



Senator Feinstein and 6 Colleagues Urge Mexico to Enact Legislation Criminalizing the Construction or Financing of Border Tunnels

- Call on Mexican Congress and President Fox to adopt legislation similar to bill introduced in the U.S. Senate -

March 16, 2006

Washington, DC – U.S. Senator Dianne Feinstein (D-Calif.) and six of her Senate colleagues are urging Mexico to enact legislation similar to a bill introduced by Senator Feinstein to criminalize the construction or financing of a border tunnel between the United States and Mexico or Canada. The other Senators who signed onto the letter were Pete Domenici (R-N.M.), Barbara Boxer (D-Calif.), Conrad Burns (R-Mont.), Norm Coleman (R-Minn.), Maria Cantwell (D-Wash.), and Jim Talent (R-Mo.)

In letters to members of the Mexican Congress and Mexican President Vicente Fox, Senator Feinstein and her colleagues outlined the details of the Senate proposal, and explained that this legislation was prompted by the discovery of a highly sophisticated, half-mile long tunnel between the United States and Mexico that could have been used to traffic drugs, humans, guns, or even terrorists between the two countries.

“It is our hope that Mexico would consider enacting similar legislation,” the Senators wrote. **“Our countries must continue to work together to address this problem by discovering and shutting down those who build, finance or use border tunnels for illegal purposes.”**

Forty tunnels and subterranean passages into the United States have been discovered since 2001. According to the Department of Homeland Security, these tunnels are typically built first to smuggle drugs, and quickly transition into passages for smuggling illegal aliens. Senator Feinstein and her colleagues are concerned that these border tunnels could be used to smuggle weapons and terrorists into the United States as well.

Specifically, Senator Feinstein’s bill would:

- Impose a punishment of up to 20 years imprisonment for constructing or financing a tunnel crossing international borders into the United States;
- Impose a punishment of up to 10 years imprisonment for anyone who negligently permits others to construct or use an unauthorized tunnel or subterranean passage on their land;
- Punish any person who uses a tunnel or subterranean passage to smuggle aliens, weapons, drugs, terrorists or illegal goods by doubling the sentence for the underlying offense if convicted;

- Forfeit the assets of anyone involved in the offense, or any property traceable to the offense, in addition to imprisonment;
- Authorize and fund Department of Homeland Security efforts to fill in these tunnels and subterranean passages; and
- Instruct the U.S. Sentencing Commission to amend sentencing guidelines to provide for criminal penalties for persons convicted under this bill, and to take into account the gravity of this crime when considering the base offense levels.

Following is the text of the letter sent to President Fox and members of the Mexican Congress:

March 15, 2006

The Honorable Vicente Fox
 President of Mexico
 Republica
 Residencia Oficial de los Pinos
 Mexico DF

Sen. Enrique Jackson Ramirez
 Presidente de la Mesa Directiva del Senado de la

-and-

Dip. Maria Marcela Gonzalez Sales y Petricioli
 Presidente de la Mesa Directiva de la H. Cámara de
 Diputados
 México, D.F.

Dear Sirs and Madams:

We write to apprise you of the fact that a bipartisan coalition of members, in both the Senate and the House of Representatives of the U.S. Congress, has introduced legislation which criminalizes the unauthorized construction, financing, or reckless permitting (on one's land) the construction or use of a tunnel or subterranean passageway between the United States and Mexico or Canada.

We introduced this legislation after discovering a highly sophisticated tunnel nearly half mile long from Mexico into the United States, just south of San Diego, California.

This was the 40th tunnel discovered along our borders since September 11, 2001, and the complexity and sophistication of this tunnel starkly highlights the potential risks and harms to both the United States and Mexico from such tunnels, through which guns, drugs, and humans are being smuggled.

The *Border Tunnel Prevention Act* amends our federal code to criminalize two types of conduct. First, the construction or financing of an unauthorized tunnel or subterranean passage across an international border into the United States, making it a crime punishable by a term of imprisonment up to 20 years. Second, recklessly permitting others to construct or use an unauthorized tunnel or subterranean passage on their land, making it a crime punishable by a term of imprisonment of up to 10 years.

Any person who is convicted under this law and who uses a tunnel or subterranean passage to smuggle aliens, weapons, drugs, terrorists, or illegal goods will be punished by doubling the sentence for the underlying offense. In addition to imprisonment, the legislation

ensures that assets involved in the offense, or any property traceable to the offense, may be subject to forfeiture to the U.S. Government. And again, property owners who recklessly disregard the existence of tunnels on their land will be held to account.

It is our hope that Mexico would consider enacting similar legislation, and that our countries can continue to work together to address this problem by discovering and shutting down those who build, finance or use border tunnels for illegal purposes.

Sincerely yours,

Dianne Feinstein
United States Senator

Pete Domenici
United States Senator

Barbara Boxer
United States Senator

Conrad Burns
United States Senator

Norm Coleman
United States Senator

Maria Cantwell
United States Senator

Jim Talent
United States Senator

cc: Sen. Silvia Hernandez Enriquez and Dip. Adriana Gonzalez Carrillo
Presidents of the Committee for North America

Ambassador Carlos de Icaza

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