

116TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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

---

IN THE SENATE OF THE UNITED STATES

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

---

**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:

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

4                   (A) the Committee on Foreign Relations,  
5                   the Committee on Armed Services, and the  
6                   Committee on Appropriations of the Senate;  
7                   and

8                   (B) the Committee on Foreign Affairs, the  
9                   Committee on Armed Services, and the Com-  
10                  mittee on Appropriations of the House of Rep-  
11                  resentatives.

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

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

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

24                   (A) the Committee on Foreign Relations,  
25                   the Committee on Armed Services, and the Se-

1 lect Committee on Intelligence of the Senate;  
2 and

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

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

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

15 **SEC. 3. FINDINGS.**

16 Congress makes the following findings:

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

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

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

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

23          (5) Responding to the only Article V invocation  
24          in NATO's history, 17,000 service members from 39

1 countries currently operate in Afghanistan, including  
2 approximately 12,000 United States forces.

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

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

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

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

21 (10) SRAR Khalilzad announced on Twitter on  
22 March 12, 2019, after peace talks with Taliban offi-  
23 cials, a four-pronged framework for peace in Af-  
24 ghanistan: counter-terrorism assurances, troop with-  
25 drawal, intra-Afghan dialogue, and a comprehensive

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

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

1           (12) In an interview with the New York Times  
2           in January 2019, SRAR Khalilzad stated, “The  
3           Taliban [officials] have committed, to our satisfac-  
4           tion, to do what is necessary that would prevent Af-  
5           ghanistan from ever becoming a platform for inter-  
6           national terrorist groups or individuals.”

7           (13) Al Qaeda considers Afghanistan a con-  
8           tinuing safe haven for its leadership, relying on its  
9           long-standing and strong relationship with the  
10          Taliban leadership. Top leaders of al Qaeda remain  
11          loyal to the leader of the Taliban, Mawlawi  
12          Hibatullah Akhundzada. Osama bin Laden’s suc-  
13          cessor Ayman al-Zawahiri publicly declared his alle-  
14          giance to Akhundzada in 2016.

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

22          (15) ISIS-K has claimed presence in Afghani-  
23          stan since 2015, and suffered from territorial losses  
24          in 2018 due to immense pressure from sustained op-  
25          erations by United States and Afghan forces. The

1 Department of Defense’s June 2019 report, “En-  
2 hancing Security and Stability in Afghanistan”, sub-  
3 mitted to Congress in accordance with section 1225  
4 of the Carl Levin and Howard P. “Buck” McKeon  
5 National Defense Authorization Act for Fiscal Year  
6 2015 (Public Law 113–291; 128 Stat. 3550), noted  
7 that the ISIS-K had made territorial gain during the  
8 reporting period. The report stated, “ISIS-K poses  
9 a threat not only to Afghanistan, but also to the  
10 West, which it continuously seeks to target for ter-  
11 rorist activity.”

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

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

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

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

1 (D) the success or failure of Afghanistan’s  
2 relationship with the United States and donor  
3 community will rest in part on “maintain[ing]  
4 the civil rights of women and minorities and  
5 preserv[ing] the gains of the last 18 years”.

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

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

16 (19) Examples of gains in democratic develop-  
17 ment and human rights in Afghanistan include the  
18 following:

19 (A) A vibrant civil society, including inde-  
20 pendent media.

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

23 (C) The Afghan Constitution gives full rec-  
24 ognition to various minority groups in Afghani-  
25 stan, including ethnic Hazaras. One parliamen-

1 tary seat is reserved for the Sikh and Hindu  
2 communities and 10 seats are reserved for rep-  
3 resentatives of the nomadic Kuchi peoples.

4 (D) Afghanistan’s Lower House of Par-  
5 liament (Wolesi Jirga) reserves 68 seats out of  
6 250 for women.

7 (E) There are four female ambassadors in  
8 the current Afghan government.

9 (F) There are approximately 6,395 women  
10 in the Afghan National Defense Security Forces  
11 (ANDSF).

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

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

22 (20) On September 7, 2019, President Donald  
23 J. Trump revealed in a series of tweets that he had  
24 invited “major Taliban leaders” and Afghan Presi-  
25 dent Ashraf Ghani to meet with him separately at

1       Camp David on the following day. He wrote that,  
2       because a Taliban attack killed several people, in-  
3       cluding a United States soldier, in Kabul on Sep-  
4       tember 5, 2019, he had immediately cancelled the  
5       meeting and called off peace negotiations.

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

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

14       It is the sense of Congress that—

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

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

1           (3) Afghanistan’s neighbors play a pivotal role  
2           in securing a durable peace in Afghanistan to in-  
3           clude facilitating peace discussions, eliminating  
4           Taliban and Haqqani Network sanctuaries, and  
5           eliminating support for proxies that threaten United  
6           States objectives in the region;

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

10          (5) the United States Government pursues ne-  
11          gotiations with Taliban officials for the purposes of  
12          achieving—

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

19                (B) a conditions-based United States troop  
20                drawdown based on verifiable and sustainable  
21                counterterrorism assurances;

22                (C) an intra-Afghan peace settlement rati-  
23                fied through an inclusive and transparent proc-  
24                ess that includes the participation of Afghan  
25                women and minorities; and

1 (D) a comprehensive ceasefire;

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

5 (7) the United States Government should con-  
6 sult, and if appropriate, include relevant inter-  
7 national actors, including Afghanistan's neighbors,  
8 and NATO allies in the Afghanistan peace process;

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

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

21 (10) the United States Government should en-  
22 sure members of the international community will  
23 have unfettered access to Afghanistan and its insti-  
24 tutions to monitor the status of human rights, in-  
25 cluding women's rights, in Afghanistan.

1 **SEC. 5. SENSE OF CONGRESS ON CONGRESSIONAL HEAR-**  
2 **INGS AND BRIEFINGS.**

3 It is the sense of Congress that—

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

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

16 **SEC. 6. OVERSIGHT OF PEACE PROCESS AND RELEVANT**  
17 **AGREEMENTS.**

18 (a) TRANSMISSION TO CONGRESS OF AGREE-  
19 MENTS.—

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

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

9 (2) INITIAL VERIFICATION ASSESSMENT RE-  
10 PORT.—

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

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

1                   (ii) whether Taliban officials have  
2                   made a complete, transparent, public, and  
3                   verifiable declaration of the Taliban break-  
4                   ing all ties with al-Qaeda, including a re-  
5                   jection of al-Qaeda leader Ayman al  
6                   Zawahiri's loyalty pledge to Taliban leader  
7                   Mawlawi Haibatullah Akhunzada;

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

13                  (iv) the viability of the intra-Afghan  
14                  governing agreement; and

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

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

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

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

9 **SEC. 7. ENSURING A DURABLE PEACE IN AFGHANISTAN;**  
10 **SEMIANNUAL REPORT ON VERIFICATION**  
11 **AND COMPLIANCE.**

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

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

21 (1) an assessment of whether Taliban officials  
22 are complying with obligations and commitments  
23 under the peace agreement, including whether  
24 Taliban officials are ensuring counterterrorism as-

1       surances and guaranteeing Afghanistan is not a safe  
2       haven for terrorist organizations, such as al Qaeda;

3           (2) an assessment of terrorist activity in Af-  
4       ghanistan and Taliban actions with respect to  
5       counterterrorism guarantees, and an assessment of  
6       threats against the United States homeland;

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

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

11          (5) an overview and assessment of any action  
12      that breaches the agreement or puts Taliban officials  
13      in noncompliance with the terms of the agreement;

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

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

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