

Mr. REID. Reserving the right to object, Mr. President, we have had a difficult time with conference committees. A perfect example is the very important Medicare conference. With that matter, we have had the majority say you can have two Democrats attend, but they are the only ones. If anybody else comes into the room who should not be on the conference, we will terminate that session of the conference.

Conferences have not been as we believe they should, where you have Democrats representing the minority and Republicans representing the majority meeting and trying to work out issues. These matters are simply resolved behind closed doors with Democrats having no input. Regarding the very important supplemental, which was completed and voted on and passed today, Senator STEVENS specifically said on the floor he would have a full participation of all conferees. We did that. The conference took 2 days. It was tough and grueling. We won very few issues, but at least we had a conference.

Healthy Forests is a bill I support wholeheartedly. As I indicated with the votes taken by the Senate on this issue, most Democrats support this issue. But we want a conference. We are not going to get one. What we suggest is we take our bill and merge it with the House bill and send it back to the House. If they don't like something, they can send it back with amendments. That is what we recommend and that is how we are going to stand on the issue.

Respectfully, I object to the unanimous consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCONNELL. Mr. President, we have had forest fires raging in the West for a number of years, and this year it finally hit in a big State—California—and destroyed the home of the chairman of the House Armed Services Committee. Finally, it got the attention of large numbers of Americans, including Members of this body.

With all due respect to my friend from Nevada, the way we do legislation is we appoint conferees and the House and Senate work out their differences. I hope some time before we are out of session this year we will be able to follow the normal legislative procedure and give the conferees a chance to reconcile the differences between the House and the Senate and move forward on this most important issue, because it is not going away. It is going to continue to be a problem summer after summer.

Mr. REID. Mr. President, if I may be recognized to respond to my friend.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, the fires in California were disastrous. But what happened in California is not going to be changed by virtue of a conference. We believe if the majority really wants a bill—and I believe they do—they

should take our suggestion. It is not anything unique. It has been done many times in the past. We have done it this year; that is, just take what we have passed in the Senate and send it to the House. If there is something they don't like, they can send it back to us with an amendment. That would be my suggestion.

UNANIMOUS CONSENT REQUEST—
H.R. 7

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 7, the charitable giving bill. I further ask unanimous consent that all after the enacting clause be stricken and the Snowe amendment and the Grassley-Baucus amendment, which are at the desk, be agreed to en bloc; that the substitute amendment, which is the text of S. 476, the Senate-passed version of the charitable giving bill, as amended by the Snowe and Grassley-Baucus amendments, be agreed to; that the bill, as amended, be read a third time and passed; that the motion to reconsider be laid upon the table; further, that the Senate insist on its amendment and request a conference with the House; that the Chair be authorized to appoint conferees with a ratio of 3 to 2; and that any statement relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the chairman of the Finance Committee, Senator GRASSLEY, and this Senator just had a discussion on this same issue.

We are concerned about going to conference because there will wind up being no conference. What we want to do is merge the Senate bill with the House bill, send it back to the House, and if they have a problem, they can send it back to us. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCONNELL. Mr. President, as my friend from Nevada indicates, once again the normal legislative process is being prevented by not allowing conferees from the House and Senate to be approved, which is typically the way differences between House and Senate bills are resolved.

FALLEN PATRIOTS TAX RELIEF
ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3365.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3365) to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity pay-

able with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, we are tonight adopting long overdue legislation to rectify a number of inequities faced by members of our Nation's armed services.

Since the terrorist attacks of September 11, these brave men and women have been called upon to make terrific sacrifices. They have left their families and friends behind for months at a time to willingly cast themselves into harm's way. Whether in Afghanistan, Iraq, or on whatever battlefield the war against terrorism must be fought, these courageous patriots have put their lives on the line to defend our freedoms.

While I realize that we could never begin to fully repay these fine young Americans—not to mention the loved ones they leave behind—the Senate has an opportunity tonight to show our gratitude for their sacrifices.

The legislation before us, which the Finance Committee first developed during the 107th Congress, will ensure that members of the uniformed services, the National Guard, and the foreign service are treated fairly in all aspects of the tax code.

First, this legislation ensures that the families of military personnel called into active duty are not disadvantaged under the home sale exclusion. Unlike most Americans, military personnel who are called to active duty or asked to relocate often lack the flexibility to meet residency requirements under the exclusion and are adversely impacted by these rules. This legislation would suspend the residency test for periods of active duty aggregating no more than 10 years.

We should not punish members of our military and their families who are asked to relocate in the name of service to their country.

This legislation also clarifies that dependent care benefits provided to families of the uniformed services will not be treated as taxable compensation. The provision of affordable childcare is an important function of the military during peacetime; but it is never more critical than during periods of conflict—families.

We must also not forget about the increasing role that Reserve and National Guard members fulfill in our Nation's defense. Currently, more than 157,000 reservists and National Guard are on active duty status—most assisting in Operation Iraqi Freedom. We have begun to rely increasingly on these service personnel to defend our borders and to serve and protect in other areas of the world.

This legislation will allow an above-the-line deduction for travel expenses that these men and women incur related to training assignments. This provision will at least partially reimburse national guard members and reservists for the expenses they incur when they travel for weekend drills.

The Armed Forces Tax Fairness Act also ensures that military personnel serving in Secretary of Defense designated "contingency operations" receive appropriate relief from the administrative burdens of our tax laws during participation in those operations.

What's more, this legislation is completely offset. All of the military tax fairness provisions in this legislation are fully funded by extending Customs user fees.

As we consider this legislation tonight, the men and women of our armed forces remain in hostile situations, battling terrorism wherever that battle may lead. At the same time, their loved ones—wives, husbands, parents, children—remain at home, making equally demanding sacrifices as they struggle to make ends meet. It is deeply regrettable that Congress has delayed so long to enact this common-sense legislation.

We must delay no longer. I urge my colleagues to support this legislation to provide the tax relief that our military personnel need and deserve.

Mr. BAUCUS. Mr. President, I rise today in support of this amendment to the Fallen Patriots Tax Benefit Act of 2003. The bill that we received from the House includes two important provisions that the Senate has already approved this year. However, it does not include the numerous other provisions that the Senate has passed to ensure equity for military personnel. This amendment would add these important provisions.

First, the House bill doubles the amount of the death gratuity payments for members of our military. Under current law, the families of military personnel receive a death gratuity benefit of \$6,000. This bill would increase that amount to \$12,000. The Senate included this provision in the defense authorization bill that is currently in conference.

Second, the House bill ensures that these payments will not be subject to taxation. Under current law, death gratuity benefits are excludable from income only to the extent they were as of September 9, 1986, which was \$3,000.

In 1991, the benefit was increased to \$6,000, but the Tax Code was never adjusted to exclude the additional \$3,000 from income. Because of this oversight, the U.S. Government has been taxing families for the death of a family member who died in combat.

The House bill would make the entire \$12,000 death gratuity benefit tax-free, and ensure that families are not hit with a tax bill during their most difficult hour. This provision was included in the Senate passed Armed Forces Tax Fairness Act.

That is what this bill does. Now let me talk about what the House bill does not do.

This bill does not include the numerous other provisions for military personnel that were included in the Armed Forces Tax Fairness Act of 2003, which

was passed by the Senate in May. These provisions are vital to ensuring tax equity for our active duty military and reservists.

Let me explain these provisions.

First, the House bill does not include the exclusion of gain on the sale of a principal residence.

In 1997, Congress passed legislation revising the taxation of capital gains on the sale of a person's principal residence.

The new law provides that up to \$250,000—or \$500,000 for a married couple—is excluded on the sale of a principal residence if the individual has lived in the house for at least 2 of the previous 5 years.

However, when enacted, Congress failed to provide a special rule for military and Foreign Service personnel who are required to move either within the U.S. or abroad.

Our proposal in the Armed Forces Tax Fairness Act would permit service personnel and members of the Foreign Service to suspend the 5-year period while away on assignment. That means that those years would not count toward either the 2 years or the 5-year periods. Senators MCCAIN, GRAHAM, and LINCOLN proposed a bill in the last session to correct this.

Second, the House bill does not allow for the exclusion from taxable income of amounts received under the Military Housing Assistance Program. The Department of Defense provides payments to members of the Armed Services to offset diminution in housing values due to military base realignment or closure.

For example, if a house near a base was worth \$140,000 prior to the base closure and \$100,000 after the base closure, DOD may provide the owner with a payment to offset some, but not all, of the \$40,000 diminution in value. Under current law, those amounts are taxable as compensation.

We should ensure that those men and women losing value in their homes due to a Federal Government decision are not adversely affected financially.

The proposal in the Armed Forces Tax Fairness Act would provide that payments for this type of lost value are not includable into income.

Third, the House bill does not expand the combat zone filing rules to include contingency operations. Under current law, military personnel in a combat zone are afforded an extended period for filing tax returns.

However, this does not apply to contingency operations. This proposal in the Armed Forces Taxes Fairness Act would extend the same benefits to military personnel assigned to contingency operations.

It cannot be easy trying to figure out our complicated tax system while you are overseas and protecting our nation's freedom. Those men and women who are sent to uphold democracy and freedom in other countries are confronted with the same filing complications as combat zone personnel.

Contingency operations are just as demanding as combat zone deployment, although not always in the same manner. For example, in our current war on terrorism, this proposal would help members of our Special Forces in the Philippines supporting Operation Enduring Freedom. These troops are just as focused on accomplishing their critical mission as our troops in the Iraqi combat zone.

Fourth, the House bill does not provide an above-the-line deduction for overnight travel expenses of National Guard and Reserve members. Some reservists who travel one weekend per month and two weeks in the summer for Reserve duty incur significant travel and lodging expenses.

For the most part, these expenses are not reimbursed. Under current law, these are deductible as itemized deductions but must exceed 2 percent of adjusted gross income.

For lower income reservists, this deduction does not provide a benefit, because they do not itemize. For higher income reservists, the 2 percent floor limits the amount of the benefit of the deductions.

In my home State of Montana, we have approximately 3,500 reservists—800 of whom travel each month across the State for their training. These 800 reservists pay travel and lodging expenses out of their own pocket.

Montana ranks 48th in the Nation for per capita personal income. So that \$200 expense for Reserve duty every month means a lot to the Montana reservist. Yet, they continue selflessly to provide their services to our country at their own expense. For those reservists who travel out of State for their training, this expense is even higher.

The proposal in the Armed Forces Tax Fairness Act would provide an above the line deduction for overnight travel costs and would be available for all reservists and members of the National Guard.

Fifth, the House bill does not expand the rules to qualify for membership of veterans organizations. Currently, qualified veterans organizations under section 501(c)(19) of the tax code both tax-exempt and contributions to the organization are tax deductible.

In order to qualify under 501(c)(19), the organization must meet several tests. For example, 75 percent of the members must be current or former military, and substantially all of the other members must be either spouses, widows, or widowers of current or former military.

The proposal in the Armed Forces Tax Fairness Act would permit lineal descendants and ancestors to qualify as eligible members of these important groups.

It is important that our veterans organizations continue the good work that they do. But, as the organizations age, they are in danger of losing tax-exempt status. The Armed Forces Tax Fairness Act helps ensure the vitality of these organizations.

Sixth, the House bill does not clarify the tax treatment of childcare subsidies. I want to ensure that parents in the military can continue their dedicated service with the knowledge that their children are well taken care of.

The military provides extensive childcare benefits to its employees. Employees at DoD-owned facilities provide childcare services while other areas with non-DoD owned facilities contract out their childcare.

When Congress passed the Tax Reform Act of 1986, we included a provision stating that qualified military benefits are excluded from income. It is not absolutely clear whether childcare provisions are covered under this provision.

The proposal in the Armed Forces Tax Fairness Act would clarify that any childcare benefit provided to military personnel would be excludable from income.

Seventh, the House bill does not allow students at the Service Academies to use their education savings account funds. In contrast, the Armed Forces Tax Fairness Act does permit penalty-free withdrawals from education savings accounts and qualified tuition programs made on account of the attendance of the account holder or beneficiary at any of the Service Academies. The amount of the funds that can be withdrawn penalty-free is limited to the costs of advanced education in that calendar year.

Eighth, the House does not allow the IRS to suspend the tax-exempt status of terrorist organizations. Under current law, there is no procedure for the IRS to suspend the tax-exempt status of an organization.

The Armed Forces Tax Fairness Act would allow the suspension of the tax-exempt status of an organization for any period during which the organization is designated or identified by Executive Order as a terrorist organization.

Ninth, the House bill does not provide tax relief for families of those killed in the Space Shuttle *Columbia*. Current law provides for income tax, estate tax, and death benefit relief to soldiers who are killed in a combat zone, victims of the September 11 attacks, the Oklahoma City bombing victims, and the victims of the anthrax attacks.

The crew of the Space Shuttle *Columbia* was heroic in every sense of the word. We have a duty to those who lost their lives for the advancement of science and increasing our knowledge of the world we live in. The Armed Forces Tax Fairness Act would make all of the above benefits available to the families of the *Columbia* crew.

The tenth and final difference between the House bill before us and the Armed Forces Tax Fairness Act is that the bill before us is not offset. In contrast, the Armed Forces Tax Fairness Act is completely offset by strengthening the collection of taxes from people who have renounced their U.S. citizenship in order to avoid U.S. taxes.

However, some of our colleagues in the House have objected to this provision. So in the interest of enacting these important military tax provisions as quickly as possible, the Senate changed the offset to a simple extension of the present law customs user fees.

The Senate amendment to the House bill would add these very important nine provisions. In addition, it would add an offset that the House has not opposed this offset in the past. We hope that this compromise on our part will allow them to pass the provisions from the Armed Forces Tax Fairness Act that we have included in this amendment.

The passage of the death gratuity payments provision is an important first step. However, there are thousands of men and women in uniform that are depending on us to pass the other ten provisions included in the Armed Forces Tax Fairness Act.

Simply put, there is absolutely no excuse if Congress fails to pass the Armed Forces Tax Fairness Act this year.

Everyday, our military men and women fight for our freedom and the freedom of every American. Their sacrifices are great. Passing the other ten provisions included in the Armed Forces Tax Fairness Act is not a lot for them to ask of Congress.

I urge my colleagues in the House to pass the Senate amendment to the Fallen Patriots Act of 2003.

Ms. COLLINS. Mr. President, I want to express my full support for the passage of H.R. 3365, the Fallen Patriots Tax Relief Act. Earlier this year, the Senate passed S. 704, introduced by myself, Senator WARNER, Senator MCCAIN, Senator ALLEN, and Senator BEN NELSON, which would have increased the death gratuity paid to the survivors of deceased members of our military from \$6,000 to \$12,000. Further, it would make this increase retroactive to September 11, 2001. I am pleased that H.R. 3365 incorporates this legislation.

There is no better way to honor the memories of fallen soldiers than to ensure that their loved ones receive the support they deserve. The death gratuity is provided within days to the family of the servicemember killed while on active duty. These funds help the family to deal with immediate needs during this difficult time. Given the sacrifices of our troops currently in Iraq, I believe that this increase in assistance is far past due.

H.R. 3365 also ensures that the death gratuity is tax free. I fully support this legislation, and believe that it sends a strong message of support to our troops. As the brave men and women of our military continue to go in harm's way in defense of our Nation, it is crucial that they do so with the confidence that their families will have our full support should tragedy occur.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the McCain-Baucus-Grassley amendment, which is at the desk, be agreed to; that

the bill, as amended, be read a third time and passed; that the title amendment be agreed to; that the motions to reconsider be laid upon the table, en bloc; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2051) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The title amendment (No. 2052) was agreed to, as follows:

Amend the title so as to read: "An Act to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity payable with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income, to provide additional tax relief for members of the Armed Forces and their families, and for other purposes."

The bill (H.R. 3365), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

GIVING PRIORITY TO PASSING TAX RELIEF LEGISLATION FOR MILITARY PERSONNEL

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 257, submitted earlier today by Senator LANDRIEU.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 257) expressing the sense of the Senate that Congress should give priority to passing legislation to provide tax relief for United States military personnel and should offset the cost of such tax relief with legislation preventing individuals from avoiding taxes by renouncing United States citizenship.

There being no objection, the Senate proceeded to consider the resolution.

Ms. LANDRIEU. Mr. President, today the Senate passed the Military Tax Fairness Act of 2003, about \$1.1 billion in tax relief for our military families. I support this bill. We all support this bill. In fact, we passed this unanimously or near unanimously on a couple of previous occasions. We are revisiting this bill again today because the House of Representatives does not like the offset we used to pay for the bill. We paid for it by taxing individuals who renounce their United States citizenship in order to avoid paying U.S. taxes.

It is astounding to me that this bill keeps getting bounced back and forth between the Senate and the other body over this issue. We are talking about tax relief for military families and we want Americans who are exploiting tax loop holes to step up and make that relief possible. Most of these people have known great financial success. They were blessed by the economic opportunity that our nation's liberty gives us and the free enterprise system which make those fortunes possible.