funding of the war against terrorism, and for other purposes.

S.J. RES. 18

At the request of Mr. SARBANES, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. BREAUX), the Senator from Georgia (Mr. CLELAND), and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. J. Res. 18, a joint resolution memorializing fallen firefighters by lowering the United States flag to half-staff on the day of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland.

S. RES. 139

At the request of Mr. BIDEN, the names of the Senator from North Carolina (Mr. EDWARDS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Alabama (Mr. SESSIONS), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. Res. 139, a resolution designating September 24, 2001, as “Family Day—A Day to Eat Dinner with Your Children.”

S. RES. 190

At the request of Mr. CLELAND, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Res. 158, a resolution honoring the accomplishments and unfailing spirit of women in the 20th century.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLEN (for himself, Mr. WARNER, Mr. CAMPBELL, and Mr. CRAIG):

S. 1433. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001; to the Committee on Finance.

Mr. ALLEN. Mr. President, I rise today to talk about a bill I introduced this morning. The first cosponsor of this measure is my good friend and colleague, Senator JOHN WARNER of Virginia. The bill is the Victims of Terrorism Relief Act of 2001, which would modify current tax policy to provide needed relief and compassion to the victims of the terrorist attacks that occurred on September 11, 2001.

As you well know—and all Americans know—on September 11, 2001, the world was stunned by what may prove to be the most vile, most horrifying act of hate and terror against a nation’s people.

While many questions will remain unanswered in the weeks and months to come, what is immediately clear is that we concluded as we, previously waged by the enemies of the United States, has been suddenly altered. That conduct of war is so different than what we ever imagined as a civilized Nation. This new war does not differentiate between a military and a civilian target. The enemies of liberty and democracy are a cancer, and the United States is a target.

The Federal Government, and the Congress, have previously recognized, and rightfully so, the special circumstances of some of our citizens who voluntarily serve our country in potentially dangerous regions outside of the United States.

Current law provides a reduction in the death tax liability of the estates of members of the Armed Forces who are killed while serving in a combat zone or die as a result of injuries suffered while serving in a combat zone.

In addition, current law provides an exemption from the Federal income tax, on the income earned in the year of death, by Federal military and civilian employees killed as a result of, injuries suffered in a military or terrorist attack outside of the United States.

These brave and honorable individuals put their lives on the line for our country. It is only right that we recognize their extraordinary dedication and their sacrifice.

Unfortunately, the advent of a new type of warfare means many provisions in our Tax Code, which were designed to provide tax benefits to military and civilian employees killed in service to their country, are now inadequate in the face of new threats. These benefits do not extend such relief to civilians who may be likewise killed in enemy attacks now indiscriminately aimed at civilian targets, as well as military installations.

As we recognize that our world and the rules of war, as the terrorists use them, have changed, we, too, must change the way we recognize the citizens and their families who are adversely affected.

To address these inadequacies in the current Tax Code, I introduced the Victims of Terrorism Tax Relief Act of 2001 which would extend and expand current law benefits to any individual who died as a result of the terrorist attacks occurring on September 11, 2001.

Specifically, my legislation eliminates all Federal death taxes on the estates of any individual killed during a terrorist attack, or as a result of injuries derived from, the September 11, 2001 terrorist attacks.

It exempts from Federal income tax, in the year of death, any income earned by any individual killed during, or as a result of injuries resulting from, the September 11, 2001, terrorist attacks.

It ensures that all our citizens—law enforcement, firefighters, rescue and relief workers, nurses, doctors, anyone—are recognized for their heroism and their sacrifice.

On September 13, 2001, the House of Representatives unanimously passed H.R. 2884, demonstrating overwhelming bipartisan support for extending current law tax benefits to civilian victims of the September 11, 2001, terrorist attacks. While we believe the legislation went far enough, in that it does not provide for full relief from Federal death taxes, it takes a very strong stand, sending a message of unity from Washington.

This is a recognition that all of those who lost their lives, in a violent act of war on the United States, on September 11, 2001, whether they are military personnel, civilian personnel, rescue workers, firefighters, police, nurses, citizens trying to help, citizens in their offices, children taking a plane trip, passengers on a plane, pilots of planes, all of these individuals have left us a legacy. Indeed, it is an enduring legacy of purpose, a legacy of compassion, a love of liberty, and a quest for justice.

We must honor all of those who lost their lives in this vile act of war on the United States and never forget; for their memory has truly unified a very diverse nation and has made it an even stronger and more respectful nation.

We will honor and always remember them.

The U.S. Senate must rise to the occasion and stand in solidarity with the House of Representatives. The Senate must unanimously pass this important legislation. It matters to those victims and their families.

I have personally talked to many, too many, of those family members—brothers, children, and wives—who have lost loved ones because of this dastardly terrorist attack. They are in a time of great grief. That grief will continue until the day they pass from this earth and reunite with their loved ones in heaven.

This new war against the United States, the enemy is making all Americans, whether they are military or civilian, young or old, parents, children or spouses, targets for their attacks.

In this effort, the Federal Government must adapt its death benefits to take into consideration this sad truth: that the traditional line between combatants and noncombatants is not always respected. I have told those folks that their husband or their brother or their father is a hero and that they were killed because they were here in America. These grieving families need our assistance as much as do the families of our brave military personnel.

What they do not need in this time of mourning is the added worry of filling out tax forms. It is going to be hard enough for them to get by emotionally, much less financially.

For the Senate to act promptly on this legislation, would be to send a reassuring message to those grieving families: you are not going to have to worry about any of these tax forms, or how to afford new taxes in a time of great grief.
grief—you are not alone in this. We must let them know we appreciate them as the heroes they are. We will always remember them, their acts of martyrdom and heroism unifying this Nation like I have never seen it unified in all of our history.

I hope my Senate colleagues, as they all start coming back after the holy days, will rise in applause, and help to ensure that our fiscal benefit laws reflect the realities of the new war against civilians, allowing them the same sort of benefits that we provide for our brave military personnel.

I ask unanimous consent that the text of my legislation introduced earlier in the day be printed in the RECORD.

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

SEC. 1. SHORT TITLE.
This Act may be cited as the "Victims of Terrorism Tax Relief Act of 2001."  

SEC. 2. INCOME TAXES OF VICTIMS OF TERRORIST ATTACKS.
(a) In general.—Section 692 of the Internal Revenue Code of 1986 (relating to income taxes of members of Armed Forces on death) is amended by adding at the end the following new subsection:

"(c) Effect of terrorist attacks.—The amendments made by this section shall apply to the transfer of the taxable estate of any individual who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on September 11, 2001, the preceding sentence shall not apply with respect to any individual whom the Secretary determines was a perpetrator of any such terrorist attack.".

SEC. 3. RELIEF FROM ESTATE TAX.
(a) In general.—Section 2201 of the Internal Revenue Code is amended—

"(1) the heading of section 2201 of such Code is amended to read as follows:
"Sec. 2201. Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.
"(2) the item relating to section 2201 in the table of sections for subchapter C of chapter 11 of such Code is amended to read as follows:
"Sec. 2201. Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.
"

(b) Effective date.—The amendments made by this section shall apply to estates of decedents dying on or after September 11, 2001.

By Mr. SPECTER (for himself, Mr. BOND, Mr. BUNNING, Mrs. BOXER, Mr. BURNS, Ms. CANTWELL, Mr. CHAFEE, Mrs. CLINTON, Mr. ENSIGN, Mr. HARKIN, Mr. AKEMIS, Mr. KOHL, Ms. LANDRIEU, Mr. NELSON of Florida, Mrs. SCHUMER, Ms. COLLINS, Mr. CRAPO, Mr. DORGAN, Mr. MILLER, Mr. DAYTON, Mr. NELSON of Nebraska, Mr. CORZINE, Mr. MCCAIN, Mr. WELLSTONE, Ms. GORE, Mr. CARNANAN, Mrs. FEINSTEIN, and Mr. CONRAD):

S. 1434. A bill to authorize the President to award posthumously the Congressional Gold Medal to the passengers and crew of United Airlines Flight 93 in the aftermath of the terrorist attack on the United States on September 11, 2001, to the Committee on Banking, Housing, and Urban Affairs.

Mr. SPECTER. Madam President, today I have sought recognition to introduce a bill to authorize the President to award posthumously the Congressional Gold Medal to each of the passengers and crew of United Airlines Flight 93 in the aftermath of the terrorist attack on the United States on September 11, 2001. I am introducing this legislation today and, since yesterday, a large number of cosponsors have already signed on to the bill. Therefore, I am introducing Senator Boxer, Senator Bond, Senator Bunning, Senator Burns, Senator Cantwell, Senator Clinton, Senator Ensign, Senator Helms, Senator Landrieu, Senator Nelson of Florida, and Senator Schumer.

The medal has special significance for the Senate, the House of Representatives, and for the Capitol because all indications are that the plane—and this is speculation, because we will never know for certain—but, there are indications that the plane was headed for the U.S. Capitol. That statement was made by Vice President Cheney on Sunday, September 16 on NBC’s “Meet The Press.” It is speculation. I want to make that clear. I strongly believe there is no way to be sure. But the speculation is supported by the fact that the plane which hit the Pentagon had been on a direct line to the White House and it veered off at the last moment, the fourth flight. United Airlines Flight 93, appeared to have been headed in a line that could have been to the White House, or even to Camp
David, although it is unlikely to have been headed to Camp David since no one was there at the time. Most likely, Flight 93 was headed to the Capitol, the symbol of our Nation’s Government.

Wherever the United States is symbolized around the world, it is the Capitol dome that represents the nation. The terrorists intended to strike at us in every way possible: physically, psychologically, emotionally, and at the very Capitol.

So it is with a heavy heart, which is a sentiment shared by Americans all across the land and really, by most people across the globe, that I introduce this bill denominated at the “Honoring the Passengers and Crew of United Airlines Flight 93 Act.”

On September 11, 2001, United Airlines Flight 93 took off at 8:44 a.m. from Newark, New Jersey, destined for San Francisco, California.

The plane was hijacked by 4 terrorists shortly after it took off. It is widely presumed that the terrorists who took control of United Airlines Flight 93 intended to use the aircraft as a weapon and crash it into the United States Capitol Building in Washington, D.C.;

The passengers and crew of United Airlines Flight 93 learned from cellular phone conversations with their loved ones of the fate of the 3 other aircraft that were hijacked earlier that same day and used as weapons to murder thousands of innocent people and destroy American landmarks;

The passengers and crew of United Airlines Flight 93, recognizing the potential danger that the aircraft they were aboard posed to large numbers of innocent Americans, American institutions, and the symbols of American democracy, took heroic and noble action to ensure that the aircraft they were aboard could not be used as a weapon:

The 40 people in all, 33 passengers and 7 crew of United Airlines Flight 93, in the ultimate act of selfless courage and supreme sacrifice, fought to recapture their flight from the terrorists; and

The struggle of the crew and passengers of United Airlines Flight 93 against the terrorists caused the Boeing 757 to crash down in a field near Shanksville, Pennsylvania at 10:10 a.m., September 11, 2001, possibly saving countless lives in the Nation’s Capital.

SEC. 2. FINDINGS.

(a) In general.—The President is authorized, on behalf of Congress, to award posthumously a gold medal of appropriate design to each of the United Airlines Flight 93, in the ultimate act of selfless courage and supreme sacrifice, fought to recapture their flight from the terrorists; and

(1) I N GENERAL.—The President is authorized, on behalf of Congress, to award posthumously a gold medal of appropriate design to each of the United Airlines Flight 93, in the ultimate act of selfless courage and supreme sacrifice, fought to recapture their flight from the terrorists; and

(2) MODALITIES.—The modalities of presentation referred to in subsection (a) are:

(A) the United Airlines Flight 93 crew members—

(i) Lorraine G. Bay;
(ii) Sandra W. Bradshaw;
(iii) Jason Dahl;
(iv) Wanda A. Green;
(v) Leon Roy Hom;
(vi) CeeCee Lyles; and
(vii) LeRoy Homer;

(B) the United Airlines Flight 93 passengers—

(i) Christian Adams;
(ii) Todd Beamer;
(iii) Alan Beaven;
(iv) John Talignani;
(v) Linda Gronlund; and
(vi) Richard Guadagno;

(C) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

 Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(D) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(E) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(F) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(G) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(H) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(I) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(J) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(K) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(L) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(M) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(N) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(O) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(P) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(Q) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(R) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(S) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(T) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(U) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(V) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(W) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(X) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(Y) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;

(Z) the United Airlines Flight 93 Act referred to as the “Secretary’’ shall

Sections 1 and 2 shall be referred to in subsection (a) as the “Secretary’’;
the opportunity to participate in this process.

I regularly visit all 67 counties in Pennsylvania and find it very refreshing to get outside the beltway to find out what people are thinking about in the more rural, remote parts of Pennsylvania. Likewise, my constituents also find it valuable to be able to receive notice that ARLEN SPECTER is coming to town, to listen to a short speech, and spend the majority of meeting time participating in a question and answer session. That way you have participatory democracy.

In July 2001, during Senate floor consideration of the Fiscal Year 2002 Legislative Branch Appropriations bill, Subcommittee Chairman DURBIN and Ranking Minority Member BENNETT accepted my amendment which provides $3 million for the mailing of town meeting notices in counties with populations of less than 50,000.

Town meetings are the best way for Members to inform constituents about our actions in Washington, and town meeting notices are the most effective means we have of advising constituents about these events. Unfortunately, the budgets under which we operate today are very restrictive and do not allow us to properly advise all of our constituents when we will be holding a town meeting in their area. For Pennsylvania alone, it would cost $735,000, one third of my entire office budget, to circulate town meeting notices to each household in Pennsylvania. For this reason, additional funding is necessary to allow Members to send adequate notice to constituents of their visits throughout their States. However, recognizing the fiscal constraints under which we are currently operating, I have limited the scope of my legislation to only counties with smaller populations.

Smaller, rural communities are not always effectively reached by the mass media, which are generally relied upon to deliver news of our legislative activities. For example, if you take the northern tier of Pennsylvania, or the southern tier, where residents do not necessarily get any of the major newspapers and are outside television range, unless you actually go to the county, it is very difficult to communicate with their constituents about what they are doing in Washington. Town meetings are a valuable forum in which Members can share details of our work and in turn hear directly from constituents concerning their thoughts on a variety of topics. My legislation would ensure that constituents in all parts of a Member's State are afforded...
in the House-passed Commerce-Justice-State appropriations bill for FY1999. Thereafter, without the benefit of any hearings or debate in the Senate, and over the objection of a bipartisan majority of the Senate Judiciary Committee, the same language was enacted as Title VIII of the final omnibus bill, with a six-month delayed effective date.

At a hearing before a Judiciary Subcommittee on March 24, 1999, a number of law enforcement officials lined up to criticize the new law. In particular, they argued that its vague directive to comply with rules in each State where the attorney engages in his or her duties leaves prosecutors unsure about what rule applies to particular conduct. The one certain result of this confusion: Attorneys would refrain from taking critically important investigative steps or would leave law enforcement officers to make their own decisions about whom and how to investigate.

The McDade law went into effect on April 19, 1999. Since then, all of law enforcement’s concerns about the McDade law have come to pass. In floor statements on May 25 and September 14, 2000, I described some of the devastating effects that the McDade law is having on Federal law enforcement efforts across the country. You will recall some of the disturbing facts I described:

In Oregon, Federal prosecutors will no longer authorize undercover operations, and the FBI was forced to shut down its Innocent Images Initiative, which targets child pornography and exploitation.

In California, a grand jury investigation into an airline’s safety and maintenance practices was stalled for many months because of the McDade law’s interference with State ethics rules. After about a year of investigation, one of the airline’s planes crashed, after experiencing mechanical problems on the first leg of its trip.

In another State, the FBI was stymied in a child murder investigation because of a State Bar ethics rule that went far beyond what is required by established Supreme Court and Federal appellate case law.

There are other recent examples. In one case, the FBI had to close an investigation into allegations of fraud committed by the officials of a city with regard to FEMA disaster funds after the city’s attorney invoked the McDade law to prohibit FBI agents from interviewing any city employees. In another case, counsel for an aviation company has used the McDade law to prevent the FBI from working with company employees who are willing to provide information and evidence concerning the deaths of people who have been selling defective aircraft engine parts to military and civilian airlines.

Of more immediate urgency, the McDade law seriously threatens to impede the terrorism investigation into the events of September 11, 2001. In this investigation, the McDade law will subject Justice Department attorneys to multiple and different attorney conduct rules, either because the attorneys working on or supervising the investigation are engaged in more than one State, or because they are seeking assistance through court processes, search warrants; material witness warrants; criminal complaints; and grand jury subpoenas, in more than one Federal district court, each of which adopts its own set of attorney conduct rules. How are Justice Department attorneys meant to resolve conflicts in those rules in a manner that is reliable without unduly delaying this critical investigation?

There can no longer be any serious doubt about the need for corrective legislation. We cannot afford to wait until the McDade law impedes the investigation into last Tuesday’s attacks before taking action.

Supporters of the McDade law have argued that Federal prosecutors are no worse off than their State counterparts, who have long been subject to State ethics rules. This is simply not the case. State prosecutors practice in multiple States, whose work is generally confined to a single State. Under the McDade law, they are subject to at least two sets of potentially conflicting ethics rules. Additionally, Federal prosecutors frequently work across State lines. This is not true of State prosecutors, whose work is generally confined to a single State. Under the McDade law, Federal prosecutors must comply with the State ethics rules of each State where they engage in their duties, which may be different than the rules of either the licensing State or the local Federal court. This means that Federal prosecutors may be subject to three or more sets of ethics rules with respect to the same conduct, including two or more sets of State ethics rules that may be different than the special needs and interests of the United States in investigating and prosecuting violations of Federal law.

In any event, even assuming that State Bar rules are causing serious problems for Federal prosecutors as well as Federal prosecutors, that is a matter for the States, not for Congress. Our responsibility is to ensure the effective enforcement of the Federal criminal laws, and that is what my legislation seeks to accomplish.

The Professional Standards for Government Attorneys Act adheres to the basic premise of the McDade law: The Department of Justice does not have the authority it has long claimed to write its own ethics rules. This legislation establishes Federal law enforcement as a national body that may not unilaterally exempt Federal trial lawyers from the standards of professional responsibility adopted by the Federal courts. Federal courts are the more appropriate body to establish such standards for lawyers generally, but because the Department lacks the requisite objectivity.

The first part of this bill embodies the traditional understanding that when lawyers handle cases before a Federal court, they should be subject to the Federal court’s standards of professional responsibility, not the possibly inconsistent standards of other jurisdictions. By incorporating this ordinary choice-of-law principle, the bill preserves the Federal courts’ traditional authority to oversee the professional conduct of Federal trial lawyers, including Federal prosecutors. It thus avoids the uncertainties presented by the McDade law, which potentially subjects Federal prosecutors to State laws, rules of criminal procedure, and judicial decisions which differ from existing Federal law.

Another part of the bill specifically addresses the situation in Oregon, where a state court ruling has seriously undermined the ability of Federal agents to engage in undercover operations and other covert activities. Such activities are legitimate and essential crimefighting tools. The Professional Standards for Government Attorneys Act ensures that these tools will be available to combat terrorism.

Finally, the bill addresses the most pressing contemporary question of government attorneys’ communications with represented persons. It asks the Judicial Conference of the United States to submit to the Supreme Court a proposed uniform national rule to govern this area of professional conduct, and to study the need for additional national rules to govern other areas in which the proliferation of local rules may interfere with effective Federal law enforcement. The Rules Enabling Act process is the ideal one for developing such rules, both because the Federal judiciary traditionally is responsible for overseeing the conduct of lawyers in Federal court proceedings, and because this process would best provide the Supreme Court an opportunity fully to consider and objectively to weigh all relevant considerations.
The problems posed to Federal law enforcement investigations and prosecutions by the McDade law are real and urgent. The Professional Standards for Government Attorneys Act provides a reasonable and measured alternative: It preserves the traditional role of the State courts in regulating the conduct of attorneys licensed to practice before them, while ensuring that Federal law enforcement agents will be able to use traditional Federal investigative techniques. I urge Congress to move quickly to pass this corrective legislation.

I ask unanimous consent that the bill and a summary of the bill be printed in the RECORD.

There being no objection, the additional material ordered to be printed in the RECORD, as follows:

S. 1437
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 "Professional Standards for Government Attorneys Act of 2001".

SEC. 2. PROFESSIONAL STANDARDS FOR GOVERNMENT ATTORNEYS.

(a) SEC. 530B. PROFESSIONAL STANDARDS FOR GOVERNMENT ATTORNEYS.

"(a) Definitions.—In this section:

"(1) GOVERNMENT ATTORNEY.—The term 'Government attorney'—
"(A) means the Attorney General; the Deputy Attorney General; the Solicitor General; the Associate Attorney General; the head of, and any attorney employed in, any division, office, bureau, or employee of such counsel, as may be duly appointed by the Attorney General; and
"(B) includes the Solicitor General; the United States Attorney appointed under section 515; any special Assistant United States Attorney appointed under section 543 who is authorized to conduct criminal or civil law enforcement or proceedings on behalf of the United States; any other attorney employed by the Department of Justice who is authorized to conduct criminal or civil law enforcement proceedings on behalf of the United States; any independent counsel, or employee of such counsel, appointed under chapter 46; and any outside special counsel, or employee of such counsel, as may be duly appointed by the Attorney General; and

"(B) does not include any attorney employed by or other law enforcement agent by the Department of Justice who is not authorized to represent the United States in criminal or civil law enforcement litigation or to supervise such proceedings.

"(2) STATE.—The term 'State' includes a Territory and the District of Columbia.

"(c) LICENSURE.—A Government attorney (except foreign counsel employed in special circumstances) shall not be required to be a member of the bar of any particular State.

"(d) COVERT ACTIVITIES.—Notwithstanding any provision of State law, including disciplinary, rules, statutes, regulations, constitutional provisions, or case law, a Government attorney may, for the purpose of enforcing Federal law, provide legal advice, authorize, or supervise covert activities, and participate in such activities, even though such activities may require the use of deceit for representation.

"(e) ADMISSIBILITY OF EVIDENCE.—No violation of any disciplinary, ethical, or professional conduct rule shall be construed to permit the exclusion of otherwise admissible evidence in any Federal criminal proceeding.

"(f) RULEMAKING AUTHORITY.—The Attorney General shall make and amend rules of the Department of Justice to ensure compliance with this section.

"(2) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 31 of title 28, United States Code, is amended, in the item relating to section 530B, by striking 'Ethical standards for attorneys for the Government' and inserting 'Professional standards for Government attorneys'.

"(c) REPORTS.—

"(1) UNIFORM RULE.—In order to encourage the Supreme Court to prescribe, under chapter 131, a uniform national rule for Government attorneys with respect to communications with represented persons and parties, not later than 1 year after the date of enactment of this Act, the Judicial Conference of the United States shall submit to the Chief Justice of the United States a report, which shall include recommendations with respect to amending the Federal Rules of Practice and Procedure to provide for such a uniform national rule.

"(2) ACTUAL OR POTENTIAL CONFLICTS.—Not later than 2 years after the date of enactment of this Act, the Judicial Conference of the United States shall submit to the Chairman of the Committee on the Judiciary of the Senate and to the Chairman of the Committee on the Judiciary of the House of Representatives a report, which shall include—

"(A) a review of any areas of actual or potential conflict between specific Federal duties related to the investigation and prosecution of violations of Federal law and the regulations of the Department of Justice or any department, agency, or other instrumentality of the United States, including the professional standards of the court in which the attorney principally performs his or her official duties;

"(B) recommendations with respect to amending the Federal Rules of Practice and Procedure to provide for additional rules governing attorney conduct to address any areas of actual or potential conflict identified pursuant to the review under paragraph (A).

"(3) CONCURRENT CONSIDERATIONS.—In carrying out paragraphs (1) and (2), the Judicial Conference of the United States shall take into consideration—

"(A) the needs and circumstances of multiforum and multijurisdictional litigation;

"(B) the special needs and interests of the United States in investigating and prosecuting violations of Federal criminal and civil law; and

"(C) practices that are approved under Federal statutory or case law that are otherwise consistent with traditional Federal law enforcement techniques.

SUMMARY OF THE "PROFESSIONAL STANDARDS FOR GOVERNMENT ATTORNEYS ACT OF 2001"

I. AMENDMENTS TO 28 U.S.C. §530B

The first part of the bill supersedes the McDade law with a new 28 U.S.C. §530B, consisting of six subsections:

Subsection (a) codifies the definition of "government attorney," by reference to the Department of Justice.

Subsection (b) establishes clear choice-of-law rules for government attorneys with respect to standards of professional responsibility.

Subsection (c) clarifies the law regarding the licensing of government attorneys, an issue that is currently addressed through the appropriations process. Since 1979, appropriations bills for the Department of Justice have incorporated by reference section 3(a) of Pub. L. 96-132, which states: "None of the funds appropriated in this Act may be used to pay the compensation of any person employed after the date of the enactment of this Act as an attorney (except foreign counsel employed in special cases) unless such person shall be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia." Subsection (c) extends this longstanding requirement, and also makes clear that government attorneys need not be licensed under the laws of any state in particular jurisdictions.

Subsection (c) clarifies that local rules regarding state licensure are not applied to federal prosecutors.

Cf. United States v. Straub, No. 5:99 Cr. 10 (N.D. W. Va. June 14, 1999) (granting defense motion to disqualify the Assistant United
States Attorney because he was not licensed to practice in West Virginia).

Subsection (e) addresses the situation in Oregon, where a state court ruling has seriously impeded the ability of Federal agents to engage in undercover operations that require the use of deceit. The Oregon Supreme Court upheld a private attorney's defense that his misrepresentation was justifiable because he was engaged in an investigation to seek evidence of fraud and other wrongful conduct. The court expressly ruled that there was no "prosecutorial exception" to either the State Bar disciplinary rules or the Oregon statute. As a result of this decision, prosecutors in Oregon may not concur or participate in undercover and other covert law enforcement techniques, even if the law enforcement technique at issue is lawful under Federal law.

Soon after this Oregon Supreme Court decision, the Oregon U.S. Attorney's Office informed the Oregon FBI Field Office that it would not concur or participate in the use of long-used and highly productive techniques, such as undercover operations and consensual monitoring of telephone calls, that could be disallowed by the Oregon Bar. Several important investigations were immediately terminated or severely impeded. The Oregon U.S. Attorney even refused to certify the renewal of the Portland Innocent Images undercover program, which targets child pornography and exploitation. Without the U.S. Attorney's certification, the program was shut down and a significant criminal problem has since gone unchecked.

The Federal Investigation Enhancement Act that I am introducing today with Senator LEAHY will clarify that Federal attorneys may, for the purpose of enforcing Federal law, authorize, concur, direct, and supervise covert investigations even though such activities may require the use of deceit or misrepresentation. In doing so, our legislation will make it possible for Federal authorities to continue their efforts to investigate and apprehend the most notorious criminals.

It is my hope that the Senate will act quickly on this legislation that will correct the most serious problems caused by the McDade law. It will be of enormous help to Federal law enforcement efforts in Oregon and across our country who are prosecuting these crimes.

By Mr. CRAIG:

S. 1440. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for victims of the terrorist attacks against the United States on September 11, 2001; to the Committee on Finance.
with broad and deep support, across our country and, on a bipartisan basis, here in Congress, we will win this war decisively.

A significant part of our response also must be compassion for the survivors of those victims of the first day of this war. Our tax code has long recognized that compassion demands we extend a helping hand by providing relief to our military and other people who are heroes killed in combat. Today, sadly, we recognize the need to extend similar comfort and relief to the families of civilian victims whose lives have been taken.

The other body has already passed emergency legislation along these lines. The bill I am introducing is identical to that legislation. The main provisions of this bill would extend the same relief to individuals killed in last week's terrorist attack as is currently provided in section 692 of our armed forces, with regard to the death tax, and currently provided for Federal military and civilian employees, with regard to Federal income taxes.

I fully realize that my Senate colleagues, including knowledgeable members of the Senate Finance Committee, will propose additional tax relief provisions to meet additional needs that are still being identified. But I want to add my voice, early and urgently, to emphasize the importance of acting swiftly and decisively to provide this relief to our fellow Americans.

I ask unanimous consent that the text of this bill be printed in the RECORD, as well as a brief summary of its provisions.

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

S. 1440

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

SEC. 1. SHORT TITLE.

This Act may be cited as the “Victims of Terrorism Relief Act of 2001”.

SEC. 2. INCOME TAXES OF VICTIMS OF TERRORIST ATTACKS.

(a) IN GENERAL.—Section 692 of the Internal Revenue Code of 1986 (relating to income taxes of members of the Armed Forces) is amended—

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) The heading of section 692 of such Code is amended to read as follows:

“SEC. 692. INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH AND VICTIMS OF CERTAIN TERRORIST ATTACKS.”

(2) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 of such Code is amended to read as follows:

“Sec. 692. Income taxes of members of Armed Forces on death and victims of certain terrorist attacks.”

(3) Section 6013(f)(2) of such Code is amended by inserting “and victims of certain terrorist attacks” after “on death”.

(4) Section 6013(r)(2)(B) of such Code is amended by inserting “and victims of certain terrorist attacks” after “on death”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 3. RELIEF FROM ADDITIONAL ESTATE TAX.

(a) IN GENERAL.—Section 2201 of the Internal Revenue Code of 1986 is amended—

(1) in the first sentence by inserting “(a) IN GENERAL—” before “The additional estate tax shall not”;

(2) by adding at the end the following:

“(b) VICTIMS OF CERTAIN TERRORIST ATTACKS.—The additional estate tax shall not apply to the transfer of the taxable estate of any individual who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on September 11, 2001. The preceding sentence shall not apply with respect to any individual whom the Secretary determines was a perpetrator of any such terrorist attack.”

(b) CLERICAL AMENDMENTS.—

(1) The heading of section 2201 of such Code is amended to read as follows:

“Sec. 2201. COMBAT ZONE-RELATED DEATHS OF MEMBERS OF THE ARMED FORCES AND DEATHS OF VICTIMS OF CERTAIN TERRORIST ATTACKS.”

(2) The item relating to section 2201 in the table of sections for subchapter C of chapter 11 of such Code is amended to read as follows:

“Sec. 2201. Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying on or after September 11, 2001.

VIKINGS OF TERRORISM RELIEF ACT OF 2001—EXPLANATION OF PROVISIONS

Death Tax Relief.—Section 2201 of the Internal Revenue Code currently provides an estate tax deduction for the armed forces who are killed while serving in a combat zone or who die as a result of injuries suffered while serving in a combat zone. The provision reduces estate tax liability by more than half.

The bill would extend this estate tax treatment to individuals who were killed as a result of a terrorist attack or who dies as a result of injuries suffered from that attack.

Income Tax Relief.—Section 692(c) of the Internal Revenue Code currently exempts Federal military and civilian employees from paying Federal income taxes in the year of their death if they die during (or as a result of injuries suffered in) a military or terrorist act outside of the United States.

The bill would extend this Federal income tax relief to individuals who died as a result of September 11 terrorist attacks who die from injuries suffered as a result of that attack.

Relief for Airline Payments to Passengers.—The bill would clarify that the $25,000 per passenger payments made by United Airline will be exempt from Federal income taxes, if such a clarification is needed. Any similar payments made by American Airlines would receive similar treatment.

Exempt FEMA Assistance Payments from Tax.—The bill would ensure that FEMA assistance payments are exempt from federal income tax.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 66—TO EXPRESS THE SENSE OF THE CONGRESS THAT THE PUBLIC SAFETY OFFICER MEDAL OF VALOR SHOULD BE AWARDED TO PUBLIC SAFETY OFFICERS KILLED IN THE LINE OF DUTY IN THE AFTERMATH OF THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001

Mr. STEVENS (for himself, Mr. CARPER, and Mr. LIEBERMAN) submitted the following concurrent resolution, which was ordered held at the desk.

S. CON. RES. 66

Whereas the Public Safety Officer Medal of Valor Act of 2001 (Public Law 107–12, 115 Stat. 20)—

(A) allows the President to award, and present in the name of Congress, a Medal of Valor to a public safety officer cited by the Attorney General of the United States, upon the recommendation of the Medal of Valor Review Board, for extraordinary valor above and beyond the call of duty; and

(B) provides that the Public Safety Officer Medal of Valor shall be the highest national award for valor by a public safety officer;

Whereas on September 11, 2001, terrorists hijacked and destroyed 4 civilian aircraft, crashing 2 of the planes into the towers of the World Trade Center in New York City, and a third into the Pentagon in suburban Washington, DC;

Whereas thousands of innocent Americans were killed or injured as a result of these attacks, including rescue workers, police officers, and firefighters at the World Trade Center and at the Pentagon;

Whereas these attacks destroyed both towers of the World Trade Center, as well as adjacent buildings, and seriously damaged the Pentagon;

Whereas police officers, firefighters, public safety officers, and medical response crews were thrown into extraordinarily dangerous situations, responding to these horrendous events and acting heroically, without concern for their own safety, trying to help and rescue the lives of others as possible in the impact zones, in spite of the clear danger to their own lives; and

Whereas these attacks were by far the deadliest terrorist attacks ever launched against the United States: Now, therefore, be it

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