



STATE OF NEBRASKA

JOHN A. GALE
SECRETARY OF STATE

P.O. Box 94608
State Capitol, Suite 2300
Lincoln, NE 68509-4608
Phone 402-471-2554
Fax 402-471-3237
www.sos.state.ne.us

November 4, 2009

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

Dear Chairman Lieberman:

I am writing to express opposition to S. 569, the Incorporation Transparency and Law Enforcement Assistance Act, which is scheduled for a hearing in your committee on Thursday, November 5.

The purpose of the bill is to prevent people from exploiting U.S. corporations for criminal purposes, such as terrorism and money laundering. However, I believe the bill is extremely overbroad and would prove detrimental to the U.S. economy and to state agencies, such as the Office of the Nebraska Secretary of State, that are involved in the incorporation process.

Beginning with fiscal year 2012, S. 569 provides that each state that receives funding from the U.S. Department of Homeland Security must use an incorporation system that meets stringent requirements. Each application to form a corporation or limited liability company (LLC) must provide a list of each beneficial owner and must periodically update the list of beneficial owners. The state must provide beneficial ownership information on each corporation or LLC in response to a civil or criminal subpoena or written request from a federal agency on behalf of a foreign country.

I fear the bill raises serious privacy concerns. Passage of the bill could discourage people from forming or investing in companies to the detriment of our economy. In addition, the bill would create a paperwork burden on companies to provide the necessary information.

Passage of the bill would place a staggering burden on the Nebraska Secretary of State's Office. The bill would change the basic function of the office from a ministerial role to one of collecting and processing ownership information, and scrutinizing that information to a law enforcement standard that is beyond their qualification to judge.

I am naturally sympathetic to the law enforcement problems that S. 569 is attempting to deal with. However, I believe that banks through use of their Suspicious Activity Lists and the Internal Revenue Service are far more effective means of securing the desired information than the business entity registration process. Furthermore, I believe that state laws and proposals

similar to the Uniform Law Enforcement Access to Entity Information Act proposed by the Uniform Law Commissioners can enhance law enforcement needs in this area.

I respectfully ask that the Committee on Homeland Security and Governmental Affairs refrain from further action on S.569, and continue to monitor the progress being made by the National Association of Secretaries of State, the National Conference of State Legislatures, and the Uniform Law Commissioners toward an appropriate state-based response to the issues raised by S. 569.

Sincerely,

A handwritten signature in blue ink, appearing to read "John A. Gale". The signature is fluid and cursive, with a large loop at the end.

John A. Gale
Nebraska Secretary of State