

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

overseas. Yet, that is exactly what exists in the Tax Code. We have voted on this before because I offered a similar amendment a number of years ago.

Let me describe exactly how this tax break works. Let's say there are two companies in this country with manufacturing plants. Each company produces garage door openers and these companies do a good job. They employ American workers, they produce garage door openers for sale in the U.S. marketplace and they earn some profit. But one company decides what it really wants to do is move overseas because it does not have to pay \$11 an hour for a manufacturing worker. The company can go to Sri Lanka, Bangladesh, Indonesia or China and hire a 16 year-old-kid or a 12-year-old kid and pay them 12 cents an hour, working them 12 hours a day 7 days a week.

So one of the companies that makes garage door openers leaves, makes exactly the same garage door opener now in Sri Lanka and ships it back into this country.

The other company that makes garage door openers stays in America. The difference is that the company that left this country does not have to pay income taxes on their profits any longer because we have something called tax deferral. Until and unless they repatriate those earnings, those earnings are tax free in this country.

Our amendment is very simple. It says this: If a company leaves this country and moves its jobs overseas to produce a product to ship back into this marketplace, the company loses tax deferral that now perversely incentivizes companies to leave this country. It is one thing to have companies leave because of bad trade agreements, because they can avoid the things we have fought for for years in this country—safe workplaces, fair labor standards, and decent wages. It is quite another thing for them to leave because in part we say we will give them a tax break if they leave our country. What a nutty idea and one that we ought to change.

REIMPORTATION OF PRESCRIPTION DRUGS

Mr. DORGAN. Mr. President, I will make one additional point on another subject. Last week, I went to see the Secretary of Health and Human Services, Tommy Thompson, and made a presentation in support of a pilot project I want him to approve which would allow the reimportation of prescription drugs from Canada. My pilot project is very simple. It sets up a 2-year pilot project for North Dakota that would allow North Dakota pharmacists to access FDA-approved drugs from pharmacists in Canada.

As you know, the administration has been fighting this notion of reimporting prescription drugs. The pharmaceutical industry is fighting it. The administration is fighting it.

This is why it is important: In every case—the drug Lipitor, Prevacid,

Zocor, Celebrex—it is the same drug put in the same bottle made by the same company sold in two countries, but the charges are much higher to the U.S. consumer. It is not just true with Canada; it is true for every country in the world because the U.S. consumer is charged the highest prices in the world for FDA-approved prescription drugs, and that is not fair.

Let me ask consent to show two pill bottles on the floor of the Senate.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

Mr. DORGAN. These are bottles of a drug called Lipitor. This, I believe, is one of the fastest selling, most popular drugs in the United States. It is used for the lowering of cholesterol. By all accounts, it is a very successful drug and it sells rapidly and is prescribed often.

As you can see, these two bottles of Lipitor are identical. These are both bottles that have 10 milligram tablets of Lipitor in them. They are made in the same plant. These are FDA-approved drugs made in an FDA-approved plant. The same pill is put in the same bottle made by the same company. There is one difference. This one is sold to Canadians at \$1.01 per tablet. This one is sold to Americans at \$1.81 per tablet. It is the same pill, the same bottle, same company, FDA approved, but nearly twice as much money is charged to the American consumer than the Canadian consumer.

I could have used Germany as an example, Italy, England, France, Spain—almost anyone. I could have used almost any country and come up with nearly the same result.

In Europe, they have something called parallel trading. If you are in Spain and want to buy a drug from Germany, there is no problem, you go through the parallel trading system. If you are in Italy and want to buy a drug from France, no problem, parallel trading. In this country we are told by FDA and others that there would be a huge safety problem if we purchased drugs from Canada—total nonsense. The Canadians have virtually the same chain of custody as we do. The Canadian drug supply is safe. Even our health authorities will admit that. So having licensed U.S. pharmacists acquire from licensed pharmacists or licensed distributors in Canada the identical drug and passing the savings along to the American consumer makes good sense and poses no—I repeat no—safety issues for citizens of this country.

I have asked the Secretary of Health and Human Services for a waiver to allow this pilot program to go forward. We will continue on the floor of the Senate to pass legislation. I believe we will soon pass legislation that deals with this issue, but, in the meantime, I am asking the Secretary of Health and Human Services to make a decision on this waiver request. He is now studying that. I assume it will be some weeks. But my hope is he will understand that

the issue, which is a safety issue that they have described, simply does not, cannot, and will not exist with respect to this matter.

The question is, Who is going to stand up for the American consumer? Will somebody stand up and say, on behalf of the American consumers, that what is happening here is not fair? I hope so.

This proposal is called Prairie Prescriptions. It is a 2-year pilot project I put together. My hope is my State can be a pilot project that will demonstrate for everyone that the issue of safety in the reimportation of drugs with Canada, which has a nearly identical chain of custody, will always be a bogus issue. The issue is whether the American people will continue to pay the highest prices in the world for prescription drugs.

Miracle drugs offer no miracle for those who cannot afford them. Our senior citizens of this country are 12 percent of America's population and they take one-third of the prescription drugs. They are often the people least able to afford these prices. Yet day after day, month after month in this country we have senior citizens going down to their grocery store, and finding out how much their prescription drugs are going to cost so they know how much they have left to buy their groceries.

I notice my colleague Senator HARKIN is waiting to speak. I am sure in Iowa, as we have in North Dakota, when you go to a meeting someplace you often have somebody 80 years old touch you on the elbow and say: Can you help me? You say: What is it? And the tears well up in their eyes and their chin begins to quiver and they say: I have heart disease and diabetes and I am supposed to take this medicine and I can't afford it. Can you help me?

The fact is, we pay too much for prescription drugs. We pay the highest prices in the world, and it is just not fair.

Obviously, my interest is at some point to force a repricing in this country, but in the absence of that, I believe reimportation is the way to let the market system even out these prices. I believe that can, should, and will be done without any safety issues whatsoever.

I await anxiously the decision by the Secretary of Health and Human Services and the administration. The Prairie Prescriptions Pilot Project is a solid project, one that will benefit, in my judgment, the entire country by demonstrating once and for all this phony issue that has been raised by the former head of FDA, Dr. McClellan, and so many others. The issue of safety is just not an issue at all. The issue really is will the American people finally be treated fairly with respect to prescription drug pricing.

I yield the floor.

Mr. HARKIN. Mr. President, how much time is left?