

can accurately and fairly represent 320 million Americans—is itself absurd. This isn't just my opinion; it is the opinion of the vast and bipartisan majority of our constituents.

Seventy percent of the American people think the country is on the wrong track, and Congress, for its part, is the least trusted institution in this country. A dwindling minority of Americans trust the Federal Government to do what is right for the country.

The country doesn't trust us or respect us. And if we pass this bill and assent to the secretive, undemocratic process behind it, we will be telling the country, loud and clear, that the feeling is mutual. All of this is before we even get into the substance of this bill. We are being told that the omnibus and tax extenders grand bargain is a legislative accomplishment of the highest order—some kind of shining example of what can happen when the two parties in Washington come to together to “get things done.” In a sense, I don't disagree. This bill is the textbook example of how Washington actually works, and that is precisely the problem because all too often, when Washington works, it does so not for American families, workers, or future generations, but for political elites and the sprawling ecosystem of lobbyists and special interests that subsist on the Federal Government's largesse.

This bill is a case study of Washington's bipartisan bargains turning into special interest bonanzas. Like so many policies that come out of Congress today, the omnibus and tax extenders have something for everyone.

Maybe you are a Puerto Rican rum distributor or exporter. If you are, this bill has you covered. It renews an underhanded tax scheme whereby the United States imposes artificially high import taxes on rum from Puerto Rico and then sends the proceeds back to the island's government.

Perhaps you own a stable, multi-million-dollar racehorses, or maybe a NASCAR speedway. In either case, you are in luck, too, because this bill maintains the profitable accelerated depreciation schedules carved out in the Tax Code just for you.

Maybe you run a salmon fishery and you are concerned about genetically engineered salmon cutting into your market share. Don't worry, there is something in this bill for you, too—a provision that empowers the Food and Drug Administration to use its regulatory powers to block genetically engineered salmon from hitting the grocery store shelves.

Puerto Rican rum exporters, racehorse owners and breeders, speedway owners, salmon fishermen—this bill has something for everyone except for one group: the hard-working individuals and families living in one of America's forgotten communities left behind by Washington, DC's, broken status quo.

I will be the first to admit there are some laudable provisions in both the

spending and the tax bill that make some important policy reforms. There is the 2-year moratorium on ObamaCare's ill-conceived medical device tax and the defunding of ObamaCare's cronyist Risk Corridor Program. There is the lifting of the government's foolish ban on crude oil exports and the extension of several sound tax provisions that never should have been temporary in the first place. But the process has been rigged so that we can't vote on these commendable policy reforms by themselves. In fact, we can't vote for any one of these sensible, positive reforms without also voting for each and every dysfunctional, irresponsible, and unsustainable policy found in the 2,000-page bill—a bill, by the way, we received 36 hours ago—nor, it appears, will we have the opportunity to amend a single provision found within this massive legislation.

This is a “take it or leave it” proposition. That means no up-or-down votes on controversial provisions that Members of the House and Senate as of 36 hours ago had no idea were going to be in this bill. There will be no up-or-down vote on the President's controversial Green Climate Fund; the unpopular and unwise cyber security measure; the divisive rules promoted by the Department of Housing and Urban Development; and the backdoor tweaks to the H-2B immigration visa program—all hidden within the pages of this bill, none of which saw the light of day, none of which saw committee action, none of which had the opportunity to be debated and discussed and changed, improved, amended until 36 hours ago and still will have no opportunity to be changed, improved, or amended even after they hit the floor.

We will not have a chance to add the priorities of the more than 500 Members of Congress who were not in the negotiating room. So all Members who weren't there are left out of the process altogether. For instance, Members of Congress from Western States, including my home State of Utah, have been working tirelessly for months on a provision to prohibit the Bureau of Land Management from using government funds to implement the Bureau's land-use plans in the nearly 67 million acres of sage grouse habitat situated on western Federal lands.

Amendments to strike or to add those provisions might have succeeded or they might have failed, but either way, the American people at least would have known where their representatives stood on these issues. With that transparency comes accountability, credibility, and ultimately trust. If the House and Senate actually voted for these measures as amendments to the spending bill, I might not like it, but it would at least put the question back into the hands of the American people and their elected representatives instead of deliberately taking it from them.

Our credibility is on the line here. There is still time to get it back. We

can still fix this. We can hit the reset button. We can pass a short-term, stop-gap spending bill and then come back to this in the new year and give it the time it deserves, approach this with the kind of process for which this body has always up until now been known. Give the American people back their voice. Let's keep the government funded but buy ourselves more time so that this can be debated, discussed, improved, changed, and, where appropriate, amended.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

OMNIBUS TAX PROVISIONS

Mr. WYDEN. Mr. President, I wish to take a few minutes this afternoon to talk about the tax provisions in the agreement before us. I want to start by making sure that people understand what this is really all about. This is the biggest bipartisan package that provides real tax relief for working families in literally decades. It is the biggest anti-poverty program Congress has moved forward in decades. So being able to do all of this for working families and help millions of Americans find their way out of poverty is, in my view, something particularly important—the largest bipartisan tax agreement in 15 years.

I want to spend a few minutes describing how this came together, why it is such an important piece of legislation, and what it means for the cause of tax reform.

Hundreds of thousands of Oregonians and millions of families across the land count on the child tax credit and the earned-income tax credit to make ends meet. More than 100,000 Oregon students and millions of students nationwide count on the American opportunity tax credit to help them pay for college. These are concerns Senator MERKLEY and I heard directly from students at the roundtables we held recently at the University of Oregon and at Southern Oregon University. In my view, they are bedrock priorities for working families when it comes to taxes.

Starting more than a year ago, all of my Democratic colleagues on the Finance Committee came together around the principle that when Congress took up the temporary tax cuts known as extenders, these vital individual tax incentives for working families would be our special priority. If our colleagues on the other side insisted on making certain business-related tax breaks permanent, we were going to make clear at every single opportunity that the tax cuts for working families and students would have to be made permanent as well.

Back in 2009 when these working family tax cuts were actually expanded, there were some Members here in the Senate who said they would never allow them to become permanent. In effect, what they said is that

working families would get a little bit of relief back then in 2009 but that would be it for those working families. We said that is not good enough. We said that without the certainty of permanent extensions, too many families across this country would be thrown into the dark as the provisions expired over and over again.

Advocates for those who walk an economic tightrope, balancing their food against their fuel and their fuel against their medical care—over 130 groups who advocate for those working families wrote a letter urging lawmakers to make the working family credits permanent. They said: Don't keep those families guessing about their taxes; give them certainty and assistance on a permanent basis. That is what this package does. There is a new measure of certainty and predictability when it comes to taxes. The last tax bill in America passed just over a year ago. It had a shelf life shorter than a carton of eggs. What we are doing with this bill is providing an alternative—an alternative with real certainty and predictability on a permanent basis.

I see my colleague Senator BROWN here. He has done yeoman's work in advocating for working families and their kids. I so appreciate his leadership.

Suffice it to say that what we just heard from the Center on Budget and Policy Priorities is that 16 million Americans, including 8 million children, will be lifted from the depth of poverty or out of poverty altogether in 2018 and beyond because of this legislation.

Mr. BROWN. Will the Senator yield?

Mr. WYDEN. I will be happy to yield.

Mr. BROWN. I thank the former chairman of the Finance Committee.

About a year ago, when it wasn't so clear at all that the earned-income tax credit, which, according to President Reagan and most Presidents of both parties since, has been the most effective tool to fight poverty in recent memory—I would also say Social Security and Medicare, of course—what the earned-income tax credit, coupled with the child tax credit, has done is it has rewarded work, helped people who are making \$9, \$10, \$12 an hour, sometimes working two jobs—it has helped lift them out of poverty because they simply don't make enough money to be able to live a decent standard of living if they are making \$9 an hour.

When it wasn't at all clear that the earned-income tax credit wouldn't expire in the next couple of years, what Senator WYDEN did, working with a number of us, was he negotiated and basically said: Sure, we want to do these business tax credits or business tax deductions because we think this will help our country grow, but we shouldn't give tax breaks to large businesses and leave workers behind.

That is what this coalition did, was pretty much said to people here who haven't always thought much about low-income people—frankly, we work around here, and if you don't go out of

your way to meet low-income people and you don't talk to them about their lives, if you are not in the cafeteria—those people are making way too little money, and people here don't know their names and all of that. But when you think about this, it makes a huge difference in people's lives.

I thank Senator WYDEN for his role in helping put that coalition together.

Mr. WYDEN. Reclaiming my time, Mr. President, before Senator BROWN leaves the floor, I want to thank my colleague from Ohio, whose advocacy and constant tenacity, coming back again and again to talk about what this means for those families walking on what I call an economic tightrope—we wouldn't be here without that advocacy.

I just learned from some of the experts in the field that altogether 50 million Americans are going to benefit from the earned-income tax credit and the child tax credit being made permanent. That is real relief on a permanent basis. Students will be able to count on the American opportunity tax credit to cover up to \$10,000 of a 4-year college education. That is an awful lot of money they are not going to have to borrow. There are other important highlights in the package, such as permanent help for the commuter, permanent assistance for low-income housing, permanent tax breaks to encourage charitable giving. That is a huge lifeline for places like the Oregon Food Bank. I was there just a few days ago, and I saw all those young people and volunteers last Saturday morning. They were all pitching in and packing fruit baskets for families to enjoy. They do incredible work to combat hunger.

There will be 5 years of assistance for job seekers, including veterans, long-term unemployed, and people with disabilities. Also, 5 years of aid is included for hard-hit communities with the new markets tax credit, 5 years of certainty for solar and wind energy. This is especially important. We have seen the extraordinary interests in climate change. You can debate whether you think there is a serious problem. Based on the numbers from the scientists at NOAA, the National Oceanic and Atmospheric Agency, I know I certainly do. It is a serious problem, and now we have 5 years of certainty for solar and wind energy, which I think is going to make an extraordinary difference in renewable energy.

Here is what the math of this package looks like: 40 percent of the tax breaks goes to families and individuals. That is a huge improvement over the typical math with these tax breaks. When Congress just passes the same old, same old set of tax extenders, as it has done for years, only 20 percent goes to families and individuals. This package doubles the percentage of families who will benefit as it relates to this particular package.

There are clearly a number of business-related tax cuts and, by the way, I

think many of those make a great deal of sense as well. We have the permanent tax break for research and development. Thanks to the good work of our colleague from Delaware Senator COONS, it is going to be available for the first time on a widespread basis for small business and startups. It is in there.

I say to the Presiding Officer—because I have been to his State—this is going to be a real booster shot for America's innovative economy. Permanent small business expensing is going to help a lot of employers invest, grow, and create new high-wage, high-skilled jobs for American workers.

I have town meetings in every county every year in Oregon. When I drive through rural Oregon, I see all of those little businesses that in effect sell farm implement equipment. Last year they were trying to figure out what was going to happen with respect to the expensing rules, and then they saw it only lasted a few weeks. Now we have permanent small business expensing. That is going to help small employers in rural areas. Research and development credits, which are permanent, will help small businesses in rural and urban areas. In many cases, it will help employers pay wages thanks to those new innovation-related programs. I think the tax breaks I have just mentioned, such as expensing for small businesses and permanent research and development breaks, ought to be the kind of thing that both Democrats and Republicans should approve.

I want to take just a few minutes and talk about the impact of this legislation on tax reform. I will tell you that my wife always says: Don't describe the Federal Tax Code in your typical way because you just frighten the children, but the reality is the American Tax Code, overall, is just a rotting economic carcass. It is infected with loopholes and inefficiencies. Now we have this version virus mutating and growing. This is really a mess of a system. What this legislation does—particularly by making the breaks for working families and the smart policies that encourage business, innovation, and economic growth in our communities, research and development, and realistic writeoffs permanent, this is going to, in effect, clear the deck for tax reform. This lays out the opportunity by giving breathing room to the cause of bipartisan tax reform. That is something I am particularly interested in because our colleague from Indiana, Senator COATS, and I have written a bipartisan comprehensive tax reform bill.

What this legislation does, in terms of creating breathing room for tax reform, is it breaks the chain of just extending these tax extenders every 2 years. What it means is that we have some predictability, certainty, and some breathing room in order to lay out a bipartisan comprehensive tax reform effort.

By the way, the fact is, this inversion virus is something that can't be ignored any longer. That alone is an indication that the Congress cannot duck the need to reform the Tax Code comprehensively. Look at those Members who are in key positions in the Congress and have made it clear that they want bipartisan tax reform—both Democrats and Republicans. For example, Chairman BRADY, Chairman HATCH, and myself, as well as a number of colleagues on both sides of the aisle, have said they want to do comprehensive tax reform and want to—as I have described it—pass these extenders so we can break the chain of the every year or every 2 years extension. We are not the “extender” Congress. I don't want us to have to come back to this every 2 years, doing the same old, same old. We can do a lot better, and this time we have at least laid the foundation for real tax reform.

I want to thank a number of my colleagues. In particular, I wish to thank Chairman HATCH, our committee members on both sides of the aisle, and the two leaders—Leader REID and Leader MCCONNELL—for their efforts. We had an awful lot of dedicated staff people working on this issue. Our diligent tax counsel is here, Todd Metcalf. I thank him for his great work. Our terrific staff director, Josh Sheinkman, our chief counsel, Mike Evans, and the members of our tax team, Ryan Abraham, Bobby Andres, Chris Arneson, Adam Carasso, Danielle Deraney, Kera Getz, Rob Jones, Eric Slack, Tiffany Smith, and Todd Wooten. All of them have worked long hours to get us up to this point.

I also want to commend Liz Jurinka and Juan Muchado of our health staff because they joined a very good leadership team. I must thank Senator REID's chief tax aide, Ellen Doneski, Chairman HATCH, and his staff, led by Chris Campbell, Mark Prater, and Jay Khosla. Brendon Dunn, with Senator MCCONNELL's office and George Callas and Chairman BRADY's tax staff were instrumental. All of them came together to help us put this together.

I now believe there is a real opportunity to use this bill as a springboard to real tax reform. I have written two bipartisan tax reform bills over the years, first with our former colleague from New Hampshire, Judd Gregg, and the second with our current colleague, Senator COATS, the distinguished Senator from Indiana. I know my wife would always say: I keep hearing about these tax reform bills, dear. Write me when something actually happens.

I will tell you, I think the combination of this inversion virus—which if it keeps growing is going to hollow out America's tax system—and the fact that we have brought some certainty and predictability to the Tax Code added some very sensible provisions in a permanent way. This really gives us an opportunity now. The table is set for real tax reform, and that is not something we have had before.

I just want to close by way of saying that I am so honored to represent Oregon in the U.S. Senate. I was director of the senior citizens Gray Panthers for about 7 years before I came to the Congress. I have had a lot of exciting moments in my time in public service, but to be part of this bipartisan legislative effort that provides the biggest tax cut for working families and the biggest anti-poverty plan Congress has moved forward in decades is particularly thrilling.

I thank all of my colleagues and their staff who have done so much to make this possible.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

UNANIMOUS CONSENT REQUEST—
S. 248

Mr. MORAN. Mr. President, I wish to address my colleagues on the National Labor Relations Act. It was enacted in 1935, and that legislation exempted Federal, State, and local governments but did not explicitly mention Native American governments from the provisions of the act. As a matter of sovereignty, Indian tribes—tribes across the country—should be excluded from the provisions of the NLRB. For 70 years, the NLRB honored the sovereign status, and it accorded them the rights they are entitled to under the Constitution of the United States.

Beginning in 2004, however, the NLRB reversed its treatment of tribes and legally challenged those tribes in regard to the NLRB. The Tribal Labor Sovereignty Act, which I introduced and passed in the Senate Committee on Indian Affairs in a bipartisan way, is simple.

The National Labor Relations Act is amended to provide that any enterprise or institution owned or operated by an Indian tribe and located on tribal lands is not subject to the NLRA. This is not a labor issue. This is a sovereignty issue. The narrow legislation protects tribal sovereignty and gives tribal governments the ability to make the best decisions possible for their people. This legislation seeks to treat tribal governments no differently than other units of local government, counties, and cities. As I said, this legislation not only passed the Senate committee, but similar legislation passed the House of Representatives in a bipartisan vote.

The late Senator Inouye of Hawaii wrote in 2009: “Congress should affirm the original construction of NLRA by expressly including Indian tribes in the definition of an employer.”

This bill presents Congress with an opportunity to reaffirm the constitutional status of sovereignty that tribes are entitled to under the supreme law of our land.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 220, S. 248 and that the bill be read a third time and passed and the motion

to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. BROWN. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I will briefly explain the reasons I am reserving the right to object. I, first of all, thank Senator MORAN. As a fellow member of the banking committee, while I disagree with him on this issue, we have found many things we can work together on, and I appreciate that.

As Senator MORAN does, I strongly support sovereignty, as I know virtually everybody in this body probably does. But this bill, frankly, isn't about tribal sovereignty; it is about undermining labor law that protects the rights of workers to organize and collectively bargain.

We have a middle class in this country in large part because since the 1930s—since Hugo Black sat at this desk and Senator Wagner sat at another desk in this chamber and wrote collective bargaining laws—we know what that has done to raise wealth, not just for union members but for others also.

This bill attempts to overturn the National Labor Relations Board decisions that have asserted the Board's jurisdiction over labor disputes on tribal lands. The Board methodically evaluates when they do and don't have jurisdiction on tribal lands by using a very carefully crafted test to ensure that the Board's jurisdiction would not violate tribal rights and would not interfere in the exclusive right to self-governance. We support that.

In the June 2015 decision, the NLRB employed the test. They did not assert jurisdiction in a labor dispute on tribal lands. Instead, this bill is part of an agenda to undermine the rights of American workers, including the 600,000 employees of tribal casinos. Of those employees, 75 percent are non-Indians. Courts have upheld the application to the tribes of Federal employment laws, including the Fair Labor Standards Act, the Occupational Safety and Health Act, the Employment Retirement Income Security Act—that is OSHA and ERISA—and title 3 of the Americans with Disabilities Act, the ADA—all very important to protect people, workers, and citizens.

In addition to harming thousands of already organized workers in commercial tribe enterprises, casinos, and other things, this bill would establish a dangerous precedent to weaken longstanding tribal protections on tribal lands. For these reasons, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MORAN. Mr. President, I am disappointed the Senator from Ohio has objected, and I will continue our efforts both in the committee and on the Senate floor to see that this legislation or