

**Suspend the Rules and Pass the Bill, H. R. 1918, With an  
Amendment**

**(The amendment strikes all after the enacting clause and inserts a  
new text)**

115TH CONGRESS  
1ST SESSION

# 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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 2017

Ms. ROS-LEHTINEN (for herself, Mr. SIRES, Mr. DUNCAN of South Carolina, Ms. WASSERMAN SCHULTZ, Mr. YOHO, Mr. CÁRDENAS, Mr. DIAZ-BALART, Mr. NORCROSS, Mr. CURBELO of Florida, Mr. DEUTCH, Mr. BILIRAKIS, Mr. CUELLAR, Mr. SMITH of New Jersey, Ms. WILSON of Florida, Mr. POE of Texas, Mr. HASTINGS, Mr. DESANTIS, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. MCCAUL, Ms. KELLY of Illinois, Mr. WEBER of Texas, Mr. DONOVAN, Mr. CHABOT, Mr. THOMAS J. ROONEY of Florida, and Mr. FRANCIS ROONEY of Florida) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

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.

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.**

4       This Act may be cited as the “Nicaraguan Invest-  
5 ment Conditionality Act (NICA) of 2017”.

6 **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

8           (1) The House Committee on Foreign Affairs  
9       convened a congressional hearing on December 1,  
10      2011, entitled “Democracy Held Hostage in Nica-  
11      ragua: Part 1” where former United States Amba-  
12      sador to Nicaragua Robert Callahan testified,  
13      “First, that Daniel Ortega’s candidacy was illegal,  
14      illegitimate, and unconstitutional; second, that the  
15      period leading to the elections and the elections  
16      themselves were marred by serious fraud; third, that  
17      Daniel Ortega and his Sandinista party have system-  
18      atically undermined the country’s fragile govern-  
19      mental institutions.”.

20           (2) According to the Organization of American  
21      States (OAS) report on the Nicaraguan 2011 Presi-  
22      dential elections, the OAS recommended that the  
23      Government of Nicaragua take a number of steps to  
24      improve its electoral systems, including accrediting  
25      poll watchers to ensure political parties and civil so-

1       ciety are represented to observe elections, and re-de-  
2       signing the structure of the Nicaraguan electoral  
3       council to allow proper registration of the electorate.

4           (3) On January 25, 2012, a press statement  
5       from Secretary of State Hillary Clinton said: “As  
6       noted by international observers and Nicaraguan  
7       civil society groups, Nicaragua’s recent elections  
8       were not conducted in a transparent and impartial  
9       manner, and the entire electoral process was marred  
10      by significant irregularities. The elections marked a  
11      setback to democracy in Nicaragua and undermined  
12      the ability of Nicaraguans to hold their government  
13      accountable.”.

14          (4) According to the Department of State’s  
15      2015 Fiscal Transparency Report: “Nicaragua’s fis-  
16      cal transparency would be improved by including all  
17      off-budget revenue and expenditure in the budget,  
18      auditing state-owned enterprises, and conducting a  
19      full audit of the government’s annual financial state-  
20      ments and making audit reports publicly available  
21      within a reasonable period of time.”.

22          (5) According to the Department of State’s  
23      Country Reports on Human Rights Practices for  
24      2015: “In 2011 the Supreme Electoral Council  
25      (CSE) announced the re-election of President Daniel

1 Ortega Saavedra of the Sandinista National Libera-  
2 tion Front (FSLN) in elections that international  
3 and domestic observers characterized as seriously  
4 flawed. International and domestic organizations  
5 raised concerns regarding the constitutional legit-  
6 imacy of Ortega's re-election. The 2011 elections  
7 also provided the ruling party with a supermajority  
8 in the National Assembly, allowing for changes in  
9 the constitution, including extending the reach of ex-  
10 ecutive branch power and the elimination of restric-  
11 tions on re-election for executive branch officials and  
12 mayors. Observers noted serious flaws during the  
13 2012 municipal elections and March 2014 regional  
14 elections.”.

15 (6) According to the Department of State's  
16 Country Reports on Human Rights Practices for  
17 2015 in Nicaragua: “The principal human rights  
18 abuses were restrictions on citizens' right to vote;  
19 obstacles to freedom of speech and press, including  
20 government intimidation and harassment of journal-  
21 ists and independent media, as well as increased re-  
22 striction of access to public information, including  
23 national statistics from public offices; and increased  
24 government harassment and intimidation of non-

1 governmental organizations (NGOs) and civil society  
2 organizations.”.

3 (7) The same 2015 report stated: “Additional  
4 significant human rights abuses included consider-  
5 ably biased policies to promote single-party domi-  
6 nance; arbitrary police arrest and detention of sus-  
7 pects, including abuse during detention; harsh and  
8 life-threatening prison conditions with arbitrary and  
9 lengthy pretrial detention; discrimination against  
10 ethnic minorities and indigenous persons and com-  
11 munities.”.

12 (8) On June 7, 2016, the Department of  
13 State’s Bureau of Democracy, Human Rights and  
14 Labor posted on social media: “Disappointed govern-  
15 ment of Nicaragua said it will deny electoral observ-  
16 ers requested by Nicaraguan citizens, church, and  
17 private sector . . . We continue to encourage the  
18 government of Nicaragua to allow electoral observers  
19 as requested by Nicaraguans.”.

20 (9) On June 14, 2016, President Ortega ex-  
21 pelled three United States Government officials (two  
22 officials from U.S. Customs and Border Protection  
23 and one professor from the National Defense Uni-  
24 versity) from Nicaragua.

1           (10) On August 1, 2016, the Department of  
2           State issued a press release to express grave concern  
3           over the Nicaraguan government limiting democratic  
4           space leading up to the elections in November and  
5           stated that “[o]n June 8, the Nicaraguan Supreme  
6           Court stripped the opposition Independent Liberal  
7           Party (PLI) from its long recognized leader. The  
8           Supreme Court took similar action on June 17 when  
9           it invalidated the leadership of the Citizen Action  
10          Party, the only remaining opposition party with the  
11          legal standing to present a presidential candidate.  
12          Most recently, on July 29, the Supreme Electoral  
13          Council removed 28 PLI national assembly members  
14          (16 seated and 12 alternates) from their popularly-  
15          elected positions.”.

16          (11) On November 7, 2016, the Department of  
17          State issued a press release stating: “The United  
18          States is deeply concerned by the flawed presidential  
19          and legislative electoral process in Nicaragua, which  
20          precluded the possibility of a free and fair election  
21          on November 6. In advance of the elections, the Nic-  
22          araguan government sidelined opposition candidates  
23          for president, limited domestic observation at the  
24          polls and access to voting credentials, and took other  
25          actions to deny democratic space in the process. The

1 decision by the Nicaraguan government not to invite  
2 independent international electoral observers further  
3 degraded the legitimacy of the election.”.

4 (12) In November and December of 2016, the  
5 Board of Executive Directors of the Inter-American  
6 Development Bank postponed consideration of a pol-  
7 icy based loan of \$65 million to the Government of  
8 Nicaragua due to the efforts of the United States  
9 mission that expressed serious concerns of the ab-  
10 sence of transparency, systemic corruption, and the  
11 lack of free and fair elections in Nicaragua.

12 (13) According to the Department of State’s  
13 Country Reports on Human Rights Practices for  
14 2016: “[A]ctions by the ruling Sandinista National  
15 Liberation Front (FSLN) party resulted in de facto  
16 concentration of power in a single party, with an au-  
17 thoritarian executive branch exercising significant  
18 control over the legislative, judicial, and electoral  
19 functions.”.

20 (14) According to the Department of State’s  
21 Country Reports on Human Rights Practices for  
22 2016 in Nicaragua, “The November 6 elections for  
23 president, vice president, national assembly mem-  
24 bers, and representatives for the Central American  
25 parliament did not meet the conditions of being free

1 and fair . . . The November 6 presidential and leg-  
2 islative elections were marred by allegations of insti-  
3 tutional fraud and the absence of independent oppo-  
4 sition political parties. National observers and oppo-  
5 sition leaders claimed rates of abstention from 60 to  
6 70 percent.”.

7 (15) According to the Department of State’s  
8 Country Reports on Human Rights Practices for  
9 2016: “Companies reported that bribery of public of-  
10 ficials, unlawful seizures, and arbitrary assessments  
11 by customs and tax authorities were common . . .  
12 The courts remained particularly susceptible to  
13 bribes, manipulation, and other forms of corruption,  
14 especially by the FSLN, giving the sense that the  
15 FSLN heavily influenced CSJ and lower-level court  
16 actions.”.

17 **SEC. 3. STATEMENT OF POLICY.**

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

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

21 (2) independent pro-democracy organizations in  
22 Nicaragua;

23 (3) free, fair, and transparent elections under  
24 international and domestic observers in Nicaragua;  
25 and



1 (4) anti-corruption and transparency efforts in  
2 Nicaragua.

3 **SEC. 4. INTERNATIONAL FINANCIAL INSTITUTIONS.**

4 (a) IN GENERAL.—The President shall instruct the  
5 United States Executive Director at each international fi-  
6 nancial institution to use the voice, vote, and influence of  
7 the United States to oppose any loan for the benefit of  
8 the Government of Nicaragua, other than to address basic  
9 human needs or promote democracy, unless the Secretary  
10 of State certifies and reports to the appropriate congres-  
11 sional committees that the Government of Nicaragua is  
12 taking effective steps to—

13 (1) hold free, fair, and transparent elections  
14 overseen by credible domestic and international elec-  
15 toral observers;

16 (2) promote democracy, as well as an inde-  
17 pendent judicial system and electoral council;

18 (3) strengthen the rule of law;

19 (4) respect the right to freedom of association  
20 and expression;

21 (5) combat corruption, including investigating  
22 and prosecuting government officials that are  
23 credibly alleged to be corrupt; and

24 (6) protect the right of political opposition par-  
25 ties, journalists, trade unionists, human rights de-

1 fenders, and other civil society activists to operate  
2 without interference.

3 (b) REPORT.—Not later than 180 days after the date  
4 of the enactment of this Act, the Secretary of the Treasury  
5 shall submit to the appropriate congressional committees  
6 a written report assessing—

7 (1) the effectiveness of the international finan-  
8 cial institutions in enforcing applicable program  
9 safeguards in Nicaragua; and

10 (2) the effects of the matters described in sec-  
11 tion 2 on long-term prospects for positive develop-  
12 ment outcomes in Nicaragua.

13 (c) DEFINITIONS.—In this section:

14 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
15 TEES.—The term “appropriate congressional com-  
16 mittees” means—

17 (A) the Committee on Foreign Affairs, the  
18 Committee on Appropriations, and the Com-  
19 mittee on Financial Services of the House of  
20 Representatives; and

21 (B) the Committee on Foreign Relations,  
22 the Committee on Appropriations, and the  
23 Committee on Banking, Housing, and Urban  
24 Affairs of the Senate.

1           (2) INTERNATIONAL FINANCIAL INSTITU-  
2           TION.—The term “international financial institu-  
3           tion” means the International Monetary Fund,  
4           International Bank for Reconstruction and Develop-  
5           ment, European Bank for Reconstruction and Devel-  
6           opment, International Development Association,  
7           International Finance Corporation, Multilateral In-  
8           vestment Guarantee Agency, African Development  
9           Bank, African Development Fund, Asian Develop-  
10          ment Bank, Inter-American Development Bank,  
11          Bank for Economic Cooperation and Development in  
12          the Middle East and North Africa, and Inter-Amer-  
13          ican Investment Corporation.

14          (d) TERMINATION.—This section shall terminate on  
15          the day after the earlier of—

16                 (1) the date on which the Secretary of State  
17                 certifies and reports to the appropriate congressional  
18                 committees that the requirements of subsection (a)  
19                 are met; or

20                 (2) 5 years after the date of the enactment of  
21                 this Act.

22          (e) WAIVER.—The President may waive this section  
23          if the President determines that such a waiver is in the  
24          national interest of the United States.

1 **SEC. 5. ORGANIZATION OF AMERICAN STATES.**

2 The President shall direct the United States Perma-  
3 nent Representative to the OAS to use the voice, vote, and  
4 influence of the United States at the OAS to strongly ad-  
5 vocate for an Electoral Observation Mission to be sent to  
6 Nicaragua in 2017 to observe the possibility of credible  
7 elections.

8 **SEC. 6. SENSE OF CONGRESS.**

9 The Department of State and the United States  
10 Agency for International Development should prioritize  
11 foreign assistance to the people of Nicaragua to assist civil  
12 society in democracy and governance programs, including  
13 human rights documentation.

14 **SEC. 7. REPORT ON CORRUPTION IN NICARAGUA.**

15 (a) REPORT REQUIREMENT.—Not later than 90 days  
16 after the date of the enactment of this Act, the Secretary  
17 of State, in consultation with the intelligence community  
18 (as defined in section 3(4) of the National Security Act  
19 of 1947 (50 U.S.C. 3003(4)), shall submit to Congress  
20 a report on the involvement of senior Nicaraguan govern-  
21 ment officials, including members of the Supreme Elec-  
22 toral Council, the National Assembly, and the judicial sys-  
23 tem, in acts of public corruption or human rights viola-  
24 tions in Nicaragua.

25 (b) FORM.—The report required in subsection (a)  
26 shall be submitted in unclassified form, but may contain

- 1 a classified annex. The unclassified portion of the report
- 2 shall be made available to the public.