

112TH CONGRESS
1ST SESSION

H. R. 3401

To apply counterinsurgency tactics under a coordinated and targeted strategy to combat the terrorist insurgency in Mexico waged by transnational criminal organizations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 2011

Mr. MACK introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Homeland Security and the Judiciary, 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

A BILL

To apply counterinsurgency tactics under a coordinated and targeted strategy to combat the terrorist insurgency in Mexico waged by transnational criminal organizations, 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 “Enhanced Border Se-
5 curity Act”.

1 **SEC. 2. STATEMENT OF PURPOSE.**

2 It is the purpose of this Act to protect United States
3 citizens from external threats by establishing and applying
4 appropriate counterinsurgency tactics under a coordinated
5 and targeted strategy to combat the terrorist insurgency
6 in Mexico waged by transnational criminal organizations
7 by utilizing cross-agency capabilities to—

8 (1) secure the United States-Mexico border
9 through a secure border area;

10 (2) curtail the ability of such organizations to
11 finance their operations with United States funds in
12 cities throughout the United States; and

13 (3) increase the ability of the Government of
14 Mexico to—

15 (A) reduce violence;

16 (B) diminish corruption;

17 (C) improve cooperation between military
18 and law enforcement;

19 (D) stabilize communities; and

20 (E) fortify functioning government institu-
21 tions.

22 **SEC. 3. FINDINGS.**

23 Congress finds the following:

24 (1) Mexican drug cartels have evolved into
25 transnational criminal organizations and diversified
26 and expanded their illicit activities, including human

1 smuggling, trafficking in stolen oil, weapons smug-
2 gling, extortion, kidnapping, and cybercrime.

3 (2) Mexican drug cartels have increased their
4 profits through various illicit activities and have be-
5 come more resilient and dangerous organizations.
6 Rough estimates of stolen oil proceeds range be-
7 tween \$2 billion and \$4 billion each year. According
8 to the United Nations Office on Drugs and Crime
9 (UNODC), approximately \$6.6 billion annually is
10 generated from human smuggling from Latin Amer-
11 ica to the United States.

12 (3) A July 2011 White House report found that
13 transnational criminal organizations have expanded
14 and matured, threatening the security of citizens
15 and the stability of governments throughout the re-
16 gion, with direct security implications for the United
17 States.

18 (4) An August 2011 Department of Justice Na-
19 tional Drug Threat Assessment found that Mexican-
20 based transnational criminal organizations were op-
21 erating in more than 1,000 United States cities dur-
22 ing 2009 and 2010.

23 (5) On October 11, 2011, a foiled terrorist as-
24 sassination plot of the Saudi Arabian Ambassador
25 by members of the Iranian Islamic Revolutionary

1 Guard Corps demonstrated the internationally recog-
2 nized threat posed by Mexican drug cartel members
3 at the United States-Mexico border.

4 (6) The Mérida Initiative, led by the Depart-
5 ment of State, has failed to address the evolution of
6 the drug trafficking organizations into transnational
7 criminal organizations, the diversification of their il-
8 licit activities, and the systematic implementation of
9 insurgency tactics that undermines the Mexican
10 state and seeks to control the political space.

11 (7) The Mérida Initiative has faced implemen-
12 tation challenges and programmatic delays. A July
13 2010 Government Accountability Office report high-
14 lighted Mérida Initiative delays associated with
15 equipment deliveries as well as a lack of clear bench-
16 marks for programmatic success.

17 (8) The utilization of counterinsurgency tactics
18 will focus on isolating Mexican transnational crimi-
19 nal organizations from their sources of power, such
20 as drugs, money, human resources, and weapons,
21 while addressing both military and non-military con-
22 ditions and border conditions sustaining the insur-
23 gency, including corruption, infighting, financing,
24 and human support.

1 (9) The end goal of the coordinated and tar-
2 geted strategy is to protect United States citizens
3 from external threats through the empowering of a
4 friendly and competent government that operates
5 within international laws and regulations and is able
6 to secure itself from internal threats.

7 **SEC. 4. DEFINITIONS.**

8 In this Act:

9 (1) **TERRORIST INSURGENCY.**—The term “ter-
10 rorist insurgency” means the protracted use of irreg-
11 ular warfare, including extreme displays of public vi-
12 olence utilized by transnational criminal organiza-
13 tions to influence public opinion and to undermine
14 government control and rule of law in order to in-
15 crease the control and influence of the organizations.

16 (2) **TRANSNATIONAL CRIMINAL ORGANIZATION**
17 **OR ORGANIZATION.**—The term “transnational crimi-
18 nal organization” or “organization” means a self-
19 perpetuating association of individuals who—

20 (A) operate transnationally for the purpose
21 of obtaining power, influence, monetary gain, or
22 commercial gain wholly or in part by illegal
23 means; and

24 (B) protect their activities—

1 (i) through a pattern of corruption or
2 violence; or

3 (ii) through a transnational organiza-
4 tional structure and the exploitation of
5 transnational commerce or communication
6 mechanisms.

7 **SEC. 5. COUNTERINSURGENCY STRATEGY AND CONDITION-**
8 **ALITY.**

9 (a) COUNTERINSURGENCY STRATEGY.—Not later
10 than 90 days after the date of the enactment of this Act,
11 the Secretary of State, with the concurrence of the Sec-
12 retary of Defense, the Secretary of Homeland Security,
13 the Attorney General, the Secretary of the Treasury, and
14 the Director of National Intelligence, shall submit to the
15 Committee on Foreign Affairs of the House of Representa-
16 tives and the Committee on Foreign Relations of the Sen-
17 ate a counterinsurgency strategy that—

18 (1) defines and outlines the transnational crimi-
19 nal organizations in Mexico, their leaders, goals, ob-
20 jectives, evolution, key elements, and areas of influ-
21 ence;

22 (2) provides an assessment of the terrain, popu-
23 lation, ports, financial centers, and income-gener-
24 ating activities utilized by transnational criminal or-
25 ganizations;

1 (3) assesses the capabilities of Mexico’s federal
2 law enforcement, military forces, state and local gov-
3 ernment institutions, and other critical elements,
4 such as nongovernmental organizations that may or-
5 ganize to counter the threat posed by transnational
6 criminal organizations;

7 (4) describes operations of, or on behalf of,
8 transnational criminal organizations within the
9 United States, including information on trafficking
10 activities, financial networks, and safe havens;

11 (5) describes operations of transnational crimi-
12 nal organizations at the United States-Mexico bor-
13 der, the Mexico-Guatemala border, and other inter-
14 national borders, including operations relating to
15 contraband, human support networks, financial sup-
16 port, and technological advancements;

17 (6) utilizes information obtained under para-
18 graphs (1) through (5) to coordinate with relevant
19 United States agencies to address the operations of
20 transnational criminal organizations within the
21 United States, at the United States-Mexico border,
22 and within Mexico to isolate such organizations from
23 their sources of power in order to successfully com-
24 bat the terrorist insurgency in Mexico;

25 (7) includes—

1 (A) within the United States, a plan to
2 combat the operations, financial networks, and
3 money laundering techniques of transnational
4 criminal organizations, including—

5 (i) a dramatic increase of the number
6 of Mexican and Central American drug
7 traffickers on the Specially Designated Na-
8 tionals list;

9 (ii) a report by the Office of Foreign
10 Assets Control of the Department of the
11 Treasury detailing the progress of desig-
12 nating Mexican and Central American indi-
13 viduals and entities supporting such orga-
14 nization on the Specially Designated Na-
15 tionals list, as well as providing sugges-
16 tions to help identify areas to further im-
17 pact the financial networks of such organi-
18 zations;

19 (iii) increasing cooperation between
20 the Department of Justice and State and
21 local agencies responsible for firearms law
22 enforcement; and

23 (iv) development of a thorough, strict,
24 and standardized accounting procedure for
25 keeping track of Federal grant assistance

1 provided to State and local law enforce-
2 ment agencies for border security pur-
3 poses;

4 (B) at the United States-Mexico border, in
5 coordination with the Government of Mexico
6 and the Department of Homeland Security, a
7 plan to address resources, technology, and in-
8 frastructure required to create a secure border
9 area that establishes border security as a top
10 priority of the Government of the United
11 States, including—

12 (i) doubling the number of Border Pa-
13 trol agents over the number in existence as
14 of the date of the enactment of this Act,
15 or as determined by the Secretary of
16 Homeland Security, in a comprehensive re-
17 port on the best use of resources, tech-
18 nology, and infrastructure to secure the
19 border;

20 (ii) development of a plan to build ad-
21 ditional infrastructure to support Border
22 Patrol activities along the border that
23 would enhance security in hard-to-enforce
24 areas, such as roads and tactical double

1 layered fencing as determined by the Sec-
2 retary of Homeland Security;

3 (iii) determining technology required
4 to support Border Patrol activities in re-
5 ducing unlawful movement of goods and
6 people at the border, including cameras,
7 radars, sensors, and unmanned aerial vehi-
8 cles;

9 (iv) a report by the Attorney General
10 that provides a policy that standardizes the
11 threshold for prosecution of border-related
12 offenses by the United States Attorney's
13 Office;

14 (v) a plan to develop a joint United
15 States-Mexico program to increase intel-
16 ligence gathering utilizing classified tech-
17 nologies; and

18 (vi) increased use of Border Patrol
19 Special Response Teams that concentrate
20 on high-priority threats, including weapons
21 and bulk cash smuggling, and high-po-
22 tency, high-cash-value drugs along the bor-
23 der; and

1 (C) within Mexico, in coordination with the
2 Government of Mexico, the development of a
3 multi-agency action plan, including—

4 (i) development of strong rule-of-law
5 institutions to provide security for people
6 and businesses in Mexico by—

7 (I) increasing coordination
8 among military and law enforcement
9 agencies focused on establishing and
10 expanding secure areas around key
11 population centers;

12 (II) increasing knowledge of best
13 practices for combating such organiza-
14 tions, incorporating United States
15 military and law enforcement lessons
16 learned, worldwide counterinsurgency
17 experts in training programs, and as
18 appropriate, training carried out by
19 international law enforcement acad-
20 emies; and

21 (III) securing the environment,
22 as recommended in separate reports
23 by the Secretary of Defense and the
24 Director of National Intelligence;

1 (ii) diminish support for transnational
2 criminal organizations by—

3 (I) instituting programs to
4 strengthen governance and rule of
5 law, such as promoting a culture of
6 lawfulness and providing incentives to
7 United States businesses operating in
8 Mexico that promote and support cul-
9 ture of lawfulness efforts;

10 (II) developing safe communities
11 for families and youth by enhancing
12 and recreating successful youth pro-
13 grams and anti-drug coalitions, en-
14 hancing public education regarding
15 the activities of such organizations,
16 and promoting economic development;
17 and

18 (III) promoting the creation and
19 enhancement of the institutions of
20 good local governance; and

21 (iii) neutralize transnational criminal
22 organizations by—

23 (I) re-evaluating threats within
24 Mexican regions in order to assign a
25 specialized task force to key regions

1 designed to concentrate on high-pri-
2 ority targets and separate such orga-
3 nizations from their sources of sup-
4 port;

5 (II) requesting the support of
6 United States military advisors to as-
7 sist the Mexican regional task forces;
8 and

9 (III) supporting Mexican federal
10 law enforcement operations that pro-
11 vide services to the population while
12 gathering raw intelligence and pro-
13 viding such intelligence to regional
14 task forces; and

15 (8) includes a report on Mexican and Central
16 American extradition requests and extraditions car-
17 ried out.

18 (b) UPDATES.—

19 (1) OFFICE OF FOREIGN ASSETS CONTROL.—
20 The Office of Foreign Assets Control of the Depart-
21 ment of the Treasury shall submit to the congres-
22 sional committees specified in subsection (a) updates
23 on a quarterly basis of the information required to
24 be included in the counterinsurgency strategy under
25 subsection (a)(7)(A)(ii).

1 (2) SECRETARY OF STATE.—The Secretary of
2 States shall submit to the congressional committees
3 specified in subsection (a) updates on a quarterly
4 basis of the information required to be included in
5 the counterinsurgency strategy under subsection
6 (a)(8).

7 (c) WITHHOLDING OF FUNDS.—Notwithstanding any
8 other provision of law, if the Secretary of State does not
9 submit the counterinsurgency strategy required under
10 subsection (a) in accordance with such subsection, then
11 20 percent of the amounts otherwise made available to the
12 Department of State for fiscal year 2012 shall be withheld
13 from obligation and expenditure until such time as the
14 strategy is submitted in accordance with such subsection.

15 **SEC. 6. FUNDING FOR DEVELOPMENT AND IMPLEMENTA-**
16 **TION OF COUNTERINSURGENCY STRATEGY.**

17 Notwithstanding any other provision of law, funds
18 made available to the Department of State for the Merida
19 Initiative are authorized to be made available to develop
20 and implement the counterinsurgency strategy required
21 under section 5(a).

○