

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.**

**H. R. 1918**

To oppose loans at international financial institutions for the Government of Nicaragua unless the Government of Nicaragua is taking effective steps to hold free, fair, and transparent elections, and for other purposes.

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. MENENDEZ

Viz:

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Nicaragua Human Rights and Anticorruption Act of  
6 2018”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for  
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Sense of Congress on advancing a negotiated solution to Nicaragua’s  
crisis.

Sec. 3. Statement of policy.

Sec. 4. Restrictions on international financial institutions relating to Nicaragua.

Sec. 5. Imposition of targeted sanctions with respect to Nicaragua.

- Sec. 6. Annual certification and waiver.
- Sec. 7. Report on human rights violations and corruption in Nicaragua.
- Sec. 8. Civil society engagement strategy.
- Sec. 9. Reform of Western Hemisphere Drug Policy Commission.
- Sec. 10. Termination.
- Sec. 11. Definitions.

1 **SEC. 2. SENSE OF CONGRESS ON ADVANCING A NEGOTIATED SOLUTION TO NICARAGUA'S CRISIS.**

2  
3 It is the sense of Congress that—

4 (1) credible negotiations between the Govern-  
5 ment of Nicaragua and representatives of  
6 Nicaragua's civil society, student movement, private  
7 sector, and political opposition, mediated by the  
8 Catholic Church in Nicaragua, represent the best op-  
9 portunity to reach a peaceful solution to the current  
10 political crisis that includes—

11 (A) a commitment to hold early elections  
12 that meet democratic standards and permit  
13 credible international electoral observation;

14 (B) the cessation of the violence per-  
15 petrated against civilians by the National Police  
16 of Nicaragua and by armed groups supported  
17 by the Government of Nicaragua; and

18 (C) independent investigations into the  
19 killings of protesters; and

20 (2) negotiations between the Government of  
21 Nicaragua and representatives of Nicaragua's civil  
22 society, student movement, private sector, and polit-

1 ical opposition, mediated by the Catholic Church in  
2 Nicaragua, have not resulted in an agreement as of  
3 the date of the enactment of this Act because the  
4 Government of Nicaragua has failed to credibly par-  
5 ticipate in the process.

6 **SEC. 3. STATEMENT OF POLICY.**

7 It is the policy of the United States to support—

8 (1) the rule of law and an independent judiciary  
9 and electoral council in Nicaragua;

10 (2) democratic governance in Nicaragua;

11 (3) free and fair elections overseen by credible  
12 domestic and international observers in Nicaragua;  
13 and

14 (4) anti-corruption and transparency efforts in  
15 Nicaragua.

16 **SEC. 4. RESTRICTIONS ON INTERNATIONAL FINANCIAL IN-**  
17 **STITUTIONS RELATING TO NICARAGUA.**

18 (a) RESTRICTIONS.—The Secretary of the Treasury  
19 shall—

20 (1) instruct the United States Executive Direc-  
21 tor at each international financial institution of the  
22 World Bank Group to use the voice, vote, and influ-  
23 ence of the United States to oppose the extension by  
24 the International Finance Corporation of any loan or

1 financial or technical assistance to the Government  
2 of Nicaragua for a project in Nicaragua;

3 (2) instruct the United States Executive Direc-  
4 tor of the Inter-American Development Bank to use  
5 the voice, vote, and influence of the United States to  
6 oppose the extension by the Bank of any loan or fi-  
7 nancial or technical assistance to the Government of  
8 Nicaragua for a project in Nicaragua; and

9 (3) instruct the United States Executive Direc-  
10 tor of each other international financial institution,  
11 including the International Monetary Fund, to work  
12 with other key donor countries to develop a coherent  
13 policy approach to future engagements with and  
14 lending to the Government of Nicaragua, in a man-  
15 ner that will advance human rights, including the  
16 full restoration of the rights guaranteed to the peo-  
17 ple of Nicaragua through the commitments made by  
18 the Government of Nicaragua as a signatory of the  
19 International Covenant on Civil and Political Rights.

20 (b) EXCEPTIONS FOR BASIC HUMAN NEEDS AND  
21 DEMOCRACY PROMOTION.—The restrictions under para-  
22 graphs (1) and (2) of subsection (a) shall not apply with  
23 respect to any loan or financial or technical assistance pro-  
24 vided to address basic human needs or to promote democ-  
25 racy in Nicaragua.

1           (c) BRIEFING BY THE SECRETARY OF THE TREAS-  
2 URY.—Not later than 180 days after the date of the enact-  
3 ment of this Act, and annually thereafter, the Secretary  
4 of the Treasury shall brief the appropriate congressional  
5 committees on the effectiveness of international financial  
6 institutions in enforcing applicable program safeguards in  
7 Nicaragua.

8 **SEC. 5. IMPOSITION OF TARGETED SANCTIONS WITH RE-**  
9 **SPECT TO NICARAGUA.**

10           (a) IN GENERAL.—The President shall impose the  
11 sanctions described in subsection (c) with respect to any  
12 foreign person, including any current or former official of  
13 the Government of Nicaragua or any person acting on be-  
14 half of that Government, that the President determines—

15                   (1) to be responsible for or complicit in, or re-  
16 sponsible for ordering, controlling, or otherwise di-  
17 recting, or to have knowingly participated in, di-  
18 rectly or indirectly, any activity described in sub-  
19 section (b);

20                   (2) to be a leader of—

21                           (A) an entity that has, or whose members  
22 have, engaged in any activity described in sub-  
23 section (b); or

24                           (B) an entity whose property and interests  
25 in property are blocked under subsection

1 (c)(1)(A) as a result of activities related to the  
2 tenure of the leader;

3 (3) to have knowingly materially assisted, spon-  
4 sored, or provided financial, material, or techno-  
5 logical support for, or goods or services in support  
6 of—

7 (A) an activity described in subsection (b);

8 or

9 (B) a person whose property and interests  
10 in property are blocked under subsection  
11 (c)(1)(A); or

12 (4) to be owned or controlled by, or to have  
13 knowingly acted or purported to act for or on behalf  
14 of, directly or indirectly, any person whose property  
15 and interests in property are blocked under sub-  
16 section (c)(1)(A).

17 (b) ACTIVITIES DESCRIBED.—An activity described  
18 in this subsection is any of the following in or in relation  
19 to Nicaragua on or after April 18, 2018:

20 (1) Significant acts of violence or conduct that  
21 constitutes a serious abuse or violation of human  
22 rights against persons associated with the protests  
23 in Nicaragua that began on April 18, 2018.

24 (2) Significant actions or policies that under-  
25 mine democratic processes or institutions.

1           (3) Acts of significant corruption by or on be-  
2           half of the Government of Nicaragua or a current or  
3           former official of the Government of Nicaragua, in-  
4           cluding—

5                   (A) the expropriation of private or public  
6           assets for personal gain or political purposes;

7                   (B) corruption related to government con-  
8           tracts;

9                   (C) bribery; or

10                  (D) the facilitation or transfer of the pro-  
11           ceeds of corruption.

12           (4) The arrest or prosecution of a person, in-  
13           cluding an individual or media outlet disseminating  
14           information to the public, primarily because of the  
15           legitimate exercise by such person of the freedom of  
16           speech, assembly, or the press.

17           (c) SANCTIONS DESCRIBED.—

18                   (1) IN GENERAL.—The sanctions described in  
19           this subsection are the following:

20                   (A) ASSET BLOCKING.—The exercise of all  
21           powers granted to the President by the Inter-  
22           national Emergency Economic Powers Act (50  
23           U.S.C. 1701 et seq.) to the extent necessary to  
24           block and prohibit all transactions in all prop-  
25           erty and interests in property of a person deter-

1           mined by the President to be subject to sub-  
2           section (a) if such property and interests in  
3           property are in the United States, come within  
4           the United States, or are or come within the  
5           possession or control of a United States person.

6           (B) EXCLUSION FROM THE UNITED  
7           STATES AND REVOCATION OF VISA OR OTHER  
8           DOCUMENTATION.—In the case of an alien de-  
9           termined by the President to be subject to sub-  
10          section (a), denial of a visa to, and exclusion  
11          from the United States of, the alien, and rev-  
12          ocation in accordance with section 221(i) of the  
13          Immigration and Nationality Act (8 U.S.C.  
14          1201(i)), of any visa or other documentation of  
15          the alien.

16          (2) PENALTIES.—A person that violates, at-  
17          tempts to violate, conspires to violate, or causes a  
18          violation of a measure imposed pursuant to para-  
19          graph (1)(A) or any regulation, license, or order  
20          issued to carry out paragraph (1)(A) shall be subject  
21          to the penalties set forth in subsections (b) and (c)  
22          of section 206 of the International Emergency Eco-  
23          nomic Powers Act (50 U.S.C. 1705) to the same ex-  
24          tent as a person that commits an unlawful act de-  
25          scribed in subsection (a) of that section.



1           (3) EXCEPTION RELATING TO IMPORTATION OF  
2           GOODS.—The requirement to block and prohibit all  
3           transactions in all property and interests in property  
4           under paragraph (1)(A) shall not include the author-  
5           ity to impose sanctions on the importation of goods.

6           (4) EXCEPTION TO COMPLY WITH UNITED NA-  
7           TIONS HEADQUARTERS AGREEMENT.—Sanctions  
8           under paragraph (1)(B) shall not apply to an alien  
9           if admitting the alien into the United States is nec-  
10          essary to permit the United States to comply with  
11          the Agreement regarding the Headquarters of the  
12          United Nations, signed at Lake Success June 26,  
13          1947, and entered into force November 21, 1947,  
14          between the United Nations and the United States,  
15          or other applicable international obligations.

16          (d) IMPLEMENTATION; REGULATORY AUTHORITY.—

17           (1) IMPLEMENTATION.—The President may ex-  
18           ercise all authorities provided under sections 203  
19           and 205 of the International Emergency Economic  
20           Powers Act (50 U.S.C. 1702 and 1704) to carry out  
21           this section.

22           (2) REGULATORY AUTHORITY.—The President  
23           shall issue such regulations, licenses, and orders as  
24           are necessary to carry out this section.

1 **SEC. 6. ANNUAL CERTIFICATION AND WAIVER.**

2 (a) CERTIFICATION.—Not later than 180 days after  
3 the date of the enactment of this Act, and annually there-  
4 after, the Secretary of State shall submit to the appro-  
5 priate congressional committees a report certifying wheth-  
6 er the Government of Nicaragua is taking effective  
7 steps—

8 (1) to strengthen the rule of law and demo-  
9 cratic governance, including the independence of the  
10 judicial system and electoral council;

11 (2) to combat corruption, including by inves-  
12 tigating and prosecuting cases of public corruption;

13 (3) to protect civil and political rights, including  
14 the rights of freedom of the press, speech, and asso-  
15 ciation, for all people of Nicaragua, including polit-  
16 ical opposition parties, journalists, trade unionists,  
17 human rights defenders, indigenous peoples, and  
18 other civil society activists;

19 (4) to investigate and hold accountable officials  
20 of the Government of Nicaragua and other persons  
21 responsible for the killings of individuals associated  
22 with the protests in Nicaragua that began on April  
23 18, 2018; and

24 (5) to hold free and fair elections overseen by  
25 credible domestic and international observers

26 (b) WAIVER.—

1           (1) TEMPORARY GENERAL WAIVER.—If the Sec-  
2           retary certifies to the appropriate congressional com-  
3           mittees under subsection (a) that the Government of  
4           Nicaragua is taking effective steps as described in  
5           that subsection, the President may waive the appli-  
6           cation of the restrictions under section 4 and sanc-  
7           tions under section 5 for a period of not more than  
8           one year beginning on the date of the certification.

9           (2) NATIONAL INTEREST WAIVER.—The Presi-  
10          dent may waive the application of the restrictions  
11          under section 4 and sanctions under section 5 if the  
12          President—

13                 (A) determines that such a waiver is in the  
14                 national interest of the United States; and

15                 (B) submits to the appropriate congress-  
16                 sional committees a notice of and justification  
17                 for the waiver.

18          (3) SENSE OF CONGRESS.—It is the sense of  
19          Congress that the President should exercise the  
20          waiver authority provided under paragraph (1) if the  
21          Secretary of State certifies under subsection (a) that  
22          the Government of Nicaragua is taking effective  
23          steps as described in that subsection.

1 (c) CONSULTATION.—In preparing a certification re-  
2 quired by subsection (a), the Secretary shall consult with  
3 the appropriate congressional committees.

4 (d) ANNUAL BRIEFING.—The Secretary shall annu-  
5 ally brief the appropriate congressional committees on  
6 whether the Government of Nicaragua is taking effective  
7 steps as described in subsection (a).

8 **SEC. 7. REPORT ON HUMAN RIGHTS VIOLATIONS AND COR-**  
9 **RUPTION IN NICARAGUA.**

10 (a) IN GENERAL.—Not later than 180 days after the  
11 date of the enactment of this Act, the Secretary of State,  
12 acting through the Assistant Secretary of State for Intel-  
13 ligence and Research, and in coordination with the Sec-  
14 retary of the Treasury and the Director of National Intel-  
15 ligence, shall submit to the appropriate congressional com-  
16 mittees a report on—

17 (1) the involvement of senior officials of the  
18 Government of Nicaragua, including members of the  
19 Supreme Electoral Council, the National Assembly,  
20 and the judicial system, in human rights violations,  
21 acts of significant corruption, and money laundering;  
22 and

23 (2) persons that transfer, or facilitate the  
24 transfer of, goods or technologies for use in or with  
25 respect to Nicaragua, that are used by the Govern-

1       ment of Nicaragua to commit serious human rights  
2       violations against the people of Nicaragua.

3       (b) FORM.—The report required by subsection (a)  
4       may be classified.

5       **SEC. 8. CIVIL SOCIETY ENGAGEMENT STRATEGY.**

6       Not later than 90 days after the date of the enact-  
7       ment of this Act, the Secretary of State shall brief the  
8       appropriate congressional committees on a strategy—

9               (1) for engaging relevant elements of civil soci-  
10       ety in Nicaragua, including independent media,  
11       human rights, and anti-corruption organizations, to  
12       strengthen rule of law and increase accountability  
13       for human rights abuses and corruption in Nica-  
14       ragua; and

15               (2) setting forth measures to support the pro-  
16       tection of human rights and anti-corruption advo-  
17       cates in Nicaragua.

18       **SEC. 9. REFORM OF WESTERN HEMISPHERE DRUG POLICY**

19               **COMMISSION.**

20       Section 603(f)(1) of the Department of State Au-  
21       thorities Act, Fiscal Year 2017 (Public Law 114–323; 130  
22       Stat. 1938) is amended by striking “Not later than 60  
23       days after the date of the enactment of this Act, the Com-  
24       mission shall hold an initial meeting to develop and imple-

1 ment” and inserting “At the initial meeting of the Com-  
2 mission, the Commission shall develop and implement”.

3 **SEC. 10. TERMINATION.**

4 The provisions of this Act (other than section 9) shall  
5 terminate on December 31, 2023.

6 **SEC. 11. DEFINITIONS.**

7 In this Act:

8 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**  
9 **TEES.**—The term “appropriate congressional com-  
10 mittees” means—

11 (A) the Committee on Foreign Relations,  
12 the Committee on Banking, Housing, and  
13 Urban Affairs, and the Committee on Appro-  
14 priations of the Senate; and

15 (B) the Committee on Foreign Affairs, the  
16 Committee on Financial Services, and the Com-  
17 mittee on Appropriations of the House of Rep-  
18 resentatives.

19 (2) **GOOD.**—The term “good” means any arti-  
20 cle, natural or manmade substance, material, supply  
21 or manufactured product, including inspection and  
22 test equipment, and excluding technical data.

23 (3) **PERSON.**—The term “person” means an in-  
24 dividual or entity.

1           (4) UNITED STATES PERSON.—The term  
2           “United States person” means any United States  
3           citizen, permanent resident alien, entity organized  
4           under the laws of the United States or any jurisdic-  
5           tion within the United States (including a foreign  
6           branch of such an entity), or any person in the  
7           United States.