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Key Legislative and Regulatory Issues

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2008 Key Federal Legislative and Regulatory Issues

INTRODUCTION

With the conclusion of the first session of the 110th Congress and the beginning of the second session about to begin, following is a status report on the issues involving funeral service. If we are to achieve any success in 2008 to pass these bills, we need your active support.

Click the links below to view information and updates on specific issues:

Legislative Issues

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Regulatory Issues

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LEGISLATIVE ISSUES

Estate Tax (no bill yet). NFDA and 150 other associations continue to strongly advocate for permanent relief from the federal estate tax in spite of the change in leadership in both the House and Senate. Over the years, the Democrats have been adamantly opposed to repeal; however, they now appear to be willing to entertain some sort of modest relief especially for family-owned businesses such as funeral homes. The Senate Finance Committee held a hearing in 2007 on the problems facing small businesses in complying with the current law. [NFDA submitted written comments](#) for the record outlining the problems funeral homes are having with it. Finance Chairman Max Baucus (D-MT) has indicated that an additional hearing will be held in early 2008 with the intention of having some sort of permanent estate tax relief measure introduced by mid-year. NFDA will continue to actively advocate for permanent estate tax relief for funeral homes.

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Small Business Health Plans (no bill yet). Another bill that the House and Senate Democratic leadership does not support. NFDA has been told by senior staff in both chambers that it is unlikely anything will happen prior to the Presidential election. Every Presidential candidate has their own health care plan which they intend to propose when elected. Consequently, NFDA does not expect any health care relief for small business in 2008 unless some significant problem arises to force them to move. Irrespective of this pessimistic outlook, NFDA and all other small business groups will continue to advocate for substantive relief for our members.

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Codification of SSI Irrevocable Funeral/Burial Trust Exemption. (S. 989/H.R. 1629). At the request of NFDA, Senator Blanche Lincoln (D-AR) and Representatives Earl Pomeroy (D-ND) and Charlie Wilson (D-OH) have again introduced bills to codify the current regulatory exclusion specifying that irrevocable funeral and burial trust funds are not assets for purposes of determining eligibility for the supplemental security income (SSI) and Medicaid programs. Passage of these bills continues to be a high NFDA priority for 2008. NFDA members are encouraged to [contact their Congressional representatives](#) and urge them to co-sponsor and actively support passage of these bills.

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Eliminate the Dollar Limitation on Qualified Funeral Trusts (H.R. 1264/S.1743). At the request of NFDA, Representatives Ron Kind (D-WI), Charlie Wilson (D-OH), Jim Matheson (D-UT), Dave Camp (R-MI) and Patrick Tiberi (R-OH) have introduced H.R. 1264, a bill to eliminate the current dollar limitation on qualified funeral trusts under Section 685 of the Internal Revenue Code. NFDA is working to include this bill in a larger tax bill in 2008. These bills will reduce administrative costs for funeral homes and assist those consumers who want to preplan and prepay their funeral expenses. They also will benefit state master trusts. Senators Orrin Hatch (R-UT) and Herb Kohl (D-WI) have introduced a Senate companion bill. NFDA members are encouraged to [contact their Congressional representatives](#) and urge them to co-sponsor and actively support passage of these bills.

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Congressional Resolution Declaring March 11, 2008 as National Funeral Director and Mortician Recognition Day (S. Res. 390/H. Res. 892). Over the years, Congress has recognized countless individuals, professions, causes, and even sports teams. However, they have never recognized funeral directors and morticians for their caring, compassion, generosity and value to the communities in which they live and the families they serve. NFDA believes strongly that a national day of recognition is long overdue. Therefore, we have initiated in both the United States Senate and House of Representatives a resolution declaring March 11, 2008, "National Funeral Director and Mortician Recognition Day." The date coincides with our Advocacy Summit when many NFDA members will be in Washington, DC to meet with their Senators and Representatives about issues of concern to funeral service. The Senate resolution was introduced by Senator Kohl (D-WI) and the House companion resolution was introduced by NFDA member Representative Charlie Wilson (D-OH). NFDA members are encouraged to [contact their Congressional representatives](#) and urge them to co-sponsor and actively support passage of these resolutions in time for March 11.

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REGULATORY ISSUES

Mass Fatality Management. Prompted by the threat of a pandemic flu, NFDA continues to work with key officials in the federal government with responsibility for disaster management to ensure that the role and responsibilities of funeral homes, cemeteries, crematories, and all funeral service personnel, including industry suppliers, are included in the national response plan or any mass fatality and family assistance plans that may be adopted. This includes:

- a. A mass fatality management component must be developed and made part of the national response plan and any federal agency response plan or policy. Such a plan should include:
 - i. Policies and procedures dealing with the dignified recovery, storage, identification and processing of remains, as well as the timely issuance of death certificates, and the orderly conduct of funerals and final dispositions.
 - ii. The establishment of a single agency and agency official responsible for implementing and managing the mass fatality component of any disaster response plan.
- b. Establishment of a national missing person's database and locator for displaced family members which would include a universal identification code for victims.
- c. Funeral homes, cemeteries, crematories, morgues and their suppliers should be included as a priority for logistical and workforce support and protection, including vaccinations and personal protective equipment, during emergency situations that may involve quarantines, restrictions on transportation, travel and public gatherings, and the conduct of funerals and final dispositions.
- d. Temporary suspension of certain federal, state and local laws, rules and regulations governing the conduct or practice of funeral directing, cemetery or crematory operations which may otherwise hinder the proper conduct of fatality services in an emergency situation. These would include but not be limited to the FTC Funeral Rule, various workplace, wage and hour, and environmental policies.
- e. Emergency licensing reciprocity for medical examiners, coroners, funeral directors, cremationists, and other licensed fatality service personnel to allow them to support the needs of fatality services in other jurisdictions.
- f. Limited legal liability protection for funeral homes, cemeteries, and crematories to fully comply with a preneed contract or failure to adequately comply with the federal, state and local laws, rules and regulations mentioned in item d above.

Progress is slow on getting the attention of the federal officials at the Department of Health and Human Services and the Department of Homeland Security on the

importance of these issues; however, we are making incremental progress and will continue to do so. NFDA has been successful in its efforts to put funeral service personnel in one of the top tiers set forth by CDC for priority vaccinations against the avian flu during a severe national pandemic. NFDA was initially able to have funeral service personnel classified in Tier 3 (out of five tiers) along with other "essential health care workers". Recently, the CDC placed funeral service personnel in Tier 2 due to their increased risk of exposure.

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