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House Economic and Workforce Development Committee
James Hoops, Chair
Via email only

RE: OPPONENT testimony to HB 291

Chairman Hoops, Vice Chair Lorenz, Ranking Member Abdullahi, and members of the Ohio House Development Committee:

I'm submitting testimony on behalf of the Northwest Ohio Peace Coalition, a 24-year-old peace and justice organization headquartered in Toledo with 200 members.

There are two significant legal flaws with House Bill 291, the proposal to create an Ohio International Trade Commission. Both of them have to do with the inclusion of the nation of Israel as a favored trading partner. HB 291 does not define the legal boundaries of "Israel" and HB 291 cannot be repealed or amended because of Ohio's anti-boycott statute, O.R.C. § 9.76.

I. There is no legal definition of "Israel" in the bill

This is a very significant problem. There is the nation of Israel, which has internationally-recognized legal boundaries, and then there are the lands called the Occupied Territories, also called Occupied Palestine, which do not legally belong to Israel. The two Occupied Territories are the Gaza Strip and the West Bank. These lands were conquered by Israel in 1967 and illegally kept as spoils of a war involving Israel and neighboring countries. Israel has refused ever since to cede these lands, which are home to 7 million Palestinians. Presently, Israel's military is actively murdering and preparing to expel the approximately 2,000,000 Palestinian residents from Gaza. In the West Bank there are ongoing armed hostilities between Israelis and Palestinians, with thousands of illegal annexations of Palestinian land and evictions of Palestinian landowners each year by the Israel military and vigilante settler organizations. It is no secret that the nation of Israel is systematically dispossessing Palestinian ownership to annex and permanently control the Occupied Territories.

The definition of "Israel" in HB 291 makes no distinction between the entity of the nation of Israel and the Occupied Territories which are not part of Israel. On July 19, 2024, the International Court of Justice (ICJ) in the Hague, Netherlands ruled that the past and prospective occupation of Gaza and the West Bank by Israel is illegal and immediately terminable, and

ordered Israel to cede all control over the Territories to their Palestinian occupants and owners. The ICJ ordered the nations of the world to work together to ensure that Israel surrenders control over the Occupied Territories. The Court further ordered reparations be made by Israel to the Palestinians.¹

The International Court of Justice is the highest court on the planet. It was created by the United Nations Charter in 1946. The UN Charter is a treaty that was signed by both the United States (a key founder of the United Nations in 1945) and later, by Israel. As a duly signed and ratified treaty, the UN Charter is part of American federal law according to the U.S. Constitution (Article II, Sect. 2, Clause 2).

Israel must be defined by its borders and be recognized in HB 291 as legally exclusive from the Occupied Territories. Without a clear definition that limits Israel to its internationally recognized contours, the Ohio International Trade Commission could find itself in a legally-unsupportable situation of assisting Israel companies that illegally hold disputed assets and other business interests in the Occupied Territories. Those interests might be the targets of litigation or otherwise cause failure of projects arranged by the Commission. To treat the Occupied Territories as legally part of Israel will not be recognized by domestic U.S. or international courts, nor by trade regulators.

This problem can easily be solved by adding wording to HB 291 which explicitly defines Israel according to its recognized boundaries.

II. HB 291 as written cannot be amended or revoked concerning Israel.

In 2017, HB 476 became law (codified as O.R.C. § 9.76). It is an anti-boycott measure. The Ohio Attorney-General maintains that this law prohibits all public universities in Ohio from divesting from any interests in Israel and prohibits adopting or adhering to a policy that requires

¹ “The court . . . Is of the opinion that the State of Israel’s continued presence in the Occupied Palestinian Territory is unlawful; Is of the opinion that the State of Israel is under an obligation to bring to an end its unlawful presence in the Occupied Palestinian Territory as rapidly as possible; Is of the opinion that the State of Israel is under an obligation to cease immediately all new settlement activities, and to evacuate all settlers from the Occupied Palestinian Territory; Is of the opinion that the State of Israel has the obligation to make reparation for the damage caused to all the natural or legal persons concerned in the Occupied Palestinian Territory; Is of the opinion that all States are under an obligation not to recognize as legal the situation arising from the unlawful presence of the State of Israel in the Occupied Palestinian Territory and not to render aid or assistance in maintaining the situation created by the continued presence of the State of Israel in the Occupied Palestinian Territory; Is of the opinion that international organizations, including the United Nations, are under an obligation not to recognize as legal the situation arising from the unlawful presence of the State of Israel in the Occupied Palestinian Territory; and Is of the opinion that the United Nations, and especially the General Assembly, which requested this opinion, and the Security Council, should consider the precise modalities and further action required to bring to an end as rapidly as possible the unlawful presence of the State of Israel in the Occupied Palestinian Territory.” [Summary of the Advisory Opinion of 19 July 2024 https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-sum-01-00-en.pdf](https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-sum-01-00-en.pdf).

divestment from Israel or with persons or entities associated with it.² If that reasoning is applied to a trade relationship legislated between Ohio and Israel, it is questionable whether any future modification could be made to the international trade commission statute that might negatively affect Israel's arrangements with Ohio. For example, if serious differences arose over privacy preservation as between the commission and a corporate partner in Israel, it might be impossible for Ohio to impose trade restrictions against data harvesting or other misuses of cyber information if the Israeli participant deemed the restrictions to be adverse.

There must be statutory language added to the bill that expressly reserves the right prospectively to alter, amend or revoke HB 291's provisions and to terminate the underlying business relations brought into existence by the commission, all under recognized principles of contract..

Thank you.

Very truly yours,

/s/ Terry J. Lodge

Counsel for Northwest Ohio Peace Coalition

²[Ohio State says it legally can't divest from Israel - here's why](https://www.dispatch.com/story/news/local/2024/04/26/ohio-state-legally-cant-divest-from-israel-gaza-protests-hamas-war-osu-students/73466833007/) ,
<https://www.dispatch.com/story/news/local/2024/04/26/ohio-state-legally-cant-divest-from-israel-gaza-protests-hamas-war-osu-students/73466833007/>