

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

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

S. 3233

To impose sanctions with respect to persons responsible for violence and human rights abuses in Nicaragua, 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. CORKER

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 more than 277 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-
23 ical opposition, mediated by the Catholic Church in

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

5 **SEC. 3. STATEMENT OF POLICY.**

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

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

9 (2) democratic governance in Nicaragua;

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

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

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

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

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

1 of Nicaragua or to any entity for a project in Nica-
2 ragua;

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 or to any entity for a project in Nica-
9 ragua; and

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

21 (b) EXCEPTIONS FOR BASIC HUMAN NEEDS AND
22 DEMOCRACY PROMOTION.—The restrictions under para-
23 graphs (1) and (2) of subsection (a) shall not apply with
24 respect to any loan or financial or technical assistance pro-

1 vided to address basic human needs or to promote democ-
2 racy in Nicaragua.

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

10 **SEC. 5. IMPOSITION OF TARGETED SANCTIONS WITH RE-**
11 **SPECT TO NICARAGUA.**

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

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

22 (2) to be a leader of—

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

1 (B) an entity whose property and interests
2 in property are blocked under subsection
3 (c)(1)(A) as a result of activities related to the
4 tenure of the leader;

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

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

10 or

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

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

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

22 (1) Significant acts of violence or conduct that
23 constitutes an abuse or violation of human rights
24 against persons associated with the protests in Nica-
25 ragua that began on April 18, 2018.

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

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

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

9 (B) corruption related to government con-
10 tracts;

11 (C) bribery; or

12 (D) the facilitation or transfer of the pro-
13 ceeds of corruption.

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

19 (c) SANCTIONS DESCRIBED.—

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

22 (A) ASSET BLOCKING.—The exercise of all
23 powers granted to the President by the Inter-
24 national Emergency Economic Powers Act (50
25 U.S.C. 1701 et seq.) to the extent necessary to

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

8 (B) EXCLUSION FROM THE UNITED
9 STATES AND REVOCATION OF VISA OR OTHER
10 DOCUMENTATION.—In the case of an alien de-
11 termined by the President to be subject to sub-
12 section (a), denial of a visa to, and exclusion
13 from the United States of, the alien, and rev-
14 ocation in accordance with section 221(i) of the
15 Immigration and Nationality Act (8 U.S.C.
16 1201(i)), of any visa or other documentation of
17 the alien.

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

1 tent as a person that commits an unlawful act de-
2 scribed in subsection (a) of that section.

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

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

18 (d) IMPLEMENTATION; REGULATORY AUTHORITY.—

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

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

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

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

11 (1) to strengthen the rule of law and demo-
12 cratic governance, including the independence of the
13 judicial system and electoral council;

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

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

22 (4) to investigate and hold accountable officials
23 of the Government of Nicaragua and other persons
24 responsible for the killings of more than 277 individ-

1 uals associated with the protests in Nicaragua that
2 began on April 18, 2018; and

3 (5) to hold free and fair elections overseen by
4 credible domestic and international observers

5 (b) WAIVER.—

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

14 (2) NATIONAL INTEREST WAIVER.—The Presi-
15 dent may waive the application of the restrictions
16 under section 4 and sanctions under section 5 if the
17 President—

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

20 (B) submits to the appropriate congres-
21 sional committees a notice of and justification
22 for the waiver.

23 (3) SENSE OF CONGRESS.—It is the sense of
24 Congress that the President should exercise the
25 waiver authority provided under paragraph (1) if the

1 Secretary of State certifies under subsection (a) that
2 the Government of Nicaragua is taking effective
3 steps as described in that subsection.

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

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

11 **SEC. 7. REPORT ON HUMAN RIGHTS VIOLATIONS AND COR-**
12 **RUPTION IN NICARAGUA.**

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

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

1 (2) persons that transfer, or facilitate the
2 transfer of, goods or technologies for use in or with
3 respect to Nicaragua, that are used by the Govern-
4 ment of Nicaragua to commit serious human rights
5 violations against the people of Nicaragua.

6 (b) FORM.—The report required by subsection (a)
7 may be classified.

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

9 Not later than 90 days after the date of the enact-
10 ment of this Act, the President shall brief the appropriate
11 congressional committees on a strategy—

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

18 (2) setting forth measures to support the pro-
19 tection of human rights and anti-corruption advo-
20 cates in Nicaragua.

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

22 **COMMISSION.**

23 Section 603(f)(1) of the Department of State Au-
24 thorities Act, Fiscal Year 2017 (Public Law 114–323; 130
25 Stat. 1938) is amended by striking “Not later than 60

1 days after the date of the enactment of this Act, the Com-
2 mission shall hold an initial meeting to develop and imple-
3 ment” and inserting “At the initial meeting of the Com-
4 mission, the Commission shall develop and implement”.

5 **SEC. 10. TERMINATION.**

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

8 **SEC. 11. DEFINITIONS.**

9 In this Act:

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

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

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

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

1 (3) PERSON.—The term “person” means an in-
2 dividual or entity.

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