

116TH CONGRESS
2D SESSION

S. 4668

To amend the Help America Vote Act of 2002 to ensure that voters in elections for Federal office do not wait in long lines in order to vote.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23, 2020

Mr. WYDEN (for himself, Mr. MERKLEY, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Help America Vote Act of 2002 to ensure that voters in elections for Federal office do not wait in long lines in order to vote.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “People Over Long
5 Lines Act (POLL Act)”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The right to vote for all Americans is fun-
9 damental and rules for voting and election adminis-

1 tration should protect the right to vote and promote
2 voter participation.

3 (2) It is the responsibility of the State and Fed-
4 eral Governments to ensure that every eligible cit-
5 izen is able to register to vote and to cast a ballot.

6 (3) There continues to be an alarming move-
7 ment to erect barriers to make it more difficult for
8 Americans to participate in our Nation's democratic
9 process. The Nation has witnessed unprecedented ef-
10 forts to turn back the clock and erect barriers to
11 voting for communities of color, which have faced
12 historic and continuing discrimination, as well as
13 disabled, young, elderly, and low-income Americans.

14 (4) One way voting in communities of color has
15 been suppressed is through long waits at polling lo-
16 cations. Studies have shown a number of contrib-
17 uting factors, including the drastic reduction of early
18 voting days, poor allocation of resources to certain
19 communities, cuts to election funding, and a reduc-
20 tion of polling locations.

21 (5) A 2019 study led by economist Keith Chen
22 of the University of California, Los Angeles,
23 matched anonymous location data from 10,000,000
24 smartphones to 93,000 polling places to create the
25 most extensive map to date of voter wait times

1 across the United States. The results showed one
2 very clear disparity: voters in predominantly Black
3 neighborhoods waited 29 percent longer, on average,
4 than those in White neighborhoods. They were also
5 about 74 percent more likely to wait for more than
6 half an hour.

7 (6) Waiting in long lines discourages people
8 from voting, undermines confidence in the electoral
9 system, and imposes economic costs on voters.

10 (7) Long lines are estimated to have deterred
11 between 500,000 and 700,000 people from casting
12 their ballot in 2012.

13 (8) These problems led to the creation of the bi-
14 partisan Presidential Commission on Election Ad-
15 ministration, which issued a 2014 report that set
16 forth a standard: “No citizen should have to wait
17 more than 30 minutes to vote.”.

18 (9) Despite the work of the Presidential Com-
19 mission on Election Administration, long lines con-
20 tinue, particularly in communities of color where ra-
21 cial discrimination in voting is a clear and persistent
22 problem.

23 (10) In the Arizona 2016 Presidential primary,
24 in one Maricopa County polling place for mostly
25 Latino voters, some waited for 4 hours or more in

1 the 80-degree heat to cast their ballots. For the
2 2016 general election, 3 people collapsed while wait-
3 ing to vote in an hours-long line in Georgia, and a
4 line to vote in Cincinnati, Ohio was a half-mile long.

5 (11) According to a nationwide study, in 2016,
6 roughly 3 percent of people standing in line at vot-
7 ing locations left before they could vote as a result
8 of long lines.

9 (12) The disenfranchisement that long lines
10 create for voters is not limited to that one election.
11 Research suggests that for each hour would-be vot-
12 ers wait, their probability of voting in the next elec-
13 tion drops by 1 percentage point.

14 (13) Congress has the authority under article I,
15 section 4 of the Constitution of the United States to
16 enact laws governing the time, place, and manner of
17 Federal elections.

18 (14) Congress also has authority under section
19 2 of the 15th Amendment to enforce the right of
20 citizens of the United States to vote, which shall not
21 be denied or abridged by the United States, by legis-
22 lation.

1 **SEC. 3. PREVENTING UNREASONABLE VOTER WAITING**
 2 **TIMES.**

3 (a) STATE PLANS REQUIRED.—Title III of the Help
 4 America Vote Act of 2002 (52 U.S.C. 20901 et seq.) is
 5 amended—

6 (1) by redesignating sections 304 and 305 as
 7 sections 305 and 306; and

8 (2) by inserting after section 303 the following
 9 new section:

10 **“SEC. 304. UNREASONABLE VOTER WAITING TIMES.**

11 **“(a) STATE PLANS.—**

12 **“(1) IN GENERAL.—**Not later than 60 days be-
 13 fore each election for Federal office, each State shall
 14 make public (including through the website of the
 15 State on which election information is normally pub-
 16 lished) and submit to the Commission a written plan
 17 which meets the public notice and comment require-
 18 ments of paragraph (2) and describes the measures
 19 it is implementing to ensure, to the greatest extent
 20 possible, an equitable waiting time for all voters in
 21 the State, and a waiting time of less than 30 min-
 22 utes at any polling place in the election.

23 **“(2) PUBLIC NOTICE COMMENT REQUIRE-**
 24 **MENT.—**The public notice and comment require-
 25 ments of this paragraph are met if—

1 “(A) not later than 30 days prior to the
2 submission of the plan to the Commission, the
3 State made a preliminary version of the plan
4 available for public inspection and comment;

5 “(B) the State publishes notice that the
6 preliminary version of the plan is so available;
7 and

8 “(C) the State took the public comments
9 made regarding the preliminary version of the
10 plan into account in preparing the plan which
11 was submitted to the Commission under para-
12 graph (1).

13 “(b) PROHIBITION ON UNREASONABLE VOTER WAIT-
14 ING TIMES.—Each State shall ensure that no person vot-
15 ing in an election for Federal office shall wait for more
16 than 30 minutes at any polling place for purposes of cast-
17 ing a vote in such election.

18 “(c) REMEDIAL PLANS FOR STATES WITH EXCES-
19 SIVE VOTER WAIT TIMES.—

20 “(1) REVIEW OF VOTER WAIT TIMES.—After
21 each election for Federal office, the Commission
22 shall review voter waiting times for each jurisdiction
23 for which voting in such election took place and
24 make publicly available a report on its findings.

25 “(2) STATE REMEDIAL PLANS.—

1 “(A) REMEDIAL PLANS.—Notwithstanding
2 section 209, each jurisdiction for which the
3 Commission, after the review conducted under
4 paragraph (1), determines that a substantial
5 number of voters waited more than 60 minutes
6 to cast a vote, or in which there were substan-
7 tial violations of the standards established
8 under section 299, shall comply with a State re-
9 medial plan established by the Commission to
10 provide for the effective allocation of resources
11 to administer elections for Federal office held in
12 the State and to reduce the waiting time of vot-
13 ers.

14 “(B) COORDINATION WITH ATTORNEY
15 GENERAL AND STATES.—Each remedial plan
16 established by the Commission shall provide for
17 coordination between the Commission, the At-
18 torney General, and the State involved to mon-
19 itor the compliance of the State with the reme-
20 dial plan during the period leading up to the
21 election and on the date of the election and to
22 respond to serious delays in the ability of voters
23 to cast their ballots at polling places.

24 “(C) TERMINATION.—A jurisdiction shall
25 not be required to comply with a State remedial

1 plan required under subparagraph (A) if the
2 Commission determines that the voter waiting
3 times were less than 60 minutes for 2 consecu-
4 tive regularly scheduled general elections for
5 Federal office.

6 “(3) JURISDICTION DEFINED.—For purposes of
7 this subsection, the term ‘jurisdiction’ has the mean-
8 ing given the term ‘registrar’s jurisdiction’ in section
9 8(j) of the National Voter Registration Act of 1993
10 (42 U.S.C. 1973gg–6(j)).

11 “(4) STANDARDS.—Not later than 180 days
12 after the date of the enactment of this section, the
13 Commission shall establish standards for conducting
14 the review under paragraph (1) and for establishing
15 remedial plans under paragraph (2)(A).

16 “(5) APPROPRIATIONS.—In addition to other
17 amounts authorized to be appropriated to the Com-
18 mission, there are authorized to be appropriated for
19 each of the fiscal years 2021 through 2031,
20 \$5,000,000 for each such year for the Commission
21 to carry out this subsection.

22 “(d) EMERGENCY BALLOTS.—

23 “(1) IN GENERAL.—In the event of a failure of
24 voting equipment or other circumstance at a polling
25 place that causes an unreasonable delay, any indi-

1 vidual who is waiting at the polling place to cast a
2 ballot in an election for Federal office at the time
3 of the failure shall be advised immediately of the in-
4 dividual's right to use an emergency paper ballot,
5 and upon request shall be provided with such an
6 emergency paper ballot for the election and the sup-
7 plies necessary to mark the ballot.

8 “(2) BALLOT REQUIREMENTS.—Any emergency
9 paper ballot provided under paragraph (1) shall—

10 “(A) include the names of each candidate
11 for each Federal office for which voting occurs
12 at such polling place; and

13 “(B) be available in each language for
14 which other ballots provided at the polling place
15 are available.

16 “(3) DISPOSITION OF BALLOT.—Any emergency
17 paper ballot which is cast by an individual under
18 this subsection shall be counted in the same manner
19 as a regular ballot, unless the individual casting the
20 ballot would have otherwise been required to cast a
21 provisional ballot in the absence of the delay, in
22 which case that ballot shall be treated in the same
23 manner as a provisional ballot.”.

1 (b) PRIVATE RIGHT OF ACTION.—Title IV of the
 2 Help America Vote Act of 2002 (52 U.S.C. 21111 et seq.)
 3 is amended by adding at the end the following new section:

4 **“SEC. 403. PRIVATE RIGHT OF ACTION FOR UNREASON-**
 5 **ABLE VOTER WAITING TIME.**

6 “(a) IN GENERAL.—In the case of a violation of sec-
 7 tion 304(b), section 402 shall not apply and any person
 8 who is aggrieved by such violation may commence a civil
 9 action in any appropriate district court of the United
 10 States for relief.

11 “(b) RELIEF.—In any civil action commenced under
 12 subsection (a):

13 “(1) IN GENERAL.—If the court finds a viola-
 14 tion of section 304(a), the court shall assess a civil
 15 penalty equal to the sum of—

16 “(A) \$50; plus

17 “(B) an additional \$50 for each additional
 18 hour the person waited at the polling place to
 19 cast a vote.

20 “(2) SPECIAL RULE.—If the court determines
 21 that the violation was due to an intentional action
 22 to suppress votes or was made with reckless dis-
 23 regard of the requirements of section 304—

24 “(A) paragraph (1)(A) shall be applied by
 25 substituting ‘\$650’ for ‘\$50’; and

1 “(B) paragraph (1)(B) shall be applied by
2 substituting ‘\$150’ for ‘\$50’.”.

3 (c) CONFORMING AMENDMENT.—Section 202 of such
4 Act (52 U.S.C. 20922) is amended—

5 (1) by redesignating paragraphs (5) and (6) as
6 paragraphs (6) and (7), respectively; and

7 (2) by inserting after paragraph (4) the fol-
8 lowing new paragraph:

9 “(5) carrying out the duties described in section
10 304(c);”.

11 (d) CLERICAL AMENDMENTS.—The table of contents
12 of the Help America Vote Act of 2002 is amended—

13 (1) by redesignating the items relating to sec-
14 tions 304 and 305 as relating to sections 305 and
15 306, and by inserting after the item relating to sec-
16 tion 303 the following new item:

“Sec. 304. Unreasonable voter waiting times.”;

17 and

18 (2) by inserting after the item relating to sec-
19 tion 402 the following new item:

“Sec. 403. Private right of action for unreasonable voter waiting time.”.

20 (e) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on the date of the enactment
22 of this Act.

1 **SEC. 4. MINIMUM REQUIRED VOTING SYSTEMS, POLL**
 2 **WORKERS, AND ELECTION RESOURCES.**

3 (a) MINIMUM REQUIREMENTS.—

4 (1) IN GENERAL.—Title III of the Help Amer-
 5 ica Vote Act of 2002 (52 U.S.C. 21081 et seq.) is
 6 amended by adding at the end the following new
 7 subtitle:

8 **“Subtitle C—Additional**
 9 **Requirements**

10 **“SEC. 321. MINIMUM REQUIRED VOTING SYSTEMS AND**
 11 **POLL WORKERS.**

12 “(a) IN GENERAL.—Each State shall provide for the
 13 minimum required number of voting systems, poll workers,
 14 and other election resources (including all other physical
 15 resources) for each voting site on the day of any Federal
 16 election and on any days during which such State allows
 17 early voting for a Federal election in accordance with the
 18 standards determined under section 299.

19 “(b) VOTING SITE.—For purposes of this section and
 20 section 299, the term ‘voting site’ means a polling loca-
 21 tion, except that in the case of any polling location that
 22 serves more than 1 precinct, such term shall mean a pre-
 23 cinct.

24 “(c) EFFECTIVE DATE.—Each State shall be re-
 25 quired to comply with the requirements of this section on
 26 and after September 15, 2021.”.

1 (2) CONFORMING AMENDMENT.—Section 401
 2 of the Help America Vote Act of 2002 (52 U.S.C.
 3 21111) is amended by striking “and 303” and in-
 4 serting “303, and subtitle C”.

5 (3) CLERICAL AMENDMENT.—The table of con-
 6 tents of such Act is amended by adding at the end
 7 of the items relating to title III the following:

“Subtitle C—Additional Requirements

“Sec. 321. Minimum required voting systems and poll workers.”.

8 (b) STANDARDS.—

9 (1) IN GENERAL.—Title II of the Help America
 10 Vote Act of 2002 (52 U.S.C. 20921 et seq.) is
 11 amended by adding at the end the following new
 12 subtitle:

13 **“Subtitle E—Guidance and**
 14 **Standards**

15 **“SEC. 299. STANDARDS FOR ESTABLISHING THE MINIMUM**
 16 **REQUIRED VOTING SYSTEMS AND POLL**
 17 **WORKERS.**

18 “(a) IN GENERAL.—Not later than February 1,
 19 2021, the Attorney General, to the maximum extent prac-
 20 ticable in coordination with the Commission, shall issue
 21 standards regarding the minimum number of voting sys-
 22 tems, poll workers, and other election resources (including
 23 all other physical resources) required under section 321

1 on the day of any Federal election and on any days during
2 which early voting is allowed for a Federal election.

3 “(b) DISTRIBUTION.—

4 “(1) IN GENERAL.—The standards described in
5 subsection (a) shall provide for a uniform and non-
6 discriminatory distribution of such systems, workers,
7 and other resources, and shall take into account,
8 among other factors, the following with respect to
9 any voting site (as defined in section 321(b)):

10 “(A) The voting-age population.

11 “(B) Voter turnout in past elections.

12 “(C) The number of voters registered.

13 “(D) The number of voters who have reg-
14 istered since the most recent Federal election.

15 “(E) Census data for the population served
16 by such voting site.

17 “(F) The educational levels and socio-econo-
18 mic factors of the population served by such
19 voting site.

20 “(G) The needs and numbers of disabled
21 voters and voters with limited English pro-
22 ficiency.

23 “(H) The type of voting systems used.

24 “(2) NO FACTOR DISPOSITIVE.—The standards
25 shall provide that any distribution of such systems

1 shall take into account the totality of all relevant
2 factors, and no single factor shall be dispositive
3 under the standards.

4 “(3) PURPOSE.—To the extent possible, the
5 standards shall provide for a distribution of voting
6 systems, poll workers, and other election resources,
7 with the goals of—

8 “(A) ensuring an equal waiting time for all
9 voters in the State; and

10 “(B) preventing a waiting time of over 30
11 minutes at any polling place.

12 “(4) SPECIAL RULE REGARDING ELECTRONIC
13 POLL BOOKS.—Notwithstanding paragraphs (1), (2),
14 and (3), in the case of any voting site that uses an
15 electronic poll book, the standards described in sub-
16 section (a) shall require at least 1 paper poll book
17 (containing identical information to the information
18 in the electronic poll book) for each such electronic
19 poll book used at such voting site.

20 “(c) DEVIATION.—The standards described in sub-
21 section (a) shall permit States, upon giving reasonable
22 public notice, to deviate from any allocation requirements
23 in the case of unforeseen circumstances such as a natural
24 disaster or terrorist attack.”.

1 (2) CONFORMING AMENDMENT.—Section 202
2 of such Act (52 U.S.C. 20922), as amended by sec-
3 tion 3(c), is amended—

4 (A) by redesignating paragraphs (4), (5),
5 and (6) as paragraphs (5), (6), and (7), respec-
6 tively; and

7 (B) by inserting after paragraph (4) the
8 following new paragraph:

9 “(5) carrying out the duties described in sub-
10 title E;”.

11 (3) CLERICAL AMENDMENT.—The table of con-
12 tents of such Act is amended by adding at the end
13 of the items relating to title II the following:

“Subtitle E—Guidance and Standards

“Sec. 299. Standards for establishing the minimum required voting systems
and poll workers.”.

14 **SEC. 5. PROHIBITION ON CAMPAIGN ACTIVITIES BY CHIEF**
15 **STATE ELECTION ADMINISTRATION OFFI-**
16 **CIALS.**

17 (a) IN GENERAL.—Title III of the Federal Election
18 Campaign Act of 1971 (52 U.S.C. 30101 et seq.) is
19 amended by inserting after section 319 the following new
20 section:

1 title 5, United States Code, if taken by an individual
 2 to whom such paragraph applies (other than any
 3 prohibition on running for public office).

4 “(d) EXCEPTION IN CASE OF RECUSAL FROM AD-
 5 MINISTRATION OF ELECTIONS INVOLVING ELECTION OF-
 6 FICIAL OR IMMEDIATE FAMILY MEMBER.—

7 “(1) IN GENERAL.—This section does not apply
 8 to a chief State election administration official with
 9 respect to an election for Federal office in which
 10 such official or an immediate family member of the
 11 official is a candidate, but only if—

12 “(A) such official recuses himself or herself
 13 from all of the official’s responsibilities for the
 14 administration of such election; and

15 “(B) the official who assumes responsi-
 16 bility for supervising the administration of the
 17 election does not report directly to such official.

18 “(2) IMMEDIATE FAMILY MEMBER DEFINED.—

19 In paragraph (1), the term ‘immediate family mem-
 20 ber’ means, with respect to a candidate, a father,
 21 mother, son, daughter, brother, sister, husband,
 22 wife, father-in-law, or mother-in-law.”.

23 (b) EFFECTIVE DATE.—The amendments made by
 24 subsection (a) shall apply with respect to elections for
 25 Federal office held after September 15, 2021.

1 **SEC. 6. PAYMENTS TO STATES TO PREVENT UNREASON-**
2 **ABLE WAIT TIMES AND PROMOTE WELL-RUN**
3 **ELECTIONS.**

4 (a) IN GENERAL.—Subtitle D of title II of the Help
5 America Vote Act of 2002 (52 U.S.C. 21001 et seq.) is
6 amended by adding at the end the following:

7 **“PART VII—PAYMENTS FOR PREVENTING**
8 **UNREASONABLE VOTER WAIT TIMES**
9 **“SEC. 297. PAYMENTS TO STATES.**

10 “(a) IN GENERAL.—The Commission shall make a
11 payment to each eligible State. Such payments shall be
12 made not later than 30 days after the date of enactment
13 of this part.

14 “(b) ELIGIBLE STATE.—For purposes of this section,
15 a State is an eligible State if such State has filed with
16 the Commission a State plan covering the fiscal year in
17 which the State describes how it intends to use the funds
18 provided under this section.

19 “(c) USE OF FUNDS.—An eligible State shall use the
20 payment received under this part to meet the requirements
21 of section 304 and 321.

22 “(d) AMOUNT OF PAYMENT.—

23 “(1) IN GENERAL.—The amount of payment
24 made to a State under this section shall be the min-
25 imum payment amount described in paragraph (2)

1 plus the voting age population proportion amount
2 described in paragraph (3).

3 “(2) MINIMUM PAYMENT AMOUNT.—The min-
4 imum payment amount described in this paragraph
5 is—

6 “(A) in the case of any of the several
7 States or the District of Columbia, one-half of
8 1 percent of the aggregate amount made avail-
9 able for payments under this section; and

10 “(B) in the case of the Commonwealth of
11 Puerto Rico, Guam, American Samoa, or the
12 United States Virgin Islands, one-tenth of 1
13 percent of such aggregate amount.

14 “(3) VOTING AGE POPULATION PROPORTION
15 AMOUNT.—The voting age population proportion
16 amount described in this paragraph is the product
17 of—

18 “(A) the aggregate amount made available
19 for payments under this section minus the total
20 of all of the minimum payment amounts deter-
21 mined under paragraph (2); and

22 “(B) the voting age population proportion
23 for the State (as defined in paragraph (4)).

24 “(4) VOTING AGE POPULATION PROPORTION
25 DEFINED.—The term ‘voting age population propor-

1 tion' means, with respect to a State, the amount
2 equal to the quotient of—

3 “(A) the voting age population of the State
4 (as reported in the most recent decennial cen-
5 sus); and

6 “(B) the total voting age population of all
7 States (as reported in the most recent decennial
8 census).

9 “(e) AUTHORIZATION OF APPROPRIATIONS.—

10 “(1) IN GENERAL.—There are authorized to be
11 appropriated for payments under this section
12 \$500,000 for each fiscal year.

13 “(2) AVAILABILITY.—Any amounts appro-
14 priated pursuant to the authority of paragraph (1)
15 shall remain available without fiscal year limitation
16 until expended.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 of such Act is amended by inserting after the item relating
19 to section 296 the following:

“PART VII—PAYMENTS FOR PREVENTING UNREASONABLE VOTER WAIT
TIMES

“Sec. 297. Payments to States.”.

○