

103D CONGRESS
1ST SESSION

S. 169

To prohibit the solicitation or diversion of funds to carry out activities
forbidden by law.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. MOYNIHAN introduced the following bill; which was read twice and
referred to the Committee on Foreign Relations

A BILL

To prohibit the solicitation or diversion of funds to carry
out activities forbidden by law.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **TITLE I—PROHIBITION ON CHANNELING**
4 **OR DIVERTING FUNDS TO CARRY OUT**
5 **ACTIVITIES FOR WHICH UNITED**
6 **STATES ASSISTANCE IS PROHIBITED**

7 SEC. 101. (a) PROHIBITION.—(1) Whenever any pro-
8 vision of United States law expressly refers to this section
9 and expressly prohibits all United States assistance, or all
10 assistance under a specified United States assistance ac-

1 count, from being provided to any specified foreign region,
2 country, government, group, or individual for all or speci-
3 fied activities, then no officer or employee of the executive
4 branch may—

5 (A) receive, accept, hold, control, use, spend,
6 disburse, distribute, or transfer any funds or prop-
7 erty from any foreign government (including any in-
8 strumentality or agency thereof), foreign person, or
9 United States person;

10 (B) use any United States funds or facilities to
11 assist any transaction whereby a foreign government
12 (including any instrumentality or agency thereof),
13 foreign person or United States person provides any
14 funds or property to any third party; or

15 (C) provide any United States assistance to any
16 third party, if the purpose of any such act is the fur-
17 thering or carrying out of the same activities, with
18 respect to that region, country, government, group,
19 or individual, for which United States assistance is
20 expressly prohibited.

21 (2) As used within the meaning of paragraph (1), as-
22 sistance which is provided for the purpose of furthering
23 or carrying out the same or similar activities for which
24 United States assistance is expressly prohibited includes
25 assistance provided under an arrangement conditioning,

1 expressly or impliedly, action by the recipient to further
2 those activities.

3 (b) PENALTY.—Any person who knowingly and will-
4 fully violates the provision of subsection (a)(1) shall be
5 imprisoned not more than five years or fined in accordance
6 with title 18, United States Code, or both.

7 (c) PRESIDENTIAL NOTIFICATION.—(1) Whenever—
8 (A) any provision of United States law de-
9 scribed in subsection (a)(1) expressly refers to this
10 section and expressly prohibits the provision of
11 United States assistance for specified recipients or
12 activities, and

13 (B) any officer or employee of the executive
14 branch advocates, promotes, or encourages the provi-
15 sion of funds or property by any foreign government
16 (including any instrumentality or agency thereof),
17 foreign person, or United States person for the pur-
18 pose of furthering or carrying out the same or simi-
19 lar activities with respect to such recipients,

20 then the President shall notify the Congress in a timely
21 fashion that such advocacy, promotion, or encouragement
22 has occurred. Such notification may be submitted in clas-
23 sified form.

24 (2) Nothing in this subsection shall be construed as
25 authorizing any action prohibited by subsection (a).

1 (d) APPLICABILITY.—The provisions of this section
2 shall not be superseded except by a provision of law en-
3 acted on or after the date of enactment of the Foreign
4 Relations Authorization Act, Fiscal Years 1990 and 1991,
5 which specifically repeals, modifies, or supersedes the pro-
6 visions of this section.

7 (e) CONSTRUCTION.—(1) Nothing in this section
8 shall be construed to limit—

9 (A) the ability of the President, the Vice Presi-
10 dent, or any officer or employee of the executive
11 branch to make statements or otherwise express his
12 views to any party on any subject;

13 (B) the ability of an officer or employee of the
14 United States to express the publicly enunciated
15 policies of the President; or

16 (C) the ability of an officer or employee of the
17 United States to communicate with any foreign
18 country, government, group, or individual, either di-
19 rectly or through a third party, with respect to a
20 prohibition on United States assistance covered by
21 subsection (a)(1), including the reasons for such
22 prohibitions, and the actions, terms, or conditions
23 which might lead to the removal of such prohibition.

24 (2) Nothing in this section shall be construed as
25 waiving or otherwise derogating from any other provision

1 of law imposing penalties or obligations with respect to
2 any of the acts described in subparagraph (A), (B), or (C)
3 of subsection (a)(1).

4 (f) DEFINITIONS.—For purposes of this section—

5 (1) the term “person” includes (A) any natural
6 person, (B) any corporation, partnership, or other
7 legal entity, and (C) any organization, association,
8 or other group;

9 (2) the term “United States assistance”
10 means—

11 (A) assistance of any kind under the For-
12 eign Assistance Act of 1961;

13 (B) sales, credits, and guarantees under
14 the Arms Export Control Act;

15 (C) export licenses issued under the Arms
16 Control Act; and

17 (D) activities authorized pursuant to the
18 National Security Act of 1947 (50 U.S.C. 410
19 et seq.), the Central Intelligence Agency Act of
20 1949 (50 U.S.C. 403a et seq.), or Executive
21 Order Numbered 12333 (December 4, 1981),
22 excluding any activity involving the provision or
23 sharing of intelligence information; and

24 (3) the term “United States assistance ac-
25 count” means an account corresponding to an au-

1 thorization of appropriations for United States as-
2 sistance.

○