

Calendar No. _____

114TH CONGRESS
1ST SESSION**S. 1875****[Report No. 114-_____]**

To support enhanced accountability for United States assistance to
Afghanistan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

_____ (legislative day, _____), _____

Reported by Mr. CORKER, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To support enhanced accountability for United States
assistance to Afghanistan, 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 “Afghanistan Account-
5 ability Act of 2015”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES.—The term “appropriate congressional com-
5 mittees” means—

6 (A) the Committee on Foreign Relations,
7 the Committee on Appropriations, the Com-
8 mittee on Armed Services, and the Select Com-
9 mittee on Intelligence of the Senate; and

10 (B) the Committee on Foreign Affairs, the
11 Committee on Appropriations, the Committee
12 on Armed Services, and the Permanent Select
13 Committee on Intelligence of the House of Rep-
14 resentatives.

15 **TITLE I—EFFECTIVE AFGHANI-**
16 **STAN ASSISTANCE AND AC-**
17 **COUNTABILITY**

18 **SEC. 101. FINDINGS.**

19 Congress makes the following findings:

20 (1) Following the terrorist attacks of September
21 11, 2001, the United States launched Operation En-
22 during Freedom, and since then the United States
23 Armed Forces and the Afghan National Security
24 Forces have made countless sacrifices in defending
25 Afghanistan against the threat of terrorism and in-

1 surgency and by extension the United States and the
2 wider world.

3 (2) Since 2001, the United States has worked
4 with a broad coalition of nations that has helped to
5 dramatically improve numerous development indica-
6 tors within Afghanistan, including a dramatic in-
7 crease in the number of girls enrolled in primary
8 education from an estimated 5,000 under the
9 Taliban to 2,400,000 girls as of 2010; an increase
10 in the percentage of individuals above the poverty
11 line from 25.4 percent in 2002 to 35.8 percent in
12 2011; an increase in the percentage of individuals
13 who now have access to an improved water source in
14 rural areas from 22 percent in 2001 to 56 percent
15 in 2012; a precipitous decline in maternal mortality
16 from 1200/100,000 births in 1995 to 400/100,000
17 births in 2013; and an expansion of women's rights;

18 (3) Numerous research studies have shown that
19 government corruption is a driver of conflict and
20 particularly so in Afghanistan, where it has served
21 as a powerful recruitment tool for the Taliban.

22 (4) Since the first democratic transfer of power
23 in the history of Afghanistan in 2014, President
24 Ashraf Ghani and Chief Executive Officer Abdullah
25 Abdullah have led a National Unity Government

1 that has identified key security and development
2 challenges in order to make Afghanistan a full and
3 productive member of the community of democratic
4 nations.

5 (5) The National Unity Government has re-
6 newed specific focus on addressing corruption within
7 the country as a driver of instability, including re-
8 opening a fraud case involving high level officials
9 and the Kabul Bank that resulted in the disappear-
10 ance of an estimated \$1,000,000,000.

11 (6) In its report “Realizing Self Reliance: Com-
12 mitments to Reform and Renewed Partnership”, the
13 Government of Afghanistan committed to the inter-
14 national community in London in December 2014,
15 to address the “main drivers of corruption in Af-
16 ghanistan,” including “collusive procurement prac-
17 tices, weak rule of law and abuse of the legal sys-
18 tem, and arbitrary regulations that build in incen-
19 tives to pay bribes”. Government of Afghanistan
20 commitments included—

21 (A) forming an independent anti-corrup-
22 tion commission with time-bound prosecutorial
23 powers;

1 (B) implementing recommendations by the
2 Monitoring and Evaluation Committee on a na-
3 tional action plan to reduce corruption;

4 (C) requiring all government officials to
5 provide public declarations of their assets;

6 (D) meeting all Financial Action Task
7 Force (FATF) requirements to further limit
8 and investigate illicit fund flows;

9 (E) forming a national procurement board
10 staffed by qualified professionals who will man-
11 age all large value contracts using internation-
12 ally recognized standards and procedures; and

13 (F) delineating the roles, responsibilities,
14 and jurisdiction of anti-corruption institutions
15 such as the High Office of Oversight and Anti-
16 Corruption (HOO) and the Attorney General to
17 restrict them to focus on their core function of
18 enforcement instead of oversight.

19 (7) The December 2014 Government of Af-
20 ghanistan report “Realizing Self Reliance: Commit-
21 ments to Reform and Renewed Partnership”, ex-
22 pressed a commitment to “enhancing productivity,
23 growth and revenues” by—

1 (A) developing natural resources through
2 public-private partnerships that bring in rents,
3 taxes, and profits;

4 (B) removing obstacles to trade and transit
5 and ending smuggling that diverts revenue
6 away from the treasury;

7 (C) negotiating expanded market access in
8 regional and global markets;

9 (D) gradually formalizing the informal
10 economy and changing the compact between the
11 state and citizens to one where citizens pay
12 taxes for services they tangibly benefit from;
13 and

14 (E) transferring government payments
15 electronically to eliminate losses in transit.

16 (8) In 2012, international donors and the Gov-
17 ernment of Afghanistan agreed to the Tokyo Mutual
18 Accountability Framework (“TMAF”) which com-
19 mitted to provide \$4,000,000,000 in economic assist-
20 ance per year from 2012-2015 and sustain assist-
21 ance at or near the same levels of the past decade
22 through 2017, while the Government of Afghanistan
23 committed to meet benchmarks related to democracy
24 and governance, public finance and revenue genera-
25 tion, and economic development.

1 (9) At the end of 2014, under the TMAF, the
2 Government of Afghanistan had fallen short in meet-
3 ing benchmarks related to: revenue collection, the
4 enhancement of women’s rights, corruption and the
5 illicit economy, and the protection of human rights,

6 (10) In the Joint Declaration following the
7 London Conference on Afghanistan of December 4,
8 2014, the international community and the new Gov-
9 ernment of Afghanistan agreed to refresh the exist-
10 ing TMAF and associated commitments at the 2015
11 Senior Officials Meeting based on the reform pro-
12 gram and priorities as laid out by the Government
13 of Afghanistan.

14 (11) Afghanistan faces great difficulties in
15 making progress in countering illegal narcotics and
16 remains the leading global illicit opium poppy pro-
17 ducer.

18 (12) The illegal narcotics trade results in the
19 transfer of illicit funds and encourages and also re-
20 quires corrupt financial transactions, and, if mini-
21 mized, could have beneficial impacts on trade and
22 reduce overall levels of corruption.

23 (13) The international community has endorsed
24 Afghanistan’s longer-term development following the
25 war and identified the criticality of the “trans-

1 formation decade” from 2015-2024 outlined by the
2 Government of Afghanistan and has acknowledged
3 that the Government of Afghanistan will seek con-
4 tinued international assistance in order for it to be-
5 come a stable, self-sustained partner in the commu-
6 nity of democratic countries.

7 (14) As development assistance from the United
8 States and broader international community gradu-
9 ally diminishes in the coming years, the accelerated
10 development of the Afghan private sector and gov-
11 erning institutions becomes even more necessary to
12 maintain the gains of the past decade and to en-
13 hance our mutual goals of Afghan security and sta-
14 bility.

15 (15) While Afghan National Security Forces
16 (ANSF) have taken over lead combat responsibil-
17 ities, they continue to operate in close coordination
18 with, and with significant resources from the inter-
19 national community, under the Train, Advise and
20 Assist (TAA) mission of Operation Inherent Resolve
21 and in coordination with ongoing counter-terrorism
22 operations. Development of civilian oversight institu-
23 tions for the security sector has lagged. Such over-
24 sight will be important for ensuring that Afghan se-

1 security forces are accountable and do not abuse their
2 powers.

3 **SEC. 102. SENSE OF CONGRESS ON UNITED STATES ASSIST-**
4 **ANCE AND ACCOUNTABILITY IN AFGHANI-**
5 **STAN.**

6 It is the sense of Congress that—

7 (1) the National Unity Government of Afghani-
8 stan has made a substantial commitment to reform
9 that should be supported but also subject to height-
10 ened scrutiny by the Afghan people and inter-
11 national donors given past failures and persistent
12 challenges in the country;

13 (2) Afghanistan is at a critical inflection point,
14 having gone through political and security transi-
15 tions as the international community draws down its
16 military forces. The international community should
17 work closely with the new government in supporting
18 development priorities for the rest of the trans-
19 formation decade that translate into producing con-
20 crete development results for the Afghan people;

21 (3) sustainable accountability and reform of Af-
22 ghan governing institutions will not come from the
23 international community but from a commitment by
24 the Government of Afghanistan and society rein-

1 forced by domestic watchdog groups and internal
2 government accountability monitoring mechanisms;

3 (4) the United States Government should deep-
4 en its dialogue on anti-corruption efforts with the
5 Government of Afghanistan to develop effective over-
6 sight mechanisms to ensure large donor contracts do
7 not contribute to corruption;

8 (5) the United States should encourage Af-
9 ghanistan's participation in the Open Government
10 Partnership, a multilateral initiative in which gov-
11 ernment and civil society collaborate to promote
12 transparency, fight corruption, and use technologies
13 to strengthen government;

14 (6) the United States should urge the Govern-
15 ment of Afghanistan to build upon existing anti-
16 money laundering and countering terrorism financ-
17 ing legislation by developing effective regulations
18 and institutions to implement reforms;

19 (7) the United States should urge the Govern-
20 ment of Afghanistan to broaden personal asset dis-
21 closures to include members of the covered officials'
22 immediate families or households and develop effec-
23 tive mechanisms for verifying disclosed information;

24 (8) in the event of future egregious cases of
25 corruption in Afghanistan, the President should im-

1 pose visa bans and asset freezes on those respon-
2 sible, especially in instances where United States as-
3 sistance is stolen or misappropriated;

4 (9) the United States Government should co-
5 operate with the Government of Afghanistan and
6 with international donors to develop a series of strict
7 accountability benchmarks based on the refreshed
8 Tokyo Mutual Accountability Framework and the
9 Government of Afghanistan’s own “Realizing Self
10 Reliance” report commitments that will condition
11 levels of assistance and the amount of on-budget as-
12 sistance on anti-corruption performance acceptable
13 to donors;

14 (10) the United States should support the Af-
15 ghan Parliament to refine and strengthen the legal
16 framework of anti-corruption and anti-money laun-
17 dering laws to address beneficial ownership, coun-
18 tering bid-rigging and other contracting and pro-
19 curement fraud, criminal investigations of financial
20 transactions, complementary banks, personal asset
21 or other financial declarations and disclosures as re-
22 quired by law or regulation, efforts to meet FATF
23 requirements, and other areas to further inhibit the
24 illicit flow of money;

1 (11) the commitment by the Government of Af-
2 ghanistan to strengthen its nascent private sector
3 should be supported and sustained using the full
4 array of tools of the United States, including tech-
5 nical and legal assistance;

6 (12) United States assistance to the Afghan ju-
7 dicial system and other Afghan legal institutions
8 that enable and empower private sector development
9 by instilling greater investor confidence should be
10 prioritized to ensure the protection of private prop-
11 erty, the sanctity of contracts, and effective dispute
12 resolution mechanisms for businesses and investors;

13 (13) the United States Government should
14 identify opportunities for the United States to intro-
15 duce trade facilitation as part of the economic rela-
16 tionship between the two countries;

17 (14) the Governments of the United States and
18 Afghanistan should work together to identify more
19 Afghan products and raw materials to be included
20 on the United States Generalized System of Pref-
21 erences (GSP) treatment list;

22 (15) the United States Government should es-
23 tablish a United States-Afghan Tax Commission to
24 help spearhead a rapid and successful conclusion of
25 a new Bilateral Tax Agreement similar to the Agree-

1 ments with several of Afghanistan’s neighbors, in-
2 cluding Kazakhstan, Azerbaijan, Tajikistan,
3 Kyrgyzstan, Turkmenistan, India, and Pakistan;

4 (16) the American University of Afghanistan is
5 an emerging pillar in Afghanistan’s education sys-
6 tem and has provided a unique opportunity for high-
7 er education for Afghan youth, especially women;
8 and

9 (17) the United States should encourage the
10 Government of Afghanistan to implement with ur-
11 gency electoral reforms in accordance with the
12 “Agreement between the Two Campaign Teams Re-
13 garding the Structure of the National Unity Govern-
14 ment”.

15 **SEC. 103. UNITED STATES ASSISTANCE POLICY FOR AF-**
16 **GHANISTAN.**

17 It is the policy of the United States—

18 (1) to conduct assistance programs that result
19 in highly effective, impact driven development out-
20 comes for the people of Afghanistan while maintain-
21 ing the highest standards of accountability for
22 United States taxpayers;

23 (2) that all United States Government agencies
24 and entities working in Afghanistan coordinate,
25 plan, and regularly review plans in a coherent, well-

1 informed process to develop United States policy and
2 assistance programming;

3 (3) to support the development of effective Gov-
4 ernment of Afghanistan oversight institutions and
5 domestic watchdog civil society organizations;

6 (4) subject to significant evident progress made
7 in meeting TMAF accountability and improved gov-
8 ernance as it relates to development, to abide by re-
9 source commitments made as part of the Tokyo Mu-
10 tual Accountability Framework;

11 (5) to provide incentivized assistance to Af-
12 ghanistan's governing institutions based upon
13 verifiable and measurable development outcomes and
14 on-budget assistance based upon demonstrated ca-
15 pacity improvements that are mutually agreed to by
16 the Governments of Afghanistan and the United
17 States;

18 (6) to support the development of democratic
19 governing institutions in Afghanistan, promote the
20 development of a growing private sector, and
21 strengthen civil society in Afghanistan;

22 (7) to recognize that Afghanistan's sustainable
23 development is grounded in growing the regional
24 economy, and to support the efforts of the Govern-
25 ment and people of Afghanistan to build strong re-

1 regional economic connectivity with the country's
2 neighbors; and

3 ~~(8) to support, where appropriate, proven pro-~~
4 ~~grams that promote private sector job creation in~~
5 ~~Afghanistan; neighbors;~~

6 *(8) to support, where appropriate, proven pro-*
7 *grams that promote private sector job creation in Af-*
8 *ghanistan; and*

9 *(9) that assistance programs in direct support of*
10 *Afghan women and girls remain a priority for the*
11 *United States, including specific efforts to support*
12 *women and girls education, meaningful engagement*
13 *in political and reconciliation processes, training and*
14 *recruitment of Afghan female police and security*
15 *forces, advancement of women's legal rights, economic*
16 *development, and efforts to increase the overall health*
17 *and well-being of Afghan women and girls.*

18 **SEC. 104. EFFECTIVE AFGHANISTAN ASSISTANCE AND AC-**

19 **COUNTABILITY.**

20 (a) STRATEGY TO COMBAT CORRUPTION IN AFGHAN-
21 ISTAN.—

22 (1) IN GENERAL.—The Secretary of State, in
23 consultation with the Secretary of Defense and the
24 Government of Afghanistan, shall develop a com-
25 prehensive interagency strategy for United States

1 assistance that is sustainable and is not counter-pro-
2 ductive to combatting corruption in Afghanistan.

3 (2) ELEMENTS.—The strategy developed under
4 paragraph (1) should include the following elements:

5 (A) Multi-year goals, objectives, and meas-
6 urable outcomes for targeted activities to
7 strengthen selected Afghan official institutions
8 and nongovernmental organizations to prevent,
9 investigate, deter, and prosecute corruption.

10 (B) An operational plan incorporating all
11 United States Government programming to im-
12 plement the anti-corruption goals and objec-
13 tives.

14 (C) A summary of United States efforts to
15 coordinate with other international donors to
16 ensure that anti-corruption advice or program-
17 ming provided to the Government of Afghani-
18 stan is not contradictory.

19 (D) A focus on the development of govern-
20 mental and nongovernmental Afghan capacity
21 to ensure accountability and combat corruption.

22 (E) An evaluation of Afghan civil society
23 anti-corruption capacities that includes their
24 ability to use technology to combat corruption.

25 (b) AFGHANISTAN ANTI-CORRUPTION FUND.—

1 (1) IN GENERAL.—Subject to the availability of
2 funds, the President is authorized to provide tech-
3 nical and financial assistance to official Government
4 of Afghanistan anti-corruption and audit institutions
5 and Afghan civil society watchdog groups in support
6 of the anti-corruption priorities identified by the
7 Government of Afghanistan and the United States
8 Government. Subject to careful consideration by the
9 United States Government of the legitimacy, effi-
10 cacy, and direct impact and influence of such enti-
11 ties and individuals, offices, and organizations that
12 are funded under this subsection could include—

13 (A) the Supreme Audit Office;

14 (B) the Attorney General;

15 (C) the Ministry of Justice;

16 (D) Inspectors General within key min-
17 istries;

18 (E) the Independent Joint Anti-Corruption
19 Monitoring and Evaluation Committee (MEC);

20 (F) the major crimes task force, Technical
21 Investigative Unit, and the Sensitive Investiga-
22 tive Unit;

23 (G) the High Office of Oversight and Anti-
24 Corruption;

25 (H) the Anti-Corruption Tribunal;

1 (I) the Financial Transactions and Reports
2 Analysis Center of Afghanistan;
3 (J) the proposed procurement board; and
4 (K) civil society organizations engaged in
5 oversight, anti-corruption advocacy, and sup-
6 port of good governance.

7 (c) PROMOTION OF HUMAN RIGHTS, PRESS FREE-
8 DOM, AND SECURITY SECTOR ACCOUNTABILITY.—

9 (1) IN GENERAL.—Subject to the availability of
10 funds, the Secretary of State, in cooperation with
11 the Secretary of Defense, should provide support for
12 efforts of the Government of Afghanistan to improve
13 oversight and accountability of the Afghan National
14 Security Forces, including the Afghan National Po-
15 lice, and Afghan local police, and strengthen Afghan
16 civil society and investigative journalists to provide
17 watchdog oversight of these institutions. Subject to
18 due consideration of the legitimacy, efficacy, and di-
19 rect impact and influence of such entities and indi-
20 viduals, these efforts could include—

21 (A) supporting the ANSF to strengthen
22 the capacity, independence, and power of its in-
23 ternal Inspector General to collect and inves-
24 tigate all credible reports of abuse by armed
25 forces;

1 (B) supporting the Office of the Attorney
2 General and the Ministries of Defense and Inte-
3 rior to be better capable to investigate and, if
4 appropriate, criminally prosecute police, mili-
5 tary, intelligence, and militia personnel, regard-
6 less of rank, found responsible for human rights
7 abuses and war crimes;

8 (C) considering establishing a special inde-
9 pendent mechanism to investigate government
10 officials and security force officers implicated in
11 abuses;

12 (D) supporting the Ministry of Interior to
13 establish a centralized register of all detainees
14 held in police and National Directorate of Secu-
15 rity custody, and ensure that it is accessible to
16 independent monitors and is updated regularly
17 and in a transparent manner;

18 (E) supporting implementation of the Ac-
19 cess to Information Law and the 2009 Mass
20 Media Law, particularly provisions of the latter
21 that would disband the Media Violations Inves-
22 tigation Commission and replace it with a Mass
23 Media Commission;

24 (F) supporting the Attorney General's Of-
25 fice to undertake prompt, impartial, and thor-

1 ough investigations into all attacks on journal-
2 ists and media organizations and bring prosecu-
3 tions as appropriate; and

4 (G) supporting the further establishment
5 of civil society organizations to provide essential
6 “watchdog” oversight of the police and armed
7 forces; as well as efforts to strengthen and im-
8 prove coordination among civil society organiza-
9 tions, such as the Afghan Independent Human
10 Rights Commission.

11 (d) DEVELOPMENT OF THE AFGHAN PRIVATE SEC-
12 TOR.—

13 (1) REGIONAL ECONOMIC CONNECTIVITY
14 FUND.—

15 (A) ESTABLISHMENT.—There is estab-
16 lished a Regional Economic Connectivity Fund
17 from which funds may be made available from
18 existing appropriations to enhance regional eco-
19 nomic connectivity between Afghanistan and the
20 countries of South and Central Asia.

21 (B) PURPOSE.—The purpose of the Re-
22 gional Economic Connectivity Fund is to pro-
23 vide support for efforts to enhance Afghani-
24 stan’s economic connectivity with its neighbors,
25 thus improving the country’s overall economic

1 prospects and diminishing the need for inter-
2 national assistance in the future. The Regional
3 Economic Connectivity Fund may be used to
4 support programs in the following areas:

5 (i) Trade and transit fee normaliza-
6 tion and electronic payment systems.

7 (ii) Capacity and skills development to
8 improve collaboration among countries for
9 border and customs.

10 (iii) Women-owned business net-
11 working.

12 (iv) Developing regional options on
13 transit and customs to facilitate trade.

14 (v) Enhancing and implementing con-
15 fidence building measures.

16 (vi) Encouraging regional energy and
17 electricity development and sharing.

18 (vii) Market access and business con-
19 ferences.

20 (viii) Intellectual and cultural ex-
21 changes to engage in regional problem
22 solving.

23 (2) TRANSFER AUTHORITY.—In addition to
24 other transfer authorities available to the Depart-
25 ment of State, the Department of Defense, the

1 United States Agency for International Development
2 (USAID) or other United States Government agen-
3 cies or departments, funds that are specifically allo-
4 cated towards addressing the situation in Afghani-
5 stan may be transferred to programs in South and
6 Central Asia that promote regional economic
7 connectivity with substantial and direct benefits to
8 Afghanistan.

9 **SEC. 105. REPORTS.**

10 (a) REPORTING ON CORRUPTION IN AFGHANI-
11 STAN.—Not later than one year after the date of the en-
12 actment of this Act, and annually thereafter through
13 2024, the Secretary of State shall submit to the appro-
14 priate congressional committees a report listing each indi-
15 vidual who the President determines, based on credible
16 evidence—

17 (1) is an Government of Afghanistan official, a
18 senior associate, or close relative of such an official,
19 who is responsible for, or complicit in, ordering, con-
20 trolling, or otherwise directing, acts of significant
21 corruption, including the expropriation of private or
22 public assets for personal gain, corruption related to
23 government contracts or the extraction of natural re-
24 sources, bribery, or the facilitation or transfer of the
25 proceeds of corruption to foreign jurisdictions; or

1 (2) has materially assisted, sponsored, or pro-
2 vided financial, material, or technological support
3 for, or goods or services in support of, an activity
4 described above.

5 (b) REPORT ON CIVILIAN-MILITARY ASSISTANCE EF-
6 FORTS IN AFGHANISTAN.—

7 (1) IN GENERAL.—Not later than one year
8 after the date of the enactment of this Act, the
9 Comptroller General of the United States shall sub-
10 mit to the appropriate congressional committees a
11 report on civilian-military assistance efforts in Af-
12 ghanistan.

13 (2) ELEMENTS.—The report required under
14 paragraph (1) shall include the following elements:

15 (A) A description of lessons learned from
16 conducting development programming in a con-
17 flict zone to include recommendations on how to
18 improve coordination between United States de-
19 velopment agencies and the United States
20 Armed Forces.

21 (B) An assessment of the ability of the
22 United States Agency for International Devel-
23 opment to advance development goals within a
24 conflict environment, operating alongside pro-
25 viders of United States military assistance.

1 (C) An assessment of whether funding
2 under the Commander's Emergency Response
3 Program achieved the program's stated goals
4 and whether this program had any long term
5 development impact, including any negative un-
6 intended consequences.