

114TH CONGRESS  
2D SESSION

# H. R. 6308

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

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IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2016

Mr. GRAYSON introduced the following bill; which was referred to the  
Committee on Foreign Affairs

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## 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 2016”.

6 **SEC. 2. DEFINED TERM.**

7 In this Act, the term “appropriate congressional com-  
8 mittees” means—

9 (1) the Committee on Foreign Relations of the  
10 Senate;

1           (2) the Committee on Appropriations of the  
2 Senate;

3           (3) the Committee on Armed Services of the  
4 Senate;

5           (4) the Select Committee on Intelligence of the  
6 Senate;

7           (5) the Committee on Foreign Affairs of the  
8 House of Representatives;

9           (6) the Committee on Appropriations of the  
10 House of Representatives;

11           (7) the Committee on Armed Services of the  
12 House of Representatives; and

13           (8) the Permanent Select Committee on Intel-  
14 ligence of the House of Representatives.

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—

7            (A) a dramatic increase in the number of  
8        girls enrolled in primary education from an esti-  
9        mated 5,000 under the Taliban to 2,400,000  
10       girls as of 2010;

11          (B) an increase in the percentage of indi-  
12       viduals above the poverty line from 25.4 percent  
13       in 2002 to 35.8 percent in 2011;

14          (C) an increase in the percentage of indi-  
15       viduals who now have access to an improved  
16       water source in rural areas from 22 percent in  
17       2001 to 56 percent in 2012;

18          (D) a precipitous decline in maternal mor-  
19       tality from 1,200/100,000 births in 1995 to  
20       400/100,000 births in 2013; and

21          (E) an expansion of women's rights.

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

1           (4) Since the first democratic transfer of power  
2           in the history of Afghanistan in 2014, President  
3           Ashraf Ghani and Chief Executive Officer Abdullah  
4           Abdullah have led a National Unity Government  
5           that has identified key security and development  
6           challenges in order to make Afghanistan a full and  
7           productive member of the community of democratic  
8           nations.

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

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

1 (A) forming an independent anti-corruption  
2 commission with time-bound prosecutorial  
3 powers;

4 (B) implementing recommendations by the  
5 Monitoring and Evaluation Committee on a na-  
6 tional action plan to reduce corruption;

7 (C) requiring all government officials to  
8 provide public declarations of their assets;

9 (D) meeting all Financial Action Task  
10 Force (FATF) requirements to further limit  
11 and investigate illicit fund flows;

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

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

22 (7) The December 2014 Government of Af-  
23 ghanistan report “Realizing Self Reliance: Commit-  
24 ments to Reform and Renewed Partnership”, ex-

1 pressed a commitment to “enhancing productivity,  
2 growth and revenues” by—

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

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

9 (C) negotiating expanded market access in  
10 regional and global markets;

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

16 (E) transferring government payments  
17 electronically to eliminate losses in transit.

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

1 and governance, public finance and revenue genera-  
2 tion, and economic development.

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

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

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

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

1           (13) The international community has endorsed  
2           Afghanistan’s longer-term development following the  
3           war and identified the criticality of the “trans-  
4           formation decade” from 2015–2024 outlined by the  
5           Government of Afghanistan and has acknowledged  
6           that the Government of Afghanistan will seek con-  
7           tinued international assistance in order for it to be-  
8           come a stable, self-sustained partner in the commu-  
9           nity of democratic countries.

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

18           (15) While Afghan National Security Forces  
19           (ANSF) have taken over lead combat responsibil-  
20           ities, they continue to operate in close coordination  
21           with, and with significant resources from the inter-  
22           national community, under the Resolute Support  
23           Mission and in coordination with ongoing counterter-  
24           rorism operations. Development of civilian oversight  
25           institutions for the security sector has lagged. Such



1 oversight will be important for ensuring that Afghan  
2 security forces are accountable and do not abuse  
3 their powers.

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

7 It is the sense of Congress that—

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

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

22 (3) sustainable accountability and reform of Af-  
23 ghan governing institutions will not come from the  
24 international community but from a commitment by  
25 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 American University of Afghanistan is  
23          an emerging pillar in Afghanistan's education sys-  
24          tem and has provided a unique opportunity for high-

1 er education for Afghan youth, especially women;  
2 and

3 (16) the United States should encourage the  
4 Government of Afghanistan to implement with ur-  
5 gency electoral reforms in accordance with the  
6 “Agreement between the Two Campaign Teams Re-  
7 garding the Structure of the National Unity Govern-  
8 ment”.

9 **SEC. 103. UNITED STATES ASSISTANCE POLICY FOR AF-**  
10 **GHANISTAN.**

11 It is the policy of the United States—

12 (1) to conduct assistance programs that result  
13 in highly effective, impact driven development out-  
14 comes for the people of Afghanistan while maintain-  
15 ing the highest standards of accountability for  
16 United States taxpayers;

17 (2) that all United States Government agencies  
18 and entities working in Afghanistan coordinate,  
19 plan, and regularly review plans in a coherent, well-  
20 informed process to develop United States policy and  
21 assistance programming;

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

1           (4) subject to significant evident progress made  
2           in meeting TMAF' accountability and improved gov-  
3           ernance as it relates to development, to abide by re-  
4           source commitments made as part of the Tokyo Mu-  
5           tual Accountability Framework;

6           (5) to provide incentivized assistance to Af-  
7           ghanistan's governing institutions based upon  
8           verifiable and measurable development outcomes and  
9           on-budget assistance based upon demonstrated ca-  
10          pacity improvements that are mutually agreed to by  
11          the Government of Afghanistan and the Government  
12          of the United States;

13          (6) to support the development of democratic  
14          governing institutions in Afghanistan, promote the  
15          development of a growing private sector, and  
16          strengthen civil society in Afghanistan;

17          (7) to recognize that Afghanistan's sustainable  
18          development is grounded in growing the regional  
19          economy, and to support the efforts of the Govern-  
20          ment and people of Afghanistan to build strong re-  
21          gional economic connectivity with the country's  
22          neighbors;

23          (8) to support, where appropriate, proven pro-  
24          grams that promote private sector job creation in  
25          Afghanistan; and

1 (9) that assistance programs in direct support  
2 of Afghan women and girls remain a priority for the  
3 United States, including specific efforts to support  
4 women and girls education, meaningful engagement  
5 in political and reconciliation processes, training and  
6 recruitment of Afghan female police and security  
7 forces, advancement of women’s legal rights, eco-  
8 nomic development, and efforts to increase the over-  
9 all health and well-being of Afghan women and girls.

10 **SEC. 104. EFFECTIVE AFGHANISTAN ASSISTANCE AND AC-**  
11 **COUNTABILITY.**

12 (a) STRATEGY TO COMBAT CORRUPTION IN AF-  
13 GHANISTAN.—

14 (1) IN GENERAL.—The Secretary of State, in  
15 consultation with the Secretary of Defense and the  
16 Government of Afghanistan, shall develop a com-  
17 prehensive interagency strategy for United States  
18 assistance that is sustainable and is not counter-  
19 productive to combating corruption in Afghanistan.

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

22 (A) Multi-year goals, objectives, and meas-  
23 urable outcomes for targeted activities to  
24 strengthen selected Afghan official institutions

1 and nongovernmental organizations to prevent,  
2 investigate, deter, and prosecute corruption.

3 (B) An operational plan incorporating all  
4 United States Government programming to im-  
5 plement the anti-corruption goals and objec-  
6 tives.

7 (C) A summary of United States efforts to  
8 coordinate with other international donors to  
9 ensure that anti-corruption advice or program-  
10 ming provided to the Government of Afghani-  
11 stan is not contradictory.

12 (D) A focus on the development of govern-  
13 mental and nongovernmental Afghan capacity  
14 to ensure accountability and combat corruption.

15 (E) An evaluation of Afghan civil society  
16 anti-corruption capacities that includes their  
17 ability to use technology to combat corruption.

18 (b) AFGHANISTAN ANTI-CORRUPTION FUND.—Sub-  
19 ject to the availability of funds, the President is authorized  
20 to provide technical and financial assistance to official  
21 Government of Afghanistan anti-corruption and audit in-  
22 stitutions and Afghan civil society watchdog groups in  
23 support of the anti-corruption priorities identified by the  
24 Government of Afghanistan and the United States Gov-  
25 ernment. Subject to careful consideration by the United



1 States Government of the legitimacy, efficacy, and direct  
2 impact and influence of such entities and individuals, of-  
3 fices, and organizations that are funded under this sub-  
4 section could include—

5 (1) the Supreme Audit Office;

6 (2) the Attorney General;

7 (3) the Ministry of Justice;

8 (4) Inspectors General within key ministries;

9 (5) the Independent Joint Anti-Corruption  
10 Monitoring and Evaluation Committee (MEC);

11 (6) the major crimes task force, Technical In-  
12 vestigative Unit, and the Sensitive Investigative  
13 Unit;

14 (7) the High Office of Oversight and Anti-Cor-  
15 ruption;

16 (8) the Anti-Corruption Tribunal;

17 (9) the Financial Transactions and Reports  
18 Analysis Center of Afghanistan;

19 (10) the proposed procurement board; and

20 (11) civil society organizations engaged in over-  
21 sight, anti-corruption advocacy, and support of good  
22 governance.

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

1           (1) IN GENERAL.—Subject to the availability of  
2 funds, the Secretary of State, in consultation with  
3 the Secretary of Defense, is authorized to provide  
4 support for efforts of the Government of Afghani-  
5 stan to improve oversight and accountability of the  
6 Afghan National Security Forces, including the Af-  
7 ghan National Police, and Afghan local police, and  
8 strengthen Afghan civil society and investigative  
9 journalists to provide watchdog oversight of these in-  
10 stitutions. Subject to due consideration of the legit-  
11 imacy, efficacy, and direct impact and influence of  
12 such entities and individuals, these efforts could in-  
13 clude—

14           (A) supporting the ANSF to strengthen  
15 the capacity, independence, and power of its in-  
16 ternal Inspector General to collect and inves-  
17 tigate all credible reports of abuse by armed  
18 forces;

19           (B) supporting the Office of the Attorney  
20 General and the Ministries of Defense and Inte-  
21 rior to be better capable to investigate and, if  
22 appropriate, criminally prosecute police, mili-  
23 tary, intelligence, and militia personnel, regard-  
24 less of rank, found responsible for human rights  
25 abuses and war crimes;

1 (C) considering establishing a special inde-  
2 pendent mechanism to investigate government  
3 officials and security force officers implicated in  
4 abuses;

5 (D) supporting the Ministry of Interior to  
6 establish a centralized register of all detainees  
7 held in police and National Directorate of Secu-  
8 rity custody, and ensure that it is accessible to  
9 independent monitors and is updated regularly  
10 and in a transparent manner;

11 (E) supporting implementation of the Ac-  
12 cess to Information Law and the 2009 Mass  
13 Media Law, particularly provisions of the latter  
14 that would disband the Media Violations Inves-  
15 tigation Commission and replace it with a Mass  
16 Media Commission;

17 (F) supporting the Attorney General's Of-  
18 fice to undertake prompt, impartial, and thor-  
19 ough investigations into all attacks on journal-  
20 ists and media organizations and bring prosecu-  
21 tions as appropriate; and

22 (G) supporting the further establishment  
23 of civil society organizations to provide essential  
24 "watchdog" oversight of the police and armed  
25 forces; as well as efforts to strengthen and im-

1           prove coordination among civil society organiza-  
2           tions, such as the Afghan Independent Human  
3           Rights Commission.

4 **SEC. 105. REPORTS.**

5           (a) REPORTING ON CORRUPTION IN AFGHANI-  
6 STAN.—Not later than 1 year after the date of the enact-  
7 ment of this Act, and annually thereafter through 2024,  
8 the Secretary of State shall submit to the appropriate con-  
9 gressional committees a report listing each individual who  
10 the President determines, based on credible evidence—

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

20           (2) has materially assisted, sponsored, or pro-  
21           vided financial, material, or technological support  
22           for, or goods or services in support of, an activity  
23           described above.

24           (b) REPORT ON CIVILIAN-MILITARY ASSISTANCE EF-  
25 FORTS IN AFGHANISTAN.—

1           (1) IN GENERAL.—Not later than 1 year after  
2 the date of the enactment of this Act, the Comp-  
3 troller General of the United States shall submit a  
4 report to the appropriate congressional committees  
5 that describes civilian-military assistance efforts in  
6 Afghanistan.

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

9           (A) A description of lessons learned from  
10 conducting development programming in Af-  
11 ghanistan to include recommendations on how  
12 to improve coordination between United States  
13 development agencies and the United States  
14 Armed Forces.

15           (B) An assessment of the ability of the  
16 United States Agency for International Devel-  
17 opment to advance development goals within  
18 Afghanistan, operating alongside providers of  
19 United States military assistance.

20           (C) An assessment of whether funding  
21 under the Commander’s Emergency Response  
22 Program achieved the program’s counterinsur-  
23 gency goals, including force protection, and  
24 whether this program had any long-term devel-

- 1 opment impact, including any negative unin-
- 2 tended consequences.

○