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THE COMMITTEE ON RULES AND ADMINISTRATION OF THE UNITED STATES SENATE

ATLANTA FIELD HEARING ON

**PROTECTING THE FREEDOM TO VOTE - RECENT CHANGES TO GEORGIA VOTING
LAWS AND THE NEED FOR BASIC FEDERAL STANDARDS TO MAKE SURE ALL
AMERICANS CAN VOTE IN THE WAY THAT WORKS BEST FOR THEM**

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I. Introduction

Chairwoman Klobuchar, Ranking Member Blunt, and Members of the Committee, my name is Helen Butler and I am the Executive Director of the Georgia Coalition for the People's Agenda ("PEOPLE'S AGENDA").

The PEOPLE'S AGENDA is a non-partisan, non-profit organization founded by the late Reverend Dr. Joseph E. Lowery and it is comprised of a coalition of representatives from civil rights, human rights, peace and justice organizations, and concerned citizens of the State of Georgia. The PEOPLE'S AGENDA is based in the greater Atlanta metro area, but we have members located throughout the entire State of Georgia who help to advance our mission and achieve our organizational goals.

Our mission seeks to improve the quality of governance in Georgia, create a more informed and active electorate, and ensure responsive and accountable elected officials. A significant focus of our work is on voter empowerment and ensuring equal access to the ballot for eligible Georgians of color and under-represented communities. Our voter empowerment work includes providing voter registration assistance with a focus on education and mobilization, at Historically Black Colleges and Universities (HBCUs), high schools, naturalization ceremonies, and community events, conducting town hall meetings and candidate forums to provide opportunities to learn about candidate positions and engage in dialogues, operating a "Get Out the Vote" campaign in central locations throughout the state to encourage voter turnout, running our Election Protection Project which informs voters of their rights and provides immediate relief for problems encountered on or before Election Day, and managing our "Vote Connection Center" which provides training and technical assistance to nonprofit organizations and individuals through effective issue campaign organizing and civic engagement.

The PEOPLE'S AGENDA has always been dedicated to fighting for the voting rights of Georgia's citizens through public education, training, advocacy, and litigation. We have been forced to spend even more time and resources fighting discriminatory voting laws, policies, and practices at the state and local levels in the wake of the Supreme Court's 2013 decision in *Shelby County v. Holder* due to the lack of the preclearance process and consequent loss of advance notice of voting changes that discriminate against Black voters and other voters of color.

And with the recent enactment of Georgia's omnibus voter suppression law, SB 202, and other bills during the 2021 legislative session that threaten free and fair elections in the state, the PEOPLE'S AGENDA will be forced to divert its limited resources to helping voters navigate the new, burdensome and arbitrary changes to mail voting, early voting, absentee ballot drop boxes, the criminalization of providing water to voters waiting in line to vote, and responding to unprecedented attacks on County Boards of Election and the Secretary of State by the majority party in the Georgia General Assembly, as well as other changes to voting and election procedures that are now in effect.

Today, I will speak to you about the recent changes to Georgia voting laws and other practices negatively impacting Georgia's Black voters and other voters of color that urgently require the enactment of basic federal voting standards to make sure all eligible Americans can vote in the way that works best for them, protect Black voters and other voters of color from

discriminatory barriers to the ballot box, and ensure that ballots cast by eligible voters are not tossed aside because of undue pressure on election officials by candidates or other partisans.

II. Georgia's New Omnibus Voter Suppression Law - Senate Bill 202

In the last two decades, the Georgia electorate has undergone significant demographic changes, with increases in the percentage of Black Georgians and other Georgians of color registering to vote, participating in elections, and utilizing mail voting and early voting for casting their ballots. As demonstrated by election analyses, Georgia's Black voters and voters of color usually provide strong support to Democratic candidates. These demographic changes and voting patterns have resulted in corresponding political changes in the state, including during the 2020 election cycle when Georgia elected its first Democratic presidential candidate since 1996, Joseph R. Biden, and its first Black United States Senator, Reverend Raphael Warnock.

Instead of welcoming the increasing diversity of Georgia's electorate and respecting the votes cast by Black voters and other voters of color, the immediate response by conservative members in the Georgia General Assembly to these political changes has been to enact new laws during the 2021 legislative session which are aimed at suppressing the votes of Black and Brown Georgians and which give the majority party in the state legislature the unprecedented power to undermine the state's free and fair elections by taking over County Boards of Election, suspending county supervisors of election, replacing the Secretary of State as a voting member on the State Election Board with a fifth member chosen by the majority party in the legislature, and reconstituting County Boards of Election to purge Black Board Members in order to achieve partisan ends.

These new changes came on the heels of unprecedented efforts by the former president and his allies to overturn the presidential election results in Georgia and in other battleground states based upon patently false assertions of widespread voter fraud - which were particularly aimed at jurisdictions having large populations of Black and Brown voters, such as Georgia in general and Fulton County in particular - and false claims that the state's Dominion voting machines flipped votes for President Trump to Joe Biden.

Notwithstanding the fact that Georgia Secretary of State Brad Raffensperger, and Gabriel Sterling, Georgia's voting systems implementation manager, repeatedly rejected the notion that there had been widespread voter fraud in the 2020 election cycle or that Georgia's new Dominion voting machine system had switched votes from President Trump to Joe Biden following audits and hand counts of the ballots,¹ the former president and his allies nevertheless kept up pressure on the Secretary of State to reverse the results of the presidential election in

¹ David Wickert and Greg Bluestein, *Georgia election chief to Trump: Drop the fraud allegations*, Atlanta Journal-Constitution, December 2, 2020 (available online at: <https://www.ajc.com/politics/election/georgia-election-chief-to-trump-drop-the-fraud-allegations/PDNVA3RTQJC5XG5O5QYQ6ZG5MY/>); Alison Durkee, *Georgia Election Official: No Voter Fraud In Runoffs Except In Trump's 'Fertile Mind'*, Forbes, January 26, 2021 (available online at: <https://www.forbes.com/sites/alisondurkee/2021/01/06/georgia-election-official-no-voter-fraud-in-runoffs-except-in-trump-fertile-mind/?sh=521736b2424a>); *Georgia Election Audit Completed: Biden Victory, Finds No Widespread Fraud*, CBS Atlanta, November 20, 2020; (available online at: <https://atlanta.cbslocal.com/2020/11/20/georgia-election-audit-completed-biden-victory-finds-no-widespread-fraud>

Georgia. These efforts included the former president making a phone call to Georgia's Secretary of State pressuring him to "find the votes" to overturn Georgia's presidential election in his favor.² The former president's personal attorney, Rudolph Giuliani, and other allies also presented false and misleading claims of massive voter fraud and election machines flipping votes in testimony before Georgia General Assembly committees prior to the formal commencement of the 2021 legislative session.³ Giuliani was subsequently suspended from practicing law in New York and in the District of Columbia, in part, because of demonstrably false and misleading statements about 2020 election results in Georgia and other battleground states.⁴

In the wake of the former president's false claims that the 2020 presidential election had been stolen from him due to massive voter fraud and voting machines flipping votes in Georgia and elsewhere, election officials have faced terrorizing death threats to themselves and their families.⁵

Shortly after Governor Brian Kemp signed SB 202, Georgia's omnibus voter suppression bill into law, Georgia's Republican Lieutenant Governor, Geoff Duncan, told CNN that the law was the fallout from a 10 week misinformation campaign by the former president and his allies, including by his personal attorney, Rudy Giuliani, who "showed up in a couple of committee rooms and spent hours spreading misinformation and sowing doubt across, you know, hours of testimony."⁶

These bills were rushed through committees, often with little or no time for members of the committees - much less the general public - to review the final versions of the bills before they were voted upon. In fact, in some of the committee hearings, the chair or bill drafters would announce proposed revisions to bills without circulating the amendments in writing for the public and to other legislators so they would be able to evaluate how proposed changes modified the existing language of the bills. This process, with virtually no real transparency nor bipartisan

² Michael D. Shear and Stephanie Saul, *Trump, in Taped Call, Pressured Georgia Official to 'Find' Votes to Overturn Election*, New York Times, January 3, 2021 (available online at: <https://www.nytimes.com/2021/01/03/us/politics/trump-raffensperger-call-georgia.html>).

³ Stephen Fowler, *Fact Checking Rudy Giuliani's Grandiose Georgia Election Fraud Claim*, Georgia Public Broadcasting, December 4, 2020 (available online at: <https://www.gpb.org/news/2020/12/04/fact-checking-rudy-giulianis-grandiose-georgia-election-fraud-claim>).

⁴ Greg Bluestein, *Court suspends Giuliani's law license, citing his lies about Georgia election fraud*, Atlanta Journal-Constitution, June 24, 2021 (available online at: <https://www.ajc.com/politics/politics-blog/court-suspends-giulianis-law-license-citing-lies-about-georgia-election-fraud/KEIRAIRJYNBYTGFPKJB4ARSZ5Q/>); Rachel Weiner, *Rudy Giuliani suspended from practicing law in D.C. court*, Washington Post, July 7, 2021.

⁵ Linda So, *Trump-inspired death threats are terrorizing election workers*, Reuters, June 11, 2021 (available online at: <https://www.reuters.com/investigates/special-report/usa-trump-georgia-threats/>).

⁶ Sara Murry, *Georgia's GOP lieutenant governor says Giuliani's false fraud claims helped lead to restrictive voting law*, CNN, April 8, 2021 (online at <https://www.cnn.com/2021/04/07/politics/geoff-duncan-voter-fraud-cnntv/index.html>).

support, culminated in the passage of the omnibus voter suppression bill, Senate Bill 202, which was entitled the "Election Integrity Act of 2021" ("SB 202"), on March 25, 2021.⁷

This bill began as a two-page stand-alone bill which put new restrictions on the sending of absentee ballot applications to voters and subsequently became a 98 page omnibus bill after it crossed over to the House. The very same day the General Assembly passed SB 202, Governor Brian Kemp swiftly signed the bill into law in the presence of six White men⁸ in front of a painting of the Callaway Plantation - the site of a former cotton plantation where over one hundred enslaved Black people served its owners.⁹ Park Cannon, a Black member of the Georgia House of Representatives, was arrested, handcuffed, and removed from the Capitol by police after knocking on the door to the room where Governor Kemp signed SB 202 into law, in an effort to witness the bill signing. Although she was initially charged with two felonies, the Fulton County District Attorney later declined to prosecute Representative Cannon for any alleged crimes.¹⁰

The preamble to SB 202 asserts, among other things, that the overhaul of Georgia's election procedures was deemed necessary by the majority party because some voters have concerns about allegations of rampant voter suppression and allegations of "rampant voter fraud,"¹¹ ignoring that these concerns were sparked by the disinformation campaign by the former president and his allies that the election was "stolen" due to massive voter fraud and voting machines flipping votes. The preamble also asserts the law was designed to "address the lack of elector confidence in the election system," reduce the burden on election officials, and streamline the process of conducting elections by promoting uniformity in voting.¹² The law does nothing of the kind.

Instead, with almost surgical precision, SB 202 targets the methods of voting increasingly used by Black voters and voters of color with arbitrary and unnecessarily burdensome requirements that will disenfranchise voters and potentially expose non-profit civic engagement organizations, such as the PEOPLE'S AGENDA, to large fines and criminal penalties for providing assistance to voters who will now need to navigate the law's complicated procedures.

⁷ Georgia SB 202 as passed on March 25, 2021 (online at <https://www.legis.ga.gov/api/legislation/document/20212022/201498>).

⁸ Stephen Fowler, *Kemp Signs 98-Page Omnibus Elections Bill*, Georgia Public Broadcasting, March 25, 2021. (online at <https://www.gpb.org/news/2021/03/25/kemp-signs-98-page-omnibus-elections-bill>).

⁹ Will Bunch, *Georgia governor signed a voter suppression law under a painting of a slave plantation*, Philadelphia Inquirer, March 26, 2021. (online at <https://www.inquirer.com/opinion/georgia-governor-brian-kemp-painting-slave-plantation-20210326.html>).

¹⁰ Blayne Alexander and Dareh Gregorian, *Ga. lawmaker Cannon won't face prosecution for knocking on gov's door during bill signing*, NBC News, April 7, 2021. (online at <https://www.nbcnews.com/politics/elections/ga-lawmaker-cannon-won-t-face-prosecution-knocking-gov-s-n1263338>).

¹¹ SB 202, Section 2.

¹² *Id.*

SB 202's discriminatory and arbitrary changes include:

(1) Onerous and arbitrary absentee ballot application and ballot ID requirements that weigh more heavily on Black voters, other voters of color, and lower income voters who do not have a Georgia driver's license or state ID number. If a voter does not have a Georgia driver's license or state ID number to put onto their absentee ballot applications, they must include a copy of another form of acceptable ID with the absentee ballot application and, if they do not have a Social Security number, they must also include a copy of the ID when returning the voted ballot.¹³ This must be done for *each election* in an election cycle, including each primary, general, special, and runoff election.

Even voters with a "free" Georgia voter ID card, which are issued to voters who do not have a Georgia driver's license or state ID number, cannot escape the requirement of submitting a copy of that ID with their absentee ballot applications for each election in a cycle and, if they do not have a Social Security number, with their voted absentee ballots when returning them to their county registrar.

Low income voters, especially Black and Brown voters who are more likely to be living in poverty than White voters and who have less access to computer technology in their homes to make copies of ID documents for absentee voting, will be disproportionately impacted by the new absentee ballot ID requirements.

This burden is amplified because the law also criminalizes the "handling" of absentee ballot applications by third parties, with few exceptions for those who assist voters in navigating these new requirements, including if they help the voter scan or copy the completed application and ID documents or try to help them fax or email the application and ID documents to election officials.¹⁴

If voters without a Georgia driver's license or state ID card do not include copies of alternative ID documents with their absentee ballot applications, the applications will be rejected. If voters, who do not have a Social Security number, fail to provide the copies of the ID documents when they return the voted ballot, they will be required to produce a form of acceptable ID to the county registrar within three days of the election in order for their absentee ballot to count.¹⁵

(2) Prohibiting public agencies and public employees from sending unsolicited absentee ballot applications to voters - something that the Georgia Secretary of State did when he sent unsolicited absentee ballot applications to all 6.9 million active Georgia voters ahead

¹³ See SB 202, Sections 25, 27 and 28.

¹⁴ *Id.*

¹⁵ *Id.*

of the June 2020 primary elections - and which a number of County Registrars offices did in previous election cycles to encourage absentee voting and voter turnout.¹⁶

(3) Subjecting private individuals and non-public entities, including the PEOPLE'S AGENDA and other non-profit civic engagement organizations attempting to assist voters with absentee voting, to potentially large fines for sending absentee ballot applications to voters unless they check the Secretary of State's data files in advance to determine whether a voter has already requested an absentee ballot application, returned the application or voted an absentee ballot.¹⁷

Even if the voter requested an absentee ballot application from their county registrar and it was never received or the voter submitted an application and never received their ballot, the PEOPLE'S AGENDA and other non-profit civic engagement organizations will run the risk of being fined if they send another application to that voter.

The law also requires the PEOPLE'S AGENDA and other groups and individuals to use the official absentee ballot applications from the Secretary of State's office when sending ballot applications to voters, but they must provide a confusing disclaimer that the application was not sent by a public entity or public official.¹⁸

(6) Delaying and compressing the time during which a voter can request or submit an absentee ballot and shortening the time when a runoff election takes place to 28 days after the original election, which will consequently and substantially shorten the voter registration and early voting periods for runoff elections.¹⁹ Taken together with the new restrictions on early voting hours, drop box access limited to early voting locations and time, and the new 11 day deadline prior to an election for voters to request absentee ballots, the law will virtually guarantee that voters - especially those who are temporarily outside of the state - will be unable to cast ballots in crucial state and federal runoff elections.

(7) Giving county registrars unfettered discretion to limit early voting hours to 9 a.m. to 5 p.m. and to entirely eliminate Sunday early voting,²⁰ thereby making it difficult for voters who work, go to school or have other obligations during the work day to be able to access early voting and leading to the elimination of Sunday early voting in some counties despite its popularity with Black voters and other voters of color who conduct "Souls to

¹⁶ See SB 202, Section 25.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See SB 202, Section 42.

²⁰ See SB 202, Section 28.

the Polls” get out the vote campaigns involving Black Churches and other faith organizations following Sunday services.²¹

(8) Severely restricting the number of, and access to, absentee ballot drop boxes, which were heavily used by Georgians in the 2020 election cycle and were a more secure and reliable method of returning absentee by mail ballots than through the USPS mailboxes.

Under the new law, drop boxes must be *inside* early voting locations and will be available only during the days and hours when early voting is taking place, thereby making them unavailable to voters who cannot vote during early voting hours due to work, school, or other obligations during the day. Since early voting ends by the Friday prior to the election, voters will also not have access to drop boxes to return their ballots safely and securely to election officials during the final days preceding an election and on the day of an election when sending ballots via the U.S. mail will not ensure election officials will receive the ballots by close of the polls on Election Day. Additionally, counties are limited to having one drop box per 100,000 registered voters, which substantially limits the total number of drop boxes for each county.²² This will substantially and negatively impact voters in metro-Atlanta counties who utilized the absentee ballot drop boxes in large numbers during the 2020 election cycle.²³

(9) Disenfranchising out-of-precinct voters by arbitrarily prohibiting any out-of-precinct voting before 5:00 p.m. on Election Day and allowing only limited out-of-precinct voting after 5:00 p.m. for voters who go to the incorrect polling place in the county where they are registered to vote and swear out an affidavit that they cannot get to their correct polling location before the close of the polls at 7:00 p.m.²⁴ This change penalizes voters who do not receive timely or adequate notification of their polling locations and ignores the fact that Black voters and other voters of color have been disproportionately impacted by polling place closures and changes in the wake of the Shelby County decision that often result in voters going to the wrong polling place on Election Day.²⁵

²¹ In 2018, conservatives in the legislature attempted to eliminate Sunday early voting in House Bill 363. However HB 363 died in the wake of negative media attention and advocacy by the PEOPLE’S AGENDA and other civic engagement and civil rights organizations. See Kira Lerner, UPDATED: Georgia bill that would eliminate Sunday voting and suppress black turnout fails, Think Progress, March 16, 2018. (online at <https://thinkprogress.org/georgia-sunday-voting-cut-9c1c2ffafd18/>).

²² See SB 202, Section 26.

²³ Stephen Fowler, Mark Niese, Sarah Kallis, and Isaiah Poritz, *Absentee Drop Box Use Soared In Democratic Areas Before Voting Law Change*, Georgia Public Broadcasting, July 12, 2021 (online available at: <https://www.gpb.org/news/2021/07/12/absentee-drop-box-use-soared-in-democratic-areas-voting-law-change>).

²⁴ See SB 202, Section 34.

²⁵ Stephen Fowler, *Why Do Nonwhite Georgia Voters Have To Wait In Line For Hours? Too Few Polling Places*, Georgia Public Broadcasting, October 17, 2020. (online at <https://www.npr.org/2020/10/17/924527679/why-do-nonwhite-georgia-voters-have-to-wait-in-line-for-hours-too-few-polling-pl>).

(10) Stripping the elected Secretary of State of his vote on the State Election Board, replacing the Secretary of State with a voting member appointed by the majority party in the General Assembly, and granting the State Election Board the power to effectively take over county Boards of Election, thereby endangering Georgia's free and fair elections by giving the majority party in the state legislature the power to overturn election results for partisan reasons.²⁶

(11) Encouraging "unlimited" voter challenges on the eve of elections by other electors in the same county as the challenged voters.²⁷ True the Vote, along with Republican party operatives, led a campaign in numerous Georgia counties to challenge more than 364,000 registered Georgia voters for alleged address changes ahead of the January 2021 U.S. Senate runoff elections with little to no evidence showing the voters were not eligible to vote and substantially burdening election officials who were in the midst of preparing for and administering the elections.²⁸ SB 202 now codifies these types of mass voter challenges into Georgia law, regardless of whether there is any evidence supporting them and forces elections officials to conduct hearings within ten days of every challenge, with only three days' notice by mail of the hearings to challenged voters.

(12) Criminalizing the act of providing water and food to persons within 150 feet of a polling place or within 25 feet of any voters waiting in line to vote,²⁹ despite Georgia's history of forcing voters to wait in hours' long lines at polling locations - particularly in areas serving Black voters and voters of color which have been disproportionately impacted by polling place closures.³⁰

(13) Prohibiting the use of mobile voting units,³¹ such as the two mobile units purchased by Fulton County for \$750,000 and deployed to alleviate overcrowded polling places with long lines unless the Governor declares an emergency and they are used to supplement the capacity of the polling place where the emergency circumstance occurred.³²

²⁶ See SB 202, Sections 3, 5-7, 12.

²⁷ See SB 202, Section 15.

²⁸ Mark Niese, *Eligibility of 364,000 Georgia voters challenged before Senate runoff*, Atlanta Journal-Constitution, December 22, 2020. (online at <https://www.ajc.com/politics/eligibility-of-364000-georgia-voters-challenged-before-senate-runoff/3UIMDOVRFVERXOJ3IBHYWZBWYI/>).

²⁹ See SB 202, Section 33.

³⁰ Stephen Fowler, *Why Do Nonwhite Georgia Voters Have To Wait In Line For Hours? Too Few Polling Places*, Georgia Public Broadcasting, *supra*.

³¹ See SB 202, Section 20.

³² Ben Brasch, *Want to vote in Fulton's fancy new mobile voting bus? See the schedule*, (online at <https://www.ajc.com/news/atlanta-news/want-to-vote-in-fultons-fancy-new-mobile-voting-bus-see-the-schedule/OXPVK4Y3ENAIKROMYA43673ZLM/>), Atlanta Journal-Constitution, October 19, 2020.

Many of these changes will severely and negatively impact many voters across Georgia, including rural voters, especially those living below the federal poverty line, who do not have reliable access to private vehicles or public transit options for transportation to the polls and to their county registrar's offices to vote in person, to deposit absentee ballots at drop boxes, to cure absentee ballot ID issues or to get to their correct polling location if they find out they are at the incorrect polling location.

Limiting access to early voting hours and restricting access to drop boxes to those same early voting hours will likely harm rural voters, including farmers and other agricultural workers, who spend their days - from early morning until sundown - toiling in their fields, caring for their livestock and tending to their other daily responsibilities - and who will be unable to avail themselves of early voting in counties adopting the bare minimum number of hours of early voting or absentee ballot drop boxes due to the new law which reduces the number of drop boxes and limits their availability to the same time and locations as where early voting is taking place.

Moreover, many rural Georgians still have no reliable access to broadband internet, making it difficult for them to access online voter education materials, necessary forms for absentee ballot applications or to be able to register to vote online. It is also likely they will encounter problems accessing the secure portal for submitting absentee ballot applications online when it becomes available due to the lack of access to broadband internet in many rural areas in Georgia.

Since all of the information posted on the Georgia Secretary of State's website is in English language only, agricultural workers and other Georgians with limited English proficiency will also face difficulties locating, understanding and downloading absentee ballot application forms and other critical election information about the new changes to voting procedures from the Secretary of State's website.

Rural Georgians will also face significant difficulties with the new and arbitrary restrictions on out of precinct voting, particularly those who do not have reliable private transportation and where there is a lack of reliable public transit options. Voters who go to the incorrect poll on Election Day before 5 p.m. will be disenfranchised if they cannot get to their correct polling location by the close of polls and those arriving at the incorrect polling location after 5 p.m. will have to submit a sworn affidavit stating they cannot get to their correct polling location before the close of the poll at 7 p.m. These restrictions apply even if the voter did not receive any or adequate notice of a change in their polling location or where polling place changes are made shortly before an election due to "emergency" conditions that render their correct polling location inaccessible.

This massive voter suppression law went fully into effect on July 1, 2021 before the State Election Board and Secretary of State implemented changes to the state's absentee ballot application, the process for securely submitting absentee ballot ID documents over the internet and without any adequate notice to voters about how the SB 202 changes could impact having their vote counted.

In fact, the first elections held under the new law took place on July 13, 2021 - before the new absentee ballot application has been adopted and before any notifications were posted on the Secretary's website about the new restrictions on drop boxes, early voting, out of precinct voting and the handling of absentee ballot applications.

The Georgia State Election Board has still not notified the public about the start of any official rulemaking process to adopt rules necessary for the implementation of all these voting changes. There have also been no scheduled Election Board meetings on the calendar since April 28, 2021.

This law is a prime example of why minimum federal standards, including those set forth in S.1 (For the People Act), are urgently needed to ensure that voters of color are not subjected to discriminatory, arbitrary and unreasonably burdensome barriers, such as those contained in SB 202. The restoration of the preclearance process under the John Lewis Voting Rights Advancement Act would also provide voters with more transparency and notice about election changes, such as those enacted with virtually no transparency by the Georgia legislature in 2021 that could negatively impact their ability to participate in elections or which discriminate on the basis of race or ethnicity. The Preventing Election Subversion Act of 2021 would also provide relief for election workers and officials who have been subjected to intimidation and death threats in the wake of the 2020 election cycle. There is absolutely no reason why election workers, who spend countless hours helping voters and administering Georgia's elections, should be intimidated and threatened for simply doing their jobs. This legislation would provide remedies for these unprecedented attacks on our democracy and right to vote.

III. Legislative Reconstitution of County Boards of Election and the Removal of Black Board Members

In addition to the new mechanisms for the takeover of county election boards and replacement of the Secretary of State as a voting member on the State Election Board contained in SB 202, the Georgia legislature also passed laws in the 2021 legislative session which waged war against selected counties' Boards of Elections in an effort to purge Black board members and ensure the majority party's control over the Boards of Election.

Morgan County, where I served as a member of the Board of Elections since 2010 and was a staunch advocate for voting rights and fair elections, is one of the Boards of Election that conservative legislators reconstituted by giving control over all appointments to the Republican controlled Board of County Commissioners instead of maintaining the bipartisan method of appointing Board Members existing under the prior law. This change resulted in my recent removal as a Board Member, along with a second Black Board Member, Avery Jackson.³³ See HB 162.³⁴

³³ Nick Corasaniti and Reid J. Epstein, *How Republican States Are Expanding Their Power Over Elections*, New York Times, June 19, 2021. (online at <https://www.nytimes.com/2021/06/19/us/politics/republican-states.html>).

³⁴ Georgia House Bill 162. (online at <https://www.legis.ga.gov/api/legislation/document/20212022/197812>).

Prior to my ouster as a member of the Morgan County Board of Election, I repeatedly fought against efforts by the majority party's members to close and consolidate polling places; objected to the rejection of absentee ballots where the voters' intent was clear because scanner settings did not count marks such as Xs and checkmarks as votes; advocated for the adoption of absentee ballot drop boxes and to make PPE available for poll workers and voters as voting took place during the COVID-19 pandemic; and spent countless hours monitoring Morgan County's polling locations to ensure that any issues which arose on Election Day were handled promptly to ensure that voters had a good experience voting on Election day. I also advocated for the Supervisor of Elections to recruit a more diverse pool of poll workers by reaching out to high school and college students as well as to members of both Young Republican and Young Democrat organizations and spent many hours attending trainings offered by the Georgia Secretary of State's office to ensure I had the information and tools necessary to fulfill my duties as a member of the Morgan County Board of Elections to ensure free and fair elections in Morgan County.

After both Mr. Jackson and I applied for reappointment to the Board following the enactment of HB 162, we were both rejected as candidates without being offered an interview with the Board of County Commissioners and without receiving any explanation from the Board of Commissioners about why we were not re-appointed. As a result of the reconstitution of the Morgan County Board of Elections pursuant to HB 162, the Board is now comprised of four White Board members and just one Black Board member.

Having served more than ten years on the Morgan County Board of Elections without any allegations of wrongdoing or neglect of my official duties, I am left with the conclusion that I was ousted from the Board of Elections along with my colleague, Mr. Jackson, because we are Black and because we would not go along with efforts to suppress the vote in order to achieve a partisan result.

The General Assembly also targeted the Troup County Board of Elections, which was reconstituted with the enactment of HB 684.³⁵ As a result of this bill, long-time Black Board Member, Lonnie Hollis, was ousted. Ms. Hollis advocated for Sunday voting as well as a new precinct location at a Black church in a nearby town.³⁶

The Spalding County Board of Elections was also targeted in the 2021 legislative session. The Board was reconstituted with the enactment of HB 769.³⁷ The fifth member of the Board of Elections will be replaced with a candidate chosen by a majority of the Spalding County Superior Court Judges.³⁸ Formerly, the fifth member was chosen in a bipartisan manner by the

³⁵ Georgia House Bill 684 (2021). (online at <https://www.legis.ga.gov/api/legislation/document/20212022/200601>).

³⁶ *How Republican States Are Expanding Their Power Over Elections*, *supra*.

³⁷ Georgia House Bill 769 (2021) (online at <https://www.legis.ga.gov/api/legislation/document/20212022/201683>).

³⁸ *Id.*

two Republican and two Democratic members of the Board of Elections.³⁹ Currently, all of the Spalding County Superior Court Judges are White males. It is likely that at least one of the two Black Spalding County Board Members will lose their seats and that the new Board will terminate the County's Black election supervisor, Marcia Ridley.

The PEOPLE'S AGENDA is continuing to investigate the reasons why several other Boards of Elections were reconstituted in the past legislative session, including Carroll, Lincoln, Pickens, and Stephens and whether these changes were racially motivated or were made to enable members of the majority party to overturn election results they do not like.

The undemocratic take-overs of local boards of election authorized by the General Assembly and the reconstituting of County Boards of Elections to give day to day control to the majority party presents new risks to free and fair elections in Georgia.

IV. Redistricting

The 2021 redistricting cycle in Georgia will be the first redistricting cycle after the release of decennial Census data in the state in many years that will take place without the full protections of Section 5 of the Voting Rights Act.

The PEOPLE'S AGENDA fully expects that the majority party in the Georgia legislature will continue engaging in a secretive, backdoor map drawing process that provides little to no transparency. While the Joint Committee on Legislative and Congressional Reapportionment scheduled a series of Town Hall meetings for the public to submit comments prior to the release of the legacy and final Census data, the Joint Committee does not intend to respond to any questions from the public and there are no current plans to provide any meaningful opportunities for the public to participate in the fair drawing of districts after the release of the legacy and final Census data.

In fact, Representative Bonnie Rich, one of the Co-Chairs of the Committee, said during a June 15th Town Hall that the Committee was not sure whether they would even continue to hold public meetings after the final Census data is released.⁴⁰ Not holding meetings would prevent members of the public and their advocates, including the PEOPLE'S AGENDA, from reviewing and commenting on the legislature's proposed maps before they are adopted and signed into law. This is unacceptable and raises serious concerns that the delays in the release of the Census data will be used as a pretext to deny members of the public an opportunity to advocate against racially gerrymandered maps and plans that dilute the voting strength of Black voters and other voters of color.

³⁹ See Code of Spalding County, Section 5.102, Georgia House Bill 657, § 1, 2-28-03) (online at https://library.municode.com/ga/spalding_county/codes/code_of_ordinances?nodeId=DIVILALOAP_PTVBOCOA_U_CH6BOEL_S5.102ME).

⁴⁰ YouTube Video Recording of the June 15, 2021 Joint Committee on Legislative and Congressional Redistricting. (online at <https://www.youtube.com/watch?v=Pk-fJxgYeUk>).

Following the Shelby County decision, conservatives in the Georgia legislature introduced two mid-decade redistricting bills which sought to reduce the percentage of the Black population in Republican held districts that were starting to become more competitive. For example, during the 2015 legislative session, the conservative-led General Assembly passed House Bill 566, which included redistricting plans for House Districts 105 and 111, when the racial demographics of those districts were changing with increasing percentages of the minority population. Governor Deal signed the redistricting plans into law on May 12, 2015.⁴¹ The Georgia State Conference of the NAACP, along with individual voters in Districts 105 and 111, filed a lawsuit challenging those redistricting plans as unconstitutional racial gerrymanders.⁴² The Plaintiffs filed a motion for preliminary injunction to enjoin elections under the gerrymandered plans.

Although the three-judge panel assigned to the case denied the Plaintiffs' motion, finding that it fell short of meeting the high threshold for obtaining preliminary injunctive relief, the majority of the three-judge District Court panel found the Plaintiffs' evidence that race predominated the redistricting process to be "compelling" and noted that the whole idea of redistricting House Districts 105 and 111 arose amidst talk about the changing demographics in Gwinnett and Henry Counties.⁴³ The District Court's majority panel decision also highlighted an email noting that the redistricting plan reduced the percentage of Black population in House District 105 by two percentage points, which the stakeholders considered to mean they had accomplished their goal.⁴⁴

Only two years later, and in the wake of Hillary Clinton winning eight of ten counties in the Metro Atlanta area in the 2016 presidential contest, conservative members of the Georgia House of Representatives introduced HB 515⁴⁵ during the 2017 legislative session which sought to strengthen two Republican Metro Atlanta districts, including House District 105 which had already been subject to mid-decade redistricting in 2015. The proposed plans involved decreasing the Black population in those districts to make them more competitive for Republicans. After this effort to racially gerrymander these House districts received significant negative local and national media attention⁴⁶ and staunch opposition from individual voters, the PEOPLE'S AGENDA, other civic engagement groups and voting rights experts, the proposed redistricting of the two House districts in HB 515 was eventually withdrawn.

⁴¹ See, legislative history of Georgia HB 566 (2015) on the Georgia General Assembly's website. (online at <https://www.legis.ga.gov/legislation/44463>).

⁴² See, *Georgia State Conf. of NAACP v. Georgia*, 312 F. Supp. 3d 1357 (N.D. Ga. 2018).

⁴³ *Georgia State Conf. of NAACP*, *supra* at 312 F. Supp. 3d 1364-65.

⁴⁴ *Id.* at 312 F. Supp. 3d 1365.

⁴⁵ Georgia House Bill 515 (2017) (online at <https://www.legis.ga.gov/api/legislation/document/20172018/169340>).

⁴⁶ See, e.g., Mark Joseph Stern, *Georgia Republicans Pass Racial Gerrymander to Kick Black Voters Out of GOP Districts*, Slate, March 7, 2017; Kristina Torres, *House Republicans back off redrawing some district lines in Georgia*, Atlanta Journal Constitution, March 24, 2017. (online at <https://www.ajc.com/news/state--regional-govt--politics/house-republicans-back-off-redrawing-some-district-lines-georgia/v0mnaGrqeudZlH0t0WZXlN/>).

Given the history of unconstitutional racial gerrymandering and efforts to dilute the voting strength of Black voters and other voters of color by white conservatives in the Georgia General Assembly, the PEOPLE’S AGENDA is very concerned about the potential for a repeat of these tactics during the 2021-2022 redistricting cycle in Georgia - particularly in the absence of preclearance of the redistricting plans by the Department of Justice.

V. Voter Purges at the State and Local Levels in Georgia

Georgia Secretary of State, Brad Raffensperger, recently announced that his office identified over 100,000 Georgia registered voters who have been targeted for removal from the official voter registration list because of alleged address changes, mail returned to election offices and inactivity on the part of the voter.⁴⁷

In a 2018 report, the Brennan Center for Justice found that states previously covered by Section 5 of the Voting Rights Act had shown significant increases in the numbers of voters purged from the voter registration rolls post-Shelby. In fact, the report found that Georgia purged approximately twice as many voters (1.5 million) between 2012 and 2016 than the state purged between 2008 and 2012. While many of these purges are attributable to the state’s “use it or lose it” law that targets voters for removal after a period of inactivity, local county boards of election have also played an active, and sometimes unlawful and discriminatory role, in the purging of voters of color from the registration rolls to suppress the vote.

One of the most notorious post-Shelby purge cases at the local level in Georgia involved the removal of Black voters from the voter registration rolls by the majority white Hancock County Board of Elections and Registration during the summer and fall of 2015 before a hotly contested municipal election in the City of Sparta in which white candidates challenged long-term Black incumbents. All but two of the challenged voters were Black. The challenge proceedings resulted in the removal of 53 voters from the voter registration list. Many more eligible voters were threatened with removal from the rolls even though they were properly registered to vote in the county.

After time-consuming and expensive litigation, the parties eventually agreed to resolve the case with a consent order in which illegally purged voters were restored to the registration rolls, the board agreed to implement reforms to its purge processes, an independent “examiner” was appointed by the Court to monitor the board’s compliance with the consent order, and the Court retained jurisdiction over the matter for a period of five years.

Since the Hancock County matter, the PEOPLE’S AGENDA has learned about other efforts made to purge voters improperly from the voter registration rolls in Laurens and DeKalb Counties. The PEOPLE’S AGENDA has been forced to divert time and resources to the

⁴⁷ Brad Raffensperger, *Secretary Raffensperger Takes Action To Uphold Ballot Integrity With Major List Maintenance Effort*, Georgia Secretary of State’s website. (online at https://sos.ga.gov/index.php/elections/secretary_raffensperger_takes_action_to_uphold_ballot_integrity_with_major_list_maintenance_effort).

investigation of these purges and litigation brought against DeKalb County by the PEOPLE’S AGENDA and the Georgia State Conference of the NAACP for improper purges of registered voters has now been settled with the County Board of Elections modifying its procedures and the restoration of improperly purged voters to the voter registration list.⁴⁸

VI. Polling Place Closures and Changes

In the aftermath of the Shelby County decision in 2013, many of Georgia’s county boards of election proposed or took action to close, consolidate or move polling locations—oftentimes in areas primarily serving voters of color and in underrepresented communities.

In fact, while Georgia added almost 2 million voters to its voter registration rolls since 2013, the total amount of polling places statewide decreased by 10 percent according to a joint report by Georgia Public Broadcasting, National Public Radio and ProPublica.⁴⁹ By June 2020, the report found “Georgia voters had 331 fewer polling places than in November 2012, a 13% reduction.”⁵⁰ This report also found stark racial disparities in the decrease in polling locations in Black neighborhoods which have translated into long lines and delays at the polls. The report found that approximately two-thirds of the polling locations that had to stay open past the 7:00 p.m. poll closing time in the June 9, 2020 primary were in majority Black neighborhoods.⁵¹

The PEOPLE’S AGENDA anticipates that the efforts to close and change polling locations is likely to continue, especially in light of the campaign by the legislature in 2021 to reconstitute county Boards of Election and remove Black Board members who have opposed such efforts in the past.

In fact, in a recent article published in the Albany Herald, it was reported that the Dougherty County Board of Elections was planning to consider a proposal to close 10 of the county’s 28 polling locations, purportedly due to low turnout in last November’s general election⁵² - ignoring the impact of the COVID-19 pandemic on in-person voting - with many voters choosing to vote by mail in the 2020 election cycle. After the PEOPLE’S AGENDA objected to the proposed closure of these polls, the Board of Elections tabled the idea.

Since the Shelby County decision, the PEOPLE’S AGENDA and other civic engagement organizations have been forced to devote a significant amount of time and resources to

⁴⁸ Georgia State Conf. of Natl. Assn. for Advancement of Colored People v. DeKalb County Bd. of Registration and Elections, 484 F. Supp. 3d 1308 (N.D. Ga. 2020).

⁴⁹ *Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours? Too Few Polling Places*, Georgia Public Broadcasting, *supra*.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Tim Wesselman, *Local precinct closings considered*, Albany Herald, June 19, 2021. (online at https://www.albanyherald.com/opinion/tim-wesselman-local-precinct-closings-considered/article_32ebe7c4-d121-11eb-ac14-33aa22a50d98.html).

monitoring proposals to close, consolidate or move polling locations across the state's 159 counties. Our work dealing with these polling place changes has included issuing public records requests for county boards of election minutes and agendas, sending staff and coalition members to observe and make comments at board of election meetings, submitting written objections to proposals to close or change polling locations, and organizing rapid response actions with community members who are impacted by these changes.

In the aftermath of the Shelby County decision and in the absence of preclearance, we often have little or no reasonable advance notice of these polling place changes, there has been a lack of transparency in the stated rationales for these changes in minority communities, and we are often forced to turn our attention toward organizing a rapid response in an attempt to stop or ameliorate these changes while juggling our other important organizational initiatives and priorities.

The PEOPLE'S AGENDA discovered the potential closure of polling locations by the Dougherty County Board of Elections through the aforementioned Albany Herald article. Notably, the Dougherty County Board of Elections, like a number of other Georgia County Boards of Election, does not publish its minutes or agendas on its website, making it difficult for the public to learn about plans to close polls or other changes in advance of the changes becoming final.

Prior to the Shelby County decision, county boards of election were required to submit polling place and voting precinct changes to the Department of Justice ("DOJ") for preclearance to ensure that the changes did not retrogress the ability of minority voters to elect candidates of their choice or discriminate against Black voters and other voters of color. The preclearance process prevented many of these changes from taking effect and acted as a deterrent to the adoption of such changes.

While the PEOPLE'S AGENDA and our state partners have achieved some success in stopping or ameliorating the scope of some polling place changes post-Shelby, we have been unable to prevent them all from taking effect. Some of the additional post-Shelby efforts to close, consolidate or move poll locations by county boards of elections in Georgia have included, but are not limited to:

- A proposal to close all but two polling places in Randolph County, which would have disproportionately impacted voters of color and suppressed the minority vote in this economically challenged, rural county, was tabled after the PEOPLE'S AGENDA and other advocacy groups organized community opposition to the plan;
- A proposal to eliminate all but one of the City of Fairburn polling places, even though the number of polling places had been increased in recent years because of long lines on Election Day, was rescinded following advocacy efforts by the PEOPLE'S AGENDA and other groups;

- A proposal to eliminate all but one of Elbert County precincts and polling locations to the detriment of voters of color in a rural county with no robust public transit service was rescinded after opposition by advocacy groups and voters;
- The PEOPLE’S AGENDA and other groups have led advocacy efforts to oppose polling place and precinct changes in Fulton County in the wake of Shelby with some success;
- A proposal to close 2 of 7 precincts and polling places in Morgan County after the county previously reduced the number of polling locations from 11 to 7 in 2012, was rejected after the board considered opposition to the plan by the PEOPLE’S AGENDA.
- A proposal to reduce the number of precincts and polling locations from 36 to 19 in Fayette County was tabled in the face of opposition by the PEOPLE’S AGENDA, other civic engagement groups and voters;
- A proposal to consolidate all polling locations to a single location in Hancock County, a majority-Black, economically challenged, rural county with no regularly scheduled public transit, was tabled after the PEOPLE’S AGENDA, other civic engagement groups and voters organized against the proposal;
- A proposal to eliminate 20 of 40 precincts and polling locations in majority-Black and economically challenged neighborhoods in Macon-Bibb County was scaled back as a result of advocacy efforts by the PEOPLE’S AGENDA and other civic engagement groups; and,
- A proposal by the Macon-Bibb County Board of Elections to move a polling location in a majority-Black precinct from a public gymnasium to a Sheriff’s Office was defeated only after 20% of the registered voters in the precinct signed a petition opposing the move.

Consequently, we often have to devote even more time and resources to assist voters impacted by these changes. Since polling place closures and relocations are not always widely publicized by county boards of election, voters often show up to vote on Election Day at their former polling place and are surprised to learn that the poll has moved. In light of the changes made to out-of-precinct voting by SB 202, voters who show up to the incorrect polling location on Election Day before 5 p.m. will be disenfranchised if they cannot vote at their correct polling location before it closes. Voters who arrive after 5 p.m. will have to sign a sworn statement that they cannot get to their correct polling location by close of the poll or will be required to go to their correct polling location to cast their ballot.

Voters who are used to walking to their polling place and learn on Election Day that the poll has been moved several miles away may be unable to travel to the new polling location that day, especially if there is no accessible public transit. Some voters may have other commitments with their jobs, childcare or other responsibilities which prevent them from spending more time

traveling to the new polling location and, as a result, it is foreseeable that eligible voters will be disenfranchised by poll closures, such as those that were under consideration in Dougherty County.

Therefore, it is critically important that Congress restore the preclearance provisions of the Voting Rights Act to ensure that the increasingly partisan Boards of Election are not allowed to close and change polling locations to disenfranchise voters in order to achieve a partisan result.

VII. Georgia’s Flawed Voter Registration Citizenship Match

The PEOPLE’S AGENDA, voters and advocates were forced to litigate multiple lawsuits over the past eleven years challenging various iterations of the state’s “exact match” voter registration process that was demonstrated to prevent Georgia’s eligible people of color from completing the voter registration process.⁵³ In fact, just prior to the 2018 mid-term election, the Associated Press reported that there were more than 53,000 voter registration applications on hold because of Georgia’s “exact match” process—the vast majority of which had been submitted by Georgians of color.⁵⁴

While the legislature and Governor Kemp finally abandoned the exact identity match requirement, which prevented applicants from completing the registration process unless there was an exact match of their name, date of birth, and Georgia driver’s license or Social Security number listed on their voter registration form with the state’s Department of Driver’s Services or Social Security records, they have done nothing to remedy the routine flagging of Georgia’s United States citizens as potential non-citizens because of the state’s continued use of outdated citizenship records in the voter registration process. The PEOPLE’S AGENDA and other civic engagement organizations believe that the state’s refusal to reform the deficient citizenship match process has more to do with the current anti-immigrant mood within certain segments of Georgia’s state government and legislature than with any legitimate rationale that this process is warranted to prevent non-citizens from registering to vote—particularly when the process relies on outdated citizenship data that does not reflect current information about the citizenship of the applicants.

As a result, the deficient and discriminatory citizenship match process has been allowed to continue, delaying or preventing Georgians who are United States citizens from completing the voter registration process. The PEOPLE’S AGENDA will be forced to continue to divert time and resources to the litigation challenging this process for the foreseeable future in the absence of preclearance.

⁵³ See *Morales v. Handel*, Civil Action No. 1:08–CV–3172, 2008 WL 9401054 (N.D.Ga. 2008); *Georgia State Conference of the NAACP v. Kemp*, Civil Action No. 2:16-cv-00219-WCO (N.D.Ga. 2016); *Georgia Coalition for the People’s Agenda v. Kemp*, 1:18-CV-04727-ELR (N.D. Ga. 2018).

⁵⁴ Ben Nadler, Voting rights become a flashpoint in Georgia governor’s race, AP, October 9, 2018. (online at <https://www.apnews.com/fb011f39af3b40518b572c8cce6e906c>.)

VIII. Conclusion

Despite these wide-ranging efforts to suppress the votes of Black and Brown Georgians through the enactment of SB 202 and the new undemocratic challenges posed by legislation allowing for the take-over and reconstitution of County Boards of Election by the majority party, the PEOPLE'S AGENDA and our sister organizations will continue our important work to protect the vote, eliminate barriers to the ballot box, and to ensure equal participation in the political process for Georgians of color and underrepresented communities. However, we are extremely concerned about the voting landscape in Georgia following the enactment of the omnibus voter suppression law, SB 202, the ongoing efforts to politicize Georgia's County Boards of Election, efforts to close polling locations serving majority minority communities and the upcoming redistricting cycle without the full protection of the Voting Rights Act and urge Congress to pass legislation to ensure that all eligible Georgians and eligible voters across the country who wish to cast a ballot will be able to do so and that their ballots will be counted.

The For the People Act, if enacted, would guarantee that Georgia citizens have free and fair access to the ballot. The For the People Act would modernize our voter registration systems, ensuring that every eligible American has meaningful opportunities to register to vote, including on the same day of the election. It would create more opportunities to vote by requiring a minimum of two weeks of early voting and no-excuse absentee voting. The law requires that all election materials, including registration forms and ballot applications, be provided with prepaid postage, eliminating cost as a factor for whether a person can vote by mail. The law also requires states to provide drop boxes for federal ballots, giving voters a convenient option to deliver their ballots. These provisions would limit the harmful effects of SB 202 and protect the right to vote from any further efforts to suppress the vote by Georgia's legislature.