



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

May 8, 2003  
(Senate)

## STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

### **S. 14 – Energy Policy Act of 2003**

(Sen. Domenici (R) NM)

The Administration commends the Senate for taking a step toward comprehensive and balanced national energy legislation by including in S. 14 many provisions that are largely consistent with the Administration's National Energy Policy. The bill would improve the Nation's energy security by diversifying our energy sources and reducing energy consumption through greater conservation, while expanding new technology to reduce pollution and increase energy efficiency.

The Administration strongly supports modernizing the Nation's antiquated electricity laws and increasing the amount, efficiency, and reliability of our electricity supply. We commend the Senate for long-overdue provisions in its bill to accomplish these goals. In particular, the Administration strongly supports provisions to provide open access for all generators to the transmission grid, repeal the Public Utility Holding Company Act which will increase investment in the energy sector, enhance consumer protection, and increase penalties for violations of law. We urge the Senate to include the Tennessee Valley Authority consensus language to help the regional wholesale market develop in the Southeast. The Administration would oppose amendments to set a national renewable portfolio standard (RPS) on power generation and believes these standards are best left to the States. A national RPS could raise consumer costs, especially in areas where these resources are less abundant and harder to cultivate or distribute. We urge the Senate to support the President's proposal to extend and expand the renewable energy production tax credit as a more efficient means to expand renewable energy.

A diverse portfolio of energy sources is vital for energy security, and the Administration believes nuclear power is an essential component of that portfolio. The Administration supports provisions in S.14 that reauthorize the Price Anderson Act nuclear liability insurance.

The Administration is pleased that S. 14 authorizes funding for two of the President's recent major energy initiatives. The bill authorizes funding for the Hydrogen Fuel Initiative and the Administration looks forward to working with the Congress to refine these provisions further, including clarifying the appropriate roles and authorities for various Federal and State agencies. S. 14 also authorizes the Secretary of Energy to enter into negotiations aimed at building an international fusion test facility known as ITER, which is an essential step toward developing a commercially viable fusion energy source. In addition to these recent presidential initiatives, we strongly support research and development on clean

coal technologies consistent with the President's Budget proposal to provide \$2 billion toward this effort. We commend the Senate for including incentives to spur the production of alternative and renewable sources of energy and authorities that will help accelerate advances in these and related energy fields.

We urge the Senate to support further expansion and diversification of the Nation's energy supplies to enhance our economic security. In particular, the Administration urges the Senate to adopt a provision, like the one included in H.R. 6, to open a small portion of the Arctic National Wildlife Refuge (ANWR) to environmentally responsible oil and gas exploration and development. Opening ANWR is not only key to making energy legislation truly comprehensive by increasing domestic production, but also to creating tens of thousands of new jobs for American workers. In addition, the Administration strongly supports an amendment to adopt a renewable fuels standard to increase the use of clean, domestically-produced renewable fuels like ethanol, which would reduce dependence on imported oil, protect the environment, and benefit the farm economy.

The Administration supports provisions that are consistent with the National Energy Policy and the Department of the Interior's proposed regulations to increase production of traditional energy resources on the Outer Continental Shelf (OCS), Federal onshore lands, and Indian lands. However, we are concerned that the annual trust asset evaluation of the activities of Indian tribes required by section 2604 will hinder the development of resources on Indian lands and is inconsistent with the principles of Indian self-determination and self-governance. In addition, the Administration would object to any coastal impact payments such as those authorized by the bill. Under current law, more than \$1 billion annually from OCS mineral leasing receipts is already shared with coastal and non-coastal states.

The Administration supports the construction of a commercially viable Alaska natural gas pipeline and believes market forces should select the route and timing of the project. The Alaska natural gas will provide a significant new domestic energy supply to America for years to come, and will be a key component of our long-term energy security. However, the Administration opposes the price-floor tax subsidy provision in the Senate Finance Committee bill, because it would distort markets and could be very costly.

The Administration is not convinced of the need for additional legislation that would attempt to limit or direct U.S. global climate change, and will oppose any climate change amendments that are inconsistent with the President's climate change strategy. In February 2002, the President committed the United States to an ambitious national goal to reduce the greenhouse gas intensity of the American economy by 18 percent over the next ten years. The President directed a broad range of domestic and international actions, including new initiatives for scientific research, advanced energy and sequestration technologies, and voluntary reporting of greenhouse gas emissions. The President's climate change strategy provides for a continuing cabinet-level policy process to oversee and direct this comprehensive program. Other provisions in S.14 that make good energy policy sense -- such as expanded use of renewable and nuclear energy, improved energy efficiency, and accelerated development of a hydrogen fuel cell transportation infrastructure -- will themselves reduce the projected growth in greenhouse gas emissions, and we urge the Senate to allow these and the President's strategy to go forward unimpeded.

The Administration has recently taken action to improve fuel economy while protecting passenger safety and jobs. The National Highway Traffic Safety Administration (NHTSA) recently issued a final rule to implement the largest increase in light truck fuel economy standards in 20 years. NHTSA will be exploring possible reforms to the Corporate Average Fuel Economy (CAFE) program, including those recommended in the congressionally-mandated National Academy of Sciences report on CAFE standards. We would oppose any amendments to legislate an arbitrary increase in CAFE standards which could reduce vehicle safety and eliminate auto sector jobs.

The Administration is concerned about the significant direct and potential cost of S.14, including its cumulative appropriation authorization levels, which in several cases significantly exceed the President's Budget and set unrealistic targets for future programmatic funding decisions. Moreover, we are concerned that the Finance Committee has approved tax provisions that cost more than \$15 billion over ten years. This is almost double the President's proposed \$8 billion in incentives over the same period. The Administration supports the provisions that reflect the President's energy tax proposals dedicated entirely to alternative and renewable fuels and vehicles, energy efficiency and conservation, and nuclear decommissioning costs.

The Administration recommends four changes to organizational aspects of the bill: (1) eliminate the Office of Federal Energy Permit Coordination (Sec. 121), as the President has already provided for the effective performance of its functions by the interagency task force on energy-related projects under Executive Order 13212; (2) establish an Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects (Sec. 136) within an existing appropriate department or agency, rather than as a free-floating office in the Executive Branch; (3) eliminate the references to the National Security Council expressing views and objections to the Secretary of Energy (Sec. 441), as the President (a statutory member of the Council) provides direction, and not merely views and objections, to the Secretary of Energy; and (4) amend the provision establishing the Electric Reliability Organization (Sec.215) to ensure that any individuals exercising significant government authority will actually be appointed in conformity with the Appointments Clause.

In addition, provisions, including sections 125, 139, 221, 523, 707, and 946, calling for executive officials to submit legislative recommendations to Congress, should be revised to provide for submission only of recommendations that the President judges necessary and expedient, as is consistent with the President's constitutional authority regarding recommendations to Congress and supervision of the unitary Executive Branch.

Several provisions including sections 931, 987, and 1005, provide certain preferences based on the recipient's race. These provisions should be revised to apply only to the extent consistent with affording equal protection of the laws, as required by the Due Process Clause of the Fifth Amendment to the Constitution.

Finally, several provisions including sections 111, 112, and 136, compel the States to enact or administer a Federal regulatory program in violation of the Supreme Court's holding in *Printz v. United*

States and New York v. United States. The legislation must be revised to specify that the participation of States in the programs at issue is strictly on a voluntary basis.

Pay-As-You-Go-Scoring

The Budget Enforcement Act's Pay-As-You-Go requirements and discretionary spending caps expired on September 30, 2002. The Administration supports the extension of these budget enforcement mechanisms in a manner that ensures fiscal discipline and is consistent with the President's Budget. OMB scoring of the bill is under development.

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