

does not include offshore drilling, drilling on our western lands, the development of energy in Alaska, and the Keystone Pipeline. My reading of his all-of-the-above approach is some-of-the-above and only those that are poll-tested and approved by environmental activists.

This is terrible tax policy, it is terrible energy policy, and it is terrible economic policy. Unfortunately, it is all we have from this administration.

The reality is that our country relies upon oil and gas because it is dependable, abundant, affordable, and domestic. Raising taxes on American companies that produce oil and gas will be felt by all Americans not only at the pump but also through a decrease in dividends to many middle-class shareholders. This is the wrong prescription for our ailing economy.

For this administration, the goal remains not lower energy prices but the liberal dream of getting America off of oil. Just the other day, the President's Secretary of Energy acknowledged that the overall goal of his Department is not to lower the cost of traditional energy but to decrease dependency on oil.

For what it is worth, this commitment to restricting domestic production is a policy that divides my colleagues on the other side of the aisle. They know the President is putting the preferred lifestyle policies of wealthy urbanites ahead of the needs of blue-collar and union workers and middle-class Americans. They know the decision by the President to kill the Keystone Pipeline put environmental interest groups ahead of the needs of workers, commuters, and families.

President Obama has traded in the hardhat-and-lunch-bucket heritage of the Democratic Party for a hipster fedora and a double-skim latte. He has put liberal environmental dreams ahead of the economic reality that working-class Americans have been struggling with for years. The Nation's unemployment rate has been above 8 percent for 36 straight months. The average duration of unemployment was 40.1 weeks in January 2012. Yet the President and his allies in the Senate have helped to kill projects that would undeniably lead to the creation of hundreds of thousands of high-paying American jobs.

Gas prices have now risen for 20 straight days. Gas prices are now up 30 cents over the last month and 18 cents in the past 2 weeks. We are cruising toward \$5-a-gallon gas, and the President resists any long-term solutions to these rising energy prices.

The American people deserve better than this. They have waited 3 long years for a serious energy agenda from this President, and if he does not address this energy crisis soon, in less than a year the American people will be looking to another President to promote an energy program that will finally create jobs and lower the cost of energy for all Americans. Look, we have energy within our country's

boundaries. We have energy that is just begging to be developed, that would help us to make it through these trying times. We need the lowest cost energy we can possibly have, and we are not going to get it under this President. We are not going to get it under this administration. I hope my colleagues on both sides of the aisle wake up and realize we are putting our country right down the drain.

I saw, sometime over the last couple of weeks, *The Economist* magazine. The front page of that magazine criticizes us for the overregulatory nature of our economy and of our government. We are making it so it is almost impossible for businesses to expand and create high-paid jobs.

We can solve our own energy needs. We have between 800 billion and 1.6 trillion barrels of recoverable oil in oil shale in Utah, Colorado, and Wyoming alone. We have billions of barrels of oil in ANWR up in Alaska and billions of barrels of oil at other sites in Alaska. Fortunately, we found oil in the Bakken claim in North Dakota, but the only reason we have been able to drill there is because it is private land. Fortunately, we found some places down in Texas, but again they are on private land. We can't get the permits and the ability to drill on public land or even develop oil shale on public land. Yes, it would cost us more per barrel to develop that oil, but it would also bring down the intense problems we have in trying to find enough oil and gas to keep our country moving ahead as the greatest country in the world. We have to simply get this administration to wake up and realize there are many ways we can solve our energy problems—many ways.

We are also awash in natural gas. A lot of people have been saying we need to develop our natural gas. We need to develop more of our energy resources than we are developing now. And we can do it. America can do it if we get the government off the backs of those who produce energy. I hope and pray that Democrats and Republicans alike will lock arms, get together, and solve the problems facing our country, regardless of this President, who doesn't seem to know what to do or how to do it.

This is a crucial time for our country. There is no excuse for us to be in the mess we are in. But unfortunately, we are here because of the poor energy policies of this administration.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

#### STOCK OPTION LOOPHOLE

Mr. LEVIN. Madam President, there has been a great deal of conversation recently about the need to close tax loopholes. This is a welcome development for those of us who have gone after these loopholes for years. It is particularly timely as the public is focusing more and more on how tax loop-

holes distort economic incentives and often benefit the wealthiest among us at the expense of most U.S. taxpayers.

Last week, President Obama released a framework for business tax reform that took aim at many corporate tax loopholes. I look forward to working with the administration and with our colleagues in the Senate to make real reform a reality—reform that brings greater fairness to the Tax Code, eliminates incentives for moving jobs and assets overseas, restores revenue lost to unjustified tax loopholes, and helps us reduce the deficit without damaging vital programs for education, transportation, health care, and national security.

One recent and very public announcement illustrates dramatically our Tax Code's distortions and the need for reform. At the center of this story is Facebook and its founder and CEO Mark Zuckerberg. Mr. Zuckerberg and his company have become a remarkable American business success story. As part of that success, Facebook is in the process of making its initial public offering of stock. The public documents that Facebook is required to file as part of that offering tell another compelling story about one of our Tax Code's unjustified corporate loopholes. According to its filings, when Facebook goes public, Mr. Zuckerberg plans to exercise options to purchase 120 million shares of stock for 6 cents a share. Obviously, Mr. Zuckerberg's shares are going to be worth a great deal more than 6 cents each—a total of about \$7 million. They will apparently be worth in the neighborhood of \$5 billion.

Here is where the tax loophole comes in. Under current law, Facebook can, perfectly legally, tell investors and the public and regulators that the stock options he received cost the company a mere 6 cents a share. That is the expense shown on the company's books. But the company can also, perfectly legally, later on file a tax return claiming that those same options cost the company something close to what the shares actually sell for later on—perhaps \$40 a share. The company can take a tax deduction for that far larger amount. So the books show a highly profitable company—profitable, in part, because of the relatively small expense the company shows on its books for the stock options it grants to its employees—but when it comes time to pay taxes, to pay Uncle Sam, the loophole in the Tax Code allows the company to take a tax deduction for a far larger expense than they have shown on their books.

In addition, Facebook is allowed by law to carry back the so-called loss arising from this deduction for 2 years into the past, which means it can claim a tax refund for the income tax it has paid over the past 2 years—a refund that the company estimates at \$½ billion. So instead of paying taxes to the Treasury, this profitable company will claim a hefty refund on the taxes already paid.

But that is not all. The company says it will, as allowed by law, also carry forward the so-called losses arising from this tax deduction for over 20 years into the future, thereby reducing any taxes that it owes in the years ahead. Over the years, this loophole could give a tax break of up to \$3 billion. The end result is that a profitable U.S. corporation—a success story—could end up paying no taxes at all for years, even decades.

I emphasize that Facebook's actions are within the law. As with so much of our Tax Code, it is not the law-breaking that shocks the conscience, it is the stuff that is perfectly legal. For years, my Permanent Subcommittee on Investigations has identified this stock option loophole and tried to explain its cost, its unfairness, and why it should be closed. Facebook's \$3 billion tax break brings the issue into sharp focus.

Again, the stock option loophole allows corporations to compensate their executives with stock options, report a specific stock option expense to their shareholders, and then later take a tax deduction for typically a much higher amount. Stock option grants are the only kind of compensation where the Tax Code allows companies to claim a higher expense for tax purposes than it shows on its books. Our subcommittee found that the difference between what U.S. corporations tell the public and what they told the IRS was as much as \$61 billion in 1 year.

Facebook's use of this loophole is the most pointed illustration yet of the cost of this loophole. It is difficult to get our minds around a \$3 billion tax break for a single corporation. Just how big is it? Well, consider this: In 2009, the most recent year for which IRS data is available, taxpayers from 11 States in our Union sent less than \$3 billion in individual income tax revenue to the Treasury. How does this make any sense? After all, American taxpayers are going to have to make up for what Facebook's tax deduction costs the Treasury. That \$3 billion is either going to come out of the pockets of American families now or it will add to the deficit they are going to have to pay for later.

What could our Nation do with the \$3 billion it will lose when Facebook exploits the stock option loophole? We could reduce the Federal deficit or we could pay for programs that protect our seniors, put cops on the beat or teachers in classrooms. The \$3 billion Facebook will get in tax deductions would more than triple the budget of the Small Business Administration, which seeks to help American entrepreneurs create jobs and grow the economy. Three billion dollars would pay for the Pentagon's budget for housing our military families for nearly 2 full years. It would pay the budget of the National Institute of Science and Technology for 4 full years. It would more than triple what we plan to spend helping homeless veterans next year. It

would pay 6 times over for the 24 Reaper unmanned aerial vehicles the Air Force plans to buy next year.

Some are going to argue that Facebook's tax break is offset by the fact that Mr. Zuckerberg himself, as well as the other executives who are receiving stock options, will pay taxes as individuals. As various news reports indicate, Mr. Zuckerberg will face a substantial tax bill on the \$5 billion in compensation he is about to receive—perhaps in the neighborhood of a \$2 billion tax bill. But it is unlikely that the individual taxes Mr. Zuckerberg pays will offset the tax revenues lost to this loophole. What the Treasury receives from Mr. Zuckerberg on the one hand, it will return, and then some, to his company with the other hand. We also should remember that Mr. Zuckerberg's financial future is closely tied to that of his company. The value of the options and his retained interest make that clear. To the extent that his corporation benefits—and as I have shown, Facebook will benefit handsomely from the use of this loophole—Mr. Zuckerberg stands to benefit as well. Put simply, some of that big tax bill he faces right now will come back to him through the corporation he will still own a huge part of and will control.

Our tax system is built on the principle that businesses as well as individuals ought to help pay our Nation's bills. Corporations impose plenty of costs on society, from environmental disasters, financial bailouts, product recalls, and more. Businesses also want and need government services, including efficient transportation systems, patent protections, even Federal loan guarantees. Paying those costs is why we have a corporate income tax to begin with. Both businesses and individuals are required by law to contribute, and should do so, to meet their civic obligations and to pay their fair share. There is no reason Facebook and the other corporations that use this tax loophole should continue to receive these windfall tax deductions.

Senator CONRAD and I earlier this month introduced S. 2075, the Cut Unjustified Tax Loopholes Act, or CUT Loopholes Act. This bill, similar to the legislation I have introduced in the past few Congresses, would close this loophole. Under our bill, corporations would no longer be allowed to claim tax deductions for options that are larger than the expense they report to their shareholders and to people considering buying their stock. It would also subject stock options to the same \$1 million cap on deductions for executive compensation that now applies to other forms of compensation. At the same time—and this is important to know—our bill would leave unchanged the way the law applies to individuals who receive stock options, and it would leave unchanged incentive stock options that are offered by startup companies. We would not affect that.

The stock option loophole should have been closed long before Mr.

Zuckerberg's extraordinarily lucrative options became public. But surely the case of Facebook illustrates to the Senate, to the Congress, and to the American people that we must close this loophole.

I have spoken today about one corporate tax loophole, but there are many more. The momentum has never been stronger for tax reform that brings more fairness to the Tax Code, restores revenue lost to unjustified tax loopholes, reduces the deficit, and protects important priorities. I look forward to working with our colleagues and with the administration to turn that momentum into real reform.

Madam President, I thank the Chair, I yield the floor, and I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHUMER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### BLUNT AMENDMENT

Mr. SCHUMER. Madam President, I rise today to discuss the amendment to the surface transportation bill offered by my friend and colleague from Missouri, Senator BLUNT.

For reasons beyond me, the other side has demanded a vote on birth control. It seems they wish to debate whether we should take away access to contraception for millions of women.

Cooler heads are not prevailing on the other side of the aisle these days. There are some wiser voices on their side who do seem to regret they are having this debate, but they are the minority.

Just this morning, the senior Senator from Alaska is quoted in the New York Times expressing exacerbation. Of her party's push to roll back access to contraception, she says:

I don't know where we are going with this issue.

I sympathize with the frustration shown by my friend from Alaska. There is no good answer about where the other side is going with this issue—except, perhaps, back to the 19th century.

This whole debate is an anachronism. Our country progressed beyond the issue of whether to allow birth control a long time ago. Yet here we are in 2012 and some in the Republican Party suddenly want to turn back the clock and take away contraception from millions of women.

Make no mistake, that is what this debate is about, as backward as it is. I keep hearing this measure being referred to as the Blunt amendment, named after its sponsor, my friend, the Senator from Missouri. We should, instead, call it for what it will be: an attempt to take away for millions of women birth control.