

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.

If this amendment passes, it would ban contraception coverage for any woman in America whose boss has a personal objection to it. The measure would force women to surrender control of their own health decisions to their bosses. That concept is not merely quaint or old-fashioned, it is dangerous, and it is wrong.

According to the Department of Health and Human Services, some 20 million American women could be cut off from health services by this proposal. The other side does not want the debate framed in those terms because they know it makes them look silly. So instead, they are spinning.

In the last week, there have been op-eds penned by the minority leader, the junior Senator from Massachusetts, and the junior Senator from Missouri, all seeking to frame this as about protecting religious liberty.

The debate may have been about religious liberty for a time, but now some on the other side have overplayed their hand. They may have started seeking protections for religious-affiliated employers, but now they sense a ripe time to make headway on a far-right social agenda.

The debate reminds me of a famous quote that our former colleague Dale Bumpers used to invoke. It was a quote by H.L. Mencken, who said:

When someone says it's not about the money, it's usually about the money.

Well, when the other side tries so hard to claim this is not a debate about contraception, that is how you know this debate is precisely about contraception.

The amendment is not about religious liberty. The truth is religious institutions have always been exempt under the law from certain coverage requirements. Under the President's compromise, an even larger set of employers—those with a religious affiliation such as certain hospitals and schools—also will not have to pay for contraception coverage. It will, instead, be covered by the insurance company. The President's compromise has been widely embraced, including by many of the same church-affiliated organizations that expressed concern originally.

The administration is working on a solution for self-insured employers. I am confident they will find a way that works for everyone.

The amendment being voted on tomorrow is not responsive to any real concerns about religious freedom. Its reach extends far beyond church organizations that legitimately seek considerations based on conscience. It wants to let any employer in the country decide to cut off services for any reason whatsoever.

Under the guise of religious liberty, some on the hard right are trying to accomplish a political goal: banning contraception more widely. This is a goal the other side has been pursuing for a while now at the State level. At the heart of many of the personhood

proposals being advanced in State legislatures is an attempt to cut off women's access to certain forms of contraception.

Some Republicans in the Senate now seem to want to nationalize this fringe debate over whether contraception should be allowed. It is not a political winner. Even the House Republicans seem to have the good sense not to bring up the amendment on the floor of their Chamber. But here the other side is pushing ahead with the ban.

It is so far-reaching, it has stirred a wide collection of health organizations to speak out against it. These are groups such as the American Academy of Pediatrics, the American Congress of Obstetricians and Gynecologists, the March of Dimes, and Easter Seals. These are groups with no agenda other than protecting the health of those they serve.

In a letter these groups sent earlier this week, they pointed out the wide variety of services that an employer could decline to provide, such as child vaccinations and mammograms.

It is true that all these services and more are threatened by this amendment. But are Republicans against child vaccinations and mammograms? I doubt it. So let's admit what this debate is really about and what Republicans want to take away from millions of American women. It is contraception. We should call this debate and this amendment for what it will be for millions of women whose boss may have a personal objection: This is a contraception ban.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

#### BICENTENNIAL OF THE WAR OF 1812

Mr. CARDIN. Madam President, I rise today to commemorate the 200th anniversary of the War of 1812 and the "Star Spangled Banner," and to honor the memory of all Americans who came together in America's "Second War of Independence," particularly those fallen heroes who gave their lives during the conflict.

It is important Americans recognize the service and sacrifice of all those who have worn the uniform of this Nation. On behalf of the Senate, I thank the millions of brave men and women who have served in the U.S. Armed Forces and risked their lives for our Nation, including during the War of 1812.

The War of 1812 confirmed America's independence from Great Britain in the eyes of the world. Before the war, the British had been routinely imposing on American sovereignty. They had impressed American merchant seamen into the British Royal Navy, enforced illegal and unfair trade rules with the United States, and allegedly offered assistance to American Indian tribes that were attacking frontier settlements. In response, the United States declared

war on Great Britain to protest these violations of free trade, sailors' rights, and sanctioning raids on American land.

After 2½ years of conflict, the British Navy sailed up the heart of the Chesapeake Bay with combined military and naval forces, and in August 1814 attacked Washington, DC, burning to the ground the U.S. Capitol, the White House, and much of the rest of our capital city. Less than 3 weeks later, the British set their eyes upon the next prize: the strategic port city of Baltimore, MD.

American forces, primarily made up of citizens of Baltimore, prepared Baltimore City's defenses. Marylanders fought the British army during the Battle of North Point and helped repulse the British Navy from Fort McHenry during the now infamous Battle of Baltimore. I want to point out that the American forces during the Battle of North Point were volunteer militia. In the battle, just 250 members of the 5th Brigade of the Maryland Militia, heavily outnumbered by the highly trained British infantry, managed to delay the British forces long enough for 10,000 reinforcements to arrive, preventing a land attack against Baltimore.

The British assault also failed at sea. Following 25 hours of intense British naval bombardment at Fort McHenry, the American defenders refused to yield, and the British were forced to depart. During the bombardment, an American lawyer, Francis Scott Key, who was being held onboard an American flag-of-truce vessel in Baltimore Harbor, beheld, by the dawn's early light, the American flag still flying atop Fort McHenry.

Key realized then that the Americans had survived the battle and stopped the enemy advance. Moved by the sight of the American flag flying over Fort McHenry, he composed the poem called "The Defense of Fort McHenry," which was later set to music, becoming "The Star Spangled Banner" that officially became the National Anthem on March 3, 1931. We will be celebrating this weekend the 82nd anniversary of the "Star Spangled Banner" becoming the official national anthem of our country. The flag that flew over Fort McHenry during that fateful night is now a national treasure on display at the Smithsonian Institution—an inspiration to all Americans—a very short distance from where we are today.

The War of 1812 confirmed the legitimacy of the Revolution and served as a critical test for the U.S. Constitution and our newly established democratic government. Our young Nation battled against the largest, most powerful military on Earth at the time and emerged with an enhanced standing among the countries of the world. A new generation of Americans too young to remember the victory of the Revolutionary War were inspired by Francis Scott Key's poem to take pride in our Nation's flag, which embodies