

In the Senate of the United States,

November 27, 2018.

Resolved, That the bill from the House of Representatives (H.R. 1918) entitled “An Act 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.”, do pass with the following

AMENDMENT:

Strike all after the enacting clause and insert the following:

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

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

5 (b) *TABLE OF CONTENTS*.—*The table of contents for*
6 *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 *It is the sense of Congress that—*

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

10 *(A) a commitment to hold early elections*
 11 *that meet democratic standards and permit cred-*
 12 *ible international electoral observation;*

13 *(B) the cessation of the violence perpetrated*
 14 *against civilians by the National Police of Nica-*
 15 *ragua and by armed groups supported by the*
 16 *Government of Nicaragua; and*

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

19 *(2) negotiations between the Government of Nica-*
 20 *ragua and representatives of Nicaragua's civil society,*
 21 *student movement, private sector, and political oppo-*
 22

1 *sition, mediated by the Catholic Church in Nica-*
2 *ragua, have not resulted in an agreement as of the*
3 *date of the enactment of this Act because the Govern-*
4 *ment of Nicaragua has failed to credibly participate*
5 *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 Director*
21 *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 of*
 2 *Nicaragua for a project in Nicaragua;*

3 *(2) instruct the United States Executive Director*
 4 *of the Inter-American Development Bank to use the*
 5 *voice, vote, and influence of the United States to op-*
 6 *pose the extension by the Bank of any loan or finan-*
 7 *cial or technical assistance to the Government of*
 8 *Nicaragua for a project in Nicaragua; and*

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

20 ***(b) EXCEPTIONS FOR BASIC HUMAN NEEDS AND DE-***
 21 ***MOCRACY PROMOTION.—****The restrictions under paragraphs*
 22 *(1) and (2) of subsection (a) shall not apply with respect*
 23 *to any loan or financial or technical assistance provided*
 24 *to address basic human needs or to promote democracy in*
 25 *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 of*
 4 *the Treasury shall brief the appropriate congressional com-*
 5 *mittees on the effectiveness of international financial insti-*
 6 *tutions 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 direct-*
 17 *ing, or to have knowingly participated in, directly or*
 18 *indirectly, any activity described in subsection (b);*

19 (2) *to be a leader of—*

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

23 (B) *an entity whose property and interests*
 24 *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 subsection
16 (c)(1)(A).

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

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

(3) *Acts of significant corruption by or on behalf of the Government of Nicaragua or a current or former official of the Government of Nicaragua, including—*

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

(B) *corruption related to government contracts;*

(C) *bribery; or*

(D) *the facilitation or transfer of the proceeds of corruption.*

(4) *The arrest or prosecution of a person, including an individual or media outlet disseminating information to the public, primarily because of the legitimate exercise by such person of the freedom of speech, assembly, or the press.*

(c) *SANCTIONS DESCRIBED.—*

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

(A) *ASSET BLOCKING.—The exercise of all powers granted to the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to the extent necessary to block and prohibit all transactions in all property and interests in property of a person deter-*

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

6 *(B) EXCLUSION FROM THE UNITED STATES*
7 *AND REVOCATION OF VISA OR OTHER DOCU-*
8 *MENTATION.—In the case of an alien determined*
9 *by the President to be subject to subsection (a),*
10 *denial of a visa to, and exclusion from the*
11 *United States of, the alien, and revocation in ac-*
12 *cordance with section 221(i) of the Immigration*
13 *and Nationality Act (8 U.S.C. 1201(i)), of any*
14 *visa or other documentation of the alien.*

15 *(2) PENALTIES.—A person that violates, at-*
16 *tempts to violate, conspires to violate, or causes a vio-*
17 *lation of a measure imposed pursuant to paragraph*
18 *(1)(A) or any regulation, license, or order issued to*
19 *carry out paragraph (1)(A) shall be subject to the*
20 *penalties set forth in subsections (b) and (c) of section*
21 *206 of the International Emergency Economic Powers*
22 *Act (50 U.S.C. 1705) to the same extent as a person*
23 *that commits an unlawful act described in subsection*
24 *(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 the*
 11 *Agreement regarding the Headquarters of the United*
 12 *Nations, signed at Lake Success June 26, 1947, and*
 13 *entered into force November 21, 1947, between the*
 14 *United Nations and the United States, or other appli-*
 15 *cable international obligations.*

16 (d) *IMPLEMENTATION; REGULATORY AUTHORITY.*—

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

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 the
3 date of the enactment of this Act, and annually thereafter,
4 the Secretary of State shall submit to the appropriate con-
5 gressional committees a report certifying whether the Gov-
6 ernment of Nicaragua is taking effective steps—

7 (1) *to strengthen the rule of law and democratic*
8 *governance, including the independence of the judicial*
9 *system and electoral council;*

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

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

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

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

25 (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 applica-*
6 *tion of the restrictions under section 4 and sanctions*
7 *under section 5 for a period of not more than one*
8 *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 congres-*
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 waiver*
20 *authority provided under paragraph (1) if the Sec-*
21 *retary of State certifies under subsection (a) that the*
22 *Government of Nicaragua is taking effective steps as*
23 *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 annually*
 5 *brief the appropriate congressional committees on whether*
 6 *the Government of Nicaragua is taking effective steps as de-*
 7 *scribed 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 Gov-*
 18 *ernment of Nicaragua, including members of the Su-*
 19 *preme Electoral Council, the National Assembly, and*
 20 *the judicial system, in human rights violations, acts*
 21 *of significant corruption, and money laundering; and*

22 (2) *persons that transfer, or facilitate the trans-*
 23 *fer of, goods or technologies for use in or with respect*
 24 *to Nicaragua, that are used by the Government of*

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

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

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

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

9 *(1) for engaging relevant elements of civil society*
 10 *in Nicaragua, including independent media, human*
 11 *rights, and anti-corruption organizations, to strength-*
 12 *en rule of law and increase accountability for human*
 13 *rights abuses and corruption in Nicaragua; and*

14 *(2) setting forth measures to support the protec-*
 15 *tion of human rights and anti-corruption advocates*
 16 *in Nicaragua.*

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

19 *Section 603(f)(1) of the Department of State Authori-*
 20 *ties Act, Fiscal Year 2017 (Public Law 114–323; 130 Stat.*
 21 *1938) is amended by striking “Not later than 60 days after*
 22 *the date of the enactment of this Act, the Commission shall*
 23 *hold an initial meeting to develop and implement” and in-*
 24 *serting “At the initial meeting of the Commission, the Com-*
 25 *mission shall develop and implement”.*

1 **SEC. 10. TERMINATION.**

2 *The provisions of this Act (other than section 9) shall*
3 *terminate on December 31, 2023.*

4 **SEC. 11. DEFINITIONS.**

5 *In this Act:*

6 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*
7 *TEES.—The term “appropriate congressional commit-*
8 *tees” means—*

9 (A) *the Committee on Foreign Relations, the*
10 *Committee on Banking, Housing, and Urban Af-*
11 *airs, and the Committee on Appropriations of*
12 *the Senate; and*

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

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

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

23 (4) *UNITED STATES PERSON.—The term “United*
24 *States person” means any United States citizen, per-*
25 *manent resident alien, entity organized under the*
26 *laws of the United States or any jurisdiction within*

- 1 *the United States (including a foreign branch of such*
- 2 *an entity), or any person in the United States.*

Attest:

Secretary.

115TH CONGRESS
2^D SESSION

H.R. 1918

AMENDMENT