

118TH CONGRESS
1ST SESSION

H. R. 4474

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 elections for Federal office.

IN THE HOUSE OF REPRESENTATIVES

JULY 6, 2023

Mr. CAREY introduced the following bill; which was referred to the Committee on House Administration

A BILL

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 elections for Federal office.

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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Confirmation Of Congressional Observer Access Act of
6 2023” or the “COCOA Act of 2023”.

7 (b) FINDINGS RELATING TO CONGRESSIONAL ELEC-
8 TION OBSERVERS.—Congress finds the following:

1 (1) The Constitution delegates to each of House
2 of the Congress the authority to “be the Judge of
3 the Elections, Returns and Qualifications of its own
4 Members”.

5 (2) While, in general, Congress shall respect the
6 determination of State authorities with respect to
7 the election of members to each House, each House
8 of Congress serves as the final arbiter over any con-
9 test to the seating of any putative Member-elect or
10 Senator-elect.

11 (3) These election contest procedures are con-
12 tained in the precedents of each House of Congress.
13 Further, for the House of Representatives the proce-
14 dures exist under the Federal Contested Elections
15 Act.

16 (4) In the post-Civil War modern era, more
17 than 100 election contests have been filed with the
18 House of Representatives.

19 (5) For decades, Congress has appointed and
20 sent out official congressional observers to watch the
21 administration of congressional elections in the
22 States and territories.

23 (6) These observers serve to permit Congress to
24 develop its own factual record in preparation for
25 eventual contests and for other reasons.

1 (7) This section and the amendments made by
2 this section do not establish any new authorities or
3 procedures but are provided simply to permit a con-
4 venient statutory reference for existing Congres-
5 sional authority and activity.

6 **SEC. 2. CONFIRMING ACCESS FOR CONGRESSIONAL ELEC-**
7 **TION OBSERVERS.**

8 (a) CONFIRMING REQUIREMENT THAT STATES PRO-
9 VIDE ACCESS.—Title III of the Help America Vote Act
10 of 2002 (52 U.S.C. 21081 et seq.) is amended—

11 (1) by redesignating sections 304 and 305 as
12 sections 305 and 306; and

13 (2) by inserting after section 303 the following
14 new section:

15 **“SEC. 304. CONFIRMING ACCESS FOR CONGRESSIONAL**
16 **ELECTION OBSERVERS.**

17 “(a) FINDING OF CONSTITUTIONAL AUTHORITY.—
18 Congress finds that it has the authority to require that
19 States allow access to designated Congressional election
20 observers to observe the election administration proce-
21 dures in an election for Federal office because the author-
22 ity granted to Congress under article I, section 5 of the
23 Constitution of the United States gives each House of
24 Congress the power to be the judge of the elections, re-
25 turns and qualifications of its own Members.

1 “(b) REQUIRING STATES TO PROVIDE ACCESS.—A
2 State shall provide each individual who is a designated
3 Congressional election observer for an election with full
4 access to clearly observe all of the elements of the adminis-
5 tration procedures with respect to such election, including
6 but not limited to in all areas of polling places and other
7 facilities where ballots in the election are processed, tab-
8 ulated, cast, canvassed, and certified, in all areas where
9 voter registration activities occur before such election, and
10 in any other such place where election administration pro-
11 cedures to prepare for the election or carry out any post-
12 election recounts take place. No designated Congressional
13 election observer may handle ballots, elections equipment
14 (voting or non-voting), advocate for a position or can-
15 didate, take any action to reduce ballot secrecy, or other-
16 wise interfere with the elections administration process.

17 “(c) DESIGNATED CONGRESSIONAL ELECTION OB-
18 SERVER DESCRIBED.—In this section, a ‘designated Con-
19 gressional election observer’ is an individual who is des-
20 igned in writing by the chair or ranking minority mem-
21 ber of the Committee on House Administration of the
22 House of Representatives or the Committee on Rules and
23 Administration of the Senate, or the successor committee
24 in either House of Congress to gather information with
25 respect to an election, including in the event that the elec-

1 tion is contested in the House of Representatives or the
2 Senate and for other purposes permitted by article 1, sec-
3 tion 5 of the Constitution of the United States.”.

4 (b) CONFORMING AMENDMENT RELATING TO EN-
5 FORCEMENT.—Section 401 of such Act (52 U.S.C. 21111)
6 is amended by striking “and 303” and inserting “303, and
7 304”.

8 (c) CLERICAL AMENDMENT.—The table of contents
9 of such Act is amended—

10 (1) by redesignating the items relating to sec-
11 tions 304 and 305 as relating to sections 305 and
12 306; and

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

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

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