

Congress of the United States
Washington, DC 20515

May 3, 2017

The Honorable Rex W. Tillerson
Secretary of State
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Dear Secretary Tillerson:

We write to urge you to revise the State Department's policy regarding the birthplace designation on passports and consular reports of birth abroad for American citizens born in Jerusalem. Under the current policy, Americans born in Jerusalem have no country of birth listed on these documents; they are identified only as having been born in Jerusalem. We ask that you change the policy to permit Jerusalem-born Americans to have "Israel" listed as their birthplace on their passports and consular reports of birth abroad. The policy change would not only honor the personal preferences and convictions of many Americans, but would also effectuate the clear intent and will of the U.S. Congress.

If you institute the policy we are requesting, there will be no perceptible geopolitical impact, but such a policy will be meaningful to a number of our fellow citizens. It would honor the individual's personal dignity and cherished personal identification with "Israel" as his place of birth.

It is not unusual for the State Department to honor the personal preferences of American citizens born abroad when it comes to how their birthplaces are designated on their passports. State Department policy generally requires that for persons born outside the U.S., the country with present sovereignty over the person's place of birth is recorded. But, for example, if an individual born anywhere in sovereign Israel prior to 1948—the year that the State of Israel was established—does not want to identify with Israel, then the State Department will accommodate that personal preference and permit the individual's birthplace to be listed as "Palestine" instead. Likewise, if an individual born anywhere in sovereign Israel after 1948 does not want to identify with Israel, then the State Department will accommodate that preference, and permit the individual to list his/her city of birth instead.

Instituting the policy we are requesting would be consistent with a directive from Congress, as set forth in Section 214(d) of the Foreign Relations Authorization Act, Fiscal Year 2003. As you know, this law, passed in 2002, required the State Department to record "Israel" as a Jerusalem-

born citizen's birthplace on his/her passport and consular report of birth abroad, if the citizen (or the citizen's legal guardian) requested it. The State Department, under the Bush and Obama administrations, refused to comply with this congressional mandate. Citing the Executive Branch's longstanding position that the status of Jerusalem was undecided, there was concern that enforcing the 2002 law might be construed as a reflection of a change in U.S. policy regarding Jerusalem's status.

As you are aware, in a 2015 decision, the U.S. Supreme Court concluded that the 2002 law was invalid.¹ The Court determined that the president has the exclusive authority to recognize foreign sovereigns, and that the law contradicted an earlier recognition determination in an official document issued by the Executive Branch.

Significantly, the Court acknowledged that the notation required by Section 214(d) would "not itself constitute a formal act of recognition" of Israel's sovereignty over Jerusalem.² Accordingly, your decision to institute a policy permitting Americans born in Jerusalem to have "Israel" listed as their birthplace on their passports and consular reports of birth abroad would not contravene the Supreme Court's decision. Also, should there be any concern that the policy change might be misconstrued as intending to recognize Israel's sovereignty over Jerusalem, the State Department could simply and simultaneously issue a disclaimer of that intent.

There is precedent for taking these very steps; we refer you to how the State Department is addressing the place-of-birth designation of Americans born in Taiwan. The United States acknowledges the Chinese position that Taiwan is a part of China. Accordingly, for many years, the State Department insisted on recording the birthplace of citizens born in Taiwan as "China." But then Congress passed a law—that served as the model for Section 214(d)—permitting citizens to have their birthplaces recorded as "Taiwan." The State Department is enforcing this law, but also has made it clear in its policy manual that the U.S. does not officially recognize Taiwan as a "state" or "country." A similar disclaimer could be issued here.

This is an important opportunity for the Executive to unite with Congress and speak with one voice regarding the birthplace designations on the passports of Americans born in Jerusalem. Congress was so committed to permitting these citizens to identify "Israel" as their birthplace that after the enactment of Section 214(d) in 2002, Congress passed virtually the same legislation again in 2003.³ We urge you to issue a new policy that will effectuate the will of Congress, as well as honor the personal preferences of thousands of Americans, with no threat to the president's authority and power, or to our country's foreign policy.

Sincerely,

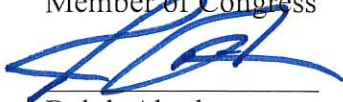
¹ See *Zivotofsky v. Kerry*, 135 S.Ct. 2076 (2015).

² *Id.* at 2095.

³ Consolidated Appropriations Resolution, 2003, Pub. L. 108-7, Division B, Title IV, § 404.



Ron DeSantis
Member of Congress



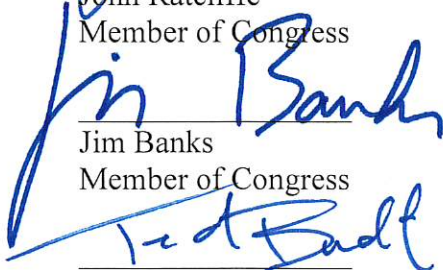
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Member of Congress



Rick Allen
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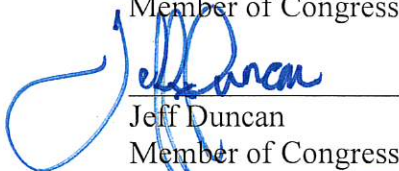
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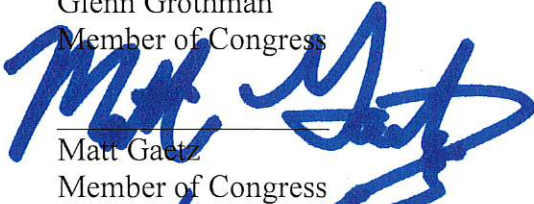
Ted Budd
Member of Congress



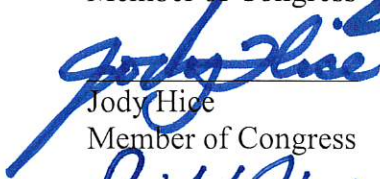
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Glenn Grothman
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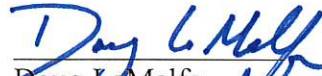
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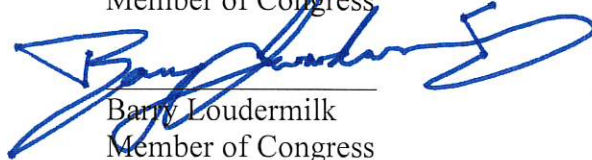
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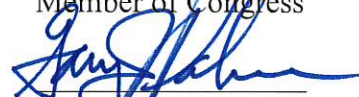
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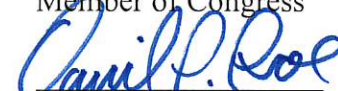
Barry Loudermilk
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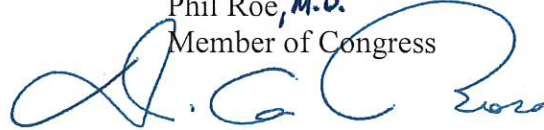
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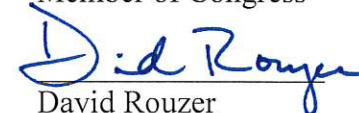
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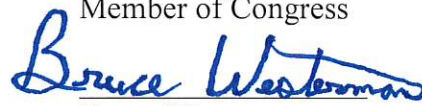
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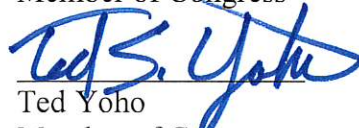
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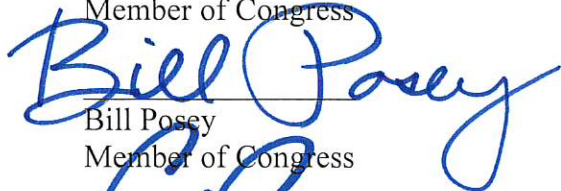
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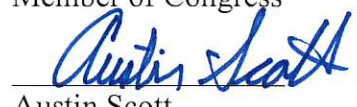
Todd Rokita
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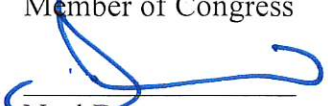
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