

STATEMENTS ON INTRODUCED  
BILLS AND JOINT RESOLUTIONS

By Mr. SANTORUM (for himself and Mr. CARPER):

S. 1773. A bill to permit biomedical research corporations to engage in certain equity financings without incurring limitations on net operating loss carryforwards and certain built-in losses, and for other purposes; to the Committee on Finance.

Mr. SANTORUM. Mr. President, today, I am introducing the Biotechnology Future Investment Expansion Act of 2003. I am pleased that Senator CARPER is cosponsoring this important, bipartisan bill.

Biotechnology holds great promise for breakthroughs in health care, agriculture and defense against bioterrorism. However, recent years have seen promising biotech medical therapies endangered due to flawed tax treatment and a lack of willing capital. This legislation will level the playing field to encourage further investment and innovation in this vital sector of our economy.

The nearly 1,500 biotechnology companies in the U.S. have produced 130 FDA-approved products while another 350 biotech drug products and vaccines are currently in clinical trials. Most biotechnology researchers work in promising, but relatively narrow fields, and only a small number of their peers are qualified to evaluate the theoretical promise of any new idea. On average, it takes these researchers more than 10 years and \$500 million to develop a new biotech therapy, and this highly capital-intensive research is more often done at small-to-medium-sized companies that are yet to market a saleable product.

These factors combine to create an industry structure that is unique in our economic history. Unfortunately, this unique structure prevents the biotechnology industry from utilizing research incentives intended to promote just the kind of research it engages in. Specifically, net operating loss carryforwards (NOLs), which are meant to allow research-intensive industries like biotechnology to apply current losses against future profits for tax purposes, are routinely made worthless to biotech companies due to an unintended consequence of the tax code. In fact, the current tax treatment of NOLs impairs, rather than fosters, biotechnology research. This is because rules designed to prevent abuse of NOLs through acquisition often inadvertently trigger restrictions on the use of a biotech firm's NOLs, rendering them useless in many cases, when all the company has done is raise more capital.

Section 382, which for the most part has proven to be an effective guard against tax abusive NOL trafficking, describes the many circumstances that can be classified as an ownership change. Unfortunately, those circumstances apply to and penalize the frequent biotech practice of raising eq-

uity in successive financing rounds. This practice is essential to successfully negotiating the long product development and Food and Drug Administration approval processes.

These limitations unintentionally discourage biotechnology research and leave the firms that would otherwise conduct that research in dire financial straits. Without these firms, the money that is being poured into research at the National Institutes of Health (NIH) and elsewhere to combat diseases such as cancer, AIDS, hepatitis, cardiovascular ailments, diabetes, and central nervous system disorders, as well as many rare diseases, will have a significantly reduced potential to lead to new cures. We may never know what cures will be lost without action.

Recognizing the unique structure of the biotech industry—a structure that the architects and stewards of the Tax Code likely never imagined—this legislation is narrowly drafted to exempt certain qualified investments in biotechnology from Section 382 restrictions. This change will spur investment in biotechnology, so we can continue the pursuit of innovative and life-saving therapies, all while continuing to prevent the fraudulent use of NOLs, as Section 382 intends.

I encourage all of my colleagues to join us in supporting this bill.

By Mr. KENNEDY (for himself, Mrs. CLINTON, Mr. CORZINE, Mrs. FEINSTEIN, Mr. LAUTENBERG, Mr. LEVIN, Mr. REED, and Mr. SCHUMER):

S. 1774. A bill to repeal the sunset provisions in the Undetectable Firearms Act of 1988; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, it's a privilege to join my colleagues in introducing the Terrorist Firearms Detection Act of 2003.

Since the atrocities of September 11, Congress has acted with strong bipartisan support to win the war on terrorism and protect the country from future attacks. We've improved the security of our airports and our borders, strengthened our defenses against bioterrorism, and given law enforcement new powers to investigate terrorist threats and prevent terrorism.

But Congress has not yet acted to renew one of the Nation's most essential protections against terrorism. The Undetectable Firearms Act—also known as the “plastic gun” law—makes it illegal to manufacture, import, possess, or transfer a firearm that is not detectable by walk-through metal detectors or airport x-ray machines. Only firearms necessary for certain military and intelligence uses are exempt.

This law was first enacted in 1988, long before the attacks on 9/11, and it is more important than ever now. It has been extended once since it was first enacted, but it is now scheduled to expire on December 10. The administra-

tion has made no public statements on the need to renew it, and neither has the Republican leadership of the House or Senate. Unless Congress and the President act soon, Americans will find themselves needlessly vulnerable to terrorist attacks and other gun violence in airlines, airports, schools, and office buildings.

The gun industry clearly has the technology to manufacture firearms that cannot be detected by metal detectors and x-ray machines.

As early as 1986, Congress's Office of Technology Assessment found that “technology does exist to manufacture certain firearms which would be completely or almost completely non-metallic,” and that “plastic handguns may be available on the commercial market quite soon.”

A 1985 report by the American Firearms Industry emphasized the profitability of plastic guns for the industry: “The American plastic gun will shortly make its appearance. Plastic is the ‘common’ word, but it's really liquid crystal polymer. . . . [I]n the long run, if a 100% plastic gun works, this would be great for sales. What this does is make everything that has been produced in this century obsolete. That is exactly what our industry desperately needs. This will give us a whole new, and real reason to resell every hunter and shooter in America.”

In 1986, Libyan dictator Muammar Qaddafi tried to purchase more than 100 handguns produced in Austria and made almost entirely of hardened plastic.

The technology of gun manufacturers has clearly improved since the 1980's—and the desire of terrorists to attack Americans has soared. We know that terrorists are exploiting the weaknesses and loopholes in U.S. gun laws.

In 2000, a member of the Middle East terrorist group Hezbollah was convicted in Detroit on gun charges and conspiracy to ship guns and ammunition to Lebanon. He had bought many of those guns at gun shows in Michigan.

In 2001, American soldiers found a terrorist training manual entitled “How Can I Train Myself for Jihad” in a house in Afghanistan. It stated: “In other countries, e.g., some states of USA. . . it is perfectly legal for members of the public to own certain types of firearms. If you live in such a country, obtain an assault rifle legally . . . learn how to use it properly and go and practice in the areas allowed for such training.”

What could be clearer? We know what's coming. Terrorists are eager to exploit weaknesses in our gun laws, and there is no doubt that Americans will be at much greater risk if Congress fails to renew the Undetectable Firearms Act.

Just last week, Admiral James M. Loy of the Transportation Security Administration testified that, according to U.S. intelligence, terrorists are more likely to try to hijack a commercial airliner than attempt to shoot

down an aircraft with shoulder-fired missiles. The December 2001 arrest of attempted "shoe bomber" Richard Reid showed just how committed terrorists are to smuggling undetectable plastic explosives onto airplanes. Reid was stopped at the last minute by alert passengers and crew, not by any detection machinery. The legalization of undetectable guns will clearly increase the danger to flight crews, passengers and other citizens exponentially.

The need for action is urgent. The Terrorist Firearms Detection Act will renew the Act and make it permanent. The danger to security from plastic firearms will not sunset, and the law that bans them shouldn't sunset either.

The Terrorist Firearms Detection Act is supported by Americans for Gun Safety, the Brady Campaign to Prevent Gun Violence United with the Million Mom March, the Coalition to Stop Gun Violence, and the Violence Policy Center. The only organization to have opposed the ban on plastic guns in the past is the National Rifle Association, and it's fair to ask, "Whose side are they on?" If they insist on another sunset, perhaps we can sunset the NRA instead.

The bill we are introducing today is only one of several steps that Congress should take to protect our people from gun violence. Senator LAUTENBERG's Homeland Security Gun Safety Act will close the loopholes in our gun laws that allow rogue gun dealers to evade the law and sell guns illegally to criminals and terrorists. That's how the D.C. snipers acquired their Bushmaster rifle.

Congress should also act to strengthen criminal background checks for gun purchases under the Brady Law, renew the assault weapons ban, and close the "gun show loophole" once and for all. Each of these gun-safety measures is needed to protect our people in communities across the country, and I urge my colleagues to support them.

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#### SUBMITTED RESOLUTIONS

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#### SENATE RESOLUTION 249—TO STRIKE PARAGRAPH 2 OF RULE XXII OF THE STANDING RULES OF THE SENATE, RELATING TO CLOTURE

Mr. MILLER submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 249

*Resolved*, That rule XXII of the Standing Rules of the Senate is amended by striking paragraph 2.

SENATE CONCURRENT RESOLUTION 74—EXPRESSING THE SENSE OF THE CONGRESS THAT A POSTAGE STAMP SHOULD BE ISSUED AS A TESTIMONIAL TO THE NATION'S TIRELESS COMMITMENT TO REUNITING AMERICA'S MISSING CHILDREN WITH THEIR FAMILIES, AND TO HONOR THE MEMORIES OF THOSE CHILDREN WHO WERE VICTIMS OF ABDUCTION AND MURDER

Mrs. CLINTON (for herself, Mr. SHELBY, Mrs. LINCOLN, Mr. DEWINE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. HAGEL, and Mr. MILLER) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 74

Whereas there are reported missing in the United States approximately 2,000 children each day and up to 800,000 children each year;

Whereas the National Center for Missing and Exploited Children was established 19 years ago as the Nation's resource center and clearinghouse for information on America's missing children, and issued a national call to action requesting the participation of every citizen to assist in the search for the country's missing youth;

Whereas it is the collective responsibility of all Americans to better protect the Nation's children, as well as to assist in the search for those who are missing;

Whereas the issuance of a stamp bearing the image of a missing child sends a powerful message, both at its unveiling and on each letter on which it is sent, that Americans will neither tolerate the victimization of their children nor rest until each missing child is reunited with his or her family; and

Whereas the Missing Children's Stamp Committee, headquartered in New York State, has collected more than 26,000 letters from around the world in support of such a stamp: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of the Congress that—

(1) a postage stamp should be issued by the United States Postal Service to honor all missing children; and

(2) the Citizens' Stamp Commission of the United States Postal Service should recommend to the Postmaster General that such a stamp be issued.

Mrs. CLINTON. Mr. President, I rise today with my colleague, Senator SHELBY, to submit a resolution to encourage the United States Postal Service Stamp Advisory Committee to issue the National Missing and Exploited Children's Postage Stamp. I am proud to join my colleague Congressman BOEHLERT, the champion of this legislation in the House, and am honored to be a part of this effort.

We introduce this resolution today on the 14th anniversary of the abduction of Jacob Wetterling. Jacob was only 11 years old when he was kidnapped at gunpoint while riding his bike on his way home from a convenience store in St. Joseph, MN. Though he was taken from his family and friends on this day his memory is still alive. With support from his community, Jacob's parents established the Jacob Wetterling Foundation, which has successfully advocated for local

and national legislation to help prevent future abductions and to protect thousands of children from sexual predators.

There are 800,000 parents every year, like the Wetterlings, who endure the loss of a child and are struggling to come to terms with the helplessness, anger, and frustration that consume them during the ensuing weeks and months. Many of my colleagues know all too well the agony of losing a child. As parents, community members, legislators, we are all affected when a child goes missing.

I want to take this opportunity to recognize the important work of the National Center for Missing and Exploited Children (NCMEC). This organization was established by Congress in 1984 through the Missing Children's Assistance Act to carry out the mission of finding missing children, combating child sexual exploitation, and preventing child victimization. Through its partnership with 18,000 law enforcement agencies across the United States and abroad, NCMEC's is unparalleled in its commitment to this issue.

Last year, I was proud to submit the Code Adam Act, a resolution encouraging public places to employ a Code Adam protocol to thwart child abductions in commercial establishments. The Code Adam protocol was named in memory of 6-year-old Adam Walsh, the son of John Walsh, co-founder of the National Center for Missing and Exploited Children and host of "America's Most Wanted." Adam was murdered after being kidnapped from a Florida shopping mall in 1981. The Code Adam Protocol requires store employees to announce a "Code Adam" alert over the public-address system when a customer reports a missing child. All designated employees receive a brief description of the child, immediately stop their normal work to search for that child, and monitor all exists to help prevent the child from leaving the store. The Code Adam Act was approved by Congress in April of this year as part of the PROTECT Act and was signed into law on April 30, 2003 by the President. It will undoubtedly play an important role in finding missing children and returning them safely to their homes.

I was also a proud cosponsor of the National AMBER Alert Network Act of 2003. This Act brings critical financial assistance to States to help them implement AMBER plans. It also creates an AMBER coordinator within the Department of Justice. AMBER, which stands for America's Missing: Broadcast Emergency Response was created in 1996 after the abduction and murder of Amber Hagerman in Texas. It's an emergency alert plan like that used in storm warnings that alerts a community about the recent disappearance of a child. With the help of the National Center of Missing and Exploited Children, the broadcast community, and members of law enforcement, the AMBER Alert helped find 105 children