

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. RES. 64

Expressing the sense of the Senate that the United States should prepare a comprehensive strategy for advancing and entering into international negotiations on a binding agreement that would swiftly reduce global mercury use and pollution to levels sufficient to protect public health and the environment.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2005

Mr. JEFFORDS (for himself, Ms. SNOWE, Mr. SARBANES, Mr. LIEBERMAN, Mr. LEAHY, Mr. DAYTON, Mr. LAUTENBERG, and Ms. COLLINS) submitted the following resolution; which was referred to the Committee on Foreign Relations

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# RESOLUTION

Expressing the sense of the Senate that the United States should prepare a comprehensive strategy for advancing and entering into international negotiations on a binding agreement that would swiftly reduce global mercury use and pollution to levels sufficient to protect public health and the environment.

Whereas mercury is a persistent, bioaccumulative, and toxic heavy metal;

Whereas mercury is found naturally in the environment but is also emitted into the air, land, and water in various forms in the United States and around the world during fossil fuel combustion, waste incineration, chlor-alkali

production, mining, and other industrial processes, as well as during the production, use, and disposal of various products;

Whereas mercury air pollution has the ability to both deposit locally and travel thousands of miles in a global atmospheric pool of emissions before eventual deposition, crossing national boundaries and becoming a shared global burden;

Whereas the United Nations Environment Programme reported that, on average, anthropogenic emissions of mercury since pre-industrial times have resulted in 50- to 300-percent increases in deposition rates around the world;

Whereas the United Nations Environment Programme reported that global consumption of mercury equaled 3,337 tons in 1996, and that all mercury releases to the global environment total approximately 5,000 tons each year;

Whereas mercury air pollution can deposit into lakes, streams, and the oceans where it is transformed into toxic methylmercury and bioaccumulates in fish and fish-eating wildlife;

Whereas the National Academy of Sciences confirmed that consumption of mercury-contaminated fish and seafood by pregnant women can cause serious neurodevelopmental harm in the fetus, including such detrimental effects as intelligence quotient deficits, abnormal muscle tone, decreases in motor function, attention, or visuospatial performance, mental retardation, seizure disorders, cerebral palsy, blindness, and deafness;

Whereas the 1997 Mercury Study Report submitted by the Administrator of the Environmental Protection Agency to

Congress found that every region of the United States is adversely affected by mercury deposition;

Whereas the Food and Drug Administration, the Environmental Protection Agency, and 44 States currently have advisories warning the public to limit consumption of certain fish that are high in mercury content;

Whereas, of the 4,000,000 children born every year in the United States, a scientist at the Environmental Protection Agency estimates that approximately 630,000 are exposed to mercury levels in the womb above the safe health threshold, caused primarily by maternal consumption of mercury-tainted fish;

Whereas these health and environmental effects of mercury contamination can impose significant social and economic costs in the form of increased medical care, special educational and occupational needs, reduced economic performance, and disruptions in recreational and commercial fishing and hunting, and can create disproportionate health, social, and economic impacts among subpopulations dependent on subsistence fishing;

Whereas the Environmental Protection Agency has estimated that the United States is a net emitter of mercury in that the United States contributes 3 times as much mercury to the global atmospheric pool of air emissions as it receives through deposition;

Whereas the United States Geological Survey has not reported mercury consumption figures for key sectors in the United States economy since 1996, thereby creating important information gaps relating to domestic mercury use and trade;

Whereas the quantity of domestic fugitive chlor-alkali sector emissions has been labeled an enigma by the Environmental Protection Agency;

Whereas, in accordance with Public Law 101–549 (commonly known as the “Clean Air Act Amendments of 1990”) (42 U.S.C. 7401 et seq.), the Environmental Protection Agency determined in December 2000 that a maximum achievable control technology standard for mercury and other air toxic emissions for electric utility steam generating units in the United States is appropriate and necessary, and listed coal- and oil-fired electric utility steam generating units for regulation, thereby triggering a statutory requirement that maximum achievable controls be implemented at every existing coal- and oil-fired electric utility steam generating unit by not later than December 2005;

Whereas other major stationary sources have already implemented maximum achievable control technology standards for mercury and other air toxics, as required by the Clean Air Act (42 U.S.C. 7401 et seq.);

Whereas effective mercury and other heavy metal removal techniques have been demonstrated and are available on an industrial scale in the major stationary source categories;

Whereas the lack of effective emission control standards in other countries can give foreign industries a competitive advantage over United States businesses;

Whereas alternatives and substitutes have been demonstrated and are available to reduce or eliminate mercury use in most products and processes;

Whereas the European Commission reports that mercury mining, the closing of mercury cell chlor-alkali facilities, and the phasing out of other outmoded industrial processes in the United States and Europe are contributing significantly to imports of mercury in the developing world;

Whereas the Department of Defense announced in April 2004 that it will consolidate and store its stockpile of approximately 5,000 tons of mercury rather than allow the surplus to enter the global marketplace;

Whereas from 1996 through 2004, the Environmental Council of the States adopted or renewed 9 resolutions highlighting the importance of substantially reducing mercury use and releases in the United States and around the world, and of managing excess supplies of mercury so that they do not enter the global marketplace;

Whereas many States, including California, Connecticut, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, and Wisconsin, are already implementing their own laws, regulations, and other strategies for tracking or reducing various forms of mercury use and pollution, and the Governors of States in New England have set a goal of virtually eliminating mercury emissions in that region;

Whereas the European Commission is developing a mercury strategy that is aimed at comprehensively addressing all aspects of the mercury cycle, including the use, trade, and release of mercury;

Whereas the United States is a party to the Protocol on Heavy Metals of the Convention on Long-Range Transboundary Air Pollution, done at Aarhus, Denmark on June 24, 1998, which entered into force in December 2003 and commits the United States to a basic obligation to limit air emissions of mercury and other heavy metals from new and existing sources, within 2 and 8 years respectively, using the best available techniques;

Whereas the current parties to the Convention and the Protocol represent only a portion of anthropogenic emissions of heavy metals annually that are subject to transboundary atmospheric transport and are likely to have significant adverse effects on human health or the environment;

Whereas the 22nd session of the United Nations Environment Programme Governing Council concluded that there is sufficient evidence in the Programme's Global Mercury Assessment of significant global adverse impacts to warrant international action to reduce the risks to human health and the environment from releases of mercury;

Whereas the United Nations Environment Programme invited submission of governmental views on medium- and long-term actions on mercury and other heavy metals, which will be synthesized into a report for presentation at the 23rd session of the Governing Council occurring February 21 to 25, 2005, with a view to developing a legally binding instrument, a non-legally binding instrument, or other measures or actions; and

Whereas the United States has taken no position on any such instrument: Now, therefore, be it

1       *Resolved*, That it is the sense of the Senate that—

1           (1) the United States should engage construc-  
2           tively and proactively in international dialogue re-  
3           garding mercury pollution, use, mining, and trade;  
4           and

5           (2) the President should prepare a comprehen-  
6           sive strategy—

7           (A) to advance and enter into international  
8           negotiations on a binding agreement that  
9           would—

10           (i) reduce global use, trade, and re-  
11           leases of mercury to levels sufficient to  
12           protect public health and the environment,  
13           including steps to—

14           (I) establish specific and strin-  
15           gent targets and schedules for reduc-  
16           tions in mercury use in the United  
17           States, and emissions below levels for  
18           calendar year 2000, beyond current  
19           domestic and global efforts;

20           (II) end primary mercury mining  
21           in the near future and establish a sys-  
22           tem to ensure excess mercury supplies  
23           do not enter the global marketplace;  
24           and

1 (III) require countries to develop  
2 regional and national action plans to  
3 address mercury sources and uses;

4 (ii) include all countries that use,  
5 trade, or release significant quantities of  
6 mercury into the environment from anthro-  
7 pogenic sources;

8 (iii) require the application of the best  
9 available control technologies and strate-  
10 gies to control releases from industrial sec-  
11 tors in the very near future, including  
12 minimizing releases from coal-fired power  
13 plants and replacing obsolete mercury  
14 products and processes, including the mer-  
15 cury cell chlor-alkali process;

16 (iv) contain mechanisms for pro-  
17 moting and funding the transfer and adop-  
18 tion of less emitting technologies and mer-  
19 cury-free processes, and for facilitating the  
20 safe cleanup of mercury contamination;

21 (v) establish a standardized system to  
22 document and track the use, production,  
23 and trade of mercury and mercury-con-  
24 taining products, including a licensing re-  
25 quirement for mercury traders; and

1 (vi) incorporate explicit mechanisms  
2 for adding toxic air pollutants with similar  
3 characteristics in the future;

4 (B) to delineate the preferred structure,  
5 format, participants, mechanisms, and re-  
6 sources necessary for achieving and imple-  
7 menting the agreement described in subpara-  
8 graph (A);

9 (C) to enter into bilateral and multilateral  
10 agreements to align global mercury production  
11 with reduced global demand and minimize glob-  
12 al mercury releases, while negotiating the agree-  
13 ment described in subparagraph (A);

14 (D) to initiate and support a parallel inter-  
15 national research effort that does not delay cur-  
16 rent or planned mercury pollution or use reduc-  
17 tion efforts—

18 (i) to collect global data to support  
19 the development of a comprehensive inven-  
20 tory of mercury use, mining, trade, and re-  
21 leases; and

22 (ii) to develop less emitting tech-  
23 nologies and technologies to reduce the  
24 need for, and use of, mercury in commerce;

1 (E) to review monitoring capabilities and  
2 data collection efforts of the United States for  
3 domestic mercury use, trade, and releases to en-  
4 sure there is sufficient information available for  
5 any implementing legislation that may be nec-  
6 essary for compliance with existing protocols  
7 and future global mercury agreements;

8 (F) to work through existing international  
9 organizations, such as the United Nations, the  
10 International Standards Organization, and the  
11 World Trade Organization, to encourage the de-  
12 velopment of programs, standards, and trade  
13 agreements that will result in reduced use and  
14 trade of mercury, the elimination of primary  
15 mercury mining, and reductions in releases of  
16 mercury and other long-range transboundary  
17 air pollutants; and

18 (G) to present at the 23rd session of the  
19 United Nations Environment Programme Gov-  
20 erning Council a plan for carrying out imme-  
21 diate and long-term actions to reduce global  
22 mercury pollution and global exposure to mer-  
23 cury in order to advance the goal of achieving  
24 a binding international agreement on mercury.

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