

as Al Kaline did, who was a Major League Baseball player. He throws as well as Al Kaline. He hits probably better than Al Kaline did.

Washington is fortunate to have these two fine young men. Not only are they great baseball players, but from everything we know about the two young men, they are good role models for young men and women around the country.

Mr. MCCONNELL. Mr. President, will the majority leader yield before changing the subject?

Mr. REID. Yes.

Mr. MCCONNELL. Mr. President, I say to my friend from Nevada, I was there. I had a chance to see Strasburg. As remarkable as the 14 strikeouts my friend referred to is the fact he did not walk anybody. What a remarkable athlete. We can only hope and pray that his arm holds up and that he has the kind of career everyone is anticipating. There was literally electricity in the air. It was an exciting event. It was great to be there.

Mr. REID. I so appreciate my counterpart talking about that. I wish I could have been there. But it was, even watching it on TV—gee whiz, there are those of us who love sports, and I know my friend loves basketball, especially that which takes place in Kentucky and the others, of course, in Kentucky. But this was really a remarkable performance. For Washington, which has been so starved for a good athletic team of some kind, it was nice.

I say to my friend through the Chair, when I was going to law school here, I watched two Major League Baseball games in the old Griffith Stadium. Oh, they were so much fun. I don't know who won. I am sure the Washington team lost. I know the two teams they played both times were the Yankees, where I watched Roger Maris, Mickey Mantle, Yogi Berra, and all those great players.

From this work in which we are engaged, which is always so serious, it is nice once in a while to divert our attention to something that is a little more relaxing. That baseball game last night was not relaxing, but it sure was a lot of fun.

Mr. President, my staff just indicated that I said we would not be in on Friday and Monday. We probably will be in; there will just be no votes.

Mr. MCCONNELL. Mr. President, if I may add one point, the majority leader mentioned that Bryce Harper was drafted by the Nationals on Monday. I look forward to him being the next Nevada contribution to the Washington area, right after my friend the majority leader.

Mr. REID. Mr. President, I say to my friend, it is a wonderful story. His brother, who was a great pitcher at California State Fullerton—which won the NCAA National Baseball Championship—his brother thought so much of his little brother, who is 4 years younger than he is, that he transferred from California State Fullerton to a

junior college so he could play with his brother. The elder Harper is a pitcher, and the catcher is his little brother. The senior member of the brotherhood of Harper ball players, his record was 12 and 1 this year.

Another word about Bryce Harper. Community college baseball is very competitive. The record for the most home runs for any player in junior college baseball was 12. Bryce Harper hit 30. His batting average as a 17-year-old boy playing with men was .450. In one game, he was six for six. I think he had three or four home runs. It is an interesting story.

Mr. MCCONNELL. Mr. President, I will say that what one can conclude from this is that next year, when the Senate is not in session in the evening, both the Democratic and Republican leaders will be at the Nats games.

Mr. REID. I think that is pretty clear.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### URGENT CRISES

Mr. MCCONNELL. Mr. President, our Nation faces many urgent crises at the moment. Americans are looking for solutions. They are not getting any from Washington. Whether it is the housing crisis or the financial crisis, the debt crisis or the crisis in the gulf, what they are getting is a White House and a Democratic majority in Congress that seems more intent on pursuing a government-driven political agenda than finding commonsense solutions to the problems about which all of us are concerned.

Americans are exasperated by all this, but they should not be surprised because if there is one motto that defines this administration, it is the one delivered by the White House Chief of Staff in a revealing moment just after the President's election. I am referring, of course, to what Rahm Emanuel famously referred to as "Rule 1: Never allow a crisis to go to waste." It is a fitting slogan for an administration which saw a crisis at some of America's great automaking firms as an opportunity for the government to extend its reach into industrial policy, which saw the panic on Wall Street as an opportunity for government to extend its reach further into Main Street, which saw out-of-control costs in health care as an opportunity to extend government's reach further into health care decisions of every American, and which is now talking about using a nightmarish environmental calamity in the gulf as a prime opportunity to extend government's reach even further into Americans' lives through a new, job-killing national energy tax that would hit every single household and business, small or large, in our country.

Think about it. For more than 50 straight days, an underwater geyser of oil, now roughly the size of Vermont, has been polluting the gulf. This is the kind of crisis that in the past would have united the Nation in a focused effort to solve the problem. Yet day after day, as this toxic oil continues to flow, what we get from the administration is some new twist on the blame game or some ham-handed effort to appear in control of the situation.

Meanwhile, in Congress, we are getting much the same thing. The deficit extenders bill that is now on the floor was supposed to be about giving job creators some assurance that the tax benefits they currently are receiving and on which they depend to retain workers will be there the next time they have to make a major business-related decision. Yet Democrats are using this bill as another opportunity to extend government's reach. Desperate for funds to bail out programs, they are raiding a trust fund—get this—created to pay for just the kind of cleanup we now need in the gulf. They are quintupling the tax that oil companies pay into the Oil Spill Liability Trust Fund that was created in the wake of the Exxon Valdez fix, and instead of using this money to clean up the oil that is spewing in the gulf, they are raiding the trust fund to pay for new unrelated spending.

Dipping into the oilspill trust fund in order to pay for something else—in other words, they are using the crisis in the gulf not only as a cover for even more government spending but as a major source of funding for it. This is really an outrage, and it should give every American a window into the Democratic approach to spending, as well as the lack of seriousness about the debt. Frankly, they just cannot restrain themselves. That is the only possible excuse for raiding this trust fund for unrelated government spending.

At the same time, as Americans wonder when this gusher will ever be plugged, we hear word that the administration and my good friend, the majority leader, want to piggyback their controversial new national energy tax—also known as cap and trade—to an oilspill response bill that could and should be an opportunity for true bipartisan cooperation. So again we see the administration using a crisis—in this case the disaster in the gulf—as an opportunity to muscle through Congress another deeply unpopular bill that has profound implications for small businesses and struggling households.

Look, if the health care debate taught us anything—anything at all—it is that Americans want these kinds of massive bills to be debated out in the open, not rushed past them on a holiday or tucked into a must-pass bill aimed at alleviating the kind of suffering we are seeing in the gulf. The problem for Democrats is that debating the Democratic cap-and-trade bill

might not fit neatly into the White House messaging plan since it has been widely reported that a major part—a major part—of the Kerry-Lieberman bill was essentially written by BP.

Let me say that again: A major part of the Kerry-Lieberman bill was written by BP. This is clearly an inconvenient fact. An administration that seems to spend most of its time coming up with ways to show how angry it is with BP is pushing a proposal that BP actually helped to write. I can't understand, and I don't think the American people will understand, why the majority believes it makes sense to respond to the BP oilspill by imposing a gas tax increase on the American people that was advocated by BP.

I think the American people want us to work together to address the disaster in the gulf, not exploit it—not exploit it—for partisan political purposes. The oilspill trust fund ought to be used to clean up oilspills. The oilspill trust fund ought to be used to clean up oilspills. This is one crisis Americans will not let Democrats exploit for their policy purposes.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the House message to accompany H.R. 4213, which the clerk will report.

The legislative clerk read as follows:

Motion to concur in the House amendment to the Senate amendment to H.R. 4213, an act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Pending:

Baucus motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Baucus amendment No. 4301 (to the amendment of the House to the amendment of the Senate to the bill), in the nature of a substitute;

Sessions/McCaskill amendment No. 4303 (to amendment No. 4301), to establish 3-year discretionary spending caps;

Cardin amendment No. 4304 (to amendment No. 4301), to provide for the extension of dependent coverage under the Federal Employees Health Benefits Program;

Franken amendment No. 4311 (to amendment No. 4301), to establish the Office of the Homeowner Advocate for purposes of addressing problems with the Home Affordable Modification Program; and

Cornyn/Kyl amendment No. 4302 (to amendment No. 4301), to increase transparency regarding debt instruments of the United States held by foreign governments, to assess the risks to the United States of such holdings.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, in a few moments I will speak on the pending

business before the Senate—the American Jobs and Closing Tax Loopholes Act—but before I do, I would like to refer to the comments of the Republican leader, as well as the statement of the Senator from Louisiana that he gave yesterday.

For several months now, Americans have witnessed a massive oilspill in the Gulf of Mexico, Americans have seen the sweeping environmental damage, and Americans have seen the dramatic economic effects. It is something that is overwhelming, it is appalling, and it is incredible how much damage is being created by the BP gulf oilspill. I am sure to the average observer there might seem no better time than now to ask oil companies to contribute more to shoulder the burden of the oilspill. Actually, they have caused the spill—at least one company has—and they should bear the burden.

This, then, would seem to be an appropriate time to raise the oilspill liability tax. The oilspill liability tax is pretty small. It is 8 cents a barrel. That is all it is currently. One would have to come up with a pretty creative argument if one wanted to protect big oil companies from this fee.

Well, the Senator from Louisiana, and just now the Republican leader, have done that. They have come up with a pretty creative argument to protect the oil companies. The Senator from Louisiana, for example, has returned to the last refuge of bean counters, and he has cried double counting. The double counting argument seems to be a favorite among bean counters, Mr. President. It seems to be the argument one falls back on when one cannot argue the substance and one just wants to muddy the waters. In reality, the funds collected by raising the oilspill liability tax will strengthen the Oil Spill Liability Trust Fund. That is simple arithmetic. But opponents of raising the tax on big oil companies want to make it less attractive for doing so. They want to make it so that the funds collected by raising taxes on big oil do not count in the Federal budget. That way it will be less effective and less attractive to raise taxes on big oil.

So don't be misled by the green eyeshades talk. Don't be misled by the bogus charges of double counting. Don't buy into the arguments of those who want to protect big oil. I urge my colleagues that when we get to it later today to vote against the Vitter amendment and to reject the arguments we have been hearing today that raising the per-barrel tax for funds which go into the oilspill liability fund is somehow double counting because, clearly, that money goes into the trust fund, and funds from that trust fund are then used to pay for the cleanup and some damage that has occurred and also counts toward reducing the Federal deficit because it is extra money that goes to government debt and, therefore, is money which is not doubled counted.

I urge my colleagues to reject those arguments.

Mr. DURBIN. Will the Senator from Montana yield for a question?

Mr. BAUCUS. I will yield to the Senator.

Mr. DURBIN. I listened to the statements made today by the Republican leader about the increase in this fee that is to be paid into the Oil Spill Liability Trust Fund. I would like to ask the chairman of the Finance Committee, currently, the fee is 8 cents a barrel?

Mr. BAUCUS. That is correct.

Mr. DURBIN. And the price of a barrel of oil, as of this morning's Wall Street Journal, is \$71.99 a barrel?

Mr. BAUCUS. That is correct.

Mr. DURBIN. So this is a small, tiny fraction—one-tenth—

Mr. BAUCUS. Of the current fee.

Mr. DURBIN. Of the current fee. One-tenth of 1 percent as best I can calculate it.

Mr. BAUCUS. That is true.

Mr. DURBIN. That is being paid by oil companies into a fund so that if there would be a spill and the oil company responsible couldn't pay for it, they would have at least accumulated enough money to protect the taxpayers—

Mr. BAUCUS. That is correct.

Mr. DURBIN. From this liability.

Mr. BAUCUS. That is correct. I might also say this fund was created in the wake of the Exxon Valdez spill.

Mr. DURBIN. Twenty-one years ago. I might also ask the chairman of the Finance Committee, it is my understanding that the total value of the current Oil Spill Liability Trust Fund is somewhere in the range of \$1.5 billion?

Mr. BAUCUS. I think that is the amount. I am not certain, but it is about that.

Mr. DURBIN. So the effort in this bill is to increase that per-barrel tax paid by oil companies for this oilspill liability fund to—

Mr. BAUCUS. Forty-one cents.

Mr. DURBIN. Forty-one cents. So 41 cents would represent, as I calculate it, one-half of 1 percent of the current cost of a barrel of oil.

Mr. BAUCUS. The current oil priced at \$71 a barrel.

Mr. DURBIN. Right. So the argument from the other side is that even if we accumulated this money and put it into this fund for cleaning up spills, we shouldn't count it as additional money being held by the Federal Government at the same time; is that correct?

Mr. BAUCUS. That is correct.

Mr. DURBIN. And if we fail to count it as an additional source of revenue being held by the Federal Government, is it not true that it would be subject to a budget point of order, which would then require 60 votes, and that would allow the oil companies to find 41 friends on the Senate floor—and I think I know where they will start looking—to defeat this effort to create this tax?