias is unknown.

20. Instead, I follow Dr. Burden and Dr. Pettigrew and examine the share of voters who reported wait times longer than 30 minutes to cast their ballot in the 2022 Georgia general election. Using a publicly available survey of Georgia voters conducted after the 2022 general election, I find that in the 2022 election, 4.7% of Georgia voters waited in line more than 30 minutes to vote, lower than averages reported by Dr. Pettigrew. Further, I find the share of Black voters who waited longer than 30 minutes to vote was smaller than the share of white voters who waited more than 30 minutes, though this difference is within the survey's margin of error.



21. While several experts claim that the political effect of SB 202 was easy to anticipate, no expert provided an explicit calculation to support that conclusion. I describe the appropriate formulas for this calculation and then assess the claim in the context of Georgia. I show that even if SB 202 had differential effects across racial groups, that does not imply that SB 202 would benefit one party. In fact, using an illustrative example, I show that the white-Black turnout gap could grow in Georgia, while Republican candidates would become disadvantaged. Reasoning about political effects is challenging because it requires considering the prevalence of groups in the electorate and not just relative changes to the turnout rate.

#### **IV. VOTING IN GEORGIA**

22. I begin with an analysis of how Georgians have voted in the last several elections, including the 2022 midterm elections.

##### **A. Methodology**

23. To assess who voted in Georgia elections, I used county-level turnout statistics, which I then aggregated to calculate the overall number of votes cast. Specifically, I used summary files about voter turnout, obtained

either by downloading the relevant file from the Secretary of State's website or from the Secretary of State's office.<sup>1</sup>

24. To assess differences in turnout rates and voting methods across racial groups, I rely upon voters self-reported racial identity, as tallied in these state turnout statistics. Voters choose to report as American Indian, Asian or Pacific Islander (which I refer to as Asian hereafter), Black, Hispanic, white, or Other and some voters' race is classified as "Unknown." Throughout this report, I focus on the self-reported American Indian, Asian, Black, Hispanic, and white racial groups. When some voters either choose to not self-identify with a racial group or have their self-identity potentially administratively changed to "Unknown" that creates a risk of potentially

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<sup>1</sup> For the 2022 general election, I used the Statewide.xlsx file from the "SSVRZ422 2022" zip file and the "Precinct turnout by race" folder, which was obtained by counsel. In the 2020 election, I used data downloaded from the secretary of state's data portal, specifically the "General Election 2020 Active, Inactive Voters by Race, Gender\_County.xlsx" file. For the 2018 and 2016 election I used the file "SSVRZ376R3.xlsx" which I downloaded from the Secretary of State's office website. The downloaded turnout data from the Secretary of State's website was missing data for 2014, so counsel obtained the file "November 2014 General Election - Active, Inactive Voters by Race Gender - (COUNTY).xlsx". For the January 2021 runoff I used the "General Election Runoff 2021 Active, Inactive Voters by Race, Gender\_County.xlsx" file downloaded from the Secretary of State's office website and for the December 2022 election I used the "Statewide.xlsx" which was contained in the "SSVRZ422 2022" zip file obtained from counsel.

underestimating that group's turnout rate. To ensure my conclusions are not dependent solely on misclassified "Unknown" racial identities, in Appendix A I use a statistical technique to infer voters' racial group based on surname and location.

25. To assess the overall turnout rate and the turnout rate by self-identified racial group, I used estimates of the citizen voting age population ("CVAP") from the Census Bureau.<sup>2</sup> The CVAP is one estimate of who is eligible to vote, but it is imperfect. This is because some of the individuals counted in the CVAP are ineligible to vote due to felony conviction, mental disability, or other disqualifying reason. The estimates that are provided from the Census Bureau come from the 5-year estimates from the American Community Survey estimates of the CVAP. Because these estimates have not been updated for 2022, I use two different estimates of group size to calculate the turnout rate in the 2022 election. First, I use the 2020 group size as the size of the group in 2022. A limitation of this measure is that it will underestimate the size of groups in 2022, therefore causing me to overestimate turnout rates. To avoid this, my second measure of group size uses the historical rate of group growth to construct a plausible estimate of

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<sup>2</sup> United States Census Bureau, *Citizen Voting Age Population by Race and Ethnicity*, <https://tinyurl.com/3vmb5p5p>.

the group size in 2022.<sup>3</sup> Specifically, I calculated the average 2-year change in the CVAP for a particular group under consideration. I then added the average 2-year change to the 2020 CVAP. This serves as an estimated CVAP for 2022. This method for extrapolation is mathematically similar to methods for linear interpolation commonly used to create estimates of census data in years between the censuses.<sup>4</sup>

## B. Results

26. I begin my focus on the overall turnout rate in Georgia for general elections for federal elections from 2014 to 2022. Table 1 shows the overall turnout for federal-level general elections from 2014 to 2022. The first column provides the year of the election. The second column calculates the turnout rate using the CVAP using 2020 population estimates for the 2022 election. The

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<sup>3</sup> Dr. Burden uses available census data from 2021, using 2017-2021 5-year averages to estimate the size of the white CVAP and 1-year estimates to estimate the size of the Black CVAP. This is potentially a reasonable estimate of the denominator, but also risks underestimating the size of the groups in 2022 if there has been growth from 2021 to 2022. Dr. Fraga uses (at 14) the 2016-2020 5-year CVAP for all of his turnout calculations. Using a single denominator will cause bias in the estimated turnout rates, because different self-identified racial groups grew at different rates since 2014. That said, this bias does not appear to affect the general patterns of turnout.

<sup>4</sup> As an example, Ansolabehere and Konisky (2006) use interpolation to create estimates for non-census years. Ansolabehere, Stephen, and David M. Konisky. "The introduction of voter registration and its effect on turnout." *Political Analysis* 14.1 (2006): 83-100.

third column calculates the turnout rate using the current CVAP but extrapolates to estimate the size of the population in 2022 using the average of the two-year changes.<sup>5</sup> The fourth column uses data from Dr. Michael McDonald (2023) to calculate the overall turnout rate from the VEP.<sup>6</sup> The VEP is an estimate of the number of individuals who are eligible to vote in a state's election. The VEP is available at the state-level but is not broken down by racial group. To calculate the VEP turnout rate in the 2021 and 2022 runoff elections, I used McDonald's estimates of the VEP in the 2020 and 2022 general elections, respectively.

27. Table 1 shows the overall turnout rates in Georgia. Nationally, turnout tends to be higher in presidential election years than in midterm election years. This is also true in Georgia, where the highest turnout rates are

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<sup>5</sup> The estimates in the second and third column in Table 1 are the same except in 2022. This is because the only difference in the "trend" column is that in the denominator for the 2022 turnout rate calculation I have added the average two-year growth rate for the state to the 2020 population. This estimate of the denominator reflects historical population changes to guard against undercounting group size in 2022 and therefore overestimating the turnout rate. The "trend" column in Tables 2, 4, 5, and 6 will also have the same entries for all years as the "CVAP" column except for 2022, where in the denominator I have added the average two-year growth rate of the group to the 2020 group total.

<sup>6</sup> Michael McDonald, *Voting Statistics*, U.S Elections Project (2023), <https://www.electproject.org/election-data/voter-turnout-data>.

found in the 2016 and 2020 elections. Table 1 also demonstrates that the 2018 and 2022 midterm elections had higher turnout rates than the 2014 midterm election, while the 2018 midterm election had a higher turnout rate than the 2022 midterm election. Table 1 also shows that the 2020 presidential election had higher turnout than the 2016 presidential election.

28. Because the first statewide election after SB 202 is a midterm election, I will first focus on turnout in midterm elections. Table 1 shows that the turnout rate in Georgia's midterm elections has increased since the 2014 midterm election. The 2018 election saw an overall turnout rate increase of 16.7 percentage points over the 2014 election, while the 2022 election saw an increase of 15.2 percentage points over the 2014 election (13.9 percentage points if I take into the trend in Georgia's population size). If we instead use VEP turnout rates, we see similar growth in turnout rates in 2018 and 2022 relative to the midterm election relative to 2014, an increase over 2014 of 15.5 percentage points in 2018, and an increase over 2014 of 14 percentage points in 2022. In fact, 2018 and 2022 had the highest turnout rate in any midterm election in Georgia since, at least, 1982. Using the VEP, the next closest turnout rate in a midterm election was 2010, when 39.8% of the VEP population cast a ballot. The decrease in turnout rates from 2018 to 2022 is smaller in magnitude than the increase in turnout rates from 2014 to 2018 or

2022. Using the CVAP, I find a 1.6 percentage point lower turnout rate in 2022 than in 2018 (2.8 percentage points lower than 2022 when I consider trends in Georgia's state population size) and using the VEP, I find a 1.5 percentage point lower turnout in 2022 than in 2018.

29. Table 1 also shows that the turnout rate in the 2020 general election increased over the turnout rate in the 2016 election, though the size of this increase is smaller than the increase observed in the 2018 and 2022 midterm elections over the 2014 midterm election. Overall, using the CVAP, I find the 2020 election's turnout rate was 8.2 percentage points higher than the 2016 election's turnout rate, and I find that the 2020 election had an 8.4 percentage point higher turnout rate than the 2016 election using the VEP. Comparing the CVAP turnout, I find that the increase of the 2022 midterm turnout rate over the 2014 midterm turnout rate is approximately 81% larger than the increase of the 2020 general election turnout rate over the 2016 general election turnout rate.

30. Table 1 also shows the turnout rate in the Senate runoff election in 2021 and the Senate runoff election in 2022. In the runoff election in 2022, there was a 5.6 percentage point decrease in the turnout rate compared to the November general election, while in the January 2021 runoff election, there was a 7.1 percentage point decrease in turnout compared to the 2020

presidential election. Compared to the proximate general election, the relative decline for each runoff election is quite similar. Using the estimates from Column 3, in the runoff in 2022, there was a 10.7% decline from the 2022 general election, while in the runoff in 2021 there was a 10.6% decline from the 2020 general election. If I use the VEP (Column 4), I find a decline from the 2022 general election to the runoff election of 10.6% and a decline from the 2020 general election to the 2021 runoff election of 10.6%.

31. In Table 2, I present the calculated turnout rate for racial groups in general elections in the state of Georgia since the 2014 Congressional election. The first column contains the year of the election and then each pair of columns provides the corresponding turnout rate for the racial group. The first column in each pair provides the turnout rate using the citizen-voting age population (CVAP) and the second column provides the turnout rate using the CVAP where I have extrapolated the size of the group in 2022 to guard against underestimating group size. I also calculated the turnout rate by self-identified racial group for the Senate runoff in January 2021 and the Senate runoff in December 2022.



Year	CVAP Turnout Rate	CVAP Turnout Rate, Trend	VEP Turnout Rate
2014	0.377	0.377	0.386
2016	0.589	0.589	0.598
2018	0.544	0.544	0.541
2020	0.671	0.671	0.682
2022	0.529	0.516	0.526
Runoff, 2021	0.600	0.600	0.610
Runoff, 2022	0.473	0.461	0.470

Table 1: Turnout rates in Georgia federal elections from 2014 to 2022, calculated using voter file.

32. Across all racial groups, I find that the turnout rate has increased relative to the 2014 election, though there are differences in the turnout-rate trajectory across racial groups. Focusing first on the midterm elections, among individuals who self-identify as American Indian, both the turnout rate in the 2018 midterm election, 7.7%, and the turnout rate in the 2022 midterm election, 24.7% (23.3% using trends in group size), are larger than the 2014 general election, 2.2%.<sup>7</sup> Similar to individuals who identify as American

<sup>7</sup> In Appendix A, I calculate voter turnout using the Statewide voter file, Canceled voter file, and state provided turnout histories. In a separate table, I also use a statistical strategy to impute the racial group of voters classified as unknown, similar to the procedure used in Dr. Fraga's report. The numbers in these tables are similar to the numbers presented here, though the estimates of American Indian turnout rates are higher in Appendix A. There are also important comparative differences for American Indian voters. Appendix A shows the turnout rate for American Indians in 2020 was higher than their turnout rate in 2022 and the gap between 2018 and 2022 is smaller in Appendix A than the gap estimated using state-level data in Table 2. In the remaining cases, Table 38 shows qualitatively similar patterns for those discussed here.

Indians, Asian voters saw their highest midterm turnout rate in the 2022 midterm election. In the 2022 midterm election, the Asian American turnout rate was 38.2% (35.3% if we take into account trends in group size), a 24.9 percentage point increase over the 2014 midterm election (22 percentage point increase taking into account trend in group size) and a 3.9 percentage point increase relative to 2018 (1 percentage point if I take into account trends in group size).

Year	American Indian		Asian		Black		Hispanic		White	
	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend
2014	0.022	0.022	0.133	0.133	0.352	0.352	0.102	0.102	0.387	0.387
2016	0.066	0.066	0.369	0.369	0.520	0.520	0.304	0.304	0.590	0.590
2018	0.077	0.077	0.343	0.343	0.495	0.495	0.275	0.275	0.539	0.539
2020	0.157	0.157	0.599	0.599	0.572	0.572	0.403	0.403	0.671	0.671
2022	0.247	0.233	0.382	0.353	0.433	0.417	0.246	0.223	0.542	0.537
Runoff, 2021	0.133	0.133	0.504	0.504	0.525	0.525	0.314	0.314	0.599	0.599
Runoff, 2022	0.218	0.205	0.327	0.303	0.401	0.386	0.207	0.188	0.479	0.475

Table 2: Voter Turnout by Self-Reported Racial Group, Calculated Using State-Provided Election Returns

33. Black voters also have a higher turnout rate in recent midterm elections compared to 2014. Black voters turned out at a rate of 49.5% in the 2018 midterm election, an increase of 14.3 percentage points relative to the 2014 election, and at a rate of 43.3% in the 2022 midterm election (41.7% if accounting for trends in the size of the Black CVAP in Georgia), an increase of 8.1 percentage points (6.5 percentage points when the trend in the size of Black population is taken into account). Unlike American Indian and Asian voters, the Black turnout rate declined in the 2022 midterm election relative to the

2018 midterm election, 6.2 percentage points (7.8 percentage points using the estimate based on the trend in the Black CVAP). Hispanic voters have turned out in recent midterm elections at a higher rate than in the 2014 midterm election. Hispanic voter turnout rate in 2018 was 27.5%, a 17.3 percentage point increase over the 2014 midterm election. And in the 2022 midterm Hispanic turnout was 24.6%, a 14.4 percentage point increase over the turnout in the 2014 midterm election (a 12.1 percentage point increase when I account for trends in the size of the Hispanic voting age population in Georgia). Like Black voters, Hispanic voters saw a decline in their turnout rate in 2022 relative to 2018, with a decrease of 2.9 percentage in their turnout rate in the 2022 midterm election relative to the 2018 midterm election (a 5.2 percentage point decline when I account for trends in the size of the Hispanic CVAP).

34. Finally, white voters also saw an increase in their turnout over the 2014 midterm election. In 2018, white turnout was 53.9%, an increase of 15.2 percentage points over the 2014 midterm election. In 2022, white turnout was 54.2%, an increase of 15.5 percentage points over the 2014 midterm election (an increase of 15 percentage points when I take into account the trends in the size of the white CVAP). Whether white turnout increased or decreased relative to the 2022 election depends on whether I take into account the trends in the white CVAP. If I used the reported data from the Census Bureau for

2020, then the white turnout rate increased approximately 0.3 percentage points. If I consider trends in the size of groups, I find the white turnout rate decreased approximately 0.2 percentage points.

35. I also found a large increase in the 2020 turnout rate relative to the 2016 turnout rate, though for each self-identified group, the size of this increase is similar or smaller than the increase from 2014 to the 2022 election. Compared to the 2016 general election, in the 2020 general election, American Indian turnout increased 9.1 percentage points, while American Indian turnout increased 22.5 percentage points from 2014 to 2022 (21.1 percentage points taken into account trends in the American Indian CVAP). Asian American turnout increased 23 percentage points from the 2016 to 2020 general election, while Asian American turnout increased 24.9 percentage points from the 2014 to 2022 general election (22 percentage points taken into account trends in the Asian CVAP). Black turnout increased 5.2 percentage points from the 2016 to 2020 general election, while Black turnout increased 8.1 percentage points from 2014 to 2022 general election (6.5 percentage points taking into account trends in the Black CVAP). Hispanic turnout increased 9.9 percentage points from the 2016 to 2020 general election, while Hispanic turnout increased 14.4 percentage points from the 2014 to 2022 general election (12.1 percentage points taking into account trends in the Hispanic

CVAP). And, finally, white turnout increased 8.1 percentage points from the 2016 to 2020 general election, while white turnout increased 15.5 percentage points from the 2014 to 2022 general election (15 percentage points taking into account trends in the white CVAP).

## V. COMPARING GEORGIA TURNOUT RATE TO OTHER STATES

36. To provide context for Georgia's turnout trends since 2014, I made two kinds of comparisons. First, I compared Georgia's overall turnout rate to overall turnout rates in other states. Second, I used available data from three states—North Carolina, South Carolina, and Louisiana—to compare trends in turnout rates by self-identified racial groups across the states. Neither of the analyses I undertake should be interpreted as a causal estimate of the effect of SB 202. Interpreting these estimates as causal effects would require strong assumptions that are unlikely to hold in this setting.

37. Nevertheless, comparing Georgia's turnout rate across states demonstrates that the turnout rates observed in Georgia in 2022 are consistent with patterns observed in other states—both in the aggregate and broken down by self-identified racial groups. These comparisons are essential, because focusing on trends in Georgia turnout alone could result in confusing nationwide patterns in turnout for Georgia specific trends in the turnout rate.

Most notably, the 2020 election was distinct for many reasons.<sup>8</sup> The COVID-19 pandemic caused many states, including Georgia, to alter how it administered its elections. But beyond the obvious case of 2020 and the pandemic, other nationwide factors that are related to turnout rates include which party holds the presidency and the Congress, whether a particular election is a midterm or not, and nationwide economic conditions. This problem is particularly acute when comparing turnout data before and after a law is put in place in a state. It is possible that within state trends in turnout after any law is put in place could merely reflect a broader national trend. This is impossible to diagnose without examining other states.

38. Other experts avoid making comparisons of Georgia's turnout to other states. For example, after examining changes in turnout and how Georgia voters cast their ballot before and after SB 202, Dr. Fraga acknowledges that “[a] number of factors may influence voter turnout rates in any given election beyond changes in voting laws, both between and across racial/ethnic groups.” Fraga Rep. 20. Dr. Fraga contends that “this includes

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<sup>8</sup> For further details about the distinct conditions of the 2020 election, see Stanford-MIT Healthy Elections Project, *The Virus and the Vote: Administering the 2020 Election in a Pandemic* (Jul. 1, 2021), <https://tinyurl.com/2p98hn69>.

the level of competition in elections, mobilization by partisan and non-partisan campaigns and organizations, and historical factors such as the history and enduring effects of racial discrimination.” *Id.* He explains that, to render the data comparable, he “attempt[s] to make comparisons that hold these factors constant to the degree possible. For instance, each of the election dates from 2018-2022 that I analyze had highly competitive, statewide elections on the ballot in Georgia” in order to calculate “estimates of the impact of SB202 on voters.” *Id.* at 20–21.

39. Yet, making a within Georgia comparison to estimate the “impact” of SB 202 requires the strong assumption that the only difference in conditions in the election before and after SB 202 is the implementation of the bill.<sup>9</sup> But national conditions changed at the same time that SB 202 was implemented in Georgia. In the 2018 and 2020 elections, there was a Republican president, while in 2022 there is a Democratic president. During the 2018 election, Republicans controlled the House and the Senate, and, during the 2022 election, Democrats were attempting to defend small margins in both the House and Senate. Other conditions changed nationally. During the 2020

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<sup>9</sup> Hausman, Catherine, and David S. Rapson. “Regression discontinuity in time: Considerations for empirical applications.” *Annual Review of Resource Economics* 10 (2018): 533-552.

election, the coronavirus was salient and disrupting many Americans' routines, and the pandemic caused several states—including Georgia—to alter their election administration practices.<sup>10</sup> In the 2022 election, the spread of COVID-19 was still a concern, but the virus was less disruptive of election administration.<sup>11</sup> No matter how similar the 2018, 2020, and 2022 elections (and any associated runoffs) were, examining only changes in Georgia cannot address these nationally changing conditions.

40. Other experts for the plaintiffs make comparisons that neglect key differences in the elections. For example, Dr. Cobb writes (at 9–10):

The more than 3.5 million voters who cast ballots in the December 5, 2022, senatorial runoff election reportedly set a record for midterm runoff elections, sparking claims by proponents of SB202 that the restrictions imposed by SB202 had no effect on political participation in Georgia. Yet, a comparison of the 2022 runoff with the January 2021 runoff for the same senate seat suggests otherwise, with respect both to the number of people who voted in each contest and the means by which they voted. Total turnout fell from 57 percent of those registered in 2021 to 51 percent a year later, reflecting an absolute decline of some 940,000 voters. As Figure 3 indicates, the share of the ballots cast by mail fell by

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<sup>10</sup> Stanford-MIT Healthy Elections Project, *The Virus and the Vote: Administering the 2020 Election in a Pandemic* (Jul. 1, 2021), <https://tinyurl.com/2p98hn69>.

<sup>11</sup> Cecelia Smith-Schoenwalder, *How COVID-19 Will Shape the 2022 Midterm Elections*, U.S. News (Oct. 26, 2022), <https://www.usnews.com/news/elections/articles/the-coronavirus-and-the-2022-elections>.



nearly 80 percent (reflecting an absolute decline of nearly 900,000) as the share cast on election day rose by more than 50 percent.

Yet this comparison neglects several relevant details that make it impossible to attribute differences in voter turnout solely to SB 202. For example, the January 2021 election followed a record-breaking high turnout in the 2020 general election, while the December 2022 election followed a midterm election. It is well known that turnout rates are lower nationally in midterm elections.<sup>12</sup> Further, as Dr. Cobb acknowledges (at 10), the January 2021 runoff election determined party control in the Senate, while party control in the Senate was determined before the December 2022 runoff election.

41. To compare the changes in Georgia's overall turnout rate to the change in turnout rates nationally, I compared the aggregate turnout rate in Georgia to the turnout rate in all other states using the voting-eligible population as the denominator. Table 3 compares the turnout rates to all other states to the turnout rate in Georgia elections since 2014. In the second column, I calculated Georgia's turnout rate in each general election from 2014 to 2022

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<sup>12</sup> See, for example, Michael P. McDonald, *Voter Turnout Demographics*, U.S. Elections Project (2023), <https://www.electproject.org/election-data/voter-turnout-demographics>.

using the voting-eligible population, using data from Michael McDonald.<sup>13</sup> This column is identical to Column 4, Table 1). In the third column I calculated the voting eligible turnout rate for all states other than Georgia. The third column of Table 3 demonstrates well known patterns in turnout rates in federal elections. Midterm elections (2014, 2018, and 2022) tend to have lower turnout than presidential elections (2016 and 2020). Table 3 also shows that compared to the 2014 midterm election, there was a higher turnout rate in the 2018 and 2022 midterm elections, though nationally turnout in 2022 declined relative to 2018. And turnout in 2020 was higher than in 2016.

Year	Georgia Turnout Rate	Other States' Turnout Rate
2014	0.386	0.367
2016	0.598	0.604
2018	0.541	0.509
2020	0.682	0.679
2022	0.526	0.470

Table 3: Comparing the turnout rate in Georgia to the turnout rate in all other states from 2014 to 2022, based on the voting eligible population.

42. Compared to the nationwide turnout rate, Georgia's turnout rate has been higher than the national average, particularly in midterm elections, since 2018. In 2018, Georgia's turnout rate was 3.2 percentage points higher

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<sup>13</sup> For 2022, I used McDonald's preliminary estimates and in 2020 I used total ballots cast as the measure of turnout. In 2018, 2016, and 2014 I used ballots cast for highest office, to avoid missing data in the total ballots cast measure.

than the national average. In 2022, Georgia's turnout rate was 5.6 percentage points higher than the average in other states.

43. I also examined how Georgia's VEP turnout rate in 2022 compared to other states' turnout rates, taking into account a variety of trends happening across turnout rates in the country. As a data input into this calculation, I used the voting-eligible population turnout rate from 2000 to 2022, calculated by McDonald (2023). I then used econometric techniques that account for a variety of potential differences across states. To be clear, as I explain below this estimate should not be interpreted as the causal effect of SB 202, because the comparisons I make will conflate the implementation of SB 202 with a variety of other 2022 election specific factors that changed at the same time.

44. Using these econometric techniques, I find that Georgia turnout, relative to other states, remained high in the first election after SB 202. As a first approach, to take into account trends from other states, I used a two-way fixed effects model to compare Georgia's turnout in 2022 to other states. A two-way fixed effect model removes any fixed state-level differences and accounts for common shifts in the turnout rate in a particular election cycle.<sup>14</sup> Using this

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<sup>14</sup> Angrist, Joshua D., and Jörn-Steffen Pischke. *Mostly harmless econometrics: An empiricist's companion*. Princeton University Press, 2009.

method, I find that Georgia turnout was about 8.9 percentage points higher than if it had followed along parallel trends with other states. Of course, there are a number of differences in Georgia, including the recent highly competitive statewide elections, which explains why Georgia departs from a parallel turnout trend with other states.

45. Using an even more flexible approach to compare Georgia to other states with similar turnout histories, I find that Georgia's turnout rate in 2022 remained high relative to other similar states and Georgia's own historical turnout rate. To perform this calculation, I used a statistical technique known as a "generalized synthetic control." Generalized synthetic control methods use a machine learning algorithm to generate a "synthetic" Georgia using the turnout rates in other states to approximate Georgia's historical turnout rate. To do this, generalized synthetic control methods flexibly estimate common patterns in states' turnout rates over time. Based on the identified common patterns, the state's prior turnout history, and nationwide changes in turnout, generalized synthetic control uses the "synthetic" Georgia to make a projection

of what the state's future turnout will look like.<sup>15</sup> I then compared Georgia's actual turnout rate in 2022 to this historical projection.

46. To apply the generalized synthetic control method I used the `gsynth` package in the R programming language, using the VEP turnout data from 2000 to 2022.<sup>16</sup> Using this method, I find that Georgia's overall turnout in 2022 is 8.8 percentage points higher than this model predicts for 2022 using historical data from Georgia and other states. I find a similar difference between Georgia's turnout in 2022 and its average as calculated using the machine learning procedure if I use a slightly different specification, or if I expand the years included in the model to 1980. While Georgia turnout remains higher than the generalized synthetic control method would predict, the assumptions required to interpret this as a causal effect are extremely strong. This is because numerous other factors changed in Georgia along with SB 202. For example, in 2022 Georgia had a highly competitive Gubernatorial and Senate election and a general trend towards becoming a more politically

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<sup>15</sup> Xu, Yiqing. "Generalized synthetic control method: Causal inference with interactive fixed effects models." *Political Analysis* 25.1 (2017): 57-76.

<sup>16</sup> Xu, Yiqing, Licheng Liu, and Maintainer Yiqing Xu. "Package 'gsynth'." (2018). The R programming language is a standard statistical programming language widely used across several fields. R, *The Comprehensive R Archive Network*, <https://cran.r-project.org/>.

competitive state. While Drs. Fraga and Cobb argue that “countermobilization” may be one such explanation, they offer no direct evidence of the effect of third-party groups on the turnout rate in Georgia. Fraga Rep. 20; Cobb Rep. 33–34.

47. I also contrasted the trends in turnout rates by self-identified racial groups in Georgia with the trends in turnout rates by self-identified groups in three states where information on turnout by racial group is available from the voter file and where turnout data was available for download at the time of analysis: Louisiana, North Carolina, and South Carolina. In each state I used official tallies on the total number of ballots that were cast and the ballots cast by each racial group.<sup>17</sup> I then calculated the turnout rates using the CVAP in each state, along with a measure of the CVAP that takes into account trends in the group’s population over the years included in the study.<sup>18</sup> In Tables 4, 5, and 6, I present the calculated turnout rates for

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<sup>17</sup> Specifically, for Louisiana I used the registered and participated numbers from the Louisiana Secretary of State, *Post Election Statistics – statewide*, <https://tinyurl.com/526f4yrt>, for North Carolina I aggregated historical precinct level information from the North Carolina State Board of Elections, *Voter History Data*, <https://tinyurl.com/5n6zzm8t>, and for South Carolina I used voter history data from the South Carolina Election Commission, *Voter History Results*, <https://tinyurl.com/3ucetj8x>.

<sup>18</sup> Just like in Georgia, in each state I calculated the average of the 2-year change in the CVAP for each group and overall. I then added the average of those changes to the 2020 CVAP.

statewide federal elections from 2014 to 2022. Each state shows a decline in Black voter turnout from 2018 to 2022. Further, the magnitude of the decrease in Black turnout is larger than the decrease in Georgia, both in absolute and relative terms. To reiterate, this is not a causal comparison, as numerous factors vary across states, including the competitiveness of elections and salience of campaigns. Nevertheless, it reveals a common trend across states.

Year	Black		Other		White		Total	
	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend
2014	0.416	0.416	0.265	0.265	0.477	0.477	0.447	0.447
2016	0.546	0.546	0.437	0.437	0.637	0.637	0.597	0.597
2018	0.404	0.404	0.295	0.295	0.472	0.472	0.440	0.440
2020	0.558	0.558	0.490	0.490	0.673	0.673	0.626	0.626
2022	0.327	0.323	0.255	0.241	0.462	0.462	0.407	0.404

Table 4: Turnout rate by self-identified racial group, measured using citizen voting age population in Louisiana.

48. Table 4 contains the calculated turnout rate for Louisiana. Unlike in Georgia, Louisiana has not seen an increase in midterm election turnout since 2014. Overall, I calculated that 44.7% of the CVAP voted in the 2014 election, while 44.0% voted in the 2018 election, and this declined to 40.7% of the CVAP in 2022. Unlike in Georgia, Louisiana saw a decline in Black turnout relative to 2014. Compared to 2014, the Black turnout rate decreased 8.9 percentage points in 2022 (9.3 percentage points taking into account trends in Louisiana's Black CVAP). As mentioned previously, Black turnout in Georgia

rose 8.1 percentage points (6.5 percentage points taking into account trends in the size of the Black CVAP). Similar to Georgia, there was a decline in Black turnout from the 2018 to 2022 midterm election, but the decline in Louisiana was larger in absolute terms and larger relatively. In 2018, I estimated that 40.4% of the Black CVAP turned out to vote in Louisiana. This declined to 32.7% in 2022 (32.3% if I take into account trends in the size of the Black CVAP in Louisiana). This decline of 7.7 percentage points is larger than the 6.2 percentage point decline in Black turnout in Georgia (taking into account trends in each state's Black CVAP, the share of the Black CVAP who votes in Louisiana declines 8.1 percentage points, while the share of the Black CVAP in Georgia declines 7.8 percentage points). It is also larger as a share of the 2018 electorate. In Louisiana, there was a 19.1% decline in Black turnout, compared to an 12.5% decline in Georgia (taking into account trends the decline is 20% in Louisiana and 15.8% in Georgia).

Year	American Indian		Asian		Black		White		Total	
	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend
2014	0.133	0.133	0.164	0.164	0.415	0.415	0.436	0.436	0.419	0.419
2016	0.240	0.240	0.437	0.437	0.631	0.631	0.674	0.674	0.662	0.662
2018	0.177	0.177	0.305	0.305	0.467	0.467	0.525	0.525	0.506	0.506
2020	0.273	0.273	0.502	0.502	0.628	0.628	0.700	0.700	0.726	0.726
2022	0.156	0.152	0.304	0.277	0.381	0.370	0.529	0.520	0.496	0.483

Table 5: Turnout rate by self-identified racial group, measured using citizen voting age population in North Carolina



49. Table 5 contains the calculated turnout rate for North Carolina. Like in Georgia, in North Carolina, there was an increase in midterm turnout rates since 2014. In 2014, the overall turnout rate was 41.9%, which increased to 50.6% in 2018. The 2022 turnout rate, 49.6% (48.3% if I take into account trends in the CVAP), is higher than the turnout rate in 2014, but slightly lower than the turnout rate in 2018. Unlike in Georgia, the Black turnout rate in North Carolina in the 2022 election declined relative to the 2014 election. The Black turnout rate in 2022 is 38.1% (37.0% if I take into account trends in the Black CVAP). This is lower than in 2014, with 41.5% Black turnout, and in 2018. I also find that the Black turnout rate in 2022 was lower than the 2018 Black turnout rate, where the Black turnout rate was 46.7%. Based on North Carolina data on turnout by self-identified racial group, I find an 8.6 percentage point decline in Black turnout from 2018 to 2022 (a 9.7 percentage point decline when taking into account trends in Black CVAP). This decline represents 18.4% of the turnout rate in 2018, a larger relative decline than the 12.5% decline in Georgia (taking into account trends in CVAP size, this decline is 20.8% in North Carolina and 15.8% in Georgia).

Year	Other		White		Total	
	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend
2014	0.328	0.328	0.363	0.363	0.352	0.352
2016	0.523	0.523	0.620	0.620	0.589	0.589
2018	0.402	0.402	0.485	0.485	0.459	0.459
2020	0.571	0.571	0.695	0.695	0.655	0.655
2022	0.316	0.306	0.509	0.496	0.447	0.434

Table 6: Turnout rate by self-identified racial group, measured using citizen voting age population in South Carolina

50. Table 6 contains the calculated turnout rate in South Carolina. Unlike Georgia, Louisiana, and North Carolina, South Carolina only reports data on whether a voter is white or non-white (labeled “Other” in Table 6). Overall, South Carolina has seen an increase in turnout in midterm elections since 2014. In 2022, 44.7% of the CVAP participated in the election (43.4% if I take into account trends in the CVAP). This is an increase from 35.2% in 2014, but a decrease from 2018. In South Carolina, however, the turnout rate for individuals who self-identify as non-white declined in 2022 compared to 2014 and 2018. In 2022, 31.6% of the non-white CVAP participated in the election (30.6% if I take into account trends in the CVAP population). This is down from 32.8% in 2014 and 40.2% in 2018. This decrease is larger in both absolute terms—8.6 percentage points in South Carolina, 6.2 percentage points in Georgia—and relative terms—21.4% in South Carolina and 12.5% in Georgia—than the decrease in Black turnout in Georgia. Taking into account trends in

the CVAP, I find the decline in non-white turnout in 2022 declined 9.6 percentage points from 2018 and decreased 23.9%, both still larger than the decline in Georgia. To be clear, in South Carolina this is less of a direct comparison to Georgia because the “Other” category contains non-Black individuals.

51. Journalistic accounts of turnout in the 2022 midterm election have also found evidence of a decline in Black turnout relative to the Black turnout rate in the 2018 midterm election in other states. One data journalist, New York Times’ reporter Nate Cohn, found suggestive evidence that Black turnout was down nationwide.<sup>19</sup> After also examining Georgia, North Carolina, and Louisiana, Cohn observed that turnout was down in several major cities where a large share of the voting-age population is Black. Cohn finds that the turnout rate in Philadelphia, Detroit, Milwaukee, and Cleveland decreased relative to 2018, while the turnout rate outside of these cities in Pennsylvania, Michigan, Wisconsin, and Ohio increased. This analysis is limited: it is based on aggregate data and does not show specifically that Black voters turned out at

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<sup>19</sup> Cohn, Nate. “Black Turnout in Midterms Was One of the Low Points for Democrats.” New York Times. 11/30/2022.

a lower rate. Nevertheless, it is evidence consistent with lower Black turnout outside of Georgia, North Carolina, and Louisiana.

## **VI. EVIDENCE ON HOW GEORGIA VOTERS CAST THEIR BALLOTS**

52. I also investigated how Georgia voters cast their ballots. To learn how voters cast their ballots, I obtained the absentee voter history for statewide general elections from 2014 to 2022 from the Secretary of State's online data source.<sup>20</sup> I then merged the absentee voter list, the voter history from the Secretary of State's office, and the counsel provided Georgia registration file pulled on November 8, 2022.<sup>21</sup> I then subset to voters who are recorded as having cast a ballot in the election.

53. Using this merged data set, I examined how Georgia voters cast their ballots. In Table 7, I calculated the share of ballots cast each year using early voting (Column 2), absentee mail voting (Column 3), and Election Day voting (Column 4). Each row describes the share of voters in that election who cast their ballots using each of the three methods. And therefore, the shares in

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<sup>20</sup> Georgia Secretary of State, *Georgia Absentee Voter Records*, <https://sos.ga.gov/page/voter-absentee-files>.

<sup>21</sup> I compared the self-identified racial group for registered voters in the March 2022 registration file as well. I found a small number of changes, so using the March 2022 registration file would have only a small effect on the numbers presented here.

each row sum to 1. The bottom two rows contain the calculated rate of early, mail-in absentee, and Election Day voting for the January 2021 and December 2022 runoff.

Year	Early Voting	Mail Voting	Election Day
2014	0.326	0.041	0.633
2016	0.531	0.049	0.421
2018	0.478	0.056	0.466
2020	0.537	0.261	0.202
2022	0.579	0.062	0.360
January, 2021	0.461	0.239	0.298
December, 2022	0.485	0.053	0.461

Table 7: Share of ballots cast using early, mail, and Election Day voting.

54. Table 7 shows that, since 2014, Georgia voters have shifted how they cast their ballots. The share of votes cast in-person during the early voting period has increased from 2014 to 2022. In 2014, 32.6% of votes were cast in-person during the early voting period. This increased to 57.9% of votes in the 2022 election, the largest share of votes cast using early in-person voting. The increase from 2014 to 2022 is an increase of 25.3 percentage points, constituting a 77.6% increase in the share of ballots cast using early voting. The share of votes from early in-person voting in 2020 was 53.7%, similar to the share of early in person votes in 2016 (53.1%). The use of absentee voting has also increased since 2014, but the 2020 presidential election saw the highest rate of mail-in absentee voting. In 2014, 4.1% of votes were cast using mail voting. This increased in the 2016 election to 4.9% and in the 2018 election

to 5.6%. The 2020 general election saw, by far, the largest share of votes cast using mail-in absentee voting with 26.1% of votes cast using mail-in absentee voting. The next highest share of votes cast using mail-in absentee voting in a general election was in the 2022 midterm election, where 6.2% of votes were cast using mail-in absentee voting—constituting a 51% increase over the use of absentee ballots in the 2014 midterm election. The result of a larger share of early in-person voting and absentee mail voting is that Election Day voting has declined since 2014. In 2014, 63.3% of votes were cast on Election Day. By 2022, the share of Election Day votes had declined to 36.0%. The lowest share of Election Day voting occurred during the 2020 election, where 20.2% of votes were cast on Election Day.

55. I also calculated how ballots were cast during the January 2021 and the December 2022 runoff elections. In the January 2021 runoff election, 46.1% of ballots were cast using in person early voting, compared to 53.7% during the 2020 presidential election, a decline of 14.2%. In the December 2022 runoff election, the relative decline in the rate of in-person voting was of similar size. In the December 2022 runoff election, 48.5% of ballots were cast using in person early voting, compared to 57.9% in the 2022 midterm election, a decline of 16.2%. In both the January 2021 runoff election and the December 2022 midterm election, there was a decline in the share of ballots cast using

mail-in absentee votes from the proximate general election, but the relative decline was larger in the 2022 runoff than in the 2021 runoff election. In the January 2021 runoff election, 23.9% of votes were cast using mail-in absentee ballots, compared to 26.1% cast using mail-in absentee ballots in the general election, a decline of 8.4%. In the December 2022 runoff election, 5.3% of votes were cast using mail-in absentee ballots, compared to 6.2% cast using mail-in absentee ballots in the 2022 general election, a decline of 14.5%. And in both the January 2021 runoff and the December 2022 runoff elections, there was an increase in the share of ballots cast using Election Day in-person votes, with a larger relative increase in the share of votes cast on Election Day in the January 2021 runoff than in the December 2022 runoff election. In the January 2021 runoff election, 29.8% of votes were cast using in person Election Day voting, while 20.2% were cast using in-person Election Day voting in 2020. This increase of 9.6 percentage points constitutes a relative increase of 47.5% over the 2020 general election. In the December 2022 runoff election, 46.1% of votes were cast using Election Day in-person voting, compared to 36.0% in the 2022 general election. This 10.1 percentage point increase constitutes a relative increase of 28.1%. To place the rates of Election Day voting in the December 2022 runoff election into context, a larger share cast their ballot via early in-person voting in the December 2022 runoff election than in the 2018 general

election (48.5% compared to 47.8%), fewer votes were cast via mail-in absentee ballot (5.3% compared to 5.6%), and fewer votes were cast using in-person Election Day voting (46.1% versus 46.6%).

56. I next examined how the share of votes from early in-person voting, mail-in absentee voting, and Election Day voting varied across self-reported racial groups. Figure 1 shows the share of votes from each voting method for self-identified American Indian (top-left facet), Asian American (top-center), Black (top-right), Hispanic (bottom-left), and white (bottom-center) voters. In each facet the orange line represents the share of votes from early in-person voting, the blue line represents the share of votes from mail-in absentee voting, and the green line represents the share of votes from Election Day voting.



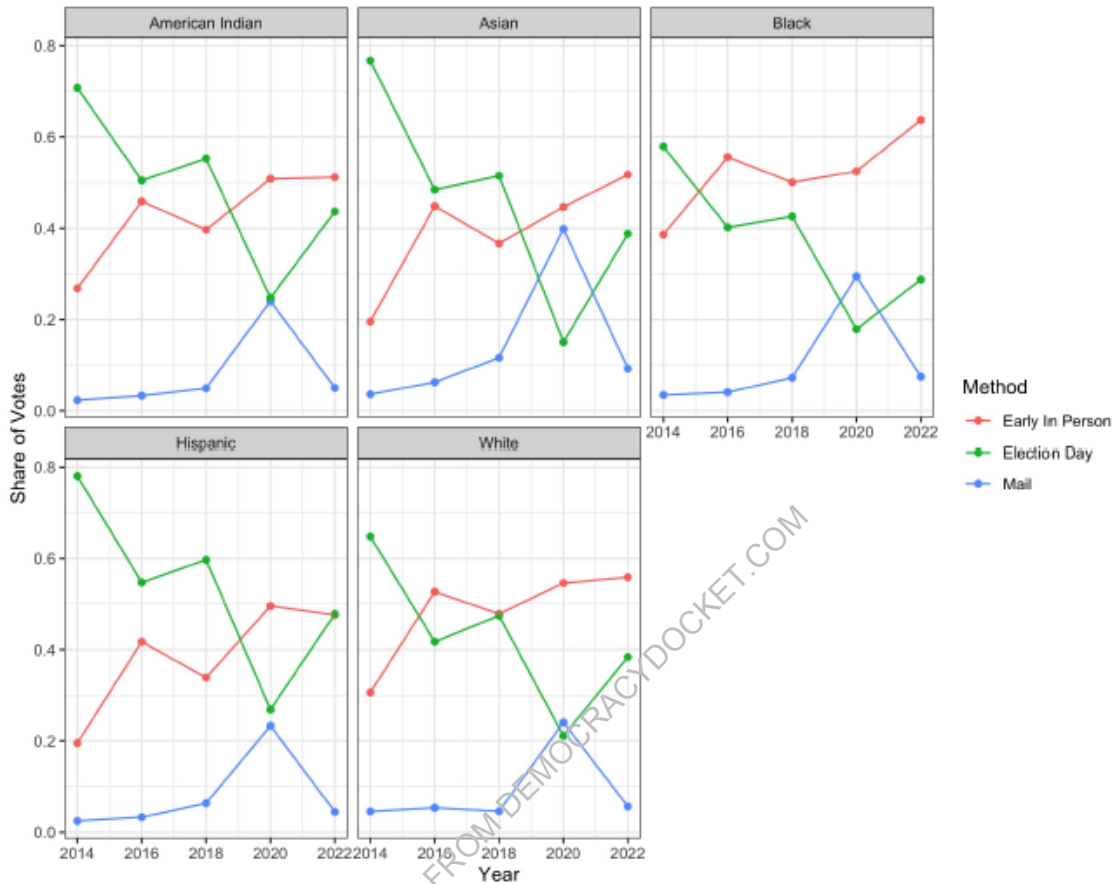


Figure 1: Share of votes cast by method for self-reported racial groups.

57. There are common patterns across the self-reported racial groups.

Each group saw its highest share of votes from Election Day voting in 2014, its lowest share in 2020, and the second-lowest share in 2022. Further, each group saw the highest share of mail voting in the 2020 election, with voters using mail voting at lower rates in the other elections. And finally, each group has increased its share of votes cast using early in-person voting, with early in-person voting constituting the most used voting method for every group in 2020 and every group except for Hispanic voters in 2022.

58. **American Indian Voters** Focusing first on American Indian voters, the share of votes from early in-person voting increased from 26.8% in 2014 to 51.2% in the 2022 election, with 50.9% of votes from early in-person voting in the 2020 election. The share of votes cast using Election Day voting has also declined over the period I analyzed. In 2014, 70.8% of votes from American Indian voters were cast on Election Day. By 2022, that share of votes declined to 43.7%, which was an increase from the 24.7% of votes cast on Election Day in 2020. In the 2020 election, 24.0% of votes came from mail-in absentee voting, the largest share of votes from this source from 2014 to 2022. The next highest use of mail-in absentee voting was in 2022, where 5.02% of votes came from mail-in absentee voting. In 2018, 4.93% of votes for American Indian voters came from mail-in absentee votes.

59. **Asian American Voters** Asian American voters have also seen an increase in the share of votes cast during early in-person voting. In 2014, 19.6% of Asian American votes were cast using early in-person voting. By 2022, the share of votes from the early voting period was 51.8%, and, in 2020, the share of votes from early voting was 44.7% of votes. Like other groups, Asian Americans in 2020 cast the largest share of their votes using mail-in absentee voting, with 39.8% of votes cast using a mail ballot. In 2022, 9.24% of votes were cast using mail ballots, lower than the share of mail ballots in 2018

(11.6%), but higher than the share of mail-in absentee ballots in 2016 (6.26%) and 2014 (3.6%). The share of Asian American voters who cast their ballot on Election Day votes declined from 76.7% in 2014 to 38.8% in 2022. The lowest share of votes from Election Day voting occurred in 2020, where 15.1% of votes were cast on Election Day. The share of votes cast on Election Day for Asian Americans in 2022 was lower than the share of Election Day votes cast in 2014, 2016, and 2018.

60. **Black Voters** Like other racial groups, self-identified Black voters saw an increase in the share of votes cast using early voting. In 2014, 38.6% of votes from Black voters were cast using early in-person voting. This increased to 63.7% in 2022, higher than the share in 2016 (55.6%) and in 2020 (52.5%). In 2020, 29.4% of votes were cast using mail-in absentee ballots. This is an increase over the share of votes cast using absentee ballots in 2018 (7.25%) and in 2022 (7.48%). And like other groups, the share of votes cast on Election Day has decreased since 2014. In 2022, the share of votes cast on Election Day was 28.8% of all votes, while, in 2014, that share was 57.9%. The smallest share of votes from Election Day voting occurred in 2020, when 17.9% of votes were cast on Election Day.

61. **Hispanic Voters** Self-identified Hispanic voters have also seen an increase in the share of their votes cast during early voting, though there

has been less of a shift away from Election Day voting for Hispanic voters than other groups. In 2022, 47.6% of votes from self-identified Hispanic voters was cast during early in-person voting. This was less than in 2020, when 49.6% of Hispanic votes were cast using early in-person voting. But this is an increase compared to 2014 (19.5%), 2016 (41.7%), and 2018 (33.9%). Also similar to other groups, in 2020, a larger share of self-identified Hispanic votes were cast using a mail-in absentee ballot than in other years. In 2020, 23.3% of Hispanic votes were cast using a mail-in absentee ballot, an increase over 2018 (6.34%) and 2022 (4.46%). The share of votes cast on Election Day has declined since 2014, when 78.0% of votes from self-identified Hispanic voters were cast on Election Day. This declined to 47.8% in 2022 and was 26.9% in 2020. Self-identified Hispanic voters cast the largest-share of their votes on Election Day compared to other racial groups.

62. **White Voters** Self-identified white voters also saw an increase in the share of their votes cast during early voting. In 2014, 30.6% of votes from self-identified white votes were cast using early in-person voting. The share of votes from white voters cast during the early voting period increased to 54.6% in 2020 and increased further to 55.9% in 2022. The share of white votes cast using a mail ballot peaked in 2020, with 24.0% of votes cast using a mail ballot. In 2022, 5.63% of votes from white voters were cast using absentee ballots,

which is similar to the share of votes cast using absentee ballots in 2018 (4.61%), 2016 (5.35%), and 2014 (4.57%).

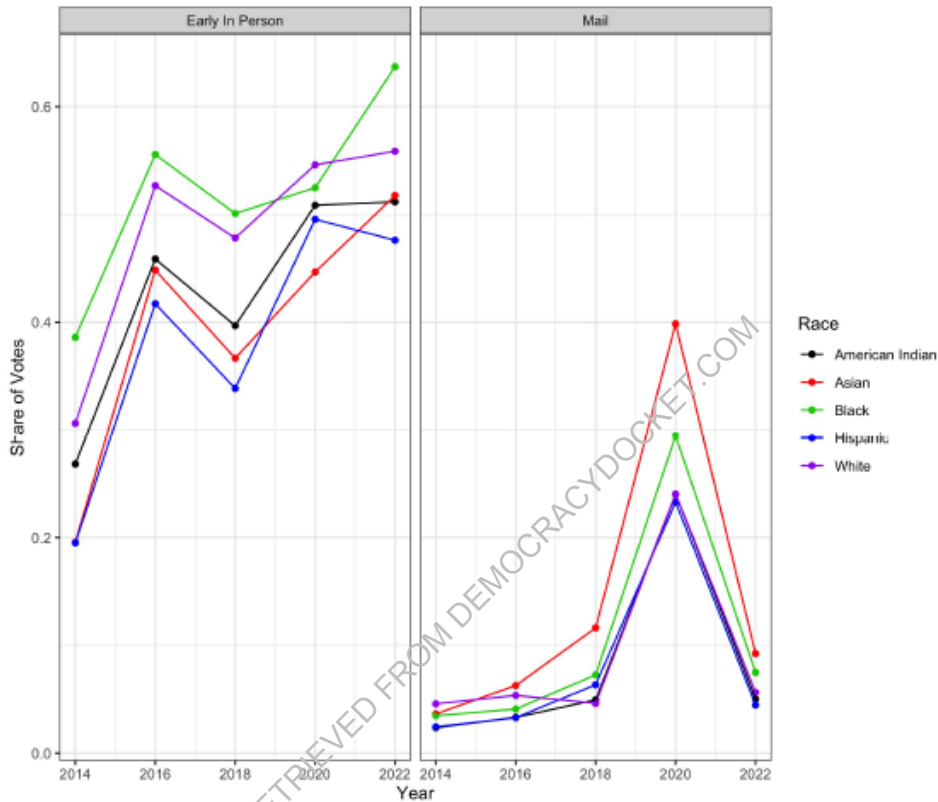


Figure 2: Comparing shares of votes from early in person voting and absentee mail voting.

63. In order to make a direct comparison of how different racial groups vote in Georgia elections, Figure 2 compares the share of votes from each racial group cast early (left-facet) and the share of votes cast using mail votes (right-facet). This comparison demonstrates that across racial groups in 2022 Black voters cast the largest share of votes using early voting and the second highest share of votes using mail voting. As a result, Black voters in 2022 cast the largest share of their votes using absentee voting methods. In 2022, 71.2% of

votes from Black voters were cast using either early in person or mail-in absentee voting. This is 9.7 percentage points more than white voters, 10.2 percentage points more than Asian American voters, 15 percentage points more than American Indian voters, and 19.1 percentage points more than Hispanic voters. For all racial groups, the highest rate of using absentee voting methods was in 2020 and the second highest was in 2022.

64. Dr. Lee opines that “[w]hile disaggregated numbers for absentee voting by race and ethnicity for 2022 were not yet available when this report was written, the drop in mail-in voting is likely to be especially large for AAPI voters in Georgia[.]” Lee Rep. 75–76. I can test Dr. Lee’s prediction using the estimated share of ballots cast by method from the preceding discussion. In the 2022 midterm election, Asian voters cast the largest share of their ballots by mail-in absentee voting, 9.24%. Compared to the 2020 election, I find that the change in mail-in absentee ballot usage among Asian voters is similar to the change in mail-in absentee ballot usage among white voters and the change overall. To test this claim, I calculated the percent change in absentee voting rate overall and by self-identified racial group. Overall, I estimated an 76.3% decrease in the rate of absentee ballot usage. I find the smallest percent decrease in mail-in absentee ballot usage among Black voters, whose rate of mail-in absentee ballot usage decreased 74.6%. The decrease in mail-in

absentee ballot usage among white voters was 76.6%, while the decrease in mail-in absentee ballot usage among Asian voters was 76.8%. This comparison, of course, does not constitute a plausible estimate of the causal effect of SB 202. This is because numerous factors changed concurrently as SB 202 was put in place.

65. I also examined the rate voters cast provisional votes in general elections from 2014 to 2022. I calculated this quantity using the public turnout history from the Georgia Secretary of State's office. In each election I totaled the number of reported provisional votes from the voter file and then divided this reported number by the total votes cast. I also examined how the rate voters cast provisional votes varied by self-reported racial identity, by merging into the voter history voter's self-reported racial identity from the registration file.

66. Table 8 presents the calculated rate of provisional voting. Focusing on the bottom row first, overall, the rate of provisional votes cast dropped in the 2022 election. In the 2022 election, 0.07% of all votes were cast as provisional votes. By contrast, 0.19% of votes were provisional in the 2014 election, 0.12% in the 2016 election, 0.22% in the 2018 election and 0.19% in the 2020 election.

Race	2014	2016	2018	2020	2022
American Indian	0.0061	0.0026	0.0055	0.0033	0.0013
Asian	0.0047	0.0033	0.0053	0.0027	0.0011
Black	0.0031	0.0018	0.0034	0.0032	0.0010
Hispanic	0.0049	0.0037	0.0057	0.0033	0.0016
White	0.0012	0.0007	0.0013	0.0011	0.0004
Overall	0.0019	0.0012	0.0022	0.0019	0.0007

Table 8: Share of all general votes cast classified as provisional by self-reported racial identification and overall.

67. Also in Table 8, I calculated the share of votes cast as provisional votes by self-reported racial groups. In the 2022 election, every racial group saw a decline in the share of their votes cast as provisional ballots. For example, in the 2022 election, 0.1% of votes cast by Black voters were provisional ballots. In 2014, 0.31% of votes cast by Black voters were provisional votes, 0.18% in 2016, 0.34% in 2018, 0.32% in 2020. The rate of provisional votes by other self-reported racial groups saw similar declines in 2022.

68. I also find that, in the 2022 election, the gap between Black and white votes cast as provisional votes reduced as well. In 2022, 0.1% of votes from Black voters was cast as a provisional vote, down from 0.32% in 2020 and 0.34% in 2018. White voters cast 0.04% of their ballots as provisional in 2022, down from 0.11% in 2020 and 0.13% in 2018. The 0.21 Black-white percentage point difference in provisional ballots in 2020 was reduced to 0.06 percentage points in 2022.



## **VII. CHANGES IN DEADLINE FOR ABSENTEE VOTING APPLICATIONS**

69. Turning now to the particular changes in Georgia voting law, SB 202 altered the window where voters were able to apply for a mail ballot. Before SB 202, voters were able to apply for a mail ballot 180 days before the election and had to return their ballot application 3 days before the election. After SB 202, most voters could apply for a mail-in absentee ballot 78 days before the election and had to return their mail-in absentee ballot application 11 days before the election. There are some important exceptions to this window. Voters with a physical disability, military/overseas voters, or voters over 65 could apply for a mail-in absentee ballot once and then continue receiving a mail-in ballot for the remainder of elections during that particular cycle. I will refer to individuals who apply once for an absentee ballot during an election cycle as having their absentee ballot application “rolled over.” SB 202 also left in place a practice where county registrars could visit hospitalized individuals, issue an absentee ballot, and then collect the ballot that same day after it was cast in the hospital. I have been unable to assess the frequency of this practice.

70. Georgia’s deadline for submitting an application for mail-in absentee voting is similar to deadlines for mail-in absentee voting in other states. According to the National Conference of State Legislatures (NCSL),

using data compiled as of July 2022, there are 6 states with the same mail-in absentee ballot application deadline as Georgia (11 days before the general election)—Arizona, Idaho, Nebraska, South Carolina, Texas, and Virginia.<sup>22</sup> And there are at least 8 states/jurisdictions that have an earlier mail-in absentee ballot application deadline than Georgia: Washington DC, Indiana, Iowa, Kentucky, Missouri, New York, Oklahoma, and Rhode Island. Dr. Lichtman opines that SB 202’s absentee ballot application “provisions put Georgia far out of the mainstream of states in the time allocated for requesting an absentee ballot.” Lichtman Rep. 25. In partial support of this claim Dr. Lichtman reports “only seven states plus Georgia restrict applications for an absentee ballot to 11 days or fewer prior to an election.” *Id.* It is unclear how Dr. Lichtman arrived at this count, but my tally places Georgia as having the same or a later deadline for absentee ballot applications as 14 of the 50 states and DC.

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<sup>22</sup> National Conference of State Legislatures, *Table 5: Applying for an Absentee Ballot, Including Third-Party Registration Drives* (Jul. 12, 2022), <https://tinyurl.com/4a45wryr>. In my tally, I use the deadline for mail-in absentee ballot applications. In Idaho in-person applications are allowed until 5pm the Friday before the election; in DC, military and overseas voters can apply for an absentee ballot up to 3 days before the election; in Missouri, in-person requests are allowed the day before the election; and, in New York, in person requests for absentee ballots are allowed the day before the election.

71. While SB 202 altered the window for applying for absentee ballots, it left in place Georgia's no excuse absentee voting policy. According to the NCSL, Georgia is one of 28 states that currently have "no excuse" absentee voting with an application from voters. In contrast, 15 states currently require an excuse to vote mail-in absentee, at least for some component of the population.<sup>23</sup>

72. To assess how the requirements of SB 202 compared to how voters applied for mail ballots in prior elections, I examined when Georgia voters applied for mail ballots in the 2018 and 2020 elections. This analysis is useful for establishing how SB 202 would affect absentee ballot applications if the deadline had been imposed, but there was no other change to voters', campaigns', or the State's behavior.

73. These assumptions likely overstate the effect of SB 202's deadline on voter turnout, because prior research has shown that voters learn about complying with voting requirements from both state officials, campaigns, and organizations. Political campaigns and third-party groups provide information about how to complete absentee ballots. And randomized experiments have

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<sup>23</sup> Those states are Alabama, Arkansas, Connecticut, Indiana, Kentucky, Louisiana, Mississippi, New Hampshire, New York, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

shown that voters are responsive to information and more likely to turn out to vote and correctly cast their ballot when provided with this information. For example, Citrin, Green, and Levy (2014) show that providing voters information about ID requirements increases turnout.<sup>24</sup> Indeed, Dr. Lee argues that a similar analysis he conducts in his expert report “assumes *ceteris paribus* on other aspects of the election that are admittedly unrealistic. Had SB202 been passed and implemented in 2020 there would presumably have been publicity about the revised deadline.”<sup>25</sup> In contrast, Dr. Fraga asserts that any voter from a prior election who sent a mail-in absentee ballot application outside the SB 202 window would face additional burdens under SB 202.<sup>26</sup>

74. In Table 9, I calculated when individuals applied for a mail-in absentee ballot in the 2018 election and how it aligns with the application window provided in SB 202. To make this calculation, I used the date when individuals submitted mail-in ballot applications for the 2018 general election or whether their mail-in ballot application had been “rolled over” from a prior

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<sup>24</sup> Citrin, Jack, Donald P. Green, and Morris Levy. “The effects of voter ID notification on voter turnout: Results from a large-scale field experiment.” *Election Law Journal* 13.2 (2014): 228-242.

<sup>25</sup> Lee Rep. 74 n. 84.

<sup>26</sup> Fraga Rep. 80.

absentee ballot application. To determine if an individual's mail-in ballot application had been rolled over, I identified individuals who had applied for their mail-in absentee ballot for the 2018 general election before the 2018 primary election date. As I will show below, this is necessarily an underestimate of the "roll over" rate, because voters can apply to receive mail-in absentee ballots for subsequent races, such as runoff elections, during the normal mail-in absentee-ballot application period for the general election. For individuals who did not have their mail-in absentee ballot application rolled over I examined whether they applied for their mail-in absentee ballot within the SB 202 window: within 78 days of the general election and 11 days before the general election. I also examined the share of mail-in ballot applications that were submitted later than SB 202 allows, but within the prior deadline to apply for a mail ballot, three days before the general election. I calculated these quantities for all Georgia mail-in absentee applications and then I calculated this for all mail-in absentee applications by self-reported racial group.

75. Table 9 presents the results of these calculations for the 2018 statewide general election for the share of absentee ballot requests from 2018 by racial group and for Georgians overall (first column). The second column is the share of mail-in absentee ballot applications that complied with the SB 202 window in the 2018 election. The third column contains the share of mail-in

absentee ballot applications in 2018 that arrived earlier than allowed under SB 202, and the fourth column contains the share of ballots that arrived later than allowed under SB 202.

76. As the bottom row of Table 9 shows, overall, 88.4% of mail-in absentee ballot applications for the 2018 statewide general election complied with the new deadline from SB 202. This was so either because the application was received in the SB 202 window or because an individual's application rolled over to the 2018 statewide general election from a prior application. Approximately 8.2% of the absentee ballot applications arrived after the SB 202 deadline, but before the prior deadline for absentee ballot applications. And finally, about 3.3% of absentee ballot applications arrived between 180 and 79 days before the general election, an "early" application that SB 202 would disallow.

Race	Share SB 202 or Roll over	Proportion Early	Proportion Late
American Indian	0.885	0.018	0.098
Asian	0.920	0.012	0.068
Black	0.905	0.018	0.076
Hispanic	0.920	0.010	0.070
White	0.864	0.050	0.084
Overall	0.884	0.033	0.082

Table 9: Examining how absentee ballot applications in 2018 compare to the new SB 202 deadlines by self-reported racial group.

77. Table 9 also presents the share of applications for mail-in absentee ballots in the 2018 general election that complied with SB 202 by self-identified racial group. I find that applications from white mail-in absentee ballot applicants were the least likely to have their mail-in absentee ballot application in 2018 satisfy the SB 202 deadline. 86.4% of applications for white mail-in absentee ballot applicants arrived within the new SB 202 deadline or were rolled over from a prior application. This contrasts with 90.5% of mail-in absentee ballot applications from Black mail-in absentee ballot applicants, 92.0% of applications from Asian mail-in absentee ballot applicants, 88.5% of applications from American Indian applicants, and 92.0% of Hispanic mail-in absentee ballot applicants. White mail-in absentee ballot applicants were also more likely to apply for an absentee ballot after the SB 202 deadline but before the prior deadline of three days than every minority group but American Indians. 8.4% of mail-in absentee ballot applications from white mail-in absentee ballot applicants arrived after the SB 202 deadline of 11 days before the general election. This compares to 9.8% for American Indian mail-in absentee ballot applicants, 6.8% for Asian mail-in absentee ballot applicants, 7.6% for Black mail-in absentee ballot applicants, and 7.0% for Hispanic mail-in absentee ballot applicants. White mail-in absentee ballot applicants also were the most likely to submit an application between 180 and 79 days before

the general election. 5% of absentee ballot applications from white mail-in absentee ballot applicants occurred during this “early” period, while 1.8% of applications of Black mail-in absentee ballot applicants arrived during this window.

78. Table 10 has the same structure as Table 9 but presents the quantities for the 2020 election. Overall, 93.8% of voters submitted their absentee ballot application within the new SB 202 deadline or had their mail-in absentee ballot application rolled over from a prior election. In the 2020 election, 4.3% of applications were made between 180 and 79 days before the election, while 1.8% of applications arrived after the SB 202 deadline, but before the pre-SB 202 deadline.

Race	Share SB 202 or Roll over	Proportion Early	Proportion Late
American Indian	0.942	0.029	0.029
Asian	0.944	0.032	0.024
Black	0.928	0.050	0.022
Hispanic	0.946	0.025	0.029
White	0.944	0.042	0.014
Overall	0.938	0.043	0.018

Table 10: Examining how absentee ballot applications in 2020 compare to the new SB 202 deadlines by self-reported racial group.

79. Focusing now across racial groups, a large share of applications from each group arrived within the SB 202 deadline, though, in 2020, Black mail-in absentee ballot applicants were now less likely to have their application submitted within the SB 202 window. Overall, 92.8% of mail-in



absentee ballot applications from Black mail-in absentee ballot applicants in 2020 were within the SB 202 deadline or rolled over, compared to 94.4% of white mail-in absentee ballot applicants, 94.2% of American Indian mail-in absentee ballot applicants, 94.4% of Asian mail-in absentee ballot applicants, and 94.6% of Hispanic mail-in absentee ballot applicants. 5% of applications from Black mail-in absentee ballot applicants were sent between 180 and 79 days prior to the election, while 4.2% of applications from white applicants arrived in this early window, 2.9% of applications from American Indian applicants, 3.2% from Asian American applicants, and 2.5% from Hispanic applicants. Black mail-in absentee ballot applicants were also more likely to apply “late” than white mail-in absentee applicants, with 2.2% of their application arriving after the SB 202 deadline, while 1.4% of applications from white mail-in absentee ballot applicants arrived after the deadline.

80. Comparing Tables 9 and 10 there is no consistent pattern when different racial groups applied for mail-in absentee ballots before SB 202. In 2018, white applicants had the smallest share of mail-in applications that would have conformed with the new SB 202 deadlines and the largest share of applications that would have been submitted early or late had SB 202 been in place for that election. But then, in 2020, Black mail-in absentee ballot applicants had a smaller share of applications that would have complied with

the SB 202 guidelines, though the differences in 2020 are smaller than the differences in 2018.

81. Dr. Lee also estimates the number of mail-in absentee ballot applications in 2020 that would arrive late under the new SB 202 deadline, but his estimated numbers conflate applications for mail-in absentee ballots and ballots cast using early in-person voting.<sup>27</sup> Only mail-in absentee ballots are subject to the new application window under SB 202, so it is inappropriate to include ballots cast using early in person in the calculation. The result of this conflation is that Dr. Lee overstates the number of applications for mail-in absentee ballots that arrived outside of the SB 202 application window.

82. Focusing on Dr. Lee's specific claim, he opines that "the evidence from the 2020 elections strongly suggests that narrowing the window for mail-in ballot applications will decrease the number of Georgians who vote absentee and may create burdens on voting, including the effect of a decrease in turnout overall."<sup>28</sup> To support this conclusion, Dr. Lee reports an analysis that attempts to answer "the question: given what we know about when Georgia voters returned their absentee applications, how many such applications in

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<sup>27</sup> My estimates in this regard align with Dr. Fraga's. In Table 9 and 10 the "Proportion Late" column is the quantity that Dr. Fraga reports in his Table 9.

<sup>28</sup> Lee Rep. 73.

2020 might have been invalid if they were returned after the deadline two Fridays prior to Election Day, as stipulated by SB202, rather than by the previous deadline of the Friday before Election Day?”<sup>29</sup> After conducting this analysis, Dr. Lee reports that after examining the absentee voter file he concluded that, “[b]etween October 24th, 2020 – the day after SB202’s deadline – and October 30th, 2020, more than **one million** (1,070,163) applications for an absentee ballot were recorded. For AAPIs, there were nearly 26 thousand ballot applications recorded after SB202’s deadline.”<sup>30</sup>

83. These reported numbers, however, count both the number of individual voters who cast their ballot early in person during this time period and the number of mail-in absentee ballot applications. This mistake can be made because the absentee voter file from Georgia’s Secretary of State includes information about three kinds of voting: mail-in absentee, early in-person, and electronic. Using this 2020 absentee voter file, I find that Dr. Lee’s reported number of applications (4.15 million) corresponds to the number of distinct individuals in the absentee voter file whose ballot was not canceled (4,155,906). And when I calculate the number of distinct applications to vote early in

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<sup>29</sup> *Id.* at 74.

<sup>30</sup> *Id.* (emphasis original).

person, mail-in absentee, and electronic during the from October 24 to October 30, 2020, I obtain 1,071,325 distinct applications, a number close to Dr. Lee's reported number of applications, 1,070,163.

84. When I subset to only mail-in absentee voters whose applications arrived from October 24th to October 30th, I find 31,948 mail-in absentee ballot applications in 2020 would have been late had the SB 202 deadline been in place in the 2020 election.<sup>31</sup> Dr. Lee overestimates the number of applications outside the SB 202 window by 3,249%. Dr. Lee's estimate of the number of mail-in absentee ballot applications from Asian applicants suffers from the same issue. He reports an estimate of 26,000 mail-in absentee ballot applications from Asian applicants would have been late had SB 202 been in place, once I subset to mail-in absentee ballot applications, I estimated 1,648 mail-in absentee ballot applications from Asian voters would have arrived late had SB 202 been in place in 2020.

85. Applications that did arrive later than the SB 202 window were also more likely to not be voted or canceled than absentee ballot applications that arrived before the SB 202 deadline. In 2018, 46.0% of mail-in absentee

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<sup>31</sup> The numbers I calculated here appear to align with Dr. Fraga's Table 10, with small differences in counts that are not consequential to the conclusions.

ballot applications that arrived after the SB 202 deadline resulted in ballots that were either not voted or canceled, compared to 17.6% of mail-in absentee ballot applications that arrived before the SB 202 deadline. In total, less than half of mail-in absentee ballot applications in 2018 received after the SB 202 deadline ultimately resulted in accepted ballots (46.1%), compared to 80% of mail-in absentee ballot applications that arrived before the deadline. There was a similar pattern in the 2020 election. 47.3% of mail-in absentee ballot applications that arrived after the SB 202 deadline were canceled or not voted, compared to 25.2% of absentee ballot applications sent in before the SB 202 deadline. Ultimately, about half of the mail-in absentee applications that arrived outside the SB 202 deadline ultimately resulted in a voted ballot (50.5%), compared to 74.4% of mail-in absentee ballot applications that arrived before the deadline.

86. An important exception to the SB 202 deadline is that individuals over the age of 65, military/overseas voters, and disabled voters can apply once for an absentee ballot for an entire election cycle. In the 2018 and 2020 elections I could only estimate a lower bound on the share of voters who applied for the rollover list. The rollover list is a mechanism for voters to only apply for an absentee ballot once, and therefore, avoiding future absentee ballot applications for the same election cycle. Using data obtained from the

Secretary of State's office, I calculated the share of mail-in absentee ballot applicants in 2022 who opted into the absentee ballot roll over list. To make this calculation, I used the file "2022 Elderly Disabled and UOCAVA List.xlsx." This file was obtained by counsel from the Secretary of State's office and contains a list of individuals who indicated their eligibility to receive an absentee ballot in subsequent elections. I then merged membership of this list to the overall list of absentee ballot applicants, creating an indicator for each voter equal to "1" if they are on the absentee ballot application rollover list and "0" otherwise.

87. Using this indicator, I calculated the share of absentee ballot applicants who were on the rollover list. I present this calculation in Table 11. In the second column, I computed the share of mail-in absentee applicants age 65 and over who are on the rollover list, and, in the third column, I computed the share of mail-in absentee ballot applicants under the age of 65 who are on the roll over list. In the statewide 2022 general election 52.5% of mail-in absentee ballot applicants were rolled over from prior applications. 80.5% of applicants age 65 and older were on the rollover list, and 12.3% of applicants under the age of 65. White and Black mail-in absentee ballot applicants were more likely than other self-identified racial groups to use the rollover list. Overall, white applicants were most likely to be on the rollover list, with 58.6%

of white mail-in absentee ballot applicants on the list, compared to 50.3% of Black mail-in absentee ballot applicants. This was also true for applicants 65 and over: 84.2% of white mail-in absentee ballot applicants age 65 and over were on the rollover list, while 75.5% of Black mail-in absentee ballot applicants over the age of 65 were on the list. That said, Black applicants under the age of 65 were more likely to be on the list than white applicants: 17.8% of Black mail-in absentee ballot applicants under the age of 65 were on the rollover list, compared to 10.4% of white mail-in absentee ballot applicants. While there are differences across racial groups, the size and direction of the differences in the use of the rollover list depends on whether the voters are over or under the age of 65.

88. Rather than examining whether an application would be counterfactually rejected from prior elections, Table 12 examines the share of mail-in absentee ballot applications that were rejected for arriving after the deadline in the 2022 election, both overall and by racial group. To measure the proportion rejected, I manually coded the “Status Reason” for rejected ballot applications where the Status Reason explicitly mentioned the deadline or other language that indicates that the ballot application arrived late.

Race	Share Roll over	Proportion roll over 65 & over	Proportion roll over Under 65
American Indian	0.242	0.743	0.100
Asian	0.219	0.674	0.023
Black	0.503	0.755	0.178
Hispanic	0.218	0.676	0.048
White	0.586	0.842	0.104
Overall	0.525	0.805	0.123

Table 11: Share of absentee ballot applications that were rolled over in the statewide 2022 general election.

Race	Share Applications Rejected After Deadline
American Indian	0.0025
Asian	0.0027
Black	0.0027
Hispanic	0.0037
White	0.0022
Overall	0.0025

Table 12: Share of Absentee ballot applications rejected for arriving after the SB 202 deadline, by self-identified racial group and overall.

89. Table 12 shows that a relatively small share of mail-in absentee applications in the 2022 general election arrived outside of the SB 202 deadline. Overall, 0.25% of mail-in absentee ballot applications were rejected for arriving outside the deadline. Absentee ballot applications from Black voters were more likely to be rejected for arriving outside the SB 202 window than absentee ballot applications for white voters, though the difference is a modest 0.05 percentage points.

90. Dr. Fraga's Table 7 also examines the incidence of mail-in absentee ballot applications rejected for arriving after the deadline, but he uses a different denominator when presenting his results, resulting in larger



percentages in his Table 7 than my Table 12. Specifically, for a particular entry in Dr. Fraga's Table 7 he first subsets to the rejected mail-in absentee ballot applications in a particular election. Then, he computes the proportion of those rejected mail-in ballot applications that were rejected for arriving after the deadline. This computation results in larger percentages in the table, even though Dr. Fraga and I appear to have similar numbers, with the small differences likely due to discrepancies in our manual classification of the "Status Reason" field. For example, I classified 706 rejections as due to arriving late in 2022, for an overall rate of 0.25%. Because there were 2,487 applications rejected in 2022, by my calculations 28.4% of rejections were due to applications arriving after the deadline, compared to Dr. Fraga's estimate of 25.9%. I examined the share of applications rejected due to arriving after the deadline, because this enables a direct comparison of the rate applications are rejected. In contrast, Dr. Fraga's presentation of the calculation depends on both the rate applications are rejected for arriving late and the total number of rejections overall, making it difficult to infer the population of voters who are having their mail-in ballot applications rejected. This also complicates Dr. Fraga's interpretation of his Table 7. For example, when Dr. Fraga writes "December 2022 was the election with the highest rates of 'too late' rejection with a total rate of 30.6%," Fraga Rep. 44, he is referring to the share of

rejections due to arriving after the deadline among those rejected mail-in absentee ballot applications.

91. According to the preamble of SB 202, the application window for mail-in absentee voting was changed because “[t]he lengthy absentee ballot process also led to elector confusion, including electors who were told they had already voted when they arrived to vote in person. Creating a definite period of absentee voting will assist electors in understanding the election process while also ensuring that opportunities to vote are not diminished, especially when many absentee ballots issued in the last few days before the election were not successfully voted or were returned late.” SB 202, § 2(9).

92. Above, I provided evidence that absentee applications from previous elections that arrived after the SB 202 deadline were less likely to result in a successfully voted mail-in absentee ballot. I am unable to assess how often voters arrived at the polls to vote in person when, in fact, they had previously voted a mail-in absentee ballot. I am able to assess how often voters cancel their mail-in absentee ballots in order to vote in person on Election Day or to vote early in person. Reducing the number of canceled mail ballots in the voting place helps to limit the burden on election officials at the polling place who have to first cancel the absentee ballot before checking in a voter to cast a

ballot on Election Day. Canceling ballots also necessarily slows down the check in process.<sup>32</sup>

93. While I cannot establish the causal effect of SB 202 on the number of in-person canceled ballots, there was a reduction in the number of canceled mail-in absentee ballots where the applicant subsequently voted in person, relative to the 2018 and 2020 elections. Tables 13 and 14 provide information about the share and number of individuals who first apply for a mail-in ballot and then cancel that ballot to vote in person on Election Day. I calculated this quantity overall and broken down by self-identified racial group.

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<sup>32</sup> For example, from the Carter Center's observation of Fulton County voting, they write, "Nonstandard processes like voter challenges, provisional ballots, and *canceling mail absentee ballots* were rare, but the process widely varied from place to place. Many poll workers were unsure of how to proceed even after reviewing documentation and simply called their regional manager for guidance. The Carter Center recommends implementing that escalation path as the standard practice, as those who tried to complete these procedures alone were not always successful. In addition, providing very clear step-by-step checklists/decision trees for each scenario would be helpful." The Carter Center, *2022 General Election Observation: Fulton County, Georgia* 13 (2022) (emphasis added).

Race	2014	2016	2018	2020	2022
American Indian	0.0149	0.0117	0.0139	0.0292	0.0114
Asian	0.0082	0.0054	0.0177	0.0193	0.0061
Black	0.0103	0.0089	0.0200	0.0168	0.0062
Hispanic	0.0129	0.0220	0.0337	0.0343	0.0124
White	0.0057	0.0051	0.0076	0.0149	0.0054
Overall	0.00809	0.00724	0.0151	0.0169	0.00596

Table 13: Share of Mail in Absentee Ballot Applications that are Ultimately Canceled, with Applicant Voting in Person at the Polling Place

94. Table 13 shows that, beginning in 2018, there was an increase in the rate individuals applied for mail-in absentee ballots only to subsequently vote in person on Election Day. Examining the bottom row of Table 13 first, I find that, in 2016, 0.72% of individuals who applied for a mail-in absentee ballot canceled their mail-in absentee ballot and then voted in person on Election Day. By 2018, this share increased to 1.51%—more than doubling the rate from 2016 and increased even more in 2020, with 1.69% of individuals who applied for a mail-in absentee ballot canceling their ballot and then voting in person on Election Day. Because of the large number of mail-in absentee ballot applications in 2020, there were many more individuals who canceled their mail-in absentee ballot and then voted in person on Election Day in 2020. As Table 14 shows, in 2020, 28,965 individuals canceled their mail-in absentee ballot and then voted in person on Election Day.

Race	2014	2016	2018	2020	2022
American Indian	2	5	10	152	9
Asian	8	36	203	1280	55
Black	328	522	2208	9124	541
Hispanic	11	92	290	1671	62
White	436	709	913	13763	770
Overall	848	1,493	4,072	28,965	1,592

Table 14: Number of Individuals Who First Applied for Mail in Absentee Ballot and then applicant canceled application and Voted in Person on Election Day

95. There is a similar pattern across self-identified racial groups: 2018 and 2020 saw an increase in the share of mail-in ballot applicants who subsequently canceled their ballot and then voted in person on Election Day. American Indian, Asian, Hispanic, and white voters all had their groups highest rate of mail-in absentee ballot applicants who canceled their ballot and then voted in-person on Election Day in 2020, while Black voters had their highest share in 2018, though 2020 was the second highest rate from 2014 to 2020. Table 14 shows that, across racial groups, the largest number of voters who canceled their mail-in absentee ballots and then voted on Election Day occurred in 2020.

96. In 2022, however, the share of absentee ballot applicants who ultimately canceled their ballot and voted in person on Election Day fell to 0.596%, a lower rate than in any election since 2014. In 2022, every racial group saw the share of mail-in absentee ballots canceled and then voted in person on Election Day decline. For example, the share of Black mail-in

absentee ballot applicants who canceled their ballots and then voted in person on Election Day dropped 1.06 percentage points from 1.68% in 2020 to 0.62% in 2022. Table 14 shows that in 2018, 2,208 Black voters canceled their mail-in ballots and then voted in person on Election Day. This number increased to 9,124 in 2020, but then decreased to 541 in 2022. Every other self-identified racial group exhibits a similar pattern: the number of voters who canceled their mail-in absentee ballots and then voted in person on Election Day increased in 2018 and 2020, but then decreased in 2022.

97. I performed a similar calculation to assess the rate mail-in absentee ballot applicants canceled their ballot and then voted early in person. Table 15 contains the share of mail-in absentee ballot applicants who canceled their ballot and then voted early in person, while Table 16 contains the count of mail-in absentee ballot applicants who ultimately canceled their ballot and voted early in person. I calculated these quantities both overall and by self-identified racial group.

Race	2014	2016	2018	2020	2022
American Indian	0.007	0.028	0.066	0.144	0.056
Asian	0.014	0.024	0.048	0.137	0.045
Black	0.020	0.025	0.059	0.157	0.040
Hispanic	0.006	0.041	0.056	0.142	0.045
White	0.009	0.019	0.027	0.149	0.032
Overall	0.012	0.021	0.043	0.150	0.036

Table 15: Share of mail in ballot applicants who canceled their mail in ballot and ultimately voted absentee early in person.

Race	2014	2016	2018	2020	2022
American Indian	1	12	48	758	44
Asian	15	141	539	9,141	416
Black	605	1,378	6,265	84,337	3,582
Hispanic	6	171	471	6,936	231
White	778	2,822	3,287	133,002	4,752
Overall	1,540	4,995	12,000	260,085	10,067

Table 16: Number of mail in ballot applicants who canceled their mail in ballot and ultimately voted absentee early in person.

98. Tables 15 and 16 show that, prior to 2018, a relatively small share of mail-in absentee ballot applicants canceled their ballot and voted early in person. This increased in 2018, where 12,000 individuals canceled their mail-in absentee ballots and voted early in person, constituting 4.3% of all mail-in ballot applicants. Then, in the 2020 election, there was a large increase in the rate and count of voters canceling their mail-in absentee ballots and then voting early in person. In 2020, overall, 15% of all mail-in absentee ballot applicants subsequently canceled their mail-in absentee ballot and then voted early in person. This corresponds to 260,085 individuals who canceled their mail-in absentee ballots and then voted early in person. Across self-identified racial groups there was a large increase in both the rate and number of mail-in absentee ballot applicants who canceled their ballots and voted in person.

99. In the 2022 election, the number and share of mail-in absentee ballot applicants who subsequently canceled their ballot and voted early in person decreased. In the 2022 midterm election, 3.6% of mail-in absentee ballot

applicants canceled their ballot and voted early in person. This is an 11.4 percentage point decrease from 2020, and a 0.7 percentage point decrease from 2018. Relative to 2020, in 2022, the share and number of voters who cancel their mail-in absentee ballots and voted early in person decreased for every racial group. Relative to 2018, in 2022 there was a decrease in the share and number of mail-in absentee applicants who canceled their ballot and voted early in person for every racial group but white mail-in absentee ballot applicants. The largest decrease from 2018 to 2022 in the rate voters canceled their mail-in absentee ballot and then voted early in person was among Black mail-in absentee ballot applicants, with a 1.9 percentage point reduction.

100. I also assessed the rate returned mail-in absentee ballots were rejected because they arrived after the deadline on Election Day. In Table 17, I present the share of returned absentee ballots—either accepted or rejected—that are rejected because they arrive after the deadline.<sup>33</sup> To calculate the

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<sup>33</sup> Dr. Cobb and Dr. Meredith cite Shino, Suttman-Lea, and Smith (2021), which finds that Black voters are more likely to have their ballots rejected than White voters in 2018. I reviewed the Shino, Suttman-Lea, and Smith (2021) replication data set and found they inadvertently labeled ballots as being rejected for being late when the stated reason included “Insufficient Oath Information” and “Ballot Returned Undeliverable.” This occurred because Shino, Lea, and Smith (2021) coded all ballots returned after Election Day and rejected as “rejected for late arrival.” However, many ballots were recorded as



share of received mail-in absentee ballots rejected for arriving after the deadline, I coded the “Status Reason” field in the absentee voter file from 2018, 2020, and 2022, focusing on rejected ballots. In 2020 and 2022, the reasons had been standardized as part of a dropdown menu for election officials, so this coding is straightforward. In 2018, I hand coded the stated rejection reasons. I then examined the share of absentee ballots that were returned—either accepted (‘A’) or rejected (‘R’)—due to arriving after the deadline.

101. I find the highest rate of rejection for arriving after the deadline in 2018, with 1.6% of returned mail-in absentee ballots rejected for arriving after the deadline. This rate declined to 0.2% in 2020, and then increased to 0.84% in 2022. None of the Plaintiffs’ experts have shown this election-to-election change was caused by SB 202. I also find no clear relationship between the rejection rates of received mail-in absentee ballots rejected for arriving after the deadline for Black and white voters. In 2018, Black voters had their

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returned the day after Election Day in 2018, November 7th, were given non-deadline related reasons for rejection. Further, several ballots were recorded as arriving on November 7th and accepted, so a recorded arrival after November 6th does not imply an automatic rejection. In total, I find that there are 615 ballots labeled as rejected for arriving after the deadline with a non-deadline rejection status. Further, Shino, Suttman-Lea, and Smith (2021) include all absentee applicants when calculating the rate of rejection. This includes individuals who never returned their ballot, or had their ballot canceled and therefore could not possibly have their ballot rejected.

returned absentee ballots rejected for arriving after the return deadline at a slightly higher rate than white voters: 1.4% of received mail-in absentee ballots from Black voters compared to 1.3% of received mail-in absentee ballots for white voters. In 2020, the share of returned ballots rejected for arriving after the deadline for Black and white voters were similar, 0.2%. Then, in 2022, white voters had their returned absentee ballots rejected for arriving after the deadline at a slightly higher rate than Black voters: 0.8% of returned mail-in ballots from white voters were rejected for arriving after the deadline, compared to 0.7% of returned mail-in ballots from Black voters.

Race	2018	2020	2022
American Indian	0.029	0.005	0.029
Asian	0.020	0.002	0.023
Black	0.014	0.002	0.007
Hispanic	0.017	0.003	0.015
White	0.013	0.002	0.008
Overall	0.016	0.002	0.0084

Table 17: Share of mail in ballots rejected due to arriving after Election Day, for the 2018, 2020, and 2022 statewide general elections.

### A. Examining When Voters Return Absentee Ballots

102. Dr. Burden opines that, “even before 2018, Black voters were more likely to cast absentee ballots in the final four days of the election cycle. The elimination of drop boxes on the final four days of the election cycle, coupled with sharp reductions in the availability and usefulness of drop boxes on other

days, will disproportionately burden Black voters compared to white voters.” Burden Rep. 20.

103. To support this conclusion, Dr. Burden examined the daily share of returned mail-in absentee ballots from Black voters among mail-in absentee ballots returned by either Black or white voters. Specifically, Dr. Burden produced a series of figures (Figures 1 through 6) that show the daily share of all mail-in absentee ballots (those returned by Black and white voters) that the State received from Black voters. To calculate each point in the figure, Dr. Burden first subsets to the mail-in absentee ballots that were recorded as returned on that day. He then further restricts his attention to the ballots from white and Black voters. And finally, he calculated the share of that subset of ballots from Black voters. He then reached conclusions by analysis of the share of votes from Black voters on a particular day, relative to the share of all ballots, regardless of type, from Black voters. But Dr. Burden never explicitly calculated the likelihood Black voters had their absentee ballot recorded as being received in the last four days of the election cycle.

104. There are two potential ways to calculate a quantity to evaluate Dr. Burden’s claim (at 20) that “Black voters were more likely to cast absentee ballots in the final four days of the election cycle.” First, it could be that Dr. Burden intended to examine the proportion of all ballots returned from Black

and white voters that were mail-in absentee ballots recorded as being received in the last four days. I calculated these quantities in Table 18 for each self-identified racial group. The top cell of Table 18 examines the share of mail-in absentee ballots recorded as having arrived in the last four days of the election cycle. This reveals differences across racial groups in the rates their mail-in absentee ballot recorded in the four days of the election cycle. For example, in 2018, 1.09% of all ballots cast from Black voters were mail-in absentee ballots recorded as arriving in the last four days before the election, while 0.68% of all ballots cast from white voters were mail-in absentee ballots recorded as arriving in the last four days before the election. In 2020, 2.50% of all ballots cast from Black voters were mail-in absentee ballots recorded as cast in the last four days before the election, compared to 1.77% of white votes. The bottom cell of Table 18 calculates the share of all ballots from each self-identified racial group that arrived in the week before the election. This, too, reveals differences across self-identified racial groups. In 2018, 2.04% of all ballots cast from Black voters were mail-in absentee ballots that arrived in the week before the election, while 1.37% of all ballots from white voters were mail-in absentee ballots that arrived in the week before the election. In 2020, 5.0% all ballots cast from Black voters were mail-in absentee ballots that arrived in the week

before the election, while 3.82% of all ballots from white voters were mail-in absentee ballots that arrived in the week before the election.

Race	2014	2016	2018	2020	2022	Runoff	
						2021	2022
Proportion four days before							
American Indian	0.005	0.006	0.011	0.033	0.009	0.037	0.012
Asian	0.007	0.013	0.021	0.045	0.017	0.049	0.023
Black	0.007	0.008	0.011	0.025	0.008	0.034	0.012
Hispanic	0.005	0.008	0.011	0.032	0.008	0.035	0.009
White	0.005	0.006	0.007	0.018	0.006	0.023	0.011
Proportion week before							
American Indian	0.009	0.014	0.019	0.062	0.018	0.056	0.026
Asian	0.014	0.023	0.039	0.090	0.032	0.079	0.048
Black	0.014	0.015	0.020	0.050	0.017	0.054	0.034
Hispanic	0.010	0.015	0.019	0.061	0.015	0.053	0.020
White	0.012	0.014	0.014	0.038	0.013	0.038	0.032

Table 18: Proportion of all votes from each group recorded as mail in absentee ballots returned four days before the election or sooner (Top table) and proportion of all votes from each group recorded as returned a week before the election or sooner (Bottom table).

105. An alternative interpretation of Dr. Burden’s claim that “Black voters were more likely to cast absentee ballots in the final four days of the election cycle” is that, conditional on casting a vote using mail-in absentee ballots, Black mail-in absentee voters were particularly likely to have their ballot received in the last four days of the election cycle. Conditional on using mail-in absentee ballots, I examined when members of different self-identified racial groups return their ballots across Georgia elections. Table 19 calculates the average number of days before the election voters return their mail-in absentee ballots. On average, Black mail-in absentee voters do not return their

absentee ballot later than white mail-in absentee voters.<sup>34</sup> For example, in 2020, Black mail-in absentee voters returned their ballot on average 19.3 days before the election, while white voters returned their ballot on average 18.72 days before the election. Similarly, in 2018, Black mail-in absentee voters returned their ballot on average 16.27 days before the election, while white mail-in absentee voters returned their ballot on average 14.96 days before the election. But in 2016, Black mail-in absentee voters returned their ballots later than white mail-in absentee voters. In 2022, their average returning behavior was similar, with Black mail-in absentee voters returning their ballots 12.81 days before the election, while white mail-in absentee voters returned their ballots slightly earlier on average, 12.26 days before the election.

Race	2014	2016	2018	2020	2022	Runoff	
						2021	2022
American Indian	12.61	13.28	13.12	15.60	10.07	15.06	4.60
Asian	12.35	13.01	14.38	15.48	10.13	15.30	4.38
Black	12.64	14.13	16.27	19.30	12.81	16.96	5.51
Hispanic	10.82	11.09	15.03	14.91	10.42	14.67	4.63
White	15.43	16.65	14.96	18.72	12.26	17.64	5.63

Table 19: Average days before election mail in ballots are recorded as returned, by racial group

106. I now turn to calculating the share of mail-in absentee ballots returned in the last four days of the election by self-identified racial group. The

<sup>34</sup> I reach the same conclusion if I used the median days before rather than the average.

top cell in Table 20 calculates the proportion of returned mail-in absentee ballots from each self-identified racial group that arrived in the last four days before the deadline. Table 20 shows that sometimes the proportion of ballots returned by Black and white voters in the last four days before the deadline is similar and sometimes it is different. For example, in 2018, the share of ballots returned during the last four days before the deadline from Black mail-in absentee voters (14.7%) and white mail-in absentee voters (14.6%) was similar. In 2020, Black mail-in absentee voters returned 8.5% of their mail-in absentee ballots in the last four days before the deadline, while white mail-in absentee voters returned 7.4% of their mail-in absentee ballots in the last four days before the deadline.

107. In the bottom of Table 20 I examined the share of absentee ballots returned a week before the deadline. This, too, reveals that there is no consistent pattern in which racial groups return more of their ballots immediately before the election. Sometimes, white mail-in absentee voters returned a larger share of their absentee votes in the week before the election than Black mail-in absentee voters. For example, in 2018, white mail-in absentee voters returned 29.5% of their ballots in the week before the election, while 27.6% of ballots from Black mail-in absentee voters were turned in the week before the election. In 2020, Black mail-in absentee ballots returned

17.1% of their ballots in the week before the election, while 16.0% of white mail-in absentee ballots were returned in the week before the election. In sum, there is no consistent pattern when racial groups return mail-in absentee ballots.

Race	2014	2016	2018	2020	2022	Runoff	
						2021	2022
Proportion four days before							
American Indian	0.189	0.180	0.220	0.138	0.184	0.176	0.340
Asian	0.180	0.202	0.177	0.114	0.181	0.140	0.364
Black	0.196	0.193	0.147	0.085	0.106	0.123	0.207
Hispanic	0.181	0.248	0.168	0.138	0.172	0.170	0.330
White	0.117	0.121	0.146	0.074	0.104	0.105	0.206
Proportion week before							
American Indian	0.358	0.401	0.374	0.260	0.354	0.262	0.729
Asian	0.386	0.366	0.322	0.226	0.343	0.225	0.754
Black	0.391	0.356	0.276	0.171	0.224	0.194	0.596
Hispanic	0.402	0.460	0.300	0.264	0.332	0.259	0.718
White	0.268	0.254	0.295	0.160	0.236	0.174	0.607

Table 20: Proportion of ballots returned four days before the election (Top table) and proportion of ballots returned a week before the election (Bottom table).

## VIII. SB 202 AND ABSENTEE DROP BOXES FOR RETURNING VOTED BALLOTS

108. SB 202 mandated that county election officials provide a “drop box” for voters to return voted absentee ballots, or a receptacle for voters to submit their absentee ballot without placing the ballot in the mail. While drop boxes were used in the 2020 election, this was authorized under emergency authority which has subsequently expired and was only optional for counties. SB 202 requires each county to have at least one drop box per county. Further, county



officials can add drop boxes so long as they are less than one per 100,000 residents in the county and no more than the number of advanced voting locations.

109. Among the states, Georgia is one of the more permissive when it comes to drop box availability. According to the NCSL, Georgia is one of 23 states that have statutory guidance on the presence of drop boxes.<sup>35</sup> The NCSL database shows that there is considerable variability in the requirements for drop boxes, which makes a direct comparison to the requirements of the Georgia law difficult. But several states lack explicit requirements for at least one drop box in every county. For example, in Illinois according to the NCSL, “[e]lection authorities may maintain one or more collection sites.” Other states, like Iowa, have more restrictive drop box laws. Iowa does not require that county election officials provide a drop box to voters and the law mandates only one drop box can be created per county. According to the NCSL, in Iowa, “[a] commissioner is not required to establish a ballot drop box. A commissioner shall not establish more than one ballot drop box, which shall be located at the

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<sup>35</sup> National Conference of State Legislatures, *Table 9: Ballot Drop Box Laws*, <https://tinyurl.com/hpwbt3p>.

office of the commissioner, or on property owned and maintained by the county that directly surrounds the building where the office is located.”

110. The academic literature on the effect of drop boxes on turnout is limited and provides no clear evidence of the effect of drop boxes on overall turnout or the share of ballots cast using mail-in absentee voting. For example, McGuire et al. (2020) assesses the effect of randomly allocating 5 additional drop boxes in a Washington state county across 6 potential locations.<sup>36</sup> Social scientists use randomized experiments to render “treatment” (locations with a new drop box) and “control” (the lone location where a drop box wasn’t allocated) comparable, so that the only remaining differences is due to the randomized intervention. The experiment in McGuire et al. (2020), however, fails to render the groups comparable. To account for this failed randomization, McGuire et al. (2020) use a research design that requires stronger assumptions than an experiment called “difference-in-differences.” Using this research design, McGuire et al. find a modest effect of voters having a closer drop box. But the strong assumptions required to interpret this estimate as a causal effect are unlikely to hold in this setting. Applying a difference-in-differences

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<sup>36</sup> McGuire, William, et al. “Does Distance Matter? Evaluating the Impact of Drop Boxes on Voter Turnout.” *Social Science Quarterly* 101.5 (2020): 1789-1809.

design to voter file data is challenging, because it rests upon the assumption that the treatment and control groups would have continued on a “parallel trend” in the absence of the intervention. In Grimmer and Yoder 2022, I found that only after conditioning on a voter’s *exact* turnout history from several prior elections are different groups comparable.<sup>37</sup> McGuire et al. (2020) only use two prior elections and therefore risk severe bias between treatment and control groups. As a result, it is impossible to rule out bias as an explanation for their finding. Collingwood et al. (2018) find small effects of distance to nearest drop box on turnout. Further, an inspection of their Figure 2 reveals their estimate is heavily influenced by a small number of large distance observations. Based on their empirical analyses in Figures 3 and 4, in a presidential election moving from the 25<sup>th</sup> to 75<sup>th</sup> percentile of distance from nearest drop box is associated with a 0.1 percentage point change in voter turnout.<sup>38</sup>

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<sup>37</sup> Grimmer, Justin, and Jesse Yoder. “The durable differential deterrent effects of strict photo identification laws.” *Political Science Research and Methods* 10.3 (2022): 453-469.

<sup>38</sup> Collingwood, Loren, et al. “Do Drop Boxes Improve Voter Turnout? Evidence from King County, Washington.” *Election Law Journal* 17.1 (2018): 58-72.

**A. The USPS Took Extraordinary Measures in 2020 and 2022 to Deliver Ballots on Time**

111. When voters return completed mail-in absentee ballots they receive a default classification of “First-Class Mail” and this is true “regardless of whether they are prepaid by election officials or mailed with a stamp affixed by the voter.”<sup>39</sup> First-Class mail has a service standard of 2-5 days, which means that the postal service views an on-time delivery of first-class mail if the time from the initial intake scan to the final scan occurs within 2-5 days.<sup>40</sup> There is considerable confusion about how failing to meet this service standard affects the delivery of mail-in absentee ballots. For example, Mr. Kennedy notes that “[i]t was reported that one in ten (10%) absentee ballots were not delivered on time.” Kennedy Rep. 32. Yet, the news article Mr. Kennedy cites is referring to data from the USPS that examines whether the ballots were delivered according to its service standard, not whether the ballots were delivered on time according to a state’s particular electoral rules.<sup>41</sup>

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<sup>39</sup> USPS, *State And Local Election Mail—User’s Guide* 5 (2022), <https://tinyurl.com/4ujbte6k>.

<sup>40</sup> *Id.*

<sup>41</sup> Aimee Picchi, *On election eve, the U.S. Postal Service is struggling to deliver mail on time*, CBS News (Nov. 2, 2020), <https://tinyurl.com/3umzzjc6>.

112. The USPS also took additional steps immediately prior to the 2022 election to ensure that mail-in absentee ballots returned close to the election arrive before the State's deadline. In the 2022 election, the USPS undertook "extraordinary measures" to ensure the timely delivery of ballots.<sup>42</sup> The memorandum announcing these measures details a series of optional and mandatory changes to standard USPS policy. A mandatory change, implemented on the day before Election Day and Election Day, was to implement a "hub and spoke" policy. On the day before Election Day and Election Day, the USPS required that:

All offices will run early collections, with local postmark reflecting the date of entry and turnaround for local ballots to the BOE [Board of Elections]. All offices that service or are in close proximity to a local BOE shall establish a "hub-and-spoke" process for running ballots to the local BOE. Ballots are to be postmarked in the local retail unit, then hubbed to the BOE, prior to the state's cut-off for the day and no later than the state's Election Day return deadline (November 7, 2022 deadline in Louisiana). This will also apply to the LAST day that the BOE accepts ballots in each state.<sup>43</sup>

Then, on Election Day:

For non-local BOE deliveries where it is reasonably possible to effectuate delivery by the BOE's cutoff time for accepting ballots in that state, establish an Election Mail "hub-and-spoke" process

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<sup>42</sup> Joshua D. Colin et al., *2022 General Election Extraordinary Measures Memorandum*, U.S. Postal Service (Sept. 29, 2022), <https://tinyurl.com/yc8xnzj5>.

<sup>43</sup> *Id.* at 4.

specifically for transporting ballots on Election Day, November 8, using pre-identified drivers and vehicles staged to run trips. Coordinate the trips around cut-off times to avoid making the same hub/spoke run multiple times per day. This will also apply to the LAST day that the BOE accepts ballots in each state. Carriers will pull ballots from their collection mail and hand them over to their supervisor. Supervisors will exchange ballots around the city, and after the exchange, a designated supervisor makes delivery to the BOE prior to the BOE's cutoff for the day. This will also apply to the LAST day that the BOE accepts ballots in each state.<sup>44</sup>

113. In plain language, this policy instructs postal workers to pull ballots destined for local Board of Elections (BOE) out of the normal mail processing procedure and deliver them directly to the BOE.

114. The USPS published performance numbers from the 2022 election shows that the postal service was able to reliably deliver ballots from voters to elected officials. According to published statistics, on average the USPS delivered ballots from voters to election offices in less than 2 days. Further, within three days, the USPS reports delivered 98.96% of ballots to BOEs. Over 5 days, 99.82% of ballots are delivered to BOEs, and, over 7 days, 99.93% of ballots are delivered to BOEs.<sup>45</sup> These quantities necessarily exclude some of the ballots that will be delivered fastest. This is because the USPS is only able

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<sup>44</sup> *Id.*

<sup>45</sup> United States Postal Service, *2022 Post-Election Analysis*, <https://tinyurl.com/nm7tc2w8>.

to evaluate ballots that are scanned into the system as part of processing. But, if ballots are delivered as part of its “hub and spoke” measures, then those rapidly delivered ballots will not be included as part of their calculation. Further, there are a mix of local ballots, that could plausibly also be returned via drop box, and more distant ballots that must be delivered via mail.

115. Plaintiffs’ experts argue that the USPS is not a reliable method to return mail-in absentee ballots. Dr. Burden opines that, “[f]or voters who receive ballots by mail, returning them via drop boxes is more trustworthy than mail because it immediately puts the ballot into the custody of local election officials rather than an intermediary. Reductions in drop box access could easily deter voters from using absentee ballots or make them less confident about the election process.” Burden Rep. 26. He cites no evidence for the claim that drop boxes increase voter confidence. Dr. Lee opines that “absentee ballots are vulnerable to being rejected due to delays in mail delivery.”<sup>46</sup> He cites a paper by Cottrell, Herron, and Smith (2021), who use evidence from Florida elections to argue that inexperienced voters may have their ballots rejected because they arrive late. Yet, they find that, in 2020, a small number of ballots were rejected because they arrive after the deadline

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<sup>46</sup> Lee Rep. 77.

and that inexperienced voters had a 0.005 percentage point increase in the rate their ballots were rejected due to arriving after the deadline (that is 0.00005 as a share of ballots).<sup>47</sup>

116. One stated reason for the use of drop boxes is to reduce the number of ballots that arrive after the Election Day deadline. As demonstrated above in Table 17, the 2022 general election had a smaller share of ballots rejected for arriving after the deadline than in 2018, but a larger share than in the 2020 general election. To reprise this evidence, Table 17, discussed above, shows the number of returned mail-in absentee ballots that arrived after the deadline in 2022 was less than in 2018 or 2020. In 2018, there was 3,571 returned mail-in absentee ballots rejected because they arrived after the deadline, or 1.6% of returned mail-in absentee ballots. In 2022, this number was reduced to 2,074 or about 0.84% of all returned mail-in absentee ballots. In 2020, approximately 0.18% of all returned mail-in absentee ballots were rejected because they arrived after the deadline. None of the Plaintiffs' experts have shown that SB 202's regulation of drop boxes caused this change in rejection rate, and it is difficult to attribute these differences to the presence or absence of drop boxes.

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<sup>47</sup> Cottrell, David, Michael C. Herron, and Daniel A. Smith. "Vote-by-mail ballot rejection and experience with mail-in voting." *American Politics Research* 49.6 (2021): 577-590.



There were numerous other factors occurring in the 2020 election. Further, there is no academic analysis showing that drop boxes decrease the rate of rejected mail-in absentee ballots.

### **B. Estimating Rate of Drop Box Use**

117. Dr. Burden offers several opinions about the rate drop boxes were used in the 2020 election and when those ballots were deposited at drop boxes. His opinions are based on a data set of drop box use that was assembled from county ballot transfer election records. In discussing the data set, he reported that “107 of the 129 counties in Georgia that used drop boxes provided information on at least one of the three federal elections from June 2020 to January 2021,” and he reports data for 101 counties in the November 2020 election. Burden Rep. 30.

118. Using this drop box data set, Dr. Burden opined that:

The data show evidence of at least 677,618 ballots being collected from drop boxes in the November 2020 election cycle. Drop box usage by Georgia voters was widespread: the ballots represent over half of all absentee ballots cast in the counties who provided information about drop box collections. Figure 8 below shows daily collection counts from drop boxes in the November 3, 2020 election. The figure shows that drop box usage generally rose over the course of the election campaign and was heavier in the final days leading to election day. In the final four days from October 30 through November 3 (days after the vertical dotted line in the figure), 120,841 of the ballots in the dataset were collected. The sum for the final four days of the 2020 election

cycle – days during which drop boxes are no longer available under SB 202 – accounts for 12% of the total number of absentee ballots placed in drop boxes. This is important for understanding the likely effects of SB 202 because the law now bans usage of drop boxes in the three days immediately before election day, as well as on election day itself. Election day was the heaviest day of usage, with more than 61,000 ballots collected on November 3, 2020 across the 101 counties.

*Id.*

119. This paragraph reports an incorrect number of ballots returned via drop box, an overestimate of the share of ballots returned by drop box, an impossible number of ballots returned in the four days before the deadline, and reports an impossible estimate of the number of drop box ballots returned on Election Day. Further, Dr. Burden's in-text description is inconsistent with the points plotted in Figure 8 in his expert report. Finally, I will show that the drop box usage did not generally rise before Election Day.

120. First, Dr. Burden overestimates the number of ballots returned by drop box immediately before and on Election Day. On several days Dr. Burden's estimated number of ballots retrieved from drop boxes exceeds the total number of mail-in absentee ballots the state of Georgia received on those days. Because ballots returned via drop box are a subset of all mail-in absentee ballots, it is impossible that there are more mail-in absentee ballots retrieved from drop boxes than mail-in absentee ballots received overall. For example,

Dr. Burden reported (at 30) that “more than 61,000 ballots” were “collected on November 3, 2020.” Yet, using the absentee data from Georgia’s Secretary of State, I find that only 42,837 ballots were received on Election Day—marked as either accepted (‘A’) or rejected (‘R’). Further, Dr. Burden reports that, “[i]n the final four days from October 30 through November 3 (days after the vertical dotted line in the figure), 120,841 of the ballots in the dataset were collected.” *Id.* Yet, the state of Georgia only reports receiving 199,178 mail-in absentee ballots over these four days.

121. Dr. Burden’s Figure 8 is inconsistent with his in-text description of the total number of ballots returned via drop box: the cumulative points in Figure 8 exceed Dr. Burden’s stated number of ballots returned via drop box by approximately 52%. Because I do not have access to Dr. Burden’s data set, I used a freely available data tool to extract the numerical values from Dr. Burden’s Figure 8.<sup>48</sup> Using this tool, I extracted the numerical value for all points in Dr. Burden’s Figure 8. I then summed together the number of reported mail-in absentee ballots retrieved from drop boxes and contrasted

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<sup>48</sup> I used a standard tool, Plot Digitizer, <https://plotdigitizer.com/app>. While this is necessarily an approximation, I manually validated the numbers, and I will show that the extracted numbers are consistent with the estimates reported by Dr. Burden.

that with Dr. Burden's reported total of 677,618. Based on the extracted numerical values, I find that Dr. Burden's Figure 8 reports that there are approximately 1,042,359 ballots retrieved from drop boxes in the 2020 general election, rather than the 677,618 he reports in his text.

122. Dr. Burden's calculation of the number of mail-in absentee ballots retrieved from drop boxes in the last four days of the 2020 general election cycle and the share of ballots retrieved during those four days appear to be from Figure 8 in his expert report. Dr. Burden reports that 120,841 ballots were collected from drop boxes on Election Day or the three days before. Using the extracted numerical data from Figure 8, I obtained a nearly identical estimate, 119,797. Further, using the extracted numerical values from Figure 8, I am able to replicate Dr. Burden's reported share of ballots retrieved from drop boxes in the final four days of the 2020 election cycle. Dr. Burden reports (at 30) that the 120,841 ballots constitute "12% of the total number of absentee ballots placed in drop boxes" and 120,841 is approximately 12% of 1,042,359. In contrast, 120,841 is approximately 18% of 677,618.

123. Given the errors in Dr. Burden's data set, I used a data set on drop box usage reported in Fowler (2022) to evaluate how drop boxes were used

during the 2020 election.<sup>49</sup> This data set covers “300 boxes across 112 counties” for the 2020 election, in contrast to the 101 counties covered in Dr. Burden’s drop box data set for the 2020 election. For each county, the data set contains the number of ballots collected on a particular day. Using this data set, I aggregated across counties to calculate the number of mail-in absentee ballots retrieved from a drop box on each day and calculated the overall number of mail-in absentee ballots retrieved from drop boxes.

124. Using this data, I calculated that 547,397 mail-in absentee ballots were retrieved from drop boxes in the 2020 election. This constitutes 45.3% of all mail-in absentee ballots in the 2020 election for the 112 counties found in this data set. Dr. Burden reported 677,618 ballots retrieved from drop boxes, an overestimate of 23.8%. Using this data set I calculated that 30,314 mail-in absentee ballots were returned on Election Day, compared to the reported estimate of “more than 61,000” from Dr. Burden. Dr. Burden reports a 101% overestimate. I also calculated that 60,530 ballots were returned on the last four days of the 2020 general election (11/3, 11/2, 11/1, 10/31), while Dr. Burden

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<sup>49</sup> Stephen Fowler, *See where Georgians used drop boxes in the 2020 presidential election*, GPB News (Sept. 2, 2022), <https://tinyurl.com/337nka8j>. Note that Dr. Burden’s reported estimate differs from Dr. Fraga’s reported number of mail-in ballots returned via drop box. Dr. Fraga and I appear to use the same drop box data source.

calculated that 120,841 ballots were returned over the same days. This constitutes a 99.6% overestimate of the number of ballots received in the last four days before the deadline. The 60,530 ballots returned via drop box constituted about 55% of mail-in absentee ballots returned in the last four days of the election cycle and 11.1% of all ballots retrieved from drop boxes.

125. Using this drop box data set, I also examined Dr. Burden's claim (at 30) "that drop box usage generally rose over the course of the election campaign and was heavier in the final days leading to election day." Figure 3 plots the number of ballots retrieved on a particular day. The thick black line is a smoothed average of the number of ballots retrieved from drop box on each day, fit using a loess smoother using the stats package in the R programming language.

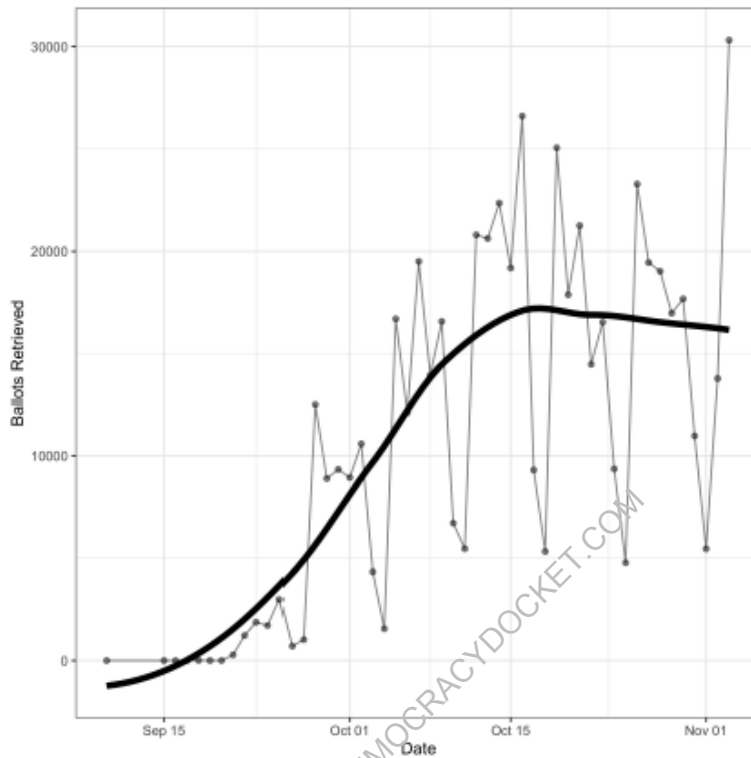


Figure 3: The number of ballots retrieved from drop box by day. Each point is the total number of ballots retrieved that day and the thick black line is a smoothed average of the number of ballots retrieved over the election.

126. Figure 3 shows that many ballots were deposited in drop boxes long before Election Day, with the number of ballots retrieved relatively stable in the last weeks of the election. The smoothed average number of ballots retrieved from drop boxes increased until about October 15<sup>th</sup>, leveled off, and then slightly declined. A manual examination of the number of ballots retrieved on each date demonstrates the same point: the average number of ballots retrieved was stable across weeks in October. I divided October into the four weeks prior to the last four days of the election cycle, ensuring none of the

weekly counts include ballots retrieved on the last four days of the election cycle. Using this partition of October, I find that from 10/3 to 10/9 there were 84,721 ballots retrieved from drop boxes and from 10/10 to 10/16 121,706 ballots were retrieved from drop boxes. Subsequently, there was a decline to 109,803 retrieved from 10/17 to 10/23 and finally 110,526 ballots were retrieved from 10/24 to 10/30. And while Election Day had the most ballots retrieved from drop boxes on a single day, 5.5% of all ballots, 4.9% of ballots were retrieved from drop boxes on the second most used day—October 16<sup>th</sup>. In total, large shares of ballots are returned to drop boxes before Election Day: 78.3% of drop box ballots were retrieved a week before the election or earlier, 85.0% of drop box ballots were retrieved five days before the election or earlier, and 91.0% of ballots were retrieved three days before the election or earlier.

127. Dr. Burden also opined (at 31) that “[s]imilar patterns are apparent in the 2021 U.S. Senate runoff elections” and that “drop box usage generally increased as election day approached, although lower usage around the Christmas and New Year’s Day holidays is evident.” As in Dr. Burden’s Figure 8, he provides no explicit calculation or estimation to support the claim that drop box usage was generally increasing over the election. Unfortunately, I do not have an independent data source of ballots retrieved from drop boxes for the January 2021 runoff election, so to assess Dr. Burden’s claim I used Dr.



Burden's data reported in his Figure 9. I extracted the numerical data from Dr. Burden's Figure 9 using the same freely available program I used to analyze his Figure 8. While I am unable to confirm the accuracy of the data in Dr. Burden's Figure 9, the totals I extracted do not exceed the number of mail-in absentee ballots returned in Georgia on those days, so they are at least logically possible. Assuming, for the moment, that Dr. Burden's data for the January 2021 runoff is correct I used the extracted numbers to produce Figure 4. Like Figure 3, Figure 4 shows the total number of ballots retrieved from drop boxes by day. The thick-black line is a smoothed trend line that shows the average number of ballots retrieved per day, this too is estimated using a loess smoother as implemented in the stats package in R.

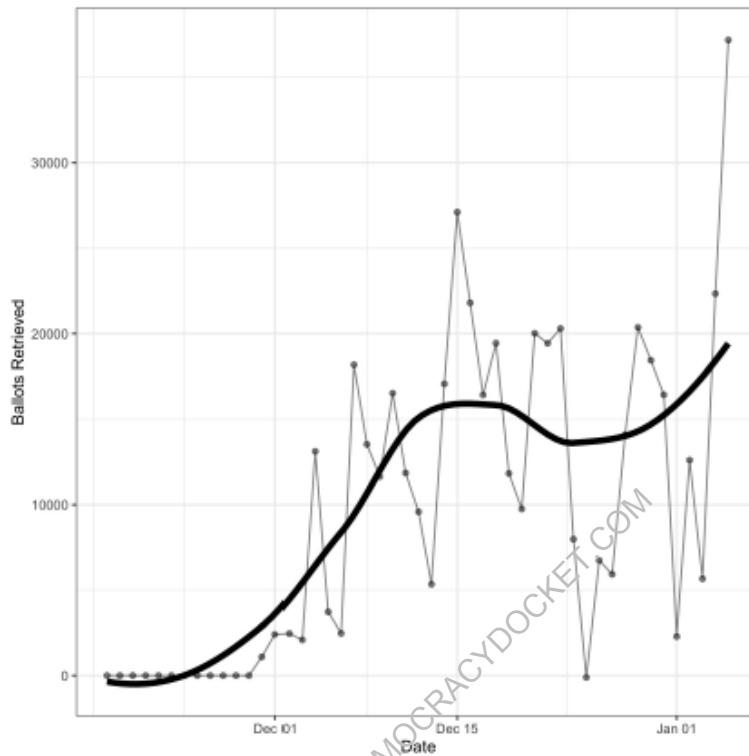


Figure 4: The number of ballots retrieved from drop box by day for the January runoff election, computed using Dr. Burden's data from Figure 9. Each point is the total number of ballots retrieved that day and the thick black line is a smoothed average of the number of ballots retrieved over the election.

128. Figure 4 shows that the number of mail-in absentee ballots retrieved on a particular day was not generally increasing over the election. A local maximum was obtained around December 15<sup>th</sup>, the number of ballots retrieved declined around Christmas, then increased again to the maximum average on Election Day. If I divide the weeks prior to the runoff election and count the number of ballots retrieved each week, I reached the same conclusion as using the smoothed average. As in the general election, I divided the weeks in December so that each week is distinct from the window where ballots could

no longer be retrieved under SB 202. Using this division, I find that, from 12/04 to 12/10, approximately 79,000 ballots were retrieved (17% of all drop box ballots). The week with the most ballots returned is from 12/11 to 12/17, where 109,000 ballots were returned (23% of all drop box ballots), a close second is the week from 12/18 to 12/24 where slightly less than 109,000 ballots were returned (23% of drop box ballots). Finally, in the week from 12/25 to 12/31, 82,000 ballots were retrieved (18% of ballots).<sup>50</sup> Each of these weeks had a larger share of ballots returned than the five days prior to the runoff election. In total, I again find in the runoff that large shares of ballots were returned to drop boxes before Election Day: 85.7% of ballots were retrieved from drop boxes a week before the election or earlier, 89.8% were retrieved five days before the election or earlier, and 93.9% were retrieved three days before the election or earlier.

129. Dr. Burden argued (at 31) that because of SB 202's regulations on drop boxes that "voters who used drop boxes on these final days in 2020 are not able to use them during those days in elections after the passage of SB 202. Voters possessing completed ballots on those days are not able to take

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<sup>50</sup> I round to the nearest 1,000 here to reflect potential measurement error in the extraction process.

advantage of early voting, and would likely not have sufficient time to return their ballots by mail. The alternative is to appear in person at a county elections office or other location with an authorized deputy registrar, or get in line and vote in person on election day.” Dr. Burden provides no calculation of the frequency of voters using county registrars or canceling their absentee ballot and voting in person. Georgia’s absentee voting data does not record if voters return their ballot to the county registrar. As I discussed above, in Table 13, I calculated the share of mail-in absentee ballot applications that are canceled with the voter ultimately voting in person. I found that 2022 exhibited the smallest share of voters canceling mail-in absentee ballots and voting in person on Election Day since at least 2014—the relevant quantity for Dr. Burden’s opinion. Across self-identified racial groups, the 2022 general election had a lower share and count of canceled ballots subsequently voted in person on Election Day than in 2018 and 2020.

130. Dr. Burden also opined (at 12) that “[p]erhaps a more important factor behind lower rates of ballot rejection in 2020 and 2021 was the availability of drop boxes. The State Elections Board issued an emergency rule ahead of the 2020 general election allowing for use of drop boxes to collect absentee ballots for up to 49 days leading to election day. Under the rule, the drop boxes could be available 24 hours a day, could be located outside, and

could be used until 7:00 PM on election day. That rule was extended through the January 5, 2021 runoff elections but did not apply in the 2022 elections when SB 202 was in effect. As I explain in a later section of the report, drop boxes were an important contributor to lower rejection rates.” As mentioned above, he provides no direct evidence that drop boxes lower rejection rates of mail-in absentee ballots.

131. Beyond their daily use, Dr. Burden hypothesized about how drop boxes were used in the 2020 election, which he then used to articulate how drop box locations in the 2022 election affected voters. For example, Dr. Burden opined (at 30) that “the real benefits of drop boxes for voters prior to SB 202 is that they offered more locations and times (up to 24 hours a day) than polling places could accommodate.” Dr. Burden did not provide any evidence on the frequency voters deposited ballots in drop boxes outside of polling hours, nor did any of the other Plaintiffs’ experts. He also did not explicitly quantify the tradeoff between drop boxes and postal boxes, even though postal boxes are widely available 24 hours a day and in many more locations. Dr. Burden also argued (at 34) that “[t]he patterns indicate that the restrictions on drop boxes imposed by SB 202 will have a substantial, disproportionate burden on Black voters, a larger share of whom will be required to alter the times, places, and methods of voting than will white voters.” Yet, Dr. Burden provided no direct

analysis of how specific drop boxes were actually used across Georgia counties, instead focusing on the number of drop boxes in a county and which voters returned their ballots to drop boxes in one county. Nor did he show that SB 202 will cause more Black voters to alter how they vote. I now provide an analysis of how voters use drop boxes in the 2020 election.

**C. Drop Box Use Is Concentrated On a Small Set of Drop Boxes in Each County**

132. Plaintiffs' experts examined the change in the number of drop boxes in Georgia counties. For example, Dr. Burden opines (at 27) that a "question in this case is whether the dramatic reduction in availability of drop boxes has a racially disparate impact. To evaluate this question, I compare the maximum number of drop boxes in a county permitted in the November 2022 elections under SB 202 to the number that existed in the November 2020 election." Dr. Schur argues (at 47) that "a smaller number of drop boxes increases the difficulty in delivering a ballot and eliminates the advantages that drop boxes were designed to provide." And in their expert reports, Dr. Lichtman, Dr. Burton, Dr. Cobb, and Dr. Lee also examine changes in the number of drop boxes in order to form opinions of how reducing the number of drop boxes affect the cost of voting. When these experts equate the number of drop boxes with the usefulness of drop boxes for voters, they are implicitly

assuming that each drop box is equally useful, and used, by voters. Yet, none of the experts' reports examined how often voters used particular drop boxes in Georgia counties in the 2020 election.

133. To assess how voters used drop boxes, I first evaluated how often drop boxes in a particular county were used in the 2020 election. I performed this assessment using the same daily drop box data used above, along with specific data from Douglas County. Rather than examine this data at the daily level, I now aggregated to the drop box level, summing over the daily returns.<sup>51</sup> Using this data set, I calculated the proportion of all drop box ballots in a county returned to a particular drop box. I then used the share of ballots returned to a drop box to calculate three different quantities to characterize how voters use drop boxes in a county to return their mail-in absentee ballots. First, I calculated the proportion of drop boxes that received less than 1% of the ballots in the county and second, I calculated the proportion of drop boxes that received less than 2% of the ballots in the county. And third, I ordered the drop boxes according to the share of mail-in absentee ballots returned via drop

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<sup>51</sup> Stephen Fowler, *See where Georgians used drop boxes in the 2020 presidential election*, GPB News (Sept. 2, 2022), <https://tinyurl.com/337nka8j>. Data from Douglas County is discussed below and is used to further explore the characteristics of where voters return ballots.

box in the county they received. I then used the number of drop boxes available in the 2022 election and summed together the share of ballots returned at that corresponding number of most used drop boxes in the county. This quantity estimates the maximum proportion of all drop box ballots in 2020 that would be covered using the 2022 drop box numbers, if I hold constant the behavior of voters from the 2020 election. There are several reasons that this calculated quantity is only an approximation and could underestimate the ability of a smaller number of drop boxes to accommodate voters. First, not all drop boxes in 2022 are in the same location as 2020. It is difficult to anticipate how this would affect the behavior of voters—with new locations potentially being more or less convenient. Second, voters are able to learn about new locations, which could shift the location ballots are returned. Nevertheless, this calculation provides insight into the extent voters returned their mail-in absentee ballots to a smaller number of drop boxes.

134. Table 21 contains these quantities. The first column is the county, the second is the number of drop boxes in 2022, the third the number of drop boxes in 2020, the fourth is the share of drop boxes that receive less than 1% of the ballots in 2020, the fifth is the share of drop boxes that receive less than 2% of the ballots in 2020, and finally, the last column calculates the share of ballots returned to the top drop boxes in the county in 2020, with the number



of top drop boxes included in the summation determined by the number of drop boxes available in the 2022 general election.

County	Boxes 2022	Boxes 2020	Share < 1%	Share < 2%	Share Returned Top Dropboxes
Fulton	7	37	0.30	0.49	0.48
DeKalb	6	32	0.56	0.75	0.81
Gwinnett	6	23	0.17	0.26	0.61
Cobb	6	16	0.06	0.12	0.74
Chatham	3	10	0.20	0.50	0.85
Douglas	1	10	0.20	0.20	0.70
Rockdale	1	8	0.38	0.75	0.92
Clayton	3	7	0.14	0.43	0.94
Clarke	1	6	0.17	0.17	0.52
Bartow	1	5	0.00	0.00	0.50
Richmond	1	5	0.00	0.00	0.69
Dougherty	1	4	0.00	0.00	0.80
Fayette	1	4	0.00	0.00	0.64
Bibb	1	3	0.00	0.67	0.97
Cherokee	2	3	0.00	0.00	0.90
Glynn	1	3	0.00	0.00	0.90
Houston	2		0.00	0.00	0.98
Jackson	1	3	0.00	0.33	0.95
Muscogee	1	3	0.00	0.00	0.85
Paulding	1	3	0.00	0.00	0.80
Troup	1	3	0.00	0.00	0.89
Appling	1	2	0.00	0.00	0.70
Baldwin	1	2	0.00	0.00	0.82
Bryan	1	2	0.00	0.00	0.84
Dooly	1	2	0.00	0.00	0.93
Floyd	1	2	0.00	0.00	0.62
Hart	1	2	0.00	0.00	0.84
Jefferson	1	2	0.00	0.00	0.75
Newton	1	2	0.00	0.00	0.78
Peach	1	2	0.00	0.00	0.72
Talbot	1	2	0.00	0.00	0.62
Tift	1	2	0.00	0.00	0.82
Walton	1	2	0.00	0.00	0.78

Table 21: Dropbox Usage in the 2020 Election

135. While there is considerable county-to-county variation, Table 21 shows that there is a concentration of drop box use in each county in Georgia. For example, in 2020, in Fulton County, 18 drop boxes received less than 2% of mail-in absentee ballots returned via drop box and 11 drop boxes received less than 1% of mail-in absentee ballots returned via drop box. If I aggregate the share of ballots returned to the most used 7 drop boxes, corresponding to the number of drop boxes used in the 2022 election, I find that 48% of all ballots were returned to those drop boxes. By this measure, Fulton County's drop box use was the least concentrated among all counties. In 2020, in DeKalb County, 75% of drop boxes received less than 2% of the ballots, and the 6 drop boxes receiving the most ballots received 81% of all mail-in absentee ballots returned via drop box in the county. As this statistic indicates, drop box usage in DeKalb County was concentrated on a small number of drop boxes. One drop box, the DeKalb Voter Registration and Elections Office, received 42.3% of mail-in absentee ballots returned via drop box. That drop box was available in the 2022 election.<sup>52</sup> Of the remaining counties with more than 5 drop boxes in the 2020 election—Gwinnett (61%), Cobb (74%), Chatham (85%), Douglas (70%),

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<sup>52</sup> Jonathan Raymond, *Where to find drop boxes around metro Atlanta*, 11Alive (Oct. 10, 2022), <https://tinyurl.com/mrx6j3hr>.

Rockdale (92%), Clayton (94%), and Clarke (52%)—all have a small number of drop boxes that received a large share of ballots.

136. Using data from Douglas County, I find that both Black and white voters who returned their ballots via drop box concentrated their ballots on a single location in the county. As Dr. Burden notes, most counties did not collect data on the voters who used absentee drop boxes. But Douglas County collected the unique voter identification number with each absentee ballot returned via drop box, along with the drop box that the ballot was collected from. Using the Douglas County data, I examined where Black and white voters returned their ballots and found that voters across self-identified racial groups returned a large share of their ballots to a single location. To make this assessment, I merged into the Douglas County drop box data voters' self-reported racial identification as recorded in the voter file. Using this new data set, I calculated that 73.9% of Black voters returned their ballots to a single drop box location, while 64.7% of white voters returned their ballots to the most used location. I also find a similar concentration of mail-in absentee ballots returned via drop box at a single location in Douglas County in 2020 among American Indian (81%), Asian (75%), and Hispanic (67.3%) voters. Notably this drop box, located

at the Douglas County Board of Elections, was also the drop box location available in Douglas County during the 2022 election cycle.<sup>53</sup>

**D. Changes in the Distance to the Nearest Drop Box are Poor Estimates of the Effect of SB 202 on how Voters Use Drop Boxes**

137. Two of the Plaintiffs' experts—Dr. Chatman and Dr. Fraga—performed an analysis of the effect of SB 202's drop box regulation on the voters' distance to the nearest drop box. Dr. Chatman's goal, in part, is to assess “the travel burden that would be incurred by citizens of voting age (CVAs) in the course of dropping off a ballot at a drop box in 2020 before the implementation of SB 202” and then compare that to the travel burden when “dropping off a ballot at a drop box in 2022 after the implementation of SB 202.” Chatman Rep. 1. Dr. Fraga reports (at 6–7) that his investigation shows that “[t]he reduction in the number of drop boxes resulting from SB202 had a disproportionate impact on the distance Black, Hispanic, and Asian American/Pacific Islander registrants had to travel in order to vote via drop box, relative to White registrants.”

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<sup>53</sup> Douglas County, *Drop Box Locations* (archived Nov. 8, 2022), <https://web.archive.org/web/20221108105922/https://www.celebratedouglascounty.com/562/Drop-Box-Locations>.

138. Dr. Chatman and Dr. Fraga never explicitly define the specific causal quantity they seek to estimate. But based on their statement of findings, there are, at least, two potential targets of their inference. One potential causal quantity of interest is how SB 202 affects the average travel time or distance all voters would experience if they decided to return their ballot via drop box. Specifically, this quantity would suppose that all voters decided to return their mail-in absentee ballot via drop box. Then, the causal quantity would compare the average travel time/distance to return a ballot to a drop box after SB 202 to the average travel time/distance to return a ballot to a drop box before SB 202. This causal quantity is difficult to interpret, because most voters do not cast their ballot via mail-in absentee, let alone return their ballot via drop box. A second potential causal quantity of interest is the effect of SB 202 on travel time for those voters who returned their ballot via drop box in the 2020 election. Focusing on voters who return their ballot via drop box, this causal quantity compares their average travel time to the drop box in the 2020 election to the average travel time to drop boxes in the 2022 election. This causal quantity focuses on the effect of SB 202 on those voters who plausibly use drop boxes to return their ballots and will be the causal quantity I target below.

139. Ideally, an analysis would measure the actual average travel time to the actual drop boxes voters had used (or would use) in the 2020 election and compare that to the average travel time to the actual drop boxes voters had used (or would use) in the 2022 election. But neither Dr. Chatman nor Dr. Fraga have data on which drop boxes voters use, nor do they have data on which voters return their ballot via drop box. Instead, Dr. Chatman and Dr. Fraga assume that voters will use the drop box closest to their residence. Based on this assumption, Dr. Chatman and Dr. Fraga equate the cost voters would incur if they decided to cast their ballot via drop box with the travel time/distance to the nearest drop box. Dr. Chatman and Dr. Fraga then estimate how voters' proximity to the nearest drop box changes after SB 202 and evaluate this as their estimate of SB 202's effect on the cost of returning mail-in absentee ballots via drop box.

140. The conclusions of this analysis are strongly dependent on the assumption that voters return their ballots to the drop box closest to their residence. If many voters use other drop boxes to return their ballots, for whatever reason, then the average change in the nearest drop box will be irrelevant for estimating how voters' travel burden changes before and after SB 202. More precisely, if some voters prefer to use other drop boxes, then using the change in proximity to the nearest drop box would cause bias in Dr.

Fraga and Dr. Chatman's estimate of SB 202's effect on travel burden, with the size and direction of that bias of unknown direction and magnitude. To build intuition for this bias, consider a simple example. Suppose a hypothetical voter in a hypothetical county can return their ballot to one of four potential drop boxes in the 2020 election—A, B, C, and D. Drop box A is the furthest from the voter's residence, but located near the voter's place of employment, so the voter returned their mail-in absentee ballot at drop box A in the 2020 election. While ostensibly closer, drop boxes B, C, and D are less centrally located and less convenient for the voter. After SB 202, suppose that drop boxes B, C, and D were closed. But the voter continued to have the same place of employment and, in the 2022 election, continued to use drop box A. As a result, there was no change in their cost of returning that ballot despite the decrease in available boxes and an increase in the distance to the nearest drop box. But Dr. Fraga and Dr. Chatman's analysis would mistakenly say that this voter experienced an increased cost of returning their mail-in absentee ballot via drop box. This is just one example of how assuming voters return their ballots to the nearest drop box can cause bias of unknown size and magnitude in estimates of how SB 202 affected the cost of returning ballots. Neither Dr. Fraga nor Dr. Chatham performed a specific analysis to calculate the proportion of voters in Georgia who return their mail-in absentee ballots to the

closest drop box, nor did they consider how deviations from this assumption could affect their estimates.

141. Dr. Fraga defends the assumption that voters will return their ballot to the nearest drop box by arguing (at 67) that “[e]xtant evidence indicates that individuals are more likely to use a drop box near their place of residence” citing an academic study using data from Washington state. Collingwood and Gonzalez O’Brien (2021) calculated where voters in Washington state returned their voted absentee ballots in the August 2020 Washington primary election.<sup>54</sup> Washington state provides information on whether voters use a drop box to return their ballot and which drop box is used. Analyzing this administrative data set, Collingwood and Gonzalez (2021) find that, among voters who return their ballot via drop box, 52.4% of voters who use drop boxes return their ballot to the drop box nearest their residence and 47.6% of voters who return their ballot via drop box choose a drop box location other than the one closest to their home. But if Georgia were similar to Washington, then Dr. Fraga and Dr. Chatman’s estimate of the effect of SB 202 on the cost of returning a ballot to a drop box would suffer from bias.

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<sup>54</sup> Collingwood, Loren, and Benjamin Gonzalez O’Brien. “Is Distance to Drop Box an Appropriate Proxy for Drop Box Treatment? A Case Study of Washington State.” *American Politics Research* 49.6 (2021): 604-617.



142. Dr. Chatman never justifies the assumption that voters will return their ballot to the nearest drop box. He does cite cost as an important determinant of voters' turnout decision, arguing (at 7) that "[v]oters are significantly affected by the costs of voting, most of which have to do with the time required to prepare to vote and to carry out voting; and the costs of voting are a greater determinant of the likelihood to vote than conventional measures of the benefit of voting such as the perceived differences between parties, the perceived closeness of the election and the long-range value of voting participation." Supporting this claim, Dr. Chatman cites Sigelman and Barry (1982). Sigelman and Barry (1982) uses survey-based data to assess correlates of voter participation. To measure the cost of voting, Sigelman and Barry (1982) ask survey respondents, "For you personally, getting to the polls and waiting to vote usually takes a lot of time and effort."<sup>55</sup> It is unclear how responses to this question would inform his analysis of drop box usage. Chatman also cites Blais, Young, and Lapp (2000), which analyzes elections in British Columbia and Quebec. Blais, Young, and Lapp (2000) report that their findings "demonstrate that these rational considerations [cost, benefits,

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<sup>55</sup> Sigelman, Lee, and William D. Berry. "Cost and the Calculus of Voting." *Political Behavior* 4 (1982): 419-428.

probability of affecting outcome] are much less important in voting than people's sense of duty: the feeling that one has a moral obligation to vote appears to be the overriding motivation for going to the polls."<sup>56</sup> It is also unclear how this analysis informs Chatman's analysis of drop box use.

143. Survey evidence shows that Georgia voters use a variety of considerations when deciding where to return their ballot, not just proximity. Dr. Lichtman cites (at 21) evidence from MIT's Survey of the Performance of American Elections ("SPAЕ") on how drop box voters selected which drop box to return their ballot. I downloaded the survey results and analyzed a question about where drop box voters return their mail-in absentee ballot in Georgia, calculating totals after applying the standard survey weight provided. Among Georgia voters who report returning their ballot via drop box, 35.9% report selecting a location because it was "close to my home." But 25.9% of respondents report selecting a drop box because it was "convenient to work or school" or because "it was close, or on my way, to where I had errands to run." 15.2% of respondents report using the only drop box available to them, while

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<sup>56</sup> Blais, André, Robert Young, and Miriam Lapp. "The calculus of voting: An empirical test." *European Journal of Political Research* 37.2 (2000): 181-201.

another 21.5% report selecting a drop box for reasons other than convenience, proximity, or lack of options.

144. To assess where Georgia voters returned their ballot when using a drop box with administrative data, I used the drop box data from Douglas County, which (as discussed earlier) retained a unique identifier for each returned ballot. Using data that maintains voter's unique identification number, I merged in voters' residence and race-based information. I then calculated the share of voters who returned their ballot to the drop box closest to their residence, based on the residence reported in the November 2022 voter file. Specifically, I used the Google Maps API to calculate the distance from the voters' residence as reported in the voter file and each of the 10 drop boxes used in the 2020 election. I focused on distance via driving to the nearest drop box, necessarily removing ballots marked as "SPOILED" or electronic ballots because they had no reported location. I used driving distance for several reasons. First, calculations based on time using the Google Maps API are dependent on estimated traffic conditions for a future date, rather than historical traffic conditions. Second, many transit routes do not exist for Douglas County. Further, transit routes could have changed from 2020 to 2022 causing bias in an unknown direction in the estimate of transit distance and time. As an alternative to driving distance, I could use walking distance to the

nearest drop box. I sampled 20 voters and manually compared the conclusions calculated using walking and driving distance. I reached the same conclusion for this small sample whether I use walking or driving. After calculating the distance from the voter's residence and the drop boxes, I then calculated whether voters returned their ballot to the nearest drop box and the difference in distance between the drop box voters used and the nearest drop box.<sup>57</sup>

145. Table 22 presents the results of this calculation by self-identified race and overall. Overall, I find that 22% of mail-in absentee ballot voters in Douglas County return their ballots to the nearest drop box. Across racial groups, I find that 21% of Black mail-in absentee voters who use drop boxes in Douglas County return their ballots to the nearest drop box, and 23% of white mail-in absentee voters who use drop boxes return their ballots to the nearest drop box. The self-identified racial group who returned the largest share of their ballots to the nearest drop box were Asian mail-in absentee voters who returned their ballot via drop box, with 34% returning their ballot to the nearest drop box.

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<sup>57</sup> I discuss how I address potential voter relocation below. All calculations are made for voters whose residence is in Douglas County.

Race	Share, Closest Driving
American Indian	0.09
Asian	0.34
Black	0.21
Hispanic	0.16
White	0.23
Overall	0.22

Table 22: Share of ballots returned to nearest drop box, both overall and by self-identified racial group.

146. Based on my calculations, I found that Douglas County drop box voters tended to travel beyond the nearest drop box to their homes. Among all Black drop box voters, I find that the median voter uses a drop box 1.47 miles further from their home than the nearest drop box. Among Black drop box voters who do not use the closest drop box, the median driving distance is 1.80 miles. Among white drop box voters, I find the median voter uses a drop box 1.37 miles further from their home than the nearest drop box. If I subset to white drop box voters who don't use the nearest drop box, I find the median distance traveled is 1.95 miles further than the closest drop box. Overall, I calculated that the median drop box voter in Douglas County uses a drop box 1.44 miles further from their residence than the nearest drop box.

147. This analysis assumes that voters' current address in the registration file corresponds to their address in the 2020 election. This, of course, could be wrong for a subset of voters. This assumption would matter for my conclusions about the share of voters who use the closest drop box if

voters had moved since casting their ballots in 2020, and that move would cause me to incorrectly classify the voter as not using the closest drop box. I tested this assumption in multiple ways. First, I subset the analysis to voters whose last date of change in the voter file was immediately prior to the 2020 election. Among this group, 28.4% returned their ballot to the nearest drop box. This is qualitatively similar to the analysis from the full data set, though a higher rate of using the drop box nearest to the voters' residence. I also assessed whether using the March 2022 voter file would indicate more voters using the drop box nearest their residence. Among the 3.7% of registrants who address changed from March to November, I classified 12.4% of voters as using the nearest drop box using their address from the March registration file, compared to 11.4% of voters using the nearest drop box if I used the address from the November 2022 voter file. Even if I make implausible assumptions about how the rate of moving biases my estimated share of voters using the nearest drop box, I reach a qualitatively similar conclusion about the share of Douglas County voters using the nearest drop box.<sup>58</sup> According to Dr. Burden, the Census Bureau estimated 8.2% of the Black population in Georgia moved

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<sup>58</sup> This is an example of a sensitivity analysis, as described in Manski, Charles F. "Credible interval estimates for official statistics with survey nonresponse." *Journal of Econometrics* 191.2 (2016): 293-301.

within a county in 2021, the highest rate among self-identified racial groups.<sup>59</sup> I will suppose that 8.2% of drop box voters in Douglas County moved each year since the 2020 election. Given that two years elapsed, I'll suppose 16.4% of drop box voters have moved.<sup>60</sup> Further, I will suppose every move happens among voters I classified as not using the closest drop box and that before the move the voter used the drop box closest to their residence, so my classification is in error. Even under these implausible assumptions, I would find that 38.4% of Douglas County voters used a drop box closest to their residence or 61.6% did not use the closest drop box. Therefore, even under these implausible assumptions, Douglas County's data shows that many voters use a different drop box than the one that is closest.

148. For a super majority of voters in Douglas County, equating changes in the distance to the nearest drop box with a change in the cost of voting is incorrect. While other Georgia counties do not collect information on who returns their ballots to which drop box, I used a different strategy to assess whether the observed distribution of mail-in absentee ballots across drop boxes in Georgia counties is consistent with voters in that county using the closest

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<sup>59</sup> Burden Rep. 25.

<sup>60</sup> This further supposes that a distinct set of individuals move each year, rather than the same person moving twice.

drop box. To make this assessment, I used the Census geolocating tools as implemented in the `censusxy` package in the R programming language to geolocate all voters in the 2020 election who voted via mail-in absentee ballot in the 2020 election. I identified the mail-in absentee ballot voters using the 2020 absentee voter file, and I used the registration file and the canceled voter file to obtain voters' residences. I also geolocated each of the drop boxes used in the 2020 election. Then, I calculated the straight-line distance of voters to the drop boxes in their county, a similar distance calculation strategy to what Dr. Fraga deployed in his expert report. Using these calculated distances, I determined which drop box was closest to the voters' residence. I then made a variety of comparisons to assess whether the actual distribution of ballots across drop boxes in a county was consistent with the distribution of ballots in a county we would expect if voters cast their ballot at the nearest drop box.

149. To assess whether the observed distribution of ballots across drop boxes was consistent with voters using the nearest drop box, I necessarily have to make consequential assumptions about which subset of mail-in absentee voters return their ballot via drop box in a particular county. My primary assumption is that drop box voters' locations were representative of all mail-in absentee ballot voters within a particular county. To assess this assumption, I used the SPAE to predict drop box use in Georgia, focusing on within county



variation among the voters who report voting by mail-in absentee ballot. I find, among mail-in absentee voters, that Black voters are slightly less likely than white voters to report returning their ballots via drop box and that retired voters and self-reported homemakers were slightly more likely to use a drop box to return their ballot. There is no clear implication of these correlations on the geographic distribution of voters who return their ballots via drop box. I then assessed whether the actual distribution of ballots across drop boxes was similar to the distribution of ballots across drop boxes I would expect if voters cast their ballots at the nearest drop box. I made this assessment using a standard statistical tool in statistics, called a  $\chi^2$ -test (chi-squared test). To use this test, I first assume a null hypothesis: that the true state of the world is that voters cast their ballots at the nearest drop box. This null hypothesis implies an “expected” number of ballots to be returned at each of the drop boxes. I then calculated how surprising the distribution of actual ballots across drop boxes would be by comparing the actual number of ballots returned to drop boxes in a county to the expected distribution of ballots under this null hypothesis. To do this, I followed standard practice when calculating the “p-value” for this null hypothesis. Specifically, the p-value measures the probability of observing this pattern across drop boxes, or one more surprising, under the null that voters use the closest drop box.

150. Using this  $\chi^2$ -statistic, I rejected the null hypothesis that voters cast their ballot at the nearest drop box in every county in the 2020 election with more than one drop box, with associated p-values well below the standard significance levels. In other words, the observed distribution of drop box returns is unlikely under the null voters returned their ballot to the nearest drop box. The reason the  $\chi^2$ -test rejects this null is that ballot returns are concentrated on a smaller set of drop boxes than would be expected if voters returned their ballots at the nearest drop box. The result is that there are often large discrepancies between the actual number of ballots returned at the most used drop box in a county and the expected number of ballots returned at a drop box in a county if voters cast their ballot at the closest drop box. For example, in Gwinnett County, the largest discrepancy between the actual share of ballots received at a drop box and the share expected if voters had cast their ballots at the nearest drop box was 28.0 percentage points. In Fulton County, the biggest discrepancy between the actual share of ballots received at a drop box and the expected share was 5.3 percentage points. But in other counties with several drop boxes in 2020 the maximum discrepancy is comparable or larger than the discrepancy in Gwinnett County. This includes Cobb County (20.1 percentage points), Chatham (52.5 percentage points), Rockdale (81.9 percentage points), Clayton (58.7 percentage points), and

Bartow (23.2 percentage points). Across all counties with more than one drop box in the 2020 election, the average maximum discrepancy between the share actually returned in a drop box and the share expected in that drop box was 37.4 percentage points.

151. Because of this concentration of ballots on a small number of drop boxes, my conclusion that many voters return ballots to drop boxes other than the closest drop box is robust to several potential objections. First, voters might move and that could cause me to incorrectly reject the null hypothesis. To assess how much moving was necessary to explain the distribution of ballots across drop boxes, I engaged in a sensitivity analysis. Specifically, I examined the minimum share of voters who would have to have moved in order to fail to reject the null that ballots were returned to the nearest drop box. I first derived a formula to compute how the distribution of ballots would change if I assumed a particular share of voters moved in the exact optimal way to render the observed distribution of drop boxes as close as possible to voters returning ballots to the nearest drop box. I then found the minimum proportion of movers where I failed to reject the null hypothesis that the distribution of ballots returned to drop boxes are due to voters returning to their nearest drop box. On average across counties, I found that 77.3% of drop box voters would have to optimally move to fail to reject the null. My conclusion is also not due to

errors in geolocating voters. To make this determination, I assumed that the voters I couldn't geolocate cast their ballots at drop boxes to optimally reduce the difference between the actual number of ballots across drop boxes and the number expected if voters returned their ballots to the nearest drop box. Under this assumption, I continue to reject the null hypothesis that voters cast their ballot at the nearest drop box in every county but Floyd County.

152. Because voters do not use the closest drop box to their residence, merely assessing changes in the distance to the nearest drop box will be a poor estimate of the effect of SB 202 on the costs voters incur when returning their drop box ballots. Specifically, using the change in distance to the nearest drop box will be a biased estimate of the effect of SB 202 and the direction and the size of this bias is unknown. Even though some voters use the nearest drop box to return their ballots, in most counties in Georgia we cannot use this information to assess the effects of SB 202, because we do not know which voters return their ballots to the nearest drop box.

153. That said, I am able to use data from Douglas County and specific assumptions about voters' behavior to assess the effect of SB 202 on distance traveled to drop boxes among the voters who returned their mail-in absentee ballot via drop box in the 2020 election. In this analysis, I ask how much SB 202 would potentially affect the distance traveled to deliver a ballot to a drop

box among voters who used a drop box to return their ballot in the 2020 election in Douglas County. Using the data from Douglas County, I first computed the distance voters traveled from their residence to the drop box where they deposited their ballot in the 2020 election. Then, I computed the distance from the voters' residence to the single drop box in the county in the 2022 election. I then calculated the difference between the 2022 distance and the 2020 distance. Table 23 calculates the average change in distance, in miles, using this calculation.

Race	Average Difference (in miles)
American Indian	0.67
Asian	0.33
Black	0.22
Hispanic	0.16
White	0.58

Table 23: Average difference between distance from voters' residence to the drop box in Douglas County in 2022 and the distance from voter's residence to the drop box where they deposited their ballot, in miles.

154. Table 23 shows that focusing on the change in distance for drop box voters in Douglas County demonstrates a different pattern of the effects of SB 202 than portrayed in Dr. Fraga's and Dr. Chatman's reports. First, the actual changes in the distances are much smaller, with the average additional distance for Hispanic voters slightly less than 300 yards, for Black voters it is less than a quarter mile. Further, after SB 202, white voters' travel distance

increases more than twice the increase in distance for Black voters and more than three times the increase in distance for Hispanic voters.

**IX. VOTER IDENTIFICATION REQUIREMENT ON ABSENTEE BALLOT APPLICATIONS**

155. SB 202 includes a provision that requires voters applying for a mail ballot to provide a driver's license number or, if the voter does not have a driver's license, a state identification number, a county voter identification card, or a photocopy of other acceptable forms of identification. When submitting the voted ballot, the voter is required to provide information about their driver's license or the last four digits of their social security number if they applied using a photocopy of alternative identification.

156. According to the preamble of SB 202, the identification requirement when applying for an absentee ballot was put in place to replace the signature matching requirement that had been in place previously. The preamble to SB 202 calls this procedure a "subjective" signature-matching requirement and cited previous lawsuits. Other academic studies have identified that signature matching to validate ballots is a potentially arbitrary

process.<sup>61</sup> Government agencies have also identified signature mismatches as a primary reason mail-in absentee ballots were rejected in the 2020 election. According to the Election Assistance Commission, among all rejected mail-in absentee ballots, 32.8% of mail-in absentee ballots were rejected because of a nonmatching signature. An additional 12.1% of ballots that were rejected were rejected because of a missing signature.<sup>62</sup> Together, the EAC's evidence implies that, nationwide, slightly less than half of mail-in absentee ballots that were rejected in the 2020 election were rejected because of signature issues.

157. According to the NCSL, there are three other states that require identification when returning absentee ballots: Arkansas, Minnesota, and Ohio.<sup>63</sup> Arkansas “requires a copy of the voter’s ID to be returned with the absentee/mail ballot.” Minnesota not only requires identification like Georgia but “also requires a witness signature” and Ohio requests identification information, but then also engages in “signature verification.” Other states

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<sup>61</sup> Swift, Clint S., and Delaney Gomen. “Invalid Signature Rejections in Georgia Absentee Voting.” Available at: [https://electionlab.mit.edu/sites/default/files/2021-07/swiftgomen\\_garejections.pdf](https://electionlab.mit.edu/sites/default/files/2021-07/swiftgomen_garejections.pdf).

<sup>62</sup> Election Assistance Commission, *Election Administration And Voting Survey 2020 Comprehensive Report* 14 tbl. 2, <https://tinyurl.com/yk2kdwru>.

<sup>63</sup> National Conference of State Legislatures, *Table 14: How States Verify Voted Absentee/Mail Ballots* (Mar. 15, 2022), <https://tinyurl.com/y5yrcbfd>.

validate ballots using other procedures. For example, Alabama requires two witnesses or a notary to validate the mail-in absentee ballot. Alaska, Louisiana, North Carolina, Rhode Island, South Carolina, Virginia, and Wisconsin all require witness signatures. And three states, Mississippi, Missouri and Oklahoma, require notarized return forms.

158. There is a large academic literature that has examined the effect of voter identification laws on overall turnout and turnout across racial groups, though this literature has focused on the overall effect of the laws and not on the use of identification for the mail-in absentee ballot application process specifically. The consensus of the literature on the effect of voter identification laws on turnout is that “a small number of studies have employed suitable research designs and generally find modest, if any, turnout effects of voter identification laws.”<sup>64</sup>

159. When studying the effect of voter identification laws, some studies examine the overall effect of the law in a state without differentiating between individuals with and without identification. Estimating the overall effect of voter identification laws is challenging. This is in part because a standard

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<sup>64</sup> Highton, Benjamin. “Voter identification laws and turnout in the United States.” *Annual Review of Political Science* 20 (2017): 149-167.



method for assessing turnout, survey-based methods where respondents are asked about whether they turned out, are unlikely to be an effective tool for studying the effect of the voter identification laws. In Grimmer et al. (2018), my collaborators and I demonstrated that the conclusions in Hajnal et al. (2017), a recent study claiming to show voter identification laws deter minority turnout, were based on a data error.<sup>65</sup> Specifically, we show that the conclusions in Hajnal et al. (2017) were affected by erroneously measuring a 0% turnout rate in Virginia in several elections. Once we corrected this data error, we found that survey-based methods were unable to provide a precise estimate of the effect of the laws, with small research design decisions that were equally defensible yielding different estimates of the law's effect. Dr. Lee cites evidence from this study, but the estimates he reports come from cross-sectional comparisons that fail to address baseline differences across states.<sup>66</sup> In Grimmer et al. (2018), we show that the cross-sectional comparisons are confounded because states that eventually adopt voter identification laws had lower turnout rates before adopting the law. The analysis we conduct in

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<sup>65</sup> Grimmer, Justin, et al. "Obstacles to estimating voter ID laws' effect on turnout." *The Journal of Politics* 80.3 (2018): 1045-1051; Hajnal, Zoltan, Nazita Lajevardi, and Lindsay Nielson. "Voter identification laws and the suppression of minority votes." *The Journal of Politics* 79.2 (2017): 363-379.

<sup>66</sup> Lee Rep. 91.

Grimmer et al. (2018) uses a within-state design that adjusts for baseline differences between states. Once we deploy this design, we fail to find a consistent effect of voter identification laws on turnout, contradicting the effect estimates Dr. Lee reports.

160. In place of survey-based methods to measure the effect of voter identification laws, Cantoni and Pons (2021) instead use voter files to measure voter turnout and assess the effect of voter identification laws.<sup>67</sup> Based on voter files from 2008 to 2018, Cantoni and Pons (2021) find that “the laws have no negative effect on registration or turnout, overall or for any group defined by race, gender, age, or party affiliation.” Cantoni and Pons (2021) find that voter identification laws cause a “+1.4 percentage points for the effect on the turnout of nonwhite voters relative to whites” though the effect is estimated too imprecisely to reject a null of no effect and therefore the authors do not conclude voter identification laws increase turnout. The conclusion from these recent studies is that the best evidence is that the overall effect of voter identification laws is, at most, a small, but imprecisely estimated effect on turnout. Further, when examining the overall effect of the laws on state

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<sup>67</sup> Cantoni, Enrico, and Vincent Pons. “Strict ID laws don’t stop voters: Evidence from a US nationwide panel, 2008–2018.” *The Quarterly Journal of Economics* 136.4 (2021): 2615-2660.

turnout, the best evidence is that voter identification laws do not cause an overall increase in the gap between white and non-white voter turnout.

161. There is reason to believe that the estimated effects from this literature would overstate the effect of requiring voter identification when applying for an absentee ballot, as required by SB 202. The prior literature examines moves from no voter identification laws to voter identification laws. As a result, these prior studies largely examine a bigger policy shift than occurred after SB 202 was put in place. SB 202 made no change to the requirement of showing voter identification when voting in person: both before and after SB 202 was passed, the state required voters to show identification in person when voting, whether voting early in person or on Election Day.<sup>68</sup> Because SB 202 only created a requirement to provide identification when applying for and submitting a mail-in absentee ballot application, a more applicable study would focus merely on the shift to require identification information when applying for an absentee ballot.

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<sup>68</sup> For example, Georgia Secretary of State, *2018 Elections And Voter Registration Calendar* (archived Nov. 9, 2018), [https://web.archive.org/web/20181109041147/http://sos.ga.gov/index.php/elections/2018\\_elections\\_and\\_voter\\_registration\\_calendar](https://web.archive.org/web/20181109041147/http://sos.ga.gov/index.php/elections/2018_elections_and_voter_registration_calendar).

162. An alternative approach to assess the effects of voter identification laws is to examine within a state and calculate the effects among those without identification. In Grimmer and Yoder (2022), we argue that voter identification laws could deter voters through a mechanical effect: individuals without proper identification attempt to vote are deterred from voting because they lack the requisites to cast a ballot.<sup>69</sup> This mechanical effect could affect voters without identification who attempt to cast a ballot, or it could affect voters with identification who have misplaced the identification when they turn out to vote. In Grimmer and Yoder (2022), we examined a North Carolina election where a voter identification law was in place and find that approximately 1,169 voters were deterred because they lacked proper identification when they arrived at the polls to vote and because these individuals did not return to cure their provisional vote. We find that a larger share of in-person votes from Black voters are rejected for lack of identification than white voters. In total, 648 white voters had their ballot rejected for identification reasons (55.4% of in-person votes, though 78.2% of in person votes come from white voters), while

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<sup>69</sup> Grimmer, Justin, and Jesse Yoder. “The durable differential deterrent effects of strict photo identification laws.” *Political Science Research and Methods* 10.3 (2022): 453-469.

421 Black voters had their ballots rejected for absentee reasons (36% of in-person voters, though 17.1% of in-person votes come from Black voters).

163. This is similar to the findings in Fraga and Miller (2022), who examined who votes without identification in the 2016 Texas general election.<sup>70</sup> Fraga and Miller (2022) find that among those voters who cast ballots without identification, 27% said they voted without identification because it was “Lost or stolen”, which Fraga and Miller (2022) describe as “the most widely chosen” explanation. While this study is useful to understand who might vote without identification, it requires the assumption that voters’ behavior would remain the same in an election where identification is required. As noted above, voters are likely to receive information and respond to requirements to bring identification to cast a ballot.<sup>71</sup> This would reduce the mechanical effect of the identification laws in the Fraga and Miller (2022) study.

164. In order to assess the number of returned mail-in absentee ballots rejected, I examined both the number and share of returned mail-in absentee

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<sup>70</sup> Fraga, Bernard L., and Michael G. Miller. “Who Do Voter ID Laws Keep from Voting?” *The Journal of Politics* 84.2 (2022): 1091-1105.

<sup>71</sup> Citrin, Jack, Donald P. Green, and Morris Levy. “The effects of voter ID notification on voter turnout: Results from a large-scale field experiment.” *Election Law Journal* 13.2 (2014).

ballots rejected for voter identification-related reasons in the 2022 general election in Georgia.<sup>72</sup>

165. Table 24 presents the number of mail-in absentee ballots rejected because of insufficient identification and the rate they are deterred in the 2022 general election. Overall, 1,145 returned mail-in absentee ballots were rejected because of insufficient or incorrect identification. This constituted approximately 0.46% of all returned mail-in absentee ballots. Table 25 presents the number of ballots rejected because of insufficient identification and the rate they are rejected in the 2022 general election runoff. In the 2022 general runoff, 1,570 voters had their ballots rejected because of identification issues, which was approximately 0.82% of all mail-in absentee ballots.

Race	Number Rejected	Rejected Rate
American Indian	4	0.0062
Asian	48	0.0062
Black	467	0.0059
Hispanic	18	0.0043
White	484	0.0036
Overall	1,145	0.0046

Table 24: Number of mail absentee ballots rejected due to missing or improper identification in 2022 general election, by self-reported racial group and overall.

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<sup>72</sup> To create an identification-related reason category, I collapsed three stated reasons for ballot rejection from a drop down menu: “Incorrect ID Information”, “MIDR - ID not Provided”, “Missing ID Information.”

Race	Number Rejected	Rejected Rate
American Indian	3	0.0072
Asian	65	0.0138
Black	467	0.0083
Hispanic	22	0.0095
White	890	0.0079
Overall	1,570	0.0082

Table 25: Number of mail absentee ballots rejected due to missing or improper identification in the December 2022 runoff election, by self-reported racial group and overall.

166. Tables 24 and 25 do not exhibit consistent differences across self-reported racial groups in the rates returned mail-in absentee ballots are rejected because of identification-related reasons. For example, in the 2022 general election, 0.36% of mail-in absentee ballots from white voters were rejected for identification reasons, but 0.59% of mail-in absentee ballots from Black voters were rejected, a difference of 0.23 percentage points. But in the runoff election, the gap was reduced to 0.04 percentage points, with nearly twice as many white votes rejected for identification-related reasons.

167. I also calculated the share of mail-in absentee ballot applications that were rejected because of an ID-related issue. To make this calculation, I manually coded the “Status Reason” for rejected mail-in absentee ballot applications. I coded two categories: (1) ballots that were rejected because they failed to include identification and (2) ballots that were rejected because the provided identification did not match to the official records. I separated these

two quantities because Dr. Meredith identifies a set of voters who have mismatched records between the DDS and the voter registration file, and I sought to measure the extent to which this manifested in mail-in absentee ballot application rejections. In Table 26, I calculated these quantities.

168. Table 26 Column 2 shows the share of mail-in absentee ballot applications rejected due to an identification mismatch between the application and the official records. Overall, this sort of rejection is rare: 0.02% of mail-in absentee ballot applications are rejected due to an identification mismatch. This low-prevalence is found across voters from different self-identified racial groups, but the proportion is higher for Black voters: 0.05% of mail-in absentee applications from Black voters are rejected for an identification mismatch, while 0.01% of mail-in absentee ballot applications from white voters are rejected for a mismatch. Based on the information in the absentee voter file, I'm unable to determine why an identification mismatch is cited for an application rejection. That said, the low rate of rejection due to an identification mismatch indicates the outdated identification information discussed in Dr. Meredith's report did not manifest in a large increase in the rejection of absentee ballot applications. Similarly, mail-in absentee ballot applications are rejected 0.07% of the time for missing identification, with a



0.05 percentage point difference between Black (0.1%) and white (0.05%) applicants.

Race	Reject, ID Mismatch	Reject, ID Missing
American Indian	0.0000	0.0000
Asian	0.0002	0.0013
Black	0.0005	0.0010
Hispanic	0.0004	0.0004
White	0.0001	0.0005
Overall	0.0002	0.0007

Table 26: Share of Mail-In Absentee Ballot Applications Rejected because of ID Mismatch and ID Missing

169. There is also a trade off with voter-identification requirements, because they can improve the functioning of election administration. The non-partisan Carter Center observed the Georgia election and cited voter identification as an important reason the election was run smoothly. The Carter Center explained that on Election Day polling places were able to serve many voters quickly, in part, because of “voter confirmation via ID scan rather than manual entry.”<sup>73</sup> More directly relevant to SB 202 the Carter Center stated that

Election law changes in SB202, requiring that both absentee applications and completed ballots include a driver’s license/state ID number or other acceptable photo ID as proof of identity, have eliminated the need for election

<sup>73</sup> The Carter Center, *2022 General Election Observation: Fulton County, Georgia* 9 (2022).

officials to match signatures. This has streamlined the process and made it easier for election officials since they can simply check that all the necessary information is present and correct.<sup>74</sup>

The Carter Center's observers argue that the use of identification, rather than the signature matching procedure, simplifies the procedure to validate mail absentee ballots from voters.

170. The preamble to SB 202 and the Carter Center's report both suggest that there are tradeoffs between signature matching and identification requirements for validating voters. To assess this tradeoff, I first calculated the number and rate ballots were rejected either because of missing information on the oath when returning the ballot or a signature mismatch in the 2018, 2020, and 2022 general elections. To make this assessment, I categorized the stated reasons for ballots being rejected. In 2018, there were many distinct reasons provided for ballot rejections, so I manually coded the categories. In 2020 and 2022, there was a small number of standardized categories that officials could select from a drop-down menu. Using these categories, I calculated the total number of ballots rejected and the number of ballots rejected by self-reported racial group.

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<sup>74</sup> *Id.* at 16.

171. I present the counts in Tables 27 and 28 and the rates ballots were rejected in Table 29. In the 2018 general election, 3,870 ballots were rejected because of missing information or a signature mismatch. In the 2020 general election, 1,998 votes were rejected for missing information or incorrect signatures, and in the 2021 runoff election, 2,889 votes were rejected because of oath or signature issues. After SB 202, as expected, a smaller number of mail-in absentee ballots were rejected because of oath and signature-related reasons. In the 2022 general election, 195 votes were rejected for oath or signature-related issues, and in the 2022 runoff election, 201 votes were rejected for oath or signature-related issues. The number of ballots rejected for oath or signature-related issues in the 2018 general, the 2020 general, and the 2020 general runoff exceeds the number of ballots rejected for identification-related issues.

Race	2018		2020		2022	
	Missing Information	Signature Mismatch	Missing Information	Signature Mismatch	Missing Information	Signature Mismatch
American Indian	9	0	4	0	1	0
Asian	340	6	91	54	3	4
Black	1764	119	585	308	75	27
Hispanic	135	1	44	34	0	2
White	705	60	301	151	49	24
Overall	3,643	227	1,287	711	136	59

Table 27: Count of the number of votes rejected because information is missing from the oath envelope or because of a signature mismatch, by general election.

Race	Runoff, 2021		Runoff, 2022	
	Missing Information	Signature Mismatch	Missing Information	Signature Mismatch
American Indian	5	8	2	0
Asian	38	60	1	2
Black	580	575	55	24
Hispanic	20	53	4	3
White	469	776	68	32
Overall	1,230	1,657	138	63

Table 28: Count of the number of votes rejected because information is missing from the oath envelope or because of a signature mismatch, by runoff election.

172. Table 29 contains the rate ballots were rejected for oath and signature related reasons before SB 202 and identification reasons after SB 202. Using Table 29, I compared the rate Black and white voters had their absentee ballots rejected for oath and signature-related issues or for identification-related issues. I examined the 2018 general election first. That year, there was a 1.58 percentage point difference between the Black rejection rate and the white rejection rate for oath and signature-related reasons. This is the largest gap in rejection rates across the elections that I compare. For the 2020 general election, I find a Black-white rejection gap for oath and signature-related issues of 0.17 percentage points and in the January 2021 runoff election

I find a Black-white gap of 0.12 percentage points. In contrast, in the 2022 general election, I find a 0.23 percentage point white-Black gap in rejection due to voter identification and a 0.04 percentage point gap in the runoff election. The white-Black gap for voters deterred for identification is smaller or essentially equal to the gap for rejections for oath and signature reasons.

Race	2018	2020	2021, Runoff	2022	2022, Runoff
	Signature+ Info. Reject Rate	Signature+ Info. Reject Rate	Signature+ Info. Reject Rate	ID Reject Rate	ID Reject Rate
American Indian	0.0176	0.0011	0.0047	0.0062	0.0072
Asian	0.0414	0.0029	0.0026	0.0062	0.0138
Black	0.0228	0.0023	0.0054	0.0059	0.0083
Hispanic	0.0229	0.0022	0.0031	0.0043	0.0095
White	0.0070	0.0006	0.0022	0.0036	0.0079

Table 29: Reject rates based on signature mismatch or missing information from the 2018 general election, 2020 general election, and the statewide runoff after the 2020 general election. This is contrasted with the identification rejection rate in the 2022 general and the 2022, runoff election

## X. ANTI-DUPLICATION AND PRE-FILLED PROVISIONS AND ABSENTEE BALLOT APPLICATIONS

173. SB 202 regulates the distribution of mail-in absentee ballot applications and how third-party groups can alter the content of the absentee application. First, SB 202 prohibits organizations and campaigns from sending voters mail-in absentee ballot applications after the voter applies for an absentee ballot. The law provides a 5-day grace period and instructs individuals distributing absentee ballot applications to consult the most recent data on whether voters have applied for an absentee ballot. Second, SB 202 bars third-party groups from pre-filling absentee ballots with a voter's

information. While SB 202 regulates the distribution and content of applications, it does not regulate third party groups' ability to encourage absentee voting in other ways. For example, groups can continue distributing postcards that inform voters about where to apply for a mail-in absentee ballot and how to cast that ballot.

174. Recent experimental work provides evidence that sending voters these postcard reminders have a similar effect on encouraging mail-in absentee voting as sending voters blank or pre-filled mail-in absentee applications. And similar experimental evidence also shows that there are not significant differences between sending voters blank or prefilled mail-in absentee ballot applications.

175. Two weeks before the June 2020 primary election, election officials in Philadelphia sent a random subset of voters postcards with instructions on voting by absentee ballot. Hopkins et al. (2021) analyze the effect of this experiment on voting by mail and overall turnout.<sup>75</sup> The postcards from election officials provided information about when requests for mail-in absentee ballots must be received, how to request a ballot, and a reminder that

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<sup>75</sup> Hopkins, Daniel J., et al. "Results from a 2020 field experiment encouraging voting by mail." *Proceedings of the National Academy of Sciences* 118.4 (2021).

Pennsylvania is a no excuse absentee voting state. Hopkins et al. (2021) find a 0.4 percentage point increase in the rate of voting by mail (95% confidence interval [0.001, 0.007]). They find a smaller effect on the turnout rate, with the postcards increasing overall turnout 0.2 percentage points (95% confidence interval [-0.002, 0.007]). SB 202 would allow these postcards as a method to encourage mail-in absentee voting throughout the election cycle.

176. I compared the results of the Philadelphia experiment to the results of a mail-in absentee ballot application experiment conducted in Minnesota. Hassell (2017) reports the results of an experiment that distributed mail-in absentee ballot applications to voters.<sup>76</sup> Hassell (2017) partnered with a partisan organization in Minnesota. Working with that organization, Hassell (2017) allocated voters to one of three treatment arms: (1) an “application” condition, where the organization sent voters an absentee ballot application; (2) a “prefilled” condition that sent voters an absentee ballot application with pre-filled content; and (3) a “control” condition that did not send voters information at all. Hassell (2017) then evaluated the effect of the interventions

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<sup>76</sup> Hassell, Hans JG. “Teaching voters new tricks: The effect of partisan absentee vote-by-mail get-out-thevote efforts.” *Research & Politics* 4.1 (2017).

on the probability of voting absentee in the election and the probability of participating in the election overall.

177. Hassell's (2017) experimental results find effects that are comparable to Hopkins et al.'s (2021) postcard experiment and indicate that there are no statistically significant differences between pre-filled and blank absentee ballot applications. Hassell (2017) finds that sending voters a blank absentee ballot application caused a 0.7 percentage point increase in the rate of voting absentee, but this effect was not statistically significant (95-percent confidence interval [-0.001, 0.0015]) and that a pre-filled ballot application increased the use of absentee voting by 1.3 percentage points, an effect that was statistically significant (95-percent confidence interval [0.000, 0.002]). Using Hassell's (2017) estimates, I fail to reject the null that the blank application and the pre-filled application have the same effect on the rate of casting a vote by mail-in absentee. Further, comparing estimates across experiments, I fail to reject the null that the effect of sending ballot applications differs from the effect of sending voters postcard reminders reported in Hopkins et al. (2021). Overall, Hassell finds that sending voters a blank absentee ballot application decreased turnout 1.1 percentage point, though this effect was not statistically significant (95% confidence interval of [-3.6%, 1.4%]). Similarly, he finds that a pre-filled absentee ballot application



increased turnout 1.2 percentage points, but this too was not statistically significant (95-percent confidence interval of [-1.35, 3.75]).

178. To be clear, applying these experiments to Georgia and comparing results across experiments requires strong assumptions. The experiments reported in Hopkins et al. (2021) and Hassell (2017) were conducted outside of Georgia and both were conducted by distinct organizations who sent mailers with distinct content at different times during the election and over the course of different elections. This evidence shows, however, that one cannot intuitively reason to infer the effect of pre-filled absentee ballots on turnout. For example, Dr. Fraga argues (at 30) that “Black and Hispanic absentee-by-mail applicants were less likely to use the online portal to request an absentee ballot in 2020 and 2021 elections compared to White applicants and were therefore more likely to have use for forms provided by third parties that were restricted under SB202.” Yet, Dr. Fraga has no data on the use of third-party mail-in absentee ballot application usage. Instead, he notes that Black and Hispanic voters used an online portal at a lower rate than other voters. And Dr. Fraga then concludes (at 34) that, “[i]n the absence of comprehensive, individual-level data on who used a third-party absentee ballot form to apply for an absentee-by-mail ballot in 2020 and 2021, the patterns we see in the use of the (at the time) new online portal system suggest that Black and Hispanic

absentee-by-mail applicants were more likely to have use for the forms these organizations mailed.” Yet, Dr. Fraga never demonstrates that these individuals were relying on contact from third-party groups, nor does he show what share of third-party interactions with voters would be subject to regulations by SB 202.

179. Turning now to data from Georgia, I used the absentee voter file to assess the incidence of duplicate requests for absentee ballots in the 2020 election and then in the 2022 election. To make this assessment, I used the 2020 absentee ballot file and manually coded the “Status Reason” for rejected absentee ballot applications. I coded a “Status Reason” as referring to multiple applications if used the phrase “Multiple Requests” (which covered 99.88% of all cases coded as multiple) or reference a duplicate application. I performed the same coding for the 2022 election. Table 30 presents the rate mail-in absentee ballot applications were rejected for being duplicates in 2020 and 2022. In Column 2, I show the calculated rates for 2020 and in Column 3 I show the calculated rates for 2022.

Race	Proportion Applications Rejected, Duplicate 2020	Proportion Applications Rejected, Duplicate 2022
American Indian	0.0057	0
Asian	0.0116	0.0004
Black	0.0039	0.0003
Hispanic	0.0060	0.0002
White	0.0022	0.0002
Overall	0.003	0.0002

Table 30: Proportion of absentee ballot applications rejected as duplicate request in 2020 and 2022, by race and overall

180. Table 30 shows that SB 202 reduced the number and rate of duplicated absentee ballot requests. In Column 2, I calculated that 0.3% of absentee ballot applications in 2020 were rejected as a duplicate application. This was reduced to 0.02% in 2022. Applications from Black voters were more likely to be rejected because they were a duplicate request in 2020 than white voters. 0.39% of mail-in absentee ballot applications from Black voters were duplicate requests, while 0.22% of mail-in absentee ballot applications from white voters were duplicates. In 2022, 0.03% of mail-in absentee ballot applications from Black voters were duplicate requests, while 0.02% of mail-in absentee ballot applications from white voters were duplicates.

## **XI. SUNDAY AND WEEKEND VOTING IN GENERAL AND RUNOFF ELECTIONS USING IN-PERSON ABSENTEE VOTING**

181. SB 202 also put in place requirements to standardize the availability of weekend and Sunday voting for early in-person voting. As explained in SB 202's preamble, "[m]ore than 100 counties have never offered

voting on Sunday and many counties offered only a single day of weekend voting. Requiring two Saturday voting days and two optional Sunday voting days will dramatically increase the total voting hours for voters across the State of Georgia, and all electors in Georgia will have access to multiple opportunities to vote in person on the weekend for the first time.” SB 202, §2(5).

182. To assess when voters cast their early in person votes, I examined the absentee voter file for General elections since 2014 and runoff elections after the 2020 and 2022 elections. In Table 31, I assessed the share of votes cast on Sundays across elections, both overall and across racial and ethnic groups. And in Table 32, I assessed the share of votes cast on the weekend.

183. Tables 31 and 32 show that the 2022 runoff election saw the highest rates of Sunday and Weekend voting both overall and for Black and white voters. Overall, 5.1% of voters cast their ballots on Sunday in the 2022 runoff election. The next highest share overall was 2.7% for the 2020 general election. Aside from 2020, the 2022 midterm election had the highest share of Sunday votes among general elections, with 1.8% of votes cast on Sunday. Weekend voting reflects a similar pattern, 9.9% of voters cast their ballot on the weekend in the 2020 general election. This is similar to the share who cast votes on the weekend after SB 202, with 9.4% voting on the weekend in the

2022 general election and 9.2% voting on the weekend during the 2022 runoff election.

184. After SB 202, Black voters continued to vote more often on Sunday and the weekend than white voters. For example, 2.5% of early in person votes from Black voters were cast on Sunday in the 2022 general election, while 10.6% were cast on the weekend during the 2022 general election. In the 2022 runoff election, 7.4% of early in person votes from Black voters was cast on Sunday and 13.8% were cast on the weekend—both highs for any election for Black voters over the elections I analyzed.

Race	General 2014	General 2016	General 2018	General 2020	General 2022	Runoff 2021	Runoff 2022
American Indian	0.023	0.009	0.021	0.032	0.022	0.024	0.062
Asian	0.023	0.024	0.032	0.048	0.042	0.043	0.093
Black	0.032	0.019	0.026	0.037	0.025	0.026	0.074
Hispanic	0.016	0.011	0.020	0.030	0.028	0.029	0.065
White	0.008	0.008	0.010	0.021	0.013	0.014	0.034
Overall	0.017	0.012	0.016	0.027	0.018	0.020	0.051

Table 31: Share of early in person votes cast on Sunday by self-identified racial group and overall.

Race	General 2014	General 2016	General 2018	General 2020	General 2022	Runoff 2021	Runoff 2022
American Indian	0.086	0.088	0.101	0.109	0.106	0.065	0.111
Asian	0.124	0.138	0.168	0.150	0.153	0.119	0.157
Black	0.094	0.094	0.106	0.118	0.106	0.079	0.138
Hispanic	0.092	0.099	0.132	0.118	0.128	0.084	0.107
White	0.054	0.069	0.074	0.086	0.084	0.042	0.060
Overall	0.070	0.079	0.089	0.099	0.094	0.058	0.092

Table 32: Share of early in person votes cast on the weekend by self-identified racial group and overall.

185. While this analysis is not a demonstration of the causal effect of SB 202 and it is difficult to attribute changes in weekend voting solely due to SB 202 regulations, Tables 31 and 32 show that weekend voting was regularly used in the elections after SB 202. The actual use of weekend voting, then, is inconsistent with argument from Dr. Lee who opines that SB 202 requires “the elimination of weekend voting on most weekends.” Lee Rep. 93. In fact, weekend voting remained widely used after SB 202.

## **XII. THE EFFECTS OF SB 202 ON LINE WAITING TIMES**

186. Several of Plaintiffs’ experts argue that SB 202 will cause longer lines in polling places or make it more difficult for voters to cast mail-in absentee ballots. Dr. Schur argues (at 7) that “[t]he combined additional restrictions on mail-in voting in SB 202 are likely to push more people to vote in person at polling places, which will in turn exacerbate problems of long lines at polling places and consequently make it harder for many people with disabilities to wait in line to vote in person.” Dr. Schur provides no causal analysis to show that the regulations in SB 202 will increase wait times. Dr. Schur further concludes (at 47) that the drop box regulations “will cause some Georgians with disabilities to be disenfranchised and a further substantial number to face significant difficulties in voting because of their disabilities that they would not otherwise face but for SB 202.” Again, Dr. Schur cites no study

that shows Georgia's drop box regulations will cause disabled voters to be less likely to vote. Dr. Burden opines that "the new limitations placed on absentee voting by SB 202 will make it more difficult for Black voters in particular to shift away from voting in person to avoid the 'time tax' of long wait times." Burden Rep. 22. Again, he provides no direct calculation to show that SB 202 affects the ability of Black voters to substitute in-person voting with a mail-in absentee ballot.

187. Dr. Pettigrew makes a series of claims about how "SB202 will negatively affect wait times." Pettigrew Rep. 28. Dr. Pettigrew's mechanism for this increased wait time is that "[m]ail voting restrictions will push voters toward voting in person or not voting at all." *Id.* at 29. Dr. Pettigrew asserts that his analysis also "finds that SB202's restrictions on mail voting will have a significant impact on the number of people showing up to vote in-person." *Id.* at 1. Dr. Pettigrew further states that "[t]here are several provisions in SB202 that will have an impact on whether voters experience long lines to vote." *Id.* at 26. Of those provisions he states that the "most impactful of these changes are the alterations to the vote-by-mail process and the runoff election schedule. These changes will have the consequence of either decreasing turnout overall or pushing more voters toward voting in-person, thereby increasing the length of lines." *Id.* at 26. Dr. Pettigrew cites several provisions of the law that he

believes will deter individuals from voting by mail, *id.* at 29–30, but he does not provide causal evidence that SB 202 will deter individuals from voting absentee by mail, nor does he cite specific studies that show that SB 202’s regulations will affect the share of ballots cast using mail-in absentee voting or affect the turnout rate. Instead, Dr. Pettigrew writes that, “[w]hile it is beyond the scope of this report to estimate the exact impact that these changes will have on how many voters cast a mail ballot, it is reasonable to assume that these changes will not increase the rates of voting by mail, and are much more likely to decrease mail voting rates.” *Id.* at 30.

188. While Dr. Pettigrew does not provide evidence that SB 202 will cause voters to cast their ballots in person rather than voting absentee by mail, he opines (at 28) that “SB202 will negatively affect wait times.” In this section, I show that Dr. Pettigrew fails to follow standard practice when assessing the causal effect of SB 202 on time spent in line. Further, I diagnose several issues in Dr. Pettigrew’s approach to measuring time spent in line that also affects measures reported by Dr. Burden. Finally, using survey data collected in Georgia after the 2022 general election I find that the share of voters who waited more than 30 minutes to be lower than the share presented by Dr. Burden and Dr. Pettigrew and that the estimated share of Black voters waiting



30 minutes or more to vote is smaller than the estimated share of white voters, but the difference is within the survey's margin of error.

**A. Computer Simulations Do Not Provide Credible Estimates of SB 202's Effects on Line Waiting Times**

189. In this section, I show that Dr. Pettigrew's methodology cannot credibly estimate the effect of SB 202 on line waiting times and that the conclusions of Dr. Pettigrew's analysis are direct consequences of the assumptions made in the simulation, rather than evidence from Georgia elections.

190. Based on his assumption that SB 202 will affect the number of in person votes cast, Dr. Pettigrew opines (at 29) that "SB202 will cause lines to be longer for Georgians than they otherwise would have been, particularly among people of color." Dr. Pettigrew's opinion on the effects of SB 202 is based on a computer-based simulation of voting behavior in two hypothetical precincts. This simulation-based approach to estimating the causal effects of SB 202 departs from standard practice in the social sciences. When assessing the effects of an intervention, like SB 202, on an outcome, like voter turnout, scholars are working in the area of "causal inference."<sup>77</sup> Causal inference is a

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<sup>77</sup> Imbens, Guido W., and Donald B. Rubin. Causal inference in statistics, social, and biomedical sciences. Cambridge University Press, 2015. Pearl,

large literature in statistics, computer science, and the social sciences that seeks to estimate the effect of policies on outcomes, such as the consequences of election administration policies on voter turnout or how voters cast their ballot. I now review the standard procedure used to estimate causal effects of election administration policies on voter turnout, and then I explain why Dr. Pettigrew's simulation of voter turnout in two hypothetical precincts is a substantial departure from this standard practice.

191. First, when asking a causal question, like how SB 202 affects voting lines, researchers define the causal quantity they seek to estimate. Dr. Pettigrew does not explicitly define the target of his inference. However, given his assertion that SB 202 “will cause lines to be longer for Georgians than they otherwise would have been, particularly among people of color” and the estimates he reports from his simulations, it appears Dr. Pettigrew is seeking to estimate the effect of SB 202 on wait times, the share of voters who wait longer than 30 minutes, and how the effect of SB 202 varies across different self-identified racial groups.<sup>78</sup>

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Judea, and Dana Mackenzie. *The book of why: the new science of cause and effect*. Basic books, 2018.

<sup>78</sup> Based on the estimates Dr. Pettigrew reports it appears the relevant quantity of interest would be the average treatment effect on the treated of SB 202, because he is focused on the effect solely within Georgia precincts.

192. Second, when seeking to estimate the effect of a policy, researchers adopt a research design and set of assumptions that enable a causal interpretation of an estimate from data. The usual goal is to use a research design that requires only weak assumptions for a causal interpretation. For example, experiments are often used because randomization ensures that, on average, treatment and control groups differ only on the allocated treatment. In the case of estimating SB 202's effect on wait times, a research design and a set of assumptions are needed to estimate how SB 202 affected voters' average wait time.

193. Third, researchers use observed data to estimate what the outcome, wait times, would have been in the absence of the law being studied, in this case SB 202. Researchers usually estimate this counterfactual quantity using observations that were not affected by the treatment. Finally, researchers compute an estimate of the causal quantity of interest, comparing the observed outcome, the actual wait times in Georgia, to the estimated counterfactual outcome in the absence of treatment, average wait times in the absence of SB 202.

194. Dr. Pettigrew's hypothetical two-precinct computer simulation is a poor tool for causal inference and departs substantially from this standard practice. It therefore cannot provide credible causal evidence of SB 202's effect

on wait times. A computer simulation's conclusion about the effect of a policy rest entirely upon the assumptions underlying the simulation: no actual data is used in the estimation of the effects. Nor did Dr. Pettigrew calibrate his simulation to reflect Georgia precincts. Had different assumptions been deployed, then Dr. Pettigrew's analysis would lead to different conclusions. Because Dr. Pettigrew never explicitly connects the two-precincts in his simulation to the Georgia precincts, it is impossible to know if the dynamic in this simulation occurs at all in Georgia elections.

195. Turning to the details of his simulations, Dr. Pettigrew conducts a simulation study of two hypothetical precincts. As a baseline in both precincts, Dr. Pettigrew assumes each precinct has 200 voters who turnout to vote in person over 12 hours. Dr. Pettigrew then makes a series of assumptions so that his simulated "Precinct A" has a baseline average wait time of 9.8 minutes and "Precinct B" has a baseline average wait time of 29.6 minutes. Dr. Pettigrew then examines how the average wait times change as more individuals arrive to vote in person at the polls. To make this comparison, he adds hypothetical additional voters as part of his simulation.

196. Based on the specific parameters of each simulation, Dr. Pettigrew concludes that the average wait time and the share of voters waiting more than 30 minutes increases more in "Precinct B" rather than "Precinct A." Dr.

Pettigrew makes no explicit calculation to connect the results of this simulation to a specific causal estimate of the effect of SB 202 on wait times in precincts in Georgia.

197. Instead, Dr. Pettigrew uses the differences between “Precinct A” and “Precinct B” to make two kinds of conclusions about the effect of SB 202. One set of conclusions are about the law’s probable effect on voter turnout. For example, Dr. Pettigrew writes that “SB202 is likely to have a negative impact on the length of lines throughout Georgia, particularly in precincts that serve racial minorities.” *Id.* at iv. In other places, he opines on the effect of the law, writing that SB 202 “will have a negative impact on the length of lines to vote in Georgia, and will counteract any positive gains made by other changes to election procedure separate from SB202.” *Id.* at 1. He also concludes that “[p]recincts in predominantly non-white neighborhoods tend to function much closer to their operational capacity than precincts in predominantly white neighborhoods. This means that applying equal strain to all precincts (like a small, uniform increase in the number of in-person voters) will have substantially bigger impacts on line length in non-white precincts.” *Id.* at iii–iv. He also opines that, “[e]ven if white and non-white Georgia voters switch from mail voting to in-person voting at the exact same rates, the impact of

these switches will be much larger in non-white areas of the state, where precincts are already operating under strain.” *Id.* at 33.

198. Dr. Pettigrew’s simulation study is unable to support a conclusion about the likely or actual effect of SB 202’s mail-in absentee ballot applications on voter wait times. This is primarily because—again—the conclusions of simulation studies are direct consequences of the assumptions underlying the simulation. This is in contrast to the standard procedure used in causal inference empirical studies, which specify a causal quantity of interest, a set of assumptions and a research design, and then use data to estimate a causal effect. Without actual data, the estimated causal effect on voter wait times follows directly from the specific assumptions Dr. Pettigrew used in constructing the two hypothetical precincts. Had Dr. Pettigrew made different assumptions about the characteristics of the hypothetical precincts, the rates voters arrived, the amount of time voters spend voting their ballot, or even the effect of SB 202 on mail-in absentee voting rates, the simulation could lead to different conclusions about how adding voters to the polling place affects wait times. At best, the particular simulation Dr. Pettigrew uses can only establish the logical possibility that if SB 202 causes more in person voters on Election Day, it could cause longer wait time at the polls. But this logical possibility

does not imply that the conclusions of the simulation are likely to occur or that the simulation provides credible estimates of the causal effect of the law.

199. Dr. Pettigrew also fails to describe the assumptions underlying his simulation and deviates from the standard description of simulations in the application of queueing theory to study election line waiting. For example, standard models from “queueing theory” often involve, at least, three explicit components.<sup>79</sup> First, a queueing model specifies an arrival process. For the two-precinct simulation, the arrival process would describe the rate voters arrive at the poll throughout the day. Second, standard queueing models specify a service process or the rate voters move through the system. This includes the rate voters are checked in at the polls, the rate voters cast their ballot, and ultimately how quickly voters submit their ballots. And third standard queueing models stipulate a number of service units. Applied to voting, this could represent the number of check in or voting stations. Each of these assumptions have potentially critical consequences for the effect of adding voters to a particular precinct. More complicated simulation-based models of voter turnout include even more parameters that can be altered. For example, the line simulator for the MIT/Caltech Voting Technology Project

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<sup>79</sup> Ross, Sheldon M., et al. Stochastic processes. Vol. 2. New York: Wiley, 1996.

includes explicit parameters for the check in rate, the rate voters cast their ballot, and the rate some voters “walk off.”<sup>80</sup> This simulation also provides more explicit options about the rate voters arrive at the polls, providing options for voters to arrive more heavily at various times throughout the day. Dr. Pettigrew provides few or no details about these various components. For example, he provides information about the number of voters who arrive together to the polling place, while failing to provide information about how quickly these individuals move through the system, resources at the polling place, or whether the “arrival process” is constant throughout the day.

200. Without these details of Dr. Pettigrew’s simulation, it is unclear how the two hypothetical precincts compare to typical Georgia precincts. And therefore, it is unclear how the hypothetical changes Dr. Pettigrew observes correspond to actual changes we might expect in Georgia. For example, it could be that most Georgia precincts have characteristics that imply even large changes in the number of in person votes will have small effects on lines. Without more information, it is impossible to even evaluate if the two hypothetical precincts correspond to any precincts in Georgia, let alone precincts that are sufficient to establish the causal effect of SB 202.

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<sup>80</sup> Mark Pelczarski, *Line Optimization*, <http://web.mit.edu/vtp/calc3.htm>.



201. Dr. Pettigrew’s conclusions from the simulations are based on other assumptions that are never tested. Specifically, Dr. Pettigrew never explicitly demonstrates a core assumption of his simulation: that Black precincts are closer to their “operational capacity.” In several locations Dr. Pettigrew opines that precincts in predominantly Black neighborhoods are less capable of handling increases of voters. Dr. Pettigrew asserts that “areas resided in predominantly by people of color much more susceptible to dramatic increases in wait times as a result of SB202.” Pettigrew Rep. 18. He also claims that “[p]recincts in predominantly Black neighborhoods tend to already be under more strain and closer to operating capacity than precincts in predominantly white neighborhoods, so the changes in SB202 will have substantially larger impacts on line length in precincts that serve mostly Black voters, even if white and non-white voters react to SB202 in similar ways.” *Id.* at 24. And yet, Dr. Pettigrew never explicitly defines “operational capacity” for a precinct, let alone demonstrates that precincts in predominantly Black areas are closer to their limit of operational capacity.<sup>81</sup> Perhaps he means that Black precincts are more likely to be sufficiently close to experiencing an exponential

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<sup>81</sup> Even if he did, decisions about the operational capacity of each precinct, including equipment, poll workers, and locations, are made by county officials. *Anderson v. Raffensperger*, 497 F. Supp. 3d 1300, 1328–30 (N.D. Ga. 2020).

growth in wait times if more voters are added, which he calls the “elbow of death.” *Id.* at 29, 33. Yet, he provides no methodology to establish whether a precinct is close to this “elbow of death”, nor does he undertake an analysis of Georgia precincts to characterize the share near this definition of operational capacity.

202. The limited literature that applies queueing theory to examine voter wait times shows that simulations of precincts based on queueing theory cannot be used to establish the causal effect of SB 202 on voter wait times. This is true even though queueing theory might provide useful heuristics for understanding lines. For example, Ansolabehere and Stewart (2013) describe the use of queueing models to describe voter behavior and argue that “[m]ost standard recommendations for shortening lines derive from simple, straightforward application of queuing theory.”<sup>82</sup> And yet they express skepticism about whether the insights of queueing models provide useful guidance on how to reduce line waiting time. Ansolabehere and Stewart (2013) observe “[t]here is little empirical evidence that the recommendations [from queueing theory] prescribed as solutions to long lines have actually been

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<sup>82</sup> Ansolabehere, Stephen and Charles Stewart. *Waiting in Line to Vote*, White Paper (Jul. 28, 2013), <https://www.eac.gov/documents/2017/02/24/waiting-line-vote-white-paper-stewart-ansolabehere>.

effective in reducing waiting times.”<sup>83</sup> Ansolabehere and Stewart (2013) argued:

At the macro level, the shift of voters away from in-person voting has not decreased wait times. Indeed, there is a statistically significant negative correlation between the change in people voting in-person in 2012 (compared to 2008) and the change in average waiting times, measured at the state level. (In other words, states that had relatively more people vote in-person in 2012 had a slight decrease in average wait times.)<sup>84</sup>

203. Other scholars who have applied queueing models to study elections have argued that the models are useful to illuminate basic principles, but that, “[a]s we have indicated through computer queuing simulation, and as has occurred in real life, the incidence of long lines depends on many uncontrollable factors and is difficult to predict.”<sup>85</sup> And other applications of queueing model to study election lines explicitly use data and clear assumptions to calibrate the model to precincts being studied.<sup>86</sup>

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<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> Edelstein, William A., and Arthur D. Edelstein. “Queuing and Elections: Long Lines, DREs and Paper Ballots.” EVT/WOTE. 2010.

<sup>86</sup> Allen, Theodore, Mikhail Bernshteyn (2006) “Mitigating Voter Waiting Times”, CHANCE, 19:4, 25-34.

## B. Survey-Based Estimates of Voter Wait Times

204. Dr. Burden and Dr. Pettigrew cite survey evidence that voter wait times in Georgia have been consistently longer in Georgia than in other states and that wait times for Black voters have been longer than wait times for white voters. The evidence for these claims is based on a question asked in the Cooperative Election Study (CES) and the Survey of the Performance of American Elections (SPAЕ): “Approximately, how long did you have to wait in line to vote?” Voters are given response options of: “Not at all”, “Less than 10 minutes”, “10-30 minutes”, “31 minutes – 1 hour”, “More than 1 hour”. Dr. Pettigrew then reports analyses that measure “the proportion of voters who waited more than 30 minutes to cast their ballot.” Pettigrew Rep. 4. And both Dr. Pettigrew and Dr. Burden examine self-identified racial group differences in voters’ responses.

205. Dr. Pettigrew also analyzes the survey responses by “converting the responses to the survey question into minutes and hours.” *Id.* at 4. Specifically, “the wait time of each respondent was coded based on the midpoint of their response to the survey question.” *Id.* Therefore, he assigned voters who selected “Not at all” a wait time of zero, those who selected “Less than 10 minutes” a wait time of 5 minutes, those who selected “10-30 minutes” a wait time of 20 minutes, voters who selected “31-60 minutes” a wait time of

45 minutes, and finally he used voters' open-ended responses to assign wait times for voters who selected "More than 1 hour." I will refer to this procedure as the "midpoint imputation method." Using these imputed values, Dr. Pettigrew then computes the average wait time at the state level, county level, and by self-identified racial group. Using these computed average wait times based on the imputed responses, Dr. Pettigrew then contrasts the average wait time of Georgia voters overall to voters in other states and compares the average wait times of white and Black voters in Georgia. Dr. Burden uses a similar imputation of survey responses to argue that Georgia voters have experienced long lines in past elections.

206. I examined Dr. Pettigrew's statements about the validity of this midpoint imputation method and engaged in my own review of the evidence about the accuracy of the survey-based measures of line waiting time. Even if voters are able to perfectly recall their wait time in line, I will show that using the midpoint imputation method can lead to bias in an unknown direction of a group's average wait time and bias in an unknown direction in the difference in average wait times between groups. Even more problematically, using the midpoint imputation method to compute average wait time could cause researchers to conclude one group's average wait time is longer than another group's average wait time when the reverse is true. I then examined the

potential for this bias using behavioral cell phone data from voters waiting in line on Election Day as an illustrative ground truth data set. I will show that the midpoint imputation method overestimates the wait time in Georgia and either under- or overestimates the average difference between groups, such as differences in wait times between Georgia and other states.

207. When assessing the survey-based measure of wait time, Dr. Pettigrew claims that the midpoint imputation method for voter wait times will provide a conservative estimate of the difference in wait times between groups. Specifically, Dr. Pettigrew argues that the “approach of substituting the mid-point of each category to represent a voter’s wait time has an important consequence for the analyses throughout this report. When comparing the average wait time of two groups, this midpoint imputation strategy is likely to understate how big of a gap exists between their wait times.” Pettigrew Rep. 4–5. In support of this conclusion, Dr. Pettigrew presented data from a single simulation that compares the distribution of hypothetical wait times from two hypothetical groups of voters. In this single simulation, the estimated difference in average wait times between the two hypothetical groups using the midpoint imputation measure was smaller than the true difference in average wait times. But Dr. Pettigrew also notes that “[t]his simulation analysis highlights that in some cases, the midpoint

imputation approach may estimate group average wait times that are too high. For this reason, throughout this report I focus on comparisons of average wait times between groups, rather than focusing on the precise estimate of the average wait for an individual group. By always having a reference group as a point of comparison, I ensure that even if the exact estimate of an individual group is too high, I am drawing conclusions based on differences between group estimates that are likely to be too low.” *Id.* at 5 n.13.

208. Dr. Pettigrew concedes that the midpoint imputation method can result in an estimated average wait time that is larger than the true underlying wait time. While he claims to address this issue “[b]y always having a reference group as a point of comparison” in his report, he makes absolute statements about wait times in Georgia. *Id.* at 6 n.13. For example, Dr. Pettigrew opines in his report that, “[i]n terms of minutes, the average Georgia voter in 2020 waited 27.4 minutes to cast their ballot. This means that the average wait time experienced by Georgians was nearly as long as the PCEA’s recommendation for the maximum wait time. For non-white voters, the average wait was even longer—34.2 minutes—while white Georgia voters waited on average 24.3 minutes.” *Id.* at 11. Dr. Pettigrew also fails to provide theoretical or empirical evidence that comparing two biased estimates of wait times from survey data would result in a canceling out of the underlying bias.

The size of measurement error from the midpoint imputation method can vary across different distributions of voters' wait times. And as a result, comparing two group's wait times will not cancel the bias from the midpoint imputation method.

209. I now turn to Dr. Pettigrew's claims about differences in average wait times computed using the midpoint imputation method. While Dr. Pettigrew opines (at 5) that "this midpoint imputation strategy is likely to understate how big of a gap exists between their wait times" he never defines what he means by "likely," nor does he provide systematic theoretical or empirical evidence that the midpoint imputation method tends to understate the differences between groups. The sole evidence that Dr. Pettigrew provides is a comparison of two hypothetical wait times of two hypothetical groups. But this example cannot establish a "likely" property of the midpoint imputation method, because it is easy to construct an example where the average wait time calculated using the midpoint imputation method produces an average difference in wait times that is larger than the true underlying average difference in wait times. As a simple example, suppose that there are two groups of voters, group "A" and group "B." In Group "A," 70% of voters wait 8 minutes to vote, while 30% of voters wait 11 minutes to vote, for an average wait time of 8.9 minutes. In Group "B," 30% of voters wait 8 minutes to vote



and 70% of voters wait 11 minutes to vote, for an average wait time of 10.1 minutes to vote. This implies a true group difference in average wait time of 1.2 minutes. But if I suppose that these voters correctly reported their wait time in Dr. Pettigrew's survey question, and then I applied the midpoint imputation method, I would conclude that Group "A" has an average wait time of 9.5 ( $0.7 \times 5 + 0.3 \times 20$ ), Group "B" has an average wait time of 15.5 minutes ( $0.3 \times 5 + 0.7 \times 20$ ). As a result, applying the midpoint imputation method leads to a difference in average wait times of 6 minutes, over stating the true difference by 400%. It is also possible to construct an example where the midpoint imputation method will report that Group "A" has a longer wait time than Group "B", but, in reality, Group "B" has a longer wait time. For example, suppose now that Group "A" has 70% of its voters waiting 8 minutes, but 30% of its voters waiting 28 minutes. This implies a true average wait time of 14 minutes, but a midpoint imputation method average wait time of 9.5. If Group "B" remains unchanged from the prior example, with an average wait time of 10.1 minutes. This implies Group "A" voters wait 3.9 minutes longer than Group "B" voters. But applying the midpoint imputation method, I would

conclude that Group “B” voters wait, on average, 6 minutes longer than Group “A” voters.<sup>87</sup>

210. Theoretical arguments alone are not sufficient for assessing the actual error from the midpoint imputation method. Instead, I undertook an empirical assessment of how applying the midpoint imputation method could bias estimates of average wait times and differences in average wait time. To do this, I used behavioral data collected from cell phones that is then used to estimate time spent waiting in line on Election Day. Specifically, I used the replication data from Chen et al. (2022) and compared the average wait times as recorded in their data set, to the average wait times that would be computed if the wait times in their data set were accurately reported in a survey and then the midpoint imputation method was applied.<sup>88</sup> Chen et al. (2022) use location information from cellphone data to track voters near polling locations, then assess the amount of time voters spend in those locations. I used the

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<sup>87</sup> While this is a logical possibility, the positive correlation between the survey responses and the behavioral data I analyze below implies that this sort of inversion is infrequent.

<sup>88</sup> Chen, M. Keith, et al. “Racial disparities in voting wait times: evidence from smartphone data.” *Review of Economics and Statistics* 104.6 (2022): 1341-1350. Replication data available at <https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi:10.7910/DVN/RRHANS>.

information from this paper to assess the consequences of the midpoint imputation strategy on calculating voter wait times. Specifically, to assess the bias that results from midpoint imputation, I will assume that the Chen et al. (2022) data set represents the true wait time. Then I will examine how recording this information in a survey and then applying the midpoint imputation method would change the estimates.

211. To make this comparison, I downloaded Chen et al.'s (2022) data set and used the "filtered" data set, which applies a set of checks that Chen et al. (2022) developed to remove non-voters from the data set. I first used the measure of wait time as recorded in their data set to calculate the average wait time at the state level, the average wait time at the county level, and then I made state-to-state comparisons contrasting the average wait time in Georgia with the average wait time in other states. To assess Dr. Pettigrew's claims about the direction of bias from the midpoint imputation method, I then assessed how these quantities would change if the wait times in Chen et al.'s (2022) data set had been accurately reported as survey responses and the midpoint imputation method had been applied. That is, for each wait time in Chen et al.'s (2022) data set I categorized it into the appropriate survey response. I then carried out the midpoint imputation strategy. For voters who wait more than 60 minutes, I suppose they perfectly recall the time waited in

line, which would correspond to an accurate open-ended report in Dr. Pettigrew's coding.

212. Using this data set, I find that in every state the use of the midpoint imputation method causes an overestimate of the average voter wait time. On average, across states, I find the midpoint imputation average voter wait time is 1.37 minutes longer than the underlying true average voter wait time. I find that in 81.8% of counties that the average wait time calculated using the midpoint imputation method is larger than the true underlying average wait time. When I restrict the analysis to counties in Chen et al.'s (2022) data set with at least 10 observations, I find that the midpoint imputation method causes an overestimate of average wait time in 93.3% of all counties.

213. While Dr. Pettigrew asserts it is "likely" the midpoint imputation method results in an underestimate of group differences, I do not find this using the wait times in the Chen et al. (2022) data set. I first calculated the average wait time in Georgia and other states using the original voter wait times reported in the Chen et al. (2022) data set. I then calculated the difference in average wait times between Georgia and other states using the underlying wait times from the voters' cell phones. Second, I calculated the average wait times in Georgia and other states using the midpoint imputation

method and calculated the difference between Georgia and other states using this measure of wait time. Finally, I compared the difference in average wait time using the original data source in Chen et al. (2022) and using the midpoint imputation method. If Dr. Pettigrew's assertion that the midpoint imputation method understates differences across groups, then it should be the case that the midpoint difference in average wait times is smaller than the difference in average wait times using the underlying wait times.

214. I do not find that to be the case. When comparing Georgia to the other 45 states in Chen et al.'s (2022) data set, I find that the difference in average wait times using the midpoint imputation method produces a larger in magnitude difference 51.1% of the time, while the difference in average wait times as reported in Chen et al.'s (2022) data set produces a larger in magnitude difference 48.9% of the time.

215. Based on this analysis, it is impossible to know whether average reported wait times by Dr. Burden and Dr. Pettigrew are over- or underestimates of the underlying true average wait times. Further, it is impossible to know if differences in wait times computed using survey responses and the midpoint imputation method are over- or underestimates of the true difference.

216. An alternative to the midpoint imputation method is to focus on the share of respondents who select a particular response category. This avoids the potential biases from the midpoint imputation method and provides an accurate estimate of the share of voters who have waited a particular amount of time, under the assumption that voters correctly report their wait time. Dr. Pettigrew, for example, focuses on the share of voters who report waiting at least 30 minutes in line. It is important to note, however, that differences in these categories do not necessarily imply differences in average wait time. Depending on the underlying wait times and the share of voters reporting a particular interval of wait time, a larger share of voters from one group reporting waiting more than 30 minutes to vote than another group could be consistent with that group waiting longer to vote, about the same, or having a shorter average wait time than the other group.

217. While Drs. Pettigrew and Burden analyzed survey data from elections before the 2022 election, I make use of a recent survey that asks Georgia voters about their experience voting in the 2022 election. The survey was an over-the-phone survey conducted by the SPIA survey research center

at the University of Georgia.<sup>89</sup> The survey was conducted from November 13th to December 6th, 2022, and included 1,253 Georgia residents who self-reported voting. While the underlying data set has not yet been released, the topline survey estimates have been posted.

218. In the post-2022 survey of Georgia residents, respondents who reported voting in person were asked: “Approximately, how long did you have to wait in line to vote?” This is the same question used by Dr. Burden and Dr. Pettigrew. Overall, 4.7% of Georgia voters reported waiting in line more than 30 minutes for the general election. This is lower than the midterm average reported by Dr. Pettigrew, calculated using the CES, 8.8%. Breaking responses down by racial group, 4.8% of white in-person voters waited longer than 30 minutes to vote (3.6% waited between 31 minutes to 1 hour and 1.2% reported waiting more than an hour) compared to 4% of Black in-person voters (3.4% waited between 31 minutes to 1 hour and 0.6% reported waiting more than 1 hour). The difference between the two groups is within the survey’s margin of error. The share of white and Black voters reporting waiting more than 30 minutes is lower in the post-2022 survey than Dr. Burden’s share of vote-

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<sup>89</sup> M.V. Hood III, *2022 Georgia Post-Election Survey*, SPIA Survey Research Ctr. (Jan. 17, 2023), <https://tinyurl.com/4kxeb373>.

validated voters who report waiting longer than 30 minutes for Black respondents in every reported election (2014: 5.5%, 2016: 14%, 2018: 19%, 2020: 34%) and for white voters in every reported election other than 2014 (2014: 1.4%, 2016: 16%, 2018: 17%, 2020: 22%). Examining other categories, a larger share of white in-person voters than Black in-person voters reported having no wait time (41.1% among white voters, 32.2% of Black voters), though the share of both white and Black voters experiencing no wait time is higher than in 2016, 2018, and 2020 and essentially equal to the share in 2014. In total, according to the post-2022 survey, the share of Black voters who experienced less than 10 minutes of wait time was 68.7% of in-person Black voters, a larger share of in-person Black voters than any of the reported estimates in Dr. Burden's expert report (2014: 62%, 2016: 49%, 2018: 57%, 2020: 31%). To be clear, I cannot attribute any changes reported in the post-election 2022 survey to SB 202. This survey does demonstrate, however, that for whatever reason, after SB 202, the share of Black voters experiencing longer than a 30-minute wait has decreased, while the share of Black voters who waited less than 10 minutes increased.

219. Other of Plaintiffs' experts offer opinions on line waiting and SB 202. Dr. Schur opines that "[t]he combined additional restrictions on mail-in voting in SB 202 are likely to push more people to vote in person at polling



places, which will in turn exacerbate problems of long lines at polling places and consequently make it harder for many people with disabilities to wait in line to vote in person.” Schur Rep. 7. Like Dr. Pettigrew, Dr. Schur does not cite a quantitative study that demonstrates the provisions of SB 202 will cause an increase in line length for in-person voting. Rather, Dr. Schur examines data on disabled individuals and then infers from her own personal examination of the data that SB 202’s regulations on absentee balloting will cause an increase in in-person voting. Further, it is unclear how changes in line length would affect in-person voting rates from disabled individuals. By law, disabled and elderly voters allowed to move to the front of the line. Dr. Schur acknowledges this, but then argues that, “[w]hile older voters and those with physical disabilities may ask to be moved to the front of a line, it may be hard to get the attention of poll workers and convince them that one is entitled to do so, and this practice would not be available to individuals with different disabilities, such as cognitive or other less-visible impairments, who may now need to vote in person.” *Id.* Dr. Schur fails to quantify the difficulty of getting poll workers attention or assistance. Further, she doesn’t demonstrate that moving to the front of the line is more difficult for individuals with different sorts of disabilities. In short, while we know the law allows for disabled and

elderly individuals to move to the front of the line, we do not know if the issues about which Dr. Schur speculates actually manifest at the polling place.

220. Dr. Schur does provide an explicit quantitative estimate of the share of disabled voters deterred due to long lines in Georgia. Based on survey responses, Dr. Schur writes that, “I conclude with a reasonable degree of certainty, based on the above data, that close to 1% of registered voters with disabilities in Georgia, representing about 7,800 people, reported that they were dissuaded from voting in 2020 by the prospect of long lines at the polls that were well documented, indicating that their voter turnout could have been almost a full percentage point higher if long lines were not an issue.” *Id.* at 48.

221. But it is not standard practice to infer the causal effect of an intervention from voters’ self-reported reflection on why they did not vote. A well-known finding in psychology is that individuals struggle to explain their actions.<sup>90</sup> This is particularly worrisome when measuring voter turnout because respondents often exhibit social desirability bias. Holbrook and Krosnick (2011) argue that a “great deal of evidence suggests that survey respondents sometimes intentionally present themselves in inaccurate but

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<sup>90</sup> Nisbett, Richard E., and Timothy D. Wilson. “Telling more than we can know: Verbal reports on mental processes.” *Psychological review* 84.3 (1977): 231.

socially admirable ways.”<sup>91</sup> Dr. Schur also opines (at 30) that “the estimated voting gap between Georgia citizens with and without disabilities (from Table 8) is largely accounted for by a greater likelihood that registered voters with disabilities said they tried but were not allowed to vote, it was too much trouble, or they were dissuaded by the long lines.” Voters’ inability to accurately reflect on why they didn’t undertake an action also undermines this claim.

222. Plaintiffs’ experts Dr. Lichtman and Dr. Schur opine about the effect of SB 202’s ban on mobile voting on voter turnout and partisan advantage, yet neither offer evidence about the effect of mobile units on turnout. Dr. Lichtman opines on the mobile unit voting ban that “[t]his provision targets with surgical precision two heavily Democratic counties: Fulton County and Douglas County.” Lichtman Rep. 26. Yet, Dr. Lichtman provides no evidence that the presence of mobile voting caused increased turnout in the 2020 election, decreased the time voters waited in line, or had any other effect on how voters cast their ballots. He further provides no

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<sup>91</sup> Holbrook, Allyson L., and Jon A. Krosnick. “Social desirability bias in voter turnout reports: Tests using the item count technique.” *Public opinion quarterly* 74.1 (2010): 37-67.

calculation to show that whatever effect he estimates mobile units have on turnout manifests in an advantage for any one party.

223. Dr. Schur opines on mobile voting that “[i]n particular, by coming to locations where many people with disabilities live rather than requiring them to travel to a fixed polling place, these mobile facilities are useful to many people with disabilities who live in assisted living facilities, nursing homes, and psychiatric institutions or who face transportation or mobility difficulties. As such, the new barriers imposed by Section 20 will make it harder for people with disabilities to vote.” Schur Rep. 51. Here again, Dr. Schur provides no direct evidence to support this claim, nor does she cite a study that demonstrates that mobile voting in Georgia caused an increase in turnout in the 2020 election among individuals with disabilities.

### **XIII. THE POLITICAL EFFECTS OF SB 202 ARE DIFFICULT TO ANTICIPATE**

224. A claim made across several expert reports is that SB 202 was put in place to advantage the Republican Party. As evidence for this claim, in several places the authors claim that various provisions of the law were designed to “burden” or “affect” minorities or Democrats disproportionately. Plaintiffs’ experts explicitly or implicitly argue that SB 202 was put in place to advantage the Republican Party. For example, Dr. Lichtman argues (at 17)

that “[e]ach provision operates synergistically to impede opportunities for voters who support Democratic candidates to participate fully in the political process in Georgia and elect their candidates of choice.” In this report, I have described flaws in the logic and evidence of several of these claims. But even if there had been explicit causal effects computed, and even if they had shown a disparate impact—which they have not—it is not straightforward to move from disparate impact of a law to an electoral advantage for a political party. This is because disparate effects measure differences in rates across racial groups, but elections are decided with total number of votes. As I will show in this section, determining (1) whether a particular policy causes a partisan advantage and (2) the size of that advantage requires an explicit computation that takes into account two facts: the number of voters whose turnout decision the policy affects and the vote choice preferences of those who turnout to vote. Working through an illustrative example, I will show that the white-Black turnout gap in Georgia can increase, while the electoral advantage for the Republican Party could decrease.

**A. Dr. Burden’s claims about racially polarized voting and political advantage in Georgia**

225. After an analysis of differences in Black and white vote choice and voter turnout, Dr. Burden opines that:

Due to the presence of substantial racial polarization in voting, shifts in the relative turnout rates of Black and white residents impact the partisan outcomes of state elections. Because the Black voter turnout rate is consistently lower than that of whites, there is more capacity for it to increase. This potential would put the recent dominance of Republican candidates backed mostly by white voters at further risk.<sup>92</sup>

226. Dr. Burden makes two observations in this paragraph, which he then uses to reach a conclusion about how changes in white and Black turnout rates could affect the success of Georgia Republicans in future elections:

1) Dr. Burden asserts that when the Black voter turnout rate increases relative to the white voter turnout rate, then Democrats' vote total increases relative to Republicans' vote total. Dr. Burden is also asserting that when the white voter turnout rate increases relative to the Black turnout rate, Republican vote total increases relative to Democratic vote total.

2) Dr. Burden asserts that because the Black turnout rate is less than the white turnout rate, then necessarily the share of Black citizens who haven't voted (1-Black turnout rate) is greater than the share of white citizens who haven't voted (1-white turnout rate). This remaining share is the "capacity" for increase.

Using point (1) and (2), Dr. Burden concludes (at 10) that if the Black turnout rate were to increase more than the white turnout rate in future elections—which he says is feasible because of the larger share of Black citizens who have

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<sup>92</sup> Burden Rep. 10.

not voted—then “this potential would put the recent dominance of Republican candidates... at further risk” in Georgia.

227. Dr. Burden’s conclusions in this passage do not follow from an explicit calculation in his report, nor are Georgia specific calculations found in a relevant literature that he cites. After I conducted the appropriate calculations, I found that the evidence does not support Dr. Burden’s conclusions. First, I found there is an ambiguous relationship between the white-Black turnout rate gap and the relative electoral advantage of Democratic and Republican candidates. I show that the white-Black turnout rate gap could increase in Georgia and this could lead to a disadvantage for Republican candidates. Second, I found there are actually more white residents who have not voted in Georgia than Black residents, despite the lower Black voter turnout rate. I consider each of these issues in turn.

228. I consider first the relationship between the white-Black turnout rate gap and the electoral advantage of each party, where I find two reasons that this relationship is ambiguous. First, there are a different number of white and Black residents in Georgia. As a result, a change in the turnout rate for Black residents implies fewer additional voters than the same change in the turnout rate for white residents. Second, when the turnout rate changes for either white or Black residents, the average vote choice for those groups

can also change as voters with different electoral preferences may differentially increase (or decrease) their rate of participation. This fact is particularly important when considering changes in the turnout rate among white voters in Georgia. As I will show, white voters with different levels of education support Republican candidates in Georgia at different rates.

229. In Grimmer, Marble, and Tanigawa-Lau (2023), we derived the appropriate formulas to assess how changes in the turnout rates affect the change in the number of net votes for a political party.<sup>93</sup> Following the derivation in our paper, I will focus on the change in net Republican votes after a turnout rate change. If the change in net Republican votes is positive, then the Republican Party candidate gains votes, and if the change in net Republican votes is negative, then the Republican Party candidate loses votes.

230. To derive the formula for the change in net Republican votes, I first provide the formula for the number of net Republican votes from Black voters, (Net GOP<sub>b</sub>). To calculate this quantity, I combine three components: the

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<sup>93</sup> Grimmer, Justin, William Marble, and Cole Tanigawa-Lau. “Measuring the contribution of voting blocs to election outcomes.” (2022). Our paper extends Axelrod (1972), and our formula is a straightforward application of the law of total probability. Axelrod, Robert. “Where the votes come from: An analysis of electoral coalitions, 1952–1968.” *American political science review* 66.1 (1972): 11-20.



number of Georgia residents who identify as Black (Group Size<sub>b</sub>), the Black turnout rate (Turnout Rate<sub>b</sub>) and the vote share difference among Black individuals who turnout to vote: the rate members of the group who turnout to vote support the Republican candidate minus the rate those who turnout to vote support the Democratic candidate. I will denote this quantity with Vote Diff<sub>b</sub> | Turnout, where the | Turnout signifies that the vote choice depends on who turns out to vote. I then multiply these three quantities together to obtain the number of net GOP votes,

$$\text{Net GOP}_b = \text{Group Size}_b \times \text{Turnout Rate}_b \times (\text{Vote Diff}_b | \text{Turnout})$$

If Net GOP<sub>b</sub> is negative, then the Republican candidate loses votes with this group and if it is positive then Republicans gain voters with this group. The analogous quantity for white voters is Net GOP<sub>w</sub>, which is composed of the same three components: the number of white Georgia residents, the turnout rate among white individuals, and the difference between the rate white individuals who turnout to vote select the Republican and Democratic candidate.

231. If I limit the focus to only Black and white voters like Dr. Burden, then the net Republican votes from these two groups is simply the sum of the

Net Republican votes from Black and white residents (Net GOP = Net GOP<sub>b</sub> + Net GOP<sub>w</sub>).

232. I used this formula to derive the formula for the change in net Republican votes if there is a change in the white and Black turnout rates. To consider a change in the turnout rate, call the net Republican votes in the first election Net GOP<sub>1</sub> and the net Republicans in the second election Net GOP<sub>2</sub>. The change in net Republican votes is given by,

$$\begin{aligned} \text{Net GOP}_2 - \text{Net GOP}_1 &= \text{Net GOP}_{b,2} + \text{Net GOP}_{w,2} - (\text{Net GOP}_{b,1} + \text{Net GOP}_{w,1}) \\ &= \text{Net GOP}_{b,2} - \text{Net GOP}_{b,1} + \text{Net GOP}_{w,2} - \text{Net GOP}_{w,1} \end{aligned}$$

In other words, the change in net Republican votes corresponds to the sum of the change in net Republican votes among Black Georgia residents and the change in net Republican votes among white Georgia residents. To clarify this formula, I expand the Net GOP<sub>b,2</sub> - Net GOP<sub>b,1</sub> term. Assuming the proportion of black voters is held constant, this is

$$\begin{aligned} \text{Net GOP}_{b,2} - \text{Net GOP}_{b,1} &= \text{Group Size}_b \times (\text{Turnout Rate}_{b,2} \times (\text{Vote Diff}_{b,2} | \text{Turnout}) \\ &\quad - \text{Turnout Rate}_{b,1} \times (\text{Vote Diff}_{b,1} | \text{Turnout})) \end{aligned}$$

233. This formula shows that the change in net Republican votes from Black Georgia residents depends on a difference in a complicated quantity: the combined turnout rate and vote choice difference in each election. And the change in this quantity is then scaled by the group size. Given this formula, it

is clear merely examining changes in the white-Black turnout rate will be insufficient to estimate the effect on the number of votes for a party.

234. Using this formula, I am now able to evaluate Dr. Burden's claim that changes in the white-Black turnout rate gap is directly related to each party's electoral advantage. As an example, to demonstrate why there is no consistent relationship between the white-Black turnout rate gap and a party's electoral advantage, I examine an example of changes in turnout that correlate with Georgia residents' race and education level.

235. To apply the formula, I first estimated how vote choice preferences in Georgia vary across different levels of education. To estimate this, I used the cumulative Cooperative Election Survey to evaluate the vote choice of Georgia voters in the 2020 presidential election and the 2018 Gubernatorial election. Specifically, I created an indicator for whether every respondent reports having no bachelor's degree or a bachelor's degree or higher. I then examined the rate white and Black voters at different education levels reported supporting the Democratic and Republican candidates in the 2020 election and the 2018 Gubernatorial election. I used the standard survey weights in this calculation. Tables 33 and 34 shows that white voters in Georgia without a Bachelor's degree supported Republicans at a higher rate than white voters in Georgia who at least have a Bachelor's degree.

Race	Education	Dem. Share	Rep. Share	Difference
Black	Bachelor	0.96	0.02	-0.93
Black	No Bachelor	0.92	0.07	-0.85
White	Bachelor	0.42	0.56	0.15
White	No Bachelor	0.23	0.75	0.52

Table 33: Support for 2020 presidential candidates by race and education, using the Cooperative Election Survey

Race	Education	Dem. Share	Rep. Share	Difference
Black	Bachelor	0.93	0.06	-0.87
Black	No Bachelor	0.93	0.05	-0.88
White	Bachelor	0.35	0.64	0.28
White	No Bachelor	0.19	0.80	0.61

Table 34: Support for 2018 governor candidates by race and education, using the Cooperative Election Survey

236. Applying this formula and taking into account heterogeneity by education required that I also calculated the number of Black and white voters with and without Bachelor's degrees. To do this, I used estimated numbers from the Census 5-year ACS, which corresponds with shares reported by Dr. Palmer. As Dr. Palmer notes, a larger share of white Georgia residents has a Bachelor's degree than Black Georgia residents. Palmer Rep. 13. As a result, if there is a change in turnout rates that solely affects voters without a college degree, the change in the Black turnout rate will be greater.

237. Using the formula, vote choice rates from the CES, and the size of groups from the Census, I will now show that even if the white and Black turnout rate gap increases in Georgia, it could imply an electoral advantage

for Democrats within the context of this illustrative example.<sup>94</sup> Consider the following hypothetical. Suppose, for whatever reason, there is a 10-percentage point decrease in turnout rates among voters without a Bachelor's degree for both Black and white Georgia residents, but there is no change in the turnout rate among voters with a Bachelor's degree regardless for both Black and white voters.

238. If the turnout rate changes in this way, then the white turnout rate would decrease less than the Black turnout rate, because a larger share of white Georgia residents has a Bachelor's degree than Black Georgia residents. As a result, in this hypothetical example the white-Black turnout rate gap would grow by 0.98 percentage points. Nevertheless, the change in turnout rates imply a net advantage for Democrats. If I used the vote choice rates from the 2020 presidential election, I find this change in turnout rates creates a 3,485-vote advantage for the Democratic candidate (meaning that the change in the net Republican vote is -3,485). If I used the vote choice preferences from the 2018 Gubernatorial election, I find an even larger

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<sup>94</sup> This is just one example that demonstrates changes in the turnout gap do not imply an electoral advantage. There are, of course, many other ways the white and Black turnout gap could increase while creating an electoral disadvantage for Republicans.

advantage for the Democratic candidate, with a 24,241-vote shift to the Democratic candidate (a change in the net Republican vote of -24,241 votes). This occurs because whites without a Bachelor's degree who turnout to vote cast their ballots for Republicans at higher rates than whites with a Bachelor's degree.

239. This hypothetical scenario demonstrates that there is no clear relationship between the white-Black turnout rate gap in Georgia and the relative advantages of the political parties, in contradiction of the claims made by Dr. Burden. This is because focusing solely on changes in the turnout rate gap fails to take into account differences in the number of white and Black Georgia residents, and it fails to consider how vote choice changes as different individuals turn out to vote.

240. Of course, this is just one simple example of one hypothetical change in Georgia. But it demonstrates a key point: to estimate the political effects of a law an explicit calculation is necessary and intuitive reasoning is insufficient. While several expert reports claim that SB 202 will create an electoral advantage for Republicans, no report performs the appropriate calculation for SB 202. To do this, the analyst would need to postulate a causal effect of SB 202 on turnout rate for the relevant racial groups and calculate how the change in turnout rate affects support for the political parties by

changing the composition of those who turnout to vote. In the absence of this calculation, the effect of the law is unclear.

241. I now turn to Dr. Burden's claims about the capacity for changes in turnout in Georgia elections. While Dr. Burden opines (at 10) that there is "more capacity" for the Black turnout rate to increase than the white turnout rate, it is not true that there are more Black citizens who have not voted than white citizens who have not voted in Georgia. And because elections are decided based on the number of votes, it is critical to consider the number of potential voters, rather than merely the remaining proportion of the population rate.

242. A simple arithmetic calculation yields the number of white and Black non-voters in Georgia. To make this calculation I used the size of the Black and white CVAP in 2020. I multiplied this by the share of individuals who did not turn out to vote. To show how this calculation varied over recent elections, I calculated the share of white and Black voters who did not vote in statewide general elections in Georgia from 2014 to 2022, using the numbers reported in Table 37 in the Appendix. These numbers are reported in Table 35.

Turnout Rate Year	Remaining White Citizens	Remaining Black Citizens	Difference White - Black Remaining Citizens
2014	2,671,662	1,556,580	1,115,082
2016	1,786,919	1,153,022	633,897
2018	2,009,195	1,213,076	796,119
2020	1,433,894	1,028,112	405,782
2022	1,996,120	1,362,008	634,112

Table 35: Number White and Black citizens who have not voted, varying the Black and White turnout rate based on recent elections.

243. Regardless of the Black and white turnout rate used, my calculations show that there are more remaining white voters than Black voters. Even considering the year with the highest Black and white turnout rate, 2020, there are more than 405,000 more white voters who could vote than Black voters. This calculation shows that—even though Dr. Burden is correct that Black turnout rates are lower than white turnout rates—there are actually more remaining white votes than Black votes. And because elections are decided based on the number of votes, this is the more important metric.

### **B. Recent Georgia Election of Black Elected Officials**

244. Dr. Clark examined the share of seats that Black elected officials hold for the U.S. House of Representatives and state legislature. In this section, I updated these counts through the results of the 2022 election and compare the share of Black elected officials in particular institutions and then compare that share to the Georgia population. Dr. Clark asserts that parity is



achieved if the share of Black elected officials in the institution meets or exceeds the share of the Black population. Clark Rep. 37.

245. **House of Representatives** Currently, 5 of Georgia's 14 Congressional seats are held by Black elected officials. This 35.7% share of Congressional seats exceeds the 33% of the Georgia population who identifies as Black.

246. **U.S. Senate** Raphael Warnock, who identifies as Black, was first elected in a special election in 2020 and then successfully defended his seat against Herschel Walker, who also identifies as Black. Jon Ossoff, the other Georgia senator, identifies as white. As a result, 50% of Georgia's senators identify as Black, achieving Dr. Clark's definition of parity.

247. **State Legislature** According to the Atlanta Journal Constitution, 69 Black state legislators were elected in the 2022 election, an increase of one Black state legislator from after the 2020 election.<sup>95</sup> This constitutes 29.2% of the legislature. This is an increase from 28.8%, but it remains below Dr. Clark's definition of parity.

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<sup>95</sup> Maya T. Prabhu, *2023 session will have Georgia's most diverse Legislature*, The Atlanta Journal-Constitution (Nov. 29, 2022), <https://tinyurl.com/yh3vj8fe>.

#### XIV. CLAIMS MADE ABOUT GEORGIA'S REGISTRATION PRACTICES

248. While several expert reports examine Georgia's recent electoral history, no report mentions that Georgia enacted an automatic voter registration (AVR) system in 2016. AVR is a system that enrolls voters when they have points of contact with the Georgia Department of Driver Services (DDS). In Georgia, eligible voters are either added to the registration rolls or have their records updated when they have contact with DDS and do not affirmatively opt out. Georgia is one of 23 states that have enacted an AVR system. Morris and Dunphy (2019), in a Brennan Center report, estimated that 93.7% of the growth in registration rates in Georgia was due to AVR. The report asserts that without AVR, "Georgia would have registered just over 6,279 voters each week in this period in 2017. Georgia actually registered an average of just over 12,160 each week—a 93.7 percent increase."<sup>96</sup> And Kim (2022) shows that enabling registrants to update their information after moving causes a 5.8 percentage point increase in turnout.<sup>97</sup>

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<sup>96</sup> Kevin Morris and Peter Dunphy. 2019. "AVR Impact on State Voter Registration" <https://www.brennancenter.org/our-work/research-reports/avr-impact-state-voter-registration>

<sup>97</sup> Kim, Seo-young Silvia. "Automatic Voter Reregistration as a Housewarming Gift: Quantifying Causal Effects on Turnout Using Movers." *American Political Science Review* (2022): 1-8.

249. Dr. Cobb describes (at 43) voter file maintenance as “purg[ing]” voters. He cites two specific figures as indicators of improper voter file maintenance. He argues that, “[b]y some estimates, 1.4 million names may have been stripped from Georgia’s voter rolls between 2012 and 2018. More than half a million of them were reportedly purged from the rolls under the ‘use it or lose it’ provision by computers in the Secretary of State’s Office in the course of a single evening on July 28, 2017. In a matter of a few hours, the state’s registered electorate had been slashed by 8 percent, and by the end of 2017, the reduction would be 10 percent.”<sup>98</sup> Given the attention to this practice in the expert reports and considerable public debate around voter list maintenance, I investigated the number of voters removed, who was removed, and the stated reason for their removal.

250. To investigate these claims, I used the canceled voter file to calculate the number of registrations canceled from 2012 to 2018. The canceled voter file contains a record of each canceled registration and the date the registration was canceled. After identifying the year when the individual was canceled, I tallied the total number of canceled voters from 2012 to 2018. In total, I find that 1,226,939 were removed over these years. Among those, 49.3%

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<sup>98</sup> Cobb Rep. 43.

of voters were removed from the list due to inactivity and 50.7% of canceled registrations are for other reasons. Among the reasons why voters were removed, 32.0% were canceled because the voter died, 8.2% were canceled because they were duplicate registrations, 4.1% were canceled because the voter moved, 4.2% were canceled because the voter had a felony conviction, and 0.5% were canceled at the voters' request.

251. Using the canceled voter file, I also analyzed the number and racial composition of Georgia residents whose registration were canceled on July 28, 2017. Specifically, I used the cancel voter file to subset the analysis to those individuals who had their registration canceled on July 28, 2017. I find that 401,522 voters had their registration canceled that day. I then calculated the share of these canceled registration from different self-identified racial groups. These shares are in Column 2 of Table 36. In Column 3 of Table 36, I calculated the share of registered voters from the 2016 election who belong to each racial group.

Race	Share, Canceled July 28, 2017	Share Registered November 2016
American Indian	0.001	0.001
Asian	0.020	0.019
Black	0.302	0.305
Hispanic	0.034	0.025
White	0.538	0.555

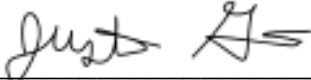
Table 36: Share of Voters Removed in July 2017 List Maintenance

252. Table 36 shows that the distribution of voters canceled on July 28, 2017, reflects the distribution of registered voters. For example, I calculated that white voters constituted 55.5% of the registered voter population in 2016, and they constituted 53.8% of the share of canceled voters, with 215,900 registrations of white residents canceled. This 1.7 percentage point difference means that white voters were underrepresented among canceled registrations. Black Georgia residents constitute 30.2% of the share of canceled registrations from July 28, 2017—121,190 registrations—and were 30.5% of registered voters in the 2016 election. This difference of 0.3 percentage points indicates that, relative to the share among all registered voters, Black residents were less likely to have their registration canceled. Asian and Hispanic registered voters were overrepresented among the canceled voters. Though the discrepancies were small—less than one percentage point for Hispanic registrants and 0.1 percentage points for Asian registrants.

## XV. CONCLUSIONS

253. I reach these conclusions to a reasonable degree of scientific certainty and to the best of my knowledge using methods that are standard in my field. I reserve the right to update and amend my report.

Executed on February 14, 2023

  
Justin Grimmer, Ph.D.

## APPENDIX A ALTERNATIVE TURNOUT ESTIMATES

1. As an alternative method to estimate voter turnout in Georgia by self-reported racial group, I used information from Georgia's registration file pulled on 11/08/2022, the voter history from the relevant election downloaded from the Georgia Secretary of State's website, the list of absentee voter applications from the Georgia Secretary of State's website, and the list of canceled voters, or voters who have been removed from the registration file, provided as part of the discovery documents. Using canceled voters is important, because individuals are regularly removed from the registration file, along with their prior voting history. This can create biases in even simple turnout rate estimates.<sup>1</sup> For each election, I then merged the files using the voter's registration number. This provided me with a comprehensive list of who participated in each election, how they participated, and the characteristics of those who participated.

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<sup>1</sup> Nyhan, Brendan, Christopher Skovron, and Rocío Titiunik. "Differential registration bias in voter file data: A sensitivity analysis approach." *American Journal of Political Science* 61.3 (2017): 744-760.

Year	American Indian		Asian		Black		Hispanic		White	
	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend
2014	0.095	0.095	0.137	0.137	0.337	0.337	0.108	0.108	0.384	0.384
2016	0.218	0.218	0.378	0.378	0.499	0.499	0.316	0.316	0.590	0.590
2018	0.205	0.205	0.345	0.345	0.475	0.475	0.276	0.276	0.539	0.539
2020	0.306	0.306	0.590	0.590	0.556	0.556	0.393	0.393	0.668	0.668
2022	0.247	0.233	0.381	0.352	0.433	0.417	0.245	0.223	0.542	0.537
Runoff, 2021	0.255	0.255	0.496	0.496	0.512	0.512	0.306	0.306	0.597	0.597
Runoff, 2022	0.217	0.205	0.327	0.302	0.401	0.386	0.207	0.188	0.479	0.475

Table 37: Voter Turnout by Self-Reported Racial Group

2. In Table 38, I present the calculated turnout rate for racial groups in general elections in Georgia, but this table uses an imputation strategy to assign a racial categorization for voters who do not self-identify with a racial group. I applied a Bayesian method that uses a voters' surname and neighborhood to make an inference about a voters' race (Imai and Khanna, 2016; DeLuca and Curiel, 2022).<sup>2</sup> Specifically, the method uses data from the Census on the relationship between surnames and racial identity, coupled with information on the distribution of racial groups in an individual's zip code. Using this information, the method formulates a best guess on an individual's racial identity. For each voter who does not report a racial identity, I used this

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<sup>2</sup> Imai, Kosuke, and Kabir Khanna. "Improving ecological inference by predicting individual ethnicity from voter registration records." *Political Analysis* 24.2 (2016): 263-272; DeLuca, Kevin, and John A. Curiel. "Validating the Applicability of Bayesian Inference with Surname and Geocoding to Congressional Redistricting." *Political Analysis*, 2022, 1–7. doi:10.1017/pan.2022.14.

information to calculate a probability that individual is Asian, Black, Hispanic, or white.<sup>3</sup> I then summed those probabilities and added them to the count of voters from the voter history who had reported their racial identity for a particular group. This approach is based on strong assumptions. It requires the assumption that the distribution in the population and the distribution among voters is the same. That said, this method does provide one approach to ensure excluding voters who do not report their racial identity do not systematically bias the results.

Year	American Indian		Asian		Black		Hispanic		White	
	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend	CVAP	CVAP Trend
2014	0.095	0.095	0.171	0.171	0.356	0.356	0.144	0.144	0.410	0.410
2016	0.218	0.218	0.458	0.458	0.530	0.530	0.391	0.391	0.637	0.637
2018	0.205	0.205	0.415	0.415	0.505	0.505	0.342	0.342	0.584	0.584
2020	0.306	0.306	0.692	0.692	0.593	0.593	0.475	0.475	0.726	0.726
2022	0.247	0.233	0.451	0.417	0.462	0.445	0.302	0.275	0.589	0.584
Runoff, 2021	0.255	0.255	0.583	0.583	0.544	0.544	0.373	0.373	0.649	0.649
Runoff, 2022	0.217	0.205	0.387	0.357	0.427	0.411	0.255	0.232	0.521	0.516

Table 38: Voter Turnout by Self-Reported Racial Group, imputing unknown votes using zip code and surname

<sup>3</sup> The methodology I deployed does not allow for an inference about a voter being an American Indian.



# EXHIBIT A

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## EMPLOYMENT

### Stanford University

Assistant Professor, Department of Political Science. 2010-2014.  
Associate Professor, Department of Political Science. 2014 - 2017. 2018.  
Associate Professor (by courtesy), Department of Computer Science. 2016-2017.  
Professor, Department of Political Science. 2018 - Present

### Hoover Institution

Senior Fellow. 2018-present

### University of Chicago

Associate Professor, Department of Political Science and the College. 2017-2018.

## EDUCATION

### Harvard University *Department of Government*

Ph.D Political Science, 2010  
A.M. Political Science, 2009

### Wabash College,

A.B. Mathematics and Political Science 2005  
*Summa cum laude*, Distinction in Mathematics and Political Science Comprehensive Exams

## BOOKS

Representational Style in Congress: What Legislators Say and Why It Matters. *Cambridge University Press*, 2013.

The Impression of Influence: Legislator Communication, Representation, and Democratic Accountability. With Sean Westwood and Solomon Messing. *Princeton University Press*. 2014.

Text as Data: A New Framework for Machine Learning and the Social Sciences. With Margaret E Roberts and Brandon Stewart. *Princeton University Press*. 2022.

## PUBLICATIONS

“How to Make Causal Inferences Using Texts” with Naoki Egami, Christian Fong, Margeret E. Roberts, and Brandon Stewart *Science Advances*. 2022.

“Reply to Kalmoe and Mason: The pitfalls of using surveys to measure low-prevalence attitudes and behavior” with Sean Westwood, Matt Tyler, and Clayton Nall. *Proceedings of the National Academy of Sciences*. 2022.

“Causal Inference in Natural Language Processing: Estimation, Prediction, Interpretation, and Beyond”. with Amir Feder, Katherine A. Keith, Emaad Manzoor, Reid Pryzant, Dhanya Sridhar, Zach Wood Doughty, Jacob Eisenstein, Roi Reichart, Margaret E. Roberts, Brandon M. Stewart, Victor Veitch, Diyi Yang. *Transactions of the Association for Computational Linguistics (ACL)*. *Forthcoming*.

“Current Research Overstates American Support for Political Violence ” with Sean Westwood, Clayton Nall, and Matt Tyler. *Proceedings of the National Academy of Sciences*. 2022.

“Naïve regression requires weaker assumptions than factor models to adjust for multiple cause confounding” (with Dean Knox and Brandon Stewart) *Conditional Accept, Journal of Machine Learning Research*

“A Women’s Voice in the House: Gender Composition and Its Consequences in Committee Hearings”. with Pamela Ban, Jaclyn Kaslovsky, and Emily West *Quarterly Journal of Political Science*. 2022.

“Causal Inference with Latent Variables” with Christian Fong. *American Journal of Political Science*. 2022.

“Partisan Enclaves and Information Bazaars: Mapping Selective Exposure to Online News” with Matt Tyler and Shanto Iyengar. *Journal of Politics*. 2022.

“The Durable Differential Deterrent Effect of Strict Photo Identification Laws” with Jesse Yoder. *Political Science Research and Methods*. 2022.

“No Evidence for Systematic Voter Fraud: A Guide To Statistical Claims About the 2020 Election” (with Andrew C. Eggers and Haritz Garro) *Proceedings of the National Academy of Sciences*. 2021.

“Machine Learning for Social Science: An Agnostic Approach” with Margaret E. Roberts and Brandon Stewart. *Annual Review of Political Science*. 2021

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“Obstacles to Estimating Voter ID Laws’ Effect on Turnout”. with Eitan Hersh, Marc Meredith, Jonathan Mummolo, and Clayton Nall. *Journal of Politics*. 2018. 80 (3).

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“Discovery of Treatments from Text Corpora” with Christian Fong. *In Proceedings of the Annual Meeting of the Association for Computational Linguistics (ACL 2016)* Berlin, Germany

“Money in Exile: Campaign Contributions and Committee Access” with Eleanor Neff Powell. *Journal of Politics*. 2016. 78(4). 974-988.

“Measuring Representational Style in the House: The Tea Party, Obama, and Legislators’ Changing Expressed Priorities” in *Data Analytics in Social Science, Government, and Industry* Edited Volume from *Cambridge University Press*. 2016.

“TopicCheck: Interactive Alignment for Assessing Topic Model Stability” *North America Chapter of the Association for Computational Linguistics: Human Language Technologies (NAACL HLT)*. Jason Chuang, Molly Roberts, Brandon Stewart, Rebecca Weiss, Dustin Tingley, Justin Grimmer, and Jeffrey Heer. 2015.

“We’re All Social Scientists Now: How Big Data, Machine Learning, and Causal Inference Work

Together” Part of Symposium on “Formal Theory, Causal Inference, and Big Data” *PS: Political Science & Politics*, 2015. 48(1), 80-83

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“Congressmen in Exile: The Politics and Consequences of Involuntary Committee Removal” with Eleanor Neff Powell. *The Journal of Politics*, 2013. 75 (4), 907–920

“Appropriators not Position Takers: The Distorting Effects of Electoral Incentives on Congressional Representation”. *American Journal of Political Science*, 2013. 57 (3), 624–642.

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“Elevated Threat-Levels and Decreased Expectations: How Democracy Handles Terrorist Threats” with Tabitha Bonilla. *Poetics*, 2013. 41, 650-669.  
- Special issue on topic models in the social sciences

“How Words and Money Cultivate a Personal Vote: The Effect of Legislator Credit Claiming on Constituent Credit Allocation” with Solomon Messing and Sean Westwood. *American Political Science Review*, 2012. 106 (4), 703–719.

“General Purpose Computer-Assisted Clustering and Conceptualization” with Gary King. *Proceedings of the National Academy of Sciences*, 2011. 108 (7), 2643-2650.

“An Introduction to Bayesian Inference Via Variational Approximations” *Political Analysis*, 2011. 19(1), 32–47.  
- Included in *Political Analysis* virtual issue on Big Data in Political Science

“Approval Regulation and Endogenous Provision of Confidence: Theory and Analogies to Licensing, Safety, and Financial Regulation” with Daniel Carpenter and Eric Lomazoff. *Regulation and Governance*. 2010. 4(4) 383-407.

“A Bayesian Hierarchical Topic Model for Political Texts: Measuring Expressed Agendas in Senate Press Releases” *Political Analysis*, 2010. 18(1), 1–35.  
- Included in *Political Analysis* virtual issue on Bayesian methods in Political Science

WORKING PAPERS “What Can We Learn About How Political Campaigns Activate Attitudes?” with Will Marble and Cole Tanigawa-Lau.

“The Unreliability of Measures of Intercoder Reliability, and What to do About it”. with Gary King, Chiara Superti, and Matt Tyler.

“Estimating the Contribution of Voting Blocs to Election Outcomes” with Will Marble and Cole Tanigawa-Lau. *Resubmitted*

“Potomac Fever or Constituent Ombudsman?: Testing Theory of Legislative Capacity and Priorities”. with Devin Judge-Lord and Eleanor Neff Powell. (Under Review).

“Assessing the Reliability of Probabilistic US Presidential Election Forecasts May Take Decades” with Dean Knox and Sean Westwood (Under Review).

REVIEWS AND  
OTHER WRITING

Review of *Cyberwar: How Russian Hackers and Trolls Helped Elect a President* Public Opinion Quarterly. 2019. 83, 1.

“Dismantling Trump’s Election Fraud Claims”. Washington Times, February 8, 2021. with Andrew B. Hall

“In the voter fraud debate, be wary of junk science”. The Hill, August 27, 2021. with Andrew B. Hall and Daniel Thompson

**Public  
Engagement and  
Reports**

“Strengthening the Integrity of Presidential Elections” American Enterprise Institute Panel. June, 2021. <https://www.c-span.org/video/?512799-1/strengthening-integrity-presidential-elections>

“Brief of Amicus Curiae in *Holmes et. al v Moore, et al*” March, 2022.

“Changing the Default: The Impact of Motor-Voter Reform in Colorado” (with Jonathan Rodden).

“Evaluating Look Ahead Americas ‘The Georgia Report’ On Illegal, Out-Of-State Voting In The 2020 Election” (with Andrew Hall and Dan Thompson)

“High Correlations Between Predicted and Actual Ballots Do Not Imply Fraud” (with Matt Tyler)

HONORS AND  
AWARDS

2018. Wabash College Jeremy R. Wright Young Alumnus Distinguished Service Award

2015. Political Methodology section emerging scholar award. Awarded to a young researcher, within ten years of their degree, who is making notable contributions to the field of political methodology.

2015. School of Humanities and Sciences Dean’s award for achievement in teaching.

2014. The Richard F. Fenno, Jr. Prize. Awarded to the best book in legislative studies published in 2013.

2013. *Political Analysis* Editor’s Choice Award for an article providing an especially significant contribution to political methodology.

2012. School of Humanities and Sciences Dean’s award for achievement in the first years of teaching at Stanford.

2011. Warren Miller Prize. Awarded for the best paper published in *Political Analysis* in 2010.

2010. Senator Charles Sumner Prize. Awarded by the Harvard Government faculty for the best dissertation from the legal, political, historical, economic, social, or ethnic approach, dealing with any means or measures tending toward the prevention of war and the establishment of universal peace.

2010. Robert H. Durr award, for the best paper presented at the 2009 Midwest Political Science Association meeting applying quantitative methods to a substantive problem.

2010. Certificate of Distinction in Teaching, Gov 2010: Qualitative and Quantitative Research Design.

2008. John T. Williams Prize. Awarded by the Society for Political Methodology for best dissertation proposal.

2005. Phi Beta Kappa, Wabash College.

2005. John Maurice Butler Prize. Awarded to the senior who, by vote of the Wabash College faculty, has highest achievements in scholarship and character.

2005. N. Ryan Shaw II Political Science Award. Awarded to the outstanding senior political science major.

2005. George E. Cascallen Prize in Mathematics. Awarded to the outstanding senior Mathematics major.

FELLOWSHIPS AND GRANTS

2013-2016. Stanford University Victoria Schuck Faculty Scholar in the School of Humanities and Sciences.

2013-2014. Stanford University, United Parcel Service Endowment Fund Grant, "Infrastructure Spending in American Cities".

2013-2014. National Fellow, Hoover Institute.

2012-2013. Faculty Fellow, Institute for Research in the Social Sciences.

2011-2013. Visiting Fellow, Hoover Institute.

2010. Dirksen Center Congressional research award, for "It's the Flow Not the Stock: Congressional Staff and Their Influence on Policy Outcomes" (with Matt Blackwell).

2009-2010. Center for American Political Studies (CAPS) dissertation completion fellowship.

2009. Eliot Dissertation Completion Grant. A competitive, merit-based Graduate School of Arts and Sciences fellowship for the Social Sciences (declined).

2008-2009. CAPS dissertation research fellowship.

2005-2006. National Science Foundation Graduate Research Fellowship, Honorable Mention.

SOFTWARE AND PATENTS

**Patent Number: US 8,438,162 B2** Method and Apparatus for Selecting Clusterings to Classify a Predetermined Data Set (with Gary King)

**Patent Number: US 9,519,705 B2** Method and Apparatus for Selecting Clusterings to Classify a Data Set. (with Gary King)

**Consilience: Software for Understanding Large Volumes of Unstructure Text** (with Merce Crosas, Gary King and Brandon Stewart) (consilience.com).

Implements a general purpose methodology to facilitate discovery in large collections of texts

**textEffect (CRAN)**

Implements text as intervention method introduced in Fong and Grimmer (2016).

“**arima: ARIMA time series models**” in Kosuke Imai, Gary King, and Olivia Lau “Zelig: Everyone’s Statistical Software”. 2006.

INVITED  
PRESENTATIONS  
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Department of Political Science. Northwestern University. 2018.  
Methods Workshop. Northwestern University. 2018.  
Methods Workshop. Department of Political Science. Yale University. 2018.  
Methods Workshop. Department of Political Science. Texas A&M University. 2018.  
MIDAS Interdisciplinary Seminar Series. University of Michigan. 2019.  
American Politics Workshop. Department of Political Science. UC Berkeley. 2019.  
American Politics Workshop. Department of Political Science. New York University. 2019.  
Summer Institute in Computational Social Science. Princeton University. 2019.  
Empirical Implementations of Theoretical Models. Emory University. 2019.  
Southern California Methods Workshop. UC Riverside. 2019.  
Data Science Institute. Columbia University. 2019.  
Department of Politics and CSDP. Princeton University. 2019.  
Text as Data Workshop. US Census Bureau. 2019.  
TextXD Keynote Address. UC Berkeley. 2019.  
Department of Political Science. University of North Carolina. 2020.  
Institute for Advanced Study. Princeton University. 2020  
Duke Law School. 2020.  
International Methods Colloquium. 2021.  
MIT Election Administration Workshop. 2021. Princeton Elections Workshop. 2021.  
Chicago Committee of Quantitative Methods. 2021. Duke Political Science. 2022  
Summer Institute for Computational Social Science. 2022  
Legislative Politics Conference. University of Oklahoma. 2022  
California Association of Clerks and Election Officials. 2022  
Political Science Department. University of Texas. 2023  
Applied Statistics Workshop. Harvard University. 2023  
Ash Center Workshop. Harvard University. 2023

PROFESSIONAL AND  
DEPARTMENTAL  
SERVICE

Reviewer for *American Political Science Review*, *American Journal of Political Science*, *Journal of Politics*, *Journal of the American Statistical Association*, *Proceedings of the National Academy of Sciences*, *British Journal of Political Science*, *Political Analysis*, *State Politics and Policy Quarterly*, *Public Opinion Quarterly*, *Journal of Public Economics*, *Legislative Studies Quarterly*, *Congress and the Presidency*, *Journal of Political Communication*, *Political Science Research and Methods*, *Research and Politics*, *American Politics Research*, *Political Behavior*, *Journal of Information Technology & Politics*, *Journal of Information Science*, *Journal of Artificial Intelligence Research*, *Evaluation and Program Planning*, *National Science Foundation*, *Journal of Social Structure*, *Sociological Methodology*, *Cambridge University Press*, *Oxford University Press*, *Social Forces*, *Chapman & Hall (CRC Press)*, *North American Chapter of the Association for Computational Linguistics: Human Language Technologies (NAACL HLT)*, *Association for Computational Linguistics Annual Conference (ACL)*, *Social Science Computer Review*, *Swiss National Science Foundation*

Interim President, Text as Data Society Member, Department Policy and Planning Committee (2015-2017, 2018-present) Member, Department DEI Committee (2020-2021)  
Co-Director, Democracy and Polarization Lab. 2018-Present  
Chair, Omnibus Faculty Search Committee. 2018  
Organizer Text as Data. 2019. (TADA2019)  
Editorial Board Member, *Political Analysis* (2014-2015)  
Co-Editor, *Political Analysis Letters* (2014-2018)  
Editorial Board Member, *Journal of Politics* (2015-Present)  
Graduate Admissions Committee, 2010-2011  
Omnibus Faculty Search Committee, 2011-2012

Award Committee, Warren Miller Prize, 2012-2013

Award Committee, Fenno Prize, 2014-2015

Methods Curriculum Committee, 2013-2014

Undergraduate Curriculum Committee, 2013-2014, 2014-2015

Policy and Planning Committee, 2014-2016, 2018-Present

Director of Undergraduate Studies, 2015-2016.

Co-organizer: Stanford Conference on Computational Social Science. June 1st, 2012.

Section Chair for Legislative Campaigns and Elections. MPSA, 2013.

Program Committee: Neural Information Processing Systems (NIPS), Computational Social Science Workshop, 2011, Topic Modeling Workshop 2013

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# EXHIBIT C

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE GEORGIA SENATE BILL 202      MASTER CASE NO.  
1:12-MI-55555-JPB

GEORGIA STATE CONFERENCE OF  
THE NAACP, et al.,  
Plaintiffs,

CASE NO.  
1:21-CV-01259-JPB

vs.

BRAD RAFFENSPERGER, in his  
official capacity as the  
Secretary of the State for  
the State of Georgia, et al.,

Defendants.

SIXTH DISTRICT OF THE  
AFRICAN METHODIST EPISCOPAL  
CHURCH, et al.,

Plaintiffs,

CASE NO.  
1:21-CV-01284-JPB

vs.

BRIAN KEMP, Governor of the  
State of Georgia, in his  
official capacity, et al.,

Defendants.

VOLUME II  
VIDEOTAPED ZOOM DEPOSITION OF  
CAROL ANDERSON, Ph.D.

April 18, 2023

9:30 A.M.

Lee Ann Barnes, CCR-1852B, RPR, CRR, CRC

1 A. That, I'm not aware of.

2 Q. Okay.

3 A. But I do know that polling places were  
4 closed. It -- it -- and -- and what we know is that  
5 when you're having growth in voter registration in  
6 those areas and polling places are closed, you're  
7 funneling more and more people into fewer and fewer  
8 spaces, and that creates those long, untenable  
9 lines.

10 Q. And you're aware that following the 2018  
11 election, the Georgia legislature passed  
12 House Bill 316 to make a number of changes to  
13 Georgia's election code; right?

14 A. I'm aware of some of them, yes.

15 Q. Let's go next to line 2172 where you refer  
16 to "legislative chaos" in the process of bills  
17 eventually becoming Senate Bill 202.

18 Do you see that?

19 A. Yes.

20 Q. Have you studied the typical legislative  
21 process in Georgia for how bills become laws?

22 A. No, I have not.

23 Q. Do you consider yourself an expert on the  
24 legislative process in Georgia?

25 A. No. I am -- I am, though, well-aware of

1 policy processes. And what was evident in the --  
2 the hearings was the sense of bills popping up out  
3 of the blue that people hadn't had enough time to  
4 review; that people came prepared to discuss  
5 elements in a bill that they thought that they were  
6 discussing, only to find out that those elements had  
7 been removed; and -- and that this wasn't just  
8 community, NGO folk, who are talking about this, but  
9 I'm also seeing it in terms of there was a moment  
10 where the minority leader, Butler, had come to talk  
11 about a -- a witness -- a witness requirement and a  
12 copy of the IDs for absentee ballots -- absentee  
13 ballot requests, only to find out that it wasn't  
14 there anymore.

15 So when you've got that kind of what are  
16 we talking about here, that -- that is a policy  
17 chaos.

18 Q. So when you refer to legislative chaos,  
19 you're relying on your reviewing of the hearings  
20 leading up to Senate Bill 202?

21 Is that fair to say?

22 A. Yes.

23 Q. Okay. Have you ever reviewed hearings of  
24 any other election legislation that was considered  
25 in years other than 2021 in the General Assembly?

1 A. No, I have not.

2 Q. On line 2175, on page 133, you say  
3 "Senate Bill 202 ended up as a 98-page piece of  
4 legislation targeted at a voting problem that did  
5 not exist."

6 Do you see that?

7 A. I do.

8 Q. And you'd agree that there were some  
9 provisions of Senate Bill 202 that were helpful to  
10 election administration in Georgia; right?

11 A. There were some elements that provided  
12 some streamlining, some codification of things, but  
13 the -- the pieces that I am referring to are the  
14 ones that targeted the ways that African Americans  
15 and people of color accessed the ballot box in 2020  
16 and did so to be able to choose their preferred  
17 candidate.

18 And those key methods, those key elements  
19 of providing access to the ballot box were --  
20 were -- were targeted in SB 202, although the claim  
21 of election integrity does not match up with what  
22 was happening in those -- in the ways that people of  
23 color access the ballot box.

24 You didn't see rampant voter fraud in --  
25 in absentee ballots. You didn't see massive fraud

1 the legislature was considering SB 202; right?

2 A. As far as I know, it had not been  
3 released.

4 Q. Okay. Do you know if Georgia legislators  
5 were aware of Dr. Herron and Dr. Smith's conclusion  
6 that the only days on which black early in-person  
7 voting rates are greater than white early in-person  
8 voting rates are weekend days, when they were  
9 considering SB 202?

10 A. I know that there were many witnesses that  
11 told the Georgia legislature that weekend voting was  
12 absolutely important for black voters. And so the  
13 importance of weekend voting for African Americans  
14 was -- was reiterated multiple times during those  
15 hearings.

16 Q. And I understand that was -- that  
17 testimony happened during the hearings, but you  
18 don't know whether this particular analysis, the  
19 fact that you cite on lines 2337 through 2339 was  
20 known by legislators in the debate about  
21 Senate Bill 202; right?

22 A. I do not know if the legislators had this  
23 particular information, but they did have  
24 information about how important weekend voting was  
25 to black voters.

1 African Americans. And -- and what that disparity  
2 meant was who had a driver's license or who could be  
3 able to get to where the -- the Department of Driver  
4 Services were located.

5 It was also looking at the disparity in  
6 employment, because employment IDs could be used.  
7 But because of the -- of the disparities in  
8 employment between whites and African Americans,  
9 that also meant a disparity in terms of who -- who  
10 had access to those types of IDs.

11 And so that's what that is based on.

12 Q. Down at Footnote 488 you reference  
13 testimony by Reverend Woodall about pre-detention  
14 detainees not having access to their driver's  
15 licenses while they're detained.

16 Do you see that?

17 A. Yes, I do.

18 Q. Are you aware that after  
19 Reverend Woodall's testimony on that, LTA (phonetic)  
20 provision was added to Senate Bill 202 to ensure  
21 that pretrial detainees in jails could access their  
22 driver's licenses for purposes of voting?

23 A. I did see that, yes.

24 Q. And that would be an example of the  
25 legislature responding to testimony about an issue

1 with the implementation of election laws; right?

2 A. That is one of a much larger piece.

3 So there were many concerns about what  
4 eliminating access to drop boxes would mean. There  
5 were many concerns about what out-of-precinct  
6 voting, eliminating out-of-precinct voting would  
7 mean. There were many concerns raised about line  
8 warming.

9 And you're not seeing the kind of  
10 responsiveness to those levels of concern, the  
11 depths of those concerns. And there were many  
12 concerns raised about how this bill was not  
13 conceived of in terms of the evidence, but based on  
14 the feelings of those who believe that the election  
15 was stolen.

16 And so you have Minority Leader Butler,  
17 you know, really laying out how having a bill that  
18 is based on feelings, feelings that have been stoked  
19 and agitated by some powerful folks in this nation,  
20 that what that would do is that there were no tweaks  
21 in a law -- in an election law that would convince  
22 them that the election is sound, that -- that --  
23 that -- that would raise their confidence because it  
24 was based on feeling. So the thing to do was to get  
25 at those feelings by telling the truth.



1 BY MR. TYSON:

2 Q. Let's go next to the "Poll Closure"  
3 section where you reference Senate Bill 241.

4 How do you view Senate Bill 241 as a  
5 precursor to Senate Bill 202, as you say on  
6 line 2446?

7 A. Is that it was proposed before SB 202 was  
8 proposed, and that -- and it was in that same larger  
9 legislative session as the -- the -- the legislature  
10 is looking at all of these kinds of election bills.  
11 What are we going to do about drop boxes? What are  
12 we going to do about absentee ballots? What are we  
13 going do about ...? What are we going to do  
14 about ...?

15 And so it was in that line.

16 Q. And you'd agree that although Senate Bill  
17 241 proposed to eliminate no-excuse absentee voting  
18 for people under the age of 65, Senate Bill 202 does  
19 not eliminate no-excuse absentee voting; right?

20 A. That is correct.

21 Q. Let's move to page 150 of your report.  
22 And on line 2474, you reference "Research studies  
23 and reporting demonstrate these disparities,"  
24 referring to the difference in lines in black and  
25 white neighborhoods.

1 mentioned in the last one, it -- our -- the  
2 previous -- Part 1 of the deposition, that one of  
3 the members wanted to -- to -- to strike the  
4 language about no-excuse absentee ballots and --  
5 and -- and offered a motion to do so. But then it  
6 was, like, you can't offer a motion on a hearing.  
7 You know, like --

8 And -- and so there was all of this back  
9 and forth. And then they didn't know whether it was  
10 SB 40 they were talking about, SB 67 they were  
11 talking about, SB 241 they were talking about. It  
12 was just this -- this general sense of -- of -- of  
13 chaos.

14 Q. And as we discussed earlier, you hadn't  
15 previously studied kind of the legislative process  
16 in Georgia.

17 So is it fair to say that your conclusions  
18 about the legislative process related to  
19 Senate Bill 202 are based on your observations from  
20 the testimony in the hearings?

21 A. Based on my observation in the testimony  
22 in the hearings and on -- on how that testimony then  
23 aligns with my Footnote 566, I believe it is, where  
24 the notices of the meetings and when those meetings  
25 would be held. And sometimes it's -- it's --

1 it's -- it's -- it's just such a quick turnaround  
2 time.

3 And -- and -- and knowing the way that  
4 public policy works, people need time to be able to  
5 review documents, to be able to -- to -- to assess  
6 what's really -- what are the implications of this?  
7 What -- what -- what does this language mean?  
8 What -- who's going to be affected by this? How  
9 does this change this? What are the consequences of  
10 this?

11 And -- and this was so -- the word of  
12 "rushed" kept coming through, that people didn't  
13 have the time, the full time. And so I -- I was,  
14 frankly, amazed by how well people were able to  
15 testify with what they saw before them or what was  
16 being changed right before their very eyes.

17 Q. And so it's correct to say that, in your  
18 view, the process was rushed, not as compared to  
19 other bills related to elections considered by the  
20 General Assembly in other sessions, but based on the  
21 testimony of individuals at the hearings; right?

22 MS. ADEN: Objection.

23 THE WITNESS: Based on the testimony of  
24 individuals at the hearings who had been in  
25 these legislative processes before, and -- and

1           they were remarking on the -- the -- the -- the  
2           lack of procedure. They were remarking on how  
3           rushed it was. They were remarking on not  
4           being able -- not getting enough notice about  
5           when the hearings would be.

6       BY MR. TYSON:

7           Q.     Let's move to Section HH, the historical  
8           patterns of Senate Bill 202. And is it fair to say  
9           this is the section of your report where you're  
10          connecting provisions of Senate Bill 202 to various  
11          historical events?

12                    Is that right?

13          A.     I am connecting it to the historical  
14          patterns that I laid out earlier in the report.

15          Q.     And the methodology you're using to  
16          connect SB 202 to these historical patterns you  
17          referenced earlier is the same methodology we've  
18          discussed previously; right?

19          A.     It is the same methodology of looking at  
20          these kinds of historical patterns, the kinds of  
21          forces that lead to changes in election law, the  
22          kinds of forces that lead to disenfranchisement  
23          and -- and seeing -- or the kinds of forces that  
24          lead to opening up access to the ballot box.

25                    And then how does that play out, given the