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March 28, 2023

Senator Amy Klobuchar  
Chairwoman, Senate Committee on Rules & Administration  
425 Dirksen Senate Building  
Washington, DC 20510

Senator Deb Fischer  
Ranking Member, Senate Committee on Rules & Administration  
454 Russell Senate Office Building  
Washington, DC 20510

Dear Chairwoman Klobuchar, Ranking Member Fischer, and Members of the Senate Committee on Rules & Administration:

On behalf of the Southern Poverty Law Center Action Fund (SPLC Action Fund), we write to provide our insights for the U.S. Senate Committee on Rules and Administration's hearing on "State and Local Perspectives on Election Administration." We appreciate the opportunity to share our expertise on the barriers to voting experienced by Black Indigenous, and other people of color (BIPOC) in the South, particularly in the aftermath of sweeping changes to state election laws, and to provide policy proposals to address continuing and emerging barriers to the ballot box. As a public interest organization working to protect voting rights and challenge unconstitutional and discriminatory voting practices, we have a vested interest in ensuring that adequate resources are provided to guarantee an equal opportunity for all to participate in our democracy. Our work is a consistent reminder that all communities are not equally resourced, which underscores the critical need for greater federal investment in state and local election administration infrastructure and for increased transparency and oversight. We urge you to carefully consider the policy recommendations included below and request that this statement be included as part of the official hearing record.

SPLC Action Fund is a catalyst for racial justice in the Deep South and beyond, working in partnership with communities to dismantle white supremacy, strengthen intersectional movements, and advance the human rights of all people. We advocate for the implementation of policies and laws to eliminate the structural racism and inequalities that fuel the oppression of Black, Indigenous, and other people of color, women, low-income people, and the LGBTQ+ community. This includes policies to protect voting rights. Our work is focused specifically in



the Deep South, where we have offices in Alabama, Georgia, Florida, Louisiana, Mississippi, and Washington, D.C.

The 2022 midterm elections were the most consequential in recent history, especially for BIPOC communities hit hardest by the COVID pandemic<sup>1</sup> and faced with, among other things, navigating high inflation, assaults on bodily autonomy, and challenges to educational inclusion.<sup>2</sup> With so much at stake, it was critical that all voters across the nation could exercise their fundamental right to vote with limited restrictions.

This was not the case, however, for many Black voters in the South. As a result of the Supreme Court’s 2013 decision in *Shelby v. Holder*, state legislatures across the nation have passed waves of restrictive voting laws for almost a decade that have disproportionately affected the BIPOC community. Importantly, there was a brief reprieve from this activity during the COVID-19 pandemic, with the 2020 election seeing the highest election turnout in over a century due in large part to the development of innovative voting procedures.<sup>3</sup> The ingenuity exhibited by administrators to make voting more accessible during the COVID pandemic thus proved that barriers can be removed to ensure we have a thriving democracy, but there must be political will to do so. Instead of celebrating the increase in voter participation during the 2020 election due to these efforts, however, several states quickly returned to voter suppression efforts. In 2021, at least 19 states passed 34 laws limiting access to voting – the highest number of such bills in at least a decade.<sup>4</sup>

These restrictive laws had a measurable impact – stymieing the vote of Black voters in the South during the 2022 midterms. Voters in Georgia, for example, waited in line for over two hours<sup>5</sup> to cast their vote – with the longest lines appearing in metro areas<sup>6</sup> like metro Atlanta,<sup>7</sup>

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<sup>1</sup> Maggie Fox, *Study Confirms Pandemic Hit Black Americans, Native Americans and Latinos Harder than Whites*, CNN (Oct. 4, 2021), <https://www.cnn.com/2021/10/04/health/pandemic-deaths-minorities/index.html>.

<sup>2</sup> Dan Balz & Marianna Sotomayor, *Election 2022: Key Issues*, WASH. POST. (May 18, 2022), <https://www.washingtonpost.com/politics/interactive/2022/key-issues-voting-2022-midterms/>.

<sup>3</sup> See e.g., Kevin Schaul, Kate Rabinowitz & Ted Mellnik, *2020 Turnout is the Highest in Over a Century*, WASH. POST (Nov. 5, 2020), <https://www.washingtonpost.com/graphics/2020/elections/voter-turnout/>; Drew DeSilver, *Turnout Soared in 2020 as Nearly Two-Thirds of Eligible U.S. Voters Cast Ballots for President*, PEW RSCH. CTR. (Jan. 28, 2021), <https://www.pewresearch.org/fact-tank/2021/01/28/turnout-soared-in-2020-as-nearly-two-thirds-of-eligible-u-s-voters-cast-ballots-for-president/>.

<sup>4</sup> *Voting Laws Roundup: December 2021*, BRENNAN CTR. FOR JUST. (Dec. 21, 2021), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-december-2021>.

<sup>5</sup> Neil Vigdor, *Georgia Voters Brace for Long Lines and Wet Weather*, N.Y. TIMES (Dec. 5, 2022), <https://www.nytimes.com/2022/12/04/us/politics/georgia-runoff-election-day-weather.html>.

<sup>6</sup> Gregory Krieg, *Record Turnout and Long Lines Mark First Day of Early Voting in Georgia*, CNN (Oct. 18, 2022), <https://www.cnn.com/2022/10/18/politics/georgia-first-day-early-voting-record-turnout-long-lines/index.html>.

<sup>7</sup> WSBTV.com News Staff, *Long Lines Across Metro Atlanta as Voting for Runoff Senate Election Begins*, WSB-TV (Nov. 27, 2022), <https://www.wsbtv.com/news/local/long-lines-across-metro-atlanta-voting-runoff-senate-election-begins/CYV652A7JFFIRDR7YDAWDOO2WO/>.

which is majority non-white<sup>8</sup> – in one of the most consequential races in the nation.<sup>9</sup> In Alabama, absentee ballot restrictions that were loosened during the pandemic returned,<sup>10</sup> and voters also expressed confusion over absentee affidavits that required them to declare party affiliation when voting absentee.<sup>11</sup> And in several other southern states, voters were completely excluded from the right to vote because of a criminal conviction.<sup>12</sup>

The below are just a few additional examples of issues voters faced across the South during the 2022 midterms and beyond:

- In **Georgia**, a quarter of voters saw their travel time increase from the 2020 election due to new legislation (S.B. 202) that limited access to drop boxes in counties that happened to have the highest number of voters of color.<sup>13</sup> S.B. 202 also cut the early voting period for runoff elections in Georgia by about half,<sup>14</sup> which likely further contributed to the long lines during the December 2022 runoff election. Speaking to the high Georgia turnout for the midterms, Marvin Colbert, a pastor from Bethel African Methodist Episcopal Church in the state, noted, “You see these record lines in defiance of the law, not because of the law . . . You know, if you’re gonna make it harder for us, we’re just going to come out, and really that’s what it gets down to.”<sup>15</sup>
- In **Alabama**, newly elected Secretary of State Wes Allen, who supported overturning the 2020 presidential election, swiftly ended Alabama’s participation in the Electronic Registration Information Center – a program used by approximately 30 states to ensure accurate voter lists.<sup>16</sup> This move was directly condemned by his predecessor, John

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<sup>8</sup> Patricia Murphy, Greg Bluestein & Tia Mitchell, *The Jolt: For the First Time, Metro Atlanta is Now Majority-Nonwhite*, ATLANTA J.-CONST. (Aug. 13, 2021), <https://www.ajc.com/politics/politics-blog/the-jolt-for-the-first-time-metro-atlanta-is-now-majority-nonwhite/VRYNX467VBHQBAPLUDDMK4RK5U/>.

<sup>9</sup> Vigdor, *supra* note 5.

<sup>10</sup> Donna Thornton, *Absentee Voting Back to the Routine This Year; Here’s What You Need to Know*, GADSEN TIMES (Apr. 18, 2022), <https://www.gadsentimes.com/story/news/2022/04/19/etowah-absentee-voting-may-primary-how-apply-what-deadlines/7355874001/>.

<sup>11</sup> John H. Glenn, *Why Do You Need to Declare Party Affiliation When Filling Out Your Absentee Affidavit*, ALA. POL. REP. (June 29, 2022), <https://www.alreporter.com/2022/06/29/why-do-you-need-to-declare-party-affiliation-when-filling-out-your-absentee-affidavit/>.

<sup>12</sup> CHRISTOPHER UGGEN, ET AL., SENT’G PROJECT, LOCKED OUT 2022: ESTIMATES OF PEOPLE DENIED VOTING RIGHTS (2022), <https://www.sentencingproject.org/reports/locked-out-2022-estimates-of-people-denied-voting-rights/>.

<sup>13</sup> Stephen Fowler, Sam Gringlas & Huo Jingnan, *A New Georgia Voting Law Reduced Ballot Drop Box Access in Places that Used Them Most*, NPR (July 27, 2022), <https://www.npr.org/2022/07/27/1112487312/georgia-voting-law-ballot-drop-box-access>.

<sup>14</sup> Neil Vigdor & Blake Hounshell, *Georgia’s Senate Runoff Sets Records for Early Voting, But with a Big Asterisk*, N.Y. TIMES (Nov. 30, 2022), <https://www.nytimes.com/2022/11/30/us/politics/georgia-senate-runoff-early-voting.html>.

<sup>15</sup> Sofi Gratas, *A Decades-Long Tradition of Sunday Voting Encourages Black Voters Ahead of the Midterm*, GPB (Oct. 25, 2022), <https://www.gpb.org/news/2022/10/25/decades-long-tradition-of-sunday-voting-encourages-black-voters-ahead-of-the>.

<sup>16</sup> Daniel Nichanian, *Alabama’s New Election-Denying Secretary of State Leaves Group That Helps States Clean Voter Rolls*, BOLTS (Jan. 18, 2023), <https://boltsmag.org/alabama-secretary-of-state-leaves-eric/>.

Merrill, who argued that ERIC was a critical tool for maintaining proper voter rolls;<sup>17</sup> this position was recently reaffirmed by ERIC’s Executive Director.<sup>18</sup>

- In **Mississippi**, voters statewide had difficulty assessing the Secretary of State’s website to locate their polling place, with the U.S. Department of Homeland Security later announcing the site had been the target of a cyber-attack.<sup>19</sup>
- In **Louisiana**, the Secretary of State’s election portal was down for parts of Election Day,<sup>20</sup> and concern has been raised about how the state’s aging voting machines could be vulnerable to a cybersecurity attack in future elections.<sup>21</sup>
- And in **Florida**, some voters with criminal convictions, who were re-enfranchised by the recent passage of Amendment 4, expressed confusion over whether they were eligible to vote.<sup>22</sup> This confusion was compounded by fear of being targeted by the newly-created Office of Election Crimes and Security, which has brought voter fraud charges against potentially ineligible voters with criminal convictions, some of whom said they had been encouraged to vote by election officials.<sup>23</sup>

Not only did voters face restrictions, but many who sought to provide support to voters were also barred from doing so. In Georgia, for example, the recently passed S.B. 202 bans handing food and water to people waiting in line to vote. This provision has been viewed by some as an attempt to suppress the vote of urban communities of color given the long voting lines often found in those communities.<sup>24</sup>

More broadly, outside support for election administration – which has previously been used to bolster underfunded local elections – has been largely shut out of the process. State and local election administrators have historically struggled to support myriad election costs – including personnel, equipment, and supplies – with scarce resources (and inconsistent federal support)<sup>25</sup>

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<sup>17</sup> AP, *Alabama Withdraws from Voter Registration Data Sharing Group*, CBS NEWS (Jan. 17, 2023),

<https://www.cbsnews.com/news/alabama-withdraws-voter-registration-data-sharing-group-secretary-of-state-wes-allen/>.

<sup>18</sup> Shane Hamlin, *An Open Letter from ERIC’s Executive Director*, ERIC (Mar. 2, 2023), <https://ericstates.org/an-open-letter-2023-03/>.

<sup>19</sup> Wicker Perlis, *With Election Issues, Mississippi Turnout Leads to Republican Victories in Three of Four Districts*, CLARION LEDGER (Nov. 9, 2022), <https://www.clarionledger.com/story/news/2022/11/09/mississippi-midterm-elections-roundup-who-won-who-lost/69634299007/>.

<sup>20</sup> Carlie Kollath Wells, *Louisiana’s Election Website Working Again After Tech Problems, Sec. of State Says*, NOLA.COM (Nov. 8, 2022), [https://www.nola.com/news/politics/elections/louisianas-election-website-working-again-after-tech-problems-sec-of-state-says/article\\_36cbabd0-5f6a-11ed-81dd-bfed86bfa85e.html](https://www.nola.com/news/politics/elections/louisianas-election-website-working-again-after-tech-problems-sec-of-state-says/article_36cbabd0-5f6a-11ed-81dd-bfed86bfa85e.html).

<sup>21</sup> Wesley Muller, *Louisiana Elections Secure, But Voting Machines Still Vulnerable*, LA. ILLUMINATOR (Nov. 11, 2022), <https://lailluminator.com/2022/11/11/louisiana-elections-secure-but-voting-machines-still-vulnerable/>.

<sup>22</sup> Douglas Soule, *Why Did Voter Turnout Drop in 2022 Versus 2018? Strict Voting Laws, Voter Arrests, Say Voting Rights Advocates*, PALM BEACH DAILY NEWS (Dec. 5, 2022), <https://www.palmbeachdailynews.com/story/news/politics/elections/2022/12/05/2022-voter-turnout-dropped-year-strict-voting-laws-voter-arrests-ron-desantis-florida/10816752002/>.

<sup>23</sup> Michael Wines & Neil Vigdor, *Videos Show Confusion as Florida Police Arrest People on Voter Fraud Charges*, N.Y. TIMES (Oct. 19, 2022), <https://www.nytimes.com/2022/10/19/us/florida-voter-fraud-arrests-video.html>.

<sup>24</sup> Faith Karimi, *It’s Now Illegal in Georgia to Give Food and Water to Voters in Line*, CNN (Mar. 26, 2021), <https://www.cnn.com/2021/03/26/politics/georgia-voting-law-food-drink-ban-trnd/index.html>.

<sup>25</sup> See, e.g., CHARLES STEWART III, MIT ELECTION DATA & SCIENCE LAB, ET AL., *THE COST OF CONDUCTING ELECTIONS* (2022), <https://electionlab.mit.edu/sites/default/files/2022-05/TheCostofConductingElections-2022.pdf>.

and outdated systems.<sup>26</sup> Indeed, the Election Infrastructure Initiative estimates it will cost \$53 billion over ten years to fully modernize our election infrastructure – including election administration.<sup>27</sup> Out of this total, \$6.6 billion is needed to strengthen the elections process in the Deep South. Importantly, when election officials were facing administering an election during a global pandemic, many local jurisdictions were able to rely on money from private funders to conduct proper elections to great success.<sup>28</sup> Rather than build upon these successes, however, states soon after – including Georgia, Mississippi, and Florida – began passing laws banning these funds, arguing election interference and bias;<sup>29</sup> Alabama also passed similar legislation in 2022.<sup>30</sup> As a result, already cash-strapped local jurisdictions no longer have access to critical “lifeline”<sup>31</sup> funding to support effective election administration.

Accordingly, turnout numbers from the 2022 midterms must be analyzed with this record in mind, which speaks to Black communities across the South working against seemingly insurmountable barriers to exercise their precious right to vote. And, as the nation continues to diversify, it is imperative that we act urgently to protect the political power of these communities against those who wish to disenfranchise them for potentially racially motivated reasons.<sup>32</sup>

**Strengthening election administration in our nation – including in the Deep South – must be one of Congress’ top priorities as we look toward the 2024 elections.** Based on the current voting rights landscape at the state and local level, Congress must act urgently to secure effective election administration in the Deep South. We must fortify our election process now to guarantee that the 2024 federal elections are carried out in a way that protects the fundamental right to vote for all. To do so, we urge Congress to take the following actions:

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<sup>26</sup> TURQUOISE BAKER, ET AL., BRENNAN CTR. FOR JUST., VOTING MACHINES AT RISK IN 2022 (2022), <https://www.brennancenter.org/our-work/research-reports/voting-machines-risk-2022>.

<sup>27</sup> ELECTION INFRASTRUCTURE INITIATIVE, 50 STATES OF NEED: HOW WE CAN FULLY FUND OUR STATE AND LOCAL ELECTION INFRASTRUCTURE 1,9 (2022), <https://static1.squarespace.com/static/6083502fc0f6531f14d6e929/t/61f836e405feca3722d63b9d/1643656990641/50-States-Of-Need.pdf>.

<sup>28</sup> See e.g., Mike DeBonis & Amy Gardner, *Election Experts Sound Alarms as Costs Escalate and Funding Dwindles*, WASH. POST (Feb. 16, 2022), <https://www.washingtonpost.com/politics/2022/02/16/election-funding-midterms/>.

<sup>29</sup> Miles Parks, *Private Funding Saved the 2020 Election. Now, Some GOP-Led States are Banning it*, NPR (Mar. 31, 2022), <https://www.npr.org/2022/03/31/1088252896/private-funding-saved-the-2020-election-now-some-gop-led-states-are-banning-it>.

<sup>30</sup> Jacob Holmes, *Alabama House Passes “Zuckerbucks” Bill Prohibiting Private Funding of Elections*, ALA. POL. REP. (Mar. 11, 2022), <https://www.alreporter.com/2022/03/11/alabama-house-passes-zuckerbucks-bill-prohibiting-private-funding-of-elections/>.

<sup>31</sup> Parks, *supra* note 29.

<sup>32</sup> KEVIN MORRIS, BRENNAN CTR. FOR JUST., PATTERNS IN THE INTRODUCTION AND PASSAGE OF RESTRICTIVE VOTING BILLS ARE BEST EXPLAINED BY RACE (2022), <https://www.brennancenter.org/our-work/research-reports/patterns-introduction-and-passage-restrictive-voting-bills-are-best>.

***Pass the Sustaining Our Democracy Act.***

We commend Chairwoman Klobuchar for the recent reintroduction of the *Sustaining Our Democracy Act*.<sup>33</sup> This critical piece of legislation will designate \$20 billion dollars in federal funding over the next decade to strengthen election administration – including expanding polling places, making upgrades to voter registration systems, and increasing access to voting for underserved communities and racial and language minority groups. We support this bill’s passage as a critical tool to protect proper election administration for the 2024 elections and beyond.

***Urge States to Use Innovative Approaches for Federal Election Administration.***

COVID-19 changed the nature of our everyday lives, including how we vote. The inability of voters to reach the polls led to states across the nation engaging in a plethora of innovative strategies to protect access to the franchise – including expanded early voting, increased vote by mail options, and ballot postage.<sup>34</sup> Such efforts also took place in some Deep South states; for example, Mississippi counted ballots that were timely sent but arrived after Election Day<sup>35</sup> and Alabama loosened some absentee voting restrictions.<sup>36</sup> As a result of these innovations, the 2020 election had the highest voter turnout this century and the largest increase in voters between presidential elections on record.<sup>37</sup> With states beginning to prepare for the 2024 elections, we urge Congress to provide financial and other support for states to think innovatively, building upon the successes of previous pandemic voting schemes, to ensure effective election administration.

***Encourage States to Use Third-Party Funding for Election Administration.***

We thank Chairwoman Klobuchar for urging the Department of Homeland Security (DHS) to prioritize election security and support for election officials in its grantmaking process,<sup>38</sup> as well as DHS for acting urgently to do so.<sup>39</sup> At the same time, due to the significant underfunding of election infrastructure, more support is needed. Private support for election administration was

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<sup>33</sup> S.630, 118th Cong. (2023).

<sup>34</sup> ELIZA SWEREN-BECKER, ANNE GLATZ & ELISABETH CAMPBELL, BRENNAN CTR. FOR JUST., VOTING DURING COVID-19 (2020), <https://www.brennancenter.org/our-work/research-reports/voting-during-covid-19>.

<sup>35</sup> WENDY R. WEISER, ET AL., BRENNAN CTR. FOR JUST., MAIL VOTING: WHAT HAS CHANGED IN 2020 (2020), <https://www.brennancenter.org/our-work/research-reports/mail-voting-what-has-changed-2020>.

<sup>36</sup> John H. Glenn, *In-Person Absentee Voting Underway in Alabama*, Ala. Pol. Rep. (Sept. 10, 2020), <https://www.alreporter.com/2020/09/10/in-person-absentee-voting-underway-in-alabama/>.

<sup>37</sup> Jacob Fabina, *Record High Turnout in 2020 General Election*, U.S. CENSUS BUREAU (Apr. 29, 2021), <https://www.census.gov/library/stories/2021/04/record-high-turnout-in-2020-general-election.html>.

<sup>38</sup> News Releases, Amy Klobuchar, Chairwoman, U.S. Senate Comm. on Rules & Admin., Klobuchar, Peters, Colleagues Call on Dep’t of Homeland Sec. to Prioritize Funding for Election Sec. (Feb. 24, 2023), <https://www.klobuchar.senate.gov/public/index.cfm/2023/2/klobuchar-peters-colleagues-call-on-department-of-homeland-security-to-prioritize-funding-for-election-security>.

<sup>39</sup> *DHS Announces \$2 Billion in Preparedness Grants*, DEP’T. OF HOMELAND SEC. (Feb. 27, 2023), <https://www.dhs.gov/news/2023/02/27/dhs-announces-2-billion-preparedness-grants>.



critical to the success of the 2020 election.<sup>40</sup> We urge Congress to encourage states to reengage with this critical funding source to operate effective elections.

As we look forward toward the 2024 federal elections, it is imperative that Congress does all it can to safeguard effective election administration. For further information, please contact LaShawn Y. Warren, SPLC Action Fund Chief Policy Officer, by e-mail at [lashawn.warren@splcactionfund.org](mailto:lashawn.warren@splcactionfund.org) or by phone at 202-288-2352.

Respectfully,

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<sup>40</sup> DeBonis, *supra* note 28.