

about people. It is about people who could be hit by a hurricane, people who are already hit by a wildfire, volunteers who are ready to roll into our classrooms. "Ready to roll," I use those words deliberately.

A promise made should be a promise kept for the families who lost their loved ones in the Columbia disaster. I really object to their sending back a conference report without these items in it. When this is raised, if this comes back under this draconian circumstance, I will object to it being brought up. I think we ought to send back to the House the Senate bill, which we agreed upon with an overwhelming majority of 80 to 20.

I thank the Chair for his very kind attention. I thank Senator STEVENS very much for his leadership on this issue, and the leadership provided by Senator BYRD, and for the collegiality in which we participated in our debate. My heart goes out to the Western Senators who are about to be nailed by this, and to the AmeriCorps volunteers. I think we need to stand up for America, and we ought to stand up for this urgent supplemental.

I yield the floor, but I will not yield my perspective on this supplemental.

ENERGY POLICY ACT OF 2003—  
Continued

AMENDMENTS NOS. 1390 THROUGH 1395, EN BLOC

Mr. DOMENICI. Mr. President, we have worked out 11 amendments we would like to dispose of today.

I send a series of amendments to the desk and ask for their consideration en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes amendments numbered 1390, 1391, 1392, 1393, 1394, and 1395, en bloc.

Mr. DOMENICI. I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1390

(Purpose: To authorize grants to the Ground Water Protection Council to develop risk-based data management systems in State oil and gas agencies to assist States and oil and gas producers with compliance, economic forecasting, permitting, and exploration)

On page 52, after line 22, add the following:  
**SEC. 1. RISK-BASED DATA MANAGEMENT SYSTEMS.**

(a) IN GENERAL.—The Secretary of Energy shall make grants to the Ground Water Protection Council to develop risk-based data management systems in State oil and gas agencies to assist States and oil and gas producers with compliance, economic forecasting, permitting, and exploration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$1,000,000 for each fiscal year.

AMENDMENT NO. 1391

(Purpose: To encourage energy conservation through bicycling)

Page 209, after line 6, insert:

**"SEC. 6. CONSERVE BY BICYCLING PROGRAM.**

"(a) DEFINITIONS.—In this section:

"(1) The term 'program' means the Conserve by Bicycling Program established by subsection (b).

"(2) The term 'Secretary' means the Secretary of Transportation.

"(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the 'Conserve by Bicycling Program'.

"(c) PROJECTS.—

"(1) In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

"(A) dispersed geographically throughout the United States; and

"(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

"(2) A pilot project described in paragraph (1) shall—

"(A) use education and marketing to convert motor vehicle trips to bicycle trips;

"(B) document project results and energy savings (in estimated units of energy conserved);

"(C) facilitate partnerships among interested parties in at least 2 of the fields of transportation, law enforcement, education, public health, environment, and energy;

"(D) maximize bicycle facility investments;

"(E) demonstrate methods that may be used in other regions of the United States; and

"(F) facilitate the continuation of ongoing programs that are sustained by local resources.

"(3) At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

"(d) ENERGY AND BICYCLING RESEARCH STUDY.—

"(1) Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress, a report on a study on the feasibility of converting motor vehicle trips to bicycle trips.

"(2) The study shall—

"(A) document the results or progress of the pilot projects under subsection (c);

"(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as weather, land use and traffic patterns, the carrying capacity of bicycles, and bicycle infrastructure;

"(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

"(D) include a cost-benefit analysis of bicycle infrastructure investments; and

"(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$6,200,000, to remain available until expended, of which—

"(1) \$5,150,000 shall be used to carry out pilot projects described in subsection (c);

"(2) \$300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

"(3) \$750,000 shall be used to carry out subsection (d)."

AMENDMENT NO. 1392

(Purpose: To provide for a renewable production of hydrogen demonstration and commercial application program)

On page 290, between lines 19 and 20, insert the following:

**SEC. 8. RENEWABLE PRODUCTION OF HYDROGEN DEMONSTRATION AND COMMERCIAL APPLICATION PROGRAM.**

(a) IN GENERAL.—The Secretary shall establish a program to assist projects for the demonstration and commercial application of the production of hydrogen from renewable resources.

(b) SCOPE.—A project funded with assistance under this section may include an element other than production of hydrogen if the Secretary determines that the element contributes to the overall efficiency and commercial viability of the technology employed in the project, including—

(1) joint production of hydrogen and other commercial products from biomass; and

(2) renewable production of hydrogen and use of the hydrogen at a single farm location.

(c) COST SHARING; MERIT REVIEW.—A project carried out using funds made available under this section shall be subject to the cost sharing and merit review requirements under sections 982 and 983, respectively.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) \$10,000,000 for fiscal year 2004; and

(2) \$25,000,000 for each of fiscal years 2005 through 2008.

AMENDMENT NO. 1393

(Purpose: To require the Secretary of Energy to transmit to Congress a plan for the transfer of title to the Western New York Service Center in West Valley, New York)

On page 150, after line 14, insert the following:

**SEC. 443. PLAN FOR WESTERN NEW YORK SERVICE CENTER.**

Not later than one year after the date of enactment of this Act, the Secretary of Energy shall transmit to the Congress a plan for the transfer to the Secretary of title to, and full responsibility for the possession, transportation, disposal, stewardship, maintenance, and monitoring of, all facilities, property, and radioactive waste at the Western New York Service Center in West Valley, New York. The Secretary shall consult with the President of the New York State Energy Research and Development Authority in developing such plan.

AMENDMENT NO. 1394

(Purpose: To provide for the preservation and archiving of geological and geophysical data through establishment of a data archive system and for other purposes)

Strike the text starting on page 43, line 19, through page 49, line 19, and insert the following:

**"SEC. 112. PRESERVATION OF GEOLOGICAL AND GEOPHYSICAL DATA.**

"(a) SHORT TITLE.—This section may be cited as the 'National Geological and Geophysical Data Preservation Program Act of 2003'.

"(b) PROGRAM.—The Secretary of the Interior shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section—

"(1) to archive geologic, geophysical, and engineering data, maps, well logs, and samples;

"(2) to provide a national catalog of such archival material; and

"(3) to provide technical and financial assistance related to the archival material.

"(c) PLAN.—Within 1 year after the date of the enactment of this section, the Secretary shall develop and submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a plan for the implementation of the Program.

“(d) DATA ARCHIVE SYSTEM.—

“(1) ESTABLISHMENT.—The Secretary shall establish, as a component of the Program, a data archive system, which shall provide for the storage, preservation, and archiving of subsurface, surface, geological, geophysical and engineering data and samples. The Secretary, in consultation with the Advisory Committee, shall develop guidelines relating to the data archive system, including the types of data and samples to be preserved.

“(2) SYSTEM COMPONENTS.—The system shall be comprised of State agencies which elect to be part of the system and agencies within the Department of the Interior that maintain geological and geophysical data and samples that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

“(3) LIMITATION OF DESIGNATION.—The Secretary may not designate a State agency as a component of the data archive system unless it is the agency that acts as the geological survey in the State.

“(4) DATA FROM FEDERAL LANDS.—The data archive system shall provide for the archiving of relevant subsurface data and samples obtained from Federal lands—

“(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data was collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

“(e) NATIONAL CATALOG.—

“(1) IN GENERAL.—As soon as practicable after the date of the enactment of this section, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

“(A) data and samples available in the data archive system established under subsection (d);

“(B) the repository for particular material in such system; and

“(C) the means of accessing the material.

“(2) AVAILABILITY.—The Secretary shall make the national catalog accessible to the public on the site of the Survey on the World Wide Web, consistent with all applicable requirements related to confidentiality and proprietary data.

“(f) ADVISORY COMMITTEE.—

“(1) IN GENERAL.—The Advisory Committee shall advise the Secretary on planning and implementation of the Program.

“(2) NEW DUTIES.—In addition to its duties under the National Geologic Mapping Act of 1992 (43 U.S.C. 31a et seq.), the Advisory Committee shall perform the following duties:

“(A) Advise the Secretary on developing guidelines and procedures for providing assistance for facilities in subsection (g)(1).

“(B) Review and critique the draft implementation plan prepared by the Secretary pursuant to subsection (c).

“(C) Identify useful studies of data archived under the Program that will advance understanding of the Nation's energy and mineral resources, geologic hazards, and engineering geology.

“(D) Review the progress of the Program in archiving significant data and preventing the loss of such data, and the scientific progress of the studies funded under the Program.

“(E) Include in the annual report to the Secretary required under section 5(b)(3) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)(3)) an evaluation of the progress of the Program toward fulfilling the purposes of the Program under subsection (b).

“(g) FINANCIAL ASSISTANCE.—

“(1) ARCHIVE FACILITIES.—Subject to the availability of appropriations, the Secretary

shall provide financial assistance to a State agency that is designated under subsection (d)(2), for providing facilities to archive energy material.

“(2) STUDIES AND TECHNICAL ASSISTANCE.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to any State agency designated under subsection (d)(2) for studies and technical assistance activities that enhance understanding, interpretation, and use of materials archived in the data archive system established under subsection (d).

“(3) FEDERAL SHARE.—The Federal share of the cost of an activity carried out with assistance under this subsection shall be no more than 50 percent of the total cost of that activity.

“(4) PRIVATE CONTRIBUTIONS.—The Secretary shall apply to the non-Federal share of the cost of an activity carried out with assistance under this subsection the value of private contributions of property and services used for that activity.

“(h) REPORT.—The Secretary shall include in each report under section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g)—

“(1) a description of the status of the Program;

“(2) an evaluation of the progress achieved in developing the Program during the period covered by the report; and

“(3) any recommendations for legislative or other action the Secretary considers necessary and appropriate to fulfill the purposes of the Program under subsection (b).

“(i) DEFINITIONS.—As used in this section:

“(1) ADVISORY COMMITTEE.—The term “Advisory Committee” means the advisory committee established under section 5 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d).

“(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior acting through the Director of the United States Geological Survey.

“(3) PROGRAM.—The term “Program” means the National Geological and Geophysical Data Preservation Program carried out under this section.

“(4) SURVEY.—The term “Survey” means the United States Geological Survey.

“(j) MAINTENANCE OF STATE EFFORT.—It is the intent of the Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

“(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$30,000,000 for each of fiscal years 2004 through 2008 for carrying out this section.”.

AMENDMENT NO. 1395

On page 150, line 24, strike “(tidal and thermal)” and insert “(wave, tidal, current, and thermal)”.

On page 156, line 4, strike “(tidal and thermal)” and insert “(wave, tidal, current, and thermal)”.

Mr. DOMENICI. The amendments have been cleared on both sides.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the amendments are agreed to, en bloc.

The amendments were agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EN BLOC AMENDMENTS NOS. 1396 THROUGH 1401

Mr. DOMENICI. Mr. President, I send a series of amendments to the desk and ask for their consideration en bloc.

The PRESIDING OFFICER. The clerk will report. The amendments will be considered en bloc.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], proposes amendments numbered 1396, 1397, 1398, 1399, 1400 and 1401, en bloc.

Mr. DOMENICI. I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1396

(Purpose: Provides authorization dates for Clean Coal program)

On page 90, line 24, strike “2003 through 2011” and insert “2004 through 2012”.

AMENDMENT NO. 1397

(Purpose: To provide for the calculation of coastal impact assistance payments based on previous years' revenues)

On page 40, beginning with line 13, strike all through line 20 and insert:

“(4) For purposes of this subsection, calculations of payments shall be made using qualified Outer Continental Shelf revenues received during the previous fiscal year.

AMENDMENT NO. 1398

(Purpose: To remove requirement that Secretary must hold coastal impact assistance payments in escrow in certain circumstances)

On page 40, strike line 5 and all that follows through line 12, and insert:

“shall not disburse such an amount until the final resolution of any appeal regarding the disapproval of a plan submitted under this section or so long as the Secretary determines that such State is making a good faith effort to develop and submit, or update, a Coastal Impact Assistance Plan.”

AMENDMENT NO. 1399

(Purpose: To clarify that certain hydrogen demonstration programs include the entire National Park System)

On page 286, strike line 10 and all that follows through page 287, line 21, and insert:

“SEC. 814. HYDROGEN DEMONSTRATION PROGRAMS IN NATIONAL PARKS

“(a) STUDY.—Not later than 1 year after the date of enactment of this section, the Secretary of the Interior and the Secretary of Energy shall jointly study and report to Congress on—

“(1) the energy needs and uses in units of the National Park System; and

“(2) the potential for fuel cell and other hydrogen-based technologies to meet such energy needs in—

“(A) stationary applications, including power generation, combined heat and power for buildings and campsites, and standby and backup power systems; and

“(B) transportation-related applications, including support vehicles, passenger vehicles and heavy-duty trucks and buses.

“(b) PILOT PROJECTS.—Based on the results of the study, the Secretary of the Interior shall fund not fewer than 3 pilot projects in units of the National Park System for demonstration of fuel cells or other hydrogen-based technologies in those applications where the greatest potential for such use has been identified. Such pilot projects shall be geographically distributed throughout the United States.

“(c) AUTHORIZATION OF APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated to the Secretary of the Interior \$1,000,000 for fiscal year 2004, and \$15,000,000 for fiscal year 2005, to remain available until expended.”.

## AMENDMENT NO. 1400

(Purpose: Modifies definition of research in regards to the Next Generation Lighting Initiative)

On page 305, line 23, strike the word "basic".

## AMENDMENT NO. 1401

(Purpose: Makes technical change to Sec. 111)

On page 37, line 23, strike "year. Where" and insert "year, except that where".

Mr. DOMENICI. The amendments have been cleared on both sides. These are clarifying and technical amendments, agreed to by Senator BINGAMAN and myself as the managers of the bill. I request these amendments not be counted against any reservations on the finite list of amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendments? Without objection, the amendments are agreed to en bloc.

The amendments were agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. I thank the Chair and yield the floor.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SINGAPORE AND CHILE TRADE AGREEMENT

Mrs. FEINSTEIN. Mr. President, I come to the floor to make some comments on the Singapore and Chile trade agreements. Let me begin by saying I think it is really a shame that an otherwise good trade agreement with both Singapore and Chile, which I would otherwise support, I cannot support because immigration provisions were added to the bill, I believe contrary to the plenary powers of this Congress.

But before I discuss the trade agreement, I would like to say at the outset that, as I see it, the fast-track process is a real problem. Under fast-track rules, there is limited debate, expedited procedures, deadlines, and no amendments. Congress can only vote up or down.

While the fast-track procedures provide for consultations with Congress, there is really no guarantee that the President or the U.S. Trade Representative will ultimately respect the opinions and advice of Senators and House Members. In other words, we lose all ability to influence the content of a trade agreement negotiated under the fast-track procedures.

For me, from California, a place that has 36 million people and is either the fifth or sixth largest economic engine on Earth, trade agreements have major implications.

I have always had a relationship with the USTR that apparently I do not

have with this USTR, because of the size of California economically, and the interests internationally, that at least I be consulted in a meaningful way. In this case, consultation, as I understand it, constituted staff briefings.

I wish to say, my staff does not cast a vote. I cast the vote. So if anyone is going to consult with the senior Senator from California, it ought to be with the senior Senator from California. None of those consultations took place.

Not only that, I have sat on the Immigration Subcommittee for 10 years now and you, Mr. President, are the new chair of that subcommittee. To the best of my knowledge, that subcommittee as a whole—maybe individual members have been able to have an impact, but as a whole, the subcommittee has not been able to have an impact. So any hearing we might have is de minimis in impact because the decision is already made. I am told by my staff that by the time any meaningful briefing took place, the agreement had been signed and sent over here. That is not the way to do business with somebody like me, who has 36 million people, a huge economy, and all kinds of issues in virtually any trade agreement.

Fast track really provides a disadvantage for the people of California. When I was lobbied to vote yes on fast track, I said to virtually every industry in California: Do you realize that if a President or a USTR negotiates an agreement, they can negotiate an agreement and let California suffer all kinds of repercussions and there is nothing your elected representative can do about it? That is fast track. When you have the fifth or sixth largest economy on Earth, it means a great deal.

But, having said that, let me go to the immigration provisions of this free-trade agreement. The administration again insists it has had a number of discussions on these. Perhaps, again, they have with certain Members. They certainly have not with me. But immigration policy has long been well within the purview of Congress, and I believe it should stay there. Indeed, the Constitution gives Congress this power, and I do not think it is wise to give up that power to another branch of Government in this trade agreement or in any other.

These agreements, as I read them, would create sweeping and permanent new categories of visas, regardless of whether Congress would deem these new entries valid or beneficial to our Nation's economy and welfare. Even more important, regardless of whether Congress might want to change these new categories at some later date, we cannot do it.

Specifically, I oppose these agreements because they would create entirely new categories of nonimmigrant visas for free-trade professionals, thus permitting the admission of up to 5,400 professionals from Singapore and up to

1,400 professionals from Chile each year.

They would permit an indefinite extension of these visas.

They would require the entry of spouses and children accompanying or following to join these professionals without limitation. So any number of family members can come in.

They would require, without numerical limit, the entry of business persons under categories that parallel three other current visa categories. In other words, require their entry under other categories, the B-1 business visitor visa, the E-1 treaty trader or investor visa, and the L-1 intracompany transfer visa.

These agreements would permit but not require the United States to deny the entry of a free-trade professional if his or her entry would adversely affect the settlement of a labor dispute.

They would require that the United States submit disputes about whether it should grant certain individuals entry to an international tribunal. So if there was a pattern in our entry practice, we would have to submit that to an international tribunal, and a international tribunal would decide a sovereign right of the United States of America. That, to me, is unacceptable.

These agreements are troubling in their permanence, their inflexibility, and their lack of congressional participation or oversight. The fact is, current law already permits foreign nationals to do all the things specified under the trade agreement. In fact, several thousand nationals from Chile and Singapore enter the United States each year. To the extent that changes need to be made, Congress can choose to make them.

So this raises the question, Why, then, do these provisions need to be in a trade agreement? Perhaps the answer can be found by taking a closer look at these trade agreements, and more specifically at how exactly the agreements differ from current law.

There are no numerical limits for any of the visa categories except the new H-1B(1) visa. There are no labor certifications under this bill. This is very significant. The United States can impose no prior approval procedures, petitions, labor certification tests, or other procedures of similar effect.

Under the visitor visa provisions:

A party shall normally accept an oral declaration as to the principal place of business and the actual place of accrual of profits.

Where the party requires further proof, a letter from the employer attesting to these matters would serve as sufficient proof.

These are all contained in the trade agreements. Thus, the facts speak for themselves.

But behind the abstraction, the theories, and the statistics of the free-trade agreements we are considering today, there is one inescapable factor, and that is the working men and women of this country and what is going to happen to them.