

rapidly, and the arbitrary cap that Congress imposed on QFTs makes planning more difficult. Today I am proud to introduce this bipartisan legislation, along with my colleague from Wisconsin, the chairman of the Special Committee on Aging, Senator KOHL. We are also joined by two of our distinguished colleagues, Senators SPECTER and CRAPO. The change would have a positive impact on the lives of older Americans and on their families. In addition, according to the Joint Committee on Taxation, it would have a slight, but positive, impact on the Federal treasury.

When Congress created QFTs, it did so as a tax simplification measure. Unfortunately, it capped the size of these trusts at \$7,000, adjusted regularly for inflation. This year, the inflation-adjusted cap is \$8,800, but in many instances, this amount is no longer sufficient to cover a family's funeral expenses. In Utah, the average cost of a full funeral and burial is \$12,685. I am sure that in many other states it is even higher. Because of this contribution limit, even those who preplan their own funerals too often leave their heirs with substantial expenses. Even those who attempt to cover the entire expense may not have enough money to cover all costs after administrative fees and taxes are deducted.

This proposal would make Qualified Funeral Trusts more effective. The principal reason individuals set up Qualified Funeral Trust plans is to lift a financial burden from their children. Ordinarily, trusts for funeral expenses are grantor trusts, and the beneficiary is responsible for paying any tax on income generated by the trust. Congress recognized, however, that this result created an administrative burden for the beneficiary or the funeral director trustee. As a result, Congress enacted Section 685 of the Internal Revenue Code, allowing funeral director trustees to elect to pay the tax on income earned by funeral trusts. This tax simplification measure eased the paperwork burden and administrative costs on funeral director trustees, who were previously required to issue hundreds of 1099 forms to their elderly customers. It also eliminated the tax liability and confusion of many elderly Americans who previously received these forms. Unfortunately, only those trusts under the cap are currently eligible for designation as QFTs. By removing this restrictive cap, our legislation will eliminate unnecessary administrative burdens on beneficiaries and trustees.

Let me give you an example of how the current cap creates unnecessary confusion for families. I have used this example before. It remains worth telling. Four years ago, a constituent of mine wrote me about this situation. He was suffering from Parkinson's disease. So he began planning his own funeral in order that these decisions and this burden would be lifted from his children. Because of the cap on QFTs, how-

ever, which at the time was \$7,800, this Utahn was not able to fully fund the funeral services he desired. It became necessary to have one of his sons complete this planning for him by opening up his own, separate trust that would help to cover the remaining expenses. We should not be making it hard for families to do the right thing. We should not be making families jump through extra hoops when all they are trying to do is make these responsible decisions, well in advance of need.

For older Americans, the primary benefits of this legislation are the ability to have all the money they have saved in the trust be applied to final expenses, instead of taxes, and the incentive to increase the amount of their contribution. Sixty percent of prefunded funerals were funded by trusts and elimination of the cap should raise this percentage. For funeral directors, this change would eliminate the burden and expense of issuing information documents to report income earned from the trust.

The National Funeral Directors Association supports this legislation. So too do numerous funeral homes that serve the people of Utah.

I have no doubt that many more of these funeral businesses, many of which are family-owned and family-run, that serve local communities from coast to coast support this legislation as well.

I think we can all agree that we should make it easier for those who are willing to provide for these necessary expenses in advance. Today, I ask my colleagues to join me in an effort to enact this important measure.

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. 1743

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

**SECTION 1. REPEAL OF DOLLAR LIMITATION ON CONTRIBUTIONS TO FUNERAL TRUSTS.**

(a) IN GENERAL.—Subsection (c) of section 685 of the Internal Revenue Code of 1986 (relating to treatment of funeral trusts) is repealed.

(b) CONFORMING AMENDMENT.—Subsections (d), (e), and (f) of such section are redesignated as subsections (c), (d), and (e), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

—————  
SUBMITTED RESOLUTIONS  
—————

SENATE RESOLUTION 260—  
STRENGTHENING THE POINT OF  
ORDER AGAINST MATTERS OUT  
OF SCOPE IN CONFERENCE RE-  
PORTS

Mr. DEMINT submitted the following resolution; which was referred to the

Committee on Rules and Administration:

S. RES. 260

*Resolved,*

**SECTION 1. OUT OF SCOPE MATTERS IN CONFERENCE REPORTS.**

(a) IN GENERAL.—A point of order may be made by any Senator against any item contained in a conference report that includes or consists of any matter not committed to the conferees by either House. The point of order may be made and disposed of separately for each item in violation of this section.

(b) DISPOSITION.—If the point of order raised against an item in a conference report under subsection (a) is sustained—

(1) the matter in such conference report shall be stricken; and

(2) when all other points of order under this section have been disposed of—

(A) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report that has not been stricken (any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the conference report shall be made);

(B) the question shall be debatable; and

(C) no further amendment shall be in order.

(c) LIMITATION.—

(1) IN GENERAL.—In this section, the term "matter not committed to the conferees by either House" shall include any item which consists of a specific provision containing a specific level of funding for any specific account, specific program, specific project, or specific activity, when no such specific funding was provided for such specific account, specific program, specific project, or specific activity in the measure originally committed to the conferees by either House.

(2) RULE XXVIII.—For the purpose of rule XXVIII of the Standing Rules of the Senate, the term "matter not committed" shall include any item which consists of a specific provision containing a specific level of funding for any specific account, specific program, specific project, or specific activity, when no such specific funding was provided for such specific account, specific program, specific project, or specific activity in the measure originally committed to the conferees by either House.

(d) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of  $\frac{3}{5}$  of the Members, duly chosen and sworn. An affirmative vote of  $\frac{3}{5}$  of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

—————  
SENATE RESOLUTION 261—EX-  
PRESSING APPRECIATION FOR  
THE PROFOUND PUBLIC SERVICE  
AND EDUCATIONAL CONTRIBU-  
TIONS OF DONALD JEFFRY HER-  
BERT, FONDLY KNOWN AS "MR.  
WIZARD"

Mr. COLEMAN (for himself, Mr. DOMENICI, Mr. ALEXANDER, Ms. KLOBUCHAR, Mr. FEINGOLD, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on the Judiciary: