

## United States Senate

February 8, 2019

The Honorable Nancy Pelosi  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Madam Speaker,

I am writing to you regarding S. 1, the Strengthening America's Security in the Middle East Act of 2019, which the Senate recently passed by a vote of 77-23.

As you know, this legislative package includes four titles related to United States foreign policy in the Middle East. I am a strong supporter of the titles which authorize U.S. security assistance for Israel, enhance defense cooperation with Jordan, and sanction Bashar Assad's murderous government in Syria.

Previously, I have supported the Combating BDS Act which would provide federal non-preemption for state and local governments to enact and enforce certain measures. This would clarify that state and local governments may take action to divest from or limit contracting with entities that engage in Boycott, Divest, or Sanctions, also known as BDS, activity against Israel.

However, the version of the Combating BDS Act included in S. 1 of the 116<sup>th</sup> Congress contains a new provision that I find concerning. That provision, Sec. 402. (C)(4) Disclosure in Contracting Measures, provides authority for a state or local government to require a prospective contractor disclose whether it participates in BDS against Israel.

This language was added to the bill without my support as a previous cosponsor of the legislation, and I believe this is particularly problematic in the context of litigation against existing state laws.

Certain litigation against state and local government anti-BDS measures has centered on provisions of those measures which require contractors to disclose if they participate in BDS against Israel. In some cases, these state and local measures have caused confusion when applied to individuals who choose to boycott Israel in their personal capacity.

To offer clarity, I introduced an amendment which would limit application of federal non-preemption for state and local measures regarding restricting contracting to firms with more than 10 employees, contracts with a value greater than \$100,000, and exempting all sole proprietors. Unfortunately, that amendment was not adopted due to an objection on the Senate floor.

I believe this amendment reflects a fair compromise which captures the intent of the legislation by clearly exempting entities that are already likely not subject to the requirements of these state and local government measures.

Ultimately, I supported passage of S. 1 due to the critical provisions relating to U.S. foreign policy in the Middle East including defense cooperation with Jordan, sanctions on the Government of Syria which limit its ability to commit further atrocities, and funding for security assistance to Israel including missile defense.

However, I believe that Title IV of S. 1 requires further modification. I look forward to the opportunity to work with you, the Senate sponsors of the bill, as well as Chairwoman Maxine Waters and Chairman Eliot Engel as this bill proceeds to the House of Representatives.

Sincerely,



Gary C. Peters  
United States Senator

CC:

The Honorable Maxine Waters, Chairwoman of the House Committee on Financial Services  
The Honorable Eliot Engel, Chairman of the House Committee on Foreign Affairs