

117TH CONGRESS
1ST SESSION

H. R. 5344

To preserve conditions for, and improve the likelihood of, a two-state solution that secures Israel's future as a democratic state and a national home for the Jewish people, a viable, democratic Palestinian state, an end to Israel's occupation of the Palestinian territories, and peaceful relations between the two states, and to direct the Department of State and other relevant agencies to take steps to accomplish these ends.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2021

Mr. LEVIN of Michigan (for himself, Mr. BEYER, Mr. BLUMENAUER, Mr. CASTRO of Texas, Mr. COHEN, Mr. CONNOLLY, Mr. DOGGETT, Ms. ESHOO, Mr. HUFFMAN, Ms. JACOBS of California, Ms. JOHNSON of Texas, Ms. KAPTUR, Mr. KHANNA, Mr. KILDEE, Ms. KUSTER, Ms. LEE of California, Mr. LOWENTHAL, Mr. MCGOVERN, Mr. PRICE of North Carolina, Mr. RASKIN, Ms. SCHAKOWSKY, Ms. SPEIER, Mrs. WATSON COLEMAN, Mr. WELCH, Mr. YARMUTH, and Ms. STANSBURY) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To preserve conditions for, and improve the likelihood of, a two-state solution that secures Israel's future as a democratic state and a national home for the Jewish people, a viable, democratic Palestinian state, an end to Israel's occupation of the Palestinian territories, and peaceful relations between the two states, and to direct

the Department of State and other relevant agencies to take steps to accomplish these ends.

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 “Two-State Solution
5 Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) In May 2021, President Joseph R. Biden
9 stated, “the Palestinians and Israelis equally deserve
10 to live safely and securely, and enjoy equal measures
11 of freedom, prosperity and democracy”.

12 (2) The United States has, under Democratic
13 and Republican administrations since 2002, sup-
14 ported a two-state solution.

15 (3) On December 6, 2019, the House of Rep-
16 resentatives passed House Resolution 326 on a bi-
17 partisan basis, expressing the sense of the House of
18 Representatives that “only the outcome of a two-
19 state solution that enhances stability and security
20 for Israel, Palestinians, and their neighbors can both
21 ensure the state of Israel’s survival as a Jewish and
22 democratic state and fulfill the legitimate aspirations
23 of the Palestinian people for a state of their own”
24 and that “a United States proposal to achieve a

1 just, stable, and lasting solution to the Israeli-Pales-
2 tinian conflict should expressly endorse a two-state
3 solution as its objective and discourage steps by ei-
4 ther side that would put a peaceful end to the con-
5 flict further out of reach”.

6 (4) Democratic and Republican presidents have
7 identified Israeli settlements as an obstacle to peace.
8 President Ronald Reagan said, “further settlement
9 activity is in no way necessary for the security of
10 Israel and only diminishes the confidence of the
11 Arabs that a final outcome can be freely and fairly
12 negotiated”. In 2003, President George W. Bush
13 stated, “As progress is made towards peace, settle-
14 ment activity in the occupied territories must end.”.

15 (5) On April 21, 1978, State Department Legal
16 Adviser Herbert J. Hansell issued a legal opinion
17 concluding that “the establishment of the Israeli ci-
18 vilian settlements in the territories occupied by
19 Israel is inconsistent with international law”. Sec-
20 retary of State Mike Pompeo repudiated the 1978
21 legal opinion on November 18, 2019.

22 (6) During the Trump Administration, Israel
23 accelerated its advancement of settlement plans by
24 more than 154 percent, as compared to the prior ad-
25 ministration.

1 (7) During the final year of the Trump Admin-
2 istration, the Israeli Government demolished 273
3 homes belonging to Palestinian families in the West
4 Bank, the highest number of demolitions since 2016.
5 As a result, 1,006 Palestinians, 519 of them minors,
6 were displaced.

7 (8) The Arms Export Control Act places nu-
8 merous conditions and restrictions on the assistance
9 it authorizes, including a prohibition on the use of
10 such assistance “for purposes other than those for
11 which [it has been] furnished” without prior presi-
12 dential consent and a requirement that sales agree-
13 ments entered into after November 29, 1999 allow
14 the United States to verify “credible reports” that
15 assistance has been used for unauthorized purposes.
16 The Foreign Assistance Act of 1961 also places con-
17 ditions and restrictions on the aid it authorizes and
18 mandates that international security assistance pro-
19 grams “promote and advance human rights and
20 avoid identification of the United States, through
21 such programs, with governments which deny to
22 their people internationally recognized human rights
23 and fundamental freedoms, in violation of inter-
24 national law or in contravention of the policy of the
25 United States”.

1 (9) Dating back to the administration of Presi-
2 dent Dwight D. Eisenhower, the United States has
3 delineated explicitly authorized uses of the aid it
4 provides to Israel.

5 (10) Congress passed and President George W.
6 Bush signed into law the Fiscal Year 2003 Emer-
7 gency Wartime Supplemental Appropriations Act
8 (Public Law 108–11), which authorized
9 \$9,000,000,000 in loan guarantees for Israel over 3
10 years and \$1,000,000,000 in military grants. Public
11 Law 108–11 stated, “guarantees may be issued
12 under this section only to support activities in the
13 geographic areas which were subject to the adminis-
14 tration of the Government of Israel before June 5,
15 1967”.

16 (11) House Report 117–84, in explanation of
17 the accompanying bill making appropriations for the
18 Department of State, foreign operations, and related
19 programs, for the fiscal year ending September 30,
20 2022, which passed in the House of Representatives
21 on July 28, 2021, states, “the Committee urges the
22 Secretary of State to address in bilateral consulta-
23 tions with Israel the importance of ensuring that
24 MOU-supported equipment is not used in any way

1 that undermines the prospects of a negotiated two-
2 state solution”.

3 **SEC. 3. PURPOSE.**

4 The purpose of this Act is to preserve conditions for,
5 and improve the likelihood of a two-state solution that se-
6 cures Israel’s future as a democratic state and a national
7 home for the Jewish people, a viable, democratic Pales-
8 tinian state, an end to Israel’s occupation of the Pales-
9 tinian territories, and peaceful relations between the two
10 states, and to direct the Department of State and other
11 relevant agencies to take steps to accomplish these ends.

12 **SEC. 4. STATEMENT OF POLICY.**

13 It is the policy of the United States—

14 (1) that only the outcome of a two-state solu-
15 tion can both ensure the state of Israel’s survival as
16 a democratic state and a national home for the Jew-
17 ish people and fulfill the legitimate aspirations of the
18 Palestinian people for a state of their own;

19 (2) to discourage steps by either party to the
20 conflict that would put a peaceful end to the conflict
21 further out of reach;

22 (3) that the establishment of Israeli settlements
23 in the occupied Palestinian territories is inconsistent
24 with international law;

1 (4) that settlement expansion, demolitions of
2 Palestinian homes, revocations of residency permits,
3 and forced evictions of Palestinian civilians by Israel
4 impede the establishment of a Palestinian state and
5 violate the human rights of the Palestinian people;

6 (5) to continue to implement fully the Memo-
7 randum of Understanding between the United States
8 and Israel signed in 2016 and to help Israel address
9 the myriad challenges it faces, including terrorism,
10 and threats posed by actors in the region, such as
11 Iran;

12 (6) that the use of United States funding pro-
13 vided through the 2016 Memorandum of Under-
14 standing by the Government of Israel for activities
15 that put a two-state solution further out of reach,
16 including those that expand settlements, would be
17 detrimental to Israel's security and inconsistent with
18 section 2754 of title 22, United States Code, under
19 which "Defense articles and defense services shall be
20 sold or leased by the United States Government
21 under this chapter to friendly countries solely for in-
22 ternal security, for legitimate self-defense" and other
23 limited purposes;

24 (7) to support programming that bolsters Pal-
25 estinian civil society organizations and Palestinian

1 government reforms, with the goal of fostering a
 2 Palestinian government that is democratic and en-
 3 joys credibility among the Palestinian people;

4 (8) to oppose restrictions on civil liberties in the
 5 occupied Palestinian territories, including the arrest
 6 of activists, journalists, and peaceful protesters, and
 7 to support an end to the torture or abuse of individ-
 8 uals in detention; and

9 (9) that a Palestinian government that respects
 10 civil and human rights and enjoys legitimacy among
 11 the Palestinian people is both necessary in its own
 12 right and important for productive negotiations on a
 13 two-state solution.

14 **SEC. 5. UNITED STATES POLICY RELATING TO THE OCCU-**
 15 **PIED PALESTINIAN TERRITORIES.**

16 (a) STATEMENT OF POLICY.—It is the policy of the
 17 United States that the West Bank, including East Jeru-
 18 salem, and Gaza are occupied territories and should be
 19 referred to as such consistently in official United States
 20 policies, communications, and documents.

21 (b) MARKING OF IMPORTED ARTICLES.—

22 (1) IN GENERAL.—Section 304 of the Tariff
 23 Act of 1930 (19 U.S.C. 1304) is amended—

24 (A) by redesignating subsection (l) as sub-
 25 section (m); and

1 (B) by inserting after subsection (k) the
2 following:

3 “(l) ARTICLES PRODUCED IN THE OCCUPIED PALES-
4 TINIAN TERRITORIES.—Articles imported into the United
5 States that are produced in the occupied Palestinian terri-
6 tories (as such term is defined in section 10(2) of the Two-
7 State Solution Act) shall have their place of production
8 marked as ‘West Bank/Gaza’, ‘West Bank/Gaza Strip’, or
9 ‘West Bank and Gaza’ and shall not contain the words
10 ‘Israel’, ‘Made in Israel’, ‘Occupied Territories-Israel’, or
11 words of similar meaning.”.

12 (2) EFFECTIVE DATE.—The amendments made
13 by paragraph (1) take effect on the date of the en-
14 actment of this Act and apply with respect to any
15 article described in subsection (l) of section 304 of
16 the Tariff Act of 1930 (19 U.S.C. 1304), as added
17 by paragraph (1), that is imported into the customs
18 territory of the United States on or after the date
19 that is 30 days after such date of enactment.

20 (c) GEOGRAPHIC RESTRICTIONS RELATING TO U.S.-
21 ISRAEL BINATIONAL FOUNDATIONS.—Notwithstanding
22 any other provision of law, the United States may not pro-
23 vide support for projects conducted in geographic areas
24 which came under the administration of the Government
25 of Israel after June 5, 1967, and may not relate to sub-

1 jects primarily pertinent to such areas, pursuant to agree-
2 ments relating to the Binational Industrial Research and
3 Development Foundation (BIRD), the Binational Science
4 Foundation (BSF), and the Binational Agricultural Re-
5 search and Development Foundation (BARD).

6 **SEC. 6. SECURITY ASSISTANCE RELATING TO THE OCCU-**
7 **PIED PALESTINIAN TERRITORIES.**

8 (a) SENSE OF CONGRESS.—It is the sense of Con-
9 gress that—

10 (1) the United States should ensure the aid it
11 provides to Israel does not facilitate unilateral ac-
12 tions by the Israeli Government that impede the
13 achievement of a two-state solution, including
14 through unilateral efforts to annex or exercise per-
15 manent control by Israel over any part of the occu-
16 pied Palestinian territories, is not used in a manner
17 that violates internationally recognized human
18 rights, and is used exclusively for the purposes au-
19 thorized by law; and

20 (2) there should be robust oversight of United
21 States funding provided through the Memorandum of
22 Understanding between the United States and Israel
23 signed in 2016, in accordance with the Foreign As-
24 sistance Act of 1961 and the Arms Export Control
25 Act.

1 (b) RESTRICTION UNDER SECURITY ASSISTANCE
2 ACT OF 2000.—Section 513(c) of the Security Assistance
3 Act of 2000 (Public Law 106–280; 114 Stat. 856) is
4 amended by adding at the end the following:

5 “(5) RULES OF CONSTRUCTION.—Nothing in
6 this section may be construed—

7 “(A) to provide authorization for the use
8 of funds for programs, projects, activities, any
9 type of materiel assistance, or other operations
10 that further, aid, or support unilateral efforts
11 to annex or exercise permanent control by
12 Israel over any part of the occupied Palestinian
13 territories (as such term is defined in section
14 10(2) of the Two-State Solution Act), including
15 by expansion of Israeli settlements, demolitions
16 in Palestinian communities or evictions of Pal-
17 estinian residents from their homes; or

18 “(B) to provide authorization for the use
19 of funds for programs, projects, activities, any
20 type of materiel assistance, or other operations
21 that further, aid, or support unilateral efforts
22 in contravention of section 620M of the Foreign
23 Assistance Act of 1961 (22 U.S.C. 2378d) or
24 section 362 of title 10, United States Code.”.

1 (c) RESTRICTION UNDER ARMS EXPORT CONTROL
2 ACT.—Section 4 of the Arms Export Control Act (22
3 U.S.C. 2754) is amended by adding at the end before the
4 period the following: “: *Provided further*, That no defense
5 articles or defense services may be sold or leased by the
6 United States Government under this Act to further, aid,
7 or support unilateral efforts to annex or exercise perma-
8 nent control by Israel over any part of the occupied Pales-
9 tinian territories (as such term is defined in section 10(2)
10 of the Two-State Solution Act), including by expansion of
11 Israeli settlements, demolitions in Palestinian commu-
12 nities or evictions of Palestinian residents from their
13 homes”.

14 **SEC. 7. ASSISTANCE TO ADDRESS THE IMMEDIATE AND**
15 **LONG-TERM NEEDS OF THE PALESTINIAN**
16 **PEOPLE.**

17 (a) FINDINGS.—Congress finds the following:

18 (1) Palestinian Authority President Mahmoud
19 Abbas postponed elections planned for 2021,
20 prompting significant criticism and exacerbating
21 popular Palestinian opposition stemming from the
22 absence of a Palestinian state, violations of human
23 rights and civil liberties, official corruption, and poor
24 governance.

1 (2) Since 2007, the militant organization
2 Hamas, a United States-designated terrorist organi-
3 zation, has maintained control over Gaza, which
4 faces a humanitarian crisis resulting from poor gov-
5 ernance, recurrent conflict, and the Israeli and
6 Egyptian blockade that restricts the movement of
7 people and goods. Hamas has fired rockets at Israeli
8 population centers, resulting in deaths of civilians in
9 Israel, as well as Palestinian civilians in Gaza due
10 to misfires.

11 (3) The Consolidated Appropriations Act, 2021,
12 imposes on assistance to the Palestinians certain re-
13 strictions and conditions, with limited exemption au-
14 thorities, regarding any future Palestinian state and
15 its governing entity, certifications and vetting prior
16 to the obligation of funds, audit requirements, a
17 general prohibition on assistance for the Palestinian
18 Authority, and a prohibition on assistance for the
19 Palestine Liberation Organization, Hamas, or “any
20 entity effectively controlled by Hamas, any power-
21 sharing government of which Hamas is a member,
22 or that results from an agreement with Hamas and
23 over which Hamas exercises undue influence”.

24 (b) SENSE OF CONGRESS.—It is the sense of Con-
25 gress that investments in Palestinian democracy, civil soci-

1 ety organizations, and economic development will promote
2 better governance and community engagement and im-
3 prove the likelihood of free and fair elections, in turn set-
4 ting the stage for negotiations in which a Palestinian gov-
5 ernment genuinely speaks for the Palestinian people.

6 (c) GRANTS AUTHORIZED.—Subject to subsection
7 (d), the Secretary of State and the Administrator of the
8 United States Agency for International Development are
9 authorized to jointly provide grants on an open and com-
10 petitive basis to private, nonprofit organizations to sup-
11 port programs that promote human rights, democracy,
12 and the rule of law, and strengthen civil society organiza-
13 tions to address the immediate and long-term needs of the
14 Palestinian people in the occupied Palestinian territories
15 in a manner that supports the sustainability of such orga-
16 nizations in implementing Palestinian-led humanitarian
17 and development programs.

18 (d) LIMITATION ON USE OF FUNDS.—None of the
19 funds made available to carry out this section, or any
20 amendment made by this section, may be used to pro-
21 vide—

- 22 (1) financial assistance to the national govern-
23 ment of any foreign country;
24 (2) assistance for—

1 (A) any individual or group the Secretary
2 of State determines to be involved in, or advo-
3 cating, terrorist activity; or

4 (B) any individual who is a member of a
5 foreign terrorist organization (as designated
6 pursuant to section 219 of the Immigration and
7 Nationality Act (8 U.S.C. 1189)); or

8 (3) assistance for the Palestinian Authority or
9 the Palestine Liberation Organization.

10 (e) APPLICABLE REGULATIONS.—Assistance made
11 available under this Act, and any amendment made by this
12 Act, shall adhere to the mission directives and vetting
13 practices for assistance for the West Bank and Gaza, as
14 set forth by the United States Agency for International
15 Development.

16 (f) REPORTS.—Not later than one year after the date
17 of the enactment of this Act, and annually thereafter, the
18 Secretary of State and the Administrator of the United
19 States Agency for International Development shall jointly
20 submit to the appropriate congressional committees a re-
21 port on the implementation of grants authorized under
22 this section and the progress and impact of such grants
23 on the Palestinian people, including effects related to civic
24 engagement, trust in civic institutions, and the long-term
25 viability of Palestinian civil society organizations. Not

1 later than 180 days after the date of the enactment of
 2 this Act, the Secretary of State and the Administrator of
 3 the United States Agency for International Development
 4 shall jointly submit to the appropriate congressional com-
 5 mittees a report on the impact of past democracy and gov-
 6 ernance programming in the occupied Palestinian terri-
 7 tories.

8 (g) AUTHORIZATION OF APPROPRIATIONS.—

9 (1) IN GENERAL.—There are authorized to be
 10 appropriated not less than \$20,000,000 for each of
 11 the fiscal years 2022 through 2027 to carry out this
 12 section.

13 (2) AVAILABILITY.—Amounts appropriated pur-
 14 suant to the authorization of appropriations under
 15 paragraph (1) for a fiscal year are authorized to re-
 16 main available for 5 fiscal years.

17 **SEC. 8. AMENDMENT TO THE ANTI-TERRORISM ACT OF**
 18 **1987.**

19 (a) FINDING.—Congress finds that according to the
 20 2020 State Department Country Reports on Human
 21 Rights Practices, the Palestinian Authority continues to
 22 “make payments to Palestinians connected to terrorism,
 23 including persons convicted of terrorism in Israeli courts
 24 serving prison sentences, former prisoners, and the fami-
 25 lies of those who died committing terrorist attacks”.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that—

3 (1) the Palestinian Authority should reform its
4 payments program in a manner that would allow the
5 Secretary of State to issue the certification specified
6 in section 1004(a) of the Taylor Force Act (22
7 U.S.C. 2378c-1); and

8 (2) the United States should maintain diplo-
9 matic relations with the Palestinians, including by
10 reopening a United States consulate in Jerusalem
11 and allowing for the reopening of the Palestine Lib-
12 eration Organization foreign mission in the District
13 of Columbia.

14 (c) AMENDMENT TO THE ANTI-TERRORISM ACT OF
15 1987.—Section 1005 of the Anti-Terrorism Act of 1987
16 (22 U.S.C. 5201 note) is amended by striking subsection
17 (b) and inserting the following:

18 “(b) WAIVER.—

19 “(1) IN GENERAL.—The President may waive
20 the provisions of paragraphs (1), (2), and (3) of sec-
21 tion 1003 if the President determines and certifies
22 in writing to the Speaker of the House of Represent-
23 atives, the President pro tempore of the Senate, and
24 the Committees on Appropriations that it is impor-

1 tant to the national security interests of the United
2 States or the conduct of diplomacy.

3 “(2) PERIOD OF APPLICATION.—Any waiver
4 issued pursuant to this subsection shall be effective
5 for not more than a period of 6 months at a time.

6 “(c) TERMINATION.—The provisions of this title shall
7 cease to have effect on the earlier of—

8 “(1) the date on which—

9 “(A) the President has certified in writing
10 to the President pro tempore of the Senate and
11 the Speaker of the House of Representatives
12 that the Palestine Liberation Organization—

13 “(i) is not objecting to any convening
14 of the Trilateral Anti-Incitement Com-
15 mittee; and

16 “(ii) is not obstructing security co-
17 ordination and cooperation between the
18 Palestinian Authority and Israel; and

19 “(B) the Secretary of State has issued the
20 certification specified in section 1004(a) of the
21 Taylor Force Act (22 U.S.C. 2378c–1); or

22 “(2) the date on which the President has cer-
23 tified in writing to the President pro tempore of the
24 Senate and the Speaker of the House of Representa-
25 tives that the Palestine Liberation Organization, its

1 agents, or constituent groups thereof no longer prac-
 2 tice or support terrorist actions anywhere in the
 3 world.”.

4 **SEC. 9. AMENDMENTS TO FOREIGN ASSISTANCE ACT OF**
 5 **1961.**

6 (a) SENSE OF CONGRESS.—It is the sense of Con-
 7 gress that the administration should work urgently to im-
 8 plement the Nita M. Lowey Middle East Partnership for
 9 Peace Act (Public Law 116–260), which authorized
 10 \$250,000,000 over 5 years to fund Palestinian economic
 11 development and people-to-people initiatives that connect
 12 Israelis and Palestinians.

13 (b) IN GENERAL.—The Foreign Assistance Act of
 14 1961 is amended—

15 (1) in section 105(c)(2) (22 U.S.C.
 16 2151c(c)(2))—

17 (A) in subparagraph (D), by striking
 18 “and” at the end;

19 (B) in subparagraph (E), by striking the
 20 period at the end and inserting “; and”; and

21 (C) by adding at the end the following:

22 “(F) in the case of programs and activities
 23 for Israelis and Palestinians, allow for shared
 24 educational opportunities between such Israelis
 25 and such Palestinians.”; and

1 (2) in section 535 (22 U.S.C. 2346d)—

2 (A) in subsection (b), by adding at the end
3 before the period the following: “, including or-
4 ganizations that seek to foster connections be-
5 tween Israelis and Palestinians”; and

6 (B) in subsection (c), by inserting after
7 “dialogue” the following: “, shared educational
8 opportunities and youth activities”.

9 (c) EFFECTIVE DATE.—The amendments made sub-
10 section (b)(2) take effect on the date of the enactment
11 of this Act and apply with respect to funding for projects
12 described in section 535 of the Foreign Assistance Act of
13 1961 (22 U.S.C. 2346d), as amended by subsection (b),
14 provided on or after such date of enactment.

15 **SEC. 10. DEFINITIONS.**

16 In this Act:

17 (1) APPROPRIATE CONGRESSIONAL COMMIT-
18 TEES.—The term “appropriate congressional com-
19 mittees” means—

20 (A) the Committee on Foreign Affairs and
21 the Committee on Appropriations of the House
22 of Representatives; and

23 (B) the Committee on Foreign Relations
24 and the Committee on Appropriations of the
25 Senate.

- 1 (2) OCCUPIED PALESTINIAN TERRITORIES.—
2 The term “occupied Palestinian territories” means
3 the West Bank, including East Jerusalem, and
4 Gaza.

