

117TH CONGRESS  
1ST SESSION

# S. 2117

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.

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## IN THE SENATE OF THE UNITED STATES

JUNE 17, 2021

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

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## 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 citizen  
5       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.—

“(A) REMEDIAL PLANS.—Notwithstanding section 209, each jurisdiction for which the Commission, after the review conducted under paragraph (1), determines that a substantial number of voters waited more than 60 minutes to cast a vote, or in which there were substantial violations of the standards established under section 299, shall comply with a State remedial plan established by the Commission to provide for the effective allocation of resources to administer elections for Federal office held in the State and to reduce the waiting time of voters.

“(B) COORDINATION WITH ATTORNEY GENERAL AND STATES.—Each remedial plan established by the Commission shall provide for coordination between the Commission, the Attorney General, and the State involved to monitor the compliance of the State with the remedial plan during the period leading up to the election and on the date of the election and to respond to serious delays in the ability of voters to cast their ballots at polling places.

“(C) TERMINATION.—A jurisdiction shall 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 2022 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-



vidual who is waiting at the polling place to cast a ballot in an election for Federal office at the time of the failure shall be advised immediately of the individual's right to use an emergency paper ballot, and upon request shall be provided with such an emergency paper ballot for the election and the supplies necessary to mark the ballot.

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

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

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

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

20 “(C) reasonable attorney fees, including  
 21 litigation expenses, and costs.

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

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

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

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

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

9 (2) by inserting after paragraph (4) the fol-  
10 lowing new paragraph:

11 “(5) carrying out the duties described in section  
12 304(c);”.

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

15 (1) by redesignating the items relating to sec-  
16 tions 304 and 305 as relating to sections 305 and  
17 306, and by inserting after the item relating to sec-  
18 tion 303 the following new item:

“Sec. 304. Allocation of election resources.”;

19 and

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

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

22 (e) EFFECTIVE DATE.—The amendments made by  
23 this section shall take effect on the date of the enactment  
24 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 January 1, 2022.”.

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 September 15,  
 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-eco-  
 18 nomic 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:



8           “(b) CHIEF STATE ELECTION ADMINISTRATION OF-  
9   FICIAL.—The term ‘chief State election administration of-  
10   ficial’ means the highest State official with responsibility  
11   for the administration of Federal elections under State  
12   law.

16 “(1) serving as a member of an authorized com-  
17 mittee of a candidate for Federal office;

21 “(3) the solicitation, acceptance, or receipt of a  
22 contribution from any person on behalf of a can-  
23 didate for Federal office; and

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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 January 1, 2022.

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       \$500,000,000 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.”.

○