

person who had them, the chief actuary—again, no Democrat, just a career public servant who, by all accounts, is a wonderful public servant—had the estimates and was told: If you provide the real estimates to Congress, you will be fired.

If anything demands an investigation, it is that. It demands an immediate investigation. If you cannot rely on information coming from the executive branch about programs we are considering on the floor of the Senate because someone threatened to fire someone if they tell the truth to the Congress, there is something radically wrong. So it doesn't matter whether it is Mr. Clarke who writes a book and describes what he found in the White House. He also worked, as you know, for the Clinton administration. He worked for the first George Bush Presidency. He has worked for George W. Bush for the last couple of years. He writes a book and raises serious questions about the information that was used to decide to focus on Iraq rather than on al-Qaida. I think many of us now, at least in the rearview mirror, look at that and say moving from Afghanistan to Iraq and not continuing to focus on the destruction of al-Qaida may have been a serious mistake.

How did that happen? Why did that happen? These are legitimate public policy questions. I suppose there is politics in some of it. I think the well-being and future of this country depends on our getting this right. We talk about the quality of intelligence and the questions about that, and whether intelligence information was misrepresented.

Look, the next potential terrorist attack against this country will be thwarted—if it is thwarted, and we certainly hope it is—by good intelligence. We must rely on our intelligence system. Is there something wrong with that system? If there is, it must be fixed now. It is not sufficient just to say, somebody wrote a book, so let's trash this person time and time again. That is not what we ought to do. We ought to get to the bottom of what is happening here, what caused all these things to happen, what can we learn about it and what can we do to protect our country.

Mr. President, I yield the remaining time I might have to the Senator from Delaware, Mr. CARPER. How much time remains?

The PRESIDING OFFICER. Just under 7 minutes.

#### ENERGY INDEPENDENCE

Mr. CARPER. I thank my colleague for yielding. Before he leaves the floor, I want to take a moment and thank him for his leadership on another issue. As we have sought to become more energy independent, Senator DORGAN has led the charge, saying maybe part of that would be to practice better conservation. He focused, among other things, on the efficiency of air-condi-

tioners. It may sound like a small thing, but in the scheme of things, it is a big step. I thank him for his leadership on that.

I bought gasoline in my hometown of Wilmington, and I think it cost \$1.77 per gallon, a little higher than it has been in recent months. I read a news account the other day that said we might be looking at prices as high as \$3 per gallon in some parts of America before the end of the summer. We are also hearing a fair amount of concern about the price of not just gasoline but of natural gas. Natural gas is what we use to provide a feedstock for many of our chemical companies. A lot of agribusinesses use it for fertilizers. Natural gas is also the fuel of choice for many of the new electric-generating powerplants that are being built across this country.

I want us to go back in time about 4 years to the last year of the Clinton administration. In 2000, the Clinton administration suggested, through regulation, that we call on the makers of air-conditioners in this country to create and begin selling more energy-efficient air-conditioners in 2006. Something was adopted called the SEER 13, seasonal energy efficiency rating. The idea behind the regulation was that, by 2006, air-conditioners would have to be 30 percent more energy efficient than those currently available. We adopted a standard that was implemented and then withdrawn by the Bush administration in the following year or two, and it was replaced by a less rigorous standard.

There has been a court battle over the last year or so, and the outcome is that the court battle has sustained the more rigorous standards, the SEER 13 standard, which says that manufacturers in this country, by 2006, should be producing air-conditioners that are 30 percent more efficient than those available in 2000. That may or may not sound like a very big deal, 30 percent more energy efficient, but I ask my colleagues to think about this. When was the last time we had a blackout during March or April or May or, frankly, in October, November, December? I don't recall one. My guess is that you don't, either. We have them, for the most part, in the summer. We have blackouts, for the most part, when temperatures get hot and people turn on their air-conditioners.

If we begin buying more energy-efficient air-conditioners in 2006, we will do a couple of things: One, reduce the likelihood of blackouts and the kind of calamity they create for our economy; two, we reduce the need to build new electric powerplants. Some 48 fewer electric powerplants will have to be built because of the higher standard. In addition to that, we will reduce, with a higher efficiency standard for air-conditioners, the emissions of carbon dioxide from our electric-generating plants by 2.5 million tons by 2020.

In addition, if we are building more power-generating plants that will use

natural gas, it will have a positive effect on the price of natural gas and, I think, a positive effect on the manufacturing industry in this country.

The second district court has ruled that the Clinton standard—the SEER 13 standard—should prevail. Last week, the association that represents the air-conditioning manufacturers joined, saying they thought they could build and begin selling, by 2006, air-conditioners that met the more rigorous standard.

I hold a letter signed by 53 colleagues, Democrats and Republicans, that was sent last week to the President.

It is a letter that simply says: Mr. President, we do a lot of good for our country. We can help ourselves on the manufacturing side. We can help ourselves by building fewer electric-power-generating plants. We can reduce the price of natural gas to some extent. We can reduce the emissions that are coming out of our electric-power-generating plants by millions of tons of CO<sub>2</sub> each year. We can do that, Mr. President, if the administration does not appeal the decision of the second district court.

If the Association of American Air-Conditioning Manufacturers can say we have the ability to live up to this more rigorous standard, more than half the Senate can say: Mr. President, we believe we, too, have the ability to live by this more rigorous standard.

I am tempted to say let's let sleeping dogs lie. But rather than say that, let's let the more rigorous standard stand. Whether or not we pass an energy bill this year or not—we need an energy policy desperately—I will say one thing: One good component of energy policy in this Nation is conservation. One good way to conserve a whole lot of electricity, particularly starting in 2006, is making sure that when we turn on the air-conditioners in our homes, offices, and buildings, they are meeting the more tough and rigorous standard. That would be a good thing for America.

I ask unanimous consent that a copy of this letter signed by 53 of our colleagues be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
Washington, DC.

Hon. GEORGE W. BUSH,  
The White House,  
Washington, DC.

MR. PRESIDENT: A recent federal court decision regarding energy efficient air conditioners is a significant victory for consumers, for the environment, and for our nation's energy future. We respectfully request that you do not appeal the decision to the U.S. Supreme Court.

Last month, the U.S. Court of Appeals for the Second District (Natural Resources Defense Council et al v. Abraham, Docket 01-4102) affirmed that central air conditioners sold beginning in 2006 must be at least 30 percent more energy efficient than those available today.

Air conditioners are a necessary modern convenience but are also major users of electricity. On hot days, cooling homes and businesses is the largest category of electricity demand. Requiring air conditioners to be as energy efficient as possible will begin to reduce the stress on the electricity generation and transmission network and decrease the likelihood of blackouts that many regions of the country experience during warm weather conditions.

Air conditioners that meet the Seasonal Energy Efficiency Rating 13 standard will provide benefits for consumers, the environment, and the nation. The SEER 13 standard will alleviate the need for additional electricity production and transmission resulting in as many as 48 fewer power plants required by 2020. This standard will also result in less harmful air pollution being emitted into the atmosphere. Moreover, by 2020 power plant emissions of carbon dioxide will be 2.5 million tons lower as a result, and emissions of mercury, sulfur dioxide, and nitrogen oxides will also be held down resulting in cleaner air and healthier citizens.

Finally, the higher standard can be expected to save businesses and residential consumers \$1 billion per year in lower electricity bills. Lower electricity bills will recover the slightly higher purchase cost for the more efficient air conditioners in less than 18 months.

As the Congress continues to debate the future of our nation's energy policy, this court decision is one that should be embraced and encouraged, not appealed.

Respectfully,

Tom Carper, Susan Collins, Byron L. Dorgan, Peter Fitzgerald, Jeff Bingaman, Dick Durbin, Jack Reed, Lincoln D. Chafee, Charles Schumer, Deborah Stabenow, Dianne Feinstein, Daniel K. Akaka, Elizabeth Dole, Ernest Hollings, Patty Murray, Lamar Alexander, Judd Gregg, Carl Levin, Olympia Snowe, Joseph Lieberman, Paul Sarbanes, Max Baucus, Maria Cantwell, Patrick Leahy, Joe Biden, Russell D. Feingold, Jim Jeffords, Jay Rockefeller, Frank Lautenberg, Ben Nelson, Hillary Rodham Clinton, Barbara Boxer, Barbara A. Mikulski, Christopher Dodd, Jon Corzine, John E. Sununu, Mark Dayton, Arlen Specter, Bill Nelson, Bob Graham, Ted Kennedy, Gordon Smith, Ron Wyden, Robert C. Byrd, Herb Kohl, Tim Johnson, John Edwards, John F. Kerry, Thomas Daschle, Daniel Inouye, Kent Conrad, Harry Reid, Richard Lugar.

The PRESIDING OFFICER. Who yields time? Is there further morning business?

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous unanimous agreement, morning business is closed.

#### JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1637, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1637) to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

Pending:

Harkin amendment No. 2881, to amend the Fair Labor Standards Act of 1938 to clarify provisions relating to overtime pay.

McConnell motion to recommit the bill to the Committee on Finance, with instructions to report back forthwith the following amendment:

McConnell (for Frist) amendment No. 2886, in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Iowa.

#### AMENDMENT NO. 2898

Mr. GRASSLEY. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment No. 2898 to the instructions to the motion to recommit S. 1637.

The amendment follows:

At the end of the instructions (Amdt. No. 2886) insert the following:

SEC. . This act shall become effective one day following enactment of the legislation.

Mr. GRASSLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

#### AMENDMENT NO. 2899

Mr. GRASSLEY. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment No. 2899 to the amendment numbered 2898.

The amendment follows:

In the pending amendment strike "one" and insert "two".

Mr. GRASSLEY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, let me take a few moments to review where we are on this legislation.

First, I don't want to sound melodramatic but this is an important bill. This bill would help to create and keep good manufacturing jobs where they should be; that is, in America.

We need to move this bill. The Senate conducted 3 days of debate on the bill, one of them a Monday without rollcall votes, and this is our fourth day on the bill. In that time, we might say, the Senate has considered and

adopted a good number of amendments. Let me just list them.

We have adopted, first, the managers' amendment on leasing shelters; the managers' amendment making modifications to the revenue provisions; the committee substitute. We have also adopted the Bingaman amendment to expand the research credit; the Hatch-Murray amendment to extend the research and development credit. We have further adopted the McConnell amendment to protect American workers; the McCain amendment on defense; the Dodd amendment to protect American workers; the Bayh amendment to extend expiring provisions; the Bunning amendment to extend the net operating loss carryover provision; and the Bunning-Stabenow amendment to accelerate the phase-in of the manufacturing deduction.

That is quite a bit. A lot of legislation adopted, amendments passed already. Now, under the previous order, Senator HARKIN has offered his amendment on the Department of Labor's overtime regulations and that is the pending first-degree amendment.

Regrettably, in my view, the assistant majority leader offered a motion to recommit the bill and filed cloture on that motion to recommit. This morning the majority filled that amendment tree by offering a couple of secondary amendments.

There may come a time, after full and fair debate and amendment on the bill, when I would support a motion to cut off debate. But under the current circumstances, I will oppose that cloture motion. This is a bill about jobs, about quality jobs here in America. Senator HARKIN's amendment is also about the quality of jobs in America. This is not some amendment out of left field. The Senator from Iowa is not trying to change the subject, for example, to gun control or Medicare or reproductive choice, but rather he is staying on the subject. He is talking about jobs.

His amendment, although relevant, may not be strictly germane within the meaning of that term in Senate procedure. The effect of this cloture motion, if adopted, would be to block a vote on the Harkin amendment. I will not be a party to that effort. On a major bill such as this one, Senators deserve a full and fair opportunity to offer and get votes on amendments. We should allow that process to continue.

Even though this cloture motion has brought the Senate to something of an impasse, I remain hopeful. I am hopeful because I believe after the Senate recognizes that the votes are not there to block the Harkin amendment, the Senate can then reach an agreement limiting amendments to the bill to a reasonable number. I believe we can then work through this bill and bring it to completion by the end of the week. It is important that we do so. We need to respond to the European Union's sanctions, sanctions that impose a harmful tax on dozens of American products. Most importantly, we need to do what