

equally disturbed by this gap between numbers. We assaulted the chairman of the Budget Committee, Senator NICKLES, to ask him: How did this happen? How did we get trapped with a low estimate when there was a higher estimate out there?

He pointed out this fact that doesn't get into the public consciousness and that the media does not take the time to understand and explain: By law, we in the Congress, as we are adopting a budget, can use only one source for our estimate of costs. By law we have to take the estimate or score—to use the word we all understand around here—of the Congressional Budget Office.

As Senator NICKLES pointed out to us, during the debate, the Congressional Budget Office said: This will cost \$400 billion.

That is where it was scored. After the estimate came out of the administration that it was going to be higher, the Congressional Budget Office said: The number is still \$400 billion, according to our estimates.

By law, we could not have used the higher estimate in writing the budget because it came from a source outside of the Congressional Budget Office. Now, the one thing I know about the \$400 billion number offered by the CBO and the \$500 billion-plus number offered by OMB is that both of them are wrong. I cannot tell you whether either one of them are too high or too low. I can only make my own estimate.

But stop and think about it for a moment. We are talking about a program, spread over 5 years, that is not working yet, and we are making guesses as to what it would cost. You feed into your computer certain assumptions and you get a number; you change the assumptions in the computer and it will give you another number. The question is not, Is the number correct? The question is, Are the assumptions correct? The answer is, all of the assumptions are guesses—whether CBO is making the guess or whether HHS is making the guess or whether it is OMB. Everybody is making the guess.

But in terms of the debate on the floor of the Senate, we had no choice but to accept the CBO number as the controlling number. That is the law. So Senator KENNEDY is attacking the Republicans and the decisions in this Senate with respect to the budget for following the law. He is attacking us for not accepting estimates which, by law, we cannot use. I think it is important to understand that as we go through this debate, and talk about what is going to happen in the election.

In summary, as we look ahead to the election, I think we should pay attention to the details, but we should also understand the overall thrust of the two campaigns. I do believe that the campaign mounted on the Democratic side of the aisle has begun out of personal hatred of President Bush, and now more into a litany of fear and pessimism. They are afraid the economy is not coming back. They tell us pessi-

mistically that we are never going to get any jobs.

Once again, before this last Friday, we were told, well, the unemployment rate might be coming down, but that isn't the rate we should look at; we should look at the number of jobs created. On Friday, it was announced that 308,000 jobs were created in March. Now we are told, no, don't look at that, look at the unemployment figure; it is not coming down fast enough. Don't pay attention to the number of jobs created.

We are told this is the worst economy in 50 years. I have heard that rhetoric on the floor. According to the blue-chip economists who are looking at this recovery, they are projecting for 2004—another guess, I make that clear—the highest growth rates in 40 years. If that is the example of the kind of economy we are getting from George W. Bush, I say give us more. The highest growth rate in 40 years is what the experts on Wall Street are projecting.

And the pessimists are complaining about that. The pessimists are telling us we cannot get there. Look at Iraq. Of course, things are bad in the Sunni Triangle in Iraq. The deaths of Americans and the deaths of Iraqis are tragic, and we should mourn them and do everything we can to try to prevent them, but let us not focus solely on those deaths.

Let us look at the fact that Iraq is on its way—however haltingly or however slowly, and with whatever difficulty—toward establishing a constitution and, one hopes, a democracy. The pessimists say we can never get there. The pessimists are filled with fear and are saying we will fail and when we fail al-Qaida will destroy our cities. But George W. Bush is not a pessimist. He is an optimist and he does not peddle fear.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. BENNETT. I ask unanimous consent that I be allowed to continue for an additional 4 minutes.

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

Mr. BENNETT. That is the core of this election. Do we face the future with fear and pessimism and a conviction that we cannot do it or do we face the future with a clear, realistic understanding of how difficult it will be, but with a confidence and an optimism that we can do it, that we can succeed in implanting a democracy in Iraq, in bringing freedom into that part of the world in a way that it has never known before?

We see signs that we are succeeding already. We see India and Pakistan, two nuclear powers that have been on the verge of war, now looking out over the world of George W. Bush and American resolve and saying maybe we should talk and try to resolve our differences short of war. We see Qadhafi

in Libya saying: Maybe it is not a good idea to have weapons of mass destruction and I will voluntarily surrender them and dismantle them in this new situation that George W. Bush has created.

I believe the American people will respond more actively to hope and optimism than they will to fear and pessimism. For that reason, I look forward to this election season with some relish about debating the details of the issues raised by the Senator from Massachusetts and, at the same time, some confidence in the wisdom of the American people and their willingness to embrace hope and optimism and put aside the fears and pessimism that are being peddled by the President's opponents.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mr. GREGG. I ask unanimous consent that I be allowed to proceed for 10 minutes as in morning business.

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

MEDICAL MALPRACTICE

Mr. GREGG. Mr. President, later on, we are going to move to the medical malpractice bill, which is an important piece of legislation. It will allow women, especially, to have access to OB/GYN doctors, some of whom are giving up their practices of delivering babies because of the cost of medical liability insurance. It will also address the issue of doctors in emergency rooms and make sure those doctors are able to practice in emergency rooms so people, when they are seriously injured and they go to an emergency room, will have doctors. We will be on that bill at 11 o'clock.

JOBS

Mr. GREGG. Mr. President, I want to talk about the approach being taken by the other side of the aisle toward a lot of issues in the Senate but specifically two dealing with jobs; that is, this attitude of obstruction for the purpose of basically stopping legislation and not allowing this body to move forward and do the business of the people.

There are two bills pending in this body. One is the JOBS bill, which deals with correcting the tax structure of the United States so we are no longer out of compliance with a ruling made by the WTO, which ruling, if it is allowed to stand, will have the practical effect of raising duties on American products sold overseas rather significantly. In fact, they could raise as high as 18 percent, as I understand it.

The effect of those duties, of course, which have now been ruled legal under this international tribunal that we subscribe to as a member state, will be that those American goods are not as competitive as they should be, and therefore those American goods will not be able to be effectively sold into

those markets overseas. The practical effect of that will be that jobs will be lost here in the U.S.

The other side of the aisle continues to filibuster that bill. The effect of the filibuster will be that these duties will go into place and jobs will be lost. This bill which is called the JOBS bill is just that, a jobs bill. Yet we hear from the other side of the aisle what appears to be and must be crocodile tears on the issue of creating more jobs, because they have the opportunity to pass a piece of legislation that will clearly impact the creation and maintenance of jobs in the United States, and they are obstructing it and filibustering it.

We hear from the other side a great deal about outsourcing, American jobs being moved overseas. The practical effect of objecting to this bill, obstructing this bill and of filibustering this bill, is that those jobs will probably move overseas because those manufacturers, in order to avoid the duty, are going to have to move overseas in order to be competitive with the products in those nations where they are selling them. So the effect of the filibuster and obstruction we are seeing on the other side on the issue of the JOBS bill is to basically energize the loss of jobs in the U.S. and the outsourcing of jobs overseas.

Therefore, when we hear all this discussion and concern about the creation of jobs in this country today from the other side of the aisle in the context of the Presidential election, one wonders how serious they are, because clearly if they are serious they would pass this bill which, by the way, is supported by a majority of the Senate. The objection to this bill is not the underlying law. It is not the correction to the tax law which will allow these jobs to be retained in the United States. It is, rather, they wish to bring forward extraneous legislation and put it on this bill, legislation which we voted on a couple of times before in committee and which we voted on at least once on the floor of the Senate.

Therefore, it is a tangential idea and a desire to make a political point, and their willingness to pursue that tangential idea and desire at the expense of these jobs, I find, is cynical and clearly inappropriate. That is the first bill being stopped.

The second bill is a bill I managed and which just came out of conference, and it is the pension reform bill. It did not have everything in it that I wanted. It did not have everything in it the House wanted. But it has key pieces of legislation in it which will have a direct impact on jobs. I called this pensions bill the ultimate jobs bill because, quite honestly, that is exactly what it is.

If this pensions bill is not passed and passed promptly, the practical effect is there will be a misallocation of up to \$80 billion of resources within the investment community and in the small and large business communities of this country. What has happened today is

that companies fund what is known as a defined benefits plan under rules which they say, in order to determine how much they are going to pay to the plan each year, they have to look at the rate of return on the 30-year Treasury bond.

The 30-year Treasury bond is a vehicle which does not exist anymore. We do not sell it, basically, as a country. Therefore, the price of a 30-year Treasury bond has been moved to an artificially low number, and the practical effect of that is that companies, businesses, and unions which must see their pension funds funded for these defined benefits plans are going to see those payments to those defined benefits plans increased at an arbitrary rate based on a nonexistent bond vehicle, the 30-year bond. It is technical, but it is an important point.

This pensions bill corrects that situation. It sets up a new structure for defining how much must be contributed to a defined benefits plan for a period of 2 years based on a bond rate which does actually exist, which is a market basket of corporate bonds. The practical effect of that will be an appropriate allocation of money into these defined benefits plans, leaving dollars available to invest in new plant, new equipment, and expansion of business in the United States, which leads directly to jobs.

Thus, if this pensions bill is not enacted in the next week, we will have these arbitrary reallocations of funds occurring by April 15. This pensions bill will have a direct and proximate effect on the ability of business in the United States to be competitive, to create investment, and, in return, to create jobs.

Yet, once again, we were told by the leadership on the other side of the aisle—at least the leadership in the committees, Senator KENNEDY and Senator BAUCUS—that they oppose this bill and they are going to use all their means available to them to stop it.

They can stop this bill. There is no question about it. They can stop it for at least 2 or 3 weeks, and the practical effect of that will be that we will go beyond the April 15 funding date, and this rather horrific misallocation of resources will kick in, the practical effect of which will be instead of investing to create jobs, they will be investing arbitrarily in these defined benefits funds at a rate which is not reflective of what the actual return rate on those funds would be if they had an appropriate market basket of corporate bonds on which they were basing their yield rates.

Yes, they can hold this bill up. And, yes, I guess they intend to hold this bill up. What is the effect of that? It is going to cost Americans jobs. It is going to mean jobs will not be created. It is going to mean investment will not be made. It will mean dollars will be arbitrarily allocated rather than flowing where they can most effectively be used through investment in new plant

and equipment and the resulting jobs that occur from that.

So, once again, we see from the other side of the aisle an attitude that says: We are going to obstruct you; we are going to stop business in the Senate. We don't care that in the process of doing that we are going to create an atmosphere where jobs are lost, as in the case of the JOBS bill where the duties are increased against American manufacturers and maybe as a result jobs have to be outsourced. In any event, we will certainly have our products being less competitive, which means probably fewer jobs will be created in those businesses and maybe jobs will be lost in those businesses in the area of the pensions bill. They do not care. They are going to obstruct, and they are going to stop this bill because they are tweaked about the issue of how far it went and, as a result, what is going to be the impact. Jobs will be lost because the dollars for investing in plant and equipment will not be available. It is a rather cynical strategy from the other side of the aisle. First, they go out to the public in the Presidential campaign and say: Why don't we have more jobs? Then, on the floor of the Senate, they are aggressively pursuing strategies which stop us from creating more jobs. It is a lot like the kids who killed their parents and then go to the court and claim they should receive special treatment because they are orphans.

These folks on the other side of the aisle are shooting the programs which would create jobs, and then they are going out in the Presidential politics arena and saying: Why aren't we creating more jobs?

The cynicism of it is rather extreme. From my standpoint, I certainly hope they are not going to continue this practice because, in the end, it means people in America will not have jobs and will have fewer opportunities to work. For me, that is not right.

I hope we can pass this pensions bill this week, and I hope we can pass this JOBS bill this week, but it certainly doesn't look like that is going to occur.

I yield back the remainder of my time. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I listened with great interest to comments of some of my colleagues, especially on this issue of obstructionism as it relates to jobs. It is true there is a JOBS bill, as it is called, on the floor of the Senate that has been delayed. This JOBS bill is a bill that gives tax breaks to U.S. manufacturers, and it has, in fact, been delayed. Let me explain why it has been delayed and why the obstructionism on the part of the majority party in Congress exists.

When that bill came to the floor of the Senate, someone on this side of the aisle offered a very important amendment. It also had to do with jobs, so it had to do with the subject of the bill.

Because the majority party did not want to vote on the amendment, they took all their marbles, walked off the floor, and went home and accused our side of being obstructionist. Let me describe the circumstances.

Senator HARKIN offered an amendment on overtime pay. Why did he do that? Because the Department of Labor is about to produce new regulations that, for the first time in 60 years, will obliterate the 40-hour workweek and tell workers, Oh, by the way, if your employer decides to work you more than 40 hours, anywhere from 6 to 8 million Americans who now receive overtime will not be able to receive overtime pay. The employer will be able to say: You work overtime, you work 50 hours; if you don't like it, tough luck, and I am not going to pay you overtime. For the first time in 60 years, the 40-hour workweek will be gone for about 6 to 8 million people.

These new rules are touted as worker-friendly rules, but, of course, we know that is not the case at all because there are consulting companies—and the Department of Labor itself—putting out information to businesses to say: Here is the way you structure your company to avoid paying your workers overtime under these new rules.

Senator HARKIN offered an amendment on this important JOBS bill. Why is it germane to this JOBS bill? Because if employers are able to say to workers, You work overtime for no extra pay, instead of creating new jobs which ought to be created, they will say to existing workers: You work overtime; we are not going to pay you extra.

This new rule from the Department of Labor is an approach that will diminish jobs, that will retard the creation of new jobs. Yet, when Senator HARKIN offered that amendment, the majority party had some kind of an apoplectic seizure.

According to the majority party, Senator HARKIN is apparently obstructing things because he offers an amendment dealing directly with jobs. No, it is not Senator HARKIN who is obstructing. What is obstructing the business of this Chamber is the majority party. Senator HARKIN offered an amendment that deals directly with jobs and they refused to have a vote on it, and they are going to take their marbles and just go home. They are going to go home and accuse someone else of obstructing.

The obstruction in this Chamber is by the majority party that refuses to allow votes on issues that are important and that are relevant to the matters at hand. That is the obstruction. It is a curious strategy to know the majority party would obstruct its own agenda, but obstruct they do. Then they rush out to the microphones to accuse others of obstructing.

There is a very simple way to remove all of these issues. We do not have to have any obstruction by anybody.

Bring the bills to the floor and let us try to deal with them in a thoughtful way. When someone offers an amendment, like Senator HARKIN, give us an opportunity to have a vote on it. Let's move ahead. That is not the case these days. It is just a little bizarre to hear these charges of obstructionism.

I would also say to those who came to the floor this morning to say what they really want to see is a positive campaign for the Presidency, I say amen to that. But there is a large, well-oiled attack machine in this town. In fact, I watched the television commercials last evening by the administration, which represent Senator KERRY's position on taxation. It is a wholly negative television commercial.

I agree with my colleague who said, let's be positive. How about maybe we see the other side, maybe see the White House take some of those commercials off the air and then let us talk about being positive.

FOREIGN COMPANIES MUST PAY TAXES

Mr. DORGAN. Mr. President, I came to the floor not to talk about the obstruction by the majority party; I came instead to talk about a new report that is just out. It is a report by the GAO, and it says something important about fiscal policy in this country.

The GAO report, which Senator CARL LEVIN and I asked for, compares the reported tax liabilities of some of the biggest companies that do business in this country, both domestic companies and foreign companies.

This report studied a period of time when we had robust economic growth in our economy, 1996–2000. On the summary page, it says that an average of 71 percent of all foreign corporations doing business in the United States of America pay no income tax at all. These are names almost all Americans would easily recognize. Obviously, this report does not provide these names. But when one talks about the major foreign corporations selling products in this country, earning billions of dollars from those sales and paying zero to the Federal Government in tax liability, it raises very serious questions about gaping holes in this country's tax system.

We are nearing April 15, when Americans will march off to the post office and pay their taxes. They will pay their taxes because they do not have any alternative or any flexibility. They understand the obligation in this country to pay taxes.

Now, 71 percent of the foreign corporations that do business and make money in this country have decided they want to participate in our country and market system, but they do not want to participate in paying taxes on those profits. There is something fundamentally wrong with that. Once again, it demonstrates the gaping holes in our tax system. No, not for ordinary

people, just for the big interests who do a lot of business, make a lot of money and pay no taxes. Shame on them.

This report also found that 61 percent of domestic companies during this period of economic growth paid no income taxes in this country.

We know the stories about companies that have decided they want to run their company out of a mailbox in Bermuda or the Bahamas. Why? Because they do not want to pay taxes to the United States. I say this to companies that want to do that: If they want to run their company out of a mailbox in the Bahamas, the next time they get in trouble, call the Bahamian Navy. I understand they have 21 sailors. Call them to get their company out of trouble.

These foreign corporations that do business and make profits in this country have an obligation to pay taxes in this country. Domestic companies that make profits in this country have an obligation as well. That obligation is to participate with ordinary Americans who understand that part of the cost of citizenship in this country is to help fund schools, pay for defense and pay for the social services that make this a great country. That is part of the obligation.

We have some of the biggest economic interests who have decided they want to participate in every way of being an American except paying taxes. That has to stop. I hope this Congress will begin to take this seriously.

This is the second GAO report we have done in the last 6 years on this subject. The tax avoidance problem is not getting better, it is getting worse. Tax loopholes are not getting narrower, they are getting wider.

Again, as we near April 15, when Americans think about the obligation to pay taxes into this Government, I think it is shameful to get a report like this that says so many big economic interests that make so much money have decided they want all of the advantages America has to offer, but they do not want to pay taxes to the United States of America. That is a shameful situation and one we ought to fix.

THE JOBS BILL

Mr. DORGAN. Mr. President, when we return to the JOBS Act, the bill that the majority party pulled from the Senate floor because Senator HARKIN offered an amendment on overtime, Senator MIKULSKI and I are going to offer an amendment. The amendment is very simple. It says this: We are going to end that provision in our Tax Code that says to American companies, if they will just pack up all of their belongings, fire all of their workers and move somewhere else offshore, make the same product and ship it back into our country, we will give them a tax break. Talk about perversity, that is perverse, offering a tax break to someone who moves their American jobs