

# United States Senate

WASHINGTON, DC 20510

April 21, 2010

The Honorable Joseph Lieberman  
Chairman  
Committee on Homeland Security and Governmental Affairs  
340 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Lieberman:

We are concerned that the Homeland Security and Governmental Affairs Committee is considering taking up S. 569, the Incorporation Transparency and Law Enforcement Assistance Act at its business meeting on April 28, 2010.

As you recall, during the November 5, 2009 hearing entitled "Business Formation and Financial Crime: Finding a Legislative Solution," the Treasury Department's Assistant Secretary for Terrorist Financing, David Cohen, expressed concerns with the bill. Specifically, he noted that Treasury's support was contingent on changes that would "clarify and limit the definition of beneficial ownership and corresponding information disclosure requirements" under the bill. Assistant Secretary Cohen argued that without such changes, "the ambiguity and breadth of the definition of beneficial ownership, coupled with burdensome disclosure requirements makes compliance uncertain, time consuming and costly." The Assistant Secretary was clear that the focus of the bill must be more "straightforward and simple in application to work for the full range of covered legal entities," including "small start-up businesses."

We share the concerns of Assistant Secretary Cohen. It is extremely difficult it to start and grow a business. It is certainly more difficult in today's economic environment. We fear that this bill will result in significant regulatory and compliance costs that may have a chilling effect on the creation of new business and new jobs at a time when our economy can least afford it.

Assistant Secretary Cohen testified that any legislation would require that five issues be addressed: 1) definition of beneficial ownership; 2) documentation requirements; 3) transfer; 4) liability; and 5) funding. We have been told that Treasury and the Department of Justice has had several meetings with private and public sector interests to examine these issues and identify potential solutions. As a result of these discussions, Treasury and DOJ have been drafting an alternative to S. 569, which is currently in the OMB clearance process.

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It is our hope that we can work together on this very important issue to ensure that the needs of law enforcement are adequately met, while not overburdening our states or legitimate business interests. However, we feel that it is important that we receive those amendments and recommendations from OMB so that we can have ample time to review and discuss with stakeholders in our states prior to taking up this legislation in the Committee. We respectfully ask that you consider removing S. 569 from the Committee's agenda on April 28, 2010. Thank you for your consideration.

Sincerely,

John Erisign

Susan M Collins

J. J. [Signature]

Tom Carper

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Tom Coburn