

116TH CONGRESS
1ST SESSION

S. 2953

To provide congressional oversight of United States talks with Taliban officials and Afghanistan’s comprehensive peace process.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 21, 2019

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

A BILL

To provide congressional oversight of United States talks with Taliban officials and Afghanistan’s comprehensive peace process.

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 “Ensuring a Durable
5 Afghanistan Peace Act of 2019”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) APPROPRIATE CONGRESSIONAL COMMIT-
9 TEES.—The term “appropriate congressional com-
10 mittees” means—

1 (A) the Committee on Foreign Relations,
 2 the Committee on Armed Services, and the
 3 Committee on Appropriations of the Senate;
 4 and

5 (B) the Committee on Foreign Affairs, the
 6 Committee on Armed Services, and the Com-
 7 mittee on Appropriations of the House of Rep-
 8 resentatives.

9 (2) UNITED STATES SPECIAL REPRESENTATIVE
 10 FOR AFGHAN RECONCILIATION.—The term “United
 11 States Special Representative for Afghan Reconcili-
 12 ation” or “SRAR” refers to the United States De-
 13 partment of State office charged with conducting
 14 peace talks with the Taliban.

15 (3) GOVERNMENT OF AFGHANISTAN.—The
 16 term “Government of Afghanistan” means the Gov-
 17 ernment of Afghanistan and its agencies, instrumen-
 18 talities, and controlled entities.

19 (4) NATIONAL SECURITY COMMITTEES.—The
 20 term “national security committees” means—

21 (A) the Committee on Foreign Relations,
 22 the Committee on Armed Services, and the Se-
 23 lect Committee on Intelligence of the Senate;
 24 and

1 (B) the Committee on Foreign Affairs, the
2 Committee on Armed Services, and the Perma-
3 nent Select Committee on Intelligence of the
4 House of Representatives.

5 (5) TALIBAN OFFICIALS.—The term “Taliban
6 officials” refers to the leader and members of the
7 Afghan Taliban, and its officials constituting the
8 Taliban peace delegation, including the head of the
9 peace delegation based in Qatar.

10 (6) THE TALIBAN.—The term “the Taliban”
11 refers to the organization led by Mawlawi Hibatullah
12 Akhundzada.

13 **SEC. 3. FINDINGS.**

14 Congress makes the following findings:

15 (1) After al-Qaeda attacked the United States
16 on September 11, 2001, the United States Govern-
17 ment sought to eliminate al-Qaeda’s safe havens and
18 training camps in Afghanistan.

19 (2) While in power, the Taliban government, led
20 by Mullah Omar, granted al-Qaeda sanctuary in Af-
21 ghanistan. The Taliban government fell in 2001 fol-
22 lowing the United States-led Operation Enduring
23 Freedom.

24 (3) The United States Armed Forces, inter-
25 national partners, and the Afghan National Security

1 and Defense Forces have fought with valor, honor,
2 and effectiveness to eliminate terrorist threats, in-
3 cluding threats against the United States. Since
4 September 11, 2001, there have been no attacks on
5 United States soil emanating from Afghanistan. The
6 United States has made significant progress towards
7 its original counterterrorism objectives in Afghani-
8 stan by decimating the leadership of al-Qaeda.

9 (4) The United States military mission in Af-
10 ghanistan (Operation Enduring Freedom and Oper-
11 ation Freedom Sentinel) has been the longest mili-
12 tary operation in United States history. More than
13 2,200 United States service men and women have
14 been killed in Afghanistan, with more than 20,000
15 service members wounded. United States forces con-
16 tinue to disrupt and degrade the Taliban's combat
17 operations, the Islamic State of Iraq and the Le-
18 vant-Khorasan Province (ISIS-K) and al-Qaeda ac-
19 tivities in Afghanistan, through partnered operations
20 with Afghan forces, as well as unilateral operations.

21 (5) Responding to the only Article V invocation
22 in NATO's history, 17,000 service members from 39
23 countries currently operate in Afghanistan, including
24 approximately 12,000 United States forces.

1 (6) Afghan security forces have reportedly lost
2 more than 45,000 soldiers in battle since 2014.

3 (7) In September 2018, the Department of
4 State appointed former Ambassador to Afghanistan
5 Zalmay Khalilzad as the United States Special Rep-
6 resentative for Afghan Reconciliation (SRAR).

7 (8) The NATO Mission Commander, United
8 States Army General Austin “Scott” Miller stated in
9 October 2018, “This [war in Afghanistan] is not
10 going to be won militarily . . . This is going to be
11 a political solution.”

12 (9) In October 2018, the Government of Paki-
13 stan released Mullah Abdul Ghani Baradar, one of
14 the co-founders of the Taliban, whom Pakistani au-
15 thorities had arrested in Karachi in 2010. In Janu-
16 ary 2019, Mr. Baradar was appointed as the head
17 of the Taliban’s political office in Qatar to lead
18 peace talks with the United States.

19 (10) SRAR Khalilzad announced on Twitter on
20 March 12, 2019, after peace talks with Taliban offi-
21 cials, a four-pronged framework for peace in Af-
22 ghanistan: counter-terrorism assurances, troop with-
23 drawal, intra-Afghan dialogue, and a comprehensive
24 ceasefire. He noted that in January 2019, he and
25 the Taliban “agreed in principle” on the four ele-

1 ments, and that the two sides had “agreed in draft”
2 on the first two elements during the March 2019
3 talks. He stated, “When the agreement in draft
4 about a withdrawal timeline and effective counterter-
5 rorism measures is finalized, the Taliban and other
6 Afghans, including the government, will begin intra-
7 Afghan negotiations on a political settlement and
8 comprehensive ceasefire . . . and there is no final
9 agreement until everything is agreed”.

10 (11) On April 26, 2019, the United States De-
11 partment of State issued a media note on the Joint
12 Statement on Trilateral Meeting on Afghan Peace
13 Process following a meeting in Moscow between rep-
14 resentatives from the United States, China, and
15 Russia stating, “They [the three country representa-
16 tives] take note of the Afghan Taliban’s commitment
17 to: fight ISIS and cut ties with al-Qaeda, ETIM,
18 and other international terrorists groups; ensure the
19 areas they control will not be used to threaten any
20 other country, and call on them to prevent terrorist
21 recruiting, training, and fundraising, and expel any
22 known terrorists.”

23 (12) In an interview with the New York Times
24 in January 2019, SRAR Khalilzad stated, “The
25 Taliban [officials] have committed, to our satisfac-

tion, to do what is necessary that would prevent Afghanistan from ever becoming a platform for international terrorist groups or individuals.”

(13) Al Qaeda considers Afghanistan a continuing safe haven for its leadership, relying on its long-standing and strong relationship with the Taliban leadership. Top leaders of al Qaeda remain loyal to the leader of the Taliban, Mawlawi Hibatullah Akhundzada. Osama bin Laden’s successor Ayman al-Zawahiri publicly declared his allegiance to Akhundzada in 2016.

(14) The Haqqani Network is subsumed under the larger Taliban umbrella network, but maintains distinct command, control, and lines of operations. The Haqqani Network leader is Sirajuddin Haqqani, who is also the deputy leader of the Taliban and oversees armed combat against United States and coalition forces.

(15) ISIS–K has claimed presence in Afghanistan since 2015, and suffered from territorial losses in 2018 due to immense pressure from sustained operations by United States and Afghan forces. The Department of Defense’s June 2019 report, “Enhancing Security and Stability in Afghanistan”, submitted to Congress in accordance with section 1225

1 of the Carl Levin and Howard P. “Buck” McKeon
2 National Defense Authorization Act for Fiscal Year
3 2015 (Public Law 113–291; 128 Stat. 3550), noted
4 that the ISIS–K had made territorial gain during
5 the reporting period. The report stated, “ISIS-K
6 poses a threat not only to Afghanistan, but also to
7 the West, which it continuously seeks to target for
8 terrorist activity.”

9 (16) On June 25, 2019, Secretary Mike
10 Pompeo announced during a visit to Kabul that—

11 (A) the United States Government and
12 Taliban officials were nearly ready to conclude
13 a draft text outlining the Taliban’s counterter-
14 rorism assurances;

15 (B) discussions had begun with the
16 Taliban regarding foreign military presence,
17 which remains conditions-based, and that there
18 is no agreed timeline for withdrawal;

19 (C) the United States Government was lay-
20 ing the groundwork for inter-Afghan negotia-
21 tions on a timeline and political roadmap for
22 reaching a comprehensive peace agreement; and

23 (D) the success or failure of Afghanistan’s
24 relationship with the United States and donor
25 community will rest in part on “maintain[ing]

1 the civil rights of women and minorities and
2 preserv[ing] the gains of the last 18 years”.

3 (17) The Government of Afghanistan has not
4 been included in the direct negotiations between
5 SRAR and Taliban officials. Taliban officials con-
6 tinue to refuse to recognize the legitimacy of the
7 Government of Afghanistan.

8 (18) Afghan women and minorities were in-
9 cluded in the July 7–8, 2019, intra-Afghan dialogue
10 with Taliban officials in Doha, but they have not
11 been included in the direct negotiations between
12 SRAR and Taliban officials.

13 (19) Examples of gains in democratic develop-
14 ment and human rights in Afghanistan include the
15 following:

16 (A) A vibrant civil society, including inde-
17 pendent media.

18 (B) The right of women and ethnic minori-
19 ties to vote in local and national elections.

20 (C) The Afghan Constitution gives full rec-
21 ognition to various minority groups in Afghani-
22 stan, including ethnic Hazaras. One parliamen-
23 tary seat is reserved for the Sikh and Hindu
24 communities and 10 seats are reserved for rep-
25 resentatives of the nomadic Kuchi peoples.

1 (D) Afghanistan’s Lower House of Par-
2 liament (Wolesi Jirga) reserves 68 seats out of
3 250 for women.

4 (E) There are four female ambassadors in
5 the current Afghan government.

6 (F) There are approximately 6,395 women
7 in the Afghan National Defense Security Forces
8 (ANDSF).

9 (G) The 2009 passage of the Elimination
10 of Violence Against Women law and the 2018
11 passage of the revised Penal Code in Afghani-
12 stan reinforce protections for women.

13 (H) More than 60 percent of the popu-
14 lation in Afghanistan is under the age of 25,
15 half of whom are under the age of 15 and have
16 only lived in a post-2001 Afghanistan that has
17 enjoyed freedoms such as music and sports,
18 which were banned under the Taliban rule.

19 (20) On September 7, 2019, President Donald
20 J. Trump revealed in a series of tweets that he had
21 invited “major Taliban leaders” and Afghan Presi-
22 dent Ashraf Ghani to meet with him separately at
23 Camp David on the following day. He wrote that,
24 because a Taliban attack killed several people, in-
25 cluding a United States soldier, in Kabul on Sep-

1 tember 5, 2019, he had immediately cancelled the
2 meeting and called off peace negotiations.

3 (21) The Afghan constitution provides the peo-
4 ple of Afghanistan the ability to directly elect their
5 President and Members of Parliament. The constitu-
6 tion protects human rights and has resulted in gains
7 for women, minorities, independent press and media,
8 and democratic governance since the Taliban were
9 removed from power in 2001.

10 **SEC. 4. SENSE OF CONGRESS ON UNITED STATES POLICY.**

11 It is the sense of Congress that—

12 (1) it is in the vital national security interests
13 of the United States that Afghanistan never again
14 serves as a platform or sanctuary for terrorist at-
15 tacks against the United States, our allies, or part-
16 ners;

17 (2) the Government of Afghanistan remains an
18 important partner of the United States in the fight
19 against terrorism, working with the United States
20 Government to eliminate al-Qaeda, ISIS–K, and
21 their affiliates in Afghanistan;

22 (3) Afghanistan’s neighbors play a pivotal role
23 in securing a durable peace in Afghanistan to in-
24 clude facilitating peace discussions, eliminating
25 Taliban and Haqqani Network sanctuaries, and

1 eliminating support for proxies that threaten United
2 States objectives in the region;

3 (4) a secure and stable Afghanistan is in
4 United States national security interests and con-
5 tributes to regional stability in South Asia;

6 (5) the United States Government pursues ne-
7 gotiations with Taliban officials for the purposes of
8 achieving—

9 (A) verifiable and sustainable counterter-
10 rorism assurances that ensure that the Taliban
11 privately and publicly break ties with al-Qaeda
12 and its affiliates, and it never again provides
13 safe haven to al-Qaeda and its affiliates in Af-
14 ghanistan;

15 (B) a conditions-based United States troop
16 drawdown based on verifiable and sustainable
17 counterterrorism assurances;

18 (C) an intra-Afghan peace settlement rati-
19 fied through an inclusive and transparent proc-
20 ess that includes the participation of Afghan
21 women and minorities; and

22 (D) a comprehensive ceasefire;

23 (6) any action to curtail or remove United
24 States military forces from Afghanistan must in-
25 clude regular consultation with Congress;

1 (7) the United States Government should con-
2 sult, and if appropriate, include relevant inter-
3 national actors, including Afghanistan’s neighbors,
4 and NATO allies in the Afghanistan peace process;

5 (8) the United States Government should en-
6 sure that the Afghan Taliban are not able to secure
7 safe haven in countries neighboring Afghanistan;

8 (9) the United States Government should safe-
9 guard the social, economic, and political progress the
10 Government and people of Afghanistan have
11 achieved since 2001, including progress on access to
12 universally recognized human rights, education, jus-
13 tice, and jobs, including in government institutions
14 for all Afghans, including women and girls and mi-
15 norities, democratic governance and rule of law, and
16 freedoms of press and media; and

17 (10) the United States Government should en-
18 sure members of the international community will
19 have unfettered access to Afghanistan and its insti-
20 tutions to monitor the status of human rights, in-
21 cluding women’s rights, in Afghanistan.

22 **SEC. 5. SENSE OF CONGRESS ON CONGRESSIONAL HEAR-**
23 **INGS AND BRIEFINGS.**

24 It is the sense of Congress that—

1 (1) regular congressional oversight through
2 briefings by the Department of State for members
3 and staff of the United States Congress is important
4 while peace talks between the United States and
5 Taliban officials continue; and

6 (2) the Committee on Foreign Relations of the
7 Senate and the Committee on Foreign Affairs of the
8 House of Representatives should, as appropriate,
9 hold hearings on United States policy in Afghani-
10 stan, including with the participation of official wit-
11 nesses, and otherwise obtain information in order to
12 fully review the negotiations.

13 **SEC. 6. OVERSIGHT OF PEACE PROCESS AND RELEVANT**
14 **AGREEMENTS.**

15 (a) TRANSMISSION TO CONGRESS OF AGREE-
16 MENTS.—

17 (1) TRANSMISSION OF AGREEMENTS.—Not
18 later than 30 days after finalizing an agreement
19 with Taliban officials, the Secretary of State, in co-
20 ordination with the Secretary of Defense, shall
21 transmit to the chairmen and ranking members of
22 the Committee on Foreign Relations of the Senate
23 and the Committee on Foreign Affairs of the House
24 of Representatives, the majority and minority leader
25 of the Senate, and the Speaker, majority leader, and

1 minority leader of the House of Representatives the
2 agreement, including all related materials and an-
3 nexes, to include details related to counterterrorism
4 assurances by the Taliban, United States troop with-
5 draws from Afghanistan, and the status of intra-
6 Afghan negotiations and a comprehensive ceasefire.

7 (2) INITIAL VERIFICATION ASSESSMENT RE-
8 PORT.—

9 (A) IN GENERAL.—Not later than 60 days
10 after finalizing an agreement with Taliban offi-
11 cials, the Secretary of State, in coordination
12 with the Secretary of Defense, shall prepare,
13 with respect to such agreement, a report assess-
14 ing—

15 (i) the extent to which the Secretary
16 will be able to verify that Taliban officials
17 are complying with obligations and com-
18 mitments under the peace agreement, in-
19 cluding how Taliban officials will ensure
20 counterterrorism assurances and guarantee
21 Afghanistan will not be a safe haven for
22 terrorist organizations, such as al-Qaeda;

23 (ii) whether Taliban officials have
24 made a complete, transparent, public, and
25 verifiable declaration of the Taliban break-

1 ing all ties with al-Qaeda, including a re-
2 jection of al-Qaeda leader Ayman al
3 Zawahiri's loyalty pledge to Taliban leader
4 Mawlawi Haibatullah Akhunzada;

5 (iii) whether the Haqqani Network
6 has broken ties with al-Qaeda, and the
7 Haqqani Network's leader Sirajuddin
8 Haqqani remains part of the leadership
9 structure of the Taliban;

10 (iv) the viability of the intra-Afghan
11 governing agreement; and

12 (v) whether the terms of ceasefire are
13 being met by all sides in the conflict.

14 (B) CLASSIFIED ANNEX.—The report re-
15 quired under subparagraph (A) shall be trans-
16 mitted in unclassified form, but shall include a
17 classified annex, prepared in consultation with
18 the Department of Defense, that provides rel-
19 evant classified information, including informa-
20 tion on any other matter that the Secretary
21 deems relevant.

22 (b) SENSE OF CONGRESS ON AFGHANISTAN PEACE
23 FINAL AGREEMENT.—It is the sense of Congress that any
24 binding agreement between the United States and Taliban
25 officials should be submitted to Congress.

1 (c) RULE OF CONSTRUCTION.—Nothing in this Act
 2 shall prejudice whether an agreement concluded with the
 3 Taliban constitutes a treaty for purposes of Article II of
 4 the Constitution of the United States.

5 **SEC. 7. ENSURING A DURABLE PEACE IN AFGHANISTAN;**
 6 **SEMIANNUAL REPORT ON VERIFICATION**
 7 **AND COMPLIANCE.**

8 (a) IN GENERAL.—Not later than 180 days after en-
 9 tering into an agreement with Taliban officials, and not
 10 less frequently than once every 180 days thereafter, the
 11 President shall submit to the appropriate congressional
 12 committees a report assessing whether key tenets of the
 13 peace deal with Taliban officials are preserved and hon-
 14 ored.

15 (b) ELEMENTS.—The report required under sub-
 16 section (a) shall include—

- 17 (1) an assessment of whether Taliban officials
 18 are complying with obligations and commitments
 19 under the peace agreement, including whether
 20 Taliban officials are ensuring counterterrorism as-
 21 surances and guaranteeing Afghanistan is not a safe
 22 haven for terrorist organizations, such as al Qaeda;
- 23 (2) an assessment of terrorist activity in Af-
 24 ghanistan and Taliban actions with respect to

1 counterterrorism guarantees, and an assessment of
2 threats against the United States homeland;

3 (3) an updated assessment of the viability of
4 the intra-Afghan governing agreement;

5 (4) an assessment as to whether the terms of
6 ceasefire are being met by all sides in the conflict;

7 (5) an overview and assessment of any action
8 that breaches the agreement or puts Taliban officials
9 in noncompliance with the terms of the agreement;

10 (6) a description of the status of human rights,
11 including the rights of women and minorities, as well
12 as their access to education, justice, and economic
13 opportunities, in Afghanistan following a peace deal
14 with Taliban officials;

15 (7) a description of the constitution of Afghani-
16 stan's guaranteed rights and protections; and

17 (8) a description of the status of the rule of
18 law, and governance structures at the central, pro-
19 vincial, and district levels of government, freedoms
20 of media and press, and civil society's operating
21 space.

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