

107TH CONGRESS
2D SESSION

S. 3073

To encourage the establishment of Johnny Micheal Spann Patriot Trusts.

IN THE SENATE OF THE UNITED STATES

OCTOBER 8, 2002

Mr. SESSIONS (for himself, Mr. LEAHY, Mr. NICKLES, Mr. HATCH, Mr. SHELBY, Ms. SNOWE, Mr. BUNNING, Mr. ENZI, and Mr. McCONNELL) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To encourage the establishment of Johnny Micheal Spann Patriot Trusts.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TREATMENT OF CHARITABLE TRUSTS FOR**
4 **MEMBERS OF THE ARMED FORCES OF THE**
5 **UNITED STATES AND OTHER GOVERN-**
6 **MENTAL ORGANIZATIONS.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) Members of the Armed Forces of the
9 United States defend the freedom and security of
10 our Nation.

1 (2) Members of the Armed Forces of the
2 United States have lost their lives while battling the
3 evils of terrorism around the world.

4 (3) Personnel of the Central Intelligence Agen-
5 cy (CIA) charged with the responsibility of covert
6 observation of terrorists around the world are often
7 put in harm's way during their service to the United
8 States.

9 (4) Personnel of the Central Intelligence Agen-
10 cy have also lost their lives while battling the evils
11 of terrorism around the world.

12 (5) Employees of the Federal Bureau of Inves-
13 tigation (FBI) and other Federal agencies charged
14 with domestic protection of the United States put
15 their lives at risk on a daily basis for the freedom
16 and security of our Nation.

17 (6) United States military personnel, CIA per-
18 sonnel, FBI personnel, and other Federal agents in
19 the service of the United States are patriots of the
20 highest order.

21 (7) CIA officer Johnny Micheal Spann became
22 the first American to give his life for his country in
23 the War on Terrorism launched by President George
24 W. Bush following the terrorist attacks of Sep-
25 tember 11, 2001.

1 (8) Johnny Micheal Spann left behind a wife
2 and children who are very proud of the heroic ac-
3 tions of their patriot father.

4 (9) Surviving dependents of members of the
5 Armed Forces of the United States who lose their
6 lives as a result of terrorist attacks or military oper-
7 ations abroad receive a \$6,000 death benefit, plus a
8 small monthly benefit.

9 (10) The current system of compensating
10 spouses and children of American patriots is inequi-
11 table and needs improvement.

12 (b) DESIGNATION OF JOHNNY MICHEAL SPANN PA-
13 TRIOT TRUSTS.—Any charitable corporation, fund, foun-
14 dation, or trust (or separate fund or account thereof)
15 which otherwise meets all applicable requirements under
16 law with respect to charitable entities and meets the re-
17 quirements described in subsection (c) shall be eligible to
18 characterize itself as a “Johnny Micheal Spann Patriot
19 Trust”.

20 (c) REQUIREMENTS FOR THE DESIGNATION OF
21 JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—The re-
22 quirements described in this subsection are as follows:

23 (1) Not taking into account funds or donations
24 reasonably necessary to establish a trust, at least 85
25 percent of all funds or donations (including any

1 earnings on the investment of such funds or dona-
2 tions) received or collected by any Johnny Micheal
3 Spann Patriot Trust must be distributed to (or, if
4 placed in a private foundation, held in trust for) sur-
5 viving spouses, children, or dependent parents,
6 grandparents, or siblings of 1 or more of the fol-
7 lowing:

8 (A) members of the Armed Forces of the
9 United States;

10 (B) personnel, including contractors, of
11 elements of the intelligence community, as de-
12 fined in section 3(4) of the National Security
13 Act of 1947;

14 (C) employees of the Federal Bureau of
15 Investigation; and

16 (D) officers, employees, or contract em-
17 ployees of the United States Government,

18 whose deaths occur in the line of duty and arise out
19 of terrorist attacks, military operations, intelligence
20 operations, law enforcement operations, or accidents
21 connected with activities occurring after September
22 11, 2001, and related to domestic or foreign efforts
23 to curb international terrorism, including the Au-
24 thorization for Use of Military Force (Public Law
25 107–40; 115 Stat. 224).

1 (2) Other than funds or donations reasonably
2 necessary to establish a trust, not more than 15 per-
3 cent of all funds or donations (or 15 percent of an-
4 nual earnings on funds invested in a private founda-
5 tion) may be used for administrative purposes.

6 (3) No part of the net earnings of any Johnny
7 Micheal Spann Patriot Trust may inure to the ben-
8 efit of any individual based solely on the position of
9 such individual as a shareholder, an officer or em-
10 ployee of such Trust.

11 (4) None of the activities of any Johnny
12 Micheal Spann Patriot Trust shall be conducted in
13 a manner inconsistent with any law with respect to
14 attempting to influence legislation.

15 (5) No Johnny Micheal Spann Patriot Trust
16 may participate in or intervene in any political cam-
17 paign on behalf of (or in opposition to) any can-
18 didate for public office, including by publication or
19 distribution of statements.

20 (6) Each Johnny Micheal Spann Patriot Trust
21 shall comply with the instructions and directions of
22 the Director of Central Intelligence, the Attorney
23 General, or the Secretary of Defense relating to the
24 protection of intelligence sources and methods, sen-
25 sitive law enforcement information, or other sensitive

1 national security information, including methods for
2 confidentially disbursing funds.

3 (7) Each Johnny Micheal Spann Patriot Trust
4 that receives annual contributions totaling more
5 than \$1,000,000 must be audited annually by an
6 independent certified public accounting firm. Such
7 audits shall be filed with the Internal Revenue Serv-
8 ice, and shall be open to public inspection, except
9 that the conduct, filing, and availability of the audit
10 shall be consistent with the protection of intelligence
11 sources and methods, of sensitive law enforcement
12 information, and of other sensitive national security
13 information.

14 (8) Each Johnny Micheal Spann Patriot Trust
15 shall make distributions to beneficiaries described in
16 paragraph (1) at least once every calendar year, be-
17 ginning not later than 12 months after the forma-
18 tion of such Trust, and all funds and donations re-
19 ceived and earnings not placed in a private founda-
20 tion dedicated to such beneficiaries must be distrib-
21 uted within 36 months after the end of the fiscal
22 year in which such funds, donations, and earnings
23 are received.

24 (9)(A) When determining the amount of a dis-
25 tribution to any beneficiary described in paragraph

1 (1), a Johnny Micheal Spann Patriot Trust should
2 take into account the amount of any collateral
3 source compensation that the beneficiary has re-
4 ceived or is entitled to receive as a result of the
5 death of an individual described in subsection (c)(1).

6 (B) Collateral source compensation includes all
7 compensation from collateral sources, including life
8 insurance, pension funds, death benefit programs,
9 and payments by Federal, State, or local govern-
10 ments related to the death of an individual described
11 in subsection (c)(1).

12 (d) TREATMENT OF JOHNNY MICHEAL SPANN PA-
13 TRIOT TRUSTS.—Each Johnny Micheal Spann Patriot
14 Trust shall refrain from conducting the activities de-
15 scribed in clauses (i) and (ii) of section 301(20)(A) of the
16 Federal Election Campaign Act of 1971 so that a general
17 solicitation of funds by an individual described in para-
18 graph (1) of section 323(e) of such Act will be permissible
19 if such solicitation meets the requirements of paragraph
20 (4)(A) of such section.

21 (e) NOTIFICATION OF TRUST BENEFICIARIES.—Not-
22 withstanding any other provision of law, and in a manner
23 consistent with the protection of intelligence sources and
24 methods, sensitive law enforcement information, and other
25 sensitive national security information, the Secretary of

1 Defense, the Director of the Federal Bureau of Investiga-
2 tion, or the Director of Central Intelligence, or their des-
3 ignees, as applicable, may forward information received
4 from an executor, administrator, or other legal representa-
5 tive of the estate of a decedent described in subparagraph
6 (A), (B), (C), or (D) of subsection (c)(1), to a Johnny
7 Micheal Spann Patriot Trust on how to contact individuals
8 eligible for a distribution under subsection (c)(1) for the
9 purpose of providing assistance from such Trust; provided
10 that, neither forwarding nor failing to forward any infor-
11 mation under this subsection shall create any cause of ac-
12 tion against any Federal department, agency, officer,
13 agent, or employee.

14 (f) REGULATIONS.—Not later than 90 days after the
15 date of enactment of this Act, the Secretary of Defense,
16 in coordination with the Attorney General, the Director
17 of the Federal Bureau of Investigation, and the Director
18 of Central Intelligence, shall prescribe regulations to carry
19 out this section.

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