

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.

H. R. 6513

To amend the Help America Vote Act of 2002 to confirm the requirement that States allow access to designated congressional election observers to observe the election administration procedures in congressional elections.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. McCONNELL

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Confirmation Of Con-
5 gressional Observer Access Act of 2024” or the “COCOA
6 Act of 2024”.

7 **SEC. 2. ACCESS FOR CONGRESSIONAL ELECTION OBSERV-
8 ERS.**

9 (a) ACCESS REQUIRED.—Title III of the Help Amer-
10 ica Vote Act of 2002 (52 U.S.C. 21081 et seq.) is amend-
11 ed—

1 (1) by redesignating section 304 and 305 as
2 sections 305 and 306; and

3 (2) by inserting after section 303 the following
4 new section:

5 **“SEC. 304. ACCESS FOR CONGRESSIONAL ELECTION OB-**
6 **SERVERS.**

7 “(a) FINDING OF CONSTITUTIONAL AUTHORITY.—
8 Congress finds that, regardless of legislative action, it has
9 the authority to send congressional election observers to
10 observe polling locations, any location where processing,
11 scanning, tabulating, canvassing, recounting, auditing, or
12 certifying voting results is occurring, or any other part
13 of the process associated with elections for Federal office
14 under the authorities granted under article 1, section 5,
15 clause 1 and article 1, section 4, clause 1 of the Constitu-
16 tion of the United States. Procedures described herein do
17 not establish any new authorities or procedures with re-
18 spect to Congress’ constitutional authority to observe con-
19 gressional elections but are provided simply to permit a
20 convenient statutory reference for existing congressional
21 authority and activity.

22 “(b) REQUIRING STATES TO PROVIDE ACCESS FOR
23 OBSERVERS.—

24 “(1) REQUIREMENT.—A State shall provide
25 each individual who is acting as a designated con-

1 gressional election observer for an election for Fed-
2 eral office with full access to clearly observe all ele-
3 ments of election administration procedures, includ-
4 ing, but not limited to, access to any area in which
5 a ballot is cast, processed, scanned, tabulated, can-
6 vassed, recounted, audited, or certified, including
7 during pre- and post-election procedures.

8 “(2) RESTRICTIONS ON ACTIVITIES OF OBSERV-
9 ERS.—No designated congressional election observer
10 may handle a ballot or election equipment (whether
11 voting or nonvoting or whether tabulating or nontab-
12 ulating), advocate for any position or candidate, take
13 any action to reduce ballot secrecy or voter privacy,
14 take any action to interfere with the ability of a
15 voter to cast a ballot or an election administrator to
16 carry the administrator’s duties, or otherwise inter-
17 fere with the election administration process.

18 “(3) RULE OF CONSTRUCTION.—Nothing in
19 this section shall prohibit a designated congressional
20 election observer from asking questions of an elec-
21 tion administrator, election official, or election work-
22 er, or any other State or local official.

23 “(c) CONDUCT OF OBSERVERS.—

24 “(1) REMOVAL.—

1 “(A) AUTHORIZATION REMOVAL BY ELEC-
2 TION OFFICIAL.—If a State or local election of-
3 ficial has a reasonable basis to believe that a
4 designated congressional election observer has
5 engaged in or imminently will engage in intimi-
6 dation or deceptive practices prohibited by Fed-
7 eral law, or in the disruption of voting, proc-
8 essing, scanning, tabulating, canvassing, or re-
9 counting of ballots, or the certification of re-
10 sults, a State or local election official may re-
11 move that observer from the area involved.

12 “(B) NOTICE TO COMMITTEE.—If a des-
13 ignated congressional election observer is re-
14 moved from an area under subparagraph (A),
15 the election official shall, within 24 hours of the
16 observer’s removal—

17 “(i) inform the chair and ranking mi-
18 nority member of the Committee on House
19 Administration of the House of Represent-
20 atives or the Committee on Rules and Ad-
21 ministration of the Senate, as applicable;
22 and

23 “(ii) provide written notice detailing
24 the reason or reasons the designated con-
25 gressional election observer was removed.

1 “(2) RULE OF CONSTRUCTION.—For purposes
2 of this subsection, the mere presence of a designated
3 congressional election observer during an observation
4 of election administration procedures, without any
5 additional indicia supporting a reasonable basis for
6 removal, is not a sufficient reason for removal under
7 paragraph (1)(A).

8 “(3) RIGHT TO REPLACE OBSERVER.—If a des-
9 ignated congressional election observer is properly
10 removed under paragraph (1)(A), the chair or rank-
11 ing minority member of the Committee on House
12 Administration of the House of Representatives or
13 the Committee on Rules and Administration of the
14 Senate, as appropriate, may send another designated
15 congressional election observer as a replacement for
16 the remaining duration of the observation of election
17 administration procedures.

18 “(d) DESIGNATED CONGRESSIONAL ELECTION OB-
19 SERVER DESCRIBED.—In this section, a ‘designated con-
20 gressional election observer’ is a House or Senate em-
21 ployee who is designated in writing by the chair or ranking
22 minority member of the Committee on House Administra-
23 tion of the House of Representatives or the Committee on
24 Rules and Administration of the Senate, or a successor
25 committee, to gather information with respect to an elec-

1 tion, including in the event that the election is contested
2 in the House of Representatives or the Senate and for
3 other purposes permitted by article 1, section 5, clause
4 1 and article 1, section 4, clause 1 of the Constitution
5 of the United States.

6 “(e) STATE DEFINED.—In this section, the term
7 ‘State’ means each of the 50 States, the District of Colum-
8 bia, the Commonwealth of Puerto Rico, the United States
9 Virgin Islands, Guam, American Samoa, and the Com-
10 monwealth of the Northern Mariana Islands.”.

11 (b) CONFORMING AMENDMENT RELATING TO EN-
12 FORCEMENT.—Section 401 of such Act (52 U.S.C. 21111)
13 is amended by striking “and 303” and inserting “303, and
14 304”.

15 (c) CLERICAL AMENDMENT.—The table of contents
16 of such Act is amended—

17 (1) by redesignating the items relating to sec-
18 tions 304 and 305 as relating to sections 305 and
19 306; and

20 (2) by inserting after the item relating to sec-
21 tion 303 the following:

“Sec. 304. Confirming access for congressional election observers.”.