

111TH CONGRESS
2D SESSION

S. 4011

To establish the Western Hemisphere Drug Policy Commission.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2010

Mr. MENENDEZ (for himself, Mr. LUGAR, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To establish the Western Hemisphere Drug Policy
Commission.

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 “Western Hemisphere
5 Drug Policy Commission Act of 2010”.

6 **SEC. 2. ESTABLISHMENT OF WESTERN HEMISPHERE DRUG**
7 **POLICY COMMISSION.**

8 There is established an independent commission to be
9 known as the “Western Hemisphere Drug Policy Commis-
10 sion” (in this Act referred to as the “Commission”).

1 **SEC. 3. PURPOSE.**

2 The purposes of the Commission are as follows:

3 (1) The Commission shall review and evaluate
4 the effectiveness of United States policies and pro-
5 grams regarding illicit drug supply reduction and
6 interdiction with an emphasis on the countries of the
7 Western Hemisphere, as well as foreign and domes-
8 tic demand reduction policies and programs. The
9 Commission shall recommend changes to such poli-
10 cies and programs that could more effectively—

11 (A) reduce the supply and trafficking of,
12 and demand for, illicit drugs;

13 (B) reduce the violence and corruption as-
14 sociated with illicit drug production and dis-
15 tribution;

16 (C) reduce the threats to public health as-
17 sociated with illicit drug use, such as the spread
18 of HIV/AIDS; and

19 (D) anticipate and mitigate the unintended
20 adverse consequences associated with policies
21 intended to reduce illicit drug supply and de-
22 mand.

23 (2) The Commission shall recommend a multi-
24 year interagency counternarcotics strategy for the
25 Western Hemisphere, describing the diplomatic,
26 criminal justice, civil society, economic development,

1 demand reduction, military, and other assistance re-
2 quired to achieve regional counternarcotics goals.

3 **SEC. 4. DUTIES OF THE COMMISSION.**

4 (a) REVIEW OF ILLICIT DRUG SUPPLY REDUCTION
5 AND DEMAND REDUCTION POLICIES.—The Commission
6 shall conduct a comprehensive review of the effectiveness
7 of United States policies regarding illicit drug supply re-
8 duction, interdiction, and demand reduction policies and
9 shall, at a minimum, address the following topics:

10 (1) An assessment of United States illicit drug
11 control policies in the Western Hemisphere, includ-
12 ing interdiction efforts, efforts to curb the traf-
13 ficking of chemical precursors, crop eradication pro-
14 grams, and the support of economic development al-
15 ternatives to illicit drug crop cultivation and produc-
16 tion.

17 (2) The impact of the Andean Counterdrug Ini-
18 tiative, the Merida Initiative, the Central American
19 Regional Security Initiative (CARSI), the Caribbean
20 Basin Security Initiative, and other programs in
21 curbing illicit drug production, drug trafficking, and
22 drug-related violence in the region.

23 (3) A review of the illicit drug control programs
24 and resources utilized by all agencies and depart-
25 ments of the United States Government and rec-

1 commendations to reduce duplication of efforts and
2 resources and improve coordination.

3 (4) An assessment of the extent to which the
4 United States drug certification process serves
5 United States interests with respect to United
6 States illicit drug control objectives in the Western
7 Hemisphere.

8 (5) An assessment of the nature and extent of
9 the United States population's demand for illicit
10 drugs.

11 (6) An assessment of whether the latest supply
12 and availability estimates for marijuana, cocaine,
13 heroin, and methamphetamine indicate that United
14 States retail-level availability is stable, significantly
15 lower, or significantly higher than it was one year
16 earlier and ten years earlier.

17 (7) An assessment of the extent to which the
18 consumption of illicit drugs in the United States is
19 driven by individuals addicted to or abusive of illicit
20 drugs, and of the most effective methods in the
21 United States and other countries for treating those
22 individuals and reducing the damage to themselves,
23 their families, and society, including anti-drug coalitions,
24 drug courts, and programs aimed at preventing
25 recidivism.

1 (8) An assessment of whether proper and real-
2 istic goals are being set for United States illicit drug
3 control policy, and whether appropriate indicators of
4 success are being used to measure performance and
5 outcomes.

6 (9) An assessment of the effectiveness of the il-
7 licit drug control policies and programs of other
8 countries facing similar challenges, and the extent to
9 which they could be effective if adopted and imple-
10 mented by the United States.

11 (10) Recommendations for changes to United
12 States policies and programs that could more effec-
13 tively—

14 (A) reduce the supply and trafficking of,
15 and demand for, illicit drugs;

16 (B) reduce the violence and corruption as-
17 sociated with illicit drug production and dis-
18 tribution;

19 (C) reduce the threats to public health as-
20 sociated with illicit drug use, such as the spread
21 of HIV/AIDS; and

22 (D) anticipate and mitigate the unintended
23 adverse consequences associated with policies
24 intended to reduce illicit drug supply and de-
25 mand.

1 (b) MULTIYEAR INTERAGENCY COUNTERNARCOTICS
2 STRATEGY.—The Commission shall recommend a
3 multiyear interagency counternarcotics strategy for the
4 Western Hemisphere that includes—

5 (1) a description of the diplomatic, criminal jus-
6 tice, anti-corruption, civil society, economic develop-
7 ment, demand reduction, military, intelligence shar-
8 ing and other assistance required to achieve regional
9 counternarcotics goals;

10 (2) a methodology for countering shifts in pro-
11 duction and transit routes by producers and traf-
12 fickers due to pressure from counternarcotics ef-
13 forts;

14 (3) the role of each of the relevant United
15 States government agencies in effectively coordi-
16 nating the multiyear strategy, including—

17 (A) the Department of State;

18 (B) the United States Agency for Inter-
19 national Development;

20 (C) the Department of Defense;

21 (D) the Department of Justice;

22 (E) the Department of Homeland Security;

23 and

24 (F) the intelligence agencies; and

1 (4) regional and, as necessary, country-specific
 2 metrics that reflect the particular challenges in
 3 source, transit, and demand zone countries.

4 (c) COORDINATION WITH GOVERNMENTS, INTER-
 5 NATIONAL ORGANIZATIONS, AND NONGOVERNMENTAL
 6 ORGANIZATIONS (NGOS) IN THE WESTERN HEMI-
 7 SPHERE.—In conducting the review required under sub-
 8 section (a) and preparing the strategy required under sub-
 9 section (b), the Commission shall consult with—

10 (1) government, academic, and nongovern-
 11 mental leaders from the United States, Latin Amer-
 12 ica, and the Caribbean, as well as leaders of inter-
 13 national organizations; and

14 (2) the Inter-American Drug Abuse Control
 15 Commission (CICAD) to examine what changes
 16 would increase its effectiveness.

17 (d) REPORT.—

18 (1) IN GENERAL.—Not later than 18 months
 19 after the first meeting of the Commission, the Com-
 20 mission shall submit to the Committees on Appro-
 21 priations, Foreign Relations, Armed Services,
 22 Health, Education, Labor and Pensions, and the Ju-
 23 diary of the Senate, and the Committees on Appro-
 24 priations, Foreign Affairs, Armed Services, Energy
 25 and Commerce, and the Judiciary of the House of

1 Representatives, the Secretary of State, the Admin-
2 istrator of the United States Agency for Inter-
3 national Development, the Secretary of Defense, the
4 Secretary of the Treasury, the Secretary of Health
5 and Human Services, the Attorney General, and the
6 Director of the Office of National Drug Control Pol-
7 icy (ONDCP) a report that details the findings, con-
8 clusions, and recommendations of the Commission,
9 including the findings of the review conducted under
10 subsection (a), the strategy prepared under sub-
11 section (b), and summaries of the views and rec-
12 ommendations of the leaders and organizations with
13 which it consulted under subsection (c).

14 (2) PUBLIC AVAILABILITY.—The report re-
15 quired under this subsection shall be made available
16 to the public in a timely manner.

17 **SEC. 5. MEMBERSHIP.**

18 (a) NUMBER AND APPOINTMENT.—The Commission
19 shall be composed of ten members, to be appointed as fol-
20 lows:

21 (1) The majority leader and minority leader of
22 the Senate shall each appoint two members.

23 (2) The Speaker and the minority leader of the
24 House of Representatives shall each appoint two
25 members.

1 (3) The President shall appoint two members
2 who are employees of departments and agencies of
3 the United States with expertise relevant to the
4 Commission's work.

5 (b) APPOINTMENTS.—The Commission may not in-
6 clude Members of Congress or other currently elected Fed-
7 eral, State, or local government officials.

8 (c) PERIOD OF APPOINTMENT.—Each member shall
9 be appointed for the life of the Commission. Any vacancies
10 shall not affect the power and duties of the Commission,
11 but shall be filled in the same manner as the original ap-
12 pointment.

13 (d) DATE.—Members of the Commission shall be ap-
14 pointed not later than 60 days after the date of the enact-
15 ment of this Act.

16 (e) INITIAL MEETING AND SELECTION OF CHAIR-
17 PERSON.—Not later than 90 days after the date of the
18 enactment of this Act, the Commission shall hold an initial
19 meeting to develop and implement a schedule for comple-
20 tion of the review, strategy, and report required under sec-
21 tion 4. At the initial meeting, the Commission shall select
22 a Chairperson from among its members.

23 (f) QUORUM.—Six members of the Commission shall
24 constitute a quorum.

1 (g) TRAVEL EXPENSES.—Members shall receive trav-
2 el expenses, including per diem in lieu of subsistence, in
3 accordance with sections 5702 and 5703 of title 5, United
4 States Code, while away from their homes or regular
5 places of business in performance of services for the Com-
6 mission.

7 **SEC. 6. POWERS.**

8 (a) MEETINGS.—The Commission shall meet at the
9 call of the Chairperson or a majority of its members.

10 (b) HEARINGS.—The Commission may hold such
11 hearings and undertake such other activities as the Com-
12 mission determines necessary to carry out its duties.

13 (c) OTHER RESOURCES.—The Commission shall have
14 timely and reasonable access to documents, statistical
15 data, and other such information the Commission deter-
16 mines necessary to carry out its duties from the Library
17 of Congress, the Office of National Drug Control Policy,
18 the Department of State, the United States Agency for
19 International Development, the Department of Health and
20 Human Services, the Department of Justice (including the
21 Drug Enforcement Administration), the Department of
22 Defense (including the United States Southern and North-
23 ern Commands), the Department of the Treasury, and
24 other agencies of the executive and legislative branches of
25 the Federal Government. The Chairperson of the Commis-

1 sion shall make requests for such access in writing when
2 necessary. The General Services Administration (GSA)
3 shall make office space available for day-to-day Commis-
4 sion activities and for scheduled Commission meetings.
5 Upon request, the Administrator of General Services shall
6 provide, on a reimbursable basis, such administrative sup-
7 port as the Commission requests to fulfill its duties.

8 (d) AUTHORITY TO USE THE UNITED STATES
9 MAILS.—The Commission may use the United States
10 mails in the same manner and under the same conditions
11 as other departments and agencies of the United States.

12 (e) AUTHORITY TO CONTRACT.—The Commission is
13 authorized to enter into contracts with Federal and State
14 agencies, private firms, institutions, and individuals for
15 the conduct of activities necessary to the discharge of its
16 duties and responsibilities. A contract, lease, or other legal
17 agreement entered into by the Commission may not extend
18 beyond the date of termination of the Commission.

19 **SEC. 7. STAFF.**

20 (a) EXECUTIVE DIRECTOR.—The Commission shall
21 have a staff headed by an Executive Director. The Execu-
22 tive Director and such staff shall be paid at a rate of not
23 more than the daily equivalent of the compensation pre-
24 scribed for level V of the Executive Schedule.

1 (b) STAFF APPOINTMENT.—With the approval of the
2 Commission, the Executive Director may appoint such
3 personnel as the Executive Director determines to be ap-
4 propriate. The Commission may appoint and fix the com-
5 pensation of such other personnel as may be necessary to
6 enable the Commission to carry out its duties, without re-
7 gard to the provisions of title 5, United States Code, gov-
8 erning appointments in the competitive service, and with-
9 out regard to the provisions of chapter 51 and subchapter
10 III of chapter 53 of such title relating to classification and
11 General Schedule pay rates, except that no rate of pay
12 fixed under this subsection may exceed the equivalent of
13 that payable to a person occupying a position at level V
14 of the Executive Schedule under section 5316 of such title.

15 (c) EXPERTS AND CONSULTANTS.—With the ap-
16 proval of the Commission, the Executive Director may
17 procure temporary and intermittent services under section
18 3109(b) of title 5, United States Code.

19 (d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon
20 the request of the Commission, the head of any Federal
21 agency may detail, without reimbursement, any of the per-
22 sonnel of such agency to the Commission to assist in car-
23 rying out the duties of the Commission. Any such detail
24 shall not interrupt or otherwise affect the civil service sta-
25 tus or privileges of the personnel.

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

2 Of the amounts authorized to be appropriated to the
3 Department of State under the heading “Diplomatic and
4 Consular Programs” for fiscal years 2011 and 2012, not
5 more than \$250,000 may be made available to the Com-
6 mission to carry out the purposes of this Act.

7 **SEC. 9. SUNSET.**

8 The Western Hemisphere Drug Policy Commission
9 shall terminate 60 days after the submission to Congress
10 of the report required under section 4(d).

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