

**“Business Formation and Financial Crime:
Finding a Legislative Solution”**
Homeland Security and Governmental Affairs Committee
Chairman Joseph Lieberman
November 5, 2009

Good morning and welcome to our hearing today. This is our Committee’s second hearing on the Incorporation Transparency and Law Enforcement Assistance Act, S. 569, which was introduced by Senators Levin and McCaskill, who are members of this Committee, and by Senator Grassley, Ranking Member of the Finance Committee. This legislation - the result of work by Senator Levin’s Permanent Subcommittee on Investigations over the years, - seeks to increase the transparency of business formation practices in order to reduce what is estimated as billions of dollars in fraud perpetrated by shell corporations.

Each year, nearly two million new corporations and limited liability companies are established in the 50 states and the District of Columbia. That’s comes to more than 5,000 new businesses per day. This is really the American way - entrepreneurship at its best: generating revenue and creating jobs.

But, each year, some of those new businesses are incorporated for improper or illegal purposes—to try to use registered corporations to defraud innocent people, to cheat tax authorities, to hide the true transactions, or to launder ill-gotten funds.

Right now, a majority of states require some basic information from those seeking to establish a corporation. Most require the name and address of the company, the name of a registered agent, who represents the company, and a list of officers and or directors. This information is typically considered a public record.

But most states allow the individuals with actual ownership interest – including the investors who control the corporation or partnership – to remain anonymous to state authorities and, therefore, to the public. And this is a problem for law enforcement

Senator Levin’s bill offers one solution: setting a national minimum standard for state incorporation practices that requires states to collect, maintain, and update so-called “beneficial ownership” information.

But there are critics of this method who argue that a well-intended desire for more sunshine must be weighed against other factors, including the privacy rights of those making personal investment decisions, and the potential costs of administration and enforcement that would fall on companies and state governments.

Our goal today is to hear today from experts in this problem so we can make a judgment about how to deal with what everyone considers a problem.

We have a series of witnesses today who will help us sort out the benefits and consequences of S.569. On the first panel, we will hear for the first time from the Treasury Department, which administers anti-money laundering laws and leads U.S. efforts to stop the flow of terrorist financing. Treasury has worked tirelessly on corporate transparency issues, engaging with stakeholders to consider all the possible approaches to improving practices in this area. We will also hear from the Department of Justice, which has first-hand experience in the challenges of law-enforcement as they try to combat the use of corporations for nefarious purposes.

Our second panel of witnesses represents the business and legal communities, which have distinct concerns about the smooth flow of commerce for legitimate corporate purposes. We will also hear from a representative of the Federal Law Enforcement Officers Association and an expert on tax havens, both of whom support the general approach taken by the bill.

So, this is an interesting and important matter on which we hope to shed some light this morning.

Thank you. Senator Collins?