

Georgia 2021: Election Administration in the Senate Runoff Elections

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Abstract:

During the 2020 general election, Georgia held two U.S. Senate elections: a regularly scheduled Senate race between incumbent Republican Senator David Perdue and several challengers, including Democratic candidate Jon Ossoff; and a special election between incumbent Republican Senator Kelly Loeffler (who had been [appointed](#) by Georgia governor Brian Kemp following the 2019 vacancy left by the [resignation](#) of Senator Johnny Isakson) and several challengers, including Reverend Raphael Warnock. In November, no candidate in either Senate race reached a required 50% threshold to secure a victory, requiring both races to be resolved by runoff elections held January 5, 2021. Because Republicans held on to a 50-48 split in the U.S. Senate after November, the runoffs would also determine which party held control of the Senate. Like the general election, the runoff elections experienced high turnout with few problems and winners were declared shortly after Election Day.

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For information on the November 2020 general election in Georgia, please see "[Georgia 2020: Election Administration in the Coronavirus Pandemic](#)"

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I. Introduction

On January 5, 2021, Georgia held statewide runoff elections for the U.S. Senate. Since no candidate received a [majority of votes](#) in either race as required by [Georgia law](#), both Senate races required a runoff election months after the November 3, 2020 general election. Moreover, because of the [50-48 Republican senate majority](#) after the 2020 general election, Georgia's runoffs would determine which political party controlled the Senate during the start of the Biden presidency. As a result, Georgia's January 5 elections received [national attention](#) and [shattered campaign spending records](#), with both races ultimately becoming the two most expensive Senate races in U.S. history.

II. Background

During the 2020 general election, Georgia held two Senate elections: a regularly scheduled Senate race between incumbent Republican Senator David Perdue and several challengers, including Democratic candidate Jon Ossoff; and a special election between incumbent Republican Senator Kelly Loeffler (who had been [appointed](#) by Georgia governor Brian Kemp following the 2019 vacancy left by the [resignation](#) of Senator Johnny Isakson) and several challengers, including Reverend Raphael Warnock.

In 2020, no candidate in either Senate race reached a required 50% threshold to take office. In the [regular election](#), Perdue received 49.7% of the vote compared to Ossoff's 47.9%, and in the [special election](#) Warnock received 32.9% of the vote (with the remaining votes split largely between Loeffler's 25.9% and Republican candidate Doug Collins's 20.0%). Under [Georgia law](#), "to be elected to public office in a general election, a candidate must receive a majority of the votes cast in an election to fill such public office." In any election where no candidate receives more than 50% of the vote, the state holds a runoff election between the top two candidates. After Georgia [certified](#) the initial results, therefore, a runoff was scheduled for January 5, 2021, with three races to be held simultaneously: the regular Senate election between Perdue and Ossoff, the special Senate election between Warnock and Loeffler, and a [third race](#) to determine the state's next public service commissioner.

III. Runoff Election Rules

For the most part, Georgia’s runoff election followed the same statutory rules and regulations as November’s general election, including the continued use of several state laws such as [O.C.G.A. § 21-2-380](#), which permits no-excuse absentee voting, and [O.C.G.A. § 21-2-385](#), which provides for “advance” voting (a term that encompasses both absentee balloting and in-person, early voting).¹ Critically, the Georgia State Election Board also [extended several emergency rules](#) that were previously implemented during November’s general election, including the allowance of ballot drop boxes at county election offices and certain polling locations and the use of early ballot processing (requiring absentee ballots to begin being scanned and processed at least eight days before Election Day.)

Several deadlines were extended to allow more voters to register and vote before the runoff election on January 5. For example, voters were allowed to register to vote until [December 7](#), and early in-person voting began on December 14. Voters were also allowed to request an absentee ballot up until [January 1, 2021](#), and some Georgians were newly eligible to vote, such as minors who turned 18 between November 3, 2020 and January 5, 2021.

In between the general election and the runoff election’s registration deadline, [nearly 76,000](#) new voters registered in Georgia, 56% of whom were under 35 years old. The newly registered voters were also racially more diverse than the state as a whole, although new registrants represented a small percentage of the [7.7 million registered](#) voters in total. However Georgia already had a relatively high rate of registered voters, in part because in 2016, the state implemented [automatic voter registration](#) when obtaining a Georgia driver’s license.

Despite the relative consistency between Georgia’s general election rules and the runoff elections, the surge in national attention focused on Georgia’s runoffs created several new concerns during the run-up to the January runoffs. For example, several notable Democratic leaders announced that they would temporarily relocate to Georgia to campaign for Ossoff and Warnock—including former presidential candidate [Andrew Yang](#)—and some Republican leaders accused them of impropriety. Georgia GOP Chair [David Shafer](#), for example, called on state officials to investigate every new registered voter and claimed, without evidence, that “unlawful attempts by outsiders to influence our elections are potentially criminal, offend fundamental notions of a fair election process, and must be stopped.” [Senator Perdue](#) also appeared on Fox News and asserted that Democrats are “willing to do anything – lie, steal,

¹ For more information, see [“Georgia 2020: Election Administration in the Coronavirus Pandemic.”](#)

cheat – to win this election,” despite Andrew Yang’s clarification that he would not himself be voting in Georgia and without any evidence of Democratic voters moving to the state for the purpose of voting in the runoff. Nevertheless, Secretary of State Raffensperger [warned](#) out-of-state voters from relocating to Georgia unless they planned to establish legal residency, as it is a [felony](#) for someone to vote in Georgia with the intention to move away after the election. Per [O.C.G.A § 21-2-561](#), such a violation is punishable by up to 10 years in jail and a \$100,000 fine.

In December, state Republican officials also urged Georgia governor Brian Kemp to convene a special legislative session in order to (among other things) tighten residency requirements for the runoffs. State Representative [David Clark](#), for example, said that the legislature should pass new measures to prevent non-Georgians from “interfering in our elections.” These proposals, however, were rejected by Governor Kemp, Lieutenant Governor Geoff Duncan, and House Speaker David Ralston, who released a [joint statement](#) arguing that “[a]ny changes to Georgia’s election laws made in a special session will not have any impact on an ongoing election and would only result in endless litigation.”

Secretary of State Raffensperger released several statements in the lead-up to the runoff elections, sending warning letters and announcing investigations into allegations of fraud and potential misconduct.

- First, the secretary of state’s office [sent letters](#) to 8,000 individuals who had requested absentee ballots for the January runoff but who had also recently filed a National Change of Address notice with the United States Postal Service (USPS), which might mean that they now live out-of-state. Although many of these 8,000 individuals might still be eligible to vote in the election (such as students living on college campuses or military personnel), Raffensperger reiterated that the letter would “be a warning to anyone looking to come to Georgia temporarily to cast a ballot in the runoffs or anyone who has established residence in another state but thinks they can game the system: we will find you and we will prosecute you to the fullest extent of the law.” As of March 2021, there had been no evidence that any individual contacted by the secretary of state had committed any form of voter fraud.
- Second, Raffensperger [launched an investigation](#) into several nonprofit groups who had sought to help register Georgia voters, including America Votes, Vote Forward, and The New Georgia Project. According to the secretary of state’s office, these groups “have repeatedly and aggressively sought to register ineligible, out-of-state, or deceased voters before the January 5 Senate runoff elections.” In doing so, the announcement said, the groups could be charged with felony racketeering under Georgia law. Officials from these groups said that they were fully complying with Georgia law, however. New

Georgia Project's CEO [Nse Ufot](#) said that the investigation was "ridiculous," adding that "sending out postcards reminding people to vote [and] reminding people that there is an election is not nefarious." Since the January 5 runoff, it appears that no formal charges were ever made against any nonprofit group related to these allegations, with the exception of one individual who [allegedly submitted](#) "70 false voter registration applications while canvassing for the Coalition for the People's Agenda."

IV. The Georgia Runoffs

Early voting in Georgia started on Monday, December 14, 2020 and lasted for [three weeks](#) until Wednesday, December 30 or Thursday, December 31, depending on the county. All told, [3,145,672](#) Georgians cast their votes early, by far the [largest](#) number of early voters in a runoff election in state history. These early voters represented [over 40%](#) of all registered voters statewide, and two-thirds of this group voted early in person, as opposed to absentee. During the early voting period, over [1 million](#) mail ballots were received and accepted; just [3,376](#) mail ballots were rejected for any reason, representing just 0.3% of all returned mail ballots. Overall, early voting turnout during the runoff election was [around 78%](#) of the 2020 general election early turnout, a much higher rate than a typical runoff election.

Bolstered by high early voting and vote-by-mail turnout, Election Day ran smoothly. According to [Secretary Raffensperger](#), wait times averaged just one minute at polling locations throughout the state, even lower than the two-minute average on November 3. By the afternoon of January 5, no polling locations reported waiting times longer than 30 minutes, and just one location reported wait times over 20 minutes. "Georgia's election administration is hitting a new milestone for effectiveness and efficiency," Raffensperger said.

According to [Helen Butler](#), the executive director of a statewide voter education organization, the election went well for the most part and only "minor issues" surfaced on Election Day. Moreover, [Kristen Clarke](#), then-executive director of the Lawyers' Committee for Civil Rights Under Law (and current nominee to become the assistant attorney general for civil rights as of March 2021) said that the most common reported issue was voters who did not receive absentee ballots before Election Day. Clarke added that "we are not surprised that we are not seeing poll sites flooded with large overwhelming numbers of voters today." The secretary of state's office reported that the only Election Day issues occurred in [Columbia County](#), where certain paper-ballot scanners and poll worker cards were programmed incorrectly, but all issues were resolved by 10 a.m. The state's investment in poll worker recruitment before

November’s general election also paid off in the January runoffs, with [some counties](#) recruiting a new wave of younger poll workers despite early voting occurring during the holiday season.

Although ballots could not be counted until polls closed at [7 p.m.](#) on Election Day, the State Election Board’s extension of its “early ballot processing” emergency rule helped ensure that many absentee ballots were processed and scanned before Election Day, so they could be counted more quickly on January 5. [Ryan Germany](#), an official in the secretary of state’s office, said that “without doing this early scanning, it would probably take weeks to get the amount of absentee ballots scanned.”

State officials focused on securing a timely count of all ballots after November’s election, in which [some people](#) were “upset about the days it took” to count all ballots. As a result, the vast majority of votes were counted on Election Night, January 5. The morning after the election, the secretary of state’s office announced that there were just 60,000 votes left to be counted and asked counties with outstanding ballots—mostly from the Metro Atlanta area—to upload the remaining ballots by 1 p.m. The [Associated Press](#) had already projected that Raphael Warnock had won his Senate race as of 2 a.m. that morning, and it later [projected](#) that Jon Ossoff had won his Senate race at 4:16 p.m. that afternoon.

V. Runoff Election Results

After all votes were counted, including provisional ballots, Jon Ossoff [defeated](#) David Perdue 50.61% to 49.39%. Raphael Warnock defeated Kelly Loeffler 51.04% to 48.96%.

Table 1. *Georgia’s 2021 Runoff Election Official Results: U.S. Senate Election*

	Jon Ossoff	David Perdue
Total votes (and percentages)	2,269,923 (50.61%)	2,214,979 (49.39%)

Table 2. *Georgia’s 2021 Runoff Election Official Results: U.S. Senate Special Election*

	Raphael Warnock	Kelly Loeffler
Total votes (and percentages)	2,289,113 (51.04%)	2,195,841 (48.96%)

VI. Post-Election Day

On January 19, the secretary of state's office [officially certified](#) the January 5 runoff elections (official results can be viewed [here](#)). The office affirmed “that all 159 counties have provided to the state the total votes tabulated for each state and federal candidate” and that “the statewide consolidated returns for state and federal offices are a true and correct tabulation of the certified returns received by this office from each county.”

Two weeks earlier, Georgia officials had responded to several claims of mass voter fraud about the runoff election, including then-President Trump's [meritless allegations](#) that Senator Perdue lost due to a “rigged election.” In response, [Gabriel Sterling](#), the secretary of state office's chief operation officer, said that the state had not found any evidence of widespread voter fraud, that there was “no evidence of any irregularities” during the runoff election, and that Trump's various allegations were “incorrect and they undermine faith in the elections process.”

Shortly after Georgia certified the runoff elections, both Jon Ossoff and Raphael Warnock were officially [sworn into office](#), becoming the first two Georgia Democrats to win a statewide race since 2000. Several weeks later, on February 11, the secretary of state's office—despite finding no evidence of widespread voter fraud—[referred 35 cases](#) of potential election law violations to local district attorneys or the state attorney general for prosecution. These cases included allegations of noncitizens voting, someone voting under someone else's name, and individuals registering to vote while serving a felony sentence, among other possible voting irregularities. Nevertheless, the results of the 2021 Georgia runoffs have not been credibly challenged since the election.

VII. Election Litigation

Georgia's runoff elections sparked several lawsuits prior to Election Day, many of which were filed by Republican officials or candidates to alter various election rules. In all cases, the lawsuits failed or their complaints were dismissed. These lawsuits included:

- A challenge by the [Republican National Committee](#) to restrict the use of ballot drop boxes and provide for certain rights for poll watchers. The plaintiffs' motion for a temporary restraining order was [dismissed](#) on December 29.

- A lawsuit filed by the [Twelfth Congressional District Republican Committee](#) challenging rules related to absentee ballot processing, ballot drop boxes, and signature verification. The complaint was [dismissed](#) on December 17.
- A complaint by the [Georgia Republican Party](#) challenging the state's signature matching procedures. The lawsuit was [dismissed](#) on December 17 and the Eleventh Circuit [denied](#) an appeal on December 21.
- Another challenge by the [Georgia Republican Party](#) seeking to segregate all ballots cast by people who had registered to vote after November 3, 2020. On December 23, 2020, the case was [dismissed](#).
- A pro se lawsuit, filed by [Lin Wood](#)—a prominent [pro-Trump attorney](#) who was under investigation for voter fraud in the state of Georgia as of February 2021—challenged the state's use of electronic voting machines and several other voting procedures. The motion for a temporary restraining order was [denied](#) on December 28.
- After the election was certified, at least one lawsuit attempted to [challenge](#) the certification of both Jon Ossoff and Rafael Warnock as winners of the Senate races.

In response to the dismissal of one of these lawsuits, Secretary of State Raffensperger [wrote](#) that “[t]ime and time again we have successfully fought off lawsuits from the right and the left looking to undermine rule of law in Georgia,” arguing that “numerous baseless and frivolous lawsuits, funded by unsuspecting Georgians who are being duped by [Lin] Wood, are just the latest in a long history of lawsuits to nowhere in Georgia.”

VIII. Conclusion

As the eyes of the nation turned toward Georgia, the state's election officials, poll workers, and voters alike conducted a successful runoff election, having learned many lessons from the June primary and November general elections. Although several political figures sowed seeds of doubt over newly registered voters and various election rules, ultimately the election proceeded smoothly, efficiently, and decisively. Voters turned out in massive numbers for a special election, but a large enough share of the votes were cast early or by-mail, ensuring that Election Day lines were short and the risk of coronavirus exposure was minimized. As Secretary of State [Raffensperger](#) said after the election, “...the facts are on our side. We had fair, honest elections in Georgia.”