

This Congress also missed a number of opportunities to ensure that good-paying jobs stay in this country. The bill that was recently enacted in response to a World Trade Organization ruling against the foreign sales corporation and extraterritorial income provisions in our tax code presented Congress with an opportunity to restructure our tax code in a way that supports domestic manufacturers and their employees. Sadly, while the measure did provide some help to domestic manufacturers, the bill that was signed into law missed this opportunity in many respects. Congress should act at the next opportunity to close down the tax provisions in this law that actually provide incentives for corporations to move facilities overseas.

I was also disappointed that the final Omnibus bill that the Senate is expected to take up soon did not include provisions approved by the Senate responding to the disturbing trend of the outsourcing of American jobs. These provisions would have prohibited Federal funding from being used to support the outsourcing of goods and services contracts that are entered into by the Federal Government, or by the States if those contracts are being supported by Federal dollars. With this bill, Congress could have supported American workers by ensuring that taxpayer money is not used to encourage companies to relocate American jobs. Because of the deletion of this outsourcing provision, we missed an opportunity for the Federal Government to set a strong example of buying its goods and services from American companies that use American workers.

All told, the 108th Congress provided little support, and too much harm, to working families, and the examples that I have cited are just the tip of the iceberg of missed opportunities in this area. Congress can and should do more to ensure that workers and their families have a decent standard of living, including access to affordable health care, child care, and housing. We should also do more to strengthen job training and education, including expanding access to higher education.

I fervently hope that the 109th Congress will reject the antiworker tone of the past two Congresses and will make every effort to support the working men and women and their families who we have been elected to represent. I intend to continue to work hard to ensure that their voices are heard here in the Senate.

#### NORTHERN CALIFORNIA COASTAL WILD HERITAGE ACT

Mrs. BOXER. Mr. President, I am pleased that the Northern California Coastal Wild Heritage Act has been included in the Senate amendment to H.R. 620. I, along with my colleague from California, Senator FEINSTEIN, are the sponsors of the Senate companion measure, S. 738. I would like to thank

Senator DOMENICI, the Chairman of the Committee on Energy and Natural Resources, and Senator BINGAMAN, the Ranking Democratic Member, for working with us to achieve passage of this very important legislation. I would like to enter into a colloquy with Senators FEINSTEIN, DOMENICI and BINGAMAN to clarify our intent behind some of the wilderness management provisions in the bill.

Mrs. FEINSTEIN. The first issue I would like to address concerns horsepacking into wilderness. I want to make sure horsepackers can keep using these wilderness areas. I recognize that the wilderness areas created by this act are currently enjoyed by hikers, people on horseback, hunters and anglers. In addition, many visitors are serviced by commercial outfitters using horses as pack animals. I believe horsepacking is an important use of wilderness, and I know it is a use that was well established in wilderness prior to the passage of the Wilderness Act in 1964. Unlike some other units of the National Wilderness Preservation System, the areas designated by this act are not heavily used by horses at this time. While fully recognizing the responsibilities of the land managers to monitor visitor use and respond appropriately to any resource damage that may result from overuse, I believe that current levels of horsepacking use in these areas are consistent with wilderness designation. Do my colleagues agree?

Mrs. BOXER. I fully concur, and I thank my colleague for raising this issue. I would like to ask the chairman and ranking Democratic member whether they share our view that the designation of these areas as wilderness does not preclude their continued use by horsepackers, subject to the agency's management discretion to protect area resources.

Mr. DOMENICI. I agree with the Senator from California.

Mr. BINGAMAN. I likewise agree.

Mr. DOMENICI. We are all in agreement on this issue.

Mrs. FEINSTEIN. In working through the bill, the Forest Service stressed a need to develop a plan to restore the late successional reserve LSR forest of the Sanhedrin wilderness area. We agreed that wilderness designation could be fully compatible with such restoration treatments.

I agree with the Forest Service observation that this area has been altered by human influences, including the suppression of natural burning. As the Forest Service develops its plan in accordance with this act and with the goal of LSR restoration, I believe the old growth characteristics of the LSR are a primary value of the wilderness. I also believe that the Forest Service can achieve its goal of LSR restoration in accordance with this act and the Forest Service manual direction on wilderness. The relevant portion of the manual, FSM 2323.35a states:

Manipulation of Wildlife Habitat. The objective of all projects must be to perpetuate

the wilderness resource; projects must be necessary to sustain a primary value of a given wilderness or to perpetuate a federally listed threatened or endangered species. To qualify for approval by the Chief, habitat manipulation projects must satisfy the following criteria:

The condition needing change is a result of abnormal human influence.

The project can be accomplished with assurance that there will be no serious or lasting damage to wilderness values.

There is reasonable assurances that the project will accomplish the desired objectives.

Do my colleagues share my views that treatments to promote old growth in the Sanhedrin LSR are fully consistent with this act?

Mr. DOMENICI. I agree with the senior Senator from California.

Mrs. BOXER. I agree as well.

Mr. BINGAMAN. I, too, share this understanding of the bill.

Mrs. FEINSTEIN. Some people have voiced concerns about hunting and fishing in wilderness areas. I want to make perfectly clear that nothing in this bill alters the fact that the State of California retains jurisdiction of wildlife management in these wilderness areas which includes the issuance of hunting and fishing licenses.

Mrs. BOXER. I fully concur.

Mr. BINGAMAN. I likewise agree.

Mr. DOMENICI. We all seem to be in agreement on this issue as well.

Mrs. FEINSTEIN. I would like to raise one other issue. Since the enactment of the King Range Act in 1970, property owners Linda Smith Franklin and Mary Smith Etter have been granted access to their land by the Bureau of Land Management via the Smith-Etter Road. This legislation has designated the Smith-Etter Road as providing access to private property owners and their invitees. It is my understanding that nothing in this act should in any way alter the access currently granted to Franklin and Etter under existing policies. I believe that Franklin and Etter should continue to receive the access that they currently enjoy.

On the subject of fire suppression in this same area, I note that this act provides the land management agencies with the necessary flexibility to conduct fire suppression activities to protect human life and property. For example, in the King Range Honeydew fire in 2003, which resulted in 14,000 acres of fire damage in the King Range Conservation Area, the Bureau of Land Management authorized a fire truck and a 3-member crew to be stationed at the bottom of Telegraph Ridge, within a four mile range of the Franklin property in order to allow easy, quick access to the Franklin property in the event that fire suppression activities were warranted. As a result, firefighters were able to fend off the fire and prevent damage to the Franklin property. It is my understanding that nothing in this Act would prevent BLM from continuing this practice when so warranted by fire danger.

Do my colleagues share my understanding of these access and fire suppression issues in the King Range?

Mrs. BOXER. I do, and I thank my colleague from California for her work on this issue.

Mr. DOMENICI. I likewise share this understanding of how the bill should be implemented.

Mr. BINGAMAN. I agree as well.

Mrs. FEINSTEIN. I thank my colleagues.

#### GILA RIVER WATER SETTLEMENT

Mr. KYL. Mr. President, with Congress having passed S 437, I make a commitment to the San Carlos Apache Tribe to work next year to help attain and have enacted a fair Gila River water settlement for the tribe.

The Gila River runs through the tribe's reservation. San Carlos Reservoir is located within their reservation. The tribe deserves a fair settlement of its water rights claims to that river and I want my colleagues and others to know that I am absolutely committed to achieving that.

I had hoped to have been able to bring to the Senate legislation that would include a Gila River water settlement for this tribe. Unfortunately, we were unable to do that. The tribe is working toward a settlement with a number of groups that use the Gila River. I hope that the tribe, the United States, and the local non-Indian water users will be able to settle the tribe's water rights claims in the coming year. In connection with that effort, I want to send a strong message to the settlement negotiators: I expect everyone to negotiate in good-faith toward a fair settlement.

I encourage all parties, including the San Carlos Apaches, to engage earnestly and vigorously to complete a Gila River water settlement as soon as possible. I will then work with both the Senators from New Mexico and my Senate colleagues to see that such an agreement is ratified through legislation next year.

#### INTELLIGENCE REFORM

Mr. LAUTENBERG. Mr. President, earlier today, we were led to believe that we had an agreement with House conferees to pass a bill that will reform our intelligence community and make America safer from the threat of terrorism. Now we find out that House Republicans have killed the bill.

This morning, I was one of 11 Senate conferees—6 Republicans, 5 Democrats—who signed the conference report to the Intelligence Reform bill.

Remember: the conference report is to a bill the Senate passed 96-2. The bill the Senate passed, in turn, was based on the recommendations of a unanimous 9/11 Commission—5 Republicans, 5 Democrats.

Now, we find out that House Republican conferees have rejected the conference report. They have snatched defeat from the jaws of victory.

From what I gather, the problem is not with House Intelligence Committee

Chairman HOEKSTRA, who has been leading the conference committee.

What these House Republican conferees have done is a slap in the face of the Senate, the bipartisan 9/11 Commission, and the 9/11 families who have worked so hard to make something positive happen in the wake of a horrific national tragedy.

New Jersey lost 700 of its citizens on 9/11; I have to wonder if these House Republican conferees would be behaving differently if they went through what we in New Jersey went through.

I have been in the U.S. Senate for 20 years now. I have been involved in my share of conference committees. In all those years, I don't believe I have ever seen a little cabal of Members act more unreasonably. These House Republican conferees have killed a bill that 16 of 21 conferees have voted for. Talk about obstructionism.

The fact of the matter is that the conference report we were poised to adopt today is a far cry from the 9/11 Commission recommendations and the bill the Senate passed so overwhelmingly. But there is enough in the conference report to merit going forward. It creates a National Director of Intelligence with real budget authority; it creates a National Counter-Terrorism Center; it bolsters border and transportation security. And it has some provisions to safeguard our civil liberties.

It is time for truth-telling here. House Republicans and the Bush administration have been opposed to this bill from the start. And now they have gotten their way.

I think it is incumbent for the President and for the House Republican conferees who have killed this bill to sit down in person with the 9/11 families, look them in the eye, and tell them that the status quo—that doing nothing—is better than passing a bill so many people worked so long and hard to get.

We are told that we won't adjourn sine die today; that we will come back on December 6 to give the conferees more time to reach an agreement.

The House Republican conferees are absolutely intransigent. It is hard for me to believe that we will be any more successful in the next few weeks than we have been in the past several weeks. I hope I am wrong, but given the President's complete lack of leadership on this matter, it is hard for me to be optimistic.

I have to say I think what has happened is totally contrary to the principles of our democracy, as we turn the power of the people over to a couple of bullies who refused to accept a virtually unanimous vote of the U.S. Senate, the recommendations of the 9/11 Commission, and the will of the largest share of the American people as expressed by their elected representatives.

#### TAX ISSUES OUTSIDE THE FINANCE COMMITTEE

Mr. GRASSLEY. Mr. President, as I listen to the debate tonight about Sec-

tion 222, which invades the privacy rights of taxpayers, I would like to point out an important lesson in all of this.

The lesson is that tax measures should be left to the tax writing committees. Only the Finance Committee and the Ways and Means Committee have the jurisdiction and the technical expertise to write our Nation's tax laws. And tax laws are technical. As Section 222 in this bill shows, one had better know what they are doing when they write a tax provision. They had better understand the history of the measure and all of its ramifications. In the Finance Committee, we use great care in drafting our tax provisions, and we do it in an open manner. All members can see what we are doing and have a chance to understand why we are doing it, and to comment on it. But frequently the Finance Committee has to go through a rite of scrubbing appropriations bills to remove poorly conceived and poorly drafted tax provisions that try to sneak in at the dark of night. It is not just appropriations bill where this occurs. It happens on many other bills as well. Often, these provisions have been rejected by the Finance Committees as bad policy, only to turn up in an unseen attack on our committee's jurisdiction. As the bill shows tonight, it is not necessarily Members that do this. It is sometimes staff who add an idea. This allows staff to bypass the scrutiny of the entire Finance Committee; 21 senior Members of the Senate are deprived of their right to pass judgment on a tax measure. Let me give some examples of what we have had to fend off lately. Last week, we had to defeat an appropriations proposal that would have cut off funding for Federal agencies that help the IRS obtain information about Americans investing in foreign countries.

That measure would have undercut U.S. tax law enforcement and damaged our initiatives to combat tax shelters. It would have damaged our international competitiveness and undermined our Nation's efforts to combat money-laundering and terrorist financing.

I am confident that the proponents of this measure never knew about its broader ramifications. But that is what happens when tax proposals evade the scrutiny of the Finance Committee.

Here is another example. Recently, the Armed Services Committee sought to create a charity for assisting servicemen and their families. On its face, this is certainly a good cause that we can all support. Unfortunately, the statutory language drafted by the Armed Services Committee had very serious flaws and was unworkable under the Tax Code. It was only after significant time and energy by the Finance Committee, exerted after the fact, that we fixed something that shouldn't have been broken in the first place. If Members will learn to work with the Finance Committee, instead of bypassing it, we can usually achieve the results they seek.