

S. 3629

At the request of Mr. RUBIO, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 3629, a bill to amend title 18, United States Code, to revise recidivist penalty provisions for child sexual exploitation offenses to uniformly account for prior military convictions, thereby ensuring parity among Federal, State, and military convictions, and for other purposes.

S. 4075

At the request of Mr. HAGERTY, the name of the Senator from Oklahoma (Mr. MULLIN) was added as a cosponsor of S. 4075, a bill to prohibit payment card networks and covered entities from requiring the use of or assigning merchant category codes that distinguish a firearms retailer from a general merchandise retailer or sporting goods retailer, and for other purposes.

S. 4122

At the request of Mr. VANCE, the name of the Senator from Alaska (Mr. SULLIVAN) was added as a cosponsor of S. 4122, a bill to amend title XIX of the Social Security Act to develop national quality standards for continuous skilled nursing services provided through Medicaid, and for other purposes.

S. 4387

At the request of Mr. LEE, the name of the Senator from North Carolina (Mr. BUDD) was added as a cosponsor of S. 4387, a bill to prohibit transportation of any alien using certain methods of identification.

S. 4502

At the request of Mrs. MURRAY, the name of the Senator from Maine (Mr. KING) was added as a cosponsor of S. 4502, a bill to prohibit forced arbitration in work disputes, and for other purposes.

S. 4511

At the request of Mr. LEE, the names of the Senator from Georgia (Mr. WARNOCK) and the Senator from Alaska (Mr. SULLIVAN) were added as cosponsors of S. 4511, a bill to provide for the crediting of funds received by the National Guard Bureau as reimbursement from States.

S. 4521

At the request of Mr. HAGERTY, the name of the Senator from Montana (Mr. DAINES) was added as a cosponsor of S. 4521, a bill to amend the Consumer Financial Protection Act of 2010 to subject the Bureau of Consumer Financial Protection to the regular appropriations process, and for other purposes.

S. 4524

At the request of Mr. LANKFORD, the name of the Senator from Iowa (Ms. ERNST) was added as a cosponsor of S. 4524, a bill to amend the Public Health Service Act to prohibit discrimination against health care entities that do not participate in abortion, and to strengthen implementation and enforcement of Federal conscience laws.

S.J. RES. 33

At the request of Mr. MERKLEY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S.J. Res. 33, a joint resolution proposing an amendment to the Constitution of the United States to prohibit the use of slavery and involuntary servitude as a punishment for a crime.

S. RES. 599

At the request of Mr. TILLIS, the name of the Senator from Nebraska (Mr. RICKETTS) was added as a cosponsor of S. Res. 599, a resolution protecting the Iranian political refugees, including female former political prisoners, in Ashraf-3 in Albania.

S. RES. 630

At the request of Mr. RISCH, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from Colorado (Mr. HICKENLOOPER) and the Senator from New Hampshire (Ms. HASSAN) were added as cosponsors of S. Res. 630, a resolution supporting the North Atlantic Treaty Organization and recognizing its 75 years of accomplishments.

S. RES. 684

At the request of Mr. WICKER, the name of the Senator from Indiana (Mr. YOUNG) was added as a cosponsor of S. Res. 684, a resolution supporting the role of the United States in helping save the lives of children and protecting the health of people in low-income countries with vaccines and immunization through Gavi, the Vaccine Alliance ("Gavi").

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Mr. REED, Ms. DUCKWORTH, Mr. SANDERS, and Mr. WHITEHOUSE):

S. 4547. A bill to prohibit the award of Federal Government contracts to inverted domestic corporations, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. DURBIN. Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 4547

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "American Business for American Companies Act of 2024".

### SEC. 2. PROHIBITION ON AWARDING CONTRACTS TO INVERTED DOMESTIC CORPORATIONS.

(a) CIVILIAN CONTRACTS.—

(1) IN GENERAL.—Chapter 47 of title 41, United States Code, is amended by adding at the end the following new section:

#### "§ 4715. Prohibition on awarding contracts to inverted domestic corporations

"(a) PROHIBITION.—

"(1) IN GENERAL.—The head of an executive agency may not award a contract for the procurement of property or services to—

"(A) any foreign incorporated entity that such head has determined is an inverted domestic corporation or any subsidiary of such entity; or

"(B) any joint venture if more than 10 percent of the joint venture (by vote or value) is held by a foreign incorporated entity that such head has determined is an inverted domestic corporation or any subsidiary of such entity.

"(2) SUBCONTRACTS.—

"(A) IN GENERAL.—The head of an executive agency shall include in each contract for the procurement of property or services awarded by the executive agency with a value in excess of \$10,000,000, other than a contract for exclusively commercial items, a clause that prohibits the prime contractor on such contract from—

"(i) awarding a first-tier subcontract with a value greater than 10 percent of the total value of the prime contract to an entity or joint venture described in paragraph (1); or

"(ii) structuring subcontract tiers in a manner designed to avoid the limitation in paragraph (1) by enabling an entity or joint venture described in paragraph (1) to perform more than 10 percent of the total value of the prime contract as a lower-tier subcontractor.

"(B) PENALTIES.—The contract clause included in contracts pursuant to subparagraph (A) shall provide that, in the event that the prime contractor violates the contract clause—

"(i) the prime contract may be terminated for default; and

"(ii) the matter may be referred to the suspension or debarment official for the appropriate agency and may be a basis for suspension or debarment of the prime contractor.

"(b) INVERTED DOMESTIC CORPORATION.—

"(1) IN GENERAL.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

"(A) the entity completes on or after May 8, 2014, the direct or indirect acquisition of—

"(i) substantially all of the properties held directly or indirectly by a domestic corporation; or

"(ii) substantially all of the assets of, or substantially all of the properties constituting a trade or business of, a domestic partnership; and

"(B) after the acquisition, either—

"(i) more than 50 percent of the stock (by vote or value) of the entity is held—

"(I) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

"(II) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; or

"(ii) the management and control of the expanded affiliated group which includes the entity occurs, directly or indirectly, primarily within the United States, as determined pursuant to regulations prescribed by the Secretary of the Treasury, and such expanded affiliated group has significant domestic business activities.

"(2) EXCEPTION FOR CORPORATIONS WITH SUBSTANTIAL BUSINESS ACTIVITIES IN FOREIGN COUNTRY OF ORGANIZATION.—

"(A) IN GENERAL.—A foreign incorporated entity described in paragraph (1) shall not be treated as an inverted domestic corporation if after the acquisition the expanded affiliated group which includes the entity has

substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

“(B) SUBSTANTIAL BUSINESS ACTIVITIES.—The Secretary of the Treasury (or the Secretary’s delegate) shall establish regulations for determining whether an affiliated group has substantial business activities for purposes of subparagraph (A), except that such regulations may not treat any group as having substantial business activities if such group would not be considered to have substantial business activities under the regulations prescribed under section 7874 of the Internal Revenue Code of 1986, as in effect on January 18, 2017.

“(3) SIGNIFICANT DOMESTIC BUSINESS ACTIVITIES.—

“(A) IN GENERAL.—For purposes of paragraph (1)(B)(ii), an expanded affiliated group has significant domestic business activities if at least 25 percent of—

“(i) the employees of the group are based in the United States;

“(ii) the employee compensation incurred by the group is incurred with respect to employees based in the United States;

“(iii) the assets of the group are located in the United States; or

“(iv) the income of the group is derived in the United States.

“(B) DETERMINATION.—Determinations pursuant to subparagraph (A) shall be made in the same manner as such determinations are made for purposes of determining substantial business activities under regulations referred to in paragraph (2) as in effect on January 18, 2017, but applied by treating all references in such regulations to ‘foreign country’ and ‘relevant foreign country’ as references to ‘the United States’. The Secretary of the Treasury (or the Secretary’s delegate) may issue regulations decreasing the threshold percent in any of the tests under such regulations for determining if business activities constitute significant domestic business activities for purposes of this paragraph.

“(c) WAIVER.—

“(1) IN GENERAL.—The head of an executive agency may waive subsection (a) with respect to any Federal Government contract under the authority of such head if the head determines that the waiver is—

“(A) required in the interest of national security; or

“(B) necessary for the efficient or effective administration of Federal or federally funded—

“(i) programs that provide health benefits to individuals; or

“(ii) public health programs.

“(2) REPORT TO CONGRESS.—The head of an executive agency issuing a waiver under paragraph (1) shall, not later than 14 days after issuing such waiver, submit a written notification of the waiver to the relevant authorizing committees of Congress and the Committees on Appropriations of the Senate and the House of Representatives.

“(d) APPLICABILITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section shall not apply to any contract entered into before the date of the enactment of this section.

“(2) TASK AND DELIVERY ORDERS.—This section shall apply to any task or delivery order issued after the date of the enactment of this section pursuant to a contract entered into before, on, or after such date of enactment.

“(3) SCOPE.—This section applies only to contracts subject to regulation under the Federal Acquisition Regulation.

“(e) DEFINITIONS AND SPECIAL RULES.—

“(1) DEFINITIONS.—In this section, the terms ‘expanded affiliated group’, ‘foreign

incorporated entity’, ‘person’, ‘domestic’, and ‘foreign’ have the meaning given those terms in section 835(c) of the Homeland Security Act of 2002 (6 U.S.C. 395(c)).

“(2) SPECIAL RULES.—In applying subsection (b) of this section for purposes of subsection (a) of this section, the rules described under 835(c)(1) of the Homeland Security Act of 2002 (6 U.S.C. 395(c)(1)) shall apply.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 41, United States Code, is amended by inserting after the item relating to section 4714 the following new item:

“4715. Prohibition on awarding contracts to inverted domestic corporations.”.

(b) DEFENSE CONTRACTS.—

(1) IN GENERAL.—Chapter 363 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 4663. Prohibition on awarding contracts to inverted domestic corporations

“(a) PROHIBITION.—

“(1) IN GENERAL.—The head of an agency may not award a contract for the procurement of property or services to—

“(A) any foreign incorporated entity that such head has determined is an inverted domestic corporation or any subsidiary of such entity; or

“(B) any joint venture if more than 10 percent of the joint venture (by vote or value) is owned by a foreign incorporated entity that such head has determined is an inverted domestic corporation or any subsidiary of such entity.

“(2) SUBCONTRACTS.—

“(A) IN GENERAL.—The head of an executive agency shall include in each contract for the procurement of property or services awarded by the executive agency with a value in excess of \$10,000,000, other than a contract for exclusively commercial items, a clause that prohibits the prime contractor on such contract from—

“(i) awarding a first-tier subcontract with a value greater than 10 percent of the total value of the prime contract to an entity or joint venture described in paragraph (1); or

“(ii) structuring subcontract tiers in a manner designed to avoid the limitation in paragraph (1) by enabling an entity or joint venture described in paragraph (1) to perform more than 10 percent of the total value of the prime contract as a lower-tier subcontractor.

“(B) PENALTIES.—The contract clause included in contracts pursuant to subparagraph (A) shall provide that, in the event that the prime contractor violates the contract clause—

“(i) the prime contract may be terminated for default; and

“(ii) the matter may be referred to the suspension or debarment official for the appropriate agency and may be a basis for suspension or debarment of the prime contractor.

“(b) INVERTED DOMESTIC CORPORATION.—

“(1) IN GENERAL.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

“(A) the entity completes on or after May 8, 2014, the direct or indirect acquisition of—

“(i) substantially all of the properties held directly or indirectly by a domestic corporation; or

“(ii) substantially all of the assets of, or substantially all of the properties constituting a trade or business of, a domestic partnership; and

“(B) after the acquisition, either—

“(i) more than 50 percent of the stock (by vote or value) of the entity is held—

“(I) in the case of an acquisition with respect to a domestic corporation, by former

shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

“(II) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; or

“(ii) the management and control of the expanded affiliated group which includes the entity occurs, directly or indirectly, primarily within the United States, as determined pursuant to regulations prescribed by the Secretary of the Treasury, and such expanded affiliated group has significant domestic business activities.

“(2) EXCEPTION FOR CORPORATIONS WITH SUBSTANTIAL BUSINESS ACTIVITIES IN FOREIGN COUNTRY OF ORGANIZATION.—

“(A) IN GENERAL.—A foreign incorporated entity described in paragraph (1) shall not be treated as an inverted domestic corporation if after the acquisition the expanded affiliated group which includes the entity has substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

“(B) SUBSTANTIAL BUSINESS ACTIVITIES.—The Secretary of the Treasury (or the Secretary’s delegate) shall establish regulations for determining whether an affiliated group has substantial business activities for purposes of subparagraph (A), except that such regulations may not treat any group as having substantial business activities if such group would not be considered to have substantial business activities under the regulations prescribed under section 7874 of the Internal Revenue Code of 1986, as in effect on January 18, 2017.

“(3) SIGNIFICANT DOMESTIC BUSINESS ACTIVITIES.—

“(A) IN GENERAL.—For purposes of paragraph (1)(B)(ii), an expanded affiliated group has significant domestic business activities if at least 25 percent of—

“(i) the employees of the group are based in the United States;

“(ii) the employee compensation incurred by the group is incurred with respect to employees based in the United States;

“(iii) the assets of the group are located in the United States; or

“(iv) the income of the group is derived in the United States.

“(B) DETERMINATION.—Determinations pursuant to subparagraph (A) shall be made in the same manner as such determinations are made for purposes of determining substantial business activities under regulations referred to in paragraph (2) as in effect on January 18, 2017, but applied by treating all references in such regulations to ‘foreign country’ and ‘relevant foreign country’ as references to ‘the United States’. The Secretary of the Treasury (or the Secretary’s delegate) may issue regulations decreasing the threshold percent in any of the tests under such regulations for determining if business activities constitute significant domestic business activities for purposes of this paragraph.

“(c) WAIVER.—

“(1) IN GENERAL.—The head of an agency may waive subsection (a) with respect to any Federal Government contract under the authority of such head if the head determines that the waiver is required in the interest of national security or is necessary for the efficient or effective administration of Federal or federally funded programs that provide health benefits to individuals.

“(2) REPORT TO CONGRESS.—The head of an agency issuing a waiver under paragraph (1) shall, not later than 14 days after issuing such waiver, submit a written notification of

the waiver to the congressional defense committees.

“(d) APPLICABILITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section shall not apply to any contract entered into before the date of the enactment of this section.

“(2) TASK AND DELIVERY ORDERS.—This section shall apply to any task or delivery order issued after the date of the enactment of this section pursuant to a contract entered into before, on, or after such date of enactment.

“(3) SCOPE.—This section applies only to contracts subject to regulation under the Federal Acquisition Regulation and the Defense Supplement to the Federal Acquisition Regulation.

“(e) DEFINITIONS AND SPECIAL RULES.—

“(1) DEFINITIONS.—In this section, the terms ‘expanded affiliated group’, ‘foreign incorporated entity’, ‘person’, ‘domestic’, and ‘foreign’ have the meaning given those terms in section 835(c) of the Homeland Security Act of 2002 (6 U.S.C. 395(c)).

“(2) SPECIAL RULES.—In applying subsection (b) of this section for purposes of subsection (a) of this section, the rules described under 835(c)(1) of the Homeland Security Act of 2002 (6 U.S.C. 395(c)(1)) shall apply.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 363 of title 10, United States Code, is amended by inserting after the item relating to section 4662 the following new item:

“4663. Prohibition on awarding contracts to inverted domestic corporations.”.

(c) REGULATIONS REGARDING MANAGEMENT AND CONTROL.—

(1) IN GENERAL.—The Secretary of the Treasury (or the Secretary's delegate) shall, for purposes of section 4714(b)(1)(B)(ii) of title 41, United States Code, and section 4663(b)(1)(B)(ii) of title 10, United States Code, as added by subsections (a) and (b), respectively, prescribe regulations for purposes of determining cases in which the management and control of an expanded affiliated group is to be treated as occurring, directly or indirectly, primarily within the United States. The regulations prescribed under the preceding sentence shall apply to periods after May 8, 2014.

(2) EXECUTIVE OFFICERS AND SENIOR MANAGEMENT.—The regulations prescribed under paragraph (1) shall provide that the management and control of an expanded affiliated group shall be treated as occurring, directly or indirectly, primarily within the United States if substantially all of the executive officers and senior management of the expanded affiliated group who exercise day-to-day responsibility for making decisions involving strategic, financial, and operational policies of the expanded affiliated group are based or primarily located within the United States. Individuals who in fact exercise such day-to-day responsibilities shall be treated as executive officers and senior management regardless of their title.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 732—CELEBRATING THE 247TH ANNIVERSARY OF THE CREATION OF THE FLAG OF THE UNITED STATES AND EXPRESSING SUPPORT FOR THE PLEDGE OF ALLEGIANCE

Mr. BRAUN (for himself, Mr. BUDD, Mr. SCOTT of Florida, Mr. SCHMITT, and Mr. YOUNG) submitted the following resolution; which was considered and agreed to:

S. RES. 732

Whereas, on June 14, 1777, the Continental Congress approved the design of the flag of the United States;

Whereas, over the years, the flag of the United States has preserved the standards of the original design comprised of alternating red and white stripes accompanied by a union consisting of white stars on a field of blue;

Whereas, on May 30, 1916, President Woodrow Wilson issued Presidential Proclamation 1335, an announcement asking the people of the United States to observe June 14 as Flag Day;

Whereas, on August 3, 1949, President Harry Truman signed into law House Joint Resolution 170, 81st Congress, a joint resolution designating June 14 of each year as Flag Day;

Whereas, on August 21, 1959, President Dwight Eisenhower issued Executive Order 10834 (24 Fed. Reg. 6865), an order establishing the most recent design of the flag of the United States;

Whereas the Pledge of Allegiance was written by Francis Bellamy, a Baptist minister, and first published in the September 8, 1892, issue of *The Youth's Companion*;

Whereas, in 1954, Congress added the words “under God” to the Pledge of Allegiance;

Whereas, for more than 60 years, the Pledge of Allegiance has included references to the United States flag, to the United States having been established as a union “under God”, and to the United States being dedicated to securing “liberty and justice for all”;

Whereas, in 1954, Congress believed it was acting constitutionally when it revised the Pledge of Allegiance;

Whereas the United States was founded on principles of religious freedom by the Founders, many of whom were deeply religious;

Whereas the First Amendment to the Constitution of the United States embodies principles intended to guarantee freedom of religion through protecting the free exercise thereof and by prohibiting the Government from establishing a religion;

Whereas patriotic songs, engravings on United States legal tender, and engravings on Federal buildings also contain general references to “God”;

Whereas, in *Elk Grove Unified School District v. Newdow*, 542 U.S. 1 (2004), the Supreme Court of the United States overturned the decision of the United States Court of Appeals for the Ninth Circuit in *Newdow v. U.S. Congress*, 328 F.3d 466 (9th Cir. 2003), a case in which the Ninth Circuit concluded that recitation of the Pledge of Allegiance by a public school teacher violated the Establishment Clause of the First Amendment to the Constitution of the United States;

Whereas the United States Court of Appeals for the Ninth Circuit subsequently concluded that—

(1) the previous opinion of that court in *Newdow v. U.S. Congress*, 328 F.3d 466 (9th Cir. 2003) was no longer binding precedent;

(2) case law from the Supreme Court of the United States concerning the Establishment Clause of the First Amendment to the Constitution of the United States had subsequently changed after the decision in *Elk Grove Unified School District v. Newdow*, 542 U.S. 1 (2004); and

(3) Congress, in passing the new version of the Pledge of Allegiance, had established a secular purpose for the use of the term “under God”; and

Whereas, in light of those conclusions, the United States Court of Appeals for the Ninth Circuit upheld the recitation of the Pledge of Allegiance by public school teachers: Now, therefore, be it

*Resolved*, That the Senate—

(1) celebrates the 247th anniversary of the creation of the flag of the United States;

(2) recognizes that the Pledge of Allegiance has been a valuable part of life for the people of the United States for generations; and

(3) affirms that the Pledge of Allegiance is a constitutional expression of patriotism and strongly defends the constitutionality of the Pledge of Allegiance.

### SENATE RESOLUTION 733—HONORING THE LIFE AND LEGACY OF PATRICK GOTTSCH

Mrs. HYDE-SMITH (for herself, Mrs. FISCHER, Mr. RICKETTS, Mr. DAINES, Ms. LUMMIS, and Mr. BARRASSO) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 733

Whereas Patrick Gene Gottsch was born on June 3, 1953, in Elkhorn, Nebraska;

Whereas Mr. Gottsch was raised on his family's farm and cattle operation, which instilled in him the values of rural America;

Whereas Mr. Gottsch obtained a wide array of career experiences that enabled him to be a trailblazer in the rural and agricultural programming space;

Whereas Mr. Gottsch worked as a commodity broker on the Chicago Mercantile Exchange, in the home satellite dish industry, and as Director of Sales for the Superior Livestock Auction in the Fort Worth Stockyards;

Whereas Mr. Gottsch launched Rural Free Delivery Television (RFD-TV) in 2002;

Whereas Mr. Gottsch was the founder and president of Rural Media Group, Inc., which, in addition to RFD-TV, grew to consist of RFD-TV The Magazine, RFD HD, RURAL TV, RURAL RADIO, and The Cowboy Channel;

Whereas millions of individuals in the United States have benefitted from Mr. Gottsch's innovative approach to educating the populace on rural and agricultural issues through the use of television and other mediums; and

Whereas Mr. Gottsch's work to represent farmers, ranchers, and rural America through television was unprecedented and has left an indelible mark on the hearts of millions of individuals in the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors the life and legacy of Patrick Gottsch, particularly the devotion of Mr. Gottsch—

(A) to rural America;

(B) to espousing the values of rural America through agricultural and rural programming; and

(C) to advocating for a greater understanding of the importance of rural America to the economy, culture, and progress of the nation;

(2) extends its gratitude to Mr. Gottsch for a life well-lived, and will continue to remember his legacy; and

(3) respectfully requests that the Secretary of the Senate transmit an enrolled copy of this resolution to the family of Mr. Gottsch.